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TUESDAY, OCTOBER 3, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 192

Pages 20659–20760

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PROCLAMATION 4160

National Heritage Day

By the President of the United States of America

A Proclamation

The special quality of the United States is the interaction of many peoples from many lands, each asserting the freedom to be different, each respecting and honoring his own ethnic heritage, while contributing to a nation in which all are Americans together.

The shining guarantee of our national future is precisely the repeated rebirth, the reinvigoration, the gift of renewal, implicit in this constant meeting of the world's peoples here in our own land.

The unusual virtue of the United States is that all men and women are accepted for what they are, with friendship and respect founded upon knowledge and understanding of all races, creeds, and national origins.

The "melting pot" is one of unity, but never of uniformity.

The national pride of the United States is, in this sense, pride of our people in the heritage we draw from all nations.

In order that we may pause for a moment to express our appreciation of America's heritage, the Congress, by House Joint Resolution 1304, has requested the President to issue a proclamation designating Sunday, October 1, 1972, as National Heritage Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim Sunday, October 1, 1972, as National Heritage Day. I call upon all Americans to reflect upon the composite vitality, enthusiasm and tenacity of the many separate peoples who have built our beloved country, and to celebrate, with appropriate ceremonies, the fact that our one nation is many nations, and our many nations are one nation, dedicated to freedom, under God.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72–17004 Filed 10–2–72;10:42 am]

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Chapter I—Administrative Committee of the Federal Register

CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1972, is $195 domestic, $50 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1973, will be $200 domestic, $50 additional for foreign mailing.

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Miscellaneous Amendments

On August 16, 1972, the following was published in the FEDERAL REGISTER as proposed rule making. The purposes of the amendments are to provide for: (1) Payment of additional funds from a plan's contingency reserve, upon authorization by the Commission; and (2) approval of a new plan to participate in the program to become effective on January the 1st of a calendar year which is at least 9 months after the Commission receives the plan's application to participate and at least 6 months after all evidence required for approval has been received by the Commission. The comments, objections, and suggestions received on the proposal have been considered by the Commission, resulting in

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minor revisions in the text of the regulations. Accordingly, Part 890 of Title 5, Code of Federal Regulations, is amended as set out below.

1. Section 890.503(c)(5) is added as follows:

§ 890.503 Reserves.

* * * * *

(5) In addition to those amounts, if any, paid under the above subparagraphs of this paragraph, the Commission may authorize such other payments from the contingency reserve as in the judgment of the Commission may be in the best interest of employees and annuitants enrolled in the program. Amounts paid from the contingency reserve under this subparagraph and under the above subparagraphs of this paragraph shall be considered to be subscription charges in the year in which paid.

2. Section 890.203(a) is amended to read as follows:

§ 890.203 Application for approval of, and proposal of amendments to, health benefits plans.

(a) Application for approval of comprehensive medical plans may be made by letter to the U.S. Civil Service Commission, Washington, D.C. 20415. Participation of an approved plan becomes effective on the January 1st which is (a) at least 9 months after the Commission receives the application and (b) at least 6 months after the Commission receives all evidence to demonstrate that the plan has met all requirements for approval.

* * * * *

(5 U.S.C. 8913)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-16823 Filed 10-2-72;8:51 am]

Chapter XIV—Federal Labor Relations Council and Federal Service Impasses Panel

SUBCHAPTER B—FEDERAL LABOR RELATIONS COUNCIL

PART 2411—REVIEW FUNCTIONS OF THE COUNCIL

On May 5, 1972, there was published in the FEDERAL REGISTER (37 F.R. 9138) a notice of proposed amendments of rules concerning the procedures of the Council.

Interested persons were invited to submit their views and suggestions in writing within 20 days after publication of such notice. All relevant matter which was submitted has been carefully considered, and the Council has decided to adopt the proposed amendments, with changes, as set forth below.

Accordingly, the Council amends Title 5 of the Code of Federal Regulations, Subchapter B, Part 2411, of Chapter XIV to read as follows:

Subpart A—General Provisions

Sec.
2411.1 Scope.
2411.2 Coverage.
2411.3 Definitions.
2411.4 Policy questions.

Subpart B—Review of Decisions of the Assistant Secretary

2411.11 Purpose.
2411.12 Considerations governing review.
2411.13 Who may file a petition; time limit for filing; opposition; service.
2411.14 Content of petition.
2411.15 Council action on acceptance.
2411.16 Filing of briefs; Assistant Secretary as a party.
2411.17 Council decision; compliance actions.

Subpart C—Review of Negotiability Issues

2411.21 Purpose.
2411.22 Conditions governing review.
2411.23 Who may file a petition; time limits for filing; service.
2411.24 Content of petition.
2411.25 Position of the agency; time limits for filing.
2411.26 Referral by the Federal Service Impasses Panel.
2411.27 Council decision.

Subpart D—Review of Arbitration Awards

2411.31 Purpose.
2411.32 Considerations governing review.
2411.33 Who may file a petition; time limits for filing; opposition; service.
2411.34 Content of petition.
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Subpart E—General Requirements

2411.41 Interlocutory appeals.
2411.42 Approval of submission.
2411.43 Where to file.
2411.44 Number of copies.
2411.45 Time limits; computation; extension.
2411.46 Service; statement of service.
2411.47 Stay of decision or award; requests; criteria.
2411.48 Oral argument.
2411.49 Amicus curiae.
2411.50 Transfer of record.
2411.51 Matters not previously presented; judicial notice.
2411.52 Advisory opinions.
2411.53 Distribution of Council decisions.

AUTHORITY: The provisions of this Part 2411 are issued under 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861; as amended by E.O. 11616, 36 F.R. 17319, and E.O. 11636, 36 F.R. 24901.

Subpart A—General Provisions

§ 2411.1 Scope.

This part sets forth the procedures under which the Council will review decisions of the Assistant Secretary issued pursuant to section 6 of the order, negotiability issues as provided in section 11(c) of the order, and arbitration awards under the order.

§ 2411.2 Coverage.

This part applies to employees, agencies, and labor organizations covered by the order.

§ 2411.3 Definitions.

In this part—

(a) "Order" means Executive Order 11491 of October 29, 1969, entitled "Labor-Management Relations in the Federal Service," as amended by Executive Order 11616 of August 26, 1971, and by Executive Order 11636 of December 17, 1971.

(b) "Executive Director" means the Executive Director of the Council.

(c) "Party" means any person, employee, labor organization, or agency that participated as a party—

(1) In a matter that was decided by the Assistant Secretary under section 6 of the order; or

(2) In a matter that was decided by an agency head under section 11(c) of the order; or

(3) In a matter where the award of an arbitrator was issued under the order.

(d) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations, except that in matters arising under section 6(a) of the order involving the Department of Labor, it means the vice chairman of the Civil Service Commission.

(e) Terms defined in the order are used in this part with the meaning attached to them in the order.

§ 2411.4 Policy questions.

Notwithstanding the procedures set forth in this part, the Assistant Secretary or the panel may refer for review and decision or general ruling by the Council any case involving a major policy issue that arises in a proceeding before either of them. Any such referral shall be in writing and a copy of such referral shall be served on all parties to the proceeding. Before decision or general ruling, the Council shall obtain the views of the parties and other interested persons, orally or in writing, as it deems necessary and appropriate.

Subpart B—Review of Decisions of the Assistant Secretary

§ 2411.11 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review decisions of the Assistant Secretary issued pursuant to section 6 of the order.

§ 2411.12 Considerations governing review.

A petition for review of a decision of the Assistant Secretary is not a matter of right, but of discretion, and, subject to the requirements of this part, will be granted only where there are major policy issues present or where it appears that the decision was arbitrary and capricious.

§ 2411.13 Who may file a petition; time limit for filing; opposition; service.

(a) Any party aggrieved by a final decision of the Assistant Secretary may petition the Council for review.

(b) The time limit for filing is 20 days from the date the decision was served on the party seeking review.

(c) An opposition to Council acceptance of a petition for review may be filed by any party within 15 days from the date of service of the petition.

(d) A copy of the petition for review and of any opposition to acceptance shall be served by the filing party simultaneously on the other parties and on the Assistant Secretary.

§ 2411.14 Content of petition.

A petition must be a self-contained document enabling the Council to rule on acceptance for review on the basis of its content without the necessity of recourse to the record. The petition must contain:

(a) A concise statement of the grounds on which review is requested;

(b) A summary of the evidence or rulings bearing on the issues, together with a summary of the arguments; and

(c) A copy of the decision of the Assistant Secretary which is being appealed.

§ 2411.15 Council action on acceptance.

The Council shall review the petition and, if 50 percent or more of its members determine that the matter should be considered, the petition will be accepted. The Council shall promptly notify the parties whether the petition has been accepted or rejected.

§ 2411.16 Filing of briefs; Assistant Secretary as a party.

(a) Within 15 days from the date of service by the Council of notice to the parties that the petition is accepted for review, the parties may file briefs with the Council (with specific references to the pertinent documents and, where applicable, with citations of authorities) which shall be served on the other parties.

(b) Where the Council grants review, the Assistant Secretary may, at his discretion, intervene and become a party to the proceeding.

§ 2411.17 Council decision; compliance actions.

(a) A decision of the Assistant Secretary shall be sustained unless it is arbitrary and capricious or inconsistent with the purposes of the order.

(b) The Council shall issue its decision on the case sustaining, enforcing, modifying, and enforcing as so modified, setting aside in whole or in part, or remanding the decision of the Assistant Secretary.

(c) The Council has the overall responsibility to assure compliance with the Executive order and decisions rendered thereunder. However, the Council shall first remand the action to the Assistant Secretary for purposes of compliance consistent with its decision, without limitation on the power of the Council. If the Assistant Secretary finds the necessary action for compliance has not been taken, the matter shall revert to the Council for appropriate action.

Subpart C—Review of Negotiability Issues

§ 2411.21 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review negotiability issues as provided in section 11(c) of the order.

§ 2411.22 Conditions governing review.

The Council will consider a negotiability issue under the conditions prescribed by section 11(c)(4) of the order, namely: If, in connection with negotiations, the head of an agency (or his designee) has determined that a proposal is contrary to law, regulation, or the order and therefore not negotiable, a labor organization may appeal to the Council for a decision when—

(a) It disagrees with the agency head's determination that the proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order; or

(b) It believes that the agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order.

§ 2411.23 Who may file a petition; time limits for filing; service.

(a) A petition for review of a negotiability issue may be filed by a labor organization which is a party to the negotiations.

(b) The time limit for filing is 20 days from the date the agency head's determination was served on the labor organization. However, review of a negotiability issue may be requested by a labor organization under this subpart without a prior determination by the agency head, if the agency head has not made a decision—

(1) Within 45 days after a party to the negotiations initiates referral of the issue for determination, in writing, through prescribed agency channels; or

(2) Within 15 days after receipt by the agency head of a written request for such determination following referral through prescribed agency channels, or following direct submission if no agency channels are prescribed.

(c) A copy of the petition shall be served simultaneously on the other party.

§ 2411.24 Content of petition.

A petition for review shall contain the following:

(a) A statement setting forth the matter proposed to be negotiated as submitted to the agency head for determination.

(b) A copy of the agency head's determination on the proposal, and other documentary material pertinent to the issue.

(c) A full and detailed statement of the labor organization's position and reasons for:

(1) Disagreeing with the agency head's determination that the proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order; or

(2) Believing that the agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order. In this circumstance the statement shall cite the particular section of law, regulation, or the order believed to be violated by the agency's regulations.

§ 2411.25 Position of the agency; time limits for filing.

Within 15 days from the date of service of a copy of a petition for review of a negotiability issue the agency shall file a full statement of its position on any matters relevant to the petition which it wishes the Council to consider in reaching its decision.

§ 2411.26 Referral by the Federal Service Impasses Panel.

(a) Notwithstanding the procedures of this subpart, except 2411.22, when the Panel finds that a negotiability issue is impeding the resolution of a negotiation impasse, the Panel may refer the negotiability issue to the Council for decision.

(b) A referral by the Panel shall contain:

(1) The matter proposed to be negotiated as submitted to the agency head for determination;

(2) The agency head's determination thereon;

(3) Statements of position from each party with supporting evidence and argument; and

(4) Any other appropriate documents of record.

(c) The Panel may refer a negotiability issue for decision by the Council at any time during its consideration of a negotiation impasse.

(d) The Council will give such referrals priority consideration.

§ 2411.27 Council decision.

Subject to the requirements of this part, the Council shall issue its decision sustaining or setting aside in whole or in part, or remanding the agency head's determination.

Subpart D—Review of Arbitration Awards

§ 2411.31 Purpose.

This subpart, together with Subpart E, sets forth the procedures under which the Council will review arbitration awards under the order.

§ 2411.32 Considerations governing review.

The Council will grant a petition for review of an arbitration award only where it appears, based upon the facts and circumstances described in the petition, that the exceptions to the award present grounds that the award violates applicable law, appropriate regulation, or the order, or other grounds similar to those upon which challenges to arbitration awards are sustained by courts in

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private sector labor-management relations. The Council will not consider exceptions to an advisory arbitration award.

§ 2411.33 Who may file a petition; time limits for filing; opposition; service.

(a) Any party aggrieved by an arbitration award may petition the Council for review.

(b) The time limit for filing is 20 days from the date the award was served on the party-seeking review.

(c) An opposition to Council acceptance of a petition for review may be filed by any party within 15 days from the date of service of the petition.

(d) A copy of the petition shall be served simultaneously on the other party.

§ 2411.34 Content of petition.

A petition must be a self-contained document enabling the Council to rule on acceptance for review on the basis of its content without necessity of recourse to the record. The petition must contain:

(a) A concise statement of the grounds on which review is requested;

(b) A summary of the evidence or rulings bearing on the issues, together with a summary of the arguments; and

(c) A copy of the award of the arbitrator and other pertinent documents.

§ 2411.35 Council action on acceptance.

The Council shall review the petition and, if 50 percent or more of its members determine that the matter should be considered, the petition will be accepted. The Council shall promptly notify the parties whether the petition has been accepted or rejected.

§ 2411.36 Filing of briefs.

Within 15 days from the date of service by the Council of notice to the parties that the petition is accepted for review, the parties may file briefs with the Council (with specific reference to the pertinent documents and, where applicable, with citations of authorities) which shall be served on the other parties.

§ 2411.37 Council decision.

(a) An award of an arbitrator shall be modified, set aside in whole or in part, or remanded only on grounds that the award violates applicable law, appropriate regulation, or the order, or other grounds similar to those applied by the courts in private sector labor-management relations.

(b) The Council shall issue its decision sustaining, modifying, setting aside in whole or in part, or remanding the award.

Subpart E—General Requirements

§ 2411.41 Interlocutory appeals.

There shall be no interlocutory appeals. The Council will not consider a petition for review until a final decision or award has been rendered.

§ 2411.42 Approval of submission.

The Council shall consider a petition from an agency or labor organization only when the head of the agency (or his designee), or the national president of the labor organization (or his designee), or the president of a labor organization not affiliated with a national organization (or his designee), as appropriate, has approved submission of the petition.

§ 2411.43 Where to file.

A document submitted to the Council pursuant to this part shall be filed with the Executive Director, Federal Labor Relations Council, 1900 E Street, NW., Washington, DC 20415.

§ 2411.44 Number of copies.

Unless otherwise provided by the Executive Director, any document filed with the Council under this part shall be submitted in an original and three copies.

§ 2411.45 Time limits; computation; extension.

(a) When a time limit for filing is established under this part, the document must be received in the office of the Council before the close of business of the last day of the time limit.

(b) In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from or after which the designated period of time begins to run shall not be included; but the last day of the period so computed shall be included, unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or Federal legal holiday. Also, when a period of time prescribed or allowed is 7 days or less, intermittent Saturdays, Sundays, and Federal legal holidays shall be excluded in the computation.

(c) Whenever a party has the right or is required to do some act pursuant to this part within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, 3 days shall be added to the prescribed period: Provided, however, that 3 days shall not be added if any extension of time may have been granted.

(d) The Executive Director may extend any time limit provided in this part for good cause shown, and shall notify the parties of any such extension.

§ 2411.46 Service; statement of service.

(a) Any party filing a document as provided in this part is responsible for simultaneously serving a copy on the other parties.

(b) A statement of service shall be submitted at the time of filing. Statement of service shall include the names of the parties served, their addresses, the date of service, the nature of the document served, and the manner in which service was made.

(c) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail or is delivered in person, as the case may be.

§ 2411.47 Stay of decision or award; requests; criteria.

(a) The filing of a petition for review shall not operate as a stay of the decision or award involved in the proceedings unless the Council shall direct otherwise.

(b) Consistent with section 2411.41, the Council will not consider a request for stay unless a final decision or award has been rendered.

(c) A request for stay of an Assistant Secretary's decision will be granted only where it appears, based upon the facts and circumstances presented:

(1) In a representation case, that—

(i) There is a strong likelihood of success on the merits of the appeal;

(ii) In the absence of a stay the applicant will suffer irreparable injury;

(iii) The issuance of a stay will not have a serious adverse effect on other parties to the case; and

(iv) The public interest will not be harmed by the grant of a stay.

(2) In an unfair labor practice case, that—

(i) There is a reasonable likelihood that the appeal will be accepted for review; and

(ii) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

(d) A request for stay of an arbitrator's award will be granted only where it appears, based upon the facts and circumstances presented that:

(1) There is a reasonable likelihood that the petition will be accepted for review; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

(e) A request for stay in other types of cases will be granted only where it appears, based upon the facts and circumstances presented, that:

(1) There is a reasonable likelihood the appeal will be accepted for review; and

(2) A careful balancing of all the equities, including the public interest, warrants issuance of a stay.

§ 2411.48 Oral argument.

The Council, in its discretion, may permit oral argument under such circumstances and conditions as it deems appropriate. Unless otherwise ordered, a hearing of oral argument shall be open to the public.

§ 2411.49 Amicus curiae.

The Council, upon petition of an interested person and as it deems appropriate, may grant permission for the filing of a brief and oral argument by an amicus curiae and the parties shall be notified of such action by the Council.

§ 2411.50 Transfer of record.

Upon request by the Council, the Assistant Secretary or the appropriate agency shall transfer the record in the case to the Council.

§ 2411.51 Matters not previously presented; judicial notice.

Consistent with the scope of review set forth in this part, the Council will not consider evidence offered by a party, or any issue, which was not presented in the proceedings before the Assistant Secretary, an agency head, or an arbitrator. The Council may, however, take judicial notice of such matters as would be proper.

§ 2411.52 Advisory opinions.

The Council shall not issue advisory opinions.

§ 2411.53 Distribution of Council decisions.

Copies of decisions by the Council shall be furnished to the parties and other interested persons and made available at the office of the Council.

Effective date. This part shall become effective on the date of its publication in the FEDERAL REGISTER (10–3–72).

For the Council.

ROBERT E. HAMPTON,
Chairman.

[FR Doc.72-16711 Filed 10-2-72;8:55 am]

SUBCHAPTER C—FEDERAL SERVICE IMPASSES PANEL

PART 2470—GENERAL

PART 2471—PROCEDURES OF THE PANEL

On May 5, 1972, there was published in the FEDERAL REGISTER (37 F.R. 9141) a notice of proposed amendments of rules concerning the procedures of the Panel. Interested persons were invited to submit their written comments, suggestions, or objections within 20 days after publication of such notice. All relevant matter which was submitted has been carefully considered, and the Panel has decided to adopt the proposed amendments with changes, along with relevant suggestions submitted, as set forth below.

Accordingly, the Panel amends Title 5 of the Code of Federal Regulations, Subchapter C of Chapter XIV to read as as set forth below.

1. Part 2470 is revised to read as follows:

Subpart A—Purpose

Sec.
2470.1 Purpose.

Subpart B—Definitions

2470.2 Definitions.

AUTHORITY: The provisions of this Part 2470 are issued under 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861; as amended by E.O. 11616, 36 F.R. 17319, and E.O. 11636, 36 F.R. 24901.

Subpart A—Purpose

§ 2470.1 Purpose.

The regulations contained in this subchapter are intended to implement the provisions of sections 5 and 17 of Executive Order 11491 of October 29, 1969, as amended, entitled "Labor-Management Relations in the Federal Service." They prescribe procedures and methods which the Federal Service Impasses Panel may utilize in the resolution of negotiation impasses when the parties negotiating a labor agreement have failed to reach a full settlement by mediation or other voluntary arrangements.

Subpart B—Definitions

§ 2470.2 Definitions.

(a) The following definitions are used in this subchapter:

(1) Executive Secretary means the Executive Secretary of the Panel.

(2) Factfinder(s) means a designated representative of the Panel acting in its behalf in the capacity of a hearing official charged with the responsibility of assembling the facts and positions of the parties to an impasse. He may be a Panel Member, a staff member or other individual designated by the Panel.

(3) Impasse means that point in the negotiation of a labor agreement at which the parties are unable to reach full agreement, notwithstanding their having made earnest efforts to reach agreement by direct negotiations and by the use of mediation or other voluntary arrangements for settlement.

(4) Order means Executive Order 11491 of October 29, 1969, as amended, entitled "Labor-Management Relations in the Federal Service."

(5) Panel means the Federal Service Impasses Panel or a quorum thereof.

(6) Party means the Federal agency, establishment or activity or the labor organization, as defined in sections 2 (a) and (e) of the order, participating in the negotiation of a labor agreement.

(7) Quorum means three or more members of the Panel.

(8) Voluntary arrangements means those methods adopted by the parties for the purpose of assisting them in their negotiation of a labor agreement, which include utilization of (i) the services of the Federal Mediation and Conciliation Service; or (ii) other third-party mediation assistance; or (iii) joint factfinding committees without recommendations; or (iv) referral to a higher authority within the agency and/or the labor organization; or (e) any other method which the parties deem appropriate except third-party factfinding with recommendations, or arbitration, unless said factfinding or arbitration is expressly authorized or directed by the Panel.

(b) Terms defined in the order are used in this part with the meaning attached to them in the order.

2. Part 2471 is revised to read as follows:

Sec.
2471.1 Who may initiate.
2471.2 What to file.
2471.3 Request form.
2471.4 Where to file.
2471.5 Copies and service.
2471.6 Initial procedures of the Panel.
2471.7 Negotiability questions.
2471.8 Use of third-party factfinding with recommendations, or arbitration.
2471.9 Factfinding determination by the Panel; notice of prehearing conference and formal hearing.
2471.10 Prehearing conference.
2471.11 Authority of factfinder(s).
2471.12 Availability of hearing transcript.
2471.13 Report of the factfinder(s) and action by the Panel.
2471.14 Duties of each party.
2471.15 Settlement action by the Panel.
2471.16 Inconsistent labor agreement provisions.

AUTHORITY: The provisions of this Part 2471 are issued under 5 U.S.C. 3301, 7301; E.O. 11491, 3 CFR, 1966–1970 Comp., p. 861; as amended by E.O. 11616, 36 F.R. 17319, and E.O. 11636, 36 F.R. 24901.

§ 2471.1 Who may initiate.

(a) When an impasse occurs during the course of labor agreement negotiations, either party, or the parties jointly, may request the Panel to consider the matter, by filing a request as hereinafter provided.

(b) The Panel may, upon the request of the Federal Mediation and Conciliation Service, undertake the consideration of an impasse when such mediation assistance has failed and neither party has requested the Panel's consideration.

(c) The Panel may, upon the request of the Executive Secretary, undertake the consideration of a matter which has reached impasse and where neither party has requested the Panel's consideration.

§ 2471.2 What to file.

A request to the Panel for consideration of an impasse must be in writing and include the following essential information:

(a) Identification of the parties and person(s) authorized to initiate the request;

(b) Statement that an impasse has been reached;

(c) Statement of issue(s) at impasse and the position(s) of the initiating party or parties with respect to those issues; and

(d) The nature and extent of all voluntary arrangements utilized.

§ 2471.3 Request form.

FSIP Form 1 has been prepared for use by the parties in filing a request to the Panel for consideration of an impasse.[1] Copies are available upon request to the Office of the Executive Secretary.

§ 2471.4 Where to file.

Requests to the Panel provided for in this part, and inquiries or correspondence on the status of impasses or other related matters, should be directed to the Executive Secretary, Federal Service Impasses Panel, 1900 E Street NW., Washington, DC 20415.

§ 2471.5 Copies and service.

Any party submitting a request for Panel consideration and any party submitting a response to such request is responsible for serving a copy simultaneously on the other party to the dispute and on any mediation facility which may have been utilized. When the Panel acts on its own motion, it will notify the parties to the dispute and any mediation facility which may have been utilized.

§ 2471.6 Initial of the Panel

(a) Upon receipt of a request for consideration of an impasse, the Panel will initiate an informal inquiry covering the issue(s) and the positions of the parties thereon, and will consult when necessary

[1] Filed as a part of the original document.

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with the parties and the mediation facility utilized, if any, and then determine whether to:

(1) Dismiss the request; or

(2) Direct that negotiations be resumed; or

(3) Direct that negotiations be resumed with mediation assistance; or

(4) Authorize other voluntary arrangements for settlement; or

(5) Assume jurisdiction of the impasse in accordance with the procedures set forth in the following sections.

(b) The parties will be promptly advised in writing of the Panel's initial determination.

§ 2471.7 Negotiability questions.

(a) If, in connection with the consideration of an impasse, a contention has been made that a proposal is contrary to law, regulation, controlling agreement or the order and therefore is not negotiable, the Panel may in its discretion take any of the following actions at any stage of its procedures with respect to said proposal, while the merits of the remaining proposals, if any, may be considered by the Panel:

(1) Request the parties to resolve a question involving interpretation of a controlling agreement at a higher agency level under the procedures of the controlling agreement or, if no such procedures exist, under appropriate agency regulations;

(2) Request the parties to refer a question of negotiability which arose at a local level to the head of the agency for determination;

(3) Refer a question of negotiability to the Federal Labor Relations Council for decision, or advise the labor organization that it may appeal a question of negotiability to the Council for decision, when a labor organization (i) disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or the order, or (ii) contends that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or the order.

(b) In making a referral to the Council as described in paragraph (a)(3) of this section, the Panel will submit the proposal in dispute, the agency head's determination thereon, a statement of position with supporting evidence and argument from each party on the negotiability question, and any other appropriate documents of record.

(c) Upon receipt of a decision of the Council that a proposal is negotiable, based upon a question of negotiability referred to the Council by the Panel, the Panel's report to the parties will include the Council's negotiability decision. If warranted, the Panel may refer the proposal to the parties for negotiations.

(d) Upon receipt of a decision of the Council that a proposal is not negotiable, based upon a question of negotiability referred to the Council by the Panel, the Panel will cease to give any further consideration to the proposal and so inform the parties.

(e) The Panel will not make any referrals to the Council under this section when:

(1) The negotiability issue is the only issue at impasse and it arose prior to the filing of the request to the Panel; or

(2) The labor organization has not requested the Panel in writing to make such a referral; or

(3) An agency head determination is pending or issued prior to the filing of the request to the Panel; or

(4) A petition for the review of an agency head determination is pending before the Council; or

(5) An agency head determination was issued after the filing of the request to the Panel, and the labor organization did not request the Panel in writing to refer the negotiability issue to the Council within 20 days from the date the determination was served on the labor organization.

§ 2471.8 Use of third-party factfinding with recommendations, or arbitration.

The parties may resort to third-party factfinding with recommendations, or arbitration, to resolve an impasse, only when authorized or directed by the Panel, and provided the parties have:

(a) Made a joint request to the Panel in writing for such authority;

(b) Agreed upon what issue(s) are at impasse;

(c) Agreed on the method of selecting the third party;

(d) Agreed upon an arrangement for paying the cost of the proceedings; and

(e) Used without success any other arrangement for settlement.

§ 2471.9 Factfinding determination by the Panel; notice of prehearing conference and formal hearing.

(a) When the Panel determines that resolution of an impasse requires factfinding it will:

(1) Appoint one or more factfinders to investigate the dispute; and

(2) Issue and serve, upon each of the parties, a notice of prehearing conference, when scheduled, and of formal hearing.

(b) The notice will state:

(1) Names of the parties to the dispute;

(2) Date, time, place, and purpose of the prehearing conference;

(3) Date, time, and place of the formal hearing;

(4) Name(s) of the factfinder(s) appointed by the Panel; and

(5) Issues to be resolved.

§ 2471.10 Prehearing conference.

A prehearing conference may be held by the factfinder prior to the factfinding hearing to:

(a) Inform the parties of the purpose of the hearing and the procedures under which it will take place;

(b) Explore the possibilities of obtaining stipulations of fact;

(c) Clarify the positions of the parties with respect to the issues to be heard, including claims concerning negotiability, if any; and

(d) Discuss any other relevant matters which will help achieve the objectives of the hearing.

§ 2471.11 Authority of factfinder(s).

Factfinder(s), when conducting hearings, shall have the authority to:

(a) Take testimony, including depositions;

(b) Conduct the hearing in open session. The hearing may be conducted in closed session at the discretion of the factfinder(s), however, for good cause shown by either of the parties;

(c) Rule on motions, and requests for appearance of witnesses and the production of records;

(d) Designate the date on which posthearing briefs, if any, shall be submitted. An original and two copies of each brief shall be submitted to the Executive Secretary with a copy to the other party and a statement of service; and

(e) Regulate all procedural matters of the hearing as to length of sessions, conduct of persons in attendance, recesses, continuances and adjournment; and take any other appropriate action which, in his judgment, will promote the purpose and objectives of the hearing.

§ 2471.12 Availability of hearing transcript.

The parties will make their own arrangements with the reporter for the purchase of their copies of the official transcript of a factfinding proceeding. A copy will be available for examination at the Office of the Executive Secretary.

§ 2471.13 Report of the factfinder(s) and action by the Panel.

(a) The factfinder(s) shall submit a report to the Panel within a reasonable time, normally not to exceed 20 calendar days, after receipt of the transcript, or after receipt of briefs, if any. The parties will be advised when the report has been transmitted to the Panel. The report will not include recommendations for settlement but will include findings of fact on:

(1) History of the current negotiations, including the initial positions of the parties, and a report of items agreed to in whole or part;

(2) Unresolved issues and the efforts made by the parties to reach agreement thereon;

(3) Context within which the negotiations have taken place;

(4) Justification for each proposal as advanced by the parties;

(5) Prevailing practices, if any, pertaining to conditions of employment for other public employees in comparable work situations;

(6) Status of any claim concerning negotiability; and

(7) Any other matters relevant to the impasse.

(b) After receipt of the report of the factfinder(s), the Panel will evaluate the impasse and either:

(1) Submit its recommendations for settlement to the parties; or

(2) Take any other action which it deems appropriate.

§ 2471.14 Duties of each party.

(a) Within 20 calendar days after receipt of a Panel Report and Recommendation(s) for Settlement, each party shall, after conferring with the other, either:

(1) Accept the Panel's recommendations and so notify the Executive Secretary; or

(2) Reach a settlement of all unresolved issues and submit a written settlement statement to the Executive Secretary; or

(3) Submit a written statement to the Executive Secretary setting forth the reasons for not accepting the Panel's recommendations and reaching a settlement of all unresolved issues.

(b) A reasonable extension of the 20-day period may be authorized by the Executive Secretary for good cause shown when requested in writing by either party prior to the expiration of the 20-day period.

§ 2471.15 Settlement action by the Panel.

In the event there remain any unresolved issues at the end of the aforesaid 20-day period or any extension thereof, the Panel, after due consideration of the responses of the parties, will take whatever action it deems necessary to bring the dispute to settlement.

§ 2471.16 Inconsistent labor agreement provisions.

Any provisions of the parties' labor agreements relating to impasse resolution which are inconsistent with the provisions of either sections 5 and 17 of the order or the procedures of the Panel shall be deemed to be superseded by the order and the procedures herein.

Effective date. Subchapter C shall become effective on the date of publication in the FEDERAL REGISTER (10–3–72).

Signed at Washington, D.C., this 20th day of September 1972 for the Panel.

JACOB SEIDENBERG,
Chairman.

[FR Doc.72–16712 Filed 10–2–72;8:55 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities of Bank Holding Companies; Correction

In F.R. Doc. 72–15503 adopting the Board's interpretation designated § 225.128—*Insurance agency activities*—which appeared in the September 13, 1972 issue of the FEDERAL REGISTER (37 F.R. 18520), the date of the Board's action was incorrectly shown as August 31, 1971. The correct date is August 31, 1972.

Board of Governors of the Federal Reserve System, September 25, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72–16807 Filed 10–2–72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72–CE–29–AD, Amdt. 39–1524]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 65–90, 65–A90, B90, 99, 99A, A99A, and B99 Airplanes; Correction

In F.R. Doc. 72–16150, appearing on pages 19802 and 19803 in the issue of Friday, September 22, 1972, paragraph D should be corrected to read as follows:

(D) When paragraph C has been complied with the limitation in paragraph A may be removed and the check required by paragraph B may be discontinued.

Issued in Kansas City, Mo., on September 25, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72–16760 Filed 10–2–72;8:46 am]

[Docket No. 72–SO–93, Admt. 39–1527]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Commander (Intermountain) (CallAir) Models B–1 and B–1A Series Airplanes

There have been failures of the landing gear shock struts on the Aero Commander Models B–1 and B–1A series airplanes. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued to require replacement of the main landing gear shock struts with redesigned struts on the Aero Commander (Intermountain) (CallAir) Models B–1 and B–1A airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

AERO COMMANDER DIVISION, NORTH AMERICAN ROCKWELL CORP. Applies to all Aero Commander (Intermountain) (CallAir) Models B–1 and B–1A series airplanes, S/N's 10,000 through 10,035.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent failures of the landing gear shock struts, accomplish the following:

(a) Remove main landing gear shock struts, P/N 18004–1 (left hand) and P/N 18004–2 (right hand) and discard struts and all hardware except the wire cutters, P/N 18026.

(b) Install replacement shock struts, P/N 18045–1 (left hand) and P/N 18045–2 (right hand). Attach these struts with the following hardware:

(1) Upper strut attachment (2 required per strut): NAS 1306–26 bolt, AN 960–616 washer, AN 365–624 nut.

(2) Lower strut attachment (1 required per strut): NAS 1306–38 bolt, AN 960–616 washer, AN 365–624 nut.

(c) Replace the wire cutter, P/N 18026, on the new landing gear shock strut with two AN 3–6A bolts, two AN 960–10 washers, and two AN 365–1032 nuts. Repeat for the opposite strut.

Aero Commander Service Bulletin A–23 pertains to this same subject.

This amendment becomes effective October 6, 1972.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on September 20, 1972.

P. M. SWARTEK,
Director, Southern Region.

[FR Doc.72–16758 Filed 10–2–72;8:46 am]

[Airworthiness Docket No. 72–SW–53, Amdt. 39–1531]

PART 39—AIRWORTHINESS DIRECTIVES

Airplanes Having Wings, Tail, or Control Surfaces Covered With Fiberglass Using "Razorback" Method

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive applicable to airplanes having wings, tail, or control surfaces covered with fiberglass using the "razorback" method was published in 37 F.R. 16106.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Certain detail changes were requested and the intent of these changes have been incorporated.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Applies to airplanes having wings, tail, or control surfaces covered with fiberglass using the "razorback" method, certificated in all categories.

Compliance required within the next 50 hours' time in service after the effective date of this airworthiness directive, unless already accomplished.

V37-1972-OCT-3-72 XUM

To determine if the fabric is attached with plastic coated glass rib stitch cord, inspect the interior of the wings, tail, or control surfaces through inspection openings or by cutting small holes in the fabric. The plastic coating on the rib stitch cord is black in color.

(a) If the fabric is attached with the plastic coated rib stitch cord, replace the stitching with MIL-C-5649 cord or FAA-approved equivalent.

(b) If the fabric is attached with MIL-C-5649 cord, or FAA-approved equivalent, no further action is required.

(c) All work required, including patching holes, may be acomplished in accordance with FAA Advisory Circular 43.13-1. Razorback Fabrics, Inc., Service Bulletin 1-1 dated March 11, 1964, covers the same subject.

NOTE: Copies of Razorback Fabrics, Inc., Service Bulletin 1-1 may be obtained from the company at Manila, Ark. 72442.

This amendment becomes effective October 16, 1972.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on September 25, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-16759 Filed 10-2-72;8:46 am]

[Airspace Docket No. 72-SO-80]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On August 17, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16599), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Knoxville, Tenn., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Knoxville, Tenn., transition area is amended as follows:

"* * * beginning * * *" is deleted and "* * * beginning; within a 15-mile radius of Sevier-Gatlinburg Airport (Lat. 35°-51'25" N., Long. 83°31'44" W.); excluding the portion within the Morristown, Tenn., transition area * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on September 22, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-16761 Filed 10-2-72;8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-761]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board proposed, inter alia, certain amendments to Part 207. For the reasons set forth in SPR-61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207), effective September 27, 1972, as follows:

1. Amend § 207.11(b) and (c) by adding new subparagraphs (7) and (5), respectively, as follows:

§ 207.11 Charter flight limitations.

Charter flights (trips) in air transportation shall be limited to the following:

* * * * *

(b) * * *

(7) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter; or

(c) * * *

(5) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 754, as amended; 49 U.S.C. 1324, 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16834 Filed 10-2-72;8:54 am]

[Reg. ER-762, Amdt. 7]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board proposed, inter alia, certain amendments to Part 208. For the reasons set forth in SPR-61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208), effective September 27, 1972, as follows:

1. Amend § 208.3 by revising the definition of "Indirect air carrier" in paragraph (u) to read as follows:

§ 208.3 Definitions.

* * * * *

(u) "Indirect air carrier" means any citizen of the United States who engages indirectly in air transportation including air freight forwarders, persons authorized by the Board to transport by air used household goods of personnel of the Department of Defense, tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

* * * * *

2. Amend § 208.6 by revising paragraphs (b) (5) and (6) and adding new subparagraph (7), and by revising paragraph (c) (4) and (5) and adding a new subparagraph (6), as follows:

§ 208.6 Charter flight limitations.

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

* * * * *

(b) * * *

(5) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(6) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(7) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter; or

(c) * * *

(4) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(5) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(6) By a travel group charter organizer on behalf of a travel group pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 754, as amended; 49 U.S.C. 1324, 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16835 Filed 10-2-72;8:54 am]

[Reg. ER-763, Amdt. 7]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board proposed, inter alia, certain amendments to Part 212. For the reasons set forth in SPR-61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 212 of the Economic Regulations (14 CFR Part 212), effective September 27, 1972, as follows:

1. Amend § 212.8 by revising paragraph (a) (6) and adding a new subparagraph (7) and by revising paragraphs (b) (3) and (4) and adding a new subparagraph (5), as follows:

§ 212.8 Charter flight limitations.

Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually way-billed basis—

(a) * * *

(6) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(7) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter; or

(b) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter;

(5) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter:

Provided, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (b) shall not be construed to apply to movements of property.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16836 Filed 10-2-72;8:54 am]

[Reg. ER-764, Amdt. 10]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Performance of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 27th day of September, 1972.

By notice of proposed rule making EDR-218/SPDR-22A,[1] the Board proposed, *inter alia,* certain amendments to Part 214. For reasons set forth in SPR-61 (Part 372a), published contemporaneously herewith, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective September 27, 1972, as follows:

1. Amend § 214.7(a) by revising subparagraph (4) and adding a new subparagraph (5) and amend paragraph (b) by revising subparagraph (4) and adding a new subparagraph (5), as follows:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air transportation performed by a direct foreign air carrier on a time, mileage or trip basis where—

(a) * * *

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(5) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter; or

(b) * * *

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(5) By a travel group charter organizer on behalf of a travel group, pursuant to Part 372a of this chapter:

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided, further,* That with respect to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324 and 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16837 Filed 10-2-72;8:54 am]

[Reg. ER-765, Amdt. 5]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Reports of Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By SPR 61 (Part 372a), ER-763 (Part 212), and ER 764 (Part 214), published contemporaneously herewith, the Board is establishing a new class of charters, called travel group charters, and is authorizing foreign air carriers to perform flights in connection with such charters.

Part 217 calls for the reporting of all civil charter flights performed to or from the United States by foreign air carriers with an exception provided for such carriers which hold permits authorizing casual, occasional, and infrequent flights with small aircraft across the border between the United States and a contiguous nation. It is thus necessary to amend the reporting instructions in § 217.6 in order to provide for the reporting of this newly established class of civil charters.[1]

This amendment of Part 217 is thus basically editorial in nature, in that it merely reflects the establishment in Part 372a of a new class of civil charters to be reported. Since it imposes no significant burden on anyone, the Board finds that notice and public procedure thereon are unnecessary, and it may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 217 of the Economic Regulations (14 CFR Part 217) effective September 27, 1972, as follows:

Amend § 217.6 by revising Subparagraphs (2) and (9) in paragraph (b) and paragraph (g) to read as follows:

§ 217.6 Reporting instructions.

* * * * *

(b) * * *

(2) Pro rata charter (other than travel group charter), as defined in Parts 212 and 214 of this chapter (Board's Economic Regulations). Mixed charters, as defined in Parts 212 and 214 of this chapter, are to be reported as pro rata charters.

* * * * *

(9) Travel group charter, as defined in Part 372a of this chapter (Board's Special Regulations).

* * * * *

(g) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in Column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—ordinary pro rata; C—study group; D—inclusive tour; E—overseas military personnel; and F—travel group.

* * * * *

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-16838 Filed 10-2-72;8:54 am]

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[1] Issued December 30, 1971, 37 F.R. 222 (Docket 23055).

[1] Issued Dec. 30, 1971, 37 F.R. 222 (Docket 23055).

[1] Issued Dec. 30, 1971, 37 F.R. 222 (Docket 23055).

[1] Section 217.6(b)(2) presently calls for the reporting of pro rata charters as defined in Parts 212 and 214 of the Board's Economic Regulations (prior affinity type of pro rata charters). Since travel group charters are distinguishable from other kinds of pro rata charters and are governed by Part 372a, the Board wishes reports on charters operations to differentiate specifically between ordinary pro rata charters and travel group charters.

FEDERAL REGISTER, VOL. 37, NO. 192—TUESDAY, OCTOBER 3, 1972

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[Reg. ER-766, Amdt. 1]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of Reporting Requirements for CAB Form 41, Schedule T–6

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By SPR–61 (Part 372a), ER–761 (Part 207), and ER–762 (Part 208), published contemporaneously herewith, the Board is establishing a new class of charters, called travel group charters, and is authorizing direct air carriers to perform flights in connection with such charters.

The instructions for Schedule T–6—Summary of Civil Aircraft Charters—in sections 25 and 35 of Part 241 presently require that data shall be reported for all civil charter flights performed by the route and supplemental air carriers, respectively. It is thus necessary to amend Schedule T–6 itself in order to provide for the reporting of this newly established class of pro rata civil charters.[1] This amendment of Part 241 is thus basically editorial in nature, in that it merely reflects the establishment in Part 372a of a new class of civil charters to be reported. Since it imposes no significant burden on anyone, the Board finds that notice and public procedure thereon are unnecessary, and it may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective September 27, 1972, as follows:

1. Amend section 25, Schedule T–6, by revising paragraph (c) (2) and (7) and paragraph (i) to read as follows:

Section 25—Traffic and Capacity Elements

* * * * *

Schedule T–6—Summary of Civil Aircraft Charters

* * * * *

(c) * * *

(2) Pro rata charter (other than travel group charter), as defined in Part 207 of the Board's economic regulations. Mixed charters, as defined in Part 207, are to be reported as pro rata charters.

* * * * *

(7) Travel group charter, as defined in Part 372a of the Board's special regulations.

* * * * *

(i) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—ordinary pro rata; C—study group; D—overseas military personnel; and E—travel group.

* * * * *

2. Amend section 35, Schedule T–6, by revising paragraphs (b) (4) and (8) and paragraph (h), to read as follows:

Section 35—Traffic and Capacity Elements

* * * * *

Schedule T–6—Summary of Civil Aircraft Charters

* * * * *

(b) * * *

(4) Pro rata charter (other than travel group charter), as defined in Part 208 of the Board's economic regulations. Mixed charters, as defined in Part 208, are to be reported as pro rata charters.

* * * * *

(8) Travel group charter, as defined in Part 372a of the Board's special regulations.

* * * * *

(h) Columns 4 and 5 shall reflect, respectively, the aggregate number of seats and the aggregate cargo capacity in tons contracted for on flights reported in column 3. Column 4 on the split-charter report shall reflect a breakdown of the aggregate number of seats contracted for (on flights reported in column 3) by type of charter group. The following symbols shall be used: A—single entity; B—ordinary pro rata; C—study group; D—inclusive tour; E—overseas military personnel; and F—travel group.

* * * * *

(Secs. 204, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72–16839 Filed 10–2–72;8:54 am]

[Reg. ER–767, Amdt. 20]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS, AND MEMORANDA

Preservation of Records by Travel Group Charter Organizers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By SPR–61 (Part 372a), published contemporaneously herewith, the Board is establishing a new class of charters, to be called travel group charters, and is authorizing a new class of charter operators to act as indirect air carriers with respect to such charters. The rule being adopted in SPR–61 contains certain record retention requirements for the travel group charter organizer. Specifically, he will be required to retain documents reflecting deposits made by, or refunds made to, each charter participant and statements, bills, and receipts from vendors of goods and services furnished in connection with the travel group charters. In the interest of uniformity, we are herein amending Part 249 so as to reflect the new record retention requirement.

Since the amendments contained herein impose no significant burden upon any person, and are needed to reflect the record retention requirements imposed by Part 372a, the Board finds that notice and public procedure thereon are unnecessary and they may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 249 of the Economic Regulations (14 CFR Part 249), effective September 27, 1972, as follows:

1. Amend the Table of Contents by revising the title of § 249.9, the table as amended to read, in pertinent part, as follows:

Sec.
249.9 Period of preservation of records by tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

2. Amend § 249.1 to read as follows:

§ 249.1 Applicability.

Except as otherwise provided in this subpart or other parts of this subchapter, the provisions of this subpart shall apply to (a) air carriers, as defined in section 101(3) of the Act, which hold certificates of public convenience and necessity, supplemental air carriers, subject to the reporting requirements of Part 241 of this subchapter and former Part 242 of this subchapter, (b) holders of a permit authorizing the navigation in the United States of foreign civil aircraft pursuant to Part 375 of this chapter (Board's Special Regulations), (c) foreign air carriers, as defined in section 101(19) of the Act, (d) tour operators as defined in § 378.2(d) of this chapter, (e) study group charterers, as defined in § 373.2 of this chapter, (f) overseas military personnel charter operators, as defined in § 372.2 of this chapter, and (g) travel group charter organizers, as defined in § 372a.2 of this chapter.

3. Amend § 249.2 by inserting therein, in alphabetical sequence, the definition of "travel group charter organizer," as follows:

§ 249.2 Definitions.

* * * * *

"Travel group charter organizer" means (1) any citizen of the United States, as defined in section 101(13) of the Act (other than a direct air carrier), who is authorized under Part 372a to engage in the formation of travel groups in accordance with the provisions of Part 372a; or (2) any person not a citizen of the United States, as defined in section 101(13) of the Act (other than a direct foreign air carrier), who is engaged in the formation of travel groups for transportation on travel group charters which originate in the United States in accordance with the provisions of Part 372a, and who holds a permit issued pursuant to section 402 of the Act authorizing such transportation.

4. Amend § 249.9 by revising the title and adding a new paragraph (d), as follows:

§ 249.9 Period of preservation of records by tour operators, study group charterers, overseas military personnel charter operators, and travel group charter organizers.

* * * * *

(d) Every travel group charter organizer (as defined in § 249.2) conducting a travel group charter pursuant to Part 372a of this chapter shall retain for 2 years after completion of the travel group charter or series of travel group charters true copies of the following documents at its principal or general office in the United States and shall make them available upon request by an authorized representative of the Board.

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant; and

(2) All statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the travel group charter or series of travel group charters.

(Secs. 204(a), 402, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; 49 U.S.C. 1324, 1372, 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc. 72–16840 Filed 10–2–72;8:54 am]

[1] Paragraph (c) (2) of the instructions for Schedule T–6 in section 25 of Part 241, and paragraph (b) (4) of parallel instructions in section 35 of said part, presently call for the separate reporting of pro rata charters as defined in Part 208 (prior affinity pro rata charters). Since travel group charters are distinguishable from other kinds of pro rata charters and are governed by Part 372a, the Board wishes reports on charter operations to differentiate specifically between ordinary pro rata charters and travel group charters.

After consideration of all comments received, the following changes are made in the proposed Part 133:

1. Section 133.0 is revised to more adequately explain the provisions contained in Part 133.

2. Paragraph (b) of § 133.1 is changed by inserting the words "or denial" after the word "approval," and by consolidating the references to the provisions under which applications are filed.

3. In the center heading for Subpart C, the word "infringing" is changed to "bearing."

4. Paragraph (b) of § 133.21 is changed by inserting the words "seizure and" after the words "subject to."

5. Paragraph (c) of § 133.21 is changed as follows:

In subparagraph (2), the cross-reference "(see §§ 133.2(d) and 133.12 (d))" is inserted before the semicolon.

Subparagraph (6) is rephrased to provide for those situations in which a general consent is filed with the Bureau, as well as cases in which the importer obtains written consent to a specific importation.

6. Paragraph (c) of § 133.23 is changed to permit an addressee appearing in person to obtain skillful removal of marks, and to delete the procedure permitting the package to be sent to the addressee for removal.

7. Section 133.31 is changed as follows:

a. A new paragraph (b) is inserted stating the persons eligible to record a copyright, and paragraphs (b) and (c) are redesignated as (c) and (d), respectively.

b. In redesignated paragraph (d), the words "or denial" are inserted after the word "approval," and the references to provisions under which applications are filed are consolidated.

8. Section 133.32 is changed as follows:

a. Paragraphs (b) and (c) are designated as (c) and (e), respectively.

b. Requirements that the application contain a statement setting forth the circumstances of actual or potential injury if the applicant claims such injury by reason of importations of works eligible for recordation of copyright, and that the foreign title of the work be identified if it differs from the U.S. title are added as paragraphs (b) and (d), respectively.

c. Redesignated paragraph (e) is changed by inserting the word "first" before the word "publication" the first two times that word appears.

9. Section 133.33 is changed as follows:

a. In subparagraph (1) of paragraph (a), the cross-reference is changed to read "§ 133.32(e)," and the second sentence is rephrased to more clearly state the nature of the document to be filed showing ownership interest and the circumstances in which it is required.

b. In subparagraph (2) of paragraph (a), the words "reproduced on paper" are inserted after the word "likenesses," and a sentence is added providing for the submissions relating to a component part to accompany an application for an entire copyrighted work.

10. Section 133.34 is changed as follows:

a. Paragraph (b) is rephrased to show that the term of recordation of a copyright is coextensive with the ownership interest of the recordant.

b. Paragraph (c) is changed by inserting after the word "canceled" the words "upon the request of the recordant or" to provide for cancellation at the instance of the recordant.

11. Section 133.35 is changed as follows:

a. In paragraph (a), the word "new" before the word "owner" is deleted.

b. In paragraph (b), subparagraph (1) is rephrased to clearly indicate the type of document required to show ownership interest.

12. In paragraph (a) of § 133.36, the words "title to be presently in the name as changed" are changed to read "the change in the name of the owner."

13. In paragraph (a) of § 133.37, the words "copyright registration" are changed to read "term of the copyright" in the first sentence, and subparagraphs (1) and (2) are rephrased to clearly state the information required as part of an application to renew Customs recordation of a copyright.

14. In § 133.42, paragraph (b) is redesignated as (c), and paragraph (a) is divided into paragraphs (a) and (b) to separately state the definition of piratical copies.

15. In § 133.43, paragraph (b) is changed by substituting 30 days for 10 days and deleting ", exclusive of any intervening Saturday, Sunday, or holiday," to provide a reasonable time for the copyright owner to make representations as to piratical copying.

16. Section 133.45 is changed as follows:

a. The heading of the section, and the heading of paragraph (b) are clarified.

b. Paragraph (c) is rephrased to clarify the provision pertaining to release of works under the Universal Copyright Convention.

17. In § 133.51, subparagraph (3) of paragraph (b) is rephrased to clarify its application only to books or periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act.

18. Paragraph (b) of § 133.52 is changed to clarify the disposition of articles forfeited for violation of the copyright laws.

In addition, editorial corrections are made in §§ 133.6, 133.13, and 133.15, and in the heading of § 133.46.

There is included as part of the revision a parallel reference table showing the relationship of sections in Part 133 to superseded sections in 19 CFR Parts 11 and 24.

Accordingly, new Part 133, and the conforming changes in Parts 11 and 24 of the Customs Regulations, Chapter I, Title 19 of the Code of Federal Regulations, are hereby adopted as set forth below.

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72–266]

TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

SEPTEMBER 21, 1972.

On December 19, 1970, notice of proposed rule making pertaining to a revision of the Customs Regulations relating to trademarks, trade names, and copyrights (19 CFR 11.14–11.21) was published in the FEDERAL REGISTER (35 F.R. 19269). An extension of time for filing comments to April 19, 1971, was granted (36 F.R. 3527).

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Effective date. These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 21, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

PART 11—PACKING AND STAMPING; MARKING

The heading of Part 11 is amended to read as set forth above.

§§ 11.14–11.21 [Deleted]

Part 11 is amended by deleting §§ 11.14 through 11.21.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.12 [Amended]

In § 24.12, paragraph (a)(1) is amended by deleting subdivision (i).

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

Chapter I of title 19 of the Code of Federal Regulations is amended by adding Part 133 entitled, "Trademarks, Trade Names, and Copyrights" as follows:

133.0 Scope.

Subpart A—Recordation of Trademarks

133.1 Recordation of trademarks.
133.2 Application to record trademark.
133.3 Documents and fee to accompany application.
133.4 Effective date, term, and cancellation of trademark recordation and renewals.
133.5 Change of ownership of recorded trademark.
133.6 Change in name of owner of recorded trademark.
133.7 Renewal of trademark recordation.

Subpart B—Recordation of Trade Names

133.11 Trade names eligible for recordation.
133.12 Application to record a trade name.
133.13 Documents and fee to accompany application.
133.14 Publication of trade name recordation.
133.15 Term of Customs trade name recordation.

Subpart C—Importations Bearing Recorded Trademarks or Trade Names

133.21 Restrictions on importation of articles bearing recorded trademarks and trade names.
133.22 Detention of articles subject to restrictions.
133.23 Release of detained articles.
133.24 Demand for redelivery of released merchandise.

Subpart D—Recordation of Copyrights

133.31 Recordation of copyrighted works.
133.32 Application to record copyright.
133.33 Documents and fee to accompany application.
133.34 Effective date, term, and cancellation of recordation.
133.35 Change of ownership of recorded copyright.
133.36 Change in name of owner of recorded copyright.
133.37 Renewal of copyright recordation.

Subpart E—Importations Violating Copyright Laws

133.41 False notice of copyright.
133.42 Piratical copies.
133.43 Procedure on suspicion of piratical copying.
133.44 Decision of disputed claim of piratical copying.
133.45 United States manufacturing requirements for books and periodicals.
133.46 Demand for redelivery of released articles.

Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages

133.51 Relief from forfeiture or liquidated damages.
133.52 Disposition of forfeited merchandise.
133.53 Refund of duty.

AUTHORITY: The provisions of this Part 133 issued under R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart D also issued under sec. 109, 61 Stat. 664, 17 U.S.C. 109.

§ 133.0 Scope.

This part provides for the recordation of trademarks, trade names, and copyrights with the Bureau of Customs for the purpose of prohibiting the importation of certain articles. It also sets forth the procedures for the disposition of articles bearing prohibited marks or names, and copyrighted or piratical articles, including release to the importer in appropriate circumstances.

Subpart A—Recordation of Trademarks

§ 133.1 Recordation of trademarks.

(a) *Eligible trademarks.* Trademarks registered by the U.S. Patent Office under the Trademark Act of March 3, 1881, the Trademark Act of February 20, 1905, or the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) except those registered on the supplemental register under the 1946 Act (15 U.S.C. 1096), may be recorded with the Bureau of Customs if the registration is current.

(b) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with §§ 133.2, 133.5, 133.6, and 133.7 of this subpart.

(Secs. 28, 42, 60 Stat. 436, 440; 15 U.S.C. 1096, 1124)

§ 133.2 Application to record trademark.

An application to record one or more trademarks shall be in writing, addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);

(b) The places of manufacture of goods bearing the recorded trademark;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and

(d) The identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad. For this purpose:

(1) "Common ownership" means individual or aggregate ownership of more than 50 percent of the business entity; and

(2) "Common control" means effective control in policy and operations and is not necessarily synonymous with common ownership.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.3 Documents and fee to accompany application.

(a) *Documents.* The application shall be accompanied by:

(1) A status copy of the certificate of registration certified by the U.S. Patent Office showing title to be presently in the name of the applicant; and

(2) Seven hundred copies of this certificate, or of a U.S. Patent Office facsimile. The copies may be reproduced privately and shall be on paper approximately 8½" by 11" in size. If the certificate consists of two or more pages, the copies may be reproduced on both sides of the paper.

(b) *Fee.* The application shall be accompanied by a fee of $100 for each trademark to be recorded. However, if the trademark is registered for more than one class of goods (see 37 CFR Part 6) the fee for recordation shall be $100 for each class for which the applicant desires to record the trademark with the Bureau of Customs. For example, to secure recordation of a trademark registered for three classes of goods, a fee of $300 is payable. The check or money order shall be made payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.4 Effective date, term, and cancellation of trademark recordation and renewals.

(a) *Effective date.* Recordation of trademark and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the Bureau of Customs instructing Customs officers as to the terms and conditions of import protection appropriate.

(b) *Term.* The recordation or renewal of an existing recordation of a trademark shall remain in force concurrently with the 20-year current registration period or last renewal therof in the Patent Office.

(c) *Cancellation of recordation.* Recordation of a trademark with the Bureau of Customs shall be canceled if the trademark registration is finally canceled or revoked.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.5 Change of ownership of recorded trademark.

If there is a change in ownership of a recorded trademark and the new owner wishes to continue the recordation with the Bureau of Customs, he shall apply therefor by:

(a) Complying with § 133.2;

(b) Describing any time limit on the rights of ownership transferred;

(c) Submitting a status copy of the certificate of registration certified by the United States Patent Office showing title to be presently in the name of the new owner; and

(d) Paying a fee of $40 which covers all trademarks included in the application which have been previously recorded with the Bureau of Customs. The check or money order shall be payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.6 Change in name of owner of recorded trademark.

If there is a change in the name of the owner of a recorded trademark, but no change in ownership, written notice thereof shall be given to the Commissioner of Customs, accompanied by:

(a) A status copy of the certificate of registration certified by the U.S. Patent Office showing title to be presently in the name as changed; and

(b) A fee of $40 which covers all trademarks included in the application which have been previously recorded with the Bureau of Customs. The check or money order shall be payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.7 Renewal of trademark recordation.

(a) *Application to renew.* To continue uninterrupted Customs protection for trademarks, the trademark owner shall submit a written application to renew Customs recordation to the Commissioner of Customs not later than 3 months after the date of expiration of the current 20-year trademark registration issued by the Patent Office. A timely application to renew a Customs recordation must include the following:

(1) A status copy of the certificate of registration certified by the U.S. Patent Office showing renewal of the trademark and title to be in the name of the applicant;

(2) A statement describing any change of ownership or in the name of owner, in compliance with §§ 133.5 and 133.6 of this part, and any change of addresses of owners or places of manufacture; and

(3) A fee of $40 which covers all recordation renewals submitted with the fee. The check or money order shall be made payable to the Bureau of Customs.

(b) *Delayed application.* Upon request made during the grace period of 3 months afforded by paragraph (a) of this section, a trademark owner whose application for renewal of recordation is unavoidably delayed may be afforded a reasonable extended period within which to comply with the requirements of paragraph (a) of this section. The request shall be in writing, addressed to the Commissioner of Customs, and shall set forth the circumstances due to which application is delayed.

(c) *Untimely application.* Failure of the trademark owner to submit a renewal application within the 3-month grace period afforded in accordance with paragraph (a) of this section or within an extension of time granted in accordance with paragraph (b) of this section, shall deprive the trademark owner of the renewal process. A delinquent applicant will be required to apply anew to record the renewed trademark in accordance with the procedures and requirements of §§ 133.2 and 133.3.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

Subpart B—Recordation of Trade Names

§ 133.11 Trade names eligible for recordation.

The name or trade style used for at least 6 months to identify a manufacturer or trader may be recorded with the Bureau of Customs. Words or designs used as trademarks, whether or not registered in the Patent Office shall not be accepted for recordation as a trade name. Generally, the complete business name will be recorded unless convincing proof establishes that only a part of the complete name is customarily used.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.12 Application to record a trade name.

An application to record a trade name shall be in writing addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name, complete business address, and citizenship of the trade name owner or owners (if a partnership, the citizenship of each partner; if an association or corporation, the State, country, or other political jurisdiction within which it was organized, incorporated or created);

(b) The name or trade style to be recorded;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trade name and a statement as to the use authorized;

(d) The identity of any parent or subsidiary company, or other foreign company under common ownership or control which uses the trade name abroad (see § 133.2(d)); and

(e) A description of the merchandise with which the trade name is associated.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

§ 133.13 Documents and fee to accompany application.

(a) *Documents.* The application shall be accompanied by a statement of the owner, partners, or principal corporate officer, and by statements by at least two other persons not associated with or related to the applicant but having actual knowledge of the facts, stating that to his best knowledge and belief:

(1) The applicant has used the trade name in connection with the class or kind of merchandise described in the application for at least 6 months;

(2) The trade name is not identical or confusingly similar to any other trade name or registered trademark used in connection with such class or kind of merchandise; and

(3) The applicant has the sole and exclusive right to the use of such trade name in connection with the merchandise of that class or kind.

(b) *Fee.* The application shall be accompanied by a fee of $100 for each trade name to be recorded. The check or money order shall be made payable to the Bureau of Customs.

(Sec. 42, 60 Stat. 440, sec. 501, 65 Stat. 290; 15 U.S.C. 1124, 31 U.S.C. 483a)

§ 133.14 Publication of trade name recordation.

(a) *Notice of tentative recordation.* Notice of tentative recordation of a trade name shall be published in the FEDERAL REGISTER and the Customs Bulletin. The notice shall specify a procedure and a time period within which interested parties may oppose the recordation.

(b) *Notice of final action.* After consideration of any claims, rebuttals, and other relevant evidence, notice of final approval or disapproval of the application shall be published in the FEDERAL REGISTER and the Customs Bulletin.

§ 133.15 Term of Customs trade name recordation.

Protection for a recorded trade name shall remain in force as long as the trade name is used. The recordation shall be canceled upon request of the recordant or upon evidence of disuse. From time to time, the Commissioner of Customs may request the trade name owner to advise whether the name is still in use. The failure of a trade name owner to respond to such a request shall be regarded as evidence of disuse.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

Subpart C—Importations Bearing Recorded Trademarks or Trade Names

§ 133.21 Restrictions on importation of articles bearing recorded trademarks and trade names.

(a) *Copying or simulating marks or names.* Articles of foreign or domestic manufacture bearing a mark or name copying or simulating a recorded trademark or trade name shall be denied entry and are subject to forfeiture as prohibited importations. A "copying or simulating" mark or name is an actual counterfeit of the recorded mark or name or is one which so resembles it as to be

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likely to cause the public to associate the copying or simulating mark with the recorded mark or name.

(b) *Identical trademark.* Foreign-made articles bearing a trademark identical with one owned and recorded by a citizen of the United States or a corporation or association created or organized within the United States are subject to seizure and forfeiture as prohibited importations.

(c) *Restrictions not applicable.* The restrictions set forth in paragraphs (a) and (b) of this section do not apply to imported articles when:

(1) Both the foreign and the U.S. trademark or trade name are owned by the same person or business entity;

(2) The foreign and domestic trademark or trade name owners are parent and subsidiary companies or are otherwise subject to common ownership or control (see §§ 133.2(d) and 133.12(d));

(3) The articles of foreign manufacture bear a recorded trademark or trade name applied under authorization of the U.S. owner;

(4) The objectionable mark is removed or obliterated prior to importation in such a manner as to be illegible and incapable of being reconstituted, for example by:

(i) Grinding off imprinted trademarks wherever they appear;

(ii) Removing and disposing of plates bearing a trademark or trade name;

(5) The merchandise is imported by the recordant of the trademark or trade name or his designate; or

(6) The recordant gives written consent to an importation of articles otherwise subject to the restrictions set forth in paragraphs (a) and (b) of this section, and such consent is furnished to appropriate Customs officials.

(Sec. 42, 60 Stat. 440, sec. 526, 46 Stat. 741; 15 U.S.C. 1124, 19 U.S.C. 1526)

§ 133.22 Detention of articles subject to restrictions.

(a) *In general.* Articles subject to the restrictions of § 133.21 shall be detained for 30 days from the date of notice to the importer that such restrictions apply to permit the importer to establish that any of the circumstances described in § 133.21(c) are applicable.

(b) *Notice of detention.* Notice of detention of articles found subject to the restrictions of § 133.21 shall be given the importer in writing, except that for articles accompanying the importer or arriving by mail, notice of detention shall be given in the following manner:

(1) *Articles accompanying importer.* When the articles are carried as accompanying baggage or on the person of persons arriving in the United States, the Customs inspector shall orally advise the importer that the articles are subject to detention.

(2) *Mail importations.* When the articles arrive by mail in noncommercial shipments, or in commercial shipments valued at $250 or less, notice of the detention shall be given on Customs Form 8.

(c) *Failure to obtain release in 30 days.* If the importer has not obtained release of detained articles within the 30-day period of detention, the merchandise shall be seized and forfeiture proceedings instituted. The importer shall be promptly notified of the seizure and liability to forfeiture and his right to petition for relief in accordance with the provisions of Part 171 of this chapter.

§ 133.23 Release of detained articles.

(a) *General.* Articles detained in accordance with § 133.22 may be released to the importer during the 30-day period of detention if any of the circumstances allowing exemption from trademark or trade name restriction set forth in § 133.21(c) are established.

(b) *Articles accompanying importer.* Articles arriving as accompanying baggage or on the person of the importer may be exported or destroyed under Customs supervision at the request of the importer, or may be released if:

(1) The importer removes or obliterates the marks in a manner acceptable to the Customs officer at the time of examination of the articles; or

(2) The request of the importer to obtain skillful removal of the marks is granted by the district director on such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

(c) *Mail importations.* Articles arriving by mail in noncommercial shipments, or in commercial shipments valued at $250 or less may be exported or destroyed at the request of the addressee or may be released if:

(1) The addressee appears in person at the appropriate Customs office and at that time removes or obliterates the marks in a manner acceptable to the Customs officer; or

(2) The request of the addressee appearing in person to obtain skillful removal of the marks is granted by the district director on such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

§ 133.24 Demand for redelivery of released merchandise.

If it is determined that merchandise which has been released from Customs custody is subject to the restrictions of § 133.21, the district director shall promptly make demand for the redelivery of the merchandise under the terms of the entry bond in accordance with § 8.26 of this chapter. If the merchandise is not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 25.17 of this chapter.

Subpart D—Recordation of Copyrights

§ 133.31 Recordation of copyrighted works.

(a) *Eligible works.* Claims to copyright which have been registered in accordance with the provisions of the Copyright Act of July 30, 1947, as amended (17 U.S.C. 1–32), or unregistered claims to copyright in works entitled to protection under section 9(c) of that Act, as amended (17 U.S.C. 9(c)), by virtue of the Universal Copyright Convention, may be recorded with the Bureau of Customs if the copyright is subsisting.

(b) *Persons eligible to record.* The copyright proprietor, or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of eligible works, may file an application to record a copyright.

(c) *Countries party to the Universal Copyright Convention.* The following countries are party to the Universal Copyright Convention:

Andorra.	Laos.
Argentina.	Lebanon.
Australia.	Liberia.
Austria.	Liechtenstein.
Belgium.	Luxembourg.
Brazil.	Malawi.
Cambodia.	Malta.
Canada.	Mexico.
Chile.	Monaco.
Costa Rica.	Netherlands.
Cuba.	New Zealand.
Czechoslovakia.	Nicaragua.
Denmark.	Nigeria.
Ecuador.	Norway.
Finland.	Pakistan.
France.	Panama.
Germany, Federal Republic of.	Paraguay.
Ghana.	Peru.
Greece.	Philippines.
Guatemala.	Portugal.
Haiti.	Spain.
Holy See.	Sweden.
Iceland.	Switzerland.
India.	Tunisia.
Ireland.	United Kingdom.
Israel.	United States of America.
Italy.	Venezuela.
Japan.	Yugoslavia.
Kenya.	Zambia.

(d) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with § 133.32, § 133.35, § 133.36, or § 133.37.

§ 133.32 Application to record copyright.

An application to record a copyright to secure Customs protection against the importation of piratical copies shall be in writing addressed to the Commissioner of Customs, Washington, D.C. 20226, and shall include the following information:

(a) The name and complete address of the copyright owner or owners;

(b) If the applicant is a person claiming actual or potential injury by reason of actual or contemplated importations of copies of eligible works, a statement setting forth the circumstances of such actual or potential injury;

(c) The name and principal address of any foreign person or business entity authorized or licensed to use the copyright, and a statement as to the use authorized;

(d) The foreign title of the work, if different from the U.S. title; and

(e) In the case of protection claimed under section 9(c) of the Copyright Act, by virtue of the Universal Copyright Convention, a statement setting forth the name of the author and his citizenship and domicile at the time of first publication, the date and country of first publication, and a description of the work, including its title, and a statement that all copies bore the Universal Copyright Convention notice from the date of first publication.

§ 133.33 Documents and fee to accompany application.

(a) *Documents.* The application for recordation shall be accompanied by the following documents:

(1) An "additional certificate" of copyright registration issued by the U.S. Copyright Office, except for unregistered Universal Copyright Convention works as described in § 133.32(e) of this subpart. If the name of the applicant differs from the name of the copyright owner identified in the certificate, or from the name appearing in the Universal Copyright Convention notice referred to in § 133.32(e), the application shall also be accompanied by a certified copy of any assignment, exclusive license, or other document recorded in the Copyright Office showing that the applicant has acquired an ownership interest in the copyright.

(2) Seven hundred 8" x 10½" photographic or other likenesses reproduced on paper of any three-dimensional work, design, print, label, or other work not readily identifiable by title and author. An application shall be excepted from this requirement if it covers a work such as a book, magazine, periodical, or similar copyrighted matter readily identifiable by title and author. Seven hundred likenesses of a component part of a copyrighted work, together with the name or title, if any, by which the part so depicted is identifiable, may accompany an application covering an entire copyrighted work.

(b) *Fee.* Each application shall be accompanied by a fee of $100 for each copyright to be recorded. The check or money order shall be made payable to the Bureau of Customs.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

§ 133.34 Effective date, term, and cancellation of recordation.

(a) *Effective date.* Recordation of copyright and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the Bureau of Customs instructing Customs officers as to the terms and conditions of import protection appropriate.

(b) *Term.* The recordation of a copyright shall remain in force until the ownership interest of the recordant in the copyright expires. Unless such ownership interest expires sooner, the recordation shall remain in force until the end of the initial 28-year term of copyright, or, if the recordation is renewed in accordance with § 133.37, until the end of the renewal term of the copyright.

(c) *Cancellation.* Recordation of a copyright with the Bureau of Customs shall be canceled upon request of the recordant, or if the registration in the U.S. Copyright Office is finally canceled or revoked.

§ 133.35 Change of ownership of recorded copyright.

(a) *Application.* If the ownership of a recorded copyright is transferred and the owner wishes to continue the recordation with the Bureau of Customs, he shall make written application to the Commissioner of Customs as follows:

(1) Comply, as appropriate, with § 133.32; and

(2) Describe any time limit on the rights of ownership transferred.

(b) *Document and fee.* The application shall be accompanied by:

(1) A certified copy of any assignment, exclusive license, or other document recorded in the U.S. Copyright Office showing the applicant has acquired an ownership interest in the copyright; and

(2) A fee of $40. The check or money order shall be payable to the Bureau of Customs.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

§ 133.36 Change in name of owner of recorded copyright.

If there is a change in the name of the owner of a recorded copyright, but no transfer of ownership, written notice specifying the change shall be given to the Commissioner of Customs accompanied by the following:

(a) A certified copy of any document recorded in the U.S. Copyright Office showing the change in the name of the owner; and

(b) Payment of a fee of $40. The check or money order shall be payable to the Bureau of Customs.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

§ 133.37 Renewal of copyright recordation.

(a) *Application for renewal.* To continue uninterrupted Customs protection for a recorded copyright, the copyright owner shall make written application to the Commissioner of Customs to renew Customs recordation not later than 3 months from the date of expiration of the term of the copyright. An application to renew a Customs recordation shall include the following:

(1) An "additional certificate" of the renewal registration issued by the U.S. Copyright Office showing that a claim to renewal copyright in the name of the applicant or his predecessor in interest has been registered;

(2) A statement describing any change of ownership or name of owner, in compliance with §§ 133.35 and 133.36 and any change of address of the owner; and

(3) Payment of a fee of $40. The check or money order shall be payable to the Bureau of Customs.

(b) *Delayed application.* Upon request made during the grace period of 3 months afforded by paragraph (a) of this section, a copyright owner whose application for renewal of recordation is unavoidably delayed may be afforded a reasonable extended period within which to comply with the requirements of paragraph (a) of this section. The request shall be in writing, addressed to the Commissioner of Customs, and shall set forth the circumstances due to which application is delayed.

(c) *Untimely application.* Failure of the copyright owner to submit a renewal application within the 3-month grace period afforded in accordance with paragraph (a) of this section, or within an extension of time granted in accordance with paragraph (b) of this section, shall deprive the copyright owner of the renewal process. A delinquent applicant will be required to apply anew to record the renewed copyright in accordance with the procedures and requirements of §§ 133.22 and 133.33.

Subpart E—Importations Violating Copyright Laws

§ 133.41 False notice of copyright.

(a) *Importation prohibited.* The importation of articles bearing a false notice of copyright is prohibited. Books, periodicals, newspapers, music, moving picture films, and other articles which bear words indicating they are entitled to copyright protection in the United States, when in fact they are not so entitled, bear a false notice of copyright.

(b) *Seizure and forfeiture.* All articles bearing a false notice of copyright shall be seized and forfeited, except when imported in the mails. Such articles imported in the mails shall be returned to the postmaster for return to the sender as nondeliverable.

(Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.42 Piratical copies.

(a) *Definition.* Piratical copies are actual copies or substantial copies of a recorded copyrighted work, produced and imported in contravention of the rights of the copyright owner.

(b) *Importation prohibited.* The importation of piratical copies of works copyrighted in the United States is prohibited.

(c) *Seizure and forfeiture.* The district director shall seize and forfeit an imported article which he determines constitutes a piratical copy of a recorded copyrighted work. The district director shall also seize and forfeit an imported article if the importer does not deny a representation that the article is a piratical copy as provided in § 133.43(a).

(Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.43 Procedure on suspicion of piratical copying.

(a) *Notice to the importer.* If the district director has any reason to believe that an imported article may be a piratical copy of a recorded copyrighted work, he shall withhold delivery, notify the importer of his action, and advise him that

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if the facts so warrant he may file a statement denying that the article is in fact a piratical copy and alleging that the detention of the article will result in a material depreciation of its value, or a loss or damage to him. The district director shall also advise the importer that in the absence of receipt within 30 days of a denial by the importer that the article constitutes a piratical copy, it shall be considered to be such a copy and shall be subject to seizure and forfeiture.

(b) *Notice to copyright owner.* If the importer of suspected piratical copies files a denial as provided in paragraph (a) of this section, the district director shall furnish the copyright owner a representative sample of the imported articles, together with notice that the imported articles will be released to the importer unless within 30 days from the date of the notice the copyright owner files with the district director:

(1) A written demand for the exclusion from entry of the detained imported articles; and

(2) A bond in the form and amount specified by the district director, conditioned to hold the importer or owner of such imported articles harmless from any loss or damage resulting from Customs detention in the event the Commissioner of Customs or his designee determines that the article is not a piratical copy prohibited importation under section 106 of the Copyright Act (17 U.S.C. 106).

(c) *Result of action or inaction by copyright owner.* After notice to the copyright owner that delivery is being withheld for imported articles suspected to be piratical copies of his recorded copyrighted work, the district director shall proceed in accordance with the applicable procedure set forth below:

(1) *Demand and bond filed.* If the copyright owner files a written demand for exclusion of the suspected piratical copies together with a proper bond, the district director shall promptly notify the importer and the copyright owner that, during a specified time limited to not more than 30 days, they may submit further evidence, legal briefs, or other pertinent material to substantiate the claim or denial of piratical copying. The burden of proof shall be upon the party claiming that any article is in fact a piratical copy. At the close of the period specified for submission of evidence, the district director shall forward the entire file in the case, together with a representative sample of the imported articles and his views or comments, to the Commissioner of Customs or his designee for decision of the disputed claim of piratical copying.

(2) *Piracy disclaimed or unsupported.* If the copyright owner disclaims that the specific imported article is a piratical copy of his recorded copyrighted work, or concedes that he possesses in sufficient evidence or proofs to substantiate a claim of piracy, the district director shall release the detained shipment to the importer, and shall release all further importations of the same article, by whomever imported, without further notice to the copyright owner.

(3) *Failure to file demand or bond.* If the copyright owner fails to file a written demand for exclusion and bond as required by paragraph (b) of this section, the district director shall release the detained articles to the importer, and notify the copyright owner of the release. The district director shall withhold delivery of all further importations of the same article by the same importer, and shall notify the copyright owner of each such subsequent shipment as provided in paragraph (b) of this section.

(4) *Withdrawal of bond.* At any time prior to transmittal of the case to the Commissioner of Customs or his designee for decision, the copyright owner may withdraw a bond filed in accordance with paragraph (b) of this section. Prior to returning the bond to the copyright owner and release of the detained articles, the district director shall require the copyright owner and the importer to file written statements agreeing to hold the Bureau of Customs and the district director harmless for any consequence of return of the bond and release of the detained articles. After withdrawal of a bond, the district director shall release importations of the same article by the same importer without further notice to the copyright owner.

§ 133.44 Decision of disputed claim of piratical copying.

(a) *Claim of piracy sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is a piratical copy, the district director shall seize and forfeit the imported articles in accordance with Part 23 of this chapter, and shall return the bond to the copyright owner.

(b) *Denial of piracy sustained.* Upon determination by the Commissioner of Customs or his designee that the detained article forwarded in accordance with § 133.43(c)(1) is not a piratical copy, the district director shall release all such detained merchandise and transmit the copyright owner's bond to the importer.

(Secs. 106, 108, 61 Stat. 663, 664; 17 U.S.C. 106, 108)

§ 133.45 U.S. manufacturing requirements for books and periodicals.

(a) *Importation prohibited.* Books and periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act (17 U.S.C. 16) which requires manufacture in the United States may not be imported during the existence of the U.S. copyright unless:

(1) The importation is permitted under one of the limited exceptions in 17 U.S.C. 107;

(2) The importation is entitled to U.S. copyright protection under the provisions of 17 U.S.C. 9(c) by virtue of the Universal Copyright Convention (see paragraph (c) of this section); or

(3) The importation is permitted by an ad interim copyright (see paragraph (b) of this section).

(b) *Release under ad interim copyright.* Upon compliance with the usual Customs requirements, the district director may release up to 1,500 copies of a book or periodical covered by an ad interim copyright when imported pursuant to the quantitative exception in 17 U.S.C. 16 if:

(1) There is presented with the entry an "Import Statement" issued by the Register of Copyrights authorizing the importation of a number of copies not in excess of 1,500 copies; and

(2) The copies are otherwise admissible.

(c) *Release under Universal Copyright Convention—(1) Determination of eligibility.* The district director shall release books under the Universal Copyright Convention without an "Import Statement" and in unlimited quantities upon a determination that either:

(i) The book was first published in a Convention country other than the United States, and the author was not a citizen or domiciliary of the United States at the time of first publication; or

(ii) The book was first published abroad, and at the time of first publication, the author was a citizen of a Convention country other than the United States and was not domiciled in the United States.

(2) *Information required.* Prior to releasing the books, the district director shall require the importer to supply the following information in writing:

(i) The country in which the book was first published;

(ii) The country of which the author was a citizen at the time of first publication; and

(iii) Whether the author was domiciled in the United States at the time of first publication.

(Secs. 9, 16, 107, 61 Stat. 655, as amended, 657, as amended, 663; 17 U.S.C. 9, 16, 107)

§ 133.46 Demand for redelivery of released articles.

If it is determined that articles which have been released from Customs custody are subject to the prohibitions or restrictions of this subpart, the district director at the port of entry shall promptly make demand for redelivery of the articles under the terms of the entry bond in accordance with § 8.26 of this chapter. If the articles are not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 25.17 of this chapter.

Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages

§ 133.51 Relief from forfeiture or liquidated damages.

(a) *Petition for relief.* The importer may petition in accordance with Parts 171 and 172 of this chapter for relief from, or cancellation of, a forfeiture incurred for violation of the trademark or copyright laws, or a claim for liquidated damages for failure to redeliver released merchandise incurred under the provisions of § 133.24 or § 133.46.

(b) *Conditioned relief.* In appropriate cases, relief from a forfeiture may be granted pursuant to a petition for relief upon the following conditions and such other conditions as may be specified by the appropriate Customs authority:

(1) The unlawfully imported or prohibited articles are exported or destroyed under Customs supervision and at no expense to the Government;

(2) All offending trademarks or trade names are removed or obliterated prior to release of the articles;

(3) In the case of books or periodicals manufactured abroad contrary to the terms of the "American manufacturing clause" of the Copyright Act (17 U.S.C. 16):

(i) Satisfactory evidence is submitted that a statement of abandonment has been filed and recorded in the Copyright Office by the copyright owner in accordance with the procedures of the Copyright Office; and

(ii) The notice of copyright is completely obliterated prior to release of the books or periodicals.

§ 133.52 Disposition of forfeited merchandise.

(a) *Trademark or trade name violation.* Articles forfeited for violation of the trademark laws shall be disposed of in accordance with the procedures applicable to forfeitures for violation of the Customs laws, after the removal or obliteration of the name, mark, or trademark by reason of which the articles were seized.

(b) *Copyright violations.* Articles for which forfeiture for violation of the copyright laws has been perfected shall be destroyed.

(Sec. 42, 60 Stat. 440, sec. 108, 61 Stat. 664; 15 U.S.C. 1124, 17 U.S.C. 108)

§ 133.53 Refund of duty.

If a violation of the trademark or copyright laws is not discovered until after entry and deposit of estimated duty, the entry shall be endorsed with an appropriate notation and the duty refunded as an erroneous collection upon exportation or destruction of the prohibited articles in accordance with § 8.49 or § 15.5 of this chapter.

(Sec. 558(a), 46 Stat. 744, as amended; 19 U.S.C. 1558(a))

ANNEX TO REVISED PART 133

Parallel Reference Table

(This table shows the relation of sections in revised part 133 to superseded 19 CFR Part 11.)

Revised section	*Superseded section*
133.0	None.
133.1(a)	11.15(a).
133.1(b)	None.
133.2	11.15(a).
133.3	11.15(a).
133.4	None.
133.5	None.
133.6	None.
133.7	11.15(c).
133.11	None.
133.12	11.16.
133.13	11.16.
133.14	None.
133.15	None.
133.21	11.14.
133.22(a)	11.17(a).
133.22(b)	11.17(b).
133.22(c)	11.17(b).
133.23(a)	None.
133.23(b)	None.
133.23(c)	11.17.
133.24	None.
133.31(a)	11.19(a).
133.31(b)	None.
133.31(c)	11.19(b).
133.31(d)	None.
133.32	11.19(a).
133.33	11.19(a).
133.34	None.
133.35	None.
133.36	None.
133.37	None.
133.41	11.18.
133.42 (a) & (b)	11.20(a).
133.42(c)	11.20(b).
133.43 (a) & (b)	11.20(c).
133.43(c)(1)	11.20(d).
133.43(c)(2–4)	None.
133.44	11.20(e).
133.45(a)	11.21(a).
133.45(b)	11.21(c).
133.45(c)	None.
133.46	None.
133.51	None.
133.52(a)	11.17(c).
133.52(b)	None.
133.53	11.17(d).

[FR Doc. 72-16793 Filed 10-2-72;8:52 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Trifluomeprazine Tablets, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-746V) filed by Norden Laboratories Inc., Lincoln, Nebr. 68501, proposing revised labeling for the safe and effective use of trifluomeprazine tablets, veterinary, as a tranquilizer for dogs. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding a new section as follows:

§ 135c.84 Trifluomeprazine tablets, veterinary.

(a) *Chemical name.* Phenothiazine, 10-[3-(dimethylamino)-2-methyl-propyl]-2-(trifluoromethyl), maleate.

(b) *Specifications.* Trifluomeprazine tablets, veterinary, contain 10 milligrams of trifluomeprazine in each tablet.

(c) *Sponsor.* See code No. 026 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) The tablets are administered orally to dogs for tranquilization and chemical restraint at a dosage level of ¼ to 1 milligram per pound of body weight once or twice daily as required.

(2) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–3–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 25, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-16747 Filed 10-2-72;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Carbadox

The Commissioner of Food and Drugs has evaluated a new animal drug application (41–061V) filed by Pfizer, Inc., 235 East 42d Street, New York, NY 10017, proposing the safe and effective use of carbadox in feed for swine. The application is approved.

Having considered the submitted data and other relevant material, the Commissioner concludes that a tolerance limitation is required to assure that edible tissues of swine treated with the drug are safe for human consumption.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135e and 135g are amended as follows:

1. Part 135e is amended by adding the following new section:

§ 135e.63 Carbadox.

(a) *Chemical name.* Methyl 3-(2-quinoxalinylmethylene) carbazate-N^1,N^4-dioxide.

(b) *Approvals.* Premix level containing 2.2 percent (10 grams per pound) of carbadox has been granted; for sponsor, see code No. 030 in § 135.501(c) of this chapter.

(c) *Assay limits.* Finished feed not less than 75 percent nor more than 125 percent of labeled amount.

(d) *Related tolerances.* See § 135g.81 of this chapter.

(e) *Special considerations.* (1) Finished feeds processed from feed supplements that contain up to 0.055 percent of carbadox and that comply with the provisions of both this paragraph and paragraph (f) of this section are exempted from the requirements of section 512(m) of the act.

(2) Do not use in feeds containing bentonite.

(f) *Conditions of use.* It is used as follows:

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CARBADOX IN ANIMAL FEED

	Grams per ton	Limitations	Indications for use
1. Carbadox	10–25 (0.0011–0.00278%)	For swine; do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in complete feeds containing less than 15 percent crude protein.	For increase in rate of weight gain and improvement of feed efficiency.
2. Carbadox	50 (0.0055%)	...do	For control of swine dysentery (vibrionic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); increase rate of weight gain and improve feed efficiency.

2. Part 135g is amended by adding a new section as follows:

§ 135g.81 Carbadox.

No residues of carbadox (Methyl 3-(2-quinoxalinylmethylene) carbazate-N^1, N^4-dioxide) and its metabolite (quinoxaline-2-carboxylic acid) are found in the uncooked edible tissues of swine as determined by the following method of analysis:

I. REAGENTS

A. Benzene—Distilled-in-Glass grade, Burdick and Jackson Laboratories or equivalent.

B. Ethyl acetate—Distilled-in-Glass grade, Burdick and Jackson Laboratories or equivalent.

C. n-Hexane—Distilled-in-Glass grade, Burdick and Jackson Laboratories or equivalent.

D. 1-Propanol—reagent grade, dried over molecular sieve pellets (5A).

E. Citric acid monohydrate—U.S.P., Pfizer, Inc., or equivalent.

F. Potassium hydroxide—pellets, reagent grade.

G. Sodium hydroxide—pellets, reagent grade.

H. Hydrochloric acid—reagent, A.C.S.

I. Sulfuric acid—reagent, A.C.S.

J. Sodium sulfate—anhydrous, reagent grade.

K. Quinoxaline-2-carboxylic acid—Pfizer Inc., or equivalent.

L. Propyl quinoxaline-2-carboxylate—Pfizer, Inc., or equivalent.

M. Acridine—practical grade; Matheson, Coleman and Bell or equivalent.

II. SOLUTIONS

A. 1*M* Citric acid.

B. 5M Sodium hydroxide.

C. 3th Potassium hydroxide.

D. 0.5*M* Citric acid buffer. Adjust the pH of 100 milliliters of 1*M* citric acid to pH 6.0 with 5*M* sodium hydroxide (approximately 55 milliliters), using a previously calibrated pH meter. Adjust the final volume to 200 milliliters with distilled water. Before making the final pH adjustment, cool the buffer to room temperature.

E. 1-Propanol-sulfuric acid reagent (97:3). Dilute 3 milliliters of concentrated sulfuric acid to 100 milliliters with dried, filtered, and cooled 1-propanol.

F. Acridine solution. Dissolve 1 milligram of acridine in 100 milliliters of benzene.

G. Quinoxaline-2-carboxylic acid solutions:

1. *Stock solution A.* Dissolve 1.25 milligram of quinoxaline-2-carboxylic acid in enough 1-propanol to make 100.0 milliliters (concentration 12.5 micrograms per milliliter).

2. *Stock solution B.* Dilute 1.0 milliliter of stock solution A to 100.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 0.125 microgram per milliliter).

3. *Working standard solution C.* Dilute a 2.0 milliliter aliquot of stock solution B to 10.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 25.0 nanograms per milliliter).

4. *Working standard solution D.* Dilute a 3.0 milliliter aliquot of stock solution B to 10.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 37.5 nanograms per milliliter).

5. *Working standard solution E.* Dilute a 4.0 milliliter aliquot of stock solution B to 10.0 milliliters with 1-propanol-sulfuric acid reagent (concentration 50.0 nanograms per milliliter).

6. *Fortification solution.* Dilute 3.0 milliliters stock solution A to 250 milliliters with distilled water (concentration 150 nanograms per milliliter).

7. *Propyl quinoxaline-2-carboxylate solution.* Dissolve 1.00 milligram of propyl quinoxaline-2-carboxylate in enough ethyl acetate to make 10 milliliters (concentration 100 micrograms per milliliter).

III. APPARATUS

A. Column, glass-tapered at one end, 0.9 centimeters x 21.5 centimeters, prepared from a 10-milliliter serological pipette.

B. Centrifuge tubes, heavy duty—50-milliliter graduated (60-milliliter capacity), equipped with glass stoppers, R. C. Ewald, Inc., or equivalent.

C. Centrifuge tubes—50 milliliters graduated, equipped with glass stoppers.

D. Volumetric flasks—5-, 10-, 100-, and 250-milliliter capacity, glass stoppered.

E. Pipettes, automatic transfer—10-, 15-, and 25-milliliter delivery volume.

F. Pipettes, measuring—0.1 and 0.5 milliliter delivery volume.

G. Pipettes, volumetric—1-, 2-, 3-, 4-, and 5-milliliter delivery volume.

H. Pipette, serological—10 milliliter delivery volume.

I. Pipettes—Pasteur, disposable.

J. Propipette bulb.

K. Syringe—10 microliter capacity, Hamilton or equivalent.

L. Crystallizing dish—190 millimeter (diameter) x 100 millimeter (height), for oil bath.

M. Test tube rack.

N. Test tube mixer—Vortex mixer or equivalent.

O. Lab jack—Cenco or equivalent.

P. Thermo-stir hotplate.

Q. Magnetic stirrer bar (teflon).

R. Thermometer—centigrade, 0° to 150° C. range.

S. Knife (for cutting frozen tissue).

T. Ultraviolet light—254 nanometers and 366 nanometers.

U. Scalpel.

V. Torsion balance—style RX–1, class A, Torsion Balance Co., or equivalent.

W. Cahn electrobalance—Cahn Model C–2 or equivalent.

X. Centrifuge—International, size 2, model K, or equivalent.

Y. Rotary evaporator equipped either with a water aspirator or with a vacuum pump and condenser.

Z. Alkacid test paper.

AA. Glassine paper.

BB. Glasswool.

CC. Flask—round bottom, 29/42 ST, 250 milliliters.

DD. Flask—round bottom, 19/22 ST, 65 milliliters.

EE. Funnel—burette.

FF. Hair dryer.

GG. pH meter.

HH. Tray—instrument, stainless steel.

II. Water bath.

JJ. Precoated thin layer plates—20 x 20 centimeters; 250 micron thickness, Silica gel GF, E. Merck, Darmstadt; distributed by Brinkmann Instruments Inc., Westbury, N.Y. 11590 or equivalent.

KK. Desaga multiplate developing tanks for five 20 x 20 centimeters plates-distributed by Brinkmann Instruments Inc. or equivalent.

LL. Gas-liquid chromatograph—Micro Tek 220 model instrument (or equivalent) equipped with a Ni^{63} electron affinity pulsed detector and a 0–1 MV recorder. Conditions and operating parameters for the gas-liquid chromatograph are: Isothermal column temperature, 175° C.; inlet heater, 270° C.; EC detector temperature, 275° C.; argon-methane (95:5) flowrate, 100 milliliters per minute (40 pounds per square inch); chart speed, ½ inch per minute, attentuation, 10 x 64. Electrometer pulse parameters: RF mode; voltage output, 55; pulse rate, 270 microseconds; pulse width, 3.0 microseconds.

A glass sleeve injection port liner is installed for off-column injections.

MM. Packing—3 percent OV–17 on Gas Chrom Q, 60–80 mesh, Applied Sciences Laboratories, Inc. or equivalent.

NN. Column—pyrex glass, U-tube, 6 feet (length) x 4 millimeters (inside diameter). Condition the packed column at 280° C. for at least 72 hours with argon-methane (95:5) flow, detached from the detector input.

OO. Septum—high temperature type (HT–13), Applied Sciences Laboratories, Inc. or equivalent.

PP. Detector-$Nickel^{63}$ electron capture. The voltage current profile for this detector should plateau at 30 volts or less in the DC mode when a stream of nitrogen gas is passed through the column and the electron capture detector.

IV. PROCEDURE

A. DISSOLUTION AND HYDROLYSIS STEP

Transfer 5 grams of swine tissue (freshly sliced from frozen tissue) to a 50-milliliter centrifuge tube. Add 10 milliliters of 3*M* potassium hydroxide, stopper, and place in a 100° C. silicone oil bath for 1 hour.

NOTE: The level of the silicone oil bath should exceed that of the tissue sample. Stopper the tubes lightly in order to allow the digestion mixture to "breath". To determine the recovery of quinoxaline-2-carboxylic acid in swine tissue at the 30 p.p.b. level, fortify 5 grams of sample with 1 milliliter of fortification solution (concentration 150 nanograms per milliliter).

B. EXTRACTION STEP

1. Cool the alkaline hydrolyzate in an ice bath and acidify to ≦ 1 pH 1 (deep red to alkacid test paper) with 4 milliliters of concentrated hydrochloric acid. Add 15 milliliters of ethyl acetate to the acidified hydrolyzate, stopper, and extract by shaking for 20 seconds. Centrifuge the mixture at 1,500 revolutions per minute for 5 minutes to clarify the ethyl acetate phase. Recover the ethyl acetate phase with a blowout pipette equipped with a propipette bulb, and transfer this extract to a 60-milliliter separatory funnel equipped with teflon stopcocks. Re-extract the hydrolyzate with two additional 15-milliliter portions of ethyl acetate, and combine the organic extracts.

NOTE: Do not contaminate the ethyl acetate phase with interfacial material during these extractions. Quinoxaline-2-carboxylic acid is unstable in strongly acidic solutions. Continue to process these extracts through the benzene extraction and evaporation steps.

2. Add 5 milliliters of 0.5*M* citric acid buffer (pH 6.0) to the ethyl acetate extract, shake, and allow the lower phase to clarify for about 20 minutes. Collect the aqueous phase in a 50-milliliter glass-stoppered centrifuge tube. Reextract the ethyl acetate phase with an additional 5 milliliters of pH 6 buffer, wait for the aqueous phase to clarify, and combine the aqueous extracts. Acidify (≦ pH 1) the aqueous extract with 2 milliliters of concentrated hydrochloric acid, stopper, and extract with 25 milliliters of benzene. Centrifuge to clarify the benzene layer and transfer the organic phase, using a blowout pipette equipped with a propipette bulb, to a 250-milliliter round bottom flask. Repeat the extraction and centrifugation steps three times. Combine the benzene extracts (about 100 milliliters) and evaporate to near-dryness, using a rotary evaporator equipped with a water aspirator and with a water bath set at 40° C.

NOTE: A rotary evaporator equipped with a vacuum pump and condenser may be used at this point. These residues may be stored overnight.

C. ESTERIFICATION STEP

Reconstitute the residue from the previous step by rinsing the walls of the round bottom flask with 2 x 2 milliliters of 1-propanol-sulfuric acid reagent; transfer each rinse with a disposable pipette to a 50-milliliter centrifuge tube. Stopper and heat the tube in a silicone oil bath at 90° C. for 1 hour. Cool the reaction mixture in an ice bath before proceeding to the following extraction step.

NOTE: Samples and standards may be stored overnight at room temperature in the propanol-sulfuric acid medium.

D. EXTRACTION OF THE ESTER DERIVATIVE

Add 10 milliliters of water and 15 milliliters of n-hexane to the esterification mixture. Extract and centrifuge to clarify the n-hexane phase. Transfer the n-hexane extract to a 65-milliliter round bottom flask; reextract the aqueous-propanol phase with two additional 15-milliliter portions of n-hexane. Centrifuge after each extraction and combine the n-hexane extracts. (NOTE: Avoid taking any of the aqueous phase in this extraction step; otherwise, the n-hexane extracts will have to be washed with 3 x 10 milliliters of water and dried over sodium sulfate.) Concentrate this solution to 0.5 milliliter, using a rotary evaporator equipped with a water aspirator and with a water bath set at 25° C. (NOTE: A rotary evaporator equipped with a vacuum pump and condenser may be used at this point.) Fortify this solution with 0.1 milliliter of acridine marker (1 milligram per 100 milliliters benzene).

NOTE: Do not store the n-hexane extracts of the propyl ester derivative overnight. Continue to process these solutions by the following thin-layer chromatography step E.

E. THIN-LAYER CHROMATOGRAPHY

1. Quantitatively transfer the concentrated n-hexane extract to the "origin" of a 20-centimeters x 20-centimeters silica gel thin-layer plate, using a disposable pipette. When pipetting this extract, streak it in a uniform band approximately 15 centimeters across and approximately 20 millimeters above the lower edge of the plate, making sure not to scratch or remove appreciable portions of absorbent and avoiding application of the sample to the sides of the plate. The applied band should not diffuse or penetrate to the end of the silica gel layer, but should remain 10 millimeters above the lower edge of the silica gel layer. Rinse the round bottom flask (containing residual n-hexane) with three portions of approximately 0.25 milliliter each of ethyl acetate; transfer each portion with the same pipette and cover the same area of the plate as described above. Following each application of the extract and ethyl acetate washes, evaporate the solvent from the plate by directing a stream of cool air to the sample zone ("origin"). Prior to chromatographic development, place an edge (approximately 5 millimeters deep) of the thin-layer plate into a tray of ethyl acetate so that the solvent will rise through the applied sample zone to form it into a narrow band approximately 10 millimeters above the "origin." Air dry this plate before chromatographic development.

2. Place the prepared plate in a chromatographic chamber lined with blotting paper and saturated with the benzene-ethyl acetate system (85:15). Develop the plate twice in this system, maintaining straight solvent fronts and allowing the solvent front to reach the top of the plate during each irrigation. Air dry the thin-layer plate for approximately 5 minutes between the first and second irrigations. Each irrigation takes approximately 75 minutes. Developed plates should not be stored overnight. Examine the developed plate under long wavelength (366 nanometers) ultraviolet light and locate the blue fluorescent band of acridine (R_f approximately 0.5). Mark out a 12-millimeters x 20-centimeters band of silica gel encompassing an area 5 millimeters above and 7 millimeters below the center of the acridine marker and extending from one side of the plate to the other.

NOTE: The relative mobilities of propyl quinoxaline-2-carboxylate and acridine must be checked in each laboratory to determine where a 12-milliliters x 20-centimeters zone of silica gel is to be excised in order to quantitatively recover the propyl ester derivative. This may be accomplished by mixing 0.1 milliliter of acridine solution (1 milligram per 100 milliliters) with 0.4 milliliter of propyl quinoxaline-2-carboxylate (100 micrograms per milliliter) and chromatographing this solution as directed above. Examine the developed plate under long wavelength (366 nanometers) ultraviolet light and locate the blue fluorescent band of acridine (R_f approximately 0.5). Examination of the plate under short wavelength (254 nanometers) ultraviolet light locates the blue absorbing band of propyl quinoxaline-2-carboxylate (R_f approximately 0.5).

3. Reduce the sample zone to a fine powder by making a series of horizontal cuts with a scalpel. Gently transfer this powder with the aid of a stainless steel spatula to glassine paper; pour this material into a burette funnel atop a small glass column packed with a glass wool plug. Elute the adsorbent with ethyl acetate (about 6 milliliters), and collect the eluate to mark in a 5-milliliter volumetric flask. Examine this eluate by gas-liquid chromatography.

NOTE: Contamination of thin-layer chromatographic plates can be checked by gas-liquid chromatographic examination of an eluate prepared by processing a blank plate as in paragraph 1 above, starting at the point: "place a edge (approximately 5 millimeters deep) of the thin-layer plate into a tray of ethyl acetate • • •." If the plate is contaminated, examine alternate lots of precoated thin-layer plates.

F. STANDARD CURVE

Pipette 4-milliliter aliquots of quinoxaline-2-carboxylic acid working standard solutions C, D, and E, respectively, and 4-milliliter portions of 1-propanol-sulfuric acid reagent into 50-milliliter centrifuge tubes; stopper, react, extract, and concentrate as directed in the esterification and extraction steps described in subsections C and D above; however, omit the addition of acridine to the n-hexane concentrate and do not chromatograph it by thin-layer chromatography. Instead, reconstitute the n-hexane concentrate with ethyl acetate and quantitatively transfer this solution to a 5-milliliter volumetric flask to give working standard solutions C, D, and E. The final concentrations of working standard solutions C, D, and E, are 20, 30, and 40 nanograms per milliliter, respectively, and are equivalent to 20, 30, and 40 p.p.b., respectively.

G. GAS-LIQUID CHROMATOGRAPHY

Separately inject 4 microliters of each of the working standard solutions C, D, and E (prepared as described above (F) into the gas-liquid chromatograph to determine the retention time of propyl quinoxaline-2-carboxylate and the relative response of the EC detector. Construct a standard curve by plotting concentration (p.p.b.) versus peak height (millimeters).

(NOTE: The reagent blank must show no interfering gas-liquid chromatographic peaks.) The peak height of propyl quinoxaline-2-carboxylate at the 30-p.p.b. level (working standard solution D) should approximate 10 percent of full-scale deflection with a retention time of 5 minutes. Follow these injections with 4-microliter injections of the tissue eluates, allowing 20 minutes between injections to clear the instrument of background peaks.

Measure the peak heights of samples and determine their concentration (p.p.b.) by reference to the standard curve.

H. CALCULATIONS

From the standard curve and the observed peak height of quinoxaline-2-carboxylic acid in the sample, determine its concentration (p.p.b.).

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER (10–3–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 27, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-16746 Filed 10-2-72;8:45 am]

PART 164—CERTIFICATION OF BATCHES OF DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

Increase in Fee for Sterility Testing of Insulin

In a notice published in the FEDERAL REGISTER of June 13, 1972 (37 F.R. 11729), the Commissioner of Food and Drugs proposed that Part 164 be amended to increase the fee for sterility testing of insulin to a level equal to the fee for sterility testing of all antibiotic drugs. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 60 days. No comments were re-

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ceived. Accordingly, the Commissioner of Food and Drugs concludes that Part 164 should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 506, 55 Stat. 851, as amended; 21 U.S.C. 356), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 164 is amended by revising § 164.10(b)(9) to read as follows:

§ 164.10 Fees.

* * * * * *

(b) * * *

(9) Ten dollars for each package in the sample of the finished batch submitted for all tests except sterility; $58.80 for all the packages in the sample submitted for the initial sterility test in accordance with § 164.2(d)(10); and $117.60 for all packages in the sample submitted for any repeat sterility test, if necessary, in accordance with the U.S.P. or N.F.

* * * * *

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

(Sec. 506, 55 Stat. 851, as amended; 21 U.S.C. 356)

Dated: September 26, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-16748 Filed 10-2-72;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7208]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Partnership Elections and Returns

On August 13, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to (1) clarify the time for electing optional adjustment to basis of partnership property under section 754 of the Internal Revenue Code of 1954, (2) clarify the time and provide an additional manner by which certain unincorporated organizations may elect under section 761(a) of such Code to be excluded from subchapter K of chapter 1 of such Code, (3) eliminate the requirements for filing returns and information by certain unincorporated organizations electing under such section, (4) clarify the requirements for filing returns by certain partnerships, and (5) make certain other clarifying changes, was published in the FEDERAL REGISTER (36 F.R. 15123). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted subject to the changes which follow:

PARAGRAPH 1. Paragraph (b) of § 1.754–1, as set forth in paragraph 1 of the notice of proposed rule making, is changed to read as set forth below.

PAR. 2. Paragraph (b)(2)(ii)(b) of § 1.761–2, as set forth in paragraph 3 of the notice of proposed rule making, is changed to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: September 27, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to (1) clarify the time for electing optional adjustment to basis of partnership property under section 754 of the Internal Revenue Code of 1954, (2) clarify the time and provide an additional manner by which certain unincorporated organizations may elect under section 761(a) of such Code to be excluded from subchapter K of chapter 1 of such Code, (3) eliminate the requirements for filing returns and information by certain unincorporated organizations electing under such section, (4) clarify the requirements for filing returns by certain partnerships, and (5) make certain other clarifying changes, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Paragraph (b) of § 1.754–1 is amended to read as follows:

§ 1.754–1 Time and manner of making election to adjust basis of partnership property.

* * * * *

(b) *Time and method of making election.* (1) An election under section 754 and this section to adjust the basis of partnership property under sections 734(b) and 743(b), with respect to a distribution of property to a partner or a transfer of an interest in a partnership, shall be made in a written statement filed with the partnership return for the taxable year during which the distribution or transfer occurs. For the election to be valid, the return must be filed not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the return for such taxable year (or before August 23, 1956, whichever is later). Notwithstanding the preceding two sentences, if a valid election has been made under section 754 and this section for a preceding taxable year and not revoked pursuant to paragraph (c) of this section, a new election is not required to be made. The statement required by this subparagraph shall (i) set forth the name and address of the partnership making the election, (ii) be signed by any one of the partners, and (iii) contain a declaration that the partnership elects under section 754 to apply the provisions of section 734(b) and section 743(b). For rules regarding extensions of time for filing elections, see § 1.9100–1.

(2) The principles of this paragraph may be illustrated by the following example:

Example. A, a U.S. citizen, is a member of partnership ABC, which has not previously made an election under section 754 to adjust the basis of partnership property. The partnership and the partners use the calendar year as the taxable year. A sells his interest in the partnership to D on January 1, 1971. The partnership may elect under section 754 and this section to adjust the basis of partnership property under sections 734(b) and 743(b). Unless an extension of time to make the election is obtained under the provisions of § 1.9100–1, the election must be made in a written statement filed with the partnership return for 1971 and must contain the information specified in subparagraph (1) of this paragraph. Such return must be filed by April 17, 1972 (unless an extension of time for filing the return is obtained). The election will apply to all distributions of property to a partner and transfers of an interest in the partnership occurring in 1971 and subsequent years, unless revoked pursuant to paragraph (c) of this section.

* * * * *

PAR. 2. Paragraph (a) of § 1.761–1 is amended to read as follows:

§ 1.761–1 Terms defined.

(a) *Partnership.* The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, and which is not a corporation or a trust or estate within the meaning of the Code. The term "partnership" is broader in scope than the common law meaning of partnership, and may include groups not commonly called partnerships. See section 7701(a)(2). See regulations under section 7701(a)(1), (2), and (3) for the description of those unincorporated organizations taxable as corporations or trusts. A joint undertaking merely to share expenses is not a partnership. For example, if two or more persons jointly construct a ditch merely to drain surface water from their properties, they are not partners. Mere coownership of property which is maintained, kept in repair, and rented or leased does not constitute a partnership. For example, if an individual owner, or tenants in common, of farm property lease it to a farmer for a cash rental or a share of the crops, they do not necessarily create a partnership thereby. Tenants in common, however, may be partners if they actively carry on a trade, business, financial operation, or venture and divide the profits thereof. For example, a partnership exists if coowners of an apartment building lease space and in addition provide services to the occupants either directly or through an agent. For rules relating to the exclusion of certain partnerships from the application of all or part of subchapter K of chapter 1 of the Code, see § 1.761–2.

* * * * *

PAR. 3. There is inserted immediately after § 1.761–1 the following new section:

§ 1.761–2 Exclusion of certain unincorporated organizations from the application of all or part of subchapter K of chapter 1 of the Code.

(a) *Exclusion of eligible unincorporated organizations*—(1) *In general.* Under conditions set forth in this section, an unincorporated organization described in subparagraph (2) or (3) of this paragraph may be excluded from the application of all or a part of the provisions of subchapter K of chapter 1 of the Code. Such organization must be availed of (i) for investment purposes only and not for the active conduct of a business, or (ii) for the joint production, extraction, or use of property, but not for the purpose of selling services or property produced or extracted. The members of such organization must be able to compute their income without the necessity of computing partnership taxable income. Any syndicate, group, pool, or joint venture which is classifiable as an association, or any group operating under an agreement which creates an organization classifiable as an association, does not fall within these provisions.

(2) *Investing partnership.* Where the participants in the joint purchase, retention, sale, or exchange of investment property—

(i) Own the property as coowners,

(ii) Reserve the right separately to take or dispose of their shares of any property acquired or retained, and

(iii) Do not actively conduct business or irrevocably authorize some person or persons acting in a representative capacity to purchase, sell, or exchange such investment property, although each separate participant may delegate authority to purchase, sell, or exchange his share of any such investment property for the time being for his account, but not for a period of more than a year, then

such group may be excluded from the application of the provisions of subchapter K under the rules set forth in paragraph (b) of this section.

(3) *Operating agreements.* Where the participants in the joint production, extraction, or use of property—

(i) Own the property as coowners, either in fee or under lease or other form of contract granting exclusive operating rights, and

(ii) Reserve the right separately to take in kind or dispose of their shares of any property produced, extracted, or used, and

(iii) Do not jointly sell services or the property produced or extracted, although each separate participant may delegate authority to sell his share of the property produced or extracted for the time being for his account, but not for a period of time in excess of the minimum needs of the industry, and in no event for more than 1 year, then

such group may be excluded from the application of the provisions of subchapter K under the rules set forth in paragraph (b) of this section. However, the preceding sentence does not apply to any unincorporated organization one of whose principal purposes is cycling, manufacturing, or processing for persons who are not members of the organization.

(b) *Complete exclusion from subchapter K*—(1) *Time for making election for exclusion.* Any unincorporated organization described in subparagraph (1) and either (2) or (3) of paragraph (a) of this section which wishes to be excluded from all of subchapter K must make the election provided in section 761(a) not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the partnership return for the first taxable year for which exclusion from subchapter K is desired. Notwithstanding the prior sentence such organization may be deemed to have made the election in the manner prescribed in subparagraph (2)(ii) of this paragraph.

(2) *Method of making election.* (i) Except as provided in subdivision (ii) of this subparagraph, any unincorporated organization described in subparagraphs (1) and either (2) or (3) of paragraph (a) of this section which wishes to be excluded from all of subchapter K must make the election provided in section 761(a) in a statement attached to, or incorporated in, a properly executed partnership return, Form 1065, which shall contain the information required in this subdivision. Such return shall be filed with the internal revenue officer with whom a partnership return, Form 1065, would be required to be filed if no election were made. Where, for the purpose of determining such officer, it is necessary to determine the internal revenue district (or service center serving such district) in which the electing organization has its principal office or place of business, the principal office or place of business of the person filing the return shall be considered the principal office or place of business of the organization. The partnership return must be filed not later than the time prescribed by paragraph (e) of § 1.6031–1 (including extensions thereof) for filing the partnership return with respect to the first taxable year for which exclusion from subchapter K is desired. Such partnership return shall contain, in lieu of the information required by Form 1065 and by the instructions relating thereto, only the name or other identification and the address of the organization together with information on the return, or in the statement attached to the return, showing the names, addresses, and identification numbers of all the members of the organization; a statement that the organization qualifies under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section; a statement that all of the members of the organization elect that it be excluded from all of subchapter K; and a statement indicating where a copy of the agreement under which the organization operates is available (or if the agreement is oral, from whom the provisions of the agreement may be obtained).

(ii) If an unincorporated organization described in subparagraphs (1) and either (2) or (3) of paragraph (a) of this section does not make the election provided in section 761(a) in the manner prescribed by subdivision (i) of this subparagraph, it shall nevertheless be deemed to have made the election if it can be shown from all the surrounding facts and circumstances that it was the intention of the members of such organization at the time of its formation to secure exclusion from all of subchapter K beginning with the first taxable year of the organization. Although the following facts are not exclusive, either one of such facts may indicate the requisite intent:

(*a*) At the time of the formation of the organization there is an agreement among the members that the organization be excluded from subchapter K beginning with the first taxable year of the organization, or

(*b*) The members of the organization owning substantially all of the capital interests report their respective shares of the items of income, deductions, and credits of the organization on their respective returns (making such elections as to individual items as may be appropriate) in a manner consistent with the exclusion of the organization from subchapter K beginning with the first taxable year of the organization.

(3) *Effect of election*—(i) *In general.* An election under this section to be excluded will be effective unless within 90 days after the formation of the organization (or by October 15, 1956, whichever is later) any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization, and also advises the Commissioner that he has so notified all other members of the organization by registered or certified mail. Such election is irrevocable as long as the organization remains qualified under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section, or unless approval of revocation of the election is secured from the Commissioner. Application for permission to revoke the election must be submitted to the Commissioner of Internal Revenue, Attention: T:I, Washington, D.C. 20224, no later than 30 days after the beginning of the first taxable year to which the revocation is to apply.

(ii) *Special rule.* Notwithstanding subdivision (i) of this subparagraph, an election deemed made pursuant to subparagraph (2)(ii) of this paragraph will not be effective in the case of an organization which had a taxable year ending on or before [the last day of the first calendar month which begins after the date of the publication of the Treasury decision in the FEDERAL REGISTER] if any member of the organization notifies the Commissioner that the member desires subchapter K to apply to such organization, and also advises the Commissioner that he has so notified all other members of the organization by registered or certified mail. Such notification to the Com-

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missioner must be made on or before [the 90th day after the date of the publication of the Treasury decision in the FEDERAL REGISTER] and must include the names and addresses of all of the members of the organization.

(c) *Partial exclusion from subchapter K.* An unincorporated organization which wishes to be excluded from only certain sections of subchapter K must submit to the Commissioner, no later than 90 days after the beginning of the first taxable year for which partial exclusion is desired, a request for permission to be excluded from certain provisions of subchapter K. The request shall set forth the sections of subchapter K from which exclusion is sought and shall state that such organization qualifies under subparagraphs (1) and either (2) or (3) of paragraph (a) of this section, and that the members of the organization elect to be excluded to the extent indicated. Such exclusion shall be effective only upon approval of the election by the Commissioner and subject to the conditions he may impose.

(d) *Cross reference.* For requirements with respect to the filing of a return on Form 1065 by a partnership, see § 1.6031–1.

PAR. 4. Section 1.6031–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.6031–1 Return of partnership income.

(a) *In general*—(1) *General rule.* Except as provided in paragraphs (b) and (d) of this section with respect to certain organizations excluded from the application of subchapter K of chapter 1 of the Code and certain partnerships having no U.S. business, an unincorporated organization defined as a partnership in section 761(a), through or by means of which any business, financial operation, or venture is carried on, shall make a return for each taxable year on Form 1065. For purposes of filing a partnership return, an unincorporated organization will not be considered, within the meaning of section 761(a), to carry on a business, financial operation, or venture as a partnership before the first taxable year in which such organization receives income or makes or incurs any expenditures treated as deductions for Federal income tax purposes. Such return shall state specifically the items of partnership gross income and the deductions allowable by subtitle A of the Code and shall include the names and addresses of all the partners and the amount of the distributive shares of income, gain, loss, deduction, or credit allocated to each partner. Such return shall be made for the taxable year of the partnership, irrespective of the taxable years of the partners. For taxable years of a partnership and of a partner, see section 706 and § 1.706–1. For signing of a partnership return, see § 1.6063–1.

(2) *Special rule.* Except in the case of an unincorporated organization deemed to be excluded from the application of subchapter K in the manner described in paragraph (b)(2)(ii) of § 1.761–2 for the first year of its existence, an unincorporated organization described in paragraph (a) of § 1.761–2 shall file a partnership return for the first taxable year in which the participants by a formal agreement undertake to engage in joint operations, or in the absence of a formal agreement for the first taxable year in which the participants with respect to the joint use of property jointly have income, or make or incur any expenditures treated as deductions for Federal income tax purposes. Additionally, if an organization described in paragraph (a) of § 1.761–2 does not elect under section 761 and the regulations thereunder to be excluded from the application of subchapter K or chapter 1 of the Code, it is required to file a return for each taxable year subsequent to its first taxable year in accordance with the requirements of this section until an election is made in accordance with paragraph (b)(2)(i) of § 1.761–2. Where no annual accounting period has been adopted by an organization described in paragraph (a) of § 1.761–2, its taxable year shall be the calendar year in accordance with section 441(g). For special rules in the case of an organization making the election for exclusion under section 761, see paragraphs (b)(2)(i) and (c) of § 1.761–2 and paragraph (b) of this section.

(b) *Unincorporated organizations excluded from the application of subchapter K*—(1) *Wholly excluded.* (i) Any unincorporated organization with respect to which under section 761(a) an election to be excluded from all the provisions of subchapter K of chapter 1 of the Code has been made in the manner described in paragraph (b)(2)(i) of § 1.761–2 shall file Form 1065 for the first year with respect to which such an election has been made and such return shall, in lieu of the information therein required, contain or be accompanied by the information required by such paragraph.

(ii) Except as otherwise provided in subdivision (i) of this subparagraph, an unincorporated organization which is wholly excluded from the application of subchapter K need not file a partnership return.

(2) *Partially excluded.* Any unincorporated organization excluded from the application of part of subchapter K of chapter 1 of the Code shall file a return on Form 1065 containing such information as the Commissioner may require. See section 761 and paragraph (c) of § 1.761–2.

* * * * *

[FR Doc.72-16828 Filed 10-2-72;8:54 am]

[T.D. 7187]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Unit Investment Trusts; Correction

In F.R. Doc 72-9487 filed July 5, 1972; 8:53 a.m., appearing at page 13254 in the issue of Thursday, July 6, 1972, the following change should be made:

An additional sentence should be added at the end of subparagraph (2) of § 1.851–7 (c) appearing at page 13255 of the above issue, reading as follows:

"For purposes of this subparagraph, the basis of the holder's interest in assets sold by the trust or distributed to him shall be an amount which bears the same relationship to the basis of his total interest in the trust that the fair market value of the assets so sold or distributed bears to the fair market value of such total interest in the trust, such fair market value to be determined on the date of such sale or distribution."

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.72-16827 Filed 10-2-72;8:50 am]

[T.D. 7210]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Gain on Straddle Transactions

In order to make minor corrections to and clarify the rules relating to gain on the lapse of an option issued as part of a straddle in the case of multiple options under section 1234(c) of the Internal Revenue Code of 1954, paragraphs (c)(1) and (c)(2)(ii) of § 1.1234–2 of the Income Tax Regulations (26 CFR Part 1) are hereby amended to read as follows:

§ 1.1234–2 Special rule for grantors of straddles.

* * * * *

(c) *Special rules in the case of a multiple option.* (1) If, in the case of a multiple option, the number of the options to sell and the number of the options to buy are the same and if the terms of all of the options are identical (as to the quantity of the security, price, and period of time), then each of the options contained in the multiple option shall be deemed to be a component of a straddle for purposes of section 1234(c)(1) and paragraph (a) of this section.

(2) * * *

(ii) It is clear from the facts and circumstances that the lapsed option was part of a straddle. See example (6) of paragraph (f) of this section. A multiple option to which this subdivision applies may not be regarded as consisting of a number of straddles which exceeds the lesser of the options to sell or the options to buy as the case may be. For example, if a multiple option of five puts and four calls is granted it may not be regarded as consisting of more than four straddles, although the particular facts and circumstances could dictate that the option consists of less than four straddles.

* * * * *

Because this Treasury decision amends existing regulations merely by making minor corrections to and clarifying the rules relating to gain on the lapse of a multiple option granted by the taxpayer as part of a straddle, it is hereby found unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: September 27, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-16829 Filed 10-2-72;8:54 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS UNDERGROUND COAL MINES

Requirements for Installation of Canopies or Cabs on Self-Propelled Electric Face Equipment

Background. In accordance with the provisions of section 317(j) of the Federal Coal Mine Health and Safety Act, as amended (83 Stat. 789; 30 U.S.C. 877(j)), and pursuant to the authority vested in the Secretary under section 101(a) of the Act (83 Stat. 745; 30 U.S.C. 811(a)), there was published, as proposed rule making, in the FEDERAL REGISTER for March 18, 1971 (36 F.R. 5244), § 75.-1710–1 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, entitled "Canopies or cabs; electric face equipment; installation requirements."

Interested persons were afforded a period of 30 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to this proposed mandatory safety standard, stating the grounds therefor, and to request a public hearing on such objections.

Written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a hearing on proposed § 75.1710–1. In accordance with section 101(f) of the Act, a notice of objections filed and hearing requested was published in the FEDERAL REGISTER for June 14, 1972 (37 F.R. 11779).

Following this notice, there was published on June 27, 1972, at 37 F.R. 12643, a notice of public hearing to be held for the purpose of receiving relevant evidence on the following issues:

(1) That all electric face equipment be equipped with substantial canopies or cabs to protect the operator of such equipment from falls of roof, face, and ribs; and,

(2) That substantially constructed canopies or cabs only be required on self-propelled electric face equipment, with a staggered installation schedule for equipment presently in use, dependent upon the mining height of the particular mine.

The public hearing was held on July 31, 1972, in the House of Delegates Chambers, State Capitol Building, Charleston, W. Va. Presentations were made by the following organizations: U.S. Bureau of Mines, National Independent Coal Operator's Association Harlan County Coal Operators' Association, Acme Machinery, Inc., Bituminous Coal Operators' Association, Joy Manufacturing Co., Consolidation Coal Co., Jeffrey Mining Machinery Co., Eastover Mining Co., Sigmon Construction Co., United Mine Workers of America, FMC Corp., and Eastern Associated Coal, Inc.

A verbatim transcript of the hearing is available for public inspection in the office of the Deputy Director, Health and Safety, Room 4512, Bureau of Mines, Department of the Interior, Washington, DC 20240.

Findings. Section 101(g) of the Act (83 Stat. 747; 30 U.S.C. 811(g)), provides, in part, that within 60 days after completion of any public hearing on proposed mandatory safety standards, the Secretary of the Interior shall make findings of fact which shall be public. On the basis of the evidence presented at the hearing, it is found that:

(1) Roof falls have been the prime cause of fatalities in underground bituminous coal mines, having accounted for an average of over 50 percent of such fatalities.

(2) Fatalities to operators of self-propelled electric face equipment due to falls of roof, face, and rib will be significantly reduced by the installation and use of substantially constructed canopies or cabs on such equipment. Equipment-operator fatalities caused by operators being pinned, squeezed, or crushed against the roof, rib, or other equipment will also be significantly reduced by the installation and use of substantially constructed canopies or cabs on self-propelled electric-face equipment.

(3) Practical technology is not available to design and construct a canopy or cab for installation on all electric-face equipment which will protect the equipment operator from a massive roof fall.

(4) A majority of roof falls involving fatalities are not massive, as evidenced by an analysis of the 520 roof-fall fatalities occurring from 1966 through 1971 which showed that 71.2 percent of these fatalities were caused by falls of strata 24 inches or less in thickness. Observation of roof falls on existing canopies and cabs further showed that the falling rock generally sheared along the perimeter of the canopies or cabs.

(5) Practical technology is available to design and construct a substantial canopy or cab for installation on self-propelled electric-face equipment of sufficient strength to protect the equipment operator from a nonmassive roof fall.

(6) Although practical technology is available to design and construct a substantial canopy or cab for installation on self-propelled electric-face equipment of sufficient strength to protect the equipment operator from a massive roof fall, it has been shown that in mining heights less than 72 inches, additional research and study is necessary to solve human engineering problems such as reduction of visibility and cramping of the equipment operator. Such research and study is currently being undertaken on behalf of the Bureau of Mines and results will be available in calendar year 1973. Depending upon the results of such research and study, as well as experience gained in the course of enforcement of the Federal Coal Mine Health and Safety Act of 1969 and other pertinent statutes, the timetables, based on mining heights, for the installation of canopies or cabs on self-propelled electric-face equipment, contained in § 75.1710–1(a)(2), (3), (4), (5), and (6), may be shortened or lengthened.

(7) Observation of self-propelled electric-face equipment presently in use (including machinery presently equipped with canopies or cabs) shows that practical technology is available to retrofit existing self-propelled electric-face equipment with substantially contructed canopies or cabs.

(8) Manufacturers of new self-propelled electric-face equipment need the same amount of time to design and install substantially constructed canopies or cabs on such equipment as do coal mine operators to design and install canopies or cabs on equipment presently in use.

(9) It is recognized that continuing research and study may lead to the development of other means of protecting operators of self-propelled electric-face equipment from falls of roof, face, or rib, or from rib and face rolls, which are no less effective than substantially constructed canopies or cabs. Such research and study should be particularly applicable for roof-bolting machines, shortwall machines, and longwall systems. Therefore, an operator will be permitted to apply to the Assistant Director—Technical Support for approval of devices to be used in lieu of substantially constructed canopies or cabs provided that the Assistant Director—Technical Support is satisfied the devices will provide no less than the same measure of protection to the equipment operator as would a substantially constructed canopy or cab.

Based on evidence received at the public hearing of July 31, 1972, and in view of the foregoing reasons and facts, it is determined to modify the installation requirements for canopies or cabs on electric-face equipment as proposed in the FEDERAL REGISTER for March 18, 1971 (36 F.R. 5244), by adopting 30 CFR 75.1710–1 as set forth below.

Effective date. This amendment shall be effective on January 1, 1973.

(Secs. 101(a), 317(j) Federal Coal Mine Health and Safety Act of 1969, as amended; 83 Stat. 745, 789; 30 U.S.C. 811(a), 877(j))

JOHN B. RIGG,
Assistant Secretary of the Interior.

SEPTEMBER 28, 1972.

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Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, is hereby amended by adding a new § 75.1710–1, to read as follows:

§ 75.1710–1 Canopies or cabs; self-propelled electric face equipment; installation requirements.

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches.

(b) (1) For purposes of this section, a canopy means a structure which provides overhead protection against falls of roof.

(2) For purposes of this section, a cab means a structure which provides overhead and lateral protection against falls of roof, rib, and face, or rib and face rolls.

(c) In determining whether to install substantially constructed canopies as opposed to substantially constructed cabs, the operator shall consider and take into account the following factors:

(1) The mining method used;

(2) Physical limitations, including but not limited to the dip of the coalbed, and roof, rib, and face conditions;

(3) Previous accident experience, if any, caused by falls of roof, rib, and face, or rib and face rolls;

(4) Overhead protection, such as that afforded by a substantially constructed canopy, against falls of roof will always be required; and

(5) Lateral protection, such as that afforded by a substantially constructed cab, may also be necessary where the occurrence of falls of rib and face, or rib and face rolls is likely.

(d) For purposes of this section, a canopy or cab will be considered to be substantially constructed if a registered engineer certifies that such canopy or cab has the minimum structural capacity to support elastically: (1) A dead weight load of 18,000 pounds, or (2) 15 p.s.i. distributed uniformly over the plan view area of the structure, whichever is lesser.

(e) Evidence of the certification required by paragraph (d) of this section shall be furnished by attaching a plate, label, or other appropriate marking to the canopy or cab for which certification has been made, stating that such canopy or cab meets the minimum requirements for structural capacity set forth in paragraph (d) of this section. Written evidence of such certification shall also be retained by the operator, and shall be made available to an authorized representative of the Secretary upon request. Written evidence of certification may consist of the report of the registered engineer who certified the canopy or cab, or of information from the manufacturer of the canopy or cab stating that a registered engineer has certified that the canopy or cab meets the minimum requirements for structural capacity set forth in paragraph (d) of this section.

(f) An operator may apply to the Assistant Director—Technical Support, Bureau of Mines, Department of the Interior, Washington, D.C. 20240 for approval of the installation of devices to be used in lieu of substantially constructed canopies or cabs on self-propelled electric face equipment. The Assistant Director—Technical Support may approve such devices if he determines that the use thereof will afford the equipment operator no less than the same measure of protection from falls of roof, face, or rib, or from rib and face rolls as would a substantially constructed canopy or cab meeting the requirements of this section.

[FR Doc.72-16812 Filed 10-2-72;8:49 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1472—CONDUCT OF RENEGOTIATION

PART 1477—STATEMENTS TO CONTRACTORS

Miscellaneous Amendments to Chapter

The Renegotiation Board hereby adopts the proposed amendments to Parts 1472 and 1477 which were published on July 25, 1972 (37 F.R. 41816–41819), certain changes having been made therein.

In adopting these regulations, the Board has endeavored, by the institution of new procedures, to provide more information to contractors engaged in renegotiation proceedings and to improve opportunities for the making of agreements to eliminate excessive profits. The new regulations reflect special emphasis on principles of administrative due process. Significant changes have been made in the procedures to provide, among other things, for the preparation and issuance to contractors of a renegotiation report and a memorandum of decision explaining the final action.

Said regulations, as adopted, read as set forth below.

Dated: September 28, 1972.

RICHARD T. BURRESS,
Chairman.

A. Part 1472 of Title 32 is amended as follows:

1. Section 1472.3 *Conduct of renegotiation by Regional Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.3 Conduct of renegotiation by Regional Board.

(a) *Submission of additional information; preliminary meetings.* After a case has been assigned to a Regional Board for renegotiation, the Regional Board personnel assigned to the case will examine the Standard Form of Contractor's Report and other information submitted by the contractor and will determine what additional information is needed. When necessary, a preliminary meeting or meetings will be held with the contractor to discuss the information and data to be submitted by the contractor and the manner in which it is to be submitted. The contractor shall also be entitled in any case to submit, and in cases deemed appropriate will be invited at an appropriate stage in the proceedings to submit, a statement setting forth such further information, data, and representations as it may desire to have taken into consideration under the factors prescribed in section 103(e) of the act, and explained in Parts 1460 and 1490 of this chapter. A reasonable opportunity will be provided for the submission of any information, data, or representations that the contractor may be requested or invited to submit.

(b) *Disputed issues.* Before completing the reports described in paragraphs (e), (f), and (h) of this section, the Regional Board personnel assigned to the case will endeavor to resolve with the contractor any issues or disputed matters of fact, law or accounting. Upon its request, the contractor will be afforded a reasonable opportunity to present to such Regional Board personnel, both orally and in writing, any statements or arguments which the contractor desires to submit in support of its position on any such issues or matters.

(c) *Plant inspection.* In cases deemed appropriate or, in any event, in any case in which there exists a possibility of a determination of excessive profits, Regional Board personnel will, whenever practicable, with the consent of the contractor, visit an inspect the appropriate plant or site of the contractor, unless a visit of reasonably recent date was made to such plant or site in conection with the renegotiation of the contractor for an earlier fiscal year. Generally, a plant visit, if undertaken, will be made before the completion of the Renegotiation Report pursuant to paragraph (h) of this section.

(d) *Regional Board member as renegotiator.* A Regional Board member who serves as the assigned renegotiator in a case will not be eligible thereafter to serve as a member of a panel of the Regional Board constituted pursuant to paragraph (k) of this section or to vote as a member of the Regional Board in the determination or recommendation made pursuant to paragraph (j) or (l) of this section.

(e) *Accounting Report.* After all relevant financial, accounting, and related information has been obtained, the Regional Board accountant assigned to the case will prepare an Accounting Report which will include pertinent financial schedules and accounting data. Except as provided in paragraph (f) of this section, a copy of the Accounting Report will be furnished to the contractor after approval thereof by the Director, Division of Accounting, and after such furnishing is authorized by the Chairman of the Regional Board. The letter transmitting the Accounting Report will request the contractor to state, within a fixed time, its concurrence in or its objections to the Statement of Income (Schedule A) included in such report, and will invite its comments upon any other matters set forth therein. A copy of any modification thereafter made of the Accounting Report will be furnished to the contractor after approval thereof by the Director, Division of Accounting, and after such furnishing is authorized by the Chairman of the Regional Board. The contractor will be requested to state its concurrence in or its objections to such modification.

(f) *Clearance recommendation.* If the renegotiator assigned to the case, after considering the Accounting Report, all information and data submitted by the contractor, and all relevant procurement, performance and other information that shall have been obtained, concludes that the contractor did not realize excessive profits in the fiscal year under review, he will prepare a Clearance Recommendation which will include an analysis of the case under the statutory factors. Such recommendation and any supporting Accounting Report or schedule will not be furnished to the contractor.

(g) *Clearance determination or recommendation.* A renegotiator's Clearance Recommendation will, upon its completion, and after approval thereof by the Director, Division of Renegotiating, be submitted to the Regional Board for consideration. If the decision of the Regional Board is that the contractor did not realize any excessive profits, it will make and enter a determination, in a Class B case, or a recommendation, in a Class A case, to that effect, and will notify the contractor thereof by registered mail; and the clearance procedure set forth in Part 1473 of this chapter will be followed. At the same time, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. If the Regional Board declines to approve the clearance recommendation of the renegotiator, an Accounting Report and a Renegotiation Report will be prepared, which will be subject to the provisions of paragraphs (e) and (h) of this section.

(h) *Renegotiation Report.* If the renegotiator assigned to the case, after considering the Accounting Report, all information and data submitted by the contractor, and all relevant procurement, performance, and other information that shall have been obtained, concludes that the contractor realized excessive profits in the fiscal year under review, he will prepare a Renegotiation Report which will include an analysis and evaluation of the case under the statutory factors and a recommendation with respect to the amount of such excessive profits. Similarly, if the Regional Board declines to approve a clearance recommendation submitted by the assigned renegotiator, a Renegotiation Report will be prepared. A copy of the Renegotiation Report will be furnished to the contractor after approval thereof by the Director, Division of Renegotiating, and after such furnishing is authorized by the Chairman of the Regional Board; and the contractor will be offered a renegotiation conference as provided in paragraph (i) of this section.

(i) *Renegotiation conference.* In any case in which the Regional Board does not make and enter a clearance determination or recommendation, after the Renegotiation Report has been furnished to the contractor a renegotiation conference will be held with the contractor by the Regional Board personnel assigned to the case, unless the contractor fails or declines to attend such a conference. At the conference the contractor will be afforded an opportunity to discuss the Renegotiation Report and any accounting adjustments reflected in the Accounting Report, as well as any information and data previously submitted by the contractor or otherwise obtained by the Regional Board, and any other matters considered pertinent to the case; and the possibilities of an agreement to eliminate excessive profits will be explored with the contractor. Whether or not a renegotiation conference is held, the contractor will be requested to notify the renegotiator, within the time fixed by him, whether the contractor is or is not willing to enter into an agreement to eliminate excessive profits.

(j) *Determination or recommendation without panel meeting.* (1) After such notification from the contractor to the renegotiator, and any further negotiations between them, or upon the failure of the contractor to furnish such notification within the time fixed therefor, the Regional Board personnel assigned to the case will submit the Accounting Report and the Renegotiation Report to the Regional Board, including any modifications of either thereof made as a result of the renegotiation conference or otherwise. At the same time the renegotiator will notify the contractor in writing of his recommendation to the Regional Board, including with his letter a copy of any modification of the Renegotiation Report, after approval thereof by the Director, Division of Renegotiating, and after such furnishing is authorized by the Chairman of the Regional Board. Unless the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount of such recommendation, the letter from the renegotiator will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the Regional Board as provided in paragraph (k) of this section.

(2) If the contractor shall have advised that it is willing to enter into an agreement to eliminate excessive profits in the amount recommended to the Regional Board, or within the time fixed therefor does not request a meeting with a panel of the Regional Board, the Regional Board will make and enter, in a Class B case, its determination, or in a Class A case, its recommendation to the Board with respect to the amount of excessive profits, if any, of the contractor for the fiscal year under review, and will notify the contractor by registered mail of such determination or recommendation. At the same time, unless the contractor shall have agreed to the amount so determined or recommended, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. The determination or recommendation of the Regional Board may be in an amount greater than, equal to, or less than the amount recommended by the renegotiator. However, if the Regional Board declines to make and enter a determination or recommendation in the amount recommended by the renegotiator and agreed to by the contractor, it will notify the contractor in writing of its decision, stating the reasons therefor, and will request the contractor to state, within a fixed time, whether it desires to meet with a panel of the Regional Board as provided in paragraph (k) of this section.

(3) If the decision of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(4) If the decision of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the Regional Board, to notify the Regional Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination or recommendation. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Regional Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be will be followed. In the event of the issuance of an order, as the case may be,

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will be followed. In the event of the issuance of an order, if the Board does not initiate a review thereof, the contractor will be entitled, upon request, the co will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

(k) *Panel meeting.* In any case in which the contractor has not indicated its willingness to enter into an agreement to eliminate excessive profits in the amount recommended by the renegotiator to the Regional Board or in which the Regional Board has declined to make and enter a determination or recommendation in the amount recommended by the renegotiator and agreed to by the contractor, the contractor shall be entitled at its request, made within the time fixed pursuant to paragraph (j)(1) or (j)(2) of this section, to meet with a panel of the Regional Board. Any written argument or other presentation which the contractor desires to submit to a panel, in addition to the material previously submitted by the contractor, should, whenever possible, be filed with the chairman of the panel reasonably in advance of the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law or accounting; and again, when appropriate, the possibilities of an agreement to eliminate excessive profits will be explored with the contractor.

(l) *Determination or recommendation after panel meeting.* (1) After the panel meeting provided in paragraph (k) has been held, the panel will submit to the Regional Board its recommendation for final disposition of the case. Thereupon the Regional Board will make and enter, in a Class B case, its determination, or in a Class A case, its recommendation to the Board with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such determination or recommendation. At the same time, unless the contractor shall have agreed to the amount so determined or recommended, the Regional Board will provide the contractor with a Memorandum of Decision stating the basis for the determination or recommendation, as provided in § 1477.3 of this chapter. The determination or recommendation of the Regional Board may be in an amount greater than, equal to, or less than the amount recommended by the panel.

(2) If the decision of the Regional Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the decision of the Regional Board is that the contractor realized excessive profits, it will afford the contractor a reasonable time, to be fixed by the Regional Board, to notify the Regional Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination or recommendation. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Regional Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed. In the event of the issuance of an order, if the Board does not initiate a review thereof, the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

2. Section 1472.4 *Conduct of renegotiation by Board* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1472.4 Conduct of renegotiation by Board.

(a) *Reasons for reassignment from a Regional Board.* A case will be reassigned from a Regional Board to the Board for further proceedings when (1) a Regional Board makes a recommendation in a Class A case with which the contractor or the Board is not in accord and when the Board does not direct the Regional Board to conduct further proceedings in the matter (see §§ 1473.2(a), 1474.3(a), and 1475.3(a) of this chapter); or (2) a Regional Board makes a determination by order in a Class B case and the Board initiates a review of such determination (see § 1475.3(b)); or (3) the Board considers for any other reason that the further proceedings in the case should be conducted by the Board rather than by the Regional Board to which the case has been previously assigned.

(b) *Proceedings before the Board or a division of the Board—(1) Assignment and processing.* Generally, once a case has been reassigned to the Board from a Regional Board, or after the Board has initiated review of a Regional Board determination, the case will be assigned to the Board or a division of the Board. The Board or the division will study the information and data assembled by the Regional Board and will determine what additional information or data, if any, is needed. Such additional information and data will be secured and an independent study of the case will be conducted. The Board or the division, as the case may be, will not be bound or limited in any manner by any evaluation, recommendation or determination of the Regional Board.

(2) *Meeting with the Board or a division of the Board.* In every case reassigned pursuant to § 1475.3 of this chapter or paragraph (a)(3) of this section, the contractor will be afforded an opportunity to meet with the Board or the assigned division of the Board prior to the making of a determination. Any written argument or other presentation which the contractor desires to submit for consideration by the Board or the division, in addition to the material previously submitted by the contractor to the Regional Board, should whenever possible, be filed with the Director, Office of Review, reasonably in advance of the meeting. Failure of the contractor to file information or arguments prior to the meeting will not preclude presentation thereof at the meeting. At the meeting the contractor will be afforded an opportunity to be heard on all matters considered pertinent to the case, including any unresolved issues or matters of fact, law, or accounting. Also, when appropriate, the Board or the division will explore with the contractor the possibilities of an agreement to eliminate excessive profits.

(c) *Board determination.* (1) After the meeting with the Board or a division of the Board as provided in paragraph (b)(2) of this section, or after it has been determined that no such meeting is required, the Board will take under consideration the final disposition of the case. In a case that has been assigned to a division, the division will submit its recommendation to the Board. Thereupon the Board will make and enter its determination with respect to the amount of excessive profits, if any, for the fiscal year under review, and will notify the contractor by registered mail of such determination. The determination of the Board may be in an amount greater than, equal to, or less than the amount determined or recommended by the Regional Board or recommended by the division. At the same time, except in a refund case if the contractor shall have agreed to the amount of excessive profits so determined, the Board will provide the contractor with a Memorandum of Decision stating the basis for the determination, as provided in § 1477.3 of this chapter.

(2) If the determination of the Board is that the contractor did not realize any excessive profits, the clearance procedure set forth in Part 1473 of this chapter will be followed.

(3) If the determination of the Board is that the contractor realized excessive profits, the Board will afford the contractor a reasonable time, to be fixed by the Board, to notify the Board whether it is or is not willing to enter into an agreement to eliminate excessive profits in the amount of the determination. After such notification from the contractor, or upon the failure of the contractor to furnish such notification within the time fixed therefor by the Regional Board, the procedure set forth in Part 1474 or Part 1475 of this chapter for the making of an agreement or the issuance of an order, as the case may be, will be followed. In the event of the issuance of an order, the contractor will be entitled, upon request, to a statement of the determination, of the facts used as a basis therefor, and of the reasons for such determination, as provided in § 1477.2 of this chapter.

B. Part 1477 of Title 32 is amended as follows:

1. Section 1477.3 *Furnishing of other statements* is deleted in its entirety and the following is inserted in lieu thereof:

§ 1477.3 Furnishing of other statements.

When a Regional Board has made a determination in a Class B case, or a recommendation in a Class A case, or when the Board has made a determination, the Regional Board or the Board, as the case may be, except in a refund case if the contractor shall have agreed to the amount so determined or recommended, will furnish to the contractor a Memorandum of Decision stating the basis for the determination or recommendation. See §§ 1472.3 and 1472.4 of this chapter. When furnished in a refund case, the memorandum will assist the contractor to decide whether or not to enter into an agreement.

§ 1477.4 [Amended]

2. Section 1477.4 *Contents of statements* is amended in the following respects:

(a) Paragraph (a) is amended by deleting "or summary furnished pursuant to this part" and inserting in lieu thereof "furnished pursuant to § 1477.2."

(b) Paragraphs (b) and (d) are amended by deleting "or summary" in each thereof.

(c) Paragraph (f) is deleted in its entirety and the following is inserted in lieu thereof:

(f) In general, in a statement furnished pursuant to § 1477.2, every reasonable effort will be made to be responsive to the contentions of the contractor and to provide the contractor, by adequate presentation of the essential facts and reasons involved in the determination, with a basis upon which to evaluate the determination and to decide whether or not to file a petition with the Court of Claims for a redetermination thereof (see Part 1475 of this chapter).

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

[FR Doc.72-16816 Filed 10-2-72;8:52 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-185R]

PART 72—MARINE INFORMATION

Recognition of Agency Name Change

The purpose of this amendment is to delete reference to the U.S. Naval Oceanographic office now in 33 CFR Part 72, Marine Information, and in its place name the Defense Mapping Agency Hydrographic Center. The Agency referred to in these regulations has had a name change which this change reflects.

Notice of this regulation change is not necessary because it is merely in response to an agency name change, is purely informative, and changes no burden on the public.

This change is effective 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 72 of Title 33 of the Code of Federal Regulations is amended as follows:

1. By amending § 72.01-10 (a)(1), (b), and (b)(3) by deleting the phrase "U.S. Oceanographic Office" each of the three places it occurs and inserting in its place "Defense Mapping Agency Hydrographic Center."

2. By amending § 72.01-10(c) by striking the entire text thereof and inserting the following in its place: "This notice may be obtained free of charge, upon request to the Director, Defense Mapping Agency Hydrographic Center, Washington, D.C. 20390. Request should be based on an affirmative need for the information."

3. By amending the first paragraph of § 72.01-25 by striking the words "(Naval Oceanographic Office publications numbered 117A and 117B)" and inserting the words "(Defense Mapping Agency Hydrographic Center publications N.O. 117A and N.O. 117B)" in their place.

4. By amending §72.01-25 by striking the text of (a), (b), and (c) thereof and inserting the following in its place:

§ 72.01-25 Marine Broadcast Notice to Mariners.

(a) Any authorized agent for the sale of Defense Mapping Agency Hydrographic Center charts and publications whose names and addresses are contained in the Defense Mapping Agency Hydrographic Center Catalog of Nautical Charts N.O. Pub. No. 1-N-A.

(b) The Defense Mapping Agency Hydrographic Center Depots or Offices whose names and addresses are published in Notice to Mariners N.O. 1 each year.

(c) The Defense Mapping Agency Hydrographic Center, Washington, D.C. 20390.

§ 72.01-40 [Amended]

5. By amending § 72.01-40(c) by striking the words "Naval Branch Oceanographic offices" and inserting the words "Defense Mapping Agency Hydrographic Center" in their place.

Effective date. This amendment shall become effective on November 6, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

SEPTEMBER 28, 1972.

[FR Doc.72-16795 Filed 10-2-72;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

[Federal Procurement Regs.; Temporary Reg. 27, Supplement 1]

Chapter 1—Federal Procurement Regulations

PART 1-1—GENERAL

PART 1-3—PROCUREMENT BY NEGOTIATION

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Miscellaneous Amendments to Chapter; Change of Effective Date

Revision of regulations pursuant to Public Law 91-379 as implemented by the Cost Accounting Standards Board.

1. *Purpose.* This regulation modifies the effective date of FPR Temporary Regulation 27 dated June 29, 1972 (37 F.R. 13092, July 1, 1972), with respect to negotiated nondefense contracts.

2. *Effective date.* This regulation is effective on October 1, 1972, except as otherwise provided in paragraph 5.

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Background.* FPR Temporary Regulation 27 implements the rules and regulations of the Cost Accounting Standards Board (CASB) with respect to negotiated defense contracts. It also extends the application of the Board's rules to negotiated nondefense contracts.

5. *Change of effective date.* The effective dates for the provisions in paragraphs 5b and 5d of FPR Temporary Regulation 27, as they pertain to negotiated nondefense contracts, are revised to read November 1, 1972, in lieu of October 1, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

SEPTEMBER 29, 1972.

[FR Doc.72-16999 Filed 10-2-72;10:21 am]

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-1—GENERAL

Subpart 5A-1.3—General Policies

SMALL BUSINESS EXEMPTION; ECONOMIC STABILIZATION PROGRAM

Part 5A-1 of Title 41, Chapter 5A is amended as follows:

1. Section 5A-1.321 is amended as follows:

§ 5A-1.321 Stabilization of prices, rents, wages, and salaries.

* * * * * *

(d) The Cost of Living Council amended its regulations to establish a Small Business Exemption under the economic stabilization program. All price adjustments and most pay adjustments of certain firms and local governmental units having 60 or fewer employees are affected.

(e) This section prescribes procedures for carrying out the purpose of the Executive order and shall apply to all procurements of the Federal Supply Service.

2. Section 5A-1.321-1 is revised as follows:

§ 5A-1.321-1 Solicitations (IFB/RFP).

(a) The following price certification shall be included in all solicitations (invitations for bids and requests for proposals) and resulting contracts, excluding small purchases under $2,500 (see § 5A-1.321-1(b)).

PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies (1) that he is in

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compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972) and as such is exempt from wage and price controls (except where health services or construction are involved).

(b) Prior to the payment of invoices under this contract, the contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that the amounts invoiced herein do not exceed the lower of (1) the contract price or (2) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

I hereby certify that I am a small business concern employing 60 or fewer employees (as determined in accordance with the regulation of the Cost of Living Council in 6 CFR 101.51, 37 F.R. 8939, May 3, 1972, and any subsequent amendments) and as such am exempt from wage and price controls by the Council's regulation.

(c) The contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts for supplies or services issued under this contract.

(b) The following price certification shall be included on all solicitations involving small purchases under $2,500 and on all purchase orders issued pursuant to small purchase procedures (Subpart 5A–3.6). When the solicitation is made by telephone, the offeror shall be advised of these requirements. Failure to comply with these requirements will result in rejection of the offer (for purchases made with imprest funds see § 5A–1.321–6).

PRICE CERTIFICATION (SMALL PURCHASES)

(a) By submission of this offer, offeror certifies (1) that he is in compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern, generally employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council) and as such is exempt from wage and price controls.

(b) Prior to payment of invoices under this contract, the contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that amounts invoiced herein do not exceed the lower of (1) the contract price or (2) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

I hereby certify that I am a small business concern (as determined in accordance with the regulations of the Cost of Living Council) and as such am exempt from wage and price controls.

(c) Payments will not be made on invoices unless certification, as prescribed above, has been completed.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. These regulations are effective on the date shown below.

Dated: September 19, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.72-16808 Filed 10-2-72;8:50 am]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192–8; Docket No. OPS–10]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Deactivation of Service Lines

This amendment of the Federal safety standards for gas pipelines will require certain steps to be taken in order to prevent the unauthorized introduction of gas into inactive pipeline facilities. This rule making involves a revision of § 192.727 of title 49 of the Code of Federal Regulations and the addition of a new § 192.379 to Part 192.

These amendments are in response to a clearly demonstrated need for positive regulatory action as indicated by two gas explosion incidents discussed in the notice proposing this rule making. The objective is to prevent unauthorized persons from activating gas service lines that have been deactivated or abandoned, or are not presently in use.

On June 4, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (OPS Notice 71–2, 36 F.R. 10885) proposing certain changes in the regulations designed to prevent the unauthorized introduction of gas into inactive service lines. Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. The opinions and data presented in the comments that were subsequently received have been fully considered and are reflected in these final rules.

Several commenters correctly noted that one of the gas explosion accidents mentioned in the notice of proposed rule making involved newly installed yet inactive facilities rather than abandoned or deactivated pipeline facilities. They questioned whether the proposed regulations would cover such situations. As the intent of these amendments is to prevent the unauthorized introduction of gas into any pipeline not presently in service, whether abandoned, deactivated, or not yet activated, § 192.379 has been added to the Federal safety standards to make clear that new service lines must also meet the same requirements.

Proposed § 192.727(c) (now redesignated as § 192.727(d)), would have provided for the deactivation of customer service lines by two alternative methods. In response to a large number of recommendations, a third alternative method has been adopted which allows for the installation in the service line or meter assembly of a mechanical device or fitting that will prevent the flow of gas. This method is in common usage and has proven effective in terms of overall safety. Also in answer to many comments, the requirement for physical removal of customer meters on inactive service lines (proposed as § 192.727(d)), has been deleted. This is now believed to be an unnecessary measure when one of the alternatives prescribed by new paragraph (d) has been met.

Paragraphs (e) and (f) of the proposed amendment have not been changed.

A number of commenters expressed objection to proposed § 192.727(b), on the basis that it made necessary the disconnecting, purging, and sealing of properly maintained pipeline facilities that are not subject to gas pressure in the course of normal operations. There are instances when pipelines, such as bypasses, are commonly not subject to gas pressure, and a requirement that such pipelines be sealed off from any potential gas supply is not feasible. This paragraph has therefore been revised and a new paragraph (c) has been added to avoid this problem.

Paragraph (b) now establishes safety requirements for all pipelines, the use of which is to be permanently discontinued, that is, for all pipelines that are to be abandoned. Paragraph (c) contains deactivation requirements applying only to pipelines, other than service lines, which are not being maintained under the Federal safety standards. Thus, a pipeline not normally subject to gas pressure need not meet the requirements of this paragraph.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of title 49 of the Code of Federal Regulations is amended as follows, effective November 3, 1972.

1. The table of sections for Part 192, Subpart H, is amended by adding the following new section heading after § 192.377:

Sec. 192.379 New service lines not in use.

2. The following new section is added after § 192.377 in Subpart H.

§ 192.379 New service lines not in use.

Each service line that is not placed in service upon completion of installation must comply with one of the following until the customer is supplied with gas:

(a) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(b) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.

(c) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

3. Section 192.727 is amended to read as follows:

§ 192.727 Abandonment or inactivation of facilities.

(a) Each operator shall provide in its operating and maintenance plan for abandonment or deactivation of pipelines, including provisions for meeting each of the requirements of this section.

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas, purged gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(d) Whenever service to a customer is discontinued, one of the following must be complied with:

(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(2) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.

(3) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

(e) If air is used for purging, the operator shall insure that a combustible mixture is not present after purging.

(f) Each abandoned vault must be filled with a suitable compacted material.

(Sec. 3, Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 1672; Sec. 1.58(d), regulations of the Office of the Secretary of Transportation, 49 CFR 1.58(d); Redelegation of authority to the Director, Office of Pipeline Safety, Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation, 49 CFR Part 1)

Issued in Washington, D.C., on September 27, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.72-16815 Filed 10-2-72;8:52 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69–18; Notice 11]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment; Revocation

This notice amends 49 CFR Part 571, by revoking § 571.108a, Motor Vehicle Safety Standard No. 108a, *Lamps, reflective devices, and associated equipment* and deleting a conforming amendment to Standard No. 108, in accordance with a decision of the U.S. Court of Appeals.

Standard No. 108a was established on December 2, 1971 (36 F.R. 22909), to clarify requirements for turn signal and hazard warning signal flashers effective January 1, 1973. These requirements were established by an amendment published on August 28, 1971 (36 F.R. 13743). The amendment deleted sampling and failure rate provisions from the tests for these items of motor vehicle equipment, and modified the performance requirements.

Pursuant to section 105(a)(1), of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1394(a)(1)), Wagner Electric Corp. petitioned for review of the August 28, 1971 order in the U.S. Court of Appeals for the Third Circuit. On August 29, 1972, the court granted the petition, set aside the order and remanded the matter to the National Highway Traffic Safety Administration for new rulemaking proceedings consistent with the court's views. (Wagner Electric Corp. v. Volpe, No. 71–1976 (3d Cir. 1972).)

By this notice, the NHTSA deletes from the Code of Federal Regulations the amendment set aside by the court's order. The deleted provision essentially constituted the version of the standard that was to become effective January 1, 1973 (Standard No. 108a) along with paragraph S4.1.1.16 of Standard No. 108, which allowed manufacturers to conform to the new requirements before that date.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

§ 571.108 [Amended]

1. In § 571.108, *Motor Vehicle Safety Standard No. 108*, paragraph S4.1.1.16 is deleted, and in S4.1.1 the reference thereto is changed to "S4.1.1.15."

§ 571.108a [Deleted]

2. Section 571.108a, *Motor Vehicle Safety Standard No. 108a*, is deleted.

Effective date. This notice reflects the order of the U.S. Court of Appeals for the Third Circuit, whose mandate was issued September 19, 1972, and is effective as of that date.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; Delegation of authority, 49 CFR 1.51)

Issued on September 28, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-16853 Filed 10-2-72;8:55 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 34178 (Sub-No. 1)]

ACCOUNTING FOR FEDERAL INCOME TAXES AND INVESTMENT TAX CREDIT

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 21st day of August 1972.

The Revenue Act of 1971, Public Law 92–178, provides for restoration of the investment tax credit under section 38 of the Internal Revenue Code of 1954, as amended. Section 101(c)(1)(A) of the Act states:

(A) No taxpayer shall be required to use, for purposes of financial reports subject to the jurisdiction of any Federal agency or reports made to any Federal agency, any particular method of accounting for the credit allowed by such section 38,

The Treasury Department has stated that only two methods of accounting for the investment credit under the "Revenue Act of 1971" are acceptable.

1. In the "flow-through" method, the amount of the investment credit for the year is reflected as a reduction of tax liability for that year.

2. In the "deferral" method, the amount of the credit is reflected as a reduction of tax liability ratably over the period during which the asset is depreciated on the books of the business.

For regulatory purposes, the Commission, by notice issued February 9, 1959 (24 F.R. 1401), ruled that all carriers under its jurisdiction would account for Federal income taxes by the "flow-through" method. Upon introduction of the investment tax credit in 1962, as provided in section 38 of the Internal Revenue Code, the Commission found that the credit was an integral part of the Federal income tax liability computation. By notice issued December 17, 1962 (27 F.R. 12778), it ruled that the credit should also be accounted for by the "flowthrough" method. The Commission affirmed the findings in the notices by order dated February 1, 1963, under Docket No. 34178. Accordingly, all carriers' financial statements included in reports to the Commission are required to reflect the credit on the "flow-through" method.

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The Commission is herewith changing its accounting rules to bring them into conformity with the "Revenue Act of 1971." The provisions of the Act apply only to accounting and reporting of the investment tax credit. It does not apply to other elements of "deferred taxes" such as accelerated depreciation or shortened tax-depreciation guideline lives. Accordingly, the Commission is revising its accounting rules only as they apply to the investment tax credit.

Under the provisions of the Act the carriers' freedom to use the method of their choice is limited to the areas of accounting and reporting. The Commission reaffirms its findings that the actual Federal income taxes payable for each year, based on the effective tax regulations for the year and including reductions in tax because of the investment credit, shall be used as the proper expense to be considered in ratemaking proceedings.

Carriers are presently required to disclose reductions in income taxes because of the investment tax credit in explanatory notes to certain schedules in their annual reports to the Commission. Appropriate changes will be made in the Commission's annual report forms to implement the reporting of the "deferral" method.

It appearing, that inasmuch as the appended amendments to the several uniform systems of accounts are for the purpose of conforming the Commission's accounting regulations with the statutory requirement set forth in the Revenue Act of 1971, Public Law 92–178; that the amendments prescribed herein grant relief from existing regulations and/or relate to matters of practice and procedure; that this proceeding does not constitute a major Federal action that will have a significant effect upon the quality of the human environment and that, accordingly, the detailed statement and procedure incident thereto, as prescribed by the Commission's regulations, in Ex Parte No. 55 (Sub-No. 4), "Implementation—National Environmental Policy Act, 1969" 340 I.C.C. 431 (1972), are unnecessary; and that further notice and public proceedings under section 553 of the Administrative Procedure Act, 5 U.S.C. 553, are unnecessary, and good cause exists for making the amendments effective upon publication hereof in the FEDERAL REGISTER.

Wherefore, and good cause therefor appearing:

It is ordered, That Parts 1201, 1202, 1204, 1205, 1206, 1207, 1208, 1209, and 1210 of Title 49 of the Code of Federal Regulations be, and they are hereby, amended as described below.

It is further ordered, That this order shall become effective upon publication in the FEDERAL REGISTER (10–3–72), and that the prescribed amendments are effective January 1, 1972.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(49 U.S.C. 12, 20, 204, 313, 412)

By the Commission, Division 2.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

PART 1201—RAILROAD COMPANIES

Amend Part 1201—Uniform System of Accounts for Railroad Companies.

Item No. 1. *List of instructions and accounts.* Under "General Instructions," directly below instruction "1–10 Transactions with affiliated companies," add the following:

1–11 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "1–10 Transactions with affiliated companies,"

1–11 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 532, Railway Tax Accruals, or account 590, Federal Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 760, Federal Income Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 532, Railway Tax Accruals, or account 590, Federal Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 784, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 532, Railway Tax Accruals, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 784 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "784 Other Deferred Credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

784 Other Deferred Credits.

• • • • • •

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 1–11.)

PART 1202—ELECTRIC RAILWAYS

Amend Part 1202—Uniform System of Accounts for Electric Railways.

Item No. 1. *List of items under title.* Under "Operating Expenses," directly below instruction "01–15 Equalization of maintenance expenses," add the following:

01–16 Accounting for the investment tax credit.

Item No. 2. *Operating expenses, general instructions.* Directly below the text of instruction "01–15 Equalization of maintenance expenses," add instruction 01–16 to read as follows:

01–16 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 215, Taxes Assignable to Transportation Operations, or account 290, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 435–1, Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 215, Taxes Assignable to Transportation Operations, or account 290, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 446, Other Unadjusted Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 215, Taxes Assignable to Transportation Operations, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 446 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "446 Other unadjusted credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

446 Other unadjusted credits.

• • • • • •

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 01–16.)

PART 1204—PIPELINE COMPANIES

Amend Part 1204—Uniform System of Accounts for Pipeline Companies.

Item No. 1. *List of instructions and accounts.* Under "General Instructions", directly below instruction "1–11 Interpretation of rules", add the following:

1–12 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "1–11 Interpretation of rules", add instruction 1–12 to read as follows:

1–12 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 670, Federal Income Taxes on Ordinary Income, or account 695, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 56, Taxes Payable, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a) charge account 670, Federal Income Taxes on Ordinary Income, or account 695, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 63, Other Noncurrent Liabilities, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 670, Federal Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 63 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "63 Other noncurrent liabilities" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

63 Other noncurrent liabilities.

• • • • • •

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 1–12.)

PART 1205—REFRIGERATOR CAR LINES

Amend Part 1205—Uniform System of Accounts for Refrigerator Car Lines.

Item No. 1. *List of instructions and accounts under the title.* Under "Income and Balance Sheet Accounts Instructions", directly below "41 Contingent assets and liabilities", add the following:

42 Accounting for the investment tax credit.

Item No. 2. *Income and balance sheet accounts instructions.* Directly below the text of instruction "41 Contingent assets and liabilities", add instruction 42 to read as follows:

42 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 532, Car Line Tax Accruals, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 760, Federal Income Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 532, Car Line Tax Accruals, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 784, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 532, Car Line Tax Accruals, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 784 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "784 Other deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

748 Other deferred credits.

• • • • • •

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 42.)

PART 1206—COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

Amend Part 1206—Uniform System of Accounts for Common and Contract Motor Carriers of Passengers.

Item No. 1. *List of definitions, instructions and accounts under the title.* Under "Instructions", directly below "2–31 Amortization of intangibles", add the following:

2–32 Accounting for the investment tax credit.

Item No. 2. *Instructions.* Directly below the text of instruction "2–31 Amortization of intangibles", add instruction 2–32 to read as follows:

2–32 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flowthrough method shall charge account 8000, Income Taxes on Ordinary Income, or account 9050, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 2120, Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in Paragraph (a) charge account 8000, Income Taxes on Ordinary Income, or account 9050, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 2450, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 8000, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 2450 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

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Item No. 3. *Balance sheet accounts.* Revise text of account "2450 Other deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

2450 Other deferred credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 2–32.)

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

Amend Part 1207—Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property.

Item No. 2. *Instructions.* Directly be*counts under the title.* Under "Instructions", directly below "29 Amortization of intangibles", add the following:

30 Accounting for the investment tax credit.

Item No. 2. *Instructions.* Directly below the text of instruction "29 Amortization of intangibles", add instruction 30 to read as follows:

30 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 8800, Income Taxes on Ordinary Income, or account 8950, Income Taxes of Extraordinary and Prior Period Items, as applicable and shall credit account 2120, Taxes Accrued, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a) charge account 8800, Income Taxes on Ordinary Income, or account 8950, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 2450, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 8800, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 2450 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "2450 Other deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

2450 Other deferred credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 30.)

PART 1208—MARITIME CARRIERS

Amend Part 1208—Uniform System of Accounts for Maritime Carriers.

Item No. 1. *List of instructions and accounts under the title.* Under "General Instructions", directly below "11 Extraordinary and prior period items", add the following:

12 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "11 Extraordinary and prior period items", add instruction 12 to read as follows:

12 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 989, Federal Income Taxes on Ordinary Income, or account 998, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 440, Accrued Taxes Payable, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall concurrently with making the entries prescribed in paragraph (a), charge account 989, Federal Income Taxes on Ordinary Income, or account 998, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 564, Miscellaneous Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 989, Federal Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 564 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method, shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "564 Miscellaneous deferred credits" as follows:

a. The current paragraph of text is designated as paragraph (a).

b. Paragraph (b) is added to read as follows:

564 Miscellaneous deferred credits.

* * * * *

(b) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 12.)

PART 1209—INLAND AND COASTAL WATERWAYS CARRIERS

Amend Part 1209—Uniform System of Accounts for Inland and Coastal Waterways Carriers.

Item No. 1. *List of instructions and accounts under the title.* Under "General Instructions", directly below "12 Amortization of investment in leased property", add the following:

13 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "12 Amortization of investment in leased property," add instruction 13 to read as follows:

13 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 532, Income Taxes on Ordinary Income, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 206, Accrued Taxes, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 532, Income Taxes on Ordinary Income, or account 590, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 232, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 532, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 232 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *Balance sheet accounts.* Revise text of account "232 Other deferred credits" by adding paragraph (d) to read as follows:

232 Other deferred credits.

* * * * *

(d) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 13.)

PART 1210—FREIGHT FORWARDERS

Amend Part 1210—Uniform System of Accounts for Freight Forwarders.

Item No. 1. *List of instructions and accounts under the title.* Under "General Instructions" directly below "7 Submission of questions" add the following:

8 Accounting for the investment tax credit.

Item No. 2. *General instructions.* Directly below the text of instruction "7 Submission of questions," add instruction 8 to read as follows:

8 Accounting for the investment tax credit.

(a) Carriers electing, as provided in the Revenue Act of 1971, to account for the investment tax credit by the flow-through method shall charge account 431, Income Taxes on Ordinary Income, or account 450, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 204, Accrued Taxes, with the estimated Federal income taxes payable which is net of the investment tax credit utilized as a reduction of the tax liability in the current year.

(b) Carriers electing the deferral method to account for the investment tax credit shall, concurrently with making the entries prescribed in paragraph (a), charge account 431, Income Taxes on Ordinary Income, or account 450, Income Taxes on Extraordinary and Prior Period Items, as applicable and shall credit account 231, Other Deferred Credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credits so deferred shall be amortized by credits to account 431, Income Taxes on Ordinary Income, over the life of the assets to which they relate.

(c) Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear account 231 of amounts representing deferred investment tax credits because of a change from the deferral method to the flow-through method shall submit the proposed journal entry to the Commission for consideration and advice.

Item No. 3. *General balance sheet accounts.* Revise text of account "231 Other deferred credits" by adding paragraph (d) to read as follows:

231 Other deferred credits.

* * * * *

(d) This account shall also include amounts representing investment tax credit being accounted for under the deferral method. The account shall be maintained in such manner as to show separately the unamortized balance of the deferred credit for each year such credits were utilized as a reduction of tax liability. (See instruction 8.)

[FR Doc.72–16817 Filed 10–2–72;8:52 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds; Correction

Open season dates for rails in the Atlantic, Pacific, and Central Flyways were published in the FEDERAL REGISTER on September 1, 1972 (37 F.R. 17839).

Based on recent information from the Chairman of the South Carolina Wildlife Resources Department, it is determined that the rail season dates should be changed from November 4, 1972–January 12, 1973, to October 15, 1972–December 23, 1972. Accordingly, § 10.104 of this part is amended by changing the dates for South Carolina under the column heading for rails (sora and Virginia) to read "October 15, 1972–December 23, 1972."

It is determined that this change in the South Carolina rail season will benefit the interested public by permitting the hunting of this species 3 weeks earlier, which coincides with favorable tides and water conditions without undue pressure being placed on these species of migratory birds. For this cause, it is found that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest and this amendment shall be effective upon publication in the FEDERAL REGISTER.

(16 U.S.C. 703–711)

Effective date: Upon publication in the FEDERAL REGISTER (10–3–72).

SPENCER H. SMITH,
Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 28, 1972.

[FR Doc.72–16801 Filed 10–2–72;8:50 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Paragraph (c)(3)(xii) of § 177.4 *Payment of interest benefits, administrative cost allowances, and special allowance,* which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Public Law 91–95) is amended to provide for the payment of such an allowance for the period July 1, 1972, through September 30, 1972, inclusive.

As so amended § 177.4(a)(3)(xii) reads as follows:

§ 177.4 Payment of interest benefits, administrative cost allowances, and special allowance.

* * * * *

(c) *Special allowances.* * * *

(3) * * *

(xii) For the period July 1, 1972, through September 30, 1972, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of three fourths of 1 percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

Dated: September 28, 1972.

S. P. MARLAND, JR.,
Commissioner of Education.

Approved: September 29, 1972.

JOHN G. VENEMAN,
Acting Secretary.

[FR Doc.72–16098 Filed 10–2–72;10:08 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

INCOME TAX

Expenses of Work Incentive Programs

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 2, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by November 2, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 40(b) and 7805 of the Internal Revenue Code of 1954.

(85 Stat. 553; 68A Stat. 917; 26 U.S.C. 40(b), 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) and the regulations on procedure and administration (36 CFR Part 301) to the provisions of section 601 of the Revenue Act of 1971 (85 Stat. 553), relating to credit for certain expenses incurred in work incentive programs, such regulations are amended as follows:

Sec.	
1.39	Statutory provisions; certain uses of gasoline, special fuels, and lubricating oil.
1.40	Statutory provisions; expenses of work incentive programs.
1.40–1	Expenses of work incentive program.
1.42	Statutory provisions; overpayments of tax.
1.50A	Statutory provisions; amount of credit.
1.50A–1	Determination of amount.
1.50A–2	Carryback and carryover of unused credit.
1.50A–3	Recomputation of credit allowed by section 40.
1.50A–4	Exceptions to the application of § 1.50A–3.
1.50A–5	Electing small business corporation.
1.50A–6	Estates and trusts.
1.50A–7	Partnerships.
1.50B	Statutory provisions; definitions; special rules.
1.50B–1	Definitions of WIN expenses and WIN employees.
1.50B–2	Electing small business corporations.
1.50B–3	Estates and trusts.
1.50B–4	Partnerships.
1.50B–5	Limitations with respect to certain persons.
1.6411	Statutory provisions; tentative carryback adjustments.
1.6411–1	Tentative carryback adjustments.
1.6411–2	Computation of tentative carryback adjustment.
1.6411–3	Allowance of adjustments.
301.6411	Statutory provisions; tentative carryback adjustments.
301.6501(m)	Statutory provisions; limitations on assessment and collections; tentative carryback adjustment period.
301.6501(m)–1	Tentative carryback adjustment assessment period.
301.6501(o)	Statutory provisions; limitation on assessment and collection; work incentive program credit carrybacks.
301.6501(o)–1	Work incentive program credit carrybacks, taxable years beginning after December 31, 1971.
301.6511	Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.
301.6511(d)–7	Overpayment of income tax on account of work incentive program credit carryback.
301.6601	Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.
301.6601–1	Interest on underpayments.
301.6611	Statutory provisions; interest on overpayments.
301.6611–1	Interest on overpayments.

PARAGRAPH 1. Section 1.39 is redesignated as § 1.42 and the historical note thereto is revised. There is inserted immediately after § 1.38–1 new §§ 1.39, 1.40 and 1.40–1. These redesignated, revised, and new provisions read as follows:

§ 1.39 Statutory provisions; certain uses of gasoline, special fuels, and lubricating oil.

SEC. 39. *Certain uses of gasoline, special fuels, and lubricating oil*—(a) *General rule*—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the amounts payable to the taxpayer—

(1) Under section 6420 with respect to gasoline used during the taxable year on a farm for farming purposes (determined without regard to section 6420(h)),

(2) Under section 6421 with respect to gasoline used during the taxable year (A) otherwise than as a fuel in a highway vehicle or (B) in vehicles while engaged in furnishing certain public passenger land transportation service (determined without regard to section 6421(i)),

(3) Under section 6424 with respect to lubricating oil used during the taxable year otherwise than in a highway motor vehicle (determined without regard to section 6424(g)), and

(4) Under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(f)).

(b) *Transitional rules.*—For purposes of paragraphs (1) and (2) of subsection (a), a taxpayer's first taxable year beginning after June 30, 1965, shall include the period after June 30, 1965, and before the beginning of such firt taxable year. For purposes of paragraph (3) of subsection (a), a taxpayer's first taxable year beginning after December 31, 1965, shall include the period after December 31, 1965, and before the beginning of such first taxable year.

(c) *Exception.*—Credit shall not be allowed under subsection (a) for any amount payable under section 6421, 6424, or 6427, if a claim for such amount is timely filed, and under section 6421(i), 6424(g), or 6427(f) is payable, under such section.

(Sec. 39 as added by sec. 809(c), Excise Tax Reduction Act 1965 (79 Stat. 167) and as amended by sec. 207(c) Airport and Airway Development Act 1970 (84 Stat. 248))

§ 1.40 Statutory provisions; expenses of work incentive programs.

SEC. 40. *Expenses of work incentive programs*—(a) *General rule.* There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under Subpart C of this part.

(b) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section and Subpart C.

(Sec. 40 as added by sec. 601(a), Rev. Act 1971 (85 Stat. 553))

§ 1.40–1 Expenses of work incentive program.

Section 1.50A–1 through 1.50B–6, inclusive, are prescribed under the authority granted the Secretary or his delegate by section 40(b) of the Code to prescribe such regulations as may be necessary to carry out the purposes of section 40 and Subpart C, Part IV, Subchapter A, Chapter 1 of the Code.

§ 1.42 Statutory provisions; overpayments of tax.

SEC. 42. *Overpayments of tax.* For credit against the tax imposed by this subtitle for overpayments of tax, see section 6401.

[Sec. 42 as renumbered by sec. 601(a), Rev. Act 1971 (85 Stat. 553); as previously renumbered as sec. 39 by sec. 2(a), Rev. Act 1962 (76 Stat. 962); and as previously renumbered as sec. 40 by sec. 809(c), Excise Tax Reduction Act 1965 (79 Stat. 167)]

PAR. 2. There are inserted immediately after § 1.50–1 the following new sections:

RULES FOR COMPUTING CREDIT FOR EXPENSES OF WORK INCENTIVE PROGRAMS

§ 1.50A Statutory provisions; amount of credit.

SEC. 50A. *Amount of credit*—(a) *Determination of amount*—(1) *General rule.* The amount of the credit allowed by section 40 for the taxable year shall be equal to 20 percent of the work incentive program expenses (as defined in section 50B(a)).

(2) *Limitation based on amount of tax.* Notwithstanding paragraph (1), the credit allowed by section 40 for the taxable year shall not exceed—

(A) So much of the liability for tax for the taxable year as does not exceed $25,000, plus

(B) 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

(3) *Liability for tax.* For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

(A) Section 33 (relating to foreign tax credit),

(B) Section 35 (relating to partially tax exempt interest),

(C) Section 37 (relating to retirement income),

(D) Section 38 (relating to investment in certain depreciable property), and

(E) Section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of Subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

(4) *Married individuals.* In the case of a husband or wife who files a separate return, the amount specified under subparagraph (A) and (B) of paragraph (2) shall be $12,500 in lieu of $25,000. This paragraph shall not apply if the spouse of the taxpayer has no work incentive program expenses for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(5) *Controlled groups.* In the case of a controlled group, the $25,000 amount specified under paragraph (2) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to such term by section 1563(a).

(b) *Carryback and carryover of unused credit*—(1) *Allowance of credit.* If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as "unused credit year"), such excess shall be—

(A) A work incentive program credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) A work incentive program credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as a credit by section 40 for such years, except that such excess may be a carryback only to a taxable year beginning after December 31, 1971. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

(2) *Limitation.* The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (a)(2) for such taxable year exceeds the sum of—

(A) The credit allowable under subsection (a)(1) for such taxable year, and

(B) The amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

(c) *Early termination of employment by employer, etc.*—(1) *General rule.* Under regulations prescribed by the Secretary or his delegate—

(A) *Work incentive program expenses.* If the employment of any employee with respect to whom work incentive program expenses are taken into account under subsection (a) is terminated by the taxpayer at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes 12 months of employment with the taxpayer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee.

(B) *Carrybacks and carryovers adjusted.* In the case of any termination of employment to which subparagraph (A) applies, the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) *Subsection not to apply in certain cases*—(A) *In general.* Paragraph (1) shall not apply to—

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1)(A), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

(iii) A termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

(B) *Change in form of business, etc.* For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

(i) By a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

(3) *Special rule.* Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

(d) *Failure to pay comparable wages*—(1) *General rule.* Under regulations prescribed by the Secretary or his delegate, if during the period described in subsection (c)(1)(A), the taxpayer pays wages (as defined in section 50B(b)) to an employee with respect to whom work incentive program expenses are taken into account under subsection (a) which are less than the wages paid to other employees who perform comparable services, the tax under this chapter for the taxable year in which such wages are so paid shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee, and the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) *Special rule.* Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under Subpart A.

(Sec. 50A as added by sec. 601(b), Rev. Act 1971 (85 Stat. 554))

§ 1.50A–1 Determination of amount.

(a) *In general.* Except as otherwise provided in this section and in § 1.50A–2, the amount of the work incentive program (WIN) credit allowed by section 40 for the taxable year is equal to 20 percent of the taxpayer's WIN expenses (as determined under paragraph (a) of § 1.50B–1). The amount equal to 20 percent of the WIN expenses shall be referred to in this section and §§ 1.50A–2 through 1.50B–6 as the "credit earned."

(b) *Limitation based on amount of tax.* Notwithstanding the amount of the credit earned for the taxable year, under section 50A(a)(2) the credit allowed by section 40 for the taxable year is limited to—

(1) If the liability for tax (as defined in paragraph (c) of this section) is $25,000 or less, the liability for tax; or

(2) If the liability for tax is more than $25,000, then, the first $25,000 of the liability for tax plus 50 percent of the liability for tax in excess of $25,000.

However, such $25,000 amount may be reduced in the case of certain married individuals filing separate returns (see paragraph (e) of this section); corporations which are members of a controlled group (see paragraph (f) of this section); estates and trusts (see paragraph (c) of § 1.50B–3); and organizations to which section 593 applies, regulated investment companies or real estate investment trusts subject to taxation under Subchapter M, Chapter 1 of the Code, and cooperative organizations described

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in section 1381(a) (see § 1.50B–6). The excess of the credit earned for the taxable year over the limitations described in this paragraph for such taxable year is an unused credit which may be carried back or forward to other taxable years in accordance with § 1.50A–2.

(c) *Liability for tax.* For the purpose of computing the limitation based on amount of tax, section 50A(a)(3) defines the liability for tax as the income tax imposed for the taxable year by Chapter 1 of the Code (including the 6 percent additional tax imposed by section 1562(b)), reduced by the sum of the credits allowable under—

(1) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(2) Section 35 (relating to partially tax-exempt interest received by individuals),

(3) Section 37 (relating to retirement income),

(4) Section 38 (relating to investment in certain depreciable property), and

(5) Section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, the tax imposed for the taxable year by section 56 (relating to imposition of minimum tax for tax preferences), section 531 (relating to imposition of accumulated earnings tax), section 541 (relating to imposition of personal holding company tax), or section 1378 (relating to tax on certain capital gains of Subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by Chapter 1 of the Code for such year. Thus, the liability for tax for purposes of computing the limitation based on amount of tax for the taxable year is determined without regard to any tax imposed by section 56, 531, 541, 1351(d)(1) or 1378 of the Code. In addition, any increase in tax resulting from the application of section 50A (c) and (d) and § 1.50A–3 (relating to recomputation of credit allowed due to early termination of employment by employer, or failure to pay comparable wages) shall not be treated as tax imposed by Chapter 1 of the Code for purposes of computing the liability for tax. See section 50A (c)(3) and (d)(2).

(d) *Example.* The application of paragraphs (a), (b), and (c) of this section may be illustrated by the following example:

Example. X Corporation's WIN expenses for its taxable year ending December 31, 1973, are $500,000. X's credit earned for its taxable year is $100,000 (20 percent of $500,000). X's income tax for such year, computed without regard to credits against tax and without regard to any tax imposed by section 56, 531, 541, 1351(d)(1) or 1378, is $190,000. That amount includes $5,000 resulting from the application of section 50A(c)(3) and § 1.50A–3. X is allowed under section 33 a foreign tax credit of $50,000. X's liability for tax is computed as follows:

Income tax (including increase in tax under section 50A(c)(3), but before any credits and without regard to any tax imposed by section 56, 531, 541, 1351(d)(1) or 1378)	$190,000
Less:	
Increase in tax resulting from application of section 50A(c)(3)	$5,000
Foreign tax credit	50,000
	55,000
Liability for tax	135,000

Under section 50A(a)(2) and paragraph (b) of this section, X's limitation based on amount of tax for the taxable year is $80,000 ($25,000 plus 50 percent of $110,000). X Corporation's credit allowed by section 40 for the taxable year therefore is $80,000. X has an unused credit for the year of $20,000 ($100,000 less $80,000) which it may carry back or forward to other taxable years in accordance with § 1.50A–2.

(e) *Married individuals.* If a separate return is filed by a husband or wife, the limitation based on amount of tax under paragraph (b) of this section shall be computed by substituting a $12,500 amount for the $25,000 amount in applying such paragraph (b). However, this reduction of the $25,000 amount to $12,500 applies only if the taxpayer's spouse is entitled to a credit under section 40 for the taxable year of such spouse which ends with, or within, the taxpayer's taxable year. The taxpayer's spouse is entitled to a credit under section 40 either because of incurring WIN expenses for such taxable year of the spouse (whether directly incurred by such spouse or whether apportioned to such spouse, for example, from an electing small business corporation, as defined in section 1371(b)), or because of a credit carryback or carryover to such taxable year under § 1.50A–2. The determination of whether an individual is married shall be made under the principles of section 143 and the regulations thereunder.

(f) *Apportionment of $25,000 amount among component members of a controlled group*—(1) *In general.* In determining the limitation based on amount of tax under section 50A(a)(2) in the case of corporations which are component members of a controlled group of corporations on a December 31, only one $25,000 amount is available to such component members for their taxable years that include such December 31. See subparagraph (2) of this paragraph for apportionment of such amount among such component members. See subparagraph (3) of this paragraph for the definition of "component member."

(2) *Manner of apportionment.* (i) In the case of corporations which are component members of a controlled group on a particular December 31, the $25,000 amount may be apportioned among such members for their taxable years that include such December 31 in any manner the component members may select, provided that each such member less than 100 percent of whose stock is owned, in the aggregate, by the other component members of the group on such December 31 consents to an apportionment plan. The consent of a component member to an apportionment plan with respect to a particular December 31 shall be made by means of a statement signed by a person duly authorized to act on behalf of the consenting member, stating that such member consents to the apportionment plan with respect to such December 31. The statement shall set forth the name, address, employer identification number, and taxable year of each component member of the group on such December 31, the amount apportioned to each such member under the plan, and the location of the Internal Revenue Service center where the statement is to be filed. The consent of more than one component member may be incorporated in a single statement. The statement shall be timely filed with the Internal Revenue Service center where the component member having the taxable year first ending on or after such December 31 files its return for such taxable year and shall be irrevocable after such filing. If two or more component members have the same such taxable year, a statement of consent may be filed by any one of such members. Such statement shall be considered as timely filed if filed on or before the due date (including any extensions of time) of such member's income tax return which includes such December 31. However, if the due date (including any extensions of time) of the return of such member is on or before December 15, 1972, the required statement shall be considered as timely filed if filed on or before March 15, 1973. Each component member of the group on such December 31 shall keep as a part of its records a copy of the statement containing all the required consents.

(ii) An apportionment plan adopted by a controlled group with respect to a particular December 31 shall be valid only for the taxable year of each member of the group which includes such December 31. Thus, a controlled group must file a separate consent to an apportionment plan with respect to each taxable year which includes a December 31 as to which an apportionment plan is desired.

(iii) If an apportionment plan is not timely filed, the $25,000 amount specified in section 50A(a)(2) shall be reduced for each component member of the controlled group, for its taxable year which includes a December 31, to an amount equal to $25,000 divided by the number of component members of each group on such December 31.

(iv) If a component member of the controlled group makes its income tax return on the basis of a 52–53 week taxable year, the principles of section 441(f)(2)(A)(ii) and paragraph (b)(1) of § 1.441–2 apply in determining the last day of such taxable year.

(3) *Definitions of controlled group of corporations and component member of controlled groups.* For the purpose of this paragraph, the terms "controlled group of corporations" and "component member" of a controlled group of corporations shall have the same meaning assigned to those terms in section 1563 (a) and (b) and the regulations thereunder. For purposes of applying § 1.1563–1(b)(2)(ii)(c), an electing small business corporation shall be treated as an excluded member whether or not it is subject to the tax imposed by section 1378.

(4) *Members of a controlled group filing a consolidated return.* If some component members of a controlled group join in filing a consolidated return pursuant to § 1.1502–3(a)(3), and other component members do not join, then, unless a consent is timely filed apportioning the $25,000 amount among the group filing the consolidated return and the other component members of the controlled group, each component member of the controlled group (including each component member which joins in filing the consolidated return) shall be treated as a separate corporation for purposes of equally apportioning the $25,000 amount under subparagraph (2)(iii) of this paragraph. In such case, the limitation based on the amount of tax for the group filing the consolidated return shall be computed by substituting for the $25,0000 amount the total of the amount apportioned to each component member which joins in filing the consolidated return. If the affiliated group, filing the consolidated return and the other component members of the controlled group adopt an apportionment plan, the affiliated group shall be treated as a single member for the purpose of applying subparagraph (2)(i) of this paragraph. Thus, for example, only one consent executed by the common parent to the apportionment plan is required for the group filing the consolidated return. If any component member of the controlled group which joins in the filing of the consolidated return is an organization to which section 593 applies or a cooperative organization described in section 1381(a), rules similar to the rules contained in paragraph (a)(3)(ii) of § 1.1502–3 are applicable.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). At all times during 1972 Smith, an individual, owns all the stock of corporations X, Y, and Z. Corporation X files an income tax return on a calendar year basis. Corporation Y files an income tax return on the basis of a fiscal year ending June 30. Corporation Z files an income tax return on the basis of a fiscal year ending September 30. On December 31, 1972, X, Y, and Z are component members of the same controlled group. X, Y, and Z all consent to an apportionment plan in which the $25,000 amount is apportioned entirely to Y for its taxable year ending June 30, 1973 (Y's taxable year which includes December 31, 1972). Such consent is timely filed. For purposes of computing the credit under section 40, Y's limitation based on amount of tax for its taxable year ending June 30, 1973, is so much of Y's liability for tax as does not exceed $25,000, plus 50 percent of Y's liability for tax in excess of $25,000. X's and Z's limitations for their taxable years ending December 31, 1972, and September 30, 1973, respectively, are equal to 50 percent of X's liability for tax and 50 percent of Z's liability for tax. On the other hand, if an apportionment plan is not timely filed, X's limitation would be so much of X's liability for tax as does not exceed $8,333.33, plus 50 percent of X's liability in excess of $8,333.33, and Y's and Z's limitations would be computed similarly.

Example (2). At all times during 1972, Jones, an individual, owns all the outstanding stock of corporations P, Q, and R. Corporations Q and R both file returns for taxable years ending December 31, 1972. P files a consolidated return as a common parent for its fiscal year ending June 30, 1973, with its wholly owned subsidiaries N and O. On December 31, 1972, N, O, P, Q, and R are component members of the same controlled group. No consent to an apportionment plan is filed. Therefore, each member is apportioned $5,000 of the $25,000 amount ($25,000 divided equally among the five members). The limitation based on the amount of tax for the group filing the consolidated return (P, N, and O) for the year ending June 30, 1973 (the consolidated taxable year within which December 31, 1972, falls), is computed by using $15,000 instead of the $25,000 amount. The $15,000 is arrived at by adding together the $5,000 amounts apportioned to P, N, and O.

§ 1.50A–2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover*—(1) *In general.* Section 50A(b)(1) provides for carrybacks and carryovers of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as determined under paragraph (a) of § 1.50A–1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.50A–1). Subject to the limitation contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 40 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year."

(2) *Taxable years to which unused credit may be carried.* An unused credit shall be a work incentive program (WIN) credit carryback to each of the 3 taxable yeas preceding the unused credit year and a WIN credit carryover to each of the 7 taxable years succeeding the unused credit year, except that an unused credit shall be a carryback only to taxable years beginning after December 31, 1971. An unused credit must be carried first to the earliest of the 10 taxable years to which it may be carried, and then to each of the other 9 taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitation contained in paragraph (b) of this section) to the amount allowable as a credit under section 40 for a prior taxable year.

(b) *Limitation on allowance of unused credit.* The amount of the unused credit from any particular unused credit year which may be added to the amount allowable as a credit under section 40 for any of the 3 preceding or 7 succeeding taxable years to which such credit may be carried shall not exceed the amount by which the limitation based on amount of tax for such preceding or succeeding taxable year exceeds the sum of (1) the credit earned for such preceding or succeeding year, and (2) other unused credits carried to such preceding or succeeding year which are attributable to unused credit years prior to the particular unused credit year.

(c) *Corporate acquisitions.* For the carryover of unused credits in the case of certain corporate acquisitions, see section 381(c)(24) and § 1.381(c)(24)–1.

(d) *Periods of less than 12 months.* A fractional part of a year which is considered as a taxable year under sections 441(b) and 7701(a)(23) shall be treated as a preceding or a succeeding taxable year for the purpose of determining under section 50A(b) and this section the taxable years to which an unused credit may be carried.

(e) *Example.* The provisions of paragraphs (a) through (d) of this section may be illustrated by the following example:

Example. Corporation X files its income tax return on the basis of the calendar year. X's credit earned and its limitation based on amount of tax for each of its taxable years 1972 through 1978 are as follows:

	Credit earned	Limitation based on amount of tax
1972	$175,000	$200,000
1973	250,000	160,000
1974	200,000	210,000
1975	210,000	230,000
1976	220,000	260,000
1977	260,000	230,000
1978	270,000	280,000

(i) Corporation X's credit earned for 1972, $175,000, is allowable in full as a credit under section 40 for 1972 since such amount is less than the limitation based on amount of tax for such year, $200,000. Since the limitation based on amount of tax for 1973 is $160,000, only $160,000 of the $250,000 credit earned for such year is allowable under section 40 as a credit for 1973. The unused credit for 1973 of $90,000 ($250,000 less $160,000) is a WIN credit carryback to 1972 and a WIN credit carryover to 1974 and subsequent years up to and including 1980. The portion of the $90,000 unused credit which shall be added to the amount allowable as a credit under section 40 for 1972 and 1974 and subsequent years is computed as follows:

(a) 1972. The portion of the unused credit for 1973 ($90,000) which is allowable as a credit for 1972 is $25,000. This amount shall be added to the amount allowable as a credit for 1972. The balance of the unused credit for 1973 to be carried to 1974 is $65,000. These amounts are computed as follows:

Carryback to 1972		$90,000
1972 limitation based on tax	$200,000	
Less: Credit earned for 1972	$175,000	
Unused credits attributable to years preceding 1973	0	
	175,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1972		25,000
Balance of 1973 unused credit to be carried to 1974		65,000

(b) 1974. The portion of the balance of the unused credit for 1973 ($65,000) allowable as a credit for 1974 is $10,000. This amount shall be added to the amount allowable as a credit for 1974. The balance of the unused credit for 1973 to be carried to 1975 is $55,000. These amounts are computed as follows:

Carryover to 1974		$65,000
1974 limitation based on tax	$210,000	
Less: Credit earned for 1974	$200,000	
Unused credits attributable to years preceding 1973	0	
	200,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1974		10,000
Balance of 1973 unused credit to be carried to 1975		55,000

(c) 1975. The portion of the balance of the unused credit for 1973 ($55,000) allowable as a credit for 1975 is $20,000. This amount shall be added to the amount allowable as a credit for 1975. The balance of the unused credit for 1973 to be carried to 1976 is $35,000. These amounts are computed as follows:

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Carryover to 1975		$55,000
1975 limitation based on tax	$230,000	
Less: Credit earned for 1975	$210,000	
Unused credits attributable to years preceding 1973	0	
	210,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1975		20,000
Balance of 1973 unused credit to be carried to 1976		35,000

(d) 1976. The entire balance of the unused credit for 1973 ($35,000) is allowable as a credit for 1976, since the limitation based on amount of tax for 1976 exceeds the sum of the credit earned for 1976 and unused credits attributable to years prior to 1973 by an amount in excess of $35,000. Since the balance of the unused credit for 1973 has been fully allowed, no portion thereof remains to be carried to subsequent taxable years. This is illustrated as follows:

Carryover to 1976		$35,000
1976 limitation based on tax	$260,000	
Less: Credit earned for 1976	$220,000	
Unused credits attributable to years preceding 1973	0	
	220,000	
Limit on amount of 1973 unused credit which may be added as a credit for 1976		40,000
Balance of 1973 unused credit to be carried to 1977		0

(ii) Since the limitation based on amount of tax for 1977 is $220,000, only $220,000 of the $260,000 credit earned for such year is allowable as a credit for 1977. The unused credit for 1977 of $40,000 ($260,000 less $220,000) is a WIN credit carryback to 1974, 1975, and 1976 and a WIN credit carryover to 1978 and subsequent years. The portions of the $40,000 unused credit which shall be added to the amount allowable as a credit for such years are computed as follows:

(a) 1974. The portion of the unused credit for 1977 ($40,000) allowable as a credit for 1974 is zero. The balance of the unused credit for 1977 to be carried to 1975 is $40,000. These amounts are computed as follows:

Carryback to 1974		$40,000
1974 limitation based on tax	$210,000	
Less: Credit earned for 1974	$200,000	
Unused credits attributable to years preceding 1977 (unused credit from 1973)	10,000	
	210,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1974		0
Balance of 1977 unused credit to be carried to 1975		40,000

(b) 1975. The portion of the unused credit for 1977 ($40,000) allowable as a credit for 1975 is zero. The balance of the unused credit for 1977 to be carried to 1976 is $40,000. These amounts are computed as follows:

Carryback to 1975		$40,000
1975 limitation based on tax	$230,000	
Less: Credit earned for 1975	$210,000	
Unused credits attributable to years preceding 1977 (unused credit from 1973)	20,000	
	230,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1975		0
Balance of 1977 unused credit to be carried to 1976		40,000

(c) 1976. The portion of the unused credit for 1977 ($40,000) allowable as a credit for 1976 is $5,000. This amount shall be added to the amount allowable as a credit for 1976. The balance of the unused credit for 1977 to be carried to 1978 is $35,000. These amounts are computed as follows:

Carryback to 1976		$40,000
1976 limitation based on tax	$260,000	
Less: Credit earned for 1976	$220,000	
Unused credits attributable to years preceding 1977 (unused credit from 1973)	35,000	
	255,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1976		5,000
Balance of 1977 unused credit to be carried to 1978		35,000

(d) 1978. The portion of the balance of the unused credit for 1977 ($35,000) allowable as a credit for 1978 is $10,000. This amount shall be added to the amount allowable as a credit for 1978. The balance of the unused credit for 1977 to be carried to 1979 and subsequent years is $25,000. These amounts are computed as follows:

Carryover to 1978		$35,000
1978 limitation based on tax	$280,000	
Less: Credit earned for 1978	$270,000	
Unused credits attributable to years preceding 1977	0	
	270,000	
Limit on amount of 1977 unused credit which may be added as a credit for 1978		10,000
Balance of 1977 unused credit to be carried to 1979		25,000

(f) Electing small business corporation. An unused credit of a corporation which arises in an unused credit year for which the corporation is not an electing small business corporation (as defined in section 1371(b)) and which is a carryback or carryover to a taxable year for which the corporation is an electing small business corporation shall not be added to the amount allowable as a credit under section 40 to the shareholders of such corporation for any taxable year. However, a taxable year for which the corporation is an electing small business corporation shall be counted as a taxable year for purposes of determining the taxable years to which such unused credit may be carried.

§ 1.50A–3 Recomputation of credit allowed by section 40.

(a) *General rule*—(1) *Early termination of employment by employer*—(i) *In general.* If the employment of any employee, with respect to whom work incentive program (WIN) expenses (as defined in paragraph (a) of § 1.50B–1) are taken into account under paragraph (a) of § 1.50A–1, is terminated by the taxpayer at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes the first 12 months of employment (whether or not consecutive). See § 1.50A–4 for rules relating to other circumstances under which a termination of employment will not be treated as a termination of employment to which the provisions of subparagraph (3) of this paragraph are applicable.

(ii) *Rules for determining whether a termination of employment has occurred.* For purposes of this section, the taxpayer is deemed to have terminated the employment of any WIN employee (as defined in paragraph (h) of § 1.50B–1) if the employment relationship (as determined under common law principles) has terminated. A layoff for any reason is considered a termination of employment for purposes of the preceding sentence. However, a temporary suspension of employment (such as for a model changeover in the automobile industry) shall not be deemed to be a termination of employment if such suspension is for a period of time not longer than 60 days and is required by the circumstances in the particular industry. For purposes of this section, the death of the taxpayer is considered a termination of the employment relationship between the taxpayer and any WIN employee.

(2) *Failure to pay comparable wages*—(i) *In general.* If, at any time during the period described in subparagraph (1)(i) of this paragraph, the taxpayer pays wages (as defined in section 50B(b) and paragraph (b) of § 1.50B–1) to an employee, with respect to whom WIN expenses are taken into account under paragraph (a) of § 1.50A–1, which are less than the wages paid to other employees of the taxpayer who perform comparable services, then subparagraph (3) of this paragraph shall apply.

(ii) *Comparable services.* (a) For purposes of subdivision (i) of this subparagraph, the term "comparable services" refers to services performed in work positions which require similar education, training, and skills. Comparable services are those associated with other work positions which require similar levels of judgment and responsibility, which make similar physical and mental demands of an employee, and which could easily be performed by the employee without substantial additional training or experience.

(b) If substantial training, skill, or experience are material to the performance of a particular job, a taxpayer may pay wages to a WIN employee which are less than those paid to other employees of the taxpayer who possess such training, skill, or experience. However, there must be a reasonable relationship between the lower wages or salary of such WIN employee and his relative lack of training, skill, or experience.

(3) *Recomputation of credit earned.* (i) If, by reason of subparagraph (1) or (2) of this paragraph, this subparagraph (3) is applicable, then the credit earned for all credit years (as defined in subdivision (ii)(a) of this subparagraph) shall be recomputed under the principles of paragraph (a) of § 1.50A–1 by not taking into account WIN expenses with respect to the employee (or employees) described in subparagraph (1) or (2) of this paragraph. There shall be recomputed under the principles of §§ 1.50A–1 and 1.50A–2 the credit allowed for all credit years and for any other taxable year affected by reason of the reduction in credit earned for such credit year or years, giving effect to such reduction in the computation of carrybacks or carryovers of unused credit from any taxable year. If the recomputation described in the preceding sentence results, in the aggregate, in a decrease (taking into account any recomputation under this paragraph in respect of prior recapture years, as defined in subdivision (ii)(b) of this subparagraph) in the credits allowed for any credit year and for any other taxable year affected by the reduction in credit earned for any credit year, then the income tax for the recapture year shall be increased by the amount of such decrease in credits allowed. For treatment of such increase in tax, see paragraph (b) of this section. For special rules in the case of an electing small business corporation (as defined in section 1371(b)), an estate or trust, or a partnership, see respectively, § 1.50A–5, § 1.50A–6 or § 1.50A–7.

(ii) For purposes of this section and §§ 1.50A–4 through 1.50B–6—

(a) The term "credit year" means a taxable year in which WIN expenses with respect to the employee described in subparagraph (1) or (2) of this paragraph are taken into account under paragraph (a) of § 1.50A–1.

(b) The term "recapture year" means a taxable year in which a termination of employment (within the meaning of subparagraph (1) of this paragraph) or a failure to pay comparable wages (within the meaning of subparagraph (2) of this paragraph) occurs by reason of which the rule of subparagraph (3) of this paragraph becomes applicable.

(c) The term "recapture determination" means a recomputation made under this paragraph.

(b) *Increase in income tax and reduction of WIN credit carryback and carryover*—(1) *Increase in tax.* Except as provided in subparagraph (2) of this paragraph, any increase in income tax under this section shall be treated as income tax imposed on the taxpayer by Chapter 1 of the Code for the recapture year notwithstanding that without regard to such increase the taxpayer has no income tax liability, has a net operating loss for such taxable year, or no income tax return was otherwise required for such taxable year.

(2) *Special rule.* Any increase in income tax under this section shall not be treated as income tax imposed on the taxpayer by Chapter 1 of the Code for purposes of determining the amount of the credits allowable to such taxpayer under—

(i) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(ii) Section 35 (relating to partially tax-exempt interest received by individuals),

(iii) Section 37 (relating to retirement income),

(iv) Section 38 (relating to investment in certain depreciable property),

(v) Section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil),

(vi) Section 40 (relating to expenses of work incentive programs), and

(vii) Section 41 (relating to contributions to candidates for public office).

(3) *Reduction in credit allowed as a result of a net operating loss carryback.* (i) If a net operating loss carryback from the recapture year or from any taxable year subsequent to the recapture year reduces the amount allowed as a credit under section 40 for any taxable year up to and including the recapture year, then there shall be a new recapture determination under paragraph (a) of this section for each recapture year affected, taking into account the reduced amount of credit allowed after application of the net operating loss carryback.

(ii) Subdivision (i) of this subparagraph may be illustrated by the following example:

Example. (a) X Corporation, which makes its returns on the basis of a calendar year, hired WIN employees on March 1, 1972, and incurred $10,000 in WIN expenses with respect to these employees for the year. For the taxable year 1972, X Corporation's credit earned of $2,000 (20 percent of $10,000) was allowed under section 40 as a credit against its liability for tax of $2,000. In 1973 and 1974 X Corporation had no liability for tax and had no WIN expenses. In January 1974, X Corporation terminated the employees for whom the WIN expenses had been incurred. Since these terminations were not subject to the exceptions provided by § 1.50A–4, there was a recapture determination under paragraph (a) of this section. The income tax imposed by chapter 1 of the Code on X Corporation for the taxable year 1974 was increased by the $2,000 decrease in its credit earned for the taxable year 1972 (that is, the $2,000 original credit earned minus zero recomputed credit earned).

(b) For the taxable year 1975, X Corporation has a net operating loss which is carried back to the taxable year 1972 and reduces its liability for tax, as defined in paragraph (c) of § 1.50A–1, for such taxable year to $800. As a result of such net operating loss carryback, X Corporation's credit allowed under section 40 for the taxable year 1972 is limited to $800 and the excess of $1,200 ($2,000 credit earned minus the $800 limitation based on amount of tax) is a WIN credit carryover to the taxable year 1973.

(c) For 1975 there is a recapture determination under subdivision (i) of this subparagraph for the 1974 recapture year. The $2,000 increase in the income tax imposed on X Corporation for the taxable year 1974 is redetermined to be $800 (that is, the $800 credit allowed after taking into account the 1975 net operating loss minus zero credit which would have been allowed taking into account the 1974 recapture determination). In addition, X Corporation's $1,200 WIN credit carryover to the taxable year 1973 is reduced by $1,200 ($2,000 minus $800) to zero and X Corporation is entitled to a $1,200 refund of the tax paid as a result of the 1974 determination.

(4) *Statement of recomputation.* The taxpayer shall attach to his income tax return for the recapture year a separate statement showing in detail the computation of the increase in income tax imposed on such taxpayer by Chapter 1 of the Code and the reduction in any WIN credit carryovers.

(c) *Period of employment*—(1) *Initial date of employment.* For purposes of this section and §§ 1.50A–4 through 1.50B–6, the initial date of employment (for purposes of applying paragraph (a)(1) and (2) of this section and paragraphs (a)(1) and (f) of § 1.50B–1) is the date the WIN employee reports to the taxpayer (or in the case where the taxpayer is a partner of a partnership, a beneficiary of an estate or trust, or a shareholder of an electing small business corporation, to such partnership, estate, trust, or electing small business corporation) for work.

(2) *Computation of the first 12 months of employment (whether or not consecutive).* For purposes of computing the first 12 months of employment (whether or not consecutive), the first month of employment shall begin with the initial date of employment (as defined in subparagraph (1) of this paragraph) of the WIN employee, the second month of employment shall begin with the corresponding date in the following month, the third month of employment shall begin with the corresponding date in the next following month, and so forth. If the WIN employee performs any services during any such month (as determined under the preceding sentence), that month shall be counted in computing the WIN employee's "first 12 months of employment (whether or not consecutive)". If the WIN employee performs no services during any such month, that month shall not be counted in computing the WIN employee's "first 12 months of employment (whether or not consecutive)". Thus, if the initial date of employment of a WIN employee is June 15, the first month of employment of such employee shall be the period beginning June 15, and ending July 14. The second month of employment is the period beginning July 15 and ending August 14. If during such second month of employment the employee performs no services for the taxpayer, that month is not counted in determining the employee's first 12 months of employment (whether or not consecutive).

§ 1.50A–4 Exceptions to the application of § 1.50A–3.

(a) *In general.* Notwithstanding the provisions of paragraph (a) of § 1.50A–3, a termination of employment shall not be deemed to occur if paragraph (b) (relating to voluntary termination of employment), paragraph (c) (relating to termination of employment due to disability), paragraph (d) (relating to termination of employment due to misconduct), paragraph (f) (relating to transactions to which section 381(a) applies), or paragraph (g) (relating to mere change in form of conducting a trade or business) applies.

(b) *Voluntary termination of employment.* A termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if the employee voluntarily leaves the employment of the taxpayer. If the taxpayer makes the working conditions of the employee so untenable that the employee is, in effect, compelled by the taxpayer to quit, or if the employee is coerced into quitting, the employee will not be deemed to have voluntarily left the employment of the taxpayer. For purposes of the preceding sentence, a substantial reduction in the benefits of employment of an employee (such as a substantial decrease in the hours of the employee's working week) shall constitute untenable working conditions. An employee has voluntarily left the employment of the taxpayer if he leaves for any reason external to his employment, such as sickness or death in the employee's family which the employee feels necessitates his quitting work with the taxpayer to remain at home. Any employee who participates in an authorized strike (as finally determined by a court, labor relations administrative body, or arbiter)

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will not be deemed to have voluntarily left the employment of the taxpayer.

(c) *Termination of employment due to death or disability.* A termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if, after the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) and before the close of the period referred to in paragraph (a)(1) of § 1.50A–3, the employee becomes disabled (including a disability relating to the employment) to perform the services required by such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such employee. The death of an employee shall not be deemed a termination of employment for purposes of paragraph (a) of § 1.50A–3.

(d) *Termination of employment due to misconduct.* A termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if it is determined by the appropriate State administrative agency or State court that under the applicable State unemployment compensation law such termination was due to the misconduct of the WIN employee. If the WIN employee is not covered by the applicable State unemployment compensation law (or if the employee did not work for the minimum period required to qualify for unemployment compensation), a termination of employment shall not be deemed to occur for purposes of paragraph (a) of § 1.50A–3 if the taxpayer demonstrates by convincing evidence that, were such employee covered by the applicable State unemployment compensation law (or if the employee had worked for such minimum period), he could reasonably have been found by such administrative agency or court to have been terminated for misconduct.

(e) *Recordkeeping requirement.* A taxpayer who is claiming that a termination of employment falls within the provisions of paragraph (b), (c), or (d) of this section shall maintain sufficient records to support his claim until the expiration of the pertinent period of limitations.

(f) *Transactions to which section 381 (a) applies*—(1) *General rule.* The employment relationship between the taxpayer and a WIN employee (as defined in paragraph (h) of § 1.50B–1) shall not be deemed terminated for purposes of paragraph (a) of § 1.50A–3 in the case of a transaction to which section 381(a) (relating to carryovers in certain corporate acquisitions) applies. If there is a termination of employment (within the meaning of paragraph (a) of § 1.50A–3 and this section) by the acquiring corporation with respect to the WIN employee described in the preceding sentence, or if the acquiring corporation fails to pay comparable wages to such employee (within the meaning of paragraph (a)(2) of § 1.50A–3), then paragraph (a)(3) of § 1.50A–3 shall apply to the acquiring corporation with respect to the credit allowed the acquired corporation with respect to such employee. For purposes of the preceding sentence, the initial date of employment, as defined in paragraph (c)(1) of § 1.50A–3) of such employee with respect to the acquired corporation shall be deemed to be the initial date of employment of such employee with respect to the acquiring corporation and employment by the acquired corporation shall be deemed employment by the acquiring corporation.

(2) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). (i) X Corporation, a wholly owned subsidiary of Y Corporation, incurred WIN expenses of $12,000 for its taxable year ending December 31, 1972, with respect to WIN employees hired on March 1, 1972. Both X and Y made their returns on the basis of a calendar year. For the taxable year 1972 X Corporation's credit earned of $2,400 (20 percent of $12,000) was allowed under section 40 as a credit against its liability for tax. On December 15, 1973, X Corporation is liquidated under section 332 and all of its assets and liabilities are transferred to Y Corporation. In addition, Y Corporation continues the employment of the WIN employees which were employed by X Corporation and with respect to which X Corporation was allowed the credit for its taxable year 1972.

(ii) Under subparagraph (1) of this paragraph, a termination of employment of the WIN employees shall not be deemed to occur for purposes of paragraph (a)(1) of § 1.50A–3 due to the liquidation of X Corporation on December 15, 1973. Thus, no recapture determination under paragraph (a)(3) of § 1.50A–3 shall be made with respect to X Corporation.

Example (2). (i) The facts are the same as in Example (1) and, in addition, on February 2, 1974, Y Corporation terminates the employment of the employees with respect to whom X Corporation had incurred WIN expenses. The termination is a termination for purposes of paragraph (a)(1) of § 1.50A–3. For purposes of applying the period described in paragraph (a)(1) of § 1.50A–3, the date the employees reported for work at X Corporation is deemed to be the initial date of employment of the employees with respect to Y Corporation.

(ii) Under subparagraph (1) of this paragraph, a termination of employment of the WIN employees shall not be deemed to occur for purposes of paragraph (a)(1) of § 1.50A–3 due to the liquidation of X Corporation on December 15, 1973. However, a termination of employment of the WIN employees is deemed to occur for purposes of paragraph (a)(1) of § 1.50A–3 on February 2, 1974. Thus, Y Corporation shall make a recapture determination under paragraph (a) of § 1.50A–3 with respect to the credit allowed X Corporation with respect to the WIN employees.

(g) *Mere change in form of conducting a trade or business*—(1) *General rule.* (i) The employment relationship between the taxpayer and a WIN employee (as defined in paragraph (h) of § 1.50B–1) shall not be deemed terminated for purposes of paragraph (a) of § 1.50A–3 in the case of a mere change in the form of conducting the trade or business in which such employment occurs, provided that the conditions set forth in subdivision (ii) of this subparagraph are satisfied.

(ii) The conditions referred to in subdivision (i) of this subparagraph are as follows:

(*a*) The WIN employee described in subdivision (i) of this subparagraph is retained in the same trade or business.

(*b*) The taxpayer retains a substantial ownership interest in such trade or business,

(*c*) Substantially all the assets necessary to operate such trade or business are transferred to the tranferee who continues the employment of the WIN employee described in subdivision (i) of this subparagraph, and

(*d*) The basis of the assets described in (*c*) of this subdivision in the hands of the transferee is determined in whole or in part by reference to the basis of such assets in the hands of the transferor.

This subparagraph shall not apply if paragraph (e) of this section (relating to transactions to which section 381(a) applies) is applicable with respect to such transfer.

(2) *Substantial interest.* For purposes of this paragraph, the taxpayer shall be considered as having retained a substantial ownership interest in the trade or business only if, after the change in form, the ownership interest in such trade or business by such taxpayer—

(i) Is substantial in relation to the total ownership interests of all persons, or

(ii) Is equal to or greater than the ownership interest prior to the change in form.

Thus, where a taxpayer owns a 5-percent interest in a partnership, and, after the incorporation of that partnership, the taxpayer retains at least a 5-percent interest in the corporation, the taxpayer will be considered as having retained a substantial interest in the trade or business as of the date of the change in form because of the application of the rule contained in subdivision (ii) of this subparagraph.

(3) *Termination of employment.* (i) If employment of a WIN employee described in subparagraph (1)(i) of this paragraph is terminated by the transferee, the employment of such employee shall be deemed terminated by the taxpayer for purposes of paragraph (a) of § 1.50A–3. For purposes of determining the period described in paragraph (a)(1) of § 1.50A–3 with respect to such taxpayer employment by the transferee shall be deemed employment by the transferor.

(ii) If in any taxable year the taxpayer does not retain a substantial ownership interest in the trade or business directly or indirectly (through ownership in other entities provided that such other entities' bases in such interest are determined in whole or in part by reference to the basis of such interest in the hands of the taxpayer) then, for purposes of paragraph (a)(1) of § 1.50A–3, there shall be deemed to be a termination of employment of the WIN employees described in subparagraph (1)(i) of this paragraph on the first date on which such taxpayer does not retain a substantial interest in the trade or business. For purposes of determining the period described in paragraph (a)(1) of § 1.50A–3, employment by the transferee shall be deemed employment by the transferor. Any taxpayer who seeks to establish his interest in a trade or business under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in such trade or business after any such transfer or transfers.

(iii) Notwithstanding subparagraph (1) of this paragraph and subdivision (ii) of this subparagraph in the case of a mere change in the form of a trade or business, if the interest of a taxpayer in the trade or business is reduced but such taxpayer has retained a substantial interest in such trade or business, paragraph (a)(2) of § 1.50B–2 (relating to electing small business corporations), paragraph (a)(2) of § 1.50B–3 (relating to estates or trusts), or paragraph (a)(2)(ii) of § 1.50B–4 (relating to partnerships) shall apply, as the case may be.

(4) *Failure to pay comparable wages.* If the transferee fails to pay comparable wages (within the meaning of paragraph (a)(2) of § 1.50A–3) to the WIN employee within the period described in paragraph (a)(1) of § 1.50A–3, then such failure shall be deemed to be a failure of the transferor (or in a case where the transferor is a partnership, estate, trust, or electing small business corporation, the partners, beneficiaries, or shareholders), and a recapture determination shall be made with respect to such WIN employee as provided in § 1.50A–3. For purposes of determining the period described in paragraph (a)(1) of § 1.50A–3 with respect to such transferor (or such partners, beneficiaries, or shareholders), employment by the transferee shall be deemed employment by such transferor. For special rules in the case of an electing small business corporation (as defined in section 1371(b)), an estate or trust, or a partnership, see respectively, § 1.50A–5, § 1.50A–6, § 1.50A–7.

(5) *Examples.* This paragraph may be illustrated by the following examples in each of which it is assumed that the transfer satisfies the conditions of subparagraph (1)(ii) (*a*), (*c*) and (*d*) of this paragraph.

Example (1). (i) On January 1, 1972, A, an individual, employed WIN employees in his sole proprietorship. A incurred WIN expenses with respect to these employees of $12,000 for the taxable year ending December 31, 1972. For the taxable year 1972 A's credit earned of $2,400 (20 percent of $12,000) was allowed under section 40 as a credit against his liability for tax. On March 15, 1973, A transferred all of the assets used in his sole proprietorship to X Corporation, a newly formed corporation, in exchange for 45 percent of the stock of X Corporation.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.50A–3 does not apply to the March 15, 1973, transfer to X Corporation.

Example (2). (i) The facts are the same as in Example (1) and in addition on June 1, 1973, X Corporation terminates the employment of WIN employees with respect to whom 50 percent of the WIN expenses were incurred during A's 1972 taxable year.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a) of § 1.50A–3 does not apply to the March 15, 1973, transfer to X Corporation. However, under subparagraph (3)(i) of this paragraph, paragraph (a) of § 1.50A–3 applies to the June 1, 1973, termination of WIN employees by X Corporation. The actual period of employment of such WIN employees is 1 year and 5 months (that is, the period beginning on January 1, 1972, and ending on June 1, 1973). For taxable year 1972, A's recomputed credit earned is $1,200 (20 percent of $6,000). The income tax imposed by Chapter 1 of the Code on A for the taxable year 1973 is increased by the $1,200 decrease in his credit earned for the taxable year 1972 (that is, $2,400 original credit earned minus $1,200 recomputed credit earned).

Example (3). (i) The facts are the same as in Example (1) and in addition on April 1, 1973, X Corporation begins paying wages to the employees referred to in Example (1) which are less than the wages paid to its other employees who perform comparable services.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a)(1) of § 1.50A–3 does not apply to the March 15, 1973, transfer to X Corporation. However, under subparagraph (4) of this paragraph, paragraph (a) of § 1.50A–3 applies to the failure of X Corporation to pay wages to the WIN employees which are equal to the wages paid to its other employees who perform comparable services. For taxable year 1972, A's recomputed credit earned is zero. The income tax imposed by Chapter 1 of the Code on A for the taxable year 1973 is increased by the $2,400 decrease in his credit earned for the taxable year 1972.

Example (4). (i) On January 1, 1972, partnership ABC, which makes its returns on the basis of a calendar year, employed WIN employees. Partnership ABC incurred WIN expenses with respect to these employees of $20,000 for the taxable year. Partnership ABC has 10 partners who make their returns on the basis of a calendar year and share partnership profits equally. Each partner's share of the WIN expenses is 10 percent, that is, $2,000. On March 15, 1973, partnership ABC transfers all of the assets used in its trade or business to the X Corporation, a newly formed corporation, and immediately thereafter transfers 10 percent of such stock to each of the 10 partners.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a)(1) of § 1.50A–1 does not apply to the March 15, 1973, transfer by the ABC Partnership to X Corporation.

Example (5). (i) The facts are the same as in Example (4) except that partnership ABC transfers 10 percent of the stock in X Corporation to each of eight partners, 20 percent to partner A, and cash to partner B.

(ii) Under subparagraph (1)(i) of this paragraph, with respect to all of the partners (including partner A) except partner B, paragraph (a)(1) of § 1.50A–3 does not apply to the March 15, 1973, transfer by the ABC Partnership. Paragraph (a)(1) of § 1.50A–3 applies with respect to partner B's $2,000 share of the WIN expenses. See paragraph (a)(2) of § 1.50A–7.

Example (6). (i) X Corporation operates a manufacturing business and a separate retail sales business. During the month of January 1972, X incurred WIN expenses in its manufacturing business. On February 10, 1973, X transfers all the assets used in its manufacturing business to Partnership XY in exchange for a 50 percent interest in such partnership.

(ii) Under subparagraph (1)(i) of this paragraph, paragraph (a)(1) of § 1.50A–3 does not apply to the February 10, 1973, transfer to Partnership XY.

§ 1.50A–5 Electing small business corporation.

(a) *In general*—(1) *Termination of employment by a corporation.* If an electing small business corporation (as defined in section 1371(b)) or a former electing small business corporation terminates (in a termination subject to the provisions of paragraph (a) of § 1.50A–3) the employment of any WIN employee with respect to whom WIN expenses have been paid or incurred, a recapture determination shall be made under § 1.50A–3 with respect to each shareholder who is treated, under paragraph (a) of § 1.50B–2 as a taxpayer who paid or incurred such expenses. Each such recapture determination shall be made with respect to the pro rata share of the WIN expenses of such employee which were taken into account by such shareholder under paragraph (a) of § 1.50B–2. For purposes of each such recapture determination the period of employment of such employee or employees shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the electing small business corporation and ending with the date of such employee's termination (as defined in paragraph (a)(1)(ii) of § 1.50A–3). For the definition of the term "recapture determination" see paragraph (a)(3) of § 1.50A–3.

(2) *Disposition of shareholder's interest.* (i) If—

(*a*) WIN expenses are apportioned to a shareholder of an electing small business corporation who takes such expenses into account in computing his WIN expenses, and

(*b*) After the end of the shareholder's taxable year in which such apportionment was taken into account and before the close of the period to which paragraph (a)(1) of § 1.50A–3 applies with respect to the employee to which such WIN expenses relate, such shareholder's proportionate stock interest in such corporation is reduced (for example, by a sale or redemption, or by the issuance of additional shares) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction the employment of such employee shall be deemed terminated with respect to such shareholder to the extent of the actual reduction in such shareholder's proportionate stock interest. (For example, if $100 of WIN expenses were apportioned to a shareholder and if his proportionate stock interest is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then the employment of the employee to which such WIN expenses relate shall be deemed terminated as to that shareholder to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such shareholder. For purposes of such recapture determination the period of employment of any employee or employees with respect to whom WIN expenses were paid or incurred shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the electing small business corporation and ending with the date on which such reduction occurs.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the shareholder's proportionate stock interest in the corporation

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on the date of the apportionment under paragraph (a) of § 1.50B–2. However, once employment of an employee has been treated under this subparagraph as having terminated with respect to the shareholder to any extent, the percentage referred to shall be 33⅓ percent of the shareholder's proportionate stock interest in the corporation on the date of apportionment under paragraph (a) of § 1.50B–2.

(iii) In determining a shareholder's proportionate stock interest in a former electing small business corporation for purposes of this subparagraph, the shareholder shall be considered to own stock in such corporation which he owns directly or indirectly (through ownership in other entities provided such other entities' bases in such stock are determined in whole or in part by reference to the basis of such stock in the hands of the shareholder). For example, if A, who owns all of the 100 shares of the outstanding stock of corporation X, a corporation which was formerly an electing small business corporation, transfers on November 1, 1973, 70 shares of X stock to corporation Y in exchange for 90 percent of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own 93 percent of the stock of X, 30 percent directly and 63 percent indirectly (i.e., 90 percent of 70). Any taxpayer who seeks to establish his interest in the stock of a former electing small business corporation under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the corporation after any such transfer or transfers.

(3) *Computation of the first 12 months of employment.* The period described in paragraph (a)(1) of § 1.50A–3 shall not be affected by a change in the shareholders in such corporation and shall not be affected by a reduction in any shareholder's proportionate stock interest in such corporation (for example, by a sale or redemption or by the issuance of additional shares). Thus, the first 12 months of employment (whether or not consecutive) of any WIN employee shall be the same with respect to any shareholder who is allowed a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee. Also, such first 12 months of employment and the period described in section 50B(c)(4) with respect to any WIN employee shall not be deemed to begin again in the case of a corporation making a valid election under section 1372.

(b) *Election of a small business corporation under section 1372*—(1) *General rule.* If a corporation makes a valid election under section 1372 to be an electing small business corporation (as defined in section 1371(b)), then on the last day of the first taxable year immediately preceding the taxable year for which such election is effective, the employment of any WIN employees whose initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) occurred in taxable years prior to the first taxable year for which the election is effective (and whose employment has not been terminated prior to such last day) shall be considered as having been terminated on such last day with respect to the WIN expenses paid or incurred by such corporation and § 1.50A–3 shall apply to such corporation. However, if the corporation and each of the persons who are shareholders of the corporation on the first day of the first taxable year for which the election under section 1372 is to be effective, or on the date of such election, whichever is later, execute the agreement specified in subparagraph (2) of this paragraph, § 1.50A–3 shall not apply with respect to any such WIN expenses by reason of the election by the corporation under section 1372.

(2) *Agreement of shareholders and corporation.* (i) The agreement referred to in subparagraph (1) of this paragraph shall be signed by the shareholders and the corporation, and shall recite that, in the event the employment of any WIN employee described in subparagraph (1) of this paragraph is later terminated (in a termination subject to the rules contained in paragraph (a) of § 1.50A–3) during a taxable year of the corporation for which the election under section 1372 is effective, each such signer agrees (a) to notify the district director of such termination, and (b) to be jointly and severally liable to pay to the district director an amount equal to the increase in tax which would have been imposed by § 1.50A–3 on the corporation but for the agreement under this paragraph. For purposes of computing the period described in paragraph (a)(1) of § 1.50A–3, the period of employment by the corporation before the election under section 1372 shall be added to the period of employment by the electing small business corporation after such election.

(ii) The agreement shall set forth the name, address, and taxpayer account number of each party and the internal revenue district or service center in which each such party files his or its income tax return for the taxable year which includes the last day of the corporation's taxable year immediately preceding the first taxable year for which the election under section 1372 is effective. The agreement may be signed on behalf of the corporation by any person who is duly authorized. The agreement shall be filed with the district director with whom the corporation files its income tax return for its taxable year immediately preceding the first taxable year for which the election under section 1372 is effective and shall be filed on or before the due date (including extensions of time) of such return. For purposes of the preceding sentence, the district director may, if good cause is shown, permit the agreement to be filed on a later date.

(c) *Examples.* This section may be illustrated by the following examples:

Example (1). (i) X Corporation, an electing small business corporation which makes its returns on the basis of the calendar year, hired employees under a WIN program on July 1, 1972, and incurred expenses for such employees during the following 12 months at an initial rate of $10,000 per month. For taxable year 1972, X Corporation had 20 shares of stock outstanding which were owned equally by A and B who make their returns on the basis of a calendar year. Under paragraph (a) of this section, the WIN expenses were apportioned to the shareholders of X Corporation as follows:

Period Ending December 31, 1972

Total WIN expenses for the taxable year	$60,000
Shareholder A (10/20)	30,000
Shareholder B (10/20)	30,000

Assuming that during 1972 shareholders A and B did not directly incur any WIN expenses and that they did not own any interest in other electing small business corporations, partnerships, estates, or trusts incurring WIN expenses, the WIN expenses attributable to each shareholder is $30,000. For the taxable year 1972, each shareholder's credit earned of $6,000 (20 percent of $30,000) was allowed under section 40 as a credit against his liability for tax.

(ii) On January 1, 1973, X Corporation terminates the employment of the employees accounting for 50 percent of its WIN expenses incurred to that date, or $30,000 in salaries and wages. The actual period of employment for these WIN employees was 6 months. For taxable year 1972, each shareholder's recomputed credit is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on each of the shareholders for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

Example (2). (i) The facts are the same as in subdivision (i) of example (1), except that on January 1, 1973, shareholder A sells five of his 10 shares of stock in X Corporation to C. No other changes in stock ownership occurred during 1973. Under paragraph (a)(2) of this section, the WIN expenses of X Corporation were apportioned on December 31, 1973, to the shareholders of X Corporation as follows:

Period Ending December 31, 1973

Total WIN expenses for the taxable year	$60,000
Shareholder A (5/20)	15,000
Shareholder B (10/20)	30,000
Shareholder C (5/20)	15,000

(ii) Under paragraph (a)(2) of this section, on January 1, 1973, the employment of these WIN employees shall be deemed terminated by shareholder A with respect to 50 percent of the WIN expenses allocated to him since immediately after the January 1, 1973, sale A's proportionate stock interest in X Corporation is reduced to 50 percent of the proportionate stock interest in X Corporation which he held for taxable year 1972. The actual period of employment of the WIN employees accounting for the 50 percent of the WIN expenses originally allocated to A is 6 months (that is, the period beginning with July 1, 1972, and ending with January 1, 1973). The income tax imposed by chapter 1 of the Code on shareholder A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

(d) *Termination or revocation of an election under section 1372.* The employment of employees with respect to whom WIN expenses were paid or incurred shall not be considered to have been terminated solely by reason of a termination or revocation of a corporation's election under section 1372.

§ 1.50A–6 Estates and trusts.

(a) *In general*—(1) *Termination of employment by an estate or trust.* If an estate or trust teminates (in a termination subject to the provisions of paragraph (a) of § 1.50A–3) the employment of any employee with respect to whom WIN expenses have been paid or incurred, a recapture determination shall be made under § 1.50A–3 with respect to the estate or trust, and each beneficiary who is treated, under paragraph (a) of § 1.50B–3 as a taxpayer who paid or incurred such expenses. For purposes of each such recapture determination the period of employment of such employees shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the estate or trust and ending with the date of such employee or employees' termination (as defined in paragraph (a)(1)(ii) of § 150A–3). For definition of "recapture determination" see paragraph (a)(3) of § 1.50A–3.

(2) *Disposition of interest.* (i) If—

(*a*) WIN expenses are apportioned to an estate or trust, or to a beneficiary of an estate or trust who takes such expenses into account in computing his WIN expenses, and

(*b*) After the end of the estate's, trust's, or beneficiary's taxable year in which such apportionment was taken into account and before the close of the period to which paragraph (a)(1) of § 1.50A–3 applies with respect to the employees to which such WIN expenses relate, such estate's, trust's, or such beneficiary's proportionate interest in the income of the estate or trust is reduced (for example, by a sale, or by the terms of the estate or trust instrument) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction, the employment of such employee shall be deemed terminated with respect to such estate, trust, or beneficiary to the extent of the actual reduction in such estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust. (For example, if $100 of WIN expenses were apportioned to a beneficiary and if his proportionate interest in the income of the estate or trust is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then the employment of the employee to which such WIN expenses relates shall be deemed terminated as to that beneficiary to the extent of $50.) Accordingly, a recapture determination shall be made with respect to such estate, trust, or beneficiary. For purposes of such recapture determination the period of employment of any employee or employees with respect to whom WIN expenses were paid or incurred shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the estate or trust and ending with the date on which such reduction occurs.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under paragraph (a) of § 1.50B–3. However, once employment of an employee has been treated under this subparagraph as having terminated with respect to the estate, trust, or beneficiary to any extent, the percentage referred to shall be 33⅓ percent of the estate's, trust's, or beneficiary's proportionate interest in the income of the estate or trust for the taxable year of the apportionment under paragraph (a) of § 1.50B–3.

(iii) In determining a beneficiary's proportionate interest in the income of an estate or trust for purposes of this subparagraph, the beneficiary shall be considered to own any interest in such an estate or trust which he owns directly or indirectly (through ownership in other entities provided such other entities' bases in such interests are determined in whole or in part by reference to the basis of such interest in the hands of the beneficiary). For example, if A, whose proportionate interest in the income of trust X is 30 percent, transfers all of such interest to corporation Y in exchange for all of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own a 30-percent interest in trust X. Any taxpayer who seeks to establish his interest in an estate or trust under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the estate or trust after any such transfer or transfers.

(b) *Computation of the first 12 months of employment.* The period described in paragraph (a)(1) of § 1.50A–3 shall not be affected by a change in the beneficiaries of an estate or trust and shall not be affected by a reduction or a termination of a beneficiary's interest in the income of such estate or trust. Thus, the period described in paragraph (a)(1) of § 1.50A–3 of any WIN employee shall be the same with respect to any trust, estate, or beneficiary who is allowed a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee. Also, such period with respect to any WIN employee shall not be deemed to begin again as the result of the acquisition of the interest by another.

(c) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). (i) XYZ Trust, which makes its returns on the basis of the calendar year, hired employees under the WIN program on July 1, 1972, and incurred expenses for such employees during the following 12 months at an initial rate of $10,000 per month. For the taxable year 1972 the income of XYZ Trust is $60,000, which is allocated equally to XYZ Trust and beneficiary A. Beneficiary A makes his returns on the basis of a calendar year. Under paragraph (a) of this section, the WIN expenses were apportioned to XYZ Trust and to beneficiary A as follows:

Period ending December 31, 1972

Total WIN expenses for the taxable year	$60,000
XYZ Trust ($30,000/$60,000)	30,000
Beneficiary A ($30,000/$60,000)	30,000

Assuming that during 1972 beneficiary A did not directly incur any WIN expenses and that he did not own any interest in other estates, trusts, electing small business corporations, or partnershipa incurring WIN expenses, the WIN expenses incurred by XYZ Trust and by beneficiary A are $30,000 each. For the taxable year 1972, XYZ Trust and beneficiary A each had a credit earned of $6,000. Each credit earned was allowed under section 40 as a credit against the liability for tax.

(ii) On January 1, 1973, XYZ Trust terminates the employment of its employees accounting for 50 percent of its WIN expenses incurred to that date, or $30,000 in salaries and wages. The actual period of employment for these WIN employees was 6 months. For the taxable year 1972, XYZ Trust's and beneficiary A's recomputed credit is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on XYZ Trust and on beneficiary A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

Example (2). (i) The facts are the same as in subdivision (i) of example (1), except that on January 1, 1973, beneficiary A sells 50 percent of his interest in the income of XYZ Trust to B. No other changes in income interest occurred during 1973. Under paragraph (a)(2) of § 1.50B–4, each beneficiary's share and the trust's share of the WIN expenses are apportioned as follows:

Period ending December 31, 1973

Total WIN expenses for the taxable year	$60,000
XYZ Trust ($30,000/$60,000)	30,000
Beneficiary A ($15,000/$60,000)	15,000
Beneficiary B ($15,000/$60,000)	15,000

(ii) Under paragraph (a)(2) of this section, on January 1, 1973, the employment of these WIN employees shall be deemed terminated by beneficiary A with respect to 50 percent of the WIN expenses allocated to him since immediately after the January 1, 1973, sale A's proportionate interest in the income of XYZ Trust is reduced to 50 percent of his proportionate interest in the income of XYZ Trust for the taxable year 1972. The period of employment of the WIN employees accounting for the 50 percent of the WIN expense originally allocated to A is 6 months (that is, the period beginning with July 1, 1972, and ending with December 31, 1972). For the taxable year 1972 beneficiary A's recomputed credit earned is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on beneficiary A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

§ 1.50A–7 Partnerships.

(a) *In general*—(1) *Termination of employment by a partnership.* If a partnership terminates (in a termination subject to the provisions of paragraph (a) of § 1.50A–3) the employment of any WIN employee with respect to whom WIN expenses have been paid or incurred, a recapture determination shall be made under § 1.50A–3 with respect to each partner who is treated, under paragraph (a) of § 1.50B–4, as a taxpayer with respect to such expenses. Each such recapture determination shall be made with respect to the share of the WIN expenses with respect to such employee

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which were taken into account by such partner under paragraph (a) of § 1.50B–4. For purposes of each such recapture determination the period of employment of any such employee shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the partnership and ending with the date of such employee's termination (as defined in paragraph (a)(1)(ii) of § 1.50A–3). For the definition of "recapture determination" see paragraph (a)(3) of § 1.50A–3.

(2) *Disposition of partner's interest.* (i) If—

(*a*) WIN expenses are allocated to a partner of a partnership who takes such expenses into account in computing his WIN expenses, and

(*b*) After the end of the partner's taxable year in which such allocation was taken into account and before the close of the period to which paragraph (a)(1) of § 1.50A–3 applies with respect to the employee to which such WIN expenses relate, such partner's proportionate interest in the general profits of the partnership (or in the particular expenses) is reduced (for example, by a sale, by a change in the partnership agreement, or by the admission of a new partner) below the percentage specified in subdivision (ii) of this subparagraph,

then, on the date of such reduction the employment of such employee shall be deemed terminated with respect to such partner to the extent of the actual reduction in such partners' proportionate interest in the general profits (or in the particular expenses) of the partnership. (For example, if $100 of WIN expenses were taken into account by a partner and if his proportionate interest in the general profits of the partnership is reduced from 60 percent to 30 percent (that is, 50 percent of his original interest), then the employment of the employee to which such WIN expenses relate shall be deemed terminated as to that partner to the extent of $50). Accordingly, a recapture determination shall be made with respect to such partner. For purposes of such recapture determination the period of employment of any employee or employees with respect to whom WIN expenses were paid or incurred shall be the period beginning with the initial date of employment (as defined in paragraph (c)(1) of § 1.50A–3) with respect to the partnership and ending with the date on which such reduction occurs.

(ii) The percentage referred to in subdivision (i)(*b*) of this subparagraph is 66⅔ percent of the partner's proportionate interest in the general profits of the partnership for the year of the apportionment under § 1.50B–4(a). However, once employment of an employee has been treated under this subparagraph as having terminated with respect to the partner to any extent, the percentage referred to shall be 33⅓ percent of the partner's proportionate interest in the general profits of the partnership for the taxable year of the apportionment under paragraph (a) of § 1.50B–4.

(iii) In determining a partner's proportionate interest in the general profits of a partnership for purposes of this subparagraph, the partner shall be considered to own any interest in such a partnership which he owns directly or indirectly (through ownership in other entities provided the other entities' bases in such interests are determined in whole or in part by reference to the basis of such interest in the hands of the partner). For example, if A, whose proportionate interest in the general profits of partnership X is 20 percent, transfers all of such interest to Corporation Y in exchange for all of the stock of Y in a transaction to which section 351 applies, then, for purposes of subdivision (i) of this subparagraph, A shall be considered to own a 20 percent interest in partnership X. Any taxpayer who seeks to establish his interest in a partnership under the rule of this subdivision shall maintain adequate records to demonstrate his indirect interest in the partnership after any such transfer or transfers.

(3) *Computation of the first 12 months of employment.* The period described in paragraph (a)(1) of § 1.50A–3 shall not be affected by a change in the partners of such partnership and shall not be affected by a change in the ratio in which the partners divide the general profits of the partnership. Thus, such period for any WIN employee shall be the same with respect to any partner claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee.

(b) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). (i) AB partnership, which makes its returns on the basis of the calendar year, hired employees under the WIN program on July 1, 1972, and incurred expenses for such employees during the following 12 months at an initial rate of $10,000 per month. Partners A and B, who make their return on the basis of a calendar year, share the profits and losses of AB partnership equally. Under paragraph (a)(2) of this section, each partner's share of the WIN expenses was apportioned as follows:

	Period ending December 31, 1972
Total WIN expenses for the taxable year	$60,000
Partner A's share (50 percent)	30,000
Partner B's share (50 percent)	30,000

Assuming that during 1972 A and B did not directly incur any WIN expenses and that they did not own any interest in other partnerships, electing small business corporations, estates, or trusts incurring WIN expenses, each partner's share of the WIN expenses is $30,000. For the taxable year 1972, each partner's credit earned of $6,000 (20 percent of $30,000) was allowed under section 40 as a credit against his liability for tax.

(ii) On January 1, 1973, AB partnership terminates the employment of its employees accounting for 50 percent of its WIN expenses incurred to that date, or $30,000 in salaries and wages. The actual period of employment for these WIN employees was 6 months. For the taxable year 1972, each partner's recomputed credit earned is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on each of the partners for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

Example (2). (i) The facts are the same as in subdivision (i) of example (1), except that on January 1, 1973, partner A sells one-half of his 50 percent interest in AB partnership to C, to form the ABC partnership. No other changes in the partners' proportionate interest in the general profits of the partnership occurred during 1973. Under paragraph (a)(2) of this section, each partner's share of the WIN expenses was apportioned on December 31, 1973, as follows:

	Period ending December 31, 1973
Total WIN expenses for the taxable year	$60,000
Partner A's share (25 percent)	15,000
Partner B's share (50 percent)	30,000
Partner C's share (25 percent)	15,000

(ii) Under paragraph (a)(2) of this section, on January 1, 1973, the employment of these WIN employees shall be deemed terminated by partner A with respect to 50 percent of the WIN expenses allocated to him since immediately after the January 1, 1973, sale. A's proportionate interest in the general profits of ABC partnership is reduced to 50 percent of his proportionate interest in the general profits of AB partnership for 1972. The period of employment of the WIN employees accounting for the 50 percent of the WIN expenses originally allocated to A is 6 months (that is, the period beginning with July 1, 1972, and ending with December 31, 1972). For the taxable year 1972 partner A's recomputed credit earned is $3,000 (20 percent of $15,000). The income tax imposed by chapter 1 of the Code on partner A for the taxable year 1973 is increased by the $3,000 decrease in his credit earned for the taxable year 1972 (that is, $6,000 original credit earned minus $3,000 recomputed credit earned).

§ 1.50B Statutory provisions; definitions; special rules.

SEC. 50B. *Definitions; special rules*—(a) *Work incentive program expenses.* For purposes of this subpart, the term "work incentive program expenses" means the wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

(1) Having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and

(2) Not having displaced any individual from employment.

(b) *Wages.* For purposes of subsection (a), the term "wages" means only cash remuneration (including amounts deducted and withheld).

(c) *Limitations*—(1) *Trade or business expenses.* No item shall be taken into account under subsection (a) unless such item is incurred in a trade or business of the taxpayer.

(2) *Reimbursed expenses.* No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item.

(3) *Geographical limitation.* No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

(4) *Maximum period of training or instruction.* No item with respect to any employee shall be taken into account under subsection (a) after the end of the 24-month period beginning with the date of initial employment of such employee by the taxpayer.

(5) *Ineligible individuals.* No item shall be taken into account under subsection (a) with respect to an individual who—

(A) Bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)),

(B) If the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) Is a dependant (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) *Subchapter S corporations.* In case of an electing small business corporation (as defined in section 1371)—

(1) The work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) Any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

(e) *Estates and trusts.* In the case of an estate or trust—

(1) The work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

(2) Any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses, and

(3) The $25,000 amount specified under subparagraphs (A) and (B) of section 50A(a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $25,000 as the amount of the expenses allocated to the trust under paragraph (1) bears to the entire amount of such expenses.

(f) *Limitations with respect to certain persons.* In the case of—

(1) An organization to which section 593 applies,

(2) A regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) A cooperative organization described in section 1381(a),

rules similar to the rules provided in section 46(d) shall apply under regulations prescribed by the Secretary or his delegate.

(g) *Cross reference.* For application of this subpart to certain acquiring corporations, see section 381(c)(24).

[Sec. 50B as added by sec. 601(b), Rev. Act 1971 (85 Stat. 556)]

§ 1.50B–1 Definitions of WIN expenses and WIN employees.

(a) *WIN expenses*—(1) *In general.* Except as otherwise provided in paragraphs (b)–(g) of this section, for purposes of §§ 1.50A–1 through 1.50B–6, the term "work incentive program expenses" (referred to in §§ 1.50A–1 through 1.50B–6 as "WIN expenses") means the salaries and wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) by an employee who is certified by the Secretary of Labor as—

(i) Having been placed in employment by the taxpayer (or if the taxpayer is a partner of a partnership, beneficiary of an estate or trust, or a shareholder of an electing small business corporation, by such partnership, estate, trust, or electing small business corporation) under a work incentive (WIN) program established under section 432(b)(1) of the Social Security Act (42 U.S.C. 632(b)(1)), and

(ii) Not having displaced any individual from employment.

The term "WIN expenses" includes only salaries and wages paid or incurred in taxable years beginning after December 31, 1971. See paragraph (c)(3) of § 1.50A–3 for rules relating to the determination of the first 12 months of employment (whether or not consecutive).

(2) *Examples.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). X Corporation, an accrual basis taxpayer which files its return on the basis of the calendar year, hired an employee on July 1, 1971, who was certified by the Secretary of Labor under this paragraph. The first 12 months of employment were continuous. X is entitled to the credit provided by section 40 with respect to the salaries or wages incurred during its taxable year beginning January 1, 1972, for services rendered by that employee during the period beginning July 1, 1971, and ending June 30, 1972.

Example (2). Y, a cash basis taxpayer who files its return on the basis of the calendar year, employed A, an employee certified by the Secretary of Labor under this paragraph, on July 1, 1971. A's first 12 months of employment were continuous. Y paid A on the basis of a semimonthly payroll period, but paid its payroll 2 days after the close of the payroll period during which the wages were earned. Thus, Y paid A on January 2, 1972, for services rendered between December 16, 1971, and December 31, 1971. Y is entitled to the credit provided by section 40 with respect to the wages paid for services rendered by A during the period beginning December 16, 1971, and ending June 30, 1972, because those wages were paid by Y in a taxable year beginning after December 31, 1971.

(b) *Salaries and wages.* For purposes of this section, the term "salaries and wages" means only cash remuneration including a check. Amounts deducted and withheld from the employee's pay (for example, taxes and contributions to health and retirement plans) shall be deemed to be cash remuneration even though not actually paid directly to the employee.

(c) *Trade or business expenses.* The term "WIN expenses" includes only salaries and wages which are paid or incurred in a trade or business of the taxpayer and which are deductible in computing taxable income. Thus, salaries and wages paid to domestic employees in a private home are not "WIN expenses".

(d) *Reimbursed expenses*—(1) *In general.* The term "WIN expenses" does not include salaries and wages to the extent that the taxpayer is reimbursed for such salaries or wages from any source.

(2) *Example.* Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. X Company, which makes its return on the basis of the calendar year, hired WIN employees on January 1, 1972. X Company has a cost-plus construction contract with the Federal Government. The fact that X has a construction contract with the Federal Government or anyone else does not change its character from a normal business transaction in which there has been a sale of materials and services. Thus, the salaries or wages paid or incurred for services rendered by these WIN employees would not be reimbursed expenses, and X would be entitled to the credit provided by section 40.

(e) *Geographical limitation*—(1) *In general.* The term "WIN expenses" does not include salaries and wages paid or incurred for services rendered outside the United States (as defined in sections 638 (relating to Continental Shelf areas) and 7701(a)(9)). However, services rendered by any WIN employee outside the United States (as defined in sections 638 (relating to Continental Shelf areas) and 7701(a)(9)) shall contribute to such employee's first 12 months of employment (whether or not consecutive) for purposes of paragraph (a) of § 1.50A–3 and paragraph (a) of this section.

(2) *Example.* Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. X Corporation, which files its return on the basis of the calendar year, hired A, a WIN employee, on January 1, 1972, and continuously employed him for the following 24-month period. During January and February of 1972, X paid A's wages while he received training conducted in Puerto Rico. For the remainder of the calendar year A performed services for X within the United States. For purposes of paragraph (a) of § 1.50A–3 and paragraph (a) of this section, A's first 12 months of employment are January 1, 1972, to December 31, 1972. Under subparagraph (1) of this paragraph no wages paid to A for services rendered during the months of January and February of 1972 may be taken into account by X under paragraph (a) of this section as WIN expenses because the services were rendered outside the United States. However, X may take into account wages he has incurred with respect to A for the period March 1, 1972, to December 31, 1972.

(f) *Maximum period of training or instruction.* The term "WIN expenses" does not include salaries and wages paid or incurred for services rendered by a WIN employee after the end of the 24-month period beginning with the date of initial employment (as defined in paragraph (c)(1) of § 1.50A–3) of the WIN employee.

(g) *Ineligible individuals.* The term "WIN expenses" does not include salaries and wages paid or incurred for services rendered by a WIN employee who—

(1) Bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the Code to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly

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or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c) of the Code),

(2) If the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the Code to a grantor, beneficiary, or fiduciary of the estate or trust, or

(3) Is a dependent (described in section 152(a)(9) of the Code) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (1), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(h) *WIN employee.* For purposes of §§ 1.50A–1—1.50B–6 the term "WIN employee" means an employee who is certified by the Secretary of Labor as meeting the requirements of paragraph (a)(1)(i) and (ii) of this section.

(j) *Special rule applicable to transactions to which section 381(a) applies and transactions involving a mere change in form of conducting a trade or business.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) of any WIN employee, for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1), shall not be affected by transactions to which the rule contained in paragraph (f) (relating to transaction to which section 381(a) (relating to certain corporate acquisitions) applies), or paragraph (g) (relating to a mere change in form of conducting a trade or business) of § 1.50A–4 applies.

§ 1.50B–2 Electing small business corporations.

(a) *General rule*—(1) *In general.* In the case of an electing small business corporation (as defined in section 1371(b)), WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such corporation's taxable year, and shall be taken into account for the taxable years of such shareholders within which or with which the taxable year of such corporation ends. The WIN expenses for each employee shall be apportioned separately. In determining who are shareholders of an electing small business corporation on the last day of its taxable year, the rules of paragraph (d)(1) of § 1.1371–1 and of paragraph (a)(2) of § 1.1373–1 shall apply.

(2) *Shareholder as taxpayer.* A shareholder to whom WIN expenses are apportioned shall, for purposes of the credit allowed by section 40, be treated as the taxpayer who paid or incurred the expenses allocated to him. If a shareholder takes into account in determining his WIN expenses any WIN expenses with respect to an employee of an electing small business corporation, and if the employment of such employee is terminated in a termination subject to the rules contained in paragraph (a) of § 1.50A–3, or if the electing small business corporation fails to pay comparable wages and such failure is subject to the rules contained in paragraph (a) (2) and (3) of § 1.50A–3, then such shareholder shall make a recapture determination under the provisions of section 50A (c) and (d) of the Code and § 1.50A–3.

(3) *Computation of the first 12 months of employment.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) of any WIN employee for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1), shall not be affected by a change in the shareholders in such corporation and shall not be affected by a reduction in any shareholder's proportionate stock interest in such corporation (for example, by a sale or redemption or by the issuance of additional shares). Thus, the first 12 months of employment (whether or not consecutive) of any WIN employee shall be the same with respect to any shareholder claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee. Also, such first 12 months of employment and the period described in section 50B(c)(4), with respect to any WIN employee, shall not be deemed to begin again because of the making of a valid election under section 1372.

(b) *Summary statement.* An electing small business corporation shall attach to its return a statement showing the apportionment to each shareholder of its WIN expenses with respect to each WIN employee.

(c) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). (i) X Corporation, an electing small business corporation which files its returns on the basis of the calendar year, hired WIN employees on July 1, 1972, whose employment was continuous for the next 24 months. A, a shareholder, has a 10 percent interest in X Corporation. X Corporation incurred $24,000 in wages with respect to these WIN employees in calendar year 1972, and $48,000 in calendar year 1973. Assuming that during 1972 shareholder A did not directly incur any other WIN expenses and did not own any other interest in other electing small business corporations, partnerships, estates, or trusts that incurred WIN expenses, for taxable year 1972 shareholder A's credit earned of $480 (10 percent (A's ownership interest) multiplied by $24,000 of WIN expenses multiplied by 20 percent) was allowed under section 40 as a credit against his liability for tax.

(ii) On March 1, 1973, shareholder A sold all of his interest to B, a new shareholder. Therefore, the employment of the WIN employees is deemed terminated for purposes of paragraph (a) of § 1.50A–3 with respect to shareholder A. For taxable year 1972, A's recomputed credit is zero because the termination occurred before the end of the period described in paragraph (a)(1) of § 1.50A–3. The income tax imposed by chapter 1 of the Code on A for the taxable year 1973 is increased by the $480 decrease in his credit earned for the taxable year 1972 (that is, $480 original credit earned minus zero recomputed credit earned). Under paragraph (a) of this section A has no credit earned for 1973.

(iii) Under subparagraph (3) of this paragraph, assuming that during 1973 shareholder B did not directly incur any other WIN expenses and that he did not own any interest in other electing small business corporations, partnerships, estates, or trusts that incurred WIN expenses, shareholder B's credit earned is $960 (10 percent (B's ownership interest) multiplied by $48,000 of WIN expenses multiplied by 20 percent) and is allowable under section 40 as a credit against his liability for tax. Under paragraph (a)(3) for purposes of determining the period of employment that may be taken into account by B the initial date of employment of these WIN employees relates back to the date they were first employed, i.e., July 1, 1972.

Example (2). (i) Y Corporation, an electing small business corporation which files its return on the basis of the calendar year, hires five WIN employees in 1972. The WIN expenses incurred with respect to each employee are as follows:

WIN employee number	*WIN expenses*
1	$6,000
2	5,000
3	4,000
4	4,000
5	3,000
Total	22,000

On December 31, 1972, Y Corporation has 10 shares of stock outstanding which are owned as follows: A owns 3 shares, B owns 2 shares, and C owns 5 shares.

(ii) Under this section, the WIN expenses are apportioned to the shareholders of Y Corporation as follows:

WIN employees	1	2	3	4	5	Total
Total WIN expenses	$6,000	$5,000	$4,000	$4,000	$3,000	
Shareholder A (3/10)	1,800	1,500	1,200	1,200	900	6,600
Shareholder B (2/10)	1,200	1,000	800	800	600	4,400
Shareholder C (5/10)	3,000	2,500	2,000	2,000	1,500	11,000

Assume that shareholders A, B, and C did not directly incur any other WIN expenses during their taxable year in which falls December 31, 1972 (the last day of Y Corporation's taxable year), and that such shareholders did not own any interest in other electing small business corporations, partnerships, estates or trust that incurred WIN expenses. The total WIN expenses of shareholder A are $6,600, of shareholder B are $4,400, and of shareholder C are $11,000.

§ 1.50B–3 Estates and trusts.

(a) *General rule*—(1) *In general.* In the case of an estate or trust, WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall be apportioned among the estate or trust and its beneficiaries on the basis of the income of such estate or trust allocable to each. There shall be apportioned to the estate or trust for its taxable year, and to each beneficiary of such estate or trust for his taxable year in which or with which the taxable year of such estate or trust ends, his share (as determined under paragraph (b) of this section) of the total WIN expenses allocated to him. If a beneficiary claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee.

(e) *Summary statement.* An estate or trust shall attach to its return a statement showing the apportionment of WIN expenses with respect to each employee to such estate or trust and to each beneficiary.

(f) *Examples.* This section may be illustrated by the following examples:

Example (1). (i) XYZ trust, which makes its return on the basis of the calendar year, hires five WIN employees in 1972. The WIN expenses incurred with respect to each employee are as follows:

WIN employee number	*WIN expenses*
1	$6,000
2	5,000
3	4,000
4	4,000
5	3,000
Total	22,000

For the taxable year 1972 the income of XYZ trust is $10,000 which is allocable as follows: $5,000 to XYZ trust, $2,000 to beneficiary A, and $3,000 to beneficiary B. Beneficiaries A and B make their returns on the basis of a calendar year.

(ii) Under this section, the WIN expenses are apportioned to XYZ trust and to its beneficiaries as follows:

WIN employees	1	2	3	4	5	Total
Total WIN expenses	$6,000	$5,000	$4,000	$4,000	$3,000	
XYZ Trust: $5,000/10,000	3,000	2,500	2,000	2,000	1,500	$11,000
Beneficiary A: $2,000/10,000	1,200	1,000	800	800	600	4,400
Beneficiary B: $3,000/10,000	1,800	1,500	1,200	1,200	900	6,600

Assume that beneficiary A hired a WIN employee during his taxable year 1972 and incurred $6,000 in wages. Also, assume that beneficiary B did not hire WIN employees during his taxable year 1972 and that beneficiaries A and B did not own any interests in other trusts, estates, partnerships, or electing small business corporations that hired WIN employees. The WIN expenses of XYZ trust are $11,000, of beneficiary A are $10,400, and of beneficiary B are $6,600.

(iii) In the case of XYZ trust, the $25,000 amount specified in section 50A(a)(2) is reduced to $12,500, computed as follows: (I) $25,000 multiplied by (II) $11,000 (WIN expense apportioned to the trust), divided by (III) $22,000 (total WIN expenses apportioned among such trust ($11,000), beneficiary A ($4,400), and beneficiary B ($6,600)).

Example (2). The facts are the same as in example (1) except that beneficiary A's interest is reduced to zero. Under paragraph (a)(3) for purposes of determining the period of employment that may be taken into account by XYZ trust and by beneficiary B, the initial date of employment of the WIN employees relates back to the date they were first employed.

§ 1.50B–4 Partnerships.

(a) *General rule*—(1) *In general.* In the case of a partnership, each partner shall take into account separately, for his taxable year with or within which the partnership taxable year ends, his share (as determined under subparagraph (3) of this paragraph) of the WIN expenses (as defined in paragraph (a) of § 1.50B–1) of employees employed by the partnership during such partnership's taxable year. The WIN expenses for each employee shall be allocated separately.

(2) *Partner as taxpayer.* Each partner shall be treated as the taxpayer who paid or incurred the share of the WIN expenses allocated to him. If a partner takes into account in determining his WIN expenses the WIN expenses of an employee of a partnership, and if the employment of such employee is terminated in a termination subject to the rules contained in paragraph (a) of § 1.50A–3, or if the partnership fails to pay comparable wages and such failure is subject to the rules contained in paragraph (a) (2) and (3) of § 1.50A–3, then such shareholder shall make a recapture determination under the provisions of section 50A (c) and (d) of the Code and § 1.50A–3.

(3) *Determination of partner's share.* (i) Each partner's share of the WIN expenses shall be determined in accordance with the ratio in which the partners divide the general profits of the partnership (that is, the taxable income of the partnership as described in section 702(a)(9)) regardless of whether the partnership has a profit or a loss for the taxable year during which the WIN expenses are paid or incurred. However, if the ratio in which the partners divide the general profits of the partnership changes during the taxable year of the partnership, the ratio effective for the date on which the WIN expenses are paid or incurred shall apply.

(ii) Notwithstanding subdivision (i) of this subparagraph, if the deduction with respect to any WIN expenses is specially allocated and if such special allocation is recognized under section 704(a) and (b) and paragraph (b) of § 1.704–1, then each partner's share of the WIN expenses shall be determined by reference to such special allocation effective for the date on which the WIN expenses are paid or incurred.

(4) *Computation of the first 12 months of employment.* The first 12 months of employment (whether or not consecutive) and the period described in section 50B(c)(4) with respect to any WIN employee for purposes of determining the amount of WIN expenses (as defined in paragraph (a) of § 1.50B–1) shall not be affected by a change in the partners of such partnership and shall not be affected by a change in the ratio in which the partners divide the general profits of the partnership. Thus, the first 12 months of employment (whether or not consecutive) and the 24-month period described in section 50B(c)(4) of any WIN employee shall be the same with respect to any partner claiming a credit under section 40 for salaries and wages paid or incurred for services rendered by such employee.

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(b) *Summary statement.* A partnership shall attach to its return a statement showing the allocation to each partner of its WIN expenses with respect to each WIN employee.

(c) *Examples.* Paragraph (a) of this section may be illustrated by the following examples:

Example (1). Partnership ABCD hires a WIN employee on January 1, 1972, and hires a second WIN employee on September 1, 1972. The ABCD partnership and each of its partners reports income on the basis of the calendar year. Partners A, B, C, and D share partnership profits equally. Each partner's share of the WIN expenses incurred with respect to these employees is 25 percent.

Example (2). Assume the same facts as in example (1) and the following additional facts: A dies on June 30, 1972, and B purchases A's interest as of such date. Each partner's share of the profits from January 1 to June 30 is 25 percent. From July 1 to December 31, B's share of the profits is 50 percent, and C and D's share of the profits is 25 percent each. B shall take into account 25 percent of the WIN expenses incurred during the period beginning January 1 and ending June 30 and 50 percent of the WIN expenses incurred during the remainder of the year with respect to the employee hired on January 1, 1972. Also, B shall take into account 50 percent of the WIN expenses incurred with respect to the employee hired on September 1, C and D shall each take into account 25 percent of the WIN expenses incurred with respect to the employees employed by the partnership in 1972. Under paragraph (a)(3), for purposes of determining the period of employment that may be taken into account by B, the initial date of employment of the WIN employee hired on January 1 relates back to the date he was first employed, *i.e.*, January 1, 1972.

Example (3). Partnership SH is engaged in manufacturing. Under the terms of the partnership agreements deductions attributable to the employment of WIN employees are specially allocated 70 percent to partner S and 30 percent to partner H. In all other respects S and H share profits and losses equally. If the special allocation with respect to the WIN expenses is recognized under section 704 (a) and (b) and paragraph (b) of § 1.704–1, the WIN expenses shall be taken into account, 70 percent by S and 30 percent by H.

Example (4). (i) LMN partnership, which files its return on the basis of the calendar year, hires five WIN employees in 1973. The WIN expenses incurred with respect to each employee are as follows:

WIN employee number	*WIN expenses*
1	$6,000
2	5,000
3	4,000
4	4,000
5	3,000
Total	22,000

On December 31, 1973, the ratio in which the partners divide the general profits of the RMN partnership is as follows: L receives three-tenths of the general profits, M receives two-tenths of the general profits, and N receives five-tenths of the general profits.

(ii) Under this section the WIN expenses are apportioned to the partners of LMN partnership as follows:

WIN employees	1	2	3	4	5	Total
Total WIN expenses	$6,000	$5,000	$4,000	$4,000	$3,000	$22,000
Partner L (3/10)	1,800	1,500	1,200	1,200	900	6,600
Partner M (2/10)	1,200	1,000	800	800	600	4,400
Partner N (5/10)	3,000	2,500	2,000	2,000	1,500	11,000

Assume that partners L, M, and N did not directly incur any other WIN expenses during their taxable year in which falls December 31, 1973 (the last day of LMN partnership's taxable year) and that such partners did not own any interest in other partnerships, electing small business corporations, estates, or trusts that incurred WIN expenses. The total WIN expenses of partner L are $6,600, of partner M are $4,400, and of partner N are $11,000.

§ 1.50B–5 Limitations with respect to certain persons.

(a) *Mutual savings institutions.* In the case of an organization to which section 593 applies (that is, a mutual savings bank, a cooperative bank, or a domestic building and loan association)—

(1) WIN expenses shall be 50 percent of the amount otherwise determined under paragraph (a) of § 1.50B–1, and

(2) The $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax, shall be reduced by 50 percent of such amount.

For example, a domestic building and loan association incurs $30,000 in WIN expenses (as determined under paragraph (a) of § 1.50B–1) during its taxable year. However, under this paragraph such amount is reduced to $15,000 (50 percent of $30,000). If an organization to which section 593 applies is a member of a controlled group (as defined in section 50A(a)(5)), the $25,000 amount specified in section 50A(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.50A–1 before such amount is further reduced under this paragraph.

(b) *Regulated investment companies and real estate investment trusts.* (1) In the case of a regulated investment company or a real estate investment trust subject to taxation under subchapter M, chapter 1 of the Code—

(i) The WIN expenses determined under paragraph (a) of § 1.50B–1, and

(ii) The $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax,

shall be reduced to such person's ratable share of each such amount. If a regulated investment company or a real estate investment trust is a member of a controlled group (as defined in section 50A(a)(5)), the $25,000 amount specified in section 50A(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.50A–1 before such amount is further reduced under this paragraph.

(2) A person's ratable share of the amount described in subparagraph (1)(i) and the amount described in subparagraph (1)(ii) of this paragraph shall be the ratio which—

(i) Taxable income for the taxable year, bears to,

(ii) Taxable income for the taxable year plus the amount of the deduction for dividends paid taken into account under section 852(b)(2)(D) in computing investment company taxable income, or under section 857(b)(2)(C) in computing real estate investment trust taxable income, as the case may be.

For purposes of the preceding sentence, the term "taxable income" means, in the case of a regulated investment company its investment company taxable income (within the meaning of section 852(b)(2)), and in the case of a real estate investment trust its real estate investment trust taxable income (within the meaning of section 857(b)(2)).

(3) This paragraph may be illustrated by the following example:

Example. (i) Corporation X, a regulated investment company subject to taxation under section 852 of the Code, which makes its return on the basis of the calendar year, incurs WIN expenses of $30,000 during the year 1974. Corporation X's investment company taxable income under section 852(b)(2) is $10,000 after taking into account a deduction for dividends paid of $90,000.

(ii) Under this paragraph, Corporation X's WIN expenses for the taxable year 1974 is $3,000, computed as follows: (*a*) $30,000 (WIN expenses), multiplied by (*b*) $10,000 (taxable income), divided by (c) $100,000 (taxable income plus the deduction for dividends paid). For 1974, the $25,000 amount specified in section 50A(a)(2) is reduced to $2,500.

(c) *Cooperatives.* (1) In the case of a cooperative organization described in section 1381(a)—

(i) The WIN expenses determined under paragraph (a) of § 1.50B–1, and

(ii) The $25,000 amount specified in section 50A(a)(2), relating to limitation based on amount of tax,

shall be reduced to such cooperative's ratable share of each such amount (as determined under subparagraph (2) of this paragraph). If a cooperative organization described in section 1381(a) is a member of a controlled group (as defined in section 50A(a)(5)), the $25,000 amount specified in section 50A(a)(2) shall be reduced in accordance with the provisions of paragraph (f) of § 1.50A–1 before such amount is further reduced under this paragraph.

(2) A cooperative's ratable share of the amount described in subparagraph (1)(i) and the amount described in subparagraph (1)(ii) of this paragraph shall be the ratio which—

(i) Taxable income for the taxable year, bears to

(ii) Taxable income for the taxable year plus the sum of (*a*) the amount of the deductions allowed under section 1382(b), and (*b*) the amount of the deductions allowed under section 1382(c), and (c) amounts similar to the amounts described in (*a*) and (*b*) of this subdivision the tax treatment of which is determined without regard to subchapter T, chapter 1 of the Code and the regulations thereunder.

(3) This paragraph may be illustrated by the following example:

Example. (i) Cooperative X, an organization described in section 1381(a) which makes its return on the basis of the calendar year, incurs WIN expenses of $30,000 for the taxable year 1972. Cooperative X's taxable income is $10,000 after taking into account deductions of $30,000 allowed under section 1382(b), and deductions of $60,000 allowed under section 1382(c).

(ii) Under this paragraph, Cooperative X's WIN expenses for the taxable year 1972 are $3,000, computed as follows: (*a*) $30,000 (WIN expenses), multiplied by (b) $10,000 (taxable income), divided by (c) $100,000 (taxable income plus the sum of deductions allowed under sections 1382(b) and 1382(c)). For 1972, the $25,000 amount specified in section 50A(a)(2) is reduced to $2,500.

PAR. 3. Section 1.6411 is amended by revising so much of subsection (a) as precedes paragraph (2), by revising subsections (b) and (c), and by revising the historical note. These revised provisions read as follows:

§ 1.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments.* (a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback, provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback or a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit;

* * * * * *

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary of his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6411 as amended by sec. 2 (a), (b), (c), (d), and (e), Act of Nov. 2, 1966 (Public Law 89–721, 80 Stat. 1150); sec. 2(b), Act of Dec. 27, 1967 (Public Law 90–225, 81 Stat. 731); sec. 512(d), Tax Reform Act 1969 (83 Stat. 639); sec. 601(e)(1), Rev. Act 1971 (85 Stat. 560)]

PAR. 4. Section 1.6411–1 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.6411–1 Tentative carryback adjustments.

(a) *In general.* Any taxpayer who has a net operating loss under section 1211(a) which is a carryback under section 1212, a net capital loss under section 1212, an unused investment credit under section 46, or an unused work incentive program (WIN) credit under section 50A, may file an application under section 6411 for a tentative carryback adjustment of the taxes for taxable years prior to the taxable year of the net operating or capital loss or the unused credit, whichever is applicable, which are affected by the net operating loss carryback, the capital loss carryback, the unused investment credit carryback, or the unused WIN credit carryback, resulting from such loss or unused credit. The regulations under section 6411 shall apply with respect to investment credit carrybacks for taxable years ending after December 31, 1961, but only with respect to applications for tentative carryback adjustments for investment credit carrybacks filed after November 2, 1966. The regulations under section 6411 shall apply with respect to WIN credit carrybacks for taxable years beginning after December 31, 1971. The right to file an application for a tentative carryback adjustment is not limited to corporations, but is available to any taxpayer otherwise entitled to carry back a loss or unused credit. A corporation may file an application for a tentative carryback adjustment even though it has not extended the time for payment of tax under section 6164. In determining any decrease in tax under §§ 1.6411–1 through 1.6411–4, the decrease in tax is determined net of any increase in the tax imposed by section 56 (relating to the minimum tax for tax preferences).

* * * * * *

(c) *Time and place for filing application.* Except as otherwise provided in this paragraph the application for a tentative carryback adjustment shall be filed on or after the date of the filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit and shall be filed within a period of 12 months from the end of such taxable year. With respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the 12-month period shall be measured from the end of such subsequent taxable year. In the case of an application for a tentative carryback adjustment attributable to the carryback of an unused investment credit, the 12-month period for filing shall not expire before the close of December 31, 1966. Any application filed prior to the date on which the return for the taxable year of the loss or unused credit is filed shall be considered to have been filed on the date such return is filed. In the case of an application filed before April 15, 1968, the application shall be filed with the internal revenue officer to whom the tax was paid or by whom the assessment was made. Except as provided in paragraph (b) of § 301.6091–1 (relating to hand-carried documents), in the case of an application filed after April 14, 1968, if the tax was paid to the Director of International Operations, the application shall be filed with him; otherwise the application shall be filed with the internal revenue office with which the return was filed.

* * * * * *

PAR. 5. Section 1.6411–2 is amended by revising paragraph (a) to read as follows:

§ 1.6411–2 Computation of tentative carryback adjustment.

(a) *Tax previously determined.* The taxpayer is to determine the amount of decrease, attributable to the carryback, in tax previously determined for each taxable year before the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit. The tax previously determined is to be ascertained in accordance with the method prescribed in section 1314(a). Thus, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies before the date of the filing of the application for a tentative carryback adjustment, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to such date. Any items as to which the Internal Revenue Service and the taxpayer are in disagreement at the time of the filing of

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the application shall be taken into account in ascertaining the tax previously determined only if, and to the extent that, they were reported in the return, or were reflected in any amounts assessed (or collected without assessment) as deficiencies, or in any amounts abated, credited, refunded, or otherwise repaid, before the date of filing the application. The tax previously determined, therefore, will reflect the foreign tax credit and the credit for tax withheld at source provided in section 32.

* * * * *

PAR. 6. Section 1.6411–3 is amended by revising paragraphs (a)(2), (b), and (d)(2) to read as follows:

§ 1.6411–3 Allowance of adjustments.

(a) *Time prescribed.* * * *

(2) The last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused WIN credit from which the carryback results.

(b) *Examination.* Within the 90-day period described in paragraph (a) of this section, the district director or director of a service center shall make, to the extent he deems practicable in such period, an examination of the application to discover omissions and errors of computation. He shall determine within such period the decrease in tax previously determined, affected by the carryback or any related adjustments, upon the basis of the application and such examination. Such decrease shall be determined in the same manner as that provided in section 1314(a) for the determination by the taxpayer of the decrease in taxes previously determined which must be set forth in the application for a tentative carryback adjustment. Such internal revenue officer, however, may correct any errors of computation or omissions he may discover upon examination of the application. In determining the decrease in tax previously determined which is affected by the carryback or any related adjustment, he accordingly may correct any mathematical error appearing on the application and he may likewise correct any modification required by the law incorrectly made by the taxpayer in computing the net operating loss, net capital loss, unused investment credit, or unused WIN credit, the resulting carrybacks, or the net operating loss deduction, capital loss deduction, investment credit or WIN credit allowable. If the required modification has not been made by the taxpayer and such internal revenue officer has available the necessary information to make such modification within the 90-day period, he may, in his discretion, make such modification. In determining such decrease, however, such internal revenue officer will not, for example, change the amount claimed on the return as a deduction for depreciation because he believes that the taxpayer has claimed an excessive amount; likewise, he will not include in gross income any amount not so included by the taxpayer, even though such officer believes that such amount is subject to tax and properly should be included in gross income.

* * * * *

(d) *Application of decrease.* * * *

(2) In case the unpaid amount of tax includes more than one of such amounts, the district director, or director of a service center in his discretion, shall determine against which amount or amounts, and in what proportion the decrease is to be applied. In general, however, the decrease will be applied against any amounts described in subparagraph (1)(i), (ii), and (iii) of this paragraph in the order named. If there are several amounts of the type described in subparagraph (1)(iii) of this paragraph, any amount of the decrease which is to be applied against such amount will be applied by assuming that the tax previously determined minus the amount of the decrease to be so applied is "the tax" and that the taxpayer had elected to pay such tax in installments. The unpaid amount of tax against which a decrease may be applied under subparagraph (1) of this paragraph may not include any amount of tax for any taxable year other than the year of the decrease. After making such application, such internal revenue officer will credit any remainder of the decrease against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, capital loss, unused investment credit, or unused WIN credit, the time for payment of which has been extended under section 6164.

* * * * *

PAR. 7. Section 301.6411 is amended by revising so much of subsection (a) as precedes paragraph (2), by revising subsections (b) and (c), and by revising the historical note. These revised provisions read as follows:

§ 301.6411 Statutory provisions; tentative carryback adjustments.

SEC. 6411. *Tentative carryback adjustments*—(a) *Application for adjustment.* A taxpayer may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a net operating loss carryback provided in section 172(b), by an investment credit carryback provided in section 46(b), by a work incentive program carryback provided in section 50A(b), or by a capital loss carryback provided in section 1212(a)(1), from any taxable year. The application shall be verified in the manner prescribed by section 6065 in the case of a return of such taxpayer, and shall be filed, on or after the date of filing of the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which the carryback results and within a period of 12 months from the end of such taxable year (or, with respect to any portion of an investment credit carryback or a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year), in the manner and form required by regulations prescribed by the Secretary or his delegate. The application shall set forth in such detail and with such supporting data and explanation as such regulations shall require—

(1) The amount of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit;

* * * * *

(b) *Allowance of adjustments.* Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under subsection (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit from which such carryback results, whichever is the later, the Secretary or his delegate shall make, to the extent he deems practicable in such period, a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the Secretary or his delegate may disallow, without further action, any application which he finds contains errors of computation which he deems cannot be corrected by him within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of the tax decreased (including any amount of such tax as to which an extension of time under section 6164 is in effect) and any remainder shall be credited against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit the time for payment of which tax is extended under section 6164. Any remainder shall, within such 90-day period, be either credited against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) *Consolidated returns.* If the corporation seeking a tentative carryback adjustment under this section, made or was required to make a consolidated return, either for the taxable year within which the net operating loss, net capital loss, unused investment credit, or unused work incentive program credit arises, or for the preceding taxable year affected by such loss or credit, the provisions of this section shall apply only to such extent and subject to such conditions, limitations, and exceptions as the Secretary or his delegate may by regulations prescribe.

[Sec. 6411 as amended by sec. 2 (a), (b) (c), (d), and (e), Act of Nov. 2, 1966 (Public Law 89–721, 80 Stat. 1150); sec. 2(b), Act of Dec. 27, 1967 (Public Law 90–225, 81 Stat. 731); sec. 512(d), Tax Reform Act 1969 (83 Stat. 639); sec. 601(e)(1), Rev. Act 1971 (85 Stat. 560)]

PAR. 8. Section 301.6501(m) is amended by revising section 6501(m) and the historical note to read as follows:

§ 301.6501(m) Statutory provisions; limitations on assessment and collections; tentative carryback adjustment period.

SEC. 6501. *Limitations on assessment and collection.* * * *

(m) *Tentative carryback adjustment assessment period.* In a case where an amount has been applied, credited, or refunded under section 6411 (relating to tentative carryback adjustments) by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a work incentive program carryback to a prior taxable year, the period described in subsection (a) of this section for assessing a deficiency for such prior taxable year shall be extended to include the period described in subsection (h), (j), or (o), whichever is applicable; except that the amount which may be assessed solely by reason of this subsection shall not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of subsection (h), (j), or (o), as the case may be.

[Sec. 6501(m) as added by sec. 3(a), Act of Nov. 2, 1966 (Public Law 89–721, 80 Stat. 1151); and as amended by sec. 512(e)(1)(F), Tax Reform Act 1969 (83 Stat. 640); sec. 601(e)(2), Rev. Act 1971 (85 Stat. 560)]

PAR. 9. Section 301.6501(m)–1 is amended by revising paragraph (a)(1) thereof to read as follows:

§ 301.6501(m)–1 Tentative carryback adjustment assessment period.

(a) *Period of limitation after tentative carryback adjustment.* (1) Under section 6501(m), in a case where an amount has been applied, credited, or refunded under section 6411, by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a work incentive program credit carryback to a prior taxable year, the period described in section 6501(a) of the Code for assessing a deficiency for such prior taxable year is extended to include the period described in section 6501 (h), (j), or (o), whichever is applicable; except that the amount which may be assessed solely by reason of section 6501(m) may not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of section 6501 (h), (j), or (o), as the case may be.

* * * * *

PAR. 10. There is inserted immediately after section 301.6501(m)–1 the following new sections:

§ 301.6501(o) Statutory provisions; limitation on assessment and collection; work incentive program credit carrybacks.

SEC. 6501. *Limitation on assessment and collection.* * * *

(o) *Work incentive program credit carrybacks.* In the case of a deficiency attributable to the application to the taxpayer of a work incentive program credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused work incentive program credit which results in such carryback may be assessed, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

[Sec. 6501(o) as added by sec. 601(d)(1), Rev. Act 1971 (85 Stat. 558)]

§ 301.6501(o)–1 Work incentive program credit carrybacks, taxable years beginning after December 31, 1971.

With respect to taxable years beginning after December 31, 1971, a deficiency attributable to the application to the taxpayer of a work incentive program credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)) may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused work incentive program credit which results in such carryback may be assessed, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss or capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

PAR. 11. Section 301.6511 is amended by adding a new paragraph (7) to subsection (d) and by revising the historical note. These added and revised provisions read as follows:

§ 301.6511 Statutory provisions; limitations on credit or refund; special rules applicable to income taxes.

SEC. 6511. *Limitation on credit or refund.* * * *

(d) *Special rules applicable to income taxes.* * * *

(7) *Special period of limitation with respect to work incentive program credit carrybacks*—(A) *Period of limitation.* If the claim for credit or refund relates to an overpayment attributable to a work incentive program credit carryback, in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused work incentive program credit which results in such carryback (or, with respect to any portion of a work incentive program credit carryback from a taxpayer year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period shall be that period which ends with the expiration of the 15th day of the 40th month, or 39th month, in the case of a corporation, following the year of such taxable year) or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

(B) *Applicable rules.* If the allowance of a credit or refund of an overpayment of tax attributable to a work incentive program credit carryback is otherwise prevented by the operation of any law or rule of law other than section 7122, relating to compromises, such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall not be conclusive with respect to the work incentive program credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

[Sec. 6511(d) as amended by sec. 82(d), Technical Amendments Act 1958 (72 Stat. 1663); sec. 1(a), Act of Sept. 16, 1959 (Public Law 86–280, 73 Stat. 563); sec. 317(d), Trade Expansion Act 1962 (76 Stat. 891); sec. 2(e)(2), Rev. Act 1962 (76 Stat. 971); sec. 232(d) and sec. 239, Rev. Act 1964 (78 Stat. 111, 128); sec. 3(c), Act of Sept. 2, 1964 (Public Law 88–571, 78 Stat. 858); sec. 2(d), Act of Dec. 27, 1967 (Public Law 90–225, 81 Stat. 731); sec. 311(d)(3) and sec. 512(e)(2), Tax Reform Act 1969 (83 Stat. 588, 640); sec. 601(d)(2), Rev. Act 1971 (85 Stat. 558)]

PAR. 12. There is inserted immediately after § 301.6511(d)–6 the following new section:

§ 301.6511(d)–7 Overpayment of income tax on account of work incentive program credit carryback.

(a) *Special period of limitation.* (1) If the claim for credit or refund related to an overpayment of income tax attributable to a work incentive program (WIN) credit carryback, provided in section 50A, then in lieu of the 3-year period from the time the return was filed in which the claim may be filed or credit or refund allowed, as prescribed in section 6511 (a) or (b), the period shall be whichever of the following two periods expires later:

(i) The period which ends with the expiration of the 15th day of the 40th month (or 39th month, in the case of a corporation) following the end of the taxable year of the unused WIN credit which resulted in the carryback (or, with respect to any portion of a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, the period which ends with the expiration of the 15th day of the 40th month (or 39th month in the case of a corporation) following the end of such subsequent taxable year); or

(ii) The period which ends with the expiration of the period prescribed in section 6511(c) within which a claim for credit or refund may be filed with respect to the taxable year of the unused WIN credit which resulted in the carryback.

(2) In the case of a claim for credit or refund involving a WIN credit carryback described in subparagraph (1) of this paragraph, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 6511 (b)(2) or (c), whichever is applicable, to the extent of the amount of the overpayment attributable to the carryback. If the claim involves an overpayment based not only on a WIN credit carryback described in subparagraph (1) of this paragraph but based also on other items, the credit or refund cannot exceed the sum of the following:

(i) The amount of the overpayment which is attributable to the WIN credit carryback, and

(ii) The balance of such overpayment up to a limit of the portion, if any, of the tax paid within the period provided in section 6511 (b)(2) or (c), or within the period provided in any other applicable provision of law.

(3) If the claim involves an overpayment based not only on a WIN credit carryback described in subparagraph (1) of this paragraph but based also on other items, and if the claim with respect to any items is barred by the expiration of

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any applicable period of limitation, the portion of the overpayment attributable to the items not so barred shall be determined by treating the allowance of such items as the first adjustment to be made in computing such overpayment. If a claim for credit or refund is not filed, and if credit or refund is not allowed, within the period prescribed in this paragraph, then credit or refund may be allowed or made only if claim therefor is filed, or if such credit or refund is allowed, within the period prescribed in section 6511 (a), (b), or (c), whichever is applicable, subject to the provisions thereof limiting the amount of credit or refund in the case of a claim filed, or if no claim was filed, in case of credit or refund allowed, within such applicable period. For the limitations on the allowance of interest for an overpayment where credit or refund is subject to the provisions of this section, see section 6611(f).

(b) *Barred overpayments.* If the allowance of a credit or refund of an overpayment of tax attributable to a WIN credit carryback is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), such credit or refund may be allowed or made under the provisions of section 6511(d)(7)(B) if a claim therefor is filed within the period provided by section 6511(d)(7)(A) and paragraph (a) of this section for filing a claim for credit or refund of an overpayment attributable to a carryback. In the case of a claim for credit or refund of an overpayment attributable to a carryback, the determination of any court, including the Tax Court, in any proceeding in which the decision of the courts has become final, shall not be conclusive with respect to the WIN credit, and the effect of such credit, to the extent that such credit is affected by a carryback which was not in issue in such proceeding.

PAR. 13. Section 301.6601 is amended by adding a new paragraph (4) to subsection (e), and by revising the historical note. These added and revised provisions read as follows:

§ 301.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

SEC. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax.* • • •

(e) *Income tax reduced by carryback.* • • •

(4) *Work incentive program credit carryback.* If the credit allowed by section 40 for any taxable year is increased by reason of a work incentive program credit carryback, such increase shall not affect the computation of interest under this section for the period ending with the last day of the taxable year in which the work incentive program credit carryback arises, or, with respect to any portion of a work incentive program carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such increase shall not affect the computation of interest under this section for the period ending with the last day of such subsequent taxable year.

[Sec. 6601 as amended by sec. 66(c), 83(a)(1), 84(a), Technical Amendments Act 1958 (72 Stat. 1658, 1663, 1664); sec. 206(e), Small Business Tax Revision Act 1958 (72 Stat. 1685); sec. 203(c)(2), Federal-Aid Highway Act 1961 (75 Stat. 126); sec. 2(e)(3), Rev. Act 1962 (76 Stat. 972); sec. 3(d), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 857); sec. 1(f), Act of Apr. 8, 1966 (Public Law 89-384, 80 Stat. 104); sec. 2(e), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 731); sec. 2(e), Act of Aug. 7, 1969 (Public Law 91-53, 83 Stat. 92); sec. 512(e)(3), Tax Reform Act 1969 (83 Stat. 641); sec. 601(d)(3), Rev. Act 1971 (85 Stat. 558)]

PAR. 14. Section 301.6601-1 is amended by revising subparagraphs (1) and (3) of paragraph (e) to read as follows:

§ 301.6601-1 Interest on underpayments.

• • • • •

(e) *Income tax reduced by carryback.* (1) The carryback of a net operating loss, net capital loss, an investment credit, or a work incentive program (WIN) credit shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss, net capital loss, an investment credit, or a WIN credit to a prior taxable period eliminates or reduces a deficiency in income tax for that period, the full amount of the deficiency will nevertheless bear interest at the rate of 6 percent per annum from the last date prescribed for payment of such tax until the last day of the taxable year in which the loss or credit arose. Interest will continue to run beyond such last day on any portion of the deficiency which is not eliminated by the carryback. With respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such investment credit carryback or WIN credit carryback shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of such subsequent taxable year.

• • • • •

(3) Where there has been an allowance of an overpayment attributable to a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a WIN credit carryback and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of the year in which the net operating loss, net capital loss, investment credit, or WIN credit arose until the date on which the repayment of such excessive amount is received. Where there has been an allowance of an overpayment with respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year and all or part of such allowance is later determined to be excessive, interest shall be computed on the excessive amount from the last day of such subsequent taxable year until the date on which the repayment of such excessive amount is received.

• • • • •

PAR. 15. Section 301.6611 is amended by adding a new paragraph (4) to subsection (f), and by revising the historical note. These added and devised provisions read as follows:

§ 301.6611 Statutory provisions; interest on overpayments.

SEC. 6611. *Interest on overpayments.* • • •

(f) *Refund of income tax caused by carryback or adjustment for certain unused deductions.* • • •

(4) *Work incentive program credit carryback.* For purposes of subsection (a), if any overpayment of tax imposed by subtitle A results from a work incentive program credit carryback, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such work incentive program credit carryback arises, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

• • • • •

[Sec. 6611 as amended by sec. 42(b), 83(b) and (c), Technical Amendments Act 1958 (72 Stat. 1640, 1664); sec. 2(e)(4), Rev. Act 1962 (76 Stat. 972); sec. 3(e), Act of Sept. 2, 1964 (Public Law 88-571, 78 Stat. 858); sec. 1(a), Act of Nov. 2, 1966 (Public Law 89-721, 80 Stat. 1150); sec. 2(f), Act of Dec. 27, 1967 (Public Law 90-225, 81 Stat. 732); sec. 512(e)(4), Tax Reform Act 1969 (83 Stat. 641); sec. 601(d)(4), Rev. Act 1971 (85 Stat. 559)]

PAR. 16. Section 301.6611-1 is amended by revising paragraph (e) to read as follows:

§ 301.6611-1 Interest on overpayments.

• • • • •

(e) *Refund of income tax caused by carryback.* If any overpayment of tax imposed by subtitle A of the Code results from the carryback of a net operating loss, a net capital loss, an investment credit, or a work incentive program (WIN) credit, such overpayment, for purposes of this section, shall be deemed not to have been made prior to the end of the taxable year in which the loss or credit arises, or, with respect to any portion of an investment credit or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such overpayment shall be deemed not to have been made prior to the close of such subsequent taxable year.

• • • • •

[FR Doc.72-16627 Filed 10-2-72;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Intercompany Pricing Rules for DISC's

Correction

In F.R. Doc. 72-16139 appearing at page 19625 of the issue for Thursday, September 21, 1972, the following changes are to be made:

1. The 13th line of § 1.994-1(d)(3)(i) should read "DISC, the income from such services is" instead of "DISC may derive for any taxable year.".

2. In the eighth line of § 1.994-1(d)(3)(ii), "from" should read "for".

3. In § 1.994-1(f)(5)(i), "age) for export whether or not the pack-" should be inserted following the fourth line.

[26 CFR Part 1]

INCOME TAX

Capital Expenditures

On December 31, 1970, notice of proposed rule making under section 263(e) of the Internal Revenue Code of 1954, relating to expenditures in connection with certain railroad rolling stock, was published in the FEDERAL REGISTER (35 F.R. 20003). Notice is hereby given that the proposed regulations contained therein are withdrawn. Further, notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 3, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by November 3, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the income tax regulations (26 CFR Part 1) to the provisions of section 263 of the Internal Revenue Code of 1954 as amended by section 4 of the Interest Equalization Tax Act (78 Stat. 845), section 4(p) of the Interest Equalization Tax Extension Act of 1965 (79 Stat. 964), section 706 of the Tax Reform Act of 1969 (83 Stat. 674), and section 109 (c) and (d)(3) of the Revenue Act of 1971 (85 Stat. 509), such regulations are amended as follows:

1. Section 1.263(a) is amended by adding a new subparagraph (3) and by amending the historical note. These added and amended provisions read as follows:

§ 1.263(a) Statutory provisions; capital expenditures; general rule.

SEC. 263 *Capital expenditures*—(a) *General rule.* No deduction shall be allowed for—• • •

(3) Except as provided in subsection (d), any amount paid as tax under section 4911 (relating to imposition of interest equalization tax).

[Sec. 263 as amended by sec. 6, Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1001); sec. 21(b), Rev. Act 1962 (76 Stat. 1064); sec. 4, Interest Equalization Tax Act (78 Stat. 845); sec. 4(p)1), Interest Equalization Tax Extension Act 1965 (79 Stat. 964)]

2. The following new sections are added immediately after § 1.263(c)-1:

§ 1.263(d) Statutory provisions; capital expenditures; reimbursement of interest equalization tax.

SEC. 263. *Capital expenditures.* • • •

(d) *Reimbursement of interest equalization tax.* The deduction allowed by section 162(a) or 212 (whichever is appropriate) shall include any amount paid or accrued in the taxable year or a preceding taxable year as tax under section 4911 (relating to imposition of interest equalization tax) to the extent that any amount attributable to the amount paid or accrued as tax is included in gross income for the taxable year. Under regulations prescribed by the Secretary or his delegate, the preceding sentence shall not apply with respect to any amount attributable to that part of the tax so paid or accrued which is attributable to an amount for which a deduction has been claimed for the taxable year or a preceding taxable year under section 171 (relating to amortization of bond premium).

[Sec. 263(d) added by sec. 4(p)(2), Interest Equalization Tax Extension Act 1965 (79 Stat. 964]

§ 1.263(d)-1 [Reserved]

§ 1.263(e) Statutory provisions; capital expenditures in connection with certain railroad rolling stock.

SEC. 263. *Capital expenditures.* • • •

(e) *Expenditures in connection with certain railroad rolling stock.* In the case of expenditures in connection with the rehabilitation of a unit of railroad rolling stock (except a locomotive) used by a domestic common carrier by railroad which would, but for this subsection, be properly chargeable to capital account, such expenditures, if during any 12-month period they do not exceed an amount equal to 20 percent of the basis of such unit in the hands of the taxpayer, shall, at the election of the taxpayer, be treated (notwithstanding subsection (a)) as deductible repairs under section 162 or 212. An election under this subsection shall be made for any taxable year at such time and in such manner as the Secretary or his delegate prescribes by regulations. An election may not be made under this subsection for any taxable year to which an election under subsection (f) applies to railroad rolling stock (other than locomotives).

[Sec. 263(e) added by sec. 706, Tax Reform Act 1969 (83 Stat. 674); as amended by sec. 109 (c) and (d)(3), Rev. Act 1971 (85 Stat. 509)]

§ 1.263(e)-1 Expenditures in connection with certain railroad rolling stock.

(a) *Allowance of deduction*—(1) *Election.* Under section 263(e), for any taxable year beginning after December 31, 1969, a taxpayer may elect to treat certain expenditures paid or incurred during such taxable year as deductible repairs under section 162 or 212. This election applies only to expenditures described in paragraph (c) of this section in connection with the rehabilitation of a unit of railroad rolling stock (as defined in paragraph (b)(2) of this section) used by a domestic common carrier by railroad (as defined in paragraph (b)(3) and (4) of this section). However, an election under section 263(e) may not be made with respect to expenditures in connection with any unit of railroad rolling stock for which an election under section 263(f) and the regulations thereunder is in effect. An election made under section 263(e) is an annual election which may be made with respect to one or more of the units of railroad rolling stock owned by the taxpayer.

(2) *Special 20 percent rule.* Section 263(e) shall not apply if, under paragraph (d) of this section, expenditures paid or incurred during any period of 12 calendar months in connection with the rehabilitation of a unit exceed 20 percent of the basis (as defined in paragraph (b)(1) of this section) of such unit in the hands of the taxpayer.

(3) *Time and manner of making election.* (i) An election by a taxpayer under section 263(e) shall be made by a statement to that effect attached to its income tax return or amended income tax return for the taxable year for which the election is made if such return or amended return is filed no later than the time prescribed by law (including extensions thereof) for filing the return for the taxable year of election. An election under section 263(e) may be made with respect to one or more of the units of railroad rolling stock owned by the taxpayer. If an election is not made within the time and in the manner prescribed in this subparagraph, no election may be made (by the filing of an amended return or in any other manner) with respect to the taxable year.

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(ii) If the taxpayer has filed a return on or before [the 30th day after the date of publication in the FEDERAL REGISTER of final regulations under section 263(e)] and has claimed a deduction under section 162 or 212 by reason of section 263(e), and if the taxpayer does not desire to make an election under section 263(e) for the taxable year with respect to which such return was filed, the taxpayer shall file an amended return for such taxable year on or before [the 90th day after such date of publication], and shall pay any additional tax due for such year. The taxpayer shall also file an amended return for each taxable year which is affected by the filing of an amended return under the preceding sentence and shall pay any additional tax due for such year. Nothing in this subdivision shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(iii) If an election under section 263(e) was not made at the time the return for a taxable year was filed, and it is subsequently determined that an expenditure was erroneously treated as an expenditure which was not in connection with rehabilitation (as determined under paragraph (c) of this section), an election under section 263(e) may be made with respect to the unit of railroad rolling stock for which such expenditure was made for such taxable year, notwithstanding any provision in this subparagraph (3) to the contrary. Nothing in this subdivision shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(iv) The statement required by subdivision (i) of this subparagraph shall include the following information:

(*a*) The total number of units of railroad rolling stock with respect to which an election is being made under section 263(e).

(*b*) The aggregate basis (as defined in paragraph (b)(1) of this section) of the units described in (*a*) of this subdivision (iv), and

(*c*) The total deduction being claimed under section 263(e) for the taxable year.

(b) *Definitions*—(1) *Basis.* (i) In general, for purposes of section 263(e) the basis of a unit of railroad rolling stock shall be the adjusted basis of such unit determined without regard to the adjustments provided in paragraphs (1), (2), and (3) of section 1016 (a). Thus, the basis of property would generally be its cost without regard to adjustments to basis such as for depreciation or for capital improvements. If the basis of a unit in the hands of a transferee is determined in whole or in part by reference to its basis in the hands of the transferor, for example, by reason of the application of section 362 (relating to basis to corporations), 374 (relating to gain or loss not recognized in certain railroad reorganizations), or 723 (relating to the basis of property contributed to a partnership), then the basis of such unit in the hands of the transferor for purposes of section 263(e) shall be its basis for purposes of section 263(e) in the hands of the transferee. Similarly, when the basis of a unit of railroad rolling stock in the hands of the taxpayer is determined in whole or in part by reference to the basis of another unit, for example, by reason of the application of the first sentence of section 1033(c) (relating to involuntary conversions), then the basis of the latter unit for purposes of section 263(e) shall be the basis for purposes of section 263(e) of the former unit. The question whether a capital expenditure in connection with a unit of railroad rolling stock results in the retirement of such unit and the creation of another unit of railroad rolling stock shall be determined without regard to rules under the uniform system of accounts prescribed by the Interstate Commerce Commission.

(ii) For example, if a unit of railroad rolling stock has a cost to M of $10,000 and because of depreciation adjustments of $4,000 and capital expenditures of $3,000, such unit has an adjusted basis in the hands of M of $9,000, the basis for purposes of section 263(e) of such unit in the hands of M is $10,000. Further, if M transfers such unit to N in a transaction in which no gain or loss is recognized such as, for example, a transaction to which section 351(a), (relating to a transfer to a corporation controlled by the transferor) applies, the basis of such unit for purposes of section 263(e) is $10,000 in the hands of N.

(2) *Railroad rolling stock.* For purposes of this section, the term "unit" or "unit of railroad rolling stock" means a unit of transportation equipment the expenditures for which are of a type chargeable (or in the case of property leased to a domestic common carrier by railroad, would be chargeable) to the equipment investment accounts in the uniform system of accounts for railroad companies prescribed by the Interstate Commerce Commission (49 CFR Part 1201), but only if (i) such unit exclusively moves on, moves under, or is guided by rail, and (ii) such unit is not a locomotive. Thus, for example, a unit of railroad rolling stock includes a box car, a gondola car, a passenger car, a car designed to carry truck trailers and containerized freight, a wreck crane, and a bunk car. However, such term does not include equipment which does not exclusively move on, move under, or is not exclusively guided by rail such as, for example, a barge, a tugboat, a container which is used on cars designed to carry containerized freight, a truck trailer, or an automobile. A locomotive is self-propelled equipment, the sole function of which is to push or pull railroad rolling stock. Thus, a self-propelled passenger or freight car is not a locomotive.

(3) *Domestic common carrier by railroad.* The term "domestic common carrier by railroad" means a railroad subject to regulation under Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.) or a railroad which would be subject to regulation under Part I of the Interstate Commerce Act if it were engaged in interstate commerce.

(4) *Use.* For purposes of this section, a unit of railroad rolling stock is not used by a domestic common carrier by railroad if it is owned by a person other than a domestic common carrier by railroad and (i) is exclusively used for transportation by the owner or (ii) is exclusively used for transportation by another person which is not a domestic common carrier by railroad. Thus, for example, a unit of railroad rolling stock which is owned by a person which is not a domestic common carrier by railroad and is leased to a manufacturing company by the owner is not a unit of railroad rolling stock used by a domestic common carrier by railroad.

(c) *Expenditures considered in connection with rehabilitation.* For purposes of section 263(e) and this section, only expenditures which would be properly chargeable to capital account but for the application of section 263 (e) or (f) shall be considered to be expenditures in connection with the rehabilitation of a unit of railroad rolling stock. Expenditures which are paid or incurred in connection with incidental repairs or maintenance of a unit of railroad rolling stock and which are deductible without regard to section 263 (e) or (f) shall not be included in any determination or computation under section 263(e) and shall not be treated as paid or incurred in connection with the rehabilitation of a unit of railroad rolling stock for purposes of section 263(e). The determination of whether an item would be, but for section 263 (e) or (f), properly chargeable to capital account shall be made in a manner consistent with the principles for classification of expenditures as between capital and expenses under the Internal Revenue Code. See, for example, §§ 1.162-4, 1.263(a)-1, 1.263(a)-2, and paragraph (a)(4) (ii) and (iii) of § 1.446-1. An expenditure shall be classified as capital or as expense without regard to its classification under the uniform system of accounts prescribed by the Interstate Commerce Commission.

(d) *20-percent limitation*—(1) *In general.* No expenditures in connection with the rehabilitation of a unit of railroad rolling stock shall be treated as a deductible repair by reason of an election under section 263(e) if, during any period of 12 calendar months in which the month the expenditure is included falls, all such expenditures exceed an amount equal to 20 percent of the basis (as defined in paragraph (b)(1) of this section) of such unit in the hands of the taxpayer. All such expenditures shall be included in the computation of the 20-percent limitation even if such expenditures were deducted under section 263 (f) in either the preceding or succeeding taxable year. Solely for purposes of the 20-percent limitation in this paragraph, such expenditures shall be deemed to be included in the month in which a rehabilitation of the unit of railroad rolling stock is completed. For the requirement that expenditures treated as repairs solely by reason of an election under section 263(e) be deducted in the taxable year paid or incurred, see paragraph (a) of this section.

(2) *12-month period.* For purposes of this section, any period of 12 calendar months shall consist of any 12 consecutive calendar months except that calendar months prior to the calendar month of January 1970 shall not be included in determining such period.

(3) *Period for certain corporate acquisitions.* If a unit of railroad rolling stock to which section 263(e) applies is sold, exchanged, or otherwise disposed of in a transaction in which its basis in the hands of the transferee is determined in whole or in part by reference to its basis in the hands of the transferor (see paragraph (b)(1) of this section), calendar months during which such unit is in the hands of the transferor and in the hands of such transferee shall both be included in the calendar months used by the transferor and the transferee to determine any period of 12 calendar months for purposes of section 263(e).

(4) *Deduction allowed in year paid or incurred.* If, based on the information available when the income tax return for a taxable year is filed, an expenditure paid or incurred in such taxable year would be deductible by reason of the application of section 263(e) but for the fact that it cannot be established whether the 20-percent limitation in subparagraph (1) of this paragraph will be exceeded, the expenditure shall be deducted for such taxable year. If by reason of the application of such 20-percent limitation it is subsequently determined that such expenditure is not deductible as a repair, an amended return shall be filed for the year in which such deduction was treated as a deductible repair and additional tax, if any, for such year shall be paid. Appropriate adjustment with respect to the taxpayer's tax liability for any other affected year shall be made. Nothing in this subparagraph shall be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(e) *Recordkeeping requirements*—(1) *In general.* Such records as will enable the accurate determinaton of the expenditures which may be subject to the treatment provided in section 263(e) shall be maintained. No deduction shall be allowed under section 162 or 212 by reason of section 263(e) with respect to a unit unless the taxpayer substantiates by adequate records that expenditures in connection with such unit of railroad rolling stock meet the requirements and limitations of this section.

(2) *Separate records.* A separate section 263(e) record shall be maintained for each unit with respect to which an election under section 263(e) is made. Such record shall—

(i) Identify the unit,

(ii) State the basis (as defined in paragraph (b)(1) of this section) and the date of acquisition of the unit,

(iii) Enumerate for each unit the amount of all expenditures incurred in connection with rehabilitation of such unit which would, but for section 263 (e) or (f), be properly chargeable to capital account (including expenditures incurred by the taxpayer in connection with rehabilitation of such unit undertaken by a person other than the taxpayer) regardless of whether such expenditures during any 12-month period exceed 20 percent of the basis of such unit,

(iv) Describe the nature of the work in connection with each expenditure, and

(v) Specify the calendar month in which the rehabilitation is completed and the taxable year in which each expenditure is paid or incurred.

A section 263(e) record need only be prepared for a unit of railroad rolling stock for the period beginning on the first day of the eleventh calendar month immediately preceding the month in which the rehabilitation of such unit is completed and ending on the last day of the eleventh calendar month immediately succeeding such month. No section 263(e) record need be prepared for calendar months before January 1970.

(3) *Itemization of certain expenditures.* Expenditures determined to be incidental repairs and maintenance (referred to in paragraph (c) of this section) shall not be entered in the section 263(e) record. However, each taxpayer shall maintain records to reflect that such expenditures are properly deductible.

(4) *Convenience rule.* In general, expenditures and information maintained in compliance with subparagraphs (1) and (2) of this paragraph shall be recorded in the section 263(e) record of the specific unit with respect to which such expenditures are incurred. However, when a group of units of the same type are rehabilitated in a single project and the expenditure for each unit in the project will approximate the average expenditure per unit for the project, expenditures for the project may be aggregated without regard to the unit in the project with respect to which each expenditure is connected, and an amount equal to the aggregate expenditures for the project divided by the number of units in the project may be entered in the section 263(e) account of each unit in the project.

(f) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). M Corporation, a domestic common carrier by railroad, uses the calendar year as its taxable year. M owns and uses several gondola cars to which an election under section 263(e) applies for its taxable years 1970–1972. Gondola car #1 has a basis (defined in paragraph (b)(1) of this section) of $10,000. No expenditures properly chargeable to the section 263(e) record are made on gondola car #1 in 1970 and 1971, except in January 1971. In January 1971, M at a cost of $1,500 replaced the side sheets and ends on gondola car #1. Such amount was properly entered in the section 263(e) record for gondola car #1. Since the expenditures in such record do not exceed an amount equal to 20 percent of the basis of gondola car #1 ($2,000) during any period of 12 calendar months in which January 1971 falls, the expenditures during January 1971 shall be treated as a deductible expense regardless of what the treatment would have been if section 263(e) had not been enacted.

Example (2). Assume the same facts as in example (1). Assume further that for 1970, 1971, and 1972, only the following expenditures in connection with rehabilitation which would, but for section 263(e), be properly chargeable to capital account were deemed included for gondola car #2:

(a) December 1970	$1,500
(b) November 1971	600
(c) December 1971	400
(d) January 1972	1,050

Assume further that gondola car #2 has a basis (as defined in paragraph (b)(1) of this section) equal to $10,000, that M files its tax return by September 15 following each taxable year, and that each rehabilitation was completed in the month in which expenditures in connection with it were incurred. Any expenditures in connection with each gondola car (#1 or #2) have no effect on the treatment of expenditures in connection with the other gondola car. With respect to gondola car #2, the expenditures of December 1970 are treated as deductible repairs at the time M's income tax return for 1970 is filed because, based on the information available when the income tax return for 1970 is filed, such expenditure would be deductible by reason of application of section 263(e) but for the fact that it cannot be established whether the 20-percent limitation in paragraph (d)(1) of this section will be exceeded. Nevertheless, because such expenditures during the period of 12 calendar months including calendar months December 1970 and November 1971 exceed $2,000, the December 1970 rehabilitation expenditures are not subject to the provisions of section 263(e). Because such rehabilitation expenditures during the period of 12 calendar months including calendar months February 1971 and January 1972 exceed $2,000, rehabilitation expenditures in 1971 are not subject to the provisions of section 263(e). Similarly, the 1972 rehabilitation expenditures are not subject to the provisions of section 263(e).

[FR Doc.72-16830 Filed 10-2-72;8:55 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

EXTRA LONG STAPLE AND UPLAND COTTON

Marketing Quota Regulations for 1972 and Succeeding Crops and Recordkeeping Requirements

Notice is hereby given that pursuant to applicable provisions of the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.), the Department proposes to reissue the regulations governing marketing quotas for extra long staple cotton and the recordkeeping requirements for upland cotton currently in the Subpart—Marketing Quotas for the 1966 and Succeeding Crops of Upland Cotton and Extra Long Staple Cotton (31 F.R. 6573, 9445, 13035, 15791, 32 F.R. 9298, 33 F.R. 6701, 9387, 34 F.R. 11082, 35 F.R. 10495, and 36 F.R. 13979). Such reissued regulations would supersede the current regulations which would remain applicable for the 1966 through the 1971 cotton programs. Such reissued regulations would apply to the 1972 and succeeding crops of extra long staple cotton and to the recordkeeping requirements for

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the 1972 and succeeding crops of upland cotton. Such reissued regulations would delete inapplicable provisions and consolidate all current provisions in a rewritten text and would also establish the 1972 penalty rate for extra long staple cotton.

Prior to the issuance of the regulations, any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration. To be sure of consideration, such submissions should be postmarked not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

It is proposed that the Marketing Quota Regulations for the 1972 and Succeeding Crops of Extra Long Staple Cotton and Recordkeeping Requirements for Extra Long Staple and Upland Cotton be published as follows:

GENERAL

Sec.
722.61 Applicability.
722.62 Extent of calculations and rule of fractions.
722.63 Expirations of time limitations.
722.64 Definitions.

ELS FARM MARKETING QUOTA AND FARM MARKETING EXCESS

722.65 Cotton subject to marketing quotas.
722.66 Farm marketing quota and farm marketing excess.
722.67 Notice of farm marketing excess and farm marketing quota.
722.68 Farm marketing excess adjustment.
722.69 Publication of the farm allotment, normal yield, marketing quota and marketing excess.
722.70 Successors-in-interest.
722.71 Review of quotas.
722.72 Exemption of publicly owned agricultural experiment stations.

PENALTY

722.73 Rate of penalty.
722.74 Lien for the penalty.
722.75 Payment of penalty by producers.
722.76 Payment of penalty by buyers.
722.77 Remittance of penalty to the county executive director.
722.78 Refunds of money in excess of the penalty.
722.79 Refund of penalty erroneously, illegally, or wrongfully collected.
722.80 Report of violations and court proceedings to collect penalty.

IDENTIFICATION OF COTTON

722.81 Identification of cotton by producer.
722.82 Identification of cotton by buyer.
722.83 Marketing of penalty free cotton.
722.84 Marketing of penalty cotton.

RECORDS AND REPORTS

722.85 Records to be kept and reports to be made by ginners.
722.86 Records to be kept and reports to be made by buyers.
722.87 Records to be kept by warehousemen, processors, and others.
722.88 Availability of records kept by ginners, buyers, warehousemen, and others.
722.89 Penalty for failure or refusal to keep records or make reports.
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GENERAL

§ 722.61 Applicability.

(a) The provisions §§ 722.61 to 722.95 apply to extra long staple cotton (referred to as "ELS cotton") produced in 1972 and succeeding years when marketing quotas are in effect for ELS cotton and to any carryover ELS cotton which is marketed by producers in the 1972–73 and succeeding marketing years.

(b) The provisions §§ 722.63, 722.64, 722.81–722.95 apply to upland cotton produced in 1972 and succeeding years.

(c) The term "cotton" includes upland cotton and ELS cotton. However, upland and ELS cotton are separate commodities.

(d) The marketing quota provisions of this subpart shall not apply to upland cotton produced in 1971, 1972, and 1973, since marketing quotas are not in effect for those years under the statutory authority amendments contained in the Agricultural Act of 1970 (Public Law 91–524, 84 Stat. 1358, et seq., approved November 30, 1970.

(e) The regulations in this subpart supersede the marketing quota regulations for the 1966 and succeeding crops of upland cotton and extra long staple cotton (31 F.R. 6573, as amended), which applied to the 1966–71 crops of cotton.

§ 722.62 Extent of calculations and rule of fractions.

The rate of penalty under § 722.73 shall be computed to the nearest tenth of a cent. In making all other computations under §§ 722.61 to 722.95, the amount of lint cotton shall be rounded to the nearest whole pound and the amount of penalties or refunds for a farm shall be rounded to the nearest whole cent. The basic rule of fractions in Part 793 of this chapter shall be applicable.

§ 722.63 Expiration of time limitations.

The provisions of Part 720 of this chapter concerning the expiration of time limitations shall apply to this subpart.

§ 722.64 Definitions.

(a) *General terms.* In determining the meaning of §§ 722.61 to 722.95, unless the context indicates otherwise, words importing the singular include and apply to several persons or things, words importing the plural include the singular, words importing the masculine gender include the feminine as well, and words used in the present tense include the future as well as the present. Definitions in Part 719 of this chapter shall apply to this subpart.

(b) *Cotton program terms.* The following terms shall have the following meanings:

(1) Acreage planted to cotton on the farm in the current year (for use in determining compliance with the farm allotment) shall be:

(i) The acreage seeded to cotton plus stub cotton acreage on the farm in the current year, excluding any acreage in excess of the farm allotment which is destroyed or disposed of in accordance with the requirements of Part 718 of this chapter.

(ii) If the farm operator fails to file a certification of acreage in a certification county, any cotton produced on the farm shall be considered as excess cotton in accordance with Part 718 of this chapter in lieu of the rule prescribed in subdivision (i) of this subparagraph.

(2) Act—Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

(3) Actual production on the farm—Number of pounds of lint cotton determined to have been produced on the farm in the current year.

(4) Actual yield per acre—Number of pounds of lint cotton determined by dividing the actual production on the farm by the number of acres of cotton harvested on the farm.

(5) Barter or exchange—The transfer of title to cotton by a producer to another person in exchange for cotton or any other commodity, service, property, or for use of land.

(6) Buyer—Person who acquires cotton from a producer by purchase, barter, and exchange, gift inter vivos and an agricultural cooperative association which makes agreements with producers under which title to the cotton passes upon delivery of the cotton by the producer and the association is authorized to deal with such cotton as owner.

(7) Carryover cotton—Unmarketed cotton from any previous crop which the producer has on hand as of August 1 of the current year.

(8) Extra long staple cotton—American-Pima, Sea Island, Sealand, and all other varieties of the Barbadense species of cotton and any hybrid thereof, and any other cotton in which one or more of these varieties predominate, produced in an area designated under section 347(a) of the act.

(9) Farm allotment—Cotton acreage allotment established for a farm pursuant to section 344 of the Act.

(10) Farm marketing excess—Normal production of the acreage planted to ELS cotton in excess of the farm allotment subject to any downward adjustment where the actual ELS production is established to be less than such normal ELS production.

(11) Farm marketing quota—Actual ELS production of the acreage planted to ELS cotton on the farm less the farm marketing excess.

(12) Gift inter vivos—Transfer of title to cotton, accompanied by delivery, by a producer to another person which takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(13) Ginner—Person engaged in the business of ginning cotton.

(14) Ginning—Process by which lint cotton is removed from the cotton seed.

(15) Harvest—Act of extracting seed cotton from the cotton plant by manual or mechanical means.

(16) Lint cotton—Fiber taken from seed cotton by ginning.

(17) Market—To dispose of cotton in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(18) Marketing year—Period beginning August 1 of a crop year and ending July 31 of the following year, both dates inclusive.

(19) Normal production on the farm—The number of pounds of lint cotton determined by multiplying the normal yield of lint ELS cotton for the farm by the number of acres planted to ELS cotton on the farm.

(20) Normal yield—Average yield per harvested acre of ELS cotton on the farm during each of the 3 calendar years immediately preceding the year in which such normal yield is determined, adjusted for abnormal weather conditions affecting such yield, for trends in yields, and for any significant changes in production practices. If, for one or more of the years, the farm had no production the county committee shall appraise a yield based on actual yield for similar farms.

(21) Penalty—Amount payable with respect to the farm marketing excess.

(22) Sale—Transfer of title to cotton by a producer to another person by any means other than barter or exchange or gift inter vivos.

(23) Seed cotton—Harvested fruit of the cotton plant before ginning.

(24) Upland cotton—Any cotton other than extra long staple cotton.

ELS FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.65 Cotton subject to marketing quotas.

If marketing quotas are in effect for a crop of ELS cotton, all ELS cotton produced from such crop of ELS cotton shall be subject to marketing quotas, including ELS cotton of such crop available for marketing prior to the beginning or after the ending of the marketing year which begins in the year when such crop of ELS cotton is planted.

§ 722.66 Farm marketing quota and farm marketing excess.

The county committee shall establish the farm marketing quota and farm marketing excess for each farm on which the acreage planted to ELS cotton in the current year exceeds the farm allotment. Where it is established to the satisfaction of the county committee by any producer on the farm in accordance with § 722.68 that the actual production of ELS cotton on the farm in the current year is less than the normal production of the acreage planted to ELS cotton on the farm of such year, the farm marketing excess shall be adjusted downward to the amount by which such actual production exceeds the normal production of the farm allotment.

§ 722.67 Notice of farm marketing excess and farm marketing quota.

The county committee shall mail to the farm operator a written notice of farm marketing excess and farm marketing quota for any farm with a farm marketing excess. The notice shall contain substantially the following statement: "To all persons who as operator, landlord, tenant or sharecropper, for the crop year shown, are interested in the cotton described herein and produced on this farm." Notice so given shall constitute notice to all such persons. Such notice shall also contain a brief statement of the procedure whereby application for review of the marketing quota may be made under section 363 of the Act. A copy of each notice containing a notation thereon of the date of mailing the notice to the operator of the farm shall be kept among the permanent records of the county committee and, upon request, a copy thereof, duly certified as a true and correct copy shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper, is interested in the ELS cotton produced in the current year on the farm for which the notice is given.

§ 722.68 Farm marketing excess adjustment.

(a) *Application for adjustment in the farm marketing excess.* Any producer having an interest in the ELS cotton produced in the current year on a farm with a farm marketing excess may apply in writing to the county committee for a downward adjustment of the farm marketing excess on the basis of the amount of ELS cotton produced in such year on the farm. Any such application shall be filed with the county committee not later than January 15 of the year following the year the crop was planted or 30 days after mailing notice of excess as provided in § 722.67. Upon a recommendation by the county committee the State committee may extend such date for producers failing to timely apply for such adjustment due to circumstances beyond his control. The county committee shall notify the applicant of the time and place of the hearing regarding his application. Unless application for an adjustment in the farm marketing excess is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.66 shall be final as to the producers on the farm.

(b) *County committee action on an application for adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. The ELS cotton acreage on the farm for the crop year in question, shall be determined by official measurement, or such other method of ascertaining acreage as may be authorized for the farm under section 374(a) of the act (79 Stat. 1210), before the county committee approves a determination of the actual production of ELS cotton on the farm. The actual production of ELS cotton in such crop year on any farm shall be determined in view of the relevant facts, including the acreage planted to ELS cotton in such crop year on the farm, the past production on the farm, the actual yields per acre in such crop year for other farms which are similar with regard to farming practices followed, type of soil and productivity; the harvesting, ginning and sales of the ELS cotton produced on the farm in such crop year; and weather conditions and other factors in such crop year affecting the production of ELS cotton on the farm and in the locality in which the farm is situated. In the consideration of any application for adjustment in the farm marketing excess the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant and the application may be disposed of upon the basis of such statement or evidence, together with any other information bearing on or establishing the facts, which is available to the county committee, unless the applicant appears before the county committee at the time fixed for consideration of the application and requests a hearing for the purpose of offering additional documentary evidence or oral testimony, in support of the application. Every such hearing shall be open to the public.

(c) *Notification of county committee's determination.* The county committee shall make its determination in connection with each application not later than 5 calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county committee shall be in writing and shall contain (1) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (2) a concise statement of the findings of the county committee upon the question of fact and (3) the determination of the county committee as to the farm marketing excess as determined pursuant to § 722.66, the actual production of ELS cotton on the farm, the farm marketing excess, and the penalty due on the farm marketing excess. The determination made by the county committee under this paragraph shall be subject to approval by a representative of the State committee. A notice showing the result of the determination made as aforesaid, shall be mailed to the operator of the farm and also to the applicant if he is not such operator.

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§ 722.69 Publication of the farm allotment, normal yield, marketing quota, and marketing excess.

A record of the farm allotment, normal yield, farm marketing quota, and farm marketing excess established for farms in the county shall be kept readily available in the office of the county committee for public inspection for a period of not less than 30 calendar days. At the end of such period, the records shall be filed in the office of the county committee and remain readily available for further public inspection. Copies of notices, or other compilations upon which the pertinent data are shown may be used for this purpose.

§ 722.70 Successors-in-interest.

Any person who succeeds to the interest of a producer in a farm, or in an ELS cotton crop produced on a farm, for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the penalty on the farm marketing excess and to the lien on the entire crop of ELS cotton and to the restrictions on the marketing of ELS cotton. However, a successor to a deceased producer shall not be personally liable for an unpaid marketing quota penalty incurred by the producer prior to his death, but a suit may be brought to enforce the lien for the penalty against the ELS cotton.

§ 722.71 Review of quotas.

Any producer who is dissatisfied with the farm marketing quota and farm marketing excess determined for his farm, may, by making application in writing within 15 days after the mailing to him of the notice provided in § 722.67 or § 722.68, have such farm marketing quota and farm marketing excess reviewed by a review committee pursuant to section 363 of the Act and the Marketing Quota Review Regulations set forth in Part 711 of this chapter, a copy of which may be obtained from the county committee.

§ 722.72 Exemption for publicly owned agricultural experiment stations.

The farm marketing quota and penalty shall not apply to the marketing of any ELS cotton grown for experimental purposes only on a farm (a) operated by a publicly-owned agricultural experiment station and produced at public expense by employees of the experiment station or (b) operated by a person under a written agreement with a publicly owned agricultural experiment station, approved by the State committee, whereby the experiment station bears the costs and risks of production of the ELS cotton and the proceeds of the crop inure to the benefit of the experiment station. Farm marketing quotas shall apply to any other ELS cotton produced by a publicly owned agricultural experiment station which is not produced for experimental purposes only.

PENALTY

§ 722.73 Rate of penalty.

(a) Upland cotton is not subject to marketing quotas, and no penalty rate is established.

(b) The rate of penalty for ELS lint cotton is the higher of 50 percent of parity price for ELS cotton as of June 15 of the year in which the ELS cotton is planted, or 50 percent of the support price for such crop of ELS cotton as provided in sections 346(a) and 347(c) of the Act.

(c) This section will be amended annually by adding a new subparagraph to this paragraph to set forth the exact rate of the penalty.

(1) 1972 ELS cotton penalty rate is 40.2 cents per pound.

§ 722.74 Lien for the penalty.

Until the penalty on any farm marketing excess of ELS cotton for any crop year is paid, all ELS cotton produced on the farm in such crop year and marketed shall be subject to the penalty at the rate prescribed in § 722.73 for ELS cotton and a lien on such entire crop of ELS cotton produced on the farm shall be in effect in favor of the United States. Notwithstanding the definition of ELS cotton in § 722.64(b)(8), the lien in favor of the United States under this paragraph applies to the varieties of ELS cotton named in such definition wherever grown in the United States.

§ 722.75 Payment of penalty by producers.

(a) *Producer liable for payment of penalty.* Each producer having an interest in the crop of ELS cotton on any farm produced in a crop year for which a farm marketing excess has been determined shall be liable for the entire amount of the penalty on the farm marketing excess. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of ELS cotton produced on the farm.

(b) *Time when penalty becomes due and payable.* The penalty for the farm marketing excess shall be due the earlier of the date of marketing or January 15 of the year following the year the crop was planted. Notwithstanding the foregoing, if the notice was not mailed prior to December 15 of the year the crop was planted, the January 15 date may be extended to 30 days after the notice was mailed.

(c) *Interest on penalty not paid when due.* If the penalty is not paid when due the producer is liable for interest at a rate of 6 percent per annum until the penalty is collected by the county committee or the buyer.

§ 722.76 Payment of penalty by buyers.

(a) *Buyers liable for payment of penalty.* Each person within the United States who buys or acquires from the producer any ELS cotton subject to the lien for the penalty shall be liable for and shall pay the amount of the penalty and interest, if any, on each pound thereof in satisfaction of the lien thereon.

(b) *Time when penalty becomes due.* The penalty to be paid by any buyer pursuant to paragraph (a) of this section shall become due at the time the ELS cotton is marketed and shall be remitted to the county where the excess farm is located. If the penalty (plus interest collected from the producer, if applicable) is not received by the county committee by the 10th day following the date the penalty was collected by the buyer, the buyer shall be liable for the penalty plus interest at a rate of 6 percent per annum from the 11th day until the penalty is received by the county. ELS cotton shall be deemed to be sold when either title to or actual or constructive possession of the ELS cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. ELS cotton shall be deemed to have been marketed by barter or exchange when it is delivered to another person by actual or constructive delivery or such person has received any part of the property, goods, or services for which the ELS cotton is being bartered or exchanged. ELS cotton shall be deemed to have been marketed by gift inter vivos when there is actual or constructive delivery of the ELS cotton to another person during the lifetime of the producer. ELS cotton shall be deemed to have been marketed in processed form when the producer, or some person on his behalf, converts ELS cotton into an article of trade and thereby causes the ELS cotton to lose its identity as lint ELS cotton. An article of trade is any article made in whole or in part from ELS cotton for the purpose of marketing such article.

(c) *Manner of deducting penalty and issuance of receipts.* The buyer may deduct from the price paid for any ELS cotton an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraph (a) of this section. Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the ELS cotton was purchased a receipt for the amount so deducted.

§ 722.77 Remittance of penalty to the county executive director.

The county executive director of the county where the farm is located for and on behalf of the Secretary shall receive the penalty and any interest due thereon and issue a receipt therefor to the person remitting the penalty as required by established fiscal procedure. The penalty and interest shall be remitted only in legal tender or by check, draft, or money order drawn payable to the order of Agricultural Stabilization and Conservation Service, USDA. All checks, drafts, or money orders tendered in payment of the penalty and interest shall be received by the county executive director subject to collection and payment at par.

§ 722.78 Refunds of money in excess of the penalty.

(a) *Determination of refunds.* The county committee and the county executive director, upon their own motion or upon the request of any interested person, shall review the amount of money received in connection with the penalty for any farm to determine for each producer the amount thereof, if any, which is in excess of the penalty incurred. The excess amount shall be refunded. Any refund shall be made only to persons who bore the burden of the payment and who have not been reimbursed therefor. The excess sum shall be first applied, insofar as the sum will permit, so as to make refunds to eligible persons other than producers and the remainder, if any, shall be applied so as to make refunds to the eligible producers. No refund shall be made to any buyer of any amount which he collected from the producer, deducted from the price or other consideration for the ELS cotton or for which he was liable.

(b) *Certification of refunds.* A member of the county committee, or the county executive director, shall notify the State committee of the amount which the county committee determines may be refunded to each person with respect to the farm and the State committee shall cause to be certified to the appropriate Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been collected and transmitted to the Federal Reserve Bank and held in a budget clearing account.

§ 722.79 Refund of penalty erroneously, illegally, or wrongfully collected.

Whenever a claim for refund of any sum of money erroneously, illegally, or wrongfully collected as a penalty with respect to ELS cotton is duly filed in accordance with section 372 of the Act and Part 714 of this chapter, as amended, and a determination is duly made that a part or all of the penalty was erroneously, illegally, or wrongfully collected, a refund of such penalty or part thereof shall be made as provided in the regulations pertaining to refunds of penalties (Part 714 of this chapter, as amended).

§ 722.80 Report of violations and court proceedings to collect penalty.

The county executive director shall report in writing to the State executive director each case of failure or refusal to pay the penalty or to remit the same to the county executive director when collected. The State executive director shall report each such case in writing to the Office of the General Counsel of the U.S. Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the U.S. Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties as provided in section 376 of the act.

IDENTIFICATION OF COTTON

§ 722.81 Identification of cotton by producer.

Each producer of cotton shall, at the time he markets any cotton, identify the cotton to the buyer as being (a) not subject to the penalty provided under this subpart and not subject to the lien for such penalty, or (b) subject to the penalty provided under this subpart and subject to the lien for such penalty. The producer shall furnish to the buyer in connection with such identification of the cotton the following:

(1) Name and address of producer.

(2) County and State where farm on which the cotton was produced is located.

(3) Farm number.

(4) Whether the cotton is current year's crop or carryover cotton.

§ 722.82 Identification of cotton by buyer.

Each buyer of cotton from a producer shall obtain from such producer the identification of cotton required under § 722.81. In addition, before acquiring any cotton, each buyer of cotton shall obtain from the county committee of each county where the cotton being offered to him was produced, or from the State executive director, a list showing the names and addresses of producers and the farm number for each farm in the county on which such producers are subject to the penalty for the current year's crop and any unpaid penalty for a previous crop. If there are no farms in such county subject to the penalty for the current year's crop or a previous crop, the list shall so state. The county committee or the State executive director shall furnish such list to any buyer of cotton upon request. The buyer shall determine whether the name of the prodcer and farm number furnished him by the producer who identifies cotton under § 722.81 appear on the list obtained for the applicable county. If the name of the producer and farm number so furnished appear on such list, or if the producer identifies the cotton as subject to penalty, the buyer shall take the cotton as subject to penalty at the applicable rate and to the lien for the penalty.

§ 722.83 Marketing of penalty free cotton.

Each buyer of cotton which is identified in accordance with §§ 722.81 and 722.82 as not subject to the penalty provided under this subpart and not subject to the lien for such penalty, may purchase the cotton so identified without collection, deduction, or payment of the penalty.

§ 722.84 Marketing of penalty cotton.

Each buyer of cotton which is identified in accordance with § 722.81 or § 722.82 as being subject to the penalty and the lien for such penalty shall take such cotton as subject to penalty at the applicable rate and to the lien for the penalty and such buyer shall collect the required penalty or deduct the required penalty from the purchase price of the cotton and remit the amount thereof to the county committee. In addition, each buyer of cotton shall collect penalty at the applicable rate or deduct such penalty from the purchase price of the cotton and remit the amount thereof to the county committee in each case where such buyer has not obtained the applicable list as required under § 722.82. § 722.82.

RECORDS AND REPORTS

§ 722.85 Records to be kept and reports to be made by ginners.

(a) *Necessity for records and reports.* Each ginner shall in conformity with section 373(a) of the act, keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

(b) *Ginner's record of cotton ginned.* Each ginner shall keep, for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record showing with respect to each bale, and each lot of cotton less than a bale, ginned by him the following information: (1) the date of ginning; (2) the name of the operator of the farm on which the cotton was produced; (3) the name of the producer of the cotton; (4) the name and address of the person who delivered the cotton to the gin in those cases where the ginner has doubt as to the accuracy of the name of the farm operator or producer of the cotton as furnished; (5) the farm number of the farm where the cotton was grown or some other information which will identify the farm on which the cotton was produced; (6) the county and State in which the farm on which the cotton was produced is located; (7) the gin bale number or mark or other identification; and (8) the net weight of each bale of cotton and (the net weight of) each lot of lint cotton less than a bale ginned by the ginner.

(c) *Requests for reports.* Each ginner, upon written request of the State committee, State executive director, or county committee, shall make a report showing the information provided for in this section or any part thereof as specified in the request, with respect to cotton ginned for the person or persons specified in the request or for the period of time specified in the request. This report shall be filed not later than the date designated by the State committee, State executive director, or county committee in the written request for such report.

(d) *Manner of submitting reports.* The county executive director designated in the request for such report, or his successor in office, is hereby authorized and empowered to receive each such report on behalf of the Secretary. Each report shall be mailed or delivered directly to the said county executive director.

§ 722.86 Records to be kept and reports to be made by buyers.

(a) *Necessity for records and reports.* Each person who buys or acquires seed cotton or lint cotton from the producer thereof, in conformity with section 373 (a) of the act, shall keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out with respect to cotton, the provisions of the act.

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(b) *Nature of records.* Each buyer shall keep for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to each bale of cotton, and each lot of cotton less than a bale, which is purchased by him from the producer thereof the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) State and county in which farm is located; (3) the date on which the cotton was purchased; (4) the original gin bale number and warehouse receipt number; or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and in the case of seed cotton purchased, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (5) the number of pounds of lint cotton in each bale, and each lot of lint cotton less than a bale, purchased from the producer; and (6) the amount of penalty collected in connection with the cotton purchased from the producer.

(c) *Buyer's record and report.* In the event the county committee, the State committee, or State executive director has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any cotton which he purchased, or otherwise in any manner failed or refused to comply with the provisions of these regulations, the buyer shall, within 15 days after a written request therefor by either the county committee, State committee, or State executive director is sent to him by certified mail at his last known address, make a report verified as true and correct, to the designated county executive director with respect to cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the information required to be kept under paragraph (b) of this section for each bale of cotton, and each lot of cotton less than a bale, purchased by such buyer.

(d) *Manner of submitting report.* The county executive director for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to the said county executive director.

§ 722.87 Records to be kept by warehousemen, processors, and others.

Each warehouseman, processor (including compressman), common carrier, or other person, as defined in section 373(a) of the act, who stores, processes (including compressing), transports as a common carrier or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall for each crop year keep the records relating to such cotton which are normally kept by persons engaged in the same or similar business. The Secretary hereby finds such records to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

§ 722.88 Availability of records kept by ginners, buyers, warehousemen, and others.

Each ginner, buyer, warehouseman, processor (including compressman), common carrier, or other person as defined in section 373(a) of the act, who gins, buys, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall make available for examination and inspection by the Secretary or by any authorized representative of the Secretary, the records kept in his business concerning such cotton, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.61 to 722.95, or of obtaining the information required to be furnished in any report pursuant to §§ 722.61 to 722.95, but not so furnished. The records to be kept pursuant to the provisions of §§ 722.85, 722.86, and 722.87 shall be kept available for examination and inspection by the Secretary, or by any authorized representative of the Secretary, until December 31 of the second year following the year in which the cotton is planted. Such records shall be kept for such longer period of time as may be requested in writing by the State executive director or by the director.

§ 722.89 Penalty for failure or refusal to keep records or make reports.

Any ginner, buyer, warehouseman, processor (including compressman), common carrier, or other person, as defined in section 373(a) of the act who gins, buys, acquires, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof who fails to keep the records, make the reports as required by § 722.85, § 722.86, or § 722.87, or who makes any false report or false record shall, as provided for in section 373(a) of the act, be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine or not more than $500 for each such offense.

§ 722.90 Records to be kept and reports to be made by producers.

(a) *Necessity for records and reports.* Each person who produces or who has produced in any crop year, cotton which is subject to the provisions of §§ 722.61 to 722.95 shall, in conformity with section 373(b) of the act, keep the records and make the reports prescribed by this section, which records and reports the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act. The records required to be kept pursuant to this section shall be kept until December 31 of the second year following the year in which cotton is planted, or for such longer period of time as may be requested in writing by the State executive director or by the director.

(b) *Cotton marketed to persons not within the United States.* In each case where cotton is marketed to any person not within the United States the producer shall furnish to the county committee within 15 days next succeeding the day on which the cotton was marketed, the name and address of the buyer or transferee, the amount of cotton, and indicate that such person is not within the United States.

(c) *Farm operator's report.* The operator of the farm shall file with the county executive director for the county in which the farm is located a farm operator's report on Form MQ–98–Cotton in the following cases: (1) Where the producer is making an application for a downward adjustment in the farm marketing excess pursuant to § 722.68 except that the county committee may waive this requirement in case it determines that the evidence otherwise submitted by the producer is satisfactory evidence of the actual production of cotton on the farm; (2) where a farm marketing excess is determined for the farm but an application for downward adjustment in the farm marketing excess has not been filed and the county executive director or the State executive director requests the report in writing; and (3) where a farm marketing excess is not established but the county executive director or the State executive director determines that a farm operator's report is necessary for proper administration of §§ 722.61 to 722.95 and requests such report in writing. Upon written request by the county executive director or the State executive director for a farm operator's report on Form MQ–98–Cotton, the operator of the farm shall make the report in the manner specified in this paragraph not later than the date designated in the request. Form MQ–98–Cotton shall show for the farm the following information or any part thereof as specified in such request for a specified crop year: (i) The date harvesting of the crop of cotton was completed on the farm, the date of the last ginning of cotton produced on the farm, and the acreage of cotton on the farm; (ii) the total number of pounds of lint cotton ginned from the crop of cotton; (iii) the name and address of each ginner who ginned such cotton and the number of and net weight of bales or lots less than a bale ginned by him; (iv) the total amount of seed cotton of the crop marketed; (v) the total amount of lint cotton of the crop marketed; (vi) the amount of unmarketed cotton of the crop on hand; (vii) the total number of pounds of lint cotton produced from such crop; (viii) the name and address of each buyer of such crop lint or seed cotton and the amount thereof marketed to him; and (ix) the amount of penalty paid by the producer or collected by the buyer.

(d) *Manner of submitting reports.* The county executive director for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to such county executive director.

§ 722.91 Enforcement.

The county executive director shall report in writing to the State executive director each case of failure or refusal to make any report or keep any record as required by §§ 722.61 to 722.95 and so to report each case of making any false report or record. The State executive director shall report each such case in writing to the Office of the General Counsel of the U.S. Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the U.S. Attorney for the appropriate district under the direction of the Attorney General of the United States, to enforce the provisions of the act.

§ 722.92 Revision of county committee determinations and erroneous notices.

(a) *Revision of determinations.* In any case where a determination of the county committee under §§ 722.61 to 722.95 is found to be in error, the county committee on its own motion or upon request of a representative of the State committee, shall revise such determinations.

(b) *Erroneous notices of cotton allotment and planted acreage.* In any case where an erroneous notice of cotton allotment or an erroneous notice of planted acreage is issued, the county committee shall follow the applicable upland or ELS cotton acreage allotment regulations and the provisions of Part 718 of this chapter.

§ 722.93 Supervisory authority of State committee.

The State committee may take any action required to be taken by the county committee which the county committee fails to take and the State committee may correct or require the county committee to correct any action taken by such county committee which is not in accordance with §§ 722.61 to 722.95. The State committee may also require the county committee to withhold taking any action which is not in accordance with §§ 722.61 to 722.95. A copy of each notice issued by the State committee hereunder shall be kept among the permanent records of the appropriate county committee and copies thereof shall be made available in accordance with the provisions of §§ 722.61 to 722.95 to any person who as operator, landlord, tenant, or sharecropper, is interested in the cotton produced on the farm for which the notice is given.

§ 722.94 Availability of records.

The State and county committees shall make available for inspection by owners or operators of farms receiving cotton allotments all records pertaining to cotton allotments and marketing quotas. The provisions of Part 798 of this chapter concerning the availability of information to the public shall be applicable to cotton program records.

§ 722.95 Designation of representatives of the Secretary to examine records.

(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.85 to 722.88, relating to the examination of records, the deputy administrator is hereby authorized and directed to designate in writing with the counter signature of the State executive director, an appropriate number of persons from the officers or employees of the Department of Agriculture to act as the authorized representatives of the Secretary for the purposes of such provisions. In addition, Auditors and Special Agents, Office of the Inspector General, U.S. Department of Agriculture, are hereby designated as authorized representatives of the Secretary for the purposes of such provisions.

(b) *Authorization to administer oaths and affirmations.* Each person designated pursuant to this section to act as the authorized representative of the Secretary is hereby authorized and empowered under 5 U.S.C. 303 (80 Stat. 379) to administer oaths and affirmations to any person giving a statement or affidavit in connection with any authorized investigation.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to, the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on September 21, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-16770 Filed 10-2-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69–SW–43]

FEDERAL AIRWAYS

Withdrawal of Proposed Designation

On March 10, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 4306) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would redesignate segments of VOR Federal airway Nos. 20 and 163 and designate VOR Federal airway No. 261.

Subsequent to publication of the notice, the FAA has determined that additional review and coordination of the proposed airway alignments for V–20 and V–163W will have to be made.

In consideration of the foregoing, notice is hereby given that the proposal contained in Airspace Docket No. 69–SW–43 (35 F.R. 4306) is withdrawn. The withdrawal of this notice, however, does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

This withdrawal of notice of proposed rule making is made under the authority of Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on Septem 26, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 72-16762 Filed 10-2-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-RM-24]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Missoula, Mont., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station Post Office Box 7213, Denver, Colo. 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 E. 25th Avenue, Aurora, Colorado 80010.

The Federal Aviation Administration plans to alter existing instrument approach procedures and establish new holding procedures for Johnson-Bell Field Airport, Missoula, Mont. These changes require alteration of the Missoula, Mont. transition area in order to provide controlled airspace protection for aircraft executing these procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (37 F.R. 2143) the description of the Missoula, Mont. transition area is amended to read as follows:

That airspace extending upward from 700 feet above the surface within 8 miles south-

V37-192 OCT 3 72 XUM

west of the Missoula, Mont. VORTAC 296° radial extending from the VORTAC to 21 miles northwest; and within 8.5 miles southwest and 5.5 miles northeast of the Missoula VORTAC 311° radial extending from the VORTAC to 38 miles northwest; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Missoula, Mont. VORTAC (latitude 46°-54'29" N., longitude 114°04'58" W.); within a 12-mile radius of the Missoula, Mont. VORTAC extending clockwise from the 256° radial to the 357° radial; within 9.5 miles southwest of the Missoula, Mont. VORTAC 288° radial extending from the VORTAC to 38 miles northwest; and within 9 miles southwest and 6 miles northeast of the Missoula, Mont. VORTAC 113° radial extending from the VORTAC to 19 miles southeast.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on September 25, 1972.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc.72-16763 Filed 10-2-72;8:47 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1902]

STATE PLANS ON OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Temporary Orders

Notice is hereby given that the Occupational Safety and Health Administration, U.S. Department of Labor, has under consideration a proposed rule permitting the issuance of temporary orders which would preserve State authority to enforce standards covering occupational safety and health issues contained in a proposed plan submitted to the Assistant Secretary of Labor for Occupational Safety and Health for approval under Part 1902 of Title 29, Code of Federal Regulations. These temporary orders would be valid until the Assistant Secretary takes final action on the proposed plan under sections 18(c) and (d) of the Act or for one year, whichever period is shorter.

The basic policy of the Occupational Safety and Health Act is to provide a continuing and growing program of protection for worker safety and health. As recognized by Congress, the fullest possible State participation under Federal guidance is essential to this goal.

It was also recognized that States could not uniformly and immediately enter into full and effective partnership with OSHA and that an orderly transition to such full partnership was required. Congress, therefore, provided in section 18 of the Occupational Safety and Health Act a method for approval of State plans, under which State worker safety and health programs could make on orderly progression in developmental States toward the Act's requirements. Federal concurrent jurisdiction, adjustable to this progression was provided. To assist States in identifying their needs and responsibilities and in developing their plans, planning grants were provided under section 23 of the Act. Recognizing the need for continuing ongoing State activity as an adjunct to implementing this policy until plans for meeting the Federal requirements could be approved, section 18(h) preserves such activities from Federal preemption until December 28, 1972.

Virtually all States now have agreements with the U.S. Department of Labor under section 18(h) of the Act and Part 1901 of Title 29, Code of Federal Regulations. Under the agreements, States have been permitted to continue to enforce one or more job health and safety standards. The agreements contemplate the submission of plans to the Secretary under section 18(b) of the Act, and provide generally for the development and enforcement of State standards which are at least as effective as the Federal standards applied under section 6 of the Act. Some plans have already been submitted and many more are expected to be submitted by December 28, 1972.

It now appears an unforeseen gap could occur in this process of transition to full Federal-State participation in providing worker safety and health. The interruption would arise from the fact that few State plans are likely to receive approval before December 28, at which time protection of State jurisdiction under agreements under section 18(h) of the Act and Part 1901 of this chapter will lapse. During the period between this date and plan approval, ongoing State programs would be under a legal disability to provide worker protection. Such a lapse in State authority would frustrate the goals of an orderly transition to full Federal-State partnership and maximum worker protection, and thus be inconsistent with the clear legislative intent.

To be eligible for a temporary order, the proposed State plan would have to meet the submission requirements of § 1902.10(a), including clearance and approval by the Governor of the State as required in OMB Circular No. A-95. Further, the proposed plan would have to address itself either in complete or developmental form to each of the criteria and indices of effectiveness of Part 1902. If the proposed plan on its face failed to meet these requirements, no temporary order would be issued. The order would be subject to revocation by the Assistant Secretary upon thirty days' notice.

The temporary order would have the effect of preserving State authority to enforce, in accordance with State law, existing standards covering issues contained in the proposed State plan. Further, the order would allow the States to enforce any additional such standards promulgated in accordance with the provisions of the proposed plan and to utilize any additional enforcement authority which becomes effective within the scope of the plan.

Temporary orders would be issued only for proposed plans submitted by December 28, 1972. No order would be issued for proposed plans submitted after that date.

Within 20 days following publication of this notice in the FEDERAL REGISTER, interested persons may submit written data, views, or arguments concerning the proposed rule to the Director of State Programs, U.S. Department of Labor, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, D.C. 20210. Comments received will be available for examination by interested persons at the above address.

Section 1902.16 would be amended to read as follows:

§ 1902.16 Temporary orders.

(a) The Assistant Secretary may issue a temporary order permitting a State to enforce in accordance with State law standards covering issues contained in a proposed plan which is submitted for approval under this Subpart C. Any temporary order shall remain in effect only until final action approving or disapproving a proposed plan is taken under section 18(c) and (d) of the Act, or one year from the date of its issuance, whatever is earlier.

(b) To be the subject of a temporary order under this section, a proposed State plan must have been approved by the Governor of the State, as required by OMB Circular No. 8-95, and must meet the submission requirements contained in § 1902.10(a). The proposed plan must also address itself to each of the criteria for State plans and indices of effectiveness prescribed in Subpart B of this Part 1902. The temporary order may be issued ex parte.

(c) No temporary order under this section shall affect in any way any final action approving or disapproving a plan under section 18(c) and (d) of the Act, or eligibility for grants under section 23 of the Act.

(d) Any temporary order issued under this section shall be subject to revocation for cause upon thirty days' notice to the State.

(e) No temporary order shall be issued in the case of proposed plans submitted after December 28, 1972.

(Secs. 8(g), 84 Stat. 1600, 1608; 29 U.S.C. 657(g), 667)

Signed at Washington, D.C., this 27th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-16797 Filed 10-2-72;8:53 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 81, 83]

[Docket No. 19361; FCC 72-830]

CLASS II PUBLIC COAST STATION IN VICINITY OF PONCE, P.R.

Further Notice of Proposed Rule Making

In the matter of amendment of Parts 81 and 83 of the Commission's rules to provide for a Class II Public Coast Station in the vicinity of Ponce, P.R., Docket No. 19361, RM-1780.

1. Further notice of proposed rule making in the above-entitled matter is hereby given.

2. A notice of proposed rule making in the above-captioned matter was adopted on December 8, 1971 (36 F.R. 24008). The time for filing comments and reply comments has passed.

3. Comments submitted by the Interdepartment Radio Advisory Committee (IRAC) indicate that the use of the frequencies 2198 kHz and 2582 kHz by a Class II Public Coast Station in Ponce, P.R., as proposed in the notice of proposed rule making, could cause harmful interference to Government stations presently operating on these frequencies in the Puerto Rico area.

4. In place of the above-mentioned frequencies the IRAC concurred to the frequency 2086 kHz (for use by ship stations) and the frequency 2585 kHz (for use by the coast station) for assignment for public ship to shore communications in the vicinity of Ponce, P.R. In order to further minimize the possibility of harmful interference, certain technical limitations on emission and power have been incorporated in the proposed amendments.

5. The proposed amendment, as set forth below, is issued pursuant to the authority contained in sections 4(i) and 303 (c), (d), (f), and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the rules, interested persons may file comments on or before November 8, 1972, and reply comments on or before November 17, 1972. Section 1.419 of the rules requires the original and fourteen (14) copies of comments or reply comments to be filed. Comments and reply comments received in response to this notice of proposed rule making will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

Adopted: September 20, 1972.

Released: September 26, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. The table in § 81.304(a) is amended by adding the frequency 2585 kHz after 2582 kHz to read as follows:

§ 81.304 Frequencies available.

(a) • • •

Carrier frequency (kHz)	See section	Conditions of use
• • •	• • •	• • •
2585	81.306(b)	21
• • •	• • •	• • •

• • • •

Notices

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority 98]

DEPUTY ADMINISTRATOR AND ASSISTANT ADMINISTRATORS

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104 of November 3, 1961, as amended, from the Secretary of State (25 F.R. 10608) and in accordance with the provisions of section 624(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2384), it is directed as follows:

In the event of the absence, death, resignation, or disability of the Administrator, the following designated officers of the Agency for International Development shall, in the order of succession indicated, act as Administrator:

(1) Deputy Administrator.

(2) Assistant Administrator for Program and Management Services.

(3) Assistant Administrator, Bureau for Africa.

(4) Assistant Administrator, Bureau for Asia.

(5) Assistant Administrator, Bureau for Latin America.

(6) Assistant Administrator for Supporting Assistance.

This delegation of authority supersedes Delegation of Authority No. 9 (revised) of February 2, 1972 (37 F.R. 2892).

This delegation of authority is effective immediately.

Dated: September 22, 1972.

JOHN A. HANNAH,
Administrator.

[FR Doc.72-16802 Filed 10-2-72;8:50 am]

[Public Notice 366]

NOTICE OF PRESIDENTIAL DETERMINATIONS UNDER THE FOREIGN ASSISTANCE ACT

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended (86 Stat. 29), notice is hereby given that:

(1) The President has made two determinations, both effective August 29, 1972, pursuant to section 614(a) of the Foreign Assistance Act of 1961, as amended (75 Stat. 444, 22 U.S.C. 2364(a)); and

(2) The President has concluded that publication of the said determinations would be harmful to the national security of the United States.

[SEAL] THEODORE L. ELIOT, JR.,
Executive Secretary.

SEPTEMBER 19, 1972.

[FR Doc.72-16813 Filed 10-2-72;8:50 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-265]

FOREIGN CURRENCIES

Rates of Exchange for the Ceylon Rupee

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which vary by 5 percent or more from the quarterly rate published in Treasury Decision 72-194 for the Ceylon rupee. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:	
Sept. 11, 1972	$0.1565
Sept. 12, 1972	.1560
Sept. 13, 1972	.1565
Sept. 14, 1972	.1560
Sept. 15, 1972	.1560

Rates of exchange certified for the Ceylon rupee which vary by 5 percent or more from the rate $0.1680 during the balance of the calendar quarter ending September 30, 1972, will be published in a Treasury Decision for dates subsequent to September 15, 1972, and before October 1, 1972.

[SEAL] R. N. MARRA,
Acting Assistant Commissioner, Office of Operations.

[FR Doc.72-16792 Filed 10-2-72;8:49 am]

Office of the Secretary

[Treasury Department Order 221-2]

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Designation of Officials

SEPTEMBER 22, 1972.

By virtue of the authority vested in the Secretary of the Treasury, including the authority in Reorganization Plan No. 26 of 1950, and by virtue of the authority delegated to me by Treasury Department Order No. 190 (revised), I hereby designate the following named individuals to serve in the Bureau of Alcohol, Tobacco and Firearms in the positions indicated:

Director—Rex D. Davis, Deputy Director—John L. West.

This order shall be effective immediately and thereby amend Treasury Department Order No. 221-1 of June 30, 1972.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-16825 Filed 10-2-72;8:51 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[No. 72-1]

PHARMACEUTICAL WHOLESALERS, INC.

Denial of Application for Registration

On March 27, 1972, the Acting Director of the Bureau of Narcotics and Dangerous Drugs issued an order to show cause to Pharmaceutical Wholesalers, Inc., Plainview, N.Y., as to why its Application for Registration (B04501), executed on February 3, 1972, should not be denied for the reason that the Applicant's past record and experience in the distribution of controlled substances, and its failure to maintain controls against the diversion of controlled substances into other than legitimate channels evidenced a direct and continuing violation of the Controlled Substances Act of 1970 and the Administrative Regulations promulgated thereunder (21 U.S.C. 801, et seq., and Title 21, Code of Federal Regulations, Part 300, et seq.).

Thereafter, Pharmaceutical Wholesalers, Inc., requested a hearing in the matter and, on May 22, 1972, that hearing was held before Julius Rich, Administrative Law Judge. Following the hearing, proposed findings of fact and conclusions of law were submitted to Mr. Rich by the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs; none were submitted by counsel for the Applicant. On September 22, 1972, Mr. Rich filed the following recommended decision with the Bureau of Narcotics and Dangerous Drugs:

Based upon the foregoing recommended findings of fact and conclusions of law, the presiding officer recommends to the Director of the Bureau of Narcotics and Dangerous Drugs that the application executed on February 3, 1972, by Pharmaceutical Wholesalers, Inc., for re-registration as a distributor of controlled substances listed in Schedules II, III, IV, and V of the Controlled Substances Act of 1970, be denied.

After reviewing the transcript of testimony of the hearing, the exhibits introduced, the findings of fact and conclusions of law proposed by counsel, the Director adopts the recommended decision of the Administrative Law Judge, Julius Rich. In accordance with the provisions of 21 CFR 316.66, and in view of the nature of the Applicant's past record and experience in the distribution of controlled substances, it is the Director's opinion that to permit Pharmaccutical Wholesalers, Inc., to continue doing business with controlled substances would not be consistent with the public health and safety.

Therefore, under the authority vested in the Attorney General by section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824), and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Pharmaceutical Wholesalers, Inc.'s Application for Registration (B04501) be denied effective upon publication of this order in the FEDERAL REGISTER (10-3-72).

Dated: September 29, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-16960 Filed 10-2-72;8:55 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. A 7057]

ARIZONA

Designation of Big Sage Research Natural Area

Pursuant to the authority in 43 CFR Part 2070, and the authorization from the Director, dated September 12, 1972, I hereby designate the following described public lands as the Big Sage Research Natural Area:

T. 40 N., R. 1 E., GSR Meridian, Arizona, Sec. 28, NE¼.

This area aggregates 160 acres of public domain.

These lands will be used as an illustration of the effect adjacent vegetative manipulation projects, as a site for scientific study of a nearly pure big sage stand, and as a control site for Forest Service evaluation of a previous land treatment.

Dated: September 25, 1972.

JOE T. FALLINI,
State Director.

[FR Doc.72-16778 Filed 10-2-72;8:47 am]

[Group 468]

ARIZONA

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

SEPTEMBER 25, 1972.

1. Plat of survey of the lands described below will be officially filed in the Arizona State Office, Phoenix, Ariz., effective at 10 a.m., on November 10, 1972:

GILA AND SALT RIVER MERIDIAN

T. 8 S., R. 9 E.,
Sec. 2, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 3, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 10;
Sec. 11;
Sec. 14;
Sec. 15;
Sec. 22;
Sec. 23;
Sec. 26;
Sec. 27.

The area described aggregates 6,393.74 acres of public lands.

2. The area surveyed is approximately 6 miles east of Picacho, Ariz. The land is steep and mountainous. The soil is shallow and rocky. Vegetation consists of moderate palo verde, cacti, and scattered cat claw.

3. All rights of the State of Arizona to section 2 have been conveyed to the United States.

4. The lands are classified for multiple-use management and will be opened only to such forms of disposition as are allowed under the provision of the multiple-use classification on the effective date of the filing of this plat.

5. The lands have been and still are subject to the operation of the mining and mineral leasing laws. Inquiries concerning the lands should be addressed to the Arizona State Office, Bureau of Land Management, 3022 Federal Building, Phoenix, Ariz. 85025.

CHARLES G. BAZAN, JR.,
Chief, Branch of Records and Data Management.

[FR Doc.72-16779 Filed 10-2-72; 8:48 am]

[A 7131]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number A 7131, for the withdrawal of lands from location and entry under the General Mining Laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands described below under Fools Hollow Lake Recreation Area for expansion of its present recreation facilities to accommodate the growing public needs. The administrative headquarters of the Chevelon Ranger District Office presently occupies the lands described under the subject heading. Plans are to move the headquarters to Winslow and convert the existing improvements on this site to a fieldwork station consisting of storage, workshop, barn, and sewage treatment. Both sites are situated in the Sitgreaves National Forest and are in furtherance of the Department's program.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

Fools Hollow Lake Recreation Area

T. 10 N., R. 21 E.,
Sec. 12, SW¼ of lot 4, S½ of lot 5, lot 8, NW¼ and S½ of lot 9, lots 11, 12, 13, N½ of lot 16, N½ of lot 17, and lot 20;
Sec. 13, lots 1 and 2, and lots 5 to 17, inclusive;
Sec. 14, NW¼ of lot 1 and lot 2.

The area described aggregates approximately 209.46 acres.

Chevelon Ranger Station Administrative Site

T. 13 N., R. 13 E.,
Sec. 1, SE¼NE¼, E½SW¼NE¼, N½SE¼, SE¼SE¼, and N½SW¼SE¼.
T. 13 N., R. 14 E.,
Sec. 6, W½ of lot 5, and lot 7.

The area described aggregates approximately 276.41 acres.

The total areas described above aggregate approximately 485.87 acres within the Sitgreaves National Forest.

This proposed withdrawal will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral or vegetative resources other than under the mining laws.

Dated: September 22, 1972.

JOE T. FALLINI,
State director.

[FR Doc.72-16777 Filed 10-2-72;8:47 am]

Bureau of Mines

OGLEBAY NORTON CO., ET AL.

Applications for a Variance; Notice of a Public Hearing

Pursuant to the provisions of § 55.24 of Part 55, Title 30 of the Code of Federal Regulations promulgated in accordance with the authority vested in the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89-577, 30 U.S.C. 721 et seq.) on December 8, 1970 (35 F.R. 18587), notice is hereby given that the following companies have filed applications for a variance from mandatory safety standard 55.14-29 to permit changing worn grate castings on slow moving continuous traveling grates:

1. Oglebay Norton Company—Eveleth Taconite Co., Fairlane Plant, Forbes, St. Louis County, Minn.;

2. Hanna Mining Company—
(a) The Butler Taconite Plant, Nashwauk, Itasca County, Minn.;
(b) National Steel Pellet Plant, Keewatin, Itasca County, Minn.;

3. The Cleveland—Cliffs Iron Company—
(a) Empire Pelletizing Plant, Palmer, Marquette County, Mich.;
(b) Republic Pelletizing Plant, Republic, Marquette County, Mich.;
(c) Humboldt Pelletizing Plant, Champion, Marquette County, Mich.;
(d) Pioneer Pellet Plant, Negaunee, Marquette County, Mich.;

4. The United States Steel Corp.—The Minntac Plant, Mountain Iron, St. Louis County, Minn.

Mandatory standard 55.14-29 provides:

Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments.

Generally, the companies contend that when replacement of a traveling grate casting is necessary, two employees provided with safety equipment perform

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the work. The work area is illuminated and safety stop cords or stop buttons are strategically located in the area. Usually one employee cuts off the two clamping bolts with an oxygen-acetylene cutting torch, the grate casting is removed and another employee replaces the grate casting and secures it on a thru-rod, grate place clip or prebolted casting by tightening two bolts with an impact wrench. The grate casting may weigh from 18 to 34 pounds and the time required to perform the work may take one or two minutes depending upon the pelletizing or agglomerating process used by the company. The grate castings are moving slowly, from 10 to 16⅔ feet per minute.

The reasons for the requested variances are summarized as follows:

1. The slow speed of the grate casting does not constitute a hazard to personnel involved.

2. The work area is well illuminated and safety stop cords are strategically located thereby providing a safe work environment.

3. There have been no disabling injuries and minor injuries, for the most part burns, which were experienced during the changing of grate castings while the grate was in motion could have been avoided by the proper use of protective clothing and compliance with established safety procedures. The potential for such minor injuries is no greater with the grate motion than if it were stationary and locked out.

4. Grate kiln pelletizing is a continuous thermal process. Frequent shutdowns would be very damaging to furnace refractory materials and could result in the production of substandard quality product.

Copies of the applications for a variance may be obtained upon request from the Deputy Director—Health and Safety, Bureau of Mines, Room 4512, Department of the Interior, Washington, D.C. 20240, telephone 202—343-4041.

Notice is hereby given that a public hearing pursuant to § 55.24–5 of Part 55, Title 30 of the Code of Federal Regulations will be held on November 8 and 9, 1972, beginning at 9 a.m. c.s.t., in the Arrowhead Room, Hotel Duluth, 231 East Superior Street, Duluth, MN for the purpose of receiving relevant evidence on the applications for a variance to permit the changing of worn grate castings on continuous traveling grates. Each application will be considered individually on its own merits with respect to each particular plant. The applications will be considered and heard in the order listed above.

Donald P. Schlick, deputy director, Health and Safety is designated as the chairman. The hearing will be open to the public. The hearing will be conducted in an informal and orderly manner and a verbatim transcript of the hearing will be maintained. Applicants, representatives of organizations, public officials and interested individuals wishing to appear at the hearing should contact the Office of Deputy Director, Health and Safety no later than November 3, 1972. Written comments from those unable to attend, and from those wishing to supplement their oral presentations at the public hearing, should be received by the Deputy Director no later than October 31, 1972. The record will remain open for a period of 20 days following the close of the hearing during which time further written statements, data, and information may be submitted by interested persons. All written statements and letters received pursuant to this notice will be included in the hearing record.

Oral statements at the hearing will be limited to a period of 15 minutes. To the extent that time is available after presentation of oral statements by those who have given advance notice, the chairman will give others present an opportunity to be heard.

E. F. OSBORN,
Director, Bureau of Mines.

SEPTEMBER 27, 1972.

[FR Doc.72-16811 Filed 10-2-72;8:49 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of March 15, 1972, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 7 (pp. 4923–24), April 4 (pp. 6770–72), May 2 (pp. 8890–95), June 6 (pp. 11274–76), July 4 (pp. 13193–96), August 1 (pp. 15390–91), and September 6 (pp. 18043–44). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following property has been demolished and removed from the Register:

OHIO

Hamilton County

Cincinnati, *Wesley Chapel Methodist Church*, 320 East Fifth Street.

The following properties have been added to the Register since September 6:

ALABAMA

Baldwin County

Tensaw vicinity, *Fort Mims Site*, Sec. 46, R. 2 E., T. 3 N.

Marengo County

Dayton vicinity, *Half-Chance Bridge*, Sec. 32, T. 16 N., R. 4 E.

Mobile County

Mobile, *Georgia Cottage*, 2564 Springhill Avenue.

ARKANSAS

Columbia County

Bussey vicinity, *Frog Level*, SE¼ NW¼ sec. 11, T. 17 S., R. 22 W.

Drew County

Selma, *Selma Methodist Church*, NW¼ SW¼ SE¼ sec. 36, T. 11 S., R. 5 W.

Sebastian County

Fort Smith, *Sparks, James, House*, 201 North 14th Street.

CALIFORNIA

Los Angeles County

Los Angeles, *Hale House*, 3800 North Homer Street.
Los Angeles, *Streetcar Depot (Building No. 66)*, Pershing and Dewey Avenues.

CONNECTICUT

Fairfield County

East Haddam, *Day, Amasa, House*, Plains Road.

Hartford County

New Britain, *Hanna's Block*, 432 Main Street.
Simsbury, *Phelps, Captain Elisha, House*, 800 Hopmeadow Street.
Windsor, *Farmington River Railroad Bridge*, west of Palisado Avenue.

New London County

New London, *Fort Trumbull*, Fort Neck.
New London, *New London Railroad Station*, at the foot of State Street.

DELAWARE

Sussex County

Milford vicinity, *Abbott's Mill*, southwest of Milford on Delaware 442.

FLORIDA

Dade County

Coral Gables, *Douglas Entrance (La Puerta del Sol)*, intersection of Douglas Road and Eighth Street SW.

Duval County

Jacksonville, *Riverside Baptist Church*, 2650 Park Street.

Franklin County

Apalachicola, *Raney, David G., House*, southwest corner of Market Street and Avenue F.

Jefferson County

Monticello, *Perkins Opera House*, Washington Street and Courthouse Square.

Volusia County

Ponce de Leon Inlet vicinity, *Ponce de Leon Inlet Lighthouse*, U.S. Coast Guard Reservation.

GEORGIA

Bibb County

Macon, *First Presbyterian Church*, 690 Mulberry Street.

Chatham County

Savannah, *Davenport, Isaiah, House*, 324 East State Street.

Muscogee County

Columbus, *Peabody-Warner House*, 1445 Second Avenue.

HAWAII

Honolulu County

Kahuku vicinity, *Kahuku Habitation Area*, north of Kahuku and 0.3 mile northeast of Kahuku Airport Road.

Kailua vicinity, *Pahukini Heiau*, southeast of Kailua near Kapaa Quarry.

ILLINOIS

Cook County

Oak Park, *Thomas, Frank, House*, 210 Forest Avenue.
Oak Park, *Wright, Frank Lloyd, Home and Studio*, 428 Forest Avenue (home), 951 Chicago Avenue (studio).

IOWA

Cerro Gordo County

Mason City, *Adams Building (Mason City National Bank)*, 4 South Federal Avenue.
Mason City, *Park Inn Hotel*, 15 West State Street.

Dubuque County

Dubuque, *Dubuque City Hall*, 50 West 13th Street.

KENTUCKY

Boyle County

Danville, *Old Centre, Centre College*, West Walnut Street.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Magnolia Mound Plantation House*, 2161 Nicholson Drive.
Baton Rouge, *Potts House*, 831 North Street.

Orleans Parish

New Orleans, *Lower Garden District*.

MARYLAND

Calvert County

Adelina vicinity, *Taney Place*, south of Adelina on Maryland 508.

Montgomery County

Forest Glen, *National Park Seminary Historic District*, Linden Lane.
Sandy Spring, *Sandy Spring Friends Meetinghouse*, Meeting House Lane.

MASSACHUSETTS

Middlesex County

Cambridge, *Cooper-Frost-Austin House*, 21 Linnaean Street.

MICHIGAN

Berrien County

Three Oaks, *Union Meat Market*, 14 South Elm.

Grand Traverse County

Traverse City, *City Opera House*, 106–112 Front Street.

Huron County

Sebewaing, *The Indian Mission*, 590 East Bay Street.

Ingham County

Lansing, *Dodge Mansion*, 106 East North Street.

Jackson County

Jackson, *Sharp, Ella, House*, 3225 Fourth Street.

Keweenaw County

Central, *Central Mine Methodist Church*, approximately 1 mile north of U.S. 41.
Eagle Harbor, *Eagle Harbor Schoolhouse*.

Lake County

Marlborough and vicinity, *Marlborough Historic District*, James Road, W½SW¼, sec. 14, T. 17 N., R. 13 W.

Oscoda County

Mio, *Oscoda County Courthouse*, Morence Street.

St. Joseph County

Colon, *Farrand Hall*, 451 Farrand Road.

MISSISSIPPI

Adams County

Natchez, *Dunleith*, 84 Homochitto Street.

MISSOURI

Jackson County

Kansas City, *Kelly's Westport Inn*, Westport Road and Pennsylvania Avenue.

Ralls County

New London, *Ralls County Courthouse and Jail/Sheriff's House*, Courthouse Square.

St. Louis County

Florissant, *St. Stanislaus Seminary*, 700 Howdershell Road.

MONTANA

Chouteau County

Fort Benton, *Fort Benton Historic District*.

NEBRASKA

Douglas County

Omaha, *Joslyn, George A., Mansion*, 3902 Davenport Street.

NEW JERSEY

Mercer County

Lawrenceville, *Lawrence Township Historic District*, Lawrenceville and vicinity north including both sides of U.S. 206.

Monmouth County

Colts Neck vicinity, *North American Phalanx*, northeast of Colts Neck on County Route 537.

NEW YORK

Albany County

Albany, *Albany City Hall*, Eagle Street at Malden Lane.
Albany, *Hun Houses*, 149–149½ Washington Avenue.

Onondaga County

Syracuse, *Third National Bank (Community Chest Building)*, 107 James Street.

NORTH CAROLINA

Anson County

Wadesboro, *Boggan-Hammond House and Alexander Little Wing*, 210 Wade Street.

Craven County

New Bern vicinity, *Bellair*, 0.3 mile north of the junction of North Carolina 1401 and 1419.
New Bern, *Centenary Methodist Church*, 209 New Street.

Lincoln County

Lincoln vicinity, *Rock Springs Camp Meeting Ground*, on North Carolina 1373, 0.5 mile north of the intersection with North Carolina 16.

Mecklenburg County

Charlotte, *Rosedale*, 3427 North Tryon Street.

Rutherford County

Rutherfordton vicinity, *Fox Haven Plantation*, 1.4 miles north of the intersection of North Carolina 1157 and 108.

OREGON

Josephine County

Wolf Creek, *Wolf Creek Tavern*, on U.S. 99.

PENNSYLVANIA

Allegheny County

Pittsburgh, *St. Stanislaus Kostka Roman Catholic Church*, 21st and Smallman Streets.

RHODE ISLAND

Newport County

Newport, *Luce Hall*, U.S. Naval War College.

Providence County

Central Falls, *Jenks Park*, adjoining 580 Broad Street.

SOUTH CAROLINA

Abbeville County

Abbeville, *Town of Abbeville Historic District*.

Charleston County

Charleston, *McCrady's Tavern and Long Room*, 153 East Bay Street.
Charleston vicinity, *Fort Johnson/Powder Magazine*, approximately 3 miles southeast of Charleston.

TENNESSEE

Bradley County

Cleveland vicinity, *Red Clay Council Ground*, 13 miles south of Cleveland.

Madison County

Jackson, *Jones, Casey, Home and Railroad Museum*, 211 West Chester Street.

Moore County

Lynchburg, *Jack Daniel Distillery*, on Tennessee 55.

TEXAS

El Paso County

San Elizario, *Presidio Chapel of San Elizario*, south side of the Plaza.

Goliad County

Goliad vicinity, *Ruins of Mission Nuestra Senora del Rosario de los Cujanes*, approximately 3.8 miles southwest of Goliad on U.S. 59.

Hutchinson County

Fritch vicinity, *Antelope Creek Archeological District*, about 3 miles northeast of Fritch off Texas 136.

Jones County

Abilene vicinity, *Fort Phantom Hill*, 14 miles north of Abilene on Ranch Road 600.

McLennan County

Waco, *McCulloch House*, 406 Columbus Avenue.

Menard County

Menard vicinity, *Presidio San Luis de Las Amarillas*, approximately 1 mile northwest of Menard on Texas 29.

Montague County

Bowie, *Fort Worth and Denver City Depot*, on U.S. 81.

Terrell County

Dryden vicinity, *Meyers Springs Pictograph Site*, 10 miles northeast of Dryden.

UTAH

Salt Lake County

Salt Lake City, *Platts, John, House*, 364 Quince Street.

VERMONT

Franklin County

St. Albans, *Houghton House*, 86 South Main Street.

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Cumberland County

Cartersville vicinity, *Cartersville Bridge*, Virginia 45 over the James River (also in Goochland County).

Gloucester County

Gloucester vicinity, *Roaring Spring*, 0.3 mile east of Virginia 616.

Goochland County

Cartersville Bridge (see Cumberland County).

Hanover County

Ashland vicinity, *Slash Church*, on Virginia 656.

King George County

Sealston vicinity, *Lamb's Creek Church*, on Virginia 607.

Lynchburg (independent city), *Garland Hill Historic District*.

Prince Edward County

Worsham, *Debtors' Prison*, On U.S. 15.

Richmond (independent city), *West Franklin Street Historic District*, all properties fronting on West Franklin Street between Laurel and Ryland Streets.

Shenandoah County

New Market, *New Market Historic District*, present-day town limits.

WEST VIRGINIA

Barbour County

Philippi, *Philippi Covered Bridge*, Main Street, at the junction of U.S. 250 and 119.

Wood County

Parkersburg vicinity, *Blennerhassett Island Historic District*, on the Ohio River, 1.7 miles south of Parkersburg.

WISCONSIN

Jefferson County

Fort Atkinson, *May, Eli, House (Site of Fort Koshkonong)*, 407 East Milwaukee Avenue.

ROBERT M. UTLEY,
Director, Office of Archeology and Historic Preservation.

[FR Doc.72-16780 Filed 10-2-72;8:48 am]

Office of the Secretary

[DES 72-91]

PROPOSED WILDERNESS CLASSIFICATION FOR HALEAKALA NATIONAL PARK, HAWAII

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Haleakala National Park, Hawaii, and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Western Region or the Superintendent, Haleakala National Park at the addresses given below.

The draft environmental statement considers the designation of 19,270 acres of Haleakala National as wilderness.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Post Office Box 36063, San Francisco, CA 94102. Haleakala National Park, Post Office Box 456, Kahului, Maui, HI 96732. Hawaii Group, National Park Service, Pacific International Building, 677 Ala Moana Boulevard, Suite 512, Honolulu, HI 96813.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16781 Filed 10-2-72;8:48 am]

[DES 72-92]

PROPOSED WILDERNESS CLASSIFICATION FOR BADLANDS NATIONAL MONUMENT, SOUTH DAKOTA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Badlands National Monument, S. Dak., and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Badlands National Monument at the addresses given below.

The draft environmental statement considers the designation of 58,924 acres of Badlands National Monument as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. Badlands National Monument, Post Office Box 72, Interior, SD 57750.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16782 Filed 10-2-72;8:48 am]

[DES 72-93]

PROPOSED WILDERNESS CLASSIFICATION FOR THEODORE ROOSEVELT NATIONAL MEMORIAL PARK, N. DAK.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Theodore Roosevelt National Memorial Park, N. Dak., and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Theodore Roosevelt National Memorial Park at the addresses given below.

The draft environmental statement considers the designation of 28,335 acres of Theodore Roosevelt National Memorial Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. Theodore Roosevelt National Memorial Park, Medora, ND 58645.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16783 Filed 10-2-72;8:48 am]

[DES 72-94]

PROPOSED WILDERNESS CLASSIFICATION FOR YELLOWSTONE NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Yellowstone National Park, Wyo., and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Yellowstone National Park at the addresses given below.

The draft environmental statement considers the designation of 2,016,181 acres of Yellowstone National Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office, National Park Service, 1709 Jackson Street, Omaha, NE 68102. Yellowstone National Park, Yellowstone National Park, WY 82190.

Dated: September, 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16784 Filed 10-2-72;8:48 am]

[DES 72-95]

PROPOSED WILDERNESS CLASSIFICATION FOR CUMBERLAND GAP NATIONAL HISTORICAL PARK, KENTUCKY, TENNESSEE, AND VIRGINIA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Cumberland Gap National Historical Park, Kentucky, Tennessee, and Virginia, and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Southeast Region or to the Superintendent, Cumberland Gap National Historical Park at the addresses given below.

The draft environmental statement considers the designation of 6,375 acres in Cumberland Gap National Historical Park as wilderness.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 3401 Whipple Avenue, Atlanta, GA 30344. Cumberland Gap National Historical Park, Post Office Box 840, Middlesboro, KY 40965.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16785 Filed 10-2-72;8:48 am]

[DES 72-96]

PROPOSED WILDERNESS CLASSIFICATION FOR GRAND TETON NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Grand Teton National Park, Wyo., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Grand Teton National Park at the addresses given below.

The draft environmental statement considers the designation of 115,807 acres of Grand Teton National Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Grand Teton National Park
Post Office Box 67
Moose, WY 83012

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16786 Filed 10-2-72;8:48 am]

[DES 72-97]

PROPOSED WILDERNESS CLASSIFICATION FOR GRAND TETON NATIONAL PARK, WYO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Grand Teton National Park, Wyo., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Grand Teton National Park at the addresses given below.

The draft environmental statement considers the designation of 115,807 acres of Grand Teton National Park as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Grand Teton National Park
Post Office Box 67
Moose, WY 83012

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16787 Filed 10-2-72;8:49 am]

[DES 72-98]

PROPOSED WILDERNESS CLASSIFICATION FOR GREAT SAND DUNES NATIONAL MONUMENT, COLO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Great Sand Dunes National Monument, Colo., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Midwest Region or to the Superintendent, Great Sand Dunes National Monument at the addresses given below.

The draft environmental statement considers the designation of 29,255 acres of Great Sand Dunes National Monument as wilderness.

Copies are available from or for inspection at the following locations:

Midwest Regional Office
National Park Service
1709 Jackson Street
Omaha, NE 68102

Great Sand Dunes National Monument
Post Office Box 60
Alamosa, CO 81101

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16788 Filed 10-2-72;8:49 am]

[DES 72-99]

PROPOSED WILDERNESS CLASSIFICATION FOR CARLSBAD CAVERNS NATIONAL PARK, N. MEX.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Carlsbad Caverns National Park, N. Mex., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Southwest Region or to the Superintendent, Carlsbad Caverns National Park at the addresses given below.

The draft environmental statement considers the designation of 29,890 acres of Carlsbad Caverns National Park as wilderness.

Copies are available from or for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
Post Office Box 728
Santa Fe, NM 87501

Carlsbad Caverns National Park
Post Office Box 1598
Carlsbad, NM 88220

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16789 Filed 10-2-72;8:49 am]

[DES 72-100]

PROPOSED WILDERNESS CLASSIFICATION FOR GUADALUPE MOUNTAINS NATIONAL PARK, TEX.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Guadalupe Mountains National Park, Tex., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Southwest Region or to the Superintendent, Carlsbad Caverns National Park (who administers Guadalupe Mountains National Park) at the addresses given below.

The draft environmental statement considers the designation of 46,850 acres of Guadalupe Mountains National Park as wilderness.

Copies are available from or for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
Post Office Box 728
Santa Fe, NM 87501

Carlsbad Caverns National Park
Post Office Box 1598
Carlsbad, NM 88220

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16790 Filed 10-2-72;8:49 am]

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[DES 72-101]

PROPOSED WILDERNESS CLASSIFICATION FOR YOSEMITE NATIONAL PARK, CALIF.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Yosemite National Park, Calif., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Western Region or to the Superintendent, Yosemite National Park at the addresses given below.

The draft environmental statement considers the designation of 646,700 acres of Yosemite National Park as wilderness.

Copies are available from or for inspection at the following locations:

Western Regional Office
National Park Service
450 Golden Gate Avenue, Box 36063
San Francisco, CA 94102

Yosemite National Park
Post Office Box 577
Yosemite National Park, CA 95389

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-16791 Filed 10-2-72;8:49 am]

[INT FES 72-35]

PROPOSED CENTRAL ARIZONA PROJECT, ARIZONA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the authorized central Arizona project, Arizona-New Mexico.

The environmental statement concerns a proposed water supply for the purpose of furnishing municipal, industrial, and irrigation water to the water-deficient areas of Arizona and western New Mexico.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, DC 20240. Telephone (202) 343-9247.

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, DC 20240. Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E & R Center, Denver Federal Center, Denver, CO 80225. Telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005. Telephone (702) 293-8560.

Arizona Projects Office, Bureau of Reclamation, 135 North Second Avenue, Phoenix, AZ 85003. Telephone (602) 261-3106.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: September 26, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72 16803 Filed 10-2-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Forest Service

BERGLAND HILL SKI COMPLEX DEVELOPMENT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has perpared a draft environmental statement for the Bergland Hill Ski Complex Development, USDA-FS-DES(Adm) 73-18.

The environmental statement concerns a request for a special use permit by a private developer for the development of a ski complex at the Bergland Hill in Michigan.

This draft environmental statement was filed with CEQ on September 14, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th St. & Independence Ave., SW., Washington, DC 20250.
USDA, Forest Service, Eastern Region, 633 W. Wisconsin Avenue, Milwaukee, WI 53203.
Ottawa National Forest, 104 S. Lowell Street, Ironwood, MI 49938.

A limited number of single copies are available upon request to Joseph H. Harn, Forest Supervisor, Ottawa National Forest, Post Office Box 468, Ironwood, MI 49938.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. Joseph H. Harn, Forest Supervisor, Ottawa National Forest, Post Office Box 468, Ironwood, MI 49938. Comments must be received by October 27, 1972 in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

SEPTEMBER 27, 1972.

[FR Doc.72-16851 Filed 10-2-72;8:50 am]

MOUNT HOOD MEADOWS SKI AREA, CHAIRLIFT NO. 4

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Mount Hood Meadows Ski Area, Chairlift No. 4, USDA-FS-DES(Adm) 73-19.

The environmental statement concerns the proposed construction of one additional chairlift, network of intermediate ski runs, pavilion with lavatory facilities, parking area and access to complement the existing Mount Hood Meadows, Oregon, Ltd. ski area in Hood River County, Oreg. This draft environmental statement was filed with CEQ on September 14, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.
USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, OR 97208.
Mount Hood National Forest, Forest Supervisor's Office, 340 Northeast 122d Avenue, Portland, OR 97216.

A limited number of single copies are available upon request to T. A. Schlapfer, Regional Forester, 319 SW. Pine Street, Portland, OR 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering. Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. T. A. Schlapfer, Regional Forester, 319 SW. Pine Street, Portland, OR 97208. Comments must be received by November 2, 1972, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

SEPTEMBER 27, 1927.

[FR Doc.72-16852 Filed 10-2-72;8:50 am]

Rural Electrification Administration

BRAZOS ELECTRIC POWER COOPERATIVE, INC., WACO, TEX.

Notice of Availability of Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with release of loan funds to Brazos Electric Power Cooperative, Inc., of Waco, Tex. This loan, together with funds from other sources, will provide financing for the construction of a 200,000-kw. generating unit to be added at the existing Palo Pinto Generating Station.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4322 or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 27th day of September 1972.

JAMES N. MYERS,
Acting Administrator, Rural Electrification Administration.

[FR Doc.72-16772 Filed 10-2-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 2B2710]

M & T CHEMICALS, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2710) has been filed by M & T Chemicals, Inc., Rahway, NJ 07065, proposing that § 121.2602 *Octyltin stabilizers in vinyl chloride plastics* (21 CFR 121.2602) be amended to provide for extraction testing procedures for di(*n*-octyl) tin S, S'-bis(isooctylmercapto acetate) and di(*n*-octyl) tin maleate polymer stabilizers from vinyl chloride plastics, in order to determine compliance with the prescribed 1 p.p.m. limitation of each or any combination of the stabilizers in food from contact with such stabilized finished vinyl chloride plastic articles.

Dated: September 25, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.7-16749 Filed 10-2-72;8:46 am]

[FAP 3B2833]

PPG INDUSTRIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5), notice is given that a petition (FAP 3B2833) has been filed by PPG Industries, Inc., Post Office Box 312, Delaware, OH 43015, proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) be amended in subparagraph (b)(3)(xx) by revising the limitations for the item "Butyl acrylate-styrene-methacrylic acid-hydroxypropyl methacrylic copolymers ------" to extend its use to include contact with food at temperatures above 150° F., and with food containing more than 8 percent alcohol; and to delete the requirements that the copolymers be limited to use in coatings that are applied by electrodeposition.

Dated: September 22, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-16750 Filed 10-2-72;8:46 am]

National Institutes of Health

BUREAU OF HEALTH MANPOWER EDUCATION

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of meeting of the following committee and the executive secretary from whom summaries of meetings may be obtained.

Committee, date, time, and location of meeting
Preventive Medicine and Dentistry Review Committee, William J. Holland, Executive Secretary, 10/16-18/72, 9 a.m., building 31, Conference Room 7.

This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss, and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

SEPTEMBER 26, 1972.

[FR Doc.72-16809 Filed 10-2-72;8:50 am]

NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Blood Resource Program Advisory Committee, October 2 and 3, 1972, National Institutes of Health, Building 31, Conference Room 10. The committee will discuss progress in certain scientific areas related to the Blood Resource Program and consider the advisability and relative priority of new program areas. The meeting will be open to the public from 9:00 a.m. to 5 p.m., October 2 and from 9 a.m. to 12 noon on October 3. The meeting will be closed to the public from 1:30 p.m. to 5 p.m. on October 3, in order to review, discuss and evaluate and/or rank contract proposals in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members and/or summary of the meeting may be obtained: Dr. James M. Stengle, NIH Building 31, Room 4A03.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

SEPTEMBER 26, 1972.

[FR Doc.72-16808 Filed 10-2-72;8:50 am]

Office of Education

LIBRARY SERVICES AND CONSTRUCTION ACT

Promulgation of Federal Shares

Pursuant to section 7(b)(2) and subject to the limitations of section 7(b)(1) of the Library Services and Construction Act, 70 Stat. 293, as amended and it having been found that the three most recent consecutive years for which satisfactory data are available from the Department of Commerce as to per capita income, are the years 1969, 1970, and 1971, the Federal shares for the purposes of titles I and II of such Act for the several States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands are hereby promulgated as indicated below to be effective for the fiscal years ending June 30, 1974, and June 30, 1975.

State	Federal share (percent)	State	Federal share (percent)
Alabama	63.43	Iowa	52.70
Alaska	42.00	Kansas	50.20
Arizona	54.01	Kentucky	60.64
Arkansas	63.72	Louisiana	61.13
California	43.63	Maine	59.19
Colorado	51.25	Maryland	45.74
Connecticut	38.89	Massachusetts	45.05
Delaware	43.92	Michigan	46.43
District of Columbia	33.00	Minnesota	51.34
Florida	53.42	Mississippi	66.00
Georgia	57.16	Missouri	52.82
Hawaii	43.23	Montana	56.59
Idaho	56.84	Nebraska	51.61
Illinois	42.61	Nevada	42.19
Indiana	51.13		

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State	Federal share (percent)	State	Federal share (percent)
New Hampshire	54.08	Tennessee	60.76
New Jersey	42.03	Texas	54.98
New Mexico	60.57	Utah	59.14
New York	39.80	Vermont	56.14
North Carolina	59.18	Virginia	53.80
North Dakota	59.26	Washington	48.97
Ohio	49.22	West Virginia	61.65
Oklahoma	57.88	Wisconsin	52.87
Oregon	52.51	Wyoming	53.45
Pennsylvania	50.08	American Samoa	66.00
Rhode Island	50.20	Trust Territory	100.00
South Carolina	62.73	Guam	66.00
South Dakota	59.35	Puerto Rico	66.00
		Virgin Islands	66.00

Dated: September 20, 1972.

S. P. MARLAND, JR.,
U.S. Commissioner of Education.

[FR Doc.72-16773 Filed 10-2-72;8:48 am]

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15963, October 30, 1968), as amended is hereby amended with regard to section 3-30, *Delegations of Authority*, as follows:

After subparagraph numbered (18) of the paragraph entitled *Specific delegations*, add one new subparagraph reading:

(19) Pursuant to Public Law 91-515, Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970, signed by the President on October 30, 1970, the authority to perform the functions under title IV, Authority for Group Practice.

Dated: September 26, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-16774 Filed 10-2-72;8:47 am]

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 6 (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 F.R. 3685-92 dated February 25, 1970, as amended) is amended to reflect the transfer of the Bureau of Radiological Health to the Food and Drug Administration.

Section 6A is amended as follows:

SEC. 6-A *Mission.* The mission of the Food and Drug Administration (FDA) is to protect the public health of the Nation as it may be impaired by foods, drugs, biological products, cosmetics, medical devices, ionizing, and nonionizing radiation-emitting products and substances, hazardous household substances, poisons, pesticides, food additives, flammable fabrics, and various other types of consumer products. FDA's regulatory functions are geared to insure that: Foods are safe, pure, and wholesome; drugs and biological products are safe and effective; cosmetics are harmless; medical devices are safe and effective; all of the above are honestly and informatively packaged; exposure to potentially injurious radiation is minimized; dangerous household products carry adequate warnings for safe use and are properly labeled; and that hazards incident to the use of various types of consumer products are reduced.

Approved: September 26, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-16775 Filed 10-2-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-72-117]

HARBOR VIEW ET AL.

Notice of Hearing

In the matter of Harbor View, et al., Administrative Division File No. Z-22.

Notice is hereby given that:

1. River-Bend Associates, its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated August 10, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's statement of record for Harbor View and the failure of the Developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked August 28, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 14 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in Room 7233, Department of HUD Building, 451 Seventh Street SW., Washington, DC, on November 2, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 16, 1972.

5. The Respondent is *hereby notified*, That failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

JOHN R. MCDOWELL,
Deputy Interstate Land Sales Administrator.

[FR Doc.72-16832 Filed 10-2-72;8:50 am]

[Docket No. N-72-118]

RIVER BEND ET AL.

Notice of Hearing

In the matter of River Bend, et al. Administrative Division File No. Z-33.

Notice is hereby given that:

1. Steiger-Rathke Development Co., Inc., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated August 10, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's statement of record for River Bend and the failure of the Developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked August 28, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in room 7233, Department of HUD Building, 451 Seventh Street SW., Washington, DC, on November 2, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 26, 1972.

5. The Respondent is hereby notified, that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

JOHN R. MCDOWELL,
Deputy Interstate Land Sales Administrator.

[FR Doc.72-16833 Filed 10-2-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket 71-1; Notice 4]

GLAZING MATERIALS

Notice of Date for Response to Petitions for Reconsideration

The purpose of this notice is to announce a date by which a response will be issued to the petitions for reconsideration of the amendment to Motor Vehicle Safety Standard No. 205, published June 21, 1972 (Docket No. 71-1, Notice 3; 37 F.R. 12237).

The NHTSA was unable to complete action by September 19, 1972, the date by which action would originally have been taken under the agency's policy on petitions for reconsideration. Action on the above petitions is planned for issuance not later than November 1, 1972.

(Secs. 103, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1403, 1407; delegation of authority, 49 CFR 1.51 and 49 CFR 501.8)

Issued on September 27, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.72-16796 Filed 10-2-72;8:53 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50-369, 50-370]

DUKE POWER CO.

Order Reconvening Evidentiary Hearing

In the matter of Duke Power Co. (William B. McGuire Nuclear Station, Units 1 and 2).

The Atomic Safety and Licensing Board has inquired of the parties concerning their readiness to proceed with the further presentation of evidence, and the earliest and most convenient day for reconvening the evidentiary session of the subject proceeding. All attorneys have agreed on the date of October 10, 1972.

Wherefor it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, and take notice that the evidentiary session of this hearing shall reconvene at 10:30 a.m., local time, on Tuesday, October 10, 1972, in Superior Courtroom No. 3, Mecklenburg County Courthouse, 700 East Trade Street, Charlotte, NC 28201.

The parties have estimated that receipt of evidence on the health and safety aspects of this proceeding will be completed by the end of the week. The Board plans to recess the hearing at that time until November 1, 1972, when the hearing will reconvene for the presentation of evidence relating to the environmental aspects of this proceeding.

The Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 29th day of September 1972.

ROBERT M. LAZO,
Chairman.

[FR Doc.72-16939 Filed 10-2-72;8:55 am]

[Dockets Nos. 50-277, 50-278]

PHILADELPHIA ELECTRIC CO., ET AL.

Notice of Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Philadelphia Electric Co., Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co. (the Applicants) which would authorize the Applicants to possess, use, and operate Peach Bottom Atomic Power Station Units 2 and 3, two boiling water nuclear reactors (the Facilities), located on the Applicant's site in Peach Bottom, York County, Pa. Each unit would operate at steady-state power levels not to exceed 3,294 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto. The licenses would be issued upon the receipt of a report on the Applicants' application for facility operating licenses by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the Facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the Facilities was authorized by Construction Permits Nos. CPPR-37 and CPPR-38, issued by the Commission on January 31, 1968. Construction of Unit 2 is anticipated to be completed by March 15, 1973, and Unit 3 by March 15, 1974.

Prior to issuance of any operating licenses, the Commission will inspect each Facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the above-noted construction permit. In addition, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicants will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The Peach Bottom Atomic Power Station, Unit 3 is subject to the provision in 10 CFR Part 50, Appendix D, Section C.2 for notice of opportunity for filing petitions for leave to intervene and requests for hearing on environmental considerations related to continuation, modification, termination, or conditioning of the construction permit. The Peach Bottom Atomic Power Station, Unit 2 is subject to the provision in 10 CFR Part 50, Appendix D, C.3.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicants may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene: (1) With respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit for Unit 3 should be appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the Facility operating licenses for Units 2 and 3. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the

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proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the Facility operating licenses dated August 31, 1970, as amended, and the applicants' Environmental Report dated June 4, 1971, as supplemented, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Martin Memorial Library, 159 East Market Street, York, PA 17401. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for Facility operating licenses; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed Facility operating licenses; and (6) the technical specifications, which will be attached to the proposed Facility operating licenses.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 27th day of September 1972.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-16776 Filed 10-2-72;8:47 am]

[Docket No. 50-333]

POWER AUTHORITY OF STATE OF NEW YORK AND NIAGARA MOHAWK POWER CORP.

Notice of Consideration of Issuance of Facility Operating License and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Power Authority of the State of New York and Niagara Mohawk Power Corp. (the Applicants) which would authorize the Applicants to possess, use, and operate James A FitzPatrick Nuclear Power Plant, Unit 1, a boiling water nuclear reactor (the facility), located at the Power Authority of the State of New York's site on the southeast shore of Lake Ontario in Oswego County, N.Y., at steady-state power levels not to exceed 2,436 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the Applicants' application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-71, issued by the Commission on May 20, 1970.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-71. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operatng licenses were issued in the period January 1, 1970-September 9, 1971. Notice is hereby given, pursuant to the Act and the regulations in 10 CFR Part 2, "Rules of Practice," and Appendix D to 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's Rules of Practice, the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER. Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the result of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

If a request for a hearing or petition for leave to intervene with respect to the issuance of a facility operating license is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permit may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the application for the facility operating license dated June 4, 1971, as amended, and the applicants' environmental report dated May 22, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Oswego City Library, 120 East Second Street, Oswego, NY 13126. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the proposed technical specifications, which will be attached to the proposed facility operating license. Copies of items (3), (4), and (5) may be obtained by request to Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding concerning continuation, modification, termination or conditioning the construction permit, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the appeal board pursuant to 10 CFR 2.785 and will make the delegation pursuant to subparagraph (a) (1) of that section. The appeal board will be composed of a chairman, and two other members to be designated by the Commission. Notice as to the membership of the appeal board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 21st day of September 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-16475 Filed 10-2-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 72-9-89]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of September 1972.

By order 71-4-8, dated April 1, 1971, the Board deferred action and requested comments from interested persons on IATA Resolution 810s, the text of which is as follows:

Resolved that where an Agent issues two or more tickets and/or other transportation documents for parts of the same through journey to the same passenger where the effect of such multiple issuance is to undercut the applicable through fare, such Agent shall be deemed solely responsible for such issuance and be subject to compliance action pursuant to section H of Resolutions 810a and 810aa.

The Board noted that the subject IATA resolution raises substantial issues which require further review prior to final action thereon. Such issues include but are not limited to (a) the effect of the resolution on agents, and (b) the status of IATA through fares. In regard to the latter, the Board questioned whether or not it is unduly restrictive to create sanctions for the multiple issuance of tickets for a through journey involving lawful fares for each component segment.

The Board invited comments from interested persons not only on the questions discussed above but any other ramifications and potential effects of the

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resolution with which the Board should be concerned. Comments have been received from member carriers of IATA,[1] various non-IATA carriers,[2] the American Society of Travel Agents, Inc. (ASTA), and an individual. The IATA carriers, in urging approval of the resolutions, state that sector fares for use on a point-to-point basis and through fares and construction rules are published in airline tariffs as a part of the overall fare structures; that limitations on the sale of fares are sometimes necessitated by economic reasons to balance the worldwide IATA fare structure into an effective marketing tool; that the precedence of one fare over another is an established tariff principle; and that the use of two tickets to undercut an otherwise applicable fare is a violation of the tariffs published by IATA members.

The non-IATA carriers object to the resolution on the grounds that it constitutes an unfair method of competition in violation of section 411 of the Federal Aviation Act of 1958 (the Act) and is adverse to the public interest. These carriers contend that the resolution would prohibit an agent from selling the services of a non-IATA carrier for a portion of a through journey because use of the non-IATA carrier's lower fares would undercut the through IATA fare. They refer to the Board's decision in the TAN case[3] in which the Board conditioned IATA resolutions so as to make them inapplicable to any U.S. IATA carrier with respect to foreign air transportation involving a domestic segment of that carrier.

ASTA likewise cites the Board's action in the TAN case and states that this is sufficient justification for the Board to deny the antitrust immunity which would flow from approval of the resolution. ASTA takes the position that a U.S. citizen should be entitled to purchase in the United States, from either a carrier or agent, at the applicable tariff, any transportation between two points either within or outside the United States for which the passenger is eligible, unless there is written into the tariff an explicit prohibition on the purchase of such transportation for reasons which can be justified and which have received approval of the government having jurisdiction over the tariff. ASTA cites the inherent discrimination against U.S. travel agents in precluding the sale of a ticket in the United States, while the same ticket can be sold to the same passenger in Europe by a European travel agent. ASTA alleges that it is improper for the carriers to use a back-door approach to proscribe the use of otherwise applicable tariffs.

Mr. Donald Lawrence Pevsner, an attorney in Miami, Fla., takes the position that fares designated as noncombinable which possess no restrictions as to the nationality of the purchaser should not be withheld from sale within the United States by U.S. travel agents or IATA carriers, and that for the carriers to deliberately conceal the existence of these special fares constitutes a deceptive practice within the meaning of section 411 of the Act. He urges that if the Board does not disapprove the restriction on sales within the United States, it should compel the carriers, and through them the international Quick Reference Airline Guide, to publish the fact that reduced fares for on-going travel on intra-European segments can be purchased in Europe.

Upon consideration of the comments and information submitted in response to Order 71-4-8, the Board will approve the resolution but will, however, impose appropriate conditions as described below, which we find are required in the public interest.

The Board interprets the resolution (and will so condition it) as applying solely to the issuance of multiple tickets on IATA carriers undercutting an applicable IATA through fare between the same two points to which these particular carriers are parties. Such an interpretation is consistent with the comments of certain member carriers of IATA and with the proper role of IATA carriers vis-a-vis their agents.

Under this interpretation, the resolution will have no application to the sale of transportation on non-IATA carriers, either directly or in conjunction with IATA fares, regardless of whether single or multiple ticketing is involved, so long as the sale is not inconsistent with the applicable tariffs of the carriers involved. Such construction will meet the public interest contentions presented by the non-IATA carriers and ASTA, who urge that the resolution is inconsistent with the decision in the TAN case.

In TAN, the Board found that certain IATA fare resolutions were intended to and did in fact restrict the freedom of U.S.-flag IATA carriers to enter into interline agreements with non-IATA carriers providing for through transportation at less than the agreed IATA fare, and that such resolutions were contrary to the public interest insofar as they restricted the freedom of U.S.-flag IATA carriers to enter into such agreements for through international transportation of passengers over a route involving the domestic segment of a U.S. IATA member. The Board therefore conditioned the IATA resolutions to provide that they should not be binding upon a U.S. air carrier member with respect to foreign air transportation involving only a U.S. domestic segment of that carrier.

Insofar as the resolution here at issue might be interpreted as precluding the sale of two or more tickets for a service in air transportation at rates or fares set forth in lawful tariffs on file with the Board (or not required to be so filed, see infra), merely because the sum of such fares or rates is less than the specified or constructed through IATA fare, it would be inconsistent with the principles enunciated in the TAN case.[4]

The Board therefore concludes that it would be unduly restrictive for IATA resolutions to preclude the sale of any number of tickets for air transportation where the fares to be combined are set forth in lawful tariffs on file with the Board (or not required to be so filed) where the sale would not be in contravention of governing local or joint fares over the particular route from point of origin to point of destination for the specified service by the same carriers.[5] Accordingly, we will attach appropriate conditions to our order of approval to prevent any such unwarranted restriction with respect to situations involving multiple tickets for transportation solely upon IATA carriers.[6]

As indicated, the Board concludes that as interpreted and conditioned the resolution warrants approval under the criteria of the Act. In this regard, the carriage of persons by air between a point in the United States and a point outside thereof constitutes air transportation within the meaning of the Federal Aviation Act. Such carriage constitutes air transportation whether or not stops are made at intermediate points, whether the transportation involves single or multiple carriers and whether or not a single service or fare class is used, so long as the journey is a single through trip. Under section 403 of the Act, air carriers and foreign air carriers are required to set forth in their tariffs filed with the Board all rates, fares, and charges for their air transportation services. Section 403 prohibits air carriers, foreign air carriers, and their agents from selling air transportation except in accordance with such tariffs.[7]

Application of these principles to the instant resolution indicates that this qualified approval is warranted.

Some of the comments filed in respect to this matter advert to certain fares applicable only between foreign points and designated as "noncombinable" thus precluding their use in combination with fares to or from the United States.[8] The instant resolution would effectively preclude travel agents from using such fares in combination with other IATA fares when the through IATA fare would be undercut. An example of such a fare is an intra-European round-trip excursion fare from London to Beirut and return which provides a discount from normal fares and is designated as "noncombinable" in the IATA resolution creating the fare. It is contended that it is unfair to the U.S. public and to U.S. travel agents to so limit the availability of these fares. However, we see nothing to bar the sale of such fares in the United States, per se, so long as they are not applicable in air transportation within the meaning of the Act. Conversely, such fares may not be sold by an air carrier, a foreign air carrier, or the agent of either for use in air transportation whether or not the through IATA fare is undercut.

Thus, there is no bar to a sale in the United States of the London-Beirut excursion fare, where the excursion constitutes a single trip or journey, although the Act does not contemplate the filing of such fare with the Board. However, the prohibition in the Act against selling air transportation except in accordance with applicable tariffs would preclude the sale of such excursion fare on a U.S. or foreign air carrier in combination with a New York-London fare for through air transportation to Beirut, as a segment of a through New York-Beirut trip.

The question remains whether the Board should continue to disclaim jurisdiction over such noncombinable fare resolutions, in the light of the policy questions raised. We shall not, however, attempt to decide in this order whether our long-standing policy in this regard should be maintained or changed. While some of the comments may be construed to go to this question, the Board's order did not raise the matter as such and the parties have not had adequate opportunity to consider and argue a question of this significance.

The Board, acting pursuant to sections 412 and 414 of the Act, does not find the following resolution, incorporated in the agreement indicated, is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition stated thereafter:

Agreement CAB	IATA No.	Title	Application
22068	810s	Multiple Ticket Issuance by Agent. Provided that said resolution shall be construed as applying solely to the sale of multiple tickets on IATA carriers at an aggregate fare which undercuts the applicable IATA through fare to which such carriers are parties.	1; 2; 3.

Accordingly, it is ordered, That:

1. Agreement CAB 22068, R-33, be and hereby is approved, subject to the condition stated in the finding paragraph above; and

2. IATA Resolution 001 (Permanent Effectiveness Resolution) is hereby conditioned as follows:

No IATA resolution shall be construed as preventing any agent or carrier from selling a ticket or any number of tickets for air transportation to any person who meets the travel requirements affixed to the air fares subject to the stipulations contained in the lawful tariffs of the various carriers involved in said transportation, as filed with the Civil Aeronautics Board (where such filing is required by law).

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72-16842 Filed 10-2-72;8:54 am]

[Docket No. 22973]

NEW ENGLAND SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding will resume on October 10, 1972, at 10 a.m. (e.d.t.), in Room 1031, North Universal Building, 1875 Connecticut Avenue NW., Washington, DC, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on May 5, 1972, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 27, 1972.

[SEAL] GREER M. MURPHY,
Administrative Law Judge.

[FR Doc.72-16843 Filed 10-2-72;8:55 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE ARAB REPUBLIC OF EGYPT (FORMERLY THE UNITED ARAB REPUBLIC)

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1972.

On October 5, 1970, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Arab Republic of Egypt (formerly the United Arab Republic), concerning exports of cotton textiles and cotton textile products from the Arab Republic of Egypt to the United States over a 3-year period beginning on October 1, 1970, and extending through September 30, 1973. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories, and within the aggregate limit specific limits on Categories 1/2, 3/4, 9/26, and 16/21/22/27, for the third agreement year beginning on October 1, 1972.

Accordingly, there is published below a letter of September 26, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the amounts of cotton textiles in the above categories, produced or manufactured in the Arab Republic of Egypt, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the

[1] One document urging approval was filed for, or supported by American Airlines, Pan American World Airways, Trans World Airlines, Braniff International, National Airlines, and United Air Lines.

[2] Empresa Guatemalteca de Aviacion, Lineas Aereas de Nicaragua, S.A. (LANICA), Transportes Aereos Nacionales, S.A. (TAN) and Loftleidir.

[3] IATA Regional Traffic Conference, Investigation, 24 CAB 463 (1957).

[4] For example, the combination of a U.S. domestic fare from an interior point to a gateway with the IATA fare from the gateway to a foreign point may under some circumstances undercut the through IATA fare. Under the Board's interpretation, the resolution would not apply if any part of the transportation was performed by a non-IATA carrier. The proper use of such U.S. domestic fare requires, of course, that all tariff conditions be complied with. As regards IATA carriers, we note that IATA Resolution 014a already includes the condition that "Nothing shall be deemed to preclude the combination of specified or constructed IATA fares and special fares within the United States subject to all conditions of such special fares being complied with."

[5] It is not the Board's intention to abrogate the tariff construction regulations providing that a local or joint fare takes precedence over the aggregate of intermediates for the same specified service by the same carriers, 14 CFR 221.62. The Board notes, however, that a through fare which is higher than the aggregate of intermediate fares is ordinarily considered to be unreasonable per se, and would not ordinarily be permitted to go into effect.

[6] While the resolution by its terms is stated to be applicable to the issuance by an agent of two or more tickets which undercut an applicable IATA through fare, the public interest problem stemming from an IATA restriction on the issuance of tickets is equally applicable to situations where lawful tariff fares might be combined in a single ticket or where the ticket was issued by an IATA carrier rather than an IATA agent. Accordingly, our condition herein will attach to IATA Resolution 001 (Permanent Effectiveness Resolution) to prevent an unwarranted IATA restriction upon sales by carriers as well as agents and it will apply to the combination of tariff fares on one or more tickets, and to transportation involving non-IATA as well as IATA carriers.

[7] It should be noted that section 403 is applicable only to air carriers and foreign air carriers as defined in the Act. It does not apply to carriers which do not serve any point in the United States. There is no prohibition against such carriers selling their services in the United States, directly or through their agents, without a tariff on file with the Board, nor is there any explicit prohibition against the use of such fares by a passenger who is also utilizing a fare applicable to foreign air transportation. The Board also recognizes that the tariff of a foreign air carrier may not contain all of the local homeland fares and rates of such carrier, yet a U.S. originating passenger whose destination is a point served only by such a carrier's internal domestic services needs to be able to purchase a ticket through to that destination, using the foreign carrier's local domestic fare. The Board does not construe that either section 403 or the provisions of the resolution 810s would preclude such a sale.

[8] The Board has for many years disclaimed jurisdiction over resolutions establishing such fares because the resulting fares do not affect air transportation within the meaning of sections 403 and 412. Such fares have been treated as not properly includable in tariffs filed with the Board.

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bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 26, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 5, 1970, between the Governments of the United States and the Arab Republic of Egypt, effected by an exchange of notes between the Government of the United States and the Government of India, representing the interests of the Arab Republic of Egypt, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the twelve-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles in Categories 1/2, 3/4, 9/26, and 16/21/22/27, produced or manufactured in the Arab Republic of Egypt, in excess of the following levels of restraint:

Category	*Twelve-month level of restraint*
1/2	3,528,000 pounds (of which not more than 3,307,500 pounds may be in Category 1, and not more than 441,000 pounds may be in Category 2).
3/4	661,500 pounds (of which not more than 66,150 pounds may be in Category 4).
9/26	33,075,000 square yards (of which not more than 27,562,500 square yards may be in Category 9, and not more than 11,025,000 square yards may be in Category 26).
16/21/22/27	9,922,500 square yards (of which not more than 3,583,125 square yards may be in Category 16, not more than 3,858,750 square yards may be in Category 21, not more than 3,858,750 square yards may be in Category 22, and not more than 2,149,875 square yards may be in Category 27).

In carrying out this directive, entries of cotton textiles in the above categories, produced or manufactured in the Arab Republic of Egypt, which have been exported to the United States from the Arab Republic of Egypt prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the above levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 5, 1970, between the Governments of the United States and the Arab Republic of Egypt which provide, in part, for the limited carryover of shortfalls in certain categories to the next agreement year and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Arab Republic of Egypt with respect to imports of cotton textiles and cotton textile products from the Arab Republic of Egypt have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16766 Filed 10-2-72;8:47 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE FEDERATIVE REPUBLIC OF BRAZIL

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1972.

On October 23, 1970, the U.S. Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of the Federative Republic of Brazil concerning exports of cotton textiles and cotton textile products from the Federative Republic of Brazil to the United States over a 5-year period beginning on October 1, 1970, and extending through September 30, 1975. On May 9, 1972, the bilateral agreement was amended, inter alia, in the following respects: (1) The term of the agreement was extended through September 30, 1977; and (2) the specific ceiling on Category 24 was deleted.

Among the provisions of the agreement, as amended, are those establishing an aggregate limit for the 64 categories, group limits, and within the group limits specific limits on Categories 1–4, 9, 18/19, and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64 for the third agreement year beginning October 1, 1972.

Accordingly, there is published below a letter of September 26, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1–4, 9, 18/19, and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64, produced or manufactured in the Federative Republic of Brazil, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 26, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1–4, 9, 18/19, and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64 produced or manufactured in the Federative Republic of Brazil, in excess of the following levels of restraint:

Category	*Twelve-month levels of restraint*
1–4	pounds 7,190,217
9	square yards 13,230,000
18/19 and part of 26 (printcloth) [1]	do 11,576,250
22/23	do 4,961,250

[1] In Category 26, the T.S.U.S.A. numbers for printcloth are:

320...34	322...34	327...34
321...34	326...34	328...34

Part of 26/27 (duck) [2]	do	2,756,250
Part of 26/27 (other than printcloth and duck) [1, 2]	do	7,166,250
Part of 30/31 [3]	pieces	6,336,205
50	dozen	43,364
51	do	37,170
55	do	15,132
Part of 64 (only T.S.U.S.A. Nos.: 366.6500 and 386.2500	pounds	239,674

[2] The T.S.U.S.A. Nos. for duck are:
320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

[3] All of Categories 30 and 31 except T.S.U.S.A. No. 366.2740.

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Federative Republic of Brazil, which have been exported to the United States from the Federative Republic of Brazil prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the above levels of restraint for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that within the aggregate limit and group limits, the limitations on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from the Federative Republic of Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16767 Filed 10-2-72;8:47 am]

COTTON, WOOL, MAN-MADE FIBER TEXTILES AND TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 27, 1972.

Under the bilateral Cotton Textile Agreement and the bilateral Wool and Man-Made Fiber Textile Agreement, both of December 30, 1971, between the Governments of the United States and the Republic of China, the Republic of China has undertaken to limit its exports of cotton, wool, and man-made fiber textiles and textile products to the United States to certain designated levels. Pursuant to these agreements, the Governments of the United States and the Republic of China have established an administrative mechanism intended to preclude circumvention of the licensing system for exports to the United States of cotton, wool, or man-made fiber textiles and textile products produced or manufactured in the Republic of China. The purpose of this notice is to announce the implementation of this administrative mechanism.

Effective on the publication of the letter set forth below, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton, wool, or man-made fiber textiles and textile products, produced or manufactured in the Republic of China, and exported therefrom to the United States on and after that date, for which the Republic of China has not issued an appropriate visa, fully described below, will be prohibited. Application of the visa system to wool and man-made fiber textile products exported from the Republic of China prior to the date of publication is to become effective sixty (60) days following that date. The 60-day period, however, will not apply to cotton textiles and cotton textile products exported from the Republic of China prior to the effective date of the present system because these shipments have been subject to identical visa requirements over the past 4 years. (See 33 F.R. 6944 and 37 F.R. 16430.)

The visa will be a stamp on the back side of the original copy of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice when used); will indicate the actual quantity of goods involved in the appropriate unit or units of measure in the correct category or categories corresponding to the merchandise; and the signature of the official issuing the visa. The official authorized to issue such visas is P. Y. Liu. A facsimile of the stamp, along with Mr. Liu's signature, are published as enclosures to the letter set forth below.

Interested parties are advised to take all necessary steps to assure that cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in the Republic of China, which are to be entered into the United States for consumption or withdrawn from warehouse for consumption will meet the stated visa requirements.

There is published below a letter of September 27, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs implementing the administrative mechanism.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

SEPTEMBER 27, 1972.

DEAR MR. COMMISSIONER: On May 3, 1968, the Chairman, President's Cabinet Textile Advisory Committee, directed you to prohibit, effective June 10, 1968, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of any cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in the Republic of China which did not meet certain visa requirements. The directive of May 3, 1968 was amended by the directive of August 9, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, which authorized you to recognize as part of the visa requirement for shipments of cotton textiles and cotton textile products from the Republic of China, effective upon publication of that letter in the FEDERAL REGISTER, either the seal enclosed in the earlier letter of May 3, 1968, or the seal enclosed in the letter of August 9, 1972. The present directive cancels the directive of May 3, 1968 as amended by that of August 9, 1972.

Under the provisions of the bilateral Cotton Textile Agreement and the bilateral Wool and Man-Made Fiber Textile Agreement, both of December 30, 1971, between the Governments of the United States and the Republic of China, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on the date of publication of this letter in the FEDERAL REGISTER and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64 and wool textile products in Categories 101–126, 128, and 131–132 and man-made fiber textile products in Categories 200–243, produced or manufactured in the Republic of China, for which the Republic of China has not issued an appropriate visa, fully described below, provided, however, that wool textile products in Categories 101–126, 128, and 131–132 and man-made fiber textile products in Categories 200–243, produced or manufactured in the Republic of China and exported therefrom prior to the date of publication shall not be denied entry until 60 days after the date of publication.

The visa will be a stamp on the back side of the original copy of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice when such form is used); will indicate the actual quantity of cotton, wool, man-made fiber textiles and textile products involved in the appropriate unit or units of measure in the correct category or categories corresponding to the merchandise; and the authorized signature of the official issuing the visa. The facsimile of the stamp, along with the signature of the official authorized to issue visas, are enclosed.

You are further directed to allow entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of cotton, wool, and man-made fiber textiles and textile products, produced or manufactured in the Republic of China, and exported to the United States from the Republic of China, notwithstanding the designated shipment or shipments do not meet the aforementioned visa requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

A detailed description of the categories in terms of TSUSA numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

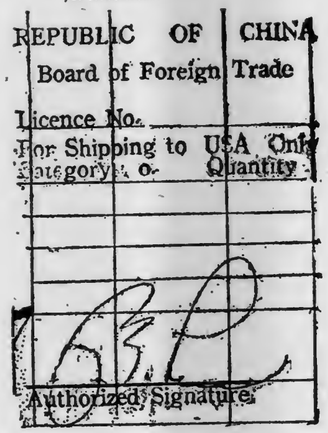
The actions taken with respect to the Government of the Republic of China and with

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respect to imports of cotton, wool, and man-made fiber textiles and textile products from the Republic of China, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources



(P. Y. Liu)

[FR Doc.72-16768 Filed 10-2-27;8:47 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 28, 1972.

On December 30, 1971, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1972, concluded a new comprehensive bilateral agreement with the Government of the Republic of Korea concerning exports of cotton textiles and cotton textile products from Korea to the United States. Subsequently, the agreement was amended by limiting the product coverage of the specific export limitation for Category 31 to shop towels (also known as wiping cloths); and by deleting the specific export limitation for Category 63. Among the provisions of the agreement, as amended, are those establishing specific export limitations on Categories 7, 9/10, 18/19/26 (printcloth), 22/23, 26 (duck fabric), 27/26 (other than duck fabric and printcloth), 31 (shop towels), 34/35, 38, 39, 45, 46/47, 48, 49, 50, 51, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only), for the third agreement year beginning October 1, 1972.

There is published below a letter of September 28, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Republic of Korea, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning on October 1, 1972, and extending through September 30, 1973, be limited to certain designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 28, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 7, 9/10, 18/19/26 (printcloth only), 22/23, 26 (duck fabric), 27/26 (other than duck fabric and printcloth), part of 31, 34/35, 38, 39, 45, 46/47, 48, 49, 50, 51, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only), produced or manufactured in the Republic of Korea in excess of the following 12-month levels of restraint:

Category		Twelve-month level of restraint
7	square yards	761,383
9/10	do	4,606,362
18/19/26	(printcloth only) [1]	
	do	2,930,834
22/23	do	2,017,665
26 (duck fabric) [2]	do	16,750,399

[1] In Category 26, the T.S.U.S.A. Nos. for printcloth are:

320.--34 322.--34 327.--34
321.--34 326.--34 328.--34

[2] The T.S.U.S.A. Nos. for duck fabric are:

320.--01 through 04, 06, 08
321.--01 through 04, 06, 08
322.--01 through 04, 06, 08
326.--01 through 04, 06, 08
327.--01 through 04, 06, 08
328.--01 through 04, 06, 08

Category		Twelve-month level of restraint
336.2740)	pieces	1,448,150
34/35	do	264,470
38	pounds	175,887
39	dozen pairs	168,607
45	dozen	45,684
46/47	square yards equivalent	1,698,205
48	dozen	14,503
49	do	38,069
50	do	63,959
51	do	86,798
52	do	45,684
53	do	14,503
54	do	68,525
55	do	14,503
60	do	39,594
64 (only T.S.U.S.A. No. 366.4500, 366.4600, and 366,4700)	pounds	695,904
64 (only T.S.U.S.A. Nos. 347.3340)	do	85,274
27/26 (other than duck fabric and printcloth) [3]	do	2,208,494

[3] In Category 26, all T.S.U.S.A. Nos. not included in footnotes 1 and 2.
31 (only T.S.U.S.A. No.

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories produced or manufactured in the Republic of Korea, which have been exported to the United States from the Republic of Korea prior to October 1, 1972, shall, to the extent of any unfilled balances be charged against the levels of restraint established for such goods for the 9-month period beginning January 1, 1972, and extending through September 30, 1972. In the event that the levels of restraint for the 9-month period ending September 30, 1972, have been exhausted by previous entries, such goods shall be subject to the levels of restraint set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16935 Filed 10-2-72;8:55 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PERU

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1972.

On November 23, 1971, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Peru concerning exports of cotton textiles and cotton textile products from Peru to the United States over a 5-year period beginning on October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories and within the aggregate limit specific limits on Categories 22, 56, 57, 58, and 60 for the second agreement year beginning October 1, 1972.

Accordingly, there is published below a letter of September 26, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

SEPTEMBER 26, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 23, 1971, between the Governments of the United States and Peru, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 22, 56, 57, 58, and 60, produced or manufactured in Peru, in excess of the following levels of restraint:

Category		Twelve-month levels of restraint
22	square yards	1,837,500
56	dozen	51,359
57	do	42,000
58	do	94,500
60	do	15,156

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which have been exported to the United States from Peru prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 23, 1971, between the Governments of the United States and Peru which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Peru and with respect to imports of cotton textiles and cotton textile products from Peru have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16769 Filed 10-2-72;8:47 am]

FEDERAL MARITIME COMMISSION

[Docket No. 72-55]

K&S FORWARDERS

Independent Ocean Freight Forwarder Application; Order of Investigation and Hearing

By letter dated July 28, 1972, K&S Forwarders, 590 Lycaste Avenue, Detroit, MI 48214, was notified of the Federal Maritime Commission's intent to deny its application for an independent ocean freight forwarder license.

The reason for the intended denial is that the applicant engaged in freight forwarding without a license in apparent violation of section 44(a), Shipping Act, 1916.

K&S Forwarders has requested a hearing to show that denial of the application is unwarranted.

Therefore, it is ordered, Pursuant to sections 22 and 44 of the shipping Act, 1916 (46 U.S.C. 821 and 841(b)), that a proceeding is hereby instituted to determine whether, in view of its past activities, K&S Forwarders is fit, willing, and able properly to carry on the business of forwarding to conform to the provisions of the Shipping Act, 1916, within the meaning of that statute; and whether its application should be granted or denied.

It is further ordered, That this proceeding determine whether K&S Forwarders has violated section 44(a), Shipping Act, 1916.

It is further ordered, That K&S Forwarders be made respondent in this proceeding and that the matter be assigned for hearing before an Administrative Law Judge of this Commission's Office of Hearing Examiners on a date and place to be announced.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notices of hearing be served on the respondent.

It is further ordered, That any persons other than the respondent, who desires to become a party to this proceeding and to participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with a copy to respondent.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding including notices of time and place of hearing or prehearing conferences, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-16744 Filed 10-2-72;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/operator and vessels
01027---	Flensburger Befrachtungskontor Uwe C. Hansen & Co.: Hasselburg.
01028---	Flensburger Schiffsparten-Vereinigung A.G.: Sirius. Uranus.
01088---	Schulte & Bruns: Elise Schulte.
01228---	A/S Consenio: Stove Caldedonia.

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Category		Twelve-month level of restraint
01552---	Dampskibs-Aktieselskabet Progress: Stolt Progress.	
01641---	The Bank Line Ltd.: Minchbank.	
01765---	Caribbean Steamship Co., S.A.: Montagu Bay. Exuma Sound.	
01982---	AB Svenska Ostasiatiska Kompaniet: Nagasaki.	
02179---	Globtik Tankers International Ltd.: Globtik Mercury.	
02202---	Humble Oil & Refining Co.: Esso 258.	
02249---	Fisser & V. Doornum: Cap Vincent.	
02256---	Sigurd Haavik A/S: Mardina Cooler.	
02355---	Van Nievelt, Goudriaan & Co.'s. Stoomvasrt Maatschappij N.V.: Phecda.	
02436---	Alexander Shipping Co., Ltd.: Tewkesbury. Shaftesbury.	
02867---	Kee Yuen Maritime (Panama) Corp., S.A.: Kee Lee.	
02948---	Raymond International Inc.: Century. Constitution. Monarch.	
02956---	Ashland Oil Inc.: Kevin.	
03214---	Salenrederierna Aktiebolag: Bolero.	
03284---	The Indo-China Steam Navigation Co., Ltd.: Eastern Trader.	
03420---	Dainichi Kaiun Kabushiki Kaisha: Nittyu Maru.	
03432---	Hinode Kisen K.K.: Tomiwaka Maru No. 8.	
03441---	Japan Line K.K.: Kochu Maru.	
03489---	Sanwa Shosen K.K.: Yamaasa Maru.	
03509---	Taiyo Shosen K.K.: Tokuyo Maru.	
03933---	Newdigate S.S. Co., Ltd.: World President.	
03975---	Ulysses Shipping Enterprises S.A.: Ulysses Castle.	
03976---	Antikleia Compania de Vapores S.A.: Ulysses Reefer.	
03978---	Arkeisios Compania de Vapores S.A.: Ulysses Island.	
04000---	J.D. Street & Co., Inc.: St. Louis Zephyr.	
04287---	Monsanto Co.: Chem-96.	
04398---	Hapag-Lloyd Aktiengesellschaft: Freidburg. Lechstein.	
04499---	Junko Gyogyo K.K.: Junkomaru No. 18.	
04564---	Yamashita-Shinnihon Kisen Kaisha: Yamatada Maru.	
04566---	Ken Hieng Navigation Co., Ltd.: Kensei Maru.	
04690---	Partenreederi M.V. Brakersand: Bradkersand. Nordenhamersand. Lockfiethersand.	
05090---	Esso Petroleum Co., Ltd.: Esso Westminister.	
05292---	N.V. Scheepvaart & Handelmij Westerpark: Dorthea.	
05349---	Trans-Caribbean Lines Inc.: Deep Freeze.	
05505---	Marmanosa Compania Naviera S.A.: Pan.	
05862---	World Tide Shipping Corp.: Theomar.	
05993---	Kabushiki Kaisha Fukuyoshi Maru: Fukuyoshi Maru No. 35.	
05997---	Good Will Shipping Co., Ltd.: Good Will.	
06090---	Baltimore Gas & Electric Co.: G&E 0-11.	
06787---	Evergreen Marine (Singapore) Private Ltd.: Ever Lucky. Ever Nobility.	
06892---	Pyramid Container Transport: Pyramid Vega.	

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-16745 Filed 10-2-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. AR64-1, etc.]

PHILLIPS PETROLEUM CO., ET AL.

Notice of Petition for Special Relief From Refund Obligations

SEPTEMBER 27, 1972.

Take notice that on September 5, 1972, Phillips Petroleum Co. (Petitioner), Barlesville, Okla. 74004, filed in Docket No. AR64-1, et al., a petition for special relief from refund obligations and requests that a Commission order entered in this proceeding include provisions which will authorize and allow Petitioner and any other producer which may be willing to make similar commitments, in lieu of refunding monies collected subject to refund for sales of natural gas from the Hugoton-Anadarko Area, to retain and utilize such refund amounts in increased exploration for and development of natural gas in this area. The details of Petitioner's proposals are more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that under the terms of the proposed Hugoton-Anadarko Area Rate Settlement as of December 31, 1969, it would be obligated to refund to interstate pipelines in the area approximately $28,700,000; interest calculated to December 31, 1969, approximates $8,800,000; and both amounts have increased since December 31, 1969, as the result of continued sales and additional interest accruals. Petitioner proposes that it be permitted to retain and utilize all amounts which it may be required to refund under the terms of the order to be issued in the instant proceeding, including interest thereon (applicable refundable monies), in the exploration for and development of new natural gas reserves in the Hugoton-Anadarko Area to be offered for sale to the interstate market. The applicable refundable monies would be expended during the 5-year period ending December 31, 1975, and would be in addition to expenditure by Petitioner during such 5-year period for exploration for oil and gas of the same amount which Petitioner expended for oil and gas in the Hugoton-Anadarko Area during the past 5 years.

Petitioner states that in order to utilize the applicable refundable monies effectively, it will be necessary that Petitioner conduct an extensive geological and geophysical program and acquire and evaluate a great number of leases prior to commencement of actual drilling. Petitioner submits that it is thus obvious that there will be a considerable lapse of time between commencement of the program and the discovery and delivery of substantial volumes of gas and states that should it become apparent that the applicable refundable monies cannot all be prudently utilized by December 31, 1975, then Petitioner may, by July 1, 1975, petition the Commission for a 1-year extension of the 5-year period during which such monies are to be expended.

Petitioner states that during the years 1964 through 1968 it expended in the Hugoton-Anadarko Area for oil and gas exploration approximately $23 million. During the 5 years ending December 31, 1975, under the instant proposal Petitioner would expend in the Hugoton-Anadarko Area for oil and gas exploration at least the same amount as expended for such purposes in the area during 1964 through 1968 (normal expenditures for oil and gas exploration) plus the applicable refundable monies for oil and gas development. In expending the applicable refundable monies for gas exploration and development in the Hugoton-Anadarko Area, Petitioner would utilize its best efforts to discover and develop gas-productive reservoirs.

The specific areas in which applicable refundable monies would be expended would be selected by Petitioner and would be delineated from time to time in writing to the Commission, with expenditure of such monies in or in respect of any area so delineated to commence subsequent to such delineation. Any expenditure made in or in respect of any delineated area during the 5-year period ending December 31, 1975, but prior to delineation thereof would be included as part of Petitioner's normal expenditures for oil and gas exploration. Except as hereinafter provided, all expenditures for gas exploration and development made in or in respect of each delineated area subsequent to delineation would be counted as an expenditure of applicable refundable monies. If any expenditure in or in respect of such delineated area results in a commercial discovery of gas or results in a dry hold or otherwise establishes that the delineated area is unproductive or noncommercial, the expenditure would be charged against the applicable refundable monies. If any expenditure in or in respect of a delineated area results in a discovery of oil the expenditures would be credited against Petitioner's normal oil and gas exploration expenditures. Any well which is classified by a state regulatory authority as a gas well or as a gas cap well from which the production is governed by the allowable for gas shall be considered as a discovery of gas.

Under the instant proposal, Petitioner would have the right and authority to select the acreage it would delineate for exploration and development and to determine the commencement, continuance, or discontinuance of exploratory and development efforts in the delineated areas. Petitioner would not charge against applicable refundable monies any expenditures outside the Hugoton-Anadarko Area without prior approval by the Commission.

When commercial gas discoveries would be made on delineated acreage, Petitioner would offer for sale to interstate gas pipelines to which applicable refundable monies would otherwise be refunded, at the then-current applicable Commission ceiling prices, all gas reserves discovered under such delineated acreage through the expenditure of applicable refundable monies.

Petitioner states that it is its intention that all gas so discovered on such delineated acreage would be sold to interstate pipelines in approximately the same ratio that each pipeline's interest in the applicable refundable monies bears to the total refundable monies. The contracts covering these sales would be in form and substance comparable to those in general use in the industry. The price to be paid would at all times be the highest price allowed from time to time by the Commission.

Under the instant proposal, Petitioner would, by 6 months prior written notice to the Commission, be able to terminate its participation in this plan as of the following January 1, and would thereafter be relieved of any further obligations under the proposal except that it would refund with interest any applicable refund monies not expended prior to the date of termination. Petitioner agrees that any commercial gas discovery made on delineated acreage prior to such termination date and upon which refundable monies have been spent would be committed to the interstate gas market. If, at the end of the 5-year period ending December 31, 1975, or as such term might be extended, any part of the applicable refundable monies which has not been expended in the exploration and development of gas in the Hugoton-Anadarko Area or other approved areas would be refunded with interest to the applicable pipeline purchaser.

Petitioner states that it would certify to the Commission by April 1 of each succeeding year the amount of its normal expenditures for oil and gas exploration expended during the preceding calendar year. It is Petitioner's intention that nothing in the instant proposal should be interpreted as giving the Commission or its staff the right to direct or supervise any of Petitioner's exploration and development facilities.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than October 17, 1972, views and comments in writing concerning the petition for special relief from refund obligations. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16754 Filed 10-2-72;8:46 am]

[Project 2418]

COMMONWEALTH EDISON CO.

Notice of Application for Surrender of Minor License

SEPTEMBER 26, 1972.

Public notice is hereby given that application for surrender of license was filed February 22, 1972, and supplemented May 15, 1972, under the Federal Power Act (16 U.S.C. 791a-825) by Commonwealth Edison Co. (Correspondence to: Mr. Preston B. Kavanagh, Secretary, Commonwealth Edison Co., Post Office Box 767, Chicago, IL 60690) located in the city of Rockford, Winnebago County, Ill., on the Rock River.

The Licensee desires to surrender its minor license for Fordam Dam Project No. 2418. The two generating units are not in operation and plant operations ceased October 1, 1971.

The Licensee proposes to:

1. Permanently disconnect project works from the system transmission network.

2. Remove a section of the shaft between the turbines and generators and fix in place the runner blades by a beam system between the turbine shaft and foundation wall.

3. Continue normal maintenance of project works after surrender.

If the Commission authorizes surrender of the license the dam would continue to be under the jurisdiction of the State of Illinois, Department of Transportation. At such time as it becomes feasible, Licensee proposes to convey the project works and adjoining property to an appropriate governmental body to use for the benefit of area residents.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 16, 1972, file with the Federal Power Commission in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16810 Filed 10-2-72;8:50 am]

[Docket Nos. RP72-91, etc.]

SOUTHERN NATURAL GAS CO.

Order Accepting Revised Tariff Sheets for Filing Subject to Refund and Consolidating Proceedings

SEPTEMBER 26, 1972.

Pipeline rates—increased rate filing accepted for filing subject to refund in pending proceeding, Southern Natural Gas Co., Docket Nos. RP72-91, RP73-13, RP73-16.

Southern Natural Gas Co. (Southern) on August 30, 1972, tendered for filing revised tariff sheets in its FPC Gas Tariff, Sixth Revised Volume No. 1, proposed to become effective as of September 1, 1972.[1] The revised tariff sheets contain proposed changes in rates and charges which would increase annual revenues for jurisdictional sales and service in the amount of $2,124,014 based upon operations for the 12-month period ended August 31, 1971, as adjusted. The proposed revenue increase is over and above the rates and charges which became effective July 1, 1972, subject to refund in Docket No. RP72-91, as adjusted to include the $1,083,454 increase which became effective as of August 1, 1972, by Commission order herein issued September 8, 1972.

Southern states that the increase in rates reflects only the increase in gas supply costs resulting from the effect of the increase in the Louisiana severance tax, effective September 1, 1972, on gas purchased and the effect of the same tax increase on gas produced by Southern. All other items of costs included in this rate filing are identical to those in its filing in Docket No. RP72-91. No other tariff changes are proposed.

Southern states that, other than in gas supply costs, there has been no material change in its facilities, sales volumes or cost of service as estimated and included in its increased rate filing on December 16, 1971, in Docket No. RP72-91. In support of the August 30 filing Southern includes statements L, M, and N reflecting its cost of service as submitted on December 16, as adjusted to reflect a $3,499,590 overall increase in gas supply costs as of August 1 and September 1. These abbreviated rate filing statements are submitted in lieu of statements A through M, pursuant to § 154.63(b)(3) of the Commission's regulations under the Natural Gas Act.

Southern requests waiver of the notice requirements of § 154.22 of the regulations, citing the waiver of notice provisions for independent producers in Commission Order No. 456. There the Commission stated that pipelines with purchased gas adjustment clauses may accumulate the increased costs resulting from the producer increases in their deferred accounts. In order that it may recover the producer increases, Southern, which does not presently have a purchased gas adjustment clause in its tariff,

[1] Eighth Revised Sheet Nos. 8E, 15E and 26E; 10th Revised Sheet No. 11F; 13th Revised Sheet No. 11J; 14th Revised Sheet Nos. 8A, 8D, 11H, 15A, 15D, 26A, 26D, and 30; 18th Revised Sheet Nos. 9, 16 and 27.

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requests that it be given parity in treatment by making its rate increase effective as of September 1, 1972.

Copies of the August 30 rate filing were served by Southern upon all jurisdictional customers and interested State commissions. Petitions for leave to intervene have been filed by Alabama Gas Corp.; Alabama Municipal Distributors Group; Chattanooga Gas Co.; The Water, Light, and Sinking Fund Commission of the city of Dalton, Ga.; Florida Gas Transmission Co.; Gas Section of the Georgia Municipal Association; Mississippi Valley Gas Co.; South Carolina Electric & Gas Co.; and South Georgia Natural Gas Co. Tennessee Public Service Commission filed a notice of intervention. In its petition, Mississippi Valley Gas Co. objects to Southern's request for waiver of the statutory 30-day notice requirements in § 154.22 of the Commission's regulations under the Natural Gas Act.[2]

Southern's rate filing in substantial part reflects its estimate of supplier rate increases which would become effective as of September 1, 1972. To the extent some of such producer increases may not become effective as of that date, Southern proposes to revise the rates downward.

The Commission finds:

It is necessary and appropriate and in the public interest in carrying out the provisions of the Natural Gas Act to permit Southern to file rate changes designed to track increases in producer rates which reflect increases in the State of Louisiana severance tax, as of September 1, 1972, as hereinafter ordered and conditioned.

The Commission orders:

(A) The revised tariff sheets described above, tendered by Southern on August 30, 1972, are accepted for filing to become effective as of September 1, 1972: *Provided, however,* That Southern shall reduce the rates and charges contained in the subject tariff sheets to reflect any producer increases not actually incurred on September 1, 1972, and shall make refunds accordingly: *And provided, further,* That the rates and charges contained in the subject tariff sheets shall be substituted as of September 1, 1972, for the increased rates and charges in Docket No. RP73-13 and shall be subject to the refund obligations provided in Docket No. RP72-91.

(B) The proceedings in Docket No. RP73-16 are hereby consolidated with those in Dockets Nos. RP72-91, et al., for purposes of hearing and decision.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-16753 Filed 10-2-72;8:46 am]

[2] By virtue of the consolidation of proceedings provided below, these petitions for leave to intervene are deemed to be granted and all intervenors in Docket Nos. RP72-91, et al. are deemed to be intervenors in Docket No. RP73-16.

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. Temporary Instructions constitute Appendix 2 of that manual. The materials contained in Temporary Instructions 625-1, 670-3, and Appendix 1-2 are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore, these Temporary Instructions are set forth in full as follows:

[Temporary Instruction 625-1]

SUBJECT: RECLASSIFICATION OF REGISTRANTS INTO CLASS 1-H

1. After priority is given to the processing of registrants who are, or may be vulnerable for induction in the near future, local boards should reopen and consider anew for classification in Class 1-H, in accord with section 625.2, registrants in the following priority:

a. Registrants with RSN 096 or above, and who are in Classes 1-S, 2-A, 2-C, 2-D, 2-S, 3-A, 4-B, and 4-D.

b. Present members of the 1972 First Priority Selection Group with RSN 096 or above.

c. Registrants who were born in 1953 and whose RSN's are above 100.

d. Registrants in the second or a lower priority selection group.

e. Registrants, not in one of the above categories, who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide relationship in their homes.

2. Reclassification of registrants into Class 1-H by local boards according to the above priority will be accomplished as time and workload permits, but in any event before December 31, 1972.

3. Temporary Instruction No. 622-2, issued September 11, 1972, is rescinded.

4. This Temporary Instruction terminates on December 30, 1972.

Issued: September 27, 1972.

[Temporary Instruction Appendix 1-2]

SUBJECT: RESCISSION OF OPERATIONS FORMS

The following operations forms, rescinded in Order Prescribing Forms No. 252, dated August 18, 1972, and their associated procedural directives and flowcharts, will be removed from Appendix 1, RPM:

Form:	Title
60 -------	Registration Questionnaire—Foreign.
99 -------	Minutes of Action—Continuation Sheet.
111 ------	Classification Advice.
115 ------	Local Board Action Summary Sheet.
115-A ----	Local Board Action Summary Sheet.
171 ------	Apprentice Deferment Request.
199 ------	Notice of Examination Call on State.
262 ------	State Monthly Report of Deliveries, Inductions, and Examinations.
300 ------	Permit for Registrant to Depart from the United States.
304 ------	Delinquency Notice.
306 ------	Report of Government Appeal Agent.

Stock balances of these forms will be removed from inventory and destroyed.

This Temporary Instruction terminates upon completion of the foregoing actions.

Issued: August 20, 1972.

[Temporary Instruction 670-3]

SUBJECT: ELIMINATION OF HYPHENS IN CLASSIFICATION TYPED ON OCR SSS FORMS (INPUT FORMS)

1. Effective immediately a hyphen will no longer be used when typing a selective service classification on an OCR SSS Form.

2. All OCR SSS Forms prepared in the future will be typed with a space between the symbols, for example 1 H, 1 O and 1 A O.

3. When typing Class 1 O the symbol for the letter must be used, not the numerical symbol. Use of the numerical symbol will cause the form to be rejected by the computer.

4. Forms already forwarded to the Computer Service Center with hyphens used in the classification boxes will be accepted and no corrective action will be required.

5. This Temporary Instruction will terminate upon receipt of Chapter 670 of the RPM.

Issued: September 27, 1972.

BYRON V. PEPITONE, *Acting Director.*

SEPTEMBER 27, 1972.

[FR Doc.72-16814 Filed 10-2-72;8:52 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 10]

DEPUTY ADMINISTRATOR

Delegation of Authority

Delegation of Authority No. 10 supersedes Delegation of Authority No. 1 (Revision 2). Delegation of Authority No. 1 (Revision 2) (32 F.R. 177), as amended (36 F.R. 12258), is hereby rescinded without prejudice to actions taken under such delegation of authority prior to the effective date hereof.

Delegation of Authority No. 10 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Deputy Administrator the following authority:

A. To perform any and all acts which I, as Administrator, am authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations and to serve as alter ego to the Administrator and to continue to so serve in the event of absence, resignation, or incapacity of the Administrator with respect to the activities of the Small Business Administration, except exercising authority under sections 7(a)(6), 9(d), and 11 of the Small Business Act, as amended.

B. To declare a disaster area and period and to extend the original disaster period resulting from a disaster declaration.

II. This delegation is not in derogation of any authority residing in the Associate Administrators and Assistant Administrators relating to the operations of their respective programs.

Effective date: September 15, 1972.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.72-16844 Filed 10-2-72;8:51 am]

[Delegation of Authority No. 11]

GENERAL COUNSEL

Delegation on Legal Activities

Delegation of Authority No. 11 supersedes Delegation of Authority No. 2. Delegation of Authority No. 2 (29 F.R. 5052), and Delegation of Authority No. 2.1 (29 F.R. 5851) are hereby rescinded without prejudice to actions taken prior to the date hereof.

Delegation of Authority No. 11 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the General Counsel the following Authority:

A. To approve or decline fees relating to the closing of loans for attorneys retained by SBA.

B. To approve or decline fees and expenses relating to litigation and liquidation matters for attorneys retained by SBA, trustees under deeds of trust, receivers, title examinations and reports, advertising and other necessary litigation expenses.

II. The authority delegated herein may be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting General Counsel.

IV. All authority previously delegated by the Administrator to the General Counsel is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Effective date: September 15, 1972.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.72-16845 Filed 10-2-72;8:51 am]

[Delegation of Authority 12]

ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority

Delegation of Authority No. 12 supersedes Delegation of Authority No. 4. The following delegations of authority are hereby rescinded without prejudice to actions taken under such delegations of authority prior to the effective date hereof: No. 4 (Rev. 2) (35 F.R. 13234), as amended (35 F.R. 16759, 36 F.R. 653, 36 F.R. 8537, 36 F.R. 11491, 36 F.R. 12258, and 37 F.R. 9267); No. 4.1 (Rev. 2) (35 F.R. 18493) as amended (36 F.R. 22028); No. 4.1-1 (Rev. 3) (36 F.R. 302) as amended (36 F.R. 22028); No. 4.2 (Rev. 3) (35 F.R. 19545); No. 4.3 (Rev. 1) (36 F.R. 7290) as amended (36 F.R. 23421); No. 4.3-B (36 F.R. 23421); No. 4.3-B-1 (36 F.R. 24025); No. 4.4 (Rev. 1) (36 F.R. 7291); No. 4.4-1 (Region IX) for Disaster No. 802 (37 F.R. 10415); No. 4.4-1, Amendment 1 (Region IX) for Disaster No. 802 (37 F.R. 14840); No. 4.4-2 (Region IX) for Disaster No. 802 (36 F.R. 11963); No. No. 4.4-1 (Region IX) for Disaster No. (36 F.R. 11684); No. 4.4-1 (Region VII) for Disaster No. 824 (36 F.R. 11963); No. 4.4-1 (Region III) for Disaster No. 839 (36 F.R. 18821); No. 4.4-1 (Region III) for Disaster No. 849 (36 F.R. 21770); No. 4.4-1 (Region I) for Disaster No. 881 (37 F.R. 5269); No. 4.4-1 (Region II) for Disaster No. 849 (36 F.R. 21770); 4.4-1 (Region VI) for Disaster No. 901 (3 documents) (37 F.R. 11811). No. 4.4-1 (Region VIII) for Disaster No. 908 (37 F.R. 13505). Delegation of Authority No. 12 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Associate Administrator for Financial Assistance, the following authority:

A. *Financial Assistance program.* 1. To approve or decline business, development company, economic opportunity, and all types of disaster loan applications, including reconsiderations thereof, and to execute authorizations and modifications pertaining to such loans.

2. To cancel, reinstate, modify, and amend authorizations for loans.

3. To determine eligibility of loan, lease guarantee, and surety bond applicants.

4. To authorize acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

5. To take all necessary actions in connection with the servicing, administration, collection, and liquidation of all loans, other obligations and acquired property, with the exception of those loans classified as in litigation; to resolve nonunanimous Compromise Committee recommendations; to accept or reject a compromise settlement or an indebtedness owed to the Agency for a sum less than the total amount due thereof, but is not authorized:

(a) To sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon.

(b) To deny liability of the Small Business Administration under terms of a participation or guaranty agreement, or the initiation of a suit for recovery from a participation or guaranty agreement.

6. To take all necessary actions in connection with the liquidation of SBIC's and EDA loans for the Department of Commerce.

7. To take all necessary actions in connection with the servicing (financial aspects) of certificates of competency and, as appropriate, financial aspects of contracts let by SBA under section 8(a) of the Small Business Act, as amended.

B. *Lease guarantee program.* 1. To approve or decline applications for the guarantee of the payment of rents under a lease where aggregate rentals do not exceed the lesser of $15,000 per month of $2,500,000 over the term guaranteed.

2. To guarantee sureties of small business against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

3. To enter into reinsurance agreements with participating insurance companies and to modify and revise the same whenever necessary.

4. To approve or decline applications for reinsured guarantees received from participating insurance companies for the payment of rents under a lease where the SBA share of such participation does not exceed the lesser of $15,000 per month or $2,500,000 over the term guaranteed.

5. To take all necessary actions in connection with the servicing, administration, collection, and payment of claims arising under insurance policies upon default of the lessee.

6. To approve the investment of moneys in the Lease Guarantee revolving fund not needed for the payment of current operating expenses or for the payment of current operating expenses or for the payment of claims arising under the Lease Guarantee program, in bonds or other obligations guaranteed as to principal and interest by the United States.

7. To make size determinations for the purpose of lease guarantee and surety bond guarantee programs.

C. *406 program.* 1. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of the following kinds of projects designed to provide technical and management assistance to individuals to enterprises eligible for assistance under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

d. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the

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training and upgrading of potential subcontractors or other small business concerns;

e. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

II. The authority delegated herein may be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Associate Administrator for Financial Assistance.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16846 Filed 10-2-72;8:51 am]

[Delegation of Authority 13]

ASSOCIATE ADMINISTRATOR FOR PROCUREMENT AND MANAGEMENT ASSISTANCE

Delegation of Authority

Delegation of Authority No. 13 supersedes Delegation of Authority No. 5. The following delegations of authority are hereby rescinded without prejudice to actions taken prior to the effective date hereof: Delegation of Authority No. 5, Revision 1 (32 F.R. 178), as amended (32 F.R. 2405); Delegation of Authority No. 5–A (32 F.R. 242); and Delegation of Authority No. 5–A.1 (Revision 1) (35 F.R. 8517). Delegation of Authority No. 13 reads as follows:

I. Pursuant to the authority vested in the Administrator of the Small Business Administration by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and Title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Associate Administrator for Procurement and Management Assistance the following authority:

A. *Procurement Assistance.* 1. To (a) enter into, (b) negotiate, and (c) recommend approval of joint agreements and memoranda of understanding with other Government contracting, procurement, or disposal agencies.

2. To take any and all actions necessary to carry out the provisions of joint agreements and memoranda of understanding with other Government contracting, procurement, or disposal agencies.

3. To take any and all actions necessary to carry out SBA's authority to insure that a fair proportion of total Government procurements, including research and development procurements, be made from small business.

4. To take any and all actions necessary to carry out SBA's authority to encourage the letting of subcontracts by prime contractors to small business concerns.

5. To take any and all actions necessary to carry out SBA's authority to insure that a fair proportion of the total sales of Government property be made to small business concerns.

6. To appeal determinations made under joint agreements or memoranda of understanding by Government contracting, procurement, or disposal agencies to the heads of such agencies.

7. To take any and all actions relating to SBA prime contracting authority.

8. To take any and all actions necessary to carry out the certificate of competency provisions of the Small Business Act, including the issuance or denial of such certificates.

9. To take any and all actions necessary to carry out SBA's authority to make an inventory of productive facilities of small business concerns.

10. To take any and all actions necessary to carry out SBA's authority to utilize effectively the productive facilities of small business concerns.

11. To take any and all actions necessary to carry out SBA's authority to enable small business to obtain materials from its normal sources.

12. To take any and all actions necessary to carry out SBA's authority for procurement assistance in surplus labor areas and area redevelopment areas in the implementation of procurement assistance programs in such areas.

B. *Section 8(a) contracting authority.* 1. To enter into contracts on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, or materials to the Government and agreeing as to the terms and conditions of such contracts.

2. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent to perform any specific Government procurement contract to be let by any such officer; and

3. To arrange for the performance of such contracts or otherwise letting subcontracts to small business concerns of others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts.

II. The authority delegated herein may be redelegated with the exception of subsections I.A.1(a) and I.A.6.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Associate Administrator for Procurement and Management Assistance.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16847 Filed 10-2-72;8:51 am]

[Delegation of Authority 14]

ASSOCIATE ADMINISTRATOR FOR OPERATIONS AND INVESTMENT

Delegation of Authority

Delegation of Authority No. 14 supersedes Delegation of Authority No. 50 (Revision 4). Delegation of Authority No. 50 (Revision 4) (37 F.R. 8035) is hereby rescinded without prejudice to actions taken under such delegation of authority prior to the effective date hereof.

Delegation of Authority No. 14 reads as follows:

I. Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and Title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, the following authority is hereby delegated to the Associate Administrator for Operations and Investment:

A. *Investment activities.* 1. To take any and all actions necessary to carry out the provisions of Titles I, II, and III of the Small Business Investment Act of 1958, as amended, and of the regulations thereunder as amended from time to time, including without limitation all necessary action in connection with the servicing, administration, collection, sale, and liquidation of partially or fully disbursed loans, obligations, and property (real, personal or mixed, tangible or intangible) held by or assigned to SBA and arising out of activities under said Act, and, in connection therewith, to accept or reject offers of settlement or of compromise for cash, credit, or property (real, personal, or mixed, tangible or intangible), and to exercise in the name of the Administration the power conferred on the Administration by section 310 of said Act to issue subpenas.

B. *Disaster activities.* 1. To declare a disaster area and period.

2. To extend the original disaster period resulting from a disaster declaration.

3. To establish disaster field offices and to obligate the Small Business Administration for the rental of office space; and to close disaster field offices when no longer advisable to maintain such offices.

4. To take necessary actions with respect to personnel, financial management, and administrative activities, as are granted to the regional directors.

5. To contract for supplies, materials, and equipment, printing (Government sources only), transportation, communications, space, and special services for the Agency pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that chapter.

II. The authority delegated herein may be redelegated.

III. The authority delegated herein may be exercised by any SBA employee officially designated as Acting Associate Administrator for Operations and Investment.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16848 Filed 10-2-72;8:51 am]

[Delegation of Authority 15]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Delegation of Authority Regarding Administrative and Financial Activities

Delegation of Authority No. 15 supersedes Delegation of Authority No. 7, Revision 2. The following delegations of authority are hereby rescinded without prejudice to actions taken under such delegations of authority prior to the effective date hereof: No. 7, revision 2 (36 F.R. 8713); No. 7–A (36 F.R. 9585); No. 7–A–1 (36 F.R. 11063); No. 7–A–1.1 (36 F.R. 11543); No. 7–B (36 F.R. 9585); and, No. 7–B–1 (36 F.R. 11064).

Delegation of Authority No. 15 reads as follows:

I. Pursuant to the authority vested in the Administrator by the Small Business Act, 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; and title IV of the Economic Opportunity Act of 1964, 78 Stat. 526, as amended, there is hereby delegated to the Assistant Administrator for Administration the following authority:

A. *Administrative services.* 1. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the Agency pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

2. To rent temporarily, within the District of Columbia or elsewhere, such hotel or other accommodations as are needed to facilitate the conduct of meetings of SBA advisory councils.

B. *Financial management.* To assign, endorse, transfer, deliver, or release (but in all cases without representation, recourse or warranty) promissory notes, bonds, debentures, and other obligating instruments on all loans or investments made or serviced by SBA when paid in full or when transferred to the Department of Justice for liquidation.

C. *Claims Under the Federal Tort Claims Act.* To give final approval on actions resulting from any claims subject to the provisions of 28 U.S.C. 2672.

II. The authority delegated herein may be redelegated with the exception of Item I.C.

III. All authority delegated herein may be exercised by an SBA employee designated as Acting Assistant Administrator for Administration.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16849 Filed 10-2-72;8:51 am]

[Delegation of Authority 16]

ASSISTANT ADMINISTRATOR FOR MINORITY ENTERPRISE

Delegation of Authority

Delegation of Authority No. 16 supersedes Delegation of Authority No. 8. Delegation of Authority No. 8 (34 F.R. 781) and Delegation of Authority No. 8–A (34 F.R. 1412) are hereby rescinded without prejudice to actions taken under such delegation of authority prior to the effective date hereof.

Delegation of Authority No. 16 reads as follows:

I. Pursuant to the authority vested in the Administrator of the Small Business Administration by sections 402(c) and 602(d) of the Economic Opportunity Act of 1964, as amended, the following authority under section 406 of the Economic Opportunity Act of 1964, as amended, is hereby delegated to the Assistant Administrator for Minority Enterprise:

A. *406 Program.* 1. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of technical and management assistance projects designed to furnish centralized services with regard to public services and government programs, including programs authorized under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals.

II. This authority may be redelegated.

III. This authority may be exercised by any person designated as Acting Assistant Administrator for Minority Enterprise.

Effective date: September 15, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-16850 Filed 10-2-72;8:51 am]

TARIFF COMMISSION

[TEA-F-44]

WELPRO, INC.

Notice of Investigation and Hearing Regarding Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 on behalf of Welpro, Inc., Seabrook, N.H., the U.S. Tariff Commission, on September 18, 1972, instituted an investigation under section 301(c)(1) of the said act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in item 700.43, item 700.45, and item 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.t., on October 10, 1972, in the hearing room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission loated in Room 437 of the Customhouse.

Issued: September 27, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-16756 Filed 10-2-72;8:46 am]

[TEA-W-156]

WELPRO, INC.

Notice of Investigation Regarding Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Welpro, Inc., Seabrook, N.H., the U.S. Tariff Commission, on September 27, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the type provided for in item 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D.C. 20436, and at the New York

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City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: September 27, 1972.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.72-16757 Filed 10-2-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 89]

ASSIGNMENT OF HEARINGS

SEPTEMBER 28, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No amendments will be entertained after the date of this publication.

MCC 7822, Mississippi Chemical Express, Inc., and Stauffer Chemical Co., Inc.—Investigation of Operations, now being assigned hearing November 7, 1972 (2 days), at New Orleans, La., in a hearing room to be later designated.

MC-118810 Sub 15, L. & B. Express, Inc., now assigned hearing November 30, 1972, at Louisville, Ky., is canceled and application dismissed.

MC 51146 Sub 274, Schneider Transport, Inc., now being assigned November 30, 1972, at Louisville, Ky., in a hearing room to be later designated.

MC 78400 Sub 27, Beaufort Transfer Co., now assigned October 30, 1972, at Jefferson City, Mo., postponed to December 12, 1972 (2 days), at Jefferson City, Mo., in a hearing room to be later designated.

MC 106644 Sub 133, Superior Trucking Co., Inc., now assigned October 4, 1972, at Washington, D.C., is postponed to October 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126373 Sub 3, James A. Bonham doing business as Bonham's Special Delivery, now being assigned November 13, 1972, at Charleston, W. Va., in a hearing room to be later designated.

MC 107615, Union News Transportation Co. Petition for clarification and modification of certificate, continued to October 25, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 6143 Sub 2, Dunbar Tranafer and Storage, Inc., now being assigned November 6, 1972 (1 week), at Memphis, Tenn., in a hearing room to be later designated.

MC 127834 Sub 36, Cherokee Hauling & Rigging, Inc., now assigned November 6, 1972, at Memphis, Tenn., is canceled and the petition is dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-16819 Filed 10-2-72;8:52 am]

[Order 35654]

TRANSPORTATION IN THE ALASKAN TRADE

Order Instituting Investigation

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 29th day of August 1972.

It appearing, that, in Investigation and Suspension Docket No. 8604 et al., Increased Rates and Charges, The Alaska Railroad, 340 I.C.C. 129, we considered a general increase in joint rates proposed by the respondents The Alaska Railroad and Sea-Land Service, Inc., on traffic moving between Seattle, Wash., and other Pacific Northwest points and points in Alaska, in connection with interested parties, Alaska Hydro-Train and the Alaska Trainship Corp.; that it was noted therein that the respondents adhere to a basic parity of rates, although their revenue needs differ greatly; and it was stated therein that:

> it appears that the time has come for a general review of the incidents and conditions of transportation to and from Alaska that are subject, wholly or partially, to regulatory jurisdiction of this Commission.

It further appearing, that it was also stated in the cited report that such a formal investigation would be instituted, and that it would be directed toward examining and defining:

(1) The nature of any special risks affecting transportation conditions in the Alaskan trade, such as extreme weather during the winter season, particularly as they may affect future capital investment in transportation services;

(2) The scope and nature of carrier competition, as it exists between regulated carriers and as it arises from various carrier services not subject to economic regulation;

(3) The general scope of operations of all motor, water, and rail carriers participating in the Alaskan trade, in terms of franchises, seasons of operations, frequency of services, operating results, et cetera; and

(4) The specific arrangements that are made among the carriers for divisions of joint rates as between carriers participating in land-water-land services to and from Alaska.

Therefore,

It is ordered, That, under authority of sections 13, 204, and 304 of the Interstate Commerce Act, an investigation be, and it is hereby, instituted in this proceeding for the purpose of inquiring into the matters set forth next above, to determine whether the aforesaid carrier relationships, divisions of rates, rate relationships, and arrangements, if any, resulting in substantial parity of rates between competing modes of transportation contravene the National Transportation Policy or violate any provision of the Interstate Commerce Act, and to make such orders for the future as are determined to be required by the record;

It is further ordered, That The Alaska Railroad, Sea-Land Service, Inc., Alaska Hydro-Train, a division of Puget Sound Tug & Barge Co., the Alaska Trainship Corp., and all other motor, water, and rail carriers participating directly in the transportation of property in the Alaskan trade and subject to the jurisdiction of this Commission, in whole or in part, be, and they are hereby made respondents in this proceeding, and that any other interested person may participate actively.

It is further ordered, That this proceeding be, and it is hereby, referred to an administrative law judge for hearing and for the recommendation of an appropriate order thereon, accompanied by the reasons therefor.

It is further ordered, That to further identify all necessary and other interested parties, to more specifically define the scope of the investigation, to determine the procedure to be followed, and for the accomplishment of purposes set forth in Rule 68 of the Commission's general rules of practice, a prehearing conference will be held on November 14, 1972, at 9:30 a.m. at the Offices of the Interstate Commerce Commission, Washington, D.C.

And it is further ordered, That a copy of this order shall be served upon all parties to Investigation and Suspension Docket No. 8604, et al., upon the Governors of Alaska, Washington, Oregon, and California, upon the public utilities commissions or boards of each of those States; that a copy be posted in the Office of the Secretary of this Commission for public inspection; and that a copy be delivered to the Director, Office of the Federal Register, for publication therein as notice to all interested persons.

By the Commission, Division 2.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-16818 Filed 10-2-72;8:50 am]

[Notice 132]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73817. By order of September 21, 1972, the Motor Carrier Board approved the transfer to Mrs. Raymond A. Albert, Kay Adams, and Larry Adams, doing business as Albert and Adams, Route 4, Marshall, MO 65340, of the operating rights in Certificate No. MC-94670 (Sub-No. 1) issued June 10, 1963, to Raymond A. Albert, Route 4, Marshall, MO 65340, authorizing the transportation of animal and poultry feeds, and seeds, from points in Kansas east of U.S. Highway 81, to points in Saline County, Mo.; fertilizer, except in bulk and in tank vehicles, from East St. Louis, Ill., and Olathe, Kans., to points in Saline, Howard, Pettis, Lafayette, Johnson, Carroll, and Charlton Counties, Mo.; and feed, from East St. Louis, Ill., to points in Saline, Howard, Pettis, Lafayette, Johnson, Carroll, and Charlton Counties, Mo.

No. MC-FC-73862. By order of September 19, 1972 the Motor Carrier Board approved the transfer to Christ Truck Service, Inc., Lebanon, Ill., of certificate No. MC-23457, issued to Oliver J. Christ, doing business as Oliver Christ Truck Service, Lebanon, Ill., authorizing the transportation of: General commodities, usual exceptions, and certain specified commodities, between specified points in Illinois and Missouri. Delmar O. Koebel, Attorney, 107 West St. Louis, Lebanon, IL 62254.

No. MC-FC-73887. By order of September 19, 1972 the Motor Carrier Board approved the transfer to C & F Transport, Inc., Goshen, Ind., of a portion of certificate No. MC-87303 issued to Ben-Lee Motor Service Co., a corporation, February 18, 1965, authorizing the transportation of: Building materials, from Chicago, Ill., to Elkhart, Ind., and other specified points in Indiana. Edward G. Bazelon, Attorney, 39 South La Salle St., Chicago, IL 60603. Alki E. Scopelitis, Attorney, 815 Merchants Bank, Indianapolis, IN 46204.

No. MC-FC-73935. By order of September 19, 1972, the Motor Carrier Board approved the transfer to Condor Contract Carriers, Inc., Garden Grove, Calif., of the operating rights in permit No. MC-128988 (Sub-No. 2) issued June 6, 1969, to Jo/Kel, Inc., City of Industry, Calif., authorizing the transportation of electrical motors and component parts thereof, with certain exceptions, between Milford, Conn., Mena, Ark., St. Louis, Mo., Prescott, Ariz., Philadelphia, Miss., Chicago, Ill., and Los Angeles and Stanton, Calif. Earl H. Scudder, Jr., Post Office Box 82028, Lincoln, NE, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-16821 Filed 10-2-72;8:52 am]

[Notice No. 131]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 27, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of ex parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5623 (Sub-No. 21 TA), filed September 11, 1972. Applicant: ARROW TRUCKING CO., 3131 North Lewis, Post Office Box 6027, Tulsa, OK 74106. Applicant's representative: Kenneth Weeks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel beams*, from the Port of Catoosa, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shipper: Jones and Laughlin Steel Corp., Three Gateway Center, Pittsburgh, Pa. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240—Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 26396 (Sub-No. 60 TA), filed September 12, 1972. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Post Office Box 990, 201 West Park, Livingston, MT 59047. Applicant's representative: Wayne Waggoner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and particle board*, from points in Montana to ports of entry and boundary line of the United States and Canada in Idaho, Montana, and Washington, for 180 days. Supporting shipper: Evans Products Co., Post Office Drawer No. 2, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, MT 59101.

No. MC 51146 (Sub-No. 292 TA), filed September 13, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Post Office Box 2298 (54306), Green Bay, WI 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Restaurant and dairy equipment*, from Ashwaubenon, Wis., to points in Florida, Minnesota and the points of Pittsburgh, Philadelphia, and North Hampton, Pa., and Davenport and Council Bluffs, Iowa, for 180 days. Supporting shipper: Haskon, Inc., Lincoln Sales Division, Bingham/Risdon Branch, Post Office Box 2477, Green Bay, WI 54306 (Charles Ratzburgh). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 51146 (Sub-No. 293 TA), filed September 13, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Boardway, Post Office Box 2298 (54306), Green Bay, WI 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefinished and unfinished plywood*, from Baltimore, Md., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Minnesota, Ohio, and Wisconsin, for 180 days. Supporting shipper: Weyerhaeuser Co., Tacoma, Wash. 98401 (John T. Morgans, Assistant Manager Highway Transportation—Analysis). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 106603 (Sub-No. 124 TA), filed September 12, 1972. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, MI 49508. Applicant's representative: Louis Cain (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood particle or composition boards*, from Oxford, Miss.,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Champion International Corp., Knightsbridge, Hamilton, Ohio 45020. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 108207 (Sub-No. 358 TA), filed September 12, 1972. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, (75207), Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Duluth, Minn., to points in Nebraska, Kansas, Missouri, Oklahoma, Louisiana, Mississippi, Arkansas, Texas, New Mexico, Arizona, and California, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, MN 55801. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 111812 (Sub-No. 479 TA), filed September 12, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., Post Office Box 1233, 405½ East Eighth Street, Sioux Falls, SD 57101. Applicant's representative: David Peterson (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from plantsite and warehouse facilities of Jeno's, Inc., Duluth, Minn., to points in California, Arizona, Nevada, Utah, Colorado, Wyoming, Montana, and Ohio (except Toledo and Cleveland) Michigan (except lower Peninsula), Pennsylvania, New York, New Jersey, Maryland, Washington, D.C., Vermont, Massachusetts, Maine, Virginia, West Virginia, Connecticut, Rhode Island, New Hampshire, and Delaware, for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, MN 55801 Richard A. Archambault, vice president—Traffic. Send protests to: District Supervisor J. L. Hammond, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, SD 57501.

No. MC 124230 (Sub-No. 17 TA) (Correction), filed August 3, 1972, published in the FEDERAL REGISTER issue of August 29, 1972, corrected and republished in part as corrected this issue. Applicant: C. B. JOHNSON, INC., Post Office Drawer S, Cortez, CO 81321. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, CO 80202. NOTE: The purpose of this partial republication is to set forth the correct spelling of the destination point of *Pinal* County, Ariz., in lieu of Pinay County, Ariz., shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 126222 (Sub-No. 12 TA) (Correction), filed August 4, 1972, published in the FEDERAL REGISTER issue of August 29, 1972, corrected and republished in part as corrected this issue. Applicant: JOSEPH A. SIEFERT AND JOSEPH J. SIEFERT, doing business as SIEFERT BROS. TRUCKING CO., Post Office Box 310, Rural Route No. 2, DuQuoin, IL 62832. Applicant's representative: Gregory M. Rebman, Suite 1230 Boatmen's Bank Building, St. Louis, MO 63102. NOTE: The purpose of this partial republication is to include the State of Oklahoma as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 138009 (Sub-No. 1 TA), filed September 13, 1972. Applicant: OLEN WAGNER, doing business as OLEN WAGNER TRUCKING, Route 9, Box 165, Mena, AR 71953. Applicant's representative: Ben Core, Post Office Box 1446, Fort Smith, AR 72901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fishmeal, fish solubles and animal fat*, from Homewood and Frankelton, La., and Port Arthur, and Dallas, Tex., to Mena and Grannis, Ark., for 180 days. Supporting shipper: Johnson's Feed Mill and Lanes' Feed Mill, Mena and Grannis, Ark. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 700 West Capitol, 2519 Federal Office Building, Little Rock, AR 72201.

No. MC 138025 TA, filed September 8, 1972. Applicant: FRANCIS X. KANE, doing business as KANE FREIGHT SYSTEMS, Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: William P. Quinn, 1700 Girard Plaza, Broad and South Penn Square, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, and those requiring special equipment, between points in Philadelphia, Delaware, Chester, Montgomery, and Bucks Counties, Pa., Burlington, Camden, Gloucester, and Salem Counties, N.J., and New Castle County, Del., restricted to the transportation of traffic having a prior or subsequent movement by air, for 180 days. Supporting shippers: Novo Airfreight, Philadelphia International Airport, Philadelphia, PA 19153; General Electric Co., 6901 Elmwood Ave., Philadelphia, PA 11429; Philadelphia Air Consolidators Association, Inc., Front & Erickson Streets, Essington, PA 19029; Associated Air Freight, Inc., Township Square Building, Hook Road, Sharon Hill, PA 19079. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 138029 TA, filed September 11, 1972. Applicant: J & G TRANSPORT LTD., 8907—116 Street, Delta 716, B.C., Canada. Applicant's representative: E. Jolicoeur (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap aluminum and auto supplies*, from the Ports of Entry on the International Boundary line between the United States and Canada at or near Lynden, Blaine, and Sumas, Wash., to points in California and return from Los Angeles, Ontario, Calif., Eugene, Oreg., Seattle, Wash., to the Port of Entry on the boundary line between the United States and Canada at or near Lynden, Blaine and Sumas, Wash., for 180 days. Supporting shippers: Alcan Canada Products Limited, 1260 Vulcan Way, Richmond, British Columbia; Keystone A & A Industries Ltd., Box No. 200, 785 Alderbridge Way, Richmond, BC. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, WA 98101.

No. MC 138031 TA, filed September 14, 1972. Applicant: DON REID ENTERPRISES, INC., Drawer I, Antioch, IL 60002. Applicant's representative: Donald N. Reid (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trays*, serving, steel and synthetic plastic and glass fibre combinations, not silver plated, other than whld., equipped with removable steel collapsible stands, f.f., bins or shelving steel n.o.i.b.m.; k.d. flat in packages, from plantsite of Quaker Industries, Inc., at Antioch, Ill., to points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and on return *such materials and products* as are used in the manufacture of the above-named commodities, for 180 days. Supporting shipper: Quaker Industries, Inc., 90 McMillen Road, Antioch, IL 60002. Send protests to: William Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 138032 TA, filed September 12, 1972. Applicant: ED LYNN, doing business as LYNN'S EMERGENCY DELIVERY SERVICE, 200 Grand Avenue, East Alton, IL 62024. Applicant's representative: Joseph E. Rebman, Suite 1230 Boatmen's Bank Building, St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydraulic parts, machine gears, belts, pulleys, bushings, and printing cylinders*, between St. Louis, Mo., and points in St. Louis County, Mo., on the one hand, and, on the other, Alton Godfrey Carroll Streams, Morris, and Chicago, Ill., Elkhart, Ind., and Kalamazoo, Mich., restricted to traffic originating at or destined to the plantsites and facilities

of Alton Box Board Co., Alton, Ill., Carton Division Alton Box Board Co., Godfrey, Ill., Southern Gravure Service, Inc., St. Louis, Mo., and R. J. Bearing, Alton, Ill., for 180 days. Supporting shipper: E. A. Weishaupt, Order and Planning Manager, Carton Division, Alton Box Board Co., Godfrey, Ill. 62035; Michael S. Short, Western Regional Manager, Southern Gravure Service, Inc., 1022 North 6th Street, St. Louis, MO 63101; Alan Harrison, Alton Box Board Co., 401 Alton, Alton, IL 62003; H. Alexander, R. J. Bearing, 3118 East Broadway, Alton, IL 62005. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 138033 TA, filed September 14, 1972. Applicant: DORN & DORN ENTERPRISES, INC., 1917 Southeast Third Street, Corvallis, OR 97330. Applicant's representative: Gerald R. Dorn (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New motorcycles and snowmobiles*, from Seattle, Wash., to points in Oregon west of U.S. Highway 97, inclusive, restricted to traffic having prior movement in foreign commerce and limited to straight trucks only, for 180 days. Supporting shippers: Fred's Honda, 1935 Southeast Third Avenue, Corvallis, OR 97330; Cycle Stores, Inc., Post Office Box Q, Corvallis, OR 97330; Albany Suzuki, 2850 Santiam Highway, Albany, OR 97321. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 138034 TA, filed September 14, 1972. Applicant: HARRY MAHLANDT, Helena, Mo. 64459. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed supplements*, (1) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Kansas City, Kans., to points in Atchison, Holt, Buchanan, Platte, Nodaway, Andrew, Worth, Gentry, De Kalb, Clinton, Clay, Jackson, Cass, Bates, Vernon, Cedar, St. Clair, Henry, Johnson, Lafayette, Saline, Chariton, Carroll, Ray, Caldwell, Daviess, Livingston, Linn, and Macon Counties, Mo.; (2) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Kansas City, Kans., to the Armour and Co. hog farm located approximately 4 miles east of Seneca, Mo.; (3) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Kansas City, Kans., to the Armour and Company hog farm located approximately 1 mile east of the junction of Missouri Highway 96 and Missouri Highway 171; and (4) from the plantsite and/or storage facilities of Cargill, Inc., Nutrena Feed Division at or near Morrill, Kans., to points in Atchison, Holt, Andrew, Buchanan, Clinton, Platte, Clay, Ray, Carroll, Caldwell, Livingston, De Kalb, Daviess, Grundy, Mercer, Harrison, Worth, Nodaway, Gentry, and Jackson Counties, Mo., for 180 days. Supporting shipper: Cargill, Inc., Nutrena Feed Division, Morrill and Kansas City, Kans. Send protests to: Vernon V. Coble, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 138036 TA, filed September 15, 1972. Applicant: J & S, INC., 127 Larchfield Drive, McKeesport, PA 15135. Applicant's representative: John Pillar, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail drug and variety stores, and *equipment, material, and supplies*, used in the conduct of such business (excluding commodities in bulk), for the account of Thrift Drug Division of J. C. Penney Co., Inc., between points in O'Hara Township (Allegheny County), Pa., on the one hand, and, on the other, points in Delaware, Indiana, Illinois, Kentucky, Maryland, Michigan (Lower Peninsula), Minnesota, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Thrift Drug Co., Division of J. C. Penney, 615 Alpha Drive, Pittsburgh, PA 15238. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-16820 Filed 10-2-72;8:52 am]

[Notice No. 133]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 28, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules (49 CFR Part 1132):

No MC-FC-73988. By application filed September 26, 1972, CLARENCE OVERTON THOMAS, doing business as C. O. THOMAS TRUCKING, Route 1, Box 153, New Canton, VA 23123, seeks temporary authority to lease the operating rights of APPOMATTOX TRUCKING COMPANY, INCORPORATED, Appomattox, VA 24522, under Section 210a(b). The transfer to CLARENCE OVERTON THOMAS, doing business as C.O. THOMAS TRUCKING, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-16822 Filed 10-2-72;8:52 am]

FEDERAL REGISTER PAGES AND DATES—OCTOBER

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federal register

TUESDAY, OCTOBER 3, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 192

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

V37-192 OCT3 72 XUM

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 116—FINANCIAL ASSISTANCE TO MEET THE SPECIAL EDUCATIONAL NEEDS OF EDUCATIONALLY DEPRIVED CHILDREN

Allocation of Title I Funds

In order to implement certain amendments to title I of the Elementary and Secondary Education Act (20 U.S.C. 241a) contained in sections 411(b) and 508 of Public Law 92-318, 86 Stat. 338 and 352, Part 116 of Chapter I of Title 45 of the Code of Federal Regulations is amended as set forth below. These amendments relate to the allocation of Title I funds to: (1) The Secretary of the Interior to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior under section 103(a)(1) of the Act (20 U.S.C. 241c(a)(1)); and (2) State agencies responsible for providing free public education for children in institutions for delinquent children or adult correctional institutions under section 103(a)(7) of the Act (20 U.S.C. 241c(a)(7)).

It has been determined by the Commissioner of Education with the approval of the Secretary of Health, Education, and Welfare that notice of proposed rule making is impractical and contrary to the public interest with regard to the amendments set forth below. These amendments do not involve significant policy matters but are intended merely to conform the title I regulations to recent legislation in Public Law 92-318. Furthermore, to resort to proposed rule making would delay the acquisition of data called for by these amendments. These data must be collected as soon as possible in order to make title I allocations for fiscal year 1973 in a timely fashion.

Effective date. These regulations shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: September 7, 1972.

S. P. MARLAND JR.,
U.S. Commissioner of Education.

Approved: September 25, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

1. In § 116.1, paragraphs (c) and (p) are amended to read as follows:

§ 116.1 Definitions.

* * * * *

(c) (1) "Average daily attendance," in the case of children in institutions for neglected or delinquent children or in adult correctional institutions means the average number of such children under 21 years of age (for whom the applicant State agency is directly responsible under State law for providing free public education) who participated on a daily basis during the latest completed school year in an organized program of instruction: (i) Supported by State funds, and (ii) recognized under State law as furnishing elementary and secondary education, but not beyond grade 12. If such data are not available for adult correctional institutions, then for fiscal year 1973 allocations the average daily attendance may be estimated on the basis of: (i) 94 percent of average daily membership, or (ii) the number of children under age 21 in grade 12 or below (as described in the preceding sentence) in attendance on any one specified day of the latest completed or current school year. (Public Law 92-318, sec. 508.)

(2) "Average daily attendance," in the case of schools for handicapped children operated or supported by a State agency, means the average number of children under 21 years of age participating per day for the length of a normal school year in an organized program in such schools of instruction which is recognized under State law as furnishing elementary or secondary education, but not beyond grade 12. In the case of handicapped children, daily attendance shall be measured by the number of daily hours of participation in such instruction as the State agency determines to be appropriate for children with the particular handicap involved, except that any such instruction for more than 1 hour, but less than 3 hours, a day shall be deemed to constitute a maximum of one-half day of attendance. Time spent primarily in custodial care or medical treatment or therapy cannot be counted in determining attendance. In the case of special instructional services provided by a State agency under contract or other arrangement (such as itinerant, resource room, or other types of part-day or part-week programs) to handicapped children in attendance at public or nonpublic schools, such children may be reported as being in average daily attendance, if: (i) A statute or official written rule, policy, or other standard applicable to such State agency provides a reliable basis for determining that such State agency, rather than a local educational agency, is directly responsible for providing educational services to such children; and (ii) such State agency's average per pupil contribution to the cost of providing education to such handicapped children exceeds—(*a*) The State's average per pupil contribution to the cost of education of handicapped children in educational programs operated by local educational agencies in the State, and (*b*) exceeds one-half of the average per pupil expenditure in that State as defined in section 103(e) of title I, ESEA. For the purposes of this paragraph, a State agency's average per pupil contribution to the cost of providing education to such handicapped children, a State's average per pupil contribution to the cost of education of handicapped children by local educational agencies, and the average per pupil expenditure in a State shall be determined on the basis of data for the same fiscal year. (20 U.S.C. 241c(a)(1), 241c(a)(5), and 241c(a)(7).)

* * * * *

(p) "An institution for delinquent children" means a public or private nonprofit residential facility which is operated primarily for the care of, for an indefinite period of time or for a definite period of time other than one of short duration, children who have been adjudicated to be delinquent children. Such term also includes an adult correctional institution in which children are placed. (Public Law 92-318, sec. 508.)

* * * * *

2. A new § 116.11 is added reading as follows:

§ 116.11 Allotment of funds to the Secretary of the Interior for programs for Indian children in schools operated by the Department of the Interior.

(a) The maximum amount to be allotted for payments to the Secretary of the Interior for fiscal year 1973 under section 103(a)(1)(A)(ii) of title I of the Act to meet the special educational needs of educationally deprived children on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior will be determined by multiplying the estimated number of children in such schools (as determined by the Secretary of the Interior) by the Federal percentage prescribed in § 116.1(l) of the average per pupil expenditure in the United States for the most recent fiscal year for which such data are available. In no event, however, will the total amount paid to the Secretary of the Interior from the appropriation for fiscal year 1973 exceed 1 percent of the amount appropriated for payments to States as defined in subsection 103(a) of the Act.

(b) The terms upon which such payments will be made will be set forth in an agreement between the Commissioner and the Secretary of the Interior containing such assurances and terms as the Commissioner determines will best carry out the purposes of this part, including: (1) An assurance that payments made pursuant to this section will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of Subpart C of this part, and (2) provision for carrying out the applicable provisions of Subpart C of this part and for the submission by the Secretary of the Interior to the Commissioner of periodic and other reports required by § 116.31 (f) and (g) to be submitted by State educational agencies. (ESEA, § 103(a)(1)(C), as added by Public Law 92-318, sec. 411(b).)

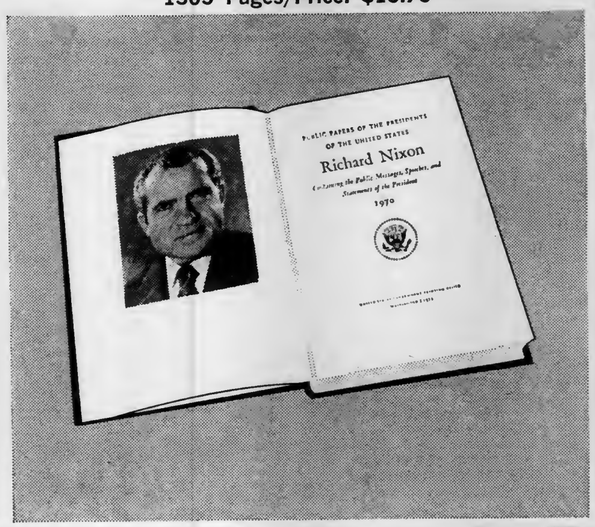
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Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7207]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Charitable Contributions Deduction

On April 2, 1971, there was published in the FEDERAL REGISTER (36 F.R. 6082) a notice of proposed rule making with respect to amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 201(a), relating to charitable contributions, and section 201(f), relating to bargain sales to a charitable organization, of the Tax Reform Act of 1969 (83 Stat. 549, 564). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.170A–1, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising paragraph (a)(1), by revising paragraph (f), by revising the heading of paragraph (h), by revising subparagraphs (1), (6), and (9) of paragraph (h), and by adding new subparagraphs (10) and (11) to paragraph (h) to read as set forth below.

PAR. 2. Section 1.170A–3, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising paragraph (c) of example (2) in paragraph (d) to read as set forth below.

PAR. 3. Section 1.170A–4, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising that part of paragraph (a) that follows subparagraph (3) thereof, by revising paragraphs (b) (1) and (3), (c) (2) (i) and (3), and (e), and by revising example (1), and examples (5) through (10), in paragraph (d) to read as set forth below.

PAR. 4. Section 1.170A–5, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising examples (1), (2), (5), and (7) in paragraph (b), to read as set forth below.

PAR. 5. Section 1.170A–6, as set forth in paragraph 6 of the notice of proposed rule making, is revised to read as set forth below.

PAR. 6. Section 1.170A–7, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising paragraphs (a) (1) and (2), (b), and (c) to read as set forth below.

PAR. 7. Section 1.170A–8, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising paragraphs (a), (b), and (d)(3), by revising examples (5) and (8) in paragraph (f), by revising paragraph (c) in example (4) in paragraph (f), by revising paragraph (d) in example (12) in paragraph (f), and by adding new examples (13), (14), and (15) in paragraph (f) to read as set forth below.

PAR. 8. Section 1.170A–10, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising paragraph (a), that part of paragraph (b)(1) that precedes the examples therein, paragraph (b)(2)(i)(b), and that part of paragraph (c)(2) that follows subdivision (i) thereof, to read as set forth below.

PAR. 9. Section 1.170A–11, as set forth in paragraph 6 of the notice of proposed rule making, is changed by revising that part of paragraph (c)(1) that follows subdivision (i) thereof and precedes the example therein, to read as set forth below.

PAR. 10. Section 1.1011–2, as set forth in paragraph 17 of the notice of proposed rule making, is changed by revising paragraphs (a) and (b), examples (1), and (3) through (7), in paragraph (c), and paragraph (c) of example (8) in paragraph (c), to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: September 26, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 201(a), relating to charitable contributions, and section 201(f), relating to bargain sales to a charitable organization, of the Tax Reform Act of 1969 (Public Law 91–172, 83 Stat. 549, 564), such regulations are amended as follows:

PARAGRAPH 1. Section 1.61–3 is amended by revising paragraph (a) to read as follows:

§ 1.61–3 Gross income derived from business.

(a) *In general.* In a manufacturing, merchandizing, or mining business, "gross income" means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources. Gross income is determined without subtraction of depletion allowances based on a percentage of income, and without subtraction of selling expenses, losses, or other items not ordinarily used in computing cost of goods sold. The cost of goods sold should be determined in accordance with the method of accounting consistently used by the taxpayer. For special rules for determining cost of goods sold in the case of property contributed to a charitable organization, see paragraph (c)(4) of § 1.170A–1.

* * * * * *

PAR. 2. Section 1.170 is amended by revising the heading of such section, subsection (e) of section 170, and the historical note to read as follows:

§ 1.170 Statutory provisions: charitable, etc., contributions and gifts (before amendment by Tax Reform Act of 1969).

* * * * * *

(e) *Special rule for charitable contributions of certain property.* The amount of any charitable contribution taken into account under this section shall be reduced by the amount which would have been treated as gain to which section 617(d)(1), 1245(a), or 1250(a) applies if the property contributed had been sold at its fair market value (determined at the time of such contribution).

* * * * * *

[Sec. 170 as amended by sec. 1, Act of Aug. 7, 1956 (Public Law 1022, 84th Cong., 70 Stat. 1117); secs. 10, 11, and 12, Technical Amendments Act 1958 (72 Stat. 1609–10); sec. 7(a), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1002); sec. 13(d), Rev. Act 1962 (76 Stat. 1034); sec. 2, Act of Oct. 23, 1962 (Public Law 87–858, 76 Stat. 1134); secs. 209 and 231(b), Rev. Act 1964 (78 Stat. 43, 100); sec. 1(b)(1), Act of Sept. 12, 1966 (Public Law 89–570, 80 Stat. 762); as in effect before amendment by secs. 101(j)(2), 201(a)(1) and (2)(A), and 201(b), Tax Reform Act 1969 (83 Stat. 526, 549, 558, 565)]

PAR. 3. Immediately after § 1.170 the following new section is inserted:

§ 1.170–0 Effective dates.

Except as otherwise provided in this section, the provisions of § 1.170 and §§ 1.170–1 through 1.170–3 are applicable to contributions paid in taxable years beginning before January 1, 1970, and all references therein to sections of the Code are to sections of the Internal Revenue Code of 1954 prior to the amendments made by section 201(a) of the Tax Reform Act of 1969 (83 Stat. 549). Except as otherwise provided therein, §§ 1.170A through 1.170A–11 are applicable to contributions paid in taxable years beginning after December 31, 1969. In a case where a provision in §§ 1.170A through 1.170A–11 is applicable to a contribution paid in a taxable year beginning before January 1, 1970, such provision shall apply to the contribution and §§ 1.170–1 through 1.170–3 shall not apply to the contribution.

PAR. 4. The headings of § 1.170–1 and § 1.170–2 are revised to read as follows:

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§ 1.170–1 Charitable, etc., contributions and gifts; allowance of deduction (before amendment by Tax Reform Act of 1969).

• • • • •

§ 1.170–2 Charitable deductions by individuals; limitations (before amendment by Tax Reform Act of 1969).

• • • • •

PAR. 5. Section 1.170–3 is amended by revising the heading thereof and paragraph (a) to read as follows:

§ 1.170–3 Contributions or gifts by corporations (before amendment by Tax Reform Act of 1969).

(a) *In general.* The deduction by a corporation in any taxable year for charitable contributions, as defined in section 170(c), is limited to 5 percent of its taxable income for the year computed without regard to:

(1) The deduction for charitable contributions,

(2) The special deductions for corporations allowed under part VIII (except section 248), subchapter B, chapter 1 of the Code,

(3) Any net operating loss carryback to the taxable year under section 172,

(4) The special deduction for Western Hemisphere trade corporations under section 922, and

(5) Any capital loss carryback to the taxable year under section 1212(a)(1).

A contribution by a corporation to a trust, chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals is deductible only if the contribution is to be used in the United States or its possessions for those purposes. See section 170(c)(2). For the purposes of section 170, amounts excluded from the gross income of a corporation under section 114 (relating to sports programs conducted for the American National Red Cross) are not to be considered contributions or gifts. For reduction or disallowance of certain charitable, etc., deductions, see paragraphs (c)(2), (c), and (f) of § 1.170–1.

• • • • •

PAR. 6. There are inserted immediately after § 1.170–3 the following new sections:

§ 1.170A Statutory provisions; charitable, etc., contributions and gifts (after amendment by Tax Reform Act of 1969).

SEC. 170. *Charitable, etc., contributions and gifts*—(a) *Allowance of deduction*—(1) *General rule.* There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year. A charitable contribution shall be allowable as a deduction only if verified under regulations prescribed by the Secretary or his delegate.

(2) *Corporations on accrual basis.* In the case of a corporation reporting its taxable income on the accrual basis, if—

(A) The board of directors authorizes a charitable contribution during any taxable year, and

(B) Payment of such contribution is made after the close of such taxable year and on or before the 15th day of the third month following the close of such taxable year,

then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the Secretary or his delegate shall by regulations prescribe.

(3) *Future interests in tangible personal property.* For purposes of this section, payment of a charitable contribution which consists of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of, the property have expired or are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in section 267(b). For purposes of the preceding sentence, a fixture which is intended to be severed from the real property shall be treated as tangible personal property.

(b) *Percentage limitations*—(1) *Individuals.* In the case of an individual, the deduction provided in subsection (a) shall be limited as provided in the succeeding subparagraphs.

(A) *General rule.* Any charitable contribution to—

(i) A church or a convention or association of churches,

(ii) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on,

(iii) An organization the principal purpose or functions of which are the providing of medical or hospital care or medical education or medical research, if the organization is a hospital, or if the organization is a medical research organization directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and during the calendar year in which the contribution is made such organization is committed to spend such contributions for such research before January 1 of the fifth calendar year which begins after the date such contribution is made,

(iv) An organization which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a)) from the United States or any State or political subdivision thereof or from direct or indirect contributions from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university which is an organization referred to in clause (ii) of this subparagraph and which is an agency or instrumentality of a State or political subdivision thereof, or which is owned or operated by a State or political subdivision thereof or by an agency or instrumentality of one or more States or political subdivisions,

(v) A governmental unit referred to in subsection (c)(1),

(vi) An organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function contituting the basis for its exemption under section 501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public,

(vii) A private foundation described in subparagraph (E), or

(viii) An organization described in section 509(a)(2) or (3),

shall be allowed to the extent that the aggregate of such contributions does not exceed 50 percent of the taxpayer's contribution base for the taxable year.

(B) *Other contributions.* Any charitable contribution other than a charitable contribution to which subparagraph (A) applies shall be allowed to the extent that the aggregate of such contributions does not exceed the lesser of—

(i) 20 percent of the taxpayer's contribution base for the taxable year, or

(ii) The excess of 50 percent of the taxpayer's contribution base for the taxable year over the amount of charitable contributions allowable under subparagraph (A) (determined without regard to subparagraph (D)).

(C) *Unlimited deduction for certain individuals.* Subject to the provisions of subsections (f)(6) and (g), the limitations in subparagraphs (A), (B), and (D), and the provisions of subsection (e)(1)(B), shall not apply, in the case of an individual for a taxable year beginning before January 1, 1975, if in such taxable year and in 8 of the 10 preceding taxable years, the amount of the charitable contributions, plus the amount of income tax (determined without regard to chapter 2, relating to tax on self-employment income) paid during such year in respect of such year or preceding taxable years, exceeds the transitional deduction percentage (determined under subsection (f)(6) of the taxpayer's taxable income for such year, computed without regard to—

(i) This section,

(ii) Section 151 (allowance of deductions for personal exemption), and

(iii) Any net operating loss carryback to the taxable year under section 172.

In lieu of the amount of income tax paid during any such year, there may be substituted for that year the amount of income tax paid in respect of such year, provided that any amount so included in the year in respect of which payment was made shall not be included in any other year. In the case of a separate return for the taxable year by a married individual who previously filed a joint return with a former deceased spouse for any of the 10 preceding taxable years, the amount of charitable contributions and taxes paid for any such preceding taxable year, for which a joint return was filed with the former deceased spouse, shall be determined in the same manner as if the taxpayer had not remarried after the death of such former spouse.

(D) *Special limitation with respect to contributions of certain capital gain property*—(i) In the case of charitable contributions of capital gain property to which subsection (e)(1)(B) does not apply, the total amount of contributions of such property which may be taken into account under subsection (a) for any taxable year shall not exceed 30 percent of the taxpayer's contribution base for such year. For purposes of this subsection, contributions of capital gain property to which this paragraph applies shall be taken into account after all other charitable contributions.

(ii) If charitable contributions described in subparagraph (A) of capital gain property to which clause (i) applies exceeds 30 percent of the taxpayer's contribution base for any taxable year, such excess shall be treated, in a manner consistent with the rules of subsection (d)(1), as a charitable contribution of capital gain property to which clause (i) applies in each of the 5 succeeding taxable years in order of time.

(iii) At the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate prescribes by regulations), subsection (e)(1) shall apply to all contributions of capital gain property (to which subsection (e)(1)(B) does not otherwise apply) made by the taxpayer during the taxable year. If such an election is made, clauses (i) and (ii) shall not apply to contributions of capital gain property made during the taxable year, and, in applying subsection (d)(1) for such taxable year with respect to contributions of capital gain property made in any prior contribution year for which an election was not made under this clause, such contributions shall be reduced as if subsection (e)(1) had applied to such contributions in the year in which made.

(iv) For purposes of this subparagraph, the term "capital gain property" means, with respect to any contribution, any capital asset the sale of which at its fair market value at the time of the contribution would have resulted in gain which would have been long-term capital gain. For purposes of the preceding sentence, any property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(E) *Certain private foundations.* The private foundations referred to in subparagrph (A)(vii) and subsection (e)(1)(B) are—

(i) A private operating foundation (as defined in section 4942(j)(3)),

(ii) Any other private foundation (as defined in section 509(a)) which, not later than the 15th day of the third month after the close of the foundation's taxable year in which contributions are received, makes qualifying distributions (as defined in section 4942(g), without regard to paragraph (3) thereof), which are treated, after the application of section 4942(g)(3), as distributions out of corpus (in accordance with section 4942(h)) in an amount equal to 100 percent of such contributions, and with respect to which the taxpayer obtains adequate records or other sufficient evidence from the foundation showing that the foundation made such qualifying distributions, and

(iii) A private foundation all of the contributions to which are pooled in a common fund and which would be described in section 509(a)(3) but for the right of any substantial contributor (hereafter in this clause called "donor") or his spouse to designate annually the recipients, from among organizations described in paragraph (1) of section 509(a), of the income attributable to the donor's contribution to the fund and to direct (by deed or by will) the payment, to an organization described in such paragraph (1), of the corpus in the common fund attributable to the donor's contribution; but this clause shall apply only if all of the income of the common fund is required to be (and is) distributed to one or more organizations described in such paragraph (1) not later than the 15th day of the third month after the close of the taxable year in which the income is realized by the fund and only if all of the corpus attributable to any donor's contribution to the fund is required to be (and is) distributed to one or more of such organizations not later than 1 year after his death or after the death of his surviving spouse if she has the right to designate the recipients of such corpus.

(F) *Contribution base defined.* For purposes of this section, the term "contribution base" means adjusted gross income (computed without regard to any net operating loss carryback to the taxable year under section 172).

(2) *Corporations.* In the case of a corporation, the total deductions under subsection (a) for any taxable year shall not exceed 5 percent of the taxpayer's taxable income computed without regard to—

(A) This section,

(B) Part VIII (except section 248),

(C) Any net operating loss carryback to the taxable year under section 172,

(D) Section 922 (special deduction for Western Hemisphere trade corporations), and

(E) Any capital loss carryback to the taxable year under section 1212(a)(1).

(c) *Charitable contribution defined.* For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of—

(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.

(2) A corporation, trust, or community chest, fund, or foundation—

(A) Created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States;

(B) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals;

(C) No part of the net earnings of which inures to the benefit of any private shareholder or individual; and

(D) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible by reason of this paragraph only if it is to be used within the United States or any of its possessions exclusively for purposes specified in subparagraph (B).

(3) A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization—

(A) Organized in the United States or any of its possessions, and

(B) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

(5) A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

For purposes of this section, the term "charitable contributions" also means an amount treated under subsection (h) as paid for the use of an organization described in paragraph (2), (3), or (4).

(d) *Carryovers of excess contributions*—(1) *Individuals*—(A) *In general.* In the case of an individual, if the amount of charitable contributions described in subsection (b)(1)(A) payment of which is made within a taxable year (hereinafter in this paragraph referred to as the "contribution year") exceeds 50 percent (30 percent, in the case of a contribution year beginning before January 1, 1970) of the taxpayer's contribution base for such year, such excess shall be treated as a charitable contribution described in subsection (b)(1)(A) paid in each of the 5 succeeding taxable years in order of time, but, with respect to any such succeeding taxable year, only to the extent of the lesser of the two following amounts:

(i) The amount by which 50 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of the charitable contributions described in subsection (b)(1)(A) payment of which is made by the taxpayer within such succeeding taxable year (determined without regard to this subparagraph) and the charitable contributions described in subsection (b)(1)(A) payment of which was made in taxable years before the contribution year which are treated under this subparagraph as having been paid in such succeeding taxable year; or

(ii) In the case of the first succeeding taxable year, the amount of such excess, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess not treated under this subparagraph as a charitable contribution described in subsection (b)(1)(A) paid in any taxable year intervening between the contribution year and such succeeding taxable year.

(B) *Special rule for net operating loss carryovers.* In applying subparagraph (A), the excess determined under subparagraph (A) for the contribution year shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increases the net operating loss deduction for a taxable year succeeding the contribution year.

(2) *Corporations*—(A) *In general.* Any contribution made by a corporation in a taxable year (hereinafter in this paragraph referred to as the "contribution year") in excess of the amount deductible for such year under subsection (b)(2) shall be deductible for each of the 5 succeeding taxable years in order of time, but only to the extent of the lesser of the two following amounts: (i) The excess of the maximum amount deductible for such succeeding taxable year under subsection (b)(2) over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this subparagraph for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess contribution not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

(B) *Special rule for net operating loss carryovers.* For purposes of subparagraph (A), the excess of—

(i) The contributions made by a corporation in a taxable year to which this section applies, over

(ii) The amount deductible in such year under the limitation in subsection (b)(2), shall be reduced to the extent that such excess reduces taxable income (as computed for purposes of the second sentence of section 172(b)(2)) and increasing a net operating loss carryover under section 172 to a succeeding taxable year.

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(e) *Certain contributions of ordinary income and capital gain property*—(1) *General rule.* The amount of any charitable contribution of property otherwise taken into account under this section shall be reduced by the sum of—

(A) The amount of gain which would not have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution), and

(B) In the case of a charitable contribution—

(i) Of tangible personal property, if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

(ii) To or for the use of a private foundation (as defined in section 509(a)), other than a private foundation described in subsection (b)(1)(E),

50 percent (62½ percent, in the case of a corporation) of the amount of gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution).

For purposes of applying this paragraph (other than in the case of gain to which section 617(d)(1), 1245(a), 1250(a), 1251(c), or 1252(a) applies), property which is property used in the trade or business (as defined in section 1231(b)) shall be treated as a capital asset.

(2) *Allocation of basis.* For purposes of paragraph (1), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in such property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Secretary or his delegate.

(f) *Disallowance of deduction in certain cases and special rules*—(1) *In general.* No deduction shall be allowed under this section for a contribution to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) *Contributions of property placed in trust*—

(A) *Remainder interest.* In the case of property transferred in trust no deduction shall be allowed under this section for the value of a contribution of a remainder interest unless the trust is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664), or a pooled income fund (described in section 642(c)(5)).

(B) *Income interests, etc.* No deduction shall be allowed under this section for the value of any interest in property (other than a remainder interest) transferred in trust unless the interest is in the form of a guaranteed annuity or the trust instrument specifies that the interest is a fixed percentage distributed yearly of the fair market value of the trust property (to be determined yearly) and the grantor is treated as the owner of such interest for purposes of applying section 671. If the donor ceases to be treated as the owner of such an interest for purposes of applying section 671, at the time the donor ceases to be so treated, the donor shall for purposes of this chapter be considered as having received an amount of income equal to the amount of any deduction he received under this section for the contribution reduced by the discounted value of all amounts of income earned by the trust and taxable to him before the time at which he ceases to be treated as the owner of the interest. Such amounts of income shall be discounted to the date of the contribution. The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph.

(C) *Denial of deduction in case of payments by certain trusts.* In any case in which a deduction is allowed under this section for the value of an interest in property described in subparagraph (B), transferred in trust, no deduction shall be allowed under this section to the grantor or any other person for the amount of any contribution made by the trust with respect to such interest.

(D) *Exception.* This paragraph shall not apply in a case in which the value of all interests in property transferred in trust are deductible under subsection (a).

(3) *Denial of deduction in case of certain contributions of partial interests in property*—(A) *In general.* In the case of a contribution (not made by a transfer in trust) of an interest in property which consists of less than the taxpayer's entire interest in such property, a deduction shall be allowed under this section only to the extent that the value of the interest contributed would be allowable as a deduction under this section if such interest had been transferred in trust. For purposes of this subparagraph, a contribution by a taxpayer of the right to use property shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(B) *Exceptions.* Subparagraph (A) shall not apply to a contribution of—

(i) A remainder interest in a personal residence or farm, or

(ii) An undivided portion of the taxpayer's entire interest in property.

(4) *Valuation of remainder interest in real property.* For purposes of this section, in determining the value of a remainder interest in real property, depreciation (computed on the straight line method) and depletion of such property shall be taken into account, and such value shall be discounted at a rate of 6 percent per annum, except that the Secretary or his delegate may prescribe a different rate.

(5) *Reduction for certain interest.* If, in connection with any charitable contribution, a liability is assumed by the recipient or by any other person, or if a charitable contribution is of property which is subject to a liability, then, to the extent necessary to avoid the duplication of amounts, the amount taken into account for purposes of this section as the amount of the charitable contribution—

(A) Shall be reduced for interest (i) which has been paid (or is to be paid) by the taxpayer, (ii) which is attributable to the liability, and (iii) which is attributable to any period after the making of the contribution, and

(B) In the case of a bond, shall be further reduced for interest (i) which has been paid (or is to be paid) by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and (ii) which is attributable to any period before the making of the contribution.

The reduction pursuant to subparagraph (B) shall not exceed the interest (including interest equivalent) on the bond which is attributable to any period before the making of the contribution and which is not (under the taxpayer's method of accounting) includible in the gross income of the taxpayer for any taxable year. For purposes of this paragraph, the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness.

(6) *Partial reduction of unlimited deduction*—(A) *In general.* If the limitations in subsections (b)(1)(A) and (B) do not apply because of the application of subsection (b)(1)(C), the amount otherwise allowable as a deduction under subsection (a) shall be reduced by the amount by which the taxpayer's taxable income computed without regard to this subparagraph is less than the transitional income percentage (determined under subparagraph (C)) of the taxpayer's adjusted gross income. However, in no case shall a taxpayer's deduction under this section be reduced below the amount allowable as a deduction under this section without the applicability of subsection (b)(1)(C).

(B) *Transitional deduction percentage.* For purposes of applying subsection (b)(1)(C), the term "transitional deduction percentage" means—

(i) In the case of a taxable year beginning before 1970, 90 percent, and

(ii) In the case of a taxable year beginning in—

	Percent
1970	80
1971	74
1972	68
1973	62
1974	56

(C) *Transitional income percentage.* For purposes of applying subparagraph (A), the term "transitional income percentage" means, in the case of a taxable year beginning in—

	Percent
1970	20
1971	26
1972	32
1973	38
1974	44

(g) *Application of unlimited charitable contribution deduction*—(1) *Allowance of deduction for taxable years beginning after December 31, 1963.* If the taxable year begins after December 31, 1963—

(A) Subsection (b)(1)(C) shall apply only if the taxpayer so elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes); and

(B) For purposes of subsection (b)(1)(C), the amount of the charitable contributions for the taxable year (and for all prior taxable years beginning after December 31, 1963) shall be determined without the application of subsection (d)(1) and solely by reference to charitable contributions described in paragraph (2).

If the taxpayer elects to have subsection (b)(1)(C) apply for the taxable year, then for such taxable year subsection (a) shall apply only with respect to charitable contributions described in paragraph (2), and no amount of charitable contributions made in the taxable year or any prior taxable year may be treated under subsection (d)(1) as having been made in the taxable year or in any succeeding taxable year.

(2) *Qualified contributions.* The charitable contributions referred to in paragraph (1) are—

(A) Any charitable contribution described in subsection (b)(1)(A);

(B) [Deleted.]

(C) Any charitable contribution, not described in subsection (b)(1)(A), to an organization described in subsection (c)(2) which meets the requirements of paragraph (3) with respect to such charitable contributions; and

(D) Any charitable contribution payment of which is made on or before the date of the enactment of the Revenue Act of 1964 [February 26, 1964].

(3) *Organizations expending at least 50 percent of donor's contributions.* An organization shall be an organization referred to in paragraph (2)(C), with respect to any charitable contribution, only if—

(A) Not later than the close of the third year after the organization's taxable year

in which the contribution is received (or before such later time as the Secretary or his delegate may allow upon good cause shown by such organization), such organization expends an amount equal to at least 50 percent of such contribution for—

(i) The active conduct of the activities constituting the purpose or function for which it is organized and operated,

(ii) Assets which are directly devoted to such active conduct,

(iii) Contributions to organizations which are described in subsection (b)(1)(A) or in paragraph (2)(B) [sic] of this subsection, or

(iv) Any combination of the foregoing; and

(B) For the period beginning with the taxable year in which such contribution is received and ending with the taxable year in which subparagraph (A) is satisfied with respect to such contribution, such organization expends all of its net income (determined without regard to capital gains and losses) for the purposes described in clauses (i), (ii), (iii), and (iv) of subparagraph (A).

If the taxpayer so elects (at such time and in such manner as the Secretary or his delegate by regulations prescribes) with respect to contributions made by him to any organization, then, in applying subparagraph (B) with respect to contributions made by him to such organization during his taxable year for which such election is made and during all his subsequent taxable years, amounts expended by the organization after the close of any of its taxable years and on or before the 15th day of the third month following the close of such taxable year shall be treated as expended during such taxable year.

(4) *Disqualified transactions.* An organization shall be an organization referred to in subparagraph (B) [sic] or (C) of paragraph (2) only if at no time during the period consisting of the organization's taxable year in which the contribution is received its 3 preceding taxable years, and its 3 succeeding taxable years, such organization—

(A) Lends any part of its income or corpus to,

(B) Pays compensation (other than reasonable compensation for personal services rendered) to,

(C) Makes any of its services available on a preferential basis to,

(D) Purchases more than a minimal amount of securities or other property from, or

(E) Sells more than a minimal amount of securities or other property to,

the donor of such contribution, any member of his family (as defined in section 267(c)(4)), any employee of the donor, any officer or employee of a corporation in which he owns (directly or indirectly) 50 percent or more in value of the outstanding stock, or any partner or employee of a partnership in which he owns (directly or indirectly) 50 percent or more of the capital interest or profits interest. This paragraph shall not apply to transactions occurring on or before the date of the enactment of the Revenue Act of 1964 [February 26, 1964].

(h) *Amounts paid to maintain certain students as members of taxpayer's household*—(1) *In general.* Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 152, or a relative of the taxpayer) as a member of his household during the period that such individual is—

(A) A member of the taxpayer's household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (c) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

(B) A full-time pupil or student in the 12th or any lower grade at an educational institution (as defined in section 151(e)(4)) located in the United States,

shall be treated as amounts paid for the use of the organization.

(2) *Limitations*—(A) *Amount.* Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed $50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

(B) *Compensation or reimbursement.* Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in his household during the period described in paragraph (1).

(3) *Relative defined.* For purposes of paragraph (1), the term "relative of the taxpayer" means an individual who, with respect to the taxpayer, bears any of the relationships described in paragraphs (1) through (8) of section 152 (a).

(4) *No other amount allowed as deduction.* No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of his household under a program described in paragraph (1)(A) except as provided in this subsection.

(i) *Disallowance of deduction in certain cases.* For disallowance of deductions for contributions to or for the use of communist controlled organizations, see section 11(a) of the Internal Security Act of 1950 (64 Stat. 996; 50 U.S.C. 790).

(j) *Other cross references.* (1) For charitable contributions of estates and trusts, see section 642(c).

(2) For nondeductibility of contributions by common trust funds, see section 584.

(3) For charitable contributions of partners, see section 702.

(4) For charitable contributions of nonresident aliens, see section 873.

(5) For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for the use of the United States, see section 3 of the Act of March 31, 1944 (58 Stat. 135; 34 U.S.C. 1115b).

(6) For treatment of gifts for benefit of the library of the Post Office Department as gifts to or for the use of the United States, see section 2 of the Act of August 8, 1946 (60 Stat. 924; 5 U.S.C. 393).

(7) For treatment of gifts accepted by the Secretary of State under the Foreign Service Act of 1946 as gifts to or for the use of the United States, see section 1021(e) of that Act (60 Stat. 1032; 22 U.S.C. 809(e)).

(8) For treatment of gifts of money accepted by the Attorney General for credit to the "Commissary Funds Federal Prisons" as gifts to or for the use of the United States, see section 2 of the Act of May 15, 1952 (66 Stat. 73, as amended by the Act of July 9, 1952, 66 Stat. 479, 31 U.S.C. 725s–4).

[Sec. 170 as amended by sec. 1, Act of Aug. 7, 1956 (Public Law 1022, 84th Cong., 70 Stat. 1117); secs. 10, 11, and 12, Technical Amendments Act 1958 (72 Stat. 1606–10); sec. 7(a), Act of Sept. 14, 1960 (Public Law 86–779, 74 Stat. 1002); sec. 13(d), Rev. Act 1962 (76 Stat. 1043); sec. 2, Act of Oct. 23, 1962 (Public Law 87–856, 76 Stat. 1134); secs. 209 and 231 (b), Rev. Act 1964 (78 Stat. 43, 100); sec. 1(b)(1), Act of Sept. 12, 1966 (Public Law 89–570, 80 Stat. 762); secs. 101(j)(2), 201(a)(1) and (2)(A), and 201(h), Tax Reform Act 1969 (83 Stat. 526, 549, 558, 565)]

§ 1.170A–1 Charitable, etc., contributions and gifts; allowance of deduction.

(a) *In general*—(1) *Allowance of deduction.* Any charitable contribution, as defined in section 170(c), actually paid during the taxable year is allowable as a deduction in computing taxable income, irrespective of the method of accounting employed or of the date on which the contribution is pledged. However, charitable contributions by corporations may under certain circumstances be deductible even though not paid during the taxable year, as provided in section 170(a)(2) and § 1.170A–11. The deduction is subject to the limitations of section 170(b) and § 1.170A–8 or § 1.170A–11. Subject to the provisions of section 170(d) and §§ 1.170A–10 and 1.170A–11, certain excess charitable contributions made by individuals and corporations shall be treated as paid in certain succeeding taxable years. For rules relating to the determination of, and the deduction for, amounts paid to maintain certain students as members of the taxpayer's household and treated under section 170(h) as paid for the use of an organization described in section 170(c)(2), (3), or (4), see § 1.170A–2. For the reduction of any charitable contributions for interest on certain indebtedness, see section 170(f)(5) and § 1.170A–3. For a special rule relating to the computation of the amount of the deduction with respect to a charitable contribution of certain ordinary income or capital gain property, see section 170(e) and § 1.170A–4. For rules for postponing the time for deduction of a charitable contribution of a future interest in tangible personal property, see section 170(a)(3) and § 1.170A–5. For rules with respect to transfers in trust and of partial interests in property, see section 170(e), section 170(f)(2) and (3), §§ 1.170A–4, 1.170A–6, and 1.170A–7. For definition of the term "section 170(b)(1)(A) organization", see § 1.170A–9. For valuation of a remainder interest in real property, see section 170(f)(4) and the regulations thereunder. The deduction for charitable contributions is subject to verification by the district director.

(2) *Information required in support of deductions*—(i) *In general.* In connection with claims for deductions for charitable contributions, taxpayers shall state in their income tax returns the name of each organization to which a contribution was made and the amount and date of the actual payment of each contribution. If a contribution is made in property other than money, the taxpayer shall state the kind of property contributed, for example, used clothing, paintings, or securities, the method utilized in determining the fair market value of the property at the time the contribution was made, and whether or not the amount of the contribution was

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reduced under section 170(e). If a taxpayer makes more than one cash contribution to an organization during the taxable year, then in lieu of listing each cash contribution and the date of payment the taxpayer may state the total cash payments made to such organization during the taxable year. A taxpayer who elects under paragraph (d)(2) of § 1.170A–8 to apply section 170(e)(1) to his contributions and carryovers of 30-percent capital gain property must file a statement with his return indicating that he has made the election and showing the contributions in the current year and carryovers from preceding years to which it applies. For the definition of the term "30-percent capital gain property", see paragraph (d)(3) of § 1.170A–8.

(ii) *Contribution by individual of property other than money.* If an individual taxpayer makes a charitable contribution of an item of property other than money and claims a deduction in excess of $200 in respect of his contribution of such item, he shall attach to his income tax return the following information with respect to such item:

(*a*) The name and address of the organization to which the contribution was made.

(*b*) The date of the actual contribution.

(*c*) A description of the property in sufficient detail to identify the particular property contributed, including in the case of tangible property the physical condition of the property at the time of contribution, and, in the case of securities, the name of the issuer, the type of security, and whether or not such security is regularly traded on a stock exchange or in an over-the-counter market.

(*d*) The manner of acquisition, as, for example, by purchase, gift, bequest, inheritance, or exchange, and the approximate date of acquisition of the property by the taxpayer or, if the property was created, produced, or manufactured by or for the taxpayer, the approximate date the property was substantially completed.

(*e*) The fair market value of the property at the time the contribution was made, the method utilized in determining the fair market value, and, if the valuation was determined by appraisal, a copy of the signed report of the appraiser.

(*f*) The cost or other basis, adjusted as provided by section 1016, of property, other than securities, held by the taxpayer for a period of less than 5 years immediately preceding the date on which the contribution was made and, when the information is available, of property, other than securities, held for a period of 5 years or more preceding the date on which the contribution was made.

(*g*) In the case of property to which section 170(e) applies, the cost or other basis, adjusted as provided by section 1016, the reduction by reason of section 170(e)(1) in the amount of the charitable contribution otherwise taken into account, and the manner in which such reduction was determined.

(*h*) The terms of any agreement or understanding entered into by or on behalf of the taxpayer which relates to the use, sale, or disposition of the property contributed, as, for example, the terms of any agreement or understanding which—

(*1*) Restricts temporarily or permanently the donee's right to dispose of the donated property,

(*2*) Reserves to, or confers upon, anyone other than the donee organization or other than an organization participating with such organization in cooperative fund raising, any right to the income from such property, to the possession of the property, including the right to vote securities, to acquire such property by purchase or otherwise, or to designate the person to have such income, possession, or right to acquire, or

(*3*) Earmarks contributed property for a particular charitable use, such as the use of donated furniture in the reading room of the donee organization's library.

(*i*) The total amount claimed as a deduction for the taxable year due to the contribution of the property and, if less than the entire interest in the property is contributed during the taxable year, the amount claimed as a deduction in any prior year or years for contributions of other interests in such property, the name and address of each organization to which any such contribution was made, the place where any such property which is tangible property is located or kept, and the name of any person, other than the organization to which the property giving rise to the deduction was contributed, having actual possession of the property.

(iii) *Statement from donee organization.* Any deduction for a charitable contribution must be substantiated, when required by the district director, by a statement from the organization to which the contribution was made indicating whether the organization is a domestic organization, the name and address of the contributor, the amount of the contribution, the date of actual receipt of the contribution, and such other information as the district director may deem necessary. If the contribution includes an item of property, other than money or securities which are regularly traded on a stock exchange or in an over-the-counter market, which the donee deems to have a fair market value in excess of $200 at the time of receipt, such statement shall also indicate for each such item its location if it is retained by the organization, the amount received by the organization on any sale of the property and the date of sale or, in case of any other disposition of the property, the method of disposition. In the case of any contribution of tangible personal property, the statement shall indicate the use of the property by the organization and whether or not it is used for a purpose or function constituting the basis for the donee organization's exemption from income tax under section 501 or, in the case of a governmental unit, whether or not it is used for exclusively public purposes.

(b) *Time of making contribution.* Ordinarily, a contribution is made at the time delivery is effected. The unconditional delivery or mailing of a check which subsequently clears in due course will constitute an effective contribution on the date of delivery or mailing. If a taxpayer unconditionally delivers or mails a properly endorsed stock certificate to a charitable donee or the donee's agent, the gift is completed on the date of delivery or, if such certificate is received in the ordinary course of the mails, on the date of mailing. If the donor delivers the stock certificate to his bank or broker as the donor's agent, or to the issuing corporation or its agent, for transfer into the name of the donee, the gift is completed on the date the stock is transferred on the books of the corporation. For rules relating to the date of payment of a contribution consisting of a future interest in tangible personal property, see section 170(a)(3) and § 1.170A–5.

(c) *Value of a contribution in property.* (1) If a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution reduced as provided in section 170(e)(1) and paragraph (a) of § 1.170A–4.

(2) The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the usual market in which he customarily sells, at the time and place of the contribution and, in the case of a contribution of goods in quantity, in the quantity contributed. The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, but if he sells only at retail the usual market consists of his retail customers.

(3) If a donor makes a charitable contribution of property, such as stock in trade, at a time when he could not reasonably have been expected to realize its usual selling price, the value of the gift is not the usual selling price but is the amount for which the quantity of property contributed would have been sold by the donor at the time of the contribution.

(4) Any costs and expenses pertaining to the contributed property which were incurred in taxable years preceding the year of contribution and are properly reflected in the opening inventory for the year of contribution must be removed from inventory and are not a part of the cost of goods sold for purposes of determining gross income for the year of contribution. Any costs and expenses pertaining to the contributed property which are incurred in the year of contribution and would, under the method of accounting used, be properly reflected in the cost of goods sold for such year are to be treated as part of the cost of goods sold for such year. If costs and expenses incurred in producing or acquiring the contributed property are, under the method of accounting used, properly deducted under section 162 or other section of the Code, such costs and expenses will be allowed as deductions for the taxable year in which they are paid or incurred, whether or not such year is the year of the contribution. Any such costs and expenses which are treated as part of the cost of goods sold for the year of contribution, and any such costs and expenses which are properly deducted under section 162 or other section of the Code, are not to be treated under any section of the Code as resulting in any basis for the contributed property. Thus, for example, the contributed property has no basis for purposes of determining under section 170(e)(1)(A) and paragraph (a) of § 1.170A–4 the amount of gain which would have been recognized if such property had been sold by the donor at its fair market value at the time of its contribution. The amount of any charitable contribution for the taxable year is not to be reduced by the amount of any costs or expenses pertaining to the contributed property which was properly deducted under section 162 or other section of the Code for any taxable year preceding the year of the contribution. This subparagraph applies only to property which was held by the taxpayer for sale in the course of a trade or business. The application of this subparagraph may be illustrated by the following examples:

Example (1). In 1970, A, an individual using the calendar year as the taxable year and the accrual method of accounting, contributed to a church property from inventory having a fair market value of $600. The closing inventory at the end of 1969 properly included $400 of costs attributable to the acquisition of such property, and in 1969 A properly deducted under section 162 $50 of administrative and other expenses attributable to such property. Under section 170(e)(1)(A) and paragraph (a) of § 1.170A–4, the amount of the charitable contribution allowed for 1970 is $400 ($600 − [$600 − $400]). Pursuant to this subparagraph, the cost of goods sold to be used in determining gross income for 1970 may not include the $400 which was included in opening inventory for that year.

Example (2). The facts are the same as in example (1) except that the contributed property was acquired in 1970 at a cost of $400. The $400 cost of the property is included in determining the cost of goods sold for 1970, and $50 is allowed as a deduction for that year under section 162. A is not allowed any deduction under section 170 for the contributed property, since under section 170(e)(1)(A) and paragraph (a) of § 1.170A–4 the amount of the charitable contribution is reduced to zero ($600 − [$600 − $0]).

Example (3). In 1970, B, an individual using the calendar year as the taxable year and the accrual method of accounting, contributed to a church property from inventory having a fair market value of $600. Under § 1.471–3(c), the closing inventory at the end of 1969 properly included $450 costs attributable to the production of such property, including $50 of administrative and other indirect expenses which, under his method of accounting, was properly added to inventory rather than deducted as a business expense. Under section 170(e)(1)(A) and paragraph (a) of § 1.170A–4, the amount of the charitable contribution allowed for 1970 is $450 ($600 − [$600 − $450]). Pursuant to this subparagraph, the cost of goods sold to be used in determining gross income for 1970 may not include the $450 which was included in opening inventory for that year.

Example (4). The facts are the same as in example (3) except that the contributed property was produced in 1970 at a cost of $450, including $50 of administrative and other indirect expenses. The $450 cost of the property is included in determining the cost of goods sold for 1970. B is not allowed any deduction under section 170 for the contributed property, since under section 170(e)(1)(A) and paragraph (a) of § 1.170A–4 the amount of the charitable contribution is reduced to zero ($600 − [$600 − $0]).

Example (5). In 1970, C, a farmer using the cash method of accounting and the calendar year as the taxable year, contributed to a church a quantity of grain which he had raised having a fair market value of $600. In 1969, C paid expenses of $450 in raising the property which he properly deducted for such year under section 162. Under section 170(e)(1)(A) and paragraph (a) of § 1.170A–4, the amount of the charitable contribution in 1970 is reduced to zero ($600 − [$600 − $0]). Accordingly, C is not allowed any deduction under section 170 for the contributed property.

Example (6). The facts are the same as in example (5) except that the $450 expenses incurred in raising the contributed property were paid in 1970. The result is the same as in example (5), except the amount of $450 is deductible under section 162 for 1970.

(5) Transfers of property to an organization described in section 170(c) which bear a direct relationship to the taxpayer's trade or business and which are made with a reasonable expectation of financial return commensurate with the amount of the transfer may constitute allowable deductions as trade or business expenses rather than as charitable contributions. See section 162 and the regulations thereunder.

(d) *Purchase of an annuity.* (1) In the case of an annuity or portion thereof purchased from an organization described in section 170(c), there shall be allowed as a deduction the excess of the amount paid over the value at the time of purchase of the annuity or portion purchased.

(2) The value of the annuity or portion is the value of the annuity determined in accordance with paragraph (e)(1)(iii)(*b*)(2) of § 1.101–2.

(3) For determining gain on any such transaction constituting a bargain sale, see section 1011(b) and § 1.1011–2.

(e) *Transfers subject to a condition or power.* If as of the date of a gift a transfer for charitable purposes is dependent upon the performance of some act or the happening of a precedent event in order that it might become effective, no deduction is allowable unless the possibility that the charitable transfer will not become effective is so remote as to be negligible. If an interest in property passes to, or is vested in, charity on the date of the gift and the interest would be defeated by the subsequent performance of some act or the happening of some event, the possibility of occurrence of which appears on the date of the gift to be so remote as to be negligible, the deduction is allowable. For example, A transfers land to a city government for as long as the land is used by the city for a public park. If on the date of the gift the city does plan to use the land for a park and the possibility that the city will not use the land for a public park is so remote as to be negligible, A is entitled to a deduction under section 170 for his charitable contribution.

(f) *Special rules applicable to certain contributions.* (1) See section 14 of the Wild and Scenic Rivers Act (Public Law 90–542, 82 Stat. 918) for provisions relating to the claim and allowance of the value of certain easements as a charitable contribution under section 170.

(2) For treatment of gifts accepted by the Secretary of State or the Secretary of Commerce, for the purpose of organizing and holding an international conference to negotiate a Patent Corporation Treaty, as gifts to or for the use of the United States, see section 3 of joint resolution of December 24, 1969 (Public Law 91–160, 83 Stat. 443).

(3) For treatment of gifts accepted by the Secretary of the Department of Housing and Urban Development, for the purpose of aiding or facilitating the work of the Department, as gifts to or for the use of the United States, see section 7(k) of the Department of Housing and Urban Development Act (42 U.S.C. 3535), as added by section 905 of Public Law 91–609 (84 Stat. 1809).

(g) *Contributions of services.* No deduction is allowable under section 170 for a contribution of services. However, unreimbursed expenditures made incident to the rendition of services to an organization contributions to which are deductible may constitute a deductible contribution. For example, the cost of a uniform without general utility which is required to be worn in performing donated services is deductible. Similarly, out-of-pocket transportation expenses necessarily incurred in performing donated services are deductible. Reasonable expenditures for meals and lodging necessarily incurred while away from home in the course of performing donated services also are deductible. For the purposes of this paragraph, the phrase "while away from home" has the same meaning as that phrase is used for purposes of section 162 and the regulations thereunder.

(h) *Exceptions and other rules.* (1) The provisions of section 170 do not apply to contributions by an estate; nor do they apply to a trust unless the trust is a private foundation which, pursuant to section 642(c)(6) and § 1.642(c)–4, is allowed a deduction under section 170 subject to the provisions applicable to individuals.

(2) No deduction shall be allowed under section 170 for a charitable contribution to or for the use of an organization or trust described in section 508(d) or 4948(c)(4), subject to the conditions

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specified in such sections and the regulations thereunder.

(3) For disallowance of deductions for contributions to or for the use of communist controlled organizations, see section 11(a) of the Internal Security Act of 1950, as amended (50 U.S.C. 790).

(4) For denial of deductions for charitable contributions as trade or business expenses and rules with respect to treatment of payments to organizations other than those described in section 170(c), see section 162 and the regulations thereunder.

(5) No deduction shall be allowed under section 170 for amounts paid to an organization—

(i) A substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, or

(ii) Which participates in, or intervenes in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

For purposes of determining whether an organization is attempting to influence legislation or is engaging in political activities, see section 501(c)(3) and the regulations thereunder.

(6) No deduction shall be allowed under section 170 for expenditures for lobbying purposes, the promotion or defeat of legislation, etc. See also the regulations under sections 162 and 4945.

(7) No deduction for charitable contributions is allowed in computing the taxable income of a common trust fund or of a partnership. See sections 584(d)(3) and 703(a)(2)(D). However, a partner's distributive share of charitable contributions actually paid by a partnership during its taxable year may be allowed as a deduction in the partner's separate return for his taxable year with or within which the taxable year of the partnership ends, to the extent that the aggregate of his share of the partnership contributions and his own contributions does not exceed the limitations in section 170(b).

(8) For charitable contributions paid by a citizen of the United States entitled to the benefits of section 931, see section 931(d) and the regulations thereunder.

(9) For charitable contributions paid by a nonresident alien individual or a foreign corporation, see § 1.170A–4(b)(5) and sections 873, 876, 877, and 882(c), and the regulations thereunder.

(10) For charitable contributions paid by a citizen of the United States or a domestic corporation entitled to the benefits of section 931 (relating to income from sources within possessions of the United States), see section 931(d) and the regulations thereunder.

(11) For carryover of excess charitable contributions in certain corporate acquisitions, see section 381(c)(19) and the regulations thereunder.

(i) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969.

§ 1.170A–2 Amounts paid to maintain certain students as members of the taxpayer's household.

(a) *In general.* (1) The term "charitable contributions" includes amounts paid by the taxpayer during the taxable year to maintain certain students as members of his household which, under the provisions of section 170(h) and this section, are treated as amounts paid for the use of an organization described in section 170(c)(2), (3), or (4), and such amounts, to the extent they do not exceed the limitations under section 170(h)(2) and paragraph (b) of this section, are contributions deductible under section 170. In order for such amounts to be so treated, the student must be an individual who is neither a dependent (as defined in section 152) of the taxpayer nor related to the taxpayer in a manner described in any of the paragraphs (1) through (8) of section 152(a), and such individual must be a member of the taxpayer's household pursuant to a written agreement between the taxpayer and an organization described in section 170(c)(2), (3), or (4) to implement a program of the organization to provide educational opportunities for pupils or students placed in private homes by such organization. Furthermore, such amounts must be paid to maintain such individual during the period in the taxable year he is a member of the taxpayer's household and is a full-time pupil or student in the 12th or any lower grade at an educational institution, as defined in section 151(e)(4) and § 1.151–3, located in the United States. Amounts paid outside of such period, but within the taxable year, for expenses necessary for the maintenance of the student during the period will qualify for the charitable contributions deduction if the other limitation requirements of the section are met.

(2) For purposes of subparagraph (1) of this paragraph, amounts treated as charitable contributions include only those amounts actually paid by the taxpayer during the taxable year which are directly attributable to the maintenance of the student while he is a member of the taxpayer's household and is attending an educational institution on a full-time basis. This would include amounts paid to insure the well-being of the individual and to carry out the purpose for which the individual was placed in the taxpayer's home. For example, a deduction under section 170 would be allowed for amounts paid for books, tuition, food, clothing, transportation, medical and dental care, and recreation for the individual. Amounts treated as charitable contributions under this section do not include amounts which the taxpayer would have expended had the student not been in the household. They would not include, for example, amounts paid in connection with the taxpayer's home for taxes, insurance, interest on a mortgage, repairs, etc. Moreover, such amounts do not include any depreciation sustained by the taxpayer in maintaining such student or students in his household, nor do they include the value of any services rendered on behalf of such student or students by the taxpayer or any member of the taxpayer's household.

(3) For purposes of section 170(h) and this section, an individual will be considered to be a full-time pupil or student at an educational institution only if he is enrolled for a course of study prescribed for a full-time student at such institution and is attending classes on a full-time basis. Nevertheless, such individual may be absent from school due to special circumstances and still be considered to be in full-time attendance. Periods during the regular school term when the school is closed for holidays, such as Christmas and Easter, and for periods between semesters are treated as periods during which the pupil or student is in full-time attendance at the school. Also, absences during the regular school term due to illness of such individual shall not prevent him from being considered as a full-time pupil or student. Similarly, absences from the taxpayer's household due to special circumstances will not disqualify the student as a member of the household. Summer vacations between regular school terms are not considered periods of school attendance.

(4) When claiming a deduction for amounts described in section 170(h) and this section, the taxpayer must submit with his return a copy of his agreement with the organization sponsoring the individual placed in the taxpayer's household, together with a summary of the various items for which amounts were paid to maintain such individual, and a statement as to the date the individual became a member of the household and the period of his full-time attendance at school and the name and location of such school. Substantiation of amounts claimed must be supported by adequate records of the amounts actually paid. Due to the nature of certain items, such as food, a record of amount spent for all members of the household, with an equal portion thereof allocated to each member, will be acceptable.

(b) *Limitations.* Section 170(h) and this section shall apply to amounts paid during the taxable year only to the extent that the amounts paid in maintaining each pupil or student do not exceed $50 multiplied by the number of full calendar months in the taxable year that the pupil or student is maintained in accordance with the provisions of this section. For purposes of such limitation if 15 or more days of a calendar month fall within the period to which the maintenance of such pupil or student relates, such month is considered as a full calendar month. To the extent that such amounts qualify as charitable contributions under section 170(c), the aggregate of such amounts plus other contributions made during the taxable year for the use of an organization described in section 170(c) is deductible under section 170 subject to the limitation provided in section 170(b)(1)(B) and paragraph (c) of § 1.170A–8.

(c) *Compensation or reimbursement.* Amounts paid during the taxable year to maintain a pupil or student as a member of the taxpayer's household as provided in paragraph (a) of this section, shall not be taken into account under section 170(h) and this section, if the taxpayer receives any money or other property as compensation or reimbursement for any portion of such amounts. The taxpayer will not be denied the benefits of section 170(h) if he prepays an extraordinary or nonrecurring expense, such as a hospital bill or vacation trip, at the request of the individual's parents or the sponsoring organization and is reimbursed for such prepayment. The value of services performed by the pupil or student in attending to ordinary chores of the household will generally not be considered to constitute compensation or reimbursement. However, if the pupil or student is taken into the taxpayer's household to replace a former employee of the taxpayer or gratuitously to perform substantial services for the taxpayer, the facts and circumstances may warrant a conclusion that the taxpayer received reimbursement for maintaining the pupil or student.

(d) *No other amount allowed as deduction.* Except to the extent that amounts described in section 170(h) and this section are treated as charitable contributions under section 170(c) and, therefore, deductible under section 170(a), no deduction is allowed for any amount paid to maintain an individual, as a member of the taxpayer's household, in accordance with the provisions of section 170(h) and this section.

(e) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). The X organization is an organization described in section 170(c)(2) and is engaged in a program under which a number of European children are placed in the homes of U.S. residents in order to further the children's high school education. In accordance with paragraph (a) of this section, the taxpayer, A, who reports his income on the calendar year basis, agreed with X to take two of the children, and they were placed in the taxpayer's home on January 2, 1970, where they remained until January 21, 1971, during which time they were fully maintained by the taxpayer. The children enrolled at the local high school for the full course of study prescribed for 10th grade students and attended the school on a full-time basis for the spring semester starting January 18, 1970, and ending June 3, 1970, and for the fall semester starting September 1, 1970, and ending January 13, 1971. The total cost of food paid by A in 1970 for himself, his wife, and the two children amounted to $1,920, or $40 per month for each member of the household. Since the children were actually full-time students for only 8½ months during 1970, the amount paid for food for each child during that period amounted to $340. Other amounts amounts paid during the 8½-month period for each child for laundry, lights, water, recreation, and school supplies amounted to $160. Thus, the amounts treated under section 170(h) and this section as paid for the use of X would, with respect to each child, total $500 ($340+$160), or a total for both children of $1,000, subject to the limitations of paragraph (b) of this section. Since, for purposes of such limitations, the children were full-time students for only 8 full calendar months during 1970 (less than 15 days in January 1970), the taxpayer may treat only $800 as a charitable contribution made in 1970, that is, $50 multiplied by the 8 full calendar months, or $400 paid for the maintenance of each child. Neither the excess payments nor amounts paid to maintain the children during the period before school opened and for the period in summer between regular school terms is taken into account by reason of section 170(h). Also, because the children were full-time students for less than 15 days in January 1971 (although maintained in the taxpayer's household for 21 days), amounts paid to maintain the children during 1971 would not qualify as a charitable contribution.

Example (2). A religious organization described in section 170(c)(2) has a program for providing educational opportunities for children it places in private homes. In order to implement the program, the taxpayer, H, who resides with his wife, son, and daughter of high school age in a town in the United States, signs an agreement with the organization to maintain a girl sponsored by the organization as a member of his household while the child attends the local high school for the regular 1970–71 school year. The child is a full-time student at the school during the school year starting September 6, 1970, and ending June 6, 1971, and is a member of the taxpayer's household during that period. Although the taxpayer pays $200 during the school period falling in 1970, and $240 during the school period falling in 1971, to maintain the child, he cannot claim either amount as a charitable contribution because the child's parents, from time to time during the school year, send butter, eggs, meat, and vegetables to H to help defray the expenses of maintaining the child. This is considered property received as reimbursement under paragraph (c) of this section. Had her parents not contributed the food, the fact that the child, in addition to the normal chores she shared with the taxpayer's daughter, such as cleaning their own rooms and helping with the shopping and cooking, was responsible for the family laundry and for the heavy cleaning of the entire house while the taxpayer's daughter had no comparable responsibilities would also preclude a claim for a charitable contributions deduction. These substantial gratuitous services are considered property received as reimbursement under paragraph (c) of this section.

Example (3). A taxpayer resides with his wife in a city in the eastern United States. He agrees, in writing, with a fraternal society described in section 170(c)(4) to accept a child selected by the society for maintenance by him as a member of his household during 1971 in order that the child may attend the local grammar school as a part of the society's program to provide elementary education for certain children selected by it. The taxpayer maintains the child, who has as his principal place of abode the home of the taxpayer, and is a member of the taxpayer's household, during the entire year 1971. The child is a full-time student at the local grammar school for 9 full calendar months during the year. Under the agreement, the society pays the taxpayer $30 per month to help maintain the child. Since the $30 per month is considered as compensation or reimbursement to the taxpayer for some portion of the maintenance paid on behalf of the child, no amounts paid with respect to such maintenance can be treated as amounts paid in accordance with section 170(h). In the absence of the $30 per month payments, if the child qualifies as a dependent of the taxpayer under section 152(a)(9), that fact would also prevent the maintenance payments from being treated as charitable contributions paid for the use of the fraternal society.

(f) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969.

§ 1.170A–3 Reduction of charitable contribution for interest on certain indebtedness.

(a) *In general.* Section 170(f)(5) requires that the amount of a charitable contribution be reduced for certain interest to the extent necessary to avoid the deduction of the same amount both as an interest deduction under section 163 and as a deduction for charitable contributions under section 170. The reduction is to be determined in accordance with paragraphs (b) and (c) of this section.

(b) *Interest attributable to postcontribution period.* In determining the amount to be taken into account as a charitable contribution for purposes of section 170, the amount determined without regard to section 170(f)(5) or this section shall be reduced by the amount of interest which has been paid, or is to be paid, by the taxpayer, which is attributable to any liability connected with the contribution, and which is attributable to any period of time after the making of the contribution. The deduction otherwise allowable for charitable contributions under section 170 is required to be reduced pursuant to section 170(f)(5) and this section only if, in connection with a charitable contribution, a liability is assumed by the recipient of the contribution or by any other person or if the charitable contribution is of property which is subject to a liability. Thus, if a charitable contribution is made in property and the transfer is conditioned upon the assumption of a liability by the donee or by some other person, the contribution must be reduced by the amount of any interest which has been paid, or will be paid, by the taxpayer, which is attributable to the liability, and which is attributable to any period after the making of the contribution. The adjustment referred to in this paragraph must also be made where the contributed property is subject to a liability and the value of the property reflects the payment by the donor of interest with respect to a period of time after the making of the contribution.

(c) *Interest attributable to precontribution period.* If, in connection with the charitable contribution of a bond, a liability is assumed by the recipient or by any other person, or if the bond is subject to a liability, then, in determining the amount to be taken into account as a charitable contribution under section 170, the amount determined without regard to section 170(f)(5) and this section shall, without regard to whether any reduction may be required by paragraph (b) of this section, also be reduced for interest which has been paid, or is to be paid, by the taxpayer on indebtedness incurred or continued to purchase or carry such bond, and which is attributable to any period before

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the making of the contribution. However, the reduction referred to in this paragraph shall be made only to the extent that such reduction does not exceed the interest (including bond discount and other interest equivalent) receivable on the bond, and attributable to any period before the making of the contribution which is not, by reason of the taxpayer's method of accounting, includible in the taxpayer's gross income for any taxable year. For purposes of section 170(f)(5) and this section the term "bond" means any bond, debenture, note, or certificate or other evidence of indebtedness.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). On January 1, 1970, A, a cash basis taxpayer using the calendar year as the taxable year, contributed to a charitable organization real estate having a fair market value and adjusted basis of $10,000. In connection with the contribution the charitable organization assumed an indebtedness of $8,000 which A had incurred. On December 31, 1969, A prepaid one year's interest on that indebtedness for 1970, amounting to $960, and took an interest deduction of $960 for such amount. The amount of the gift, determined without regard to this section, is $2,960 ($10,000 less $8,000, the outstanding indebtedness, plus $960, the amount of prepaid interest). In determining the amount of the deduction for the charitable contribution, the value of the gift ($2,960) must be reduced by $960 to eliminate from the computation of such deduction that portion thereof for which A has been allowed an interest deduction.

Example (2). (a) On January 1, 1970, B, an individual using the cash receipts and disbursements method of accounting, purchased for $9,950 a 5½ percent $10,000, 20-year M Corporation bond, the interest on which was payable semiannually on June 30 and December 31. The M Corporation had issued the bond on January 1, 1960, at a discount of $720 from the principal amount. On December 1, 1970, B donated the bond to a charitable organization, and, in connection with the contribution, the charitable organization assumed an indebtedness of $7,000 which B had incurred to purchase and carry the bond.

(b) During the calendar year 1970 B paid accrued interest of $330 on the indebtedness for the period from January 1, 1970, to December 1, 1970, and has taken an interest deduction of $330 for such amount. No portion of the bond discount of $36 a year ($720 divided by 20 years) has been included in B's income, and of the $550 of annual interest receivable on the bond, he included in income only the June 30, 1970, payment of $275.

(c) The market value of the bond on December 1, 1970, was $9,902. Such value includes $229 of interest receivable which had accrued from July 1 to December 1, 1970.

(d) The amount of the charitable contribution determined without regard to this section is $2,902 ($9,902, the value of the property on the date of gift, less $7,000, the amount of the liability assumed by the charitable organization). In determining the amount of the allowable deduction for charitable contributions, the value of the gift ($2,902) must be reduced to eliminate from the deduction that portion thereof for which B has been allowed an interest deduction. Although the amount of such interest deduction was $330, the reduction required by this section is limited to $262, since the reduction is not in excess of the amount of interest income on the bond ($229 of accrued interest plus $33, the amount of bond discount attributable to the 11-month period B held the bond).

(e) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969.

§ 1.170A–4 Reduction in amount of charitable contributions of certain appreciated property

(a) *Amount of reduction.* Section 170(e)(1) requires that the amount of the charitable contribution which would be taken into account under section 170(a) without regard to section 170(e) shall be reduced before applying the percentage limitations under section 170(b)—

(1) In the case of a contribution by an individual or by a corporation of ordinary income property, as defined in paragraph (b)(1) of this section, by the amount of gain (hereinafter in this section referred to as ordinary income) which would have been recognized as gain which is not long-term capital gain if the property had been sold by the donor at its fair market value at the time of its contribution to the charitable organization,

(2) In the case of a contribution by an individual of section 170(e) capital gain property, as defined in paragraph (b)(2) of this section, by 50 percent of the amount of gain (hereinafter in this section referred to as long-term capital gain) which would have been recognized as long-term capital gain if the property had been sold by the donor at its fair market value at the time of its contribution to the charitable organization, and

(3) In the case of a contribution by a corporation of section 170(e) capital gain property, as defined in paragraph (b)(2) of this section, by 62½ percent of the amount of gain (hereinafter in this section referred to as long-term capital gain) which would have been recognized as long-term capital gain if the property had been sold by the donor at its fair market value at the time of its contribution to the charitable organization.

Section 170(e)(1) and this paragraph do not apply to reduce the amount of the charitable contribution where, by reason of the transfer of the contributed property, ordinary income or capital gain is recognized by the donor in the same taxable year in which the contribution is made. Thus, where income or gain is recognized under section 453(d) upon the transfer of an installment obligation to a charitable organization, or under section 454(b) upon the transfer of an obligation issued at a discount to such an organization, or upon the assignment of income to such an organization, section 170(e)(1) and this paragraph do not apply if recognition of the income or gain occurs in the same taxable year in which the contribution is made. Section 170(e)(1) and this paragraph apply to a charitable contribution of an interest in ordinary income property or section 170(e) capital gain property which is described in paragraph (b) of § 1.170A–6, or paragraph (b) of § 1.170A–7. For purposes of applying section 170(e)(1) and this paragraph it is immaterial whether the charitable contribution is made "to" the charitable organization or whether it is made "for the use of" the charitable organization. See § 1.170A–8(a)(2).

(b) *Definitions and other rules.* For purposes of this section—

(1) *Ordinary income property.* The term "ordinary income property" means property any portion of the gain on which would not have been long term capital gain if the property had been sold by the donor at its fair market value at the time of its contribution to the charitable organization. Such term includes, for example, property held by the donor primarily for sale to customers in the ordinary course of his trade or business, a work of art created by the donor, a manuscript prepared by the donor, letters and memorandums prepared by or for the donor, a capital asset held by the donor for not more than 6 months, and stock described in section 306(a), 341(a), or 1248(a) to the extent that, after applying such section, gain on its disposition would not have been long term capital gain. The term does not include an income interest in respect of which a deduction is allowed under section 170(f)(2)(B) and paragraph (c) of § 1.170A–6.

(2) *Section 170(e) capital gain property.* The term "section 170(e) capital gain property" means property any portion of the gain on which would have been treated as long-term capital gain if the property had been sold by the donor at its fair market value at the time of its contribution to the charitable organization and which—

(i) Is contributed to or for the use of a private foundation, as defined in section 509(a) and the regulations thereunder, other than a private foundation described in section 170(b)(1)(E),

(ii) Constitutes tangible personal property contributed to or for the use of a charitable organization, other than a private foundation to which subdivision (i) of this subparagraph applies, which is put to an unrelated use by the charitable organization within the meaning of subparagraph (3) of this paragraph, or

(iii) Constitutes property not described in subdivision (i) or (ii) of this subparagraph which is 30-percent capital gain property to which an election under paragraph (d)(2) of § 1.170A–8 applies.

For purposes of this subparagraph a fixture which is intended to be severed from real property shall be treated as tangible personal property.

(3) *Unrelated use*—(i) *In general.* The term "unrelated use" means a use which is unrelated to the purpose or function constituting the basis of the charitable organization's exemption under section 501 or, in the case of a contribution of property to a governmental unit, the use of such property by such unit for other than exclusively public purposes. For example, if a painting contributed to an educational institution is used by that organization for educational purposes by being placed in its library for display and study by art students, the use is not an unrelated use; but if the painting is sold and the proceeds used by the organization for educational purposes, the use of the property is an unrelated use. If furnishings contributed to a charitable organization are used by it in its offices and buildings in the course of carrying out its functions, the use of the property is not an unrelated use. If a set or collection of items of tangible personal property is contributed to a charitable organization or governmental unit, the use of the set or collection is not an unrelated use if the donee sells or otherwise disposes of only an insubstantial portion of the set or collection. The use by a trust of tangible personal property contributed to it for the benefit of a charitable organization is an unrelated use if the use by the trust is one which would have been unrelated if made by the charitable organization.

(ii) *Proof of use.* For purposes of applying subparagraph (2)(ii) of this paragraph, a taxpayer who makes a charitable contribution of tangible personal property to or for the use of a charitable organization or governmental unit may treat such property as not being put to an unrelated use by the donee if—

(a) He establishes that the property is not in fact put to an unrelated use by the donee, or

(b) At the time of the contribution or at the time the contribution is treated as made, it is reasonable to anticipate that the property will not be put to an unrelated use by the donee. In the case of a contribution of tangible personal property to or for the use of a museum, if the object donated is of a general type normally retained by such museum or other museums for museum purposes, it will be reasonable for the donor to anticipate, unless he has actual knowledge to the contrary, that the object will not be put to an unrelated use by the donee, whether or not the object is later sold or exchanged by the donee.

(4) *Property used in trade or business.* For purposes of applying subparagraphs (1) and (2) of this paragraph, property which is used in the trade or business, as defined in section 1231(b), shall be treated as a capital asset, except that any gain in respect of such property which would have been recognized if the property had been sold by the donor at its fair market value at the time of its contribution to the charitable organization shall be treated as ordinary income to the extent that such gain would have constituted ordinary income by reason of the application of section 617(d)(1), 1245(a), 1250(a), 1251(c), or 1252(a).

(5) *Nonresident alien individuals and foreign corporations.* The reduction in the case of a nonresident alien individual or a foreign corporation shall be determined by taking into account the gain which would have been recognized and subject to tax under chapter 1 of the Code if the property had been sold or disposed of within the United States by the donor at its fair market value at the time of its contribution to the charitable organization. However, the amount of such gain which would have been subject to tax under section 871(a) or 881 (relating to gain not effectively connected with the conduct of a trade or business within the United States) if there had been a sale or other disposition within the United States shall be treated as long-term capital gain. Thus, a charitable contribution by a nonresident alien individual or a foreign corporation of property the sale or other disposition of which within the United States would have resulted in gain subject to tax under section 871(a) or 881 will be reduced only as provided in section 170(e)(1)(B) and paragraph (a)(2) or (3) of this section, but only if the property contributed is described in subdivision (i), (ii), or (iii) of subparagraph (2) of this paragraph. A charitable contribution by a nonresident alien individual or a foreign corporation of property the sale or other disposition of which within the United States would have resulted in gain subject to tax under section 871(a) or 881 will in no case be reduced under section 170(e)(1)(A) and paragraph (a)(1) of this section.

(c) *Allocation of basis and gain*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph—

(i) If a taxpayer makes a charitable contribution of less than his entire interest in appreciated property, whether or not the transfer is made in trust, as, for example, in the case of a transfer of appreciated property to a pooled income fund described in section 642(c)(5) and § 1.642(c)–5, and is allowed a deduction under section 170 for a portion of the fair market value of such property, then for purposes of applying the reduction rules of section 170(e)(1) and this section to the contributed portion of the property the taxpayer's adjusted basis in such property at the time of the contribution shall be allocated under section 170(e)(2) between the contributed portion of the property and the noncontributed portion.

(ii) The adjusted basis of the contributed portion of the property shall be that portion of the adjusted basis of the entire property which bears the same ratio to the total adjusted basis as the fair market value of the contributed portion of the property bears to the fair market value of the entire property.

(iii) The ordinary income and the long-term capital gain which shall be taken into account in applying section 170(e)(1) and paragraph (a) of this section to the contributed portion of the property shall be the amount of gain which would have been recognized as ordinary income and long-term capital gain if such contributed portion had been sold by the donor at its fair market value at the time of its contribution to the charitable organization.

(2) *Bargain sale.* (i) If there is a bargain sale of property to the charitable organization and if section 1011(b) and § 1.1011–2 apply, then for purposes of applying the reduction rules of section 170(e)(1) and this section to the contributed portion of the property there shall be allocated under section 1011(b) to the contributed portion of the property the portion of the adjusted basis which is not allocated under section 1011(b) to the noncontributed portion of the property for purposes of determining gain from the bargain sale. The portion of the adjusted basis which is so allocated to the contributed portion of the property shall be that portion of the adjusted basis of the entire property which bears the same ratio to the total adjusted basis as the fair market value of the contributed portion of the property bears to the fair market value of the entire property. For purposes of applying section 170(e)(1) and paragraph (a) of this section to the contributed portion of the property in such a case, there shall be allocated to the contributed portion the amount of gain which is not recognized on the bargain sale but which would have been recognized as ordinary income or long-term capital gain if such contributed portion had been sold by the donor at its fair market value at the time of its contribution to the charitable organization.

(ii) If there is a bargain sale of property to the charitable organization and if section 1011(b) and § 1.1011–2 do not apply, the taxpayer's adjusted basis of the entire property shall be allocated to the noncontributed portion of the property in accordance with paragraph (e) of § 1.1001–1 for purposes of determining gain from the sale. In such case, no portion of the adjusted basis shall be allocated to the contributed portion of the property.

(iii) The term "bargain sale", as used in this subparagraph, means a transfer of property which is in part a sale or exchange of the property and in part a charitable contribution, as defined in section 170(c), of the property.

(3) *Ratio of ordinary income and capital gain.* For purposes of applying subparagraphs (1)(iii) and (2)(i) of this paragraph, the amount of ordinary income (or long-term capital gain) which would have been recognized if the contributed portion of the property had been sold by the donor at its fair market value at the time of its contribution shall be that amount which bears the same ratio to the ordinary income (or long-term capital gain) which would have been recognized if the entire property had been sold by the donor at its fair market value at the time of its contribution as (i) the fair market value of the contributed portion at such time bears to (ii) the fair market value of the entire property at such time. In the case of a bargain sale, the fair market value of the contributed portion for purposes of subdivision (i) is the amount determined by subtracting from the fair market value of the entire property the amount realized on the sale.

(4) *Donee's basis of property acquired.* The adjusted basis of the contributed portion of the property, as determined under subparagraph (1) or (2) of this paragraph, shall be used by the donee in applying to the contributed portion such

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provisions as section 514(a)(1), relating to adjusted basis of debt-financed property; section 1015(a), relating to basis of property acquired by gift; section 4940(c)(4), relating to capital gains and losses in determination of net investment income; and section 4942(f)(2)(B), relating to net short-term capital gain in determination of tax on failure to distribute income. The fair market value of the contributed portion of the property at the time of the contribution shall not be used by the donee as the basis of such contributed portion.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). (a) On July 1, 1970, C, an individual, makes the following charitable contributions, all of which are made to a church except in the case of the stock (as indicated):

Property	Fair market value	Adjusted basis	Recognized gain if sold
Ordinary income property	$50,000	$35,000	$15,000
Property which, if sold, would produce long-term capital gain:			
(1) Stock held more than 6 months contributed to—			
(i) A church	25,000	21,000	4,000
(ii) A private foundation not described in section 170(b)(1)(E)	15,000	10,000	5,000
(2) Tangible personal property held more than 6 months (put to unrelated use by church)	12,000	6,000	6,000
Total	102,000	72,0000	30,000

(b) After making the reductions required by paragraph (a) of this section, the amount of charitable contributions allowed (before application of section 170(b) limitations) is as follows:

Property	Fair market value	Reduction	Contribution allowed
Ordinary income property	$50,000	$15,000	$35,000
Property which, if sold, would produce long-term capital gain:			
(1) Stock contributed to—			
(i) The church	25,000	----------	25,000
(ii) The private foundation	15,000	2,500	12,500
(2) Tangible personal property	12,000	3,000	9,000
Total	102,000	20,500	81,500

(c) If C were a corporation, rather than an individual, the amount of charitable contributions allowed (before application of section 170(b) limitation) would be as follows:

Property	Fair market value	Reduction	Contribution allowed
Ordinary income property	$50,000	$15,000	$35,000
Property which, if sold, would produce long-term capital gain:			
(1) Stock contributed to—			
(i) The church	25,000	----------	25,000
(ii) The private foundation	15,000	3,125	11,875
(2) Tangible personal property	12,000	3,750	8,250
Total	102,000	21,875	80,125

Example (2). On March 1, 1970, D, an individual, contributes to a church intangible property to which section 1245 applies which has a fair market value of $60,000 and an adjusted basis of $10,000. At the time of the contribution D has used the property in his business for more than 6 months. If the property had been sold by D at its fair market value at the time of its contribution, it is assumed that under section 1245 $20,000 of the gain of $50,000 would have been treated as ordinary income and $30,000 would have been long-term capital gain. Under paragraph (a)(1) of this section, D's contribution of $60,000 is reduced by $20,000.

Example (3). The facts are the same as in example (2) except that the property is contributed to a private foundation not described in section 170(b)(1)(E). Under paragraph (a)(1) and (2) of this section, D's contribution is reduced by $35,000 (100 percent of the ordinary income of $20,000 and 50 percent of the long-term capital gain of $30,000).

Example (4). (a) In 1971, E, an individual calendar-year taxpayer, contributes to a church stock held for more than 6 months which has a fair market value of $90,000 and an adjusted basis of $10,000. In 1972, E also contributes to a church stock held for more than 6 months which has a fair market value of $20,000 and an adjusted basis of $10,000. E's contribution base for 1971 is $200,000; and for 1972, is $150,000. E makes no other charitable contributions for these 2 taxable years.

(b) For 1971 the amount of the contribution which may be taken into account under section 170(a) is limited by section 170(b)(1)(D)(i) to $60,000 ($200,000×30%), and A is allowed a deduction for $60,000. Under section 170(b)(1)(D)(ii), E has a $30,000 carryover to 1972 of 30-percent capital gain property, as defined in paragraph (d)(3) of § 1.170A–8. For 1972 the amount of the charitable contributions deduction is $45,000 (total contributions of $50,000 [$30,000+$20,000] but not to exceed 30% of $150,000).

(c) Assuming, however, that in 1972 E elects under section 170(b)(1)(D)(iii) and paragraph (d)(2) of § 1.170A–8 to have section 170(e)(1)(B) apply to his contributions and carryovers of 30-percent capital gain property, he must apply section 170(d)(1) as if section 170(e)(1)(B) had applied to the contribution for 1971. If section 170(e)(1)(B) had applied in 1971 to his contributions of 30-percent capital gain property, E's contribution would have been reduced from $90,000 to $50,000, the reduction of $40,000 being 50 percent of the gain of $80,000 ($90,000—$1,000) which would have been recognized as long-term capital gain if the property had been sold by E at its fair market value at the time of its contribution to the church. Accordingly, by taking the election into account, E has no carryover of 30-percent capital gain property to 1972 since the charitable contributions deduction of $60,000 allowed for 1971 in respect of that property exceeds the reduced contribution of $50,000 for 1971 which may be taken into account by reason of the election. The charitable contributions deduction of $60,000 allowed for 1971 is not reduced by reason of the election.

(d) Since by reason of the election E is allowed under paragraph (a)(2) of this section a charitable contributions deduction for 1972 of $15,000 ($20,000—[($20,000—$10,000)×50%]) and since the $30,000 carryover from 1971 is eliminated, it would not be to E's advantage to make the election under section 170(b)(1)(D)(iii) in 1972.

Example (5). In 1970, F, an individual calendar-year taxpayer, sells to a church for $4,000 ordinary income property with a fair market value of $10,000 and an adjusted basis of $4,000. F's contribution base for 1970 is $20,000, and F makes no other charitable contributions in 1970. At the time of the bargin sale, F has used the property in his business for more than 6 months. Thus, F makes a charitable contribution to the church of $6,000 ($10,000—$4,000 amount realized), which under paragraph (a)(1) of this section is reduced to zero ($6,000 [$10,000—$4,000 adjusted basis]). Since without regard to section 1011(b) no deduction is allowable under section 170 by reason of the bargain sale, section 1011(b) does not apply for purposes of allocating a portion of the adjusted basis to the noncontributed portion of the property and paragraph (c)(2)(i) of this section does not apply for purposes of allocating a portion of the adjusted basis to the contributed portion of the property. Accordingly, under paragraph (c)(2)(ii) of this section no gain is recognized to F on the bargain sale, and under section 1012 the basis of the property to the church is $4,000.

Example (6). In 1970, G, an individual calendar-year taxpayer, sells to a church for $6,000 ordinary income property with a fair market value of $10,000 and an adjusted basis of $4,000. G's contribution base for 1970 is $20,000, and G makes no other charitable contributions in 1970. Thus, G makes a charitable contribution to the church of $4,000 ($10,000—$6,000 amount realized), which under paragraph (a)(1) of this section is reduced to zero ($4,000 [$10,000—$4,000 adjusted basis]). Since without regard to section 1011(b) no deduction is allowable under section 170 by reason of the bargain sale, section 1011(b) does not apply for purposes of allocating a portion of the basis to the noncontributed portion of the property and paragraph (c)(2)(i) of this section does not apply for purposes of allocating a portion of the adjusted basis to the contributed portion of the property. Accordingly, under paragraph (c)(2)(ii) of this section F recognizes on the bargain sale a gain of $2,000 ($6,000—$4,000 adjusted basis), and under section 1012 the basis of the property to the church is $6,000.

Example (7). In 1970, H, an individual calendar-year taxpayer, sells to a church for $2,000 stock held for not more than 6 months which has an adjusted basis of $4,000 and a fair market value of $10,000. H's contribution base for 1970 is $20,000, and H makes no other charitable contributions in 1970. Thus, H makes a charitable contribution to the church of $8,000 ($10,000—$2,000 amount realized). Without regard to section 1011(b), H is allowed a deduction under section 170 of $2,000 ($8,000 [$10,000—$4,000 adjusted basis]), and, as a consequence, section 1011(b) must be applied to the bargain sale. Under paragraphs (a)(1) and (c)(2)(i) of this section, H's contribution of $8,000 is reduced by the amount of $4,800 of ordinary income ($8,000 [$4,000 adjusted basis×$8,000 value of gift/$10,000 value of entire property]). The reduced contribution of $3,200 consists of the portion ($4,000×$8,000/$10,000) of the adjusted basis not allocated to the noncontributed portion of the property. Under sections 1012 and 1015(a) the basis of the property to the church is $5,200 ($2,000+$3,200).

Example (8). In 1970, F, an individual calendar-year taxpayer, sells for $4,000 to a private foundation not described in section 170(b)(1)(E) property to which section 1245 applies which has a fair market value of $10,000 and an adjusted basis of $4,000. F's contribution base for 1970 is $20,000, and F makes no other charitable contributions in 1970. At the time of the bargin sale, F has used the property in his business for more than 6 months. Thus, F makes a charitable contribution of $6,000 ($10,000—$4,000 amount realized), which is 60 percent of the value of the property. The amount realized on the bargain sale is 40 percent ($4,000/$10,000) of the value of the property. If the property had been sold by F at its fair market value at the time of its contribution, it is assumed that under section 1245 $4,000 of the gain of $6,000 ($10,000—$4,000 adjusted basis) would have been treated as ordinary income and $2,000 would have been long term capital gain. Without regard to section 1011(b), F is allowed a deduction under section 170 of $1,000 ($6,000 [$4,000 ordinary income+50 percent of $2,000 long term capital gain]), and, as a consequence, section 1011(b) must be applied to the bargain sale. Accordingly, in applying section 1011(b) to the bargain sale, adjusted basis in the amount of $1,600 ($4,000 adjusted basis×40 percent) is allocated under § 1.1011–2(b) to the noncontributed portion of the property, and F's recognized gain of $2,400 ($4,000 amount realized less $1,600 adjusted basis) consists of $1,600 ($4,000×40 percent) of ordinary income and $800 ($2,000×40 percent) of long term capital gain. Under paragraphs (a) and (c)(2)(i) of this section, F's contribution of $6,000 is reduced by the sum of $2,400 ($4,000×60 percent) of ordinary income and $600 ([$2,000×60 percent]×50 percent) of long term capital gain. The reduced contribution of $3,000 consists of $2,400 ($4,000×60 percent) of adjusted basis and $600 ([$2,000×60 percent]×50 percent) of long term capital gain not used as a reduction under paragraph (a)(2) of this section. Under sections 1012 and 1015(a) the basis of the property to the private foundation is $6,400 ($4,000+$2,400).

Example (9). On January 1, 1970, A, an individual, transfers to a charitable remainder annuity trust described in section 664(d)(1) stock which he has held for more than 6 months and which has a fair market value of $250,000 and an adjusted basis of $50,000, an irrevocable remainder interest in the property being contributed to a private foundation not described in section 170(b)(1)(E). The trusts provides that an annuity of $12,500 a year is payable to A at the end of each year for 20 years. By reference to Table B of § 20.2031–10(f) of this chapter (Estate Tax Regulations) the figure in column (2) opposite 20 years is 11.4699. Therefore, under § 1.664–2 the fair market value of the gift of the remainder interest to charity is $106,626.25 ($250,000 [$12,500×11.4699]). Under paragraph (c)(1)(ii) of this section, the adjusted basis allocated to the contributed portion of the property is $21,325.25 ($50,000×$106,626.25/$250,000). Under paragraphs (a)(2) and (c)(1) of this section, A's contribution is reduced by $42,650.50 (50 percent×[$106,626.25—$21,325.25]) to $63,975.75 ($106,626.25—$42,650.50). If, however, the irrevocable remainder interest in the property had been contributed to a section 170(b)(1)(A) organization, A's contribution of $106,626.25 would not be reduced under paragraph (a) of this section.

Example (10). (a) On July 1, 1970, B, a calendar-year individual taxpayer, sells to a church for $75,000 intangible property to which section 1245 applies which has a fair market value of $250,000 and an adjusted basis of $75,000. Thus, B makes a charitable contribution to the church of $175,000 ($250,000—$75,000 amount realized), which is 70 percent ($175,000/$250,000) of the value of the property. The amount realized on the bargain sale is 30 percent ($75,000/$250,000) of the value of the property. At the time of the bargain sale, B has used the property in his business for more than 6 months. B's contribution base for 1970 is $500,000, and B makes no other charitable contributions in 1970. If the property had been sold by B at its fair market value at the time of its contribution, it is assumed that under section 1245 $105,000 of the gain of $175,000 ($250,000—$75,000 adjusted basis) would have been treated as ordinary income and $70,000 would have been long term capital gain. Without regard to section 1011(b), B is allowed a deduction under section 170 of $70,000 ($175,000—$105,000 ordinary income), and, as a consequence, section 1011(b) must be applied to the bargain sale. Accordingly, in applying section 1011(b) to the bargain sale, adjusted basis in th eamount of $22,500 ($75,000 adjusted basis × 30 percent) is allocated under § 1.1011–2(b) to the noncontributed portion of the property, and B's recognized gain of $52,500 ($75,000 amount realized less $22,500 adjusted basis) consists of $31,500 ($105,000×30 percent) of ordinary income and $21,000 ($70,000×30 percent) of long term capital gain.

(b) Under paragraphs (a)(1) and (c)(2)(i) of this section B's contribution of $175,000 is reduced by $73,500 ($105,000×70 percent) of ordinary income. The reduced contribution of $101,500 consists of $52,500 [$75,000×70 percent] of adjusted basis allocated to the contributed portion of the property and $49,000 [$70,000×70 percent] of long term capital gain allocated to the contributed portion. Under sections 1012 and 1015(a) the basis of the property to the church is $127,500 ($75,000+$52,500).

(e) *Effective date.* This section applies only to contributions paid after December 31, 1969, except that, in the case of a charitable contribution of a letter, memorandum, or property similar to a letter or memorandum, it applies to contributions paid after July 25, 1969.

§ 1.170A–5 Future interests in tangible personal property.

(a) *In general.* (1) A contribution consisting of a transfer of a future interest in tangible personal property shall be treated as made only when all intervening interests in, and rights to the actual possession or enjoyment of the property—

(i) Have expired, or

(ii) Are held by persons other than the taxpayer or those standing in a relationship to the taxpayer described in section 267(b) and the regulations thereunder, relating to losses, expenses, and interest with respect to transactions between related taxpayers.

(2) Section 170(a)(3) and this section have no application in respect of a transfer of an undivided present interest in property. For example, a contribution of an undivided one-quarter interest in a painting with respect to which the donee is entitled to possession during 3 months of each year shall be treated as made upon the receipt by the donee of a formally executed and acknowledged deed of gift. However, the period of initial possession by the donee may not be deferred in time for more than 1 year.

(3) Section 170(a)(3) and this section have no application in respect of a transfer of a future interest in intangible personal property or in real property. However, a fixture which is intended to be severed from real property shall be treated as tangible personal property. For example, a contribution of a future interest in a chandelier which is attached to a building is considered a contribution which consists of a future interest in tangible personal property if the transferor intends that it be detached from the building at or prior to the time when the charitable organization's right to possession or enjoyment of the chandelier is to commence.

(4) For purposes of section 170(a)(3) and this section, the term "future interest" has generally the same meaning as it has when used in section 2503 and § 25.2503–3 of this chapter (Gift Tax Regulations); it includes reversions, remainders, and other interests or estates, whether vested or contingent, and whether or not supported by a particular interest or estate, which are limited to commence in use, possession, or enjoyment at some future date or time. The term "future interest" includes situations in which a donor purports to give tangible personal property to a charitable organization, but has an understanding, arrangement, agreement, etc., whether written or oral, with the charitable organization which has the effect of reserving to, or retaining in, such donor a right to the use, possession, or enjoyment of the property.

(5) In the case of a charitable contribution of a future interest to which section 170(a)(3) and this section apply, the other provisions of section 170 and the regulations thereunder are inapplicable to the contribution until such time as the contribution is treated as made under section 170(a)(3).

(b) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). On December 31, 1970, A, an individual who reports his income on the calendar year basis, conveys by deed of gift to a museum title to a painting, but reserves to himself the right to the use, possession, and enjoyment of the painting during his lifetime. It is assumed that there was no intention to avoid the application of section 170(f)(3)(A) by the conveyance. At the time of the gift the value of the painting is $90,000. Since the contribution consists of

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a future interest in tangible personal property in which the donor has retained an intervening interest, no contribution is considered to have been made in 1970.

Example (2). Assume the same facts as in example (1) except that on December 31, 1971, A relinquishes all of his right to the use, possession, and enjoyment of the painting and delivers the painting to the museum. Assuming that the value of the painting has increased to $95,000, A is treated as having made a charitable contribution of $95,000 in 1971 for which a deduction is allowable without regard to section 170(f)(3)(A).

Example (3). Assume the same facts as in example (1) except A dies without relinquishing his right to the use, possession, and enjoyment of the painting. Since A did not relinquish his right to the use, possession, and enjoyment of the property during his life, A is treated as not having made a charitable contribution of the painting for income tax purposes.

Example (4). Assume the same facts as in example (1) except A, on December 31, 1971, transfers his interest in the painting to his son, B, who reports his income on the calendar year basis. Since the relationship between A and B is one described in section 267(b), no contribution of the remainder interest in the painting is considered to have been made in 1971.

Example (5). Assume the same facts as in example (4). Also assume that on December 31, 1972, B conveys to the museum the interest measured by A's life. B has made a charitable contribution of the present interest in the painting conveyed to the museum. In addition, since all intervening interests in, and rights to the actual possession or enjoyment of the property, have expired, a charitable contribution of the remainder interest is treated as having been made by A in 1972 for which a deduction is allowable without regard to section 170(f)(3)(A). Such remainder interest is valued according to Table A(1) in § 20.2031–10(f) of this chapter (estate tax regulations), determined by subtracting the value of B's interest measured by A's life expectancy in 1972, and B receives a deduction in 1972 for the life interest measured by A's life expectancy and valued according to Table A(1) in such section.

Example (6). On December 31, 1970, C, an individual who reports his income on the calendar year basis, transfers a valuable painting to a pooled income fund described in section 642(c)(5), which is maintained by a university. C retains for himself for life an income interest in the painting, the remainder interest in the painting being contributed to the university. Since the contribution consists of a future interest in tangible personal property in which the donor has retained an intervening interest, no charitable contribution is considered to have been made in 1970.

Example (7). On January 15, 1972, D, an individual who reports his income on the calendar year basis, transfers a capital asset held for more than 6 months consisting of a valuable painting to a pooled income fund described in section 642(c)(5), which is maintained by a university, and creates an income interest in such painting for E for life. E is an individual not standing in a relationship to D described in section 267(b). The remainder interest in the property is contributed by D to the university. The trustee of the pooled income fund puts the painting to an unrelated use within the meaning of paragraph (b)(3) of § 1.170A–4. Accordingly, D is allowed a deduction under section 170 in 1972 for the present value of the remainder interest in the painting, after reducing such amount under section 170(e)(1)(B)(i) and paragraph (a)(2) of § 1.170A–4. This reduction in the amount of the contribution is required since under paragraph (b)(3) of that section the use by the pooled income fund of the painting is a use which would have been an unrelated use if it had been made by the university.

(c) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969.

§ 1.170A–6 Charitable contributions in trust.

(a) *In general.* (1) No deduction is allowed under section 170 for the fair market value of a charitable contribution of any interest in property which is less than the donor's entire interest in the property and which is transferred in trust unless the transfer meets the requirements of paragraph (b) or (c) of this section. If the donor's entire interest in the property is transferred in trust and is contributed to a charitable organization described in section 170(c), a deduction is allowed under section 170. Thus, if on July 1, 1972, property is transferred in trust with the requirement that the income of the trust be paid for a term of 20 years to a church and thereafter the remainder be paid to an educational organization described in section 170(b)(1)(A), a deduction is allowed for the value of such property. See section 170(f)(2) and (3)(B), and paragraph (b)(1) of § 1.170A–7.

(2) A deduction is allowed without regard to this section for a contribution of a partial interest in property if such interest is the taxpayer's entire interest in the property, such as an income interest or a remainder interest. If, however, the property in which such partial interest exists was divided in order to create such interest and thus avoid section 170(f)(2), the deduction will not be allowed. Thus, for example, assume that a taxpayer desires to contribute to a charitable organization the reversionary interest in certain stocks and bonds which he owns. If the taxpayer transfers such property in trust with the requirement that the income of the trust be paid to his son for life and that the reversionary interest be paid to himself and immediately after creating the trust contributes the reversionary interest to a charitable organization, no deduction will be allowed under section 170 for the contribution of the taxpayer's entire interest consisting of the reversionary interest in the trust.

(b) *Charitable contribution of a remainder interest in trust*—(1) *In general.* No deduction is allowed under section 170 for the fair market value of a charitable contribution of a remainder interest in property which is less than the donor's entire interest in the property and which the donor transfers in trust unless the trust is—

(i) A pooled income fund described in section 642(c)(5) and § 1.642(c)–5,

(ii) A charitable remainder annuity trust described in section 664(d)(1) and § 1.664–2, or

(iii) A charitable remainder unitrust described in section 664(d)(2) and § 1.664–3.

(2) *Value of a remainder interest.* The fair market value of a remainder interest in a pooled income fund shall be computed under § 1.642(c)–6. The fair market value of a remainder interest in a charitable remainder annuity trust shall be computed under § 1.664–2. The fair market value of a remainder interest in a charitable remainder unitrust shall be computed under § 1.664–4. However, in some cases a reduction in the amount of a charitable contribution of the remainder interest may be required. See section 170(e) and § 1.170A–4.

(c) *Charitable contribution of an income interest in trust*—(1) *In general.* No deduction is allowed under section 170 for the fair market value of a charitable contribution of an income interest in property which is less than the donor's entire interest in the property and which the donor transfers in trust unless the income interest is either an annuity trust interest or a unitrust interest, as defined in subparagraph (2) of this paragraph, and the grantor is treated as the owner of such interest for purposes of applying section 671, relating to grantors and others treated as substantial owners. See section 4947(a)(2) for the application to such income interests in trust of the provisions relating to private foundations and section 508(e) for rules relating to provisions required in the governing instruments.

(2) [Reserved]

(3) *Valuation of income interest.* (i) The deduction allowed by section 170(f)(2)(B) for a charitable contribution of an annuity trust interest is limited to the fair market value of such interest on the date of contribution, as computed under § 20.2031–10 of this chapter (estate tax regulations).

(ii) The deduction allowed under section 170(f)(2)(B) for a charitable contribution of a unitrust interest is limited to the fair market value of the unitrust interest on the date of contribution. The fair market value of the unitrust interest shall be determined by subtracting (*a*) the present value of all interests in the transferred property that follow the unitrust interest from (*b*) the fair market value of the transferred property. For such purposes the present value of all interests that follow the unitrust interest shall be determined under § 1.664–4 by treating such interests as a remainder interest in a charitable remainder unitrust.

(iii) If by reason of all the conditions and circumstances surrounding a transfer of an income interest in property in trust it appears that the charity may not receive the beneficial enjoyment of the interest, a deduction will be allowed under subparagraph (1) of this paragraph only for the minimum amount it is evident the charity will receive. For example, assume that the taxpayer contributes in trust to a church a 9-year irrevocable income interest in $20,000 cash, the residue to revert to himself. The trust instrument provides that the church is to be paid an annuity-trust interest (as defined in subparagraph (2)(i) of this paragraph) of $4,000, payable annually at the end of each year for 9 years. Since the fair market value of an annuity of $4,000 a year for a period of 9 years, as determined under subdivision (i) of this subparagraph and Table B in § 20.2031–10(f) of this chapter (Estate Tax Regulations), is $27,206.80 ($4,000 × 6.8017), it appears that the church will not receive the beneficial enjoyment of the income interest. Accordingly, even though the donor is treated as the owner of this trust under section 673, he is allowed a deduction under subparagraph (1) of this paragraph only for $20,000, which is the minimum amount it is evident the church will receive.

(iv) See paragraph (b)(1) of § 1.170A–4 for rule that the term "ordinary income property" for purposes of section 170(e) does not include an income interest in respect of which a deduction is allowed under section 170(f)(2)(B) and this paragraph.

(4) *Recapture upon termination of treatment as owner.* If for any reason the donor of an income interest in property ceases at any time before the termination of such interest to be treated as the owner of such interest for purposes of applying section 671, as for example, where he dies before the termination of such interest, he shall for purposes of this chapter be considered as having received, on the date he ceases to be so treated, an amount of income equal to (i) the amount of any deduction he was allowed under section 170 for the contribution of such interest reduced by (ii) the discounted value of all amounts which were required to be, and actually were, paid with respect to such interest under the terms of trust to the charitable organization before the time at which he ceases to be treated as the owner of the interest. The discounted value of the amounts described in subdivision (ii) of this subparagraph shall be computed by treating each such amount as a contribution of a remainder interest after a term of years and valuing such amount as of the date of contribution of the income interest by the donor, such value to be determined under § 20.2031–10 of this chapter consistently with the manner in which the fair market value of the income interest by the donor, such value to subparagraph (3)(i) of this paragraph. The application of this subparagraph will not be construed to disallow a deduction to the trust for amounts paid by the trust to the charitable organization after the time at which the donor ceased to be treated as the owner of the trust.

(5) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). On January 1, 1970, A contributes to a church in trust a 9-year irrevocable income interest in property. Both A and the trust report income on a calendar year basis. The fair market value of the property placed in trust is $10,000. The trust instrument provides that the church will receive an annuity of $500, payable annually at the end of each year for 9 years. The income interest is an annuity-trust interest as defined in subparagraph (2)(i) of this paragraph; upon termination of such interest the residue of the trust is to revert to A. By reference to Table B in § 20.2031–10(f) of this chapter, it is found that the figure in column (2) opposite 9 years is 6.8017. The present value of the annuity is therefore $3,400.85 ($500 × 6.8017). The present value of the income interest and A's charitable contribution for 1970 is $3,400.85.

Example (2). (a) On January 1, 1970, B contributes to a church in trust a 9-year irrevocable income interest in property. Both B and the trust report income on a calendar year basis. The fair market value of the property placed in trust is $10,000. The trust instrument provides that the trust will pay to the church at the end of each year for 9 years, 5 percent of the fair market value of all property in the trust at the beginning of the year. The income interest is a unitrust interest as defined in subparagraph (2)(ii) of this paragraph; upon termination of such interest the residue of the trust is to revert to B.

(b) By reference to Table F in § 1.664–4(b)(5), the adjusted payout rate is 4.717 percent (5 percent × 0.943396). The present value of the reversion is $6,473.75, computed by reference to Table D in § 1.664–4(b)(5), as follows:

Factor at 4.6 percent for 9 years	0.654539
Factor at 4.8 percent for 9 years	.642292
Difference	.012247

Interpolation adjustment:

$$\frac{4.717\% - 4.6\%}{0.2\%} \times 0.012247 = \times 0.007164$$

Factor at 4.6 percent for 9 years	.654539
Less: Interpolation adjustment	.007164
Interpolated factor	.647375
Present value of reversion ($10,000 × 0.647375)	$6,473.75

(c) The present value of the income interest and B's charitable contribution for 1970 is $3,526.25 ($10,000 − $6,473.75).

Example (3). (a) On January 1, 1970, C contributes to a church in trust a 9-year irrevocable income interest in property. Both C and the trust report income on a calendar year basis. The fair market value of the property placed in trust is $10,000. The trust instrument provides that the church will receive an annuity of $500, payable annually at the end of each year for 9 years. The income interest is an annuity trust interest as defined in subparagraph (2)(i) of this paragraph; upon termination of such interest the residue of the trust is to revert to C. C's charitable contribution for 1970 is $3,400.85, determined as provided in example (1). The trust earns income of $600 in 1970, $400 in 1971, and $500 in 1972, all of which is taxable to C under section 671. The church is paid $500 at the end of 1970, 1971, and 1972, respectively. On December 31, 1972, C dies and ceases to be treated as the owner of the income interest under section 673.

(b) Pursuant to subparagraph (4) of this paragraph, the discounted value as of January 1, 1970, of the amounts paid to the church by the trust is $1,336.51, determined by reference to column (4) of Table B in § 20.2031–10(f) of this chapter, as follows:

Annuity: Payment date	Annuity: Amount paid	Years from Jan. 1, 1970, to payment date	Discount factor	Discounted value as of Jan. 1, 1970
Dec. 31, 1970	$500	1	0.943396	$471.70
Dec. 31, 1971	500	2	.889996	445.00
Dec. 31, 1972	500	3	.839619	419.81
Total discounted value				1,336.51

(c) Pursuant to subparagraph (4) of this paragraph, there must be included in C's gross income for 1972 the amount of $2,064.34 ($3,400.85 less $1,336.51).

(d) For deduction by the trust for amounts paid to the church after December 31, 1972, see section 642(c)(1) and the regulations thereunder.

(d) *Denial of deduction for certain contributions by a trust.* (1) If by reason of section 170(f)(2)(B) and paragraph (c) of this section a charitable contributions deduction is allowed under section 170 for the fair market value of an income interest transferred in trust, neither the grantor of the income interest, the trust, nor any other person shall be allowed a deduction under section 170 or any other section for the amount of any charitable contribution made by the trust with respect to, or in fulfillment of, such income interest.

(2) Section 170(f)(2)(C) and subparagraph (1) of this paragraph shall not be construed, however, to—

(i) Disallow a deduction to the trust, pursuant to section 642(c)(1) and the regulations thereunder, for amounts paid by the trust after the grantor ceases to be treated as the owner of the income interest for purposes of applying section 671 and which are not taken into account in determining the amount of recapture under paragraph (c)(4) of this section, or

(ii) Disallow a deduction to the grantor under section 671 and § 1.671–2(c) for a charitable contribution made by the trust in excess of the contribution required to be made by the trust under the terms of the trust instrument with respect to, or in fulfillment of, the income interest.

(3) Although a deduction for the fair market value of an income interest in property which is less than the donor's entire interest in the property and which the donor transfers in trust is disallowed under section 170 because such interest is not an annuity trust interest, or a unitrust interest, as defined in paragraph (c)(2) of this section, the donor may be entitled to a deduction under section 671 and § 1.671–2(c) for any charitable contributions made by the trust if he is treated as the owner of such interest for purposes of applying section 671.

(e) *Effective date.* This section applies only to transfers in trust made after July 31, 1969.

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§ 1.170A–7 Contributions not in trust of partial interests in property.

(a) *In general.* (1) In the case of a charitable contribution, not made by a transfer in trust, of any interest in property which consists of less than the donor's entire interest in such property, no deduction is allowed under section 170 for the value of such interest unless the interest is an interest described in paragraph (b) of this section. See section 170(f)(3)(A). For purposes of this section, a contribution of the right to use property which the donor owns, for example, a rent-free lease, shall be treated as a contribution of less than the taxpayer's entire interest in such property.

(2) (i) A deduction is allowed without regard to this section for a contribution of a partial interest in property if such interest is the taxpayer's entire interest in the property, such as an income interest or a remainder interest. Thus, if securities are given to A for life, with the remainder over to B, and B makes a charitable contribution of his remainder interest to an organization described in section 170(c), a deduction is allowed under section 170 for the present value of B's remainder interest in the securities. If, however, the property in which such partial interest exists was divided in order to create such interest and thus avoid section 170(f)(3)(A), the deduction will not be allowed. Thus, for example, assume that a taxpayer desires to contribute to a charitable organization an income interest in property held by him, which is not of a type described in paragraph (b)(2) of this section. If the taxpayer transfers the remainder interest in such property to his son and immediately thereafter contributes the income interest to a charitable organization, no deduction shall be allowed under section 170 for the contribution of the taxpayer's entire interest consisting of the retained income interest. In further illustration, assume that a taxpayer desires to contribute to a charitable organization the reversionary interest in certain stocks and bonds held by him, which is not of a type described in paragraph (b)(2) of this section. If the taxpayer grants a life estate in such property to his son and immediately thereafter contributes the reversionary interest to a charitable organization, no deduction will be allowed under section 170 for the contribution of the taxpayer's entire interest consisting of the reversionary interest.

(ii) A deduction is allowed without regard to this section for a contribution of a partial interest in property if such contribution constitutes part of a charitable contribution not in trust in which all interests of the taxpayer in the property are given to a charitable organization described in section 170(c). Thus, if on March 1, 1971, an income interest in property is given not in trust to a church and the remainder interest in the property is given not in trust to an educational organization described in section 170(b)(1)(A), a deduction is allowed for the value of such property.

(3) A deduction shall not be disallowed under section 170(f)(3)(A) and this section merely because the interest which passes to, or is vested in, the charity may be defeated by the performance of some act or the happening of some event, if on the date of the gift it appears that the possibility that such act or event will occur is so remote as to be negligible. See paragraph (e) of § 1.170A–1.

(b) *Contributions of certain partial interests in property for which a deduction is allowed.* A deduction is allowed under section 170 for a contribution not in trust of a partial interest which is less than the donor's entire interest in property and which qualifies under one of the following subparagraphs:

(1) *Undivided portion of donor's entire interest.* (i) A deduction is allowed under section 170 for the value of a charitable contribution not in trust of an undivided portion of a donor's entire interest in property. An undivided portion of a donor's entire interest in property must consist of a fraction or percentage of each and every substantial interest or right owned by the donor in such property and must extend over the entire term of the donor's interest in such property and in other property into which such property is converted. For example, assuming that in 1967 B has been given a life estate in an office building for the life of A and that B has no other interest in the office building, B will be allowed a deduction under section 170 for his contribution in 1972 to charity of a one-half interest in such life estate in a transfer which is not made in trust. Such contribution by B will be considered a contribution of an undivided portion of the donor's entire interest in property. In further illustration, assuming that in 1968 C has been given the remainder interest in a trust created under the will of his father and C has no other interest in the trust, C will be allowed a deduction under section 170 for his contribution in 1972 to charity of a 20-percent interest in such remainder interest in a transfer which is not made in trust. Such contribution by C will be considered a contribution of an undivided portion of the donor's entire interest in property. If a taxpayer owns 100 acres of land and makes a contribution of 50 acres to a charitable organization, the charitable contribution is allowed as a deduction under section 170. A deduction is allowed under section 170 for a contribution of property to a charitable organization whereby such organization is given the right, as a tenant in common with the donor, to possession, dominion, and control of the property for a portion of each year appropriate to its interest in such property. However, for purposes of this subparagraph a charitable contribution in perpetuity of an interest in property not intrust where the donor transfers some specific rights and retains other substantial rights will not be considered a contribution of an individual portion of the donor's entire interest in property to which section 170(f)(3)(A) does not apply. Thus, for example, a deduction is not allowable for the value of an immediate and perpetual gift not in trust of an interest in original historic motion picture films to a charitable organization where the donor retains the exclusive right to make reproductions of such films and to exploit such reproductions commercially.

(ii) For purposes of this subparagraph a charitable contribution of an open space easement in gross in perpetuity shall be considered a contribution of an undivided portion of the donor's entire interest in property to which section 170(f)(3)(A) does not apply. For this purpose an easement in gross is a mere personal interest in, or right to use, the land of another; it is not supported by a dominant estate but is attached to, and vested in, the person to whom it is granted. Thus, for example, a deduction is allowed under section 170 for the value of a restrictive easement gratuitously conveyed to the United States in perpetuity whereby the donor agrees to certain restrictions on the use of his property, such as, restrictions on the type and height of buildings that may be erected, the removal of trees, the erection of utility lines, the dumping of trash, and the use of signs.

(2) *Partial interests in property which would be deductible in trust.* A deduction is allowed under section 170 for the value of a charitable contribution not in trust of a partial interest in property which is less than the donor's entire interest in the property and which would be deductible under section 170(f)(2) and § 1.170A–6 if such interest had been transferred in trust.

(3) *Contribution of a remainder interest in a personal residence.* A deduction is allowed under section 170 for the value of a charitable contribution not in trust of an irrevocable remainder interest in a personal residence which is not the donor's entire interest in such property. Thus, for example, if a taxpayer contributes not in trust to an organization described in section 170(c) a remainder interest in a personal residence and retains an estate in such property for life or for a term of years, a deduction is allowed under section 170 for the value of such remainder interest not transferred in trust. For purposes of section 170(f)(3)(B)(i) and this subparagraph, the term "personal residence" means any property used by the taxpayer as his personal residence even though it is not used as his principal residence. For example, the taxpayer's vacation home may be a personal residence for purposes of this subparagraph. The term "personal residence" also includes stock owned by a taxpayer as a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b)(1) and (2)) if the dwelling which the taxpayer is entitled to occupy as such stockholder is used by him as his personal residence.

(4) *Contribution of a remainder interest in a farm.* A deduction is allowed under section 170 for the value of a charitable contribution not in trust of an irrevocable remainder interest in a farm which is not the donor's entire interest in such property. Thus, for example, if a taxpayer contributes not in trust to an organization described in section 170(c) a remainder interest in a farm and retains an estate in such farm for life or for a term of years, a deduction is allowed under section 170 for the value of such remainder interest not transferred in trust. For purposes of section 170(f)(3)(B)(i) and this subparagraph, the term "farm" means any land used by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock. The term "livestock" includes cattle, hogs, horses, mules, donkeys, sheep, goats, captive fur-bearing animals, chickens, turkeys, pigeons, and other poultry. A farm includes the improvements thereon.

(c) *Valuation of a partial interest in property.* The amount of the deduction under section 170 in the case of a charitable contribution of a partial interest in property to which paragraph (b) of this section applies is the fair market value of the partial interest at the time of the contribution. See § 1.170A–1(c). The fair market value of such partial interest must be determined in accordance with § 20.2031–10 of this chapter (Estate Tax Regulations), except that, in the case of a charitable contribution of a remainder interest in real property which is not transferred in trust, the fair market value of such interest must be determined in accordance with section 170(f)(4) and § 1.170A–12. In the case of a charitable contribution of a remainder interest in the form of a remainder interest in a pooled income fund, a charitable remainder annuity trust, or a charitable remainder unitrust, the fair market value of the remainder unitrust, the fair market value of the remainder interest must be determined as provided in paragraph (b)(2) of § 1.170A–6. However, in some cases a reduction in the amount of a charitable contribution of the remainder interest may be required. See section 170(e) and paragraph (a) of § 1.170A–4.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). A, an individual owning a 10-story office building, donates the rent-free use of the top floor of the building for the year 1971 to a charitable organization. Since A's contribution consists of a partial interest to which section 170(f)(3)(A) applies, he is not entitled to a charitable contributions deduction for the contribution of such partial interest.

Example (2). In 1971, B contributes to a charitable organization an undivided one-half interest in 100 acres of land, whereby as tenants in common they share in the economic benefits from the property. The present value of the contributed property is $50,000. Since B's contribution consists of an undivided portion of his entire interest in the property to which section 170(f)(3)(B) applies, he is allowed a deduction in 1971 for his charitable contribution of $50,000.

Example (3). In 1971, D loans $10,000 in cash to a charitable organization and does not require the organization to pay any interest for the use of the money. Since D's contribution consists of a partial interest to which section 170(f)(3)(A) applies, he is not entitled to a charitable contributions deduction for the contribution of such partial interest.

(e) *Effective date.* This section applies only to contributions made after July 31, 1969.

§ 1.170A–8 Limitations on charitable deductions by individuals.

(a) *Percentage limitations*—(1) *In general.* An individual's charitable contributions deduction is subject to 20-, 30-, and 50-percent limitations unless the individual qualifies for the unlimited charitable contributions deduction under section 170(b)(1)(C). For a discussion of these limitations and examples of their application, see paragraphs (b) through (f) of this section. If a husband and wife make a joint return, the deduction for contributions is the aggregate of the contributions made by the spouses, and the limitations in section 170(b) and this section are based on the aggregate contribution base of the spouses. A charitable contribution by an individual to or for the use of an organization described in section 170(c) may be deductible even though all, or some portion, of the funds of the organization may be used in foreign countries for charitable or educational purposes.

(2) *"To" or "for the use of" defined.* For purposes of section 170, a contribution of an income interest in property, whether or not such contributed interest is transferred in trust, for which a deduction is allowed under section 170(f)(2)(B) or (3)(A) shall be considered as made "for the use of" rather than "to" the charitable organization. A contribution of a remainder interest in property, whether or not such contributed interest is transferred in trust, for which a deduction is allowed under section 170(f)(2)(A) or (3)(A), shall be considered as made "to" the charitable organization except that, if such interest is transferred in trust and, pursuant to the terms of the trust instrument, the interest contributed is, upon termination of the predecessor estate, to be held in trust for the benefit of such organization, the contribution shall be considered as made "for the use of" such organization. Thus, for example, assume that A transfers property to a charitable remainder annuity trust described in section 664(d)(1) which is required to pay to B for life an annuity equal to 5 percent of the initial fair market value of the property transferred in trust. The trust instrument provides that after B's death the remainder interest in the trust is to be transferred to M Church or, in the event M Church is not an organization described in section 170(c) when the amount is to be irrevocably transferred to such church, to an organization which is described in section 170(c) at that time. The contribution by A of the remainder interest shall be considered as made "to" M Church. However, if in the trust instrument A had directed that after B's death the remainder interest is to be held in trust for the benefit of M Church, the contribution shall be considered as made "for the use of" M Church. This subparagraph does not apply to the contribution of a partial interest in property, or of an undivided portion of such partial interest, if such partial interest is the donor's entire interest in the property and such entire interest was not created to avoid section 170(f)(2) or (3)(A). See paragraph (a)(2) of § 1.170A–6 and paragraphs (a)(2)(i) and (b)(1) of § 1.170A–7.

(b) *50-percent limitation.* An individual may deduct charitable contributions made during a taxable year to any one or more section 170(b)(1)(A) organizations, as defined in § 1.170A–9, to the extent that such contributions in the aggregate do not exceed 50 percent of his contribution base, as defined in section 170(b)(1)(F) and paragraph (e) of this section, for the taxable year. However, see paragraph (d) of this section for a limitation on the amount of charitable contributions of 30-percent capital gain property. To qualify for the 50-percent limitation the contributions must be made "to," and not merely "for the use of," one of the specified organizations. A contribution to an organization referred to in section 170(c)(2), other than a section 170(b)(1)(A) organization, will not qualify for the 50-percent limitation even though such organization makes the contribution available to an organization which is a section 170(b)(1)(A) organization. For provisions relating to the carryover of contributions in excess of 50-percent of an individual's contribution base see section 170(d)(1) and paragraph (b) of § 1.170A–10.

(c) *20-percent limitation.* (1) An individual may deduct charitable contributions made during a taxable year—

(i) To any one or more charitable organizations described in section 170(c) other than section 170(b)(1)(A) organizations, as defined in § 1.170A–9, and,

(ii) For the use of any charitable organization described in section 170(c),

to the extent that such contributions in the aggregate do not exceed the lesser of the limitations under subparagraph (2) of this paragraph.

(2) For purposes of subparagraph (1) of this paragraph the limitations are—

(i) 20 percent of the individual's contribution base, as defined in paragraph (e) of this section, for the taxable year, or

(ii) The excess of 50 percent of the individual's contribution base, as so defined, for the taxable year over the total amount of the charitable contributions allowed under section 170(b)(1)(A) and paragraph (b) of this section, determined by first reducing the amount of such contributions under section 170(e)(1) and paragraph (a) of § 1.170A–4 but without applying the 30-percent limitation under section 170(b)(1)(D)(i) and paragraph (d)(1) of this section.

However, see paragraph (d) of this section for a limitation on the amount of charitable contributions of 30-percent capital gain property. If an election under section 170(b)(1)(D)(iii) and paragraph (d)(2) of this section applies

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to any contributions of 30-percent capital gain property made during the taxable year or carried over to the taxable year, the amount allowed for the taxable year under paragraph (b) of this section with respect to such contributions for purposes of applying subdivision (ii) of this subparagraph shall be the reduced amount of such contributions determined by applying paragraph (d)(2) of this section.

(d) *30-percent limitation*—(1) *In general.* An individual may deduct charitable contributions of 30-percent capital gain property, as defined in subparagraph (3) of this paragraph, made during a taxable year to or for the use of any charitable organization described in section 170(c) to the extent that such contributions in the aggregate do not exceed 30-percent of his contribution base, as defined in paragraph (e) of this section, subject, however, to the 50- and 20-percent limitations prescribed by paragraphs (b) and (c) of this section. For purposes of applying the 50-percent and 20-percent limitations described in paragraphs (b) and (c) of this section, charitable contributions of 30-percent capital gain property paid during the taxable year, and limited as provided by this subparagraph, shall be taken into account after all other charitable contributions paid during the taxable year. For provisions relating to the carryover of certain contributions of 30-percent capital gain property in excess of 30-percent of an individual's contribution base, see section 170 (b) (1) (D) (ii) and paragraph (c) of § 1.170A–10.

(2) *Election by an individual to have section 170(e)(1)(B) apply to contributions*—(i) *In general.* (a) An individual may elect under section 170(b)(1)(D)(iii) for any taxable year to have the reduction rule of section 170(e)(1)(B) and paragraph (a) of § 1.170A–4 apply to all his charitable contributions of 30-percent capital gain property made during such taxable year or carried over to such taxable year from a taxable year beginning after December 31, 1969. If such election is made such contributions shall be treated as contributions of section 170(e) capital gain property in accordance with paragraph (b)(2)(iii) of § 1.170A–4. The election may be made with respect to contributions of 30-percent capital gain property carried over to the taxable year even though the individual has not made any contribution of 30-percent capital gain property in such year. If such an election is made, section 170(b)(1)(D) (i) and (ii) and subparagraph (1) of this paragraph shall not apply to such contributions made during such year. However, such contributions must be reduced as required under section 170(e)(1)(B) and paragraph (a) of § 1.170A–4.

(b) If there are carryovers to such taxable year of charitable contributions of 30-percent capital gain property made in preceding taxable years beginning after December 31, 1969, the amount of such contributions in each such preceding year shall be reduced as if section 170(e)(1)(B) had applied to them in the preceding year and shall be carried over to the taxable year and succeeding taxable years under section 170(d)(1) and paragraph (b) of § 1.170A–10 as contributions of property other than 30-percent capital gain property. For purposes of applying the immediately preceding sentence, the percentage limitations under section 170(b) for the preceding taxable year and for any taxable years intervening between such year and the year of the election shall not be redetermined and the amount of any deduction allowed for such years under section 170 in respect of the charitable contributions of 30-percent capital gain property in the preceding taxable year shall not be redetermined. However, the amount of the deduction so allowed under section 170 in the preceding taxable year must be subtracted from the reduced amount of the charitable contributions made in such year in order to determine the excess amount which is carried over from such year under section 170(d)(1). If the amount of the deduction so allowed in the preceding taxable year equals or exceeds the reduced amount of the charitable contributions, there shall be no carryover from such year to the year of the election.

(c) An election under this subparagraph may be made for each taxable year in which charitable contributions of 30-percent capital gain property are made or to which they are carried over under section 170(b)(1)(D)(ii). If there are also carryovers under section 170(d)(1) to the year of the election by reason of an election made under this subparagraph for a previous taxable year, such carryovers under section 170(d)(1) shall not be redetermined by reason of the subsequent election.

(ii) *Husband and wife making joint return.* If a husband and wife make a joint return of income for a contribution year and one of the spouses elects under this subparagraph in a later year when he files a separate return, or if a spouse dies after a contribution year for which a joint return is made, any excess contribution of 30-percent capital gain property which is carried over to the election year from the contribution year shall be allocated between the husband and wife as provided in paragraph (d)(4)(i) and (iii) of § 1.170A–10. If a husband and wife file separate returns in a contribution year, any election under this subparagraph in a later year when a joint return is filed shall be applicable to any excess contributions of 30-percent capital gain property of either taxpayer carried over from the contribution year to the election year. The immediately preceding sentence shall also apply where two single individuals are subsequently married and file a joint return. A remarried individual who filed a joint return with his former spouse for a contribution year and thereafter files a joint return with his present spouse shall treat the carryover to the election year as provided in paragraph (d)(4)(ii) of § 1.170A–10.

(iii) *Manner of making election.* The election under subdivision (i) of this subparagraph shall be made by attaching to the income tax return for the election year a statement indicating that the election under section 170(b)(1)(D)(iii) and this subparagraph is being made. If there is a carryover to the taxable year of any charitable contributions of 30-percent capital gain property from a previous taxable year or years, the statement shall show a recomputation, in accordance with this subparagraph and § 1.170A–4, of such carryover, setting forth sufficient information with respect to the previous taxable year or any intervening year to show the basis of the recomputation. The statement shall indicate the district director, or the director of the internal revenue service center, with whom the return for the previous taxable year or years was filed, the name or names in which such return or returns were filed, and whether each such return was a joint or separate return.

(3) *30-percent capital gain property defined.* If there is a charitable contribution of a capital asset which, if it were sold by the donor at its fair market value at the time of its contribution, would result in the recognition of gain all, or any portion, of which would be long-term capital gain and if the amount of such contribution is not required to be reduced under section 170(e)(1)(B) and § 1.170A–4(a)(2), such capital asset shall be treated as "30-percent capital gain property" for purposes of section 170 and the regulations thereunder. For such purposes any property which is property used in the trade or business, as defined in section 1231(b), shall be treated as a capital asset. However, see paragraph (b)(4) of § 1.170A–4. For the treatment of such property as section 170(e) capital gain property, see paragraph (b)(2)(iii) of § 1.170A–4.

(e) *Contribution base defined.* For purposes of section 170 the term "contribution base" means adjusted gross income under section 62, computed without regard to any net operating loss carryback to the taxable year under section 172. See section 170(b)(1)(F).

(f) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). B, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. During 1970 he makes charitable contributions of $70,000 in cash, of which $40,000 is given to section 170(b)(1)(A) organizations and $30,000 is given to other organizations described in section 170 (c). Accordingly, B is allowed a charitable contributions deduction of $50,000 (50% of $100,000), which consists of the $40,000 contributed to section 170 (b)(1)(A) organizations and $10,000 of the $30,000 contributed to the other organizations. Under paragraph (c) of this section, only $10,000 of the $30,000 contributed to the other organizations is allowed as a deduction since such contribution of $30,000 is allowed to the extent of the lesser of $20,000 (20% of $100,000) or $10,000 ([50% of $100,000]—$40,000 (contributions allowed under section 170(b)(1)(A) and paragraph (b) of this section)). Under section 170 (b)(1)(D)(ii) and (d)(1) and § 1.170A–10, B is not allowed a carryover to 1971 or to any other taxable year for any of the $20,000 ($30,000—$10,000) not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

Example (2). C, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. During 1970 he makes charitable contributions of $40,000 in 30-percent capital gain property to section 170(b)(1)(A) organizations and of $30,000 in cash to other organizations described in section 170(c). The 20-percent limitation in section 170(b)(1)(B) and paragraph (c) of this section is applied before the 30-percent limitation in section 170(b)(1)(D)(i) and paragraph (d) of this section; accordingly section 170(b)(1)(B)(ii) limits the deduction for the $30,000 cash contribution to $10,000 ([50% of $100,000]—$40,000). The amount of the contribution of 30-percent capital gain property is limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $30,000 (30% of $100,000). Accordingly, C's charitable contributions deduction for 1970 is limited to $40,000 ($10,000+$30,000). Under section 170 (b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, C is allowed a carryover to 1971 of $10,000 ($40,000—$30,000) in respect of his contributions of 30-percent capital gain property. C is not allowed a carryover to 1971 or to any other taxable year for any of the $20,000 cash ($30,000—$10,000) not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

Example (3). (a) D, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. During 1970 he makes charitable contributions of $70,000 in cash, of which $40,000 is given to section 170(b)(1)(A) organizations and $30,000 is given to other organizations described in section 170(c). During 1971 D makes charitable contributions to a section 170(b)(1)(A) organization of $12,000, consisting of cash of $1,000 and $11,000 in 30-percent capital gain property. His contribution base for 1971 is $10,000.

(b) For 1970, D is allowed a charitable contributions deduction of $50,000 (50% of $100,000), which consists of the $40,000 contributed to section 170(b)(1)(A) organizations and $10,000 of the $30,000 contributed to the other organizations. Under paragraph (c) of this section, only $10,000 of the $30,000 contributed to the other organizations is allowed as a deduction since such contribution of $30,000 is allowed to the extent of the lesser of $20,000 (20% of $100,000) or $10,000 ([50% of $100,000]—$40,000 (contributions allowed under section 170(b)(1)(A) and paragraph (b) of this section)). D is not allowed a carryover to 1971 or to any other taxable year for any of the $20,000 ($30,000—$10,000) not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

(c) For 1971, D is allowed a charitable contributions deduction of $4,000, consisting of $1,000 cash and $3,000 of the 30-percent capital gain property (30% of $10,000). Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, D is allowed a carryover to 1972 of $8,000 ($11,000—$3,000) in respect of his contribution of 30-percent capital gain property in 1971.

Example (4). (a) E, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. During 1970 he makes charitable contributions of $70,000 in cash, of which $40,000 is given to section 170(b)(1)(A) organizations and $30,000 is given to other organizations described in section 170(c). During 1971 E makes charitable contributions to a section 170(b)(1)(A) organization of $14,000 consisting of cash of $3,000 and $11,000 in 30-percent capital gain property. His contribution base for 1971 is $10,000.

(b) For 1970, E is allowed a charitable contributions deduction of $50,000 (50% of $100,000), which consists of the $40,000 contributed to section 170(b)(1)(A) organizations and of $10,000 in cash to other organizations described in section 170(c). The 20-percent limitation in section 170(b)(1)(B) and paragraph (c) of this section is applied before the 30-percent limitation in section 170(b)(1)(D)(i) and paragraph (d) of this section; accordingly section 170(b)(1)(B)(ii) limits the deduction for the $30,000 cash contribution to $10,000 ([50% of $100,000]—$40,000). The amount of the contribution of 30-percent capital gain property is limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $30,000 (30% of $100,000). Accordingly, C's charitable contributions deduction for 1970 is limited to $40,000 ($10,000+$30,000). Under section 170 (b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, C is allowed a carryover to 1971 of $10,000 ($40,000—$30,000) in respect of his contributions of 30-percent capital gain property. C is not allowed a carryover to 1971 or to any other taxable year for any of the $20,000 cash ($30,000—$10,000) not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

Example (5). In 1970, C, a calendar-year individual taxpayer, contributes to section 170(b)(1)(A) organizations the amount of $8,000, consisting of $3,000 in cash and $5,000 in 30-percent capital gain property. In 1970, C also makes charitable contributions of $8,500 in 30 percent capital gain property to other organizations described in section 170 (c). C's contribution base for 1970 is $20,000. The 20-percent limitation in section 170(b)(1)(B) and paragraph (c) of this section is applied before the 30-percent limitation in section 170(b)(1)(D)(i) and paragraph (d) of this section; accordingly, section 170(b)(1)(B)(ii) limits the deduction for the $8,500 of contributions to the other organizations described in section 170 (c) to $2,000 ([50% of $20,000]—[$3,000+$5,000]). However, the total amount of contributions of 30-percent capital gain property which is allowed as a deduction for 1970 is limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $6,000 (30% of $20,000), consisting of the $5,000 contribution to the section 170(b)(1)(A) organizations and $1,000 of the contributions to the other organizations described in section 170 (c). Accordingly, C is allowed a charitable contributions deduction for 1970 of $9,000, which consists of $3,000 cash and $6,000 of the $13,500 of 30-percent capital gain property. C is not allowed to carry over to 1971 or any other year the remaining $7,500 because his contributions of 30-percent capital gain property for 1970 to section 170(b)(1)(A) organizations amount only to $5,000 and do not exceed $6,000 (30% of $20,000). Thus, the requirement of section 170(b)(1)(D)(ii) is not satisfied.

Example (6). During 1971, D, a calendar-year individual taxpayer, makes a charitable contribution to a church of $8,000, consisting of $5,000 in cash and $3,000 in 30-percent capital gain property. For such year, D's contribution base is $10,000. Accordingly, D is allowed a charitable contributions deduction for 1971 of $5,000 (50% of $10,000) of cash. Under section 170(d)(1) and paragraph (b) of § 1.170A–10, D is allowed a carryover to 1972 of his $3,000 contribution of 30-percent capital gain property, even though such amount does not exceed 30 percent of his contribution base for 1971.

Example (7). In 1970, E, a calendar-year individual taxpayer, makes a charitable contribution to a section 170(b)(1)(A) organization in the amount of $10,000, consisting of $8,000 in 30-percent capital gain property and of $2,000 (after reduction under section 170(e)) in other property. E's contribution base of 1970 is $20,000. Accordingly, E is allowed a charitable contributions deduction for 1970 of $8,000, consisting of the $2,000 of property the amount of which was reduced under section 170(e) and $6,000 (30% of $20,000) of the 30-percent capital gain property. Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, E is allowed to carry over to 1971 $2,000 ($8,000—$6,000) of his contribution of 30-percent capital gain property.

Example (8). (a) In 1972, F, calendar-year individual taxpayer, makes a charitable contribution to a church of $4,000, consisting of $1,000 in cash and $3,000 in 30-percent capital gain property. In addition, F makes a charitable contribution in 1972 of $2,000 in cash to an organization described in section 170(c)(4). F also has a carryover from 1971 under section 170(d)(1) of $5,000 (none of which consists of contributions of 30-percent capital gain property) and a carryover from 1971 under section 170(b)(1)(D)(ii) of $6,000 of contributions of 30-percent capital gain property. F's contribution base for 1972 is $11,000.

Accordingly, F is allowed a charitable contributions deduction for 1972 of $5,500 (50% of $11,000), which consists of $1,000 cash contributed in 1972 to the church, $3,000 of 30-percent capital gain property contributed in 1972 to the church, and $1,500 (carryover of $5,000 but not to exceed [$5,500—($1,000+$3,000)]) of the carryover from 1971 under section 170(d)(1).

(b) No deduction is allowed for 1972 for the contribution in that year of $2,000 cash to the section 170(c)(4) organization since section 170(b)(1)(B)(ii) and paragraph (c) of this section limit the deduction for such contribution to $0([50% of $11,000]—[$1,000+$1,500+$3,000]). Moreover, F is not allowed a carryover to 1973 or to any other year for any of such $2,000 cash contributed to the section 170(c)(4) organization.

(c) Under section 170(d)(1) and paragraph (b) of § 1.170A–10, F is allowed a carryover to 1973 from 1971 of $3,500 ($5,000—$1,500) of contributions of other than 30-percent capital gain property. Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, F is allowed a carryover to 1973 from 1971 of $6,000 ($6,000—$0 of such carryover treated as paid in 1972) of contributions of 30-percent capital gain property. The portion of such $6,000 carryover from 1971 which is treated as paid in 1972 is $0 ([50% of $11,000]—$4,000 contributions to the church in 1972 plus $1,500 of section 170(d)(1) carryover treated as paid in 1972]).

Example (9). (a) In 1970, A, a calendar-year individual taxpayer, makes a charitable contribution to a church of 30-percent capital gain property having a fair market value of $60,000 and an adjusted basis of $10,000. A's contribution base for 1970 is $50,000, and he makes no other charitable contributions in that year. A does not elect for 1970 under paragraph (d)(2) of this section to have section 170(e)(1)(B) apply to such contribution. Accordingly, under section 170(b)(1)(D)(i) and paragraph (d) of this section, A is allowed a charitable contributions deduction for 1970 of $15,000 (30% of $50,000). Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, A is allowed a

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carryover to 1971 of $45,000 ($60,000−$15,000) for his contribution of 30-percent capital gain property.

(b) In 1971, A makes a charitable contribution to a church of 30-percent capital gain property having a fair market value of $11,000 and an adjusted basis of $10,000. A's contribution base for 1971 is $60,000, and he makes no other charitable contributions in that year. A elects for 1971 under paragraph (d)(2) of this section to have section 170(e)(1)(B) and § 1.170A–4 apply to his contribution of $11,000 in that year and to his carryover of $45,000 from 1970. Accordingly, he is required to recompute his carryover from 1970 as if section 170(e)(1)(B) had applied to his contribution of 30-percent capital gain property in that year.

(c) If section 170(e)(1)(B) had applied in 1970 to his contribution of 30-percent capital gain property, A's contribution would have been reduced from $60,000 to $35,000, the reduction of $25,000 being 50 percent of the gain of $50,000 ($60,000−$10,000) which would have been recognized as long-term capital gain if the property had been sold by A at its fair market value at the time of the contribution in 1970. Accordingly, by taking the election under paragraph (d)(2) of this section into account, A has a recomputed carryover to 1971 of $20,000 ($35,000−$15,000) of his contribution of 30-percent capital gain property in 1970. However, A's charitable contributions deduction of $15,000 allowed for 1970 is not recomputed by reason of the election.

(d) Pursuant to the election for 1971, the contribution of 30-percent capital gain property for 1971 is reduced from $11,000 to $10,500, the reduction of $500 being 50 percent of the gain of $1,000 ($11,000−$10,000) which would have been recognized as long-term capital gain if the property had been sold by A at its fair market value at the time of its contribution in 1971.

(e) Accordingly, A is allowed a charitable contributions deduction for 1971 of $30,000 (total contributions of $30,500 [$20,000+$10,500] but not to exceed 50% of $60,000).

(f) Under section 170(d)(1) and paragraph (b) of § 1.170A–10, A is allowed a carryover of $500 ($30,500−$30,000) to 1972 and the 3 succeeding taxable years. The $500 carryover, which by reason of the election is no longer treated as a contribution of 30-percent capital gain property, is treated as carried over under paragraph (b) of § 1.170A–10 from 1970 since in 1971 current year contributions are deducted before contributions which are carried over from preceding taxable years.

Example (10). The facts are the same as in example (9) except that A also makes a charitable contribution in 1971 of $2,000 cash to a private foundation not described in section 170(b)(1)(E) and that A's contribution base for that year is $62,000, instead of $60,000. Accordingly, A is allowed a charitable contributions deduction for 1971 of $31,000, determined in the following manner. Under section 170(b)(1)(A) and paragraph (b) of this section, A is allowed a charitable contributions deduction for 1971 of $30,500, consisting of $10,500 of property contributed to the church in 1971 and of $20,000 (carryover of $20,000 but not to exceed [($62,000×50%)−$10,500]) of contributions of property carried over to 1971 under section 170(d)(1) and paragraph (b) of § 1.170A–10. Under section 170(b)(1)(B) and paragraph (c) of this section, A is allowed a charitable contributions deduction for 1971 of $500 ([50% of $62,000]−[$10,500+$20,000]) of cash contributed to the private foundation in that year. A is not allowed a carryover to 1972 or to any other taxable year for any of the $1,500 ($2,000−$500) cash not deductible in 1971 under section 170(b)(1)(B) and paragraph (c) of this section.

Example (11). The facts are the same as in example (9) except that A's contribution base for 1970 is $120,000. Thus, before making the election under paragraph (d)(2) of this section for 1971, A is allowed a charitable contributions deduction for 1970 of $36,000 (30% of $120,000) and is allowed a carryover to 1971 of $24,000 ($60,000−$36,000). By making the election for 1971, A is required to recompute the carryover from 1970, which is reduced from $24,000 to zero, since the charitable contributions deduction of $36,000 allowed for 1970 exceeds the reduced $35,000 contribution for 1970 which may be taken into account by reason of the election for 1971. Accordingly, A is allowed a deduction for 1971 of $10,500 and is allowed no carryover to 1972, since the reduced contribution for 1971 ($10,500) does not exceed the limitation of $30,000 (50% of $60,000) for 1971 which applies under section 170(d)(1) and paragraph (b) of § 1.170A–10. A's charitable contributions deduction of $36,000 allowed for 1970 is not recomputed by reason of the election. Thus, it is not to A's advantage to make the election under paragraph (d)(2) of this section.

Example (12). (a) B, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. During 1970 he makes charitable contributions of $70,000, consisting of $50,000 in 30-percent capital gain property contributed to a church and $20,000 in cash contributed to a private foundation not described in section 170(b)(1)(E). For 1971, B's contribution base is $40,000, and in that year he makes a charitable contribution of $5,000 in cash to such private foundation. During the years involved B makes no other charitable contributions.

(b) The amount of the contribution of 30-percent capital gain property which may be taken into account for 1970 is limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $30,000 (30% of $100,000). Accordingly, under section 170(b)(1)(A) and paragraph (b) of this section B is allowed a deduction for 1970 of $30,000 of 30-percent capital gain property (contribution of $30,000 but not to exceed $50,000 [50% of $100,000]). No deduction is allowed for 1970 for the contribution in that year of $20,000 of cash to the private foundation since section 170(b)(1)(B)(ii) and paragraph (c) of this section limit the deduction for such contribution to $0 ([50% of $100,000]−$50,000, the amount of the contribution of 30-percent capital gain property).

(c) Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, B is allowed a carryover to 1971 of $20,000 ($50,000−[30% of $100,000]) of his contribution in 1970 of 30-percent capital gain property. B is not allowed a carryover to 1971 or to any other taxable year for any of the $20,000 cash contribution in 1970 which is not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

(d) The amount of the contribution of 30-percent capital gain property which may be taken into account for 1971 is limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $12,000 (30% of $40,000).

Accordingly, under section 170(b)(1)(A) and paragraph (b) of this section B is allowed a deduction for 1971 of $12,000 of 30-percent capital gain property (contribution of $12,000 but not to exceed $20,000 [50% of $40,000]). No deduction is allowed for 1971 for the contribution in that year of $5,000 of cash to the private foundation, since section 170(b)(1)(B)(ii) and paragraph (c) of this section limit the deduction for such contribution to $0 ([50% of $40,000]−$20,000 carryover of 30-percent capital gain property from 1970).

(e) Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, B is allowed a carryover to 1972 of $8,000 ($20,000−[30% of $40,000]) of his contribution in 1970 of 30-percent capital gain property. B is not allowed a carryover to 1972 or to any other taxable year for any of the $5,000 cash contribution for 1971 which is not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

Example (13). D, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. On March 1, 1970, he contributes to a church intangible property to which section 1245 applies which has a fair market value of $60,000 and an adjusted basis of $10,000. At the time of the contribution D has used the property in his business for more than 6 months. If the property had been sold by D at its fair market value at the time of its contribution, it is assumed that under section 1245 $20,000 of the gain of $50,000 would have been treated as ordinary income and $30,000 would have been long-term capital gain. Since the property contributed is ordinary income property within the meaning of paragraph (b)(1) of § 1.170A–4, D's contribution of $60,000 is reduced under paragraph (a)(1) of such section to $40,000 ($60,000−$20,000 ordinary income). However, since the property contributed is also 30-percent capital gain property within the meaning of paragraph (d)(3) of this section, D's deduction for 1970 is limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $30,000 (30% of $100,000). Under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10, D is allowed to carry over to 1971 $10,000 ($40,000−$30,000) of his contribution of 30-percent capital gain property.

Example (14). C, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $50,000. During 1970 he makes charitable contributions to a church of $57,000, consisting of $2,000 cash and of 30-percent capital gain property with a fair market value of $55,000 and an adjusted basis of $15,000. In addition, C contributes $3,000 cash in 1970 to a private foundation not described in section 170(b)(1)(E). For 1970, C elects under paragraph (d)(2) of this section to have section 170(e)(1)(B) and § 1.170A–4(a) apply to his contribution of property to the church. Accordingly, for 1970 C's contribution of property to the church is reduced from $55,000 to $35,000, the reduction of $20,000 being 50 percent of the gain of $40,000 ($55,000−$15,000) which would have been recognized as long-term capital gain if the property had been sold by C at its fair market value at the time of its contribution to the church. Under section 170(b)(1)(A) and paragraph (b) of this section, C is allowed a charitable contributions deduction for 1970 of $25,000 ([$2,000+$35,000] but not to exceed [$50,000×50%]). Under section 170(d)(1) and paragraph (b) of § 1.170A–10, C is allowed a carryover from 1970 to 1971 of $12,000 ($37,000−$25,000). No deduction is allowed for 1970 for the contribution in that year of $3,000 cash to the private foundation since section 170(b)(1)(B) and paragraph (c) of this section limit the deduction for such contribution to the smaller of $10,000 ($50,000×20%) or $0 ([$50,000×50%]−$25,000). C is not allowed a carryover from 1970 for any of the $3,000 cash contribution in that year which is not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

Example (15). (a) D, an individual, reports his income on the calendar-year basis and for 1970 has a contribution base of $100,000. During 1970 he makes a charitable contribution to a church of 30-percent capital gain property with a fair market value of $40,000 and an adjusted basis of $21,000. In addition, he contributes $23,000 cash in 1970 to a private foundation not described in section 170(b)(1)(E). For 1970, D elects under paragraph (d)(2) of this section to have section 170(e)(1)(B) and § 1.170A–4(a) apply to his contribution of property to the church. Accordingly, for 1970 D's contribution of property to the church is reduced from $40,000 to $30,500, the reduction of $9,500 being 50 percent of the gain of $19,000 ($40,000−$21,000) which would have been recognized as long-term capital gain if the property had been sold by D at its fair market value at the time of its contribution to the church. Under section 170(b)(1)(A) and paragraph (b) of this section, D is allowed a charitable contributions deduction for 1970 of $30,500 for the property contributed to the church. In addition, under section 170(b)(1)(B) and paragraph (c) of this section D is allowed a deduction of $19,500 for the cash contributed to the private foundation, since such contribution of $23,000 is allowed to the extent of the lesser of $20,000 (20% of $100,000) or $19,500 ([$100,000×50%]−$30,500). D is not allowed a carryover to 1971 or to any other taxable year for any of the $3,500 ($23,000−$19,500) of cash not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

(b) If D had not made the election under paragraph (d)(2) of this section for 1970, his deduction for 1970 under section 170(a) for the $40,000 contribution of property to the church would have been limited by section 170(b)(1)(D)(i) and paragraph (d) of this section to $30,000 (30% of $100,000), and under section 170(b)(1)(D)(ii) and paragraph (c) of § 1.170A–10 he would have been allowed a carryover to 1971 of $10,000 ($40,000−$30,000) for his contribution of such property. In addition, he would have been allowed under section 170(b)(1)(B)(ii) and paragraph (c) of this section for 1970 a charitable contributions deduction of $10,000 ([$100,000×50%]−$40,000) for the cash contributed to the private foundation. In such case, D would not have been allowed a carryover to 1971 or to any other taxable year for any of the $13,000 ($23,000−$10,000) of cash not deductible under section 170(b)(1)(B) and paragraph (c) of this section.

(g) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969.

§ 1.170A–9 Definition of section 170(b)(1)(A) organization. [Reserved]

§ 1.170A–10 Charitable contributions carryovers of individuals.

(a) *In general.* (1) Section 170(d)(1), relating to carryover of charitable contributions in excess of 50 percent of contribution base, and section 170(b)(1)(D)(ii), relating to carryover of charitable contributions in excess of 30 percent of contribution base, provide for excess charitable contributions carryovers by individuals of charitable contributions to section 170(b)(1)(A) organizations described in § 1.170A–9. These carryovers shall be determined as provided in paragraphs (b) and (c) of this section. No excess charitable contributions carryover shall be allowed with respect to contributions "for the use of," rather than "to," section 170(b)(1)(A) organizations or with respect to contributions "to" or "for the use of" organizations which are not section 170(b)(1)(A) organizations. See § 1.170A–8(a)(2) for definitions of "to" or "for the use of" a charitable organization.

(2) The carryover provisions apply with respect to contributions made during a taxable year in excess of the applicable percentage limitation even though the taxpayer elects under section 144 to take the standard deduction in that year instead of itemizing the deduction allowable in computing taxable income for that year.

(3) For provisions requiring a reduction of the excess charitable contribution computed under paragraph (b)(1) or (c)(1) of this section when there is a net operating loss carryover to the taxable year, see paragraph (d)(1) of this section.

(4) The provisinos of section 170(b)(1)(D)(ii) and (d)(1) and this section do not apply to contributions by an estate; nor do they apply to a trust unless the trust is a private foundation which, pursuant to § 1.642(c)–4, is allowed a deduction under section 170 subject to the provisions applicable to individuals.

(b) *50-percent charitable contributions carryover of individuals*—(1) *Computation of excess of charitable contributions made in a contribution year.* Under section 170(d)(1), subject to certain conditions and limitations, the excess of—

(i) The amount of the charitable contributions made by an individual in a taxable year (hereinafter in this paragraph referred to as the "contribution year") to section 170(b)(1)(A) organizations described in § 1.170A–9, over

(ii) 50 percent of his contribution base, as defined in section 170(b)(1)(F), for such contribution year,

shall be treated as a charitable contribution paid by him to a section 170(b)(1)(A) organization in each of the 5 taxable years immediately succeeding the contribution year in order of time. However, such excess to the extent it consists of contributions of 30-percent capital gain property, as defined in § 1.170A–8(d)(3), shall be subject to the rules of section 170(b)(1)(D)(ii) and paragraph (c) of this section in the years to which it is carried over. A charitable contribution made in a taxable year beginning before January 1, 1970, to a section 170(b)(1)(A) organization and carried over to a taxable year beginning after December 31, 1969, under section 170(b)(5) (before its amendment by the Tax Reform Act of 1969) shall be treated in such taxable year beginning after December 31, 1969, as a charitable contribution of cash subject to the limitations of this paragraph, whether or not such carryover consists of contributions of 30-percent capital gain property or of ordinary income property described in § 1.170A–4(b)(1). For purposes of applying this paragraph and paragraph (c) of this section, such a carryover from a taxable year beginning before January 1, 1970, which is so treated as paid to a section 170(b)(1)(A) organization in a taxable year beginning after December 31, 1969, shall be treated as paid to such an organization under section 170(d)(1) and this section. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Assume that H and W (husband and wife) have a contribution base for 1970 of $50,000 and for 1971 of $40,000 and file a joint return for each year. Assume further that in 1970 they make a charitable contribution in cash of $26,500 to a church and $1,000 to X (not a section 170(b)(1)(A) organization) and in 1971 they make a charitable contribution in cash of $19,000 to a church and $600 to X. They may claim a charitable contributions deduction of $25,000 in 1970, and the excess of $26,500 (contribution to the church) over $25,000 (50 percent of contribution base), or $1,500, constitutes a charitable contributions carryover which shall be treated as a charitable contribution paid by them to a section 170(b)(1)(A) organization in each of the 5 succeeding taxable years in order of time. No carryover is allowed with respect to the $1,000 contribution made to X in 1970. Since 50 percent of their contribution base for 1971 ($20,000) exceeds the charitable contributions of $19,000 made by them in 1971 to section 170(b)(1)(A) organizations (computed without regard to section 170(b)(1)(D)(ii) and (d)(1) and this section), the portion of the 1970 carryover equal to such excess of $1,000 ($20,000 minus $19,000) is treated, pursuant to the provisions of subparagraph (2) of this paragraph, as paid to a section 170(b)(1)(A) organization in 1971; the remaining $500 constitutes an unused charitable contributions carryover. No deduction for 1971, and no carryover, are allowed with respect to the $600 contribution made to X in 1971.

Example (2). Assume the same facts as in example (1) except that H and W have a contribution base for 1971 of $42,000. Since 50 percent of their contribution base for 1971 ($21,000) exceeds by $2,000 the charitable contribution of $19,000 made by them in 1971 to the section 170(b)(1)(A) organization (computed without regard to section 170(b)(1)(D)(ii) and (d)(1) and this section), the full amount of the 1970 carryover of $1,500 is treated, pursuant to the provisions of subparagraph (2) of this paragraph, as paid to a section 170(b)(1)(A) organization in 1971. They may also claim a charitable contribution of $500 ($21,000−$20,500[$19,000+$1,500]) with respect to the gift to X in 1971. No carryover is allowed with respect to the $100 ($600−$500) of the contribution to X which is not deductible in 1971.

(2) *Determination of amount treated as paid in taxable years succeeding contribution year.* In applying the provisions of subparagraph (1) of this paragraph, the amount of the excess computed in accordance with the provisions of such subparagraph and paragraph (d)(1) of this section which is to be treated as paid in any one of the 5 taxable years immediately succeeding the contribution year to a section 170(b)(1)(A) organization shall not exceed the lesser of the amounts computed under subdivisions (i) to (iii), inclusive, of this subparagraph:

(i) The amount by which 50 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of—

(a) The charitable contributions actually made (computed without regard to the provisions of section 170(b)(1)(D)(ii) and (d)(1) and this section) by the taxpayer in such succeeding

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taxable year to section 170(b)(1)(A) organizations, and

(*b*) The charitable contributions, other than contributions of 30-percent capital gain property, made to section 170(b)(1)(A) organizations in taxable years preceding the contribution year which, pursuant to the provisions of section 170(d)(1) and this section, are treated as having been paid to a section 170(b)(1)(A) organization in such succeeding year.

(ii) In the case of the first taxable year succeeding the contribution year, the amount of the excess charitable contribution in the contribution year, computed under subparagraph (1) of this paragraph and paragraph (d)(1) of this section, which has not been treated as paid to a section 170(b)(1)(A) organization in a year intervening between the contribution year and such succeeding taxable year.

For purposes of applying subdivision (i)(*a*) of this subparagraph, the amount of charitable contributions of 30-percent capital gain property actually made in a taxable year succeeding the contribution year shall be determined by first applying the 30-percent limitation of section 170(b)(1)(D)(i) and paragraph (d) of § 1.170A–8. If a taxpayer, in any one of the 4 taxable years succeeding a contribution year, elects under section 144 to take the standard deduction instead of itemizing the deductions allowable in computing taxable income, there shall be treated as paid (but not allowable as a deduction) in such standard deduction year the lesser of the amounts determined under subdivisions (i) to (iii), inclusive, of this subparagraph. The provisions of this subparagraph may be illustrated by the following examples:

Example (*1*). Assume that B has a contribution base for 1970 of $20,000 and for 1971 of $30,000. Assume further that in 1970 B contributed $12,000 in cash to a church and in 1971 he contributed $13,500 in cash to the church. B may claim a charitable contributions deduction of $10,000 in 1970, and the excess of $12,000 (contribution to the church) over $10,000 (50 percent of B's contribution base), or $2,000, constitutes a charitable contributions carryover which shall be treated as a charitable contribution paid by B to a section 170(b)(1)(A) organization in the 5 taxable years succeeding 1970 in order of time. B may claim a charitable contributions deduction of $15,000 in 1971. Such $15,000 consists of the $13,500 contribution to the church in 1971 and $1,500 carried over from 1970 and treated as a charitable contribution paid to a section 170(b)(1)(A) organization in 1971. The $1,500 contribution treated as paid in 1971 is computed as follows:

1970 excess contributions	$2,000
50 percent of B's contribution base for 1971	15,000
Less:	
Contributions actually made in 1971 to section 170(b)(1)(A) organizations	$13,500
Contributions made to section $170(b)(1)(A) organizations in taxable years prior to 1970 treated as having been paid in 1971	0
	13,500
Balance	1,500
Amount of 1970 excess treated as paid in 1971—the lesser of $2,000 (1970 excess contributions) or $1,500 (excess of 50 percent of contribution base for 1971 ($15,000) over the sum of the section 170(b)(1)(A) contributions actually made in 1971 ($13,500) and the section 170(b)(1)(A) contributions made in years prior to 1970 treated as having been paid in 1971 ($0))	1,500

If the excess contributions made by B in 1970 had been $1,000 instead of $2,000, then, for purposes of this example, the amount of the 1970 excess treated as paid in 1971 would be $1,000 rather than $1,500.

Example (*2*). Assume the same facts as in example (1), and, in addition, that B has a contribution base for 1972 of $10,000 and for 1973 of $20,000. Assume further with respect to 1972 that B elects under section 144 to take the standard deduction in computing taxable income and that his actual contributions to section 170(b)(1)(A) organizations in that year are $300 in cash. Assume further with respect to 1973 that B itemizes his deductions, which include a $5,000 cash contribution to a church. B's deductions for 1972 are not increased by reason of the $500 available as a charitable contributions carryover from 1970 (excess contributions made in 1970 ($2,000) less the amount of such excess treated as paid in 1971 ($1,500)), since B elected to take the standard deduction in 1972. However, for purposes of determining the amount of the excess charitable contributions made in 1970 which is available as a carryover to 1973, B is required to treat such $500 as a charitable contribution paid in 1972—the lesser of $500 or $4,700 (50 percent of contribution base ($5,000) over contributions actually made in 1972 to section 170(b)(1)(A) organizations ($300)). Therefore, even though the $5,000 contribution made by B in 1973 to a church does not amount to 50 percent of B's contribution base for 1973 (50 percent of $20,000), B may claim a charitable contributions deduction of only the $5,000 actually paid in 1973 since the entire excess charitable contribution made in 1970 ($2,000) has been treated as paid in 1971 ($1,500) and 1972 ($500).

Example (*3*). Assume the following factual situation for C who itemizes his deductions in computing taxable income for each of the years set forth in the example:

	1970	197	1972	1973	1974
Contribution base	$10,000	$7,000	$15,000	$10,000	$9,000
Contributions of cash to section 170(b)(1)(A) organizations (no other contributions)	6,000	4,400	8,000	3,000	1,500
Allowable charitable contributions deductions computed without regard to carryover of contributions	5,000	3,500	7,500	3,000	1,500
Excess contributions for taxable year to be treated as paid in 5 succeeding taxable years	1,000	900	500	0	0

Since C's contributions in 1973 and 1974 to section 170(b)(1)(A) organizations are less than 50 percent of his contribution base for such years, the excess contributions for 1970, 1971, and 1972 are treated as having been paid to section 170(b)(1)(A) organizations in 1973 and 1974 as follows:

1973

Contribution year	Total excess	Less: Amount treated as paid in year prior to 1973	Available charitable contributions carryovers
1970	$1,000	0	$1,000
1971	900	0	900
1972	500	0	500
Total			2,400

50 percent of B's contribution base for 1973	$5,000
Less: Charitable contributions made in 1973 to section 170(b)(1)(A) organizations	3,000
	2,000
Amount of excess contributions treated as paid in 1973—lesser of $2,400 (available carryovers to 1973) or $2,000 (excess of 50 percent of contribution base ($5,000) over contributions actually made in 1973 to section 170(b)(1)(A) organizations ($3,000))	2,000

1974

Contribution year	Total excess	Less: Amount treated as paid in year prior to 1974	Available charitable contributions carryovers
1970	$1,000	$1,000	0
1971	900	900	0
1972	500	100	$400
1973	0	0	0
Total			400

50 percent of B's contribution base for 1974	$4,500
Less: Charitable contributions made in 1974 to section 170(b)(1)(A) organizations	1,500
	3,000
Amount of excess contributions treated as paid in 1974—the lesser of $400 (available carryovers to 1974) or $3,000 (excess of 50 percent of contribution base ($4,500) over contributions actually made in 1974 to section 170(b)(1)(A) organizations ($1,500))	400

(c) *30-percent charitable contributions carryover of individuals*—(1) *Computation of excess of charitable contributions made in a contribution year.* Under section 170(b)(1)(D)(ii), subject to certain conditions and limitations, the excess of—

(i) The amount of the charitable contributions of 30-percent capital gain property, as defined in § 1.170A–8(d)(3), made by an individual in a taxable year (hereinafter in this paragraph referred to as the "contribution year") to section 170(b)(1)(A) organizations described in § 1.170A–9, over

(ii) 30 percent of his contribution base for such contribution year,

shall, subject to section 170(b)(1)(A) and paragraph (b) of § 1.170A–8, be treated as a charitable contribution of 30-percent capital gain property paid by him to a section 170(b)(1)(A) organization in each of the 5 taxable years immediately succeeding the contribution year in order of time. In addition, any charitable contribution of 30-percent capital gain property which is carried over to such years under section 170(d)(1) and paragraph (b) of this section shall also be treated as though it were a carryover of 30-percent capital gain property under section 170(b)(1)(D)(ii) and this paragraph. The provisions of this subparagraph may be illustrated by the following examples:

Example (*1*). Assume that H and W (husband and wife) have a contribution base for 1970 of $50,000 and for 1971 of $40,000 and file a joint return for each year. Assume further that in 1970 they contribute $20,000 cash and $13,000 of 30-percent capital gain property to a church, and that in 1971 they contribute $5,000 cash and $10,000 of 30-percent capital gain property to a church. They may claim a charitable contributions deduction of $25,000 in 1970 and the excess of $33,000 (contributed to the church) over $25,000 (50 percent of contribution base), or $8,000, constitutes a charitable contributions carryover which shall be treated as a charitable contribution of 30-percent capital gain property paid by them to a section 170(b)(1)(A) organization in each of the 5 succeeding taxable years in order of time. Since 30 percent of their contribution base for 1971 ($12,000) exceeds the charitable contributions of 30-percent capital gain property ($10,000) made by them in 1971 to section 170(b)(1)(A) organizations (computed without regard to section 170(b)(1)(D)(ii) and (d)(1) and this section), the portion of the 1970 carryover equal to such excess of $2,000 ($12,000—$10,000) is treated, pursuant to the provisions of subparagraph (2) of this paragraph, as paid to a section 170(b)(1)(A) organization in 1971; the remaining $6,000 constitutes an unused charitable contributions carryover in respect of 30-percent capital gain property from 1970.

Example (*2*). Assume the same facts as in example (1) except the $33,000 of charitable contributions in 1970 are all 30-percent capital gain property. Since their charitable contributions in 1970 exceed 30 percent of their contribution base ($15,000) by $18,000 ($33,000—$15,000), they may claim a charitable contributions deduction of $15,000 in 1970, and the excess of $33,000 over $15,000, or $18,000, constitutes a charitable contributions carryover which shall be treated as a charitable contribution of 30-percent capital gain property paid by them to a section 170(b)(1)(A) organization in each of the 5 succeeding taxable years in order of time. Since they are allowed to treat only $2,000 of their 1970 contribution as paid in 1971, they have a remaining unused charitable contributions carryover of $16,000 in respect of 30-percent capital gain property from 1970.

(2) *Determination of amount treated as paid in taxable years succeeding contribution year.* In applying the provisions of subparagraph (1) of this paragraph, the amount of the excess computed in accordance with the provisions of such subparagraph and paragraph (d)(1) of this section which is to be treated as paid in any one of the 5 taxable years immediately succeeding the contribution year to a section 170(b)(1)(A) organization shall not exceed the least of the amounts computed under subdivisions (i) to (iv), inclusive of this subparagraph:

(i) The amount by which 30 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of—

(*a*) The charitable contributions of 30-percent capital gain property actually made (computed without regard to the provisions of section 170(b)(1)(D)(ii) and (d)(1) and this section) by the taxpayer in such succeeding taxable year to section 170(b)(1)(A) organizations, and

(*b*) The charitable contributions of 30-percent capital gain property made to section 170(b)(1)(A) organizations in taxable years preceding the contribution year, which, pursuant to the provisions of section 170(b)(1)(D)(ii) and (d)(1) and this section, are treated as having been paid to a section 170(b)(1)(A) organization in such succeeding year.

(ii) The amount by which 50 percent of the taxpayer's contribution base for such succeeding taxable year exceeds the sum of—

(*a*) The charitable contributions actually made (computed without regard to the provisions of section 170(b)(1)(D)(ii) and (d)(1) of this section) by the taxpayer in such succeeding taxable year to section 170(b)(1)(A) organizations,

(*b*) The charitable contributions of 30-percent capital gain property made to section 170(b)(1)(A) organizations in taxable years preceding the contribution year which, pursuant to the provisions of section 170(b)(1)(D)(ii) and (d)(1) and this section, are treated as having been paid to a section 170(b)(1)(A) organization in such succeeding year, and

(c) The charitable contributions, other than contributions of 30-percent capital gain property, made to section 170(b)(1)(A) organizations which, pursuant to the provisions of section 170(d)(1) and paragraph (b) of this section, are treated as having been paid to a section 170(b)(1)(A) organization in such succeeding year.

(iii) In the case of the first taxable year succeeding the contribution year, the amount of the excess charitable contribution of 30-percent capital gain property in the contribution year, computed under subparagraph (1) of this paragraph and paragraph (d)(1) of this section.

(iv) In the case of the second, third, fourth, and fifth succeeding taxable years succeeding the contribution year, the portion of the excess charitable contribution of 30-percent capital gain property in the contribution year (computed under subparagraph (1) of this paragraph and paragraph (d)(1) of this section) which has not been treated as paid to a section 170(b)(1)(A) organization in a year intervening between the contribution year and such succeeding taxable year.

For purposes of applying subdivisions (i) and (ii) of this subparagraph, the amount of charitable contributions of 30-percent capital gain property actually made in a taxable year succeeding the contribution year shall be determined by first applying the 30-percent limitation of section 170(b)(1)(D)(i) and paragraph (d) of § 1.170A–8. If a taxpayer, in any one of the four taxable years succeeding a contribution year, elects under section 144 to take the standard deduction instead of itemizing the deductions allowable in computing taxable income, there shall be treated as paid (but not allowable as a deduction) in the standard deduction year the least of the amounts determined under subdivisions (i) to (iv), inclusive, of this subparagraph. The provisions of this subparagraph may be illustrated by the following example:

Example. Assume the following factual situation for C who itemizes his deductions in computing taxable income for each of the years set forth in the example:

	1970	1971	1972	1973	1974
Contribution base	$10,000	$15,000	$20,000	$15,000	$33,000
Contributions of cash to section 170(b)(1)(A) organizations	2,000	8,500	0	14,000	700
Contributions of 30-percent capital gain property to section 170(b)(1)(A) organizations	5,000	0	7,800	0	6,400
Allowable charitable contributions deductions (computed without regard to carryover of contributions) subject to limitations of:					
50 percent	2,000	7,500	0	7,500	700
30 percent	3,000	0	6,000	0	6,400
Total	5,000	7,500	6,000	7,500	7,100
Excess of contributions for taxable year to be treated as paid in 5 succeeding taxable years:					
Carryover of contributions of property other than 30-percent capital gain property	0	1,000	0	6,500	
Carryover of contributions of 30-percent capital gain property	2,000	0	1,800	0	0

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1973

Contribution year	Total excess 50%	Total excess 30%	Less: Amount treated as paid in years prior to 1973	Available charitable contributions carryovers 50%	Available charitable contributions carryovers 30%
1970	0	$2,000	0	0	$2,000
1971	$1,000	0	$1,000	0	0
1972	0	1,800	0	0	1,800
				0	3,800
50 percent of C's contribution base for 1973					$7,500
30 percent of C's contribution base for 1973					4,500
Less: Charitable contributions actually made in 1973 to section 170(b)(1)(A) organizations ($14,000, but not to exceed 50% of contribution base)				7,500	0
Excess				0	4,500

(1) The amount of excess contributions for 1970 of 30-percent capital gain property which is treated as paid in 1973 is the least of—

(i) Available carryover from 1970 to 1973 of contributions of 30-percent capital gain property 2,000

(ii) Excess of 50 percent of contribution base for 1973 ($7,500) over contributions actually made in 1973 to section 170(b)(1)(A) organizations ($7,500) 0

(iii) Excess of 30 percent of contribution base for 1973 ($4,500) over contributions of 30-percent capital gain property actually made in 1973 to section 170(b)(1)(A) organizations ($0) 4,500

Amount treated as paid 0

(2) The amount of excess contributions for 1972 of 30-percent capital gain property which is treated as paid in 1973 is the least of—

(i) Available carryover from 1972 to 1973 of contributions of 30-percent capital gain property 1,800

(ii) Excess of 50 percent of contribution base for 1973 ($7,500) over contributions actually made in 1973 to section 170(b)(1)(A) organizations ($7,500) 0

(iii) Excess of 30 percent of contribution base for 1973 ($4,500) over sum of contributions of 30-percent capital gain property made in 1973 to section 170(b)(1)(A) organizations ($0) and excess contributions for 1970 treated under item (1) above as paid in 1973 ($0) 4,500

Amount treated as paid 0

1974

Contribution year	Total excess 50%	Total excess 30%	Less: Amount treated as paid in years prior to 1974	Available charitable contributions carryovers 50%	Available charitable contributions carryovers 30%
1970	0	$2,000	0	0	$2,000
1971	$1,000	0	$1,000	0	0
1972	0	1,800	0	0	1,800
1973	6,500	0		$5,500	0
				6,500	3,800
50 percent of C's contribution base for 1974				16,500	
30 percent of C's contribution base for 1974					9,900
Less: Charitable contributions actually made in 1974 to section 170(b)(1)(A) organizations				700	6,400
				15,800	3,500
Excess					

(1) The amount of excess contributions for 1973 of property other than 30-percent capital gain property which is treated as paid in 1974 is the least of—

(i) Available carryover from 1970 to 1974 of contributions of property other than 30-percent capital gain property 6,500

(ii) Excess of 50 percent of contribution base for 1974 ($16,500) over sum of contributions actually made in 1974 to section 170(b)(1)(A) organizations ($7,100) and excess contributions for 1973 of property other than 30-percent capital gain property treated under item (1) above as paid in 1974 ($6,500) 9,400

(iii) Excess of 30 percent of contribution base for 1974 ($9,900) over contributions of 30-percent capital gain property actually made in 1974 to section 170(b)(1)(A) organizations ($6,400) 6,500

Amount treated as paid .....

C's excess contributions for 1970, 1971, 1972, and 1973 which are treated as having been paid to section 170(b)(1)(A) organizations in 1972, 1973, and 1974 are indicated below. The portion of the excess charitable contribution for 1970 of 30-percent capital gain property which is not treated as paid in 1974 ($1,500-$900) is available as a carryover to 1975.

1971

Contribution year	Total excess 50%	Total excess 30%	Less: Amount treated as paid in years prior to 1972	Available charitable contributions carryovers 50%	Available charitable contributions carryovers 30%
1970	0	$2,000	0	0	$2,000
					$7,500
50 percent of C's contribution base for 1971					4,500
30 percent of C's contribution base for 1971					0
Less: Charitable contributions actually made in 1971 to section 170(b)(1)(A) organizations ($14,000, but not to exceed 50% of contribution base)				7,500	
Excess				0	4,500

The amount of excess contributions for 1970 of 30-percent capital gain property which is treated as paid in 1971 is the least of—

(1) Available carryover from 1970 to 1971 of contributions of 30-percent capital gain property 2,000

(ii) Excess of 50 percent of contribution base for 1971 ($7,500) over sum of contributions actually made in 1971 to section 170(b)(1)(A) organizations ($7,500) 0

(iii) Excess of 30 percent of contribution base for 1971 ($4,500) over contributions of 30-percent capital gain property actually made in 1971 to section 170(b)(1)(A) organizations ($0) 4,500

Amount treated as paid 0

1972

Contribution year	Total excess 50%	Total excess 30%	Less: Amount treated as paid in years prior to 1972	Available charitable contributions carryovers 50%	Available charitable contributions carryovers 30%
1970	0	$2,000	0	0	$2,000
1971	$1,000	0	0	$1,000	0
				1,000	2,000
50 percent of C's contribution base for 1972				10,000	
30 percent of C's contribution base for 1972					6,000
Less: Charitable contributions actually made in 1972 to section 170(b)(1)(A) organizations ($7,800, but not to exceed 50% of contribution base)				0	0
Excess				10,000	6,000

(1) The amount of excess contributions for 1971 of property other than 30-percent capital gain property which is treated as paid in 1972 is the lesser of—

(i) Available carryover from 1971 to 1972 of contributions of property other than 30-percent capital gain property 1,000

(ii) Excess of 50 percent of contribution base for 1972 ($10,000) over contributions actually made in 1972 to section 170(b)(1)(A) organizations ($9,000) 4,000

Amount treated as paid .....

(2) The amount of excess contributions for 1970 of 30-percent capital gain property which is treated as paid in 1972 is the least of—

(i) Available carryover from 1970 to 1972 of contributions of 30-percent capital gain property 2,000

(ii) Excess of 50 percent of contribution base for 1972 ($10,000) over sum of contributions actually made in 1972 to section 170(b)(1)(A) organizations ($9,000) and excess contributions for 1971 treated under item (1) above as paid in 1972 ($1,000) 3,000

(iii) Excess of 30 percent of contribution base for 1972 ($6,000) over contributions of 30-percent capital gain property actually made in 1972 to section 170(b)(1)(A) organizations ($6,000) 0

Amount treated as paid .....

Contribution year	Total excess 50%	Total excess 30%	Less: Amount treated as paid in years prior to 1974	Available charitable contributions carryovers 50%	Available charitable contributions carryovers 30%
(2) The amount of excess contributions for 1970 of 30-percent capital gain property which is treated as paid in 1974 is the least of—					
(i) Available carryover from 1970 to 1974 of contributions of 30-percent capital gain property				$2,000	
(ii) Excess of 50 percent of contribution base for 1974 ($16,500) over sum of contributions actually made in 1974 to section 170(b)(1)(A) organizations ($7,100) and excess contributions for 1973 of property other than 30-percent capital gain property treated under item (1) above as paid in 1974 ($6,500)				2,900	
(iii) Excess of 30 percent of contribution base for 1974 ($9,900) over contributions of 30-percent capital gain property actually made in 1974 to section 170(b)(1)(A) organizations ($6,400)				3,500	
Amount treated as paid					$2,000
(3) The amount of excess contributions for 1972 of 30-percent capital gain property which is treated as paid in 1974 is the least of—					
(i) Available carryover from 1972 to 1974 of contributions of 30-percent capital gain property				1,800	
(ii) Excess of 50 percent of contribution base for 1974 ($16,500) over sum of contributions actually made in 1974 to section 170(b)(1)(A) organizations $7,100) and excess contributions for 1973 and 1970 treated under items (1) and (2) above as paid in 1974 ($8,500)				900	
(iii) Excess of 30 percent of contribution base for 1974 ($9,900) over sum of contributions of 30-percent capital gain property actually made in 1974 to section 170(b)(1)(A) organizations ($6,400) and excess contributions for 1970 of 30-percent capital gain property treated under item (2) above as paid in 1974 ($2,000)				1,500	
Amount treated as paid					900

(d) *Adjustments*—(1) *Effect of net operating loss carryovers on carryover of excess contributions.* An individual having a net operating loss carryover from a prior taxable year which is available as a deduction in a contribution year must apply the special rule of section 170(d)(1)(B) and this subparagraph in computing the excess described in paragraph (b)(1) or (c)(1) of this section for such contribution year. In determining the amount of excess charitable contributions that shall be treated as paid in each of the 5 taxable years succeeding the contribution year, the excess charitable contributions described in paragraph (b)(1) or (c)(1) of this section must be reduced by the amount by which such excess reduces taxable income (for purposes of determining the portion of a net operating loss which shall be carried to taxable years succeeding the contribution year under the second sentence of section 172(b)(2)) and increases the net operating loss which is carried to a succeeding taxable year. In reducing taxable income under the second sentence of section 172(b)(2), an individual who has made charitable contributions in the contribution year to both section 170(b)(1)(A) organizations, as defined in § 1.170A–9, and to organizations which are not section 170(b)(1)(A) organizations must first deduct contributions made to the section 170(b)(1)(A) organizations from his adjusted gross income computed without regard to his net operating loss deduction before any of the contributions made to organizations which are not section 170(b)(1)(A) organizations may be deducted from such adjusted gross income. Thus, if the excess of the contributions made in the contribution year to section 170(b)(1)(A) organizations over the amount deductible in such contribution year is utilized to reduce taxable income (under the provisions of section 172(b)(2)) for such year, thereby serving to increase the amount of the net operating loss carryover to a succeeding year or years, no part of the excess charitable contributions made in such contribution year shall be treated as paid in any of the 5 immediately succeeding taxable years. If only a portion of the excess charitable contributions is so used, the excess charitable contributions shall be reduced only to that extent. The provisions of this subparagraph may be illustrated by the following examples:

Example (1). B, an individual, reports his income on the calendar year basis and for the year 1970 has adjusted gross income (computed without regard to any net operating loss deduction) of $50,000. During 1970 he made charitable contributions of cash in the amount of $30,000 all of which were to section 170(b)(1)(A) organizations. B has a net operating loss carryover from 1969 of $50,000. In the absence of the net operating loss deduction B would have been allowed a deduction for charitable contributions of $25,000. After the application of the net operating loss deduction, B is allowed no deduction for charitable contributions, and there is (before applying the special rule of section 170(d)(1)(B) and this subparagraph) a tentative excess charitable contribution of $30,000. For purposes of determining the net operating loss which remains to be carried over to 1971, B computes his taxable income for 1970 under section 172(b)(2) by deducting the $25,000 charitable contribution. After the $50,000 net operating loss carryover is applied against the $25,000 of taxable income for 1970 (computed in accordance with section 172(b)(2), assuming no deductions other than the charitable contributions deduction are applicable in making such computation), there remains a $25,000 net operating loss carryover to 1971. Since the application of the net operating loss carryover of $50,000 from 1969 reduces the 1970 adjusted gross income (for purposes of determining 1970 tax liability) to zero, no part of the $25,000 of charitable contributions in that year is deductible under section 170(b)(1). However, in determining the amount of the excess charitable contributions which shall be treated as paid in taxable years 1971, 1972, 1973, 1974, and 1975, the $30,000 must be reduced to $5,000 by the portion of the excess charitable contributions ($25,000) which was used to reduce taxable income for 1970 (as computed for purposes of the second sentence of section 172(b)(2)) and which thereby served to increase the net operating loss carryover to 1971 from zero to $25,000.

Example (2). Assume the same facts as in example (1), except that B's total charitable contributions of $30,000 in cash made during 1970 consisted of $25,000 to section 170(b)(1)(A) organizations and $5,000 to organizations other than section 170(b)(1)(A) oragnizations. Under these facts there is a tentative excess charitable contribution of $25,000, rather than $30,000 as in example (1). For purposes of determining the net operating loss which remains to be carried over to 1971, B computes his taxable income for 1970 under section 172(b)(2) by deducting the $25,000 of charitable contributions made to section 170(b)(1)(A) organizations. Since the excess charitable contribution of $25,000 determined in accordance with paragraph (b)(1) of this section was used to reduce taxable income for 1970 (as computed for purposes of the second sentence of section 172(b)(2)) and thereby served to increase the net operating loss carryover to 1971 from zero to $25,000, no part of such excess charitable contributions made in the contribution year shall be treated as paid in any of the five immediately succeeding taxable years. No carryover is allowed with respect to the $5,000 of charitable contributions made in 1970 to organizations other than section 170(b)(1)(A) organizations.

Example (3). Assume the same facts as in example (1), except that B's total contributions of $30,000 made during 1970 were of 30-percent capital gain property. Under these facts there is a tentative excess charitable contribution of $30,000. For purposes of determining the net operating loss which remains to be carried over to 1971, B computes his taxable income for 1970 under section 172(b)(2)(B) by deducting the $15,000 (30% of $50,000) contribution of 30-percent capital gain property which would have been deductible in 1970 absent the net operating loss deduction. Since $15,000 of the excess charitable contribution of $30,000 determined in accordance with paragraph (c)(1) of this section was used to reduce taxable income for 1970 (as computed for purposes of the second sentence of section 172(b)(2)) and thereby served to increase the net operating loss carryover to 1971 from zero to $15,000, only $15,000 ($30,000—$15,000) of such excess shall be treated as paid in taxable years 1971, 1972, 1973, 1974, and 1975.

(2) *Effect of net operating loss carryback to contribution year.* The amount of the excess contribution for a contribution year computed as provided in paragraph (b)(1) or (c)(1) of this section and subparagraph (1) of this paragraph shall not be increased because a net operating loss carryback is available as a deduction in the contribution year. Thus, for example, assuming that in 1970 there is an excess contribution of $50,000 (determined as provided in paragraph (b)(1) of this section) which is to be carried to the 5 succeeding taxable years and that in 1973 the taxpayer has a net operating loss which may be carried back to 1970, the excess contribution of $50,000 for 1970 is not increased by reason of the fact that the adjusted gross income for 1970 (on which such excess contribution was based) is subsequently decreased by the carryback of the net operating loss from 1973. In addition, in determining under the provisions of section 172(b)(2) the amount of the net operating loss for any year subsequent to the contribution year which is a carryback or carryover to taxable years succeeding the contribu-

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tion year, the amount of contributions made to section 170(b)(1)(A) organizations shall be limited to the amount of such contributions which did not exceed 50 percent or, in the case of 30-percent capital gain property, 30 percent of the donor's contribution base, computed without regard to any of the modifications referred to in section 172(d), for the contribution year. Thus, for example, assume that the taxpayer has a net operating loss in 1973 which is carried back to 1970 and in turn to 1971 and that he has made charitable contributions in 1970 to section 170(b)(1)(A) organizations. In determining the maximum amount of such charitable contributions which may be deducted in 1970 for purposes of determining the taxable income for 1970 which is deducted under section 172(b)(2) from the 1973 loss in order to ascertain the amount of such loss which is carried back to 1971, the 50-percent limitation of section 170(b)(1)(A) is based upon the adjusted gross income for 1970 computed without taking into account the net operating loss carryback from 1973 and without making any of the modifications specified in section 172(d).

(3) *Effect of net operating loss carryback to taxable years succeeding the contribution year.* The amount of the charitable contribution from a preceding taxable year which is treated as paid, as provided in paragraph (b)(2) or (c)(2) of this section, in a current taxable year (hereinafter referred to in this subparagraph as the "deduction year") shall not be reduced because a net operating loss carryback is available as a deduction in the deduction year. In addition, in determining under the provisions of section 172(b)(2) the amount of the net operating loss for any taxable year subsequent to the deduction year which is a carryback or carryover to taxable years succeeding the deduction year, the amount of contributions made to section 170(b)(1)(A) organizations in the deduction year shall be limited to the amount of such contributions, which were actually made in such year and those which were treated as paid in such year, which did not exceed 50 percent or, in the case of 30-percent capital gain property, 30 percent of the donor's contribution base, computed without regard to any of the modifications referred to in section 172(d), for the deduction year.

(4) *Husband and wife filing joint returns*—(i) *Change from joint return to separate returns.* If a husband and wife—

(a) Make a joint return for a contribution year and compute an excess charitable contribution for such year in accordance with the provisions of paragraph (b)(1) or (c)(1) of this section and subparagraph (1) of this paragraph, and

(b) Make separate returns for one or more of the 5 taxable years immediately succeeding such contribution year,

any excess charitable contribution for the contribution year which is unused at the beginning of the first such taxable year for which separate returns are filed shall be allocated between the husband and wife. For purposes of the allocation, a computation shall be made of the amount of any excess charitable contribution which each spouse would have computed in accordance with paragraph (b)(1) or (c)(1) of this section and subparagraph (1) of this paragraph if separate returns (rather than a joint return) had been filed for the contribution year. The portion of the total unused excess charitable contribution for the contribution year allocated to each spouse shall be an amount which bears the same ratio to such unused excess charitable contribution as such spouse's excess contribution, based on the separate return computation, bears to the total excess contributions of both spouses, based on the separate return computation. To the extent that a portion of the amount allocated to either spouse in accordance with the foregoing provisions of this subdivision is not treated in accordance with the provisions of paragraph (b)(2) or (c)(2) of this section as a charitable contribution paid to a section 170(b)(1)(A) organization in the taxable year in which a separate return or separate returns are filed, each spouse shall for purposes of paragraph (b)(2) or (c)(2) of this section treat his respective unused portion as the available charitable contributions carryover to the next succeeding taxable year in which the joint excess charitable contribution may be treated as paid in accordance with paragraph (b)(1) or (c)(1) of this section. If such husband and wife make a joint return in one of the 5 taxable years immediately succeeding the contribution year with respect to which a joint excess charitable contribution is computed and following such first taxable year for which such husband and wife filed a separate return, the amounts allocated to each spouse in accordance with this subdivision for such first year reduced by the portion of such amounts treated as paid to a section 170(b)(1)(A) organization in such first year and in any taxable year intervening between such first year and the succeeding taxable year in which the joint return is filed shall be aggregated for purposes of determining the amount of the available charitable contributions carryover to such succeeding taxable year. The provisions of this subdivision may be illustrated by the following example:

Example. (a) H and W file joint returns for 1970, 1971, and 1972, and in 1973 they file separate returns. In each such year H and W itemize their deductions in computing taxable income. Assume the following factual situation with respect to H and W for 1970:

1970

	H	W	Joint return
Contribution base	$50,000	$40,000	$90,000
Contributions of cash to section 170(b)(1)(A) organizations (no other contributions)	37,000	28,000	65,000
Allowable charitable contributions deductions	25,000	20,000	45,000
Excess contributions for taxable year to be treated as paid in 5 succeeding taxable years	12,000	8,000	20,000

(b) The joint excess charitable contribution of $20,000 is to be treated as having been paid to a section 170(b)(1)(A) organization in the 5 succeeding taxable years. Assume that in 1971 the portion of such excess treated as paid by H and W is $3,000, and that in 1972 the portion of such excess treated as paid is $7,000. Thus, the unused portion of the excess charitable contribution made in the contribution year is $10,000 ($20,000 less $3,000 [amount treated as paid in 1971] and $7,000 [amount treated as paid in 1972]). Since H and W file separate returns in 1973, $6,000 of such $10,000 is allocable to H, and $4,000 is allocable to W. Such allocation is computed as follows:

$$\frac{\text{\$12,000 (excess charitable contributions made by H (based on separate return computation) in 1970)}}{\text{\$20,000 (total excess charitable contributions made by H and W (based on separate return computation) in 1970)}} \times \$10,000 = \$6,000$$

$$\frac{\text{\$8,000 (excess charitable contributions made by W (based on separate return computation) in 1970)}}{\text{\$20,000 (total excess charitable contributions made by H and W (based on separate return computation) in 1970)}} \times \$10,000 = \$4,000$$

(c) In 1973 H has a contribution base of of $70,000, and he contributes $14,000 in cash to a section 170(b)(1)(A) organizaton. In 1973 W has a contribution base of $50,000, and she contributes $10,000 in cash to a section 170(b)(1)(A) organization. Accordingly, H may claim a charitable contributions deduction of $20,000 in 1973, and W may claim a charitable contributions deduction of $14,000 in 1973. H's $20,000 deduction consists of the $10,000 contribution made to a section 170(b)(1)(A) organization in 1973 and the $4,000 carried over from 1970 and treated as a charitable contribution paid by her to a section 170(b)(1)(A) organization in 1973.

(d) The $6,000 contribution treated as paid in 1973 by H, and the $4,000 contribution treated as paid in 1973, by W, are computed as follows:

	H	W
Available charitable contribution carryover (see computations in (b))	$6,000	$4,000
50 percent of contribution base	35,000	25,000
Contributions of cash made in 1973 to section 170(b)(1)(A) organizations (no other contributions)	14,000	10,000
	21,000	15,000
Amount of excess contributions treated as paid in 1973:		
The lesser of $6,000 (available carryover of H to 1973) or $21,000 (excess of 50 percent of contribution base ($35,000) over contributions actually made in 1973 to section 170(b)(1)(A) organizations ($14,000))	$6,000	
The lesser of $4,000 (available carryover of W to 1973) or $15,000 (excess of 50 percent of contribution base ($25,000) over contributions actually made in 1973 to section 170(b)(1)(A) organizations ($10,000))		$4,000

(e) It is assumed that H and W made no contributions of 30-percent capital gain property during these years. If they had made such contributions, there would have been similar adjustments based on 30 percent of the contribution base.

(ii) *Change from separate returns to joint return.* If in the case of a husband and wife—

(a) Either or both of the spouses make a separate return for a contribution year and compute an excess charitable contribution for such year in accordance with the provisions of paragraph (b)(1) or (c)(1) of this section and subparagraph (1) of this paragraph, and

(b) Such husband and wife make a joint return for one or more of the taxable years succeeding such contribution year,

the excess charitable contribution of the husband and wife for the contribution year which is unused at the beginning of the first taxable year for which a joint return is filed shall be aggregated for purposes of determining the portion of such unused charitable contribution which shall be treated in accordance with paragraph (b)(2) or (c)(2) of this section as a charitable contribution paid to a section 170(b)(1)(A) organization. The provisions of this subdivision also apply in the case of two single individuals who are subsequently married and file a joint return. A remarried taxpayer who filed a joint return with a former spouse in a contribution year with respect to which an excess charitable contribution was computed and who in any one of the 5 taxable years succeeding such contribution year files a joint return with his or her present spouse shall treat the unused portion of such excess charitable contribution allocated to him or her in accordance with subdivision (i) of this subparagraph in the same manner as the unused portion of an excess charitable contribution computed in a contribution year in which he filed a separate return, for purposes of determining the amount which in accordance with paragraph (b)(2) or (c)(2) of this section shall be treated as paid to an organization specified in section 170(b)(1)(A) in such succeeding year.

(iii) *Unused excess charitable contribution of deceased spouse.* In case of the death of one spouse, any unused portion of an excess charitable contribution which is allocable in accordance with subdivision (i) of this subparagraph to such spouse shall not be treated as paid in the taxable year in which such death occurs or in any subsequent taxable year except on a separate return made for the deceased spouse by a fiduciary for the taxable year which ends with the date of death or on a joint return for the taxable year in which such death occurs. The application of this subdivision may be illustrated by the following example:

Example. Assume the same facts as in the example in subdivision (i) of this subparagraph except that H dies in 1972 and W files a separate return for 1973. W made a joint return for herself and H for 1972. In that example, the unused excess charitable contribution as of January 1, 1973, was $10,000, $6,000 of which was allocable to H and $4,000 to W. No portion of the $6,000 allocable to H may be treated as paid by W or any other person in 1973 or any subsequent year.

(e) *Information required in support of a deduction of an amount carried over and treated as paid.* If, in a taxable year, a deduction is claimed in respect of an excess charitable contribution which, in accordance with the provisions of paragraph (b)(2) or (c)(2) of this section, is treated (in whole or in part) as paid in such taxable year, the taxpayer shall attach to his return a statement showing:

(1) The contribution year (or years) in which the excess charitable contributions were made,

(2) The excess charitable contributions made in each contribution year, and the amount of such excess charitable contributions consisting of 30-percent capital gain property,

(3) The portion of such excess, or of each such excess, treated as paid in accordance with paragraph (b)(2) or (c)(2) of this section in any taxable year intervening between the contribution year and the taxable year for which the return is made, and the portion of such excess which consists of 30-percent capital gain property.

(4) Whether or not an election under section 170(b)(1)(D)(iii) has been made which affects any of such excess contributions of 30-percent capital gain property, and

(5) Such other information as the return or the instructions relating thereto may require.

(f) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969. For purposes of applying section 170(d)(1) with respect to contributions paid in a taxable year beginning before January 1, 1970, subsection (b)(1)(D), subsection (e), and paragraphs (1), (2), (3), and (4) of subsection (f) of section 170 shall not apply. See section 201(g)(1)(D) of the Tax Reform Act of 1969 (83 Stat. 564).

§ 1.170A–11 Limitation on, and carryover of, contributions by corporations.

(a) *In general.* The deduction by a corporation in any taxable year for charitable contributions, as defined in section 170(c), is limited to 5 percent of its taxable income for the year, computed without regard to—

(1) The deduction under section 170 for charitable contributions,

(2) The special deductions for corporations allowed under part VIII (except section 248), subchapter B, chapter 1 of the Code,

(3) Any net operating loss carryback to the taxable year under section 172,

(4) The special deduction for Western Hemisphere trade corporations under section 922, and

(5) Any capital loss carryback to the taxable year under section 1212(a)(1).

A charitable contribution by a corporation to a trust, chest, fund, or foundation described in section 170(c)(2) is deductible under section 170 only if the contribution is to be used in the United States or its possessions exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals. For the purposes of section 170, amounts excluded from the gross income of a corporation under section 114, relating to sports programs conducted for the American National Red Cross, are not to be considered contributions or gifts.

(b) *Election by corporations on an accrual method.* (1) A corporation reporting its taxable income on an accrual method may elect to have a charitable contribution treated as paid during the taxable year, if payment is actually made on or before the 15th day of the third month following the close of such year and if, during such year, its board of directors authorizes the charitable contribution. If by reason of such an election a charitable contribution (other than a contribution of a letter, memorandum, or property similar to a letter or memorandum) paid in a taxable year beginning after December 31, 1969, is treated as paid during a taxable year beginning before January 1, 1970, the provisions of § 1.170A–4 shall not be applied to reduce the amount of such contribution. However, see section 170(e) before its amendment by the Tax Reform Act of 1969.

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(2) The election must be made at the time the return for the taxable year is filed, by reporting the contribution on the return. There shall be attached to the return when filed a written declaration that the resolution authorizing the contribution was adopted by the board of directors during the taxable year, and the declaration shall be verified by a statement signed by an officer authorized to sign the return that it is made under the penalties of perjury. There shall also be attached to the return when filed a copy of the resolution of the board of directors authorizing the contribution.

(c) *Charitable contributions carryover of corporations*—(1) *In general.* Subject to the reduction provided in subparagraph (2) of this paragraph, any charitable contributions made by a corporation in a taxable year (hereinafter in this paragraph referred to as the "contribution year") in excess of the amount deductible in such contribution year under the 5-percent limitation of section 170(b)(2) are deductible in each of the five succeeding taxable years in order of time, but only to the extent of the lesser of the following amounts:

(i) The excess of the maximum amount deductible for such succeeding taxable year under the 5-percent limitation of section 170(b)(2) over the sum of the charitable contributions made in that year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this paragraph in such succeeding taxable year; or

(ii) In the case of the first taxable year succeeding the contribution year, the amount of the excess charitable contributions, and in the case of the second, third, fourth, and fifth taxable years succeeding the contribution year, the portion of the excess charitable contributions not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

This paragraph applies to excess charitable contributions by a corporation, whether or not such contributions are made to, or for the use of, the donee organization and whether or not such organization is a section 170(b)(1)(A) organization, as defined in § 1.170A–9. For purposes of applying this paragraph, a charitable contribution made in a taxable year beginning before January 1, 1970, which is carried over to taxable year beginning after December 31, 1969, under section 170(b)(2) (before its amendment by the Tax Reform Act of 1969) and is deductible in such taxable year beginning after December 31, 1969, shall be treated as deductible under section 170(d)(1) and this paragraph. The application of this subparagraph may be illustrated by the following example:

Example. A corporation which reports its income on the calendar year basis makes a charitable contribution of $20,000 in 1970. Its taxable income (determined without regard to any deduction for charitable contributions) for 1970 is $100,000. Accordingly, the charitable contributions deduction for that year is limited to $5,000 (5 percent of $100,000). The excess charitable contribution not deductible in 1970 ($15,000) is a carryover to 1971. The corporation has taxable income (determined without regard to any deduction for charitable contributions) of $150,000 in 1971 and makes a charitable contribution of $5,000 in that year. For 1971 the corporation may deduct as a charitable contribution the amount of $7,500 (5 percent of $150,000). This amount consists of the $5,000 contribution made in 1971 and of the $2,500 carried over from 1970. The remaining $12,500 carried over from 1970 and not allowable as a deduction for 1971 because of the 5-percent limitation may be carried over to 1972. The corporation has taxable income (determined without regard to any deduction for charitable contributions) of $200,000 in 1972 and makes a charitable contribution of $5,000 in that year. For 1972 the corporation may deduct the amount of $10,000 (5 percent of $200,000). This amount consists of the $5,000 contributed in 1972, and $5,000 of the $12,500 carried over from 1970 to 1972. The remaining $7,500 of the carryover from 1970 is available for purposes of computing the charitable contributions carryover from 1970 to 1973, 1974, and 1975.

(2) *Effect of net operating loss carryovers on carryover of excess contributions.* A corporation having a net operating loss carryover from any taxable year must apply the special rule of section 170(d)(2)(B) and this subparagraph before computing under subparagraph (1) of this paragraph the excess charitable contributions carryover from any taxable year. In determining the amount of excess charitable contributions that may be deducted in accordance with subparagraph (1) of this paragraph in taxable years succeeding the contribution year, the excess of the charitable contributions made by a corporation in the contributions year over the amount deductible in such year must be reduced by the amount by which such excess reduces taxable income for purposes of determining the net operating loss carryover under the second sentence of section 172(b)(2) and increases a net operating loss carryover to a succeeding taxable year. Thus, if the excess of the contributions made in a taxable year over the amount deductible in the taxable year is utilized to reduce taxable income (under the provisions of section 172(b)(2)) for such year, thereby serving to increase the amount of the net operating loss carryover to a succeeding taxable year or years, no charitable contributions carryover will be allowed. If only a portion of the excess charitable contributions is so used, the charitable contributions carryover will be reduced only to that extent. The application of this subparagraph may be illustrated by the following example:

Example. A corporation, which reports its income on the calendar year basis, makes a charitable contribution of $10,000 during 1971. Its taxable income for 1971 is $80,000 (computed without regard to any net operating loss deduction and computed in accordance with section 170(b)(2) without regard to any deduction for charitable contributions). The corporation has a net operating loss carryover from 1970 of $80,000. In the absence of the net operating loss deduction the corporation would have been allowed a deduction for charitable contributions of $4,000 (5 percent of $80,000). After the application of the net operating loss deduction the corporation is allowed no deduction for charitable contributions, and there is a tentative charitable contribution carryover from 1971 of $10,000. For purposes of determining the net operating loss carryover to 1972 the corporation computes its taxable income for 1971 under section 172(b)(2) by deducting the $4,000 charitable contribution. Thus, after the $80,000 net operating loss carryover is applied against the $76,000 of taxable income for 1971 (computed in accordance with section 172(b)(2)), there remains a $4,000 net operating loss carryover to 1972. Since the application of the net operating loss carryover of $80,000 from 1970 reduces the taxable income for 1971 to zero, no part of the $10,000 of charitable contributions in that year is deductible under section 170(b)(2). However, in determining the amount of the allowable charitable contributions carryover from 1971 to 1972, 1973, 1974, 1975, and 1976, the $10,000 must be reduced by the portion thereof ($4,000) which was used to reduce taxable income for 1971 (as computed for purposes of the second sentence of section 172(b)(2)) and which thereby served to increase the net operating loss carryover from 1970 to 1972 from zero to $4,000.

(3) *Effect of net operating loss carryback to contribution year.* The amount of the excess contribution for a contribution year computed as provided in subparagraph (1) of this paragraph shall not be increased because a net operating loss carryback is available as a deduction in the contribution year. In addition, in determining under the provisions of section 172(b)(2) the amount of the net operating loss for any year subsequent to the contribution year which is a carryback or carryover to taxable years succeeding the contribution year, the amount of any charitable contributions shall be limited to the amount of such contributions which did not exceed 5 percent of the donor's taxable income, computed as provided in paragraph (a) of this section and without regard to any of the modifications referred to in section 172(d), for the contribution year. For illustrations see paragraph (d)(2) of § 1.170A–10.

(4) *Effect of net operating loss carryback to taxable year succeeding the contribution year.* The amount of the charitable contribution from a preceding taxable year which is deductible (as provided in this paragraph) in a current taxable year (hereinafter referred to in this subparagraph as the "deduction year") shall not be reduced because a net operating loss carryback is available as a deduction in the deduction year. In addition, in determining under the provisions of section 172(b)(2) the amount of the net operating loss for any taxable year subsequent to the deduction year which is a carryback or a carryover to taxable years succeeding the deduction year, the amount of contributions made in the deduction year shall be limited to the amount of such contributions, which were actually made in such year and those which were deductible in such year under section 170(d)(2), which did not exceed 5 percent of the donor's taxable income, computed as provided in paragraph (a) of this section and without regard to any of the modifications referred to in section 172(d), for the deduction year.

(5) *Year contribution is made.* For purposes of this paragraph, contributions made by a corporation in a contribution year include contributions which, in accordance with the provisions of section 170(a)(2) and paragraph (b) of this section, are considered as paid during such contribution year.

(d) *Effective date.* This section applies only to contributions paid in taxable years beginning after December 31, 1969. For purposes of applying section 170(d)(2) with respect to contributions paid, or treated under section 170(a)(2) as paid, in a taxable year beginning before January 1, 1970, subsection (e), and paragraphs (1), (2), (3), and (4) of subsection (f) of section 170 shall not apply. See section 201(g)(1)(D) of the Tax Reform Act of 1969 (83 Stat. 564).

PAR. 7. Section 1.262–1 is amended by revising paragraph (b)(5) to read as follows:

§ 1.262–1 Personal, living, and family expenses.

* * * * *

(b) *Examples of personal, living, and family expenses.* * * *

(5) Expenses incurred in traveling away from home (which include transportation expenses, meals, and lodging) and any other transportation expenses are not deductible unless they qualify as expenses deductible under section 162, § 1.162–2, and paragraph (d) of § 1.162–5 (relating to trade or business expenses), section 170 and paragraph (a)(2) of § 1.170–2 or paragraph (g) of § 1.170A–1 (relating to charitable contributions), section 212 and § 1.212–1 (relating to expenses for production of income), section 213(e) and paragraph (e) of § 1.213–1 (relating to medical expenses) or section 217(a) and paragraph (a) of § 1.217–1 (relating to moving expenses). The taxpayer's costs of commuting to his place of business or employment are personal expenses and do not qualify as deductible expenses. The costs of the taxpayer's lodging not incurred in traveling away from home are personal expenses and are not deductible unless they qualify as deductible expenses under section 217. Except as permitted under section 162, 212, or 217, the costs of the taxpayer's meals not incurred in traveling away from home are personal expenses.

* * * * * *

PAR. 8. Section 1.381(c)(19)–1 is amended by revising that part of subsection (a) which follows subparagraph (2) thereof, subparagraphs (3)(i) and (4) of paragraph (c), and paragraph (d)(1) to read as follows:

§ 1.381(c)(19)–1 Charitable contributions carryovers in certain acquisitions.

(a) *Carryover requirement.* * * *

To determine the amount of excess contributions made by a distributor or transferor corporation and to integrate them with contributions made by the acquiring corporation for the purpose of determining the charitable contributions deductible by the acquiring corporation for its taxable years beginning immediately after the date of distribution or transfer, it is necessary to apply the provisions of section 170(b)(2) and § 1.170–3 (or, if applicable, section 170(b)(2) and (d)(2) and § 1.170A–11) in accordance with the conditions and limitations of section 381(c)(19) and this section. For taxable years beginning before January 1, 1970, see § 1.170 for provisions of section 170(b)(2) as referred to in this section. For taxable years beginning after December 31, 1969, see § 1.170A for provisions of section 170(b)(2) or (d)(2) as referred to in this section. For special rules for applying section 170(d)(2) with respect to contributions paid, or treated as paid, in taxable years beginning before January 1, 1970, see paragraph (d) of § 1.170A–11.

* * * * * *

(c) *Taxable years to which carryovers apply and amount deductible.* * * *

(3) *Taxable years beginning after December 31, 1962.* (i) If the taxable year of the distributor or transferor corporation ending on the date of distribution or transfer begins after December 31, 1962, the excess charitable contributions made by a distributor or transferor corporation in its taxable year ending on the date of distribution or transfer and in each of its four immediately preceding taxable years (excluding any taxable year beginning before January 1, 1962), to the extent not deductible by it because of the limitations of section 170(b)(2) in its taxable year ending on the date of distribution or transfer or its prior taxable years, shall be deductible by the acquiring corporation to the extent prescribed by section 170(b)(2) (or, if applicable, section 170(d)(2)) and subdivision (ii) of this subparagraph, in its taxable years which begin after the date of distribution or transfer. However, any portion of the excess charitable contributions made by a distributor or transferor corporation in a particular taxable year, to which this subparagraph is applicable, which is not deductible under this section within the 5 taxable years immediately following the taxable year in which the contribution was paid by the distributor or transferor corporation shall not be deductible by the acquiring corporation in any other taxable year.

* * * * * *

(4) *General rules.* No excess charitable contributions made by a distributor or transferor corporation shall be deductible by the acquiring corporation in its taxable year which includes the date of distribution or transfer. In addition, an excess charitable contribution made by a distributor or transferor corporation in a taxable year prior to the taxable year of the transfer is only deductible by the distributor or transferor corporation, subject to the limitations of section 170(b)(2) (or, if applicable, section 170(d)(2)), in its subsequent taxable years which begin on or before the date of distribution or transfer, and by the acquiring corporation in its taxable year or years beginning after the date of distribution or transfer.

(d) *Rules governing amounts deductible by acquiring corporations.* (1) In applying the provisions of section 170(b)(2) (or, if applicable, section 170(d)(2)) for the purpose of determining the amount of excess charitable contributions which are deductible by the acquiring corporation in its taxable years beginning after the date of distribution or transfer, all taxable years of the distributor or transferor and acquiring corporations which, with respect to a particular taxable year beginning after the date of distribution or transfer, constitute the same numbered preceding taxable year shall together be considered as 1 taxable year even though the taxable years involved may not end on the same date. Thus, for example, all taxable years of the distributor or transferor and acquiring corporations which, with respect to the first taxable year of the acquiring corporation beginning after the date of distribution or transfer, constitutes the second preceding taxable year shall together be considered as 1 taxable year even though the taxable years involved may not end on the same date. Any excess charitable contributions carried over from preceding taxable years which are considered as 1 taxable year shall be taken into account by the acquiring corporation as one amount, without regard to the extent to which the contributions were made by a distributor or transferor corporation or the acquiring corporation.

* * * * * *

PAR. 9. Section 1.545 is amended by revising subsections (a) and (b)(2) and (9) of section 545, by adding a new subsection (d) to section 545, and by revising the historical note, as follows:

§ 1.545 Statutory provisions; undistributed personal holding company income.

SEC. 545. *Undistributed personal holding company income*—(a) *Definition.* For purposes of this part, the term "undistributed personal holding company income" means the taxable income of a personal holding company adjusted in the manner provided in subsections (b), (c), and (d), minus the dividends paid deduction as defined in section 561. In the case of a personal holding company which is a foreign corporation, not more than 10 percent in value of the outstanding stock of which is owned (within the meaning of section 958(a)) during the last half of the taxable year by U.S. persons, the term "undistributed personal holding company income" means the amount determined by multiplying the undistributed personal holding company income (determined without regard to this sentence) by the percentage in value of its outstanding stock which is the greatest percentage in value of its outstanding stock so owned by U.S. persons on any one day during such period.

* * * * * *

(b) *Adjustments to taxable income.* * * *

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed, but in computing such deduction the limitations in section 170(b)(1)(A), (B), and (D) shall apply, and section 170(b)(2) and (d)(1) shall not apply. For purposes of this paragraph, the term "contribution base" when

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used in section 170(b)(1) means the taxable income computed with the adjustments (other than the 5-percent limitation) provided in section 170 (b)(2) and (d)(1) and without deduction of the amount disallowed under paragraph (8) of this subsection.

• • • • •

(9) *Amount of a lien in favor of the United States.* There shall be allowed as a deduction the amount, not to exceed the taxable income of the taxpayer, of any lien in favor of the United States (notice of which has been filed as provided in section 6323(f)) to which the taxpayer is subject at the close of the taxable year. The sum of the amounts deducted under this paragraph with respect to any lien shall, for the purposes of this section, be added to the taxable income of the taxpayer for the taxable year in which such lien is satisfied or released. Where an amount is added to the taxable income of a corporation by reason of the preceding sentence of this paragraph, the shareholders of the corporation may, pursuant to regulations prescribed by the Secretary or his delegate, elect to compute the income tax with respect to such dividends as are attributable to such amount as though they were received ratably over the period the lien was in effect.

• • • • •

(d) *Certain foreign corporations.* In the case of a foreign corporation all of the outstanding stock of which during the last half of the taxable year is owned by nonresident alien individuals (whether directly or indirectly through foreign estates, foreign trusts, foreign partnerships, or other foreign corporations), the taxable income for purposes of subsection (a) shall be the income which constitutes personal holding company income under section 543(a)(7), reduced by the deductions attributable to such income, and adjusted, with respect to such income, in the manner provided in subsection (b).

[Sec. 545 as amended by sec. 32, Technical Amendments Act 1958 (72 Stat. 1631); sec. 3(d), Act of Feb. 2, 1962 (Public Law 87-403, 76 Stat. 7); sec. 9(d)(2), Rev. Act 1962 (76 Stat. 1001); secs. 207(b)(5), 209(c)(2), and 225(i)(1) and (2), Rev. Act 1964 (78 Stat. 42, 46, 90); sec. 101(b)(2), Federal Tax Lien Act 1966 (80 Stat. 1132); sec. 104(h)(3), Foreign Investors Tax Act 1966 (80 Stat. 1560); sec. 201(a)(2)(B), Tax Reform Act 1969 (83 Stat. 558)]

PAR. 10. Section 1.545–2 is amended by revising paragraph (b) to read as follows:

§ 1.545–2 Adjustments to taxable income.

• • • • •

(b) *Charitable contributions* — (1) *Taxable years beginning before January 1, 1970* (i) Section 545(b)(2) provides that, in computing the deduction for charitable contributions for purposes of determining undistributed personal holding company income of a corporation for taxable years beginning before January 1, 1970, the limitations in section 170(b)(1)(A) and (B), relating to charitable contributions by individuals, shall apply and section 170(b)(2) and (5), relating to charitable contributions by corporations and carryover of certain excess charitable contributions made by individuals, respectively, shall not apply.

(ii) Although the limitations of section 170(b)(1)(A) and (B) are 10 and 20 percent, respectively, of the individual's adjusted gross income, the limitations are applied for purposes of section 545(b)(2) by using 10 and 20 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170(b)(2), that is, the same amount of taxable income to which the 5-percent limitation applied. Thus, the term "adjusted gross income" when used in section 170(b)(1) means the corporation's taxable income computed with the adjustments, other than the 5-percent limitation, provided in the first sentence of section 170(b)(2). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 545(b)(8), relating to expenses and depreciation applicable to property of the taxpayer. The carryover of charitable contributions made in a prior year, otherwise allowable as a deduction in computing taxable income to the extent provided in section 170(b)(2) and, with respect to contributions paid in taxable years beginning after December 31, 1963, in section 170(b)(5), shall not be allowed as a deduction in computing undistributed personal holding company income for any taxable year.

(iii) See § 1.170–2 with respect to the charitable contributions to which the 10-percent limitation is applicable and the charitable contributions to which the 20-percent limitation is applicable.

(2) *Taxable years beginning after December 31, 1969.* (i) Section 545(b)(2) provides that, in computing the deduction allowable for charitable contributions for purposes of determining undistributed personal holding company income of a corporation for taxable years beginning after December 31, 1969, the limitations in section 170(b)(1)(A), (B), and (D)(i) (relating to charitable contributions by individuals) shall apply, and section 170(b)(1)(D)(ii) (relating to excess charitable contributions by individuals of certain capital gain property, section 170(b)(2) (relating to the 5-percent limitation on charitable contributions by corporations), and section 170(d) (relating to carryovers of excess contributions of individuals and corporations) shall not apply.

(ii) Although the limitations of section 170(b)(1)(A), (B), and (D)(i) are 50, 20, and 30 percent, respectively, of an individual's contribution base, these limitations are applied for purposes of section 545(b)(2) by using 50, 20, and 30 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170(b)(2), that is, the same amount of taxable income to which the 5-percent limitation applies. Thus, the term "contribution base" when used in section 170(b)(1) means the corporation's taxable income computed with the adjustments, other than the 5-percent limitation, provided in section 170(b)(2). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 545(b)(8), relating to expenses and depreciation applicable to property of the taxpayer. The carryover of charitable contributions made in a prior year, otherwise allowable as a deduction in computing taxable income to the extent provided in section 170(b)(2) and, with respect to contributions paid in taxable years beginning after December 31, 1963, in section 170(b)(5), shall not be allowed as a deduction in computing undistributed personal holding company income for any taxable year.

(iii) See § 1.170A–8 for the rules with respect to the charitable contributions to which the 50-, 20-, and 30-percent limitations apply.

• • • • •

PAR. 11. Section 1.556 is amended by revising paragraph (b)(2) of section 556 and the historical note to read as follows:

§ 1.556 Statutory provisions; undistributed foreign personal holding company income.

SEC. 556. *Undistributed foreign personal holding company income.*

• • • • •

(b) *Adjustments to taxable income.* • • •

(2) *Charitable contributions.* The deduction for charitable contributions provided under section 170 shall be allowed, but in computing such deduction the limitations in section 170(b)(1)(A), (B), and (D) shall apply, and section 170(b)(2) and (d)(1) shall not apply. For purposes of this paragraph, the term "contribution base" when used in section 170(b)(1) means the taxable income computed with the adjustments (other than the 5-percent limitation) provided in section 170(b)(2) and (d)(1) and without the deduction of the amounts disallowed under paragraphs (5) and (6) of this subsection or the inclusion in gross income of the amounts includible therein as dividends by reason of the application of the provisions of section 555(b) (relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder).

• • • • •

[Sec. 556 as amended by sec. 33, Technical Amendments Act 1958 (72 Stat. 1632); secs. 207(b)(6) and 209(c)(2), Rev. Act 1964 (78 Stat. 42, 46); sec. 201(a)(2)(B), Tax Reform Act 1969 (83 Stat. 558)]

PAR. 12. Section 1.556–2 is amended by revising paragraph (b) to read as follows:

§ 1.556–2 Adjustments to taxable income.

• • • • •

(b) *Charitable contributions*—(1) *Taxable years beginning before January 1, 1970.* (i) Section 556(b)(2) provides that, in computing the deduction for charitable contributions for purposes of determining the undistributed foreign personal holding company income of a corporation for taxable years beginning before January 1, 1970, the limitations in section 170(b)(1)(A) and (B), relating to charitable contributions by individuals, shall apply and section 170(b)(2) and (5), relating to charitable contributions by corporations and carryover of certain excess charitable contributions made by individuals, respectively, shall not apply.

(ii) Although the limitations of section 170(b)(1)(A) and (B) are 10 and 20 percent, respectively, of the individual's adjusted gross income, the limitations are applied for purposes of section

556(b)(2) by using 10 and 20 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170(b)(2), that is, the same amount of taxable income to which the 5-percent limitation applied. Thus, the term "adjusted gross income" when used in section 170(b)(1) means the corporation's taxable income computed with the adjustments, other than the 5-percent limitation, provided in the first sentence of section 170(b)(2). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 556(b)(5), relating to expenses and depreciation applicable to property of the taxpayer, and section 556(b)(6), relating to taxes and contributions to pension trusts, and without the inclusion of the amounts includible as dividends under section 555(b), relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder. The carryover of charitable contributions made in a prior year, otherwise allowable as a deduction in computing taxable income to the extent provided in section 170(b)(2) and, with respect to contributions paid in taxable years beginning after December 31, 1963, in section 170(b)(5), shall not be allowed as a deduction in computing undistributed foreign personal holding company income for any taxable year.

(iii) See § 1.170–2 with respect to the charitable contributions to which the 10-percent limitation is applicable and the charitable contributions to which the 20-percent limitation is applicable.

(2) *Taxable years beginning after December 31, 1969.* (i) Section 556(b)(2) provides that, in computing the deduction allowable for charitable contributions for purposes of determining the undistributed foreign personal holding company income of a corporation for taxable years beginning after December 31, 1969, the limitations in section 170(b)(1)(A), (B), and (D)(i) (relating to charitable contributions by individuals) shall apply, and section 170(b)(1)(D)(ii), relating to excess charitable contributions by individuals of certain capital gain property), section 170(b)(2) (relating to the 5-percent limitation on charitable contributions by corporations), and section 170(d) (relating to carryovers of excess contributions of individuals and corporations) shall not apply.

(ii) Although the limitations of section 170(b)(1)(A), (B), and (D)(i) are 50, 20, and 30 percent, respectively, of an individual's contribution base, these limitations are applied for purposes of section 556(b)(2) by using 50, 20, and 30 percent, respectively, of the corporation's taxable income as adjusted for purposes of section 170(b)(2), that is, the same amount of taxable income to which the 5-percent limitation applies. Thus, the term "contribution base" when used in section 170(b)(1) means the corporation's taxable income computed with the adjustments, other than the 5-percent limitation, provided in the first sentence of section 170(b)(2). However, a further adjustment for this purpose is that the taxable income shall also be computed without the deduction of the amount disallowed under section 556(b)(5), relating to expenses and depreciation applicable to property of the taxpayer, and section 556(b)(6), relating to taxes and contributions to pension trusts, and without the inclusion of the amounts includible as dividends under section 555(b), relating to the inclusion in gross income of a foreign personal holding company of its distributive share of the undistributed foreign personal holding company income of another company in which it is a shareholder. The carryover of charitable contributions made in a prior year, otherwise allowable as a deduction in computing taxable income to the extent provided in section 170(b)(1)(D)(ii) and (d), shall not be allowed as a deduction in computing undistributed foreign personal holding company income for any taxable year.

(iii) See § 1.170A–8 for the rules with respect to the charitable contributions to which the 50-, 20-, and 30-percent limitations apply.

• • • • •

PAR. 13. Section 1.809 is amended by revising subsections (d)(11), (e)(3) and (5), and (g)(3) of section 809 and the historical note to read as follows:

§ 1.809 Statutory provisions; life insurance companies; in general.

SEC. 809. *In general.* • • •

(d) *Deductions.* • • •

(11) *Certain mutualization distributions.* The amount of distributions to shareholders made in 1958, 1959, 1960, 1961, and 1962 in acquisition of stock pursuant to a plan of mutualization adopted before January 1, 1958.

• • • • •

(e) *Modifications.* • • •

(3) *Charitable, etc., contributions and gifts.* In applying section 170—

(A) The limit on the total deductions under such section provided by section 170(b)(2) shall be 5 percent of the gain from operations computed without regard to—

(i) The deduction provided by section 170,

(ii) The deductions provided by paragraphs (3), (5), (6), and (8) of subsection (d), and

(iii) Any operations loss carryback to the taxable year under section 812; and

(B) Under regulations prescribed by the Secretary or his delegate, a rule similar to the rule contained in section 170(d)(2)(B) shall be applied.

• • • • •

(5) *Net operating loss deduction.* Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

• • • • •

(g) *Limitations on deduction for certain mutualization distributions.* • • •

(3) *Application of section 815.* That portion of any distribution with respect to which a deduction is allowed under subsection (d)(11) shall not be treated as a distribution to shareholders for purposes of section 815; except that in the case of any distribution made in 1959, 1960, 1961, or 1962, such portion shall be treated as a distribution with respect to which a reduction is required under section 815(e)(2)(B).

[Sec. 809 as added by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 121); amended by sec. 2, Act of June 27, 1961 (Public Law 87-59, 75 Stat. 120, 121); sec. 3, Act of October 10, 1962 (Public Law 87-790, 76 Stat. 808); sec. 3, Act of October 23, 1962 (Public Law 87-858, 76 Stat. 1134); secs. 214(b)(4) and 228(a), Rev. Act 1964 (78 Stat. 55, 98); secs. 201(a)(2)(C) and 907(c)(2)(B), Tax Reform Act 1969 (83 Stat. 558, 717)]

PAR. 14. Section 1.809–6 is amended by revising that part of paragraph (c)(2) which precedes subdivision (i) thereof to read as follows:

§ 1.809–6 Modifications.

• • • • •

(c) *Charitable, etc., contributions and gifts.* • • •

(2) In applying the first sentence of section 170(b)(2) as contained in § 1.170 or, in the case of taxable years beginning after December 31, 1969, section 170(d)(2)(B) as contained in § 1.170A, any excess of the charitable contributions made by a life insurance company in a taxable year over the amount deductible in such year under the limitation contained in subparagraph (1) of this paragraph, shall be reduced to the extent that such excess:

• • • • •

PAR. 15. Section 1.1001–1 is amended by revising paragraph (e)(1) to read as follows:

§ 1.1001–1 Computation of gain or loss.

• • • • •

(e) *Transfers in part a sale and in part a gift.* (1) Where a transfer of property is in part a sale and in part a gift, the transferor has a gain to the extent that the amount realized by him exceeds his adjusted basis in the property. However, no loss is sustained on such a transfer if the amount realized is less than the adjusted basis. For the determination of basis of property in the hands of the transferee, see § 1.1015–4. For the allocation of the adjusted basis of property in the case of a bargain sale to a charitable organization, see § 1.1011–2.

• • • • •

PAR. 16. Section 1.1011 is amended by revising section 1011 and by adding a historical note to read as follows:

§ 1.1011 Statutory provisions; adjusted basis for determining gain or loss.

SEC. 1011. *Adjusted basis for determining gain or loss*—(a) *General rule.* The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis (determined under section 1012 or other applicable sections of this subchapter and subchapters C (relating to corporate distributions and adjustments), K (relating to partners and partnerships), and P (relating to capital gains and losses)), adjusted as provided in section 1016.

(b) *Bargain sale to a charitable organization.* If a deduction is allowable under section 170 (relating to charitable contributions) by reason of a sale, then the adjusted basis for determining the gain from such sale shall be that portion of the adjusted basis which bears the same ratio to the adjusted basis

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as the amount realized bears to the fair market value of the property.

[Sec. 1011 as amended by sec. 201(f), Tax Reform Act 1969 (83 Stat. 564)]

PAR. 17. Immediately after § 1.1011–1 the following new section is added.

§ 1.1011–2 Bargain sale to a charitable organization.

(a) *In general.* (1) If for the taxable year a charitable contributions deduction is allowable under section 170 by reason of a sale or exchange of property, the taxpayer's adjusted basis of such property for purposes of determining gain from such sale or exchange must be computed as provided in section 1011(b) and paragraph (b) of this section. If after applying the provisions of section 170 for the taxable year, including the percentage limitations of section 170(b), no deduction is allowable under that section by reason of the sale or exchange of the property, section 1011(b) does not apply and the adjusted basis of the property is not required to be apportioned pursuant to paragraph (b) of this section. In such case the entire adjusted basis of the property is to be taken into account in determining gain from the sale or exchange, as provided in § 1.1001–1(e). In ascertaining whether or not a charitable contributions deduction is allowable under section 170 for the taxable year for such purposes, that section is to be applied without regard to this section and the amount by which the contributed portion of the property must be reduced under section 170(e)(1) is the amount determined by taking into account the amount of gain which would have been ordinary income or long-term capital gain if the entire property had been sold by the donor at its fair market value at the time of the sale or exchange.

(2) If in the taxable year there is a sale or exchange of property which gives rise to a charitable contribution which is carried over under section 170(b)(1)(D)(ii) or section 170(d) to a subsequent taxable year or is postponed under section 170(a)(3) to a subsequent taxable year, section 1011(b) and paragraph (b) of this section must be applied for purposes of apportioning the adjusted basis of the property for the year of the sale or exchange, whether or not such contribution is allowable as a deduction under section 170 in such subsequent year.

(3) If property is transferred subject to an indebtedness, the amount of the indebtedness must be treated as an amount realized for purposes of determining whether there is a sale or exchange to which section 1011(b) and this section apply, even though the transferee does not agree to assume or pay the indebtedness.

(4)(i) Section 1011(b) and this section apply where property is sold or exchanged in return for an obligation to pay an annuity and a charitable contributions deduction is allowable under section 170 by reason of such sale or exchange.

(ii) If in such case the annuity received in exchange for the property is nonassignable, or is assignable but only to the charitable organization to which the property is sold or exchanged, and if the transferor is the only annuitant or the transferor and a designated survivor annuitant or annuitants are the only annuitants, any gain on such exchange is to be reported as provided in example (8) in paragraph (c) of this section. In determining the period over which gain may be reported as provided in such example, the life expectancy of the survivor annuitant may not be taken into account. The fact that the transferor may retain the right to revoke the survivor's annuity or relinquish his own right to the annuity will not be considered, for purposes of this subdivision, to make the annuity assignable to someone other than the charitable organization. Gain on an exchange of the type described in this subdivision pursuant to an agreement which is entered into after December 19, 1969, and before May 3, 1971, may be reported as provided in example (8) in paragraph (c) of this section, even though the annuity is assignable.

(iii) In the case of an annuity to which subdivision (ii) of this subparagraph applies, the gain unreported by the transferor with respect to annuity payments not yet due when the following events occur is not required to be included in gross income of any person where—

(*a*) The transferor dies before the entire amount of gain has been reported and there is no surviving annuitant, or

(*b*) The transferor relinquishes the annuity to the charitable organization.

If the transferor dies before the entire amount of gain on a two-life annuity has been reported, the unreported gain is required to be reported by the surviving annuitant or annuitants with respect to the annuity payments received by them.

(b) *Apportionment of adjusted basis.* For purposes of determining gain on a sale or exchange to which this paragraph applies, the adjusted basis of the property which is sold or exchanged shall be that portion of the adjusted basis of the entire property which bears the same ratio to the adjusted basis as the amount realized bears to the fair market value of the entire property. The amount of such gain which shall be treated as ordinary income (or long-term capital gain) shall be that amount which bears the same ratio to the ordinary income (or long-term capital gain) which would have been recognized if the entire property had been sold by the donor at its fair market value at the time of the sale or exchange as the amount realized on the sale or exchange bears to the fair market value of the entire property at such time. The terms "ordinary income" and "long-term capital gain", as used in this section, have the same meaning as they have in paragraph (a) of § 1.170A–4. For determining the portion of the adjusted basis, ordinary income, and long-term capital gain allocated to the contributed portion of the property for purposes of applying section 170(e)(1) and paragraph (a) of § 1.170A–4 to the contributed portion of the property, and for determining the donee's basis in such contributed portion, see paragraph (c)(2) and (4) of § 1.170A–4. For determining the holding period of such contributed portion, see section 1223(2) and the regulations thereunder.

(c) *Illustrations.* The application of this section may be illustrated by the following examples, which are supplemented by other examples in paragraph (d) of § 1.170A–4:

Example (1). In 1970, A, a calendar-year individual taxpayer, sells to a church for $4,000 stock held for more than 6 months which has an adjusted basis of $4,000 and a fair market value of $10,000. A's contribution base for 1970, as defined in section 170(b)(1)(F), is $100,000, and during that year he makes no other charitable contributions. Thus, A makes a charitable contribution to the church of $6,000 ($10,000 value −$4,000 amount realized). Without regard to this section, A is allowed a deduction under section 170 of $6,000 for his charitable contribution to the church, since there is no reduction under section 170(e)(1) with respect to the long-term capital gain. Accordingly, under paragraph (b) of this section the adjusted basis for determining gain on the bargain sale is $1,600 ($4,000 adjusted basis ×$4,000 amount realized/$10,000 value of property). A has recognized long-term capital gain of $2,400 ($4,000 amount realized −$1,600 adjusted basis) on the bargain sale.

Example (2). The facts are the same as in example (1) except that A also makes a charitable contribution in 1970 of $50,000 cash to the church. By reason of section 170(b)(1)(A), the deduction allowed under section 170 for 1970 is $50,000 for the amount of cash contributed to the church; however, the $6,000 contribution of property is carried over to 1971 under section 170(d). Under paragraphs (a)(2) and (b) of this section the adjusted basis for determining gain for 1970 on the bargain sale in that year is $1,600 ($4,000×$4,000/$10,000). A has a recognized long-term capital gain for 1970 of $2,400 ($4,000−$1,600) on the sale.

Example (3). In 1970, C, a calendar-year individual taxpayer, makes a charitable contribution of $50,000 cash to a church. In addition, he sells for $4,000 to a private foundation not described in section 170(b)(1)(E) stock held for more than 6 months which has an adjusted basis of $4,000 and a fair market value of $10,000. Thus, C makes a charitable contribution of $6,000 of such property to the private foundation ($10,000 value −$4,000 amount realized). C's contribution base for 1970, as defined in section 170(b)(1)(F), is $100,000, and during that year he makes no other charitable contributions. By reason of section 170(b)(1)(A), the deduction allowed under section 170 for 1970 is $50,000 for the amount of cash contributed to the church. Under section 170(e)(1)(B)(ii), applied without regard to section 1011(b), the $6,000 contribution of stock is reduced to $3,000 ($6,000−[50%×($10,000 value of stock −$4,000 adjusted basis)]). However, by reason of section 170(b)(1)(B)(ii), applied without regard to section 1011(b), no deduction is allowed under section 170 for 1970 or any other year for the reduced contribution of $3,000 to the private foundation. Accordingly, paragraph (b) of this section does not apply for purposes of apportioning the adjusted basis of the stock sold to the private foundation, and under § 1.1001–1(e) the recognized gain on the bargain sale is $0 ($4,000 amount realized −$4,000 adjusted basis).

Example (4). In 1970, B, a calendar-year individual taxpayer, sells to a church for $2,000 stock held for not more than 6 months which has an adjusted basis of $4,000 and a fair market value of $10,000. B's contribution base for 1970, as defined in section 170(b)(1)(F), is $20,000 and during such year B makes no other charitable contributions. Thus, he makes a charitable contribution to the church of $8,000 ($10,000 value −$2,000 amount realized). Since without regard to this section B is allowed a deduction under section 170 of $2,000 ($8,000 −[$10,000 value−$4,000 adjusted basis]) for his charitable contribution of $8,000 to the church, under paragraph (b) of this section the adjusted basis for determining gain on the bargain sale is $800 ($4,000 adjusted basis ×$2,000 amount realized/$10,000 value of stock). Accordingly, B has a recognized short-term capital gain of $1,200 ($2,000 amount realized −$800 adjusted basis) on the bargain sale. After applying section 1011(b) and paragraphs (a)(1) and (c)(2)(i) of § 1.170A–4, B is allowed a charitable contributions deduction for 1970 of $3,200 ($8,000 value of gift −[$8,000−($4,000 adjusted basis of property ×$8,000 value of gift/$10,000 value of property)]).

Example (5). The facts are the same as in Example (4) except that B sells the property to the church for $4,000. Thus, B makes a charitable contribution to the church of $6,000 ($10,000 value −$4,000 amount realized). Since without regard to this section B is allowed a deduction under section 170 for 1970 of $0 ($6,000−[$10,000 value−$4,000 adjusted basis]) under section 170, paragraph (b) of this section does not apply for purposes of apportioning the adjusted basis of the property, and under § 1.1001–1(e) the recognized gain on the bargain sale is $0 ($4,000 amount realized −$4,000 adjusted basis).

Example (6). The facts are the same as in Example (4) except that B sells the property to the church for $6,000. Thus, B makes a charitable contribution to the church of $4,000 ($10,000 value −$6,000 amount realized). Since without regard to this section B is allowed a deduction under section 170 for 1970 of $0 ($4,000 gift −[$10,000 value of property −$4,000 adjusted basis]), paragraph (b) of this section does not apply for purposes of apportioning the adjusted basis of the property, and under § 1.1001–1(e) the recognized short-term capital gain on the bargain sale is $2,000 ($6,000 amount realized −$4,000 adjusted basis).

Example (7). In 1970, C, a calendar-year individual taxpayer, sells to a church for $4,000 tangible personal property used in his business for more than 6 months which has an adjusted basis of $4,000 and a fair market value of $10,000. Thus, C makes a charitable contribution to the church of $6,000 ($10,000 value −$4,000 amount realized). C's contribution base for 1970, as defined in section 170(b)(1)(F), is $100,000 and during such year he makes no other charitable contributions. If C had sold the property at its fair market value at the time of its contribution, it is assumed that under section 1245 $4,000 of the gain of $6,000 ($10,000 value−$4,000 adjusted basis) would have been treated as ordinary income. Thus, there would have been long-term capital gain of $2,000. It is also assumed that the church does not put the property to an unrelated use, as defined in paragraph (b)(3) of § 1.170A–4. Since without regard to this section C is allowed a deduction under section 170 of $2,000 ($6,000 gift −$4,000 ordinary income), under paragraph (b) of this section the adjusted basis for determining gain on the bargain sale is $1,600 ($4,000 adjusted basis ×$4,000 amount realized/$10,000 value of property). Accordingly, C has a recognized gain of $2,400 ($4,000 amount realized −$1,600 adjusted basis) on the bargain sale, consisting of ordinary income of $1,600 ($4,000 ordinary income ×$4,000 amount realized/$10,000 value of property) and of long-term capital gain of $800 ($2,000 long-term gain ×$4,000 amount realized/$10,000 value of property). After applying section 1011(b) and paragraphs (a) and (c)(2)(i) of § 1.170A–4, C is allowed a charitable contributions deduction for 1970 of $3,600 ($6,000 gift −[$4,000 ordinary income ×$6,000 value of gift/$10,000 value of property]).

Example (8). (a) On January 1, 1970, A, a male of age 65, transfers capital assets consisting of securities held for more than 6 months to a church in exchange for a promise by the church to pay A a nonassignable annuity of $5,000 per year for life. The annuity is payable monthly with the first payment to be made on February 1, 1970. A's contribution base for 1970, as defined in section 170(b)(1)(F), is $200,000, and during that year he makes no other charitable contributions. On the date of transfer the securities have a fair market value of $100,000 and an adjusted basis to A of $20,000.

(b) The present value of the right of a male age 65 to receive a life annuity of $5,000 per annum, payable in equal installments at the end of each monthly period, is $59,755 ($5,000×[11.469+0.482]), determined in accordance with section 101(b) of the Code, paragraph (e)(1)(iii)(b)(2) of § 1.101–2, and section 3 of Rev. Rul. 62–216, C.B. 1962–2, 30. Thus, A makes a charitable contribution to the church of $40,245 ($100,000−$59,755). Without regard to this section, A is allowed a deduction under section 170 of $40,245 for his charitable contribution to the church, since the property contributed is not section 170(e) capital gain property within the meaning of paragraph (b)(3) of § 1.170A–4 and no reduction of the contribution is made under section 170(e)(1).

(c) Under paragraph (b) of this section, the adjusted basis for determining gain on the bargain sale is $11,951 ($20,000×$59,755/$100,000). Accordingly, A has a recognized long-term capital gain of $47,804 ($59,755−$11,951) on the bargain sale. Such gain is to be reported by A ratably over the period of years measured by the expected return multiple under the contract, but only from that portion of the annual payments which is a return of his investment in the contract under section 72 of the Code. For such purposes, the investment in the contract is $59,755, that is, the present value of the annuity.

(d) The computation and application of the exclusion ratio, the gain, and the ordinary annuity income are as follows, determined by using the expected return multiple of 15.0 applicable under Table I of § 1.72–9:

A's expected return (annual payments of $5,000×15)	$75,000.00
Exclusion ratio ($59,755 investment in contract divided by expected return of $75,000)	79.7%
Annual exclusion (annual payments of $5,000×79.7%)	$3,985.00
Ordinary annuity income ($5,000−$3,985)	$1,015.00
Long-term capital gain per year ($47,804/15) with respect to the annual exclusion	$3,186.93

(e) The exclusion ratio of 79.7 percent applies throughout the life of the contract. During the first 15 years of the annuity, A is required to report ordinary income of $1,015 and long-term capital gain of $3,186.93 with respect to the annuity payments he receives. After the total long-term capital gain of $47,804 has been reported by A, he is required to report only ordinary income of $1,015.00 per annum with respect to the annuity payments he receives.

(d) *Effective date.* This section applies only to sales and exchanges made after December 19, 1969.

PAR. 18. Section 1.1012–2 is revised to read as follows:

§ 1.1012–2 Transfers in part a sale and in part a gift.

For rules relating to basis of property acquired in a transfer which is in part a gift and in part a sale, see § 1.170A–4(c), § 1.1011–2(b), and § 1.1015–4.

PAR. 19. Section 1.1015–4 is amended by revising that part of paragraph (a) which follows subparagraph (2) thereof to read as follows:

§ 1.1015–4 Transfers in part a gift and in part a sale.

(a) *General rule.* * * *

For determining loss, the unadjusted basis of the property in the hands of the transferee shall not be greater than the fair market value of the property at the time of such transfer. For determination of gain or loss of the transferor, see § 1.1001–1(e) and § 1.1011–2. For special rule where there has been a charitable contribution of less than a taxpayer's entire interest in property, see section 170(e)(2) and § 1.170A–4(c).

PAR. 20. Section 1.1245–4 is amended by revising paragraph (a)(1) to read as follows:

§ 1.1245–4 Exceptions and limitations.

(a) *Exception for gifts*—(1) *General rule.* Section 1245(b)(1) provides that no gain shall be recognized under section 1245(a)(1) upon a disposition by gift. For purposes of this paragraph, the term "gift" means, except to the extent that subparagraph (3) of this paragraph applies, a transfer of property which, in the hands of the transferee, has a basis determined under the provisions of section 1015 (a) or (d) (relating to basis of property acquired by gifts). For reduction in amount of charitable contribution in case of a gift of section 1245 property, see section 170(e) and the regulations thereunder.

* * * * *

[FR Doc.72-16703 Filed 10-3-72;8:45 am]

[T.D. 7209]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Appreciated Property Used To Redeem Stock

On May 20, 1971, there was published in the FEDERAL REGISTER (36 F.R. 9138) a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 311(d) of the Internal Revenue Code of 1954, relating to appreciated property used to redeem stock, as added by section 905 of the Tax Reform Act of 1969 (Public Law 91–172). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted, subject to the changes set forth below:

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PARAGRAPH 1. Section 1.311–1, as set forth in paragraph (4) of the appendix to the notice of proposed rule making, is changed by revising paragraph (a) to read as set forth below.

PAR. 2. Section 1.311–2, as set forth in paragraph (5) of the appendix to the notice of proposed rule making, is changed by revising paragraphs (a)(2), (b)(2), (c)(1), (d), and (h) to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: September 27, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 905 of the Tax Reform Act of 1969 (83 Stat. 713), such regulations are amended as follows:

PARAGRAPH 1. Section 1.301 is amended by revising subsections (b)(1)(B)(ii) and (d)(2)(B) of section 301 and the historical note to read as follows:

§ 1.301 Statutory provisions; distributions of property.

Sec. 301. *Distributions of property.* • • •

(b) *Amount distributed*—(1) *General rule.*

• • •

(B) *Corporate distributees.* • • •

(ii) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of the other property received, increased in the amount of gain to the distributing corporation which is recognized under subsection (b), (c), or (d) of section 311, under section 341(f), or under section 617(d)(1), 1245(a), 1250(a), 1251(c), or 1252(a).

• • • • • •

(d) *Basis.* • • •

(2) *Corporate distributees.* • • •

(B) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property, increased in the amount of gain to the distributing corporation which is recognized under subsection (b), (c), or (d) of section 311, under section 341(f), or under section 617(d)(1), 1245(a), 1250(a), 1251(c), or 1252(a).

• • • • • •

[Sec. 301 as amended by secs. 5(a) and (b), and 13(f)(2), Rev. Act 1962 (76 Stat. 977, 1035); sec. 231(b)(2), Rev. Act 1964 (78 Stat. 105); sec. 1(b)(1), Act of Aug. 22, 1964 (Public Law 88-484, 78 Stat. 597); sec. 1(b)(2), Act of Sept. 12, 1966 (Public Law 89-570, 80 Stat. 762); secs. 211(b)(1) and (2), and 905(b)(2), Tax Reform Act of 1969 (83 Stat. 570, 714)]

PAR. 2. Section 1.301–1 is amended by revising paragraph (d), paragraph (h)(2)(ii)(*b*), paragraph (j)(1), and paragraph (n)(2). These revised provisions read as follows:

§ 1.301–1 Rules applicable with respect to distributions of money and other property.

• • • • • •

(d) *Distributions of property to corporate shareholders.* If property (other than money and other than the obligations of the distributing corporation) is distributed in kind to a shareholder which is a corporation and the fair market value of such property is greater than the adjusted basis in the hands of the distributing corporation, only the adjusted basis of such property (determined immediately before the distribution and increased for any gain recognized to the distributing corporation under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)) shall be taken into account under section 301(c). Thus, in such a case, the amount of such a dividend in kind under section 301(c)(1) may not exceed such adjusted basis. Similarly, in such cases where the distribution is not out of earnings and profits, the amount of the reduction in basis of the shareholder's stock and the amount of any gain resulting from such distribution are determined by reference to the adjusted basis of the property distributed. If the property distributed is money, the amount of the distribution shall be the amount of such money. If the property distributed consists of the obligations of the distributing corporation, or stock of the distributing corporation treated as property under section 305(b), or rights to acquire such stock treated as property under section 305(b), the amount of such distribution shall be an amount equal to the fair market value of such obligations, stock, or rights. For special rules as to distributions by a foreign corporation of property (other than money, the obligations of the distributing corporation, stock of the distributing corporation treated as property under section 305(b), or rights to acquire such stock treated as property under section 305(b)) after December 31, 1962, to a shareholder which is a corporation, see section 301(b)(1)(C) and paragraph (n) of this section.

• • • • • •

(h) *Basis.* • • •

(2) • • •

(ii) • • •

(*b*) The adjusted basis (in the hands of the distributing corporation immediately before the distribution) of such property increased in the amount of gain to the distributing corporation which is recognized under section 311(b) (relating to distributions of LIFO inventory), section 311(c) (relating to distributions of property subject to liabilities in excess of basis), section 311(d) (relating to appreciated property used to redeem stock), section 341(f) (relating to certain sales of stock of consenting corporations), section 617(d) (relating to gain from dispositions of certain mining property), section 1245(a) or 1250(a) (relating to gain from dispositions of certain depreciable property), section 1251(c) (relating to gain from disposition of farm recapture property), or section 1252(a) (relating to gain from disposition of farm land);

• • • • • •

(j) *Transfers for less than fair market value.* • • •

(1) Where the fair market value of the property equals or exceeds its adjusted basis in the hands of the distributing corporation the amount of the distribution shall be the excess of the adjusted basis (increased by the amount of gain recognized under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a) to the distributing corporation) over the amount paid for the property;

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(n) *Distributions of certain property by foreign corporations to corporate shareholders.* • • •

(2) If any deduction is allowable to the recipient under section 245 with respect to a distribution of property described in subparagraph (1) of this paragraph and if the fair market value of the property exceeds its adjusted basis in the hands of the distributing corporation (increased by any gain to the distributing corporation recognized under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)), then the amount taken into account under section 301(c) shall be determined under subparagraph (3) of this paragraph.

In order to determine such amount—

(i) First, compute the portion, if any, of the adjusted basis of the property (increased by any gain to the distributing corporation recognized under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)) which is out of earnings and profits of the taxable year (within the meaning of section 316(a)(2)).

(ii) Second, compute the portion, if any, of the adjusted basis of the property (increased by any gain to the distributing corporation recognized under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)) which is out of earnings and profits accumulated during the portion of the uninterrupted period described in section 245(a) which ends at the beginning of the taxable year.

(iii) Third, compute the portion, if any, of the adjusted basis of the property (increased by any gain to the distributing corporation recognized under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a)) which is out of sources other than earnings and profits of the taxable year and earnings and profits accumulated during the uninterrupted period described in section 245(a).

(iv) Fourth, with respect to each of the portions computed under subdivisions (i), (ii), and (iii) of this subparagraph, determine the proportionate part of the fair market value of the property attributable to such portion. The proportionate part of the fair market value attributable to each portion shall be such fair market value multiplied by the ratio which such portion bears to the sum of all portions.

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PAR. 3. Sec. 1.311 is amended by revising subsection (a) of, and adding a new subsection (d) to, section 311, and by inserting a historical note. These revised and added provisions read as follows:

§ 1.311 Statutory provisions; taxability of corporation on distribution.

Sec. 311. *Taxability of corporation on distribution*—(a) *General rule.* Except as provided in subsections (b), (c), and (d) of this section and section 453(d), no gain or loss shall be recognized to a corporation on the distribution with respect to its stock, of—

(1) Its stock (or rights to acquire its stock), or

(2) Property.

• • • • • •

(d) *Appreciated property used to redeem stock.*

(1) *In general*—If

(A) A corporation distributes property (other than an obligation of such corporation) to a shareholder in a redemption (to which subpart A applies) of part or all of his stock in such corporation, and

(B) The fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then [a]gain [sic] shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. Subsections (b) and (c) shall not apply to any distribution to which this subsection applies.

(2) *Exceptions and limitations.* Paragraph (1) shall not apply to—

(A) A distribution in complete redemption of all of the stock of a shareholder who, at all times within the 12-month period ending on the date of such distribution, owns at least 10 percent in value of the outstanding stock of the distributing corporation, but only if the redemption qualifies under section 302(b)(3) (determined without the application of section 302(c)(2)(A)(ii));

(B) A distribution of stock or an obligation of a corporation—

(i) Which is engaged in at least one trade or business,

(ii) Which has not received property constituting a substantial part of its assets from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of the distribution, and

(iii) At least 50 percent in value of the outstanding stock of which is owned by the distributing corporation at any time within the 9-year period ending 1 year before the date of the distribution;

(C) A distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in section 1504(a)) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the 1-year period ending on the date of the distribution;

(D) A distribution of stock or securities pursuant to the terms of a final judgment rendered by a court with respect to the distributing corporation in a court proceeding under the Sherman Act (26 Stat. 209; 15 U.S.C. 1–7) or the Clayton Act (38 Stat. 730; 15 U.S.C. 12–27), or both, to which the United States is a party, but only if the distribution of such stock or securities in redemption of the distributing corporation's stock is in furtherance of the purposes of the judgment;

(E) A distribution to the extent that section 303 (a) (relating to distributions in redemption of stock to pay death taxes) applies to such distribution;

(F) A distribution to a private foundation in redemption of stock which is described in section 537(b)(2) (A) and (B); and

(G) A distribution by a corporation to which part I of subchapter M (relating to regulated investment companies) applies, if such distribution is in redemption of its stock upon the demand of the shareholder.

[Sec. 311 as amended by sec. 905 (a) and (b)(1), Tax Reform Act 1969 (83 Stat. 713, 714)]

PAR. 4. Sec. 1.311–1 is amended by revising paragraphs (a), (b), and (d) to read as folows:

§ 1.311–1 General.

(a) Except as provided in subsections (b), (c), and (d) of section 311, section 453(d) (relating to installment obligations) and such other provisions of the Code as sections 341(f), 617(d), 1245(a), 1250(a), 1251(c), and 1252(a), no gain or loss is recognized to a corporation on the distribution, with respect to its stock, of stock, or rights to acquire its stock, or property (regardless of the fact that such property may have appreciated or depreciated in value since its acquisition by the corporation). However, the proceeds of the sale of property in form made by a shareholder receiving such property in kind from the corporation may be imputed to the corporation if, in substance the corporation made the sale. Moreover, where property is distributed by a corporation, which distribution is in effect an anticipatory assignment of income, such income may be taxable to the corporation. The term "distributions with respect to its stock" includes distributions made in redemption of stock (other than distributions in complete or partial liquidations). See, however, paragraph (e) of this section for distributions to which section 311 does not apply. For the rule respecting the taxation of a corporation making a distribution of property in partial or complex liquidation, see section 336.

(b) In any case in which a corporation distributes with respect to its stock assets which have been part of an inventory, the value of which has been computed for income tax purposes under the method provided in section 472 (relating to last-in, first-out inventories), such corporation shall—

(1) Compute the amount of its inventory under the method provided in section 472 immediately prior to the distribution and immediately after such distribution;

(2) Compute the difference between the two amounts described in subparagraph (1) of this paragraph;

(3) Compute the amount of its inventory under the method authorized by section 471 (relating to general rule for inventories) immediately prior to the distribution and immediately after such distribution;

(4) Compute the difference between the two amounts determined under subparagraph (3) of this paragraph.

If the amount computed under subparagraph (4) of this paragraph is in excess of the amount computed under subparagraph (2) of this paragraph, then such excess shall, under section 311(b), be included in the income of the corporation for the year in which such distribution occurs. In any case in which a corporation distributes assets which have been a part of an inventory whose value has been computed for income tax purposes under the method provided in section 472, such corporation shall on the date of distribution record a specific statement of the amount of its inventory under each of the applicable methods for use in the determination of the amount of income includible under section 311. Section 311(b) and this paragraph do not apply to any distribution which is governed by section 311(d)(1).

• • • • • •

(d) Section 311(c) provides in general for the inclusion in the income of a corporation, on a distribution of property by such corporation to its shareholders, of an amount equal to the excess of a liability over the basis of the property distributed. Thus, section 311(c) applies where the property distributed is subject to a liability or where the shareholder assumes a liability of the corporation in connection with the distribution. For example, if property which is a capital asset having an adjusted basis to the distributing corporation of $100 and a fair market value of $1,000 (but subject to a liability of $900) is distributed to a shareholder, such distribution is taxable (as long-term or short-term gain, as the case may be) to the corporation to the extent of the excess of the liability ($900) over the adjusted basis ($100) or $800. However, if in the preceding example the fair market value of the property distributed were $800, the amount taxable to the corporation is limited to the excess of the fair market value of the property ($800) over its adjusted basis ($100) or $700. If the property subject to a liability were not a capital asset in the hands of the distributing corporation, the gain would be taxable as gain from the sale of a noncapital asset. The holding period of assets so distributed shall be determined as if such property were sold on the date of the distribution. Section 311(c) and this paragraph do not apply to any distribution which is governed by section 311(d)(1).

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PAR. 5. The following new section is added immediately after 1.311–1 to read as follows:

§ 1.311–2 Appreciated property used to redeem stock.

(a) *In general.* (1) Section 311(d)(1) provides, in general, that gain is recognized to a corporation which distributes appreciated property (other than an obligation of such corporation) to its shareholders after November 30, 1969, in a redemption (as defined in section 317(b) of its stock to which subpart A, part I, subchapter C, chapter 1 of the Code applies, regardless of whether the redemption is treated as a distribution of property to which section 301 applies. Paragraphs (b) through (i) of this section contain exceptions and limitations provided by section 311(d)(2) and section 905(c) of the Tax Reform Act of 1969 to the application of section 311(d)

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(1). These exceptions and limitations prevent the recognition of gain to a corporation upon a distribution of appreciated property, but do not broaden the general nonrecognition provisions of section 311(a). Thus, for example, if the proceeds of the sale of property in form made by a shareholder, who received such property from a corporation, are imputed to the corporation (see § 1.311–1(a)), the exceptions and limitations of section 311(d)(2) would have no application.

(2) Section 311(d) applies only where there is an actual redemption of stock as a result of the distribution. Thus, section 311(d) does not apply where there is a distribution of appreciated property pro rata among all shareholders and such shareholders do not transfer any of their stock to the distributing corporation in exchange for such property even though the effect of the transaction would have been the same if there had been actual redemptions. Section 311(d) applies where an acquisition of stock by a corporation is treated under section 304 as a distribution in redemption of the stock of either the acquiring or issuing corporation. Section 311(d)(1) does not apply to a distribution in partial or complete liquidation of a corporation (see sections 331 through 346). In general, the section does not apply to a distribution pursuant to a reorganization to which part III or IV of subchapter C applies or to a distribution of stock or securities of a controlled corporation to which section 355 (or so much of section 356 as relates to section 355) applies. However, if the distribution is in substance a redemption, section 311(d) will apply. Thus, if one class of shareholders exchanges preferred stock for a lesser amount of new preferred stock (having similar rights and privileges) and for other property, the transaction will be considered a redemption for purposes of section 311(d) rather than a distribution pursuant to a reorganization to which part III or IV of subchapter C would apply.

(3) For purposes of this section, the term "appreciated property" means any property whose fair market value on the date of distribution exceeds its adjusted basis in the hands of the distributing corporation. For purposes of determining the amount of gain which will be recognized under this section, gain realized from the distribution of appreciated property shall not be offset by any loss realized from the distribution of property whose adjusted basis exceeds its fair market value. The amount and nature of gain recognized to a corporation which distributes appreciated property shall be determined as if such property were sold for its fair market value on the date of distribution. The nature of such gain shall be determined by reference to all applicable provisions of law, including section 1245.

(b) *Complete redemption of a 10-percent shareholder.* (1) Section 311(d)(2)(A) provides that section 311(d)(1) shall not apply to a distribution in complete redemption of all the stock of a "10-percent shareholder," provided such distribution qualifies as a redemption in complete termination of such shareholder's interest under section 302(b)(3). Sales and redemptions of stock which are substantially contemporaneous in time and pursuant to a single plan shall be treated as having occurred simultaneously for purposes of determining whether a complete redemption has occurred and whether the distributee is a "10-percent shareholder". For purposes of this paragraph, section 318(a)(1) shall not apply with respect to a distribution described in section 302(b)(3) where section 302(c)(2)(B) does not apply and where immediately after the distribution the distributee has no interest in the corporation (including an interest as an officer, director, or employee) other than an interest as a creditor.

(2) A "10-percent shareholder," for purposes of this paragraph, is a person who, at all times within the 12-month period ending on the date of distribution, owned [, without regard to section 318 (relating to constructive ownership of stock),] at least 10 percent of the fair market value of all the outstanding stock of the distributing corporation. For purposes of this paragraph, the ownership of stock shall be determined without the application of section 318 (relating to constructive ownership of stock), and where under the provisions of subpart E, part I, subchapter J, of the Code, any person is treated as the owner of any portion of a trust, stock owned by such trust shall not be considered as owned by such person. For purposes of this paragraph, a person shall be considered to have owned stock during the period he is considered to have held the stock by reason of the application of section 1223 but where, under the provisions of subpart E, part I, subchapter J, of the Code, any person is treated as the owner of any portion of a trust, the holding period of such trust for any of its stock shall not include the holding period of such person.

(c) *Distribution of stock of controlled corporation.* (1) Section 311(d)(2)(B) provides that section 311(d)(1) shall not apply to a distribution of stock or an obligation of a controlled corporation—

(i) Which is engaged in at least one trade or business, and

(ii) Which has not received property (including money) constituting a substantial part of its assets from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of distribution.

For purposes of this paragraph, a corporation is a "controlled corporation" if at least 50 percent of the fair market value of its outstanding stock was owned by the distributing corporation at any time within the 9-year period ending 1 year before the date of distribution. A distribution of stock of a controlled corporation does not qualify for treatment under section 311(d)(2)(B) if the trade or business of such corporation was acquired for the purpose of qualifying the distribution for treatment under that section. However, a trade or business which was acquired more than 1 year before the date of distribution will be presumed not to have been acquired for such a purpose. For purposes of this paragraph, the corporation whose stock is distributed will be considered to be engaged in a trade or business if it owns stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of another corporation which has been engaged in the active conduct of a trade or business throughout the 1-year period ending on the date of distribution. The term "active conduct of a trade or business" shall have the same meaning in this paragraph as in paragraph (c) of § 1.355–1.

(2) (i) In determining, for purposes of subparagraph (1)(ii) of this paragraph, whether property received from the distributing corporation within the 5-year period ending on the date of distribution constitutes a substantial part of the controlled corporation's assets, the amount of money received within such period plus the total fair market value (determined on the date of distribution) of the items of property specified in subdivisions (ii), (iii), and (iv) of this subparagraph shall be compared with the total fair market value of all the controlled corporation's assets on the date of distribution.

(ii) Property other than money received from the distributing corporation shall be taken into account, provided it is held or owned by the controlled corporation on the date of distribution.

(iii) If money is transferred from the distributing corporation to the controlled corporation and then is used, pursuant to a plan of the distributing corporation existing at the time of transfer, to acquire property which the controlled corporation holds or owns on the date of distribution, then the acquired property, in lieu of the money transferred, shall be taken into account.

(iv) If property (other than money) received from the distributing corporation (or property acquired pursuant to plan with money received from the distributing corporation) is exchanged for other property in a transaction in which gain or loss is not recognized in whole or in part to the controlled corporation, the property received in the exchange shall be taken into account, provided it is held or owned by the controlled corporation on the date of distribution.

(3) The principles of this paragraph may be illustrated by the following examples:

Example (1). Corporation M, a toy manufacturer, is a controlled corporation of corporation N. On June 1, 1970, N contributes $200,000 to M's capital. On January 1, 1971, N contributes real estate with a fair market value of $50,000 to M's capital. On February 1, 1975, when N distributes M stock to its shareholders in redemption of its own stock, such real estate, still owned by M, has a fair market value of $100,000. On the date of distribution the total fair market value of all M's assets is $10 million. The distribution meets the requirements of section 311(d)(2)(B) and therefore no gain is recognized to N under section 311(d)(1).

Example (2). Corporation R is a controlled corporation of corporation S. On April 1, 1970, S contributes $500,000 to R which, pursuant to a plan of S existing at the time of the contribution, R uses to purchase certain securities. On July 1, 1970, S contributes an office building to R. On December 1, 1972, such building is exchanged for another building in a transaction to which section 1031 (relating to exchange of property held for productive use or investment) applies. On February 1, 1975, when S distributes R stock to its shareholders in redemption of its own stock, both the purchased securities and the building received in the exchange are owned by R. On such date, the building and the securities each has a fair market value of $2 million. The total value of contributed property for purposes of subparagraph (1)(ii) of this paragraph is $4 million. On the date of distribution the total fair market value of all R's assets is $8 million. The distribution fails to meet the requirements of section 311(d)(2)(B) since S contributed to R's capital a substantial part of R's assets within the 5-year period ending on the date of distribution.

(d) *Certain distributions made before December 1, 1974.* Section 311(d)(2)(C) provides that section 311(d)(1) shall not apply to a distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in section 1504(a)) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the 1-year period ending on the date of distribution. For purposes of this paragraph, the determination that a corporation is a member of the same affiliated group (as defined in section 1504(a)) as the distributing corporation must be satisfied only on November 30, 1969, and not on the date of the distribution to which this paragraph applies. Thus, if the assets of a trade or business were held on November 30, 1969, by any member of the affiliated group and such trade or business has been actively conducted throughout the 1-year period ending on the date of distribution, section 311(d)(1) will not apply to a distribution of stock of any member of the affiliated group substantially all the assets of which consists of either (1) the assets so held on November 30, 1969, (2) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of another corporation substantially all the assets of which consist of the assets so held on November 30, 1969, or (3) both. The term "active conduct of a trade or business" shall have the same meaning in this paragraph as in paragraph (c) of § 1.355–1.

(e) *Distributions pursuant to antitrust judgments.* Section 311(d)(2)(D) provides that section 311(d)(1) shall not apply to a distribution of stock or securities pursuant to the terms of a final judgment rendered by a court with respect to the distributing corporation in a court proceeding under the Sherman Act (26 Stat. 209; 15 U.S.C. 1–7) or the Clayton Act (38 Stat. 730; 15 U.S.C. 12–27), or both, to which the United States is a party, but only if the distribution of such stock or securities in redemption of the distributing corporation's stock is in furtherance of the purposes of the judgment. A distribution in redemption of the distributing corporation's stock will be considered in furtherance of the purposes of the judgment if the court finds that such distribution is necessary or appropriate to effectuate the policies of the Sherman Act, or the Clayton Act, or both. Absent such a finding by the court, it is a question of fact in each case whether the distribution is in furtherance of the purposes of the judgment.

(f) *Distributions in redemption of stock to pay death taxes.* Section 311(d)(2)(E) provides that section 311(d)(1) shall not apply to a distribution to the extent that section 303(a) (relating to distributions in redemption of stock to pay death taxes) applies to such distribution. If a corporation distributes both appreciated property and other property in a single distribution and if the total distribution exceeds the amount which qualifies for treatment under section 303, then for purposes of applying section 311(d)(2)(E) and this paragraph, the appreciated property shall be considered as distributed before such other property and to be in redemption of stock described in section 303(a) to the extent thereof.

(g) *Distributions to private foundations.* Section 311(d)(2)(F) provides that section 311(d)(1) shall not apply to a distribution to a private foundation (as defined in section 509) in redemption of stock described in section 537(b)(2) (A) and (B) and the regulations thereunder. If a coporation distributes to a private foundation both appreciated property and other property in a single distribution and if the total distribution exceeds the amount which qualifies for treatment under section 537(b)(2) (A) and (B), then for purposes of applying section 311(d)(2)(F) and this paragraph, the appreciated property shall be considered as distributed before such other property and to be in redemption of stock described in section 537(b)(2) (A) and (B), to the extent thereof.

(h) *Distribution by regulated investment company.* Section 311(d)(2)(G) provides that section 311(d)(1) shall not apply to a distribution by a corporation to which part I, subchapter M, chapter 1 of the Code (relating to regulated investment companies) applies, provided such distribution is in redemption of a redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940 (54 Stat. 790; 15 U.S.C. 80a–2(a)(32))).

(i) *Transitional Rules.* Section 311(d) does not apply to—

(1) A distribution before April 1, 1970, pursuant to the terms of—

(i) A written contract which was binding on the distributing corporation on November 30, 1969, and at all times thereafter before the distribution,

(ii) An offer made by the distributing corporation before December 1, 1969,

(iii) An offer made in accordance with a request for a ruling filed by the distributing corporation with the Internal Revenue Service before December 1, 1969, or

(iv) An offer made in accordance with a registration statement filed with the Securities and Exchange Commission before December 1, 1969.

For purposes of subdivisions (ii), (iii), and (iv) of this subparagraph, an offer shall be treated as an offer only if it was in writing and not revocable by its express terms.

(2) A distribution by a corporation of specific property in redemption of stock outstanding on November 30, 1969, if—

(i) Every holder of such stock on such date had the right to demand redemption of his stock in such specific property, and

(ii) The corporation had such specific property on hand on such date in a quantity sufficient to redeem all of such stock.

For purposes of the preceding sentence, stock shall be considered to have been outstanding on November 30, 1969, if it could have been acquired on such date through the exercise of an existing right of conversion contained in other stock held on such date.

(3) A distribution by a corporation of property (held on December 1, 1969, by the distributing corporation or a corporation which was a wholly owned subsidiary of the distributing corporation on such date) in redemption of stock outstanding on November 30, 1969, which is redeemed and canceled before July 31, 1971, if—

(i) Such redemption is pursuant to a resolution adopted before November 1, 1969, by the Board of Directors authorizing the redemption of a specific amount of stock constituting more than 10 percent of the outstanding stock of the corporation at the time of the adoption of such resolution; and

(ii) More than 40 percent of the stock authorized to be redeemed pursuant to such resolution was redeemed before December 30, 1969, and more than one-half of the stock so redeemed was redeemed with property other than money.

(4) A distribution of stock by a corporation organized prior to December 1, 1969, for the principal purpose of providing an equity participation plan for employees of the corporation whose stock is being distributed (hereinafter referred to as the "employer corporation") if—

(i) The stock being distributed was owned by the distributing corporation on November 30, 1969,

(ii) The stock being redeemed was acquired before January 1, 1973, pursuant to such equity participation plan by the shareholder presenting such stock for redemption (or by a predecessor of such shareholder),

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(iii) The employment of the shareholder presenting the stock for redemption (or the predecessor of such shareholder) by the employer corporation commenced before January 1, 1971,

(iv) At least 90 percent in value of the assets of the distributing corporation on November 30, 1969, consisted of common stock of the employer corporation, and

(v) At least 50 percent of the outstanding voting stock of the employer corporation is owned by the distributing corporation at any time within the 9-year period ending 1 year before the date of such distribution.

PAR. 6. Section 1.312 is amended by revising section 312(c)(3) and the historical note to read as follows:

§ 1.312 Statutory provisions; effect on earnings and profits.

SEC. 312. *Effect on earnings and profits.* • • •

(c) *Adjustment for liabilities, etc.* • • •

(3) Any gain to the corporation recognized under subsection (b), (c), or (d) of section 311, under section 341(f), or under section 617(d)(1), section 1245(a), 1250(a), 1251(c), or 1252(a).

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(Sec. 312 as amended by sec. 13(f)(3), Rev. Act 1962 (76 Stat. 1035); sec. 231(b)(3), Rev. Act 1964 (78 Stat. 105); sec. 1(b)(1), Act of Aug. 22, 1964 (Public Law 88-484, 78 Stat. 597); sec. 1(b)(3), Act of Sept. 12, 1966 (Public Law 89-570, 80 Stat. 762); secs. 211(b)(3) and 905(b)(2), Tax Reform Act 1969 (83 Stat. 570, 714))

PAR. 7. Section 1.312-3 is amended to read as follows:

§ 1.312-3 Liabilities.

The amount of any reductions in earnings and profits described in section 312 (a) or (b) shall be (a) reduced by the amount of any liability to which the property distributed was subject and by the amount of any other liability of the corporation assumed by the shareholder in connection with such distribution, and (b) increased by the amount of gain recognized to the corporation under section 311 (b), (c), or (d), or under section 341(f), 617(d), 1245(a), 1250(a), 1251(c), or 1252(a).

[FR Doc.72-16831 Filed 10-3-72;8:45 am]

Title 7—AGRICULTURE

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Docket Nos. AO-225-A25, AO-247-A18; Milk Orders 40, 43]

PART 1040—MILK IN SOUTHERN MICHIGAN MARKETING AREAS

PART 1043—MILK IN UPSTATE MICHIGAN MARKETING AREA

Order Amending Orders

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings and determinations are hereby made with respect to each of the aforesaid orders:

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than October 1, 1972. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, regulatory programs, was issued August 29, 1972, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued September 15, 1972. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective October 1, 1972, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act 5 U.S.C. 551-559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southern Michigan and Upstate Michigan marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the aforesaid orders, as amended, and as hereby further amended, as follows:

I. In Part 1040—Southern Michigan:

1. Revise § 1040.10 to read as follows:

§ 1040.10 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk:

(a) Received from producers at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1040.7(c); and

(b) Diverted to a nonpool plant by the operator of a pool plant or a cooperative association as a handler pursuant to § 1040.7(d) subject to the following conditions:

(1) In any month that less than 6 days' production of a producer is delivered to pool plants the quantity of milk of the producer diverted during the month shall not be producer milk.

(2) In any month of October through March, the quantity of milk of any producer diverted to nonpool plants that exceeds the quantity of such producer's milk physically received at pool plants, as measured by days of production, shall not be producer milk. The days of production last diverted, which exceed the days of production received at pool plants shall not be producer milk.

(3) Milk which is subject to pooling under another Federal order, shall not be producer milk.

II. In Part 1043—Upstate Michigan: Revise § 1043.11 to read as follows:

§ 1043.11 Producer.

"Producer" means any qualified dairy farmer whose milk is:

(a) Received directly from the farm at a pool plant; or

(b) Diverted from a pool plant to a nonpool plant for the account of a handler or cooperative association, subject to the following conditions:

(1) In any month that less than 6 days' production of a producer is delivered to pool plants the quantity of milk of the producer diverted during the month shall not be producer milk.

(2) In any month of October through March, the quantity of milk of any producer diverted to nonpool plants that exceeds the quantity of such producer's milk physically received at pool plants, as measured by days of production, shall not be producer milk. The days of production last diverted, which exceed the days of production received at pool plants shall not be producer milk.

(3) Milk which is subject to pooling under another Federal order, shall not be producer milk.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: October 1, 1972.

Signed at Washington, D.C., on September 28, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-16878 Filed 10-3-72;8:48 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-560]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(7) relating to the State of Kentucky, subdivision (i) relating to Breckinridge and Hardin Counties is amended to read:

(7) *Kentucky.* (i) The adjacent portions of Breckinridge, Hardin, and Meade Counties comprised of all of the city of Garfield in Breckinridge County and the adjacent portions of Breckinridge, Hardin and Meade Counties bounded by a line beginning at the junction of U.S. Highway 60 and State Highway 333 in Breckinridge County; thence, following U.S. Highway 60 in a generally southwesterly direction to the eastern boundary of the city of Garfield; thence, following the eastern boundary of the city of Garfield in a southerly direction to Locust Hill Road; thence, following Locust Hill Road in a southeasterly, then southwesterly direction to State Highway 1073; thence, following State Highway 1073 in a southeasterly direction to Fairfield Road; thence, following Fairfield Road in a southeasterly direction to State Highway 690; thence, following State Highway 690 in a northeasterly direction to Constantine Road; thence, following Constantine Road in a generally easterly direction to State Highway 401; thence, following State Highway 401 in a northeasterly direction to State Highway 86; thence, following State Highway 86 in a northeasterly direction to Grandview Church Road in Hardin County; thence, following Grandview Church Road in a northeasterly direction to State Highway 1073 in Breckinridge County; thence, following State Highway 1073 in a northeasterly direction to the junction of the Breckinridge-Hardin-Meade County lines; thence, following the Meade-Hardin County line in a northeasterly direction to State Highway 64 in Meade County; thence, following State Highway 64 in a northwesterly direction to State Highway 448; thence, following State Highway 448 in a northwesterly direction to State Highway 64; thence, following State Highway 64 in a generally northwesterly direction to State Highway 448; thence, following State Highway 448 in a southwesterly direction to the Meade-Breckinridge County line; thence, following the Meade-Breckinridge County line in a southeasterly direction to State Highway 1238 in Breckinridge County; thence, following State Highway 1238 in a southwesterly direction to State Highway 333; thence, following State Highway 333 in a southwesterly, then northwesterly direction to its junction with U.S. Highway 60.

2. In § 76.2, in paragraph (e)(12) relating to the State of Tennessee, a new subdivision (iii) relating to Knox County is added to read:

(iii) That portion of Knox County bounded by a line beginning at the junction of the Knox-Anderson County line and U.S. Highway 25W, State Highway 9; thence, following U.S. Highway 25W, State Highway 9 in a generally southeasterly direction to State Highway 33; thence, following State Highway 33 in a southerly, then southeasterly direction to the north bank of the Tennessee River; thence, following the north bank of the Tennessee River in a generally southwesterly direction to the north bank of the Fort Loudoun Lake; thence, following the north bank of the Fort Loudoun Lake in a generally northwesterly direction to Secondary Road 2405; thence, following Secondary Road 2405 in a northeasterly, then northwesterly direction to Lovell Road; thence, following Lovell Road in a northwesterly direction to Secondary Road 2519; thence, following Secondary Road 2519 in a northwesterly direction to the Knox-Anderson County line; thence, following the Knox-Anderson County line in a southeasterly, then northeasterly direction to its junction with U.S. Highway 25W, State Highway 9.

3. In § 76.2, in paragraph (e)(9) relating to the State of Indiana, subdivision (iii) relating to Carroll County is amended to read:

(iii) That portion of Carroll County bounded by a line beginning at the junction of the Carroll-Tippecanoe County line and the east bank of the Wabash River; thence, following the east bank of the Wabash River in a generally northeasterly direction to the Carroll-Cass County line; thence, following the Carroll-Cass County line in a southerly, then easterly, then southerly direction to the junction of the Carroll-Cass-Howard County lines; thence, following the Carroll-Howard County line in a southerly direction to Division Road; thence, following Division Road in a westerly direction to State Highway 18; thence, following State Highway 18 in a westerly direction to Division Road; thence, following Division Road in a westerly direction to the Carroll-Tippecanoe County line; thence, following the Carroll-Tippecanoe County line in a northerly direction to its junction with the east bank of the Wabash River.

4. In § 76.2, paragraph (e)(4) relating to the State of Texas is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264-1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Meade County in Kentucky, a portion of Knox County in Tennessee, and an additional portion of Carroll County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments exclude all of Nueces and a portion of Parker Counties in Texas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No areas in Texas remain under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose

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in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 28th day of September 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-16880 Filed 10-3-72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-EA-78]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 15384 of the FEDERAL REGISTER for August 1, 1972 the Federal Aviation Administration published a proposed rule which would alter the Ocean City, Md., Transition Area (37 F.R. 2254).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 20, 1972.

CLAY W. HEDGES,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Ocean City, Md., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 38°18'35" N., 75°07'09" W. of Ocean City Airport, Ocean City, Md.; within 2.5 miles each side of the Snow Hill, Md., VORTAC 047° radial, extending from the 5-mile radius area to 18.5 miles northeast of the VORTAC and within 2.5 miles each side of the Salisbury, Md., VORTAC 097° radial, extending from the 5-mile radius area to 15.5 miles east of the VORTAC, excluding the portion outside the United States.

[FR Doc.72-16896 Filed 10-3-72;8:49 am]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 15385 of the FEDERAL REGISTER for August 1, 1972, the Federal Aviation Administration published proposed regulations which would alter the Salisbury, Md., control zone (37 F.R. 2126) and transition area (37 F.R. 2278).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 20, 1972.

CLAY W. HEDGES,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Salisbury, Md., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 38°20'21" N., 75°30'41" W. of Salisbury-Wicomico County Airport, Salisbury, Md.; within 3.5 miles each side of the Salisbury VORTAC 209° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC; within 3.5 miles each side of the Salisbury VORTAC 052° radial, extending from the 5-mile radius zone to 9.5 miles northeast of the VORTAC and within 3.5 miles each side of the Salisbury VORTAC 132° radial, extending from the 5-mile radius zone to 10.5 miles southeast of the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Salisbury, Md., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 38°20'21" N., 75°30'41" W., of Salisbury-Wicomico County Airport, Salisbury, Md.; within 3.5 miles each side of the Salisbury VORTAC 209° radial, extending from the 6.5-mile radius area to 11.5 miles southwest of the VORTAC; within 3.5 miles each side of the Salisbury VORTAC 052° radial, extending from the 6.5-mile radius area to 11 miles northeast of the VORTAC; and within 3.5 miles each side of the Salisbury VORTAC 132° radial, extending from the 6.5-mile radius area to 11.5 miles southeast of the VORTAC.

[FR Doc.72-16897 Filed 10-3-72;8:50 am]

[Airspace Docket No. 72-RM-21]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation and Revocation of Transition Areas

On August 8, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 15936) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would revoke the Carbondale, Colo., transition area and designate the Aspen, Colo., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received.

Subsequent to publication of the notice of proposed rule making, it was determined that minor changes are required for two of the geographical coordinates used to describe the proposed Aspen, Colo., transition area. Also, the words "latitude" and "longitude" were inadvertently omitted from this proposed description. Accordingly, action is taken herein to correct these errors.

In consideration of the foregoing, § 71.181 of Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., December 7, 1972, as hereafter set forth:

In § 71.181 (37 F.R. 2143) the Carbondale, Colo., transition area is deleted.

In § 71.181 (37 F.R. 2143) the following transition area is added:

ASPEN, COLO.

That airspace extending upward from 1,200 feet above the surface within the area bounded by a line beginning at latitude 39°41'00" N., longitude 107°12'30" W., to latitude 39°31'30" N., longitude 107°25'00" W., to latitude 39°17'30" N., longitude 107°09'00" W., to latitude 39°10'24" N., longitude 106°56'04" W.; thence clockwise via a 5-mile arc from the Aspen-Pitkin County Airport (latitude 39°13'30" N., longitude 106°52'09" W.) to latitude 39°16'-33" N., longitude 106°48'12" W., to latitude 39°27'30" N., longitude 107°01'00" W. to point of beginning.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on September 25, 1972.

I. H. HOOVER,
Acting Director, Rocky Mountain Region.

[FR Doc.72-16898 Filed 10-3-72;8:50 am]

[Airspace Docket No. 71-SO-75]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Additional Control Area

On July 27, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 15003) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would add a control area east of the Florida Peninsula.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

Section 71.163 (37 F.R. 2048) is amended by adding:

CONTROL 1489

That airspace extending upward from 2,000 feet MSL, bounded on the south by latitude 27°00'00" N., on the east-northeast by Control 1151 and on the west-northwest by Control 1150.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 27, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-16899 Filed 10-3-72;8:50 am]

[Airspace Docket No. 72-SW-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segments

On June 3, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 11189) stating that the Federal Aviation Administration (FAA) was considering alterations to segments of Jet Routes Nos. 22, 29, 37, and 138.

Shorter routes and greater operational flexibility should result from the alterations involved.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

1. Section 75.100 (37 F.R. 2382) is amended as follows:

a. In Jet Route No. 22 delete "INT of the Corpus Christi 049° and the Houston Tex., 226° radials; Houston;" and substitute "Palacios, Tex.;" therefor.

b. In Jet Route No. 29 delete "INT of the Corpus Christi 049° and the Houston, Tex., 226° radials; Houston; INT of Houston 348° and Lufkin, Tex., 204° radials; Lufkin;" and substitute "Palacios, Tex.; Humble, Tex.; Lufkin, Tex.; therefor.

c. In Jet Route No. 37 heading and text delete "(New Orleans, La., to United States/Canadian border). From New Orleans, La., via" and substitute "Houston, Tex., to United States/Canadian border). From Houston, Tex., via INT of the Houston 090° and New Orleans, La., 257° radials; New Orleans;" therefor.

d. Jet Route No. 138 is changed to read "Jet Route No. 138 (Fort Stockton, Tex., to Lake Charles, La.). From Fort Stockton, Tex.; San Antonio, Tex.; Houston, Tex.; to Lake Charles, La."

2. Section 71.161 (37 F.R. 2047) is amended by adding the following:

Jet Route No. 37 from Houston, Tex., to INT of Houston 090° and New Orleans, La., 257° radials.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 27, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-16900 Filed 10-3-72;8:50 am]

Chapter II—Civil Aeronautics Board

[Reg. ER-756; Amdt. 3]

CHANGE OF TITLE OF HEARING EXAMINER TO ADMINISTRATIVE LAW JUDGE

Correction

In F.R. Doc. 72-15846 appearing at page 18908 of the issue for Saturday, September 16, 1972, the third paragraph is corrected to read as follows: "Appropriate changes in Chapter II, including a specific change in Part 384, Statement of Organization, Delegation of Authority, and Availability of Records and Information,[3] are being made."

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-768, Amdt. 212-8]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Substitution of "Passenger List" for "Passenger Manifest"

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of September 1972.

In EDR-183/PSDR-24, dated May 8, 1970, the Board proposed comprehensive amendments of the charter regulations, and took the occasion to make other changes, including the substitution of the term "passenger list" for "passenger manifest." The Board explained that "manifest" is a technical term not accurately applicable to the passenger lists referred to in our charter regulations, and its use could thus result in confusion to the public.[1] Since, by inadvertence, the term "passenger manifest" continues to appear in § 212.7(a)(1) and in other parts of our regulations, we are now substituting the term "passenger list" therefor, for the above-stated reason.[2]

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on October 24, 1972. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 212 of the Economic Regulations (14 CFR Part 212) effective October 24, 1972, as follows:

1. Amend § 212.7(a)(1) to read as follows:

§ 212.7 Records and record retention.

(a) Each foreign air carrier • • •

(1) True copies of all passenger lists, air waybills, invoices, and other traffic documents covering off-route charter trips performed under a statement of authorization.

• • • • • •

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON,
General Counsel.

[FR Doc.72-16954 Filed 10-3-72;8:55 am]

[Reg. ER-769; Amdt. 214-11]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Substitution of "Passenger List" for "Passenger Manifest"

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of September 1972.

For the reasons set forth in ER-768 (Part 212), published contemporaneously herewith, the Board is amending Part 214 of the Economic Regulations by substituting the term "passenger list" for the term "passenger manifest."[3]

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on October 24, 1972. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214) effective October 24, 1972, as follows:

[1] Footnote 5, page 10 (mimeo.), 35 F.R. 7587, May 15, 1970.

[2] Similar changes are being made in Parts 214 and 249 by ER-769 and ER-770, respectively, which are being issued contemporaneously herewith.

[3] A similar amendment is also being made in Part 249 by ER-770, published contemporaneously herewith.

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1. Amend § 214.6(a)(2) to read as follows:

§ 214.6 Record retention.

(a) • • •

(2) All passenger lists including those filed by charterers: 2 years; and

• • • • • •

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON, *General Counsel.*

[FR Doc.72-16955 Filed 10-3-72;8:55 am]

[Reg. ER-770; Amdt. 249-21]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS, AND MEMORANDA

Substitution of "Passenger List" for "Passenger Manifest"

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of September 1972.

For the reasons set forth in ER-768 (Part 212), published contemporaneously herewith, the Board is amending Part 249 of the Economic Regulations by substituting the term "passenger list" for the term "passenger manifest."[1]

This regulation is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on October 24, 1972. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 and 385.54).

Accordingly, the Board hereby amends Part 249 of the Economic Regulations (14 CFR Part 249) effective October 24, 1972, as follows:

1. Amend § 249.8 to read in part as follows:

§ 249.8 Period of preservation of records by supplemental air carriers.

Category of records	*Period to be retained*
• • • • •	
13. • • •	
(b) All passenger lists, including those filed by charterers.	6 months.
• • • • •	

2. Amend § 249.12(c) to read in part as follows:

§ 249.12 Period of preservation of records by foreign air carriers.

• • • • • •

(c) • • •

(1) True copies of all passenger lists, air waybills, invoices, and other traffic documents covering off-route charter trips performed under a statement of authorization: 2 years;

• • • • • •

[1] A similar amendment is also being made in Part 214 by ER-769, published contemporaneously herewith.

3. Amend § 249.13(e)(2) to read as follows:

§ 249.13 Period of preservation of records by certificated route air carriers.

• • • • • •

(e) • • •

(2) All basic original documents, such as pilots' flight logs, aircraft weight and balance reports, and passenger lists, which are relevant to a determination of the validity of the carrier's operational records described in subparagraph (1) of this paragraph.

• • • • • •

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] R. TENNEY JOHNSON, *General Counsel.*

[FR Doc.72-16956 Filed 10-3-72;8:55 am]

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-61]

PART 372a—TRAVEL GROUP CHARTERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of September 1972.

By advance notice of proposed rule making SPDR-22, January 29, 1971,[1] the Board gave notice that it was considering proposal of a rule to establish a new category of charter tentatively denominated as "Non-Affinity Charter." The Board stated that the new class of charter was intended to be applicable to all direct air carriers and foreign air carriers, as an additional alternative to the kinds of affinity charters presently authorized under Parts 207, 208, 212, and 214 of the Economic Regulations and to inclusive tour charters under Part 378.

The proposal stemmed from two principal factors: (1) The Board's growing concern that our existing rules, limiting charter travel to groups having a "prior affinity," tended to discriminate against members of the public who did not belong to qualified organizations with a membership large enough to successfully mount a charter program; and (2) the fact that our existing rules had proven to be extremely difficult to enforce. We recognized that these two factors are closely interrelated, in that the operators of illegal charters have been satisfying an ever increasing demand for low-cost charter travel by members of the public who simply do not share the kind of "affinity" required by our existing rules. We therefore tentatively concluded that it would be desirable to authorize travel charters for groups which, while having no "prior affinity" based on nontransportation considerations, could nonetheless have a true affinity arising solely from the special terms and conditions governing their transportation arrangements. The tentatively suggested features of the proposed new type of charter rule would thus have enabled any group of 50 or more persons to form a charter group at least 6 months prior to flight departure, if each member paid by that time a nonrefundable deposit equal to not less than 25 percent of the transportation charges.

Responses received included those from trunkline carriers, several foreign scheduled carriers, supplemental carriers, the travel agency industry, consumer oriented groups, and airline employee unions.

The scheduled carriers opposed the proposed charter concept, claiming that such charters would cause substantial diversion of traffic from the scheduled services. In addition, they argued that the proposed charters could not be established because they would violate the provisions of the Act. The supplemental carriers supported the charter proposal and contended that the markets for scheduled and supplemental traffic were separate and distinct, and therefore the scheduled carriers would suffer no diversion from such new charters. The vast majority of the travel agency industry supported the basic concept of the proposed new-charter rule, while objecting to the proposed prohibition against commissions payable by direct air carriers and requesting that the business of forming eligible groups thereunder be limited to recognized travel agents. Consumer groups also voiced support for the proposal, on the basis of the need for low-cost charter travel, while cautioning against the prescription of conditions which might restrict the free availability of these charters to the general public. Unions representing employees of the scheduled carriers argued, in opposition to the proposal, that the new type of charter would divert susbtantial traffic from the scheduled services, and ultimately force the scheduled carriers to reduce employment.

By notice of proposed rule making EDR-218/SPDR-22A[2] (hereafter referred to as EDR-218), dated December 30, 1971, the Board proposed, and submitted for public comment, a charter rule along the lines set forth in the advance notice. The principal features of the proposed rule, reflecting our basic concept, made it clear that we contemplated the formation of groups whose members would engage in a joint undertaking to charter all, or part of, an aircraft for their own transportation, solely on a round-trip basis, sharing equally in the cost of transportation and assuming a mutual limited responsibility for one another's defaults. The newly authorized class of travel groups was to be formed by charter organizers, who would act as agents for the passengers, rather than on behalf of the direct air carrier. These organizers, in turn, would be classified as indirect air carriers; as such, their authority to operate under the proposed

[1] 36 F.R. 2514, Feb. 5, 1971.

[2] 37 F.R. 222, January 7, 1972.

rule would be conditioned upon their compliance with requirements designed for the protection of the traveling public whose agents they would become. Thus, the Board proposed amendments to Parts 207,[3] 308,[4] 212,[5] and 214,[6] of its economic regulations, and the adoption of a new Part 372a of its special regulations, establishing a new class of charter to be called "Travel Group Charter."

Pursuant to the notice of rule making a large number of comments on the proposals have been filed.[7] Subsequently, pursuant to supplemental notice of proposed rule making and notice of oral argument[8] the Board heard oral argument on April 27, 1972, with respect to the proposals in EDR-218 as well as on the additional issue whether this new class of Travel Group Charters should be a substitute for, rather than an alternative to, the presently authorized affinity charters.

Upon consideration, we find that the facts which led us to propose the rule compel us to adopt it—namely, that there is an irresistible and understandable public demand for low-cost air transportation, much of it on charter services; that this demand has heretofore been met all too often by flouting existing charter rules; and that it is therefore in the public interest to promulgate new rules which will enable the consumers' needs to be satisfied in a lawful manner. For the reasons hereinafter set forth, the Board has therefore determined to adopt the rules as proposed, but with the following principal modifications: (1) The proposed minimum 6 month lead time for filing charter contracts with the Board is being reduced to 3 months; (2) we are adding a minimum-stay requirement of 7 days for North American charters (as defined herein),[9] and 10 days for all other charters; (3) the proposed minimum group size of 50 is being reduced to 40; (4) travel group charters originating in a foreign country may be organized by foreign charter organizers, over whom the Board will decline to exercise its jurisdiction, but we will require the direct air carrier (United States or foreign) to ascertain that a travel group charter so formed complies with applicable rules (see § 372a.40, infra); (5) a foreign charter organizer may conduct a U.S.-originated charter if his section 402 permit contains such authority; (6) if the charter includes land accommodations, tour conductors may accompany the group, with the cost of their air transportation to be borne pro rata by the charter participants, but the number of tour conductors must be specified in the contract and may not exceed one for each 40 participants; (7) the proposed nonrefundability of the 25-percent deposit has been modified to permit refunds in case of death or illness of a charter participant, but only until the "tentative adjusted price" is computed (no later than 45 days before the date of scheduled flight departure), after which time no payments are refundable to defaulting participants; (8) the organizer may file either a prescribed surety bond alone, or utilize the combined surety bond-depository agreement arrangement which was provided for in our proposed rule; (9) although the travel group charter must be on a round-trip basis, the outgoing and incoming legs may be performed by different direct air carriers, so long as all the air transportation for the charter group is covered by a single charter contract; and (10) there will be no prohibition against advertising the charters to the public at large. Also, in order to emphasize the experimental nature of the within TGC rules, we are explicitly providing that the part shall terminate on December 31, 1975. Thus, if the TGC rules are to become permanent, further regulatory action will have to be taken in light of our study of the experiment. Such study will be based, at least in part, on our evaluation of data disclosed in carriers' reports filed under Parts 217 and 241, as amended contemporaneously herewith. Except as modified herein, the tentative findings and conclusions set forth in EDR-218 are incorporated and made final.

We are not here determining the issue whether travel group charters should replace existing affinity charters; however, making proceeding to consider whether the affinity charter rules should remain in effect during the pendency of the travel group charter experiment. Also, since none of the comments filed in this proceeding included draft standard forms for the charter contract and the contract between the charter organizer and the charter participants, as the Board requested in EDR-218, we have been unable to adopt herein a standard form for either contract; however, we continue to believe that a standard form for both contracts—or at least for certain basic provisions which both contracts should contain—is feasible and desirable, and we therefore expect to institute in due course a rule making proceeding directed specifically toward adoption of such standard forms. Until such standard forms are adopted, it must be anticipated that considerable delay may be entailed by our staff's duty to review the varying relevant provisions of each filed contract. Our developing experience with this expected regulatory problem in administering the new rules will thus determine how urgent will be the need to prescribe standardized "boilerplate," to the maximum feasible extent.

I. *Legality of the Travel Group Charters ("TGC").*—In the notice the Board tentatively concluded that travel group charters would be lawful charters under the Act. Acknowledging the legal requirement that charter service must be distinguishable from individually ticketed service, we then proceeded to explain, that, in our view, this distinction would be maintained by the requirements which were to characterize this new class of charters:[10] (1) the TGC participant becomes a party to the charter contract itself, bearing a pro rata share of the total cost of the charter and incurring a limited risk of increased transportation costs resulting from defaults by his fellow participants, whereas the individually ticketed passenger pays a fixed price;[11] (2) the TGC participant assumes the considerable risk of flight cancellations which may be attributable to various contingencies—such as, a sufficient number of defaults by participants who have become parties to the charter contract—as contrasted with the minimal risks of flight cancellation in individually ticketed scheduled service; (3) the travel group must be fully formed, and further membership foreclosed, several months[12] prior to the departure date, by which time each main list participant must make a substantial nonrefundable deposit, whereas last-minute travel plans are possible for individually ticketed passengers; (4) all participants in a TGC must move together as a group, on both legs of the air transportation portion of the trip, with no intermingling of passengers among different groups on the outbound and inbound flight legs, and with no one-way passengers, whereas no restrictions need be imposed on an individually ticketed traveler.

In their comments, opponents of the subject proposal have challenged the legality of travel group charters, from a substantive standpoint, contending that the Board lacks statutory authority to permit charters by groups having no prior affinity or common objective of

[3] Governing charter trips and special services of U.S. route carriers.

[4] Governing U.S. supplemental air carriers.

[5] Charter trips by foreign air carriers.

[6] Terms, conditions and limitations of foreign air carrier permits authorizing charter transportation only.

[7] A list of the initial and reply comments is filed as part of the original document.

[8] EDR-218B/SPDR-22C, 37 F.R. 6322, March 28, 1972.

[9] In § 372a.2, "North American charter" is defined as "a travel group charter between a point or points in any State of the United States, the District of Columbia, Puerto Rico or the U.S. Virgin Islands, on the one hand, and a point or points in any other State of the United States or in Canada, Mexico, or the 'Islands of the Caribbean' (as defined in Part 207 (14 CFR Part 207) on the other hand."

[10] The criteria for travel group charters set forth in the final rule do not differ materially from those in the proposed rule. Although the final rule reduces the proposed 6-month lead time for filing TGC contracts and the proposed minimum group size, we do not believe that either reduction is so substantial as to vitiate the legally required distinction between TGC participation and individually ticketed service. On the other hand, the new minimum-stay requirement which we are adding in the final rule should serve to further distinguish the TGC from ordinary individually ticketed service.

[11] In the notice the Board stated, in part (mimeo. 8): "Thus, unlike the conventional case of individually ticketed transportation, the cost to the participant in a travel group charter may well vary, depending on the load factor achieved on the flight, and the precise charge may not be known until flight departure."

[12] As indicated above, the proposed 6-month lead time has been reduced.

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traveling together after arrival at their destination; moreover, it is argued that our proposed requirements for this new class of charter do not constitute a legally sufficient basis to distinguish a TGC from individually ticketed service. Finally, as a procedural matter, they insist that the Board may not adopt this new class of charter without first conducting an evidentiary hearing.

A. *A travel group charter is a true "charter" within the purview of the act.*—Neither the filed comments nor the oral arguments submitted by the opponents in this proceeding have persuaded us to alter our tentative conclusion in the notice that travel group charters, as proposed in EDR–218 and adopted herein, are lawful "charter trips" within the meaning of section 101 (34) of the act.

On the contrary, we have found to be far more persuasive the arguments which have been advanced in this proceeding in favor of the legality of our proposal, and our conclusion has been particularly fortified by the unqualified support set forth in the comments of the Department of Justice.

We regard as settled the basic legal proposition that, under the act and pertinent court decisions, the Board is fully authorized to reasonably define the term "charter" so long as we preserve the critical distinction between charter service and individually ticketed service. That proposition is as valid today as when it was restated by the District of Columbia Circuit Court (per then Circuit Judge Burger) in 1965, where the Board was upheld in authorizing split charters for the first time:

> We are unable to conclude that the term charter trips has a fixed meaning or that Congress intended to restrict the Board to a definition of one aircraft—one charter. We conclude that Congress intended, although not without limits, that the Board should be free to evolve a definition in relation to such variable factors as changing needs and changing aircraft * * *. We agree with the Board that the legislative history reveals that a prime concern of Congress was to maintain the integrity of the charter concept—to preserve the distinction between group and individually ticketed travel; within these limits it is for the Board to evolve reasonable definitions. American Airlines, Inc. v. C.A.B., 348 F. 2d 349, 354 (D.C. Cir. 1965).

The validity of that proposition was in no way weakened by the subsequent legislative action to specifically authorize inclusive tour charters, necessitated by the judicial impasse which had been reached on the question. Compare American Airlines, Inc. v. C.A.B., 365 F. 2d 939 (D.C. Cir. 1966), with Pan American World Airways, Inc. v. C.A.B. 380 F. 2d 770 (2d Cir. 1967), aff'd by an equally divided court sub nom. World Airways, Inc. v. Pan American World Airways 391 U.S. 461 (1968). Indeed, the legislative history of the 1968 amendment of the act, expressly including inclusive tours within the term "charter,"[13] indicates that the purpose was to clarify the Board's existing authority. Thus, in H. Rept. No. 1639, 90th Cong. 2d Sess. (1968), it was specifically noted:

> We think that shifting economic considerations and the public convenience and necessity may require modifications in the regulations. We do not undertake here to proscribe the usual rulemaking procedures of the CAB, and will leave the Board with its present flexibility, which must be exercised within the confines of the statute, due process, and full participation on the part of interested parties in the Board's rulemaking proceedings.

Accordingly, the principal legal issue in these proceedings is whether the newly authorized class of travel group charters is in fact distinguishable from individually ticketed service; and on this issue, we conclude that—in view of the aforedescribed restrictions and limitations on performance of travel group charters, none of which are applicable to individually ticketed service—the answer must unquestionably be affirmative.[14] Moreover, even if the traditional usage of "group travel" necessarily connotes the existence of a bond shared by the members of the group, apart from their mere physical accompaniment of one another during point-to-point flights, the TGC concept does entail such a mutual relationship. As we have said earlier, the bond among the TGC participants arises from the fact that they are engaged in a joint undertaking (paid for a specified period in advance) to charter all, or part of, an aircraft for their own transportation solely on a round-trip basis and for a specified period of time, sharing equally in the cost of the transportation.

The scheduled air carriers argue further that the Board may not authorize the supplemental carriers to operate TGC flights, unless it first makes a legally required finding that TGC's performed by supplemental carriers would in fact "supplement the scheduled service," within the express terms of section 101(34) of the act; and that, indeed, no such finding could be made here because the TGC's will supplant, rather than supplement, the scheduled service.

This is basically the same argument which the route carriers raised against the Board's original inclusion of ITC's within the supplementals' certificated authority. Just as we then rejected this argument as against ITC's, so we now reject it as against TGC's, and our explanation there is equally applicable here:

> The use of the charter mechanism, combined with the restrictions which we are imposing by regulation, necessarily results in a service to the public which is different in significant respects from that available on scheduled services. Supplemental Air Service Proceeding, E–23350, Mar. 11, 1966. (Mimeo p. 11.)

We therefore regard it as well established that the charter authority of the supplemental carriers need not be so circumscribed as to completely preclude the supplemental carriers from competing for passenger traffic which might otherwise use scheduled services. The announced policy of the United States government is that "[b]oth scheduled carriers and supplemental carriers should be permitted a fair opportunity to compete in the bulk transportation market."[15] Moreover, the courts have regarded the public interest standard of section 102(d) of the act as embodying a "national policy which contemplates the 'existence of a market structure conducive to maximum feasible competition'"[16] among scheduled and supplemental carriers.

In short, the requirement of section 101 (34) of the act that the charter services "supplement the scheduled service" permits the Board to authorize charter services which it finds are a desirable adjunct to the overall system. Considering the rule's conditions and limitations, the special nature of the prospective market, and our findings, infra, respecting impact upon scheduled services, we conclude that operations under this part will supplement the scheduled service within the meaning of section 101(34) of the act.

B. *An evidentiary hearing is not required.*—The procedural argument of the trunkline carriers and others is that the Board cannot authorize travel group charters unless evidentiary hearing is provided. There are two aspects to this argument: (a) since the travel group charter rule is so far reaching, it is tantamount to an amendment of the certificates of the supplemental carriers and the route carriers involved, and, as such, notice and hearing with respect thereto are required by the statute;[17] and (b) even if these rule making proceedings do not constitute certificate amendments required by the act to be predicated on an evidentiary hearing, the Board would nonetheless be abusing its administrative discretion if it promulgated these particular rules following only such procedures as are appropriate for ordinary rule making.

We cannot accept the argument that the travel group charter authority granted herein is tantamount to amendment of existing certificates or permits of air carriers. This proceeding clearly involves the adoption of a "rule," as defined in section 2 of the Administrative Procedure Act (5 U.S.C. 551(4)). We are prescribing standards which are of general applicability to various classes of carriers and which are of future effect. That the operations of direct air carriers under their certificates or permits will be affected thereby does not transform our rule making action into the kind of adjudicative action involved in amending certificates and permits issued to carriers pursuant to the act. American Airlines, Inc. v. C.A.B., 359 F. 2d 624 (D.C. Cir. 1966) (en banc).

It should be noted that the charter rules which we are herein prescribing will be available to all classes of direct air carriers, both scheduled and supplemental, foreign as well as domestic. It is thus by no means certain that these new rules will have a detrimental effect on the operations of any particular class of licensed air carrier. Yet, even if such were the intended or foreseeable effect, it has been settled that "economic damage to an existing licensee is not a modification of the existing license * * *" Delta Airlines, Inc. v. C.A.B., 275 F. 2d 632, 641 (D.C. Cir. 1960), cert. den. 362 U.S. 969 (1960).[18]

Nor do we believe that we are required, in the exercise of sound administrative discretion, to conduct evidentiary hearings in these proceedings. None of the filed comments or oral arguments have persuaded us to depart from the view which we expressed in EDR–218 that, insofar as the principal factual issues here involve largely unpredictable questions as to the traffic which these new rules will generate or cause to be diverted from scheduled carriers, they can best be resolved in light of experience gained through actual experimentation. As in American Airlines, Inc. v. C.A.B., supra, where the issue was the effect of the Board's "blocked space" rule on petitioners' business, so here the issues involve what are properly characterized as "legislative" rather than "adjudicative" facts. And thus the court's further observation as to the appropriate means for resolving such issues is equally appropriate here.

> It is the kind of issue involving expert opinions and forecasts which cannot be decisively resolved by testimony. It is the kind of issue where a month of experience will be worth a year of hearings. 359 F. 2d 624, 633.

II. *Impact on scheduled services.*—In EDR–218 the Board tentatively concluded that the proposed TGC rule would not divert vast amounts of traffic from scheduled service nor would it impair the ability of the scheduled carriers to provide adequate service on their routes. The Board further found that any diversion of traffic from scheduled services would be minimized by the nature of the various restrictions with which our rules would circumscribe the availability of travel group charters. The Board stated its belief that this new class of charters would tend to attract primarily those price-conscious travelers who are not users of scheduled services, and that, in any event, since the exact degree of the generation of new traffic could be ascertained only after some period of experimentation with the rule, we would carefully scrutinize results of the experiment, taking appropriate action to curtail any undue diversion from scheduled services which might develop. We affirm these conclusions now.

No one, of course, can be sure what will take place under the new rules, and it is indeed one purpose of the experiment to find out. It seems clear that TGC charters will not supplant the scheduled services, which alone will remain available to provide reliable, flexible, definitively timed transportation on either short or long notice. We fully realize that these rules may well result in the reduction by route carriers of the number of their scheduled flights in particular markets, especially during peak travel periods, and the allocation of some of their aircraft to the transportation of TGC traffic. However, we would not necessarily regard as undesirable some adjustment in the ratio maintained by a route carrier, in any given market, between its scheduled service and charter service, so long as its total service continued to be adequately responsive to the public's demand for both kinds of service in the market.

The trunkline carriers and others[19] continue to maintain, inter alia, that the bulk of the pleasure air travel market would be subject to diversion, notwithstanding the Board's restrictive requirements condition the use of TGC. Specifically, it is contended that our proposed 6 months' deadline for commitments would not effectively prevent substantial diversion, since many travelers make their travel plans 6 or more months in advance, as evidenced by surveys conducted by carriers.[20] They also contend that the nonrefundability of the initial 25-percent deposit would not be a serious deterrent, since assignments could easily be arranged. Finally, they assert that travel agents, who supply a large percentage of the scheduled airlines' passengers, will divert their customers to travel group charters because their remuneration for services in connection with travel group charters would be larger than commissions earned in connection with the sale of scheduled services.

These assertions are not persuasive.[20a] The surveys and studies submitted in support of the claim of substantial diversion cannot possibly be reliable, since they have not been based upon actual experience with travelers' reactions to a group travel arrangement involving the complex of restrictions surrounding travel group charters. For example, in contending that the advance-purchase requirement for travel group charters would not materially diminish the extent of diversion from scheduled services, the trunkline carriers rely principally upon carrier data and surveys showing that many persons book airline reservations or plan trips far in advance of the date of departure. It is one thing for a passenger to plan a trip or book a reservation on a scheduled flight several months in advance, knowing that he is free to change his plans or reservations at will, without incurring monetary risk; but that situation is quite different from the kind of advance planning and risk entailed by participation in a TGC. And insofar as the trunkline carriers contend that assignments of deposits from a TGC's "main list" participant to a "standby" participant can easily be effected, they are at the very least ignoring the real risk that an individual participant will not be able to assign his interests if the maximum number (20 percent) of such assignments have already been effected. Similarly, the claim that travel agents will channel traffic away from scheduled service in favor of travel group charters in order to receive a larger remuneration for their services is sheer speculation, since it is not now foreseeable what the average "service charge" of a charter organizer will be, or how much of this charge the organizer will be prepared to share with a travel agent, by way of commission or otherwise.

Finally, we regard as farfetched the argument that a regular customer of scheduled service, such as a business traveler, could routinely "hedge" his reservation for a scheduled flight by concurrently becoming a "main list" or "standby" member of one or more travel group charters which he learns are scheduled to depart at the same date and for the same destination as his scheduled flight. It is suggested that this could be a routine practice, because it involves no risks to the traveler and would work as follows: If a TGC materializes, then the business traveler will cancel his scheduled flight and fly at the low charter rate; and if no TGC materializes, then he will receive refund of any advance

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[13] Public Law 90–514, 90th Cong., 2d Sess. (1968).

[14] We cannot but be puzzled by the trunkline carriers' attempt to equate TGC service with individually ticketed service. Particularly incomprehensible is their assertion that, just as TGC participants "have agreed to share equally in the cost of the transportation, * * * so have all the passengers using a particular fare on a scheduled service flight." Comments of Certain Trunkline Carriers, p. 6.

[15] "Statement of International Air transportation Policy," approved by the President, June 22, 1970. The policy statement reads, in part, as follows: "We consider passengers traveling at group rates on scheduled services to be part of that market. Regulatory and promotional policies should give greater recognition to the dimensions, characteristics and needs of the bulk transportation market, as such, and less emphasis to the type of carrier that is serving that market. However, the Government should not allow enjoyment of the right to perform both scheduled service and charter service to result in decisive competitive advantages for scheduled carriers."

[16] NACA v. C.A.B., 442 F. 2d 862, 874 (D.C. Cir. 1971), quoting from NACA v. C.A.B., 436 F. 2d 185, 194 (D.C. Cir. 1970).

[17] The act requires that notice and hearing must precede amendment of a U.S. carrier's certificate or a foreign carrier's permit. Sec. 401(g) and 402(f), respectively.

[18] See also American Airlines, Inc. v. C.A.B., 359 F. 2d 624 (D.C. Cir. 1966).

[19] Four foreign air carriers (British Overseas Airways Corp. (BOAC), Iberia, Lineas Aereas de Espana, S.A. (Iberia), Deutsche Lufthansa Aktiengesellschaft (Lufthansa), and Swissair, Swiss Air Transport Co. Ltd. (Swissair)); a travel agent, Don Travel Service, Inc. (Don Travel); a labor union, United Air Lines Pilots' Master Executive Council (UAL–MEC); a trade association, Association of Retail Travel Agents (ARTA); and a government organization, European Civil Aviation Conference (ECAC).

[20] It is claimed that surveys conducted by various carriers and others show that between 28 percent and 73 percent of transatlantic passengers decide to travel 6 or more months in advance of regular departure.

[20a] We note that in the transatlantic supplemental charter authority renewal case (Docket 20569, Order 72–5–9), we found that the record did not support the assertion by the scheduled carriers that the supplementals have substantially impaired, or threaten substantial impairment of, scheduled services in the transatlantic market. (See our opinion, dated January 24, 1972.)

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payments he may have made as a TGC participant and proceed with the scheduled flight at a price which he was prepared to pay anyway. Thus, the business traveler would incur no actual risk, since he might succeed in paying less, but in no event will he pay more, than the cost of his individual ticket. The argument is specious, however, if for no other reason than that it overlooks the fact that a TGC is round trip, of a fixed minimum duration, and permits no intermingling of passengers, so that the business traveler must find a TGC which is scheduled not only to depart for his destination on his planned date but also to turn on his planned date. Moreover, as to the possibility of becoming a "main list" participant (by paying at least a 25-percent initial deposit) in more than one TGC, the traveler would be incurring thereby the considerable risk of becoming a defaulting participant in any of the additional travel group charters which might materialize and, consequently, of forfeiting his initial deposit(s).

III. *Changes from proposed rule*—A. *Predeparture filing lead time.* The proposed rule provided for a predeparture lead time of 6 months for filing TGC contracts in all instances. Several of the comments which supported the basic proposal but opposed particular proposed provisions as overly restrictive, suggested that we adopt a lead time of less than 6 months or no lead time at all. It was argued that a lengthy lead time would merely make travel group charters less attractive than existing affinity charters. Pan American and the other trunkline carriers, on the other hand, argued against our adoption of a shorter lead time than the proposed 6-month period, on the ground that such liberalization would further increase the amount of diversion from scheduled service resulting from the TGC rule.

We have decided to prescribe a 3-month minimum lead time.[21] The need for prescribing some substantial period of lead time is essential to implementation of the TGC rule. This is an integral component of the complex of requirements with which we must circumscribe our basic TGC concept within the legal framework of a type of charter service which is distinguishable from, and does not unduly divert from, individually ticketed service. Yet, we recognize of course that any attempt to fix the precise duration of a lead time which will be sufficiently restrictive to help maintain the TGC's identity as a charter and, at the same time, sufficiently liberal to enable the TGC experiment to work, inevitably involves some degree of arbitrariness.

In our judgment, the 6-month time limit proposed in the notice is likely to prove unduly restrictive. It must be remembered that, under the rule, the lead time fixes the latest date for filing TGC contracts with the Board. Since the signing-up process is one which can normally be expected to take weeks or months, it is evident that the use of a 6-month lead time would mean that individual charter participants would be required to make firm commitments substantially earlier than the 6-month deadline. We are concerned that, considering the novelty of the TGC concept and the uncertainties involved, an insufficient number of persons would be willing to make such advance commitments to provide a meaningful test of the program.

We have therefore determined to prescribe that TGC contracts and other documents must be filed with the Board no earlier than 4 months and no later than 3 months before the scheduled departure date. Since the minimum 3-month lead time represents a filing deadline for legal compliance with our TGC rules, it should be clear that, from the standpoint of persons interested in successfully carrying out a particular TGC, plans and commitments will have to be made far in advance of such 3-month filing deadline. Indeed, it would seem quite realistic to expect that our regulatory requirement that TGC papers must be filed no later than 3 months before date of flight departure entails a practical requirement that many interested TGC participants will have to sign up as early as 5 or more months prior to departure, even though deposits are fully refundable until the TGC contract is filed, which can be no earlier than 4 months before departure.

In considering this aspect of the rule, we have noted that proposals for advance-purchase charters now pending before other governments almost uniformly contemplate a 3-month advance requirement. While we have fashioned the rule in the light predominantly of this country's needs, as we see them, we have also considered that it would be desirable to achieve as much similarity as is possible among the charter rules of the various countries. This consideration strengthens, although it does not dictate, our selection of the 3-month advance requirement.

As is true of other aspects of the rule, our decision as to the appropriate lead time is subject to further review in the light of the results of the experiment.

Indeed, in the explanatory statement of our proposal we explicitly stated that we would adjust either the precise duration of lead time or the precise minimum amount of nonrefundable deposit, or both, if such action appeared necessary to prevent undue diversion. (EDR–218/SPDR–22A, mimeo p. 11.) If a longer lead time than 3 months will appear necessary to prevent undue diversion, we shall not hesitate to adjust the requirement by appropriate amendment of these rules.

B. *Minimum-stay requirement.* The proposed rule did not provide that a TGC shall be subject to a minimum-stay requirement. However, consistent with our repeated objective of fashioning rules which will clearly distinguish TGC travel from individually ticketed service and prevent undue diversion from scheduled traffic, we have now determined to include such a requirement in the final rule. Moreover, in the belief, based on our general observations, that vacation travel in North America is likely to be of shorter duration than vacation travel from the United States to other parts of the world, we are providing for a difference in their respective minimum-stay requirements, 7 days for North American TGC's charters, and 10 days for all others.

This new requirement does not represent a substantial variance from the proposed rule, but is, rather, in the nature of a modification of the various restrictive features which were included in our proposal. We are therefore of the view that we may now adopt this restrictive modification without conducting further public proceedings thereon, just as we have here adopted several liberalizing modifications.

C. *Minimum size of group.* EDR–218 proposed a minimum group size for travel group charters of 50 persons; our final rule provides for a minimum group size of 40. This will conform the minimum group size for a TGC to the minimum size generally prescribed for split charters in our existing regulations. Moreover, by decreasing the minimum group size of a TGC from 50 to 40, we shall be facilitating the availability of land transportation to TGC touring groups, since the seating capacity of most European sightseeing buses accommodates 42 or 43 passengers.

D. *Foreign charter organizers.* The proposed rule limited travel group charter organizers to U.S. citizens. Caledonian, Cook, and Kuoni request that indirect air carriers which are not U.S. citizens be authorized to conduct travel group charters in foreign air transportation, both those which are foreign-originated and those which are U.S.-originated. In the case of foreign-originated charters, it is requested that the Board decline to exercise its jurisdiction over such charter programs or that it condition such declination upon the filing with the Board of appropriate documents. In the case of U.S.-originated charters, it is suggested that foreign indirect air carriers holding section 402 permits to conduct inclusive tour charters (under Part 378 of the Board's special regulations, 14 CFR Part 378), be authorized to conduct travel group charters which originate in the United States without further amendment of their permits.

We shall modify our proposed definition of travel group charter organizer so as to include a foreign charter organizer. As to foreign-originated travel group charters formed by a foreign charter organizer, the Board will decline to exercise its jurisdiction over the charter organizer,[21a] but not over the TGC which he has formed. This means that we will decline to enforce our TGC rules directly against the foreign charter organizer, but we will expect the direct air carrier (United States or foreign) who deals with such a charter organizer to see to it that our TGC rules are complied with, insofar as they are applicable to foreign-originated charters.[21b] On the other hand, as to U.S.-originated travel group charters formed by a foreign charter organizer, only an organizer having a section 402 permit explicitly authorizing such activity will be permitted to operate under our TGC rules, which will be as directly enforceable against him as against a foreign direct air carrier.

Caledonian maintains that the Board should make clear that it is willing to sanction the performance of any foreign-originating TGC which conforms with the originating country's rules governing a TGC (or analogous charter concept) so long as those foreign rules are substantially similar to ours. We are inclined to agree with this in principle. The Board has previously indicated the desirability of such an approach. For example, in disapproving IATA Resolution 045, we suggested that charter worthiness might be determined on the basis of the laws and regulations where the charter originated.[21c] As a practical matter, however, we are not yet faced with the situation which Caledonian envisions, since as yet no foreign country has promulgated a comparable charter rule. Nor does it appear appropriate at this juncture to attempt to fix predetermined standards for determining whether a foreign country's charter concept is "substantially similar" to the TGC. We are prepared, however, to deal with this matter as it arises, giving consideration to the interests of the public and the various competing classes of carriers, either through further amendments to these regulations, waivers, or such other action as may be appropriate. The Board specifically desires to make clear that it has no intention to dictate the precise details of foreign-originated travel group charter regulations to other governments.

E. *Tour conductors.* The proposed rule did not provide for the carriage of tour conductors on travel group charters since it contemplated the transportation of TGC participants only, with each passenger paying his pro rata share. ASTA suggests that, where ground arrangements are provided as a part of the charter, free transportation for tour conductors should be permitted, with one pass for each 40 participants and a maximum of two passes per travel group charter. We believe that this suggestion is reasonable, and we are therefore providing that, if the charter includes land accommodations, tour conductors may accompany the TGC flight, at the common expense of the participants, so long as the number of tour conductors is specified in the contract between the charter organizer and participants, and does not exceed one tour conductor for each 40 charter participants. However, we do not perceive any need to adopt ASTA's suggested maximum of two tour conductors per TGC. The maximum ratio of one tour conductor to each 40 participants should adequately serve to deter abuse of the TGC concept.

F. *Refund of deposit in case of death or ill health of participant.*—The proposed rule provided that, after the charter contract was filed, there could be no refund of his 25-percent initial deposit to a defaulting participant, unless the charter was canceled on one of the grounds set forth in § 372a.18 of the proposed rule. ACT maintains that the 25-percent deposit should be refundable under circumstances where the reason for a participant's default is clearly beyond his control, as in the case of his death or illness. We are modifying the rule so as to reflect our limited adoption of that suggestion, by providing for the refundability of all advance payments, including the 25 percent initial deposit, in case of the death or illness of the charter participant; however, this relaxation of the nonrefundable nature of such deposit will prevail only until the "tentative adjusted price" is actually computed. After computation of the tentative adjusted price, all advance payments including the initial deposit, may be refunded only if the charter is canceled pursuant to the provisions of § 372a.18. To this extent, we think it is fair that each participant assume the risk of his default,[22] for whatever reason, rather than impose such risk on his fellow participants. Once the tentative adjusted price has been computed, the participants should be assured that their pro rata cost will not be increased for any reason, as would be necessary if any subsequent refunds were allowed.

G. *Surety bond provisions.*—The proposed rule included bond and escrow provisions adapted from similar provisions applicable to tour operators. However, unlike other charter operators, the proposed rule did not offer the travel group charter organizer the option of filing a bond only.[23]

The NACA carriers ask that the travel group charter organizers be given the same alternative opportunity of filing a bond only, as is available to inclusive tour operators under Part 378, and to study group charter operators under Part 373. They state that although most charter organizers would probably be unable to obtain a sufficiently large bond to cover their entire liability, those who can may well prefer to do so, thus avoiding the need to tie up large amounts of cash in an escrow account. ACAP opposes this suggestion of the NACA carriers.

As indicated above, we have reconsidered our proposal, and shall permit a surety bond alone as an alternative to the surety bond depository agreement security arrangement, thereby conforming the security provisions under this part to those governing other authorized charter operators. The amount of surety bond when it is the sole security offered participants has been patterned after the bond-only surety provisions in Part 378 applicable to ITC's.

We are also making some technical modifications to the proposed provisions on security. The proposed rule provided that a bonding or surety company would be qualified for purposes of the travel group charters only if the company's surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6 and the company is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The purpose of the proposed absolute standard was to relieve the Board from the burden of determining the qualifications of bonding companies on a case-by-case basis. Prior to the issuance of EDR–218, we had issued SPDR–26,[24] in which we proposed, inter alia, to adopt the same absolute standard for surety bonds pursuant to Parts 373,[25] 378,[26] and 378a[27] of the Board's Special Regulations, as well as other amendments to the bond provisions. All of the amendments to the general bond provisions proposed in SPDR–26 were incorporated as proposals in EDR–218.

Although the comments in this proceeding did not focus on these particular technical provisions, we have nevertheless decided not to adopt them here. The particular security provisions with regard to travel group charters should be consistent with those applying generally throughout the comparable parts of the Board's regulations. Accordingly, we have determined not to adopt in this proceeding the proposed provisions which are counterparts to the amendments proposed in SPDR–26 (with one exception),[28] but rather to defer the

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[21] We do not agree with the trunkline carriers' assertion that reduction in the proposed lead time, as set forth in EDR–218, would require a further notice of proposed rule making. The reduction we have made is, in our view, not such a material change from the proposal as to be outside the scope of this proceeding. It may be noted that many of the commenta received recommended further reductions in the proposed lead time, and the trunkline carriers had full opportunity to reply to those comments and recommendations.

[21a] For the same reasons on which we decided to decline jurisdiction over foreign ITC operators in Order E–24697, which was affirmed in Pan American World Airways v. C.A.B., 392 F. 2d 483 (D.C. Cir. 1968).

[21b] Certain nonessential provisions of the attached rule are, by their very terms, already inapplicable to foreign organizers of foreign-originated TGC's; moreover, as noted below, we anticipate taking future action affecting application of our TGC rules to foreign-originated TGC's, either by rule amendment, waiver or otherwise.

[21c] Order 72–6–91, June 21, 1972.

[22] It should be emphasized that, though the defaulting participant's interest is not refundable, it is assignable at any time, if a permissible assignment can be effected.

[23] The proposed rule provided for a higher bond if the charter organizer furnished ground accommodations and that the escrow arrangement governed payments both for air transportation and for ground accommodations, if any. These provisions will be adopted as proposed.

[24] Oct. 26, 1971, 36 F.R. 20805 (Docket 23940).

[25] Study group charters.

[26] Inclusive tour charters.

[27] Contract bulk inclusive tours.

[28] Effective date of the bond will be the date of its filing with the Board, as proposed in EDR–218.

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question to the more general rule making proceeding in SPDR–26. The opposite side of the coin is that such general amendments as we may ultimately adopt in SPDR–26 would at the same time be adopted for this Part 372a, by parallel amendment, so as to maintain consistency among all other charter rules on this subject.

By the same token, we are adopting in this proceeding certain modifications of the reporting requirements for depository banks which we recently issued with respect to the counterpart security provisions in Parts 373 and 378 of the Board's Special Regulations.[29] These modifications, adopted after public rule making proceedings initiated by SPDR–27,[30] are intended to provide a more effective means of protecting charter participants in their dealings with indirect air carriers and should therefore apply to the TGC rule as well. (See §§ 372a.25(a) and 372a.50(c).)

H. *Outgoing and incoming legs of the flight performed by different carriers.*—The proposed rule defined "travel group charter" as a round-trip charter arranged by a charter organizer for a travel group. Consortium suggests that the various charter legs that constitute a round trip be allowed to be booked by different carriers, provided that satisfactory evidence is presented to the Board by the charter organizer that direct air carriers have made commitments to perform the charter for both the outgoing and incoming legs of the trip. We did not intend in the proposed rule to proscribe such action and we shall expressly authorize it herein. However, in order to avoid inconsistencies among the terms and conditions of separate charter contracts between the charter participants and different carriers, we are conditioning this authority upon the utilization of the single charter contract covering the entire round trip of the TGC flight.[31]

I. *Mass media advertising.*—We have decided not to retain in the final rule the proposed prohibition against mass media advertising. We are persuaded that a ban on the availability of these charters to the public at large tends toward the same kind of discrimination which is inherent in the affinity charters. Under such a ban, certain members of the public might not know of the availability of TGC charters simply because they were not recipients of "limited distribution" advertisements and other publications aimed at selected audiences. Moreover, we believe that the workability of the TGC concept and the public demand for it will be more validly tested if all members of the public have reasonable opportunities to participate in such TGC's as may be organized.

IV. *Principal changes in the proposed rule which were requested but are not being made.*—A. *Restricting TGC to domestic markets.*—We have declined to adopt DOT's suggestion, urged upon us at the oral argument, to restrict the within TGC experiment only to certain selected domestic markets, on a 1-year trial basis, but not to venture at this time into international markets.

DOT's position is based principally on two grounds. It first contends that before introducing this experiment into the international market, we should make a determination as to the level of scheduled service which is required in international markets, so that we may impose such restrictions on charter service as are "necessary to avoid prejudice to the scheduled service level thus established." (Oral Argument Transcript, p. 130.) Insofar as this contention parallels that of the trunkline carriers, we need not deal with it again here, and we refer instead to what we have said above, at pages 14–17. In addition, we have serious doubts as to whether such a determination is feasible and, if it were, whether it would be useful. No one has shown how charter policies can be drawn to guarantee particular levels of scheduled service.

DOT next contends that in view of the fact that novel principles of charter service (somewhat comparable to those embodied in our TGC rule) have recently become a subject of discussion by ECAC, we should defer implementation of our rules herein until we "may take into account the results of the ECAC discussions." (Id., at p. 131.) We applaud the increasingly widespread attention which is being devoted to the exploration of various ways to meet the international public demand for low cost charter travel. However, our primary responsibility is to be concerned with the air transportation needs of the American public, and we do not believe that we would adequately meet that responsibility by postponing our innovative actions until other interested governmental bodies decide whether or not to join us. We, of course, hope that they will do so, or make comparable innovations of their own, to meet the developing needs of the traveling public. There will undoubtedly be differences in the particulars of the various proposals which foreign governments may eventually adopt as counterparts to our TGC. We look forward to benefiting from one another's experiments, and we stand ready, within the limits of our legal authority, to adjust our rules to the demonstrated needs of the international community. On the other hand, were we to defer implementation of our TGC proposal until other governments would agree to implement uniformly similar charter concepts, then our inaction would likely contribute to an interruption of the current momentum in the international community of civil aviation toward devising new charter concepts. In these circumstances, we think it clear that we should move forward rather than mark time.

B. *Reduced fares for children.*—With respect to reduced fares for children, we stated in the Explanatory Statement of EDR–218 (mimeo. p. 15):

> The Board's pro rata charter regulations generally require that all participants pay an equal share of the charter cost, but permit an exception for reduced fares for children. Because the subject charters will be held out to the general public, this exception does not appear desirable, since the price to an individual participant would necessarily vary with the number of children accompanying other participants, reduced children's fares would produce an inequitable result and would add a further element of complexity and uncertainty in estimating the minimum pro rata price to be paid if all seats are sold.

The NACA carriers and Caledonian ask that the matter of children's fare discounts be left to the discretion of the charter organizer, as is the case with affinity charters. As to the complexity involved in establishing the minimum pro rata price, they maintain that the problem can be solved by assuming no children (or an arbitrary percentage of children) for the purpose of computing the pro rata price, and adjusting for the actual number of children at the time the "tentative" or "final adjusted charter price" is computed. Also, it is contended that travel group charters will not appeal to families with small children unless children's discounts are offered, and thus a considerable potential market for such charters would be lost. Caledonian points out that the rules could bar assignment of any adult seat to a child at reduced fares after the tentative adjusted price is computed, so as to avoid an increase in the final adjusted pro rata price resulting from the assignment.

We are not persuaded to depart from our tentative view that reduced fares for children should not be allowed. A childless charter participant should be able to know, at the time he signs the contract, what his minimum pro rata price will be, assuming that all seats are sold, without wondering whether he may be called upon to subsidize the cost of a fellow participant traveling with children. However the members of a fraternal organization may feel about bearing part of the cost of a fellow member's children under our present pro rata charter rules (and, in practice, we understand that children's discounts are actually quite rare in a bona fide pro rata charter), it must be remembered that the TGC participants need not have a prior affinity and thus may be total strangers to one another.

C. *Charter organizer as principal.*—The explanatory statement in EDR–218 indicated that the charter organizers are to act solely as agents for the travel group members with respect to air transportation. It went on to state that the organizer is to be neither a principal in the provision of air transportation nor an agent of the direct air carrier and that he will be engaged in the business of forming groups of persons, from among the general public, who will become parties to a charter contract with a direct air carrier (mimeo. pp. 16–17).

[29] See SPR–58, adopted June 16, 1972.

[30] Dec. 8, 1971.

[31] The rule provides that where air transportation is to be performed by more than one direct air carrier, there shall be a single charter contract to which the charter participants (acting through the charter organizer) and all such direct air carriers (acting jointly and severally) shall be parties. (See § 372a.10(c).)

The trunkline carriers maintain that the Board's characterization of travel organizers as agents of the charter participants is legally untenable. They state that the proposed rule contemplates that an option agreement will be entered into between the organizer and the direct air carrier prior to the time when the TGC participants are known or knowable. The argument runs that this is an impossibility, since the organizer cannot, as agent, enter into an option agreement which is binding upon persons who have not yet become his principals. Thus, according to the trunkline carriers, only the organizer can be the principal with respect to the option granted by the direct air carrier to furnish air transportation for the TGC.

We adhere to our view that the charter organizer may act only as agent for the travel group with respect to the charter contract. There is nothing legally anomalous about his role in the transaction. It is true that at the time the organizer receives the TGC option from the direct air carrier he does not as yet act on behalf of known principals, and thus the option cannot be binding on any principal. But the fallacy in the trunklines' argument is that it assumes that an option is a bilateral contract binding on both parties. This misconceives the very nature of an option, which is distinguishable from a bilateral contract precisely in that an option creates only a unilateral obligation. Thus, in effect, the direct air carrier makes an offer to the organizer, by the terms of which the carrier undertakes to be bound by the proposed charter contract with the travel group which the organizer will form, if specified conditions are timely met. However, the option itself does not purport to be binding on the organizer's pincipals, and thus he need not have any principals when he accepts the option. See: Restatement of the Law of Contracts, sections 46–47; 17 *Am. Jur.* 2d, "Contracts," sections 32, 36.

D. *Licensing of charter organizers.*—In our proposal, we indicated that a charter organizer operating under the TGC rule would be deemed an indirect air carrier, and, as such, subject to our regulation. The regulatory scheme to which we proposed to subject these charter organizers is that which we apply generally to indirect air carriers of passengers, such as study group charterers[32] and inclusive tour operators.[33] Thus, we would authorize them to operate only in accordance with conditions which we prescribe for the protection of the public with whom they deal, but relieve[34] them from various statutory requirements such as certification and tariff filings.

ASTA urges us to limit the authorization of charter organizers under this rule to persons whom we would individually license. We have decided to adhere to our proposal, so that we will regulate charter organizers in the same way that we generally regulate other indirect air carriers of passengers.[35] In connection with our recently created class of charters called "Overseas Military Personnel Charters"[36] we did provide for individual licensing of the charter operators authorized as indirect air carriers thereunder. However, we anticipate that only a handful of persons will engage in the business of operating that special class of military charters, and, moreover they will be selling only transportation services, on what in effect will be an individually ticketed basis.[37] Charter organizers under our TGC rule are thus more analogous to those indirect air carriers of passengers whom we do not regulate through individual licensing procedures.

V. *Effective date.*—We have determined to make this rule effective immediately, since it imposes no burden on anyone but serves, rather, to relieve a restriction, in that it establishes a new class of charters which may be performed by direct air carriers, and authorizes a new class of indirect air carriers to operate, all in accordance with prescribed conditions.

In consideration of the foregoing, the Civil Aeronautics Board adopts Part 372a of its Special Regulations (14 CFR Pt. 372a), effective September 27, 1972, as set forth below.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.[38]

[SEAL] HARRY J. ZINK,
Secretary.

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Subpart E—Reporting Requirements

372a.50 Reporting requirements.

AUTHORITY: The provisions of this Part 372a issued under sections 101(3), 204(a), 401, 402, 407, 416(a), and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended), 743, 754 (as amended), 757, 766, 771, and 788; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386, and 1481.

Subpart A—General Provisions

§ 372a.1 Applicability.

This part establishes the terms and conditions governing the furnishing of travel group charters in air transportation by direct air carriers, including foreign air carriers, and by travel group charter organizers, including foreign charter organizers. This part also relieves such charter organizers (other than foreign charter organizers) from various provisions of Title IV of the Federal Aviation Act of 1958, as amended, for the purpose of enabling them to provide travel group charters utilizing aircraft chartered from such direct air carriers. Nothing contained in this part shall be construed as repealing or amending any provisions of any of the Board's regulations, unless the context so requires.

§ 372a.2 Definitions.

As used in this part, unless the context otherwise requires—

"Charter" means a travel group charter.

"Charter contract" means a contract for air transportation made by and between one or more direct air carriers

[32] 14 CFR, Pt. 373.

[33] 14 CFR, Pt. 378.

[34] Sec. 101(3) of the act specifically empowers the Board to relieve indirect air carriers from the provisions of the act, "to the extent and for such periods as may be in the public interest." This is broader than the general exemptive power granted to the Board by sec. 416(b).

[35] It may be noted that the position of ASTA raises an issue which goes far beyond the limited scope of this rule making proceeding, namely, the question of whether travel agents and persons who sell package tours to the public should be individually licensed by the Federal Government. We note in this connection that there is currently pending before Congress legislation which could accomplish this result. However, the version passed by the Senate, S. 2577, excludes common carriers regulated by the Board and accordingly it is unclear whether it would cover travel group charter organizers or other persons whom we regulate as indirect carriers.

[36] 14 CFR Pt. 372, SPR–54, adopted May 18, 1972; 37 F.R. 11159, June 3, 1972.

[37] For the unique circumstances which justify this special class of charters, see SPR–54, 37 F.R. 11159, June 3, 1972.

[38] Dissenting statement by Gillilland, vice chairman, filed as part of the original document. Member Timm will issue a dissent at a later date.

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and charter participants acting through a charter organizer.

"Charter organizer" means a travel group charter organizer.

"Charter participant" means a member of a travel group who is a party to a charter contract, either as a main list participant or as an assignee of a main list participant.

"Direct air carrier" means (1) an air carrier holding a certificate of public convenience and necessity issued pursuant to section 401 of the Act, or (2) a foreign air carrier which holds a permit issued under section 402 of the Act.

"Foreign charter organizer" means any person not a citizen of the United States, as defined in section 101(13) of the Act (other than a direct foreign air carrier) who is (a) engaged in the formation of travel groups for transportation on travel group charters which originate in a foreign country and over whom the Board has declined to exercise its jurisdiction, or (b) engaged in the formation of travel groups for transportation on travel group charters which originate in the United States who holds a permit issued pursuant to section 402 of the Act authorizing such transportation.

"Main list participant" means a member of a travel group who has duly authorized a charter organizer to enter his name on the main list filed with the Board pursuant to this part.

"North American charter" means a travel group charter between a point or points in any State of the United States, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, on the one hand, and a point or points in any other State of the United States or in Canada, Mexico, or the "Islands of the Caribbean" (as defined in Part 207 (14 CFR Part 207)), on the other hand.

"Person" means any individual, firm, association, partnership or corporation.

"Pro rata charter price" means each participant's share of the total charter price payable to the direct air carrier(s), plus service charge.

"Service charge" means the compensation which the charter organizer may receive from each charter participant for organizing the group and acting as its agent in arranging for the charter transportation and services related thereto.

"Standby list member" means a member of a travel group who has duly authorized a charter organizer to enter his name on the standby list filed with the Board pursuant to this part.

"Travel group" means the aggregate of main list participants and standby list members.

"Travel group charter" means a round-trip charter to be performed by one or more direct air carriers which is arranged and sponsored by a charter organizer for a travel group, and which meets the requirements set forth in § 372a.10.

"Travel group charter organizer" means (1) any citizen of the United States, as defined in section 101(13) of the Act (other than a direct air carrier), who is authorized hereunder to engage in the formation of travel groups in accordance with the provisions of this part; or (2) a foreign charter organizer. With respect to the charter contract, such charter organizer acts solely as agent for, and holds all moneys received from any source in connection therewith as agent for, the members of the travel group.

§ 372a.3 Waivers.

A waiver of any of the provisions of this part may be granted by the Board upon its own initiative, or upon the joint submission by a direct air carrier and a charter organizer of a written request therefor not less than 30 days prior to the flight to which it relates, provided that such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

§ 372a.4 Enforcement.

In case of any violation of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding pursuant to sections 1002 and 1007 of the Act before the Board or a U.S. district court, as the case may be, to compel compliance therewith, to civil penalties pursuant to the provisions of section 901(a) of the Act, or to criminal penalties pursuant to the provisions of section 902(a) of the Act; or other lawful sanctions.

§ 372a.5 Termination of part.

The exemption provided by this part shall terminate on December 31, 1975, and shall not apply to any charter, the return leg of which is scheduled to be performed subsequent to such date of termination.

Subpart B—General Conditions and Limitations

§ 372a.10 Travel group charter general requirements.

A travel group charter authorized under this part shall meet the following requirements:

(a) The charter must be arranged and sponsored by a charter organizer whose sole interest in the charter contract is as agent for the charter participants who become parties thereto, and not as agent for the direct air carriers.

(b) The charter contract must be for 40 or more seats.

(c) The charter must be on a round trip basis, but the departing flight and the returning flight need not be performed by the same direct air carrier: *Provided, however,* That if the air transportation is to be performed by more than one direct air carrier, then there shall be a single charter contract to which the charter participants (acting through the charter organizer) and all such direct air carriers (acting jointly and severally) shall be parties.

(d) There must be a minimum duration of seven (7) days, in the case of North American charters, and a minimum duration of ten (10) days, in the case of all other charters. The first day shall be the day that the originating flight takes off; the last day shall be the day the returning flight lands.

(e) The transportation portion thereof must be performed by direct air carriers which hold a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402 of the Act.

(f) Passengers transported pursuant to the charter shall consist solely of charter participants, no less than 80 percent of whom shall be main list participants, plus tour conductors authorized to accompany the charter participants in accordance with this part.

(g) The total cost to each participant shall be the sum of the pro rata cost of air transportation, the service charge of the charter organizer, and the charge for land accommodations, if any.

(h) The sole compensation to be received by the charter organizer with respect to air transportation shall be the service charge paid by the charter participants.

§ 372a.11 Initial deposits.

Each main list participant, upon executing the contract between participants and organizer shall pay at least an initial deposit of 25 percent of the minimum pro rata charter price specified in the charter contract (or of the aggregate of the minimum pro rata charter prices specified in the contract, if there is more than one direct air carrier). This initial 25-percent deposit shall be nonrefundable to a charter participant who defaults in making any payment on the pro rata charter price subsequent to the filing of the charter contract, except as provided in §§ 372a.15 (g) and 372a.18.

§ 372a.12 Conditions precedent to contracts.

(a) The charter contract and the contract between the charter participants and the charter organizer shall become binding on the participants only upon the occurrence of all the following conditions precedent:

(1) The number of main list participants plus the number of tour conductors (which shall not exceed the maximum number permitted under this part) is equal to the number of seats specified in the charter contract;

(2) Each main list participant has paid at least an initial deposit of 25 percent of the minimum pro rata charter price specified in the charter contract; and

(3) The charter contract has been timely filed with the Board.

(b) At any time prior to the 4 months preceding the scheduled flight departure date, a participant may submit to the organizer written notice of his cancellation and he shall thereupon be entitled to receive forthwith a refund of all

moneys credited to his account, without deduction or penalty of any kind.

§ 372a.13 Assignments.

At any time during the 4 months preceding the scheduled flight departure date, a charter participant may assign his interest in the charter, but only in accordance with the following:

(a) The assignee must be a standby list member.

(b) No more than 20 percent of the main list participants may assign their interests.

(c) An assignment may be effected only by the charter organizer.

(d) The price for an assigned interest shall not exceed the total amount of pro rata charter price installments theretofore paid by the assignor, which amount shall then be credited to the account of the assignee.

(e) The charter organizer may charge the assignor a transfer fee not in excess of 5 percent of the minimum pro rata charter price.

(f) The charter organizer shall use his best efforts to effect an assignment, either at the request of a charter participant or upon the default of a charter participant in making any payment on the pro rata charter price.

§ 372a.14 Pro rata charter price; minimum, maximum, adjusted.

(a) The amount of the minimum pro rata charter price shall be equal to the total charter price for the total number of seats specified in the contract (including seats to be occupied by tour conductors) divided by the maximum number of charter participants, plus the service charge.

(b) The amount of the maximum pro rata charter price shall be equal to 20 percent more than the minimum.

(c) The adjusted pro rata charter price shall reflect the pro rata increase resulting from defaults in payments by participants and refunds made to participants pursuant to § 372a.15(g).

(d) The cost of the charter flight shall be prorated equally among all charter participants and no charter participant shall be allowed free or reduced-rate transportation: *Provided, however,* That, where land accommodations are included in the charter, tour conductors may be transported, if the number of such conductors is specified in the contract between the charter organizer and the participants, and is not more than one tour conductor for each 40 charter participants.

§ 372a.15 Full payment of charter price; refunds.

(a) No later than 60 days prior to the scheduled date of flight departure, there shall be due from each charter participant full payment of the minimum pro rata charter price. The contract between the participants and the organizer may also provide for the payment at the same time of a pro rata reserve deposit which shall be applied, as needed, toward payment of any adjustment in pro rata charter price resulting from defaults in payments by participants and refunds to participants pursuant to paragraph (g) of this section: *Provided, however,* That the total sum of the minimum pro rata charter price plus such reserve deposit shall not be greater than the maximum pro rata charter price: *And provided further,* That any portion of such reserve deposit as is not needed shall be forthwith refunded pro rata.

(b) Upon default by any participant in making such payment the charter organizer shall use his best efforts to effect assignment of his interest, in accordance with the provisions of § 372a.13, and the assignee shall thereupon become liable in place and instead of the assignor for the amount payable under paragraph (a) of this section.

(c) If the interest of any defaulting participant has not been assigned by the 45th day prior to the scheduled date of departure, then the initial 25-percent deposit of each such defaulting participant (unless refunded to him pursuant to paragraph (g) of this section) shall be applied toward payment of the charter price, and the pro rata charter price for each remaining participant shall be increased by an amount equal to his pro rata share in the unpaid balance of the defaulting participant's charter price.

(d) If the tentative adjusted pro rata charter price, as computed on the 45th day prior to the scheduled date of flight departure exceeds the specified maximum, then the charter shall be canceled and all moneys paid by the charter participants shall be refunded to them forthwith, without deduction or penalty of any kind: *Provided, however,* That the initial 25-percent deposit of each defaulting participant (unless refunded to him pursuant to paragraph (g) of this section) may be paid over as liquidated damages to the direct air carrier and the charter organizer pursuant to the terms of the charter contract and the contract between the organizer and participatns.

(e) If the tentative adjusted pro rata charter price, as computed on the 45th day prior to the scheduled date of flight departure, does not exceed the specified maximum, then each participant shall forthwith pay the balance, if any, due on such adjusted pro rata charter price and all moneys theretofore paid by charter participants shall be nonrefunded, except as provided in paragraph (f) of this section: *Provided, however,* That if the charter contract is subsequently canceled for any of the reasons set forth in § 372a.18, then all moneys paid by the charter participants shall be refunded to them forthwith, without deduction or penalty of any kind.

(f) The final adjusted pro rata price shall represent the tentative adjusted pro rata price as reduced by each participant's pro rata share of the total of any defaulted payments made subsequent to the date on which the tentative adjusted price was computed, and the amount by which the tentative adjusted price exceeds the final adjusted price shall be refunded by the organizer at the time he submits the post-flight accounting report required by § 372a.30.

(g) If the charter organizer receives written notice, prior to the time of computing the tentative adjusted price, that a charter participant has died, or that, as a result of accident or illness, verified by a medical doctor, it appears probable that he will be unable to participate in the travel group charter, then the charter organizer shall refund the charter price payments already made by such participant.

§ 372a.16 Payment to direct air carrier(s).

The direct air carrier(s) shall be paid in full for the cost of the round-trip charter transportation prior to scheduled date of flight departure, as provided for in the basic charter regulations applicable to the direct air carriers under Parts 207, 208, 212, and 214 of this chapter, as the case may be.

§ 372a.17 No intermingling of passengers.

There shall be no intermingling of passengers and each planeload group, or less-than-planeload group, shall move together as a group, on both legs of the air transportation portion of the trip, except under emergency circumstances provided for in the basic charter regulations applicable to the direct air carrier under Parts 207, 208, 212, and 214 of this chapter, as the case may be.

§ 372a.18 Cancellation of charter.

A charter authorized pursuant to this part shall be canceled and all payments by the charter participants shall be refunded in full if any of the following events occurs:

(a) The charter contract is not timely filed with the Board, in accordance with § 372a.22;

(b) The charter organizer's authority is suspended;

(c) A charter organizer's surety bond is canceled without substitution of a replacement satisfactory to the Board (see § 372a.25);

(d) A direct air carrier cancels the charter pursuant to the terms of the charter contract;

(e) The charter is for less than the entire capacity of an aircraft and the remaining capacity of the aircraft is not chartered to one or more other eligible persons in accordance with the applicable provisions of Parts 207, 208, 212, or 214 of this chapter, as the case may be.

Subpart C—Requirements Applicable to Charter Organizer and Foreign Charter Organizer

§ 372a.20 Exemption.

Subject to the provisions of this part and the conditions imposed herein, charter organizers (other than foreign charter organizers) are hereby relieved from the following provisions of title IV of the Federal Aviation Act of 1958, as amended, to the extent necessary to permit them to organize and arrange travel group charters:

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Section 401.
Section 403.
Section 404(a), except the requirement to provide adequate service in connection with travel group charters operated hereunder.
Section 405(b).
Sections 407(b) and (c).
Sections 408(a) and 409, except control or interlocking relationships with direct air carriers.
Section 412.

§ 372a.20a Jurisdiction over foreign charter organizers.

The Board declines to exercise its jurisdiction over foreign charter organizers with respect to travel group charters which originate in a foreign country. The Board reserves the right to exercise its jurisdiction over any foreign charter organizer at any time if it finds that such action is in the public interest.

§ 372a.21 Suspension of exemption authority.

The Board reserves the power to suspend the exemption authority of any charter organizer, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public.

§ 372a.22 Operating authorization of charter organizer.

A charter organizer is authorized hereunder to organize and operate a travel group charter only in accordance with the provisions of this part, and subject to the following conditions:

(a) No charter organizer shall sell, or offer to sell, solicit or advertise a charter trip, until at least 15 days after he and the direct air carrier(s) have jointly filed with the Board (Supplementary Services Division, Bureau of Operating Rights) in duplicate:

(1) An option from the direct air carrier(s) under which the carrier(s) obligates itself for a specified period, which shall expire no later than 3 months prior to scheduled date of departure, to enter into a charter contract with the charter organizer as agent for the charter participants: *Provided, however,* That if the air transportation on the departing flight and the returning flight is to be performed by more than one direct air carrier, then there shall be a single option granted to the charter organizer by all such direct air carriers, acting jointly and severally;

(2) A copy of the proposed charter contract, setting forth specific terms and conditions upon which the carrier(s) will perform the charter, including the number of seats (specifically stating, where applicable, the number of seats to be occupied by tour conductors), the type of aircraft, the departure and return dates and points, and the minimum and maximum pro rata charter price;

(3) A copy of the proposed contract between the organizer and the participants;

(4) A duly subscribed and sealed surety bond, and if applicable a copy of a fully executed depository agreement, as provided in § 372a.25; and

(5) Samples of the promotional material which the charter organizer plans to use in his solicitation for charter participants: *Provided, however,* That if during the 15-day period following filing hereunder, the charter organizer has been notified that the Board has rejected such filing for noncompliance with this part, then he shall not sell or offer to sell, solicit, or advertise such charter trip until he has subsequently been notified by the Board that the filing has been accepted.

(b) No earlier than 4 months but no later than 3 months prior to the scheduled date of departure, the charter organizer and the direct air carrier(s) shall jointly file with the Board (Supplementary Services Division, Bureau of Operating Rights), in duplicate:

(1) A fully executed charter contract;

(2) A main list setting forth the names of participants in alphabetical order, their addresses and telephone numbers;

(3) A standby list, no larger than three times the number of main list participants, setting forth the same information called for in subparagraph (2) of this paragraph with respect to standbys who have authorized the organizer to include them in such list, as prospective assignees of main list participants, or a statement that there are no standby list members;

(4) A statement of the charter organizer affirming that each main list participant (i) has entered into a contract with the organizer as provided in this part, (ii) has paid his initial 25-percent deposit, and (iii) has been furnished by the organizer with an explanatory statement in the form set forth in Appendix A; and

(5) A statement of the depository bank, if any, affirming that it has received a deposit of no less than 25 percent of the total charter price payable to the direct air carrier(s).

(c) The service charge shall be separately stated and shall be equal for all participants.

§ 372a.23 Discrimination.

No charter organizer shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever, or subject any particular person, port, locality or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 372a.24 Methods of competition.

No charter organizer shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

§ 372a.25 Surety bond and depository agreement.

(a) Except as provided in paragraph (b) of this section, a charter organizer (other than a foreign charter organizer over whom the Board has declined to exercise jurisdiction), before selling or offering to sell, soliciting or advertising any charter flight, shall furnish and file with the Board a surety bond in one of the following amounts dependent upon the length of the charter or series of charters: (1) For a charter or series of charters of 2 weeks or less, a bond in an amount of not less than the charter price for the air transportation to be furnished in connection with such charter or series of charters; (2) for a charter or series of charters of more than 2 weeks but less than 4 weeks, a bond in an amount of not less than twice the charter price; and (3) for a charter or series of charters of 4 weeks or more, a bond in an amount of not less than three times the charter price: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the amounts paid by him to the charter organizer with respect to the charter.

(b) In lieu of furnishing a surety bond as provided under paragraph (a) of this section, the direct air carriers and the prospective charter organizer (except where he is a foreign charter organizer over whom the Board has declined to exercise jurisdiction) may elect, before selling or offering to sell, soliciting or advertising any charter flight, to comply with the requirements of subparagraphs (1) and (2) of this paragraph as follows:

(1) A surety bond in the following minimum amounts: (i) If the charter is for air transportation only, a bond in the amount of $5,000 per round trip charter flight, up to a maximum of $50,000 for a series of 10 or more round trip flights; or (ii) if the charter involves land accommodations in addition to air transportation, a bond in the amount of $10,000 per round trip flight, up to a maximum amount of $100,000 for a series of 10 or more round trip flights. The bond shall be for the protection of the charter participants and shall commence not later than the date on which it is filed with the Board and shall continue in effect until completion of the charter or series of charters: *Provided, however,* That the liability of the surety to any charter participant shall not exceed the amounts paid by him to the charter organizer with respect to the charter; and

(2) A copy of an agreement made between the direct air carrier(s), the charter organizer and a designated bank, by the terms of which all sums paid by participants to the charter organizer shall be deposited with and maintained by the bank in a separate escrow account, subject to the following conditions:

(i) The participants shall pay by check or money order payable to the bank, and any cash received by the charter organizer from a participant shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the cash;

(ii) The bank shall pay the direct air carrier(s) the charter price for the transportation not earlier than 60 days (including day of departure) prior to the scheduled day of departure of the originating or returning flight, upon certification of the departure date by the direct air carrier: *Provided,* That, in the case of a round trip charter contract to be performed by one carrier, the total round trip charter price shall be paid to the carrier not earlier than 60 days prior to the scheduled day of departure of the originating flight;

(iii) Refund to participants from sums in the escrow account shall be paid by the bank directly to such participants, upon receipt of written notification from the charter organizer or a direct air carrier specifying the facts warranting such refund under this part;

(iv) As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(v) The bank shall maintain a separate accounting for each charter;

(vi) After the charter price has been paid in full to the direct air carrier(s), the bank shall pay funds from the account directly to the hotels, sightseeing enterprises, or other persons or companies furnishing surface accommodations or services, if any, in connection with the charter or series of charters, upon presentation to the bank of vendors' bills and upon certification by the charter organizer of the amounts payable for such surface accommodations or services and the persons or companies to whom payment is to be made: *Provided, however,* That the total amounts paid by the bank pursuant to subdivisions (ii) and (vi) of this subparagraph shall not exceed either the total cost of air transportation, or 80 percent of the total deposits received by the bank (less any refunds made to charter participants pursuant to subdivision (iii) of this subparagraph), whichever is greater;

(vii) Except as provided in subdivisions (ii), (iii), and (vi) of this subparagraph, the bank shall not pay out any funds from the account prior to 2 banking days after completion of each charter, when the balance in the account shall be paid to the charter organizer, upon certification of the completion date by the direct air carrier performing the return flight.

(c) The bond required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the charter organizer and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the charter organizer and the charter participants, and shall be in the form set forth as Appendix B. Such bond shall be issued by a reputable and financially responsible bonding or surety company which is legally authorized to issue bonds of that type in the State in which the charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The Board will consider that a bonding or surety company is prima facie qualified under this section if such company's surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6 and if such company is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier(s) and the charter organizer by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject charter or charters shall be canceled.

(d) The bond required by this section shall provide that unless the charter participant files a claim with the charter organizer, within sixty (60) days after completion of the charter, the surety shall be released from all liability under the bond to such participant. The contract between the charter organizer and the charter participant shall contain notice of this provision.

§ 372a.26 Prohibition on operations unless tariffs are observed.

No charter organizer shall charter aircraft to provide air transportation to charter participants, and no direct air carrier shall operate such aircraft, except in accordance with the rates, fares, and charges, and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier transporting charter participants; and no such organizer shall demand, collect, accept, or receive, in any manner, or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares or charges so specified in the tariffs of such direct air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such direct air carrier.

§ 372a.27 Charter costs.

(a) The charter organizer shall not make any charges to the charter participants other than his service charge for consummating the charter (or liquidated damages, as permitted hereunder, if the charter is canceled upon default of participants), and such transfer fee as may be due him from an individual participant for effecting an assignment.

(b) No part of the service charge shall be retained by the charter organizer unless the charter is completed: *Provided, however,* That the charter organizer may retain as liquidated damages a portion of the initial 25-percent deposits forfeited by defaulting participants in the event of cancellation of a charter, pursuant to the provisions of the charter contract and the contract between the charter participants and the charter organizer and in accordance with § 372a.15. Neither the charter organizer nor any member of the charter group may receive any gratuities or compensation, direct or indirect, from the carrier(s), or any organization which provides any service to the charter group with respect to air transportation. Nothing in this section shall prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to passengers (e.g., a canvas traveling bag or a money exchange computer).

§ 372a.28 Statements of charges.

Any announcement or statement to prospective charter participants giving price per seat shall state that the price is dependent upon the number of seats sold and shall also set forth the total cost of the charter including the minimum and maximum pro rata charter price, the total service charge and the transfer fee. It shall also state that the minimum pro rata price is subject to an increase of no more than 20 percent as a result of defaults by participants, and that the charter will be canceled if the pro rata charter price increases by more than 20 percent over the minimum pro rata charter price. All announcements shall also identify the carrier(s), and the type of aircraft to be used for the charter. Solicitation materials shall separately state the cost of ground arrangements, if any, the cost of air transportation, the service charge, and the total cost of the entire trip. Solicitation material shall also state that for a person to be eligible to be a passenger on a charter flight he must be included in the main list or the standby list to be filed no later than 3 months before flight departure. All billings to charter participants shall separately state the pro rata cost of air transportation, the service charge, and the cost of land accommodations, if any.

§ 372a.29 Contract between charter organizer and charter participants.

The contract between the charter organizer and participants shall set forth the specific terms and conditions upon which the charter will be performed, including:

(a) The terms required by § 372a.22 to be specifically set forth in the charter contract;

(b) The terms required by § 372a.28 to be specifically set forth in statements of charges;

(c) The schedule of payments and the date by which the minimum price must be fully paid, which date shall not be later than 60 days before the scheduled departure date;

(d) The date on which the tentative adjusted pro rata price shall be computed, which date shall not be later than 45 days before the scheduled departure date;

(e) If applicable, the name and address of the depository bank and a statement that all installment payments are to be by check or money order made payable to the designated depository bank;

(f) The conditions upon which the contract between the charter organizer and the charter participants may be canceled, and the rights and obligations of all parties in the event of such cancellation;

(g) The conditions upon which the charter contract may be canceled, and the rights and obligations of all parties in the event of such cancellation;

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(h) The conditions governing assignment of a participant's interest;

(i) The dollar amounts of the direct air carrier's(s') liability limitations for passengers' baggage, as set forth in the carrier's(s') tariff.

(j) The name and address of the surety and a statement that unless the charter participant files a claim with the charter organizer within sixty (60) days after completion of the charter, the surety shall be released from all liability under the bond to such charter participant.

§ 372a.30 Post-flight accounting report.

Not later than 10 days following completion of the charter, the charter organizer shall submit to each participant a statement in the form prescribed in Appendix C, setting forth the final adjusted pro rata price, which shall take into account all payments made by charter participants subsequent to the date on which the tentative adjusted price was computed, and such statement shall be accompanied by any refunds then due to the participants.

§ 372a.31 Record retention.[1]

(a) Every charter organizer (other than a foreign charter organizer over whom the Board has declined to exercise its jurisdiction) conducting a travel group charter pursuant to this part shall retain for 2 years after completion of the charter or series of charters true copies of the following documents at its principal or general office in the United States; (or, if it is a foreign charter organizer, then at its principal or general office):

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant;

(2) All statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the travel group charter or series of charters.

(b) Every such charter organizer shall make the documents listed in this section available upon request by an authorized representative of the Board and shall permit such representative to make such notes and copies thereof as he deems appropriate.

Subpart D—Requirements Applicable to Direct Air Carrier

§ 372a.40 Charter not to be performed unless compliance with part.

A direct air carrier shall not perform air transportation in connection with a travel group charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with, and that the charter organizer's authority under this part has not been suspended by the Board: *Provided, however,* That where a travel group charter is organized by a foreign charter organizer over whom the Board has declined to exercise its jurisdiction, pursuant to § 372a.20a, no direct air carrier may perform air transportation in connection with such travel group charter unless the charter is formed and implemented in accordance with the general conditions and limitations set forth in Subpart B of this part and the charter organizer performs all the acts and duties which this part requires to be performed by charter organizers within the Board's jurisdiction, other than the provisions set forth in §§ 372a.22(b)(4)(iii), 372a.25 and 372a.31.

§ 372a.41 Direct air carrier to identify enplanements.

A direct air carrier shall retain a true copy of each document which it has filed (jointly with the charter organizer) pursuant to section 372a.22(b), and shall make reasonable efforts to verify the identity of all enplaning charter participants (and tour conductors); and the documentary source of such verification shall be noted on the passenger list: *Provided, however,* That in the case of international flights the identity of each enplaning charter participant (and tour conductor) shall be verified by means of his passport or, if there be none, by means of any other travel identity document and the passport number or travel identity document number shall be entered on the passenger list.

§ 372a.42 No commissions to be paid.

No commissions, fees, or other compensation shall be paid by the direct air carrier to the charter organizer or to any other person in connection with the charter trip.

Subpart E—Reporting Requirements

§ 372a.50 Reporting requirements.

(a) Each direct air carrier shall prepare and file with the Board's Bureau of Enforcement within 7 days after performing the departure flight or the return flight, as the case may be, a list containing the name (in alphabetical order), address, telephone number, and passport number or other identity document number of each passenger and the carrier's verification of each enplaning passenger's identity shall be noted on such list, as provided in § 372a.41.

(b) The direct air carrier shall promptly notify the Board regarding any travel group charter flight covered by a filing under § 372a.22 which is subsequently canceled.

(c) If a charter organizer or foreign charter organizer relies upon the bond-depository option of § 372a.25(b) for compliance with the requirements of that section, the following monthly reports shall be filed with the Board's Bureau of Operating Rights not later than the 10th day of the month succeeding the reporting period: (1) By the depository bank, showing separately for each travel group charter, identified by departure date, the total amount of deposits received and disbursed during the reporting period, and the balance in the depository account at the end of the reporting period; and (2) by the charter organizer or foreign charter organizer showing separately for each travel group charter, identified by departure date, the total amount of customer deposits received by him or his agents, and the amount of refunds made by the bank to charter participants: *Provided,* That the depository bank may, in lieu of subparagraph (1) of this paragraph, elect to file a duplicate monthly statement of the same type it provides to depositors showing the information as specified in subparagraph (1) of this paragraph. When so elected, the reporting period for the charter organizer or foreign charter organizer in subparagraph (2) of this paragraph shall correspond to the reporting period of the bank. The term "bank" shall have the meaning set forth in § 372a.25. The reports shall be certified by the officer in charge of the bank's or the charter organizer's or foreign charter organizer's accounts, as the case may be, and the certification shall be in the following form:

CERTIFICATION [2]

I, the undersigned _____
(Title of officer in charge of accounts)
of the _____
(Full name of reporting company)
do certify that this report and all supporting documents which are submitted herewith, filed for the above indicated period, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____
(Signature)

_____
(Bank's or charter organizer's or foreign charter organizer's post office address)

Date _____, 19__.

APPENDIX A

DESCRIPTION OF TRAVEL GROUP CHARTERS

Under Federal law, charter flights are permitted to be operated in air transportation within, and to or from, the United States. However, the terms and conditions governing participation in charter flights must distinguish this form of travel arrangement from the purchase by an individual passenger of an airline ticket for a regularly scheduled flight. The Civil Aeronautics Board (the Board) is the Federal agency which has the responsibility for prescribing these terms and conditions, and, over the years, several different types of charters have been authorized. Effective September 27, 1972, the Board adopted regulations authorizing a new type of charter, called "Travel Group Charters" (TGC), to be operated on a trial basis, until December 31, 1975. The pertinent regulations are set forth in Part 372a of the Board's Special Regulations (14 CFR Pt. 372a). Following is a summary of the principal provisions in those regulations as they directly affect participants in a TGC.

General Description of TGC.—The basic idea of a TGC is that 40 or more persons may enter into a charter contract, by which they hire an aircraft (or part of an aircraft) to provide themselves with round-trip air transportation for a trip which is to last a minimum of 7 days (10 days in some areas) on a pro rata basis, i.e., each charter participant shares equally in the cost of the charter. The charter contract must be filed with the Board several months before the scheduled date of departure.[1] At that time, the charter organizer must also file a "main list" identifying the people who have signed his contract and paid him an initial deposit of at least 25 percent of the "minimum pro rata charter price" (discussed below) specified in the contract. The number of persons on this "main list" must be equal to the number of seats which the contract specifies will be occupied by "charter participants."[2] At the same time, there may also be filed a "standby list" identifying any person who wants the opportunity to be substituted for a "main list" participant who might subsequently withdraw or default. The number of persons on the "standby list" may not exceed three times the number of "main list" participants, and a person on the "standby list" is under no obligation of any kind unless and until he actually becomes substituted for a "main list" participant. When the flight is performed, all the charter participants must be persons identified in either the "main list" or the "standby list" on file with the Board; and at least 80 percent of the charter participants must be from the "main list."

Pro Rata Charter Price.—The "minimum pro rata charter price," which must be set forth in the contract, is an amount equal to the total charter cost for all seats covered by the contract, divided by the maximum number of charter participants, plus the charter organizer's "service charge" (discussed below).

Example 1: A charter contract covers 123 seats (of which 3 seats are for tour conductors). The total contract price is $12,000, and the organizer is to be paid a $10 "service charge" by each passenger other than a tour conductor. The "minimum pro rata charter price" is $110 ($12,000 divided by 120, plus $10 for the service charge).

If all the seats intended for participants are sold,[3] fully paid for, and no refunds are made, then the minimum pro rata charter price will be the actual price which each charter participant will pay. However, if a participant defaults (or refund is made because of the death or illness of a participant) then the pro rata price of each remaining participant must be increased accordingly. In order to limit the liability of the remaining participants for an increase in the pro rata charter price, the Board has provided for a "maximum pro rata charter price", which is 20 percent more than the minimum. The charter organizer must compute, no later than 45 days before the scheduled departure date, whether defaults and refunds would result in increasing each remaining participant's share beyond the "maximum." If they would, then the charter must be canceled; otherwise, each remaining participant must pay the increase "adjusted pro rata price."[4]

Example 2: The minimum price is $110 (computed as shown in example 1). The maximum to which each remaining participant's price may be increased is $132.

Cancellations and Refunds.—A. Each participant is entitled to a full refund of all payments if a TGC is canceled for any of the following reasons:

1. The predeparture deadline for filing documents with the Board is not met.
2. The charter organizer's authority is suspended by the Board.
3. The charter organizer's surety bond is canceled and there is no replacement made which is satisfactory to the Board.
4. An air carrier cancels the charter pursuant to the terms of the charter contract.
5. The TGC is for less than the entire capacity of an aircraft and the remaining capacity of the aircraft is not chartered to one or more persons eligible under the Board's rules.

B. If a TGC is canceled because, as a result of defaults or refunds, the adjusted pro rata price would have to be increased beyond the maximum, then each participant not in default is entitled to a full refund. Those participants whose defaults necessitated the cancellation are entitled to have refunded only payments in excess of their initial 25 percent deposit; but the 25 percent deposit itself may be retained as liquidated damages for the organizer and/or the air carrier. (Death or illness of a participant before the adjusted pro rata price is computed does not constitute a default and, in such cases, full refund is to be made.)

C. Before a TGC is filed with the Board, any participant may give written notice to the organizer that he wishes to withdraw from the group, and he is then entitled to a full refund of all payments.

Example 3: On January 1, 1973, John Jones signs a contract with an organizer and pays a 25 percent deposit for a TGC scheduled to depart from New York to London on July 1, 1973. The TGC contract must be filed with the Board no earlier than March 1 and no later than April 1. Until March 1, Mr. Jones may withdraw and be entitled to a full refund.

Assignments.—Although a participant's initial 25 percent deposit is nonrefundable (except for death or illness) after a TGC contract has been filed, his interest in the TGC may be assigned at any time, but only to a person who is named in the filed "standby list." The other limitations on assignments are that no more than an aggregate of 20 percent of the main list participants may assign their interests, and no profit may be made by the assignor. To assure that these conditions are complied with, assignments may be made only through the organizer. For performing this function, the organizer may charge a transfer fee in an amount specified in his contract, but not to exceed 5 percent of the "minimum pro rata charter price."

Service charge.—In arranging air transportation for a TGC, the organizer acts as agent for the participants and not for any direct air carrier. He is therefore not permitted to receive any commission, fee or other compensation from any direct air carrier. As agent for the participants, he is permitted to receive from them a service charge (in addition to any transfer fees he may earn for arranging assignments). The Board does not set any maximum or minimum amount for a service charge. However, the amount of the service charge must be clearly set forth, as a separate item, in the organizer's solicitation material and in his contract, and the service charge must be equal to all participants.

APPENDIX B

TRAVEL GROUP CHARTER ORGANIZER'S SURETY BOND UNDER PART 372a OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD (14 CFR PART 372a)

Know all men by these presents, That we _____
(Name of Travel Group Charter organizer)
(hereinafter called Principal), and _____
(Name of Surety)
a corporation created and existing under the laws of the State of _____
(State)
as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in the sum of _____
(See § 372a.25 of Part 372a)
for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal intends to become a travel group charter organizer pursuant to the provisions of Part 372a of the Board's Special Regulations and other rules and regulations of the Board relating to insurance or other security for the protection of travel group charter participants, and has elected to file with the Civil Aeronautics Board such a bond as will insure financial responsibility and the supplying of transportation and other services subject to Part 372a of the Board's Special Regulations in accordance with contracts, agreements, or arrangements therefor, and

Whereas, this bond is written to assure compliance by the Principal as an authorized travel group charter organizer with Part 372a of the Board's Special Regulations, and other rules and regulations of the Board relating to insurance or other security for the protection of charter participants, and shall inure to the benefit of any and all charter participants to whom the Principal may be held legally liable for any of the damages herein described.

Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to charter participants any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to perform, fulfill, and carry out all contracts, agreements, and arrangements made by the Principal while this bond is in effect for the supplying of transportation and other services pursuant to and in accordance with the provisions of Part 372a of the Board's Special Regulations, then this obligation shall be void, otherwise to remain in full force and effect.

The liability of the Surety with respect to any charter participant shall not exceed the total cost to such charter participant for transportation and other services in accordance with his contract with the charter organizer.

[1] Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C. § 1001.

[1] The charter contract and other documents are to be filed no earlier than 4 months, and no later than 3 months, before the scheduled date of departure.

[2] The only other authorized passengers on the charter flight are tour conductors, whose seats are paid for by the charter participants. The number of tour conductors must be specified in the contract and may not exceed one for each 40 participants.

[3] If not all the seats intended for participants are sold prior to the deadline for filing the contract, then the charter must be canceled and all moneys refunded.

[4] Once this "adjusted pro rata price" is computed, there can be no further increase in the pro rata price. However, there may be a subsequent decrease in price, as a result of late payments by delinquent participants or as a result of assignments.

[2] Title 18 U.S.C., sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

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The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Civil Aeronautics Board forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective upon its filing with the Civil Aeronautics Board and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The Surety shall not be liable hereunder for the payment of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements or arrangements for the supplying of transportation and other services made by the Principal prior to the date such termination becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charter participant or charter participants who shall within sixty (60) days after the termination of the particular travel group charter described herein give written notice of claim to the charter organizer and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular travel group charter covered by this bond except for claims filed within the time provided herein.

In witness whereof, the said Principal and Surety have executed this instrument on the -------- day of ----------, 19---.

PRINCIPAL

Name ----------
By ----------
(Signature and title)
Witness ----------

SURETY

Name ----------(SEAL)
By ----------
(Signature and title)
Witness ----------

Only corporations may qualify to act as surety and they must meet the requirements set forth in § 372a.25(b) of Part 372a.

APPENDIX C

POST-FLIGHT ACCOUNTING REPORT

Instructions:

The charter organizer shall furnish a report in this form to each charter participant not later than 10 days following completion of the charter.

1. Name of carrier:----------
2. Name and address of charter organizer:----------
3. Reconciliation of price computations:
   (a) minimum pro rata charter price, compute on basis of ------ participants, at $ ------ per participant, plus service charge of $ ------ ---------- $------
   (b) maximum pro rata charter price ---------- ------
   (c) participant's tentative adjusted pro rata charter price, as computed on ---------- ------
   (d) (1) total payments received from charter participants subsequent to date on which tentative price computed ---------- ------
   (2) pro rata share of said total payments credited to each participant not in default... ------
   (e) participant's final adjusted charter price---------- ------
   (f) amount by which tentative adjusted price exceeds final adjusted price. (This is the amount of refund due each participant who paid the tentative adjusted price, and which must accompany this report.)-- ------

CERTIFICATION [1]

I, the undersigned ----------
(name of charter
---------- do certify that this report has organizer)
been prepared by me or under my direction, that I have carefully examined it and that to the best of my knowledge and belief it is a complete and accurate statement, and a copy hereof has been distributed to each charter participant.

(Signature of charter organizer)

By ----------
(Officer of charter organizer if a company)

[FR Doc.72-16841 Filed 10-3-72;8:45 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Employees Not in Fixed Establishments

On July 25, 1972, a document was published in the FEDERAL REGISTER (37 F.R. 14813) proposing to amend 29 CFR 1904.5, 1904.12 and to establish a new § 1904.14 relating to recordkeeping obligations under the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 657) with respect to employees who do not work in fixed establishments.

Interested persons were provided 30 days to submit written comments with respect to the proposal. After consideration of all comments received, I have decided to adopt the proposal without change.

Effective date. These amendments shall become effective 30 days after publication in the FEDERAL REGISTER.

[1] Title 18 U.S.C., Sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

Signed at Washington, D.C., this 29th day of September 1972.

GEORGE C. GUENTHER,
Assistant Secretary of Labor.

1. Subparagraph (1) of § 1904.5(d) is amended to read as follows:

§ 1904.5 Annual summary.

• • • • • •

(d)(1) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under § 1903.2(a) of this chapter. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report or work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary during the month of February of the following year to each such employee who receives pay during that month. For multiestablishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

2. Subparagraph (3) of § 1904.12(g) is amended by adding the phrase "and who are generally not supervised in their daily work" to read as follows:

§ 1904.12 Definitions.

• • • • • •

(g) • • •

(3) Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

3. A new § 1904.14 is established to read as follows:

§ 1904.14 Employees not in fixed establishments.

Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of §§ 1904.2, 1904.4, and 1904.6 with respect to such employees by:

(a) Maintaining the required records for each operation or group of operations which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;

(b) Having the address and telephone number of the central place available at each worksite; and

(c) Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.

(Sec. 8, 84 Stat. 1598; 29 U.S.C. 657)

[FR Doc.72-16908 Filed 10-3-72;8:50 am]

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Small Employers

On July 19, 1972, a document was published in the FEDERAL REGISTER (37 F.R. 14316) proposing to amend 29 CFR Part 1904 by establishing a new § 1904.15 relating to the recordkeeping obligations of small employers.

Interested persons were provided 30 days to submit written comments with respect to the proposal. After consideration of all comments received, I have decided to adopt the proposal. Because, however, several comments indicated that it contained some ambiguity, the text has been reworded to add clarity.

It should be noted that the rules adopted in this document are not considered to affect obligations of employers under State law for the keeping of records relating to job safety and health. Further, when obligations of employers arise under a State law which is the subject of a plan submitted or to be submitted by a State under section 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 667), the State may require recordkeeping by an employer who is exempt from Federal obligations under this rule, so long as the State obtains the information involved with a minimum burden upon employers, especially those operating small businesses.

The new § 1904.15 is hereby established to read as follows:

§ 1904.15 Small employers.

(a) An employer who had no more than seven (7) employees at any one time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except § 1904.8 concerning fatalities or multiple hospitalization accidents (i.e., he need not prepare the log, OSHA 100, the supplementary record, OSHA 101, nor prepare or post the summary, OSHA 102).

(b) Paragraph (a) of this section shall not apply when an employer has been notified in writing by the Bureau of Labor Statistics that he has been selected to participate in a statistical survey of occupational injuries and illnesses. If selected, an employer will be required to maintain a log of occupational injuries and illnesses (OSHA 100) in accordance with § 1904.2 and to make reports in accordance with § 1904.21 for the period of time which is specified in the notice.

This amendment shall become effective January 1, 1973. The reason for the extended delay in the effective date is that the Bureau of Labor Statistics is conducting a survey of injuries and illnesses for calendar year 1972. In order to complete this survey with respect to small employers, no alteration of the recordkeeping requirements until the close of the calendar year is appropriate.

(Sec. 8, 84 Stat. 1598; 29 U.S.C. 657)

Signed at Washington, D.C., this 29th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-16907 Filed 10-3-72;8:50 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER B—SALES AND SERVICES

PART 818a—PERSONAL COMMERCIAL AFFAIRS

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 818a is revised to read as follows:

Sec.
818a.0 Purpose.
818a.1 Definitions.
818a.2 Life insurance policy content prerequisites.
818a.3 The accreditation program.
818a.4 Use of allotment for payment of life insurance premiums.
818a.5 Solicitation of motor vehicle liability insurance.
818a.6 Counseling on the purchase of life insurance.
818a.7 When solicitation is permitted.
818a.8 Solicitation notice.
818a.9 Equal solicitation opportunity.
818a.10 Letters of authorization.
818a.11 Prohibited solicitation practices.
818a.12 Revocation of on-base solicitation privileges.
818a.13 Procedures for revocation or suspension of on-base solicitation privileges.

AUTHORITY: The provisions of this Part 818a issued under 10 U.S.C. 8012.

§ 818a.0 Purpose.

This part establishes policy on private commercial solicitation on Air Force installations.

§ 818a.1 Definitions.

(a) *Agent.* An individual who receives remuneration as a member, representative, or salesman for an insurer or an insurance carrier.

(b) *Association.* Any organization which has been established, whether or not the word "Association" appears in its title, and which:

(1) Is composed of and serves exclusively members of the Armed Forces of the United States (on active duty, in a Reserve status, in a retired status, or individuals who entered into such associations while on active duty) and their dependents.

(2) Operates either as a profit or nonprofit organization under criteria set forth in the Internal Revenue Code, whether by mail or through an agency sales force, or both, and

(3) Offers its members life insurance coverage, either as part of the membership dues or as a separately purchased plan made available through an insurance carrier or the association as a self-insurer, or a combination of both.

(c) *Department of Defense (DOD) personnel.* Unless the context indicates otherwise, DOD personnel as used in this part means all civilian employees, including special Government employees, of all the offices, agencies, and departments carrying on functions on a defense installation (including nonappropriated fund activities) and all active duty officers (commissioned and warrant) and enlisted members of the Army, Navy, Air Force, and Marine Corps.

(d) *Insurance carrier.* An insurance company accredited by the DOD and issuing insurance through an association or reinsuring or coinsuring such insurance.

(e) *Insurance policy.* A policy or certificate of insurance issued by an insurer or by an insurance carrier or evidence of insurance coverage issued by self-insured association.

(f) *Insurer.* An insurance company accredited hereunder by the DOD.

(g) *Solicitation.* (1) As used in this part, solicitation means selling or attempting to sell goods or services, including life insurance, motor vehicle liability insurance, mutual funds, and securities. Solicitation in this context means making an appointment for the purpose of such selling.

(2) The term does not apply to:

(i) Residence services such as milk delivery, laundry services, etc., when such services are authorized by the installation commander.

(ii) Solicitation and sale of life insurance on oversea installations. Such solicitation will be conducted under regulations issued by the unified or specified command having authority in the oversea area.

(h) *State.* The 50 political jurisdictions of the United States, the District of Columbia, and the territories and possessions of the United States.

§ 818a.2 Life insurance policy content prerequisites.

(a) Insurance policies, other than certificates or other evidence of insurance issued by a self-insured association, offered and sold to personnel on a military installation world-wide must:

(1) Comply with the insurance laws of the State in which the installation is located and the procedural requirements of this part,

(2) Contain no restrictions by reason of military service or military occupational specialty of the insured, unless such restrictions are clearly indicated on the face of the policy,

(3) Plainly indicate on the face of the policy any extra premium charges imposed by reason of military service or military occupational specialty, and

(4) Not provide for a variation in the amount of death benefit or premium based upon the length of time and the policy has been in force, unless such variations are clearly described therein and appear on the face of the policy as well.

(b) Premiums shall reflect only the actual premiums payable for life insurance coverage.

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§ 818a.3 The accreditation program.

(a) Any life insurance company is considered as automatically accredited if it is licensed under the insurance laws of the State in which the installation is located and is entitled to the allotment of pay.

(b) The insurance carrier of an association is considered accredited and eligible to receive the allotment of pay if the insurance carrier currently appears on the fiscal year list of accredited companies authorized to solicit the sale of life insurance on military installations in oversea areas.

(c) Associations involved in self-insured plans as of March 31, 1972, are considered as automatically accredited. However, some associations are not organized within the supervision of insurance laws of either the Federal or State Governments. While some are organized for profit, others function as nonprofit associations under Internal Revenue Service regulations. Only Internal Revenue Service-designated nontaxable or nonprofit associations are permitted to receive the military allotment of pay for life insurance.

§ 818a.4 Use of allotment for payment of life insurance premiums.

Such allotments may be made as prescribed by the DOD Military Pay and Allowances Entitlements Manual, AFM 177–2, and AFM 177–105.

§ 818a.5 Solicitation of motor vehicle liability insurance.

The minimum requirements for motor vehicle liability insurance at Air Force installations are based on the financial responsibility laws of the State in which the installation is located and are further governed by AFR 125–14. Solicitation of the sale of motor vehicle liability insurance which does not meet these requirements is prohibited.

§ 818a.6 Counseling on the purchase of life insurance.

No allotment for the payment of life insurance premiums will be accepted by the Accounting and Finance Office Military Pay area (AFO–MP) for personnel in grades E–1, E–2, and E–3 until the individual has been counseled by CBPO–DPMS. CBPO–DPMS will furnish the AFO–MP a statement that the individual has been counseled in accordance with this part. CBPO–DPMS will, without comment as to the merit of the policy, insure that personnel are completely aware of all provisions of the policy and its place in the spectrum of survivor benefits. CBPO–DPMS will not advise against the purchase of a policy unless it is absolutely clear that the contract of insurance will be to the individual's detriment. For personnel in pay grades E–1, E–2, and E–3, at least 7 days should elapse for counseling between the signing of a life insurance application and the certification of an allotment unless the first two monthly premiums have been paid in advance. The purchaser's unit commander may grant a waiver to this requirement for good cause, such as the purchaser's impending permanent change of station. Normally, all insurance contracts should be accompanied by advance payment of the first two monthly premiums unless the policy is to be made effective after the establishment of the allotment.

§ 818a.7 When solicitation is permitted.

Solicitation is permitted when:

(a) The installation commander has not, for reasons of security or other good cause, prohibited it.

(b) When the solicitor has been specifically invited by a base resident to his quarters or another place designated by the installation commander. (Solicitation on the installation of nonresidents of the installation is prohibited.)

(c) The solicitor is duly licensed in the jurisdiction in which the installation is located.

(d) It is consistent with AFR 147–7.

§ 818a.8 Solicitation notice.

A conspicuous notice of solicitation restrictions will be posted in such form and place as to give notice to all wishing to solicit on the installation.

§ 818a.9 Equal solicitation opportunity.

Commanders will insure that all agents are extended equal opportunity for interviews by appointment at the designated areas and that DOD personnel do not act in any capacity as liaison with agents to arrange appointments. Where space and other considerations dictate the limiting of the number of agents using the designated interviewing area, the installation commander may develop and publish local policy consistent with this concept.

§ 818a.10 Letters of authorization.

No letter or other form of authorization will be issued to a solicitor. (This does not apply to routine visitor passes.)

§ 818a.11 Prohibited solicitation practices.

(a) Making appointments with or soliciting military personnel who are in an "on-duty" status.

(b) Procuring or supplying (or attempting to procure or supply) rosters or listings to any person for the purpose of solicitation, direct or indirect.

(c) Offering unfair or deceptive inducements to purchase or trade.

(d) Using any manipulative, deceptive, or fraudulent device, scheme or artifice, including misleading advertising and sales literature.

(e) Any representation which suggests or gives rise to the appearance that the Department of Defense or any of its components sponsor the company, its agent, or its goods or services.

(f) Any breach of warranty or contract not promptly adjusted on demand.

(g) Soliciting recruits, trainees, and transient personnel in a "mass" or "captive" audience.

(h) Use of official identification cards by retired or Reserve members of the armed forces to gain access to a military installation for the purpose of soliciting.

(i) Solicitation by a military member of another military member who is equal to or lower in grade, whether on or off duty, in or out of uniform, on or off a military installation at any time.

(j) Department of Defense personnel are expressly prohibited from representing any insurance company as an agent for the solicitation of insurance to personnel on a military installation, with or without compensation.

(k) The use of an agent as a participant in any military sponsored insurance education or orientation program. Even representatives of nonprofit associations cannot act in this capacity unless their representatives are entirely free from self-serving interest or emphasis, direct or indirect.

(l) Agents assuming or using titles such as "Battalion Insurance Counselor," "Unit Insurance Adviser," "Servicemen's Group Life Insurance (SGLI) Conversion Consultant," etc.

(m) The assignment of desk space for an interview for other than a specific prearranged appointment. During such appointment, the agent will not display desk or other signs announcing name or company affiliation.

(n) The use of the base bulletins or any other notice, official or unofficial, announcing the presence of an agent and his availability.

(o) The distribution, or availability for distribution, of literature other than to the person being interviewed.

§ 818a.12 Revocation of on-base solicitation privilege.

The privilege of on-base solicitation may be denied for any of the following reasons, provided the offender can be reasonably informed by prior notice of the violation of which he is accused.

(a) Violation of any restriction, prohibition or requirement imposed by this part or any supplemental regulation hereto. This specifically includes solicitation without prior invitation of the member(s) being solicited.

(b) Substantiated adverse complaints or reports regarding the quality of goods, services, or the manner in which they were offered for sale.

(c) Knowing and willful violation of the Truth-in-Lending Act, Regulation Z of the Federal Reserve Board, or any similar State or local law, ordinance, or regulation.

(d) Personal misconduct by the solicitor while on base.

(e) Failure to substantially incorporate the Standards of Fairness (AFR 35–10, Attachment 8, October 31, 1969) in every contract of sale made on the base.

(f) Possession of or any attempt to obtain supplies of allotment forms.

§ 818a.13 Procedures for revocation or suspension of on-base solicitation privileges.

(a) *Individual responsibilities.* Any person having information which may constitute grounds for revocation or suspension of solicitation privileges will report the information to the Consolidated Base Personnel Office, Personal Affairs Section (CBPO–DPMS). CBPO–DPMS will report the situation to the installation commander through personnel channels. Where there is no Personal Affairs Section, the installation commander will designate an office to handle this function.

(b) *Action by the installation commander.*—(1) *Revocations.* (i) The installation commander may close the case without action and advise the complainant of the reasons for his actions. He may offer the alleged offender (in writing) an opportunity to show cause why his on-base solicitation privilege should not be revoked. This written notice will describe the substance of the complaint and offer the alleged offender the opportunity to rebut or mitigate the violation either in person or in writing.

(ii) If the alleged offender fails to respond, rebut or mitigate the complaint the installation commander will advise him in writing that his privilege to solicit on the installation has been revoked. Such revocation will be for a reasonable period not to exceed 1 year. (If the solicitor has not been licensed by civil authority or if such license has been withdrawn, the period of revocation will be at least equal to the unlicensed period.) Notice of revocation will be in writing and delivered in person or by registered/certified mail, return receipt requested.

(iii) When the commander believes the offender may solicit on other military installations, he will advise the other installation commanders of his action. If the offender is known to be operating extensively on military installations, or such appears probable, the commander will advise AFMPC/DPMSAB, Randolph Air Force Base, Tex. 78148, and the local Armed Forces Disciplinary Control Board.

(2) *Suspensions.* The installation commander may immediately suspend solicitation privileges, pending investigation and "show cause" action, for a period of 30 days. ("Show cause" means the grieved party is afforded an opportunity to present facts on his behalf on an informal basis for the consideration of the installation commander.) Notice of such suspension will be in writing and delivered either in person or by registered/certified mail, return receipt requested.

By order of the Secretary of The Air Force.

JOHN W. FAHRNEY,
Colonel, U.S. Air Force, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-16860 Filed 10-3-72;8:46 am]

SUBCHAPTER C—PUBLIC RELATIONS

PART 824—AIR FORCE PARTICIPATION IN PUBLIC EVENTS

Use of Aircraft

Part 824, Subchapter C of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Section 824.7 is amended by correcting paragraph (a)(4) and adding a new subparagraph (6) under paragraph (a) to read as follows:

§ 824.7 Use of aircraft.

* * * * * *

(a) *On-base participation requirements.* * * *

(4) Mass parachute jumps, equipment drops, assault aircraft demonstrations, standard tactical aircraft maneuvers, or helicopter troop landings under simulated tactical conditions may be held only on military installations capable of providing necessary support and only during an "open house" event.

* * * * * *

(6) Aerobatic performance or aircraft demonstrations by civilians require the approval of HQ USAF. Requests will be forwarded through channels to SAF/OIC a minimum of 60 days in advance of the event. Insurance and landing rights requirements are contained in Part 855 of Subchapter F of this chapter.

* * * * * *

(10 U.S.C. 8012)

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, U.S. Air Force, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-16859 Filed 10-3-72;8:46 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Interim Tolerances; Deletions

In the FEDERAL REGISTER of August 30, 1972 (37 F.R. 17554), interim tolerances were established for residues of the herbicide 2-(*m*-chlorophenoxy) propionic acid and its corresponding amide 2-(*m*-chlorophenoxy)propionamide in or on the raw agricultural commodity peaches at 0.1 part per million and the insecticide dipropyl isocinchomeronate in or on the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 part per million. The interim tolerances were established pending final review and evaluation of the data on the subject pesticides.

Subsequently, the review and evaluation of the above pesticides have been completed and ordinary tolerances have been established for 2-(*m*-chlorophenoxy) propionic acid, its corresponding amide (37 F.R. 20825), and dipropyl isocinchomeronate (37 F.R. 16937; August 23, 1972).

Therefore, the listing of interim tolerances for these two pesticides is no longer necessary and § 180.319 *Interim tolerances* is amended by deleting the items "2-(*m*-chlorophenoxy) propionamide and 2-(*m*-chlorophenoxy) propionic acid" and "dipropyl isocinchomeronate" from the list of items in the table.

Since the order established by this document prevents duplication of tolerances and is noncontroversial, notice, public procedure, and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–4–72).

Dated: September 25, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-16945 Filed 10-3-72;8:54 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-(m-chlorophenoxy)propionic Acid

A petition (PP 2F1222) was filed by Amchem Products, Inc., Ambler, Pa. 19002, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the plant regulator 2-(*m*-chlorophenoxy) propionic acid from application of the acid or its corresponding amide 2-(*m*-chlorophenoxy) propionamide in or on the raw agricultural commodities peaches and nectarines at 0.25 part per million.

Subsequently, the petitioner amended the petition by reducing the requested tolerances of 0.25 part per million to 0.1 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The plant regulator is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new section to Subpart C:

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§ 180.325 2-(*m*-Chlorophenoxy) propionic acid; tolerances for residues.

A tolerance of 0.1 part per million is established for negligible residues of the plant regulator 2-(*m*-chlorophenoxy) propionic acid from application of the acid or of 2-(*m*-chlorophenoxy) propionamide in or on the raw agricultural commodities peaches and nectarines.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–4–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: September 25, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–16946 Filed 10–3–72;8:54 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 72–150R]

SUBCHAPTER D—TANK VESSELS

PART 31—INSPECTION AND CERTIFICATION

SUBCHAPTER H—PASSENGER VESSELS

PART 71—INSPECTION AND CERTIFICATION

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

PART 91—INSPECTION AND CERTIFICATION

Inspection and Certification; Factors of Safety

The purpose of this amendment is to make the regulations on cargo gear factors of safety consistent with recognized industry standards. The amendment allows the use of yield point, as an alternative to breaking strength, in calculating the minimal safety factors in the design of cargo gear. It also expands the list of gear items to include factors of safety for stayed masts, pins, and connections.

This amendment is based on a notice of proposed rule making published in the March 1, 1972, issue of the FEDERAL REGISTER (37 F.R. 4292), and in the Marine Safety Council Public Hearing Agenda dated March 27, 1972. The proposed amendment was identified as Item 6–72 in the notice and the agenda.

The Coast Guard invited interested persons to submit comments by April 3, 1972. It also encouraged participation at the public hearing. In response, the Coast Guard received three written comments.

Two of the commenters pointed out that safety factors based on yield strength resulted in overly conservative structures and suggested that the Coast Guard incorporate into the regulations dynamic factors. The Coast Guard prefers a conservative standard for safe cargo handling that can be applied by the industry with minimum difficulties. Accordingly, the suggestion was not approved.

One commenter suggested that footnote 1 of Table 31.37–25(a) be changed by adding the word "the" to precede the final word "steel." The commenter pointed out that "steel" without the suggested definitive article refers only to mild steel. The Coast Guard has accepted this suggestion and added the word "the" to precede the word "steel" in footnote 1.

Accordingly, the Coast Guard amends Parts 31, 71, and 91 as follows:

1. By revising § 31.37–25 to read as follows:

§ 31.37–25 Factors of safety.

(a) Except as provided in paragraph (b) of this section, in the design of cargo gear, the minimal safety factors in Table 31.37–25(a) must be used to meet the requirements of § 31.37–15.

(b) The Commandant may permit the use of safety factors different than those in Table 31.37–25(a) in the design of cargo gear that he considers special.

TABLE 31.37-25(a)

Safe working loads for component parts	Safety factors based on [1]— Ultimate strength	Yield point	Breaking test load
All metal structural parts except steel booms, stayed masts, pins, and connections: 5 tons or less working load of the assembled gear	5.00	[1] 2.75	
15 tons working load of the assembled gear	4.00	[1] 2.20	
60 tons or more working load of the assembled gear	3.75	[1] 2.05	
Steel booms: 10 tons or less working load of the assembled gear		3.00	
13 tons or more working load of the assembled gear		2.50	
Stayed masts: 10 tons or less working load of assembled gear	5.00		
13 tons or more working load of assembled gear	4.00		
Pins and connections: 10 tons or less working load of assembled gear		[1] 3.00	
13 tons or more working load of assembled gear		[1] 2.50	
Wire rope: 10 tons or less working load			5.00
13 tons or more working load			4.00
Fiber rope: For running rigging	7.00		
For fixed gear and vangs	5.00		
Wooden structural parts	8.00		
Chains	4.50		

[1] Intermediate values of safety factors may be used.
[2] The minimum yield point for design purposes shall not be considered greater than 72 percent of the minimum ultimate strength of the steel.

§§ 71.47–25, 91.37–25 [Amended]

2. By revising §§ 71.47–25 and 91.37–25 to read exactly the same as § 31.37–25, except that the tables within the two sections should be designated §§ 71.47–25(a) and 91.37–25(a) respectively.

(R.S. 4405, as amended, R.S. 4462, as amended, R.S. 4417a, as amended, by Public Law 92–340, 86 Stat. 424, 427 (July 10, 1972), sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective date. This amendment is effective on November 6, 1972.

Dated: September 28, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.72–16794 Filed 10–3–72;8:45 am]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192–9; Docket OPS–13]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Modification of Pressure Relief Limitations

This amendment to § 192.201(a) changes the restriction on accidental pressure buildup in pipelines, other than low pressure distribution systems, which have a maximum allowable operating pressure (MAOP) of less than 60 p.s.i.g.

On November 10, 1971, the Department issued a notice of proposed rule making in the FEDERAL REGISTER proposing these regulatory changes (OPS Notice 71–6, 36 F.R. 21834, November 16, 1971). Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. Several comments subsequently were received and have been given full consideration. However, the amendment is issued without substantive change from the proposal.

Two commenters recommended making the proposed changes available for systems with MAOP's up to 150 p.s.i.g. Justification for such recommendations was based on an expressed desire to avoid possible difficulties arising in utilizing present pressure relief systems under the amended standards. As it is only when the MAOP of a system is below 60 p.s.i.g. that present-day regulating equipment cannot accurately limit accidental overpressure to the present 10 percent of MAOP standard, it is in the best interest of overall safety that the proposed amendment allowing an increase in the limits for accidental overpressure be restricted to systems with MAOP's of 60 p.s.i.g. or less.

Another comment suggested a revision in the proposed amendment to make the maximum pressure limitation applicable only at the most remotely located pressure limiting station in order to reduce the possibility of having to vent gas into the atmosphere in Class 3 or 4 locations. However, it is felt that the potential hazard of such venting is negligible in comparison with the greater risks involved in allowing the pressure in the entire system to be monitored at its most remotely located point. Such a procedure has the potential to allow pressure buildups well above the established limits in other parts of the distribution system.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended by revising § 192.201(a) to read as follows, effective November 4, 1972

§ 192.201 Required capacity of pressure relieving and limiting stations.

(a) Each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity, and must be set to operate, to insure the following:

(1) In a low pressure distribution system, the pressure may not cause the unsafe operation of any connected and properly adjusted gas utilization equipment.

(2) In pipelines other than a low pressure distribution system—

(i) If the maximum allowable operating pressure is 60 p.s.i.g. or more, the pressure may not exceed the maximum allowable operating pressure plus 10 percent, or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

(ii) If the maximum allowable operating pressure is 12 p.s.i.g. or more, but less than 60 p.s.i.g., the pressure may not exceed the maximum allowable operating pressure plus 6 p.s.i.g.; or

(iii) If the maximum allowable operating pressure is less than 12 p.s.i.g., the pressure may not exceed the maximum allowable operating pressure plus 50 percent.

* * * * *

(Sec. 3, Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. 1672; § 1.58(d) of the regulations, Office of the Secretary of Transportation, 49 CFR 1.58(d); redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations, Office of the Secretary of Transportation, 49 CFR Part 1)

Issued in Washington, D.C., on September 28, 1972.

JOSEPH C. CALDWELL,
Director, Office of Pipeline Safety.

[FR Doc.72–16933 Filed 10–3–72;8:53 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1093, Amdt. 2]

PART 1033—CAR SERVICE

Burlington Northern Inc., Authorized To Operate Over Tracks of Minneapolis Industrial Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of September 1972.

Upon further consideration of Service Order No. 1093 (37 F.R. 9028 and 12727), and good cause appearing therefor:

It is ordered, That:

Section 1033.1093 *Service Order No. 1093* (Burlington Northern Inc. authorized to operate over tracks of Minneapolis Industrial Railway Co.) be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This section shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–16962 Filed 10–3–72;8:55 am]

[S.O. 1096, Amdt. 1]

PART 1033—CAR SERVICE

Southern Railway Co. and Missouri Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of September 1972.

Upon further consideration of Service Order No. 1096 (37 F.R. 7794), and good cause appearing therefor:

It is ordered, That:

Section 1033.1096 *Service Order No. 1096* (Southern Railway Co. authorized to operate over tracks of St. Louis-San Francisco Railway Co. and over tracks of Missouri Pacific Railroad Co.; Missouri Pacific Railroad Co., authorized to operate over tracks of Southern Railway Co.) be, and it is hereby, amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* This section shall expire at 11:59 p.m., March 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–16963 Filed 10–3–72;8:55 am]

V371193 OCT 4 72 XUM

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Cape Romain National Wildlife Refuge, S.C.

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (10–4–72).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of rails on the Cape Romain National Wildlife Refuge, S.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 12,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of rails, and shall be subject to the following special conditions:

(1) Open season: October 15–November 21, 1972.

(2) Guns must be encased or otherwise rendered incapable of firing except when in the designated hunting area.

(3) The use of dogs is permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 21, 1972.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 26, 1972.

[FR Doc.72-16884 Filed 10-3-72;8:48 am]

Title 6—ECONOMIC STABLIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Acquisitions and Divestitures of Entities

The purpose of these amendments is to add a new § 300.203 to the regulations of the Price Commission to provide guidance for accounting information for business combinations, in the filing of reports or other documents with the Price Commission. The purpose of the new section is to provide that, when there are changes in the business structure, the quarterly information submitted on Form PC–51 is consistent with the base period information reported on Form PC–50. A new Subpart D "Exceptions" is also added to consolidate provisions relating to that subject and to provide a specific procedure for the consideration of requests for exceptions to restate base period profit margins to reflect acquisitions or divestitures that are not poolings of interests, spin-offs, or split-offs.

The new § 300.203 states generally that accounting information for business combinations may be restated only in accordance with generally accepted accounting principles, consistently applied. Restatement of prior accounts is required for changes accounted for as a pooling of interests, a spin-off, or a split-off, but is generally not authorized for other acquisitions or divestitures.

The Commission recognizes, however, that for sound business reasons, a large number of acquisitions and divestitures are not accounted for as poolings of interests, spin-offs, or split-offs although such transactions may have substantially the same economic impact on the acquiring or divesting firm. If the impact of the transaction on a company's base period profit margin is substantial, the difference in treatment accorded such transactions may be inequitable in certain cases.

Therefore, provision has been made in §§ 300.371, 300.373, and 300.375 to establish the specific requirements for the filing of a request for an exception for the purpose of restating a base-period profit margin to reflect acquisitions and divestitures that may not normally be used for such a restatement. Special provision is made for processing, on a 10-day basis, a request for an exception to reflect proposed acquisitions or divestitures of sole proprietorships, corporations, subsidiaries, or other separate legal entities, if they will cause a 10-percent net change (on a pro forma basis) in the base-period profit margin, and certain other specific requirements will be met. Those requests not eligible for processing under the 10-day provision as a proposed acquisition or divestiture will be given the normal processing accorded other requests for exceptions.

Since the purpose of these amendments is to provide immediate guidance and information with respect to compliance with price stabilization rules, it is hereby found that notice and public procedure is impracticable and that good cause exists for making them effective less than 30 days after publication in the FEDERAL REGISTER.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558; 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Public Law 92–210, 85 Stat. 743; and E.O. 11640, as amended)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth herein, effective October 4, 1972.

Issued in Washington, D.C., on October 2, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

1. Section 300.5 is amended by inserting the following new definitions in proper alphabetical sequence:

§ 300.5 Definitions.

* * * * *

"Pooling of interests" means a combination of two or more corporations which meets the conditions set forth in Opinion No. 16 of the Accounting Principles Board of the American Institute of Certified Public Accountants (effective date October 31, 1970), 666 Fifth Avenue, New York, NY 10019. Copies are available from that address for $0.75 each.

* * * * *

"Spin-off" means the distribution of the controlling stock in a corporation, by another corporation which owned such stock imediately before that distribution, to the shareholders of the distributing corporation without the surrender by those shareholders of stock or securities in the distributor.

* * * * *

"Split-off" means the distribution of the controlling stock in a corporation, by another corporation which owned such stock immediately before that distribution, to the sharcholders of the distributing corporation with the surrender by those shareholders of stock or securities in the distributor.

2. The following new section is inserted at the beginning of Subpart B:

§ 300.203 Accounting for business combinations.

When filing a report or other document under this part, accounting information for business combinations may be restated only in accordance with generally accepted accounting principles, consistently applied. Restatement of prior accounts is required for certain changes in business combinations accounted for as a pooling of interests and when there has been a spin-off or a split-off to a parent firm's shareholders. Restatement of prior accounts is generally not appropriate when there is an acquisition or divestiture of a business or other property which is otherwise accounted for. Net sales, costs, and expenses of discontinued operations may not be condensed to "one line" in submissions to the Price Commission, but shall be reported and accounted for on the same basis as continuing operations.

§ 300.127 [Revoked]

3. § 300.127 is revoked.

4. The following new subpart is added after Subpart C:

Subpart D—Exceptions

Sec.
300.351 Applicability.
300.353 Definitions.
300.355 Grant of exception: general.
300.371 Exception for adjustment of base period profit margin to reflect acquisition or divestiture.
300.373 Requirements for an exception under § 300.371.
300.375 Additional requirements for an exception under § 300.371(b).

AUTHORITY: The provisions of this Subpart D issued under the Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558; 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Public Law 92–210, 85 Stat. 743; E.O. 11640, as amended.

Subpart D—Exceptions

§ 300.351 Applicability.

This subpart prescribes the criteria for obtaining an exception to this part.

§ 300.353 Definitions.

For the purposes of this subpart:

(a) "Acquisition" means the purchase of one entity by any means, but does not include an acquisition that is accounted for as a pooling of interests.

(b) "Divestiture" means the sale, exchange, or other disposition by one entity of all or a part of another entity, but does not include a divestiture by a spin-off or a split-off.

(c) "Entity" means a part of a person or consolidated group which is customarily regarded as being separate for cost, pricing, and profit decisions; and may be distinguished from other units of that firm because of separate or different management or profit responsibilities, industries, methods of doing business, or other logical and customary distinctions.

§ 300.355 Grant of exception: general.

(a) The Chairman of the Price Commission or any person to whom he delegates the authority may grant such exceptions to this part as may be necessary to prevent or correct a serious hardship or gross inequity, or to allow a restatement of base period profit margin under § 300.371.

(b) The general procedures for a request for an exception are prescribed in Subpart C of Part 305 of this chapter and in Subpart D of Part 401 of this title.

§ 300.371 Exception for adjustment of base period profit margin to reflect acquisition or divestiture.

(a) Each person requesting an exception for adjustment of its base period profit margin to reflect the acquisition or divestiture of an entity must comply with § 300.373.

(b) A person requesting an exception to adjust its base period profit margin to reflect a proposed acquisition or divestiture of an entity may request that the exception be granted within 10 days after the filing date to be specified in a letter of acknowledgment from the Price Commission or District Director of Internal Revenue, as the case may be, if the request also complies with § 300.375.

§ 300.373 Requirements for an exception under § 300.371.

(a) Each applicant for an exception under § 300.371 must show that the acquisition has brought about, or will bring about, control of the entity, or in the case of a divestiture, that the divestiture has caused, or will cause, loss of control of the entity.

(b) Each applicant for an exception under § 300.371 must furnish the following with the application:

(1) A list of each acquisition (including any combination accounted for as a pooling of interests), and each divestiture (including any spin-off or split-off) after the last day before its first base period year, including a description of the accounting method for the consolidation or dissolution.

(2) Financial statements of the person requesting the exception and of each acquired or divested entity based upon a consistent fiscal year basis from the applicant's first base period year forward. The financial statements must have been published or certified or the person requesting the exception must establish their validity to the satisfaction of the Price Commission.

(3) A separate Form PC–50 and PC–51 for the person requesting the exception and for each acquired or divested entity, not restated in accordance with § 300.203.

(4) A letter or report of an independent public accountant prepared in accordance with the procedures prescribed in Appendix IV of this part.

(5) The certification of a combined PC–50 and PC–51 using a base period as defined in § 300.5.

(b) The financial data describing each acquisition must be restated on Price Commission forms and reconciled with previous financial statements of the person requesting the exception as if each acquisition were accounted for as a pooling of interests. The financial data describing each divestiture must be restated on Price Commission forms reconciled with previous financial statements as if each divestiture were accounted for on the same basis as a spin-off or a split-off.

§ 300.375 Additional requirements for an exception under § 300.371(b).

(a) Each person requesting an exception under § 300.371(b) must, in addition to furnishing the information, data, and other proof specified in § 300.373, show that—

(1) The acquisition or divestiture would, if the exception were granted, cause at least a 10 percent net change in the person's base period profit margin;

(2) The entity being acquired or divested was in operation during the person's base period;

(3) Neither the acquiring or acquired entity in an acquisition, or the entity making a divestiture, is at the time of, or was immediately before, the acquisition or divestiture, in violation of the regulations of the Economic Stabilization Program; and

(4) The acquisition or divestiture is of a sole proprietorship, corporation, a subsidiary, or another separate legal entity.

(b) Upon receipt of a request for an exception under § 300.371(b), the Price Commission or District Director, as appropriate, shall send a letter of acknowledgment by certified mail to the person requesting the exception, specifying the date it was filed with the Price Commission or District Director. Unless that person is otherwise notified by the Price Commission or District Director, as appropriate, the exception requested becomes effective on the 10th day after the specified filing date.

[FR Doc.72-17095 Filed 10-3-72;8:45 am]

Rulings—Internal Revenue Service, Department of the Treasury

[Pay Board Ruling 1972–70]

QUALIFIED BENEFITS STANDARD

Pay Board Ruling

Facts. Corporation X has a qualified benefit plan for its employees. The corporation does not wish to increase the employee benefits or the contributions under the plan for the first control year. However, the corporation desires to increase its contributions to fund increased employee benefits under the qualified benefit plan in the second control year. It is provided by Economic Stabilization Regulations, 6 CFR 201.58(d)(2) (1972) that:

For purposes of subparagraph (1) of this paragraph, the 0.7 percent referred to in subdivision (1) of such subparagraph may be used in future control years to the extent not utilized in a prior control year.

Issue. (1) Does § 201.58(d)(2) require that part of the 0.7 precent figure must be used by the corporation in a previous control year in order to use the remainder in a subsequent control year?

(2) Does § 201.58(d)(2) allow the 0.7 percent figure to be cumulative if not used?

Ruling. The answer with respect to the first issue is no. It is provided by § 201.58(d)(2) that the 0.7 percent increase "may be used in future control years to the extent not utilized in a prior control year." If no part of the 0.7 percent increase were utilized by the corporation in the prior control year, then the entire 0.7 percent increase may be carried over to the following control year, or carried over to a future control year.

The answer with respect to the second issue is yes. The 0.7 percent figure is cumulative if not used in a prior control year, and the corporation may accumulate credit for increasing its contribution to its qualified benefit plan in a future control year. Thus, Corporation X could have a 1.4 percent increase in the second control year under the qualified benefit standard without charging it against the general wage and salary standard.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: September 22, 1972.

LEE H. HENKEL, JR.,
Chief Counsel, Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel, Department of the Treasury.

[FR Doc.72-16915 Filed 10-3-72;8:51 am]

V37-193 OCT 4 72 XUM

[Pay Board Ruling 1972-71]

SALES COMMISSION PLAN
Pay Board Ruling

Facts. On January 1, 1971, a retail firm established a sales commission plan, whereby an individual salesman's commission is computed weekly on the basis of the gross profit on the products he sells (i.e., the difference between the sales price and cost) and not on the gross sales price of the product.

Issue. (1) Is this an established sales commission plan or practice which meets the requirements of the Economic Stabilization Regulations, 6 CFR 201.72(g)(4) (1972), which defines a "pay practice previously set forth"?

(2) Does this sales commission plan meet the requirements of the Economic Stabilization Regulations, 6 CFR 201.77(a)(1) (1972), relating to established sales, commission, and production incentive plans or practices?

Ruling. (1) No. Section 201.72(g)(4) requires that the amount of the sales commission plan be determined by a definite method or clear formula, which is applied only to a wage or salary amount on a percentage or other similar basis without reference to profits, earnings, or any factor or item other than the actual wage or salary amount. Since the regulations rule out a commission based on profits, the sales commission plan here does not meet the requirements of § 201.72(g)(4).

(2) Yes. According to § 201.77(a)(1), sales, commission, and production incentive plans or practices may continue to operate in accordance with their provisions if they were established and in effect before November 14, 1971. Plans or practices which meet this requirement are those which directly reflect the performance of the employee participant in the form of sales or production output. Thus, since the sales commission plan here directly reflects employee performance, rather than being primarily tied to a percentage of profits without reference to the employee recipient's individual performance, it meets the requirements of § 201.77(a)(1).

This ruling has been approved by the General Counsel of the Pay Board.

Dated: September 27, 1972.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16916 Filed 10-3-72;8:51 am]

[Pay Board Ruling 1972-72; Cost of Living Council Ruling 1972-116]

DAVIS-BACON ACT
Pay Board Ruling and Cost of Living Council Ruling

Facts. The Davis-Bacon Act, 40 U.S.C. sec. 276a(1970), requires that employees working on Government highway construction contracts must be paid prevailing area wages. Thus, the pay of wage earning employees must conform to the prevailing wage scale as previously determined under the Davis-Bacon Act. Supervisory, clerical, and administrative salaried employees in the field crews, such as superintendents, field office managers, and administrators are not covered by the Davis-Bacon Act.

The needs of the highway construction industry require the transfer of employees from one geographical area to another to work on project locations. When the transfer is from a lower base economic area to a higher base economic area, by law the employer must meet the prevailing standard for wage earning employees. However, an economic differential is also experienced by salaried employees. Industry practice has been to also meet the prevailing wage for the salaried employees, because of the shortage of qualified personnel to fill these jobs and the employer's need to maintain a consistent work force to meet obligations under the contract being performed.

Issue. Can employers in highway construction work pay the equivalent of Davis-Bacon Act prevailing area wage to salaried supervisory, clerical, and administrative employees, who are not covered by the Davis-Bacon Act?

Ruling. The wages paid by an employer to his wage earning employees to comply with Federal statutes, such as the Davis-Bacon Act, have no effect on the salary paid to employees who are not covered by that Federal statute. The salaried supervisory, clerical, and administrative employees thus do not come within the exclusion from coverage in the Economic Stabilization Regulations, 6 CFR 101.103 (1972). However, the Economic Stabilization Regulations, 6 CFR 201.11(a)(6) (1972) provides that, under certain circumstances, an exception may be granted to maintain historical differentials within a unit affected by Davis-Bacon determinations. If some of the above employees are in the same appropriate employee unit as those who received Davis-Bacon increases, they may be eligible for an exception if the criteria of § 201.11(a)(6) are met. Prior approval of the Pay Board is required for this exception.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: September 27, 1972.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16917 Filed 10-3-72;8:51 am]

[Price Commission Ruling 1972-245]

SANCTIONS
Price Commission Ruling

Facts. A is a manufacturer of custom products designed to buyers' specifications and prices the contracts pursuant to Economic Stabilization Regulation, 6 CFR 300.410 (1972) as custom services. A exceeds its base period profit margin at the end of a fiscal year by a $10,000 amount. This is a violation according to § 300.410(b)(2). All of A's customers are readily identifiable.

Issue. What sanctions may be imposed by the Price Commission on A for the profit margin violation?

Ruling. A may be ordered by the Price Commission to refund to its customers on a pro rata basis, the dollar value of the excess profit margin ($10,000) and to reduce prices of products it manufactures in the future by an amount equal to two times the dollar value of the excess profit margin ($20,000) by the end of the third fiscal quarter of the fiscal year following the year in which the violation occurred.

With respect to a violation of a profit margin limitation prescribed in Part 300 of the regulations, Economic Stabilization Regulation, 6 CFR 300.54(e) provides remedies available to the Price Commission. Generally, the Commission may require a firm to:

(1) Refund the revenues derived from the prices in violation to the extent that they exceed the revenues from prices which otherwise would have been chargeable, or the dollar value of the excess profit margin, whichever is less; and

(2) Reduce prices to the extent necessary to lower the person's revenues by an amount equal to two times the amount that the revenues derived from the prices in violation exceeded the revenues which otherwise would have been realized, or equal to two times the dollar value of the excess profit margin, whichever is less, by the end of the third quarter of the fiscal year in which the violation occurred.

While § 300.410 provides a method to determine base prices for custom products or services, any price so determined must not result in a profit margin over that which prevailed during the base period. A portion of either of the remedies provided in § 300.54(e) deals with the possible reduction of prices determined with reference to a price in excess of that price otherwise allowable except for the profit margin limitations. When a base price is determined under § 300.410 such a remedy is not available to the Commission because base price is a "price otherwise allowable" and revenues derived are allowable to the extent they do not result in a profit margin violation since A did not charge a price in excess of the base price, as determined pursuant to § 300.410. The remedies available are those remedies which affect the profit margin of A.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 22, 1972.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16918 Filed 10-3-72;8:51 am]

[Price Commission Ruling 1972-246]

AVOIDANCE OF PROFIT MARGIN LIMITATION; DISCRETIONARY COSTS
Price Commission Ruling

Facts. During the current fiscal year, firm A has increased prices above the base prices in accordance with the Economic Stabilization Regulations. A has now determined that it will probably have a profit margin for the fiscal year which exceeds its base period profit margin. The increase in the profit margin is not directly related to increased prices, but rather to increased productivity and increased sales of other products on which there have been no price increases. To avoid a profit margin violation, A increases certain discretionary costs to the extent that profits are lowered and the base period profit margin is not exceeded. A increased expenditures for advertising and marketing, employee benefits, executive travel and entertainment, charitable contributions, research and development, and consultant fees.

Issue. Does firm A's increases in discretionary costs insure no violation of its profit margin limitation?

Ruling. No. A may have to capitalize rather than expense certain of these costs. Economic Stabilization Regulations, 6 CFR 300.12, 300.13, 300.18, and 300.19 (1972) subject the firms to which they apply to a profit margin limitation. A firm which charges a price in excess of a base price during any fiscal year and during that same fiscal year exceeds its base period profit margin is held to be in violation of its profit margin limitation. Economic Stabilization Regulations, 6 CFR 300.54(b)(1) (1972), Price Commission Ruling 1972-206, 37 F.R. 13192 (1972).

A firm's profit margin is calculated pursuant to the definition of that term in Economic Stabilization Regulations, 6 CFR 300.5 (1972) which requires the use of generally accepted accounting principles and the practices as customarily followed by the firm applied consistently prior to August 14, 1971. Further, only costs of sales and normal and generally recurring costs of business operations are includable as part of the profit margin calculation. To the extent that the increased discretionary costs have a definite and measurable future value, if material, these additional costs must be capitalized and not expensed for Price Commission purposes and their cost amortized over the period benefited in order to maintain a proper ratio of operating income and net sales.

Changes in accounting practice and amounts may be immaterial for financial statement purposes, but material for Price Commission reporting purposes if the profit margin is lowered during the current period as a result of the change or amount. Extraordinary items, however, are determined with the same measure of materiality for basic financial statements and for Price Commission purposes.

Dated: September 22, 1972.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16919 Filed 10-3-72;8:51 am]

[Price Commission Ruling 1972-247]

HOUSING FOR ELDERLY
Price Commission Ruling

Facts. A home for the elderly offers several different combinations of accommodations and diversified services, ranging from purely residential apartments to licensed 24-hour medical services. The combination used determines the price charged. The management would like to raise prices but is not sure which guidelines to use.

Issue. Whether rent or institutional providers of health care regulations apply to homes for the elderly which provide housing and health services?

Ruling. The Economic Stabilization Regulations categorize homes for the elderly into (1) purely residential shelter with no health services; (2) "sheltered care" which includes residents' beds, and health-related services providing continuous general supervision, with only occasional direct personal care; (3) "personal care" which includes all the functions and facilities of "sheltered care" and direct personal care for residents who need regular assistance but who do not need nursing services; (4) nursing care which may include all or part of "personal care" and which furnishes licensed 24-hour, inpatient medical services. Economic Stabilization Regulations, 6 CFR Part 300, Appendix I(d) (1972). Institutions providing purely residential shelter, "sheltered care", or "personal care" are not restricted as institutional providers of health services but are subject to rent regulations. Economic Stabilization Regulations, 6 CFR 301.3(b)(3)(ii) (1972).

Any institution which, solely or in part, operates a licensed 24-hour, inpatient health care facility, skilled nursing home, extended or intermediate care facility is subject to Economic Stabilization Regulations, 6 CFR 300.18 (1972) Part 300, Appendix I(a). Although rates vary according to services used by residents, the availability of licensed 24-hour medical services benefits all residents and, especially for the elderly, increases the worth of that residence. Notwithstanding qualifications of prior Price Commission rulings, an institution that provides licensed 24-hour inpatient medical services to some residents comes within the definition of Part 300, Appendix I(a) and thus is covered by § 300.18 which regulates institutional providers of health services.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 22, 1972.

LEE H. HENKEL, JR.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, JR.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16920 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-248]

CAPITAL IMPROVEMENT INCREASE; 10 PERCENT RULE
Price Commission Ruling

Facts. On February 1, 1972, landlord L makes a certain capital improvement which benefits tenant A's residence. An increase in monthly rent in an amount equal to 1½ percent of the part of the cost of the improvement allocable to A's residence, as authorized by Economic Stabilization Regulations, § 301.101(a)(3), 37 F.R. 13226 (1972), results in a 15 percent increase in A's monthly rent. L wishes to increase A's monthly rent on September 1, 1972, after proper notice, without seeking prior approval from the appropriate District Director of the Internal Revenue Service in accordance with the provisions of § 301.101(a)(3). The capital improvement is not required by local law or by the terms of a mortgage or deed of trust.

Issue. May L increase A's monthly rent by 10 percent without seeking prior approval from the appropriate District Director of the Internal Revenue Service and then seek approval of the remaining 5 percent increase?

Ruling. Section 301.101(a)(3) authorizes an increase in monthly rent for a residence which has been benefited by a capital improvement made after August 15, 1971, by an amount equal to 1½ percent per month of the part of the cost allocable to the residence. However, § 301.101(a)(3) also provides that no rent may be increased by more than 10 percent per month until the entire increase has been approved by the local District Director of the Internal Revenue Service, unless the improvement is required by State or local law, or by the terms of a mortgage or deed of trust in effect before December 29, 1971. Thus, L may not increase A's monthly rent 10 percent and seek approval for the additional 5 percent increase.

However, to avoid the requirement for prior approval, L may increase A's monthly rent under § 301.101(a)(3) by an amount which is less than 1½ percent per month of the part of the cost allocable to A's residence and which results in an increase in A's monthly rent

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by an amount equal to 10 percent or less. Once established, however, the percentage-of-cost increase may not be raised beyond the percent which results in a 10 percent increase in A's monthly rent. For example, if L increases A's monthly rent under § 301.101(a)(3) in an amount equal to 1 percent of the part of the cost of the capital improvement allocable to A's residence and such increase results in a 10 percent increase in A's monthly rent, prior approval for the increase is not required. However, if L subsequently wishes to increase A's monthly rent by a percentage amount which results in a total increase equal to the 1½ percent amount otherwise authorized under § 301.101(a)(3) and seeks approval for the additional percentage increase, § 301.101(a)(3) prohibits the additional increase since prior approval for the entire increase was not obtained.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16921 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-249]

BASE PRICES FOR WARRANTY AND NONWARRANTY SERVICES

Price Commission Ruling

Facts. Company A is an automobile dealer that sells and services automobiles. In its servicing operation, it performs various maintenance and repair operations on automobiles that are under warranty of the manufacturer and also on those that are no longer under warranty. By agreement with the auto manufacturer, A charged the manufacturer at specified rates for warranty work performed from July 16, 1971, through August 14, 1971, that were lower than the rates charged for the same services it performed during the same period on automobiles that were not under warranty.

A is now seeking to renegotiate the rates it will charge the auto manufacturer for services it performs on automobiles under the manufacturer's warranty, and believes that it may increase the rates for warranty service rates without cost justification because those rates are its "base prices" for such services.

Issue. May rates for nonwarranty services during the freeze base period be used to determine the "base prices" for the same services performed on automobiles under warranty?

Ruling. The rates for nonwarranty work may not be used to determine base prices for the same services performed on automobiles under manufacturer's warranty if the rates were not the same during the freeze base period.

Economic Stabilization Regulations, 6 CFR 300.14 (1972), provide that a "service organization" such as A may charge a price in excess of the base price only to reflect increases in allowable costs, and only to the extent that its profit margin is not thereby increased.

The "base price" for the sale of services is "the highest price specified by the seller in contracts with specific class of purchasers in a substantial number of transactions involving that * * * service during the freeze base period." Economic Stabilization Regulations, 6 CFR 300.405 (a) (1972). A "class of purchasers" consists of "purchasers to whom a person has charged a comparable price for comparable * * * service during the freeze base period based on customary price differentials between those purchasers and other purchasers." A "customary price differential" includes a "price distinction based on a discount, allowance, add-on, premium, and an extra" which may in turn be based on a "difference in volume, grade, quality or location or type of purchaser or term or condition of sale or delivery." Economic Stabilization Regulations, 6 CFR 300.5 (1972).

Since the rates A charged to the auto manufacturer for certain services it performed on automobiles subject to warranty during the freeze base period were lower than those it charged to others, nonwarranty customers, and since this distinction was based on the type of customer for whom the services were performed, the base price for those services under the Economic Stabilization Program must be determined separately for each of these "classes of purchasers." Therefore, prices specified in nonwarranty transactions may not be used to establish base prices for the same services performed on automobiles under warranty.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 26, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 26, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16922 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-250]

RENT INCREASE DUE TO ALLOWABLE COST INCREASE

Price Commission Ruling

Facts. City A has the following payable dates for its local property tax. First quarter tax—February 1, second quarter tax—May 1, third quarter tax—August 1, fourth quarter tax—November 1. The final tax bill of the year is mailed out in July and includes an invoice for the tax due on August 1 and November 1. The bill also includes an invoice for the first and second payments of the following year. In practice, the city does not determine the total tax liability for the year until the mailing of the final tax bill. The existence of a year-to-year tax increase is not known until this time.

Issue. Where a final tax bill stating the total liability for the tax year is not mailed until midyear, when may rents be increased to reflect increases in allowable costs and how must the increase be measured and reflected in an increased rent?

Ruling. The rent may not be increased before the fact is established that an increase in taxes for the most recent tax year has occurred. The increase is the difference between the allowable costs which were paid in a 12-month period prior to February 1 and the allowable costs which will be paid in the 12-month period following February 1. Further, the increase attributable to the period between February 1 and August 1, or a later date on which the rent is increased if it was not increased on that date, may be collected during the 12 months following August 1 or that later date.

Economic Stabilization Regulations, 6 CFR 301.101(a)(2) (1972) permits rent to be increased above the base rent to pass through increases in allowable costs which occur after August 15, 1971. To justify an increase in rent under this rule, the first installment or all of "an allowable cost which has been increased" must be payable after August 15, 1971, i.e. be subject to the imposition of interest or penalty if not paid. Section 301.101(a)(2)(i). The words "allowable costs which have been increased" in the context of real estate taxes refers to the taxes which will be paid for a tax year.

In this case, the first installment for each tax year is payable February 1, However, it cannot be determined whether the real estate taxes on any residence have been increased for the tax year until August 1. The general rule is that the rent of a residence may be increased as soon as the first installment of the allowable costs related to that residence reflecting the increase is payable or has been paid whichever is earlier. Section 301.101(a)(2)(iii). However, if the existence of an increase is not certain, the rent of the residence may not be increased before the fact is established that an increase has occurred.

The amount of the allowable cost is computed under § 301.101(a)(2)(ii). The increase is measured by subtracting the allowable costs related to the residence which were charged during the 12-month period immediately prior to the date the first installment reflecting an increase is payable, February 1, from the allowable costs related to the residence which will be charged during the 12-month period beginning on February 1. This amount is divided by 12 to determine the monthly rent increase.

The recovery of an increase in allowable costs attributable to the period after December 28, 1971, which could have been passed through in an increased rent but was not is provided in § 300.101(a)(2)(v). This section states:

If an allowable cost increase has not been reflected in an increased rent, the amount of the increase which may be charged for the period after December 28, 1971, must, if it is to be charged, be prorated over the 12-month period following the expiration of the current lease unless that current lease specifically provides otherwise.

In this case, the rent could have been increased by the allocable amount of the allowable cost increase beginning on February 1 if the existence of that increase had been known at that time. Therefore, the amount of increased rent which could have been charged between February 1 and August 1, or a later date on which the rent was increased if not increased on that date, may now be charged by prorating it over a 12-month period.

This rule prevents a different treatment of a lessor who receives a final tax bill which establishes the existence of an increase at the beginning of a tax year and those who receive such a bill part way through the year.

This ruling has been approved by the General Council of the Price Commission.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16923 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-251]

PRICE—LOW PROFIT RETAILER—LIMITATION

Price Commission Ruling

Facts. Retailer R, a low profit firm and an item pricer, traditionally takes a customary initial percentage markup of 20 percent on product X, and 100 percent on product Y. R sells only X and Y. R realizes that the price increases authorized for low profit firms are subject to the 8 percent limitation of § 300.31 (e). Economic Stabilization Regulations, § 300.31(e), 37 F.R. 19378 (1972).

Issue. What is the maximum markup that R can make on product X and Y under limitation of § 300.31(e)?

Ruling. Section 300.31(e) provides in part that in the course of any of a retailer's fiscal years, a retailer may not increase the price of any of its products under § 300.31 by an amount resulting in an increase of more than 8 percent of the customary initial percentage markup of such product. Economic Stabilization Regulations, § 300.31(e), 37 F.R. 19378 (1972). In other words, the increased price cannot be greater than the price which would result from a percentage markup which is the product of 108 percent multiplied by the CIPM. In the present case, the permitted percentage markup for product X is 21.6 percent (i.e., 108 percent × 20 percent), whereas the permitted percentage markup for product Y is 108 percent (108 percent × 100 percent).

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16924 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-252]

LOW PROFIT FIRMS

Price Commission Ruling

Facts. An automobile dealer meets the requirements of Economic Stabilization Regulation, 6 CFR 300.31 and 300.32 (1972) as far as being in a loss situation. The dealer wishes to increase prices in his service department, which comprises less than 10 percent of his total revenues. The remainder of its revenues comes from retail sales.

Issue. Can the dealer use the low-profit regulations to increase prices in his service department?

Ruling. The automobile dealer can raise prices of his service department pursuant to Regulation § 300.31. Regulation § 300.31(a) defines a "low profit firm" for purposes of this section to mean "any manufacturer, retailer, or wholesaler which, during its most recently ended fiscal year, did not obtain more than 10 percent of its revenues from the providing of services * * *." Regulation § 300.31(i) states that this section does not apply to any service organization.

In determining whether a person can avail himself of the low-profit section, one looks to the predominant activity. The predominant activity of the dealer is a retailer of automobiles. The caveat in Regulation § 300.31(i) only refers to those persons who derive substantial revenue (more than 10 precent) from the providing of services. Since the service revenue is less than 10 percent, the dealer is not prohibited in using this section.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16925 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-253]

DETERMINATION OF ALLOWABLE COST INCREASE

Price Commission Ruling

Facts. Company A is a manufacturer. Since its last price increase on product Y, the following events have occurred:

(1) A State Product Safety Act has been passed which has necessitated an additional quality control person on the production line for product Y. This resulted in a higher labor cost for producing a unit of product Y.

(2) The hourly wage paid to all workers on the production line has increased with the result of further increasing total labor costs.

(3) The price of the raw material used in product Y has increased. To meet the new, more stringent quality control requirements, A has increased the amount of raw material used in each unit of product Y.

(4) The cost of certain supply items used on the production line has increased by 10 percent, but the consumption of these supplies to produce the same output as previously has declined by 5 percent.

Issue. Which of the above events constitute allowable cost increases which would justify an increased price for product Y?

Ruling. All of the above events constitute allowable cost increases. In computing the increase attributable to the supply items, A must take into account the decreased consumption of the items as well as the price increase.

A manufacturer may increase a price to reflect increases in allowable costs that it has incurred and is continuing to incur since the last price increase in the item concerned or that it incurred after January 1, 1971, whichever is later. Economic Stabilization Regulations, 6 CFR 300.12 (1972). The increase in allowable costs referred to in this section is the percentage increase in the allowable cost "per unit of output" in effect for the current period compared with the allowable costs "per unit of output" in effect at the time of the last price increase or on January 1, 1971, if no price increase has occurred. See Part IV, Specific Instructions to Form PC-1, and Price Commission Ruling 1972-13, 37 F.R. 765 (1972). Allowable cost increases may thus result from an increase in the physical amount of either the overhead, direct labor or the material required to produce a particular item, or an increase in the acquisition cost of any of these inputs.

Cost per unit of output must be calculated using both increases and decreases in the cost of the inputs used per unit as well as any increase or decrease in the amount of the input used per unit in the current period compared to that used at the time of the last price change. See Part IV, Specific Instructions to Form PC-1. In the case of the supply items, A's current per unit costs of Y must be determined by taking into

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account the re-reduced consumption of the supply items as well as the increase in the cost of those items.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 26, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 26, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16926 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-254]

PROFIT MARGIN DETERMINATION; INCOME TAX ACCOUNTING

Price Commission Ruling

Facts. The Internal Revenue Service has conducted an income tax audit of Firm X. The service has required the following adjustments to the firm's expense items. To determine the firm's taxable income for the two selected base period fiscal years, $500,000 of repair and maintenance expense was disallowed and required to be capitalized. Fifty-five thousand dollars of bad debts expense and $5,220 of travel and entertainment expense were disallowed. An increase in depreciation expense was allowed.

Issue. Must a firm determine its base period profit margin under Economic Stabilization Regulations, 6 CFR 300.5 (1972) by using all adjustments required by the Internal Revenue Service to determine taxable income?

Ruling. No. The determination of a firm's profit margin, as that term is defined in § 300.5 of the regulations, requires the use of generally accepted accounting principles consistently applied. Income tax accounting may frequently require the use of different principles than those accepted for financial accounting purposes. Therefore, merely because an adjustment is required by the Internal Revenue Service to determine taxable income does not necessarily mean that the base period profit margin must be changed to reflect that adjustment.

If it can be shown in this case that the calculation of items of expense to which the Internal Revenue Service took exception was made by the application of incorrect accounting principles, or that a correct principle was applied incorrectly, or that there was an oversight or misuse of facts in the preparation of the base period financial statements and such errors in the basic financial statements are of the nature and magnitude to require the reissuance of the basic financial statements in accordance with generally accepted accounting principles, then the base period profit margin must be adjusted accordingly. (See Opinion No. 20 of the Accounting Principles Board, Paragraph 13 (1971).) Price Commission Forms PC-50 and PC-51 should also be resubmitted to correct errors in those forms or errors in the reconciliation from published financial statements.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 26, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 26, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16927 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-255]

HEALTH CLUBS AND MASSAGE PARLORS

Price Commission Ruling

Facts. X owns a health club which for a yearly fee allows a customer the use of its exercise facilities. Y owns a massage parlor. A customer for a fee can walk in off the street and receive a massage from a State licensed masseur. Both X and Y want to raise fees to recoup certain cost increases.

Issue. Are either X or Y considered noninstitutional health providers governed by Economic Stabilization Regulation, 6 CFR 300.19 (1972)?

Ruling. The health club and massage parlor are considered service organizations governed by Economic Stabilization Regulation, 6 CFR 300.14 (1972). The health club is basically a recreational facility not a health provider.

Economic Stabilization Regulation, 6 CFR Appendix I, Part b(35) (1972) states that a physiotherapist is considered a noninstitutional provider of health. A physiotherapist is an individual who treats disease or physical defects by massage, gymnastics, etc., rather than by drugs. A masseur cannot be compared with a physiotherapist since the physiotherapist performs a true health service. The masseur performs a limited health function and is not considered a noninstitutional provider of health services. A physiotherapist works usually with a physician's guidance in basic rehabilitation work.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16928 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-256]

RENT ADJUSTMENTS FOR FURNISHING APARTMENTS UNDER RENT REGULATIONS PUBLISHED DECEMBER 30, 1971

Price Commission Ruling

Facts. At a cost of $300, lessor L purchases a new refrigerator which he installs in an unfurnished apartment rented by tenant A for $150 per month.

Tenant B requests a furnished apartment. L places in B's unfurnished apartment furniture and furnishings which he removes from the furnished apartment occupied by tenant C who is renting his apartment for $175 per month.

A new tenant D also requests a furnished apartment. L places in D's apartment furniture and furnishings which he leases from a rental agency at a cost of $15 per month.

Base rent for the apartments occupied by A, B, and D is $150, and by C is $175, as computed under Economic Stabilization Regulations, 6 CFR 301.202(a) (1972).

Issue. To what extent shall rental adjustments be made under the Economic Stabilization Regulations?

Ruling. The purchase and installation of a refrigerator in the apartment occupied by A qualifies as a capital improvement, as defined in Economic Stabilization Regulations, 6 CFR 301.2 (1972), and a rental adjustment pursuant thereto is authorized under the provisions of § 301.103(a). Economic Stabilization Regulations, 6 CFR 301.103(a) (1972). Paragraph (b) of § 301.103 allows an increase in monthly rent up to 1½ percent of the cost of the capital improvement. Thus, L may increase A's monthly rent $4.50 pursuant to the installation of the refrigerator.

By furnishing B's apartment with furniture and furnishings removed from the furnished apartment occupied by C, B's apartment is benefited by a capital improvement, as defined in § 301.2, whose "cost" for purposes of applying the 1½ percent rule for a rental increase under § 301.103(b) is the basis of the property determined under § 1012 of the Internal Revenue Code of 1954, adjusted as provided in section 1016 of the Code. Thus, with respect to the furnishing of B's apartment, L may increase B's monthly rent by an amount not in excess of 1½ percent of the "cost" of the property.

In removing furniture and furnishings from the apartment heretofore occupied by C as a furnished apartment, L has effected a decrease in the quality of substantially the same property or services provided C in the rental of his furnished apartment. A decrease in the quality of substantially the same property or services is a price adjustment, as defined in § 101.2. Economic Stabilization Regulations, 6 CFR 101.2 (1972). Rent means "any price for the use of the residence • • •." Economic Stabilization Regulations, 6 CFR 301.3 (1972). Thus, an unauthorized rent increase over base rent

for the use of C's apartment has occurred with respect to the removal of the furniture and furnishings, and L shall be required to reduce C's rent to reflect the decrease in the quality of the property or services. The measure of the decrease in rent shall be commensurate with the fair market value of the use of the property or quality of the service. In such case, rent shall be reduced by an amount equal to the difference between rent C was charged for the use of a furnished apartment and rent C would have been charged for his apartment had it been rented by L in an unfurnished condition.

Finally, with respect to the rental of D's apartment, the property L leases from a rental agency for use in that apartment does not qualify as property which is subject to an allowance for depreciation under the provisions of section 167 of the Code, since the allowance is available only with respect to property owned by taxpayer. Since it is not subject to an allowance for depreciation, the property leased by L and placed in D's apartment does not constitute a capital improvement for which a rental increase is authorized under § 301.103(a). In furnishing D's apartment, L is providing a service in connection with the use of the residence. Rent is defined to include "• • • any charge • • • for any service in connection with the residence • • •" § 301.3(a). Section 301.102(a) provides in part that a person may charge a monthly rent in excess of base rent only to the extent that the monthly rent does not exceed the sum of the base rent plus 2½ percent of the base rent for the residence with respect to each consecutive 12-month period beginning after December 28, 1971. Economic Stabilization Regulations, 6 CFR 301.102(a)(1) (1972). Since a charge for a service in connection with the residence is part of rent for the use of the residence, a rental increase is subject to the 2½ percent limitation of § 301.102(a)(1). See Price Commission Ruling 1972-212, 37 F.R. 13650 (1972).

Price Commission Ruling 1972-195, 37 F.R. 13115 (1972), is distinguished from the case at hand. There a landlord assumed the costs of providing heat for his tenants who had previously provided their own heat, and it was held that in such case a landlord may increase rent by the amount of direct costs he incurs in providing these services. Providing services heretofore provided by the tenants for themselves, for which the landlord incurs certain costs, constitutes an increase in the quality of substantially the same property or services. Since a decrease in the quality of substantially the same property or services is a price increase, as defined in § 101.2, an increase in the quality of substantially the same property or service must be a price decrease. Rent means "any price for the use of the residence • • •" § 301.3(a). To reflect the rent decrease, the landlord may increase each tenant's monthly rent commensurate with the dollar-for-dollar costs incurred by the landlord in providing the increase in the quality of property or services. However, such a rental decrease occurs only where an increase in the quality of substantially the same property or services occurs. Providing a new service to a tenant is not an increase in the quality of the same property or services. Thus, where the landlord furnishes an apartment previously unfurnished, or hires a security guard where none was provided in the past, and incurs certain costs therefor, an increase in the quality of the same property or services has not occurred. Rather, any charge in providing the new service is part of rent for the use of the residence, and any increase in rent is controlled by the provisions of subpart B.

This ruling is applicable only to rents subject to the regulations published on December 30, 1971, and amendments to those regulations.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 29, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 29, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Departmetn of the Treasury.

[FR Doc.72-16929 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-257]

DELIVERY OF RENT INCREASE NOTIFICATION

Price Commission Ruling

Facts. A landlord wishes to increase a tenant's rent by an amount allowable under Subpart B of Part 301 of the Economic Stabilization Regulations. The landlord mails to the tenant's residence by certified mail a notice of the rent increase 45 days before the increase is to become effective. The contents of the notice comply with the requirements of Economic Stabilization Regulations, § 301.301(c), 37 F.R. 13226 (1972). The tenant refuses to sign for and accept the certified letter.

Issue. Has there been a valid delivery of notification of a rent increase?

Ruling. Yes. Section 301.301(e) relating to delivery of notification states that a signed receipt must be obtained from the tenant or his representative unless the notice is mailed to the tenant's residence. No signed receipt is necessary where the notice is mailed. Where the notice is sent by mail to the tenant's residence, valid delivery occurs at the time the notification reaches the residence. Thus, if the contents of the notice are proper under § 301.301(c) and if the notice is delivered at least 30 days before the rent increase is to become effective, there has been a valid notification where a certified letter is mailed to a tenant, even though the tenant refuses to sign for and accept the letter.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16930 Filed 10-3-72;8:52 am]

[Price Commission Ruling 1972-258]

PRICES; MOVIE EXHIBITORS

Price Commission Ruling

Facts. A movie theater owner E licenses movies from distributors and exhibits them to the public in his movie theater, E realizes that he must determine the base price of his service in order to comply with the requirements of the Economic Stabilization Regulations.

Issue. How does E determine the base price of his exhibition service under the Economic Stabiliaztion Regulations?

Ruling. An exhibitor of motion pictures determines its base price under the provisions of § 300.405(a) of the Economic Stabilization Regulations. Section 300.405(a), 37 F.R. 11473 (1972). An exhibitor may not determine its base price under the new service rules, Economic Stabilization Regulations, 6 CFR 300.409 (1972), merely because it shows a different movie. In addition, movie exhibitors may pass through increases in allowable costs under the provisions of Economic Stabilization Regulations, 6 CFR 300.14 (1972).

An exhibitor of motion pictures is classified as a service organization under The Economic Stabilization Regulations, 6 CFR 300.5 (1972). The base price of a service is determined under the provisions of § 300.405(a) which provides in part as follows:

> The base price with respect to a sale of a unit of • • • services to a specific class of purchasers is the highest price, at or above which, at least 10 percent of those units were priced by the seller in transactions with that class of purchasers during the freeze base period. Economic Stabilization Regulations. Section 300.405(a), 37 F.R. 11472 (1972).

The "freeze base period" is the period beginning on July 16, 1971, and ending on August 14, 1971, or if an exhibitor had no transaction during that period, the nearest 30-day period in which he had a transaction. Economic Stabilization Regulations, 6 CFR 300.5 (1972). "Class of purchasers" means purchasers to who an exhibitor has charged a comparable price for comparable services during the freeze base period pursuant to customary price differentials between those purchasers and other purchasers. Economic Stabilization Regulations, 6 CFR 300.5 (1972). The existence of price differentials which are based on the day of the week (e.g.

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weekends versus weekday) or time of day (e.g. evening versus matinee) of the showing of the motion picture, indicate a different class of purchasers. In addition, in some cases an exhibitor may be able to demonstrate that it had in fact established price differentials for its exhibition service based on the type motion picture during the freeze base period. In these cases, if the exhibitor can demonstrate that the price differentials are consistently and appropriately applied in the sale of its exhibition service after November 13, 1971, the difference in prices may be considered to be based on the base prices of the different classes of purchasers.

In order for a movie exhibitor to determine the base price for its exhibition service under the new products rule, Economic Stabilization Regulations, 6 CFR 300.409 (1972), it must show that the service is substantially different from the previous service in purpose, function, quality or technology or the use of that service must effect a substantially different result. The essence of the service offered by an exhibitor is entertainment in a proper setting for a performance. Even though the show changes, the same service is offered by the theater owner. However, if a movie exhibitor has never shown a picture, or has not shown a picture within a 1-year period, it may determine its base price under § 300.409.

Since exhibitors are classified as service organizations, the provisions of § 300.14 are applicable. Economic Stabilization Regulations, 6 CFR 300.14 (1972). Thus, a movie exhibitor may charge a price in excess of the base price if the increase can be cost justified under § 300.14.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16931 Filed 10-3-72;8:53 am]

[Price Commission Ruling 1972-259]

SEPARATE CLASSES OF PURCHASERS

Price Commission Ruling

Facts. Doctor A, a noninstitutional provider of health services under Economic Stabilization Regulations, 6 CFR 300.19 (1972), bases charges for his services on the method of payment for those services rather than on the actual service performed. Doctor A has one fee schedule for those patients without insurance; a fee schedule for those patients carrying health insurance that covers the actual charges without specifying the amount of coverage for specific services; a fee schedule for those patients that carry insurance that specify the amount of coverage for specific services based on the geographical area; a fee schedule for those patients covered under the State's Workmen's Compensation Act; a fee schedule for those patients covered by Medicare, and a fee schedule for those patients on welfare.

Issue. What are the base prices for Doctor A's services?

Ruling. Doctor A's base prices are the separate fee schedules in effect during the freeze base period, July 16, 1971 to August 14, 1971. Section 300.405(a) states that:

> The base price with respect to a sale of a unit of personal property or services to a specific class of purchaser is the highest price, at or above which, at least 10 percent of those units were priced by the seller in transactions with that class of purchasers during the freeze base period. Economic Stabilization Regulations, § 300.405(a), 37 F.R. 11472 (1972).

Class of purchasers is defined as "purchaser to whom a person has charged a comparable price for comparable property or service during the freeze base period pursuant to customary price differentials between those purchasers and other purchasers." Economic Stabilization Regulations, 6 CFR 300.5 (1972).

Doctor A based his charges on the different methods of payment by his patients. His charges for the same service will vary depending on the method the patient uses for payment. To be sure, some of Doctor A's charges will be comparable and some will be identical, but Doctor A's customary practice of using a separate fee schedule for each kind of payment method establishes each of these groups as a separate class of purchasers for the purpose of determining base prices.

This ruling also applies to institutional providers of health services under § 300.18.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16932 Filed 10-3-72;8:53 am]

[Price Commission Ruling 1972-260]

PROFIT MARGIN LIMITATION

Price Commission Ruling

Facts. Company A is a prenotification firm which engages in coal mining operations in State B. The legislature of State B recently provided for an increase in the State's severance tax collected from coal mining and other extractive operations and levied on the value of the coal or other resource extracted within the State's boundaries. A has not previously increased prices above base prices but will now increase its price of coal to pass on this tax dollar-for-dollar.

Issue. Is a manufacturer which increases prices dollar-for-dollar to recover an increase in allowable costs subject to the profit margin limitation in Economic Stabilization Regulations 6 CFR 300.12 (1972)?

Ruling. Yes. Any manufacturer which charges a price in excess of its base price for any item to recover any amount of allowable costs is subject to the profit margin limitation.

A manufacturer may charge a price in excess of the base price only to reflect allowable cost increases and only to the extent that the price charged does not result in an increase in its profit margin over that which prevailed during the base period. Section 300.12. Generally, an increase in taxes other than income taxes is an increase in allowable costs for the purpose of justifying a price increase. Price Commission Ruling 1972-127, 37 F.R. 7351 (1972). If the proposed price increase in this case is made, it will reflect an increase in allowable costs even though the increase is only a dollar-for-dollar passthrough of those costs and not the maximum percentage increase allowed under Price Commission Ruling 1972-13, 37 F.R. 765 (1972). Therefore, if A charges the price in excess of the base price to recover the increased severance tax, it becomes subject to the profit margin limitation of § 300.12.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: September 27, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 27, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16934 Filed 10-3-72;8:53 am]

[Cost of Living Council Ruling 1972-117]

SMALL BUSINESS EXEMPTION, PARTNER-EMPLOYEES

Cost of Living Council Ruling

Facts. X partnership is a small Wall Street brokerage firm that deals in listed and over-the-counter securities. X in its most recent fiscal year had sales of less than $50 million. X has five general partners who manage the day-to-day affairs of the partnership and 160 special partners who take no active part in the business. X also employs 10 security salesmen who work on commission and 47 salaried employees who do the clerical functions. This is the employment level maintained from June 1, 1971, to date.

Issue. Is this partnership exempted by Economic Stabilization Regulation, 6 CFR 101.51 (1972)?

Ruling. X partnership is exempted by Regulation § 101.51. Regulation § 101.51 (a)(1) provides, * * * price and pay adjustments of any firm, existing on or before December 31, 1971, including a local government, with an average of 60 or fewer employees * * * are exempt from and not included in the coverage of this title.

The partnership has 57 employees as determined by the definition of employee in the Federal Insurance Contributions Act, 26 U.S.C. 3121d (1972), which is the basis for the definition of employee in Regulation § 101.51(d)(1), 37 F.R. 16502 (1972). The salesmen and clerical personnel are considered employees by this section since a common law employer-employee relationship exists. Since X has maintained a steady employment average from June 1971, to date, the average number of employees as determined by Regulation § 101.51(a)(3) is 57.

Partners, whether general or special partners, are not considered employees. They are not subject to the Federal Insurance Contributions Act. A partner is an owner just as a shareholder is an owner. Partners share in profit and losses, they receive no salary. Blacks Law Dictionary 4th Ed. Thus, partners shall not be considered as employees and would not enter into the calculation of the average number of employees in Regulation § 101.51(a)(3).

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel
Department of the Treasury.

[FR Doc.72-16911 Filed 10-3-72;8:51 am]

[Pay Board Ruling 1972-67]

PIECE-RATE COMPENSATION

Pay Board Ruling

Facts. X is a nonunion contractor engaged in the erection of drywall for residential, commercial, and industrial buildings. X pays his employees solely on a piece-rate basis and pays no fringe benefits or other compensation. Prior to the freeze, he paid his drywall installers (residential and commercial) 1.55 per piece and his drywall finishers (tapers, sanders, point-up men) 0.55 per piece for a one-story detached home with uniform 8' ceiling and a nail-on application. He also had different rates in effect prior to the freeze for more difficult hanging such as that required for multiple story residential construction, townhouses, high-rise apartments, cathedral ceilings, metal stud installations, etc. X wishes to grant an increase to his drywall installers and drywall finishers, but due to the diverse fluctuations in the labor force, the seasonal nature of the industry, and the effect of weather conditions on the piece rate, it is impossible to convert the piece rate to a straight-time hourly rate.

Issue. May X grant a 5.5 percent increase based on the piece rate in existence during the base period, where it is virtually impossible to convert the piece rate to a straight-time hourly rate?

Ruling. Yes, the piece-rate system that X uses to pay his employees is a type of production incentive plan under Economic Stabilization Regulations, 6 CFR 201.77 (1972). Pursuant to that section, any increase in the amount of compensation to the members of an appropriate unit which is due to a change in the method of calculating the earnings of any employee is considered to be an increase in the wages and salaries for the appropriate control year.

The facts of the case demonstrate that it is not possible to compute the increases on a straight-time hourly rate due to the particular nature of the industry. The proper method of computing the allowable piece rate in the first control year, therefore, is to take the piece rate in effect on the base date and add to it the product of the general wage and salary standard, or any applicable exceptions, and such piece rate.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16912 Filed 10-3-72;8:51 am]

[Pay Board Ruling 1972-68]

WAGE INCREASES LESS THAN THE ALLOWABLE STANDARD

Pay Board Ruling

Facts. A operates a small manufacturing firm whose employees are seeking a 5.5 percent wage increase. Because of a decline in business during the past year, however, A can only afford to pay an increase of 2 percent. The employees agree to accept 2 percent but ask that the difference of 3.5 percent be carried forward and added to the permissible standard for wage and salary increases during the next control year. Assuming that the general wage and salary standard remains at 5.5 percent, would the maximum permissible increase for the next control year then be 9 percent?

Issue. If a wage increase during 1 control year is less than the maximum allowable increase, can the difference between the two be carried over and added to the allowable increase for a subsequent control year?

Ruling. No. The general wage and salary standard of 5.5 percent is the "maximum permissible annual aggregate wage and salary increase" for any given control year. Economic Stabilization Regulations, 6 CFR 201.10 (1972). The only exceptions to this limitation are set forth in § 201.11 of the regulations.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16913 Filed 10-3-72;8:51 am]

[Pay Board Ruling 1972-69]

SUBSEQUENT WAGE DETERMINATIONS PURSUANT TO PREEXISTENT AUTHORITY TO INCREASE WAGES

Pay Board Ruling

Facts. The salary schedule for probation officers in State X, established by State statute, provides salaries for six officers which exceed the present salary of their superior, the Commissioner of Probation. Moreover, 37 other officers receive salaries which exceed the salaries of the Deputy Commissioners. Pursuant to State statute, the Y Committee on Probation has the power to remedy this inequity by increasing within certain specified limits the salaries of the Commissioner and Deputy Commissioners. The legislation providing the Y Committee with such power was enacted on September 1, 1970. In February of 1972, the Y Committee formally voted to correct the inequity by increasing the salaries of the Commissioner and Deputy Commissioners.

Issue. Does the State statute from which the Y Committee derives its authority to increase the salaries of the Commissioner and Deputy Commissioner constitute a "pay practice previously set forth" which existed prior to November 14, 1971, within the meaning of Economic Stabilization Regulations, 6 CFR 201.14 (1972)?

Ruling. No. Section 201.14(a) of the regulations provides in part that "employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms". Section 201.14(b) provides in part that "a pay practice shall be previously set forth only if it can be documented that prior to November 14, 1971, an adjustment to wages and salaries was decided finally and formally in accordance with established procedure". Since the specific pay increases were not determined by the State statute but by the vote of the Y Committee, which did not occur until February 1972, there was no "pay practice previously set forth" prior to November 14, 1971.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: September 22, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: September 22, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-16914 Filed 10-3-72;8:51 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[26 CFR Part 201]

DISTILLED SPIRITS PLANTS

Package Identification, Records and Reports

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Acting Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Acting Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] REX D. DAVIS,
Acting Director, Bureau of Alcohol, Tobacco and Firearms.

Approved: September 27, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary.

NOTE: The Treasury decision to be issued pursuant to this notice will contain the necessary changes in titles and offices resulting from the establishment of the Bureau of Alcohol, Tobacco and Firearms as a separate agency under the Department of the Treasury.

In order to (1) prescribe a new identification system for packages of distilled spirits and provide for an adjustment of current package inventories to accommodate the changeover to the new system; (2) liberalize requirements for determination of production gage of packages of spirits; (3) simplify and reduce the amount of required information to be shown on packages of distilled spirits and liberalize requirements concerning additional information which may be so shown; (4) change the requirements for determining the quantity of spirits which may be weighed in a tank; (5) provide for greater use of mechanical and electronic equipment for maintenance and preservation of records; (6) liberalize record and report requirements for distilled spirits production and storage operations by reducing the number of required reports, consolidating the functions of required transaction forms, and utilizing, to a greater degree, information on proprietors' commercial records; (7) eliminate certain daily reports to the assigned officer; and (8) make editorial, conforming, and clarifying changes, the regulations in 26 CFR Part 201 are amended as follows:

PARAGRAPH 1. Section 201.11 is amended by adding, in alphabetical order, a definition of "Lot identification" and a definition of "Package identification number". As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

* * * * *

Lot identification. The lot identification described in § 201.513a.

* * * * *

Package identification number. The package identification number described in § 201.513a.

* * * * *

PAR. 2. Section 201.88 is amended to provide that, on request of an internal revenue officer, the proprietor shall furnish the location of, and the number of packages within, any particular lot of packages and to make an editorial change. As amended, § 201.88 reads as follows:

§ 201.88 Storage rooms or buildings.

Storage rooms or buildings provided on bonded premises for the storage of spirits in packages, cases, or similar portable approved containers shall be in the joint custody of the assigned officer and the proprietor, shall be locked with Government locks, and shall not be unlocked or remain unlocked except when such officer is on the plant premises or the premises of an adjacent bonded wine cellar. Deposits of spirits in, or removals of spirits from, such rooms or buildings in such portable containers shall be under direct supervision of assigned officers. The proprietor shall, on request of an internal revenue officer, furnish the exact locations (including the number of containers at each location) of all packages and similar portable approved containers within a given lot, and the exact location of each case stored on the bonded premises.

(72 Stat. 1357; 26 U.S.C. 5202)

PAR. 3. Paragraph (a) of § 201.95 is amended to (1) make it clear that the proviso which permits the proof of spirits to be packaged in porous wooden packages to be adjusted to within two-tenths of a whole degree applies only to packages which are so filled for storage in the warehouse and (2) to make an editorial change. As amended, paragraph (a) reads as follows:

§ 201.95 Adjustment of proof.

(a) *Packages in bond.* The proof of spirits in bond (except anhydrous spirits and spirits which are less than 100° of proof) which are to be filled into packages, including consolidated packages, shall be adjusted to any desired whole degree prior to such packaging: *Provided,* That when the spirits are to be packaged in porous wooden packages for storage, the proof may be adjusted to within two-tenths of a whole degree. The proof of spirits to be withdrawn after tax determination on the basis of individual package gage shall be determined to the nearest tenth and rounded to a whole degree in accordance with the provisions of Part 186 of this chapter.

* * * * *

PAR. 4. Paragraph (a) of § 201.243 is amended to provide that tanks in the storage facilities of a bonded warehouse which are not mounted on scales may not be used for filling packages unless such tanks are covered by a certificate of approval. As amended, paragraph (a) of § 201.243 reads as follows:

§ 201.243 Tanks.

(a) *General.* All tanks used as receptacles for spirits (including denatured spirits) or wines shall be located, constructed, and equipped so as to be suitable for the intended purpose and to permit ready examination. An accurate means of measuring the contents of each such tank shall be provided by the proprietor; in any case where such means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device which will enable the approximate contents to be determined readily. Tanks used for determining the tax imposed by section 5001, IRC, shall be mounted on scales; and in addition thereto shall be provided with another suitable device for quickly and accurately determining the contents. The proprietor shall install walkways, landings, and stairways to afford safe access to all parts of tanks where the presence of an internal revenue officer is required. Tanks may be equipped with vents, flame arresters, foam devices, or other safety devices, if the construction is such to prevent extraction of the spirits. The proprietor shall be responsible for accurate calibration of all tanks. Receiving tanks which are a part of the production facilities, tanks in the storage facilities from which packages are to be filled, in the manner provided in subparagraph (2) or (3) of paragraph (c) of § 201.269 as authorized by § 201.294, and bottling tanks shall not be used until a certificate of approval, Form 244, has been attached thereto. Pursuant to tax determination, spirits in a tank may be removed from bonded premises, and received on bottling premises, in the tank in which they are contained, if (1) the bonded premises are alternated to bottling premises in the manner provided in § 201.175, (2) the tank and/or all necessary connections thereto are locked or sealed in such manner as to prevent the mingling of spirits in bond with tax determined spirits, (3) the tank is properly redesignated, and (4) the structural separation of bonded and bottling premises required by § 201.231 is maintained.

* * * * *

PAR. 5. Section 201.247 is amended to change requirements for the minimum quantities of spirits which may be weighed in a tank. As amended, § 201.247 reads as follows:

§ 201.247 Beams or dials of scales.

Beams or dials of scales used to weigh packages of spirits (including denatured spirits) must indicate weight in half-pound graduations: *Provided,* That scales used to weigh packages or cases designed to hold 10 wine gallons or less shall indicate weight in ounces or in hundredths of a pound. Beams or dials of tank scales used to weigh spirits (including denatured spirits) must have minimum graduations not greater than the following:

Quantity to be weighed:	*Minimum graduation*
Not exceeding 2,000 pounds	½ pound.
Between 2,000 and 6,000 pounds	1 pound.
Between 6,000 and 20,000 pounds	2 pounds.
Between 20,000 and 50,000 pounds	5 pounds.
Over 50,000 pounds	10 pounds.

Except in the case of scales having a capacity of 2,000 pounds or less, the minimum quantity which may be entered onto the weighing tank scale for gaging for tax determination shall be the greater of (a) 1,000 times the minimum graduation of the scale or (b) 5 percent of the total capacity of the weighing tank scale: *Provided,* That the weighing of lesser quantities for determination of tax may be authorized by the assistant regional commissioner where the beam of the scale is calibrated in ½ pound or 1 pound graduations and it is found by actual test that the scales break accurately at each graduation: *Provided further,* That lots of spirits weighing 1,000 pounds or less shall be weighed on scales having ½ pound graduations.

(72 Stat. 1320, 1358, 1391, 1395; 26 U.S.C. 5006, 5024, 5505, 5552)

PAR. 6. Section 201.269 is amended in its entirety. As amended, § 201.269 reads as follows:

§ 201.269 Production gage.

(a) *General.* All spirits shall be gaged (by measuring and proofing) within a reasonable time after production is completed. Except as otherwise specifically provided in this section, quantities may be determined by volume or by weight, or, when approved by the Director, by meter or other device or by other method which accurately determines the quantities. If caramel is added to brandy or rum, the proof of the spirits shall be determined after such addition. Spirits in a tank shall be gaged before and after each removal of spirits therefrom. Such gages shall be recorded by the proprietor in the records required by § 201.619.

(b) *Tax to be determined on production gage.* Tax may be determined on the basis of the production gage if:

(1) Spirits are filled by weight into wooden packages for immediate withdrawal from the production facilities, and the gage is made by an internal revenue officer;

(2) Spirits are weighed into bulk conveyances, and the gage is made by an internal revenue officer; or

(3) Spirits are uniformly filled by weight into metal packages, and the gage is made by the proprietor.

Production and deposit forms shall be marked "Withdraw on Original Gage."

(c) *Tax not to be determined on production gage.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and such containers are filled to capacity, and the tax is not to be determined on the basis of the production gage, such gage may be made by:

(1) Weighing in a tank, converting the weight into proof gallons, and determining therefrom the average content of each container; or

(2) Measuring volumetrically, on approval by the assistant regional commissioner, in a calibrated tank, converting the wine gallons so determined into proof gallons, and determining therefrom the average content of each container: *Provided,* That the assistant regional commissioner may require the use of such meters or other measuring devices as he may deem necessary; or

(3) Converting the rated capacity into proof gallons to determine the average content of each container; or

(4) Determining by such device or method as may be approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container.

Proprietors who make production gauges for containers by any of the methods prescribed in this paragraph may record the weight of such containers for commercial purposes. The proprietor shall advise the assigned officer of the rated capacities of the packages. The rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer. Proprietors may assign rated capacities to used packages if they have made a physical determination of the actual capacities of a representative number of such packages, or may use the manufacturer's original ratings, if known, and if there is no evidence that a significant change in the capacities of previously rated packages has occurred. If the assigned officer finds a significant variation between the assigned rated capacity and the actual capacity of a representative number of wooden packages, he shall not permit the proprietor to use the production method provided in subparagraph (3) of paragraph (c) of this section until the proprietor establishes and assigns a proper rated capacity to the cooperage in question. Any remnant container shall be gaged by weight, and marked as prescribed in Subpart P of this part.

(d) *Making of production gage*—(1) *By assigned officer.* The production gage shall be made by the assigned officer when spirits are to be withdrawn in approved containers other than metal packages from the production facilities on determination of tax, or when, pursuant to the proprietor's request to the assigned officer, spirits are to be withdrawn into bulk conveyances for withdrawal at a later date on determination of tax on the basis of the production gage.

(2) *By proprietor.* All production gages, other than those made under subparagraph (1) of this paragraph, shall be made by the proprietor under the direct supervision of the assigned officer: *Provided,* That when the production gage is made by the proprietor by means of meters or devices (comparable in accuracy and security to meters), approved by the Director, which enable the assigned officer to verify the accuracy of the gage, such gage shall be made under such supervision and in such manner as the Director may require.

(e) *Reports of production gage.* In computing the production gage on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons beyond the first decimal shall be dropped if less than 0.05 or added as 0.1 if 0.05 or more, and the average content so determined shall be used in computing the quantity produced. A separate Form 2629 shall be prepared for each lot of packages filled (see § 201.513a(b)) and for each removal by pipeline or bulk conveyance for deposit in storage facilities on the same plant premises. If spirits are to be denatured, transferred in bond, or withdrawn from bond, as authorized by this part, the report of production gage shall be made on the form required by this part to cover the transaction (accompanied by Form 2630 in the case of packages gaged for tax determination by the assigned officer). Each transaction form and Form 2630, if any, shall show:

(1) The real name (or basic operating name as provided in § 201.235) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual tax gallons in the container.

(72 Stat. 1357, 1358, 1362; 26 U.S.C. 5202, 5204, 5211)

PAR. 7. Section 201.271 is amended to delete the requirement that Form 2630, covering packages filled, accompany Form 2629. As amended, § 201.271 reads as follows:

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§ 201.271 Entry.

Pursuant to the production gage, the proprietor shall make appropriate entry for (a) deposit of the spirits in storage on bonded premises, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, (e) transfer of the spirits for redistillation, or (f) immediate denaturation of the spirits. Entry for deposit in storage on the same plant premises shall be made on Form 2629. When spirits are entered for deposit in storage on another plant premises or are entered for withdrawal or redistillation, the provisions of Subpart L of this part shall be followed, and when spirits are entered for immediate denaturation, the provisions of Subpart M of this part shall be followed. The date of original entry is the date of production gage.

(72 Stat. 1362; 26 U.S.C. 5211)

PAR. 8. Paragraph (b) of § 201.291 is amended to delete the requirement for preparation of Form 2629 covering the transfer of spirits of less than 190° of proof between tanks and to provide a new requirement that Form 2323 (Form 1685 in the case of blended rums and brandies) be prepared to cover each tank in which spirits of less than 190° of proof are stored. As amended, paragraph (b) of § 201.291 reads as follows:

§ 201.291 Receipt and storage of spirits.

* * * * *

(b) *Tanks.* If spirits (including denatured spirits) are being deposited in a partially filled tank in the storage facilities on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of spirits both into and out of the tank is being measured by meters or other devices approved by the Director which permits a determination of the quantity being deposited and the quantity being removed. Proprietors shall prepare Form 2323 (1685 in the case of blended rums and brandies) in accordance with the instructions on the form, for each tank in which spirits of less than 190° of proof are stored. A separate Form 2323 (or 1685) shall be prepared in respect of each such tank for each deposit therein showing, as applicable, details respecting the spirits in the tank prior to the deposit, and the details respecting the spirits being deposited.

* * * * *

(72 Stat. 1356, 1357, 1362, 1366, 1398, 82 Stat. 1328; 26 U.S.C. 5201, 5202, 5211, 5212, 5231, 5601, 5232)

PAR. 9. Section 201.292 is amended to require that notation as to addition of oak chips prior to gage for withdrawal from bonded premises be made on transfer forms. As amended, § 201.292 reads as follows:

§ 201.292 Quick-aging of spirits, addition of oak chips to spirits, and addition of caramel to brandy and rum.

Spirits may be quick-aged by heating during storage on approval by the assistant regional commissioner of the proprietor's written description (in triplicate) of the process to be used. Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling; if added prior to gage for withdrawal from bonded premises notation shall be made on the deposit form and, if transferred, on the transfer form. Caramel possessing no material sweetening properties may be added to rum or commercial brandy in packages or tanks. All such operations in storage facilities on bonded premises shall be pursuant to an application (in duplicate) to, and under the direct supervision of, the assigned officer.

(72 Stat. 1328, as amended, 1356, 1357; 26 U.S.C. 5025, 5201, 5202)

PAR. 10. Section 201.294 is amended to (1) require the proprietor to record tank gages involved in filling packages, and (2) make conforming and editorial changes. As amended, § 201.294 reads as follows:

§ 201.294 Filling of packages from tanks.

Spirits (including denatured spirits) may be drawn into packages from tanks in the storage facilities on bonded premises. The spirits in the tank shall be gaged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the spirits remaining in the tank shall be again gaged and such gages shall be recorded by the proprietor in the records required by § 201.622. The provisions of § 201.269 regarding the filling of packages, the taking of production gage of packages, and the preparation of gage reports shall be applicable to the filling and gaging of packages of spirits under this section. Except in the case of spirits of 190° or more of proof, the gage report shall be noted to show the date of original entry for deposit.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

PAR. 11. Section 201.295 is amended to (1) delete the requirement for showing tare and gross weight on each new package on the deposit record and (2) make an editorial change. As amended, § 201.295 reads as follows:

§ 201.295 Change of packages.

Denatured spirits on bonded premises may be transferred to another package without prior approval by the assigned officer. Spirits in the storage facilities on bonded premises may be transferred from one package to another on written application (in duplicate) to, and approval of, the assigned officer. Except in the case of spirits of 190° or more of proof, each new package shall contain spirits from only one package. Packages shall be marked and branded as provided in Subpart P of this part. The proprietor shall note the record covering the deposit of the spirits in bond to show the tax gallons contained in each new package and shall furnish the assigned officer a report, in writing, of each package change and the new elements of gage. The provisions of this section do not apply when spirits are packaged subsequent to mingling.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

PAR. 12. Section 201.297 is amended to make clarifying and editorial changes. As amended, § 201.297 reads as follows:

§ 201.297 Mingling of homogeneous spirits.

Spirits which are homogeneous may be mingled on bonded premises for immediate withdrawal or for further storage in bond in tanks or packages. Spirits distilled at less than 190° of proof are presumed to be homogeneous if—

(a) They were produced,

(1) From the same class of materials,

(2) At approximately the same proof, and

(3) By the same proprietor (under his own or any trade name) at the same distillery, and

(b) In the case of spirits which have been stored in wooden packages so as to be in contact with the wood, they were stored in the same kind of cooperage under approximately the same conditions, and they differ in periods of such storage,

(1) Not more than 18 months in the case of spirits so stored in bond more than 8 years,

(2) Not more than 12 months in the case of spirits so stored in bond more than 4 years and not more than 8 years,

(3) Not more than 6 months in the case of spirits so stored in bond more than 2 years and not more than 4 years,

(4) Not more than 60 days in the case of spirits so stored in bond more than 1 year and not more than 2 years, or

(5) Not more than 30 days in the case of spirits so stored in bond not more than 1 year; and

(c) They do not differ in kind under the standards of identity prescribed in 27 CFR Part 5. The age of the youngest lot of spirits to be included in any mixture mingled under this section will determine the permissible variation in periods of storage. Spirits mingled under this section consisting of different distilling seasons and years may not be bottled in bond; mingled spirits which were originally produced and warehoused under different names may not be bottled in bond unless the name on the packages of such mingled spirits is the producer's real name; and mingled spirits which have been stored in tanks may not be bottled in bond unless the season of first mingling and of bottling are identical. If the mingled spirits are to be packaged, such packaging shall be conducted under the provisions of § 201.294; if so desired, the spirits may be returned to the packages from which they were dumped for mingling, or as many of such packages as are necessary.

(72 Stat. 1328, as amended 1367, as amended; 26 U.S.C. 5025, 5234)

PAR. 13. Section 201.300 is amended to require that transfer forms covering spirits transferred to another plant for redistillation be so noted. As amended, § 201.300 reads as follows:

§ 201.300 Mingling for redistillation.

Spirits (including denatured spirits) may be mingled on bonded premises for immediate redistillation at the same plant or at another plant in accordance with the provisions of §§ 201.272 and 201.273. If such spirits are to be redistilled at another plant the transfer form shall show that the spirits are for redistillation.

(72 Stat. 1328, as amended, 1367, as amended; 26 U.S.C. 5025, 5234)

PAR. 14. Section 201.302 is amended to (1) exempt certain spirits dumped for immediate removal from its provisions, (2) delete the requirement that the proprietor submit a list of the serial numbers of packages to be dumped, (3) provide that Form 2629 be used to reflect the mingling and repackaging of 190 proof spirits, and (4) make conforming changes. As amended, § 201.302 reads as follows:

§ 201.302 Mingling packages of spirits.

Before dumping packages of spirits on bonded premises for mingling (except heterogeneous spirits covered in § 201.298, other spirits dumped for immediate removal to bottling premises, and spirits of 190° or more of proof) the proprietor shall prepare Form 2323, in triplicate, in accordance with the instructions on the form and, before mingling, deliver one copy to the assigned officer. When packages of spirits of 190° or more of proof are to be mingled, the proprietor shall notify the assigned officer and shall prepare Form 2629 to reflect the dumping of the packages for mingling and, when applicable, the repackaging, of the spirits. Each package of spirits to be mingled under this subpart shall be carefully examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such package shall not be dumped until released by the assigned officer. On completion of mingling of spirits other than heterogeneous spirits, other spirits dumped for immediate removal to bottling premises, and spirits of 190° or more of proof, the proprietor shall record the mingling gage on the Form 2323. Each disposition from the tank shall be recorded on the form as it occurs. When final disposition of the spirits is made (or when a new Form 2323 is prepared because of an additional mingling of spirits in the tank) the proprietor shall complete the original and the copy of Form 2323, deliver the original to the assigned officer, and retain the copy for his files.

(72 Stat. 1367, as amended; 26 U.S.C. 5234)

PAR. 15. Section 201.303 is amended to provide for updating the records covering mingled spirits and to make clarifying and editorial changes. As amended, § 201.303 reads as follows:

§ 201.303 Determining date of original entry.

When spirits are mingled in accordance with the provisions of § 201.301, the date of original entry for the entire lot shall be the date of original entry of the youngest spirits that were mingled. When packages of spirits are mingled as provided in § 201.297 or are blended as provided in § 201.307, the date of original entry for the entire lot shall be the date of original entry of the oldest spirits that were mingled; however, the appropriate transaction forms shall show the dates of both the oldest and the youngest spirits in the lot: *Provided*, That, when spirits so mingled are held in a tank, the proprietor shall, at least once each calendar year, reexamine the records of deposits and withdrawals for the tank for the purpose of updating, on a first-in, first-out basis, the date of the oldest spirits.

(72 Stat. 1320, 1367, as amended; 26 U.S.C. 5006, 5234)

PAR. 16. Section 201.304 is amended to limit its application to spirits of less than 190° of proof and to make clarifying changes. As amended, § 201.304 reads as follows:

§ 201.304 Mingled spirits held in tanks.

When spirits of less than 190° of proof are mingled in a tank in the storage facilities on bonded premises for storage therein the proprietor shall gage the spirits in the tank under the direct supervision of an assigned officer and record the mingling gage on Form 2323. Mingled spirits in tanks may be drawn into packages in accordance with § 201.294, or may be transferred in bond or withdrawn from bond in accordance with this subpart and Subpart L of this part. The date of original entry for spirits of less than 190° of proof shall be noted on the deposit forms. Eligible spirits may be added to mingled spirits already on deposit in a tank on such premises.

(72 Stat. 1367, as amended; 26 U.S.C. 5234).

PAR. 17. Section 201.305 is amended to modify the requirements for showing date of original entry of spirits after mingling, on transfer and withdrawal forms. As amended, § 201.305 reads as follows:

§ 201.305 Withdrawal or transfer in bond of mingled spirits.

Spirits mingled under the provisions of §§ 201.296, 201.297, and 201.301 may be transferred in bond, or withdrawn from bond for any purpose for which the spirits could have been withdrawn before mingling. Transfer and withdrawal forms, except as to spirits mingled under § 201.296, shall be noted to show the date of original entry for the spirits after mingling, determined as provided in § 201.303, and, where spirits have been stored in wooden packages and then mingled under § 201.297, the forms shall also be noted to show the earliest date of mingling.

(72 Stat. 1362, 1367, as amended; 26 U.S.C. 5212, 5234)

PAR. 18. Section 201.307 is amended to (1) deleted the requirement that proprietors furnish a list of serial numbers of packages of rums and brandies to the assigned officer prior to blending and (2) make editorial and conforming changes. As amended, § 201.307 reads as follows:

§ 201.307 Permissible blending.

Fruit brandies distilled from the same kind of fruit at not more than 170° of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any mixture or blend of such fruit brandies on bonded premises. Rums may, for the sole purpose of perfecting them according to commercial standards, be mixed or blended with each other, or with any mixture or blend of rums on bonded premises. Before blending such rums or brandies, the proprietor shall give notice on Form 1685, in triplicate, in accordance with the instructions on the form and deliver one copy to the assigned officer. Brandies or rums mixed or blended in accordance with this subpart may be packaged, stored, transported, transferred in bond, withdrawn free of tax withdrawn without payment of tax, withdrawn on payment or determination of tax, or be otherwise disposed of, in the same manner as brandies or rums not mixed or blended. If brandy or rum has been mixed or blended in accordance with this subpart, the transaction form shall show such fact and whether the brandy or rum is subject to tax imposed by section 5023, I.R.C.

(72 Stat. 1367, as amended; 26 U.S.C. 5234)

PAR. 19. Section 201.308 is amended in its entirety. As amended, § 201.308 reads as follows:

§ 201.308 Blending procedure.

After giving notice on Form 1685, the proprietor shall dump the brandy or rum to be blended, and record the blending gage on the form. When the blended brandy or rum is to be packaged, such packaging shall be conducted under the provisions of § 201.294; if so desired, the brandy or rum may be returned to the packages from which it was dumped for blending, or as many of such packages as are necessary. Each disposition from the tank shall be recorded on the form as it occurs. When final disposition of the brandy or rum is made, the proprietor shall complete Form 1685, deliver the original to the assigned officer, and retain the remaining copy for his files.

(72 Stat. 1367, as amended; 26 U.S.C. 5234).

PAR. 20. Section 201.311 is amended to (1) delete the requirement for a separate record of each container sustaining a loss in bond and insert in lieu thereof provisions for recording information regarding loss and taxpayment on deposit and transfer forms, and (2) make a conforming change. As amended, § 201.311 reads as follows:

§ 201.311 Losses in bond.

Where a container of spirits (including denatured spirits) in bond sustains a loss in excess of normal storage or transit losses or as a result of theft or unauthorized voluntary destruction, the loss shall be determined at the time of discovery. When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss or indica-

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tion thereof shall be reported promptly by the proprietor to the assigned officer. Proprietors shall record on deposit and transfer forms for each container sustaining such a loss the container identification number, the quantity lost, and the apparent cause of the loss. If the proprietor pays the tax as provided in § 201.310, the release number and the date of the related Form 179 shall be recorded on the deposit record. Unusual losses from obvious cause other than theft or unauthorized voluntary destruction occurring or discovered at the time of withdrawal from bond or transfer in bond shall be noted on the appropriate withdrawal or transfer form in the manner prescribed above. When a loss appears to be due to theft or unauthorized voluntary destruction, the assigned officer shall place a detainer on the container unless the loss is determined at the time of a gage for withdrawal from bond and the proprietor acknowledges liability and elects to pay the tax on such loss. Where it is found that the contents of a container have been tampered with, or where a material deficiency is found without evidence of loss by leakage or casualty, or where deterioration in proof not accountable by variation in gage is disclosed, the assigned officer shall detain the package. In any case in which spirits (including denatured spirits) are lost or destroyed in bond, whether by theft or otherwise, the assistant regional commissioner may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with the applicable provisions of Subpart C of this part. Losses of spirits (including denatured spirits) sustained from the tanks and bulk conveyances in bonded warehouses shall be determined by the proprietor each time a tank or bulk conveyance is emptied and on the basis of a physical inventory at the close of each month. When the quantity lost from all the storage tanks and bulk conveyances in bonded warehouses exceeds 1 percent of the total quantity contained in the tanks and bulk conveyances during the month, or where any loss from storage tanks or bulk conveyances is due to illegal withdrawal, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of § 201.43 and is allowed by the assistant regional commissioner. If at any time any package recorded as deposited in the bonded warehouse cannot be located or otherwise lawfully accounted for, such fact shall be immediately reported to the assigned officer and a claim with respect thereto shall be filed under the provisions of § 201.43.

(72 Stat. 1323, as amended, 1375; 26 U.S.C. 5008, 5311)

PAR. 21. Section 201.312a is amended to (1) delete references to Forms 179, 236, and 2630 and insert in lieu thereof the term, "transaction forms" and (2) add a reference to § 251.173. As amended, § 201.312a reads as follows:

§ 201.312a Transfers and withdrawals of imported spirits.

Imported spirits transferred to internal revenue bond under section 5232, I.R.C., may, under the provisions of Subpart L of this part, be transferred in bond or withdrawn from bond for any purpose authorized by chapter 51, I.R.C., in the same manner as domestic distilled spirits. The rates of duty specified by the customs officer at the time of release from customs custody shall be shown on transaction forms, which shall also be marked with the designation "Imported" (see § 251.173 of this chapter).

PAR. 22. Section 201.312b is amended to (1) prescribe revised requirements for markings on containers of imported spirits, and (2) make conforming changes. As amended, § 201.312b reads as follows:

§ 201.312b Markings for containers of imported spirits.

Each tank, bulk conveyance, or similar container in which imported spirits are transferred from customs custody to bonded premises, stored in bond, transferred in bond, or withdrawn from bond on tax determination shall be marked with the word "Imported." Each package of imported spirits shall, when received on bonded premises under the provisions of § 201.312, or when filled on bonded premises, be marked with:

(a) The name of the importer;
(b) The country of origin;
(c) The kind of spirits;
(d) The package identification number;
(e) The date of original entry of the spirits, if other than the date incorporated in the lot identification;
(f) The proof; and
(g) The wine gallons of spirits in the package. Packages of imported spirits received from customs custody or filled from storage tanks on bonded premises shall be assigned package identification numbers as provided in § 201.513a. Such numbers shall be preceded by the symbol "IMP" and the appropriate distinguishing prefix prescribed by § 201.514. The proprietor who files Form 2609 to receive packages of imported spirits under the provisions of § 201.312 shall be responsible for having the required marks placed on such packages. Package identification numbers assigned under the provisions of this section to packages of spirits received from customs custody shall be recorded on the deposit forms by the proprietor who filed the Form 2609 to receive the spirits.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 23. Section 201.312c is amended to (1) refer to identification numbers instead of serial numbers and (2) make an editorial change. As amended, § 201.312c reads as follows:

§ 201.312c Exceptions to specifications for package marking requirements.

The package marks prescribed by § 201.312b shall be placed on each package of imported spirits received from customs custody in the manner required by § 201.515, except in the circumstances, and under the conditions, set out in paragraph (a) or (b) of this section.

(a) *Temporary marks.* Pursuant to written application, in triplicate, the assistant regional commissioner may authorize the proprietor to place the prescribed marks on each such package by temporary means, such as by use of a suitable card securely affixed to the head of the package by tacks, staples, or adhesives where, within 30 calendar days after receipt from customs custody, the temporarily marked packages will be dumped into a tank for storage or for tax determination, or will be withdrawn from bond in such packages on determination of tax for removal to, and dumping at, bottling premises on or contiguous to the distilled spirits plant at which received from customs custody. Packages not dumped or removed as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 201.515.

(b) *Waiver of marking.* Pursuant to written application, in triplicate, the assistant regional commissioner may waive the placing of prescribed marks on such packages where the packages will, no later than the close of the workday next succeeding the date of receipt, be dumped into a tank for storage or for tax determination, or will be withdrawn from bond in such packages on determination of tax for removal to, and be dumped at, bottling premises on or contiguous to the distilled spirits plant at which received from customs custody. Packages not dumped or removed as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 201.515 unless the assistant regional commissioner authorizes the use of temporary marks under the provisions of paragraph (a) of this section.

The provisions of this section shall not be construed to waive, or authorize the waiver of, the requirements of this part for the assigning of package identification numbers or for the recording of such package identification numbers on deposit forms and the required recording of lot identification numbers and related information on other transaction forms, records, or reports.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 24. A new section, § 201.312e, is inserted, immediately following § 201.312d, to read as follows:

§ 201.312e Recording gage.

At the time of receipt into internal revenue bond of packages of imported spirits, the proprietor shall use the last official gage to compute and record on deposit forms for each entry the average content of the packages being received, in the manner provided for seasonal accounts in § 201.628a. If the last official gage indicates a substantial variation in the contents of the packages, the proprietor shall group the packages into lots according to their approximate contents, and assign a separate lot identification to each group of packages, based on the date the packages were received on bonded premises.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 25. Section 201.322 is amended to (1) designate Form 1515 as a notice, (2) delete the requirement for a list of serial numbers of the packages, (3) delete from its provisions the requirement that

spirits be gaged by weight and proof, and (4) make conforming changes. As amended, § 201.322 reads as follows:

§ 201.322 Entry and gage.

Proprietors shall make entry for the bottling of distilled spirits in bond on Form 1515. A separate notice on Form 1515 shall be prepared for each lot of spirits to be so bottled. Before dumping packages of spirits, the proprietor shall deliver one copy to the assigned officer and attach the remaining copies to the tank in which the spirits are to be gaged. Each package shall be carefully examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such package shall not be dumped until released by the assigned officer; Form 1515 will be amended when necessary. The proprietor shall dump packages promptly. After dumping the packages, the proprietor shall gage the spirits and make a report of such gage on Form 1515. The spirits shall be gaged either in the storage portion of the bonded warehouse or in the bottling-in-bond facilities; spirits may be transferred to such facilities by pipeline.

(72 Stat. 1366; 26 U.S.C. 5233)

PAR. 26. Section 201.336 is amended to (1) prescribe revised requirements for recording removals of bottled-in-bond spirits, and (2) make an editorial change. As amended, § 201.336 reads as follows:

§ 201.336 Removal of spirits bottled.

When spirits are bottled in bond the filled bottles, with labels and strip stamps properly affixed, shall be placed in cases, and the cases then sealed, after which such cases shall be promptly removed from the bottling-in-bond facilities to the storage portion of the bonded warehouse, pursuant to Form 2629, or transferred in bond or withdrawn from bond, pursuant to the appropriate transaction form prescribed in Subpart L of this part. The proof gallons of bottled spirits so removed from the bottling-in-bond facilities, the date of removal, and the form number and serial number of each transaction form shall be entered daily on Form 1515. The tax on spirits withdrawn for export with benefit of drawback at less than 100° of proof shall be determined on a wine gallon basis. The removal to storage of cases temporarily sealed, pending affixing of brand labels or State stamps, may be authorized by the assigned officer. Such temporarily sealed cases may be transferred in bond to other premises. If the mandatory information required under 27 CFR Part 5 appears on the brand label rather than a separate label, the brand label shall be affixed at the time of bottling. Brand labels or State stamps (if to be affixed before withdrawal from bond) shall be affixed to the bottles in the bottling-in-bond facilities: *Provided*, That the assigned officer may authorize the affixing of such labels or stamps in the storage portion of a bonded warehouse where the need therefor is established, if space and facilities for such activities are available and the necessary supervision can be provided without the assignment of an additional internal revenue officer. Spirits in cases temporarily sealed shall be kept apart from other spirits in the warehouse.

(72 Stat. 1360, 1366; 26 U.S.C. 5206, 5233)

PAR. 27. Section 201.338 is amended to provide for immediate taxpayment of remnant cases of bottled-in-bond spirits, and make editorial and conforming changes. As amended, § 201.338 reads as follows:

§ 201.338 Marking and disposition of remnant cases.

If there is less than a case of bottled spirits remaining from a lot of spirits bottled, either for domestic use or for exportation, the remnant will be placed in a case and such case will be given the serial number of the last full case containing spirits in the same lot, followed by the letter "R", thus: "100–R": *Provided*, That where spirits, of the same kind and proof, produced by the same distiller at the same distillery during the same distilling season as the remnant, are to be bottled on the same or following business day, and are eligible for inclusion in the remnant case, such remnant case may be given the next serial number and held in the bottling-in-bond facilities, and the case filled with such spirits. Such remnant case, if not held in the bottling-in-bond facilities, shall be taxpaid for domestic consumption or removed with other cases to storage, and later taxpaid for domestic consumption, or returned to the bottling-in-bond facilities when the next lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season is to be bottled, and (a) the bottles used for filling a complete case, if of the same proof and otherwise eligible, or (b) the contents dumped into the bottling tank and mingled with such other spirits for bottling. In any instance when a remnant case is removed to storage or returned to the bottling-in-bond facilities for use as provided in this section, appropriate notations will be made on the applicable Form 2629 or Form 1515, as the case may be.

(72 Stat. 1366; 26 U.S.C. 5233)

PAR. 28. Section 201.340 is amended by changing the word "application" to "notice." As amended, § 201.340 reads as follows:

§ 201.340 Remnant cases of spirits bottled in bond returned to bottling-in-bond facilities.

Remnant cases of spirits returned to the bottling-in-bond facilities for use in filling a complete case or dumping into a bottling tank shall be included in the notice on Form 1515, covering the withdrawal of bulk containers for bottling.

(72 Stat. 1366; 26 U.S.C. 5233)

PAR. 29. Paragraph (a) of § 201.343 is amended to prescribe revised requirements for completion of Form 1515. As amended, paragraph (a) of § 201.343 reads as follows:

§ 201.343 General.

(a) *Bottled alcohol.* Alcohol of 190° or more of proof may be bottled and cased in the bonded warehouse under the direct supervision of the assigned officer. Alcohol may be bottled in containers of 1 gallon or less, or in bottles complying with the provisions of § 201.504; however, the proprietor is required to comply with the provisions of Subpart Pa of this part where applicable. The proprietor shall prepare Form 1515 for alcohol to be bottled in the bonded warehouse. The heading of Form 1515 shall be prominently marked with the word "Alcohol." Part I of the form will be modified and completed only to show the tank from which bottled and the proof of the alcohol, and Part III will be completed as provided in § 201.336, and the instructions on the form.

* * * * *

(72 Stat. 1357, 1369; 26 U.S.C. 5202, 5235)

PAR. 30. Section 201.352 is amended by inserting the word, "taxpaid" before the word, "spirits" in the last sentence. As amended, § 201.352 reads as follows:

§ 201.352 Records and reports.

Form 1515, appropriately modified, shall be prepared by the proprietor to cover the rebottling, relabeling, or restamping of bottled-in-bond spirits. Spirits which have not been withdrawn from bond or which have been returned to bond as provided by § 201.586 shall be accounted for in the same manner as spirits originally entered for bottling in bond. Form 1515 covering taxpaid bottled-in-bond spirits returned to a bonded warehouse for rebottling, relabeling, or restamping shall be clearly and prominently marked to show that the spirits are taxpaid, and shall identify each lot of spirits, showing the quantity returned, losses in rebottling, and the quantity removed. Such taxpaid spirits shall not be included in any warehouse records or reports required by Subpart U of this part.

PAR. 31. Section 201.363 is amended to (1) prescribe revised requirements for withdrawals on original gage, and (2) make editorial changes. As amended, § 201.363 reads as follows:

§ 201.363 Withdrawal of spirits on original gage.

When the filling or production gage is made under the provisions of § 201.269 (b), spirits may be withdrawn from bonded premises for any lawful purpose on the original gage. Spirits not so filled or produced must be gaged when they are withdrawn from bonded premises on determination of tax. If the original gage was made by an internal revenue officer the spirits shall be withdrawn on such gage unless permission for a gage at time of withdrawal is obtained from the assistant regional commissioner. When spirits which are to be withdrawn on determination of tax on the original gage are transferred in bond, all copies of Form 236 shall be marked by the proprietor "Withdraw on Original Gage."

(72 Stat. 1357, 1358; 26 U.S.C. 5202, 5204)

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PAR. 32. Section 201.364 is amended to make the average tare provisions applicable only to packages entered prior to the effective date of this document. As amended, § 201.364 reads as follows:

§ 201.364 Determination of tare.

When packages are to be individually gaged for withdrawal from bonded premises, actual tare shall be determined: *Provided*, That average tare may be taken, when authorized under Part 186 of this chapter and approved by the assigned officer, for packages that were entered into bonded storage prior to (*effective date*). Actual or average tare shall be determined in accordance with Part 186 of this chapter.

(72 Stat. 1358; 26 U.S.C. 5204)

PAR. 33. Section 201.368 is amended to (1) delete requirements for preparation of Form 1620, and for Form 2630 except when packages are weighed at the time of shipment, and (2) make conforming and editorial changes. As amended, § 201.368 reads as follows:

§ 201.368 Consignor premises.

(a) *General.* (1) Form 236 shall be prepared by the consignor proprietor to cover the transfer of spirits or denatured spirits in bond, pursuant to an approved application on Form 2609. In the case of denatured spirits, Form 236 shall be prepared as a notice of shipment. In the case of spirits, Form 236 shall be prepared as an application to the assigned officer for approval of the release. Except as otherwise provided herein, a Form 236 shall be prepared for each conveyance. Each Form 236 shall show the real name (or the basic operating name as provided in § 201.235) of the producer (or the name of the importer in the case of imported spirits or the name of the packaging or bottling proprietor in the case of spirits of 190° of proof or more) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. Spirits shall not be removed from the bonded premises until Form 236 (or, as authorized in subparagraph (2) of this paragraph, an authorized shipment and delivery order) has been submitted to the assigned officer and his approval received for the release of the spirits. In the case of pipeline transfers of spirits, the assigned officer shall not unlock the pipeline until he has approved the Form 236. On completion of lading (or completion of transfer by pipeline), the proprietor shall execute his certificate of removal on all copies of Form 236, and dispose of the forms in accordance with the instructions on Form 236.

(2) The proprietor may, on approval of the assistant regional commissioner, cover on one Form 236 all packages of spirits shipped by truck on the same day from his production facilities or storage facilities for deposit for storage in bond in another distilled spirits plant located in the same internal revenue region. In such case, the proprietor shall deliver, to the assigned officer at the shipping and delivery premises, a shipment and delivery order for each shipment, showing the number of barrels, their package identification numbers, the name of the producer, and the serial numbers of the Government seals (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. On completion of lading of the last truck for the day, the proprietor shall complete the Form 236 and dispose of the form in accordance with the instructions on the form.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor in a manner satisfactory to the assigned officer, or (3) when this requirement has been waived by the Director on a finding that, because of the location of the premises and the proposed method of operation, the transfer can be made under the control of the assigned officer, and there will be no jeopardy to the revenue. The proprietor shall load the packages into the conveyance and prepare the conveyance for sealing, if it is to be sealed. When packages are weighed at the time of shipment, the proprietor shall list the package identification number of each package and its gross shipping weight on Form 2630. A copy of Form 2630 shall accompany each copy of Form 236.

(c) *Bulk conveyances and pipelines.* When spirits are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gage the spirits under the direct supervision of the assigned officer and record the quantity so determined on Form 236. Bulk conveyances of spirits shall be prepared by the proprietor for sealing.

(72 Stat. 1362; 26 U.S.C. 5212)

PAR. 34. Section 201.369 is amended to (1) eliminate the reference to Form 1620, (2) revise the requirements for reporting losses sustained during transfer in bond, (3) prescribe revised requirements for recording receiving weights of packages if no Form 2630 accompanies the shipment, and (4) make an editorial change. As amended, § 201.369 reads as follows:

§ 201.369 Consignee premises.

(a) *General.* When spirits are received by transfer in bond the consignee proprietor shall notify the assigned officer who shall deliver the appropriate Form 236, and Form 2630, if any, to the consignee, except that where transfers are made under the provisions of § 201.368 (a) (2), the assigned officer shall note the receipt of the spirits on his copy of the shipping and delivery order and, on receipt, deliver to the consignee the Forms 236 and 2630 covering the transfers for the day. The assigned officer shall examine each sealed conveyance to determine whether the seals are intact and if so he shall authorize the proprietor to remove the seals. The proprietor shall examine all containers, and any container bearing evidence of loss in transit or of loss due to theft shall be held until released by the assigned officer. Spirits after examination (and, if held, after release by the assigned officer) shall be deposited in the warehouse immediately, or, if the spirits are to be redistilled, they shall be deposited in the production facilities immediately. After execution on the transfer forms of his receipt of the shipment of spirits (including denatured spirits), the consignee shall return the form or forms to the assigned officer. Losses shall be determined and reported on Form 236, by the assigned officer, with a notation (by package identification numbers for packages or serial numbers for cases) as to the apparent cause thereof.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except (1) when the transfer is made in a sealed conveyance and the seals are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 201.368(b)(3). If Form 2630 accompanies the shipment, the consignee proprietor shall record the receiving weight of each package on the Form 2630. If no Form 2630 accompanies the shipment, the consignee proprietor shall prepare a list showing the package identification number of each package and its receiving weight and attach one copy to each copy of Form 236 in his possession. All packages in a sealed conveyance on which the seals are not intact, on arrival, and all packages not intact on receipt, shall be segregated, after weighing, and held until released by the assigned officer. When denatured spirits are received in packages, the consignee proprietor shall prepare Form 1467, appropriately modified, to record their deposit on bonded premises; a separate sheet shall be used for each formula.

(c) *Bulk conveyances and pipelines.* When spirits are received in bulk conveyances or by pipeline, the consignee shall gage the spirits under the direct supervision of the assigned officer and record the gage on Form 236: *Provided*, That the assistant regional commissioner may waive the requirement for gaging spirits on receipt by pipeline if he finds that, because of the location of the premises, the transfer can be made under the control of assigned officers, and there will be no jeopardy to the revenue.

(72 Stat. 1358, 1362; 26 U.S.C. 5204, 5213)

PAR. 35. Section 201.370 is amended by deleting the requirement for furnishing a list of serial numbers of packages or cases to be dumped. As amended, § 201.370 reads as follows:

§ 201.370 Removal of spirits from storage for redistillation.

A proprietor intending to remove spirits (including denatured spirits) from storage to production facilities on the same bonded premises for redistillation, in accordance with the provisions of §§ 201.272 and 201.273, shall prepare Form 2629 to cover such removal. Each lot of spirits (except bottled spirits) shall be gaged by the proprietor under the direct supervision of the assigned officer. Such gage may be made either in the storage or the production facilities and shall be reported on Form 2629. The packages or cases shall be examined by the proprietor, and if any package or case bears evidence of loss due to theft or unauthorized destruction, or loss in excess of normal storage losses, such package or case shall not be dumped until released by the assigned officer; Form 2629 shall be amended when necessary. Packages or cases shall not be dumped until the assigned officer has given his approval therefor. Before removing the spirits from storage, Form 2629 shall be submitted to the assigned officer for his approval.

PAR. 36. Section 201.371 is amended to (1) provide for identification of spirits treated with oak chips on Form 179, and (2) make conforming and editorial changes. As amended, § 201.371 reads as follows:

§ 201.371 Application.

Spirits to be withdrawn from bonded premises on determination of the tax thereon shall be in such containers or cases as are prescribed in this part. The proprietor of the bottling premises to which the spirits are to be removed or the proprietor of the bonded premises from which the spirits are to be withdrawn, shall make application of Form 179 for tax determination and withdrawal. When spirits are to be withdrawn on determination of tax, the tax thereon shall be paid before removal of the spirits from the bonded premises unless the proprietor making application for the withdrawal has furnished bond on Forms 2613, 2614, or Form 2615 to secure payment of tax. When the spirits are to be withdrawn by the proprietor of bottling premises from bonded premises not on the same plant premises, he shall, on execution of his portion of the application on Form 179, deliver one copy to the assigned officer at such bottling premises and forward the remaining copies of the form to the proprietor of the bonded premises. Form 179 shall be noted by the proprietor of the bonded premises to identify spirits that have been treated with oak chips. When the proprietor of bottling premises intends to withdraw spirits which are to be bottled in bond after tax determination as provided in § 201.114, he shall specify on Form 179 the purpose for which the spirits are being withdrawn. On completion of the application the proprietor of the bonded premises shall deliver all copies of the application to the assigned officer at his premises. When an alternating proprietor has been authorized pursuant to § 201.174 to commence operations of bottling facilities at a specified future time, he may apply for the withdrawal of spirits from bond on Form 179 in anticipation of such commencement of operations, but spirits so applied for will not be eligible for loss allowance or bottling in bond after tax determination unless such spirits are withdrawn directly from bond and unless such spirits are received on his bottling premises during the time he is authorized to operate such premises.

(72 Stat. 1363; 26 U.S.C. 5213)

PAR. 37. Section 201.372 is amended to (1) revise the requirements for execution of agreement to pay or prepay tax on Form 179, (2) add references to Part 170, and (3) make editorial changes. As amended, § 201.372 reads as follows:

§ 201.372 Proprietor's statement.

When tax is to be paid pursuant to a return on Form 2522 or on Form 4077, the proprietor making application for the withdrawal shall execute on all copies of Form 179 a statement in which he (a) agrees to pay, in accordance with law and this part, the amount of tax shown on the form, or to be shown thereon, and (b) certifies, under the penalties of perjury, that he is not in default in any payment of tax chargeable against his bond, Forms 2613, 2614, or Form 2615, as applicable, and that the penal sum of such bond (1) is in the maximum penal sum or (2) is sufficient to cover such amount in addition to all other amounts chargeable against such bond. When tax is to be prepaid on return Form 2521, the proprietor making application for the withdrawal shall execute on all copies of Form 179 a statement that the tax is to be prepaid. Statements relative to agreement to pay, or to prepayment of, tax shall be executed at the time Form 179 is initiated. The full amount of tax determined shall, as to proprietors of bonded premises, be included for payment in a tax return on Form 2522 or Form 2521, filed as provided in §§ 201.383 and 170.45 of this chapter, or, as to proprietors of bottling premises, be included for payment in a tax return on Form 4077 or Form 2521 as provided in §§ 170.46 and 170.51 of this chapter. Nothing in this part shall be construed as precluding an adjustment after taxpayment, pursuant to law and regulations, of any overpayment or underpayment of tax.

PAR. 38. Section 201.373 is amended to (1) revise requirements for use of Form 2630 and (2) make a clarifying change. As amended, § 201.373 reads as follows:

§ 201.373 Packages.

When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of individual package gage, each package shall be gaged unless the tax is to be determined on the original gage. When the packages are to be withdrawn, the proprietor shall prepare Form 2630, completing only the heading of the form and inserting the package identification number of each package and, when the packages are to be regaged by the average tare method as provided in § 201.364, the filling tare for each package, and deliver the form to the assigned officer with Form 179. Spirits in wooden packages shall be gaged by the assigned officer and reported on Form 2630. Spirits in metal packages which are to be tax determined on other than the original gage, shall be gaged by the proprietor (under the direct supervision of an assigned officer) and reported on Form 2630 which shall be delivered, with Form 179, to the assigned officer. Spirits in wooden packages filled from storage tanks for tax determination shall be gaged and reported on Form 2630 by an assigned officer on receipt of Form 179; metal packages so filled shall be gaged (under the direct supervision of an assigned officer) and reported on Form 2630 by the proprietor, and the proprietor shall deliver Form 2630 to such officer with Form 179. In the case of spirits of less than 190° of proof, the date of original entry shall be shown on Form 2630. In the case of spirits mingled pursuant to section 5234(a)(1)(C), IRC (homogeneous spirits) the dates of original entry of the oldest and the youngest spirits in the mingled spirits shall be shown. On completion of gage (if any) and computation of tax, the assigned officer will return Forms 179 and 2630 to the proprietor.

(72 Stat. 1358, 1362; 26 U.S.C. 5204, 5213)

PAR. 39. Section 201.378 is amended in its entirety. As amended, § 201.378 reads as follows:

§ 201.378 Withdrawal procedure; bonded premises.

The spirits to be taxpaid shall be inspected or gaged and the amount of tax found due shall be entered on Form 179 by the assigned officer. If the tax is to be prepaid, as indicated by the withdrawing proprietor on Form 179, the assigned officer will inform the proprietor from whose premises the spirits are being withdrawn of the amount of tax determined. The proprietor will deliver to the assigned officer the prepayment return, Form 2521, with remittance, or when prepayment is made in cash to the district director, the proprietor will deliver a receipted Form 2521 to the assigned officer. Once the tax is prepaid, or, if the tax is not to be prepaid, and the bond of the withdrawing proprietor is adequate, the assigned officer will execute his statement of tax determination, release the spirits in accordance with § 201.385, retain one copy of Form 179, and return the original and remaining copies and any accompanying reports to the proprietor as authority to remove the spirits from bonded premises. At the time of removal the proprietor will assign to and enter on each Form 179 a release number, assigned in serial order, starting with "1" for the first such form each calendar year. Distribution of Form 179 will be made according to instructions on the form.

§ 201.379 [Revoked]

PAR. 40. Section 201.379 is revoked.

PAR. 41. The heading and text of § 201.385 are amended to (1) eliminate reference to the release of spirits by the assigned officer, and (2) make clarifying and editorial changes. As amended, § 201.385 reads as follows:

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§ 201.385 Removal of spirits on tax determination.

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been determined. If the Form 179, and Form 2521 (if required) with remittance, are in order and cover the full amount of the tax on the spirits to be withdrawn, the assigned officer shall execute his certificate of tax determination authorizing the removal of the spirits. The assigned officer shall not execute his certificate of tax determination where a proprietor of bottling premises, whose bond on Form 2614 or 2615 is not in the maximum penal sum, has assumed liability for the tax on the spirits, and the tax is greater than the amount shown on Form 179 as charged against his bond. If Form 2521 has been filed with the district director, as required by § 201.383(b), the certificate regarding tax determination shall not be executed before the assigned officer has received a receipted copy of the return from the district director. When a proprietor of bottling premises has made application for withdrawal of spirits for bottling in bond after tax determination, the assigned officer shall not execute his certificate of tax determination unless the spirits to be withdrawn meet the aging and packaging requirements prescribed for spirits to be bottled in bond and are otherwise eligible. On execution of the certificate of tax determination authorizing removal of the spirits the assigned officer shall issue distilled spirits stamps for packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart Q of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, they shall be immediately removed from the bonded premises. When spirits are to be removed by pipeline, the appropriate Form 179, after execution of the certificate of tax determination shall be attached to the gage tank, and shall remain thereon until the spirits have been removed from the tank. Spirits bottled in bond before determination of tax which are to be withdrawn from bonded premises on determination of tax may be so withdrawn subsequent to bottling, without being returned to the storage portion of the bonded warehouse, if the proprietor executes Form 179 in advance of withdrawal to cover a specific quantity of such spirits that shall be equal to or more than the quantity of spirits he expects to withdraw. In such case the assigned officer shall execute the certificate of tax determination only if he is satisfied that adequate means and methods are provided for accurately ascertaining the quantities of spirits to be so withdrawn at time of bottling and that the Form 179 is otherwise in order. On completion of the withdrawal covered by Form 179, the proprietor shall complete the forms, identifying the cases and showing the actual quantity of spirits so withdrawn (and any adjustments); such information shall be verified by the assigned officer. When any spirits have been removed from the bonded premises as provided in this section, the proprietor shall execute, under the penalties of perjury, the statement of removal on all copies of Form 179 and distribute them in accordance with the instructions on the form.

PAR. 42. Section 201.387 is amended to delete the requirement for preparing (1) Form 1620 to cover wine spirits removed in cases, and (2) Form 2630 to cover wine spirits removed in packages on original gage. As amended, § 201.387 reads as follows:

§ 201.387 Withdrawals of spirits for use in wine production.

Wine spirits withdrawn without payment of tax for use in wine production may be removed in approved containers for shipment to a bonded wine cellar on receipt of an approved application, Form 257, submitted by the proprietor of the bonded wine cellar in accordance with the provisions of Part 240 of this chapter. Each package of wine spirits (unless withdrawn on the original gage) and each lot of wine spirits transferred by pipeline or by bulk conveyance shall be gaged by the proprietor under the direct supervision of the assigned officer: *Provided*, That spirits transferred by pipeline may be so gaged on the bonded wine cellar premises. Form 2629 shall be prepared by the consignor to cover each removal of wine spirits pursuant to an approved Form 257. When wine spirits in packages are to be removed (unless to be withdrawn on the original gage), the consignor shall also gage the packages and prepare Form 2630. Bulk conveyances shall be prepared by the proprietor for sealing and each such conveyance shall bear a label, dated and signed by the proprietor, showing the intended use of the wine spirits and the name and plant number of the consignor and the name and registry number of the consignee. When the gage (if any) has been completed, and the containers have been marked, and appropriate entries have been made in the gage report by the assigned officer, he shall release the spirits.

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 43. A new section, § 201.513a, is inserted, immediately following § 201.513, to read as follows:

§ 201.513a Package identification numbers.

(a) *General.* Packages of spirits shall when filed on bonded premises after (*effective date*) be marked with a package identification number, consisting of a lot identification and serial number as follows:

(1) A lot identification representing the date the package is filled, and consisting, in the order shown, of—

(i) The last two digits of the calendar year;

(ii) An alphabetical designation from "A" through "L", representing January through December, in that order;

(iii) The digits corresponding to the day of the month; and

(iv) When more than one lot is filled into packages during the same day, for successive lots after the first lot, a letter suffix, in alphabetical order, with "A" representing the second lot, "B" representing the third lot, and so forth.

The first three lots filled into packages on March 4, 1972, would be identified as "72C04," "72C04A," "72C04B." The lot identification for packages of spirits so filled shall, when applicable, be preceded by a distinguishing prefix as provided in § 201.514(a).

(2) A serial number for each package of spirits within a lot consecutively numbered by the proprietor commencing with "1" for each lot and appearing adjacent to the lot identification, as "72C04–1", "72C04A–25".

(b) *Packages constituting a lot.* Packages of spirits filled on bonded premises during any one day shall be given the same lot identification subject to the following conditions:

(1) They are of the same type and either are of the same rated capacity or are uniformly filled with the same quantities by weight or other method approved by the Director as provided in § 201.269 and which is acceptable to the assistant regional commissioner;

(2) They are filled with spirits of the same kind and same proof;

(3) In the case of domestic spirits, they are filled with spirits which were produced by the same distiller at the same distillery, except that this condition shall not apply to spirits of 190° or more of proof, spirits mingled under § 201.298 or § 201.299, or to beverage rums or brandies blended under § 201.307;

(4) If they are filled with spirits of less than 190° of proof, the spirits are of the same age and have the same date of original entry; and

(5) In the case of spirits imported or brought into the United States, they are filled with spirits meeting the requirements for mingling for imported spirits, Puerto Rican spirits, or Virgin Islands spirits, as applicable.

Any remnant package shall itself constitute a lot.

(c) *Waiver of requirement for serial numbers.* Notwithstanding the provisions of paragraph (a) of this section, the assistant regional commissioner may, upon application in duplicate from the proprietor, waive the requirement for assigning serial numbers to packages of spirits at the time of filling or receipt on bonded premises if he finds that the revenue will not be jeopardized, or administrative difficulties caused, by such waiver. When such waiver has been granted, the lot identification shall constitute the package identification number: *Provided*, That when it becomes necessary, as a result of a transaction (such as the transfer in bond of the packages in an unsealed conveyance, withdrawal of the packages from bond on the basis of an individual package gauge, et cetera) occurring after deposit of such unnumbered packages, the proprietor who is conducting the transaction shall consecutively number each package involved in the transaction and such number, in

conjunction with the lot identification, shall thereafter constitute the package identification number.

PAR. 44. Section 201.514 is amended to make conforming changes respecting the newly prescribed package identification system. As amended, § 201.514 reads as follows:

§ 201.514 Numbering of packages and cases.

Packages of spirits filled on bonded premises shall be consecutively numbered by the proprietor commencing with "1" for each lot of packages filled, as provided in § 201.513a. Packages of spirits filled on bottling premises, packages of denatured spirits, packages containing more than 5 gallons of completely denatured alcohol, and cases containing bottles or other containers of spirits (including denatured spirits) shall, when filled, be consecutively numbered in a separate series by the proprietor commencing with "1" in each series of serial numbers, except any series of such numbers in use may be continued, but in any such case the prefix required by paragraph (a) of this section shall be used. When the numbering in any series reaches "1,000,000," the proprietor may recommence the series: *Provided*, That a recommenced series for packages of spirits filled on bottling premises or for packages of denatured spirits shall be given an alphabetical prefix or suffix.

(a) The identification numbers for packages filled on bonded premises, or the serial numbers for packages of spirits filled on bottling premises shall be given applicable prefixes as follows:

Packages of spirits	Distinguishing prefix	Examples of identification Nos.[1]
(1) Filled from production facilities	None	72C15–1, 72C15–2.
(2) Filled from bonded storage facilities, spirits of less than 190° of proof.	T and identification of plant	T–12–Ind–72C15–1.
(3) Filled from bonded storage facilities, spirits of 190° of proof or more.	T	T–72C15–1.
(4) Filled on bottling premises	BP	BP–1, BP–2.
(5) Mingled under § 201.301	CS and identification of plant	CS–12–Ind–72C15–1.
(6) Mingled under § 201.297	CP and identification of plant	CP–12–Ind–72C15–1.
(7) Blended under §§ 201.307 and 201.308	BL	BL–72C15–1.

[1] Examples illustrate numbering at DSP–Ind–12 for packages filled on Mar. 15, 1972.

(b) Further, cases of spirits bottled in bond on bonded premises, cases of spirits bottled in bond on bottling premises, and cases of spirits otherwise bottled shall be numbered in separate series. The proprietor may establish more than one series of serial numbers for cases on either bonded or bottling premises where more than one bottling unit is used and each series is distinguished from each other by the use of alphabetical prefixes or suffixes. For additional identification, separate series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written application (in triplicate) to, and approval of, the assistant regional commissioner. Remnant cases shall be given the serial number of the last full case followed by the letter R.

* * * * *

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 45. Section 201.516 is amended to make conforming changes respecting the newly prescribed package identification system, and editorial changes. As amended, § 201.516 reads as follows:

§ 201.516 Marks on packages of spirits filled on bonded premises.

(a) *General.* Except as otherwise provided in this part packages of spirits filled on bonded premises shall be marked with—

(1) The name of the producer, or his trade name as provided in paragraph (e) of this section;

(2) The plant number of the producer, such as "DSP–KY–708";

(3) The kind of spirits or, in the case of distillates removed under § 201.275, the kind of distillates such as "Grape distillate," "Peach distillate," etc.;

(4) The package identification number;

(5) The date of original entry, if other than the date incorporated in the lot identification;

(6) "BSA," "OC," or "QA" when spirits are treated with caramel or oak chips or are subjected to a quick-aging process, as the case may be;

(7) The rated capacity of the package in gallons shown as "RC_____G".

(b) *Spirits of 190° or more of proof.* In the case of spirits of 190° of proof or more, the date of original entry need not be shown. If packages of such spirits are filled by other than the producer, the name (or trade name) and plant number of the packaging proprietor shall be substituted for that of the producer.

(c) *Packages of heterogeneous spirits.* Packages of heterogeneous spirits, mingled under the provisions of § 201.298 and filled for immediate removal, shall be marked as provided in paragraph (a) of this section (except subparagraph (5)), except that the name and plant number of the packaging proprietor shall be shown in lieu of the producer. The kind of spirits shall be shown as "Heterogeneous Whisky," "Heterogeneous Rum," etc., for spirits of the same kind, and as "Heterogeneous Spirits" for spirits of different kinds. Packages so filled shall also be marked to show the proof gallons.

(d) *Packages of homogeneous spirits.* Packages filled as provided in § 201.384 and which contain homogeneous spirits, shall, in addition to the marks required by paragraph (a) of this section, be marked to show that they are consolidated packages, the plant number of the premises at which filled, the kind of cooperage in which the spirits were stored, and the number of months the youngest spirits in the lot were stored in such cooperage.

(e) *Real or trade names.* The producer's real name, or any trade name authorized (as provided in § 201.146) at the time of production, may be placed on any package filled at the time of production gage, or at the time of original packaging of the spirits in wood when, as provided in § 201.270, the spirits were not filled into wooden packages at the time of production gage. When spirits have been mingled under § 201.297 or § 201.301, the proprietor may use any of the names represented in the mingled spirits, but no other name, as the name of the producer to be marked on packages filled with such mingled spirits: *Provided*, That if the proprietor was the actual producer of the spirits he may in any case use his real name. When spirits have been mingled under § 201.297 and are not eligible for bottling in bond, the name of the producer marked on the package shall be followed by the letter "X" to evidence such ineligibility of the spirits.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 46. A new section, § 201.517a, is added, immediately following § 201.517, to read as follows:

§ 201.517a Authorized abbreviations to identify spirits.

The following abbreviations may be used, either alone or in conjunction with descriptive words, to identify the kind of spirits on transaction forms and records:

Kind of Spirits:	*Abbreviation*
Alcohol	A
Brandy	BR
Bourbon whisky	BW
Canadian whisky	CNW
Corn Whisky	CW
Grain spirits	GS
Irish whisky	IW
Light whisky	LW
Malt whisky	MW
Neutral spirits	NS
Rye whisky	RW
Scotch whisky	SW
Tequila	TEQ
Vodka	V
Whisky	W

PAR. 47. Section 201.518 is amended to prescribe revised requirements for new packages, when spirits are transferred from one package to another, and make an editorial change. As amended, § 201.518 reads as follows:

§ 201.518 Change of packages.

When spirits are transferred from one package to another as authorized in § 201.295, each new package shall be given the same package identification number, marks, and brands as the original package except the gross weight and tare, if any. The proprietor shall prepare and sign a label to be affixed to the head of each new package in the manner prescribed for affixing distilled spirits stamps. The label shall be in the following form:

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The spirits in this _____ (Kind of cooperage) _____ package identification (Barrel or drum) No. _____, were transferred from a _____ (Kind of cooperage) _____ (Barrel or drum) on _____, under authority dated (Date)

_____ (Proprietor)

PAR. 48. Section 201.524 is amended to permit additional data to be shown on the Government head or side of packages. As amended, § 201.524 reads as follows:

§ 201.524 Additional marks on portable containers.

In addition to the other marks required by this part, portable containers (other than bottles enclosed in cases) of spirits (including denatured spirits, as applicable) to be withdrawn from the bonded premises—

(a) Without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones or supplies for certain vessels and aircraft shall be marked as provided in Part 252 of this chapter;

(b) On determination of tax shall be marked, if wooden packages, with the words "Rinsed" or "Not Rinsed"; If rinsed, the temperature of the water used shall be shown as provided in § 201.377; or

(c) Tax-free alcohol shall be marked to show the number of the permit of the tax-free user, the date of withdrawal, and the purpose of withdrawal, as, for example, "Hospital Use," "Scientific Purposes," "Use of U.S."

The proprietor may show on the Government head or side other information such as brand or trade name; caution notices and other material required by Federal, State or local law or regulations; wine or proof gallons; and plant control data: *Provided*, That such marks or attachments do not conceal, obscure, interfere with or conflict with the markings required by this subpart.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 49. Paragraph (c) of § 201.549 is amended to provide for showing package identification numbers on distilled spirits stamps. As amended, paragraph (c) of § 201.549 reads as follows:

§ 201.549 General.

• • • • •

(c) *Information on stamp.* The prescribed distilled spirits stamp is serially numbered. It shall be marked, in the space provided, by the proprietor withdrawing or removing the spirits, to show the name and plant number of such proprietor, the date of affixing the stamp to the container, and the serial number or package identification number, as applicable, of the container. When spirits are withdrawn under the provisions of § 201.386(a)–(d) the proprietor shall insert the word "Export" on the stamp. When spirits are removed from bottling premises the proprietor shall insert on the stamp the words "Filled on Bottling Premises" and if the spirits have been rectified he shall also insert the words "Rectified Product."

(72 Stat. 1358, 1393; 26 U.S.C. 5205, 5522)

PAR. 49a. Section 201.551 is amended to include "other containers" and to refer to package identification numbers. As amended, § 201.551 reads as follows:

§ 201.551 Restamping packages, conveyances, or other containers.

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Applications for such restamping shall be made in writing, in triplicate, to the assistant regional commissioner for the region in which the package, conveyance or other container to be restamped is located. The application shall set forth the following:

(a) The package identification number or serial number, as applicable, of each package, conveyance or other container (and proprietor's name thereon);

(b) The location of the package, conveyance, or other container;

(c) A description of the content;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package, conveyance, or other container was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps.

The application shall be executed under the penalties of perjury. If the assistant regional commissioner is satisfied that the package, conveyance, or other container had been properly stamped, and that the loss or destruction of such stamp is satisfactorily explained, he will issue, or cause to be issued, a distilled spirits stamp for the package, conveyance, or other container.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 50. Section 201.587 is amended to (1) delete the requirement for recording packages and cases on Forms 2630 and 1620, respectively, when returned to storage, and (2) provide for destruction of stamps on returned containers of spirits previously removed for export. As amended, § 201.587 reads as follows:

§ 201.587 Procedure at plant.

The receipt and deposit of denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues, shall be under the general supervision of the assigned officer; the receipt and deposit of other spirits returned to bonded premises shall be under the direct supervision of the assigned officer. The proprietor shall, at the time of receipt, determine, by gage when necessary, the quantity of the spirits, denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues, and prepare a report thereof on Form 2629 or Form 2612, as appropriate. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a lawful purpose, the export marks shall be effaced and the stamps, if any, shall be destroyed. If the shipment was made pursuant to Form 1473, the proprietor shall execute the certificate of receipt on such form and forward the original thereof to the assistant regional commissioner through the assigned officer. Spirits recovered by the redistillation of denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. All spirits redistilled under the provisions of this subpart shall, subject to the provisions of this subpart, be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this part and Chapter 51, I.R.C., applicable to the original production of distilled spirits, shall be applicable thereto. The receipt, redistillation, storage, and disposition, as applicable, of spirits, denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues shall be recorded in the appropriate records and reports of the proprietor as prescribed in Subpart U of this part. Except as otherwise provided in this subpart, all spirits (including denatured spirits) returned to bonded storage may be withdrawn for any purpose authorized by this part and chapter 51, I.R.C. Nothing in this section shall be construed as affecting any provision of law or regulations relating to the labeling, marking, branding, or identification of distilled spirits.

(72 Stat. 1362, as amended, 1365, as amended; 26 U.S.C. 5214, 5223)

PAR. 51. Paragraph (c) of § 201.603 is amended to provide for package identification numbers on sample schedules, and make an editorial change. As amended, paragraph (c) of § 201.603 reads as follows:

§ 201.603 Schedule of samples.

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(c) The place from which the sample is to be removed, or, in the case of a package, the package identification number or serial number, as applicable, and the location of the package and the name and plant number of the packaging proprietor if other than the one taking the sample;

• • • • •

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 52. Section 201.606 is amended to (1) require the proprietor to prepare Form 1615, (2) require identification of Forms 2521 covering prepaid samples on the semimonthly report of taxable samples, and (3) make editorial changes. As amended, § 201.606 reads as follows:

§ 201.606 Taxable samples.

Samples taken of spirits in bond which are used for purposes other than testing or laboratory analysis, and samples withdrawn free of tax in excess of any limitations, as provided in § 201.601, are taxable. The proprietor shall prepare a report on Form 1615 of all taxable samples withdrawn. If the proprietor is qualified to defer payment of the tax, the tax due on samples shall be included in the proprietor's tax return on Form 2522 for the period in which the samples were withdrawn. If a proprietor is not qualified to defer the payment of tax, the tax on samples shall be paid by return on Form 2521 and the semimonthly report of taxable samples, required by § 201.631a, shall be modified to indicate, for each sample upon which the tax has been prepaid, the serial number of the applicable Form 2521.

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 53. Paragraph (f) of § 201.607 is amended by changing the word "fourth" to "second." As amended, paragraph (f) of § 201.607 reads as follows:

§ 201.607 Labels.

• • • • •

(f) Whether taxable or free of tax, and if taxable, the proof gallon content to the second decimal place;

• • • • •

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 54. Section 201.612 is amended by adding provisions for maintaining records on data processing equipment. As amended, § 201.612 reads as follows:

§ 201.612 Maintenance and preservation of records.

Records required by this part shall be kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any Internal Revenue officer during business hours. Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the Director under § 201.616 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record, and all provisions of law applicable to the original shall be applicable to such reproduction. Records required by this part shall be preserved for a period of not less than 4 years from the date thereof or the date of the last entry required to be made thereon, whichever is the later, except that records covering spirits of 190° or more of proof in storage tanks, transferred to an inactive file in accordance with § 201.628(b), shall be preserved for a period of not less than 4 years from the date of removal from the active file, and that records of all other spirits stored on bonded premises shall be preserved for not less than 4 years from the date the spirits covered thereby are removed from the proprietor's bonded premises. Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the plant premises if the daily records required by §§ 201.619–201.624 and the reports required by §§ 201.631a–201.634 are kept available for inspection at the plant premises. Data which has been accumulated on cards, tapes, discs, or other accepted record media must be retrievable within 5 business days.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 55. The heading and text of § 201.614 have been revised to prescribe more flexible requirements for variations from prescribed forms and records. As amended, § 201.614 reads as follows:

§ 201.614 Variations from prescribed forms or records.

(a) *General.* Proprietors may, subject to the approval of the Director, modify certain prescribed forms, or subject to the approval of the assistant regional commissioner, maintain substitute records in lieu of the records required by §§ 201.628 and 201.629 in order to adapt the use of such forms and records to data processing equipment or special operations, to provide additional information, or for other good cause, if such changes are not inconsistent with the general requirements of clarity and accuracy and do not result in difficulty in processing or filing such forms or difficulty in maintaining and examining such records. Such modified forms or substitute records shall (1) contain the information which would have been on the prescribed form or record, (2) constitute the record or report required by this part, and (3) be subject to the same requirements as the prescribed forms or records.

(b) *Application.* An application to use modified forms shall be submitted, in triplicate, to the Director through the assistant regional commissioner. It shall be accompanied by (1) three copies of each proposed form with typical entries thereon and (2) a statement, in triplicate, explaining the need for the use of the modified forms. Such modified forms shall not be used until approved by the Director. An application to use substitute records shall be submitted, in duplicate, to the assistant regional commissioner. It shall be accompanied by (i) two copies of each proposed record with typical entries thereon and (ii) a statement, in duplicate, explaining the need for the use of the substitute records. Such substitute records shall not be used until they are approved by the assistant regional commissioner.

(c) *Restrictions.* No modification shall be permitted on claims forms, tax return forms, or forms covering the reports required by §§ 201.633 and 201.634. Approval for the maintenance of substitute records in lieu of the records required by § 201.629 shall not relieve a proprietor from the requirements of § 201.302, § 201.304, § 201.307, or § 201.308 respecting the preparation of Form 1685 or Form 2323. The Director or the assistant regional commissioner, as applicable, may withdraw the approval of any modified form or substitute record when in his opinion the administration of this part will be served thereby.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 56. Paragraphs (a), (c), and (f) of § 201.618 are amended to make conforming and editorial changes, and paragraph (f) is further amended to provide for package identification numbers. As amended, paragraphs (a), (c), and (f) of § 201.618 read as follows:

§ 201.618 Details of daily records.

• • • • •

(a) Spirits shall be recorded by kind and by quantity in proof gallons, or tax gallons if required by instructions on transaction forms, except that removals of bottled products from bottling premises shall be in wine gallons.

• • • • •

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received on the premises, shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons: *Provided*, That when nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded: *Provided, further*, That when it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the Director may, by approval of an application submitted by the proprietor in quadruplicate, authorize the proprietor, in lieu of weighing or measuring, to estimate the weight or volume of the material.

• • • • •

(f) Containers (other than packages bearing package identification numbers) or cases involved in each operation or transaction shall be recorded by type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. Package identification numbers shall be recorded on all deposit forms reflecting production gages or filling of packages from tanks in the warehouse; however, only the lot identification need be shown for transactions in packages of spirits unless package identification numbers are specifically required by this part (see for example, § 201.628a(d)).

• • • • •

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 57. Section 201.619 is amended to prescribe revised requirements for production records. As amended, § 201.619 reads as follows:

§ 201.619 Daily production records.

Each proprietor shall maintain daily records of operations of his production facilities showing:

(a) The receipt of fermenting material or other nonalcoholic material in-

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tended for use in the production of spirits.

(b) The receipt and use of spirits, denatured spirits, articles, and spirits residues received for redistillation.

(c) The fermenting material set in each fermenter or other material used in the production of spirits.

(d) The distilling material produced, received on production facilities, and used in production of spirits, or destroyed or removed from the premises before being distilled (including the residue of beer returned to the producing brewery).

(e) The gage of spirits in each receiving tank both before and after the production gage of spirits removed therefrom, the production gage (in tax gallons) of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering each removal. (The date of production shall be the date of gage and removal from the production system, and the quantity produced shall be the quantity reported on the deposit or withdrawal forms.) If spirits are filled into packages, the record for each tank shall also show (1) the package identification numbers, (2) the average tax gallons per package, and (3) the number of packages involved in each transaction.

(f) The fermenting materials or other nonalcoholic materials removed from the premises.

(g) The quantity and alcohol content of fusel oil or other chemicals removed from the closed production system and the disposition thereof with the name of the consignee, if any.

(h) The kind and quantity of distillates removed from the production system pursuant to § 201.275.

(i) The kind and quantity of spirits lost or destroyed prior to production gage.

Records pertaining to production shall meet the requirements of § 201.630b and shall be maintained in such a manner that the spirits produced may be traced through the distilling system to the mash or other material from which produced, and the identity of the spirits thus traced may be clearly established.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 58. Paragraph (b) of § 201.622 is amended by adding requirements for records for storage tanks on bonded premises. As amended, paragraph (b) of § 201.622 reads as follows:

§ 201.622 Daily bonded storage records.

* * * * *

(b) *Other transactions.* Each proprietor shall also maintain records reflecting:

(1) The mingling of spirits under §§ 201.297 and 201.301;

(2) The blending of beverage rums and brandies under §§ 201.307 and 201.308;

(3) The bottling of spirits under Subpart K of this part, including—

(i) Spirits entered for bottling in bond,

(ii) Spirits bottled and cased for domestic use or for export,

(iii) Bottled spirits returned to storage,

(iv) The rebottling, relabeling, or restamping of bottled spirits (domestic spirits rebottled, relabeled, or restamped for export shall be appropriately identified on the Form 1515),

(v) Alcohol bottled, and

(vi) The gains or losses determined during bottling;

(4) The change of packages under § 201.295; and

(5) The quick-aging of spirits, or the addition of oak chips to spirits or burnt sugar or caramel to brandy and rum under § 201.292.

Records for storage tanks on bonded premises which contain spirits of less than 190° of proof shall show the gage, in tax gallons, of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering the removal from the tank. If the spirits in such tanks are filled into packages, the record for each tank shall also indicate the gage of the spirits in the tank both before and after the gage of spirits removed therefrom; the number, average tax gallons per package, and the package identification numbers, of the packages filled; and the serial numbers of the related Form 2323 (Form 1685 in the case of blended rums or brandies) covering spirits deposited in the tank. The disposition of packages so filled shall be recorded by identifying the related transaction form (such as Form 179, 236, or 2629) and its serial number, and the number of packages involved in each transaction. The records shall meet the requirements of § 201.630b.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 59. Section 201.624 is amended by inserting the words, "unaccounted for," after the word "mutilated" in the first sentence. As amended, § 201.624 reads as follows:

§ 201.624 Daily strip stamp record.

Each proprietor bottling spirits under the provisions of this part shall maintain, for each day a transaction in strip stamps occurs, a daily record of green bottled-in-bond strip stamps by denomination, of blue bottled-in-bond strip stamps and of red strip stamps by kind (blue or red) and by size (small or standard), and of alcohol strip stamps, showing the number received, used, lost, mutilated, unaccounted for, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show, by size of bottle, the number of bottles to which blue strip stamps, red strip stamps, and alcohol strip stamps were affixed, except that, as to each kind of stamp, bottles of less than one-half pint capacity shall be recorded as one item.

(72 Stat. 1358, 1361; 26 U.S.C. 5205, 5207)

PAR. 60. Section 201.626 is amended to make editorial changes. As amended, § 201.626 reads as follows:

§ 201.626 Sample record for bonded premises.

Proprietors shall maintain daily records of samples taken by them from bonded premises to show (a) the date taken, (b) the kind of spirits (formula number in the case of denatured spirits), (c) the quantity in wine gallons, (d) the container from which taken, (e) the place from which taken, (f) the purpose for which taken, (g) the name and address of the consignee when samples are sent out, and (h) whether such samples are tax-free or tax-determined and if tax-determined, the proof and tax gallons.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 61. Paragraph (b) of § 201.627 is amended to prescribe the forms to be used for recording losses disclosed by inventory of tanks on bonded storage facilities. As amended, paragraph (b) of § 201.627 reads as follows:

§ 201.627 Inventories.

* * * * *

(b) *Storage facilities.* Each proprietor of bonded storage facilities shall make a record of his monthly inventory of spirits in tanks and other vessels required by § 201.311, showing the date taken and the details thereof including the identifying marks on each such container, the kind and quantity of spirits or denatured spirits therein, and the losses, if any, disclosed by the inventory. Such losses, and the quantity disclosed by inventory, shall be recorded in respect of each tank or other vessel containing spirits of less than 190° of proof, on the respective current Form 2323 or 1685 covering the particular tank, and as to spirits of 190° or more of proof, on the current Form 1621 covering the particular spirits. The inventory shall be signed and retained as provided in paragraph (a) of this section.

* * * * *

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 62. Paragraphs (a) and (b) of § 201.628 are amended in their entirety, and paragraph (c) is deleted. As amended, § 201.628 reads as follows:

§ 201.628 Record of spirits in storage.

(a) *Records covering deposits.* The proprietor's copies of forms (for example, Forms 236, 1685, 2323, or 2629) covering (1) deposit in bonded storage of spirits received from production facilities, from other bonded premises, from customs custody, or by return to bond under Subpart S of this part, (2) packages filled from tanks and retained in bonded storage, (3) cases of spirits returned to the storage portion of the warehouse after bottling, (4) spirits retained in tanks after mingling or blending, and (5) spirits of less than 190° of proof transferred from one tank to another, shall be filed by the proprietor as permanent records. Before filing such forms, he shall enter the date of deposit of the spirits in the warehouse at the bottom of each form. Separate files shall be maintained for spirits in packages and in cases, and such files shall be arranged by producers (by warehousemen in the case of blended rums or brandies, and spirits of 190° or more of proof, by the warehouseman who received the spirits from customs custody in the case of imported spirits, and by producer in the Virgin Islands or Puerto Rico in the case of Virgin Islands or Puerto Rican spirits), in chronological order according to the date of deposit in the warehouse, and, when possible, in sequence by lot identification for packages or serial numshall be maintained for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. (For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the producer.) Also, files shall be maintained, in the manner prescribed by § 201.629, for spirits of less than 190° of proof in storage tanks, with a separate file for each tank of spirits. In the case of spirits of 190° or more of proof deposited in storage tanks, the proprietor shall maintain a separate consolidated file of deposit forms for all tanks, separately as to gin, vodka, and other spirits as applicable, of (i) all such domestic spirits, (ii) all such imported spirits duty paid at the beverage rate, (iii) all such imported spirits duty paid at the nonbeverage rate, (iv) all such Virgin Island spirits subject to rectification tax, (v) all such Virgin Islands spirits not subject to rectification tax, (vi) all such Puerto Rican spirits subject to rectification tax, and (vii) all such Puerto Rican spirits not subject to rectification tax. Such files shall be arranged chronologically by date of deposit in the warehouse.

(b) *Records covering withdrawals.* When spirits, other than spirits of 190° or more of proof in storage tanks, are withdrawn from bonded storage the proprietor shall note on the record of deposit required by paragraph (a) of this section, the date and disposition of the spirits so that the files shall currently reflect the spirits remaining in the warehouse. When spirits of 190° or more of proof are withdrawn from storage tanks the record of deposit need not be noted, but semiannually (as of June 30 and December 31) the proprietor shall remove from his consolidated files of active deposit forms all such forms in excess of those required to cover the "balance in warehouse" shown on Form 1621 for such spirits. The deposit forms so removed shall be those covering spirits which were "first-in-warehouse."

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 63. A new section, § 201.628a, is inserted, immediately following § 201.628, to read as follows:

§ 201.628a Adjustment of recorded quantities of spirits in packages in bond prior to (effective date).

Packages of spirits entered into bonded storage before (effective date) shall be accounted for by the proprietor as required by regulations in effect on (day before effective date), except that on and after (effective date) his accounts shall be adjusted as follows:

(a) Incidental, or prior, to the first transaction in packages comprising a basic seasonal account prescribed by § 201.629, the total recorded tax gallons in the account, based on a summation of the recorded original tax gallon content of the individual packages in the account, shall be converted to total tax gallons of record, calculated as provided in paragraph (d) of this section, and such quantity shall be recorded on the Form 1621 covering the account and the average content of the packages in the account shall be recorded on the related deposit record on Form 2630: *Provided*, That if, prior to the conversion, the recorded contents of the various packages within the account differ substantially, the packages shall be separated into groups according to their fill dates and recorded contents, and the total tax gallons of record shall be calculated for each group and such quantities shall be individually recorded on the Form 1621 covering the account and the average content of the packages in each group shall be recorded on the related deposit record.

(b) Upon receipt of packages of spirits transferred in bond which are eligible for inclusion in an account in which packages of spirits are on deposit, the total tax gallons received shall be adjusted on the basis of the average tax gallons of record (computed as prescribed in paragraph (a) of this section) contained in the packages already on deposit. Such average tax gallons per package shall be recorded on the deposit Form 236 and the adjusted total tax gallons shall be recorded on the Form 236 covering the shipment and on the Form 1621 covering the account.

(c) Upon receipt of packages transferred in bond for which a new seasonal account must be established, the total tax gallons of record as computed by the consignor and reported by him on the Form 236 shall be recorded on the Form 1621 covering the new account.

(d) When required to be established and recorded, the total tax gallons of record for all packages within a seasonal account or within a particular group within such seasonal account shall be calculated by (1) dividing the total original tax gallons of spirits contained in the packages within the account or group, as the case may be, by the number of packages within the account or group to establish the average content for all packages within the account or group and (2) multiplying such average content, rounded to the nearest one-tenth of a tax gallon, by the number of packages within the account or group, as applicable. For the purpose of section 5006(b), I.R.C., the most recently established average content of a package of spirits entered into bond before (effective date) shall be deemed to be the original quantity entered into bond in that package, unless the actual quantity can be otherwise specifically established. Forms covering transactions occurring on and after (effective date) involving packages filled prior to (effective date) shall show the average content of the packages and, under "identification", shall show a lot identification constructed in accordance with the instructions in subparagraph (1) of paragraph (a) of § 201.513a.

Nothing in this section shall be construed to require the alteration of marks and brands placed on packages filled before (effective date) to reflect any change in accounting specified herein.

PAR. 64. Section 201.629 is amended in its entirety. As amended, § 201.629 reads as follows:

§ 201.629 Warehouse summary accounts.

(a) *General.* Each bonded warehouse proprietor shall keep current summary accounts of spirits entered into, withdrawn from, and remaining in his warehouse in accordance with the provisions of this section. Separate accounts shall be maintained for domestic spirits, imported spirits, Virgin Islands spirits, and Puerto Rican spirits, with such further separation into basic accounts as is required by paragraph (b), (c), (d), and (e) of this section. Such basic accounts for imported spirits shall show the rate of duty paid on the spirits and such basic accounts for Virgin Islands and Puerto Rican spirits shall, if subject to rectification tax, show the rate of rectification tax.

(b) *Basic accounts of spirits in packages and cases.* Separate basic accounts for spirits in packages and for spirits in cases shall be maintained on Form 1621 for each producer (bonded warehouse proprietor in the case of blended rums or brandies and spirits of 190° or more of proof), by kind of spirits, and by season of production, showing the number of packages or cases, and the total tax gallons therein, deposited in, withdrawn from, and remaining in the warehouse. Basic accounts for spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been so mingled. The basic accounts shall be arranged as follows:

(1) For domestic spirits, other than blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the producer (spirits produced under trade names, for the purpose of this record, shall be treated as being produced under the real name of the producer);

(2) For domestic blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who blended the rums or brandies or who filled the packages of spirits of 190° or more of proof, as the case may be;

(3) For imported spirits, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who received the spirits from customs custody; and

(4) For Virgin Islands or Puerto Rican spirits, alphabetically by the name of the producer in the Virgin Islands or in Puerto Rico.

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(c) *Basic accounts of spirits of less than 190° of proof in tanks.* Separate basic accounts shall be maintained on Form 2323 or, in the case of blended rums or brandies, on Form 1685, of all spirits of less than 190° of proof in tanks (including tank cars, tank trucks, and similar vessels). Forms 2323 prepared as provided in §§ 201.291, 201.302 and 201.304 and Forms 1685 prepared as provided in §§ 201.291, 201.307, and 201.308 for the current month (including any Forms 2323 or 1685 prepared in a prior month that are current because of a lack of subsequent transactions) shall constitute the account prescribed by this paragraph: *Provided*, That other Forms 2323 and 1685 for noncurrent months shall be retained as provided in § 201.612.

(d) *Basic accounts of spirits of 190° or more of proof in tanks.* A basic account shall be maintained on Form 1621 for each kind of spirits of 190° or more of proof stored in tanks (including tank cars, tank trucks, or similar vessels). The account shall show the total tax gallons deposited in, withdrawn from, and remaining in all tanks covered by such account.

(e) *Summary of containers and kinds.* The basic accounts maintained in accordance with paragraphs (b), (c), and (d) of this section shall, at the end of each month (or such lesser period as required by the assistant regional commissioner) be summarized to show, for each type of container, the total tax gallons deposited in, withdrawn from, and remaining in the warehouse by each kind of spirits, and the total tax gallons deposited in, withdrawn from, and remaining in the warehouse for all kinds of spirits. Such summaries shall be maintained on Form 1621, and shall include all losses (or gains) such as those disclosed by inventory or on emptying a tank (see § 201.311).

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 65. Section 201.630 is amended by (1) revoking paragraph (a) and redesignating paragraphs (b) and (c), and (2) making a conforming change. As amended, § 201.630 reads as follows:

§ 201.630 Monthly summary records.

Each proprietor shall, within 10 days after the end of each month, summarize the transactions recorded in his daily records relating to:

(a) Denaturants as required by paragraph (a) of § 201.621.

(b) Alcoholic flavoring materials as required by paragraphs (a), (c), and (h) of § 201.623.

Such summary shall show the kind of material or denaturant and the quantity on hand the first of the month, received, used, otherwise disposed of, and on hand, end of the month. The summaries shall be filed with the daily records to which they pertain and shall be made available for inspection by internal revenue officers.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 66. A new section § 201.630b, is inserted, immediately following § 201.630a, to read as follows:

§ 201.630b Style of production and bonded storage records.

When the proprietor's copies of prescribed forms show the details required by §§ 201.619 and 201.622 to be recorded for transactions, such forms shall constitute the required records. When the proprietor's commercial records show the details required by §§ 201.619 and 201.622 to be recorded for transactions, and there is no prescribed form showing such details, such commercial records may constitute the required records.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 67. The heading and text of § 201.631 are amended to (1) include transaction forms and semimonthly reports, and (2) require the submission of monthly, quarterly, and semiannual reports by the 15th, instead of 10th day of a month. As amended, § 201.631 reads as follows:

§ 201.631 Submission of transaction forms and reports.

(a) *Transaction forms.* Copies of transaction forms required by this part shall be submitted to the assigned officer, or, if none is regularly assigned, to the assistant regional commissioner, as provided by this part and by instructions on the individual forms.

(b) *Reports.* Daily reports required by this part shall be submitted to the assigned officer, or other officer designated by the assistant regional commissioner, and shall be submitted on or before the close of business on the business day next succeeding that on which the transaction or operation occurs. Semimonthly reports (taxable samples) required by this part shall be submitted to the assigned officer on or before the close of business of the next succeeding tax return period. Monthly, quarterly, and semiannual reports required by this part shall be submitted to the assigned officer, or, if none is regularly assigned, to the assistant regional commissioner, on or before the 15th day following the close of the period for which rendered.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 68. A new section, § 201.631a, is inserted, immediately following § 201.631, to read as follows:

§ 201.631a Semimonthly report of taxable samples.

Each proprietor of bonded premises shall prepare, in triplicate, a report on Form 1615 of taxable samples, if any, taken on his premises during the semimonthly period. The original and one copy of the report shall be submitted and the remaining copy shall be retained by the proprietor.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

§ 201.632 [Revoked]

PAR. 69. Section 201.632 is revoked.

PAR. 70. Section 201.633 is amended to prescribe revised requirements for preparation and distribution of monthly reports, and make an editorial change. As amended, § 201.633 reads as follows:

§ 201.633 Monthly reports.

Each proprietor shall, at the end of each month, report his operations on the forms prescribed below. Each report shall be prepared in triplicate. The original and one copy shall be filed as provided in § 201.631 and the remaining copy shall be retained by the proprietor.

Report	Prepared by—	Purpose
(a) Monthly report—Distilled spirits plant:		
Form 2730	Distillers	Reports production operations.
Form 2731	Bonded warehousemen.	Reports bonded storage operations.
Form 2732	Proprietors of bonded premises.	Reports denaturation operations for entire bonded premises.
Form 2733	Proprietors of bottling premises.	Reports rectification and bottling operations.
(b) [Reserved]		

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

PAR. 71. Section 201.633a is amended to prescribe revised requirements for preparation and distribution of Form 2260, Quarterly Report of Strip Stamps. As amended, § 201.633a reads as follows:

§ 201.633a Quarterly report of strip stamps, Form 2260.

As of the close of business March 31, June 30, September 30, and December 31, of each year, each proprietor using strip stamps shall prepare Form 2260, in triplicate. A separate report shall be prepared for each kind of strip stamp used. The original and one copy shall be filed as provided in § 201.631 and the remaining copy shall be retained by the proprietor.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

PAR. 72. Section 201.634 is amended by inserting a new paragraph (a) and redesignating paragraphs (a), (b), and (c) as (b), (c), and (d), respectively. As amended § 201.634 reads as follows:

§ 201.634 Semiannual reports.

(a) *General.* Semiannual reports required by this section shall be prepared in triplicate; the original and one copy shall be filed as provided in § 201.631, and the remaining copy retained by the proprietor.

(b) *Form 332.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 332, a statement by kind, season, and year of production, of spirits in his bonded warehouse. A separate Form 332 shall be prepared for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. Spirits of 190° or more of proof (on which a record of age is not kept) shall be reported as a single item on Form 332; however, the quantity of such domestic spirits and of such imported spirits shall be reported separately. Imported spirits of less than 190° of proof shall be reported on a separate line, appropriately identified as "Imported," giving the total quantity of each kind of such imported spirits in the appropriate column on Form 332.

(c) *Form 2546.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 2546, a report of spirits mingled under § 201.301 during the preceding 6-month period. A separate report shall be prepared for each kind of spirits.

(d) *Form 338.* As of the close of business June 30, and December 31, of each year, every proprietor who, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, shall prepare, on Form 338, a report showing the total quantity of distilled spirits received and disposed of during the preceding 6-month period.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

[FR Doc.72-16877 Filed 10-3-72;8:48 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Qualified Export Receipts and Producer's Loans of a Domestic International Sales Corporation (DISC)

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 3, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by November 3, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68 Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 993 of the Internal Revenue Code of 1954, as added by section 501 of the Revenue Act of 1971 (85 Stat. 535), such regulations are amended as follows:

The following new sections are added immediately after § 1.992-4:

§ 1.993 Statutory provisions; definitions.

Sec. 993. *Definitions*—(a) *Qualified export receipts*—(1) *General rule.* For purposes of this part, except as provided by regulations under paragraph (2), the qualified export receipts of a corporation are—

(A) Gross receipts from the sale, exchange, or other disposition of export property,

(B) Gross receipts from the lease or rental of export property, which is used by the lessee of such property outside the United States,

(C) Gross receipts for services which are related and subsidiary to any qualified sale, exchange, lease, rental, or other disposition of export property by such corporation,

(D) Gross receipts from the sale, exchange, or other disposition of qualified export assets (other than export property),

(E) Dividends (or amounts includible in gross income under section 951) with respect to stock of a related foreign export corporation (as defined in subsection (e)),

(F) Interest on any obligation which is a qualified export asset,

(G) Gross receipts for engineering or architectural services for construction projects located (or proposed for location) outside the United States, and

(H) Gross receipts for the performance of managerial services in furtherance of the production of other qualified export receipts of a DISC.

(2) *Excluded receipts.* The Secretary or his delegate may under regulations designate receipts from the sale, exchange, lease, rental, or other disposition of export property, and from services, as not being receipts described in paragraph (1) if he determines that such sale, exchange, lease, rental, or other disposition, or furnishing of services—

(A) Is for ultimate use in the United States;

(B) Is accomplished by a subsidy granted by the United States or any instrumentality thereof;

(C) Is for use by the United States or any instrumentality thereof where the use of such export property or services is required by law or regulation.

For purposes of this part, the term "qualified export receipts" does not include receipts from a corporation which is a DISC for its taxable year in which the receipts arise and which is a member of a controlled group (as defined in paragraph (3)) which includes the recipient corporation.

(3) *Definition of controlled group.*—For purposes of this part, the term "controlled group" has the meaning assigned to such term by section 1563(a), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears therein, and section 1563(b) shall not apply.

(b) *Qualified export assets.*—For purposes of this part, the qualified export assets of a corporation are—

(1) Export property (as defined in subsection (c));

(2) Assets used primarily in connection with the sale, lease, rental, storage, handling, transportation, packaging, assembly, or servicing of export property, or the performance of engineering or architectural services described in subparagraph (G) of subsection (a)(1) or managerial services in furtherance of the production of qualified export receipts described in subparagraphs (A), (B), (C), and (G) of subsection (a)(1);

(3) Accounts receivable and evidences of indebtedness which arise by reason of transactions of such corporation described in subparagraph (A), (B), (C), (D), (G), or (H), of subsection (a)(1);

(4) Money, bank deposits, and other similar temporary investments, which are reasonably necessary to meet the working capital requirements of such corporation;

(5) Obligations arising in connection with a producer's loan (as defined in subsection (d));

(6) Stock or securities of a related foreign export corporation (as defined in subsection (e));

(7) Obligations issued, guaranteed, or insured, in whole or in part, by the Export-Import Bank of the United States or the Foreign Credit Insurance Association in those cases where such obligations are acquired from such bank or association or from the seller or purchaser of the goods or services with respect to which such obligations arose;

(8) Obligations issued by a domestic corporation organized solely for the purpose of financing sales of export property pursuant to an agreement with the Export-Import Bank of the United States under which such corporation makes export loans guaranteed by such bank; and

(9) Amounts (other than reasonable working capital) on deposit in the United States that are utilized during the period provided for in, and otherwise in accordance with, regulations prescribed by the Secretary or his delegate to acquire other qualified export assets.

(c) *Export property.*—

(1) *In general.* For purposes of this part, the term "export property" means property—

(A) Manufactured, produced, grown, or extracted in the United States by a person other than a DISC,

(B) Held primarily for sale, lease, or rental, in the ordinary course of trade or business, by, or to, a DISC, for direct use, consumption or disposition outside the United States, and

(C) Not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

In applying subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary or his delegate under section 402 or 402a of the Tariff Act of 1930 (19 U.S.C., sec. 1401a or 1402) in connection with its importation.

(2) EXCLUDED PROPERTY.—For purposes of this part, the term "export property" does not include—

(A) Property leased or rented by a DISC for use by any member of a controlled group (as defined in subsection (a)(3) which includes the DISC, or

(B) Patents, inventions, models, designs, formulas, or processes, whether or not patented, copyrights (other than films, tapes, records, or similar reproductions, for commercial or home use), good will, trademarks, trade brands, franchises, or other like property.

(3) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, he may by Executive order designate the property as in short supply. Any property so designated shall be treated as property not described in paragraph (1) during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President's determination that the property is no longer in short supply.

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(d) PRODUCER'S LOANS.—

(1) IN GENERAL.—An obligation, subject to the rules provided in paragraphs (2) and (3), shall be treated as arising out of a producer's loan if—

(A) The loan, when added to the unpaid balance of all other producer's loans made by the DISC, does not exceed the accumulated DISC income at the beginning of the month in which the loan is made;

(B) The obligation is evidenced by a note (or other evidence of indebtedness) with a stated maturity date not more than 5 years from the date of the loan;

(C) The loan is made to a person engaged in the United States in the manufacturing, production, growing, or extraction of export property (referred to hereinafter as the "borrower"); and

(D) At the time of such loan it is designated as a producer's loan.

(2) LIMITATION.—An obligation shall be treated as arising out of a producer's loan only to the extent that such loan, when added to the unpaid balance of all other producer's loans to the borrower outstanding at the time such loan is made, does not exceed an amount determiner by multiplying the sum of—

(A) The amount of the borrower's adjusted basis determined at the beginning of the borrower's taxable year in which the loan is made, in plant, machinery, and equipment, and supporting production facilities in the United States;

(B) The amount of the borrower's property held primarily for sale, lease, or rental, to customers in the ordinary course of trade or business, at the beginning of such taxable year; and

(C) The aggregate amount of the borrower's research and experimental expenditures (within the meaning of section 174) in the United States during all preceding taxable years beginning after December 31, 1971,

by the percentage which the borrower's receipts, during the 3 taxable years immediately preceding the taxable year (but not including any taxable year commencing prior to 1972) in which the loan is made, from the sale, lease, or rental outside the United States of property which would be export property if held by a DISC is of the gross receipts during such 3 taxable years from the sale, lease, or rental of property held by such borrower primarily for sale, lease, or rental to customers in the ordinary course of the trade or business of such borrower.

(3) INCREASED INVESTMENT REQUIREMENT.—An obligation shall be treated as arising out of a producer's loan in a taxable year only to the extent that such loan, when added to the unpaid balance of all other producer's loans to the borrower made during such taxable year, does not exceed an amount equal to—

(A) The amount by which the sum of the adjusted basis of assets described in paragraph (2) (A) and (B) on the last day of the taxable year in which the loan is made exceeds the sum of the adjusted basis of such assets on the first day of such taxable year; plus

(B) The aggregate amount of the borrower's research and experimental expenditures (within the meaning of section 174) in the United States during such taxable year.

(4) *Special limitation in the case of domestic film maker.*—(A) *In general.*—In the case of a borrower who is a domestic film maker and who incurs an obligation to a DISC for the making of a film, and such DISC is engaged in the trade or business of selling, leasing, or renting films which are export property, the limitation described in paragraph (2) may be determined (to the extent provided under regulations prescribed by the Secretary or his delegate) on the basis of—

(i) The sum of the amounts described in subparagraphs (A), (B), and (C) thereof plus reasonable estimates of all such amounts to be incurred at any time by the borrower with respect to films which are commenced within the taxable year in which the loan is made; and

(ii) The percentage which, based on the experience of producers of simliar films, the annual receipts of such producers from the sale, lease, or rental of such films outside the United States is of the annual gross receipts of such producers from the sale, lease, or rental of such films.

(B) *Domestic film maker.*—For purposes of this paragraph, a borrower is a domestic film maker with respect to a film if—

(i) Such borrower is a U.S. person within the meaning of section 7701(a)(30), except that with respect to a partnership, all of the partners must be U.S. persons, and with respect to a corporation, all of its officers and at least a majority of its directors must be U.S. persons;

(ii) Such borrower is engaged in the trade or business of making the film with respect to which the loan is made;

(iii) The studio, if any, used or to be used for the taking of photographs and the recording of sound incorporated into such film is located in the United States;

(iv) The aggregate playing time of portions of such film photographed outside the United States does not or will not exceed 20 percent of the playing time of such film; and

(v) Not less than 80 percent of the total amount paid or to be paid for services performed in the making of such film is paid or to be paid to persons who are U.S. persons at the time such services are performed or consists of amounts which are fully taxable by the United States.

(C) *Special rules for application of subparagraph (B) (v).*—For purposes of clause (v) of subparagraph (B)—

(i) There shall not be taken into account any amount which is contingent upon receipts or profits of the film and which is fully taxable by the United States (within the meaning of clause (ii)); and

(ii) Any amount paid or to be paid to a U.S. person, to a nonresident alien individual, or to a corporation which furnishes the services of an officer or employee to the borrower with respect to the making of a film, shall be treated as fully taxable by the United States only if the total amount received by such person, individual, officer, or employee for services performed in the making of such film is fully included in gross income for purposes of this chapter.

(e) *Related Foreign Export Corporation.*—In determining whether a corporation (hereinafter in this subsection referred to as "the domestic corporation") is a DISC—

(1) *Foreign international sales corporation.*—A foreign corporation is a related foreign export corporation if—

(A) Stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned directly by the domestic corporation,

(B) Ninety-five percent or more of such foreign corporation's gross receipts for its taxable year ending with or within the taxable year of the domestic corporation consists of qualified export receipts described in subparagraphs (A), (B), (C), and (D) of subsection (a)(1) and interest on any obligation described in paragraphs (3) and (4) of subsection (b), and

(C) The adjusted basis of the qualified export assets (described in paragraphs (1), (2), (3), and (4) of subsection (b)) held by such foreign corporation at the close of such taxable year equals or exceeds 95 percent of the sum of the adjusted basis of all assets held by it at the close of such taxable year.

(2) REAL PROPERTY HOLDING COMPANY.—A foreign corporation is a related foreign export corporation if—

(A) Stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned directly by the domestic corporation, and

(B) Its exclusive function is to hold real property for the exclusive use (under a lease or otherwise) of the domestic corporation.

(3) ASSOCIATED FOREIGN CORPORATION.—A foreign corporation is a related foreign export corporation if—

(A) less than 10 percent of the total combined voting power of all classes of stock entitled to vote of such foreign corporation is owned (within the meaning of section 1563 (d) and (e)) by the domestic corporation or by a controlled group of corporations (within the meaning of section 1563) of which the domestic corporation is a member, and

(B) the ownership of stock or securities in such foreign corporation by the domestic corporation is determined (under regulations prescribed by the Secretary or his delegate) to be reasonably in furtherance of a transaction or transactions giving rise to qualified export receipts of the domestic corporation.

(f) Gross receipts.—For purposes of this part, the term "gross receipts" means the total receipts from the sale, lease, or rental of property held primarily for sale, lease, or rental in the ordinary course of trade or business, and gross income from all other sources. In the case of commissions on the sale, lease, or rental of property, the amount taken into account for purposes of this part as gross receipts shall be the gross receipts on the sale, lease, or rental of the property on which such commissions arose.

(g) United States defined.—For purposes of this part, the term "United States" includes the Commonwealth of Puerto Rico and the possessions of the United States.

[Sec. 993 as added by sec. 501, Rev. Act 1971 (85 Stat. 535)]

§ 1.993–1 Definition of qualified export receipts.

(a) *In general.* For a corporation to qualify as a DISC, at least 95 percent of its gross receipts for a taxable year must consist of qualified export receipts. Under section 993(a), the term "qualified export receipts" means any of the eight amounts described in paragraphs (b) through (i) of this section, except to the extent that any of the eight amounts is an excluded receipt within the meaning of paragraph (j) of this section. For purposes of this section and §§ 1.993–2 through 1.993–6—

(1) *DISC.* All references to a DISC mean a DISC, except when the context indicates that such term means a corporation in the process of meeting the conditions necessary for that corporation to become a DISC, or a corporation being tested as to whether it qualifies as a DISC.

(2) *Sale and lease.* The term "sale" includes an exchange or other disposition and the term "lease" includes a rental or a sublease.

(3) *Gross receipts.* The term "gross receipts" is defined by section 993(f) and § 1.993–6.

(4) *Qualified export assets.* The term "qualified export assets" is defined by section 993(b) and § 1.993–2.

(5) *Export property.* The term "export property" is defined by section 993(c) and § 1.993–3.

(6) *Related person.* The term "related person" means a person who is related to another person if either immediately before or after a transaction—

(i) The relationship between such persons would result in a disallowance of losses under section 267 (relating to disallowance of losses, etc., between related taxpayers), or section 707(b) (relating to losses disallowed, etc., between partners and controlled partnerships), and the regulations thereunder, or

(ii) Such persons are members of the same controlled group of corporations, as defined in section 1563(a) (relating to definition of controlled group of corporations), except that (*a*) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a) and the regulations thereunder, and (*b*) the provisions of section 1563(b) shall not apply in determining whether such persons are members of the same controlled group.

(7) *Related supplier.* The term "related supplier" is defined by § 1.994–1(a)(3)(i) (as proposed in 37 F.R. 19625 for September 21, 1972). For the definition of the term "related person" applicable solely to § 1.994–1, see § 1.994–1(a)(3)(i).

(8) *Controlled group.* The term "controlled group" is defined by paragraph (k) of this section.

(b) *Sales of export property.* Qualified export receipts of a DISC include gross receipts from the sale of export property by such DISC, or by any principal for whom such DISC acts as a commission agent (whether or not such principal is a related supplier), pursuant to the terms of a contract entered into with a purchaser by such DISC or by such principal at any time or by any other person and assigned to such DISC or such principal at any time prior to the shipment of such property to the purchaser. Gross receipts from the sale of export property, whenever received, do not constitute qualified export receipts unless the seller (or the corporation acting as commission agent for the seller) is a DISC at the time of the shipment of such property to the purchaser. For example, if a corporation which sells export property under the installment method is not a DISC for the taxable year in which the property is shipped to the purchaser, gross receipts from such sale do not constitute qualified export receipts for any taxable year of the corporation.

(c) *Leases and licenses of export property*—(1) *In general.* Qualified export receipts of a DISC include gross receipts from the lease or license of export property provided that—

(i) Such property is held by such DISC (or by a principal for whom such DISC acts as commission agent with respect to the lease) either as an owner or lessee at the beginning of the term of such lease, and

(ii) Such DISC qualified (or was treated) as a DISC for its taxable year in which the term of such lease began.

(2) *Prepayment of lease receipts.* If the gross receipts from a lease of property are prepaid, then—

(i) All such gross receipts are qualified exports receipts of a DISC if it is reasonably expected at the time of such prepayment that throughout the term of such lease the lease will meet the requirements of this paragraph and that the property will be export proeprty; or

(ii) If it is reasonably expected at the time of such prepayment that throughout the term of such lease the requirements of subparagraph (1) of this paragraph will not be met, or that the property will not be export property, only those receipts for the taxable years of the DISC for which such requirements will be met, and such property will be export property, are qualified export receipts.

(d) *Related and subsidiary services*—(1) *In general.* Qualified export receipts of a DISC include gross receipts from services furnished by such DISC which are related and subsidiary to any sale or lease (as described in paragraph (b) or (c) of this section) of export property by such DISC or with respect to which such DISC acts as a commission agent, provided that such DISC derives qualified export receipts from such sale or lease. Such services may be performed within or without the United States.

(2) *Services furnished by DISC.* Services are considered to be furnished by a DISC for purposes of this paragraph if such services are provided by—

(i) The person who sold or leased the export property to which such services are related and subsidiary, provided that the DISC acts as a commission agent with respect to the sale or lease of such property and with respect to such services or

(ii) The DISC as principal, or any other person pursuant to a contract with such DISC, provided the DISC acted as principal or commission agent with respect to the sale or lease of such property.

(3) *Related services.* A service is related to a sale or lease of export property if—

(i) Such service is of the type customarily and usually furnished with the type of transaction in the trade or business in which such sale or lease arose and

(ii)(*a*) The contract to furnish such service is contemporaneous with or a part of the contract under which such sale or lease occurs or

(*b*) The contract to furnish such service is a renewal of the services contract described in (*a*) of this subdivision.

Services which may be related to a sale or lease of export property generally include warranty service, maintenance service, repair service, installation service, and transportation (including insurance related to such transportation). Financing or the obtaining of financing for a sale or lease is not a related service for purposes of this paragraph.

(4) *Subsidiary services*—(i) *In general.* Services related to a sale or lease of export property are subsidiary to such sale or lease only if it is reasonably expected at the time of such sale or lease that the gross receipts from all related services furnished by the DISC (as defined in subparagraph (2) of this paragraph) will not exceed 50 percent of the sum of (*a*) the gross receipts from such sale or lease and (*b*) the gross receipts from related services furnished by the DISC. In the case of a sale, reasonable expectations are based on the gross receipts from all related services which may reasonably be performed at any time before the end of the 10-year period following the date of such sale. In the case of a lease, reasonable expectations are based on the gross receipts from all related services which may reasonably be performed at any time before the end of the term of such lease (determined without regard to renewal options).

(ii) *Allocation of gross receipts from services.* In determining whether the services related to a sale or lease of export property are subsidiary to such sale or lease, the gross receipts to be treated as derived from the furnishing of services may not be less than the amount of gross receipts reasonably allocated to such services as determined under the facts and circumstances of each case without regard to whether—

(*a*) Such services are furnished under a separate contract or under the same contract pursuant to which such lease or sale occurs or

(*b*) The cost of such services is specified in the contract of sale or lease.

(iii) *Transactions involving more than one item of export property.* If more than one item of export property is sold or leased in a single transaction pursuant to one contract, the total gross receipts from such transaction and the total gross receipts from all services related to such transaction are each taken into account in determining whether such services are subsidiary to such transaction. However, the provisions of this subdivision apply only if such items could be included in the same product line, as defined in § 1.994–1(c)(7) (as proposed in 37 F.R. 19626 for September 21, 1972).

(iv) *Renewed service contracts.* If under the terms of a contract for related services, such contract is renewable within 10 years after a sale of export property, or during the term of a lease of export property, related services to be performed under the renewed contract are subsidiary to such sale or lease if it is reasonably expected at the time of such renewal that the gross receipts from all related services which have been and which are to be furnished by the DISC will not exceed 50 percent of the sum of (*a*) the gross receipts from such sale or lease and (*b*) the gross receipts from related services furnished by the DISC. Reasonable expectations are determined as provided in subdivision (i) of this subparagraph.

(v) *Property used in services.* If a services contract described in subparagraph (3) of this paragraph provides for the furnishing of parts in connection with the furnishing of related services, gross receipts from the furnishing of such parts are not taken into account in determining whether under this subparagraph the services are subsidiary.

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See paragraph (b) or (c) of this section to determine whether the gross receipts from the furnishing of parts constitute qualified export receipts. See § 1.993–3 (c) (2) (iv) and (e) (3) for rules regarding the treatment of such parts with respect to the manufacture of export property and the foreign content of such property, respectively.

(5) *Relation to leases.* If the gross receipts for services which are related and subsidiary to a lease of property have been prepaid at any time for all such services which are to be performed before the end of the term of such lease, then as of such time the rules in paragraph (c) (2) of this section (relating to prepayment of lease receipts) will determine whether prepaid services under this subdivision are qualified export receipts.

(6) *Relation with export property determination.* The determination as to whether gross receipts from the sale or lease of export property constitute qualified export receipts does not depend upon whether services connected with such sale or lease are related and subsidiary to such sale or lease. Thus, for example, assume that a DISC receives gross receipts of $1,000 from the sale of export property and gross receipts of $1,100 from installation and maintenance services which are to be furnished by such DISC within 10 years after the sale and which are related to such sale. The $1,100 which the DISC receives for such services would not be qualified export receipts since the services exceed 50 percent of the sum of the gross receipts from the sale and the gross receipts from the related services furnished by such DISC. The $1,000 which the DISC receives from the sale of export property would, however, be a qualified export receipt if the sale met the requirements of paragraph (b) of this section.

(e) *Gains from sales of certain qualified export assets.* Qualified export receipts of a DISC include gross receipts from the sale by such DISC of any assets (wherever located) which, as of the date of such sale, are qualified export assets other than export property (as defined in § 1.993–2). Gross receipts are derived from the sale of such assets only where such sale results in recognized gain (see § 1.993–6(a)). For purposes of this paragraph, losses from the sale of such qualified export assets shall not be taken into account for purposes of determining the DISC's qualified export receipts.

(f) *Dividends.* Qualified export receipts of a DISC for a taxable year include all dividends includible in the gross income of such DISC for such taxable year with respect to the stock of related foreign export corporations (as defined in § 1.993–5) and all amounts includible in the gross income of such DISC with respect to such corporations pursuant to section 951 (relating to amounts included in the gross income of U.S. shareholders of controlled foreign corporations).

(g) *Interest on obligations which are qualified export assets.* Qualified export receipts of a DISC include interest on any obligation which is a qualified export asset of such DISC, including any amount includible in gross income as interest (such as, for example, an amount treated as original issue discount pursuant to section 1232) or as imputed interest under section 483. Gain from the sale of obligations described in this paragraph is treated (to the extent such gain is not treated as interest on such obligations) as qualified export receipts pursuant to paragraph (e) of this section.

(h) *Engineering and architectural services*—(1) *In general.* Qualified export receipts of a DISC include gross receipts from engineering services (as described in subparagraph (5) of this paragraph) or architectural services (as described in subparagraph (6) of this paragraph) furnished by such DISC (as described in subparagraph (7) of this paragraph) for a construction project (as defined in subparagraph (8) of this paragraph) located, or proposed for location, outside the United States. Such services may be performed within or without the United States.

(2) *Services included.* Engineering and architectural services include feasibility studies for a proposed construction project whether or not such project is ultimately initiated.

(3) *Excluded services.* Engineering and architectural services do not include—

(i) Services connected with the exploration for minerals or

(ii) Technical assistance or know-how.

For purposes of this paragraph, the term "technical assistance or know-how" includes activities or programs designed to enable business, commerce, industrial establishments, and governmental organizations to acquire or use scientific, architectural, or engineering information.

(4) *Other services.* Receipts from the performance of construction activities other than engineering and architectural services constitute qualified export receipts to the extent that such activities are related and subsidiary services (within the meaning of paragraph (d) of this section) with respect to a sale or lease of export property.

(5) *Engineering services.* For purposes of this paragraph, engineering services in connection with any construction project (within the meaning of subparagraph (8) of this paragraph) include any professional services requiring engineering, education, training, and experience and the application of special knowledge of the mathematical physical, or engineering sciences to such professional services as consultation, investigation, evaluation, planning, design, or responsible supervision of construction for the purpose of assuring compliance with plans, specifications, and design.

(6) *Architectural services.* For purposes of this paragraph, architectural services include the offering or furnishing of any professional services such as consultation, planning, aesthetic, and structural design, drawings and specifications, or responsible supervision of construction (for the purpose of assuring compliance with plans, specifications, and design) or erection, in connection with any construction project (within the meaning of subparagraph (8) of this paragraph).

(7) *Definition of "furnished by such DISC".* For purposes of this paragraph, the term "furnished by such DISC" means architectural and engineering services furnished:

(i) By the DISC,

(ii) By another person (whether or not such person is a U.S. person) pursuant to a contract entered into by the DISC at any time prior to the furnishing of such services, or

(iii) By another person pursuant to a contract for the furnishing of such services entered into by, or assigned to, such person at any time, provided that the DISC acts as commission agent for the furnishing of such services by such person under a commission agreement entered into at any time prior to the furnishing of such services.

(8) *Definition of "construction project".* For purposes of this paragraph, the term "construction project" includes the erection, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities including, for example, roads, dams, canals, bridges, tunnels, railroad tracks, and pipelines. The term also includes site grading and improvement and installation of equipment necessary for the construction. Gross receipts from the sale or lease of construction equipment are not qualified export receipts unless such equipment is export property (as defined in § 1.993–3).

(i) *Managerial services*—(1) *In general.* Qualified export receipts of a first DISC for its taxable year include gross receipts from the furnishing of managerial services provided for another DISC, which is not a related person, to aid such unrelated DISC in deriving qualified export receipts, provided that at least 50 percent of the gross receipts of the first DISC for such year consists of qualified export receipts derived from the sale or lease of export property and the furnishing of related and subsidiary services, as described in paragraphs (b), (c), and (d) of this section, respectively. Such managerial services may be performed—

(i) By the first DISC,

(ii) By any other person pursuant to a contract entered into with the first DISC at any time prior to the furnishing of such services, or

(iii) By any other person for whom the first DISC acts as commission agent with respect to the furnishing of such services.

(2) *Definition of "managerial services".* The term "managerial services" as used in this paragraph means activities relating to the operation of another unrelated DISC which derives qualified export receipts from the sale or lease of export property and from the furnishing of services related and subsidiary to such sales or leases. Such term includes staffing and operational services necessary to operate such other DISC, but does not include legal, accounting, scientific, or technical services. Examples of managerial services are: (i) Export market studies, (ii) making shipping arrangements, and (iii) contacting potential foreign purchasers.

(3) *Status of recipient of managerial services.* Qualified export receipts of a first DISC include receipts from the furnishing of managerial services during any taxable year of a recipient if such recipient qualifies as a DISC (within the meaning of § 1.992–1(a) (as proposed in 37 F.R. 10368 for May 20, 1972)) for such taxable year. For purposes of this subparagraph, a recipient is deemed to qualify as a DISC for its taxable year if the first DISC obtains from such recipient a copy of such recipient's election to be treated as a DISC as described in § 1.992–2(a) (as proposed in 37 F.R. 18476 for September 12, 1972) together with such recipient's sworn statement that such election has been filed with the Internal Revenue Service Center. The copy of the election and the sworn statement of such recipient must be received by the first DISC within 6 months after the beginning of the first taxable year of the recipient during which such first DISC furnishes managerial services for such recipient. The copy of the election and the sworn statement of the recipient need not be obtained by the first DISC for subsequent taxable years of the recipient. A recipient of managerial services is not treated as a DISC with respect to such services performed during a taxable year for which such recipient does not qualify as a DISC if the DISC performing such services does not believe or if a reasonable person would not believe (taking into account the furnishing DISC's managerial relationship with such recipient DISC) at the beginning of such taxable year that the recipient will qualify as a DISC for such taxable year.

(j) *Excluded receipts*—(1) *In general.* Notwithstanding the provisions of paragraphs (b) through (i) of this section, qualified export receipts of a DISC do not include any of the five amounts described in subparagraphs (2) through (6) of this paragraph.

(2) *Sales and leases of property for ultimate use in the United States.* Property which is sold or leased for ultimate use in the United States does not constitute export property. See § 1.993–3(d)(4). Thus, qualified export receipts of a DISC described in paragraph (b) or (c) of this section do not include gross receipts of the DISC from the sale or lease of such property.

(3) *Sales of export property accomplished by subsidy.* Qualified export receipts of a DISC do not include gross receipts described in paragraph (b) of this section if the sale of export property (whether or not such property consists of agricultural products) is pursuant to any of the following:

(i) The development loan program of the Agency for International Development, unless the DISC shows to the satisfaction of the district director that, under the conditions existing at the time of the sale, the purchaser had a reasonable opportunity to purchase, on competitive terms and from a seller who was not a U.S. person, goods which were substantially identical to such property and which were not manufactured, produced, grown, or extracted (as described in § 1.993–3(c)) in the United States,

(ii) The Public Law 480 program authorized under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1710),

(iii) The Barter program of the Commodity Credit Corporation authorized by section 4(h) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714b(h)), and section 303 of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1692),

(iv) The Export Payment program of the Commodity Credit Corporation authorized by sections 5 (d) and (f) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714c (d) and (f)),

(v) The section 32 export payment programs authorized by section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), and

(vi) The Export Sales program of the Commodity Credit Corporation authorized by sections 5 (d) and (f) of the Commodity Credit Corporation Charter Act, as amended (15 U.S.C. 714c (d) and (f)), and section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), for the purpose of disposing of surplus agricultural commodities and exporting or causing to be exported agricultural commodities.

(4) *Sales or leases of export property and furnishing of architectural or engineering services for use by the United States*—(i) *In general.* Qualified export receipts of a DISC do not include gross receipts described in paragraph (b), (c), or (h) of this section if a sale or lease of export property, or the furnishing of architectural or engineering services, is for use by the United States or an instrumentality thereof in any case in which any law or regulation requires in any manner the purchase or lease of property manufactured, produced, grown, or extracted in the United States or requires the use of architectural or engineering services performed by a U.S. person. For example, a sale by a DISC of export property to the Department of Defense for use outside the United States would not produce qualified export receipts for such DISC if the Department of Defense purchased such property from appropriated funds subject to the Armed Services Procurement Regulations. Generally, such purchases by the Department of Defense would include purchases of goods for resale at commissaries but would not include purchases of goods for resale at an Army post exchange or Navy or Air Force base exchange.

(ii) *Direct or indirect sales or leases.* Any sale or lease of export property is for use by the United States or an instrumentality thereof if such property is sold or leased by a DISC (or by a principal for whom such DISC acts as commission agent) to—

(a) A person who is a related person with respect to such DISC or such principal and who sells or leases such property for use by the United States or an instrumentality thereof or

(b) A person who is not a related person with respect to such DISC or such principal if, at the time of such sale or lease, there is an agreement or understanding that such property will be sold or leased for use by the United States or an instrumentality thereof (or if a reasonable person would have known at the time of such sale or lease that such property would be sold or leased for use by the United States or an instrumentality thereof) within 3 years after such sale or lease.

(iii) *Excluded programs.* The provisions of this subparagraph do not apply in the case of a purchase by the United States or an instrumentality thereof if such purchase is pursuant to—

(a) A program under which the U.S. Government purchases property for resale, on commercial terms, to a foreign government or agency or instrumentality thereof, or

(b) A program (whether bilateral or multi-lateral) under which sales to the U.S. Government are open to international competitive bidding.

(5) *Services.* Qualified export receipts of a DISC do not include gross receipts described in paragraph (d) of this section (concerning related and subsidiary services) if the services from which such gross receipts are derived are related and subsidiary to the sale or lease of property which results in excluded receipts pursuant to this paragraph.

(6) *Receipts within controlled group*—(i) *In general.* Gross receipts of a corporation do not constitute qualified export receipts for any taxable year of such corporation if—

(a) At the time of the sale, lease, or other transaction resulting in such gross receipts, such corporation and the person from whom such receipts are derived are members of the same controlled group (as defined in paragraph (k) of this section), and

(b) Such corporation and such person each qualifies (or is treated) as a DISC for its taxable year in which such transaction occurs.

(ii) *Leased property.* See § 1.993–3(f)(2) regarding property not constituting export property in certain cases where such property is leased to any corporation which is a member of the same controlled group as the lessor.

(k) *Definition of "controlled group".* For purposes of sections 991 through 996 and the regulations thereunder, the term "controlled group" has the same meaning as is assigned to the term "controlled group of corporations" by section 1563 (a), except that (1) the phrase "more than 50 percent" is substituted for the phrase "at least 80 percent" each place the latter phrase appears in section 1563 (a), and (2) section 1563(b) shall not apply. Thus, for example, a foreign corporation subject to tax under section 881 may be a member of a controlled group. Furthermore, two or more corporations (including a foreign corporation) are

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members of a controlled group at any time such corporations meet the requirements of section 1563(a) (as modified by this paragraph).

(i) *DISC's entitlement to income*—(1) *Application of section 994.* A corporation which meets the requirements of § 1.992–1(a) (as proposed in 37 F.R. 10368 for May 20, 1972) to be treated as a DISC for a taxable year is entitled to income, and the intercompany pricing rules of section 994(a) (1) or (2) apply, in the case of any transactions described § 1.992–1(a) (as proposed in 37 F.R. 19625 for Sept. 21, 1972) between such DISC and its related supplier (as defined in § 1.994–1(a)(3)) (as proposed in 37 F.R. 19625 for Sept. 21, 1972), provided that the relationship between the DISC and its related supplier is defined by a written agreement described in subparagraph (2) of this paragraph. For purposes of this paragraph, such DISC need not have employees or perform any specific function.

(2) *Written agreement.* A written agreement between a DISC and its related supplier satisfies the requirements of this subparagraph with respect to a transaction if such agreement provides for determination of the price payable by the DISC, or the commission payable to the DISC, with respect to such transaction and if the agreement is executed prior to such transaction (or, in the case of a sale pursuant to a contract assigned to the DISC or its related supplier, as described in paragraph (b) of this section, the agreement is entered into at any time before shipment of property to the purchaser).

(3) *Other transactions.* In the case of a transaction to which the provisions of subparagraph (1) of this section do not apply but from which a DISC derives gross receipts, the income to which the DISC is entitled as a result of the transaction is determined pursuant to the terms of the contract for such transaction and, if applicable, section 482 and the regulations thereunder.

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). P Corporation forms S Corporation as a wholly-owned subsidiary. S qualifies as a DISC for its taxable year. S has no employees on its payroll. P enters into a written agreement with S whereby S is granted a franchise with respect to specified exports of P. P will sell such exports to S for resale by S. Such exports are of a type which produce qualified export receipts as defined in paragraph (b) of this section. Under the agreement, P's sales force will solicit orders in the name of S using S's order forms. S places orders with P only when S itself has received orders. No inventory is maintained by S. P makes shipments directly to customers of S. The agreement also provides that employees of P will act for S and that billings and collections will be handled by P in the name of S. The agreement provides that S will be entitled to net income on these transactions equal to the maximum amount permitted to be received under the intercompany pricing rules of section 994 of the Code. Under these facts, the income derived by S for such taxable year from the purchase and resale of the specified export is treated for Federal income tax purposes as the income of S, and the amount of income allocable to S will be determined under section 994 of the Code.

Example (2). P Corporation forms S Corporation as a wholly-owned subsidiary. S qualifies as a DISC for its taxable year. S has no employees on its payroll. P enters into a written agreement with S whereby S is granted a sales franchise with respect to specified exports of P and will receive commissions with respect to such exports equal to the maximum amount permitted to be received under the intercompany pricing rules of section 994 of the Code. Such exports are of a type which will produce gross receipts for S which are qualified export receipts as defined in paragraph (b) of this section. P's sales force will solicit orders in the name of P. Billings and collections are handled directly by P. Under these facts, the commissions paid to S for such taxable year with respect to the specified exports shall be treated for Federal income tax purposes as the income of S, and the amount of income allocable to S is determined under section 994 of the Code.

§ 1.993–2 Definition of qualified export assets.

(a) *In general.* For a corporation to qualify as a DISC, at the close of its taxable year it m ust have qualified export assets with adjusted bases equal to at least 95 percent of the sum of the adjusted bases of all its assets. An asset which is a qualified export asset under more than one paragraph of this section shall be taken into account only once in determining the sum of the adjusted bases of all qualified export assets. Under section 993(b), the qualified export assets held by a corporation are—

(1) Export property as defined in § 1.993–3 (see paragraph (b) of this section),

(2) Business assets described in paragraph (c) of this section,

(3) Trade receivables described in paragraph (d) of this section,

(4) Temporary investments to the extent described in paragraph (e) of this section,

(5) Producer's loans as defined in § 1.993–4 (see paragraph (f) of this section),

(6) Stock or securities (described in paragraph (g) of this section) of related foreign export corporations as defined in § 1.993–5,

(7) Export-Import Bank and other obligations described in paragraph (h) of this section,

(8) Financing obligations described in paragraph (i) of this section, and

(9) Funds awaiting investment described in paragraph (j) of this section.

(b) *Export property.* In general, export property is certain property held for sale or lease which meets the requirements of § 1.993–3.

(c) *Business assets.* For purposes of this section, business assets are assets used by a DISC (other than as a lessor) primarily in connection with—

(1) The sale, lease, storage, handling, transportation, packaging, assembly, or servicing of export property, or

(2) The performance of engineering or architectural services (described in § 1.993–1(h)) or managerial services (described in § 1.993–1(i)) in furtherance of the production of qualified export receipts.

Assets used primarily in the manufacture, production, growth, or extraction (within the meaning of § 1.993–3(c)) of property are not business assets.

(d) *Trade receivables*—(1) *In general.* For purposes of this section, trade receivables are accounts receivable and evidences of indebtedness due the DISC (or, if it acts as an agent, due its principal) and held by the DISC which arose by reason of transactions described in § 1.993–1 (b), (c), (d), (e), (h), or (i) which result in qualified export receipts for the DISC and for no other DISC. Any such account receivable or evidence of indebtedness may be acquired directly by the DISC as a result of any such transaction. If the DISC acted as commission agent for a principal (whether or not a related supplier) (as defined in § 1.994–1(a)(3), as proposed in 37 F.R. 19625, for September 21, 1972) in any such transaction, the DISC may acquire (with or without recourse) any such account receivable or evidence of indebtedness. Thus, for example, if a DISC acts as commission agent for a related supplier with respect to the furnishing of engineering or architectural services which result in qualified export receipts described in § 1.993–1(h), the related supplier's accounts receivable generated by the furnishing of such services may be purchased by the DISC and will be treated as trade receivables. For purposes of this section, an evidence of indebtedness is a written instrument of indebtedness.

(2) *Trade receivables representing commissions.* If a DISC acts as commission agent for a principal in a transaction described in § 1.993–1 (b), (c), (d), (e), (h), or (i) which results in qualified export receipts for the DISC, and if an account receivable or evidence of indebtedness held by the DISC and representing the commission payable to the DISC as a result of the transaction arises (and, in the case of an evidence of indebtedness, designated on its face as representing such commission), such account receivable or evidence of indebtedness shall be treated as a trade receivable. If, however, the principal is a related supplier (as defined in § 1.994–1(a)(3), as proposed in 37 F.R. 19625, for September 21, 1972), with respect to the DISC such account receivable or evidence of indebtedness will not be treated as a trade receivable unless it is payable and paid within 60 days after the close of the taxable year of the DISC in which the transaction occurred.

(3) *Indebtedness arising under § 1.994–1(e).* An indebtedness described in or arising under § 1.994–1(e) (3) or (5), as proposed in 37 F.R. 19627, for September 21, 1972 (other than an indebtedness described in subparagraph (2) of this paragraph) in favor of a DISC is not a trade receivable and is not a qualified export asset.

(e) *Temporary investments*—(1) *In general.* For purposes of this section, temporary investments are money, bank deposits (not including time deposits of more than 1 year), and other similar temporary investments to the extent maintained by a DISC as reasonably necessary to meet its requirements for working capital. For purposes of this paragraph, a temporary investment is an obligation, including an evidence of indebtedness as defined in paragraph (d) (1) of this section, which is a demand obligation or has a period remaining to maturity of not more than 1 year at the date it is acquired by the DISC.

(2) *Determination of amount of working capital maintained.* For purposes of this paragraph—

(i) The working capital of a DISC is the excess of its current assets over current liabilities which is reasonably necessary to finance operating costs for the current normal operating cycle,

(ii) Current assets are cash and other assets which may reasonably be expected to be converted into cash or sold or consumed during the current normal operating cycle of the DISC's trade or business,

(iii) Current liabilities are obligations (or portions of obligations) due within the current normal operating cycle of the trade or business of the DISC whose satisfaction when due is reasonably expected to require the use of current assets, and

(iv) Generally accepted financial accounting treatments will be accepted.

(3) *Determination of amount of working capital reasonably required.* For purposes of this paragraph, a determination of the amount of money, bank deposits, and other similar temporary investments reasonably necessary to meet the requirements of the DISC for working capital will depend upon the nature and volume of the activities of the DISC existing at the end of the DISC's taxable year for which such determination is made. In making such determination, the expected requirements of the DISC for working capital as of the end of the taxable year for which the determination is made will be considered reasonably necessary to the extent that such requirements relate to the expected normal operating cycle of the trade or business of the DISC. See paragraph (j)(3) of this section for rules regarding working capital as of the end of each month of a taxable year for purposes of the 70 percent reasonableness standard with respect to certain deficiency distributions.

(4) *Relationship of working capital to other qualified export assets.* If a temporary investment is a qualified export asset under any provision of this section (other than this paragraph), this paragraph shall not affect its status as a qualified export asset. However, any such temporary investment is taken into account before other temporary investments in determining whether such other temporary investments are maintained by a DISC as reasonably necessary to meet its requirements for working capital. An obligation issued or incurred by a member of a controlled group (as defined in § 1.993–1(k)) of which the DISC is a member is not a qualified export asset under this paragraph.

(f) *Producer's loans.* For purposes of this section, a producer's loan is an evidence of indebtedness arising in connection with producer's loans which are made by a DISC and which meet the requirements of § 1.993–4.

(g) *Stock or securities of related foreign export corporations.* For purposes of this section, the term "stock or securities", with respect to a related foreign export corporation (as defined in § 1.993–5), has the same meaning as such term has as used in section 351 (relating to transfers to controlled corporations), except that the term "securities" does not included obligations which are repaid, in whole or in part, at any time during the taxable year of the DISC following the taxable year of the DISC during which such obligations were acquired by the DISC or were issued, unless the DISC demonstrates to the satisfaction of the district director that the repayment was for bona fide business purposes and not for the purpose of avoidance of Federal income taxes.

(h) *Export-Import Bank obligations*—(1) *In general.* For purposes of this section, subject to the limitation described in subparagraph (2) of this paragraph, the term "Export-Import Bank obligations" means obligations issued, guaranteed, insured, or reinsured (in whole or in part) by the Export-Import Bank of the United States or by the Foreign Credit Insurance Association, but only if such obligations are acquired by the DISC—

(i) From the Export-Import Bank of the United States,

(ii) From the Foreign Credit Insurance Association, or

(iii) From the person selling or purchasing the goods or services by reason of which such obligations arose, or from any corporation which is a member of the same controlled group (as defined in § 1.993–1(k)) as such person.

For purposes of subdivision (i) of this subparagraph, obligations issued by the Export-Import Bank of the United States are treated as acquired from such Bank by the DISC if acquired from any person not more than 90 days after any part of such obligations are first offered to the public. Examples of specific types of Export-Import Bank obligations include interest participation certificates and certificates of beneficial ownership.

(2) *Limitation.* Obligations described in subparagraph (1) of this paragraph which are acquired after November 3, 1972, are Export-Import Bank obligations only to the extent that the sum of the adjusted bases of such obligations (as determined under section 1011) held by the DISC does not exceed (i) the amount of its accumulated DISC income, reduced by (ii) the outstanding amount of producer's loans of the DISC. The sum of the adjusted bases of obligations described in subparagraph (1) of this paragraph and financing obligations described in paragraph (i)(1) of this section may not exceed the amount of accumulated DISC income of the DISC (as reduced by the outstanding amount of producer's loans of the DISC). If the sum of the adjusted bases of both such types of obligations exceeds the amount of accumulated DISC income of the DISC (as so reduced), the DISC shall identify on its books and records which obligations are within the limitation of this subparagraph.

(i) *Financing obligations*—(1) *In general.* For purposes of this section, subject to the limitation described in subparagraph (2) of this paragraph, financing obligations are obligations (held by a DISC) of a domestic corporation organized solely for the purpose of financing sales of export property pursuant to an agreement with the Export-Import Bank of the United States under which such corporation makes export loans guaranteed by such Bank.

(2) *Limitation.* Obligations described in subparagraph (1) of this paragraph which are acquired after November 3, 1972, are financing obligations only to the extent that under the principles of paragraph (h) of this section, the sum of the adjusted bases of such obligations (as determined under section 1011) does not exceed the amount of the accumulated DISC income of the DISC (as reduced by the outstanding amount of producer's loans of the DISC).

(j) *Funds awaiting investment*—(1) *In general.* For purposes of this section, subject to the limitation described in subparagraph (2) of this paragraph, if, at the close of a DISC's taxable year, the sum of the DISC's money, bank deposits, and other similar temporary investments is determined under paragraph (e) of this section to exceed an amount reasonably necessary to meet the DISC's requirements for working capital, the amount of the DISC's bank deposits in the United States to the extent of the amount of this excess are funds awaiting investment at the close of such taxable year.

(2) *Limitation.* Bank deposits described in subparagraph (1) of this paragraph are funds awaiting investment only if, at the end of each of the sixth, seventh, and eighth months after the close of such taxable year, the sum of the adjusted bases of the qualified export assets of the DISC equal or exceed 95 percent of the sum of the adjusted bases of all assets of the DISC. For purposes of this subparagraph, the adjusted bases of assets of a DISC are determined as of the end of each of the months referred to in this subparagraph. Funds awaiting investment as described in this paragraph need not be traceable to any of the qualified export assets held by the DISC at the end of any of the months referred to in this subparagraph.

(3) *Coordination with certain deficiency distribution provisions.* Under section 992(c)(3) and § 1.992–3(d) (as proposed in 37 F.R. 18479, for September 12, 1972), a deficiency distribution made on or before the 15th day of the ninth month after the end of a corporation's taxable year is deemed to be for reasonable cause if certain requirements are met, including the requirement described in section 992(c)(3)(B) and § 1.992–3(d)(2) as proposed in 37 F.R. 18479, for September 12, 1972) that the sum of the adjusted bases of the qualified export assets held by the corporation on the last day of each month of

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such year equals or exceeds 70 percent of the sum of the adjusted bases of all assets held by the corporation on each such last day. If, on any such last day, the sum of a DISC's money, bank deposits, and other similar temporary investments is determined under paragraph (e) of this section to exceed an amount reasonably necessary to meet the DISC's requirements for working capital, the amount of the DISC's bank deposits to the extent of the amount of this excess are funds awaiting investment on such last day, if either—

(i) The requirements of subparagraph (2) of this paragraph are satisfied with respect to the taxable year of the DISC which includes such month or

(ii) At the close of such taxable year the sum of the DISC's money, bank deposits, and other similar temporary investments is determined under paragraph (e) of this section not to exceed an amount reasonably necessary to meet the DISC's requirements for working capital.

§ 1.993–3 Definition of export property.

(a) *General rule.* Under section 993 (c), except as otherwise provided with respect to excluded property in paragraph (f) of this section and with respect to certain short supply property in paragraph (g) of this section, export property is property in the hands of any person (whether or not a DISC)—

(1) Manufactured, produced, grown, or extracted in the United States by any person or persons other than a DISC (see paragraph (c) of this section),

(2) Held primarily for sale or lease in the ordinary course of a trade or business to any person for direct use, consumption, or disposition outside the United States (see paragraph (d) of this section),

(3) Not more than 50 percent of the fair market value of which is attributable to articles imported into the United States (see paragraph (e) of this section), and

(4) Which is not sold or leased (i) by a DISC, or with a DISC as commission agent, to another DISC which is a member of the same controlled group (as defined in § 1.993–1(k)) as the DISC, or (ii) by any person to a Western Hemisphere trade corporation (as defined in section 921) which is a related person (as defined in § 1.993–1(a)(6)) with respect to the seller, lessor, or commission agent (if any).

(b) *Services.* For purposes of this section, services (including the written communication of services in any form) are not export property. Whether an item is property or services shall be determined on the basis of the facts and circumstances attending the development and disposition of the item. Thus, for example, the preparation of a map of a particular construction site would constitute services and not export property, but standard maps prepared for sale to customers generally would not constitute services and would be export property if the requirements of this section were otherwise met.

(c) *Manufacture, production, growth, or extraction of property*—(1) *By a person other than a DISC.* Export property may be manufactured, produced, grown, or extracted in the United States by any person, provided that such person does not qualify (and is not treated) as a DISC. Property held by a DISC which was manufactured, produced, grown, or extracted by it at a time when it did not qualify (and was not treated) as a DISC is not export property of the DISC. Property which sustains further manufacture or production outside the United States prior to sale or lease by a person but after manufacture or production in the United States will not be considered as manufactured, produced, grown, or extracted in the United States by such person.

(2) *Manufactured or produced*—(i) *In general.* For purposes of this section, property which is sold or leased by a person is considered to be manufactured or produced by such person if such property is manufactured or produced (within the meaning of either subdivision (ii), (iii), or (iv) of this subparagraph) by such person or by another person pursuant to a contract with such person. Except as provided in subdivision (iv) of this subparagraph, manufacture or production of property does not include assembly or packaging operations with respect to property.

(ii) *Substantial transformation.* Property is manufactured or produced by a person if such property is substantially transformed by such person. Examples of substantial transformation of property would include the conversion of woodpulp to paper, steel rods to screws and bolts, and the canning of fish.

(iii) *Operations generally considered to constitute manufacturing.* Property is manufactured or produced by a person if the operations performed by such person in connection with such property are substantial in nature and are generally considered to constitute the manufacture or production of property.

(iv) *Value added to property.* Property is manufactured or produced by a person if with respect to such property conversion costs (direct labor and factory burden including packaging or assembly) of such person account for 20 percent or more of—

(a) The cost of goods sold or inventory amount of such person for such property if such property is sold or held for sale, or

(b) The adjusted basis of such person for such property, as determined in accordance with the provisions of section 1011, if such property is held for lease or leased.

The value of parts provided pursuant to a services contract, as described in § 1.993–1(d)(4)(v), is not taken into account in applying this subdivision.

(d) *Primary purpose for which property is held*—(1) *In general*—(i) *General rule.* Under paragraph (a)(2) of this section, export property (a) must be held primarily for the purpose of sale or lease in the ordinary course of a trade or business to a DISC, or to any other person, and (b) such sale or lease must be for direct use, consumption, or disposition outside the United States. Thus, property cannot qualify as export property unless it is sold or leased for direct use, consumption, or disposition outside the United States. Property is sold or leased for direct use, consumption, or disposition outside the United States if such sale or lease satisfies the destination test described in subparagraph (2) of this paragraph, the proof of compliance requirements described in subparagraph (3) of this paragraph, and the use-outside-the-United States test described in subparagraph (4) of this paragraph.

(ii) *Factors not taken into account.* In determining whether property which is sold or leased to a DISC is sold or leased for direct use, consumption, or disposition outside the United States, the fact that the acquiring DISC holds the property in inventory or for lease prior to the time it sells or leases it for direct use, consumption, or disposition outside the United States will not affect the characterization of the property as export property. Export property need not be physically segregated from other property.

(2) *Destination test.* For purposes of subparagraph (1) of this paragraph, the destination test in this subparagraph is satisfied with respect to property sold or leased by a seller or lessor only if it is delivered by such seller or lessor (or an agent of such seller or lessor) regardless of the F.O.B. point or the place at which title passes or risk of loss shifts from the seller or lessor—

(i) Within the United States to a carrier or freight forwarder for ultimate delivery outside the United States to a purchaser or lessee (or to a subsequent purchaser or sublessee),

(ii) Within the United States to a purchaser or lessee, if such property is ultimately delivered outside the United States (including delivery to a carrier or freight forwarder for delivery outside the United States) by the purchaser or lessee (or a subsequent purchaser or sublessee) within 1 year after such sale or lease,

(iii) Within or outside the United States to a purchaser or lessee which, at the time of the sale or lease, is a DISC and is not a member of the same controlled group (as defined in § 1.993–1(k)) as the seller or lessor,

(iv) From the United States to the purchaser or lessee (or a subsequent purchaser or sublessee) at a point outside the United States by means of the seller's or lessor's own ship, aircraft, or other delivery vehicle,

(v) Outside the United States to a purchaser or lessee from a warehouse, a storage facility, or assembly site located outside the United States, if such property was previously shipped by such seller or lessor from the United States, or

(vi) Outside the United States to a purchaser or lessee if such property was previously shipped by such seller or lessor from the United States and if such property is located outside the United States pursuant to a prior lease by the seller or lessor, and either (a) such prior lease terminated at the expiration of its term (or by the action of the prior lessee acting alone), (b) the sale occurred or the term of the subsequent lease began after the time at which the term of the prior lease would have expired, or (c) the lessee under the subsequent lease is not a related person (as defined in § 1.993–1(a)(6)) with respect to the lessor and the prior lease was terminated by the action of the lessor (acting alone or together with the lessee).

For purposes of this subparagraph (other than subdivisions (iii) and (vi)(c) thereof), any relationship between the seller or lessor and any purchaser, subsequent purchaser, lessee, or sublessee is immaterial. In no event is the destination test of this subparagraph satisfied with respect to property which is subject to any use (other than a resale or sublease), manufacture, assembly, or other processing (other than packaging) by any person between the time of the sale or lease by such seller or lessor and the delivery or ultimate delivery outside the United States described in this subparagraph. If property is located outside the United States at the time it is purchased by a person or leased by a person as lessee, such property may be export property in the hands of such purchaser or lessee only if it is imported into the United States prior to its further sale or lease (including a sublease) outside the United States. Paragraphs (a)(3) and (e) of this section (relating to 50 percent foreign content test) are applicable in determining whether such property is export property. Thus, for example, if such property is not subjected to manufacturing or production (as defined in paragraph (c) of this section) within the United States after such importation, it does not qualify as export property.

(3) *Proof of compliance with destination test*—(i) *Delivery outside the United States.* For purposes of subparagraph (2) of this paragraph (other than subdivision (iii) thereof), a seller or lessor shall establish ultimate delivery of property outside the United States by providing—

(a) A facsimile or carbon copy of the export bill of lading issued by the carrier who delivers the property,

(b) A certificate of an agent or representative of the carrier disclosing delivery of the property outside the United States,

(c) A facsimile or carbon copy of the certificate of lading for the property executed by a customs officer of the country to which the property is delivered,

(d) If such country has no customs administration, a written statement by the person to whom delivery outside the United States was made, or

(e) A facsimile or carbon copy of the shipper's export declaration authenticated by the U.S. Collector of Customs A seller or lessor shall also establish the meeting of the requirement of subparagraph (2) of this paragraph (other than subdivision (iii) thereof), that the property was delivered outside the United States without further use, manufacture, assembly, or other processing within the United States.

(ii) *Sale or lease to an unrelated DISC.* For purposes of subparagraph (2)(iii) of this paragraph, a purchaser or lessee of property is deemed to qualify as a DISC for its taxable year if the seller or lessor obtains from such purchaser or lessee a copy of such purchaser's or lessee's election to be treated as a DISC as described in § 1.992–2(a) (as proposed in 37 F.R. 18476 for September 12, 1972) together with such purchaser's or lessee's sworn statement that such election has been filed with the Internal Revenue Service Center. The copy of the election and the sworn statement of such purchaser or lessee must be received by the seller or lessor within 6 months after the sale or lease. A purchaser or lessee is not treated as a DISC with respect to a sale or lease during a taxable year for which such purchaser or lessee does not qualify as a DISC if the seller or lessor does not believe or if a reasonable person would not believe at the time such sale or lease is made that the purchaser or lessee will qualify as a DISC for such taxable year.

(iii) *Failure of proof.* If a seller or lessor fails to provide proof of compliance with the destination test as required by this subparagraph, the property sold or leased is not export property.

(4) *Sales and leases of property for ultimate use in the United States*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the use test in this subparagraph is satisfied with respect to property which—

(a) Under subdivisions (ii) through (iv) of this subparagraph is not sold for ultimate use in the United States or

(b) Under subdivision (v) of this subparagraph is leased for ultimate use outside the United States.

(ii) *Sales of property for ultimate use in the United States.* For purposes of subdivision (i) of this subparagraph, a purchaser of property (including components, as defined in subdivision (vii) of this subparagraph) is deemed to use such property ultimately in the United States if any of the following conditions exists:

(a) Such purchaser is a related person (as defined in § 1.993–1(a)(6)) with respect to the seller and such purchaser ultimately uses such property, or a second product into which such property is incorporated as a component, in the United States.

(b) At the time of the sale, there is an agreement or understanding that such property, or a second product into which such property is incorporated as a component, will be ultimately used by the purchaser in the United States.

(c) At the time of the sale, a reasonable person would have believed that such property or such second product would be ultimately used by such purchaser in the United States unless, in the case of a sale of components, the fair market value of such components at the time of delivery to the purchaser constitutes less than 20 percent of the fair market value of the second product into which such components are incorporated (determined at the time of completion of the production, manufacture, or assembly of such second product).

For purposes of (b) of this subdivision, there is an agreement or understanding that property will ultimately be used in the United States if, for example, a component is sold abroad under an express agreement with the foreign purchaser that the component is to be incorporated into a product to be sold back to the United States. As a further example, there would also be such an agreement or understanding if the foreign purchaser indicated at the time of the sale or previously that the component is to be incorporated into a product which is designed principally for the United States market. However, such an agreement or understanding does not result from the mere fact that a second product, into which components exported from the United States have been incorporated and which is sold on the world market, is sold in substantial quantities in the United States.

(iii) *Use in the United States.* For purposes of subdivision (ii) of this subparagraph, property (including components incorporated into a second product) is or would be ultimately used in the United States by such purchaser if, at any time within 3 years after the purchase of such property or components, either such property or components (or the second product into which such components are incorporated) is resold by such purchaser for use by a subsequent purchaser within the United States or such purchaser or subsequent purchaser fails, for any period of 365 consecutive days, to use such property or second product predominantly outside the United States as defined in subdivision (vi) of this subparagraph).

(iv) *Sales to retailers.* For purposes of subdivision (ii)(c) of this subparagraph property sold to any person whose principal business consists of selling from inventory to retail customers at retail outlets outside the United States will be considered to be used predominantly outside the United States.

(v) *Leases of property for ultimate use outside the United States.* For purposes of subdivision (i) of this subparagraph, a lessee of property is deemed to use such property ultimately outside the United States during a taxable year of the lessor if such property is used predominantly outside the United States (as defined in subdivision (vi) of this subparagraph) by the lessee during the portion of the lessor's taxable year which is included within the term of the lease. A determination as to whether the ultimate use of leased property satisfies the requirements of this subdivision is made for each taxable year of the lessor. Thus, leased property may be used predominantly outside the United States for a taxable year of the lessor (and thus, constitute export property if the remaining requirements of this section are met) even if the property is not used predominantly outside the United States in earlier taxable years or later taxable years of the lessor.

(vi) *Predominant use outside the United States.* For purposes of this subparagraph, property is used predominantly outside the United States for any period if, during such period, such property is located outside the United States

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more than 50 percent of the time. An aircraft, railroad rolling stock, vessel, motor vehicle, container, or other property used for transportation purposes is deemed to be used predominantly outside the United States for any period if, during such period, either such property is located outside the United States more than 50 percent of the time or more than 50 percent of the miles traversed in the use of such property are traversed outside the United States. However, any such property is deemed to be within the United States at all times during which it is engaged in transport between any two points within the United States, except where such transport constitutes uninterrupted international air transportation within the meaning of section 4262(c)(3) and the regulations thereunder (relating to tax on air transportation of persons). For purposes of applying section 4262(c)(3) to this subdivision, the term "United States" has the same meaning as in § 1.993–7.

(vii) *Component.* For purposes of this subparagraph, a component is property which is (or is reasonably expected to be) incorporated into a second product by the purchaser of such component by means of production, manufacture, or assembly.

(e) *Foreign content of property*—(1) *The 50 percent test.* Under paragraph (a)(3) of this section, no more than 50 percent of the fair market value of export property may be attributable to the fair market value of articles which were imported into the United States. For purposes of this paragraph, articles imported into the United States are referred to as "foreign content". The fair market value of the foreign content of export property is computed in accordance with subparagraph (4) of this paragraph. The fair market value of export property which is sold to a person who is not a related person with respect to the seller is the sale price for such property (not including interest, finance or carrying charges, or similar charges).

(2) *Application of 50 percent test.* The 50 percent test described in subparagraph (1) of this paragraph is applied on an item-by-item basis. If, however, a person sells or leases a substantial volume of substantially identical export property in a taxable year and if all of such property contains substantially identical foreign content in substantially the same proportion, such person may determine the portion of foreign content contained in such property on an aggregate basis.

(3) *Parts and services.* If, at the time property is sold or leased the seller or lessor agrees to furnish parts pursuant to a services contract (as provided in § 1.993–1(d)(4)(v)) and the price for the parts is not separately stated, the 50 percent test described in subparagraph (1) of this paragraph is applied on an aggregate basis to the property and parts. If the price for the parts is separately stated, the 50 percent test described in paragraph (1) of this paragraph is applied separately to the property and to the parts.

(4) *Computation of foreign content*—(i) *Valuation.* For purposes of applying the 50 percent test described in subparagraph (1) of this paragraph, it is necessary to determine the fair market value of all articles which constitute foreign content of the property being tested to determine if it is export property. The fair market value of such imported articles is determined as of the time such articles are imported into the United States and is their appraised value, as determined under section 402 or 402a of the Tariff Act of 1930 (19 U.S.C. 1401a or 1402) in connection with their importation. The appraised value of such articles is the full dutiable value of such articles, determined, however, without regard to any special provision in the United States tariff laws which would result in a lower dutiable value. Thus, an article which is imported into the United States is treated as entirely imported even if all or a portion of such article was originally manufactured, produced, grown, or extracted in the United States.

(ii) *Evidence of fair market value.* For purposes of subdivision (i) of this subparagraph, the fair market value of imported articles constituting foreign content may be evidenced by the customs invoice issued on the importation of such articles into the United States. If the holder of such articles is not the importer (or a related person with respect to the importer), the fair market value of such articles may be evidenced by a certificate based upon information contained in the customs invoice and furnished to the holder by the person from whom such articles (or property incorporating such articles) were purchased. If a customs invoice or certificate described in the preceding sentence is not available to a person purchasing property, such person shall establish that no more than 50 percent of the fair market value of such property is attributable to the fair market value of articles which were imported into the United States.

(iii) *Interchangeable component articles.* (*a*) Where identical or similar component articles can be incorporated interchangeably into property and a person acquires some such component articles that are imported into the United States and other such component articles that are not imported into the United States, the determination whether imported component articles were incorporated in such property as is exported from the United States shall be made on a substitution basis as in the case of the rules relating to drawback accounts under the customs laws. See section 313(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1313(b)).

(*b*) The provisions of (*a*) of this subdivision may be illustrated by the following example:

Example. Assume that a manufacturer produces a total of 20,000 electronic devices. The manufacturer exports 5,000 of the devices and subsequently sells 11,000 of the devices to a DISC which exports the 11,000 devices. The major single component article in each device is a tube which represents 60 percent of the fair market value of the device at the time the device is sold by the manufacturer. The manufacturer imports 8,000 of the tubes and produces the remaining 12,000 tubes. For purposes of this subdivision, in accordance with the substitution principle used in the customs drawback laws, the 5,000 devices exported by the manufacturer are each treated as containing an imported tube because the devices were exported prior to the sale to the DISC. The remaining 3,000 imported tubes are treated as being contained in the first 3,000 devices purchased and exported by the DISC. Thus, since the 50 percent test is not met with respect to the first 3,000 devices purchased and exported by the DISC, those devices are not export property. The remaining 8,000 devices purchased and exported by the DISC are treated as containing tubes produced in the United States, and those devices are export property (if they otherwise meet the requirements of this section).

(f) *Excluded property*—(1) *In general.* Notwithstanding any other provision of this section, property described in subparagraph (2) or (3) of this paragraph is not export property.

(2) *Property leased to member of controlled group.* Property leased to a person (whether or not a DISC) which is a member of the same controlled group (as defined in § 1.993–1(k)) as the lessor constitutes export property for any period of time only if during the period—

(i) Such property is held for sublease, or is subleased, by such person to a third person who is not a member of such controlled group; and

(ii) Such property is used predominantly outside the United States by such third person.

The provisions of paragraph (d)(4)(vi) of this section apply in determining under subdivision (ii) of this subparagraph whether such property is used predominantly outside the United States by such third person. For purposes of this subparagraph, property is deemed to be leased to a person which is a member of the same controlled group as the lessor if such property is leased to a person who is not a member of such controlled group but who subleases such property to a person who is a member of such controlled group. Thus, for example, if X, a DISC for the taxable year, leases a movie film to Y, a foreign corporation which is a member of the same controlled group as X, and Y then subleases the film to persons who are not members of such group for showing to the general public, the film is export property if the requirements of this section are met. If, however, the persons showing the film to the general public are members of the same controlled group as X, the film is not export property.

(3) *Intangible property.* Export property does not include any patent, invention, model, design, formula, or process, whether or not patented, or any copyright (other than films, tapes, records, or similar reproductions, for commercial or home use), goodwill, trademark, trade-brand, franchise, or other like property. Although a copyright such as a copyright on a book does not constitute export property, a copyrighted article such as a book or other copyrighted property is export property if the requirements of this section are otherwise satisfied.

(g) *Property in short supply.* If the President determines that the supply of any property which is otherwise export property as defined in this section is insufficient to meet the requirements of the domestic economy, he may by Executive order designate such property as in short supply. Any property so designated will be treated as property which is not export property during the period beginning with the date specified in such Executive order and ending with the date specified in an Executive order setting forth the President's determination that such property is no longer in short supply.

§ 1.993–4 Definition of producer's loans.

(a) *General rule*—(1) *Definition.* Under section 993(d), a loan made by a DISC to a person, referred to in this section as the "borrower," is a producer's loan if—

(i) The loan is made out of accumulated DISC income within the meaning of subparagraph (3) of this paragraph,

(ii) The loan is evidenced by an obligation described in subparagraph (4) of this paragraph,

(iii) The requirement as to the trade or business of the borrower described in subparagraph (5) of this paragraph is satisfied,

(iv) At the time the loan is made, the obligation referred to in subdivision (ii) of this subparagraph bears a legend stating "This Obligation Is Designated A Producer's Loan Within The Meaning of Section 993(d) of the Internal Revenue Code" or words of substantially the same meaning,

(v) The limitation as to the export-related assets of the borrower described in paragraph (b) of this section is satisfied,

(vi) The requirement as to the increased investment of the borrower in export-related assets described in paragraph (c) of this section is satisfied, and

(vii) The requirement of paragraph (d) of this section as to proof of compliance with paragraphs (b) and (c) of this section is satisfied.

(2) *Application of this section*—(i) *In general.* A loan which is a producer's loan is a qualified export asset of the DISC (see § 1.993–2 (a)(5) and (f)). The interest on a producer's loan is a qualified export receipt of the DISC (see § 1.993–1 (g)). A producer's loan is not a dividend to a borrower which is also a shareholder of the DISC making the loan. For rules with respect to deemed distributions by reason of the amount of foreign investment attributable to producer's loans, see section 995 (b)(1)(E) and (d) and the regulations thereunder.

(ii) *No tracing of loan proceeds.* For purposes of applying this section, in order to qualify as a producer's loan, the proceeds of the loan need not be traced to an investment in any specific asset.

(iii) *Unrelated borrower.* For purposes of applying this section, it is not necessary for a borrower to be a related person with respect to the DISC from which it receives a producer's loan.

(iv) *Unpaid balance of producer's loans.* For purposes of applying this section, the unpaid balance of producer's loans does not include the unpaid balance of any producer's loan to the extent the loan has been deducted or charged off by the DISC as totally or partially worthless under section 165 or 166.

(v) *Refinancing, renewal, and extension.* For purposes of applying this section, the refinancing, renewal, or extension of a producer's loan shall be treated as the making of a new loan which may qualify as a producer's loan only if the requirements of subparagraph (1) of this paragraph are met.

(vi) *Events subsequent to time loan is made.* The determination as to whether a loan qualifies as a producer's loan is made on the basis of the facts existing at the time the loan is made. Thus, for example, if the accumulated DISC income of the lender is later reduced below the unpaid balance of all producer's loans previously made by the DISC, such subsequent decrease in the amount of accumulated DISC income will not result in later disqualification of such loan (or part thereof) as a producer's loan. Similarly, if a loan (or part of a loan) does not qualify as a producer's loan because of an insufficient amount of accumulated DISC income at the time the loan is made, a subsequent increase in the amount of accumulated DISC income will not result in later qualification of such loan (or part thereof) as a producer's loan.

(vii) *Application of tests under paragraphs (b) and (c) on controlled group bases.* If the borrower is a member of a controlled group (as defined in § 1.993–1(k)) at the time a loan is made, all amounts that must be determined for purposes of applying the limitation and increased investment requirement with respect to the export-related assets of the borrower (described in paragraphs (b) and (c), respectively, of this section) may be determined at the election of the borrower by aggregating such amounts for all members of the controlled group, determined for the taxable year of each member of the controlled group during which the loan is made, excluding only such members of the group as are DISC's or foreign corporations for such year. However, such amounts may be included only to the extent that such amounts have not already been taken into account in applying the limitation and increased investment requirement with respect to any other borrower. Amounts to be aggregated for all such members if such election is made include, for example, gross receipts (described in paragraph (b)(3)(i) and (ii) of this section) and export-related assets (described in paragraph (b)(2) of this section). The borrower may make such election by causing its written statement of election to be attached to the lending DISC's information return under section 6011(e)(2). A borrower who makes such election may revoke it only if it secures the consent of the Commissioner to such revocation upon application made through the lending DISC.

(3) *Loan out of accumulated DISC income*—(i) *In general.* A loan is a producer's loan only to the extent that it is made out of accumulated DISC income. A loan is made out of accumulated DISC income only if the amount of the loan, when added to the unpaid balance at the time such loan is made of all other producer's loans made by a DISC, does not exceed the amount of accumulated DISC income of the DISC at the beginning of the month in which the loan is made. The amount of accumulated DISC income at the beginning of any month is determined as if the DISC's taxable year closed at the end of the immediately preceding month.

(ii) *Presumption.* A loan made during a taxable year shall be deemed under subdivision (i) of this subparagraph to have been made out of accumulated DISC income if the balance of producer's loans at the beginning of the year and those made during the year do not exceed accumulated DISC income at the end of the year.

(iii) *Deemed distributions.* For purposes of this subparagraph, accumulated DISC income as of the end of any taxable year (or month) shall be determined without regard to deemed distributions under section 995(b)(1)(E) for the amount of foreign investment attributable to producer's loans for such year (or for the taxable year for which such month is a part) but actual distributions shall be taken into account.

(4) *Evidence and terms of obligation.* A loan is a producer's loan only if the loan is evidenced by a note or other evidence of indebtedness which is made by the borrower and which has a stated maturity date not more than 5 years from the date the loan is made. Accordingly, a loan which does not have a stated maturity date or which has a stated maturity date more than 5 years from the date such loan is made can never meet the 5-year requirement of this subparagraph. Thus, for example, even if there is a period of less than 5 years remaining to the stated maturity date of a loan, the loan can never be a producer's loan if it had a stated maturity date more than 5 years from the date it was made. For a further example, if a loan having a period remaining to maturity of 2 years is extended for a further period of 3 years (making a total of 5 years to maturity from the date of the extension), the extension of the loan would under subparagraph (2)(v) of this paragraph constitute the making of a new producer's loan and the original producer's loan would terminate. If, however, a loan having a period remaining to maturity of 2 years is extended for a further period of 4 years (making a total of 6 years to maturity from the date of the extension), the original producer's loan will terminate and the new loan will not be a producer's loan. If a producer's loan is not paid in full at its maturity date and is not formally refinanced, renewed, or extended, such loan shall be deemed to be a new loan which does not have a stated maturity date and, thus, will not be a producer's loan. For purposes of this subparagraph, an evidence of indebtedness is a written instrument of indebtedness. Section 482 and the regulations thereunder are applicable to determine, in the

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case of a loan by the DISC to a borrower which is owned or controlled directly or indirectly by the same interests as the DISC within the meaning of section 482, whether the interest charged on such loan is at an arm's length rate.

(5) *Borrower's trade or business.* A loan is a producer's loan only if the loan is made to a person engaged in the activity of manufacture, production, growth, or extraction of export property (within the meaning of § 1.993–3(c)) in the United States by such person. The borrower may also be engaged in other trades or businesses, and the loan need not be traceable to specific investments in export property.

(b) *Borrower's export related assets limitation*—(1) *General rule.* A loan to a borrower is a producer's loan only to the extent that the amount of the loan, when added to the unpaid balance of all other producer's loans made by all DISC's to the borrower which are outstanding at the time the loan is made, does not exceed an amount equal to the amount of the borrower's export-related assets (determined under subparagraph (2) of this paragraph) multiplied by the fraction set forth in subparagraph (3) of this paragraph.

(2) *Amount of export-related assets*—(i) *In general.* For purposes of subparagraph (1) of this paragraph, the amount of the borrower's export-related assets is the sum of the amounts described in subdivisions (ii), (iii), and (iv) of this subparagraph.

(ii) *Borrower's plant and equipment.* The amount described in this subdivision is the sum of the borrower's adjusted bases (determined as of the beginning of the borrower's taxable year in which a loan is made to it) for plant, machinery, equipment, and supporting production facilities, which are located in the United States. Supporting production facilities are all property used primarily in connection with the manufacture, production, growth, or extraction (within the meaning of § 1.993–3(c)) or storage, handling, transportation, or assembly of property by the borrower.

(iii) *Borrower's property held primarily for sale or lease.* The amount described in this subdivision is the amount of the borrower's property (at the beginning of the taxable year of the borrower in which a loan is made to it) held primarily for sale or lease to customers in the ordinary course of its trade or business. The amount of such property held for sale is determined under the methods of identifying and valuing inventory normally used by the borrower. The amount of such property held for lease or leased is the borrower's adjusted basis, determined under section 1011, for such property.

(iv) *Borrower's research and experimental expenditures.* The amount described in this subdivision is the aggregate amount, whether or not charged to capital account, of research and experimental expenditures (within the meaning of section 174) incurred in the United States by the borrower during each of its taxable years which begin after December 31, 1971, and precede the taxable year in which the loan is made to the borrower. Such research and experimental expenditures need bear no relationship to export property (as defined in § 1.993–3) of the borrower. The aggregate amount of all such expenditures for each of such preceding taxable years is taken into account for purposes of this subparagraph, regardless of whether all or any portion of the aggregate amount has been taken into account with respect to producer's loans made to the borrower by any DISC in preceding taxable years. The aggregate amount of all such expenditures shall include such expenditures of a corporation, the assets of which were acquired by the borrower in a distribution or a transfer described in section 381(a) (1) or (2) (relating to carryovers in certain corporate acquisitions).

(3) *Fraction referred to in subparagraph (1) of this paragraph*—(i) *Numerator of fraction.* The numerator of the fraction set forth in this subparagraph is the sum of the borrower's gross receipts for each of its 3 taxable years immediately preceding the taxable year in which the loan is made (but not including any taxable year beginning before January 1, 1972) from the sale or lease of export property which is manufactured, produced, grown, or extracted (within the meaning of § 1.993–3(c)) by the borrower whether or not sold or leased directly or through a related Western Hemisphere trade corporation, or other domestic related person (notwithstanding § 1.993–3 (a) (4) and (f) (2)). If such property is so sold or leased to a domestic related person which resells or subleases such property, the borrower's gross receipts shall be the gross receipts derived by the domestic related person from the resale or sublease of the export property.

(ii) *Denominator of fraction.* The denominator of the fraction set forth in this subparagraph is the sum of the amount included in the numerator and all other gross receipts of the borrower, for each of its taxable years for which gross receipts are included in the numerator of the fraction, from all sales or leases of all property held by the borrower primarily for sale or lease to customers in the ordinary course of its trade or business

(iii) *Taxable years.* If the borrower has not engaged in the sale or lease of property (as described in this subparagraph) for the 3 immediately preceding taxable years, or if 3 taxable years beginning after December 31, 1971, have not elapsed, the fraction will be computed on the basis of such gross receipts for its taxable years immediately preceding the loan and beginning after December 31, 1971, during which the borrower has so engaged. No producer's loans can be made to a borrower until after the end of the first taxable year of the borrower beginning after December 31, 1971.

(c) *Requirement for increased investment in export-related assets*—(1) *In general.* A loan to a borrower is a producer's loan only to the extent that the amount of the loan, when added to the unpaid balance of all other producer's loans made by all DISC's to the borrower during the borrower's taxable year during which such loan is made does not exceed the amount of the borrower's increase for the year in investment in export-related assets. Such increase for any taxable year is the sum of—

(i) The increase (if any) in the borrower's adjusted basis of certain types of assets as determined under subparagraph (2) of this paragraph and

(ii) The amount (if any) during the year of its research and experimental expenditures as determined under paragraph (b) (2) (iv) of this section.

(2) *Increase in adjusted basis.* The amount under this subparagraph is the amount (not less than zero) by which—

(i) The borrower's adjusted basis (determined as of the end of its taxable year in which the producer's loan is made) in all of its property which is described in paragraph (b) (2) (ii) (plant and equipment), and (iii) (property held primarily for sale or lease) of this section, including any such property acquired by it during such taxable year, exceeds

(ii) Its adjusted bases in all such property (determined as of the beginning of such year).

(3) *Ordering rule.* If during the borrower's taxable year the amount of increase in investment in export-related assets determined under this subparagraph is exceeded by amounts loaned to the borrower during such year that would otherwise qualify as producer's loans, such loans shall be applied in the order made against the amount of such increase in order to determine which loans qualify as producer's loans.

(d) *Proof of borrower's compliance with paragraphs (b) and (c) of this section.* For purposes of paragraphs (b) and (c) of this section, a DISC shall be prepared to establish initially the compliance of the borrower with the requirements of such paragraphs by providing the written statement of the borrower, certified by a certified public accountant, stating that the borrower has complied with the limitation and increased investment requirement in section 993(d) (2) and (3) of the Internal Revenue Code of 1054. Additional full substantiation of the borrower's compliance with the requirements of such paragraphs may be required by the district director. If full substantiation of such compliance is not provided by the DISC (or the borrower) when required, the loan shall be deemed not to be a producer's loan.

(e) *Special limitation in the case of domestic film maker*—(1) *General rule.* The limitation of paragraph (b) of this section as to the export-related assets of the borrower will be considered satisfied if the DISC—

(i) Is engaged in the trade or business of selling or leasing films which are export property, or is acting as a commission agent for a person who is so engaged,

(ii) Makes a loan to a borrower which is a domestic film maker (as defined in subparagraph (5) of this paragraph) for the purpose of making a film, and

(iii) The amount of such loan, when added to the unpaid balance of all other producer's loans made by all DISC's to the borrower which are outstanding at the time the loan is made, does not exceed an amount determined by multiplying—

(*a*) The sum of (*1*) the amount of the export-related assets of the borrower (determined under paragraph (b) (2) (i) of this section as of the beginning of the borrower's taxable year in which the loan is made), plus (*2*) the amount of a reasonable estimate of the amount of such export-related assets obtained or to be obtained by the borrower during such year and subsequent years with respect to films as to which filming begins within such year by

(*b*) The percentage which, based on the experience of other film makers of similar films for the 5 calendar years preceding the calendar year in which the loan is made, the annual gross receipts (as described in § 1.993–6(a) (1), whether or not such films constitute property described therein) of such other film makers from the sale or lease of such films outside the United States is of the annual gross receipts of such other film makers from all sales or leases of such films.

(2) *Purpose of loan.* A loan by a DISC will be deemed to be for the making of a film if there exists a written agreement between the DISC and the borrower, executed at or before the time the loan is made, stating that the loan is made or to be made to enable the borrower to make such film.

(3) *Reasonable estimate of amounts.* For purposes of subparagraph (1) (iii) (*a*) (2) of this paragraph, a reasonable estimate shall be based on the conditions known by the DISC and borrower to exist at the time a loan is made (or which the DISC and borrower have reason to know to exist at such time).

(4) *Experience of film makers.* For purposes of subparagraph (1) (iii) (*b*) of this paragraph, the experience of other film makers of similar films for the 5 calendar years preceding the calendar year in which the loan is made shall be derived from such records and statistics as are acknowledged in the trade as reasonably reliable.

(5) *Domestic film maker.* For purposes of this section, a borrower is a domestic film maker with respect to a film if—

(i) The borrower is a U.S. person within the meaning of section 7701(a) (30), except that (*a*) with respect to a partnership all of the partners must be U.S. persons and (*b*) with respect to a corporation all of its officers and at least a majority of its directors must be U.S. persons,

(ii) The borrower is engaged in the trade or business of making the film with respect to which the loan is made,

(iii) Each studio, if any, used or to be used for filming or for recording sound incorporated into such film is located in the United States (as defined in section 7701(a) (9)),

(iv) At least 80 percent of the aggregate playing time of the film is or will be photographed within the United States (as defined in section 7701(a) (9)), and

(v) At least 80 percent of the total amount (not including any amount which is contingent upon receipts or profits of such film and which is fully taxable by the United States) paid or to be paid for services performed in the making of the film is either paid or to be paid to persons who are U.S. persons at the time such services are performed or consists of amounts which are fully taxable by the United States.

(6) *Amounts as fully taxable.* For purposes of subparagraph (5) (v) of this paragraph, an amount is considered fully taxable by the United States if the entire amount is included in gross income under section 61 or is subject to withholding under any provision of U.S. law or treaty to which the United States is a party and is not exempt from taxation under any provision of such law or treaty. Where a nonresident alien individual is engaged for the making of a film or where a foreign corporation is engaged to furnish the services of one of its officers or employees for the making of a film, the amount paid such individual or corporation will be considered as fully taxable by the United States only if it meets the test of this paragraph.

§ 1.993–5 Definition of related foreign export corporation.

(a) *General rule*—(1) *Definition.* Under section 993(e), a foreign corporation is a related foreign export corporation with respect to a DISC if—

(i) It is a foreign international sales corporation described in paragraph (b) of this section,

(ii) It is a real property holding company described in paragraph (c) of this section, or

(iii) It is an associated foreign corporation described in paragraph (d) of this section.

(2) *Application of this section.* It is necessary to determine whether a foreign corporation is a related foreign export corporation with respect to a DISC for the following two purposes:

(i) *Qualified export assets.* Under § 1.993–2(g), the stock or securities of a related foreign export corporation held by the DISC are qualified export assets.

(ii) *Qualified export receipts.* Under § 1.993–1 (e), (f), and (g), certain receipts of the DISC with respect to stock or securities of a related foreign export corporation held by the DISC are qualified export receipts.

(b) *Foreign international sales corporation*—(1) *In general.* A foreign corporation is a foreign international sales corporation with respect to a taxable year of a DISC if—

(i) On each day during such taxable year of the DISC on which the foreign corporation has stock issued and outstanding, the DISC owns directly stock of the foreign corporation possessing more than 50 percent of the total combined voting power of all classes of stock of the foreign corporation entitled to vote as determined under the principles of § 1.957–1(b) (relating to definition of controlled foreign corporation),

(ii) 95 percent or more of such foreign corporation's gross receipts (as defined in § 1.993–6) for its taxable year ending with or within such taxable year of the DISC consists of qualified export receipts described in § 1.993–1 (b) through (e) or interest described in § 1.993–1(g) derived from any obligations described in § 1.993–2 (d) or (e), and

(iii) The sum of the adjusted bases of the assets of the foreign corporation which are qualified export assets described in § 1.993–2 (b) through (e) and which are held by the foreign corporation at the close of its taxable year which ends with or within such taxable year of the DISC equals or exceeds 95 percent of the sum of the adjusted bases of all assets held by the foreign corporation at the close of such taxable year.

(2) *Certain determinations.* The determinations as to whether gross receipts are qualified export receipts described in subparagraph (1) (ii) of this paragraph and as to whether assets are qualified export assets described in subparagraph (1) (iii) of this paragraph are made by applying the requirements of §§ 1.993–1 and 1.993–2 to the foreign corporation as if it were a domestic corporation being tested to determine whether it is a DISC. For purposes of making either of such determinations, the principles of accounting applicable for purposes of computing earnings and profits under § 1.964–1 (relating to a controlled foreign corporation's earnings and profits) shall apply.

(c) *Real property holding company*—(1) *In general.* A foreign corporation is a real property holding company with respect to a taxable year of a DISC if—

(i) On each day during such taxable year of the DISC on which the foreign corporation has stock issued and outstanding, the DISC owns directly stock of the foreign corporation possessing more than 50 percent of the total combined voting power of all classes of stock of the foreign corporation entitled to vote as determined under the principles of § 1.957–1(b) and

(ii) The sole function of the foreign corporation is to hold title to real property situated outside the United States for the exclusive use of the DISC, title to which may not be held by the DISC (and, if the DISC subleases such property to a related supplier, as described in subparagraph (3) of this paragraph, by such related supplier) under the law of the country in which such property is situated.

(2) *Activities of the foreign corporation.* For purposes of subparagraph (1) (ii) of this paragraph, a foreign corporation which holds title to real property situated outside the United States may also perform activities with respect to such property (such as management, maintenance, and payment of taxes) which are ancillary to its function of holding title to such property.

(3) *Exclusive use by the DISC.* Real property held by the foreign corporation must be used exclusively by the DISC whether under a lease or any other arrangement. Real property is not so used by the DISC if the DISC subleases such

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property to any other person. If, however, during a taxable year of the DISC—

(i) 90 percent or more of the qualified export receipts of the DISC for such year are derived from transactions with respect to which it is a commission agent for a related supplier (as defined in § 1.994–1(a)(3), as proposed in 37 F.R. 19625, for Sept. 21, 1972), and

(ii) The DISC subleases such property to such related supplier

then such property will be considered as used exclusively by the DISC during such year if such related supplier does not sublease such property.

(d) *Associated foreign corporation*—(1) *In general.* A foreign corporation is an associated foreign corporation with respect to a taxable year of the DISC if—

(i) On each day during such taxable year of the DISC on which the foreign corporation has stock issued and outstanding, the DISC, or one or more members of the same controlled group of corporations (as defined in subparagraph (2) of this paragraph) as the DISC, owns (within the meaning of sec. 1563 (d) and (e)) stock of the foreign corporation possessing less than 10 percent of the total combined voting power of all classes of stock of the foreign corporation entitled to vote, as determined under the principles of § 1.957–1(b), or owns no stock of such corporation, and

(ii) The ownership of stock, or of securities (as defined in § 1.993–2(g)), of the foreign corporation by the DISC or by one or more members of such controlled group of corporations reasonably furthers a transaction or transactions giving rise to qualified export receipts for the DISC.

(2) *Controlled group of corporations.* For purposes of this paragraph, the term "controlled group of corporations" has the same meaning assigned to the term in section 1563(a) and not section 993(a)(3) and § 1.993–1(k). Thus, for purposes of this paragraph, the test of control is 80 percent control and, since the rules of section 1563(b) apply, only domestic members are considered to be members of the controlled group.

(3) *Furtherance of qualified export receipts.* Ownership of stock or securities of a foreign corporation will be considered as reasonably furthering a transaction or transactions giving rise to qualified export receipts for a DISC if—

(i) The ownership is necessary to obtain or maintain the foreign corporation as a customer of the DISC or of a related supplier, as defined in § 1.994–1(a)(3) (as proposed in 37 F.R. 19625 for Sept. 21, 1972) of the DISC or to aid the sales distribution system of the DISC or of such related supplier, and

(ii) The amount of the investment in the foreign corporation bears a reasonable relationship to the amount of the DISC's annual net profit from transactions in its trade or business which it may reasonably expect to derive on account of such ownership.

In determining whether the amount of the investment is reasonable, there shall be taken into account any stock or securities of the foreign corporation owned by any other foreign corporation which, if it were a domestic corporation, would be a member of the same controlled group of corporations as the DISC.

§ 1.993–6 Definition of gross receipts.

(a) *General rule.* Under section 993(f), for purposes of sections 991 through 996, the gross receipts of a person for a taxable year are—

(1) The total amounts received or accrued by the person from the sale or lease of property held primarily for sale or lease in the ordinary course of a trade or business, and

(2) Gross income recognized from all other sources, such as, for example, from—

(i) The furnishing of services (whether or not related to the sale or lease of property described in subparagraph (1) of this paragraph),

(ii) Dividends and interest,

(iii) The sale at a gain of any property not described in subparagraph (1) of this paragraph, and

(iv) Commission transactions as and to the extent described in paragraph (e) of this section.

(b) *Nongross receipts items.* For purposes of paragraph (a) of this section, gross receipts do not include amounts received or accrued by a person from—

(1) The proceeds of a loan or of the repayment of a loan, or

(2) A receipt of property in a transaction to which section 118 (relating to contribution to capital) or 1032 (relating to exchange of stock for property) applies.

(c) *Nonreduction of total amounts.* For purposes of paragraph (a) of this section, the total amounts received or accrued by a person are not reduced by returns and allowances, costs of goods sold, expenses, losses, a deduction for dividends received under section 243, or any other deductible amounts.

(d) *Method of accounting.* For purposes of paragraph (a) of this section, the total amounts received or accrued by a person shall be determined under the method of accounting used in computing its taxable income. If, for example, a DISC receives advance or installment payments for the sale or lease of property described in paragraph (a)(1) of this section, for the furnishing of services, or which represent recognized gain from the sale of property not described in paragraph (a)(1) of this section, any amount of such advance payments is considered to be gross receipts of the DISC for the taxable year for which such amount is included in the gross income of the DISC.

(e) *Commission transactions.* (1) In the case of transactions which give rise to a commission on the sale or lease of property or the furnishing of services by a principal, the amount recognized by the commission agent as gross income from all such transactions shall be the gross receipts derived by the principal from the sale or lease of the property, or the gross income derived by the principal from the furnishing of services, with respect to which the commissions are derived. In the case of a commission agent for a related supplier (as defined in § 1.994–1(a)(3)) (as proposed in 37 F.R. 19625 for Sept. 21, 1972), the gross receipts or gross income of such agent shall be determined as if it used the same method of accounting as its related supplier. In the case of a commission agent for a principal other than a related supplier, the gross receipts or gross income of such principal shall be determined as if such principal used the same method of accounting as its agent.

(2) If the commission arrangement provides that the commission agent will receive a commission only with respect to sales or leases of export property, or the furnishing of services, which result in qualified export receipts, the commission agent will not take into account the gross receipts or gross income, as the case may be, derived by the principal from any transaction for which the commission agent would not be entitled to a commission under the commission arrangement.

(f) *Example.* The provisions of this section may be illustrated by the following example:

Example. During 1973, M, a related supplier (as defined in § 1.994–1(a)(3) as proposed in 37 F.R. 19625 for Sept. 21, 1972) of N, is engaged in the manufacture of machines in the United States. N, a calendar year taxpayer, is engaged in the sale and lease of such machines in foreign countries. N furnishes services which are related and subsidiary to its sale and lease of such machines. N also acts as a commission agent in foreign countries for Z, an unrelated supplier, with respect to Z's sale of products. N receives dividends on stock owned by it in a related foreign export corporation (as defined in § 1.993–5), interest on producer's loans made to M and proceeds from sales of business assets located outside the United States resulting in a recognized gains and losses. N's gross receipts for 1973 are $3,550, computed on the basis of the additional facts assumed in the table below:

(1) N's sales receipts for machines manufactured by M (without reduction for cost of goods sold and selling expenses)	$1,500
(2) N's lease receipts for machines manufactured by M (without reduction for depreciation and leasing expenses)	500
(3) N's gross income from services for machines manufactured by M (without reduction for service expenses)	400
(4) Z's sale receipts for products manufactured by Z (without reduction for Z's cost of goods sold, commissions on sales, and commission sales expenses)	550
(5) Dividends received by N	150
(6) Interest received by N on producer's loans	200
(7) Proceeds received by N representing recognized gain (but not losses) from sales of business assets located outside the United States	250
(8) N's gross receipts	3,550

§ 1.993–7 Definition of United States.

Under section 993(g), the term "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of the United States. For the requirement that a DISC must be incorporated and existing under the laws of a State or the District of Columbia, see § 1.992–1(a)(1) (as proposed in 37 F.R. 10368 for May 20, 1972).

[FR Doc.72-16854 Filed 9-29-72;10:40 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN STATES

Proposed Handling and Reporting

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, of § 929.105 *Reporting* (Subpart—Rules and Regulations 7 CFR 929.100–929.150) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was unanimously recommended by the Cranberry Marketing Committee, established under said amended marketing agreement and order, as the agency to administer the terms and provisions thereof. The amendment is designed to lengthen the period of time during which handlers must submit reports to the committee. The committee reports that the period of time afforded handlers for filing reports to the committee, especially with respect to information on the quantities of cranberries and cranberry products held by the handler on specified dates, has proved to be insufficient.

Therefore, it is proposed that paragraph (b) of § 929.105 be amended to read as follows:

§ 929.105 Reporting.

* * * * *

(b) Certified reports shall be submitted to the committee by each handler not later than the 20th day of November, February, May, and August of each fiscal period showing (1) the total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled during the 3-month period ending the last day of the month preceding the date the report is due and (2) the respective quantities of cranberries and cranberry products held by the handler on the first day of each of the specified months.

All persons who desire to submit written data, views, or arguments in connection with the proposed amendment should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112–A, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 29, 1972.

CHARLES R. BRADER,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-16879 Filed 10-3-72; 8:48 am]

[7 CFR Part 1139]

[Docket No. AO 374]

MILK IN THE LAKE MEAD MARKETING AREA

Notice of Hearing on Proposed Marketing Agreement and Order

Correction

In F.R. Doc. 72-16737 appearing at page 20563 of the issue for Saturday, September 30, 1972, the following proposals were inadvertently omitted immediately following the text of § 1139.86. The proposals should read as follows:

Proposal No. 2. In paying producers for milk, adopt a plan that would reflect appropriate transportation charges from the pool plant at which a producer's milk is received to the location of the producer's farm.

Proposal No. 3. Make appropriate provision in the order to reflect that a milk supply contract made by a producer or a cooperative association with a handler regulated by the order shall be made independent of any contract for hauling milk.

Proposal No. 4. Make appropriate provision in the order to reflect that no rate charged for hauling milk from a producer's farm to a pool plant, or diverted to a nonpool plant, in mobile vehicles owned or operated directly or indirectly by a regulated handler shall exceed prevailing rates for a common carrier engaged in the same class of service.

Rural Electrification Administration

[7 CFR Part 1701]

RURAL ELECTRIFICATION PROGRAM

Designs for Narrow Profile Electric Transmission Line

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 62–3, Narrow Profile Electric Transmission Designs, to provide criteria in the use of narrow profile transmission line structure designs and to provide general guidelines on the design and construction in the use of these types of structures.

Persons interested in data and information in this bulletin may submit written data, views, or comments to the Director, Power Supply, Management and Engineering Standards Division, Room 3313, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply, Management and Engineering Standards Division during regular business hours.

The proposed bulletin is as follows:

REA BULLETIN 62–3

SUBJECT: NARROW PROFILE ELECTRIC TRANSMISSION LINE STRUCTURE DESIGNS

I. *Purpose.* To provide information and establish criteria in the use of narrow profile transmission line structure designs and to provide general guidelines on design and construction in the use of these types of structures.

II. *General.* In general, REA crossarm1-type transmission structures should be used where possible. It is recognized, however, that there may be some sections in a proposed transmission line where special structures will be required. The enclosed five drawings provide a selection of structure designs that may be used when either of the following conditions apply:

1. In scenic or highly developed areas where environmental considerations require special structures.

2. In areas where right-of-way is limited and the standard wood pole-crossarm type structure is not suitable.

When either one or both of the above conditions are met and REA concurs that the installation is justified, the approval of the proposed installation of the narrow profile structures will be indicated by REA approval of the design data. Information furnished with the design data should confirm that the installation conforms with the limitations outlined. Any proposed installation not conforming to the limited use criteria, outlined above, requires prior approval of the area director in accordance with REA Bulletin 44–7, Acceptance of Standards, Standard Specifications, Drawings, Materials, and Equipment for the Electric and Telephone programs, and such approval should be obtained prior to developing design data.

III. *Design and construction.* A. The narrow profile structure drawings are to be included in REA Form 805, Electric Transmission Specifications and Drawings, and the construction units are to be included in REA Form 831, Electric Transmission Construction Contract. REA procedures and requirements for transmission construction as set forth in REA Bulletin 40–6, Construction Methods and Purchase of Materials and Equipment, are applicable. The materials requirements for the narrow profile structures are included in the List of Materials Acceptable for Use on Systems of REA Electrification Borrowers.

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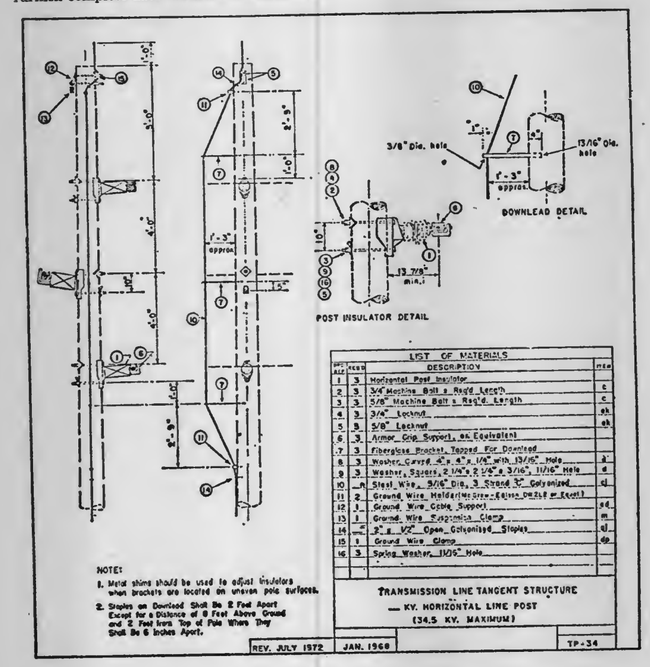
B. Where TUS–1 structures are used it will be necessary to specify the type and size of laminated arm required for the voltage and conductor loading requirements. Because of the variables involved, it also will be necessary to furnish pole drilling guides so that the poles needed for the installation can be framed for the particular type arms and brackets to be ordered. Metal shims should be used to properly adjust the arms when the brackets are located on uneven pole surfaces. It is recommended that the arms and poles be obtained from the same supplier, if possible.

C. Where TUS–2 structures are used the design information should include the footing details. The engineer should furnish complete design data including information on angle structure requirements to structure suppliers for development of proper structure designs. The supplier should in turn furnish complete data to assure the borrower and its engineer that the structures to be furnished will satisfy all requirements.

D. When the design data for the TP–34, TP–69 or TP–115 structures have been developed by the engineer and approved by REA, the necessary materials can be ordered from the suppliers shown on the Acceptable Material List. Metal shims should be used on these structures also to adjust the insulators when the brackets are located on uneven pole surfaces. Horizontal post insulators should not be used on concrete or metal poles. Experience has shown that a severe impact on a structure, a conductor break, or ice unloading can cause cascading failure of insulators in an entire line section because the concrete and steel poles do not absorb the shock impact in the same manner as wood poles.

Dated: September 27, 1972.

JAMES N. MYERS,
Acting Administrator.

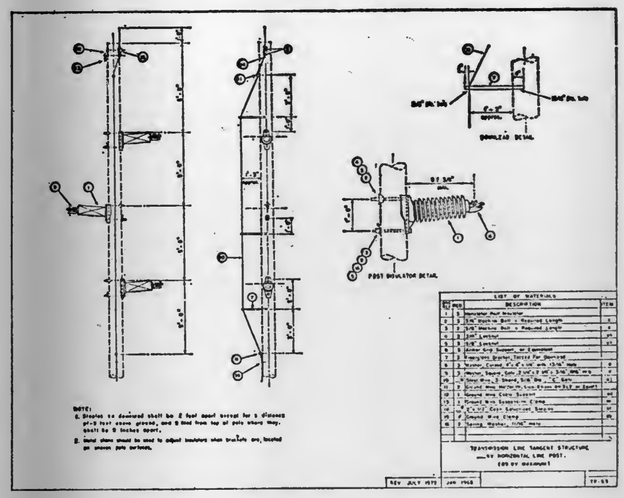


LIST OF MATERIALS

ITEM	REQD	DESCRIPTION	ITEM
1	3	Horizontal Post Insulator	
2	3	3/4" Machine Bolt x Required Length	c
3	3	5/8" Machine Bolt x Required Length	c
4	3	3/4" Lockwasher	ah
5	3	5/8" Lockwasher	ah
6	3	Armor Grip Support, or Equivalent	
7	3	Fiberglass Bracket, Tapped For Downlead	
8	3	Washer, Curved, 4" x 4" x 1/4" with 13/16" Hole	al
9	3	Washer, Square, 2 1/4" x 2 1/4" x 3/16", 11/16" Hole	al
10	As	Steel Wire, 9/16" Dia, 3 Strand 3" Galvanized	aj
11	2	Ground Wire, Halderite Screw (Ericsson DW2LE or Equal)	
12	1	Ground Wire Cable Support	ad
13	1	Ground Wire Fugomatic Clamp	ae
14	As	2" x 1/2" Open Galvanized Staples	aj
15	1	Ground Wire Clamp	ap
16	3	Spring Washer, 11/16" Hole	

TRANSMISSION LINE TANGENT STRUCTURE
— KV. HORIZONTAL LINE POST
(34.5 KV. MAXIMUM)

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LIST OF MATERIALS

ITEM	REQD	DESCRIPTION	ITEM
1	3	Horizontal Post Insulator	
2	3	3/4" Machine Bolt x Required Length	c
3	3	5/8" Machine Bolt x Required Length	c
4	3	3/4" Lockwasher	ah
5	3	5/8" Lockwasher	ah
6	3	Armor Grip Support, or Equivalent	
7	3	Fiberglass Bracket, Tapped For Downlead	
8	3	Washer, Curved, 4" x 4" x 1/4" with 13/16" Hole	al
9	3	Washer, Square, 2 1/4" x 2 1/4" x 3/16", 11/16" Hole	al
10	As	Steel Wire, 9/16" Dia, 3 Strand 3" Galvanized	aj
11	2	Ground Wire, Halderite Screw (Ericsson DW2LE or Equal)	
12	1	Ground Wire Cable Support	ad
13	1	Ground Wire Fugomatic Clamp	ae
14	As	2" x 1/2" Open Galvanized Staples	aj
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TRANSMISSION LINE TANGENT STRUCTURE
— KV. HORIZONTAL LINE POST
(34.5 KV. MAXIMUM)

REV. JULY 1972 | JAN. 1968 | TP-34

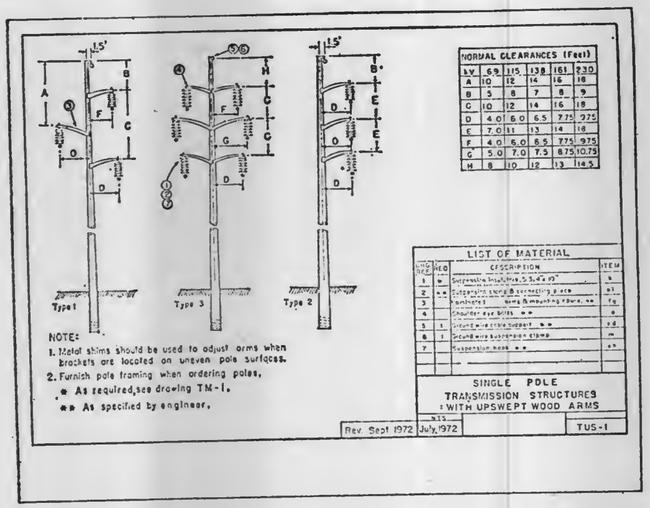
LIST OF MATERIALS

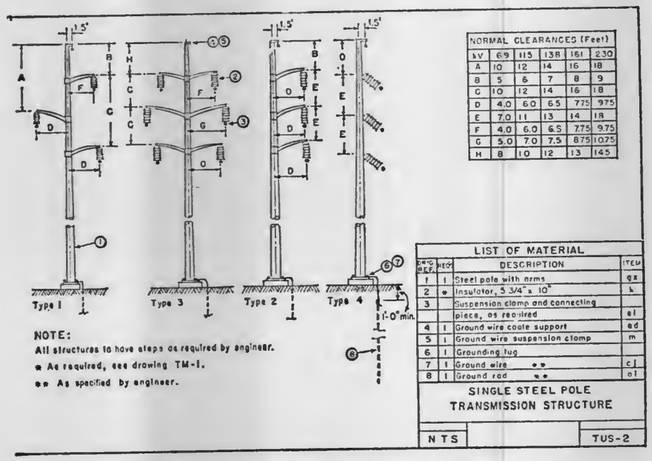
ITEM	REQD	DESCRIPTION	ITEM
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TRANSMISSION LINE TANGENT STRUCTURE
— KV. HORIZONTAL LINE POST
(34.5 KV. MAXIMUM)

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[FR Doc.72-16771 Filed 10-3-72;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

[41 CFR Part 60-1]

STATE AND LOCAL GOVERNMENTS

Affirmative Action Programs

Notice is hereby given that pursuant to Executive Order 11246 (30 F.R. 12319), as amended by Executive Order 11375 (32 F.R. 14303), the Department of Labor proposes to amend § 60-1.5 of Title 41, Code of Federal Regulations to read as set forth below.

This proposed rule making concerns matters relating to public contracts. While public participation in this rule making is not required by 5 U.S.C. 553, the Department wishes to invite written comments, suggestions, or objections regarding this proposed part. Accordingly, interested persons are invited to submit written comments regarding the proposed amendment to Philip J. Davis, Acting Deputy Assistant Secretary for Employment Standards, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210, within 30 days of publication of this notice in the FEDERAL REGISTER.

§ 60-1.5 Exemptions.

(a) *General.* • • •

(4) *Contracts with State or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract. In addition, any agency, instrumentality or subdivision of such government, except for educational institutions and medical facilities, are exempt from the requirements of filing the annual compliance report provided for by § 60-1.7(a)(1) and maintaining a written affirmative action compliance program prescribed by § 60-1.40 and Part 60-2 of this chapter.

• • • • •

Signed at Washington, D.C., this 25th day of September 1972.

J. D. HODGSON,
Secretary of Labor.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

PHILIP J. DAVIS,
Acting Director, Office of Federal Contract Compliance.

[FR Doc.72-16906 Filed 10-3-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 141]

TYROTHRICIN

Microbiological Turbidimetric Assay; Proposal To Provide for Recodification and Updating of Tyrothricin Monographs; Correction

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), a notice of proposed rule making was published in the FEDERAL REGISTER of August 30, 1972 (37 F.R. 17561) to provide for the updating of the tyrothricin bulk drug monograph. The amendment of § 141.111, adding a footnote to the tyrothricin entry under the antibiotic column in the table in paragraph (a), inadvertently omitted a reference to the fact that the existing entries for tyrothricin under "Working standard stock solutions" and "Standard response line concentrations" were being deleted. If this proposal is adopted, these items will be deleted.

Dated: September 28, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-16874 Filed 10-3-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-62]

FEDERAL AIRWAY SEGMENT

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would modify the south alternate of VOR Federal Airway No. 14 between Oklahoma City, Okla., and Tulsa, Okla.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101.

All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would realine the segment predicated on the Oklahoma City VORTAC via the 070°M (079°T) radial in lieu of the 078°M (087°T) radial. The modification of the airway segment would be utilized in revised departure routings from the Oklahoma City terminal area for northeastbound aircraft. Realinement of the airway as proposed would coincide with the departure routings.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 27, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-16901 Filed 10-3-72;8:50 am]

[14 CFR Part 71]

[Airspace Docket No. 72-WA-51]

FEDERAL AIRWAY SEGMENT

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the maximum altitude restriction on VOR Federal Airway V-39 between Myrtle Beach, S.C., and Fayetteville, N.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

V-39 was established between Myrtle Beach and Fayetteville in 1965 with a ceiling of 5,000 feet MSL to provide for the continuation of military operations in the airspace above the airway. These operations can now be performed at and above 7,000 feet MSL which will permit the ceiling of the airway to be raised.

The airspace action proposed in this docket would redesignate a segment of V-39 airway by deleting "excluding the airspace at and above 5,000 feet MSL." and substituting "excluding the airspace at and above 7,000 feet MSL." therefor.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 27, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-16902 Filed 10-3-72;8:50 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 170]

FEES FOR LICENSES ISSUED TO GOVERNMENT AGENCIES FOR NUCLEAR POWERPLANTS

Removal of Exemption

The Atomic Energy Commission is proposing to amend its regulations in 10 CFR Part 170 to remove the exemption from payment of fees for a construction permit or license applied for by, or issued to, a Government agency for a reactor producing power on a commercial basis.

On October 1, 1968, the Commission adopted regulations requiring payment of fees by applicants for and by holders of certain licenses, including licenses to construct and operate power reactors. Fees for power reactors are required at the time of application for the construction permit, issuance of the construction permit and operating license, and annually thereafter.

Because the Commission lacked statutory authority to charge Government agencies license fees, an exemption from the requirement for payment of license fees was provided to Government agencies.

On June 16, 1972, legislaton was enacted amending the Atomic Energy Act by adding a new subsection 161w which authorized the Commission to:

> w. Prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b, any fee, charge, or price which it may require, in accordance with the provisions of section 483a of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses.

The Commission believes there is no sound reason for exempting from payment of license fees Government agencies which seek or hold a license to operate a nuclear reactor producing power for sale. Accordingly, in view of the new statute the Commission is proposing to amend § 170.11(a)(5) of Part 170 to remove the exemption for such licenses.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to Title 10, Chapter 1, Code of Federal Regulations, Part 170, is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, within 15 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments may be examined in the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Subparagraph (5) of § 170.11(a) of 10 CFR Part 170 is amended to read as follows:

170.11 Exemptions.

(a) • • •

(5) A construction permit or license applied for by, or issued to, a Government agency, except for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or

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104(b) of the Atomic Energy Act of 1954, as amended.

• • • • •

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

Dated at Germantown, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-16855 Filed 10-3-72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 87]

[Docket No. 19590; FCC 72-840]

AERONAUTICAL RADIO NAVIGATION

Proposed Channel Spacing

In the matter of amendment of Parts 2 and 87 of the rules to provide 50 kHz channel spacing in the aeronautical radio navigation band 108–117.975 MHz, Docket No. 19590, RM 1888.

1. The Department of Transportation, Federal Aviation Administration (FAA) has requested that consideration be given to changes in the FCC rules and regulations, Parts 2 and 87, to accommodate 50 kHz channel spacing for certain navigation aids. The FAA states that service on new or modified ILS and VOR and Y channel DME/TACAN is proposed for implementation in 1973.

2. The navigation aids operate in the band 108–117.975 MHz which is allocated to the Aeronautical Radionavigation Service along with the bands 328.6–335.4 MHz and 960–1215 MHz similarly allocated. Presently, the rules require 100 kHz spacing between frequency assignments in the band 108–117.975 MHz.

3. The FAA reports that rapidly expanding aviation services have resulted in the need for additional instrument landing systems and enroute navigation aids. The radio frequency congestion for instrument landing systems (ILS) and VHF Omnirange (VOR) systems has become severe in the Boston/New York/Washington, Chicago/Detroit, and San Francisco/Los Angeles areas. Additionally, planned ILS systems will enlarge the areas of congestion problems. Presently, the shortage of frequencies has made it impossible to provide for proposed and required navigation aids. This places unacceptable limitations on the accommodation of certain planned National Airspace System (NAS) ground facilities.

4. Two separate studies on this subject have been conducted by the Electromagnetic Compatibility Analysis Center (ECAC) of the Department of Defense. The first of those studies revealed that 41 ILS channels would be required if every ILS at an airport were to be assigned a discrete frequency. If ILS's on opposite ends of the same runway could use a common frequency (time shared) the requirement would drop to 23. At present there are only 20 channels available. That study was the basis for the FAA decision, announced at the April 1970 FAA Planning Review Conference, that split channeling for the VOR, ILS, and TACAN/DME bands was a necessity. The second study indicated that by June 1972 a minimum of 24 channels would be required if every ILS at an airport utilized a discrete frequency, or 17 by sharing between ILS's at opposite ends of a runway. More recent FAA studies have disclosed that 50 kHz frequency assignment will be required to accommodate many of the new ILS's planned for fiscal year 1973.

5. It is of interest that the International Civil Aviation Organization (ICAO) has long recognized the need for 50 kHz spacing in the 108–117.975 band in certain areas and, as early as 1966, revised their Air Navigation Plan to provide for the utilization of the split channels. Several areas of Europe presently utilize 50 kHz channel spacing. France, for example, implemented some VOR's on odd 20ths of a megacycle (50 kHz spacing) in 1970. The FAA reports that actual equipment testing has shown that the ICAO limits for harmonic radiation provide satisfactory operation of adjacent channel 50 kHz VOR facilities.

6. The FAA, by their Advisory Circular No. AC–170–12 advised aircraft owners, operators, and radio manufacturers of plans for future implementation of split-channel assignments in the aeronautical radio-navigation bands. The circular gave advance notice that equipment not configured to utilize the new channels might have limited life expectancy, depending on the areas of usage.

7. Implementation of 50 kHz channel spacing will require an increase of frequency stability for the glide slope, localizer, and VOR ground transmitters. The frequency tolerances of these transmitters must necessarily be reduced from the present 0.005 percent to 0.002 percent. The airborne equipment of almost all general aviation and military aircraft will be affected by the implementation of channel splitting. The air carrier equipment will be affected to a lesser degree. Most airlines already have avionics equipment, except glide slope receivers, which is designed for 50 kHz operation or can be modified quickly and economically to operate in the split-channel environment. The greatest impact will be for all users of glide slope equipment because very few glide slope receivers in use today are capable of being used in the new environment or have the capability to be economically modified.

8. The FAA, as explained in Advisory Circular No. AC–170–12, has set a target date of January 1, 1973, for the beginning phase of their program for national implementation of the split-channel environment. The proposed implementation plan, as presented by the FAA, would confine the assignment of split-channel frequencies to those areas where 100 kHz assignments are impossible or impractical in terms of the number of frequency changes required at existing facilities. In addition, the initial facility separation criteria will minimize the interference by 100 kHz equipped aircraft tuned to adjacent channel 100 kHz ground facilities. In this regard the ICAO recommended figure is 26 db for rejection in a 100 kHz receiver when receiving a signal 50 kHz removed. It is expected that existing receivers that do not now possess the 26 db rejection capability can easily be adjusted or modified to obtain this rejection figure. The FAA states that the split channel assignments will consider existing ground and airborne equipment limitations, and that delay in permitting the use of these channels can be expected to result in increasing pressure on the safety service provided by the Navigation Aids.

9. We agree with the FAA in their conclusion that, in certain areas, the present 100 kHz channel spacing is inadequate. Additionally, we agree that it is necessary to split the channels and to revise the equipment frequency stability requirements to insure the operational feasibility of a 50 kHz system. We consider the investigative programs of the last several years to have given substantial proof of the channel-splitting requirement as well as having provided the basis for a conclusion that it is reasonable to expect the FAA's implementation program to provide service without undue hardship to either government or nongovernment system users. Further, we consider that the FAA, through such actions as their advisory circular No. AC–170–12 and actions with the ICAO, has kept the aeronautical community sufficiently informed as to make it possible for the start of implementation in 1973. We, therefore, intend to provide the additional channels by providing for 50 kHz separation as requested unless comments to this notice which present convincing evidence of the undesirability of such action are received.

10. The proposed amendment, as set forth below is issued pursuant to authority contained in sections 4(1), and 303(b), (g) and (r) of the Communications Act of 1934, as amended.

11. Pursuant to procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before November 8, 1972, and reply comments on or before November 17, 1972. All relative and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

12. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission.

Adopted: September 20, 1972.

Released: September 26, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. In Part 2, Subpart B, § 2.106 Table of Frequency Allocations the listings in columns 10 and 11 of the band 108–117.975 MHz are amended to read as follows:

§ 2.106 Table of frequency allocations.

Frequency (MHz) 10	*Nature of services and stations* 11
• • •	• • •
108.05	Omni-directional range.
108.10	Localizer.
108.15	Do.
108.20	Omni-directional range.
108.25	Do.
108.30	Localizer.
108.35	Do.
108.40	Omni-directional range.
108.45	Do.
108.50	Localizer.
108.55	Do.
108.60	Omni-directional range.
108.65	Do.
108.70	Localizer.
108.75	Do.
108.80	Omni-directional range.
108.85	Do.
108.90	Localizer.
108.95	Do.
109.00	Omni.
109.05	Do.
109.10	Localizer.
109.15	Do.
109.20	Omni.
109.25	Do.
109.30	Localizer.
109.35	Do.
109.40	Omni.
109.45	Do.
109.50	Localizer.
109.55	Do.
109.60	Omni.
109.65	Do.
109.70	Localizer.
109.75	Do.
109.80	Omni.
109.85	Do.
109.90	Localizer.
109.95	Do.
110.00	Omni-directional range.
110.05	Do.
110.10	Localizer.
110.15	Do.
110.20	Omni.
110.25	Do.
110.30	Localizer.
110.35	Do.
110.40	Omni.
110.45	Do.
110.50	Localizer.
110.55	Do.
110.60	Omni.
110.65	Do.
110.70	Localizer.
110.75	Do.
110.80	Omni.
110.85	Do.
110.90	Localizer.
110.95	Do.
111.00	Omni.
111.05	Do.
111.10	Localizer.
111.15	Do.
111.20	Omni-directional range.
111.25	Do.
111.30	Localizer.
111.35	Do.
111.40	Omni.
111.45	Do.
111.50	Localizer.
111.55	Do.
111.60	Omni.
111.65	Do.
111.70	Localizer.
111.75	Do.
111.80	Omni.
111.85	Do.
111.90	Localizer.
111.95	Do.
112.00–117.95 (NG 34)	Omni-directional range.
• • •	• • •

[1] Commissioners Burch, Chairman; Johnson, Reid, and Wiley concurring in the result; Commissioner Robert E. Lee absent.

PART 87—AVIATION SERVICES

2. In § 87.65(a) the present footnote designators and footnotes are deleted, subparagraph (5) is amended and new footnotes 1 and 2 are added to read as follows:

§ 87.65 Frequency stability.

(a) • • •

(5) Band 100 to 136 MHz:	
Land stations	[1] 0.003
Mobile stations:	
Survival craft stations	.005
Aircraft and all other mobile stations	.005
Radionavigation stations	[2] .002

• • • • • •

[1] The tolerance shown is applicable to all transmitters except that the use of types of transmitters which meet a tolerance of 0.005 percent and which were licensed before January 1, 1966, will be permitted to continue indefinitely.

[2] The tolerance shown in the table is applicable to transmitters first licensed after January 1, 1973. A tolerance of 0.005 is applicable to transmitters licensed before January 1, 1973. All transmitters to be used in the National Airspace System, however, must have 0.002 percent stability after January 1, 1973.

• • • • • •

3. Part 87, Subpart N, § 87.501 (a) and (d) are revised to read as follows:

§ 87.501 Frequencies available.

• • • • • •

(a) Localizer station with simultaneous radiotelephone channel. The frequencies:

MHz	*MHz*
108.10	110.10
108.15	110.15
108.30	110.30
108.35	110.35
108.50	110.50
108.55	110.55
108.70	110.70
108.75	110.75
108.90	110.90
108.95	110.95
109.10	111.10
109.15	111.15
109.30	111.30
109.35	111.35
109.50	111.50
109.55	111.55
109.70	111.70
109.75	111.95
109.90	111.75
109.95	111.90

• • • • •

(d) Radio Range stations: 112.05 MHz through 117.95 MHz and the following frequencies in the 108–112 MHz band.

MHz	*MHz*
108.20	110.20
108.25	110.25
108.40	110.40
108.45	110.45
108.60	110.60
108.65	110.65
108.80	110.80
108.85	110.85
109.00	111.00
109.05	111.05
109.20	111.20
109.25	111.25
109.40	111.40
109.45	111.45
109.60	111.60
109.65	111.65
109.80	111.80
109.85	111.85
110.00	112.00
110.05	112.05

• • • • • •

4. Section 87.521(d) is revised to read as follows:

§ 87.521 Frequencies available.

• • • • • •

(d) 108.0 MHz and the frequencies set forth in Subpart N of this part may be assigned to radionavigation land test stations for the testing of airborne receiving equipment. The frequencies normally assigned will be 108.0 and 108.05 MHz for VHF omnirange, 108.1 MHz for localizer, 334.7 MHz for glide slope, 978 and 979 MHz (X channel) and 1104 MHz (Y channel) for DME/TACAN, and 1030 MHz for ATC beacon. The power authorized on these frequencies normally will be 1 watt or less. The assignment of 108.0 MHz is subject to the condition that no interference shall be caused to the reception of FM broadcasting stations and stations using the frequency are not protected against interference from FM broadcasting stations.

[FR Doc.72-16491 Filed 10-3-72;8:55 am]

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[47 CFR Part 73]

[Docket No. 19561]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS IN ALABAMA AND FLORIDA

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Enterprise and Greenville, Ala.; Bonifay, Chipley, and Pensacola, Fla.), Docket No. 19561, RM–1844, RM–1855, RM–1982.

1. On July 26, 1972, the Commission adopted a notice of proposed rule making in the above-captioned proceeding. Publication in the FEDERAL REGISTER was given on August 8, 1972 (37 F.R. 15940). Comment and reply comment dates presently designated are September 22, and October 2, 1972, respectively.

2. On September 22, 1972, Robert J. Buenzle, attorney for Mr. Roy S. Hess, petitioner in RM–1982, filed a petition for extension of time in which to submit comments to and including October 6, 1972. Counsel states that since he was just retained by Mr. Hess on September 22, he has not had an opportunity to review the rule making proceeding or to prepare appropriate comments on behalf of Mr. Hess.

3. It appears that the requested extension is warranted and would serve the public interest: *Accordingly, it is ordered,* That the time for filing comments and reply comments in Docket No. 19561, is extended to and including October 6, 1972, and October 20, 1972, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: September 27, 1972.

Released: September 28, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72–16940 Filed 10–3–72;8:53 am]

[47 CFR Part 73]

[Docket No. 19550]

TABLE OF ASSIGNMENTS, FM BROADCAST STATIONS IN SHOREWOOD AND OTTAWA, ILL.

Order Extending Time for Filing Reply Comments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Shorewood and Ottawa, Ill.), Docket No. 19550, RM–1859.

1. On July 19, 1972, the Commission adopted a notice of proposed rule making in the above-entitled proceeding and it was published in the FEDERAL REGISTER on July 28, 1972 (37 F.R. 15171). The date for filing comments has expired. The date for filing reply comments is September 21, 1972.

2. On September 20, 1972, Joseph Oswald filed a petition seeking an extension of the reply comment date to and including October 8, 1972. Mr. Oswald states that the additional time is needed in order to complete an investigation into statements made by the Joliet Radio Corp. who filed comments in this proceeding.

3. It appears that this requested extension is warranted and would serve the public interest. *Accordingly, It is ordered,* That the time for filing reply comments in Docket No. 19550 is extended to and including October 8, 1972.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: September 22, 1972.

Released: September 26, 1972.

[SEAL] HAROLD L. KASSENS,
Acting Chief,
Broadcast Bureau.

[FR Doc.72–16941 Filed 10–3–72;8:53 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

CARBON STEEL PLATES AND HIGH-STRENGTH STEEL PLATES FROM MEXICO

Notice of Countervailing Duty Proceedings

Information has been received pursuant to the provisions of § 16.24(b) of the Customs Regulations (19 CFR 16.24(b)) which raises a question as to whether certain payments, bestowals, rebates or refunds granted by Mexico upon the manufacture, production or exportation of carbon steel plates and high-strength steel plates constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) upon the manufacture, production, or exportation of the merchandise to which the payments, bestowals, rebates or refunds apply.

The approximate amount of the payments, bestowals, rebates or refunds applicable to carbon steel plates and high-strength steel plates manufactured, produced or exported by manufacturers in Mexico has not yet been ascertained.

After the expiration of the time limits set forth in this notice, a determination will be made whether a bounty or grant is being paid or bestowed in connection with any such manufacture, production or export. If it is determined that a bounty or grant is being paid or bestowed, an appropriate countervailing duty order will be issued and published in accordance with § 16.24(b) of the Customs Regulations (19 CFR 16.24(b)).

Before a determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to the existence or nonexistence, and the net amount of a bounty or grant. Submissions should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice is published pursuant to § 16.24(d) of the Customs Regulations (19 CFR 16.24(d)).

[SEAL] EDWIN F. RAINS,
Acting Commisioner of Customs.

Approved: October 2, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.72–17096 Filed 10–3–72;9:04 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Billings Area Office Redelegation Order 1, Amdt. 2]

SUPERINTENDENTS AND PROJECT ENGINEER

Delegation of Authority Regarding Functions Relating to Lands and Minerals

SEPTEMBER 20, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the area directors in 10 BIAM 3.

The Billings Area Office Redelegation Order 1 published in the June 11, 1969, issue of the FEDERAL REGISTER (34 F.R. 9219) is being amended by revoking section 2.10 which redelegates to superintendents the authority to grant archeological permits on Indian land. Section 2.10 is being revoked because the delegation of this authority to the Commissioner in section 13(k) of Secretarial Order 2508 was revoked and the revocation published on page 5514 of the March 16, 1972, FEDERAL REGISTER (37 F.R. 5514). The Secretary has redelegated the authority to grant archeological permits on Indian land to the Director, National Park Service, in 310 DM 7.2B.

Therefore, section 2.10 of Billings Area Office Redelegation Order 1 is hereby revoked.

JAMES F. CANAN,
Area Director.

Approved: September 27, 1972.

HAROLD D. COX,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.72–16886 Filed 10–3–72;8:48 am]

[Aberdeen Area Office Redelegation Order 2, Amdt. 20]

SUPERINTENDENT, TURTLE MOUNTAIN AGENCY

Delegation of Authority Regarding Land and Homesite Leases

SEPTEMBER 18, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the area director in 10 BIAM 3.

The Aberdeen Area Office Redelegation Order 2 published on page 8756 of the December 21, 1954, issue of the FEDERAL REGISTER (19 F.R. 8756), as amended, is further amended by adding two new sections 3.136 and 3.137 under the heading "Functions Relating to Lands and Minerals" in Part 3—Authority of Specifically Designated Employees. Section 3.136 gives the superintendent of the Turtle Mountain Agency authority to approve acquisitions, partitions, exchanges and sales of trust or restricted lands between individual Indians subject to certain provisions. Section 3.137 gives the superintendent of the Turtle Mountain Agency all of the authority of the area director relating to leases of tribal and individually owned trust or restricted lands for homesite purposes only to members of the tribe or to tribal housing authorities subject to certain provisions.

The sections are added to read as follows:

SEC. 3.136 *Approval for land acquisitions, partitions, exchanges, and sales—Turtle Mountain.* The superintendent of the Turtle Mountain Agency may exercise all of the authority of the area director relating to the approval of acquisitions, partitions, exchanges, and sales of trust or restricted lands between individual Indians: *Provided,* That the title to the land remains in a trust or restricted status; that fair market value is received by the Indian landowner in any transaction approved under this authority; and that all approved title documents be submitted to the Billings area office for recording in the Billings area title plant. This authority does not include the approval of issuances of patents in fee or the removal of restrictions from restricted fee patents or deeds.

SEC. 3.137 *Leases for homesite purposes—Turtle Mountain.* The superintendent of the Turtle Mountain Agency may exercise all of the authority of the area director relating to leases of tribal and individually owned trust or restricted lands for homesite purposes only to members of the tribe or to tribal housing authorities: *Provided,* That all approved leases be submitted to the Billings area office for recording in the Billings area title plant. The term of the lease may not exceed 25 years but the lease may include provisions authorizing a renewal or extension for one additional term of not to exceed 25 years.

DON Y. JENSEN,
Acting Area Director.

Approved: September 26, 1972.

HAROLD D. COX,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.72–16885 Filed 10–3–72;8:48 am]

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Bureau of Land Management
IDAHO

[Serial No. I-5054]

Proposed Withdrawal and Reservation of Lands

SEPTEMBER 14, 1972.

The Department of Agriculture has filed an application, serial No. I-5054, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for public purposes to develop valuable watershed stabilization improvements to protect the Dump Creek drainage into the Salmon River, Salmon National Forest.

For a period of 30 days from the date of publication of this notice all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 398, Federal Building, 550 West Fort Street, Post Office Box 042, Boise, ID 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of Agriculture.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

SALMON NATIONAL FOREST

HIGH MOUNTAIN LAKES, MALLARD-LARKINS AREA

BOISE MERIDIAN

Coiner Watershed Protection Site

T. 23 N., R. 20 E. (unsurveyed).
Sections 12, 13, and 24 Lemhi Gold Placer and Moose Creek Hydraulic Placer Claims Mineral Survey 3057. Excepting therefrom the following described property:

A fraction of the Moose Creek Hydraulic Placer Mineral Survey No. 3057, more particularly described as follows, to wit: Commencing at corner No. 6 of the Moose Creek Hydraulic Placer portion of Mineral Survey No. 3057, run thence S. 0°10' W., 525.1 feet to the point of beginning, and the northeasterly corner of the tract of land hereby described; continuing thence S. 0°10' W., 335.9 feet; thence N. 89°50' W., 650.0 feet, more or less, to a point in the center of Moose Creek; thence northerly along the center of Moose Creek 355.9 feet; thence S. 89°50' E., 650.0 feet to the point of beginning. Containing 5 acres.

A fraction of the Moose Creek Hydraulic Placer, Mineral Survey No. 3057, more particularly described as follows, to wit: Beginning at corner No. 7 of the said Moose Creek Hydraulic Placer, run thence N. 89°50' W., 503.9 feet; thence N. 0°10' E., 518.7 feet; thence S. 89°50' E., 503.9 feet to a point on the easterly boundary of the Moose Creek Hydraulic Placer; thence S. 0°10' W., along the easterly boundary of the Moose Creek Hydraulic Placer a distance of 518.7 feet to the point of beginning. Containing 6 acres.

A fraction of the Moose Creek Hydraulic Placer, Mineral Survey No. 3057, more particularly described as follows, to wit: Commencing at corner No. 7 of said Moose Creek Hydraulic Placer, run thence N. 0° E., 518.7 feet to the point of beginning and the southeast corner of the tract of land herein described; continuing thence N. 0°10' E., 360 feet; thence N. 89°50' W., 624.9 feet, more or less, to a point in the center of Moose Creek; thence southerly along the center of Moose Creek 369 feet, more or less, to a point which lies N. 89°50' W., from the point of beginning; thence S. 89°50' E., 622.5 feet to the point of beginning. Containing 5 acres.

The area described contains 271.02 acres, more or less, in Lemhi County.

VINCENT S. STROBEL,
Chief, Branch of L&M Operations.

[FR Doc.72-16883 Filed 10-3-72;8:48 am]

Geological Survey

[Cancellation 295]

HOOD RIVER BASIN, OREG.

Power Site Cancellation

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 276 of September 5, 1933, is hereby canceled in its entirety. The affected land is described as follows:

WILLAMETTE MERIDIAN

T. 1 N., R. 9 E.,
Sec. 1, lot 7;
Sec. 11, SE¼NE¼.
T. 1 N., R. 10 E.,
Sec. 18, SW¼SE¼.

The area described aggregates 123.5 acres.

The effective date of this cancellation is January 26, 1973.

Dated: September 26, 1972.

V. E. MCKELVEY,
Director.

[FR Doc.72-16882 Filed 10-3-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

MEAT IMPORT LIMITATIONS

Fourth Quarterly Estimate

Public Law 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep, except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by section 2(a) of the Act.

In accordance with the requirements of the Act, the following fourth quarterly estimate is published:

1. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1972 is 1,275.0 million pounds.

2. The estimated quantity of such articles prescribed by section 2(a) of the Act during the calendar year 1972 is 1,042.4 million pounds.

Since the estimated quantity of imports continues to exceed 110 percent of the estimated quantity prescribed by section 2(a) of the Act, under the Act limitations for the calendar year 1972 on the importation of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep (TSUS 106.20), are required to be imposed but may be suspended. Such limitations were imposed by Proclamation 4114 of March 9, 1972, and were suspended during the balance of the calendar year 1972 unless because of changed circumstances further action under the Act becomes necessary.

Done at Washington, D.C., this 29th day of September 1972.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.72-16881 Filed 10-3-72;8:48 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00537-33-09300. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94304. Article: "Staput Velocity Sedimentation Cell Separator." Manufacturer: Johns Scientific, Canada. Intended use of article: The article is intended to be used for separation of mouse lymphoid cells (spleen, bone marrow lymph, node, thymus) to identify and quantitate types of cells involved in the immune (antibody) response which is needed for understanding the basic mechanisms of antibody formation, graft rejection, tumor protection, etc. The article will also be used by graduate and postgraduate students and participants in Genetics 299.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant's use in studies of antibody formation and immune responses requires an instrument with the ability to separate living cells on the basis of their size for separation, quantitation, and identification of various mouse lymphoid cells. The foreign article provides this capability. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 8, 1972, that the capabilities of the foreign article described above are pertinent to the applicant's research studies. HEW further advises it knows of no comparable domestic instrument of equivalent scientific value to the article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-16861 Filed 10-3-72;8:46 am]

UNIVERSITY OF CHICAGO ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER. Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00148-75-14200. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Image analysing computer, Model Quantimet 720. Manufacturer: Metals Research Ltd., United Kingdom. Intended use of article: The article is intended to be used for quantitative assessment of such material characteristics as gain size distributions, gas bubble and void size distributions, and second phase and inclusion size distributions of uranium-plutonium dioxide fuel materials as well as cladding and structural materials of interest in reactor development in both irradiated and unirradiated conditions. Application received by Commissioner of Customs: September 5, 1972.

Docket No. 73-00149-99-66700. Applicant: University of North Carolina, Department of Computer Science, New West Hall, Chapel Hill, N.C. 27514. Article: Teleprinter projector, Model 251OT. Manufacturer: I. P. Sharp Associates, Canada. Intended use of article: The article is intended to be used in the following courses in computer science, whose objectives are to train teachers and instructors in the Ph.D. level in computer science, to train practitioners of computer science via the professional M.S. program, and to furnish vocational competence in computer use to undergraduate:

116. Numerical Methods.
118. Data Processing Techniques.
120. Data Representation and Manipulation.
125. Mathematical Structures in Computer Science.
140. Programming Systems.
151-152. Applied Mathematics in Computer Science.
155. Numerical Analysis.

Application received by Commissioner of Customs: September 8, 1972.

Docket No. 73-00150-33-46040. Applicant: Harvard University, Purchasing Department, 75 Mount Auburn Street, Cambridge, MA 02138. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electron Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in experiments directed to identification of mechanisms controlling oogenesis, ovulation and implantation or vulnerable steps in spermatogenesis and sperm maturation that might be exploited for control of human reproduction. Application received by Commissioner of Customs: September 11, 1972.

Docket No. 73-00153-33-46070. Applicant: University of Rhode Island, Kingston, R.I. 02881. Article: Scanning electron microscope, Model S4. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used for a wide range of research in the areas of micropaleontology, bacteriology, phycology, marine microbiology, invertebrate and vertebrate zoology, sedimentation, particulate chemistry, and botany, More specifically some of the research activities for which the article is to be used are:

1. The study of the surfaces and ultrastructure of recent and fossil Foraminifera, Radiolaria and sediment grain surface related to paleoecological and paleoenvironmental studies.

2. The examination in detail of the surface characteristics of a wide variety of both hard and soft animal and plant tissues. These will include pelagic larval stages of invertebrates, mollusca and crustacea, fungi (Hypomycetes), fish olfactory and sound apparatus and epiphytic bacterial colonies living on surfaces of marine algae and invertebrates. Studies are being carried out on the detailed surface ornamentation and structure of *Equisetum* for which many species have siliceous ornamentation on the stem surfaces. A general study of nematode morphology is planned including forms that are plant-parasitic, free living in soil, in fresh water, and in the marine environment.

3. The study of the taxonomy life cycles of marine phytoplankton, including coccolithophorids, diatoms, and silicoflagellates.

The article will also be used to provide information and teaching materials which are to be used in the following courses:

Ocean 694 Marine Paleoecology.
Ocean 567 Marine Bacteriology.
Ocean 647 Recent Sedimentary Environments.
Ocean 661 Phytoplankton Taxonomy.
Ocean 664 Phytoplankton Ecology.
Ocean 666 Zooplankton.
Ocean 672 Marine Invertebrates and Environment.
Geol 225 Animal Micropaleontology.
Bot 116 Phycology.
Bot 111 Plant Anatomy.
Plant Path 182 Plant Nematology.

Application received by Commissioner of Customs: August 24, 1972.

Docket No. 73-00154-01-40500. Applicant: Colorado School of Mines, Department of Physics, Golden, Colo. 80401. Article: SOPRA "Michelson" Interferometer. Manufacturer: Societe de Production et de Recherches appliquees, France. Intended use of article: The article is intended to be used partly for students' research in general Fourier spectroscopy. In particular it will be valuable in work on near infrared spectra of gases,

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liquids, and solids of relevance to mineral studies. The article will also be used in the course Optics PH 332, which includes theory and laboratory work in geometrical and physical optics at the intermediate level. Application received by Commissioner of Customs: August 24, 1972.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-16862 Filed 10-3-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3H2837]

MOSINEE PAPER CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3H2837) has been filed by Mosinee Paper Corp., Mosinee, WI 54455, proposing the issuance of a regulation to provide for the safe use of copper 8-quinolinolate as a fungicide in paper and paperboard intended for contact with dry foods.

Dated: September 27, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-16875 Filed 10-3-72;8:47 am]

[FAP 3B2841]

ROHM AND HAAS CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2841) has been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposing that § 121.2519 *Defoaming agents used in the manufacture of paper and paperboard* (21 CFR 121.2519) be amended to provide for the safe use of mixed alkyl methacrylate esters-butyl methacrylate, N-vinyl pyrrolidone-modified copolymers as components of defoaming agents in the manufacture of paper and paperboard intended for food contact use.

Dated: September 26, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-16876 Filed 10-3-72;8:47 am]

Health Services and Mental Health Administration

NATIONAL ADVISORY COUNCIL

October Meeting

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of October 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive Order:

Committee name, date, time, place, and type of meeting and/or contact person
Federal Hospital Council, October 20, 9 a.m., Conference Room E, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Open, Contact Mrs. Arliz Morstad, Room 9-05, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-1910.

Purpose.—The Council is charged with advising on policies and regulations under Title VI of the Public Health Service Act.

Agenda.—The Council will consider regulations pertaining to § 53.111 of Title 42 CFR entitled "Services for persons unable to pay."

A period will be reserved at the beginning of the meeting for comments and discussion from the general public.

Interested persons may submit written information or views addressed to the contact person named above. Members of the public who wish to participate in this Council meeting must furnish the contact person, at least 24 hours prior to the meeting, with their name(s), issues to be discussed, and any documentation to be submitted.

Dated: September 27, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

[FR Doc.72-16873 Filed 10-3-72;8:47 am]

Office of the Secretary

ADVISORY COMMITTEE ON DENTAL HEALTH

Subcommittee Meeting

The six-member Subcommittee of the Advisory Committee on Dental Health, established to advise the Secretary regarding all significant aspects of dental health programs and other dental activities coming under the purview of the Department of Health, Education, and Welfare, is scheduled to hold a meeting on October 5, 1972. The meeting will be held in the Food and Drug Administration Building located at 200 C Street SW., Washington, DC, Room 1409. The meeting is scheduled to convene at 9 a.m. and will continue until 4 p.m.

The subcommittee will review the first draft of a final report of the recommendations of the full committee to be submitted to the Secretary relative to the dental activities under the purview of the Department of Health, Education, and Welfare. The subcommittee will make such changes, additions, or deletions it deems necessary prior to a more formal review of the report by the full committee at a meeting to be scheduled during the month of November 1972. The meeting is open for public observation.

Dated: September 29, 1972.

MELVIN L. DOLLAR,
Executive Secretary.

[FR Doc.72-16959 Filed 10-3-72;8:55 am]

TECHNICAL ADVISORY COMMITTEE ON AGING RESEARCH

Committee Meeting

This committee was established to advise the Secretary of Health, Education, and Welfare to develop a comprehensive, coordinated research program in the field of aging, which program will include disciplines ranging from biomedical research to transportation systems analysis, from psychology and sociology to management science and economics.

The first meeting of the committee will be on Tuesday, October 10, 1972 at 9 a.m. to 4 p.m., in Room 5169 North Building, HEW, 330 Independence Avenue SW., Washington, DC. The first meeting of the committee will be devoted to organization, a discussion of the present status of research in aging, and the formulation of the role, scope, objectives and goals for the committee and its staff. The meeting will be open for public observation.

ALFRED H. LAWTON,
Executive Director.

SEPTEMBER 28, 1972.

[FR Doc.72-16958 Filed 10-3-72;8:55 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

On October 4 and 5, 1972, the Subcommittee on Research and Program Development of the National Highway Safety Advisory Committee will hold open meetings in Washington, D.C., in Room 4238, 400 Seventh Street SW.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act, 23 U.S.C. 401 et seq. The committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The committee is specifically authorized to (1) review research and programs, and (2) review, prior to issuance, standards proposed to be issued by the Secretary under the State and community highway safety program.

The Subcommittee on Research and Program Development will hold the following meetings:

OCTOBER 4, 9 A.M. TO 4 P.M.

Review of subcommittee resolutions:
Standards Revision, Highway Salting.
Status of Standards Revision.
Report on Vehicles-In-Use Program.
New Business.

OCTOBER 5, 9 A.M. TO 12 NOON

Review of Alcohol Countermeasures Program.

This notice is given pursuant to section 13 of Executive Order 11671, dated June 5, 1972.

Issued on September 28, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-17042 Filed 10-2-72;11:15 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-404 and 50-405]

VIRGINIA ELECTRIC & POWER CO.

Notice of Hearing on Application for Construction Permits

In the matter of the Virginia Electric & Power Co. (North Anna Nuclear Power Station, Units 3 and 4).

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Virginia Electric & Power Co. (the applicant), for construction permits for two pressurized water nuclear reactors designated as the North Anna Nuclear Power Station, Units 3 and 4 (the facilities), each of which is designed for initial operation at approximately 2631 thermal magawatts with a net electrical output of approximately 900 magawatts. The proposed facilities are to be located on the applicant's site located south of the North Anna River, approximately 24 miles southwest of Fredericksburg, 40 miles north-northwest of Richmond, and 38 miles east of Charlottesville, Va., in Louisa County, Va. The hearing will be scheduled to begin in the vicinity of the site of the proposed facilities.

The Board will be designated by the Atomic Energy Commission (Commission). Notice as to its membership will be published in the FEDERAL REGISTER.

Upon receipt of a report by the Advisory Committee on Reactor Safeguards and upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review, the Director of Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicant:

Issues pursuant to the Atomic Energy Act of 1954, as amended:

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

Issue pursuant to National Environmental Policy Act of 1969 (NEPA):

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that this proceeding is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1–5 above as a basis for determining whether the construction permits should be issued to the applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102 (2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for construction permits dated September 15, 1971, and amendments thereto, and the applicant's Environmental Report dated March 15, 1972, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents will also be made available at the Office

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of Dean P. Agee, Executive Secretary, Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093, for inspection by members of the public between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, and 8:30 a.m. and 12 noon on Saturday. As they become available, a copy of the report of the Advisory Committee on Reactor Safeguards (ACRS), the safety evaluation by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on environmental considerations, the proposed construction permits, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the proposed construction permits, the ACRS report, the Directorate of Licensing's safety evaluation and the Commission's draft and final detailed statement on environmental considerations may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714.

A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR 2.785 and will make the delegation pursuant to paragraph (a)(1) of that section. The Appeal Board will be composed of a chairman, and two other members to be designated by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 21st day of September 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-16474 Filed 10-3-72;8:45 am]

[Docket No. 50-341]

DETROIT EDISON CO.

Notice of Issuance of Construction Permit

Notice is hereby given that, pursuant to the initial decision of the Atomic Safety and Licensing Board, dated September 22, 1972, the Deputy Director for Reactor Projects, Directorate of Licensing, has issued Construction Permit No. CPPR-87 to the Detroit Edison Co. for construction of a boiling water nuclear reactor at the applicant's site on the western shore of Lake Erie in Frenchtown Township, Monroe County, Mich., about 30 miles southwest of downtown Detroit, Mich.

The reactor, known as the Enrico Fermi Atomic Power Plant Unit 2, is designed for initial operation at approximately 3,293 thermal megawatts with a gross electrical output of 1,150 megawatts.

Copies of the initial decision and Construction Permit No. CPPR-87 are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Monroe County Library System, 3700 South Custer Road, Monroe, MI.

Single copies of the construction permit may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-16943 Filed 10-3-72;8:53 am]

[Docket No. 50-267]

PUBLIC SERVICE CO. OF COLORADO

Order Extending Provisional Construction Permit Completion Date

By application dated September 12, 1972, the Public Service Co. of Colorado requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-54. The permit authorizes the construction of a high temperature gas cooled nuclear reactor, known as the Fort St. Vrain Nuclear Generating Station, at the applicant's site in Weld County, Colo., about 3½ miles northwest of Platteville, Colo.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-54 is extended from October 31, 1972, to October 31, 1973.

Dated at Bethesda, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-16942 Filed 10-3-72;8:53 am]

[Docket No. 50-259]

TENNESSEE VALLEY AUTHORITY

Order Extending Provisional Construction Permit Completion Date

By application dated August 25, 1972, and supplement thereto, dated September 15, 1972, the Tennessee Valley Authority requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-29. The permit authorizes the construction of a single cycle, forced circulation, boiling water nuclear reactor, known as the Browns Ferry Nuclear Plant Unit No. 1, on the Tennessee Valley Authority's site at Wheeler Lake, Limestone County, Ala., about 10 miles southwest of Athens, Ala.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-29 is extended from December 31, 1972, to December 1, 1973.

Dated at Bethesda, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-16856 Filed 10-3-72;8:46 am]

[Docket No. 50-260]

TENNESSEE VALLEY AUTHORITY

Order Extending Provisional Construction Permit Completion Date

By application dated August 25, 1972, and supplement thereto, dated September 15, 1972, the Tennessee Valley Authority requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-30. The permit authorizes the construction of a single cycle, forced circulation, boiling water nuclear reactor, known as the Browns Ferry Nuclear Plant Unit No. 2, on the Tennessee Valley Authority's site at Wheeler Lake, Limestone County, Ala., about 10 miles southwest of Athens, Ala.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-30 is extended from July 15, 1973, to August 1, 1974.

Dated at Bethesda, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-16857 Filed 10-3-72;8:46 am]

[Docket No. 50-296]

TENNESSEE VALLEY AUTHORITY

Order Extending Provisional Construction Permit Completion Date

By application dated August 25, 1972, and supplement thereto, dated September 15, 1972, the Tennessee Valley Authority requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-48. The permit authorizes the construction of a single cycle, forced circulation, boiling water nuclear reactor, known as the Browns Ferry Nuclear Plant Unit No. 3, on the Tennessee Valley Authority's site at Wheeler Lake, Limestone County, Ala., about 10 miles southwest of Athens, Ala.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-48 is extended from October 1, 1972, to February 1, 1975.

Dated at Bethesda, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-16858 Filed 10-3-72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24603]

CARIB WEST AIRWAYS, LTD.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 6, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Administrative Law Judge.

Dated at Washington, D.C., September 29, 1972.

[SEAL] LOUIS W. SORNSON,
Administrative Law Judge.

[FR Doc.72-16957 Filed 10-3-72;8:55 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HAITI

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 29, 1972.

On November 3, 1971, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Haiti concerning exports of cotton textiles and cotton textile products from Haiti to the United States over a 5-year period beginning on October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories, and within the aggregate limit specific limits on categories 39, 53, and 54 for the second agreement year beginning October 1, 1972.

There is published below a letter of September 29, 1972, from the chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textile products in categories 39, 53, and 54 produced or manufactured in Haiti, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

The bilateral agreement also established a consultation level for cotton textile products in category 51 for the first agreement year. Imports of cotton textile products in this category during the first half of the first agreement year, however, reached a level more than double that year's consultation level. On April 25, 1972, the chairman of the Committee for the Implementation of Textile Agreements in a letter to the Commissioner of Customs prohibited further entry into the United States for consumption and withdrawal from

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warehouse for consumption of cotton textile products in category 51 during the first agreement year. The U.S. Government has requested consultations with the Government of Haiti concerning these overshipments. Pending the outcome of these consultations with the Government of Haiti, the U.S. Government has decided to extend the prohibition against further imports in category 51 to the second agreement year. The letter published below also implements this decision.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

SEPTEMBER 29, 1972.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 3, 1971, between the Governments of the United States and Haiti, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972 and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 39, 53, and 54, produced or manufactured in Haiti, in excess of the following levels of restraint:

Category		12-month levels of restraint
39	dozen pairs	210,000
53	dozen	19,702
54	do	31,500

In carrying out this directive, entries of cotton textile products in Categories 39, 53, and 54, produced or manufactured in Haiti and which have been exported to the United States from Haiti prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 3, 1971, between Governments of the United States and Haiti which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

The first paragraph of the directive of April 25, 1972 is amended, effective as soon as possible, to read as follows:

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 3, 1971, between the Governments of the United States and Haiti, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective upon publication of this letter in the FEDERAL REGISTER, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 51, produced or manufactured in Haiti and which have been exported to the United States during the period beginning October 1, 1971, and extending through September 30, 1973.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton textiles and cotton textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16974 Filed 10-3-72;8:56 am]

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption; Levels of Restraint

SEPTEMBER 28, 1972.

On January 6, 1972, there was published in the FEDERAL REGISTER (37 F.R. 161), a letter dated December 30, 1971, from the Chairman, President's Cabinet Textile Advisory Committee, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in the Republic of Korea and exported to the United States during the 9-month period beginning January 1, 1972. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 6 of the bilateral cotton textile agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, which provides that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent.

Accordingly, at the request of the Government of the Republic of Korea and pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of September 28, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the level of restraint applicable to cotton textile products in Category 50 for the 9-month period which began on January 1, 1972.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

SEPTEMBER 28, 1972.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: On December 30, 1971, the Chairman, President's Cabinet Textile Advisory Committee, directed you to prohibit entry during the 9-month period beginning January 1, 1972, of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraph 6 of the bilateral cotton textile agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the level of restraint established in the aforesaid directive of Decemebr 30, 1971, for cotton textile products in Category 50 to 48,547 dozen for the 9-month period beginning January 1, 1972.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16937 Filed 10-3-72;8:53 am]

[1] The term "adjustment" refers to those provisions of the bilateral cotton textile agreement of Dec. 30, 1971, between the Governments of the United States and the Republic of Korea which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

CERTAIN WOOL AND MANMADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal from Warehouse for Consumption

SEPTEMBER 29, 1972.

On December 30, 1971, the United States Government concluded a comprehensive bilateral wool and manmade fiber textile agreement with the Government of the Republic of China concerning exports of wool and manmade fiber textiles from the Republic of China to the United States over a 5-year period beginning October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing specific export limitations on Categories 116, 117, 211, 213, 216, 219, 221, 222, 228, 232, 234, and 235 for the second agreement year beginning October 1, 1972. The agreement also contains provisions for the establishing of consultation levels for those categories not having specific export limitations for the agreement year beginning October 1, 1972. These consultation levels, except for the level established for Category 224 which is controlled by the U.S. Government, are initially to be controlled by the Government of the Republic of China. At a later date these other levels could be controlled by the U.S. Government like those categories having specific export limitations.

Accordingly, there is published below, a letter of September 28, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of wool and manmade fiber textile products in the above categories produced or manufactured in the Republic of China which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

SEPTEMBER 29, 1972.

DEAR MR. COMMISSIONER: Under the provisions of the bilateral Wool and Manmade Fiber Textile Agreement of December 30, 1971, between the Governments of the United States and the Republic of China and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 116 and 117 and manmade fiber textile products in Categories 211, 213, 216, 219, 221, 222, 224, 228, 232, 234, and 235, produced or manufactured in the Republic of China, in excess of the following 12-month levels of restraint:

Category		12-month levels of Restraint
116	lbs	828,718
117	do	517,949
211	do	701,923
213	do	7,019,231
216	doz	604,305
219	do	4,651,961
221	do	3,273,098
222	do	3,075,843
224[1]	lbs	8,333,333
228	doz	376,807
232	do	526,848
234	do	986,931
235	do	1,432,543

[1] Consultation category—level established in accordance with provisions of paragraph 3 of the wool and manmade fiber textile agreement with the Republic of China.

In carrying out this directive, entries of wool and manmade fiber textile products in the above categories, produced or manufactured in the Republic of China, which have been exported to the United State prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the levels of restraint for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 30, 1971, between the Governments of the United States and the Republic of China which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; for limited interfiber flexibility between cotton textiles and manmade fiber textile products of the comparable category; and for administrative arrangements.

A detailed description of the wool and manmade fiber textile categories in terms of T.S.U.S.A. numbers and conversion factors were published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out this directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of wool and manmade fiber textile products from the Republic of China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16973 Filed 10-3-72;8:56 am]

CERTAIN WOOL AND MANMADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 28, 1972.

On January 4, 1972, the U.S. Government concluded a comprehensive bilateral wool and manmade fiber textile agreement with the Government of the Republic of Korea concerning exports of wool and manmade fiber textiles from the Republic of Korea to the United States over a 5-year period beginning October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing export limitations for the second agreement year beginning October 1, 1972, on wool textile products in Categories 104 and 120; manmade fiber textile products in Categories 200–205 and 241–243, as a group, as well as on the nine individual categories within the group; manmade fiber textile products in Categories 206–213, as a group, as well as the eight individual categories within the group; and manmade fiber textile products in Categories 214–240, as a group, as well as the 27 individual categories within that group.

Accordingly, there is published below a letter of September 28, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the amounts of wool and manmade fiber textile products in the above categories produced or manufactured in the Republic of Korea which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

SEPTEMBER 28, 1972.

DEAR MR. COMMISSIONER: Under the provisions of the bilateral Wool and Manmade Fiber Textile Agreement of January 4, 1972, between the Governments of the United States and the Republic of Korea and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1972, and for the 12-month period extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Categories 104 and

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120; manmade fiber textile products in Categories 200–205 and 241–243, as a group, and the nine constituent categories comprising that group; Categories 206–213, as a group, and the eight constituent categories comprising that group; and Categories 214–240, as a group, and the 27 constituent categories comprising that group, in excess of the following 12-month levels of restraint:

Category	12-month level of restraint
104 ---square yards--	1,520,959
120 ---pieces--	317,275
200–205 and 241–243 ---square yards equivalent--	34,876,300
200[1] ---pounds--	1,709,402
201[1] ---do----	96,339
202[1] ---do----	2,586,207
203[1] ---do----	147,059
204[1] ---do----	121,359
205[1] ---do----	142,450
241[1] ---square feet--	4,545,455
242[1] ---pounds--	128,205
243[1] ---do----	256,410
206–213 ---square yards equivalent--	17,488,600
206[1] ---square yards--	500,000
207[1] ---do----	500,000
208[1] ---do----	8,000,000
209[1] ---do----	500,000
210[1] ---do----	500,000
211 ---pounds--	1,856,144
212[1] ---square yards--	500,000
213[1] ---pounds--	89,744
214–240 ---square yards equivalent--	323,122,100
214[1] ---dozen pairs--	198,300
215[1] ---do----	163,043
216 ---dozen--	126,332
217[1] ---do----	8,661
218[1] ---do----	552,486
219 ---do----	3,461,231
220[1] ---do----	28,090
221 ---do----	2,375,095
Part 222 (excluding T.S.U.S.A. No. 380.0428 and 380.8165) ---do----	678,513
223[1] ---do----	468,750
224/part 222 (only T.S.U.S.A. No. 380.0428 and 380.8165)[1] ---pounds--	4,230,769
225[1] ---dozen--	73,684
226[1] ---do----	210,843
227[1] ---pounds--	44,872
228 ---dozen--	650,002
229 ---do----	652,663
230[1] ---do----	14,349
231[1] ---do----	6,863
232[1] ---do----	6,736
233[1] ---do----	16,432
234 ---do----	3,260,588
235 ---do----	1,206,451
236[1] ---do----	19,663
237[1] ---numbers--	84,444
238 ---dozen--	161,798
239[1] ---do----	31,250
240[2] ---pounds--	689,103

[1] Consultation categories—levels established in accordance with provisions of paragraph 3 of the wool and manmade fiber textile agreement with the Republic of Korea.

In carrying out this directive, entries of wool and manmade fiber textile products in the above categories, produced or manufactured in the Republic of Korea, which have been exported to the United States prior to October 1, 1972, shall, to the extent of any unfilled balances be charged against the levels of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the levels of restraint for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of January 4, 1972, between the Governments of the United States and the Republic of Korea which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; for limited interfiber flexibility between cotton textiles and manmade fiber textile products of the comparable category; and for administrative arrangements.

A detailed description of the wool and manmade fiber textile categories in terms of T.S.U.S.A. numbers and conversion factors was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out this directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of wool and manmade fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-16936 Filed 10-3-72;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1301) has been filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing establishment of a tolerance (40 CFR Part 180) for combined residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate) including its oxygen analog *O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate in or on the raw agricultural commodity grapes at 1 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas-liquid chromatographic procedure using a flame photometric detector equipped with a phosphorus filter (526 nanometers).

Dated: September 25, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-16948 Filed 10-3-72;8:54 am]

ETHYL 4-(METHYLTHIO)-*m*-TOLYL ISOPROPYLPHOSPHORAMIDATE

Notice of Establishment of Temporary Tolerances

Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, submitted a petition (PP 1G1168) requesting establishment of temporary tolerances for combined residues of the nematocide ethyl 4-(methylthio)-*m*-tolyl isopropylphosphoramidate and its cholinesterase-inhibiting metabolites in or on pineapple forage at 1 part per million and pineapples at 0.04 part per million.

It has been determined that temporary tolerances on pineapple forage at 1 part per million and on pineapples at 0.04 part per million (negligible residue) are safe and will protect the public health. It has also been determined that the 0.04 part per million temporary tolerance on pineapples is a negligible residue. They are therefore established as requested on condition that the nematocide be used in accordance with the temporary permits being issued concurrently by the Environmental Protection Agency and which provide for distribution under the Chemagro Corp. name.

These temporary tolerances expire September 25, 1973.

This action is being taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: September 25, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-16947 Filed 10-3-72;8:54 am]

UNIROYAL CHEMICAL

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1305) has been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, Conn. 06525, proposing to increase the established 3 parts per million tolerance (40 CFR Part 180) for residues of the insecticide 2-(*p-tert*-butylphenoxy) cyclohexyl 2-propynyl sulfite in or on the raw agricultural commodity plums (fresh prunes) to 7 parts per million.

The analytical method proposed in the petition for determining residues of the insecticide is gas chromatography using a sulfur detector.

Dated: September 25, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-16949 Filed 10-3-72;8:54 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 615]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 25, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

8265-C2-P-72—The Diamond State Telephone Co. (KGA471), replace transmitter operating on 157.83 and 158.04 MHz test located at 901 Tatnall Street, Wilmington, DE.

1704-C2-P-73—The Mountain States Telephone & Telegraph Co. (KOA795), change the antenna system for test facilities operating on 157.86, 157.92, 157.98, and 158.01 MHz at 285 Second Avenue, Yuma, AZ.

1705-C2-P-73—Mutual Telephone Co. (New), for a new 2-way station to be located at 1 mile east of Sioux Center, Iowa, to operate on 152.570 MHz.

1741-C2-P-AL-73—Mobilfone, consent to assignment of license from Communications Industries, Inc., doing business as Mobilfone, Assignor, to: Ralph C. Parker, doing business as Ratel Communications Co., Assignee.

1742-C2-P-(2)-73—Pacific Northwest Bell Telephone Co. (KOA732), for additional facilities to operation 454.375 and 454.450 MHz at a new site described as location No. 3: 1708 East Pike Street, Seattle, WA, and operate on 459.375 and 459.450 MHz test at 1200 Third Avenue, Seattle, WA.

1743-C2-P-73—Lafayette Radiofone (New), for a new 2-way station to be located at 1302 Maude Street, Abbeville, La., to operate on 454.150 MHz.

1744-C2-P-(3)-73—Massachusetts-Connecticut Mobile Telephone Co. (KCC803), for additional facilities to operate on 454.225 and 454.250 MHz at a new site described as location No. 4: Glastonbury, Conn., and to operate on 454.275 MHz at another new site described as location No. 5: 750 Main Street, Hartford, CT.

1745-C2-MP-73—Zipcall (KTS212), replace transmitter operating on 35.22 MHz at the end of Tower Road, Fall River, Mass.

1746-C2-P-73—Mahaffey Message Relay (KDT223), change the antenna system and relocate facilities operating on 152.090 MHz to 305 South Bellevue, Memphis, TN, location No. 1.

1763-C2-P-(2)-73—The Bell Telephone Co. of Pennsylvania (KGA475), change the antenna system operating on 152.510 and 152.540 MHz at 3.5 miles northwest of Enola, Pa.

1764-C2-P-73—B. & C. Mobile Communications, Inc. (New), for a new 2-way station to be located on U.S. Highway No. 287, near Lamar, Colo., to operate on 152.030 MHz.

1765-C2-P-73—Industrial Communications Systems, Inc. (KSV926), for additional facilities to operate on 158.700 MHz at 3.5 miles north-northeast of Malibu, Calif.

1766-C2-P-73—Auto Phone Service (KIB384), for additional facilities to operate on 454.125 MHz at 250 North Orange Avenue, Orlando, FL.

1782-C2-P-73—Tel-Illinois, Inc. (New), for a new 1-way station to be located at Alton Box Board Building, Alton, Ill., to operate on 158.700 MHz.

1783-C2-P-73—Same as above except to be located at St. Johns Orphanage, Belleville, Ill.

1906-C2-MP-73—Zipcall (KTS213), replace transmitter operating on 35.22 MHz at 274 Page Street, Avon, MA.

INFORMATIVE: Pursuant to § 21.15(c)(5) of the Commission's rules, all applicants applying for new site locations for stations in the Domestic Public Radio Services should include in their applications, a statement concerning the availability of the sites and, if not owned by the applicant, the terms of (or copy of) any agreements for the use of the sites and free access to the station facilities.

RURAL RADIO SERVICE

1706-C1-P-73—Duratronics, Inc. (New), for a new central office fixed station to be located 3 miles north of Grand Marais, Minn., to operate on 152.780 and 152.810 MHz.

1707-C2-P-73—Sawbill Canoe Outfitters, Inc. (New), for a new rural subscriber station to operate on 158.070 MHz at Southern Tip of Sawbill Lake, Minn.

1708-C2-P-73—Howell Pomeroy Skoglung (New), for a new rural subscriber station to operate on 158.040 MHz at the Southern Tip of Greenwood Lake, Minn.

INFORMATIVE: Pursuant to § 21.15(c)(5) of the Commission's rules, all applicants applying for new site locations for stations in the Domestic Public Radio Services should include in their applications, a statement concerning the availability of the sites, and, if not owned by the applicant, the terms of (or copy of) any agreements for the use of the sites and free access to the station facilities.

POINT-TO-POINT MICROWAVE RADIO SERVICE

1698-C1-P-73—Southern Bell Telephone & Telegraph Co. (New), Terminal Building, Hartsfield Airport, Atlanta, Ga. (latitude 33°39'10" N., longitude 84°25'34" W.) C.P. for a new station on frequency 2176.8V MHz toward Hampton, Ga.

1699-C1-P-73—Same (New), FAA Air Traffic Control Center, Hampton, Ga. (latitude 33°22'47" N., longitude 84°17'49" W.) C.P. for a new station on frequency 2126.8V MHz toward Hartsfield Airport, Atlanta, Ga.

[1] All applications listed in the appendix below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

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POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1700–C1–P–73—The Mountain States Telephone & Telegraph Co. (KPS81), Twin Buttes, 1.8 miles north-northwest of Green Valley, Ariz. (latitude 31°54'09" N., longitude 110°59'52" W.) C.P. to add frequencies 10,875V, 11,115H MHz toward Tucson, Ariz.

1701–C1–P–73—Same (KOS52), 120 East Pennington Street, Tucson, Ariz. (latitude 32°13'26" N., longitude 110°58'08" W.) C.P. to add frequencies 11,325V, 11,585H MHz toward Twin Buttes, Ariz.

1709–C1–P–73—American Telephone & Telegraph Co. (KQA88), 2.9 miles south of Ayersville, Ohio, (latitude 41°11'47" N., longitude 84°15'57" W.) C.P. to add frequency 4090H MHz toward Grand Rapids, Ohio.

1710–C1–P–73—Same (KVU71), 1.5 miles southwest of Grand Rapids, Ohio. (latitude 41°23'07" N., longitude 83°53'13" W.) C.P. to add frequency 4050H MHz toward Ayersville, Ohio; frequency 4050V MHz toward Lyons, Ohio.

1711–C1–P–73—Same (KVU72), 1.1 miles northwest of Lyons, Ohio. (latitude 41°42'47" N., longitude 84°04'50" W.) C.P. to add frequency 4090V MHz toward Grand Rapids, Ohio; frequency 4090V MHz toward Clinton, Mich.

1712–C1–P–73—Same (KVU73), Clinton, 1.7 miles northwest of Macon, Mich. (latitude 42°05'21" N., longitude 83°53'04" W.) C.P. to add frequency 4050V MHz toward Lyons, Ohio; frequency 4050V MHz toward Plymouth Junction, Mich.

1713–C1–P–73—Same (KVU74), 4 miles west of Plymouth, Mich. (latitude 42°21'52" N., longitude 83°32'50" W.) C.P. to add frequency 4090V MHz toward Clinton, Mich.

1714–C1–P–73—Same (KQE91), 4.5 miles southwest of Milford, Mich. (latitude 42°33'25" N., longitude 83°41'38" W.) C.P. to add frequency 4190H MHz toward Dansville, Mich.

1715–C1–P–73—Same (KQD73), 1 mile northwest of Dansville, Mich. (latitude 42°33'38" N., longitude 84°19'04" W.) C.P. to add frequency 4070H MHz toward Parma, Mich.

1716–C1–P–73—American Telephone & Telegraph Co. (KQA26), 336 South Burdick Street, Kalamazoo, MI (latitude 42°17'20" N., longitude 85°35'01" W.) C.P. to add frequency 4170H MHz toward Kalamazoo, Mich.

1717–C1–P–73—Same (KQD79), 2.5 miles northwest of Kalamazoo, Mich. (latitude 42°20'36" N., longitude 85°37'38" W.) C.P. to add frequency 3790V MHz toward Kalamazoo C.O., Mich.; frequency 4030H MHz toward Jones, Mich.

1718–C1–P–73—Same (KQD78), 1.5 miles north of Jones, Mich. (latitude 41°55'18" N., longitude 85°47'52" W.) C.P. to add frequency 3770V MHz toward Kalamazoo, Mich.; frequency 4050V MHz toward Mishawaka, Ind.

1719–C1–P–73—Same (KSA43), 1.2 miles southwest of Mishawaka, Ind. (latitude 41°38'00" N., longitude 86°11'52" W.) C.P. to add frequency 3750H MHz toward Jones, Mich.; frequencies 3750H, 3830H MHz toward Plymouth, Ind.

1720–C1–P–73—Same (KVI57), 2.4 miles south of Plymouth, Ind. (latitude 41°18'31" N., longitude 86°19'04" W.) C.P. to add frequencies 3710H, 3790H MHz toward Mishawaka, Ind.; frequencies 3710H, 3790H MHz toward Winamac, Ind.

1721–C1–P–73—Same (KVI56), 2.5 miles northeast of Winamac, Ind. (latitude 41°05'32" N., longitude 86°34'52" W.) C.P. to add frequencies 3750H, and 3830H MHz toward Plymouth, Ind.; frequencies 3750H, and 3830H MHz toward Monon, Ind.

1722–C1–P–73—Same ( ), 2 miles east-northeast of Bruceville, Ind. (latitude 38°45'44" N., longitude 87°22'16" W.) C.P. to add frequency 3770V MHz toward Graysville, Ind.; frequency 3930V MHz toward Petersburg, Ind.

1723–C1–P–73—Same (KSO82), 1.5 miles west of Monon, Ind. (latitude 40°52'03" N., longitude 86°54'35" W.) C.P. to add frequencies 3710H, and 3790H MHz toward Winamac, Ind.

1724–C1–P–73—Same (KSB69), 663 Ohio Street, Terre Haute, Ind. (latitude 39°27'54" N., longitude 87°24'31" W.) C.P. to add frequency 3930V MHz toward Graysville, Ind.

1725–C1–P–73—Same (KSF77), 2.5 miles northeast of Graysville, Ind. (latitude 39°08'25" N., longitude 87°31'27" W.) C.P. to add frequency 3730V MHz toward Terre Haute, Ind.; frequency 3890V MHz toward Bruceville, Ind.

1726–C1–P–73—Same (KSE79), 4.7 miles southeast of Petersburg, Ind. (latitude 38°25'43" N., longitude 87°13'45" W.) C.P. to add frequency 3730V MHz toward Bruceville, Ind.; frequency 3930V MHz toward Stanley, Ind.

1727–C1–P–73—Same (KSF80), 2 miles southwest of Stanley, Ind. (latitude 38°08'37" N., longitude 87°22'29" W.) C.P. to add frequency 3730V MHz toward Petersburg, Ind.; frequency 3890V MHz toward Evansville, Ind.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1728–C1–P–73—Same (KSF81), 129 Northwest 5th Street, Evansville, IN (latitude 37°58'26" N., longitude 87°34'16" W.) C.P. to add frequency 3770V MHz toward Stanley, Ind.

1729–C1–P–73—American Telephone & Telegraph Co. (KQF58), 0.5 mile south of West Unity, Ohio (latitude 41°34'43" N., longitude 84°26'03" W.) C.P. to add frequency 3950H MHz toward Paulding, Ohio.

1730–C1–P–73—Same (KQH52), 3.25 miles northwest of Paulding, Ohio (latitude 41°10'44" N., longitude 84°37'38" W.) C.P. to add frequency 3990H MHz toward Schumm, Ohio.

1731–C1–P–73—Same (KQH51), 1.5 miles east-southeast of Schumm, Ohio (latitude 40°44'44" N., longitude 84°41'54" W.) C.P. to add frequency 3950H MHz toward Rose Hill, Ohio.

1732–C1–P–73—Same (KQH50), 3.2 miles northwest of Rose Hill, Ohio (latitude 40°20'34" N., longitude 84°46'41" W.) C.P. to add frequency 3950H MHz toward Lynn, Ohio.

1733–C1–P–73—Same (KSI27), 3 miles west-northwest of Lynn, Ind. (latitude 40°03'51" N., longitude 85°00'06" W.) C.P. to add frequency 3990H MHz toward New Hope, Ohio.

1734–C1–P–73—Same (KQA87), 2.2 miles south-southwest of New Hope, Ohio (latitude 39°45'51" N., longitude 84°43'50" W.) C.P. to add frequency 3950V MHz toward Mount Carmel, Ind.

1735–C1–P–73—Same (KSI26), 2.2 miles northeast of Mount Carmel, Ind. (latitude 39°-25'55" N., longitude 84°50'45" W.) C.P. to add frequency 3990H MHz toward Manchester, Ind.

1736–C1–P–73—Same (KSI25), 2.2 miles southeast of Manchester, Ind. (latitude 39°10'31" N., longitude 85°02'29" W.) C.P. to add frequency 3950H MHz toward East Enterprise, Ind.

1737–C1–P–73—Same (KSI24), 2.8 miles southeast of East Enterprise, Ind. (latitude 38°-51'12" N., longitude 84°56'20" W.) C.P. to add frequency 3950H MHz toward Williamstown, Ky.

1738–C1–P–73—Same (KVI43), 106 West Rayen Avenue, Youngstown, Ohio (latitude 41°-06'16" N., longitude 80°38'56" W.) C.P. to add frequency 3930V MHz toward Campbell, Ohio.

1739–C1–P–73—Same (KVI44), 1.5 miles north of Lowellville, Ohio (latitude 41°03'47" N., longitude 80°32'19" W.) C.P. to add frequency 3890V MHz toward Youngstown, Ohio; frequency 3890V MHz toward Lillyville, Pa.

1740–C1–P–73—Same (KGH36), 0.25 mile west of Lillyville, Pa. (latitude 40°50'43" N., longitude 80°13'23" W.) C.P. to add frequency 3930V MHz toward Campbell, Ohio.

INFORMATIVE: MCI Texas East Microwave, Inc., has filed three new applications for stations at Mount Calm, Mostyn, and Kinwood, Tex. Frequencies and points of communication contained in these new applications have been deleted from applications, files Nos. 6070, 6084, and 6087–C1–P–70, for these same three stations. This action separates into five parts MCI Texas East's specialized carrier proposal contained in applications 6066 through 6099–C1–P–70, 8902 through 8909–C1–P–70, and 6520 through 6542–C1–P–72. Since these new applications make no change to the existing proposal (other than separation into five parts), the 30-day period specified by section 309(b) of the Communications Act does not apply.

Applications 6070, 6084, and 6087–C1–P–70 were filed April 10, 1970, and appeared on Public Notice April 20, 1970. Subsequent amendments appeared on Public Notice July 10, 1972, and August 14, 1972.

1749–C1–P–73—MCI Texas East Microwave, Inc. (New), Station 1.5 miles north-northwest of Mount Calm, Tex. (latitude 31°44'14" N., longitude 96°52'39" W.) frequencies 11,285V and 11,685V MHz toward Waco, Tex., azimuth 230°23'.

1750–C1–P–73—Same (New), station 1.2 miles south-southeast of Mostyn, Tex. (latitude 30°12'46" N., longitude 95°40'44" W.) frequency 5945.2H MHz toward Beach, Tex., azimuth 64°30'.

1751–C1–P–73—Same (New), station 3 miles east-southeast of Kinwood, Tex. (latitude 29°-54'00" N., longitude 95°15'05" W.) frequency 5974.8H MHz toward Baytown, Tex., azimuth 128°14'.

1752–C1–P–73—Southern Bell Telephone & Telegraph Co. (KLJ30), 322 Drayton Street, Savannah, GA (latitude 32°04'23" N., longitude 81°05'33" W.) C.P. to add frequency 3910H MHz toward Marlow, Ga.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1753–C1–P–73—Same (KIL90), 5.2 miles southeast of Marlow, Ga. (latitude 32°12'03" N., longitude 81°21'38" W.) C.P. to add frequency 4110V MHz toward Savannah, Ga.; frequency 3870V MHz toward Newington, Ga.

1754–C1–P–73—Same (KIL89), 1.9 miles southeast of Newington, Ga. (latitude 32°33'57" N., longitude 81°29'17" W.) C.P. to add frequencies 4150H and 4070H MHz toward Marlow, Ga.

1755–C1–P–73—Same (KJC89), 3 miles northwest of Allendale, S.C. (latitude 33°01'56" N., longitude 81°20'53" W.) C.P. to add frequency 3730V MHz toward Hancock Landing, Ga.; frequencies 3810H and 3730H MHz toward Blackville, S.C.; frequencies 4110V and 4030V MHz toward Newington, Ga.

1756–C1–P–73—Southern Bell Telephone & Telegraph Co. (New), 2 miles west of Hancock Landing, Ga. (latitude 33°09'13" N., longitude 81°47'43" W.) C.P. for a new station on frequency 3970V MHz toward Augusta, Ga.; frequency 4070H MHz toward Allendale, S.C.

1757–C1–P–73—Same (KTF45), 937 Greene Street, Hancock Landing, GA (latitude 33°28'30" N., longitude 81°58'10" W.) C.P. to add frequency 4030H MHz toward Hancock Landing, Ga.; to move existing frequencies 5945.2H, 6004.5H, 6063.8H, and 6123.1H from existing parabolic antennas to new tower and KS15876–L9BC horn reflector antennas.

1758–C1–ML–73—Same (KJC88), approximately 4 miles north-northwest of Blackville, S.C. (latitude 33°24'55" N., longitude 81°17'02" W.) Modification of license to change polarization from H to V on frequencies 3750V and 3830V MHz toward Allendale, S.C.; change from V to H on frequencies 3770H and 3850H MHz toward Allendale, S.C.

1759–C1–MP–73—The Mountain States Telephone & Telegraph Co. (KGG29), 5.2 miles northwest of Sweet, Idaho (latitude 44°01'08" N., longitude 116°24'15" W.) Modification of C.P. to increase power output from TL–2 to TL–2/TL–A2(2 watt) on frequencies 11,565V and 11,325H MHz toward Boise Junction, Idaho; frequencies 11,365H and 11,605V MHz toward Mesa, Idaho.

1760–C1–MP–73—Same (KPZ64), 12.3 miles southeast of Boise, Idaho (latitude 43°29'20" N., longitude 116°01'36" W.) Modification of C.P. to increase power output from TL–2 to TL–2/TL–A2 (2 watt) on frequencies 10,875H and 11,115V MHz toward Squaw Butte, Idaho.

1761–C1–MP–73—Same (WJM28), approximately 1 mile north of Mesa, Idaho (latitude 44°-38'23" N., longitude 116°26'56" W.) Modification of C.P. to increase power output from TL–2 to TL–2/TL–A2 on frequencies 10,915H and 11,155V MHz toward Squaw Butte, Idaho.

1762–C1–P–73—Michigan Bell Telephone Co. (KZI65), 514 East Mitchell Street, Petoskey, MI. C.P. to change geographic coordinates to latitude 45°22'25" N., longitude 84°57'06" W.; to relocate antenna system; to correct transmitter power output from 2 to 3.5; to change azimuth of radio path from 15° to 13°.

1767–C1–ML–73—Same (KQI80), 1365 Cass Avenue, Detroit, MI (latitude 42°19'57" N., longitude 83°03'14" W.) Modification of license to increase power output to TM–1/e/w TM–B1 Amp. on frequency 5937.8V toward Plymouth, Mich.

1768–C1–ML–73—Same (KQA79), 4 miles west of Plymouth, Mich. (latitude 42°21'52" N., longitude 83°32'50" W.) Modification of license to increase power output to TM–1/e/w TM–B1 Amp. on frequency 6189.8V MHz toward Detroit, Mich.; correct address and height of antennas Nos. 5 and 6.

1792–C1–P–73—New Jersey Bell Telephone Co. (KEL24), 218 East State Street, Trenton, NJ (latitude 40°13'14" N., longitude 74°45'40" W.) C.P. to add frequency 6019.3H MHz toward Philadelphia, Pa.

1793–C1–P–73—American Telephone & Telegraph Co. (KJJ69), 4 miles west-southwest of Boynton Beach, Fla. (latitude 26°30'45" N., longitude 80°07'27" W.) C.P. to change antenna azimuths on frequencies 3730H, 3810H, 4050H, and 4130H MHz toward West Palm Beach, Fla., from 49 minutes to 58 minutes.

1794–C1–P–73—Same (KIN43), 325 Gardenia Street, West Palm Beach, FL (latitude 26°-42'34" N., longitude 80°03'11" W.) C.P. to change antenna azimuths on frequencies 3770V, 3830H, 3850V, 3910H, 3930V, 4010V, 4070H, 4090V, 4150H, and 4170V MHz toward Jupiter, Fla., from 30 minutes to 24 minutes; frequencies 3750V, 3770H, 3830V, 3850H, 3910V, 3930H, 4010H, 4090H, and 4170H MHz toward Boynton Beach, Fla., from 197°51' to 198°0'.

1795–C1–P–73—Same (KIN42), 0.1 mile west of Jupiter, Fla. (latitude 26°56'04" N., longitude 80°06'33" W.) C.P. to change antenna azimuth on frequencies 3710, 3730, 3790, 3810, 3870, 3890, 3950, 3970, 4030, 4050, 4110, and 4130 MHz toward West Palm Beach, Fla. from 29 minutes to 23 minutes.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1796–C1–P–73—Citizens Utilities Rural Co., Inc. (KPS65), 415 East Andy Devine Street, Kingman, AZ (latitude 35°11'20" N., longitude 114°02'45" W.) C.P. to add transmitter 6301.0V MHz toward Getz Peak (repeater), Ariz.

1797–C1–P–73—Same (KPS66), 10.54 miles southeast of Kingman, Getz Peak, Ariz. (latitude 35°06'39" N., longitude 113°53'09" W.) C.P. for a new station on frequency 6049.0V MHz toward Kingman, Ariz.; frequency 6049.0V MHz toward Wikieup, Ariz.

1798–C1–P–73—Same (KPS67), 300 feet west of Highway 93 in Wikieup, Ariz. (latitude 34°-43'54" N., longitude 113°36'58" W.) C.P. to add transmitter 6301.0V MHz toward Getz Peak (repeater), Ariz.

1807–C1–P–73—Research Associates (New), 3 miles southeast of Kilgore, Tex. (latitude 32°-21'06" N., longitude 94°51'05" W.) C.P. for new station, frequencies 6345.5H MHz and 6404.8H MHz toward Marshall, Tex.

1808–C1–P–73—Same (New), 2.5 miles northwest of Marshall, Tex. (latitude 32°33'59" N., longitude 94°23'47" W.) C.P. for new station, frequencies 6063.8V MHz and 6123.1V MHz toward Vivian, La.

1809–C1–P–73—Same (New), 2.5 miles north-northwest of Vivian, La. (latitude 32°54'10" N., longitude 94°00'20" W.) C.P. for new station, frequency 6226.9V MHz toward Atlanta, Tex. and Shreveport (Bossier City), La., and frequency 6286.2V MHz toward Atlanta.

1810–C1–P–73—Same (New), 1.3 miles west-northwest of Atlanta, Tex. (latitude 33°07'25" N., longitude 94°11'08" W.) C.P. for new station, frequencies 6034.2H MHz and 6093.5H MHz toward Texarkana, Tex.

1811–C1–P–73—Same (New), Texarkana, Tex. (latitude 33°26'52" N., longitude 94°-04'00" W.) C.P. for new station, frequencies 6286.2H MHz and 6404.8H MHz toward Hope, Ark.

1812–C1–P–73—Same (New), 2.4 miles northeast of Hope, Ark. (latitude 33°41'46" N., longitude 93°33'53" W.) C.P. for new station, frequencies 6063.8V MHz and 6123.1V MHz toward Gurdon, Ark.

1813–C1–P–73—Same (New), 4.8 miles south of Gurdon, Ark. (latitude 33°50'46" N., longituds 93°08'49" W.) C.P. for new station, frequencies 6197.2V MHz, 6256.5V MHz, 6315.9V MHz, and 6375.2V MHz toward Jack Mountain, Ark., and frequencies 6256.5V MHz and 6315.9V MHz toward Camden, Ark.

1814–C1–P–73—Same (New), 1.9 miles northwest of Camden, Ark. (latitude 33°38'06" N., longitude 92°51'31" W.) C.P. for new station, 6093.5V MHz and 6152.8V MHz toward Magnolia, Ark.

1815–C1–P–73—Same (New), Jack Mountain, 9.1 miles south of Hot Springs, Ark. (latitude 34°22'21" N., longitude 93°02'42" W.) C.P. for new station, frequencies 10,715V MHz, 10,855V MHz, 11,015V MHz, and 11,175V MHz toward Hot Springs, Ark.

1816–C1–P–73—Same (New), 1.5 miles west-southwest of Hot Springs, Ark. (latitude 34°-30'18" N., longitude 93°04'42" W.): C.P. for new station, frequencies 6226.9H MHz, 6286.2H MHz, 6345.5H MHz, and 6404.8H MHz toward Benton, Ark.

1817–C1–P–73—Same (New), 2.7 miles north of Benton, Ark. (latitude 34°36'05" N., longitude 92°34'40" W.): C.P. for new station, frequencies 5974.8H MHz, 6034.2H MHz, 6063.8V MHz, and 6123.1V MHz toward Sheridan, Ark., and frequencies 5974.8H MHz and 6034.2H MHz toward Little Rock, Ark.

1818–C1–P–73—Same (New), 1.65 miles south-southwest of Sheridan, Ark. (latitude 34°-17'04" N., longitude 92°24'38" W.) C.P. for new station, frequencies 6197.2H MHz, 6256.5H MHz, 6315.9H MHz, and 6375.2H MHz toward Pine Bluff, Ark. (Informative: Applicant proposes to provide the following television signals to the following communities: KTVT, Fort Worth, Tex., to Bossier City, La.; KDTV and KERA, Dallas, Tex., to Texarkana, Tex.; KDTV and KTVT, Dallas/Fort Worth, Tex., to North Little Rock, Hope, and Camden, Ark.; KARK–TV and KTHV, Little Rock, Ark., to Magnolia, Ark.; and, finally, KDTV and KTVT and KSLA–TV and KTAL–TV (Shreveport/Texarkana-Shreveport, La.) to Hot Springs and Pine Bluff, Ark.).

1825–C1–P–73—Florida Telephone Corp. (KIO66), 425 North Third Street, Leesburg (Lake), FL (latitude 28°48'54" N., longitude 81°52'38" W.) C.P. to change antenna system on frequencies 6152.8V and 6034.2V MHz toward Groveland, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1826-C1-P-73—Same (KJA59), corner of Lake Avenue and Orange Street, Groveland, Fla. (latitude 28°33'35" N., longitude 81°51'25" W.) C.P. to change antenna system on frequencies 6404.8V and 6286.2V MHz toward Leesburg, Fla.; frequencies 6256.5V and 6375.2V MHz toward Dade City, Fla.

Correction

1260-C1-P-73—Pacific Northwest Bell Telephone Co. (New), correct to read: C.P. for a new station on frequency 2115.2V MHz toward Condor, Oreg. via Passive Reflector. (Report No. 612, dated Sept. 5, 1972.)

[FR Doc.72-16715 Filed 10-3-72;8:55 am]

FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

COMMITTEE ON FEDERAL LABORATORIES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of a meeting of the Committee on Federal Laboratories to be held in Lecture Room B at the National Bureau of Standards, Administration Building, Gaithersburg, Md., from 9 a.m. to 5 p.m. on October 12 and from 9 a.m. to 12 m. on October 13, 1972.

The purpose of the Committee, which was established by Executive Order 10807 in 1959 as a standing Committee of the Federal Council for Science and Technology, is to provide a forum for the consideration of administrative policies and procedures relating to Federal research and development activities and to make pertinent recommendations concerning same.

The Committee is composed of a Steering Group made up of approximately 15 scientist-administrator members and observers from Federal agencies in the Washington, D.C., area and 30 directors and deputy directors of Federal laboratories and federally related research contract centers located throughout the country.

The agenda for the meeting on October 12 will consist of a review and discussion of recent developments and areas of program emphasis having particular relevance to the current missions and activities of the Federal laboratories. The morning of October 13 will be devoted to small group discussion and consideration of appropriate areas for Committee study and analysis during the coming year.

A limited number of seats will be available to the public and the press. Persons desiring to attend the meeting should contact Mr. George E. Auman, Executive Secretary, Committee on Federal Laboratories, National Bureau of Standards, Washington, D.C. 20234, telephone 301—921-2441.

Dated: September 29, 1972.

LAWRENCE GOLDMUNTZ,
Executive Secretary, Federal Council for Science and Technology.

[FR Doc.72-16953 Filed 10-3-72;8:54 am]

FEDERAL POWER COMMISSION

[Docket No. CS72-302, etc.]

PETRODYNAMICS, INC., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

SEPTEMBER 27, 1972.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72-302 [1]	9-15-72	Petro Dynamics, Inc., Post Office Box 10006, Amarillo, TX 79106.
CS73-202	9- 6-72	K-Sam Oil Co., Post Office Box 1190, Kilgore, TX 75662.
CS73-203	8 11 72	Lora B. McAlpin (Operator) et al., 5700 Waltham Ave., Fort Worth, TX 76133.
CS73-204	9-11-72	James K. Anderson, 816 Bldg. of the Southwest, Midland, Tex. 79701.
CS73-205	9-12-72	Dennis O'Connor, 400 Victoria Bank & Trust Bldg., Victoria, Tex. 77901.
CS73-206	9 12-72	Tom O'Connor, 400 Victoria Bank & Trust Bldg., Victoria, Tex. 77901.
CS73-207	9 12-72	D. H. Braman, Jr., 400 Victoria Bank & Trust Bldg., Victoria, Tex. 77901.
CS73-208	9-12 72	H & L Operating Co., Post Office Box 10161, Amarillo, TX 79106.
CS73-209	9 12-72	Chace Oil Co., Inc., 313 Washington, SE., Albuquerque, NM 87108.
CS73-210	9 12-72	Gemini Explorations, Inc., Post Office Box 1224, Monroe, LA 71201.
CS73-211	9 12 72	James F. O'Connell and Terry L. Brown, doing business as O'Connell and Brown, Post Office Box 7006, Amarillo, TX 79109.
CS73-212	9-11-72	Mrs. Mary Key Henley, Post Office Box 293, Dallas, TX 75221.
CS73 213	9-11-72	T. L. Bates Estate, 1515 Broadway, New York, NY 10036.
CS73 214	9-11 72	Mustang Exploration Co., Inc., Post Office Box 272, Louise, TX 77455.
CS73 215	9-14 72	Birch LOG Co., 140 Broadway, New York, NY 10005.
CS73 216	9-14-72	Dallas Resources, Inc. et al., 900 Empire Life Bldg., Dallas, Tex. 75201.
CS73 217	9-18 72	Laco Gas Exploration, Inc., 830 Denver Club Bldg., Denver, Colo. 80202.
CS73 218	9-14-72	Pacific Lighting Exploration Co., 720 West 8th St., Los Angeles, CA 90017.
CS73 219	9-15-72	Nancy Key Burton, 511 East Austin, Marshall, TX 75670.
CS73 220	9-15-72	Special CORAL 1972 Drilling Venture I, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73 221	9-15-72	Special CORAL 1972 Drilling Venture II, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73 222	9 15 72	Special Security 1972 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73 223	9-15-72	Special MAE 1972 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73 224	9-15-72	Special GOE 1972 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi TX 78401.
CS73-225	9-15-72	Special RADWTKM 1972 Drilling Venture, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73 226	9-15-72	Geo Resources Drilling Fund—1972 Annual Program, 1818 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73-227	9-21-72	Harold D. Powell, Box 1116, Levelland, TX 79336.
CS73-228	9-21-72	Sunland Refining Corp., Post Office Box 1512, Fresno, CA 93716.

[1] Applicant proposes to amend its small producer certificate to include the interests of Semco Gas, Inc.

[FR Doc.72-16755 Filed 10-3-72;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket Nos. CI73-136, CI73-148, CI73-156]

CITIES SERVICE OIL CO. ET AL.

Further Notice of Applications

SEPTEMBER 29, 1972.

Take notice that on August 25, 1972, in Docket No. CI73-136 Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102; on August 31, 1972, in Docket No. CI73-148 Continental Oil Co., 1300 Main Street, Houston, TX 77001; and on August 31, 1972, in Docket No. CI73-156 Getty Oil Co., Post Office Box 1404, Houston, TX 77001, filed applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing sales for resale of natural gas in interstate commerce to Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Tennessee), from Block 77, East Cameron Block 89 Field, offshore Louisiana, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.[1]

Applicants seek authorization to sell 75 percent of their interest in the natural gas produced from Block 77 to Tennessee. Pursuant to their contracts with Tennessee, Applicants will have the right to require Tennessee to transport to a mutually agreeable point on Tennessee's onshore pipeline system the 25 percent interest in the production from said block which they have retained for themselves. The contracts provide further that if Applicants fail to elect to have such retained reserves transported by Tennessee within 3 years from July 25, 1972, said reserves will be committed to Tennessee.

The subject contracts provide for an initial rate of 35 cents per Mc.f. at 15.025 p.s.i.a.; however, Cities Service Oil Co. and Continental Oil Co. have agreed to accept a certificate conditioned to the applicable area rate as established in Opinion No. 598 of 26 cents.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 18, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16938 Filed 10-3-72;8:53 am]

[1] The applications in Docket Nos. CI73-136 and CI73-156 were previously noticed on Sept. 19, 1972, in Docket No. G-2629, et al., and the application in Docket No. CI73-148 was previously noticed on Sept. 27, 1972, in Docket No. G-4424, et al.

[Docket No. CP73-62]

EL PASO NATURAL GAS CO.

Notice of Application

SEPTEMBER 28, 1972.

Take notice that on September 1, 1972, El Paso Natural Gas Co. (Applicant), Box 1492, El Paso, TX 79978, filed in Docket No. CP73-62 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain meter station and pipeline facilities located on its Southern Division System in Maricopa County, Ariz., all as set forth in the application on file with the Commission and open to public inspection.

Applicant states that by Commission order issued January 11, 1944, in Docket No. G-288 (4 FPC 486) it was authorized, inter alia, to continue operation of the Phoenix Powerplant meter station, approximately 0.392 mile of 12¾ inch O.D. pipeline and approximately 0.041 mile of 10¾ inch O.D. pipeline located on its Southern Division System in Maricopa County, Ariz. Such facilities were utilized to transport, measure, and deliver natural gas on a direct sale basis to Central Arizona Light & Power Co. (Central) for use as fuel in its Phoenix Powerplant. El Paso proposes to abandon such metering and pipeline facilities by transfer, without cost, to Arizona Public Service Co. (APS), successor in interest to Central.

Applicant states that the meter station and pipeline facilities proposed to be abandoned are located, except for approximately 100 feet of the 12¾ inch O.D. pipeline, within the boundaries of the powerplant yard. The proposed abandonment will eliminate Applicant's need to own, maintain, and operate the subject facilities within the boundaries of the powerplant yard and will permit APS' use as may be necessary in the operation of its powerplant facilities.

Applicant states that no interruption, reduction, termination, or change in natural gas service presently rendered by it to APS or to any of its or APS' customers will result upon effectuation of the proposed abandonment. Applicant states the facilities will be abandoned in place for transfer, without cost, to APS.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16866 Filed 10-3-72;8:46 am]

[Docket No. CP73-69]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Application

SEPTEMBER 28, 1972.

Take notice that on September 12, 1972, Great Lakes Gas Transmission Co. (Applicant), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73-69 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange, by means of existing facilities, natural gas with Northern Natural Gas Co. (Northern) and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement, dated July 15, 1972, with Northern and Michigan Wisconsin whereby Applicant will deliver not less than 25,000 Mcf of natural gas per day to Northern at existing points of interconnection near Carlton and Grand Rapids, Minn. Northern will concurrently redeliver equivalent volumes to Applicant, in whole or in part, at either or both of the existing Wakefield, Mich., interconnection with Applicant or to Michigan Wisconsin for the account of Applicant at the existing Janesville, Wis., interconnection. The exchange agreement, Applicant states, is for a basic term of 1 year and thereafter until canceled by any party on 6 months' written notice.

The application indicates that the proposed exchange recognizes that Applicant's system has capability to transport gas to the Carlton interconnection which cannot be transported beyond that point due to present capacity restrictions in Applicant's line from station 5 to station

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8. Applicant states that, as a result, delivery of the exchange volumes at Carlton will increase capability of the system so as to enable Applicant to deliver contract volumes to Natural Gas Pipeline Co. of America, Michigan Consolidated Gas Co., and Michigan Wisconsin, and that without the proposed exchange, Applicant would be unable during the 1972–73 contract year to meet its full contract obligations to these customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16867 Filed 10-3-72;8:47 am]

[Docket No. CP73-76]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

SEPTEMBER 28, 1972.

Take notice that on September 20, 1972, Michigan Wisconsin Pipe Line Co. (Applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73-76 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange, by means of existing facilities, natural gas with Great Lakes Gas Transmission Co. (Great Lakes) and Northern Natural Gas Co. (Northern) all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that the three companies have entered into an agreement, dated July 15, 1972, providing for the exchange of gas for a basic term of 1 year and continuing thereafter until canceled by any party on 6 months' written notice. Applicant states that Great Lakes will deliver not less than 25,000 Mcf of gas per day to Northern at Carlton and Grand Rapids, Minn., and Northern will concurrently redeliver equivalent volumes, as directed by Great Lakes or Applicant, to Great Lakes at Wakefield, Mich., or to Applicant for the account of Great Lakes at Janesville, Wis. Applicant states further that the exchange will require the construction of no facilities and no charge will be made by any party incident to the exchange.

Applicant alleges that the proposal will be of mutual benefit to the three companies. Further, the application indicates that during the summer months of reduced market requirements in Wisconsin, Applicant is unable, because of capacity limitations, to purchase from Midwestern Gas Transmission Co., the full volumes to which it is contractually entitled while taking from Great Lakes the full volumes it is entitled and obligated to receive. Applicant states that this situation can be corrected, without the construction of additional facilities, by delivery of a part of the Great Lakes' gas to Applicant at Janesville, Wis., rather than at Crystal Falls, Mich., and that the arrangement thus maximizes the volumes of gas Applicant can receive into its system in Wisconsin and transport to storage.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16869 Filed 10-3-72;8:47 am]

[Docket No. CP73-77]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

SEPTEMBER 28, 1972.

Take notice that on September 20, 1972, Michigan Wisconsin Pipe Line Co. (Applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73-77 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the offshore and onshore transportation of natural gas for Natural Gas Pipeline Co. of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Natural up to 1,000 Mcf of natural gas per day until January 1, 1973, and up to 4,000 Mcf of natural gas per day thereafter until January 1, 1974, from Block 58, South Marsh Island Area, offshore Louisiana, to a point of redelivery at the existing point of interconnection of the pipelines of Applicant and Natural near Lake Arthur, La. Applicant states that Natural has contracted to purchase such gas from Shell Oil Co. in Block 58 and that the proposed service is the most efficient means of transporting such gas onshore. Applicant states further that its ability to render the proposed transportation service on a firm basis is dependent upon the installation of offshore facilities authorized by the Commission in Docket No. CP72-87; however pending the installation of such facilities, it proposes to transport such gas on a best-efforts basis.

Applicant proposes to charge Natural a monthly demand charge of $1.25 per Mcf of contract demand plus a commodity charge of 1.65 cents per Mcf of gas redelivered for the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16868 Filed 10-3-72;8:47 am]

[Project 2492]

ST. CROIX PAPER CO.

Notice of Application for Transfer of Major License

SEPTEMBER 27, 1972.

Public notice is hereby given that application for transfer of major license for Vanceboro Project No. 2492 was filed June 27, 1972, under the Federal Power Act (16 U.S.C. 791a–825r) by St. Croix Paper Co. (Licensee) and Georgia-Pacific Corp. (Transferee) (Correspondence to: Mr. George Wittemyer, Attorney, Georgia-Pacific Corp., 900 Southwest Fifth Avenue, Portland, OR 97204). The project is located at the outlet of Spendic Lake, in the town of Vanceboro, Washington County, Maine, in the vicinity of Vanceboro, Maine, USA, and St. Croix, New Brunswick, Canada on the East Branch of the St. Croix River, an international boundary stream.

Commission approval is requested by the Applicants to transfer the license for Vanceboro Project No. 2492 to Georgia-Pacific Corp. which owns more than 99 percent of the St. Croix Paper Co.

The project consists of: (1) A concrete dam about 69 feet long, including: (a) A spillway section with two tainter gates (each about 22.5 feet long) and (b) a fishway about 8 feet wide; (2) an earth embankment on each side of the concrete dam (total length about 400 feet wide); (3) a reservoir—the portion of Spendic Lake within the United States; (4) and appurtenant facilities.

The dam is used to regulate the discharge from Spendic Lake into the East Branch of the St. Croix River for use in generating electrical and mechanical energy at two plants, 25 and 37 miles downstream.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1972, file with the Federal Power Commission in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-16870 Filed 10-3-72;8:47 am]

[Docket No. CP73-34]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND NORTH PENN GAS CO.

Notice of Application

SEPTEMBER 28, 1972.

Take notice that on August 4, 1972, Transcontinental Gas Pipe Line Corp. (Transco), Post Office Box 1396, Houston, TX 77001, and North Penn Gas Co. (North Penn), 76–80 Mill Street, Port Allegany, PA 16743, filed in Docket No. CP73-34 an application pursuant to section 7(c) of the Natural Gas Act authorizing the exchange and delivery of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants seek authorization for the exchange of natural gas by means of present and future points of interconnection between their systems. The systems presently interconnect in the Wharton Storage Pool, Potter County, Pa. Applicants do not presently propose to construct any additional facilities to carry out the exchange arrangement.

The agreement between Applicants provide that the gas will be returned within 60 days unless they agree to a longer time. If either party is unable to return the gas within the time required, it may, with the consent of the other party, pay for such gas at the 100 percent load factor CD–3 rate schedule of Transco or the G–1 rate schedule of North Penn, whichever is applicable.

Any person desiring to be heard or to make any protest with reference to said application should, on or before, October 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72 16871 Filed 10-3-72;8:47 am]

FEDERAL RESERVE SYSTEM

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Banks

First at Orlando Corp., Orlando, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has filed separate applications for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire at least 90 percent of the voting shares of The City Bank and Trust Co. of St. Petersburg (City Bank), and The Suncoast City Bank of St. Petersburg (Suncoast Bank), both located in St. Petersburg, Fla.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 26 banks with aggregate deposits of $904.6 million, representing 5.6 percent of the deposits for commercial banks in Florida, and is the fourth largest banking organization in the State. (All banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved through August 31, 1972.) The acquisition of City Bank ($44.4 million in deposits) and Suncoast Bank ($5 million in deposits) would increase Applicant's control of State deposits to 5.9 percentage points. Applicant's rank among State

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banking organizations would remain unchanged, and the concentration of banking resources on a local and State level would not increase significantly.

Subject banks are located in the city of St. Petersburg, in the South Pinellas banking market, and their acquisitions would represent Applicant's initial entry into the area. City Bank and Suncoast Bank hold 4.53 and 0.52 percent of total market deposits and rank seventh and 23d, respectively, among the 23 banks represented in this market area. Six multibank holding companies and three banking groups are represented in the market, and six banks control 57 percent of total market deposits. Although subject banks are less than 3 miles apart and their service areas overlap, they do not actively compete with each other. Suncoast Bank was organized by City Bank in 1971, and both are under common management and control. It appears that no present or future competition between subject banks would be eliminated by consummation of this proposal.

Applicant's closest subsidiary banking offices are located approximately 25 miles from subject banks. There is no significant present competition between any of these offices, and due to the densely populated areas, the distances between banking offices, and Florida's restrictive branching laws, it appears that there is little likelihood of the development of future competition. Consequently, competitive considerations are consistent with approval of the applications.

The capital positions of eight of Applicant's subsidiaries are deemed to be somewhat low; however, Applicant has made a commitment to increase the equity capital in these banks by the end of 1972, and after the proposed increases each of the banks would have adequate equity capital bases. Accordingly, the financial condition of Applicant and its subsidiary banks are deemed to be generally satisfactory; their managements are considered to be capable and prospects for the group are favorable. The financial conditions and managements of City and Suncoast Banks are also believed to be generally satisfactory and prospects for both banks appear favorable. Banking factors are consistent with approval of the applications.

Although the primary banking needs of the communities are presently being served, Applicant's expansion and improvement of services now available at both subject banks, especially trust services, would benefit the public and enable banks to become stronger competitors with the larger area banking offices. Therefore, considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support toward approval of the applications. It is the Board's judgment that consummation of the proposed acquisitions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16944 Filed 10-3-72;8:54 am]

UNITED VIRGINIA BANKSHARES INC.

Order Approving Retention of United Virginia Mortgage Corp.

United Virginia Bankshares Inc., Richmond, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain all of the voting shares of United Virginia Mortgage Corp., Richmond, Va., a company that engages in the activities of a mortgage company and proposes to engage de novo in acting as agent for the sale of credit life, credit disability, and mortgage redemption insurance. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a) (1) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 15896). The time for filing comments and views has expired, and none have been timely received.

Applicant, the largest banking organization in Virginia, controls 12 banks with aggregate deposits of approximately $1.3 billion, representing 14.2 percent of the total deposits in commercial banks in Virginia.[1] Applicant's nonbanking subsidiaries include a service corporation, an insurance agency, a leasing company, and United Virginia Mortgage Corp. (Company).

The Company, with offices in Richmond, Roanoke, Annandale, Manassas, Norfolk, Newport News, and Alexandria, Va., and Langley Park, Md., engages in the activities of a mortgage company which include originating loans as principal, originating loans as agent, servicing loans for nonaffiliated individuals, partnerships and corporations, and servicing loans for affiliates of United Virginia Bankshares Inc. In addition, Applicant proposes to engage de novo in acting as agent for the sale of credit life, credit disability and mortgage redemption insurance in connection with the origination or servicing of such mortgages.

Prior to this application the Company, which was acquired on October 1, 1968, has been operated pursuant to section 4(c)(5) of the Bank Holding Company Act.[2] Under section 4(c)(5), the Company is not authorized to conduct full service mortgage banking operations at locations other than such locations where Applicant's subsidiary banks are authorized to engage in business.[3] Applicant now seeks permission to operate the Company under the broader authority of section 4(c)(8) so that none of the Company's offices would be subject to the "loan production" restriction.

The Board regards the standards of section 4(c)(8) for the retention of shares in a nonbanking company, previously operated by a bank holding company pursuant to section 4(c)(5), to be the same as the standards for a proposed section 4(c)(8) acquisition. Accordingly, the Board must find that neither the operation of the nonbanking company under section 4(c)(5), nor the Board's approval of the section 4(c)(8) application would result in an undue concentration of resources, decreased or unfair competition, conflict of interest, or unsound banking practices.

Since Applicant's acquisition of the Company in 1968, the Company's assets have quadrupled. The Company derives business from all of Applicant's subsidiary banks located throughout Virginia and from one "loan production" office located in the Maryland suburbs of Washington, D.C. With permanent mortgage servicing contracts in excess of $204 million, as of June 30, 1971, the Company was the third largest mortgage banking company in Virginia on that date.

The Company is primarily engaged in originating mortgage loans for the account of others and servicing such loans. Although Applicant's subsidiary banks do originate a limited volume of mortgage loans for their own account, this activity does not overlap significantly with the Company's activities. Accordingly, no significant competition exists between the Company and Applicant's subsidiary banks. Further, it does not appear that any significant potential competition would be foreclosed upon consummation of the proposal because it is unlikely that the Company would remain a significant competitor without access to Applicant's resources.

Under Applicant's operations the Company, originally a small, local mortgage company, has become a larger and more viable competitor among mortgage companies in Virginia. Although the proposed retention would change only the company's operating authority, some benefits may accrue to the public through the proposed retention, since Applicant would be able to offer full service mortgage banking facilities at locations other than its subsidiary banking offices, thereby providing greater convenience to its customers. There is no evidence in the record to indicate that the proposed retention would lead to an undue concentration of resources, conflicts of interest, or unsound banking practices.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[4] effective September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16872 Filed 10-3-72;8:47 am]

[1] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

[2] All banking data are as of December 31, 1971.

[3] Prior to June 30, 1971, a bank holding company could, under section 4(c)(5), directly acquire shares of a corporation to perform, at locations at which its subsidiary banks are authorized to engage in business, functions, such as mortgage banking, that national banks are empowered to perform directly (12 CFR 7.7379; 225.4(e); 250.141).

[4] The Company's offices that are not located on the premises of Applicant's subsidiary banks are "loan production offices" where the Company may solicit loans, assemble credit information, prepare applications for loans, and perform other similar agent type activities for mortgage offices located on the premises of Applicant's subsidiary banks (12 CFR 250.141).

[4] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Foreign-Trade Zones Board regulations are satisfied and that the proposal is in the public interest;

Now, therefore, the Board hereby approves the temporary relocation of Foreign-Trade Zone No. 1 from its site at Stapleton, Staten Island, to Building 77 (third floor), Brooklyn Navy Yard, New York City for a period not to exceed 3 years from the date of this order, subject to extension by the Board. The grantee shall prenotify the Board's Executive Secretary for clearance concerning any proposal to use Foreign-Trade Zone No. 1 for manufacturing operations prior to their commencement. In taking this action the Board concurs in the termination of zone operations at the Stapleton, Staten Island, site.

Signed at Washington, D.C., this 26th day of September 1972.

[SEAL] PETER G. PETERSON,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest: JOHN J. DA PONTE, JR.,
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc.72-16863 Filed 10-3-72;8:46 am]

FOREIGN-TRADE ZONES BOARD

[Order 89]

CITY OF NEW YORK

Approval of Application To Relocate Foreign-Trade Zone

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) has adopted the following Order:

Whereas, the city of New York, grantee of Foreign-Trade Zone No. 1, has made application (filed July 6, 1972) for authority to temporarily relocate Foreign-Trade Zone No. 1 from its site at Stapleton, Staten Island, to Building 77 (Third floor), Brooklyn Navy Yard, New York City, for a period of 3 years from the date of this order;

Whereas, public notice of the application has been given and full opportunity has been afforded all interested parties to be heard;

Whereas, an Examiners Committee has investigated the proposal and recommends approval of the application; and

PRICE COMMISSION

[Notice 36]

ECONOMIC STABILIZATION PROGRAM

Regulatory Agencies Certified Under Price Commission Regulations

Section 300.16a(d) of the regulations of the Price Commission provides for the issuance by the Price Commission of certificates of compliance to State and Federal regulatory agencies whose rules for implementing the Economic Stabilization Program, with respect to public utilities, have been approved by the Price Commission. In accordance with the Commission's policy, this notice is issued on a biweekly basis, to inform all interested persons of those regulatory agencies that have been certified by the Commission.

As of September 28, 1972, certificates of compliance have been issued to the following agencies:

Federal:

Civil Aeronautics Board.
Interstate Commerce Commission.

State:

Alabama Public Service Commission.
Arkansas Public Service Commission.
California Public Utilities Commission.
Colorado Public Utilities Commission.
Delaware Public Service Commission.
District of Columbia Public Service Commission.
Georgia Public Service Commission.
Indiana Public Service Commission.
Maryland Public Service Commission.
Michigan Public Service Commission.
Mississippi Public Service Commission.
Montana Public Service Commission.
New York Public Service Commission.
North Carolina Utilities Commission.
Pennsylvania Public Utility Commission.
Virginia State Corporation Commission.
Washington Utilities and Transportation Commission.

By direction of the Commission.

Issued in Washington, D.C., on September 29, 1972.

JAMES B. MINOR,
General Counsel, Price Commission.

[FR Doc.72-16903 Filed 10-3-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

SEPTEMBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 27, 1972, through October 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-16888 Filed 10-3-72;8:49 am]

[File No. 500-1]

FIRST WORLD CORP.

Order Suspending Trading

SEPTEMBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 27, 1972, through October 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-16889 Filed 10-3-72;8:49 am]

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[File No. 500–1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

SEPTEMBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of LDS Dental Supplies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 28, 1972, through October 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-16890 Filed 10-3-72;8:49 am]

[File No. 500–1]

OCEANOGRAPHY MARICULTURE INDUSTRIES, INC.

Order Suspending Trading

SEPTEMBER 27, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Oceanography Mariculture Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:30 a.m. on September 27, 1972, through October 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-16891 Filed 10-3-72;8:49 am]

[812-3248]

TECHNICAL FUND INVESTMENT PLANS AND PIONEER INTERPRISE FUND, INC.

Notice of Filing of Application and for an Order of Exemption

SEPTEMBER 27, 1972.

Notice is hereby given that the New England Merchants National Bank (Bank), % New England Merchants National Bank, 28 State Street, Boston, MA 02109, custodian for Technical Fund Investment Plans (Plans), a unit investment trust registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 26(b) of the Act to permit, with respect to all future investments under existing Plans, the substitution of shares of Pioneer Enterprise Fund, Inc. (Enterprise), 28 Stat Street, Boston, MA 02109, an open end diversified management investment company registered under the Act, for shares of Technical Fund, Inc. (Technical Fund), as the underlying investment medium for the Plans, and the Bank and Enterprise also apply for an order of exemption pursuant to section 6(c) of the Act from the provisions of section 22(d) of the Act to the extent necessary to permit the sale of shares of Enterprise to the Plans for the benefit of existing Planholders at net asset value without any sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

The underlying investment medium for the Plans has, since their inception, been Technical Fund, an open end diversified management investment company incorporated in Massachusetts and registered under the Act. The Bank serves as custodian for the Plans by virtue of a custodian agreement dated January 14, 1964 (amended March 6, 1964), between the Bank, as custodian, and Security Planners Associates, Inc. (SPA), formerly sponsor for the Plans and investment adviser and distributor for Technical Fund.

On May 25, 1972, the Commission filed suit in the U.S. district court for the District of Massachusetts against Technical Fund and four individuals alleging that the defendants had violated certain provisions of the Securities Exchange Act of 1934 and of the Act. On May 26, 1972, the court appointed a receiver for all assets and property owned by Technical Fund and for all assets which it carries or maintains for the account of others. The appointment of the receiver was subsequently confirmed, and a temporary injunction against certain of the acts and practices alleged in the complaint was issued. On June 26, 1972, the receiver notified all shareholders of Technical Fund and all holders of Plans that the net asset value of shares of Technical Fund is unclear and, therefore, that publication of such net asset value has ceased and that the receiver has, with approval of the court, suspended redemption of shares of Technical Fund for an indefinite period. As a result of the uncertainty of the net asset value of the shares of Technical Fund, it is not presently possible either to invest payments by holders of Plans in shares of Technical Fund or to process redemptions of shares held for the benefit of Planholders. The Bank, therefore, has returned to holders of Plans without insurance all investor payments in its hands as of June 26, 1972, and has returned to holders of Plans with insurance all investor payments in its hands, less amounts required to maintain insurance in force up to the next date on which an insurance payment is due. The insurance is an optional feature in the Plans whereby an investor, for an additional periodic payment, can insure the completion of his Plan in the event that he should die before making all of his required payments. There are presently outstanding 612 Plans with insurance and 64 Plans without insurance.

The Bank represents that, to the best of its knowledge, no post-effective amendment to the registration statement of Technical Fund under the Securities Act of 1933 has been filed since October 31, 1969, and no post-effective amendment to the registration statement of the Plans under the Securities Act of 1933 has been filed since November 5, 1969. The Bank also represents that SPA is not carrying on any business and, although SPA has not terminated its legal existence, it may be considered inactive.

Section 26(b). Under the General Plan Provisions (Provisions) which were delivered to investors in all Plans issued, there is a provision entitled "Substitution of Fund Shares" which covers the circumstances under which, and the manner in which, another security may be substituted for Technical Fund shares. The substitution provision begins as follows:

> No other security may be substituted for Technical Fund shares except by action beyond the control of the Sponsor or Custodian, or unless Technical Fund shares become unavailable for a period which, in the opinion of the Sponsor, makes it impracticable to continue with such shares as the underlying security. In the event that substitution becomes necessary, the Sponsor shall provide that such substituted Fund shares are generally comparable in character and quality to the Fund shares theretofore purchased under this Plan and meet with the reasonable approval of the Custodian, and are shares registered with the Securities and Exchange Commission under the Securities Act of 1933, as amended.

This provision goes on to describe the procedures the Sponsor must follow in order to effect a substitution, and then continues:

> In the event that Fund shares are no longer purchaseable for a period of more than 120 days, and neither the Sponsor nor the Custodian substitutes other Fund shares, it shall be conclusively presumed that it is necessary to terminate this plan, and in such event the Custodian is authorized to follow the procedure specified in article 9 below in case of termination in the event of delinquency.

The Bank contends that since a Receiver has been appointed for Technical Fund and since shares of Technical Fund cannot be purchased or redeemed, action is required to substitute a new underlying investment medium so that planholders may be able to complete their existing Plans. Therefore, the Bank proposes, upon approval of this application, to enter into an agreement with Enterprise pursuant to which Enterprise would become the underlying investment medium with respect to all future payments under existing Plans. The Bank also proposes, after approval of this application, to send to all Planholders a copy of the prospectus of Enterprise and a notice stating that on a given date, which will either be the 15th or the 30th day of a month, Planholders who so desire may resume their payments on the same schedule which was in effect for their Plans prior to the appointment of the Receiver as if the hiatus in making purchases had not taken place, and these payments will be applied to the purchase of shares of Enterprise at the net asset value of those shares in effect from time to time instead of the shares of Technical Fund. The Bank further proposes that the period of the Plans will be automatically extended by the number of months for which payments were not accepted by the Bank as Custodian. The Bank, moreover, represents that, in the case of Plans with insurance, the insurance will apply to the Plans as so extended.

Planholders who do not indicate that they wish to continue purchases under the existing Plans on the foregoing basis, and Planholders who fail to return the card, which will be provided them for the purpose of so indicating, within 30 days after the date of mailing of the notice, will not thereafter be permitted to have payments invested in either shares of Technical Fund or shares of Enterprise and their plans will be terminated as to all future payments. The administration of the plans of all Planholders with respect to the existing shares of technical fund held for their respective accounts is contingent upon future developments in the administration of technical fund itself.

On the date stated in the notice, and from that date on, the Bank, as Custodian, will apply all investments under existing Plans in accordance with the applicable payment schedule of each Planholder to the purchase of shares of Enterprise at the then current net asset value after deduction of all charges, other than the sales and creation charges, described in the Provisions and in the Plan's prospectus dated November 5, 1969.

Both Technical Fund and Enterprise seek growth of capital and both are only secondarily interested in income. While the investment objectives and policies of both funds are not exactly the same, there are many similarities.

Section 26(b) of the Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved the substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Bank represents that the requested substitution is consistent with the provisions of section 26(b) of the Act in that Planholders have paid a "front-end load" in connection with their purchase of Plans so that a major part of the entire sales and creation charge has been deducted from their first year's payments. If a new investment medium is not provided, the Bank contends that Planholders will, at best, be able to resume investments in Technical Fund only after some presently undetermined period of time which may be quite lengthy, and that Technical Fund, if reconstituted, will probably bear little resemblance to the fund in which Planholders originally chose to invest. If, on the other hand, Technical Fund is liquidated and a new investment medium is not provided, Planholders will lose the major benefit of their front-end load payments.

The Bank, believing that problems of administration of the unit investment trust would be severe if the new investment medium were not a fund located in Boston, limited its search for a new underlying investment medium to funds in the Boston area. Of these funds the Bank submits that Enterprise is a highly suitable underlying investment medium for the Plans.

Section 22(d). Section 22(d) provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus.

The Bank and Enterprise request an exemption pursuant to section 6(c) of the Act from the provisions of section 22(d) of the Act to the extent necessary to permit the Bank, as Custodian, to invest payments from Planholders, after applicable deductions other than sales and creation charges, in shares of Enterprise at net asset value. Shares of Enterprise are currently sold to the public at net asset value plus a sales charge.

The Bank and Enterprise contend that the Planholders have already suffered as a result of being unable to have their payments invested and as a result of being unable to redeem their existing investments since May 26, 1972. Since the number of eligible purchasers of shares of Enterprise will be relatively small, and since substantial equities appear to exist in favor of the Planholders, applicants represent that the proposed exemption will not result in discrimination against present Enterprise shareholders.

Section 6(c) of the Act provides that the Commission, by order upon application, may exempt any person, security or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 23, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-16887 Filed 10-3-72;8:49 am]

[File No. 500–1]

TRANS-EAST AIR, INC.

Order Suspending Trading

SEPTEMBER 26, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 27, 1972, through October 6, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-16892 Filed 10-3-72;8:49 am]

[811-568]

VALUE LINE FUND, INC.

Notice of Proposal To Terminate Registration

SEPTEMBER 27, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act); to declare by order upon its own motion that the Value Line Fund, Inc. (Fund), 5 East 44th Street, New

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York, NY 10017, formerly a Delaware corporation and registered under the Act as an open-end diversified management investment company, has ceased to be an investment company.

Fund registered under the Act on November 17, 1949. On March 29, 1972, shareholders of the Fund approved a proposal to merge the Fund with and into a newly organized Maryland corporation bearing the same name, the sole purpose of the merger being to change the place of incorporation of the Fund to effect a saving in State franchise taxes. The merger became effective on April 3, 1972, at which time all of the assets and liabilities of the Fund were transferred to the surviving company, and the corporate existence of the Fund as a Delaware corporation ceased to exist.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 18, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued on the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–16895 Filed 10–3–72;8:49 am]

[811–612]

VALUE LINE INCOME FUND, INC.

Notice of Proposal To Terminate Registration

SEPTEMBER 27, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that the Value Line Income Fund, Inc. (Fund), 5 East 44th Street, New York, NY 10017, formerly a Delaware corporation and registered under the Act as an open-end diversified management investment company, has ceased to be an investment company.

Fund registered under the Act on August 4, 1952. On March 29, 1972, shareholders of the Fund approved a proposal to merge the Fund with and into a newly organized Maryland corporation bearing the same name, the sole purpose of the merger being to change the place of incorporation of the Fund to effect a saving in State franchise taxes. The merger became effective on April 3, 1972, at which time all of the assets and liabilities of the Fund were transferred to the surviving company, and the corporate existence of the Fund as a Delaware corporation ceased to exist.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 18, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued on the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–16894 Filed 10–3–72;8:49 am]

[811–719]

VALUE LINE SPECIAL SITUATIONS FUND, INC.

Notice of Proposal To Terminate Registration

SEPTEMBER 27, 1972.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that the Value Line Special Situations Fund, Inc. (Fund), 5 East 44th Street, New York, NY 10017, formerly a Delaware corporation and registered under the Act as an open-end diversified management investment company, has ceased to be an investment company.

Fund registered under the Act on April 18, 1956. On March 29, 1972, shareholders of the Fund approved a proposal to merge the Fund with and into a newly organized Maryland corporation bearing the same name, the sole purpose of the merger being to change the place of incorporation of the Fund to effect a saving in State franchise taxes. The merger became effective on April 3, 1972, at which time all of the assets and liabilities of the Fund were transferred to the surviving company, and the corporate existence of the Fund as a Delaware corporation ceased to exist.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 18, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued on the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–16893 Filed 10–3–72;8:49 am]

TARIFF COMMISSION

[AA1921–100]

CAST-IRON SOIL-PIPE FITTINGS FROM POLAND

Determination of No Injury or Likelihood Thereof

SEPTEMBER 29, 1972.

The Treasury Department advised the Tariff Commission on June 30, 1972, that cast-iron soil-pipe fittings from Poland are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted Investigation No. AA1921–100 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 22, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of July 14, 1972 (37 F.R. 13839).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[1] determined that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of cast-iron soil-pipe fittings from Poland covered by the aforementioned less than fair value determination of the Treasury Department.

STATEMENT OF REASONS[2]

The Antidumping Act, 1921, as amended, requires that the Tariff Commission find two conditions satisfied before an affirmative determination can be made.

First, there must be injury, or likelihood of injury, to an industry in the United States, or an industry in the United States must be prevented from being established. Second, such injury (or likelihood of injury or prevention of establishment of an industry[3]) must be "by reason of" the importation into the United States of the class or kind of foreign merchandise the Secretary of the Treasury determined is being, or is likely to be, sold at less than fair value (LTFV).

In our judgment neither of the aforementioned conditions is satisfied in the instant case. Accordingly, we have made a negative determination based primarily on the following considerations:

1. Imports of cast-iron soil-pipe fittings from Poland—which Treasury's investigation covering the 12-month period July 1970 through June 1971 indicated were all sold at LTFV—have been extremely small in relation to the shipments by domestic producers into the three-State market area (New York, New Jersey, and Pennsylvania) where the imports were concentrated.

2. Prices of domestic cast-iron soil pipe increased almost steadily during 1967–71, and the only price decrease—a decline of less than 4½ percent in effect for about 2 months during 1970—was a consequence of competition among domestic producers.

3. In the period 1967–71, domestic shipments of cast-iron soil-pipe fittings into the three-State area where the LTFV imports were concentrated increased substantially, whereas total imports in general, and LTFV imports in particular, declined.

4. Prices of cast-iron soil-pipe fittings from Poland paid by the importer of such fittings have increased in recent years, and the supply available to the importer for sale in the United States has decreased markedly.

DESCRIPTION OF PRODUCT

Cast-iron soil-pipe fittings are made in specific shapes and sizes, and within the given specifications they are fungible products. Because of their high transportation costs relative to their value, such fittings are more profitably sold near their point of manufacture, or, as with imports, near their point of entry. Price is the principal factor of competition.

THE INDUSTRY

In making its determination in this case, the Commission gave consideration to all the facilities in the United States used in the production of cast-iron soil-pipe fittings. However, inasmuch as the sale of the LTFV imports was concentrated in the three-State area of New York, New Jersey, and Pennsylvania, the Commission gave special attention to U.S. facilities that produced most of the domestic cast-iron soil-pipe fittings sold in recent years in that area.

IMPORT PENETRATION

The ratio of LTFV imports to consumption of cast-iron soil-pipe fittings in the three-State area declined from 8.5 percent in 1967 to 2.7 percent in 1970 and 1971. Moreover, some 80 percent of the total LTFV imports during 1967–71 did not compete directly with domestically produced fittings because such imports were sold to certain domestic foundries that sourced their fittings almost exclusively from abroad.

The decline in import penetration in the three-State area occurred when the consumption of cast-iron soil-pipe fittings therein increased substantially—from about 23,000 short tons in 1967 to about 32,000 short tons in 1971. Inasmuch as LTFV imports, as well as all other imports of this product, declined during the period 1967–71, the upward trend in consumption reflects the significant increase in domestic shipments during those years. Indeed, domestic shipments increased each year, from about 21,000 tons in 1967 to about 30,000 tons in 1971.

PRICES

Prices of cast-iron soil-pipe fittings sold by the domestic industry in the three-State market area increased throughout the period 1967–71, except when the prevailing domestic price declined by about 4½ percent during a 2-month period in 1970. The upward trend in domestic prices was in response to the high demand for fittings in that market area. A proposed further price increase by the domestic producers of fittings was denied by the Price Commission in May 1972.

U.S. prices of LTFV imports increased steadily throughout the period 1967–71. Moreover, the rate of price increases on the LTFV imports was greater than that on the domestic products, resulting in a narrower spread between domestic and LTFV import prices. No evidence was obtained by the Commission that prices for domestic fittings were depressed or suppressed by LTFV imports. Prices of imported cast-iron soil-pipe fittings from Poland paid by the importer of such fittings have been increasing and the supply available for export to the United States is expected to be curtailed as demand in that country and elsewhere increases.

FINANCIAL EXPERIENCE

The financial data made available to the Commission by the domestic producers covered the period 1967–71, the period in which domestic sales increased substantially at generally rising prices. In our judgment there is no evidence of a causal connection between the LTFV sales and the financial health of the industry.

CONCLUSION

On the basis of the foregoing, we conclude that the domestic industry is not being, or is not likely to be, injured by reason of imports of cast-iron soil-pipe fittings from Poland.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72–16950 Filed 10–3–72;8:54 am]

[AA1921–104]

COLOR TELEVISION PICTURE TUBES FROM JAPAN

Notice of Investigation and Hearing

Having received advice from the Treasury Department on September 26,

[1] Vice Chairman Parker was absent and Commissioner Young did not participate.

[2] Commissioner Ablondi concurs in the result.

[3] Prevention of establishment of an industry is not an issue in this investigation.

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1972, that color television picture tubes from Japan are being, or are likely to be, sold at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, DC. beginning at 10 a.m., e.s.t., on November 28, 1972. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon, Thursday, November 23, 1972.

Issued: September 29, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-16952 Filed 10-3-72;8:54 am]

[AA1921-99]

DRYCLEANING MACHINERY FROM WEST GERMANY

Determination of Injury

SEPTEMBER 29, 1972.

On June 29, 1972, the Tariff Commission received advice from the Treasury Department that drycleaning machinery from West Germany is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-99 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 15 and 16, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of July 14, 1972 (37 F.R. 13840).

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined[1] that an industry in the United States is being injured by reason of the importation or drycleaning machinery from West Germany that is being or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS OF CHAIRMAN BEDELL, VICE CHAIRMAN PARKER, COMMISSIONER LEONARD, AND COMMISSIONER MOORE[2]

The imported drycleaning machinery that is the subject of this investigation includes machines equipped with a coinmetering device and those not so equipped. These imported machines, like those produced domestically, utilize a solvent to remove soils and stains from textile fabrics, clothing, or other made-up textile articles.

THE INJURED DOMESTIC INDUSTRY

In 1971, drycleaning machines were produced by 18 firms in the United States; 14 of these firms produced units having capacities of 16 pounds and over per load. The bulk of the U.S. output of coin-operated units having load capacities of 16 pounds and over was supplied by firms which are predominantly manufacturers of noncoin-operated machines, whereas small capacity coin-operated units were made primarily by manufacturers of household-type washing machines.

We have determined that the domestic industry injured by the less than fair value (LTFV) imports herein considered consists of facilities in the United States used in the production of all types of drycleaning machines irrespective of their load capacities.[3]

MARKET PENETRATION

The Treasury Department's investigation showed that about half of the drycleaning machines exported to the United States from West Germany during the period covered by its investigation were sold at LTFV. We find that the price advantage afforded by such sales in the United States at LTFV enabled West German exporters of drycleaning machines to make severe inroads into an already declining market.

The value of apparent U.S. consumption of drycleaning machines declined irregularly from $16.3 million in 1968 to $15.8 million in 1971 (a decline of 5 percent). This decline in consumption was largely attributable to the widespread use of the new wash-and-wear fabrics that do not require drycleaning and to the trend towards a less formal style of dress among young people.

During 1968–71 annual U.S. imports (including fair value imports) of all types and sizes of drycleaning machines from the two LTFV suppliers in West Germany ranged from 9 percent in 1969 to 19 percent in 1970 of the value of apparent U.S. consumption. A small decline in import penetration occurred in 1971 subsequent to the filing of the dumping complaint with the Treasury Department in March 1971.

The market penetration by LTFV imports is more than adequate to warrant an injury determination. Moreover, it should be noted that the data presented above are based on the reported dutiable value of the imported drycleaning machinery. If the wholesale value of the imports in the U.S. market (i.e., a value comparable to the wholesale value of domestic machines) was used in the foregoing computations, significantly higher penetration percentages would result.

PRICE SUPPRESSION

In the presence of LTFV imports in the U.S. market, the prices realized by U.S. producers on their sales of drycleaning machines have been suppressed. Prices received by U.S. producers for the machines that were found by Treasury to have been sold at LTFV remained static or showed relatively insignificant increases during 1969–71, a period in which the manufacturing costs of these firms were increasing rapidly, and during which the wholesale price index for textile machinery increased by 12 percent. This price suppression has denied the U.S. producers an opportunity to offset increasing production costs and coupled with a decline in sales volume has led to the deterioration of profits which is discussed below.

The adverse effect of LTFV prices upon the level of prices in the U.S. market is borne out in the bid prices offered to the Veterans Administration during 1971 and 1972. On those procurements where direct domestic and foreign competition existed, the largest LTFV importer underbid a domestic producer by margins ranging between 25 and 50 percent. Sales of some units to the Veterans Administration were found by Treasury to have been made at LTFV. The LTFV margin contributed substantially to the margin of underselling of those units.

PROFIT-AND-LOSS EXPERIENCE OF DOMESTIC PRODUCERS

The Commission received profit-and-loss data from U.S. firms which accounted for about half of the total value of U.S. sales of all drycleaning machines produced in the United States during 1967–71. The firms supplying these data were predominantly producers of drycleaning machines having load capacities of 16 pounds and over. The data received indicate that the drycleaning machinery operations of those firms were profitable in 1967 and 1968; they had small losses in 1969, and loss ratios as a percent of net sales of 18 and 16 percent, respectively, in 1970 and 1971, the period of the Treasury's investigation. There can be no doubt that the price suppression resulting from the LTFV sales contributed materially to the lack of profitability in the industry.

CONCLUSION

In summary, the LTFV imports have enabled foreign suppliers to obtain a large share of the U.S. market for drycleaning machines (19 percent in 1970) during a period when overall U.S. demand for these machines was declining. The domestic industry's declining market share, combined with price suppression—both resulting from LTFV sales—have adversely affected the financial health of the domestic industry. Accordingly, we have determined that an industry in the United States is being injured by reason of such LTFV imports.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-16951 Filed 10-3-72;8:54 am]

[1] Commissioner Young did not participate in the investigation.

[2] Commissioner Ablondi concurs in the result.

[3] Vice Chairman Parker and Commissioner Moore note that the brunt of the injury to the domestic industry has been borne by those facilities used in the production of drycleaning machines having load capacities of 16 pounds and over.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ARKANSAS DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Their Enforcement; Notice of Submission of Plan and Availability for Public Comment

1. Submission and description of Plan. Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of Arkansas has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Department of Labor as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1).

The plan includes proposed draft legislation to be considered by the Arkansas Legislature during its 1973 session. Under the legislation the Department of Labor will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of employees of the United States or employees protected under other Federal Occupational Safety and Health Laws such as the Atomic Energy Act of 1954, 42 U.S.C. 2021; the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801; and the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 941.

The legislation further proposes to bring the plan into conformity with the requirements of 29 CFR Part 1902 in areas such as procedures for variances and the protection of employees from hazards, procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; procedures for prompt restraint, or elimination of imminent danger situations.

The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provisions for prompt notice to employers and employees of alleged violations of standards and abatement requirements; a system of sanctions against employers for violations of standards and others; employer right of review and employee participation in review proceedings, and coverage of employees of political subdivisions.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Arkansas. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 including provision for a merit system for personnel upon enactment of the proposed legislation by the State legislature.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 305, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Department of Labor, Seventh Floor, Texaco Building, 1512 Commerce Street, Dallas, TX 75201; Office of the Commissioner, Department of Labor, Capitol Hill Building, Little Rock, Ark. 72201. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given 30 days from the day of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 305, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 29th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-16909 Filed 10-3-72;8:51 am]

CONSTRUCTION SAFETY ADVISORY COMMITTEE

Notice of Meeting

Notice is hereby given that the Construction Safety Advisory Committee, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet at 9 a.m. on Wednesday, October 11, 1972, in Room 216 A and B of the Main Labor Building, 14th Street and Constitution Avenue NW., Washington, DC.

The committee will take up the matter of improvement of standards relating to tunnel construction and such other matters as the Assistant Secretary of Labor for Occupational Safety and Health may wish to bring before it.

The meeting shall be open to the public.

Signed at Washington, D.C., this 29th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-16910 Filed 10-3-72;8:51 am]

UNITED STATES LINES, INC.

Withdrawal of Application for Variance

On May 10, 1972, United States Lines, Inc., One Broadway, New York, NY 10004, made application pursuant to section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1594) and 29 CFR 1905.10 for a temporary variance, and for an interim order pending a decision on the application for the variance, from the standard prescribed in 29 CFR 1918.-85(b)(3) and (5), concerning the weighing of containerized cargo. Notice of the application, and of the granting of an interim order pending a decision on the application, was published in the FEDERAL REGISTER on July 19, 1972 (37 F.R. 14346). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or

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denial of the variance. In addition, affected employers and employees were permitted to request a hearing on the application for a variance. One petition has been filed, requesting a public hearing on the application.

On September 5, 1972, a request was received from United States Lines, Inc., to withdraw its May 10, 1972, application for a variance. The request was granted. Accordingly, the petition for a hearing on the application for a variance of the United States Lines is hereby denied, because the application is no longer before the Assistant Secretary of Labor for action. For the same reason the interim order granted to United States Lines, pending action on its application, is deemed terminated.

Signed at Washington, D.C., this 29th day of September 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-16972 Filed 10-3-72;8:56 am]

INTERSTATE COMMERCE COMMISSION

[Notice 90]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 30837 Sub 440, Kenosha Auto Transport Corp. Extension-Import Automobiles, MC 52657 Sub. 685, Arco Auto Carriers, Inc., Extension-Import Automobiles, now assigned October 2, 1972, at St. Paul, Minn., hearing is postponed indefinitely.

MC 83835 Sub 87, Wales Transportation, Inc., continued to October 18, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 51146 Sub 247, Schneider Transport, Inc., hearing continued to October 25, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-2202 Sub 401, Roadway Express, Inc., hearing continued to October 13, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106398 Sub 607, National Trailer Convoy, Inc., application is dismissed.

MCF-11586, Aero Trucking, Inc.—Purchase (Portion)—Kenyon Motor Express, Inc. (directly/related) MC 60014 Sub 31, Aero Trucking, Inc., now being assigned November 6, 1972, at Columbus, Ohio, in a hearing room to be later designated.

MC-F-11504, Indianhead Truck Line, Inc.—Control and Merger—Dundee Truck Line, Inc., et al., now assigned December 20, 1972, at Columbus, Ohio, is postponed indefinitely.

MC-51312 Sub 12, Bowling Green Transfer, Inc., now being assigned December 20, 1972 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC 109397 Sub 277, Tri-State Motor Transit Co., now being assigned December 21, 1972 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 2890 Sub 43, American Buslines, Inc., Extension—Sterling, Colo., now being assigned November 14, 1972 (2 days), at Sidney, Nebr., in a hearing room to be later designated.

MC-113459 Sub 70, H. J. Jeffries Truck Line, Inc., now being assigned hearing November 2, 1972 (1 day), at Dallas, Tex., in a hearing room to be later designated.

MC-115841 Sub 434, Colonial Refrigerated Transportation, Inc., now being assigned hearing November 3, 1972 (1 day), at Dallas, Tex., in a hearing room to be later designated.

MC-F-11545, Miller Transfer and Rigging Co.—Purchase—Engel Trucking, Inc., et al., now being assigned hearing November 1, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 61592 Sub 270, Jenkins Truck Line, Inc., now being assigned hearing November 7, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 114211 Sub 169, Warren Transport, Inc., and MC 123048 Sub 215, Diamond Transportation System, Inc., now being assigned hearing November 14, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 51146 Sub 211, Schneider Transport & Storage, Inc., now being assigned continued hearing December 18, 1972 (3 days), at Phoenix, Ariz., in a hearing room to be later designated.

MC 133565 Sub 7, TrueTransport, Inc., now assigned October 30, 1972, at New York City, N.Y., is postponed to January 8, 1973, at New York City, N.Y., in a hearing room to be later designated.

MCF-11023, Dundee Truck Line, Inc.—Control—Modern Motor Express, Inc., MC 109914 Sub 27, Dundee Truck Line, Inc., now assigned November 6, 1972, at Columbus, Ohio, hearing is postponed indefinitely.

MC-C-7330, Allied Van Lines, Inc. vs. Clark Transfer, Inc., now being assigned hearing November 1, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-16969 Filed 10-3-72;8:56 am]

[Ex Parte 241; Rule 19, 2d Rev. Exemption 19]

BALTIMORE AND OHIO RAILROAD CO. ET AL.

Exemption from Mandatory Car Service Rules

It appearing, that there has been a substantial increase in the movement of grain and grain products originating at stations on the railroads listed herein; that major harvests of corn, milo, and soybeans are commencing in the areas served by these railroads; that boxcar supplies available to these railroads are inadequate to meet all of the needs of the shippers served by them; that surpluses of plain boxcars exist on certain railroads; and that these railroads have consented to the use of their cars by the railroads listed herein.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Treziser, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and regardless of door width, owned by the following railroads:

The Baltimore and Ohio Railroad Co.
Bangor and Aroostook Railroad Co.
The Chesapeake and Ohio Railway Co.
Delaware and Hudson Railway Co.
The Denver and Rio Grande Western Railroad Co.
Illinois Terminal Railroad Co.
Toledo, Peoria & Western Railroad Co.

are exempt from the provisions of Car Service Rules 1 and 2 when located empty on, or loaded by, any of the lines named below:

The Atchison, Topeka and Santa Fe Railway Co.
Burlington Northern Inc.
The Colorado and Southern Railway Co.
Fort Worth and Denver Railway Co.
Chicago & Eastern Illinois Railroad Co.
Chicago and North Western Railway Co.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
Chicago, Rock Island and Pacific Railroad Co.
Illinois Central Gulf Railroad Co.
The Kansas City Southern Railway Co.
Missouri-Kansas-Texas Railroad Co.
Missouri Pacific Railroad Co.
Norfolk and Western Railway Co.
(Lines Connersville, Indiana, and Montpelier, Ohio, and west, including stations on line between Connersville and Montpelier via New Castle, Muncie, Bluffton, Kingsland, Fort Wayne, and Butler, Ind.)
St. Louis-San Francisco Railway Co.
St. Louis Southwestern Railway Co.
Soo Line Railroad Co.
Union Pacific Railroad Co.

Effective September 30, 1972.

Expires November 15, 1972.

Issued at Washington, D.C., September 27, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-16965 Filed 10-3-72;8:55 am]

[Ex Parte 241; Rule 19, Exemption 22]

ATCHISON, TOPEKA, AND SANTA FE RAILWAY CO. ET AL.

Exemption from Mandatory Car Service Rules

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

The Atchison, Topeka and Santa Fe Railway Co.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.
Union Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued by Fred Ofcky, supplements thereto or consecutive issues thereof.

Effective October 1, 1972.

Expires October 31, 1972.

Issued at Washington, D.C., September 27, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-16966 Filed 10-3-72;8:55 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 29, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Tennessee Docket No. MC 5835, filed July 11, 1972. Applicant: THOMAS RICHARDSON, W. E. RICHARDSON, AND JACKIE RICHARDSON, doing business as RICHARDSON TRUCKING CO., INC., Tiptonville, Tenn. 38079. Applicant's representative: James H. Smith, Box 212, Tiptonville, TN 38079. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except household goods, explosives, and commodities requiring special equipment, from Dyersburg, Tenn., to Bogota, Ridgely, Tiptonville, Samburg, Hornbeak, Troy, Obion, Trimble, Newbern, and back to Dyersburg, Tenn. Both intrastate and interstate authority sought.

HEARING: October 18, 1972, at the Commission's Courtroom, C-1 Cordell Hull Building, Nashville, Tenn., at 1:30 p.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 21834 (Sub-No. 3) (amendment), filed September 12, 1972, published in the FEDERAL REGISTER issue of September 27, 1972 and republished as amended this issue. Applicant: MAURICE SMITH AUSLEY II, doing business as AUSLEY MOTOR FREIGHT, 1911 Northwest First Street, Oklahoma City, OK. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, (1) between Oklahoma City, Okla., and Cyril, Okla., over U.S. Highway 66 to its intersection with U.S. Highway 281, near Bridgeport, Okla., thence south on U.S. Highway 281 to its intersection with Oklahoma State Highway 19 at Apache, Okla., thence east on Oklahoma State Highway 19 to Cyril, Okla., serving the intermediate points of Anadarko and Apache, and the off route point of Stecker, Okla.; (2) between Anadarko, Okla., and Cyril, Okla., over Oklahoma State Highway 8; (3) as an alternate route, for operating convenience only, serving no intermediate points between Oklahoma City, Okla., and Anadarko, Okla., over U.S. Highway 62 to its intersection with H. E. Bailey Turnpike, thence Southwest on H. E. Bailey Turnpike to its intersection with U.S. Highway 62 at Chickasha, Okla., thence West on U.S. Highway 62 to Anadarko, Okla. Applicant requests his entire authority including the above requested routes be unitized to allow a complete service between all points requested to be served on the above routes, and all points on the routes which applicant is presently authorized to serve. Applicant also requests authority to conduct operations in both intrastate and interstate and foreign commerce over the above routes. NOTE: The purpose of this republication is to redescribe the authority sought.

HEARING: November 6, 1972, 9 a.m., third floor, Jim Thorpe Office Building, Oklahoma City, Okla. 73105. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 23466 (Sub-No. 2), filed September 22, 1972. Applicant: CENTRAL OKLAHOMA FREIGHT LINES, INC., 207 North Cincinnati, Tulsa, OK 74103. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, Post Office Box 75124, Oklahoma City, OK 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except those of unusual value, classes A and B explosives, household goods, commodities in bulk and commodities requiring special equipment, between Oklahoma City and Shawnee, Okla., serving all intermediate points, from Oklahoma City, Okla., over U.S. Highway 270 to Shawnee, Okla., and return over the same route, from Oklahoma City, Okla., over U.S. Highway 40 to Shawnee, Okla., and return over the same route. NOTICE: Notice is given that application includes the request to unitize applicant's present authority, and, if granted, the authority sought in this application, to provide service to, from and between all points under applicant's combined authorities. Both intrastate and interstate authority sought.

HEARING: On October 23, 1972, 9 a.m., in the Court Room of Corporation Commission of Oklahoma, Jim Thorpe Building, Oklahoma City, Okla. 73105. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Corporation Commission of Oklahoma, Jim Thorpe Building, Oklahoma City, Okla. 73105 and should not be directed to the Interstate Commerce Commission.

California Docket No. 53597 filed September 21, 1972. Applicant: MISSION CITIES FREIGHT LINES, INC., 1005 Railroad Avenue, Santa Clara, CA 95050. Applicant's representative: Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of (1) *General commodities*, except as hereinafter provided, between all points and places in the San Francisco Territory, which is described as follows: SAN FRANCISCO TERRITORY includes all of the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its interary line to a point 1 mile west of and section with Southern Pacific Co. right of way at Arastradero Road; southeasterly along the Southern Pacific Co. right of way to Pollard Road, including industries served by the Southern Pacific

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Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right of way; southerly along the Southern Pacific Co. right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning; except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A. (2) Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Cement. (8) Logs, and (9) Commodities of unusual extraordinary value. (2) The following specific commodities: Tile, linoleum, carpet and carpet padding, paint, conduit fittings and appliances between all points on or within 10 miles of the following routes: (A) State Highway 17 between its intersection with Los Gatos-San Jose Road at Los Gatos and it intersection with State Highway 1 at Santa Cruz, inclusive. (B) State Highway 1 between its intersection with State Highway 17 at Santa Cruz and its intersection with State Highway 68 at Monterey, inclusive. (C) State Highway 156 west from its intersection with State Highway 1 at Castroville to its intersection with U.S. Highway 101, inclusive. (D) State Highway 68 between its intersection with State Highway 1 at Monterey and its intersection with U.S. Highway 101 at Salinas, inclusive. (E) U.S. Highway 101 between its intersection with State Highway 68 at Salinas and its intersection with Tully Road at San Jose, inclusive. (F) State Highway 156 east between its intersection with U.S. Highway 101 near San Juan Bautista and its intersection with State Highway 152, inclusive. (G) State Highway 152 between its intersection with State Highway 156 east and its intersection with U.S. Highway 1 at Watsonville, inclusive. (3) Through routes and rates may be established between any and all points specified in paragraphs 1 and 2 above. (4) All intermediate points on said routes and all off-route points within the outer perimeters of the routes designated herein may be served. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the California Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-16967 Filed 10-3-72;8:56 am]

[Notice 26]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 29, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC–84728 (Deviation No. 7), SAFEWAY TRAILS, INC., 1200 Eye Street NW., Washington, DC 20005, filed September 19, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 29 and Maryland Highway 103 at or near Ellicott City, Md., over U.S. Highway 29 (an access road) to junction Interstate Highway 70N to junction Interstate Highway 70N, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) from junction U.S. Highway 29 and Maryland Highway 198 at Burtonsville, Md., over U.S. Highway 29 to junction U.S. Highway 40 at Ellicott City, Md., thence over U.S. Highway 40 to Baltimore, Md., and (2) from junction U.S. Highway 40 and Interstate Highway 695 at or near Fullerton, Md., over Interstate Highway 695 to junction with the Baltimore-Washington Parkway, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-16968 Filed 10-3-72;8:56 am]

[Notice 80]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 29, 1972.

The following publications[1] are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 119493 (Sub-No. 74) (Republication), filed June 9, 1971, published in the FEDERAL REGISTER issue of July 9, 1971, and republished this issue. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt, Post Office Box 1196, Joplin, MO 64801. A decision and order of the Commission, Review Board No. 3, dated September 13, 1972, and served September 22, 1972, finds that operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, in Part (3) of the application, of weed killing compounds, in containers, from Military, Kans., to points in Idaho, Minnesota, Montana, North Dakota, South Dakota, and Washington; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. That since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 125650 (Sub-No. 7) (Republication), filed January 21, 1971, published in the FEDERAL REGISTER issue of February 19, 1971, and republished this issue. Applicant: MOUNTAIN PACIFIC TRUCKING CORPORATION, 910 Dickens Street, Missoula, MT 59801. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, WA 98014. A decision and order of the Commission, Review Board No. 1, dated September 14, 1972, and served September 22, 1972, finds that operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods, canned goods, potato products, poultry, and meat from points in Idaho and Ontario, Oreg., to points in Montana, restricted against the transportation of meat from Roberts, Idaho, to points in Montana; and (2) canned goods from Salt Lake City, Roy, and Clearfield, Utah, to points in Montana, except Great Falls, Mont.; the authority granted in (1) and (2) above, restricted to traffic destined to points in Montana; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the appendix hereto, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 135728 (Republication), filed June 21, 1971, published in the FEDERAL REGISTER issue of July 22, 1971, and republished this issue. Applicant: RICHARD J. FRANKS, 6 Maple Street, Alliston, ON, Canada. Applicant's representative: Samuel Rosenthal, 530 Walbridge Building, Buffalo, N.Y. 14202. A report and order of the Commission, recommended by Hearing Examiner, effective September 11, 1972, served September 21, 1972, finds that the present and future public convenience and necessity require operation by applicant, as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, of rough and dressed lumber, between ports of entry along the United States-Canada International boundary line in the States of New York and Michigan (except those in the Upper Peninsula of Michigan), on the one hand, and, on the other, points in New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, Wisconsin, Massachusetts, and Vermont. The Hearing Examiner further finds that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition or other relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES OF FILING OF PETITIONS

No. MC 5812 (Notice of filing of petition for clarification and modification of certificate), filed September 13, 1972. Petitioner: JOHN P. SORICE, doing business as JOHN P. SORICE TRUCKING, 150 Rosewood Avenue, Washington, PA 15301. Petitioner's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Petitioner presently holds a certificate in No. MC 5812 issued March 10, 1941, authorizing, as pertinent, operation as a common carrier by motor vehicle, over irregular routes of *heavy machinery* between points and places in that part of Pennsylvania south of U.S. Highway 422 and west of U.S. Highway 119, on the one hand, and, on the other, points and places in that part of Ohio east of U.S. Highway 23 and north of U.S. Highway 50, and that part of West Virginia north of U.S. Highway 50, including points and places on the indicated portions of the highways specified. By the instant petition, petitioner seeks to modify its certificate, for clarification purposes, by replacing the commodity description *heavy machinery* with (a) *Machinery;* (b) *Commodities* which because of size or weight, require the use of special equipment or special handling, and *related machinery parts and related contractors' equipment, materials and supplies* when their transportation is incidental to the transportation of commodities which because of size or weight require the use of special equipment; and, (c) *Self propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith. Any interested person desiring to participate may file one original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 12977 (Notice of filing of petition for removal of restriction), filed September 18, 1972. Petitioner: (HILLSEN'S) HOLIDAY TOURS, 1521 West Highland, Redlands, Calif. 92373. Petitioner's representative: Murchison & Davis, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Petitioner presently holds a license in No. MC 12977, issued December 2, 1968, authorizing brokerage service for passengers and their baggage, in round trip tours, (1) beginning and ending at points in San Bernardino, Kern, and Fresno Counties, Calif., and extending to points in the United States (except Alaska and Hawaii), (2) beginning and ending at points in Contra Costa, San Mateo, Santa Clara, and San Diego Counties, Calif., and extending to points in the United States (except Alaska and Hawaii), (3) beginning and ending at points in Los Angeles and Orange Counties, Calif., and extending to points in the United States (except Alaska and Hawaii), and (4) beginning and ending at points in San

[1] Except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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Bernardino and Riverside Counties, Calif., and extending to points in the United States. Restriction: Subject to the right of the Commission, which is hereby expressly reserved, to impose, after final determination of the proceeding in Ex Parte No. MC 29 (Sub-No. 2), *Operations of Brokers and Passenger Transportation*, such terms and conditions, if any, as may be deemed necessary to insure that the transportation which applicant arranges is limited to bona fide service as a broker of transportation by motor vehicle of passengers and their baggage, in round trip tours, and authorized to engage in the above-specified operations as a broker at Redlands, Calif. By the instant petition, petitioner seeks removal of the restrictive language "authorized to engage in the above-specified operations as a broker at Redlands, Calif." from its license. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 41706 (Sub-No. 9) (Notice of filing of petition for removal of restriction), filed September 6, 1972. Petitioner: TOSE, INC., 64 West 4th Street, Bridgeport, PA 19405. Petitioner's representative: Anthony C. Vance, 1111 E Street NW., Suite 501, Washington, DC 20004. Petitioner presently holds a certificate in No. MC 41706 (Sub-No. 9), issued January 16, 1970, authorizing, as pertinent, operation as a common carrier by motor vehicle, over irregular routes, of *such merchandise* as it's ordinarily dealt in by retail stores, premium redemption companies, and mail-order houses, between New York, N.Y., Washington, D.C., points in Fairfield, Hartford, and New Haven Counties, Conn., Albany, Columbia, Dutchess, Fulton, Greene, Montgomery, Nassau, Orange, Putnam, Rensselaer, Rockland, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and points in Delaware, Maryland, New Jersey, and Pennsylvania. Restriction: (1) Restricted against the traffic transportation between Washington, D.C., on the one hand, and, on the other, points in Maryland; and (2) limited to delivery to the customers (ultimate consumers) of retail stores, premium redemption companies, and mail-order houses, and the transportation of shipments of this character returned by such customers to the shippers, and shall be restricted against transportation of any commodity intended for resale, manufacturing, or other commercial processing, and no transportation shall be provided for any shipment weighing more than 250 pounds. For the purpose of this restriction, a package or group of packages from a single consignor to a single consignee at a single destination shall be considered a shipment. By the instant petition, petitioner seeks modification of restriction section (2) above by removal of the restrictive language "limited to delivery to the customers (ultimate consumers) of retail stores, premium redemption companies, and mail-order houses, and the transportation of shipments of this character returned by such customers to the shippers, and shall be restricted against transportation of any commodity intended for resale, manufacturing, or other commercial processing". Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 95540 (Sub-No. 814) (Notice of filing of petition for modification of certificate), filed August 3, 1972. Petitioner: WATKINS MOTOR LINES, INC., 1120 West Griffen Road, Lakeland, FL 33801. Petitioner's representative: A. J. Swanson, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Petitioner presently holds a certificate in No. MC 95540 (Sub-No. 814), issued June 27, 1972, authorizing operation as a common carrier by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk and except meats, meat products, meat byproducts and articles distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from points in Texas to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee (except Memphis and points in its commercial zone as defined by the Commission), with no transportation for compensation on return except as otherwise authorized. Restriction: (a) Restricted against the transportation of canned foodstuffs originating at the plantsite and storage facilities of Campbell Soup Co., at Paris, Tex., and destined to points in Alabama, Florida, and Georgia; and (b) restricted against the transportation of unfrozen foods from Dallas and Fort Worth, Tex., and points in their commercial zones as defined by the Commission, to Birmingham, Huntsville, and Decatur, Ala., and points in the Atlanta, Ga., commercial zone as defined by the Commission; and (c) restricted against the transportation of nonfrozen foods from Houston, Tex., and points in its commercial zone as defined by the Commission, to Atlanta, Ga., and Birmingham, Ala., and points in their commercial zones as defined by the Commission; and (d) service at points in Tennessee restricted to shipments destined to points in Tennessee.

(2) *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk and except frozen prepared foods), from points in Texas to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. Restriction: Restricted against the transportation of nonfrozen foods from Dallas and Fort Worth, Tex., and points in their commercial zones as defined by the Commission, to Charleston and Huntington, W. Va., and points in their commercial zones as defined by the Commission. (3) *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk), from points in Texas to points in Connecticut, Delaware, Maine, New Hampshire, Virginia, and Vermont, with no transportation for compensation on return except as otherwise authorized. (4) *Frozen fruits, berries, vegetables, and foodstuff concentrates*, from points in Texas (except San Antonio), to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. (5) *Frozen foods*, from San Antonio, Tex., to points in Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks modification of its certificate to remove the restrictive language "in vehicles equipped with mechanical refrigeration" from the above listed sections (1), (2), and (3). Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 105678 (Sub-Nos. 13, 18 and 22) (Notice of Filing of Petition for Modification of Permit To Add Shipper), Filed August 22, 1972. Petitioner: SECO TRUCKING CO., a corporation, 219 North Jackson Avenue, Post Office Box 887, Mason City, IA 50401. Petitioner's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Petitioner presently holds in No. MC 105678 (Sub-No. 13) a motor contract carrier permit authorizing, as pertinent, the transportation, over irregular routes, of: (1) *Explosives and explosives supplies*, except liquid nitroglycerin, from the sites of the plants and magazines of the Atlas Chemical Industries, Inc., at Atlas, Mo., and points in Missouri within 10 miles thereof to points in Illinois, North Dakota, and South Dakota; (2) *Blasting agents, ammonium nitrate and nitro-carbo-nitrate*, from the sites of the plants and magazines of the Atlas Chemical Industries, Inc., at Atlas, Mo., and points in Missouri within 10 miles thereof, to points in Iowa, Minnesota, Wisconsin, Illinois, Nebraska, North Dakota, and South Dakota; and returned shipments of the commodities described in (1) and (2) above. Restriction: Limited to a transportation service to be performed under a continuing contract, or contracts with; Atlas Chemical Industries, Inc. (ICI America, Inc.), of Wilmington, Del. and The Bowen Corp. Mason City, Iowa; in No. MC 105678 (Sub-No. 18) petitioner is authorized to transport:

(1) *Explosives and blasting supplies*, except in bulk, from Atlas, Mo., and the magazines of Atlas Chemical Industries, Inc., at or near Baxter Springs, Kans., and Picher, Okla., to points in Minnesota, Wisconsin, Michigan, Kansas, Arkansas, Indiana, Ohio, Illinois, Pennsylvania, Missouri, Iowa, North Dakota, South Dakota, and Nebraska; and returned shipments of the commodities described above; and also shipping (2) *Ingredients, materials and supplies* used in the manufacture and sales of explosives and blasting supplies, except in bulk, from the above-named destination States to the above-named origins (except Missouri, North Dakota, South Dakota, and Nebraska), Restriction: Limited to a transportation service to be performed, under a continuing contract, or contracts, with ICI America, Inc., of Wilmington, Del.: in No. MC 105678 (Sub-No. 22) petitioner is authorized to transport the same commodities with the same origins, or destinations on return, and the same restrictions as immediately above-named, to destination or returning origin points, as applicable, in Arizona, Louisiana, New Mexico, Oklahoma, and Texas. By the instant petition, petitioner seeks to modify its permits by adding an additional shipper of Trojan U.S. Powder Division of Commercial Solvents Corp. to be served under a continuing contract, or contracts. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

(Notice of Filing of Petition for Modification of certificates), filed August 15, 1972. Petitioner: INTER-STATE TRUCK LINE, INC., 555 South 16th Street, Columbia, PA 17512. Petitioner's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Petitioner presently holds a certificate in No. MC 111473 issued January 12, 1950, authorizing operation as a common carrier by motor vehicle, over irregular routes, of: (1) *Wearing apparel*, in boxes and cases, from points and places in that part of Pennsylvania on, east and south of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 11 to Harrisburg, Pa., thence along U.S. Highway 22 to the Pennsylvania-New Jersey State line, to New York, N.Y.; (2) *Materials and supplies* used in or useful in the manufacture of wearing apparel, from New York, N.Y., to the above-described Pennsylvania territory; (3) *Ladies' wearing apparel*, loose, on hangers, or racks, from Newville, Pa., to New York, N.Y.; (4) *Hangers* for the above-specified commodities, from New York, N.Y., to Newville, Pa., and authority to traverse New Jersey for operating convenience only; and (5) *General commodities*, except those of unusual value, and except household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, between New York, N.Y., on the one hand, and, on the other, points and places in New Jersey within 25 miles of Columbus Circle, New York, N.Y. The above-named carrier is also authorized to perform the through service in the transportation of authorized commodities under a combination of the authorities described in section (A) on the one hand, and, on the other, section (B), when under one such section the carrier is authorized to transport the shipment to a gateway point from which the shipment may be transported under another section, provided in each instant the movement is made through the authorized gateway point. Petitioner also holds a certificate in No. MC 111473 (Sub-No. 1) issued January 12, 1950, authorizing similar transport of:

(1) *Wearing apparel*, in boxes and cases, from New York, N.Y., to points and places in that part of Pennsylvania on, east, and south of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 11 to Harrisburg, Pa., thence along U.S. Highway 22 to the Pennsylvania-New Jersey State line; (2) *materials and supplies* used in the manufacture of wearing apparel, from the above-specified destination points and places to New York, N.Y., and (3) *ladies' wearing apparel*, on hangers, from Harrisburg, Pa., to New York, N.Y., with no transportation for compensation on return except as otherwise authorized, and authority to traverse New Jersey for operating convenience only. By the instant petition, petitioner seeks modification of its certificates to remove the restrictive language "in boxes and cases" from the above listed sections (1) of both certificates. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 114239 and MC 114239 (Sub-No. 12) (Notice of Filing of Petition for Modification), July 17, 1972. Applicant: FARRIS TRUCK LINE, a corporation, Faucett, Mo. Applicant's representative: Warren H. Sapp, 450 Professional Building, Kansas City, Mo. 64106. Petitioner holds authority under MC 114239, authorizing, as here pertinent, the transportation, in interstate or foreign commerce, over irregular routes, of: Urea, in dry form, in bulk, except in tank or hopper vehicles, from the site of the plant of W. R. Grace & Co., at or near Woodstock, Tenn., and from the warehouses of W. R. Grace & Co., at Memphis, Tenn., to points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized above are subject to a transportation service to be performed under a continuing contract, or contracts, with W. R. Grace & Co. Applicant's permit under MC 114239 (Sub-No. 12), authorizes the transportation, in interstate or foreign commerce, over irregular routes, of: Fertilizer, (except in tank vehicles), from the plantsite of Illinois Nitrogen Co. at Marseilles, Ill., to points in Indiana, Michigan, Wisconsin, Minnesota, Ohio, Iowa, Missouri (except points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission), Kansas, Nebraska, South Dakota, and Kentucky, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to transportation service to be performed under a continuing contract, or contracts, with W. R. Grace & Co., of Memphis, Tenn. By the instant petition, petitioner seeks to amend the permits issued to it in MC 114239 and MC 114239 (Sub-No. 12) by deleting therefrom the words "except in tank or hopper type vehicles," and "except in tank vehicles," respectively. Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 116923 (Sub-No. 2) (Notice of Filing of Petition for Modification of Certificate), filed July 14, 1972. Petitioner: KRAMER TRUCKING CO., INC., Elizabeth, N.J. Petitioner's representative: Paul F. Sullivan, Washington Building, Suite 711, 15th and New York Avenue NW., Washington, DC 20005. Petitioner presently holds a certificate in No. MC 116923 (Sub-No. 2) issued July 25, 1968, authorizing operation as a common carrier by motor vehicle, over irregular routes, of *Machinery* between points in the New York, N.Y., commercial zone, on the one hand, and, on the other, points in the Boston, Mass., commercial zone, those in New Jersey, those in Connecticut on and west of U.S. Highway 5, those in New York on and east of a line extending from the Pennsylvania-New York State line along New York Highway 7 to Binghamton and on and south of a line extending from Binghamton along New York Highway 7 to the New York-Vermont State line, and those in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U.S. Highway 15 to Harrisburg and thence along U.S. Highway 11 to the Pennsylvania-New York State line. By the instant petition, petitioner seeks modification of its certificate to authorize the transportation of: *Commodities, the transportation of which because of their size or weight requires special handling or special equipment;* in lieu of the presently listed description which reads: *Machinery*. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124373 (Sub-No. 7) (Notice of Filing Petition for Modification of a

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Permit), filed August 24, 1972. Petitioner: NELMAR TRUCKING CO., Jersey City, N.J. 07306. Petitioner's representative: Irving Klein, 280 Broadway, New York, NY 10007. Petitioner states that it presently holds a permit dated June 28, 1972, under MC 124373 (Sub-No. 7), authorizing, as pertinent, operation as a contract carrier by motor vehicle, over irregular routes of, beverages in containers, and beverage preparations other than malt, and equipment, materials and supplies used in the manufacture and sale of beverages, between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, North Carolina, Kentucky, and the District of Columbia, limited to transportation service to be performed under a continuing contract, or contracts with Yoo-Hoo Chocolate Beverage Corp., and its wholly owned subsidiaries, of Carlstadt, N.J. Petitioner may also contract with Custom Canners of Baltimore, Md., and Shasta Beverage, a division of Consolidated Foods, Inc. By the instant petition, petitioner seeks at the request of Yoo-Hoo Chocolate Beverage Corp., and on behalf of that company, and its subsidiaries, to add the States of South Carolina, Alabama, Tennessee, Mississippi, Louisiana, Georgia, and Florida as additional States to the States between which operations may be conducted. The operations presently authorized are nonradial, and petitioner seeks nonradial authority respecting the additional States above named so that by adding such States to those presently authorized, petitioner would be able to conduct nonradial operations throughout its territory. Any person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133318 (Sub-No. 3) (Notice of Filing of Petition To Amend Permit To Add a Shipper's Name), filed July 31, 1972. Petitioner: VAN DE HOGEN CARTAGE LIMITED, Chatham, Ontario, Canada. Petitioner's representative: John Peter Van De Hogen, Route 4, Chatham, Ontario, Canada. Petitioner states that it has pending before the Commission, an extension application under MC 133318 (Sub-No. 3), which reads in part, as follows: (1) Stone, from Brazil, Ind., Princess, Ky., Detroit, Mich., and points in Cuyahoga County, Ohio and Beaver County, Pa.; (2a) tile, from Brazil, Ind., Princess, Ky., Detroit, Mich., points in Ohio and points in Beaver County, Pa.; (2b) structural facing tile, from Summerville, Pa.; (3a) building brick, from Brazil, Ind., Princess, Ky., Detroit, Mich., points in Ohio, Lewis Run and Summerville and points in Beaver County, Pa.; (3b) firebrick, from Strasburg, Dover and Uhrichsville, Ohio; and (4) limestone in bags, from Detroit, Mich.; Oakfield, N.Y., and Genoa and Woodville, Ohio; to those ports of entry on the international boundary line between the United States and Canada located in Michigan and New York under continuing contracts with Windsor Builders Supply Ltd., doing business as Canadian Builders Supply, of Windsor, Ontario, Canada, Geo. E. White & Son, Ltd., of Windsor, Ontario, Canada. Petitioner further states that if said application results in a grant of authority, it will have the result of adding one shipper. This would leave petitioner then serving three shippers under the scope of its permit. By the instant petition, petitioner seeks to add the name of an additional shipper, Webster & Sons Ltd., of Weston, Ontario, Canada. Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 134145 (Sub-No. 1) (Correction) (Notice of Filing Petition for Modification of Permit and Motion To Dismiss), filed August 17, 1972, published in the FEDERAL REGISTER issue of September 20, 1972, and republished, as corrected in part, this issue. Petitioner: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Petitioner's representative: Anthony C. Vance, Suite 501, 1111 E Street NW., Washington, DC 20004. The purpose of this partial republication is to show petitioner's correct docket number as MC 134145 (Sub-No. 1), in lieu of MC 13415 (Sub-No. 1), which was erroneously published. The rest of the application remains as previously published.

No. MC 136683 (Notice of Filing of Petition for Clarification and Modification of Certificate), filed September 6, 1972. Petitioner: DEALERS AUTO TRANSPORT, INC., 14330 Cerise Street, Hawthorne, CA 90250. Petitioner's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Petitioner presently holds a certificate in No. MC 136683 issued July 1, 1972, authorizing, as pertinent, operation as a common carrier, over irregular routes, of *Used Motor vehicles* which have been repossessed, embezzled, stolen, or damaged. By the instant petition, petitioner requests a modification, for clarification purposes, by elimination of the difficult to interpret qualifying words; "repossessed, embezzled, stolen, and damaged". Any person or person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 71043 (Sub-No. 7) (Correction), filed September 5, 1972, and published in the FEDERAL REGISTER issue of September 27, 1972, republished in part, as corrected, this issue. Applicant: LAPORTE TRANSIT CO., INC., Post Office Box 578, LaPorte, IN 46350. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. NOTE: The purpose of this partial republication is to reflect that the application is directly related to MC–F 11659 in the previous publication of September 27, 1972.

No. MC 127602 (Sub-No. 12), filed September 18, 1972. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., 525 Jones Street, Box 156 D.T.S., Omaha, NE 68101. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment, and classes A and B explosives), (a) between points within a 50 mile radius of Chicago, Ill.; and (b) between points within a 50 mile radius of Chicago, Ill., on the one hand, and, on the other, points in Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. This application is a matter directly related to MC–F–11662, published in the FEDERAL REGISTER issue of September 27, 1972. The instant application seeks to convert the certificate of registration of Streator Transfer & Storage Co. under MC 98297 into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11630. (Correction) (EAST TEXAS MOTOR FREIGHT LINES, INC.—POOLING—SILVER EAGLE COMPANY), published in the August 31, 1972, issue of the FEDERAL REGISTER on page 17789. Prior notice should be modified to read to and from the named points in Washington.

No. MC–F–11667. Authority sought for purchase by ROADWAY EXPRESS, INC., Post Office Box 471, Akron, OH 44309, of the operating rights and property of ATLAS TRANSPORTATION CO., INC., OF CAMBRIDGE, 12 Norfolk St., Cambridge, MA 02139, and for acquisition by GALEN J. ROUSH, also of Akron, Ohio 44309, of control of such rights and property through the purchase. Applicants' attorneys: William O. Turney, 2001 Massachusetts Avenue NW., Washington, DC 20036, and Kenneth B. Williams, 111 State Street, Boston, MA 02109. Operating rights sought to be transferred: *General commodities*, excepting among others, class A and B explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Boston, Mass., and Bangor, Maine; *shoes, leather, shoe findings*, and *shoe manufacturing supplies* and *machinery* between Boston, Mass., and Springvale, Maine, between Boston, Mass., and South Sanford, Maine, between Boston, Mass., and Seabrook, N.H. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Oklahoma, Connecticut, Michigan, Missouri, Indiana, Massachusetts, Pennsylvania, Kansas, Illinois, Kentucky, Rhode Island, Alabama, Georgia, North Carolina, Tennessee, South Carolina, New Jersey, New York, Virginia, Delaware, Maryland, West Virginia, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under Section 210a(b).

No. MC–F–11668. Authority sought for merger by CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201, of the operating rights and property of CHEMICAL EXPRESS CARRIERS OF OKLAHOMA, INC., also of Dallas, Tex. 75201. Applicants' attorney: Wm. E. Livingstone, III, 4555 First National Bank Building, Dallas, Tex. 75201. The above-mentioned applicants are commonly controlled. Operating rights sought to be merged: *Asphaltic roofing materials*, as a *common carrier* over irregular routes, from Stroud, Okla., and points within 1 mile thereof, to Wichita, Kans., and points in Kansas within 200 miles of Wichita; *asphaltic roofing materials*, in rolls, containers, and bundles, and *liquid asphalt* and *asphaltic products*, in containers, from Stroud, Okla., and points within 1 mile thereof, to certain specified points in Arkansas; and return with *empty containers; liquid asphalt*, in bulk, in tank trucks, from Stroud, Okla., and points within 1 mile thereof, to points in Kansas within 200 miles of Stroud, Okla.; *liquid asphalt* and *asphaltic products*, in bulk, in tank vehicles, from Stroud, Okla., and points within 1 mile thereof, and Cushing, Okla., to points within 150 miles of Fort Smith, Ark., including Fort Smith (except points located in Missouri), with restriction; *liquid asphalt*, in bulk, in tank vehicles, from Stroud and Cushing, Okla., to certain specified points in Missouri, from Tulsa, Okla., to certain specified points in Missouri; *liquid asphalt*, in bulk, from Okmulgee, Okla., to points in Missouri; *cement*, between points in Arkansas and Oklahoma; cement, in bulk, from Ada, Okla., to points within 200 miles thereof in Arkansas, Kansas, Missouri, and Texas, from Dewey, Okla., to points within 200 miles thereof in Arkansas, Kansas, and Missouri: *cement* in bags or packages, from Dewey, Okla., to points in Kansas, Missouri, and Arkansas within 200 miles of Dewey, from Ada, Okla., to points in Kansas, Missouri, and Arkansas within 200 miles of Ada, with restrictions; *cement* in bulk and packages, from Ada, Okla., to points in Arkansas; *dry cement*, in bulk, in tank vehicles, from Ada and Dewey, Okla., to points in Kansas and Texas, from Fredonia, Kans., to points in Texas, between points in Oklahoma, Kansas, and Texas, with restrictions; *dry cement*, in containers, from Ada, Okla., to points in Kansas and Texas; *dry cement*, from Dewey, Okla., to points in Kansas, Missouri, and Arkansas, between certain specified points in Texas, with restriction, from the plantsite of the Oklahoma Cement Co. at or near Pryor, Okla., to certain specified points in Kansas, Arkansas, and Missouri, from the plantsite of the Oklahoma Cement Co. at or near Pryor, Okla., to points in Shannon and Oregon Counties, Mo., from Tulsa, Okla., to points in Kansas, Missouri, and Arkansas, and certain specified points in Texas, from the plantsite of the Oklahoma Cement Co., near Pryor, Okla., to points in Texas, from Muskogee, Okla., to points in Arkansas, Kansas, and Missouri; *lime*, from the plantsite of the St. Clair Lime Co., about 3 miles north of Marble City, Okla., to points in Kansas, and certain specified points in Missouri, Arkansas, and Texas; *lime*, either packaged or in bulk, from the plantsite of the St. Clair Lime Co. in or near Sallisaw, Okla., to certain specified points in Kansas, Missouri, Arkansas, and Texas; *fly ash*, from the site of the Montrose powerplant of the Kansas City Power and Light Co., located at or near La Due (Henry County), Mo., to points in Arkansas and Oklahoma; *alumina*, calcined and hydrated, in bulk, from Bauxite, Ark., to points in Oklahoma and Texas (except Houston, Tex., and points within 50 miles thereof); *sand*, from points in Arkansas, to points in Kansas, Missouri, and Oklahoma, from Mill Creek, Okla., to certain specified points in Arkansas, Kansas, Louisiana, and Texas; *dry urea, dry ammonium nitrate, dry fertilizer*, and *dry fertilizer materials*, in bulk, in tank vehicles, from Tulsa, Okla., and the plantsites of Nipak, Inc., and Cherokee Nitrogen Co. at or near Pryor, Okla., to certain specified points in Kansas, Arkansas, and Texas; *dry fertilizer*, in bulk, from the plantsite and storage facilities of Monsanto Co. at El Dorado, Ark., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas, with restriction; *fertilizer and fertilizer ingredients*, from Greenville, Tex., to points in Oklahoma and Arkansas; *corn products* and *soybean products* (except animal and poultry feed and feed ingredients, flour, and vegetable oil products), in bulk, from Muskogee, Okla., to points in Arkansas, Colorado, Louisiana, Missouri, New Mexico, Kansas, and Texas; *dry chemicals*, from Military, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Texas, with restriction; *dry chemicals*, in bags, when moving in mixed loads with *dry chemicals*, in bulk, from Military, Kans., to points in Iowa, Nebraska, and points in that part of Missouri north of U.S. Highway 50; *dry fertilizer* and *fertilizer materials*, and *insecticides*, fungicides and herbicides (except liquid, in bulk), from the port of Catoosa, Okla., to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin, with restriction; *dry fertilizer* and *fertilizer materials*, in bags, when moving in mixed loads with dry fertilizer and fertilizer materials in bulk, from port of Catoosa, Okla., to points in Iowa, Nebraska, and points in that part of Missouri north of U.S. Highway 50; *dry fertilizer* and *fertilizer materials*, in bulk, when moving in mixed loads with dry fertilizer and fertilizer materials, in bags, from port of Catoosa, Okla., to points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission. CHEMICAL EXPRESS CARRIERS, INC., is authorized to operate as a *common carrier*, in Texas, New Mexico, Arkansas, Louisiana, Oklahoma, Colorado, Kansas, Alabama, Mississippi, Missouri, Tennessee, Arizona, Utah, Georgia, Illinois, Indiana, Ohio, North Carolina, South Carolina, Wisconsin, Florida, Nebraska, Kentucky, Michigan, New Jersey, and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11669. Authority sought for purchase by McDUFFEE MOTOR FREIGHT, INC., 3047 Lonyo Road, Detroit, MI 48209, of a portion of the operating rights and property of WEBB TRANSFER LINE, INC., Post Office Box 231, Shelbyville, KY 40065, and for acquisition by UNITED TRUCKING SERVICE, INC., and in turn by, JOHN J. DOOLEY, Sr., both of 3047 Lonyo Road, Detroit, MI 48209, of control of such rights and property through the purchase. Applicants' attorney: Robert H. Kinker, Post Office Box 461, Frankfort, KY 40601. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Shelbyville, Ky., and Louisville, Ky.; service is authorized to and from points in the Louisville, Ky., commercial zone, as defined in Commercial Zones and Terminal Areas, 48 M.C.C. 95, and points in Shelby County, Ky., as off-route points in connection with said carrier's presently authorized regular route operations between Louisville and Shelbyville over U.S. Highway 60. Vendee is authorized to operate as a *common carrier* in Kentucky, Tennesse, Ohio, and Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11670. Authority sought for control by HENRY P. WILLIMON, a noncarrier, Post Office Box 1075, Greenville, SC 29602, of (1) TRANSIT HOMES, INC., Post Office Box 1628, Greenville, SC 29602, and (2) CAROLINA CARTAGE COMPANY, INC., Post Office Box 6726, Station B, Greenville, SC 29606. Applicants' attorneys:

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Harry C. Ames, Jr., 666 11th Street, NW., Washington, DC 20001, and Mitchell King, Jr., Box 1628, Greenville, SC 29602. Operating rights sought to be controlled: (1) *Numerous specified commodities*, as a *common carrier* over irregular routes, from, to, and between all points in the United States, with certain restriction, as more specifically described in Docket No. MC–94350 and Subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. (2) *General commodities*, excepting among others, household goods, classes A and B explosives, and commodities in bulk, as a *common carrier* over irregular routes, between points in South Carolina on the one hand, and, on the other, airports at Atlanta, Ga., and Charlotte, N.C., with restriction. Application has not been filed for temporary authority under section 210a(b). NOTE: Motion to dismiss application is filed simultaneously herewith.

No. MC–F–11671. Authority sought for purchase by REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon (Toledo) OH 43616, of the operating rights and property of KENDRICK CARTAGE CO., Box 63, Salem, IL 62881, and for acquisition by LEASEWAY TRANSPORTATION CORP., 21111 Chagrin Boulevard, Cleveland OH 44122, of control of such rights through the purchase. Applicants' attorneys: John Andrew Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114, and Roland Rice, 618 Perpetual Building, Washington, D.C. 20004. Operating rights sought to be transferred: *Numerous specified commodities*, as a *common carrier* over irregular routes, from, to, and between specified points in the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Wisconsin, South Dakota, Texas, Alabama, Florida, Georgia, Louisiana, Mississippi, Pennsylvania, New York, New Jersey, Massachusetts, Maryland, North Dakota, Virginia, West Virginia, and the District of Columbia, with certain restrictions, as more specifically described in Docket No. MC–127215 and Sub numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–11672. Authority sought for purchase by SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53246, of a portion of the operating rights and property of FRONTIER DELIVERY, INC., 620 Elk Street, Buffalo, NY 14210, and for acquisition by FRED J. SCHWERMAN and CARL L. SCHWERMAN, both of 611 South 28th Street, Milwaukee, WI 53246, of control of such rights and property through the purchase. Applicants' attorney and representative: James R. Ziperski, 611 South 28th Street, Milwaukee, WI 53246, and E. Russell Whiteman, 620 Elk Street, Buffalo, NY 14210. Operating rights sought to be transferred: *Silica sand* and *feldspar*, in vehicles other than dump trucks, as a *common carrier* over irregular routes, from Middletown, Conn., to points in Rhode Island, Massachusetts, New Jersey, and New York (except points in Nassau and Suffolk Counties); *mica*, in vehicles other than dump trucks, from Middletown, Conn., to points in Delaware, Maryland, Massachusetts, New York (except points in Nassau and Suffolk Counties), New Jersey, Pennsylvania, and Rhode Island; and return with *returned shipments; silica sand and silica products*, from the plantsite of the Ottawa Silica Co., at or near North Stonington, Conn., to points in Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, Vermont, and New Jersey (except those points in Cumberland, Salem, Gloucester, Cape May, Camden, Atlantic, and Burlington Counties, N.J.). Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Georgia, Kentucky, Indiana, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Virginia, Illinois, West Virginia, Connecticut, Kentucky, Maryland Massachusetts, New Jersey, New York, Pennsylvania, Tennessee, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, Louisiana, Oklahoma, Texas, Delaware, Nebraska, Maine, New Hampshire, Rhode Island, Vermont, Florida, Colorado, Montana, New Mexico, Wyoming, California, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–16970 Filed 10–3–72;8:56 am]

[Notice 132]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 28, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 1756 (Sub-No. 24 TA), filed September 18, 1972. Applicant: PEOPLES EXPRESS CO., 497 Raymond Boulevard, Newark, NJ 07105. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans and can ends*, from Hillside, Jersey City, and Edison Township, N.J., to New Hyde Park and New Rochelle, N.Y., for 180 days. Supporting shipper: American Can Co., American Lane, Greenwich, Conn. 06830. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 22195 (Sub-No. 145 TA), filed September 18, 1972. Applicant: DAN DUGAN TRANSPORT COMPANY, Post Office Box 946—41st and Grange Avenue, Sioux Falls, SD 57101. Applicant's representative: J. P. Everist (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Morton County, N. Dak., to points in Minnesota, for 180 days. Supporting shipper: American Oil Co., General Offices, 500 North Michigan Avenue, Chicago, IL 60611, David Sinise, Traffic Specialist. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 27817 (Sub-No. 103 TA), filed September 15, 1972. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Post Office Box 220, Chambersburg, PA 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from Winchester and Mount Jackson, Va., to points in Florida and Atlanta, Ga., for 180 days. Supporting shippers: Shenandoah Apple Co-operative, Inc., Post Office Box 435, Winchester, VA 22601; Bowman Apple Products Co., Inc., Mount Jackson, Va. 22842. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 30844 (Sub-No. 426 TA), filed September 18, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000 (50704), Waterloo, IA 50702. Applicant's representative: Paul Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unpackaged and packaged aquariums and pets supplies*, from Benicia, Calif., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, for 180 days. Supporting shipper: O'Dell Manufacturing, Inc., 1930 South 23d Street, Saginaw, MI 48601. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 30887 (Sub-No. 180 TA), filed September 15, 1972. Applicant: SHIPLEY TRANSFER, INC., Post Office Box 55, 49 Main Street, Reisterstown, MD 21136. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic granules*, in bulk, in tank vehicles, restricted to transportation having an immediately prior movement by rail, from Baltimore, Md., to West Chester, Pa., for 180 days. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, Attention: G. W. Fillingame, Manager. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 35807 (Sub-No. 25 TA), filed September 14, 1972. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, 210 Baker Street NW., Mailing: Post Office Box 4313 (30302), Atlanta, GA 30313. Applicant's representative: Melvin E. Bailet (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency, negotiable and nonnegotiable securities and other valuables* in armored cars accompanied by armed guards, between Denver, Colo., on the one hand, and, on the other, points in Cheyenne, Kimball, Scotts Bluff, Duel, and Banner Counties, Nebr., and Goshen and Platte Counties, Wyo., for 180 days. NOTE: Applicant states it intends to tack with its existing authority. Supporting shipper: Denver Branch, Federal Reserve Bank of Kansas City, Denver, Colo. 80217. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 94350 (Sub-No. 317 TA), filed September 18, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road at Transit Drive, Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial shipments, from Reidsville, N.C., to dealers in South Carolina, Tennessee, Kentucky, Virginia, and West Virginia, for 180 days. Supporting shipper: Broadmore Homes of North Carolina, Inc., Post Office Box 665, Reidsville, NC 27320. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 109649 (Sub-No. 12 TA), filed September 18, 1972. Applicant: L. P. TRANSPORTATION, INC., Cross and Main Streets, Chester, NY 10918. Applicant's representative: Werner & Alfano, 2 W. 45th Street, New York, NY 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from Providence, R.I., to points in Connecticut, Maine, Massachusetts, Pennsylvania, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, for 180 days. Supporting shipper: Petrolane, 1600 E. Hill Street, Long Beach, CA, and Providence, R.I. Send protests to: Joseph H. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 109689 (Sub-No. 239 TA), filed September 12, 1972. Applicant: W. S. HATCH CO., Post Office Box 1825, Salt Lake City, UT 84110, Office: 643 S. 800 West Street, Woods Cross, UT 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers and fire retardants*, from Erda, Utah, to points in Oregon, Washington, Idaho, Montana, Wyoming, California, Nevada, Utah, Colorado, Nebraska, Oklahoma, North Dakota, South Dakota, Kansas, Arizona, New Mexico, and Texas, and *return with material* used in the production of the commodity described above, for 180 days. Supporting shipper: Micronutrients International, Inc., R.F.D. No. 1, Box 130 D, Tooele, UT 84074 (D. W. Stoll, Secretary). Send protests to: Lyle D. Helfer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 117765 (Sub-No. 150 TA), filed September 13, 1972. Applicant: HAHN TRUCK LINE, INC., 5315 NW. 5th, Post Office Box 75267, Oklahoma City, OK 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, gypsum and gypsum products and materials and supplies* (excluding liquid commodities in bulk), used in the installation or distribution of such commodities, from the plantsite of United States Gypsum Co., in Martin County, Ind., to points in Michigan, Ohio, and West Virginia, for 180 days. Supporting shipper: D. R. Vandermyde, T. M. Central Division, United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60604. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 NW. Third, Oklahoma City, OK 73102.

No. MC 118127 (Sub-No. 23 TA), filed September 15, 1972. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, CA 90640. Applicant's representative: D. W. Hale (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from points in Los Angeles and Orange Counties, Calif., to points in Connecticut, Delaware, Maryland, New York, New Jersey, Massachusetts, Pennsylvania, Rhode Island, Virginia, and Washington, D.C., for 150 days. Supporting shipper: Bavarian Pastry Shop, 750 Basin Street, San Pedro, CA 90731. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, Room 7708, Los Angeles, CA 90012.

No. MC 133708 (Sub-No. 4 TA), filed September 14, 1972. Applicant: FIKSE BROS., INC., 12647 East South Street, Artesia, CA 90701. Applicant's representative: Russell & Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from plants and mine sites of Simplot Silica Products at or near Overton, Nev., to points in Los Angeles, Orange, Riverside, San Diego, and San Bernardino Counties, Calif., for 180 days. Supporting shippers: West Coast Engineered Products Co., Inc., 2535 E. 54th Street, Huntington Park, CA 90255; Barker Foundry Supply, 2522 Malt Avenue, Los Angeles, CA 90040. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136426 (Sub-No. 1 TA) (Correction), filed June 29, 1972, published in the FEDERAL REGISTER issues of July 18, 1972, and August 30, 1972, respectively; corrected and republished as corrected this issue. Applicant: LESCO, INC., 3900 Dahlman Avenue, Omaha, NE 68107. Applicant's representative: Patrick E. Quinn, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unprocessed edible fats*, in containers, from points in Iowa, Missouri, and Kansas City, Kans., to Waterloo, Nebr., under contract with Midwest Animal Products,

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Inc., for 180 days. Supporting shipper: Midwest Animal Products, Inc., 3900 Dahlman Avenue, Omaha, NE 68107. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Building, 106 South 15th Street, Omaha, NE 68102. NOTE: The purpose of this republication is to include the State of Missouri.

No. MC 136545 (Sub-No. 4 TA), filed September 15, 1972. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., Post Office Box 95, 1109 Railroad Street, Prentice, WI 54556. Applicant's representative: A. R. Fowler, 228 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mink feed*, from Abbotsford, Wis., to points in Delta, Dickinson, and Menominee Counties, Mich., for 180 days. Supporting shipper: Wisco Milling Co., Box 10, Abbotsford, Wis. 54405. Send protests to: Barney L. Hardin, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 136935 (Sub-No. 1 TA), filed September 13, 1972. Applicant: WRANGELL TRANSPORT CO., INC., Post Office Box 908, Wrangell, AK 99929. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, from Seattle and Tacoma, Wash., to Wrangell, Alaska, for 180 days. Supporting shippers: Tyler Bros. Logging, Inc., Post Office Box 630, Petersburg, AK 99833; The Huddle, Wrangell, Alaska 99929; The Snack Shack, Post Office Box 199, Wrangell, AK 99929; Totem Bakery, Post Office Box 704, Wrangell, AK 99929; Aunt Winnies Cafe, Wrangell, Alaska 99929; Zimovia Market, Wrangell, Alaska 99929. Send protests to: District Supervisor Hugh H. Chaffee, Interstate Commerce Commission, Bureau of Operations, Post Office Box 1532, Anchorage, AK 99510.

No. MC 138035 TA, filed September 14, 1972. Applicant: ARTHUR J. SCHUH, doing business as SCHUH BROS. TRUCKING, Kelliher, Minn. 56650. Applicant's representative: Arthur J. Schuh (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden shingles*, from the plantsite of Minnesota Cedar Products located on U.S. Highway 71, approximately 3 miles southwest of Northome, Minn., to Houston, Tex., for 180 days. Supporting shipper: Minnesota Cedar Products, Northome, Minn. 56661. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 138043 TA, filed September 14. 1972. Applicant: F. W. CASPERSEN, 622 Madison Avenue, Glencoe, IL 60022. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs, medical isotopes, and medical test kits*, between St. Louis, Mo., and Chicago, Ill., on the one hand, and, on the other, points in Illinois, Indiana, and Wisconsin, restricted to shipments weighing not more than 50 pounds, for 180 days. Supporting shipper: Mallinckrodt Nuclear, Box 10172, Lambert Field, St. Louis, Mo. 63145. Send protests to: William Grey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.72-16971 Filed 10-3-72;8:56 am]

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federal register

WEDNESDAY, OCTOBER 4, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 193

PART II

ENVIRONMENTAL PROTECTION AGENCY

■

CONTROL OF AIR POLLUTION FROM LIGHT DUTY DIESEL MOTOR VEHICLES

■

Notice of Proposed Rule Making

V37-193
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ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Standards and Test Procedures for Light Duty Diesel Motor Vehicles

Emission control standards for light duty vehicles have to date been imposed by the Federal Government only on gasoline-fueled vehicles. The Environmental Protection Agency now proposes to amend the regulations in 40 CFR Part 85 to:

(a) Extend the applicability of exhaust emission standards to new diesel-fueled light duty vehicles, beginning with the 1975 model year; and

(b) Extend the applicability of the analytical procedures and instrumentation for the measurement of carbon monoxide and oxides of nitrogen to new diesel-fueled light duty vehicles; and

(c) Prescribe special analytical procedures and instrumentation for the measurement of hydrocarbon emissions from new diesel-fueled light duty vehicles.

The section number system contained in this proposed subpart is designed to coordinate with a renumbering of the motor vehicle regulations which is now in process. All cross-references to sections in existing subparts conform to the numbering system presently in effect.

40 CFR Part 85 as so amended would become effective 30 days after republication and would be applicable to 1975 and subsequent model year diesel-fueled light duty vehicles.

The Agency has determined that gaseous-fueled light duty vehicles are likely to be offered for sale by model year 1975. The analytical procedure currently prescribed for gasoline-fueled vehicles is appropriate for the testing of gaseous-fueled vehicles. The Agency will soon propose amendments to make existing standards and test procedures for gasoline-fueled light duty vehicles to apply to gaseous-fueled vehicles as well. Those procedures will include fuel specifications for gaseous-fueled vehicles.

Interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Attention: Office of Air Programs, 4th and M Streets SW., Washington, DC 20460. All relevant material received not later than 60 days after publication of this notice will be considered. The Environmental Protection Agency is particularly interested in receiving data pertinent to the hydrocarbon sampling system and in particular related to the locations of the hydrocarbon sampling point in the system. Comments submitted shall be available for public inspection during normal business hours at the Office of Public Affairs, Environmental Protection Agency, 4th and M Streets SW., Washington, DC 20460.

This notice of proposed rule making is issued under the authority of section 202 of the Clean Air Act (42 U.S.C. 1857f–1).

Dated: September 22, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart L—Standards and Test Procedures for Vehicle Exhaust Emissions (Diesel-Fueled Light Duty Vehicles)

Sec.
85.175–1 Applicability (1975 model year).
85.175–2 Standards for exhaust emissions.
85.175–3 Test procedures.
85.175–4 Diesel fuel specifications.
85.175–5 Vehicle preconditioning.
85.175–6 Dynamometer driving schedule.
85.175–7 Dynamometer procedure.
85.175–8 Three-speed manual transmissions.
85.175–9 Four-speed and five-speed manual transmissions.
85.175–10 Automatic transmissions.
85.175–11 Engine starting and re-starting.
85.175–12 Sampling and analytical system (exhaust emissions).
85.175–13 Information to be recorded.
85.175–14 Analytical system calibration and sample handling.
85.175–15 Dynamometer test runs.
85.175–16 Chart reading.
85.175–17 Calculations (exhaust emissions).
85.175–18 Test vehicles.
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85.175–20 Mileage accumulations and emission measurements.
85.175–21 Compliance with emission standards.
85.176–1 Applicability (1976 model year).
85.176–2 Standards for exhaust emissions.

AUTHORITY: The provisions of this Subpart L issued under section 202 of the Clean Air Act (42 U.S.C. 1857f–1).

Subpart L—Standards and Test Procedures for Vehicle Exhaust Emissions (Diesel-Fueled Light Duty Vehicles)

§ 85.175–1 Applicability (1975 model year).

The provisions of this subpart are applicable to new diesel fueled light duty motor vehicles beginning with the model year specified therein.

§ 85.175–2 Standards for exhaust emissions.

(a) Exhaust emissions from 1975 model year vehicles shall not exceed:

(1) Hydrocarbons—0.41 grams per vehicle mile.

(2) Carbon monoxide—3.4 grams per vehicle mile.

(3) Oxides of nitrogen—3.1 grams per vehicle mile.

(b) The standards set forth in paragraph (a) of this section refer to the exhaust emitted over a driving schedule as set forth in the following sections of this subpart and measured and calculated in accordance with these sections.

(c) Every manufacturer of new motor vehicles subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicles in accordance with the following test procedures to ascertain that such test vehicles meet the requirements of this section as applicable.

§ 85.175–3 Test procedures.

The procedures described in this subpart will be the test program to determine the conformity of diesel fueled light duty vehicles with the applicable standards set forth in this subpart.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for analysis of diesel exhaust hydrocarbons and subsequent analysis of other specific components by prescribed techniques. This test applies to vehicles equipped with catalytic or direct flame afterburners, other control systems or to uncontrolled vehicles and engines. All test phases are conducted with an ambient temperature range between 68° and 86° F.

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix A to this part. Using a constant volume (variable dilution) sampler, a proportional part of the diluted exhaust gas is analyzed continuously for hydrocarbons and an additional proportional part of the diluted exhaust gas is collected in a bag for subsequent analysis of the other components.

§ 85.175–4 Diesel fuel specifications.

(a) The diesel fuels employed for testing shall be clean and bright, with pour and cloud points adequate for operability. The fuels may contain nonmetallic additives as follows: Cetane improver, metal deactivator, antioxidant, dehazer, antirust, pour depressant, dye, and dispersant.

(b) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–50
Distillation range	D 86		
IBP, °F		330–390	340–400
10-percent point, °F		370–430	400–460
50-percent point, °F		410–480	470–540
90-percent point, °F		460–520	550–610
EP, °F		500–560	580–660
Gravity, ° API	D 287	40–44	33–37
Total Sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Hydrocarbon composition	D 1319		
Aromatics, percent		8–15	27 (Min.)
Paraffins, Naphthenes, Olefins		Remainder.	Remainder.
Flashpoint, °F. (minutes)	D 93	120	130
Viscosity, Centistokes	D 445	1.6–2.0	2.0–3.2

(c) Fuel meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of fuel recommended by the engine manufacturer, commercially designated as "Type 1–D" or "Type 2–D", shall be used.

Item	ASTM test method No.	Type 1–D	Type 2–D
Cetane	D 613	48–54	42–55
Distillation range	D 86		
IBP, ° F		330–390	340–410
10-percent point, ° F		370–430	400–470
50-percent point, ° F		410–480	470–540
90-percent point, ° F		460–520	550–610
EP, ° F		500–560	580–660
Gravity, ° API	D 287	40–44	33–40
Total Sulfur, percent	D 129 or D 2622	0.05–0.20	0.2–0.5
Flash point, ° F. (minute)	D 93	120	130
Viscosity, Centistokes	D 445	1.6–2.0	2.0–3.2

(d) Other Petroleum Distillation Fuel Specifications:

(i) Other petroleum distillate fuels may be used for testing and service accumulation provided they are commercially available, and

(ii) Information, acceptable to the Administrator, is provided to show that only the designated fuel would be used in customer service, and

(iii) Use of a fuel listed under paragraphs (b) and (c) of this section would have a detrimental effect on emissions or durability, and

(iv) Written approval from the Administrator of the fuel specifications was provided prior to the start of testing.

(e) The specification range of the fuels to be used under paragraphs (b), (c), and (d) of this section shall be reported in accordance with § 85.51.

§ 85.175–5 Vehicle preconditioning.

Vehicles to be tested for compliance with the exhaust emission standards of this part shall be preconditioned as follows:

(a) The fuel tank shall be drained and specified test fuel added.

(b) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.175–6 to 85.175–11 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run, or the vehicle may be driven on a road route covering a distance of 7 to 8 miles and a total elapsed time of 20 to 25 minutes.

(c) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand for a period of not less than 12 hours prior to the dynamometer test.

§ 85.175–6 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule is defined by a smooth transition through the speed vs. time relationships listed in Appendix A to this part. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.175–11.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix A to this part or as printed on a driver's aid chart approved by the Administrator is defined by upper and lower limits. The upper limit is 2 m.p.h. higher than the highest point on the trace within 1 second of the given time. The lower limit is 2 m.p.h. lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurances. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 85.175–11(d) are adhered to.

§ 85.175–7 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12 hour soak and a "hot" start test with a 10 minute soak between the two tests. Engine startup, operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. Diesel hydrocarbons are analyzed continuously, with electronic integration, during each test. The composite (flow integrated) samples collected in bags are analyzed for carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of dilution air is analyzed for hydrocarbon, carbon monoxide and oxides of nitrogen.

(b) During dynamometer operation, a fixed speed cooling fan shall be positioned so as to direct cooling air to the vehicle in an appropriate manner with the engine compartment cover open. The fan capacity shall normally not exceed 5,300 c.f.m. If, however, the manufacturer can show that during field operation the vehicle received additional cooling, the fan capacity may be increased or additional fans used if approved in advance by the Administrator. In the case of vehicles with front engine compartments, the fan(s) shall be squarely positioned between 8 and 12 inches in front of the cooling air inlets (grill). In the case of vehicles with rear engine compartments (or if special designs make the above impractical), the cooling fan(s) shall be placed in a position to provide sufficient air to maintain engine cooling.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d) Flywheels, electrical or other means of simulating inertia shall be used. If the equivalent inertia specified in the following table is not available on the dynamometer being used, the next higher equivalent inertia (not to exceed 250 lbs.) available shall be used.

Loaded vehicle weight, pounds	Equivalent inertia weight, pounds	Road load power at 50 m.p.h. horsepower
Up to 1,125	1,000	5.9
1,126 to 1,375	1,000	6.5
1,376 to 1,625	1,500	7.1
1,626 to 1,875	1,750	7.7
1,876 to 2,125	2,000	8.3
2,126 to 2,375	2,250	8.8
2,376 to 2,625	2,500	9.4
2,626 to 2,875	2,750	9.9
2,876 to 3,250	3,000	10.3
3,251 to 3,750	3,500	11.2
3,751 to 4,250	4,000	12.0
4,251 to 4,750	4,500	12.7
4,751 to 5,250	5,000	13.1
5,251 to 5,750	5,500	13.3
5,751 to above	5,500	11.4

(e) Power absorption unit adjustment:

(1) The power absorption unit shall be adjusted to reproduce road load power at 50 m.p.h. true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix B to this part or other suitable means.

(2) The road load power listed in the table above shall be used or the vehicle manufacturer may determine the road load power by the following procedure and request its use:

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(i) Measuring the fuel flow rate of a representative vehicle of the same equivalent inertia weight class, when operated on a level road under balanced wind conditions at a true speed of 50 m.p.h., and

(ii) Noting the dynamometer indicated road load horsepower setting required to reproduce that fuel flow rate when the same vehicle is operated on the dynamometer at a true speed of 50 m.p.h. The tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within ±5 mm. Hg.

(iii) The road load power shall be determined according to the procedure outlined in Appendix B to this part and adjusted according to the following if applicable.

(3) Where it is expected that more than 33 percent of the vehicles in an engine family will be equipped with air-conditioning, the road load power listed above or as determined in subparagraph (2) of this paragraph shall be increased by 10 percent for testing all test vehicles representing such engine family.

(f) The vehicle speed (m.p.h.) as measured from the dynamometer rolls shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed to find the minimum accelerator pedal action to maintain the proper speed-time relationship.

NOTE: When using two-roll dynamometers a truer speed-time trace may be obtained by minimizing the rocking of the vehicle in the rolls. The rocking of the vehicle changes the tire rolling radius on each roll. The rocking may be minimized by restraining the vehicle horizontally (or nearly so) by using a cable and winch.

(h) The drive wheel tires may be inflated up to 45 p.s.i.g. in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

§ 85.175–8 Three-speed manual transmissions.

(a) All test conditions except as noted shall be run in highest gear.

(b) Cars equipped with free wheeling or overdrive units shall be tested with this unit (free wheeling or overdrive) locked out of operation.

(c) Idle shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.175–11).

(d) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(e) Acceleration modes shall be driven smoothly with the shift speeds as recommended by the manufacturer. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from first to second gear at 15 m.p.h. and from second to third gear at 25 m.p.h. The operator shall release the accelerator pedal during the shift, and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at maximum available power until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or accelerator pedal as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be depressed when the speed drops below 15 m.p.h. when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.175–9 Four-speed and five-speed manual transmissions.

(a) Use the same procedure as for three-speed manual transmissions for shifting from first to second gear and from second to third gear. If the manufacturer does not recommend shift speeds, the vehicle shall be shifted from third to fourth gear at 40 m.p.h. Fifth gear may be used at the manufacturer's option.

(b) If transmission ratio in first gear exceeds 5:1, follow the procedure for three- or four-speed manual transmission vehicles as if the first gear did not exist.

§ 85.175–10 Automatic transmissions.

(a) All test conditions shall be run with the transmission in "Drive" (highest gear). Automatic stick-shift transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheels braked (except first idle; see § 85.175–11).

(c) The vehicle shall be driven with minimum accelerator pedal movement to maintain the desired speed.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at maximum available power until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or accelerator pedal as necessary to maintain the desired speed.

§ 85.175–11 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

(b) If the vehicle does not start after 10 seconds of cranking, cranking shall cease and the reason for failure to start shall be determined. The revolution counter on the constant volume sampler and the hydrocarbon integrator (see § 85.175–15 *Dynamometer test runs*) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube disconnected from the tailpipe during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(c) If the engine "false starts", the operator shall repeat the recommended starting procedure.

(d) Stalling:

(1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 85.175–12 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Fig. L 175–1, L 175–2 and L 175–3) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure L 175–1. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±3 inches of water of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s).

(3) A heating system to preheat the heat exchanger to with ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10 F. as measured at the sample point.

(5) A positive displacement pump to pump dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix C to this part for flow calibration techniques.

(6) Temperature sensor (T1) with an accuracy of ±2°F. to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 85.175–13(k)).

(7) Gauge (G1) with an accuracy of ±2 percent of reading to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±2 percent of reading to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1, S2, and S3) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture. Additional sample probes may be used, for example to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probes in Figure L 175–1 is pictorial only. The heated sample line (S3) between the sampling point and the analyzer shall be as short as possible.

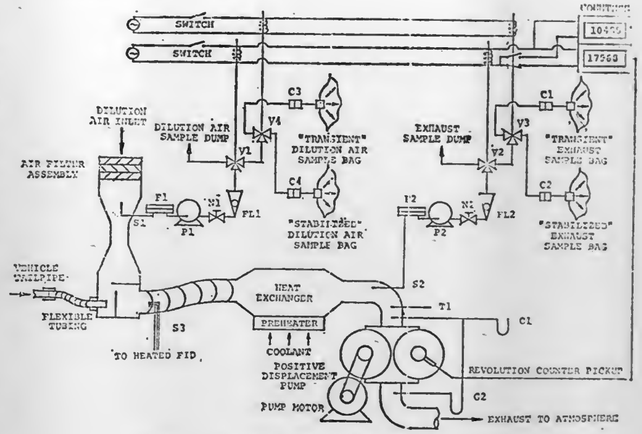


Figure L 175-1 Exhaust Gas Sampling System

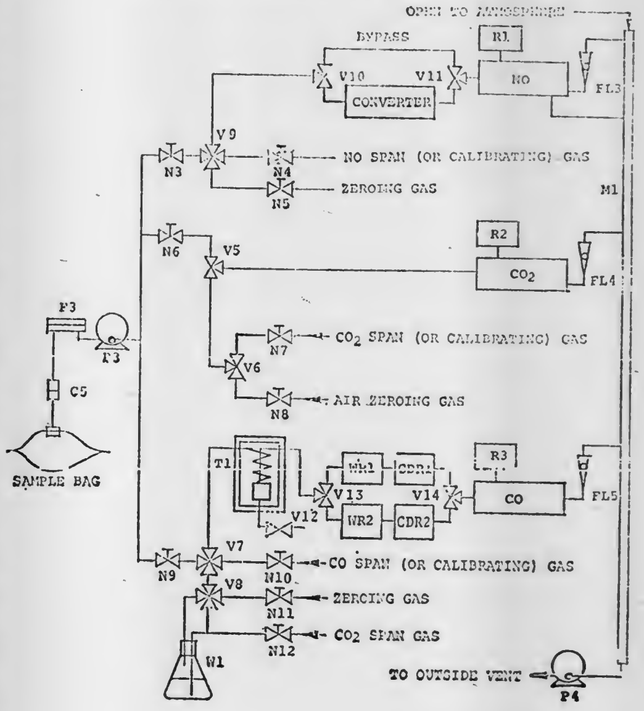


Figure L 175-2 Exhaust Gas Bench Analytical System

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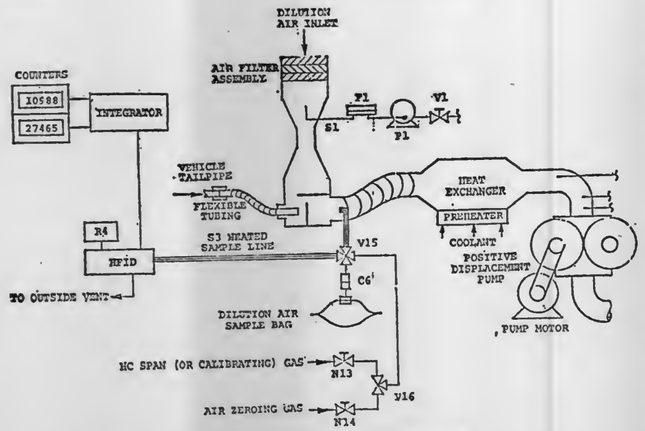


Figure L 175-3 Diesel Hydrocarbon Continuous Analysis System

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collecton bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shut-off on bag side to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas batch analytical system)*. The following components will be used in the exhaust gas batch analytical system for testing under the regulations in this part. The analytical system provides for the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure L 175–2.

(1) Quick-connect, leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V5, V6, V7, V8, and V9) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, and N12) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, and FL5) to indicate gas flow rates.

(7) Manifold (M1) to collect the expelled gases from the analyzers.

(8) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(9) Analyzers to determine carbon monoxide, carbon dioxide, and oxides of nitrogen concentrations.

(10) An oxides of nitrogen converter to convert any NO_2 present in the samples to NO before analysis.

(11) Selector valves (V10 and V11) to allow the sample, span, calibrating or zeroing gases to bypass the converter.

(12) Water trap (T1) to partially remove water and a valve (V12) to allow the trap to be drained.

(13) Sample conditioning columns to remove remainder of water (WR1 and WR2 containing indicating calcium sulfate or indicating silica gel), and carbon dioxide (CDR1 and CDR2 containing ascarite) from the CO analysis stream.

(14) Selector valves (V13 and V14) to permit switching from exhausted absorbing columns to fresh columns.

(15) Water bubbler (W1) to allow saturation of the CO_2 span gas to check efficiency of absorbing columns.

(16) Recorders (R1, R2, and R3) or digital printers to provide permanent records of calibration, spanning and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

(d) *Component description (exhaust gas continuous analytical system)*. The following components will be used in the exhaust gas continuous analytical system for testing under the regulations in this part. This analytical system provides for the continuous determination of exhaust hydrocarbon concentration by heated flame ionization detector (HFID) analysis. See Figure L 175–3.

(1) Heated continuous sampling line (S3).

(2) Selector valves (V15, and V16) for directing the continuous dilute exhaust sample, dilution air bag sample, span or zeroing gases to the analyzers.

(3) Quick-connect, leak-tight fitting (C6) to attach dilution air sample bag to analytical system.

(4) Heated hydrocarbon analyzer (HFID) complete with heated pump, filter, and flow control system. The response time of this instrument shall be less than 1 second for 90 percent of full scale response.

(5) Chart recorded (R4) and analog integrator with two readouts or chart recorder (R4) and on-line digital computer for manual or electronic integration of analyzer output signal during the three operating phases of the test.

(6) Flow control valves (N13 and N14) to regulate the gas flow rates.

§ 85.175–13 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Driver or operator.

(f) Vehicle: Make—Vehicle identification number—Model year—Transmission type—Odometer reading—Engine displacement—Engine family—Idle r.p.m.—Inertia loading—Actual road load HP. at 50 m.p.h. and drive wheel tire pressure.

(g) Dynamometer serial number and indicated road load power absorption at 50 m.p.h.

(h) All pertinent instrument information such as tuning—gain—serial numbers—detector numbers—range.

(i) Recorder charts: Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Barometric pressure, ambient temperature and humidity and the temperature of the air in front (from 6 to 12 inches from the grill) of the radiator during the test.

(k) The temperature and pressure of the mixture of exhaust and dilution air entering the positive displacement pump and the pressure increase across the pump. The temperature of the mixture shall be recorded continuously or digitally at a rate often enough to determine temperature variations, or it may be controlled to ±5° F. of the set point of the temperature control system. In the last case only the set point need be recorded.

(l) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(m) The humidity of the dilution air.

(n) Operating temperature of the heated sample line and of the heated hydrocarbon detector.

§ 85.175–14 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance. Operate heated hydrocarbon analyzer and sampling line at set point (300–380° F.) ±5° F.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 300 p.p.m. (0.03 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer, set the sample capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known tc with ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) Check the NO_x to NO converter efficiency by the following procedure:

(i) Fill a new (not previously used to collect exhaust gas samples) sample bag with air (or oxygen), and NO span gas in proportions which result in a mix in the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_x concentration at 1-minute intervals by alternately passing the sample through the converter and the bypass (close valves N6 and N9 to minimize pump down rate of bag). After several minutes of operation, the recording of NO and NO_x will resemble Figure L 175–4 if the converter is efficient. Even though the amount of NO_x increases with time, the total NO_x ($NO+NO_2$) remains constant. A decay of NO_x with time indicates the converter is not essentially 100 percent efficient and the cause should be determined before the instrument is used.

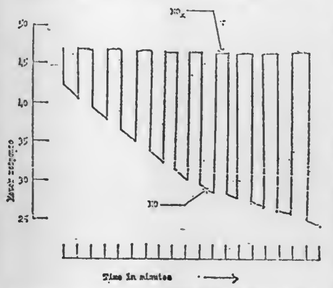


Figure L 175–4. Converter Efficiency Check Response

(iii) The converter efficiency should be checked at least once weekly and preferably once daily.

(7) Check the efficiency of the sample conditioning system by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble CO_2 span gas through water and then through the sample conditioning system into the CO instrument. If the CO instrument shows no response to the wet CO_2, the columns are in good condition.

(iv) If the CO instrument responds to wet CO_2, replace columns as necessary to bring response back to zero.

(v) The conditioning system efficiency should be checked daily.

(b) HC, CO, CO_2, and NO_x measurement; Allow HC analyzer and sample line to heat to set point (300–380°F.) ±5°F. and allow a minimum of 20 minutes warmup for the HC analyzer electronics and 2 hours for the CO, CO_2 and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.175–15 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump, the sample pumps, the temperature recorder, and the heated hydrocarbon analysis recorder. (The constant volume sampler heat exchanger, the hydrocarbon analyzer and continuous sample line should be preheated to their respective operating temperatures before the test begin.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.). Set the hydrocarbon integrator counters and pump revolution counters to zero.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the "transient" exhaust sample bag and the "transient" dilution air sample bag, turn on the hydrocarbon analyzer system integrator and mark recorder chart, and start cranking engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule.

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(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 and hydrocarbon integrator No. 1, mark hydrocarbon recorder chart and start counter No. 2 and hydrocarbon integrator No. 2. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–14.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and hydrocarbon integrator No. 2, mark hydrocarbon recorder chart and position the sample solenoid valves to the "dump" position. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–14.

(14) Immediately after the end of the sample period disconnect the exhaust tube from the tailpipe(s), turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump.

(16) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in subparagraph (7) of this paragraph shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and hydrocarbon integrator No. 1, mark hydrocarbon recorder chart and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start sample period.)

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.175–14.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) The positive displacement pump may be turned off, if desired.

§ 85.175–16 Chart reading.

(a) Determine the HC, CO, CO_2, and NO_x concentrations of the dilution air and the CO, CO_2, and NO_x concentration of the dilute exhaust sample bags from the instrument deflection or recordings making use of appropriate calibration charts.

(b) Record integrated HC results, or manually integrate continuous chart. This chart provides a permanent record and can be graphically integrated if verification of the results of electronic integration is required.

(c) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

§ 85.175–17 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles:

$$Y_{wm}=(0.43\ Y_{ct}+0.57\ Y_{ht}+Y_s)/7.5$$

Where:
Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.
Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.
Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.
Y_s = Mass emissions as calculated from the "stablized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon Mass:

$$HC_{mass}=V_{mix}\times Density_{HC}\times\frac{HC_{cone}}{1{,}000{,}000}$$

(2) Oxides of nitrogen Mass:

$$NO_{x_{mass}}=V_{mix}\times Density_{NO_2}\times\frac{NO_{x_{cone}}}{1{,}000{,}000}\times K_H$$

(3) Carbon monoxide Mass:

$$CO_{mass}=V_{mix}\times Density_{CO}\times\frac{CO_{cone}}{1{,}000{,}000}$$

(c) Meaning of symbols:

HC_{mass}=Hydrocarbon emissions, in grams per test phase.
$Density_{HC}$=Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1.85 in grams per cubic foot at 68° F. and 700 mm. Hg pressure (16.33 gm./cu. ft.).
HC_{cone}=Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane×3.

$$HC_{cone}=HC_e-HC_d(1-1/DF)$$

Where:
HC_e=Average hydrocarbon concentrations of the dilute exhaust sample as calculated from the integrated HC traces, in p.p.m. carbon equivalent.
HC_d=Hydrocarbon concentration of the dilution air as measured in p.p.m. carbon equivalent.
$NO_{x_{mass}}$=Oxides of nitrogen emissions, in grams per test phase.
$Density_{NO_2}$=Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 700 mm. Hg pressure (54.16 gm./cu. ft.).
$NO_{x_{cone}}$=Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{cone}}=NO_{x_e}-NO_{x_d}(1-1/DF)$$

Where:
NO_{x_e}=Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.
NO_{x_d}=Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.
CO_{mass}=Carbon monoxide emissions, in grams per test phase.
$Density_{CO}$=Density of carbon monoxide in grams per cubic foot at 68° F. and 700 mm. Hg pressure (32.97 gm./cu. ft.).
CO_{cone}=Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{cone}=CO_e-CO_d\ (1-1/DF)$$

Where:
CO_e=Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$CO_e=(1-0.01925\ CO_{2e}-0.000323\ R)\ CO_{em}$$

Where:
CO_{em}=Carbon monoxide concentration of the dilute exhaust sample as measured in p.p.m.
CO_{2e}=Carbon dioxide concentration of the dilute exhaust sample, in mole percent.
R=Relative humidity of the dilution air, in percent.
CO_d=Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d=(1-0.000323\ R)\ CO_{dm}$$

Where:
CO_{dm}=Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

$$DF=\frac{13.4}{CO_{2e}+(HC_e+CO_e)\times10^{-4}}$$

V_{mix}=Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R and 760 mm. Hg).

$$V_{mix}=V_0\times N\frac{(P_B-P_1)\ (528°\ R)}{(700\ mm.\ Hg)\ (T_p)}$$

Where:
V_0=Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.
N=Number of revolutions of the positive displacement pump during the test phase while samples are being collected.
P_B=Barometric pressure in mm. Hg.
P_1=Pressure depression below atmospheric measured at the inlet to the positive displacement pump.
T_p=Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.
K_H=Humidity correction factor.

$$K_H=\frac{1}{1-0.0047\ (H-75)}$$

NOTE: The constant 0.0047 will be updated to reflect any data which becomes available on Light-Duty diesel engine tests.

Where:
H=Absolute humidity in grains of water per pound of dry air.

$$H=\frac{(43.478)\ R_a\times P_d}{P_B-(P_d\times R_a/100)}$$

R_a=Relative humidity of the ambient air, in percent.
P_d=Saturated vapor pressure, in mm. Hg at the ambient dry bulb temperature.

(d) Example calculation of mass emissions values:

(1) For the "transient" phase of the cold start test assume V_0=0.29344 cu. ft. per revolution; N=10,485; R=48.0 percent; R_a=48.2 percent; P_B=762 mm. Hg; P_d=22.225 mm. Hg; P_1=70 mm. Hg; T_p=570° R; HC_e=105.8 p.p.m. carbon equivalent; NO_{xe}=11.2 p.p.m.; CO_{em}=306.6 p.p.m.; CO_{2e}=1.43 percent; HC_d=12.1 p.p.m.; NO_{xd}=0.8 p.p.m.; CO_{dm}=15.3 p.p.m. Then:

$$V_{mix}=\frac{(0.29344)\ (10{,}485)\ (762-70)\ (528)}{(760)\ (570)}=2595.0\ \text{cu. ft. per test phase.}$$

$$H=\frac{(43.478)\ (48.2)\ (22.225)}{762-(22.225\times48.2/100)}$$

$$K_H=\frac{1}{1-0.0047\ (62-75)}=0.9424.$$

$$CO_e=(1-0.01925(1.43)-0.000323(48))306.0=293.4\ \text{p.p.m.}$$
$$CO_d=(1-0.000323(48))15.3=15.1\ \text{p.p.m.}$$

$$DF=\frac{13.4}{1.43+(105.8+293.4)\times10^{-4}}=9.116.$$

$HC_{cone}=105.8-12.1(1-1/9.116)=95.03.$
$HC_{mass}=(2595)\ (16.33)\ (95.03/1{,}000{,}000)=4.027$ grams per test phase.
$NO_{x_{cone}}=11.2-0.8(1-1/9.116)=10.49.$
$NO_{x_{mass}}=(2595)\ (54.16)\ (10.49/1{,}000{,}000)\ (0.9424)=1.389$ grams per test phase.
$CO_{cone}=293.4-15.1(1-1/9.116)=280.$
$CO_{mass}=(2595)\ (32.97)\ (280/1{,}000{,}000)=23.96$ grams per test phase.

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in HC_{mass}=0.62 grams per test phase; NO_{xmass}=1.27 grams per test phase; and CO_{mass}=5.98 grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in HC_{mass}=0.51 grams per test phase; NO_{xmass}=1.38 grams per test phase; and CO_{mass}=5.01 grams per test phase.

(4) For a 1975 light-duty vehicle:

$HC_{wm}=((0.43)(4.027)+(0.57)(0.51)+0.62)/7.5=0.352$ grams per vehicle mile.
$NO_{xwm}=((0.43)(1.389)+(0.57)(1.38)+1.27)/7.5=0.364$ grams per vehicle mile.
$CO_{wm}=((0.43)(23.96)+(0.57)(5.01)+5.98)/7.5=2.55$ grams per vehicle mile.

§ 85.175–18 Test vehicles.

(a)(1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) To be classed in the same engine family, engines must be identical in all the following respects:

(i) The cylinder bore center to center dimensions.

(ii) The dimension from the centerline of the crankshaft to the centerline of the camshaft.

(iii) The dimension from the centerline of the crankshaft to the top of the cylinder block head face.

(iv) The cylinder block configuration (air-cooled or water-cooled; L–6, 90° V–8, etc.).

(v) The location of intake and exhaust valves and the valve sizes (within a ⅛-inch range on the valve head diameter).

(vi) The method of air aspiration.

(vii) The combustion cycle.

(3) Engines identical in all the respects listed in subparagraph (2) of this paragraph may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of the following features of each engine:

(i) The bore and stroke.

(ii) The surface to volume ratio of the nominally dimensioned cylinder at the top dead center position.

(iii) The intake manifold induction port size and configuration.

(iv) The exhaust manifold port size and configuration.

(v) The intake and exhaust valve sizes.

(vi) The fuel system.

(vii) The camshaft timing and ignition timing characteristics.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) Emission data vehicles:

(1) Vehicles will be chosen to be operated and tested for emission data based upon the engine family groupings. Within each engine family, the requirements of this paragraph must be met.

(2) Vehicles of each engine family will be divided into engine displacement-exhaust emission control system-combinations. A projected sales volume will be established for each combination for the model year for which certification is sought. One vehicle of each combination will be selected in order of decreasing projected sales volume until 70 percent of the projected sales of a manufacturer's total production of vehicles of that engine family is represented, or until a maximum of four vehicles is selected. If any single combination represents over 70 percent, then two vehicles of that combination will be selected. The vehicle selected for each combination will be specified by the Administrator as to transmission type, fuel system, and inertia weight class.

(3) The Administrator may select a maximum of four additional vehicles within each engine family based upon features indicating that they may have the highest emission levels of the vehicles in that engine family. In selecting these vehicles, the Administrator will consider such features as the emission control system combination, induction system characteristics, ignition system characteristics, fuel system, rated horsepower, rated torque, compression ratio, inertia weight class, transmission options and axle ratios.

(4) If the vehicles selected in accordance with subparagraphs (2) and (3) of this paragraph do not represent each engine-system combination, then one vehicle of each engine-system combination not represented will be selected by the Administrator. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with the control system combination in the engine family and will be designated by the Administrator as to transmission type, fuel system, and inertia weight class.

(c) Durability data vehicles:

(1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected shall be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family and will be designated by the Administrator as to transmission type, fuel system and inertia weight class.

(2) If an exhaust emission control system is used in only one engine family, an additional vehicle using that system in that family will be selected so that the durability data fleet shall contain at least two vehicles with each system. The additional vehicle will be selected in the same manner as vehicles selected under subparagraph (1) of this paragraph.

(3) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same engine displacement, transmission type, fuel system and inertia weight class as the vehicle selected for that engine-system combination in accordance with the provisions of subparagraph (1) of this paragraph. Notice of an intent to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.175–20(g) the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: *Provided*, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motor vehicles subject to this subpart for the model year for which certification is sought is less than 2,000 vehicles may request a reduction in the number of test vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to such lesser number as he determines would meet the objectives of this procedure.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section and

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submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been obtained.

(g)(1) Where it is expected that more than 33 percent of an engine family will be equipped with an optional item, the full estimated weight of that item shall be included in the curb weight computation for the entire engine family. Where it is expected that 33 percent or less of the vehicles in an engine family will be equipped with an item of optional equipment, no weight for that item will be added in computing curb weight. Optional equipment weighing less than 3 pounds per item need not be considered.

(2) Where it is expected that more than 33 percent of an engine family will be equipped with an item of optional equipment that can reasonably be expected to influence exhaust emissions, then such items of optional equipment shall actually be installed on all emission data and durability data vehicles for such engine family.

§ 85.175–19 Maintenance.

(a)(1) Maintenance on the engines and fuel systems of durability vehicles may be performed only under the following provisions:

(i) One major engine tuneup to manufacturer's specifications may be performed at 24,000 miles (±250 miles) of scheduled driving with the following exception: On a vehicle with an engine displacement of 150 cubic inches or less (or a rating of at least 1.20 maximum rated horsepower per cubic inch of displacement) major engine tuneups may be performed at 12,000, 24,000, and 36,000 miles (±250 miles) of scheduled driving. A major engine tuneup shall be restricted to the following:

(*a*) Adjust low idle speed.
(*b*) Adjust valve lash if required.
(*c*) Adjust injector timing.
(*d*) Adjust governor.
(*e*) Clean and service injector tips.
(*f*) Adjust drive belt tension on engine accessories.
(*g*) Check engine bolt torque and tighten as required.

(ii) Injectors may be changed if a persistent misfire is detected.

(iii) Normal vehicle lubrication services (engine and transmission oil change and oil filter, fuel filter, and air filter servicing) will be allowed at manufacturer's recommended intervals.

(iv) The crankcase emission control system may be serviced at 12,000-mile intervals (±250 miles) of scheduled driving.

(v) Readjustment of the engine idle settings may be performed only if there is a problem of stalling at stops.

(vi) Leaks in the fuel system, engine lubrication system and cooling system may be repaired.

(vii) Engine idle speed may be adjusted at the 4,000-mile test point.

(viii) Any other engine or fuel system maintenance or repairs may be allowed with the advance approval of the Administrator.

(2) Repairs to vehicle components of the durability data vehicle, other than the engine or fuel system shall be performed only as a result of part failure or vehicle system malfunction.

(3) Allowable maintenance on emission data vehicles shall be limited to the adjustment of engine idle speed at the 4,000-mile test point, except that other maintenance or repairs may be allowed with the advance approval of the Administrator.

(4) Where the Administrator agrees under § 85.175–20 to a mileage accumulation of less than 50,000 miles for durability testing, he may modify the requirement of this paragraph.

(b) Complete emission tests (see §§ 85.175–3 to 85.175–17) shall be run before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be supplied to the Administrator immediately after the tests, along with a complete record of all pertinent maintenance, including an engineering report of any malfunction diagnosis and the corrective action taken. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.53.

(c) If the Administrator determines that maintenance or repairs performed have resulted in a substantial change to the engine-system combination, the vehicle shall not be used as a durability data vehicle.

§ 85.175–20 Mileage accumulation and emission measurements.

The procedure for mileage accumulation will be the Durability Driving Schedule as specified in Appendix D to this part. A modified procedure may also be used if approved in advance by the Administrator.

(a) Emission data vehicles: Each emission data vehicle shall be driven 4,000 miles with all emission control systems installed and operating. Emission tests shall be conducted at zero miles and 4,000 miles.

(b) Durability data vehicles: Each durability data vehicle shall be driven with all emission control systems installed and operating, for 50,000 miles or such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Emission measurements from a cold start shall be made at zero miles and at each 4,000-mile interval.

(c) All tests required by this subpart to be conducted after 4,000 miles of driving or at any multiple of 4,000 miles may be conducted at any accumulated mileage within 250 miles of 4,000 miles or the appropriate multiple of 4,000 miles, respectively.

(d) The results of each emission test shall be supplied to the Administrator immediately after the test. Where a manufacturer conducts multiple tests at any test point or any tests between test points, data on these tests (including voided tests) shall be provided to the Administrator in accordance with § 85.53.

(e) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero mile test data to the Administrator and make the vehicle available for such testing under § 85.54 as the Administrator may require before beginning to accumulate mileage on the vehicle. Failure to comply with this requirement will invalidate all test data submitted for this vehicle.

(f) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (e) of this section, he shall continue to run the vehicle to 4,000 miles or 50,000 miles, respectively, and the data from the vehicle will be used in the calculations under § 85.175–21. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(g)(1) The Administrator may elect to operate and test any test vehicle during all or any part of the mileage accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures (§§ 85.175–3 to 85.175–17) will be followed by the Administrator. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacturer the Administrator's data shall be used in the determination of deterioration factors.

§ 85.175–21 Compliance with emission standards.

(a) The exhaust emission standards in the regulations in this part apply to the emissions of vehicles for their useful life.

(b) Since it is expected that emission control efficiency will change with mileage accumulation on the vehicle, the emission level of a vehicle which has accumulated 50,000 miles will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new light-duty motor vehicle with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emissions results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust HC, exhaust CO, and exhaust NO_x.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(*a*) All emission data from the tests required under § 85.175–20(b), except the zero mile tests. This shall include the

official test results as determined in § 85.54 for all tests conducted on all durability vehicles of the combination selected under § 85.175–18(c) (including all vehicles elected to be operated by the manufacturer under § 85.175–18(c)(3)). Where the Administrator has agreed to a mileage less than 50,000 miles in accordance with § 85.175–20(b), the data for mileages greater than that actually run will be determined by extrapolating the test data generated at lesser mileages.

(*b*) All emission data from the tests conducted before and after the maintenance provided in § 85.175–19(a)(1)(i).

(ii) All applicable results shall be plotted as a function of the mileage on the system, rounded to the nearest mile, and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. The interpolated 4,000 and 50,000 mile points on this line must be within the standards provided in § 85.175–2 or the data will not be acceptable for use in calculation of a deterioration factor.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

$$\text{factor} = \frac{\text{exhaust emissions interpolated to 50,000 miles}}{\text{exhaust emissions interpolated to 4,000 miles.}}$$

(2) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: *Provided*, That if a deterioration factor as compared in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of subparagraph (2) of this paragraph for each emission data vehicle.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in subparagraph (3) of this paragraph, before any vehicle of that family may be certified.

§ 85.176–1 Applicability (1976 model year).

With the exception of the nitrogen oxides exhaust emission standard, the standards and test procedures set forth in § 85.175–2(b) through § 85.175–21 remain applicable for the 1976 model year.

§ 85.176–2 Standards for exhaust emissions.

(a) Exhaust emissions from 1976 model year vehicles shall not exceed:

(1) Hydrocarbons—0.41 grams per vehicle mile.
(2) Carbon monoxide—3.4 grams per vehicle mile.
(3) Oxides of nitrogen—0.40 grams per vehicle mile.

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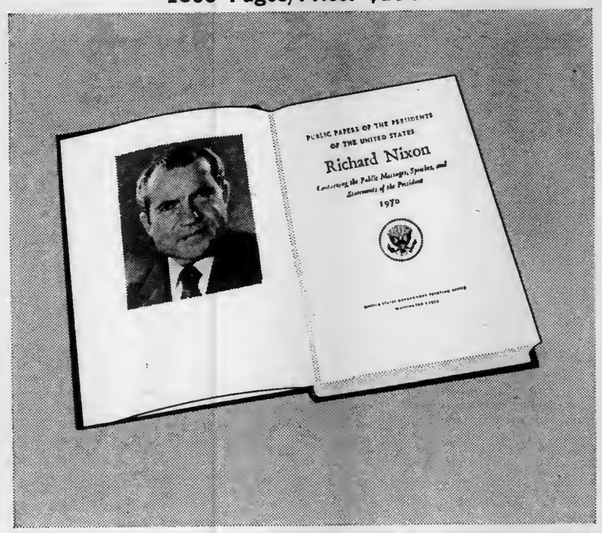
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Title 3—The President

PROCLAMATION 4161

Columbus Day, 1972

By the President of the United States of America

A Proclamation

On Columbus Day, 1972, we once again celebrate the memorable achievements of the great navigator and explorer whose vision and daring led to much of the permanent settlement of the Americas by the peoples of Europe.

When Christopher Columbus, a son of Italy sailing in the service of Spain, crossed the uncharted ocean sea in 1492, he helped to open a new chapter in the history of mankind. Columbus was among the first in a long series of courageous trail blazers, who have moved us forward across perilous areas of sea, land, and space in pursuit of greater knowledge of the globe and its surroundings.

All Americans take pride in recalling the accomplishments of Columbus. We count the memory of his courage in confronting unknown dangers and his indomitable faith in overcoming the setbacks which preceded his voyage as among the ideals which helped to shape the American character.

In tribute to the achievements of Columbus, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the act of June 28, 1968 (82 Stat. 250), requested the President to proclaim the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Monday, October 9, 1972, as Columbus Day; and I invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in honor of the great explorer.

I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17127 Filed 10-3-72;12:31 pm]

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Rules and Regulations

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 412]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.712 Valencia Orange Regulation 412.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation of such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 3, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 6 through October 12, 1972, are hereby fixed as follows:

(i) District 1: 412,000 Cartons;

(ii) District 2: 338,000 Cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 4, 1972.

PAUL A. NICHOLSON,
Deputy Dircetor, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17216 Filed 10-4-72;11:31 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-561]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in subparagraph (e)(7) relating to the State of Kentucky, subdivision (vii) relating to Washington and Marion Counties is amended to read:

(e) • • •

(7) *Kentucky.*

• • • • • •

(vii) The adjacent portions of Washington and Marion Counties bounded by a line beginning at the junction of the Washington-Mercer County line and State Highway 152; thence, following State Highway 152 in Washington County in a westerly direction to Fenwick Road; thence, following Fenwick Road in a northwesterly direction to State Highway 53; thence, following State Highway 53 in a southwesterly direction to State Highway 152; thence, following State Highway 152 in a northwesterly direction to State Highway 55; thence, following State Highway 55 in a southwesterly, then southeasterly direction to U.S. Highway 68, State Highway 52 in Marion County; thence, following U.S. Highway 68, State Highway 52 in a northeasterly direction to the Marion-Boyle County line; thence, following the Marion-Boyle County line in a northeasterly direction to the junction of the Marion-Washington-Boyle County lines; thence, following the Washington-Boyle County line in a northeasterly direction to the junction of the Washington-Boyle-Mercer County lines; thence, following the Washington-Mercer County line in a northeasterly direction to its junction with State Highway 152 in Washington County.

• • • • • •

2. In § 76.2, in paragraph (g) the name of the State of Tennessee is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine additional portions of Washington and Marion Counties in Kentucky because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments remove the State of Tennessee from the list of hog cholera-free States appearing in 9 CFR 76.2(g), as amended, because of the secondary spread of the contagion of hog cholera within this State. The special provisions pertaining to the interstate movement

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of swine and swine products from eradication and free States are no longer applicable to Tennessee. However, the general restrictions contained in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from nonquarantined areas apply to the State of Tennessee. This removal of the State of Tennessee from hog cholera-free status has the effect of reducing the Federal indemnities payable under other regulations (9 CFR Part 56) for swine slaughtered because of hog cholera in Tennessee.

The amendments impose certain further restrictions necessary to prevent the spread of hog cholera, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of October 1972.

G. N. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17090 Filed 10-4-72;8:55 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-GL-50]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Kalamazoo, Mich., control zone.

On November 1, 1972, the control tower serving the Kalamazoo, Mich., Municipal Airport will increase its hours of operation from 0700–2300 daily to 0600–2400 daily, local time. Since the Kalamazoo control zone is a part-time zone designated by specific hours based upon the time the control tower is in operation, it is necessary to make the Kalamazoo control zone effective during the times that the control tower is in operation. Action is taken herein to effect this change. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. Thereafter, the effective date and time of the control zone and any changes thereto will continuously be published in the Airman's Information Manual.

Since this alteration is minor in nature and is in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedures Act is unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., December 7, 1972, as hereinafter set forth:

In § 71–171 (37 F.R. 2056), the following control zone is amended to read:

KALAMAZOO, MICH.

Within a 5-mile radius of the Kalamazoo Municipal Airport (latitude 42°14'07" N., longitude 85°33'10" N.; within 2 miles each side of the Kalamazoo VOR 001° 167° and 229° radials, extending from the 5-mile radius zone to 7 miles North, South, and Southwest of the VOR, and within 2 miles each side of the Kalamazoo ILS localizer south course, extending from the 5-mile radius zone to the OM. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.72-17021 Filed 10-4-72;8:48 am]

[Docket No. 11464, Amdt. 91-104]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Aircraft Lease Agreements: Requirement for "Truth in Leasing" Clause

This amendment to Part 91 of the Federal Aviation Regulations prescribes requirements for including a "truth in leasing" clause in certain leases and contracts of conditional sales involving U.S. registered large civil aircraft, and for filing a copy of the lease or contract with the FAA and carrying a copy in the aircraft.

This amendment is based on a notice of proposed rule making (Notice 71–35) published in the FEDERAL REGISTER on October 29, 1971 (36 F.R. 20768).

The wording of the proposal in § 91.54 (a) has been revised to clarify its applicability and also to make it clear that a lease or contract of conditional sale subject to this regulation must be in writing, as well as the required "truth in leasing" clause.

As proposed in Notice 71–35 the requirement for including a "truth in leasing" clause would have applied to large or turbine-powered multiengine aircraft. However, after further study and consideration of the comments received, the FAA has concluded that safety will not be compromised if the "truth in leasing" requirement is only made applicable to large aircraft. Accordingly, as adopted herein, the applicability of § 91.54(a) is limited to U.S. registered large civil aircraft. Nevertheless, the FAA may at a later date, if circumstances warrant, propose additional rule making to require "truth in leasing" for other aircraft.

The exemption provision adopted in § 91.54(b)(1) is essentially the same as proposed, except for certain kinds of leases and contracts which have been added to the exemption provision upon further consideration of the proposal in the light of comments received. Specifically, the additions are leases and conditional sales contracts, when the party furnishing the airplane thereunder (lessor or conditional seller) is a foreign air carrier; a certificate holder under Part 121, 123, 127, or 141; or a certificate holder under Part 135 having appropriate authority to engage in air taxi operations with large aircraft. Adoption of the exemption provision in § 91.54(b)(1) is considered appropriate, since the FAA is confident that those operators specified therein are fully cognizant of their safety responsibilities as aircraft owners and operators under the Federal Aviation Regulations.

The FAA also recognizes that the problem to which the proposal was directed has not involved those arrangements normally entered into by aircraft manufacturers and dealers for the sale of new aircraft. Accordingly, a provision has been added to § 91.54(b) to exempt contracts of conditional sale when the aircraft involved have not been registered anywhere prior to the execution of the contract, except as new aircraft under a dealer's registration certificate.

Some comments were received which objected to carrying a copy of the lease or contract aboard the aircraft on the grounds that no purpose would be served by such a requirement. The FAA does not agree. A copy of the lease or contract should be aboard the aircraft to permit FAA field inspectors to determine who the parties consider has operational control of the aircraft, the regulations under which the aircraft has previously been maintained, and the regulations under which it will be maintained during the term of the lease or contract.

In addition, the FAA has concluded that if an aircraft is leased to a person who is not a citizen of the United States, the registered owner, rather than the lessee, should be responsible for mailing a copy of the lease to the FAA. Accordingly, such a requirement has been adopted in paragraph (c)(1) of § 91.54.

As stated in paragraph (d) of § 91.54, a lease or contract sent to the FAA in accordance with paragraph (c) is considered to be commercial or financial information obtained from a person, and privileged or confidential under 5 U.S.C. 552 (b)(4). It will not, therefore, be made available by the FAA for public inspection or copying, unless recorded with the FAA under Part 49 of this chapter.

For purposes of clarification, a definition of the term lease, as used in § 91.54, has been added in paragraph (e). As defined, it means any agreement by a person to furnish an aircraft to another person for compensation or hire, whether with or without flight crewmembers, that is not a contract of conditional sale under § 101 of the Federal Aviation Act of 1958.

A conditional sale, as defined under the Act and pertinent to this amendment, means (a) any contract for the sale of an aircraft under which possession is delivered to the buyer and the property is to vest in the buyer at a subsequent time, upon payment of part or all of the price, or upon the performance of any other condition or the happening of any contingency; or (b) any contract for the bailment or leasing of an aircraft by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to the value thereof, and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner thereof upon full compliance with the terms of the contract.

Interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended by adding a new § 91.54, effective January 3, 1973, to read as follows:

§ 91.54 Truth in leasing clause requirement in leases and conditional sales contracts.

(a) Except as provided in paragraph (b) of this section, the parties to a lease or contract of conditional sale involving a U.S. registered large civil aircraft shall execute a written lease or contract and include therein a written truth in leasing clause as a concluding paragraph in large print, immediately preceding the space for the signature of the parties, which contains the following with respect to each such aircraft:

(1) Identification of the Federal Aviation Regulations under which the aircraft has been maintained and inspected during the 12 months preceding the execution of the lease or contract of conditional sale; and certification by the parties thereto regarding the aircraft's status of compliance with applicable maintenance and inspection requirements in this part for the operation to be conducted under the lease or contract of conditional sale.

(2) Identification of the person the parties consider responsible for operational control of the aircraft under the lease or contract of conditional sale and certification by that person that he understands his responsibilities for compliance with applicable Federal Aviation Regulations.

(3) A statement that an explanation of factors bearing on operational control and pertinent Federal Aviation Regulations can be obtained from the nearest FAA Flight Standards District Office, General Aviation District Office, or Air Carrier District Office.

(b) The requirements of paragraph (a) of this section do not apply—

(1) To a lease or contract of conditional sale when:

(i) The party to whom the aircraft is furnished is a foreign air carrier or certificate holder under Part 121, 123, 127, 135, or 141 of this chapter; or

(ii) The party furnishing the aircraft is a foreign air carrier, certificate holder under Part 121, 123, 127, or 141 of this chapter, or a certificate holder under Part 135 of this chapter having appropriate authority to engage in air taxi operations with large aircraft.

(2) To a contract of conditional sale, when the aircraft involved has not been registered anywhere prior to the execution of the contract, except as a new aircraft under a dealer's aircraft registration certificate issued in accordance with § 47.61 of this chapter.

(c) No person may operate a large civil aircraft of U.S. registry that is subject to a lease or contract of conditional sale to which paragraph (a) of this section applies, unless—

(1) The lessee or conditional buyer, or the registered owner if the lessee is not a citizen of the United States, has mailed a copy of the lease or contract that complies with the requirements of paragraph (a) of this section, within 24 hours of its execution, to the Flight Standards Technical Division, Post Office Box 25724, Oklahoma City, OK 73125; and

(2) A copy of the lease or contract that complies with the requirements of paragraph (a) of this section is carried in the aircraft. The copy of the lease or contract shall be made available for review upon request by the Administrator.

(d) The copy of the lease or contract furnished to the FAA under paragraph (c) of this section is commercial or financial information obtained from a person. It is, therefore, privileged and confidential, and will not be made available by the FAA for public inspection or copying under 5 U.S.C. 552(b)(4), unless recorded with the FAA under Part 49 of this chapter.

(e) For the purpose of this section, a lease means any agreement by a person to furnish an aircraft to another person for compensation or hire, whether with or without flight crewmembers, that is not a contract of conditional sale under § 101 of the Federal Aviation Act of 1958. The person furnishing the aircraft is referred to as the lessor and the person to whom it is furnished the lessee.

(Sec. 313(a), 601, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 27, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-17019 Filed 10-4-72;8:48 am]

[Docket No. 12273, Amdt. 832]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's effective November 16, 1972:

Berlin, N.H.—Berlin Municipal Airport; VOR–A, Amdt. 3; Revised.
Hilton Head Island, S.C.—Hilton Head Airport; VOR/DME–A, Amdt. 2; Revised.
Montgomery, N.Y.—Orange County Airport; VOR Runway 8, Amdt. 4; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; VOR Runway 23, Original; Established.
Seattle, Wash.—Seattle-Tacoma International Airport; VOR Runway 16L/R, Amdt. 2; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; VOR Runway 34L/R, Amdt. 3; Revised.
Trenton, N.J.—Mercer County Airport; VOR–A, Amdt. 7; Revised.

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Walla Walla, Wash.—Walla Walla City-County Airport; VOR-A, Amdt. 2; Revised.
Walla Walla, Wash.—Walla Walla City-County Airport; VOR Runway 2, Amdt. 7; Revised.
Walla Walla, Wash.—Walla Walla City-County Airport; VOR Runway 16, Amdt. 9; Revised.
Youngstown, Ohio—Youngstown Executive Airport; VOR/DME-A, Amdt. 2; Revised.

2. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective September 27, 1972:

McComb, Miss.—McComb-Pike County Airport; LOC Runway 15, Original; Canceled.

3. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective November 16, 1972:

Torrance, Calif.—Torrance Municipal Airport; LOC Runway 29R, Original; Established.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective September 22, 1972:

Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 9; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective November 16, 1972:

Berlin, N.H.—Berlin Municipal Airport; NDB-A, Amdt. 9; Revised.
Claremont, N.H.—Claremont Municipal Airport; NDB-A, Amdt. 1; Revised.
Deadhorse, Alaska—Deadhorse Airport; NDB Runway 4, Amdt. 2; Revised.
Deadhorse, Alaska—Deadhorse Airport; NDB Runway 22, Amdt. 2; Revised.
Rockland, Maine—Knox County Regional Airport, NDB Runway 3, Amdt. 6; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; NDB Runway 16L, Amdt. 1; Canceled.
Seattle, Wash.—Seattle-Tacoma International Airport; NDB Runway 16L/R, Original; Established.
Seattle, Wash.—Seattle-Tacoma International Airport; NDB Runway 34R, Amdt. 2; Revised.
Walla Walla, Wash.—Walla Walla City-County Airport; NDB Runway 20, Original; Canceled.
Walla Walla, Wash.—Walla Walla City-County Airport; NDB-1 Runway 20, Original; Established.
Walla Walla, Wash.—Walla Walla City-County Airport; NDB-2; Runway 20, Original; Established.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective September 21, 1972:

Atlanta, Ga.—The William B. Hartsfield-Atlanta International Airport; ILS Runway 27R, Amdt. 2; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective September 27, 1972:

Oakland, Calif.—Metropolitan Oakland International Airport; ILS Runway 29, Amdt. 15; Revised.

8. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective September 22, 1972:

Grand Junction, Colo.—Walker Field; ILS Runway 11, Amdt. 3; Revised.

9. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective November 16, 1972:

San Francisco, Calif.—San Francisco International Airport; ILS Runway 19L, Amdt. 9; Revised.
Groton/New London, Conn.—Trumbull Airport; ILS Runway 5, Amdt. 1; Revised.
Helena, Mont.—Helena Airport; ILS Runway 26, Original; Established.
Phoenix, Ariz.—Phoenix Sky Harbor International Airport; ILS Runway 8R, Amdt. 1; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; ILS Runway 16L, Amdt. 1; Canceled.
Seattle, Wash.—Seattle-Tacoma International Airport; ILS Runway 16R, Original; Established.
Seattle, Wash.—Seattle-Tacoma International Airport; ILS Runway 34R, Amdt. 3; Revised.
Walla Walla, Wash.—Walla Walla City-County Airport; ILS Runway 20, Original; Established.

10. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's effective October 12, 1972:

August, Ga.—Bush Field; Radar-1, Amdt. 1; Revised.

11. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's effective November 16, 1972:

Pittsburgh, Pa.—Greater Pittsburgh Airport; Radar-1, Amdt. 14; Revised.
Seattle, Wash.—Seattle-Tacoma International Airport; Radar-1, Amdt. 17; Revised.

12. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's effective November 16, 1972:

Pittsburgh, Pa.—Allegheny County Airport; RNAV Runway 9, Amdt. 1; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 5, Amdt. 1; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 14, Amdt. 1; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 23, Amdt. 1; Revised.
Pittsburgh, Pa.—Greater Pittsburgh Airport; RNAV Runway 32, Amdt. 1; Revised.

NOTE: Correct Docket No. 12262, Amdt. No. 832, § 97.25 effective November 9, 1972, Barrow, Alaska to read:

Barrow, Alaska—Wiley Post-Will Rogers Memorial Airport; LOC Runway 6, Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on September 28, 1972.

C. R. MELUGIN, JR.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610), approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-17018 Filed 10-4-72;8:48 am]

[Docket No. 11675, Amdt. 121-98]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Applicability of Operating Rules: Unauthorized Operators

This amendment to Part 121 of the Federal Aviation Regulations will make those rules of Part 121 which currently apply to persons certificated under Part 121 apply as well to persons who engage in a Part 121 operation without obtaining the appropriate certificate required by that part.

This amendment is based on a notice of proposed rule making (Notice 72-1) published in the FEDERAL REGISTER on January 26, 1972 (37 F.R. 1175).

The majority of the comments did not oppose the proposal; however, the National Business Aircraft Association, Inc. (NBAA), and its affiliated members recommended that the FAA delay any action at this time with regard to Notice 72-1. The basis for the NBAA recommendation was that the FAA still had outstanding Notice 71-32, which contained a dicussion of FAA policies regarding operations requiring a commercial operator certificate. The NBAA contends that the current definition in the Federal Aviation Regulations of a commercial operator is not clear and that the adoption of this amendment would further confuse the issue.

The FAA does not agree with the recommendation of the NBAA. Final regulatory action has since been taken by the FAA regarding Notice 71-32 and it is no longer outstanding. In addition, we consider Agency policy regarding operations that require a commercial operator certificate to have been effectively clarified through the issuance of Notice 71-32 and the adoption of amendments based thereon. However, as pointed out in the preamble to Notice 71-32, if an operator has any question as to whether a particular type of operation requires a Part 121 commercial operator certificate, he should immediately request a ruling from the nearest FAA District Office. Such a request will enable the operator to avoid inadvertently operating an aircraft contrary to the Part 121 certification and operating rules.

Interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended by adding a new § 121.4 immediately after § 121.3 in Subpart A of Part 121, effective November 4, 1972, to read as follows:

§ 121.4 Applicability of rules to unauthorized operators.

The rules in this part which refer to a person certificated under § 121.3 apply also to any person who engages in an operation governed by this part without the appropriate certificate and operations specifications required by § 121.3.

(Secs. 313(a), 601, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 27, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-17020 Filed 10-4-72;8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5312, 34-9798, 35-17712, IC-7395, AS-130]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

Pooling-of-Interests Accounting

In recent months, the Commission has noted an increasing number of business combinations which appear to meet the individual requirements for pooling-of-interests accounting set forth in Accounting Principles Board Opinion No. 16 but which do not conform with the overriding thrust of that opinion which requires that a combination represent a sharing of rights and risks among constituent stockholder groups if it is to be a pooling of interests. Paragraphs 28, 45, and 47 of that opinion clearly provide that such a sharing of risk is an essential element in poolings, and the specific requirements set forth in paragraphs 46, 47, and 48 should certainly not be construed as a formula which, if followed with precision, may be used to overcome an essential concept which underlies the entire opinion. Despite the clarity of the opinion in articulating the need for a sharing of risk, a number of registrants and their auditors have proposed to account for combinations which did not meet this basic requirement as poolings.

Accordingly, the Commission has concluded that any confusion regarding this matter should be laid to rest. It is the Commission's understanding that the Accounting Principles Board has authorized its staff to issue an interpretation providing that a business combination should be accounted for as a purchase if its consummation is contingent upon the purchase by a third party of any of the common stocks to be issued. Including such a contingency in the arrangement of the combination, either explicitly or by intent, would be considered a financial arrangement which is precluded in a pooling under Opinion 16.

The Commission endorses this interpretation. Recent questions by registrants indicate that maximum prompt exposure should be given to this interpretation and to the Commission's policies for dealing with questions which arise under it both in the interim period during which the interpretation is being assimilated by the financial community and on a continuing basis thereafter.

As a matter of policy, the Commission believes that it is unwise to set forth absolute rules in such an accounting matter which will be followed regardless of all other factual situations which may surround a particular transaction. To do so would be to encourage the application of form over substance. Nevertheless, it appears reasonable for the Commission to establish guidelines which it will use in making determinations as to disposition of various individual cases brought before it and to make these guidelines known to registrants and independent public accountants.

In the case of business combinations, the Commission will consider that if a registration statement is filed contemplating the sale of stock issued in a combination which does not include at the date of filing a set of financial statements reflecting the completed transaction (including some period of combined operations), that fact will constitute prima facie evidence that the sale was included explicitly or by intent in the arrangement of the combination and, hence, pooling treatment is not appropriate. In other words, all stock issued in a pooling must be held at risk at least as long as it takes to prepare post-merger financial statements for the combined entity and then to file and await effectiveness of a registration statement before it can be publicly sold.

This release is not intended to restrict sale of stock at the option of the stockholders subsequent to the pooling as long as a sharing of risks for the period of time indicated above has taken place. An arrangement to register shares subsequent to the combination would therefore not bar pooling. However, an agreement which requires sale of shares after such a period would preclude pooling treatment as would any agreement to reduce the risk borne by the stockholders subsequent to the transaction.

During an interim period of 75 days while this release and interpretation are being assimilated and where transactions previously negotiated are being filed with the Commission, it seems reasonable to apply a less rigorous risk-sharing test while at the same time recognizing that in the Commission's general view a transaction in which no risk is shared is not appropriately treated as a pooling. During this interim period, therefore, the Commission will raise no questions as to the appropriateness of pooling accounting in transactions where at least 25 percent of the stock issued in the pooling is retained at risk by shareholders of the pooled company and where effective date of any registration statement covering sale of the stock to be sold is subsequent to the date the combination is consummated.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

SEPTEMBER 29, 1972.

[FR Doc.72-17031 Filed 10-4-72;8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Creamed Cottage Cheese; Identity Standard; Confirmation of Effective Date of Order

In the matter of amending the standard of identity for creamed cottage cheese (21 CFR 19.530) to permit optional addition of safe and suitable defoaming agents in the creaming mixture:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 401, 701, 52 Stat. 1046, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections or requests for a hearing were filed in response to the order in the above-identified matter published in the FEDERAL REGISTER of June 17, 1972 (37 F.R. 12064). Accordingly, the amendment promulgated by that order became effective August 16, 1972.

Dated: September 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-17001 Filed 10-4-72;8:47 am]

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SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Oxytetracycline Hydrochloride and Hydrocortisone Spray

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13–293V) filed by Pfizer, Inc., 235 East 42d Street, New York, NY 10017, proposing revised labeling for the safe and effective use of oxytetracycline hydrochloride and hydrocortisone spray for topical use in dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.42 Oxytetracycline hydrochloride and hydrocortisone spray, veterinary.

(a) *Specifications.* Each 3-ounce unit of oxytetracycline hydrochloride and hydrocortisone spray, veterinary contains 300 milligrams of oxytetracycline hydrochloride and 100 milligrams of hydrocortisone with an inert freon propellant such that a 1-second spray treatment will deliver approximately 2.5 milligrams of oxytetracycline hydrochloride and 0.8 milligram of hydrocortisone.

(b) *Sponsor.* See code No. 030 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is indicated for relief of discomfort and continued treatment of many allergic, infectious, and traumatic skin conditions. The indications include prevention of bacterial infections in superficial wounds, cuts, and abrasions, treatment of allergic dermatoses, including urticaria, eczemas, insect bites, and cutaneous drug reactions, infections associated with minor burns and wounds, and nonspecific pruritus in dogs and cats.

(2) A small quantity should be sprayed on the affected surface by holding the container about 6 inches from the area to be treated and pressing the nozzle for 1 or 2 seconds. Only sufficient spray to coat the skin thinly is necessary. The application of small amounts at frequent intervals will give best results. Before treating animals with long or matted hair, it may be necessary to clip the affected area or spread the hairs to allow the medication to contact the skin surface. Relief may be noted following the first or second treatment; however, treatment should not be discontinued too soon after the initial favorable response has been obtained.

(3) Keep away from eyes or other mucous membranes; avoid inhaling; use with adequate ventilation; in case of deep or puncture wounds or serious burns, consult a veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–5–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 28, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–16996 Filed 10–4–72;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Sodium Thiamylal for Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (10–809V) filed by Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, MI 48232, proposing revised labeling to provide for the safe and effective use of sodium thiamylal injection in cats, horses, swine, and cattle. The supplemental application is approved.

In addition, an editorial change is made by incorporating the word "veterinary" into the section heading.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 368b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.39 is amended by revising the section heading and text as follows:

§ 135b.39 Sodium thiamylal for injection, veterinary.

(a) (1) Specifications. Sodium thiamylal for injection, veterinary, is a sterile dry powder containing a mixture of sodium thiamylal and anhydrous sodium carbonate. It is contained in vacuum-packed vials with directions for adding the necessary amount of water for injection or of sodium chloride for injection in order to produce a 0.5 to 4 percent solution of sodium thiamylal.

(2) *Sponsor.* See code No. 059 in § 135.501(c) of this chapter.

(3) *Conditions of use.* It is used in dogs, as follows:

(i) (a) To induce anesthesia,

(b) For short periods of anesthesia (10 to 15 minutes), and

(c) As an additional dosage of anesthetic when needed in major surgery.

(ii) An initial dose of approximately 8 milligrams per pound of body weight is administered. Additional dosages are given at approximately one-fourth of the initial dose.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b) (1) *Specifications.* Sodium thiamylal for injection, veterinary, is a sterile dry powder containing a mixture of sodium thiamylal and anhydrous sodium carbonate. It includes directions for adding the necessary amount of sterile distilled water to produce a 0.5 to 4 percent solution of sodium thiamylal.

(2) *Sponsor.* See code No. 049 in § 135.501(c) of this chapter.

(3) *Conditions of use.* The drug is used either as the sole intravenous anesthetic agent for major and minor surgery or for intubation and induction of anesthesia prior to the administration of a volatile anesthetic as follows:

(i) The drug is administered to initially anesthetize an average-sized dog or cat in an approximate quantity calculated on the basis of 40 milligrams per 5 pounds of body weight. Young animals may require a larger dose than do older animals. Lower dosage is generally applicable to larger and older animals, those in poor physical condition, and brachiocephalic breeds.

(ii) It is administered to horses directly into the jugular vein for light anesthesia, it is administered at 1 gram to animals weighing from 500 to 1,100 pounds. For deeper anesthesia, it is administered at a dosage of 40 milligrams per 12 pounds of body weight; supplemental volatile liquid or gas may be used if desired to prolong anesthesia.

(iii) It is administered to swine at 40 milligrams per 5 pounds of body weight. It is administered either into the anterior vena cava or into the external ear vein, depending upon the size of the animal.

(iv) It is administered to cattle intravenously either at 20 milligrams per 5 pounds of body weight from a 2 percent solution or at 40 milligrams per 7 pounds of body weight from a 4 percent solution.

(v) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–5–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 28, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–16997 Filed 10–4–72;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Cephaloridine Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (46–417V) filed by Elanco Products Co., Post Office Box 1750, Indianapolis, IN 46206 proposing additional uses of cephaloridine injection for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.45 by revising paragraph (c)(1) as follows:

§ 135b.45 Cephaloridine injection.

* * * * *

(c) *Conditions of use.* (1) It is used in dogs for the treatment of bacterial infections of the respiratory, enteric, and urinary tracts and soft tissue due to cephaloridine-sensitive organisms and in cats for the treatment of bacterial infections of the respiratory and enteric tracts, urinary bladder and soft tissue due to cephaloridine-sensitive organisms.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–5–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 28, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–16993 Filed 10–4–72;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Prochlorperazine, Isopropamide for Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (15–147V) filed by Norden Laboratories, Inc., Lincoln, Nebr. 68501 proposing revised labeling providing for the safe and effective use of a combination drug containing prochlorperazine and isopropamide for injection for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.55 Prochlorperazine, isopropamide for injection, veterinary.

(a) *Specifications.* Prochlorperazine, isopropamide for injection, veterinary, contains in each milliliter, 6 milligrams of prochlorperazine edisylate (equivalent to 4 milligrams prochlorperazine), and 0.38 milligrams of isopropamide iodide (equivalent to 0.28 milligrams of isopropamide) in buffered aqueous solution.

(b) *Sponsor.* See Code No. 026 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in dogs and cats in which gastrointestinal disturbances are associated with emotional stress.

(2) Dosage is administered by subcutaneous injection twice daily as follows:

Weight of animal in pounds	*Dosage in Milliliters*
Up to 4	0.25
5 to 14	0.5–1
15 to 30	2–3
30 to 45	3–4
45 to 60	4–5
Over 60	6

Following the last injection, administer prochlorperazine and isopropamide sustained release capsules as indicated.

(3) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–5–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 28, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–16994 Filed 10–4–72;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Dichlorvos

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (35–918V) filed by Shell Chemical Co., Agricultural Chemicals Division, 110 West 51st Street, New York, NY 10020, proposing revised labeling for the safe and effective use of dichlorvos as an anthelmintic in horses. The supplemental application is approved.

The Commissioner concludes that the specifications for dichlorvos required by § 135c.50(b) are unnecessary since dichlorvos may only be used as provided for in this section when an approved new animal drug application covers the specifications of the dichlorvos to be used.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended in § 135c.50 by deleting paragraph (b) and adding a new paragraph (g) as follows:

§ 135c.50 Dichlorvos.

* * * * *

(b) [Deleted]

* * * * *

(g) *Conditions of use in horses.* (1) It is recommended for the removal and control of bots (*Gastrophilus intestinalis, G. nasalis*), large strongyles (*Strongylus vulgaris, S. equinus, S. edentatus*), small strongyles (of the genera *Cyathostomum, Cylicocercus, Cylicocyclus, Cylicodontophorus, Triodontophorus, Poteriostomum, Gyalocephalus*), pinworms (*Oxyuris equi*), and large roundworm (*Parascaris equorum*) in horses including ponies and mules. Not for use in foals (sucklings and young weanlings).

(2) For a satisfactory diagnosis, a microscopic fecal examination should be performed by a veterinarian or a diagnostic laboratory prior to worming.

(3) It is administered in the grain portion of the ration at a dosage of 14.2 milligrams to 18.5 milligrams per pound of body weight as a single dose. It may be administered at one-half of the single recommended dosage and repeated 8 to 12 hours later in the treatment of very aged, emaciated or debilitated subjects or those reluctant to consume medicated feed. In suspected cases of severe ascarid infection sufficient to cause concern over mechanical blockage of the intestinal tract, the split dosage should be utilized.

(4) Do not use in horses which are severely debilitated, suffering from diarrhea or severe constipation, infectious disease, toxemia or colic. Do not administer in conjunction with or within 1 week of administration of muscle relaxant drugs, phenothiazine derived transquilizers or central nervous system depressant drugs. Horses should not be subjected to insecticide treatment for 5 days prior to or after treating with the drug. Do not administer to horses afflicted with chronic alveolar emphysema (heaves) or related respiratory conditions. The product is a cholinesterase inhibitor and should not be used simultaneously or within a few days before or after treatment with or exposure to cholinesterase inhibiting drugs, pesticides or chemicals.

(5) Do not use in animals other than horses, ponies, and mules. Do not use in horses, ponies, and mules intended for food purposes. Do not allow fowl access to feed containing this preparation or to fecal excrement from treated animals.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–5–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 28, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17000 Filed 10–4–72;8:47 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Oleandomycin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (35–287V) filed by Pfizer, Inc., 235 East 42nd Street, New York, NY 10017, proposing the manufacture of oleandomycin premix at an additional level of 5 grams of oleandomycin activity per pound for safe and effective use in the manufacture of finished animal feeds. The supplemental application is approved.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under the authority delegated to the Commissioner (21 CFR 2.120), § 135e.45 is amended as follows:

§ 135e.45 Oleandomycin.

* * * * *

(b) *Approvals.* Premix levels of 4 and 5 grams of oleandomycin activity per pound granted; for sponsor see code No. 030 in § 135.501(c) of this chapter.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–5–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: September 28, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–16995 Filed 10–4–72;8:45 am]

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Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. Entries to the table published on August 16, 1972, at 37 F.R. 16543, and on August 30, 1972, at 37 F.R. 17552, listed certain communities whose eligibility for the sale of flood insurance was being suspended on the date indicated in the entries, on the basis of the communities' failure to adopt required land use and control measures consistent with 24 CFR Part 1910 criteria. Each of the communities listed in this entry was so listed, but each has submitted, prior to the indicated suspension date for the community, a copy of adopted measures which appear to correct previous disqualifying deficiencies. Therefore, the suspension of eligibility of each community listed in this entry has been withdrawn on the date indicated hereinbelow, and these communities' eligibility for the sale of flood insurance has been continued without interruption pending detailed review of submitted documents. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map. No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Florida	Pinellas	Belleair Beach				Sept. 14, 1972. Suspension withdrawn.
Do	do	Belleair Shore				Do.
Do	do	Clearwater				Do.
Do	do	Indian Rocks Beach South Shore.				Do.
Do	do	Safety Harbor				Do.
Do	do	St. Petersburg				Do.
Do	Sarasota	Unincorporated areas.				

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969, and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971, 36 F.R. 16701, Aug. 25, 1971)

Issued: September 26, 1972.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.72-17077 Filed 10-4-72;8:52 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

POLICY ON PROCUREMENT OF INSTRUMENTATION TAPE (WIDE AND INTERMEDIATE BAND)

This regulation provides (1) an updated list of manufacturers to be notified in the motor vehicle defects program and (2) policy on the procurement of instrumentation tape (wide and intermediate band).

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

The table of contents of Part 101–26 is amended by revising the caption of § 101–26.508 to read as follows:

Sec.
101–26.508 Electronic data processing (EDP) tape and instrumentation tape (wide and intermediate band).

Subpart 101–26.5—GSA Procurement Programs

1. Section 101–26.501–8 is amended as follows:

§ 101–26.501–8 Notification of vehicle defects.

• • • • • •

• Addresses of manufacturers.

American Motors Corp., Fleet Sales Department, 14250 Plymouth Road, Detroit, MI 48232.

AM General Corp., Logistics Division, 701 West Chippewa Avenue, South Bend, IN 46623.

Ownercard Coordinator, Ford Division, Ford Motor Co., Post Office Box 428, Dearborn, MI 48121.

International Harvester Co., Suite 900, 1707 L Street NW., Washington, DC 20036.

Field Service and Engineering, Chrysler Motors Corp., Government Sales Department, Post Office Box 716, Detroit, MI 48231.

Chevrolet Motor Division, Chevrolet Service Department, Argonaut A Building, 485 West Milwaukee Avenue, Detroit, MI 48202.

Director, Product Reliability, Diamond Reo Truck Division, White Motor Corp., 1330 South Washington Avenue, Lansing, MI 48920.

Director of Service, FWD Corp., 105 East 12th Street, Clintonville, WI 54929.

General Parts and Service Manager, GMC Truck and Coach Division, General Motors Corp., 660 South Boulevard East, Pontiac, MI 48053.

Mack Trucks, Inc., Service Operations, Post Office 1000, Somerville, NJ 08876.

Supervisor, Vehicle Service and Safety Programs, White Trucks, a division of White Motor Corp., Post Office Box 5757, Cleveland, OH 44101.

• • • • • •

2. The caption and text of § 101–26.508 and the text of §§ 101–26.508–1 through 101–26.508–3 are revised to read as follows:

§ 101–26.508 Electronic data processing (EDP) tape and instrumentation tape (wide and intermediate band).

Procurement by Federal agencies of EDP tape and instrumentation tape (wide and intermediate band) shall be accomplished in accordance with the provisions of this § 101–26.508.

§ 101–26.508–1 Requirements available from Federal Supply Schedule contracts.

Federal Supply Schedules FSC Group 74, Part XI, and FSC Group 58, Part V, section C, respectively, include contracts for Government requirements of those types of EDP tape and instrumentation tape (wide and intermediate band) which are most widely used. Federal agencies located within the 48 contiguous United States, Washington, D.C., and Hawaii (applicable to EDP tape only for Hawaii) shall procure their requirements for such tape in accordance with the provisions of the current schedules and this § 101–26.508–1. Requirements which do not exceed the maximum order limitations of the Federal Supply Schedules and which are ordered directly by activities located outside the above stated geographical areas shall to the extent possible be consolidated and ordered by submission of purchase requests in FEDSTRIP/MILSTRIP format to the appropriate GSA regional office.

§ 101–26.508–2 Requirements not available from Federal Supply Schedule contracts.

(a) Requirements for types of EDP tape and instrumentation tape (wide and intermediate band) covered by Federal Supply Schedule contracts but which exceed the maximum order limitations of the schedules shall be forwarded to the General Services Administration (FPN), Washington, D.C. 20406, for purchase action.

(b) Requirements for all types of EDP tape and instrumentation tape (wide and intermediate band) not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the requirements exceeds or is estimated to exceed $2,500 for EDP tape and $5,000 for instrumentation tape (wide and intermediate band). However, regardless of the amount involved (including requirements estimated to be less than the dollar limitations referenced above), no purchase action by GSA or an agency shall be taken unless a waiver of the requirement for using items of tape available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.401–3. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406. Such requests shall fully describe the type of tape required and state the reasons Federal Supply Schedule items will not adequately serve the agency's needs. GSA will notify the requesting agency in writing of the action taken on such requests. To reduce leadtime, purchase requests may be submitted with the requests for waiver. Purchase requests for requirements for which a waiver has first been obtained, however, shall be submitted with a copy of the waiver to General Services Administration (FPN), Washington, D.C. 20406. GSA will either arrange for procurement of such requirements or authorize the requesting agency to procure them.

(c) When establishing required delivery dates in purchase requests submitted in accordance with this § 101–26.508–2, agencies should normally allow 105 days leadtime to permit orderly procurement by GSA. In addition to this 105 days leadtime, inspection and testing of the tape requires approximately 15 days.

(d) Where an agency submitting a purchase request in accordance with this § 101–26.508–2 has a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs. The provisions will be based on information furnished by the agency concerned and will be included in solicitations for offers and resultant contracts.

§ 101–26.508–3 Consolidation of tape requirements.

To the maximum extent feasible, agencies shall develop procedures which will permit planned consolidation of EDP tape and instrumentation tape (wide and intermediate band) requirements on an agencywide basis. If agencywide consolidation is not feasible, consideration shall be given to the consolidation of individual small requirements at any agency level. This will enable the Government to benefit from lower prices generally obtainable through large volume procurements.

PART 101–32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Subpart 101–32.4—Procurement and Contracting

Section 101–32.406 is revised to read as follows:

§ 101–32.406 Procurement of supplies.

(a) Unless otherwise indicated in specific purchase programs established by GSA, Federal agencies shall submit requirements for the following items to GSA for purchase action in accordance with the specified dollar limitations:

(1) For EDP tape and tabulating machine cards, $2,500; and

(2) For instrumentation tape (wide and intermediate band), $5,000.

(b) Specific purchase programs established by GSA include electronic data processing (EDP) tape, instrumentation tape (wide and intermediate band), tabulating machine cards, and marginally punched continuous forms. Instructions for ordering EDP and instrumentation tapes are in § 101–26.508; for tabulating machine cards, in § 101–26.509; and for marginally punched continuous forms, in § 101–26.604.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (10–5–72).

Dated: September 28, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-17074 Filed 10-4-72;8:52 am]

Chapter 114—Department of the Interior

PART 114–51—PROVISION AND ASSIGNMENT OF QUARTERS AND FURNISHINGS

Subpart 114–51.3—Assignment of Quarters

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, a new Subpart 114–51.3 is added to Chapter 114, Title 41 of the Code of Federal Regulations, as set forth below.

This new Subpart 114–51.3 will become effective on the date of publication in the FEDERAL REGISTER (10–5–72).

CHARLES G. EMLEY,
Deputy Assistant Secretary of the Interior.

SEPTEMBER 28, 1972.

Subpart 114–51.3—Assignment of Quarters

Sec.
114–51.300 Scope of subpart.
114–51.301 Assignment policy.
114–51.302 Required occupancy.
114–51.303 Assignment records.

AUTHORITY: The provisions of this Subpart 114–51.3 issued under 5 U.S.C. 301.

Subpart 114–51.3—Assignment of Quarters

§ 114–51.300 Scope of subpart.

This subpart sets forth basic policies for the assignment, to employees, of Government-owned or leased personnel quarters under the jurisdiction of the Department of the Interior, wherever located.

§ 114–51.301 Assignment of policy.

Each Bureau having jurisdiction over Government-owned or leased personnel quarters should develop and make known to all its employees a quarters assignment policy with implementing procedures appropriate to the number of quarters involved and the requirements of the bureau's programs.

(a) Assignments of quarters to employees shall be made without regard to race, color, creed, or national origin.

(b) In general once quarters reserved for station officials and for employees required to reside at the station have been assigned, the remaining quarters should be equitably assigned on an objective basis with larger houses in terms of number of rooms going to larger families, and larger houses in terms of size of rooms and houses of higher quality going to higher salaried personnel.

§ 114–51.302 Required occupancy.

(a) *Statutory requirement.* (1) The following quotation from 5 U.S.C. 5911 (e) provides that:

The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

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(2) The authority to make the determination that an employee must occupy Government quarters has been delegated to heads of Bureaus in 205 DM 10, with authority to redelegate.

(b) *Policy.* (1) Except in exceptional and usually temporary circumstances, the only justification for the construction or retention of Government-owned housing is the recognition of the fact that under the circumstances necessary service cannot be rendered or property protected otherwise. These circumstances often result in employees being required to live in remote and inconvenient locations, to forego the advantages of home ownership, and to adjust themselves to a camp-like or semipublic environment. The paramount requirement of the full discharge of management's responsibilities, however, makes it necessary to insure that once a substantial investment is made in such housing facilities that the United States is not deprived of the expected benefits through any disinclination on the part of employees to live at the place of their employment.

(2) Illustrative of some of the benefits which the Department receives and has a right to expect from such occupancy are:

(i) The immediate availability of trained manpower to respond to emergencies, such as outbreak of fires, canal breaks, storm damage, etc.

(ii) The presence of an adequate working force during the frequent periods in winter when the roads to refuges, reservations, parks, and construction projects are impassable.

(iii) Protection, guidance, information, and aid that may be given to the large numbers of the general public visiting Interior installations and parks, particularly those arriving or remaining after business hours.

(iv) The protection to the entire installation that is inherent in the knowledge by potential malefactors, such as vandals, arsonists, poachers, thieves, and out-of-season hunters, that many people are living on the premises around the clock and throughout the year.

(v) The protection and maintenance of the premises themselves requires that they be occupied and heated to prevent rapid deterioration.

(vi) The services that can be rendered by the continued availability of employees at all hours to the direct beneficiaries other than the general public of Interior programs, e.g., Indian families on reservations, irrigation farmers on reclamation projects, etc.

(3) Most employees already appreciate fully and understand that for the foregoing and additional reasons they are required to occupy Government housing for the convenience of the Government. However, to eliminate any misunderstanding on this matter, a written determination to this effect should be made a part of the record in every instance where such action should be taken to insure that the Government will not be deprived of such benefits at the election of the employee.

(c) *Appeals.* The affected employees should be notified in writing individually of any determinations affecting them, and also informed of their right to appeal such action through proper channels. In the consideration of such appeals, the fullest consideration will be given to the personal desires of the employee, subject only to the paramount requirements of the Government.

§ 114-51.303 Assignment records.

A record shall be kept at the installation level to reflect all housing assignments and periods of occupancy. Assignments to the designated tenants should be made in writing on a form which clearly sets out the rights and obligations of the tenant and the Government. One copy of the assignment form shall be left with the tenant, and at least one copy, signed by the tenant, should be retained by the assigning office. The form should, as a minimum, list the equipment provided; note existing damage to premises or equipment; state requirements on subletting, assignment, sharing, or conducting businesses on premises; termination of assignment and recapture of quarters; specify which party will service equipment, cut grass, remove snow, etc.; control painting and alteration; reserve right of Government to enter to make safety and maintenance inspections; and in general include information on any aspect of landlord-tenant relationship which the Bureau's experience has shown is likely to arise in quarters of the type or the location involved.

[FR Doc.72-17007 Filed 10-4-72;8:47 am]

Title 32—NATIONAL DEFENSE

Chapter XIII—Bureau of Mines, Department of the Interior

PART 1301—CONTROL OF EXPLOSIVES AND THEIR INGREDIENTS IN TIME OF WAR OR NATIONAL EMERGENCY

PART 1302—GENERAL LICENSE PERTAINING TO EXPLOSIVES

Revocation

Parts 1301 and 1302 of Chapter XIII of Title 32 of the Code of Federal Regulations are revoked as a result of legislative action (Public Law 91-452, October 15, 1970). This revocation becomes effective upon publication in the FEDERAL REGISTER (10-5-72).

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

SEPTEMBER 29, 1972.

[FR Doc.72-17008 Filed 10-4-72;8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management Appendix—Public Land Orders

[Public Land Order 5263]
[Arizona 6451]

ARIZONA

Withdrawal of Lands for Protection of Recreation and Public Values

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, for protection of recreation and public values in connection with the Virgin River Gorge Recreation Lands area:

GILA AND SALT RIVER MERIDIAN

T. 40 N., R. 14 W.,
Sec. 5, lot 4;
Sec. 6, lots 1, 2, and 3.
T. 41 N., R. 13 W.,
Sec. 1, W½SW¼;
Sec. 2, lots 1 to 4, inclusive, S½N½, S½;
Sec. 3, lot 1, S½NE¼, S½;
Sec. 4, lots 3 and 4, S½NW¼,SW¼,SE¼;
Sec. 5, lots 1 to 4, inclusive, S½N½, S½;
Sec. 6, lots 1 to 7, inclusive, S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, inclusive, E½W½, E½;
Secs. 8, 9, and 10;
Sec. 11, N½, N½S½;
Sec. 12, W½NW¼, SE¼NW¼, SW¼, SW¼ SE¼;
Sec. 15, N½NW¼;
Sec. 16, N½NE¼, SW¼NE¼, NW¼, NW¼ SW¼;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½W½, E½;
Sec. 19, lots 1 to 4, inclusive, NE¼NE¼, W½NE¼, E½NW¼;
Sec. 30, lots 1 to 4, inclusive.
T. 41 N., R. 14 W.,
Sec. 1, lots 1 to 4, inclusive, S½N½, S½;
Sec. 2, lots 1 and 2, S½NE¼, S½SW¼, SE¼;
Sec. 3, S½SE¼;
Sec. 9, E½;
Secs. 10 to 15, inclusive;
Sec. 16, NE¼, S½, E½NW¼;
Sec. 20, NE¼SE¼, S½SE¼, SE¼NE¼;
Secs. 21 to 25, inclusive;
Sec. 26, N½NE¼, NW¼;
Secs. 27, 26, and 29;
Sec. 30, lots 2 and 3, SE¼NW¼, S½NE¼, E½SW¼, SE¼;
Sec. 31, lots 1 and 2, NE¼, E½NW¼, E½ SE¼;
Sec. 32;
Sec. 33, N½NE¼, SW¼NE¼, W½;
Sec. 34, N½N½;
Sec. 36, N½N½.
T. 42 N., R. 13 W.,
Sec. 31, lot 6, SE¼SW¼, SW¼SE¼;
Sec. 32, E½SW¼, SE¼;
Sec. 33, SW¼.
T. 41 N., R. 14 W.,
Sec. 35, E½SE¼;
Sec. 36, S½.

The areas described aggregate 23,070.31 acres in Mohave County.

2. All of the lands described in paragraph 1 are public lands except those described as lots 1 to 4, inclusive, S½N½, S½, Sec. 2, and N½NE¼, SW¼NE¼, NW¼, NW¼SW¼, Sec. 16, T. 41 N., R. 13 W., and lots 1 and 2, S½NE¼, S½ SW¼, SE¼, Sec. 2, and NE¼, S½, and E½NW¼, Sec. 16, T. 41 N., R. 14 W., which are owned by the State of Arizona, title to which may be transferred to the United States pursuant to a State exchange. These lands will become part of the area withdrawn by paragraph 1 of this order, subject to all laws and regulations applicable thereto upon acquisition of title to said lands or interest therein by the United States under applicable law.

3. A portion of the public lands described above is subject to the withdrawal made for the benefit of the U.S. Bureau of Public Roads by Public Land Order No. 1985 of September 21, 1959.

NATHANIEL P. REED,
Assistant Secretary of the Interior.

SEPTEMBER 28, 1972.

[FR Doc.72-17006 Filed 10-4-72;8:47 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 555—APPLICATION FOR TEMPORARY EXEMPTIONS FROM MOTOR VEHICLE SAFETY STANDARDS FOR LIMITED PRODUCTION MOTOR VEHICLES

Deletion

The purpose of this notice is to delete Part 555 of Title 49, Code of Federal Regulations, titled "Application for Temporary Exemptions From Motor Vehicle Safety Standards for Limited Production Motor Vehicles."

Part 555 was enacted to implement section 123 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410), pursuant to which the Secretary of Transportation was authorized to provide temporary exemption from compliance with the Federal motor vehicle safety standards, upon showing of substantial economic hardship, to manufacturers of 500 or fewer motor vehicles annually. The authority of the Secretary to provide such exemptions expired by terms of the statute, on April 10, 1971, and has not been renewed. Title 49 of the Code of Federal Regulations is therefore amended by deleting Part 555.

Effective date: October 5, 1972. Because this amendment is administrative in nature and imposes no requirements on any person, it is found that notice and public procedure thereon are unnecessary, and the amendment can be effective immediately.

This notice is issued pursuant to section 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1407) and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51.

Issued on September 28, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-17040 Filed 10-4-72;8:50 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 263]

PART 1005—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

Processing of Loss and Damage Claims

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of September 1972.

Upon consideration of the record in the above-entitled proceeding, including the report and order at 340 I.C.C. 515, and of:

(1) Petition of the trustees of the property of the Penn Central Transportation Co., respondents, filed July 31, 1972, for waiver of Rule 101(e) of the Commission's general rules of practice, embracing a tendered petition for modification of paragraph 2 of 49 CFR 1005.3 *Acknowledgment of claims;*

(2) Petition (letter) of American Trucking Associations, Inc., on behalf of member motor common carriers of property, respondents, filed August 15, 1972, conditionally in support of the petition in (1) above;

It appearing, that although petitioners seek to have modified the second paragraph of 49 CFR 1005.3 assertedly in order better to accommodate the provisions thereof to their utilization of electronic computers, data recording media, and microfilm processes for recording and filing shipping orders and delivery receipts, their proposed modification would not be wholly consistent with the purposes intended to be served by said second paragraph (as specifically set forth in the answer to question No. 6 in the appendix to the order entered herein on April 13, 1972); that, in addition, petitioners' proposals would serve only to disclose, and not prevent, duplicate claims payments; and that the modification of the said paragraph set forth in the third ordering paragraph below will enable the utilization of modern record-keeping techniques in keeping with the original purposes and intent of the said rule, and is consistent with the public interest and the national transportation policy;

It further appearing, that the Commission has become aware of a growing concern that the present form of paragraph (c) of 49 CFR 1005.4 would allow carrier respondents arbitrarily to deny legitimate shortage claims and that modification thereof would therefore be in the public interest; and good cause appearing therefor:

It is ordered, That the tendered petitions in (1) and (2) above be, and they for filing.

It is further ordered, That the petitions be, and they are hereby, accepted are hereby, denied for the reasons that the requested modification of the order of February 3, 1972, served February 24, 1972, as modified, would not be in the public interest for the reasons expressed above.

It is further ordered, That paragraph (b) of 49 CFR 1005.3 be, and it is hereby, modified by substituting in lieu thereof the following:

§ 1005.3 Acknowledgment of claims.

* * * * *

(b) The carrier shall at the time each claim is received create a separate file and assign thereto a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including the written acknowledgment of receipt. At the time such claim is received the carrier shall cause the date of receipt to be recorded on the face of the claim document, and the date of receipt shall also appear in the carrier's written acknowledgment of receipt to the claimant. The carrier shall also cause the claim file number to be noted on the shipping order, if in its possession, and the delivery receipt, if any, covering such shipment, unless the carrier has established an orderly and consistent internal procedure for assuring (1) that all information contained in shipping orders, delivery receipts, tally sheets, and all other pertinent records made with respect to the transportation of the shipment on which claim is made, is available for examination upon receipt of a claim; (2) that all such records and documents (or true and complete reproductions thereof) are in fact examined in the course of the investigation of the claim (and an appropriate record is made that such examination has in fact taken place); and (3) that such procedures prevent the duplicate or otherwise unlawful payment of claims.

It is further ordered, That paragraph (c) of 49 CFR 1005.4 be, and it is hereby, modified by substituting in lieu thereof the following:

§ 1005.4 Investigation of claims.

* * * * *

(c) *Verification of loss.* When an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the carrier shall obtain from the consignee of the shipment involved a certified statement in writing that the property for which the claim is filed has not been received from any other source.

It is further ordered, That the modifications in the first and second preceding

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paragraphs be, and they are hereby, made effective on October 16, 1972, and shall apply to all claims received by respondents on and after that date.

It is further ordered, That Title 49 Subtitle B, Chapter X, Subchapter A, Part 1005, of the Code of Federal Regulations be, and it is hereby, amended in the manner set forth in the second and third preceding paragraphs.

(24 Stat. 380, 383, 386; 34 Stat. 595; 44 Stat. 1450; 49 Stat. 546, 550, 558, 560, 561, 563; 52 Stat. 1237; 54 Stat. 900, 922, 933, 934, 935, 944, 946; 56 Stat. 285, 286, 287, 294, 295, 297, 746; 62 Stat. 472; 63 Stat. 486; and 64 Stat. 1114, 49 U.S.C. 1, 5, 5b, 6, 12, 20, 304, 305, 316, 317, 318, 319, 320, 904, 905, 906, 913, 916, 1003, 1004, 1005, 1009, 1012, 1013, and 1017)

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17085 Filed 10-4-72;8:53 am]

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[Order 35345]

PART 1249—REPORTS OF MOTOR CARRIERS

Quarterly Report of Freight Loss and Damage Claims

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 27th day of September 1972.

Upon consideration of the record in the above-entitled proceeding, including the report and order at 339 ICC 678 (1971), and of:

(1) Petition of Brink's, Inc., filed March 14, 1972, for exemption from all filing requirements set forth in the order entered herein on July 6, 1971;

(2) Joint petition of Wells Fargo Armored Service Corp. (Delaware), et al., filed July 13, 1972, for relief similar to that sought in (1) above;

(3) Joint petition of American Courier Corp. and its subsidiary class I motor carriers, filed July 26, 1972, for relief similar to that sought in (1) above;

It appearing, that by order entered herein on July 6, 1971, as corrected by order served August 10, 1971, all motor common and contract carriers of property having average annual operating revenues (including interstate and intrastate) of $1 million, or more, are required to file with this Commission quarterly reports of freight loss and damage claims in the manner and form (Form QL&D) specified in the report cited above;

It further appearing, that petitioners are motor carriers authorized to transport articles of unusual value and other commodities; that in the conduct of certain of their operations they provide specialized services including but not limited to the use of armored vehicles, guard services, and rigid scheduling of pickups and deliveries; and that the safety and security of such unique operations and the valuable cargoes such carriers are entrusted to transport may be jeopardized by full compliance with the reporting requirements described above;

It further appearing, that the public interest and other incidental purposes of the prescribed reporting requirements will better be served by granting petitioners and other similarly authorized motor carriers a partial exemption from said reporting requirements;

It further appearing, that said partial exemption should only excuse such carriers from compliance with the terms of the subject regulation when and to the extent that they are engaged in the provision of armored-truck service as defined below; and good cause appearing therefor:

It is ordered, That motor carriers of property authorized to provide armored-truck service, as described in Classification of Motor Carriers of Property, 2 M.C.C. 703, at page 712, be, and they are hereby, relieved from the effect of the order entered herein on July 6, 1971, as codified at 49 CFR 1249.15, to the extent that such order requires the filing of quarterly reports on loss and damage claims on commodities transported in such service.

It is further ordered, That Part 1249 of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by revising § 1249.15 to read as follows:

§ 1249.15 Quarterly report of freight loss and damage claims.

Commencing with reports for the quarter beginning October 1, 1971, and for subsequent quarters thereafter, until further ordered, all common and contract carriers of property having average annual operating revenues (including interstate and intrastate) of $1 million, or more, from property motor carrier operations, based on the average annual gross operating revenues of the latest 3 calendar years, shall compile and file quarterly reports in accordance with Motor Carrier Quaterly Report of Freight Loss and Damage Claims, Form QL&D. Such quarterly reports (which need not include data relating to claims filed for loss or damage to shipments transported in armored-truck service, as described in Classification of Motor Carriers of Property, 2 M.C.C. 703, at page 712) shall be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, within 40 days after the close of each quarter.

It is further ordered, That the modification set forth in the preceding paragraph be, and it is hereby, prescribed to become effective on November 13, 1972, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register. (Secs. 204, 220, 49 Stat. 546, 563, as amended; 49 U.S.C. 304, 320.)

NOTE: This decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17086 Filed 10-4-72;8:53 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Certain National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (10-5-72).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ARIZONA AND CALIFORNIA

HAVASU NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and gallinules on the Havasu National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots, and gallinules, from October 1 through October 23, 1972, inclusive; and from November 12, 1972, through January 20, 1973, inclusive; geese, from November 12, 1972, through January 7, 1973, inclusive, but only on the areas designated by signs as open to hunting. These open areas, comprising 13,200 acres, are delineated on maps available at refuge headquarters, Needles, Calif., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and gallinules subject to the following special condition:

(1) Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1973.

IMPERIAL NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and gallinules on the Imperial National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots, and gallinules, from October 1 through October 23, 1972, inclusive, and from November 12, 1972, through January 20, 1973, inclusive; geese, from November 12, 1972, through January 7, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 16,500 acres, is delineated on maps available at refuge headquarters, Yuma, Ariz., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and gallinules.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1973.

COLORADO

ALAMOSA NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, coots, mergansers, mourning, doves, sora and Virginia rails, and common snipe (Wilson's) on the Alamosa National Wildlife Refuge, Colo., is permitted in accordance with conditions as outlined below, but only on the area designated by signs as open to hunting:

(1) Ducks, coots, and mergansers—from October 1 through October 11, 1972, inclusive, and from October 28, 1972, through January 14, 1973, inclusive.

(2) Canada geese—from October 28, 1972, through January 14, 1973, inclusive. Hunting of Canada geese is restricted to those persons who have secured a special Colorado State permit for the special San Luis Valley goose hunt.

(3) Mourning doves—from October 1 through October 11, 1972, inclusive; and from October 28 through October 30, 1972, inclusive.

(4) Sora and Virginia rails—from October 1 through October 11, 1972, inclusive, and from October 28 through November 17, 1972, inclusive.

(5) Common snipe (Wilson's)—from October 1 through October 11, 1972, inclusive, and from October 28 through November 12, 1972, inclusive.

This open area, comprising 3,267 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, sora and Virginia rails, and common snipe (Wilson's) subject to the following special conditions:

(1) Dogs—not to exceed two dogs per hunter may be used only for retrieving.

(2) Boats—the use of boats is prohibited.

(3) Admittance—entrance to the open area and parking of vehicles will be restricted to designated parking areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

BROWNS PARK NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, and mergansers on the Browns Park National Wildlife Refuge, Colo., is permitted from October 1 through October 13, 1972, inclusive, and from November 2, 1972, through January 20, 1973, inclusive; geese, from November 25 through December 17, 1972, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 1,775 acres, is delineated on maps available at refuge headquarters, Greystone, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special conditions:

(1) Vehicle travel within the refuge shall be confined to established roads.

(2) Camping is permitted only in designated camping areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1973.

MONTE VISTA NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, coots, mergansers, mourning doves, sora and Virginia rails, and common snipe (Wilson's) on the Monte Vista National Wildlife Refuge, Colo., is permitted in accordance with conditions as outlined below, but only on the area designated by signs as open to hunting:

(1) Ducks, coots, and mergansers—from October 1 through October 11, 1972, inclusive, and from October 28, 1972, through January 14, 1973, inclusive.

(2) Canada geese—from October 28, 1972 through January 14, 1973, inclusive. Hunting of Canada geese is restricted to those persons who have secured a special Colorado State permit for the special San Luis Valley goose hunt.

(3) Mourning doves—from October 1 through October 11, 1972, inclusive, and from October 28 through October 30, 1972, inclusive.

(4) Sora and Virginia rails—from October 1 through October 11, 1972, inclusive, and from October 28 through November 17, 1972, inclusive.

(5) Common snipe (Wilson's)—from October 1 through October 11, 1972, inclusive, and from October 28 through November 12, 1972, inclusive.

This open area, comprising 5,314 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, sora and Virginia rails, and common snipe (Wilson's) subject to the following special conditions:

(1) Shooting hours will be from one-half hour before sunrise until noon for ducks, geese, coots, and mergansers.

(2) Shooting hours will be from sunrise to noon for mourning doves, sora and Virginia rails, and common snipe (Wilson's).

(3) On opening day, October 1, and on all Thursdays and Saturdays thereafter during the 1972-73 season, hunters must register at the refuge office before entering the hunting area at one of the six designated parking areas. Upon completion of the day's hunt, the hunter must return to the refuge office to complete a questionnaire regarding the hunt.

(4) The first 150 hunters registered on opening day will be issued twenty-five 12-gauge "iron shot" shells. Hunters not in the first 150 must furnish their own lead shot shells, limited to 25 in number. On subsequent Thursdays and Saturdays thereafter, "iron shot" days, hunters will be limited to twenty-five 12-gauge iron shot shells per hunt, to be furnished by the refuge.

(5) On other than "iron shot days" hunters will be permitted to use weapons and shells in accordance with State and Federal regulations. They may also enter the hunting area without checking in or out at the refuge office, but entry to the hunting area will be restricted to designated parking areas.

(6) In the event that the supply of iron shot shells is exhausted at some time during the migratory bird season, hunting will then be authorized on all remaining days without checking in or out at the refuge office and with legal weapons and shells as permitted by State and Federal regulations.

(7) Dogs—not to exceed two dogs per hunter may be used in the hunting of the above species.

(8) Boats—the use of boats is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Flint Hills National Wildlife Refuge, Kans., is permitted as follows: Ducks and coots, from October 21 through December 10, 1972, inclusive, and from December 13 through December 31, 1972, inclusive; geese, from October 14 through December 10, 1972, inclusive, and from December 18 through December 31, 1972, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 5,165 acres, is delineated on maps available at refuge headquarters, Burlington,

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Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Vehicle access shall be restricted to designated parking areas and to existing roads.

(2) Blind construction by the public is permitted but limited to temporary above-ground construction. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come first-serve basis.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

KIRWIN NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Kirwin National Wildlife Refuge, Kans., is permitted as follows: Ducks and coots, from October 21 through December 10, 1972, inclusive, and from December 13 through December 31, 1972, inclusive; geese, from October 14 through December 10, 1972, inclusive, and from December 18 through December 31, 1972, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 3,300 acres, is delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special condition:

(1) Blinds—temporary blinds constructed above ground from natural vegetation are permitted. Digging of holes or pits to serve as blinds is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

QUIVIRA NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, gallinules, and mergansers on the Quivira National Wildlife Refuge, Kans., is permitted from October 21 through December 10, 1972, inclusive, and from December 13 through December 31, 1972, inclusive; geese, from October 14 through December 10, 1972, inclusive, and from December 18 through December 31, 1972, inclusive. Hunting of mourning doves, snipe, rails, and woodcock is permitted when the respective seasons are concurrent with the waterfowl seasons as designated by the Kansas Forestry, Fish, and Game Commission. Hunting shall be only on the areas designated by signs as open to hunting. These open areas, comprising 7,990 acres, are delineated on maps available at refuge headquarters, Stafford, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, coots, gallinules, geese, mourning doves, snipes, rails, and woodcock subject to the following special conditions:

(1) Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

(2) Dogs—not to exceed two per hunter may be used only for retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and sandhill cranes on the Bitter Lake National Wildlife Refuge, N.Mex., is permitted as follows: Ducks, geese, and coots, from October 18, 1972, through January 24, 1973 inclusive; sandhill cranes, from November 4, 1972, through January 31, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 3,320 acres, is delineated on maps available at refuge headquarters, 13 miles northeast of Rosewell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and sandhill cranes.

The provisions of this special regulation supplement the regulation which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1973.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Public hunting of snow, blue, and Ross' geese only on the Bosque del Apache National Wildlife Refuge, N. Mex., is permitted from December 30, 1972, through January 14, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, Unit B comprising 1,300 acres, is delineated on maps available at refuge headquarters, San Antonio, New Mexico, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese subject to the following special conditions:

(1) An experimental program to evaluate field use of iron shot shells will be conducted this season by the Bureau of Sport Fisheries and Wildlife on the Bosque del Apache National Wildlife Refuge. Iron-shot shells are available only in 12 gage; therefore, shotguns of this gage will be the only legal firearm used in this hunt.

(2) Each hunter, as he checks into the hunting area, will be given four iron-shot shells for use in the hunt. Hunters will be limited to the use of these four shells for each day's hunt. It will be illegal to possess any other shells within the hunt area. All unused iron-shot shells, plus the empty fired shells, must be returned to the check station attendant upon the termination of each day's hunt.

(3) A daily lottery, beginning at 5 a.m. will be held at the check station to determine which hunters will participate in the hunt.

(4) Hunters selected to participate in each day's hunt will be assigned their blind by lottery.

(5) Bag and possession limit: Two geese of the permitted species, which may not include more than one Ross' goose.

(6) Shooting hours shall be from sunrise to noon.

(7) Hunting is permitted only from the assigned blind, with no more than three hunters per blind.

(8) Hunters shall be present at the check station no later than 5:15 a.m. and check out at the checking station in person no later than 12:30 p.m.

(9) The iron-shot hunt program will continue throughout the 16-day hunt or until the refuge supply of iron-shot shells is exhausted. Should this situation occur, hunting will then continue using lead shot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

OKLAHOMA

SEQUOYAH NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Sequoyah National Wildlife Refuge, Okla., is permitted as follows: Ducks and coots, from October 21 to November 19, 1972, inclusive, and from December 6, 1972, through January 14, 1973, inclusive; geese, from October 14 through November 19, 1972, inclusive, and from December 8, 1972, through January 11, 1973, inclusive. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where weapons must be cased or broken down.

(2) Camping or possession of firearms on the refuge at night are prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

TISHOMINGO NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Tishomingo National Wildlife Refuge, Okla., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Okla., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Ducks and coots may be hunted in Zones 1 and 2 from one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays, and National Holidays from October 23 through October 26, 1972, inclusive, from October 30 through November 19, 1972, inclusive, and from December 7, 1972, through January 14, 1973, inclusive. Duck hunting in Zone 2 will be restricted to hunters with retrievers. Geese may be hunted in Zone 3 only from one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and all National Holidays from November 4, through November 19, 1972, inclusive, and from December 8, 1972, through January 11, 1973, inclusive.

(2) Each hunter shall be limited to six shells in possession when entiring Zone 3, and 25 shells when entering Zones 1 and 2 of the Management Unit.

(3) Sky-busting (in excess of 45 yards) is against area regulations. Hunters in violation will be removed from the blinds and their season's hunting privileges will be revoked.

(4) In Zone 3, 35 goose blinds are provided and hunters will be assigned to blinds by applying for a blind reservation. Temporary blinds may not be constructed in Zone 3. Eight duck blinds are provided in Zone 1, and hunters will be assigned to these blinds on a first-come first-choice basis. Construction of temporary blinds may be done in the pothole area in Zone 1. These blinds may be placed where desired after giving due consideration to safety and hunting opportunities of other sportsmen, but blinds must be at least 80 yards apart.

(5) Hunting of geese in Zone 3 is by application and actual blind assignment is determined by a punchboard. Hunters will be accepted into Zone 1 on a first-come first-choice basis. All hunters, upon entering or leaving the area, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

(6) Hunters must remain in their assigned blinds in Zones 1 and 3, leaving them only to place decoys, retrieve birds and decoys, or return to the check station. Hunters may leave their blinds to check out only at 9:30 a.m. and 11:30 a.m.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

TEXAS

BRAZORIA NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Brazoria National Wildlife Refuge, Tex., is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,025 acres of Rattlesnake Island on the southeast side of the Intracoastal Waterway and adjacent to Christmas, Drum, and Bastrop Bays, is delineated on maps available at refuge headquarters, Angleton, Tex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

(1) The open season for hunting ducks and coots on the refuge extends from November 4 through November 26, 1972, inclusive, and from December 9, 1972, through January 24, 1973, inclusive.

(2) The open season for geese on the refuge extends from November 4 through November 28, 1972, inclusive, and from December 9, 1972, through January 24, 1973, inclusive.

(3) Access to the hunting area is entirely over public water routes. Travel across the refuge mainland to and from the area open to hunting is not permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 24, 1973.

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

Public hunting of ducks, coots, mergansers, and whistling swans on the Bear River Migratory Bird Refuge, Utah, is permitted from October 7, 1972, through January 7, 1973, inclusive; geese, from October 14 through December 17, 1972, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 12,855 acres, is delineated on maps available at refuge headquarters, Brigham City, Utah, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special conditions:

(1) *Iron shot.* An experimental program to evaluate field use of iron-shot shells will be conducted during the waterfowl season. The first 250 hunters to be checked into Area A on October 7, 1972, must use iron-shot shells, 12 gage, to be furnished by the refuge. On subsequent Tuesdays, Thursdays, and Saturdays, beginning Tuesday, October 10, 1972, and continuing through the balance of the season, hunters using Area A must use refuge furnished iron-shot shells, 12 gage, for hunting. The experimental program will terminate when the refuge supply of iron-shot shells is exhausted.

(2) *Shells limited.* Ammunition taken into Hunting Area A will be limited to one box of 25 shot shells per hunter on opening day, October 7, 1972, and on subsequent Tuesdays, Thursdays, and Saturdays. There will be no limit to the number of shot shells permitted, nor gage of legal shotguns used, on days not included in the iron-shot shell experimental program; i.e., Sundays, Mondays, Wednesdays, and Fridays.

(3) *Hunting areas.* Area A—No hunting is permitted from roadways or within 100 yards of any roadway. Area B—No hunting is permitted from roadways or adjacent area, as posted by signs.

(4) *Boat use.* The use of boats is permitted except that airthrust boats and aircycles may not be used in Unit 2 on weekends and holidays. Airthrust boats and aircycles may be launched only from designated boat ramps. Boats may be left at designated areas 1 week prior to and during the hunting season. All boats and trailers must be removed within 2 weeks after the close of the hunting season.

(5) *Parking.* Hunters may park cars only at designated areas within the refuge.

(6) *Hunter check station.* Each hunter who enters Area A is required to register at the checking station and check out before leaving the refuge. Those hunting in Area B are not required to register on entering or leaving the refuge.

(7) *Routes of travel.* To reach open hunting areas, travel is permitted on foot or bicycle over roads between Units 1 and 2 and Units 2 and 3. Travel is also permitted by boat from checking station using the canal between Units 1 and 2, or down the main river channel into Unit 2, or using the canal between Units 2 and 3. Travel by boat and trailer is permitted over dike roads to designated parking and launching areas. Airthrust boats and aircycles may use designated travel lanes across a closed portion of the refuge leading to the open area south and southwest of the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 7, 1973.

FISH SPRINGS NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, and mergansers on the Fish Springs National Wildlife Refuge, Utah, is permitted from October 7, 1972, through January 7, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 7,192 acres, is delineated on maps available at refuge headquarters, 66 miles southwest of Dugway, Utah, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal

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regulations covering the hunting of ducks, coots, and mergansers subject to the following special conditions:

(1) All hunters must register at the Visitor Information Station prior to hunting.

(2) Shooting upon or across dikes or roads is prohibited.

(3) Use of small boats, canoes, etc. is permitted during the hunting season, but no outboard motors or airthrust boats are allowed.

(4) Dogs may be used for hunting but are to be kept under control at all times.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge area generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 7, 1973.

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, coots, and mergansers on the Seedskadee National Wildlife Refuge, Wyo., is permitted as follows: Ducks, coots, and mergansers, from October 1 through December 31, 1972, inclusive; geese, from October 14 through November 12, 1972, inclusive, and November 27 through December 31, 1972, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 12,370 acres, is delineated on maps available at refuge headquarters, Room 118 Courthouse, Green River, Wyo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

PATHFINDER NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and mergansers on the Pathfinder National Wildlife Refuge, Wyo., is permitted as follows: Ducks, coots, and mergansers, from October 1 through November 5, 1972, inclusive, and from November 23, 1972, through January 15, 1973, inclusive; geese, from October 7 through November 12, 1972, inclusive, and from November 18, 1972, through January 9, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 3,760 acres, is delineated on maps available at refuge headquarters, Walden, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special condition:

(1) Blinds—The construction of permanent blinds or pits is not permitted. Portable blinds may be used but not left on the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 15, 1973.

W. O. NELSON, Jr.,
Regional Director, Bureau of Sport Fisheries and Wildlife, Albuquerque, New Mexico.

SEPTEMBER 29, 1972.

[F.R. Doc.72-17002 Filed 10-4-72;8:47 am]

PART 32—HUNTING

Kirwin National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-5-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Public hunting of pheasants, quail, cottontail rabbits, and fox squirrels on the Kirwin National Wildlife Refuge, Kans., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,300 acres, is delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, quail, cottontail rabbits, and fox squirrels subject to the following special conditions:

(1) The open season for hunting pheasants on the refuge extends from November 11, 1972, through January 14, 1973, inclusive.

(2) The open season for hunting quail on the refuge extends from November 11, 1972, through January 14, 1973, inclusive.

(3) The open season for hunting cottontail rabbits and fox squirrels on the refuge shall be only on those days during the open season for the hunting of pheasants and quail.

(4) Shotguns and bow and arrows are legal weapons. Rifles or handguns will not be permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

KEITH S. HANSEN,
Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kans.

SEPTEMBER 11, 1972.

[FR Doc.72-17043 Filed 10-4-72;8:51 am]

PART 32—HUNTING

Bitter Lake National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-5-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked and white-winged pheasants, quail, and rabbits on the Bitter Lake National Wildlife Refuge, N. Mex., is permitted as follows: Pheasants, from December 16, 1972, through December 19, 1972, inclusive; quail from October 28, 1972, through January 7, 1973, inclusive; rabbits, October 28, 1972, through January 24, 1973, inclusive, only in the areas open to waterfowl hunting. These areas, comprising 3,320 acres, are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, quail, and rabbits.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 24, 1973.

LAWRENCE G. KLINE,
Refuge Manager, Bitter Lake National Wildlife Refuge, Roswell, N. Mex.

SEPTEMBER 28, 1972.

[FR Doc.72-17044 Filed 10-4-72;8:51 am]

PART 32—HUNTING

Bosque Del Apache National Wildlife Refuge, N. Mex.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-5-72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Public hunting of quail and rabbits on the Bosque del Apache National Wildlife Refuge, N. Mex., is permitted from October 28, 1972, through January 7, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 44,200 acres, includes all refuge lands east of the Bureau of Reclamation Channelization Project and all refuge lands west of the A.T. & S.F. Railroad right-of-way. These areas are delineated on maps available at refuge headquarters, San Antonio, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306 Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of quail and rabbits subject to the following special conditions:

(1) Hunting with rifles and handguns is prohibited.

(2) Access is from Highway 85, Bureau of Reclamation east channel road and through the refuge main entrance at headquarters. Vehicles are permitted only on established roads.

(3) No more than two (2) dogs may be used by a hunter.

(4) Hunters shall leave the refuge by one-half hour after sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 7, 1973.

GARY R. ZAHM,
Acting Refuge Manager, Bosque Del Apache National Wildlife Refuge, San Antonio, N. Mex.

September 29, 1972.

[FR Doc.72-17005 Filed 10-4-72;8:47 am]

PART 32—HUNTING

Tishomingo National Wildlife Refuge, Okla.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-5-72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tishomingo National Wildlife Refuge, Okla., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Okla., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) Hunting will be by permit only, with permits issued by the Oklahoma Department of Wildlife Conservation Office, 1801 North Lincoln, Oklahoma City, OK 73105.

(2) Not more than 75 archery hunters per day, and not more than 35 gun hunters per day will be admitted to the hunting area.

(3) The archery deer hunting season on the refuge is from daylight to dark October 21, 22, 28, and 29, 1972. The gun deer hunting season is from daylight to dark November 24, 25, and 26, 1972.

(4) Bag and possession limit per permit is one deer, either sex.

(5) Firearms will be limited to shotgun slugs only.

(6) A Federal permit is not required to enter the public hunting area for the hunting of deer, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 26, 1972.

ERNEST S. JEMISON,
Refuge Manager, Tishomingo National Wildlife Refuge, Tishomingo, Okla.

SEPTEMBER 12, 1972.

[FR Doc.72-17003 Filed 10-4-72;8:47 am]

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTION, AND CLASSIFICATION OF ECONOMIC UNITS

Reclassification of Certain Lumber Firms

Subpart B of Part 101 of Chapter 1 of Title 6 of the Code of Federal Regulations is amended in §§ 101.13 and 101.15 to include as a price category II firm (other than those firms presently classified as a price category I or II firm) any firm which in its most recent fiscal year derived $5 to $50 million in annual sales or revenues from or by the sale or brokerage of lumber, plywood, veneer, millwork, and structural wood members and associated wood products such as hardboard and particle board.

In July, the Cost of Living Council rescinded the small firm exemption as it applied to lumber manufacturers, wholesalers, and retailers with annual sales or revenues of more than $100,000 from the sale of the aforementioned lumber products.

The effect of lowering the cutoff level of Tier II firms in the lumber industry from $50 million to $5 million will be to extend price reporting requirements to cover an estimated 30 percent of the industry's sales from about 10 percent of sales covered previously. The total number of businesses covered by the reporting requirements will be increased from approximately 20 to over 500 units. These requirements are in addition to the general wage-price regulations which have governed almost all sales by lumber manufacturers, wholesalers, and retailers since the Council removed the small business exemption from the industry in July 1972.

The result of this reclassification will be to permit the economic stabilization program to better monitor costs, prices, and profits, and enforce the regulations covering this important sector of the economy.

The Price Commission, concurrent with the filing of this amendment, is filing an order setting forth reports which will be required to be filed with it as a result of this amendment.

Because the purpose of these amendments is to amend and modify Part 101 to provide immediate guidance and information as to Cost of Living Council regulations, the Council finds that publication in accordance with usual rule making procedures is impracticable and that good cause exists for making this regulation effective in less than 30 days. Interested persons may submit written comments regarding the above amendments. Communications should be addressed to the Office of General Counsel, Cost of Living Council, New Executive Office Building, Washington, D.C. 20507.

This amendment shall become effective when filed with the Office of the Federal Register.

DONALD RUMSFELD,
Director, Cost of Living Council.

Part 101 of Chapter I of Title 6 of the Code of Federal Regulations is amended as follows:

1. Subpart B is amended in §§ 101.13 and 101.15 to read as follows:

§ 101.13 Price category II firms; reporting requirements.

(a) A price category II firm is:

(1) A firm with annual sales or revenues from $50 million to $100 million other than a firm described in § 101.11 (a) (2) through (3);

* * * * * *

(4) A firm (other than a firm described in § 101.11) with $5 million or more in annual sales or revenues from or by the sale or brokerage of lumber, plywood, veneer, millwork, and structural wood members and associated wood products such as hardboard or particle board.

* * * * * *

§ 101.15 Price category III firms; monitoring and spot checks.

(a) A price category III firm is:

(1) A firm with annual sales or revenues of less than $50 million other than a firm describde in § 101.11(a)(2) through (3) or § 101.13(a) (2) through (4);

* * * * * *

(4) A firm (other than a firm described in §§ 101.11 and 101.13) with less than $5 million in annual sales or revenues from or by the sale or brokerage of lumber, p lywood, veneer, millwork, and structural wood members and associated wood products such as hardboard and particle board.

[FR Doc.72-17180 Filed 10-3-72;5:10 pm]

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Chapter III—Price Commission

PART 305—PROCEDURAL REGULATIONS

Reply to Notice of Probable Violation

The purpose of this amendment to § 305.84 of the regulations of the Price Commission is to provide that a person who has received a notice of probable violation or a remedial order from the Commission, pursuant to § 305.82 or § 305.83, may file a written reply within 10 days of receipt of the notice or remedial order.

Section 305.84 currently provides that a reply to a notice of probable violation or remedial order may be made in writing or by personal appearance, or both. Based upon its experience since § 305.84 was published on June 24, 1972 (37 F.R. 12499), the Commission has determined that a reply to a notice of probable violation or remedial order should be in writing, but that a person may, in addition, request a personal appearance. The change is made to reflect the fact that the cases have indicated that there is a preference among recipients of orders for the filing of a written reply and because study and evaluation of a reply by members of the Commission staff is facilitated if the reply is in writing. Persons may also request an appointment for a personal appearance which must be scheduled to take place within the 10-day period provided for reply.

Since the purpose of this amendment is to provide immediate guidance with respect to the form of replies to notices of probable violation and remedial orders issued by the Commission, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective in less than 30 days after publication in the FEDERAL REGISTER.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558; 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 20202, October 16, 1971)

In consideration of the foregoing, the introductory clause of § 305.84 of Part 300 of Chapter III of Title 6 of the Code of Federal Regulations is amended to read as follows, effective October 4, 1972.

§ 305.84 Reply.

Within 10 days of receipt of a notice of probable violation issued under § 305.82 or a remedial order issued under § 305.83, the person to whom the notice or order is issued may file a reply. The reply must be in writing. He may also request an appointment for a personal appearance, which must be held within the 10-day period provided for reply. He may be represented or accompanied by counsel at the personal appearance. The Commission will extend the 10-day reply period for good cause shown.

* * * * *

Issued in Washington, D.C., on October 2, 1972.

JAMES B. MINOR,
General Counsel, Price Commission.

[FR Doc.72–17116 Filed 10–3–72;11:01 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 22]

ACCELERATED PAYMENT OF DRAWBACK CLAIMS

Proposed Processing of Entries

Notice is hereby given that under the authority contained in section 251 of the Revised Statutes and sections 313, 623, and 624 of the Tariff Act of 1930, as amended (19 U.S.C. 66, 1313, 1623, 1624), it is proposed to amend Part 22 of the Customs regulations by adding a new § 22.20a entitled, "Accelerated payment of drawback claims."

At present a drawback claimant must wait until a claim is liquidated before receiving payment. Although every effort is made to process claims promptly, for various reasons it is not practical or possible always to do so. The delays which are inevitable have at times had a seriously adverse impact on the working capital of some claimants, usually smaller firms. It is to alleviate this problem that the present amendment is proposed.

The proposed procedure provides for the prompt payment of 90 percent of the drawback claimed and for the subsequent liquidation of the drawback entry with payment of the remainder found to be due or demand for refund of any excessive amount found to have been paid. In order to qualify to receive accelerated payments the claimant will be required to file an appropriate bond guaranteeing the refund of any amount improperly paid and to show on the drawback entry the amount of drawback claimed.

The terms of the proposed amendment of the Customs regulations, in tentative form are as follows:

Part 22 of the Customs regulations is amended by adding a new § 22.20a reading as follows:

§ 22.20a Accelerated payment of drawback claims.

A claimant for drawback, whom the regional commissioner of Customs determines not delinquent or otherwise remiss in transactions with Customs, is eligible for accelerated payment of drawback claims which are properly prepared and fully completed as provided in § 22.13. A claimant, requesting accelerated payment of a claim, shall submit with the claim a computation of the amount due thereon and shall also file with Customs, for approval by the regional commissioner, a bond guaranteeing the refund of any excess payment. If the regional commissioner, after receiving a claim, determines that the conditions for accelerated payment are met, and that the amount claimed is credible, he shall, within 3 weeks after the claim is filed, authorize payment 90 percent of the claim as computed by the claimant. After liquidation, the remainder found to be due will be paid, or a demand for refund of any excess payment paid will be made. The right of accelerated payment shall be denied to a claimant continually computing its claims erroneously to the extent that it receives thereby excess payments.

Prior to the adoption of the proposed amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Regulations Division, Bureau of Customs, Washington, D.C., during regular business hours.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 28, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–17093 Filed 10–4–72;8:54 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

[Docket No. AO–267–A7]

HANDLING OF LIMES GROWN IN FLORIDA

Notice of Hearing With Respect to Proposed Amendment of the Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in Homestead Agricultural Center, 18710 Southwest 288th Street, Homestead, FL, at 9:30 a.m., local time, November 9, 1972, with respect to proposed further amendment of the marketing agreement and order (7 CFR Part 911) regulating the handling of limes grown in Florida.

The proposed amendment has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the proposed amendment, which is hereinafter set forth, and appropriate modifications thereof.

The following amendment of the amended marketing agreement and order was proposed by the Florida Lime Administrative Committee, the administrative agency established pursuant to the marketing agreement and order.

§ 911.51 [Amended]

1. Amend the second sentence of paragraph (c) of § 911.51 to read as follows:

The committee shall give appropriate notice of such meetings to growers and handlers.

2. Amend paragraph (a) of § 911.53 to read as follows:

§ 911.53 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of limes which it deems advisable to be handled during the succeeding week: *Provided*, That such volume regulation shall not be recommended for any week except during the 26-week regulatory period beginning with the last full week in April: *Provided, further*, That no such regulation shall be recommended after such regulations have been in effect for an aggregate of 16 weeks during the aforesaid period.

* * * * *

3. Amend § 911.54 *Issuance of volume regulations* by deleting the term eight (8) wherever it appears and substituting in lieu thereof the figure 16. As amended § 911.54 would read as follows:

§ 911.54 Issuance of volume regulations.

Whenever the Secretary finds, from the recommendation and information submitted by the committee, or from other available information, that to limit the quantity of limes which may be handled during a specified week of a regulatory period will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided*, That such regulations during a regulatory period shall not in the aggregate limit the volume of lime shipments for more than 16 weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulation may, as authorized by the act, be made effective irrespective of whether the season average price of limes is in excess of the parity price. The Secretary may, upon recommendation of the committee, or upon other available information, terminate or suspend any regulation pursuant to this section at any time.

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4. Amend paragraph (d) of § 911.55 to read as follows:

§ 911.55 Prorate bases.

* * * * *

(d) Each week during the regulatory period when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of this section. The prorate base for each such handler shall be computed by adding together the handler's shipments of limes in the current season and his shipments in the immediately preceding seasons, if any, within the representative period, in which he shipped limes and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and 26 weeks for each of such immediately preceding seasons within the representative period in which the handler shipped limes. For purposes of this section "representative period" means the two preceding seasons together with the current season; the term "season" means the 26-week period beginning with the last full week in April of any fiscal year; and the term "current season" means the period beginning with the last full week in April of the current fiscal year through the last full week, preceding the week of regulation, for which official shipping records of handlers are available to the committee.

§ 911.60 [Amended]

5. Amend paragraph (b) of § 911.60 *Reports* to specifically require handlers to file weekly reports of market prices of limes during such weekly periods as approved by the Secretary pursuant to a request of the committee.

The Fruit and Vegetable Division, Agricultural Marketing Service, has proposed that consideration be given to making such other changes in the amended marketing agreement and order as may be necessary to make the entire provisions thereof conform with any amendment thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from Mr. M. F. Miller, Fruit and Vegetable Division, Agricultural Marketing Service, Post Office Box 9, Lakeland, FL 33802.

Dated: September 29, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-17052 Filed 10-4-72;8:51 am]

[7 CFR Part 1050]

MILK IN CENTRAL ILLINOIS MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Central Illinois marketing area is being considered for the month of October 1972.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 5 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

In § 1050.14, paragraphs (c)(2) and (3).

STATEMENT OF CONSIDERATION

The proposed suspension would make inoperative for the month of October 1972 the provisions that limit the proportion of each producer's monthly milk production that may be diverted as producer milk from a pool plant to a nonpool plant.

Associated Milk Producers, Inc. requests the suspension. The producer association claims the action is necessary to enable its member producers to maintain producer status under the order for the month of October.

The operator of a large distributing plant regulated under the order has notified the producers supplying the plant that he plans to cease processing operations at the plant after October 4, 1972. Most of the producers supplying the plant are members of Associated Milk Producers, Inc.

The suspension of diversion limits will afford the cooperative an opportunity to divert the milk of its member producers to nonpool plants during October and retain pool status for such producers. As such, they will continue to receive the uniform price while the cooperative seeks other marketing arrangements with respect to the milk of its member producers who furnished milk to the aforementioned pool plant for many years.

Signed at Washington, D.C., on September 29, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-17053 Filed 10-4-72;8:51 am]

Rural Electrification Administration

[7 CFR Part 1701]

REA STANDARDS FOR BORROWERS' AUDITS

Guide for Audit Working Papers

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue REA Bulletin 185-2 (electric); 465-2 (telephone), Audit Working Paper Guide. This Bulletin restates REA's established policy requiring appropriate working papers to support the Audit of REA Borrowers' Accounting Records.

Persons interested in the provisions of Bulletin 185-2: 465-2 may submit written data, views or comments to the Director, Accounting and Auditing Division, Room 4307, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for inspection at the office of the Director, Accounting and Auditing Division, during regular business hours. A copy of the proposed Bulletin may be secured in person or by written request from the Director, Accounting and Auditing Division.

A summary of the contents of the proposed bulletin is as follows:

REA BULLETIN 185-2: 465-2

This is a new bulletin and is issued as a companion bulletin to 185-1: 465-1, Audit of REA Borrowers' Accounting Records to set forth REA requirements regarding the working papers supporting the audit of the REA borrowers' records. The bulletin is principally concerned with the nature and sufficiency of competent evidential matters gathered by the auditor to permit REA to determine that he has met the minimum audit requirements of REA Bulletin 185-1: 465-1, Audit of REA Borrowers' Accounting Records. It also sets forth guidelines to assist the auditor in meeting REA auditing and reporting requirements.

Dated: September 29, 1972.

GEORGE P. HERZOG,
Acting Administrator.

[FR Doc.72-17089 Filed 10-4-72;8:55 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-GL-45]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at New Castle, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new Standard Instrument Approach Procedure has been developed for the New Castle-Henry County Sky Castle Airport, New Castle, Ind. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at New Castle, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

NEW CASTLE, IND.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of New Castle-Henry County Municipal, Sky Castle Airport (latitude 39°51'50" N., longitude 85°19'24" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17024 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-46]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Bellefontaine, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new Standard Instrument Approach Procedure has been developed for the Bellefontaine Airport, Bellefontaine, Ohio, based on a non-Federal NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Bellefontaine, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

BELLEFONTAINE, OHIO

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Bellefontaine Airport (latitude 40°24'45" N., longitude 83°44'10" W.) and within 3 miles each side of the 049° bearing from the airport extending from the 6-mile-radius area to 13 miles northeast of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17025 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-48]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Galesburg, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new Standard Instrument Approach Procedure has been developed for the Monmouth Municipal Airport, Monmouth, Ill. Accordingly, it is necessary to alter the Galesburg transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

GALESBURG, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Galesburg Municipal Airport (latitude 40°58'24" N., longitude 90°25'46" W.); within 5 miles east and 8 miles west of the Galesburg VOR 019° radial extending from the VOR to 12 miles north of the VOR; within 5 miles northwest and 8 miles southeast of the VOR 214° radial extending from the VOR to 12 miles southwest of the VOR; within a 5-mile radius of the Monmouth Municipal Airport (latitude 40°55'42" N., longitude 90°38'06" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc. 72-17026 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-49]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Macomb, Ill.

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Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The Standard Instrument Approach Procedure for the Macomb Municipal Airport, Macomb, Ill., has been received. Accordingly, it is necessary to alter the Macomb transition area to adequately protect the aircraft executing the new approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

MACOMB, ILL.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Macomb Municipal Airport (latitude 40° 31'11" N., longitude 90°39'17" W.); and within 3 miles each side of the 084° bearing from the airport extending from the 5-mile-radius area to 8 miles east of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17027 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-51]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone at Muncie, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The Muncie, Ind., control zone is a part-time zone designated by specific hours based upon the time the control tower is in operation. If a change in the zone times is desired, a lengthy airspace processing is required. It is operationally desirable to be able to change the times by a notice to airmen.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (37 F.R. 2056), the following control zone is amended to read:

MUNCIE, IND.

Within a 5-mile radius of Delaware County-Johnson Field (latitude 40°14'26" N., longitude 85°23'43" W.); within 2½ miles each side of the Muncie VOR 125° radial, extending from the 5-mile-radius zone to 6½ miles southeast of the VOR; within 2½ miles each side of the Muncie VOR 017° radial, extending from the 5-mile-radius zone to 6½ miles north of the VOR; and within 3½ miles each side of the Muncie VOR 320° radial, extending from the 5-mile-radius zone to 10 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17028 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-52]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone at Cleveland, Ohio (Burke-Lakefront Airport).

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The Burke-Lakefront control zone is a part-time zone designated by specific hours based upon the time the control tower is in operation. If a change in zone times is desired, a lengthly airspace processing is required. It is operationally desirable to be able to change the control zone times by a Notice to Airmen.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (37 F.R. 2056), the following control zone is amended to read:

CLEVELAND, OHIO (BURKE-LAKEFRONT AIRPORT)

Within a 5-mile radius of the Burke-Lakefront Airport (41°31'02" N., 81°41'04" W.); within 2 miles each side of the Burke-Lakefront ILS localizer northeast course, extending from the 5-mile radius zone to the OM, excluding the portion overlying the Cleveland, Ohio (Cleveland-Hopkins International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17029 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-53]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone at Columbus, Ohio (Ohio State University).

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

The Ohio State University Airport control zone is a part-time zone designated by specific hours based upon the time the control tower is in operation. If a change in zone times is desired, a lengthy airspace processing is required. It is operationally desirable to be able to change zone times by a Notice to Airmen.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (37 F.R. 2056), the following control zone is amended to read:

COLUMBUS, OHIO (OHIO STATE UNIVERSITY AIRPORT)

Within a 5-mile radius of the Ohio State University Airport (latitude 40°04'40" N., longitude 83°04'30" W.); within 3 miles each side of the 273° and 090° bearings from the airport extending from the 5-mile radius zone to 8½ miles west and east of the airport, excluding that portion within the Columbus, Ohio (Port Columbus International Airport) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17030 Filed 10-4-72;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-44]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Big Rapids, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed to the Roben-Hood Airport, Big Rapids, Mich., utilizing the White Cloud VORTAC. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Big Rapids, Mich. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

BIG RAPIDS, MICH.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Roben-Hood Airport (latitude 43°-43'13" N., longitude 85°29'52" W.) and within 5 miles each side of the White Cloud VOR 047° radial extending from an 8-mile radius area to the VOR, excluding the portion overlying the Reed City transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on September 15, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-17023 Filed 10-4-72;8:49 am]

[14 CFR Part 91]

[Docket No. 12288; Notice 72-27]

POWERED CIVIL AIRCRAFT

Proposed Instrument and Equipment Requirements

The Federal Aviation Administration is considering amending § 91.33(b)(11) of the Federal Aviation Regulations to delete the general requirement for a pyrotechnic signaling device in an aircraft that is operated for hire over water and beyond power-off gliding distance from shore. Such devices would continue to be required for extended over-water operations conducted under Parts 121, 123, and 135.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before December 4, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket, for examination by interested persons.

Section 91.33(b) prescribes the instruments and equipment necessary for VFR flight during the day in powered civil aircraft with standard category U.S. airworthiness certificates. Subparagraph 91.33(b)(11) requires that, for over-water operations for hire beyond power-off gliding distance from shore, approved flotation gear be readily available to each occupant. The subject subparagraph also requires that the aircraft be equipped with at least one pyrotechnic signaling device.

In recent years, improved aircraft performance and reliability as well as the development of more dependable ground and air communications equipment and systems have greatly reduced the hazards involved in operations over water and beyond power-off gliding distance from

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shore. In this connection, the agency recently amended the Federal Aviation Regulations to require that an emergency locator transmitter be attached to each U.S. registered civil aircraft operated in air commerce, that is not specifically exempted from the requirement, no later than December 31, 1973. This regulatory action which is in accordance with Public Law 91–596, amending section 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) should provide an effective means of locating an aircraft that is involved in a ditching incident.

Although all aircraft operations are subject to Part 91 and would, therefore, be affected by this proposed amendment, it should be noted that operations conducted under Parts 121, 123, and 135 would continue to be subject to the requirements prescribed in Parts 121 and 135 for pyrotechnic signaling devices for extended over-water operations conducted in accordance with those Parts.

In the light of the foregoing, the FAA believes that deletion of the requirement for a pyrotechnic signaling device in § 91.33(b)(11) will remove an unnecessary burden on operations that are not subject to the specific requirements of Parts 121 and 135, and that the proposed amendment will not adversely affect safety.

In consideration of the foregoing, it is proposed to amend Part 91 of the Federal Aviation Regulations by amending paragraph (b)(11) in § 91.33 to read as follows:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

* * * * *

(b) * * *

(11) If the aircraft is operated for hire over water and beyond power-off gliding distance from shore, approved flotation gear readily available to each occupant.

* * * * *

This amendment is proposed under the authority of sections 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1424), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 29, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-17022 Filed 10-4-72;8:49 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket 72-23; Notice 1]

SEATBELT ASSEMBLY ANCHORAGES

Motor Vehicle Safety Standards

The purpose of this notice is to propose an amendment to S4.3.2 of Motor Vehicle Safety Standard No. 210, Seatbelt Assembly Anchorages, 49 CFR 571.210, to specify that the seat back is to be placed for test purposes in its "normal design riding position" rather than in its "most upright position".

The proposed amendment is in response to a comment from a manufacturer pointing out an internal inconsistency in S4.3.2 between the positioning procedure for the test manikin and the position of the seat back. The section states that the manikin is to be placed with its H-point on the seating reference point. The seating reference point, however, as defined in 49 CFR 571.3, is determined by use of the J826 manikin with the seat in its "rearmost normal design driving or riding position", a position that may be other than its most upright position. A manufacturer who has established his seating reference point with the seat back not in its most upright position may therefore have trouble positioning the test manikin on that point when the seat back is moved to its upright position.

The substitution of "normal design riding position" for "most upright position" will bring the usage in Standard 210 into conformity with that of the definitions in 49 CFR 571.3, thereby avoiding the potential conflict inherent in the current version of the standard.

Accordingly, it is proposed that section S4.3.2 of Motor Vehicle Safety Standard No. 210, 49 CFR 571.210, be amended to read as follows:

S4.3.2 *Seatbelt anchorages for the upper torso portion of Type 2 seatbelt assemblies.* With the seat in its full rearward and downward position and the seat back in its normal design riding position, the seatbelt anchorage for the upper end of the upper torso restraint shall be located within the acceptable range shown in Figure 1, with reference to a two dimensional manikin described in SAE Standard J826 (November 1962) whose "H" point is at the seating reference point and whose torso line is at the same angle from the vertical as the seat back.

Proposed effective date: January 1, 1973.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close or business on November 7, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for the material.

This notice is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on September 29, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-17041 Filed 10-4-72;8:50 am]

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 404]

TANGIBLE ASSETS

Proposed Capitalization

Notice is hereby given of a proposed Cost Accounting Standard on Capitalization of Tangible Assets which the Cost Accounting Standards Board is considering for promulgation to implement further the requirements of section 719 of the Defense Production Act of 1950, as amended, Public Law 91–379, 50 U.S.C. App. 2168. When promulgated, the Standard will be used by all relevant Federal agencies and national defense contractors and subcontractors.

The proposed Standard, if adopted, will be one of a series of Cost Accounting Standards which the Board is promulgating "to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts." (See section 719(g) of the Defense Production Act of 1950, as amended.)

This Standard establishes the beginning point for fixed asset accounting. Other cost Standards will relate to the measurement of the amounts to be charged as depreciation to specific final cost objectives.

The Cost Accounting Standards Board solicits comments on the proposed Cost Accounting Standard from any interested person on any matter which will assist the Board in its consideration of the proposal. The Board draws attention to the treatment of the cost of assets constructed or fabricated by a contractor for its own use as provided for in the proposed Standard at § 404.50(c). Anyone advocating an alternative treatment for the capitalization of the cost of self-constructed assets should set it forth in detail with reasons for favoring it.

Interested persons should submit written data, views, and arguments concerning the proposed Cost Accounting Standard to the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548, to arrive no later than December 5, 1972. All written submissions made pursuant to this notice will be made available for public inspection at the Board's offices during regular business hours.

PART 404—CAPITALIZATION OF TANGIBLE ASSETS

Sec.
404.10 General applicability.
404.20 Purpose.
404.30 Definitions.
404.40 Fundamental requirement.
404.50 Techniques for application.
404.60 Illustrations.
404.70 Exemptions.

AUTHORITY: The provisions of this Part 404 issued under 50 U.S.C. App. 2168.

§ 404.10 General applicability.

This standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof and by all relevant Federal agencies in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000, other than contracts or subcontracts where the price negotiated is based on (a) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

§ 404.20 Purpose.

This standard requires that for purposes of cost measurement, contractors establish and adhere to policies with respect to capitalization of tangible assets which satisfy criteria set forth herein. Cost measurements will normally reflect the concept of enterprise continuity; this concept implies that major assets acquisitions will be capitalized, so that the cost applicable to current and future accounting periods can be allocated to cost objectives of those periods. A capitalization policy in accordance with this standard facilitate measurement of costs consistently over time.

§ 404.30 Definitions.

(a) *Original complement of low-cost equipment.* The original complement of low-cost equipment consists of items of equipment which are acquired for the initial outfitting of, or subsequent outfitting of a substantial addition to, a tangible capital asset, or an operational unit such as a permanent production facility, administrative department, or plant, and which items are individually less than the minimum amount established by the contractor for capitalization for the classes of assets acquired. The outfitting of the unit is completed when the unit is fully operative. Examples of original complement of low-cost equipment are: Books in a library; durable tools, impact wrenches, etc., in a factory, and accessories, attachments, or spare parts employed with, affixed to, or specifically applicable to a tangible capital asset.

(b) *Repairs and maintenance.* Maintenance is the regularly recurring activity of keeping assets in normal or expected operating condition. Repair is the activity of putting them back into normal or expected operating condition. The total endeavor to obtain the expected service during the life of tangible capital assets is generally called repairs and maintenance.

(c) *Retirement unit.* A retirement unit is the smallest component of plant and equipment that is capitalized when acquired and that is eliminated from the plant and equipment accounts when removed, transferred, sold, abandoned, or demolished.

(d) *Tangible capital assets.* Assets that have physical substance, more than minimal value, and are expected to be held by an enterprise for continued use or possession for a specified time beyond the current accounting period for the services they yield.

§ 404.40 Fundamental requirement.

(a) The acquisition cost of certain tangible assets shall be capitalized. Capitalization shall be based upon an established policy that is reasonable and consistently applied.

(b) The contractor's policy shall define the minimum retirement unit in accounting for tangible capital assets. In defining the retirement unit the contractor shall designate minimum economic and physical characteristics of the retirement unit as well as any other specific characteristics which are pertinent to the contractor's capitalization policy decisions (e.g., class of asset, physical size, identifiability, the extent of integration or independence of constituent units).

(c) In considering the economic and physical characteristics of retirement units, the established minimum service life criterion in the contractor's policy shall not exceed 2 years. In addition, the established minimum acquisition cost in the contractor's capitalization policy shall not exceed $500. However for original complement, replacements, betterments, improvements, rearrangements, and the like, the contractor may establish higher minimum limitations than the limitations imposed in this paragraph.

(d) Costs incurred subsequent to the acquisition of a tangible capital asset for activities which extend the life or increase the usefulness of that asset (e.g., betterments) and which meet the contractor's established criteria for capitalization shall be capitalized; costs expended for rearrangement and reconversion of tangible capital assets and similar costs, which meet these criteria shall be capitalized. However, costs incurred for activities, such as repairs and maintenance to tangible capital assets, which either restore the asset to, or maintain it at, its normal or expected production capacity shall be treated as costs of the current period.

(e) The cost of the original complement of low-cost equipment shall be capitalized even though the cost of individual items considered separately would not be capitalized through application of the contractor's capitalization policy. Normal replacements to the original complement shall be treated as costs of the current period if the replacement does not meet the criteria for capitalization of a tangible asset.

(f) Leased real or personal property, where the lease provisions are such that the lessee acquires an equity in the property, over the period of the lease, shall be accounted for by the lessee as tangible capital assets.

§ 404.50 Techniques for application.

(a) The cost to acquire a tangible capital asset includes the purchase price of the asset and all costs necessary to prepare the asset for use. The purchase price of an asset includes all premiums or extra charges paid less discounts or credits received.

(1) Purchase price is determined by cash paid, or when payment is not made in cash, in an amount equivalent to what would be the cash cost basis. Where this amount is not available the purchase price is determined by the current value of the consideration given in exchange for the asset. For example, current value for a credit instrument is the amount immediately required to settle the obligation or the amount of money which might have been raised directly through the use of the same instrument employed in making the credit purchase. The current value of an equity security is its market value. Market value is the current or prevailing price of the security as indicated by recent market quotations. If such values are not readily available, an acceptable alternative is the fair value of the asset acquired.

(2) Donated assets which have remaining service lives and values meeting the contractor's criteria for capitalization shall be capitalized at their fair value at the time of receipt.

(3) The "Investment Credit," pursuant to the Revenue Act of 1971, Public Law 92–178, need not be deducted from the purchase price of tangible capital assets in establishing the acquisition cost of the assets.

(b) Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use. Where material in amount, such costs, including inspection, installation, testing, and similar expenses, shall be capitalized.

(c) The acquisition cost of assets constructed or fabricated by the contractor consists of the direct costs and indirect costs, including general and administrative expenses, allocable to final cost objectives.

(d) In circumstances where the acquisition by purchase or donation of previously used tangible capital assets is not an arm's-length transaction or where a business combination is treated by the contractor as a "pooling of interest" rather than a purchase, acquisition cost shall be limited to the capitalized cost of the asset to the owner who last acquired the asset through an arm's-length transaction, reduced by depreciation charges from date of that acquisition to date of gift, sale, or combination.

(e) Under the "purchase method" of accounting for business combinations,

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acquired tangible capital assets shall be assigned a portion of the cost of the acquired company, not to exceed their fair value at date of acquisition. Where the fair value of identifiable acquired assets less assumed liabilities exceeds the cost of the acquired company in an acquisition under the "purchase method," the value otherwise assignable to tangible capital assets shall be reduced by a proportionate part of the excess.

§ 404.60 Illustrations.

(a) Illustrations of costs which must be capitalized:

(1) Contractor has an established policy of capitalizing tangible assets which have a service life of more than 1 year and a cost of $1,000.

(i) Contractor acquires a tangible asset with a life of 18 months at a cost of $500. The Standard requires that his policy be modified for contract costing and that the asset be capitalized.

(ii) Contractor acquires a tangible asset with a life of 18 months at a cost of $450. The asset need not be capitalized; however, the contractor's policy must be modified to conform to the limitation on minimum acquisition cost established by the Standard.

(2) Contractor has an established policy of capitalizing tangible assets which have a service life of more than 1 year and a cost of $250. Contractor acquires a tangible asset with a life of 18 months and a cost of $300. The Standard requires that based upon contractor's policy the asset be capitalized.

(3) Contractor establishes a new production facility. In the process, a number of large and small items of equipment were acquired to outfit it. The contractor has an established policy of capitalizing tangible assets including original complement which have a service life of over 1 year and a cost of $500. All items meeting the contractor's policy requirements were capitalized. Items of durable equipment acquired for the production facility costing less than $500 each aggregated $5,000. The Standard requires that these items be capitalized as the original complement of low cost equipment.

(4) Contractor has an established policy for capitalizing its heavy presses and their power supplies as separate retirement units. A power supply is replaced during the service life of the related press. The Standard requires that, based upon the contractor's policy, the new power supply be capitalized with appropriate accounting for the replaced unit.

(b) Illustrations of costs which need not be capitalized.

(1) The contractor has an established policy of capitalizing tangible assets which have a service life of 2 years and a cost of $500. The contractor acquires an asset with a useful life of 18 months and a cost of $5,000. The tangible asset may be expensed.

(2) The contractor establishes a new assembly line. In outfitting the line, the contractor acquires $5,000 of small tools. On similar assembly lines under similar conditions, the original complement of small tools was replaced annually because of loss, pilferage, breakage, and physical wear and tear. Because the unit of original complement does not meet the contractor's service life criterion for capitalization (1 year), the small tools may be expensed.

§ 404.70 Exemptions.

None for this Standard.

The effective date of this Standard is July 1, 1973. The Standard shall be applied to tangible assets acquired during the contractor's fiscal year beginning on or after July 1, 1973.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.72-17076 Filed 10-4-72;8:54 am]

GENERAL SERVICES ADMINISTRATION

Public Buildings Service

[41 CFR Part 101–19]

VENDING STANDS OPERATED BY BLIND PERSONS

Competition with Cafeterias

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, and the Randolph-Sheppard Act (40 Stat. 1559, as amended by 68 Stat. 663, 20 U.S.C. 107), the General Services Administration is considering an amendment of 41 CFR 101–19.2—Vending Stands Operated by Blind Persons.

Due to increasing costs of operating cafeterias and restaurants for Federal employees and the limited hours of service (basically the noon meal and coffee breaks), the majority of cafeterias have been experiencing serious financial problems and are unable to meet the objectives of high quality food, served efficiently, in clean, attractive, and pleasant surroundings at reasonable prices. The accomplishment of these objectives is necessary if the Government is to employ and retain the number and type of employees required for conducting its business in a satisfactory manner. Detailed studies have demonstrated that vending stands and machines which provide food and beverages in competition with a cafeteria facility cause higher prices, limited menu selections, inferior food quality, smaller portion sizes, and reduced efficiency in the cafeterias. These amendments are designed to remedy this situation by decreasing the competition with the cafeterias, while recognizing the preference traditionally afforded to blind persons by the General Services Administration.

This revision involves substantive changes to clarify the policy of the General Services Administration with respect to competition with cafeterias by vending stands and machines operated by blind persons.

Any person who wishes to submit written data, views, or objections pertaining to the proposed amendments may do so by filing them in duplicate with the General Services Administration (P), Washington, D.C. 20405, within 60 calendar days following publication of this notice in the FEDERAL REGISTER.

Dated: September 27, 1972.

JOHN F. GALUARDI,
Acting Commissioner,
Public Buildings Service.

As proposed, the amended regulation would read as follows:

This regulation provides for: (1) Recognizing the Department of Health, Education, and Welfare as the approving authority for regulations related to the operation of vending stands and machines; (2) setting forth revised policy in extending preference to blind persons in the operation of vending stands and machines; (3) clarifying the requirement of approval of the lessor before installing vending facilities on leased property; (4) recognizing the Director, Concessions Division, Central Office, in lieu of the Chief, Buildings Management Division, Region 3, as the approval authority for applications to operate vending stands and machines and other matters in General Services Administration Region 3; (5) including sex as a prohibited form of discrimination; (6) correcting the citation to the regulations of the Department of Health, Education, and Welfare; and (7) minor editorial changes.

The table of contents for Part 101–19 is amended as follows:

101–19.201 Vending stand policy.

Subpart 101–19.2—Vending Stands Operated by Blind Persons

1. Section 101–19.200 is revised as follows:

§ 101–19.200 Scope of subpart.

(a) This subpart contains the regulations ensuring the granting of preference to blind persons licensed under the provisions of the Randolph-Sheppard Act (40 Stat. 1559, as amended by 68 Stat. 633, 20 U.S.C. 107) for the operation of vending stands and machines. They are issued after consultation with and approval by the Department of Health, Education, and Welfare (36 F.R. 13749).

(b) The regulations in this subpart shall apply to Federal property owned, leased, or occupied by the United States over which the General Services Administration has control of the maintenance, operation, and protection, except space used by the United States Postal Service as workrooms, swing rooms, and locker rooms. Vending stands and machines in these rooms are governed by regulations issued by the U.S. Postal Service.

2. Section 101–19.201 is revised as follows:

§ 101–19.201 Vending stand policy.

(a) Blind persons licensed by State licensing agencies designated by the Secretary of Health, Education, and Welfare under the provisions of the Randolph-Sheppard Act shall be given preference in the operation of vending stands and/or machines on any General Services Administration controlled property in which vending stands and/or machines may be properly and satisfactorily operated by such persons without unduly inconveniencing the General Services Administration or adversely affecting the interests of the United States.

(b) It is the policy of the General Services Administration to see that Federal employees, who have a limited lunch period of usually 30 minutes, are provided high quality and convenient basic food service, such as a cafeteria or restaurant, under sanitary and healthful conditions, in clean, attractive, and pleasant surroundings at the most reasonable prices possible. When this service is required and provided (i.e., it is not readily and suitably available from privately operated commercial sources in reasonable walking distance to the employee's building), the operation of a vending stand or machines which sell food or beverages in the building may adversely affect the quality of the basic food service provided therein. When this situation is found to exist, the application to establish these machines may be denied or the items authorized for sale may be restricted. In large buildings with substantial employee population, operators of vending stands may be authorized to sell food and beverage items when their sale is economically justified. In smaller buildings where cafeteria or restaurant service is not economically justified, food and beverage items may be authorized for sale by vending stands or machines.

(c) Vending machines or the income therefrom assigned to blind operators shall include only those machines which would be in reasonable proximity to a vending stand and that would otherwise be in direct competition with that stand. When cafeteria or restaurant service is not feasible, machines may be authorized in any appropriate location with the income assigned to a blind operator.

3. Section 101–19.203 is revised as follows:

§ 101–19.203 Leased property.

If stands and/or vending machines are contemplated on leased property, the approval of the lessor shall be obtained prior to the issuance of a permit when the lessor or another tenant of the lessor on the property already has in operation a restaurant or other food service facility in a part of the property not included in the lease and when a vending facility operated by a blind person would be in direct and substantial competition with the restaurant or other food service facility.

4. Section 101–19.204 is revised as follows:

§ 101–19.204 Application for permits.

Applications shall be made in writing on the proper form and submitted to the appropriate Buildings Manager. The applications shall be approved by the Director, Buildings Management Division, in the regional offices, except for those involving Region 3 transactions. Region 3 applications shall be approved by the Director, Concessions Division, in the GSA Central Office. (See § 101–20.48 for GSA regional offices.)

5. Section 101–19.205 is amended as follows:

§ 101–19.205 Terms of permit.

* * * * * *

(a) * * *

(1) Prescribe such procedures as are necessary to ensure that in the selection of operators and employees for vending stands there shall be no discrimination because of race, creed, color, sex, or national origin.

(2) Take the necessary action (i) to ensure that operators of vending stands do not discriminate by segregation or in any other way against any person or persons because of race, creed, color, sex, or national origin in furnishing, or by refusing to furnish, to such person or persons the use of any vending stand facility, including any and all services, privileges, accommodations, and activities provided thereby and (ii) to ensure compliance by such operators with Title VI of the Civil Rights Act of 1964, and the regulations of the General Services Administration issued pursuant thereto which are set forth in Subpart 101–6.2 and specifically made applicable to the provision of free space and utilities by GSA for vending stands operated by blind persons under section 1 of the Randolph-Sheppard Act (20 U.S.C. 107) and § 101–6.217(k).

* * * * * *

(e) Items sold at vending stands operated by the blind may consist of newspapers, periodicals, publications, prepackaged confections, tobacco products, articles dispensed automatically or in containers or in wrappings in which they are placed before receipt by the vendor, and such other articles as may be determined by the State licensing agency to be suitable for a particular location and approved by the Director, Buildings Management Division, or the Director, Concessions Division. Periodicals and publications which have been judicially determined to be patently offensive and appealing to prurient interest shall not be sold.

(f) Vending facilities shall be operated in compliance with applicable local and State health, sanitation, and building codes or ordinances and such standards as may be prescribed by the Director, Buildings Management Division or by the Director, Concessions Division.

(g) Installation, modification, relocation, removal, and renovation of vending facilities shall be subject to the prior approval and supervision of the Director, Buildings Management Division or the Director, Concessions Division. Costs of relocations initiated by the State licensing agency shall be paid for by the State licensing agency. Cost of relocations initiated by the Director, Buildings Management Division, or the Director, Concessions Division, shall be borne by the General Services Administration.

6. Section 101–19.206(a) is amended as follows:

§ 101–19.206 Protection from competition.

(a) All income from vending machines except the income from vending machines which may be assigned by contract or agreement with others shall be offered to the State licensing agency operating a vending stand or stands on the same property. Such income shall be made available to the licensing agency only for assignment to operators of vending stands on the property (limited to income from those machines which would be in reasonable proximity to a vending stand and would otherwise be in direct competition with that stand) (see § 101–19.201(c)) and, for program-wide purposes for which set-aside funds may be used, in accordance with section 3(3) of the Randolph-Sheppard Act (20 U.S.C. 107(3)), and the regulations of the Department of Health, Education, and Welfare (45 CFR 409.8), namely:

* * * * * *

7. Section 101–19.207(a) is revised as follows:

§ 101–19.207 Enforcement procedures.

(a) The authorization for the establishment of a vending stand, the regulations and standards of the General Services Administration, of the State licensing agency, and of the Department of Health, Education, and Welfare (45 CFR 409) shall regulate the operation of vending stands and machines.

* * * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 40 Stat. 1559 as amended by 68 Stat. 663, 20 U.S.C. 107)

[FR Doc.72-17073 Filed 10-4-72;8:53 am]

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Notices

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Organization and Functions

This material supersedes the statements on organization and functions published at 36 F.R. 849–890, 36 F.R. 11946, and 37 F.R. 489–490.

Dated: September 27, 1972.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

1100 ORGANIZATION AND STAFFING

1110 ORGANIZATION AND FUNCTIONS OF THE INTERNAL REVENUE SERVICE

1111 ESTABLISHMENT OF THE INTERNAL REVENUE SERVICE

1111.1 MISSION

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and to maintain the highest degree of public confidence in the integrity and efficiency of the Service. This includes communicating the requirements of the law to the public, determining the extent of compliance and causes of noncompliance, and doing all things needful to a proper enforcement of the law.

1111.2 ORGANIC ACT

(1) The Office of the Commissioner of Internal Revenue was established by an act of Congress (12 Stat. 432) on July 1, 1862, and the first Commissioner of Internal Revenue took office on July 17, 1862.

(2) The act of July 1 provided:

"• • • That, for the purpose of superintending the collection of internal duties, stamp duties, licenses, or taxes imposed by this Act, or which may be hereafter imposed, and of assuming the same, an office is hereby created in the Treasury Department to be called the Office of the Commissioner of the Internal Revenue; • • • Commissioner of Internal Revenue, • • • shall be charged, and hereby is charged, under the direction of the Secretary of the Treasury, with preparing all the instructions, regulations, directions, forms, blanks, stamps, and licenses, and distributing the same or any part thereof, and all other matters pertaining to the assessment and collection of the duties, stamp duties, licenses, and taxes, which may be necessary to carry this Act into effect, and with the general superintendence of his office, as aforesaid, and shall have authority, and hereby is authorized and required, to provide proper and sufficient stamps or dies for expressing and denoting the several stamp duties, or the amount thereof in the case of percentage duties, imposed by this Act, and to alter and renew or replace such stamps from time to time, as occasion shall require; • • •"

(3) By common parlance and understanding of the time, an office of the importance of the Office of Commissioner of Internal Revenue was a bureau. The Secretary of the Treasury in his report at the close of the calendar year 1862 stated that "The Bureau of Internal Revenue has been organized under the Act of the last session • • •" Also it can be seen that Congress had intended to establish a Bureau of Internal Revenue, or thought they had, from the act of March 3, 1863, in which provision was made for the President to appoint with Senate confirmation a Deputy Commissioner of Internal Revenue "who shall be charged with such duties in the bureau of internal revenue as may be prescribed by the Secretary of the Treasury, or as may be required by law, and who shall act as Commissioner of internal revenue in the absence of that officer, and exercise the privilege of franking all letters and documents pertaining to the office of internal revenue." In other words, "the office of internal revenue" was "the bureau of internal revenue," and the act of July 1, 1862 is the organic act of today's Internal Revenue Service.

1111.3 HISTORY

1111.31 *Internal Taxation.* Madison's Notes on the Constitutional Convention reveal clearly that the framers of the Constitution believed for some time that the principal, if not sole, support of the new Federal Government would be derived from customs duties and taxes connected with shipping and importations. Internal taxation would not be resorted to except infrequently, and for special reasons. The first resort to internal taxation, the enactment of internal revenue laws in 1791 and in the following 10 years, was occasioned by the exigencies of the public credit. These first laws were repealed in 1802. Internal revenue laws were reenacted for the period 1813–17 when the effects of the war of 1812 caused Congress to resort to internal taxation. From 1818 to 1861, however, the United States had no internal revenue laws and the Federal Government was supported by the revenue from import duties and the proceeds from the sale of public lands. In 1862 Congress once more levied internal revenue taxes. This time the establishment of an internal revenue system, not exclusively dependent upon the supplies of foreign commerce, was permanent.

1111.32 *Background and Evolution of Present Organization.* (1) Before the establishment of the Office of Commissioner of Internal Revenue, taxes were collected by "Supervisors" of collection districts who were appointed by the President, subject to Senate confirmation. These Supervisors worked under the direct control of the Treasury Department. The Revenue Act of 1813 provided, for the first time, for a "Collector" and a "Principal Assessor" for each collection district, and for deputy collectors and assistant assessors. Collectors and Assessors appear to be the original forerunners of the 20th century Collectors of Internal Revenue and Internal Revenue Agents in Charge.

(2) Since 1862, the Internal Revenue Service has undergone a period of steady growth as the means for financing Government operations shifted from the levying of import duties to internal taxation. Its expansion received considerable impetus in 1913 with the ratification of the 16th amendment to the Constitution under which Congress received constitutional authority to levy taxes on the income of individuals and corporations. With the enactment of income tax laws the work of the Revenue Service began to take on a highly technical character.

(3) From the World War I period through 1951, the basic organizational structure of the Internal Revenue Service remained essentially unchanged even though there were marked increases in the number of taxpayers serviced, revenue receipts, employees and the overall workload. The Service was organized, in Washington and the field, on a program or "type-of-tax" basis, with jurisdictionally separate organizations, or "Units," charged with the administration of different types of taxes.

1111.4 REORGANIZATION PLAN NO. 1 OF 1952 AND OTHER CHANGES

(1) On January 14, 1952, the President of the United States submitted to Congress Reorganization Plan No. 1 of 1952, calling for a comprehensive reorganization of the Internal Revenue Service. On March 13, 1952, the last motion to defeat the plan was voted down in the Senate, and the plan became effective on March 15, 1952.

(2) Reorganization Plan No. 1 of 1952 brought about four basic changes in the Internal Revenue Service:

(a) The organization of the Service along functional lines—i.e., operations, administration, technical, planning, and inspection;

(b) The abandonment of the system of political appointments to positions below the Commissioner;

(c) The integration of most field revenue programs under District Directors of Internal Revenue; and

(d) The establishment of a system of regional administration under Regional Commissioners of Internal Revenue.

(3) The Reorganization Plan provided authority for the establishment of 25 Offices of Regional Commissioners (referred to as "District Commissioners" in the Plan). By December 1, 1952, the offices of 17 regional commissioners had been established. The major field programs, including alcohol and tobacco tax enforcement, were integrated under district directors; the appellate program and the permissive alcohol and tobacco tax functions were placed in the offices of regional commissioners; and, in the National Office, all activities were placed under Assistant Commissioners for Inspection; Operations; and Technical; an Assistant to the Commissioner, and an Administrative Assistant to the Commissioner.

(4) In 1953, a number of organizational refinements were effected. The number of regions was reduced to nine; the field operations of alcohol and tobacco tax were centralized at the regional level; and the delinquent accounts and returns program was transferred from the Audit Divisions in the Offices of District Directors to their Collection Divisions. In the National Office, the position of Deputy Commissioner was established and the Bureau of Internal Revenue was redesignated as the Internal Revenue Service.

(5) Other significant changes since 1953 include establishment of the Offices of Assistant Commissioners for Administration, Data Processing, and Planning and Research; redesignation of the Assistant Commissioner (Operations) as the Assistant Commissioner (Compliance); discontinuance of the Columbus and Toledo (Ohio) districts and consolidation of the Upper and Lower Manhattan districts, effective January 1, 1960; establishment of the Anchorage (Alaska) district on January 1, 1961; transfer on September 13, 1963, of the Director of Practice from the Internal Revenue Service to the Office of the Secretary of the Treasury to be under the immediate supervision of the General Counsel; effective January 1, 1964, reduction in the number of regions to eight and discontinuance of the districts of Camden (New Jersey), Kansas City (Missouri), Scranton (Pennsylvania), and Syracuse (New York); and, effective January 4, 1965, reduction in the number of regions to seven. On December 19, 1968, Alcohol and Tobacco Tax Division was changed to Alcohol, Tobacco and Firearms Division. Effective July 1, 1971, the Office of Assistant Commissioner (Data Processing) was redesignated Office of Assistant Commissioner (Accounts, Collection, and Taxpayer Service). Effective November 14, 1971, the position of Assistant Commissioner (Stabilization) was established. Effective July 1, 1972, the Alcohol, Tobacco and Firearms activity was transferred from the Internal Revenue Service to a separate bureau within the Department of the Treasury.

1112 SERVICE ORGANIZATION

(1) The Internal Revenue Service is a component part of the Treasury Department. The Service is headed by the Commissioner of Internal Revenue who serves under the direction of the Secretary of the Treasury.

(2) The Internal Revenue Service consists of a National Office in Washington, D.C., and a field organization. The latter consists of seven Internal Revenue regions, each headed by a Regional Commissioner who reports to the Deputy Commissioner; 58 Internal Revenue districts, each headed by a District Director, and 10 service centers, each headed by a Director, who report to a Regional Commissioner; and a computer center and a data center under the direction of the Assistant Commissioner (Accounts, Collection, and Taxpayer Service) in the National Office. In addition, there are in the field seven Regional Inspectors and seven Regional Counsels, who report to the Assistant Commissioner (Inspection) and the Chief Counsel, respectively, in Washington, D.C.

(3) In administering the appellate functions direct from the regional office, the Regional Commissioner maintains and supervises branch offices headed by Chiefs, Appellate Branch Office, who report to the Assistant Regional Commissioner (Appellate) who also carries the title of Chief, Appellate Division. The Regional Counsels also maintain and supervise branch offices.

(4) In each Internal Revenue district there are offices in communities where concentration of workload in audit, collection, intelligence, or stabilization activities requires the assignment of personnel.

1113 NATIONAL OFFICE

1113.1 MISSION

The mission of the National Office is to develop broad nationwide policies and programs for the administration of the internal revenue laws and related statutes, and to direct, guide, coordinate, and control the endeavors of the Internal Revenue Service.

1113.2 BASIC ORGANIZATION

The principal offices which form the National Office are: The Office of the Commissioner; the Office of the Assistant Commissioner (Administration); the Office of the Assistant Commissioner (Compliance); the Office of the Assistant Commissioner (Accounts, Collection, and Taxpayer Service); the Office of the Assistant Commissioner (Inspection); the Office of the Assistant Commissioner (Planning and Research); the Office of the Assistant Commissioner (Technical); the Office of the Assistant Commissioner (Stabilization); and the Office of the Chief Counsel.

1113.3 OFFICE OF THE COMMISSIONER

The Commissioner of Internal Revenue, in conformity with policies and delegations of authority made by the Secretary of the Treasury, establishes the policies and administers the activities of the Internal Revenue Service. The Office of the Commissioner includes the Deputy Commissioner, the Assistant to the Commissioner, Assistant to the Commissioner (Public Affairs) and the Tax Administration Advisory Staff.

1113.31 *Deputy Commissioner.* The Deputy Commissioner assists and acts for the Commissioner in planning, directing, coordinating and controlling the policies and programs and in giving executive leadership to the activities of the Internal Revenue Service. The Deputy Commissioner also supervises the Regional Commissioners of Internal Revenue, and makes allocations of funds and personnel to them.

1113.32 *Assistant to the Commissioner.* The Assistant to the Commissioner reviews and takes final action for the Commissioner on documents involving technical matters prepared for the Commissioner's signature, including regulations, reports on proposed legislation, rulings, correspondence, compromises and reports to the Joint Committee on Internal Revenue Taxation involving refunds or credits of any income, war profits, excess profits, estate, or gift taxes in excess of $100,000. The Assistant to the Commissioner makes independent studies for the Commissioner.

1113.33 *Assistant to the Commissioner (Public Affairs).* The Assistant to the Commissioner (Public Affairs) counsels and advises the Commissioner, Deputy Commissioner and other levels of management on matters where public interest or response is involved in the determination of Service policies and the execution of Service programs. Evaluates for the Commissioner the attitude of the public towards the Service policies and programs and recommends corrective measures where indicated. Plans, develops and coordinates the Service-wide policies and programs for providing information to the public through mass communication methods to help improve knowledge and understanding of Federal tax and related laws and their administration, for the primary purpose of encouraging and facilitating maximum voluntary compliance by the public. Conducts continuous studies of the Service's public affairs activities to identify and act on problems and opportunities for improvement. Maintains liaison with and provides functional supervision to regional and district offices in public affairs matters and carries out public affairs programs at the National Office. Supervises the activities of the Public Affairs Division and its Branches: Tax Information, Stabilization Information, and Programs and Field Services.

1113.331 *Tax Information Branch.* Plans public information programs to assist taxpayers in meeting their obligations and knowing their rights under the Federal tax laws, and develops information materials for issuance to the mass communications media by the National Office and field offices. Determines and develops appropriate techniques to meet specific information goals; prepares news releases, TIR's, columns, articles, TV, radio and film scripts and other material for the mass media; arranges contracting and oversees production and distribution of films, TV spots, slides and radio tapes; contacts TV and radio and national print media to arrange placement of materials; responds to inquiries from national news media and assists field officials in response to local media inquiries. Arranges interviews with operating officials and initiates media contacts in order to provide the public with timely and complete information about the tax laws, and administration and related issues of public concern. Through analysis of media comment, liaison and consultation with IRS officials in determining the public impact of operating decisions maintains an up-to-date awareness of Service activities and problems on tax administration matters. Prepares material on technical tax questions; reviews for technical accuracy tax articles submitted by outside writers; maintains a knowledge of tax laws and legislative developments affecting those laws. Participates in planning Service-wide public affairs objectives, themes, and programs.

1113.332 *Stabilization Information Branch.* Plans public information programs to assist the public in meeting its obligations and knowing its rights under the Economic Stabilization Program, and develops information materials for issuance to the mass communications media by the National Office and field offices. Determines and develops appropriate techniques to meet specific information goals; prepares news releases, newspaper columns, articles and other material for the mass media; arranges for the production, distribution and placement of these materials as appropriate; responds to inquiries from national news media and assists field officials in response to local media inquiries. Arranges interviews with appropriate officials, and initiates media contacts in order to provide timely and complete information about the Economic Stabilization Program. Through analysis of media comment, liaison and consultation with IRS officials in determining the public impact of operating decisions, maintains an up-to-date awareness of Service activities and problems under the Economic Stabilization Program. Reviews for technical accuracy Economic Stabilization Program articles submitted by outside writers; maintains a knowledge of economic stabilization laws and legislative developments and policies promulgated by the Cost of Living Council, Price Commission and Pay Board. Participates in planning Service-wide public affairs objectives, themes, and programs.

1113.333 *Programs and Field Services Branch.* Coordinates the development of Service-wide public affairs objectives, themes and programs and recommends the resources necessary to achieve the objectives. In cooperation with other branches of Public Affairs, plans and executes the distribution of information materials for field use in support of IRS operational objectives. Reviews information activities, assists in recruitment and training of information officers; prepares operating procedures; plans and arranges conferences, seminars and field training programs in public affairs; and establishes and maintains communication channels between National Office and field public affairs officials. Evaluates field programs; prepares progress reports and assists in improving field operations. Prepares news releases and other mass media materials on non-operating matters such as appointments of key officials. Compiles the Commissioner's Annual Report, the Service segment of the Secretary's Annual Report and prepares special materials for issuance to the employee public. Provides library and reference services for all branches of public affairs and a daily newspaper clipping service for top Service and Department officials. Services requests for inspection and copies of exempt organization returns and other documents available to the general public under the Freedom of Information Act.

1113.34 *Tax Administration Advisory Staff.* The Tax Administration Advisory Staff

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provides leadership within the Service for the development and implementation of comprehensive programs of assistance in tax administration to developing nations, and on occasion, to the more developed nations, in line with the foreign policy of the United States and its commitments to the Organization of American States, the United Nations, and other international institutions. It is the central point of contact within the Service with foreign governments, the State Department, and international organizations on all matters involving the exchange of technical assistance in tax administration. The staff designs broad programs aimed at modernizing and strengthening tax administration in developing countries; it determines program requirements in terms of number and qualifications of advisers and selects, trains, and assigns such advisers. It provides technical leadership and direction, continually monitors, and periodically evaluates country programs to insure maximum effectiveness of assistance efforts. The staff develops and arranges study and observation programs in tax administration for foreign tax officials, which are conducted largely in the United States and occasionally at overseas sites. The staff maintains close liaison with the Department of State and the Agency for International Development (AID), foreign governments, international organizations, and the Office of the Secretary on matters concerning the foreign tax assistance program, most of which is conducted cooperatively with AID. The Director, Tax Administration Advisory Staff, has been delegated authority to arrange for and authorize temporary assignment of personnel between the IRS and State and local governments and institutions of higher education. The Director is responsible for determining that requests for individual assignments or for projects of assistance involving several assignments are consistent with the intent of the Act and that the requirements for mutual benefit to the Service and the requesting organization are met. The Director is also authorized to set the amount of the financial support to be provided by the Service and to make such other determinations as are needed. The staff will furnish or arrange for any necessary technical direction and support of employees on assignment to other organizations.

1113.4 OFFICE OF ASSISTANT COMMISSIONER (ADMINISTRATION)

The Assistant Commissioner (Administration) is the principal assistant to the Commissioner in planning and executing the Administration program of the Internal Revenue Service, which includes fiscal management, personnel, facilities management, training, public information, employment policy, and management improvement. Jointly, with other Assistant Commissioners, he participates in the general management of the Service by coordinating Administration with other functions to accomplish the objectives of a comprehensive and well-integrated Revenue program. On general administrative matters represents the Commissioner in relationships with the Congress; the Department of the Treasury Office of the Secretary and other components of the Department of the Treasury; and such agencies as the Office of Management and Budget, the Civil Service Commission and General Services Administration. Supervises the activities of the Fiscal Management, Personnel, Facilities Management, and Training Divisions in the National Office, and is responsible for functional supervision of Administration activities in the field.

1113.41 *Facilities Management Division—Office of the Director.* Develops, directs, coordinates, and evaluates policies and programs for providing essential support activities for the operating divisions' primary programs and carries them out in the National Office. Its programs are designed to increase the effectiveness of the Internal Revenue Service, reduce its operating costs, and improve taxpayer relations by tailoring Internal Revenue Service physical facilities and by providing support services to best meet the Service's total needs. These programs include information and records systems, space, property, supply, transportation, and telecommunications management, procurement and contracting, printing and distribution, national emergency planning, safety, document and physical security, and the settlement of tort claims. Develops the standards and procedures necessary for effective performance of its functions. This Division consists of five branches: National Office Facilities, Information Systems, Protective Programs, Space and Property, and Publishing Services.

1113.41 *National Office Facilities Branch.* Develops, coordinates, directs, and evaluates the Contracting and Procurement Programs of the Internal Revenue Service. Develops procurement policy and procedures, and provides guidelines and consultative assistance for all Internal Revenue Service Procurement Programs. Appraises procurement programs through a systematic program of visits to field offices and through review and analysis of reports and accomplishments. In addition, develops, coordinates, directs and evaluates all Facilities Management programs and activities (except printing and distribution and National Office emergency relocation planning) within the National Office, including the National Training Center and the National Computer Center, within the broad guidelines established by the Division Director. These activities include: Information and records systems, space management, transportation management, property and supply management, telecommunications management, protective programs, and contracting and procurement. Maintains liaison with National Office officials, other Government agencies, public utilities, contractors, private carriers, and other private and public organizations to coordinate and improve service in all of these activities.

1113.412 *Information System Branch.* Plans, develops, promotes, coordinates, and evaluates programs designed to increase the effectiveness of Servicewide operations in the following areas: Records Management—documentation standards; correspondence; and the management of records creation, retrieval, retention, and disposal; Information Systems Analysis—internal mail and files management; management of information and records handling equipment and supplies; studies of information utilization and flow, and of paperwork management; analysis, either singly, or in collaboration with the Systems Development Division of the information needs of management at various levels of the Service, and the development of reporting and management information systems to effectively and economically meet those needs; guidelines and standards for application of microphotography (excepting microphotographic publishing), and other information handling and word processing technology; Reports Management—development of Service-wide reports management policies, procedures, and standards; control, review and evaluation of National Office generated reporting and management information systems; maintenance of a Service-wide information inventory and of the National Office Reports Catalogue; Mail and Transportation Management—coordination and planning for those services provided by the U.S. Postal Service, or private shippers and service units of IRS, for physically transporting, controlling, delivering, sorting and distributing material in solid forms such as correspondence, documents, receipts, microfilm, or magnetic tape; Telecommunications Systems—services and facilities for transmitting and receiving data and information and the operation of telephone, telegraph, facsimile, and data communications systems, equipment and circuitry. The Branch determines the need for program emphasis and goals, develops the programs and promotes and coordinates their acceptance and implementation with other components of the Service; provides standardized techniques, guidelines, and consultative services needed in these areas by the Service. Collaborates with the Systems Development Division in matters involving communications and information storage and retrieval systems. Acts as liaison for the Service with other Federal agencies and industry in matters concerning Branch program activities.

1113.413 *Protective Programs Branch.* Develops, coordinates, administers, and evaluates Service-wide programs of civil defense and emergency planning which includes contingency plans for coping with demonstrations, civil disorder and bomb threats; accident prevention; physical and document security and identification. Insures continuity of operations by preventing or minimizing loss through accident, employee injury, fire, theft, enemy attack, natural disaster, and civil disturbance, and breaches of security of facilities, equipment, and documents. Exercises the authority to settle claims arising out of the activities of the Internal Revenue Service under the Federal Tort Claims Act, the Military Personnel and Civilian Employees' Claims Act and the Claims Collection Act, and administers the program to insure equitable settlement and payment of claims.

1113.414 *Publishing Services Branch.* Plans, develops, coordinates, administers, and evaluates the policies, systems, procedures, and standards for the publishing needs of the Internal Revenue Service in consonance with the Congressional Joint Committee on Printing Regulations. Participates in agencywide program planning and development. Responsible for the fiscal control, planning, analysis, graphic design, requirements determination, procurement, integrated scheduling, inventory maintenance, and distribution of all published material. Administers the Service-wide forms management program and the publishing systems for forms, publications and envelopes. Provides for comprehensive graphic presentation program assistance and services. Initiates, directs, and coordinates studies to develop or improve processes in the publishing and graphic arts fields including duplicating and printing equipment; office reproduction machines; electronic composition; visual media; inventory, storage, and mail and distribution systems for published material. Provides functional supervision and logistical support to field components for the management of printing (including procurement), forms, graphic design, and distribution. Represents IRS in liaison and negotiation with other governmental agencies, private industry groups, and the public on matters pertaining to IRS publishing activities.

1113.415 *Space and Property Branch.* Plans, develops, promotes, coordinates, and evaluates programs designed to increase the effectiveness of Servicewide operations in the following areas: Space Management—planning requirements for IRS space, providing standards for environmental quality programs and for the acquisition, maintenance, utilization and disposal of space to ensure an effective, efficient, and appropriate physical working environment for all Service employees, and a pleasing environment for public visitors; Property and Supply Management—conducts utilization studies, establishes requirements, designs, disposes of and maintains furniture, furnishings, certain noncapitalized and capitalized equipment including data processing auxiliary and accessory equipment; manages property accountability and the IRS motor vehicle fleet management; Electronic Support Systems—provides support services for the requirements, procurement, installation and inspection of electronic data processing systems and other electronic, electro-mechanical audio-visual and other computerized or automated devices, equipment and systems; analyzes and conducts power reliability studies for IRS buildings. The Branch determines the need for program emphasis and goals, develops the programs and promotes and coordinates their acceptance and implementation with other components of the Service; provides standardized techniques, guidelines, and consultative services needed in these areas by the Service. Confers and collaborates with the Systems Development Division and the Accounts and Data Processing Division in matters involving new systems and equipment related to branch functions, and with other Government agencies and private industry to assure proper installation. Acts as liaison for the Service with other Federal agencies and industry in matters concerning Branch program activities.

1113.42 *Fiscal Management Division.* Develops, plans, coordinates and evaluates the financial management and budget policies and programs of the Internal Revenue Service. Develops and assists in the justification of the Service's budget; advises on its execution; establishes procedures covering the accounting system for appropriated funds; and directs the budget and fiscal activities carried out in the National Office. Counsels and advises the Commissioner, the Deputy Commissioner and all levels of management on matters concerning budget and the fiscal management of funds appropriated for the administration of the Service. The Division, under the direction of the Fiscal Management Officer, consists of two branches: Accounting Branch and Budget Branch.

1113.421 *Accounting Branch.* The Accounting Branch develops, prescribes, and installs the Service's financial accounting system to produce timely and accurate data for budgetary and fiscal management purposes. It also collaborates Planning and Analysis and Facilities Management Divisions in developing and administering the financial reporting system, as it relates to IRS management information systems.

1113.422 *Budget Branch.* The Budget Branch develops the Service's budget in conformance with the established overall program policies through consultation and cooperation with the responsible operating officials. It prescribes budget procedures and directs the preparation of budget estimates for the Service; participates in the development of standards for the measurement of work necessary in the justification of estimates or the evaluation of financial plans; prepares requests for the apportionment or reapportionment of appropriations; allots funds in accordance with the approved financial plan and properly authorized revisions thereof; establishes the procedures and records necessary to properly reflect the execution of the budget; and collaborates with the Planning and Analysis and Facilities Management Divisions in developing and administering a reporting system reflecting the status of the budget and financial plan, as it relates to IRS management information systems.

1113.43 *Personnel Division—Office of the Director.* Plans, directs and leads in the development, coordination and evaluation of the personnel policies and programs of the Service. Provides functional supervision over personnel operations throughout the Service and personnel programs in the regions, districts, and service centers, including long-range planning, organization and staffing studies, staff development and program evaluation. Administers centralized personnel activities including those for employees of the National Office. Acts as appellate office for the Commissioner on adverse action and grievance appeals and designates hearing officers when requested. Through the Technical Adviser directs appropriate personnel activities to promote effective manpower utilization. Prepares certain Service-wide personnel reports for the Civil Service Commission and other agencies. Exercises line supervision over the Eastern and Western Assessment Centers in their activities involving evaluation of candidates for supervisory, managerial and executive positions.

1113.431 *Union Relations Branch.* Develops and coordinates policies, procedures and instructions in the areas of union-management relationships, employee conduct, disciplinary actions and appeal procedures. Serves as IRS functional specialist; reviews, evaluates, assists, interprets, disseminates information and exercises functional supervision over Service activities in these program areas. Acts as liaison between the Service and the Office of the Secretary, Treasury Department Bureaus, and Civil Service Commission and other Federal agencies and provides comments on legislation, for these program areas. Responsible for liaison, consultation, and negotiation with unions.

1113.432 *Employment Branch.* Develops and coordinates policies, procedures, and program instructions including technical training programs for the employee programs of the Service such as: recruitment; selection; placement; appointment; career status; promotion plans; details; veteran's preference; orientation and placement followup; reduction in force; equal employment; separations; awards and incentive programs; high quality increases; pay administration; employee benefits and services; fitness for duty; and recreation and fundraising. Develops and coordinates redeployment programs and procedures; coordinates, as required, personnel programs affecting service center installations. Develops and coordinates policies and procedures pertaining to participation of the Interagency Boards. Reviews and advises on budgetary and staffing proposals relative to recruitment, selection and utilization of personnel. Exercises functional supervision over counterpart operations throughout the Service, and participates as functional specialists in evaluation of field programs. Provides staff expertise in personnel management techniques for the development and application of automated processes to personnel management. Administers the Personnel Reports Management System.

1113.433 *National Office Branch.* Develops and executes policies, programs, and procedures relating to recruitment, selection, placement, employee relations, position classification, discipline, performance evaluation, promotion, manpower utilization, and other aspects of a complete personnel program for National Office and certain field positions with the exception of those requiring Treasury or Civil Service approval; reviews the budget for proposed position reallocations pertinent to the above positions. In addition, performs the following duties pertaining to Servicewide programs: renders support to the Tax Administration Advisory Staff; administers national placement program; reviews and processes regional employment cases for which authority has not been delegated to regions; processes section 6(c) retirement cases and proposals for Gallatin awards; and answers general inquiries and other correspondence concerning applications for employment, reassignment, promotion, etc. Reviews and makes recommendations of security cases Servicewide.

1113.434 *Position Management Branch.* Develops and coordinates policies, procedures, and program instructions for the position classification, noncompetitive staffing programs of the Service. Develops and coordinates occupational standards and guides including classification, qualification and performance standards, qualifications evaluation, qualification rating keys and criteria and techniques for making classification, qualifications, and training selection determinations. Reviews and counsels on position classification implications of budgetary and financial planning with respect to proposed grade structure changes as justified by data on available workload and conformance with existing classification guides and standards. Reviews and makes recommendations on CSC central office and Treasury classification and qualification standards. Exercises functional supervision over counterpart operations throughout the Service and participates as functional specialists in evaluating field programs. Performs such centralized services as classification of positions for which authority has not been delegated, preparation of supergrade recommendations, and justification, and development of standard position descriptions. Adjudicates classification appeals and administers Wage Board programs. Develops and coordinates the personnel management portion of the Service's emergency readiness plan. With assistance from Training Division, develops, negotiates and administers Service-wide training agreements, and develops standards for selection of personnel for training.

1113.435 *Careers Branch.* Develops and coordinates policies, procedures, and program instructions for the Service's technical, supervisory, managerial, and executive career programs. Develops techniques and criteria for evaluating supervisory, managerial, and executive potential; exercises functional personnel direction, over implementation and follow-through on career programs; performs essential personnel services for career programs for supervisory and managerial positions; provides staff assistance to the National Selection Board which selects and assigns executive personnel; and administers the employee performance evaluation program. Provides staff expertise in personnel management techniques including the conduct and direction of studies requiring the use of psychological and other social science methodology; coordinates and administers the IRS testing program (noncompetitive written test).

1113.44 *Training Division—Office of the Director.* The Director formulates and recommends overall training policies of the Internal Revenue Service and provides professional training leadership and guidance to Service officials and personnel. Performs the following functions: Conducts research and special studies to determine the best methods of employee development for the Service, and provides expert advice and counsel on training techniques and methodology; in cooperation with IRS management, the Director identifies the need for, and administers Service training programs, approves and is responsible for development and preparation of training courses and program materials, and supports the Tax Administration Advisory Staff; determines program emphasis and goals, establishes standards and procedures for the effective and efficient administration of Service training programs, and evaluates training for effectiveness and economy; administers the taxpayer education program and coordinates the efforts of the field and National Office divisions concerned; advises on and approves training cost estimates for

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all Service-wide training, and administers the special fiscal allotment (250) used to finance centralized training activities; carries out the training policies and programs of the Service in the National Office.

1113.441 *Administrative Services Office.* Provides administrative support for the Training function. Performs the following: Assists the Director in carrying out Service-wide administrative management responsibilities related to the Training function; coordinates and maintains overall Service-wide training budget formulation and execution, and work and financial plans; develops, coordinates, and maintains the Training Manual System; coordinates and develops intradivisional projects such as budget formulation, work and financial plans, and PPBS updatings; conducts studies of intradivisional activities; conducts special intradivisional projects of an administrative nature; provides all necessary administrative support for internal operations of the Training Division.

1113.442 *Compliance Training Branch.* Provides professional training support for the compliance technical training program (audit; intelligence; and appellate). Jointly and in cooperation with appropriate compliance officials, performs the following functions: Determines training priorities and goals of the compliance technical training programs; identifies training needs, and defines and articulates training objectives; plans, designs, develops, coordinates and conducts compliance technical training programs; evaluates the implementation and effectiveness of the total compliance technical training program; supports, coordinates, and evaluates field compliance technical course development. In addition: Monitors all pilot compliance technical training projects and administers those conducted centrally; reviews and updates training methods, instructional techniques, materials, and supervisory practices as they relate to training; keeps compliance technical training materials current; in cooperation with compliance officials, establishes and maintains criteria for employee performance evaluation as it relates to effective training programs; with assistance of National Training Center and compliance, develops compliance technical training guidelines and standards, and conducts experimental projects.

1113.443 *Acts Training Branch.* Provides professional training support for the Accounts, Collection and Taxpayer Service technical training program. Jointly and in cooperation with appropriate ACTS officials, performs the following functions: Determines training priorities and goals of the ACTS technical training program; identifies training needs, and defines and articulates training objectives; plans, designs, develops, coordinates, and conducts ACTS technical training programs; evaluates the implementation and effectiveness of the total ACTS technical training program; supports, coordinates, and evaluates field ACTS technical course development; monitors all pilot ACTS technical training projects and administers those conducted centrally; reviews and updates training methods, instructional techniques, materials and supervisory practices as they relate to training, keeps ACTS technical training materials current; in cooperation with ACTS officials, establishes and maintains criteria for employee performance evaluation as it relates to effective training programs; in cooperation with Taxpayer Service officials, plans, designs, coordinates and evaluates appropriate and useful informational and educational materials for public use; with assistance of National Training Center and ACTS, develops ACTS training guidelines and standards, and conducts experimental projects.

1113.444 *Management Training Branch.* Provides professional training support for the Service in areas of organizational and career development; executive management, and supervision; cross-functional; and career education awards. Performs the following functions: In cooperation with key Service officials, determines general and functional supervisory, management, and executive training goals of the Service; identifies training needs and, in cooperation with the appropriate Service activities and functions, defines supervisory, management and executive training objectives; plans, designs, develops, coordinates, and conducts supervisory, management, and executive training programs; evaluates the implementation and effectiveness of total supervisory, management, and executive training programs; supports, coordinates, and evaluates field supervisory and management course development; monitors all pilot supervisory and management training projects and administers those conducted centrally; reviews and updates supervisory, management, and executive training methods, instructional techniques and materials; in cooperation with appropriate IRS officials, establishes and maintains criteria for employee performance evaluation as it relates to effective training programs; reviews, coordinates and evaluates Service's organizational development and career development programs; establishes guidelines, coordinates and evaluates Service-wide administration and equal employment opportunity training programs; develops guidelines for and administers career education awards; supports Tax Administration Advisory Staff in determining training needs of foreign tax officials and developing training programs to meet these needs; in cooperation with appropriate organizations, develops and conducts communications and cross-functional training programs.

1113.445 *National Office Training Branch.* Provides professional training support for the National Office, Inspection, Chief Counsel, National Computer Center and the Data Center. Performs the following functions: In cooperation with key National Office officials, determines clerical, technical, supervisory, and managerial training goals for National Office personnel; identifies training needs and, in cooperation with National Office officials, defines training objectives and establishes training priorities; plans, designs, develops, coordinates, conducts, and evaluates all National Office intrafunctional training programs, plus appropriate cross-functional training programs (e.g., supervisory, communications, instructor training, clerical skills); in cooperation with appropriate officials, determines training priorities, goals, and objectives for Inspection, Chief Counsel, National Computer Center and Data Center; plans designs, develops, coordinates, conducts, and evaluates Inspection, Chief Counsel, National Computer Center and Data Center training programs; administers, reviews, and monitors pilot training projects; keeps National Office, Inspection, Chief Counsel, National Computer Center and Data Center training materials current; reviews and updates training methods, instructional techniques and materials; administers training facilities in the National Office.

1113.446 *National Training Center.* Provides the educational research and development and specialized techniques input to the Training Division. Performs the following functions: Conducts research in training methodology and techniques; monitors and conducts experimental projects utilizing advance training technology; evaluates and determines feasibility of experimental projects becoming operational training programs; establishes Service-wide standards in training methodology, techniques and equipment, and develops materials requiring specialized training staff support; develops Service-wide guidelines for instructor and course-developer training; establishes standards for Service-wide staff development in specialized skills of training profession, and coordinates training staff development; establishes the standards for and coordinates the administration of the Regional Training Center network; maintains library at NTC; coordinates development and production of Service-wide materials requiring specialized staff support (e.g., videotape, film strip); maintains control and oversees distribution of Service-wide printed materials; administers the National Training Center facility.

1113.5 OFFICE OF ASSISTANT COMMISSIONER (COMPLIANCE)

The Assistant Commissioner (Compliance) is the principal assistant to the Commissioner on all matters pertaining to the compliance and appellate programs of the Service, in encouraging and achieving the highest possible degree of voluntary compliance by taxpayers, and in providing effective functional supervision of those activities in the field. These include audit and investigation of returns; criminal fraud investigations; the administrative system of tax appeals; administration of laws relating to alcohol, alcoholic beverage, tobacco, firearms, and explosives; and the receipt and processing of wagering, narcotics, alcohol and tobacco tax, and firearms returns and applications. Through the Disclosure Staff, in the immediate Office of the Assistant Commissioner, administers the disclosure provisions of the law and regulations concerning inspection of returns and other matters of official record; administers the Freedom of Information Act and regulations; administers the regulations governing testimony of Service employees in nontax matters; administers the tax check program involving high level Federal employees; and certifies documents under the Treasury Department seal, furnishing copies where appropriate. The Assistant Commissioner (Compliance) directs, coordinates and evaluates the work of the Appellate Division, the Audit Division, the Intelligence Division, and the Office of International Operations.

1113.52 *Appellate Division—Office of the Director.* Accomplishes the Appellate mission of resolving tax controversies without litigation, on a basis which is fair and impartial to both the Government and the taxpayer by developing and supervising (functional supervision) nationwide programs for final appeal consideration, within the Service, of cases involving income, profits, estate, gift, employment and excise taxes (other than alcohol, tobacco, narcotics, firearms, and wagering), offers-in-compromise, refund claims and overassessments, in which the taxpayer protests the decision of the District Director, and of cases docketed in the U.S. Tax Court (with concurrence of Regional Counsel and prior to the opening date of the Tax Court session concerned). Develops nationwide Appellate budget estimates and long-range plans; evaluates financial plans and budget execution of regional Appellate Divisions. Conducts Appellate Reports and Information Retrieval Activity (ARIRA) programs and nationwide Appellate reporting system. Collaborates with Planning and Research, Accounts, Collection, and Taxpayer Service; and other segments of the Service in a research effort to create a comprehensive information storage and retrieval system. Furnishes administrative services for the operation of the Appellate Division of the National Office. Also directs or performs certain centralized Appellate functions.

1113.521 *Coordination and Management Staff.* Assists in developing and recommending policies, plans, programs, and basic procedures and provides top-level managerial assistance through the following principal functions: Develops and recommends operations policies, plans, programs, and basic procedures relating to the appellate function. Assists and advises regional appellate offices on technical and administrative problems to enable them more effectively to accomplish their objectives. Establishes and conducts a field visitation program, and maintains continuous field liaison to assure that established policies, programs, plans, and instructions are carried out in a uniform, effective manner. Evaluates adequacy of staffing and managerial performance in regional appellate offices. Performs coordination functions across regional lines and with other Service elements. Supervises task forces working on special projects such as training, position descriptions, offices systems, and management improvement. Represents the Director in meetings of National Office and regional officials, and staff members serve on various committees as designated. Analyzes and interprets program status and progress in accomplishing the overall appellate mission. Originates statistical analyses and graphic presentations with explanations and interpretations to disclose program status and progress with trends and deviations highlighted. These analyses serve as the basis for program direction and long-range program planning for the appellate activity.

1113.522 *Programs and Procedures Branch.* Conducts program and procedural studies concerning appellate activity and recommends methods to efficiently accomplish appellate mission. Reviews and analyzes operational reports, field issuances and compiled data (such as ARIRA tables) to identify significant trends, procedural problems, etc., and submits recommendations to Director, where appropriate. Provides procedural instructions and procedural advice to appellate field organization to effectively implement policies, plans, and programs relating to appellate function. Maintains Part VIII of the Internal Revenue Manual and related handbooks and coordinates appellate procedures with other functions concerned. Provides material for inclusion in statement of procedural rules concerning appellate activity. Supervises task forces working on special projects relating to appellate programs and procedures. Develops and coordinates training programs to improve skills of appellate personnel. Provides forms and form letters for use in appellate operation. Considers and processes employee suggestions submitted under the incentive awards program relating to appellate and implements those that are adopted.

1113.523 *Special Services Branch.* Advises and assists in cases involving controversies as to valuation through the following principal functions: Participates in the development of Service position and procedures in complex valuation matters. Helps to maintain uniformity of treatment of valuation issues throughout the regional Appellate Divisions by furnishing advice, and conducting training sessions. Furnishes expert advice and assistance to the National Office, regional Appellate Division, and Regional Counsel on difficult valuation problems. Provides expert witnesses to testify at trials involving complex valuation issues. Develops programs and techniques aimed at eliminating, to the greatest extent possible, the need for time-consuming trials of valuation issues in the Tax Court or other courts. Provides regional Appellate Divisions with technical assistance of a general nature through the following principal functions: Analyzes and processes requests for technical information and digests technical information and other technical communications for dissemination to Regional Offices when information is of general appellate interest. Maintains liaison on matters relating to cases requiring submission to the Congressional Joint Committee on Internal Revenue Taxation. Develops and aids in formulation and presentation of appellate technical seminar programs. Recognizes need for specialized technical workshops and prepares program materials for them. Postreviews closing agreements approved by regional appellate officials. Also reviews closing agreements prior to submission to the Assistant Commissioner (Compliance) for approval. Identifies troublesome technical or qualitative areas and trends; and recommends solutions to help Regional Offices meet their objectives. Conducts special studies (such as prime issues) to assist the Director and the Assistant Regional Commissioners (Appellate) in their programing and long-range planning. Administers a continuing program for evaluating and analyzing regional postreview effectiveness.

1113.53. *Audit Division—Office of the Director.* Accomplishes the audit mission of encouraging and achieving the highest possible degree of voluntary compliance by taxpayers and tax exempt organizations with the tax laws. This is accomplished through developing and functionally supervising well designed and executed examination programs which utilize appropriated resources effectively and through plans for optimum audit programs in the future. These programs and plans provide for determining types and degrees of noncompliance and taking effective action to increase compliance. Also supervises the performance of certain centralized audit functions.

1113.531 *Office Services Staff.* Furnishes services in support of the Audit Division. Maintains liaison with the Office of the Assistant Commissioner (Administration) on fiscal, personnel, training, and facilities matters. Provides centralized mail, files, distribution, messenger, and library services for the Division.

1113.532 *Programs Branch.* Plans, implements, and evaluates nationwide programs for the examination of income, excise, employment, and estate and gift tax returns. Responsible for the development, implementation, and monitoring of Audit Division's portion of other enforcement programs. Provides assistance to field components in the conduct of their returns examination programs. Develops long-range plans and strategies for the accomplishment of its portion of the Audit mission. Issues IRM and other procedural material required for the execution of examination programs. Participates with other compliance activities, technical, and ACTS in the development and implementation of examination programs. Participates in planning and is responsible for implementing the returns classification program. Prepares replies to correspondence relating to income, excise, employment, and estate and gift tax matters.

1113.533 *Exempt Organization Examination Branch.* Plans, implements, and evaluates nationwide programs for the examination of exempt organization returns and records. Responsible for the development, implementation, and monitoring of the Audit Division's portion of the pension trust program. Plans and implements the program for issuance of exemption determination letters. Develops long-range plans and strategies for the accomplishment of its portion of the audit mission. Maintains close communication and liaison with the Office of the Assistant Commissioner (Technical) on both exempt organization and pension trust matters. Reviews or post reviews revenue agent reports for quality and uniformity of exempt organization examinations. Issues IRM and other procedural material required for the execution of exempt organization and pension trust examinations. Determines uses to be made of the exempt organization master file (EOMF) data and works with other Service activities in fulfilling their needs from the EOMF. Also determines uses for the employees' plans master file (EPMF) and coordinates with the office of the Assistant Commissioner (ACTS) in such matters. Prepares replies to correspondence relating to exempt organization matters.

1113.534 *Centralized Activities Branch.* Provides technical coordination on complex Audit matters with other Compliance activities, Assistant Commissioner (Technical), and the Chief Counsel. Plans, implements, and monitors nationwide programs for joint committee, conference, and review programs Monitors and reports on cases docketed for Tax Court and assists Chief Counsel and Department of Justice in trial and settlement of cases. Performs centralized activities relating to qualification for enrollment and practice. Monitors the providing of necessary management services for the Audit activity and serves as liaison with the Office of the Assistant Commissioner (Administration) on administrative matters affecting the entire Audit activity.

Provides liaison with the Office of the Assistant Commissioner (Technical) and the Tax Forms Coordinating Committee on Audit matters. Conducts economic studies pertinent to section 482 allocations and post reviews and provides expert testimony concerning such allocations. Issues IRM and other procedural material required for the execution of the branch's programs. Prepares answers to correspondence deemed to be nationally significant concerning field Audit operations (with the exception of exempt organization and pension trust matters).

1113.535 *Resources and Analysis Branch.* Responsible for integrating the program planning and evaluation activities, such as budget, PPB, and NORP support for the Audit activity. Regulates all program research activities for the Division including TCMP, DIF development, and other special analytical studies. Responsible for providing the Director and the other Audit branches with timely analyses of overall program effectiveness with regard to both resource expenditure and results achieved. Prepares Division submissions for PFP and budget requests. Plans, implements, and monitors programs to provide management information such as SCRIP. Provides functional direction to the Audit Service activity. Plans the Audit classification of returns program. Issues IRM and other procedural material required to carry out the branch's programs. Provides coordination support for the Audit activity in respect to services provided by the ACTS organization.

1113.55 *Intelligence Division—Office of the Director.* Accomplishes the Intelligence mission with reference to enforcement of the criminal statutes applicable to income, estate, gift, employment, and certain excise tax laws by developing and supervising (functional supervision—which includes evaluation) nationwide programs for the investigation of suspected criminal violations of such laws and the recommendation of prosecution and/or assertion of the 50 percent ad valorem addition to the tax, when warranted, development of information concerning the extent of criminal violations of all Federal tax laws (except those relating to alcohol, tobacco, narcotics, and firearms), and measurement of the effectiveness of the investigation process. The Division also conducts, coordinates, and directs the investigation of cases which have been centralized, and performs certain other centralized Intelligence functions.

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1113.551 *Administrative Office.* Is responsible for furnishing administrative services for the operation of the Intelligence Division of the National Office by: Developing and preparing budget requests and financial plans as well as supervising budget execution, providing for the administrative needs of the Division (such as providing and maintaining investigative and administrative central filing systems and processing mail), and maintaining liaison with the Office of Assistant Commissioner (Administration) on all National Office Intelligence Division matters (including fiscal management, personnel, training, and facilities management matters); developing and preparing projections of personnel costs and staffing charts; collaborating with Administration in the procurement of investigative equipment for field and National Office use, and maintaining inventory and current records as to location of Intelligence Division investigative equipment; and conducting special studies relating to personnel, space, budget, and equipment.

1113.552 *Staff Assistance (Visitation).* Is responsible for: Planning and conducting a visitation program for on-site evaluation, guidance, and assistance; coordinating with, and maintaining close liaison with each of the several branches of the Division for the purpose of inquiring into specific field activities of special interest to each of the branches and keeping each fully apprised of conditions and developments in the field.

1113.553 *Operations Branch.* Is responsible for: Providing the field with operational assistance, and conducting, directing, and coordinating the investigation of centralized cases by: Interviewing informants, maintaining liaison with committees of Congress, representatives of the Service and other Government agencies in order to obtain, develop, and disseminate to the field pertinent information relating to tax evasion; coordinating, conducting, or directing investigations which are interregional in scope, of a sensitive nature, or of national interest; responding to communications on matters pertaining to operations; keeping Service and Treasury officials informed of significant developments in sensitive cases and those of national interest; identifying operational and management deficiencies in investigations coordinated, conducted, or directed by the National Office and initiating corrective action or referring identified deficiencies to the appropriate branch; and maintaining a program for case research and development including establishment of criteria for use in the automatic processing of returns to aid in identification of returns having criminal potential; and participating, as directed, in field visits.

1113.554 *Program Branch.* Is responsible for: providing effective management and technical programs, plans, and procedures for accomplishment of the Intelligence mission and identifying as well as correcting deficiencies in programing, planning, and procedural guidelines, including the manual and the investigative handbook, through statistical analyses and studies, review of policies, management reports, reports of field visits and other issuances, and through consultation and coordination with other Service elements. Consulting and coordinating with other Service elements on such matters as the findings in internal audit reports, legislative proposals, development of organizational and staffing standards and personnel classification standards; collaborating with the Planning and Analysis Division in developing the Intelligence Division's long-term program objectives and resource requirements within the Service's Planning-Programing-Budgeting System; collaborating with the Fiscal Management Division in the evaluation of field financial proposals; submitting recommendations for the allocation of Intelligence personnel and funds; collaborating with the Management Information Division for the report of management and investigative accomplishments; consolidating, evaluating, and disseminating information reflecting accomplishments of programs and plans; preparing the Intelligence portion of the Cost Reduction-Management Improvement Report and the Commissioners Annual Report; and participating, as directed, in field visits.

1113.555. *Technical Development Branch.* Is responsible for: developing and maintaining professional skills of special agents, developing investigative techniques and performing certain support functions in the accomplishment of the Intelligence mission by: conducting studies and developing Intelligence training programs in collaboration with the Training Division; directing and conducting centralized Intelligence training programs; instructing at, and collaborating in the program development and conduct of the Treasury Law Enforcement School; maintaining liaison and providing technical guidance on and participation in course development and instruction which is carried out at the National Training Center for the Intelligence Division; coordinating and evaluating field training; identifying deficiencies in training programs and materials and initiating corrective action or referring identified deficiencies to the appropriate branch; developing Intelligence investigative equipment standards and allocating investigative equipment and automobiles to the field; keeping abreast of developments in the use of automatic data processing equipment by taxpayers and third parties, such as banks, brokerage houses, and insurance companies to determine the type and extent of training needed by special agents to obtain necessary financial information where automatic data processing equipment is used; cooperating with the Personnel Division in the development of guidelines and standards for recruitment, selection, and career development of Intelligence personnel; preparing final Intelligence recommendations in cases unresolved at regional level; evaluating and recommending disposition of incentive awards suggestions; maintaining a current record of special skills of individual special agents; disseminating information on current developments, such as legal decisions, unique defenses, and unusual investigative approaches, through the issuance, monthly, of the Intelligence Digest; collaborating with the Public Information Division in the preparation of newa releases regarding closed cases; collaborating with the Foreign Tax Assistance Staff and the National Training Center in orientation of enforcement officials of other Federal agencies and of State and foreign governments concerning Intelligence techniques, procedures and practices, and participating, as directed, in field visits.

1113.56 *Office of International Operations—Director of International Operations.* The Office of International Operations administers the Internal Revenue laws and related statutes (except those relating to alcohol, tobacco, narcotics and firearms) as they relate to citizen taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on income flowing abroad to nonresident aliens and foreign corporations; acts as staff advisor to the Assistant Commissioner (Compliance) in the international area on all compliance functions, and as the international specialist provides assistance and guidance to the Compliance Divisions and makes recommendations on all aspects of the international enforcement program to the Assistant Commissioner (Compliance) and the Division Directors concerned; acts as competent authority in administering the operating provisions of tax conventions; performs and coordinates for the Service all foreign investigations and requests for information (other than those relating to rulings, regulations, or assistance in the field of foreign tax administration) from foreign countries and U.S. possessions. Also computes and collects taxes due from the Alien Property Custodian, administers the provisions of the Internal Revenue Code authorizing the acceptance of foreign currency in payment of U.S. tax liabilities, coordinates foreign travel of Service personnel, and maintains foreign posts.

1113.561 *Administrative Office.* Responsible for the personnel, training, budget and fiscal and general administrative services, including procurement and supply, printing and communication services and other administrative services necessary to the effective operation and management of the Office of International Operations, including Foreign Posts and the Puerto Rico Office. Coordinates and develops the management improvement and incentive awards programs and special projects. Initiates and administers the security, safety and records management program. Develops the financial plan and budget estimates, fiscal programs, cost estimates, and is responsible for control of funds, report on budget execution and international transaction estimates. Coordinates in conjunction with the Facilities Management Division the printing requirements and distribution of special publications, documents and tax forms required by the Office of International Operations, and the distribution of all tax forms to the U.S. Embassies and consulates.

1113.562 *Washington Collection and Taxpayer Service Division.* Receives, processes and, where appropriate, mathematically verifies and retains tax returns filed by nonresident aliens, foreign corporations, nonresident alien estates, withholding agents (Forms 1042), information returns with respect to foreign corporations (Forms 959), and information returns with respect to foreign personal holding companies (Forms 957 and 958); performs all accounting operations in connection with these returns such as issue bills and refunds, process claims, adjust tax liabilities, and maintain the general ledger; receives and transmits other tax returns to the Service Center; deposits remittances to the credit of the Director of International Operations or the Service Center Director, as appropriate; authorizes extensions of time for filing; provides taxpayer service to citizens and aliens; administers the automatic exchange of information and reciprocal collection provisions of tax treaties with foreign countries; examines certain offers in compromise; is responsible for the collection of delinquent accounts through distraint or other means and initiating investigations for securing delinquent returns; acts on, and processes information pertinent to bankruptcies, receiverships, assignments, reorganizations, probate proceedings, foreclosures and redemptions after civil foreclosure, bulk sales, gifts, prizes and dissolutions; maintains files or control records of payment received in insolvency, bankruptcy and decedent cases and of surety bonds and other collateral posted as security for tax liability; maintains files and control records of property seized under distraint authority and takes appropriate action with respect to seized property to insure that proper legal action may be timely taken; maintains liaison with Chief Counsel and Justice Department, the State and Defense Departments, and other Government agencies to develop procedures for collecting taxes and improving compliance abroad; provides advice and guidance on collection activities where performed by employees permanently assigned or detailed overseas; provides guidance and assistance to the Governments of Guam and American Samoa concerning the processing of U.S. social security and self-employment tax returns.

1113.5621 *Receipts and Processing Branch.* Receives, processes and, where appropriate, mathematically verifies and retains tax returns filed by nonresident aliens, foreign corporations (Forms 1120F), nonresident alien estates (Forms 706NA), information returns with respect to foreign corporations (Forms 959) and information returns with respect to foreign personal holding companies (Forms 957 and 958); receives and transmits other returns and documents to the Service Center; receives, opens, stamps, sorts, and distributes mail; performs required delinquency checks and computes and asserts penalty and interest on delinquent returns; receives, safeguards and deposits remittances to the credit of the Director of International Operations or the Director of the Service Center, as appropriate; maintains and services the file of tax returns, information documents and indexes retained in the office.

1113.5622 *Accounts Maintenance Branch.* Performs all accounting operations relating to returns processed including the issuance of bills and taxpayer delinquent account notices, processing of claims, scheduling abatements, credits and refunds, certifications of accounts, processing transfers of debits and credits to and from Service Centers, maintenance of unit ledger cards and files of unidentified and excess collection accounts and maintenance of a general ledger; computes and withholds tax due on interest allowed on refunds to nonresident aliens; processes and authorizes the remailing of refund checks returned as undeliverable; prepares indexes of returns processed; reviews all accounting reports received from Governments of Guam and American Samoa relating to their processing of U.S. social security and self-employment tax returns; prepares work planning and control reports and required accounting reports.

1113.5623 *Taxpayer Service Branch.* Provides taxpayer service to citizens and aliens through correspondence, telephone and personal interview; issues interest equalization validation certificates; makes adjustments to tax liabilities; analyzes, routes, and prepares replies to correspondents; authorizes extensions of time for filing; processes and, where appropriate, mathematically verifies returns (Forms 1042) and information documents (Forms 1042S) filed by withholding agents; resolves issues connected with refund checks returned by taxpayers; administers the provisions of tax treaties authorizing the automatic exchange of information between the United States and foreign countries; approves substitute Forms 1042 and 1042S submitted by withholding agents for their use in lieu of the official returns; prepares work planning and control reports.

1113.5624 *Delinquent Accounts and Returns Branch.* Is responsible for all activities pertaining to the collections of delinquent accounts of nonresident aliens and citizens through levy, lien, summons, seizure, sale, or other authorized means; secures delinquent returns on the basis of assigned investigations or by returns compliance activity (primarily by correspondence); makes recommendations to Chief Counsel for suits to foreclose Federal tax liens, enforce levies, appoint receivers and to establish transferee assessments; recommends jeopardy assessments and expedites and coordinates collection actions required; recommends transferee assessments to the Audit Division; works closely with Chief Counsel and Justice Department in developing legal approaches to collecting accounts; prepares proofs of claim and traces the transfer of assets in decedent cases; maintains file of validated liens; reviews and acts on requests for release, discharge or nonattachment of Federal tax liens; determines appropriateness and legal sufficiency of collateral offered to stay collection of tax or withhold the filing of liens; examines offers in compromise based on doubt as to collectibility of taxes (except alcohol, tobacco, and firearms taxes), offers in compromise of statutory additions based on doubt as to liability or doubt as to collectibility (except alcohol, tobacco, firearms, employment, and withholding taxes and specific penalties), and all offers in compromise of 100 percent penalties; authorizes the write-off of accounts as uncollectible; performs necessary followup on written-off accounts; furnishes advice and guidance to the Revenue Service Representatives and their staffs concerning the collection of delinquent accounts; maintains liaison with the State and Defense Departments and other Government agencies as a means of increasing compliance with IRS regulations by overseas personnel of these departments; develops operating procedures for collecting delinquent accounts and securing delinquent returns in the foreign area; constantly explores means of increasing enforcement powers overseas; requests and lends assistance under the applicable reciprocal collection provisions of tax treaties with foreign governments; maintains statistical and accomplishment records and prepares necessary work planning and control reports and other necessary activity reports as required.

1113.563 *Puerto Rico Collection and Taxpayer Service Division.* Operates throughout Puerto Rico and the Virgin Islands and provides year-round taxpayer service, including responses to correspondence requests for tax information, authorizes extensions of time for filing; receives, safeguard, and deposits remittances to the credit of the Service Center Director; receives, opens, stamps, sorts, and distributes mail; receives and transmits returns and other documents to the Service Center; screens, assigns, and maintains delinquent account assignment files; responsible for the collection of delinquent accounts through distraint, seizure, levy, and other means; authorizes the writeoff of accounts as uncollectible; performs necessary follow-up on written-off accounts; receives, acts on, and processes information pertinent to bankruptcies, receiverships, assignments, reorganizations, probate proceedings and foreclosures, bulk sales, gifts, prizes and dissolutions; maintains files or control records of payments received in insolvency, bankruptcy or decedent cases and of surety bonds and other collateral posted as security for tax liabilities; maintains files and control records of property seized under distraint authority and takes appropriate action with respect to seized property to insure that proper legal action may be timely taken; secures delinquent returns through correspondence, telephone calls, and personal interviews; recommends jeopardy assessments when deemed necessary to protect revenue, civil actions to secure payment, suits to enforce penalty for failure to honor levies and penalty assessments as a means of collection or as a method of obtaining compliance with existing laws and regulations; recommends issuances of certificates of subordination of Federal tax liens, and conducts the investigation necessary to support such recommendations; examines offers in compromise based on doubt as to collectibility of taxes (except alcohol, tobacco, and firearms taxes), offers in compromise of statutory additions based on doubt as to liability or doubt as to collectibility (except alcohol, tobacco, firearms, employment and withholding taxes and specific penalties), and all offers in compromise of 100 percent penalties; prepares all reports of collection and taxpayer service activities, including work planning and control reports; maintains liaison with the Puerto Rican and Virgin Islands Governments and all Federal agencies concerning items of mutual interest.

1113.564 *Audit Division.* The Audit Division administers an international audit program involving the selection and examination of all types of Federal tax returns filed with the Office of International Operations (except alcohol, tobacco, and firearms). Is responsible for the examination of certain offers in compromise, informants' claims for reward and related activities including the examination and approval of pension trusts and the issuance of determination letters. The audit program involves the classification of returns for field and office audits, the conduct of district conferences in unagreed cases, participation with special agents in the conduct of tax fraud investigations, and is responsible for providing manpower for the annual overseas taxpayer compliance program. Provides advice and guidance on audit work performed by the foreign posts and reviews for technical and procedural accuracy all reports of audit examinations prepared by these offices. Directs programs for the exchange of estate and gift tax data with foreign governments under the tax conventions. Performs audit functions relating to the alien property custodian activity. Makes certain that Internal Revenue Agents' manpower will be applied to the most significant civil enforcement cases in the international area. Is responsible for the maintenance of good relationship with region and districts and is responsive to their requirements for assistance in the foreign area. The Audit Division consists of the Examination Branch, Service Branch, Review Staff, Conference Staff and Classification.

1113.5641 *Conference Staff.* The Conference Staff attains, to the maximum extent possible, the primary objective of the conference function—to give taxpayers ample opportunity to reach early agreement on disputed issues arising from audit examinations. Has responsibility for all OIO conference cases. Assigns, controls, coordinates, and reviews Office of International Operations jurisdictional conference cases including those in Puerto Rico, and foreign posts of duty. Holds conferences; provides direction and furnishes technical advice to other conferees; performs final district review of field audit conference reports; reviews and evaluates statistics, and other records to strengthen conference function operations; and screens taxpayer protests which request Appellate hearings. Authorizes settlements in "pattern settlement cases"; reviews primary statistical forms in conference cases; coordinates and discusses with Chief, Review Staff, conference cases in which Review Staff has taken legal interpretative positions at variance with conference positions; reviews and answers dissents to conference determinations; reviews Appellate Division closings for guidance to conferees; and is responsible for protecting the statute of limitations for cases under his control. Undertakes special assignments received from Division and Office Superiors to the extent time permits.

1113.5642 *Review Staff.* Is responsible for reviewing for technical accuracy and policy and procedural adherence, reports of examination on income, estate, gift, and miscellaneous taxes, and offers in compromise. Prepares and issues preliminary letters and statutory notices. Grants extension of time for filing protests, and closes out statutory notices by sending the case file to the Appellate Division if a petition is filed or closing out for assessment if the time period expires on default. Receives taxpayer protests, refers protests to the Chief, Conference Staff, and closes protested cases to the Appellate Division upon recommendation of the

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Chief, Conference Staff. Furnishes technical advice to foreign and Puerto Rico posts and all examining personnel. Considers special problems relating to specific cases and prepares recommendations thereon. Prepares replies to technical inquiries from taxpayers from all over the world and issues determination letters as required. Considers applications for exemption from tax from foreign organizations, and issues determination letters or refers the case to the Assistant Commissioner (Technical), as appropriate. Prepares statistical reports and analyzes information on specific cases as required. Controls and reviews all forms used by the Audit Division. Controls and processes all informant's claims. Prepares requests for technical advice to the National Office on specific cases under examination.

1113.5643 *Chief Classifying Officer.* Is responsible for planning and executing the audit classification program including the selection of returns to be examined and the determination of the organizational units where the returns can best be examined. Is responsible for the planning and execution of procedures involving the classification of other documents used in connection with examinations such as transferred cases from other districts, information reports, etc.

1113.5644 *Service Branch.* Controls all income, estate and gift, and miscellaneous tax returns received for audit or investigation by the OIO Washington Office, Puerto Rico Office, and the Foreign Operations Division. Routes work to appropriate units; reproduces completed reports; provides typing service for the Audit Division; effects closing action on examined cases transmitting returns to the Collection and Taxpayer Service Division; assembles audit production and statistical data and maintains controls on statutory expirations for the entire Audit Division as well as the Foreign Operations Division.

1113.5645 *Examination Branch.* Conducts field and office examinations relative to all types of taxes (except alcohol, tobacco, and firearms) to determine correct liabilities of citizen taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations. Conducts examinations of estate tax returns of U.S. citizens who died while residing abroad or nonresident aliens with substantial property or income in the United States and gift tax returns filed by nonresident aliens or U.S. citizens residing abroad. It also conducts examinations of offers in compromise based on doubt as to liability for taxes or for both taxes and statutory additions (except alcohol, tobacco, and firearms taxes), claims for refund, credit or abatement, and special examinations as requested including joint examinations with special agents where tax evasions may exist. Obtains information on suspected delinquent taxpayers and other tax information while in overseas areas. It furnishes technical advice and assistance on pension trust plans, processes informants' claims for reward, and recommends jeopardy assessments. Prepares memoranda to accompany closing agreements and closing letters and releases in estate and gift tax cases, and administers the program for exchange of estate and gift tax data with foreign governments under tax conventions. Audits employment tax returns of Puerto Rico residents and income tax returns of U.S. Government employees and Puerto Rico residents deriving income from sources outside Puerto Rico. Audits books and records of Puerto Rican affiliates of domestic taxpayers to secure information requested by districts. Examines Virgin Island corporations to determine correct subsidy allowances. Coordinates examination program on resident foreign corporations and other cases, where appropriate, with national and regional enforcement programs. On assignment holds conferences with taxpayers and their representatives. Prepares tax returns for, and audits books of, foreign corporations and alien individuals whose property is controlled by the Alien Property Custodian and conducts conferences on these matters.

1113.565 *Foreign Operations Division.* Plans, develops, and coordinates the work programs and other activities of the foreign posts in accordance with Service objectives in the international area. Conducts the intelligence function with respect to taxpayers under jurisdiction of the Office of International Operations. Coordinates, directs and/or conducts all compliance functions performed overseas by Appellate, Audit, Collection and Taxpayer Service, Intelligence and International Operations personnel. Makes necessary recommendations, holds conferences and coordinates all audit, collection, delinquency and intelligence functions between the foreign posts and the Divisions of the Office of International Operations, other Service components and other Government agencies: determines whether actions requested are appropriate and whether they should be handled by foreign representatives, International Operations personnel on detail, other Service personnel or other Government agencies. Supervises and evaluates the work and performance of foreign representatives. Keeps Director informed of trends in the foreign area which will be employed in program development and establishment of Service objectives. Exercises broad vision in determining proper utilization of information obtained from foreign representatives. Assists the Director in the performance of functions under tax treaties principally involving nonautomatic exchange of information. Serves as focal point for all contacts with foreign governments either directly or through the foreign posts pursuant to the operating provisions of the various tax treaties. Coordinates the foreign travel of personnel of the Internal Revenue Service. Maintains liaison with the Treasury, State, Defense, Commerce, and Interior Departments concerning overseas operating matters. Plans, coordinates, and directs the annual taxpayer compliance, audit and delinquency programs abroad and plans and coordinates, in conjunction with the military serivces, the annual military assistance and school program for overseas military personnel.

1113.5651 *Foreign Posts.* Pursuant to broad annual programs developed by the Foreign Operations Division, initiates such actions in the assigned areas as are necessary to establish and maintain satisfactory levels of voluntary compliance. Develops information indicating possible tax evasion, delinquency or noncompliance and completes action thereon or forwards the information to Washington for further development. Conducts audits of income, estate and gift tax returns of a type justifying field investigation or contact abroad and conducts investigations on tax evasion cases. Effects collection of delinquent taxes when personal contact or investigation abroad is required. Obtains information on audit, intelligence and collection matters for other service components on collateral requests. Holds taxpayer conferences and effects settlements in cases involving timely and delinquent income, estate and gift tax returns, claims, offers in compromise, etc., including those referred abroad by International Operations headquarters for such purposes. Under specific direction, assists the Director in the exercise of the competent authority provisions of tax treaties by holding preliminary discussions with the foreign government representatives on the settlement of issues in specific cases involving double or discriminatory taxation and forwards information to Washington, D.C. Maintains close liaison with foreign governments in tax treaty, enforcement, exchange of information, technical and other highly complex matters. Maintains close liaison with U.S. military authorities and taxpayer groups in the area and develops and implements enforcement, taxpayer assistance and school programs, taxpayer-education releases, and similar measures designed to assure a high level of compliance. Is responsible for the development and maintenance of desirable public relations, initiating appropriate taxpayer-education programs in the area. Furnishes technical assistance to taxpayers with regard to both current and delinquent income, estate and gift tax matters.

1113.566 *Research, Tax Treaty and Technical Services Division.* Provides the Office of International Operations with research and technical assistance to aid in achieving its mission; accumulates and analyzes varied pertinent tax data of foreign and U.S. derivation; prepares, coordinates and reviews guidance memoranda for other OIO Divisions. Assists the Director in performance of the functions of Competent Authority under tax treaties principally involving processing of double taxation claims; maintains a continuing appraisal of the operation of the income and estate tax treaties of the United States for the purpose of identifying areas for renegotiation; considers administrative and operational feasibility of proposed tax conventions and regulations thereunder; conducts analytical studies with a purpose of achieving effective tax compliance; prepares for the Office of International Operations and coordinates with various National Office Divisions, recommendations for remedial legislation or regulatory amendments; reviews or prepares for the Office of International Operations suggested public use or internal forms and documents; accumulates and disseminates information regarding U.S. business activity abroad and foreign business activity in the United States. Acts on assignments received by Director from Assistant Commissioner (Compliance) or other National Office officials or components, of a program or planning nature. Determines the amount of administrative relief (offset) to be allowed under Revenue Procedure 64–54; conducts detailed studies and analyses of various examination reports and other documents in assisting the Director to provide assistance and guidance to the various compliance functions in the international area; submits recommendations with respect to proposed changes in legislation, regulations, revenue procedures, treaty provisions and other aspects of the international enforcement program.

1113.5661 *Research and Tax Treaty Branch.* Accumulates and analyzes data concerning foreign tax laws, U.S. tax treaties, U.S. tax law changes, revenue rulings and statements of Service policy in the international area. Prepares, coordinates and reviews guidance memoranda within the Office of International Operations. Assists the Director in the performance of the functions of the Competent Authority with respect to claims of double taxation under the respective tax treaties; under direction of the Competent Authority, represents the U.S. Government at conferences with foreign Competent Authorities on double taxation matters; reviews drafts of proposed tax conventions and regulations thereunder and prepares comments thereon regarding the administrative and operational feasibility of the conventions and regulations; seeks out operational and administrative problems in the tax treaty area, and, where applicable, prepares analytical studies of technical problems and tax avoidance

schemes in the international area for the purpose of disclosing tax law provisions that are weak, ineffective, inconsistent or unjust; prepares plans and programs to combat tax avoidance and evasion in the international area; reviews or prepares suggested tax forms and other material for the use of taxpayers under the jurisdiction of the Office of International Operations and coordinates technical matters having reference to proposed legislation and similar matters with the various Divisions of the National Office and other Government agencies. Accumulates or programs for the accumulation of data designed to show such information as to extent, nature, location of U.S. taxpayer business and trust interest outside of United States, as well as similar data relative to foreign business entities ostensibly doing business in the United States; develops and prepares procedures designed to accumulate data on receipt and disposition of information relative to foreign business operations of concern to United States; all such information shall be in such form that periodic or special requests for reports on the subject can be readily provided. Acts on assignments received by Director from Assistant Commissioner (Compliance) or other National Office officials or components, of a program or planning nature. Receives requests for relief from economic double taxation filed by taxpayers under Revenue Procedure 64–54 and processes such requests to determine the amount of administrative relief (offset) to be allowed and, where appropriate, prepares closing agreements for execution by taxpayers and Service. Conducts detailed studies and analysis of various examination reports and other documents in assisting the Director to provide assistance and guidance to the various compliance functions in the international area. Submits recommendations with respect to proposed changes in legislation, regulations, revenue procedures, treaty provisions, and other aspects of the international enforcement program. Provides data concerning foreign tax laws through channels to technical field personnel responsible for determining correct Subparts F and G income and earnings and profits of controlled foreign corporations under the 1962 Revenue Act. Prepares periodic reports of the progress and activity in the international area.

1113.6 OFFICE OF ASSISTANT COMMISSIONER (ACCOUNTS, COLLECTION, AND TAXPAYER SERVICE)

The Assistant Commissioner (Accounts, Collection, and Taxpayer Service), is the principal assistant to the Commissioner on all matters pertaining to the development of programs, systems, methods, and procedures for implementation and operation of the Internal Revenue Service Automatic Data Processing Plan, the accounting for the internal revenue, the receipt and integrated processing of tax returns and other documents, the review and coordination of all reports, the collection of delinquent accounts, obtaining delinquent returns, and providing responsive services to taxpayers. He exercises line supervision over the activities performed in the various Divisions in the National Office which are within his jurisdiction and the National Computer Center and the Internal Revenue Service Data Center, and is functionally responsible for ACTS activities in Regional Offices, District Offices, and Service Centers. Confers and collaborates with officials of other Government agencies and private industry to insure compatibility of data which will be integrated into the ADP system of each.

1113.61 *Administrative Service Office.* Plans, organizes, coordinates, and directs the administrative management activities of the Office of Assistant Commissioner (Accounts, Collection, and Taxpayer Service) at the national level, assisting and collaborating with Division Directors and the National Computer Center Director in providing budget, personnel, records and reports management, space management, duplication, supply, and other administrative services necessary for the internal administration, management, operation, and functioning of the Office.

1113.62 *Program Review and Analytical Services Staff (ACTS:PRA).* The program Review and Analytical Services Staff provides the Assistant Commissioner (ACTS) with: In-depth evaluations of Service Center, Data Center, and Regional Office operations, programs, and effectiveness in the ACTS areas to meet his needs for NORP participation as well as for his day-to-day management appraisals and decisions; independent centralized and integrated analyses of all ACTS programs, including the identification of actual, emerging, and potential problems to management particularly as they impact on two or more ACTS Divisions or other IRS organizations; assessments of program accomplishments, trends, or developments of specific interest to the Assistant Commissioner; and design and the undertaking of advanced analytical research programs and projects (in conjunction with other ACTS Divisions and IRS offices) to improve operational effectiveness and/or to shed insight on program alternatives.

Provides analytical service support and assistance, including specialized statistical services, to the individual Directors of the Accounts and Data Processing, Collection, and Taxpayer Service Divisions and the Director of the Data Center by identifying, evaluating, interpreting, reporting, and assisting in reporting progress towards accomplishment of their respective missions and program objectives. Provides specialist and consultant services and assistance in analytical methods to these officials as well as to regional personnel in understanding and utilizing techniques and data resulting from integrated analyses of relevant internal and external data.

Coordinates the need for, and advises individual ACTS Divisions on, information system requirements for data, reports and information systems design, reports management activities. Also, in conjunction with ACTS Divisions, develops input for the annual internal audit program to obtain additional data for evaluation of ACTS program management. Coordinates with Divisions and Internal Audit preparation of the Monthly Informal Report to the Commissioner on significant findings pertaining to ACTS activities.

1113.63 *Planning Staff.* The Planning Staff is the principal adviser to the Assistant Commissioner (ACTS) for insuring the optimal use of ACTS resources for the Service in both tax- and non-tax-related applications. Develops and administers, in cooperation with all other offices, long-range goals; identifies a budgeting and control system as it relates to goal setting; recommends policy or program decisions on the basis of feasibility or operations research studies; systematizes requests for ACTS services; prepares final ACTS PPBS documents; and performs general staff work on all high-level planning and resource allocations as directed by the Assistant Commissioner (ACTS).

Develops and consolidates long-range goals for the ACTS organization, recommends priorities of work and alternatives, insures that all facets of major work projects are recognized, and identifies the impacts of recommended or proposed actions. Monitors the resources expended in the attainment of established goals and participates in the final system acceptance.

Systematizes the activities relating to requests for ACTS services by: Identifying, controlling, and monitoring major requirements, requesting and assisting in cost/benefit analysis, presenting the recommendations and priority assignments to the resource allocation boards (ADP Review Board, Data Center Committee) and the appropriate Assistant Commissioners. Independently reconciles and evaluates the cost/manpower/computer accomplishments of ACTS.

Consolidates and finalizes the preparation and submission of PPBS documents to insure consistency with long-range plans and resource requirements commensurate with the objectives and goals of the Assistant Commissioner (ACTS) and top line officials of the Service.

1113.64 *Accounts and Data Processing Division—Office of the Director.* Plans, coordinates and directs the development of returns processing programs and revenue accounting functions. Implements the totally integrated tax administration system in service centers, the National Computer Center, and district offices. This responsibility encompasses: The development of major tax administration programs and issuance of detailed systems requirements, forms, procedures, and computer programs for the receipt and processing of tax returns and related documents or data (except alcohol and tobacco tax and firearms returns and applications); accounting for revenue collections and tax deposits; fulfilling the related requirements of other Service activities and the Department of the Treasury; maintenance of taxpayer master file and nonmaster file accounts; required financial and operating reports; design of master file related management and data control systems; systema · acceptability testing of manual procedures, machine instructions, computer inputs, processes and outputs before implementation; and the maintenance of all operational ADP master files and related systems. Functional supervision—including determining the effectiveness of on-going programs, procedures, systems to achieve Service objectives; and providing leadership in the installation or modifications of assigned tax administration programs and processing systems; prompt identification of and followup with regional management and coordination with Director, Program Review and Analytical Services Staff, ACTS, on significant operational problems which could impair attaining Service goals and objectives—over accounts and data processing activities in the regional offices, service centers, and district offices. Line supervision over the National Computer Center and liaison between the center and other organizational units of the Service.

1113.641 *National Computer Center.* Plans, directs, and coordinates the master file operations of the totally integrated tax administration system. Functions include: Establishment, maintenance, and updating of the individual, business, employee plans and exempt organizations master files through around-the-clock operation of a large-scale computer system complex. Provides reciprocal controls with service centers of the receipt, processing, and shipment of tax account data. Produces output data for use in issuing refunds, bills or notices, answering inquiries, conducting delinquency checks, detecting fraudulent refund claims, classifying returns for audit purposes, preparing reports, and other matters concerned with processing and enforcement activities of the Service. Provides line supervision over National Office Computer Facility which is principally responsible for computer testing support for the totally integrated tax administration system. Responsible for scheduling

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and coordinating with Service centers on production matters and receipts, control and servicing of file searches for Disclosure Staff, Intelligence, Internal Audit and other Service offices. Responsible for financial planning, recruitment, and training, and other administrative matters of the National Computer Center.

1113.642 *Office of the Executive Assistant.* Responsible for providing assistance to the Director in the general overall management and evaluation of Accounts and Data Processing operations both within the division and functional areas in the field. Coordinates and monitors division program plans in the areas of organization, personnel, training, security, space and furniture acquisition, financial planning and funding. Finalizes financial and Program-Planning and Budgeting System documents for division programs covering field operations and the National Office. Coordinates with Internal Audit on program reviews and follows up on findings and corrective action pertaining to the programs and mission of Accounts and Data Processing. Coordinates the division reports management program. Manages the division internal Work Planning and Control System. Prepares speeches and other required papers on division activities. Represents the division in the orientation of foreign tax officials and other dignitaries. Provides office management and directives management for the Accounts and Data Processing Division.

1113.643 *Associate Director (Accounts and Services).* Plans, directs, and coordinates data processing program management for the totally integrated tax administration system. Develops programs for approval; and designs, implements, and evaluates systems and procedures for data processing applications. Functions include: Participates in developing new systems or revision of existing systems, including a cost/benefit analysis; plans and coordinates resource requirements for accomplishments of programs (collaborates with involved client organizations); prepares, issues, and monitors program requirement packages (PRP's) and ADP Handbook procedures; participates in systems acceptability testing with approval authority for proprietary programs; evaluates program effectiveness through feedback from on-site review, field office communications, customers, and Internal Audit, promptly resolving program problems; develops management information and quality review systems applicable to activities in service centers and NCC; responsible for development and coordination of service center and master file requirements relating to special studies and other research activities; provides analyses and recommendations of action required by tax legislation; and coordinates participation of ACTS in the data exchange programs, e.g., requests from Federal, State, and municipal entities for nonreport and nonstatistical formatted data from the master file.

1113.6431 *Compliance and Special Programs Branch.* Managers data processing programs relating to Compliance and other Service components, and external customers for the totally integrated tax administration system. Develops programs for approval; and designs, implements and evaluates systems and procedures for data processing applications. Develops new systems or revises existing systems in area of responsibility, including a cost/benefit analysis. In collaboration with client organization, responsible for aggregate planning and coordination of resource requirements for accomplishment of programs; prepares, issues, and monitors program requirement packages (PRP's) and ADP Handbook procedures for area of responsibility. Participates in system acceptability testing for those systems related to its program area with final approval authority for proprietary programs. Evaluates program effectiveness through feedback from onsite review, field office communications, customers, and Internal Audit, promptly resolving program problems. Develops management information systems applicable to activities in service centers, district offices, and NCC. Responsible for development and coordination for service center and master file requirements relating to special studies and other research activities. Coordinates participation of ACTS in the data exchange programs, e.g., requests from Federal, State, and municipal entities for nonreport and nonstatistical formatted data from the master file.

1113.6432 *Revenue Accounting and Processing Branch.* Manages data processing programs relating to processing of tax returns and related documents from receipt through posting to the master file, including service center and district office deposit activities for the totally integrated tax administration system. Develops programs for approval; and designs, implements, and evaluates systems and procedures for data processing applications. Develops new systems or revises existing systems in area of responsibility, including a cost/benefit analysis. Responsible for aggregate planning and coordination of resource requirement packages (PRP's) and ADP Handbook procedures for area of responsibility. Participates in systems acceptability testing for those systems related to its program area with final approval authority for proprietary programs. Evaluates program effectiveness through feedback from onsite review, field office communications, customers, and Internal Audit, promptly resolving program problems.

1113.6433 *Taxpayer Accounts Services Branch.* Manages data processing programs of Service Center and district office activities relating directly with taxpayer's accounts occurring subsequent to master file posting of the return for the totally integrated tax administration system. Develops programs for approval; and designs, implements and evaluates systems and procedures for data processing applications. Programs include activities such as correspondence, adjustments, notice review, payment tracers and other IDRS related activities. Develops new systems or revises existing systems in area of responsibility, including a cost/benefit analysis. Responsible for aggregate planning and coordination of resource requirements for accomplishment of programs. Prepares, issues, and monitors program requirement packages (PRP's) and ADP Handbook procedures for area of responsibility. Develops quality review systems applicable to activities in Service Centers and NCC. Participates in systems acceptability testing for those systems related to its program area with final approval authority for proprietary programs. Evaluates program effectiveness through feedback from onsite review, field office communications, customers, and Internal Audit, promptly resolving program problems.

1113.6434 *Accounting Operations Branch.* Assures that accounting operations in Service Centers are performed in accordance with prescribed procedures and provides assistance in account balancing or other problems through field visitations, phone calls and correspondence. Provides Division Management with information gathered through field contact relating to the accounting function.

Suggests revisions to the Revenue Accounting System and assists in preparation of field instructions; engages in consultation and preparation of special accounting related projects such as those involved in new Service Center activation and apportionment of accountability. Also prepares specifications for the maintenance of the centralized accounting function which accounts for moneys to be transferred to U.S. territories such as Puerto Rico, Guam, and the Virgin Islands. Prepares annual financial statements and maintains accounting data necessary for the proper planning of receipts and cash flow by the Department of the Treasury.

Prepares reports of revenue receipts and refunds paid for management and various IRS publications. Reviews revenue and refunds paid data prepared by the National Computer Center and Service Centers and prepares quarterly certifications of trust fund collections, refunds and credits such as those for the Highway, Land and Water Conservation, Airport and Airway, and Railroad Retirement Trust Funds. Maintains administrative control over joint committee refund cases from time of receipt, through processing, to time of final dispatch to Service Center for preparation of refund check. Reviews pending and enacted legislation, government and other publications to keep current with all actions affecting the revenue. Acts as liaison with other agencies in the Department of the Treasury, Railroad Retirement Board, Joint Committee on Internal Revenue Taxation, Office of Business Economics, and other agencies, industries, individuals and associations involved in the Nation's revenue.

1113.644 *Associate Director (Computer Systems).* Plans, directs and coordinates the development of computer systems and processing programs of the totally integrated tax administration system, commensurate with established ACTS goals and recommends determination of supporting computer hardware, as well as auxiliary and accessory equipment, and software requirements for service centers, district offices and the National Computer Center. In addition, includes: Participation in studies of proposed computer systems, including telecommunications and real time processing applications; develops and maintains computer software support; evaluates computer systems utilization and is responsible for outside agency computer systems reporting; coordinates installation of computer systems, evaluating planned operational effectiveness; develops standards and guidelines for uniformity by all programers; develops application and scientific computer programs; participates in systems acceptability testing of all procedures and computer programs before system implementation; provides functional supervision of resident programer analysts located at service centers and the National Computer Center; provides technical advice and consulting services to other Service offices on computer systems problems; coordinates participation of ACTS in the Government-wide ADP sharing program; and develops and coordinates the recruitment and training of programer trainees.

1113.6441 *Master File Programing Branch.* Develops, documents, and maintains computer systems and processing programs to establish, update, analyze, and produce required outputs from master files of taxpayer accounts and related data files at the National Computer Center for the totally integrated tax administration system. Analyzes new or revised computer-oriented systems requirements to develop required run schematics, detailed logic and block diagrams, machine coding and run tests, documentation and instructions for National Computer Center input, master files processing and output programs, including data controls and files extracts. Coordinates with Accounts and Services, and the Service Center Programing, Data Retrieval Programing and Systems Support Branches to insure compatibility with computer input/output programs in the Internal Revenue Service Centers. Assists the Systems Testing Branch in conducting tests of computer programs and instructions prior to operational use. Identifies operational programing problems, recommends recovery action, if practicable, and makes required program changes. Participates in the review and analysis of proposed computer systems requirements to determine feasibility, completeness, and compatibility with related IRS systems. Provides functional supervision over Resident Programmer Analysts located at the National Computer Center.

1113.6442 *Service Center Programing Branch.* Develops, documents, and maintains computer systems and processing programs and related off-line equipment instructions for tax return and all related data transcription and processing operations including residual master files and data controls in the Internal Revenue Service Centers for the totally integrated tax administration system. Analyzes new or revised computer-oriented systems requirements to develop required run schematics, detailed logic, and block diagrams machine coding and run tests, documentation and instructions for Service Center computer input/output programs, data controls and related processes. Coordinates with the Accounts and Services, and the Master File Programing, Data Retrieval Programing and Systems Support Branches to insure compatibility with all IRS computer processes particularly at the National Computer Center. Assists the Systems Testing Branch in conducting tests of computer programs and instructions prior to operational use. Identifies operational programing problems, recommends recovery action if practicable and makes required program changes. Participates in the review and analysis of proposed computer systems requirements to determine feasibility, completeness, and compatibility with related IRS systems. Develops and maintains computer programs to fulfill requirements for management information systems integrated or related with the tax processing system. Provides functional supervision of Resident Programer Analysts located at the Service Centers.

1113.6443 *Data Retrieval Programing Branch.* Develops, documents, and maintains computer systems and processing programs for the Service Centers and district and local offices that are required for the Integrated Data Retrieval System (IDRS). Designs file structure and determines the need for individual computer runs and the relationship of these runs for IDRS. Requirements of the system are received from the branches under Associate Director, Accounts and Services and are coordinated for clarity and programing feasibility. The computer system is diagramed; file content and format is determined; individual program logic is designed, coded, and tested. Complete program documentation is prepared for distribution to all Service Centers and district and local offices including detailed operating instructions. Programs are all prepared to operate synchronously with the individual, business, and residual master files, and other automated and manual systems for the totally ingrated tax administration system. Programing activities include real time processing of terminal inquiries and update action plus a large number of multiprogramed batch runs. The batch processing, which also has related real time processing, includes such items as: Updating the Account Data files on a daily and weekly basis with data from the National Computer Center and data from all of the various stages of processing in the Service Center; analysis of accounts notice output; maintenance of adjustment and correspondence case inventories; and various audit and collection related activities. Some principal subsystems that are a part of IDRS processing are: Correspondex System, Document Request System, Unidentified Remittance System, On-Line Adjustment System, System for Direct Deposit of Receipts. Participates in the review and analysis of proposed computer systems requirements to determine feasibility, completeness, and compatibility with related IRS system. Coordinates with the Master File Programing and Service Center Programing Branches in the functional supervision over Resident Programer Analysts located at the service centers and the National Computer Center.

1113.6444 *Systems Testing Branch.* Plans, develops, schedules, and conducts acceptability tests simulating live operation of new or revised systems, procedures, forms, instructions, and computer programs designed to process tax returns, related documents and data in the district offices, service centers, or National Computer Center, including accounting, document, and other internal controls over such operations for the totally integrated tax administration system. Coordinates with other ACTS operating and user organizations in testing the system as acceptable for implementation, analyzes total system requirements, develops appropriate test documents and data, and establishes predetermined control and output results. Tests all manual procedures, machine processes and computer programs, under predetermined controls as planned, to determine readiness of the system to produce records and outputs meeting all requirements. Identifies any deficiencies of problem areas, recommends evident modification or clarification, and tests any changes. Recommends acceptability to the client organization for their certification.

1113.6445 *Systems Support Branch.* Develops, maintains and modifies all software products, required for the Service's totally integrated tax administration system as a service function to the programing branches within the Division. Studies and evaluates proprietary software packages for application on any IRS system. Provides technical advice and consulting services to other Service offices including development of scientific computer programs. Provides a systems "debug" service to application programers within the Division. Maintains the variety of skills and knowledge necessary to support the several different computer systems and programing languages utilized in the Service. Maintains a current knowledge of computer equipment, including auxiliary and related equipment, software technology, and telecommunication and real time processing applications. Participates in determining immediate or long-range computer systems equipment requirements for data processing; develops plans and schedules for meeting those requirements, and recommends acceptance, modification, or rejection of suppliers proposals. Coordinates installation of computer systems and evaluates effectiveness compared with contract requirements. Evaluates computer systems utilization and is responsible for outside agency computer systems reporting. Responsible for computer operation support functions (e.g., tape library, computer scheduling) including related procedures and programing, for the Service Centers, National Computer Center, and the National Office Develops and issues standards and techniques for uniform guidance and use by all programers; coordinates participation of ACTS in the Government-wide ADP sharing program. In coordination with Training Division, assists in developing and conducting data processing functional training seminars for Service personnel and specialized training courses for programer trainees.

1113.65 *Collection Division—Office of the Director.* Accomplishes the Collection mission with reference to the filing and payment requirements of the internal revenue laws by providing and supervising (functional supervision) nationwide programs for issuance of Certificates of Compliance to departing aliens, disposition of certain offers in compromise, collection of unpaid accounts, determination and analysis of why accounts become delinquent, and prevention of accounts from becoming delinquent; obtaining of delinquent returns, measurement of the types and degrees of nonfiling, determination and analysis of the reasons for nonfiling and reduction of nonfiling.

1113.651 *Special Projects Branch.* Exercises responsibility over projects and activities not directly identified with a program management branch or the Special Service Staff. Exercises continuing responsibility for the coordination of management processes which apply to all programs and activities of the Division by performing the following functions: Monitors, coordinates and integrates the planning activities of the Division, including the preparation of program planning document, PPBS program memoranda and program and financial plan, work plans and budget and financial documents. Maintains Work Planning and Control System (including maintenance of the Operations List) current and compatible with procedural issuances and coordinates the establishment of work priorities within the System. Monitors, studies, coordinates and integrates field collection (DAR activities), organization functions, position responsibilities, staffing and related personnel matters. Serves as Division consultant on these matters. Collaborates and maintains liaison with the Office of the Assistant Commissioner (ACTS) on information system requirements for data and data processing, reports and information systems design, other reports management activities, and on information storage and retrieval matters (also collaborating and maintaining liaison with the Office of Assistant Commissioner (Planning and Research) on information storage and retrieval), and coordinates and maintains management surveillance over all these matters within the Collection Division. Collaborates and maintains liaison with the Office of Assistant Commissioner (Administration) in determining field Collection training needs, evaluating and administering Collection training programs, and providing Collection functional guidance and review for development of training materials at the National Training Center. Conducts general management and other special studies and performs other assignments, which are not within the specific jurisdiction of the program management branches, when authorized by the Director or Assistant Director. Assists Director in determining permanent functional assignments within the Division where such assignments are not clearly covered within the established functional responsibilities. Coordinates internal audit matters related to the Collection Division, and is responsible for completed action on internal audit reports, keeping branches informed on these matters. Responsible, on a continuing basis, for management improvement, work simplification, better utilization of resources, etc., with reference to assigned programs.

1113.652 *Delinquent Accounts Branch.* Exercises program management responsibility for Collection Division's functional supervision of the payment requirements of the Internal Revenue laws through the delinquent accounts program (collection of unpaid accounts, determination and analysis of why accounts become delinquent, and prevention of accounts from becoming delinquent) and of the functional supervision of offers in compromise based on doubt as to collectibility of taxes (except alcohol, tobacco and firearms taxes), offers in compromise of statutory additions based on doubt

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as to liability or doubt as to collectibility (except alcohol, tobacco, firearms, employment, withholding and excise taxes and specific penalties), and all offers in compromise of 100 percent penalties, by performing the following functions with reference to the delinquent accounts and offer in compromise programs: Formulates and recommends policies. Develops short, intermediate and long-range program content and activities. Relates these to program planning documents, preliminary work plans and budget and financial plans. Develops, reviews and revises as necessary, systems, procedures, methods and other instructions for Collection field personnel, including the development of techniques. Analyzes, evaluates and reports to Division Director on status, progress and trends with reference to assigned programs and takes appropriate action required. Evaluates and reports to Division Director on status and trends of Field Operations involving assigned programs. Collaborates with Office of Assistant Commissioner (ACTS) on substantive program and systems matters pertaining to assigned programs. Identifies the need for and seeks improvement (in collaboration with the Special Projects Branch of reports and information systems and training guides. Identifies need for and seeks improvement of records and internal forms in collaboration with Facilities Management Division. Recommends appropriate action on incentive awards suggestions referred by the Administrative Services Office and on internal audit reports referred by the Special Projects Branch. Conducts studies required for problem identification, problem solving, planning, assistance to the regions, and engages in "troubleshooting" for assigned programs. Makes a performance evaluation of offers in compromise in certain district acceptance cases. Reviews offers in compromise within functional jurisdiction requiring the Commissioner's approval. Participates in Division visits to field offices and conducts special purpose visits as required. Serves as taxpayer liaison office for the Division by the performance of the following principal functions: Responds to inquiries (personal visits, correspondence and telephone) from sources external to the Internal Revenue Service (e.g. taxpayers, members of Congress, Treasury Department and other Departments and Agencies) on matters pertaining to Collection programs, activities and functions. Conducts correspondence and engages in conferences with taxpayers, officials of the Service, States, other Federal agencies, Members of Congress and congressional committees on Collection Division activities and functions. Monitors the Division's sensitive case program. Responsible on a continuing basis, for management improvement, work simplification, better utilization of resources, etc., with reference to assigned programs.

1113.653 *Returns Compliance Branch.* Exercises program management responsibility for Collection Division's functional supervision of the filing requirements of the Internal Revenue laws through the returns compliance and delinquent returns programs (obtaining of delinquent returns, measurement of the types and degrees of nonfiling, determination and analysis of the reasons for nonfiling and reduction of nonfiling) by performance of the following functions with reference to the returns compliance and delinquent returns program. Formulates and recommends policies. Develops short, intermediate and long-range program content and activities. Relates these to program planning documents, preliminary work plans and budget and financial plans. Develops, reviews and revises as necessary: systems, procedures, methods and other instructions for Collection field personnel including the development of techniques. Analyzes, evaluates and reports to Division Director on status, progress and trends with reference to assigned programs and takes appropriate action required. Evaluates and reports to Division Director on status and trend of field operations involving assigned programs. Collaborates with Office of Assistant Commissioner (ACTS) on substantive program and systems matters pertaining to assigned programs. Identifies the need for and seeks improvement (in collaboration with the Special Projects Branch) of reports and information systems and training guides. Identifies need for and seeks improvement of records and internal forms in collaboration with Facilities Management Division. Recommends appropriate action on Incentive Award suggestions referred by the Administrative Services Office and on internal audit reports referred by the Special Projects Branch. Conducts studies required for problem identification, problem solving, planning assistance to the regions, and engages in "trouble-shooting" for assigned programs. Participates in Division visits to field offices and conducts special purpose visits as required. Responsible, on a continuing basis, for management improvement, work simplification, better utilization of resources, etc., with reference to assigned programs.

1113.654 *Special Service Staff.* As a staff activity, assists the Director, Collection Division in conducting the overall mission of the Collection Division by serving as a central information gathering facility consolidating data and making appropriate dissemination of information relevant to tax enforcement. In carrying out this basic responsibility the following functions are performed:

Accumulates information which involves indications that organizations (and their principals) may ignore or willfully violate tax or firearms statutes.

Determines, through various sources of information, financial data relative to the funding of certain activities and by analyzing the available data recommends field actions needed to review the tax filing and paying requirements of organizations and individuals involved in such activities.

Prepares and forwards to district offices, attention Collection function, resumes of information consolidated on individuals and organizations where determinations have been made that Federal tax filing and paying requirements under the jurisdiction of the Collection Division has not been met.

Refers to Director, Audit Division, résumés of information on individuals and organizations, together with recommendations that field examinations be conducted, when Special Service staff file analysis indicates a material difference exists between the tax listed on a field return and the correct liability.

Accumulates and analyzes data relating to contributions made to tax exempt organizations where possible tax evasion schemes may be employed by donors and donees funneling such contributions to nonexempt organizations. Initiates appropriate field actions on such matters when appropriate.

Monitors and coordinates field assignments initiated by the Special Service staff and evaluates the effectiveness of compliance actions taken. Initiates follow-up actions when necessary.

Maintains liaison with Assistance Commissioner (Technical) reviewing files and providing supplemental information to Exempt Organizations Branch, Technical, on various organizations which have exempt status actions under consideration.

Conducts day-to-day liaison with other Internal Revenue Service components forwarding and receiving information pertinent to tax and firearms statutes enforcement actions, or any other information associated with tax administration.

Maintains day-to-day liaison with other Federal investigative and law enforcement agencies and congressional investigative committees.

1113.66 *Taxpayer Service Division—Office of the Director.* Plans, develops and directs a comprehensive servicewide taxpayer service program which recognizes that taxpayers must have the ability as well as the willingness to comply with Federal tax law. Ensures a consistent and uniform policy of service to all taxpayers.

Responsible for coordinating and integrating all field Taxpayer Service related activities (other than those requesting technical determinations), regardless of organizational boundaries. In this regard ensures that prompt, accurate, and responsive replies are made to taxpayer inquiries and that appropriate and useful informational and educational materials for public use are prepared and distributed. Participates in the formulation of policies affecting the taxpaying public. Assists (utilizing internal audits to the extent practical) in determining the effectiveness of taxpayer service activities in all areas and at all organizational levels. In this regard, recommends how procedures might be changed and resources increased, decreased, or shifted to provide better overall service to the taxpayer. Exercises functional supervision over regional and district taxpayer service activities. Conducts research on asscssing and improving the effectiveness of various Taxpayer Service activities.

1113.661 *Operations Branch.* Exercises general program management responsibility to ensure prompt, accurate, and responsive replies to taxpayer inquiries directed to district offices and service centers. This includes prompt replies to correspondence received from taxpayers, members of Congress, tax practitioners, and other regarding operations aspects of the ACTS organization.

Develops, reviews, and modifies, as necessary, procedures, methods, and other instructions to assist field managers and employees in the accomplishment of program objectives.

Reviews selected correspondence to identify problem areas within the Taxpayer Service Division or to have the matter referred so the appropriate activity may take necessary remedial action. Provides liaison between district office taxpayer service operations and service center data processing operations as they related to Service-generated output or taxpayer-initiated actions.

Provides input to the Planning and Development Branch for Program Management guidelines, PPBS materials, work plans, estimates of staff and budget requirements to meet program goals and objectives.

In conjunction with the Training Division, develops or reviews materials for field and National Office training programs for Taxpayer Service personnel. Issues up-to-date tax information, e.g., handbooks, guidelines, Taxnews, and the like, to insure dissemination of accurate tax information to the public by TSR's.

Provides guidance and assistance in the implementation of a comprehensive Servicewide taxpayer service program; and participates in the evaluation of its operational effectiveness. Responsible, on a continuing basis, for submitting recommendations for initiating studies and conducting field operational studies to improve the effectiveness of field operations, management improvement, work simplification, and the like.

1113.662 *Planning and Development Branch.* Develops long-range plans and objectives for a comprehensive taxpayer service and assistance program and coordinates these plans with other activities assigned responsibility for various programs related to Taxpayer Service. Prepares, coordinates, and integrates the planning activities of the Division, including the preparation of program planning documents, PPBS materials, programs and financial plan, work plans, and budget documents. Assist in the determination of staff requirements to meet program objectives and long-range plans.

Assesses taxpayer needs, conducts in-depth research studies to measure effectiveness of selected methods of providing taxpayer service as well as measure various related programs, and recommends effective and economical methods of informing and educating taxpayers in their rights and responsibilities. Related programs to be measured include telephone assistance, filing period publicity, taxpayer education, taxpayer publications, and the like, to determine how to most effectively meet taxpayers needs.

Represents both taxpayers and the Assistant Commissioner (ACTS) on the Forms Committee; and suggests alternative solutions to meet Service objectives with minimum inconvenience to taxpayers. Assures that the needs of taxpayers are considered in the design of tax forms and other Service publications; and that instructions are issued which make compliance simpler or more understandable for the public.

Identifies subject matter areas giving taxpayers problems and endeavors to alleviate these by coordinating with other National Office Divisions in the preparation of appropriate technical publications, news releasea, institute training materials, et cetera. Review forms, form letters, computer notices, and other issuances to insure that information or instructions contained therein are understandable to the public.

Provides assistance in personnel management activities and program evaluation. Collects and presents statistical data in an organized and readily usable form in measuring accomplishments against objectives. Prepares materials designed to aid field personnel in achieving the highest program goals at a minimum cost. Serves as Taxpayer Service Division representative in TCMP matters.

Develops and coordinates the issuance of revenue procedures on the use of "substitute" tax forms and schedules. Coordinates internal audit matters related to the Taxpayer Service Division and has responsibility for completing action on such reports and for collaboration with the Field Operations Branch on these matters.

1113.67 *IRS Data Center.* Responsible for the performance of nonmaster file data processing operations for the Service. This includes: Design of manually and electronically oriented processing systems; detail design of computer programing requirements and instructions; writing of computer programs; testing and debugging of computer routines; systems acceptability testing; installation of new systems; and maintenance of systems after they become operational. Such systems provide for the preparation of Department of the Treasury payrolls; fiscal reports; statistics of income; taxpayer compliance measurement programs, including both work progress reports and special studies; special tax research; personnel analysis reports; work planning and control reports; data for PPBS and other purposes; special tabulations and comparisons for States and other Federal agencies; and statistical information for management control by National and Regional Office officials; and other special applications not included in the Business and Individual Master File systems.

1113.7 OFFICE OF ASSISTANT COMMISSIONER (INSPECTION)

The Assistant Commissioner (Inspection) acts as the principal assistant to the Commissioner in planning and carrying out the inspection program of the Internal Revenue Service. This includes the independent review and appraisal of all Internal Revenue Service activities as a basis for protective and constructive service to management, and the carrying out of a program for assisting management to maintain the highest standards of honesty and integrity among its employees. The Assistant Commissioner (Inspection) plans and directs the inspection program at both the national and regional levels. At the National Office level he supervises two divisions: the Internal Audit Division and the Internal Security Division; and at the regional level he supervises the Regional Inspectors.

1113.71 *Internal Audit Division—Office of the Director.* The Internal Audit Division has responsibility for conducting a program providing for an independent review and appraisal of the operations of the Internal Revenue Service. This review provides information on the condition of all the functional activities of the Service at the National, regional, and district levels and is sufficient in scope to provide a basis for constructive management action by the Service officials responsible for the activities involved. The Division is also responsible for a systematic verification and analysis of financial transactions and a review and appraisal of the protective measures and controls established at all operating levels. The organizational structure for program operations consists of the National Office Internal Audit Division, and the regional Internal Audit staffs which are headquartered in the same location as the Regional Inspectors. The Director of the Internal Audit Division, under the general supervision of the Assistant Commissioner (Inspection), is responsible for the development and execution of the Division's program.

1113.711 *Operations Branch.* The Operations Branch has responsibility for ensuring a continuing effective internal audit of the Service's Administration, Appellate, Audit, Counsel, Intelligence, Technical, Office of International Operations, and economic stabilization program activities by developing guidelines for the annual internal audit plans; by reviewing and making recommendations on regional internal audit plans; by conducting National Office and coordinated nationwide audits; by carrying out special surveys, examinations, and projects as assigned by higher authority, such as audits of the Tax Division of the U.S. Virgin Islands Government, and the Treasury Department's Exchange Stabilization Fund and Alcohol, Tobacco, and Firearms activities; by coordinating, evaluating, and reviewing and following through on audit findings; and by bringing significant audit disclosures to the attention of top National Office management officials including the Commissioner. Participates in the program of staff guidance, review, and evaluation of the auditing activities of regional Internal Audit staffs. Consults with top officials in the Offices of the Assistant Commissioners and the Office of Chief Counsel on recommendations for improving procedures and controls. Carries out special assignments in cooperation with the Internal Security Division on cases requiring the specialized knowledge and training of personnel of the Internal Audit Division. Exercises continuing direction and control over all Internal Audit aspects of Inspection integrity assignments conducted nationwide, including on-job visitations. Maintains liaison with National Office Internal Security Division on Security cases pending in the regional offices. Analyzes and summarizes Internal Audit Division's annual accomplishments and prepares required internal and external reports.

1113.712 *Program Development Branch.* The Program Development Branch has responsibility for developing the Division's policy and procedural instructions and internal audit program guidelines for the continuing effective internal audit of all activities in the Revenue Service's field offices. Also has responsibility for developing and carrying out career development programs for Internal Audit staff members nationwide to increase staff management capability and professional auditing proficiency, including conducting basic and advanced Internal Audit training programs. Keeps abreast of new developments in Service programs to determine their effect on Internal Audit's responsibilities in the auditing of field operations. Coordinates with other functional areas of the Office of Assistant Commissioner (Inspection) as necessary, including participation in a program of on-site review and evaluation of the activities of the regional Internal Audit staffs. Maintains liaison with Officers of Assistant Commissioners and Chief Counsel, to determine operating problems or developments that should be given internal audit program attention. Keeps abreast of latest professional management auditing techniques and methods to ensure timely adaptation to the Service's internal audit program. Maintains the division's program of continuing review of special long-range Service projects, e.g., taxpayer compliance measurement program.

1113.713 Data Processing Activities Branch. The Data Processing Activities Branch has responsibility for ensuring a continuing effective internal audit of the Service's Accounting, Data Processing, Collection and Taxpayer Service activities by developing guidelines for the annual internal audit plans; by reviewing and making recommendations on regional internal audit plans; by conducting National Office and coordinated nationwide audits; by carrying out special surveys, examinations, and projects as assigned by higher authority; by coordinating, evaluating, and reviewing and following through on audit findings; and by bringing significant audit and disclosures to the attention of top National Office management officials including the Commissioner. Participates with management during the development stages of new or improved ADP systems to ensure the incorporation of effective management controls. Develops systems and procedures to utilize automatic data processing in carrying out principal segments of the Internal Audit Division's program. Participates in the program of staff guidance, review, and evaluation of the auditing activities of regional Internal Audit staffs. Consults with top officials in the Offices of the Assistant Commissioners and the Office of Chief Counsel on recommendations for improving procedures and controls; keeps abreast of current data processing developments, including technological changes, so that proper consideration can be given to carrying out the Internal Audit Division's program. Coordinates with other functional areas of the Office of Assistant Commissioner (Inspection) in order to obtain data processing services requested by them or provide other information pertinent to the mission of these functions. Analyzes and summarizes Internal Audit Division's annual accomplishments and prepares required internal and external reports.

1113.72 *Internal Security Division.* The Internal Security Division plans, develops, and controls the Internal Security program for the Internal Revenue Service so as to assist management in assuring the highest standards of honesty, integrity and security among Service employees and maintain public confidence in the integrity of the Service. The program includes personnel background

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investigations and investigations of complaints or allegations of misconduct or irregularities, including criminal, concerning Service employees; also investigations of non-Service persons when their actions may affect the integrity of the Service or safety of Service personnel, including attempts to bribe or otherwise corrupt Service personnel; this authority includes investigation of attempts to interfere with administration of Internal Revenue laws through threats, assaults or forcible interference, and also the unauthorized disclosure of Federal tax information. The program also includes background investigations of certain applicants for enrollment to practice before the Internal Revenue Service, investigations of charges against tax practitioners, formal investigations of accidents involving Service employees or property, investigations of complaints alleging discrimination because of race, creed, color, or national origin; and the maintenance of records and case files relating to investigations conducted. The Division also conducts such special investigations, studies, and inquiries as required for the Commissioner, Office of the Secretary, or other components of the Treasury Department. The Division is composed of three branches: Field Coordination Branch, Investigations Branch, Planning and Programing Branch.

1113.721 *Field Coordination Branch.* The Field Coordination Branch controls and coordinates on a nationwide basis all investigations conducted by the Internal Security function. These investigations cover alleged violations of Federal criminal statutes and of the regulations and rules governing the conduct of Service personnel; actions of non-Service persons that may affect the integrity of the Service, including attempts to bribe or otherwise corrupt Service personnel; charges against persons enrolled or entitled to practice before the Internal Revenue Service; the investigation of the character and background of applicants for, or incumbents of positions in the Service; enrollee applicant cases; formal investigations under the Federal Tort Claims Act; and other investigations as required for the Commissioner and other components of the Treasury Department. The Branch maintains a continuing review and control of all investigations to: assure that proper priorities are established and that the investigation workload is accomplished in an effective and efficient manner on an overall regional, as well as an individual Inspector basis; assure that the scope of the investigations and the facts and evidence are sufficient to provide a basis for conclusions by management, the Department of Justice or other authority; assure that established policies, procedures and techniques are being followed properly and uniformly; assure effective investigation accomplishments, uniformity in investigative coverage, and that there is proper form and quality of reports, as well as administrative and criminal dispositions; develops data and recommendations for improvement, simplification, and standardization of investigative operations, many of which are passed along for use by management in connection with directing program execution as well as planning and programing Internal Security activities; and directs the maintenance of records and case files relating to investigations conducted by the Internal Security function. The Branch maintains liaison on criminal and other investigative matters with the Office of the Chief Counsel, other law enforcement and security segments of the Treasury Department and the Internal Revenue Service, Department of Justice, Federal Bureau of Investigation and other Federal law enforcement agencies.

1113.722 *Investigations Branch.* The Investigations Branch, operating on a nationwide basis, is responsible for conducting extremely confidential investigations of complaints and allegations of misconduct or irregularities concerning high level officials of the Service and other special investigations which by reason of their complexity or sensitivity, or because of their potential effect on the maintenance of public confidence in the integrity of the Service, demand special handling. The Branch, as the investigative branch of the Internal Security Division for National Office personnel, is responsible for conducting background investigations of applicants for, or incumbents of, positions in the Service, certain applicants for enrollment to practice before the Internal Revenue Service, and for applicants for positions with certain other components of the Treasury Department. In addition the Branch conducts investigations of alleged violations of Federal criminal statues and rules and regulations governing the conduct of Service personnel; actions of non-Service persons that may affect the integrity of the Service, including attempts to bribe or otherwise corrupt Service personnel; charges against persons enrolled to practice before the Internal Revenue Service; formal investigations under the Federal Tort Claims Act; investigations of alleged discrimination because of race, creed, color or national origin; and other special investigations as may be required for the Commissioner and other components of the Treasury Department. The Branch maintains liaison with the Regional Inspectors and Assistant Regional Inspectors (Internal Security) to coordinate joint activities and in special situations to render assistance in the handling of difficult investigations.

1113.723 *Planning and Programing Branch.* The Planning and Programing Branch is responsible for providing staff assistance to the Division Director in planning and programing the Internal Security Division program. This includes formulating policies; developing technical and administrative procedural instructions, including manual issuances and investigative handbooks; conducting inspections of the management and operation of the regional Internal Security Divisions; conducting special surveys of National Office Internal Security activities; developing and coordinating training programs for the Division; providing technical and staff assistance to the Treasury Law Enforcement Officer Training School; compiling and analyzing reports of operational costs, workload data, and statistics concerning criminal and administrative actions resulting from Internal Security investigations; evaluating manual issuances or proposals originating outside Inspection which are pertinent to Internal Security functions; conducting special staff studies; and maintaining liaison with other branches of the Internal Security Division, the Internal Audit Division, and other offices of the Service.

1113.8 OFFICE OF ASSISTANT COMMISSIONER (PLANNING AND RESEARCH)

The Assistant Commissioner (Planning and Research) acts as the principal assistant to the Commissioner and the Deputy Commissioner in the development and administration of the program and financial plan, related objectives and policies, and in the analysis of all Service programs for the purpose of promoting maximum effectiveness in the administration of the Internal Revenue Code with the most efficient and economical expenditure of resources; and is responsible for research, statistics, and systems development. The Assistant Commissioner (Planning and Research) represents the Commissioner on these matters in relations with the Treasury Department, the Congress, other Government agencies and outside organizations. He discharges these primary responsibilities in cooperation with the appropriate Assistant Commissioners (or other principal officials), each of whom exercises related responsibilities within his own functional area. The Assistant Commissioner (Planning and Research) is responsible for and supervises the activities of the Planning and Analysis Division, Research Division, Statistics Division, Systems Development Division, and the Office of Industrial Economics.

1113.81 *Planning and Analysis Division.* The Planning and Analysis Division develops and administers the systems for producing a comprehensive multiyear program and financial plan, for coordinating and integrating policies of the Service, and for analyzing all Service programs—with the aim of optimizing the collection of internal revenue taxes. To these ends, in cooperation with responsible offices, it develops the Service's program and financial plan; through special studies, approved by the Deputy Commissioner, evaluates the desirability and costs of existing and proposed plans, policies, organizations, and program objectives; and develops criteria and presentations to measure accomplishments. It coordinates the preparation of the annual program memoranda analyzing the objectives, costs and benefits of the program and financial plan. The Division, in cooperation with other responsible offices, determines the scope of operating data needed for performance reporting and for marginal productivity and other kinds of operations research analyses in connection with the program and financial plan, program memoranda, and special studies. The Division also administers the Internal Management Document System and reviews issuances for conformance to basic policies of the Service.

1113.82 *Research Division.* The Research Division conducts advanced research (independently or in conjunction with other offices) into the Federal tax system to develop new approaches to improve the Service's operations and to reduce the compliance burden on the taxpayer; directs such research, within the framework of tax policy determined by the Treasury Department; and furnishes leadership and coordination for the program of Federal-State cooperation in the field of tax administration. The Division actively participates with the appropriate staffs of the Treasury Department and the Assistant Commissioner (Technical) in the preparation of legislative proposals and regulation revisions resulting from the research conducted; designs and carries out surveys, studies, polls, and other forms of research to provide the Service with the basic data needed for the formulation of operating programs and plans; and prescribes the nature and content of statistical analyses made by other offices but required for the research functions of the Division.

1113.83 *Statistics Division.* The Statistics Division conducts research and prepares statistics with respect to the operation of the income tax laws as required annually by the Internal Revenue Code to provide basic information for tax studies and legislation by the Congress and its committees, for administrative use by the Secretary of the Treasury and the Commissioner of Internal Revenue, and for the Federal benchmark statistical programs on income, wealth, and finance; and performs other related research and statistical functions. The Division provides support services for the Reports Management program. The Division consists of the Income, Finance, and Wealth Branch, the Statistical Techniques Branch, the Mathematical Statistics Branch, and the Program Management Branch.

1113.831 *Administrative Office.* Performs all administrative management activities, including personnel, budget, and fiscal programs, cost estimates, allocations, and control of funds, records management, travel, space and equipment utilization. Coordinates and controls, in conjunction with the Facilities Management Division the printing requirements of the Division and statistical processing contracts, other office services required. Serves as a focal point for Division contacts with Personnel, Fiscal Management, and Facilities Management Divisions.

1113.832 *Income, Finance, and Wealth Branch.* The Income, Finance, and Wealth Branch performs statistical and economic research with respect to the operations of the income tax laws as required by the Internal Revenue Code. It identifies and analyzes actual and prospective needs of users of income, wealth, and financial data reported on tax returns. The Branch plans, evaluates, and modifies these needs to develop an integrated statistical program and prepares specifications for data preparation. It interprets, analyzes, and presents the resulting statistics through publications of the Internal Revenue Service, such as the "Statistics of Income" series, and in consultation with appropriate policy and management officials.

1113.833 *Statistical Techniques Branch.* The Statistical Techniques Branch performs technical statistical services in support of the program of the Division. It prepares projections and estimates of tax return populations by type of return and geographic area, and produces other workload measures for the Service. It uses statistical techniques to analyze problems and improve efficency in work programs. It plans, prepares the analysis, and presents the results of statistical studies for the Service, other Federal agencies, and for approved reimbursable projects. It conducts research in the development and adaptation of statistical techniques designed to promote efficient operations. It prepares Service statistical guidelines and taxpayer aids. It supplies special statistical services in response to requests and advices on applications of statistical techniques to technical and administrative tax problems. It provides the technical service in support of preparation, analysis, and development of management information and other reports.

1113.834 *Mathematical Statistics Branch.* The Mathematical Statistics Branch has the Statistics Division's responsibility for the probability sampling portions of the Service's research and operational programs and aiding, on request, other agencies with their sampling problems. This responsibility includes such things as the application of computer methods to sampling techniques used in such programs as Statistics of Income and Taxpayer Compliance Measurement; the use of area survey techniques to measure tax delinquency; assisting in the application of sample audit techniques to processing functions; using time samples to develop cost data for the Planning-Programing-Budgeting System; and review of sampling plans developed in other areas of the Service.

1113.835 *Program Management Branch.* Designs and develops operational plans for use in producing the statistics required by the Division's program, and prepares related procedures, forms, and instructions. Coordinates budget development for, and the planning, scheduling, and processing of the statistical work performed at decentralized locations. Conducts research into methods for controlling quality. Develops and applies operating techniques for quality control, providing standards of measurement and instituting methods developed through operations research. Evaluates statistics produced in terms of original specifications, costs, and procedures. Serves as the focal point for collaboration between National Office and field statisticians in the execution of continuing programs such as Statistics of Income, Taxpayer Compliance Measurement, and Statistical Quality Control. Guides and coordinates the activities of statisticians in the field processing centers to insure uniformity of method and adherence to common goals. Plans uniform statistical applications to be implemented by statisticians in the field processing centers.

1113.84 *Systems Development Division.* The Systems Development Division is concerned both with electronic systems and other systems. It conducts a continuing program relative to the availability and capability of electronic data processing systems and other electronic or automation equipment and systems, the feasibility and adaptability of electronic equipment to specific Service tasks, and the development of special modifications for Service purposes. The Division reviews and coordinates projects of other offices involving the adaptation of electronic equipment and participates in the selection and installation of electronic equipment and systems. With respect to other systems, the Division examines and makes recommendations for improvement or extension of internal systems (such as those relating to reporting, processing, accounting, enforcement, records management, and communications), reviews and coordinates system-improvement efforts of other offices, and initiates and develops projects of its own; furnishes other offices of the Service, on request, advisory and consultative services on systems problems; studies possibilities of integrating paperwork and data-handling systems and equipment; and surveys, develops and tests equipment used or usable by the Service.

1113.85 *Office of Industrial Economics.* Provides taxpayers and the Government with timely and up-to-date asset classes, forecasts of useful economic lives for such classes, and current repair allowances as part of the Asset Depreciation Range system by accomplishing the following functions: Collects and analyzes data on various asset classes, periods of use and factors of obsolescence and repair and maintenance practices in accordance with the vintage account procedure under the ADR system. Utilizing a variety of data gathering methods, such as economic reports, econometric models, and statistical sampling, compiles information on industrial experience on utilization of depreciable plant and equipment, salvage value, and replacement practices. Receives data and proposed changes in asset classes, depreciation periods, and repair allowances submitted by taxpayers and other knowledgeable sources. Analyzes and evaluates these data as a basis for recommending changes in the ADR system. Analyses are performed by a specialized staff of economists and engineers and involve rather complex issues, including things such as forecasting new technological developments and modes of operation in the various technological fields in the future. Effective liaison is maintained with the Commerce Department's Bureau of the Census and Office of Business Economics and similar offices in other industrialized nations. Closely monitors the operation of the ADR system in tax administration and recommends changes based on its staff observations, as well as reports from field revenue agents. Recommendations are of an administrative, regulatory, or legislative nature. Analyses of data and resultant recommendations are also made available for other elements of IRS for better and more efficient tax administration.

1113.9 OFFICE OF ASSISTANT COMMISSIONER (TECHNICAL)

The Assistant Commissioner (Technical) acts as the principal assistant to the Commissioner in providing basic principles and rules for the uniform interpretation and application of the Federal tax laws (other than alcohol, tobacco, and firearms taxes under Subtitle E of the Internal Revenue Code). In carrying out this mission, he: Publishes rulings to announce interpretative positions of the Service; publishes explanatory booklets, pamphlets, and other materials for the guidance of taxpayers and Service officials; issues rulings and advisory statements to taxpayers and Service officials; issues opinion letters to sponsoring organizations on master and prototype pension, annuity, and profit-sharing plans; directs programs for clarification and simplification of tax rules; develops (and is responsible for the technical content of) all tax return forms and instructions (other than those relating to alcohol, tobacco, and firearms taxes); reviews other public-use tax forms and form letters; acts as competent authority in matters involving interpretation or application of tax treaties; provides advice and assistance on technical matters throughout the Service, and to the Department of the Treasury, other Government agencies, and congressional committees; conducts a technical liaison program with Service field offices; conducts a technical field conference program; coordinates with the Office of the Chief Counsel, the Department of the Treasury, and the committees of Congress on legislative and regulatory matters; reviews all new or amendatory regulations for administrative feasibility and adequacy; administers the activities of the Art Advisory Panel embracing a Service-wide program for providing guidance and direct assistance to field offices in the disposition of income, estate, and gift tax cases involving fine arts valuation; coordinates with the Office of the Chief Counsel and the Department of Justice in providing advice and assistance in connection with matters in litigation; and coordinates with the other Assistant Commissioners, the Department of the Treasury, other Government agencies, and outside professional groups and industry and trade associations on matters of mutual concern. The Assistant Commissioner (Technical) is authorized to prescribe the extent, if any, to which any ruling issued by or pursuant to authorization from him, shall be applied without retroactive effect. He is also authorized to enter into and approve a written agreement (closing agreement) with any person relating to the internal revenue tax liability, other than certain excise taxes, of such person (or of the person or estate for whom he acts) in respect of any prospective transactions or completed transactions affecting returns to be filed. The Assistant Commissioner (Technical) is responsible for and supervises the activities of three divisions: Income Tax Division; Miscellaneous and Special Provisions Tax Division; and Technical Publications and Services Division.

1113.91 *Income Tax Division—Office of the Director.* Has primary responsibility for providing basic principles and rules for uniform interpretation and application of the Federal tax laws in those areas involving: Income and employment taxes and the interest equalization tax to corporate and noncorporate taxpayers (including individuals, partnerships, estates, and trusts); depreciation, depletion, and valuation issues; the taxable status of exchanges and distributions in connection with corporate organizations, reorganizations, and liquidations; taxes imposed on self-employment income; and exemption of farmers' cooperatives from

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tax under IRC 521. In carrying out these responsibilities, the Division: Issues rulings to taxpayers and technical advice and general technical information to District Directors and Regional Commissioners; advises the Appellate and Audit Divisions of the Service's position on particular issues; drafts Revenue rulings, Revenue procedures, announcements and releases to be published for the guidance and information of taxpayers and Service personnel; drafts, or reviews, IR-manual issuances to be published for the guidance of Service personnel; reviews or assists in preparing technical booklets, training materials, pamphlets, and other materials prepared for the guidance of taxpayers and Service personnel; conducts special studies of technical problem areas, including reappraisals of current rules and practices, with a view toward reducing controversy and promoting uniformity; determines the status of certain organizations as agencies or instrumentalities of the United States, a State or political subdivision thereof, or the District of Columbia, or agencies or instrumentalities of governments of foreign countries or political subdivisions thereof; reviews actions on decisions announcing the Commissioner's position on adverse decisions of the U.S. Tax Court, prior to publication in the Internal Revenue Bulletin; initiates recommendations and coordinates with the Offices of the Chief Counsel in providing advice and assistance to that office, and to the Department of the Treasury and the committees of Congress, on legislative and regulatory matters; coordinates with the Office of the Chief Counsel and the Department of Justice in providing advice and assistance in connection with matters in litigation; reviews newly proposed and amendatory regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program which disclose tax administrative problems, abuses, and inequities, as well as the views of field personnel as to the quality and effectiveness of regulations and tax return forms, the need for new or amendatory legislation or regulations, et cetera; coordinates on matters of mutual concern with other technical divisions, the compliance organization, other offices of the Department of the Treasury, and other Government agencies; supplies the Audit Division with names or essential identifying characteristics of persons or organizations, and otherwise advises and assists the Audit Division in the selection of representative cases, involving issues on which Service position needs to be established, clarified, or otherwise developed; aids the Audit Division in developing the scope of and techniques needed in the examinations or investigations of such issues; supplies information for use by the Audit Division in programing, evaluating, and guiding audit operations throughout the Service; participates in the development of tax return forms and instructions and reviews pertinent portions of public-use forms and instructions; invites outside professional groups and industry and trade associations to participate in conferences and to submit comments, briefs, and suggestions in connection with tax problems and matters involving Revenue rulings or Revenue procedures proposed for the solution of tax problems; conducts conferences in the regional offices to discuss major programs of the technical organization, to present papers on particular substantive technical areas, to discuss and explore possible solutions to technical areas of concern to field offices, and to discuss other matters of mutual concern; makes determinations with respect to earnings and profits of corporations and the taxable status of distributions to shareholders; acts on applications for changes in or adoption of accounting methods and periods; and acts as competent authority in matters involving interpretation or application of tax treaties. In areas involving the application of Federal tax laws in connection with provisions relating to depreciation, depletion, and valuation issues, this Division also: Passes upon requests for approval of plans for the aggregation of nonoperating mineral interests as a single property; post-audits the depreciation, depletion, and valuation issues of cases on which engineering reports have been prepared and a sample of other large cases involving such issues; upon request, provides direct assistance to regional and district offices on cases involving depreciation, depletion, and valuation issues; provides, or secures, expert witnesses in support of the Government position in cases in litigation, and assists Government counsel in preparation and presentation of cases and in negotiations of settlements; prepares and presents material on professional and technical developments at engineering meetings, and upon request, in coordination with compliance, develops and conducts training programs for engineers; prepares material for inclusion in the Engineers' Coordination Digest calling attention to important new developments and to nonuniform treatment of issues; and administers the activities of the Art Advisory Panel embracing a Service-wide program for providing guidance and direct assistance to field offices in the disposition of income, estate, and gift tax cases involving fine arts valuation. This Division also post-reviews field determination letters relating to the status of farmers' cooperatives under IRC 521. The Director is responsible for and supervises the activities of four branches: Corporation Tax Branch; Individual Income Tax Branch; Engineering and Valuation Branch; and Reorganization Branch.

1113.911 *Corporation Tax Branch.* In matters involving the application of Federal income tax laws to corporate taxpayers, including the taxation of insurance companies and those relating to consolidated returns of affiliated groups, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue rulings, Revenue procedures, announcements and releases, and IR-manual issuances, including material for the Exempt Organizations Handbook relating to cooperatives; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews actions on decisions; provides advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; and participates in the technical field conference program. This Branch also performs the same functions involving either corporate or noncorporate taxpayers with respect to: Interest equalization tax; income of States, municipalities, etc.; appearances, etc., with respect to legislation; amortization of pollution control facilities; research and experimental expenditures; inventories, including LIFO; allocation of income and deductions among related taxpayers; sales of low-income housing projects; cooperatives and their patrons; exemption of farmers' cooperatives from tax under IRC 521; regulated investment companies and their shareholders; controlled foreign corporations and their U.S. shareholders; foreign tax matters which involve determination of sources of income; nonresident alien individuals and partnerships or of alien residents of Puerto Rico; compensation of employees of foreign governments or international organizations; income affected by treaty; foreign tax credit; earned income from sources without the United States; income from possessions; involuntary conversions; small business investment company stock losses; withholding of tax on nonresident aliens and foreign corporations; mitigation of effect of renegotiation of government contracts; requests for permission for change in or adoption of accounting periods and methods (except methods of accounting for depreciation and depletion); acts as competent authority in matters involving interpretation or application of tax treaties; and makes determinations with respect to earnings and profits of corporations and the taxable status of distributions to shareholders. This Branch also postreviews field determination letters relating to the status of farmers' cooperatives under IRC 521.

1113.912 *Engineering and Valuation Branch.* In matters involving the application of Federal tax laws in engineering and valuation areas, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue rulings, Revenue procedures, announcements and releases, and IR-manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews actions on decisions; provides advice and assistance to other offices of the Service (including the office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; passes upon requests for permission to change methods of accounting for depreciation and depletion and for approval of plans for the aggregation of nonoperating mineral interests as a single property; conducts a postaudit review of field engineer reports and a sample of nonengineer reports which contain depreciation, depletion, and valuation issues for purposes of assessing the field treatment of engineering issues in order to provide uniform guidance both on an individual basis by report, and on a Service-wide basis by publication in the Engineers' Coordination Digest; provides direct assistance to regional and district offices, upon request; assists the Office of Chief Counsel and the Department of Justice in preparing and presenting cases in litigation, provides or secures expert witnesses in support of the Government's litigating position, and furnishes technical expertise in the negotiation of trial and pretrial settlements; prepares and presents material on professional and technical developments at engineering meetings, and upon request, in coordination with Compliance, develops and conducts training programs for engineers; prepares material for inclusion in the Engineers' Coordination Digest calling attention to important new developments and to nonuniform treatment of issues; prepares and maintains an up-to-date Engineering Citator; and administers the activities of the

Art Advisory Panel embracing a Service-wide program for providing guidance and direct assistance to field offices in the disposition of income, estate and gift tax cases involving fine arts valuation.

1113.913 *Individual Income Tax Branch.* In matters involving the application of Federal income tax laws to noncorporate taxpayers (including partnerships, estates, and trusts), and with respect to the application of employment tax laws to both corporate and noncorporate taxpayers, and with respect to the taxes imposed on self-employment income, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue rulings, Revenue procedures, announcements and releases, and IR-manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews actions on decisions; provide advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; and participates in the technical field conference program. This Branch also performs the same functions involving either noncorporate or corporate taxpayers with respect to: Charitable contributions; tenant-stockholders of cooperative housing corporations; employee stock option and stock purchase plans; real estate investment trusts; and election of certain small business corporations as to tax status and related matters, except the rules relating to certain qualified pension plans.

1113.914 *Reorganization Branch.* In matters involving the application of Federal income tax laws to exchanges and distributions in connection with corporate organizations, reorganizations, liquidations, and spinoffs, to stock dividends, redemptions, exchanges in obedience to Securities and Exchange Commission orders, to distributions pursuant to the Bank Holding Company Act, and to losses on small business stock, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue rulings, Revenue procedures, announcements and releases, and IR-manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews actions on decisions; provides advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; and participates in the technical field conference program. This Branch also performs the same functions with respect to determinations as to whether distribution, exchanges, or transfers referred to in IRC 306(b)(4), 355(a)(1)(D)(ii), 367, and 1492 are in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

1113.92 *Miscellaneous and Special Provisions Tax Division—Office of the Director.* Has primary responsibility for providing basic principles and rules for uniform interpretation and application of the Federal tax laws in those areas involving: Estate, gift, and certain excise taxes; organizations exempt from income tax under IRC 501; procedure and administration provisions of the Internal Revenue Code; matters requiring actuarial determinations; and the qualification of pension, annuity, profit-sharing, stock bonus, and bond purchase plans, and the tax treatment of employees and their beneficiaries and deductions for employer contributions under such plans. In carrying out these responsibilities, the Division: Issues rulings to taxpayers and technical advice and general technical information to District Directors and Regional Commissioners; advises the Appellate and Audit Divisions of the Service's position on particular issues; issues opinion letters to sponsoring organizations on master and prototype pension, annuity, and profit-sharing plans; drafts Revenue Rulings, Revenue Procedures, Announcements and Releases to be published for the guidance and information of taxpayers and Service personnel; drafts, or reviews, IR-Manual issuances to be published for the guidance of Service personnel; reviews or assists in preparing technical booklets, training materials, pamphlets, and other materials prepared for the guidance of taxpayers and Service personnel; conducts special studies of technical problem areas, including reappraisals of current rules and practices, with a view toward reducing controversy and promoting uniformity; reviews Actions on Decisions announcing the Commissioner's position on adverse decisions of the United States Tax Court, prior to publication in the Internal Revenue Bulletin; initiates recommendations and coordinates with the Office of the Chief Counsel in providing advice and assistance to that office, and to the Department of the Treasury and the Committees of Congress, on legislative and regulatory matters; coordinates with the Office of the Chief Counsel and the Department of Justice in providing advice and assistance in connection with matters in litigation; reviews newly proposed and amendatory regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program which disclose tax administrative problems, abuses, and inequities, as well as the views of field personnel as to the quality and effectiveness of regulations and tax return forms, the need for new or amendatory legislation or regulations, etc.; coordinates on matters of mutual concern with other Technical divisions, the Compliance organization, other offices of the Department of the Treasury, and other Government agencies; supplies the Audit Division with names or essential identifying characteristics of persons or organizations, and otherwise advises and assists the Audit Division in the selection of representative cases, involving issues on which Service position needs to be established, clarified, or otherwise developed; aids the Audit Division in developing the scope of and techniques needed in the examinations or investigations of such issues; supplies information for use by the Audit Division in programing, evaluating, and guiding audit operations throughout the Service; participates in the development of tax return forms and instructions and reviews pertinent portions of public-use forms and instructions; invites outside professional groups and industry and trade associations to participate in conferences and to submit comments, briefs, and suggestions in connection with tax problems and matters involving Revenue Rulings or Revenue Procedures proposed for the solution of tax problems; conducts conferences in the regional offices to discuss major programs of the Technical organization, to present papers on particular substantive technical areas, to discuss and explore possible solutions to technical areas of concern to field offices, and to discuss other matters of mutual concern; and acts as competent authority in matters involving interpretation or application of tax treaties. This Division also performs the same functions with respect to determinations under IRC 170(b)(1)(A) in all situations involving a provision of Subchapter F of Chapter 1, Chapter 42, or section 6033 of the Code, and in any other situation bearing on the status of an organization as a private foundation. In tax matters dealing with actuarial questions: Provides or secures expert witnesses in support of the Government position in cases of litigation, and assists Government counsel in preparation and presentation of cases and in negotiations of settlements; and furnishes expert consulting assistance to other Service components, including the Office of the Chief Counsel, to the Department of the Treasury, and to other Federal and State government agencies. This Division also: Post-reviews field determination letters relating to the status of organizations under IRC 501, and relating to qualification of pension, annuity, profit-sharing, stock bonus, and bond purchase plans under IRC 401 through 407; prepares and submits to the Audit Division special audit coordination digests calling attention to district determinations that do not conform to published Service positions on issues under IRC 401 through 407; on a certiorari basis, reviews and decides cases appealed by taxpayers to the National Office for reconsideration of determinations by District Directors under IRC 401 through 407; and provides the final level of appeal in the Service on proposals by District Directors to revoke the exempt status of organizations under IRC 501. The Director is responsible for and supervises the activities of six branches: Actuarial Branch; Administrative Provisions Branch; Estate and Gift Tax Branch; Excise Tax Branch; Exempt Organizations Branch; and Pension Trust Branch.

1113.921 *Actuarial Branch.* In matters involving the application of Federal tax laws in the actuarial area, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue Rulings, Revenue Procedures, Announcements and Releases, and IR-Manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews Actions on Decisions; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other branches on matters of mutual concern; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; participates in the technical field conference program; and provides, or secures, expert witnesses in support of the Government position in cases in litigation involving pension plans, insurance, and other tax matters dealing with actuarial questions, and assists Government counsel in preparation and

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presentation of cases and in negotiations of settlements. This Branch also furnishes expert consulting assistance to other Service components (including the Office of the Chief Counsel), to the Department of the Treasury, and to other Federal and State government agencies on actuarial questions involved in: Valuation of life estates, remainder interests, contingent assurances, series of payments, and reversionary interests; tax treatment of pension, profit-sharing, stock bonus, annuity, life insurance, accident and health, and other benefit and compensation plans and contracts; deductions for amounts paid or accrued on indebtedness under insurance contracts; and taxation of life insurance companies.

1113.922 *Administrative Provisions Branch.* In matters involving the application of the procedure and administration provisions of the Internal Revenue Code, and similar provisions of related statutes, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue Rulings, Revenue Procedures, Announcements and Releases, and IR-Manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews Actions on Decisions; provides advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches and other offices of the Service on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; and participates in the technical field conference program.

1113.923 *Estate and Gift Tax Branch.* In matters involving the application of Federal estate and gift laws, this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue Rulings, Revenue Procedures, Announcements and Releases, and IR-Manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews Actions on Decisions; provides advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; as requested, furnishes assistance in negotiations or renegotiations of estate and gift tax conventions with representatives of foreign countries; acts as competent authority in matters involving interpretation or application of tax treaties; and participates in the technical field conference program.

1113.924 *Excise Tax Branch.* In matters involving the application of Federal excise tax laws other than those involving the interest equalization tax, excise taxes imposed by Chapter 42 on private foundations and certain related parties, and the alcohol, tobacco, and firearms taxes (but including the manufacturer's excise tax on firearms under IRC 4181 and 4182), this Branch: Issues rulings, technical advice, and general technical information; drafts Revenue Rulings, Revenue Procedures, Announcements and Releases, and IR-Manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews Actions on Decisions; provides advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinates with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; participates in the technical field conference program; and provides the final level of appeal in the Service on proposals by District Directors to revoke the exempt status of organizations. This Branch also performs the same functions with respect to exempt organization matters involving: Feeder organizations; prohibited transactions; unreasonable accumulations, or misuse, of income; liability for tax on unrelated business taxable income; requirements for filing annual information returns and other reports; determination of status as a private foundation; determinations under IRC 170 (b)(1)(A) in all situations involving a provision of Subchapter F of Chapter 1, Chapter 42, or section 6033 of the Code, and in any other situation bearing on the status of an organization as a private foundation; termination of private foundation status; special rules prescribed in IRC 508 with respect to IRC 501(c)(3) organizations; excise taxes imposed by Chapter 42 on private foundations and certain related parties, including questions arising under the savings provisions of section 101(1) of the Tax Reform Act of 1969; assessable penalties relating to private foundations; restrictions on examination of churches; determinations of status required under IRC 1504(e) for qualification of certain exempt organizations to file consolidated corporate returns.

1113.926 *Pension Trust Branch.* In matters involving the qualification of pension, annuity, profit-sharing, stock bonus, and bond purchase plans and the tax treatment of employees and their beneficiaries and deductions for employer contributions under such plans, pursuant to IRC 401 through 407, this Branch: Issues rulings, technical advice, and general technical information; issues opinion letters to sponsoring organizations on master and prototype pension, annuity and profitsharing plans; drafts Revenue rulings, Revenue procedures, announcements and releases, and IR-manual issuances; reviews or assists in preparing technical booklets, pamphlets, and other materials for the guidance of Service personnel and the public; conducts special studies directed toward resolving technical problem areas; reviews actions on decisions; provides advice and assistance to other offices of the Service (including the Office of the Chief Counsel), the Department of the Treasury, other Government agencies, and congressional committees; reviews proposed regulations for administrative feasibility and adequacy; analyzes and acts upon reports submitted by field offices under the technical coordination program; coordinate with other technical branches on matters of mutual concern; advises and assists the Audit Division in regard to the Service's audit program; participates in the development of tax return forms and instructions, and reviews pertinent portions of public-use forms and instructions; postreviews field determination letters and, on a certiorari basis, reviews and decides cases appealed by taxpayers to the National Office for reconsideration of District Directors' determinations; prepares special audit coordination digests regarding conformance of field actions with established positions on stated issues; determines the applicability of the annuity treatment under IRC 72, the death benefit exclusion under IRC 101(b), and the sick pay exclusion under IRC 105(d), to distributions under qualified plans and exempt employees' trusts: Passes upon the tax treatment accorded deferred compensation under nonqualified plans; and participates in the technical field conference program. This Branch also performs the same functions with respect to pension trust matters involving: Exemption of employees' trusts under IRC 501; collateral matters involving the treatment of medical benefits for retired employees under qualified pension plans, the limitations and restrictions on self-employed persons participating in qualified plans, and the tax treatment of distributions to nonresident aliens; deductions by acquiring corporations for carryovers under IRC 381(c)(11) and (20); feeder organizations; prohibited transactions; liability for tax on unrelated business taxable income; and additional requirements and limitations under IRC 1379 with respect to plans that provide contributions or benefits for shareholder-employees of an electing small business corporation.

1113.93 *Technical Publications and Services Division—Office of the Director.* Has primary responsibility in Technical for functions related to: Tax return forms; other public-use forms and form letters; taxpayer publications; internal-use technical publications; field liaison programs; Part XI of the manual, the Freedom of Information Act; technical and general correspondence; congressional liaison; research facilities and reference services; and control and maintenance of correspondence files and exempt organization application files. In carrying out these responsibilities, the Division: Conducts a program for the development, annually or as needed, of all Federal tax return forms and instructions (other than those relating to alcohol, tobacco, and firearms taxes); coordinates and assists in the work of the National Office Tax Forms Coordinating Committee in planning, reviewing, and approving tax return forms materials; assists the National Office Tax Forms Coordinating Committee by reviewing other public-use forms and form letters used by the Service; furnishes technical assistance to the Department of the Treasury and others on tax return matters; conducts a program for publication of the Internal Revenue Bulletin and related publications; conducts a program for preparation and publication of technical booklets, pamphlets, and other materials for the guidance of taxpayers, tax practitioners, and Service personnel; reviews tax guide material prepared by other Government agencies; reviews or drafts tax guide material for dissemination through newspapers, other periodicals, radio, and television; reviews tax law training material for classroom and correspondence instruction of Service personnel; drafts expository papers on major technical developments for the instruction of Service personnel; drafts digests of significant developments to keep Service personnel abreast of changes; promotes and coordinates the technical liaison program with regional and district offices involving the submission of field reports on administrative problems, tax abuses, tax inequities, the quality and effectiveness of tax return forms and instructions, and the need for new or amendatory regulations; conducts special surveys to obtain factual information from Service field offices on particular tax areas at the request of the Department of the Treasury or National Office components; coordinates the technical field conference program; coordinates the development and publication of material for Part XI of the Internal Revenue Manual; coordinates the activities of the technical organization under the Freedom of Information Act; coordinates technical's correspondence program; provides research facilities and reference services; and maintains, and processes requests for inspection of, exempt organization application files. The Director is responsible for and supervises the activities of three branches: Tax Forms Development Branch; Technical Publications Branch; and Technical Services Branch.

1113.931 *Tax Forms Development Branch.* Assists in conducting the Service's public-use forms and instructions, and form letters programs. In carrying out these responsibilities, this Branch: On annual basis, or when otherwise necessary, initiates, develops, and revises the technical content of all Federal tax return forms, instructions, schedules, et cetera, relating to income, employment, estate, gift, and excise taxes (other than those relating to alcohol, tobacco, and firearms taxes); provides the principal support and assistance to the National Office Tax Forms Coordinating Committee in planning, reviewing, and approving all tax return forms materials; provides the principal support and assistance to the National Office Tax Forms Coordinating Committee in its review and approval functions relating to other public-use forms and form letters; prepares replies to inquiries from Members of Congress, other Government agencies, professional groups, and the public on matters relating to the forms program; evaluates, and prepares replies to, suggestions on matters relating to tax return forms and other public-use forms; prepares announcements and releases, and IR-manual issuances, relating to tax return forms and other public-use forms; provides advice and assistance to other offices in the Service, the Department of the Treasury, and congressional committees in matters relating to tax return forms and instructions; and coordinates with other technical branches on matters of mutual concern.

1113.932 *Technical Publications Branch.* Conducts the publications programs of the Technical organization. In carrying out this responsibility, this Branch: Compiles material for publication in the weekly Internal Revenue Bulletin, which is the Commissioner's authoritative instrument for announcing official rulings and procedures of the Service and for publishing Treasury decisions, executive orders, tax conventions, legislation, court decisions, and other items of general interest; compiles all precedent material in the weekly Internal Revenue Bulletins for publication in semiannual Cumulative Bulletins; prepares digests of all substantive materials in the Bulletin for publication in the Index-Digest System, complete with topical indexes and finding lists, for research use by the public and Service personnel; compiles recofd retention requirements from regulations for publication in the FEDERAL REGISTER; drafts summaries of selected authoritative material for publication in Tax Briefs to keep Service personnel abreast of significant developments in Federal taxation; compiles the Service's Looseleaf Regulations System and drafts appropriate transmittals and filing instructions; compiles items to be published in the biennial Cumulative List of Exempt Organizations, its bimonthly supplements, and the announcements of current deletions in the Bulletin; initiates actions to preserve the standards and improve the effectiveness of the Bulletin system; drafts plain-language explanations of all Federal tax laws (other than those relating to alcohol, tobacco, and firearms taxes) for publication in booklets such as Your Federal Income Tax, Tax Guide for Small Business, Farmer's Tax Guide, and numerous pamphlets, to inform the public about the rights and duties of taxpayers; drafts plain-language instructional material for publication in the Understanding Taxes program; reviews material relating to Federal taxation in booklets and other issuances initiated by other Government agencies, and by others, when such cooperation is in the best interests of the Service; reviews for technical accuracy releases, articles, notices, and radio and television program materials, prepared for issuance by Public Information Division; drafts in-depth analyses and explanations of major developments in Federal taxation for publication in quarterly, annual, and special issues of the Review of Technical Developments, which are used to update the technical skills of Service personnel; participates in the drafting and reviewing of technical tax handbooks and guides for Service personnel and technical law text materials for use in Service training programs; drafts material for publication in Reports on Current Tax Literature to keep Service officials apprised about articles, comments, etc., published outside the Service regarding tax loopholes or inequities, and criticism of Service position; prepares Announcements and Releases, and IR-Manual issuances relating to the publications program; coordinates with other Technical branches, Chief Counsel, Audit Division, and others on matters of mutual concern; and coordinates with Publications Branch of Facilities Management Division and the Government Printing Office in the development of Production Control Schedules, format design, proof processing, and other matters of mutual interest.

1113.933 *Technical Services Branch.* Issues general technical information letters, coordinates the overall correspondence program of the Technical organization, and provides support services for Technical. In carrying out these responsibilities, this Branch: Issues direct replies to all communications involving requests for information of a general technical or procedural nature, including a substantial portion of congressional inquiries directed to Technical; serves as liaison office and point of contact on all congressional office inquiries, oral or written, relating to matters under the jurisdiction of Technical; coordinates with other offices in Compliance, Chief Counsel, Data Processing, and Administration on correspondence crossing jurisdictional lines; keeps the Assistant Commissioner (Technical) informed regarding incoming communications involving sensitive or controversial matters; coordinates the Technical Field Conference program whereby teams of specialists in the various tax areas and representatives of the Chief Counsel's office and the Audit Division meet with field officials in district offices to discuss technical matters of mutual interest or concern; coordinates the preparation and clearance of material for Part XI of the Internal Revenue Manual; coordinates actions for the Technical organization on matters involving the Freedom of Information Act; maintains a technical reference library and provides research assistance and reference services for personnel of the Technical organization and other offices in the National Office; corresponds with field offices to supply or request needed information on current or prior matters; analyzes, acknowledges receipt, and directs the flow of all incoming correspondence, including requests for rulings and technical advice, general technical inquiries, reports submitted by Service field offices under the technical coordination program, etc., to the appropriate Technical divisions or branches; and processes, maintains, and services all closed correspondence files and related records for the Technical organization. This Branch also maintains and services exempt organization application files that are open to public inspection, processes requests for inspection thereof, and screens such files to delete certain materials that are exempt from public inspection.

1113.(10) OFFICE OF ASSISTANT COMMISSIONER (STABILIZATION)

The Assistant Commissioner (Stabilization) is the principal assistant to the Commissioner in administering the Stabilization program of the Internal Revenue Service which includes interpreting, implementing, monitoring, and enforcing the stabilization of prices, rents, wages, and salaries pursuant to the coverage, classifications, and implementation procedures established by the Cost of Living Council, Price Commission, and Pay Board. Such functions include, but are not limited to: operation and maintenance of local service and compliance centers established in support of the economic stabilization program; dissemination of information and guidance to the public; receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Council, Commission, or Board, and the establishment and operation of an appeal procedure; receiving, analyzing, investigating, and preparing and forwarding recommendations upon applications for exceptions and exemptions from coverage, classifications, and the implementation procedures to the Council,

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Commission, or Board, for decision; conducting monitoring investigations as to the effectiveness of the stabilization program; receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Council, Commission, or Board, where necessary; making factual determinations on behalf of the Council, Commission, or Board; and maintaining adequate records and the making of periodic reports to the Council, Commission, or Board. The Assistant Commissioner (Stabilization) coordinates with the Director, Stabilization Division, Office of the Chief Counsel, and is responsible for and supervises the activities of the Administrative Office, the Liaison Staff, the Technical Programs Division, the Service and Compliance Division and the Program Analysis Division.

1113.(10)1 *Administrative Office.* Plans, organizes, coordinates, and directs the administrative management activities of the Office of Assistant Commissioner (Stabilization) at the National level, assisting and collaborating with Division Directors in providing personnel, space management, duplication, supply, and other administrative services.

1113.(10)2 *Liaison Staff.* Maintains liaison with the Cost of Living Council, the Price Commission, and the Pay Board on substantive matters pertaining to the economic stabilization service and compliance administration programs of the Internal Revenue Service, represents the Assistant Commissioner (Stabilization) in such contacts, and coordinates the exchange of information between the Service and the Council, Commission, and Board.

1113.(10)3 *Technical Programs Division.* Develops and exercises functional supervision over nationwide programs of the Service relating to the administration of the economic stabilization program which involve interpretations, exceptions and exemptions, appeals from adverse IRS actions, pay challenges, and technical publications. The Division reviews proposed regulations and rulings, furnishes interpretative support to the other organizational components of the Assistant Commissioner (Stabilization), prepares and issues technical forms and publications, maintains liaison with government and nongovernment organizations, assists field offices, and insures uniformity and consistency of decisions by field offices on appeals, challenges, exceptions, exemptions and interpretations. The Director is responsible for and supervises the activities of four branches: Exceptions and Exemptions Branch; Interpretations and Liaison Branch; Management and Appeals Branch; and Publications and Guidance Materials Branch.

1113.(10)31 *Exceptions and Exemptions Branch.* In matters involving exceptions or exemptions relating to the administration of the economic stabilization program, this Branch exercises program management responsibility for procedures used by field offices; establishes review procedures relating to the disposition of exception and exemption applications; postreviews field disposition of exception and exemption actions to insure uniformity and consistency of decisions; provides technical assistance to field offices; reviews files and recommendations received from district offices for transmittal to the Cost of Living Council, the Pay Board, and the Price Commission, recommends appropriate action, and transmits files to the policymaking bodies or to the district offices; reviews policy-body dispositions of cases in order to discern trends and precedents; publishes a digest of approved cases; prepares reports, indicating problem areas of nationwide concern, for consideration by the Cost of Living Council, the Pay Board, and the Price Commission; identifies the need for, and recommends, delegations of authority to the Internal Revenue Service; develops procedures, forms, form letters, and pattern letters; establishes a working relationship with subject matter counterparts at the Pay Board, the Price Commission, and the Cost of Living Council; performs necessary action in response to field comments which are relevant to Branch program responsibilities; conducts special studies and projects; and maintains adequate records.

1113.(10)32 *Interpretations and Liaison Branch.* In matters involving interpretative and liaison aspects of administering the economic stabilization program, this Branch exercises program management responsibility for procedures used by field offices; reviews, for administrative feasibility and adequacy, drafts of regulations prepared by the Chief Counsel, the Cost of Living Council, the Pay Board, and the Price Commission; assists in issuing interpretations; provides interpretative assistance to other organizational components of the Assistant Commissioner (Stabilization); reviews documents containing interpretative material (Questions and Answers, documents, news releases, and other publications) to insure technical accuracy; reviews field decisions to insure technical accuracy, uniformity, and consistency; functions as technical-interpretative adviser for all components of the Service on economic stabilization disclosure matters; provides instructors and assists in the development of training materials for stabilization related courses; develops technical materials for internal use; submits technical material for inclusion in the Stabilization Program Guidelines (SPG) Service; performs necessary action in response to field comments which are relevant to Branch program responsibilities; coordinates Division actions in response to field comments which are relevant to program responsibilities; establishes cooperative program relations with Federal, State, local and foreign governments and agencies; establishes cooperative program relations with national, business, labor, professional, consumer and other groups; promotes and conducts institutes and conferences, and provides coordination for conferences which require the IRS participation and which are held by the Pay Board or Price Commission; cooperates with the Public Affairs Division in the assignment of public speakers; aids national associations in the preparation and review of membership bulletins on stabilization matters; represents the Assistant Commissioner (Stabilization) at meetings of the economic stabilization advisory bodies; responds to congressional inquiries as well as inquiries from State and local governments and other government agencies, national business, labor, professional and consumer groups; responds to inquiries referred from the Cost of Living Council, Pay Board, and Price Commission; performs other public and liaison activities as required; conducts special studies and projects; and maintains adequate records.

1113.(10)33 *Management and Appeals Branch.* In matters involving appeals from adverse IRS actions and pay challenges relating to the administration of the economic stabilization program, this Branch exercises program management responsibility for procedures used by field offices; develops procedures relating to appeals and challenges; provides continuing technical assistance to field offices; reviews files and recommendations received from district offices for transmittal to the Cost of Living Council, the Pay Board, and the Price Commission, recommends appropriate action, and transmits files to the policymaking bodies or to the district offices; postreviews field disposition of appeals and challenges to insure uniformity and consistency of decisions; reviews policy-body dispositions of cases in order to discern trends and precedents; publishes a digest of approved cases; and performs necessary action in response to field comments which are relevant to Branch program responsibilities. This Branch also assists other branches of the Division in the evaluation of nationwide programs within the functional jurisdiction of the Division; conducts a program of visits to field offices to make on-site reviews of operations, to make recommendations, and to render assistance; coordinates Division response to Internal Audit findings of deficiencies in field operations; coordinates, with other divisions and functions, feedback regarding the effectiveness of Division programs; coordinates Division reporting requirements including statistical and narrative reports, regional visitation reports, and other special reports, as necessary; acts as a management staff in the performance of personnel, budget, training, and other administrative functions for the Division; conducts special studies and projects; and maintains adequate records.

1113.(10)34 *Publications and Guidance Materials Branch.* In matters involving publications and guidance material relating to the Economic Stabilization program, this Branch develops procedures relating to program responsibilities for field and National Office use; determines the content, directs the compilation, and reviews the authoritative Stabilization Program Guidelines (SPG) Service, the cumulative nationwide ESP technical guidance system; coordinates interpretative and explanatory material for inclusion in the SPG; develops plain-language publications from regulations, rulings, and other substantive material in order to inform Service employees and the public of substantive and procedural matters; develops publications at the request of policymaking bodies; acquires and disseminates general internal program information to employees and field offices; coordinates the preparation and clearance of material for Part XII of the IRM; provides information for, and assists in the preparation of, internal training materials; provides technical on-the-job training aides and materials; prepares and coordinates external public education material; provides technical and editorial support and assistance in planning, reviewing, and coordinating public-use forms and form letters; reviews for administrative feasibility, consistency, and adequacy, all public-use forms and form letters developed by the Cost of Living Council, Pay Board and Price Commission and coordinates or prepares related instructions for use by Service officials; coordinates and assists in developing internal-use forms and form letters; serves as a research and reference center for ESP information; performs necessary action in response to field comments which are relevant to Branch program responsibilities; conducts special studies and projects; and maintains adequate records.

1113.(10)4 *Service and Compliance Division.* Develops and exercises functional supervision of nationwide programs of the Service concerning the economic stabilization compliance and public service administration which involves responding to inquiries on substantive matters; investigating complaints of violations; conducting compliance monitoring; conducting factfinding investigations requested by the Council, Commission, and Board; providing for, and supervising, a program to assure quality of operations and consistency in handling inquiries, investigations, and compliance monitoring. The Director is responsible for and supervises the activities of two branches: Service Programs Branch; and Compliance Programs Branch.

1113.(10)41 *Service Programs Branch.* In matters involving programs of service to the public, this Branch: Exercises functional responsibility for public service programs including, but not limited to, walk-in and telephone requests for service or assistance, written inquiries and other requests of a service nature performed in the District; assists and guides the field in implementing, monitoring, and evaluating the programs, including the establishment of procedures; maintains continuing liaison with the Technical Programs and Program Analysis Divisions and the Public Affairs Division in order to insure coordinated, effective public service programs; assists the Technical Programs Division in determining the need for and providing publications and documents; and coordinates activities of the local service and compliance centers with the Taxpayer Service Division of the Office of the Assistant Commissioner (ACTS). This branch operates the Correspondence Unit which serves as the National Office clearing and routing point for all public correspondence relating to Stabilization matters; answers sensitive correspondence; analyzes on a selected basis the nature of correspondence being received and makes these analyses available to management officials; and maintains adequate records.

1113.(10)42 *Compliance Programs Branch.* In matters involving compliance administration, this branch; formulates programs concerning compliance such as investigation of citizen complaints of noncompliance by firms and individuals, and followup to insure continued compliance; makes random investigations to ascertain compliance; and conducts factfinding investigations for Council, Commission, and Board. This Branch provides assistance and guidance in implementing, monitoring, and evaluating these programs and prepares necessary procedures; drafts procedures for cases involving enforcement action; coordinates activities with other Stabilization organizational elements and with other Assistant Commissioners; coordinates compliance investigations which are of nationwide significance or involve several districts; provides guidance to certain districts which have operational responsibility for conducting such investigations; and maintains adequate records.

1113.(10)5 *Program Analysis Division.* Reviews and analyzes the results of all programs pertaining to Internal Revenue Service's responsibilities under the Economic Stabilization program; furnishes advice, information, and recommendations concerning these programs and program management to the Assistant Commissioner (Stabilization); assist the Operations Division of the Cost of Living Council in planning and conducting on-site review of Service operations within the Council's jurisdiction; develops and administers a program to provide managerial and operating reports which are integral parts of the overall management information and reporting system; has the responsibility in Stabilization for the telecommunications center and conducts special studies. This division is responsible for the development of a Service-wide Stabilization budget and manpower plan, including Planning-Programing-Budgeting System submissions, and for reviewing the Operating Financial Plan; serves as the focal point for field liaison and coordination on nontechnical matters. The Director is responsible for and supervises the activities of three branches: Program Planning Branch; Resources and Evaluation Branch; and Program Information Branch.

1113.(10)51 *Program Planning Branch.* In matters involving the analysis and review of all programs pertaining to the economic stabilization service and compliance administration program, this branch: Furnishes advice, information, and recommendations concerning these programs to the other Economic Stabilization program Divisions and to the Assistant Commissioner (Stabilization); in cooperation with other divisions of Stabilization, designs and promulgates to field activities guidelines which will define the parameters within which the Economic Stabilization program will operate; conducts special studies and engages in special projects, generally interfunctional in scope, as the request of the Assistant Commissioner (Stabilization) or the Stabilization Division Directors; and maintains adequate records.

1113.(10)52 *Resources and Evaluation Branch.* In matters involving field resources, this Branch: Develops and monitors field work planning and control procedures, prepares financial plans for National Office activities of Stabilization, and recommends allocation of field activity budget estimates; develops a costing system that assesses the resources impact of proposed changes to the Stabilization program; prepares and updates the Planning-Programing-Budgeting System submission for Stabilization (including the program planning assumptions. Program and Financial Plan, and the program memorandum); and develops region and district organization and staffing guidelines. This Branch maintains field liaison with activities of the Service's Stabilization program to insure that the field problems and concerns receive immediate attention in the National Office. It utilizes statistical indicators and on-site reviews to evaluate the quality, timeliness, and economy of the total program. Serves as the focal point for the Assistant Commissioner (Stabilization) in the National Office Review Program; and maintains adequate records.

1113.(10)53 *Program Information Branch.* In matters involving reports, data analysis, information systems and the telecommunications center, the following services are provided by the branch: Designs, develops, installs, monitors, and evaluates reporting systems for internal needs as required by the Assistant Commissioner (Stabilization); consults and participates in the design and development of other stabilization information systems, e.g., research data systems, rulings retrieval systems, etc.; answers requests for specific data about the stabilization program; provides statistical and analytical services to all elements of the stabilization program; prepares one-time and/or sample-based data collections to service needs for data that are not recurring; prepares all reporting procedures; makes systematic changes when necessary because of changing data requirements; coordinates with other stabilization areas in identifying new data requirements; develops reports formats and specifications; provides the telecommunications facilities and system for the nationwide transmission and receipt of facsimile messages for the economic stabilization program; and maintain adequate records.

1113.(11) OFFICE OF THE CHIEF COUNSEL

The Chief Counsel, an Assistant General Counsel of the Treasury Department, serves as a member of the Commissioner's executive staff and as counsel and legal officer to the Commissioner on all matters pertaining to the administration and enforcement of the internal revenue laws and related statutes, and on all legal matters pertaining to the Service's economic stabilization activities. The key officials under his supervision are: Deputy Chief Counsel, Associate Chief Counsel (Litigation), Associate Chief Counsel (Technical), Staff Assistants, Technical Advisors, Special Assistants, Director of the Operations and Planning Division, Director of the Stabilization Division, and Regional Counsel.

1113.(11)1 *Deputy Chief Counsel.* The Deputy Chief Counsel acts for and represents the Chief Counsel in the development of policies governing the Office of the Chief Counsel, and assists the Chief Counsel in the formulation of tax litigation policy and the interpretation and development of the internal revenue laws.

1113.(11)2 *Associate Chief Counsel (Litigation).* Plans, directs, coordinates and controls the policies and programs pertaining to Tax Court Litigation; Enforcement; General Litigation; and Refund Litigation work.

1113.(11)21 *Tax Court Litigation Division.* The Tax Court Litigation Division develops policies, programs, and procedures relating to the disposition of tax cases pending in the U.S. Tax Court; supervises and coordinates the defense and settlement and the processing and handling of such cases, including preparation of pleadings, recomputations and other documents filed with the Tax Court together with hearings thereon to assure uniform treatment; coordinates and reviews Tax Court matters prepared in the Regional Offices; including the rendering of technical advice to the field offices, the approval of Chief Counsel's Decisions, the review of briefs to be filed with the Tax Court and recommendations of field offices for acquiescence or nonacquiescence in adverse Tax Court decisions; prepares recommendations to the Department of Justice for the Commissioner's appeals to the Courts of Appeals and prepares petitions and records on review in such cases; makes recommendations to that Department regarding offers in compromise or settlement and prepares recommendations for or against filing petitions for writs of certiorari to the Supreme Court in such cases. It supervises the preparation and trial of cases assigned to, and handled by, attorneys in the Trial Branch.

1113.(11)22 *Enforcement Division.* The Enforcement Division handles and prepares for final decision those criminal tax cases referred to the Chief Counsel by Regional Counsel or by the National Office. It considers cases in which the Regional Commissioner and the Director of the Intelligence Division of the Office of the Assistant Commissioner (Compliance) do not concur in recommendations of Regional Counsel involving prosecution. The Division prepares acquiescence memorandums or protest letters on decisions by the Department of Justice or U.S. Attorneys against prosecution and recommendations to the Department of Justice respecting appeals of court decisions in criminal tax cases. It also prepares law opinions in cases involving penalties or other legal questions with respect to criminal cases or investigations or with respect to the disclosure of information. The Division coordinates with the Department of Justice or interested branches of the Service any questions involving investigations or actions respecting the civil aspects of pending criminal cases.

1113.(11)23 *General Litigation Division.* The General Litigation Division supervises and coordinates legal work of Regional Counsel on collection litigation matters. It reviews certain offers in compromise (except those concerning alcohol, tobacco, and firearms taxes). It prepares advisory opinions on collection litigation matters. The Division prepares and reviews recommendations to the Department of Justice concerning certiorari, appeal and petition for review in relation to all collection litigation cases. It handles certain legal work for the Director of International Operations. The General Litigation Division prepares and reviews recommendations to the Department of Justice concerning the defense injunction actions to restrain the assessment or collection of federal taxes; offers in settlement; the waiver or release of a right to redeem under 28 U.S.C. 2410; and suits for the civil enforcement of summonses. Similarly, the Division considers

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recommendations that the Commissioner authorize or sanction affirmative action in insolvency cases (including decendants' estate proceedings), suits for foreclosure of mortgages or other liens and suits to quiet title where the United States is named as a party defendant, cases involving appointment of a receiver in aid of foreclosure of Federal tax liens, and suits for the collection of taxes.

1113.(11)24 *Refund Litigation Division.* The Refund Litigation Division performs all necessary legal service on behalf of the Internal Revenue Service in connection with taxpayers' suits for refund of taxes (except alcohol and tobacco taxes). It determines and coordinates the legal position of the Service in such suits and incorporates such determinations in recommendations to the Department of Justice with respect to the defense of such suits, the acceptance or rejection of settlement proposals and appeals and petitions for certiorari from adverse court decisions. The Division performs all necessary legal services on behalf of the Service in connection with all civil litigation affecting the Service and not within the responsibility of any other Division.

1113.(11)3 *Associate Chief Counsel (Technical).* Plans, directs, coordinates and controls the policies and programs pertaining to Legislation and Regulations, and Interpretative work.

1113.(11)31 *Legislation and Regulations Division.* The Legislation and Regulations Division has the basic responsibility for representing the Internal Revenue Service in connection with legislation affecting the various internal revenue taxes and for the preparation of regulations required to be issued in connection with those taxes, except for taxes relating to alcohol, tobacco, and certain firearms. In discharging this responsibility, the Division: Participates in the development and drafting of new and amendatory internal revenue legislation and in connection therewith furnishes required technical assistance; prepares new and revised regulations; prepares reports on private and public bills; prepares news and information releases relating to regulations; prepares responses to correspondence concerning legislation and regulations from the Congress and the public; and, in developing regulations, arranges and conducts public hearings and meetings with taxpayers and their representatives and with professional and industry groups. The Division prepares Executive orders and related papers authorizing the inspection of tax returns, and reviews and prepares amendments to the Statement of Procedural Rules. The Division represents the Internal Revenue Service with respect to the negotiation and drafting of tax treaties with foreign countries and the preparation of the necessary implementing regulations.

1113.(11)32 *Interpretative Division.* The Interpretative Division reviews as to form and legality interpretations of internal revenue statutes and regulations and other law and legal materials bearing upon the administration of the Internal Revenue Service except those relating to alcohol, tobacco, and firearms matters; criminal tax investigations and prosecutions; lien and collection matters, including those involving bankruptcies, receiverships and other insolvencies; administrative matters; disclosure matters; and summons enforcement matters. The Division prepares formal opinions of the Chief Counsel in assisting him in carrying out his functions as legal advisor to the Commissioner in the technical area. The Division is also responsible for the legal review of closing agreements.

1113.(11)4 *Operations and Planning Division.* Operations and Planning Division is responsible for all law work in the Internal Revenue Service other than substantive tax law work; at the direction of the Chief Counsel performs special assignments of a technical nature in substantive tax law. The Division serves as the principal legal advisor to the Assistant Commissioner (Administration), the Assistant Commissioner (Accounts, Collection, and Taxpayer Service) and the Assistant Commissioner (Inspection). The Division is responsible for the supervision and coordination of all legal management work of the Chief Counsel's Office (National Office and all field offices); establishes and maintains appropriate standards of professional competence by members of the legal staff of the Office and evaluates their legal competence; analyzes the workload of the Office, and determines the distribution of personnel available to handle the workload. The Division is responsible for the general supervision of all matters relating to administration and management in the Office of the Chief Counsel. Reviews and prepares for action enrollee and disbarment cases referred to the Chief Counsel by the Director of Practice, and represents the latter in the trial of cases before Hearing Examiners.

1113.(11)5 *Stabilization Division.* Within the framework of the new Economic Stabilization Program established by Executive Order No. 11627, the Director, Stabilization Division, under the general supervision of the Chief Counsel for the Internal Revenue Service, manages and coordinates a regulations and rulings development and perfection function in support of the Pay Board and Price Commission; and, in addition, serves as the principal legal advisor to the Assistant Commissioner (Stabilization) and his staff, and provides functional advice to the Regional Counsel and Assistant Regional Counsel (Stabilization) in providing interpretative advice and guidance, and handling certain appeal and litigation assistance functions in support of Internal Revenue Service and other Government personnel charged with responsibility for administering the Economic Stabilization program. In managing these functions the Director will supervise the components of the Stabilization Division.

1114 Office of Regional Commissioner

1114.1 Mission

The mission of the Office of Regional Commissioner is to execute the broad nationwide policies and programs for the administration of the internal revenue laws, to carry out appellate programs at the regional level, and direct and coordinate the functions and activities of the District Offices within the region.

1114.2 Basic organization

The principal organization components of of the typical Office of the Regional Commissioner are the immediate Office of the Regional Commissioner, the Administration Division, the Appellate Division, the Audit Division, the Accounts, Collection, and Taxpayer Service Division, the Intelligence Division, and the Stabilization Division. An Assistant Regional Commissioner heads each division.

1114.3 Regional commissioner

The Regional Commissioner administers within an assigned regional area the accounts, collection, and taxpayer service; audit; intelligence; Appellate; economic stabilization; and administration programs of the Internal Revenue Service. He carries out Service policies and programs in conformity with delegations of authority and, in this connection, establishes regional standards and programs to assure proper and effective implementation of Service-wide policies and programs within his region. The Regional Commissioner supervises and coordinates the work of the staff of the Regional Office and the District Directors within his region to assure that work is processed in an orderly and timely manner, and that proper and equable emphasis is placed and directed toward the accomplishment of current program objectives. As the principal field official, he evaluates the effectiveness of Service policies and programs, and advises the National Office as to the need for revising such policies and programs to bring about improved operations or service.

1114.4 Assistant regional commissioner (administration)

The Assistant Regional Commissioner (Administration) acts as the principal assistant to the Regional Commissioner in planning, coordinating and evaluating the administration activities of the Service under the jurisdiction of the Regional Commissioner to insure that administration policies and programs are properly executed. In conformity with administration policies, and programs established by the National Office, he develops regional standards and other measures necessary to implement most effectively the administration program of the Service which includes budget and fiscal management, personnel administration, training, public information, property and records management, use of facilities, printing and reproduction, and reports management. He also coordinates organization planning and advises and makes recommendations to the Regional Commissioner thereon; and furnishes guidance for and coordinates management programs. He provides the Regional Commissioner with results of evaluations and other information upon which to base his administration of the regional administration programs and recommends improvements and adjustments therein needed to bring about and sustain a high level of performance in administration activities within the region. Under the Regional Commissioner he serves as the primary source of information to the National Office as to the effectiveness of administration policies, programs, procedures and standards in terms of regional and district requirements, provides reports and factual information upon which the National Office can base administration policy and program considerations, and recommends appropriate action with respect to problems encountered in observing and evaluating administration operations. Within the limits of his delegated authority, he provides the Regional Counsel and Regional Inspector with such administrative services as they may require in the performance of their duties. He is responsible for and supervises the activities of four branches: Facilities Management Branch, Fiscal Management Branch, Personnel Branch, and Training and Development Branch.

1114.41 *Facilities Management Branch.* The Facilities Management Branch coordinates, evaluates and carries out regionwide programs for providing essential support activities designed to increase the effectiveness of the region, reduce its operating costs and improve taxpayer relations. Develops, within the broad guidelines established by the National Office, standards and procedures for such matters as the management of paperwork; space; property and supply; procurement and contracts; production, storage, and distribution of forms and publications initiated within the region and distribution and requirements of National Office forms and publications; emergency planning for civil defense; fire and safety, document and property security; and processes all claims arising within the region under the Federal Tort Claims Act.

1114.42 *Fiscal Management Branch.* The Fiscal Management Branch performs, coordinates and evaluates budgeting, administrative accounting and financial reporting (other than for revenue collections) for the region, including the preparation of the financial plan within overall budget limitations, submission of budget data, allotment of funds, maintenance of accounts, and examination of vouchers. This branch participates in long-range planning involving expenditures for personnel, equipment, administrative services, space and similar items.

1114.43 *Personnel Branch.* The Personnel Branch develops and evaluates the regional personnel program and standards relating to recruitment and selection, employee relations, disciplinary actions, performance, evaluation, promotions, in-service placements, incentive awards, records, reports and other aspects of a complete personnel program, within the framework of Service policies, programs and procedures established by the National Office, and conducts the personnel program for the Regional Office. It conducts the position classification program for the region. The Branch represents the region in contacts with employee groups and the Regional Directors of the Civil Service Commission.

1114.44 *Training and Development Branch.* The Training and Development Branch is responsible for the administration, conduct, and evaluation of all the region's Service-wide courses and for providing functional guidance, support, and coordination to local training. These programs include initial orientation, technical training, instructor training, supervisory and managerial training, career development programs, on-the-job and refresher training, and taxpayer education programs. The Branch is responsible for the regional organizational development program, the planned, systematic approach to equipping Service managers to anticipate, identify, and, through the use of tested techniques such as "team building," overcome the obstacles to effective organizational operation. The Branch is also responsible for the operation of the Regional Training Center(s). Where the Center is not in the proximity of the Regional Office site, a Training Center Officer, under the direction of the Regional Training Officer, supervises its day-to-day operation. The Branch also provides training assistance to State and local government agencies.

1114.5 Assistant regional commissioner (appellate)

The Assistant Regional Commissioner (Appellate) acts as the principal assistant to the Regional Commissioner in planning, directing, coordinating and evaluating the appellate activities of the Service under the jurisdiction of the Regional Commissioner within the framework of Service policies and programs established by the National Office. He is responsible to the Regional Commissioner for a program of hearing and undertaking final settlement of taxpayers' appeals from determinations of tax liability made by District Directors within the region, involving income, profits, estate, gift, and employment taxes, and excise taxes except those imposed on alcohol, wagering, narcotics, firearms, and tobacco; and for a program of hearing and, with concurrence of Regional Counsel, undertaking final settlement of certain cases docketed in the U.S. Tax Court. His program includes preparing reports to the Joint Committee on Internal Revenue Taxation in Appellate cases involving overpayments in excess of $100,000, and hearing administrative appeals in offer in compromise cases. In the foregoing programs, he represents the Regional Commissioner and exercises authority under delegation of authority from the Commissioner of Internal Revenue. Under the Regional Commissioner he serves as the primary source of information to the National Office as to the effectiveness of appellate policies, programs, procedures, and standards in terms of regional requirements, provides reports and factual information upon which the National Office can base appellate policy and program considerations, and recommends action with respect to problems encountered in Appellate operations. He supervises the activities of all Appellate branch offices in the region.

1114.51 *Appellate Branch Offices.* The basic settlement work of the Appellate Division is performed in branch offices of the Division which are headed by Chiefs who report to the Assistant Regional Commissioner (Appellate). The branch offices hold conferences and make final determinations, within the limits of their delegated authority, on cases involving income, profits, estate, gift, and employment taxes and excise taxes, except those imposed on alcohol, wagering, narcotics, firearms, and tobacco, in which taxpayers have requested Appellate consideration. The branch offices prepare reports to the Joint Committee on Internal Revenue Taxation in protested and petitioned cases which involve overpayments in excess of $100,000, and also consider protested offers in compromise. Branch offices, under delegated authority, enter into closing agreements under IRC 7121 in cases under their jurisdiction.

1114.6 Assistant regional commissioner (audit)

The Assistant Regional Commissioner (Audit) acts as the principal assistant to the Regional Commissioner in planning, coordinating, and evaluating the audit activities of the Service under the jurisdiction of the Regional Commissioner to insure that policies and programs are properly executed, that audit work is processed in an orderly and timely manner, that equal emphasis is placed and uniform effort directed toward the accomplishment of the current audit program objectives, and that required standards for audit uniformity are being maintained. In conformity with audit policies, and programs established by the National Office, he develops regional programs, standards, and other measures necessary to implement most effectively the audit program of the Service which includes the selection of returns for audit, their examination and investigation, the determination of tax liabilities and penalties where applicable, a regional review of selected district office cases and the administrative disposition of offers in compromise by district Audit Divisions. He provides the Regional Commissioner with results of evaluation and other information upon which to base his administration of the regional audit program and recommends improvements and adjustments in audit operations needed to bring about and sustain a high level of performance within the region. Under the Regional Commissioner he serves as the primary source of information to the National Office as to the effectiveness of policies, programs, procedures and standards in terms of regional and district requirements, provides reports and factual information upon which the National Office can base policy and program considerations, and recommends appropriate action with respect to problems encountered in observing and evaluating audit operations.

1114.7 Assistant regional commissioner (accounts, collection, and taxpayer service)

The Assistant Regional Commissioner (Accounts, Collection, and Taxpayer Service) acts as the principal assistant to the Regional Commissioner in planning, coordinating and evaluating the returns processing (except wagering, alcohol, and tobacco tax, and firearms returns and applications), data processing, revenue accounting, collecting of delinquent accounts, securing delinquent returns, and taxpayer service activities under the jurisdiction of the Regional Commissioner to insure that the policies and programs established by the National Office are timely and properly executed and that equal emphasis is placed and uniform effort directed toward the accomplishment of the accounts, collection and taxpayer service program objectives. He exercises line supervision over those activities at the Regional Office and functional supervision over related activities in the Service Center(s) and District Offices within the region. He provides the Regional Commissioner with results of evaluations and other information upon which to base his administration of these programs and recommends improvements and adjustments needed to bring about and sustain a high level of performance within the region. Under the Regional Commissioner, he serves as the primary source of information to the National Office as to the effectiveness of the accounts, collection and taxpayer service policies, programs, procedures and standards in terms of factual information upon which the National Office can base accounts, collection and taxpayer service policy and program considerations and recommends appropriate action with respect to problems encountered in observing and evaluating these activities.

1114.8 Assistant regional commissioner (intelligence)

The Assistant Regional Commissioner (Intelligence) acts as the principal assistant to the Regional Commissioner in planning, coordinating and evaluating the intelligence activities of the Service under the jurisdiction of the Regional Commissioner to ensure that policies and programs are properly executed, and that the intelligence work is processed in an orderly and timely manner. In conformity with intelligence policies and programs, established by the National Office, he develops regional programs, standards and other measures necessary to implement most effectively the intelligence program of the Service which includes the investigation of alleged tax fraud, certain other civil and alleged criminal violations of tax laws (except alcohol, tobacco, and certain firearms tax cases), and such other special investigations as the Commissioner may direct. He provides the Regional Commissioner with results of evaluations and other information upon which to base his administration of the regional intelligence program and recommends improvements and adjustments in the intelligence operations needed to bring about and sustain a high level of performance within the region. Under the Regional Commissioner he serves as the primary source of information to the National Office as to the effectiveness of intelligence policies, programs, procedures and standards in terms of regional and district requirements, provides reports and factual information upon which the National Office can base intelligence policy and program considerations and recommends appropriate action with respect to problems encountered in observing and evaluating intelligence operations.

1114.81 *Management and Evaluation Staff.* Exercises primary responsibility for the adequacy of district program content and effectiveness of management of Service resources in each district; evaluates costs and benefits of achieving program objectives; develops and maintains statistical indicators of management effectiveness; identifies required changes in program operations through program reviews in districts and assists in redirecting needed emphases in program goals

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and operations; assists districts in evaluation of personnel; conducts workload analyses to determine proper balance of staffing and other resource requirements; evaluates case selection and management methods together with quality control practices; analyzes effectiveness of publicity concerning Intelligence matters; maintains mutually productive working relationships with members of the National Office, Service Center, and other offices regarding potential fraud situations; communicates information on all significant program and management developments; prepares narrative reports; and works on special projects and assignments.

1114.82 *Operations and Technical Assistance Staff.* Responsible for all general and special enforcement operational activities consisting of broad impact programs and objectives directed toward criminal violations of tax laws. Provides advice and assistance to district officials in the overall planning and execution of district Intelligence investigative programs, including determination of priorities and resource requirements; coordinates program operations with representatives of other IRS organizational segments and Department of Justice; evaluates and disseminates information and data to the districts, received from the National Office or other governmental agencies etc., relating to known or potential subjects of Intelligence enforcement efforts; identifies sensitive and significant situations; prepares reports on significant matters to be brought to the attention of the Regional Commissioner or National Office; coordinates special investigations, case development efforts and projects which involve two or more districts; assists districts in establishing and perfecting control practices and procedures with Service Centers and advising district officials regarding the application of data processing techniques to investigative problems. Provides technical guidance on case matters; conducts post review programs in each district; analyzes supplemental requests and Criminal Action Memorandums; identifies technical training needs and participates in development of training programs; conducts refresher training programs and participates in fraud training programs; coordinates case matters with Counsel and Department of Justice; prepares protests on CAM actions; provides technical advice on complex case matters; develops new procedures and investigative approaches; makes annual evaluations of case inventories; reviews cases closed for insufficient resources; identifies indicators of potential case management selection weaknesses; critiques investigations in terms of case selection standards and investigative quality; assists districts in evaluating fraud referral program effectiveness and improving quality of investigations and reports.

1114.9 ASSISTANT REGIONAL COMMISSIONER (STABILIZATION)

The Assistant Regional Commissioner (Stabilization) acts as the principal assistant to the Regional Commissioner in planning, directing, coordinating, and evaluating the stabilization activities under the jurisdiction of the Regional Commissioner within the framework of Service policies and programs established by the National Office. He is responsible to the Regional Commissioner for developing programs, standards, and other measures necessary to implement most effectively the stabilization program of the Service which includes responding to inquiries, investigating allegations of price-rent-wage-salary violations, conducting monitoring investigations, hearing appeals, processing requests for exceptions and exemptions, and providing information about the Economic Stabilization Program.

1115 OFFICE OF REGIONAL INSPECTOR

There are seven Regional Inspectors, one in each internal revenue region. The Regional Inspector, who operates under the direct supervision of the Assistant Commissioner (Inspection), is responsible for the conduct throughout the region of both the internal audit and internal security programs.

1115.1 ASSISTANT REGIONAL INSPECTOR (INTERNAL AUDIT)

Under the supervision of the Regional Inspector, the Assistant Regional Inspector (Internal Audit) is responsible for the conduct of the internal audit program throughout the region. The internal audit, which includes verification of financial transactions and analyses of operating practices and procedures, serves as the basis for informing appropriate officials of the manner in which operations are being carried out and responsibilities are being discharged as a basis for necessary changes in policies, practices, and procedures.

1115.2 ASSISTANT REGIONAL INSPECTOR (INTERNAL SECURITY)

The Assistant Regional Inspector (Internal Security) is responsible for the conduct of the Internal Security program throughout the region. The program, which provides a factual basis for conclusions by management, the Department of Justice or other authority for making decisions, includes personnel background investigations, investigations of complaints and allegations of misconduct or irregularities concerning Service employees and actions of non-Service persons that may affect the integrity of the Service or safety of Service employees, including attempts to bribe or otherwise corrupt Service personnel; this authority includes investigation of attempts to interfere with administration of Internal Revenue laws through threats, assaults or forcible interference and also the unauthorized disclosure of Federal tax information. The program also includes background investigations of certain applicants for enrollment to practice before the Internal Revenue Service, investigations of charges against tax practitioners, formal investigations of accidents involving Service employees or property, and investigations of alleged discrimination because of race, creed, color, or national origin. In addition, he is responsible throughout the region for the conduct of special investigations as directed by higher authority, for the Office of the Secretary and other components of the Treasury Department.

1116 OFFICE OF REGIONAL COUNSEL

(1) There are seven Regional Counsels, one in each Internal Revenue region. The Regional Counsel, who operates under the Chief Counsel for the Internal Revenue Service, serves as the principal legal advisor to the Regional Commissioner, the Regional Inspector, and the District Directors of Internal Revenue and their staffs. The Regional Counsel, subject to the Chief Counsel's continuing general supervision and review where appropriate or necessary, directs and supervises a staff of attorneys engaged in processing and handling cases docketed in the U.S. Tax Court and in furnishing legal advice and performing legal services connected with the tax court, enforcement, and general litigation functions.

(2) Tax Court litigation matters—The Regional Counsel's office furnishes legal advice to the Assistant Regional Commissioner (Appellate); in the name of the Chief Counsel, represents the Commission in the trial of cases before the Tax Court and is responsible for the preparation of pleadings, stipulations, and other documents to be filed with the Tax Court on behalf of the Commissioner prior to the entry of a decision by the court; makes recommendations to the Chief Counsel respecting adverse Tax Court decisions; considers and approves or disapproves the settlement of cases docketed in the Tax Court, subject to the concurrence of Appellate while such cases are in presession status; considers and concurs in, or disapproves, recommendations by Appellate to eliminate the ad valorem fraud penalties in cases not docketed in the Tax Court; and considers and reviews, prior to issuance, statutory notices of deficiency or liability proposed by Appellate, and certain of such notices proposed by the District Directors.

(3) Enforcement matters—The Regional Counsel's office is responsible for the performance of legal services in the field in connection with criminal cases arising under the internal revenue laws. The office reviews recommendations of prosecution in criminal cases received in the field, and prepares and refers such cases (other than alcohol and tobacco tax cases) to the Department of Justice or, where authorized by the Department of Justice, directly to U.S. Attorneys, or, where prosecution is not deemed warranted, prepares criminal action memoranda setting forth the reasons against the prosecution and closes such cases with the concurrence of the Assistant Regional Commissioner (Intelligence). On request, the office furnishes aid and assistance to U.S. Attorneys in criminal tax proceedings in the U.S. District Courts and Courts of Appeal.

(4) General litigation matters—The Regional Counsel's office is responsible for handling legal work with respect to cases under the Bankruptcy Act and other insolvency cases including decedents' estate proceedings; Federal tax liens in suits for foreclosure by mortgagees or other lienholders and in suits to quiet title; applications filed for the discharge of property from Federal tax liens or for the release of such liens; for review and handling of certain offers in compromise; recommendations as to the taking of affirmative action, whether by way of a separate suit or intervention in pending proceedings (with the exception of alcohol, tobacco and firearms matters not relating to proceedings under the Bankruptcy Act, liens, receiverships and other insolvencies); the defense of injunction suits to restrain the assessment or collection of Federal taxes (except with respect to alcohol, tobacco and firearms matters); the assessment and collection of taxes; and of the civil enforcement of summonses.

(5) Stabilization matters—The Assistant Regional Counsel (Stabilization) is responsible for providing interpretative advice and guidance concerning the rulings and regulations issued by the Pay Board and the Price Commission to the Office of Assistant Regional Commissioner (Stabilization) and answering specific legal questions concerning stabilization matters that may be presented. Also, provides functional support to Regional Counsel's Branch Offices that may be requested to furnish legal advice at the Service's District Director level. In addition, this Office is responsible for the review of litigation cases, involving violations of Pay Board's or Price Commission's regulations or rulings, that are developed at the District Director level by Service personnel and Department of Justice attorneys, and after such review forwarding the cases with appropriate recommendations through the Regional Counsel to the General Counsel of either the Pay Board, or Price Commission for possible litigation action by the Department of Justice, and at the same time reports of potential litigation will be forwarded to the Chief Counsel's National Office Stabilization Division.

1117 SERVICE CENTERS

1117.1 GENERAL

(1) There are 10 Internal Revenue Service Centers located at: Andover, Mass.; Austin, Tex.; Brookhaven, N.Y.; Chamblee, Ga.; Covington, Ky.; Fresno, Calif.; Kansas City, Mo.; Memphis, Tenn.; Ogden, Utah; and Philadelphia, Pa. Each Service Center is under the line supervision of the Regional Commissioner having jurisdiction over the area of their location.

(2) Each Service Center is headed by a Director who operates under the general direction of a Regional Commissioner. The Service Center Director is responsible to the National Office, through the Regional Commissioner, for implementing the programs assigned to the Center. He is responsible for budget, fiscal, and personnel operations of the Center under directives of the Regional Commissioner. He also participates with the National Office, through the Regional Commissioner, in planning, coordinating, and evaluating experimental projects to develop improved techniques and methods for processing tax returns. The Regional Commissioner, in turn, is responsible to the National Office for supervising the execution of the Service Center's program and for recommending adjustments to or modifications of the program. The Regional Commissioner also exercises general supervision over the activities of the Service Center Director in coordinating and maintaining liaison with Regional Commissioners, District Directors, and the National Office in carrying out the programs prescribed for the Centers by the National Office.

1117.2 SERVICE CENTER ORGANIZATION

1117.21 *General.* (1) The principal organizational components of the typical Service Center are the immediate office of the Service Center Director, Management Staff, Administration Division, Audit Division, Data Conversion and Accounting Division, Processing Division, and Taxpayer Service Division.

(2) The organizational structure is intended to prescribe the Service Center organization through the branch level. Regional Commissioners are authorized to establish the Service Center organization below branch level as they see fit.

1117.22 *Office of the Director.* Within the structure of the Internal Revenue Service, the Internal Revenue Service Center has organizational status comparable to that of the District Offices. It operates under the line supervision of the Service Center Director, who is responsible to the Regional Commissioner in the same manner as a District Director. The Director plans, directs, and administers functions of the Internal Revenue Service Center which provide services for the region(s). Its functions are to process tax returns and related documents through the use of automatic and manual data processing systems and high-speed processing devices and to maintain accountability records for internal revenue taxes collected within the region. Typical programs include the processing, analysis, and accounting control of income tax returns, estimated tax returns, wages and excise tax returns, corporation tax returns, income information documents, and mailing of income tax forms to individual taxpayers. The Director also plans, directs, and administers assigned Audit functions. Responsible for budget, fiscal and personnel operations of the Service Center.

1117.23 *Audit Division.* Administers the Audit activities centralized within service centers. These include: Correspondence audit; classification of returns, claims and related documents; processing Audit/Appellate adjustments; technical and quality review; issuing claims disallowance notices, preliminary letters and statutory notices. Furnishes assistance and technical advice to other service center components, districts, regions and National Office. Provides assistance to taxpayers as requested.

1117.231 *Classification Branch.* Classifies and screens all types of Federal tax returns and claims for audit at district offices or service centers. Classifies various taxpayer initiated documents related to tax returns. Establishes and maintains a quality review system to insure returns and claims with the greatest potential are selected for audit. Performs a technical and quality review to insure returns and claims are correct. Prepares controls and processes information reports related to the classification of returns. Furnishes technical and procedural advice and assistance to other service center components, districts, regions and National Office. Provides assistance to taxpayers as requested. Conducts a quality review of service center responses to written taxpayer inquiries.

1117.232 *Correspondence Audit Branch.* Conducts the Centralized Audit examination and verification of tax returns and claims through correspondence with taxpayers to determine correct liabilities for taxes and penalties. These include the less complex issues that do not require district office examination. Conducts tests to determine the feasibility of additional correspondence work. Performs the technical and quality review of returns and claims audited at the service center. Issues notices of claims disallowance, preliminary letters and statutory notices. Reviews taxpayer protests, determines disposition and when applicable, refers protested returns to district offices.

1117.233 *Service Branch.* Performs necessary processing of Audit/Appellate adjustments to point of transcription input. Maintains centralized correspondence audit files and related control records. Provides clerical support and required control services for Classification Branch.

1117.24 *Management Staff.* Provides staff assistance to the Director and line officials in the general management of Service Center operations. Assists by coordinating the preparation of work plans, work schedules, staffing and accession schedules. Monitors the Work Planning and Control System and maintains the daily production control system. As requested, provides assistance in analyzing day-to-day problems concerning systems and procedures. Monitors and coordinates various projects, particularly those in the implementation stage such as IDRS, RMF, and returns preparer program. Coordinates the consolidation and referral of problems to the Regional or National Office. Monitors the statistics of income sampling and the quality review program.

1117.25 *Offices of the Chief, All Operating Divisions.* Receives, analyzes, and evaluates all new programs and procedures; prepares supplemental or clarifying instructions as necessary; and insures full implementation. Determines resources needed in the Division through the preparation of work plans and schedules, personnel staffing and accession schedules, space requirements, formulation of training needs, and other logistical processes. Participates with other Division Chiefs and the Director in the final allocation of resources to accomplish the total Service Center work program. Coordinates with other Division Chiefs on interdivisional matters, as appropriate. Continuously reviews, analyzes, and evaluates the status of work programs with the aim of keeping the Director informed of operational problems on an exception basis. When appropriate, request assistance from the Management Staff, or from the Office of the Assistant Regional Commissioner having functional responsibility.

1117.26 *Administration Division.* Directs and coordinates the personnel, facilities management, training, fiscal management, public information, and administrative management improvement programs. Serves as the principal administrative adviser to the Director, Asssitant Director, and operating division chiefs. Provides functional leadership for the numerous and varied administrative programs designed to support and increase the effectiveness of Service Center operations. Executes the administrative management analysis program and coordinates the management improvement program for the Service Center. Conducts management studies and provides staff assistance to Administration branch chiefs and operating officials as required. Prepares budget and financial plan estimates, maintains fiscal control, and recommends appropriate financial management actions. Develops and coordinates public information plans, techniques, guidelines, and informational materials. Establishes and maintains good relations with mass media in the vicinity of the Service Center; determines information needed, gathers and analyzes statistical and other data generated, and prepares information material for distribution to media outlets; and coordinates visit of media representatives, and others, from the entire region.

1117.261 *Facilities Management Branch.* Advises, informs, and assists Service Center management on operations relating to facilities management programs such as: space, property, communications, paperwork (including microfilm), records retention and disposal, distribution, emergency planning, safety, and security. Plans, develops, determines requirements, and evaluates these programs; provides additional, improved, or modified programs as required. Furnishes procurement, transportation, storage, supply, and messenger services; provides general building maintenance and maintenance of office, electronic, processing, and materials-handling equipment.

1117.262 *Personnel Branch.* Develops, executes, and evaluates the Service Center personnel program and standards re lating to recruitment, examination, and selection of employees, employee relations, union-management relationship, performance evaluation, promotions, in-Service placements, incentive awards, records, reports, and other aspects of a complete personnel program within the framework of policies, programs, and procedures established by the National and Regional Offices. Conducts the position classification program within delegated authority. Provides staff assistance to operating officials in all personnel areas.

1117.263 *Training Branch.* Provides leadership and coordination to the various Service Center training programs; promotes employee development programs and evaluates and reports on all such programs. Conducts studies and analyzes operating data to determine training needs; studies trends and developments in the employee development field and appraises new principles, concepts, methods, training devices, and materials for use in Service Center training programs. Develops or assists in the development of local and Service-wide course materials, audio-visual aids, and training devices. Assists Service Center management in developing a job environment which will enable trainees to maintain and improve their skills. At the request of the National or Regional Offices, provides data processing training for other than Service Center personnel. Prepares training program estimates for developing the Operating Financial Plan; prepares obligating documents for charges to the

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training portion of the Operating Financial Plan.

1117.27 *Data Conversion and Accounting Division.* Converts data from source documents to a form processable by computers. Operates computer and peripheral equipment used to verify tax liability and service the accounts of all taxpayers within the Districts assigned to the Center and to convert input data to magnetic tape. Maintains tape files of rejected documents for reinput to Service Center Processing. Prepares computer printouts relating to outputs received from the National Computer Center for mailing to taxpayers, for internal reports and statistics, and for tax information authorized for external use. Programs projects as assigned from the National Office and provides the necessary liaison and programing for maintenance of National Office computer programs. Maintains an accounting system to provide subsidiary records and general ledger accounts that reflect the Director's accountability for the master file and nonmaster file tax revenue collected within Districts assigned to the Center. Records assessments, collections, receivables, refunds, overassessments, and other elements of revenue accounting affecting accountability. Receives, verifies, balances, and processes accounting outputs from the National Computer Center; and prepares special and periodic accounting reports. Determines the validity of taxpayer delinquent accounts and returns notices. Prepares various reports for the Service Center, Region, and National Office.

1117.271 *Data Conversion Branch.* Transcribes, verifies, and corrects pertinent information of all tax returns, information documents and related documents associated with other miscellaneous programs. Processes documents related to all files (IMF, BMF, RMF, NMF, etc.), subsequent activity programs, and documents which have been previously transcribed for which error conditions have been detected in subsequent processing. Responsible for resolving error conditions identified by the Computer Branch. Enters corrections for each error condition into machine-generated listings. Responsible for resolving and reentering blocks out of balance or rejected blocks received from transcription control clerks.

1117.272 *Computer Branch.* Operates all computer systems used in processing, verifying, computing the tax liabilities, and servicing the accounts of all master files (IMF, BMF, RMF, NMF) taxpayers within Districts assigned to the Center, maintains tape library; processes tax information and documents for mailing to taxpayers and for internal use by the Service; generates computer reports; statistical information and other information for use by the National, Regional, District and Service Center offices, other program areas of the Service, and by various States. Processes other programs assigned by the National Office. Provides programing services as required for the maintenance of the system, as directed by the National Office. Performs quality review on computer generated output. Operates an EAM system for preconversion perfection of input data and processing of other Service Center card-oriented projects.

1117.273 *Accounting Branch.* Maintains general ledger accounts and subsidiary records covering revenue transactions for the recording of assessments, collections, receivables, refunds, overassessments and other transactions affecting taxpayer's accounts. Controls accounting documents for entry to tax accounts. Establishes and maintains individual accounts for non-ADP (NMF) and pre-ADP tax returns and documents. Receives master file accounting summaries for posted account transactions and accomplishes required journalization and general ledger postings. Initiates or processes account transfers, account adjustments, debit and credit transfers related to tax accounts. Reconciles National Computer Center accounting control records and refund appropriation accounts of Regional Disbursing Centers with general ledger balances. Prepares all accounting and ledger reports as required. Prepares various reports for the Service Center, Region, and National Office.

1117.28 *Processing Division.* Receives, blocks, sorts, and controls documents, both master file and nonmaster file, received from taxpayers and District Offices; deposits and initiates accounting control of remittances. Ships processed documents to District Offices; and prepares a variety of forms, and other material for mailing to taxpayers, tax practitioners, District Offices, and other Government agencies. Examines, perfects, and codes returns and documents for all files (IMF, BMF, RMF, NMF, etc.) for subsequent processing; examines, edits, and codes returns for the statistics of income program; prepares form and pattern paragraph letters to taxpayers requesting additional or clarifying information incidental to the initial processing of returns. Performs research, perfects and resolves processing errors detected during work cycles within the Service Center. Receives, processes, and maintains control over applications for employer identification numbers and social security numbers.

1117.281 *Receipt and Control Branch.* Receives and categorically classifies all incoming returns, documents, remittances, and taxpayer correspondence. Sorts and establishes batch control prior to release of returns and documents into the initial work process, in accordance with work schedules. In coordination with the Management Staff, makes necessary adjustments in work schedules as dictated by actual work receipt patterns to maintain a steady balanced work flow. Numbers and blocks returns, documents and related remittances; examines remittances and related documents, prepares appropriate registers and certificates of deposit prior to disposition of moneys to local depository. Performs a variety of machine operations such as labeling, folding, and inserting. Ships processed documents to District Offices; and prepares forms and other material for mailing to taxpayers, tax practitioners, District Offices and other Government Agencies.

1117.282 *Examination Branch.* Examines, edits, perfects, and codes tax documents for all files (IMF, BMF, RMF, NMF, etc.) for transcription and other purposes: prepares form and pattern paragraph letter correspondence to District Offices and taxpayers to obtain missing or clarifying information necessary for the perfection of the return; and edits codes, and extracts information from returns for audit and statistical programs.

1117.283 *Input Perfection Branch.* Perfects and resolves processing and taxpayer errors detected during work cycles within the Service Center. Prepares correspondence action sheets to obtain additional information from taxpayers and District Offices in order to make returns acceptable for processing. Responsible for control, examination, perfection, and final disposition of all RMF rejected tax returns and documents. Perfects and resolves unpostable returns and documents. Resolves unpostable conditions arising from the attempt to input all documents and returns relating to the IMF, BMF, and RMF and prepares necessary input documents. Receives and processes applications for employer identification and Social Security numbers. Maintains control over the assignment of employer identification numbers. Performs all necessary actions concerning the control and maintenance of account numbers. Receives and processes applications from 941 filers to file magnetic tape returns; maintains case history file and control of 941, W2, 1099, and 1087 paper returns prior to approval of magnetic tape filing request.

1117.29 *Taxpayer Service Division.* Provides services to the taxpaying public by answering inquiries received by telephone, mail, or personal call. Controls, monitors, and takes necessary action on complaints and special cases requiring expedite action. Controls and makes adjustments to taxpayers' accounts on all files (IMF, BMF, RMF, NMF, etc.). Controls and processes statutory case adjustments. Performs microfilm research requested by all functional activities. Establishes, maintains and controls permanent and temporary returns files. Retires returns and documents in accordance with prescribed procedures. Performs output review and necessary correction. Performs payment tracing functions. Processing of all exempt organization returns has been centralized in the Philadelphia Service Center. In view of the scope and size of this function, the Philadelphia Service Center has been authorized an Exempt Organization Returns Branch which is: Responsible for processing, except for deposit and transcription operations, all exempt organization tax returns and other related change documents.

1117.291 *Adjustment Branch. Receives* taxpayer inquiries initiated by correspondence. Receives and controls requests for adjustments and determines appropriate action to be taken including adjustment to tax, penalty, and interest, and to the entity section of taxpayer accounts. Prepares written replies to taxpayer on contacts by telephone. Processes IMF and BMF Restricted Interest cases, combination overassessment and deficiency cases, Joint Committee cases. Appellate Division Overassessment and Deficiency Cases, Justice Department cases, cases containing second agreements and partial agreements. Processes applications for Tentative Carryback Adjustments. Performs payment tracing functions.

1117.292 *Research Branch.* Performs research through microfilm, source documents, and other sources for entity and account information requested by all functional activities. Establishes, maintains, and controls permanent and temporary returns files. Retires returns and documents in accordance with prescribed procedures. Performs delinquency checks for Non-Master File returns. Reviews computer output, except that pertaining to taxpayer delinquent accounts and returns, for quality and accuracy and for validity of refunds; corrects any processing errors discovered.

1117.293 *Taxpayer Relations Branch.* Performs taxpayer service functions in connection with telephone inquiries or personal calls. When necessary, prepares replies to taxpayer inquiries which accompany returns and which indicate that complex issues need to be resolved before the return can be processed. Takes necessary action to process special or unusual cases and complaints. Maintains close liaison with Social Security Administration on unusual problems. Prepares and types replies to taxpayer correspondence and requests for correspondence from other activities which generally require individually tailored letters.

1118 OFFICE OF DISTRICT DIRECTOR

1118.1 MISSION

The mission of the Office of the District Director is to administer the internal revenue laws within an internal revenue district in conformance with Service policies and programs of the National Office and Regional Offices.

1118.2 BASIC ORGANIZATION

The principal organizational components of the typical District Office are the immediate office of the District Director (including the Stabilization Staff), the Audit Division, Collection and Taxpayer Service Division, Intelligence Division and Administration Division.

1118.3 DISTRICT DIRECTOR

The District Director administers, within an internal revenue district, the collection, taxpayer service, audit, intelligence, and administrative programs of the Internal Revenue Service. He is responsible for the determination of tax liability, the assessment of such liability, and scheduling and certification of refunds, and the investigation of certain criminal and civil violations of internal revenue tax laws (except those relating to alcohol, tobacco, and firearms). He is also responsible for the collection and deposit of all internal revenue taxes.

1118.31 *Stabilization Staff.* Directs and performs the District stabilization function through a District Stabilization Manager. This staff plans, organizes, coordinates, and evaluates district Stabilization activities which include: providing information to the public; responding to inquiries; investigating complaints of violations; conducting compliance monitoring and factfinding investigations; receiving, analyzing, investigating, and preparing and forwarding recommendations upon applications for exceptions and exemptions; and conducting hearings on appeals.

1118.4 AUDIT DIVISION

(1) Administers a districtwide audit program involving the selection and examination of all types of Federal tax returns (except those involving alcohol, tobacco, and firearms taxes), claims, offers in compromise based on doubt as to liability for taxes or for both taxes and statutory additions (except alcohol, tobacco, and firearms taxes), informant's, claims for reward, and related activities, including the examination and approval of pension trust plans and the issuance of determination letters. The audit program involves the selective classification of returns for field and office audit, the conduct of district conferences in unagreed cases, participation with special agents of the Intelligence Division in the conduct of tax fraud investigations, and provision of technical support to the year-round taxpayer service program.

(2) Audit Divisions in the Atlanta, Chicago, Cincinnati, Dallas, Manhattan, Philadelphia, and San Francisco districts on a regionwide basis (Philadelphia reviews for the Office of International Operations), review all income and excess profits tax cases involving overpayments in excess of $100,000 and prepare reports for the Commissioner's signature to the Joint Committee on Internal Revenue Taxation in all nonpetitioned and nondocketed cases, including estate and gift tax cases.

(3) All district Audit Divisions are responsible for issuing determination letters on the qualification of pension, annuity, profit-sharing, stock bonus and bond purchase plans and for subsequent determinations on the status for exemption of trusts forming a part of such plans. Audit Divisions in the districts of Atlanta, Austin, Baltimore, Boston, Chicago, Cincinnati, Cleveland, Dallas, Detroit, Los Angeles, Manhattan, Philadelphia, St. Louis, St. Paul, San Francisco, and Seattle are responsible for matters relating to the exemption of all other organizations. These 16 key District Offices will be responsible for issuing determination letters, examining exempt organizations activities, issuing notices of revocation and reestablishment of exemption, performing technical review and holding district conferences.

(4) The Division structure conforms to one of three established patterns, depending upon size of the District Office. These patterns all recognize six distinct groups of functions which are known as: Returns Classification, District Conference, Review, Field Audit, Office Audit, and Service. In small District Offices the branch supervisory structure does not exist, while in large offices there may be more than one Field Audit Branch. Some district Audit Divisions in Central Region have a Technical Branch in lieu of a separate Conference Staff and Review Staff.

(5) Each region has centralized the review of the following specialized tax areas to specific districts:

(a) Estate and gift.
(b) Excise taxes.
(c) Insurance.
(d) International issues.

1118.41 *Conference Staff.* Directs and performs the district conference function. This includes holding conferences with taxpayers and their representatives, and preparing conference reports. Also screens taxpayer protests and acts as technical advisor to Chief, Audit Division.

1118.42 *Review Staff.* Reviews reports of examination of all types of tax returns to verify the determination of liability made by the examining officer. Directs the issuance of preliminary 30-day letters to taxpayers, reviews protests filed in response to such notices and prepares statutory notices of deficiency. Prepares closing letters and releases in estate and gift tax cases. Furnishes technical advice and assistance on pension trust plans, including examination thereof and issuance of determination letters, in those districts with three or less pension trust specialists where the District Director has assigned such responsibility to this staff. Is responsible for the control, management and review of offers in compromise, informants' claims for reward and the special procedures applicable in cases involving renegotiation. Prepares management information reports for both agreed and unagreed cases. Has primary responsibility within the district for maintaining quality standards in examinations and reports, and the technical accuracy of all matters subject to review. Issues correction memorandums in all cases or matters involving substantial errors.

1118.43 *Returns Classifying Offices.* Develops and administers district program for selecting all types of returns for examination. Conducts special studies to identify noncompliance problem areas and recommends audit programs to cope with them.

1118.44 *Field Audit Branch.* Conducts field examinations relative to all types of taxes (except alcohol, tobacco, and firearms) to determine correct liabilities of taxpayers for tax and penalties, including the examination of claims for refund, credit, or abatement, or for redemption of stamps. Also conducts field examinations of offers in compromise based on doubt as to liability for taxes or for both taxes and statutory additions (except alcohol, tobacco, and firearms taxes), and special field examinations, as requested, including joint examinations with special agents of Intelligence Division where tax evasion may exist. Processes informants' claims for reward making any necessary investigations and prepares reports on such claims, together with recommendations as to the amount of rewards. Performs engineering and valuation work, prepares memorandums to accompany closing agreements, and recommends jeopardy assessments. Furnishes technical advice and assistance on pension trust plans and prepares determination letters except in those districts with less than three pension trust specialists where the District Director has assigned such responsibility to the Review Staff. Provides technical support to the year-round taxpayer service program.

1118.45 *Office Audit Branch.* Conducts examinations through correspondence or interviews with taxpayers in offices of the Service relative to all types of taxes (except alcohol, tobacco, and firearms) to determine correct liability of taxpayers for tax and penalties, and the validity of claims for refund, credit, or abatement, or for redemption of stamps. Also, when necessary, conducts field examinations of all types of taxes (except alcohol, tobacco, and firearms) if such examinations do not require professional accounting skills of examiners assigned to Field Audit Branch. Recommends jeopardy assessments. Provides technical support to the year-round taxpayer service program.

1118.46 *Service Branch.* Performs clerical services for the Division necessary to the processing of returns, reports of examination, case files and correspondence. Maintains control of all returns and case files assigned to the Audit Division and of number assignments for Management Information Reports on audit cases. Types examining offices' reports, form letters, correspondence and other material as assigned and furnishes clerical, stenographic and typing assistance to all Division offices.

1118.47 *Technical Branch.* (1) The Technical Branch directs the issuance of preliminary 30-day letters to taxpayers, prepares letters to taxpayers covering deficiencies in bankruptcy and receivership cases which serve as a basis for assessment and filing of proof of claim by the Collection and Taxpayer Service Division; reviews protests filed in response to such notices of deficiency for proper form, compliance with existing requirements and for new issues or facts; and prepares statutory notices of deficiency.

(2) The Branch is responsible for the control, management and review of offers in compromise, informants' claims for reward, cases in which expiration of the statute of limitations is imminent and assessment, overassessment or statutory notice action is necessary prior to forwarding to the Assistant Regional Commissioner (Audit) for review, and the special procedures applicable in cases involving renegotiation. It maintains and controls the preliminary notice file, the statutory notice file, the file on cases suspended pending court or other decision (Form 1254), power of attorney file, fee statement file, and worthless stock and taxability of dividend file, taking appropriate action as required. The Branch is responsible for the district conference functions, which include assignment of conferees to handle the case, the holding of the conference, the manner in which conferences are conducted, the quality of the conference reports and the statistical reporting of the conferences. The Chief of the Technical Branch acts as Technical Advisor to the Chief of the Audit Division on cases under investigation or assigned for district conferences.

1118.5 COLLECTION AND TAXPAYER SERVICE DIVISION

(1) The Collection and Taxpayer Service Division is responsible for the receipt, processing, and retention of firearms and alcohol and tobacco tax returns and applications; the receipt and transmittal of other tax returns and documents received in the district; the deposit to the credit of the Service Center Director of tax remittances received in the district; the collection of delinquent accounts through distraint, seizure, levy, and other means; the securing of delinquent returns; the conduct of a year-round taxpayer

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service program (including issuance of certificates of compliance to departing aliens); examination of offers in compromise based on doubt as to collectibility of taxes (except alcohol, tobacco, and firearms taxes), offers in compromise of statutory additions based on doubt as to liability (except alcohol, tobacco, firearms, employment, and withholding taxes and specific penalties), and all offers in compromise of 100 percent penalties. The Division receives, acts on, and processes information pertinent to bankruptcies, receiverships, assignments, reorganizations, probate proceedings, foreclosures, and redemptions after civil foreclosure, bulk sales, gifts and prizes, and dissolutions and initiates investigations for securing delinquent returns where necessary. The Division maintains files or control records of payments received in insolvency, bankruptcy, and decedent cases and of surety bonds and other collateral posted as security for tax liability. It also maintains files and control records of property seized under distraint authority and takes appropriate action with respect to seized property to insure that proper legal action may be timely taken.

(2) The organization of the Division below the branch level varies depending on the size of the Division.

1118.51 *Special Procedures Staff.* (1) The Special Procedures Staff is responsible for furnishing advisory assistance on technical delinquent collection and returns matters to the Chief, Collection and Taxpayers Service Division, Chief, Field Branch, Chief, Office Branch and Group Supervisors; providing liaison for the District Director with the Department of Justice, including the U.S. Attorneys, the Chief Counsel and Regional Counsel on all collection matters; ascertaining tax liability and filing of proof of claims in insolvency and decedent's estate proceedings; recommending civil suits to enforce collection or to protect the Government's interests; processing civil suits against the United States or the District Director; examining, reviewing and processing seizure and sale reports; processing applications for discharge of property from the effect of Federal tax liens and for certificates of nonattachment of Federal tax liens and certificates of subordination of the Federal tax lien; processing filed notices of Federal tax liens and certificates of release; processing and maintaining executed collection waivers; analyzing and determining the sufficiency of various forms of collateral offered as security for release of lien or postponement of collection action; furnishing technical advice and assistance and recommendations for or against entry into suitable escrow agreements for the collection of delinquent accounts; reviewing recommendations for and holding conferences on 100 percent penalty and transferee assessments; post reviewing of accounts reported as uncollectible; reviewing recommendations and holding conferences on offers in compromise cases based on inability to pay; and maintaining files and control records on all the above type cases to insure that proper legal and other collection actions are taken timely.

(2) In the majority of District Offices this function is organized as a separate Special Procedures Staff. In small offices where the Special Procedures function is a one-position job, it is placed organizationally within the Office of the Division Chief.

1118.52 *Office Branch.* The Office Branch effects the collection of delinquent accounts and secures delinquent returns through demands made by correspondence, telephone, or office interviews. It safeguards the Government's interest by causing the filing of notices of tax liens and serving or causing the service of notices of levies. It transfers to Revenue Officer groups those assignments which require field investigations or can be more efficiently completed by field Revenue Officers. The Branch carries out the Division's responsibility for district-wide execution of the year-round taxpayer service program. It provides taxpayer service within the Headquarters Office and surrounding metropolitan commuting area, including responses to correspondence requests of tax information, and provides functional supervision of taxpayer service at other posts of duty. The Branch screens and assigns cases and maintains assignment files. It prepares periodic reports of collection and taxpayer service activities. It receives and deposits to the credit of the Service Center Director remittances received in the District Office. It receives, processes, and maintains files of wagering, alcohol and tobacco tax, firearms returns, and applications. It also receives and transmits other returns and documents received in the District Office.

1118.53 *Field Branch.* The Field Branch is responsible for the management and control of five or more Revenue Officer groups (Type I Field Branch), or three or more Revenue Officer groups and an Office Group (Type II Field Branch). Within the assigned area, the Branch makes collections of delinquent accounts and conducts a continuing program for the securing of delinquent returns. It safeguards the Government's interest through the filing of notices of tax liens, and enforces collection by the serving of levies, and seizure and sale of real and personal property. It recommends jeopardy assessment when deemed necessary to protect revenue, civil actions to secure payment, suits to enforce penalty for failure to honor levies, and penalty assessments as a means of collection or as a method of obtaining compliance with existing laws and regulations. The Branch recommends the issuance of certificates of discharge of property from the effects of tax liens, recommends issuances of certificates of subordination of Federal tax liens, and conducts the investigations necessary to support such recommendations. The Branch examines offers in compromise based on doubt as to collectibility of taxes (except alcohol, tobacco, and firearms taxes), offers in compromise of statutory additions based on doubt as to liability (except alcohol, tobacco, firearms, employment, and withholding taxes and specific penalties), and all offers in compromise of 100 percent penalties. The Branch provides taxpayer service within the assigned area (except in the Headquarters Office location).

1118.6 INTELLIGENCE DIVISION

The Intelligence Division enforces the criminal statutes applicable to income, estate, gift, employment, and excise tax laws (except those relating to alcohol, tobacco, narcotics, and certain firearms), by developing information concerning alleged criminal violations thereof, evaluating allegations and indications of such violations to determine investigations to be undertaken, investigating suspected criminal violations of such laws, recommending prosecution when warranted, and measuring effectiveness of the investigation and prosecution processes. The Division assists other Intelligence offices in special inquiries, drives and compliance programs and in the normal enforcement programs, including those combating organized wagering, racketeering and other illegal activity, by providing investigative resources upon Regional or National Office request. It also assists U.S. Attorneys and Regional Counsel in the processing of Intelligence cases, including the preparation for and trial of cases.

1118.61 *Branches A and B.* In districts where a branch structure has been authorized for Intelligence Division, the branch functions are as follows: The Branch conducts investigations of criminal tax violations, except those relating to alcohol, tobacco, narcotics, and certain firearms tax cases. The Branch coordinates actions with the Office of the United States Attorney and with other Divisions in the District Office. The Branch assists the U.S. Attorney and the Chief Counsel in the trial of cases. The Branch evaluates allegations of tax law violations and initiates surveys, examinations and investigation to identify cases which may have prosecution potential. The Branch makes appropriate recommendations as to the disposition of matters coming to the attention of the Intelligence Division and as to the disposition of cases investigated. The Branch assists in the planning, organizing, coordinating and directing the local adoption of intelligence policies, programs and procedures of Regional and National Offices. The Branch keeps informed on investigations to ensure uniformity of actions, adherence to established policies and compliance with procedures; to ensure that evidence is adequate and sufficient and that the action taken is sound and proper; and to ensure that high standards of performance are maintained.

1118.7 ADMINISTRATION DIVISION

(1) The Administration Division provides the personnel, training, budget, and fiscal, procurement and supply, records and communications services and other administrative services, within the limitations of the District Director's delegated authority, necessary to the effective operation and management of the District Office. It coordinates the District Office cost reduction and management improvement, reports management and incentive awards programs and other special projects.

(2) The organization of the Administration Division varies according to the size of the district, its managerial staffing, and other local conditions, as follows:

(a) The Division is headed by a Chief in districts above 1,000 employees and in those with no Assistant District Director.

(b) In districts below 1,000 employees with an Assistant District Director, the District Director and the Regional Commissioner may decide whether to have a Chief, a Staff Assistant, or neither.

(c) The typical branch structure in districts above 1,000 employees is Facilities Management; Personnel; and Training. Districts below 1,000 employees are also structured into these branches if the District Director and Regional Commissioner decide they are necessary. However, in small districts (normally those below 400 employees) with a Chief, Administration, the branch structure is not authorized in the absence of compelling circumstances.

(3) For districts with a branch structure, the following functional descriptions refer to branches. For other districts, the functional descriptions indicate functions performed by staff personnel.

1118.71 *Facilities Management Branch.* The Facilities Management Branch provides essential facilities and services necessary to the efficient operation of the District Office. The Branch carries out the space programs of the District Director and conducts periodic surveys to insure effective space utilization. It procures, requisitions, issues, and insures effective utilization of equipment, property and office supplies; maintains records on all equipment and property located within the district; and provides communications, duplicating paperwork management, and internal management document distribution services. The Branch also furnishes data necessary for the preparation of that portion of the District Office budget estimates and financial plans which is concerned with funds required for materials and facilities in the district. As required for district management control, it maintains blotter type records of fund commitments for materials and facilities (object classes 22, 23, 24, 25, 26 and 31 as defined in Bureau of the Budget Circular A–12). It administers document and property security, emergency planning for civil defense, and the safety programs in the district.

1118.72 *Personnel Branch.* The Personnel Branch performs the recruitment and placement functions at the district level, and conducts the district's employee relations program and incentive awards program. It processes personnel action documents in accordance with prescribed procedure and maintains all district personnel records.

1118.73 *Training Branch.* The Training Branch provides leadership and coordination to the district training program. It coordinates the district execution of training programs; gives advice on all training programs conducted in the District Office, and assists in their development from the standpoint of training techniques. It participates in and coordinates the development of district training programs, to meet local training needs that cut across organizational lines. In addition, it evaluates and reports on all district training programs.

1118.8 OFFICES BELOW THE DISTRICT HEADQUARTERS

(1) Offices below the district headquarters (Area, Zone, and Local offices as defined below) perform one or more of certain Collection, Taxpayer Service, Audit, and Intelligence functions such as: The collection of delinquent accounts and the securing of delinquent returns; the receiving and deposit of moneys tendered in payment of taxes; conducting taxpayer service and related assistance activities to meet local taxpayer needs; the examination of returns to determine correct liability of taxpayers for tax and penalties; the holding of conferences with taxpayers and their representatives regarding the determination of liability for tax and penalties; and the investigation of alleged criminal violation of the tax statutes. They also contain, to a limited extent, other functions such as administrative support.

(2) Offices below the district headquarters are classified according to these types:

(a) *Area office*—An Area office is a major subdivision of the District Office and usually contains all of its principal functional elements including one or more groups of Revenue Agents, one or more groups of Revenue Officers, an Office Group, and a Teller. Generally, it also contains one or more Special Agents.

(b) *Zone office*—A Zone office is an intermediate size office which includes one or more groups of Revenue Agents or one or more groups of Revenue Officers. Generally, it also contains one or more Special Agents. Usually it does not have a Teller and if it has Office Group personnel, they are supervised from some other office.

(c) *Local office*—All other offices below the district headquarters are classified as Local offices. Primarily, these are small posts of duty where the workload does not warrant the stationing of Revenue Agents and Revenue Officers in group strength.

(3) Program planning and functional supervision for personnel of an Area, Zone, or Local office are the responsibilities of the appropriate divisions of the District Office. However, administrative supervision of such an office may be assigned to an individual upon a determination by the District Director that such a position is needed in order to represent all IRS functions to the public, to coordinate functions, and to provide common administrative services. This position is to be assigned as an additional responsibility to one of the regular functional personnel of the office, usually the ranking or senior officer. Each person assigned this additional responsibility will be designated as the "---------- (inserting name of city) representative" of the District Director.

(4) Generally, offices below the district headquarters do not contain Branch Chiefs in any of the functional activities. However, if the workload of an office (including nearby offices supervised by such office) is sufficient to justify five or more Audit groups, the District Director may determine that the needs for local supervision warrant the stationing of an Audit Branch Chief in the office. Similarly, if the workload justifies five or more Revenue Officer groups (counting less than ten Office Branch employees as the equivalent of a group; or 10 or more Office Branch personnel as two groups), the District Director may establish a Field Branch Chief. Recommendations for establishing such positions shall be forwarded to the Regional Commissioner for approval in accordance with regular procedures for effecting changes in organization.

(5) When the personnel of an office below the district headquarters are supervised by Group Supervisors or Branch Chiefs, all of the functions in such offices will generally receive the line supervision from the same city in order to foster functional coordination and efficient utilization of clerical and other manpower. However, when the District Director finds that the best interests of the Service require a different arrangement, he is authorized to make an exception. Exceptions may be particularly needed for those activities, such as Intelligence, which are more thinly represented than the Audit and Collection and Taxpayer Service functions; and for specialists, such as those trained in estate, gift, and excise tax work.

APPENDIX A

INTERNAL REVENUE REGIONAL OFFICES

San Francisco, CA, ZIP 94102, 870 Market Street.
Atlanta, GA, ZIP 30303, Federal Office Building, 275 Peachtree Street NE.
Chicago, IL, ZIP 60601, 35 East Wacker Drive.
New York, NY, ZIP 10007, Federal Office Building, 90 Church Street.
Cincinnati, OH, ZIP 45202, Federal Office Building, 550 Main Street.
Philadelphia, PA, ZIP 19102, 2 Penn Center Plaza.
Dallas, TX, ZIP 75202, Federal Office Building, 1114 Commerce Street.

APPENDIX B

APPELLATE BRANCH OFFICES

Birmingham, AL, ZIP 35203, 2121 Eighth Avenue N.
Phoenix, AZ, ZIP 85004, 222 North Central Avenue.
Los Angeles, CA, ZIP 90012, 300 North Los Angeles Street.
San Francisco, CA, ZIP 94108, 447 Sutter Street, Room 301.
Denver, CO, ZIP 80202, 17504 Federal Building, 1961 Stout Street.
New Haven, CT, ZIP 06511, 1221 Chapel Street.
Washington, DC, ZIP 20009, 432 Universal Building North, 1875 Connecticut Avenue, NW.
Jacksonville, FL, ZIP 32202, Federal Office Building, 400 West Bay Street.
Miami, FL, ZIP 33130, Federal Office Building, 51 Southwest First Avenue.
Atlanta, GA, ZIP 30303, 275 Peachtree Street NE.
Chicago, IL, ZIP 60601, 35 East Wacker Drive.
Springfield, IL, ZIP 62705, Post Office Box 1977 (suboffice, Chicago Branch Office).
Indianapolis, IN, ZIP 46204, 510 Guaranty Building, 20 North Meridian Street.
Wichita, KS, ZIP 67202, 418 South Main Street (suboffice, Oklahoma City Branch Office):
Louisville, KY, ZIP 40202, 267 Federal Building, 600 Federal Place.
New Orleans, LA, ZIP 70130, 444 Federal Office Building, 600 South Street.
Baltimore, MD, ZIP 21201, Room 934, Federal Building, 31 Hopkins Plaza.
Boston, Mass., ZIP 02203, John F. Kennedy Federal Building, Government Center.
Detroit, Mich., ZIP 48226, 600 Griswold Building.
St. Paul, MN, ZIP 55101, 500 Federal Building and U.S. Courthouse, 316 North Robert Street.
Kansas City, MO, ZIP 64106, 1700 Federal Office Building, 911 Walnut Street.
St. Louis, MO, ZIP 63101, 1114 Market Street, Room 919.
Omaha, NE, ZIP 68102, 3132 New Federal Building, 215 North 17th Street.
Newark, NJ, ZIP 07102, Room 701 Federal Building, 970 Broad Street.
Buffalo, NY, ZIP 14202, 300 U.S. Courthouse, 68 Court Street.
New York, NY, ZIP 10007, 90 Church Street.
Greensboro, NC, ZIP 27401, 320 Federal Place, Room 525.
Cincinnati, OH, ZIP 45201, Post Office Box 2026.
Cleveland, OH, ZIP 44199, 1653 Federal Office Building, 1240 East Ninth Street.
Oklahoma City, OK, ZIP 73102, 200 Northwest Fourth Street.
Portland, OR, ZIP 97201, 1500 Southwest First Avenue.
Philadelphia, PA, ZIP 19102, 2 Penn Center Plaza, Room 927.
Pittsburgh, PA, ZIP 15222, Room 1428 Federal Building, 1000 Liberty Avenue.
Nashville, TN, ZIP 37203, 801 Broadway, Room 654.
Dallas, TX, ZIP 75202, 1100 Commerce Street, Room 12B25.
Houston, TX, ZIP 77002, 8031 Federal Building, 515 Rusk Avenue.
Salt Lake City, UT, ZIP 84111, 125 South State Street, Room 3438.
Richmond, VA, ZIP 23240, 400 North Eighth Street, Room 11028.
Seattle, WA, ZIP 98121, Sixth and Lenora Building, Room 1112.
Huntington, WV, ZIP 25701, Ninth Street and Fifth Avenue (suboffice, Cincinnati Branch Office).
Milwaukee, WI, ZIP 53233, 735 West Wisconsin Avenue, Room 700.

APPENDIX C

INTERNAL REVENUE SERVICE CENTERS

Fresno, CA, ZIP 93730, 5045 East Butler Avenue.
Chamblee, GA, ZIP 30005, 4800 Buford Highway.
Covington, KY, ZIP 41012, 200 West Fourth Street.
Andover, MA, ZIP 01812, 310 Lowell Street.
Kansas City, MO, ZIP 64170, Federal Building, 2306 East Bannister Road.
Holtsville, NY, ZIP 11799, 1040 Waverly Avenue.
Philadelphia, PA, ZIP 19154, 11601 Roosevelt Boulevard.
Memphis, TN, ZIP 38110, 3131 Democrat Road.
Austin, TX, ZIP 78740, 3651 South Inter-Regional Highway.
Ogden, UT, ZIP 84405, 1160 West 1200 South Street.

APPENDIX D

INTERNAL REVENUE DISTRICT OFFICES

Birmingham, AL, ZIP 35203, 2121 Building, 2121 Eighth Avenue N.
Anchorage, Alaska, ZIP 99501, Alaska Mutual Savings Building, Fifth and F Streets.

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Phoenix, AZ, ZIP 85025, Federal Building, U.S. Courthouse, 230 North First Avenue.
Little Rock, AR, ZIP 72201, Federal Office Building, 700 West Capitol Avenue.
Los Angeles, CA, ZIP 90012, Federal Building, 300 North Los Angeles Street.
San Francisco, CA, ZIP 94102, Federal Building and Courthouse, 450 Golden Gate Avenue.
Denver, CO, ZIP 80202, Federal Office Building, 1961 Stout Street.
Hartford, CT, ZIP 06103, Federal Building, U.S. Courthouse, 450 Main Street.
Wilmington, DE, ZIP 19801, 800 Delaware Avenue.
Jacksonville, FL, ZIP 32202, Federal Building, 400 West Bay Street.
Atlanta, GA, ZIP 30303, Federal Building, 275 Peachtree Street NE.
Honolulu, HI, ZIP 96813, U.S. Post Office, Court and Custom House, 335 South King Street.
Boise, ID, ZIP 83702, Federal Building and U.S. Courthouse, 550 West Fort Street.
Chicago, IL, ZIP 60602, State-Madison Building, 17 North Dearborn Street.
Springfield, IL, ZIP 62704, Land of Lincoln Building, 325 West Adams Street.
Indianapolis, IN, ZIP 46204, Federal Building and Courthouse, 46 East Ohio Street.
Des Moines, IA, ZIP 50309, Federal Building, 210 Walnut Street.
Wichita, KS, ZIP 67202, Federal Office Building, 412–418 South Main.
Louisville, KY, ZIP 40202, Post Office, Courthouse and Custom House, 601 West Broadway.
New Orleans, LA, ZIP 70130, Federal Office Building, 600 South Street.
Augusta, ME, ZIP 04330, Federal Office Building, 68 Sewall Street.
Baltimore, MD, ZIP 21201, Federal Building, 30 Hopkins Plaza.
Boston, Mass., ZIP 02203, John Fitzgerald Kennedy Federal Building.
Detroit, MI, ZIP 48226, Cadillac Tower Building, 65 Cadillac Square.
St. Paul, MN, ZIP 55101, Federal Building and Courthouse, 316 North Robert Street.
Jackson, MS, ZIP 39202, 301 Building, 301 North Lamar Street.
St. Louis, MO, ZIP 63101, U.S. Court and Custom House, 1114 Market Street.
Helena, MT, ZIP 59601, Federal Office Building, West Sixth Street and Park Avenue.
Omaha, NE, ZIP 68102, Federal Office Building, 106 South 15th Street.
Reno, NV, ZIP 89502, Federal Building, U.S. Courthouse, 300 Booth Street.
Portsmouth, NH, ZIP 03810, Federal Building, U.S. Post Office, 80 Daniel Street.
Newark, NJ, ZIP 07102, Federal Building, 970 Broad Street.
Albuquerque, NM, ZIP 87101, Federal Office Building, 517 Gold Avenue SW.
Albany, NY, ZIP 12206, 855 Central Avenue.
Brooklyn, NY, ZIP 11201, U.S. Courthouse and Federal Building, 35 Tillary Street.
Buffalo, NY, ZIP 14202, Federal Office Building, 111 West Huron Street.
New York, NY ZIP 10007, Federal Office Building, 120 Church Street.
Greensboro, NC, ZIP 27401, Federal Building, 320 Federal Place.
Fargo, ND, ZIP 58102, Federal Building and Post Office, 653 Second Avenue North.
Cincinnati, OH, ZIP 45202, Federal Office Building, 550 Main Street.
Cleveland, OH, ZIP 44199, Federal Building, 1240 East Ninth Street.
Oklahoma City, OK, ZIP 73102, Federal Office Building and Courthouse, 200 Northwest Fourth Street.
Portland, OR, ZIP 97204, Multnomah Building, 319 Southwest Pine Street.
Philadelphia, PA, ZIP 19106, 401 North Broad Street.
Pittsburgh, PA, ZIP 15222, Federal Building, 1000 Liberty Avenue.
Providence, RI, ZIP 02903, 130 Broadway.
Columbia, SC, ZIP 29201, Federal Building, 901 Sumter Street.
Aberdeen, SD, ZIP 57401, Executive Building, 640 Ninth Avenue SW.
Nashville, TN, ZIP 37203, Federal Building, Eighth Avenue and Broadway.
Austin, TX, ZIP 78701, Federal Office Building, 300 East Eighth Street.
Dallas, TX, ZIP 75202, Federal Office Building and Courthouse, 1100 Commerce Street.
Salt Lake City, UT, ZIP 84110, U.S. Post Office and Courthouse, 350 South Main Street.
Burlington, VT, ZIP 05401, Federal Building, 11 Elmwood Avenue.
Richmond, VA, ZIP 23240, Federal Building, 400 North Eighth Street.
Seattle, WA, ZIP 98121, Sixth and Lenora Building, 2033 Sixth Avenue.
Parkersburg, WV, ZIP 26101, Federal Office Building, Juliana and Fifth Streets.
Milwaukee, WI, ZIP 53202, Federal Building and Courthouse, 517 East Wisconsin Avenue.
Cheyenne, WY, ZIP 82001, Federal Office Building, 21st and Carey Streets.

APPENDIX E

REGIONAL INSPECTORS' OFFICES

Cincinnati, OH, ZIP 45202, Federal Office Building, 550 Main Street.
Philadelphia, PA, ZIP 19107, Bankers Securities Building, Walnut Street.
Chicago, IL, ZIP 60601, 35 East Wacker Drive.
New York, NY, ZIP 10007, 26 Federal Plaza, 14th Floor.
Atlanta, GA, ZIP 30303, Federal Office Building, 275 Peachtree NE.
Dallas, TX, ZIP 75202, U.S. Courthouse and Federal Office Building, 1100 Commerce Street.
San Francisco, CA, ZIP 94103, U.S. Post Office Building, 1076 Mission Street.

APPENDIX F

REGIONAL COUNCIL OFFICES

Birmingham, AL, ZIP 35203, Room 724, 2121 Eighth Avenue North.
Phoenix, AZ, ZIP 85004, Suite 1214, Security Center Building, 222 North Central Avenue.
Los Angeles, CA, ZIP 90053, 3018 Federal Building, 300 North Los Angeles Street.
San Francisco, CA, ZIP 94108, Room 628, 447 Sutter Street.
Denver, CO, ZIP 80202, Room 17038, 1961 Stout Street.
Jacksonville, FL, ZIP 32202, Federal Building, 400 West Bay Street.
Miami, FL, ZIP, 33130, Room 1220, Federal Office Building, 51 Southwest First Avenue.
Atlanta, GA, ZIP 30301, Federal Office Building, 275 Peachtree Street NE.
Chicago, IL, ZIP 60601, Room 1622, 35 East Wacker Drive.
Indianapolis, IN, ZIP 46204, 1001 Illinois Building, 17 West Market.
Louisville, KY, ZIP 40201, 579 Federal Office Building.
New Orleans, LA, ZIP 70130, Room 845, Federal Office Building, 600 South Street.
Boston, MA, ZIP 02203, John Fitzgerald Kennedy Building, Government Center.
Detroit, MI, ZIP 48226, 2300 Cadillac Tower.
St. Paul, MN, ZIP 55101, Room 572, Federal Building and U.S. Courthouse, 140 East Fourth Street.
Kansas City, MO, ZIP 64106, 2700 Federal Office Building, 911 Walnut Street.
St. Louis, MO, ZIP 63101, 935 U.S. Court and Custom House, 1114 Market Street.
Omaha, NE, ZIP 68101, Room 3101, U.S. Post Office and Court House, 215 North 17th Street.
Newark, N.J., ZIP 07102, Ninth Floor, 970 Broad Street.
Buffalo, NY, ZIP 14202, 306 U.S. Courthouse, Niagara Square Station.
New York, NY, ZIP 10007, 26 Federal Plaza, 12th Floor.
Greensboro, NC, ZIP 27420, Room 509, 320 Federal Place.
Cincinnati, OH, ZIP 45202, 7504 Federal Office Building, 550 Main Street.
Cleveland, OH, ZIP 44114, 1620 Williamson Building, 215 Euclid Avenue.
Oklahoma City, OK, ZIP 73101, Courthouse and Federal Office Building, 220 Northwest Fourth Street.
Portland, OR, ZIP 97201, 810 Crown Plaza, 1500 Southwest First Avenue.
Philadelphia, PA, ZIP 19102, Fourth Floor, 2 Penn Center Plaza.
Pittsburgh, PA, ZIP 15230, Room 726, Federal Building.
Nashville, TN, ZIP 37202, 703 U.S. Courthouse Building, 801 Broadway.
Dallas, TX, ZIP 75202, Room 12D27, Federal Office Building, 1100 Commerce Street.
Houston, TX, ZIP 77002, 515 Rusk Avenue, Room 8102.
Salt Lake City, UT, ZIP 84111, 3438 Federal Building, 125 South State Street.
Richmond, VA, ZIP 23240, 2108 Federal Building, Eighth and Marshall Streets.
Washington, DC, ZIP 20009, Room 422, Universal Building North, 1875 Connecticut Avenue NW.
Milwaukee, WI ZIP 53233, Sixth Floor, Continental Plaza, 735 West Wisconsin Avenue.
Seattle, WA, ZIP 98121, 1101 Sixth and Lenora Building.

[FR Doc.72-16824 Filed 10-4-72;8:45 am]

Office of the Secretary

[Treasury Dept. Order 160, Revised]

NATIONAL SECURITY INFORMATION

Identification, Classification, Downgrading, Declassification and Safeguarding Procedures

AUGUST 3, 1972.

SECTION 1. *Purpose and Scope.* This Order applies to Treasury Department operations Executive Order 11652 of March 8, 1972, 37 F.R. 5209 entitled "Classification and Declassification of National Security Information and Material" and the National Security Council Directive of May 17, 1972, 37 F.R. 10053 implementing that Executive Order. The Executive Order and Directive (hereinafter jointly referred to as the Executive Order and Directive) provide the principles, practices, and procedures to govern the identification, classification, downgrading, declassification, and safeguarding of national security information and material and establish a monitoring system to insure effectiveness. The Executive Order and Directive are supplemented by this Order to the extent necessary.

The Assistant Secretary for Administration shall be responsible for insuring effective compliance with the implementation of the Executive Order and this Order.

This Treasury Order supersedes Part I of Treasury Department Order No. 160, revised as of July 16, 1968, entitled "Safeguarding Official Information," issued under Executive Order 10501, as amended.

SEC. 2. *National Security Classification Categories.* The Executive Order and Directive provide for the classification of official information and material which requires protection against unauthorized disclosure "in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed 'national security')." Official information and material classified under Executive Order 11652 is exempt from required disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1).

Classification in the interest of national security shall be in one of three categories, namely, Top Secret, Secret, or Confidential depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. The classification categories are defined in section 1 (A), (B), and (C) of the Executive Order.

SEC. 3. *Authority to Classify.* (a) *Restrictions.* The authority to originally classify official information or material is restricted to the officials designated under this section. The authority inheres in the office and may be exercised by the person acting in that office but shall not be delegated. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to him. Both unnecessary classification and overclassification shall be avoided.

(b) *Officials Authorized.* The authority for original classification of information or material as Top Secret within the Department of the Treasury shall be exercised only by the Secretary, the Deputy Secretary, the Under Secretary, the Under Secretary for Monetary Affairs, the General Counsel, the Deputy Under Secretaries, all of the Assistant Secretaries, the Special Assistant to the Secretary (National Security Affairs), the Special Assistant to the Secretary (Public Affairs), and the Special Assistant to the Secretary (Congressional Relations).

The authority for original classification of official information or material as Secret within the Department of the Treasury shall be exercised only by those officials who have Top Secret classification authority and by the heads of bureaus.

The authority for original classification of official information or material as Confidential within the Department of the Treasury shall be exercised only by those officials who have Top Secret and Secret classification authority and such other officials as those persons possessing the aforementioned classification authority shall specifically designate in writing by title of position. The designations of such positions shall be limited to the minimum number necessary for the efficient conduct of the business of the Department.

(c) *Classification Requirements.* Each official classifying a document shall do so in the manner provided in the Executive Order and Directive, with the marking of each document as provided in Part IV of the Directive. This marking will show the classification, the classifier, and the application or nonapplication of the General Declassification Schedule: *Provided, however,* That exemption from the General Declassification Schedule may only be made by an officer having Top Secret classification authority.

(d) *Record Requirement.* The Assistant Secretary for Administration shall maintain a listing by name and position of the officials in the Office of the Secretary who are authorized under this Order to classify documents as Top Secret, Secret and Confidential. The head of each bureau shall maintain such a listing of the officials in his office authorized to apply a national security classification and shall supply a copy of each listing to the Assistant Secretary for Administration. This listing is compiled as of July 1, 1972, and updated at least on a quarterly basis.

SEC. 4. *Authority To Downgrade and Declassify.* The authority to downgrade and declassify national security information or material in accordance with the rules for declassification and downgrading in the Executive Order and Directive shall be exercised by the following officials:

(a) The official authorizing the original classification, a successor in that capacity, or a supervisory official of either;

(b) An official specifically authorized in writing by an official authorized to classify information or material as Top Secret or Secret. The authorization so given shall be reported to the Assistant Secretary for Administration.

SEC. 5. *Requirements for Downgrading and Declassification.* Classified information and material shall be downgraded and declassified in accordance with the requirements of section 5 of the Executive Order and Part II of the Directive. The Assistant Secretary for Administration is hereby authorized to assign personnel to assist the Archivist of the United States in the exercise of his responsibility to systematically review for declassification all Treasury Department material classified before June 1, 1972, and more than 30 years old, and to perform the other functions assigned to such personnel in Part II, D of the Directive.

SEC. 6. *Review of Classified Material for Declassification Purposes.* Members of the public or other departments wishing to request review of classified material more than 10 years old in the custody of the Treasury Department should identify the record or information desired and apply in writing to the office of the Assistant Secretary for Administration, Washington, D.C.

(a) The Assistant Secretary for Administration shall immediately forward the request for review of records 10 to 30 years old to the appropriate officer of the Treasury Department having Top Secret classification authority and shall acknowledge receipt of the request to the requester in writing.

The request shall be reviewed and a determination made within 30 days whether continued classification is required under the criteria of section 5(B) of the Executive Order.

If the request is denied that office must indicate to the Assistant Secretary for Administration in a brief statement the reason for continued classification and, unless impossible, specify the date on which such matter shall be declassified. Whenever possible, the Assistant Secretary for Administration shall furnish the requester with a copy of that statement.

If the request is denied or no answer is received after 60 days, the requester may appeal to the Departmental Committee on National Security Information established under section 7 of this Order. The Departmental Committee shall act on the appeal and reply to the requester within 30 days. If the Departmental Committee determines that continued classification is required, it shall also notify the requester that he may appeal that denial to the Interagency Classification Review Committee.

(b) The Assistant Secretary for Administration shall immediately forward the request for review of records more than 30 years old to an appropriate office of the Treasury Department and shall acknowledge receipt of the request to the requester in writing. That office shall review the request and within 21 days forward to the Secretary of the Treasury a recommendation whether continued classification is required under the criteria of section 5(E) of the Executive Order.

If the Secretary of the Treasury determines that continued classification is required, the Assistant Secretary for Administration shall promptly notify the requester that he may appeal that denial to the Interagency Classification Review Committee and, whenever possible, shall furnish the requester with a brief statement why continued classification is required.

SEC. 7. *Departmental Committee on National Security Information.* There is hereby established a Departmental Committee on National Security Information which shall be composed of the Assistant Secretary for Administration, as Chairman, and the General Counsel and the Special Assistant to the Secretary (National Security Affairs), as members.

The Departmental Committee shall review and act upon applications and appeals regarding requests for declassification, as provided in section 6 of this Order; shall, upon request, review all decisions denying Treasury Department information and material on the ground of exemption under 5 U.S.C. 552(b)(1), and shall act upon complaints in the administration of the Executive order, any Directives thereunder and this Treasury order.

SEC. 8. *Access.* Access to classified information shall be granted only in accordance with the regulations provided

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in Part VI of the Directive as supplemented by this Order. No individual shall be entitled to receive or handle classified information or material solely because of his official position or because he has a valid security clearance. He must have in addition the need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of the need shall be made by the official having the responsibility for the safeguarding of the classified information or material.

Officials and employees of Federal Reserve Banks, which are authorized to serve as fiscal agents of the United States and perform functions related to the issue and redemption of U.S. securities may be granted access to classified national security information or material by the Under Secretary for Monetary Affairs, or his designee, when (a) the information was classified by a Treasury official or consent for dissemination to the Federal Reserve Bank was obtained from the classifying agency, under the Directive; (b) the Federal Reserve Bank officials or employees need to have knowledge of such information or material in connection with activities approved by the Under Secretary for Monetary Affairs, or his designee, as being in the interests of the United States; and (c) the Federal Reserve Bank officials and employees were cleared by the Department of the Treasury under the procedures and standards applicable to Treasury officials and employees.

The Under Secretary for Monetary Affairs, or his designee, shall also be responsible for adjusting or withdrawing the security clearance of any person who no longer needs access to classified national security information or material at a particular level in connection with the official performance of his duties.

SEC. 9. *Accountability.* The Director of the Executive Secretariat is hereby designated as the Top Secret Control Officer within the Office of the Secretary to receive, maintain current accountability records of, and dispatch Top Secret material. He shall maintain the physical inventory required in Part VI, G of the Directive.

Each Treasury bureau shall designate a Top Secret Control Officer who shall receive, maintain current accountability records of, and dispatch all Top Secret material.

The foregoing officials shall maintain the data index for Top Secret, Secret, and Confidential information in the manner provided for in Part VII of the Directive for the categories of information approved by the Interagency Classification Review Committee.

SEC. 10. *Safe Keeping.* Classified information or material may be used, held, or stored only where there are facilities or under conditions adequate to prevent unauthorized persons from gaining access to it. Whenever such information or materials are not under the personal supervision of an authorized person, the methods set forth in Appendix A to the Directive shall be used to protect it.

Records of combinations on locks of safekeeping equipment shall be stored in a central repository designated by the bureau security officer or, in the case of offices in the Office of the Secretary, in the office of the Director, Office of Central Services.

SEC. 11. *Transmission.* Classified information or material shall be transmitted between Treasury bureaus and buildings and outside the Treasury Department only in accordance with the requirements of Appendix B of the Directive. Within the main Treasury building and within each separate bureau building such information or material may be transmitted between offices by direct contact of the officials concerned in a single sealed opaque envelope with no security classified category being shown on the outside of the envelope. Classified information or material shall never be delivered to unoccupied rooms or offices.

Department of Treasury Form 2747 (Receipt for Classified Material) shall be used in the transmission of all Top Secret and Secret information or material when transmitted outside the organizational control of the sender. Form 2747 may be used for the transmission control of any other information or material at the discretion of the sender. Receipts for Top Secret information or material may be (at the discretion of the holder) destroyed after 5 years. Receipts for Secret, Confidential, and administratively controlled information or material may be destroyed after 3 years. The receipt shall identify the enclosures as to type of document, subject, copy number and date of document, but shall contain no classified information. Several items may be transmitted to the same address under cover of the same receipt. The receipt shall be signed by the recipient and returned to the sender. When a receipt for classified information or material is not returned promptly to the sender, appropriate security personnel shall be notified and followup action initiated.

SEC. 12. *Loss or Subjection to Compromise.* Any Treasury Department employee who has knowledge of the loss or possible compromise of classified information or material shall immediately report the circumstances to the appropriate bureau head or his designee who shall take appropriate action forthwith. In turn, the originating department and any other interested department shall be notified about such loss or possible compromise.

If the loss or possible compromise occurs in any Treasury Department bureau, the Assistant Director (Physical Security), Office of Administrative Programs, Office of the Secretary, shall be notified who, in turn, shall direct an immediate inquiry to be conducted for the purpose of taking corrective measures and assessing damages. Recommendations shall be made as to the appropriate administrative, disciplinary, or legal action to be taken.

SEC. 13. Destruction. When information or material, classified under the authority of Executive Order 11652 is to be destroyed, destruction shall be by burning, mulching, or shredding in the presence of an individual or individuals specifically designated by the appropriate bureau head. Prior to a bureau obtaining a mulching or shredding machine, the Assistant Director (Physical Security), Office of Administrative Programs, shall approve use of such a machine. Any classified information or material to be destroyed by burning shall be torn and placed in containers designated as burnbags and shall be clearly and distinctly labeled "Burn." Burnbags awaiting destruction shall be protected by security safeguards commensurate with the classification or control designation of the material involved. Each bureau head shall cause appropriate accountability records to be maintained for his bureau to reflect the destruction of classified national security information or material. Nonrecord classified material such as extra copies and duplicates, including shorthand notes, preliminary drafts, used carbon paper and other material of similar temporary nature, shall also be destroyed by burning, mulching, or shredding as soon as it has served its purpose, but no records of such destruction need be maintained.

SEC. 14. *Training, Orientation, and Inspection.* The Assistant Director (Physical Security), Office of Administrative Programs, shall establish, coordinate, and maintain active training, orientation, and inspection programs for employees concerned with classified information or material to assure that the provisions of the Executive Order and any Directives thereunder are effectively administered throughout the Department. He shall also make any inspection which, in his judgment, is necessary to ascertain facts or facilitate administration. Each bureau head shall designate a person or persons to coordinate and supervise the activities applicable to his bureau to maintain the programs of training, orientation, and inspection established by the Assistant Director (Physical Security), Office of Administrative Programs, and to carry out related activities of section 7(B)(3) of Executive Order 11652.

SEC. 15. *Review.* Each bureau head shall designate a member or members of his staff to conduct a continuing review of the implementation of the Executive Order and Directive and this Order within his bureau. The Assistant Director (Physical Security), Office of Administrative Programs, shall coordinate bureau reviews and he is authorized to determine what periodic or special reports may be required.

SEC. 16. *Bureau Regulations.* Copies of all regulations and procedures of general applicability issued by the heads of bureaus shall be forwarded to the Assistant Director (Physical Security), Office of Administrative Programs.

Effective date: Upon publication in the FEDERAL REGISTER (10-5-72).

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.72-17091 Filed 10-4-72;8:55 am]

[Treasury Dept. Order 222]

OFFICIALLY LIMITED INFORMATION

Classification and Declassification Procedures

1. *Purpose.* In connection with the development of Treasury policy, the enforcement of criminal and civil laws relating to Treasury operations, the making of decisions on personnel matters, and the consideration of confidential financial information, Treasury officials are required to handle documents and materials containing information which must be restricted to necessary official use and may not be otherwise disclosed, either to persons employed by, or to persons outside of, the Treasury Department. Such information of a nondefense character has in the past been administratively classified with the legend Limited Official Use or Official Use Only, in accordance with Part II of Treasury Order No. 160, as revised in 1962 and 1968. This present order restates the authority for administrative classification, and the requirements for declassification, of information necessarily restricted for official purposes which is not appropriately classified as national security information under Treasury Order No. 160, revised, in accordance with Executive Order 11652 of March 8, 1972.

2. *Statutory authority.* The Secretary of the Treasury has the authority to determine the records held by the Treasury which are to be restricted for official purposes, and the appropriate duration of such restrictions, under his authority to control the management of Department records in 5 U.S.C. 301 and 44 U.S.C. 3101, to enforce the laws requiring the protection of tax information, trade secrets, and confidential financial information under 18 U.S.C. 1905, 26 U.S.C. 7213(b), 31 U.S.C. 1052(j), and 44 U.S.C. 3508, and to determine the records to be made available and disclosed to the public under the requirements of the Freedom of Information Act, 5 U.S.C. 552.

3. *Relationship to the Freedom of Information Act.* The classification of a record in accordance with this order is a determination that the record is not one to be made available for public inspection and copying under 5 U.S.C. 552(a)(2). It is not a determination that the record may not be made available upon request for it under section 552(a)(3). If a request for the record is received under section 552(a)(3), a determination must be made pursuant to 31 CFR Part 1, or under the appropriate regulations of the bureau concerned, as to whether the record should be made available to the requester, in accordance with 5 U.S.C. 552.

4. *Classification and protection.* Official information which is not entitled to protection in the interest of national security, under Executive Order No. 11652, but which requires restriction in accordance with the need therefor stated in this order, shall be classified and protected in compliance with the following rules.

(a) *Limited official use.* This legend is to be used for documents or materials dealing with important, delicate, or sensitive matters which must be so restricted as to be available only for the information of officials who have a need-to-know such information. Documents or material so marked shall be handled and transmitted in a manner equivalent to that provided in National Security Council Directive, dated May 17, 1972, for the handling and transmission of documents and materials marked Confidential under Treasury Order No. 160.

(b) *Official use only.* This legend is to be used for documents or materials which require restriction to a lesser degree than those marked Limited Official Use, but which may be made available only to authorized officials. Documents or materials so marked shall be handled and transmitted in a manner which will not make them available to unauthorized persons.

(c) *Existing legends.* A bureau which has in use its own classification legends, for other than national security information, may continue to use such legends if the bureau head finds that this will serve its purposes better than the legends described in (a) and (b) above. Each bureau electing to continue its present legends shall furnish their definitions to the Assistant Secretary for Administration, together with the rules governing the protection of documents and material so classified. In addition, each such bureau shall assure that the definitions of its legends are known to those persons, if any, outside the bureau who are authorized recipients of documents or material so classified.

5. *Authority to classify.* Authority to classify documents or material in accordance with section 4 (a), (b) or (c) may be exercised only by persons authorized by Treasury Department Order No. 160 to classify national security information as Confidential. Such persons are hereby authorized to delegate the authority to affix the legend Official Use Only as may be necessary for efficient administration, but the redelegated authority shall be limited to as few persons as possible.

6. *Authority to declassify.* The authority to declassify documents or material classified under this order may be exercised by the official authorizing the original classification, a successor in that capacity, a supervisory official of either, or an official specially authorized in writing by any one of the preceding officials.

7. *Declassification.* Information and material classified under this order and under Part II of prior Treasury Order No. 160 shall be declassified as soon as there is no longer any reason for continued classification. It is the responsibility of the official originating the classification, or his successor in office, to remove the classification of documents or material as soon as consistent with the fulfillment for the reasons for the classification: After a determination that a classified record is available upon request, under 5 U.S.C. 552(a)(3), that record shall be automatically declassified. Consideration must then be given to the declassification of records of a similar character or dealing with the same or similar information.

8. *Revocation.* Part II of Treasury Order No. 160, revised as of July 16, 1968, is revoked as of the effective date of this order.

9. *Effective date.* This order shall be effective upon issuance.

Dated: August 3, 1972.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.72-17092 Filed 10-4-72;8:55 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

NARCOTICS AND COCAINE

Proposed Aggregate Production Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for all controlled substances in schedule I and II by July 1 of each year.

The Bureau of Narcotics and Dangerous Drugs had originally anticipated that the proposed aggregate production quotas for all controlled substances in schedule I and II would be established at one time following analysis of the anoretic review study of the Food and Drug Administration. The Bureau has now decided, however, to publish the proposed aggregate production quotas for narcotics and cocaine separately from those for stimulants. Publication of the proposed aggregate production quotas for stimulant controlled substances listed in schedule I and II shall be forthcoming in the near future.

In determining the narcotic and cocaine aggregate production quotas for 1972, which are adequate to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements and establishment and maintenance of reserve stocks, the Bureau has considered the following as required by section 306 of the CSA (21 U.S.C. 826) and § 303.11 of Title 21 of the Code of Federal Regulations:

(1) Total net disposal by all manufacturers during the current and preceding 2 years and trends in the national rate of net disposal;

(2) Total actual (or estimated) inventory of narcotics and cocaine and of all substances manufactured from them and trends in inventory accumulation; and

(3) Projected demand as indicated by procurement quotas requested pursuant to § 303.13 of Title 21 of the Code of Federal Regulations.

Based upon consideration of the above factors, the Director, Bureau of Narcotics and Dangerous Drugs, under the authority vested in the Attorney General by

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§ 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, proposes that the aggregate production quotas for 1972 for narcotics and cocaine, expressed in grams in terms of their respective anhydrous bases, be established as follows:

Substance:	*Proposed—1973*
1. Alphaprodine	52,000
2. Anileridine	276,000
3. Apomorphine	3,000
4. Cocaine	1,161,902
5. Codeine (for conversion)	310,000
6. Codeine (for sale)	32,563,961
7. Diphenoxylate	660,000
8. Dihydrocodeine	139,812
9. Ecgonine	123,700
10. Ethylmorphine	22,074
11. Fentanyl	3,000
12. Hydrocodone	485,310
13. Hydromorphone	58,000
14. Levorphanol	8,000
15. Methadone	3,339,000
16. Methodone Intermediate (4 - cyano-2-dimethylamino - 4, 4 - diphenyl butane	1,089,500
17. Morphine (for conversion)	30,556,748
18. Morphine (for sale)	534,662
19. Norpethidine	550,000
20. Opium (tinctures, extracts, etc., expressed in terms of opium)	1,145,500
21. Oxycodone (for conversion)	10,000
22. Oxycodone (for sale)	1,240,000
23. Oxymorphone	6,000
24. Pethidine	16,291,638
25. Phenazocine	275
26. Thebaine (for conversion)	597,000
27. Thebaine (for sale)	3,500,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Attention: Hearing Clerk, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 Eye Street NW., Washington, DC 20537, and must be received by October 23, 1972.

Dated: September 29, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-17050 Filed 10-4-72;8:51 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

COLORADO

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), as amended by section 232 of the Disaster Relief Act of 1970 (Public Law 91-606) and section 5 of Public Law 92-385, it has been determined that in the following counties in the State of Colorado natural disasters have caused a general need for agricultural credit:

COUNTIES

Delta.
Mesa.
Montrose.

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1973, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 2d day of October 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-17087 Filed 10-4-72;8:53 am]

OKLAHOMA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as amended by section 232 of the Disaster Relief Act of 1970 (Public Law 91-606) and section 5 of Public Law 92-385, it has been determined that in the following county in the State of Oklahoma a natural disaster has caused a general need for agricultural credit:

COUNTY

Choctaw.

Emergency loans will not be made in the above-named county under this designation pursuant to applications received after June 30, 1973, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for an emergency loan in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 2d day of October 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-17088 Filed 10-4-72;8:53 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File: 23(70)-16]

NORMAN WEDGE

Order Terminating Indefinite Denial Order

In the matter of Norman Wedge, 2 Oak Grove, Wednesfield, Stafford, England, respondent, File: 23(70)-16.

On November 10, 1971 (36 F.R. 21837), an order was entered against the above named Norman Wedge and other respondents denying them, for an indefinite period, all privileges of participating in transactions involving commodities or technical data exported or to be exported from the United States. This order was issued in accordance with § 388.15 of the Export Control Regulations because the respondents failed to answer interrogatories without showing good cause for such failure.

The above named Norman Wedge has now furnished responsive answers to some of the interrogatories and has given adequate reasons for failure to furnish complete answers to other interrogatories. In accordance with § 388.15 he is entitled to have the indefinite denial order terminated as against him.

Accordingly, the above mentioned indefinite denial order of November 10, 1971, is hereby terminated as against Norman Wedge individually. The order remains in effect against Norman Wedge Ltd. and Keith Hutt, the other respondents named therein.

Dated: September 29, 1972.

RAUER H. MEYER,
Director,
Office of Export Control.

[FR Doc.72-17014 Filed 10-4-72;8:48 am]

Office of Minority Business Enterprise

NATIONAL ADVISORY COUNCIL FOR MINORITY BUSINESS ENTERPRISE

Notice of Public Meeting

Pursuant to the provisions of section 13 of Executive Order 11671 of June 5, 1972, notice is hereby given that a meeting of the National Advisory Council for Minority Business Enterprise will be held October 19-20, 1972, at the Los Angeles Hilton Hotel, 930 Wilshire Boulevard, Los Angeles, CA. The meeting on October 19, 1972, will convene at 10 a.m., and the meeting on October 20, 1972, will convene at 9 a.m.

The Council's purpose is to advise and assist the Secretary of Commerce and the Director, Office of Minority Business Enterprise on the development and implementation of policies in support of the Minority Business Enterprise program, with specific emphasis on mobilizing and applying the support of the private sector of the economy.

The Advisory Council consists of 82 members who are knowledgeable and dedicated to the objectives of the national program for Minority Business Enterprise.

The Advisory Council and its committees will consider the capital development, opportunities, education, training, and purchasing available to or needed by minority business.

The meeting shall be open to the public. A verbatim transcript of the Council and committee meetings will be kept and will be available for public inspection through the Information Center, Office of Minority Business Enterprises, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. A list of the Advisory Council members can also be obtained from the Information Center.

Persons wishing additional information concerning this meeting should contact the Council's staff, 1000 Vermont Avenue, Washington, DC, or call them at 202—967-3922.

Dated: October 3, 1972.

DAVID S. BROWN,
Acting Deputy Director, Office of Minority Business Enterprise.

[FR Doc.72-17165 Filed 10-4-72;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

COMMITTEE MANAGEMENT

Notice of Determination

The Department of Health, Education, and Welfare utilized advice and recommendations of advisory committees in carrying out many of its functions and activities.

On June 5, 1972, the President issued Executive Order 11671 governing the formation, use, conduct, management, and accessibility to the public of advisory committees formed to advise and assist the Federal Government. Section 13 of the order specifies that department and agency heads shall make adequate provision for participation by the public in the activities of advisory committees, except to the extent a determination is made in writing by the department or agency head that committee activities are matters which fall within policies analogous to those recognized in the Freedom of Information Act, section 552 (b) of title 5 of the United States Code, and the public interest requires such activities to be withheld from disclosure. Consequently, the Department will open to the public as many advisory committee meetings as possible.

While the Department has a policy of the fullest possible disclosure of records pursuant to the Freedom of Information Act, obligations of confidentiality and administrative necessity require that the Department invoke the exemptions from mandatory disclosure specified in the Act for certain of its records.

Records containing trade secrets, commercial or financial information, personnel or medical files, or investigatory files compiled for law enforcement purposes are illustrative of such exempt records. The functions and responsibilities with which some committees are charged require that certain of the exempt records be submitted for the use of the committee during their deliberations. If these committees were required to discuss these records in open meetings the protection of the exemptions of the Freedom of Information Act would be lost and their purpose frustrated. Moreover, if the deliberations were reduced to writing, the records thus created likewise would be entitled to the same exemption from mandatory disclosure.

Advisory committee meetings at which testimony or other evidence is received by the committee from persons outside the Department should be open to the public. When, however, an advisory committee has reached, in the performance of its responsibilities, the point of considering, discussing, and formulating its advice, conclusions or report, effective functioning of a committee requires that its members have an opportunity to express their individual views and judgments to each other without the presence of the public in arriving at the views and judgments of the committee.

Pursuant to section 13(d) of the order, it is hereby determined therefore that only the following meetings of advisory committees or portions thereof shall be closed to the public:

(1) Meetings or portions thereof, to the extent that they directly involve review, discussion, or consideration of records of the Department which are exempt under section 3(e) (4), (6), and (7) of the Act (5 U.S.C. 552(b) (4), (6), and (7)) namely, records (a) containing trade secrets and commercial or financial information obtained from a person and privileged or confidential; (b) which are personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (c) which are investigatory files compiled for law enforcement purposes;

(2) Meetings or portions thereof held for the sole purpose of considering and formulating advice which the committee will give or any report it will render and involving exclusively the internal expression of views and judgments of the members, which if reduced to writing would be exempt as internal memoranda from mandatory disclosure under section 3(e)(5) of the Act (5 U.S.C. 552(b)(5)).

It is further determined that the public interest requires that meetings or portions of meetings devoted to activities described in the preceding two numbered paragraphs be closed to the public in the interest of maintaining the Department's obligation of confidentiality and administrative necessity and so the Department may continue to receive needed information and advice through the advisory committee process.

No person other than members of the committee or staff of this Department shall be present at any meeting or portion of a meeting closed to the public pursuant to this determination. Decisions concerning specific matters exempt from disclosure under the Act will be made in accordance with the regulation promulgated by the Department under the Act.

ELLIOT L. RICHARDSON,
Secretary.

SEPTEMBER 27, 1972.

[FR Doc.72-17075 Filed 10-4-72;8:52 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice of Hearing on a Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, rules of practice, notice is hereby given that a hearing will be held at a time and place to be set in the future by an Atomic Safety and Licensing Board, to begin in or in the vicinity of Lake County, Ill., to consider the application filed under § 104b. of the Act by the Commonwealth Edison Co. (applicant) for facility operating licenses which would authorize the operation of the pressurized water reactors (the facilities), identified as Zion Nuclear Power Station, Units Nos. 1 and 2, at steady-state power levels up to a maximum of 3250 megawatts (thermal) each, at the applicant's site in Lake County, Ill.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic Energy Commission (Commission), consisting of Jerome Garfinkel, Esq. (Chairman), Mr. Gustave A. Linenberger, and Dr. E. Leonard Cheatum. Dr. Ernest O. Salo has been designated as a technically qualified alternate, and Thomas W. Reilly, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of the facility was authorized by Provisional Construction Permits Nos. CPPR-58 and CPPR-59, issued by the Commission on December 26, 1968, following a public hearing.

A notice of consideration of issuance of an operating license for the facility was published on June 30, 1972 (37 F.R. 12982). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the issuance of a license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, rules of practice. A joint petition for leave to intervene was thereafter filed by: Businessmen for the Public Interest, the Sierra Club, the Metropolitan Sanitary District of Greater Chicago, and David Dinsmore Comey. A separate petition also was filed, by Mrs. Eileen Jenkins. Answers to these petitions were filed by the applicant and by the Atomic Energy Commission's Regulatory Staff.

As set forth in a memorandum and order on this matter dated September 29, 1972, the Commission has determined that a public hearing will be held and that the petitioners, Businessmen for the Public Interest and David Comey should be admitted as parties to the proceeding. the Commission further directed the Licensing Board to take whatever action

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may be appropriate to rule on the remaining petitioners' requests to intervene, narrow petitioners' contentions, and specify the issues to be considered during the hearing.

A special prehearing conference will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice, 10 CFR Part 2. The date and place of any further prehearing conferences, and of the hearing itself, will be set by the Board at or after the special prehearing conference. Notices as to the dates and places of the special prehearing conference and the hearing will be published in the FEDERAL REGISTER.

Depending on the resolution of the issues specified by the Licensing Board, authorization for issuance of the license may be granted or denied, or the license may be authorized as appropriately conditioned. An operating license would be issued only after appropriate findings are made by the Director of Regulation on the matters set forth below which are not embraced by the Board's decision (and upon compliance with the applicable provisions of Appendix D to 10 CFR Part 50, dealt with hereinafter):

1. Whether construction of the facility has been substantially completed in conformity with the construction permit and the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

2. Whether the facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

3. Whether there is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission.

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations of the Commission.

5. Whether the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations have been satisfied.

6. Whether the issuance of the license will be inimical to the common defense and security or to the health and safety of the public.

The Commission has issued regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 (NEPA). Appendix D to 10 CFR Part 50. The instant proceeding is covered by section C of said Appendix D, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

The application for the facility operating licenses and other documents pertinent to the matters under consideration, including the transcripts of the prehearing conference and of the hearing, have or will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Waukegan Public Library, 128 North County Street, Waukegan, IL, for inspection by members of the public. Copies of the applicant's supplemental environmental reports dated November 8, 1971, December 3, 1971, February 29, 1972, April 13, 1972, and May 18, 1972; the Commission's draft detailed statement of environmental considerations pursuant to 10 CFR Part 50; the report of the Advisory Committee on Reactor Safeguards on the application for a facility operating license for the Zion facility; the Commission's final detailed statement of environmental considerations pursuant to 10 CFR Part 50, Appendix D; the safety evaluation prepared by the Division of Reactor Licensing; and the proposed facility operating licenses, when available and to the extent of supply, may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to the proceeding (other than the Regulatory Staff) not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Any petitioner subsequently admitted as a party by the Licensing Board shall file an answer as may be required by the Licensing Board. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a)(1) of this section. The membership of the Appeal Board for this proceeding will be designated by the Commission in a subsequent notice to be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 29th day of September 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
[SEAL] PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.16978 Filed 10-4-72;8:45 am]

[Dockets Nos. 50-315, 50-316]

INDIANA & MICHIGAN ELECTRIC CO. AND INDIANA & MICHIGAN POWER CO.

Notice of Hearing on a Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, rules of practice, notice is hereby given that a hearing will be held at a time and place to be set in the future by an Atomic Safety and Licensing Board, to begin in or in the vicinity of Berrien County, Mich., to consider the application filed under section 104b. of the Act by the Indiana & Michigan Electric Co. and Indiana & Michigan Power Co. (Applicants) for facility operating licenses which would authorize the operation of the pressurized water reactors (the Facilities), identified as Donald C. Cook Nuclear Plant, Units 1 and 2, at steady-state power levels up to a maximum of 3,250 megawatts (thermal) each, at the applicants' site in Berrien County, Mich. The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic Energy Commission (Commission), consisting of Jerome Garfinkel, Esq. (Chairman), Mr. Gustave A. Linenberger, and Dr. Ernest O. Salo. Dr. Gerard A. Rohlich has been designated as a technically qualified alternate, and Thomas W. Reilly, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of the facility was authorized by Provisional Construction Permits Nos. CPPR-60 and CPPR-61, issued by the Commission on March 25, 1969, following a public hearing.

A notice of consideration of issuance of an operating license for the Facility was published on June 29, 1972 (37 F.R. 12886). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the issuance of a license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, rules of practice. A joint petition for leave to intervene was thereafter filed by Businessmen for the Public Interest, the Sierra Club, the West Michigan Environmental Council, Inc., and the Rosemary Beach Association. Petitions were also filed by the Dunewood Property Owners Association, Mr. Frank Condon and Miss Jane Condon, and a joint petition by 17 individuals (Brooks et al). Answers to these petitions were filed by the Applicant and by the Atomic Energy Commission's Regulatory Staff.

As set forth in a memorandum and order on this matter dated September 29, 1972, the Commission has determined that a public hearing will be held and that joint petitioners Brooks et al. and BPI should be admitted as parties to the proceeding. The Commission further directed the Licensing Board to take whatever action it considered necessary to enable it to rule on the remaining petitions, as well as to narrow and specify the issues to be considered during the hearing.

A special prehearing conference will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice, 10 CFR Part 2, The date and place of any further prehearing conferences, and of the hearing itself, will be set by the Board at or after the special prehearing conference. Notices as to the dates and places of the special prehearing conference and the hearing will be published in the FEDERAL REGISTER.

Depending on the resolution of the issues specified by the Licensing Board, authorization for issuance of the licenses may be granted or denied, or the licenses may be authorized as appropriately conditioned. An operating license would be issued only after appropriate findings are made by the Director of Regulation on the matters set forth below which are not embraced by the Board's decision (and upon compliance with the applicable provisions of Appendix D to 10 CFR Part 50, dealt with hereinafter):

1. Whether construction of the Facility has been substantially completed in conformity with the construction permit and the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

2. Whether the Facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

3. Whether there is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission.

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations of the Commission.

5. Whether the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations have been satisfied.

6. Whether the issuance of the license will be inimical to the common defense and security or to the health and safety of the public.

The Commission has issued regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 (NEPA). Appendix D to 10 CFR Part 50. The instant proceeding is covered by section C of said Appendix D, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

The application for the facility operating licenses and other documents pertinent to the matters under consideration, including the transcripts of the prehearing conference and of the hearing, have or will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the St. Joseph Public Library, 500 Market Street, St. Joseph, MI, for inspection by members of the public. Copies of the Applicants' supplemental environmental report dated November 8, 1971; the Commission's draft detailed statement of environmental considerations pursuant to 10 CFR Part 50; the report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses for the Cook facility; the Commission's final detailed statement of environmental considerations pursuant to 10 CFR Part 50, Appendix D; the safety evaluation prepared by the Division of Reactor Licensing; and the proposed facility operating licenses, when available and to the extent of supply, may be obtained by request to the Director of the Division of Reactor Licensing. U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of .10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to the proceeding (other than the Regulatory Staff) not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Any petitioner subsequently admitted as a party by the Licensing Board shall file an answer as may be required by the Licensing Board. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a)(1) of this section. The membership of the Appeal Board for this proceeding will be designated by the Commission in a subsequent notice to be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 29th day of September 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.16977 Filed 10-4-72;8:45 am]

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[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Notice of Availability of AEC Final Environmental Statement for the Shoreham Nuclear Power Station

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Final Environmental Statement Related to the Proposed Construction of the Shoreham Nuclear Power Station by the Long Island Lighting Co." has been prepared by the Directorate of Licensing, U.S. Atomic Energy Commission and has been made available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Comsewogue Public Library, 170 Terryville Road, Port Jefferson, NY 11776. The statement is also being made available at the New York State Office of Planning Services, 488 Broadway, Albany, NY 12207 and at the Tri-State Regional Planning Commission, 100 Church Street, New York, NY 10007.

The notice of availability of the Long Island Lighting Co.'s environmental report was published in the FEDERAL REGISTER on February 12, 1972 (37 F.R. 3204).

The notice of availability of the Commission's draft environmental statement for the Shoreham Nuclear Power Station and request for comments from interested persons was published in the FEDERAL REGISTER on June 13, 1972, 37 F.R. 11740. The comments received from Federal, State, and local officials have been included as appendixes to the final environmental statement.

Single copies of the statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 2d day of October 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-17161 Filed 10-4-72;8:51 am]

[Docket No. 50-244]

ROCHESTER GAS AND ELECTRIC CORP.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Rochester Gas and Electric Corporation, R. E. Ginna Nuclear Power Plant Unit No. 1 Environmental Report," submitted by the Rochester Gas & Electric Corp. has been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and at the local Public Document Room at the Lyons Public Library in Lyons, N.Y. The report is also being sent to the New York State Office of Planning Services, 488 Broadway, Albany, NY 12207 and at the Genessee Finger Lakes Regional Planning Board, 65 Broad Street, West Rochester, NY 14614.

This report discusses environmental considerations related to the proposed issuance of a full-term operating license for the R. E. Ginna Plant Unit No. 1, located in Lake Ontario, Wayne County, N.Y.

After the report has been analyzed by the Commission's Director of Regulations or his designee, a draft statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 27th day of September 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.72-16976 Filed 10-4-72;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24791; Order 72-9-119]

AMERICAN AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September, 1972.

By tariff revisions[1] marked to become effective October 1, 1972, American Airlines, Inc. (American) proposes to revise the application of existing local individual inclusive tour basing fares (IT) and establish new midweek IT fares between 23 interior mainland points and Hawaii. Under the proposal, existing IT fares—currently applicable at all times—would apply at all times throughout the peak summer season and on weekends during the offpeak season, while new lower fares would be established for midweek travel in the offpeak season.[2] The new midweek IT fares would be approximately 10 percent below the existing IT fare level.[3] The rules applicable to travel remain essentially unchanged from existing provisions; namely, 7 to 21 day minimum/maximum stay, $45 minimum tour add-on, and two free stopovers in the continental USA. The midweek fares bear an expiration date of May 31, 1973.

In support of its proposal, American alleges that the fares are specifically designed to generate additional vacation traffic during offpeak travel periods. The carrier has submitted data showing that during the 8-month period ending May 1972, its weekend load factors in the Chicago, New York, St. Louis-Hawaii markets averaged 52 percent, whereas weekday load factors averaged only 29 percent. In addition, the carrier has provided traffic data which indicate that in the peak third quarter of 1971, traffic was more than twice that carried in the first quarter of that year. Accordingly, American contends that it can accommodate additional offpeak weekday passengers without increasing capacity.

Braniff Airways, Inc. (Braniff) and United Air Lines, Inc. (United) have filed complaints requesting that the proposal be suspended and investigated. The complainants allege that the instant proposal remains basically unchanged from that filed by American in February which was suspended by the Board, and that the same deficiencies are present here; that the proposed IT fares are below the minimum levels prescribed by the Board for group inclusive tour travel to Hawaii; that the $45 minimum tour add-on, when combined with the proposed midweek IT fares, amounts to a throwaway as the total is below the regular fare level; and that American's estimates of dilution and diversion are unsubstantiated and underestimated.

American has answered the complaints,[4] alleging that it does not read Order 72-3-17 as barring a carrier from offering a limited offpeak IT fare at a level lower than a GIT fare that is available during all times of the year; that the throwaway problem alluded to by the complaints already exists; and that by limiting the fares to offpeak days during the offpeak season it is insuring its ability to accommodate the new traffic on existing capacity and thereby carry it profitably even though the yield is low.

Upon consideration of the tariff proposal, the complaints and answer thereto, and all other relevant matters the Board finds that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Information furnished by the carriers in connection with their pending request for a general increase in normal fares to Hawaii indicates that one-half of all coach/economy traffic moves on one of the discount fares available in this market. IT fares alone account for 29 percent of United's traffic from interior points, between 13 and 18 percent of Braniff's traffic on the 3 midweek days involved, and apparently somewhat in excess of 20 percent in the case of American. In our opinion, the magnitude of discount fare travel raises a very real question as to the reasonableness of these fares in relation to the overall pattern of fares in the Hawaii market, both in terms of the relative value of the various services and the cost of providing them. In this connection, we note that the size of the discount for IT travel was increased in July 1972, by virtue of an increase in normal fares implemented at that time pursuant to the Board's decision in the U.S. Mainland-Hawaii Fares case. Moreover, it seems only reasonable to conclude that capacity is being provided at least in part to accommodate discount fare traffic, which raises the question of what costs should properly be assigned to these services. Accordingly, we are not prepared to permit a further reduction in IT fares to Hawaii to be implemented without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A,[5] and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A[5] are suspended and their use deferred to and including December 29, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The motion of American Airlines, Inc. for leave to file a late document is hereby granted;

4. Except to the extent granted herein, the complaints in Dockets 24703 and 24704 are hereby dismissed;

5. The proceeding ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

6. Copies of this order be filed in the aforesaid tariffs and be served on American Airlines, Inc., Braniff Airways, Inc., and United Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

NOTE: Members Minetti and Murphy filed a dissent, filed as part of the original document, in part.

[FR Doc.72-17080 Filed 10-4-72;8:53 am]

[Docket No. 23333; Order 72-9-113]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Approving Agreement

Adopted by the Civil Aeronautics Board in its office in Washington, D.C. on the 29th day of September, 1972.

By Order 72-7-40, dated July 12, 1972, the Board approved through September 30, 1972, that portion of an agreement adopted by the members of the International Air Transport Association (IATA) relating to the establishment of rates and provisions for carriage between the United States and the Federal Republic of Germany of containerized freight in unit-load device Type 2. This device, more commonly known as the "bungalow," is specifically designed for use in wide-bodied B-747 freighter aircraft. Previously, the Board's deferral of action[1] on the agreement had noted the relationship between the proposed provisions governing the rating of bungalows, and a request by Seaboard World Airlines, Inc. (Seaboard) in Docket 24425 for Board suspension of bungalow rate tariffs filed unilaterally by Lufthansa during the IATA "open-rate" period that prevailed prior to the agreement's effectiveness. (The Board continued to defer action on rates and provisions for Type 1 bungalows, inasmuch as no carrier has proposed to commence utilization of this larger container.)

Our condition limiting approval through September 30, 1972, stemmed from differences between Seaboard and Lufthansa raising issues of public interest which have since been resolved. We therefore find that extension of Board approval, for the full term of the agreement is not adverse to the public interest or in violation of the Federal Aviation Act of 1958.

As regards rates, charges, and provisions for the larger bungalow (Type 1), we will continue to defer action inasmuch as no carrier has proposed to introduce it into service.

Accordingly, *it is ordered*, That:

1. Agreement C.A.B. 22969, R-16, insofar as it provides rates, charges, and provisions applicable to containerized freight moving between the United States and the Federal Republic of Germany in Type 2 unit-load devices, be and hereby is approved.

2. Action be and hereby is further deferred with respect to that portion of Agreement C.A.B. 22969, R-16, encompassing rates, charges, and provisions applicable to containerized freight moving between the United States and the Federal Republic of Germany in Type 1 unit-load devices.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-17079 Filed 10-4-72;8:52 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEES

Establishment and Designation of Initial Membership and Chairmanship

SEPTEMBER 28, 1972.

The Federal Power Commission hereby determines that the establishment of National Power Survey Technical Advisory Committees, as identified hereinafter, is in the public interest and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and the Commission establishes these committees in accordance with the provisions of the Commission's order issued June 29, 1972, 37 F.R. 13380—Order Authorizing the Establishment of National Power Survey Advisory Committees and Prescribing Procedures—and the provisions of this order. Any Task Forces under the Technical Advisory Committees will be established by subsequent Commission orders.

Technical Advisory Committee on Conservation of Energy.
Technical Advisory Committee on Finance.
Technical Advisory Committee on Fuels.
Technical Advisory Committee on Power Supply.
Technical Advisory Committee on Research and Development.

1. *Purpose.* The Technical Advisory Committees shall be subordinate to the National Power Survey Executive Advisory Committee and shall report to such Committee, to the Director of the National Power Survey (Director), and to the Commission on all matters delegated to them pertaining to the planning, conduct and execution of the National Power Survey. The principal functions of the Technical Advisory Committees shall be as follows: (1) To carry out all directions of the National Power Survey Executive Advisory Committee, the Director or the Commission pertaining to the planning, conduct and execution of the National Power Survey; (2) to recommend guidelines as requested by the National Power Survey Executive Advisory Committee, the Director or the Commission for the detailed work encompassed

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB Nos. 136 and 142.

[2] The tariff designates the peak season as June 1 through September 30, and weekends as 12:01 a.m. Friday through midnight Monday.

[3] Earlier this year, American made a similar but somewhat less restrictive proposal which would have reduced its IT fares to Hawaii on Tuesdays through Fridays during both peak and off-peak seasons, by 12 percent and 15 percent respectively. That proposal was suspended by the Board (Order 72-3-17, March 8, 1972).

[4] American's answer was filed 6 days late, accompanied by a motion for leave to file a late document. Since the tariff was posted, and neither complainant has objected, the motion will be granted.

[5] Filed as part of the original document.

[1] Order 72-6-137, dated June 29, 1972, dealing with the North Atlantic cargo agreement.

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in the conduct of the National Power Survey and to allocate work assignments to any task forces which may be organizationally subordinate to them; (3) to recommend a proposed time schedule for the development and completion of all assignment phases of the National Power Survey; (4) to coordinate all facets of work allocated to any organizationally subordinate task forces; (5) to submit periodic reports to the National Power Survey Executive Advisory Committee, the Director and the Commission as to the progress and status of the National Power Survey, together with such recommendations pertaining thereto as may be appropriate; and (6) to furnish such other assistance and advice to the National Power Survey Executive Advisory Committee, the Director and the Commission as they may be called upon from time-to-time to contribute for the successful planning and conduct of the National Power Survey.

2. *Membership.* The chairmen, coordinating representatives, secretaries and other members of the respective Technical Advisory Committees established herein, as selected by the Chairman of the Commission with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of future Committee members.* All future Technical Advisory Committee members and persons designated to act as Committee chairmen, coordinating representatives, secretaries, shall be selected and designated by the Chairman of the Commission with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the aforementioned Commission order issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes and records.
5. Secretary of the committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX

NATIONAL POWER SURVEY
TECHNICAL ADVISORY COMMITTEES

TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Chairman: Dr. Bruce Netschert, Vice President, National Economic Research Associates, Inc.
FPC Coordinating Representatives:
Richard F. Hill, Office of Environmental Quality.
Drexel D. Journey, Office of the General Counsel.
Thomas J. Joyce, Bureau of Natural Gas.
Martin J. Thorpe, Bureau of Power.
Dr. Haskell P. Wald, Office of Economics.
Secretary: A. F. Bochenek, Bureau of Power.
Alternate Secretary: C. R. Beyer, Bureau of Power.
Members:
John J. Bugas, General Manager, Colorado Ute Electric Association, Inc.
Raymond C. Burt, Engineer-in-Charge, Generating Plant and Generation Facilities, Los Angeles Department of Water and Power.
Jack K. Busby, President, Pennsylvania Power and Light Co.
Dr. Robert K. Davis, Department of Geography and Environmental Engineering, Johns Hopkins University.
Asa George, General Manager and Chief Engineer, Power Authority of the State of New York.
Eugene A. Gulledge, Assistant Secretary for Housing Production and Mortgage Credit, Department of Housing and Urban Development.
John P. Madgett, General Manager, Dairyland Power Cooperative.
Dr. Lawrence I. Moss, Executive Secretary, Committee on Public Engineering Policy, National Academy of Engineering (Also Sierra Club Officer).
Eugene Quindlen, Assistant Director for Government Preparedness, Office of Emergency Preparedness.
Nathaniel P. Reed, Assistant Secretary for Fish, Wildlife, and Parks, Department of the Interior.
Louis H. Roddis, Jr., President, Consolidated Edison Company of New York.
Robert Sansom, Assistant Administrator, Environmental Protection Agency.
Dr. Herbert H. Woodson, Chairman, Department of Electrical Engineering, University of Texas.
Quinton R. Wells, Assistant Commissioner for Technical and Credit Standards, Department of Housing and Urban Development.

TECHNICAL ADVISORY COMMITTEE ON FINANCE

Chairman: Gordon R. Corey, Chairman, Finance Committee, Commonwealth Edison Co.
FPC Coordinating Representatives:
William W. Lindsay, Bureau of Power.
Arthur L. Litke, Office of Accounting and Finance.
James F. Simes, Bureau of Natural Gas.
Secretary: Peter W. Nygard, Bureau of Power.
Alternate Secretary: Edward J. Fowlkes, Bureau of Power.
Members:
David H. Askegaard, Program Analyst, Rural Electrification Administration.
Richard S. Bodman, Assistant Secretary, Management and Budget, Department of the Interior.
Thomas H. Burbank, Vice President, Edison Electric Institute.
John F. Childs, Senior Vice President, Irving Trust Co.
Fred C. Eggerstedt, Jr., Senior Vice President and Treasurer, Long Island Lighting Co.
Paul Fry, Staff Economist, American Public Power Association.
G. P. Gaw, Director of Finance, Seattle Department of Lighting.
Professor John D. Glover, Harvard Graduate School of Business Administration.
Edwin L. Kennedy, Managing Director, Lehman Bros., Inc.
T. M. McDaniel, Jr., President, Southern California Edison Co.
John O'Connor, Staff Adviser, Environmental Protection Agency.
Charles H. Whitmore, President and Chairman of the Board, Iowa-Illinois Gas & Electric Co.
John G. Winger, Vice President, Energy Economics Division, Chase Manhattan Bank.

TECHNICAL ADVISORY COMMITTEE ON FUELS

Chairman: Paul D. Martinka, Vice President, Coal Supply, American Electric Power Service Corp.
FPC Coordinating Representatives:
Alexander Gakner, Bureau of Power.
Gordon Zareski, Bureau of Natural Gas.
Secretary: Charles W. Lines, Bureau of Power.
Alternate Secretary: Lawrence J. Prete, Bureau of Power.
Members:
Robert B. Atwater, General Director, Fuel Supply, Consumers Power Co.
Dr. James E. Connor, Director, Office of Plans and Analysis, Atomic Energy Commission.
J. E. Corson, Manager, Fuel Supply, Florida Power & Light Co.
H. L. Deloney, Vice President, Fuels, Middle South Services, Inc.
Hollis M. Dole, Assistant Secretary, Mineral Resources, Department of the Interior.
Martin E. Fate, Jr., Manager for Power Resources, Public Service Co. of Oklahoma.
Clark Grover, Chief, Fuels Planning Branch, Division of Power, Tennessee Valley Authority.
Robert Hamilton, Executive Vice President, Southern Railway Co.
H. O. Hodson, Vice President, Engineering & Construction, Southwestern Public Service Co.
C. M. Laffoon, Senior Vice President, San Diego Gas & Electric Co.
R. W. Lundgren, Vice President, Detroit Edison Co.
W. G. McCauley, Fuel Agent, Northeast Utilities Service Co.
C. K. Millen, Vice President, Electric Operations, Public Service Co. of Colorado.
L. K. Mundth, Vice President, Power Production, Arizona Public Service Co.
Joseph Padgett, Director of Strategies and Air Standards Division, Environmental Protection Agency.
W. T. Robertson, Manager, Fuel Purchases, Duke Power Co.
Jack A. Simon, Principal Geologist, Geology Group, Illinois State Geological Survey.
Donald Smith, Staff Economist, National Rural Electric Cooperative Association.
Dr. Otto H. Zinke, Professor of Physics, University of Arkansas.

TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY

Chairman: M. F. Hebb, Jr., Vice President, System Engineering, Florida Power Corp.
FPC Coordinating Representatives:
B. E. Biggerstaff, Bureau of Power.
Mrs. Phyllis Kline, Office of Economics.
Secretary: Norton Savage, Bureau of Power.
Alternate Secretary: James T. Roseberry, Bureau of Power.
Members:
J. W. Ackerman, Manager, Marketing Operation & Power Generation, Babcock & Wilcox.
Donald N. Anderson, Deputy Administrator, Southwestern Power Administration.
Paul S. Button, Director, Division of Power Marketing, Tennessee Valley Authority.
James E. Connor, Director, Office of Plans and Analysis, Atomic Energy Commission.
Jack Davey, System Planning Manager, Louisiana Power & Light Co.
E. K. Dille, Executive Vice President, Union Electric Co.
E. H. Gehrig, Head, System Planning, Bonneville Power Administration.
J. D. Geist, Vice President, Engineering Operation, Public Service Co. of New Mexico.
Edward C. Glass, Director of Planning, Northern States Power Co.
Milton F. Kent, Vice President & General Manager, Power Generation Sales Division, General Electric Co.

B. L. Lloyd, Manager, Province Planning & Power System Planning, Westinghouse Electric Corp.
Hon. James R. Smith, Assistant Secretary, Water and Power Resources, Department of the Interior.
Frank Stazeskey, Executive Vice President, Boston Edison Co.

TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Chairman: Dr. H. Guyford Stever, Director, National Science Foundation.
FPC Coordinating Representatives:
Bernard B. Chew, Bureau of Power.
L. H. Drennan, Office of Accounting and Finance.
Secretary: Jerry R. Milbourn, Bureau of Power.
Alternate Secretary: James K. Newton, Bureau of Power.
Members:
Dr. Richard Balzhiser, Assistant Director, Office of Science and Technology.
G. L. Beard, Senior Vice President, Pacific Power & Light Co.
Dr. Robert A. Bell, Director, Research & Development, Consolidated Edison Co. of New York, Inc.
Paul F. Donovan, Division Director for Advanced Technology Applications, National Science Foundation.
Howard R. Drew, Director of Research, Texas Electric Service Co.
J. D. Flynn, Assistant Manager, General Engineering Department, Cincinnati Gas & Electric Co.
Dr. Stanley Greenfield, Assistant Administrator, Research and Monitoring, Environmental Protection Agency.
E. S. Halfmann, Director, Research, Philadelphia Electric Co.
Dr. George R. Hill, Director, Office of Coal Research, Department of the Interior.
Raymond A. Huse, Manager of Research & Development, Public Service Electric & Gas Co.
L. T. Papay, Director of Research and Development, Southern California Edison Co.
Frederick H. Warren, Senior Vice President, NUS Corp.
M. J. Whitman, Assistant Director for Program Analysis, Division of Reactor Development and Technology, Atomic Energy Commission.

[FR Doc.72-17072 Filed 10-4-72;8:54 am]

NATIONAL POWER SURVEY

Notice of Agenda for Meeting of Technical Advisory Committees

Agenda for the meeting of the Technical Advisory Committees to be held at the Federal Power Commission Offices, 441 G Street NW., Washington, DC, GAO Auditorium (seventh floor), October 17, 1972—9:30 a.m.

Presiding: Chairman John N. Nassikas.

1. Meeting called to order and introductory remarks.
2. Technical Advisory Committees.
3. Plans for FPC staff work relating to the Survey.
4. Schedule for the continuing National Power Survey.
5. Adjournment into five individual committee groups (meeting rooms to be announced).

A. Discussion led by Advisory Committee Chairman:
a. Committee work and objectives.
b. Schedule for Committee projects.
c. Assignments to Committee members.
d. Other business.
e. Selection of next meeting date.
B. Adjournment.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17064 Filed 10-4-72;8:52 am]

[Dockets Nos. RI73-54, et al.]

AMOCO PRODUCTION CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 27, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

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APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
R173-54	Amoco Production Co	[1] 109	15	El Paso Natural Gas Co. (San Juan Basin, N. Mex. and Colo.).	[3] $20,770	8-28-72		2-28-73	[4] 21.33	[5] [6] 22.0	R172-231.
	do	117	[14] 36	do	(6)	8-28-72		2-28-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do			do	[8] 42	8-28-72		2-28-73	[5] 20.6	[5] 22.0	R172-231.
	do			do	(6)	8-28-72		2-28-73	[5] 21.6	[6] [7] 28.0	R172-231.
	do			do	[8] 83,361	8-28-72		2-28-73	[13] 21.33	[5] 22.0	R172-231.
	do			do	(6)	8-28-72		2-28-73	[13] 21.33	[14] [7] 28.0	R172-231.
	do	[1] 103	16	do	[3] 15,410	8-28-72		2-28-73	[5] 21.33	[5] 22.0	R172-231.
	do			do	[4] 6,670	8-28-72		2-28-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do	[1] 105	[9] 32	do	[8] 25,261	8-28-72		2-28-73	[5] 21.33	[5] 22.0	R172-231.
	do			do	(6)	8-28-72		2-28-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do			do	[8] 720	8-28-72		2-28-73	[15] 21.0	[6] [7] 28.0	
	do	[1] 124	16	do	[3] 2,818	8-30-72		3-2-73	[5] 21.33	[5] 22.0	R172-231.
	do			do	(6)	8-30-72		3-2-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do	[1] 199	[10] 24	do	[3] 6,700	8-30-72		3-2-73	[5] 21.33	[5] 22.0	R172-231.
	do			do	(6)	8-30-72		3-2-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do	[1] 233	13	do	[3] 9,347	8-30-72		3-2-73	[5] 21.33	[5] 22.0	R172-231.
				do	[4] 331	8-30-72		3-2-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do	[1] 302	12	do	[3] 3,417	8-30-72		3-2-73	[5] 21.33	[5] 22.0	R172-231.
				do	(6)	8-30-72		3-2-73	[5] 21.33	[6] [7] 28.0	R172-231.
				do	[4] 5,200	8-30-72		3-2-73	[11] 24.0	[6] [7] 28.0	
	do	[1] 363	[12] 35	do	[3] 205,657	8-28-72		2-28-73	[5] 21.33	[5] 22.0	R172-231.
				do	(6)	8-28-72		2-28-73	[5] 21.33	[6] [7] 28.0	R172-231.
				do	[4] 600	8-28-72		2-28-73	[12] 24.0	[6] [7] 28.0	
	do	371	28	El Paso Natural Gas Co. (San Juan Basin, N. Mex.).	[3] 3,149	8-30-72		3-2-73	[5] 21.33	[5] 22.0	R172-231.
				do	(6)	8-30-72		3-2-73	[5] 21.33	[6] [7] 28.0	R172-231.
	do	397	[13] 10	do	[3] 3,417	8-30-72		3-2-73	[5] 21.33	[5] 22.0	R172-231.
				do	(6)	8-30-72		3-2-73	[5] 21.33	[6] [7] 28.0	R172-231.
				do							R169-856.
R173-55	Northwest Production Corp.	4	[16] 10	do	[8] 29-72	9-29-72		[22] Accepted			
	do		11	do	5	8-29-72		10-30-72	14.2343	[5] 21.33	R169-856.
	do	5	[16] 10	do		8-29-72	9-29-72	[22] Accepted			R169-432.
	do		11	do	97	8-29-72		10-30-72	14.2343	[5] 21.33	R169-432.
	do			do		8-29-72	9-29-72	[22] Accepted			R169-432.
	do	6	[16] 10	do		8-29-72		10-30-72	14.2343	21.33	R169-432.
	do		11	do	92	8-29-72		[22] Accepted			
R173-56	The Wiser Oil Co	3	[16] 10	do		8-28-72	9-28-72	2-28-73	13.0	[5] 22.0	
	do		11	do	14,100	8-28-72		[22] Accepted			
	do	4	[16] 18	do		8-28-72	9-28-72	2-28-73	12.0	[5] 22.0	
	do		19	do	15,000	8-28-72		[17] 10-29-72	12.0	[5] 22.0	
	do		19	do	15,000	8-28-72		[22] Accepted			
	do	5	[16] 12	do		8-28-72	9-28-72	2-28-73	13.0	[5] 22.0	
	do		13	do	9,000	8-28-72		[18] 10-29-72	13.0	[5] 22.0	
	do		13	do	9,000	8-28-72		[19] 11-19-72	[21] 26.5	[21] 26.85	R172-154.
R173-57	Phillips Petroleum Co	488	3	El Paso Natural Gas Co. (Ector Plant, Ector County, Tex, Permian Basin).	3,629	8-28-72		[22] Accepted			R169-268.
R173-58	Sun Oil Co	108	[16] 6	El Paso Natural Gas Co. (San Juan Basin, N. Mex.).		9-1-72	10-2-72	11-2-72	15.0619	21.33	R169-268.
	do		7	do	(6)	9-1-72		[22] Accepted			R169-464.
	do	376	[16] 11	do		9-1-72	10-2-72	11-2-72	15.2869	21.33	R171-335.
	do		12	do	266	9-1-72		11-2-72	18.6089	19.2013	
R173-59	Marathon Oil Co	109	4	Kansas-Nebraska Natural Gas Co. (West Sidney Area, Cheyenne County, Nebr.).	10,270	9-1-72		11-2-72			

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] New Mexico production.
[2] Colorado production.
[3] For gas from wells completed prior to June 1, 1970.
[4] For gas from wells completed on or after June 1, 1970.
[5] Subject to B.t.u. adjustment.
[6] No production at present.
[7] Increase from fractured renegotiated rate to total renegotiated rate.
[8] For sales of gas from acreage added by Supplement No. 26 which was dated after June 17, 1970.
[9] Does not include acreage added by Supplements Nos. 21 and 24 for which 22 cents is being collected.
[10] Does not include acreage added by Supplement No. 18 for which 22 cents is being collected.
[11] For sales of gas from acreage added by Supplement No. 8 which was dated after June 17, 1970.
[12] For sales of gas from acreage added by Supplement No. 30 which was dated after June 17, 1970.
[13] Does not include acreage added by Supplements Nos. 25 and 27 for which 22 cents is being collected.
[14] Does not include acreage added by Supplement No. 30 for which 22 cents is being collected.
[15] Does not include acreage added by Supplement No. 5 for which 22 cents is being collected.
[16] Contract amendment.
[17] 61-day suspension for sales from acreage added by Supplements Nos. 11, 15, and 16 dated after Oct. 1, 1968.
[18] 61-day suspension for sales from acreage added by Supplement No. 10 dated after Oct. 1, 1968.
[19] One-day suspension period for sales under Mitchell-type certificates at rates under 27 cents per order issued Aug. 2, 1972.
[20] No announced increased ceiling rate.
[21] The pressure base is 14.65 p.s.i.a.
[22] Accepted for filing to be effective on the dates shown in the "Effective Date" column.

The proposed increases of Northwest Production Corp. under Supp. No. 11 to its FPC Gas Rate Schedule No. 4, Supp. No. 11 to its FPC Gas Rate Schedule No. 5, and Supp. No. 11 to its FPC Gas Rate Schedule No. 6, and the proposed rates of Sun Oil Co. under Supp. No. 7 to its FPC Gas Rate Schedule No. 108, and Supp. No. 12 to its FPC Gas Rate Schedule No. 376, and the increases which pertain to sales of gas from acreage added by amendments dated after October 1, 1968, of The Wiser Oil Co. under Supp. No. 19 to its FPC Gas Rate Schedule No. 4 and Supp. No. 13 to its FPC Gas Rate Schedule No. 5 do not exceed the rate limit for 1 day suspensions and therefore the proposed rates are suspended for one day after expiration of the 60 day notice period.

The proposed increase of Marathon Oil Co. is for a sale of gas in Cheyenne County, Nebr., for which no increased ceiling rates have been announced. The Commission has applied the increased rate ceiling of 13 cents in adjacent Colorado as a guide in determining action on Nebraska increases. Since the proposed increase exceeds the 13 cents ceiling rate but does not exceed the rate limit for 1 day suspensions, it is suspended for 1 day after expiration of the 60 days notice period.

All the remaining proposed increases exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

With the exception of Northwest Production Corp. and El Paso Natural Gas Co., there is no known affiliation between buyers and sellers.

All of the producers' proposed rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1 day suspension.

(3) By Order No. 423 (36 F.R. 3464), issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15 U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-16864 Filed 10-4-72;8:45 am]

[Docket No. E-7775]

APPALACHIAN POWER CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 2, 1972.

Take notice that Appalachian Power Co. (APC) on September 21, 1972, tendered for filing proposed changes in its FPC Rate Schedules Nos. 26, 27, 30–38, 40–44, 46–51, and 54; to become effective on October 21, 1972. The proposed changes would increase revenues from jurisdictional sales and service by approximately $1,918,718 based on a 12-month period ending December 31, 1971.

The proposed rate changes are described in the company's transmittal letter as (i) increasing demand and energy charges, (ii) providing a single rate design applicable to each of such wholesale customers, superseding several different forms of rates presently in effect, and (iii) revising the fuel adjustment clause.

APC avers that the proposed rate increases are occasioned by increases in the cost of providing electric service, and increased costs of capital and increased construction requirements. The company is proposing a single form of rate for the wholesale customers so as to eliminate lack of uniformity reflected in existing rates and to simplify billing and administrative aspects for this class of customers.

Copies of this application have been served on all jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 16, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17060 Filed 10-4-72;8:52 am]

[Dockets Nos. G-4424, et al.]

W. E. BAKKE OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

SEPTEMBER 27, 1972.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4421 E 9-1-72	W. E. Bakke d.b.a. W. E. Bakke Oil Co. (successor to Sun Oil Co.), Post Office Box 6568, San Antonio, TX 78209.	Colorado Interstate Gas Co., Kearny County, Hugoton Field, Kans.	14.5	14.65
G-13385 F 8-7-72	Atlantic Richfield Co. (successor to Champlin Petroleum Co.), Post Office Box 2819, Dallas, TX 75221.	Northern Natural Gas Co., Anna C. Miller Gas Unit, Hugoton Field, Finney County, Kans.	13.5	14.65
G-17911 C 8-25-72	Ashland Oil, Inc., Post Office Box 1503, Houston, TX 77001.	Texas Gas Transmission Corp., Carlton and Calhoun Field, Jackson and Ouachita Parishes, La.	26.0	15.025
C161-290 D 8-24-72	Mobil Oil Corp. (Operator) et al., Post Office Box 1774, Houston, TX 77001.	Southern Natural Gas Co., St. Gabriel Field, Iberville and Ascension Parishes, La.	(2)	
C161-433 E 5-22-72 [3]	American Natural Gas Production Co., 1 Woodward Ave., Detroit, MI 48226.	Michigan Wisconsin Pipeline Co., Shuteston Field, St. Landry Parish, La.	22.375	15.025
C161-1182 C 8-25-72	Ashland Oil, Inc., Post Office Box 1503, Houston, TX 77001.	Texas Gas Transmission Corp., Tremont and Calhoun Fields, Lincoln and Jackson Parishes, La.	26.0	15.025
C162-531 B 8-25-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Northern Natural Gas Co., Harper Ranch, Clark County, Kans.	(4)	
C162-1184 F 8-4-72 [3]	Atlantic Richfield Co. (successor to Humble Oil & Refining Co.), Post Office Box 2819, Dallas, TX 75221.	Arkansas Louisiana Gas Co., W. P. Lerblance Unit, Latimer County, Okla.	16.255	14.65
C163-1046 E 5-22-72 [3]	American Natural Gas Production Co., One Woodward Ave., Detroit, MI 48226.	Michigan Wisconsin Pipeline Co., Shuteston Field, St. Landry Parish, La.	22.375	15.025
C164-859 E 9-1-72	C. B. Gas Gathering, Inc. (successor to Bluebonnet Gas Corp.), Post Office Box 1873, Corpus Christi, TX 78403.	Florida Gas Transmission Co., S. Bayou Mallet, St. Martin Parish, La.	15.0	15.025
C165-842 C 8-17-72	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Trunkline Gas Co., Kelsey, et al., Fields, Brooks, Starr and Hidalgo Counties, Tex.	[1] 24.0	14.65
C166-875 D 9-7-72	Midwest Oil Corp., 1700 Broadway, Denver, Colo. 80202.	Northern Natural Gas Co., Meyblin Ranch Field, Crockett County, Tex.	(4)	
C167-96 C 9-7-72	Texaco Inc., Post Office Box 430, Bellaire, TX 77401.	Tennessee Gas Pipeline Co., West Jennings, Zapata County, Tex.	24.0	14.65

Footnotes at end of table.

V37-1940 OCT 5 72 XUM

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C172-176..... F 9-5-72	Harold D. Courson (successor to Sun Oil Co.), Box 809, Perryton, Texas 79070.	Northern Natural Gas Co., Perryton, West Morrow/Gethlree Counties, Tex.	0.185	14.65
C172-177..... F 9-5-72	Harold D. Courson (successor to Skelly Oil Co.), Box 809, Perryton, Tex. 79070.	Kansas-Nebraska Natural Gas Co. Inc., Hugoton Field, Seward County, Kans.	0.125	14.65
C172-178..... B 9-6-72	Sun Oil Co., Southland Center, Main Post Office Box 2880, Dallas, TX 75221.	Cities Service Gas Co., Eureka Area, Grant and Alfalfa Counties, Okla.	(2)	...
C172-179..... B 9-8-72	Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	Natural Gas Pipeline Company of America, Cavasso Creek Field, Arausas County, Tex.	Depleted	...
C172-180..... A 9-6-72	Louis H. Wellman, 1011 Wilson Bldg., Corpus Christi, Tex. 78401.	United Gas Pipe Line Co., Williamson Field, San Patricio County, Tex.	38.0	14.65
C172-181..... F 9-6-72	Lone Star Producing Co. (successor to Glover Hefner Kennedy Oil Co.), 301 South Harwood St., Dallas, TX 75201.	Nichas Supply, Inc., Beckham and Washita Counties, Okla.	3 21.0	14.65
C172-182..... A 9-7-72	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, TX 76107.	Tennessee Gas Pipeline Co., North Hilcreek Field, Starr County, Tex.	17.21374	14.65
C172-183..... B 9-8-72	Superior Oil and Gas Co., Inc. (formerly Americana Oil & Gas Properties of Texas, Inc.), 1711 North Main, Baytown, Tex. 77520.	Arkansas-Louisiana Gas Co., Monroe Field, Morehouse Parish, La.	Uneconomical	...
C172-185..... A 9-11-72	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	El Paso Natural Gas Co., Yuma Butte, Terrell County, Tex.	4 35.0	14.65
C172-187..... B 9-11-72	General American Oil Company of Texas, 1800 First National Bank Bldg., Dallas, Tex. 75202.	Texas Gas Transmission Corp., North Hayes Field, Calcasieu Parish, La.	(2)	...
C172-188..... A 9-8-72	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Columbia Gas Transmission Corp., Block 136, Offshore Cameron Parish, La.	7 35.0	15.025
C172-189..... A 9-13-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	El Paso Natural Gas Co., Cedar Canyon Field, Sections 2, 11, 14, 15, 16, 17, 21, 22, and 23-24-S-29E, Eddy County, N. Mex.	7 35.0	14.65
C172-191..... B 9-11-72	Bowers Drilling Co., Inc., 1131 Wichita Plaza, Wichita, Kans. 67202.	Cities Service Gas Co., 11 S. Barber, Kans.	(2)	...
C172-192..... B 9-11-72	do.....	Cities Service Gas Co., Little Bear Creek, Harper, Kans.	(2)	...
C172-193..... B 9-11-72	do.....	do.....	(2)	...
C172-194..... B 9-11-72	do.....	Cities Service Gas Co., 1 L S, Barber, Kans.	(2)	...
C172-195..... A 9-11-72	Lone Star Producing Co., 301 South Harwood St., Dallas, TX 75201.	Natural Gas Pipe Line Company of America, Section 25, Township 28 North, Range 17, West of the 6th Principal Meridian, Dewey County, Okla.	10 15.515	15.65
C172-196..... A 9-11-72	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	El Paso Natural Gas Co., Florence No. 1, E½ Sec. 30, T. 30 N., R. 8 W., Basin Dakota Field, San Juan County, N. Mex.	7 22.0	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C168-1231..... E 8-16-72	Wilhoco, Inc. (successor to Alnaz Petroleum, Inc.), 1435 Bank of the Southwest Bldg., Houston, Tex. 77002.	Natural Gas Pipeline Company of America, Lockridge Field, Ward County, Tex.	9 17.4653	14.65
C168-1232..... E 8-16-72	do.....	do.....	10 11.9862	14.65
C172-311..... E 8-24-72	Mobil Oil Corp. (successor to Mobil Oil Corp.), Post Office Box 1774, Houston, TX 77001.	Arkansas Louisiana Gas Co., Arkoma Area, Kellaid Logan Counties, Ark.	16.0	14.65
C172-311..... E 8-24-72	do.....	do.....	16.0	14.65
C172-312..... F 6-2-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	El Paso Natural Gas Co., West Katz Pictured Cliffs Field, San Juan County, N. Mex.	21.33	15.025
C172-860..... D 8-11-72	American Petroleum Company of Texas, Post Office Box 2159, Dallas, TX 75221.	El Paso Natural Gas Co., Turnbuth Com A No. 2 Well, San Juan County, N. Mex.	(2)	...
C173-110..... F 9-6-72	Texas Oil & Gas Corp., 2530 Fidelity Union Tower, Dallas, Tex. 75201.	Michigan Wisconsin Pipe Line Co., West Orion Field, Major County, Okla.	(2)	...
C173-122..... A 9-18-72	Calpetex Corp., Post Office Box 300, Tulsa, OK 74102.	Columbia Gas Transmission Corp., Valentine Sand Unit, Lafourche Parish, La.	21.1	15.025
C173-130..... A 8-25-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., East Cameron Block 77, Offshore, Louisiana.	(2)	...
C173-148..... A 9-7-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Tennessee Gas Pipeline Co., Block 77, East Cameron, Offshore, Louisiana.	7 26.0	15.025
C173-159..... E 8-30-72	Texas Oil & Gas Corp. (successor to Hall-Read Corp., Kirkwood & Morgan, Inc. assignors of M. J. Browne), Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Hampshire Gas Co., Odem Field, San Patricio County, Tex.	10.0	14.65
C173-160..... A 9-5-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Montana-Dakota Utilities Co., Little Buffalo Butte Field, Fremont County, Wyo.	(13)	...
C173-162..... A 9-5-72	Midwest Oil Corp., 1700 Broadway, Denver, Colo. 80202.	Northern Natural Gas Co., Reed #1-1 Unit Well, Pecos County, Tex.	7 35.0	14.65
C173-163..... A 9-5-72	Shell Oil Co., One Shell Plaza, Houston, Tex. 77001.	Natural Gas Pipeline Company of America, Vermilion Block 247, Offshore Louisiana.	7 35.0	15.025
C173-165..... A 9-5-72	Suburban Propane Gas Corp., 2210 Mercantile Bank Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Ozona (Clearfork Field) Crockett County, Tex.	7 30.0	14.65
C173-166..... A 9-5-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	El Paso Natural Gas Co., Canada Mesa Unit (N/2 Sec. 24-23N-6W), Rio Arriba County, N. Mex.	7 28.0	15.025
C173-170..... A 9-5-72	Union Texas Petroleum (a Div. of Allied Chemical Corp.), Post Office Box 2120, Houston, TX 77001.	Columbia Gas Transmission Corp., Block 146, West Cameron Area, Offshore, Louisiana.	35.0	15.025
C173-172..... F 9-5-72	Delta Drilling Co. (Operator) et al. (successor to Amoco Production Co.), 2200 Mercantile Bank Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Ozona Field, Crockett County, Tex.	7 17.93	14.65
C173-175..... A 9-7-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Bashi Dakota Field, San Juan County (San Juan Basin), N. Mex.	5 21.0	15.025

[1] Applicant proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-14380 to be made pursuant to Champlin Petroleum Co. FPC Gas Rate Schedule No. 70.
[2] Mobil assigned to Energy Corp. of America effective July 15, 1972 (Small Producer in Docket No. CS71-940), all of its interest in and to that certain acreage fully described in assignment.
[3] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Falcon Seaboard, Inc., now holder of a small producer certificate.
[4] Expiration of lease and acreage has been released from contract.
[5] Applicant proposes to continue in part the sale of natural gas heretofore authorized in Docket No. C163-20 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 337.
[6] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Falcon Seaboard, Inc., now holder of a small producer certificate.
[7] Subject to upward and downward B.t.u. adjustment.
[8] Leases have been terminated.
[9] Rate in effect subject to refund in Docket No. R171-136.
[10] Rate in effect subject to refund in Docket No. R172-118.
[11] *Supra.*
[12] Applicant proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-10790 to be made pursuant to Amoco Production Co. FPC Gas Rate Schedule No. 163.
[13] Duplicate coverage of subject acreage.
[14] Application previously noticed Oct. 2, 1972 in G-13447, *et al.* at a rate of 20.0/Mcf. By letter filed Sept. 6, 1972, Applicant amended its application to reflect a rate of 20.3 cents per Mcf for gas-well gas, and 18.78 cents per Mcf for casingheadgas.
[15] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. G-3907 to be made pursuant to Relstock & Reeves Drilling Co. *et al.*, FPC Gas Rate Schedule No. 1.
[16] By letter dated Sept. 7, 1972 and filed Sept. 11, 1972, Applicant states its willingness to accept a permanent certificate at 26 cents per Mcf.
[17] *Supra.*
[18] Expiration of leases and Applicant no longer has any interest in acreage covered by Rate Schedule No. 298.
[19] Plus 2.4 cents per Mcf upward B.t.u. adjustment.
[20] Property is no longer operating at sufficient pressure to deliver gas into pipeline and the parties have terminated the contract by letter agreement dated Aug. 8, 1972.
[21] Subject to upward and downward B.t.u. adjustment. Rate in effect subject to refund in Docket No. R170-1723.
[22] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Vernon F. Neuhaus (Operator), now holder of a small producer certificate.
[23] *Supra.*
[24] Applicant is willing to accept a certificate at an initial rate of 27 cents subject to B.t.u. adjustment; however, the contract price is 35 cents.
[25] Leases have been abandoned and released.
[26] Dry-plugged and abandoned.
[27] *Supra.*
[28] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Sarkey Inc., now holder of a small producer certificate.

[FR Doc.72-16865 Filed 10-4-72;8:45 am]

[Docket No. CP73-70]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

SEPTEMBER 29, 1972.

Take notice that on September 12, 1972, Columbia Gulf Transmission Co. (Applicant) filed in Docket No. CP73-70 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities and the transportation of natural gas for Columbia Gas Transmission Corp. (Columbia Transmission) and Amoco Production Co. (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Columbia Transmission by attaching to its existing transmission system natural gas reserves in Block 33 Field, East Cameron Area, offshore Louisiana, which Columbia Transmission has contracted to purchase from Amoco. Applicant states that it will construct some gathering facilities in order to receive such gas under authorization granted in Docket No. CP72-134.

Applicant further proposes to transport natural gas for Amoco and deliver such gas to Florida Gas Transmission Co. (Florida) at the point at which Applicant's and Florida Gas' pipelines intersect near Judice, Lafayette Parish, La. Applicant plans to receive such gas from Amoco as follows:

a. At East Cameron Block 33 from gas uncommitted to Columbia Transmission;

b. At the interconnection of Sea Robin Pipeline Co. system with Applicant's Earth Lateral system in Vermillion Parish, La.;

c. At the tailgate of Texaco Inc.'s Henry Plant in the Earth Field; and

d. At other points which Applicant and Amoco may agree upon.

Applicant states that such volumes of gas received at points b and c above will be made available from sources other than Block 33. Applicant expects that it will receive volumes of gas from Amoco up to 21,000 M.c.f. per day at the Sea Robin delivery point, up to 5000 M.c.f. per day at the Henry Plant delivery point, and of approximately 20,000 M.c.f. in Block 33, half of which is uncommitted volumes of gas.

Applicant proposes to charge Amoco a rate of 0.434 cent per M.c.f. for each M.c.f. of gas received and redelivered to Florida.

Applicant states that it will be necessary, in order to effectuate the redelivery of natural gas to Florida, to construct and operate interconnecting piping, meter station, and 500 horsepower compressor facilities at Judice. Applicant estimates the cost of such facilities at $604,200 which it plans to finance from current funds. Applicant further proposes to charge Amoco, for the service of constructing and operating the facilities, a rate of 1.25 cents per M.c.f. delivered to Florida.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17065 Filed 10-4-72;8:54 am]

[Project No. 2590]

CONSOLIDATED WATER POWER CO.

Notice of Availability of Environmental Statement for Inspection

SEPTEMBER 29, 1972.

Notice is hereby given that on November 2, 1970, as required by § 2.81(b) of Commission regulations under Order 415-B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for license filed pursuant to the Federal Power Act for the constructed Wisconsin River Division Project No. 2590 located on the Wisconsin River near Stevens Point, Wis.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project is a run-of-the river development consisting of: (1) A dam having a crest elevation of 1070.02 (USGS) datum; (2) a 76-acre reservoir about 3 miles long, and (3) a powerhouse containing 1800 kw. hydroelectric capacity

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and 6090 H.P. hydromechanical capacity.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from September 28, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17063 Filed 10-4-72;8:52 am]

[Docket No. E-7769]

DELMARVA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Tariff Changes, Providing for Hearing, and Establishing Procedures

SEPTEMBER 29, 1972.

On September 1, 1972, Delmarva Power & Light Company (Delmarva), Delmarva Power & Light Company of Maryland (Delmarva-Maryland), and Delmarva Power & Light Company of Virginia (Delmarva-Virginia) tendered for filing changes in their electric rate schedules, as follows:

(1) Delmarva—

(a) FPC Electric Tariff Volume No. 4 (superseding FPC Electric Tariff Volume No. 2);

(b) Supplement No. 2 to Rate Schedule FPC No. 35;

(c) FPC Electric Tariff Volume No. 5 (superseding FPC Electric Tariff Volume No. 3);

(2) Delmarva-Maryland—

(a) FPC Electric Tariff Volume No. 4 (superseding FPC Electric Tariff Volume No. 2);

(b) FPC Electric Tariff Volume No. 5 (superseding FPC Electric Tariff Volume No. 3);

(3) Delmarva-Virginia—FPC Electric Tariff Volume No. 2 (superseding FPC Electric Tariff Volume No. 1)

Delmarva, Delmarva-Maryland, and Delmarva-Virginia propose to make these changes effective October 1, 1972.

The applicants state that the proposed changes will produce $1,504,823 additional revenue from wholesale-for-resale customers, based on billings for the 12 months ending December 31, 1971. The applicants further state that the proposed rate increase is necessitated by their program of capital construction and by increased operating costs.

The Commission finds:

(1) The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

(2) It is necessary and appropriate in the public interest and in carrying out the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, services, and other provisions contained in the foregoing FPC Electric Tariffs as proposed to be amended herein, and that such tariffs be suspended and the use thereof deferred as hereinafter provided.

(3) Since the proposed tariff changes were filed 30 days before the effective date and Staff completed its review within the 30-day period, the suspension period will begin running on October 1, 1972.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a public hearing shall be held concerning the lawfulness of the rates, charges, classifications, services, and other provisions contained in the foregoing proposed FPC Electric Tariffs, commencing with a prehearing conference to be held on February 1, 1973.

(B) Pending such hearing and decision thereon, the proposed changes in the foregoing FPC Electric Tariffs are accepted for filing and are suspended and their use deferred until March 1, 1973.

(C) On or before January 23, 1973, the Commission staff shall serve its prepared testimony and exhibits, if any. The prepared testimony and exhibits of intervenors, if any, shall be served on or before January 30, 1973. Rebuttal evidence of the applicants shall be served on or before February 15, 1973. Cross-examination of the evidence filed shall commence at 10 a.m., e.s.t., on February 28, 1973, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

(D) The Chief Administrative Law Judge or any other designated by him for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in these proceedings and shall prescribe relevant procedural matters not herein provided. At the prehearing conference the direct evidence of the parties shall be copied into the transcript, subject to appropriate motions, if any, by the parties to the proceeding, and procedures adopted for an orderly and expeditious hearing.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17062 Filed 10-4-72;8:52 am]

[Docket No. CI73-217]

CLAUD B. HAMILL

Notice of Application

OCTOBER 2, 1972.

Take notice that on September 25, 1972, Claud B. Hamill (Applicant), 2306 First City National Bank Building, Houston, Tex. 77002, filed in Docket No. CI73-217 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the Weil Loma Field, Jim Hogg County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he commenced the sale of natural gas on September 20, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that he proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17057 Filed 10-4-72;8:51 am]

[Docket No. CS71-179]

HERMAN GEO. KAISER ET AL.

Notice of Petition for Waiver of Regulations

SEPTEMBER 29, 1972.

Take notice that on September 19, 1972, Herman Geo. Kaiser (Operator) et al. (Petitioner), filed in Docket No. CS71-179 a petition for waiver in part of section 157.40(c) of the regulations under the Natural Gas Act (18 CFR 157.40(c)) to permit the sale of natural gas under his small producer certificate from reserves acquired in place from Anadarko Production Co. (Anadarko), a large producer. Section 157.40(c) provides in part that sales may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer.

Petitioner states that Anadarko assigned to Kaiser-Francis Special Account B Anadarko's interests in the producing properties described in the appendix hereto and that Kaiser-Francis Special Account B desires sales from its interests to be made pursuant to Petitioner's small producer certificate. Petitioner states further that due to the large number of leases involved where the majority are nonoperated with interests ranging down to less than 5 percent, including some salvage properties and properties with minimal reserves, one cannot justify the time, paperwork, and expense in making separate certificate and rate schedule filings with the Commission. Applicant expresses his willingness to sell gas from these properties at rates not in excess of the applicable area rates.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than October 24, 1972, views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Anadarko Production Co. FPC Rate Schedule No.	Location	Purchaser	Average monthly volume (Mcf)
53	Hugoton Field, Morton County, Kans.	Cities Service Gas Co.	1,000
72	Northwest Quinlan Field, Woodward County, Okla.	do	2,000
72	do	do	200
36	Panoma Field, Stevens County, Kans.	Panhandle Eastern Pipeline Co.	700
128	Collard Field, Hansford County, Tex.	do	4,000
128	do	do	9,000
128	do	do	5,000
158	Hugoton Field, Haskell County, Kans.	Northern Natural Gas Co.	450
108	Perryton Field, Ochiltree County, Tex.	do	3,000
33	do	do	1,500
124	do	do	3,750
108	do	do	5,500

[FR Doc.72-17066 Filed 10-4-72;8:54 am]

[Docket No. CI72-470]

MOBIL OIL CORP.

Notice of Request for Termination of Certificate

SEPTEMBER 28, 1972.

Take notice that on September 5, 1972, Mobil Oil Corp. (Mobil), Post Office Box 1774, Houston, TX 77001, filed in Docket No. CI72-470 a request pursuant to section 7(c) of the Natural Gas Act that the certificate of public convenience and necessity issued in said docket be terminated, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

By order issued March 27, 1972, Mobil was granted a certificate of public convenience and necessity in Docket No. CI72-470 authorizing the continuation of sales of natural gas under its FPC Gas Rate Schedule No. 480 to Phillips Petroleum Co. (Phillips), which were previously made under six percentage-type contracts, from the McElroy and Dune Fields, Crane and Upton Counties, Tex. Mobil requests that the certificate in Docket No. CI72-470 be terminated because by amendatory agreement dated July 18, 1972, the original percentage-type casinghead gas contracts have been reinstated and amended, and the Commission does not permit the filing of percentage-type contracts (18 CFR 154.91(e)).

Mobil states that it filed for rate increases for the sales under its FPC Gas Rate Schedule No. 480, but that the increases were suspended in Dockets Nos. RI72-181 and RI72-222. Mobil further states that no payments have been made to it at the rates under suspension in the two above-mentioned rate dockets, since Phillips has continued to pay Mobil for all gas purchased under the provisions of the percentage-type contracts and has not paid the rates set forth in the rate schedule. Mobil requests that the proceedings in Dockets Nos. RI72-181 and RI72-222 be terminated.

Any person desiring to be heard or to make any protest with reference to said requests should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17067 Filed 10-4-72;8:54 am]

[Project No. 2709—West Virginia]

MONONGAHELA POWER CO., THE POTOMAC EDISON CO., AND WEST PENN POWER CO.

Notice of Availability of Environmental Statement for Inspection

SEPTEMBER 28, 1972.

Notice is hereby given that on September 28, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for major license filed pursuant to the Federal Power Act for unconstructed Davis Pumped Storage Project No. 2709 to be located on the Blackwater River and Red Creek in Tucker and Grant Counties, W.Va.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, D.C. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

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The Davis Pumped Storage Project would consist of a 600-acre upper reservoir on Cabin Mountain (full pond elevation 4,042 feet m.s.l.), a 7,000-acre lower reservoir (full pond elevation 3,182 feet m.s.l.) located in Canaan Valley, a tunnel and above-ground penstocks, and a surface powerhouse which would contain four 250 mw. pump-turbine generating units. Also associated with the project would be two 500 kv. transmission lines about 12 miles long. Proposed recreation facilities include fisherman access areas, a camping area, a marina, an information center and an interpretive center overlooking the lower reservoir. All recreation facilities within Canaan Valley would be day-use types.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from September 28, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17068 Filed 10–4–72;8:54 am]

[Docket No. CP73–73]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

SEPTEMBER 29, 1972.

Take notice that on September 15, 1972, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP73–73 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas by Applicant for Columbia Gas Transmission Corp. (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport for Columbia up to 25,000 Mcf of natural gas per day pursuant to a transportation agreement dated August 30, 1972. Pursuant to said agreement applicant will receive natural gas at an existing tap on its pipeline in West Cameron Block 146, offshore Louisiana, and will redeliver such gas to Columbia through existing facilities at the interconnection of Applicant's and Columbia's pipeline systems at Texaco, Inc.'s Henry Plant located in Vermilion Parish, La. Applicant states that this proposal will enable Columbia to receive natural gas, which it has available under contracts with Phillips Petroleum Co., Skelly Oil Co., Texas Gulf, Inc., and Union Texas Petroleum, a division of Allied Chemical Corp., covering blocks in the area of West Cameron Block 146.

Applicant proposes to charge Columbia an initial one part, monthly demand rate of 34.4 cents per each Mcf of the contract transportation quantity for the transportation service.

Applicant states that upon issuance of authorization to Stingray Pipeline Co. (Stingray) as proposed in the application in Docket No. CP73–27, it plans to lease its existing offshore Louisiana pipeline to Stingray and the volumes of gas to be transported by it for Columbia hereunder will be treated as a portion of Applicant's volume of gas to be transported by Stingray.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17069 Filed 10–4–72;8:54 am]

[Docket No. CI71–187]

PHILLIPS PETROLEUM CO.

Notice of Petition To Amend

SEPTEMBER 28, 1972.

Take notice that on September 8, 1972, Phillips Petroleum Co. (Petitioner), Bartlesville, Okla. 74004, filed in Docket No. CI71–187 a petition to amend the order issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing the exchange of natural gas with Natural Gas Pipeline Company of America (Natural) at additional points and in additional volumes, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued December 7, 1970, in Docket No. CI69–160, et al., Petitioner is authorized to deliver natural gas to Natural in Gray and Roberts Counties, Tex., in exchange for natural gas to be delivered by Natural to Petitioner in Beaver County, Okla., and Gray County, Tex. Petitioner now proposes to deliver gas to Natural in Woodward County, Okla., in addition to the other points and to receive gas from Natural at an additional point in Roberts County, Tex. Petitioner also proposes to increase the volume to be exchanged by 25,000 Mcf of gas per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17070 Filed 10–4–72;8:54 am]

[Dockets Nos. RP72–91, etc.]

SOUTHERN NATURAL GAS CO.

Order Accepting Substitute, Redesigned Rates for Filing, Subject to Hearing and Refund

SEPTEMBER 29, 1972.

Southern Natural Gas Co. (Southern) on August 30, as supplemented on September 5, 1972, tendered for filing revised tariff sheets to its FPC Gas Tariff, proposed to become effective on October 1, 1972, subject to refund and to Southern's refund undertaking agreement filed in Docket No. RP72–91.[1]

Southern's proposed rates and charges which became effective as of September 1, 1972, subject to refund in Docket

[1] Sixth Revised Volume No. 1: 9th Revised Sheets Nos. 8E, 15E; 11th Revised Sheet No. 11F; 14th Revised Sheet No. 11J; 15th Revised Sheets Nos. 8A, 8D, 11H, 15A, 15D; 19th Revised Sheets Nos. 9, 16.

No. RP73–16[2] have been redesigned so as to increase the commodity components of the straight line General Service and two-part Contract Demand rates, with corresponding decreases in the demand components. In addition, the rates under Southern's AO and AOL Rate Schedules, for authorized overrun gas service in excess of contract demand volumes, have been redesigned to reflect volumes taken at 100 percent, in lieu of 300 percent, load factor service.

Southern states that this rate filing is intended solely to redesign its rates to reflect the rate design principles enunciated by the Commission in its Opinion No. 600–A, in El Paso Natural Gas Co., issued May 8, 1972, 47 FPC ___[3] and that the cost of service reflected in the redesigned rates is the same as that utilized in its rate increase cases effective subject to refund on July 1, 1972, in Docket No. RP72–91, as adjusted to reflect increases in Louisiana severance taxes effective August 1 and September 1, 1972, in Dockets Nos. RP73–13 and RP73–16, respectively. The redesigned rates would increase rates approximately $3,137,197, over those effective July 1, 1972, in Docket No. RP72–91, which includes $1,083,454 and $2,124,014, effective August 1 and September 1, less $70,217 reduction due to reallocation and rate design.

Southern indicates that it desires to incorporate by reference its entire rate filings in Dockets Nos. RP72–91, RP73–13, and RP73–16, containing the same underlying cost of service, and requests that the Commission waive the supporting data requirements of § 154.63 of its regulations under the Natural Gas Act.

Copies of the rate filing have been served upon all jurisdictional customers and interested State commissions. The Commission published notice of the filing in the FEDERAL REGISTER on September 15, 1972 (37 F.R. 18757).

Carolina Pipeline Co. (Carolina), a customer and intervenor in Docket No. RP72–91, on September 19, 1972, filed a protest and motion to reject Southern's rate design filing of August 30, or in the alternative, to suspend the filing for the full 5 months statutory suspension period. Carolina's principal contention is that Southern's request for a waiver of the regulations based upon the Commission's statements in Opinion No. 600–A is not supported, and in addition, Carolina urges that the filing on its face is unduly discriminatory and will create a severe hardship upon Carolina and its customers. Carolina, finds it "understandable", however, that because of the Commission's announcement in that opinion, Southern would want to adjust its contract demand and general service rates, being collected subject to refund, to reflect an unmodified Seaboard allocation, and Carolina indicates it might not have objected to acceptance of the filing of those rate changes without suspension subject to hearing in Docket No. RP72–91. But, with respect to the modification of the AO rate, Carolina states "* * * a similar course is neither called for nor in the public interest". In other words, Carolina urges that the AO and AOL rate changes were not made in compliance with Opinion No. 600–A and therefore, are without proper foundation.[4]

Upon review of Southern's redesigned rate filing and Carolina's motion, in light of all the current circumstances, particularly with respect to Southern's and the pipeline industry's gas supply, we should not grant Carolina's motion. In Opinion No. 600–A, we clearly indicated that the scope of our searching reappraisal of cost classification, allocation and rate design also included "[o]ther measures with a tendency to limit the use of gas for large volume industrial and boiler-fuel purposes * * *" Our order approving Southern's settlement in Dockets Nos. RP70–38, et al., announced that we intend to review "pricing mechanisms" of pipeline companies, including (not limited to) cost classification, allocation and rate design in Docket No. 72–91.

Indeed, in approving the settlement of those prior rate proceedings (RP70–38, et al.) we have implemented the provisions of the stipulation and agreement which called for expediting the hearings involving the so-called "tariff issues," in this proceeding (RP72–91). These issues particularly include Southern's tariff provisions which permit the grouping of delivery points for billing purposes. These provisions especially contested by Carolina) permit customers having multiple delivery points (Carolina has only one) to fill up the "valleys" in the takes at some points by taking in excess of contract demand at other points for resale industrial loads without paying additional demand charges for such excess volumes.

In support of its contention that the proposed redesigned AO and AOL rates constitute discriminatory treatment, since Southern does not at this time also propose to eliminate its delivery point grouping (conjunctive billing), Carolina cites our order in El Paso Natural Gas Co., Docket No. RP71–137. There we remanded a settlement proposal because it failed to consider the propriety of the continuation of conjunctive billing tariff provisions. We did not indicate what regulatory standard should be expressed in the El Paso case, in lieu of such provisions, and we have not done so in this proceeding. Rather, there we sent the matter back to hearing for such purposes. Here, that procedural route is already prescribed and hearings, commencing October 10, 1972, have been "phased" so as to expedite hearing of that issue. Accordingly, we do not agree with Carolina's contention that it is subjected to undue discrimination pending our determination of that billing issue. Meanwhile, we are not unaware of the heavy impact which the redesigned rates will have upon Carolina and certain other customers. We, therefore, urge upon all parties and the presiding administrative law judge, the importance of bringing resolution of all of these issues to an early conclusion.

Petitions for leave to intervene in Dockets Nos. RP73–16 and RP72–91 were deemed granted by consolidation of those proceedings by our order issued September 26, 1972. The only other response to Southern's redesigned rate filing is the notice of intervention of the Tennessee Public Service Commission which is timely filed in Docket No. RP72–91.

The Commission finds:

It is necessary and appropriate and in the public interest in carrying out the provisions of the Natural Gas Act to permit Southern to file the revised rates reflecting changes in the levels of demand and commodity charges in its Contract Demand and General Service Rate Schedules and reflecting reductions in the load factor computations of its Authorized Overrun Service rates (AO and AOL), as tendered on August 30, 1972, as hereinafter ordered and conditioned.

The Commission orders:

The revised tariff sheets described above, tendered for filing by Southern on August 30, as supplemented on September 5, 1972, are accepted for filing effective on October 1, 1972, in substitution for the tariff sheets heretofore made effective subject to refund in Dockets Nos. RP72–91, et al.; *Provided, further,* That the rates and charges and all proposed changes in the revised tariff sheets so tendered on August 30, as supplemented on September 5, 1972, shall be subject to hearing and the rate reduction and refund obligations heretofore prescribed in Dockets Nos. RP72–91, RP73–13, and RP73–16, including Southern's undertaking agreement filed pursuant to section 154.67 of the regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17061 Filed 10–4–72;8:52 am]

[Docket No. CI73–63]

SOUTHERN UNION GATHERING CO.

Order Providing for Hearing, Granting Interventions, and Establishing Procedures

SEPTEMBER 29, 1972.

On July 20, 1972, Southern Union Gathering Co. (Southern) filed a petition pursuant to § 1.7(c) of the Commission's rules of practice and procedure requesting that the Commission issue a declaratory order determining that it is not required by section 7(b) of the Natural Gas Act to obtain Commission approval prior to discontinuing certain wellhead purchases of gas in San Juan

[2] By order issued September 26, 1972, in Docket No. RP73–16, the Commission accepted for filing the proposed rates reflecting the increase in the Louisiana severance tax effective September 1, 1972, and consolidated that proceeding with Dockets Nos. RP72–91, et al.

[3] The filing also indicates that it is made in response to the Commission's statement (page 4, par. 1) in its order accepting the settlement, issued July 7, 1972, in Dockets Nos. RP70–38, et al.

[4] Southern, on September 27, 1972, filed an answer to Carolina's protest and motion.

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County, N. Mex. Alternatively, Southern requests (1) Commission permission and approval to abandon such purchases as of November 30, 1972, or some earlier date; (2) temporary authorization from the Commission to abandon the purchases in the event that no final Commission order has been issued on or before November 30, 1972; and (3) rejection of the rate increase filing in Docket No. RI72-276 by Aztec Oil & Gas Co. (Aztec) for not complying with the requirements of § 154.94(f)(3) of the Commission's regulations under the Natural Gas Act.

In support of its aforesaid requests, Southern states that it has been purchasing gas from the Day-State No. 1 Well, San Juan County, N. Mex., operated by Aztec, pursuant to a contract on file with the Commission designated as Aztec FPC Gas Rate Schedule No. 26. The gas from this Well is resold by Southern partly to El Paso Natural Gas Co. (El Paso) under a contract dated August 31, 1953, as supplemented.[1] According to Southern, the supplement to the contract under which the gas is resold to El Paso was filed with the Commission on August 20, 1957, and a certificate covering the sales by Southern to El Paso [2] was issued by Commission order on May 2, 1958, Southern Union Gas Company et al., 19 FPC 594 (1958). A "grandfather" certificate of public convenience and necessity was granted to Southern by order issued October 14, 1955, 14 FPC 1220, covering sales then made to El Paso.

On April 28, 1972, Aztec advised Southern that it intended to terminate their contract effective July 1, 1972, and filed with the Commission in Docket No. RI72-276 a unilateral rate increase for all sales from the well to Southern to be effective as of that date. By order issued June 29, 1972, therein, ----- FPC -----, the Commission suspended the effectiveness of Aztec's proposed increase until December 1, 1972. Southern alleges that although the proposed increase under the well contract would amount to only about $15,587 per year, the overall effect of Aztec's proposed rate increase would be to trigger "favored nation" clauses in Southern's other Mesa Verde gas purchase contracts, thereby producing an annual increase in its purchased gas costs of approximately $4,100,000. Southern anticipates discontinuance of purchases from the well no later than November 30, 1972.

Southern points out that discontinuance of its purchases would result in abandonment of 4,000 feet of 4-inch field line (together with related equipment), extending from the well to the point where gas purchased therefrom first is commingled with gas from other wells. Petitioner asserts that these facilities are only gathering facilities, which are not subject to Commission jurisdiction, and consequently Commission authorization to abandon them under section 7(b) of the Act is not necessary. In further support of this contention, Southern alleges that (1) as established by Commission order issued May 8, 1972, in Docket No. CP71-26, petitioner does not engage in transportation other than gathering; (2) the Commission's October 14, 1955, order certificating the sales by it to El Paso at that time contained standard language typical of "grandfather" certificates which did not denominate specifically any of petitioner's facilities as jurisdictional; and (3) numerous judicial decisions support Southern's claim that these "gathering" facilities are exempted from Commission jurisdiction by section 1(b) of the Act.

As a basis for Southern's alternative plea for approval to abandon its purchases of gas from the well, it points to the aforementioned $4,100,000 annual increase in overall gas costs resulting from the triggering of "favored nation" clauses in Southern's other gas purchase contracts by Aztec's currently suspended rate increase for purchases from the well. According to petitioner, discontinuance of its purchases from the well would not deprive Aztec of a market for such gas for any appreciable period of time, and likely would not diminish the overall supply of San Juan Basin gas available to El Paso. If a Commission order granting exemption or abandonment approval is not issued on or before November 30, 1972, Southern requests temporary authorization to cease purchasing from the well as of that date. Additionally, petitioner renews its request that the Commission reject Aztec's rate increase filing in Docket No. RI72-276.

On August 16, 1972, Aztec filed a timely petition for leave to intervene in this proceeding. Aztec contends, among other things, that Southern's petition herein should be consolidated with Docket No. RI72-276; Southern's alternative request for a permit to discontinue purchases from the well is not filed in the proper form prescribed by Commission rules and regulations; and repudiation of the Commission's action on Aztec's rate increase filing in Docket No. RI72-276 is unwarranted since the increased rate will become effective subject to refund pending a final order therein. In addition, Aztec urges that the Commission should enter a declaratory order finding Southern in violation of section 7(b) of the Natural Gas Act in that it has refused to connect its gathering facilities to and make purchases of natural gas from the Vasaly-Federal 1-Y well completed by Aztec as operator thereof.

On August 28, 1972, Southern filed an answer to Aztec's petition to intervene and motions, together with a request for a prehearing conference. Southern does not object to intervention by Aztec, but generally opposes the other actions that Aztec requests.

On August 21, 1972, Aztec filed a motion for extension of time until September 7, 1972, to file a supplemental response; on August 22, 1972, Southern filed an answer opposing the motion. Aztec's motion was denied by the Secretary's notice issued August 31, 1972.

An untimely notice of intervention was filed on August 28, 1972, by the New Mexico Public Service Commission. It will be in the public interest to accept that notice of intervention for filing since no delay in this proceeding will result therefrom.

In our view a full evidentiary record is desirable in this proceeding to explore the public convenience and necessity issues involved in the proposed abandonment as well as the issue pertaining to whether the facilities involved are exempt from our jurisdiction under section 1(b) of the Act. It is also necessary that an expedited decision be reached in these matters since Aztec's proposed rate increase will go into effect subject to refund on December 1, 1972. However, we do not believe that temporary authorization for abandonment will be necessary at this time because of our expedited procedures and the fact that Aztec's increased rates, as stated, will be subject to refund in Docket No. RI72-276. Additionally, since the matters raised in section 4 and section 7 proceedings differ greatly, we will deny Aztec's raised in section 4 and section 7 proceeding with this proceeding.

The Commission finds:

(1) Good cause exists for the Commission to enter upon a hearing concerning Southern's request for permission and approval to abandon certain wellhead purchases of gas from Aztec and for establishing the procedures as herein ordered.

(2) Good cause exists for the acceptance for filing of the notice of intervention tendered late by the New Mexico Public Service Commission; the participation of Aztec in this proceeding may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing with a prehearing conference on October 12, 1972, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the propriety of granting Southern permission and approval under the criteria of section 7(b) of the Natural Gas Act to abandon certain wellhead purchases as requested in its petition of July 20, 1972, as well as the other relevant issues set forth in the pleadings filed herein in accordance with this order.

(B) On or before October 10, 1972, Southern, Aztec, and all other parties shall serve their testimony and exhibits comprising their cases-in-chief on the Presiding Administrative Law Judge, the Commission Staff, and on all parties to this proceeding. At the prehearing set in paragraph (A) above, the testimony and exhibits shall be placed in the record, subject to appropriate motions, and the conference shall then be recessed to discuss settlement of any of the issues and procedures for expediting final determination of this proceeding.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose [see, Delegation of Authority, 18 CFR, 3.5(d)], shall prescribe relevant procedural matters not herein provided.

(D) The notice of intervention of the New Mexico Public Service Commission is hereby accepted for filing. Aztec is hereby permitted to intervene in this proceeding, subject to the rules of practice and procedure and the regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17201 Filed 10-4-72;8:54 am]

[1] The remainder of the gas from the well is resold to Southern Union Gas Co. under a separate contract.

[2] A new point of delivery from Southern to El Paso was involved under this contract supplement.

[Docket No. CI72-218]

SUN OIL CO.

Notice of Petition To Amend

OCTOBER 2, 1972.

Take notice that on September 22, 1972, Sun Oil Co. (Petitioner), Post Office Box 2880, Dallas, TX 75221, filed in Docket No. CI72-218 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing the sale of natural gas to United Gas Pipe Line Co. (United) from the East Dykesville Field, Claiborne Parish, La., for an additional period of 1 year commencing November 22, 1972, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is presently authorized in the subject docket to sell natural gas to United for 1 year from the date of initial delivery within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Petitioner proposes to continue the sale of an average daily quantity of 3,000 Mcf of gas at 35 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commisson's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17058 Filed 10-4-72;8:51 am]

[Docket No. CI73-214]

TEJAS GAS CORP.

Notice of Application

OCTOBER 2, 1972.

Take notice that on September 22, 1972, Tejas Gas Corp. (Applicant), Post Office Box 2806, Corpus Christi, TX 78403, filed in Docket No. CI73-214 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp., from the La Sara Field Area, Willacy County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on August 17, 1972, within the contemplation of section 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell 3,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17059 Filed 10-4-72;8:51 am]

FEDERAL RESERVE SYSTEM

BANCO DI ROMA

Order Disapproving Retention of Investment in EuroPartners Securities Corp.

Banco di Roma, Rome, Italy, has applied for the Board's approval under section 4(c)(9) of the Bank Holding Company Act to retain 33⅓ percent of the voting shares of EuroPartners Securities Corp. (EuroPartners), New York City, if Banco di Roma becomes a bank holding company.

Banco di Roma has received the Board's permission to become a bank holding company through the acquisition of all of the voting stock (less directors' qualifying shares) of a proposed new bank in Chicago, Ill., to be named Banco di Roma (Chicago). If the proposed acquisition is consummated, Banco di Roma will be a foreign bank holding company within the meaning of § 225.4 (g)(1)(iii) of Regulation Y.

EuroPartners was originally incorporated under the name of Credit Lyonnais Corp. by Credit Lyonnais, a French bank, in 1968. Later the name of the corporation was changed, and Banco di Roma and Commerzbank, a German bank, each acquired 33⅓ percent of the voting shares of the corporation. EuroPartners was originally formed and operates primarily to facilitate investments in the United States by the European clients of its three European bank shareholders.

The general plan and character of the business of EuroPartners is to engage in and conduct as a broker-dealer a securities business, including brokerage activities, underwriting, and investment banking and investment advisory services. The corporation is a member of the National Association of Securities Dealers, Inc., the Philadelphia-Baltimore-Washington Stock Exchange, and the Midwest Stock Exchange.

In the calendar year 1971, EuroPartners did a substantial underwriting business, accounting for approximately 15 percent of its gross income. Almost 90 percent of gross income from this source was derived from U.S. customers. The predominant activity of EuroPartners

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was brokerage business. Commission income from this source accounted for approximately two-thirds of its gross income. Historically, foreign customer accounts have generated more than 90 percent of its gross brokerage commissions on all customer accounts.

EuroPartners offers financial advice and services to European and other foreign clients interested in obtaining financing in the United States or in effecting in the United States direct investments, acquisitions, joint ventures, mergers and other corporate transactions. It offers similar services with respect to foreign markets to American and Canadian companies having interests abroad.

Section 4(c)(9) of the Act provides that the prohibitions of section 4 shall not apply to the investments or activities of foreign bank holding companies that conduct the greater part of their business outside the United States, if the Board by regulation or order determines that, under the circumstances and subject to the conditions set forth in the regulation or order, the exemption would not be substantially at variance with the purposes of the Act and would be in the public interest. Banco di Roma has applied for a special exemption for its investment in EuroPartners under § 225.4(g)(3) of Regulation Y, contending that retention of such investment would be consistent with the purposes of the Act and would be in the public interest. Its principal arguments are that (1) a very substantial proportion (73 percent) of EuroPartners' gross income is derived from foreign sources,[1] (2) the possibility of abuses associated with common ownership of a commercial bank and an investment banking firm could be eliminated by specific undertakings of Banco di Roma to insulate the activities of Banco di Roma (Chicago) from those of EuroPartners, (3) the operations of EuroPartners would have a beneficial impact on the balance of payments of the United States by facilitating foreign investment in this country, and (4) it would be inequitable to deny an exemption in circumstances that would force Banco di Roma to choose between a securities operation in New York and a banking operation in Illinois, when other foreign banks are permitted to have both a securities operation and a banking operation in New York.[2]

Banco di Roma's investment in EuroPartners is an investment that would not be permissible to a domestic bank holding company. The Board has consistently applied the policies of the Glass-Steagall Act to all bank holding companies registered under the Bank Holding Company Act irrespective of whether they have subsidiaries that are member banks. (See, e.g., 12 CFR 225.125 and 12 CFR 225.126.) In enacting the Glass-Steagall Act, Congress indicated that affiliations of commercial banks and securities companies give rise to potential conflicts of interests and unsound banking practices.

The Board is not persuaded that the public benefits that are alleged for the affiliation of a foreign bank holding company and a securities company would outweigh the possible adverse effects with which Congress was concerned in the enactment of the Glass-Steagall Act. An affiliation with a securities company would give a foreign bank holding company an unfair competitive advantage over a domestic bank holding company in that a foreign bank holding company would be able to offer its customers an alternative means of obtaining financing to credit facilities, namely, underwriting facilities. While there is no reason to doubt the sincerity of the Banco di Roma's plan to insulate the operations of its subsidiary bank in Chicago from the operations of EuroPartners, adoption of such a plan as a general guideline for conforming the operations of any bank holding company to the policies of the Glass-Steagall Act would pose very difficult supervision problems for the Board which, in the Board's judgment, render such a plan unworkable.[3]

Moreover, the Board is of the opinion that differences in State laws on bank branching should not be permitted to override the policies of the Bank Holding Company Act regarding the separation of banking from commerce. The Banco di Roma is at no disadvantage to any other bank in its inability to obtain a branch in Illinois, since Illinois law does not authorize branching by any bank. Were the Board to adopt a policy of permitting exceptions to the prohibitions of section 4 in the interest of compensating for differences in State law, the application of section 4 would be seriously compromised.

Based on the foregoing and other considerations reflected in the record, the Board hereby denies the request of Banco di Roma for an exemption under section 4(c)(9) of the Bank Holding Company Act for its investment in EuroPartners. Under section 4(a)(2) of the Act, if Banco di Roma consummates the acquisition of its proposed subsidiary bank in Chicago, it will be required by law to divest its ownership of shares of EuroPartners within 2 years after the date as of which it becomes a bank holding company.

By order of the Board of Governors,[4] effective September 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17013 Filed 10-4-72;8:48 am]

[1] It does not appear that EuroPartners is or will be engaged in the United States exclusively in activities incidental to its international or foreign business, nor has Banco di Roma given any assurances to the Board concerning the future scope—whether foreign or domestic oriented—of the operations of EuroPartners. Since the underwriting business of EuroPartners predominantly relatts to U.S. customers, an exemption under §§ 225.4(g)(2) (ii) or (iv) of Regulation Y would not seem appropriate, and Banco di Roma has not applied under those sections. The Board expresses no opinion on the question whether a company engaged in the United States exclusively in brokerage business for primarily foreign customers could qualify for exemption under either of these sections.

[2] The fourth argument refers to branch operations of foreign banks in New York. Foreign banks are permitted to establish branches under New York State law and are not so permitted under Illinois law. A branch of a foreign bank in the United States would not be a "bank" as that term is defined in § 2(c) of the Bank Holding Company Act, and such a branch may therefore be established wherever permitted by State law without the Board's prior approval under the Act.

[3] A comprehensive plan would need to be more extensive than that proposed by applicant and would be unduly complex to administer. For example, applicant's plan would not deal with several potential conflict of interests problems: (1) A bank's loans to finance the operations of corporate investment banking clients of its securities affiliate, (2) a bank's loans to finance the purchase of securities from or through its securities affiliate, (3) promotional activities of a bank on behalf of its securities affiliate, and (4) reciprocal lending between banks and each other's securities affiliates.

[4] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

BANCO DI ROMA S.P.A.

Order Approving Formation of Bank Holding Company

SEPTEMBER 29, 1972.

Banco di Roma S.p.A., Rome, Italy, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Banco di Roma (Chicago), Chicago, Ill. (Bank), a proposed new bank.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant, majority owned by the Italian government, is the third largest commercial bank in Italy, operates approximately 300 branches and agencies, and has worldwide deposits of $7.3 billion. Applicant presently operates an agency office in San Francisco, Calif., and representative offices in New York, N.Y., and Chicago, Ill. Applicant also owns a one-third interest in EuroPartners Securities Corp., New York, N.Y., which engages in a general securities business.

Acquisition of Bank would enable Applicant to convert the activities of its representative office into full scale banking operations. It is contemplated that while Bank will offer general banking services, it will specialize in the provision of foreign banking services, particularly those relating to Italy and Western Europe in general. Consummation of the proposal would have no adverse effects on existing or potential competition and may increase competition to some degree in the market of international banking services.

The financial and managerial resources and prospects of Applicant and Bank are satisfactory and consistent with approval of the application. At the present time, although approximately 30 percent of United States trade with Italy originates in the Midwest, approximately 90 percent of the payment settlements for this trade are channeled through New York banks. Bank could help alleviate the problems this causes in delays in payment and consequent loss of available funds. Considerations relating to the convenience and needs of the communities to be served thus lend weight toward approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

In connection with the present application, Applicant also applied for the Board's permission to retain its one-third interest in EuroPartners Securities Corp. That application was separately considered by the Board under section 4(c)(9) of the Act and is the subject of a denial Order issued by the Board today.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this Order or (b) later than 3 months after the effective date of this Order, and (c) Banco di Roma (Chicago), Chicago, Ill., shall be opened for business not later than 6 months after the date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17012 Filed 10-4-72;8:48 am]

[1] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

BOATMEN'S BANCSHARES, INC.

Order Approving Acquisition of Bank

Boatmen's Bancshares, Inc., St. Louis, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Boatmen's National Bank of North St. Louis County, St. Louis County, Mo., a proposed new bank ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application, the recommmendation of the Comptroller of the Currency that the application be approved, and all other comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixth largest banking organization in Missouri, controls five banks which have total deposits of $376.5 million, representing 3 percent of the total commercial bank deposits in the State. (Deposit data are as of December 31, 1971, and reflect holding company acquisitions approved through July 14, 1972.) Bank is a proposed new bank and its acquisition by Applicant would not increase the concentration of banking resources nor have any significant adverse effect on any competing bank in the relevant areas.

Bank will be located in an unincorporated area in the northeastern section of St. Louis County. Applicant's banking subsidiary closest to Bank is its lead bank, Boatmen's National Bank of St. Louis (Boatmen's), which is located 14 miles south in downtown St. Louis. Applicant has two banking subsidiaries in St. Louis County but both are more than 27 miles from Bank. Applicant does not have a dominant position in the St. Louis City and County area where it is the third largest banking organization with 6.8 percent of total commercial bank deposits. Moreover, Bank's estimated primary service area is served by only one other bank. Thus, Applicant's acquisition of Bank would likely have a procompetitive effect in providing an additional banking alternative. Accordingly, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are regarded as satisfactory and consistent with approval. Considerations relating to the convenience and needs of the community lend weight to the approval since Bank would provide an additional source of banking services to a rapidly growing suburban area.

Within the time provided for public comment, a bank located in Bank's proposed service area protested the application, contending that acquisition of Bank by Applicant would be in violation of the branch banking restrictions of the State of Missouri. After careful consideration of the arguments raised by protestant and the documentary materials submitted in support thereof, the Board hereby affirms the position expressed in Application of First Arkansas Bankstock Corporation, 1970 Federal Reserve Bulletin 778, that a State's restrictive branch banking laws do not, in the light of the legislative history of the Bank Holding Company Act of 1956, prohibit the formation or expansion of a bank holding company in that State. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this Order or (b) later than 3 months after that date, and (c) Boatmen's National Bank of North St. Louis County, St. Louis County, Mo., shall be opened for business not later than 6 months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16985 Filed 10-4-72;8:46 am]

[1] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

COMBANKS CORP.

Order Approving Acquisition of Banks

Combanks Corp., Winter Park, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 51 percent of the voting shares of each of the following banks all located in Florida: (1) South Seminole Bank, Fern Park; (2) North Orlando Bank, Fairvilla; (3) The Commercial Bank at Pine Castle, Pine Castle (Commercial/Pine Castle Bank); and (4) The Commercial Bank at Apopka, Apopka (Commercial/Apopka Bank).

Notice of the applications affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank with total deposits of approximately $59 million, representing about 0.4 percent of deposits in commercial banks in Florida.[1] Consummation of the proposed transactions would increase Applicant's share of statewide deposits by only 0.4 percentage points and would not result in a significant increase in the concentration of banking resources in Florida.

South Seminole Bank (about $28 million in deposits), North Orlando Bank (about $14 million in deposits), Commercial/Pine Castle Bank (about $6 million in deposits), and Commercial/

[1] All banking data are as of December 31, 1971.

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Apopka Bank (about $5 million in deposits) are all located in the Orlando area, as is The Commercial Bank at Winter Park, Applicant's present banking subsidiary. Control of the five banks by Applicant would make it the second largest banking organization in the Orlando area with about 12 percent of area deposits. However, since the largest organization in the area controls approximately 43 percent of area deposits, there is no real possibility that Applicant would obtain a dominant position in the area through consummation of these transactions. Moreover, there is no existing competition between Applicant's lead bank and any of the four banks sought to be acquired, nor is there a reasonable probability of future significant competition developing between them. Applicant presently owns directly slightly less than 25 percent of each of the four banks, and the largest stockholder of Applicant owns substantial additional shares in each of the four banks. A working relationship between Applicant's bank and the four proposed subsidiaries has existed for several years, manifesting itself in the advertising of the banks as affiliated banks and in the sharing of executive personnel and the establishment of common operating policies. The Board concludes that, in light of the affiliate relationships among the banks involved, consummation of the proposal will not have a significant anticompetitive effect in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiary bank and South Seminole Bank, North Orlando Bank, Commercial/Pine Castle Bank, and Commercial/Apopka Bank are regarded as generally satisfactory. Applicant, as a multibank holding company, is expected to have greater accessibility to the money markets as a source of additional capital for its subsidiaries and plans to provide additional capital for its present banking subsidiary shortly after consummation of these transactions. These considerations weigh in favor of approval of the acquisitions. Considerations relating to the convenience and needs of the community are consistent with approval of the applications. It is the Board's judgment that the proposed transactions are in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16983 Filed 10-4-72;8:46 am]

ELMER CROSLEY AND SONS INVESTMENT CORP.

Formation of Bank Holding Company

Elmer Crosley and Sons Investment Corp., Center, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 79.4 percent or more of the voting shares of Center State Bank, Center, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16988 Filed 10-4-72;8:46 am]

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Bank

First at Orlando Corp., Orlando, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of North Semoran First National Bank, Fern Park, Fla. (Semoran Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 26 banks with aggregate deposits of $904.6 million, representing 5.6 percent of the total commercial bank deposits in the State, and is the fourth largest banking organization and bank holding company in Florida. Since Semoran Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area. Semoran Bank would be located in the southern portion of Seminole County, a recently developing trade area with an estimated population of 45,000, and would be competing in the Orlando banking market, in which market Applicant controls 42.9 percent of deposits. Applicant presently operates six banks in the Orlando banking market, the nearest of which—First National Bank at Orlando—is 9.5 miles south of Fern Park where the proposed Semoran Bank would be located. There is very little employment in the downtown Orlando area which would draw off commuters from Fern Park and thus place the two banks in competition. Additionally, there are numerous intervening banks.

Applicant's share of deposits in the relevant market area has not increased since approval of its last Orlando de novo acquisition in 1969. The second largest bank holding company in the market controls 11.6 percent of commercial deposits therein, while the third and fourth largest control 10.7 and 9.2 percent, respectively. At the present time, there are seven multibank holding companies represented in the Orlando market, six of which are among the State's 10 largest banking organizations. It appears that consummation of the proposal herein would not alter adversely the competitive situation nor the concentration of resources in the market, nor is there any evidence that Applicant's proposal is an attempt to preempt a site before there is a need for a bank. Applicant is not represented in Seminole County, the northern section of the Orlando market, where extensive suburban type growth is occurring.

The financial and managerial resources and the future prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Prospects for bank appear favorable. Semoran Bank would be able to provide a local alternative banking source within the proposed service area, which is experiencing rapid growth. Considerations relating to the convenience and needs of the area to be served lend slight support to, and are consistent with, approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after that date, and (c) North Semoran First National Bank, Fern Park, Fla., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

[1] Voting for this action: Chairman Burns and Governors Robertson, Daane, Sheehan, and Bucher. Absent and not voting: Governors Mitchell and Brimmer.

By order of the Board of Governors,[1] effective September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17009 Filed 10-4-72;8:47 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Voting Shares of Bank

First City Bancorporation of Texas, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 334 of the voting shares of The Lake Jackson Bank of Lake Jackson, Texas, Lake Jackson, Tex.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 10 banks with aggregate deposits of about $1.6 billion dollars, representing approximately 5.2 percent of the deposits of commercial banks in Texas.[2] Applicant presently controls 8.9 percent of the voting shares of Bank (deposits of about $13 million), which is located about 70 miles south of Houston, the headquarters of applicant's lead bank. Applicant proposes to acquire 334 shares of bank through a stock rights offering on a pro rata basis and applicant's interest in bank is expected to remain the same after acquisition of the shares (rights not exercised by shareholders are to be purchased by others). The transaction involves neither an expansion of applicant nor an increase in the banking resources controlled by it. Consummation of the proposal will not adversely affect existing or potential competition. Competitive considerations are consistent with approval of the application.

The financial and managerial resources and prospects of applicant, its subsidiaries, and bank are regarded as generally satisfactory. The proposed sale of stock under the stock rights offering will add needed capital to the bank; acquisition of the 334 voting shares by applicant will help provide such capital. The convenience and needs of the community involved would not be affected by consummation of applicant's proposal. The Board finds that the proposed acquisition is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

[1] Voting for this action: Chairman Burns and Governors Daane, Brimmer, Sheehan, and Bucher. Dissenting from this action: Governor Robertson. Absent and not voting: Governor Mitchell.

[2] All banking data are as of Dec. 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through Sept. 15, 1972.

By order of the Board of Governors,[2] effective September 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17010 Filed 10-4-72;8:47 am]

FIRST FINANCIAL CORP.

Order Approving Acquisition of Bank

First Financial Corp., Tampa, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 57.967 percent of the voting shares of Venice-Nokomis Bank & Trust Co., Venice, Fla. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls nine banks with aggregate deposits of approximately $520 million, and is the sixth largest banking organization in Florida, with 3.2 percent of commercial bank deposits in the State. (All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through August 31, 1972.) Acquisition of Bank ($34.8 million in deposits) would increase applicant's share of commercial bank deposits in the State by an insignificant amount and its ranking in the State would be unchanged.

Bank is the second largest of three banking organizations competing in the Venice banking market which encompasses the city of Venice and nearby residential areas located in southwest Sarasota County. Bank controls 43.4 percent of the total commercial bank deposits in the market.

Applicant's subsidiary bank located closest to Bank is 29 miles north of Bank, in Bradenton. It appears that there is no significant competition between Bank and applicant's Bradenton bank or any of applicant's other subsidiary banks. Moreover, it appears unlikely that such competition would develop in the future in the light of the facts of record, notably, the distances separating Bank from applicant's present subsidiary banks, the number of banks located in intervening areas, and the State prohibition against branch banking. It appears, therefore, that consummation of the proposal herein would neither eliminate meaningful existing competition nor foreclose significant potential competition. It appears that adverse publicity relating to Bank's former management has resulted in Bank's not providing the degree of competition in the market that it is capable of offering. Affiliation with applicant should enable Bank to compete more aggressively within the Venice banking market; thus, approval of this application should have a procompetitive effect on competition in the area. On the basis of the record before it, the Board concludes that consummation on the proposed acquisition would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and prospects of applicant and its subsidiary banks are regarded as generally satisfactory and consistent with approval of the application, particularly in the light of applicant's commitment and program for increasing the capital of its subsidiaries. Bank has experienced some management problems. Affiliation with applicant should enable Bank to draw upon applicant's managerial resources to aid Bank in strengthening management and the condition of Bank, and enhancing its prospects. Also applicant has agreed to add $1 million in equity capital to Bank upon acquisition. The banking factors lend weight for approval. The banking needs of the Venice banking market appear to be adequately served at the present time; however, applicant proposes to improve, expand, and revitalize those services Bank is offering to its community, and thereby enable Bank to become once again a strong competitor. Considerations relating to the convenience and needs of the community to be served weigh in favor of approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

[2] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

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By order of the Board of Governors,[1] effective September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16984 Filed 10-4-72;8:46 am]

FIRST NATIONAL BANK IN DALLAS

Retention of Banks

First National Bank in Dallas, Dallas, Tex., has applied in two separate applications as set forth below for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)):

(1) To retain indirect ownership of 1,029 of the voting shares of Citizens State Bank of Irving, Irving, Tex., which were acquired during 1971 through a rights offering without the prior approval of the Board. Applicant, which now indirectly controls 17.14 percent of the outstanding shares of said bank, states that the acquisition was made directly by First National Securities Co. in Dallas, Dallas, Tex., applicant's trusteed affiliate; and

(2) To retain indirect ownership of 743 of the voting shares of De Soto State Bank, De Soto, Tex., which were acquired during 1971 through a rights offering without the prior approval of the Board. Applicant, which now indirectly controls 24.76 percent of the outstanding shares of said bank, states that the acquisition was also made directly by First National Securities Co. in Dallas, Texas.

By virtue of section 2(g)(2) of the Act (12 U.S.C. 1841(g)(2)), shares held or controlled by applicant's affiliate are deemed to be controlled by applicant. Applicant states that it was unaware at the time of the acquisition that prior approval from the Board would be necessary to exercise its preemptive rights to acquire additional stock in Citizens State Bank of Irving and in De Soto State Bank.

The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16989 Filed 10-4-72;8:46 am]

FIRST NATIONAL STATE BANCORPORATION

Order Approving Acquisition of Bank

First National State Bancorporation, Newark, N.J., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First National State Bank of Ocean County, Lakewood, N.J., the successor by merger to Trust Company of Ocean County, Lakewood, N.J. (Ocean Bank). The bank into which Ocean Bank is to be merged (the resulting bank) has no significance except as a means to facilitate the acquisition of Ocean Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of shares of Ocean Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls six banks with aggregate deposits of $1.2 billion, representing 7.2 percent of the total commercial bank deposits in New Jersey and is the largest banking organization in the State.[1] Acquisition of Ocean Bank ($31.3 million deposits) would increase Applicant's share of New Jersey bank deposits by 0.2 percentage points.

Subject acquisition would represent Applicant's initial entry into New Jersey's Third Banking District. Ocean Bank is the 23rd largest of 60 banks in this district and the sixth largest of eight banks located in the Lakewood-Toms River market. It controls 1 percent and 8.4 percent of total deposits for the district and market, respectively, and is the third largest of five competing area banks which control deposits ranging from $198 million to $3 million. It appears that Applicant's acquisition of Ocean Bank would not adversely affect the other area banks.

No significant present competition exists between Applicant's present subsidiaries and Ocean Bank. Their nearest offices are 12 miles apart with five banks located in the intervening area. It also appears unlikely that an appreciable amount of future competition would develop between them because of the separation of their market areas, and the restrictions on branching imposed by State laws. Moreover, the proposed acquisition would not act as a deterrent to entry by other groups into the market since there are a number of independent banks available for acquisition. Competitive considerations are consistent with approval of the application.

The financial conditions and managerial resources of Applicant, its subsidiary banks, and Ocean Bank are generally satisfactory, and prospects for each are favorable. Banking factors appear to be consistent with approval of the application. Whereas the major banking needs of the area are served at the present time, the introduction by Applicant of trust and computer services and accounts receivable financing at Ocean Bank would serve the convenience of its customers. In addition, the affiliation would enable Ocean Bank to serve the larger credit requirements of the rapidly growing area. Considerations relating to the convenience and needs of the communities to be served are consistent with and add some weight toward approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17011 Filed 10-4-72;8:47 am]

MID AMERICA BANCORPORATION, INC.

Order Approving Acquisition of Bank

Mid America Bancorporation, Inc., St. Paul, Minn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First State Bank of Coon Rapids, Coon Rapids, Minn. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls five operating banks (and has received Board approval for an additional bank not yet opened for business) with aggregate deposits of approximately $59 million, representing 0.6 percent of the total commercial bank deposits in the State, and is the seventh largest bank holding company in Minnesota. (All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through August 31, 1972.) Applicant's acquisition of Bank ($10.2 million in deposits) would increase Applicant's share of deposits in Minnesota by 0.1 percentage point, without changing its ranking within the State.

Bank, the only bank in Coon Rapids, is located in a growing areas 15 miles north of downtown Minneapolis, adjacent to a small local shopping center. The relevant market area is the Minneapolis-St. Paul banking market in which Applicant has five banking subsidiaries (including the bank not yet opened for business), the closest being located 16 miles southeast of Bank. There is no substantial existing competition between Applicant's present banking subsidiaries and Bank; and, for several reasons, including the distances involved, the presence of banking alternatives in the intervening areas, and Minnesota's prohibition against branch banking, there is no substantial likelihood of future competition developing between those subsidiaries and Bank. For similar reasons, there is no significant possibility of substantial competition developing between Bank and Applicant's other banking subsidiary, which is located approximately 60 miles west of the Minneapolis-St. Paul area.

Moreover, consummation of this transaction might have a beneficial effect on competition in the Minneapolis-St. Paul banking market. Six bank holding company groups hold, in the aggregate, nearly 82 percent of the deposits in the market, while Applicant controls only 0.8 percent of the deposits. Acquisition of Bank would increase Applicant's share of market deposits by 0.2 percentage points and would give it a service outlet in an area of the Twin Cities in which it is presently not represented. Thus, acquisition of Bank might enable Applicant to provide more effective competition for the much larger banking organizations in the Minneapolis-St. Paul banking market with which it must compete. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area.

Considerations relating to the financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as satisfactory. Applicant can provide lending policy guidance that might strengthen the overall asset condition and management of Bank and this consideration lends some weight for approval. The Coon Rapids community might benefit as a result of Bank's improved ability, through the capacity of Applicant's system, to serve the growing credit needs of the area more effectively. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16981 Filed 10-4-72;8:45 am]

NORTHERN STATES FINANCIAL CORP. AND TWIN GATES CORP.

Acquisition of Bank

Northern States Financial Corp., Detroit, Mich., and Twin Gates Corp., Wilmington, Del., have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) for Northern States Financial Corp. to acquire 100 percent of the voting shares of the successor by merger to the Bank of Lansing, Lansing, Mich. By virtue of its ownership of 22.48 percent of the voting shares of Northern States Financial Corp., Twin Gates Corp. will indirectly acquire an interest in the Bank of Lansing. The factors that are considered in acting on these applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 27, 1972.

Board of Governors of the Federal Reserve System, September 27, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16980 Filed 10-4-72;8:45 am]

NORTHWEST KANSAS INSURANCE AGENCY

Acquisition of Bank and Proposed Merger

Northwest Kansas Insurance Agency, Colby, Kans., has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to acquire 41.5 percent or more of the voting shares of The Thomas County National Bank of Colby, Colby, Kans., from the Hi-Plains Insurance Agency, Inc., Colby, Kans., by means of a statutory merger. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Northwest Kansas Insurance Agency has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Hi-Plains Insurance Agency, Inc., Colby, Kans., through a statutory merger. Notice of the application was published on August 24, 1972, in the Colby Free Press Tribune, a newspaper circulated in Thomas County, Kans.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a community of less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal under section 4(c)(8) can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

These applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views on these applications or request for hearing on the section 4(c)(8) application should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 27, 1972.

Board of Governors of the Federal Reserve System, September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16982 Filed 10-4-72;8:46 am]

OUTREACH NATIONAL ENTERPRISES, INC.

Retention of Bank

Outreach National Enterprises, Inc., Beaumont, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 81.67 percent of the voting shares of Texas Bank of Beaumont, Texas, Beaumont, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

By order dated June 22, 1971, the Board has authorized any company which, between December 31, 1970, and June 22, 1971, has acquired an interest in a bank without obtaining requisite Board approval to apply to the Board for subsequent approval of that action if certain conditions are present. Whether these conditions are met in this case is currently under study.

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors

[1] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

[1] Banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved by the Board through August 31, 1972.

[2] Voting for this action: Governors Mitchell, Daane, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Robertson.

[1] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

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of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16986 Filed 10-4-72;8:46 am]

PENINSULAR HOLDING CORP. OF MICHIGAN

Formation of Bank Holding Company

Peninsular Holding Corp., of Michigan, Grand Rapids, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Union Bank & Trust Co. (National Association), Grand Rapids, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16987 Filed 10-4-72; 8:46 am]

TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent or more of the voting shares of Citizens National Bank of Lubbock, Lubbock, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16990 Filed 10-4-72;8:46 am]

THIRD NATIONAL CORP.

Acquisition of Bank

Third National Corp., Nashville, Tenn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First National Bank of Lawrenceburg, Lawrenceburg, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16992 Filed 10-4-72;8:47 am]

UNITED BANKS OF WISCONSIN, INC.

Acquisition of Bank

United Banks of Wisconsin, Inc., Madison, Wis., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent or more of the voting shares of The Kraft State Bank, Menomonie, Wis. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1972.

Board of Governors of the Federal Reserve System, September 28, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-16991 Filed 10-4-72;8:46 am]

OFFICE OF EMERGENCY PREPAREDNESS

MAINE

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on September 28, 1972, the President declared a major disaster as follows:

I have determined that the impact on the State of Maine of the toxic algae in the coastal waters, beginning about September 14, 1972, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Maine. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. John F. Sullivan, Regional Director, OEP Region 1, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Maine to have been adversely affected by this declared major disaster:

THE COUNTIES OF:

Cumberland.	Sagadahoc.
Hancock.	Waldo.
Knox.	Washington.
Lincoln.	York.

Dated: September 29, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-17016 Filed 10-4-72;8:48 am]

MASSACHUSETTS

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on September 28, 1972, the President declared a major disaster as follows:

I have determined that the impact on the State of Massachusetts of the toxic algae in the coastal waters, beginning about September 14, 1972, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Massachusetts. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. John F. Sullivan, Regional Director, OEP Region 1, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Massachusetts to have been adversely affected by this declared major disaster:

THE COUNTIES OF:

Barnstable	Nantucket
Bristol	Norfolk
Dukes	Plymouth
Essex	Suffolk

Dated: September 29, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

MINNESOTA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Minnesota, dated August 30, 1972, and published September 2, 1972 (37 F.R. 17990) is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 25, 1972:

THE COUNTIES OF:

Lake.
Pine.

Dated: September 29, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-17015 Filed 10-4-72;8:48 am]

POSTAL RATE COMMISSION

CHICAGO, ILL. POSTAL FACILITIES

Notice of Visits

OCTOBER 2, 1972.

In furtherance of the Postal Rate Commission's training program published in the FEDERAL REGISTER on September 20, 1972 (37 F.R. 19404), employees of the Commission will be visiting the Chicago, Ill. Post Office and associated facilities in the Chicago area on October 16 through October 20, 1972.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

Reports of the visits will be on file in the Commission's docket room.

By direction of the Commission.

JOSEPH A. FISHER,
Secretary.

[FR Doc.72-17078 Filed 10-4-72;8:52 am]

PRICE COMMISSION

[Order No. 11]

RECLASSIFIED LUMBER FIRMS

Reports Requirements

Pursuant to the amendments to §§ 101.13 and 101.15 of Part 101 of the regulations of the Cost of Living Council, effective October 3, 1972, each firm (other than a firm described in § 101.11) with $5 million or more in annual sales or revenues from or by the sale or brokerage of lumber, plywood, veneer, millwork, and structural wood members and associated wood products such as hardboard and particle board that is not currently classified as a Category II firm is reclassified from Category III to Category II, Reporting Firms. For the purposes of this order, each such firm shall be referred to as a "reclassified firm". The effect of that amendment is to place certain reporting requirements on those reclassified firms, as required in § 300.52 of the Price Commission regulations.

The purpose of this order is to establish the time frames for these particular reporting requirements of § 300.52 and to specify certain additional reporting requirements on a one-time basis.

Section 300.52 requires that each reporting firm provide certain information to the Price Commission on prescribed forms on a quarterly basis. The base period profit margin calculation must be reported once on Form PC-50. Supporting documents must include audited financial statements for all years reported. The current profit margin is reported quarterly on Form PC-51. Each such report must be supported by the firm's usual quarterly accounting statement. The midyear and yearend PC-51 reports must each contain a statement from an independent public accounting firm pursuant to § 300.221 of Price Commission regulations. The yearend PC-51 report must contain an audited financial statement, consistently stated with those attached to the PC-50.

Category II manufacturers and service organizations must report quarterly, on Form PC-1, any price increases above base price. This form provides the cost justification for the price increases and must be supported by schedules, as necessary. Category II wholesalers, brokers, and retailers must initially declare their customary initial percentage markups on Form PC-10 and report compliance with those markup limitations on a quarterly basis, also on Form PC-10.

The Price Commission considers that the requirement of audited financial statements be filed with Forms PC-50 and 51 may work an unnecessary hardship on newly reclassified lumber firms that do not customarily have audited statements available. The Commission has thus determined that, where audited statements are not customarily available, a certificate to that effect shall be an acceptable substitute. However, this does not obviate the requirements of § 300.221 of the regulations of the Commission.

Therefore, in consideration of the foregoing, and notwithstanding any provision of Part 300 of the Price Stabilization Regulations of the Commission (6 CFR Part 300), it is hereby ordered as follows:

(1) Each reclassified firm shall file with the Price Commission all reports (Forms PC-1, PC-10, and PC-50 or both) required by or pursuant to § 300.52 of the regulations of the Commission (a) with respect to the initial reports due after October 2, 1972, within the time limits prescribed in this order, and (b) with respect to all subsequent reports, within the time limits prescribed by or pursuant to § 300.52 of the regulations of the Commission.

(2) Each reclassified firm that is a manufacturer shall, before November 6, 1972, file with the Commission a Form PC-1, together with supporting documentation, with respect to each product or service for which it charged, at any time after November 13, 1971, a price which exceeded the base price for that product or service.

(3) Each reclassified firm that is a wholesaler or a retailer shall, before November 6, 1972, file with the Commission a Form PC-10, together with supporting documentation, covering the markup base period and latest fiscal quarter ended before October 3, 1972, with respect to any product, products, service, or services for which it charged, at any time during that fiscal quarter, a price or prices which exceeded the base price for the product, products, service or services.

(4) Each reclassified firm that has, at any time after November 13, 1971, charged a price for any product or service which exceeded the base price therefore shall:

(a) Before November 20, 1972, file with the Commission Form PC-50, together with supporting documentation;

(b) Before November 20, 1972, file with the Commission Form PC-51, together with supporting documentation, with respect to the last fiscal quarter ended before October 3, 1972; and

(c) Before January 2, 1973, file with the Commission Form PC-51, together with supporting documentation, with respect to its last complete fiscal year, if that fiscal year ended before October 3, 1972.

(5) Any firm filing a PC-50 or PC-51 with the Commission for the first time as a result of this order shall also file a statement from an independent accounting firm that such initial reports meet generally accepted accounting principles and procedures consistently applied, and appear to comply with the regulations of the Price Commission.

(6) Any firm which has not customarily prepared audited financial statements may file in place thereof a certificate to the effect that no such statements are customarily prepared, that the firm has stated all financial data in a consistent manner in accordance with generally accepted accounting principles, and that the data reported complies with the regulations of the Commission.

(7) A reclassified firm that has not increased any selling price above base price may, in place of complying with this order, file a certificate of no price increase similar to that set forth in the instructions to Form PC-50.

(8) Each form, report, or other document required to be filed with the Price Commission pursuant to this order shall be addressed as follows:

Price Commission, 2000 M Street NW., Washington, DC 20508.
Lumber 72-11
Form No. PC-

(9) Each person who fails, within the time limits prescribed in this order, to file any form, report, or other document, required by this order shall be subject to

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§ 300.53 of the regulations of the Price Commission.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558; 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

Issued in Washington, D.C. on October 3, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

[FR Doc. 72-17181 Filed 10-3-72;5:10 p.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

SEPTEMBER 28, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 29, 1972 through October 8, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17032 Filed 10-4-72;8:50 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

SEPTEMBER 28, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 2, 1972, through October 11, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17033 Filed 10-4-72;8:50 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

SEPTEMBER 28, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:45 a.m. (e.d.t.) on September 28, 1972, through October 7, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17034 Filed 10-4-72;8:50 am]

[812-3204]

LOEB, RHOADES & CO.

Notice of Application for Exemption

SEPTEMBER 27, 1972.

Notice is hereby given that Loeb, Rhoades & Co., a partnership (Applicant), 42 Wall Street, New York, NY 10005, has filed an application pursuant to section 9(c) of the Investment Company Act of 1940 (Act) for an order of exemption from the provisions of section 9(a) of the Act. This application seeks an exemption for Loeb, Rhoades & Co., its partners, agents, servants, and employees, except that Gerald L. Burchard, a named defendant in the Lynbar case, be exempted only to the extent that his continued employment would be a bar to Applicant under section 9(a)(3) of the Act. All interested persons are referred to the application on file with the Commission for a complete statement of the representations contained therein which are summarized below.

On November 14, 1968, in an action entitled Securities and Exchange Commission v. Lynbar Mining Corporation, Ltd., et al. (U.S. District Court for the Southern District of New York, Civil Action No. 68-4493), a final judgment was entered upon consent against, among others, Applicant, a registered broker-dealer, which consent provides in pertinent part:

> Ordered, Adjudged and Decreed that Defendants, * * * Loeb, Rhoades & Co. and their partners, agents, servants, and employees, and any other person acting in active concert or participation with them, are hereby restrained and enjoined from, directly or indirectly, by use of the means or instrumentalities of interstate commerce or the mails from offering to sell, selling or delivering after sale the securities of Lynbar Mining Corp., Ltd., in violation of section 5 of the Securities Act of 1933 * * *

On the same date, the Securities and Exchange Commission issued an order accepting an offer of settlement from Applicant for the purpose of disposing of issues raised under section 15(b) of the Securities Exchange Act of 1934 arising out of the offer, sale, and delivery after sale of securities of Lynbar Mining Corp., Ltd., and directing Applicant to discontinue any and all trading in Canadian over-the-counter securities for a period of sixty (60) calendar days commencing with the opening of business on November 15, 1968. The Commission determined that it was in the public interest to accept the offer of settlement in view of Applicant's consent to the injunction, certain mitigating factors presented and upon the assumption that appropriate and effective procedures would be placed in effect prior to resumption by Applicant of trading in Canadian over-the-counter securities.

Applicant asserts that in the transactions leading to the above-mentioned civil action, it had no intent to violate any provisions of law, it had purchased the securities through its Canadian correspondent which had specific instructions not to purchase any stock for Applicant which was in distribution in Canada; the activities in the stock were infinitesimal in relation to Applicant's overall Canadian trading activities during the same period; all transactions were with other broker-dealers and no sales were made to public customers; upon its own initiative, Applicant halted trading in all over-the-counter Canadian securities as soon as it was apprised of the concern of the staff of the Commission with the distribution of unregistered securities from Canada into the United States; it made a complete review of its compliance procedures with respect to Canadian securities; and Applicant had not been charged with violations of any of the antifraud provisions of the Securities Act although certain other respondents had been so charged.

Injunctions entered against Applicant in 1958 in Securities and Exchange Commission v. Arvida Corp., et al. U.S.D.C., SDNY, Civ. Action 138-67, and in 1961 in Securities and Exchange Commission v. Fruit of the Loom, Inc. et al., U.S.D.C., SDNY, 61 Civ. 640, were the subject of two prior applications pursuant to section 9 of the Act. Both applications for exemption were granted and the orders granting the applications are reported in Investment Company Act Releases Nos. 2820 and 3250, respectively.

Section 9(a)(2) of the Act makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any securities, to serve or act in the capacity of officer, director, member of an advisory board, investment adviser, or depositer of any registered open-end company. Section 9(a)(3) prohibits a company any affiliated person of which is ineligible by reason of 9(a)(2) to serve or act in the foregoing capacities.

On January 27, 1970, the Commission, upon application, entered an order exempting Applicant from any restriction of section 9(a) of the Act that arose as a result of the order in the Lynbar case, but only to the extent that the section precluded a wholly owned subsidiary of Applicant from acting as investment adviser to and principal underwriter for Chelsea Fund, Inc., and prevented affiliated persons of Applicant from acting as officers and directors of Chelsea Fund, Inc. (Memorandum Opinion and Order, Investment Company Act Release No. 5962). Applicant now seeks an unconditional exemption from the prohibition of section 9.

On November 10, 1971, the Commission, upon application, entered an order exempting Frank A. Weil, then a partner of Applicant, from any restriction of section 9(a)(2) of the Act that arose as a result of the order in the Lynbar case; and on November 18, 1971, the Commission upon application, granted a similar exemption to Dudley F. Cates, a partner of Applicant.

Applicant entered into an agreement in April 1971 with Voyager Life Insurance Co., investment adviser to Voyager Variable Annuity Fund, an open-end investment company. Applicant states that it was not aware that the agreement required an exemptive order from the Commission and does not admit that any such order is required. However, Applicant states that it has remitted to Voyager Variable Annuity Fund, $5,816 which represents the total fees received to date pursuant to its agreement with Voyager Life Insurance Co. and that it will remit such sums received in the future unless and until the Commission enters an order granting the exemption sought by the Applicant in this application.

In support of its application, Applicant further represents: (1) That Applicant has been subject to the restrictions and disqualifications for more than 3½ years; (2) that the alleged violations which resulted in their imposition was a result, at most, of error and inadvertence and not of fraud, overreaching, or an attempt to evade the law, and was minor in scope and extent; and (3) that Applicant should not be limited in its opportunity to serve its clients and the public in the capacities which for 3½ years have been subject to the limitations of section 9(a)(2) of the Act.

Gerald L. Burchard, an employee of Applicant, also consented and was named in the final judgment entered in the Lynbar case. Applicant requests that the order of exemption apply to Gerald L. Burchard only to the extent that his continued employment would be a bar to Applicant under section 9(a)(3) of the Act. Furthermore, Gerald L. Burchard's function is to execute and handle trading in Canadian securities for the Applicant; and that none of his functions have involved, or will involve, activities, responsibilities, or duties touching upon the areas to which section 9 relates.

Section 9(c) of the Act provides that any person who is ineligible by reason of subsection (a) to serve or act in the capacities enumerated therein may file with the Commission an application for an exemption from the provisions of that subsection and further provides that the Commission shall by order grant such application, either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of subsection (a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicant asserts that the prohibitions of section 9(a) of the Act, if applicable by reason of the above-mentioned final judgment, would be unduly and disproportionately severe if applied to Applicant. Applicant further asserts its conduct has been such as to make it not against the public interest or protection of investors to grant the requested application.

Notice is further given that any interested person may, not later than October 23, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted; or he may request that he be notified if the Commision should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 25049. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

RONALD F. HUNT,
Secretary.

[FR Doc.72-17037 Filed 10-4-72;8:50 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

SEPTEMBER 28, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from October 1, 1972 through October 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17035 Filed 10-4-72;8:50 am]

[File No. 500-1]

NORTH AMERICAN PLANNING CORP.

Order Suspending Trading

SEPTEMBER 28, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class B nonvoting common stock, $0.01 par value and all other securities of North American Planning Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that the trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 2, 1972 through October 11, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17036 Filed 10-4-72;8:50 am]

[812-3206]

UNITED FUNDS CANADA-INTERNATIONAL LTD., AND UNITED CONTINENTAL GROWTH FUND, INC.

Notice of Filing of Application for Order Exempting Transactions Between Affiliated Persons

SEPTEMBER 28, 1972.

Notice is hereby given that United Funds Canada-International Ltd. (International Fund) and United Continental Growth Fund, Inc. (Growth Fund), 1 Crown Center, Kansas City, Mo. 64141, both diversified management open end investment companies registered under the Investment Company Act of 1940 (Act), have filed a joint application pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the sale by International Fund of substantially all of its assets to Growth Fund in exchange for shares of Growth Fund as more fully described below. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The proposed sale by International Fund of its assets to Growth Fund is part of a proposed reorganization whereby, pursuant to an agreement between the two funds, Growth Fund would acquire substantially all of International

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Fund's assets in exchange for shares of Growth Fund. International Fund will retain only sufficient assets to pay its estimated liabilities. Following the proposed reorganization substantially all of the assets of International Fund will consist of shares of Growth Fund, and International Fund will then distribute to its shareholders the shares of Growth Fund.

The application indicates that since 1954, when International Fund was incorporated, substantial changes have been made in the tax legislation of the United States and Canada which have not only precluded the sale of additional shares of International Fund, a Canadian corporation, but have also created enormous complexities governing the investment income earned and capital gains realized by it. The Board of Directors of International Fund, recognizing that redemptions of shares of International Fund could not be offset by sales of its shares, recommended that shareholders approve the proposed reorganization. The Board of Directors made this recommendation in view of the foregoing factors and their belief that the reorganization would be beneficial to shareholders of International Fund in view of the increased diversification that would be provided by Growth Fund, which is a larger fund than International Fund, the lower investment advisory fee which is paid by Growth Fund, and the continuity of management that would result since Waddell & Reed, Inc. acts as investment adviser to both funds.

The application also indicates that shares of Growth Fund of a net asset value equal to the aggregate value of all of International Fund's assets to be acquired by Growth Fund (subject to certain adjustment set forth in the agreement for increased or decreased possible tax liability) shall be issued in exchange for International Fund's assets. The valuation date shall be the close of business on October 13, 1972, or on such other date as may be mutually agreed upon. The actual exchange of International Fund's assets for shares of Growth Fund will be made on October 14, 1972, or another mutually agreeable date.

The effectiveness of the reorganization is contingent on the receipt of a tax ruling from the Internal Revenue Service of the United States indicating that the proposed reorganization will be a tax-free reorganization and no gain or loss or taxable income will be recognized by the two funds or their shareholders.

International Fund will, before the reorganization, sell those securities the acquisition of which by the Growth Fund would cause the payment of an interest equalization tax, and invest the proceeds in cash and cash equivalents.

The Board of Directors of Growth Fund have approved the proposed reorganization, and on September 18, 1972, a majority of the outstanding voting securities of International Fund were voted in favor of the proposed reorganization.

The application represents that no person owns beneficially, either directly or indirectly, 25 percent or more of the voting securities of either International Fund or Growth Fund; consequently, it is applicants' view that the two funds are presumed not to be under common control. However, since the two funds have the same investment adviser, and have certain directors and officers in common, applicants have filed the present application, pursuant to section 17(b) of the Act, requesting an exemption from the provisions of section 17(a) of the Act.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company any security or other property, subject to certain exceptions, unless the Commission upon application, pursuant to section 17(b) of the Act, grants an exemption from the provisions of section 17(a) of the Act upon a finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act.

In order to enable the reorganization to be effectuated before October 15, 1972, the usual period of time within which an interested person may request a hearing on the application has been shortened. In view of the nature of the application and the necessity for action before October 15, the shortened period of public notification is deemed necessary and reasonable.

Notice is further given that any interested person may, not later than October 12, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17038 Filed 10-4-72;8:50 am]

[70-5230]

UTAH POWER & LIGHT CO.

Proposed Issue and Sale of Notes to Banks and Dealer in Commercial Paper and Exception From Competitive Bidding

SEPTEMBER 28, 1972.

Notice is hereby given that Utah Power & Light Co. (Utah), 1407 West North Temple Street P.O. Box 899 Salt Lake City, Utah 84110 and electric utility company and a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Utah proposes to issue and sell, from time to time prior to September 30, 1973, short-term notes in the form of commercial paper and notes to banks, in an aggregate amount not exceeding $52 million at any one time outstanding. Utah intends to utilize the proceeds of the sale of its notes for construction expenditures estimated to be approximately $62 million for 1972 and $72 million for 1973. The notes will be repaid by Utah through the issue and sale of additional long-term debt and equity securities prior to September 30, 1973.

The proposed bank notes will mature not more than 9 months after the date of issue, and, in any event on or before September 30, 1973, and will provide for payment in whole or in part prior to maturity. The notes will bear interest at not more than the prime commercial rate then in effect for unsecured loans at the bank to which the note is issued, and any change in such rate shall become effective on date of the change in the prime commercial rate at the bank to which the note is issued. Utah anticipates that it will be able to obtain lines of credit for the proposed borrowings with the 15 commercial banks listed below up to the maximum amount indicated for each bank.

Name of Bank:	*Maximum Amount to be Borrowed*
The Continental Bank and Trust Co., Salt Lake City, Utah	$500,000
First Security Bank of Utah, N.A., Salt Lake City, Utah	3,300,000
Walker Bank & Trust Co., Salt Lake City, Utah	3,000,000
Zions First National Bank, Salt Lake City, Utah	2,000,000
United Bank of Denver, Denver, Colo	2,000,000
Bank of Utah, Ogden, Utah	200,000
Carbon Emery Bank, Price, Utah	100,000
Commercial Security Bank, Ogden, Utah	1,000,000
First Security State Bank, Salt Lake City, Utah	100,000
Valley Bank & Trust Co., South Salt Lake, Utah	300,000
The Chase Manhattan Bank, N.A., New York, N.Y.	10,500,000
Morgan Guaranty Trust Co. of New York, New York, N.Y.	10,000,000
Mellon National Bank and Trust Co., Pittsburgh, Pa.	10,000,000
Harris Trust and Savings Bank, Chicago, Ill	3,000,000
Irving Trust Co., New York, N.Y	6,000,000
Total	52,000,000

It is stated that there are no specified requirements for compensating balances in conjunction with the proposed lines of credit; nevertheless Utah represents that it has traditionally maintained working capital deposits in banks in proportion to the lending commitment of each bank, and adequate to support each commitment.

The proposed commercial paper will be in the form of promissory notes with varying maturities not to exceed 270 days, will be issued in denominations of not less than $50,000 and not more than $5 million, and will not be prepayable prior to maturity. The commercial paper will be sold by Utah directly to a dealer in commercial paper; however, no commercial paper will be issued having a maturity of more than 60 days at an effective interest cost that exceeds the effective interest cost at which Utah could borrow from banks, unless Utah finds it impractical to do otherwise. No commission or fee will be payable in connection with the issue and sale of commercial paper. The dealer will reoffer and sell the commercial paper at a discount rate of one-eighth of 1 percent per annum less than the prevailing discount rate of Utah to not more than 200 customers of the dealer identified and designated in a list (nonpublic) prepared in advance by the dealer. No additions will be made to such list of customers. No sale will be made to any purchasers unless and until such purchasers have received a current report of the financial condition of Utah. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, the dealer will repurchase the paper for resale to others on said list of customers. Utah requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. Utah states that the proposed commercial paper notes will have a maturity of 9 months or less, that current rates for commercial paper for such prime borrowers as Utah are published daily in financial publications and that generally the effective interest cost thereon will not exceed the effective interest for borrowing from commercial banks. Utah also requests authority to file certificates under Rule 24 on a quarterly basis with respect to the issue and sale of notes hereafter consummated pursuant to this proceeding.

It is represented that no fees or commissions (including legal fees) will be paid or incurred, directly or indirectly, in connection with the proposed transactions, and that incidental expenses are estimated to be less than $2,000. Utah states that the Idaho Public Utilities Commission has jurisdiction over the proposed issue and sale of the notes, including commercial paper, and has by order expressly authorized the proposed transactions. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 13, 1972, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17039 Filed 10-4-72;8:50 am]

DEPARTMENT OF LABOR

Office of the Secretary

RCA CORP.

Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

After reviewing the Tariff Commission's report on its investigation of the petition for adjustment assistance filed on behalf of workers formerly employed by Indianapolis and Rockville plants of RCA Corp., Indianapolis, Ind. (Report No. TEA-W-144) under section 301(c)(2) of the Trade Expansion Act of 1962, and in which report the Commission being equally divided, made no finding with respect to television yokes, tuners, and horizontal output transformers, the President decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission. Accordingly, he has advised the Secretary of Labor that he may certify the groups of workers involved as eligible to apply for adjustment assistance.

In view of the Tariff Commission's report, the President's authorization, and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigations to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20110 on or before October 9, 1972.

Signed at Washington, D.C. this 28th day of September 1972.

GLORIA G. VERNON, *Director, Office of Foreign Economic Policy.*

[FR Doc.72-17054 Filed 10-4-72;8:51 am]

"TEMPORARY OFF" INDICATOR

Notice of Determination and Ending of Temporary Compensation Period in Four States

Pursuant to the provisions of section 202 of the Emergency Unemployment Compensation Act of 1971 (Public Law 92-224, Title II), hereinafter referred to as the Act, and 20 CFR 617.13(a), I hereby give notice of my determination that there is a "temporary off" indicator for the week ending August 19, 1972, in the State of Massachusetts and the week ending August 26, 1972, in the States of Connecticut, Vermont, and West Virginia.

As provided in section 202(c)(3)(A)(i)(II) of the Act and 20 CFR 617.5 (b)

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and (c), the temporary compensation period in each of these States shall end on the last day of the third week following the week for which there is a "temporary off" indicator. Under the Act, temporary compensation is not payable in the State of Massachusetts for any week of unemployment which begins after September 9, 1972, and in the States of Connecticut, Vermont, and West Virginia for any week of unemployment that begins after September 16, 1972.

Signed at Washington, D.C. this 29th day of September 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-17055 Filed 10-4-72;8:51 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

A & W Root Beer Drive Inn, restaurant; 2800 Elizabeth Street, Pueblo, CO; 7-5-73.

Allen Mercantile Co., variety-department store; 95 East Main Street, Hyrum, UT; 6-25-73.

Arrington's Food Market, foodstore; Front Street, Taylorsville, MS; 7-11-73.

Ashcraft Market, Inc., foodstore; 158 First Street, Harrison, MI; 7-9-73.

Ballard's Food Store, foodstore; 301 East Charles, Pauls Valley, OK; 6-30-73.

Barones Food Market, foodstore; 1103 Holland, Saginaw, MI; 7-5-73.

Ben Franklin Store, variety-department stores: 528 West Main Street, Jackson, MO, 7-14-73; Berkeley Square Shopping Center, Goose Creek, S.C., 7-13-73.

Big K Department Store, variety-department stores, 7-14-73: U.S. Highway 78 and Airport Road, Jasper, AL; U.S. Highway 127 North, Crossville, TN; Old Hickory Boulevard, Jackson, TN; West Second at South Jackson Street, Morristown, TN; Memorial Boulevard, Springfield, TN.

Bill Crook's Food Town, foodstore; No. 1, Nashville, Tenn.; 6-30-73.

Bob White's Chevyland, Inc., auto dealer; 301-307 West Church Street, Martinsville, VA; 7-14-73.

Bosma Brothers Farms, agriculture; 1187 Poulson Road, Muskegon, MI; 7-1-73.

W. C. Bradley Co., agriculture; Columbus, Ga.; 6-25-73.

Bretts Department Store, variety-department store; 325-329 South Front Street, Mankota, MN; 7-15-72 to 6-30-73.

Burger Chef, restaurant; 1000 West Clairmont Avenue, Eau Claire, WI; 7-14-73.

Carlie C. McLamb's Grocery, foodstore; Route 2, Dunn, NC; 6-25-73.

Central Market, foodstore; Third and Lincoln, Hebron, NE; 6-23-73.

Charlie Womack Garden & Nursery, agriculture; 1602 Cherokee Road, Florence, SC; 7-9-73.

Coborn's, Inc., foodstores, 6-27-73: Foley, Minn.; 327 South Fifth Avenue, St. Cloud, MN; Six North Broadway, Sauk Rapids, MN.

Covey Livestock Co., agriculture; Cokeville, WY; 6-29-72 to 5-25-73.

DeByle's, Inc.; apparel stores, 7-2-73: Eagle River, WI; Minocqua, WI; Rhinelander, WI; Wisconsin Rapids, WI.

Downtown Drugs, drugstore; 110 East Broadway, Mount Pleasant, MI; 7-15-72 to 1-14-73.

Easyway Food Market, foodstore; Carter Street, Harriman, TN; 7-10-73.

Elliott's Restaurant; restaurant; I-20 and U.S. No. 1 North, Columbia, SC; 6-30-73.

Elmore, variety-department store; Sunset Plaza Shopping Center, Decherd, Tenn.; 7-2-73.

Ferguson Free Car Wash, service station; 2315 Ferguson Road, Cincinnati, OH; 6-30-73.

Food Fair, Inc., foodstore; Burnside, Ky.; 7-14-73.

Foodtown, foodstores: 305 North Second, Rogers, AR; 7-31-73; Highway 71 South, Rogers, AR; 7-15-73.

Frank Dill's Bestway Market, foodstore; Highway 79, Dover, TN; 6-21-73.

Franks IGA Foodliner, foodstore; 130 South Grand Avenue, Fowlerville, MI; 6-29-73.

Glenn W. Clay, agriculture; Route 1, Sharpsburg, Ky.; 7-1-72 to 9-30-73.

W. T. Grant Co., variety-department stores: No. 739, Whittier, Calif., 6-30-73; No. 997, Mundelein, Ill., 6-26-73; No. 343, Milwaukee, Wis., 7-20-73.

Gray Hall Pharmacy, Inc., drugstore; 5740 West Littleyork, Houston, TX; 6-30-73.

Greenville Car Wash East, Inc., service station; 1522 Laurens Road, Greenville, SC; 7-25-73.

H. E. B. Food Store, foodstores: No. 117, Crystal City, Tex., 6-24-73; No. 119, Gatesville, Tex., 8-3-73; No. 86, Ingleside, Tex., 7-30-73; No. 114, McAllen, Tex., 7-24-73.

Hall's 5 & 10¢ Stores, variety-department store; 122-128 South Main Street, Woodruff, SC; 7-2-73.

Hansen's Drug Store, drugstore; 20 West Eighth Street, Holland, MI; 7-2-73.

Hayfield Farm, agriculture; 1234 United Penn Bank Building, Wilkes-Barre, Pa.; 7-6-72 to 6-25-73.

Hillside Farms, Inc., agriculture; 1235 United Penn Bank Building, Wilkes-Barre, Pa.; 7-4-73.

Hiowa, restaurant; 901 Prospect, Helena, MT; 6-30-73.

Hudson Memorial Nursing Home, nursing home; 700 North College, El Dorado, AR; 6-30-73.

J & S Enterprise Market, variety-department store; Hawk Point, Mo.; 7-19-72 to 7-13-73.

Kline's Department Store, variety-department store; 14 East Front Street, Monroe, MI; 6-26-73.

S. S. Kresge Co., variety-department stores: No. 4311, Brandon, Fla., 6-30-73; No. 4415, Daytona Beach, Fla., 6-30-73; No. 4410, Jacksonville, Fla., 7-14-73; No. 4420, Ocala, Fla., 6-30-73; No. 4358, Orlando, Fla., 7-29-73; No. 4138, Atlanta, Ga., 7-6-73; No. 4140, Atlanta, Ga., 7-9-73; No. 4563, Bedford, Ind., 6-23-73; No. 4632, Atchison, Kans., 6-26-73; No. 4215, Kansas City, Kans., 7-9-73; No. 157, Newport, Ky., 7-13-73; No. 4428, Muskegon, Mich., 6-30-73; No. 4488, Rochester, Mich., 8-14-73; No. 4350, Columbia, Mo., 6-23-73; No. 555, Jennings, Mo., 7-1-73; No. 4577, Fremont, Nebr., 6-20-73; No. 498, North Eatontown, N.J., 6-22-73; No. 260, Passaic, N.J., 6-30-73; No. 65, Trenton, N.J., 6-22-73; No. 4060, Charlotte, N.C., 6-22-73; No. 4476, Greensboro, N.C., 7-31-73; No. 4353, Minot, N. Dak., 7-12-72 to 7-5-73; No. 4417, Cleveland, Ohio, 7-14-73; No. 4301, Lima, Ohio, 7-13-73; No. 3015, Mentor, Ohio, 7-14-73; No. 4093, Madison, Tenn., 7-19-73; No. 4300, Dallas, Tex., 6-23-73; No. 4197, Houston, Tex., 6-22-73; No. 4354, Lubbock, Tex., 6-30-73; No. 746, San Antonio, Tex., 6-22-73; No. 91, Huntington, W. Va., 7-2-73; No. 4219, Green Bay, Wis., 7-4-73; No. 4559, La Crosse, Wis., 6-22-73; No. 4374, Wausau, Wis., 7-20-73.

Lerner Shops, apparel stores: No. 343, Merritt Island, Fla., 7-21-73; No. 336, Meridian, Miss., 7-31-73.

Lobel's Youth Center, Inc., apparel store; 100 Broadway, East Paterson, NJ; 6-30-73.

Low Cost Drug Center, Inc., drugstore; 101 North Main, Logan, UT; 6-26-72 to 6-9-73.

Lutheran Homes, Inc., nursing home; 1306 West Wisconsin Avenue, Oconomowoc, WI; 7-31-73.

Mark-It Foods, foodstores, 6-30-73: Nos. 51 and 52, Boise, Idaho; No. 50, Clearfield, Utah; No. 18, Salt Lake City, Utah.

Martin's Aquarium, Inc., pet shop; 101 Old York Road, Jenkintown, PA; 6-30-73.

Masonic Homes Farm, agriculture; Elizabethtown, Pa.; 7-7-72 to 6-23-73.

McCrory-McLellan-Green Stores, variety-department stores: No. 278, West Helena, Ark., 6-25-73; No. 396, Punta Gorda, Fla., 7-12-73; No. 389, Baltimore, Md., 7-12-73; No. 166, Springfield, Mo., 7-14-73; No. 255, Norfolk, Nebr., 7-9-73; No. 219, Dayton, Ohio, 7-14-73; No. 397, Kutztown, Pa., 7-6-72 to 6-26-73; No. 233, Sunbury, Pa., 7-6-72 to 6-30-73; No. 545, Laredo, Tex., 6-27-73.

McDonald's Hamburgers, restaurants, 7-9-73: 1401 South Noland Road, Independence, MO; 2650 West 26th Street, Erie, PA.

Minyard Food Stores, Inc., foodstore; No. 8, Dallas, Tex.; 7-2-73.

Morgan & Lindsey, variety-department stores: No. 3017, Rayville, La., 8-14-73; No. 3020, Brookhaven, Miss., 7-13-72 to 6-30-73.

Mount Carmel Home, nursing home; 18th Street and Fifth Avenue, Kearney, NE; 6-21-73.

G. C. Murphy Co., variety-department stores: No. 433, Anna, Ill., 6-28-73; No. 77, Fort Wayne, Ind., 6-22-73; No. 427, Winchester, Ind., 6-30-72 to 6-28-73; No. 338, Raleigh, N.C., 6-30-73; No. 809, McKees Rocks, Pa., 7-14-73; No. 328, York, Pa., 7-7-72 to 6-30-73; No. 318, Parkersburg, W. Va., 7-14-73.

Neisner Bros., Inc., variety-department store; No. 66, Clermont, Fla.; 7-19-73.

J. J. Newberry Co., variety-department stores, 7-30-73: No. 36, Dover, N.J.; No. 190, Springfield, N.J.

Noble Street Sure Save, foodstore; 1710 Noble Street, Anniston, AL; 6-30-73.

Oak Creek Restaurant, restaurant; I-94 and Ryan Road, Oak Creek, WI; 7-31-73.

Penn Taft Pharmacy, drugstore; 1815 Pennsylvania Avenue, West Mifflin, PA; 7-7-72 to 6-26-73.

Peoples Wholesale Co., variety-department store; Water Valley, Miss.; 6-27-73.

Piggly Wiggly, foodstore; No. 33, Shreveport, La.; 7-14-73.

Raylass Department Store, variety-department store; 232 South Elm Street, Greensboro, NC; 8-14-73.

Red Dot Super Market, foodstore; Ellijay, Ga.; 7-5-72 to 7-2-73.

Roberts Market, foodstore; Afton, Wyo.; 7-22-73.

Rohman's Thriftway, foodstore; 810 Main, Concordia, MO; 6-22-73.

Rose's Stores, Inc., variety-department stores: No. 220, Clearwater, Fla., 6-30-73; No. 216, Greenville, Miss., 6-25-73; No. 221, Virginia Beach, Va., 7-14-73.

Sandy's, Inc., restaurant; 1020 West Prince Road, Tucson, AZ; 7-31-73.

Scheddell & Wendt Bros. Drugs, drugstore; 104 South Main Street, Crown Point, IN; 7-5-73.

Schensul's, Inc., restaurant; Dunlap, Ind.; 8-14-73.

Scott Stores Co., variety-department stores: No. 9132, Elizabethtown, Ky., 6-29-73; No. 9131, Harlan, Ky., 6-23-73.

Shepard's Inn, nursing home; 300 East Culver Road, Knox, IN; 6-21-73.

Skinner Nursery, agriculture; 1402 Lower Silver Lake Road, Topeka, KS; 6-24-73.

Smart Shop, apparel store; Punxsutawney, Pa.; 7-14-72 to 6-30-73.

Spurgeon's, variety-department stores: 118 East Main Street, Streator, IL, 7-31-73; 903-905 Braden, Chariton, IA, 7-13-73.

Stamper Brothers Super Market, foodstore; Olive Hill, Ky.; 7-4-73.

Stanard Supply Co., variety-department store; No. 6, Grant Town, W. Va.; 7-31-73.

Sterling Stores Co., variety-department stores: Lamar Shopping Center, New Albany, Miss., 6-30-73; 1563 South Highland, Jackson, TN, 7-15-73.

Steve's Shoes, Inc., shoestore; 4601 State Avenue, Kansas City, KS; 7-31-73.

Sunnyway Foods, Inc., foodstore; 212 North Antrim Way, Greencastle, PA; 7-6-72 to 6-28-73.

Super Drive-Ins, foodstores, 7-10-73, except as otherwise indicated: No. 9, Clarksville, Tenn. (7-14-73); Nos. 2 and 5, Nashville, Tenn.; No. 11, Nashville, Tenn. (7-14-73).

T. G. & Y. Stores Co., variety-department stores, 6-30-73, except as otherwise indicated: No. 2106, Batesville, Ark. (7-14-73); No. 571, Baldwin Park, Calif.; No. 526, Camarillo, Calif.; Nos. 502 and 558, Long Beach, Calif.; No. 507, Ojai, Calif.; No. 505, Riverside, Calif.; No. 532, Santa Barbara, Calif.; No. 1301, Gulf Breeze, Fla. (7-5-73); No. 1312, Longwood, Fla.; No. 1316, Orlando, Fla.; No. 302, Kansas City, Kans. (6-21-73); No. 145, Independence, Mo. (6-28-73); No. 483, Kansas City, Mo.; No. 9255, Kansas City, Mo. (6-26-73); No. 281, Los Alamos, N. Mex. (7-6-73); No. 81, Enid, Okla. (7-9-73); No. 434, Muskogee, Okla. (7-2-73); No. 412, Oklahoma City, Okla.; No. 1012, Oklahoma City, Okla. (7-20-73); No. 1007, Sapulpa, Okla. (7-29-73); No. 405, Tulsa, Okla. (7-14-73); No. 445, Tulsa, Okla. (7-8-73); No. 1701, Lake City, S.C. (6-11-73).

Terrill's Super Market, foodstore; 119 Main Street, Marcellus, MI; 6-30-73.

Warshaw's Giant Food, foodstores, 6-30-73: No. 45, Orem, Utah; 470 North Ninth East, Provo, UT.

West End Market, foodstore; 1200 Clydesdale, Anniston, AL; 6-30-73.

Wheaton Super Valu, foodstore; Wheaton, Miss.; 6-26-73.

Wilhoit Motors, Inc., auto dealer; Fifth and Market Street, Charlottesville, VA; 7-12-73.

Willbrandt Farms, agriculture; 693 West Wedgewood Drive, North Muskegon, MI; 7-10-73.

Winky's Drive-In Restaurant, restaurant; Route 119 South, Indiana, Pa.; 7-5-73.

Wood's 5 & 10¢ Stores, Inc., variety-department stores, 8-14-73, except as otherwise indicated: E-Town Shopping Center, Elizabethtown, N.C. (7-13-73); Rockingham, N.C. (7-14-73); Bi-Lo Plaza Shopping Center, Cheraw, S.C.; 1015 Broad Street, Sumter, SC.

Wright's Markets, Inc., foodstore; 745 Shawnee Road, Lima, OH; 7-6-73.

Younker Brothers, Inc., variety-department stores, 7-31-73: North Grand Shopping Center, Ames, Iowa; 2500 South Center, Marshalltown, IA.

The following certificate issued to an establishment permitted to rely on the base-year employment experience of others was either the first full-time student certificate issued to the establishment, or provide standards different from those previously authorized. The certificate permits the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the occupation listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

The Historic Sheridan Inn, restaurant; Fifth and Broadway, Sheridan, WY; general restaurant worker; 5 to 20 percent; 6-21-73.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C. this 28th day of September 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72-17056 Filed 10-4-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 2, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG- AND SHORT-HAUL

FSA No. 42536—*Liquid caustic soda from Charleston, Tenn.* Filed by M. B. Hart, Jr., Agent, (No. A6321), for and on behalf of the Southern Railway Co. Rates on sodium (soda), caustic (sodium hydroxide), in tank-car loads, as described in the application, from Charleston, Tenn., to Augusta, Ga., and Graniteville, S.C.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 366 to Southern Freight Association, Agent, tariff ICC S-484. Rates are published to become effective on November 9, 1972.

FSA No. 42537—*Joint water-rail container rates—Mitsui O. S. K. Lines, Ltd.* Filed by Mitsui O. S. K. Lines, Ltd. (No. 2), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, and Hong Kong, on the one hand, and rail stations and water carrier terminals on the U.S. Atlantic and gulf coast ports, on the other.

Grounds for relief—Water competition.

FSA No. 42538—*Joint water-rail container rates—Phoenix Container Liners Ltd.* Filed by Phoenix Container Liners Ltd., (No. 3), for itself and interested rail carriers. Rates on general commodities, between ports in Japan and Korea, on the one hand, and rail stations and water carrier terminals on the U.S. Atlantic and gulf seaboard, on the other.

Grounds for relief—Water competition.

FSA No. 42539—*Grain and related articles to Chicago, Ill.* Filed by Illinois Central Gulf Railroad Co., (No. 72-1), for interested rail carriers. Rates on barley, corn, grain sorghums, and soybeans, in carloads, as described in the application, from Illinois Central Gulf Railroad Co. stations in Illinois and Iowa.

Grounds for relief—Market competition.

Tariffs—Rates are to be published in various tariffs of the Illinois Central Gulf Railroad Co. named in the application.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17083 Filed 10-4-72;8:53 am]

[Notice 135]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant

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effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73856. By order of September 29, 1972 the Motor Carrier Board on further consideration approved the transfer to Central Coast Truck Service, Inc., Watsonville, Calif., of the operating rights in Permit No. MC–119340 issued September 6, 1972, to Horace Sharp Trucking, Inc., Phoenix, Ariz., authorizing the transportation of foodstuffs, soaps, bleaches, washing and cleaning compounds, detergents, and fruits and vegetables, when moving in the same vehicle, from points in California to points in Arizona, under continuing contract with Safeway Stores, Inc., of Oakland, Calif. Michael P. Groom, 777 North First Street, Suite 500, San Jose, CA 95112, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 72-17082 Filed 10-4-72;8:53 am]

[Notice 134]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 2, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC–FC–73999. By application filed September 28, 1972, HOUDEK MOTOR SERVICE, INC., 625 North 12th Street, St. Charles, IL 60174, seeks temporary authority to lease the operating rights of GABLE EXPRESS CO., 4711 West 16th Street, Cicero, IL 60650, under section 210a(b). The transfer to HOUDEK MOTOR SERVICE, INC., of the operating rights of GABLE EXPRESS CO., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17081 Filed 10-4-72;8:53 am]

[Notice No. 81]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

SEPTEMBER 29, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.24[1] of the Commission's general rules of practice (49 CFR, as amend), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issue or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 200 (Sub-No. 257), filed August 25, 1972. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64142. Applicant's representative: Rodger John Walsh, 12th Floor, Temple Building, 903 Grand Avenue, Kansas City, MO 64142. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the distribution terminal of Spiegel, Inc., at Monocacy, Union Township, Berks County, Pa., as an off-route point in connection with applicant's regular route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 2770 (Sub-No. 15), filed August 23, 1972. Applicant: SANBORN'S MOTOR EXPRESS, INC., 550 Forest Avenue, Portland, ME 04101. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Hancock, Kennebec, Penobscot, Piscataquis, and Somerset Counties, Maine, as off-route points in connection with applicant's presently authorized regular route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 2900 (Sub-No. 231), filed September 11, 1972. Applicant: RYDER TRUCK LINES, INC., Post Office Box 2408, Jacksonville, FL 32203. Applicant's representative: Robert H. Cleveland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Buffalo, N.Y. and the junction of U.S. Highway 20 and New York Highway 63 as an alternate route for operating convenience only, from Buffalo, N.Y. over U.S. Highway 20 to its junction with New York Highway 63 and return over the same route, serving no intermediate points; (2) Between Rochester, N.Y. and Wayland, N.Y. as an alternate route for operating convenience only, from Rochester, N.Y. over U.S. Highway 15 to Wayland, N.Y. and return over the same route, serving no intermediate points; (3) Between Frederick, Md. and Painted Post, N.Y., as an alternate route for operating convenience only, from Frederick, Md. over U.S. Highway 15 to Painted Post, N.Y. and return over the same route, serving the junction of U.S. Highway 15 and U.S. Highway 22 for purposes of joinder only; (4) Between Waverly, N.Y. and the junction of U.S. Highway 6 and Interstate Highway 81 as an alternate route for operating convenience only, from Waverly, N.Y. over U.S. Highway 220 to its junction with U.S. Highway 6, thence over U.S. Highway 6 to its junction with Interstate Highway 81 and return over the same route serving the junction of U.S. Highway 6, and Interstate Highway 81 for purposes of joinder only;

(5) Between the junction of U.S. Highway 6 and Interstate Highway 81 and the junction of Interstate Highway 81 and Interstate Highway 83 as an alternate route for operating convenience only, from the junction of U.S. Highway 6 and Interstate Highway 81 over Interstate Highway 81 to its junction with Interstate Highway 83 and return over the same route, serving the termini for purposes of joinder only; (6) Between Syracuse, N.Y. and the junction of Pennsylvania Highway 115 and U.S. Highway 22, as an alternate route for operating convenience only, from Syracuse, N.Y. over Interstate Highway 81 to its junction with U.S. Highway 611, thence over U.S. Highway 611 to its junction with Interstate Highway 81–E, thence over Interstate Highway 81–E to its junction with Interstate Highway 80, thence over Interstate Highway 80 to its junction with Pennsylvania Highway 115, thence over Pennsylvania Highway 115 to its junction with U.S. Highway 22 and return over the same route, serving the junction of Interstate Highway 81 and New York Highway 17, the junction of Interstate Highway 81 and U.S. Highway 611, and the junction of U.S. Highway 6 and Interstate Highway 81 for the purposes of joinder only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Atlanta, Ga., or Jacksonville, Fla.

No. MC 11207 (Sub-No. 318), filed September 11, 1972. Applicant: DEATON, INC., 317 Avenue W, Post Office Box 938, Birmingham, AL 35201. Applicant's representative: A. Alvis Layne, 915 Pennsylvania Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, and accessories* for the installation thereof, from the plantsite and facilities of Johns-Manville Corp. at Butner, N.C., to points in Arkansas, Delaware, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Washington, D.C., Alabama, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Birmingham, Ala.

No. MC 17211 (Sub-No. 12), filed September 8, 1972. Applicant: JESCO MOTOR EXPRESS, INC., 139 Columbus Road, Mount Vernon, OH. Applicant's representative: A Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbing fixtures and supplies*, from Perryville, Ohio, and Ripley Township (Holmes County), Ohio, to points in Alabama, Florida, Georgia, North Carolina, and South Carolina; and (2) *materials* used in the manufacture of plumbing fixtures and supplies, from the above specified destination points to Perryville, Ohio, and points in Ripley Township (Holmes County), Ohio, restricted to operations performed under a continuing contract, or contracts, with Manfield Sanitary, Inc., of Perryville, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 20992 (Sub-No. 25), filed August 25, 1972. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, equipment, and implements*; (2) *loaders and scrapers*; and (3) *parts, accessories, and attachments* of or for commodities described in (1) and (2) moving independently thereof or in connection therewith, from West Bend, Wis., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 27817 (Sub-No. 104), filed September 18, 1972. Applicant: H. C. GABLER, INC., Rural Delivery No. 3, Chambersburg, PA 17201. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, from Martinsburg and Inwood, W. Va., and Winchester, Mount Jackson, and Timberville, Va., to points in Alabama, Florida, and Georgia. NOTE: Applicant states that the requested authority can be tacked with its existing authority as follows: (1) With the final paragraph of Sub-36 so as to permit the transportation of apple products, apple byproducts, and prune juice originating at Peach Glen, Pa. over Winchester, to all destinations here involved. (2) Tacking would be possible with the authority at Sub-57 so as to permit transportation of canned fruit and vegetable products, and vinegar originating at points in Adams, Franklin, and York Counties, Pa., over any of the origins to all of the destinations. (3) Tacking is also possible on canned goods and dry flake cereal preparations originating at Aspers, Pa., over any of these origins to all of the destinations; and similarly at Sub-57 (except frozen foods and except commodities in bulk, in tank vehicles), on traffic originating at the Duffy-Mott Co., Inc. at Aspers, over all of these origins to the entire destination territory. (4) Tacking is possible in connection with Sub-69 on canned goods from Little Miss Canning Co., Inc. near Rock Gap, W. Va., over any of the Virginia origins to all of the destinations. (5) Tacking is possible in connection with Sub-72 on foodstuffs, other than frozen and except liquids in bulk, from the H. J. Heinz Co. facilities in Chambersburg, over any of these origins to the entire destination territory. (6) Tacking is possible in connection with Sub-80 on canned goods and dried fruit originating at Baltimore, over any of the origins to the entire destination area.

(7) Tacking is possible in connection with Sub-81 on general commodities originating at Harrisonburg, Va., over Timberville to the entire destination territory, limited, of course, to the commodities here involved; and on general commodities, to the extent they involve these commodities, originating at Falls Church, over Winchester to the entire destination area involved. (8) Tacking is also possible as to Sub-81 on apples, either canned or preserved, originating at Rileyville, Little Washington, Berryville, Front Royal, Broadway, Luray, Strasburg, and Woodstock, Va., Tabler's Station, W. Va., and Hagerstown, Md., and points within 10 miles thereof, over any of the origins to all of the destinations; and on peaches, if canned or preserved, originating at Romney, W. Va., over Winchester to the entire destination. (9) Tacking is also possible on general commodity authority at Sub-81, on the commodities here involved, originating at points in Berkeley County, W. Va., over Winchester to the entire destination area involved. (10) Tacking is possible in connection with Sub-81 on apple products and prune juice from Waynesboro, Va., over Martinsburg to the entire destination area involved; and on vinegar originating at Baltimore, over Winchester to the entire destination area involved; and if sugar is a preserved foodstuff, tacking would be possible from Baltimore, Md., over Winchester to the entire destination area involved, and (11) tacking would be possible in connection with pending proceedings at MC–F–11167 on canned foodstuffs and dried beans originating at Oakfield, N.Y., and points within 25 miles thereof, via points in Adams, Franklin, and York Counties, as previously mentioned in connection with Sub-57, and thence with the authority here sought as previously indicated. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 30844 (Sub-No. 425), filed September 1, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Fresh or frozen dressed poultry, poultry products, and frozen foods* and (B) *Commodities*, the transportation of which is

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property when moving in the same vehicle at the same time with (A) above, from West Liberty, Iowa to points in Connecticut, Delaware, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and the District of Columbia, restricted to the plantsite and storage facilities of Louis Rich Foods, Inc. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa or Washington, D.C.

No. MC 41240 (Sub-No. 16), filed September 11, 1972. Applicant: NELSON TRUCKING SERVICE, INC., Mediapolis, Iowa 52637. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between the terminal of the Burlington River Terminal Co., Burlington, Iowa, on the one hand, and, on the other, points in Illinois, Missouri, and Iowa, restricted to traffic having a prior or subsequent movement by water. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Burlington, Iowa.

No. MC 50544 (Sub-No. 66), filed September 5, 1972. Applicant: THE TEXAS AND PACIFIC MOTOR TRANSPORT, 210 North 13th Street, St. Louis, MO 63103. Applicant's representative: Robert S. Davis (same address as applicant). The instant application seeks the lifting of Shreveport, La., as a key point from applicant's Certificate MC 50544, on traffic to, from, or via the key point of Dallas-Fort Worth, Tex., but restricted against all-motor hauling of traffic between Dallas-Forth Worth key point, on the one hand, and, on the other, points south of Shreveport on The Texas and Pacific Railway Co. in Louisiana; and Shreveport to remain as a key point against the New Orleans key point and subject to all other restrictions in said certificate. No new routes or points are sought to be served. Applicant's Certificate MC 50544 presently authorizes transportation of general commodities over regular routes, between various points in Louisiana, Texas, and New Mexico in service auxiliary to and supplemental of rail service of The Texas and Pacific Railway Co., but subject to key points of El Paso, Dallas-Fort Worth, Tex., Shreveport and New Orleans, La. NOTE: Applicant is a wholly owned subsidiary of The Texas and Pacific Railway Co. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Shreveport, La.

No. MC 59150 (Sub-No. 69), filed September 18, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Temple Industries' plantsite, Thomson, Ga., to points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., Washington, D.C., or Atlanta, Ga.

No. MC 64932 (Sub-No. 507), filed September 11, 1972. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, IL 60643. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corn products and blends*, in bulk, from Lafayette, Ind., to points in the United States (except Alaska and Hawaii), and (2) *potassium permanganate*, in bulk, in tank vehicles, from La Salle, Ill., to points in Missouri, Ohio, Minnesota, Wisconsin, Iowa, Indiana, Pennsylvania, New Jersey, New York, Michigan, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 65019 (Sub-No. 7), filed September 13, 1972. Applicant: BEATRICE MOTOR FREIGHT, INC., 123 Court Street, Beatrice, NE 68310. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Store fixtures*, from Beatrice, Nebr. to points in Kansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 87720 (Sub-No. 133), filed September 20, 1972. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, paint additives, ink and ink additives*, from Fords, Garfield, Elizabeth, Belleville, Paterson, Moonachie, Piscataway, and Linden, N.J., to points in Indiana, Michigan, Ohio, Illinois, Missouri, Minnesota, Wisconsin, Kentucky, Iowa, and Kansas; and (2) *materials, supplies and equipment*, utilized in the manufacture, sale, and distribution of the commodities described above, from the named destination States to the above-described origins. Restriction: The proposed service to be restricted against the transportation of commodities in bulk, and performed under contract with Tenneco, Inc. NOTE: Applicant holds common carrier authority under MC 135684 and (Sub-No. 1), therefore common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 101474 (Sub-No. 22), filed September 18, 1972. Applicant: RED TOP TRUCKING COMPANY, INC., 7020 Cline Avenue, Hammond, IN 46323. Applicant's representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue, NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and contractors' machinery, equipment, materials, and supplies*, from Indian Oaks, Ill., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. NOTE: Applicant states that duplicating authority may be involved under certificate No. MC 101474 and Subs thereunder. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 104683 (Sub-No. 30), filed August 28, 1972. Applicant: TRANSPORT, INC., Russell Drive, Meridian, MS. Applicant's representative: Dan H. Shell, 552 First National Bank Building, Post Office Box 157, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Baton Rouge, Chalmette, Good Hope, Meraux, Welcome, and Carville, La., to points in Mississippi. NOTE: Applicant states that tacking will be made at Meridian, Miss., to serve points in Alabama within 175 miles of Meridian, Miss. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss., or New Orleans, La.

No. MC 106398 (Sub-No. 624) filed August 25, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Campers and motor homes*, from points in Yamhill County, Oreg., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 106398 (Sub-No. 625), filed August 2, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from all points in West Virginia to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Washington, D.C.

No. MC 106400 (Sub-No. 91), filed September 8, 1972. Applicant: KAW TRANSPORT COMPANY, a corporation, Post Office Box 12628, North Kansas City, MO 64116. Applicant's representative: Robert L. Hawkins, Jr., Post Office Box 456, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing ink*, in bulk, in tank vehicles, from Kansas City, Mo., to points in Iowa, Nebraska, Oklahoma, Colorado, Minnesota, Wisconsin, Wyoming North Dakota, South Dakota, and Arkansas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 106407 (Sub-No. 28), filed August 25, 1972. Applicant: T. E. MERCER TRUCKING CO., a corporation, 920 North Main Street, Post Office Box 1809, Fort Worth, TX 76101. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, pipe fitting and pipe accessories*, from Baton Rouge, La., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 106407 (Sub-No. 29), filed August 25, 1972. Applicant: T. E. MERCER TRUCKING CO., a corporation, 920 North Main Street, Post Office Box 1809, Fort Worth, TX 76101. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing and plastic fittings*, from Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 109307 (Sub-No. 15), filed September 18, 1972. Applicant: THE KANSAS-ARIZONA MOTOR EXPRESS, INC., 2630½ West Beverly Boulevard, Montebello, CA 90640. Applicant's representative: Alan E. Serby, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk, in tank vehicles), from the plant sites of John Morrell & Co. located at or near Ottumwa, Iowa; Sioux Falls, S. Dak.; Estherville, Iowa to points in New Mexico, Arizona, California, and El Paso, Tex. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with John Morrell & Co. NOTE: Applicant presently holds authority to render most of same service involved from Ottumwa, Iowa and Sioux Falls, S. Dak.; and the purpose of this application is to clarify and modify the scope of its permits for the rendition of a complete service. If a hearing is deemed necessary, applicant requests it be held at either (1) Los Angeles, Calif.; (2) Kansas City, Mo.; or (3) Omaha, Nebr.

No. MC 111231 (Sub-No. 179), filed August 24, 1972. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Springdale, AR 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) serving Bolivar, Mo., as an off-route point in connection with applicant's regular route operations to and from Springfield, Mo., and (2) serving Booneville, Ark., as an off-route point in connection with applicant's regular route operations to and from Fort Smith, Ark. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis or Kansas City, Mo., or Dallas, Tex.

No. MC-111401 (Sub-No. 371), filed August 31, 1972. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, OK 73701. Applicant's representatives: Alvin L. Hamilton, Post Office Box 632, Enid, OK 73701, and Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lubricating oil*, in bulk, in tank vehicles, from Fort Worth, Tex. to points in Oregon and Washington; (2) *Wheat products*, in bulk (except animal and poultry feeds and animal and poultry feed ingredients) from Atchison, Kans. to points in Alabama, Michigan, Minnesota, Texas, and Wisconsin; and (3) *Processed clay*, in bulk, from Flatonia, Tex. to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. or Kansas City, Mo.

No. MC 115379 (Sub-No. 43), filed August 30, 1972. Applicant: JOHN D. BOHR, INC., Post Office Box 217, Annville, PA 17003. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal and poultry feed* from Camp Hill, Pa. to points in Delaware, Maryland, New Jersey, Pennsylvania, and New York. NOTE: Applicant states duplicating authority may be involved under No. MC 115379 and subs thereunder. Applicant also states the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. or Washington, D.C.

No. MC 115841 (Sub-No. 441), filed August 31, 1972. Applicant: COLONIAL REFRIGERATION TRANSPORTATION, INC., 1215 Bankhead Highway W., Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Atlanta, Ga. and its commercial zone to points in Alabama, Florida, Mississippi, Louisiana, Texas, North Carolina, South Carolina, Tennessee, and Kentucky. NOTE: Common control may be involved. Applicant states it holds authority from and to points in Florida, Tennessee, Alabama, and Georgia and the requested authority could be tacked to points in those states to provide service to and from points in the southeast, southwest, northeast and eastern seaboard, midwest, and west coast States as already authorized. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115876 (Sub-No. 23), filed September 11, 1972. Applicant: ERWIN HURNER, 2605 South Rivershore Drive, Moorhead, Minn. 56560. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Preformed milk and dairy products cartons*, and (2) *related materials and supplies* used in the manufacturing and processing of the commodities named in (1) above, from Kansas City, Kans., to Fargo, N. Dak., under contract with Cass Clay Creamery, Inc. NOTE: Applicant holds common carrier authority under MC 117148, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it

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be held at Fargo, N. Dak., or St. Paul, Minn.

No. MC 116142 (Sub-No. 19), filed August 21, 1972. Applicant: BEVERAGE TRANSPORTATION, INC., 1154 Lafayette Street, York, PA 17403. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising materials*, from Detroit, Mich., to points in Pennsylvania (except Harrisburg, Pittsburgh, Lancaster, and York). NOTE: Applicant states that the requested authority can be tacked with its existing authority as follows: (1) Tacking is possible in connection with applicant's authority at Sub-1, Sheet 1, at Lebanon, Pa., to Newark, N.J., and at Sheet w, at Lebanon and Hudson, Pa., to Nadick, Mass. (2) Tacking is possible in connection with Sub-8, Sheet 2, at Latrobe, Pa., to points in Maryland and New Jersey. (3) Tacking is possible at Sub-8, Sheet 4, at Wiliamsport, Pa., to points in Long Island, N.Y., and points in New Jersey, Maryland, Virginia, and the District of Columbia, and (4) Tacking on advertising material over the same points to the same destination would be possible in conjunction with Sub-14. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 117068 (Sub-No. 21), filed September 11, 1972. Applicant: MIDWEST HARVESTORE TRANSPORT, INC., 2118 17th Avenue NW., Rochester, MN 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and contractor's machinery, equipment, materials and supplies* (except commodities in bulk), from Indian Oaks, Ill., to points in Minnesota, Iowa, Missouri, Wisconsin, Kansas, Nebraska, South Dakota, North Dakota, and Upper Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority being sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 117119 (Sub-No. 463), filed September 8, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by wholesale or retail discount or variety stores from points in the United States (except Alaska, Arkansas, Hawaii, Kansas, Missouri, and Oklahoma), to the warehouse and store locations of Wal-Mart Stores, Inc., located at points in Arkansas, Missouri, Oklahoma, and Kansas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Little Rock, Ark.

No. MC 117119 (Sub-No. 464), filed September 8, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby G. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplace logs*, from the plant and warehouse of Old Kentucky Fireplace Log Co. located at Orange, Va., to points in Illinois, Indiana, Iowa, Michigan, Ohio, Wisconsin, Missouri, Texas, Oklahoma, Arkansas, Kansas, and Nebraska. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 119441 (Sub-No. 29), filed August 30, 1972. Applicant: BAKER HI-WAY EXPRESS, INC., Box 484, Dover, OH 44622. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Masonry building panels and materials and supplies* useful in the manufacture of masonry building panels (except commodities in bulk), between points in Ohio on the one hand, and, on the other, points in Wisconsin, Illinois, Indiana, Kentucky, Tennessee, West Virginia, Michigan, New York, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119493 (Sub-No. 93), filed August 24, 1972. Applicant: MONKEM COMPANY, INC., West 20th Street Road (Post Office Box 1196), Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour, corn meal and baking mixes, feed and feed ingredients*, from Shawnee, Okla., to points in Florida, Alabama, Arkansas, Mississippi, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 119641 (Sub-No. 109), filed August 30, 1972. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Applicant's representative: Robert C. Smith, 711 Chamber of Commerce Building, Indianapolis, Ind. 47944. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and construction machinery and equipment*, from the plantsite of Mastercraft Engineering, Inc., at or near Belleville, Mich., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 120364 (Sub-No. 3) (Amendment), filed July 21, 1972, published in the FEDERAL REGISTER issue of August 10, 1972, and republished as amended this issue. Applicant: A & B FREIGHT LINE, INC., 2800 Falund Street, Rockford, IL 61109. Applicant's representative: Robert M. Kaske, 2017 Wisteria Road, Rockford, IL 61109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except A and B explosives, dangerous articles, articles of unusual value, commodities in bulk, commodities which because of size or weight require the use of special equipment), (a) between points in Boone, Bureau, Carroll, Cook, De Kalb, Dupage, Jo Daviess, Kane, Lake, La Salle, Lee, McHenry, Ogle, Stephenson, Whiteside, and Winnebago Counties, Ill., and (b) between points in (a) above and points in Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to add (b) above. If a hearing is deemed necessary, applicant requests it be held at any place convenient to the Commission.

No. MC 123048 (Sub-No. 228), filed August 21, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, equipment and implements*, (2) *loaders*, (3) *attachments and accessories* for (1) and (2) above, and (4) *parts* for (1), (2), and (3) above, from West Bend, Wis., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123048 (Sub-No. 229), filed August 28, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and construction machinery and equipment*, from the plantsite of

Mastercraft Engineering, Inc., located at or near Belleville, Mich., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123282 (Sub-No. 10), filed August 31, 1972. Applicant: McKINLAY TRANSPORT LIMITED, Highway 25 at 401, Milton, Ontario, Canada. Applicant's representative: Walter N. Bieneman, Suite 1700, One Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride* (except in bulk) from Ludington and Midland, Mich., to the international boundary line between the United States and Canada at Detroit, Port Huron, and Sault Ste. Marie, Mich., and points in Pennsylvania on and west of the following highways: U.S. Highway 220 from the Maryland border north of its junction with U.S. Highway 15, thence north on U.S. Highway 15 to its junction with Pennsylvania Highway 14, thence north on Pennsylvania Highway 14 to the New York border; points in New York on and west of U.S. Highway 11 and on and south of New York Highway 13 from Lake Ontario to its junction with U.S. Highway 11 at Pulaski, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 123965 (Sub-No. 5), filed September 13, 1972. Applicant: KEAL DRIVEAWAY COMPANY, a corporation, 852 East 73d Street, Cleveland, OH 44103. Applicant's representative: William P. Sullivan, 1819 H Street, NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, between points in Attala County, Miss., on the one hand, and, on the other, points in the United States (excepting Hawaii but including Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 124605 (Sub-No. 4), filed September 14, 1972. Applicant: HOWELL TRANSPORTATION, INC., 210 West Platt Street, West Lafayette, OH 43845. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated paper boxes* (knocked down), *fillers, liner pads, paper box parts, and paperboard sheets* from Coshocton, Ohio to Shelby County, Ind., and, from Newark, Ohio to Washington, Pa., and to points in Wayne, Randolph, Jay, and Shelby Counties, Ind., and Hancock, Brooke, Ohio, Marshall, Wetzel, Pleasants, Wood, Jackson, Mason, Cabell, and Wayne Counties, W. Va.; and (2) *Scrap paper* from Shelby County, Ind. to Coshocton, Ohio, and from Washington, Pa., points in Wayne, Randolph, Jay, and Shelby Counties, Ind., and those in Hancock, Brooke, Ohio, Marshall, Wetzel, Pleasants, Wood, Jackson, Mason, Cabell and Wayne Counties, W. Va. to Newark, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 124692 (Sub-No. 95), filed August 31, 1972. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products and millwork*, from points in Oregon, Washington, Idaho, and Montana, to points in Kentucky, Michigan, Ohio, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 125126 (Sub-No. 2), filed August 28, 1972. Applicant: CO-TRUX RENTALS, INC., Box 1006, Bristol, PA 19007. Applicant's representative: Morris Honig, 150 Broadway, New York, NY 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household and industrial cleaning compounds and products and water purifying products*, between Philadelphia and Bristol, Pa., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Maryland, Delaware, New York, New Jersey, and the District of Columbia; (2) *foodstuffs*, from Bristol, Pa., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Maryland, Delaware, New York, New Jersey, and the District of Columbia; and (3) *matcrials and supplies* used in the manufacture, sale, packaging, and distribution of household and industrial compounds and products, and water purifying products and foodstuffs, from points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Delaware, Maryland, Rhode Island, New York, New Jersey, and the District of Columbia, to Bristol, Pa., under contract with Purex Corp., Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 126736 (Sub-No. 61), filed September 11, 1972. Applicant: PETROLEUM CARRIER CORPORATION OF FLORIDA, 6000 Powers Avenue, Jacksonville, FL 32217. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Black liquor skimmings, and brine, saline solution, or sodium sulphate*, between Jacksonville, Fla., on the one hand, and Clyattville, Ga., on the other hand. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 127099 (Sub-No. 18), filed September 18, 1972. Applicant: ROBERT NEFF & SONS, INC., 132 Shawnee Avenue, Zanesville, OH 43701. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast concrete products*, from Zanesville, Ohio, to points in West Virginia, and Fayette, Greene, and Washington Counties, Pa., and from Parkersburg and New Martinsville, W. Va., to points in Ohio; and (2) *Equipment and supplies* (except commodities in bulk), used in the manufacturing of precast concrete products, from points in West Virginia, and Fayette, Greene, and Washington Counties, Pa., to points in Zanesville, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 127584 (Sub-No. 5), filed September 14, 1972. Applicant: AERO TRANSPORTERS, INC., Box 551, Ellenville, NY 12428. Applicant's representative: Martin Werner, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe and steel tubing*, on flatbed vehicles with self-unloading equipment, between Syosset, N.Y., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Ohio, Indiana, Illinois, Michigan, Maryland, Virginia, North Carolina, South Carolina, and the District of Columbia, under a continuing contract or contracts with Cerro Wire & Co., Division of Cerro Corp. NOTE: If a hearing is necessary, applicant requests it be held at New York, N.Y.

No. MC 128305 (Sub-No. 6), filed August 28, 1972. Applicant: STALCUP TRUCKING, INC., 795 Teakwood Street, Coos Bay, OR 97420. Applicant's representative: Robert R. Hollis, 1121 Commonwealth Building, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, between points in Humboldt and Del Norte Counties, Calif., on the one hand, and, on the other, points in Coos County, Oreg. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Coos Bay, Portland, or Eugene, Oreg.

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No. MC 128520 (Sub-No. 4), filed September 13, 1972. Applicant: THE ROBINSON FREIGHT LINES, INC., 3600 Papermill Road, Knoxville, TN 37919. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Nitrogen fertilizer solutions or other liquid fertilizer solutions*, in tank vehicles, from Tyner, Tenn. to points in Kentucky; and (b) *Fertilizer*, dry, in bags or bulk, from Tyner, Tenn. to points in Kentucky, Virginia, North Carolina, and South Carolina. NOTE: An officer of the applicant indicates interest in Certificate No. MC 110144 and subs thereunder suggesting common control may be involved. Applicant states the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chattanooga or Knoxville, Tenn.

No. MC 129600 (Sub-No. 8) (Amendment), filed August 10, 1972, published in the FEDERAL REGISTER issue of September 7, 1972, and republished in part, as amended, this issue. Applicant: POLAR TRANSPORT, INC., 27 York Avenue, Randolph, MA 02368. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. NOTE: The sole purpose of this partial republication is to amend the territorial scope of the application under Item 2(b) to also include as destination points, Florida and Georgia; and under Item 7(b) to add Baltimore, Md., as a destination. The rest of the application remains as previously published.

No. MC 133363 (Sub-No. 3), filed September 12, 1972. Applicant: WILLIAM T. HARRIS and THEATRIS HARRIS, a partnership, doing business as HARRIS BROS. CO., 1317–1325 South 49th Street, Philadelphia, PA 19134. Applicant's representative: Morris J. Levin, 1620 .I Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stereo equipment, radios, sewing machines, sewing machine cabinets, and parts and materials* therefor, between Atlanta and Savannah, Ga.; New York, N.Y.; Kansas City, Mo.; Dallas, Tex.; Charleston, S.C.; Cleveland, Ohio; Chicago, Ill.; Detroit, Mich.; Los Angeles, Calif.; Seattle, Wash.; Boston, Mass.; Philadelphia, Pa.; Miami and Jacksonville, Fla.; Birmingham, Ala.; Memphis and Nashville, Tenn.; Baltimore, Md., and Washington, D.C., under contract with Morse Electro Products Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 134455 (Sub-No. 2), filed August 30, 1972. Applicant: SCHOELMAN LINES, INC., 3330 Spring Rock, Houston, TX 77055. Applicant's representative: William D. Lynch, Post Office Box 912, Austin, TX 78767. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*: Defluorinated phosphate feed supplements in grain bed trailers, from Houston, Tex., to points in Mississippi, under contract with the Olin Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 135100 (Sub-No. 11), filed August 24, 1972. Applicant: SIGNAL TRANSPORT, INC., Post Office Box 681, LaPorte, IN 46350. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends* when moving with metal containers, from the plantsite of American Can Co. at St. Louis, Mo., to Indianapolis, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135185 (Sub-No. 12) (Amendment), filed July 21, 1972, published in the FEDERAL REGISTER issue of August 10, 1972, and republished as amended this issue. Applicant: COLUMBINE CARRIERS, INC., 2149 South Clermont, Denver, CO 80222. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment* utilized by hospitals, nursing homes, health care centers and laboratories, (a) from points located in and south of San Luis Obispo, Kern, and San Bernardino Counties, Calif., to points in the United States (except Alaska, Hawaii, Washington, Oregon, and California), and (b) from Johnson City, Tenn., to points in California, returned, refused, or rejected shipments, on return, restricted to shipments either originating or terminating at the plantsites and distribution facilities of American Hospital Supply Corp., under contract with American Hospital Supply Corp. NOTE: The purpose of this republication is to add (b) above. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135735 (Sub-No. 2), filed August 30, 1972. Applicant: AIR-LAND TRANSPORT, INC., 5615 West Marginal Way SW., Seattle, WA 98106. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, in cargo vans and containers only, between points in King, Pierce, and Snohomish Counties, Wash., limited to traffic having an immediate prior or subsequent movement by water, and (2) *empty cargo vans, containers and chassis* between points in Kings, Pierce, and Snohomish Counties, Wash. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 136161 (Sub-No. 4), filed August 30, 1972. Applicant: ORBIT TRANSPORT, INC., Rural Route 1, Spring Valley, IL 61362. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale and retail grocery houses, from the facilities of United Facilities, Inc., at Galesburg, Ill., to points in Missouri, Iowa, Wisconsin, Minnesota, Tennessee, Kentucky, Indiana, Michigan, Kansas, Nebraska, and Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136343 (Sub-No. 4), filed September 12, 1972. Applicant: MILTON TRANSPORTATION, INC., Post Office Box 207, Milton, PA 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, plastic, plastic articles, plastic film in rolls, pulpboard, pulpboard products, corrugated and other than corrugated*, (a) from the facilities of the Sherman Division of the St. Regis Paper Co., at or near Moorestown, N.J., to points in Pennsylvania, Ohio, Indiana, Illinois, Michigan, New York, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Maryland, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and the District of Columbia, and (b) from the facilities of the Sherman Division of the St. Regis Paper Co. at or near Newton Upper Falls, Mass., to points in New Jersey, and points in the named destination States listed under (a) above (except Massachusetts), and (c) from the facilities of the Sherman Division of the St. Regis Paper Co. at or near Bridgeview, Ill., to points in New Jersey, and points in the named destination States listed under (a) above (except Illinois), and (2) *paper, paper products, pulpboard containers, pulpboard products, corrugated and other than corrugated*, from the facilities of the St. Regis Paper Co. at or near Bridgeview, Ill., to points in the name destination States listed under (c) above. Restriction: Restricted against interlining or tacking at origin or destination. NOTE: Applicant presently holds on No. MC 96098 and Subs thereunder a permit for motor contract carrier authority, therefore dual operations may be involved. Applicant also indicates an interest in permit No. MC 134776 for motor contract carrier authority, suggesting common control may be involved. Applicant further states the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136378 (Sub-No. 2), filed September 12, 1972. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Play balls, games or toys and athletic goods*, from points in Lee County, Ala., to points in Kentucky, Tennessee, and Missouri; (2) *Malt beverages*, from Memphis, Tenn., to points in Lee County, Ala., and (3) *Malt beverages*, from St. Louis, Mo., to points in Houston County, Ala., under contract with Abco Industries, Inc., of Opelika, Ala.; Premium Beverage Co. of Opelika, Ala., and Busch Distributing Co. of Dothan, Ala. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala., or Atlanta, Ga.

No. MC 136564 (Sub-No. 1), filed June 21, 1972. Applicant: SHIPPERS LEASING, INC., 870 North First Street, San Jose, CA 95112. Applicant's representative: Michael J. Stecher, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Office supplies, equipment, accessories and related articles other than furniture*, manufactured by Globe-Weiss Systems Co., from Wauseon, Ohio, to Springfield and Chicago, Ill.; Oklahoma City, Okla.; Austin, Tex.; Albuquerque, N. Mex.; Phoenix, Ariz.; Springfield, St. Louis, and Kansas City, Mo.; Denver, Colo.; Salt Lake City, Utah; Reno, Nev.; Los Angeles, Sacramento, Stockton, San Francisco, San Jose, Redding, and Fresno, Calif.; Des Moines, Iowa; Lincoln, Nebr.; Cheyenne, Wyo.; Boise, Idaho; Olympia and Seattle, Wash.; Portland, and Auburn, Oreg.; and (2) *office supplies, equipment and accessories, other than furniture*, from Fresno, Calif., to Wauseon, Ohio; Reno, Nev.; Salt Lake City, Utah; Denver, Colo.; Cheyenne, Wyo.; Omaha, Grand Island, and Lincoln, Nebr.; Kansas City, Mo.; Indianapolis, Ind.; Los Angeles, Calif.; Phoenix, Ariz.; Albuquerque, N. Mex.; Amarillo, Tex.; Oklahoma City, Okla.; Chicago and Springfield, Ill., under contract with Sheller-Globe Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 136675 (Sub-No. 2), filed September 11, 1972. Applicant: K–K TRUCKING, INC., 2380 South Sarah Street, Fresno, CA 93206. Applicant's representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, CA 94102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring the use of special equipment), between Fresno, Oakland, Richmond, San Francisco, and San Leandro, Calif., on the one hand, and, on the other, Yosemite Village (Yosemite National Park), Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 136699 (Sub-No. 1), filed August 11, 1972. Applicant: ROBERT ASCHENBRENNER, doing business as BOB'S TRUCKING, Post Office Box 37, Surrey, ND 58785. Applicant's representative: Harris P. Kenner, 615 South Broadway, Minot, ND 58701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Beverages* in cans, from Minneapolis and St. Paul, Minn., and points in Eagan Township, Dakota County, Minn., to Minot, N. Dak.; (b) *glass beverage containers*, from Minneapolis, St. Paul, Rosemount, and Shakopee, Minn., to Minot, N. Dak.; and (c) *sugar* in bags, from Sidney, Mont., to Minot, N. Dak., under contract with Coca-Cola Bottling Co. of Minot, N. Dak. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minot or Fargo, N. Dak.

No. MC 136896 (Sub-No. 1), filed September 15, 1972. Applicant: TFT, INC., R.F.D. No. 3, Post Office Box 58, Worthington, MN 56187. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts, and pineapples*, (1) from Council Bluffs, Iowa to points in Nebraska, North Dakota, South Dakota, Minnesota, and Iowa, (2) from Inver Grove, Minn., to points in Minnesota, Wisconsin, North Dakota, and South Dakota, and (3) from Denver, Colo., to points in Colorado, Nebraska, South Dakota, and Wyoming. Restriction: Restricted to traffic having a prior or subsequent movement by rail. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 136972, filed August 14, 1972. Applicant: MIDWEST CONTRACT CARRIERS, INC., 1042 South Hadden, El Reno, OK 73036. Applicant's representative: David D. Brunson, 419 Northwest Sixth, Oklahoma City, OK. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motorcycles, scooters, pleasure vehicles*, from Los Angeles, Calif. and Houston, Tex., to points in Oklahoma, Kansas, Nebraska, Missouri, Arkansas, and Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Wichita, Kans., or Dallas, Tex.

No. MC 136990 (Sub-No. 1), filed September 8, 1972. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts and attachments therefor*, from Romeo, Mich., to points in that part of Illinois east of U.S. Highway 51 and north of U.S. Highway 50; Indiana, Ohio, that part of Kentucky east of U.S. Highway 127, that part of New York west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Hamburg, N.Y., and thence along U.S. Highway 62 to Niagara, N.Y., that part of Pennsylvania west of U.S. Highway 219, and that part of West Virginia west of U.S. Highway 219. Restriction: The authority sought hereinabove is restricted to the transportation of shipments originating at the plantsite of Ford Motor Co. located at or near Romeo, Mich., and destined to the named destination points above. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138039, filed August 23, 1972. Applicant: BAY DELIVERY CORP., 105 Price Parkway, Farmingdale, NY 11735. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated swimming pools, sporting goods, swimming pool accessories, equipment and supplies, and toys*, from Farmingdale, N.Y., to points in Fairfield County, Conn.; Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren Counties, N.J., under contract with Greenman Bros., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138038, filed September 11, 1972. Applicant: PACER OIL CO., INC., 1636 West Circle Avenue, South Bend, IN 46621. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in drums and in cartons, from Oil City, Pa., to the warehouse and distribution facilities located in the State of Indiana, of the Portage Oil Corp. of South Bend, Ind., under contract with Portage Oil Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 138040, filed August 28, 1972. Applicant: CHRIS HOERR AND SON CO., a corporation, 600 West Camp Street, East Peoria, IL 61611. Applicant's representative: Thomas A. Graham, Suite 1620, 10 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages in cans, bottles, and kegs and on return shipments of the above commodities* which have been originally accepted by contracting shipper but subsequently returned to origin, from brewery plantsite of Falstaff Brewery Corp. located at St. Louis, Mo., to place of business and ware-

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house facility of Siebel Distributing Co., located at East Peoria, Ill., under contract with Siebel Distributing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Peoria, Chicago, or Springfield, Ill.

No. MC 138041, filed September 11, 1972. Applicant: G. B. TANNER CONSTRUCTION CO., INC., 3818 State Road 62, Jeffersonville, IN 47130. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors earthmoving machinery and equipment* which because of size or weight required the use of special equipment or special handling, between Louisville, Ky., and its commercial zone, on the one hand, and, on the other, points in Indiana, Kentucky, Ohio, Illinois, and Tennessee. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 138042, filed September 12, 1972. Applicant: MARK CARRIERS CO., INC., 58–19 Maspeth Avenue, Maspeth, NY 11378. Applicant's representative: Morris Honig, 150 Broadway, New York, NY 10038. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shoes*, boxed in cartons, (1) from Jersey City and Secaucus, N.J., and New York, N.Y., to East Farmingdale, N.Y.; (2) from John F. Kennedy International Airport, New York, N.Y., to East Farmingdale, N.Y., restricted to shipments having a prior movement by air; (3) from points in the New York, N.Y., commercial zone as defined by the Commission in which exempt operations may be conducted, and from Port Newark and Port Elizabeth, N.J., to East Farmingdale, N.Y., restricted to shipments having a prior movement by water; and (4) from East Farmingdale, N.Y., to Alexandria, Va.; Greenbelt, Md.; Newark, Woodbridge, Wayne, Cherry Hill, and East Brunswick, N.J., and Philadelphia, Springfield, Levittown, and Glen Olden, Pa., under contract with F & M Shoe Corp., New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

APPLICATION FOR WATER CARRIER

No. W–405 (Sub-No. 11) (Palantic Steamship Co., Inc., Extension—Portsmouth, R.I., et al.), filed September 8, 1972. Applicant: PALANTIC STEAMSHIP CO., INC., 1409 25th Avenue, Longview, WA 98632. Applicant's representative: John Cunningham, Tower Building, 1401 K Street NW., Washington, DC 20005. Application of Palantic Steamship Co., Inc., filed September 8, 1972, seeking authority to operate as a contract carrier by self-propelled vessels, in interstate or foreign commerce, in the transportation of *lumber and lumber products*, from the port of Longview, Wash., to the ports of Portsmouth, R.I., New London, Conn., New York, N.Y., and Baltimore, Md.

APPLICATION FOR BROKERAGE LICENSE

No. MC–130180, filed August 12, 1972. Applicant: CINCINNATI CONVENTION AND CREATIVE SERVICES, INC., doing business as TOURCRAFTERS, 3 East Fourth Street, Suite 208, Cincinnati, OH 45202. Applicant's representative: David E. Nelson, 2900 Dubois Tower, 511 Walnut Street, Cincinnati, OH 45202. For a license (BMC–5) to engage in operations as a *broker* at Cincinnati, Ohio in arranging for transportation by motor vehicle, in interstate or foreign commerce of *passengers and their baggage* as individuals and in groups, in special and charter operations, beginning and ending at points in Cincinnati, Ohio, and extending to points in Kentucky and Indiana.

APPLICATIONS FOR FILING OF POSTAL CERTIFICATES

Interstate Commerce Commission, No. MC–137018, (Notice of Filing an Application for a Postal Certificate of Public Convenience and Necessity), filed September 19, 1972. Applicant: JERRY C. RANKIN, 1033 Caldwell Street, Greenville, MS 38701. Applicant's representative: Douglas C. Wynn, Post Office Box 1295, Greenville, MS 38701. By application filed September 19, 1972, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *mail* in the following territory:

Between Greenville, Miss., and Memphis, Tenn., from Greenville over U.S. Highway 82 to Leland, thence from Leland over U.S. Highway 61 to Memphis, Tenn., and return over the same route, serving the intermediate points of Shaw, Cleveland, Clarksdale, and Lula Junction, Miss. Appended to the application is a copy of a postal contract held by applicant which was in effect on July 1, 1971, the critical "grandfather" date: Route No. 38614, relating to service between Greenville, Miss., and Memphis, Tenn.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant's representative.

Interstate Commerce Commission, No. MC–137019 (Notice of Filing an Application for a Postal Certificate of Public Convenience and Necessity), filed September 13, 1972. Applicant: WILLIAM R. VAN DE HEY, doing business as VAN DE HEY TRUCKING, 1659 Skyline Drive, Manitowoc, WI 54220. By application filed September 13, 1972, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *mail* in the following territory:

(1) Between Manitowoc and Milwaukee, Wis., from Manitowoc over U.S. Highway 141 to junction U.S. Highway 41, thence over U.S. Highway 41 to Milwaukee, and return over the same routes, serving the intermediate and offroute points of Green Bay and Oshkosh, Wis.; (2) between Manitowoc and Milwaukee, Wis., from Manitowoc over U.S. Highway 141 to Milwaukee, and return over the same route, serving the intermediate points of Sheboygan and Port Washington, Wis.; and (3) between Manitowoc and Two Rivers, Wis., from Manitowoc over Wisconsin Highway 42 to Two Rivers, and return over the same route, serving no intermediate points. Appended to the application are copies of three postal contracts held by applicant which were in effect on July 1, 1971, the critical "grandfather" date: Route No. 53014 relating to service between Manitowoc and Milwaukee; Route No. 53018 relating to service between Manitowoc and Milwaukee; and Route No. 54163 relating to service between Manitowoc and Two Rivers.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–16961 Filed 10–4–72;8:45 am]

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

■

Food and Drug Administration

■

International Food Standards; Proposed Review and Recommendations on Certain Nutritive Sweeteners, Frozen Peas and Canned Sweet Corn

and

Notice of Opportunity for Review and Informal Comment on Recommended International Standards for Certain Edible Oils

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 10]

REVIEW OF RECOMMENDED INTERNATIONAL FOOD STANDARDS

Notice of Proposed Rule Making

The Codex Alimentarius Commission is an international agency created in 1963 under the joint sponsorship of the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) of the United Nations. Its function is to develop and administer a program of drafting recommended international food standards which, when adopted by participating countries, will be applied by those countries to their domestic products as well as to their imports and exports. The objective of these standards is to insure fair practices in the food trade by providing for wholesome food products with informative labeling. A decision to initiate work on a standard for any food will be based on the consumer protection a standard would afford, from the point of view of health and fraudulent practices; the volume of production and consumption in individual countries and the volume and pattern of trade between countries; the differences in national legislation and apparent resultant impediments to international trade; and the amenability of the food to standardization.

Since its creation, the Codex Alimentarius program has been actively supported by a large number of countries, including the United States. Work has been carried on concurrently in developing standards for many food products. A substantial number of completed standards have now been submitted to participating countries for their acceptance or rejection. The United States is obligated to review these standards for possible adoption. A country may accept a Codex standard fully with no reservations, or it may accept it with changes, or it may conclude not to accept it.

In order for the United States to accept a Codex standard fully or with minor changes, it will be necessary to have in effect a standard promulgated under sec. 401 of the Federal Food, Drug, and Cosmetic Act (except for meat and poultry products) which will have requirements corresponding to those of the Codex standard. In many instances, this will require promulgation of standards where none exist at present; in others, it will require amending existing standards.

Before proposing adoption of a codex standard as a new U.S. standard under sec. 401 of the act on his own initiative, which would require a substantial amount of FDA resources, the Commissioner of Food and Drugs will ordinarily request review and informal comment and suggestions from consumers, academic circles, the affected food industry, professionals, and other interested persons on the overall value and desirability of adopting in whole or in part the provisions of each particular codex standard under consideration. An invitation to comment informally on a codex standard is not in substitution for, and should not be confused with, the opportunity to comment on any proposal to establish a standard pursuant to sec. 401 of the act. Should the Commissioner conclude that a formal proposal is appropriate, such a proposal will be published in the FEDERAL REGISTER with time for comment.

To initiate this procedure, the Commissioner is publishing elsewhere in this issue of the FEDERAL REGISTER, in their entirety, the recommended international standards for edible cottonseed oil, maize oil (corn oil), mustardseed oil, arachis oil (peanut oil), rapeseed oil, safflowerseed oil, sesameseed oil, soya bean oil (soybean oil), and sunflowerseed oil, and invites all interested parties to comment within 120 days on the desirability and need for standards for these foods, on the specific provisions of each codex standard, on additional or different requirements that should be incorporated, and on any other pertinent points.

In some instances, interested persons have already reviewed a Codex standard and have submitted to the Commissioner a petition for its adoption with or without changes. Where this occurs, there is no need to utilize the procedure under which the Codex standard will itself be published for informal review and comment. If reasonable grounds for the petition are provided, the petition will be published as a formal proposal for comment. In publishing such petitions, however, the Commissioner will either also publish the Codex standard in its entirety, or will identify the ways in which the proposal deviates from the Codex standard, in order to permit comment on these deviations.

To initiate this procedure, the Commissioner is publishing elsewhere in this issue of the FEDERAL REGISTER a proposal to establish standards of identity for certain nutritive sweeteners based upon a petition filed by the Corn Refiners Association, Inc., and a proposal, to establish standards of identity and quality for frozen peas based upon a petition submitted by the American Frozen Food Institute. Ninety days are provided for comment.

Finally, the Commissioner may on his own initiative propose that a Codex standard be adopted in whole or in part. This procedure will particularly be used where it involves consideration of possible amendments to an existing U.S. food standard. Amendments to existing food standards will ordinarily not require publication of the Codex standard for review and informal comment because of the existing finding that a standard for the food is desirable and the fact that the provisions contained in the existing standard often have a long history of consideration.

To initiate this procedure, the Commissioner is publishing elsewhere in this issue of the FEDERAL REGISTER a proposal, on his own initiative, to amend the existing food standard for canned sweet corn, 21 CFR 51.20 et seq., to incorporate changes contained in the Codex standard. Ninety days are provided for comment.

Regardless of the alternative procedures used to review a Codex Alimentarius standard, the Commissioner believes it important that different interest groups, such as industry, consumers, members of various professions, and the academic community, be encouraged to meet and discuss these standards before petitions or comments are submitted. Recent experience has shown that such meetings and discussions often resolve misunderstandings and differences of opinion and avoid unnecessary controversy that can result in protracted disagreement and wasteful public hearings. The Commissioner therefore proposes to require that all petitions and comments of this type include a statement with respect to any meetings and discussions that have been held with other interested persons. Particular importance will be attached to any petitions or comments which represent a consensus of different interest groups.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner (21 CFR 2.120), it is proposed to add the following new § 10.8 to Title 21.

§ 10.8 Review of Codex Alimentarius Food Standards.

(a) All food standards adopted by the Codex Alimentarius Commission will be reviewed by the Food and Drug Administration and will be accepted without change, accepted with change, or not accepted.

(b) Review of Codex standards will be accomplished in one of the following three ways:

(1) Any interested person may petition the Commissioner to adopt a Codex standard, with or without change. Any such petition shall specify any deviations from the Codex standard, and the reasons for any such deviations. The Commissioner shall publish such a petition in the FEDERAL REGISTER as a proposal, with an opportunity for comment, if reasonable grounds are provided in the petition. Any published proposal shall state any deviations from the Codex standard and the stated reasons therefor.

(2) The Commissioner may on his own initiative propose by publication in the FEDERAL REGISTER the adoption of a Codex standard, with or without change. Any such proposal shall specify any deviations from the Codex standard, and the reasons for any such deviations.

(3) Any Codex standard not handled under paragraph (b) (1) or (2) of this section shall be published in the FEDERAL REGISTER for review and informal comment. Interested persons shall be requested to comment on the desirability and need for the standard, on the specific provisions of the standard, on additional or different provisions that should be included in the standard, and on any other pertinent points. After reviewing all such comments, the Commissioner shall either publish a proposal to establish a food standard pursuant to sec. 401 of the act covering the food involved, or shall publish a notice terminating consideration of such a standard.

(c) All interested persons are encouraged and requested to confer with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating petitions or comments pursuant to paragraph (b) of this section. All such petitions or comments shall include a statement on meetings and discussions held with other interest groups. Particular weight will be given by the Commissioner to petitions or comments that reflect a consensus of different interest groups.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 22, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-16642 Filed 10-4-72;8:45 am]

[21 CFR Part 26]

NUTRITIVE SWEETENERS

Request for Comments on Recommended International Standards and a Petition

The Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission has submitted to the United States for consideration for acceptance recommended international standards for dextrose monohydrate, dextrose anhydrous, glucose syrup and dried glucose syrup. The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all codex standards. The rules of procedure of the Codex Alimentarius Commission state that a codex standard may be accepted by a participating country in one of three ways: Full acceptance; target acceptance; and acceptance with minor deviations. A participating country which concludes that it cannot accept the standard in any of these ways is requested to indicate the reasons for the ways in which its requirements differ from the codex standard. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

A petition has been filed by the Corn Refiners Association, Inc., 1001 Connecticut Avenue, Washington, DC 20036, proposing the establishment of definitions and standards of identity for the same four nutritive sweeteners recommended for acceptance by the Codex Alimentarius Commission.

In the opinion of the Commissioner of Food and Drugs, it will benefit consumers and facilitate international trade to adopt as far as practical the recommended worldwide standards for the four nutritive sweeteners. The basis for the Corn Refiners Association proposal is that these codex standards have been submitted to the United States for acceptance. In many respects they are similar to the codex standards.

The codex standards include certain basic labeling requirements that are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act which is the legal basis for the promulgation of food standards. These labeling requirements are, however, a concern of FDA under other sections of the Federal Food, Drug, and Cosmetic Act and, therefore, are not discussed further in this request for comments.

Establishment of standards of identity for dextrose monohydrate, dextrose anhydrous, glucose syrup, and dried glucose syrup will be based upon consideration of the codex standards, Corn Refiners Association proposal, comments and supporting data received, and other available information.

[CAC/RS 7–1969]

RECOMMENDED INTERNATIONAL STANDARD FOR DEXTROSE ANHYDROUS

1. *Description.—Dextrose anhydrous* is purified and crystallized D-glucose without water of crystallization.

2. *Essential composition and quality factors—*

2.1 *D-glucose content*—not less than 99.5 percent m/m., on a dry basis.

2.2 *Total solids content*—not less than 98.0 percent m/m.

2.3 *Sulphated ash*—not more than 0.25 percent m/m., on a dry basis.

3. *Food additives.—*

3.1 *Sulphur dioxide*—not more than 20 mg./kg.

4. *Contaminants.—*

4.1 *Arsenic (As)*—not more than 1 mg./kg.

4.2 *Copper (Cu)*—not more than 2 mg./kg.

4.3 *Lead (Pb)*—not more than 2 mg./kg. (temporarily endorsed).

5. *Hygiene.*—It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. *Labeling.*—In addition to sections 1, 2, 4, and 6.1 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The name of the food.*—All products designated as *dextrose anhydrous* must conform to this Standard, and products not conforming may not be so designated.

6.2 *Net contents.*—The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

6.3 *Name and address.*—The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.4 *Country of origin—*

6.4.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.4.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. *Methods of analysis and sampling.*—The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of D-glucose content* (reducing sugars expressed as D-glucose: Dextrose equivalent).

According to the ICUMSA method (ICUMSA Methods of Sugar Analysis, 1964, p. 101 c. *Dextrose equivalent;* which is a modification of the Lane and Eynon Volumetric Method, *ibid.*, p. 13). Results are expressed as percent m./m. D-glucose on a dry basis (see 7.2).

7.2 *Determination of total solids content*—According to the ICUMSA method of moisture determination (ICUMSA Methods of Sugar Analysis, 1964, p. 113, e. *Moisture*).

7.2.1 *Calculation and expression of results*—Results are expressed as percent m/m. total solids content calculated as follows:

$$\%\ \text{m/m. total solids content} = \frac{\text{dry sample mass (g)} \times 100}{\text{sample mass (g)}}$$

7.3 *Determination of sulphated ash*—According to the ICUMSA single sulphation method (ICUMSA Methods of Sugar Analysis, 1964, p. 100, b. *Ash*).

7.3.1 *Calculation and expression of results*—Results are expressed as percent m/m. sulphated ash, on a dry basis (see 7.2) calculated as follows:

$$\text{Percentage of ash, sulphated (as is)} = \frac{\text{ash mass (g)} \times 100}{\text{dry sample mass (g)}}$$

7.4 *Determination of sulphur dioxide*—According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Sugars, CAC/RM 4–1969, *Determination of sulphur dioxide* (according to Monier-Williams method)). Results are expressed as mg. SO_2/kg.

7.5 *Determination of arsenic*—According to the colorimetric (silver diethyldithiocarbamate) method of the Association of Official Analytical Chemists (Official Methods—AOAC 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008). Results are expressed as mg. arsenic/kg.

7.6 *Determination of copper*—According to the ICUMSA method (ICUMSA Methods of Sugar Analysis, 1964, p. 106, b. *Copper*). Results are expressed as mg. copper/kg.

7.7 *Determination of lead*—According to the ICUMSA "wet ashing" method (ICUMSA Methods of Sugar Analysis, 1964, p. 48 c. *"Wet-ashing" Procedure for Low-grade Products*). Results are expressed as mg. lead/kg.

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Report of the proceedings of the 13th session held at the University of Hamburg and at the Atlantic Hotel, Hamburg, Germany, from Aug. 26 to 31, 1962.

Report of the proceedings of the 14th session held at the A/S De Danske Sukkerfabrikker and at Ingeniorhuset, Copenhagen, Denmark, from May 22 to 27, 1966.

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2. Official Methods of Analysis of the Association of Official Agricultural Chemists (10th ed. 1965), A.O.A.C., P.O.B. 540, Benjamin Franklin Station, Washington, D.C.

3. Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation Inc. prepared by the Analytical Procedures Subcommittee of the Technical Advisory Committee, 2d Ed., 1001 Connecticut Ave., Washington, D.C. 20036.

4. United States Pharmacopoeia; 17th Revn. (New York), 1965, Mack Publishing Co., Easton, Pa.

[CAC/RS 8-1969]

RECOMMENDED INTERNATIONAL STANDARD FOR DEXTROSE MONOHYDRATE

1. *Description.—Dextrose monohydrate* is purified and crystallized D-glucose containing one molecule of water of crystallization.

2. *Essential composition and quality factors.—*

2.1 *D-glucose content*—not less than 99.5 percent m/m., on a dry basis.

2.2 *Total solids content*—not less than 90.0 percent m/m.

2.3 *Sulphated ash*—not more than 0.25 percent m/m., on a dry basis.

3. *Food additives.—*

3.1 Sulphur dioxide—not more than 20 mg./kg.

4. *Contaminants.—*

4.1 Arsenic (As)—not more than 1 mg./kg.

4.2 Copper (Cu)—not more than 2 mg./kg.

4.3 Lead (Pb)—not more than 2 mg./kg. (temporarily endorsed).

5. *Hygiene.*—It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. *Labeling.*—In addition to sections 1, 2, 4, and 6.1 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The name of the food*—All products designated as *dextrose monohydrate* must conform to this standard, and products not conforming may not be so designated.

6.2 *Net contents*—The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

6.3 *Name and address*—The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.4 *Country of origin—*

6.4.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.4.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. *Methods of analysis and sampling.*—The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of D-glucose content* (reducing sugars expressed as D-glucose: Dextrose equivalent).

According to the ICUMSA method (ICUMSA Methods of Sugar Analysis, 1964, p. 101, c. *Dextrose equivalent;* which is a modification of the Lane and Eynon Volumetric Method, *ibid.*, p. 13). Results are expressed as percent m/m D-glucose on a dry basis (see 7.2).

7.2 *Determination of total solids content*—According to the ICUMSA method of moisture determination (ICUMSA Methods of Sugar Analysis, 1964, p. 113, e. *Moisture*).

7.2.1 *Calculation and expression of results*—Results are expressed as percent m/m. total solids content calculated as follows:

$$\%\ \text{m/m. total solids content} = \frac{\text{dry sample mass (g)} \times 100}{\text{sample mass (g)}}$$

7.3 *Determination of sulphated ash*—According to the ICUMSA single sulphation method (ICUMSA Methods of Sugar Analysis, 1964, p. 100, b. *Ash*).

7.3.1 *Calculation and expression of results*—Results are expressed as percent m/m. sulphated ash, on a dry basis (see 7.2) calculated as follows:

$$\%\ \text{of ash, sulphated (as is)} = \frac{\text{ash mass (g)} \times 100}{\text{dry sample mass (g)}}$$

7.4 *Determination of sulphur dioxide*—According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Sugars, CAC/RM 4–1969, *Determination of sulphur dioxide* (according to Monier-Williams method)). Results are expressed as mg SO_2/kg.

7.5 *Determination of arsenic*—According to the colorimetric (silver diethyldithiocarbamate) method of the Association of Official Analytical Chemists (Official CAC/RS 1–1969), the following specific provisions apply:
Methods—AOAC 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008). Results are expressed as mg. arsenic/kg.

7.6 *Determination of copper*—According to the ICUMSA method (ICUMSA Methods of Sugar Analysis, 1964, p. 106, b. *Copper*). Results are expressed as mg. copper/kg.

7.7 *Determination of lead*—According to the ICUMSA "wet-ashing" method (ICUMSA Methods of Sugar Analysis, 1964, p. 48, c. *"Wet-ashing" Procedure for Low-grade Products*). Results are expressed as mg. lead/kg.

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2. Official Methods of Analysis of the Association of Official Agricultural Chemists (10th ed. 1965), A.O.A.C., P.O.B. 540, Benjamin Franklin Station, Washington, D.C.

3. Standard Analytical Methods of the Member Companies of Corn Industries Research Foundation Inc. prepared by the Analytical Procedures Subcommittee of the Technical Advisory Committee, 2d Ed.—1001 Connecticut Ave., Washington, D.C. 20036.

4. United States Pharmacopoeia; 17th Revn. (New York), 1965, Mack Publishing Co., Easton, Pa.

[CAC/RS 9–1969]

RECOMMENDED INTERNATIONAL STANDARD FOR GLUCOSE SYRUP

1. *Description.—Glucose syrup* is a purified concentrated aqueous solution of nutritive saccharides obtained from starch.

2. *Essential composition and quality factors.—*

2.1 *Total solids content*—not less than 70.0 percent m/m.

2.2 *Reducing sugar content (Dextrose equivalent)*—not less than 20.0 percent m/m., expressed as D-glucose, on a dry basis.

2.3 *Sulphated ash*—not more than 1.0 percent m/m., on a dry basis.

3. *Food Additives.—*

3.1 *Sulphur dioxide*—not more than 40 mg./kg.

3.2 *Sulphur dioxide in glucose syrup for the manufacture of sugar confectionery only*—not more than 400 mg./kg.

4. *Contaminants.—*

4.1 *Arsenic (As)*—not more than 1 mg./kg.

4.2 *Copper (Cu)*—not more than 5 mg./kg.

4.3 *Lead (Pb)*—not more than 2 mg./kg. (temporarily endorsed).

5. *Hygiene.*—It is recommended that the products covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. *Labeling.*—In addition to sections 1, 2, 4 and 6.1 of the General Standard for the Labeling of Prepackaged Foods (Ref. No.

6.1 *The name of the food*—All products designated as *glucose syrup* must conform to this standard, and products not conforming may not be so designated.

6.2 *Net contents*—The net contents shall be declared either by weight or volume in either the metric ("Système International" units) or avoir-dupois or both systems of measurement as required by the country in which the product is sold.

6.3 *Name and address*—The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.4 *Country of origin—*

6.4.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.4.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. *Methods of analysis and sampling.*—The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of total solids content*—According to the Lane and Eynon method (ICUMSA Methods of Sugar Analysis, 1964; p. 101, c. *Dextrose Equivalent*, which is a modification of the Lane and Eynon Volumetric Method, *ibid.*, p. 13).

7.2.1 *Calculation and expression of results*—Results are expressed as percentage m/m. reducing sugars (calculated as dextrose) on a dry basis (see 7.1).

7.3 *Determination of sulphated ash*—According to the ICUMSA single sulphation method (ICUMSA Methods of Sugar Analysis, 1964, p. 100, b. *Ash*).

7.3.1 *Calculation and expression of results*—Results are expressed as percentage m/m. sulphated ash, on a dry basis (see 7.1) calculated as follows:

$$\%\ \text{of ash, sulphated (as is)} = \frac{\text{ash mass (g) x 100}}{\text{dry sample mass (g)}}$$

7.4 *Determination of sulphur dioxide*—According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Codex Alimentarius Methods of Analysis for Sugars, CAC/RM 4–1969, *Determination of sulphur dioxide* (according to Monier-Williams method)). Results are expressed as mg. SO_2/kg.

7.5 *Determination of arsenic*—According to the colorimetric (silver diethyldithiocarbamate) method of the Association of Official Analytical Chemists (Official Methods—AOAC 1965, *24.011–24.014*, 24.016–24.017, 24.006–24.008). Results are expressed as mg. arsenic/kg.

7.6 *Determination of copper*—According to the ICUMSA method (ICUMSA Methods of Sugar Analysis, 1964, p. 106, b. *Copper*). Results are expressed as mg. copper/kg.

7.7 *Determination of lead*—According to the ICUMSA "wet-ashing" method (ICUMSA Methods of Sugar Analysis, 1964, p. 48, c. *"Wet-ashing" Procedure for Low-grade Products*). Results are expressed as mg. lead/kg.

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[CAC/RS 10–1969]

RECOMMENDED INTERNATIONAL STANDARD FOR DRIED GLUCOSE SYRUP

1. *Description.—Dried glucose syrup* is *glucose syrup* from which the water has been partially removed.

2. *Essential composition and quality factors.—*

2.1 *Total solids content*—not less than 93.0 percent m/m.

2.2 *Reducing sugar content (dextrose equivalent)*—not less than 20.0 percent m/m. expressed as D-glucose, on a dry basis.

2.3 *Sulphated ash*—not more than 1.0 percent m/m. on a dry basis.

3. *Food additives.—*

3.1 *Sulphur dioxide*—not more than 40 mg./kg.

3.2 *Sulphur dioxide in dried glucose syrup for the manufacture of sugar confectionery only*—not more than 150 mg./kg.

4. *Contaminants.—*

4.1 *Arsenic (As)*—not more than 1 mg./kg.

4.2 *Copper (Cu)*—not more than 5 mg./kg.

4.3 *Lead (Pb)*—not more than 2 mg./kg. (temporarily endorsed).

5. *Hygiene.*—It is recommended that the products covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. *Labeling.*—In addition to sections 1, 2, 4, and 6.1 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The name of the food*—All products designated as *dried glucose syrup* must conform to this standard, and products not conforming may not be so designated.

6.2 *Net contents*—The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement, as required by the country in which the product is sold.

6.3 *Name and address*—The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.4 *Country of origin—*

6.4.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.4.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. *Methods of analysis and sampling.*—The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of total solids content*—According to the FAO/WHO Codex Alimentarius Methods of Analysis for Sugars, CAC/RM 1–1969, *Determination of total solids content*). Results are expressed as percent m/m. total solids content.

7.2 *Determination of reducing sugar content*—According to the Lane and Eynon method (ICUMBA Methods of Sugar Analysis, 1964, p. 101, c. *Dextrose equivalent*, which is a modification of the Lane and Eynon Volumetric Method, *ibid.*, p. 13).

7.2.1 *Calculation and expression of results*—Results are expressed as percent m./m. reducing sugars (calculated as dextrose) on a dry basis (see 7.1).

7.3 *Determination of sulphated ash*—According to the ICUMSA single sulphation method (ICUMSA Methods of Sugar Analysis, 1964, p. 100, b. *Ash*).

7.3.1 *Calculation and expression of results*—Results are expressed as percent m./m. sulphated ash, on a dry basis (see 7.1) calculated as follows:

$$\%\ \text{of ash, sulphated (as is)} = \frac{\text{ash mass (g) x 100}}{\text{dry sample mass (g)}}$$

7.4 *Determination of sulphur dioxide*—According to the FAO/WHO Codex Alimentarius Method of Analysis for Sugars, CAC/RM 4–1969, *Determination of sulphur dioxide* (according to Monier-Williams method)). Results are expressed as mg. SO_2/kg.

7.5 *Determination of arsenic*—According to the colorimetric (silver diethyldithiocarbamate) method of the Association of Official Analytical Chemists (Official Methods—AOAC 1965, *24.011–24.014*, 24.016–24.017, 24.006–24.008). Results are expressed as mg. arsenic/kg.

7.6 *Determination of copper*—According to the ICUMSA method (ICUMSA Methods of Sugar Analysis, 1964, p. 106, b. *Copper*). Results are expressed as mg. copper/kg.

7.7 *Determination of lead*—According to the ICUMSA "wet-ashing" method (ICUMSA Methods of Sugar Analysis, 1964, p. 48, c. *"Wet-ashing" Procedure for Low-grade Products*). Results are expressed as mg. lead/kg.

The following are the proposed Corn Refiners Association proposed standards of identity for dextrose monohydrate, dextrose anhydrous, glucose syrup, and dried glucose syrup:

§ 26.1 Dextrose monohydrate; identity.

(a) Dextrose monohydrate is purified and crystallized D-glucose containing one molecule of water of crystallization with each molecule of dextrose.

(b) The food shall meet the following specifications:

(1) The reducing sugar content (dextrose equivalent) expressed as D-glucose is not less than 99.5 percent calculated on a dry basis, and the total solids shall be not less than 90.0 percent m./m.

(2) The sulfated ash content shall not exceed 0.25 percent m./m. calculated on a dry basis, and the sulfur dioxide content shall not exceed a level of 20 mg./kg. (20 parts per million).

(c) The name of the food is "dextrose monohydrate" or "dextrose."

(d) Dextrose monohydrate or dextrose shall be prepared in accordance with the relevant provisions of 21 CFR Part 128.

(e) For the purposes of this section, the methods of analysis to be used to determine if the food meets the specifications of paragraph (b) (1) and (2) of this section are:

(1) Determination of reducing sugar content. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 31.212.

(2) Determination of total solids content. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 31.005.

(3) Determination of sulfated ash. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 31.208.

(4) Determination of sulfur dioxide. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 20.090–20.095.

§ 26.2 Dextrose anhydrous; identity.

(a) Dextrose anhydrous is purified and crystallized D-glucose without water of crystallization, and conforms to the specifications of 21 CFR 26.1, except that the total solids content of dextrose anhydrous is not less than 98.0 percent m./m.

(b) The name of the food is "dextrose anhydrous" or "anhydrous dextrose."

§ 26.3 Glucose syrup; identity.

(a) Glucose syrup is the purified, concentrated, aqueous solution of nutritive saccharides obtained from edible starch.

(b) The food shall meet the following specifications:

(1) The total solids of glucose syrup shall be not less than 70 percent m./m., of which not less than 20 percent m./m. (calculated on a dry basis) shall be reducing sugar content (dextrose equivalent) expressed as D-glucose.

(2) The sulfated ash content of glucose syrup shall not exceed 1 percent m./m. calculated on a dry basis, and the sulfur dioxide content shall not exceed a level of 40 mg./kg. (40 p.p.m.) in the finished syrup.

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(c) The name of the food is "glucose syrup"; provided, that when derived from a specific type of starch the product may be called "_____ syrup," the blank to be filled in with the name of the starch; for example, "corn syrup," "tapioca syrup," "wheat syrup."

(d) Glucose syrup shall be prepared in accordance with the relevant provisions of 21 CFR Part 128.

(e) For the purposes of this section, the methods of analysis to be used to determine if the food meets the specifications of paragraph (b) (1) and (2) of this section are:

(1) Determination of reducing sugar content. "Official Methods of Analysis of the Associaton of Official Analytical Chemists," 11th Ed., 1970, 31.212.

(2) Determination of total solids content. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 31.200–31.201.

(3) Determination of sulfated ash. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 31.208.

(4) Determination of sulfur dioxide. "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, 20.090–20.095.

§ 26.4 Dried glucose syrup; identity.

(a) Dried glucose syrup is glucose syrup from which the water has been partially removed, and meets the specifications of 21 CFR 26.3, except that total solids shall be not less than 93 percent m./m.

(b) The name of the food is "dried glucose syrup"; provided that when derived from a specific type of starch the product may be called "dried _____ syrup," the blank to be filled in with the name of the starch.

In most respects the provisions of the Codex Standards and the Corn Refiners Association's proposal are identical. The following, however, are features of the proposal on which the Commissioner particularly requests comments, with any available supporting data, and the action the Commissioner proposes to take in the event no comments are received:

1. In the United States, analytical testing procedu res forthedetermination ing procedures for the determination of reducing sugar content, total solids content, sulfated ash and sulfur dioxide are performed by the methods in the "Official Methods of Analysis of the Association of Official Analytical Chemist" (AOAC), 11th Ed., 1970, rather than FAO/WHO "Method of Analysis for Sugars, "International Commission for Uniform Methods of Sugar Analysis" (ICUMSA), and "Standard Analytical Methods of the Member Companies" (Corn Refiners Association). The Codex Standards state that the methods of analysis contained therein are not necessarily intended to replace routine methods, but are for use as international referee methods of analysis for the settlement of international disputes. The Commissioner proposes to recognize the methods of the AOAC as the official methods for these standards.

2. The Codex Standards provide for 400 mg. per kg. of sulfur dioxide in glucose syrup and dried glucose syrup for confectionery purposes. These high sulfur dioxide containing products are not distributed in the United States and, therefore, the Commissioner proposes that standards of identity for glucose syrup and dried glucose syrup not provide for these food additives.

3. The Codex Standards for the additional nutritive sweeteners, white sugar, powdered or icing sugar, soft sugars, and lactose will be dealt with at a later date.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055–1056, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 90 days after its date of FEDERAL REGISTER publication. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-16643 Filed 10-4-72;8:45 am]

[21 CFR Part 50]

FROZEN PEAS

Request for Comments on a Recommended International Standard and a Petition

The Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a recommended international standard for quick frozen peas. The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance; target acceptance; and acceptance with minor deviations. A participating country which concludes that it cannot accept the standard in any of these ways is requested to indicate the reasons for the ways in which its requirements differ from the Codex standard. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

A petition has been filed by the American Frozen Food Institute (AFFI), 919 18th Street NW., Washington, DC 20006, proposing the establishment of a definition and standards of identity and quality for frozen peas. In the opinion of the Commission of Food and Drugs, it will benefit consumers and facilitate international trade to adopt as far as practicable the recommended worldwide standard for quick frozen peas hereinafter referred to as the Codex standard. The basis for the AFFI proposal is that the Codex standard has been submitted to the United States for acceptance. In many respects the AFFI proposal is similar to the Codex standard.

The Codex standard provides that sampling and allowances for defects be in accordance with the Codex "Sampling Plans for Prepackaged Foods, 1969," developed by the Codex Committee on Processed Fruits and Vegetables and are being considered by the Codex Committee on Sampling and Analysis. No sampling plans have been proposed by AFFI. The Codex sampling plans have not reached the final step of development and therefore may be subject to further modification prior to submission to the United States for formal acceptance. The Commissioner believes that this is an opportune time to elicit comments on sampling plans and therefore proposes, on his own initiative, to include them for quality factor determinations for frozen peas. The Commissioner, however, proposes that another table be added to the existing table (Inspection Level II) in the Codex sampling plans to express lot size as number of pounds thereby permitting the correlation of sample size of large bulk containers to the sample size for smaller containers. This modification was submitted by the United States in 1970, to the Codex committee, to be incorporated in the Codex sampling plans. The Commissioner further proposes to limit the sampling plans to Codex Inspection Level II which is appropriate where disputes, enforcement, or need for better lot estimate is necessary. Definitions for "lot" and "sample unit" have been expanded to make them more applicable to a wider range of size of primary containers including bulk packs. In addition, definition of "defective" has been reworded to apply directly to the sampling plans for frozen peas. The Commissioner would consider a lot acceptable for quality factor determinations when the number of "defectives" does not exceed the stated "acceptance number" in the sampling plans as follows:

Definitions of terms to be used in the sampling plans are as follows:

Lot. A collection of primary containers or units of the same size, type and style manufactured or packed under similar conditions and handled as a single unit in trade.

Lot size. The number of primary containers, or units (pounds when in bulk), in the lot.

Sample size (n). The total number of sample units drawn for examination from the lot.

Sample unit. A container, the entire contents of a container, a portion of the contents of a container, or a composite

mixture of product from small containers that is sufficient for the examinations or testing as a single unit.

Defective. Any sample unit shall be regarded as defective when any quality defects or conditions are present in excess of the defect tolerances.

Acceptance number (c). The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

Acceptable quality level (AQL). The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

ACCEPTABLE QUALITY LEVEL 6.5

Lot size	Size of container	
Number of primary containers:	Net weight equal to or less than 1 kilogram (2.2 pounds)	
	n	c
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
Number of pounds:	Net weight greater than 1 kilogram (2.2 pounds)	
	n	c
20,000 or less	13	2
More than 20,000 to 100,000	21	3
More than 100,000 to 200,000	29	4
More than 200,000 to 400,000	48	6
More than 400,000 to 600,000	84	9
More than 600,000 to 1,000,000	126	13
More than 1,000,000	200	19

n=number of sample units.
c=acceptance number.

The Codex standard uses the metric system whereas the AFFI proposal provides that the units of measurement for sizing peas be expressed in both inches and millimeters and the standard of quality be in ounces as well as grams and that in the methodology the units be in the metric system only. The Commissioner recognizes that the International (metric) System is used throughout the world and in the United States for technical analyses and may eventually be adopted by this country as the common usage for measurements. The Commissioner, therefore, proposes that the metric system be used in the standards for frozen peas with the equivalent units of the U.S. Customary System shown parenthetically except that the units of measurements in the methodology be in the metric system only.

The Codex standard also includes hygiene requirements and certain basic labeling requirements that are not considered a part of food standards under sec. 401 of the Federal Food, Drug, and Cosmetic Act which is the legal basis for the promulgation of food standards. Hygiene and the other factors are, however, a concern of FDA under other sections of the Federal Food, Drug, and Cosmetic Act and, therefore, are not discussed further in this request for comments.

RECOMMENDED INTERNATIONAL STANDARD FOR QUICK FROZEN PEAS

1. Scope. This standard shall apply to quick frozen peas of the species *Pisum sativum* L. as defined below and offered for direct consumption without further processing, except for size grading or repacking if required. It does not apply to the product when indicated as intended for further processing, or for other industrial purposes.

2. Description.

2.1 *Product definition.* Quick frozen peas are the product *prepared* from fresh, clean, sound, whole, immature seed of peas which have been washed, sufficiently blanched to insure adequate stability of color and flavor during normal marketing cycles and which conform to the characteristics of the species *Pisum sativum* L.

2.2 *Process definition.* Quick frozen peas are the product *subjected to a freezing* process in appropriate equipment and complying with the conditions laid down hereafter. This freezing operation shall be carried out in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product temperature has reached −18° C. (0° F.) at the thermal center after thermal stabilization. The product shall be maintained at a low temperature such as will maintain the quality during transportation, storage, and distribution up to and including the time of final sale.

The recognized practice of repacking quick frozen products under controlled conditions followed by the reapplication of the quick freezing process as defined is permitted.

2.3 *Presentation.*

2.3.1 Types.

2.3.1.1 Any suitable variety of pea may be used.

2.3.1.2 The product shall be presented as "peas" or may be presented as "garden peas" provided they meet the organoleptic and analytical characteristics of the type, e.g. "Kelvedon Wonder," "Dark Skin Perfection" and others.

2.3.2 Sizing.

2.3.2.1 Quick frozen peas of either type may be presented sized or unsized.

2.3.2.2 If peas are size graded they shall conform to one of the two following systems of specifications for the size names:

SPECIFICATIONS A FOR SIZING

Size designation	*Round hole sieve size in mm.*
Small	up to 8.75
Medium	up to 10.2
Large	over 10.2

SPECIFICATIONS B FOR SIZING

Size designation	*Round hole sieve size in mm.*
Extra small	up to 7.5
Very small	up to 8.2
Small	up to 8.75
Medium	up to 10.2
Large	over 10.2

3. Essential composition and quality factors.

3.1 *Optional ingredients.*

3.1.1 Sugars (sucrose, invert sugar, dextrose, fructose, glucose syrup, dried glucose syrup);

3.1.2 Salt;

3.1.3 Condiments, such as spices and herbs.

3.2 *Quality factors.*

3.2.1 Organoleptic and other characteristics.

3.2.1.1 The product shall be of a reasonably uniform green color according to type, whole, clean, practically free from foreign matter, free from any foreign taste or smell and practically free from damage by insects or diseases.

3.2.1.2 The product shall have a normal flavor, taking into consideration any seasonings or ingredients added.

3.2.2 Analytical characteristics. The alcohol-insoluble solids content as determined by the method specified in subsection 8.2 of this standard must not exceed: for peas, 23 percent m./m.; for garden peas, 19 percent m./m.

3.3 *Definition of defects.*

3.3.1 "Blond Peas" means peas which are yellow or white but which are edible (that is, not sour or rotted).

3.3.2 "Blemished Peas" means peas which are slightly stained or spotted.

3.3.3 "Seriously Blemished Peas" means peas which are hard, shrivelled, spotted, discolored or otherwise blemished to an extent that the appearance or eating quality is seriously affected. These shall include wormeaten peas.

3.3.4 "Pea Fragments" means portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons and loose skins, but does not include entire intact peas with skins detached.

3.3.5 "Extraneous Vegetable Material (E.V.M.)" means any vine or leaf or pod material from the pea plant, or other vegetable material such as poppyheads or thistles.

3.4 *Tolerances for defects.* Based on a sample unit of 500 g. the end product shall have not more than the following:

3.4.1 Blond peas, 2 percent m./m.

3.4.2 Blemished peas, 5 percent m./m.

3.4.3 Seriously blemished peas, 1 percent m./m.

3.4.4 Pea fragments, 12 percent m./m.

3.4.5 E.V.M., 0.5 percent m./m. but not more than 12 cm.² in area.

3.5 *Tolerances for sizes.* If size graded, the product shall contain not less than 80 percent either by number or mass of peas of the declared size or of smaller sizes. It shall contain no peas of sizes larger than the next two larger sizes nor more than 20 percent either by number or mass of peas of the next two larger sizes, if such there be. Not more than one-quarter of these peas whether by number or mass, shall belong to the larger of the next two sizes.

3.6 *Classification of defectives.* Any sample unit from a sample taken in accordance with the Sampling Plans for Prepackaged Foods, 1969, shall be regarded as "defective" when any of the defects listed under 3.3 is present in more than twice the amount of the specified tolerance for the individual defect as listed under 3.4 or if the total of 3.4.1 to 3.4.4 inclusive exceeds 15 percent m./m.

3.7 *Lot acceptance.* A lot is considered acceptable when the number of such "defectives" as specified in 3.6 does not exceed the acceptance number (c) of the Sampling Plans for Prepackaged Foods, 1969.

4. Food additives.

	Maximum level of use
Natural flavors and their identical synthetic equivalents except those which are known to represent a toxic hazard (*).	Not limited

(*) Temporarily endorsed.

5. Hygiene. It is recommended that the product covered by the provisions of this standard be prepared in accordance with the Code of Hygienic Practice for Quick Frozen Fruit, Vegetables and Their Juices recommended by the Codex Alimentarius Commission (in the process of elaboration).

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6. Labeling. In addition to sections 1, 2, 4, and 8 of the General Standard for the Labeling of Prepackaged Foods (ref. No. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The name of the food.* The name of the product shall only include: _____

6.1.1 The designation "peas," except that where peas are presented in conformity with 2.3.1.2 the designation shall be "garden peas" or the equivalent designtaion used in the country in which the product is intended to be sold. The words "quick frozen" shall also appear on the label, except that the term "frozen"[1] may be applied in countries where this term is customarily used for describing the product processed in accordance with subsection 2.2 of the standard;

6.1.2 Where a characterizing flavoring or ingredient has been added, this shall be stated as "with x," as appropriate;

6.1.3 Where a statement of size is made, either the sieve size or the words "extra small," "very small," "small," "medium" or "large," as appropriate, shall be indicated.

6.2 *List of ingredients.* A complete list of ingredients shall be declared, in descending order of proportion.

6.3 *Net contents.* The net contents shall be declared by weight in either the metric system ("Système international" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

6.6 *Additional requirements.* Information for keeping and thawing of the product shall be given on retail packs.

6.7 *Bulk Packs*—In the case of quick frozen peas in bulk the information required in 6.1 to 6.6 must either be placed on the container or be given in accompanying documents, except that the name of the food accompanied by the words "quick frozen" (the term "frozen" may be applied in countries where this term is customarily used for describing the product processed in accordance with subsection 2.2 of this standard) and the name and address of the manufacturer or packer must appear on the container.

7. Packaging.—Packaging used for quick frozen peas must protect the organoleptic and quality characteristics of the product; protect the product from bacteriological and other contamination (including contamination from the packaging material itself); protect the product from moisture loss, dehydration, and, where appropriate, leakage as far as technologically practicable; and not pass on to the product an odour, taste, colour or other foreign characteristics.

8. Methods of analysis, sampling and examination.—The methods of analysis, sampling, and examination described hereunder are international referee methods.

8.1 *Sampling*—Sampling shall be in accordance with the *Sampling Plans for Prepackaged Foods*, 1969.

8.2 *Determination of the alcohol-insoluble solids content.* (Ref. No. CAC/RM 35–1970.)

8.2.1 Principle of the method—The alcohol-insoluble solids in peas consist mainly of insoluble carbohydrates (starch) and protein. A weighed quantity of the sample is boiled with slightly diluted alcohol. The solids are washed with alcohol until the filtrate is clear. The alcohol-insoluble solids are dried and weighed. The percentage by mass present is used as a guide to maturity.

8.2.2 Reagents.

8.2.2.1 *Ethanol (95 percent)* or *denaturated ethanol* (ethanol denaturated with 5 percent v/v methanol).

8.2.2.2 *Diluted ethanol or diluted denaturated ethanol 80 percent v/v*—(dilute 8 parts by volume of reagent under 8.2.2.1 to 9.5 parts by volume with H_2O).

8.2.3 Apparatus.

8.2.3.1 Analytical balance;

8.2.3.2 Beaker, 600 ml., if sample is boiled or 250 ml. (standard taper ground-glass joint) flask with reflux condenser if refluxed;

8.2.3.3 Buchner funnel;

8.2.3.4 Drying dish with lid, flat bottomed;

8.2.3.5. Hot plates or boiling water bath for refluxing or boiling;

8.2.3.6 Clamps or weights to prevent agitation of package in water bath during thawing;

8.2.3.7 Desiccator with active desiccant;

8.2.3.8 Drying oven, well ventilated and thermostatically controlled and adjusted to operate at 100±2° C;

8.2.3.9 Filter paper, Whatman No. 1 or equivalent;

8.2.3.10 Macerator or blendor;

8.2.3.11 Plastic bag of sufficient capacity to hold the entire sample for thawing;

8.2.3.12 "Policemen" on glass rods, bent so as to facilitate cleaning flask or beaker;

8.2.3.13 Water bath, with continuous flow at room temperature or regulated at room temperature for thawing.

8.2.4 Preparation of test sample—Place frozen peas or frozen peas with sauce in plastic bag and tie off. Immerse sample in water bath with continuous flow at room temperature or regulated at room temperature. Avoid agitation of package during thawing by using clamps or weights if necessary. When completely thawed, remove package from bath. Blot off adhering water from the plastic bag. Transfer the peas from container to a sieve, the meshes of which are made by so weaving wire as to form square openings of 2.8 mm. by 2.8 mm.[a] If sauce is present, wash with gentle spray of water at room temperature until the sauce is removed. Without shifting the peas, incline the sieve as to facilitate drainage, and drain 2 minutes. Wipe the bottom of the sieve. Weigh 250 g. peas into blendor, add 250 ml. distilled water and macerate to a smooth paste. If there is less than 250 g. sample, use the entire sample of peas with an equivalent quantity by mass of distilled water and macerate to a smooth paste.

8.2.5 Procedure.

8.2.5.1 Dry a filter paper in flat-bottomed dish, lid off, for 2 hours at 100±2° C. Cover dish, cool in a desiccator, and weigh accurately. (The filter paper should be larger than the base of the funnel and folded at the circumference to facilitate subsequent removal without loss of solids.)

8.2.5.2 Weigh 20 g.±0.01 g. paste into a 250 ml. ground-joint flask, add 120 ml. *denatured ethanol* or *ethanol*, and swirl to mix. Reflux on a steam or water bath for 30 minutes.

If boiling rather than refluxing is preferred, weigh 40 g.±0.01 g. paste into a 600-ml. beaker. Add 240 ml. *denatured ethanol* or *ethanol*, stir, and cover beaker. Bring solution in the beaker to a boil and simmer slowly for 30 minutes on a hotplate.

Immediately filter with suction on a Buchner funnel through the dried and weighed filter paper. Decant most of the supernatant liquid through the filter paper. Wash the solids in the flask or beaker without delay with small portions of *80 percent denatured ethanol* or *80 percent ethanol* until the washings are colourless, decanting through the filter paper each time. Do not allow solids to become dry during the washing. Transfer solids to the filter paper, spreading the solids evenly.

8.2.5.3 Remove the filter paper containing the residue from the funnel, transfer to the dish used in preparing the filter paper and dry uncovered in an air oven for 2 hours at 100± 2° C. Cover the dish, cool in a desiccator, and weigh accurately. The weight of the *dry residue* is the difference between the weight under 8.2.5.1 and this final weight.

8.2.6 Calculation and expression of results.

8.2.6.1 Method of calculation.—Calculate the alcohol-insoluble solids content of the sample by means of the following formula:

If 20 g. sample is refluxed:

$$\text{Alcohol-insoluble solids content } (\%\ m/m) = 10\ M$$

where:

M = the mass in g. of *dry residue* (see 8.2.5.3)

If 40 g. sample is refluxed:

$$\text{Alcohol-insoluble solids content } (\%\ m/m) = 5\ M$$

where:

M = the mass in g. of *dry residue* (see 8.2.5.3)

8.2.7 Repeatability of results—The difference between results of duplicate determination (results obtained simultaneously or in rapid succession by the same analyst) should not exceed 0.6 g. alcohol-insoluble solids for 100 g. of the product.

8.2.8 Expression of results—Results are expressed as g. alcohol-insoluble solids per 100 g. of the product (% m/m).

8.3 *Net Weight Determination of Frozen Fruits and Vegetables* (Doc. No. CAC/RM 34–1970).

8.3.1 Principle of the method—The weight of the container including the product therein is determined. The weight of the container itself is determined. The net weight is calculated from the difference of these two weights.

8.3.2 Apparatus.

8.3.2.1 Balance of adequate capacity having a sensitivity of 0.25 g. (or 0.01 oz.), for containers not in excess of 2 kg. (or 5 lb.).

8.3.2.2 Balance of adequate capacity having a sensitivity of 0.70 g. (or 0.025 oz.), for containers in excess of 2 kg. (or 5 lb.).

8.3.3 Procedure.

8.3.3.1 Set balance on firm, level support and adjust indicator to zero. Remove container from low temperature storage and with a towel remove frost and ice from outside of the container. Weigh unopened container immediately and record as *gross weight* (G).

8.3.3.2 Open container and remove contents including product particles, frost or ice crystals that may be adhering to the container. Blot-off free water with a towel and air dry empty container at room temperature. Weigh the dry, empty container and record as tare weight (T).

8.3.4 Calculation and expression of results—The net weight of the sample is given by the following formula:

$$\text{Net weight} = G - T$$

where:

G = the gross weight found under 8.3.3.1.
T = the tare weight found under 8.3.3.2.

8.4 *Thawing and cooking procedures* (to be used prior to examination, as appropriate).

8.4.1 Thawing procedure—According to the FAO/WHO Codex Alimentarius Method: FAO/WHO Codex Alimentarius Standard Procedure for Thawing of Quick Frozen Fruits and Vegetables, CAC/RM 32–1970.

8.4.2 Cooking procedure—According to the FAO/WHO Codex Alimentarius Method: FAO/WHO Codex Alimentarius Standard Procedure for Cooking of Quick Frozen Fruits and Vegetables, CAC/RM 33–1970.

8.4.2.1 The cooking time for quick frozen peas may vary within the range of 3–5 minutes depending upon variety, maturity and size of peas.

[1] "Frozen": This term is used as an alternative to "quick frozen" in some English speaking countries.

[a] cf. ISO Recommendation R 565. Such sieve can be replaced by U.S. sieve with No. 8 standard screen (size of opening 2.38 mm.).

The following are the proposed AFFI standards of identity and quality for frozen peas which are similar in many respects to the Codex standard:

(a) Frozen peas is the food in "package" form as that term is defined in 21 CFR 1.1(b), prepared from the succulent seed of the species *Pisum sativum* L. of the pea plant. It is blanched, drained, and preserved by freezing in such a way that the range of temperature of maximum crystallization is passed quickly. The freezing process shall not be regarded as complete until the product temperature has reached −18° C. (0° F.) or lower at the thermal center.

(b) Frozen peas may be prepared from the following optional pea varieties:

(1) Sweet green wrinkled peas.

(2) Smooth-skin or substantially smooth-skin peas, such as Alaska type peas.

(c) If the peas are graded for size they shall conform to the following specifications for the size names:

Size designation	Diameter of circular openings of sieve			
	Will not pass through		Will pass through	
	Inches[1]	mm.	Inches[1]	mm.
Extra small			$\frac{19}{64}$	7.5
Very small	$\frac{19}{64}$	7.5	$\frac{21}{64}$	8.2
Small	$\frac{21}{64}$	8.2	$\frac{22}{64}$	8.75
Medium	$\frac{23}{64}$	8.75	$\frac{26}{64}$	10.2
Large	$\frac{26}{64}$	10.2		

[1] Nearest 64th-inch equivalent to Codex designation shown in millimeters.

(d) Optional ingredients may be used as follows:

(1) Salt.

(2) Sucrose, invert sugar, dextrose, fructose, glucose sirup, and dried glucose sirup.

(3) Spices.

(4) Safe and suitable substances as follows, within the limitations provided by paragraph (e) of this section:

(i) Seasonings and natural and artificial flavorings alone or in safe and suitable carriers.

(ii) Monosodium glutamate and other glutamic acid salts.

(iii) Edible organic acids, antioxidants, and stabilizers.

(iv) Formulated sauces (including concentrates) such as butter sauce, onion sauce, cream sauce, and mushroom sauce, in an amount by weight of the finished food not more than necessary to produce the desired flavoring effect.

(v) Vitamins in an amount required to restore the vitamin content of the food to the level for fresh raw shelled peas, set forth in Item No. 1515 of "Composition of Foods," Agriculture Handbook No. 8 of the U.S. Department of Agriculture, 1963.

(5) Vegetables, nuts, or mixtures of these, such as onions, mushrooms, red or green peppers, and almonds as garnishes in an amount sufficient to impart to the food a flavor or other attribute characteristic of the garnish ingredient or ingredients, but not more than 20 percent by weight of the finished food.

(e) The optional ingredients referred to in paragraph (d)(4) of this section are substances which are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the Act. If such substances perform a useful function, they are regarded as suitable.

(f) (1) The label shall state the name "peas." In the case of varieties specified in paragraph (b)(1) of this section, the terms "green," "sweet green," "wrinkled," "garden," or "sweet" shall precede or follow the name. In the case of varieties specified in paragraph (b)(2) of this section, the terms "early," "June," or "early June" shall precede or follow the name.

(2) If one or more of the optional ingredients provided for in paragraph (d)(3), (d)(4)(i) and (iv), and (d)(5) of this section is used, in addition to the names of such ingredients as required under paragraph (f)(3) of this section, the label shall bear, in conjunction with the product name, or in conjunction with the name of the optional pea variety, the statement or statements hereinafter set forth following the indicated provisions of such paragraph.

(i) If spice or flavoring as provided for in paragraph (d)(3) and (4)(i) of this section are used, the label shall bear the statement "spices added," "Seasoned," "with selected seasonings," "with seasonings" or "Seasoned with _____," or "Flavored with _____," the blank being filled in with the name of the ingredient.

(ii) If the formulated sauces as provided for in paragraph (4)(iv) of this section are used, the label shall bear the statement, "in _____" or "with _____," the blank being filled in with the name of the sauce ingredient, such as "butter sauce."

(iii) If garnishes as provided for in paragraph (d)(5) of this section are used, the label shall bear the statement, "with _____" or "garnished with _____," the blank being filled in with the name of the ingredient; for example, "with onions," or "garnished with mushrooms."

If statements set forth in more than one of the paragraphs (f)(2) (i), (ii), or (iii) of this section are used, they may be combined as, for example, "green peas with onions in butter sauce," or "early peas with onions and selected seasonings."

(3) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements required in paragraph (f) of this section shall immediately and conspicuously precede or follow the name without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene.

(4) The optional ingredients specified in paragraph (d) (1) through (5) of this section, including the ingredients used in formulating the sauces specified in paragraph (d)(4)(iv) of this section, shall be listed in order of predominance by weight by their common or usual names, on the principal display panel or panels or any appropriate information panel without obscuring design, vignettes, or crowding. The declaration shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than one-half of that required by Part 1 of this chapter for the statement of net quantity of contents appearing on the label, but in no case less than one-sixteenth of an inch in height. The entire ingredient statement shall appear on at least one panel of the label and in lines generally parallel to the base on which the container rests as it is designed to be displayed.

(5) When an optional ingredient specified in paragraph (d)(4)(v) of this section is used the label shall bear the words "Vitamin _____ content restored to the level of fresh raw shelled peas," the blank being filled in with the common name of the vitamin restored. When two or more vitamins are used, their names may be combined; for example, "Vitamin A and C content restored to the level of fresh raw shelled peas."

(6) If the peas are size graded, the size designations specified in paragraph (c) of this section may precede or follow the name of the food. However, the optional descriptive words "petite" or "tiny" may be used in conjunction with the product name when an average of 80 percent or more of the peas will pass through a circular opening of a diameter of $\frac{22}{64}$ inch (8.75 mm.) or less for the optional ingredient provided for in paragraph (f)(b)(1) of this section and $\frac{21}{64}$ inch (8.2 mm.) for the optional ingredient provided for in paragraph (b)(2) of this section.

§ 50.2 Frozen peas; quality; label statement of substandard quality.

(a) The sample unit of frozen peas used in determining compliance with the standard of quality is 17.64 ounces (500 g.) exclusive of any sauce.

(b) The standard of quality, for a sample unit of frozen peas, shall not exceed the following:

(1) Not more than 0.3 ounces (9 g.) peas are seriously spotted or otherwise materially blemished.

(2) Not more than 0.5 ounces (14 g.) are yellow, overly mature peas.

(3) Not more than 2.5 ounces (71 g.) are pieces of peas and loose skins.

(4) Not more than 0.08 ounce (2.3 g.) of harmless, extraneous vegetable material but not more than 2 square inches

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(12.90 square centimeters) of flat material.

(5) The alcohol-insoluble solids of the variety of frozen peas provided for in 21 CFR 50.1(b)(1) shall be not more than 19 percent and the alcohol-insoluble solids of the variety provided for in 21 CFR 50.1(b)(2) of this chapter, shall be not more than 23 percent, as determined pursuant to paragraph (c) of this section.

(6) Not more than 15 percent by count of variety provided for in 21 CFR 50.1(b)(1) of this chapter shall sink in a solution containing 16 percent by weight of salt, as determined pursuant to paragraph (d) of this section.

(c) Determination of alcohol-insoluble solids.[1]

(1) Extracting solutions:

(i) One hundred parts of ethanol denatured with five parts of methanol volume to volume (formula 3A denatured alcohol,[2] or

(ii) A mixture of 95 parts of formula 3A denatured alcohol and five parts of isopropanol v/v.[3]

(2) Eighty percent alcohol (8 liters of extracting solutions (1)(i) or (1)(ii) diluted to 9.5 liters with water).

(3) Drying dish—a flat-bottom dish with a tight fitting cover.

(4) Drying oven—a properly ventilated oven thermostatically controlled at 100±2° C.

(5) Procedure—Transfer frozen contents of package to plastic bag; tie bag securely and immerse in water bath with continuous flow at room temperature. Avoid agitation of bag during thawing by using clamps or weights. When sample completely thaws, remove bag, blot off adhering water, and transfer peas to U.S. No. 8 sieve, using (20 cm.) size for container of less than 3 lb. net weight and (30.5 cm.) for larger quantities. If sauce is present, remove with gentle water spray at room temperature. Without shifting peas, incline sieve to aid drainage, drain 2 minutes. With cloth wipe surplus water from lower screen surface. Weigh 250 g. of peas into high-speed blender, add 250 g. of water and blend to smooth paste. For less than 250 g. sample, use entire sample with equal weight of water. Weigh 20 g. ±10 mg. of the paste into 250 ml. distillation flask, add 120 ml. of extracting solutions specified in (1)(i) or (1)(ii) of this section, and reflux 30 minutes on steam or water bath or hotplate. Fit into a buchner funnel a filter paper of appropriate size (previously prepared by drying in flat-bottom dish for 2 hours in drying oven, covering, cooling in desiccator, and weighing). Apply vacuum to buchner funnel and transfer contents of beaker so as to avoid running over edge of paper. Aspirate to dryness and wash material on filter with 80 percent alcohol until washings are clear and colorless.

Transfer paper and alcohol-insoluble solids to drying dish used to prepare paper, dry uncovered for 2 hours in drying oven, cover, cool in desiccator, and weigh at once. From this weight deduct weight of dish, cover, and paper. Calculate percent by weight of alcohol-insoluble solids.

(d) Brine flotation test.

(1) Explanation—The brine flotation test utilizes salt solutions of various specific gravities to separate the peas according to maturity. The brine solutions are based on the percentage by weight of pure salt (NaCl) in solution at 20° C. In making the test the brine solutions are standardized to the proper specific gravity equivalent to the specified "percent of salt solutions at 20° C." by using a salometer spindle accurately calibrated at 20° C. A 250 ml. glass beaker or similar receptacle is filled with the brine solution to a depth of approximately 50 mm. The brine solution and sample (100 peas per container) must be at the same temperature and should closely approximate 20° C.

(2) Procedure—After carefully removing the skins from the peas, place the peas into the solution. Pieces of peas and loose skins should not be used in making the brine flotation test. If cotyledons divide, use both cotyledons in the test and consider the two separated cotyledons as 1 pea; and, if an odd cotyledon sinks, consider it as one pea. Only peas that sink to the bottom of the receptacle within 10 seconds after immersion are counted as "peas that sink."

(e) If the quality of the frozen peas falls below the standard prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in the Code of Federal Regulations but in lieu of the words prescribed in the second line of the rectangle the following words may be used where the frozen peas fall below the standard in only one respect: "Below standard in quality _____," the blank to be filled in with the specific reason for substandard quality as listed in the standard.

In many respects the AFFI proposal and the Codex standard are identical, but in certain instances there are variations. The following is a comparison of what, in the opinion of the Commissioner, are differences between the AFFI proposal and the Codex standard not previously discussed on which the Commissioner particularly requests comments with available supporting data.

Items of comparison	Proposal	Codex standard
1. Certain optional ingredients	MSG and glutamic acid salts Organic acids, antioxidants, stabilizers. Sauces, including concentrated sauces. Sufficient vitamins to restore vitamin content to the level of raw peas.	Not provided for.
2. Name of the food: (a) Sweet pea varieties	Garnishes "Green peas," "sweet green peas," "wrinkled peas," "garden peas," or "sweet peas."	"Garden peas" or an equivalent designation used in the country in which the product is intended to be sold.
(b) Smooth-skin pea varieties	"Early peas," "June peas," or "early June peas."	"Peas."
3. Label statement of ingredients	In boldface type of minimum size specified in Part 1 of Title 21 CFR, but not less than 1/16 inch in height; entire statement on one panel of the label and in lines parallel to the base of the container.	Clear, prominent, readily legible by the consumer under normal conditions of purchase and use.

DIAMETER OF CIRCULAR OPENINGS OF SIEVE

Size	Will not pass through (Inches[1])	Will not pass through (mm.)	Will pass through (Inches[1])	Will pass through (mm.)	Codex standard
4. Designation:					
Extra small			19/64	7.5	For peas up to 7.5 mm.
Very small	19/64	7.5	21/64	8.2	For peas up to 8.2 mm.
Small	21/64	8.2	22/64	8.75	For peas up to 8.75 mm.
Medium	22/64	8.75	26/64	10.2	For peas up to 10.2 mm.
Large	26/64	10.2			For peas over 10.2 mm.
	The size designations may precede or follow the name of the food. Or the words "petite" or "tiny" may be used for sweet peas up to 22/64-inch diameter and for smooth-skin peas up to 21/64-inch in diameter.				Where a statement of size is made either the sieve size or one of the above-verbal designations, as appropriate, shall be stated. If size graded the product shall contain no peas larger than the next 2 larger sizes nor more than 20 percent either by number or mass of peas of the next 2 larger sizes, if such there be. Nor more than 1/4 of these peas whether by number or mass, shall belong to the larger of the next 2 sizes.
5. Definitions of defects	Not defined				Included in item 6.

[1] The method was adopted as official, first action at the 1970 meeting of the Association of Official Analytical Chemists. It has been published under the title "Determination of Alcohol-Insoluble Solids in Frozen Peas" by F. H. Winter (Food Science and Technology, University of California, Davis, CA. 95616). JAOAC vol. 54, No. 1 (1971), pp. 54–55; "Changes in Methods," JAOAC, vol. 54, No. 2, p. 472. (1971). This is also the method proposed in the Codex Standard.

[2] U.S. Treasury Department, Internal Revenue Service, 26 CFR 212.19.

[3] U.S. Treasury Department, Internal Revenue Service, 26 CFR 211.199.

Size	Will not pass through (Inches[1])	Will not pass through (mm.)	Will pass through (Inches[1])	Will pass through (mm.)	Codex standard
6. Defect tolerances maximum per 500 g.	When any defect listed below exceeds the tolerance the sample unit fails to meet the standard of quality. There is no sampling plan for lot acceptance quality.				Any sample unit shall be regarded as defective when any of the defects listed below are present in more than twice the amount of the specified tolerance for the individual defect or if the total percentage defects found exceeds 15 percent by weight.
	"Seriously spotted or otherwise materially blemished" 0.3 oz. (8.5 g.), 1.7 percent by weight.				"Seriously blemished peas" are hard, shrivelled, spotted, discolored, or otherwise blemished to an extent that the appearance or eating quality is seriously affected, 1 percent by weight.
					"Blemished peas" are slightly stained or spotted, 5 percent by weight.
	"Yellow, overly mature" 0.5 oz. (14.2 g.), 2.8 percent by weight.				Overly mature peas not provided for.
	Blond peas are usually removed during processing.				"Blond Peas" are yellow or white and edible, 2 percent by weight.
	"Pieces of peas and loose skins", maximum 2.5 oz., (71.0 g.), 14.2 percent by weight.				"Pea fragments" are portions of peas, separated or individual cotyledons, crushed, partial or broken cotyledons, and loose skins, but does not include entire intact peas with skins detached, maximum 12 percent by weight.

Regarding	Proposal	Codex standard
7. Maturity	Not more than 15 percent by 100 count per container of sweet peas shall sink in a 16 percent by weight of salt solution at 20° C.	Brine flotation test not provided for.
8. Units of measurement: (a) Identity standard (b) Quality standard	Inches as well as millimeters Ounces as well as grams	Millimeters. Grams.

[1] Nearest 64th-inch equivalent to Codex designation shown in millimeters.

The following are features of the AFFI proposal on which the Commissioner particularly requests comments, with any available supporting data, and the action the Commissioner proposes to take in the event no comments are received:

1. *Vitamin restoration.* 21 CFR 50.1(d)(4)(v) proposes the optional addition of vitamins. The Commissioner recognizes that peas contribute significant quantities of certain vitamins to the diet some of which may be reduced during the production of frozen peas. The petitioner proposes optional restoration of the vitamin content of frozen peas to the level of immature raw peas as set forth in Item No. 1515 of "Composition of Foods," Agriculture Handbook No. 8 of the U.S. Department of Agriculture, 1963. When the vitamin content is compared with the same source reference for raw peas which have been boiled and drained (Item No. 1516), with frozen peas not thawed (Item No. 1529), and with frozen peas which have been boiled and drained (Item No. 1530) the Commissioner is of the opinion that the losses are not nutritionally significant. Therefore to provide for the restoration of lost vitamins and to permit label references thereto would, in his opinion, mislead the consumer into believing that the vitamin content of the food had been altered in a nutritionally significant manner. In view of the foregoing the Commissioner proposes that the standard of identity not provide for the optional addition of vitamins.

2. *Addition of Sauces.* 21 CFR 50.1(d)(4)(iv) proposes formulated sauces (including concentrates) as optional ingredients, namely butter sauce, onion sauce, cream sauce, and mushroom sauce, are a liquid or a sauce dressing that may contain finely divided particles of onions or mushrooms added as such or as a concentrate to the peas. The proposed identity standard does not specify the amounts of sauces that may be used or the minimum amounts of butter, onion, cream, or mushroom used in the sauce. The Commissioner, therefore, concludes that in the absence of such limitations, that frozen peas with sauces are nonstandardized foods and may be continued to be marketed as nonstandardized foods. Furthermore, since in the Commissioner's opinion the proposed optional ingredients provided for in 21 CFR 50.1(d)(4)(iii), namely edible organic acids, antioxidants, and stabilizers, appear to be suitable only as ingredients in sauces, he proposes not to provide for such ingredients.

3. *Garnishes.* The garnishes, provided for in 21 CFR 50.1(d)(5) as optional ingredients, are distinct units or particles of other vegetables, nuts, or mixtures of these, such as onions, mushrooms, red or green peppers, and almonds and are added to the peas in an amount sufficient to impart a flavor or other attribute (including color contrast) characteristic of the garnish ingredient(s), but not more than 20 percent by weight of the finished food. In the Commissioner's opinion frozen peas containing more garnish than 20 percent by weight of the finished food, would constitute a mixture of two foods and therefore would not be subject to the proposed identity standard.

4. *Size designations.* The terms "petite" or "tiny" are proposed for use in conjunction with the name of the product for frozen peas which pass through a sieve size opening of 22/64 inch (8.75 mm.) for the optional ingredient provided for in 21 CFR 50.1(b)(1) and 21/64 inch (8.2 mm.) proposed for the optional ingredient provided for in 21 CFR 50.1(b)(2). The Commissioner, however, recognizes that the current practice is to use the terms "petite" or "tiny" to describe canned peas that pass through a sieve with circular openings of 18/64 inch (7.14 mm.). It is the Commissioner's opinion that if a consumer purchases a can of tiny sweet peas, a can of tiny Alaska peas, and a package of tiny frozen peas, either sweet or Alaska, they should all be within the same size range and not be different because they have been processed differently. Therefore, he proposes, for the purpose of uniformity that the terms "petite" or "tiny" be used to describe the size of frozen peas (sweet or Alaska) that pass through a sieve with circular openings of 18/64 inch (7.14 mm.) as is presently the practice for canned peas.

5. *Labeling of optional ingredients.* 21 CFR 50.1(f)(4) provides for label declaration of the optional ingredients used in the food. The Commissioner, in order to provide for the labeling of standardized foods in line with the requirements for nonstandardized foods, proposes that the common name of each of the ingredients used shall be declared on the label as required by the applicable sections of Part 1 of Chapter 21 and shall appear in letters not less than one-half the size of that required by 21 CFR 1.8b for the declaration of net quantity of contents but in no case less than one-sixteenth of an inch in height.

6. *Pieces of peas and loose skins.* 21 CFR 50.2 provides for a maximum of 2.5 ounces (71 g.) of pieces of peas and loose skins per 17.64 ounces (500 g.) of frozen peas (14.2 percent). The Commissioner recognizes that the Codex standard for frozen peas provides for a maximum of 12 percent by weight and that the standard of quality for canned peas (21 CFR 51.2) permits a maximum of 10 percent of the drained weight for this quality factor and is of the opinion that the latter is reasonable for frozen peas. Accordingly, the Commissioner proposes for consideration a maximum of 10 percent by weight of pieces of peas and loose skins in frozen peas.

7. *Spices, seasonings and flavorings.* 21 CFR 50.2(f)(4) requires that where spices as well as safe and suitable seasonings and natural and artificial flavorings alone or in carriers are used in frozen peas, they be listed on the label by common or usual name. The Commissioner cannot require such declaration of spices and flavorings by common or usual name and therefore proposes that this be made optional.

Establishment of standards of identity and quality for frozen peas will be based upon consideration of the Codex standard, AFFI proposal, comments and supporting data received, and other available information.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055–1056, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner

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of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 90 days after its date of publication in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–16645 Filed 10–4–72;8:45 am]

[21 CFR Part 51]

CANNED SWEET CORN

Standards of Identity, Quality, and Fill of Container

The Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Canned Sweet Corn." The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: Full acceptance; target acceptance; and acceptance with minor deviations. A participating country which concludes that it cannot accept the standard in any of these ways is requested to indicate the reasons for the ways in which its requirements differ from the Codex standard. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision. For many years the United States has had definitions and standards of identity (21 CFR 51.20), quality (21 CFR 51.21), and fill of container (21 CFR 51.22) for canned sweet corn, as promulgated by the Commissioner of Food and Drugs, which differ in several respects from the recommended international standard. The basis of this proposal to amend the FDA canned sweet corn standards is the fact that, in the opinion of the Commissioner of Food and Drugs, it will benefit consumers and facilitate international trade to adopt as far as practicable the recommended worldwide standard for canned sweet corn hereinafter referred to as the Codex standard.

The Codex standard references the Codex "Sampling Plans for Prepackaged Foods, 1969," that were developed by the Codex Committee on Processed Fruits and Vegetables and are being considered by the Codex Committee on Sampling and Analysis. There are no sampling plans in any of the FDA food standards. The Codex sampling plans, although they are included in the Codex standard, have not reached the final step of development and therefore may be subject to further modification. The Commissioner, however, believes that this is an opportune time to elicit comments on sampling plans. The Commissioner proposes to limit the sampling plans to Codex Inspection Level II which is appropriate where disputes, enforcement or need for better lot estimate is necessary. Definitions for "Lot" and "Sample unit" have been expanded to make them more applicable to a wider range of size of primary containers. In addition, the definition of "Defective" has been reworded to apply directly to the proposed sampling plans for canned corn. The Commissioner would consider a lot acceptable for quality and fill of container factors (except minimum drained weight of whole-kernel corn) when the number of "Defectives" does not exceed the stated "Acceptance number." Concerning minimum drained weight of whole kernel corn, the Commissioner proposes that it be based on the average drained weight of the sample drawn according to the proposed sampling plans. The Commissioner recognizes that basing the minimum drained weight for whole kernel corn on sample average will allow for considerable variability in the amount of corn among the individual cans within a given lot. However, there is no evidence of slack filling and in the absence of actual data on industry fill practices for individual containers within a lot the proposed approach is deemed to be the most practical. The units of measurements in the FDA standard of quality are stated in ounces, inches, or in some instances the metric system, whereas the Codex standard uses only the metric system. The Commissioner recognizes that the international (metric) system is used throughout the world and in the United States for technical analysis and may eventually be adopted by this country as common usage for measurements. The Commissioner, therefore, proposes that the metric system be used in the FDA standards of quality and fill of container with the equivalent units of the U.S. Customary System shown parenthetically.

The Codex standard also includes hygiene requirements and certain basic labeling requirements that are not considered a part of food standards under sec. 401 of the Federal Food, Drug, and Cosmetic Act which is the legal basis for the promulgation of food standards. Hygiene and the other factors are, however, a concern of FDA under other sections of the Federal Food, Drug, and Cosmetic Act and, therefore, are not discussed further in this proposal.

Amendment of the FDA standards of identity, quality, and fill of container for canned sweet corn will be based upon consideration of the following Codex standard, comments and supporting data received, and other available information.

RECOMMENDED INTERNATIONAL STANDARD FOR CANNED SWEET CORN

1. SCOPE

For the purposes of this standard, canned sweet corn does not include corn-on-the-cob.

2. DESCRIPTION

2.1 *Product Definition—Canned sweet corn* is the product (a) prepared from clean, sound kernels of sweet corn, conforming to the characteristics of *Zea mays L.*, (b) packed with a suitable liquid packing medium, which may be the creamy component from corn kernels, or with suitable nutritive sweeteners, seasoning ingredients, and other ingredients appropriate to the product, and (c) processed by heat, in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

2.2 *Colour Type.*

2.2.1 Golden or yellow.

2.2.2 White.

2.3 *Styles.*

2.3.1 Whole Kernel or Whole Grain or Cut Kernel—Whole or substantially whole cut kernels packed with a liquid medium.

2.3.2 Cream Style—Whole or partially whole cut kernels packed in a creamy component from the corn kernels and other liquid or other ingredients to form a product of creamy consistency.

2.4 *Types of Whole Kernel Pack*—Whole Kernel or Whole Grain or Cut Kernel style shall be designated as:

2.4.1 "Brine" or "Liquid Pack" when a salt (NaCl) brine liquid medium is used and except for normal headspace completes the fill of the container; or

2.4.2 "Vacuum pack" or "Vacuum packed" if the liquid packing medium does not exceed 20 percent of the total net weight of product and the container is closed under conditions creating a high vacuum in the container.

3. ESSENTIAL COMPOSITION AND QUALITY FACTORS

3.1 *Other Ingredients.*

3.1.1 Butter: If added it must amount to not less than 3 percent mm. of the final product;

3.1.2 Salt;

3.1.3 Sucrose, invert sugar;

3.1.4 Pieces of green or red peppers or mixture of both, or other vegetables, not exceeding in total 15 percent mm. of the product;

3.1.5 Starches—Natural (native), physically or enzymatically modified—in cream-style corn in a quantity not more than sufficient to insure a smooth consistency;

3.1.6 Starches—Natural (native), physically or enzymatically modified—in whole kernel style, only when used with butter.

3.2 *Quality Criteria.*

3.2.1 Colour—The colour of the product shall be normal for the colour type. The product shall also be reasonably free from "off-variety" kernels. Canned sweet corn containing other permitted ingredients shall be considered to be of characteristic colour when there is no abnormal discolouration for the respective ingredients used.

3.2.2 Flavour—Canned sweet corn shall have a normal flavour and odour free from flavours or odours foreign to the product and canned sweet corn with special ingredients shall have a flavour characteristic of that imparted by the sweet corn and the other substances used.

3.2.3 Texture

The kernels in either cream style or whole kernel corn shall be of a reasonably tender texture offering some resistance when chewed but are not hard or tough.

3.2.4 Consistency—Cream style

The product shall possess a consistency which may be thin but not excessively thin or may be thick and heavy but not excessively dry or pasty, and from which (at the end of two minutes) there may be a moderate but not excessive separation of free liquid.

3.2.5 Defects

With respect to all styles of corn, the finished product shall be substantially free from cob material, silk, husk, discoloured or blemished kernels, extraneous plant material, or other defects not specifically mentioned. Certain common defects shall not be present in amounts greater than the following limitations:

	Whole kernel or whole grain or cut kernel corn, per 400 drained weight	Cream Style Corn per 600 g total contents
Pieces of cob	1 cubic centimetre	1 cubic centimetre.
Pieces of husk	7 square centimetres	7 square centimetres.
Blemished kernels (Brown or black discoloured kernels or pieces)	7 kernels or pieces that are damaged and seriously damaged but not more than 5 may be seriously damaged	10 kernels or pieces that are damaged and seriously damaged but not more than 5 may be seriously damaged
	Per 28 g drained weight	Per 28 g drained weight
All silk	180 mm	150 mm

3.2.6 Classification of "defectives"

A container that fails to meet one or more of the applicable quality requirements, as set out in subsections 3.2.1 through 3.2.5, shall be considered a "defective".

3.2.7 Acceptance

A lot will be considered as meeting the applicable quality requirements referred to in subsection 3.2.6 when the number of "defectives," as defined in subsection 3.2.6, does not exceed the acceptance number (c) of the appropriate Sampling Plan (AQL–6.5) in the Sampling Plans for Prepackaged Foods (1969).

4. FOOD ADDITIVES

		Maximum level of use
4.1	Monosodium glutamate	Not limited.
4.2	Citric acid	Not limited.
4.3	Vegetable gums as follows: [1]	10 g/kg of the additives specified under 4.3 to 4.5 inclusive, singly or in combination.[2]
4.3.1	Arabic gum	
4.3.2	Carrageenan	
4.3.3	Furcellaran	
4.3.4	Guar gum	
4.4	Alginates (Ca, K, Na, NH_4) [1]	
4.4.1	Propylene glycol alginate [1]	
4.5	Modified starches, as follows:	
4.5.1	Acid-treated starches	
4.5.2	Alkali-treated starches	
4.5.3	Bleached starches	
4.5.4	Distarch phosphate (sodium trimetaphosphate treated)	
4.5.5	Distarch phosphate, phosphated	
4.5.6	Monostarch phosphate	
4.5.7	Starch acetate [1]	
4.5.8	Starch, hydroxypropyl [1]	
4.5.9	Distarch adipate, acetylated [1]	
4.5.10	Distarch glycerol, hydroxypropyl [1]	
4.5.11	Oxidized starches [1]	

[1] Temporarily endorsed.

[2] May be used only in whole kernel style and only when butter is an ingredient.

5. HYGIENE

5.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2–1969).

5.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

5.3 The product shall not contain any pathogenic microorganisms or any toxic substance originating from microorganisms.

5.4 The product shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum.*

6. WEIGHTS AND MEASURES

6.1 *Fill of Container*

6.1.1 Minimum Fill

The container shall be well filled with corn, and, except for "vacuum pack" corn, the product (including packing medium) shall occupy not less than 90 percent of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

6.1.2 Classification of "defectives"

A container that fails to meet the requirement for minimum fill (90 percent container capacity) of subsection 6.1.1 shall be considered a "defective".

6.1.3 Acceptance

A lot will be considered as meeting the requirement of subsection 6.1.1 when the number of "defectives", as defined in subsection 6.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL–6.5) in the Sample Plans for Prepackaged Foods (1969).

6.1.4 Minimum Drained Weight

6.1.4.1 The drained weight of Whole Kernel corn shall be not less than 61 percent of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

6.1.4.2 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

7. LABELING

In addition to Sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

7.1 *The Name of the Food*

7.1.1 The name of the product shall include:

(a) the designation: "corn", "sweet corn" or "sugar corn", as appropriate;

(b) a declaration of any seasoning which characterizes the product, e.g. "with X", when appropriate;

(c) if the colour type is white, the colour "white".

7.1.2 The following shall be so stated on the label as to be easily discernible to the consumer:

(a) the type: "whole kernel", "whole grain", "cut kernel" or "cream style", as appropriate;

(b) where the type is whole kernel, the style of pack: "in brine", "liquid pack", "vacuum pack" or "vacuum packed", as appropriate.

7.2 *List of Ingredients*

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with subsections 3.2(b), (c) and (d) of the General Standard for the Labeling of Prepackaged Foods.

7.3 *Net Contents*

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold.

7.4 *Name and Address*—The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

7.5 *Country of Origin*—

7.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

7.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

8. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

8.1 *Method of Sampling*—Sampling shall be in accordance with the Sampling Plans for Prepackaged Foods (1969).

8.2 *Determination of Drained Weight*—According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentari-

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us Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36-1970, *Determination of Drained Weight*—Method I). Results are expressed as percent m/m. calculated on the basis of the mass of distilled water at 20° C. which the sealed container will hold when completely filled.

In many respects the provisions of the present FDA standards and the Codex Standard are identical, but in certain instances there are significant variations. The following is a comparison of what, in the opinion of the Commissioner, are the primary differences between the FDA standards and the Codex Standard on which the Commissioner particularly requests comments with available supporting data. Following each item of comparison is the action the Commissioner proposes to take in the event no comments are received.

COMPARISON OF IDENTITY ASPECTS AND PROPOSED COURSE OF ACTIONS

Items of comparison	Food and Drug Administration standard	Codex standard
1. Removal of the tip caps in preparation of canned sweet corn.	Covered under product definition. (21 CFR 51.20(a))	Not specifically provided for.

No change. The requirement for removal of tip caps in the FDA standard be accepted as being covered by Codex since the requirement for "texture" in Codex (3.2.3) requires that the kernels be of reasonably tender texture offering some resistance when chewed but not hard or tough (tip caps are sometimes hard) and there is a limit on the amount of cob in the finished food which is related to removal of tip caps.

Items of comparison	Food and Drug Administration standard	Codex standard
2. The product be prepared from clean, sound kernels of sweet corn conforming to the characteristics of *Zea mays* L.	Not provided for	Provided for. (2.1(a))

No change. Adulteration is covered under section 402 of the Federal Food, Drug, and Cosmetic Act and not under section 401 of the act which is the basis for the promulgation of food standards. Furthermore, *Zea mays* L. is the scientific name for the food; the common or usual name in the United States is corn, sweet corn or sugar corn.

Items of comparison	Food and Drug Administration standard	Codex standard
3. Canned corn shall consist of succulent sweet corn.	Provided for. (21 CFR 51.20(b))	Reference to succulent sweet corn not specifically provided for.

No change. The Codex requirement (3.2.3) that the kernels be of reasonably tender texture offering some resistance when chewed but not be hard or tough provides by inference that the food consist of succulent sweet corn.

Items of comparison	Food and Drug Administration standard	Codex standard
4. Color type	White or yellow (golden) or mixture of the two. (21 CFR 51.20(b))	Golden or yellow (2.2.1) or white (2.2.2).

No change. The FDA requirement provides the consumer with mixtures of yellow (golden) and white corn that are not provided for under Codex. We have no basis to make a change in the FDA requirement. In this respect the FDA and the Codex would differ.

Items of comparison	Food and Drug Administration standard	Codex standard
5. Style of pack (definitions): (a) Fritter	Pieces of the inner portion of the corn kernel substantially free from hull. (21 CFR 51.20(b)(2))	Not provided for.

No change. Fritter style of pack be retained in the FDA standard in the absence of any support for deletion.

Items of comparison	Food and Drug Administration standard	Codex standard
(b) Ground	Ground kernels from which the hulls have not been separated. (21 CFR 51.20(b)(3))	Not provided for.

No change. The ground style of pack be retained in the FDA standard in the absence of any support for deletion.

Items of comparison	Food and Drug Administration standard	Codex standard
(c) Cream style	A mixture of whole kernel with fritter and/or ground corn. When necessary to insure smoothness, starch may be added, in a quantity not more than sufficient for that purpose. (21 CFR 51.20(b)(1))	Whole or partially whole cut kernels packed in a creamy component from the corn kernels and other liquid or other ingredients to form a product of creamy consistency. (2.3.2)

No change. Codex meets the FDA requirement by the reference to "packed in a creamy component from the corn kernels and other liquid or other ingredients" and permits the use of fritter and/or ground corn.

Items of comparison	Food and Drug Administration standard	Codex standard
(d) Evaporated	Cut and cooked kernels from which most of the moisture has been evaporated. (21 CFR 51.20(b)(5))	Not provided for.

No change. The evaporated style of pack be retained in the FDA standard in the absence of support for deletion.

Items of comparison	Food and Drug Administration standard	Codex standard
6. Optional ingredients: (a) Starches in whole kernel style when butter is added.	As safe and suitable emulsifiers or stabilizers, or both, in a quantity not more than reasonably necessary to accomplish the intended effect. Such emulsifiers and stabilizers are deemed to be safe if they are not food additives as defined in sec. 201(s) of the Federal Food, Drug, and Cosmetic Act, or if they are food additives as so defined, they are used in conformity with regulations established pursuant to sec. 409 of the Act.[2] (21 CFR 51.20(d)(7))	Natural (native) physically or enzymatically modified. The chemically modified starches that may be used are specifically stated as follows: Acid-treated starches (4.5.1) Alkali-treated starches (4.5.2) Bleached starches (4.5.3) Distarch phosphate (sodium trimetaphosphate treated) (4.5.4) Distarch phosphate, phosphated (4.5.5) Monostarch phosphate (4.5.6) Starch acetate (4.5.7) Starch, hydroxypropyl (4.5.8) Distarch adipate, acetylated (4.5.9) Distarch glycerol, hydroxypropyl (4.5.10) Oxidized starches (4.5.11) 10 g./kg. of the starches and vegetable gums inclusive, singly or in combination.

No change. The specific starches and the maximum level in Codex are permitted under 21 CFR 121.1031.

Items of comparison	Food and Drug Administration standard	Codex standard
(b) Starches in cream style	Starch only.[2] (21 CFR 51.20(a)(4))	Natural (native), physically or enzymatically modified. (3.1.5)

Physically or enzymatically modified starch be provided for as an alternative to natural (native) starch.

Items of comparison	Food and Drug Administration standard	Codex standard
(c) Citric acid	Not provided for	Specifically provided for as a food additive. (4.2)

Citric acid be provided for as an optional ingredient. The addition of citric acid to corn prior to cooking permits an adequate process to be more easily attained.

Items of comparison	Food and Drug Administration standard	Codex standard
(d) Invert sugar	Not provided for	Provided for. (3.1.3)

Invert sugar sirup be provided for as an additional optional sweetening agent. Invert sugar is not commercially available in this country. Invert sugar sirup is presently permitted in the standards for soda water (carbonated beverages) and many canned fruit products.

See footnotes on p. 21117.

Items of comparison	Food and Drug Administration standard	Codex standard
(e) Vegetables	Green peppers or red peppers either of which may be sweet or hot and may be dried, mint leaves, onions and garlic either of which may be dried, and horseradish.[1] (21 CFR 51.20(d)(1) through (5))	Pieces of green or red peppers or mixtures of both, or other vegetables not exceeding in total 15 percent mass/mass of the product. (3.1.4)

The optional addition of any vegetable(s), including pieces of green or red peppers or mixtures of both, either of which may be sweet or hot and may be dried, be provided for with a maximum limit not to exceed 15 percent by weight of the finished food. Permitting the use of any vegetable provides a greater variety of products to the consumer.

Items of comparison	Food and Drug Administration standard	Codex standard
(f) Other optional ingredients	Disodium inosinate and disodium guanylate when complying with 21 CFR 121.1090 and 121.1109 respectively of the Food Additive Regulations, hydrolyzed vegetable protein, and autolyzed yeast extract.[3] (21 CFR 51.20(c) (3) through (6)) Lemon juice or lemon juice concentrate.[1] (21 CFR 51-20(d)(6)) Spice and flavoring (not artificial) providing neither simulate the color or flavor imparted by butter.[2] (21 CFR 51.20(c)(8) and (9))	Not provided for.

No change. The additional optional ingredients provided for by the FDA permit a wider choice of ingredients and the FDA has no basis to make any deletions.

Items of comparison	Food and Drug Administration standard	Codex standard
7. Labeling: (a) Color group	The name of the color group used, "white," "yellow" or "golden," or with the names of the color groups used, "white and yellow" or "white and golden," when the white color group predominates, and "yellow and white" or "golden and white," when the yellow color group predominates.[1] (21 CFR 51.20(e)(1)) When the varietal name immediately precedes or follows the name or intervenes between parts of the name of the food and it accurately designates the color of the corn ingredient, no other designation of the color group need be made.[1] (21 CFR 51.20(e)(2))	The name of the product shall include the color type "white" for "white corn." (No provision is made for labeling of "yellow" ("golden") corn or mixtures of "white" and "yellow.") (7.1.1(c))

No change. FDA has no basis to recommend deletion of required label declaration for "yellow" corn or mixture of "yellow" and "white" corn.

Items of comparison	Food and Drug Administration standard	Codex standard
(b) Styles (types): "Whole kernel," "whole grain" or "cut kernel."	Provided for with the exception of "cut kernel." (21 CFR 51.20(c)(1)(i))	To be stated on the label as to be easily discernible to the consumer. (7.1.2(a))

"Cut kernel" be provided for as an alternative name for "whole kernel," or "whole grain" since the FDA identity standard presently contains the term "cut kernel" in the definition for such food.

Items of comparison	Food and Drug Administration standard	Codex standard
(c) Styles of whole kernel pack	"Vacuum pack" or "vacuum packed."[1] (21 CFR 51.20(c)(1)(i))	"In brine," "liquid pack," "vacuum pack" or "vacuum packed" as appropriate shall be so stated on the label as to be easily discernible to the consumer. (7.1.2(b))

The FDA standard be amended to require the term "in brine" or as an alternative "liquid pack" to be so stated on the label to provide additional information to the consumer when the product contains more than 20 percent liquid.

Items of comparison	Food and Drug Administration standard	Codex standard
(d) Seasonings and/or garnishings.	If one or more of the optional seasoning ingredients listed in 21 CFR 51.20(d) are used, the word "seasoned" may immediately precede the name of the optional corn ingredient.[2] (21 CFR 51.20(c)(2)) If one or more of the optional seasoning or garnishing ingredients listed in 21 CFR 51.20(d) are used, the label shall bear the statement "Seasoned with ....," the blank being filled in with the name "green peppers," "dried green peppers," "red peppers," "dried red peppers," specifying in each instance whether such peppers are sweet or hot, "mint leaves," "onions," "dried onions," "garlic," "dried garlic," "horseradish," "lemon juice," "concentrated lemon juice," "butter," or a combination of these names as appropriate, except that the presence of the specified optional seasoning or garnishing ingredient green peppers or red peppers may be shown without the word "seasoned." The word "dehydrated" may be used in lieu of the word "dried."[1] (21 CFR 51.20(e)(5))	The name of the product shall include a declaration of any seasoning which characterizes the product; e.g., "with x," when appropriate. (7.1.1(b))

The name of the product shall include a declaration of any seasoning or garnishing ingredients used in the product, including those presently provided for.

See footnotes on p. 21117.

Items of comparison	Food and Drug Administration standard	Codex standard
(e) Spice or flavoring	If spice or flavoring is added, the label shall bear the word or words "spiced" or "with added spice" or "spice added" or "with added flavoring" or "flavoring added," as appropriate. In lieu of the words "spice" or "flavoring" in such statement, the common or usual name of such spice or flavoring may be used.[2] (21 CFR 51.20(c)(3))	Spice or flavoring not provided for.

Delete. Declaration of spice or flavoring is included under item 7(i). The Federal Food, Drug, and Cosmetic Act provides that spices and flavorings may be designated as spices and flavorings rather than naming each by common name.

Items of comparison	Food and Drug Administration standard	Codex standard
(f) Emulsifiers or stabilizers	Any optional emulsifiers or stabilizers (item 6(a)) used in connection with butter shall be designated on the label by its common or usual name.[2] (21 CFR 51.20(c)(8))	Provided for.

Delete. Provided for by item 7(i).

Items of comparison	Food and Drug Administration standard	Codex standard
(g) Starch in cream style corn	When the optional starch ingredient specified for "cream style" is used, the label shall bear the statement "Starch added to insure smoothness."[2] (21 CFR 51.20(c)(6))	Requires optional starch ingredient to be included in ingredient statement (item 7(i)).

Delete since not required by Codex and starch should not be singled out as the sole ingredient to be declared by its functionality.

Items of comparison	Food and Drug Administration standard	Codex standard
(h) Certain optional ingredients listed under item 6(f).	If one or more of the optional ingredients named in item 6(f) are used, the label shall bear the statement "..... added" or "With added ....," the blank being filled in with the name(s) of the ingredient(s) used. (21 CFR 51.20(e)(4))	Label declaration is provided under item 7(i).

Delete since the complete listing of all optional ingredients is proposed under item 7(i).

Items of comparison	Food and Drug Administration standard	Codex standard
(i) A complete listing of ingredients.	Not provided for	A complete list of ingredients shall be declared on the label in descending order of proportion. (7.2)

The common name of each of the optional ingredients used be declared on the label as required by 21 CFR Part 1, and as provided for by Codex including order of proportion. In addition, the declaration of ingredients be in letters not less than one-half of that required by 21 CFR 1.8b, for the declaration of net quantity of contents, but in no case less than one-sixteenth of an inch in height. The Food and Drug Administration issued a policy statement (21 CFR 3.88) in the FEDERAL REGISTER of March 10, 1972 (37 F.R. 5120) which stated that there is significant consumer interest that the labels of standardized foods bear complete information of the ingredients contained in the food. In the absence of legal authority to require that the label bear such information, the Food and Drug Administration encouraged all manufacturers, packers, and distributors to voluntarily make such disclosure. The Food and Drug Administration further stated that it intended to amend the definitions and standards of identity of food by setting into motion as rapidly as possible the provisions of sec. 401 of the act to require label declaration of all optional ingredients with the exception of optional spices and flavorings which may continue to be designated as such without specific ingredient declaration.

Codex

Provided for under the "Recommended International General Standard for the Labeling of Prepackaged Foods."

FDA

[1] Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such words shall immediately and conspicuously precede or follow such name, without intervening written, printed or graphic matter, except that the varietal name of the corn used may so intervene. (21 CFR 51.20(f)(1))

No change. This is a specific requirement on labeling that does not appear elsewhere in this standard.

[2] Such words or statements in addition to salt and monosodium glutamate but excluding sugar shall be set forth on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase.

Requires a complete listing of ingredients on the label in descending order of proportion.

If two or more such optional ingredients are present, such statements as are required may be combined; for example, "With added salt, spice, flavoring, and monosodium glutamate." (21 CFR 51.20(f)(2))

Delete this paragraph (footnote 2) as item 7(i) provides requirement regarding the listing of each optional ingredient.

COMPARISON OF THE QUALITY ASPECTS AND PROPOSED COURSE OF ACTIONS

Items of comparison	Food and Drug Administration standard	Codex standard
1. Color criteria	Not provided for	The color of product shall be normal for the color type. The product shall be reasonably free from "off-variety" kernels. Canned sweet corn containing other permitted ingredients shall be considered to be of characteristic color when there is no abnormal discoloration for respective ingredients used. (3.2.1)

No change. The Codex language is not specific enough to be useful in enforcing a legal requirement and therefore inclusion in the FDA quality standard is not proposed.

Items of comparison	Food and Drug Administration standard	Codex standard
2. Flavor criteria	Not provided for	Canned sweet corn shall have a normal flavor and odor free from flavors or odors foreign to the product and canned sweet corn with special ingredients shall have a flavor characteristic of that imparted by the sweet corn and the other substances used. (3.2.2)

No change. Abnormal odor or flavor would make the food adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act.

Items of comparison	Food and Drug Administration standard	Codex standard
3. General overall statement on defects.	Not provided for	The finished product shall be substantially free from cob material, silk, husk, discolored or blemished kernels, extraneous plant material, or other defects not specifically mentioned. (3.2.5)

No change. The Codex language is not specific enough to be useful in enforcing a legal requirement and therefore inclusion in the FDA quality standard is not proposed.

Items of comparison	Food and Drug Administration standard	Codex standard
4. Specific requirements on defects in whole kernel corn (and evaporated corn in case of FDA).		
(a) Blemished kernels	Not more than one brown or black discolored kernel or piece of kernel for each 2 ozs. of drained weight. (21 CFR 51.21(a)(1)(i)) 1 blemished kernel per 2 ozs. or 56.7 g.	Seven kernels or pieces that are damaged (brown or black discolored kernels or pieces) and seriously damaged but not more than 5 may be seriously damaged per 400 g. of drained weight. (3.2.5) 7 blemished kernels/400 g. or 1 blemished kernel/57.1 g

FDA is essentially equivalent to the Codex requirement. In the absence of a definition for "seriously damaged" in the Codex, differentiation of "damaged" from "seriously damaged" would be impractical in the FDA requirement.

Items of comparison	Food and Drug Administration standard	Codex standard
(b) Pieces of cob	Not more than 1 cmi for each 14 oz. of drained weight. (21 CFR 51.21(a)(1)(ii)) 14 oz. = 397 g.	1 cubic centimeter per 400 grams of drained weight. (3.2.5)

FDA is equivalent to the Codex requirement.

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Items of comparison	Food and Drug Administration standard	Codex standard
(c) Pieces of husk	Not more than 1 sq. in. of husk for each 14 oz. of drained weight. (21 CFR 51.21(a)(1)(iii)) 6.45 cm² = 1 sq. in. 14 oz. = 397 g.	7 square centimeters per 400 grams of drained weight. (3.2.5)

FDA is essentially equivalent to the Codex requirement.

Items of comparison	Food and Drug Administration standard	Codex standard
(d) Silk	Not more than 7 in. of silk for each 1 oz. of drained weight. (21 CFR 51.21(a)-(1)(iv)) 7 in. = 178 mm.	180 mm. per 28 g. of drained weight. (3.2.5)

FDA is essentially equivalent to the Codex requirement.

Items of comparison	Food and Drug Administration standard	Codex standard
5. Specific requirements on defects in cream style (also fritter and ground styles in case of FDA).		
(a) Blemished kernels	Not more than 1 brown or black discolored kernel or piece of kernel for each 2 oz. of net weight. (21 CFR 51.21(a)(2)(i)) 1 blemished kernel/56.7 g.	10 kernels or pieces that are damaged and seriously damaged but not more than 5 may be seriously damaged per 600 g. (total content). (3.2.5). 1 blemished kernel/60.0 g.

The allowance for blemished kernels in the FDA requirement is essentially equivalent to the Codex requirement. In the absence of a definition for seriously damaged in the Codex, differentiation of damaged from seriously damaged would be impractical in the FDA requirement.

Items of comparison	Food and Drug Administration standard	Codex standard
(b) Pieces of cob	Not more than 1 cm³ for each 20 oz. of net weight. (21 CFR 51.21(a)(2)(ii)) 20 oz. = 567 g.	1 cm³ per 600 g. (total contents). (3.2.5)

FDA is essentially equivalent to the Codex requirement. FDA does require a sample size of about 6 percent smaller than Codex, however, the difference that would result in analysis using the larger sample in the Codex is within the experimental variance of the method.

Items of comparison	Food and Drug Administration standard	Codex standard
(c) Pieces of husk	Not more than 1 sq. in. of husk for each 20 oz. of net weight. (21 CFR 51.21(a)(2)(ii)) 20 oz. = 567 g.	7 square centimeters per 600 grams (total contents). (3.2.5) 1 sq. in. = 6.45 cm.²

The FDA requirement is essentially equivalent to the Codex.

Items of comparison	Food and Drug Administration standard	Codex standard
(d) Silk	Not more than 6 in. of silk for each 1 oz. of net weight. (21 CFR 51.21(a)(2)(iv)) 6 in. = 152.4 mm.	150 mm. of silk per 28 g. of drained weight. (3.2.5)

FDA has no basis for proposing a change from net weight to drained weight.

Items of comparison	Food and Drug Administration standard	Codex standard
6. Quality tenderness and texture:		
(a) Whole kernel	The weight of the alcohol-insoluble solids of whole kernel corn (21 CFR 51.20 (b)(1)) does not exceed 27 percent of the drained weight, when tested by the method prescribed under item 10(a). (21 CFR 51.21(a)(3)(i))	The kernels (in either cream style or whole kernel corn) shall be of a reasonable tender texture offering some resistance when chewed but are not hard or tough. (3.2.3)
(b) Cream style	The weight of the alcohol-insoluble solids of the washed drained material of cream style corn (21 CFR 51.20(b)(4)) does not exceed 27 percent of the weight of such material, when tested by the method prescribed under item 10(b). (21 CFR 51.21(a)(3)(ii))	See above.

No change. No support exists for the deletion of the AIS requirement from the FDA standard which provides a more objective measurement than does the Codex requirement.

Items of comparison	Food and Drug Administration standard	Codex standard
7. Consistency in cream style	The average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 12 in., 21 CFR 51.21(a)(2)(v). The washed drained material of which contains more than 20 percent of alcohol-insoluble solids, the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 10 in. (21 CFR 51.21(a)(2)(v))	The product shall possess a consistency which may be thin but not excessively thin or may be thick and heavy but not excessively dry or pasty, and from which (at the end of 2 minutes) there may be a moderate but not excessive separation of free liquid.

No change. FDA has no basis to delete the test for consistency from the standard as it provides a specific test not available in the Codex.

Items of comparison	Food and Drug Administration standard	Codex standard
8. Sampling and acceptance procedure for quality factors.	Not provided for	A container that fails to meet one or more of the applicable quality requirements, as set out in subsections 3.2.1 through 3.2.5, shall be considered a "defective." (3.2.6) A lot will be considered as meeting the applicable quality requirements referred to in subsection 3.2.6 when the number of "defectives," as defined in subsection 3.2.6 does not exceed the acceptance number (c) of the appropriate Codex Sampling Plan (AQL-6.5) in the Sampling Plans for Prepackaged Foods (1969). (3.2.7)

The sampling and acceptance procedure for quality factors shall be based on the Codex Sampling Plans.

Items of comparison	Food and Drug Administration standard	Codex standard
9. Methods for determining quality:		
(a) Whole kernel corn	Contains specific methods for determining the quality of whole kernel corn as well as evaporated corn including the use of woven-wire cloth sieve complying with specifications set forth under "2380 Micron (No. 8)" in Table 1 of "Standard Specifications for Sieves," published Mar. 1, 1940, in L.C. 684 of the U.S. Department of Commerce, National Bureau of Standards (21 CFR 51.21(b))	Not provided for.

FDA has no basis to delete methods from the standard. The references to specifications for cloth sieve be amended in accordance with the "Definitions of Terms and Explanatory Notes," page xviii, of the "Official Methods of Analysis of the Association of Analytical Chemists," 11th edition, 1970. Also the angle of the sieve to facilitate drainage be stated as approximately 17–20°.

Items of comparison	Food and Drug Administration standard	Codex standard
Cream style corn	Contains specific methods for determining quality of cream style corn that applies also to fritter corn and ground corn. (21 CFR 51.21(c)(1))	Not provided for.

No change. FDA has no basis to delete methods from the standard.

Items of comparison	Food and Drug Administration standard	Codex standard
10. Substandard in quality labeling provision.	Provides for substandard in quality labeling of canned corn where the product does not meet the quality standards for discolored kernels, cob, husk, silk or liquid. (21 CFR 51.21(d))	Not provided for.

No change. FDA has no basis to delete the substandard legend in quality provision. The Codex standard is silent on what disposition is to be made of canned corn that does not meet the requirements of the standard. This is left entirely to the individual country accepting the standard.

COMPARISON OF FILL OF CONTAINER ASPECTS AND PROPOSED COURSE OF ACTIONS

Items of comparison	Food and Drug Administration standard	Codex standard
1. Minimum fill	A fill of not less than 90 percent of the total capacity of the container, as determined by the general method for fill of containers prescribed in § 10.6(b) of this chapter. (Does not cover whole kernel corn.) (21 CFR 51.22(a))	The container shall be well-filled with corn, and, except for "vacuum pack" corn, the product (including the packing medium) shall occupy not less than 90 percent of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20° C which the sealed container will hold when completely filled. (6.1.1)

Minimum fill requirement shall include whole kernel corn except that which is vacuum pack. Data are not presently available for determining minimum fill requirement for vacuum pack whole kernel corn.

Items of comparison	Food and Drug Administration standard	Codex standard
2. Sampling and acceptance procedures.	Not provided for	A container that fails to meet the requirement for minimum fill (90 percent container capacity) of subsection 6.1.1 shall be considered a "defective." (6.1.2) A lot will be considered as meeting the requirement of subsection 6.1.1 when the number of "defectives," as defined in subsection 6.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan (AQL-6.5) in the Sampling Plans for Prepackaged Foods (1969). (6.1.3)

The sampling and acceptance procedure for minimum fill shall be based on the Codex Sampling Plans.

Items of comparison	Food and Drug Administration standard	Codex standard
3. Minimum drained weight for whole kernel corn.	Not provided for	The drained weight shall not be less than 61 percent of the weight of distilled water at 20° C which the sealed container will hold when completely filled. (6.1.4.1) The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided there is no unreasonable shortage in individual cans. (6.1.4.2)

The following are the minimum drained weights in ounces and the percent fill calculated on the basis of the water capacity of the container in the United States voluntary grade standards issued by USDA for whole kernel corn except vacuum pack.

Container size or designation	Grade A		Grades B, C, and substandard for tenderness or maturity	
	Ounces	Percent	Ounces	Percent
8 oz., tall	5.25	60.7	5.50	63.6
No. 1 (picnic)	6.75	61.9	7.00	64.2
No. 300	9.25	60.9	9.50	62.5
No. 303	10.50	62.3	10.75	63.9
No. 2	12.75	62.2	13.25	64.6
No. 10	70.00	64.0	72.00	65.8

The drained weight of the corn ingredient, as determined by sections 32.001 and 32.002 Canned Products—Drained Weight—Procedure, in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970, page 559, for whole kernel (whole grain or cut kernel) corn (including vacuum pack) shall be not less than the following based on the average of all containers analyzed:

(a) Sixty-two percent of the water capacity of the container, if such water capacity is 245 g. (8.65 oz. avdp.) or less (8 ounce tall or smaller containers).

(b) Sixty-three percent of the water capacity of the container, if such water capacity is more than 245 g. (8.65 oz. avdp.) but less than 3.103 kg. (109.45 oz. avdp.), (No. 1 (picnic)), (No. 300, and No. 2 containers).

(c) Sixty-five percent of the water capacity of the container, if such water capacity is 3.103 kg. (109.45 oz. avdp.) (No. 10 container).

Items of comparison	Food and Drug Administration standard	Codex standard
4. Labeling of substandard fill....	If canned fritter corn, canned ground corn, or canned cream-style corn falls below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified. (21 CFR 51.22(b))	No such provision in Codex.

FDA requirement shall include whole kernel corn except that which is vacuum pack.

Accordingly, the Commissioner proposes on his own initiative (21 CFR 2.120) that the existing canned sweet corn standards of identity (21 CFR 51.20), quality (21 CFR 51.21), and fill of container (21 CFR 51.22) be amended as set forth below to provide for certain features, based on the Codex standard that would, in his opinion, promote honesty and fair dealing in the interest of consumers.

§ 51.20 Canned corn, canned sweet corn, canned sugar corn; identity; label statement of optional ingredients.

(a) Canned corn, canned sweet corn, canned sugar corn is the food consisting of one of the corn ingredients specified in paragraph (b) of this section, with water necessary for proper preparation and processing. In preparing each such corn ingredient, the tip caps are removed. The food may contain one or more of the optional ingredients specified in paragraph (c) of this section, and it may be seasoned or garnished with one or more of the optional seasonings or garnishes specified in paragraph (d) of this section. The food is sealed in a container and so processed by heat as to prevent spoilage.

(b) The corn ingredients referred to in paragraph (a) of this section consist of succulent sweet corn of the white or yellow color groups, or mixtures of these, and are as follows:

(1) Cut kernels from which the hulls have not been separated.

(2) Pieces of the inner portion of the corn kernel substantially free from hull.

(3) Ground kernels from which the hulls have not been separated.

(4) A mixture of the form described in subparagraph (1) of this paragraph with one or both of the forms described in subparagraphs (2) and (3) of this paragraph. When necessary to insure smoothness, native starch, which may be physically or enzymatically modified, may be added, in a quantity not more than sufficient for that purpose.

(5) Cut and cooked kernels from which most of the moisture has been evaporated.

(c) The following optional ingredients may be used:

(1) Salt.

(2) Monosodium gultamate.

(3) Disodium inosinate complying with the provisions of § 121.1090 of this chapter.

(4) Disodium guanylate complying with the provisions of § 121.1109 of this chapter.

(5) Hydrolyzed vegetable protein.

(6) Autolyzed yeast extract.

(7) Sugar, invert sugar sirup.

(8) Spice.

(9) Flavoring (except artificial).

(10) Citric acid.

(d) The following optional seasonings or garnishings may be used:

(1) Pieces of green peppers or red peppers, or mixtures of both, either of which may be sweet or hot and may be dried, or other vegetables, not exceeding 15 percent by weight of the finished food.

(2) Lemon juice or concentrated lemon juice.

(3) Butter, in a quantity not less than 3 percent by weight of the finished food. When butter is added, safe and suitable emulsifiers or stabilizers, or both, may be added in a quantity not more than reasonably necessary to accomplish the intended effect. Such emulsifiers and stabilizers are deemed to be safe if they are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. When butter is added, no spice or flavoring simulating the color or flavor imparted by butter is used.

(e) (1) The name of the food is "corn" or "sweet corn" or "sugar corn" with the name of the color group used, "white," "yellow," or "golden," or with the names of the color groups used, "white and yellow" or "white and golden," when the white color group predominates, and "yellow and white" or "golden and white," when the yellow color group predominates, and with:

(i) The words "whole kernel," "whole grain" or "cut kernels," when the corn ingredient specified in paragraph (b)(1) of this section is used. When the weight of the liquid in the container, as determined by the method prescribed in § 51.21(b)(1), is not more than 20 percent of the net weight, and the container is closed under conditions creating a high vacuum in the container, the words "vacuum pack" or "vacuum packed" are also part of the name. When the weight of the liquid in the container exceeds 20 percent, the words "in brine" or "liquid pack" are to be part of the name.

(ii) The word "fritter," when the corn ingredient specified in paragraph (b)(2) of this section is used.

(iii) The word "ground," when the corn ingredient specified in paragraph (b)(3) of this section is used.

(iv) The words "cream style," when the corn ingredient specified in paragraph (b)(4) of this section is used.

(v) The word "evaporated," when the corn ingredient specified in paragraph (b)(5) of this section is used.

(2) The parts of the name as specified in subparagraph (1) of this paragraph may be arranged in any order of precedence. The varietal name of the corn used may intervene between parts of the name of the food. For the purpose of arrangement of the name, the words "sweet" and "corn" may be treated as separate parts of the name. When the varietal name immediately precedes or follows the name or intervenes between parts of the name of the food and it accurately designates the color of the corn ingredient, no other designation of the color group need be made. If one or more of the optional seasoning ingredients specified in paragraph (d) of this section are used, the word "seasoned" may immediately precede the name of the optional corn ingredient.

(3) If one or more of the optional seasoning or garnishing ingredients named in paragraph (d) of this section are used, the label shall bear the statement "Seasoned with _____" or "with _____," as appropriate, the blank being filled in with the name "green peppers," "dried green peppers," "red peppers," "dried red peppers," specifying in each instance whether such peppers are sweet or hot, "mint leaves," "onions," "dried onions," "garlic," "dried garlic," "horseradish," "lemon juice," "concentrated lemon juice," "butter," or a combination of these names as appropriate, except that the presence of the optional seasoning or garnishing ingredient named in paragraph (d)(1) of this section may be shown without the word "seasoned." The word "dehydrated" may be used in lieu of the word "dried."

(f) (1) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by paragraph (e) (1) and (3) of this section shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the corn used may so intervene.

(2) The common name of each of the optional ingredients used shall be declared on the label as required by the applicable sections of 21 CFR Part 1 of this chapter and shall appear in letters not less than one-half the size of that required by § 1.8b of this chapter for the declaration of net quantity of contents, but in no case less than one-sixteenth of an inch in height.

§ 51.21 Canned corn, canned sweet corn, canned sugar corn; quality; label statement of substandard quality.

(a) The standard of quality for canned corn is as follows:

(1) When tested by the method prescribed in paragraph (b) of this section, canned corn in which the corn ingredient is whole-kernel corn (§ 51.20(b)(1)) or evaporated corn (§ 51.20(b)):

(i) Contains not more than seven brown or black discolored kernels or pieces of kernel per 400 g. (14 ounces) of drained weight;

(ii) Contains not more than 1 cubic centimeter of pieces of cob for each 400 g. (14 ounces) of drained weight;

(iii) Contains not more than 7 square centimeters (1.1 square inch) of husk per 400g. (14 ounces) of drained weight; and

(iv) Contains not more than 180 mm. (7 inches) of silk per 28 g. (1 ounce) of drained weight.

(2) When tested by the method prescribed in paragraph (c) of this section, canned corn in which the corn ingredient is fritter corn (§51.20(b)(2)), ground corn (§ 51.20(b)(3)), or cream style corn (§ 51.20(b)(4)):

(i) Contains not more than 10 brown or black discolored kernels or pieces of kernel per 600 g. (21.4 ounces) of net weight;

(ii) Contains not more than 1 cubic centimeter of pieces of cob per 600 g. (21.4 ounces) of net weight;

(iii) Contains not more than 7 square centimeters (1.1 square inch) of husk per 600 g. (21.4 ounces) of net weight;

(iv) Contains not more than 150 mm. (6 inches) of silk for each 28 g. (1 ounce) of net weight; and

(v) Has a consistency such that the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 30.5 cm. (12 inches), except that, in the case of cream-style corn the washed drained material of which contains more than 20 percent of alcohol-insoluble solids, the average diameter of the approximately circular area over which the prescribed sample spreads does not exceed 25.4 cm. (10 inches).

(3) (i) The weight of the alcohol-insoluble solids of whole-kernel corn (§ 51.20(b)(1)) does not exceed 27 percent of the drained weight, when tested by the method prescribed in paragraph (b) of this section.

(ii) The weight of the alcohol-insoluble solids of the washed drained material of cream style corn (§ 51.20(b)(4)) does not exceed 27 percent of the drained weight of such material, when tested by the method prescribed in paragraph (c) of this section.

(b) The method referred to in paragraph (a) of this section for testing whole-kernel corn (§ 51.20(b)(1)) and evaporated corn (§ 15.20(b)(5)) is as follows:

(1) Determine the gross weight of the container. Open and distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve which has previously been weighed. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. The bottom of the sieve is woven-wire cloth which complies with the specifications for such sieve set forth in the "Definitions of Terms and Explanatory Notes," page xviii, of the "Official Methods of Analysis of the Association of Analytical Chemists," 11th edition, 1970. Without shifting the material on the sieve, so incline the sieve at approximately 17–20° angle to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record, in g. (ounces), the weight so found, less the weight of the sieve, as the drained weight. Dry and weigh the empty container and subtract this weight from the gross weight to obtain the net weight. Calculate the percent of drained liquid in the net weight.

(2) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. Count, but do not remove, the brown or black discolored kernels or pieces of kernel and calculate the number per 400 g. (14 ounces) of drained material. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, cob, and any pieces of material other than corn. Measure the aggregate length of such pieces of silk and calculate the length of silk per 28 g. (1 ounce) of drained weight. Spread the husk flat, measure its aggregate area, and calculate the area of husk per 400 g. (14 ounces) of drained weight. Place all pieces of cob under a measured amount of water in a cylinder which is so graduated that the volume can be measured to 0.1 cubic centimeter. Take the increase in volume as the aggregate volume of the cob and calculate the volume of cob per 400 g. (14 ounces) of drained weight.

(3) If the corn is whole kernel (§ 51.20(b)(1)), comminute a representative 100 g. sample of the drained corn from which the silk, husk, cob, and other material which is not corn (i.e., peppers) have been removed. An equal amount of water is used to facilitate this operation. Weigh to nearest 0.01 g. a portion of the comminuted material equivalent to approximately 10 g. of the drained corn into a 600 cubic centimeter beaker. Add 300 cubic centimeters of 80 percent alcohol (by volume), stir, cover beaker, and bring to a boil. Simmer slowly for 30 minutes. Fit a Buchner funnel with a previously prepared filter paper of such size that its edges extend 12.7 mm. (one-half inch) or more up the vertical sides of the funnel. The previous preparation of the filter paper consists of drying it in a flat-bottomed dish for 2 hours at 100° C., covering the dish with a tight fitting cover, cooling it in a desiccator, and promptly weighing to the nearest 0.001 g. After the filter paper is fitted to the funnel, apply suction and transfer the contents of the beaker to the funnel. Do not allow any of the material to run over the edge of the paper. Wash the material on the filter with 80 percent alcohol (by volume) until the washings are clear and colorless. Transfer the filter paper with the material retained thereon to the dish used in preparing the filter paper. Dry the material in a ventilated oven, without covering the dish, for 2 hours at 100° C. Place the cover on the dish, cool it in a desiccator, and promptly weigh to the nearest 0.001 g. From this weight subtract the weight of the dish, cover, and paper as previously found. Calculate the remainder to percentage.

(c) The method referred to in paragraph (a) of this section for testing fritter corn (§ 51.20(b)(2)), ground corn (§ 51.20(b)(3)), and cream-style corn (§ 51.20(b)(4)) is as follows:

(1) Allow the container to stand at least 24 hours at a temperature of 68° F. to 85° F. Determine the gross weight, open, transfer the contents into a pan, and mix thoroughly in such a manner as not to incorporate air bubbles. (If the net contents of a single container is less than 510 g. (18 ounces) determine the gross weight, open, and mix the contents of the least number of containers necessary to obtain 510 g. (18 ounces)). Fill level full a hollow, truncated cone so placed on a polished horizontal plate as to prevent leakage. The cone has an inside bottom diameter of 7.62 cm. (3 inches), inside top diameter of 5.08 cm. (2 inches), and height of 12.30 cm. (4 27/32 inches). As soon as the cone is filled, lift it vertically. Determine the average of the longest and shortest diameters of the approximately circular area on the plate covered by the sample 30 seconds after lifting the cone. Dry and weigh each empty container and subtract the weight so found from the gross weight to obtain the net weight.

(2) Transfer the material from the plate, cone, and pan onto an U.S. No. 8 sieve as prescribed in paragraph (b)(1) of this section. The diameter of the sieve is 20.3 cm. (8 inches) if the quantity of the contents of the container is less than 1.36 kg. (3 pounds), and 30.5 cm. (12 inches) if such quantity is 1.36 kg. (3 pounds) or more. Set the sieve in a pan. Add enough water to bring the level within 9.53 mm. (three-eighths inch) to 6.35 mm. (one-fourth inch) of the top of the sieve. Gently wash the material on the sieve by combined up-and-down and circular motion for 30 seconds. Repeat washing with a second portion of water. Remove sieve from pan, incline to facilitate drainage, and drain for 2 minutes.

(3) From the material remaining on the U.S. No. 8 sieve, count, but do not remove, the brown or black discolored kernels or pieces of kernel and calculate the number per 600 g. (21.4 ounces) of net weight. Remove pieces of silk more than 12.7 mm. (one-half inch) long, husk, cob, and other material which is not corn (i.e., peppers). Measure aggregate length of such pieces of silk and calculate the length per 28 g. (ounce) of net weight. Spread the husk flat and measure its aggregate area and calculate the area per 600 g. (21.4 ounces) of net weight. Place all pieces of cob under a measured amount of water in a cylinder which is so graduated that the volume may be measured to 0.1 cubic centimeter. Take the increase in volume as the aggregate volume of the cob and calculate the volume of cob per 600 g. (21.4 ounces) of net weight. If the corn is cream-style corn (§ 51.20(b)(4)), take a

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representative 100 g. sample of the material remaining on the U.S. No. 8 sieve (if such material weighs less than 100 g. take all of it) and determine the alcohol-insoluble solids as prescribed in paragraph (b)(3) of this section for whole kernel corn.

(d) Sampling and acceptance procedure. A lot is to be considered acceptable when the number of "defectives" does not exceed the acceptance number in the sampling plans given in subparagraph (2) of this paragraph.

(1) Definitions of terms to be used in the sampling plans in subparagraph (2) of this paragraph are as follows:

(i) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size.* The number of primary containers or units in the lot.

(iii) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(iv) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(v) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality (paragraph (a) of this section) and fill of container (§ 51.22) standards are present in excess of the stated tolerances.

(vi) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(viii) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(2) Sampling plans and acceptance procedure:

ACCEPTABLE QUALITY LEVEL 6.5

Lot size (Primary Containers)	Size of container	
	Net weight equal to or less than 1 kilogram (2.2 pounds)	
	n	*c*
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kilogram (2.2 pounds) but not more than 4.5 kilograms (10 pounds)	
	n	*c*
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kilograms (10 pounds)	
	n	*c*
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n = number of primary containers in sample.
c = acceptance number.

(e) If the quality of canned corn falls below the standard prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard quality specified in § 10.7(a) of this chapter, in the manner and form therein specified; however, if the quality of the canned corn falls below standard with respect to only one of the factors of quality specified by subdivisions (i) to (iv) of paragraph (a)(1) of this section, or by subdivision (i) to (v) of paragraph (a)(2) of this section, there may be substituted for the second line of such general statement of substandard quality, "Good Food—Not High Grade," a new line as specified after the corresponding subdivision designation of paragraph (a) of this section, which the canned corn fails to meet:

(1)(i) or (2)(i) "Excessive discolored kernels."
(1)(ii) or (2)(ii) "Excessive cob."
(1)(iii) or (2)(iii) "Excessive husk."
(1)(iv) or (2)(iv) "Excessive silk."
(2)(v) "Excessively liquid."

§ 51.22 Canned corn, canned sweet corn, canned sugar corn; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned corn is:

(1) Except in the case of vacuum pack corn the fill of the corn ingredient and packing medium, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(2) In whole kernel corn, the drained weight of the corn ingredient, as determined by sections 32.001 and 32.002 *Canned Products—Drained Weight—Procedure*, in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition, 1970, page 559, is not less than the following:

(i) Sixty-two percent of the water capacity of the container, if such water capacity is 245 g. (8.65 oz. avdp.) or less.

(ii) Sixty-three percent of the water capacity of the container, if such water capacity is more than 245 g. (8.65 oz. avdp.) but less than 3.103 kg. (109.45 oz. avdp.).

(iii) Sixty-five percent of the water capacity of the container, if such water capacity is 3.103 kg. (109.45 oz. avdp.).

(b)(1) A container that falls below the requirement for minimum fill prescribed in paragraph (a)(1) of this section is considered a "defective." The food will be deemed to fall below the standard of fill when the number of defectives exceeds the acceptance number (c) in the sampling plans prescribed in § 51.21(d).

(2) Whole kernel will be deemed to fall below the standard of fill when the average drained weight of all of the containers examined according to the sampling plans prescribed in § 51.21(d) is less than that prescribed in paragraph (a)(2) of this section.

(c) If canned corn falls below the standard of fill of container prescribed in paragraphs (a) and (b) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 1055–1056, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 90 days after its date of FEDERAL REGISTER publication. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, and may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-16644 Filed 10-4-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FOOD STANDARDS FOR CERTAIN TYPES OF EDIBLE OILS

Notice of Opportunity for Review and Informal Comment on Recommended International Standards

The United States has received from the Codex Alimentarius Commission final food standards for cottonseed oil, corn seed oil, mustard seed oil, peanut oil, rapeseed oil, safflower seed oil, sesame seed oil, soybean oil, and sunflower seed oil. No food standards for these foods presently exist in the United States. Pursuant to proposed § 10.8, which is published elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is providing an opportunity for review and informal comment on the desirability and need for standards for these foods, on the specific provisions of these standards, on additional or different requirements that should be included in these standards, and on any other pertinent points.

Codex Alimentarius standards generally list permitted food additives and color additives. In view of the separate food additive and color additive provisions contained in sections 409 and 706 of the Federal Food, Drug, and Cosmetic Act, listing of all permitted ingredients is unnecessary in food standards promulgated under section 401 of the Act. Accordingly, the Commissioner would propose to permit any safe and suitable food additives and color additives, except those excluded by the terms of the standard, in the event that a U.S. standard is proposed for the class of foods covered by this notice.

Pursuant to the proposed § 10.8 (21 CFR 10.8), which is published as a proposal in this issue of the FEDERAL REGISTER, the Codex Alimentarius standard for rapeseed oil is being included with other oil standards for comment even though rapeseed oil is not presently permitted for food use in the United States. Any comment should be directed particularly toward the safety of this oil for human consumption.

All persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments. All comments shall include a statement on meetings and discussions held with other interested groups. Particular weight will be given to comments that reflect a consensus of different interested groups.

The Codex Alimentarius standards are as follows:

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE SOYA BEAN OIL

1. DESCRIPTION

Soya Bean Oil (synonym: Soybean Oil) is derived from soya beans (the seeds of Glycine max (L.) Merr.).

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics.*

2.1.1 Relative density (20° C./water at 20° C.), 0.919–0.925.

2.1.2 Refractive index (n_D 40° C.), 1.466–1.470.

2.1.3 Saponification value (mg. KOH/g. oil), 189–195.

2.1.4 Iodine value (Wijs), 120–143.

2.1.5 Unsaponifiable matter, not more than 15 g./kg.

2.2 *Quality characteristics.*

2.2.1 *Colour.* Characteristic of the designated product.

2.2.2 *Odour and taste.* Characteristic of the designated product and free from foreign and rancid odour and taste.

2.2.3 Acid value, not more than 0.6 mg. KOH/g. oil.

2.2.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 *Colours.* The following colours are permitted for the purpose of restoring natural colour lost in processing or for the purpose of standardizing colour, as long as the added colour does not receive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.

		Maximum level of use
3.1.1	Beta-carotene	Not limited.
3.1.2	Annatto[1]	Do.
3.1.3	Curcumin[1]	Do.
3.1.4	Canthaxanthine	Do.
3.1.5	Beta-apo-8'carotenal	Do.
3.1.6	Methyl and ethyl esters of Beta-apo-8'-carotenoic acid.	

3.2 *Flavours.* Natural flavours and their identical synthetic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavours approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavour lost in processing or for the purpose of standardizing flavour, as long as the added flavour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

3.3 *Antioxidants.*

		Maximum level of use
3.3.1	Propyl, octyl, and dodecyl gallates.	100 mg./kg. individually or in combination.
3.3.2	Butylated hydroxytoluene (BHT) Butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.3.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg. but gallates not to exceed 100 mg./kg.
3.3.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5	Ascorbyl stearate	Do.
3.3.6	Natural and synthetic tocopherols	Not limited.
3.3.7	Dilauryl thiodipropionate	200 mg./kg.
3.4	Antioxidant Synergists.	
3.4.1	Citric acid	Not limited.
3.4.2	Sodium citrate	Do.
3.4.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4	Monoglyceride citrate	Do.
3.4.5	Phosphoric acid	Do.
3.5	Anti-foaming agent. Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6	Crystallization inhibitor. Oxystearin.[1]	1250 mg./kg.

[1] Temporarily endorsed.

4. CONTAMINANTS

		Maximum level
4.1	Matter volatile at 105° C.	0.2% m./m.
4.2	Insoluble impurities	0.05% m./m.
4.3	Soap content	0.005% m./m.
4.4	Iron (Fe)	1.5 mg./kg.
4.5	Copper (Cu)	0.1 mg./kg.
4.6	Lead (Pb)	0.1 mg./kg.
4.7	Arsenic (As)	0.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The name of the food.* 6.1.1 All products designated as soya bean oil or soybean oil must conform to this standard.

6.1.2 Where soya bean oil has been subject to any process of esterification or to processing which alters its fatty acid composition or its consistency the name soya bean oil or any synonym shall not be used unless qualified to indicate the nature of the process.

6.2 *List of ingredients.* 6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with subsection 3.2(c)(ii) of the General Standard for the Labeling of Prepackaged Foods.

6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Prepackaged Foods.

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6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, Determination of Relative Density at t/20° C.).

Results are expressed as relative density at 20° C./water at 20° C.

7.2 *Determination of Refractive index.* According to IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966. II.B.2 Refractive Index).

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D40° C.).

7.3 *Determination of saponification value* (I_S). According to the (IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Saponification value (I_S)").

Results are expressed as the number of mg. KOH/g. oil.

7.4 *Determination of iodine value* (I). According to the (Wijs) IUPAC Method (1964) (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as % m./m. absorbed iodine.

7.5 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3).

Results are expressed as g. unsaponifiable matter/kg. oil.

7.6 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 Acid value (IA)).

Results are expressed as the number of mg. KOH required to neutralize 1 g. oil.

7.7 *Determination of peroxide value* (I_P). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide value").

Results are expressed as milliequivalents active oxygen/kg. oil.

7.8 *Determination of matter volatile at 105° C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966. II.C.1.1 *"Moisture and volatile matter"*).

Results are expressed as % m./m.

7.9 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as % m./m.

7.10 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as % m./m. sodium oleate.

7.11 *Determination of iron.*[2] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.12 *Determination of copper.*[2] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg. copper/kg.

7.13 *Determination of lead.*[2] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043), 24.046, 24.047, and 24.048)).

Results are expressed as mg. lead/kg.

7.14 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

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Supplement 1966 to the above.

[2] Might be replaced by Atomic Absorption Spectrophotometry in the future.

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE ARACHIS OIL

1. DESCRIPTION

Arachis Oil (synonyms: Peanut Oil; Groundnut Oil) is derived from groundnuts (the seeds of Arachis hypogaea L.).

2. ESSENTAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics*—

2.1.1 Relative density (20° C./water at 20° C.), 0.914–0.917.

2.1.2 Refractive index (n_D 40° C.), 1.460–1.465.

2.1.3 Saponification value (mg. KOH/g./oil), 187–196.

2.1.4 Iodine value (Wijs), 80–106.

2.1.5 Unsaponifiable matter, not more than 10 g./kg.

2.2 *Arachidic and higher fatty acids content*—As determined by either of the methods specified in section 7.6 of this Standard, not less than 48 g./kg.

2.3 *Quality characteristics*—

2.3.1 *Colour.* Characteristic of the designated product.

2.3.2 *Odour and taste.* Characteristic of the designated product and free from foreign and rancid odour and taste.

2.3.3 Acid Value—Virgin oil, not more than 4 mg. KOH/g. oil; nonvirgin oil, not more than 0.6 mg. KOH/g. oil.

2.3.4 Peroxide Value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 *Colours*—The following colours are permitted for the purpose of restoring natural colour lost in processing or for the purpose of standardizing colour, as long as the added colour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

		Maximum level of use
3.1.1	Beta-carotene	Not limited.
3.1.2	Annatto[1]	Do.
3.1.3	Curcumin[1]	Do.
3.1.4	Canthaxanthine	Do.
3.1.5	Beta-apo-8'-carotenal	Do.
3.1.6	Methyl and ethyl esters of Beta-apo-8'-carotenoic acid	Do.

3.2 *Flavours.* Natural flavours and their identical synthetic equivalents, except those which are known to represent atoxic hazard, and other synthetic flavours approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavour lost in processing or for the purpose of standardizing flavour as long as the added flavour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

[1] Temporarily endorsed.

		Maximum level of use
3.3	Antioxidants—	
3.3.1	Propyl, octyl, and dodecyl gallates	100 mg./kg. individually or in combination.
3.3.2	Butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT).	200 mg./kg. individually or in combination.
3.3.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg. but gallates not to exceed 100 mg./kg.
3.3.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5	Ascorbyl stearate	Do.
3.3.6	Natural and synthetic tocopherols	Not limited.
3.3.7	Dilauryl thiodipropionate	200 mg./kg.
3.4	Antioxidant synergists—	
3.4.1	Citric acid	Not limited.
3.4.2	Sodium citrate	Do.
3.4.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4	Monoglyceride citrate	Do.
3.4.5	Phosphoric acid[1]	Do.
3.5	Anti-foaming agent—Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6	Crystallization inhibitor—Oxystearin[1]	1250 mg./kg.

[1] Temporary endorsed.

4. CONTAMINANTS

		Maximum level of use
4.1	Matter of volatile at 105° C	0.2% m/m.
4.2	Insoluble impurities	0.05% m/m.
4.3	Soap content	0.005% m/m.
4.4	Iron (Fe)	
	Virgin oil	5 mg./kg.
	Nonvirgin oil	1.5 mg./kg.
4.5	Copper (Cu)	
	Virgin oil	0.4 mg./kg.
	Nonvirgin oil	0.1 mg./kg.
4.6	Lead (Pb)	0.1 mg./kg.
4.7	Arsenic (As)	0.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969), the following specific provisions apply:

6.1 *The name of the food*—

6.1.1 All products designated as arachis oil, peanut oil or groundnut oil must conform to this standard.

6.1.2 Where arachis oil has been subject to any process of esterification or to processing which alters its fatty acid composition or its consistency the name arachis oil or any synonym shall not be used unless qualified to indicate the nature of the process.

6.2 *List of ingredients*—

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with subsection 3.2(c)(ii) of the General Standard for the Labeling of Pre-packaged Foods.

6.3 *Net contents*—The net contents shall be declared in accordance with subsection 3.3 (a) of the General Standard for the Labeling of Pre-packaged Foods.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin*—

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density*—According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C").

Results are expressed as relative density at 20° C./water at 20° C.

7.2 *Determination of refractive index.*—According to IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index").

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D40° C.).

7.3 *Determination of saponification value* (I_S).—According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)").

Results are expressed as the number of mg KOH/g. oil.

7.4 *Determination of iodine value* (I_I).—According to the (Wijs) IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as percent m/m. absorbed iodine.

7.5 *Determination of unsaponifiable matter.*—According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3).

Results are expressed as g unsaponifiable matter/kg. oil.

7.6 *Determination of arachidic and higher fatty acids content.*

7.6.1 According to the Modified Renard Test, Official Methods of Analysis of the AOAC (1965), 26.077.

Results are expressed as g arachidic acid/kg. oil or

7.6.2 According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 11–1969, "Arachis Oil Test" (Evers).

7.7 *Determination of acid value* (I_A)—According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 Acid Value) (I_A).

Results are expressed as the number of mg KOH required to neutralize 1 g. oil.

7.8 *Determination of peroxide value* (I_P)—According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").

Results are expressed as milliequivalents active oxygen/kg. oil.

7.9 *Determination of matter volatile at 105° C.*—According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").

Results are expressed as percent m/m.

7.10 *Determination of insoluble impurities*—According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as percent m/m.

7.11 *Determination of soap content*—According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as percent m/m. sodium oleate.

7.12 *Determination of iron.*[2] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.13 *Determination of copper.*[2]—According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg. copper/kg.

7.14 *Determination of lead.*[2] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043), 24.046, 24.047 and 24.048)).

Results are expressed as mg. lead/kg.

7.15 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

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Supplement 1966 to the above.

[2] Might be replaced by Atomic Absorption Spectrophotometry in the future.

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Recommended International Standard for Edible Cottonseed Oil

1. DESCRIPTION

Cottonseed oil is derived from the seeds of various cultivated species of Gossypium.

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics.*

2.1.1 Relative density (20°C/Water at 20°C), 0.918–0.926.

2.1.2 Refractive Index (n_D40°C), 1.458–1.466.

2.1.3 Saponification value (mg. KOH/g. oil), 189–198.

2.1.4 Iodine value (Wijs), 99–119.

2.1.5 Unsaponifiable matter, not more than 15 g./kg.

2.2 *Halphen test,*[2] positive.

2.3 *Quality characteristics.*

2.3.1 *Colour.* Characteristic of the designated product.

2.3.2 *Odour and taste.* Characteristic of the designated product and free from foreign and rancid odour and taste.

2.3.3 Acid value, not more than 0.6 mg. KOH/g. oil.

2.3.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

[2] Kapok oil and some other oils give a positive test and fats from animals fed on cottonseed meal may also give a positive test. Different lots of cottonseed oil may react with different intensities. Hydrogenation and heating of cottonseed oil reduce the intensity of the reaction and may destroy it entirely.

3. FOOD ADDITIVES

3.1 *Colours.* The following colours are permitted for the purpose of restoring natural colour lost in processing or for the purpose of standardizing colour, as long as the added colour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

		Maximum level of use
3.1.1	Beta-carotene	Not limited.
3.1.2	Annatto [1]	Do.
3.1.3	Curcumin [1]	Do.
3.1.4	Canthaxanthine	Do.
3.1.5	Beta-apo-8'-carotenal	Do.
3.1.6	Methyl and ethyl esters of Beta - apo - 8'-carotenoic acid.	Do.

3.2 *Flavours.* Natural flavours and their identical synthetic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavours approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavour lost in processing or for the purpose of standardizing flavour, as long as the added flavour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

[1] Temporarily endorsed.

		Maximum level of use
3.3	Antioxidants.	
3.3.1	Propyl, octyl, and dodecyl gallates	100 mg./kg. individually or in combination.
3.3.2	Butylated hydroxyanisole (BHA), butylated hydroxytoluene (BHT).	200 mg./kg. individually or in combination.
3.3.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg. but gallates not to exceed 100 mg./kg.
3.3.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5	Ascorbyl stearate	Do.
3.3.6	Natural and synthetic tocopherols	Not limited.
3.3.7	Dilauryl thiodipropionate	200 mg./kg.
3.4	Antioxidant synergists.	
3.4.1	Citric acid	Not limited.
3.4.2	Sodium citrate	Do.
3.4.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4	Monoglyceride citrate	Do.
3.4.5	Phosphoric acid [1]	Do.
3.5	Anti-foaming agent. Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6	Crystallization inhibitor. Oxystearin [1]	1250 mg./kg.

[1] Temporarily endorsed.

4. CONTAMINANTS

		Maximum level
4.1	Matter volatile at 105°C	0.2% m/m.
4.2	Insoluble Impurities	0.05% m/m.
4.3	Soap Content	0.005% m/m.
4.4	Iron (Fe)	1.5 mg./kg.
4.5	Copper (Cu)	0.1 mg./kg.
4.6	Lead (Pb)	0.1 mg./kg.
4.7	Arsenic (As)	0.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4 and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:

6.1 The name of the food.

6.1.1 All products designated as cottonseed oil must conform to this standard.

6.1.2 Where cottonseed oil has been subject to any process of esterification or to processing which alters the fatty acid composition or its consistency the name cottonseed oil shall not be used unless qualified to indicate the nature of the process.

6.2 List of ingredients.

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with sub-section 3.2(c)(ii) of the General Standard for the Labeling of Pre-packaged Foods.

6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Pre-packaged Foods.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C").

Results are expressed as relative density at 20° C/ water at 20° C.

7.2 *Determination of refractive index.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index").

Results are given as the refractive index relative to the sodium D-line at 40° C (n_D 40° C).

7.3 *Determination of Saponification value* (I_S). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)").

Results are expressed as the number of mg. KOH/g. oil.

7.4 *Determination of iodine value* (I_I). According to the (Wijs) IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as % m/m absorbed iodine.

7.5 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3).

Results are expressed as g. unsaponifiable matter/kg. oil.

7.6 *Halphen test.* According to the AOCS method (Official and Tentative Methods of the American Oil Chemists' Society, AOCS Official Method Cb 1–25).

Result is expressed a positive or negative.*

7.7 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 "Acid Value (I_A)").

Results are expressed as the number of mg. KOH required to neutralize 1 g. oil.

7.8 *Determination of peroxide value* (Iv). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").

Results are expressed as milliequivalents active oxygen/kg oil.

7.9 *Determination of matter volatile at 105° C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").

Results are expressed as % m/m.

7.10 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as % m/m.

7.11 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as % m/m sodium oleate.

7.12 *Determination of iron.*[3] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.13 *Determination of copper.*[3] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg copper/kg.

7.14 *Determination of lead.*[3] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043], 24.046, 24.047 and 24.048)).

Results are expressed as mg lead/kg.

7.15 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg arsenic/kg.

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Supplement 1966 to the above.

Recommended International Standard for Edible Sunflowerseed Oil

1. DESCRIPTION

Sunflowerseed Oil (synonym: Sunflower Oil) is derived from Sunflower seeds (the seeds of *Helianthus annuus*).

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics.*

2.1.1 Relative density (20° C./water at 20° C.), 0.918–0.923.

2.1.2 Refractive index (n_D 40° C.), 1.467–1.469.

2.1.3 Saponification value (mg. KOH/g. oil), 188–194.

2.1.4 Iodine value (Wijs), 110–143.

2.1.5 Unsaponifiable matter, not more than 15 g./kg.

2.2 *Quality characteristics.*

2.2.1 *Colour.* Characteristic of the designated product.

2.2.2 *Odour and taste.* Characteristic of the designated product and free from foreign and rancid odour and taste.

2.2.3 Acid value, virgin oil, not more than 4 mg. KOH g./oil; nonvirgin oil, not more than 0.6 mg. KOH g./oil.

2.2.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 Colors. The following colors are permitted for the purpose of restoring natural color lost in processing or for the purpose of standardizing color, as long as the added color does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

		Maximum level of use
3.1.1	Beta-carotene	Not limited
3.1.2	Annatto [1]	Do.
3.1.3	Curcumin [1]	Do.
3.1.4	Canthaxanthine	Do.
3.1.5	Beta-apo-8'-carotenal	Do.
3.1.6	Methyl and ethyl esters of Beta-apo-8'-carotenoic acid.	Do.

3.2 *Flavors.* Natural flavors and their identical synthetic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavors approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavor lost in processing or for the purpose of standardizing flavor, as long as the added flavor does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

3.3 *Antioxidants.*

		Maximum level of use
3.3.1	Propyl, octyl, and dodecyl gallates	100 mg./kg. individually or in combination.
3.3.2	Butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.3.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg., but gallates not to exceed 100 mg./kg.
3.3.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5	Ascorbyl stearate	Do.
3.3.6	Natural and synthetic tocopherols	Not limited.
3.3.7	Dilauryl thiodipropionate	200 mg./kg.
3.4	Antioxidant synergists.	
3.4.1	Citric acid	Not limited.
3.4.2	Sodium citrate	Do.
3.4.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4	Monoglyceride citrate	Do.
3.4.5	Phosphoric acid [1]	Do.
3.5	Anti-foaming agent—Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6	Crystallization inhibitor—Oxystearin [1]	1250 mg./kg.

[1] Temporarily endorsed.

4. CONTAMINANTS

		Maximum level percent m./m.
4.1	Matter volatile at 105° C	0.2
4.2	Insoluble impurities	.05
4.3	Soap content	.005

[1] Temporarily endorsed.

		Maximum level mg./kg.
4.4	Iron (Fe):	
	Virgin oil	5
	Nonvirgin oil	1.5
4.5	Copper (Cu):	
	Virgin oil	.4
	Nonvirgin oil	.1
4.6	Lead (Pb)	.1
4.7	Arsenic (As)	.1

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (ref. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The name of the food.*

6.1.1 All products designated as sunflowerseed oil or sunflower oil must conform to this standard.

6.1.2 Where sunflowerseed oil has been subject to any process of esterification or to processing which alters its fatty acid composition or its consistency the name sunflowerseed oil or any synonym shall not be used unless qualified to indicate the nature of the process.

6.2 *List of ingredients.*

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with subsection 3.2(c) (ii) of the General Standard for the Labeling of Prepackaged Foods.

6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Pre-packaged Foods.

[1] See 2.2 Note [1].

[3] Might be replaced by Atomic Absorption Spectrophotometry in the future.

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6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C.").

Results are expressed as relative density at 20° C./water at 20° C.

7.2 *Determination of refractive index.* According to IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index").

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D40° C.).

7.3 *Determination of saponification value* (I_S). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)").

Results are expressed as the number of mg. KOH/g. oil.

7.4 *Determination of iodine value* (I_I). According to the (Wijs) IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as % m./m. absorbed iodine.

7.5 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3.).

Results are expressed as g. unsaponifiable matter/kg. oil.

7.6 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.2 "Acid Value" (I_A)).

Results are expressed as the number of mg. KOH required to neutralize 1 g. oil.

7.7 *Determination of peroxide value* (I_P). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").

Results are expressed as milliequivalents active oxygen/kg. oil.

7.8 *Determination of matter volatile at 105° C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").

Results are expressed as % m./m.

7.9 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as % m./m.

7.10 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as % m./m. sodium oleate.

7.11 *Determination of iron.*[2] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.12 *Determination of copper.*[2] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg. copper/kg.

7.13 *Determination of lead.*[2] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043j, 24.046, 24.047, and 24.048)).

Results are expressed as mg. lead/kg.

7.14 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

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Standard Methods of the Oils and Fats Section of the I.U.P.A.C., 5th Edition, incorporating First Supplement up-to-date to 1965, Butterworths, London, 1966.

Supplement 1966 to the above.

[2] Might be replaced by Atomic Absorption Spectrophotometry in the future.

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE RAPESEED OIL

1. DESCRIPTION

Rapeseed Oil (synonyms: Turnip Rape Oil; Colza Oil; Ravison Oil; Sarson Oil and Toria Oil) is derived from the seeds of Brassica campestris L., Brassica napus L. Brassica tournefortii Gouan).

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics*

2.1.1 Relative density (20°C/water at 20°C), 0.910–0.920.

2.1.2 Refractive index (n_D40°C), 1.465–1.469.

2.1.3 Saponification value (mg KOH/g oil), 168–181.

2.1.4 Iodine value (Wijs), 94–120.

2.1.5 Crismer value, 80–85.

2.1.6 Unsaponifiable matter, not more than 20 g/kg.

2.2 *Quality characteristics*

2.2.1 *Colour.* Characteristic of the designated product.

2.2.2 *Odour and taste.* Characteristic of the designated product, and free from foreign and rancid odour and taste.

2.2.3 Acid Value—Virgin Oil, not more than 4 mg KOH/g oil; Non-virgin Oil, not more than 0.6 mg KOH/g oil.

2.2.4 Peroxide Value, not more than 10 milliequivalents peroxide oxygen/kg oil.

3. FOOD ADDITIVES

3.1 *Colours.* The following colours are permitted for the purpose of restoring natural colour lost in processing or for the purpose of standardizing colour, as long as the added colour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.

		Maximum level of use
3.1.1	Beta-carotene	Not limited.
3.1.2	Annatto[1]	Do.
3.1.3	Curcumin[1]	Do.
3.1.4	Canthaxanthine	Do.
3.1.5	Beta-apo-8'-carotenal	Do.
3.1.6	Methyl and ethyl esters of Beta-apo-8'-carotenoic acid.	Do.

3.2 *Flavours.* Natural flavours and their identical synethic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavours approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavour lost in processing or for the purpose of standardizing flavour, as long as the added flavour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

[1] Temporarily endorsed.

		Maximum level of use
3.3	*Antioxidants*	
3.3.1	Propyl, octyl, and dodecyl gallates	100 mg./kg. individually or in combination.
3.3.2	Butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.3.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg. but gallates not to exceed 100 mg./kg.
3.3.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5	Ascorbyl stearate	Do.
3.3.6	Natural and synthetic tocopherols	Not limited.
3.3.7	Dilauryl thiodipropionate	200 mg./kg.
3.4	*Antioxidant synergists*	
3.4.1	Citric acid	Not limited.
3.4.2	Sodium citrate	Do.
3.4.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4	Monoglyceride citrate	Do.
3.4.5	Phosphoric acid[1]	Do.
3.5	*Anti-forming agent* Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6	*Crystallization inhibitor* Oxystearin[1]	1250 mg./kg.

[1] Temporarily endorsed.

4. CONTAMINANTS

		Maximum level
4.1	Matter volatile at 105° C.	0.2 percent m./m.
4.2	Insoluble impurities.	0.5 percent m./m.
4.3	Soap content	0.005 percent m./m.
4.4	Iron (Fe):	
	Virgin oil	5 mg./kg.
	Nonvirgin oil	1.5 mg./kg.
4.5	Copper (Cu):	
	Virgin oil	0.4 mg./kg.
	Nonvirgin oil	0.1 mg./kg.
4.6	Lead (Pb)	0.1 mg./kg.
4.7	Arsenic (As)	0.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4 and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The name of the food.*

6.1.1 All products designated as rapeseed oil, turnip rape oil, colza oil, rayison oil, sarson oil or toria oil must conform to this standard.

6.1.2 Oil produced from the seeds of Eruca sativa Mill and conforming to the standard may be designated jamba rape oil.

6.1.3 Where rapeseed oil has been subject to any process of esterification or to processing which alters its fatty acid composition or its consistency the name rapeseed oil or any synonym shall not be used unless qualified to indicate the nature of the process.

6.2 *List of ingredients.*

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with subsection 3.2(c)(ii) of the General Standard for the Labeling of Prepackaged Foods.

6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Prepackaged Foods.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C.").

Results are expressly as relative density at 20° C./water at 20° C.

7.2 *Determination of refractive index.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 *Refractive Index*).

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D40° C.)

7.3 *Determination of Saponification value* (I_S). According to the IUPAC (1964) method (IUPAC) Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)").

Results are expressed as the number of mg. KOH/g oil.

7.4 *Determination of iodine value* (I_I). According to the (Wijs) IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as percent m/m absorbed iodine.

7.5 *Determination of Crismer value* (I_C). According to the AOCS method (Official and Tentative Methods of the American Oil Chemists' Society; AOCS Official Method Cb 4–35, Crismer Test, Fryer and Weston Modification, and Ca 5a–40, Free Fatty acids, calculating the acidity as oleic acid).

Results are exuressed by a conventional value (I_c) as described in the method.

7.6 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC) Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3).

Results are expressed as g unsaponifiable matter/kg. oil.

7.7 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 "Acid Value (I_A)").

Results are expressed as the number of mg KOH required to neutralize 1 g oil.

7.8 *Determination of peroxide value* (I_P). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").

Results are expressed as milliequivalents active oxygen/kg oil.

7.9 *Determination of matter volatile at 105°C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").

Results are expressed as percent m./m.

7.10 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as percent m./m.

7.11 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as percent m./m. sodium oleate.

7.12 *Determination of iron.*[2] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969 "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.13 *Determination of copper.*[2] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg. copper/kg.

7.14 *Determination of lead.*[2] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043j, 24.046, 24.047, and 24.048)).

Results are expressed as mg. lead/kg.

7.15 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

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Indian Standards Institution. Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi 1.

International Organization for Standardization (ISO), General Secretariat, 1, rue de Varembé, 1211 Geneva 20.

[2] Might be replaced by Atomic Absorption Spectrophotometry in the future.

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Standard Methods of the Oils and Fats Section of the I.U.P.A.C., Fifth Edition, incorporating First Supplement up-to-date to 1965, Butterworths, London, 1966. Supplement 1966 to the above.

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE MAIZE OIL

1. DESCRIPTION

Maize oil (synonym: corn oil) is derived from maize germ (*the embryos of Zea mays*).

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics.*
2.1.1 Relative density (20° C./water at 20° C.), 0.917–0.925.
2.1.2 Refractive index (n_D40° C.), 1.465–1.468.
2.1.3 Saponification value (mg. KOH/g. oil), 187–195.
2.1.4 Iodine value (Wijs), 103–128.
2.1.5 Unsaponifiable matter, not more than 28 g./kg.
2.2 *Quality characteristics.*
2.2.1 *Color.* Characteristic of the designated product.
2.2.2 *Odor and taste.* Characteristic of the designated product and free from foreign and rancid odor and taste.
2.2.3 Acid value, virgin oil, not more than 4 mg. KOH/g. oil; nonvirgin oil, not more than 0.6 mg. KOH/g. oil.
2.2.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 *Colors.* The following colors are permitted for the purpose of restoring natural color lost in processing or for the purpose of standardizing color, as long as the added color does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

	Maximum level of use
3.1.1 Beta-carotene	Not limited.
3.1.2 Annatto [1]	Do.
3.1.3 Curcumin [1]	Do.
3.1.4 Canthaxanthine	Do.
3.1.5 Beta-apo-8'-carotenal	Do.
3.1.6 Methyl and ethyl ester of Beta-apo-8'-carotenic acid.	Do.

3.2 *Flavors.* Natural flavors and their identical synthetic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavors approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavor lost in processing or for the purpose of standardizing flavor, as long as the added flavor does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

3.3. *Antioxidants.*

	Maximum level of use
3.3.1 Propyl, octyl, and dodecyl gallates.	100 mg./kg. individually or in combination.
3.3.2 Butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.3.3 Any combination of gallates with BHA or BHT, or both.	200 mg./kg., but gallates not to exceed 100 mg./kg.
3.3.4 Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5 Ascorbyl stearate	Do.
3.3.6 Natural and synthetic tocopherols	Not limited.
3.3.7 Dilauryl thiodipropionate	200 mg./kg.
3.4 *Antioxidant synergists.*	
3.4.1 Citric acid	Not limited.
3.4.2 Sodium citrate	Do.
3.4.3 Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4 Monoglyceride citrate	Do.
3.4.5 Phosphoric acid [1]	Do.
3.5 *Anti-foaming agent*—Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6 *Crystallization inhibitor*—Oxystearin [1]	1250 mg./kg.

4. CONTAMINANTS

	Maximum level percent m./m.
4.1 Matter volatile at 105° C	0.2
4.2 Insoluble impurities	.05

[1] Temporarily endorsed.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with subsection 3.2(c)(ii) of the General Standard for the Labeling of Prepackaged Foods.
6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Prepackaged Foods.
6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.
6.5 *Country of origin.*
6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.
6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.
7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C.").
Results are expressed as relative density at 20° C./water at 20° C.

	Maximum level
4.3 Soap content	0.005 percent m/m.
4.4 Iron (Fe):	
Virgin oil	5 mg./kg.
Nonvirgin oil	1.5 mg./kg.
4.5 Copper (Cu):	
Virgin oil	0.4 mg./kg.
Nonvirgin oil	0.1 mg./kg.
4.6 Lead (Pb)	0.1 mg./kg.
4.7 Arsenic (As)	0.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:
6.1 The Name of the Food.
6.1.1 All products designated as maize oil or corn oil must conform to this standard.
6.2 Where maize oil has been subject to any process of esterification or to processing which alters its fatty acid composition or its consistency the name maize oil or any synonym shall not be used unless qualified to indicate the nature of the process.
6.2 List of Ingredients.
6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.
7.2 *Determination of refractive index.* According to IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index").
Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D 40° C.).
7.3 *Determination of Saponification value* (I_S). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)").
Results are expressed as the number of mg. KOH/g. oil.
7.4 *Determination of iodine value* (I_I). According to the (Wijs) IUPAC method (1964) (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2, and II.D.7.3 "The Wijs Method").
Results are expressed as % m./m. absorbed iodine.
7.5 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.5.1, and II.D.5.3).
Results are expressed as g. unsaponifiable matter/kg. oil.

7.6 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC) Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.1.2 "Acid Value (I_A)").
Results are expressed as the number of mg. KOH required to neutralize 1 g. oil.
7.7 *Determination of peroxide value* (IP). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").
Results are expressed as milliequivalents active oxygen/kg oil.
7.8 *Determination of matter volatile at* 105° C. According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").
Results are expressed as % m./m.
7.9 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.2. "Impurities").
Results are expressed as % m./m.
7.10 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").
Results are expressed as % m./m. sodium oleate.
7.11 *Determination of iron.*[2] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").
Results are expressed as mg iron/kg.
7.12 *Determination of copper.*[2] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).
Results are expressed as mg. copper/kg.
7.13 *Determination of lead.*[2] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043J, 24.046, 24.047, and 24.048)).
Results are expressed as mg. lead/kg.
7.14 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).
Results are expressed as mg. arsenic/kg.

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International Organization for Standardization (ISO) General Secretariat, 1, rue de Varembé, 1211 Geneva 20.
Official Methods of Analysis of the Association of Official Agricultural Chemists (10th ed. 1965). A.O.A.C., P.O.B. 540 Benjamin Franklin Station, Washington 4, D.C.

[2] Might be replaced by Atomic Absorption Spectrophotometry in the future.

Standard Methods of the Oils and Fats Section of the I.U.P.A.C., 5th Edition, incorporating First Supplement up-to-date to 1965, Butterworths, London, 1966. Supplement 1966 to the above.

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE SESAMESEED OIL

1. DESCRIPTION

Sameseed oil (Synonyms: Sesame oil; gingelly oil; benne oil; ben oil; till oil and tillie oil) is derived from sesame seeds (the seeds of Sesamum indicum L.).

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics.*
2.1.1 Relative density (20° C./Water at 20° C.), 0.915–0.923.
2.1.2 Refractive index (n-D 40° C.), 1.465–1.469.
2.1.3 Saponification value (mg. KOH/g. oil), 187–195.
2.1.4 Iodine value (Wijs), 104–120.
2.1.5 Unsaponifiable matter, not more than 20 g./kg.
2.2 *Modified Villavecchia Test or Sesame Oil Test (Baudouin)*, positive.
2.3 *Quality characteristics.*
2.3.1 *Color.* Characteristic of the designated product.
2.3.2 *Odor and taste.* Characteristic of the designated product and free from foreign and rancid odor and taste.
2.3.3 Acid value, virgin oil, not more than 4 mg. KOH/g. oil; nonvirgin oil, not more than 0.6 mg. KOH/g. oil.
2.3.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 *Colors.* The following colors are permitted for the purpose of restoring natural color lost in processing or for the purpose of standardizing color, as long as the added color does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

	Maximum level of use
3.1.1 Beta-carotene	Not limited
3.1.2 Annatto [1]	Do.
3.1.3 Curcumin [1]	Do.
3.1.4 Canthaxanthine	Do.
3.1.5 Beta-apo-8'-carotenal	Do.
3.1.6 Methyl end ethyl esters of beta-apo-8'-carotenoic acid	Do.

3.2 *Flavors.* Natural flavors and their identical synthetic equivalent, except those which are known to represent a toxic hazard, and other synthetic flavors approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavor lost in processing or for the purpose of standardizing flavor, as long as the added flavor does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

[1] Temporarily endorsed.

	Maximum level of use
3.3 *Antioxidants.*	
3.3.1 Propyl, octyl, and dodecyl gallates	100 mg./kg. individually or in combination.
3.3.2 Butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.3.3 Any combination of gallates with BHA or BHT, or both.	200 mg./kg. but gallates not to exceed 100 mg./kg.
3.3.4 Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5 Ascorbyl stearate	Do.
3.3.6 Natural and synthetic tocopherols	Not limited.
3.3.7 Dilauryl thiodipropionate	200 mg./kg.
3.4 *Antioxidant synergists.*	
3.4.1 Citric acid	Not limited.
3.4.2 Sodium citrate	Do.
3.4.3 Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4 Monoglyceride citrate	Do.
3.4.5 Phosphoric acid [1]	Do.
3.5 *Antifoaming agent*—Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.6 *Crystallization inhibitor*—Oxystearin [1]	1250 mg./kg.

[1] Temporarily endorsed.

4. CONTAMINANTS

	Maximum level
4.1 Matter volatile at 105° C	0.2 percent m/m.
4.2 Insoluble impurities	.05 percent m/m.
4.3 Soap content	.005 percent m/m.
4.4 Iron (Fe):	
(Virgin oil)	5 mg./kg.
(Non-virgin oil)	1.5 mg./kg.
4.5 Copper (Cu):	
(Virgin oil)	.4 mg./kg.
(Non-virgin oil)	.1 mg./kg.
4.6 Lead (Pb)	.1 mg./kg.
4.7 Arsenic (As)	.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (ref. CAC/RS 1–1969) the following specific provisions apply:
6.1 *The Name of the food*
6.1.1 All products designated as sesameseed oil, sesame oil, gingelly oil, benne oil, ben oil, till oil, or tillie oil must conform to this standard.
6.1.2 Where sesameseed oil has been subject to any process of esterification or to processing which alters its fatty acid composition or its consistency the name sesameseed oil or any synonym shall not be used unless qualified to indicate the nature of the process.
6.2 *List of ingredients.*
6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.
6.2.2 A specific name shall be used for ingredients in the list of ingredients except

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that class titles may be used in accordance with subsection 3.2(c)(ii) of the General Standard for the Labeling of Prepackaged Foods.

6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Prepackaged Foods.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C."),

Results are expressed as relative density at 20° C./water at 20° C.

7.2 *Determination of refractive index.* According to IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index".

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D40° C).

7.3 *Determination of saponification value* (I_S). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)".

Results are expressed as the number of mg KOH/g oil.

7.4 *Determination of iodine value* (I_I). According to the (Wijs) IUPAC method (1964) (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.7 "The Wijs Method").

Results are expressed as % m/m absorbed iodine.

7.5 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1968, II.D.5.1 and II.D.5.3).

Results are expressed as g unsaponifiable matter/kg oil.

7.6.1 According to the AOCS Method (Official and Tentative Methods of the American Oil Chemists' Society; AOCS Official Method Cb 2–40, "Modified Villavecchia Test" (AOAC).

The result is expressed as positive or negative.

7.6 *Identification of sesameseed oil.*

NOTE: This procedure is not suitable as an identity test for refined sesameseed oils. Furthermore, sesameseed oil might get oxidized after long storage and this test is likely to be disturbed.

or

7.6.2 According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 12–1969, "Sesameseed Oil Test" (Baudouin)).

7.7 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 "Acid Value (I_A)").

Results are expressed as the number of mg KOH required to neutralize 1 g oil.

7.8 *Determination of peroxide value* (I_P). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").

Results are expressed as milliequivalents active oxygen/kg oil.

7.9 *Determination of matter volatile at 105°C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").

Results are expressed as % m/m.

7.10 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as % m/m.

7.11 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as % m./m. sodium oleate.

7.12 *Determination of iron.*[1] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.13 *Determination of copper.*[1] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg. copper/kg.

7.14 *Determination of lead.*[1] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043), 24.046, 24.047 and 24.048)).

Results are expressed as mg. lead/kg.

7.15 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

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Supplement 1966 to the above.

[CAC/RS 27–1969]

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE SAFFLOWERSEED OIL

1. DESCRIPTION

Safflowerseed oil (Synonyms: Safflower oil; Carthamus oil and Kurdee oil) is derived from safflower seeds (the seeds of Carthamus tinctorius L.).

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics.*

2.1.1 Relative density (20° C./Water at 20° C.), 0.922–0.927.

2.1.2 Refractive index (n_D 40° C.), 1.467–1.470.

2.1.3 Saponification value (mg. KOH/g. oil), 186–198.

2.1.4 Iodine value (Wijs), 135–160.

2.1.5 Unsaponifiable matter, not more than 15 g./kg.

2.2 *Quality characteristics.*

2.2.1 *Colour.* Characteristic of the designated product.

2.2.2 *Odour and taste.* Characteristic of the designated product and free from foreign and rancid odour and taste.

2.2.3 Acid value, not more than 0.6 mg. KOH/g. oil.

2.2.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 *Colours.* The following colours are permitted for the purpose of restoring natural colour lost in processing or for the purpose of standardizing colour, as long as the added colour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

		Maximum level of use
3.1.1	Beta-carotene	Not limited.
3.1.2	Annatto[1]	Do.
3.1.3	Curcumin[1]	Do.
3.1.4	Canthaxanthine	Do.
3.1.5	Beta-apo-8'-carotenal	Do.
3.1.6	Methyl and ethyl esters of Beta-apo-8'-carotenoic acid.	Do.

3.2 *Flavours.* Natural flavours and their identical synthetic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavours approved by the Codex Alimentarius Commission are permitted for the purpose of restoring natural flavour lost in processing or for the purpose of standardizing flavour, as long as the added flavour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

3.3 *Antioxidants.*

		Maximum level of use
3.3.1	Propyl, octyl, and dodecyl gallates.	100 mg./kg. individually or in combination.
3.3.2	Butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.3.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg., but gallates not to exceed 100 mg./kg.
3.3.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.3.5	Ascorbyl stearate	Do.
3.3.6	Natural and synthetic tocopherols	Not limited.
3.3.7	Dilauryl thiodipropionate	200 mg./kg.
3.4	Antioxidant synergists.	
3.4.1	Citric acid	Not limited.
3.4.2	Sodium citrate	Do.
3.4.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.4.4	Monoglyceride citrate	Do.
3.4.5	Phosphoric acid[1]	Do.
3.5	Antifoaming agent, Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg. kg.
3.6	Crystallization inhibitor, Oxystearin[1]	1250 mg. kg.

4. CONTAMINANTS

		Maximum level
4.1	Matter volatile at 105° C	0.2 percent m./m.
4.2	Insoluble impurities	0.05 percent m./m.
4.3	Soap content	0.005% m/m.
4.4	Iron (Fe)	1.5 mg./kg.
4.5	Copper (Cu)	0.1 mg./kg.
4.6	Lead (Pb)	0.1 mg./kg.
4.7	Arsenic (As)	0.1 mg./kg.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC RCP 1–1969).

6. LABELLING

In addition to sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The name of the food.*

6.1.1 All products designated as safflowerseed oil, safflower oil, carthamus oil or kurdee oil must conform to this standard.

6.1.2 Where safflowerseed oil has been subject to any process of esterification or to processing which alter its fatty acid composition or its consistency the name safflowerseed oil or any synonym shall not be used unless qualified to indicate the nature of the process.

6.2 *List of ingredients.*

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with sub-section 3.2(c)(ii) of the General Standard for the Labelling of Pre-packaged Foods.

6.3 *Net contents.* The net contents shall be declared in accordance with subsection 3.3(a) of the General Standard for the Labeling of Prepackaged Foods.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC RM 9–1969, "Determination of Relative Density at t/20 C.").

Results are expressed as relative density at 20° C. water at 20° C.

7.2 *Determination of refractive index.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index").

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D 40 C.).

7.3 *Determination of saponification value* (I_S). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (I_S)").

Results are expressed as the number of mg. KOH g. oil.

7.4 *Determination of iodine value* (I T). According to the (Wijs) IUPAC method (1964) (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as percent m m. absorbed iodine.

7.5 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3).

Results are expressed as g unsaponifiable matter kg. oil.

7.6 *Determination of acid value* (IA). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 "Acid Value (IA)").

Results are expressed as the number of mg. KOH required to neutralize 1 g. oil.

7.7 *Determination of peroxide value* (IP). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value").

Results are expressed as milliequivalents active oxygen/kg. oil.

7.8 *Determination of matter volatile at 105° C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture and Volatile Matter").

Results are expressed as percent m. /m.

7.9 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats, and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as percent m. m.

7.10 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969, "Determination of Soap Content").

Results are expressed as percent m. m. sodium oleate.

7.11 *Determination of iron.*[2] According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.12 *Determination of copper.*[2] According to the AOAC (1965) method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method," 24.023–24.028).

Results are expressed as mg. copper/kg.

7.13 *Determination of lead.*[2] According to the AOAC (1965) method, after complete digestion, by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 (and 24.008, 24.009, 24.043), 24.046, 24.047 and 24.048)).

Results are expressed as mg. lead/kg.

7.14 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

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Standard Methods of the Oils and Fats Section of the I.U.P.A.C., 5th Edition, incorporating First Supplement up-to-date to 1965, Butterworths, London, 1966.

Supplement 1966 to the above.

[CAC/RS 34–1970]

RECOMMENDED INTERNATIONAL STANDARD FOR EDIBLE MUSTARDSEED OIL

1. DESCRIPTION

Mustardseed oil is derived from the seeds of the white mustard (Sinapis alba L., synonym: Brassica hirta Moench), the brown mustard (Brassica juncea (L.) Czern. and Coss) and of the black mustard (Brassica nigra (L.) Koch).

[1] Temporarily endorsed.

[2] Might be replaced by Atomic Absorption Spectrophotometry in the future.

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2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Identity characteristics*—

2.1.1 Relative density (20° C./water at 20° C.), 0.910–0.921.

2.1.2 Refractive index (n_D, 40° C.), 1.461–1.469.

2.1.3 Saponification value (mg KOH/g oil), 170–184.

2.1.4 Iodine value (Wijs), 92–125.

2.1.5 Unsaponifiable matter, not more than 15 g./kg.

2.2 *Allyl isothiocyanate content*—As determined by the method specified in subsection 7.5 of this standard, not more than 4 g./kg.

2.3 *Quality characteristics*—

2.3.1 *Colour.* Characteristic of the designated product.

2.3.2 *Odour and taste.* Characteristic of the designated product and free from foreign and rancid odour and taste.

2.3.3 Acid value, Virgin oil, not more than 4 mg KOH/g. oil; nonvirgin, not more than 0.6 mg. KOH/g. oil.

2.3.4 Peroxide value, not more than 10 milliequivalents peroxide oxygen/kg. oil.

3. FOOD ADDITIVES

3.1 These provisions do not apply to virgin oils, which shall not contain any additives.

3.2 *Colours.* The following colours are permitted for the purpose of restoring natural colour lost in processing or for the purpose of standardizing colour, as long as the added colour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value:

		Maximum level of use
3.2.1	Beta-carotene	Not limited.
3.2.2	Annatto [1]	Do.
3.2.3	Curcumin [1]	Do.
3.2.4	Canthaxanthine	Do.
3.2.5	Beta-apo-8'-carotenal	Do.
3.2.6	Methyl and ethyl esters of Beta-apo-8'-carotenoic acid.	Do.

[1] Temporarily endorsed.

3.3 *Flavours.* Natural flavours and their identical synthetic equivalents, except those which are known to represent a toxic hazard, and other synthetic flavours approved by the Codex Alimentarius Commission, are permitted for the purpose of restoring natural flavour lost in processing or for the purpose of standardizing flavour, as long as the added flavour does not deceive or mislead the consumer by concealing damage or inferiority or by making the product appear to be of greater than actual value.[1]

		Maximum level of use
3.4	*Antioxidants*—	
3.4.1	Propyl, octyl, and dodecyl gallates	100 mg./kg. individually or in combination.
3.4.2	Butylated hydroxytoluene (BHT), butylated hydroxyanisole (BHA).	200 mg./kg. individually or in combination.
3.4.3	Any combination of gallates with BHA or BHT, or both.	200 mg./kg. but gallates not to exceed 100 mg./kg.
3.4.4	Ascorbyl palmitate	200 mg./kg. individually or in combination.
3.4.5	Ascorbyl stearate	Do.
3.4.6	Natural and synthetic tocopherols	Not limited.
3.4.7	Dilauryl thiodipropionate	200 mg./kg.
3.5	*Antioxidant synergists.*	
3.5.1	Citric acid	Not limited.
3.5.2	Sodium citrate	Do.
3.5.3	Isopropyl citrate mixture	100 mg./kg. individually or in combination.
3.5.4	Monoglyceride citrate	Do.
3.5.5	Phosphoric acid [1]	Do.
3.6	*Antifoaming agent*—Dimethyl polysiloxane (syn. Dimethyl silicone) singly or in combination with silicon dioxide.[1]	10 mg./kg.
3.7	*Crystallization inhibitor*—Oxystearin [1]	1250 mg./kg.

		Maximum level
4. CONTAMINANTS		
4.1	Matter volatile at 105° C	0.2 percent m./m.
4.2	Insoluble impurities	0.05 percent m./m.
4.3	Soap content	0.005 percent m./m.
4.4	Iron (Fe):	
	Virgin oil	5 mg./kg.
	Refined oil	1.5 mg./kg.
4.5	Copper (Cu):	
	Virgin oil	0.4 mg./kg.
	Refined oil	0.1 mg./kg.
4.6	Lead (Pb)	0.1 mg./kg.
4.7	Arsenic (As)	0.1 mg./kg.

[1] Temporarily endorsed.

5. HYGIENE

It is recommended that the product covered by the provisions of this standard be prepared in accordance with the appropriate Sections of the General Principles of Food Hygiene recommended by the Codex Alimentarius Commission (Ref. No. CAC/RCP 1–1969).

6. LABELING

In addition to Sections 1, 2, 4, and 6 of the General Standard for the Labeling of Prepackaged Foods (Ref. No. CAC/RS 1–1969) the following specific provisions apply:

6.1 *The name of the food*—

6.1.1 All products designated as mustardseed oil must conform to this standard.

6.1.2 Where mustardseed oil has been subjected to any process of esterification or to processing which alters its fatty acid composition or its consistency, the name mustardseed oil shall not be used unless qualified to indicate the nature of the process.

6.2 *Listed of ingredients*—

6.2.1 A complete list of ingredients shall be declared on the label in descending order of proportion.

6.2.2 A specific name shall be used for ingredients in the list of ingredients except that class titles may be used in accordance with subsection 3.2(c)(ii) of the General Standard for the Labeling of Prepackaged Foods.

6.3 *Net contents*—The net contents shall be declared by volume in either the metric ("Système International" units) or avoirdupois or both systems as required by the country in which the product is sold.

6.4 *Name and address*—The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin*—

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labeling.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Determination of relative density.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 9–1969, "Determination of Relative Density at t/20° C.").

Results are expressed as relative density at 20° C./water at 20° C.

7.2 *Determination of refractive index.* According to IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.B.2 "Refractive Index").

Results are given as the refractive index relative to the sodium D-line at 40° C. (n_D 40° C.).

7.3 *Determination of saponification value* (I_S). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.2 "Saponification Value (Is)".

Results are expressed as the number of mg KOH/g. oil.

7.4 *Determination of iodine value* (I_I). According to the (Wijs) IUPAC Method (1964) (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.7.1, II.D.7.2 and II.D.7.3 "The Wijs Method").

Results are expressed as percent m./m. absorbed iodine.

7.5 *Determination of allyl isothiocyanate content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 10–1969, Determination of Allyl Isothiocyanate Content").

Results are expressed as g. allyl isothiocyanate/kg.

7.6 *Determination of unsaponifiable matter.* According to the IUPAC (1964) diethyl ether method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.5.1 and II.D.5.3).

Results are expressed as g. unsaponifiable matter/kg. oil.

7.7 *Determination of acid value* (I_A). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.1.2 "Acid Value (I_A)").

Results are expressed as the number of mg. KOH required to neutralize 1 g. oil.

7.8 *Determination of peroxide value* (I_P). According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.D.13 "Peroxide Value (I_P)").

Results are expressed as milliequivalents active oxygen/kg. oil.

7.9 *Determination of matter volatile at 105° C.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.1.1 "Moisture of Volatile Matter").

Results are expressed as percent m./m.

7.10 *Determination of insoluble impurities.* According to the IUPAC (1964) method (IUPAC Standard Methods for the Analysis of Oils, Fats and Soaps, 5th Edition, 1966, II.C.2 "Impurities").

Results are expressed as percent m./m.

7.11 *Determination of soap content.* According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 13–1969 "Determination of Soap Content").

Results are expressed as percent m./m. sodium oleate.

7.12 *Determination of iron* (*). According to the FAO/WHO Codex Alimentarius Method (FAO/WHO Methods of Analysis for Edible Fats and Oils, CAC/RM 14–1969, "Determination of Iron Content").

Results are expressed as mg. iron/kg.

7.13 *Determination of copper* (*). According to the AOAC (1965) Method (Official Methods of Analysis of the AOAC, "International Union of Pure and Applied Chemistry Carbamate Method" 24.023–24.028).

Results are expressed as mg. copper/kg.

7.14 *Determination of lead.** According to the AOAC (1965) Method, after complete digestion by the colorimetric dithizone determination procedure (Official Methods of Analysis of the AOAC, 1965, 24.053 and 24.008, 24.009, 24.043), 24.046, 24.047, and 24.048).

Results are expressed as mg. lead/kg.

7.15 *Determination of arsenic.* According to the colorimetric silver diethyldithiocarbamate method of the AOAC (Official Methods of Analysis of the AOAC, 1965, 24.011–24.014, 24.016–24.017, 24.006–24.008).

Results are expressed as mg. arsenic/kg.

*Might be replaced by Atomic Absorption Spectrophotometry in the future.

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Standard Methods of the Oils and Fats Section of the IUPAC, 5th Edition, incorporating First Supplement up-to-date to 1965. Butterworths, London, 1966.

Supplement 1966 to the above.

Interested persons may, within 120 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this matter. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

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THURSDAY, OCTOBER 5, 1972
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PART III

DEPARTMENT OF LABOR

■

Wage Rate Determination Procedures; Revision and Organizational Changes

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Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS STANDARDS ACT)

Revision To Reflect Organizational Changes

Minimum wage rates and fringe benefits of workers performing construction activity, under contracts subject to the labor standards provisions of the Davis-Bacon Act and of many related statutes under which such activity is performed with Federal assistance, are prescribed in accordance with wage determination decisions of the Secretary of Labor made as provided in 29 CFR Part 1 which are based on the wages determined to be prevailing for such workers on similar construction in the locality. Pursuant to orders of the Secretary reassigning functions of the Department, functions formerly performed by the Solicitor of Labor under 29 CFR Part 1 are now assigned to the Assistant Secretary of Labor for Employment Standards and performed under his general direction by officials of the Employment Standards Administration. Editorial changes in 29 CFR Part 1 are necessary to reflect this fact.

General wage determination decisions (also known as "area" wage determinations) and project wage determination decisions are made in the Washington offices of the Department of Labor under these statutes. The general or "area" decisions are published in the FEDERAL REGISTER. As a result of recent strengthening of the Department's field organization, the functions of the Department of Labor concerned with obtaining and compiling wage rate information for wage determination decisions to be issued in Washington and matters relating thereto, heretofore, performed in Washington, may now be performed more efficiently and effectively and with greater accuracy in the regions of the country where the projects are to be undertaken and where the wage data for the localities involved can be ascertained with a minimum of delay. Accordingly, 29 CFR Part 1 is amended to make such technical changes in the text of Part 1 as are required to reflect the current assignments of authority and responsibility for wage determination procedures under the statutes referred to above, pursuant to Secretary of Labor's Orders No. 13–71 and No. 15–71 (36 F.R. 8755, 8756).

In addition, 29 CFR 5.3 and 5.4 are transferred to Part 1 inasmuch as the subject matter, the application for and use of wage determinations, is more appropriately treated in Part 1. Procedural changes necessitated by the publication of general wage determinations in the FEDERAL REGISTER are also made in new § 1.7 of Part 1; which replaces former § 5.4 of Part 5.

Pursuant to authority under the Davis-Bacon Act, as amended (46 Stat. 1494, as amended; 40 U.S.C. 276a—276a–7). Reorganization Plan No. 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. Appendix) and the statutes subject thereto providing for determination of wages by the Secretary of Labor in accordance with the Davis-Bacon Act, and under Reorganization Plan No. 6 of 1950 (15 F.R. 3174; 64 Stat. 1263; 5 U.S.C. Appendix, 5 U.S.C. 301), Secretary's Order No. 13–71 (36 F.R. 8755), and Secretary's Order No. 15–71 (36 F.R. 8756), I amend 29 CFR Parts 1 and 5 as set forth below.

As the revisions in these parts involve only changes necessitated by agency reorganization, procedures and practices, general notice of rule making is not required. Further, I find that delay in the effective date of these amendments would be detrimental to agency administration of procurements dependent on wage determinations of the Secretary of Labor. Accordingly, these amendments shall be effective immediately.

1. Part 1 29 CFR is revised to read as follows:

Sec.
- 1.1 Purpose and scope.
- 1.2 Definitions.
- 1.3 Obtaining and compiling wage rate information.
- 1.4 Outline of agency construction programs.
- 1.5 Procedure for requesting wage determinations.
- 1.6 Determination of wage rates.
- 1.7 Use and effectiveness of wage determinations.
- 1.8 Scope of consideration (exclusive of wage rate determinations made pursuant to the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, which shall be made in accordance with § 1.3(b)(4)).
- 1.9 Field survey.
- 1.10 Hearings.
- 1.11 Prehearing conferences.
- 1.12 Hearing examiner's proposed decision.
- 1.13 Submission of hearing examiner's proposed decision to interested persons.
- 1.14 Exceptions of interested persons.
- 1.15 Decision of Administrator.
- 1.16 Review by Wage Appeals Board.
- 1.17 Public information.

AUTHORITY: The provisions of this Part 1 issued under R.S. 161, 64 Stat. 1267; sec. 2, 48 Stat. 948; sec. 10, 61 Stat. 89; 5 U.S.C. 301, 5 U.S.C. App.; 40 U.S.C. 276c; 29 U.S.C. 258. Interpret or apply sec. 1, 46 Stat. 1494, 49 Stat. 1011; sec. 212 added to c. 847, 48 Stat. 1246 by sec. 14, 53 Stat. 807; sec. 602, added to c. 94, 64 Stat. 77 at 73 Stat. 681; sec. 2, 60 Stat. 1041; sec. 15, 60 Stat. 178; sec. 307(f); 63 Stat. 430; sec. 205, 64 Stat. 973; sec. 310, 65 Stat. 307; sec. 201; 64 Stat. 1248; sec. 3, 72 Stat. 532; sec. 108, 72 Stat. 895; sec. 6, 62 Stat. 1158; sec. 15, 75 Stat. 714; sec. 21, 75 Stat. 613; sec. 15, 75 Stat. 688; sec. 721, 77 Stat. 167; secs. 101, 122, 135, 205, 77 Stat. 282, 284, and 288. 40 U.S.C. 276a; 12 U.S.C. 1701q, 1715c, 1749a; 42 U.S.C. 291h, 1416, 1459, 1592; 29 U.S.C. 1114, 20 U.S.C. 636; 23 U.S.C. 113; 50 U.S.C. App. 2281; 33 U.S.C. 466e.

§ 1.1 Purpose and scope.

(a) The procedural rules in this part apply under the Davis-Bacon Act (46 Stat. 1494, as amended; 40 U.S.C. 276a—276a–7) and other statutes listed in Appendix A to this part which provide for the payment of minimum wages, including fringe benefits, to laborers and mechanics engaged in construction activity under contracts entered into or financed by or with the assistance of agencies of the United States or the District of Columbia, based on determinations by the Secretary of Labor of the wage rates and fringe benefits prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in the local areas where such work is to be performed. Functions of the Secretary of Labor under these statutes and under Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 U.S.C. Appendix), except those assigned to the Wage Appeals Board (see 29 CFR Part 7), are assigned to the Assistant Secretary of Labor for Employment Standards and his delegees in the Employment Standards Administration of the U.S. Department of Labor.

(b) The regulations in this part set forth the procedures for making and applying such determinations of prevailing wage rates and fringe benefits pursuant to the Davis-Bacon Act, each of the other statutes listed in the Appendix A, any other Federal statute providing for determinations of such wages by the Secretary of Labor in accordance with the provisions of the Davis-Bacon Act, and such other statutes as may, from time to time, confer upon the Secretary of Labor similar wage determining authority.

(c) Procedures set forth in this part are applicable, unless otherwise indicated, both to general wage determination decisions published in the FEDERAL REGISTER for general use in specified localities for contracts to be performed there, and to project wage determination decisions for use on contract work to be performed on a specific project.

§ 1.2 Definitions.[1]

(a) The term "prevailing wage rate" for each classification of laborers and mechanics which the Administrator shall regard as prevailing in an area shall mean:

(1) The rate of wages paid in the area in which the work is to be performed, to the majority of those employed in that classification in construction in the area similar to the proposed undertaking;

(2) In the event that there is not a majority paid at the same rate, then the rate paid to the greater number: *Provided*, Such greater number constitutes 30 percent of those employed; or

(3) In the event that less than 30 percent of those so employed receive the same rate, then the average rate.

(b) The term "area" in determining wage rates under the Davis-Bacon Act and the prevailing wage provisions of the other statutes listed in Appendix A shall mean the city, town, village, or other civil subdivision of the State in which the work is to be performed. In determining wage rates pursuant to the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, the College Housing Act of 1950, and the Federal Water Pollution Control Act, the term "area" shall mean immediate locality of the projects.

(c) The term "average rate" for each classification in an area shall mean the rate obtained by adding the hourly rates paid to all workers in the classification and dividing by the total number of such workers.

(d) The term "Administrator" shall mean the Deputy Assistant Secretary for Employment Standards, Employment Standards Administration, U.S. Department of Labor, who is also Administrator of the Wage and Hour Division, or his authorized representative as set forth in this part. In the absence of the Deputy Assistant Secretary/Wage Hour Administrator, the Deputy Administrator of the Wage and Hour Division/Director of Office of Wage and Compensation Programs is designated to act for him under this part. Except as otherwise provided in this part, the Assistant Administrator is the authorized representative of the Administrator for the performance of functions relating to the making and effectuation of wage determinations pursuant to the procedures provided herein. Each Regional Administrator, Employment Standards Administration, is the authorized representative of the Administrator for the performance of functions relating to wage determinations as provided in this part.

(e) The term "wages" (and its singular form) has the meaning prescribed in section 1(b) of the Davis-Bacon Act (40 U.S.C. 276a(b)). It includes "other bona fide fringe benefits" than those expressly enumerated in the Act. This permits, among other things, the inclusion of the "bona fide fringe benefits" in prevailing wage determinations under the Act for a particular area when the payment of such fringe benefits constitutes a prevailing practice. In finding whether or not it is the prevailing area practice to pay such fringe benefits, the Administrator shall be guided by the tests of prevalence similar to those prescribed in paragraph (a) of this section.

§ 1.3 Obtaining and compiling wage rate information.

For the purpose of making wage rate determinations, the Administrator shall conduct a continuing program for the obtaining and compiling of wage rate information.

(a) The Administrator shall encourage the voluntary submission of wage rate data to the appropriate Regional Office as shown in Appendix B by contractors, contractors' associations, labor organizations, public officials and other interested parties, reflecting wage rates paid to laborers and mechanics on various types of construction in the area. Rates must be determined, among others, for such varying types of projects as buildings, bridges, dams, highways, tunnels, sewers, power lines, railways, airports (building and runways), apartment houses, wharves, levees, canals, dredging, land clearing, and excavating. Accordingly, the information submitted should reflect not only that the specified wage rate or rates are paid to a particular craft in an area, but also the type or types of construction on which such rate or rates are paid.

(b) The following types of information will be considered in making wage rate determinations:

(1) Statements showing wage rates paid on projects. (Such statements should indicate the names and addresses of contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed in each classification on each project, and the respective wage rates paid such workers.)

(2) Signed collective bargaining agreements. (The Administrator may request the parties to an agreement to submit statements certifying to its scope and application.)

(3) Wage rates determined for public construction by State and local officials pursuant to prevailing wage legislation.

(4) Information furnished by Federal and State agencies. See § 1.5. (In making wage rate determinations pursuant to Federal-Aid Highway Acts as codified in 23 U.S.C. 113, the highway department of the State in which a project in the Interstate System is to be performed shall be consulted. Before making a determination of wage rates for such a project the Administrator shall give due regard to the information thus obtained.)

(5) Any other information pertinent to the determination of prevailing wage rates.

(c) The Administrator shall supplement such information obtained on a voluntary basis by such means, including the holding of hearings, and from whatever sources he deems necessary.

§ 1.4 Outline of agency construction programs.

To the extent practicable, at the beginning of each fiscal year each agency using wage determinations under any of the various statutes listed in Appendix A shall furnish each Employment Standards Administration Regional Office with a general outline of its proposed construction programs for the coming year in the area covered by that regional office indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction. During the fiscal year, each agency shall notify the Regional Administrator of any significant changes in its proposed construction programs, as outlined at the beginning of the fiscal year.

§ 1.5 Procedure for requesting wage determinations.

(a) (1) The Federal Agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting to the Regional Administrator who has jurisdiction within the geographical area where the applicable project will be performed a completed Standard Form 308. See Appendix B for applicable geographical areas. State highway departments under the Federal-Aid Highway Acts as codified in 23 U.S.C. 113 shall similarly request a wage determination by using Standard Form 308. The agency shall check only those classifications on the applicable form which will be needed in the performance of the work (inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient). Additional classifications needed which are not on the form may be typed in the biank spaces or on a separate list and attached to the form. The agency shall not list classifications which can be fitted into classifications on the form, or classifications which are not generally recognized in the area or in the construction industry.

(2) In completing SF–308, the agency shall furnish:

(i) A sufficiently detailed description of the work to indicate the type of construction involved. Additional description or separate attachment, if necessary for identification of type of project, shall be furnished.

(ii) Location of the proposed project (include distance in miles and direction from the nearest point of reference).

(3) Such request for a wage determination shall be accompanied by any pertinent wage payment information which may be available. This information need not accompany a request in areas where the wage patterns are clearly established. When the requesting agency is a State highway department under the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, such agency shall also include its recommendations as to the wages which are prevailing for each classification of laborers and mechanics on similar construction in the immediate locality.

(b) Whenever the wage patterns in a particular area for a particular type of construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for such a type of construction, the Administrator, upon the request of a Federal agency or in his discretion, may issue a general wage determination when, after consideration of the facts and circumstances involved, he finds that the applicable statutory standards and those of this part will be met.

(c) The time required for processing requests for wage determinations varies according to the facts and circumstances in each case. An agency should anticipate that such processing in the Department of Labor will take at least 30 days.

[1] These definitions are not intended to restrict the meaning of the terms as used in the applicable statutes.

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§ 1.6 Determination of wage rates.

In the event that the data compiled under § 1.3 are sufficient to determine the prevailing wage rates, a wage determination decision shall be made as to the wage rates and fringe benefits prevailing in the area in response to requests submitted as provided in § 1.5. If a general wage determination decision is issued as provided in § 1.5(b), it shall be published in the FEDERAL REGISTER. Copies of project wage determinations shall be delivered to the requesting contracting officers through the Regional Offices which originally received the requests. Such wage determination decisions shall be used, and may be modified, superseded, or corrected as provided in § 1.7.

§ 1.7 Use and effectiveness of wage determinations.

(a) (1) Project wage determinations initially issued shall be effective for 120 calendar days from the date of such determinations. If such a wage determination is not used in the period of its effectiveness it is void. If it appears that a wage determination may expire between bid opening and award, the agency should request a new wage determination sufficiently in advance of the bid opening to assure receipt prior thereto. However, when due to unavoidable circumstances a determination expires before award and after bid opening, the Administrator upon a written finding to that effect by the head of the Federal agency in individual cases may extend the expiration date of a determination whenever he finds it necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business.

(2) General wage determinations issued pursuant to § 1.5(b) of this part, and which are published in the FEDERAL REGISTER, shall contain no expiration date. These general wage determinations shall be modified, and the modifications published in the FEDERAL REGISTER, on a timely basis to keep them current.

(b) (1) All actions modifying an original project wage determination prior to the award of the contract or contracts for which the determination was sought shall be applicable thereto, but modifications received by the Federal agency (in the case of the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, the State highway department of each State) later than 10 days before the opening of bids shall not be effective except when the Federal agency (in the case of Federal-Aid Highway Acts as codified in 23 U.S.C. 113, the State highway department of each State) finds that there is a reasonable time in which to notify bidders of the modification. Similarly, in the case of contracts entered into pursuant to the National Housing Act, changes or modifications in the original determination shall be effective if made prior to the beginning of construction, but shall not apply after the mortgage is initially endorsed by the Federal agency. A modification in no case will continue in effect beyond the effective period of the wage determination to which it relates.

(2) All actions modifying a general wage determination shall be applicable thereto, but modifications published in the FEDERAL REGISTER later than 15 days before the opening of bids shall not be effective except when the Federal agency (in the case of Federal-Aid Highway Acts as codified in 23 U.S.C. 113, the State highway department of each State) finds that there is a reasonable time in which to notify bidders of the modification. In the case of contracts entered into pursuant to the National Housing Act, such modifications shall be effective if made prior to the beginning of construction, but shall not apply after the mortgage is initially endorsed by the Federal agency.

(c) Upon his own initiative or the request of a Federal agency (or a State highway department under the Federal-Aid Highway Acts as codified in 23 U.S.C. 113), the Administrator shall correct any wage determination included in a contract subject to the minimum wage provisions of the statutes listed in Appendix A of this part whenever he finds such a wage determination contains clerical errors.

§ 1.8 Scope of consideration (exclusive of wage rate determinations made pursuant to the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, which shall be made in accordance with § 1.3(b)(4)).

(a) In making a wage rate determination, projects completed more than 1 year prior to the date of request for the determination may, but need not be considered.

(b) If there has been no similar construction within the area in the past year, wage rates paid on the nearest similar construction may be considered.

§ 1.9 Field survey.

Whenever the data at hand are insufficient to make a determination with respect to all the crafts necessary to perform the proposed construction work, a field survey may be conducted in the area of the proposed project for the purpose of obtaining sufficient information upon which to make a determination of wage rates.

§ 1.10 Hearings.

Whenever he deems it necessary because of insufficiency of information or impracticality of a field survey, or both, the Administrator may direct a hearing to be held. He shall request the Chief Hearing Examiner, U.S. Department of Labor, to designate a hearing examiner who shall, after notice to all interested persons, proceed to the project area and make such investigations and conduct such hearings as may be necessary to make a determination of wage rates for the project.

§ 1.11 Prehearing conferences.

When it appears that a prehearing conference will expedite proceedings, the examiner prior to the hearing may request interested persons to attend a conference to consider such matters as may expedite the hearing.

§ 1.12 Hearing examiner's proposed decision.

The hearing examiner shall make a written proposed decision in which he shall:

(a) State the procedure that he has followed;

(b) Summarize briefly the evidence and information that he has received;

(c) Analyze the evidence and information; and

(d) Draft a proposed decision for the Administrator's consideration.

§ 1.13 Submission of hearing examiner's proposed decision to interested persons.

A copy of the hearing examiner's proposed decision shall be mailed to each interested person appearing at the hearing.

§ 1.14 Exceptions of interested persons.

Any interested person may within 5 days after receipt of the hearing examiner's proposed decision file his exceptions thereto. Such exceptions shall be filed with the Chief Hearing Examiner, U.S. Department of Labor, Washington 25, D.C., for transmission to the Administrator.

§ 1.15 Decision of Administrator.

The Administrator shall rule upon any exceptions filed under § 1.14, and shall make a determination as to the prevailing wage rates for the project.

§ 1.16 Review by Wage Appeals Board.

Any interested person may appeal to the Wage Appeals Board for a review of a determination of wage rates made under this part, or any findings and conclusions made on the record of any hearings held under § 1.3(c). Any such appeal may, in the discretion of the Wage Appeals Board, be received, accepted, and decided in accordance with the provisions of 29 CFR Part 7 and such other procedures as the Board may establish.

§ 1.17 Public information.

Papers and documents containing information furnishing the basis for any determination of wage rates shall be available for public inspection at each Regional Office, Employment Standards Administration, within the geographical area comprising the region, and in the Washington Office under the procedures prescribed in Part 70 of this subtitle. The application of these procedures shall insure that disclosure of the relevant information will be made in a manner consistent with Part 70, governing the disclosure of particular or specific records which are in the custody of the Employment Standards Administration. See Appendix B for address of each Regional Office and the geographical areas comprising each region.

APPENDIX A

STATUTES REQUIRING PAYMENT OF WAGES AT RATES PREDETERMINED BY THE SECRETARY OF LABOR

1. The Davis-Bacon Act (secs. 1–7, 46 Stat. 1494, as amended; Public Law 74–403, 40 U.S.C. 276a–276a–7).

2. The Federal-Aid Highway Act of 1956 (sec. 108(b), 70 Stat. 378, recodified at 72 Stat. 895; 23 U.S.C. 113(a), as amended), see particularly the amendments in the Federal-Aid Highway Act of 1968 (Public Law 90–495, 62 Stat. 815).

3. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246 by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c) and repeatedly amended.

4. Federal Airport Act (sec. 15, 60 Stat. 178; 49 U.S.C. 1114(b)).

5. Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

6. School Survey and Construction Act of 1950 (sec. 101, 72 Stat. 551, 20 U.S.C. 636(b)(1)(E), Public Law 85–620).

7. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307, 42 U.S.C. 15921).

8. U.S. Housing Act of 1937 (sec. 16, 50 Stat. 896, as amended; 42 U.S.C. 1416).

9. Federal Civil Defense Act of 1950 (sec. 3(c), 72 Stat. 533, 50 U.S.C. App. 2281, Public Law 85–606).

10. Health Professions Educational Assistance Act of 1963 (sec. 2(a), 77 Stat. 164; 42 U.S.C. 292d(c)(4) and 42 U.S.C. 293a(c)(5), Public Law 88–129).

11. Mental Retardation Facilities Construction Act (secs. 101, 122, 135; 77 Stat. 282, 284, 288; 42 U.S.C. 295a(a)(2)(D), 2662(5), 2675(a)(5), Public Law 88–164).

12. Community Mental Health Centers Act (sec. 205, 77 Stat. 292; 42 U.S.C. 2685(a)(5), Public Law 88–164).

13. Higher Educational Facilities Act of 1963 (sec. 403, 77 Stat. 379; 20 U.S.C. 753, Public Law 88–204).

14. Vocational Educational Act of 1963 (sec. 7, 77 Stat. 408; 20 U.S.C. 35f, Public Law 88–210).

15. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), Public Law 88–269).

16. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; 49 U.S.C. 1609, Public Law 88–365).

17. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947, Public Law 88–452).

18. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5), Public Law 88–443).

19. Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f), Public Law 88–560).

20. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b), Public Law 88–309).

21. Nurse Training Act of 1964 (sec. 2, 78 Stat. 909; 42 U.S.C. 296a(b)(5), Public Law 88–581).

22. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402, Public Law 90–103).

23. Act to provide Financial Assistance for Local Educational Agencies in areas affected by Federal activities (64 Stat. 1100, as amended by sec. 2, 79 Stat. 33; 20 U.S.C. 2411, Public Law 89–10).

24. Elementary and Secondary Education Act of 1965 (sec. 308, 79 Stat. 44; 20 U.S.C. 848, Public Law 89–10).

25. Cooperative Research Act of 1966 (sec. 4(c), added by sec. 403, Public Law 89–750, 79 Stat. 46; 20 U.S.C. 332a(c)).

26. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 498; 42 U.S.C. 1500c–3, Public Law 89–117).

27. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492; 42 U.S.C. 3107, Public Law 89–117).

28. Public Works and Economic Development Act of 1965 (sec. 712, 79 Stat. 575; 42 U.S.C. 3222, Public Law 89–136).

29. National Foundation on the Acts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846; 20 U.S.C. 954(k), Public Law 89–209).

30. Federal Water Pollution Control Act as amended by sec. 4(g) of the Water Quality Act of 1965, (79 Stat. 910; 33 U.S.C. 466e(g), Public Law 89–234).

31. Heart Disease, Cancer and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4), Public Law 89–239).

32. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 644; 40 U.S.C. 682(b)(4), Public Law 89–173) Note: Repealed December 9, 1969 and labor standards incorporated in sec. 1–1431 of the District of Columbia Code.

33. Vocational Rehabilitation Act (sec. 12(b), added by sec. 3, 79 Stat. 1284; 29 U.S.C. 41a(b)(4), Public Law 89–333).

34. Medical Library Assistance Act of 1965 (sec. 2, adding sec. 393 of the Public Health Service Act, 79 Stat. 1060; 42 U.S.C. 280b–3(b)(3), Public Law 89–291).

35. Solid Waste Disposal Act (sec. 207, 79 Stat. 1000; 42 U.S.C. 3256, Public Law 89–272).

36. National Technical Institute for the Deaf Act (sec. 5(b)(5), 70 Stat. 126; 20 U.S.C. 684(b)(5), Public Law 89–36).

37. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1416, Public Law 89–745).

38. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1028, Public Law 89–695).

39. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Public Law 87–328) (considered a statute for purposes of the plan.)

40. Alaska Purchase Centennial (sec. 2(b), 80 Stat. 8, Public Law 89–375).

41. Highway Speed Ground Transportation Study (sec. 6(b), 79 Stat. 895, 49 U.S.C. 1636(b), Public Law 89–220).

42. Allied Health Professions Personnel Training Act of 1966 (80 Stat. 1222; 42 U.S.C. 295h(b)(2)(E), Public Law 89–751).

43. Air Quality Act of 1967 (sec. 307 added by sec. 2, 81 Stat. 506; 42 U.S.C. 1857j–3), Public Law 90–148).

44. Elementary and Secondary Education Amendments of 1967 (81 Stat. 819; 20 U.S.C. 880b–6, Public Law 90–247).

45. Vocational Rehabilitation Amendments of 1967 (81 Stat. 252, 29 U.S.C. 42a(c)(3), Public Law 90–391).

46. National Visitors Center Facilities Act of 1968 (sec. 110, 82 Stat. 45; 40 U.S.C. 808, Public Law 90–264).

47. Juvenile Delinquency Prevention and Control Act of 1968 (sec. 133, 82 Stat. 469; 42 U.S.C. 3843, Public Law 90–445).

48. New Communities Act of 1968 (sec. 410 of Public Law 90–448, 82 Stat. 516; 42 U.S.C. 3909).

49. Alcoholic and Narcotic Addict Rehabilitation Amendments of 1968 (sec. 243(d) added by sec. 301, 82 Stat. 1008; 42 U.S.C. 2688h(d), Public Law 88–164).

50. Vocational Education Amendments of 1968 (sec. 106 added by sec. 101(b), 82 Stat. 1069, 20 U.S.C. 1246, Public Law 90–576).

51. Postal Reorganization Act (39 U.S.C. 410(b)(4)(c), Public Law 91–375).

52. Developmental Disabilities Services and Facilities Construction Amendments of 1970 (84 Stat. 1316, 42 U.S.C. 2075, sec. 135(a)(5), Public Law 91–517).

53. Rail Passenger Service Act of 1970 (84 Stat. 1327, 45 U.S.C. 565, sec. 405(d), Public Law 91–518).

54. Housing and Urban Development Act of 1970 (84 Stat. 1770, sec. 707(a) and (b), Public Law 91–609, 42 U.S.C. 1500c–3).

55. Airport and Airway Development Act of 1970 (84 Stat. 219, sec. 22(b), Public Law 91–258, 41 U.S.C. 1722(b)) (this Act provides for wage determination by the Secretary of Labor but does not subject the Act to Reorganization Plan No. 14).

56. Elementary and Secondary Education Amendments (84 Stat. 121, sec. 423, Public Law 91–230, 20 U.S.C. 1231 et seq.).

57. Housing Act of 1959 (73 Stat. 681, Public Law 86–372, 12 U.S.C. 1701q(c)(3), Public Law 86–372).

58. Housing Act of 1950 (64 Stat. 78, 12 U.S.C. 1749a(f).

59. Area Redevelopment Act of 1961 (75 Stat. 61, Public Law 87–27, 42 U.S.C. 2518).

60. Mental Retardation Facilities and Community Mental Health Centers Construction Act Amendments of 1965 (79 Stat. 429, Public Law 89–105, 20 U.S.C. 618(g)).

61. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, Public Law 88–450, 38 U.S.C. 5035(a)(8)).

62. Education Amendments of 1972 (86 Stat. 331, Public Law 92–318).

63. Juvenile Delinquency Prevention and Control Act of 1968, amendment (86 Stat. 532, Public Law 92–381).

APPENDIX B

BOSTON REGION

For the States of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, and Connecticut:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, Room 1612C, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203 (telephone: 617–223–2035).

NEW YORK REGION

For the States of New York and New Jersey and for Puerto Rico and the Virgin Islands:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, 1515 Broadway, New York, NY 10036 (telephone: 212–971–5451).

PHILADELPHIA REGION

For the States of Pennsylvania, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, Room 704C, 1317 Filbert Street, Philadelphia, PA 19107 (telephone: 215–597–9633).

ATLANTA REGION

For the States of Florida, Georgia, North Carolina, South Carolina, Tennessee, Alabama, Kentucky, and Mississippi:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, Room 331, 1371 Peachtree Street NE., Atlanta, GA 30309 (telephone: 404—526–5801).

CHICAGO REGION

For the States of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor U.S. Courthouse and Federal Office Building, Room 742, 219 South Dearborn Street, Chicago, IL 60604 (telephone: 312—353–7280).

DALLAS REGION

For the States of Texas, New Mexico, Oklahoma, Arkansas, and Louisiana:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, Room 13F12, 1100 Commerce Street, Dallas, TX 75202 (telephone: 214—749–2037).

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KANSAS CITY REGION

For the States of Missouri, Kansas, Nebraska, and Iowa:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, Room 2000, Federal Office Building, 911 Walnut Street, Kansas City, MO 64102 (telephone: 816-374-5384).

DENVER REGION

For the States of Colorado, North Dakota, South Dakota, Utah, Wyoming, and Montana:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, Room 246, 232 New Customshouse, 721 19th Street, Denver, CO 80202 (telephone: 303-837-4613).

SAN FRANCISCO REGION

For the States of California, Nevada, Arizona, and Hawaii, and for Guam, and various Pacific Islands:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, 450 Golden Gate Avenue, Room 10431, San Francisco, CA 94102 (telephone: 415-556-1318).

SEATTLE REGION

For the States of Washington, Oregon, Idaho, and Alaska:

Regional Administrator, Employment Standards Administration, U.S. Department of Labor, 2008 Smith Tower, 506 Second Avenue, Seattle, WA 98104 (telephone: 206-442-1536).

§§ 5.3, 5.4 [Deleted]

2. Sections 5.3 and 5.4 of 29 CFR are deleted. Subjects formerly dealt with in these sections are now covered in 29 CFR 1.5 and 29 CFR 1.7.

Signed at Washington, D.C., this 29th day of September 1972.

R. J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-16905 Filed 10-4-72;8:45 am]

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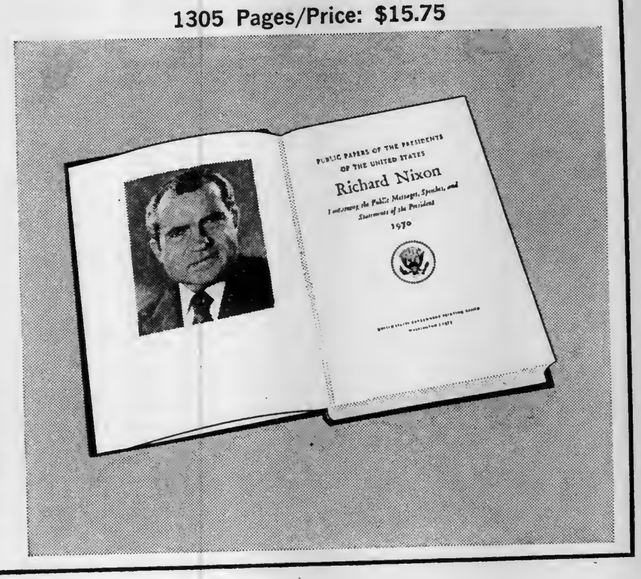
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PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3116(a)(11), covering positions connected with the suicidology training program of the National Center for Mental Health Services, Training, and Research, having expired of its own terms, is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commisioners.

[FR Doc.72-17156 Filed 10-5-72;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Staff Assistant to the Special Assistant to the Secretary, Office of Legislative Liaison, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10–6–72), § 213.3315 (a)(29) is added as set out below.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* • • •

(29) One Staff Assistant to the Special Assistant to the Secretary, Office of Legislative Liaison.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commisioners.

[FR Doc.72-17158 Filed 10-5-72;8:51 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to reflect the following title change: From Special Assistant to the Assistant Secretary for Community Planning and Management to Staff Assistant to the Assistant Secretary for Community Planning and Management.

Effective on publication in the FEDERAL REGISTER (10–6–72), §§ 213.3384(d) (3) and (10) are amended as set out below.

§ 213.3384 Department of Housing and Urban Development.

• • • • • •

(d) *Office of the Assistant Secretary for Community Planning and Management.* • • •

(3) Five Special Assistants to the Assistant Secretary.

• • • • • •

(10) Two Staff Assistants to the Assistant Secretary.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-17157 Filed 10-5-72;8:51 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Prohibition on Importation of Swine and Restrictions on Importation of Pork and Pork Products From Certain Countries

Pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, 134f), Parts 92 and 94 of Title 9, Code of Federal Regulations, are hereby amended as follows:

§ 92.2 [Amended]

1. In § 92.2 in Part 92 a footnote is added after the phrase "Part 94 of this subchapter" and the footnote is added to read:

[1] Importations of certain animals from various countries are absolutely prohibited under Part 94 because of specified diseases.

§ 92.5 [Amended]

2. In § 92.5(a)(1), the references to §§ 92.29 and 92.37 are deleted.

§ 92.11 [Amended]

3. a. In § 92.11(b)(1), the phrase "countries of Central America and the West Indies, and Mexico" is deleted.

b. In § 92.11(b)(2), the term "and swine" is deleted wherever it appears; the term "Swine and ruminants" is deleted and the term "Ruminants" is substituted therefor; and the references to §§ 92.29 and 92.37 are deleted.

§§ 92.27 and 92.31 [Amended]

4. In §§ 92.27 and 92.31, the terms "swine," and "or swine" are deleted wherever they appear.

§ 92.34 [Amended]

5. In § 92.34, the terms ", other ruminants, and swine" and "other ruminants, swine," are deleted wherever they appear and the terms "and other ruminants" and "other ruminants," are substituted, respectively, therefor.

§§ 92.29 and 92.37 [Deleted]

6. Sections 92.29 and 92.37 are deleted.

§ 92.40 [Amended]

7. In § 92.40, the term "Swine and ruminants" is deleted wherever it appears and the term "Ruminants" is substituted therefor.

8. Part 94 is amended by changing the part heading to read as set forth above and by adding to Part 94 new §§ 94.9 and 94.10 to read, respectively, as follows:

§ 94.9 Pork and pork products from countries where hog cholera exists.

(a) Hog cholera is one of the most dangerous and destructive of all swine diseases. The causative virus is highly virulent and is likely to be present in pork and pork products originating in countries where the disease exists. The disease is known to exist in all countries of the world except Australia, Canada, England, Northern Ireland, the Republic of Ireland, and New Zealand. The only known practical methods of destroying the contagion of the disease in pork and pork products are by a treatment as prescribed in this section. In view of these circumstances and in order to prevent the introduction and dissemination of the contagion of hog cholera, the regulations in this section are promulgated

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with respect to the importation of pork and pork products from all countries of the world except: Australia, Canada, England, Northern Ireland, the Republic of Ireland, and New Zealand.[2]

(b) No pork or pork product will be permitted entry into the United States from any country where hog cholera is known to exist unless it complies with the following requirements:

(1) Such pork or pork product has been treated in accordance with one of the following procedures:

(i) Such pork or pork product has been fully cooked by a commercial method in a rigid can which was sealed promptly after filling and before such cooking, so that such cooking and sealing produced a fully sterilized product which is in a hermetically sealed can and is shelf stable without rerfigeration;

(ii) Such pork or pork product is in compliance with the following requirements:

(*a*) All bones have been completely removed in the country of origin, and

(*b*) Such article has received heat treatment producing an internal temperature of 158° F. for not less than 10 minutes or 177° F. for not less than 3 minutes; or

(iii) Such pork or pork product is in compliance with the following requirements:

(*a*) All bones have been completely removed in the country of origin, and

(*b*) The meat has been held in an unfrozen, fresh condition for at least 3 days immediately following the slaughter of the animals from which it was derived, and

(c) The meat has been thoroughly cured and fully dried for a period of not less than 90 days so that the product is shelf stable without refrigeration.

(2) The article was prepared in an inspected establishment that is eligible to have its products imported into the United States under the Federal Meat Inspection Act and the regulations in § 327.2 in Chapter III of this title; and

(3) In addition to the certificate required by § 327.4 of this title, the article is accompanied by a certificate stating the facts specified in subdivision (i) or (ii) or (iii) of subparagraph (1) of this paragraph, and issued by an official of the national government of the country of origin who is authorized to issue the certificates required by § 327.4[3] of this title.

§ 94.10 Swine from countries where hog cholera exists; importations prohibited.

Whereas it has been determined that hog cholera exists in all countries of the world except Australia, Canada, England, Northern Ireland, the Republic of Ireland and New Zealand, and that swine which originate in or are shipped from or transit any country except those listed, would, if brought into the United States, be likely to introduce or disseminate hog cholera into the United States, it is hereby further determined that, in order to protect the livestock of the United States, it is necessary to prohibit the movement of such swine into the United States and such movement is hereby prohibited except for wild swine which may be allowed importation by the Deputy Administrator upon request in specific cases under § 92.4(c) or § 92.2 of this chapter.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4 and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Hog cholera is a highly communicable and dangerous disease of swine, which is known to exist in most foreign countries. An extensive quarantine and eradication program has been undertaken in the United States, including payment of indemnities for swine destroyed in the effort to eradicate the disease in cooperation with the States and territories. An average of more than $9 million in Federal funds was expended in this program in fiscal years 1970 and 1971.

The prohibitions and restrictions imposed by the foregoing amendments are necessary in order to protect the livestock of the United States by preventing the further introduction or dissemination of the contagion of hog cholera from foreign countries into the United States, and in order to protect the gains made in the eradication program, and must be made effective as soon as possible in order to accomplish these objectives. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that publication of notice of proposed rule making and opportunity for public comment in connection with the amendments would be impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after their publication in the FEDERAL REGISTER.

Effective date. The amendments shall become effective upon issuance, except with respect to intransit shipments of swine, pork and pork products that are on board a carrier moving to the United States at the time of issuance hereof. Such intransit shipments shall upon arrival in the United States be allowed entry only under such specific requirements or be disposed of in such manner as the Administrator may determine in each specific case to be necessary and adequate to safeguard against the introduction or dissemination of hog cholera into the United States.

Done at Washington, D.C., this 2d day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17169 Filed 10-5-72;8:52 am]

[2] See also other provisions of this part and Parts 92, 95, 96, and 327 of this chapter for other prohibitions and restrictions upon importation of swine and their products.

[3] The certification required may be placed on the certificate prescribed by § 327.4 or may be contained in a separate document.

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

FORMETANATE HYDROCHLORIDE

A petition (FAP 2H5010) was filed by NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) proposing establishment of food additive tolerances (21 CFR Part 121) for residues of the insecticide formetanate hydrochloride (*m*-[[[(dimethylamino)methylene]amino]phenyl methylcarbamate hydrochloride) in or on raisins at 20 parts per million resulting from application of the insecticide to growing grapes and in or on dried prunes at 8 parts per million resulting from application of the insecticide to growing plums (fresh prunes).

Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance on raisins. (For a related document, see this issue of the FEDERAL REGISTER, 37 F.R. 21151).

Formetanate hydrochloride qualifies both as a pesticide chemical and a food additive, as defined by the Federal Food, Drug, and Cosmetic Act (sec. 201 (q) and (s), 68 Stat. 511, 72 Stat. 1784; 21 U.S.C. 321 (q) and (s)).

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for pesticides programs (36 F.R. 9038), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1245 Formetanate hydrochloride.

A tolerance of 8 parts per million is established for residues of the insecticide formetanate hydrochloride (*m*-[[[(dimethylamino)methylene]phenyl methylcarbamate hydrochloride) in dried prunes when present therein as a result of the application of the insecticide to growing plums (fresh prunes).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–6–72).

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: September 28, 1972.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17118 Filed 10-5-72;8:47 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B2729) filed by American Cyanamid Co., Wayne, N.J. 07470, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of isophthalic acid as a reactant with diethylenetriamine in the manufacture of polyamide—epichlorohydrin water soluble thermosetting resins intended for use as components of paper and paperboard in contact with aqueous and fatty foods.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2526 is amended in the table in paragraph (a)(5) by revising the entry on polyamide-epichlorohydrin water soluble thermosetting resins to read as follows:

§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.

(a) • • •
(5) • • •

List of substances	*Limitations*
• • •	• • •
Polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic, isophthalic, or itaconic acid with diethylene triamine to form a basic polyamide and further reacting the polyamide with one of the following: Epichlorohydrin. Epichlorohydrin and ammonia mixture. Epichlorohydrin and sodium hydrosulfite mixture.	For use only in the manufacture of paper and paperboard under conditions such that the resins do not exceed 1.5 percent by weight of the paper or paperboard.
• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–6–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: September 28, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-17102 Filed 10-5-72;8:46 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER E—NAVIGATION REQUIREMENTS FOR THE GREAT LAKES AND ST. MARYS RIVER

[CGD 72-169R]

PART 92—ANCHORAGE AND NAVIGATION REGULATIONS; ST. MARYS RIVER, MICHIGAN

Middle Neebish, Munuscong, and Sailors' Encampment Channels

This amendment deletes from the regulations specific requirements for the color of range lights and structures marking the Middle Neebish, Munuscong, and Sailors Encampment Channels on the St. Marys River.

The Coast Guard plans to install standard daymarks to enhance the daytime effectiveness of the range light structures rather than rely on structure color for identification. Although no change in the color of the existing range lights is planned, the Coast Guard considers it undesirable for regulations to restrict a future change should conditions so indicate.

Installation of standard range daymarks was requested by users to make the ranges more visible during winter. Since prompt installation of these daymarks before the winter season would enhance maritime safety, and since the amendment will not impose any liability or burden on any member of the public, no useful purpose would be served by delaying rule making to provide for notice to the public.

For these reasons the Coast Guard finds that notice and public procedure thereon are both contrary to the public interest and unnecessary and that good cause exists for making the amendment effective immediately.

In consideration of the foregoing Title 33 of the Code of Federal Regulations is amended by revoking paragraph (c) of § 92.19.

§ 92.19 Temporary closure of West Neebish Channel.

• • • • • •
(c) [Revoked]
• • • • • •

Effective date. This amendment shall become effective on October 10, 1972.

(Secs. 1–3, 29 Stat. 54055, as amended; sec. 6(b)(1), 80 Stat. 931; 33 U.S.C. 474; 49 U.S.C. 1655(b)(1); 49 CDR 1.46(b))

Dated: September 27, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-17129 Filed 10-5-72;8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Formetanate Hydrochloride

A petition (PP 2F1238) was filed by NOR-AM Agricultural Products, Inc.,

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11710 Lake Avenue, Woodstock, IL 60098, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) proposing establishment of tolerances for residues of the insecticide formetanate hydrochloride (m-[[dimethylamino)methylene]amino] phenyl methylcarbamate hydrochloride) in or on the raw agricultural commodities grapes and peaches at 5 parts per million, nectarines at 4 parts per million, and plums (fresh prunes) at 2 parts per million.

Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance on grapes. (For a related document, see this issue of the FEDERAL REGISTER, 37 F.R. 21150.)

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.276 is amended by adding two new paragraphs and by revising the paragraph "4 parts per million * * *", as follows:

§ 180.276 Formetanate hydrochloride; tolerances for residues.

* * * * *

5 parts per million in or on peaches.

4 parts per million in or on grapefruit, lemons, limes, nectarines, oranges, and tangerines.

* * * * *

2 parts per million in or on plums (fresh prunes).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–6–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: September 28, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–17119 Filed 10–5–72;8:47 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Subpart D—Exemptions From Tolerances

3-(LAURAMIDOPROPYL) TRIMETHYLAMMONIUM METHYL SULFATE

The American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, submitted a petition (PP 2F1235) in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of an exemption from the requirement of a tolerance for residues of (3-lauramidopropyl) trimethylammonium methyl sulfate when used as an inert ingredient in pesticide formulations applied to growing crops only.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that the inert ingredient is useful for the purpose for which the exemption from a tolerance is being established and that the exemption established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.1001 is amended by alphabetically inserting a new item in paragraph (d) as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
(3-Lauramidopropyl) trimethylammonium methyl sulfate.	Not more than 2.6% in the formulation. Not to be applied within 7 days of harvest.	Antistatic agent.
* * *	* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–6–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: September 28, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–17120 Filed 10–5–72;8:47 am]

Title 45—PUBLIC WELFARE

Chapter VII—Commission on Civil Rights

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Subpart B—Organization Statement

REGIONAL OFFICES

Section 701.13 is revised to read as follows:

§ 701.13 Regional offices.

The Commission has established regional offices at:

(a) Central States Regional Office, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

(b) Mid-Atlantic Regional Office, Room 510, 2120 L Street NW., Washington, DC 20425.

(c) Midwestern Regional Office, Room 1428, 219 South Dearborn Street, Chicago, IL 60604.

(d) Mountain States Regional Office, Room 216, Ross Building, 1726 Champa Street, Denver, CO 80202.

(e) Northeastern Regional Office, Room 1639, 26 Federal Plaza, New York, NY 10007.

(f) Southern Regional Office, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue NE., Atlanta, GA 30303.

(g) Southwestern Regional Office, Room 249, New Moore Building, 106 Broadway, San Antonio, TX 78205.

(h) Western Regional Office, Room 1015, 312 North Spring Street, Los Angeles, CA 90012.

Effective date. These amendments shall become effective on the date of their publication in the FEDERAL REGISTER (10–6–72).

THEODORE M. HESBURGH,
Chairman.

[FR Doc.72–17153 Filed 10–5–72;8:50 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1112]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of September 1972.

It appearing, that there are acute shortages of freight cars throughout the country; that certain carriers are unable to furnish an adequate supply of freight cars to shippers located on their lines; that these shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities; and that the existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1112 Service Order No. 1112.

(a) *Railroad operating regulations for freight car movement.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this section shall apply to intrastate, interstate and foreign commerce.

(ii) This section shall apply to all loaded cars.

(ii) This section shall apply to all empty cars listed in the Official Railway Equipment Register, ICC RER No. 384, issued by W. J. Trezise, or reissues thereof, as having mechanical designations XL, XM, XP, RB, RBL, RP, RPL, RS, RSB, GA, GB, GD, GE, GH, GRA, GS, GT, HD, HE, HF, HFA, HFB, HK, HM, HMA, HT, HTA, FM, LC, LO, or LP, including all such cars to which the suffix H, I, R, or S has been added to the mechanical designation to denote the addition of heaters, insulation, roofs, or other special modifications.

EXCEPTION: Cars described in subdivisions (iv), (v), (vi), and (vii) of this subparagraph.

(iv) Exception: Any empty car with inside length 69 feet and over, and empty flat cars having mechanical designation FM, with a carrying capacity of 200,000 pounds or more, are exempt from this provision of this section.

(v) Exception: Empty cars owned by The Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this section.

(vi) Exception: Empty cars of private ownership held pursuant to instructions of the car owner or lessee, or held awaiting instructions from the car owner or lessee, are exempt from the provisions of this section.

(vii) Exception: Empty cars, described in subdivision (iii) of this subparagraph, which are in general service and are not assigned to the exclusive use of a specified shipper, owned by and bearing the registered reporting marks assigned to the line holding the car, are exempt from the provisions of this section.

(viii) This section shall apply to all empty cars described in subdivision (iii) of this subparagraph, which are assigned to the exclusive use of a specified shipper, except as otherwise provided in this section.

(ix) Freight cars assigned to the exclusive use of a specified shipper may be removed from assignment: *Provided,* That assignee furnishes written notice to originating railroad and to the car owner, if different from originating railroad, at least 1 day in advance of his desire to release such cars from assignment on a permanent, or on a temporary basis of not less than 15 days' duration (see exception). The carrier must remove cars from assignment in accordance with assignee's request.

EXCEPTION: Assigned cars which have arrived empty at the point of assignment or at a point of loading designated by assignee, shall not be diverted empty to another point for loading unless authorized be prepaid shipping order showing destination and route at a rate of ten cents (10¢) per mile, subject to a minimum of 100 miles for each railroad handling the car in line-haul service, plus applicable tariff switching charges of each participating railroad which does not provide line-haul service in connection with the movement, or unless released from assignment in the manner described herein. If released from assignment, cars may not be ordered empty to any point or shipper on instructions of the assignee who ordered the release of the cars.

(x) Cars assigned to the exclusive use of a specified shipper must be listed on assignment lists posted in the office of the Chief Transportation Officer of the car owner, and in the office designated to issue waybills and other shipping documents for loaded movements from the points of assignment. Assignment lists must specify initial and number of each assigned car, the shipper to whom assigned, and the date car assignment became effective. Requests for assignments of cars must be secured in writing, or confirmed in writing, by the carrier on whose lines the cars are assigned, not less than 10 days before the effective date of the car assignment. Freight cars in assigned service on October 9, 1972, shall be considered as having been in such assignments for 10 days or longer, provided that the assignment lists are prepared and posted, as required herein, not later than October 23, 1972.

(xi) The mechanical designations of existing freight cars in subdivision (iii) of this subparagraph may not be changed to any mechanical designation other than those listed in subdivision (iii) of this subparagraph during the period this order is in effect.

(xii) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other than public delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(xiii) Holidays shall be those listed in Item 25 of Agent B. B. Maurer's Tariff ICC H–36, naming Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

(2) *Placing of cars.* (i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination.

(ii) Empty cars which are in general service and are not assigned to the exclusive use of a specified shipper, which after placement will be subject to demurrage or detention rules applicable to cars for loading, shall be actually or constructively placed within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) (*a*) Empty cars described in subparagraph (1)(viii) of this paragraph which are assigned to the exclusive use of a specified shipper shall be subject to a storage charge of $5 per car per day or fraction thereof until ordered placed for loading or appropriated for loading, without free time allowance and without allowance for Saturdays, Sundays, and holidays. (See exception, subparagraph (2)(iv) of this paragraph.)

(*b*) In computing storage charges on cars subject to this part, such charges shall begin at the second 7 a.m., exclusive of Saturdays, Sundays, and holidays, following the sending or giving of notice that the cars are being held awaiting orders for actual placement or appropriation for loading.

(c) When empty assigned cars are held at any point awaiting orders from assignee for placement for loading or awaiting appropriation by assignee for loading, a written notice of arrival (see note) shall be sent or given assignee within 24 hours of arrival of the empty car at the point where held, exclusive of Saturdays, Sundays, and holidays. Such notice shall contain the initials and numbers of each car held and shall state that each car is being held subject to a storage charge of $5 per car per day or fraction of a day, until ordered placed for loading or ordered released, in writing, from assignment.

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NOTE: When the assignee notifies the railroad, in writing, that it will accept verbal or telephone notice of the arrival of empty assigned cars, verbal or telephone notice may be substituted for written notice of arrival. The carriers will maintain a written record of all such verbal or telephone notices, such records to show car initials and numbers, date and hour of notice, name of assignee, name of railroad employee giving the notice, and name of employee of assignee receiving the notice.

(*d*) Empty cars released from storage status by order or appropriation for loading shall be subject to all demurrage or detention rules and charges published in tariffs applicable to cars held for loading, from time released from storage charges.

(iv) *Exception to subparagraph* (2) (iii) *of this paragraph.* When it is impossible to load or to receive for loading empty cars assigned to the exclusive use of a shipper because of cessation of operations for a period of 5 days or more resulting from a strike, work stoppage, flood, high water, or other interference at the plant of the assignee for which empty assigned cars are held, the charges provided in subparagraph (2) (iii) of this paragraph shall be suspended for the period of such interference with operations: *Provided,* That the assignee furnishes a written notice to the carrier at the point of assignment, with a copy to the Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C., for his approval. Such notice shall be given within 5 days, exclusive of Saturdays, Sundays, and holidays, after the date on which the interference ceased; and shall state the date and time when the interference began and ceased and the cause of the interference.

(v) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to the consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice, in writing or as otherwise agreed to in writing, shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(vi) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(vii) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty cars not ordered for loading at point where made empty must be forwarded or set aside for cleaning or repairs within 24 hours following removal of empty cars.

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipping instructions covering the cars. Such cars must be forwarded or set aside for repairs within 24 hours, following release and removal.

(iii) Cars subject to subdivisions (i) and (ii) of this subparagraph, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(4) *Forwarding of cars.* (i) Loaded cars and empty cars shall be forwarded within 24 hours, except cars described in subdivisions (ii), (iii), or (iv) of this subparagraph, or cars described in subparagraph (2) (ii) of this paragraph.

(ii) Exception: Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) Exception: Cars held for repairs or cleaning. (See subparagraph (5) of this paragraph.

(iv) Exception: Cars held because no train or switch engine service is available between hold point and destination.

(5) *Cars held for repairs or cleaning.* (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7 a.m., exclusive of Sundays and holidays, after time carded for repairs or cleaning, or after arrival at point where repairs or cleaning are performed. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars, repairs to foreign or private cars held awaiting such material shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Backhauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this section, is hereby suspended.

(c) *Effective date.* This section shall become effective at 12:01 a.m., October 9, 1972.

(d) *Expiration date.* This section shall expire at 11:59 p.m., March 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911, 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17164 Filed 10-5-72;8:51 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter III—Economic Development Administration, Department of Commerce

PART 302—DESIGNATION OF AREAS

Termination

Part 302 of Chapter III, Title 13 of the Code of Federal Regulations (31 F.R. 11294 and 31 F.R. 16674) is amended to provide for annual review of designated areas prior to December 1 of each year, and for terminating the designated status of areas no longer qualified upon 30 days' notice and prior to January 1.

Section 302.50 is amended by revising paragraph (a) as follows:

§ 302.50 Termination.

(a) Prior to December 1 of each year, the Assistant Secretary will conduct a review of all areas designated pursuant to this part, which will be used as the basis for terminating, upon 30 days' notice and prior to January 1, those areas in which economic circumstances have so improved that the area no longer meets the standards for designation set forth in § 302.1, § 302.2, or § 302.10.

* * * * *

Effective date of publication (10–6–72).

ROBERT A. PODESTA,
Assistant Secretary for Economic Development.

OCTOBER 2, 1972.

[FR Doc.72-17134 Filed 10-5-72;8:49 am]

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Grapefruit Juice and Orange Juice (or Orange Juice and Grapefruit Juice) [1]

Notice of a proposal to revise the U.S. Standards for Grades of Canned Blended Grapefruit Juice and Orange Juice (7 CFR 52.1281–52.1293) was published in the FEDERAL REGISTER of June 2, 1972 (37 F.R. 11067).

The revised standards, as proposed, would apply to all single strength grapefruit juice and orange juice, including canned grapefruit juice and orange juice, chilled or refrigerated grapefruit juice and orange juice; and juice prepared from grapefruit juice concentrate and orange juice concentrate. Interested persons were given until July 2, 1972, in which to submit written comments concerning the proposed revision.

The revised standards are issued under the authority of the Agricultural Marketing Act of 1946 (sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request and upon payment of a fee to cover the cost of such services.

Statement of consideration leading to the revision of the standards. The revision of the standards as proposed on June 2, 1972, combined the grade and quality requirements for all single strength mixtures of grapefruit juice and orange juice (or orange juice and grapefruit juice) into one document. That proposal was based on the premise that a mixture of grapefruit juice and orange juice of comparable quality should receive the same quality grade regardless of the type of container, the process, or the area of production.

Comments on the proposal of June 2, 1972, came from industry, trade organizations, consumers, and a consumer membership organization. Sunkist Growers, a California based cooperative that manufactures and markets citrus and citrus products and represents cooperating citrus growers of California and Arizona, and Florida Canners Association, a trade organization representing all citrus processors in the State of Florida, offered several comments on the proposal.

The Florida Canners Association recommended that the reasons for the deletion of the word "blended" from the title of the grade standards be clarified so that the processor would understand that the product may be labeled with or without the words "blend" or "blended" and would qualify in either case for grading under the proposed revised standards. The Department agrees with this comment since that was the intent and this practice does not violate labelling laws.

Sunkist Growers objected to the proposal of including single strength juice and reconstituted juice in one standard. They also objected to the different requirements for single strength juice and reconstituted juice in that they want all requirements to be the same whether for single strength juice or reconstituted juice. The Department desires to promulgate standards that best serve the whole industry and reiterates the first paragraph of this statement of consideration. To require a higher Brix requirement for the sweetened style and/or reconstituted type product best serves the producer and the consumer by receiving better consumer acceptance due to improved flavor.

Sunkist Growers recommended that § 52.1290 of the proposal be expanded to include a more concise definition or definitions of what constitutes "good flavor." This point is well taken and definitions are now included that define "good flavor" for the "chilled" juices and "good flavor" for the "canned" juices. Sunkist Growers also recommended that § 52.1290 include those provisions of the current standards for minimum Brix-acid ratio of single strength juice (unsweetened) that has a Brix reading of 11.5° or more. It was pointed out that a portion of the California-Arizona produced grapefruit juice and orange juice has a Brix-acid ratio below the 9.5 to 1 ratio requirement for U.S. Grade A. They contend that both portions of this blend are mature and this blend is a palatable product of Grade A quality. Since this requirement or option is included in the current standards and since a portion of the industry is served by this provision, the Department includes the option for unsweetened single strength juice that has a Brix of 11.5° or more to have a Brix-acid ratio not less than 8.5 to 1 or more than 18 to 1.

The Department accepts the recommendations from several respondents that the following minimum Brix requirements be included in the standards:

(1) U.S. Grade A, reconstituted type, unsweetened style: Raise minimum Brix from 11.5° to 12.5°;

(2) U.S. Grade B, single strength type, unsweetened style: Raise minimum Brix from 9° to 9.5°;

(3) U.S. Grade B, single strength type, sweetened style: Raise minimum Brix from 11° to 11.5°;

(4) U.S. Grade B, reconstituted type, unsweetened style: Raise minimum Brix from 10° to 11°; and

(5) U.S. Grade B, reconstituted type, sweetened style: Raise minimum Brix from 11.5° to 12.5°.

Therefore, after consideration of all relevant matters presented, the U.S. Standards for Grades of Canned Blended Grapefruit Juice and Orange Juice are hereby revised substantially as proposed on June 2, 1972, and by the changes included in this statement of consideration. Certain editorial changes are also made for clarity of presentation.

The revision is as follows:

Subpart: U.S. Standards for Grades of Grapefruit Juice and Orange Juice (or Orange Juice and Grapefruit Juice)

PRODUCT DESCRIPTION, TYPES, STYLES, AND GRADES

Sec.
52.1281 Product description.
52.1282 Types.
52.1283 Styles.
52.1284 Grades.

FILL OF CONTAINER

52.1285 Recommended fill of container.

FACTORS OF QUALITY

52.1286 Ascertaining the grade.
52.1287 Ascertaining the rating for the factors which are scored.
52.1288 Color.
52.1289 Defects.
52.1290 Flavor.

EXPLANATIONS AND METHODS OF ANALYSIS

52.1291 Definitions of terms and methods of analysis.

LOT COMPLIANCE

52.1292 Ascertaining the grade of a lot.

SCORE SHEET

52.1293 Score sheet.

AUTHORITY: The provisions of this Subpart issued under sec. 205, 60 Stat. 1090; 7 U.S.C. 1624.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

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PRODUCT DESCRIPTION, TYPES, STYLES, AND GRADES

§ 52.1281 Product description.

(a) Grapefruit Juice and Orange Juice (or Orange Juice and Grapefruit Juice), hereinafter referred to as Grapefruit Juice and Orange Juice, is prepared from a combination of unfermented juices obtained from mature fresh grapefruit (Citrus paradisi) and mature sweet oranges (Citrus sinensis). The juice of oranges from the mandarin group (Citrus reticulata), however, may be added in such quantities that not more than 10 percent, by volume, of the orange juice ingredient consists of juice from citrus reticulata. It is recommended that the minor juice ingredient (either orange or grapefruit) provide not less than 25 percent, by weight, of the total soluble fruit solids present in the finished product.

(b) The fruit is prepared and the juice extracted and processed in a manner to assure a clean and wholesome product.

(c) Soluble solids, insoluble solids, Brix-acid ratios, and flavor may be adjusted by suitable manufacturing procedures.

(d) The product is processed by appropriate physical means to assure its preservation through normal marketing channels. Such means include, but are not limited to:

(1) *Canning.* Processing with heat so as to assure the preservation of the juice in hermetically sealed containers.

(2) *Refrigerating.* Reducing the temperature of the product so as to extend its market life. The juice may or may not have been subjected to heat prior to refrigerating. It may or may not be packed in hermetically sealed containers.

§ 52.1282 Types.

The product may be identified as one of the following types:

(a) *Single strength type.* Composed of single strength grapefruit juice and orange juice, with or without added grapefruit juice concentrate and/or orange juice concentrate.

(b) *Reconstituted type.* Composed of grapefruit juice concentrate and orange juice concentrate and water, with or without added single strength grapefruit juice and/or single strength orange juice.

§ 52.1283 Styles.

(a) Unsweetened.

(b) Sweetened.

§ 52.1284 Grades.

(a) U.S. Grade A (or U.S. Fancy) is the quality of grapefruit juice and orange juice that:

(1) Shows no coagulation;

(2) Has a good color;

(3) Is practically free from defects;

(4) Has a good flavor; and

(5) Scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) U.S. Grade B (or U.S. Choice) is the quality of grapefruit juice and orange juice that:

(1) May show only a slight coagulation;

(2) Has a reasonably good color;

(3) Is reasonably free from defects;

(4) Has a reasonably good flavor; and

(5) Scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) Substandard is the quality of grapefruit juice and orange juice that fails to meet the requirements of U.S. Grade B.

FILL OF CONTAINER

§ 52.1285 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be as full of grapefruit juice and orange juice as practicable and that the product occupy not less than 90 percent of the volume capacity of the container.

FACTORS OF QUALITY

§ 52.1286 Ascertaining the grade.

(a) *General.* Consideration is given to the degree of coagulation, the ratings for the factors which are scored, and the limiting rules which may apply.

(b) *Factors which are scored.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors	*Points*
Color	20
Defects	40
Flavor	40
Total score	100

§ 52.1287 Ascertaining the rating for the factors which are scored.

The essential variations, within each factor which is scored, are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.1288 Color.

(a) *(A) classification.* Grapefruit juice and orange juice that has a good color may be given a score of 18 to 20 points. "Good color" means that the juice mixture has a yellow-orange color that is bright and typical of the freshly extracted juice of oranges and either white fleshed grapefruit or red or pink fleshed grapefruit, and is free from browning due to scorching, oxidation, caramelization, or other causes.

(b) *(B) classification.* Grapefruit juice and orange juice that has a reasonably good color may be given a score of 16 or 17 points. Juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the juice has a fairly typical color that may range from light yellow to light amber, may be dull or show evidence of slight browning, but is not off color.

(c) *(SStd) classification.* Grapefruit juice and orange juice that fails the color requirements of U.S. Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1289 Defects.

(a) *General.* The factor of defects concerns the degree of freedom from small seeds and seed portions; from discolored specks, harmless extraneous material, and other similar defects; from juice sacs and particles of membrane, core, and peel in excess of that normally present in grapefruit juice and orange juice; and from free and suspended pulp.

(b) *(A) classification.* (1) Grapefruit juice and orange juice that is practically free from defects may be given a score of 36 to 40 points.

(2) "Practically free from defects" means that the juice may not contain more than 12 percent free and suspended pulp as determined by the method outlined in this subpart, and that any other defects present may no more than slightly detract from the appearance or drinking quality of the juice.

(c) *(B) classification.* (1) Grapefruit juice and orange juice that is reasonably free from defects may be given a score of 32 to 35 points. Such product shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule).

(2) "Reasonably free from defects" means that the juice may not contain more than 18 percent free and suspended pulp as determined by the method outlined in this subpart, and that any other defects present may no more than materially detract from the appearance or drinking quality of the juice.

(d) *(SStd) classification.* Grapefruit juice and orange juice that fails to meet the requirements of U.S. Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.1290 Flavor.

(a) *(A) classification.* (1) Grapefruit juice and orange juice that has a good flavor may be given a score of 36 to 40 points.

(2) "Good flavor" means the following with respect to the method of preservation used:

(i) *Refrigerated juice* or juice not subjected to high temperatures prior to refrigerating: "Good flavor" means a flavor that is fine, distinct, and substantially typical of freshly extracted grapefruit juice and orange juice which is free from off flavors and off odors of any kind;

(ii) *Canned juice* or juice that has been subjected to high temperatures:

"Good flavor" means a fine, distinct grapefruit juice and orange juice flavor which is free from off flavors and off odors of any kind; and

(iii) The flavor of all juices may be affected only slightly by the process, the packaging, or storage conditions and the juice complies with the analytical limits listed in Table I.

TABLE I ANALYTICAL REQUIREMENTS—U.S. GRADE A

Type style	Single strength		Reconstituted	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Brix (Degrees) Minimum	10.0°	11.5°	11.0°	12.5°
Brix-Acid Ratio—				
If Brix is less than 11.5°:				
Minimum	9.5:1		9.5:1	
Maximum	18.0:1		18.0:1	
If Brix is 11.5° or more:				
Minimum	8.5:1	10.5:1	9.5:1	10.5:1
Maximum	18.0:1	18.0:1	18.0:1	18.0:1
Oil—Maximum percent by volume	0.035	0.035	0.035	0.035

(b) *(B) classification.* (1) Grapefruit juice and orange juice that has a reasonably good flavor may be given a score of 32 to 35 points. Grapefruit juice and orange juice of this flavor shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule).

(2) "Reasonably good flavor" means a flavor less desirable than "good flavor" because of excess bitterness, terpenic, processing, storage, or container flavors but is not seriously objectionable and is free from off flavors and off odors of any kind. Such juice complies with the analytical limits listed in Table II.

TABLE II

ANALYTICAL REQUIREMENTS—U.S. GRADE B

Type Style	Single strength		Reconstituted	
	Unsweetened	Sweetened	Unsweetened	Sweetened
Brix (Degrees) Minimum	9.5°	11.5°	11.0°	12.5°
Brix-Acid Ratio:				
Minimum	8.0:1	10.5:1	9.0:1	10.5:1
Maximum	None	None	None	None
Oil—Maximum percent by volume	0.055	0.055	0.055	0.055

(c) *(SStd) classification.* Grapefruit juice and orange juice that fails the requirements of the U.S. Grade B classification may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

EXPLANATIONS AND METHODS OF ANALYSIS

§ 52.1291 Definitions of terms and methods of analysis.

(a) *Brix.* "Brix" means the degrees Brix of the juice when tested with a Brix hydrometer calibrated at 20° C. (68° F.) and to which any applicable temperature correction has been made. The degrees Brix may be determined by any other method which gives equivalent results.

(b) *Acid.* "Acid" means the grams of total acidity, calculated as anhydrous citric acid, per 100 grams of juice. Total acidity is determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

(c) *Brix-Acid ratio.* "Brix-Acid ratio" is the ratio of the degrees Brix of the grapefruit juice and orange juice to the grams of anhydrous citric acid per 100 grams of the juice.

(d) *Free and suspended pulp.* "Free and suspended pulp" means the percentage of pulp determined by the following method: Graduated centrifuge tubes with a capacity of 50 ml. are filled with juice and placed in a suitable centrifuge. The speed is adjusted, according to diameter, as indicated in Table No. III, and the juice is centrifuged for exactly 10 minutes. As used in this subparagraph, "diameter" means the overall distance between the bottoms of opposing centrifuge tubes in operating position. After centrifuging, the milliliter reading at the top of the layer of pulp in the tube is multiplied by 2 to give the percentage of pulp.

TABLE III

Diameter (inches)	*Approximate revolutions per minute*
10	1,609
10½	1,570
11	1,534
11½	1,500
12	1,468
12½	1,438
13	1,410
13½	1,384
14	1,359
14½	1,336
15	1,313
15½	1,292
16	1,271
16½	1,252
17	1,234
17½	1,216
18	1,199
18½	1,182
19	1,167
19½	1,152
20	1,137

(e) *Recoverable oil.* "Recoverable oil" means the percent of oil by volume, determined by the Bromate titration method as described in the current issue of the Official Methods of Analysis of the Association of Analytical Chemists.[2]

LOT COMPLIANCE

§ 52.1292 Ascertaining the grade of a lot.

The grade of a lot of grapefruit juice and orange juice covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.87).

§ 52.1293 Score sheet.

SCORE SHEET

Size and kind of container ____

Container mark or Identification: Cans ____ Cases ____

Label (including ingredient statement, if any) ____

Liquid measure (fluid ounces) ____

Vacuum (inches) ____

Style ____

Brix (degrees) ____

Acid (grams/100 gms: calculated as anhydrous citric acid) ____

Brix-acid ratio (:1) ____

Pulp (free and suspended) (%) ____

Recoverable oil (% by Volume) ____

Degree of coagulation (None), (Slight), or (Serious) ____

Scoring factors	Score points		
Color	20	(A)	18–20
		(B)[1]	16–17
		(SStd)[1]	0–15
Defects	40	(A)	36–40
		(B)[1]	32–35
		(SStd)[1]	0–31
Flavor	40	(A)	36–40
		(B)[1]	32–35
		(SStd)[1]	0–31
Total score	100		

Grade ____

[1] Indicates limiting rule.

To become effective November 1, 1972.

Dated: September 28, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-17051 Filed 10-5-72;8:45 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Subpart—Rules and Regulations

PRORATE BASES AND ALLOTMENTS; CORRECTION

On August 24, 1972, certain provisions of § 910.153 of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100–910.180; 37 F.R. 15979), including § 910.153(c)(1)(iii), were amended

[2] Copies may be obtained from this Association at Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

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(37 F.R. 17048). Said rules and regulations are currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), which regulate the handling of lemons grown in California and Arizona. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Lemon Administrative Committee, established under said order as the agency to administer the terms and provisions thereof, has noted that the phrase "for the district" was inadvertently included in the aforesaid subdivision in two places. More specifically, the current provisions of § 910.153(c)(1)(iii) specify "the number of weeks in the prorate base period for the district" as the basis for computing a handler's average weekly picks for periods of 3 weeks or more.

Inclusion of the limiting phrase "for the district" changes the intent of the subdivision, as originally recommended by the committee, and renders it incompatible with the related subdivisions (i) and (ii) of the same subparagraph which permit the computation of average weekly pick, of a handler, to be based on an individual prorate base period granted to the handler pursuant to the provisions of § 910.53. Accordingly, the provisions of § 910.153(c)(1)(iii) are hereby corrected by deleting the phrase "for the district" from the two places where it appears so that the subdivision reads as follows:

§ 910.153 Prorate bases and allotments.

* * * * *

(c) *Average weekly pick computation.*

* * *

(1) * * *

(iii) The total quantity picked and delivered to the handler in the first 3 weeks and succeeding weeks (until the total number of the most recent weeks equals the total number of weeks in such handler's applicable prorate base period) divided by the total weeks of picks and deliveries so included and then divided by 1 week less than the number of weeks in the prorate base period and multiplied by ½ the number of weeks, as determined by the committee, that lemons will be substantially picked and delivered to the handler but not to exceed 1 week less than the number of weeks in the prorate base period.

* * * * *

Dated: October 2, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17131 Filed 10-5-72;8:48 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER C—LOANS PRIMARILY FOR PRODUCTION PURPOSES

[FHA Instruction 441.2]

PART 1832—EMERGENCY LOANS

Subpart A—Emergency Loan Policies and Authorizations

REFINANCING DEBTS

The requirements of 5 U.S.C. 553 involve a delay in making available the assistance provided by this authority. Farmers that have had crop production losses or damages to their farms by natural disasters are seeking emergency loan assistance to continue normal operations in counties determined to be major disaster areas by the President, and in counties designated emergency loan areas by the Secretary of Agriculture. Many of these requested loans are for financing 1972 crop and livestock operations. The operating year is well under way and any delay in providing loan assistance under these revised instructions would be contrary to the public interest. This new addition authorizes the use of emergency loans for refinancing debts of owner-operators. Applicants must be turned down by letter by at least two other lenders, must refinance their emergency loans as soon as possible, and must have equity in real property to secure the amount loaned for refinancing. Accordingly, in the public interest, this subpart shall be effective upon publication in the FEDERAL REGISTER (10–6–72).

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. See the Secretary of Agriculture's statement setting forth the policy on public participation in rule making 36 F.R. 13804, dated July 24, 1971. In accordance with the spirit of that policy, interested parties may submit written comments, suggestions, data, or arguments to the Office of the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250, within 30 days after the publication of this Subpart A. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, this Subpart A of Part 1832 shall remain effective until it is amended, in order to permit the public business to proceed expeditiously. The new § 1832.19 of Subpart A of Part 1832, Title 7, Code of Federal Regulations reads as follows:

§ 1832.19 EM loans for refinancing debts.

(a) *General.* This section contains the authorization and policies for making EM loans to farmers and ranchers for refinancing debts. Such loans will be made in accordance with the requirements of §§ 1832.1 through 1832.12 except as modified herein. The total amount which may be loaned under this section in any fiscal year will not exceed 15 percent of the total amount apportioned for making EM loans for that fiscal year.

(b) *Objectives.* The basic objectives for making EM loans for refinancing debts is to enable eligible applicants to retain essential farm or other property, including livestock, equipment, and supplies as necessary for their normal operations. These loans will be made only where this can be done on a reasonably sound basis.

(c) *Availability and State distribution of funds.* EM loans to refinance debts may be made only in counties which have been designated for making EM loans within 3 years prior to the beginning of the current fiscal year and in counties which are subsequently designated during that fiscal year. This authorization applies to designations based on major disasters declared by the President and natural disasters determined by the Secretary. It does not apply to natural disasters previously determined by the State Director in authorizing the receiving of applications for initial EM loans in nondesignated counties.

(1) The National Office will notify each State which has had major disasters or natural disasters as described above the maximum amount of EM loans which may be made in the State under this supplement during the fiscal year.

(2) The National Office notification will be by letter to the State Director early in the fiscal year, setting forth the State ceiling of refinancing funds for the fiscal year and the counties which have been designated for EM loans during the prescribed period.

(3) The State Director is responsible for seeing that EM loans to refinance debts are made only in authorized counties and within the State's distribution of refinancing funds.

(4) The State Director will issue a State requirement early each fiscal year after receiving a letter from the National Office as described in subparagraph (2) of this paragraph naming the counties in which these loans may be made. The State requirement will be supplemented to include any counties subsequently designated during the fiscal year.

(d) *Eligibility.* The eligibility requirements set forth in § 1832.5 apply under this supplement except as follows:

(1) The applicant must be unable to meet his obligations or debts requested to be refinanced because of production or property losses which occurred within 3 years prior to his loan application caused by a major disaster declared by the President under which the OEP determined the counties to be eligible for financial assistance, or a natural disaster for which the Secretary of Agriculture designated an EM loan area. (This does not include nondesignated areas previously authorized by the State Director.)

(2) The applicant's creditors will not continue to carry the debts to be financed, or he cannot reasonably be expected to meet the terms of these debts.

(i) A creditor's refusal to carry a debt will be established by a written statement from him showing the amount of the debt, final due date, interest rate, amount of principal and interest delinquent, unpaid principal and accrued interest. This statement will be obtained by the applicant and placed in the file. In addition, the creditor will furnish for the file, a statement showing the applicant's repayment record for each of the previous 5 years or each year since the loan was made if it was made less than 5 years ago.

(ii) If a creditor is willing to carry the debt he holds but it is not reasonable to expect the applicant to meet the terms, it will be necessary for the creditor to furnish a statement showing whether he will change that debt to terms which the applicant could be expected to meet.

(3) The applicant is unable to obtain credit from other sources to refinance his debts on terms he can reasonably be expected to meet,

(i) The applicant will furnish at least two letters from private lenders who make long-term real estate loans including his present creditors showing whether they will meet all his refinancing needs. These letters will be placed in the file.

(e) *Loan purposes.* EM loans may be made to eligible applicants to:

(1) Refinance, subject to the loan limitations contained herein, principal and interest owed on debts which are secured by real estate or chattel mortgages, unsecured debts, and taxes which have become liens against the property which will be taken as security for the loan.

(i) For a debt which is secured by a real estate or chattel mortgage, or both, and payable in annual installments, the account will be brought current instead of refinancing the entire debt if the applicant can reasonably be expected to repay the EM loan and meet the terms of subsequent installments owed to his present creditor.

(ii) Generally, it will not be necessary in currently designated counties, to refinance:

(*a*) Unsecured debt and open accounts if a regular EM loan for operating and living expenses is being made to enable eligible applicants to operate on a cash basis. This would enable an applicant to pay cash for fertilizer and other essential expenses and should enable his creditor to carry the delinquent indebtedness he holds while doing a cash business with him.

(*b*) Debts secured by liens on essential farm machinery and equipment because regular EM loans for operating and living expenses can include funds to pay interest on such debts and reasonable amounts as depreciation on essential farm and ranch equipment under lien to other creditors.

(2) Pay EM loan interest-only installment(s) scheduled for the first January 1 following the closing of the loan.

(3) Pay legal fees in connection with loan closing.

(f) *Loan limitations.* Section 1832.8 does not apply. Instead, EM loans to refinance debts will not be made:

(1) To applicants who are not the owner-operators of their farms or ranches within the meaning of § 1832.5(b).

(2) To an estate or trust; a corporation owned primarily by an estate, trust, other corporations, or partnerships; a partnership composed primarily of an estate, trust, corporations, or other partnerships, or an applicant operating under the jurisdiction of a bankruptcy court.

(3) To an operating loan borrower, or a FO loan borrower, who is operating larger than a family farm or ranch.

(4) Which would cause an applicant's total indebtedness secured by liens on his farm or ranch, including principal and interest owed to other creditors; principal and interest owed on EM loans already made for real estate purposes; and EM loans being made under this section to refinance debts to exceed the market value of the property or $300,000, whichever is smaller.

(5) Which would cause an applicant's total debts owed to the Federal Government and secured by liens on his farm or ranch to exceed 50 percent of the total of his real estate secured debts.

(6) To refinance debts owed to the FHA.

(7) To enable an applicant to retain property not essential to his operation or property which cannot reasonably be expected to be operated on a sound basis.

(g) *Terms.* EM loans to refinance debts will be scheduled for repayment on Form FHA 440–16, "Promissory Note (Insured Loan)," in annual installments amortized over the shortest period consistent with repayment ability, but not to exceed 40 years from the date of the note, except any EM loan of $2,500 or less will not be scheduled for repayment over periods in excess of 5 years.

(1) Form FHA 440–16 will be prepared and executed in accordance with instructions available in all FHA offices, except "EM" will be inserted in the appropriate box to show the kind of loan.

(h) *Security policies.* An EM loan to refinance debts will be secured by a lien on the applicant's farm, ranch, or other real estate in which there is a market value equity of not less than the amount of the EM loan. This lien will be documented on Form FHA 427–1 (State), "Real Estate Mortage for _____ (Insured Loans to Individuals)," and prepared in accordance with Part 1807 of this chapter.

(1) Determination of an applicant's equity in real estate offered as security will be based on an appraisal showing the market value of the property and the amount of any liens or other encumbrances thereon. This appraisal will be made by a qualified FHA employee authorized to make appraisals. Form FHA 422–1, "Appraisal Report (Farm Tract)," and related forms will be used. The appraiser's estimate of the recommended market value of the property will be shown in part 8 of Form FHA 422–1. However, when the amount of the loan plus present indebtedness against the property does not exceed $10,000, only parts 1, 2, and 8 of Form FHA 422–1 will be completed and the recommended market value of the property will be shown in part 8.

(2) If the real estate offered as security is held under a purchase contract, it must be determined that:

(i) The applicant has mortgageable interest in the property under a long-term purchase contract.

(ii) The purchase contract is not subject to summary cancellation upon default, and does not contain other provisions which might jeopardize the Government's security position or the borrower's ability to repay the loan.

(3) If any of the prior liens against real estate offered as security contain future advance provisions, or other provisions which might jeopardize the security position of the Government, or the applicant's ability to meet his obligations under these prior liens and also repay his EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions. This will be accomplished usually on Form FHA 427–8, "Agreement with Prior Lienholder," subject to any modifications necessary to meet legal requirements for closing a particular loan.

(4) In States where a prior lienholder may foreclose his security instrument under power of sale or otherwise and extinguish junior liens of private parties without making junior lienholders parties or giving them actual notice, and a junior lien on real estate is to be taken as security for the loan, the prior lienholder must agree in writing to give the Government advance notice of foreclosure or assignment of the mortgage. A State requirement will be issued, with the advice of the OGC, to indicate whether such agreements will be necessary in each particular State, and if so, to set forth the procedure and requirements for obtaining and recording such agreements.

(5) If there are essential insurable buildings located on the property or if new buildings are to be erected or major improvements made to existing buildings, the applicant will provide adequate property insurance coverage at the time of the loan closing or as of the date materials are delivered to the property, as appropriate, in accordance with the provisions of Part 1806 of this chapter.

(6) If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is made, the applicant will be required to agree in writing for the proceeds of such claims to be used for replacement or repair of buildings or to be paid to the Government for applications on the loan when settlement is made, or for such proceeds to be applied on debts secured by prior liens.

(i) *Title clearance, legal services, and loan closing.* These services will be provided and loans will be closed in accordance with Part 1807 of this chapter in the same manner as for FO loans. Form FHA 440–3, "Record of Actions," will be prepared and used in accordance with instructions available in all FHA offices.

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The type of loan will be shown in the form on the line designated for "other" loan types.

(j) *Coding loans.* This type loan will be shown on all appropriate forms as follows:

(1) "EMR–I" to indicate an initial EMR loan made to an applicant who is not indebted for any EM-type loan (including a Special Livestock loan) or Operating loan.

(2) "EMR–IO" to indicate an initial EMR loan to an applicant who is indebted for an Operating loan.

(3) "EMR–S" to indicate a subsequent EMR loan made to an applicant who is indebted for any EM-type loan but not an Operating loan.

(4) "EMR–SO" to indicate a subsequent EMR loan made to an applicant who is indebted for an Operating loan and any EM-type loan.

(k) *Interest rates and cancellations.* (1) EM loans for refinancing as a result of a natural disaster which occurred prior to July 1, 1971, will be made at the prevailing rate of interest at the time of loan closing as determined monthly by the Secretary of the Treasury, and no cancellation will be considered on such loans.

(2) EM loans for refinancing as a result of a natural disaster occurring on or after July 1, 1971, and through June 30, 1973, will be made in accordance with the provision of Public Law 92–385.

(l) Each State Director will be responsible for keeping loans made under this section within the amount of apportionment allotted to his State. This will be accomplished by routing all loans of this type to the Finance Office through the State Director.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 301, 80 Stat. 379, 5 U.S.C. 301; order of Acting Secretary of Agriculture, 36 F.R. 21529; order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529)

Dated: September 28, 1972.

DARREL A. DUNN,
Associate Administrator,
Farmers Home Administration.

[FR Doc.72–17130 Filed 10–5–72;8:48 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–SO–81]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On August 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16810), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jasper, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

JASPER, ALA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Walker County Airport (latitude 33°51'55" N., longitude 87°15'40" W.); within 4.5 miles each side of Birmingham VORTAC 303° radial, extending from the 6.5-mile-radius area to 14 miles northwest of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on September 26, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72–17104 Filed 10–5–72;8:46 am]

[Airspace Docket No. 72–SO–92]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zones

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Myrtle Beach AFB, S.C., and the Sumter, S.C., control zones.

The Myrtle Beach AFB control zone is described in § 71.171 (37 F.R. 2056 and 17160) and the Sumter control zone is described in § 71.171 (37 F.R. 2056 and 14670). Both control zones are designated as part time, with effective times stated in the descriptions. Military necessity requires that these control zones be redesignated as full time, effective 0501 G.m.t., November 8, 1972, through 0459 G.m.t., November 10, 1972. It is necessary to temporarily alter the descriptions to reflect these changes. Since this amendment is required in the interest of national defense, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0501 G.m.t., November 8, 1972, through 0459 G.m.t., November 10, 1972, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Myrtle Beach AFB, S.C., control zone (37 F.R. 17160) is amended as follows: "• • • This control zone is effective from 0700 to 2300 hours, local time, daily • • •" is deleted from the description.

In § 71.171 (37 F.R. 2056), the Sumter, S.C., control zone (37 F.R. 14670) is amended as follows: "• • • from 0700 to 2300 hours, local time, daily, during eastern standard time • • •" is deleted from the description.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on September 26, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72–17105 Filed 10–5–72;8:46 am]

[Airspace Docket No. 72–WE–30]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On August 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16811) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Reno, Nev., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on September 27, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.181 (37 F.R. 2143) the description of the Reno, Nev., transition area is amended in part as follows:

At the end of the description of the Reno, Nev., transition area add "• • • and that airspace northwest of Reno extending from the 45-mile-radius area bounded on the northeast by the southwest edge of V–452 and on the west by longitude 120°19'00" W."

[FR Doc.72–17106 Filed 10–5–72;8:46 am]

[Airspace Docket No. 72–NW–22]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Redesignation of Federal Airway and Jet Routes

The purpose of these amendments to the Federal Aviation Regulations is to redesignate portions of V–112 and J–3 and J–517. These changes are necessary because the name of the Kimberley, British Columbia, Canada, VOR was changed to "Cranbrook."

Since these amendments are minor and editorial in nature and no substantive change in the regulation or its effect upon the operation of aircraft is effected, notice and public procedure thereon are unnecessary, and good cause exists for making these amendments effective on less than 30-days notice.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective upon publication in the FEDERAL REGISTER (10–6–72), as hereinafter set forth.

1. Section 71.123 (37 F.R. 2009 and 4903) is amended as follows: In V–112 "Kimberley" is deleted and "Cranbrook" is substituted therefor.

2. Section 75.100 (37 F.R. 2382 and 18615) is amended as follows:

a. In Jet Route No. 3 in the heading and the text "Kimberley" is deleted and "Cranbrook" is substituted therefor.

b. In Jet Route No. 517, "Kimberley" is deleted and "Cranbrook" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 28, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72–17107 Filed 10–5–72;8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER–771, Amdt. 2]

PART 239—REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of September 1972.

By ER–725, adopted March 15, 1972, the Board issued a new part (Part 239) to establish a system of reporting freight loss and damage claims by certain air carriers and foreign route air carriers. Subsequent to the issuance of the part, a joint petition for rule making was filed by the Air Transport Association of America (ATA) on behalf of 23 certificated carriers to amend Part 239 in certain respects. The requested amendments include the following: (1) Change the time when reports are due to be filed with the Board from 30 days to 60 days after the end of the reporting period; and (2) grant permission to Air Cargo, Inc. (ACI), a wholly-owned subsidiary of the scheduled certificated airlines, which administers air freight pickup and delivery service for the airlines, to file certain data on behalf of air carriers which request such filing, i.e., claims involving the ground portion of an air freight shipment. Certain other amendments were requested in the petition and these will be processed in a rule making proceeding (EDR–234) being instituted simultaneously herewith.

1. Section 239.2(e) provides, in part, that the reports required by the part must be received by the Board within 30 days after the termination of the reporting period. The ATA carriers request 60 days after the termination of the reporting period within which to file the reports. They refer to the related Interstate Commerce Commission (ICC) rule which grants the truck carriers 40 days after the end of the reporting period to submit their reports.[1] They also maintain that the revenue accounting departments of air carriers generally do not close out the previous month's data until after the 10th of the succeeding month and that the preparation of the reports called for requires more than 15 days whether the reports are prepared manually or by computer. Therefore, they contend, 30 days after the end of the period for the filing of reports is not reasonable.

Upon consideration of the foregoing, we are persuaded to add 10 days to the time within which reports will be required to be received by the Board and this change will be made in the rule. See § 239.2(e), infra.[1a]

2. In their petition, the ATA carriers state that the Board may have rejected their previous request that ACI file claims data with respect to ground movements on their behalf, because ACI could not be required by the Board to file such data. They now ask that the Board approve a procedure whereby individual carriers would direct ACI to file such claims data for them.

We approve the basic concept of having ACI file data as to ground movements on behalf of air carriers which desire this procedure. Accordingly, we shall grant a blanket waiver in the rule so as to permit ACI to file claims data as to ground movements on behalf of the certificated route carriers.[2] The rule will provide that the responsibility for reporting these statistics remains with the air carriers. Further, it remains the responsibility of each carrier to report its own statistics on claim payments covering pickup and delivery services not performed by ACI.

3. When Part 239 was adopted (ER–725, supra), the Board provided for limited confidentiality of individual carrier data on two items in Schedule A, namely, carrier revenue by commodity and total dollar amount of paid claims by commodity (columns (20) and (21) of Schedule A). Subsequent to the adoption of the rule, the Board stayed until further notice the effectiveness of § 239.6(k) which required the reporting of one of these confidential items, namely, the total amount of freight revenue received for each commodity with respect to which claims were paid (ER–746, adopted and effective June 26, 1972). This reporting was to be made in column (21) of Schedule A. The requirement for limited confidential treatment of the individual carrier data in column (20) of Schedule A was dependent upon the Board's according limited confidentiality to column (21) of Schedule A.[3] With the removal of the requirement for furnishing data in column (21) of Schedule A, there is no longer any need for limited confidentiality of the data in column (20). Thus, we shall delete and reserve the limited confidentiality provision of the part (§ 239.12).

4. Several carriers have submitted Form 239 data, prepared on automatic data processing (ADP) equipment, which did not fully comply with the reporting requirements as set forth on the Board's Form 239. We have no objections to the carriers' submission of freight-claim data in an ADP format. However, we must insist on the same columnar headings and the same order of arrangements in the ADP data as set forth in the prescribed Form 239. In the future, ADP data which does not meet this requirement will not be accepted by the Board.

5. The carriers note that the first report under Part 239 is due in July 1972 (specifically, it became due July 30, 1972, 30 days after the end of the second calendar quarter reporting period). They request the Board to make any amendments it may adopt applicable to the July 1972 report as well as to all reports due thereafter. Flying Tiger concurs in this request to the extent it would extend the time for filing the first report.

We are in accord with this proposal. Therefore, the amendments we are making herein will be applicable to the July 1972 quarterly report and to all reports which shall become due thereafter under the part.

Since this rule imposes no burden upon any person, and merely relieves a restriction and permits a person to file data on behalf of an air carrier, the Board finds that notice and public procedure hereon are unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 239 (14 CFR Part 239), effective September 29, 1972, as follows: [4]

1. Amend the table of contents by deleting and reserving § 239.12 as follows:

Sec.
239.12 [Reserved]

2. Amend § 239.2(e) to read as follows:

[1] No. 35345, Quarterly Report of Freight Loss and Damage Claims, 49 CFR Part 1249, 36 F.R. 1438, served July 21, 1971.

[1a] We are also deleting the special requirement in § 239.2(e) that Schedule A be filed in triplicate. The removal herein of the confidentiality provision of § 239.12 makes the third copy of Schedule A no longer required.

[2] We would, of course, require the carriers to instruct ACI to identify the reports as being applicable to particular carrier principals without requiring a breakout of data as to particular carriers.

[3] ER–725, supra, mimeo. p. 22.

[4] We are also amending § 239.8(l) to correct a reference to "account 3906 on Schedules P–1.1 or P–1.2 of CAB Form 41" which should read "account 3906.2 on Schedule P–3 of CAB Form 41."

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§ 239.2 Applicability of part and CAB Form 239 filing requirements.

* * * * *

(e) The report shall be filed in duplicate and addressed to the Civil Aeronautics Board, Washington, D.C. 20428, Attention: Bureau of Accounts and Statistics. It shall be filed so as to be received by the Civil Aeronautics Board within 40 days after the termination of each reporting period.

* * * * *

3. Amend § 239.6(g) to read as follows:

§ 239.6 Schedule A—Report of Freight Loss and Damage Claims Paid.

* * * * *

(g) Column (3)—For each commodity listed in column (2), show separately the amounts paid for claims relating to shipments while moving by air and while moving on the ground by inserting the letters "A" and "G," respectively, and "T" representing the total of these two modes. Upon the authorization of any certificated air carrier, Air Cargo, Inc. (ACI), may file claims-paid data with respect to the ground movement portion of such carrier's air cargo shipments and the filing of such data by ACI will to that extent relieve such air carrier from filing such claims data with the Board: *Provided, however,* That the responsibility for supplying these data to the Board remains with the air carrier. ACI may file a consolidated report for certificated carriers as to ground shipments without a breakout of data by carriers. However, ACI must identify the carrier or carriers on whose behalf such data are filed, and the carrier in turn shall state on its Schedule A that ACI is filing such data on its behalf. To the extent that a certificated air carrier subject to this part pays claims with respect to pickup and delivery services not performed by ACI, such claims-paid data must be reported by the air carrier on Schedule A.

* * * * *

4. Amend § 239.8(i) to read as follows:

§ 239.8 Schedule C—Analysis of Claims Processed.

* * * * *

(i) Item 12—Show the gross scheduled air freight revenue received during the reporting quarter. For certificated route air carriers this figure should agree with the amounts reported separately for domestic and international operations in Account 3906.2 on Schedule P–3 of CAB Form 41; for air freight forwarders and international air freight forwarders this figure refers to amounts reported separately for domestic and overseas/foreign operations in Item 4 on Schedule P of CAB Form 244.

NOTE: Schedule P of CAB Form 244 calls for a semiannual report whereas the subject item is to be reported quarterly.

* * * * *

5. Delete and reserve § 239.12 as follows:

§ 239.12 [Reserved]

(Secs. 204(a), 402 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; 49 U.S.C. 1324, 1372, 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72–17172 Filed 10–5–72;8:52 am]

Chapter III—National Transportation Safety Board

[NTSB Reg. OR–3, Amdt. 1]

PART 405—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Miscellaneous Amendments

The purpose of this amendment is to delete a discontinued position; to change the titles of some officers of the Board to conform to changes already made; to add certain additional employees classified as GS–13 or above, to Appendix II, in order to require them to submit statements of employment and financial interests, in compliance with the provisions of 5 CFR 735.404; and to renumber those positions.

Since this regulation is a rule of agency practice and procedure affecting employees only, notice and public procedure thereon are not required.

This amendment was approved by the Civil Service Commission on September 13, 1972, and becomes effective on publication in the FEDERAL REGISTER (10–6–72).

Accordingly, the National Transportation Safety Board hereby amends the provisions of its regulations covering employee responsibilities and conduct (Part 405) as follows:

1. The term "Executive Director" in Part 405, §§ 405.735–5(b)(7), 405.735–405(b)(8), 405.735–7(a), 405.735–8(b), 405.735–17, 405.735–23(b), 405.735–24(a), and 405.735–24(b), is changed to "General Manager," wherever it appears.

2. The term "Personnel Manager" in Part 405, §§ 405.735–16(a), 405.735–21, 405.735–23(b), 405.735–24(a), 405.735–24(b), 405.735–25(a), and 405.735–25(b), is changed to "Personnel Officer," wherever it appears.

3. The title to the first appendix to Part 405 is amended to read "Appendix 1."

4. Appendix II to Part 405 is revised to read as follows:

APPENDIX II

EMPLOYEES REQUIRED TO SUBMIT STATEMENTS

Statements of employment and financial interests are required of the following:

(a) Employees in grades GS–16 or above, or in positions not subject to the Classification Act paid at a rate at or above the entrance rate for GS–16.
(b) Administrative Law Judges.
(c) Special Assistants to the Members.
(d) Attorneys in grade GS–15.
(e) Office of Public Affairs:
(1) Director.
(2) Deputy Director.
(f) Office of the General Manager:
(1) Personnel Officer.
(2) Budget and Fiscal Officer.
(3) Chief, Administrative Operations Division.
(4) Deputy Chief, Administrative Operations Division.
(5) Office Services Manager, GS–12.
(6) Legislative Affairs Officer.
(g) Division Chiefs, Bureau of Surface Transportation Safety.
(h) Bureau of Aviation Safety:
(1) Assistant Director (Interdepartmental).
(2) Assistant to the Director.
(3) Supervisor, National Aircraft Accident Investigation School.
(4) Division Chiefs.
(5) Accident Inquiry Managers.
(6) Branch Chiefs.
(7) Area Supervisors.
(8) Chief or Senior Investigators, Field Offices.

Adopted: August 3, 1972.

By the National Transportation Safety Board.

[SEAL] JOHN H. REED, *Chairman.*

OCTOBER 2, 1972.

[FR Doc.72–17117 Filed 10–5–72;8:47 am]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965——)

Subpart A—Hospital Insurance Benefits

Subpart F—Agreements With and Functions of Providers, Intermediaries, Carriers, and State Agencies

Subpart O—Providers of Services, Independent Laboratories, and Suppliers of Portable X-ray Services; Determinations and Appeals Procedures

ELECTIONS TO RECEIVE REIMBURSEMENT FOR EMERGENCY SERVICES AND APPEAL RIGHTS OF EMERGENCY SERVICE HOSPITALS

On May 27, 1972, there was published in the FEDERAL REGISTER (37 F.R. 10733) a notice of proposed rule making with proposed amendments to Subparts A, F, and O of Regulations No. 5, which would (1) permit qualified hospitals to elect to receive from Medicare at any time before the close of a calendar year reimbursement for emergency hospital services furnished during the year, and (2) provide such hospitals the same administrative review and appeal rights as are applicable in determining whether a facility, agency, etc., is qualified as a provider of services. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

(Secs. 1102, 1814(d), 1835(b), 1861(e), 1869, 1871; 49 Stat. 647, as amended, 79 Stat. 296, as amended, 79 Stat. 304, as amended, 79 Stat. 314, as amended, 79 Stat. 330, 79 Stat. 331, 42 U.S.C. 1302, 1395 et seq.)

Effective date. These regulations shall be effective upon publication in the FEDERAL REGISTER (10–6–72).

Dated: September 14, 1972.

ROBERT M. BALL, *Commissioner of Social Security.*

Approved: October 1, 1972.

ELLIOT L. RICHARDSON, *Secretary of Health, Education, and Welfare.*

Regulations No. 5 of the Social Security Administration, as amended (20 CFR Part 405), are further amended as follows:

1. Paragraph (a) of § 405.152 is amended by revising subparagraph (5) to read as follows:

§ 405.152 Payment for services furnished; nonparticipating hospital furnishing emergency services.

(a) Payment (in amounts as determined in accordance with § 405.151) may be made to a hospital even though the hospital is not a participating provider (i.e., it has not entered into an agreement with the Secretary, pursuant to section 1866 of the Act—see § 405.606) if:

* * * * *

(5) With respect to services furnished in a calendar year beginning after December 31, 1967, the hospital has in effect an election to claim payment for all emergency services furnished in such calendar year (see § 405.658).

* * * * *

2. Section 405.658 is revised to read as follows:

§ 405.658 Emergency hospital services; hospital election to receive health insurance payments.

(a) *General.* A hospital which meets the requirements of section 1861(e) applicable for purposes of sections 1814(d) and 1835(b) of the Act (see § 405.152(a)(1)) and does not have in effect an agreement with the Secretary to participate in the health insurance program but is furnishing emergency inpatient and outpatient services to individuals entitled to health insurance benefits may elect, pursuant to sections 1814(d) and 1835(b) of the Act, to receive payment under such program for all emergency services furnished in a calendar year after December 31, 1967, by the hospital or under arrangements with the hospital, to entitled individuals: *Provided,* That such hospital has not previously charged an individual or other person for emergency hospital services furnished to the individual in such calendar year. The hospital's statement of election must be filed on a form designated by the Social Security Administration.

(b) *Elements of statement of election.* Under the provisions of the statement of election, the hospital agrees for the calendar year of election:

(1) To comply with the provisions of §§ 405.607–405.610 which relate to charges for items and services the hospital may make to the individual, or other person, for emergency hospital services furnished such individual;

(2) To comply with the provisions described in §§ 405.618–405.621 which relate to proper disposition of moneys incorrectly collected from, or on behalf of, an individual furnished emergency hospital services; and

(3) To request payment under the health insurance program based on reasonable costs of furnishing emergency hospital services determined in accordance with section 1861(v) of the Act.

(c) *Filing of statement of election.* The hospital's statement of election must be signed by an authorized official of the hospital and must be submitted to the Administration before the close of the calendar year of election. For purposes of this paragraph, an election is submitted to the Administration before the close of a calendar year only if deposited in the U.S. postal system or received by the Administration before the close of such calendar year. Upon acceptance for filing by the Administration the effective date of the election shall be established as of the earliest day in the calendar year of election for which the Administration determines that the hospital has been in continuous compliance with the requirements of section 1861(e) applicable for purposes of sections 1814(d) and 1835(b) of the Act.

(d) *Notification of failure to continue to comply.* The Administration shall give at least 5 days' notice to a hospital of its failure to continue to be in compliance with the elements of its election; or of its failure to continue to be a hospital for purposes of claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act. Such notice shall state the calendar year to which it applies; the effective date of the notice as it applies to the hospital's election to claim payment for such calendar year; and, shall inform the hospital of its applicability for such calendar year to the services of the hospital.

(e) *Applicability of notice.* A notice under the conditions described in paragraph (d) of this section shall, for the calendar year to which it applies, be applicable to all claims for emergency service reimbursement filed by the hospital for services furnished in such calendar year to individuals who are accepted as patients (inpatients or outpatients) by the hospital on or after the effective date of such notice; and the hospital shall be ineligible to receive emergency services reimbursement for such services.

(f) *Appeal by institution.* Any institution dissatisfied with a determination that it does not qualify to claim payment for all emergency hospital services furnished in a calendar year shall be entitled to appeal such determination as provided in Subpart O of this part.

3. A new § 405.659 is added to read as follows:

§ 405.659 Reinstatement of emergency service hospital after notice of failure to continue to comply.

Where a hospital is notified by the Administration of its failure to continue to be in compliance with the elements of its election or its failure to continue to be a hospital for purposes of claiming emergency services reimbursement for a calendar year (see § 405.658(d)), such hospital may not file another election for such calendar year, or a subsequent calendar year, unless the Administration finds that the reason for its failure to continue to comply has been removed and that there is reasonable assurance that it will not recur.

4. The heading of Subpart O is revised to read as follows:

Subpart O—Providers of Services, Emergency Service Hospitals, Independent Laboratories, and Suppliers of Portable X-Ray Services; Determinations and Appeals Procedures

5. Section 405.1501 is amended by revising the section heading, revising paragraph (a), and adding a new paragraph (e) to read as follows:

§ 405.1501 Providers of services, emergency service hospitals, independent laboratories, and suppliers of portable X-ray services; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedure for making and reviewing determinations with respect to whether an institution, facility, agency, or clinic is a provider of services (i.e., a hospital, extended care facility, home health agency, or for purposes of furnishing outpatient physical therapy services, a clinic, rehabilitation agency, or public health agency) within the meaning of title XVIII of the Social Security Act and Subparts J, K, L, or Q of this Part 405, as appropriate; whether an institution is a hospital, as such term is included in section 1861(e) for purposes of sections 1814(d) and 1835(b) of the Act (see § 405.152(a)(1)), qualified to elect to claim payment for all emergency hospital services furnished in a calendar year (see § 405.658); the termination of the Secretary's agreement

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with a provider of services; whether an institution continues to remain in compliance with the qualifications for claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; and whether an independent laboratory or supplier of portable X-ray services meets the appropriate conditions for coverage of its services (see Subparts M and N of this Part 405).

* * * * *

(e) Any institution which is dissatisfied with an initial determination (see § 405.1502) that it does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year, may request the Administration to reconsider that determination (see § 405.1510). If dissatisfied with the reconsidered determination of the Administration, or where the institution's election to claim payment for all such services furnished in a calendar year has been accepted by the Administration for filing, with an initial determination thereafter of its failure to remain in compliance with the qualifications for claiming such payments for such calendar year, the institution is entitled to a hearing thereon and, if dissatisfied with the Secretary's final decision after such hearing, to Appeals Council review and then judicial review of such decision (see § 405.1530 et seq.).

6. Section 405.1502 is amended by adding a new paragraph (d) to read as follows:

§ 405.1502 Initial determinations.

The Administration will make findings, setting forth the pertinent facts and conclusions, and an initial determination with respect to:

* * * * *

(d) (1) Whether an institution is a hospital, as such term is included in section 1861(a) for purposes of sections 1814(d) and 1835(b) of the Act (see § 405.152(a)(1)), qualified to elect to claim payment for all emergency hospital services furnished in a calendar year (see § 405.658), if the institution has filed a written request for such determination; or

(2) Whether an institution continues to remain in compliance with the qualifications for claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; if the institution's election to claim such reimbursement for such calendar year has been accepted by the Administration for filing.

7. Section 405.1503 is revised to read as follows:

§ 405.1503 Notice of initial determination.

Written notice of an initial determination (see § 405.1502) with respect to whether an institution, facility, agency, or clinic is or is not a provider; or with respect to whether an institution is or is not a hospital for purposes of the emergency service reimbursement provisions of sections 1814(d) and 1835(b) of the Act; or with respect to the termination of an agreement; or with respect to whether an institution continues to remain in compliance with the qualifications for claiming emergency services reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act; or with respect to whether an independent laboratory or supplier of portable X-ray services meets the appropriate conditions for coverage of its services (see Subparts M and N of this Part 405) will be mailed to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier concerned and will include the basis or reasons for the determination, and information concerning the appeal rights of the institution, facility, agency, clinic, laboratory, or portable X-ray supplier (see §§ 405.1510 and 405.1530).

8. Section 405.1504 is revised to read as follows:

§ 405.1504 Effect of initial determination.

The initial determination shall be final and binding upon the parties to the determination unless it is revised (see § 405.1519), or unless, in the case of a determination described in § 405.1502(a), (b)(1), or (d)(1), it is reconsidered in accordance with § 405.1514 or, in the case of a determination described in § 405.1502 (b)(2), (c), or (d)(2), a request for a hearing is filed and a decision rendered.

9. Section 405.1505 is amended by adding new paragraphs (g) through (j) to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

Administrative actions which shall not be considered initial determinations under any provision of the regulations in this Subpart O include, but are not limited to, the following:

* * * * *

(g) The finding that an institution is not a hospital for purposes of the emergency service reimbursement provisions of sections 1814(d) and 1835(b) of the Act, if such findings are not made in accordance with the provisions of §§ 405.1502(d) (1) or (2) and 405.1503.

(h) The refusal by the Administration to accept for filing an election submitted by an institution to claim payment for all emergency hospital services furnished in a calendar year (see § 405.658), where the Administration finds that such institution has previously charged an individual or other person for emergency hospital services furnished to the individual in such calendar year.

(i) The refusal by the Administration to accept for filing an election submitted by an institution to claim payment for all emergency hospital services furnished in a calendar year, where such election is submitted to the Administration after the close of such calendar year (see § 405.658(c)).

(j) The finding that, pursuant to § 405.659, an institution is not eligible to file an election to claim emergency services reimbursement after the Administration has notified such institution of its failure to continue to comply.

10. Section 405.1510 is revised to read as follows:

§ 405.1510 Reconsideration; right to reconsideration.

Any institution, facility, agency, or clinic which is dissatisfied with an initial determination (see § 405.1502) that it does not qualify as a provider of services or any institution which is dissatisfied with an initial determination that it does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year or any independent laboratory or supplier of portable X-ray services which is dissatisfied with an initial determination that its services do not meet the conditions for coverage (see Subparts M and N of this Part 405) as appropriate, may request that the Administration reconsider the determination. The Administration will reconsider an initial determination if a written request for reconsideration is filed by the institution, facility, agency, clinic, laboratory, or portable X-ray supplier concerned, as provided in § 405.1511.

11. Section 405.1519 is revised to read as follows:

§ 405.1519 Revision of initial or reconsidered determination.

Except in the case of a determination that an institution, facility, agency, or clinic qualifies as a provider of services, or that an institution qualifies to elect to claim payment for all emergency hospital services furnished in a calendar year, an initial or reconsidered determination which is otherwise final under § 405.1504 or § 405.1517 may be reopened by the Administration upon its own motion within 12 months after the date of the notice of the initial determination (see § 405.1503). Notice of the reopening of a determination and any revision thereof shall be given to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier which was a party to the determination (see § 405.1520).

12. Section 405.1530 is revised to read as follows:

§ 405.1530 Hearing; right to hearing.

After an initial and reconsidered determination that it does not qualify as a provider of services or that an independent laboratory or supplier of portable X-ray services does not meet the conditions for coverage of its services or that an institution does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year (see §§ 405.1502 (a), (b)(1), and (d)(1), and 405.1514); or after an initial determination described in § 405.1502 (b)(2), (c), and (d)(2); or after a revised determination described in § 405.1519, an institution, facility, agency, clinic, laboratory, or portable X-ray supplier shall be entitled to a hearing with respect to such determination, if the representative of the institution, facility, agency, clinic, laboratory, or portable X-ray supplier files a written request for hearing as provided in § 405.1531.

13. Paragraph (a) of § 405.1531 is revised to read as follows:

§ 405.1531 Filing a request for a hearing; time and manner of filing.

(a) The request for a hearing shall be made in writing, signed by a proper official of the institution, facility, agency, clinic, laboratory, or portable X-ray supplier concerned and filed at an office of the Administration, or with an Administrative Law Judge (formerly called "hearing examiner") or the Appeals Council of the Bureau of Hearings and Appeals. The request must be filed within 6 months after the date on which written notice of an initial determination provided for in § 405.1502 (b)(2), (c), or (d)(2), or a reconsidered or revised determination is mailed to the institution, facility, agency, clinic, laboratory, or portable X-ray supplier (see §§ 405.1503, 405.1516, and 405.1520), except where the time is extended for "good cause" (see § 405.1569).

* * * * *

14. Section 405.1532 is revised to read as follows:

§ 405.1532 Parties to the hearing.

The parties to the hearing shall be the institution, facility, agency, clinic, laboratory, or portable X-ray supplier which was a party to the prior determination (see §§ 405.1502 (b)(2), (c), and (d)(2), 405.1514, and 405.1519) and the Bureau of Health Insurance. The Bureau of Health Insurance shall be represented at the hearing (see § 405.1543).

15. Paragraph (a) of § 405.1542 is revised to read as follows:

§ 405.1542 Hearing on new issues.

(a) On the application of either party, or on his own motion, the Administrative Law Judge (formerly called "hearing examiner") may give notice at any time after a request for hearing has been filed (see § 405.1531), but prior to the closing of the record, that he will consider any specific new issue which may affect the rights of the institution, facility, agency, clinic, laboratory, or portable X-ray supplier, even though the Administration has not made an initial and reconsidered determination with respect to the issue and even though the issue arose after the request for hearing or prehearing conference: Except that, in the case of an initial determination described in § 405.1502(b)(2), (c), or (d)(2), the Administrative Law Judge shall not consider any issue which arose on or after (1) the effective date of the termination of an institution's, facility's, agency's, or clinic's agreement with the Secretary, or (2) the date on which it is determined that a laboratory or portable X-ray supplier no longer meets the conditions for coverage of its services, or (3) the effective date of the notification to an institution of its failure to remain in compliance with the qualifications for claiming emergency service reimbursement for a calendar year under the provisions of sections 1814(d) and 1835(b) of the Act. Notice of the time and place of the hearing on any new issue shall, unless waived (see § 405.1550), be given to the parties within the time and manner prescribed in § 405.1540. Upon giving of such notice, the Administrative Law Judge shall, except as otherwise provided, proceed to hearing on such new issues in the same manner as he would on an issue in which an initial and reconsidered determination had been made by the Administration and a hearing request with respect thereto had been filed.

16. Section 405.1567 is revised to read as follows:

§ 405.1567 Effect of the Appeals Council decision.

The decision of the Appeals Council shall be final and binding unless a civil action (see § 405.1501 (b) and (e)) is filed by the institution, facility, agency, or clinic in a district court of the United States as authorized by section 1869(c) of the Act or unless the decision is revised in accordance with § 405.1570. (Section 1869(c) of the Act does not grant judicial review of the Secretary's decision with respect to whether an independent laboratory or supplier of portable X-ray services meets the conditions for coverage, as required by Subparts M and N, respectively.)

17. Paragraph (a) of § 405.1569 is revised to read as follows:

§ 405.1569 Extension of time to request a hearing or review or begin civil action.

(a) Any institution, facility, agency, clinic, laboratory, or portable X-ray supplier which is a party to an initial determination described in § 405.1502 (b)(2), (c), or (d)(2); or to a reconsidered determination that it does not qualify as a provider of services or does not qualify to elect to claim payment for all emergency hospital services furnished in a calendar year or does not meet the conditions for coverage; or to a revised determination described in § 405.1519; or which is a party to a decision of an Administrative Law Judge (formerly called "hearing examiner") may request an extension of time for filing a request for hearing or review, as the case may be, although the time for filing the request has passed. If an extension of time for filing a request for hearing before an Administrative Law Judge is sought, the request may be filed with the Administrative Law Judge. In any other case, the request shall be filed with the Appeals Council. The request shall be in writing and shall state the reasons why the request was not filed within the required time. An institution, facility, agency, or clinic which is a party to a decision of the Appeals Council, may ask the Appeals Council for an extension of time for commencing civil action in a district court within 60 days from the date of the notice of the Appeals Council action and shall state the reasons an extension is required. For good cause shown, the Administrative Law Judge may extend the time for filing a request for hearing or the Appeals Council may extend the time for filing a request for review or civil action.

18. Section 405.1572 is revised to read as follows:

§ 405.1572 Effect of revised determination.

A revised decision by an Administrative Law Judge (formerly called "hearing examiner") shall be final and binding upon the parties thereto unless reviewed by the Appeals Council in accordance with §§ 405.1561–405.1563. A revised decision by the Appeals Council shall be final and binding unless a civil action (see § 405.1501 (b) and (e)) is filed by the institution, facility, agency, or clinic in a district court of the United States as authorized by section 1869(c) of the Act.

[FR Doc.72-17133 Filed 10-5-72;8:48 am]

Title 29—LABOR

Subtitle A—Office of Secretary of Labor

PART 55—GRANTS UNDER THE EMERGENCY EMPLOYMENT ACT OF 1971

Miscellaneous Amendments

Regulations pursuant to the Emergency Employment Act were originally issued in four subparts, Subpart A relating to grants under section 9(a)(1) of the Act (published August 14, 1971, at 36 F.R. 15433–15437), Subpart B relating to grants under section 6 (published October 5, 1971, at 36 F.R. 19361–19362), Subpart C relating to grants to Indian tribes on Federal and State reservations (published November 5, 1971, at 36 F.R. 21282–21284), and Subpart D relating to discretionary funds (published November 6, 1971, at 36 F.R. 21337–21338). At the time of initial publication the Secretary invited interested parties to submit written comments, suggestions, data, or arguments to the Assistant Secretary for Manpower within 45 days of publication, and stated that the material thus submitted would be evaluated and acted upon in the same manner as if the original document had been published in proposal form. The suggestions received have been considered, and revisions to Subpart A were published on March 3, 1972 (37 F.R. 4436–4441). Revisions to Subparts B, C, and D are set forth herein.

In addition Subpart A is further amended:

(1) To incorporate in its proper place in the regulations a general statement of policy with respect to the method of

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apportionment of funds under section 9(a)(1) which was previously published in notice form (36 F.R. 18124, September 1, 1971), on which comment has been received. The procedure which was followed during the initial year of operation under the Act will be retained except that persons employed under grants made pursuant to the Act will be counted as unemployed for allocation purposes,

(2) To increase the minimum period an individual must be without work in order to qualify for a PEP job from 7 to 14 days,

(3) To delete authority for administrative funds to be used to pay compensation to participants in excess of $12,000 per year, and to delete provisions for excluding units of government serving fewer than 10,000 people for that reason,

(4) To give greater preference to veterans,

(5) To broaden the definition of older worker to include those over 65, as it did prior to March 3, and

(6) To specify that the Act prohibits use of Federal funds to impair existing contracts for services of independent contractors, and does not refer to collective bargaining agreements.

In addition to conforming and editorial revisions, the following are the major changes to Subpart B:

(1) As in the case of grants under Subpart A, persons employed under grants made pursuant to the Act are deemed unemployed for purposes of the allocation of funds,

(2) The definition of "State" is revised to make it clear that the government of the District of Columbia is both a State and a local government,

(3) Definitions are added for "eligible area", and "substantial unemployment", and

(4) A statement of general policy is added regarding apportionment of section 6 funds by the Secretary to Program Agents.

The changes to Subparts C and D are primarily those needed for conforming purposes. In addition a number of minor editorial and clarifying changes have been made.

In order to shorten the period of time during which the various subparts do not conform with each other, and inasmuch as these changes involve statements of policy or are editorial or clarifying in character, these regulations will be effective upon publication in the FEDERAL REGISTER (10-6-72).

The following are the revisions of Part 55:

1. The table of contents for Part 55 is revised as follows:

Subpart A—Application for and Requirements of Grants

Sec.
55.0 Coverage.
55.1 Definitions.
55.2 Purpose and scope.
55.3 Application for grants.
55.4 Apportionment and allocation of funds.
55.5 Employing agencies.
55.6 Assurances.
55.7 Selection of participants.
55.10 Comments by units of general government of labor organizations.
55.11 Action upon applications.
55.15 Use of Federal funds.
55.16 Non-Federal share.
55.17 Records, financial reports, and audits.
55.18 Reports of effectiveness.
55.19 Participant compensation and working conditions.
55.20 Nondiscrimination.
55.25 Adjustments in payments.
55.26 Termination of grants.

Subpart B—Grants Under Section 6 of the Emergency Employment Act

Sec.
55.30 Scope and purpose.
55.31 Definitions.
55.31a Incorporation of sections from Subpart A.
55.32 Applications for grants.
55.33 Apportionment and allocation of section 6 funds.
55.34 Employing agencies.
55.35 Selection of participants.
55.36 Action upon applications.
55.37 Adjustments in payments; termination of grants.
55.38 Manpower and supportive services.

Subpart C—Grants for Indian Tribes on Federal or State Reservations

Sec.
55.40 Purpose and scope.
55.41 Definitions.
55.42 Incorporation of sections from other subparts.
55.43 Applications for grants.
55.44 Distribution and use of funds.
55.45 Employing agencies.
55.46 Selection of participants.
55.47 Action on application.
55.48 Adjustments in payments; termination of grants.
55.49 Funding.

Subpart D—Grants Under the Secretary's Discretionary Authority

55.50 Purpose and scope.
55.51 Incorporation of sections from Subpart A.
55.52 Distribution and use of funds.
55.53 Assurances.
55.54 Selection of participants.
55.55 Action upon applications.
55.56 Use of Federal funds.
55.57 Maximum compensation.
55.58 Waiver of requirements by Secretary.

AUTHORITY: The provisions of this Part 55 issued under sec. 12, Emergency Employment Act, Secretary Order 20-71 of 1971, Public Law 92-54, 85 Stat. 148.

Subpart A—Application for and Requirements of Grants

2. Section 55.0 is hereby added as follows:

§ 55.0 Coverage.

The provisions of this Subpart A involve grants made pursuant to section 5 and allocated pursuant to section 9(a)(1) of the Emergency Employment Act. They apply only to grants made pursuant to this Subpart A except to the extent portions of Subpart A are specifically incorporated by reference in other subparts.

3. Section 55.1 (g), (j), (q)(3), (t), (u), and (v) are hereby amended as follows:

§ 55.1 Definitions.

As used in this subpart and in grant instruments entered into pursuant to this subpart:

• • • • • •

(g) "Participant" means any previously unemployed or underemployed person who is employed under the Act after selection in accordance with § 55.7.

• • • • • •

(j) "Program Agent" means an eligible applicant which has been designated by the Secertary for requesting, receiving, and administering funds pursuant to the Act. The Secretary will first designate as Program Agent every State, each city or town with general governmental powers which has a population of 75,000 or more, and each county or town with general governmental authority which has a population of 75,000 or more disregarding cities or towns within its boundaries which have been designated as Program Agents. In the event a Program Agent declines to serve or which is otherwise unable to do so satisfactorily, the Secretary will designate an alternative eligible applicant to serve the same unemployed population.

• • • • • •

(q) "Unemployed persons" means • • •

(3) For purposes of allocation of funds (e.g. §§ 55.4, 55.33 and 55.44), those persons who are unemployed within the meaning of paragraph (1) of this section plus persons who are employed under grants made pursuant to the Act.

• • • • • •

(t) "Balance of State" means the area within the jurisdiction of the State as Program Agent not included in another Program Agent's area.

(u) "Civilian work force" means the sum of the number of persons in an area who are employed in civilian jobs plus the number of persons unemployed within the meaning of paragraph (q)(1) of this section.

(v) "Rate of unemployment" means the number of unemployed persons within the meaning of paragraph (q)(3) of this section as a percent of the total number of persons in the civilian work force.

4. Section 55.4 is revised by adding new paragraphs (a), (b), and (c), and by revising the present paragraphs (a) and (b) and renumbering them as (d) and (e) respectively. As revised § 55.4 reads:

§ 55.4 Apportionment and allocation of funds.

(a) Funds available for apportionment under section 9(a)(1) of the Act will be distributed among the States by the Secretary in accordance with the following procedure:

(1) The total amount available shall be apportioned among the States so that each receives the percentage of the total amount that the proportion of the unemployed persons residing within that State is to the national total of unemployed persons,

(2) The total amount will be apportioned among the States so that each State receives an amount equal to the percentage that the number of unemployed in excess of 4.5 percent in that State is of the sum of the number of unemployed in excess of 4.5 percent in all States with a rate of unemployment of 4.5 percent or more and

(3) The apportionment to each State will be the average of the amount apportioned under each of the above: *Provided, however,* That no State shall receive an apportionment of less than $1,500,000 under this formula, and that for purposes of this paragraph (a), the trust territory, Guam, American Samoa and the Virgin Islands count as one State.

(b) The amount apportioned to the States shall be further allocated by the Secretary to individual Program Agents in accordance with the same two-part formula, except that the first amount to be allocated among areas within a given State shall be the amount that State would have received under paragraph (a)(1) of this section, and the second amount to be allocated among areas within a given State shall be the amount the State would have received under paragraph (a)(2) of this section. The actual amount for each Program Agent is the average of the amounts under each half of the formula.

(c) The funds for a city, county or town acting as Program Agent shall be reduced by an amount equal to the ratio of State government employees at work in that area to the total number of government employees working the area. The portion withheld will be allocated to the State government to provide employment in State public service jobs to unemployed residents of the Program Agent area: *Provided,* That no reduction shall be made when the amount to be withheld for State government amounts to less than $25,000.

(d) The funds apportioned to the State government as Program Agent for the balance of State shall be further apportioned between local and State governments based on the percentage of State government to total government employment in the balance of State.

(e) Program Agents must allocate funds equitably among county and city levels of government, including public agencies which are independent of supervision by such level of government, in accordance with the following guidelines:

(1) When distributing funds for employment of residents within its geographic jurisdiction, the Program Agent shall give due consideration to the level and severity of unemployment in each city and county. Any such unit which would be entitled to less than $25,000 may be excluded, and

(2) When distributing funds among employing agencies serving the same population, the Program Agent shall consider the number of public service jobs, the public service needs, and the size of the population served by each unit of government. Where appropriate, Federal and State agencies may also be made employing agencies.

(f) Program Agents and employing agencies may enter into contracts for necessary supportive or administrative services with public organizations and, except contracts for the employment of participants, with private organizations or individuals: *Provided,* Any such contract with a private organization or individual for an amount in excess of $10,000 shall be effective only if approved by the Secretary.

5. Paragraphs (c) and (e) of § 55.7 are hereby amended to permit veterans to be given greater than proportional preference, and to require persons who qualify for PEP as unemployed persons to have been without work a minimum of 14 days. As amended these paragraphs read:

§ 55.7 Selection of participants.

• • • • • •

(c) Each Program Agent shall be responsible for assuring (1) that participants will be chosen on an equitable basis, in accordance with the purposes of the Act, from among significant segments of the population in the area of unemployed and underemployed persons and (2) that preference will be given to unemployed and underemployed persons who are any one or more of the following (not necessarily in this order) until such time as they have been employed in proportion to their numbers in the unemployed population or in the case of veterans until a proportion of total hires as determined by the Secretary has been reached: (i) Disabled veterans of the Vietnam era and special veterans; (ii) young persons 18 years and older entering the labor force; (iii) persons 45 years of age or older; (iv) migrant farmworkers; (v) persons whose native tongue is not English and whose ability to speak English is limited; (vi) persons from families with incomes below the poverty level or welfare recipients; (vii) persons who have become unemployed or underemployed as a result of technological change or whose most recent employment was with Federal contractors who have cut back in employment because of shifts in Federal expenditure, such as in the defense, aerospace, or construction industries; or (viii) others who come from socioeconomic backgrounds generally associated with substantial unemployment and underemployment.

• • • • • •

(e) Participants may not have been employed by a Program Agent or subagent less than 30 days prior to being reemployed by the same unit of government. Those who qualify as unemployed may not have worked for any employer less than 14 days prior to employment under the Act.

• • • • • •

6. Section 55.15 is revised to delete authority for payment to participants of compensation at a rate in excess of $12,000 a year from administrative funds, and to specify that the contracts for services that may not be impaired are those of independent contractors. As revised § 55.15 (d)(1) and (f) read:

§ 55.15 Use of Federal funds.

• • • • • •

(d) Federal funds granted under the Act for wages and benefits shall not be used to pay—

(1) Compensation to any participant at a full-time rate higher than $12,000 a year plus fringe benefits to the extent they do not exceed those normally provided employees earning $12,000.

• • • • • •

(f) Federal funds shall not be expended for work that would otherwise have been performed at Federal, State, or local expense, which will not result in an increase over the employment which would otherwise be available, which will result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), or which will impair existing contracts of independent contractors for services.

7. Subpart B is revised to read as follows:

Subpart B—Grants Under Section 6 of the Emergency Employment Act

§ 55.30 Scope and purpose.

This subpart contains the policies, rules, and regulations of the Department of Labor in implementing the Special Employment Assistance Program under section 6 of the Emergency Employment Act of 1971 (Public Law 92-54, 85 Stat. 148).

§ 55.31 Definitions.

As used in this Subpart B in grant instruments entered into pursuant to this subpart:

(a) The definitions of "the Act," "civilian work force," "compensation," "health care," "participant," "poverty level," "professional work," "public service," "rate of unemployment," "Secretary," "special veteran," "subagent or subgrantee," "supportive or manpower services," "unemployed person," "underemployed person," and "veterans of the Vietnam Era" set forth in § 55.1 are hereby incorporated in this subpart.

(b) "Eligible area" means any previously recognized area which has substantial unemployment, and sufficient size and scope to sustain a public service employment program.

(c) "Eligible applicant" means any unit or consortium of units of general local government or any public agency or institution which is a subdivision of any such unit, which is or has within it an area of substantial unemployment. It does not include a State or any State or Federal agency or institution.

(d) "Employing agency" means any eligible applicant which has been designated by a Program Agent or the Secretary to employ participants with funds granted pursuant to section 6 of the Act.

(e) "Program Agent" means a State government or an eligible applicant

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which has been designated by the Secretary for requesting, receiving, and administering funds pursuant to section 6 of the Act.

(f) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, provided that the government of the District of Columbia is deemed a local government as well as a State government.

(g) "Substantial unemployment" means unemployment equal to or in excess of 6 percent of the civilian work force which has lasted for 3 consecutive months, as determined by the Secretary.

§ 55.31a Incorporation of sections from Subpart A.

Sections 55.10, 55.15, 55.16, 55.17, 55.18, 55.19, and 55.20 are hereby made applicable to section 6 of the Act, except that § 55.16(c) shall not be construed to make administrative services performed by the State as Program Agent allowable as non-Federal share. Contributions in cash or in kind by the State toward the program of an eligible applicant are allowable.

§ 55.32 Applications for grants.

An application for a grant for section 6 funds may be submitted by a Program Agent acting through its chief elected officer or his designee, or, in the case of a combination of units, the officer designated by such combinations of units. The application shall contain all the information and assurances required by §§ 55.3 and 55.6: *Provided*, That the provisions of § 55.6(g)(2) requiring maximum placement efforts by the Program Agent in the event the national rate of unemployment falls below 4.5 percent are inapplicable.

§ 55.33 Apportionment and allocation of section 6 funds.

(a) The Secretary will make an initial apportionment of the funds he determines to be reasonably available under section 6 of the Act within 3 months after such funds are appropriated as follows:

(1) Not less than half the money shall be apportioned among the Program Agents with eligible areas so that each receives the percentage of the total amount that the proportion of the unemployed persons residing within eligible areas in the Program Agent's jurisdiction is to the sum of the number of unemployed persons residing in all eligible areas.

(2) The remaining funds shall be apportioned among the Program Agents so that each receives the percentage of the total amount which the proportion of the unemployed persons above 6 percent in eligible areas of the Program Agent's jurisdiction is to the sum of the number of unemployed above 6 percent in all eligible areas in the United States, and

(3) No funds shall be apportioned to a Program Agent for the employment of participants who reside in an eligible area which would receive less than $25,000.

(b) Where the Program Agent's entire jurisdiction qualifies as an eligible area, the Program Agent shall allocate funds to identifiable subareas within its jurisdiction in accordance with the standards set forth in paragraph (a) of this section.

(c) Where the Program Agent's entire jurisdiction does not qualify as an eligible area, the Secretary will grant funds to the Program Agent for specified eligible areas within its jurisdiction in amounts determined in accordance with the procedures set forth in paragraph (a) of this section.

(d) Program Agents shall allocate funds equitably among city and county governments within whose jurisdictions eligible areas are located, including public agencies which are independent of supervision by such governments, taking into consideration the total governmental employment of each such governmental unit, public service needs, and such other factors as the Program Agent may deem significant in determining an equitable distribution of funds.

§ 55.34 Employing agencies.

(a) Only an eligible applicant may become an employing agency.

(b) Activities and services for which financial assistance is granted under section 6 of the Act must be administered by or under the supervision of a Program Agent.

(c) Program Agents may make subgrants to any eligible applicant as defined in § 55.31(b) for use in employing participants: *Provided, however*, the Program Agent remains responsible as provided in § 55.5 for assuring compliance by such employing agency with the Act, the regulations, and the grant conditions. If the Program Agent is a State, any eligible applicant receiving directly through it shall also be responsible to the Secretary for compliance with the Act, the regulations and the grant conditions and for any funds improperly expended.

(d) Program Agents and employing agencies may use funds allotted to them for contracts to purchase administrative services with public or private organizations: *Provided*, That any such contract with a private organization may not be for employment of participants: *And provided further*, That any such contract in excess of $10,000 shall be effective only if approved by the Secretary.

(e) Participants may perform work for a Federal agency only if (1) the employing agency deems it in the best interest of its constituency to detail them for such work and (2) the host agency has authority to accept voluntary services or other legal authority to accept such work.

§ 55.35 Selection of participants.

(a) Paragraphs (a) through (e) inclusive and paragraph (g) of § 55.7 are applicable to grants made pursuant to section 6 of the Act.

(b) Participants shall be selected from among the residents of eligible areas within a city or county to which the funds have been allocated in accordance with § 55.33. Wherever possible, employment opportunities shall be selected at job sites within the geographical boundaries of the area to be assisted, and the public services resulting from the public employment created shall be provided to residents of such area. If jobs are established outside the area, they must be within reasonable commuting distance

§ 55.36 Action upon applications.

(a) An application for a grant pursuant to section 6 of the Act will be approved if (1) the Program Agent or, when the Program Agent is the State, the eligible applicants receiving grant funds directly through it, have the legal capacity to operate the program proposed, (2) the application meets the requirements of the statute and of the regulations in this subpart, and (3) the Secretary finds in his discretion that the amount requested and the plan for its allocation within the area will best serve to reduce unemployment in areas of substantial unemployment.

(b) The Program Agent will be notified of action taken on an application; if approved the grant will be completed as provided in § 55.11(b). If the application is denied, a notice of denial will be sent to the Program Agent, accompanied by a brief statement of the reason for denial.

(c) In the event an acceptable application is not filed within the time prescribed by the Secretary or is denied, or a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds released by such failure to file, denial of termination, to be used by one or more alternative eligible applicants in furtherance of the purposes of section 6 of the Act.

§ 55.37 Adjustments in payments; termination of grants.

(a) If any funds are expended by a Program Agent, or an eligible applicant receiving through the State as Program Agent, in violation of the Act, the regulations, or grant conditions, the Secretary may make necessary or appropriate adjustments in payments to the Program Agent or may terminate the grant. If the violation is by an eligible applicant receiving grant funds directly from the State acting as Program Agent, the Secretary may seek recourse against such eligible applicant.

(b) The methods, provisions and procedures for adjustments in payments or termination of grants which are set forth in §§ 55.25 and 55.26 shall apply with respect to grants made pursuant to section 6 of the Act.

§ 55.38 Manpower and supportive services.

Federal funds made available under section 6 of the Act may not be expended for manpower, supportive services or health care.

8. Subpart C is revised to read as follows:

Subpart C—Grants to Indian Tribes on Federal or State Reservations

§ 55.40 Purpose and scope.

This subpart contains the policies, rules, and regulations to the Department of Labor with respect to grants to Indian tribes on Federal and State reservations under the Emergency Employment Act of 1971 (Public Law 92–54, 85 Stat. 146).

§ 55.41 Definitions.

As used in this Subpart C and in grant instruments entered into pursuant to this subpart.

(a) The definitions of "the Act", "compensation", "eligible applicant", "professional work", "public service", "Secretary", "special veteran", "subagent or subgrantee", "supportive or manpower services", "State", "unemployed person", "underemployed person" and "veteran of Vietnam Era" set forth in § 55.1 are hereby incorporated in this subpart.

(b) "Eligible applicant" means any unit of Federal, State, or general local government, or any public agency or institution which is a subdivision or consortium of Federal, State, or general local government, or the governing body of an Indian tribe on a Federal or State reservation. For purposes of this definition, a public agency or institution is deemed to be a subdivision of State or local government even if it is not directly responsible to such unit of government.

(c) "Eligible reservation" means the governing body of the Indian tribe or tribes on a Federal or State reservation. For purposes of this subpart an eligible reservation is deemed an eligible applicant.

(d) "Indian tride on a Federal reservation" means a tribe located on land set aside for Indians and for which the United States is a trustee.

(e) "Indian tribe on a State reservation" means a tribe located on a reservation recognized by the State in which it is located.

(f) "Program Agent" means an intertribal council, an organization of Indians, or an eligible applicant which has been designated by the Secretary for requesting, receiving and administering funds intended for use in the employment of Indians residing on Federal and State reservations.

§ 55.42 Incorporation of sections from other subparts.

Sections 55.10, except for paragraph (a)(1), §§ 55.17, 55.18, and 55.19 are hereby incorporated in this Subpart C.

§ 55.43 Applications for grants.

(a) An application for a grant for funds may be submitted by a Program Agent acting through its highest authorized official. The application shall contain all the information and assurances required by §§ 55.3 and 55.6.

(b) The Program Agent shall assure all affected eligible reservations an opportunity for participation in all activities and decisions related to the administration of the program.

§ 55.45 Employing agencies.

(a) Either an eligible reservation or an eligible applicant which has been designated by an eligible reservation may be an employing agency.

(b) Grant expenditures pursuant to this subpart must be administered by or under the supervision of a Program Agent.

(c) If the Program Agent is not an eligible applicant, both the Program Agent and any eligible applicant receiving funds directly from the Program Agent shall be responsible to the Secretary for compliance with the Act, the regulations, and the grant conditions, and for any funds improperly expended.

(d) Program Agents may use their funds to purchase administrative and supportive services from public or private organizations: *Provided*, That Program Agents may not contract with private organizations for the employment of participants: *And provided further*, That any contract with a private organization in excess of $10,000 shall be effective only if approved by the Secretary.

(b) Grant applications must be accompanied by a statement that a copy of the application, including the proposed distribution of funds, has been furnished to the Governor, and that a summary of the application has been published in two newspapers of general circulation in the area for the benefit of units of general local government which may be interested. Notice to the Governor may be given in accordance with the procedures established under the Intergovernmental Cooperation Act of 1968. The published notice shall specify where the application may be examined in full, and invite comment to the Program Agent and/or the Secretary. Both individual and published notice shall state that consideration will be given only to comments received within the time periods specified in § 55.10(c).

§ 55.44 Distribution and use of funds.

(a) The Secretary will allocate the funds to Program Agents for distribution to designated eligible reservations in proportion to the best estimate available of the comparative unemployment on each such reservation.

§ 55.46 Selection of participants.

(a) Paragraphs (a), (b), (c), (e), and (g) of § 55.7 are applicable to grants pursuant to this subpart.

(b) Participants shall be selected from persons living on or near the eligible reservation to which funds have been allotted. Wherever possible, employment opportunities shall be provided at jobsites within the geographical boundaries of the reservation, and the public services resulting from the public employment thereby created shall be provided to residents of the reservation. If jobs are established outside the areas they must be within reasonable commuting distance.

§ 55.47 Action on applications.

(a) An application for a grant for an Indian tribe under this subpart will be approved if (1) the Program Agent, or when the Program Agent is not an eligible applicant, the eligible applicant receiving funds directly through it, has the legal capacity to operate the program proposed, (2) the application meets the requirements of the statute and of the regulations in this subpart, and (3) the Secretary finds in his discretion that the amount requested and the plan for allocation will best serve to reduce unemployment on the eligible reservation or reservations.

(b) The Program Agent will be notified of action taken on an application in accordance with § 55.11(b). If approved, the grant will be completed as provided in said § 55.11(b); if the application is denied, a notice of denial will be sent to the Program Agent, accompanied by a brief statement of the reason for denial.

(c) In the event an acceptable application is not filed within the time prescribed by the Secretary or is denied, or a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds released by such failure to file, denial or termination, to be used by one or more alternative eligible applicants.

§ 55.48 Adjustments in payments: termination of grants.

(a) If any funds are expended by a Program Agent, or an eligible applicant receiving funds directly through a Program Agent which is not an eligible applicant, in violation of the Act, the regulations, or grant conditions, the Secretary may make necessary or appropriate adjustments in payments to the Program Agent or may terminate the grant in whole or in part. If the violation is by an eligible applicant receiving grant funds from a Program Agent which is not an eligible applicant, the Secretary may seek recourse against such eligible applicant.

(b) The methods, provisions, and procedures for adjustments in payments or termination of grants which are set forth in §§ 55.25 and 55.26 shall apply with respect to grants pursuant to this subpart.

§ 55.49 Funding.

(a) Paragraphs (d), (e), and (f) of § 55.15 are incorporated herein.

(b) Federal funds will be granted on the basis of program applications, and only for purposes (1) permitted under the provisions of Subpart 1–15.7 of Title 41 of the Code of Federal Regulations, entitled "Principles for Determining Costs Applicable to Grants and Contracts with State and Local Government," and (2) not barred under the remaining provisions of this part.

(c) Not less than 85 percent of the funds granted to a Program Agent, or the percent specified by the Secretary, shall be used for compensation and benefits to participants.

(d) It is hereby determined that the requirement for non-Federal share would cause a serious hardship for eligible reservations and therefore that requirement is waived with respect to grants under this subpart.

9. Subpart D is revised to read as follows:

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Subpart D—Grants Under the Secretary's Discretionary Authority

§ 55.50 Purpose and scope.

This subpart contains the policies, rules, and regulations of the Department of Labor with respect to grants, except grants to Indian tribes which are covered by Subpart C of this part, pursuant to the Secretary's discretionary authority under the Emergency Employment Act of 1971 (Public Law 92–54, 85 Stat. 146).

§ 55.51 Incorporation of sections from Subpart A.

Sections 55.1, 55.3, 55.5, 55.10, 55.16, 55.17, 55.18, 55.19, 55.20, 55.25, and 55.26 are hereby incorporated in this Subpart D.

§ 55.52 Distribution and use of funds.

(a) The Secretary will designate the areas in which the discretionary funds shall be expended. These areas will not necessarily be identical with the respective jurisdictions of Program Agents under other subparts. Only eligible applicants serving such designated areas may receive funds.

(b) Funds granted for demonstration programs shall be allocated equitably by Program Agents, among the county and city levels of government, including public agencies which are independent of supervision by such level of government, in the designated areas covered in its application, subject to any directions of the Secretary.

(1) When selecting employing agencies, Program Agents shall give due consideration to the ability of each employing agency to employ participants belonging to the population segments specified by the Secretary in jobs meeting the Secretary's criteria, if any, and as appropriate, to the size and severity of unemployment in the particular area, and the number of public service jobs at each level of government.

(2) Where appropriate, Federal and State agencies may be made employing agencies. When a Federal or State agency is the employing agency, the jobs it creates must be located in the jurisdiction of the Program Agent from which it receives funds.

§ 55.53 Assurances.

(a) Section 55.6, except for paragraph (d), is hereby incorporated in this Subpart D.

(b) The grant application shall include a commitment by the Program Agent that it and the employing agencies responsible to it will utilize half the vacancies occurring in suitable occupations in their permanent work force, not financed from funds granted pursuant to the Act, for the purpose of providing participants permanent employment, except where this is prohibited by hiring practices required by law, regulation, or collective bargaining agreement and the Program Agent or employing agency has submitted a statement explaining the prohibition. Failure to abide by this commitment may lead to the withholding or denial of grant funds.

§ 55.54 Selection of participants.

(a) Paragraphs (a) through (c) and (g) of § 55.7 are incorporated herein.

(b) Paragraph (f) of § 55.7 is incorporated herein except as to participants in high impact demonstration programs in a Standard Metropolitan Statistical Area who may live anywhere in such area.

(c) Whenever, in order to facilitate a demonstration program, the Secretary decides to expend discretionary funds for the employment of specified categories of welfare recipients, or for any other limited category of participants, Program Agents and employing agencies shall select participants from the specified category in accordance with the Secretary's instructions, giving due regard to the requirements of § 55.7(c) (incorporated herein by paragraph (a) of this section) with regard to selection of members of all significant segments.

§ 55.55 Action upon application.

(a) An application for a grant from funds made available under section 9(a)(2) of the Act will be approved if (1) the Program Agent has the legal capacity to operate the program proposed, (2) the application meets the requirements of the statute and of the regulations in this subpart, and (3) the Secretary has determined that the project is appropriate in accordance with section 9(a)(2) of the Act.

(b) The Program Agent will be notified of action taken on an application. If approved the grant will be completed as provided in § 55.11(b); if the application is denied, a notice of denial will be sent to the Program Agent, accompanied by a brief statement of the reason for denial.

(c) In the event an acceptable application is not filed within the time prescribed by the Secretary or is denied, or a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds released by such failure to file, denial or termination, to be used by one or more alternative eligible applicants in furtherance of the purposes of this subpart.

§ 55.56 Use of Federal funds.

(a) Paragraphs (a), (b), (d), (e), and (f) of § 55.15 are hereby incorporated in this subpart.

(b) Not less than 85 percent of the funds granted to a Program Agent, or the percent specified by the Secretary, shall be used for compensation and benefits to participants.

§ 55.57 Maximum compensation.

Where the Secretary sets a maximum on the compensation payable for a percentage of the jobs in a demonstration project, at least that percentage of jobs shall pay no more than the specified maximum.

§ 55.58 Waiver of requirements by Secretary.

The Secretary may waive any requirement under this subpart that is not specifically required by the Act if he finds it might impede the conduct of any demonstration program.

Signed at Washington, D.C., this 27th day of September 1972.

MALCOLM R. LOVELL, JR.,
Assistant Secretary for Manpower.

[FR Doc.72–16979 Filed 10–6–72;8:52 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1032, 1050, 1062, 1064, 1065]

[Docket No. AO–313–A23 etc.]

MILK IN SOUTHERN ILLINOIS AND CERTAIN OTHER MARKETING AREAS

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR Part	Marketing area	Docket No.
1032	Southern Illinois	AO–313–A23.
1050	Central Illinois	AO–355–A12.
1062	St. Louis-Ozarks	AO–10–A45.
1064	Greater Kansas City	AO–23–A44.
1065	Nebraska-Western Iowa	AO–86–A28.

Notice is hereby given of a public hearing to be held at the Holiday Inn-West, Interstate 270 at St. Charles Rock Road, Bridgeton, MO 63044 (near the St. Louis Municipal Airport), beginning at 10 a.m., local time, on October 18, 1972, with respect to proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the aforesaid marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in each of the aforesaid marketing areas which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Associated Milk Producers, Inc., Champaign County Milk Producers Association, Mid-America Dairymen, Inc., Mid-West Dairymen's Company, Mississippi Valley Milk Producers Association, Prairie Farms Dairy, Inc., and Wisconsin Dairies Cooperative:

Proposal No. 1. Make such changes and additions to the Southern Illinois Order 32 as are necessary to establish an advertising, research, education and promotion program for milk and milk products in accordance with Public Law 91–670, including the following:

A. In § 1032.62, revise paragraph (b)(5) as follows:

§ 1032.62 Obligations of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents, or the Class II price, whichever is higher; and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

B. In § 1032.71, add a new paragraph (c–1) as follows:

§ 1032.71 Computation of the uniform price.

* * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * *

C. In § 1032.84, revise paragraph (b)(2) as follows:

§ 1032.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1032.70(f).

D. Immediately following § 1032.89, add a new centerhead and new §§ 1032.100 through 1032.112 as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1032.100 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1032.111(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1032.101 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1032.103(b) with 1 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each additional full 15 percent of the participating member producers it represents. Cooperative associations with less than 1 percent of the total participating producers that have elected not to combine pursuant to § 1032.103(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for the first full 1 percent plus one additional Agency representative for each additional full 15 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1032.102 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1032.103 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 1 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1032.101 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 1 percent of the producers participating in the advertising and promotion programs and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually

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thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1032.104 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1032.105 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1032.100;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1032.100 and 1032.107.

§ 1032.106 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1032.100 and 1032.107;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1032.107 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1032.108 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1032.111(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1032.109 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1032.110 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the 1st day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1032.111 Duties of the market administrator.

Except as specified in § 1032.106 the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation of the Agency pursuant to § 1032.103(c);

(b) Set aside the amounts subtracted under § 1032.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1032.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1032.110. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1032.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1032.100 through 1032.112).

(d) Audit the Agency's records of receipts and disbursements.

§ 1032.112 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1032.83.

Proposal No. 2. Amend the Central Illinois, St. Louis-Ozarks, Greater Kansas City and Nebraska-Western Iowa orders to provide for an advertising, research, education, and promotion program for milk and milk products in the same manner as set forth in Proposal 1 for the Southern Illinois order but including a procedure for the application of the "program" deductions to the uniform prices for base and excess milk in the case of the Greater Kansas City order.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators of the respective orders, or from the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C. on October 3, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72–17167 Filed 10–5–72;8:52 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 730]

RICE

Determinations To Be Made Regarding Marketing Quotas, National, State, and County Acreage Allotments, County Normal Yields; Referendum on Marketing Quotas for 1973 Crop

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301, 1352, 1353, 1354), the Secretary of Agriculture is preparing to determine whether marketing quotas are required to be proclaimed for the 1973 crop of rice; to determine and proclaim the national acreage allotment for the 1973 crop of rice; to apportion among States and counties the national acreage allotment for the 1973 crop of rice; to establish county normal yields for the 1973 crop of rice; and to establish a period for conducting a referendum on marketing quotas in the event quotas are proclaimed for the 1973 crop of rice.

Section 354 of the act provides that whenever in the calendar year 1972 the Secretary determines that the total supply of rice for the 1972–73 marketing year will exceed the normal supply for such marketing year, the Secretary shall, not later than December 31, 1972, proclaim such fact and marketing quotas shall be in effect for the crop of rice produced in 1973. Within 30 days after the issuance of such proclamation, the Secretary shall conduct a referendum by secret ballot of farmers engaged in the production of the immediately preceding crop of rice to determine whether farmers are in favor of or opposed to such quotas.

Section 352 of the act, as amended, provides that the national acreage allotment of rice for 1973 shall be that acreage which the Secretary determines will, on the basis of the national average yield of rice for the 5 calendar years 1968 through 1972, produce an amount of rice adequate, together with the estimated carryover from the 1972–73 marketing year, to make available a supply for the 1973–74 marketing year not less than the normal supply. The Secretary is required under this section of the act to proclaim such national acreage allotment not later than December 31, 1972.

Section 353(c)(6) of the act, as amended, provides that the national acreage allotment of rice for 1973 shall be not less than the national acreage allotment for 1956, including the 13,512 acres apportioned to States pursuant to paragraph (5) of section 353(c) of the act. Under this provision, the national acreage allotment of rice for 1973 will be not less than 1,652,596 acres.

As defined in section 301 of the act, for purposes of these determinations, "total supply" for any marketing year is the carryover of rice for such marketing year, plus the estimated production of rice in the United States during the calendar year in which such marketing year begins and the estimated imports of rice into the United States during such marketing year; "normal supply" for any marketing year is the estimated domestic consumption of rice for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus the estimated exports of rice for the marketing year for which normal supply is being determined, plus 10 percent of such consumption and exports, with adjustments for current trends in consumption and for unusual conditions as deemed necessary; and "marketing year" for rice is the period August 1–July 31.

Section 353 (a) and (c)(6) of the act requires that the national acreage allotment of rice for the 1973 crop, less a reserve of not to exceed 1 percent thereof for apportionment to farms receiving inadequate allotments because of insufficient State or county allotments or because rice was not planted on the farm during all the years of the base period, be apportioned among the several States in which rice is produced in the same proportion that they shared in the total acreage allotted to States in 1956 (State acreage allotments, plus the additional acreage allocated to States under section 353(c)(5) of the act as amended).

The State acreage allotment of rice for the 1973 crop would be apportioned to producers in "producer States" and to farmers in "farm States" in accordance with the Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice (§§ 730.61 to 730.87, 33 F.R. 14520, 17764; 34 F.R. 3733, 5629; 35 F.R. 5995, 11454; 36 F.R. 1465, 3253, 11849).

Section 301(b)(13)(D) of the act provides that the "normal yield" of rice for 1973 for any county shall be the average yield per acre of rice for the county during the 5 calendar years 1968 through 1972 adjusted for abnormal weather conditions and trends in yields. Provision is made therein that if for any such year year are not available, or there is no actual yield, an appraised yield for such year data are not available, or there with regulations of the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

Section 301(b)(13)(F) of the act provides that if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any county for any year during the years 1968 through 1972 is less than 75 percent of the average, 75 percent of such average shall be substituted therefor in calculating the normal yield per acre; and if on account of abnormally favorable weather conditions, the yield for any county for any year during the years 1968 through 1972 is in excess of 125 percent of the average, 125 percent of such average shall be substituted therefor in calculating the normal yield per acre.

Prior to making any of the foregoing determinations with respect to marketing quotas and national, State, and county acreage allotments, and county normal yields for the 1973 crop of rice, including national, State, and county reserves, and announcing the period of the referendum, if marketing quotas are required, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions must be postmarked not later than 30 days after the date of publication of this notice in the FEDERAL REGISTER to be sure

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of consideration. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on October 2, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17168 Filed 10-5-72;8:52 am]

Commodity Credit Corporation

[7 CFR Part 1421]

SOYBEAN

1973 Crop Loan and Purchase Program; 1972 Crop and Reseal Loan Program

Notice is hereby given that the Secretary of Agriculture, under the authority of sections 301, 303 and 401 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1447, 1449, and 1421), and sections 4 and 5 of the Commodity Credit Corporation Charter Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c), is considering a loan and purchase program for the 1973 crop of soybeans. Such consideration includes determinations relative to (a) the national average loan and purchase rate for the 1973 crop of soybeans; (b) the manner of making loans and purchases available to producers; (c) county loan rates; (d) the extension of the maturity date for loans secured by 1972 crop soybeans; and (e) other soybean program matters.

The determinations specified above are to be based on the following:

(a) *The national average loan and purchase rate for the 1973-crop of soybeans.* The Agricultural Act of 1949 authorizes the Secretary to make loans and purchases available to producers of soybeans at a level not in excess of 90 percent of the parity price for the commodity. The Act requires that, in determining the level of such rate, consideration be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through such an operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. In determining the loan and purchase rate, particular consideration is required to be given to the levels at which the prices of competing agricultural commodities are being supported.

(b) *The manner of making loans and purchases available to producers.* The Act authorizes the Secretary to make a program available to producers through loans, purchases or other operations. Consideration is being given to making the program available through farm and warehouse storage loans to, and purchases from, producers. County loan rates and detailed operating provisions will also be reviewed. Program provisions for the 1972 crop of soybeans may be found in 7 CFR Part 1421. County loan rates and additional provisions for the 1972 crop of soybeans may be found in 37 F.R. 10718, May 27, 1972.

(c) *Extension of maturity date for loans secured by 1972-crop soybeans.* Consideration is also being given to extending the maturity date of outstanding loans secured by 1972-crop soybeans. Provisions of prior extended loan program may be found in 7 CFR Part 1421.

Prior to making any of the foregoing determinations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.) (7 CFR 1.27(b)).

Signed at Washington, D.C., on October 2, 1972.

GLEN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-17170 Filed 10-5-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 135]

USE OF CERTAIN TERMS IN LABELING OF PRODUCTS FOR USE IN ANIMALS

Proposed Statement of Policy

The Food and Drug Administration, for a number of years, has expressed the opinion that the unqualified use of terms such as "tonic," "toner," "tone," or "conditioner" in the labeling of products intended for use in animals, tends to imply a therapeutic effect which the products involved may be incapable of achieving and thus misbrand the products. The Commissioner of Food and Drugs has determined that a policy statement should be issued to insure that all manufacturers and distributors of such products are aware of the position of the Food and Drug Administration.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402, 403, 502(f), 512, 701(a), 52 Stat. 1046, 1051, 1055, 82 Stat. 343-351; 21 U.S.C. 342, 343, 352(f), 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 135 be amended by adding the following new section:

§ 135.112 Use of terms such as tonic, tone, toner or conditioner in the labeling of preparations intended for use in animals.

The unqualified use of words such as "tonic," "tone," "toner," "conditioner" and similar terms in the labeling of products intended for use in animals imply therapeutic efficacy without listing the specific benefit or ailment involved. Thus, such labeling implies a drug status but fails to provide adequate directions and indications for use as required by the Federal Food, Drug, and Cosmetic Act, and are misbranded under the act. Such representations may be used only when appropriately qualified so as to fully inform the user of the products regarding their function and provided adequate data are available to support the claim.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 29, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-17101 Filed 10-5-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-RM-19]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Watertown, S. Dak. control zone and transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Bax 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

Three new instrument approaches are being developed for the Watertown Municipal Airport. Alteration of the control zone and transition area is necessary to provide controlled airspace protection for aircraft executing these procedures.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.171 (37 F.R. 2056) the description of the Watertown, S. Dak., control zone is amended to read as follows:

WATERTOWN, S. DAK.

Within a 5-mile radius of Watertown Municipal Airport (latitude 44°54'51" N., longitude 97°09'16" W.); within 1.5 miles each side of the Watertown VORTAC 001° radial, extending from the 5-mile radius zone to 2.5 miles north of the VORTAC; and within 1 mile each side of the Watertown VORTAC 181° radial, extending from the 5-mile radius zone to 10.5 miles south of the VORTAC.

In § 71.181 (37 F.R. 2143) the description of the Watertown, D. Dak., transition area is amended to read as follows:

WATERTOWN, S. DAK.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the Watertown VORTAC extending clockwise from the 238° radial to the 086° radial; within a 26-mile radius of the Watertown VORTAC extending clockwise from the 086° radial to a line located parallel to and 4.5 miles west of the 181° radial; and within 6 miles east and 9.5 miles west of the Watertown VORTAC 001° radial extending from the VORTAC to 21 miles north; and that airspace extending upward from 1,200 feet above the surface within 9.5 miles east and 7 miles west of the 181° radial extending from the VORTAC to 31.5 miles south; and within a 26-mile radius of the Watertown VORTAC extending clockwise from a line 7 miles west of and parallel to the 181° radial to the 238° radial.

These amendments are proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., September 28, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.72-17108 Filed 10-5-72;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 72-WE-39]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Las Vegas, Nev. transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The proposed airspace action to provide additional 1,200 foot transition area will permit Las Vegas Tower to control Nellis AFB traffic entering and leaving restricted area R-4806 and proceeding to other operating areas.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (37 F.R. 2143) the description of the Las Vegas, Nev. transition area is amended in part as follows: Beginning in line 6 delete "* * *, latitude 36°16'00" N., longitude 115°32'00" W., * * *" and substitute "* * *, latitude 36°16'00" N., longitude 115°55'00" N., to latitude 36°58'00" N., longitude 115°55'00' W., * * *" therefore.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 134B(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on September 27, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.72-17109 Filed 10-5-72;8:46 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 239]

[Economic Regs. Docket No. 24510; EDR-234]

FREIGHT LOSS AND DAMAGE CLAIMS BY CERTAIN AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS

Proposed Reporting Data

Notice is hereby given that the Civil Aeronautics Board has under consideration miscellaneous amendments of Part 239 of the Economic Regulations (reporting data pertaining to freight loss and damage claims by certain air carriers and foreign route air carriers).

The principal features of the proposed amendments are described below in the explanatory statement and the proposed amendments are set forth below. The amendments are proposed under the authority of sections 204(a), 402, and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; 49 U.S.C. 1324, 1372, 1377.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before November 7, 1972, will be considered by the Board before taking final action on the proposed amendments. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

Dated: September 29, 1972.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. By ER-725, adopted March 15, 1972, effective April 1, 1972,[1] the Board adopted a new part to establish a system of reporting freight loss and damage claims by certain air carriers and foreign route air carriers. The system was designed to enable the Board and numerous other organizations, both public and private, to be informed of current trends or problems relating to air freight loss and damage and to provide data whereby the Board may take appropriate action. Subsequent to the issuance of the new part the Board stayed for an indefinite period the effectiveness of requiring the reporting of Item 21 of Schedule A, i.e., the total dollar amount of freight revenue received for each commodity reported on the schedule.[2]

[1] 37 F.R. 5932, Mar. 23, 1972.
[2] ER-746, 37 F.R. 12786, June 29, 1972.

FEDERAL REGISTER, VOL. 37, NO. 195—FRIDAY, OCTOBER 6, 1972

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Various certificated route air carriers, through Air Transport Association (ATA), filed a petition for rule making to amend the part in certain respects.[5] They seek, among other things, modification of the definitions of the following terms: "delay," "pilferage," "shortage," and "theft."[6] In addition, the petition asks that if the Board adopts one or more of the above requests, such amendment should be made applicable to the first and subsequent reports due under the part.[6]

Flying Tiger, which alone filed an answer to the petition, supports the petition with respect to the requested revision of the term "delay." However, Flying Tiger opposes ATA's petition with respect to the requested revision of the definitions of "theft," "shortage," and "pilferage," proposes different definitions for these terms and suggests affirmance of the existing definition of "shortage" in case the Board does not adopt its own alternate proposal.

Part 239 now defines "delay" as "monetary loss resulting from the lack of timely movement. This includes, but is not limited to, consequential or special damages; it does not include physical damage to the property." The ATA carriers' revised definition would read "Delay means the lack of timely movement," with a footnote placed in the regulation or on the report form referenced to "delay" and reading as follows:

> The amount shown is the monetary loss resulting from delay. This figure shall include consequential or special damages and physical damage to items subject to deterioration resulting from delay en route.

They assert that since delay is a cause, not a result, it should not be defined as "monetary loss."

We believe that the existing definition of "delay" is ambiguous. Therefore we propose to define delay as the lack of timely movement of cargo resulting in loss, with a footnote added in the rule as well as on the report form to indicate that, where a claim involves both delay and physical damage, it should be reported under whichever category ("damage" or "delay") contributes most to the settlement of the claim. This definition would make clear that claims reported under the category "delay" would not include those based solely or principally on deterioration or other physical damage to the cargo. See § 239.1, infra.

SHORTAGE, THEFT, AND PILFERAGE

The terms "shortage," "theft," and "pilferage" are defined in the existing regulation as follows:

"Shortage" means failure to deliver all or part of shipment to consignees for unknown reasons. It includes loss for unknown reasons.

"Theft" means all known stealing, without use of force or threat of force, of any whole shipping unit or units of freight (not necessarily a complete shipment).

"Pilferage" means all known stealing, without use of force or threat of force, of a partial freight shipping unit.

The ATA carriers would modify all of the above terms. They maintain that, under the Board's definitions of theft and pilferage, few, if any, incidents of what the carriers regard as theft or pilferage under their reporting of freight loss and damage claims to ATA, would be considered theft or pilferage under the Board's definitions since the Board's "known stealing" would require the "culprit" to be apprehended, tried, and convicted before applicable claims-paid data could be classified as theft or pilferage. The ATA carriers request the following definitions of shortage, theft, and pilferage as substitutes for the current definitions:

"Shortage" shall be defined as any instance in which cargo manifested by one station to another is not deliverable by the destination station.

"Theft" is defined as the disappearance of any whole unit of air cargo (not necessarily a complete shipment) or units from the custody of the airlines terminal or station when it is known that such freight was in their custody.

"Pilferage" is the known loss of a partial air freight shipment through observable damage to the shipping container.

Flying Tiger opposes the ATA carriers' definitions. It states that the above definition of theft is too broad in that it would include instances where cargo is misrouted and not subsequently recovered due to a loss of documentation or deterioration of property. As between ATA's and the Board's definitions of "theft," Flying Tiger prefers the latter.

Flying Tiger asks also for the same definitions for these terms that it requested in comments filed in response to EDR-197, the Board's proposed rule which was the predecessor to Part 239. This carrier would have the column "shortage" in Schedule A deleted and would add a new principal classification called "loss" made up of the following four subclassifications: Known theft, pilferage, apparent theft, and unkown cause. "Known theft" it would define as cases in which robbery or theft of a shipping container and contents is positively known to have occurred; "pilferage," as cases where a shipping container was broken into and all or part of the contents taken; "apparent theft," as instances where the facts indicate probable theft; and "unknown cause," as all other cases of failure to deliver all or part of a shipment to a consignee. According to Flying Tiger, if the Board does not adopt the above proposal, the Board should retain the present definition of "shortage" in preference to ATA carriers' proposed definition of that term.[8]

In light of the comments filed, we are proposing certain redefinitions and reclassifications of data submitted. It is apparent that under the present rule the determination of whether loss is classified as theft or pilferage (both of which are defined in part as "known stealing") or as shortage (failure to deliver for "unknown reasons") is largely a matter of subjective judgment. Thus, the carriers will vary as to the extent of the factual showing needed in order to classify a particular loss as involving known stealing. The definitions and classifications in the existing rule will thereby create a lack of uniformity in the reporting and may involve an undue burden on the carriers in making judgments as to classifications. The same is true of Flying Tiger's suggested revisions which would necessitate the making of subjective determinations by carriers. While the revised definitions proposed by the ATA carriers are not open to the criticism of subjectivity, their definitions of "shortage" and "theft"[7] are so framed as to encompass claims data not generally regarded as falling within such terms.[8]

Our proposed revised classifications should eliminate to a large extent the above problems faced by the carriers. This will be accomplished by redefining the term "shortage" so as to encompass all failure to deliver and employing the following subclassifications of shortage: Robbery, pilferage, and theft or other shortage. In this manner, theft would be reported along with all shortages that are neither pilferage nor robbery under the heading "theft or other shortage." This last term in turn will be defined as "the disappearance without use of force or threat of force, of any whole shipping unit or units of air cargo (not necessarily a complete shipment)." In addition, the term "pilferage" will be redefined to eliminate the present subjective element as follows: "The known loss of a partial air freight shipment through observable damage to the shipping container."

The Board proposes to amend Part 239 of the Economic Regulations as follows:

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[5] The petition was filed on behalf of: Air Canada; Alaska Airlines, Inc.; Allegheny Airlines, Inc.; Aloha Airlines, Inc.; American Airlines, Inc.; Braniff Airways, Inc.; Continental Air Lines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; Frontier Airlines, Inc.; National Airlines, Inc.; North Central Airlines, Inc.; Northeast Airlines, Inc.; Northwest Airlines, Inc.; Ozark Air Lines, Inc.; Pan American World Airways, Inc.; Piedmont Aviation, Inc.; Southern Airways, Inc.; Texas International Airlines, Inc.; Trans World Airlines, Inc.; United Air Lines, Inc.; Western Air Lines, Inc.; Airlift International, Inc.

[6] The petition also requests (1) a longer period of time after the end of the reporting period for the filing of reports; and (2) permission for Air Cargo, Inc., which performs pickup and delivery service for the certificated route air carriers, to file claims paid data with respect to surface movements on behalf of such carriers. These matters are being disposed of in a final rule issued contemporaneously herewith, ER-771.

[6] The first report covered the calendar quarter ended June 30, 1972, and was due at the Board on July 30, 1972.

[7] Flying Tiger argues that the ATA carriers' definition of "shortage" is too broad in that it would include damage due to deterioration of perishable cargo.

[7] The ATA carriers' definition of "pilferage" is included in the Board's proposed rule.

[8] For example, misrouting and subsequent loss of documentation would be classified by the ATA carriers as "theft," while damage due to deterioration of perishable products would be classified as "shortage."

1. Amend the table of contents of Part 239 to read in part as follows:

Sec.
239.7 Schedule B—Analysis of shortage.

2. Amend § 239.1 in the following respects:

§ 239.1 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

"Delay" means lack of timely movement of cargo resulting in loss. This includes, but is not limited to, consequential or special damages; it does not include deterioration or physical damage to the property.

NOTE: Claims involving both delay and physical damage will be reported under the category contributing most to the settlement of the claim, e.g., if over half is attributable to actual physical damage, enter the data under Visible (or Concealed) Damage; if less than half, enter the data under "Delay."

* * * * *

"Pilferage" is the known loss of a partial air freight shipment through observable damage to the shipping container.

* * * * *

"Shortage" means failure to deliver all or part of shipment to consignees.

"Theft or other shortage" means the disappearance, without use of force or threat of force, of any whole shipping unit or units of air cargo (not necessarily a complete shipment).

* * * * *

3. Amend § 239.2(b) to read in part as follows:

§ 239.2 Applicability of part and CAB Form 239 filing requirements.

* * * * *

(b) CAB Form 239 entitled "Report of Freight Loss and Damage Claims," consisting of the certification and the following schedules, shall be filed by some or all of the classes of carriers designated in paragraph (a) of this section in accordance with the filing frequency specified below:

* * *	* * *
	Filing frequency
(3) Schedule B—Analysis of Shortage	Quarterly.
* * *	* * *

* * * * *

4. Amend § 239.6(h), (i), (j), (k), and (l) to read in part as follows:

§ 239.6 Schedule A—Report of Freight Loss and Damage Claims Paid.

* * * * *

(h) Columns (4) through (15)—For each line reported in column (3), show the number of claims paid and related whole-dollar amounts, broken down among the various causal reasons which resulted in the payments.

(i) Column (16)—For each commodity reported in column (2), show the whole-dollar amounts of the actual losses incurred by the shipper.

(j) Columns (17) and (18)—For each line listed in column (3) show in column (17) the total number of claims paid reported in columns (4), (6), (8), (10), (12), and (14), and in column (18) show the total whole-dollar amounts reported in columns (5), (7), (9), (11), (13), and (15).

(k) Column (19)—For each line reported in column (3), show the gross revenue received during the reporting quarter.

(l) Following the last entry made on this schedule, show the grand totals for each of columns (4) through (19). Also, immediately below the grand totals, insert data for the two lines reading: "Claims presented to direct air carrier by forwarder(s)" and "claims presented by other than forwarders." The second of these two lines will apply only to a report of a direct air carrier. Complete columns (4) through (19) for each of these lines, as applicable.

5. Amend the title and provisions of § 239.7. As amended, § 239.7 will read in part as follows:

§ 239.7 Schedule B—Analysis of Shortage.

* * * * *

(d) Columns (3), (4), and (5)—For each claim reported in column (2), show the dollar amounts borne by the reporting carrier which are attributable to "Pilferage," "Robbery," and "Theft or other shortage," respectively.

* * * * *

6. Amend Schedules A and B of CAB Form 239.[9]

[FR Doc.72-17173 Filed 10-5-72;8:52 am]

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[9] Filed as part of the original document.

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 331]

CONTRACT COVERAGE

Proposed Exemptions and Waivers

The Cost Accounting Standards Board has been requested by letter dated May 12, 1972, from the Assistant Secretary of Defense (I&L) to exclude certain contracts from Cost Accounting Standards Board requirements. Contracts for which exclusion was sought are contracts for the set-aside portion made pursuant to labor surplus area set-aside programs, and contracts with contracting agencies of foreign governments, or more specifically, the Canadian Commercial Corp. (CCC). The Canadian Department of Industry, Trade and Commerce in a letter of September 13, 1972, requested an exemption from Board requirements for Canadian companies located in Canada. Finally, the Western Electric Co. has requested an exemption for sales of its Bell System items to the Government.

In considering the Assistant Secretary's request, the Board has reviewed the nature and purpose of the special procurement techniques involved in making labor surplus area set-aside contracts, as well as the probable consequences of applying Cost Accounting Standards Board requirements to the contracts for the set-aside portion.

The price of such contracts under ASPR 1-804 and FPR 1-1.804 is determined by actions which are completely independent of the set-aside contractor's proposal. That price is the price at which the non-set-aside portion of the procurement has been awarded. Set-aside offerors who satisfy certain criteria are offered the opportunity to accept a contract for the set-aside portion at that specified fixed price. The set-aside offeror may accept the contract or not, but both he and the Government are bound by the specific rules by which the contract price is fixed. Neither party may vary that price. The Board, therefore, proposes that such contracts be excluded from operation of Cost Accounting Standards Board Standards, rules, and regulations.

With respect to the request concerning contracts awarded to the CCC, the Board has considered the circumstances and conditions surrounding the proposals leading to contracts of the type described as well as the methods of administering and settling such contracts. The probable consequences of applying Cost Accounting Standards Board requirements to those contracts have been evaluated in the light of that consideration.

The contracts proposed to be excluded by this action are contracts which are entered into pursuant to a general agreement between the Government agencies involved which establishes the rights and responsibilities of each. The agreement provides that the CCC will perform most of the administrative services involved in contract and subcontract performance. This includes inspection, audit, and renegotiation as well as other functions which are an integral part of contract administration. The Board, therefore, proposes that such contracts, because the bulk of their administration is carried on without direct participation by U.S. contract administrators, be excluded from operation of the Cost Accounting Standards Board Standards, rules, and regulations.

The Western Electric Co., a wholly owned subsidiary of the American Telephone & Telegraph Co., has petitioned the Cost Accounting Standards Board for an exemption of certain contracts for the sale of Bell System items. These items are sold in substantial quantities to Bell affiliated companies and in very small quantities to the Government and to other commercial purchasers. The Department of Defense has indicated that Bell System items are needed to replace, repair, or interface with a system already in place to insure compatibility. The Department has stated that the consequences of not having these items available could very well be the complete inoperation of the system. Weapon system and other special contracts that

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Western Electric has with Government agencies for non-Bell System items are not involved in the petition.

Officials of the Department of Defense have entered into a Class Determination and Findings (JCD&F No. 6) waiving until June 30, 1973, the requirement for submission and certification of cost or pricing data for those materials, supplies and services which are standard Bell System items for the class of contracts consisting of prime contracts between Department of Defense procuring activities and the Western Electric Co.

The Federal Communications Commission (FCC), and the various State utility commissions, in their reviews of requests for rate changes, are normally responsible for determining the reasonableness of the costs included in the rate base by the petitioning utility companies. Requests for rate changes from Bell System affiliated companies include as part of each company's rate base any costs to the company for Bell System items purchased from Western Electric Co. At the present time, the FCC is in the process of examining into the interstate telephone service of A.T. & T. and the associated Bell System companies. In connection with the pending case, popularly referred to as Phase II, FCC proposes, among other things, to examine in depth the accounting practices of Western Electric Co. as part of a detailed study of the prices Western Electric charges to the Bell System. To assist it in this study, the FCC has awarded a contract to a national public accounting firm to analyze Western Electric's operations.

The Board recognizes a possibility that imposition of Standards as to the items sold to the Government could have an impact on the accounting practices of Western Electric with respect to items sold to the Bell System. Such impact, were it to occur, could affect the review being undertaken by FCC and impede the progress of that Commission's Phase II case.

In view of the assertion by the Department of Defense as to the essentiality of Bell System items, and particularly because the FCC action may directly deal with Western Electric cost and pricing practices on an overall basis, it appears to the Board appropriate to suspend application of Cost Accounting Standards Board requirements while the FCC action is in progress. Upon conclusion of Phase II, the Board will be in a position to evaluate the impact of the FCC action and to determine then how the application of Cost Accounting Standards Board requirements to this segment of Western Electric Co. operations should be treated.

For the foregoing reasons, it is proposed to suspend the requirement for inclusion of the Cost Accounting Standards Board Clause to contracts of the type described with Western Electric Co. until June 30, 1973.

The Defense Security Assistance Agency has indicated that inclusion of the Cost Accounting Standards clause may increase significantly the difficulties connected with implementing offset arrangements. Similarly, the Assistant Secretary of Defense (I&L) believes that application of Standards to foreign contracts could adversely affect the U.S. trade balance. In recognition of such possibilities and of other problems which could arise abroad, the Board proposes to establish a mechanism by which waivers, when justified, can be granted for a contract or subcontract or class of contracts or subcontracts to be performed outside the United States by a foreign government or a foreign concern.

In the interest of assisting users of its regulations, the Board also proposes to recaption § 331.3 to reflect more completely the substance of that section. Also, in the interest of clarity, the waiver provision in § 331.6(c) is deleted from that section and transferred to § 331.3.

Interested parties are invited to submit written views concerning these proposals to the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548, to arrive no later than November 6, 1972. All written submissions made pursuant to this notice will be made available for public inspection at the Board's offices during regular business hours.

The following modifications to Part 331 of the Board's regulations are proposed to reflect the foregoing views:

PART 331—CONTRACT COVERAGE

In the table of contents, revise § 331.3 to read as follows:

Sec.
331.3 Applicability, exemption, and waiver.

Section 331.3, *Applicability*, is modified by adding subparagraphs (4), (5), and (6) to paragraph (b) and by adding a new paragraph (c) to read as follows:

§ 331.3 Applicability, exemption, and waiver.

* * * * *

(b) * * *

(4) Any contract made with a labor surplus area concern pursuant to procedures providing for a partial set-aside for such concern as set out in ASPR 1–804, 32 CFR 1.804; and FPR 1–1.804, 41 CFR 1–1.804.

(5) Any contract awarded to the Canadian Commercial Corp. in accordance with the terms of the Agreement of July 27, 1956, as amended, between the Department of Defense Production (Canada) and the U.S. Departments of the Army, the Navy, the Air Force, and the Defense Supply Agency.

(6) Any contract awarded to Western Electric Co. for materials, supplies or services which are standard items of the Bell System. This paragraph 6 expires on June 30, 1973.

(c)(1) Upon request by an agency head, the Cost Accounting Standards Board may waive the requirements of paragraph (a) of this section with respect to a contract, subcontract, or class of contracts or subcontracts to be performed outside the United States by a foreign government or a foreign concern, as defined in ASPR 6.001(f), 32 CFR 6.001(f). Any such waiver will be issued only upon a clear showing by the agency head that inclusion of the Cost Accounting Standards Clause is impractical. Any request for a waiver shall describe the specific contract(s) or subcontract(s) for which waiver is sought and shall contain a complete statement of (i) the reasons why inclusion of the requirements is deemed impractical, (ii) the urgency of the project or program involved, (iii) any alternative methods of fulfilling the project or program needs and the reasons for rejecting such alternatives, (iv) the estimated dollar value of the contract(s) or subcontract(s) for which waiver is sought, and (v) any other information which may aid the Board in evaluating the requested waiver.

(2) In the event the agency head determines that it is impractical to secure a required Disclosure Statement in accordance with the contract clause and § 331.6, he may authorize award of such contract or subcontract. He shall within 30 days thereafter submit a report to the Cost Accounting Standards Board, setting forth all material facts. The authority in this § 331.3(c)(2) shall not be delegated.

§ 331.6 [Amended]

Section 331.6 *Post award disclosure* is modified by deleting paragraph (c).

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.72-17171 Filed 10-5-72;8:52 am]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 72-1142]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Issuance of Obligations by Federal Savings and Loan Associations

SEPTEMBER 26, 1972.

Section 5(b)(2) of the Home Owners' Loan Act of 1933, as amended effective August 1, 1968, authorizes the Federal Home Loan Bank Board to permit Federal savings and loan associations to issue "notes, bonds, debentures, or other obligations, or other securities (except capital stock)." The Board now considers it advisable to propose regulations which will permit all Federal associations and all State-chartered associations insured by the Federal Savings and Loan Insurance Corporation to issue certain subordinated debt securities, subject to the prior written approval of the Corporation. In this connection, it is necessary to amend § 545.24 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.24) to permit Federal associations to issue such securities in compliance with the provisions of § 563.8–1 of the rules and regulations for Insurance of Accounts (12 CFR 563.8–1), which the Board has proposed together with this amendment. Accordingly, it is hereby proposed to amend said § 545.24 by revising it to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by November 10, 1972, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 545.24 Borrowing, issuance of obligations, and giving of security.

An association may borrow to such extent as is authorized by the terms of its charter or by the Board by advice in writing. An association may issue such notes, bonds, debentures, or other obligations, or other securities, as are not inconsistent with the terms of paragraph (2) of subsection (b) of section 5 of the Home Owners' Loan Act of 1933, as amended, (a) to the extent that such issuance is in compliance with the provisions of § 563.8–1 of this chapter or (b) to such extent as is otherwise authorized by the Board by advice in writing. To such extent as is authorized by the terms of its charter or by the Board by advice in writing, an association may give security, but an association shall not give security for any of its shares or share accounts or for any of its savings accounts representing share interests in the association.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.72-17149 Filed 10-5-72;8:50 am]

[No. 72-1143]

[12 CFR Parts 561, 563]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Proposed Issuance of Subordinated Debt Securities by Insured Institutions

SEPTEMBER 26, 1972.

Under section 403(b) of the National Housing Act, as amended, no institution insured by the Federal Savings and Loan Insurance Corporation may "issue securities which guaranttee a definite return or which have a definite maturity except with the specific approval of the Corporation." A number of insured institutions have applied for approval of the issuance of various types of subordinated debt securities as a means for augmenting their "net worth" to provide a broader capital base for expanded operations. The Federal Home Loan Bank Board considers it advisable to provide uniform requirements for the issuance of such securities by insured institutions and has determined that it should propose amendments to Parts 561 and 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 561, 563) for that purpose. Accordingly, it is proposed to amend such Parts 561 and 563 as set forth below.

The amendments of §§ 561.2 and 561.3 would make it clear that the account insurance provided by the Corporation does not apply with respect to subordinated debt securities.

The amendment of the definition of "net worth" in § 561.13 would permit subordinated debt securities to be counted as net worth, subject to certain limits, in an amount not exceeding 20 percent of total net worth (including subordinated debt). A new definition of "subordinated debt security" would be added as § 561.24.

New § 563.7–2 would make it clear that no insured institution could issue any securities which guarantee a definite return or which have a definite maturity except for (1) certificate accounts issued under § 563.3–1, (2) securities issued in borrowings made under § 563.8, (3) subordinated debt securities issued pursuant to § 563.8–1, and (4) securities issued with the specific prior written approval of the Corporation.

Section 563.8, governing borrowing by insured institutions, would be amended by adding two provisions. The first would have the effect of including the issuance of subordinated debt securities within the limit on borrowing from a source other than a Federal Home Loan Bank. The second would require, in computing the amount of subordinated debt securities available for net worth purposes, the deduction, from the face amount of such outstanding securities, of the amount of any related sinking fund or specific reserve account.

New § 563.8–1 would provide for the issuance of subordinated debt securities by insured institutions and would require submission of an application for approval of each issuance, except in supervisory cases. Paragraph (b) would impose certain "eligibility requirements" which the applicant institution would have to meet at the time of application. Paragraph (d) would set forth certain requirements relating to the form of the securities, require that the securities have a minimum term of 7 years, and prohibit any public offering or public advertising in connection with the issuance of the securities.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by November 10, 1972, as to whether these proposals should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

1. It is proposed to amend Part 561 by revising §§ 561.2, 561.3 and 561.13, and by adding a new § 561.24 thereto, to read as follows:

§ 561.2 Insured member.

The term "insured member" means the holder of an account or accounts in an institution insured by the Corporation. Such holder is a separate insured member in each of the capacities and to the extent provided in Part 564 of this subchapter. The term does not include the holder of any subordinated debt security issued by an insured institution.

§ 561.3 Insured account.

An "insured account" is a withdrawable or repurchasable share, investment certificate, deposit, or savings account held by an insured member in an institution insured by the Corporation. Accounts which by the terms of the contract of the holder with the institution or by provisions of State law cannot be withdrawn or the value thereof paid to the holder until all of the liabilities, including other classes of share liabilities, of the institution have been fully liquidated and paid upon the winding up of the institution are not insurable, and are hereinafter referred to as "nonwithdrawable accounts." Subordinated debt securities issued by an insured institution are deemed not to be "accounts," and such securities are not insurable.

§ 561.13 Net worth.

The term "net worth" means the sum of all reserve accounts (except specific or valuation reserves), surplus, capital stock, and any other nonwithdrawable accounts of an insured institution; the term also includes, up to a limit of 20 percent of total net worth, any subordinated debt securities (the amount of which shall be calculated as provided in § 563.8 of this subchapter) issued with the prior written approval of the Corporation as provided in § 562.8–1 as long as the remaining period to maturity (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is not less than 1 year.

§ 561.24 Subordinated debt security.

The term "subordinated debt security" means any unsecured note, debenture, or other debt security issued by an insured institution and subordinated on liquidation to all claims having the same priority as savings account holders or any higher priority.

2. It is proposed to amend Part 563 by revising § 563.8 and by adding new §§ 563.7–2 and 563.8–1 thereto, to read as follows:

§ 563.7–2 Issuance of securities with definite return or definite maturity.

Except as provided in §§ 563.3–1, 563.8, and 563.8–1, or except with the specific prior written approval of the Corporation, no insured institution may issue any

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securities which guarantee a definite return or which have a definite maturity.

§ 563.8 Limitation upon borrowing.

No insured institution shall borrow in excess of the aggregate amount authorized by the law under which such insured institution operates. No insured institution shall borrow an aggregate amount exceeding one-half the amount paid in and credited on shares, share accounts, savings accounts, stock, certificates of deposit, and investment certificates; nor, within such borrowing limit, an amount aggregating more than one-fifth thereof from sources other than a Federal Home Loan Bank or a State-chartered central reserve institution; except that with prior approval of the Board, any such institution may borrow from a Federal Home Loan Bank or from any Federal agency or instrumentality without limitation upon such terms and conditions as may be required by such bank or agency. No action of an insured institution in obtaining funds through borrowing, in accordance with the provisions of this section, shall be deemed a violation hereof should its aggregate borrowings exceed the limitation of this section because of a subsequent reduction in the amounts paid in and credited on shares, share accounts, savings accounts, stock, certificates of deposit, and investment certificates. For the purposes of this section, the issuance of subordinated debt securities by an insured institution shall be considered borrowing. For the purposes of this section, § 561.13 of this subchapter, and § 563.8–1, the amount of such subordinated debt securities shall be calculated as the difference between the face amount of such securities and the amount of any related sinking fund or specific reserve account.

§ 563.8–1 Issuance of subordinated debt securities.

(a) *General.* No insured institution shall issue subordinated debt securities unless it has obtained the prior written approval of the Corporation pursuant to this section. If the issuance of such securities is requested in writing by the Corporation, such issuance shall be effected in accordance with such request. In all other cases, an application for such approval must be submitted to the Corporation in accordance with the provisions of this section.

(b) *Eligibility requirements.* The Corporation will consider and process an application by an insured institution for approval of the issuance of subordinated debt securities only if the applicant meets all of the following eligibility requirements, unless one or more of such requirements are waived by the Corporation upon specific request in the case of a particular application:

(1) The issuance of such securities by the applicant is authorized by applicable law and regulation and is not inconsistent with any provision of the applicant's charter, constitution, or bylaws;

(2) Applicant's net worth, without regard to the amount of any subordinated debt securities included or to be included in such net worth, meets the requirements of § 563.13;

(3) Applicant's scheduled items do not exceed 2.5 percent of its specified assets;

(4) All appraised losses have been offset by specific loss reserves to the extent required by the Corporation under § 563.17–2;

(5) Applicant's income from operations before income taxes, in each of its last 3 fiscal years (after distribution of earnings to the holders of savings accounts and payment of interest on, and amortization of, nonsubordinated debt) is at least three times the aggregate of the interest, debt discount amortization (if any), and amortization of the related expenses of issuance on all outstanding and proposed subordinated debt securities (excluding any debt securities to be refunded out of the proceeds of the proposed subordinated debt securities); and

(6) The aggregate amount of all outstanding and proposed subordinated debt securities (excluding any debt securities to be refunded out of the proceeds of the proposed subordinated debt securities) does not exceed 50 percent of applicant's net worth, not including any such outstanding and proposed subordinated debt securities.

(c) *Application form; supporting information.* An application for approval of the issuance of subordinated debt securities by an insured institution shall be in form prescribed by the Corporation. Such application and instructions may be obtained from the Supervisory Agent. Information and exhibits shall be furnished in support of the application in accordance with such instructions, setting forth all of the terms and provisions relating to the proposed issue and showing that all of the requirements of this section have been or will be met.

(d) *Requirements as to securities.*—(1) *Form of certificate.* Each certificate evidencing subordinated debt issued by an insured institution pursuant to this section shall—

(i) Bear on its face, in bold-face type, the following legend: "This security is not a savings account or deposit and it is not insured by the Federal Savings and Loan Insurance Corporation";

(ii) Clearly state that the security (*a*) is subordinated on liquidation to all claims against the institution having the same priority as savings account holders or any higher priority; (*b*) is unsecured; and (*c*) is not eligible as collateral for any loan by the issuing institution;

(iii) Clearly state the terms under which the issuing institution may prepay the obligation, which shall include at least the right to prepay within 15 months of the maturity date;

(iv) Clearly state that no sinking fund or other prepayment or reserve allocation, if any, shall be required to be made, and no payment of principal shall be accelerated without the approval of the Corporation, if after giving effect to such prepayment, allocation, or accelerated payment the institution would fail to meet the net worth and Federal insurance reserve requirements of § 563.13; and

(v) Be in a minimum amount of at least $100,000.

(2) *Limitation as to term.* No subordinated debt security issued by an insured institution pursuant to this section shall have an original period to maturity of less than 7 years.

(3) *Prohibitions on public offering and advertising.* (i) No sale or issuance of subordinated debt securities by an insured institution may be made by means of a public offering of such securities (within the meaning of the term "public offering" as used in section 4(2) of the Securities Act of 1933, as now or hereafter in effect). (ii) No insured institution may use any public advertising in connection with the offer, sale, or issuance of any subordinated debt securities.

(4) *Limitations on sale to certain institutions.* No insured institution may sell any subordinated debt seucrities to a Federal Home Loan Bank or, except with the prior written approval of the Board in a supervisory situation, to the Corporation.

(5) *False or misleading statements.* No insured institution shall, directly or indirectly, in connection with the offer, sale, or issuance of any subordinated debt securities, make any statement (i) that is false or misleading with respect to any material fact or (ii) that omits to state any material fact (*a*) necessary in order to make the statements made, in the light of the circumstances in which they were made, not false or misleading or (*b*) necessary to correct any earlier statement that has subsequently become false or misleading.

(e) *Filing of application.* The application for approval of the issuance of subordinated debt securities is filed with the Corporation by transmitting the original and three copies of the application and all supporting documents to the Supervisory Agent. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant is located or any other officer or employee of such bank designated by the Board as agent of the Corporation, as provided by §§ 501.10 and 501.11 of this chapter.

(f) *Supervisory objection.* No application for approval of the issuance of subordinated debt securities shall be approved if, in the opinion of the Corporation, the policies, condition, or operation of the applicant afford a basis for supervisory objection to the application.

(g) *Disclosure and other requirements.* In approving an application for approval of the issuance of subordinated debt securities, the Corporation will require, as a condition to be met by the applicant prior to the issuance of such securities, such disclosure of information as it may deem necessary or desirable for the protection of the prospective purchasers of such securities. As a minimum, such disclosure shall include the applicant's latest audited annual statement of condition and audited statement of operations for each of its last 3 years. In addition, the Corporation may impose on the applicant such other requirements or conditions with regard to the securities or the issuance thereof as it may deem necessary or desirable for the protection of such purchasers, the applicant, or the Corporation.

(h) *Limitation on offering period.* Following the date of the approval of the application by the Corporation, the institution shall have an offering period of not more than 1 year in which to complete the sale of the subordinated debt securities. The Corporation may in its discretion extend such offering period if a written request showing good cause for such extension is filed with it not later than 30 days before the expiration of such offering period or any previous extension thereof.

(i) *Reports.* Upon completion of the sale of the securities, the institution shall transmit a written report to the Supervisory Agent stating the number and amount of securities sold and the amount of net proceeds received by the institution.

(Secs. 402, 403, Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[FR Doc.72–17160 Filed 10–5–72;8:51 am]

FEDERAL POWER COMMISSION

[18 CFR Part 2]

[Docket No. R–405]

RELIABILITY OF ELECTRIC AND GAS SERVICE

Order Updating Nationwide Investigation; Notice of Extension of Time

OCTOBER 2, 1972.

On September 25, 1972, Texaco Inc., et al., filed a motion for an extension of time within which to respond to the Order Updating Nationwide Investigation issued September 12, 1972 (37 F.R. 20042), in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including October 13, 1972, within which natural gas companies shall submit responses.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17111 Filed 10–5–72;8:47 am]

[18 CFR Parts 101, 104, 201, 204]

[Docket No. R–456]

UNIFORM SYSTEM OF ACCOUNTS

Specialized Training Costs

OCTOBER 2, 1972.

Pursuant to 5 U.S.C. 553, sections 301, 302, 303, and 309 of the Federal Power Act (49 Stat. 854, 855, 858–859; 16 U.S.C. 825, 825a, 825b, 825h), and sections 8, 9, and 16 of the Natural Gas Act (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717o), the Commission gives notice it proposes to amend:

A. Uniform System of Accounts for Class A and Class B Public Utilities and Licensees, prescribed by Part 101, Chapter I, Title 18, CFR.

B. Uniform System of Accounts for Class C Public Utilities and Licensees, prescribed by Part 104, Chapter I, Title 18, CFR.

C. Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter I, Title 18, CFR.

D. Uniform System of Accounts for Class C Natural Gas Companies, prescribed by Part 204, Chapter I, Title 18, CFR.

The purpose of this rulemaking is to establish uniform accounting procedures for the costs of training employees to operate or maintain new and unique facilities. Training costs of this type are becoming increasingly significant in amount and the existing Uniform Systems of Accounts do not clearly specify whether such costs are to be capitalized or charged to expense currently. The new facilities referred to are those which are constructed under a new technology where new training is required for company operation and maintenance employees and include such items as nuclear power, coal gasification, gas liquefaction, or new type generating facilities.

The Commission recognizes that during the construction of such facilities it is necessary that company employees be trained to a degree of competence so as to be able to operate and maintain the facilities when they are ready for service. It is also recognized that the training required under such circumstances usually involves the investment of a considerable amount of time and money.

We are proposing to clarify the accounting by one of two proposed methods referred to hereinafter as proposal A and proposal B. Proposal A would expense all training costs as a current operational expense item, with the exception of those large significant amounts associated with unique type facilities that are not now conventional in nature which would be capitalized. This capitalized expense would be amortized over the period of its expected benefit, not to exceed 5 years. Proposal B would treat all training costs, regardless of their relationship to new type facilities as current operational expense items.

Proposal A envisions that the cost invested in employee training associated with nonconventional facilities which is new to the companies operations is akin to other costs invested in plant which are subject to recovery after the plant is placed in service. To match the recovery of the training costs, under proposal A, the costs would be spread over the period during which the benefits from such training will be realized. This proposal is based on the belief that such training costs should be capitalized as an intangible asset includible in the rate base just like any other element of plant in service, and amortized to expense over the period of expected benefit from the training received by the related employees. However, unlike other plant elements, training costs are related to human resources and trained personnel are subject to reassignment or replacement during the service life of a new type facility. Therefore, training costs capitalized under proposal A would be recovered by amortization charges to operating expenses over a reasonable period not to exceed 5 years.

Proposal B envisions expensing all training cost as a current operational expense. This proposal is based on the premise such training costs will be common in companies' operations from now on and that for the foreseeable future there will be increasing changes in technology that will cause continued training for new type plants. Under this premise, therefore, such costs should be expensed currently since they cannot be deemed to be nonrecurring or unusual.

The language of the accounts involved in the rulemaking will, of necessity, be further conformed to that which ultimately emanates from final Commission action as a result of Docket No. R–412 (36 F.R. 2803, February 10, 1971) as the docket, in part, relates to "Consolidation of Certain Depreciation Accounts."

The proposed amendments to the Commission's Uniform System of Accounts for Classes A, B, and C Public Utilities and Licensees would be issued under authority granted the Federal Power Commission by the Federal Power Act, particularly sections 301, 302, 303, 309 (49 Stat. 854, 855, 858–859; 16 U.S.C. 825, 825a, 825b, 825h).

The proposed amendments to the Commission's Uniform System of Accounts for Classes A, B, and C Natural Gas Companies would be issued under authority granted the Federal Power Commission by the Natural Gas Act, as amended, particularly sections 8, 9, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717o).

PROPOSAL A

A. The following are proposed amendments to the Uniform System of Accounts for Class A and Class B Public Utilities and Licensees in Part 101, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the electric plant instructions by:

a. Adding a new item 19 entitled, "(19) Training." to instruction 3. *Components of Construction Cost.*

b. Adding a new instruction 17 entitled, "17. *Training Costs.*"

As so amended, the electric plant instructions will read:

Electric Plant Instructions

* * * * * * *

3. *Components of construction cost.*

* * *

(19) "Training." (See Electric Plant Instruction 17).

* * * * * * *

17. *Training costs.* When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are

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not conventional in nature, or are new to the company's operations, and the costs or portions therefor exceed normal training costs, these excess costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized should be amortized over the anticipated period of benefit from the training received by the related employees but not to exceed a 5-year period from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease. (See Operating Expense Instructions 4.)

2. Amend the operating expense instructions by:

a. Amending item 7 of the instruction 1.

b. Adding a new instruction 4. *Training Costs.*

As so amended the operation expense instructions will read:

Operating Expense Instructions

1. *Supervision and engineering.*

ITEMS

LABOR

7. * * * (See Electric Plant Instructions 17.)

* * * * *

4. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, and the costs or portions thereof exceed normal training expenses, then see Electric Plant Instructions 17, for accounting.

3. Amend account "303 Miscellaneous intangible plant" of the Electric Plant Accounts by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As so amended account 303 will read:

Electric Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above of this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 111, Accumulated Provision for Amortization of Electric Plant in Service, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. (These new facilities shall include such items as nuclear power, gas liquefaction, coal gasification or new type generating facilities.) Amortization from this account shall be debited to account 404, Amortization of Limited-Term Electric Plant, and account 111, Accumulated Provision for Amortization of Electric Plant in Service, shall be credited. (See Electric Plant Instructions 17.)

D. [Recodified from "C" without change in text]

* * * * *

4. Amend account "404 Amortization of limited-term electric plant" of the Income Accounts by revising the first sentence. As so amended the text of account 404 will read:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404 Amortization of limited-term electric plant.

This account shall include amortization charges applicable to amounts included in the electric plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land, expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

B. The following are proposed amendments to the Uniform System of Accounts for Class C Public Utilities and Licensees in Part 104, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the Electric Plant Instructions by adding a new plant instruction titled "14. *Training Costs.*" As so amended the amended portion of the Electric Plant Instructions will read:

Electric Plant Instructions

* * * * *

14. *Training costs.* When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature or are new to the company's operations and the costs or portions therefor exceed normal training costs, these excess costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized should be amortized over the anticipated period of benefit from the training received by the related employees but not to exceed a 5-year period from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease. (See Operating Expense Instructions 3.)

2. Amend the Operation Expense Instructions by adding a new instruction 3 entitled, "3. *Training Costs.*" As so amended the Operating Expense Instructions will read:

Operating Expense Instructions

* * * * *

3. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, and the costs or portions thereof exceed normal training expenses, then see Electric Plant Instructions 14, for accounting.

2. Amend account "303 Miscellaneous intangible plant" of the Electric Plant Accounts by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As so amended account 303 will read:

Electric Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant in Service, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. (These new facilities shall include such items as nuclear power, gas liquefaction, coal gasification or new type generating facilities.) Amortization from this account shall be debited to account 404, Amortization of Limited-Term Electric Plant, and account 110, Accumulated Provision for Depreciation and Amortization of Electric Plant in Service, shall be credited. (See Electric Plant Instructions 14.)

D. [Recodified from "C" without change in text]

* * * * *

4. Amend account "404 Amortization of limited-term electric plant" of the Income Accounts by revising the first sentence. As so amended the text of account 404 will read:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404 Amortization of limited-term electric plant.

This account shall include amortization charges applicable to amounts included in the electric plant accounts for limited-term franchises, licenses, patent rights, limited-term interest in land, expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

C. The following are proposed amendments to the Uniform System of Accounts for Class A and Class B Natural Gas Companies in Part 201, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the Gas Plant Instructions by:

a. Adding a new item 19 entitled "(19) Training" to instruction 3. *Components of Construction Cost.*

b. Adding a new instruction 16 entitled "16. *Training Costs.*"

As so amended, the Gas Plant Instructions will read:

Gas Plant Instructions

* * * * *

3. *Components of construction cost.*

* * *

(19) "Training." (See Gas Plant Instruction 16.)

* * * * *

16. *Training costs.* When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature or are new to the company's operations and the costs or portions therefor exceed normal training costs, these excess costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized should be amortized over the anticipated period of benefit from the training received by the related employees but not to exceed a 5-year period from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease. (See Operating Expense Instruction 4.)

2. Amend the Operation Expense Instruction by:

a. Amending item 7 of the Instruction 1.

b. Adding a new instruction 4. *Training Costs.*

As so amended the Operation Expense Instructions will read:

Operating Expense Instructions

1. *Supervision and engineering.*

* * * * *

ITEMS

Labor:

7. * * * (See Gas Plant Instructions 16.)

* * * * *

4. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, and the costs or portions thereof exceed normal training expenses, then see Gas Plant Instructions 16, for accounting.

3. Amend account "303 Miscellaneous intangible plant" of the Gas Plant Accounts by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As so amended account 303 will read:

Gas Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above of this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 111.1, Accumulated Provision for Amortization of Other Gas Plant in Service, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. (These new facilities shall include such items as nuclear power, gas liquefaction, coal gasification or new type generating facilities.)

Amortization from this account shall be debited to account 404.3, Amortization of Other Limited-term Gas Plant, and account 111.3, Accumulated Provision for Amortization of Other Gas Plant in Service, shall be credited. (See Gas Plant Instruction 17.)

D. [Recodified from "C" without change in text.]

* * * * *

4. Amend account "404.3 Amortization of other limited-term gas plant" of the income accounts by revising the first sentence. As so amended the text of account 404 will read:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404.3 Amortization of other limited-term gas plant.

This account shall include amortization charges applicable to amounts included in the gas plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land, expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

D. The following are proposed amendments to the Uniform System of Accounts for Class C Natural Gas Companies in Part 204, Chapter I, Title 18 of the Code of Federal Regulations:

1. The gas plant instructions are amended by adding a new plant instruction numbered and titled "15. *Training costs.*" As so amended the gas plant instructions will read:

Gas Plant Instructions

* * * * *

15. *Training costs.* When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature or are new to a company's operations and the costs or portions therefor exceed normal training costs, these excess costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized should be amortized over the anticipated period of benefit from the training received by the related employees but not to exceed a 5-year period from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease. (See Operating Expense Instruction 3.)

2. Amend the operating expense instructions by adding a new instruction 3 entitled, "3. *Training costs.*" As so amended the operating expense instruction will read:

Operating Expense Instructions

* * * * *

3. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, and the costs or portions thereof exceed normal training expenses, then see Gas Plant Instructions 15, for accounting.

3. Amend account "303 Miscellaneous intangible plant" of the gas plant accounts by amending the text of paragraph "B," by adding a new paragraph "C," and by recodifying the present paragraph "C" as "D." As so amended the amended portions of account 303 will read:

Gas Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above of this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other deductions, or account 110, Accumulated provision for depreciation, depletion and amortization of gas plant in service, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. (These new facilities shall include such items as nuclear power, gas liquefaction, coal gasification of new type generating

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facilities.) Amortization from this account shall be debited to account 404, Amortization of limited-term electric plant, and account 110, Accumulated provision for depreciation, depletion and Amortization of gas plant in service, shall be credited. (See Gas Plant Instructions 12.)

D. [Recodified from "C" without change in text.]

* * * * *

4. Amend account "404 Amortization of limited-term gas plant" of the income accounts by revising the first sentence. As so amended the text of account 404 will read:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404 Amortization of limited-term gas plant.

This account shall include amortization charges applicable to amounts included in the gas plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land other than land rights held for the production of natural gas expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

PROPOSAL B

A. The following is a proposed amendment to the Uniform System of Accounts for Class A and Class B Public Utilities and Licensees in Part 101, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the Operating Expense Instructions by adding a new instruction 4 entitled, "4. *Training Costs.*" As so amended the amended portion of the Operating Expense Instructions will read:

Operating Expense Instructions

* * * * *

4. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred.

B. The following are proposed amendments to the Uniform System of Accounts for Class C Public Utilities and Licensees in Part 104, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the Operating Instructions by adding a new instruction 3 entitled, "3. *Training Costs.*" As so amended the amended portion of the Operating Expense Instructions will read:

Operating Expense Instructions

* * * * *

3. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred.

C. The following are proposed amendments to the Uniform System of Accounts for Class A and Class B Natural Gas Companies in Part 201, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the Operating Expense Instructions by adding a new instruction 4 entitled, "4. *Training Costs.*" As so amended the amended portion of the Operating Expense Instructions will read:

Operating Expense Instructions

* * * * *

4. *Training costs.* When it is necessary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred.

D. The following are proposed amendments to the Uniform System of Accounts for Class C Natural Gas Companies in Part 204, Chapter I, Title 18 of the Code of Federal Regulations:

1. Amend the Operating Instructions by adding a new instruction 3 entitled, "3. *Training Costs.*" As so amended the amended portion of the Operating Expense Instructions will read:

Operating Expense Instructions

* * * * *

3. *Training costs.* When it is necssary that employees be trained specifically to operate or maintain plant facilities that are being constructed, the related cost shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than November 16, 1972, data, views, comments, or suggestions in writing concerning the amendments to the Systems of Accounts proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendments. The staff, in its discretion, may grant or deny requests for conference.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17110 Filed 10-5-72;8:46 am]

FEDERAL MARITIME COMMISSION

[46 CFR Ch. IV]

[No. 72-41]

TRUCK DETENTION AT THE PORT OF NEW YORK

Revision of Filing Schedule

Upon request of interested parties, and good cause appearing, the schedule for filing comments by participants in this proceeding is revised as follows:

Initial views and arguments pertaining to the proposed rules shall be filed by participants on or before October 31, 1972. All participants may file replies to the initial views and arguments on or before November 15, 1972. Hearing Counsel shall reply to initial comments and replies on or before November 30, 1972. Participants may file replies to Hearing Counsel on or before December 15, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17145 Filed 10-5-72;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

IMPORT DOCUMENT FORM

Request for Comments

Notice is hereby given that the Bureau of Customs is considering a new Customs entry form which would be used for most of the formal Customs entries.

It is contemplated that a new Customs entry form entitled Import Document would replace the forms presently used for making the following types of entry:

1. Consumption—Dutiable.
2. Appraisement.
3. Warehouse or Rewarehouse.
4. Bonded Aircraft Fuel (Warehouse).
5. Consumption—Free.
6. Temporary Importation Bond.
7. Bonded Manufacturing Warehouse.
8. Combined Rewarehouse and Immediate Withdrawal for Consumption.
9. Permanent Exhibition.
10. Trade Fair.

It should be noted that the proposed Import Document would not be used to make vessel repair or drawback entries.

This new form (the Import Document) would be designated Customs Form 0001 (Illustrations A through J) and would include a continuation sheet designated as Customs Form 0001–A (Illustration K). The proposed design of the form would be multi-purpose, carbon interleaved, snap-out type form which would facilitate preparation by typewriter or computer equipment. Also, the format of the form would permit the simultaneous preparation of data required for the Customs automated accounting system. This information is presently provided by the preparation of a separate document, Customs Form 5101. Illustration L explains the proposed requirements for completing the Import Document.

Interested persons are invited to submit suggestions or comments on the proposed change to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20226. In order to receive consideration, comments should be received not later than 30 days after the date of publication of this notice in the FEDERAL REGISTER. All submissions will be given careful consideration. Thereafter a notice of proposed rule making will be published in the FEDERAL REGISTER, which will set forth for comment specific revisions of the Customs Regulations relating to the use of the Import Document, if such changes are deemed advisable.

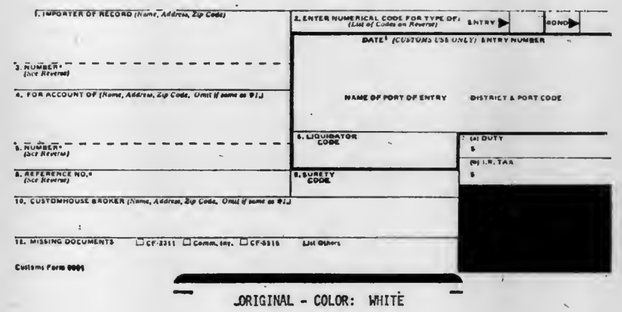
Since this general review of the Import Document is likely to require extensive study, extending over an appreciable period of time, the Bureau of Customs serves notice that it expressly reserves the right to proceed at any time during this period with specific changes in the regulations which it may deem appropriate and proper. In all cases where such changes encompass matters of substance they will be made effective only after publishing in the FEDERAL REGISTER a notice of proposed rule making. Thus, all affected persons will have full opportunity to comment before such changes are put into effect.

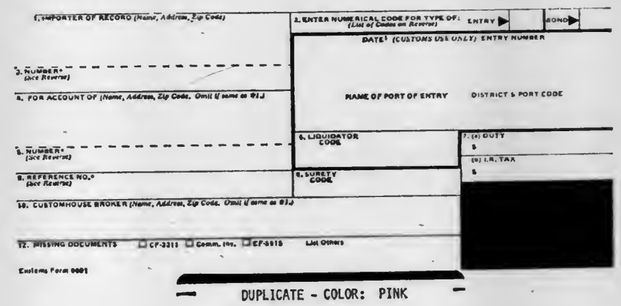
[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: September 25, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

ILLUSTRATION A
ADP CARD SIZE FORM





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ILLUSTRATION C

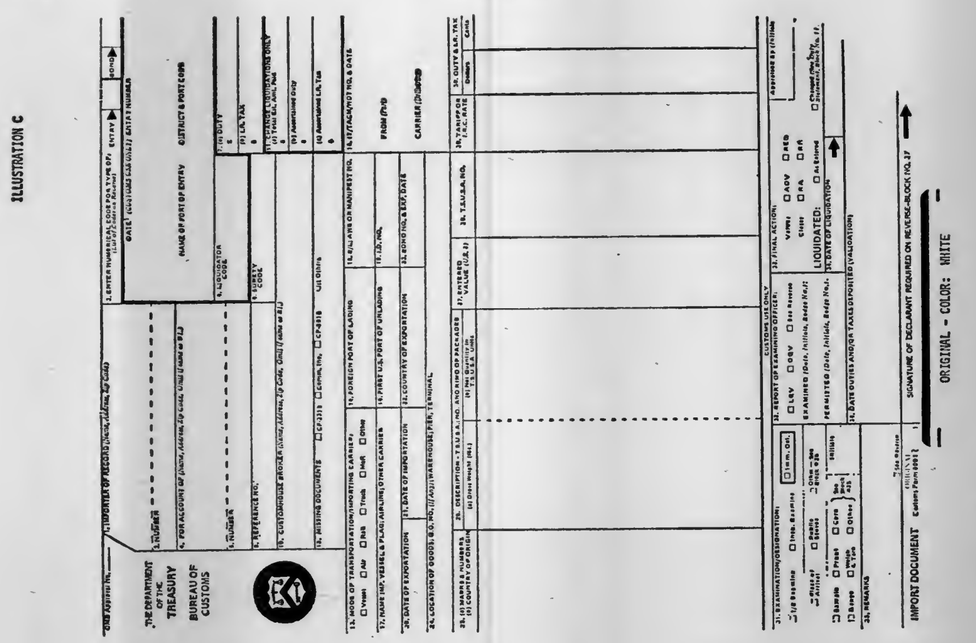
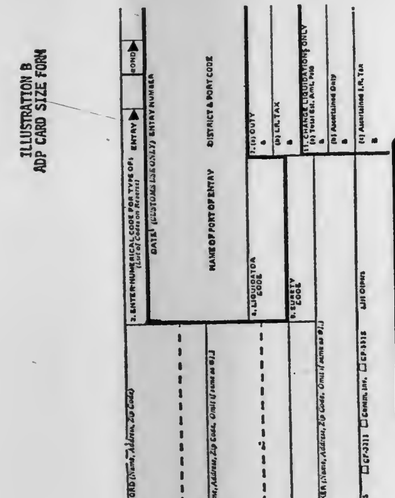


ILLUSTRATION B
ADP CARD SIZE FORM



TRIPLICATE - COLOR: BUFF

[1]NOTE: Official Date of Entry
The official date of acceptance of entries subject to duty and/or tax is validation date in Block #36.

*(Show by phrase or appropriate #)

BLOCK #2 - ENTRY CODES
1. Consumption - Dutiable
2. Vessel Repair*
3. Appraisement
4. Warehouse or Rewarehouse
5. Bonded A/C Fuel (Warehouse)
6. Drawback*
7. Temporary Importation Bond
8. Bonded Manufacturing Warehouse
10. Combined Rewarehouse & Immediate Withdrawal for Consumption
11. Permanent Exhibition
12. Trade Fair
*Not applicable on CF-6001

BLOCK #3
Importer Number of Individual or firm whose name appears as Importer of Record on Entry.

BLOCK #5
Importer Number of Individual or firm whose name appears as the Owner or Ultimate Consignee of Merchandise on customs invoice or commercial invoice. If this is Consignee of Merchandise enter word "consolidated."

BLOCK #2 - BOND CODES
1. Single Entry Bond (Any type)
2. CF-7553 (Consmp. Term Bond)
3. CF-7563-A (Temporary Imp.)
4. CF-7565 (Vessel Term)
5. CF-7595 (Gen. Term)

BLOCK #8
Importer Number of Individual or firm to whom refunds and bills are to be sent if other than Importer of Record.

REVERSE-Original, Duplicate & Triplicate

ILLUSTRATION D

37. ENTRY DECLARATION (Sign & check applicable block (s))

[Signature] [Date]

☐ Principal
☐ Member of the Firm
☐ Of the Corporation
☐ Authorized Agent

☐ ENTRY DECLARATION FOR CONSUMPTION (Free & Dutiable); WAREHOUSE INCLUDING ENTRY FOR BONDED MANUFACTURING WAREHOUSE; PERMANENT EXHIBITION AND TEMPORARY IMPORTATION BOND:

I declare that I am the ☐ nominal consignee and that the actual owner for Customs purposes is as shown on reverse, or I ☐ consignee or agent to the consignee. I further declare that the merchandise ☐ was or ☐ was not obtained in pursuance of a purchase or agreement to purchase. I also declare that to the best of my knowledge and belief, all statements appearing in this entry and in the invoice or invoices and other documents presented herewith and in accordance with which the entry is made, are true and correct in every respect, the entry and invoices set forth the true prices, values, quantities, and all information as required by the laws and the regulations made in pursuance thereof; the invoices and other documents are in the same state as when received, I have not excised and do not know of any other invoice, paper, letter, document, or information showing a different currency price, value, quantity, or description of the said merchandise, and if at any time hereafter I discover any information showing a different state of facts I will immediately make the same known to the District Director of Customs at the port of entry.

If the merchandise is entered by means of a seller's or shipper's invoice, no Customs invoice for any of the merchandise covered by the said seller's or shipper's invoice can be produced due to causes beyond my control. If the merchandise is entered by means of a statement of the value of the price p.n in the form of an invoice, it is because neither seller's shipper's, nor Customs invoice can be produced at this time.

☐ DECLARATION - ENTRY BY APPRAISEMENT:

I hereby, request appraisement under Section 498(a) [ ], Tariff Act of 1930, for the reasons given above. I declare, to the best of my knowledge and belief, that this entry and the documents presented therewith set forth all the information in my possession, or in the possession of the owner of the merchandise described herein, as to the cost of such merchandise; that I am unable to obtain any further information as to the value of the said merchandise or to determine its value for the purpose of making formal entry thereof; that the information contained in this entry and in the accompanying documents is true and correct, and that the person(s) named on reverse is the owner of the said merchandise.

☐ DECLARATION - REWAREHOUSE ENTRY OR COMBINED REWAREHOUSE ENTRY & WITHDRAWAL FOR CONSUMPTION:

I declare that all statements hereon are true & correct.

☐ TRADE FAIR (T.D.# 1

☐ I HEREBY MAKE APPLICATION TO MAKE ENTRY PRIOR TO PRODUCTION OF MISSING DOCUMENTS NAMED IN BLOCK # 12.

38. BLOCK 31, 32 & 35 CONTINUED — REMARKS AND REPORT OF EXAMINING OFFICER, OR OF WEIGHT, GUAGE OR MEASURE, OR OTHER PERTINENT INFORMATION (Sign & Date Each Action)

39. CARRIER'S CERTIFICATE AND RELEASE ORDER

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee of such articles within the purview of section 484(b), Tariff Act of 1930. In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the articles covered by the aforementioned statement to such consignee.

DATE	NAME OF CARRIER	AGENT

40. EXPLANATORY NOTES

BLOCK #2 - ENTRY CODES		BLOCK #2 - BOND CODES	[1]NOTE: OFFICAL DATE OF ENTRY
1. Consumption - Dutiable	7. Consumption - Free	1. Single Entry Bond (Any type)	The official date of acceptance of entries subject to duty and/or tax is validation date in block #36.
2. Vessel Repair*	8. Temporary Importation Bond	2. CF-7553 (Cons. Term Bond)	
3. Appraisement	9. Bonded Manufacturing Warehouse	3. CF-7563-A (Temp. Imp.)	
4. Warehouse or Rewarehouse	10. Combined Rewarehouse & Immediate Withdrawal for Consumption	4. CF-7565 (Vessel Term)	
5. Drawback*	11. Permanent Exhibition	5. CF-7595 (Gen. Term)	
6. Bonded A/C Fuel (Warehouse)	12. Trade Fair		
*Not applicable on CF-6001			

COLUMN #30 - DUTY AND I.R. TAX

Show separately amount of duty, internal revenue tax, and/or tea inspection fee on each item listed. Internal revenue tax assessments should be preceded by the letters "IR". Tea inspection assessments should be preceded by the letters "TI" if the entry represents more than one dutiable item, the amounts of duty, internal revenue tax, and tea inspection fee should be totaled and labeled separately "Total I.R. Tax," and/or "Total T.I. Fee" and recorded together with an appropriate total labeled "Total Collections" in the extreme lower portion of column #30.

REVERSE OF ORIGINAL

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ILLUSTRATION E
DUPLICATE - ACCOUNTING

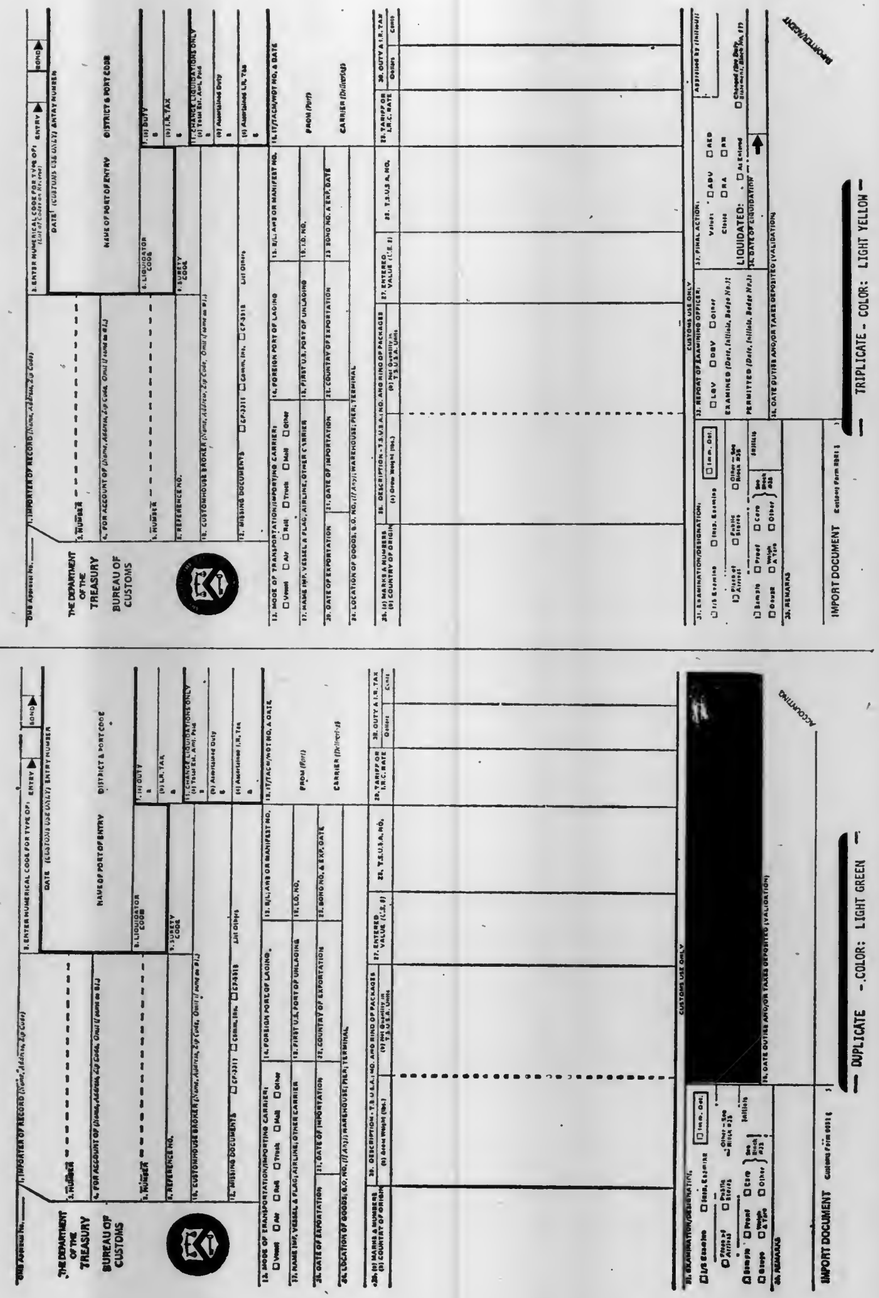


ILLUSTRATION F
TRIPLICATE - IMPORTER/AGENT

ILLUSTRATION G
REVERSE OF TRIPLICATE

EXPLANATORY NOTES

BLOCK #2: ENTRY CODES

1. Consumption - Dutiable
2. Vessel Repair*
3. Appraisement
4. Warehouse or Rewarehouse
5. Drawback*
6. Bonded A/C Fuel (Warehouse)
7. Consumption - Free
8. Temporary Importation Bond
9. Bonded Manufacturing Warehouse
10. Combined Rewarehouse & Immediate Withdrawal for Consumption
11. Permanent Exhibition
12. Trade Fair

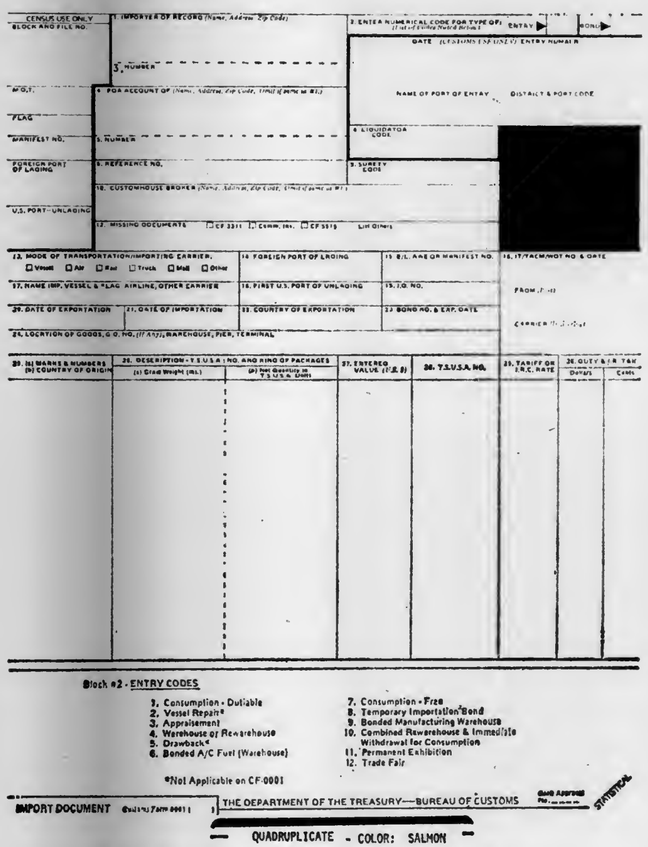
*Not applicable on CF-0001

BLOCK #2: BOND CODES

1. Single Entry Bond (any type)
2. CF-7553 (Consump. Term Bond)
3. CF-7563-A (Temporary Imp.)
4. CF-7569 (Vessel Term)
5. CF-7595 (Gen. Term)

[1]NOTE — OFFICIAL DATE OF ENTRY: The official date of acceptance of entries subject to duty and/or tax is validation date in Block #36.

ILLUSTRATION H
QUADRUPLICATE - STATISTICAL



Block #2 - ENTRY CODES

1. Consumption - Dutiable
2. Vessel Repair*
3. Appraisement
4. Warehouse or Rewarehouse
5. Drawback*
6. Bonded A/C Fuel (Warehouse)
7. Consumption - Free
8. Temporary Importation Bond
9. Bonded Manufacturing Warehouse
10. Combined Rewarehouse & Immediate Withdrawal for Consumption
11. Permanent Exhibition
12. Trade Fair

*Not Applicable on CF-0001

V 37 I 195 OCT 6 72 XUM

ILLUSTRATION I
— QUINTUPLICATE — DRAYAGE/OPTIONAL —

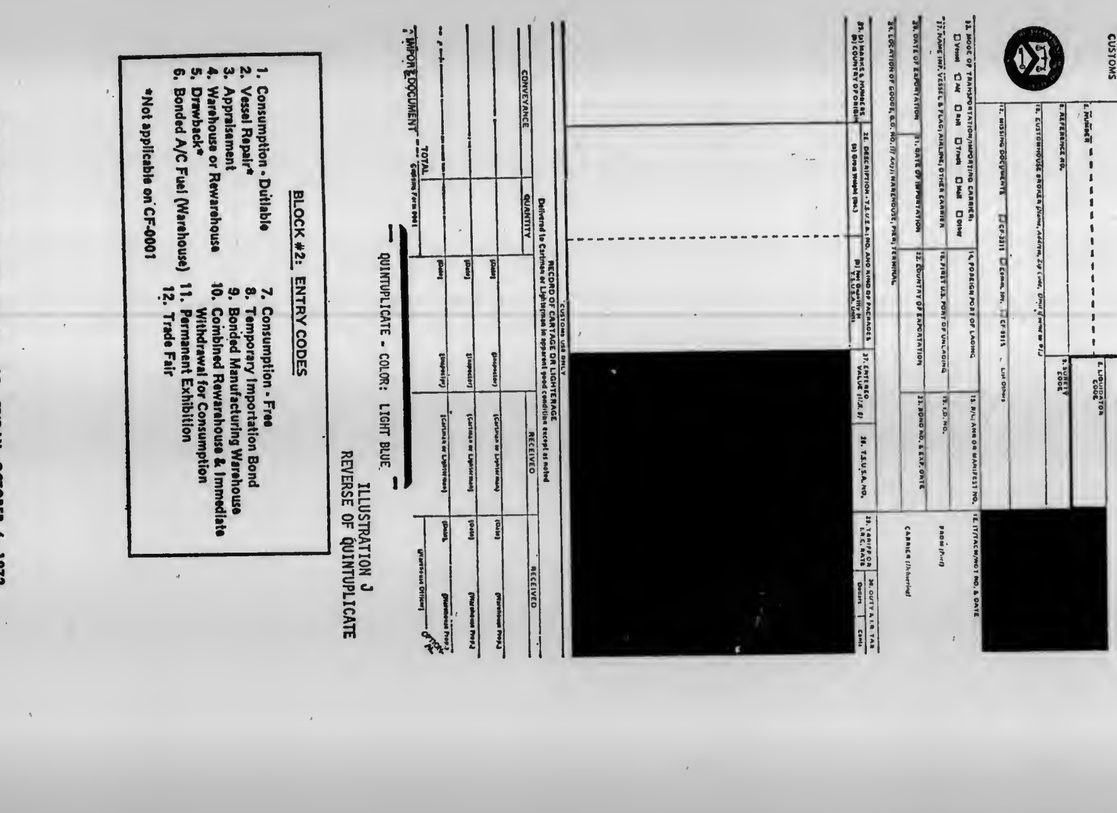


ILLUSTRATION J
REVERSE OF QUINTUPLICATE

BLOCK #2: ENTRY CODES

1. Consumption - Dutiable
2. Vessel Repair*
3. Appraisement
4. Warehouse or Rewarehouse
5. Drawback*
6. Bonded A/C Fuel (Warehouse)
7. Consumption - Free
8. Temporary Importation Bond
9. Bonded Manufacturing Warehouse
10. Combined Rewarehouse & Immediate Withdrawal for Consumption
11. Permanent Exhibition
12. Trade Fair

*Not applicable on CF-0001

ILLUSTRATION K
CONTINUATION SHEET
Original and 4 copies are all identical

IMPORT DOCUMENT
CONTINUATION SHEET

THE DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS

Customs Form 0001A

Color of copies are same as CF-0001.

ILLUSTRATION L

INFORMATION NECESSARY TO COMPLETE CF-0001

NOTE: Block numbers listed below coincide with those on the Import Document Form (see illustration C and D)

Block No.	Title	Information required
.....	Importer of Record (name, address, and ZIP Code).	Insert name, address, and ZIP Code of consignee, owner or agent of the consignee.
2	Numerical Code for Type of Entry and Bond.	Insert applicable entry and bond code numbers as shown on reverse of form.
3	Number	Insert I.R.S., social security, or customs assigned number of the individual or firm whose name appears in block No. 1.
4	For Account of (name, address, ZIP Code).	Insert required information of the actual owner or ultimate consignee. Omit if same as block No. 1.
5	Number	Insert I.R.S., social security, or customs assigned number of the individual or firm whose name appears in block No. 4. If more than one owner or ultimate consignee enter the word "consolidated."
6	Liquidator Code	Customs use only.
7(a)	Duty	Total amount of estimated duty and/or I.R. tax calculated on the entry. If no duty and/or tax due, leave blank.
(b)	I.R. Tax	
8	Reference Number	Identification number of individual or firm to whom refunds and bills are to be sent if other than importer of record.
9	Surety Code	Insert 3-digit code number of surety company issuing entry bond. If surety or bond not required, leave blank.
10	Name, Address, ZIP Code of Customhouse Broker.	Self-explanatory. Information may be preprinted on privately printed forms. (Omit this block if same as block No. 1.)
11	Change Liquidations Only	
(a)	Total Estimated Amount Paid	Customs use only.
(b)	Ascertained Duty	
(c)	Ascertained I.R. Tax	
12	Missing Documents	Check applicable block(s) and/or describe document required by customs regulations that cannot be produced at time of entry.
13	Mode of Transportation/Importing Carrier.	Check appropriate block for mode of transportation of initial carrier transporting the merchandise to the first U.S. port of unlading.
14	Foreign Port of Lading	For vessel or air shipments—insert name of foreign port and country at which shipment was loaded on importing carrier. For merchandise transshipped enter last foreign port of lading. If merchandise laden at more than one port, show each port of lading next to the item (or group of items) in body of form.
15	B/L; AWB or Manifest Number	Enter number of ocean bill of lading air waybill, or manifest number covering the movement of the merchandise to the United States.
16	IT/TACM/WDT Number and Date.	For merchandise shipped from first U.S. port of unlading for clearance at a subsequent port enter number and date of immediate transportation entry, transit air cargo manifest, or warehouse withdrawal for transportation entry. Cross out inapplicable entry designations.
	From (Port)	Enter name of customs port of entry in which shipment originated.
	Carrier (Delivering)	Insert name of carrier delivering shipment to customs port of destination.
17	Name Imp. Vessel and Flag; Airline; Other Carrier.	Enter name of vessel and flag, airline, or other carrier by which the merchandise arrived in the first U.S. port of unlading. Examples of other carriers are: Parcel post, registered mail, pipeline.
18	First U.S. Port of Unlading	Insert the name of the U.S. port, as listed in schedule D, at which the merchandise was unloaded from the importing carrier, whether or not such port is a customs port of entry. E.g., entry filed at the Port of Los Angeles for merchandise unloaded at Long Beach, Calif., show Long Beach as the port of unlading.
19	I.D. Number	If shipment was released under immediate delivery procedures, insert number assigned to the immediate delivery transaction. Otherwise, leave blank.
20	Date of Exportation	Enter month, day, and year on which merchandise was exported from the foreign country.
21	Date of Importation	Note month, day, and year on which carrier arrived within the limits of the U.S. port of unlading or the limits of the United States if other than vessel.
22	Country of Exportation	Name of country from which merchandise was exported.
23	Bond Number and Expiration Date.	Enter number of entry bond, if any and expiration date (month, day, and year).

Block No.	Title	Information required
24	Location of Goods; G.O. Number (if any); Warehouse; Pier; Terminal.	Insert appropriate information that will clearly indicate where merchandise can be located at the port of entry. In the case of warehouse transactions, show location where shipment first arrived and designated warehouse.
25(a)	Marks and Numbers	Show exact marks and numbers of outer containers of the shipment.
(b)	Country of Origin	Enter name of country in which merchandise being entered was mined, grown, or manufactured. When a single customs entry covers merchandise from more than one country, indicate the country of origin separately against each item (or group of items).
26	Description Y.S.U.S.A; Number and Kinds of Packages.	Describe the merchandise in terms of the Tariff Act in accordance with the Tariff Schedules of the United States Annotated for Statistical Reporting (TSUSA). Enter number and kinds of packages making up the shipment; e.g., 1 container containing 300 cartons, 100 crates, 300 bags, etc.
(a)	Gross Weight (lbs.)	Supply separate gross weight information for the merchandise covered by each TS USA reporting number indicated in block No. 28. Show estimate if necessary. Exclude weight of substantial outer containers such as lift vans, cargo vans, etc.
(b)	Net Quantity in T.S.U.S.A. Units.	Enter net quantity in unit(s) specified in the Tariff Schedules of the U.S. Annotated for each reporting number. If no unit of quantity is specified enter an "X" in this column. Give quantities in whole units unless fractions are required for duty purposes. If quantity specified is tons, figure long tons of 2,240 lbs. unless short tons (2,000 lbs.) are specified.
27	Entered Value (U.S.$)	State the U.S. dollar value in accordance with the definition in sec. 402 or 402a of the T.A. 1930, as amended, for all merchandise free of duty or dutiable at specific rates.
28	T.S.U.S.A. Number	Enter the appropriate reporting number(s) as provided for in the Tariff Schedules of the U.S. Annotated applicable to each item of merchandise described in block No. 26.
29	Tariff or I.R.C. Rate	Insert Tariff Rate(s) of duty and/or I.R.C. Rate as provided for in the Tariff Schedules of the U.S. and I.R. Code. If merchandise is free of duty enter the word "Free."
30	Duty and I.R. Tax	Calculate and enter applicable duty and I.R. tax amounts separately. Also, show separately amount of tea inspection fee, if any. For entries covering more than one dutiable item, the amounts of duty, Internal Revenue Tax and Tea Inspection Fee should be totaled and labeled separately—"Total Duties," "Total I.R. Tax," and/or "Total T.I. Fee" and recorded together with an aggregate total labeled "Total Collections" in the extreme lower portion of col. No. 30.
31 to 36	Various	Customs use only.
37 (reverse of original).	Entry Declaration	Affix signature of importer, consignee or agent and date in all cases. Check blocks applicable to the type of entry being filed.
38	Remarks and Report of Examining Officer, etc.	For customs use only.
39	Carrier's Certificate and Release Order.	Optional. This block may be executed by carrier in lieu of separate CF 7529 or presentation of other documents supporting the right of individual to make entry.

The following list of customs forms will be replaced by the Import Document Form CF-0001 and CF-0001-A (Continuation Sheet):

Form no.	Title	References
1. CF 4333	Bulletin Notice of Entries Liquidated	Secs. 16.2 C.R., 16.2 C.M.
2. CF 4333-A	Notice of Entries Liquidated	Sec. 16.2 C.R.
3. CF 4335	Bulletin Notice of Liquidation (free entries and permanent exhibition entries).	Secs. 16.2-16.12 C.R., 16.2-16.12 C.M.
4. CF 6417	Summary of Entered Values	Secs. 8.8, 8.16, 8.22, 8.30, 14.1, 14.16, 19.31 C.R.; 8.22, 14.2, 14.10, 16.2 C.M.
5. CF 6417-A	Summary of Entered Values (continuation sheet).	
6. CF 7500	Appraisement Entry	Secs. 8.50, 16.12 C.R., 8.60 C.M.
7. CF 7501	Consumption Entry	Secs. 8.27, 8.51, 10.31, 10.91, C.R.
8. CF 7501-A	Consumption Entry Permit	Secs. 8.28 C.R.; 8.59 C.M.
9. CF 7501-B	Consumption Entry (continuation sheet)	
10. CF 7501-C	Consumption Entry Permit (continuation sheet).	
11. CF 7502	Warehouse or Rewarehouse Entry	Secs. 8.18, 8.30, 8.33, 10.91, 19.11, 19.31 C.R.
12. CF 7502-A	Warehouse or Rewarehouse Entry (permit)	Secs. 8.33 C.R.; 8.31 C.M.
13. CF 7502-B	Warehouse or Rewarehouse Entry (continuation sheet).	
14. CF 7502-C	Warehouse or Rewarehouse Permit (continuation sheet).	
15. CF 7519	Combined Rewarehouse Entry and Withdrawal for Consumption, and Permit.	Secs. 8.35, 10.81 C.R., 8.35 C.M.
16. CF 7521	Entry for Bonded Manufacturing Warehouse, and Permit.	Secs. 19.14 C.R., 19.14 C.M.
17. None	Entry for Exhibition (trade fair)	Sec. 147.11 C.R.

[FR Doc.72-16826 Filed 10-5-72;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 22574]

MONTANA

Order Providing for the Opening of Public Lands

SEPTEMBER 28, 1972.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following described lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 5 N., R. 30 E.,
Sec. 35, All.

The area described contains 640 acres.

2. The land is situated in Yellowstone County, approximately 14 miles northeast of Pompeys Pillar's landmark by a county road. The land is being used for domestic livestock grazing in conjunction with other public and private lands that join the tract. The tract is also valuable for wildlife habitat providing native vegetation.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m. on November 4, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged. Therefore, the mineral status of the lands is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, 316 North 26th Street, Billings, MT.

KENNETH J. SIRE,
Acting Chief,
Lands and Minerals Operations.

[FR Doc.72-17100 Filed 10-5-72;8:46 am]

[Oregon 016753]

OREGON

Notice of Termination of Proposed Withdrawal and Reservation of Land

SEPTEMBER 29, 1972.

Notice of an application serial No. Oregon 016753, for withdrawal and reservation of lands was published as FEDERAL REGISTER Document No. 65-9866 on page 11926 of the issue for September 17, 1965. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Group 2300, such lands will be at 10 a.m. on November 4, 1972, relieved of the segregative effect of the above-mentioned application.

OREGON

WILLAMETTE MERIDIAN

Revested Oregon and California Railroad Grant Lands

T. 32 S., R. 1 E., W.M.,
Sec. 27, NW¼NW¼, SW¼SE¼;
Sec. 29, SE¼;
Sec. 33, W½NW¼, NW¼NE¼NW¼.
T. 33 S., R. 1 E., W.M.,
Sec. 5, SW¼, NW¼SW¼SE¼, S½NW¼, Government Lots 3 and 4;
Sec. 7, E½NE¼, SE¼, E½SW¼, Government Lot 4;
Sec. 9, E½, SE¼NW¼, E½NE¼NW¼;
Sec. 17, NW¼NW¼;
Sec. 19, W½W½NE¼, NW¼NW¼SE¼, E½NW¼, E½SW¼, N½SW¼NW¼SE¼, Government Lots 1, 2, 3, and 4;
Sec. 21, E½, SW¼, E½NW¼, NW¼NW¼, E½SW¼NW¼, N½NW¼SW¼NW¼;
Sec. 29, E½, SE¼SW¼;
Sec. 30, NE¼NW¼, Government Lots 1 and 2.
Total area—2,930.86 acres.

Public Domain Lands

T. 33 S., R. 1 E., W.M.,
Sec. 4, Government Lot 2;
Sec. 8, NW¼NW¼;
Sec. 20, NE¼SE¼, S½SE¼.
Total area—199.94 acres.

The areas described aggregate 3,130.80 acres.

IRVING W. ANDERSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-17125 Filed 10-5-72;8:48 am]

National Park Service

GUADALUPE MOUNTAINS NATIONAL PARK, TEX.

Notice of Establishment

The Act of October 15, 1966 (80 Stat. 920, 16 U.S.C. 283), provides for establishment of the Guadalupe Mountains National Park, consisting of land and interests in land within the area shown on the drawing entitled "Proposed Guadalupe Mountains National Park, Tex.," numbered SA-GM-7100C and dated February 1965, which is on file and available for public inspection in the administrative office of the Guadalupe National Park and in the offices of the National Park Service, Department of the Interior.

The aforesaid act required, however, that the Secretary omit from the park sections 7 and 17, P.S.L. Block 121, in Hudspeth County and revise the park boundaries accordingly if the owner of these sections agreed, on behalf of himself, his heirs, and assigns that no structure would be erected thereon which, in the judgment of the Secretary of the Interior adversely affects the public use and enjoyment of the park. A scenic easement fulfilling the requirements of this provision was obtained by the United States from the owner of these lands and, thereupon, the Secretary omitted them from the park and revised the boundaries thereof by notice of August 7, 1970, appearing in the FEDERAL REGISTER of August 19, 1970 at page 13222. The boundaries of the park, as so revised, are shown on "Boundary Map, Guadalupe Mountains National Park, Tex.," Drawing No. 166-20,000, 3/70, EPD-WSC.

Section 3(a) of the said act provides that notice of the establishment of Guadalupe Mountains National Park shall be published in the FEDERAL REGISTER when title to all privately-owned land within the park boundary, subject to such outstanding interests, rights, and easements as are not objectionable, with the exception of approximately 4,574 acres which are planned to be acquired by exchange, is vested in the United States, and after the State of Texas has donated or agreed to donate the same to the United States.

Title to all privately-owned land within the boundary of the park is vested in the United States, subject to outstanding interests, rights, and easements which are not objectionable. Moreover, the State of Texas and other owners have donated or agreed to donate the rights and interests it or they may have in minerals underlying lands within the boundaries of the park.

Therefore, notice is hereby given that the Guadalupe Mountains National Park is established.

Dated: September 30, 1972.

NATHANIEL REED,
Assistant Secretary of the Interior.

[FR Doc.72-17099 Filed 10-5-72;8:46 am]

Office of the Secretary

[DES 72-97]

PROPOSED WILDERNESS CLASSIFICATION FOR GRAND CANYON COMPLEX, ARIZONA

Notice of Availability of Draft Environmental Statement

Correction

NOTE: F.R. Doc. 72-16787 should read as set forth below instead of as it appeared on page 20735 of the issue for Tuesday, October 3, 1972:

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for Proposed Wilderness Classification for Grand Canyon Complex, Ariz., and invites written comment within forty-five (45) days of this notice. Written comment should be addressed to the Director, Western Region or to the Superintendent, Grand Canyon National Park at the addresses given below.

The draft environmental statement considers the designation of 512,870 acres of Marble Canyon and Grand Canyon National Monuments, and Grand Canyon National Park as wilderness.

Copies are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102.

Grand Canyon National Park, Post Office Box 129, Grand Canyon, AZ 86023.

Dated: September 28, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE

Forest Service

GILA WILDERNESS

Public Hearing

Notice is hereby given in accordance with the provisions of the Wilderness Act of September 3, 1964 (78 Stat. 890-892; 16 U.S.C. 1131-1132) that public hearings will be held, beginning at 9 a.m. on December 15, 1972, in the Fine Arts Auditorium on campus of Western New Mexico University, Silver City, N. Mex., and at 9 a.m. on December 16, 1972, in the Convention Center, Acoma and Zuni Rooms, Albuquerque, N. Mex., on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States for a recommendation to the Congress of a proposed Gila Wilderness. This results from a review of the Gila Primitive Area and adjustments of the boundaries of the Gila Wilderness. The new Wilderness proposal covers 514,678 acres. The proposed Gila Wilderness is located on the Gila National Forest in the counties of Catron and Grant, State of New Mexico.

A brochure containing a map and information about the proposed wilderness may be obtained from the Forest Supervisor, Gila National Forest, 301 West College Avenue, Silver City, NM 88061; or the Regional Forester, 517 Gold Avenue SW., Albuquerque, NM 87101.

Individuals and organizations may express their views by appearing at these hearings or may submit written comments for inclusion in the official record to the Regional Forester, 517 Gold Avenue SW., Albuquerque, NM 87101, until January 16, 1973.

REXFORD A. RESLER,
Associate Chief,
Forest Service.

OCTOBER 3, 1972.

[FR Doc.72-17166 Filed 10-5-72;8:52 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case No. 435 (CP-21)]

ROMPHIL INTERNATIONAL CORP. AND ROMAN GUNZ

Order Denying Validated License Export Privileges and Imposing Civil Penalty

In the matter of Romphil International Corp. and Roman Gunz, 1200 Sixth Avenue, New York, NY 10003, respondents, Case No. 435 (CP-21).

V37-1955 OCT 6 72 XUM

By letter dated April 12, 1972, the Director, Compliance Division, Office of Export Control, charged the above respondents with violations of the Export Control Act of 1949, as amended, and regulations thereunder.[1] The charging letter was duly served and the respondents appeared by counsel.

There are two charges. Charge I alleges in substance that respondents acted in concert with a party who was in the United States from West Germany and sold and delivered to her certain transistors which respondents knew she intended to take from the United States to West Germany; that respondents had not obtained the requisite validated export license for said commodities and they knew that the party did not intend to obtain the requisite license. Charge II alleges in substance that in the course of an investigation by the Office of Export Control regarding the end-use of the transistors the respondents falsely stated that they still had the transistors when in fact they had already sold and delivered them to the party from West Germany.

Pursuant to the provisions of § 388.10 of the Export Control Regulations with agreement of the Director of the Compliance Division, the respondents submitted to the Hearing Commissioner a proposal for the issuance of a consent order against them.

The respondents in the consent proposal, for the purpose of this compliance proceeding only, do not contest the charges set forth in the charging letter. They waived all right to an oral hearing before the Hearing Commissioner and consented to the issuance of an order against them substantially in the form hereinafter set forth. They also waived all rights of administrative appeal from and judicial review of such order.

The Hearing Commissioner reviewed the facts in the case and the consent proposal. He approved the consent proposal and recommended that it be accepted. He also made Findings of Fact, which, after considering the record in the case I adopt as my own.

FINDINGS OF FACT

1. The respondent Romphil International Corp. has a place of business in New York City and is a jobber and exporter of general merchandise. The respondent Roman Gunz is the president and chief executive officer of the corporation. In the transactions hereinafter described Gunz acted for and on behalf of the corporation. References herein to the conduct of Gunz shall also apply to Romphil.

2. On September 12, 1967, the respondent Gunz submitted to OEC an application for a license to export 180 transistors valued at $2,500 to a party in West Germany. OEC undertook a prelicensing investigation to ascertain whether the ultimate disposition would be to a proper destination. Before this investigation was completed and before there was final action on the application, Gunz, on September 27, 1967, filed a second application for a license to export the same commodities to the same party in West Germany.

3. On October 19, 1967, before OEC had acted on either of the applications referred to in the previous finding, an agent of Gunz' customer from West Germany came to Gunz' office in New York for the purpose of taking delivery of the transistors. The said agent paid for the transistors and Gunz delivered them to her. The agent took the transistors from the United States and carried them to West Germany without applying for and obtaining the requisite validated export license.

4. At the time that Gunz sold and delivered the transistors to the agent he knew that she intended to take them to West Germany without applying for and obtaining the requisite validated export license which Gunz knew was required.

5. On January 25, 1968, in the course of a prelicensing investigation under authority of the Export Control Act of 1949, to ascertain the end-use of the transistors in question, the respondent Gunz was interviewed by a special agent of OEC. On this occasion Gunz told the special agent that the transistors were still in his office and he pointed out to the agent a box which he said contained the transistors. The statement and representation by Gunz that he still had the transistors was false since he had delivered them to an agent of his customer from West Germany on October 19, 1967, knowing that she intended to take them to West Germany.

Based on the foregoing, I have concluded that the respondents violated § 387.3(b) of the Export Control Regulations in that they acted in concert with the agent of respondents' customer to bring about a violation of § 387.4 of said regulations in that they sold and delivered commodities with knowledge that a violation of said regulations was intended to occur in respect to said transaction. I have also concluded that respondents violated § 387.5 of said regulations in that they made false and misleading statements and representations to an agent of OEC in the course of an investigation instituted under authority of the Export Control Act of 1949.

I have considered the record in the case and the recommendation of the Hearing Commissioner. The consent proposal is hereby accepted and being of the view that the following order is calculated to achieve effective enforcement of the law and the purposes thereof: *It is hereby ordered,*

I. All outstanding validated licenses in which the respondents appear or participate in any manner are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. Except as qualified in Part IV hereof the respondents for a period of 30 months from the effective date of this order are hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported or which are otherwise subject to the U.S. Export Control Regulations, but only when such participation would under said regulations, applicable at the time, require a validated export license, as set forth in the Export Control Regulations. Without limitation of the generality of the foregoing participation prohibited in any such transaction either in the United States or abroad shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any validated export license application or reexportation authorization, or documents to be submitted therewith; (c) in the obtaining or using of any validated export license; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data where such transaction under said regulations, applicable at the time, require a validated export license; (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data where such transaction would under said regulations, applicable at the time, require a validated export license.

This order does not affect the participation by respondents in transactions for which validated export licenses are not required.

III. The foregoing denial of validated license export privileges shall extend not only to respondents but also as to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. Six months after the effective date of this order, without further order of the Bureau of International Commerce, the export privileges denied under this order shall be restored conditionally and respondents shall be on probation for the remainder of the denial period. No validated licenses which have been revoked under this order shall be restored. The conditions of probation are that respondents shall fully comply with all requirements of the Export Administration Act of 1969, as amended, and all regulations, licenses, and orders issued thereunder.

V. Upon a finding, based on evidence, by the Director, Office of Export Control, or such other official as may be exercising the duties now exercised by him, that the respondents have knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation, said official without notice, when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of said respondents, revoke all outstanding validated export licenses to which said respondents may be a party and deny to said respondents all export privileges for the balance of the probation period. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry of a supplemental order revoking respondents' probation without notice respondents may file objections and request an oral hearing as provided in Section 388.16 of the Export Control Regulations, but pending such further proceedings the order of revocation shall remain in effect.

VI. During the time when respondents are subject to the restrictions of this order (which affect only validated license export privileges) no person with knowledge that respondents are subject to said restrictions, without prior disclosure of the facts to and specific authorization from the Bureau of International Commerce: (a) May, with respect to commodities or technical data requiring validated export licenses, apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation or reexportation of such commodities or technical data by, to, or for respondents; or (b) may, with respect to such commodities or technical data requiring validated export licenses, order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any transaction which may involve any such commodity or technical data exported or to be exported from the United States whereby respondent may obtain any benefit therefrom or have an interest therein, directly or indirectly.

VII. In addition to the sanction above set forth a civil penalty of $500 is hereby imposed on the respondents jointly.

This order shall become effective on October 6, 1972.

Dated: October 2, 1972.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.72-17155 Filed 10-5-72;8:51 am]

[1] This Act has been succeeded by the Export Administration Act of 1969, 50 U.S.C. App. 2401 et seq. Sec. 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 * * * shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act."

Office of Import Programs

UNIVERSITY OF CALIFORNIA—LOS ANGELES

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00572-33-46500. Applicant: University of California-Los Angeles, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Ultramicrotome, Model Om U2. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used for making ultrathin sections for use in electron microscopy of a variety of biological specimens, almost wholly in connection with research in neuropathology where artifacts induced by less than superior sectioning are intolerable. A large interest is in study of degenerative processes involved in the myelin and other membranes which are affected in multiple sclerosis. In addition to routine sectioning, the article will be used to provide serial sections for three-dimensional reconstructions. The material to be sectioned includes soft tissue, brain, membranes, bone and adjacent soft tissue and membranes in studies of the blood-brain and blood-cerebrospinal fluid barrier systems, the fine structure of arachnoid villi and dural sinuses, and relationship of arachnoid villi and dural membranes to the calvarium.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00118-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] obvious factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned." In connection with another prior case (Docket No. 69-00665-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "The range of cutting speeds and a capability for the higher cutting speeds is * * * a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with still another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of a similar foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.5 to 10 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec. We are advised by HEW in its memorandum of September 8, 1972, that cutting speeds in the excess of 4 mm./sec. are pertinent to the applicant's research studies. We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-17154 Filed 10-5-72;8:51 am]

Social and Economic Statistics Administration

SURVEY OF DISTRIBUTORS' STOCKS OF CANNED FOODS

Notice of Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct its annual survey of inventories covering 30 canned and bottled products, including vegetables, fruits, juices, and fish as of December 31, 1972, under the provisions of title 13, United States Code, sections 181, 224, and 225. This survey, together with the previous surveys provides the only continuing source of information on stocks of the specified canned foods held by wholesalers and in warehouses of retail multiunit organizations.

On the basis of information received by the Bureau of the Census, these data will have significant application to the needs of the public, industry, and the distributive trades, and governmental agencies and are not publicly available from nongovernmental or other governmental sources.

Such survey, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Reports will not be required from all firms but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods, in order to provide year-end inventories of the specified canned food items with measurable reliability. These stocks will be measured in terms of actual cases with separate data requested for

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"all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Copies of the proposed forms and a description of the collection methods are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this proposed survey should be submitted in writing to the Director of the Census within 30 days after the date of this publication and will receive consideration.

Dated: October 3, 1972.

HAROLD C. PASSER,
Administrator, Social and Economic Statistics Administration.

[FR Doc.72-17174 Filed 10-5-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services and Mental Health Administration

COMMUNITY MENTAL HEALTH FACILITIES

Federal Percentages for Construction Grants

Notice of proposed rule making, public rule making procedures and delay of effective date have been omitted as unnecessary in the following issuance which relates solely to grants for the construction of community mental health facilities.

Pursuant to section 401 (i) and (j) of title IV of the Mental Retardation Facilities and Community Mental Health Centers Act, as amended, the following Federal percentages are hereby promulgated for the fiscal year beginning July 1, 1973, and the succeeding fiscal year. It is also determined that the Federal percentages for construction grants for alcoholism, narcotic addiction, and drug abuse, and children's facilities shall be the same as provided for community mental health facilities.

These percentages have been determined in the manner specified by the Act and are based on the per capita income of the several States and the United States for 1969, 1970, and 1971 the three most recent consecutive years for which satisfactory data is available from the Department of Commerce.

Alabama	63.43	Illinois	42.61
Alaska	42.00	Indiana	51.13
Arizona	54.01	Iowa	52.70
Arkansas	63.72	Kansas	50.20
California	43.63	Kentucky	60.64
Colorado	51.25	Louisiana	61.13
Connecticut	38.89	Maine	59.19
Delaware	43.92	Maryland	45.74
Florida	53.42	Massachusetts	45.05
Georgia	57.16	Michigan	46.43
Hawaii	43.23	Minnesota	51.34
Idaho	58.84	Mississippi	66.66
Missouri	52.82	Tennessee	60.76
Montana	56.59	Texas	54.98
Nebraska	51.61	Utah	59.14
Nevada	42.19	Vermont	56.14
New Hampshire	54.08	Virginia	53.80
New Jersey	42.03	Washington	48.97
New Mexico	60.57	West Virginia	61.65
New York	39.80	Wisconsin	52.87
North Carolina	59.18	Wyoming	53.45
North Dakota	59.26	District of Columbia	31.14
Ohio	49.22	Trust Territory of the Pacific	66.66
Oklahoma	57.88	American Samoa	66.66
Oregon	52.51	Guam	66.66
Pennsylvania	50.08	Puerto Rico	66.66
Rhode Island	50.20	Virgin Islands	66.66
South Carolina	62.73		
South Dakota	59.35		

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

SEPTEMBER 29, 1972.

[FR Doc.72-17151 Filed 10-5-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-192N]

TOWING INDUSTRY ADVISORY COMMITTEE TO MARINE SAFETY COUNCIL

Notice of Open Meeting

This is to give notice pursuant to Executive Order 11671, sec. 13(a), dated June 5, 1972, that the Towing Industry Advisory Committee to the Marine Safety Council, U.S. Coast Guard, will conduct an open meeting on Wednesday, October 11, 1972, at the Mayflower Hotel, Washington, D.C., beginning at 9 a.m. in the East Room.

Members of the committee and their industry positions are as follows:

Mr. Braxton B. Carr, Chairman, President, American Waterways Operators, Inc.
Mr. F. T. Ainsworth, Manager, U.S. Area Marine Distribution & Traffic, The Dow Chemical Co.
Mr. Lester C. Bedient, General Manager, Harbor Carriers, Inc.
Mr. Jesse E. Brent, President, Brent Towing Co., Inc.
Mr. Peter J. Brix, President, Knappton Towboat Co.
Mr. Francis B. Bushey, President, Spentonbush Transport Service, Inc.
Mr. Leo L. Collar, Chairman of the Board, Alaska Hydro-Train.
Mr. W. A. Creelman, Vice President, National Marine Service, Inc.
Mr. Stanley J. Fairhurst, Vice President, Administration, Dillingham Corp.
Mr. Louis R. Fiore, President, The Ohio River Co.
Capt. S. V. Gardner, Manager, Baton Rouge Branch, Humble Oil and Refining Co.
Mr. T. E. Garside, Vice President, Pacific Inland Navigation Co., Inc.
Mr. Thomas L. Gladders, Vice President, G. W. Gladders Towing Co., Inc.
Mr. Robert L. Gray, Manager, River Operations, Ashland Oil and Refining Co., Inc.
Mr. W. F. Hagestad, Executive Vice President, Canal Barge Co., Inc.
Mr. Robert J. Hasler, Vice President, Marine Services Group, Willamette-Western Corp.
Mr. Adrian S. Hooper, President, Interstate Oil Transport Co.
Mr. Gresham Hougland, President, Crounse Corp.
Capt. Frank J. Hughes, President, Curtis Bay Towing Co.
Mr. John W. Lambert, President, Twin City Barge and Towing Co.
Mr. William E. Law, President, Allied Towing Corp.
Mr. Melvin E. Lemmerhirt, Vice President, Great Lakes Dredge and Dock Co.
Mr. William C. McNeal, Vice President, Oil Transport Co., Inc.
Mr. Alvan D. Osbourne, Vice President, Operations, Union Barge Line Corp.
Mr. Frank P. Silliman, President, Hillman Transportation Co.
Mr. Arnold Sobel, Chairman of the Board of Directors, Great Lakes Towing Co.
Capt. William S. Streckfus, Vice President, Streckfus Steamers, Inc.
Mr. A. J. Tordella, Vice President, Sheridan Transportation Co.
Mr. Walter D. Verner, Vice President, Operations, Ingram Barge Co.
Mr. J. W. Von Herbulis, President, Pittston Marine Corp.

The agenda for the 11 October meeting consists of the following:

1. Operators' Licenses for Uninspected Towing Vessels.
2. Uninspected Towing Vessel Engineer Study.
3. Oil Spill Prevention Regulations.
4. Vessel Traffic Systems.
5. Radiotelephone Regulations.
6. Status of Occupational Safety and Health Act.
7. Revision of Licensing Procedures for Towing Vessel Engineers.
8. Pollution Control Enforcement.
9. Study of Navigation Safety on Western Rivers.
10. Flashing Navigation Lights on Log Rafts.
11. International Convention on the Tonnage Measurements of Ships.
12. Miscellaneous Matters.

The Treasury Department first established the Western Rivers Panel on March 12, 1943, "to act as an advisory body concerned with the safe operation of vessels on the Western rivers." The Secretary of Transportation on June 11, 1971, (1) revised the title of the Western Rivers Panel to read Towing Industry Advisory Committee, (2) expanded the scope of the committee to include "the safe operation of towing vessels and barges on the rivers, inland waters, along the coasts and upon the oceans, and (3) established the committee for the 2-year period ending June 30, 1973. The Secretary of Transportation approved members for the committee and the Commandant, U.S. Coast Guard, sent letters of appointment on November 18, 1971. Members of the committee serve without compensation from the Federal Government, either travel or per diem. The committee has met twice in the past year, December 4, 1971, in Washington, D.C., and April 3-4, 1972, in Portland, Oreg.

Interested persons may request additional information concerning the October 11 meeting and other matters relating to the Towing Industry Advisory Committee (including minutes of the previous meetings) by writing Capt. D. H. Clifton, Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (GCMC/82), 400 Seventh Street SW., Washington, DC 20590 or by calling 202—426-1477.

Dated: October 2, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-17128 Filed 10-5-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-373, 50-374]

COMMONWEALTH EDISON CO.

Notice of Hearing on Application for Construction Permits

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, Licensing of Production and Utilization Facilities, and Part 2, Rules of Practice, notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Commonwealth Edison Co. (the applicant), for construction permits for two boiling water nuclear reactors designated as the La Salle County Nuclear Power Station, Units 1 and 2 (the facilities), each of which is designed for initial operation at approximately 3293 thermal megawatts with a net electrical output of approximately 1078 megawatts. The proposed facilities are to be located at the applicant's site in Brookfield Township, La Salle County, Ill. The proposed site is located approximately 5 miles south-southwest of Seneca, Ill. The hearing will be scheduled to begin in the vicinity of the site of the proposed facilities.

The Board will be designated by the Atomic Energy Commission (Commission). Notice as to its membership will be published in the FEDERAL REGISTER.

Upon receipt of a report by the Advisory Committee on Reactor Safeguards and upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review, the Director of Regulation will consider making affirmative findings on Items 1-3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of construction permits to the applicant:

ISSUES PURSUANT TO THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. Whether in accordance with the provisions of 10 CFR 50.35(a):

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facilities.

3. Whether the applicant is financially qualified to design and construct the proposed facilities.

4. Whether the issuance of permits for construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

ISSUE PURSUANT TO NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate to support the findings proposed to be made by the Director of Regulation on Items 1-4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permits proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that this proceeding is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as issues in this proceeding, Items 1-5 above as a basis for determining whether the construction permits should be issued to the applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permits should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for construction permits dated November 3, 1970, and amendments thereto, and the applicant's Environmental Report dated November 4, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents will also be made available at the Reddicks Public Library, 100 West Lafayette Street, Ottawa, IL 61350, for inspection by members of the public between the hours of 8:30 a.m. and 9 p.m. Monday through Thursday and 8:30 a.m. and 5:30 p.m. on Friday and Saturday. As they become available, a copy of the report of the Advisory Committee on Reactor Safeguards (ACRS), the safety evaluation by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on

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environmental considerations, the proposed construction permits, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the proposed construction permits, the ACRS report, the Directorate of Licensing's safety evaluation and the Commission's draft and final detailed statement on environmental considerations may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714.

A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely filed will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights of the applicant to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR 2.785 and will make the delegation pursuant to subparagraph (a)(1) of that section. The Appeal Board will be composed of a Chairman and two other members to be designated by the Commission. Notice of the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 29th day of September 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-16975 Filed 10-5-72;8:45 am]

[Docket No. 50-368]

ARKANSAS POWER AND LIGHT CO.

Order Establishing the Time and Place for Commencement of the Evidentiary Hearing on Environmental Issues

In the matter of Arkansas Power and Light Co. (Arkansas Nuclear One—Unit 2).

Take notice, that the evidentiary hearing on environmental matters in the subject proceeding shall commence on October 27, 1972, at 9 a.m., local time, in Room 2503, U.S. Federal Building, 700 West Capital Street, Little Rock, AR 72203. The hearing will continue until the record for the reception of evidence on environmental matters is closed.

It is so ordered.

Issued at Washington, D.C. this 29th day of September 1972.

For the Atomic Safety and Licensing Board.

JEROME GARFINKEL,
Chairman.

[FR Doc.72-17097 Filed 10-5-72;8:45 am]

[Docket No. 50-367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice and Order for Prehearing Conference on Environmental Matters

In the matter of Northern Indiana Public Service Co. (Bailey Generating Station, Nuclear 1).

Take notice, that a prehearing conference will be held in the subject proceeding on November 1, 1972, at 10 a.m., local time, in Holiday Inn, O'Hare, 3801 North Mannheim Road, Ballroom B, Schiller Park, IL 60176.

hearing Conference is to:

The primary purpose of the prehearing conference is to:

1. Hear oral arguments regarding the environmental contentions of joint intervenors as set out in their further specification of contentions, dated August 28, 1972;

2. Establish the ground rules for discovery in connection with environmental issues;

3. Establish the date for the commencement of the evidentiary hearing with respect to environmental matters; and

4. Discuss such other matters as may aid in the disposition of environmental issues.

The attorneys for the respective parties are directed to:

1. Confer in advance of the Prehearing Conference and report to the Atomic Safety and Licensing Board at the time of the Conference on the prospect of stipulations of fact and law which would define and limit the scope of the environmental evidentiary hearing;

2. Confer in advance and make every effort to limit the documentary and oral evidence that will be offered at the evidentiary hearing; and

3. Confer and determine in advance the estimated time to be required by the parties for the actual presentation of their cases on environmental matters.

It is so ordered.

Dated at Washington, D.C., this 29th day of September 1972.

For the Atomic Safety and Licensing Board.

JEROME GARFINKEL,
Chairman.

[FR Doc.72-17098 Filed 10-5-72;8:45 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Establishment of Atomic Safety and Licensing Board

On August 30, 1972, the Commission published in the FEDERAL REGISTER (37 F.R. 17577) a notice of hearing concerning a show cause order entitled "Denial of Application Extension and Order Suspending Operation" with respect to the Enrico Fermi Atomic Power Plant No. 1. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 2 (Rules of Practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Carl W. Schwarz, Esq., Mr. Robert L. Zanetell, and Charles A. Haskins, Esq. Chairman.

As provided in the notice of hearing, the date and place of a hearing will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 27th day of September 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-17152 Filed 10-5-72;8:50 am]

[Dockets Nos. 50-338, 50-339]

VIRGINIA ELECTRIC AND POWER CO.

Determination To Rescind Suspension of Certain Construction Activities Pending Completion of NEPA Environmental Review

In the matter of Virginia Electric and Power Co. (North Anna Power Station Units 1 and 2).

Virginia Electric and Power Co. (the licensee) is the holder of Construction Permits Nos. CPPR-77 and CPPR-78 (the construction permits), issued by the Atomic Energy Commission on February 19, 1971. The construction permits authorize the licensee to construct two pressurized water nuclear power reactors, designated as the North Anna Power Station Units 1 and 2, at a site in Louisa County, Va. These reactors are each designed for initial operation at approximately 2,785 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee filed with the Commission a written statement of reasons, with a supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and, on November 29, 1971, initially determined, after considering and balancing the criteria in section E.2 of Appendix D, that activities involving offsite right-of-way clearing and construction of transmission lines for the North Anna Power Station should be suspended pending completion of the NEPA review of the environmental impact of these activities (36 F.R. 23265, December 7, 1971). On November 29, 1971, the Director of Regulation issued an order to show cause why these construction activities should not be so suspended. On December 27, 1971, the licensee filed a timely answer requesting modification of the order so as to permit continued construction to completion of the North Anna to Ladysmith 500 kv. transmission line. The latter is one of four transmission lines proposed for the North Anna Power Station. On February 4, 1972, the Director of Regulation, after consideration of the licensee's response and determination that cause had not been shown to warrant modification of the order to show cause, issued an order suspending these construction activities at the North Anna Power Station.

The Director of Regulation has reconsidered that determination in light of information developed by the AEC regulatory staff's ongoing environmental review and has now determined, after considering and balancing the factors in section E.2 of Appendix D, along with the factor dealt with by the U.S. Court of Appeals for the District of Columbia Circuit in Coalition for Safe Nuclear Power v. AEC, No. 71-1396 (April 7, 1972),[1] that activities involving off-site right-of-way clearing and construction of the North Anna to Ladysmith 500 kv. transmission line should no longer be suspended pending completion of the full NEPA environmental review. Accordingly, the Director of Regulation has served upon the licensee an order partially rescinding the suspension which will become effective 30 days following publication of this determination in the FEDERAL REGISTER.

Further details of this determination are set forth in a document entitled "Amended Discussion and Findings by the Directorate of Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for North Anna Power Station Units 1 and 2, Dockets Nos. 50-338 and 50-339," dated August 1972.

Pending completion of the full NEPA review, the holder of Construction Permits Nos. CPPR-77 and CPPR-78 proceeds with construction at its own risk. The determination herein and the discussion and findings hereinabove referred to, do not preclude the Commission, upon completion of its NEPA environmental review, from continuing, modifying, or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with regard to the factors referenced hereinabove, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER. If a request for a hearing is filed within the time specified, the effectiveness of the order partially rescinding the suspension will be stayed pending appropriate disposition of such request.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the North Anna Power Station Units 1 & 2, Docket Nos. 50-338 and 50-339," and the document entitled "Amended Discussion and Findings by the Directorate of Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for North Anna Power Station Units 1 & 2, Docket Nos. 50-338 and 50-339," as well as the determination, orders, and answer referred to above are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093. Copies of these documents may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy

[1] This factor concerns the degree to which additional irretrievable commitments of financial resources, associated with the requested activities during the NEPA review period, might affect the decision based upon the full NEPA review.

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Director for Reactor Projects, Directorate of Licensing.

Dated this 29th day of September 1972.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.72-17132 Filed 10-5-72;8:48 am]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Notice of Hearing on a Facility Operating License

In the matter of Wisconsin Public Service Corp., Wisconsin Power & Light Co., and Madison Gas & Electric Co. (Kewaunee Nuclear Power Plant).

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, Licensing of Production and Utilization Facilities, and Part 2, Rules of Practice, notice is hereby given that a hearing will be held at a time and place to be set in the future by an Atomic Safety and Licensing Board, to begin in or in the vicinity of Kewaunee County, Wis., to consider the application filed under section 104b. of the Act by the Wisconsin Public Service Corp., Wisconsin Power & Light Co., and Madison Gas & Electric Co. (applicants) for a facility operating license which would authorize the operation of the pressurized water reactor (the facility), identified as Kewaunee Nuclear Power Plant, at a steady-state power level up to a maximum of 1,650 megawatts (thermal), at the applicants' site in Kewaunee County, Wis.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic Energy Commission (Commission), consisting of John B. Farmakides, Esq. (Chairman), Mr. Frederick J. Shon, and Dr. William E. Martin. Dr. Ernest O. Salo has been designated as a technically qualified alternate, and Hugh K. Clark, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of the facility was authorized by Provisional Construction Permit No. CPPR-50, issued by the Commission on August 6, 1968, following a public hearing.

A notice of consideration of issuance of an operating license for the facility was published on June 22, 1972 (37 F.R. 12337). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the issuance of a license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, rules of practice. A joint petition for leave to intervene was thereafter filed by Businessmen for the Public Interest and Protect Our Wisconsin Environmental Resources. Answers to these petitions were filed by the applicants and by the Atomic Energy Commission's regulatory staff.

As set forth in a memorandum and order on this matter dated September 29, 1972, the Commission has determined that a public hearing will be held and that petitioners Businessmen for the Public Interest and Protect Our Wisconsin Environmental Resources should be admitted as parties to the proceeding. The Commission further directed the Licensing Board to take whatever action it considered necessary to enable it to narrow the petitioners' contentions and specify the issues to be considered during the hearing.

A special prehearing conference will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice, 10 CFR Part 2. The date and place of any further prehearing conferences, and of the hearing itself, will be set by the Board at or after the special prehearing conference. Notices as to the dates and places of the special prehearing conference and the hearing will bet published in the FEDERAL REGISTER.

Depending on the resolution of the issues specified by the Licensing Board, authorization for issuance of the license may be granted or denied, or the license may be authorized as appropriately conditioned. An operating license would be issued only after appropriate findings are made by the Director of Regulation on the matters set forth below which are not embraced by the Board's decision (and upon compliance with the applicable provisions of Appendix D to 10 CFR Part 50, dealt with hereinafter):

1. Whether construction of the facility has been substantially completed in conformity with the construction permit and the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

2. Whether the facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

3. Whether there is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission.

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations of the Commission.

5. Whether the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations have been satisfied.

6. Whether the issuance of the license will be inimical to the common defense and security or to the health and safety of the public.

The Commission has issued regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 (NEPA). Appendix D to 10 CFR Part 50. The instant proceeding is covered by section C of said Appendix D, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

The application for the facility operating license and other documents pertinent to the matters under consideration, including the transcripts of the prehearing conference and of the hearing, have or will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public, Copies of those documents will also be made available at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, WI, for inspection by members of the public. Copies of the applicants' supplemental environmental report dated November 8, 1971; the Commission's draft detailed statement of environmental considerations pursuant to 10 CFR Part 50; the report of the Advisory Committee on Reactor Safeguards on the application for a facility operating license for the Kewaunee facility; the Commission's final detailed statement of environmental considerations pursuant to 10 CFR Part 50, Appendix D; the safety evaluation prepared by the Division of Reactor Licensing; and the proposed facility operating license, when available and to the extent of supply, may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to the proceeding (other than the regulatory staff) not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708 of the Commission's rules of practice, an original and 20 copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to subparagraph (a)(1) of this section. The membership of the Appeal Board for this proceeding will be designated by the Commission in a subsequent notice to be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 29th day of September, 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-17084 Filed 10-5-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

BERLIN COMMUNICATIONS, INC.

Standard Broadcast Application Ready and Available for Processing

OCTOBER 2, 1972.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on November 10, 1972, the following application by station WBRL for increase in daytime power of its class IV standard broadcast station, will be considered as ready and available for processing:

BP-19283 WBRL, Berlin, N.H., Berlin Communications, Inc., Has: 1400 kHz, 250 w., U., Req: 1400 kHz, 250 W., 1 kw.-LS, U.

The purpose of this notice is not to invite applications which may conflict with the listed application, but to apprise any party in interest who desires to file pleadings concerning the application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, of the necessity of complying with § 1.580 (i) of the Commission's rules governing the time of filing and other requirements relating to such pleadings.

Adopted: September 28, 1972.

Released: October 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17176 Filed 10-5-72;8:53 am]

CABLE TV GOVERNMENT ADVISORY GROUP SUBCOMMITTEE

Postponement of Meeting

OCTOBER 2, 1972.

The meeting of Subcommittee D, the Post Award Regulatory Phase, of the Cable Television Federal-State/local Advisory Committee which was originally scheduled for October 3, 1972, at 10 a.m. (37 F.R. 20055), has been postponed. The meeting has been rescheduled for October 13, 1972, at 10 a.m. and will be held in Room 847S of the main FCC building at 1919 M Street NW., Washington, DC.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17175 Filed 10-5-72;8:53 am]

[Docket No. 19558]

OVERSEAS DATAPHONE SERVICE

Inquiry Regarding Future Authorization Policy; Order Extending Time

1. On September 25, 1972, ITT World Communications Inc. (ITT Worldcom) requested by letter dated September 22, 1972, a 60-day extension of time in which to file comments in the above-captioned inquiry. ITT Worldcom alleges that its request is reasonable in view of the extensive amount of information requested by the Notice of Inquiry (37 F.R. 16042), a substantial amount of which is of a highly technical nature. ITT Worldcom represents that the other parties requested to respond to the inquiry have indicated that they will not object to the ITT Worldcom request.

2. We find that ITT Worldcom has shown good cause for the requested extension of time.

3. *Accordingly, it is ordered:* Pursuant to § 0.303(c) of the Commission's rules pertaining to Delegations of Authority that the request of ITT World Communications Inc. is granted; and

(A) The time in which to file comments in Docket 19558 is extended until November 29, 1972; and

(B) The time in which to file reply comments is extended until December 29, 1972.

Adopted: September 26, 1972.

Released: September 27, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BERNARD STRASSBURG,
Chief,
Common Carrier Bureau.

[FR Doc.72-17177 Filed 10-5-72;8:53 am]

[Docket No. 19208; FCC 72-804]

REGINALDO ESPINOZA II

Memorandum Opinion and Order Setting Aside Hearing

In regard application of Reginaldo Espinoza II, for renewal of license of Station KRDD, Roswell, N. Mex.; Docket No. 19208, File No. BL-12873.

1. Under consideration are: (a) A letter dated September 3, 1971, received September 7, 1971, from Reginaldo Espinoza II (licensee), in which he requests reconsideration of the Order, FCC 71-404, released April 26, 1971 (29 FCC 2d 180), designating the above-captioned application for renewal of license for hearing; and (b) an opposition to such request filed September 22, 1971, by the Chief, Broadcast Bureau; (c) an order FCC 72-334, released April 7, 1972, directing that an inspection be made of Station KRDD, Roswell, N. Mex.; (d) a statement in response to such order, filed April 12, 1972, by the Chief, Broadcast Bureau; (Bureau); (e) an additional statement, filed May 3, 1972, by the Bureau; (f) an answer to the Bureau dated June 6, and filed June 12, 1972, by the licensee.

2. In the above-mentioned hearing order of April 26, 1971, the issues designated for hearing inquire into the circumstances respecting licensee's failure to file timely reports and applications and to respond to official correspondence, the nature and extent of violations of the rules cited in an Official Notice of Violation issued May 8, 1970, the efforts to ascertain community needs, and whether, in light of the evidence, applicant can be relied upon to fulfill his licensee responsibilities.

3. In a letter dated September 3, 1971, the licensee alleged that the deficiencies had been corrected and requested that the designation for hearing be reconsidered and the renewal application be granted. At about the same time he submitted such letter, the licensee appeared before the Hearing Examiner on September 10, 1971, at a prehearing conference, on his own behalf because he could not afford counsel. At the conference, he stated that much of his difficulties respecting station operation stemmed from a fire which occurred about a month and

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a half prior to the time the station was inspected; that the fire at his office in Roswell destroyed most of his records; that nothing at the office was salvaged and the loss was not covered by insurance; that KRDD is a Spanish language station, and that he had experienced considerable difficulty in finding licensed operators who understood Spanish; that currently there were three on the staff who knew the language; and that, if he could obtain a renewal of license, he could expend some money on equipment and bring the station up to standard. The licensee was then informed by the Examiner that the prehearing conference was not for the purpose of taking testimony; that evidence in mitigation could be presented at the hearing or in a petition for reconsideration; and that if such a petition was filed, licensee should bring his renewal application up to date, making it full and complete in all particulars, supplying matter not previously submitted, including a community survey. Licensee indicated that he did propose to seek reconsideration and indicated that he would submit an updated application.

4. On November 5, 1971, licensee filed a petition for leave to amend, attaching a revised renewal application and community survey. By order, FCC 71M–1815, released November 22, 1971, the Hearing Examiner granted leave to amend and accepted the tendered amendment. Thereafter, to assist the Commission in evaluating the request for reconsideration on the merits, ascertain the current operational situation, and determine whether the station was currently in compliance with the rules, we directed the Bureau, by order released April 7, 1972, to have an inspection made of the station and to file a report of the results thereof in the record of this proceeding, serving a copy upon the licensee. The licensee was authorized to file comments on the report within 15 days after its filing, and action in this proceeding was ordered held in abeyance to provide an opportunity to consider such material.

5. Pursuant to the above-mentioned order of April 7, the Bureau submitted a statement containing a report of an inspection which had earlier been made of Station KRDD on February 23, 1972, as being a relatively current report on the status of the station's compliance with the Commission's rules. That report contained an Official Notice of Violation, dated March 8, 1972, and indicated some 18 rule violations, dealing mainly with failure to maintain program and maintenance logs properly, lack of a first class operator, and improper antenna tower lighting equipment.[1]

[1] In the above listed further pleading of May 3, the Bureau requests that the pending hearing issues be "clarified" to include consideration of the current alleged violations and failure to respond timely to the notice. The Bureau notes, however, that by letter dated April 11, 1972, licensee acknowledged receipt of the notice and advised that Southwest Communications, a communications engineering-contracting service, had been hired to prepare and submit a formal report to be sent within 5 days, but that such report had not yet been submitted.

6. On May 4, 1972, a response was made to the Official Notice of Violation by Southwest Communications, the engineering firm retained by licensee. Because it failed to comply in certain respects with filing requirements, the letter was returned on May 19, 1972, by the Commission's Secretary with instructions as to proper filing. Thereafter, the licensee filed a proper response by letter dated June 6, 1972. The licensee submitted a response to each citation, setting forth the various steps it has taken to correct the violations shown in the notice, and stating that it has hired a first class radiotelephone operator, and that defective equipment has been or is in process of being repaired or replaced. In addition, the licensee states that the proof of performance for 1972 has been completed and will be forwarded to the Denver Office, and that a new staff and fulltime manager have been hired, with both an engineer and consulting engineer now employed.

7. In substance, the situation at present appears to be that some of the deficiencies in operation noted in the 1970 inspection still obtained or had recurred at the time of the February 1972 inspection, but they have now been corrected and a virtually new operation has been undertaken. Further, it appears from the pleadings and the record that certain mitigating circumstances exist which should be taken into consideration. We have reference to such matters as the fire that destroyed licensee's equipment and records, and the poor financial condition of the station. We are persuaded that a hearing at this time would not serve the public interest. It appears that applicant has, by its submission of a revised renewal application supplying data previously lacking, resolved questions relative to the adequacy of his survey of community needs and otherwise made his renewal application substantially complete. In these circumstances, taking into account the reasons underlying applicant's past difficulties and all other considerations, including licensee's current efforts to improve his operation, we believe that the public interest would be best served by termination of this proceeding and the issuance of a 1-year renewal of license, with the condition that the licensee demonstrate at the end of such term that he has modified his operating procedures to assure that he will make prompt response to Commission inquiries and will comply with all requirements in the future. At the end of such period we will be in a position, based upon licensee's performance in the intervening time and the renewal application he will then file, to make a determination as to his future status as a licensee.

8. *Accordingly, it is ordered,* That the request for reconsideration filed September 7, 1971, by Reginaldo Espinoza II is granted to the extent indicated herein, and is otherwise denied; and

9. *It is further ordered,* That the application of Reginaldo Espinoza II for renewal of license of Station KRDD, Roswell, N. Mex. is granted for a period of 1 year, which period shall commence on the date of release of this Memorandum Opinion and Order; subject to the condition that the licensee demonstrate at the end of such term that he has modified his operating procedures to assure compliance with Commission requirements in the future; and

10. *It is further ordered,* That the Order FCC 71–404, released April 26, 1971, designating this proceeding for hearing is set aside; and that this proceeding is terminated.

Adopted: September 13, 1972.

Released: September 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–17178 Filed 10–5–72;8:53 am]

FEDERAL HOME LOAN BANK BOARD

[H. C. 137]

McNARY LUMBER CO. INC. AND FOREST PRODUCTS CO. INC.

Notice of Receipt of Application for Approval of Acquisition of Control of Sandia Savings and Loan Association Through Acquisition of Control of Savings Financial Corp.

OCTOBER 3, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received applications from McNary Lumber Co. Inc., Albuquerque, N. Mex., and Forest Products Co. Inc., Albuquerque, N. Mex., for approval of the acquisition of control of Sandia Savings and Loan Association, Albuquerque, N. Mex., an insured institution through the acquisition of control of Savings Financial Corp. under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies. Said control was acquired by the purchase of 14.53 percent and 23.81 percent of the outstanding shares of the stock of Savings Financial Corp. by McNary Lumber Co. Inc., and Forest Products Co. Inc., respectively. Comments on the application should be submitted to the Director of the Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.72–17150 Filed 10–5–72;8:50 am]

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE LTD. AND EVERETT STEAMSHIP CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

E. T. Sommer, Vice President, American President Lines, 1625 I Street NW., Washington, DC 20006.

Agreement No. 10015 is a transshipment agreement between American President Lines and Everett Steamship Corp. covering the movement of cargo under through bills of lading issued by APL in the trade between ports in the United States and ports in Korea with transshipment at ports in Japan.

Dated: October 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–17136 Filed 10–5–72;8:49 am]

AUSTRALIAN-PACIFIC COAST RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

F. Conger Fawcett, Esq., Graham & James, Attorneys at Law, 310 Sansome Street, San Francisco, CA 94104.

Agreement No. 10012 is a rate agreement between Columbus Line, Karlander Kangaroo Line, Pacific Australia Direct Line, and Pacific Far East Line, Inc., to be known as the Australian-Pacific Coast Rate Agreement. The purpose of the agreement is for the named carriers to establish and quote freight rates from ports in Australia, and inland points via such ports, to ports on the Pacific Coast of the United States, and inland points via such ports.

Dated: October 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–17137 Filed 10–5–72;8:49 am]

COORDINATED CARIBBEAN TRANSPORT, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If

AMERICAN PRESIDENT LINES, LTD., AND EVERETT STEAMSHIP CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. H. Williams, Assistant to Vice President, 1625 I Street NW., Washington, DC 20006.

Agreement No. 10016 is a transshipment agreement between American Mail Line, Ltd., and Everett Seamship Corp. covering the movement of cargo under through bills of lading issued by AML in the trade between ports in the United States and ports in Korea with transshipment at ports in Japan.

Dated: October 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–17135 Filed 10–5–72;8:49 am]

V37-1955 OCT 6 72 XUM

a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Jeremy Chester, Chester, Blackburn & Roder, Inc., Post Office Box 1470, Miami, FL 33101.

Agreement No. 9999, among Coordinated Caribbean Transport, Inc., Motornaves Florida, S.A., and Pan American Mail Line, Inc., common carriers by water operating in the trade between Florida ports and ports in the Republic of Panama and Costa Rica provides for the arrangement billed as a "discussion" agreement, whereby the members agree to undertake the exchange of information and to cooperate in developing information relating to:

1. Freight rates, handling charges, equipment demurrage charges and practices, warehousing and storage charges and related data bearing on the rate structure of common carriers steamship services required by shippers.

2. Cost of service and tariff rules.

3. Practices in connection with the receipt and delivery of cargo, pickup and delivery charges including interchange with connecting land carriers and all other procedures outlined in their respective tariffs.

The purpose of exchanging this information is to explore the possibility of establishing a rate agreement to be filed with the Federal Maritime Commission for approval at a later date. Nothing in the agreement authorizes the parties thereto to carry out any substantive agreement which may be reached except upon the prior approval of the Commission. The agreement shall remain in effect for 1 year; however, it may be extended for additional 6-month periods with the Commission's approval. It shall be canceled if a rate agreement is finally submitted and subsequently approved by the Commission.

Dated: September 28, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17138 Filed 10-5-72;8:49 am]

FARRELL LINES INC. AND COMPAGNIE MARITIME DES CHARGEURS REUNIS

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Hans Unterwiener, Manager, Freight Documentation and Inward Freight, Farrell Lines Inc., 1 Whitehall Street, New York, NY 10004.

Agreement No. 10014, between Farrell Lines Inc. and Compagnie Maritime Des Chargeurs Reunis, establishes a through billing arrangement for the transportation of all cargo in the trade between the Liberian Ports of Buchanan, Sinoe, and Lofa River and United States Atlantic and Great Lakes ports with transshipment at Monrovia, Liberia, under terms and conditions set forth in the agreement. Agreement No. 10014 will cancel and supersede Agreement No. 9974.

Dated: October 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17139 Filed 10-5-72;8:49 am]

FARRELL LINES, INC., AND ELDER DEMPSTER LINES, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Hans Unterwiener, Manager, Freight Documentation and Inward Freight, Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.

Agreement No. 10013, between Farrell Lines, Inc., and Elder Dempster Lines, Ltd., establishes a through billing arrangement for the transportation of all cargo in the trade between the Liberian ports of Buchanan, Sinoe, and Lofa River and U.S. Atlantic ports with transshipment at Monrovia, Liberia, under terms and conditions set forth in the agreement. Agreement No. 10013 will cancel and supersede Agreement No. 9540.

Dated: October 2, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17140 Filed 10-5-72;8:49 am]

MARYLAND PORT ADMINISTRATION ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Philip G. Kraemer, Director of Transportation, Maryland Port Administration, 19 South Charles Street, Baltimore, MD 21201.

Agreement No. T-2439-1, between the Maryland Port Administration (MPA), Baltimore & Ohio Railroad Co. (B & O), and United Brands Co. (United), modifies the original agreement which provides for the 10-year lease to United of the "Fruit Pier" at Baltimore Harbor from the MPA after purchasing same from the B & O. The principal purpose of the modification is to: (1) Reflect United and MPA's new names; (2) change certain aspects of compensation under the agreement; and (3) provide that charges for cargo other than bananas and produce carried by United as well as nonagricultural cargoes handled by other carriers calling at the facility be established by the MPA and filed with the Federal Maritime Commission. These charges are to be equivalent to the prevailing charges assessed at the Port's Locust Point Marine Terminal.

Dated: September 28, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17141 Filed 10-5-72;8:49 am]

PORT OF SEATTLE AND FOSS ALASKA LINE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Edward G. Lowry III, Esq., Bogle, Gates, Dobrin, Wakefield & Long, 14th Floor Norton Building, Seattle, Wash. 98104.

Agreement No. T-2697, between the Port of Seattle (Port) and Foss Alaska Line, Inc. (Foss), provides for the 5-year lease to Foss of 445,986 square feet of land and 78,016 square feet of water area located at the Port's Terminal 115 which is to be used for barge loading and unloading, van stuffing and unstuffing, container repair, and general offices. Foss is also granted the right of first refusal on an area of approximately 252,692 square feet. As compensation, the Port is to receive $228,000 annually in lieu of tariff charges. Agreement No. T-2697 supersedes Agreement No. T-2489.

Dated: September 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17142 Filed 10-5-72;8:49 am]

SCINDIA STEAM NAVIGATION CO. LTD., AND SEATRAIN LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 dys after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Joseph Hodgson, Jr., General Traffic Manager, Seatrain Lines, Inc., Container Division, Port Seatrain, Weehawken, N.J. 07087.

Agreement No. 10011, between The Scindia Steam Navigation Co., Ltd., and Seatrain Lines, Inc., establishes a through billing arrangement for the transportation of general cargo in the trade from India and Bangladesh to ports in Puerto Rico with transshipment at the port of New York, N.Y., under terms and conditions set forth in the agreement. Agreement No. 10011 will cancel and supersede Agreement No. 9297.

Dated: September 28, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17143 Filed 10-5-72;8:49 am]

[Docket No. 72-52]

REDUCED RATES ON TUNA, PUERTO RICO TO U.S. ATLANTIC AND GULF PORTS; INVESTIGATION AND SUSPENSION

Second Supplemental Order of Investigation and Suspension

On September 14, 1972, this Commission issued an order of investigation into the proposed reductions in rates on tuna fish and related commodities by Seatrain Lines, Inc., and Sea-Land Service, Inc., and suspended those reductions until January 13, 1973. Subsequent thereto, on September 21, 1972, the Commission added to this investigation the reduced minimum trailerload rates on canned tuna proposed by Transamerican Trailer Transport, Inc. (TTT) and likewise suspended those reductions. Gulf Puerto Rico Lines, Inc. (GPRL), has now filed revisions to its tariff, effective October 6, 1972, by which it proposes to reduce its trailerload charges on canned tuna and cat and dog food by approximately 25 percent. Sea-Land Service, Inc., has filed a protest, asking the Commission to suspend GPRL's proposed reductions and to incorporate those items into the present investigation.

Upon consideration of the above matters, and in order to preserve stability in the trade, the Commission is of the opinion that GPRL's proposed reductions should be made part of the public investigation and hearing in this proceeding to determine whether they are unjust, unreasonable, or otherwise unlawful under sections 16 First and 18(a) of the Shipping Act, 1916, and/or sections

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3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing therefore:

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said tariff matters for the purpose of making such findings and orders as the facts and circumstances warrant. In the event the matters hereby placed under investigation are further changed, amended or reissued, such changes will be included in this investigation.

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, 7th revised page 330 of GPRL's tariff FMC–F No. 1 is hereby suspended and the use thereof deferred to and including January 13, 1973, unless otherwise ordered by this Commission.

It is further ordered, That there shall be filed immediately with the Commission by GPRL a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until January 14, 1973, unless otherwise authorized by this Commission, and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired, whichever comes first, unless otherwise ordered by this Commission.

It is further ordered, That as part of this investigation, a determination shall be made as to whether GPRL's said reduced rates are violative of sections 16 First and/or 18(a) of the Shipping Act, 1916.

It is further ordered, That GPRL shall be named as a respondent in this proceeding.

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission.

It is further ordered, That this matter be joined with the matters previously set for investigation and hearing in Docket No. 72–52, that the title of that docket be changed to read "Reduced Rates On Tuna, Puerto Rico to U.S. Atlantic and Gulf Ports" and that the lawfulness of these rates be determined in the same proceeding, by the same administrative law judge of the Commission's Office of Hearing Examiners.

It is further ordered, That a copy of this order shall forthwith be served on respondent herein, and on all persons previously made parties in Docket No. 72–52 and published in the FEDERAL REGISTER.

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72–17144 Filed 10–5–72;8:50 am]

FEDERAL POWER COMMISSION

[Project No. 2439–Vermont]

GREEN MOUNTAIN POWER CORP.

Notice of Availability of Environmental Statement for Inspection

OCTOBER 2, 1972.

Notice is hereby given that on October 2, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for major license for constructed Molly's Falls Project No. 2439 located on Molly's Brook and Winooski River in Washington and Caledonia Counties, Vt.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The Molly's Falls project consists of Peacham Storage Reservoir, Molly's Falls Reservoir, each formed by earth dams 26 feet and 48 feet high respectively, an 8,293 foot long penstock and a powerhouse on Winooksi River containing one 5,000 kw. generator. The lands adjacent to Peacham Pond are owned by the State and private individuals. Development of these lands includes summer camps and residences. Molly's Pond is used for boating and fishing with the adjacent lands being maintained in their natural state.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from October 9, 1972. The Commission will consider all responses to the statement.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17112 Filed 10–5–72;8:47 am]

[Project No. 2340]

INTERSTATE POWER CO.

Notice of Application for Surrender of Minor License

OCTOBER 2, 1972.

Public notice is hereby given that application for the surrender of a minor license was filed on June 12, 1972, pursuant to section 6 of the Federal Power Act (16 U.S.C. 799) by the Interstate Power Co., located at 1000 Main Street, Dubuque, IA 52001, for the constructed Delhi Hydroelectric Project No. 2340 located on the Maquoketa River in Delaware County, Iowa, near the town of Delhi.

The project consists of a dam which includes a concrete intake section 45.2 feet long, and a concrete spillway and earth-filled section. The project further comprises a fishway; a 538-acre reservoir; a two-story brick powerhouse on a concrete substructural integral with the dam containing one 880 horsepower turbine operating under an effective head of 35 feet connected to a generator with a total capacity of 750 kilowatts; a substation; and other appurtenant facilities.

The licensee, in its application, stated that it desires to cease project operations within 6 months, and that the project cannot effectively contribute significant support to its system operation, reliability, or economy. The licensee proposes to retire from operation the complete project covered by the license. It further proposes to remove or permanently disable the electrical generating equipment and convey all of its rights, title, and interest in the real estate and remaining facilities therein, subject to the reservation of certain rights, to L. J. Schlitz and J. G. Schlitz for the price of $10,000.

The licensee's application further states that subject to Federal and State approvals, plans now include the operations of the dam as a control for elevation of the water level at Lake Delhi. Future development of the lake for recreational purposes would include the establishment of a corporation to operate and maintain the dam, and the improvement of lake facilities for residents.

Any person desiring to be heard or to make protest with reference to said application should on or before November 13, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17113 Filed 10–5–72;8:47 am]

[Docket No. E–7759]

PUBLIC SERVICE COMPANY OF COLORADO

Order Amending Suspension Order

SEPTEMBER 29, 1972.

On July 31, 1972, Public Service Company of Colorado (Colorado) filed proposed amendments to its various agreements for service to its five jurisdictional customers.[1] The Commission, in order issued August 30, 1972, said that the filing raises certain issues which may require development in an evidentiary hearing and suspended the increase until March 1, 1973.

Further analysis of Colorado's filing and accompanying cost of service indicates that the proposed increase is justified. The proposed increase, exclusive of fuel adjustment, would result in revenues from jurisdictional sales and service of $4,292,646, annually or an increase of 6.1 percent. The proposed revisions to the fuel adjustment clause would result in a decrease in total fuel adjustment for the year following the proposed effective date.

For the foregoing reasons and because each of Colorado's jurisdictional customers has already agreed to the rate increase as filed we will amend the suspension order in this proceeding and permit the rates as filed to go into effect on October 1, 1972. (49 U.S.C.A., § 15(7), Municipal Light Boards of Reading and Wakefield v. F.P.C., 450 F. 2d 1341 (D.C. Cir. 1971), cert. denied, 405 U.S. 989 (1972).)

The Commission finds: Since good cause exists and it is in the public interest to permit the rate increase as filed to go into effect, the suspension order in this proceeding should be amended and the rates permitted to go into effect as hereinafter ordered.

The Commission orders: The suspension order of August 30, 1972, in this proceeding is hereby amended and the rates filed on July 31, 1972, are permitted to go into effect on October 1, 1972.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Supplement No. 3 (Supersedes No. 2) to its FPC Rate Schedule No. 3; Supplement No. 3 (Supersedes Supplement No. 2) to its FPC Rate Schedule No. 6; Supplement No. 4 (Supersedes Supplements Nos. 2 and 3) to its FPC Rate Schedule No. 9; Supplement No. 2 (Supersedes Supplement No. 1) to its FPC Rate Schedule No. 1; Supplement No. 3 (Supersedes Supplement No. 2) to its FPC Rate Schedule No. 12.

PUBLIC SERVICE COMPANY OF COLORADO (COLORADO)

CERTIFICATION OF RATE INCREASE

With respect to the price increase granted in this instance under the Economic Stabilization Act of 1970, as amended, and revised § 300.16 of the rules and regulations of the Price Commission, 6 CFR 300 (1972), the Federal Power Commission certifies the following:

(1) The former price is set forth in Colorado's Rate Schedule FPC Nos. 3, 6, 9, 11, and 12. For the test year ending June 30, 1972, under the present rates the average revenues per kilowatt-hour for customers receiving full requirements service was 8.6 mills; for supplemental power service the average revenue per kilowatt per year was $9.81. For the test year ending June 30, 1972, under the proposed rates the average of these revenues will increase to 9 mills per kw.-hr. and $10.15 per kilowatt per year. This amounts to increases in average revenue per kw.-hr. and per kilowatt-year of 4.7 percent and 3.5 percent respectively.

(2) The proposed rates would provide an increase in revenue of $179,589 on the basis of the test year ending June 30, 1972.

(3) The increased rates would produce an increase in the company's profits for test year of $88,717. This represents 2.38 percent of sales under current rates and 0.66 percent of total sales for the test year.

(4) The increased rates would produce an increase in the company's return of $88,717. This would represent an increase in the rate of return on capital allocable to the service under current rates of 0.61 percent and an increase in the rate of return on total capital of 0.018 percent.

(5) Sufficient evidence was taken in the course of this proceeding to determine that criteria set forth in paragraphs (d) (1) through (4) of § 300.16 of the rules and regulations of the Price Commission (as in effect on January 17, 1972) have been met. The rate increase granted herein meets the criteria set forth therein.

[FR Doc.72–17115 Filed 10–5–72;8:47 am]

[Docket No. RI73–3 etc.]

MOBIL OIL CORP. AND ATLANTIC RICHFIELD CO.

Order Amending Order; Correction

SEPTEMBER 27, 1972.

In the order amending order, issued August 23, 1972, and published in the FEDERAL REGISTER August 30, 1972, F.R. 37(17586): Docket No. "RI72–240" in the first paragraph should be changed to "RI72–250".

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17114 Filed 10–5–72;8:47 am]

OFFICE OF EMERGENCY PREPAREDNESS

IOWA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92–209 (85 Stat. 742); notice is hereby given that on September 26, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Iowa from severe storms and flooding, beginning about September 9, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major disaster exists in the State of Iowa. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is herby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91–606, as amended), I hereby appoint Mr. Francis X. Tobin, Regional Director, OEP Region 7, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Iowa to have been adversely affected by this declared major disaster:

THE COUNTIES OF

Adair.	Harrison.
Adams.	Madison.
Audubon.	Mills.
Cass.	Montgomery.
Clayton.	Page.
Crawford.	Pottawattamie.
Dubuque.	Shelby.
Fremont.	Union.

Dated: October 2, 1972.

G. A. LINCOLN, *Director, Office of Emergency Preparedness.*

[FR Doc.72–17147 Filed 10–5–72;8:50 am]

PENNSYLVANIA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92–209 (85 Stat. 742); notice is hereby given that on September 28, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Pennsylvania from heavy rains and flooding, beginning about September 11, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91–606. I therefore declare that such a major dis-

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aster exists in the State of Pennsylvania. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Francis X. Carney, Regional Director, OEP Region 3, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following area in the State of Pennsylvania to have been adversely affected by this declared major disaster:

THE COUNTY OF

Indiana.

Dated: October 2, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-17148 Filed 10-5-72;8:50 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ASTRONOMY

Notice of Public Meeting

Notice is hereby given in accordance with Executive Order 11671, section 13(a) (1) and (2), dated June 5, 1972, that the Advisory Panel for Astronomy will meet at 9 a.m., on October 16 and 17, 1972, in Room 338, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and counsel concerning support for research and research-related activities in astronomy.

The topic for the entire meeting will be: Potential response of the National Science Foundation to the recommendations of the Astronomy Survey Committee of the National Academy of Sciences, in its report, "Astronomy and Astrophysics for the 1970's." The October 16 session will be devoted to presentations by Directors of NSF-funded National Observatories and by program officers of the foundation. The October 17 session will be devoted to discussion by panel members and the preparation of suggestions to NSF. The meeting will be open to the public as observers only and attendance will be limited to 10 individuals. Those persons who desire to attend should apply to Mrs. Marvis M. Rush, Room 305, 1800 G Street NW., Washington, DC 20550, or telephone (202) 632-4196.

Summary minutes of this meeting may be obtained by contacting the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director
for Administration.

OCTOBER 2, 1972.

[FR Doc.72-17201 Filed 10-5-72;8:53 am]

ADVISORY PANEL FOR CHEMISTRY

Notice of Meeting

Notice is hereby given in accordance with Executive Order 11671, section 13 (a) (1) and (2), dated June 5, 1972, that a meeting of the Advisory Panel for Chemistry will be held at 9 a.m. on October 12, 13, and 14, 1972, at 1800 G Street NW., Washington, DC 20550. The October 12 and 13 sessions will be in Room 642 and the October 14 session will be in Room 338. The purpose of this panel is to provide advice and recommendations (a) concerning support for research in chemistry; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting is as follows:

OCTOBER 12 SESSION

1. Introductory remarks by the Head, Chemistry Section, Division of Mathematical and Physical Sciences.
2. Presentation on the NSF 1973 budget by the Division Director, Division of Mathematical and Physical Sciences.
3. Presentation on the R. & D. incentives program by the Director, Office of Experimental R. & D. Incentives.
4. Comments by the Deputy Assistant Director for Research on Executive Order 11671 and the role of advisory committees and panels.
5. Presentation on the Research Management Improvement program by the Deputy Assistant Director for National and International programs.
6. Presentation on trends in molecular biology by the Head, Molecular and Biology Section, Division of Biological and Medical Sciences.
7. Discussion under the leadership of the Head, Chemistry Section, Division of Mathematical and Physical Sciences, on: (a) the Instrument Program; (b) continuing grants; (c) grant size; (d) OST data; and (e) Delphi study.

OCTOBER 13 SESSION

1. Panel discussion with the Assistant Director for Research.
2. Remainder of this session will be devoted to the review and evaluation of pending proposals.

OCTOBER 14 SESSION

This session will be devoted to the review and evaluation of pending proposals.

The meeting will be open to the public as observers only for the entire October 12 session and extending through the period covered by agenda item 1 for the October 13 session. The remaining period of the October 13 session, as well as the entire October 14 session, will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

Summary minutes relative to this meeting may be obtained by contacting the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director
for Administration.

OCTOBER 2, 1972.

[FR Doc.72-17200 Filed 10-5-72;8:53 am]

ADVISORY PANEL FOR REGULATORY BIOLOGY

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Panel for Regulatory Biology will be held at 9 a.m. on October 13 and 14, 1972, in Room 321, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

The agenda will be devoted to the review of research proposals or projects which have been assigned to the regulatory biology program to evaluate their scientific excellence, therefore, the meeting will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

Summary minutes relative to this meeting may be obtained by contacting the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director
for Administration.

OCTOBER 2, 1972.

[FR Doc.72-17202 Filed 10-5-72;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-4256 etc.]

CANADIAN OCCIDENTAL PETROLEUM LTD. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 29, 1972.

In the matter of applications of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Canadian Occidental Petroleum, Ltd	7-4256
Cavanagh Communities Corp	7-4257
Certified Corp	7-4258
Combined Communications Corp	7-4259
Commercial Alliance Corp	7-4260
Genge Industries, Inc	7-4261
Permaneer Corp	7-4263

Upon receipt of a request, on or before from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17124 Filed 10-5-72;8:48 am]

[811-1787]

EXPRESS FUND

Notice of Filing of Application

SEPTEMBER 29, 1972.

Notice is hereby given that The Express Fund (Applicant), 99 Wall Street, New York, NY 10005, registered under the Investment Company Act of 1940 (Act) as a management open-end diversified investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act by filing a notification of registration on Form N-8A on December 30, 1968. Applicant states, among other things, that on April 30, 1972, its shareholders unanimously consented to a plan of liquidation and dissolution; that Applicants outstanding securities are beneficially owned by less than 100 shareholders; that Applicant is not making and does not presently propose to make a public offering of its securities; and that on August 1, 1972, a certificate of dissolution of applicant was filed with the Secretary of State, State of Delaware.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17121 Filed 10-5-72;8:47 am]

[File No. 7-4262]

LARWIN REALTY AND MORTGAGE TRUST

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 29, 1972.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the shares of beneficial interest of the following company, which security is listed and registered on one or more other national securities exchanges:

Larwin Realty and Mortgage Trust, Shares of Beneficial Interest, $1 par value, File. No. 7-4262.

Upon receipt of a request, on or before October 15, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17123 Filed 10-5-72;8:48 am]

[812-3187]

SMC INVESTMENT CORP. AND SOUNDSCRIBER CORP.

Notice of Filing of Application

SEPTEMBER 29, 1972.

Notice is hereby given that SMC Investment Corp. (SMC), 1888 Century Park East, Century City, Los Angeles, CA 90067, a closed-end diversified management investment company registered under the Investment Company Act of 1940 (Act) and The SoundScriber Corp. (SoundScriber), Simm Lane, Newtown, Conn. 06470, a Connecticut corporation (hereinafter collectively called "Applicants"), have filed an application for an order pursuant to section 17(b) of the Act exempting from section 17(a) of the Act a proposed transaction whereby SoundScriber will acquire from SMC 200,000 shares of no par value Common Stock of SoundScriber (the Transaction Shares), and warrants (the Warrants), to purchase 150,000 authorized and unissued shares of Common Stock of SoundScriber at a warrant exercise price of $4 per share, for an aggregate purchase price of $320,000, plus fees and disbursements of special counsel of SMC.

All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants represent that pursuant to an agreement dated May 27, 1969 (Initial Agreement) between SoundScriber and SMC, SMC purchased the Transaction Shares and Warrants for an aggregate purchase price of $801,500. The Initial Agreement granted to SMC the right to require SoundScriber to register the shares purchased, the Warrants, and any shares which would be acquired through exercise of the Warrants. Applicants further represent that the Transaction Shares represent approximately 7 percent of SoundScriber's

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2,843,842 shares of Common Stock issued and outstanding. By reason of this stock ownership, SoundScriber and SMC are each affiliated persons of the other within the meaning of section 2(a)(3) of the Act. Apart from SMC's ownership of SoundScriber securities, there is no relationship between SoundScriber and SMC.

SMC has sought, since the spring of 1971, to have SoundScriber either repurchase its securities from SMC or register them for sale under the Securities Act of 1933. On December 20, 1971, SoundScriber filed a registration statement with the Commission covering the aforementioned Transaction Shares and Warrants and other of its issued and outstanding Common Stock. Subsequently, SMC sought to obtain an underwriter to market the securities, which were the subject of the registration statement, but did not conclude any satisfactory arrangements.

On May 5, 1972, SMC and SoundScriber entered into an agreement (the Repurchase Agreement) pursuant to which the proposed transaction is to be effected.

Applicants maintain that the proposed transaction is the result of arms-length negotiation, and is preferable to the public sale of the Transaction Shares. SoundScriber's management view the repurchase of the Transaction Shares and Warrants as in the best interests of SoundScriber and its shareholders because (1) SoundScriber would thereby avoid the substantial and continual expense and burden it would be contractually obligated to incur in keeping a registration statement current with respect to the Transaction Shares and the Warrants which are exercisable until May 27, 1976; (2) the proposed transaction would serve to avoid the disorderly impact in the over-the-counter market which sale of the Transaction Shares and Warrants, without an underwriting, might be expected to have; (3) the extinguishment of SMC's right to exercise the Warrants would facilitate SoundScriber's obtaining additional capital by a new offering of its securities on terms more favorable than those provided for by the Warrants; and (4) the current market price of SoundScriber's shares makes the repurchase of the Transaction Shares a sound business opportunity for SoundScriber.

SMC's management view the repurchase as in the best interests of SMC in that the purchase price of $320,000 is approximately equal to the value that the Board of Directors of SMC ascribed to the Transaction Shares and the Warrants on March 21, 1972, i.e., $300,000 and $25,500 respectively. The high and low bid prices, as reported by the National Quotation Bureau, Inc., for shares of SoundScriber's common stock on September 14, 1972 were 2 1/16 and 1 1/2, respectively. There is no public market for the Warrants.

It is represented by Applicants that, in the absence of an underwriter, the sale of a substantial block of securities may not be feasible except over a protracted period of time and may involve a discount from market. The proposed transaction is represented, therefore, to be beneficial to SMC in that it will relieve SMC of the market risks that would exist if the Transaction Shares and Warrants were to be sold over an extended period of time pursuant to a registration statement without an underwriter. Applicants also represent that the proposed transaction is consistent with the investment policies and restrictions of SMC as set forth in SMC's prospectus dated October 24, 1968.

Section 17(a) of the Act prohibits, with certain exceptions, an affiliated person of a registered investment company, or an affiliated person of such affiliated person, from selling to, or purchasing from, such registered company any security, or other property. Section 17(b) of the Act provides that the Commission, upon application, may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Notice is further given that any interested person may, not later than October 24, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally, or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after such date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17122 Filed 10-5-72;8:48 am]

SMALL BUSINESS ADMINISTRATION

FOOTHILL VENTURE CORP.

Notice of Issuance of License To Operate as Small Business Investment Company

On July 14, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 13839) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing Small Business Investment Companies (13 CFR 107.102 (1972)) for a license to operate as a small business investment company by Foothill Venture Corp., 8383 Wilshire Boulevard, Beverly Hills, CA 90211.

Interested parties were invited to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts with regard thereto, SBA has issued License No. 09/09-0161 to Foothill Venture Corp. to operate as a small business investment company.

Dated: September 28, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-17103 Filed 10-5-72;8:46 am]

TARIFF COMMISSION

[AA1921-105]

NORTHERN BLEACHED HARDWOOD KRAFT PULP FROM CANADA

Notice of Investigation and Hearing

Having received advice from the Treasury Department on September 28, 1972, that prime grade and off-grade northern bleached hardwood kraft pulp from Canada are being, or are likely to be, sold at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t. on November 20, 1972. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., not later than noon, Wednesday, November 16, 1972.

Issued: October 3, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-17146 Filed 10-5-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice 92]

ASSIGNMENT OF HEARINGS

OCTOBER 3, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 107295 Sub 560, Pre-Fab Transit Co., assigned October 30, 1972, MC 117940 Sub 68, Nationwide Carriers, Inc., Extention Champaign, Ill., assigned October 31, 1972, MC-F-11497 Pully Freight Lines—Purchase—Midwest Transport, assigned November 2, 1972, MC 116273 Sub 149, D & L Transport, Inc., assigned November 6, 1972, MC 107498 Sub 827, Ruan Transport Corp., MC 108449 Sub 334, Indianhead Truck Line, Inc., MC 124078 Sub 510, Schwerman Trucking Co., and MC 124813 Sub 96, Umthun Trucking Co., assigned November 8, 1972, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. 35563, Abiti Corporation-V-Aberdeen and Rockfish Railroad Co., et al., now assigned December 4, 1972, at Washington, D.C., is canceled. The complaint has been withdrawn.

I & S No. 8707, Refrigeration Provisions, Florida East Coast Railway, and I & S No. 8720, Icing Services, U.S. Railroads, now assigned October 10, 1972, at Los Angeles, Calif., is postponed to November 27, 1972, at Los Angeles, Calif., in a hearing room to be later designated.

FD 26583, Detroit and Toledo Shore Line Railroad petition for joint use of terminal facilities at Trenton, Mich., assigned October 30, 1972, at Toledo, Ohio, will be held in Room 418, Federal Office Building, 234 Summit Street.

MC-107496 Sub 839, Ruan Transport Corp., MC-108449 Sub 337, Indianhead Truck Line, Inc., MC-124078 Sub 518, Schwerman Trucking Co., now assigned October 30, 1972, MC-113855 Sub 254, International Transport, Inc., now assigned November 2, 1972, MC-105501 Sub 6, Terminal Warehouse Co., a corporation, now assigned November 3, 1972, MC-118806 Sub 23, Arnold Bros., Transport, LTD., now assigned November 6, 1972, MC-114211 Sub 168, Warren Transport, Inc., now assigned November 6, 1972, will be held in Judge Larsen's Courtroom No. 4, 730 Federal Court Building, 316 Robert Street, St. Paul, MN.

MC 113843 Sub 180, Refrigerated Food Express, Inc., assigned November 1, 1972, MC-F-11586, Aero Trucking, Inc.—Purchase (Portion)—Kenyon Motor Express, Inc., MC 60014 Sub 31, Aero Trucking, Inc., assigned November 6, 1972, at Columbus, Ohio, will be held in Room 2, State Office Building, 65 South Front Street, Columbus, OH.

MC 136109, Hetem Bros., Inc., now assigned continued hearing October 17, 1972, is postponed to January 16, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 60186 Sub 44, Nelson Freightways, Inc., application is dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17162 Filed 10-5-72;8:51 am]

[Notice 136]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73831. By order of September 22, 1972, the Motor Carrier Board approved the transfer to Harold's Garage, Inc., 19 Holyoke Street, Northampton, MA, of the operating rights in Certificate No. MC-117852 issued May 11, 1959, to Harold F. Willard, doing business as Harold's Garage, 19 Holyoke Street, Northampton, MA 01060, authorizing the transportation of wrecked, disabled, or damaged automobiles, buses, trucks, semitrailers, tractors, or trailers (except housetrailers designed to be drawn by passenger automobiles), by use of wreckers only, between points in Berkshire, Franklin, Hampshire, and Hampden Counties, Mass., on the one hand, and on the other, points in Connecticut, New Hampshire, New Jersey, New York, and Vermont.

No. MC-FC-73843. By order of September 22, 1972, the Motor Carrier Board approved the transfer to Interstate Express, Inc., Houston, Mo., of the operating rights in Certificate No. MC-134724 (Sub-No. 4) issued April 18, 1972, to Teddy D. Clark, doing business as Big Rig Refrigeration, Centerville, Iowa, authorizing the transportation of meats, meat products, and meat byproducts and articles distributed by meat packing houses as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of John Morrell & Co., at Ottumwa, Iowa, to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia. Maurice W. Covert, 109 North Grand Street, Houston, MO 65483, attorney for applicants.

No. MC-FC-73859. By order of September 21, 1972, the Motor Carrier Board approved the transfer to Gary Ramsey and Kennis Jones, a partnership, doing business as Sneedville Freight Line, Sneedville, Tenn., of Certificate of Registration No. MC-96930 (Sub-No. 1) issued November 23, 1971, to Dean Jones and Kenny Winstead, a partnership, doing business as Sneedville Freight Line, Sneedville, Tenn., evidencing a right to engage in transportation in interstate commerce as described in certificates No. 965, dated August 20, 1951, and No. 965-A, dated October 23, 1956, transferred by order dated February 26, 1971, issued by the Tennessee Public Service Commission. Howard W. Rhea, Main Street, Sneedville, Tenn. 37869, attorney for applicants.

No. MC-FC-73888. By order of September 25, 1972, the Motor Carrier Board approved the transfer to Charles P. Fagan, doing business as Fagan Moving and Storage Co., 5300 North 10th Street, Philadelphia, PA 19141, of the operating rights in Certificate No. MC-64481 issued January 13, 1941, to James J. Fagan, 5300 North 10th Street, Philadelphia, PA 19141, authorizing the transportation of overcoats, over a regular route, between Philadelphia, Pa., and West Point, N.Y., and household goods, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia.

No. MC-FC-73925. By order of September 25, 1972, the Motor Carrier Board approved the transfer to Greene Coach Co., Inc., Greeneville, Tenn., of the operating rights in certificate No. MC-8738 issued November 5, 1942, to Prince Howard Patrick, doing business as Washington County Bus Line, Johnson City, Tenn., authorizing the transportation of passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, over regular routes, between Johnson City, Tenn. and Kingsport, Tenn. Robert L.

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Baker, 300 James Robertson Parkway, Nashville, TN 37201, attorney for applicants.

No. MC-FC-73939. By order entered September 25, 1972, the Motor Carrier Board approved the transfer to Norberto J. Caravelli and William C. Olson, doing business as B. C. Transportation Co., Sierra Madre, Calif., of the operating rights set forth in permit No. MC-108869, issued April 12, 1966, as amended June 14, 1967, in the name of Weber Truck and Warehouse, Vernon, Calif., authorizing the transportation of uncrated commercial equipment, furniture, and fixtures for use in restaurants, bars, cocktail lounges, hotels, schools, and institutions, between points in Los Angeles County, Calif., on the one hand, and, on the other, points in Arizona and Nevada; and uncrated equipment, furniture, and fixtures for restaurants, bars, cocktail lounges, hotels, schools, and institutions, between points in Los Angeles County, Calif., on the one hand, and, on the other, points in New Mexico, with certain restrictions. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, representative for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17163 Filed 10-5-72;8:51 am]

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federal register

FRIDAY, OCTOBER 6, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 195

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

Modifications and/or supersedeas decisions to area wage determination decisions for specified localities in the States of Arizona, Arkansas, California, Connecticut, Florida, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Nevada, Oklahoma, Pennsylvania, Texas, and Washington.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-1,594(AP-433); AM-1,595 (AP-434).	Aug. 6, 1971.
AM-451; AM-1,849(AP-429); AM-1,857(AP-430).	Aug. 20, 1971.
AM-5,968; AM-5,972	Dec. 17, 1971.
AM-5,969	Jan. 7, 1972.
AM-6,707	Mar. 10, 1972.
AM-9,692(AP-432)	Apr. 14, 1972.
AM-9,693(AP-431)	Apr. 21, 1972.
AM-8,603(AP-25); AM-8,604 (AP-26); AM-8,605(AP-27).	Apr. 28, 1972.
AM-9,695(AP-122); AM-9,696 (AP-121).	May 5, 1972.
AM-11,424	June 16, 1972.
AP-302; AP-303	July 28, 1972.
AP-410	Aug. 4, 1972.
AP-9(AP-24); AP-212; AP-214; AP-308.	Aug. 11, 1972.
AP-221; AP-223; AP-311; AP-312.	Aug. 18, 1972.
AP-224; AP-313; AP-314; AP-315; AP-316; AP-318; AP-319.	Aug. 25, 1972.
AP-415	Sept. 1, 1972.
AP-236; AP-243	Sept. 22, 1972.

Are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified and/or superseded were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

Signed at Washington, D.C., this 29th day of September 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-224 - Mod. #2 (37 FR 17321 - August 25, 1972) San Deigo County, California						
Changes:						
Bricklayers	$7.95	.58	.75		.05	
Brick Tenders	5.96	.30	.45	.40		
Glaziers	9.05	.35	.30			
Lathers (Northern portion of San Diego County from Center of City of Del Mar)	7.67	.30	.75	.50		
Plasterers	8.10	.45	.55			
Soft Floor Layers	7.45	.45	.30	.50	.05	
DECISION #AM-451 - Mod. #6 (36 FR 16367 - August 20, 1971) Brevard and Volusia Counties, Florida. (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only).						
Changes:						
Building Construction:						
Boilermakers, blacksmiths	$6.85	.40	.60		.01	
Carpenters:						
Millwrights	6.24	.30	.45			
Ironworkers:						
Structural, finishers, burners, rodmen, welders, riggers, machinery movers	6.30	.30	.25	.43	.01	
Sheeters	6.30	.30	.25	.43	.01	
Laborers:						
Common laborers	4.05	.20	.20		.01	
Hod carriers	4.20	.20	.20		.01	
Kettlemen	4.20	.20	.20		.01	
Mason tenders	4.20	.20	.20		.01	
Mortar mixers	4.20	.20	.20		.01	
Pipelayers (conc. & clay)	4.20	.20	.20		.01	
Plasterers tenders	4.20	.20	.20		.01	
Nozzlemen (handling the nozzle of cement gun)	4.87	.20	.20		.01	
Well point and dewatering	4.20	.20	.20		.01	
Air tool op. (vibrator)	4.20	.20	.20		.01	
Powdermen	4.20	.20	.20		.01	
Paving form setters	4.20	.20	.20		.01	
Curb & gutter form setters	4.20	.20	.20		.01	
Sidewalk	4.20	.20	.20		.01	
Concrete workers	4.20	.20	.20		.01	
Sheet metal workers	8.60	.30	.25		.05	
Sprinkler fitters	8.25	.25	.40		.07	

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-271 - Mod. #1 (37 FR 16737 - August 18, 1972) Maricopa County, Arizona						
Change:						
Electricians						
Zone A	8.95	.30	1% + .60		1/2%	
Zone B	10.60	.30	1% + .60		1/2%	
Zone C	11.43	.30	1% + .60		1/2%	
DECISION #AP-223 - Mod. #1 (37 FR 16750 - August 18, 1972) Statewide, Arizona						
Changes:						
Electricians (Phoenix-Kingman-Prescott Area):						
Electricians						
Zone A	$ 8.95	.30	1% + .60		1/2%	
Zone B	10.60	.30	1% + .60		1/2%	
Zone C	11.43	.30	1% + .60		1/2%	
Cable Splicers						
Zone A	9.36	.30	1% + .60		1/2%	
Zone B	11.10	.30	1% + .60		1/2%	
Zone C	11.97	.30	1% + .60		1/2%	
Electricians (Tucson Area):						
Electrician						
Zone A	9.25	.30	1%		1/2%	
Zone B	9.95	.30	1%		1/2%	
Zone C	10.55	.30	1%		1/2%	
Zone D	11.25	.30	1%		1/2%	
Cable Splicers						
Zone A	9.50	.30	1%		1/2%	
Zone B	10.20	.30	1%		1/2%	
Zone C	10.80	.30	1%		1/2%	
Zone D	11.50	.30	1%		1/2%	
DECISION #AP-319 - Mod. #1 (37 FR 17303 - August 25, 1972) Union County, Arkansas						
Changes:						
Plumbers - Pipefitters	$7.10	.30	.30	.05		
Bricklayers	6.35					

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MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-212 -Mod. #1 (37 FR 16330 - August 11, 1972) Linn County (City of Cedar Rapids and abutting municipalities), Iowa						
Change Building Construction:						
Boilermakers	$8.25	.30	1.00		.02	
Carpenters	6.84	.25			.02	
Millwrights; Piledriverman	7.19	.25			.02	
Cement masons	6.88	.21				
Ironworkers: Ornamental; Reinforcing; Structural	7.80					
Laborers:						
Common laborers	5.64	.15	.15			
All water service & sewer tile layers; Mason mortar makers	5.765	.15	.15			
Air, electric or gasoline powered jackhammers; Chipping hammers; Machine rock drills; Power driven buggies; Tampers; Vibrators; Well point work	5.84	.15	.15			
Plasterers	7.28					
Soft floor layers	6.84	.25			.02	
Truck drivers	5.64					
Omit:						
Boilermakers' helpers	7.55	.30	.85		.02	

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-214 - Mod. #1 (37 FR 16334 - August 11, 1972) Polk County (City of Des Moines and abutting municipalities), Iowa						
Change Building Construction:						
Asbestos workers	$7.95	.425	.25			
Boilermakers	8.25	.30	1.00		.02	
Carpenters	7.00	.25	.20		.04	
Millwrights; Piledrivermen	7.25	.25	.20		.04	
Ironworkers: Ornamental;Reinforcing; Structural	6.975	.26	.50		.02	
Laborers:						
General laborers	6.185	.275	.275			
Mortar mixers; Motor buggies, when pouring concrete; Power tool ops. (Air tools, concrete vibrator, gunnite, nozzlemen, electric drills & hammers)	6.285	.275	.275			
Plaster tenders	6.31	.275	.275			
Powdermen	6.335	.275	.275			
Air tool, power tampers & other similar self-powered tools weighing 50 lbs. & over	6.385	.275	.275			
All tunnel work	6.435	.275	.275			
Paving breakers weighing 50 lbs. & over	6.485	.275	.275			
Plasterers	7.35					
Roofers	6.885					
Omit:						
Boilermakers' helpers	7.55	.30	.85		.02	

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-11,424 - Mod. #4 (37 FR 12038 - June 16, 1972) East Baton Rouge Parish, Louisiana						
Change:						
Roofers:						
Roofers	$5.685	.25	.20		.01	
Roofers helpers	4.285	.25	.20		.01	
DECISION #AP-302 - Mod. #3 (37 FR 15225 - July 28, 1972) Calcasieu Parish, Louisiana						
Change:						
Cement Masons	$6.07					
Plasterers	6.49					
DECISION #AP-303 - Mod. #3 (37 FR 15227 - July 28, 1972) Calcasieu Parish, Louisiana						
Change:						
Cement Masons	$6.07					
Plasterers	6.49					
DECISION #AP-311 - Mod. #2 (37 FR 16776 - August 18, 1972) Caddo & Bossier Parishes, Louisiana						
Change:						
Cement Masons:						
Cement Masons	$5.85					
Trowelling Machine Operator	6.10					
DECISION #AP-318 - Mod. #1 (37 FR 17306 - August 25, 1972) Caddo & Bossier Parishes, Louisiana						
Change:						
Cement Masons:						
Cement Masons	$5.85					
Trowelling Machine Operator	6.10					

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-410 - Mod. #3 (37 FR 15283 - August 4, 1972) Baltimore City and County, Maryland						
Change:						
Bricklayers, marble setters & stonemasons	$8.55	.40	.40		.12	
Tile & terrazzo workers	6.94	.125	.40		.04	
DECISION #AP-236 - Mod. #1 (37 FR 19919 - September 22, 1972) Statewide (excluding the Nevada Test Site & Tonopah Test Range), Nevada						
Change:						
Painters:						
Clark, Esmeralda, Lincoln, Nye (So. of Manhattan)						
Brush	7.23	.32	.25	1.00	.02	
Structural Steel	7.48	.32	.25	1.00	.02	
Structural Steel (spray)	7.63	.32	.25	1.00	.02	
DECISION #AP-243 - Mod. #1 (37 FR 19945 - September 22, 1972) Clark & Lincoln Counties & that portion of Nye County south of Highway #6 excluding the Nevada Test Site, Nevada						
Change:						
Glaziers	9.35				.01	
Painters:						
Brush and Roller	7.23	.32	.25	1.00	.02	
Structural Steel; Tapers; Finishers; Paperhangers	7.48	.32	.25	1.00	.02	
Structural Steel (spray)	7.63	.32	.26	1.00	.02	

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DECISION #AP-415 - Mod. #2
(37 FR 17919 - September 1, 1972)
Hampden County, Massachusetts

MODIFICATIONS P. 7

Change:
Power Equipment Operators' Schedule
(Heavy & Highway)

MASS-2-PEO-2-3-H 1-2

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Grader-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine.	$7.70	.35	.50	a	.05	
Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (struck load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console.	7.50	.35	.50	a	.05	
Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tireman, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck, Self-Propelled Hydraulic Cranes-up to 10 ton.	7.30	.35	.50	a	.05	
Asphalt Roller-up to 10 ton.	7.00	.35	.50	a	.05	

DECISION #AP-415 (cont'd.)

MODIFICATIONS P. 8

MASS-2-PEO-2-3-H 2-2

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.	$6.60	.35	.50	a	.05	
Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil.	6.23	.35	.50	a	.05	
Compressor (up to 315 cu. Ft.), Small Mixers with skip, Oiler, Pumps up to 4", Crease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hyoro Broom, Parts Man (in repair shop), Power Safety Boat.	5.65	.35	.50	a	.05	

Footnotes:
a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving and Christmas Day.

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-308 - Mod. #4 (37 FR 16354 - August 11, 1972) Oklahoma County, Oklahoma Change: Ironworkers: Structural, Ornamental, Reinforcing	$7.44	.30	.25		.04	
DECISION #AP-316 - Mod. #1 (37 FR 17358 - August 25, 1972) Tulsa County, Oklahoma Change: Ironworkers: Structural; Ornamental; Reinforcing	$7.44	.30	.25		.04	
Painters:						
Brush	6.05		.25	.20	.02	
High work & stage	6.45		.25	.20	.02	
Spray & sandblasting	6.70		.25	.20	.02	
Hot or bituminous	7.35		.25	.20	.02	
Sheetrock handtools	6.05		.25	.20	.02	
Sheetrock power tools	6.40		.25	.20	.02	
Hazardous work	8.25		.25	.20	.02	

MODIFICATIONS P. 10

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-5,968 - Mod. #5 (37 FR 24028 - December 17, 1971) Armstrong, Blair, Crawford, Indiana, McKean, Venango, and Warren Counties, Pennsylvania Change: Modification #3-37 FR 19894 - September 22, 1972 to read Modification #4						
DECISION #AM-5,969 - Mod. #4 (37 FR 244 - January 7, 1972) Centre, Clearfield, Jefferson and Green Counties, Pennsylvania Change: Modification #2-37 FR 19894 - September 22, 1972 to read Modification #3						
DECISION #AM-5,972 - Mod. #4 (36 FR 24031 - December 17, 1971) Beaver County, Pennsylvania Change: Modification #2-37 FR 19894 - September 22, 1972 to read Modification #3						

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MODIFICATIONS P. 11

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others 1/
DECISION #AP-312 - Mod. #4						
(37 FR 16716 - August 18, 1972)						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties, Texas						
Change:						
Building Construction:						
Carpenters:						
Carpenters:						
Hansford, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree and Roberts Counties	$6.40					
Millwrights:						
Hansford, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree and Roberts Counties	6.65					
Omit:						
Building Construction:						
Bricklayers & Stonemasons:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hartley, Hemphill, Moore, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties	6.55					
Hansford, Hutchinson, Lipscomb and Ochiltree Counties	5.15					
Add:						
Building Construction:						
Bricklayers & Stonemasons	6.55					

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others 1/
DECISION #AP-313 - Mod. #3						
(37 FR 17361 - August 25, 1972)						
Lubbock County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	$6.225	.25	.40		.10	
All ironworkers on jobs (30) miles or more from the City of Lubbock	6.35	.25	.40		.10	
Power Equipment Operators:						
Heavy Equipment Operators						
Drilling machine (all types); Scoopmobile; Hoists, two drums or more; Winch truck; Six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cu. ft. or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-to; Paving Mixers (all types); Piledrivers; Mobile concrete mixers, over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and pulls; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressor & one pump; Pump, three or more; Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic	6.05	.30	.50		.05	

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others 1/
DECISION #AP-313 (CONT'D)						
Power Equipment Operators (Cont'd):						
Light Equipment Operators						
Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators Building; Form graders; Hoist, single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machines, gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment; Ford tractor or like with any attachment (except backhoe)	$5.65	.30	.50		.05	
Oiler (all types)	4.75	.30	.50		.05	
DECISION #AP-314 - Mod. #3						
(37 FR 17364 - August 25, 1972)						
Jefferson & Orange Counties, Texas						
Change:						
Bricklayers; Stonemasons	7.65	.275	.30		.04	
DECISION #AP-315 - Mod. #3						
(37 FR 17366 - August 25, 1972)						
Jefferson & Orange Counties, Texas						
Change:						
Bricklayers; Stonemasons	7.65	.275	.30		.04	

MODIFICATIONS P. 14

	Basic hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others 1/
DECISION #AM-6,767 - Mod. #2						
(37 FR 5199 - March 10, 1972)						
Clallam-Grays Harbor-Island-Jefferson-King-Kitsap-Lewis-Mason-Pierce-San Juan-Skagit-Snohomish-Thurston and Whatcom Counties, Washington						
Change:						
Bricklayers; Stonemasons:						
Pierce County	7.94	.40	.35		.02	
Cement Masons:						
Lewis-S 1/2 of Mason-Pierce-Thurston-City of Auburn in King County	6.70	.40	.50		.02	
Plasterers:						
Lewis-Mason-Pierce-Thurston Cos.	6.75	.40	.50		.02	
Marble; Tile and Terrazzo Workers:						
Lewis-Mason-Thurston Counties	7.63	.40	.30		.02	

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SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: New Haven
DECISION NO.: AP-431 DATE: Date of Publication
Supersedes Decision No. AM-9,693, dated April 21, 1972, in 36 FR 14560.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Asbestos workers	$8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers marble setters, plasterers, stonemasons terrazzo workers, tile setters (Building only):						
Milford-Devon	8.47	.20	.40			
Ansonia-Derby	7.40	.35	.25			
Meriden	8.50	.15	.40			
Beacon Falls-Middlebury-Mixville-Naugatuck-Prospect-Waterbury-Marion Wolcott-Thomaston, Woodbury	8.05	.25	.40			
Remainder of County	8.52	.35+.15	.50			
Bricklayers, cement masons, finishers, Stonemasons (Heavy & Highway only)						
Milford	7.65	.40	.25	j		
Remainder of County	7.60	.40	.25	j		
Carpenters, soft floor layers, piledrivermen: (Building only)						
Ansonia-Seymour-Derby-Orange	7.75	.45	.20	k		
Milford	8.15	.25	.35	g		
Wallingford, Meriden	8.12	.35	.20			
Cheshire-Middlesbury-Prospect-Southbury-Waterbury-Wolcott-Beacon Falls-Naugatuck	8.05	.40	.20	h	.01	
Remainder of County	7.45	.40	.20			
Carpenters, Piledrivermen (Heavy & Highway only)	8.30	.35	.20	j	.03	
Electricians:						
Beacon Falls-Middlebury-Naugatuck-Oxford-Prospect-Seymour-Southbury-Waterbury-Wolcott	8.30	.25	1%+.20		1/8 of 1%	
Milford	7.75	.23	1%+.20		½ of 1%	
Remainder of County	8.40	.40	1%+.20		.5%	
Elevator Constructors	8.02	.195	.20	½%+a&b	.005	
Elevator Constructors' helpers	5.61	.195	.20	½%+a&b	.005	
Elevator Constructors' helpers (Prob.)	4.01					
Glaziers	5.30	.125	.125			
Glaziers (Wallingford):	8.01	.47	.32			
Ironworkers:						
Structural, Ornamental & Reinforcing	9.30	.45	.44		.04	

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5-CONN.-1-2-3 0 2 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
Laborers: (Building only)						
Laborers, Pnumatic-gas-electric tool op., concrete saw, mason tenders, mortar mixers, pipelayers, (concrete & clay, plasterers tenders, power buggy, wrecker: Milford-Devon	$6.85	.15	.15			
Remainder of County:						
Laborers, carpenters' tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipe layers, plasterers' tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops., and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers (hvy. & hwy. only):	6.00	.30	.25		.05	
Laborers						
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators & Block pavers	6.50	.30	.25		.05	
rammers, curb setters	6.75	.30	.25		.05	
Powdermen and blasters						
Lathers:						
Beacon Falls-Bethany-Cheshire-Meriden-Middlebury-Naugatuck-Oxford-Prospect-Southbury-Waterbury-Wolcott	8.75	.25	.15		.01	
Remainder of County	8.52	.14	.20		.01	
Lead Burners	7.80	.30		c	.01	
Line Construction:						
Milford						
Linemen, cable splicers, dynamitemen	6.11	.15	1%	d		
Digger, equipment operators	5.21	.15	1%	d		
Truck Drivers	4.99	.15	1%	d		
Cable splicers' helpers	4.85	.15	1%	d		
Groundmen	4.39	.15	1%	d		
Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, Wolcott:						
Lineman, Dynamiteman	5.18	.15	1%	e	½ of 1%	
Equipment operator	4.37	.15	1%	e	¼ of 1%	

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Groundman, experienced	3.41	.15	1%	e	¼ of 1%
Groundman, inexperienced	2.98	.15	1%	e	¼ of 1%
Remainder of County:					
Linemen, dynamiteman	5.18	.10	1%	e	
Equipment operator	4.37	.10	1%	e	
Groundman, truckdriver	3.85	.10	1%	e	
Groundman, experienced	3.41	.10	1%	e	
Groundman, inexperienced	2.98	.10	1%	e	
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers	7.50	.25	.15		
Painters:					
Brush:					
Ansonia-Beacon Falls-Derby-Oxford-Seymour	4.75	.12		f	
Milford (Remainder of Township)	7.00	.25	.25	f	
Cheshire-Guilford-Madison-Meriden-Wallingford	7.25	.50	.20		
Milford (up to Gulf Street)	6.40	.25	.25		
Remainder of County	6.40	.25	.25		
Structural Steel:					
Ansonia-Beacon Falls-Derby-Oxford-Seymour	5.75	.12		f	
Milford	8.00	.25	.25	f	
Spray:					
Ansonia-Beacon Falls-Derby-Oxford-Seymour	5.75	.12		f	
Cheshire-Guilford-Madison-Meriden-Wallingford	10.875	.50	.20		
Milford (up to Gulf Street)	9.15	.25	.25		
Remainder of County	9.15	.25	.25		
Commercial & Industrial:					
Middlebury-Naugatuck-Prospect-Roxbury-Southbury-Waterbury-Wolcott	6.00	.25	.25		
Bridge:					
Cheshire-Guilford-Madison-Meriden-Wallingford	8.50	.50	.20		
Plumbers & Steamfitters:					
Milford	8.60	.25	.20		.01
Ansonia-Beacon Falls-Bethany-Naugatuck-Oxford-Prospect-Seymour	9.15	.35	.30	2%	.02
Middlebury-Southbury-Waterbury-Wolcott-South Britain	7.97	.48	.30		.05
Cheshire-Meridan-Wallingford	9.00	.40	.75	l	
Remainder of County	7.55	.40	.30	m	
Roofers:					
Cheshire-Meriden-Prospect-Wallingford Wolcott:					
Compesition	7.55	.325	.35	.30	
Composition, Helpers, Class A	6.975	.325	.35	.30	
Composition, Helpers, Class B	3.50	.325	.35	.30	
Slate & Tile	8.05	.325	.35	.30	

AP-431 P. 4

5- CONN. - 1-2-3 0 4 of 4

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Remainder of County:						
Composition, Kettlemen	$8.50	.60	.30			
Slate-Tile	8.75	.60	.30			
Precast slab	9.00	.60	.30			
Precast slab helper	8.25	.60	.30			
Precast slate helpers	7.75	.60	.30			
Sheet metal workers	8.45	.50	.36		.02	
Sprinkler Fitters	8.00	.25	.40		.05	
Waterproofers:						
Cheshire-Meriden-Prospect-Wallingford-Wolcott	7.55	.325	.35	.30		
Remainder of County	8.50	.60	.30			
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Paid holidays: A through F.

c. Paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the Holiday, and the regular scheduled days immediately preceding and following the holiday.

d. Paid holidays: A and D through F and Good Friday, provided the employee is available for work the days preceding and following the holiday.

e. Paid holidays: A through F, and Good Friday, provided the employee has been employed for at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

f. Paid holidays: C & D; providing the employee works the day before and the day after the holiday.

g. Paid holidays: B through D, plus Good Friday, provided the employee has been employed 14 consecutive days immediately prior to the holiday.

h. Paid holidays: B through E.

j. Paid holidays: A through F plus Good Friday.

k. Paid holidays: C, D and E.

L. Paid holiday: Labor Day

M. Paid holiday: "D"

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POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintennace engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ¾ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Grader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (not over 4 ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						

Paid Holidays (Where applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

AP-431 P. 6 SW-CONH-2-3-T

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ¾ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, combination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power payement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

AP-431 P. 7 SU-CONH-1-2-3- E

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION:	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.
Truck Drivers:					
Two axle trucks	$4.70	a	b	c	
Three axle trucks	4.80	a	b	c	
Four axle trucks	4.90	a	b	c	
Two axle ready-mix	4.80	a	b	c	
Three axle ready-mix	4.85	a	b	c	
Four axle ready-mix	4.95	a	b	c	
Heavy duty trailer - to 40 tons	4.85	a	b	c	
Heavy duty trailer - over 40 tons	5.00	a	b	c	
Helpers	4.70	a	b	c	
Specialized earth moving equipment	4.95	a	b	c	

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

XUM 27 9700 3V3-1165

SUPERSEDEAS DECISION

STATE: Connecticut
COUNTY: Hartford
DECISION NO.: AP-432
DATE: Date of Publication
Supersedes Decision No. AM-9,692, dated April 14, 1972, in 36 FR 14548.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos workers:						
East Granby-Enfield-Granby-Hartland-Suffield-Windsor Locks	$7.60	.34	.15		.01	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, Cement masons-Finishers, Marble setters, Plasterers, Stonemasons, Terrazzo workers, tile setters (Building only)						
Bristol-Plainville	8.60	.20	2%+.40			
Marion-Canton	8.05	.20	.40			
Berlin-Kensington-New Britain-Newington Plantsville- Southington	8.50	.15	.40			
Remainder of County	8.70	.40	.25			
Bricklayers, Cement Masons, Finishers & Stonemasons (Heavy and Highway):	7.70	.35	.15	h		
Carpenters & Piledrivermen (Heavy and Highway):	8.30	.35	.20	h	.03	
Carpenters, Soft Floor Layers, Piledrivermen: (Building Only):						
Burlington	8.25	.40	.20	a		
Bristol-Plainville-Canton-Berlin-E. Berlin-Kingston-Newington-New Britain-Milldale-Marion-Plantsville	8.12	.35	.20			
Southington	8.05	.40	.20	g	.02	
Remainder of County	8.12	.35	.20		.01	
Electricians:						
Berlin-Bristol-New Britain-Plainville-Southington-Newington	8.50	.35	1%+.30		½ of 1%	
Hartland	7.80	.25	1%+.20		1/8 of 1%	
Suffield Township-Thompsonville Village	6.90	.20	1%+.15		b	
Remainder of County	8.35	.40	1%+.20		½%	
Elevator constructors	8.02	.195	.20	½%+c+d	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+c+d	.005	
Elevator constructors',helpers (prob.)	4.01					
Glaziers; Outside	8.01	.47	.32			
Ironworkers:						
Structural, ornamental, reinforcing	9.30	.45	.44		.04	
Laborers (Building)						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., masons tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	6.25	.30	.25		.05	

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Laborers (Building): (Cont'd)						
Air track operators, wagon drill ops. and sandblasters	$ 6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers (Heavy and Highway):						
Laborers	6.00	.30	.25		.05	
Asphalt Rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators, block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Bristol-Southington	8.75	.25	.15		.01	
Enfield-Suffield-Thompsonville-Windsor-Warehouse Pt. Broadbrook-Melrose-Hazardville	7.60	.45	.25			
Remainder of County	9.15	.25	.30		.01	
Lead burners	7.80	.30		e	.01	
Line Construction:						
Hartland Township:						
Linemen & dynamitemen	5.18	.15	1%	f	½ of 1%	
Groundman-truck driver	3.85	.15	1%	f	½ of 1%	
Groundman-experienced	3.41	.15	1%	f	½ of 1%	
Groundman-inexperienced	2.98	.15	1%	f	½ of 1%	
Equipment operator	4.37	.15	1%	f	½ of 1%	
Remainder of County:						
Linemen & dynamitemen	5.18	.10	1%	f		
Groundman-truck driver	3.85	.10	1%	f		
Groundman-experienced	3.41	.10	1%	f		
Groundman-inexperienced	2.98	.10	1%	f		
Equipment operator	4.37	.10	1%	f		
Marble & tile setters'& terrazzo workers' helpers	7.50	.25	.15			
Millwrights:						
Bristol-Plainville-Canton	8.12	.35	.20			

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	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Painters:						
Berlin-Bristol-Burlington-Hartland-New Britain-Newington-Plainville-Southington-Kensington-Forestville-E. Berlin-Milldale-Plantsville-Unionville:						
Brush	7.25	.50	.20			
Bridge	8.50	.50	.20			
Spray	10.875	.50	.20			
Remainder of County:						
Brush	7.50	.20	.20			
Spray	11.25	.20	.20			
Piledrivermen: (Building only):						
Marlboro	8.12	.35	.20			
Plumbers:						
Southington	9.00	.40	.75	i		
Berlin-Bristol-New Britain-Plainville-E. Berlin-Kensington-Newington-Farmington	9.05	.30	.30			
Remainder of County	8.65	5%	5%		.15	
Roofers:						
Composition	7.55	.325	.35	.30		
Composition Helper - Class A	6.975	.325	.35	.30		
Composition Helper - Class B	3.50	.325	.35	.30		
Slate, Tile, Precast Concrete	8.05	.325	.35	.30		
Sheet Metal Workers	8.45	.50	.36		.02	
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters:						
Southington	6.00	.15	.20			
Berlin-Bristol-New Britain-Plainville	9.05	.30	.30			
Remainder of County	8.34	.50	.30		.05	
Waterproofers	7.55	.325	.35	.30		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where applicable) A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Paid holidays: C, D, and E.
b. $.15 per man per week.
c. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
d. Holidays: A through F. and Christmas Eve
e. Holidays: A through F, Washington's Birthday and Good Friday, provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days preceding & following the holiday.
f. Holidays: A through F, & Good Friday, provided the employee has been employed for at least 10 working days prior to the holiday & is available for work the day before and after the holiday.
g. Paid Holidays: B through E.
h. Paid Holidays: A through F and Good Friday.
i. Paid Holiday: D.

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SW-CONN-1-P

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintennace engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Grader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (not over 4 ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Thanksgiving Day; E-Christmas Day						
FOOTNOTE:						
e. Employer contributes $.15 to Supplemental Unemployment Fund.						
b. Seven (7) paid holidays: A through F and Good Friday.						

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power payement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	C
Truck Drivers:						
Two axle trucks	$4.70	a	b	c		
Three axle trucks	4.80	a	b	c		
Four axle trucks	4.90	a	b	c		
Two axle ready-mix	4.80	a	b	c		
Three axle ready-mix	4.85	a	b	c		
Four axle ready-mix	4.95	a	b	c		
Heavy duty trailer - to 40 tons	4.85	a	b	c		
Heavy duty trailer - over 40 tons	5.00	a	b	c		
Helpers	4.70	a	b	c		
Specialized earth moving equipment	4.95	a	b	c		

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: New London
DECISION NO.: AP-433 DATE: Date of Publication
Supersedes Decision No. AM-1,594 dated August 6, 1971, in 36 FR 14564.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartemnts up to and including 4 stories)& heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos Workers:						
Griswold, Ledyard, Lisbon, North Stonington, Preston, Stonington, Voluntown	$8.70	.39	.35		.005	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers, marble setters, plasterers, stone masons, terrazzo workers, tile setters (Building Only):						
Norwich	8.00	.17	.15			
Remainder of County	8.40	.40	.25			
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers: (Building Only)	7.50	.25	.15			
Bricklayers, cement masons-finishers, stonemasons (Heavy and Highway Only)	7.60	.40	.25	f		
Carpenters & piledrivermen (Heavy and Highway Only)	8.30	.35	.20	f	.03	
Carpenters, soft floor layers, Piledrivermen: (Building Only)						
Township of Stonington	7.975	.25	.25			
Remainder of County	8.05	.50	.30	.25	.005	
Electricians:						
East Lyme, Groton, Lyme, New London, Old Lyme, Waterford	8.40	.40	1%+.20		.5%	
Remainder of County	8.35	.40	1%+.20		½%	
Cable splicers:						
East Lyme, Groton, Lyme, New London, Old Lyme, Waterford	5.55	.15	1%+.20		.5%	
Elevator constructors	8.02	.195	.20	½%+b+c	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+b+c	.005	
Elevator constructors' helpers (prob.)	4.01					
Glaziers (Outside)	8.01	.47	.32			
Ironworkers; Str., Orn. and Reinf.	9.30	.45	.44		.04	
Laborers (Building)						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops., and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Laborers: (Heavy & Highway Only)						
Laborers	6.00	.30	.25		.05	
Asphalt Rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, mason tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators	6.50	.30	.25		.05	
Block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Groton	7.40	.45	.50		.01	
Remainder of County	8.70	.20	.30		.01	
Lead burners	7.80	.30		d	.01	
Line Construction:						
Lineman, dynamite man	5.18	.10	1%	e		
Equipment operators	4.37	.10	1%	e		
Groundman, truck driver	3.85	.10	1%	e		
Groundman, experienced	3.41	.10	1%	e		
Groundman, inexperienced	2.98	.10	1%	e		
Painters:						
Brush	6.70	.25	.40	.20		
Bridge	8.80	.25	.40	.20		
Sandblasters, steamcleaners	7.43	.25	.40	.20		
Plumbers, Steamfitters:						
Groton, Lyme, Merville, New London, Old Lyme, Salem, Stonington, Waterford	7.75	.20	.20			
Remainder of County	6.55	.15	.20			
Roofers:						
Composition	7.55	.325	.35	.30		
Composition, helpers, class "A"	6.975	.325	.35	.30		
Composition, class "B"	3.50	.325	.35	.30		
Slate, tile, precast concrete	8.05	.325	.35	.30		
Sheet metal workers	8.45	.50	.36		.02	
Sprinkler fitters	8.00	.25	.40		.05	
Waterproofers	7.55	.325	.35	.30		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. $.05 per man per week.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years as Vacation Pay Credit.

c. Six paid holidays: A through F.

d. Nine (9) paid holidays: A through F, Washington's Brithday, Good Friday, and Christmas Eve, provided the employee has worked at least 45 full days during the 120 callendar days prior to the holiday, and the regulsr scheduled work days immediatley preceding end following the holiday.

e. Seven (7) paid Holidays: A through F, and Good Friday, provided the employee has been employed for at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

f. Paid holidays: A through F plus Good Friday.

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7/yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintennace engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ¾ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Grader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (not over 4 ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						

Paid Holidays (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; E-Thanksgiving Day;
F-Christmas Day

FOOTNOTE:

a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ¾ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power payement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Employer contributes $.15 to Supplemental Unamployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	C
Truck Drivers:						
Two axle trucks	$4.70	a	b	c		
Three axle trucks	4.80	a	b	c		
Four axle trucks	4.90	a	b	c		
Two axle ready-mix	4.80	a	b	c		
Three axle ready-mix	4.85	a	b	c		
Four axle ready-mix	4.95	a	b	c		
Heavy duty trailer - to 40 tons	4.85	a	b	c		
Heavy duty trailor - over 40 tons	5.00	a	b	c		
Helpers	4.70	a	b	c		
Specialized earth moving equipment	4.95	a	b	c		

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas.

Footnotes:

a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

XUM

SUPERSEDEAS DECISION

STATE: Connecticut
COUNTY: Tolland
DECISION NO.: AP-434
DATE: Date of Publication
Supersedes Decision No. AM-1,595, dated August 6, 1971, in 36 FR 14568.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

7-CONN-1-2-3- K — 1 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Asbestos workers:						
Somers-Strafford-Union	$7.60	.39	.15		.01	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, Cement Masons-Finishers, Marble Setters, Plasterers, Stonemasons, Terrazzo Workers, Tile Setters, (Building Only):	8.70	.40	.25			
Marble Setters' helpers, Terrazzo Workers' helpers, Tile Setters' helpers	7.50	.25	.15			
Bricklayers, Cement Masons-Finishers, Stonemasons (Heavy & Highway):	7.60	.40	.25	[illegible]		
Carpenters & Piledrivermen (Hvy. & Hwy.)	8.30	.35	.20		.03	
Carpenters, Soft Floor Layers & Piledrivermen (Building Only):						
Bolton:	8.12	.35	.20		.01	
Remainder of County	8.27	.25	.20			
Electricians	8.35	.40	17%+.20		½%	
Elevator constructors	8.02	.195	.20	½%+a+b	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.01					
Glaziers (Outside)	8.01	.47	.32			
Ironworkers: Structural, ornamental, Reinforcing	9.30	.45	.44		.04	
Laborers (Building)						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipe layers, plaster tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops., and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers: (Heavy and Highway):						
Laborers	6.00	.30	.25		.05	

AP-434 P. 2
7-CONN-1-2-3-K — 2 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Laborers (Cont'd)						
Asphalt Rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators	6.50	.30	.25		.05	
Block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Sommers, Stafford, Stratford Spring, Straffordville, Union, Crystal Lake	7.60	.45	.25			
Remainder of County	9.15	.20	.30		.01	
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen, Dynamite man	5.18	.10	1%	d		
Equipment Operator	4.37	.10	1%	d		
Groundman, Truck Driver	3.85	.10	1%	d		
Groundman, Experienced	3.41	.10	1%	d		
Groundman, Inexperienced	2.98	.10	1%	d		
Painters:						
Brush:						
Ellington, Hebron, Rockville, Somers, Vernon	7.50	.20	.20			
Remainder of County	6.70	.25	.40	.20		
Bridge:						
Ellington, Hebron, Rockville, Somers, Vernon	8.50	.20	.20			
Spray:						
Ellington, Hebron, Rockville, Somers, Vernon	11.25	.20	.20		.15	
Bridge:						
Remainder of County	8.50	.25	.40	.20		
Plumbers	8.65	5%	5%			
Roofers:						
Composition	7.55	.325	.35	.30		
Composition, Helpers, Class A	6.975	.325	.35	.30		
Composition, Helpers, Class B	3.50	.325	.35	.30		
Slate, Tile, Precast Concrete	8.05	.325	.35	.30		
Sheet metal workers	8.45	.50	.36		.02	
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters	8.54	.50	.45		.05	
Waterproofers	7.55	.325	.35	.30		

PAID HOLIDAYS: (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AP-434 P. 3
7-CONN-1-2-3-K — 3 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS

FOOTNOTES:

a. Employer contributes 4% of the basic hourly rate for 5 years or more of service or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F.

c. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Seven (7) paid holidays: A through F, and Good Friday, provided the employee has been employed at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

e. Paid holidays: A through F plus Good Friday.

AP-434 P. 4
7-CONN-1-2-3- E

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	C
Truck Drivers:						
Two axle trucks	$4.70	a	b	c		
Three axle trucks	4.80	a	b	c		
Four axle trucks	4.90	a	b	c		
Two axle ready-mix	4.80	a	b	c		
Three axle ready-mix	4.85	a	b	c		
Four axle ready-mix	4.95	a	b	c		
Heavy duty trailer - to 40 tons	4.85	a	b	c		
Heavy duty trailer - over 40 tons	5.00	a	b	c		
Helpers	4.70	a	b	c		
Specialized earth moving equipment	4.95	a	b	c		

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

XUM 27 9700 V3717S3V

AP-434 P. 5

SW-CONN-1-P

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, grada'l, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintennace engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end loac (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Grader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (hot over 4'ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						

Paid Holidays (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; E-Thanksgiving Day;
F-Christmas Day

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

AP-434 P. 6

SW-CONN-2-3-T

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller, power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power payement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

SUPERSEDEAS DECISION

AP-121 P. 2

STATE: Florida COUNTY: Alachua
DECISION NUMBER: AP-121 DATE: Date of Publication
Supersedes Decision No.AM-9696 dated May 5, 1972, in 37 FR 9174.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

1 Florida - 1 - M (1-2)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Asbestos workers	$5.93	.25	.15	.25		
Boilermakers	6.85	.40	.60		.01	
Bricklayers	6.75					
Carpenters	6.40	.34	.20	.15	.03	
Millwrights	7.24	.29	.20	.15	.02	
Piledrivermen	6.40	.34	.20	.15	.03	
Cement masons	5.85	.15			.02	
Electricians:						
Wiremen	6.35	.25	1%		1%	
Cable splicers	6.80	.25	1%		1%	
Elevator constructors	6.17	.17	.185	2%+a&b	.005	
Elevator constructors' helpers	70%JR	.17	.185	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	6.85				.01	
Ironworkers, structural & ornamental	7.00	.42	.40			
Ironworkers, reinforcing	7.00	.42	.40			
Laborers:						
Unskilled	3.10	.15	.10			
Air tool operator	3.20	.15	.10			
Mortar mixers	3.20	.15	.10			
Pipelayers (concrete & clay)	3.20	.15	.10			
Lathers					.01	
Painters:						
Brush	5.65					
Paperhangers	6.10					
Structural steel	6.40					
Spray	6.15					
Sandblasting	6.15					
Roller	6.15					
Swing stage	6.40					
Boatswain's chair	6.40					
Plasterers	6.25					
Plumbers	7.55	.15	.25		.05	
Line Construction:						
Linemen	6.75	.25	1%		1%	
Cable splicers	6.95	.25	1%		1%	
Cable splicers assistant	6.75	.25	1%		1%	
Winch truck operator	5.35	.25	1%		1%	
Heavy equipment operator	6.48	.25	1%		1%	
Flat-bed pick-up driver	4.69	.25	1%		1%	
Groundman 1 yr., & over	3.86	.25	1%		1%	

1 Florida - 1 - M (2-2)

Building Construction	Basic Hourly Rates	Fringe benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Roofers	$6.15	.20				
Sheet metal workers	5.55	.20	.25	.20	.025	
Soft floor layers	6.40	.34	.20	.15	.03	
Sprinkler fitters	8.21	.25	.40		.07	
Steamfitters	7.55	.15	.25		.05	
Stone masons	6.75					
Accoustical workers	6.40	.34	.20	.15	.03	
Lead burners	6.90	.30		c	.01	
Truck drivers	1.60					
Roofers' helpers & kettlemen	3.38	.20				
Tile setters, Marble setters	6.20	.15				
Terrazzo workers	6.20	.15				
Welders- receive rate presecribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays. A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Christmas Eve, Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days imediately preceding and following the holiday.

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BUILDING CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APPR. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Cranes, derricks, clam shells, draglines, piledriver (including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl oper (similar to R.C. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers), front end loaders, (over ½ cy cap.), side boom cats, multi-drum hoist (for rigging), mechanic (heavy equip.), tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)	6.66	.25	.20		.02	
Bulldozers, bridge cranes (20 tons & under), highlift or fork lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., ½ cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 2½" width, concrete paver & scrapers	5.70	.25	.20		.02	
Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine, concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines	4.94	.25	.20		.02	

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APPR. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 2½"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than wellpoint up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine	4.03	.25	.20		.02	

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Bricklayers	$1.75					
Carpenters	2.25					
Carpenters' helpers	1.60					
Concrete finisher	2.00					
Concrete finisher helper	1.60					
Laborers:						
Unskilled	1.60					
Pipelayers	2.00					
Truck Driver	1.60					
Welder	1.75					
POWER EQUIPMENT OPERATORS:						
Asphalt distributor	1.75					
Asphalt mixer	1.75					
Asphalt paving machine	1.80					
Asphalt plant	1.75					
Asphalt plant drier	1.75					
Bulldozer	2.75					
Cranes, derricks and draglines	2.495					
Earthmover, heavy rubber tired	1.75					
Finishing machine	1.82					
Front end loader	1.75					
Mechanic	1.75					
Motor grader	2.00					
Oiler	2.025					
Pavement striping machine	1.75					
Roller	1.75					
Scraper	1.75					
Shovels, backhoe	2.825					
Tractor	1.75					
Trenching machines	2.38					

XUM 72 9760 V3717695

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Bay
DECISION NUMBER: AP-122 DATE: Date of Publication
Supersedes Decision No. AM-9695 dated May 5, 1972, in 37 FR 14664.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

3 - Florida I (1-2)

Building Construction	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$7.70	.395	.75	e	.02	
Boilermakers	6.85	.40	.60		.01	
Bricklayers	5.00					
Carpenters.	5.85	.20			.01	
Cement masons	3.25					
Electricians & Linemen (Commercial)	5.70		1%			
Cable splicers (Commercial)	5.95		1%			
Electricians & Linemen (Industrial)	7.20		1%			
Cable splicers (Industrial)	7.55		1%			
Elevator constructors	6.72	.145	.17	1½+a&b	.005	
Elevator constructors' helpers	70%JR	.145	.17	1½+a&b	.005	
Elevator constructors' helpers (prob.)	50%JR					
Glaziers	3.25					
Ironworkers, structural & ornamental	7.13	.28	.25			
Ironworkers, reinforcing	7.13	.28	.25			
Lathers	4.54				.01	
Millwrights	7.28	.24	.25			
Painters:						
Commercial	3.60					
Industrial	4.50					
Sandblasting	4.90					
Spray - .50 per hour above classification						
Plumbers & steamfitters:						
Commercial & Residential including Tyndall Air Force Base	4.50	.15	.15			
Plasterers	4.50					
Plumbers & pipefitters (Industrial)	7.10	.30	.35	c	.02	
Roofers	6.45		.10	d		
Sheet metal workers	7.15	.30	.30		.01	
Soft floor layers	5.85	.20			.01	
Sprinkler fitters	8.01	.25	.40		.07	
Stonemasons	5.00					
Piledrivermen	6.10	.20			.01	
Marble setters	3.45					
Terrazzo workers	4.50					
Tile setters	4.50					
Tile setters' helpers	1.60					
Truck drivers	1.60					

AP-122 P. 2

BUILDING CONSTRUCTION

3 - Florida I (2-2)

Riggers - receive rate prescribed for craft performing operation to which rigging is incidental.

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

Riveters - receive rate prescribed for craft performing operation to which riveting is incidental.

PAID HOLIDAYS (WHERE APPLICABLE):
A-New years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate for Vacation Pay Credit for employee who has worked in business less than 5 years.

c. 3 paid holidays: Labor Day, Christmas Day & Thanksgiving Day.

d. 40 hour paid vacation after 1 year of employment

e. Two paid holidays: Labor Day and Mardi Gras Day, provided the employee works at least one day out of the three work days prior to the paid holidays, and the first work day after the paid holidays.

AP-122 P. 3

3- Fla. Lab II

Building Construction	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
Laborers:						
Construction laborers, carpenters' tenders, bldg. wreckers	3.25	.10				
Ninety lb. hammer, gunnite, pressure conc. worker nozzleman, gunmen, acid or creosote workers, (work performed over 100' high (except on inside wall to wall scaffolding)	3.50	.10				
Form setter on streets, roads, & highways, burners for demolition or concrete, runways and courts	3.75	.10				
Blasting & powderman; cofferdam and tunnel workers underground; caissons	4.25	.10				
Air tool operators, asphalt raker & tamper, conc. or clay pipe layers & wipers, mason tenders, plasterer tenders, conc. worker, track laborers, (including preparation of track bed), roofer's helpers, single conveyors, kettlemen, well point workers, power buggy oper., building of scaffolding and staging for masons and plasterers	3.35	.10				

AP-122 P. 4

Florida 3 PEC

Building Construction POWER EQUIPMENT OPERATORS	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHE
HEAVY EQUIPMENT:						
Heavy Duty Mechanic, Crane, Shovel, Derrick Operator (2 or more drums), Dragline Pile Driver Operator, Hoist Operator (2 or more drums), Trenching Machines, Cable Ways, Excavators, Front End Loader, Backhoe, Rubber Tired Backhoe, Dredges, Loverman, Welders, Mounted Rotary Drill Machines Cherry Pickers, Side Boom Tractors, Paving Machines, Motor Patrol, Pumpcrete Machines, Gradalls, Johnson Mixers, Hydro-Lift Trucks, All Batch Plant and Header House Operators, Panel Board (Ready-Mix), Hydro Hammers on Demolition Work, Concrete Plants, Asphalt Plants, Helicopter pilots and concrete paving trains	$7.16	.28	.25			
MEDIUM EQUIPMENT:						
Dozer Scraper, Turnapull, One Drum Hoist, Self-Propelled Rollers, Construction Elevators, Locomotive Engineer, Elevating Grader Tractors with Power Control Attachments. Winch Truck, Tug Boats, Mixers, Asphalt Spreaders, Drilling Machines, Form Graders, Asphalt Distributors, Forklift, well-point systems, Subgraders, Finishing Machines, Motorized Compactors, Wagmobiles and Push Carts	6.90	.28	.25			
LIGHT EQUIPMENT:						
Light Plants, Generators, Welding Machines, Air Compressors, Pumps, Conveyors, Motor Boats under 30 feet, Tow Tractors and Pile Driver Hammers (Diesel, Gas, Air or Electric)	6.41	.28	.25			
Fuel Truck Oilers, Fireman Brakeman, Outboard Motor Boats, Truck Crane Oiler and Mechanic Helpers	5.76	.28	.25			
Oilers (Crawler), Deck Hand and Oiler Cherry Picker	5.50	.28	.25			

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117 - Florida

Heavy and Highway Construction

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHER
Carpenters	$2.55					
Concrete finishers	2.80					
Ironworkers, structural	3.10					
Ironworkers, reinforcing	2.85					
Laborers:						
Laborers	1.60					
Pipelayers	1.60					
Asphalt raker	1.60					
Concrete saw operator	1.60					
Concrete worker	1.60					
Bin (scale) operator	1.60					
Curing machine operator	1.60					
Fence erector (chain-link type)	1.70					
Plumbers	3.25					
Power Equipment Operators:						
Air compressors	1.60					
Blade graders	1.82					
Bulldozers	1.60					
Cranes, derricks, draglines	1.75					
Distributors	1.60					
Finishing machines	1.75					
Firemen, oilers	1.60					
Mechanics	1.82					
Mechanics' helpers	1.60					
Mixers	1.60					
Motor graders	1.82					
Pumps	1.60					
Rollers (finish)	1.60					
Rollers (self-propelled)rubber tired	1.60					
Scrapers	1.60					
Shovels	1.75					
Tractors, light, rubber-tired	1.60					
Asphalt paving machine	1.60					
Front end operator	1.75					
Paving machine operator	2.25					
Trenching machine	1.75					
Truck Drivers:						
Single rear axle	1.60					
Multi-rear axle	1.75					

SUPERSEDEAS DECISION

AP-24 P. 2

STATE: Illinois COUNTY: Champaign
DECISION NUMBER: AP-24 DATE: Date of Publication
Supersedes Decision No. AP-9 dated August 11, 1972, in 37 FR 16326.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.

10 - Illinois X 1 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.50	.20	.20		.02	
Boilermakers	7.90	.40	.65		.01	
Bricklayers & Stonemasons	7.25	.125			.02	
Carpenters (Bldg.)	7.71	.30	.45		.08	
Carpenters (Hvy. & Hwy.)	7.15	.25	.40		.05	
Cement masons:						
Building	7.575	.25			.025	
Hesvy & highway	7.45	.175				
Electricians	8.05	.25	1%+.20		.4%	
Elevator constructors	7.385	.195	.20	2%+a&b	.005	
Elevator constructors' helpers	5.17	.195	.20	2%+a&b	.005	
Elevator constructors' helpers (prob.)	50% JR					
Glaziers	6.40	.25				
Ironworkers:						
Structural	7.60	.25			.01	
Ornamental	7.60	.25			.01	
Reinforcing	7.60	.25			.01	
Laborers (Building)	5.35	.125			.02	
Laborers: (Heavy & Highway)						
Laborers, unskilled	6.55	.25	.30		.035	
Laborers, semiskilled	6.70	.25	.30		.035	
Jackhammers, gunnite nozzlemen and bricklayers' tenders	6.75	.25	.30		.035	
Sewer construction:						
Tunnel miners	6.95	.25	.30		.035	
Muckers	6.95	.25	.30		.035	
Bottom men	6.95	.25	.30		.035	
Lathers	7.72	.175	.20		.01	
Lead burners	6.90	.30		c	.01	
Line Construction:						
Linemen	7.95	.25	1%		.25%	
Groundmen - Class "A"	5.03	.25	1%		.25%	
Groundmen equipment op., Class 1 (all crawler type equipment larger than D4)	7.43	.25	1%		.25%	
Groundmen Truck driver w/winch (diggers, 5th wheel type trucks & crawler type equipment, D4 & smaller)	5.53	.25	1%		.25%	
Groundmen truck drivers (without winch)	5.28	.25	1%		.25%	
Marble masons	6.65					
Marble masons' helpers	5.575					
Millwrights (Bldg.)	8.06	.30	.45		.08	
Millwrights (Hvy. & Hwy.)	7.40	.25	.40		.05	
Painters (Brush)	7.35	.25	.20		.03	

10 - Illinois 2 of 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Piledrivermen (Bldg.)	8.06	.30	.45		.08	
Piledrivermen (Hvy. & Hwy.)	7.15	.25	.40		.05	
Plasterers	5.20	.125				
Plumbers & Steamfitters	6.65	.25	.25	.25	.12	
Sheet metal workers	6.225	.25	.175	.65		
Soft floor layers	7.71	.30	.45		.08	
Sprinkler fitters	8.75	.30	.50		.05	
Terrazzo workers	6.65					
Terrazzo workers' helpers	5.575					
Tile layers	6.65					
Tile layers' helpers	5.575					
Roofers:						
Composite	6.90	.20	.10	.50		
Slate & Tile	7.15	.20	.10	.50		
Helpers	80% JR					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (WHERE APPLICABLE):
A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Eight paid holidays, A through F plus Washington's Birthday, Good Friday & Xmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

XUM

AP-24 P. 3

ILLINOIS 1 - PEO - J 1 of 2

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS I: Utility Operator	$8.135	.25	.35		.05	
CLASS II: Power Cranes, draglines, derricks, electric overhead cranes, shovels, gradall, mechanics, repair and maintenance of all equipment, tractor highlift shovel, fork lifts, tournadozer, mixer over 14-s capacity, tournamizer, two drum machine or two cage hoists, cableways, tower machines, motor patrol, boom tractor, boom or winch truck, truck crane, tournapull, tractor operating scoops, bulldozer, push tractor, finishing machine on asphalt, large rollers & rollers on asphalt, gravel, macadam and brick surface, ross carrier or similar machine, gravel processing machine, asphalt plant engineer or pug mill, two (2) Air Compressors, hetherington Paver Operator, farm tractor with half yard bucket and/or back hoe attachment, Tench machines cutting over 24", Dredging equipment, central mix plant engineer, CMI or similar type machine, concrete spreader	$7.60	.25	.35		.05	
CLASS III: Air compressors 200 cu. ft. or over, Standard or Dinkey Locomotives, Scoopmobiles, euclid loader, soil cement machine, mixer 14-S capacity or less, tench machine cutting 24" and under, Back filler, Elevating machine, Power blade, asphalt plant engineer, well drilling machines, paint machine, pine cleaning machine, pipe wrapping machine, pipe bending machine, apsco paver, Boring machine, Tractors winch, head equipment greasers, barger green loaders, formless paver, farm tractor with less than half yard bucket and other attachments except back hoe, well point system	7.30	.25	.35		.05	

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ILLINOIS 1 - PEO 2 of 2

POWER EQUIPMENT OPERATORS (Continued):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Power Subgrader, Bull float, Form grader, Finishing machine, Pavement breaker, Rock crushers	$6.825	.25	.35		.05	
CLASS IV: One drum machine, Air compressor less than 200 cu. ft. capacity, Concrete pump, Gunite machine, Air tuggers, Truck crane drivers, House elevators when used for hoisting material, Two to Four generators or welding machine, Mechanized heaters irrespective of motor power when used for temporary heat, small rollers on earth, engine tenders, fireman, wagon drill, Flexplane, Conveyor, Two to four water pumps, siphon and pulsometer, Switchman, Fireman on paint pots, Firemen on asphalt plants, distributor operator on trucks, tampers, power boom, post hole digger, self-propelled concrete saw, striping machine (motor driven), form tamper, seaman tiller, bulk cement plant equipment greaser	6.40	.25	.35		.05	
CLASS V: Track jack, Mud jack, Operators to do winter repair work in shop between November 1st and March 1st, Concrete buggies motor driven oilers, Barrel type mixer, one welding machine or one water pump, Apprentice engineers, air valves or steam valves from plant	6.00	.25	.35		.05	

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Ill.-21-PEO-2-3 A 1 of 2

POWER EQUIPMENT OPERATORS: HEAVY & HIGHWAY	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS I Power cranes, draglines, derricks, shovels, gradalls, mechanics, tractor high-lift, tournadozer, concrete mixers with skep, tournamixer, twodrum machine, one drum hoist with tower or boom, cable ways, tower machines, motor patrol, boom tractor, boom or winch truck, winch or hydraulic boom truck, truck crane, tournapull, tractor operating scoops, bulldozer, push tractor, finishing machine on asphalt, large rollers on earth, rollers on asphalt mix, ross carrier or similar machine, gravel processing machine, asphalt plant engineer, paver operator, farm tractor with half yard bucket and/or back hoe attachment, dredging equipment, or dredge operator, central mix plant engineer, CMI or similar type machine, concrete pump, truck or skid mounted, tower crane, engine or rock crusher plant, concrete plant engineer, ditching machine with dual attachment, tractor mounted loaders, cherry picker, hydro crane, air compressor 600 feet or over, standard or dinkey locomotives, scoopmobiles, euclid loader, soil cement machine, back filler, elevating machine, power blade, drilling machines including well testing, caissons, shaft or any similar type drilling machines, motor driven paint machine, pipe cleaning machine, pipe wrapping machine, pipe bending machine, apsco paver, boring machine, (Head Equipment Greaser), barber greene loaders, formless paver, (well point system) concrete spreader	$7.50	.25	.25		.05	

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Ill.-21-PEO-2-3 2 of 2

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
CLASS II Power Sub grader, bull float, form grader, finishing machine, concrete mixers w/o skips, self propelled pavement breaker, rock crusher, ditching machine under 6", curbing machine, truck crane oiler-driver, one drum machines without tower or boom, air tugger, self-propelled concrete saw, machine mounted post hole digger, 2 to 4 generators, water pumps, or welding machines, or air compressor 300 cu. ft. or under, within 400 ft., rollers on aggregate and seal coat surfaces, fork lift, concrete and black top curb machine, farm tractor with less than half yard bucket	$7.37	.25	.25		.05	
CLASS III One water pump, oilers, air valves or steam valves, one welding machine, truck jack, mud jack, air compressor less than 300 cu. ft., gunite machine, house elevators when used for hoisting material, engine tenders, fireman, wagon drill, flex plane, conveyor, siphons and pulsometer switchman, fireman on paint pots, fireman on asphalt plants, distributor operator on trucks, tampers, self-propelled power broom, striping machine (motor driven), form tamper, seaman tiller, bulk cement plant equipment greaser, deck hand	5.27	.25	.25		.05	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
TRUCK DRIVERS-Building, Heavy & Highway Construction:						
GROUP I						
Drivers on 4-wheel trucks, dumperetes, scoopmobile 5 cu. yds. & under or less than 7-½ tons; mixer trucks 3 cu. yds. & under, air compressors & welding machines, including those pulled by separate units, batch trucks, wet or dry, 2-34E batches or less, truck drivers' helpers, warehousemen, mechanics' helpers, greasers, tiremen, drivers on dumpsters or similar dumpsters, mounted on 4-wheel trucks, rated 2 cu. yds. or less, and small pallet type fork lift opr., & driver on pilot trucks	$6.35	.35	a			
GROUP II						
Drivers on 4-wheel trucks, over 5 cu. yds. or more than 7½ tons, 6 wheel trucks, Koehring or similar dumpsters, track trucks, Euclids, Tournapulls, hug-bottom dumps, Tournatrailers, Tournarockers, or similar equip, when used for transportation purposes under 9 cu. yds. or less than 13½ tons, tandems & semitrailer service trucks, mixer trucks over 3 cu. yds. & including 6½ cu. yds. fork-lift, 4-wheel a-frame trucks when used for transportation purposes, 4-wheel winch trucks, pavement breakers, batch trucks-wet or dry-over 2 up to & including 4-34E batches	6.55	.35	a			
GROUP III						
Drivers on heavy equipment 9 cu. yds. or 13½ tons and/or trucks licensed for 50,000 lbs. gross up to & including 16 cu. yds. or 24 ton, such as Koehring or similar dumpsters, track trucks, semitrailer water trucks Euclids, hug-bottom dumps, Tournapulls, Tournatrailers, Tournarockers, tractor-trailers, tandems A-frames, tandem winch trucks, hydro-lift trucks or similar equipment when used for transportation purposes, mixers over 6½ cu. yds., batch trucks-wet or dry-over 4-34E batches, single axle lowboy trailers, 6-wheel pole trailers & two man oil distributors	6.75	.35	a			

TRUCK DRIVERS - Building, Heavy & Highway Construction (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
GROUP IV						
Drivers on heavy equipment over 16 cu. yds. or 24 tons, such as Koehring or similar dumpsters; track trucks, Euclids hug-bottom dumps, Tournapulls, Tournarockers or similar equipment when used for transportation purposes, and drivers on oil distributors, 1 man operation, pole trailers over 6-wheels water pulls, lowboy trailers tandem axles or more no weight limitation, diesel and/or heavy equipment mechanics	6.95	.35	a			

FOOTNOTES:

a. Employer contributes $10.00 per week per each employee.

NOTICES

21246

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NUMBER: AP-25
Supersedes Decision #AM-8603 dated April 28, 1972 in 37 FR 8638

COUNTY: See Below
DATE: Date of Publication

DESCRIPTION OF WORK: Highway Construction.

The Counties of: Genesee, Macomb, Monroe, Oakland, Washtenaw and Wayne	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Carpenters:						
Macomb, Oakland and Wayne Counties	$8.1795	.60	7%	10%	.02	
Genesee and Washtenaw Counties	7.28	.35	.40		.01	
Cement finishers - Cement mason	7.61	.30	.10			
Laborers:						
Line-form setter for curb or pavement	6.55	.30	.20	.40		
Pipe layers	6.33	.30	.20	.40		
Asphalt raker	6.20	.30	.20	.40		
Asphalt tamper and asphalt rakers helper	6.01	.30	.20	.40		
Finishers' tenders, guard fence builders, bottom man, powder man, wagon drill laborer, curb and side rail setters helper, air track operator, diamond and core drills, tunnel miner (hwy. work only)	6.12	.30	.20	.40		
Mixer operator (less than 5 sacks), air or electric tool operator (jackhammer, etc.), spreader, boxman (asphalt, stone, gravel, etc), power chain saw operator, concrete puddlers, paving batch truck dumpers, conc. saw (under 40 H.P.), asphalt screed checker, grade checker and tunnel mucker (highway work only),	6.01	.30	.20	.40		
Cement handler or dockmen, top men, asphalt dust handlers	5.95	.30	.20	.40		
Asphalt shovelers or loaders asphalt plant misc., axe men, batch bin (no power), burlap men, carpenters helpers, subgrade labor (hand tools), yardmen, guard fence builder's helpers, dumpers (wagon, truck, etc.,), jetting laborer, joint filling laborer, misc., unskilled laborer, powdermonkey (helper), sprinkler labor, form setting laborer, pavement reinforcing handling & placing (wiremesh, steel mats, dowel bars..etc.), masons or bricklayer's,tender on manholes, headwalls, etc.	5.92	.30	.20	.40		

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Operating Engineers:						
Asphalt plants, cranes, draglines, shovels, locomotives, pavers(5bags or more), elevating graders, pile driving operators, rollers (asphalt), blade graders, trenching machines (ladder or wheel type), auto-grader, slip form paver, self-propelled or tractor drawn scraper, conveyor loaders (euclid-type), endloader operator (1 yd. cap. & over), bulldozer, hoisting engineer, tractors, finishing machines (asphalt) mechanic, pump operator (6" discharge or over, gas, diesel powered or generator of 300 amps or larger), shouldering or gravel distributing machines (self-propelled), backhoe (with over 3/8 yd. bucket), side boom tractor (D-4 or equivalent or larger), tube finisher (slip form paving), concrete spreader (slip form paving), gradall (& similar type machine), asphalt planer (self-propelled), asphalt paver (self-propelled) batch plant (concrete), slurry machine (asphalt)	$6.65	.40	.45	10%	.02	
Screening plants, washing plants, crushers, backhoes (with 3/8 yd. bucket or less), side boom tractor (sm. than D-4 type or equivalent), Sweeper (Wayne type and similar equip), batch plant (concrete dry batch)	6.43	.40	.45	10%	.02	
Air compressors (600 cu. ft. per min, or more), air compressors (two or more-less than 600 CFM), wagon drills concrete breakers, tractors (farm type with attachment)	5.97	.40	.45	10%	.02	
Boiler fireman, oiler, fireman, mechanic's helper, trencher (service), flexplanes, cleftplanes, graders self-propelled fine-grade of form (concrete), finishing machines (concrete), boom or winch hoist trucks, endloaders (under 1 yd. cap.), rollers (other than asphalt), curing equipment (self-propelled), concrete saws (40 H.P. or over), power bins, plant driers (asphalt) vibratory compaction equipment (6' wide or over) guard post drivers (power driven), all mulching equipment,						

NOTICES

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XUM

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Power Equipment Operators (cont'd)						
stump remover	$5.84	.40	.45	10%	.02	
Teamsters:						
Truck drivers	6.64	14.50a	13.00a	.15		
Truck drivers (8 cu. yds. capacity or over)	6.74	14.50a	13.00a	.15		
Drivers euclid type equipment	6.89	14.50a	13.00a	.15		

FOOTNOTES:

a. Per week per employee.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
SIGN INSTALLERS:						
Sign Installer, Class A	$4.42					
Sign Installers, Class B	3.60					
LINE CONSTRUCTION:						
Macomb and Wayne Cos.: Oakland Co.: excluding Township of Holly; Monroe Co.: Townships of Milan London, Exeter, Ash, Berlin, Frenchtown, Monroe, Raisinville, Ida, Summerfield, and Dundee; Washtenaw Co.; Townships of Dexter, Webster, Northfield, Salem, Superior, Ann Harbor, Scio, Lima, Freedom, Lodi, Pittsfield, Ypsilanti, Augusta, York, Saline & Bridgewater						
Linemen	8.66	.48	3.4%	10%	½ of 1%	
Cable splicer	9.04	.48	3.4%	10%	½ of 1%	
Combination equipment operator and groundmen	7.04	.48	3.4%	10%	½ of 1%	
Combination driver and groundmen	6.66	.48	3.4%	10%	½ of 1%	
Groundmen	6.15	.48	3.4%	10%	½ of 1%	
Oakland Co.: Holly Township; Monroe Co.: Townships of Bedford, Erie, La-Salle, & Whiteford; Washtenaw Co.: Townships of Lyndon, Manchester, Sharon & Sylvan & Genesee Co.						
Linemen	6.57	.15	1%		½ of 1%	
Combination digger operator or tractor operator-groundman	5.16	.15	1%		½ of 1%	
Combination winch truck driver - groundmen:						
1st year	3.82	.15	1%		½ of 1%	
2nd year	4.35	.15	1%		½ of 1%	
Combination truck driver groundmen	3.71	.15	1%		½ of 1%	
Cable splicer	6.83	.15	1%		½ of 1%	

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO.: AP-26
Supersedes Decision No. AM-8604, dated April 28, 1972, in 37 FR 8639.
DESCRIPTION OF WORK: Highway Construction.

COUNTIES: See Below
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Othe
COUNTIES: Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Ionio, Jackson, Kalamazoo, Kent, Lapeer Lenawee, Livingston, Midland, Montcalm, Muskegon, Ottawa, Saginaw, Sanilac, Shiwassee, St. Clair, St. Joseph, Tuscola & Van Buren.						
Carpenters:						
Allegan, Barry, Berrien (except townships of New Buffalo, Chickaming & Three Oaks), Branch, Calhoun, Cass, Eaton (townships of Vermontville, Kalamo, Bellevue & Walton), Hillsdale, Ionia (except townships of Orange, Portland, Sevewa & Danby), Kalamazoo, Kent, Livingston (townships of Deerfield, Tyrone, Osceola, Hartland, Genoa, & Brighton), Montcalm, Muskegon, Ottawa, St. Joseph & Van Buren Cos.	$7.15	.35	.40		.01	
Bay, Clinton, Eaton (except the townships of Vermontville, Kalamo, Bellevue & Walton), Gratiot, Huron, Ingham, Ionia (townships of Orange, Portland, Sebewa & Danby), Jackson, Lapeer, Lenawee, Midland, Saginaw, Sanilac (the part of county west of a line projected north and continuing the East Lapeer & West of St. Clair Co., line to the South Huron Co., line), Shiwassee, & Tuscola Cos.	7.28	.35	.40		.01	
Livingston (Deerfield, Tyrone, Osceola, Hartland, Geona & Brighton townships), Sanilac (the part of County east of a line projected north and continuing the East Lapeer & West St. Clair Co., line to the South Huron Co., line), St. Clair Counties	8.1795	.60	7%	10%	.02	
Berrien (Chickaming, New Buffalo & Three Oaks Townships) County	8.66	.40	.40		.02	

HIGHWAY, BRIDGE, AIRPORT (EXCLUSIVE OF BUILDINGS) AND SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Cement masons (Saginaw & Livingston Cos.)	$7.61	.30	.10			
Cement masons (Remainder of Cos.)	7.26	.30	.10			
Laborers:						
Line - form setter for curb or pavement	6.03	.30	.20	.40		
Pipelayers	5.80	.30	.20	.40		
Asphalt raker	5.89	.30	.20	.40		
Asphalt tamper & asphalt raker helper	5.70	.30	.20	.40		
Tunnel miner (highway work only), finishers' tender, guard fence builder, bottom man, powder man, wagon drill & air trace opers., curb & side rail setters' helpers, diamond & core drills	5.64	.30	.20	.40		
Mixer operator (less than 5 sacks), air or electric tool operator (jackhammer, etc.), boxman (asphalt, stone gravel), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker grade checker & tunnel mucker (highway work only), concrete saw (under 40 H.P.)	5.48	.30	.20	.40		
Cement handler or dockman, top man, asphalt dust handler	5.42	.30	.20	.40		
Asphalt shoveler or loader, asphalt plant misc., axe man, batch bin (no power), burlap man, carpenters' helper, subgrade labor, (hand tools) yard men, guard fence builders' helper, dumper (wagon, truck), jetting labor, joint filling labor, misc unskilled labor, form setting labor, pavement reinforcing, handling & placing (wire mesh, steel mats, dowel bars), mason's tender, bricklayer's tender on manholes, headwalls, powder monkey (helper), sprinkler labor	5.34	.30	.20	.40		

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators:						
Asphalt plants, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile drivers, rollers (asphalt), blade graders, trenching machines (ladder or wheel type), auto-graders, slip form paver, self-propelled or tractor drawn scraper, conveyor loaders (euclid type), endloaders (1 yd., cap. & over), bulldozer, hoisting engineer, tractor operator, finishing (asphalt), mechanics, pumps (6" discharge or over, gas, diesel powered or generator of 300 amp or larger), shouldering or gravel distributing machines (self-propelled), back hoe (with over 3/8 yd. bucket), side boom tractor (type D-4 or equivalent or larger), tube finisher (slip form paving), concrete spreader (slip form paving), gradall (and similar type machines), asphalt planer (self-propelled), batch plant (concrete), slurry machines (asphalt), asphalt paver (self-propelled)	$6.57	.40	.45	10%	.02	
Sweeper (Wayne type & similar equip.) screening plants, washing plants, crushers, backhoes (with 3/8 yd. bucket or less), side boom tractor (smaller than D-4 type or equivalent	6.31	.40	.45	10%	.02	
Air compressors (600 cu. ft. per min. or more), air compressors (two or more-less than 600 cfm), wagon drills, concrete breaker, tractors (farm type with attachments)	5.85	.40	.45	10%	.02	
Boiler firemen, oiler, fireman, mechanic's helper, trencher (service), flexplanes, cleftplanes, graders self-propelled fine grade or form (concrete), finishing machines (concrete),boom or winch hoist trucks, endloaders (under 1 yd. cap.), rollers (other than asphalt), curing equipment operators (self-propelled) concrete saws (40 H.P. or over), power bin operators, plant driers (asphalt), vibratory compaction equipment opers. (6" ft. wide or over), guard post drivers (power driven), all mulching equipment, stump remover	5.60	.40	.45	10%	.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators: (Cont'd)						
Truck Drivers: (Remainder of Co.)						
Trucks, less than 8 cu. yds.	$6.54	a	b	.15		
Trucks, over 8 cu. yds.	6.64	a	b	.15		
Trucks, Euclid type equipment	6.79	a	b	.15		
Truck Drivers: (Lapeer, St. Clair, Livingston & Lenawee Cos.)						
Trucks less than 8 cu. yds.	6.64	a	b	.15		
Trucks over 8 cu. yds.	6.74	a	b	.15		
Trucks, euclid type equipment	6.89	a	b	.15		

FOOTNOTES:
a. $14.50 per week, per employee

b. $13.00 per week, per employee

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Line Construction:						
Huron, Lapeer, Lenawee, Sanilac, St. Clair, & Tuscola Cos.; Ingham Co.: Townships of LeRoy, Locke, Wheatfiled, White Oak & Williamston; Livingston Co.: entire county except Townships of Cohoctah, Derrfield, Tyrone & Unadilla						
Linemen	$8.66	.48	3.4%	.1%	.25%	
Cable splicer	9.04	.48	3.4%	.1%	.25%	
Combination equipment operator and groundmen	7.04	.48	3.4%	.1%	.25%	
Combination driver and groundmen	6.66	.48	3.4%	.1%	.25%	
Groundmen	6.15	.48	3.4%	.1%	.25%	
Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clinton, Eaton, Gratiot, Hillsdale, Ionia, Jackson, Kalamazoo, Kent Midland, Montcalm, Muskegon, Ottawa, Saginaw, Shiwassee, St. Joseph & Van Buren Cos.; Livingston Co.: Townships of Cohoctah, Deerfield, Tyrone & Unadilla Ingham Co: entire County except Townships, of LeRoy, Locke, Wheatfield Oak, & Williamston						
Linemen	6.57	.15	1%		¼ of 1%	
Combination digger operator - or tractor operator-groundmen	5.16	.15	1%		¼ of 1%	
Combination winch truck driver - groundmen:						
1st year	3.82	.15	1%		¼ of 1%	
2nd year	4.35	.15	1%		¼ of 1%	
Combination truck driver groundmen	3.71	.15	1%		¼ of 1%	
Cable splicer	6.83	.15	1%		¼ of 1%	
Sign Installers:						
Sign Installer, Class A	3.99					
Sign Installer, Class B	3.22					

SUPERSEDEAS DECISION

STATE: Michigan COUNTIES: See Below
DECISION NO.: AP-27 DATE: See Date of Publication
Supersedes Decision No. AM-8605, dated April 28, 1972, in 37 FR 8640.
DESCRIPTION OF WORK: Highway Construction.

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Michigan Hwy.-3 F Line Const. & Sign Inst. 1 of 2

Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweena, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Missaukee, Montmorency, Newago, Oceana, Ogemaw, Ontonagon, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft and Wexford.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others 1/
SIGN INSTALLERS:						
Sign Installers, Class A	$3.99					
Sign Installers, Class B	3.22					
LINE CONSTRUCTION:						
Chippewa, Luce, Mackinac & Schoolcraft Cos.						
Linemen	5.82	.15	1%		½ of 1%	
Combination digger operator or tractor operator groundmen	4.57	.15	1%		½ of 1%	
Combination winch truck driver-groundmen:						
1st year	3.39	.15	1%		½ of 1%	
Over 1 year	3.85	.15	1%		½ of 1%	
Combination truck driver-groundman	3.28	.15	1%		½ of 1%	
Groundmen	3.28	.15	1%		½ of 1%	
Non-climbing linemen	4.66	.15	1%		½ of 1%	
Alger, Baraga, Dickinson, Houghton, Iron, Keweenaw, Marquette, Menominee, Ontonagon & Isle Royale Cos.						
Linemen	5.40	.15	1%		½ of 1%	
Combination digger operator - groundmen, combination tractor operator - groundmen	4.24	.15	1%		½ of 1%	
Combination winch truck driver groundmen:						
1st year	3.14	.15	1%		½ of 1%	
2nd year	3.57	.15	1%		½ of 1%	
Combination truck driver-groundman	3.04	.15	1%		½ of 1%	
Groundmen	3.04	.15	1%		½ of 1%	
Non-climbing linemen	4.32	.15	1%		½ of 1%	
Cable splicers	5.61	.15	1%		½ of 1%	
Distribution line truck driver operator groundmen	3.73	.15	1%		½ of 1%	

Michigan Hwy.-3 F Line Const. & Sign Inst. 2 of

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Newaygo, Oceana, Ogemaw, Osceola, Oscoda, Otsego, Presque Isle, Roscommon & Wexford Cos.	$5.82	.15	1%		½ of 1%	
Linemen	5.82	.15	1%		½ of 1%	
Combination digger operator - or tractor operator-groundmen	4.57	.15	1%		½ of 1%	
Combination winch truck driver - groundmen:						
1st year	3.39	.15	1%		½ of 1%	
2nd year	3.85	.15	1%		½ of 1%	
Combination truck driver groundmen	3.28	.15	1%		½ of 1%	
Cable splicer	6.05	.15	1%		½ of 1%	
Linemen (non-climbing)	4.66	.15	1%		½ of 1%	
Cogebic County						
Linemen	5.50	3%	1%	6%		
Equipment operator	4.50	3%	1%	6%		
Combination groundmen & driver w/ winch	4.00	3%	1%	6%		
Combination groundmen & driver w/o winch	3.75	3%	1%	6%		
Groundmen	3.50	3%	1%	6%		
Delta County						
Linemen	5.40	.15	1%		½ of 1%	
Cable splicer	5.61	.15	1%		½ of 1%	
Combination digger operator - groundmen & combination tractor operator groundmen	4.24	.15	1%		½ of 1%	
Combination truck driver-groundmen or groundmen	3.04	.15	1%		½ of 1%	
Combination winch truck driver groundmen:						
1st year	3.14	.15	1%		½ of 1%	
Over 1 year	3.57	.15	1%		½ of 1%	

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Michigan 3 - HIGHWAY 1 of 1

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Carpenters:						
Alcona, Alpena, Antrim, Benzie, (except Crystal Lake, Gilliam, Blaine, Joufield, Weldon & Colfax) Charlevoix, Cheboygan, Crawford, Emmet, Grand Traverse, Kalkaska, Lake, Leelenau, Missaukee, Montmorecy, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, and Wexford Cos.	$7.04	.35	.40		.01	
Alger, Baraga, Chipewa, Delta, Dickinson, Cogebic, Houghton, Iron, Keewena, Luce, Mackinac, Marquette, Menominee, Ontonogan, and Schooldraft Cos.	6.99	.35	.40		.01	
Arenac, Clare, Gladwin, Iosco, Isabella, and Ogemaw Cos.	7.28	.35	.40		.01	
Benzie (Crystal Lake, Gillman, Blaine, Joyficld, Weldon, Colfax), Newaygo, and Oceana Co.	7.15	.35	.40		.01	

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HIGHWAY, BRIDGE AND AIRPORT (EXCLUSIVE OF BUILDINGS) AND SEWER CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Cement masons	$7.04	.30	.10			
Laborers:						
Line - form setters for curb or pavement	5.67	.30	.20	.40		
Pipe layers	5.37	.30	.20	.40		
Asphalt raker	5.65	.30	.20	.40		
Asphalt tamper & asphalt raker helper	5.47	.30	.20	.40		
Tunnel miner (highway work only) finishers tender guard fence builder, bottom man, powder man, wagon drill & air track operators, curb & side rail setters' helper, diamond & core drills	5.32	.30	.20	.40		
Mixer operator (less than 5 sacks), air or electric tool operator (jackhammer, etc.), spreader, boxman (asphalt, stone, gravel), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker, grade checker & tunnel mucker (highway work only), concrete saw (under 40 h.p.)	5.12	.30	.20	.40		
Cement handler or dockman, top man, asphalt dust handler	5.02	.30	.20	.40		
Asphalt shoveler or loader, asphalt plant misc., axe man, batch bin (no power), burlap man, carpenter's helper, subgrade labor (hand tools), yard men, guard fence builder's helper, dumper (wagon, truck), jetting labor, joint filling labor, misc., unskilled labor, form setting labor, pavement reinforcing, handling & placing (wire mesh, steel mats, dowel bars), masons' tender, bricklayers tender on manholes, headwalls, etc.	4.97	.30	.20	.40		

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Asphalt plants, cranes, draglines, shovels, locomotives, pavers (5 bags or more), elevating graders, pile drivers, rollers (asphalt), blade graders, trenching machines (ladder or wheel type), auto-graders, slip form paver, self-propelled or tractor drawn scraper, conveyor loaders (euclid type), endloaders (lyd., cap. & over), bulldozer, hoisting engineer, tractor operator, finishing (asphalt), mechanics, pumps (6" discharge or over, gas diesel powered or generator of 300 amp or larger), shouldering or gravel distributing machine (self-propelled), back hoe (with over 3/8 yd. bucket), side boom tractor (type D-4 or equivalent or larger), tube finisher (slip form paving), concrete spreader (slip form paving), gradall (and similar type machines), asphalt planer (self-propelled), batch plant (concrete), slurry machines (asphalt), asphalt paver (self-propelled)	6.49	.40	.45	10%	.02	
Sweeper (Wayne type & similar equip.), screening plants, washing plants, crushers, backhoes (with 3/8 yd. bucket or less), side boom tractor (smaller than D-4 type or equivalent)	6.31	.40	.45	10%	.02	
Air compressors (600 cu. ft. per min. or more), air compressors (two or more - less than 600fm) wagon drills, concrete breaker, tractors (farm type with attachments)	5.81	.40	.45	10%	.02	
Boiler fireman, oiler, fireman, mechanic's helper, trencher (servic), flexplanes, cleftplanes, graders self-propelled fine grade or form (concrete), finishing machines (concrete), boom or winch hoist trucks, endloaders (under 1 yd. cap.), rollers (other than asphalt), curing equipment operators (self-propelled), concrete saws (40 h.p. or over), power bin operators, plant driers (asphalt), vibratory compaction equipment opers. (6 ft. wide or over) guard post drivers (power driven), all muldhing equipment, stump remover	5.58	.40	.45	10%	.02	

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
TRUCK DRIVERS:						
Trucks, less than 8 cu. yds.	$6.48	a	b	.15		
Trucks, over 8 cu. yds.	6.58	a	b	.15		
Trucks, euclid type equipment	6.73	a	b	.15		

FOOTNOTES:
a. $14.50 per week, per employee.

b. $13.00 per week, per employee.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Berks County
DECISION NO.: AP-429 DATE: Date of Publication
Supersedes Decision No. AM-1,849, dated August 20, 1971, in 36 FR 16250.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	7.48	.25	.30			
Boilermakers	8.50	.40	.90		.01	
Bricklayers	7.40	.35	.45			
Carpenters	7.10	.30	.15			
Cement masons	7.965					
Electricians:						
Herford, Longswamp & Washington Twps., portion of Maxatawney, Twp. east of Sacony Creek	8.575	.20	1%			
Marion, Tulpehocken & Bethel Twps.	6.225	.20	1%		½of 1%	
Remainder of County	8.14	.28	1%		.03	
Elevator constructors	8.02	.195	.20	1½%+b+c	.005	
Elevator constructors' helpers	5.61	.195	.20	1½%+b+c	.005	
Elevator constructors' helpers (prnb.)	4.81					
Glaziers	6.82	.25	.10			
Ironworkers, structural & ornamental, bridge	6.805	.235	.665		.01	
Ironworkers, reinforcing	6.805	.235	.665		.01	
Laborers:						
Blasters	5.66	.05	.10			
Cofferdam (below 10'), tunnel free air & muckers	5.49	.05	.10			
Handling & using cutting or burning torches in wrecking of buildings, plasterer tenders, scaffold builders & removal for plasterers	5.60	.05	.10			
Jackhammer, vibrators paving breakers other pneumatic tools, & mechanical tools, laying of all clay, Terra Cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, & wagon drill operators	5.44	.05	.10			
Laborers, unskilled	5.21	.05	.10			
Mason tenders, scaffold builders & removal for masons	5.64	.05	.10			
Lathers	7.83		.15		.01	
Lead burners	7.80	.30		a	.01	
Line construction:						
Cable splicers	8.55	.15	1%		.005	
Groundman	5.13	.15	1%		.005	
Linemen	8.55	.15	1%		.005	
Winch truck operator	5.99	.15	1%		.005	

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Marble setters	$6.19	.25	.35			
Marble setters' helpers	5.325					
Millwrights	7.60	.30	.15			
Painters:						
Brush	6.50	.45	.26			
Bridge, tower, stacks and tanks	7.95	.45	.26			
Spray and steel	7.55	.45	.26			
Sandblasting and steamcleaning	7.70	.45	.26			
Piledrivermen	9.22	1.08	.40		.07	
Plasterers	8.00		.155		.01	
Plumbers	7.80	.26	.56			
Roofers:						
Albany, Maxatany and Windsor Composition and slate	7.90	.15				
Helpers	4.18	.15				
Remainder of County						
Composition, damp and waterproof	8.125	.275	.10	d		
Precast slabs	8.825	.275	.10	d		
Slate, tile and asbestos	8.125	.275	.10	d		
Sheet metal workers	7.20	.30	.25			
Soft floor layers	7.10	.30	.15			
Sprinkler fitters	8.75	.30	.50		.05	
Steam fitter	7.80	.26	.56			
Stone masons	7.40	.35	.45			
Terrazzo workers	6.44	.25	.35			
Terrazzo workers' helpers	5.575	.20				
Tile setters	6.05	.30				
Tile setters' helpers	5.325					
Welders-receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. 8 paid holidays, A through F, Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F.

d. Paid holiday: C

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POWER EQUIPMENT OPERATORS
BUILDING AND HEAVY CONSTRUCTION

	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
WAGE GROUP I						
Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above	$9.24	4.6%	6.5%	a	.7%	
WAGE GROUP II						
Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machine in tunnel, all front end loaders 3-½ cu yds. and over, tandem scrapers, pippin type backhoes, boat captains, batch plat operators (concrete), drills, self contained rotary drills, fork lifts, 20 ft. lift and over, machines similar to the above	8.95	4.6%	6.5%	a	.7%	
WAGE GROUP III						
Conveyors, building hoists (single drum), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above	8.09	4.6%	6.5%	a	.7%	
WAGE GROUP IV						
Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power brooms, seeding spreader, tireman (for power equipment), machines similar to the above	7.33	4.6%	6.5%	a	.7%	
WAGE GROUP V						
Fireman, grease truck	6.87	4.6%	6.5%	a	.7%	
WAGE GROUP VI						
Oilers and deck hands (personnel boats), core drill helper	5.97	4.6%	6.5%	a	.7%	
WAGE GROUP VII						
All machines with booms (including jibs, masts, leads, etc.):						
100 ft. and over	9.49	4.6%	6.5%	a	.7%	
150 ft. and over	9.74	4.6%	6.5%	a	.7%	
200 ft. and over	9.99	4.6%	6.5%	a	.7%	

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, provided the employee works the day before and after the holiday.

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HEAVY & HIGHWAY

	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Carpenters/Piledrivermen	$6.56	.20	.25			
Laborers:						
Asphalt Tampers and Asphalt Rakers, Concrete Pitmen, Puddlers & Rubbers, Highway Slab Reinforcement Placers, Laborers, Landscape, Planters, Seeders and Arborists, Magazine Tenders, Railroad Trackmen & Signalmen	4.84	.20	.20			
Pneumatic Tool Operators, Jackhammers, Paving Breakers, Concrete Saws, Wacker, Vibrators, Chain Saws, Steward	5.04	.20	.20			
Pipelayers	5.04	.20	.20			
Caisson-open air-below 8 feet, Cofferdam open air-below 8 feet, where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, Form Setters (Road) Wagon Drill, Diamond Point Drill, Gunite nozzle Operators	5.35	.20	.20			
Blasters	5.56	.20	.20			
Reinforcing Steel Placers, Bonding, Aligning and Securing	5.62	.20	.20			
Concrete Surfacers	5.97	.20	.20			
Free Air Tunnels and Rocks Shafts						
Outside Laborers in conjunction with tunnels and rock shafts	5.43	.20	.20			
Chuck Tenders, Muckers, Nippers, Miners' and Drillers' Helpers, Inside Laborers	5.70	.20	.20			
Miners, Drillers, Blasters, Pneumatic Shield Opers., Lining, Spotting and Timber Workmen	6.15	.20	.20			
Truck Drivers:						
Class I						
Helper, Stake Body Truck (Single axle), Dumpster	5.57					
Class II						
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	5.64					
Class III						
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double-Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	6.09					

PA-22-PLC-3 - G 1 of 2

HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
WAGE GROUP 1						
Pile drivers or engineers working with dock builders and pile drivers						
All types of cranes						
All types of backhoes						
Draglines						
Keystones						
All types of shovels						
Derricks						
Trench shovels						
Trenching machines						
Pavers 21E and over						
Gradalls						
All front end loaders 4 cu. yds. and over						
Tandem scrapers						
Pippin type backhoes						
Boat Captains						
Batch plant with mixer						
Drill, self contained (Drillmaster Type)						
CMI Autograde						
Machines similar to above	$7.68	4.6%	6.5%		.7%	
WAGE GROUP 2						
Conveyor Loader (Euc Type)						
Scrapers and Tournapulls						
Spreaders						
High or low pressure boilers						
Concrete pumps						
Bulldozers and Tractors						
Asphalt plant engineers						
Rollers (High grade finishing)						
All loaders under 4 cu. yds.						
Mechanic - welders						
Motor Patrols						
Machines similar to above	6.92	4.6%	6.5%		.7%	
WAGE GROUP 3						
Welding Machines						
Well Points						
Compressors						
Pumps						
Heaters						
Farm Tractors						
Form Line Graders						
Fine Grade Machines						
Ditch Witch Type Trencher						
Road Finishing Machines						
Concrete Breaking Machines						

PA-22-PEO-3 - G 2 of 2

HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Rollers						
Seaman Pulverizing Mixer						
Power Broom						
Seeding Spreader						
TireMan - (For power equipment)						
Conveyor Loaders other than Euc Type Conveyors						
Machines similar to above	$6.47	4.6%	6.5%		.7%	
WAGE GROUP 4						
Fireman	6.07	4.6%	6.5%		.7%	
WAGE GROUP 5						
Oilers and Deck Hands	5.57	4.6%	6.5%		.7%	
WAGE GROUP 6						
On all machines with booms (including jibs, masts, leads, etc.)						
100 ft. and over	7.93	4.6%	6.5%		.7%	
150 ft. and over	8.18	4.6%	6.5%		.7%	
200 ft. and over	8.43	4.6%	6.5%		.7%	

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SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lehigh County
DECISION NO.: AP-430 DATE: Date of Publication
Supersedes Decision No. AM-1,857, dated August 20, 1971, in 36 FR 16250.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

39-PA-1-Y 1-2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$7.48	.25	.30			
Boilermakers	8.50	.40	.90		.01	
Bricklayers	7.65	.30	.50			
Carpenters	7.57	.22	.21	.25		
Cement masons	7.62	.35	.25			
Electricians	8.575	.20	1%		.01	
Elevator constructors	8.02	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers	5.61	.195	.20	1½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.01					
Glaziers	6.82	.25	.10		.01	
Ironworkers, structural	7.30	.235	.665			
Ironworkers, ornamental	7.30	.235	.665			
Ironworkers, reinforcing	7.30	.235	.665			
Laborers, building:						
Unskilled laborers	5.30	.10	.10			
Operator of jackhammer paving breaking & other pneumatic & mechanical tools, wagon drills, & men handling dynamite, handling & using, cutting & burning torches in the wrecking of buildings, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same & cofferdams (below 10 feet)	5.55	.10	.10			
Plaster & mason tenders, scaffold builders, & handling of all materials to be used by plasterers & masons, brick & blocks loaded on pallets, cement finishers tenders, gunniting and molder-D, & sand blasters helpers	5.60	.10	.10			
Barko tamper operator	5.80	.10	.10			
Lathers	7.69	.40	.25			
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen & cable splicers	8.55	.15	1%		1%	
Groundmen	5.13	.15	1%		1%	
Winch truck operator	5.99	.15	1%		1%	
Marble setters	6.19	.25	.35			
Marble setters' helpers	5.325					
Millwrights	7.95	.22	.21	.25		

AP-430 P. 2

39-PA-1-Y 2-2

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Painters:						
Brush	$4.75	.17	.20			
Structural steel	5.375	.17	.20			
Swing, chair, window jack, & paperhanger	4.875	.17	.20			
Spray	5.275	.17	.20			
Plasterers	7.75	.25	.25		.01	
Plumbers	7.95	.30	.30	.50	.01	
Roofers:						
Albany, Maxatany and Windsor Composition, damp, waterproofing, slate & tile	8.125	.275	.10	d		
Remainder of County:						
Composition & slate	7.90	.15				
Composition & slate helpers	4.18	.15				
Sheet metal workers	7.20	.30	.25			
Sprinkler fitters	8.75	.30	.50		.05	
Soft floor layers	4.45	.07	.06			
Piledrivermen	8.20	.92	.25		.07	
Steamfitters	7.95	.30	.30	.50	.01	
Stone masons	7.65	.30	.50			
Terrazzo workers	6.44	.25	.35			
Terrazzo workers' helpers	5.575	.20	.35			
Tile setters	6.19	.25	.35			
Tile setters' helpers	5.325					
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six paid holidays: A through F.

c. Eight paid holidays; A through F, Washington's Birthday, Good Friday, and Christmas Eve providing the employee has worked 45 full days for the same employer during the 120 calendar days prior to the holiday, & is available for work the days preceding & following the holiday.

d. Paid Holiday: July Fourth.

NOTICES

AP-430 P. 3

HEAVY & HIGHWAY PA-22-IAB-TD-2-3 K

	Basic Hourly Rate	Fringe Benefits Payments				
		H&W	Pensions	Vacation	App Tr	Other
Carpenters/Piledrivermen	$6.56	.20	.25			
Laborers:						
Asphalt Tampers and Asphalt Rakers, Concrete Pitmen, Puddlers & Rubbers, Highway Slab Reinforcement Placers, Laborers, Landscape, Planters, Seeders and Arborists, Magazine Tenders, Railroad Trackmen & Signalmen	4.84	.20	.20			
Pneumatic Tool Operators, Jackhammers, Paving Breakers, Concrete Saws, Wacker, Vibrators, Chain Saws, Steward	5.04	.20	.20			
Pipelayers	5.04	.20	.20			
Caisson-open air-below 8 feet, Cofferdam open air-below 8 feet, where excavations for circular caissons and cofferdams 8 feet and below level of natural grade adjacent to starting point, Form Setters (Road) Wagon Drill, Diamond Point Drill, Gunite nozzle Operators	5.35	.20	.20			
Blasters	5.56	.20	.20			
Reinforcing Steel Placers, Bonding, Aligning and Securing	5.62	.20	.20			
Concrete Surfacers	5.97	.20	.20			
Free Air Tunnels and Rocks Shafts						
Outside Laborers in conjunction with tunnels and rock shafts	5.43	.20	.20			
Chuck Tenders, Muckers, Nippers, Miners' and Drillers' Helpers, Inside Laborers	5.70	.20	.20			
Miners, Drillers, Blasters, Pneumatic Shield Opers., Lining, Spotting and Timber Workmen	6.15	.20	.20			
Truck Drivers:						
Class I						
Helper, Stake Body Truck (Single axle), Dumpster	5.57					
Class II						
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles, Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	5.64					
Class III						
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double-Hitched Equipment, Straddle (Ross) Carrier, Low-Bed Trailers	6.09					

AP-430 P. 4

POWER EQUIPMENT OPERATORS BUILDING AND HEAVY CONSTRUCTION PA-22-PEO-1-2 C

	Basic Hourly Rate	Fringe Benefits Payments				
		H&W	Pensions	Vacation	App Tr	Other
WAGE GROUP I						
Machines doing hook work, any machine handling machinery, cable-spinning machines, helicopters, machines similar to the above	$9.24	4.6%	6.5%	a	.7%	
WAGE GROUP II						
Pile drivers or engineers working with dock builders and pile drivers, all types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum), gradalls, mucking machine in tunnel, all front end loaders 3-½ cu yds. and over, tandem scrapers, pippin type backhoes, boat captains, batch plat operators (concrete), drills, self contained rotary drills, fork lifts, 20 ft. lift and over, machines similar to the above	8.95	4.6%	6.5%	a	.7%	
WAGE GROUP III						
Conveyers, building hoists (single drum), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch with type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above	8.09	4.6%	6.5%	a	.7%	
WAGE GROUP IV						
Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tiremen (for power equipment), machines similar to the above	7.33	4.6%	6.5%	a	.7%	
WAGE GROUP V						
Fireman, grease truck	6.87	4.6%	6.5%	a	.7%	
WAGE GROUP VI						
Oilers and deck hands (personnel boats), core drill helper	5.97	4.6%	6.5%	a	.7%	
WAGE GROUP VII						
All machines with booms (including jibs, masts, leads, etc.):						
100 ft. and over	9.49	4.6%	6.5%	a	.7%	
150 ft. and over	9.74	4.6%	6.5%	a	.7%	
200 ft. and over	9.99	4.6%	6.5%	a	.7%	

FOOTNOTE:
a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day, provided the employee works the day before and after the holiday.

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HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
WAGE GROUP 1						
Pile drivers or engineers working with dock builders and pile drivers						
All types of cranes						
All types of backhoes						
Draglines						
Keystones						
All types of shovels						
Derricks						
Trench shovels						
Trenching machines						
Pavers 21E and over						
Gradalls						
All front end loaders						
4 cu. yds. and over						
Tandem scrapers						
Pippin type backhoes						
Boat Captains						
Batch plant with mixer						
Drill, self contained (Drillmaster Type)						
CMI Autograde						
Machines similar to above	$7.68	4.6%	6.5%		.7%	
WAGE GROUP 2						
Conveyor Loader (Euc Type)						
Scrapers and Tournapulls						
Spreaders						
High or low pressure boilers						
Concrete pumps						
Bulldozers and Tractors						
Asphalt plant engineers						
Rollers (High grade finishing)						
All loaders under 4 cu. yds.						
Mechanic - welders						
Motor Patrols						
Machines similar to above	6.92	4.6%	6.5%		.7%	
WAGE GROUP 3						
Welding Machines						
Well Points						
Compressors						
Pumps						
Heaters						
Farm Tractors						
Form Line Graders						
Fine Grade Machines						
Ditch Witch Type Trencher						
Road Finishing Machines						
Concrete Breaking Machines						

HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Rollers						
Seaman Pulverizing Mixer						
Power Broom						
Seeding Spreader						
TireMan - (For power equipment)						
Conveyor Loaders other than Euc Type Conveyors						
Machines similar to above	$6.47	4.6%	6.5%		.7%	
WAGE GROUP 4						
Fireman	6.07	4.6%	6.5%		.7%	
WAGE GROUP 5						
Oilers and Deck Hands	5.57	4.6%	6.5%		.7%	
WAGE GROUP 6						
On all machines with booms (including jibs, masts, leads, etc.)						
100 ft. and over	7.93	4.6%	6.5%		.7%	
150 ft. and over	8.18	4.6%	6.5%		.7%	
200 ft. and over	8.43	4.6%	6.5%		.7%	

[FR Doc.72-16964 Filed 10-5-72;8:45 am]

federal register

FRIDAY, OCTOBER 6, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 195
PART III

DEPARTMENT OF TRANSPORTATION

Coast Guard

■

Equipment Requirements

Notice of Proposed Rule Making

No. 195—Pt. III——1

V 37 ■ 195 OCT 6 72 XUM

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 175]

[CGD 72-120PH]

EQUIPMENT REQUIREMENTS

Notice of Proposed Rule Making

The Coast Guard is considering amending Subchapter S to Title 33, Code of Federal Regulations, to establish new carriage requirements for lifesaving equipment on certain vessels to which the Federal Boat Safety Act of 1971 applies. Any interested person may submit written data, views, or arguments concerning this notice to U.S. Coast Guard (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before December 11, 1972, will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGD 72-120) and give reasons and supporting data for any recommendations. All comments will be available for examination in Room 8234, An informal public hearing to receive comments of interested persons on this proposal will be held on November 20, 1972, Room 2230 at 9:30 a.m. Each person who intends to make a statement is requested to notify the U.S. Coast Guard (GCMC/82) before November 13, 1972.

This proposed new Part 175 will eventually contain various subparts relating to equipment requirements. This particular proposal contains a subpart dealing with personal flotation devices. It is anticipated that additional subparts on backfire flame control, fire extinguishers, and others will be forthcoming in the near future.

This proposed amendment has two important effects: (1) It introduces and incorporates new terminology that will be used by the Coast Guard to more accurately indicate the performance of approved lifesaving devices; and (2) its establishes new requirements for the carriage of lifesaving devices on boats as defined in the Federal Boat Safety Act of 1971, except on those carrying passengers, which if adopted, will revoke those requirements presently applicable to uninspected recreational motorboats in 46 CFR 25.25 and also the interim requirements in 33 CFR Part 199 presently applicable to boats propelled or controlled by oars, paddles, poles, sail, or by another vessel.

Under the Federal Boat Safety Act of 1971 "passenger" means every person carried on board a vessel other than the owner or his representative; the operator; bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly for his carriage.

This proposed amendment to Subchapter S will deal only with vessels not carrying passengers. A proposed amendment to Subchapter C, Chapter I of Title 46, which appears in this issue of the FEDERAL REGISTER at page 21264, will contain the requirements for vessels carrying six or fewer passengers as well as other requirements.

It should be noted that a "boat" as defined by the Act, means any vessel manufactured or used primarily for noncommercial use; leased, rented, or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers. "Recreational Boats" as defined in this proposal does not include boats engaged in the carrying of six or fewer passengers.

At page 21266 of this issue of the FEDERAL REGISTER the Coast Guard proposes to change the marking specifications for approval of lifesaving devices in 46 CFR Part 160. That proposal would require that each approved device be marked with a personal flotation device (PFD) type designation to indicate to the user the performance level that the device is intended to provide. Five PFD type designations are proposed.

A Type I PFD is any approved device designed to turn an unconscious person from a face downward position in the water to a vertical or slightly backward position, and to have more than 20 pounds of buoyancy. A Type I PFD is less wearable than the other PFD types.

A Type II PFD is any approved device designed to turn an unconscious person from a face down position to a face up vertical or slightly backward position and to have at least 15.5 pounds of buoyancy. A Type II PFD is more wearable than a Type I PFD.

A Type III PFD is any approved device designed to keep a conscious person in a vertical or slightly backward position and to have at least 15.5 pounds of buoyancy. While the Type III PFD has the same buoyancy as a Type II PFD, a lesser requirement for turning moment makes it possible to design a comfortable and wearable device for activities where it is especially desirable to wear a device because of the likelihood that the wearer will enter the water.

A Type IV PFD is any approved device designed to be thrown to a person in the water and not be worn. It is designed to have at least 16.5 pounds of buoyancy.

All presently approved lifesaving devices that are acceptable as required lifesaving devices for use on recreational boats fall into one of the first four PFD type designations.

A Type V PFD is any approved device designed for a specific and restricted use. The exact specifications and performance of a Type V PFD will vary somewhat with each device. The only presently approved device that falls into the Type V designation is the work vest. This is a device designed and marked specifically for use by persons working around merchant vessels.

These proposed marking specification changes in 46 CFR Part 160 (CGD 72-163 PH) would provide a more easily understood method of referring to Coast Guard approved personal flotation devices by performance.

This proposed new Part 175 of title 33 prescribes the requirements for carrying personal flotation devices on recreational boats. The present Part 25 of title 46 would continue to apply to uninspected commercial vessels. The present Part 199 of title 33, which prescribes interim lifesaving equipment requirements for certain boats, would be revoked.

Under these proposed carriage requirements, no person may use a recreational boat unless there is at least one Type I, II, or III PFD for each person on board. This basic requirement would allow the user to choose a type of device after considering the performance of the device and how he intends to use the device he selects. Types I, II, and III are devices intended to be worn. In addition to the requirements for the wearable personal flotation device for each person aboard, the proposal requires that no person may use a recreational boat 26 feet in length or longer unless there is one Type IV PFD immediately available for use. The Type IV PFD is intended to be thrown to a man in the water. Recreational boats 26 feet in length or longer are less maneuverable than smaller recreational boats and have, in general, higher freeboards, which makes reboarding more difficult. For these reasons, the Coast Guard feels that additional man-overboard protection is needed.

On recreational boats less than 16 feet in length, and on canoes, and kayaks, the Type IV PFD, as well as Types I, II, or III, would meet the requirements for a personal flotation device for each person on board. By far, the most commonly used Type IV PFD for these recreational boats is the buoyant cushion.

The Coast Guard realizes that the buoyant cushion is not a wearable device and does not give the performance in the water of a Type I, II, or III PFD. However, the buoyant cushion, by its very nature, is immediately accessible for use on these smaller open recreational boats in the case of the sudden capsizes to which they are susceptible. An analysis of accident data has shown that immersion periods in this type of accident are generally of short duration and that the accidents generally occur in restricted waters. For these reasons, the Coast Guard is proposing to allow the choice of a Type IV PFD for use on recreational boats less than 16 feet in length and on canoes and kayaks. This choice can be based on a better knowledge of the performance of the types of Coast Guard approved personal flotation devices.

These proposed requirements for carrying personal flotation devices are the same as present requirements for recreational boats less than 16 feet in length, which comprise 67 percent of recreational boats. On recreational boats 16 feet in length and longer, which comprise approximately 32 percent of recreational boats, Type IV throwable devices, including the buoyant cushion, would not meet the proposed requirements. Recreational boats 26 feet in length and longer, which comprise approximately 1 percent of the total recreational boat population, would be required to have at least one Type IV device for man-overboard protection. These proposed regulations for carrying personal flotation devices incorporate the new PFD type designations. There are millions of existing Coast Guard approved lifesaving devices, which are not marked with the PFD type. Therefore, proposed § 175.23 contains a table showing the PFD type designation that each presently approved device meets. Coast Guard approved devices already in service would continue to meet the proposed carriage requirements as long as they remain in serviceable condition.

Recreational boating includes many activities, such as white water canoeing and competitive rowing, that have special safety problems due to the use or the configuration of the boats involved. In the case of white water canoeing and kayaking, the canoeist needs special lifesaving equipment allowing extreme freedom of movement to manage the canoe, and the configuration of the canoe does not allow readily accessible stowage of lifesaving equipment. Proposed § 175.17(a) therefore allows the wearing of certain nonapproved lifesaving equipment.

The Coast Guard, however, feels that adequate PFD's for the white water canoeist can be designed within the specification for the Type III PFD. The option allowed by proposed § 175.17(a) will apply, therefore, only until July 1, 1974. This should give adequate leadtime for manufacturers of PFD's to design, and receive Coast Guard approval for, special canoeist's devices.

In the case of rowing sculls, racing shells, or racing kayaks, PFD's are also very difficult to carry. The boats have built in flotation compartments, or foam flotation blocks, and float in a horizontal attitude and extremely high in the water when capsized, even when supporting a person. The boats, if capsized, are easily and readily graspable due to the extremely narrow beam of these vessels. In addition, the accident statistics do not indicate a need for PFD carriage. Therefore, it is proposed that racing shells, rowing sculls and racing kayaks (excluding racing canoes and white water canoes and kayaks) be excepted from the requirements to carry or have available a PFD.

In addition, proposed § 175.17(c) allows the use of a Type V PFD for a specific and restricted purpose where other PFD's would not be suitable. If a manufacturer feels that a Type I, Type II, Type III, or Type IV PFD is not suitable for a particular use, and if the manufacturer has designed a device which he feels provides more suitable personal flotation for that use, then he may submit his design for Coast Guard approval as a Type V PFD to: Commandant (GMMT-3/83), U.S. Coast Guard, 400 Seventh Street SW., Washington, DC 20590. Approval of the device as a Type V PFD would only be granted if the manufacturer shows that his design provides more suitable and more practical personal flotation for that particular use than one of the other type PFD's.

The Boating Safety Advisory Council has been consulted and its opinions and advice have been considered in the formulation of these proposed regulations. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council at which these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council at this address.

In consideration of the foregoing, it is proposed that Subchapter S of Title 33 of the Code of Federal Regulations be amended by adding a new Part 175 to read as follows:

PART 175—EQUIPMENT REQUIREMENTS

Subpart A—General

Sec.
175.1 Applicability.
175.3 Definitions.

Subpart B—Personal Flotation Devices

175.11 Applicability.
175.13 Definitions.
175.15 Personal flotation devices required.
175.17 Exceptions.
175.19 Stowage.
175.21 Condition; approval; marking.
175.23 Personal flotation device equivalents.

AUTHORITY: The provisions of this Part 175 issued under sections 5, 39, Federal Boat Safety Act of 1971, 46 U.S.C. 1454, 1488; 49 CFR 1.46(o)(1).

Subpart A—General

§ 175.1 Applicability.

This part prescribes rules governing the use of boats on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for boats owned in the United States except—

(a) Foreign boats temporarily using waters subject to U.S. jurisdiction;

(b) Military or public boats of the United States, except recreational-type public vessels;

(c) A boat whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;

(d) Ship's lifeboats.

§ 175.3 Definitions.

As used in this part:

(a) "Boat" means any vessel manufactured or used primarily for noncommercial use; leased, rented, or chartered to another for the latter's noncommercial use; or engaged in the carrying of six or fewer passengers.

(b) "Recreational boat" means any vessel manufactured or used primarily for noncommercial use; or leased, rented, or chartered to another for the latter's noncommercial use. It does not include a vessel engaged in the carrying of six or fewer passengers.

(c) "Vessel" includes every description of watercraft, other than a seaplace on the water, used or capable of being used as a means of transportation on the water.

(d) "Use" means operate, navigate, or employ.

(e) "Passenger" means every person carried on board a vessel other than—

(1) The owner or his representative;

(2) The operator;

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or

(4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

(f) "Racing shell, rowing scull, and racing kayak," means a manually propelled boat that is recognized by national or international racing associations for use in competitive racing and one in which all occupants row, scull, or paddle, with the exception of a coxswain, if one is provided, and is not designed to carry and does not carry any equipment not solely for competitive racing.

Subpart B—Personal Flotation Devices

§ 175.11 Applicability.

This subpart applies to all recreational boats that are propelled or controlled by machinery, sails, oars, paddles, poles, or another vessel except racing shells, rowing sculls, and racing kayaks.

§ 175.13 Definitions.

As used in this subpart:

(a) "Personal flotation device" means a device that is approved by the Commandant under 46 CFR Part 160.

(b) "PFD" means "personal flotation device."

§ 175.15 Personal flotation devices required.

(a) Except as provided in § 175.17, no person may use a recreational boat less than 16 feet in length or a canoe or kayak unless at least one PFD of the following types or their equivalents listed in Table 175.23 is on board for each person:

(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.
(4) Type IV PFD.

(b) No person may use a recreational boat 16 feet or more in length, except a canoe or kayak, unless at least one PFD of the following types or their equivalents listed in Table 175.23 is on board for each person:

(1) Type I PFD.
(2) Type II PFD.
(3) Type III PFD.

(c) No person may use a recreational boat 26 feet or more in length, except a canoe or kayak, unless at least one Type IV PFD or its equivalent listed in Table 175.23 is on board in addition to the

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PFD's required in paragraph (b) of this section.

§ 175.17 Exceptions.

(a) A person using a canoe or kayak that is enclosed by a deck and spray skirt need not comply with § 175.15 if he wears a vest-type lifesaving device that—

(1) Has no less than 150 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film and has not less than 13 pounds of positive buoyancy in fresh water, if worn by a person who weighs more than 90 pounds; or

(2) Has no less than 120 separate permanently inflated air sacs made of not less than 12 mil polyvinylchloride film and has not less than 8½ pounds of positive buoyancy in fresh water, if worn by a person who weighs 90 pounds or less.

(b) A Type V PFD may be carried in lieu of any PFD required in § 175.15 if that Type V PFD is approved for the activity in which the recreational boat is being used.

§ 175.19 Stowage.

(a) No person may use a recreational boat unless each Type I, Type II, Type III, or Type V PFD required by § 175.15 or § 175.17 is readily accessible.

(b) No person may use a recreational boat unless each Type IV PFD required by § 175.15 is immediately available.

§ 175.21 Conditions; approval; marking.

No person may use a recreational boat unless each device required by § 175.15, or each device allowed by § 175.17, is—

(a) In serviceable condition;

(b) Legibly marked with the approval number as specified in 46 CFR Part 160 for items subject to approval; and

(c) Of an appropriate size for the person for whom it is intended.

§ 175.23 Personal flotation device equivalents.

Table 175.23 lists devices that are equivalent to personal flotation devices.

TABLE 175.23

Devices marked		Are equivalent to
160.002	Life preserver	Performance Type I personal flotation device
160.003	Life preserver	Performance Type I personal flotation device
160.004	Life preserver	Performance Type I personal flotation device
160.005	Life preserver	Performance Type I personal flotation device
160.009	Ring life buoy	Performance Type IV personal flotation device
160.047	Buoyant vest	Performance Type II personal flotation device
160.048	Buoyant cushion	Performance Type IV personal flotation device
160.049	Buoyant cushion	Performance Type IV personal flotation device
160.050	Ring life buoy	Performance Type IV personal flotation device
160.052	Buoyant vest	Performance Type II personal flotation device
160.053	Work vest	Performance Type V personal flotation device
160.055	Life preserver	Performance Type I personal flotation device
160.060	Buoyant vest	Performance Type II personal flotation device
160.064	Special purpose water safety buoyant devices.	A device intended to be worn may be equivalent to Type II or Type III. A device that is equivalent to Type III is marked "Type III Device—may not turn unconscious wearer." A device intended to be grasped is equivalent to Type IV.

Dated: October 2, 1972.

A. C. WAGNER,
Chief, Office of Boating Safety.

[FR Doc. 72-17048 Filed 10-5-72;8:45 am]

[46 CFR Parts 24, 25]

[CGD 72-172 PH]

UNINSPECTED VESSELS

Proposed Life Preservers and Other Lifesaving Equipment Requirements

The Coast Guard is considering issuing amendments to the life preserver and other lifesaving equipment carriage requirements for uninspected commercial vessels.

Any interested person may submit written data, views, or arguments concerning this notice to U.S. Coast Guard (GCMC/82) Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before December 11, 1972, will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGD 72-172 PH) and give reasons and supporting data for any recommendations. All comments will be available for examination in Room 8234.

An informal public hearing to receive comments of interested persons on this proposal will be held on November 20, 1972, in Conference Room 2230, 400 Seventh Street SW., Washington, DC 20590 (Telephone: 202—426-1477).

The proposal contained in this notice is predicated upon adoption of the lifesaving equipment requirements for recreational boats in a proposed new Part 175 of Title 33 which appears on page 21262 of this 1972 issue of the FEDERAL REGISTER. That proposal will remove the existing requirements for uninspected recreational vessels from 46 CFR Subchapter C and place them in title 33 CFR Subchapter S. At a later date additional amendments will be proposed which will relocate the carriage requirements for fire protection, navigational equipment, and other safety devices, for uninspected recreational vessels in Title 33.

Additionally, based on the provisions of the 1971 Federal Boat Safety Act, this proposal includes requirements for the carriage of lifesaving devices on sail vessels and non-self-propelled vessels carrying six pasengers or less for hire. This is currently required by the interim regulations published in the February 16, 1972, FEDERAL REGISTER (37 F.R. 343). Upon publication of this proposal as a final rule the interim regulations covering lifesaving devices will be canceled.

The amendments in this notice would:

a. Make the provisions of 46 CFR Subpart 25.25 applicable only to commercial uninspected vessels.

b. Make all commercial uninspected sail vessels and non-self-propelled vessels carrying six or less passengers for hire subject to the provisions of Subpart 25.25.

c. Withdraw acceptance of wood floats as primary lifesaving devices for commercial fishing motorboats. The proposal will establish a wearable lifesaving device as the minimum. Use of the wood float requires the user to grasp the float and to remain in complete control of body functions. This is considered to be unreasonable in light of the effects of cold water on a human body after relatively short periods of emersion. Commercial fishing vessels can be expected to operate in open water in severe conditions.

d. Withdraw the provisions which permit commercial fishing motorboats and commercial motorboats not carrying passengers for hire the option of carrying a device intended to be thrown such as a ring buoy, or buoyant cushion in lieu of a wearable device. As proposed, a life preserver, buoyant vest or special purpose water-safety buoyant device intended to be worn would be required for each person on board, except commercial motorboats 40 feet or longer would be required to carry a life preserver as the wearable device. The new minimum established would be a wearable device. It is considered reasonable to require the wearable lifesaving device on commercial vessels as they tend to operate in almost all weather conditions.

e. Require life preservers to be of a size suitable for each person on board, i.e. adult, child medium, or child small. The approval of a device is limited to the size marked on the device thus this requirement simply clarifies the existing limitations of Coast Guard approved lifesaving devices. The present regulations in § 25.25-10 for uninspected vessels carrying passengers for hire require an additional number of life preservers suitable for children equal to at least 10 percent of the total number of persons carried. For uninspected vessels carrying six and less passengers for hire, the greatest number of child devices required would be six and this is not considered to be onerous. Similarly commercial vessels not carrying passengers for hire do not ordinarily carry children, therefore the requirement to carry devices of an appropriate size is reasonable.

f. Include a requirement for the carriage of a ring life buoy for all commercial motor vessels, motorboats 26 feet or longer and all sail vessels and non-self-propelled vessels 26 feet or longer carrying passengers for hire. The additional ring life buoy is intended to be thrown to a person falling overboard into the water.

The Coast Guard considers that boats 26 feet inlength or longer are less maneuverable than smaller boats and that these larger boats have, in general, higher freeboards making reboarding more difficult. For these reasons, the Coast Guard feels that additional man-overboard protection is needed.

g. Continue to permit excess equipment to be carried in addition to that required. The proposal would delete the specific text which states that such excess equipment is permitted. This includes work vests, special purpose water-safety buoyant devices intended to be thrown to a person in the water, and buoyant cushions. The text as now worded serves no purpose.

h. Continue to permit cork and balsa wood life preservers manufactured prior to July 1, 1965, under Subparts 160.003 and 160.004 to be carried as required equipment. However, the amendment would delete from the regulations § 25.25-5(c)(2) which specifically allows these life preservers, because the text is not necessary.

i. Withdraw the provision which permits vessels to continue to carry items of equipment purchased prior to November 19, 1952. Twenty years has provided sufficient time to acquire replacement of lifesaving equipment purchased prior to November 19, 1952, through normal attrition.

j. Revise the appropriate applicability sections of the Subchapter C. In consideration of the foregoing, it is proposed to amend Parts 24 and 25 of Title 46, Code of Federal Regulations, as follows:

PART 24—GENERAL PROVISIONS

1. By revising § 24.01-1 to read as follows:

§ 24.01-1 Purpose of regulations.

The purpose of the regulations in this subchapter is to set forth uniform minimum requirements for uninspected commercial vessels, certain motor vessels, vessels propelled by sail, carrying passengers for hire, and barges carrying passengers for hire in accordance with the intent of the Motorboat Act of 1940, as amended (54 Stat. 163; 46 U.S.C. 526-526t) and the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451-1489). The regulatoins are necessary to carry out the provisions of the Motorboat Act of 1940, and the Federal Boat Safety Act of 1971 and such regulations have the force of law.

2. By revising § 24.01-10 (a) and (b) to read as follows:

§ 24.01-10 Authority for regulations.

(a) *General.* The authority to prescribe regulations generally is set forth in R.S. 4405, as amended (46 U.S.C. 375) and R.S. 4462, as amended (46 U.S.C. 416) and in section 17 of the Motorboat Act of 1940, as amended (54 Stat. 166; 46 U.S.C. 526p) and sections 5 and 39 of the Federal Boat Safety Act of 1971 (85 Stat. 215, 228; 46 U.S.C. 1454, 1488).

(b) *Lifesaving appliances.* The regulations regarding lifesaving appliances interpret or apply section 6 of the Motorboat Act of 1940, as amended (54 Stat. 164; 46 U.S.C. 526e) and section 5(a) of the Federal Boat Safety Act of 1971 (85 Stat. 215; 46 U.S.C. 1454(a)).

* * * * *

3. By revising the entry in Table 24.05-1(a) for "sail" in column 6 and by adding Footnote No. 12 to read as follows:

TABLE 24.05-1(a)

•	•	•	•	•		
...	...	...	...	...	All vessels carrying 6 or less passengers for hire.[12]	...
•	•	•	•	•		

[12] Lifesaving device requirements of Subpart 25.25 only.

PART 25—REQUIREMENTS

4. By revising Subpart 25.25 to read as follows:

Subpart 25.25—Life Preservers and Other Lifesaving Equipment

Sec.

25.25-1 Application.
25.25-3 Definitions.
25.25-5 Life preservers and other lifesaving equipment required.
25.25-7 Marking.
25.25-9 Storage.
25.25?11 Condition.

AUTHORITY: The provisions of this Subpart 25.25 issued under R.S. 4405, as amended, R.S. 4462, as amended, section 17, 54 Stat. 166, as amended, sections 5, 39, 85 Stat. 215, 228, section 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 526p, 1454, 1488; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b), (o)(1).

Subpart 25.25—Life Preservers and Other Lifesaving Equipment

§ 25.25-1 Application.

This subpart applies to each vessel to which this part applies, except:

(a) Vessels used for noncommercial use;

(b) Vessels leased, rented, or chartered to another for the latter's noncommercial use;

(c) Commercial vessels propelled by sail not carrying passengers for hire; or

(d) Commercial barges not carrying passengers for hire.

§ 25.25-3 Definitions.

As used in this subpart:

(a) "Approved" means approved under Subchapter Q of this chapter.

(b) "Use" means operate, navigate, or employ.

§ 25.25-5 Life preservers and other lifesaving equipment required.

(a) No person may operate a vessel to which this subpart applies unless it meets the requirements of this subpart.

(b) Each vessel not carrying passengers for hire, less than 40 feet in length must have at least one life preserver, buoyant vest, or special purpose water safety buoyant device intended to be worn approved under Subchapter Q of this chapter of a suitable size for each person on board. Kapok and fibrous glass life preservers that do not have plastic-covered pad inserts as required by Subparts 160.002 and 160.005 of this chapter are not acceptable as equipment required by this paragraph.

(c) Each vessel carrying passengers for hire and each vessel 40 feet in length or longer not carrying passengers for hire must have at least one life preserver approved under Subchapter Q of this chapter of a suitable size for each person on board. Kapok and fibrous glass life preservers which do not have plastic-covered pad inserts as required by Subparts 160.002 and 160.005 of this chapter are not acceptable as equipment required by this paragraph.

(d) Each vessel 26 feet in length or longer must have at least one ring life buoy approved under Subparts 160.009 or 160.050 of this chapter in addition to the equipment required by paragraph (b) or (c) of this section.

§ 25.25-7 Marking.

The lifesaving equipment required by this subpart must be legibly marked as specified in Subchapter Q of this chapter.

§ 25.25-9 Storage.

(a) The lifesaving equipment designed to be worn required in § 25.25-5 (a) and (b) must be readily accessible.

(b) Lifesaving equipment designed to be thrown required in § 25.25-5(d) must be immediately available.

§ 25.25-11 Condition.

The lifesaving equipment required by this subpart must be in serviceable condition.

(R.S. 4405, as amended, R.S. 4462, as amended, December 17, 54 Stat. 166, as amended, sections 5, 39, 85 Stat. 215, 228, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 375, 416, 526p, 1454, 1488; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b), (o)(1))

Dated: October 2, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-17047 Filed 10-5-72;8:45 am]

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[46 CFR Part 160]

[CGD 72-163 PH]

LIFESAVING EQUIPMENT

Proposed Specifications

The Coast Guard is considering issuing miscellaneous amendments to the lifesaving equipment specifications.

Any interested person may submit written data, views, or arguments concerning this notice to U.S. Coast Guard (CMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590. All communications received before December 11, 1972, will be considered before action is taken on the proposed regulations. Each person submitting comments should include his name and address, identify this notice (CGD 72-163 PH) and give reasons and supporting data for any recommendations. All comments will be available for examination in Room 8234.

An informal public hearing to receive comments of interested persons on this proposal will be held on November 20, 1972, in Conference Room 2230, 400 Seventh Street SW., Washington, DC 20590 (phone 202—426-1477).

The majority of amendments contained in this notice are predicated upon adoption of lifesaving equipment requirements in a proposed new Part 175 of Title 33, which appears on page 21262 of this issue of the FEDERAL REGISTER.

Type designations are presently used throughout Part 160 to distinguish between different designs and materials used in the construction of approved lifesaving devices. For example, in § 160.002-2, a Type A kapok life preserver denotes the adult model, and a Type B kapok life preserver denotes the child's model. In § 160.009-2, Type I designates a ring life buoy made of cork and Type II designates a ring life buoy made of balsa wood. Since this terminology conflicts with the personal flotation device (PFD) performance terminology (i.e. Type I, personal flotation device, Type II personal flotation device, etc.) in proposed Part 175, the present type designations in Part 160 would be deleted wherever they appear and the appropriate personal flotation device type designation would be added to the marking specification so that the user can recognize and select the appropriate type device required by proposed Part 175.

It is also proposed that the specifications for buoyant vests, buoyant cushions, and special purpose water safety buoyant devices be changed to reflect the language of the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451, et seq.) by replacing the words "motorboats of Classes A, 1 or 2 not carrying passengers for hire," with the words "recreational boats." Also for the same reason wherever life ring buoys are referred to in Part 160 as being used on merchant vessels and motorboats, the word "motorboats" is proposed to be deleted and replaced by the word "boats."

In addition, miscellaneous amendments to Part 160 are proposed to improve clarity and update the text. These amendments include:

a. In the heading of § 160.009-4, the word "requirement" would be replaced by the word "standard" to make the wording of the heading consistent with the wording used elsewhere in Part 160.

b. Paragraphs (d) of §§ 160.048-1 and 160.049-1 would be deleted since they are no longer applicable.

c. Sections 160.048-7a, 160.049-7a, and 160.064-5a are added to update the name and address of the designated recognized laboratory conducting the approval testing and inspection program.

d. Sections 160.049-4(c) and 160.064-5 (b) are revised for the purpose of clarity.

In consideration of the foregoing, it is proposed to amend Part 160, of Title 46, Code of Federal Regulations, as follows:

1. By revising § 160.002-2 to read as follows:

§ 160.002-2 Size and model.

Each life preserver specified in this subpart is to be a—

(a) Model 3, adult, 24 ounces kapok; or

(b) Model 5, child, 16 ounces kapok.

2. By revising § 160.002-6 to read as follows:

§ 160.002-6 Marking.

Each life preserver must have the following clearly marked in waterproof ink on a front section:

(a) In letters three-fourth inch or more in height

(1) Adult (for persons weighing over 90 pounds); or

(2) Child (for persons weighing less than 90 pounds).

(b) In letters capable of being read at a distance of 2 feet:

Type I—personal flotation device.
Kapok life preserver.
Designed to turn unconscious wearer face up in water.
Approved for use on all vessels by persons weighing more than 90 pounds or less than 90 pounds.
U.S. Coast Guard Approval No. 160.002/(assigned manufacturers' No.)/(revision No.); (model No.); (name and address of manufacturer or distributor).

3. By revising § 160.005-2 to read as follows:

§ 160.005-2 Size and model.

Each life preserver specified in this subpart is a—

(a) Model 52, adult, 46 ounces fibrous glass; or

(b) Model 56, child, 30 ounces fibrous glass.

4. By revising § 160.005-6 to read as follows:

§ 160.005-6 Marking.

Each life preserver must have the following clearly marked in waterproof ink on a front section:

(a) In letters three-fourths inch or more in height:

(1) Adult (for persons weighing over 90 pounds); or

(2) Child (for persons weighing less than 90 pounds).

(b) In letters capable of being read at a distance of 2 feet:

Type I—personal flotation device.
Fibrous glass life preserver.
Designed to turn unconscious wearer face up in water.
Approved for use on all vessels by persons weighing more than 90 pounds or less than 90 pounds.
U.S. Coast Guard Approval No. 160.005/(assigned manufacturers' No.)/(revision No.); (model No.) (name and address of manufacturer or distributor) (lot No.)

5. By revising the heading of Subpart 160.009 to read as follows:

Subpart 160.009—Specification for a Buoy, Life Ring, Cork or Balsa Wood for Merchant Vessels and Boats

6. By amending § 160.009-2 by revising paragraph (a) to read as follows:

§ 160.009-2 Type and size.

(a) *Type.* Each ring life buoy specified in this subpart must be made of—

(1) Cork; or

(2) Balsa wood.

* * * * * *

7. By amending § 160.009-3 by revising paragraph (a) and adding paragraph (a-1) to read as follows:

§ 160.009-3 Materials.

(a) *Corks.* All sheet cork used in a cork ring lifebuoy must comply with Subpart 164.001 of this chapter.

(a-1) *Balsa wood.* All balsa wood used in a ring lifebuoy must comply with Subpart 164.002 of this chapter.

* * * * * *

8. By revising the heading and paragraphs (a) and paragraph (b)(4) of § 160.009-4 to read as follows:

§ 160.009-4 Construction, workmanship, and performance standards.

(a) *General.* This specification covers ring life buoys, consisting of a body constructed in the shape of a ring with an approximately elliptical cross section as illustrated by dwg. No. 160.009, which provide buoyancy to aid in keeping persons afloat in the water. Alternate arrangements meeting the performance requirements of this specification will be given special consideration.

(b) * * *

(4) *Waterproof finish for balsa wood life ring buoys.* The entire finished body of each balsa wood ring lifebuoy must have a copious coat of waterproof glue that has dried thoroughly before the cover is placed on the buoy. The waterproof glue must be equivalent to the products having trade names of "Hydrotuf," "Synthetic Plasoleum," and "Balsa Wood Coating."

* * * * * *

9. By revising § 160.009-6 to read as follows:

§ 160.009-6 Marking.

Each ring lifebuoy must have the following information clearly marked in waterproof lettering:

(a) On the body—

Passed U.S. Coast Guard (Inspection date)
(Inspector's initials) (Port).
(Name and address of manufacturer or distributor.)
(Size of buoy.)
Coast Guard Approval No. 160.009/(Assigned manufacturers' No.)/(Revision No.).

(b) On the cover—

Type IV—Personal flotation device.
(Cork or balsa wood) ring life buoy.
Designed to be thrown to a person in the water.
Approved for use on recreational boats, less than 16 feet in length and as a throwing device for all vessels, 26 feet or more in length.
Approved, U.S. Coast Guard (Inspection date) (Inspector's initials) (Port).
(Name and address of manufacturer or distributor.)
Coast Guard Approval No. 160.009/(Assigned manufacturers' No.)/(Revision No.).
(Size of buoy.)
(The Lot No.)

10. By revising the heading of Subpart 160.047 to read as follows:

Subpart 160.047—Specification for a Buoyant Vest, Kapok or Fibrous Glass, Adult and Child

11. By revising § 160.047-2 to read as follows:

§ 160.047-2 Model.

Each buoyant vest specified in this subpart is a—

(a) Model AK-1, adult, kapok (for persons weighing more than 90 pounds);

(b) Model AF-1, adult, fibrous glass (for persons weighing more than 90 pounds);

(c) Model CKM-1, child medium, kapok (for children weighing from 50 to 90 pounds);

(d) Model CFM-1, child medium, fibrous glass (for children weighing from 50 to 90 pounds);

(e) Model CKS-1, child small kapok (for children weighing less than 50 pounds); or

(f) Model CFS-1, child small, fibrous glass (for children weighing less than 50 pounds).

12. By revising § 160.047-6 to read as follows:

§ 160.047-6 Marking.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II—Personal flotation device.
(Kapok or fibrous glass) buoyant vest.
Designed to turn unconscious wearer face up in water.
Dry out thoroughly when wet.
Do not puncture or snag inner plastic covers.
If pads become waterlogged replace vest.
Approved for use on uninspected commercial vessel less than 40 feet in length not carrying passengers for hire and all recreational boats by persons weighing more than 90 pounds or 50 to 90 pounds or less than 50 pounds.
U.S. Coast Guard Approval No. 160.047/(Assigned manufacturers' No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.)
(Lot No.)

(b) *Waterproof marking tags.* Marking for buoyant vests shall be sufficiently waterproof so that after 72 hours' submergence in water, it will withstand vigorous rubbing by hand while wet without the printed matter becoming illegible.

13. By revising the heading of Subpart 160.048 to read as follows:

Subpart 160.048—Specification for a Buoyant Cushion, Fibrous Glass

§ 160.048-1 [Amended]

14. By deleting § 160.048-1(d).

15. By amending § 160.048-6 by revising paragraph (a) to read as follows:

§ 160.048-6 Marking.

(a) Each buoyant cushion must have the following information clearly marked in waterproof lettering:

Type IV—Personal flotation device.
(Kapok or fibrous glass) buoyant cushion.
Designed to be thrown to a person in the water.
Warning: Do not wear on back.
Do not puncture or snag inner plastic cover.
Dry out thoroughly when wet.
Replace when waterlogged.
Approved for use on recreational boats less than 16 feet in length, and as a throwing device on recreational boats 26 feet or more in length.
U.S. Coast Guard Approval No. 160.048/(Assigned manufacturers' No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.)
(The Lot No.)
(The size; width, thickness and length, both top and bottom for trapezoidal cushions.)

* * * * * *

§ 160.048-7 [Amended]

16. By amending § 160.048-7 by revoking the last sentence of paragraph (a), and revoking paragraph (a)(1).

17. By adding § 160.048-7a to follow § 160.048-7 and to read as follows:

§ 160.048-7a Designated recognized laboratory.

Underwriters' Laboratories, Inc., Marine Department, Tampa East Industrial Park, 2602 Tampa East Boulevard, Tampa, FL 33619, is a recognized laboratory.

18. By revising the heading of Subpart 160.049 to read as follows:

Subpart 160.049—Specification for a Buoyant Cushion Plastic Foam

§ 160.049-1 [Amended]

19. By revoking paragraph (d) of § 160.049-1.

20. By revising § 160.049-4(c) to read as follows:

§ 160.049-4 Construction and workmanship.

* * * * * *

(c) *Buoyant material.* A buoyant insert for a buoyant cushion must comply with the requirements in subparagraphs (1) and (2) of this paragraph and may be—

(1) Molded in one piece; or

(2) Built up from sheet material if it is formed from—

(i) Three pieces or less in each layer, cemented together with an all-purpose vinyl adhesive such as or equivalent to U.S. Rubber No. M-6256 or Minnesota Mining No. EC-870 and EC-1070;

(ii) Three layers or less that may be cemented; and

(iii) Staggered butts and seams of adjacent layers.

* * * * * *

21. By amending § 160.049-6 by revising paragraph (a) to read as follows:

§ 160.049-6 Marking.

(a) Each buoyant cushion must have the following information clearly marked in waterproof lettering:

Type IV—Personal flotation device.
Unicellular plastic foam buoyant cushion.
Designed to be thrown to a person in the water.
Warning: Do not wear on back.
Dry out thoroughly when wet.
Approved for use on recreational boats, less than 16 feet in length, and as a throwing device for recreational boats 26 feet or more in length.
U.S. Coast Guard Approval No. 160.049/(Assigned manufacturers' No.)/(Revision No.); (Model No.).
(Name and address of manufacturer and distributor.)
(Lot No.)
(The size: width, thickness and length, both top and bottom for trapezoidal cushions.)

* * * * * *

§ 160.049-7 [Amended]

22. By amending § 160.049-7 by revoking the last sentence of paragraph (a), and revoking paragraph (a)(1).

23. By adding § 160.049-7a to follow § 160.048-7 and to read as follows:

§ 160.049-7a Designated recognized laboratory.

Underwriters' Laboratories, Inc., Marine Department, Tampa East Industrial Park, 2602 Tampa East Boulevard, Tampa, FL 33619 is a recognized laboratory.

24. By revising the heading of Subpart 160.050 to read as follows:

Subpart 160.050—Specification for a Buoy, Life Ring, Unicellular Plastic

25. By revising § 160.050-6 to read as follows:

§ 160.050-6 Marking.

(a) On a sturdy, corrosion-resistant nameplate, permanently attached to the becket, each ring buoy must have the following information in waterproof lettering:

Type IV—personal flotation device.
Unicellular plastic foam ring life buoy.
Designed to be thrown to a person in the water.
Approved for use on recreational boats, less than 16 feet in length, and a throwing device for all vessels 26 feet or more in length.
U.S. Coast Guard Approval No. 160.050/(Assigned manufacturers' No.)/(Revision No.); (Model No.).
(Name and address of manufacturer and distributor.)
(Size of buoy.)
(U.S.C.G.) (Inspector's Initials.)
(Lot No.)

(b) A method of marking that is different from the requirements of paragraph (a) of this section may be given consideration by the Coast Guard.

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26. By revising the heading of Subpart 760.052 to read as follows:

Subpart 160.052—Specification for a Buoyant Vest, Unicellular Plastic Foam, Adult and Child

27. By revising § 160.052–2 to read as follows:

§ 160.052–2 Size and model.

(a) A standard buoyant vest is manufactured in accordance with a plan specified in § 160.052–1(b) and is a—

(1) Model AP, adult (for persons over 90 pounds);

(2) Model CPM, child medium (for persons weighing from 50 to 90 pounds); or

(3) Model CPS, child, small (for persons weighing less than 50 pounds).

(b) A nonstandard buoyant vest is—

(1) Manufactured in accordance with the manufacturer's approved plan;

(2) Equivalent in performance to the standard buoyant vest; and

(3) Assigned a model designation by the manufacturer for the following sizes:

(i) Adult (for persons weighing over 90 pounds);

(ii) Child, medium (for persons weighing from 50 to 90 pounds);

(iii) Child, small (for persons weighing less than 50 pounds).

28. By revising the heading of § 160.052–3 to read as follows:

§ 160.052–3 Materials—standard vests.

29. In § 160.052–4 by revising the heading and paragraph (a) to read as follows:

§ 160.052–4 Materials — nonstandard vests.

(a) *General.* All materials used in nonstandard buoyant vests must be equivalent to those specified in § 160.052–3 and be obtained frob a supplier who furnishes an affidavit in accordance with the requirements in § 160.052–3(a).

* * * * *

30. By revising the heading of § 160.052–5 to read as follows:

§ 160.052–5 Construction — standard vests.

* * * * *

31. By revising § 160.052–6 to read as follows:

§ 160.052–6 Construction—nonstandard vests.

(a) *General.* The construction methods used for nonstandard buoyant vests must be equivalent to those requirements in § 160.052–5 for a standard vest and also meet the requirements in this section.

(b) *Size.* Each nonstandard vest must contain the following volume of plastic foam buoyant material, determined by the displacement method:

(1) 500 cubic inches or more for an adult size.

(2) 350 cubic inches or more for a child medium size.

(3) 225 cubic inches or more for a child small size.

(c) *Arrangement of buoyant material.* The buoyant material in a nonstandard vest must—

(1) Be arranged to hold the wearer in an upright or backward position with head and face out of water;

(2) Have no tendency to turn a wearer face downward in the water; and

(3) Be arranged so that 70 to 75 percent of the total is located in the front of the vest.

(d) *Neck opening.* Each cloth covered nonstandard vest must have at the neck opening—

(1) A gusset; or

(2) Reinforcing tape.

(e) *Adjustment, fit, and donning.* Each nonstandard vest must be made with adjustments to—

(1) Fit a range of wearers for the type designed; and

(2) Facilitate donning time for an uninitiated person.

32. By amending § 160.052–7 by revising the heading, paragraph (g) and the heading of paragraph (c) to read as follows:

§ 160.052–7 Inspections and tests—standard and nonstandard vests.

* * * * *

(c) *Additional compliance tests.* * * *

* * * * *

(g) *Additional approval tests for nonstandard vests.* Tests in addition to those required by this section may be conducted by the inspector for nonstandard vests to determine performance equivalence to a standard vest. Such additional tests may include determining performance in water, suitability of materials, donning time, ease of adjustment, and similar equivalency tests. Costs for any additional tests must be assumed by the manufacturer.

33. By revising § 160.052–8 to read as follows:

§ 160.052–8 Marking standard and nonstandard vests.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II—personal flotation device.
Unicellular plastic foam buoyant vest.
Designed to turn unconscious wearer face up in water.
Dry out thoroughly when wet.
Approved for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire and all recreational boats by persons weighing more than 90 pounds or 50 to 90 pounds or less than 50 pounds.
U.S. Coast Guard Approval No. 160.052/(Assigned manufacturers' No.)/(Revision No.); (Model No.).

(Name and address of manufacturer or distributor.)
(Lot No.)

(b) *Waterproof marking.* Marking for buoyant vests shall be sufficiently waterproof so that after 72 hours submergence in water it will withstand vigorous rubbing by hand while wet without the printed matter becoming illegible.

34. By revising the introductory text of paragraph (a) to read as follows:

§ 160.052–9 Procedure for listing and labeling.

(a) A recognized laboratory must inform each manufacturer that requests listing and labeling of a buoyant vest for use on a boat not carrying passengers for hire, of the procedures for—

* * * * *

35. By revising § 160.053–5(a) to read as follows:

§ 160.053–5 Marking.

(a) Each work vest must have the following information clearly printed in waterproof ink on a cloth tag attached to the envelope by stitching along the edges of the tag:

Type V—Personal flotation device.
Unicellular plastic foam work vest.
Designed to turn an unconscious wearer face up in the water.
Approved for use on merchant vessels when engaged in work activities.
U.S. Coast Guard Approval No. 160.053/(assigned manufacturers' No.)/(revision No.)(model No.).
(Lot No.)
"This vest is filled with unicellular plastic foam, which repeated wettings will not injure. When vest is wet, hang up and dry thoroughly".
(The name and address of manufacturer or distributor.)

* * * * *

36. By revising § 160.055–2 to read as follows:

§ 160.055–2 Type and model.

Each life preserver specified in this subpart is a—

(a) Standard, bib type, Vinyl dip coated—

(1) Model 62, adult (for persons weighing over 90 pounds); or

(2) Model 66, child (for persons weighing less than 90 pounds); or

(b) Standard, bib type, cloth covered—

(1) Model 63, adult (for persons weighing over 90 pounds); or

(2) Model 67, child (for persons weighless than 90 pounds); or

(c) Nonstandard shaped type—

(1) Model,[1] adult (for persons weighing over 90 pounds); or

(2) Model,[1] child (for persons weighing less than 90 pounds).

37. By revising the heading of § 160.055–3 to read as follows:

§ 160.055–3 Materials—standard life preservers.

38. By revising § 160.055–4 to read as follows:

§ 160.055–4 Materials — nonstandard life preservers.

All materials used in nonstandard life preservers must be equivalent to those specified in § 160.055–3 for standard life preservers.

[1] A model designation for each nonstandard life preserver is to be assigned by the manufacturer. That designation must be different from any standard lifesaving device designation.

39. By amending § 160.055–5 by revising the heading and introductory texts of paragraphs (b) and (c) to read as follows:

§ 160.055–5 Construction—standard life preservers.

* * * * *

(b) *Construction—standard, vinyl dip-coated life preserver.* This device is constructed from one piece of unicellular plastic foam with a—

(1) Neck hole and the body slit in the front;

(2) Vinyl dip coating; and

(3) Fitted and adjustable body strap.

* * * * *

(c) *Construction—standard, cloth covered life preservers.* This device is constructed from three sections of unicellular plastic foam contained in a cloth envelope and has—

(1) A neck hole;

(2) The body slit in the front; and

(3) A fitted and adjustable body strap.

* * * * *

40. By revising § 160.055–6 to read as follows:

§ 160.055–6 Construction—nonstandard, life preservers.

(a) *General.* The construction methods used for a nonstandard life preserver must be equivalent to the requirements in § 160.055–5 for a standard life preserver and also meet the requirements in this section.

(b) *Size.* Each nonstandard life preserver must contain the following volume of plastic foam buoyant material, determined by the displacement method:

(1) Seven hundred cubic inches or more for an adult size.

(2) Three hundred and fifty cubic inches or more for a child size.

(c) *Arrangement of buoyant material.* The buoyant material in nonstandard life preservers must—

(1) Be arranged to hold the wearer in an upright or backward position with head and face out of water;

(2) Have no tendency to turn the wearer face downward in water; and

(3) Be arranged so that 68 to 73 percent of the total is located in the front of the life preserver.

(d) *Adiusment, fit, and donning.* Each nonstandard life preserver must be capable of being—

(1) Worn reversed;

(2) Adjusted to fit a range of wearers for the type designed; and

(3) Donned in a time comparable to that of a standard life preserver.

41. By amending § 160.055–7 by revising the heading and paragraph (i) to read as follows:

§ 160.055–7 Sampling, tests, and inspections—standard and nonstandard life preservers.

* * * * *

(i) *Additional tests for nonstandard life preservers.* Tests in addition to those required by this section may be required for nonstandard life preservers to determine performance equivalence to a standard preserver. Such additional tests may include determining performance in the water, suitability of materials, donning time, ease of adjustment, and similar equivalency tests. Costs for any additional tests must be assumed by the manufacturer.

42. By revising § 160.055–8 to read as follows:

§ 160.055–8 Marking—standard and nonstandard life preservers.

Each life preserver must have the following information clearly marked in waterproof lettering:

(a) In letters three-fourths inch or more in height:

(1) Adult (for persons weighing over 90 pounds); or

(2) Child (for persons weighing less than 90 pounds).

(b) In letters capable of being read at a distance of 2 feet:

Type I—Personal flotation device.
Unicellular plastic foam life preserver.
Designed to turn unconscious wearer face up in water.
Approved for use on all vessels by persons weighing more than 90 pounds or less than 90 pounds.
U.S. Coast Guard Approval No. 160.055/(Assigned manufacturers' No.)/(revision No.); (model No.)
(Name and address of manufacturer or distributor.)
(Lot No.)

43. By amending § 160.055–9 by revising the heading and paragraphs (b) and (c), and adding paragraphs (b–1) and (c–1) to read as follows:

§ 160.055–9 Procedure for approval—standard and nonstandard life preservers.

* * * * *

(b) *Assignment of inspector; standard life preservers.* Upon receipt of an application from a manufacturer for approval of a standard life preserver, a Coast Guard inspector is assigned to the factory to—

(1) Observe the production facilities and manufacturing methods;

(2) Select from a lot of 10 manufactured life preservers or more, three or more of each model for examination;

(3) Test the selected sample for compliance with the requirements of this specification; and

(4) Forward to the Commandant a copy of his report of the tests and the production and manufacturing facilities, a specimen life preserver selected from those already manufactured but not tested, and one copy of an affidavit for each material used in the life preservers.

(b–1) *Approval number; standard life preserver.* An approval number is assigned to the manufacturer by the Coast Guard for a standard life preserver found to be in compliance with the requirements of this subpart.

(c) *Assignment of inspector: Nonstandard life preserver.* Upon receipt of an application from a manufacturer for approval of nonstandard life preservers, an inspector is assigned to the factory to—

(1) Observe the production facilities and manufacturing methods;

(2) Select three samples of life preservers of each model for which approval is desired;

(3) Forward to the Commandant—

(i) Three samples of each model of life preservers;

(ii) A copy of the inspector's report of tests and the production and manufacturing facilities; and

(iii) Four copies each of fully-dimensioned, full scale drawings showing all details of construction of the sample life preservers submitted, material affidavits, and four copies of a bill of materials showing all materials used in construction of the life preservers submitted by the manufacturer.

(c–1) *Approval number; nonstandard life preserver.* An official approval number is assigned to the manufacturer by the Coast Guard for a nonstandard life preserver approved after tests.

* * * * *

44. By revising the heading of Subpart 160.060 to read as follows:

Subpart 160.060—Specification for a Buoyant Vest, Unicellular Polyethylene Foam, Adult and Child

45. By revising § 160.060–2 to read as follows:

§ 160.060–2 Type and model.

Each buoyant vest specified in this subpart is a—

(a) Standard—

(1) Model AY, adult (for persons weighing over 90 pounds); or

(2) Model CYM, child, medium (for children weighing from 50 to 90 pounds); or

(3) Model CYS, child, small (for children weighing less than 50 pounds); or

(b) Nonstandard—

(1) Model,[1] adult (for persons weighing over 90 pounds);

(2) Model,[1] child, medium (for persons weighing from 50 to 90 pounds); or

(3) Model,[1] child, small (for persons weighing less than 50 pounds).

46. By revising the heading of § 160.060–3 to read as follows:

§ 160.060–3 Materials—standard vests.

47. By amending § 160.060–4 by revising the heading and paragraph (a) to read as follows:

§ 160.060–4 Materials—nonstandard vests.

(a) *General.* All materials used in nonstandard buoyant vests must be equivalent to those specified in § 160.060–3 and be obtained from a supplier who furnishes an affidavit in accordance with the requirements in § 160.060–3(a).

* * * * *

48. By revising the heading of § 160.060–5 to read as follows:

[1] A model designation for a nonstandard vest is to be assigned by the individual manufacturer and must be different from any standard vest.

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§ 160.060–5 Construction—standard vests.

* * * * *

49. By revising § 160.060–6 to read as follows:

§ 160.060–6 Construction—nonstandard

(a) *General.* The construction methods used for a nonstandard buoyant vest must be equivalent to the requirements in § 160.060–5 for standard vests and also meet the requirements specified in this section.

(b) *Sizes.* Each nonstandard vest must contain the following volume of unicellular polyethylene foam buoyant material, determined by the displacement method:

(1) 500 cubic inches or more for the adult size, for persons weighing over 90 pounds.

(2) 350 cubic inches or more for a child medium size, for children weighing from 50 to 90 pounds.

(3) 225 cubic inches or more for children weighing less than 50 pounds.

(c) *Arrangement of buoyant material.* The buoyant material in a nonstandard vest must—

(1) Be arranged to hold the wearer in an upright or backward position with head and face out of water;

(2) Have no tendency to turn the wearer face downward in the water; and

(3) Be arranged so that 70 to 75 percent of the total is located in the front of the vest.

(d) *Neck opening.* Each cloth covered nonstandard vest must have at the neck opening—

(1) A gusset; or

(2) Reinforcing tape.

(e) *Adjustment, fit, and donning.* Each nonstandard vest must be made with adjustments to—

(1) Fit a range of wearers for the type designed; and

(2) Facilitate donning time for an uninitiated person.

50. By amending § 160.060–7 by revising the heading, paragraph (g), and the heading of paragraph (c) to read as follows:

§ 160.060–7 Inspections and tests—standard and nonstandard vests.

* * * * *

(c) *Additional compliance tests.* * * *

* * * * *

(g) *Additional approval tests for nonstandard vests.* Tests in addition to those required by this section may be conducted by the inspector for a nonstandard vest to determine performance equivalence to a standard vest. Such additional tests may include determining performance in water, suitability of materials, donning time, ease of adjustment, and similar equivalency tests. Costs for any additional tests must be assumed by the manufacturer.

51. By revising § 160.060–8 to read as follows:

§ 160.060–8 Marking standard and nonstandard vests.

(a) Each buoyant vest must have the following information clearly marked in waterproof lettering:

Type II—Personal flotation device.
Unicellular polyethylene foam buoyant vest.
Designed to turn unconscious wearer face up in water.
Dry out thoroughly when wet.
Approved for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire and all recreational boats by persons weighing more than 90 pounds or 50 to 90 pounds or less than 50 pounds.
U.S. Coast Guard Approval No. 160.060/(Assigned manufacturers' No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.)
Lot No.)

(b) *Waterproof marking.* Marking of buoyant vests shall be sufficiently waterproof so that after 72 hours' submergence in water it will withstand vigorous rubbing by hand while wet without printed matter becoming illegible.

52. By revising the heading of Subpart 160.064 to read as follows:

Subpart 160.064—Specification for Special Purpose Water Safety Buoyant Devices

53. By amending § 160.064–4 by revising paragraph (a) to read as follows:

§ 160.064–4 Marking.

(a) Each special purpose buoyant device must have the following information clearly printed on a front section:

(1) For devices to be worn:

(i) Type II—Personal flotation device;
Designed to turn an unconscious wearer face up in the water; or
Type III—Personal flotation device
Designed to keep a conscious person in a vertical or slightly backward position in the water; and
(ii) Special purpose intended.)
Approved for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire and all recreational boats by persons weighing more than 90 pounds or 50 to 90 pounds or less than 50 pounds.
U.S. Coast Guard Approval No. 160.064/(Assigned Manufacturers' No.)/Revision No.); (Model No.).
(Name and address of manufacturer or distributor.)

(2) For devices to be thrown:

Type IV—Personal flotation device.
Designed to be thrown to a person in the water.
(Special purpose intended.)
Approved for use on recreational boats less than 16 feet in length, and as a throwing device for recreational boats 26 feet or more in length.
U.S. Coast Guard Approval No. 160.064/(Assigned Manufacturers' No.)/(Revision No.); (Model No.).
(Name and address of manufacturer or distributor.)

54. By revising § 160.064–5 to read as follows:

§ 160.064–5 Recognized laboratory.

To be designated a recognized laboratory, the laboratory must be—

(a) Operated as a nonprofit public service;

(b) Engaged regularly in the examination, testing, and evaluation of the safety of materials, installations, and devices for marine use; and

(c) Established in factory inspection and listing and labeling by having an existing program and standards for evaluation, listing, and labeling buoyant devices that are acceptable to the Commandant.

55. By adding §§ 160.064–5a and 160.064–5b to follow § 160.064–5 and to read as follows:

§ 160.064–5a Designated recognized laboratory.

Underwriters' Laboratories, Inc., Marine Department, Tampa East Industrial Park, 2602 Tampa East Boulevard, Tampa, FL 33619, is a recognized laboratory.

§ 160.064–5b Compliance label.

If a recognized laboratory approves a buoyant device, the device is allowed to carry the compliance label of the recognized laboratory.

56. By revising § 160.064–7 to read as follows:

§ 160.064–7 Procedure for listing and labeling.

(a) A recognized laboratory must inform each manufacturer that requests listing and labeling of a special purpose water safety device for use on boats not carrying passengers for hire, of the procedures for—

(1) Inspection;

(2) Examination;

(3) Tests; and

(4) The forwarding to the Coast Guard of the test report and the description of the quality control program of the requesting manufacturer.

(b) The cost of any examination, test, and inspection and the cost of listing and labeling must—

(1) Be paid by the manufacturer; and

(2) Be the same for similar services for each manufacturer.

(c) The Coast Guard reviews each test report and quality control procedure forwarded by the recognized laboratory to determine if the approval requirements have been met. After the review is completed, the Coast Guard—

(1) Notifies the laboratory that the device is approved; and

(2) Publishes notice of the approval in the FEDERAL REGISTER and Coast Guard publication CG–190.

(d) The Commandant, U.S. Coast Guard, determines all matters concerning approval requirements. The manufacturer or recognized laboratory may at any time request advice from the Commandant regarding these requirements.

(Sec. 17, 54 Stat. 166, as amended, sec. 5, 85 Stat. 215, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 526p, 1454, 49 U.S.C. 1655(b)(1); 49 CFR 146(b), (o)(1))

Dated: October 2, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72–17049 Filed 10–5–72;8:45 am]

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SATURDAY, OCTOBER 7, 1972

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Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-562]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e) (12) relating to the State of Tennessee, a new subdivision (iv) relating to Cumberland and Fentress Counties is added to read:

(e) • • •

(12) *Tennessee.* • • •

(iv) The adjacent portions of Cumberland and Fentress Counties bounded by a line beginning at the junction of the Fentress-Overton County line and State Highway 85 in Fentress County; thence, following the Fentress-Overton County line in a southeasterly, then southwesterly direction to the junction of the Fentress-Overton-Putnam County lines; thence, following the Fentress-Putnam County line in a southeasterly direction to the junction of the Fentress-Putnam-Cumberland County lines; thence, following the Cumberland-Putnam County line in a southwesterly, then westerly direction to U.S. Highway 70 N, State Highway 24 in Cumberland County; thence, following U.S. Highway 70 N, State Highway 24 in a generally southeasterly direction to U.S. Highway 127, State Highway 28; thence, following U.S. Highway 127, State Highway 28 in a northwesterly direction to Secondary Road 4252; thence, following Secondary Road 4252 in a northeasterly direction to the southern boundary of the Catoosa Wildlife Management Area; thence, following the southern boundary of the Catoosa Wildlife Management Area in a generally northeasterly direction to the Cumberland-Morgan County line; thence, following the Cumberland-Morgan County line in a generally northwesterly direction to the junction of the Cumberland-Morgan-Fentress County lines; thence, following the Fentress-Morgan County line in a generally northerly direction to Secondary Road 4242 in Fentress County; thence, following Secondary Road 4242 in a generally northwesterly direction to U.S. Highway 127, State Highway 28; thence, following U.S. Highway 127, State Highway 28 in a southwesterly direction to State Highway 85; thence, following State Highway 85 in a generally northwesterly direction to its junction with the Fentress-Overton County line.

2. In § 76.2, in paragraph (e) (9) relating to the State of Indiana, subdivisions (i) and (ii) relating to White County are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Cumberland and Fentress Counties in Tennessee because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments exclude portions of White County in Indiana from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17265 Filed 10-6-72;8:50 am]

[Docket No. 72-563]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e) (13) relating to the State of Georgia is amended to read:

(e) • • •

(13) *Georgia.* (i) That portion of the State of Georgia comprised of all of Dade County.

(ii) The adjacent portions of Johnson, Washington, and Jefferson Counties bounded by a line beginning at the junction of State Highway 231 and State Highway 15 in Washington County; thence, following State Highway 15 in a southeasterly direction to Secondary Road 2124 in Johnson County; thence, following Secondary Road 2124 in a southeasterly direction to Secondary Road 1474; thence, following Secondary Road 1474 in a southeasterly direction to Secondary Road 2124; thence, following Secondary Road 2124 in a southeasterly direction to the Johnson-Emanuel County line; thence, following the Johnson-Emanuel County line in a generally northeasterly direction to the junction of the Johnson-Emanuel-Jefferson County lines; thence, following the Jefferson-Emanuel County line in a generally northeasterly direction to U.S. Highway 1, State Highway 4 in Jefferson County; thence, following U.S. Highway 1, State Highway 4, in a northerly direction to U.S. Highway 319, State Highway 78; thence, following U.S. Highway 319, State Highway 78, in a northwesterly direction to U.S. Highway 221, State

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Highway 171; thence, following U.S. Highway 221, State Highway 171 in a southwesterly direction to State Highway 242; thence, following State Highway 242 in a northwesterly direction to State Highway 231 in Washington County; thence, following State Highway 231 in a generally southwesterly direction to its junction with State Highway 15 in Washington County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines portions of Johnson, Washington, and Jefferson Counties in Georgia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 4th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17266 Filed 10-6-72;8:51 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Thiabendazole

A petition (PP 1F1031) was filed by Merck Sharp & Dohme, Division of Merck and Co., Inc., Rahway, N.J. 07065, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances (40 CFR Part 180) for residues of the fungicide thiabendazole (2-(4-thiazolyl)-benzimidazole) in or on the raw agricultural commodities: Apples, crabapples, pears, and quinces from postharvest application at 11 parts per million.

Subsequently, the petitioner amended the petition by (a) withdrawing the proposed tolerances on crabapples and quinces, (b) reducing the proposed tolerances on apples and pears to 10 parts per million, and (c) by proposing tolerance for combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in milk at 0.1 part per million (for a related document, see this issue of the FEDERAL REGISTER, page 21278.)

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerances are being established.

2. The proposed tolerance for milk is adequate to cover residues resulting from the proposed use, and § 180.6(a)(2) applies. There is no reasonable expectation of residues in eggs, meat, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides programs (36 F.R. 9038), § 180.242 is amended by adding two new paragraphs, as follows:

§ 180.242 Thiabendazole; tolerances for residues.

* * * * *

10 parts per million in or on apples and pears (from postharvest application).

* * * * *

0.1 part per million for combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in milk.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–7–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: September 28, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.72-17186 Filed 10-6-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

SUBPART C—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS OR FOR THE TREATMENT OF FOOD-PRODUCING ANIMALS

Thiabendazole

A petition (FAP 2H5008) was filed with the Environmental Protection Agency by Merck Sharp & Dohme, Division of Merck and Co., Inc., Rahway, N.J. 07065, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the fungicide thiabendazole (2-(4-thiazolyl)-benzimidazole) in dried apple pomace at 33 parts per million resulting from postharvest application of the fungicide to the raw agricultural commodity apples. (For a related document, see this issue of the FEDERAL REGISTER, page 21278.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the act (sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 121.260 is amended by adding a new paragraph, as follows:

§ 121.260 Thiabendazole.

* * * * *

(g) A tolerance of 33 parts per million is established for residues of the fungicide thiabendazole in or on dried apple pomace from postharvest application of the fungicide to the raw agricultural commodity apples.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–7–72).

(Sec. 409(c)(1), (4), 72 Stat. 1786; 21 U.S.C. 348(c)(1), (4))

Dated: September 28, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17187 Filed 10-6-72;8:46 am]

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Combination Antibiotic Drugs Used in Animal Feeds No Longer Sanctioned

The Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of various products intended for use in animals. In furtherance of the principles laid down by the National Academy of Sciences, and in response to the need for an integrated evaluation of all animal drug products, the Commissioner of Food and Drugs is continuing to evaluate the efficacy of other marketed products as part of a continuous monitoring program. While the National Academy of Sciences did not evaluate efficacy data relating to the products, which are the subject of this order, the Commissioner did conduct such a review. The Commissioner found that available information failed to provide substantial evidence of effectiveness of the animal products covered in this order when used under the conditions specified.

Interested parties were given written notification of this finding and were requested to submit the information needed to satisfy the requirements of the Federal Food, Drug, and Cosmetic Act. Specifically, they were requested to submit data derived from well-designed studies for each marketed class of animal specified by the labeling of the drug demonstrating that:

1. Each drug in a combination makes a positive contribution to the total claimed effect.

2. The recommended dosage of the antibiotics in these combinations be the optimum for producing the claimed effect, and that this optimization be established by controlled dose response experiments.

3. The combined drugs do not interfere with the action of the individual drugs nor compromise their safety.

Written notification has been received from the interested parties that the combination drugs listed in this order are no longer marketed or in any way the subject of interest for continued use. Such written notification is construed to mean that such persons have waived their right to a hearing regarding the withdrawal from use of such drug combinations. Accordingly, the drugs listed under § 135e.1000(c) may no longer be marketed.

This action will subsequently be reflected by a revision of all applicable regulations. The Commissioner has concluded, however, that pending the revision of the applicable regulations the following interim regulations should be issued to provide prompt public notice of this action and establish a listing of the combination antibiotic drugs used in animal feeds for which approval has been withdrawn based on the review of these products.

The list of drugs provided for under § 135e.1000(c) will be supplemented by other lists formulated and published after publication of the final order based on the Antibiotic Task Force Report.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), a new section is established in Part 135e as follows:

§ 135e.1000 Combination antibiotic drugs in animal feeds no longer sanctioned.

(a) The National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of various drugs intended for use in animals. In furtherance of the principles laid down by the National Academy of Sciences, and in response to the need for an integrated monitoring program of all animal drugs, the Commissioner of Food and Drugs has conducted a review of certain additional combination antibiotic drugs used in animal feeds that were not considered by the National Academy of Sciences-National Research Council. The Commissioner has concluded that available information fails to provide substantial evidence of effectiveness of the drugs listed in paragraph (c) of this section, and the manufacturers or distributors have informed the Commissioner that either the drugs are no longer marketed or that there is no interest in their continued marketing.

(b) Certain drug combinations listed in paragraph (c) of this section were in use or sanctioned in Subpart C of Part 121 and/or § 144.26 of this chapter, while other drug combinations should be the subject of an approved new animal drug application. The listing of certain combination antibiotic drugs that are no longer sanctioned for use in animal feed provides prompt public notice of this action and serves as an interim measure to withdraw approval of the drugs listed under paragraph (c) of this section until recodification and amendment to the applicable sections can be completed.

(c) The Commissioner finds that any further marketing of the following combination drugs constitutes a violation of the Federal Food, Drug, and Cosmetic Act in that they have not been shown to be effective for their intended use. This listing is subject to later additions resulting from continued evaluation of combination animal drug products.

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IDENTIFICATION	DRUG	DOSAGE
	SPECIES: CHICKEN	
82121	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
	ETHOPABATE	.0004 PERCENT
82122	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ETHOPABATE	.0004 PERCENT
82753	AMPROLIUM	.0125-.025 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ETHOPABATE	.0004 PERCENT
83003	AMPROLIUM	.004-.025 PERCENT
	ARSANILIC ACID	.01 PERCENT
	PENICILLIN	2.4-50 GM/TON
83021	AMPROLIUM	.004-.025 PERCENT
	STREPTOMYCIN	30-50 GM/TON
83022	AMPROLIUM	.004-.025 PERCENT
	PENICILLIN PLUS TYLOSIN	3.2-50 GM/TON COMB.
83023	AMPROLIUM	.004-.025 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83027	AMPROLIUM	.004-.25 PERCENT
	DIENESTROL DIACETATE	.0023-.007 PERCENT
	PENICILLIN	2.4-50 GM/TON
83043	AMPROLIUM	.0125-.025 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	BACITRACIN	4-50 GM/TON
83052	AMPROLIUM	.0125-.025 PERCENT
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
83056	AMPROLIUM	.0125-.025 PERCENT
	ROXARSONE	.025-.005 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
	ETHOPABATE	.0004 PERCENT
83078	AMPROLIUM	.008-.0125 PERCENT
	TYLOSIN	4-50 GM/TON
83100	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ETHOPABATE	.0004 PERCENT
83126	AMPROLIUM	.004-.0125 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
83143	AMPROLIUM	.0125-.025 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83145	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
83146	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
83147	AMPROLIUM	.0125-.025 PERCENT
	PENICILLIN PLUS TYLOSIN	3.2-50 GM/TON COMB.
83159	AMPROLIUM	.0125-.025 PERCENT
	DIENESTROL DIACETATE	.0023 PERCENT
	PENICILLIN	2.4-50 GM/TON
83165	AMPROLIUM	.008-.0125 PERCENT
	PENICILLIN	2.4-50 GM/TON
83167	AMPROLIUM	.008-.0125 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83168	AMPROLIUM	.008-.0125 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
83169	AMPROLIUM	.008-.0125 PERCENT
	BACITRACIN	4-50 GM/TON
83171	AMPROLIUM	.008-.0125 PERCENT
	PENICILLIN PLUS TYLOSIN	3.2-50 GM/TON COMB.
83174	AMPROLIUM	.008-.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	ERYTHROMYCIN	4.6-18.5 GM/TON
83177	AMPROLIUM	.008-.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	PENICILLIN	2.4-50 GM/TON
83182	AMPROLIUM	.008-.0125 PERCENT
	ERYTHROMYCIN	4.6-18.5 GM/TON
83185	AMPROLIUM	.008-.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	ERYTHROMYCIN	4.6-18.5 GM/TON
	ETHOPABATE	.0004 PERCENT
83187	AMPROLIUM	.008-.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	ERYTHROMYCIN	92.5 GM/TON
	ETHOPABATE	.0004 PERCENT
83189	AMPROLIUM	.0125-.025 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	PENICILLIN	2.4-50 GM/TON
83190	AMPROLIUM	.0125-.025 PERCENT
	DIENESTROL DIACETATE	.0035 PERCENT
	PENICILLIN	2.4-50 GM/TON
83198	AMPROLIUM	.004-.0125 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
83411	AMPROLIUM	.004-.025 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83412	AMPROLIUM	.004-.025 PERCENT
	PENICILLIN PLUS TYLOSIN	3.2-50 GM/TON COMB.
83416	AMPROLIUM	.0125-.025 PERCENT
	ETHOPABATE	.0004 PERCENT
	STREPTOMYCIN	30-50 GM/TON
83417	AMPROLIUM	.0125-.025 PERCENT
	ETHOPABATE	.0004 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83149	AMPROLIUM	.0125-.025 PERCENT
	ARSANILIC ACID	.01 PERCENT
	ETHOPABATE	.0004 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83430	AMPROLIUM	.0125-.025 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	BACITRACIN	4-50 GM/TON
	ETHOPABATE	.0004 PERCENT
83431	AMPROLIUM	.0125-.025 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	BACITRACIN	4-50 GM/TON
83444	AMPROLIUM	.0125-.025 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
	ETHOPABATE	.0004 PERCENT
83551	AMPROLIUM	.004-.0125 PERCENT
	BACITRACIN	4-50 GM/TON
82005	ARSANILIC ACID	.005-.01 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82006	ARSANILIC ACID	.005-.01 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82051	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN	50-100 GM/TON
82057	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
82063	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN	100-500 GM/TON
82069	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
82166	ARSANILIC ACID	.01 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
82219	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	50 GM/TON
82351	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82378	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82411	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82418	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82425	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
82432	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
82446	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
82670	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82671	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
82672	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
82139	BACITRACIN	4-50 GM/TON
	NYSTATIN	50 GM/TON
82140	BACITRACIN	3.6-50 GM/TON
	NYSTATIN PLUS PENICILLIN	50 GM/TON COMB.
82141	BACITRACIN	4-50 GM/TON
	NYSTATIN	100 GM/TON
82142	NYSTATIN	100 GM/TON
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82000	NYSTATIN	50 GM/TON
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82171	MANGANESE BACITRACIN	4-50 GM/TON
	NYSTATIN	50 GM/TON
82173	NYSTATIN	100 GM/TON
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82502	NYSTATIN	50 GM/TON
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82503	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	NYSTATIN	50 GM/TON
82504	NYSTATIN	100 GM/TON
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82505	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	NYSTATIN	100 GM/TON
82783	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	SODIUM FLUORIDE	.5-1 PERCENT
82754	NYSTATIN	50 GM/TON
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82756	NYSTATIN	100 GM/TON
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82484	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82496	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82739	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82883	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82662	CHLORTETRACYCLINE	10-50 GM/TON
82663	NYSTATIN	50 GM/TON
	CHLORTETRACYCLINE	10-50 GM/TON
	NYSTATIN	100 GM/TON
82203	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82204	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82205	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	10-50 GM/TON
82206	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82547	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	BACITRACIN	4-50 GM/TON
82638	DIENESTROL DIACETATE	.0023-.007 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82639	DIENESTROL DIACETATE	.0023-.007 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
82493	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82944	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82945	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	PENICILLIN	10-50 GM/TON
82946	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82947	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	BACITRACIN	4-50 GM/TON
82948	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82949	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82950	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	PENICILLIN	10-50 GM/TON
82951	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82952	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	BACITRACIN	4-50 GM/TON
82953	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82954	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82955	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	PENICILLIN	2.4-50 GM/TON
82956	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
83082	DIENESTROL DIACETATE	.0023-.007 PERCENT
	PENICILLIN	.0125 PERCENT
82011	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82012	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON

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IDENTIFICATION	DRUG	DOSAGE
82060	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
82066	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100-500 GM/TON
82072	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
82176	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
82222	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
82353	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82358	FURAZOLIDONE	.022 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82373	FURAZOLIDONE	.011 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82379	FURAZOLIDONE	.055 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82414	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82428	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
82435	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
82442	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	100-200 GM/TON
82449	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
82543	FURAZOLIDONE	.011 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82548	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015-.05 PERCENT
82549	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015-.05 PERCENT
82550	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015-.05 PERCENT
82552	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015-.05 PERCENT
82553	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	100 GM/TON
82556	FURAZOLIDONE	.00083 PERCENT
	PROCAINE PENICILLIN	100 GM/TON
82559	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	200 GM/TON
82561	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	200 GM/TON COMB.
82567	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	50 GM/TON
82572	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	50 GM/TON
82574	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	50 GM/TON COMB.
82578	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
82580	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	100 GM/TON COMB.
82934	FURAZOLIDONE	.022 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82939	FURAZOLIDONE	.0055 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82501	HYGROMYCIN B	8-12 GM/TON
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN -	3.6-50 GM/TON COMB.
83138	HYGROMYCIN B ZINC BACITRACIN PLUS PENICILLIN	8 GM/TON 3.6-50 GM/TON COMB.
82123	NICARBAZIN BACITRACIN PLUS PENICILLIN	.01-.02 PERCENT 100-500 GM/TON COMB.
82127	NICARBAZIN ARSANILIC ACID BACITRACIN PLUS PENICILLIN	.01-.02 PERCENT .005-.010 PERCENT 100-500 GM/TON COMB.
82129	NICARBAZIN SODIUM ARSANILATE BACITRACIN PLUS PENICILLIN	.01-.02 PERCENT .005-.010 PERCENT 100-500 GM/TON COMB.
82131	NICARBAZIN ROXARSONE BACITRACIN PLUS PENICILLIN	.01-.02 PERCENT .0025-.005 PERCENT 100-500 GM/TON COMB.
82133	NICARBAZIN FURAZOLIDONE BACITRACIN PLUS PENICILLIN	.01-.02 PERCENT .00083 PERCENT 100-500 GM/TON 125 GM/TON MAXIMUM
82135	NICARBAZIN NITROFURAZONE FURAZOLIDONE BACITRACIN PLUS PENICILLIN	.01-.02 PERCENT .0056 PERCENT .00083 PERCENT 100-500 GM/TON COMB
82196	NICARBAZIN BACITRACIN	.01-.02 PERCENT 4-50 GM/TON
82562	NICARBAZIN FURAZOLIDONE CHLORTETRACYCLINE	.01-.02 PERCENT .00083 PERCENT 200 GM/TON
82569	NICARBAZIN FURAZOLIDONE ZINC BACITRACIN	.01-.02 PERCENT .00083 PERCENT 50 GM/TON
82958	NICARBAZIN FURAZOLIDONE BACITRACIN METHYLENE DISALICYLATE	.01-.02 PERCENT .00083 PERCENT 100 GM/TON
82510	NIHYDRAZONE BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	.011 PERCENT 3.6-50 GM/TON COMB.
83060	NIHYDRAZONE MANGANESE BACITRACIN PLUS PENICILLIN	100 GM/TON 3.6-50 GM/TON COMB.
83506	NIHYDRAZONE ZINC BACITRACIN PLUS PENICILLIN	100 GM/TON 3.6-50 GM/TON COMB.
82019	NITHIAZIDE OXYTETRACYCLINE	.0125-.04 PERCENT 50 GM/TON MAXIMUM
82020	NITHIAZIDE PENICILLIN	.0125-.04 PERCENT 2.4-50 GM/TON
82021	NITHIAZIDE PENICILLIN PLUS STREPTOMYCIN	.0125-.04 PERCENT 14.4-50 GM/TON COMB.
82146	NITHIAZIDE BACITRACIN	.0125-.04 PERCENT 4-50 GM/TON
82147	NITHIAZIDE BACITRACIN PLUS PENICILLIN	.0125-.04 PERCENT 3.6 GM/TON COMB.
82513	NITHIAZIDE BACITRACIN METHYLENE DISALICYLATE	.0125-.04 PERCENT 4-50 GM/TON
82585	NITHIAZIDE FURAZOLIDONE BACITRACIN	.0125-.04 PERCENT .00083 PERCENT 4-50 GM/TON
82586	NITHIAZIDE FURAZOLIDONE BACITRACIN PLUS	.0125-.04 PERCENT .00083 PERCENT

IDENTIFICATION	DRUG	DOSAGE
82587	PENICILLIN	3.6-50 GM/TON COMB.
	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82588	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00082 PERCENT
	PENICILLIN	2.4-50 GM/TON
82589	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82660	NITHIAZIDE	.0125-.04 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82762	NITHIAZIDE	.0125-.04 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82013	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82016	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82018	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82048	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82049	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82055	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	50-100 GM/TON
82056	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	50-100 GM/TON
82061	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	50-100 GM/TON
	PENICILLIN	.00083 PERCENT
82062	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
82067	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100-500 GM/TON
82068	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100-500 GM/TON
82073	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
82074	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON
82092	NITROFURAZONE	.0112 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82093	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
82094	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
82095	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82096	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82153	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 PERCENT
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.005 PERCENT
82155	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82161	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82163	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.005 PERCENT
82180	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82181	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82223	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
82225	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
82258	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82265	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL-PYRIMIDINE	.003-.006 PERCENT
82272	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT

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82279	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82286	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82322	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	50 GM/TON
82324	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	50 GM/TON COMB.
82325	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
82326	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
82327	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	100 GM/TON
82328	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	100 GM/TON COMB.
82329	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	90-180 GM/TON COMB.
82330	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	90-180 GM/TON COMB.
82332	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	200 GM/TON
82333	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82334	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	200 GM/TON COMB.
82335	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	100 GM/TON
82336	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	100 GM/TON
82337	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100 GM/TON
82338	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100 GM/TON
82339	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100 GM/TON
82340	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	100 GM/TON
82341	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	100 GM/TON
82342	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	100 GM/TON COMB.
82343	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	100 GM/TON COMB.
82344	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100 GM/TON COMB.
82356	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82368	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82370	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82394	NITROFURAZONE	.0056 PERCENT
	NITROPHENIDE	.05 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82399	NITROFURAZONE	.0112 PERCENT
	SODIUM ARSANILATE	.0025-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82415	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82417	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82422	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82424	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82429	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
82431	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
82443	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	100-200 GM/TON COMB.
82445	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	100-200 GM/TON COMB.
82450	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
82452	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
82461	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82462	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82468	NITROFURAZONE	.0056 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82469	NITROFURAZONE	.0112 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82471	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82472	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82678	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82680	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
82682	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82715	NITROFURAZONE	.0056 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82716	NITROFURAZONE	.0112 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82717	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82900	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82907	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82930	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82085	NITROPHENIDE	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
82087	NITROPHENIDE	.0125-.025 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82174	NITROPHENIDE	.0125-.025 PERCENT
	PENICILLIN	2.4-50 GM/TON
82178	NITROPHENIDE	.0125-.025 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82207	NITROPHENIDE	.0125-.05 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82208	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	OXYTETRACYCLINE	10-50 GM/TON
82209	NITROPHENIDE	.0125-.05 PERCENT
	PENICILLIN	2.4-50 GM/TON
82210	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	PENICILLIN	2.4-50 GM/TON
82211	NITROPHENIDE	.0125-.05 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82212	NITROPHENIDE	.0125-.05 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82213	NITROPHENIDE	.0125-.05 PERCENT
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82298	NITROPHENIDE	.0125-.05 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82299	NITROPHENIDE	.0125-.05 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82300	NITROPHENIDE	.0125-.05 PERCENT
	BACITRACIN	4-50 GM/TON
82301	NITROPHENIDE	.0125-.05 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82302	NITROPHENIDE	.0125-.05 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82303	NITROPHENIDE	.0125-.05 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
82304	NITROPHENIDE	.0125-.05 PERCENT
	STREPTOMYCIN	30-50 GM/TON
82305	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	CHLORTETRACYCLINE	50-200 GM/TON
82306	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	STREPTOMYCIN	30-50 GM/TON
82307	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82308	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82309	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82310	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82311	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82312	NITROPHENIDE	.0125-.05 PERCENT

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	DIENESTROL DIACETATE	.007 PERCENT
	BACITRACIN	4-50 GM/TON
82313	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82314	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
82315	NITROPHENIDE	.0125-.05 PERCENT
	DIENESTROL DIACETATE	.007 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82390	NITROPHENIDE	.05 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82391	NITROPHENIDE	.05 PERCENT
	ARSANILIC ACID	.0025-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82392	NITROPHENIDE	.05 PERCENT
	SODIUM ARSANILATE	.0025-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82393	NITROPHENIDE	.05 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
82695	NITROPHENIDE	.0125-.025 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
82696	NITROPHENIDE	.0125-.025 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
82713	NITROPHENIDE	.0125-.025 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82887	NITROPHENIDE	.0125-.025 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82294	NYSTATIN	50-100 GM/TON
	PENICILLIN	2.4-50 GM/TON
82295	NYSTATIN	50-100 GM/TON
	STREPTOMYCIN	30-50 GM/TON
82296	NYSTATIN	50-100 GM/TON
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
82097	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN	4-50 GM/TON
	NICOTINE	.03-.07 PERCENT
82098	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN	4-50 GM/TON
82107	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NICOTINE	.03-.07 PERCENT
82108	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82698	PHENOTHIAZINE	.3-1 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82728	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NICOTINE	.003-.07 PERCENT
82729	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82765	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NICOTINE	.03-.07 PERCENT
82766	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON
82777	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	NICOTINE	.03-.07 PERCENT
82778	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82860	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	NICOTINE	.003-.07 PERCENT
82861	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82406	PIPERAZINE	.1-.4 PERCENT
	OXYTETRACYCLINE	10-50 GM/TON
82407	PIPERAZINE	.1-.4 PERCENT
	PENICILLIN	2.4-50 GM/TON
82104	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN	4-50 GM/TON
82114	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82480	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82492	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82699	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82735	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82867	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82483	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82495	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB
82738	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82870	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82105	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN	4-50 GM/TON
82115	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82493	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82700	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82736	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82773	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82868	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82106	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN	4-50 GM/TON
82116	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82482	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82494	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82701	PIPERAZINE SULFATE	.21-.85 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82737	PIPERAZINE SULFATE	.21-.85 PERCENT

IDENTIFICATION	DRUG	DOSAGE
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82869	PIPERAZINE SULFATE	.21-.85 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82664	RESERPINE	.0001 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
82665	RESERPINE	.0001 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
82666	RESERPINE	.0001 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
83049	RESERPINE	.0001 PERCENT
	BACITRACIN	4-50 GM/TON
83050	RESERPINE	.0001 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
83051	RESERPINE	.0001 PERCENT
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
83122	RESERPINE	.0001 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
83123	RESERPINE	.0001 PERCENT
	ZINC BACITRACIN	200 GM/TON MAXIMUM
83442	RESERPINE	.0001 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
83443	RESERPINE	.0001 PERCENT
	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
83714	RESERPINE	.0002 PERCENT
	ZINC BACITRACIN	10-200 GM/TON
83810	RESERPINE	.002 PERCENT
	BACITRACIN	10-200 GM/TON
82015	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82050	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
82076	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
82151	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82159	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82162	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82255	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82257	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82262	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82264	ROXARSONE	.0125-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82269	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82271	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82276	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82278	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82283	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82285	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82292	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82366	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82369	ROXARSONE	.0056 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82423	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
82430	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	

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IDENTIFICATION	DRUG	DOSAGE
	PENICILLIN	50-100 GM/TON COMB.
82444	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	100-200 GM/TON COMB.
82928	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82931	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
83066	ROXARSONE	.0025-.005 PERCENT
	ZOALENE	.0125 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83075	ROXARSONE	.005 PERCENT
	ZOALENE	.0125 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83076	ROXARSONE	.005 PERCENT
	ZOALENE	.0125 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83463	ROXARSONE	.005 PERCENT
	ZOALENE	.0125 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6 GM/TON
83539	ROXARSONE	.0025-.005 PERCENT
	ZOALENE	.0083-.0125 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
82007	SODIUM ARSANILATE	.005-.01 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
82058	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	50-100 GM/TON COMB.
82070	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON COMB.
82419	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
82426	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	50-100 GM/TON COMB.
82440	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	100-200 GM/TON COMB.
82705	SODIUM ARSANILATE	.005-.01 PERCENT
	CHLORTETRACYCLINE	200 GM/TON
82022	SULFAQUINOXALINE	.0075 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82023	SULFAQUINOXALINE	.0075 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82024	SULFAQUINOXALINE	.0075 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82025	SULFAQUINOXALINE	.0075 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82026	SULFAQUINOXALINE	.0075 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82027	SULFAQUINOXALINE	.0075 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82079	SULFAQUINOXALINE	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
82080	SULFAQUINOXALINE	.0125-.025 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
82083	SULFAQUINOXALINE	.033-.1 PERCENT
	BACITRACIN	4-50 GM/TON
82084	SULFAQUINOXALINE	.033-.1 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
82143	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82149	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82150	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82152	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82156	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82157	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82158	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82160	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82227	SULFAQUINOXALINE	.0075 PERCENT
	OXYTETRACYCLINE	50 GM/TON

IDENTIFICATION	DRUG	DOSAGE
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82251	SULFAQUINOXALINE	.0075 PERCENT
	CHLORTETRACYCLINE PLUS	
	OXYTETRACYCLINE	50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82252	SULFAQUINOXALINE	.01-.02 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82253	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82254	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82256	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82259	SULFAQUINOXALINE	.01-.02 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82260	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82261	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82263	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	STREPTOMYCIN	30-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82266	SULFAQUINOXALINE	.01-.02 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82267	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82268	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82270	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82273	SULFAQUINOXALINE	.01-.02 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82274	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82275	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82277	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82280	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82281	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82282	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82287	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82288	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82289	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82291	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82364	SULFAQUINOXALINE	.0075 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82365	SULFAQUINOXALINE	.0075 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.0075 PERCENT
82367	SULFAQUINOXALINE	.0075 PERCENT

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IDENTIFICATION	DRUG	DOSAGE
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82455	SULFAQUINOXALINE	.033-.10 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
82465	SULFAQUINOXALINE	.033-.10 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON
82506	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82526	SULFAQUINOXALINE	.0125-.025 PERCENT
	PROCAINE PENICILLIN	2.4-50 GM/TON
82564	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	200 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82571	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82577	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82584	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82594	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS	
	STREPTOMYCIN	14.4-50 GM/TON COMB
82648	SULFAQUINOXALINE	.00075 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82884	SULFAQUINOXALINE	.0125-.025 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
82925	SULFAQUINOXALINE	.0075 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82927	SULFAQUINOXALINE	.0075 PERCENT
	SODIUM ARSANILATE	.005-.010 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82964	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82965	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82966	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82972	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS	
	OXYTETRACYCLINE	200 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82991	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
82999	SULFAQUINOXALINE	.0075 PERCENT
	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
82001	ZOALENE	.0125-.0188 PERCENT
	ARSANILIC ACID	.01 PERCENT
82499	ZOALENE	.0125-.0188 PERCENT
	ARSANILIC ACID	.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83032	ZOALENE	.0125 PERCENT
	HYGROMYCIN B	8-12 GM/TON
	PENICILLIN PLUS	
	TYLOSIN	3.2-50 GM/TON COMB.
83064	ZOALENE	.0125 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83065	ZOALENE	.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83069	ZOALENE	.0125 PERCENT
	PENICILLIN PLUS	
	TYLOSIN	3.2-50 GM/TON COMB.
83118	ZOALENE	.0125 PERCENT
	CHLORTETRACYCLINE	10-15 GM/TON
83133	ZOALENE	.0125 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83135	ZOALENE	.004-.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83205	ZOALENE	.004-.0125 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83453	ZOALENE	.004-.0125 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
83480	ZOALENE	.004-.0125 PERCENT
	HYGROMYCIN B	8-12 GM/TON
	PENICILLIN PLUS	
	TYLOSIN	3.2-50 GM/TON COMB.
83537	ZOALENE	.0083-.0125 PERCENT
	ARSANILIC ACID	.01 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.

IDENTIFICATION	DRUG	DOSAGE
	SPECIES: RABBIT	
80059	FURAZOLIDONE	.0055 PERCENT
	OXYTETRACYCLINE	10 GM/TON
80058	OXYTETRACYCLINE	10 GM/TON
	SULFAQUINOXALINE	.1 PERCENT
80269	OXYTETRACYCLINE	10 GM/TON
	SULFAQUINOXALINE	.025 PERCENT
	SPECIES: SWINE	
80032	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
	NITROFURAZONE	.0056 PERCENT
80045	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
	PEPSIN	
80048	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
80081	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50-150 GM/TON
80082	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	500 GM/TON
80119	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	STREPTOMYCIN	10-50 GM/TON
80293	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80294	ARSANILIC ACID	.005-.01 PERCENT
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80296	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80298	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.0165 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80301	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.0165 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80302	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.022 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80305	ARSANILIC ACID	.005-.01 PERCENT
	FURAZOLIDONE	.022 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80018	BACITRACIN	50 GM/TON
	THYROPROTEIN	200 GM/TON
80019	BACITRACIN	25 GM/TON
	PENICILLIN	25 GM/TON
	THYROPROTEIN	200 GM/TON
80020	BACITRACIN	100 GM/TON
	THYROPROTEIN	200 GM/TON
80021	BACITRACIN	50 GM/TON
	PENICILLIN	50 GM/TON
	THYROPROTEIN	200 GM/TON
80110	BACITRACIN	50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80111	BACITRACIN	100 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80112	BACITRACIN PLUS	
	PENICILLIN	50 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80113	BACITRACIN PLUS	
	PENICILLIN	100 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80129	BACITRACIN	10-50 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80130	BACITRACIN	10-50 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80131	BACITRACIN	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80145	BACITRACIN	50-100 GM/TON
	ARSANILIC ACID	.005-.0101 PERCENT
	HYGROMYCIN B	12 GM/TON
80148	BACITRACIN	50-100 GM/TON
	SODIUM ARSANILATE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80151	BACITRACIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80156	BACITRACIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80159	BACITRACIN PLUS	
	PENICILLIN	50-100 GM/TON COMB.
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80162	BACITRACIN PLUS	
	PENICILLIN	50-100 GM/TON COMB.
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80165	BACITRACIN PLUS	
	PENICILLIN	50-100 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80170	BACITRACIN PLUS	
	PENICILLIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80253	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
80254	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	ARSANILIC ACID	.005-.010 PERCENT
80255	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	SODIUM ARSANILATE	.005-.010 PERCENT
80256	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
80257	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
80258	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	NITROFURAZONE	.0056 PERCENT
80259	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	NITROFURAZONE	.0056 PERCENT
80260	BACITRACIN PLUS	
	PENICILLIN	10-50 GM/TON COMB.
	NITROFURAZONE	.0056 PERCENT
80291	BACITRACIN	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80309	BACITRACIN	10-50 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
80310	BACITRACIN	10-50 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
80311	BACITRACIN	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
80313	BACITRACIN	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	NITROFURAZONE	.0056 PERCENT

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IDENTIFICATION	DRUG	DOSAGE
80248	MANGANESE BACITRACIN PLUS PENICILLIN	10-50 GM/TON COMB.
	HYGROMYCIN B	12 GM/TON
80262	MANGANESE BACITRACIN PLUS PENICILLIN	10-50 GM/TON COMB.
80133	BACITRACIN METHYLENE DISALICYLATE	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80144	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80147	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
	SODIUM ARSANILATE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80150	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80154	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80155	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80158	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80161	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80164	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80168	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80231	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	10-50 GM/TON COMB.
	HYGROMYCIN B	12 GM/TON
80232	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	10-50 GM/TON COMB.
	PIPERAZINE	.6 PERCENT
80233	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	10-50 GM/TON COMB.
	SODIUM FLUORIDE	.5-1 PERCENT
80250	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	10-50 GM/TON COMB.
80266	BACITRACIN METHYLENE DISALICYLATE	10-50 GM/TON
	PIPERAZINE	.6 PERCENT
80267	BACITRACIN METHYLENE DISALICYLATE	10-50 GM/TON
	SODIUM FLUORIDE	.5-1 PERCENT
80273	BACITRACIN METHYLENE DISALICYLATE	50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80275	BACITRACIN METHYLENE DISALICYLATE	100 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80277	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80279	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	100 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80281	BACITRACIN METHYLENE DISALICYLATE	10-50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80143	ZINC BACITRACIN	50-100 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80149	ZINC BACITRACIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80152	ZINC BACITRACIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80153	ZINC BACITRACIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80157	ZINC BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80160	ZINC BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80163	ZINC BACITRACIN PLUS PENICILLIN	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80166	ZINC BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80235	ZINC BACITRACIN PLUS PENICILLIN	10-50 GM/TON COMB.
80236	ZINC BACITRACIN PLUS PENICILLIN	10-50 GM/TON COMB.
	NICOTINE	.003-.07 PERCENT
	PHENOTHIAZINE	.3-1.0 PERCENT
80238	ZINC BACITRACIN	10-50 GM/TON
	NICOTINE	.03-.07 PERCENT
	SODIUM FLUORIDE	.3 PERCENT
	SODIUM SULFATE	2 PERCENT
80241	ZINC BACITRACIN	10-50 GM/TON
	SODIUM FLUORIDE	.5-1.0 PERCENT
80242	ZINC BACITRACIN	10-50 GM/TON
	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
80243	ZINC BACITRACIN	10-50 GM/TON
	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
80244	ZINC BACITRACIN	10-50 GM/TON
	PIPERAZINE SULFATE	.21-.85 PERCENT
80245	ZINC BACITRACIN	10-50 GM/TON
	PIPERAZINE MONOHYDROCHLORIDE	.12-.52 PERCENT
80246	ZINC BACITRACIN	10-50 GM/TON
	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
80272	ZINC BACITRACIN	50 GM/TON

IDENTIFICATION	DRUG	DOSAGE
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80276	ZINC BACITRACIN PLUS PENICILLIN	50 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80278	ZINC BACITRACIN PLUS PENICILLIN	100 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80280	ZINC BACITRACIN	10-50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80292	ZINC BACITRACIN	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80027	CHLORTETRACYCLINE	100 GM/TON
	OXYTETRACYCLINE	100 GM/TON
80028	CHLORTETRACYCLINE	100 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80029	CHLORTETRACYCLINE	100 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80030	CHLORTETRACYCLINE	100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80105	CHLORTETRACYCLINE	10-50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80124	CHLORTETRACYCLINE	10-50 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80125	CHLORTETRACYCLINE	10-50 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80126	CHLORTETRACYCLINE	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80127	CHLORTETRACYCLINE	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80190	CHLORTETRACYCLINE	10-50 GM/TON
	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
80191	CHLORTETRACYCLINE	10-50 GM/TON
	PIPERAZINE PHOSPHATE	.23-.92 PERCENT
80192	CHLORTETRACYCLINE	10-50 GM/TON
	PIPERAZINE PHOSPHATE	.21-.85 PERCENT
80193	CHLORTETRACYCLINE	10-50 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
80194	CHLORTETRACYCLINE	50-100 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
80195	CHLORTETRACYCLINE	100-200 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
80197	CHLORTETRACYCLINE	10-50 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
80198	CHLORTETRACYCLINE	50-100 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
80199	CHLORTETRACYCLINE	100-200 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
80202	CHLORTETRACYCLINE	10-50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
80203	CHLORTETRACYCLINE	50-100 GM/TON
	FURAZOLIDONE	.00083 PERCENT
80204	CHLORTETRACYCLINE	100-200 GM/TON
	FURAZOLIDONE	.00083 PERCENT
80205	CHLORTETRACYCLINE	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	NITROFURAZONE	.0056 PERCENT
80206	CHLORTETRACYCLINE	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	NITROFURAZONE	.0056 PERCENT
80207	CHLORTETRACYCLINE	100-200 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	NITROFURAZONE	.0056 PERCENT
80208	CHLORTETRACYCLINE	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
80209	CHLORTETRACYCLINE	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
80210	CHLORTETRACYCLINE	100-200 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
80211	CHLORTETRACYCLINE	10-50 GM/TON
	HYGROMYCIN B	12 GM/TON
80212	CHLORTETRACYCLINE	50-100 GM/TON
	HYGROMYCIN B	12 GM/TON
80217	CHLORTETRACYCLINE	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
80218	CHLORTETRACYCLINE	50-100 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
80219	CHLORTETRACYCLINE	100-200 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
80220	CHLORTETRACYCLINE	10-50 GM/TON
	PHENOTHIAZINE	.3-1.0 PERCENT
80104	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	STREPTOMYCIN	10-50 GM/TON
80179	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80002	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50 GM/TON MAXIMUM
80035	OXYTETRACYCLINE	10-50 GM/TON
	PIPERAZINE	.6 PERCENT
80044	OXYTETRACYCLINE	150 GM/TON
	PEPSIN	
80036	PENICILLIN	10-50 GM/TON
	PIPERAZINE	.1-.4 PERCENT
80037	PENICILLIN PLUS STREPTOMYCIN	10-50 GM/TON COMB.
	PIPERAZINE	.1-.4 PERCENT
80100	PENICILLIN	10-50 GM/TON
	HYGROMYCIN B	12 GM/TON
80102	PENICILLIN PLUS STREPTOMYCIN	10-50 GM/TON COMB.
	HYGROMYCIN B	12 GM/TON
80103	PENICILLIN	10-50 GM/TON
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80107	PENICILLIN PLUS STREPTOMYCIN	10-50 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80108	PENICILLIN PLUS STREPTOMYCIN	45-90 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80109	PENICILLIN PLUS STREPTOMYCIN	90-270 GM/TON COMB.
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80114	PENICILLIN	10-50 GM/TON
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80115	PENICILLIN	10-50 GM/TON
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80117	PENICILLIN	10-50 GM/TON

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IDENTIFICATION	DRUG	DOSAGE
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80118	PENICILLIN	10-50 GM/TON
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80134	PENICILLIN PLUS STREPTOMYCIN	45-90 GM/TON COMB.
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80135	PENICILLIN PLUS STREPTOMYCIN	45-90 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
80137	PENICILLIN PLUS STREPTOMYCIN	45-90 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80138	PENICILLIN PLUS STREPTOMYCIN	90-270 GM/TON COMB.
	ARSANILIC ACID	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80139	PENICILLIN PLUS STREPTOMYCIN	90-270 GM/TON COMB.
	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
80141	PENICILLIN PLUS STREPTOMYCIN	90-270 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80142	PENICILLIN PLUS STREPTOMYCIN	90-270 GM/TON COMB.
	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80005	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
80006	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
80009	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50 GM/TON MAXIMUM
80047	ROXARSONE	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
	PEPSIN	
80050	ROXARSONE	.0025-.0075 PERCENT
	OXYTETRACYCLINE	150 GM/TON
80077	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50 GM/TON MAXIMUM
	NITROFURAZONE	.0056 PERCENT
80085	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50-150 GM/TON
80086	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	500 GM/TON
80096	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50-150 GM/TON
	NITROFURAZONE	.0056 PERCENT
80098	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	500 GM/TON
	NITROFURAZONE	.0056 PERCENT
80120	ROXARSONE	.0025-.0075 PERCENT
	HYGROMYCIN B	12 GM/TON
	STREPTOMYCIN	10-50 GM/TON
80123	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	HYGROMYCIN B	12 GM/TON
	NITROFURAZONE	.0056 PERCENT
	STREPTOMYCIN	10-50 GM/TON
80178	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80183	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.0165 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80187	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.022 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80300	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.0165 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80304	ROXARSONE	.0025-.0075 PERCENT
	FURAZOLIDONE	.022 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80318	ROXARSONE	.0025-.0075 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	100 GM/TON
80008	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50 GM/TON MAXIMUM
80033	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
	NITROFURAZONE	.0056 PERCENT
80046	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
	PEPSIN	
80049	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	150 GM/TON
80088	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	100 GM/TON
80089	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	50-150 GM/TON
80090	SODIUM ARSANILATE	.005-.01 PERCENT
	HYGROMYCIN B	12 GM/TON
	OXYTETRACYCLINE	500 GM/TON
80295	SODIUM ARSANILATE	.005-.01 PERCENT
	FURAZOLIDONE	.011 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80299	SODIUM ARSANILATE	.005-.01 PERCENT
	FURAZOLIDONE	.0165 PERCENT
	OXYTETRACYCLINE	50 GM/TON
80303	SODIUM ARSANILATE	.005-.01 PERCENT
	FURAZOLIDONE	.022 PERCENT
	OXYTETRACYCLINE	50 GM/TON

SPECIES: TURKEY

84185	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
	STREPTOMYCIN	30-50 GM/TON
84174	AMPROLIUM	.0125-.025 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84213	AMPROLIUM	.0125-.025 PERCENT
	STREPTOMYCIN	30-50 GM/TON
84214	AMPROLIUM	.0125-.025 PERCENT
	PENICILLIN PLUS	
	STREPTOMYCIN	14.4-50 GM/TON COMB.
84215	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
84216	AMPROLIUM	.0125-.025 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84003	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	50-100 GM/TON COMB.
84010	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON

IDENTIFICATION	DRUG	DOSAGE
84039	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84084	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN	100-500 GM/TON
84090	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON COMB.
84146	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84153	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN	4-50 GM/TON
84160	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN	50-100 GM/TON
84166	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	50-100 GM/TON COMB.
84265	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84276	ARSANILIC ACID	.005-.01 PERCENT
	AMINO NITROTHIAZOLE	.05-10 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84343	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	100-200 GM/TON COMB.
84350	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
84410	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84424	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84431	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84448	ARSANILIC ACID	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84542	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84543	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
84544	ARSANILIC ACID	.005-.01 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
84581	ARSANILIC ACID	.005-.01 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84618	ARSANILIC ACID	.005-.01 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84756	ARSANILIC ACID	.005-.010 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85077	ARSANILIC ACID	.005-.010 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84038	BACITRACIN	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84069	BACITRACIN	4-50 GM/TON
	NYSTATIN	50 GM/TON
84070	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	50 GM/TON
84071	BACITRACIN	4-50 GM/TON
	NYSTATIN	100 GM/TON
84072	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	100 GM/TON
84193	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84175	MANGANESE BACITRACIN	4-50 GM/TON
	NYSTATIN	50 GM/TON
84176	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	50 GM/TON
84177	MANGANESE BACITRACIN	4-50 GM/TON
	NYSTATIN	100 GM/TON
84178	MANGANESE BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	100 GM/TON
84406	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	50 GM/TON
84407	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	NYSTATIN	50 GM/TON
84408	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
84409	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	NYSTATIN	100 GM/TON
85105	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
85107	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
85108	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84616	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	50 GM/TON
84617	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	NYSTATIN	100 GM/TON
84744	ZINC BACITRACIN	4-50 GM/TON
	NYSTATIN	100 GM/TON
84746	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
85073	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84388	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84400	BUTYNORATE	.07 PERCENT
	PHENOTHIAZINE	.29 PERCENT
	PIPERAZINE SULFATE	.12 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
84465	BUTYNORATE	.02 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	DINITRODIPHENYLSULFONYLETHYLENE DIAMINE SULFANITRAN	.02 PERCENT
84782	BUTYNORATE	.03 PERCENT
	PHENOTHIAZINE	.07 PERCENT
	PIPERAZINE SULFATE	.29 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	.12 PERCENT
84191	CHLORTETRACYCLINE	3.6-50 GM/TON COMB
	ACETYLAMINO-NITROTHIAZOLE	10-50 GM/TON
84534	CHLORTETRACYCLINE	.015 PERCENT
	NYSTATIN	10-50 GM/TON
84535	CHLORTETRACYCLINE	50 GM/TON
	NYSTATIN	10-50 GM/TON
85139	CHLORTETRACYCLINE	100 GM/TON
		10-50 GM/TON

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IDENTIFICATION	DRUG	DOSAGE
	ACETYLAMINO-NITROTHIAZOLE	.10 PERCENT
84496	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
84522	DIENESTROL DIACETATE	.0023-.007 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84523	DIENESTROL DIACETATE	.0023-.007 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
84524	DIENESTROL DIACETATE	.0023-.007 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
85134	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85135	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
85136	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
85203	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	BACITRACIN	4-50 GM/TON
85204	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85205	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
85206	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	PENICILLIN	4-50 GM/TON
85207	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.011 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
85208	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	BACITRACIN	4-50 GM/TON
85209	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85210	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
85211	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	PENICILLIN	2.4-50 GM/TON
85212	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.022 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
85213	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	BACITRACIN	4-50 GM/TON
85215	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
85216	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	PENICILLIN	2.4-50 GM/TON
85217	DIENESTROL DIACETATE	.0023-.007 PERCENT
	FURAZOLIDONE	.0055 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
84013	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
84042	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84087	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100-500 GM/TON
84169	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
84204	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
84267	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84272	FURAZOLIDONE	.022 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84301	FURAZOLIDONE	.011 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84307	FURAZOLIDONE	.0055 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84346	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	100-200 GM/TON COMB.
84353	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
84413	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84451	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84458	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
84499	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	50 GM/TON COMB.
84503	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
84505	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	100 GM/TON COMB.
84510	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
84511	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84512	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84513	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
84584	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84621	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84759	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85080	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
85140	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	100 GM/TON
85143	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	100 GM/TON
85156	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	200 GM/TON
85158	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	200 GM/TON COMB.
85194	FURAZOLIDONE	.022 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85199	FURAZOLIDONE	.0055 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85202	FURAZOLIDONE	.0055 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.

IDENTIFICATION	DRUG	DOSAGE
85222	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015-.05 PERCENT
85224	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
84442	NIHYDRAZONE	.011 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
84022	NITARSONE	.01875 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84049	NITHIAZIDE	.0125-.04 PERCENT
	BACITRACIN	4-50 GM/TON
84050	NITHIAZIDE	.0125-.04 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84257	NITHIAZIDE	.0125-.04 PERCENT
	OXYTETRACYCLINE	50 GM/TON
84258	NITHIAZIDE	.0125-.04 PERCENT
	PENICILLIN	2.4-50 GM/TON
84440	NITHIAZIDE	.0125-.04 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
84445	NITHIAZIDE	.0125-.04 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84514	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
84533	NITHIAZIDE	.0125-.04 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84628	NITHIAZIDE	.0125-.04 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84738	NITHIAZIDE	.0125-.04 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85125	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85126	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
85127	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	10-50 GM/TON
85128	NITHIAZIDE	.0125-.04 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
84007	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	50-100 GM/TON COMB.
84014	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	50-100 GM/TON
84056	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84058	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84064	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84066	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84088	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100-500 GM/TON
84094	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
84112	NITROFURAZONE	.0056 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84113	NITROFURAZONE	.00112 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84114	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
84116	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84159	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
84164	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	50-100 GM/TON
84230	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	50 GM/TON
84232	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	50 GM/TON COMB.
84234	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
84235	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	100 GM/TON
84236	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	100 GM/TON COMB.
84237	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	90-180 GM/TON COMB.
84241	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84242	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	200 GM/TON COMB.
84244	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	100 GM/TON
84246	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100 GM/TON
84247	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100 GM/TON

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IDENTIFICATION	DRUG	DOSAGE
84249	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	100 GM/TON
84250	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	100 GM/TON COMB.
84252	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100 GM/TON COMB.
84280	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	AMINO NITROTHIAZOLE	.05-.1 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84296	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84298	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84322	NITROFURAZONE	.0056 PERCENT
	NITROPHENIDE	.05 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84347	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	100-200 GM/TON COMB.
84354	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100-200 GM/TON
84365	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84375	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84414	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84416	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84489	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS	
	STREPTOMYCIN	14.4-50 GM/TON COMB.
84551	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84552	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
84553	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
84593	NITROFURAZONE	.0112 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84594	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84623	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84640	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
	STREPTOMYCIN	30-50 GM/TON
84642	NITROFURAZONE	.0056 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
	STREPTOMYCIN	30-50 GM/TON
84678	NITROFURAZONE	.0056 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84679	NITROFURAZONE	.0112 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84691	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84761	NITROFURAZONE	.0056 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85012	NITROFURAZONE	.0125-.025 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
85013	NITROFURAZONE	.0112 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
85071	NITROFURAZONE	.0056 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	100-500 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84106	NITROPHENIDE	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
84323	NITROPHENIDE	.0125-.05 PERCENT
	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84335	NITROPHENIDE	.0125-.025 PERCENT
	AMINO NITROTHIAZOLE	.05-.10 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84360	NITROPHENIDE	.0125-.025 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84370	NITROPHENIDE	.0125-.025 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84371	NITROPHENIDE	.05 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84484	NITROPHENIDE	.0125-.025 PERCENT
	PENICILLIN	2.4-50 GM/TON
84488	NITROPHENIDE	.0125-.025 PERCENT
	PENICILLIN PLUS	
	STREPTOMYCIN	14.4-50 GM/TON COMB.
84590	NITROPHENIDE	.0125-.025 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84591	NITROPHENIDE	.05 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
85019	NITROPHENIDE	.0125-.025 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85020	NITROPHENIDE	.05 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84188	NYSTATIN	50-100 GM/TON
	PENICILLIN	2.4-50 GM/TON
84189	NYSTATIN	50-100 GM/TON
	STREPTOMYCIN	30-50 GM/TON
84118	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN	4-50 GM/TON
	NICOTINE	.03-.07 PERCENT
84119	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN	4-50 GM/TON
84128	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	NICOTINE	.03-.07 PERCENT
84129	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84377	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
	NICOTINE	.03-.07 PERCENT
84378	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84389	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	NICOTINE	.03-.07 PERCENT
84390	PHENOTHIAZINE	.3-1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84596	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	NICOTINE	.03-.07 PERCENT
84597	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84796	PHENOTHIAZINE	.3-1 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84127	PIPERAZINE	.21-.85 PERCENT
	BACITRACIN	4-50 GM/TON
84341	PIPERAZINE	.1-.4 PERCENT
	OXYTETRACYCLINE	10-50 GM/TON
84342	PIPERAZINE	.1-.4 PERCENT
	PENICILLIN	2.4-50 GM/TON
84125	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN	4-50 GM/TON
84135	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84384	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84396	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84568	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84603	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84790	PIPERAZINE DIHYDROCHLORIDE	.18-.72 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84138	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	BACITRACIN	4-50 GM/TON
84387	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84399	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84606	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84793	PIPERAZINE MONOHYDROCHLORIDE	.13-.52 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84126	PIPERAZINE PHOSPHATE MONOHYDRATE	.18-.72 PERCENT
	BACITRACIN	4-50 GM/TON
84136	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84397	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84569	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84604	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84669	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84791	PIPERAZINE PHOSPHATE MONOHYDRATE	.23-.92 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84137	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84386	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84398	PIPERAZINE SULFATE	.21-.85 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84570	PIPERAZINE SULFATE	.21-.85 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84605	PIPERAZINE SULFATE	.21-.85 PERCENT
	ZINC BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84792	PIPERAZINE SULFATE	.21-.85 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84183	PENICILLIN	2.4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84184	PENICILLIN PLUS	
	STREPTOMYCIN	14.4-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84187	PENICILLIN PLUS	
	STREPTOMYCIN	14.4-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84068	RESERPINE	.0001 PERCENT
	BACITRACIN	4-50 GM/TON
84179	RESERPINE	.0001 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
84180	RESERPINE	.0001 PERCENT
	MANGANESE BACITRACIN PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84181	RESERPINE	.0002 PERCENT
	MANGANESE BACITRACIN	4-50 GM/TON
84481	RESERPINE	.0001 PERCENT
	PENICILLIN	2.4-50 GM/TON
84536	RESERPINE	.00002-.0001 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84537	RESERPINE	.00002-.0001 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
84538	RESERPINE	.00002-.0001 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
84633	RESERPINE	.00002 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84634	RESERPINE	.0001 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
84008	ROXARSONE	.0025-.005 PERCENT

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IDENTIFICATION	DRUG	DOSAGE
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	50-100 GM/TON COMB.
84044	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84054	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84152	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84281	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	AMINO NITROTHIAZOLE	.05-.1 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84294	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84297	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84348	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	100-200 GM/TON COMB.
84412	ROXARSONE	.0025-.005 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84415	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84429	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84460	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84624	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84641	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
	STREPTOMYCIN	30-50 GM/TON
84750	ROXARSONE	.0025-.005 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
85040	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
85069	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85072	ROXARSONE	.0025-.005 PERCENT
	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85086	ROXARSONE	.0025-.005 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
85090	ROXARSONE	.0025-.005 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.05 PERCENT
84004	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	50-100 GM/TON COMB.
84040	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN	4-50 GM/TON
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84091	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
84147	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84167	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN PLUS PENICILLIN	50-100 GM/TON COMB.
84344	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	100-200 GM/TON COMB.
84411	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84456	SODIUM ARSANILATE	.005-.01 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS	
	PENICILLIN	3.6-50 GM/TON COMB.
84582	SODIUM ARSANILATE	.005-.01 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84619	SODIUM ARSANILATE	.005-.01 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	ACETYLAMINO-NITROTHIAZOLE	.015 PERCENT
84045	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84046	SULFAQUINOXALINE	.01-.02 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84052	SULFAQUINOXALINE	.01-.02 PERCENT
	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84053	SULFAQUINOXALINE	.01-.02 PERCENT
	SODIUM ARSANILATE	.005-.010 PERCENT

IDENTIFICATION	DRUG	DOSAGE
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84055	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84100	SULFAQUINOXALINE	.0125-.025 PERCENT
	BACITRACIN	4-50 GM/TON
84101	SULFAQUINOXALINE	.0125-.025 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84103	SULFAQUINOXALINE	.005-.025 PERCENT
	BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84292	SULFAQUINOXALINE	.0075 PERCENT
	ARSANILIC ACID	.005-.01 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84293	SULFAQUINOXALINE	.0075 PERCENT
	SODIUM ARSANILATE	.005-.01 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84295	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84334	SULFAQUINOXALINE	.0125-.025 PERCENT
	AMINO NITROTHIAZOLE	.05-.10 PERCENT
	OXYTETRACYCLINE	200 GM/TON
84357	SULFAQUINOXALINE	.0125-.025 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84358	SULFAQUINOXALINE	.005-.025 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84359	SULFAQUINOXALINE	.033-.1 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	4-50 GM/TON
84502	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84509	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84528	SULFAQUINOXALINE	.0075 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84529	SULFAQUINOXALINE	.0075 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84530	SULFAQUINOXALINE	.0075 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
84575	SULFAQUINOXALINE	.0125-.025 PERCENT
	CHLORTETRACYCLINE	10-50 GM/TON
84576	SULFAQUINOXALINE	.0125-.025 PERCENT
	CHLORTETRACYCLINE	50-100 GM/TON
84577	SULFAQUINOXALINE	.0125-.025 PERCENT
	CHLORTETRACYCLINE	100-200 GM/TON
84587	SULFAQUINOXALINE	.0125-.025 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84588	SULFAQUINOXALINE	.005-.025 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84589	SULFAQUINOXALINE	.033-.10 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
84629	SULFAQUINOXALINE	.01-.02 PERCENT
	ZINC BACITRACIN PLUS PENICILLIN	3.6-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
84674	SULFAQUINOXALINE	.005-.025 PERCENT
	BACITRACIN METHYLENE DISALICYLATE PLUS PENICILLIN	3.6-50 GM/TON COMB.
85016	SULFAQUINOXALINE	.0125-.025 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85017	SULFAQUINOXALINE	.005-.025 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85018	SULFAQUINOXALINE	.033-.10 PERCENT
	ZINC BACITRACIN	4-50 GM/TON
85066	SULFAQUINOXALINE	.0075 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85067	SULFAQUINOXALINE	.0075 PERCENT
	ARSANILIC ACID	.005-.010 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85068	SULFAQUINOXALINE	.0075 PERCENT
	SODIUM ARSANILATE	.005-.010 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85070	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN PLUS PENICILLIN	100-500 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85113	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85114	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85122	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE PLUS OXYTETRACYCLINE	100 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
85123	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	90-180 GM/TON COMB.

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IDENTIFICATION	DRUG	DOSAGE
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5131	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLIN	10-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
B5132	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	2.4-50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
B5133	SULFAQUINOXALINE	.01-.02 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN PLUS STREPTOMYCIN	14.4-50 GM/TON COMB.
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.003-.006 PERCENT
B5152	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5153	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5154	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5155	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	PENICILLIN	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5165	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	CHLORTETRACYCLINE	200 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5166	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	OXYTETRACYCLINE	100 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5183	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	ZINC BACITRACIN	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5184	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN METHYLENE DISALICYLATE	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5185	SULFAQUINOXALINE	.0075 PERCENT
	FURAZOLIDONE	.00083 PERCENT
	BACITRACIN	50 GM/TON
	2,4-DIAMINO-5-(PARA-CHLOROPHENYL)-6-ETHYL PYRIMIDINE	.00075 PERCENT
B5186	SULFAQUINOXALINE FURAZOLIDONE	.0075 PERCENT

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10-7-72).

(Sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b)

Dated: September 26, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-16682 Filed 10-6-72;8:49 am]

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PART 148z—DOXYCYCLINE

Doxycycline Hyclate

The Commissioner has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug sterile doxycycline hyclate for injection.

He concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141 and 148z are amended as follows:

1. Part 141 is amended:

a. In § 141.5(b) by alphabetically inserting a new item in the table as follows:

§ 141.5 Safety test.

* * * * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 141.3)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
* * *	* * *	* * *	* * *	* * *
Doxycycline hyclate for injection	4	2 mg.	0.5	Intravenous.
* * *	* * *	* * *	* * *	* * *

b. In § 141.7(c) by alphabetically inserting a new item in the table, as follows:

§ 141.7 Histamine test.

* * * * * * *

(c) * * *

Antibiotic drug	Diluent (diluent number as listed in § 141.3(b))	Test dose: Concentration of test solution (milligrams of activity per milliliter)	Test dose: Volume of test solution to be injected (milliliters per kilogram of body weight)	Route of administration as described in paragraph (C) of this section
* * *	* * *	* * *	* * *	* * *
Doxycycline hyclate	4	5.0	1.0	
* * *	* * *	* * *	* * *	* * *

2. By adding two new sections as follows:

§ 148z.1a Sterile doxycycline hyclate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile doxycycline hyclate is a hydrochloride hemiethanolate hemihydrate salt of 6-deoxy-oxytetracycline. It is so purified and dried that:

(i) Its potency is not less than 800 nor more than 920 micrograms of doxycycline per milligram on an "as is" basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine nor histamine-like substances.

(vi) Its moisture content is not less than 1.4 nor more than 2.75 percent.

(vii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 2.0 nor more than 3.0.

(viii) It contains not less than 82 nor more than 90 percent doxycycline on an "as is" basis.

(ix) It gives a positive identity test for doxycycline hyclate.

(x) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, moisture, pH, doxycycline content, identity, and crystallinity.

(ii) Samples required:

(*a*) For all tests except sterility: 12 packages, each containing approximately 300 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this subchapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*N* hydrochloric acid to obtain a concentration of 1,000 micrograms of doxycycline per milliliter (estimated). Further dilute with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this subchapter, using a solution containing 7.5 milligrams of doxycycline per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this subchapter.

(6) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(7) *pH.* Proceed as directed in § 141.503 of this subchapter, using an aqueous solution containing the equivalent of 10 milligrams of doxycycline per milliliter.

(8) *Doxycycline content.* Proceed as directed in § 148z.1(b)(5) of this subchapter.

(9) *Identity.* Proceed as directed in § 141.521 of this subchapter, using the 0.25 potassium bromide mixture described in paragraph (b)(1) of that section.

(10) *Crystallinity.* Proceed as directed in § 141.504(a) of this subchapter.

§ 148z.5 Doxycycline hyclate for injection.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Doxycycline hyclate for injection is a dry mixture of doxycycline hyclate and a buffer substance. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of doxycycline that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine nor histamine-like substances. Its loss on drying is not more than 2.0 percent. Its pH when reconstituted as directed in the labeling is not less than 1.8 and not more than 3.3. It passes the identity test for the presence of the doxycycline moiety. The doxycycline hyclate used conforms to the standards prescribed by § 148z.1a(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The doxycycline hyclate used in making the batch for potency, moisture, pH, doxycycline content, identity, and crystallinity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine, loss on drying, pH, and identity.

(ii) Samples required:

(*a*) The doxycycline hyclate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 20 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.111 of this subchapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents from each container if it is represented as a single-dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the solution thus obtained with sufficient 0.1*N* hydrochloric acid to give a stock solution of convenient concentration (containing not less than 150 micrograms of doxycycline in acid). Further dilute an aliquot with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.100 microgram of doxycycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this subchapter, using a solution containing 7.5 milligrams of doxycycline per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this subchapter.

(6) *Loss on drying.* Proceed as directed in § 141.501(a) of this subchapter.

(7) *pH.* Proceed as directed in § 141.503 of this subchapter, using the drug reconstituted as directed in the labeling.

(8) *Identity.* Proceed as directed in § 141.550 of this subchapter, except prepare the standard and sample solutions as follows: Dissolve precise amounts of the doxycycline hyclate for injection and of the doxycycline working standard in methanol and further dilute each solution to a concentration of 1 milligram of doxycycline per milliliter. Prepare the sample-standard mixed solution by mixing equal volumes of the final concentration of the sample and standard solutions. The sample and standard must each produce a major, yellow fluorescent spot with the same R_f value and the sample-standard mixed solution must show no separation of major spots.

Since the conditions prerequisite to providing for certification of this drug have been complied with and since the matter is noncontroversial, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10-7-72).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: October 2, 1972.

MARY A. MCENIRY,
Assistant to the Director, for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-17212 Filed 10-6-72;8:49 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration

PART 1913—DISCLOSURE OF INFORMATION

Pursuant to 5 U.S.C. 301, 5 U.S.C. 552, and § 70.71 of Title 29 of the Code of Federal Regulations, Chapter XVII of Title 29, Code of Federal Regulations, is hereby amended by adding thereto a new Part 1913, to read as set forth below.

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These rules shall become effective immediately.

Subpart A—General

Sec.
1913.1 Purpose and scope.
1913.2 Definitions.

Subpart B—Procedure for Disclosure

1913.11 Access to materials and index.
1913.12 Request for records.
1913.13 Description of information requested.
1913.14 Deficient descriptions.
1913.15 Requests for categories of records.
1913.16 Time for reply to request.
1913.17 Action on request; protection of privacy.
1913.18 Form of denials.
1913.19 Appeals from denial of requests.
1913.20 Time for action on appeals.
1913.21 Action on appeals.
1913.22 Manual copying; special searching; copying services and fees.

Subpart C—Guidelines Concerning Disclosure

1913.30 General.
1913.31 Compliance Operations Manual.
1913.32 Disclosable information.
1913.33 Information which is partially disclosable.
1913.34 Nondisclosable information.

AUTHORITY: The provisions of this Part 1913 issued under 5 U.S.C. 301, 552; 29 CFR 70.71.

Subpart A—General

§ 1913.1 Purpose and scope.

(a) This part supplements the general regulations of the Secretary of Labor providing for access to public information, which are published in Part 70 of this title. This part publishes the policies and procedures of the Occupational Safety and Health Administration and the Bureau of Labor Statistics concerning the availability for public inspection and copying of records compiled in the administration of the laws listed in paragraph (b) of this section and any other records of the Occupational Safety and Health Administration.

(b) The principal application of the rules in this part is to the disclosure of information compiled in the administration of the safety and health provisions of the following laws:

(1) William-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 651);

(2) Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35);

(3) Contract Work Hours and Safety Standards Act (the Construction Safety Act) (40 U.S.C. 333);

(4) Service Contract Act of 1965 (41 U.S.C. 351);

(5) Section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 941); and

(6) National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951).

§ 1913.2 Definitions.

(a) "Administration" means the Occupational Safety and Health Administration, U.S. Department of Labor.

(b) "Bureau" means the Bureau of Labor Statistics, U.S. Department of Labor.

Subpart B—Procedure for Disclosure

§ 1913.11 Access to materials and index.

Materials of the Administration and the Bureau of the types listed in §§ 70.11 through 70.15 of this title are available for inspection and copying by any member of the public at the document inspection facilities of the Administration or the Bureau. A current index of the materials available at each facility is maintained at the facility. Arrangements for such inspection may be made in response to oral requests.

§ 1913.12 Requests for records.

(a)(1) *Administration records.* Any person who desires to inspect or copy an Administration record of the types described in Subpart C of this part must submit a written request to that effect to the head of the area office of the Administration having custody of the record. A list of the Administration's area offices is annexed to this part as Appendix A to this part; a list of the Administration's regional offices is also annexed as Appendix B to this part. For the most part, the filing of records of the Administration is decentralized, and thus Area Directors of the Administration have custody of most records. If the record is located in the Washington, D.C., office of the Administration, the request shall be made to the Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

(2) *Bureau records.* For the most part, the records of the Bureau are kept in the Bureau's national office. Any person who desires to inspect or copy a record of the Bureau of the types described in Subpart C of this part must submit a written request to that effect to the Commissioner of Labor Statistics, Bureau of Labor Statistics, U.S. Department of Labor, Washington, D.C. 20212.

(b) If the person making the request does not know where the record is located, he may send his request to the Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, for appropriate handling.

§ 1913.13 Description of information requested.

Section 70.44 of this title shall apply.

§ 1913.14 Deficient descriptions.

Section 70.45 of this title shall apply.

§ 1913.15 Requests for categories of records.

Section 70.46 of this title shall apply.

§ 1913.16 Time for reply to request.

Section 70.47 of this title shall apply.

§ 1913.17 Action on request; protection of privacy.

Section 70.48 of this title shall apply.

§ 1913.18 Form of denials.

Section 70.49 of this title shall apply.

§ 1913.19 Appeals from denial of requests.

Section 70.50 of this title shall apply.

§ 1913.20 Time for action on appeals.

Section 70.51 of this title shall apply.

§ 1913.21 Action on appeals.

Section 70.52 of this title shall apply.

§ 1913.22 Manual copying; special searching; copying services and fees.

Sections 70.61 and 70.62 of this title shall apply.

Subpart C—Guidelines Concerning Disclosure

§ 1913.30 General.

(a) This subpart provides guidelines concerning for the most part disclosure of a number of standard forms used by the Administration and the Bureau in administering the Occupational Safety and Health Act. The public may examine some of these forms after information is entered thereon. Some completed forms may be disclosed upon request; others may be disclosed with deletions; others may be disclosed only under certain conditions; and others are not disclosable.

(b) This subpart also contains guidelines concerning the disclosure of various reports of employment accidents which are fatal to one or more employees or which result in the hospitalization of five or more employees.

(c) The guidelines are intended to implement the disclosure policies of the Secretary of Labor, as expressed in §§ 70.11 and 70.21 through 70.31 of this title, which apply the provisions of the public information section of the Administrative Procedure Act (5 U.S.C. 552).

(d) The guidelines deal only with matters which are most commonly the subject of disclosure. Matters concerning which no express guidelines are set forth will be handled on a case-by-case basis.

(e) To the extent that the guidelines provide for the disclosure of materials which fall within the exemptions set forth in 5 U.S.C. 552(b), their disclosure is found to serve the public interest and not to impede the discharge of any function of the Department of Labor in that their disclosure is consistent with and furthers the purpose of the safety and health laws involved.

§ 1913.31 Compliance Operations Manual.

The Administration's Compliance Operations Manual (Jan. 1972) (OSHA–2006), a manual of guidelines for implementing the Occupational Safety and Health Act of 1970, is published, and copies are offered for sale by the U.S. Government Printing Office. Copies may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

§ 1913.32 Disclosable information.

Forms containing the following information shall be disclosed upon request:

(a) All citations for alleged violations;

(b) Notices of de minimis violations issued pursuant to section 9(a) of the Williams-Steiger Occupational Safety and Health Act;

(c) Notification of any proposed penalty;

(d) Notification of failure to correct violation and of any proposed additional penalty;

(e) Citations for alleged imminent dangers;

(f) Any document similar to those listed in the preceding paragraphs in this section.

§ 1913.33 Information which is partially disclosable.

(a) Forms containing the Compliance Safety and Health Officer's report of an inspection, including any worksheet forms, are available for public inspection and copying under the following circumstances, subject to the provisions of § 1913.34:

(1) Where a final decision has been made by the Administration that no citation should be issued;

(2) Where a citation of proposed penalty has been issued and the citation becomes the final order of the Occupational Safety and Health Review Commission because no notice of contest has been filed within 15 working days, as required by section 10(b) of the Act and the prescribed safety or health corrections have been made;

(3) Where a citation or proposed penalty is contested and action of the Review Commission becomes final.

(b) Section 1904.8 of this chapter requires that, within 8 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Administration. Records consisting of such reports or compiled from such reports shall be available for public inspection and copying subject to the provisions of § 1913.34, except when the report is placed within an investigation file compiled for law enforcement purposes, in which event the report shall be disclosable under the criteria applied in paragraph (a) of this section.

§ 1913.34 Nondisclosable information.

The following material shall not be disclosed when it appears in any investigative file or in any other record:

(a) Trade secrets as described in 18 U.S.C. 1905 and 26 U.S.C. 7213(b), except to the extent that a description involving a trade secret is essential to procedural fairness in proceedings under the Act. In the latter event, to the extent practicable, no description shall be used which would result in a competitive disadvantage to an employer, manufacturer, or producer. This paragraph interprets and applies section 15 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 664) in conjunction with 18 U.S.C. 1905 and 26 U.S.C. 7213(b);

(b) Opinions, estimates, or recommendations of the type described in § 70.25 of this title;

(c) Identity of witnesses who are employees of the employer involved;

(d) Where there has been an accident, assessment of actions and time necessary to achieve compliance (any final action in this regard in the case of violations would be shown in the citation disclosable under § 1913.22);

(e) Evaluation of whether a violation of a regulation, code, or standard caused or contributed to an accident;

(f) Judgments as to whether a regulation, code, or standard adequately covers the cause of an accident;

(h) Complaints of alleged violations and any other material tending to reveal the identity of persons protected by the informer's privilege;

(i) Information disclosing confidential raw materials or confidential intermediate products;

(j) In any complaint filed under section 8(f)(1) of the Occupational Safety and Health Act of 1970, the name of the person submitting the complaint and the names of individual employees referred to in the complaint shall not be disclosed, where the person submitting the complaint has requested anonymity, either for himself or for individual employees mentioned in the complaint;

(k) Information concerning the composition of statistical samples used by the Bureau in its statistical surveys;

(l) Information appearing in response to statistical surveys conducted by the Bureau.

Signed at Washington, D.C., this 4th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

Signed at Washington, D.C., this 4th day of October 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

APPENDIX A

AREA AND DISTRICT OFFICES OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, U.S. DEPARTMENT OF LABOR

The following list contains the addresses of all area and district offices of the Occupational Safety and Health Administration. (District offices are established primarily for the purpose of determining compliance with occupational safety and health standards in maritime workplaces, i.e., longshoring, ship repair, shipbuilding, and shipbreaking.) Any person seeking information in the custody of an area or district office should address the request as follows: Area Director (or District Supervior), Occupational Safety and Health Administration, U.S. Department of Labor (address). If the person requesting the information does not know which office to contact, he may direct the request to the Regional Office for the State or territory in question. The Regional Offices of the Occupational Safety and Health Administration are listed in Appendix B. Requests directed to the Regional Office should be addressed as follows: Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor (address).

AREA OFFICES

Alabama

Todd, Mall, 2047 Canyon Road, Birmingham, AL 35216.
Room 801, Commerce Building, 118 North Royal Street, Mobile, AL 36602.

Alaska

Room 214, Willhoith Building, 610 C Street, Anchorage, AK 99501.

Arizona

Suite 910, Amerco Towers, 2721 North Central Avenue, Phoenix, AZ 85004.

California

Room 514, Hartwell Building, 19 Pine Avenue, Long Beach, CA 90802.
Room 1706, 100 McAllister Street, San Francisco, CA 94102.

Colorado

Squire Plaza Building, 8527 West Colfax Avenue, Lakewood, CO 80215.

Connecticut

Room 617, Federal Building, 450 Main Street, Hartford, CT 06103.

Florida

Room 204, Bridge Building, 3200 East Oakland Park Boulevard, Fort Lauderdale, FL 33308.
U.S. Federal Office Building, 400 West Bay Street, Box 35063, Jacksonville, FL 32202.

Georgia

Room 723, 1371 Peachtree Street NE., Atlanta, GA 30309.
Suite 201, Enterprise Building, 6605 Abercorn Street, Savannah, GA 31405.

Hawaii

Suite 505, 333 Queen Street, Honolulu, HI 96813.

Illinois

Room 1200, 300 South Wacker Drive, Chicago, IL 60606.

Indiana

Room 423, 46 East Ohio Street, Indianapolis, IN 46204.

Kentucky

Room 561, 600 Federal Place, Louisville, KY 40202.

Louisiana

Room 1036, Federal Building, 600 South Street, New Orleans, LA 70130.

Maryland

Room 1110–A, Federal Building, 31 Hopkins Plaza, Charles Center, Baltimore, MD 21201.

Massachusetts

Custom House Building, State Street, Boston, MA 02109.

Michigan

Room 626, Michigan Theatre Building, 220 Bagley Avenue, Detroit, MI 48226.

Minnesota

Room 437, 110 South Fourth Street, Minneapolis, NM 55401.

Missouri

Room 1100, Davidson Building, 1627 Main Street, Kansas City, MO 64108.
Room 553, 210 North 12th Street, St. Louis, MO 63101.

Montana

Room 203, Central Park Building, 711 Central Avenue, Billings, MT 59102.

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Nebraska

Room 630, 630 City National Bank Building, 16th and Harney Streets, Omaha, NE 68102.

New Hampshire

Room 425, Federal Building, 55 Pleasant Street, Concord, NH 03301.

New Jersey

Room 635, Federal Office Building, 970 Broad Street, Newark, NJ 07102.

New York

370 Old Country Road, Garden City, Long Island, NY 11530.
Room 1405, 90 Church Street, New York, NY 10007.
Room 203, Midtown Plaza, 700 East Water Street, Syracuse, NY 13210.

North Carolina

1361 East Morehead Street, Charlotte, NC 28204.

Ohio

Room 5522, Federal Office Building, 550 Main Street, Cincinnati, OH 45202.
847 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.
Room 224, Bryson Building, 700 Bryden Road, Columbus, OH 43015.
Room 734, Federal Office Building, 234 North Summit Street, Toledo, OH 43604.

Oklahoma

Room 512, Petroleum Building, 420 South Boulder Avenue, Tulsa, OK 74103.

Oregon

Room 526, Pittock Block, 921 Southwest Washington Street, Portland, OR 97205.

Pennsylvania

Suite 1010, 1317 Filbert Street, Philadelphia, PA 19107.
Room 445-D, Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Puerto Rico

Room 328, Condominum San Alberto Building, 605 Condado Avenue, Santurce, PR 00907.

Rhode Island

Room 613, 57 Eddy Street, Providence, RI 02903 (district office).

Tennessee

Suite 302, 1600 Hayes Street, Nashville, TN 37203.

Texas

Room 6B1, Federal Building, 1100 Commerce Street, Dallas, TX 75202.
Room 325, U.S. Custom House Building, Galveston, TX 77550 (district office).
Room 802, Old Federal Office Building, 201 Fannin Street, Houston, TX 77002.
Room 421, Federal Building, 1205 Texas Avenue, Lubbock, TX 79401.

Utah

Suite 309, Executive Building, 455 East Fourth South, Salt Lake City, UT 84111.

Virginia

Stanwick Building, Room 111, 3661 Virginia Beach Boulevard, Norfolk, VA 23502.
Room 8018, Federal Building (Post Office Box 10186), 400 North Eighth Street, Richmond, VA 23240.

Washington

1902 Smith Tower Building, 506 Second Avenue, Seattle, WA 98104.

Wisconsin

Room 906, Sheraton Schroeder Hotel, 509 West Wisconsin Avenue, Milwaukee, WI 53203.

APPENDIX B

REGIONAL OFFICES OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, U.S. DEPARTMENT OF LABOR

Region I—Boston

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.)

Room 308-E, John F. Kennedy Federal Building, Government Center, Boston, MA 02203.

Region II—New York

(New York, New Jersey, Puerto Rico, Virgin Islands.)

Room 920, 341 Ninth Avenue, New York, NY 10001.

Region III—Philadelphia

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.)

Room 410, Penn Square Building, 1317 Filbert Street, Philadelphia, PA 19107.

Region IV—Atlanta

(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.)

Suite 587, 1375 Peachtree Street NE., Atlanta, GA 30309.

Region V—Chicago

(Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin.)

Room 1200, 300 South Wacker Drive, Chicago, IL 60606.

Region VI—Dallas

(Arkansas, Louisiana, New Mexico, Oklahoma, Texas.)

Suite 600, Texaco Building, 1512 Commerce Street, Dallas, TX 75201.

Region VII—Kansas City

(Iowa, Kansas, Missouri, Nebraska.)

Room 300, Waltower Building, 823 Walnut Street, Kansas City, MO 64106.

Region VIII—Denver

(Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.)

Post Office Box 3588, Room 15010, Federal Building, 1961 Stout Street, Denver, CO 80202.

Region IX—San Francisco

(Arizona, California, Hawaii, Nevada.)

Box 36017, 10353 Federal Building, 450 Golden Gate Avenue, San Francisco, CA 94102.

Region X—Seattle

(Alaska, Idaho, Oregon, Washington.)

1808 Smith Tower Building, 506 Second Avenue, Seattle, WA 98104.

[FR Doc.72-17252 Filed 10-6-72;8:50 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

PART 202—PRENOTIFICATION AND REPORTING

Violations for Failure To Comply With Pay Board Regulations

Section 208 of the Economic Stabilization Act of 1970, as amended, provides that it shall be a violation to fail or refuse to comply with an order or regulation issued pursuant to the Act. The purpose of the amendments set forth below is to set out in regulatory form the obligations imposed by such section of the Act in order to provide guidance to all persons covered by the regulations and to continue to promote voluntary compliance with the stabilization program. In addition, paragraph (f) has been added to § 201.17 in order to compel persons to make timely submissions of documents relating to issues or matters pending before the Pay Board. Amendments to § 201.14(e) indicate that failure to comply with the prenotification and reporting rules relating to deferred increases or with the additional information requirement involving such increases shall be a violation. Other amendments to § 201.14(e) update the prenotification rules by deleting interim date provisions. Such deletions do not represent a substantive change. Conforming amendments are made in §§ 202.10(b)(2) and 202.20(b)(2). Since such amendments are essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11,640, as amended, the Board finds that the time for submission of written comments by interested persons in accordance with usual rule making procedures is impracticable and that good cause exists for promulgating them in less than 30 days. Interested persons may submit written comments regarding these amendments. Communication should be addressed to the Office of the General Counsel, Pay Board, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 743), Executive Order No. 11,640, 37 F.R. 1213 (1972), as amended by Executive Order No. 11,660, 37 F.R. 6175 (1972), and Cost of Living Council Order No. 3, 36 F.R. 20202 (1971), as amended)

Effective date. These amendments are effective on and after October 7, 1972, except that the provisions contained in paragraphs (d) and (e) of § 201.17 are effective on and after November 14, 1971.

By direction of the Chairman.

ROBERT P. TIERNAN,
Executive Director.

PARAGRAPH 1. Section 201.14(e) is amended to read as follows:

§ 201.14 Wage and salary increases effective after November 13, 1971.

• • • • • •

(e) *Notice requirement*—(1) *In general.* In accordance with the provisions of Part 202 of this chapter, prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any increase to be paid pursuant to an employment contract or pay practice referred to in this section when such increase would affect an appropriate employee unit of 1,000 or more employees and would cause the total of such increases to be in excess of 7 percent for a control year. In addition to the prenotification requirement set forth in the preceding sentence, no part of any such scheduled increase shall be paid or received until the latest of 90 days after notice of such increase has been given to the Pay Board, 60 days after a party at interest provides any additional information required pursuant to subparagraph (2) of this paragraph, or the scheduled effective date of such increase. For purposes of this paragraph, a fair and reasonable estimate shall be used in determining whether contingent increases (such as cost of living adjustments) will cause the total of such increases to exceed 7 percent. Furthermore, such notice shall be in accordance with the instructions contained in paragraph (f) of this section. Notice requirements with respect to other pay adjustments are contained in §§ 202.10(b)(2) and 202.20(b)(2) of this chapter. Failure to comply with any of the provisions contained in this subparagraph (as well as the subparagraphs referred to in the immediately preceding sentence) shall be a vicIation of Pay Board regulations within the meaning of § 201.17.

(2) *Additional information.* In addition to the provisions of subparagraph (1) of this paragraph, after June 23, 1972, the Board may require a party at interest to furnish adequate and complete supplemental information within a specified period of time as to the factors the Board considers necessary to determine whether the increase referred to in such subparagraph is unreasonably inconsistent with the standard, exceptions, or the review criteria referred to in paragraph (d) of this section. The failure to furnish additional information requested pursuant to this subparagraph, or to furnish it on a timely basis, shall be a violation of Pay Board regulations within the meaning of § 201.17(d).

• • • • • •

PAR. 2. Section 201.17 is amended by deleting the word "or" at the end of paragraph (c), revising paragraph (d), and adding new paragraphs (e) and (f), to read as follows:

§ 201.17 Violations.

It shall be a violation of Pay Board regulations, subject to the sanctions, fines, penalties and other relief provided in the Act, for any person to:

• • • • • •

(d) Fail or refuse to comply with a decision or order of the Pay Board or with any regulation issued pursuant to the Act, or induce, solicit, encourage, force, or require any other person to fail or refuse to comply with a decision or order of the Pay Board or with any regulation issued pursuant to the Act;

(e) Fail or refuse to file any prenotification, report, certification, or other document required by regulations; or

(f) Fail or refuse to submit to the Pay Board, or its delegate, information within the knowledge or control of a person, if the Board has required or ordered that person to submit such information after determining such information is relevant to the disposition of any matter affecting such person before the Board: *Provided, however,* This paragraph shall not apply to the failure or refusal to submit any additional information requested pursuant to § 201.14(e)(2).

• • • • • •

PAR. 3. Section 202.10 is amended by revising paragraph (b)(2) to read as follows:

§ 202.10 Prenotification and reporting requirements.

• • • • • •

(b) *Special rules.* • • •

(2) *Existing contracts and pay practices previously set forth.* Category I pay adjustments made pursuant to the terms of employment contracts and pay practices previously set forth, which existed prior to November 14, 1971, are subject to the provisions of § 201.14 of this chapter. Prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any such Category I pay adjustment which would cause the total of wage and salary increases for the appropriate control year to exceed 7 percent. Prenotification shall be submitted to the Pay Board not less than 60 days prior to the scheduled effective date of all other Category I pay adjustments which are subject to the provisions of § 201.14 of this chapter. Except as provided in § 201.14 of this chapter, such Category I pay adjustments may be put into effect without prior approval of the Pay Board.

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PAR. 4. Section 202.20 is amended by revising paragraph (b)(2) to read as follows:

§ 202.20 Prenotification and reporting requirements.

• • • • • •

(b) *Special rules.* • • •

(2) *Existing contracts and pay practices previously set forth.* Category II pay adjustments made pursuant to the terms of employment contracts and pay practices previously set forth, which existed prior to November 14, 1971, are subject to the provisions of § 201.14 of this chapter. Prenotification shall be submitted to the Pay Board not less than 90 days prior to the scheduled effective date of any such pay adjustment which would cause the total of wage and salary increases for the appropriate control year to exceed 7 percent. A report shall be made to the Pay Board within 10 days after any other Category II pay adjustment subject to the provisions of § 201.14 of this chapter is put into effect. Except as provided in § 201.14 of this chapter all such pay adjustments may be put into effect without prior approval of the Pay Board.

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[FR Doc.72-17277 Filed 10-4-72;5:08 pm]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 411, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 908.711 (Valencia Orange Regulation 411, 37 F.R. 20223) during the period September 29 through October 5, 1972, are hereby amended to read as follows:

§ 908.711 Valencia Orange Regulation 411.

• • • • • •

(b) *Order.* (1) • • •

(i) District 1: 442,000 cartons.

(ii) District 2: 408,000 cartons.

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(Sec. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: October 4, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17218 Filed 10-6-72;8:51 am]

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[Lemon Reg. 554]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.854 Lemon Regulation 554.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effecitve time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 3, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 8 through October 14, 1972, is hereby fixed at 200,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 4, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17292 Filed 10-6-72;8:53 am]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Order Amending the Order, As Amended, Regulating the Handling of Grapefruit Grown in the Indian River District in Florida

§ 912.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and each of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Vero Beach, Fla., June 7, 1972, upon proposed amendment of the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912) regulating the handling of grapefruit grown in the Indian River District in Florida. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of grapefruit grown in the Indian River District in Florida in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which a hearing has been held;

(3) The order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the Indian River District, as defined in the order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby found, on the basis hereinafter indicated, that good cause exists for making the provisions of this amendatory order effective upon publication in the FEDERAL REGISTER (Oct. 7, 1972), and that it would be contrary to the public interest to postpone such effective time until 30 days after such publication (5 U.S.C. 553). The provisions of this order would authorize the inclusion of all shipments of grapefruit to market destinations outside of the regulation area in the computation of prorate bases for handlers. Shipment of grapefruit will begin early in October. Therefore, this order should become effective as soon as practicable so that such computation for the current fiscal period may be in accordance with such provisions. The provisions of this order are well known to producers and handlers. The hearing was held in Vero Beach, Fla., on June 7, 1972, and the recommended decision and final decision were published in the FEDERAL REGISTER on July 28, 1972 (37 F.R. 15167) and August 19, 1972 (37 F.R. 16805), respectively. Copies of the text of the amended order have been made available to all known producers and handlers; and compliance with such provisions will not require advance preparation on the part of persons subject thereto which cannot be completed prior to the effective time of such order.

(c) *Determinations.* It is hereby determined that:

(1) The agreement amending the marketing agreement regulating the handling of grapefruit grown in the Indian River District in Florida, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the grapefruit covered by this order) who, during the period August 1, 1971, through July 31, 1972, handled not less than 50 percent of the volume of grapefruit covered by the said order as hereby amended;

(2) The issuance of this order, amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (August 1, 1971, through July 31, 1972) were engaged, within the production area, in the production of gfapefruit for market; such producers having also produced for market at least two-thirds of the volume of grapefruit represented in such referendum.

It is therefore, ordered, That, on and after the effective date hereof, all handling of grapefruit grown in the production area shall be in conformity to and in compliance with, the terms and conditions of this order, as amended and as hereby further amended, as follows:

1. Section 912.7 *Handle or ship* is revised to read as follows:

§ 912.7 Handle or ship.

"Handle" or "ship" means to sell or transport grapefruit, or in any other way, to place grapefruit in the current of commerce between the regulation area and any point outside thereof.

2. Paragraph (a) of § 912.46 *Recommendations for volume regulation* is revised to read as follows:

§ 912.46 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of grapefruit which it deems advisable to be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during the next succeeding week: *Provided,* That such regulations shall not be recommended during the period beginning with and including the first full week in January and ending with but not including the first full week in May after regulations during such period have limited the volume of grapefruit handled during 12 weeks.

* * * * *

3. Section 912.47 *Issuance of volume regulation* is revised to read as follows:

§ 912.47 Issuance of volume regulation.

Whenever the Secretary finds, from information submitted by the committee, or from other available information, that to limit the quantity of grapefruit which may be handled to destinations outside the regulation area but within the 48 contiguous States of the United States (including the District of Columbia), Canada, or Mexico during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided,* That such regulations shall not, in the aggregate, limit the volume of grapefruit shipments during more than 12 weeks of the period beginning with and including the first full week in January and ending with but not including the first full week in May. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of grapefruit is in excess of the parity price specified therefor in the act. The quantity so fixed for any week may be increased by the Secretary at any time during such week. The Secretary may upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation at any time.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Issued at Washington, D.C., this 3d day of October 1972 to become effective upon publication in the FEDERAL REGISTER (Oct. 7, 1972).

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-17219 Filed 10-6-72;8:51 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[Thirteenth Gen. Rev. of the Export Regs., Amdt. 50]

LICENSING PROCEDURES, ELECTRONIC COMPUTERS AND RELATED EQUIPMENT

Parts 371, 373, and 376 are amended to read as set forth below.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959–1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959–1963 Comp.)

Effective date: October 4, 1972.

RAUER H. MEYER,
Director,
Office of Export Control.

1. Section 71.4(c) is amended to read as follows:

PART 371—GENERAL LICENSES

§ 371.4 General license GIT; intransit shipments.

* * * * *

(c) *Shipments originating in Canada.* (1) The provisions of general license GIT are applicable, as modified herein, to all shipments from Canada moving in transit through the United States to any foreign destination, regardless of the origin of the commodities. For each such shipment, the customs office at the U.S. port of export shall require a copy of Form B–13, Canadian Customs Entry, certified or stamped by the Canadian customs authorities, except where the shipment is made under a validated U.S. export license or applicable U.S. general license other than general license GIT, or is valued at less than $50.

(2) The commodity description, quantity, ultimate consignee, country of ultimate destination, and all other pertinent details of such shipment must be the same on a required Form B–13, as on Commerce Form 7513,[3] or when Form 7513 is not required, must be the same as on Customs Form 7512.[3] When there is a material difference, a corrected Form B–13 authorizing the shipment is required.

(3) Any parties to the export shall submit any further proof that the customs officer at the U.S. port of entry or the port of export may require to enable him to determine that general license GIT applies, including the fact that the destination of the shipment is properly authorized by the Canadian authorities. An export shall not be cleared for shipment by the customs officer at the U.S. port of export under general license GIT unless all provisions of this general license have been complied with.

PART 373—SPECIAL LICENSING PROCEDURES

2. The following commodities are deleted from Supplement No. 1 to Part 373:

3(7) Lubricants wholly made of fluorocarbon polymers or copolymers as defined in Part 399.2, Interpretation 22.

512(25) Diethylene triamine, purity 96 percent or higher.

581(12) Pipe and tubing made of, lined with, or covered with polytetrafluoroethylene, polyvinylidenefluoride, or the copolymers of tetrafluoroethylene and hexafluoropropylene, chlorotrifluoroethylene and vinylidenefluoride, or hexafluoropropylene and vinylidenefluoride.

62(4) Hose and tubing lined with or covered with polytetrafluoroethylene, polyvinylidenefluoride, or the copolymers of tetrafluoroethylene and hexafluoropropylene, chlorotrifluoroethylene and vinylidenefluoride, or hexafluoropropylene and vinylidenefluoride.

655(2)(3) Textile fabrics and articles, n.e.c., (a) wholly made of fluorocarbon polymers or copolymers as defined in Part 399.2, Interpretation 22; and (b) coated or impregnated with polyimides, polybenzimidazoles polyimidazopyrrolones, aromatic polyamides, and polyparaxylylenes where the value of such contained polymeric substance, either alone or in combination with fluorocarbon polymers or copolymers as defined in Part 399.2, Interpretation 22, is 50 percent or more of the total value of the materials used.

678(1) Tubes, pipes, and fittings therefor, lined with or covered with polytetrafluoroethylene, polyvinylidenefluoride, or the copolymers of tetrafluoroethylene and hexafluoropropylene. chlorotrifluoroethylene and vinylidenefluoride, or hexafluoropropylene and vinylidenefluoride.

6895(16) Titanium metal and titanium alloys containing 70 percent or more titanium, wrought or unwrought, including intermediate mill shapes, and waste and scrap.

723(1) Wire and cable coated with or insulated with fluorocarbon polymers or copolymers as defined in Part 399.2, Interpretation 22.

723(2) Wire and cable coated or insulated with polyimides, polybenzimidazoles, polyimidazopyrrolones, aromatic polyamides, or polyparazylylenes.

723(3)(4) Communications or coaxial cable.

89300(8) Hose, tubing, and fittings therefor, made of, lined with, or covered with polytetrafluoroethylene, polyvinylidenefluoride, or the copolymers of tetrafluoroethylene and hexafluoropropylene, chlorotrifluoroethylene and vinylidenefluoride, or hexafluoropropylene and vinylidenefluoride.

[3] The complete names of these forms are: Commerce Form 7513 "Shipper's Export Declaration for Intransit Goods"; Customs Form 7512, "Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit."

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PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

3. Section 376.10 is revised to read as follows:

§ 376.10 Electronic computers and related equipment.

An application for a license to export or reexport electronic and/or related commodities (Export Control Commodity Nos. 714 and 891) to Country Groups Q, W, and Y shall include the following information as applicable:

(a) *Analog computers.* (1) The quantity, static accuracy, and total error rating of each type of summer, integrator, multiplier, or function generator employed; and

(2) The number of integrator time scales and whether or not they are switchable during operation.

(b) *Digital computers*—(1) *Central processors.* (i) The quantity, type, and specifications;

(ii) The size of the internal memory(s) (bits), cache or buffer memory and main memory;

(iii) The maximum internal memory (designed capability in bits);

(iv) The actual I/O bus rate of the processor, in millions of bits per seconds, as limited by all peripheral devices and data channels in the configuration. If independent or multiport memories are included in the CPU, the bus rate computations should include the net effect of interleaved and/or overlapped operations. The extent to which a CPU can process data and simultaneously support I/O transmissions should also be stated;

(v) The CPU bus rate (in millions of bits per second), including actual maximized I/O rate if simultaneous with CPU processing; and

(vi) Processing data rate (in millions of bits per second). (Processing data rate is not required for those central processors, not configured with floating point hardware modules.)

(2) *Disc drives, drums, magnetic card files, and other direct access peripherals.* (i) The quantity and type of each random access memory device.

(ii) For each type device, as applicable (refer to appropriate definitions for these characteristics);

(a) The average seek time (in milliseconds);

(b) The average latency time (in milliseconds);

(c) The average access time (in milliseconds);

(d) The factor (average access time (in seconds)) $3/2\times8{,}000$;

(e) The net capacity per spindle (in millions of bits); and

(f) The effective bit transfer rate.

(iii) For the total number of direct access devices for which an application is made (applicants who wish to export random access devices as enhancements to computers previously exported should take into account the performance characteristics of any random access devices which may already be a part of the system configuration:

(a) The total connected net capacity (in millions of bits); and

(b) The total number of accesses (in number per second).

(3) *Magnetic tape drives.* The quantity and type and specification of each tape drive, including;

(i) The maximum transport speed (in inches per second);

(ii) The maximum read/write capability (in bits per inch);

(iii) A statement as to whether the drive-controller combination has a read-while-write capability;

(iv) The single device effective bit transfer rate (in million bits per second). If a read-while-write feature is included, the effective bit transfer rate should be based on a device pair; and

(v) For incremental records; the tape speed (in inches per second) at the maximum stepping rate.

(4) *Terminal devices.* (i) The quantity, type, and performance specification of each terminal device;

(ii) The effective bit transfer for each device (in bits per second);

(iii) For visual display units, sufficient descriptive details should be provided to identify visual display units as strictly alphanumeric, limited graphic, full graphic with line drawing capabilities, monitor only, interactive with certain types of input devices, and hardware and/or software mechanisms for generating visual presentations;

(iv) For terminal devices to be located "remote[1] from the computer operating area". In addition to the information required in subdivisions (i), (ii), and (iii) of this subparagraph, the information should include the total effective bit transfer rate of all terminal devices (excluding parity, word marker, and flag bits), of all terminal devices to be associated with the computer as limited by any telecommunications channel(s). (This computation should include those terminal devices proposed for export, those the end user is obtaining from other sources, and those that may already be installed with the computer.); and

(v) For computers equipped with remote terminal devices:

(a) The effective bit transfer rate of each interfaced telecommunications channel (in bits per second) considering channel and interface limitations; and

(b) The percent of time each interfaced telecommunications channel is dedicated to the given terminal equipment and associated end users, (e.g., a time shared telephone dial-up line or a leased or specially installed line).

(5) *Magnetic recording media.* (i) Magnetic tape:

(a) Certified maximum packing density limit of the tape (in bits per inch); and

(b) Make and model number of computer system that tapes will be used with, including type and number of peripheral devices included with the system. (In particular, the quantity of magnetic tape drives associated with the system and their performance characteristics in terms of the data set forth above under "magnetic tape drives" should be stated.)

(ii) Disc packs and other random access recording media:

(a) The quantity, type, and specification of the commodities proposed for export; and

(b) The make and model of the computer system that the media will be used with, including the type and number of peripheral devices included with the system. (In particular, the type, quantity, and performance characteristics of the disc-drive devices that the media will be used with should be stated.)

(6) *Digital computer system parameters.* (i) The effective bit transfer rate (in millions of bits per second) of each selector or multiplex channel as limited by peripheral devices, interface units, control units, data acquisition, and conversion equipment which may be proposed for export or obtained from other sources that the proposed end user intends to add to the system;

(ii) The "total effective bit transfer rate" of the system; i.e., the sum of the effective bit transfer rates of all CPU channels to the extent supportable by the CPU either simultaneously or concurrently. In a given system, the typical contributing data sources or sinks are the following:

(a) Direct access devices;
(b) Magnetic tape devices;
(c) Data acquisition devices and networks;
(d) Remote terminal devices;
(e) Peripheral arithmetic devices;
(f) High speed CRT devices;
(g) Computer-to-computer transmissions; and
(h) A/D and D/A devices.

For systems having both high speed and low speed I/O devices, where the difference in transmission rates is several orders of magnitude, the applicant may neglect to include the low speed devices in the computation of system total effective bit transfer rate;

(iii) The total net capacity of all direct access devices associated with the system; and

(iv) The total number of accesses of all direct access devices associated with the system (including those now installed, to be obtained from other sources, and those currently proposed).

(7) *Off-line input/output devices.* In making applications for devices intended to collect and/or format data for subsequent processing on a computer system or for data transmission subsequent to processing, the exporter should identify the central computer system that the equipment is intended to be used with by make and model number, including the type and quantity of all peripheral devices that define the total system. In the event that the subject off-line I/O devices includes as constituent components, e.g., magnetic tape drives, disc drives, etc., the required technical data relative to these components should be furnished.

(c) *Additional supporting data: End use and end user.* (1) The name and address of the actual end user of the equipment;

(2) A definitive statement as to the type of services performed or goods produced by the proposed end user;

[1] See paragraph (d)(2)(xi) of this section for a definition of the terms distinguishing local from remote locations.

(3) A statement of the nature of the data processing activities for which the equipment will be used;

(4) The location of all remote terminals proposed for the system, and distance from the main computer installation. If any user of a terminal differs from the end user of the central computer system, this information should be given and the information required by subparagraphs (1), (2), and (3) of this paragraph should be provided for each additional end user;

(5) A technical justification for the requirement for the equipment that is proposed for export; and

(6) A simplified system schematic drawn in standard computer equipment/system symbology showing the CPU features and the specific channel connections of all peripheral devices, data acquisition and/or control elements and telecommunications networks included in the system. In instances where an exporter proposes to export a commodity that will be used to enhance an existing system the schematic should clearly identify which components constitute the existing system and which are proposed as enhancements or additions.

Although the information required by the above sections should be sufficient to support most applications, there may be instances depending on the performance characteristics of the computer system proposed for export, or the nature of the proposed application, when it will be necessary for the Office of Export Control to request additional information regarding the proposed transaction from an applicant.

(d) *Definitions of Terms.*—(1) *Analog computers*—(i) "Static accuracy" for summers, inverters, and integrators only, applies to the percentage of actual output voltage. All other references to static accuracy apply to the percentage of full scale voltage; that is, from maximum negative to maximum positive reference voltage.

(ii) "Total error" includes all errors of the unit resulting from, for example, tolerances of resistors and capacitors, tolerances of input and output impedances of amplifiers, the effect of loading, the effects of phase shift, the generating functions, etc. Total error at 1 kHz is to be measured with those resistors incorporated in the inverter, summer, or integrator that provide the least error.

(2) *Digital computers.* (i) "CPU bus rate" is the number of bits, excluding parity, accessed in one memory cycle times the number of read-write cycles per second times the number of independent memories (including interleaved) which can be transferred simultaneously between the main memory and the CPU, as limited by any device normally placed between the main memory and the CPU. For systems with multiple CPUs, the "CPU bus rate" is the sum of the individual CPU bus rates as defined above that can be sustained simultaneously.

(ii) "I/O bus rate" is the number of bits excluding parity accessed in one memory cycle times the number of read-write cycles per second times the number of independent memories (including interleaved) which can be transferred simultaneously between the main memory and the I/O bus, and which can be transferred simultaneously with the CPU bus rate.

(iii) "Total effective bit transfer rate" is the sum of the effective bit transfer rates of all peripheral memory units and data channels provided with the system, which can have simultaneous access to the I/O bus (or busses) as limited by the I/O control units provided with the system, assuming the configuration of peripheral units and data channels which would maximize this rate. The effective bit transfer rate (RE) for magnetic tape transports and for data channels is the maximum bit transfer rate excluding parity. For static memory devices, it is the number of bits transferred per access excluding parity divided by the "average access time." For rotating memory devices it is the product of the maximum bit transfer rate excluding parity (R), the number of independent read-write channels (c) and the rotational period (TR) divided by the sum of the rotational period (TR) and the sum of the "minimum seek time" (Tmin) and the "latency time" (TL) divided by the number of independent seek mechanisms (S). The mathematical expression is as follows:

$$RE=\frac{R\times C\times TR}{\frac{TR+Tmin+TL}{S}}$$

(iv) "Average access time" is the sum of the "average seek time" and the "latency time" divided by the number of independent seek means or mechanisms.

(v) "Average seek time" for moving head and/or moving media devices is the sum of the "maximum seek time" and twice the "minimum seek time" divided by three. "Maximum seek time" is as rated for the particular device; e.g., for moving head devices the time to move between the two most widely separated tracks. "Minimum seek time" for moving head and/or moving media devices is as rated for the particular device; e.g., for moving head devices the time to move from one track to an adjacent track. "Seek time" for static or fixed head devices is zero.

(vi) "Latency time" for static memory devices is the cycle time of the device; "latency time" for rotating memory devices is the rotational period divided by twice the number of independent read-write heads per track.

(vii) "Processing data rate" is the product of the average number of bits transferred per instruction and the processing rate. (a) As used in this definition, "the average number of bits transferred per instruction is the sum of:

(1) The number of bits in a fixed or floating point "instruction;"

(2) 0.40 times the number of bits in a fixed point "operand;" and

(3) 0.15 times the number of bits in a floating point "operand."

(b) The "processing rate" is the reciprocal of the sum of:

(1) 0.85 times the average "execution time" of a fixed point addition;

(2) 0.09 times the average "execution time" of a floating point addition; and

(3) 0.06 times the average "execution time" of a floating point multiplication.

(c) The "instruction" and "operand" lengths and the "execution times" of the operations in (a) of this subdivision are based on:

(1) A fixed point operand of 24 bits or greater;

(2) A floating point operand length of 30 bits or greater;

(3) The fetching of an instruction word from main memory (for CPUs simultaneously fetching more than one instruction in one memory word, the execution time shall be the average over the possible locations of the instruction within the fetch word);

(4) One operand being in the accumulator(s) or a location in main memory acting as the accumulator(s);

(5) The second operand being in main memory;

(6) The result being left in the same accumulator or a location in main memory acting as the accumulator;

(7) The instruction and operands being in optimum locations in main memory; or

(8) No indexing or indirect operations being included.

(viii) "Net capacity" of a memory device is the total capacity designed to be accessible to the digital computing system excluding parity and error correction.

(ix) "Total number of accesses" is the sum of the number of all direct access peripheral memory units provided with the system. The number of accesses (per second) to a memory device is the reciprocal of the "average access time."

(x) "Terminal devices" are all peripheral devices excluding memory devices and special process control sensing and actuating equipments, capable of transmitting and/or receiving of binary digits or alphanumeric characters. Normal groupings of such equipment; e.g., combined paper tape reader/punch and printer, connected to a single data or communication channel, shall be considered as single devices.

(xi) The "computer operating area" is the immediate vicinity of the computer installation where the normal operating, support, and service functions take place.

(xii) "Tele-communications channels" are the transmission paths or circuits and the terminal transmission and receiving equipment (modems) for transferring digital information between distant locations.

(e) *Alternative means of furnishing information.* Instead of including all of the above information with each application, the applicant may furnish the Office of Export Control with technical specifications for his line of commodities described in paragraphs (a), (b), and (c) of this section, keeping them current by

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supplementing technical bulletins or other similar publications as they are released, provided that such publications contain all of the applicable required technical information computed in accordance with the definition of terms as set forth in paragraph (d) of this section, and further, that such information which relates to system performance as well as to individual component performance is directly applicable to the specific system configuration for which an application for an export license is made. In such cases, an exporter can comply with the requirements of this § 376.10 by identifying the model number and entering the following statement in the "Commodity Description" space on the application, or on an attachment:

The current technical information relating to the commodity(ies) described on this application, as required by § 376.10 of the Export Control Regulations, has been previously furnished the Office of Export Control.

(f) *Applications for enhancement/expansion equipment.* An application for a license to export equipment to country groups Q, W, and Y, to be interfaced with an existing computer system should include full particulars of the current system configuration, including make, model number, and quantity of those components which comprise the system. Insofar as is practicable that information which pertains to the current system as is listed in paragraphs (a), (b), and (c) of this section, should also be included with the application, as well as the applicable data related to the additional equipment that the applicant wishes to export.

[FR Doc.72-17249 Filed 10-6-72;8:50 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

[Docket No. C-2282]

PART 13—PROHIBITED TRADE PRACTICES

B. Altman & Co.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, B. Altman & Co., New York, N.Y., Docket No. C-2282, Sept. 18, 1972]

In the Matter of B. Altman & Co., a Corporation

Consent order requiring a New York City importer and distributor of textile fiber products, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent B. Altman & Co., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any ladies' scarves; or any article of wearing apparel, or fabric intended for use or which may be reasonably be expected to be used in an article of wearing apparel, imported by or manufactured under the control or direction of B. Altman & Co., as the terms "commerce", and "article of wearing apparel" are defined in the Flammable Fabrics Act, as amended; or any other article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, the manufacturer or domestic importer of which has not furnished a guaranty under section 8(a) of the Flammable Fabrics Act, as amended; and which ladies' scarves, articles of wearing apparel and fabric fail to conform to an applicable standard or regulation, issued, amended, or continued in effect under the provisions of the aforesaid Act; *Provided, however,* Nothing herein shall accord to the respondent immunity from any subsequent proceedings under section 3, 6(a) or 6(b) of the Flammable Fabrics Act, as amended. Further, nothing herein shall limit the authority of the Commission to extend the terms of the order to products, fabrics or related materials presently excluded from this order in any subsequent proceeding against the respondent.

It is further ordered, That if not already accomplished the respondent notify all of its customers who can be identified as having purchased or to whom if identified, have been delivered the products which gave rise to this complaint of the flammable nature of said products and effect the recall of said products from such customers wherever possible.

It is further ordered, That if not already accomplished the respondent herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since May 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondent has in inventory any article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, which article of wearing apparel or fabric comes within the provisions of the first paragraph of this order, having a plain surface and made of silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, having a raised fiber surface. Upon request of the Commission, the respondent shall submit samples of any such article of wearing apparel, or not less than 1 square yard in size of any such fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17197 Filed 10-6-72;8:46 am]

[Docket No. C-2277]

PART 13—PROHIBITED TRADE PRACTICES

Carpet Interiors, et al.

Subpart—Advertising falsely or misleading: § 13.73 *Formal regulatory and statutory requirements;* 13.73-90 Textile Fiber Products Identification Act; 13.73-92 Truth in Lending Act; § 13.125 *Limited offers or supply;* § 13.155 *Prices:* 13.155-35 Discount savings; 13.155-70 Percentage savings; 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act; 13.155-100 Usual as reduced, special, etc; § 31.175 *Quality of product or service.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition;* 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements;* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-80 Textile Fiber Products Identification Act; 13.1623-95 Truth in Lending Act; § 13.1710 *Qualities or properties;*—Prices: § 13.1823 *Terms and conditions;* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act; 13.1852-75 Truth in Lending Act: § 13.1876 *Notice of third party sale of contract;* § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147, 72 Stat. 1717; 15 U.S.C. 45, 1601-1605, 70) [Cease and desist order, Carpet Interiors, et al. Folcroft, Commonwealth of Pennsylvania, Docket No. C-2277, Sept. 6, 1972]

In the Matter of Carpet Interiors, a Corporation Trading and Doing Business as Remnant City, and Rudolph J. Pentima, and Marvin Zeitz, Individually and as Officers of Said Corporation

Consent order requiring a Folcroft, Pa., seller and distributor of carpeting and other merchandise, among other things, to cease representing that any price for their merchandise is a special or reduced price, unless such price constitutes a significant reduction from the established selling price; advertising for the purpose of obtaining leads or prospects unless the advertised products are capable of performing their advertised function and an adequate stock is maintained; disparaging or refusing to sell any product advertised; misrepresenting the quality or properties of any of their merchandise; falsely advertising, deceptively guaranteeing, and misbranding their textile fiber products; and failing to disclose to customers any disclosures required by Regulation Z of the Truth in Lending Act. Respondents are further required to include on the face of its notes a notice that if the contract is sold to a third party, the customer may be required to make payments to someone other than the seller even if the purchase contract is not fulfilled.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Carpet Interiors, a corporation, trading and doing business as Remnant City, its successors and assigns, and its officers, and Rudolph J. Pentima and Marvin Zeitz, individually and as officers of said corporation, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of carpeting or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Christmas Warehouse Sale" or any other word or words of similar import or meaning to designate the price or prices of their merchandise, unless the price or prices of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

2. Using the word "Save" or any other word or words of similar import or meaning in conjunction with a stated dollar or percentage amount of savings, unless the stated dollar or percentage amount of savings actually represents the difference between the offering price and the actual bona fide price at which such merchandise had been sold or offered for sale on a regular basis to the public by respondents for a reasonably substantial period of time in the recent, regular course of their business.

3. (a) Representing, orally or in writing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, orally or in writing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise at the compared price or some higher price.

(c) Representing, orally or in writing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or a higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of price in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

4. Representing, orally or in writing, directly or by implication, that any price for their merchandise is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such merchandise has been sold in substantial quantities by respondents in the recent, regular course of their business; or misrepresenting, in any manner, the savings available to purchasers.

5. Failing to maintain adequate records, (a) which disclose the facts upon which any savings claim, including pricing claims and similar representations of the type described in paragraphs 1 through 4 of this order are based, and (b) from which the validity of any savings claim, including pricing claims and similar representations of the type described in paragraphs 1 through 4 of this order can be determined.

6. Representing, orally or in writing, directly or by implication, that any offer is limited in point of time or restricted in any other manner, unless the represented limitation or restriction is actually imposed and in good faith adhered to by respondents.

7. Advertising or offering any products for sale for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered and respondents maintain an adequate and readily available stock of said products.

8. Disparaging, in any manner, or refusing to sell any product advertised.

9. Using any advertising, sales plan, or procedure involving theu se of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of other merchandise.

10. Representing, orally or in writing, directly or indirectly, that any products or services are offered for sale when such offer is not a bona fide offer to sell said products or services.

11. Representing, directly or by implication, through the use of photographs or in any other manner, that their inferior grade carpeting has the appearance, thickness or texture of superior grade carpeting in common use; or misrepresenting, in any manner, the appearance, thickness, texture, or any other quality standard of their merchandise.

12. Representing, orally or in writing, directly or by implication, that any of their merchandise is guaranteed, unless the nature and extent of the guarantee,

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the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of such guarantee.

13. Failing to incorporate the following statement on the face of all sales contracts, all notes or other instruments of indebtedness executed by or on behalf of respondents' customers with such conspicuousness and clarity as is likely to be read and understood by the purchaser:

NOTICE

If you are obtaining credit in connection with this purchase, you will be required to sign a promissory note, a sales contract or other instrument of indebtedness which may be purchased from the seller by a bank, finance company or any other third party. If such is the case, you will be required to make your payments to someone other than the seller. You should be aware that if this happens you may have to pay the note, contract or other instrument of indebtedness in full to its new owner even if your purchase contract is not fulfilled.

II. *It is further ordered,* That respondents Carpet Interiors, a corporation, trading and doing business as Remnant City, its successors and assigns, and its officers, and Rudolph J. Pentima and Marvin Zeitz, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

B. Falsely and deceptively advertising textile products by:

1. Making any representations by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of such textile fiber product unless the same information required to be shown on the stamp, tag, label, or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to set forth in advertising the fiber content of floor covering containing exempted backings, fillings or paddings, that such disclosures relates only to the face, pile, or outer surface of such textile fiber products and not to the exempted backings, fillings, or paddings.

3. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

III. *It is further ordered,* That respondents Carpet Interiors, a corporation, trading and doing business as Remnant City, its successors and assigns, and its officers, and Rudolph J. Pentima and Marvin Zeitz, individually and as officers of said corporation, and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), or in connection with any advertisement to aid, promote or assist, directly or indirectly, any extension of consumer credit as "advertisement" and "consumer credit" are defined in Regulation Z, do forthwith cease and desist from:

1. Failing to disclose the "total downpayment" in the manner and form required by § 226.8(c)(2) of Regulation Z.

2. Failing to disclose the "unpaid balance of cash price" in the manner and form required by § 226.8(c)(3) of Regulation Z.

3. Failing to use the term "amount financed" to describe the amount of credit extended; and to disclose the amount of the "amount financed"; as required by § 226.8(C)(7) of Regulation Z.

4. Failing to use the term "finance charge" to describe the sum of all charges required by § 226.4 of Regulation Z to be included therein; and to disclose the dollar amount of the "finance charge" as required by § 226.8(c)(8)(i) of Regulation Z.

5. Failing to disclose the annual percentage rate, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

6. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as "deferred payment price" as required by § 226.8(c)(8)(ii) of Regulation Z.

7. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness; and to disclose the number, dates and amount of the sum of payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

8. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation as required by § 226.8(b)(7) of Regulation Z.

9. (a) Failing in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer to comply with all requirements regarding the right of rescission set forth in § 226.9 of Regulation Z.

(b) Failing to disclose, or to accurately disclose on the notice of rescission, the date on which the customer's right of rescission expires, said date being not earlier than the third business day following the date of the transaction, as required by § 226.9(b) of Regulation Z.

10. Representing, directly or by implication, in any advertisement, as "advertisement" is defined in Regulation Z, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z.

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred-payment price.

11. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z at the time and in the manner, form, and amount required by §§ 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered:

a. That the respondents herein shall forthwith distribute a copy of this order to each of their respective operating divisions or departments.

b. That the respondents herein shall forthwith distribute a copy of this order to all present and future personnel of respondents engaged in the offering for sale, or sale, of any carpeting or any other merchandise offered for sale by respondents or engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement from all such personnel acknowledging receipt of said order from each such person.

c. That respondents herein shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

d. That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17198 Filed 10-6-72;8:47 am]

[Docket No. C-2275]

PART 13—PROHIBITED TRADE PRACTICES

Key Learning Systems, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–30 Connections or arrangements with others; 13.15–80 Government connection; 13.15–195 Nature; 13.15–225 Personnel or staff; § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending; § 13.85 *Government approval, action, connection or standards:* 13.85–15 Civil Service Commission connections or recognition; § 13.155 *Prices:* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections: § 13.1425 *Government connection:* §13.1490 *Nature;* § 13.1520 *Personnel or staff;* § 13.1553 *Services;*—Goods: § 13.1623 *Formal regulatory and statutory requirements;* 13.1623–95 Truth in Lending Act;—Prices: § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–75 Truth in Lending Act; § 13.1892 *Sales contract, right to cancel provision;* § 13.1905 *Terms and conditions;* 13.1905–60 Truth in Lending Act. Subpart—Threatening suits, not in good faith: § 13.2264 *Delinquent debt collection.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Key Learning Systems, Inc., et al., Riviera Beach, Fla., Docket No. C-2275, Aug. 29, 1972]

In the Matter of Key Learning Systems, Inc., Key Training Service, Inc., Automobile - Household - Education Credit and Finance Corp., Corporations, and George Lewson, S. Wyman Rolph and Theodosia W. La Barbera, Individually and as Officers of Said Corporations

Consent order requiring a Riviera Beach, Fla., franchisor of home instruction courses, among other things, to cease representing that respondents' business is connected with any branch or agency of the U.S. Government; misrepresenting the qualifications of respondents' personnel or staff; misrepresenting the availability of civil service jobs; misrepresenting the nature and legal characteristics of any enrollment or other contract; misrepresenting the action to be taken or the results thereof, to effect payment of alleged indebtedness; neglecting to inform prospective customers of their right to a 3-day cooling-off period in which they may cancel the contract and receive all monies paid. Respondent is further required to make all disclosures to customers required by Regulations Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

COUNT I

It is ordered, That respondents Key Learning Systems, Inc., Key Training Service, Inc., and Automobile-Household-Education Credit and Finance Corp., corporations, their successors and assigns, their officers, and George Lewson, S. Wyman Rolph and Theodosia W. La Barbera, individually and as officers of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, licensee, franchisee, or other device in connection with advertising, offering for sale, sale or distribution of courses of study or instruction or any other services or products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents' business is connected with any branch or agency of the U.S. Government or with any State or local governmental agency.

2. Representing, directly or by implication, that respondents and their franchisees are engaged in soliciting applications for the purpose of selecting or training persons for civil service employment with the U.S. Government, or that respondents' representatives possess the necessary qualifications and special knowledge which would enable them to determine the qualifications of persons for such employment, or that respondents are engaged in any business other than that in which they are actually engaged.

3. Representing, directly or by implication, that respondents' and their franchisees have any specialized knowledge or information concerning civil service job openings or the availability of civil service positions in any area, or misrepresenting in any manner the availability of civil service jobs.

4. Representing, directly or by implication, that respondents have available, and can provide, specialized training courses of study to their purchasers for every position within the civil service.

5. Representing, directly or by implication, that persons completing any course of study are assured of or will obtain civil service positions.

6. Representing, directly or by implication, that contracts executed by the purchasers of respondents' courses of instruction will not be effective, binding or accepted by them until all monies required for the "downpayment" or similar preliminary payments, are received; or misrepresenting in any manner the nature and legal characteristics of any enrollment or other contract.

7. Failing to clearly and conspicuously disclose in all advertising, orally prior to the time of the sale and in writing on any enrollment agreement or contract, that respondents are a private business enterprise engaged in the solicitation and sale of a course of study and instruction; that respondents have no connection with any branch or agency of the U.S. Government, or with any State or local governmental agency, and that the purpose of such contact is to sell a course of study.

8. Misrepresenting, in any manner, the nature of respondents' business or the purpose of respondents' initial contact with prospective customers.

9. Representing, directly or by implication, that Automobile-Household-Education, or any other similar corporate division, subsidiary, licensee, franchisee, or device is an independent or separate organization from the said business enterprise operated by respondents. That any collection agency is an independent separate organization, or a bona fide assignee or purchaser of accounts receivable when it is owned, operated and controlled by respondents.

10. Representing, directly or by implication, that legal action may be instituted unless it is intended in good faith that such legal action may be instituted; or misrepresenting in any manner the action to be taken or results of any action which may be taken to effect payment of any such account or alleged debt.

11. Representing, directly or by implication, that in the event of nonpayment or delinquency of any account or alleged debt arising from any enrollment contract or other purchase agreement, the general or public credit rating or standing of any person may be adversely affected, unless respondents refer the information concerning such delinquency to a bona fide credit reporting agency.

12. Contracting for any sale whether in the form of an enrollment contract or other purchase agreement which shall become binding on the purchaser prior to midnight of the third day, excluding Sundays and legal holidays, after date of execution.

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13. Failing to disclose, orally prior to the time of sale and in writing on any enrollment contract or other purchase agreement signed by the purchaser with such conspicuousness and clarity as is likely to be observed and read by such purchaser, that the purchaser may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date upon which the purchaser signed such enrollment contract or purchase agreement.

14. Failing to provide a separate and clearly understandable form showing the respondents' name and address and which the buyer may use as a notice of cancellation.

15. Failing to refund immediately all monies to (a) purchasers who have requested contract cancellation in writing within three business days from the sale thereof, and (b) purchasers showing that respondents' solicitations or performances were attended by or involved violation of any of the provisions of this order.

16. Failing to:

(a) Deliver by ordinary mail a copy of this order to each present and every future licensee or franchisee; and failing to obtain an agreement in writing from each present and every future licensee or franchisee to abide by the terms of this order. *Provided, however,* That as to any licensee or franchisee whose franchise agreement is in effect as of the effective date of this order, respondents' failure to obtain said agreement to abide by the terms of the order shall not be deemed a violation of this provision if, after having made a diligent effort to obtain said agreement from any such licensee or franchisee and such licensee or franchisee having failed or refused to execute such agreement, respondents inform the Commission of the identity of such licensee or franchisee.

(b) Institute a program of continuing surveillance adequate to reveal whether the business of each licensee and franchisee so described in Paragraph (a) above conforms to the requirements of this order.

COUNT II

It is further ordered, That respondents Key Learning Systems, Inc., Key Training Service, Inc. and Automobile-Household-Education Credit and Finance Corp., corporations, their successors and assigns, their officers, and George Lewson, S. Wyman Rolph and Theodosia W. La Barbera, individually and as officers of said corporations, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, licensee, franchisee, or other device in connection with any extension of consumer credit, or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90-321, 15 U.S.C. 1601, et seq.), do forthwith cease and desist from:

1. Failing to disclose the amount, or method of computing the amount, of any default, delinquency, or similar charges payable in the event of late payments as required by § 226.8(b)(4) of Regulation Z.

2. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions or departments.

It is further ordered, That respondents and their franchisees deliver a copy of this order to cease and desist to all present and future personnel engaged in the offering for sale, or sale of any product or service, and in the consummation of any extension of consumer credit, or in any aspect of preparation, creation, or placing of advertising, and that respondents and their franchisees secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days after any change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 29, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17191 Filed 10-6-72;8:46 am]

[Docket No. C-2280]

PART 13—PROHIBITED TRADE PRACTICES

Leon Hecht Fur Corp. and Leon Hecht

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Leon Hecht Fur Corp., et al., New York, N.Y., Docket No. C-2280, Sept. 13, 1972]

In the Matter of Leon Hecht Fur Corp., a Corporation, and Leon Hecht, Individually and as an Officer of Said Corporation

Consent order requiring a New York City retailer of fur products, among other things to cease misbranding and deceptively invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Leon Hecht Fur Corp., a corporation, its successors and assigns, and its officers, and respondent Leon Hecht, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by section 4(2) of the Fur Products Labeling Act.

B. Falsely and deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Representing directly or by implication on an invoice that the fur contained in such fur products is "natural" when such fur is pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

3. Failing to set forth the term "Natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and rules and regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilties.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17195 Filed 10-6-72;8:46 am]

[Docket No. C-2281]

PART 13—PROHIBITED TRADE PRACTICES

New York Merchandise Co., Inc., and Max Fradkin

Subpart—Importing, manufacturing, selling, or transporting flammable wear: *§ 13.1060 Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, New York Merchandise Co., Inc., et al., New York, N.Y., Docket No. C-2281, Sept. 13, 1972]

In the Matter of New York Merchandise Co., Inc., a Corporation, and Max Fradkin, Individually and as an Officer of Said Corporation

Consent order requiring a New York City importer and wholesaler of apparel, novelties, and gift items, including scarves, among other things to cease importing, selling, or transporting fabrics so highly flammable as to be dangerous when worn.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents New York Merchandise Co., Inc., a corporation, and its officers, and Max Fradkin, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce any product, fabric or related material; or selling or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabric Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of such products, and effect recall of such products from said customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since August 12, 1969, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That the respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17193 Filed 10-6-72;8:46 am]

[Docket No. C-2283]

PART 13—PROHIBITED TRADE PRACTICES

Ohrbach's, Inc.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Ohrbach's, Inc., New York, N.Y., Docket No. C-2283, Sept. 13, 1972]

In the Matter of Ohrbach's, Inc., a Corporation

Consent order requiring a New York City retail department store, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Ohrbach's, Inc., a corporation, its successors, and assigns and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from selling, offering for sale in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any ladies' scarves; or any article of wearing apparel, or fabric intended for use or which may be reasonably expected to be used in an article of wearing apparel, imported by or manufactured under the control or direction of Ohrbach's, Inc., as the terms "commerce" and "article of wearing apparel" are defined in the Flammable Fabrics Act, as amended; or any other article of wearing apparel, or fabric intended for use or which may be reasonably expected to be used in an article of wearing apparel, the manufacturer of which has not furnished a guaranty under section 8(a) of the Flammable Fabrics Act, as amended; and which ladies' scarves, articles of wearing apparel or fabric fail to conform to an applicable standard or regulation, issued, amended, or continued in effect under the provisions of the aforesaid Act; provided, however, nothing herein shall accord to the respondent immunity from any subsequent proceedings under sections 3, 6(a), or 6(b) of the Flammable Fabrics Act, as

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amended. Further, nothing herein shall limit the authority of the Commission to extend the terms of the order to products, fabrics, or related materials presently excluded from this order in any subsequent proceeding against the respondent.

It is further ordered, That the respondent notify all of its customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondent herein either process the products that gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondent herein shall within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since October 26, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondent has in inventory any article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, which article of wearing apparel or fabric comes within the provisions of the first paragraph of this order, having a plain surface and made of silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any article of wearing apparel, or fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, having a raised fiber surface. Upon request of the Commission the respondent shall submit samples of any such article of wearing apparel, or 1 square yard in size of any fabric which is intended for use or which may reasonably be expected to be used in an article of wearing apparel, as described above.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17196 Filed 10-6-72;8:46 am]

[Docket No. C-2279]

PART 13—PROHIBITED TRADE PRACTICES

Shutzer Industries, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Shutzer Industries, Inc., et al., Lawrence, Mass., Docket No. C-2279, Sept. 13, 1972]

In the Matter of Shutzer Industries, Inc., a Corporation, and Shutzer Manufacturing Co., Inc., a Corporation, and Lawrence L. Shutzer, Individually and as an Officer of Said Corporations

Consent order requiring a Lawrence, Mass., manufacturer and distributor of men's and boys' garments, among other things to cease misbranding its merchandise by failing to adequately label said merchandise in accordance with the applicable provisions of the Wool Products Labeling Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Shutzer Industries, Inc., a corporation, its successors and assigns, and its officers, and Shutzer Manufacturing Co., Inc., a corporation, its successors and assigns, and its officers, and Lawrence L. Shutzer, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction or manufacture for introduction, into commerce or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed changes in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17192 Filed 10-6-72;8:46 am]

[Docket No. C-2278]

PART 13—PROHIBITED TRADE PRACTICES

Wellco Carpet Corp.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Wellco Carpet Corp., Calhoun, Ga., Docket No. C-2278, Sept. 8, 1972]

In the Matter of Wellco Carpet Corp., a Corporation

Consent order requiring a Calhoun, Ga., seller and manufacturer of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued or amended under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Wellco Carpet Corp., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent, if it has not already done so, notify all of its customers who have purchased or to whom has been delivered the products which gave rise to this complaint, of the possible flammable nature of said products and effect the recall, if it has not already done so, of said products from such customers.

It is further ordered, That the respondent herein shall either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since September 10, 1971, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondent will submit with its report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondent will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: September 8, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17194 Filed 10-6-72;8:46 am]

SUBCHAPTER F—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS UNDER THE FAIR CREDIT REPORTING ACT

PART 600—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

Notice is hereby given that the Federal Trade Commission announces an interpretation (16 CFR 600.6) issued pursuant to § 1.73 of its procedures and rules of practice (36 F.R. 9293). Section 1.73 of these rules provides, in part, that the Commission will issue and cause to be published in the FEDERAL REGISTER interpretations of the provisions of the Fair Credit Reporting Act on its own initiative or pursuant to the application of any person when it appears to the Commission that guidance as to the legal requirements of the Act would be in the public interest and would serve to bring about more widespread and equitable observance of the Act. The interpretations are not substantive rules and do not have the force or effect of statutory provisions. They are guidelines intended as clarification of the Fair Credit Reporting Act, and, like industry guides, are advisory in nature. Failure to comply with such interpretations may result in corrective action by the Commission under applicable statutory provisions.

Title 16 of the Code of Federal Regulations is amended by the addition of a new Subchapter F, Statements of General Policy or Interpretations under the Fair Credit Reporting Act, consisting at this time of Part 600, Statements of General Policy or Interpretations. Notice of proposed rule making was published at 37 F.R. 11903 and 37 F.R. 12068 (June 15 and 17, 1972); and five proposed interpretations were published as notices in the FEDERAL REGISTER of March 8, 1972 (37 F.R. 4982). Section 600.6, at present the only section in new Part 600, reads as follows:

§ 600.6 Civil Service Commission.

(a) In the course of its operations the U.S. Civil Service Commission collects and files data concerning current and potential employees of the Federal Government. This data may include commentary on such matters as the subject's character, general reputation, personal characteristics, or mode of living, and the information is routinely transmitted to various branches of the Government. The question has arisen whether these activities are subject to the provisions of the Fair Credit Reporting Act.

(b) The definition of a "consumer report" in section 603(d)(2) includes any written, oral, or other communication containing information of the type reported by the Civil Service Commission when that communication is used for employment purposes. That provision is applicable, however, only to those reports issued by a "consumer reporting agency," which is described in section 603(f) as being a "person" which assembles such information "for monetary fees, dues, or on a cooperative nonprofit basis" to third parties. Although such a person may be a "government or governmental subdivision or agency" (section 603(b)), it is the Commission's view that the Civil Service Commission was not intended by Congress to be subject to the Fair Credit Reporting Act.

(c) While in another context exchanges of information between the Civil Service Commission and other Government agencies might be described as "nonprofit" and "cooperative," the legislative history of section 603(d) indicates that that language was intended to refer to commercial enterprises engaged in mutually beneficial exchanges of information. (See 116 Cong. Rec. 36576 (remarks of Representative Brown) (1970).) The proposition that Federal agencies were meant to be included as well finds no support in the congressional debates or committee reports.

(d) In addition, there is no reference to administrative agencies of the U.S. Government in the discussions of the definition of the term "consumer reporting agency" which preceded passage of the Fair Credit Reporting Act. (116 Cong. Rec. 35941 (remarks of Senator Proxmire) (1970); 116 Cong. Rec. 36575 (remarks of Representatives Wylie, Sullivan, Brown, and Widnall (1970)). Normally Congress requests the views of officials of affected agencies when hearings are held on proposed legislation. It is unlikely that legislation affecting the Civil Service Commission would have been considered and passed without the benefit of comments from that agency.

(e) For these reasons, the reporting activities of Federal agencies such as the Civil Service Commission will not be included within the scope of the Commission's Fair Credit Reporting Act enforcement program.

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Comments on the interpretation may be submitted to the Secretary of the Commission within thirty (30) days from the date of this notice. The interpretation will automatically become final upon the expiration of sixty (60) days from the date of publication in the FEDERAL REGISTER unless the Commission determines to rescind, revoke, modify, or withdraw the interpretation, in which event notice of such action will be published in the FEDERAL REGISTER.

(84 Stat. 1127-1136, 15 U.S.C. 1601 et seq.)

By directions of the Commission dated September 12, 1972, and October 3, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17190 Filed 10-6-72;8:53 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9827; Amdts. 23-13 and 27-8]

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY AND ACROBATIC CATEGORY AIRPLANES

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

Airplane and Rotorcraft Manuals, Markings, and Placards

Correction

In F.R. Doc. 72-16238, appearing on page 20022, of the issue for Saturday, September 23, 1972, the following changes are to be made:

1. Section 23.1559(a)(2) is corrected to read as follows:

§ 23.1559 Operating limitations placard.

(a) • • •

(2) For airplanes of more than 6,000 pounds maximum weight certificated in more than one category:

The markings and placards installed in this airplane contain operating limitations which must be complied with when operating this airplane in the ---------- category. (Insert category.) Other operating limitations which must be complied with when operating this airplane in this category or in the ---------- category are contained in the Airplane Flight Manual. (Insert category or categories.)

• • • • • •

2. Section 27.1501(b) is corrected to read as follows:

§ 27.1501 General.

• • • • • •

(b) For each helicopter, be included in a Rotorcraft Flight Manual or in approved manual material, unless the operating rules of this chapter require a Rotorcraft Flight Manual, and expressed in placards and markings; and

• • • • •

3. Section 27.1559 is corrected to read as follows:

§ 27.1559 Limitations placard.

There must be a placard in clear view of the pilot stating:

The markings and placards installed on this ---------- (Insert helicopter, gyrodyne, etc.) contain operating limitations which must be complied with when operating this rotorcraft. Other operating limitations which must be complied with when operating this rotorcraft are contained in the ---------- (Insert "Rotorcraft Flight Manual" for rotorcraft other than helicopters. Insert either "Rotorcraft Flight Manual" or "approved manual material," whichever is applicable, for helicopters. If "approved manual material" is inserted, the placard must also contain a statement setting forth the form and location of the material.) If the Rotorcraft Maintenance Manual contains "Airworthiness Limitations" issued under § 27.1529(a)(2), the placard must contain the following additional statement: "The 'Airworthiness Limitations' section of the Rotorcraft Maintenance Manual must be complied with.

[Docket No. 72-EA-83; Amdt. 39-1532]

PART 39—AIRWORTHINESS DIRECTIVES

Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Lycoming HIO-360-D1A type aircraft engines.

There have been reports of magneto failures on the HIO-360-D1A aircraft engine which have been attributed to a loss of lubrication. Since the deficiency can exist or develop on similar type engines, an airworthiness directive is being issued which will require inspection and lubrication and periodic replacement of parts in the left magneto.

Since the foregoing presents an air safety problem, expeditious adoption of this airworthiness directive is required and therefore notice and public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AVCO LYCOMING. Applies to HIO-360-D1A model engines installed on Hughes Model 269C and 300C helicopters.

Compliance required as indicated after effective date of this AD. To prevent possible failures of the Bendix S4LN-1208 magnetos, P/N 10-349285-5, accomplish the following:

1. Within the next 50 hours' time in service and at each 50 hours' time in service thereafter, inspect and lubricate the magneto distributor bushing or both magnetos in accordance with Lycoming Service Bulletin No. 336B or later revision or equivalent procedure approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

2. Within the next 100 hours' time in service and at each 100 hours' time in service thereafter, replace those parts in the left magneto with the parts contained in Bendix Kit No. 10-391320 or equivalent FAA-approved parts.

3. Upon request, with substantiating data submitted through an FAA maintenance inspector, the compliance time may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective October 13, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 28, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17232 Filed 10-6-72;8:50 am]

[Docket No. 72-EA-93; Amdt. 39-1533]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-20 and PA-22 type aircraft.

There have been reports of deterioration of the fuel hoses in the subject aircraft due to heat, chafing, and other factors. The complete failure of the line could result in a fire. Since the foregoing deficiency can exist or develop in aircraft of similar type design, an airworthiness directive is being issued to require replacement of the fuel hose. The possibility of fire presents a hazard to air safety and therefore requires expeditious adoption of this amendment. Therefore notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PIPER: Applies to all PA-20 type aircraft S/N 20-1 and up and PA-22 type aircraft S/N 22-1 to 22-9393 inclusive.

Compliance required within 100 hours in service or at next annual inspection, whichever occurs first, after the effective date of this AD unless already accomplished.

To prevent potential in-flight fire due to fuel line failure, accomplish the following:

Identify the flexible fuel line assembly routed from fuel strainer to the carburetor. A metal identification band permanently affixed to each line may be used for this purpose. Replace any P/N 70322-32 hose assembly with P/N 17766-66 hose assembly or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. If the fuel line cannot be identified, it shall also be replaced with P/N 17766-66. Installation and routing of replacement hose assemblies shall be accomplished so as to prevent abrasion, interference chafing, and heat damage.

Upon request, and submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the compliance time specified in this AD. (Piper Service Bulletin No. 351 dated May 3, 1972, pertains to this subject.)

This amendment is effective October 13, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 28, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17231 Filed 10-6-72;8:50 am]

[Airspace Docket No. 72-WE-29]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On August 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16810) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Fallon, Nev. transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on September 29, 1972.

LYNN L. HINK,
Acting Director, Western Region.

In § 71.181 (37 F.R. 2143) the description of the Fallon, Nev., transition area is amended to read as follows:

FALLON, NEV.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the NAAS Fallon TACAN and within 2 miles northeast and 2.5 miles southwest of the Fallon TACAN 296° radial, extending from the 11-mile-radius area to 15 miles northwest of the TACAN; that airspace extending upward from 1,200 feet above the surface within 12 miles northwest and 7 miles southeast of the Hazen, Nev., VOR 061° and 241° radials, extending from 5 miles southwest to 30 miles northeast of the VOR, within 5 miles each side of the NAAS Fallon TACAN 039° radial, extending from the TACAN to 30 miles northeast of the TACAN, within a 20-mile radius of the Fallon TACAN extending clockwise from the TACAN 050° to the 110° radials, within 23 miles southwest and 10 miles northeast of the Fallon TACAN 139° and 319° radials, extending from 10 miles northwest to 23 miles southeast of the TACAN, excluding that airspace within the Yerington and Reno, Nev., transition areas; and that airspace extending upward from 9,500 feet MSL within 23 to 44 miles southeast of Fallon TACAN bounded on the northeast by a line 10 miles northeast of and parallel to the Fallon TACAN 139° radial and on the southwest by the northeast edge of V-105 E.

[FR Doc.72-17229 Filed 10-6-72;8:48 am]

[Airspace Docket No. 72-WE-31]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On August 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16811) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Redding, Calif. control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on September 29, 1972.

LYNN L. HINK,
Acting Director, Western Region.

In § 71.171 (37 F.R. 2056) the description of the Redding, Calif., control zone as amended by (37 F.R. 727) is further amended to read as follows:

REDDING, CALIF.

Within a 5-mile radius of Redding Municipal Airport (latitude 40°30'35" N., longitude 122°17'30" W.), and within 2 miles west and 4 miles east of the Redding VOR 192° radial extending from the 5-mile-radius zone to 8 miles south of the VOR, excluding the portions within a 1-mile radius of Redding Sky Ranch Airport (latitude 40°30'00" N., longitude 122°22'35" W.) and Enterprise Sky Park (latitude 40°34'26" N., longitude 122°19'30" W.). This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.72-17228 Filed 10-6-72;8:48 am]

[Airspace Docket No. 72-WE-32]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On August 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16811) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Red Bluff, Calif., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on September 28, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.181 (37 F.R. 2143) the description of the Red Bluff, Calif., transition area is amended in part as follows: Beginning in the third line of the description of the Red Bluff, Calif., transition area delete all before "• • •, extending from the 5-mile-radius area • • •" and substitute therefor "That airspace extending upward from 700 feet above the surface within a 5-mile radius of Redding Municipal Airport (latitude 40°30'35" N., longitude 122°17'30" W.) and within 2 miles west and 4 miles east of the Redding VOR 192° radial. • • •"

[FR. Doc.72-17230 Filed 10-6-72;8:48 am]

[Dockets No. 12291, Amdt. 169-1]

PART 169—EXPENDITURE OF FEDERAL FUNDS FOR NONMILITARY AIRPORTS OR AIR NAVIGATION FACILITIES THEREON

Technical Amendments To Reflect Current Terminology

The purpose of these amendments is to delete from Part 169 of the Federal Aviation Regulations obsolete language, and to insert therein terminology in conformity with the Airport and Airway Development Act of 1970 (49 U.S.C. 1701) and with current titles and positions of FAA personnel.

First, the changes to §§ 169.3(a) and 169.5(d) respectively substitute "Regional Airport Division or District Office" for "Area Office" as the place to file applications for recommendations and certifications, and substitute "Regional Directors" for "Area Managers" as the personnel who exercise the authority of the Administrator, in order to properly reflect the current FAA organization. Second, the changes to § 169.3(b) (1) and (2) respectively substitute reference to the Airport and Airway Development Act of 1970 for reference to the superseded Federal Airport Act (49 U.S.C. 1108), and substitute "National Airport System Plan" for "National Airport Plan," in conformity with the 1970 Act.

Since these amendments are procedural in nature and do not impose a burden on any person, notice and public

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procedure thereon is not required and the amendments may be made effective in less than 30 days after publication.

In consideration of the foregoing, Part 169 of the Federal Aviation Regulations is amended, effective October 7, 1972, as follows:

1. By amending the second sentence in paragraph (a), paragraph (b)(1), and the introductory language of paragraph (b)(2) of § 169.3, to read as follows:

§ 169.3 Application for recommendation and certification.

(a) * * * The application shall be filed with the Regional Airport Division or District Office, whichever is appropriate, in whose geographical area the airport is located. * * *

* * * * *

(b) * * *

(1) Approval of a project under section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701).

(2) Inclusion of an airport in the National Airport System Plan, if— * * *

* * * * *

3. By amending paragraph (d) of § 169.5 to read as follows:

§ 169.5 FAA determination.

* * * * *

(d) The authority of the Administrator under this part is exercised by Regional Directors as to airports or facilities within their respective regions.

(Secs. 308(a), 313(a), Federal Aviation Act of 1958, as amended; 49 U.S.C. 1349(a), 1354(a); sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 2, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-17227 Filed 10-6-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 9—Atomic Energy Commission

PART 9-7—CONTRACT CLAUSES

Subpart 9-7.50—Use of Standard Clauses

PART 9-16—PROCUREMENT FORMS

Subpart 9-16.50—Contract Outlines

MISCELLANEOUS AMENDMENT

These changes are made to implement FPR 1-1.322, Payment of interest on contractor's claims. The applicability of this clause to subcontracts under cost-type prime contracts has been implemented in § 9-7.000-50 and described in § 9-7.5004-7(b). The clause is also added by reference to the various contract outlines in Subpart 9-16.50. Correction to the implementation of FPR 1-12.1102-2, Listing of Employment Openings, have been made in § 9-16.5002-8 and -9.

1. In Part 9-7, Contract Clauses, § 9-7.000-50, *Policy, cost-type contractor procurement,* is revised as follows:

§ 9-7.000-50 Policy, cost-type contractor procurement.

Contracting officers shall require cost-type contractors to use terms and conditions in connection with procurement under their AEC contracts which are adequate to protect the Government's interests consistent with their contractual obligations. In addition to the prime contract flowdown provisions, the instructions and notes in §§ 9-7.5004-3, 9-7.5004-7, 9-7.5004-10, 9-7.5004-11, and 9-7.5006-47 are to be applied to cost-type contractor procurement. Other terms and conditions shall be included as may be required as a matter of law (e.g., Contract Work Hours Standards Act—Overtime Compensation, Davis-Bacon Act, etc.) or as appropriate under the circumstances.

2. In Subpart 9-7.50, Use of Standard Clauses, § 9-7.5004-7, *Payment of interest on contractors' claims* is revised as follows:

§ 9-7.5004-7 Payment of interest on contractors' claims.

(a) See FPR 1-1.322(b).

(b) The clause referenced in § 9-7.5004-7(a) applies to first-tier subcontracts under cost-type prime contracts in the manner the disputes clause applies to such subcontracts pursuant to § 9-7.5004-3(b).

3. In Subpart 9-16.50, Contract Outlines, § 9-16.5002-2, *Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities)*, a new paragraph (44) is added as follows:

§ 9-16.5002-2 Outline of a cost-plus-a-fixed-fee supply contract (performed by commercial concerns in contractor's facilities).

* * * * *

(44) Payment of interest on contractors' claims—FPR 1-1.322(b).

4. In Subpart 9-16.50, Contract Outlines, § 9-16.5002-4, *Outline of a cost-plus-a-fixed-fee construction contract,* a new Article XXXVIII—Payment of Interest on Contractors' Claims, is added as follows:

§ 9-16.5002-4 Outline of a cost-plus-a-fixed-fee construction contract.

* * * * *

Article XXXVIII—Payment of Interest on Contractors' Claims. Insert contract clause set forth in FPR 1-1.322(b).

5. In Subpart 9-16.50, Contract Outlines, § 9-16.5002-5, *Outline of a cost-plus-a-fixed-fee architect-engineer contract,* a new Article XLI—Payment of Interest on Contractors' Claims, is added as follows:

§ 9-16.5002-5 Outline of a cost-plus-a-fixed-fee architect-engineer contract.

* * * * *

Article XLI—Payment of Interest on Contractors' Claims. Insert contract clause set forth in FPR 1-1.322(b).

6. In Subpart 9-16.50, Contract Outlines, § 9-16.5002-8, *Outline of a special research support agreement with educational institutions,* Appendix B, Article XXVIII—List of Employment Openings, is corrected and a new Article XXXI—Payment of Interest on Contractors' Claims is added as follows:

§ 9-16.5002-8 Outline of a special research support agreement with educational institutions.

* * * * *

APPENDIX B

* * * * *

ARTICLE B-XXVIII—LISTING OF EMPLOYMENT OPENINGS

Insert the clause set forth in FPR 1-12.1102-2.

* * * * *

ARTICLE B-XXXI—PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

Insert the clause set forth in FPR 1-1.322(b).

7. In Subpart 9-16.50, Contract Outlines, § 9-16.5002-9, *Outline of cost-type contract for research and development with educational institutions,* Article B-44—List of Employment Openings, is corrected and a new Article B-45—Payment of Interest on Contractors' Claims is added as follows:

§ 9-16.5002-9 Outline of cost-type contract for research and development with educational institutions.

* * * * *

ARTICLE B-44—LISTING OF EMPLOYMENT OPENINGS

* * * * *

ARTICLE B-44—LISTING OF EMPLOYMENT OPENINGS

Insert the clause set forth in FRP 1-12.1102-2.

ARTICLE B-45—PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

Insert the clause set forth in FRP 1-1.322(b).

(Sec. 161, Atomic Energy Act of 1954, as amended, 68 Stat. 948, 42 U.S.C. 2201; sec. 205, Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486)

Dated at Germantown, Md. this 2nd day of October 1972.

Effective Date. These amendments are effective upon publication in the FEDERAL REGISTER (10-7-72).

For the U.S. Atomic Energy Commission.

JOSEPH L. SMITH,
Director,
Division of Contracts.

[FR Doc.72-17238 Filed 10-6-72;8:50 am]

PART 9-53—NUMBERING AND DISTRIBUTION OF CONTRACTS AND ORDERS

Correction

In F.R. Doc. 72-16471 appearing at page 20244 of the issue for Thursday, September 28, 1972, in § 9-53.106 the tabulated material under "Active Offices" should read as follows:

ACTIVE OFFICES

Field installations:	Contract prefix
San Francisco	AT(04-3)-
Grand Junction	AT(05-1)-
Idaho Falls	AT(10-1)-
Chicago	AT(11-1)-
Paducah	AT(15-1)-
Kansas City	AT(23-3)-
Nevada	AT(26-1)-
New Brunswick	AT(28-1)-
Los Alamos	AT(29-1)-
Albuquerque	AT(29-2)-
Brookhaven	AT(30-2)-
Schenectady	AT(30-3)-
Dayton	AT(33-1)-
Portsmouth	AT(33-2)-
Pittsburgh	AT(36-1)-
Savannah River	AT(38-1)-
Oak Ridge	AT(40-1)-
Richland	AT(45-1)-
Puerto Rico	AT(51-1)-
Headquarters:	
Headquarters Services	AT(49-1)-
General Manager	AT(49-2)-
Military Application	AT(49-3)-
Production and Materials Management	AT(49-4)-
Reactor Development and Technology	AT(49-5)-
Biomedical and Environmental Research	AT(49-7)-
Physical Research	AT(49-8)-
Personnel	AT(49-13)-
International Programs	AT(49-14)-
Space Nuclear Systems	AT(49-15)-
Management Information and Telecommunications Systems	AT(49-17)-
Contracts	AT(49-18)-
Applied Technology	AT(49-19)-
Controlled Thermonuclear Research	AT(49-20)-
Office of Information Services	AT(49-21)-
Waste Management and Transportation	AT(49-22)-
Nuclear Materials Security	AT(49-23)-
Regulation	AT(49-24)-
Joint AEC/NASA Space Nuclear Systems Office	SNSO-
Joint AEC/NASA Space Nuclear Systems Office—Nevada	SNSN-

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

PART 280—REGULATIONS GOVERNING AWARDS OF ODS AGREEMENTS AND PAYMENT OF ODS

In F.R. Doc. 72-10998, appearing in the FEDERAL REGISTER issue of July 18, 1972 (37 F.R. 14236), notice was published that the Maritime Subsidy Board, pursuant to section 204 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114), was considering the promulgation of regulations governing award of operating-differential subsidy (ODS) agreements and payment of ODS. Interested parties were invited to file written comments on the proposed regulations.

Pursuant to that Notice written comments were received from Liner Council, American Institute of Merchant Shipping, States Marine International, Inc., Isthmian Lines, Inc., Waterman Steamship Corp., and American Export Lines, Inc. Those comments have been reviewed and those regarding form have been adopted while those of substance adopted only if in accord with the Final Opinion and Order of the Maritime Subsidy Board dated June 1, 1972, in Docket No. S-244. The regulations were published to carry out the mandate of that Final Opinion and Order. The question of whether the regulations will apply to applications for ODS put to hearing and in which the record has been closed prior to that Final Opinion and Order will be resolved on the Board's consideration of the record in each proceeding.

Therefore, notice is hereby given that the Maritime Subsidy Board on this date adopted a new Part 280 to title 46, Chapter II, Code of Federal Regulations as follows:

Sec.
280.1 Purpose.
280.2 Definitions.
280.3 Standards governing award of an ODS agreement.
280.4 Standards governing payment of ODS.
280.5 Computation of ODS payable on outbound and inbound legs of a service.
280.6 Accounting on calendar year basis.
280.7 Examination of cargo carried on a single voyage.
280.8 Effective date; prospective application.
280.9 Example.

AUTHORITY: The provisions of this Part 280 issued under section 204 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114).

§ 280.1 Purpose.

The purpose of this part is to prescribe regulations governing the award of operating-differential subsidy (ODS) agreements and the payment of ODS under title VI of the Merchant Marine Act, 1936, as amended (Act), as that title has been interpreted by the Maritime Subsidy Board (Board) in Docket No. S-244.

§ 280.2 Definitions.

For purposes of this part:

(a) "Commercial cargoes" shall mean cargoes other than military and civilian preference cargoes. "Conference-rated civilian preference cargoes" shall mean civilian preference cargoes moving at rates set by international rate conferences. "Open-rated civilian preference cargoes carried at 'world rates'" shall mean civilian preference cargoes moving at rates negotiated with shippers and set at the level at which the majority of carriers in a given trade carry the civilian preference cargoes. "Preference cargoes", whether military or civilian, shall mean cargoes required by law to be carried on United States flag vessels.

(b) "Gross freight revenues" shall mean gross revenues earned from the carriage of cargo. Gross revenues earned from the carriage of passengers and mail and miscellaneous gross revenues shall not be included within the term "gross freight revenues."

(c) "Inbound gross freight revenue" shall mean gross freight revenues earned from carriage of cargoes in foreign commerce inbound to the United States; "outbound gross freight revenue" shall mean gross freight revenue earned from carriage of cargoes in foreign commerce outbound from the United States. Gross freight revenue earned from the carriage of wayport cargoes between foreign ports shall not be in included within either outbound or inbound gross freight revenues.

(d) "Total gross revenue" shall mean gross freight revenues consisting of inbound, outbound, and wayport gross freight revenues; gross revenues earned from carriage of passengers and mail; and miscellaneous gross revenues.

(e) "Service" shall mean "essential service in the foreign commerce of the United States" as described in section 211(a) of the Act. Where an ODS agreement has been made, the specific nature of each service covered by the ODS agreement shall be as defined in the agreement.

§ 280.3 Standards governing award of an ODS agreement.

No ODS agreements, including any amendments thereto concerning additional services or revised service area, shall be made under title VI of the Act unless the applicant establishes in its application that the vessel operations proposed to be subsidized will be conducted in a manner which will not preclude the applicant from carrying at least 50 percent of its inbound gross freight revenues and at least 50 percent of its outbound gross freight revenues for each service covered by the application from the carriage of commercial cargoes, conference-rated civilian preference cargoes, or open-rated civilian preference cargoes carried at "world" rates.

§ 280.4 Standards governing payment of ODS.

(a) (1) ODS will be paid in full for vessel operations on the inbound and outbound legs of each service covered by an ODS agreement only if at least 50 percent of the annual inbound and 50 percent of the annual outbound gross freight revenues earned for that service are earned from the carriage of commercial cargoes, conference-rated civilian preference cargoes, or open-rated civilian preference cargoes carried at "world" rates.

(2) If less than 50 percent of the annual inbound or outbound gross freight revenues earned on the inbound or outbound leg of a service covered by an ODS agreement are earned from carriage of commercial cargoes, conference-rated civilian preference cargoes or open-rated civilian preference cargoes carried at "world" rates, payment of ODS for the inbound or outbound leg of the service shall be reduced as follows:

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Percent of inbound or outbound gross freight revenue from carriage of competitive cargoes	*ODS reduction (expressed in percent of total ODS payable for cargo carriage on the inbound or outbound leg of the service*
40 to 49.9	20
30 to 39.9	40
20 to 29.9	60
10 to 19.9	80
0 to 9.9	100

(b) The Board shall have the power to waive the provisions of paragraph (a) of this section for a specific period of time under special circumstances and for good cause shown.

§ 280.5 Computation of ODS payable on outbound and inbound legs of a service.

For purposes of § 280.4(a)(2), "total ODS payable for cargo carriage on the inbound or outbound leg of a service" shall be computed in accordance with the following formula: Inbound or outbound gross freight revenues for the service divided by total gross revenues for the service times total ODS payable for the service equals total ODS payable for cargo carriage on the inbound or outbound leg of the service.

§ 280.6 Accounting on calendar year basis.

The calculations to be made under §§ 280.4 and 280.5 are to be based on voyages terminated during a calendar year in a service covered by an ODS agreement. For calendar year 1973, the first year under these regulations, the calculations to be made under §§ 280.4 and 280.5 shall be on voyages commencing and terminating in 1973.

§ 280.7 Reporting requirements.

Holders of ODS agreements shall, at the time of filing reports for form MA-172, file with the Board reports covering the calendar accounting period as indicated in § 280.6. Said reports shall show for each subsidized service the annual total gross revenues, the gross freight revenues from wayport cargo, the passenger, mail, and miscellaneous gross revenues, the inbound and the outbound gross freight revenues as defined in § 280.2(c) and the annual outbound and inbound gross freight revenues earned from the carriage of military cargoes and open-rated civilion preference cargoes carried at premium rates.

§ 280.8 Examination of cargo carried on a single voyage.

Nothing in this part shall require the Board to examine into the cargo carried on any leg of a single voyage and nothing in this part shall prevent payment of ODS or require a reduction in ODS where a leg or legs of a single voyage is devoted exclusively to carriage of cargoes other than commercial, conference-rated civilian preference, or open-rated civilian preference at "world" rates, provided only that the requirements of this part are met. This rule pertains solely to administration of this part and is not intended to supersede requirements under ODS agreements such as relating to sailings and carriage of full loads of military or bulk cargoes.

§ 280.9 Effective date; prospective application.

This part shall be effective for existing ODS agreements for voyages commencing after December 31, 1972, in a subsidized service and for new ODS agreements or any amendments to existing ODS agreements on January 1, 1973. This part shall only apply prospectively to all ODS agreements existing on the effective date of this part and to all new ODS agreements or any amendments to existing ODS agreements made after such effective date.

§ 280.10 Example.

Company A operates several vessels engaged in carrying (a) cargo, passengers and mail from the west coast of the United States outbound to foreign ports in the Far East, (b) cargo between foreign ports in the Far East, and (c) cargo from foreign ports in the Far East inbound to the west coast of the United States. Company A's operation on this service is subsidized under a valid ODS contract, made in accordance with § 280.3. Total annual subsidy payable for Company A's service is $1 million.

In 1971, Company A's gross revenues were as follows:

Outbound gross freight revenues	$4,000,000
Inbound gross freight revenues	4,000,000
Gross freight revenues—Wayport cargo	1,000,000
Total gross freight revenues	9,000,000
Passenger, mail, and miscellaneous gross revenues	1,000,000
Total gross revenues	10,000,000

Of the $4 million outbound gross freight revenues, $1,600,000 or 40 percent was earned from carriage of commercial cargoes, conference-rated civilian preference cargoes and open-rated civilian preference cargoes carried at "world" rates. Of the $4 million inbound gross freight revenues $1,200,000 or 30 percent was earned from carriage of such cargoes.

Company A's failure to earn at least 50 percent of its outbound gross freight revenues from carriage of competitive cargoes disqualifies it from receiving full ODS for cargo carriage on the outbound leg of its service. Since the percentage of outbound gross freight revenue earned from carriage of competitive cargoes was only 40 percent, § 280.4(a)(2) requires that payment of ODS to Company A be reduced by an amount equal to 20 percent of total ODS payable for cargo carriage on the outbound leg.

Under § 280.5, total ODS payable to Company A for cargo carriage on the outbound leg equals outbound gross freight revenue ($4 million) divided by total gross revenues ($10 million) times total ODS payable for the service ($1 million), or $400,000; 20 percent of $400,000 equals $80,000. Accordingly, subsidy payable to Company A in 1971 must be reduced $80,000 to $920,000.

Similarly, Company A's failure to earn at least 50 percent of its inbound gross freight revenues from carriage of competitive cargoes disqualifies it from receiving full ODS for cargo carriage on the inbound leg of its service. Since the percentage of inbound gross freight revenue earned from carriage of competitive cargoes was only 30 percent, § 280.4(a)(2) requires that payment of ODS to Company A be reduced by an amount equal to 40 percent of total ODS payable for cargo carriage on the inbound leg.

Under § 280.5 total ODS payable to Company A for cargo carriage on the inbound leg equals inbound gross freight revenue ($4 million) divided by total gross revenues ($10 million) times total ODS payable for the service ($1 million), or $400,000; 40 percent of $400,000 equals $160,000. Accordingly, subsidy payable to Company A in 1971 must be reduced $160,000 in addition to $80,000 reduced, on account of inbound cargo carriage to $760,000.

Dated: October 4, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary, MSB,
Maritime Administration.

[FR Doc.72-17270 Filed 10-6-72;8:52 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19536; FCC 72-861]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Terre Haute, Ind.

Report and order. In the amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations (Terre Haute, Ind.), Docket No. 19536, RM-1919.

1. The Commission here considers the notice of proposed rule making in this proceeding, adopted July 6, 1972 (FCC 72-598; 37 F.R. 14002). This was based on the petition of Alpha Broadcasting Corp. (Alpha), to amend the Television Table of Assignments (§ 73.606(b) of the Commission's rules) to assign Channel 38 in lieu of Channel 66 at Terre Haute, Ind. (RM-1919). Changes elsewhere are not necessary in order to make the assignment. Alpha, as the holder of a construction permit (BPCT-4117), also requested a show cause order from modification of a construction permit should the Commission grant the substitution.

2. Pertinent information about Terre Haute is as follows: Its population is 70,335; it is the seat of Vigo County, population 114,528, and it is the central city of the Terre Haute Standard Metropolitan Statistical Area (SMSA) consisting of Vigo, Clay (population 23,933), Sullivan (population 19,889), and Vermillion (population 16,793) Counties.[1] Channels 2, 10, *26, and 66 are presently assigned to Terre Haute and Stations KTWO and KTHI-TV operate on Channels 2 and 10, respectively.

3. Petitioner's premise is that in order for a commercial UHF station to compete with VHF stations, there must be a reduction of the disparity between that of VHF and UHF channels, here, narrowing the difference in frequencies. Alpha referred to its prior petition to change the educational reservation from Channel 26 to 66 which was denied; 19 R.R. 2d 1850 (1970). In this proceeding, Alpha seeks the lowest UHF channel available in light of the action taken in the land mobile proceedings.[2] More specifically, Alpha noted that in Docket No. 18262 steps have been taken to reassign Channels 70 through 83 to the land mobile services, and Alpha believes that in a few years this may be extended downward to encompass Channel 66. Alpha amended its proposal which originally called for the interchange of the noncommercial reservation from Channel 26 to Channel 38, but the Corporation for Public Broadcasting (CPB), and the National Association of Educational Broadcasters (NAEB) opposed that proposal; Alpha amended its petition to merely request substitution of Channel 38 for 66. The amended proposal was noticed for rule making.

4. The only party commenting in this proceeding is the petitioner, which for the most part, relies on the arguments previously made. These are summarized above. Alpha indicates that time is of the essence, since the target date for Station WIIL-TV to commence operation is October 29, 1972, as an affiliate of the American Broadcasting Co. (ABC); since ABC has a secondary affiliation with both Stations WIWO and WTHI-TV, Alpha is desirous of an orderly realinement of programing for all three stations. Alpha also urges that, because of its scheduled date for commencing operation, sufficient amount of time to engage in the usual procedure for show cause is not available, that is, substitution of channels, issuing a show cause order, and a formal order that Alpha may change facilities. Alpha states that orders for some of the required equipment had been placed and firm orders for the remainder will be delayed pending completion of the rule making. Alpha states that there is no doubt that it may waive issuance of a show cause order, since modification of the CP would be mandatory once a change is made in the Table of Assignments and all interested parties have had ample opportunity to comment on the proposal. It is asserted that the public not only will not be adversely affected by the waiver of the show cause order, but, indeed, the public interest, convenience and necessity would be served.

5. While we find that the public interest, convenience, and necessity would be served by the substitution of Channel 38 for 66 at Terre Haute, Ind., Alpha errs on a number of grounds. Firstly, there is no reason to assume that our action in the land mobile proceedings is indicative that Channel 66 would ever be affected. Further, we do not accept as correct Alpha's thesis that there is a disparity between higher and lower numbered UHF channels. In the normal circumstances, we would reject such a proposal, but the peculiarities of the situation are such that Channel 38 may be "dropped into" Terre Haute without depriving any other substantial community of an assignment.[3] The situation substantially is that if Channel 38 is not assigned to Terre Haute, it may not be allocated elsewhere in the area. In these circumstances, there is no reason not to make the substitution. We are also unable to agree with Alpha that the appropriate procedure for show cause should be waived, but, since Station WIIL-TV already has submitted technical data as to the channel change and waived a show cause order, we shall treat these as tantamount to Alpha assenting to the channel change and a proper submission of technical data. Nonetheless, Alpha must await approval of the technical change and take no step contrary to an authorized construction permit.

6. Authority for the action of the amendment proposed herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

7. In accordance with the foregoing: *It is ordered,* That effective November 13, 1972, the Television Table of Assignments (§ 73.606(b) of the rules) is amended, with respect to the city listed below, as follows:

City	*Channel No.*
Terre Haute, Ind.	2+, 10, *26, 38

8. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: September 27, 1972.

Released: October 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17256 Filed 10-6-72;8:50 am]

[Docket No. 19162; FCC 72-849]

PART 97—AMATEUR RADIO SERVICE

Expansion of Telephony Segments of High Frequency Amateur Bands

Report and order. In the matter of amendment of Part 97 of the Commission's rules to provide for expansion of the telephony segments of the high frequency amateur bands, Docket No. 19162, RM-1306, RM-1349, RM-1477, RM-1479, RM-1544, RM-1550, RM-1593, RM-1603, RM-1614, RM-1616, RM-1644, RM-1665, RM-1695, RM-1723, RM-1729, also RM-1748, RM-1873, RM-1880.

1. The Commission adopted a notice of proposed rule making in the above-entitled matter on February 24, 1971, which was published in the FEDERAL REGISTER on March 6, 1971 (36 F.R. 4511). Interested persons were invited to file comments on or before June 1, 1971, and reply comments on or before June 18, 1971, respectively. The notice proposed to expand the General-Conditional Class subband operator privileges in four amateur radio high frequency bands, to provide additional amateur extra and advanced class subbands in those high frequency bands where they do not exist, and to make other adjustments to the allocations of high frequency bands to facilitate the accomplishment of these proposals and additionally to expand the telephony suballocations in the five amateur radio high frequency bands from 3.5 to 29.7 MHz.

2. Formal comments were received from persons and amateur radio organizations within the United States and foreign countries. Many comments simply urge the adoption, or the rejection, of the proposals. Others endorse certain proposals and request that others not be adopted. Many propose alternate frequency band allocation plans. Since the comments received were so numerous, it is not practicable to discuss each herein. However, every comment filed has been given careful consideration.

3. Reactions to the proposals expressed in the comments, were highly mixed. Some, identifying themselves as telegraphy enthusiasts, opposed the proposal, usually citing the resulting reduction in the effective use of the telegraphy bands as the reason. Others, identifying themselves as telephony enthusiasts, supported the proposal, usually giving the crowded telephony bands as the reason. Proponents of both sides of the issue agreed that telephony expansion would be at the expense of telegraphy operation, with the telegraphers arguing that their preferred mode of radio communication would be impaired and the telephony advocates arguing that telegraphy is outmoded and unnecessary.

4. All of the HF bands from 3–30 MHz have predictable propagation characteristics depending on the period of the sunspot cycle, season, time of day, and the order of the frequency band itself. At times, some bands are primarily useful for short-distance radio communication, even though under those circumstances signals cross national boundaries. At other times, even the two main lower frequency amateur bands (3.5, 7.0 MHz) become international in character through long distance ionospheric propagation of signals. During the low period of the sunspot cycle, congestion in the lower frequency bands becomes more critical as the maximum usable frequency (MUF) decreases. Bands above 14 MHz, are generally considered international in nature by reason of long distance propagation of signals in these bands for a large percentage of the time.

5. A considerable number of comments were received from organizations located in other countries, and a delegation from one country paid an official visit to the Commission to discuss the ramifications

[1] All population figures are taken from the 1970 Census.

[2] See First Report and Order, Docket No. 18261, 23 FCC 2d 325 (1970); and First Report and Order and Second Notice of Inquiry, Docket No. 18262, 19 R.R. 2d 1663 (1970).

[3] Sizable communities without commercial channels in the area are Olney, Ill. (population 8,976), and Vincennes, Ind. (population 19,867), both with ETV stations (WUSI-TV and WVUT, respectively) and for which other commercial channels are available.

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of the notice. The comments and information of other countries are worthwhile, and provide an added insight to what is normally considered a domestic matter. It is recognized that there are no formal internationally agreed suballocation plans which reserve certain portions of any of these bands for one type of emission or the other. There are, however, "gentlemen's agreements" among amateurs in various parts of the world (Region 1 in particular) which have worked out well in practice in maintaining order and providing efficient utilization of the various amateur bands. Only a few countries, having large numbers of amateurs, provide suballocations in domestic regulations. The International Radio Regulations, to which the United States is a signatory administration, provides only band allocations to the Amateur Radio Service for the three regions. In reaching a judgment on a matter with implications which could result in a lessening of international good will among amateurs, as well as a reduction of efficiency of utilization of the spectrum, we would be doing amateurs generally a disservice were we to disregard physical phenomena. Certainly we would be shortsighted if we totally disregarded opinions such as that of the International Amateur Radio Union, Region 1 Division, which pointed out,

> The downward shift to 14.150 kHz will cause severe interference to operation in Region 1. With the high power and large number of U.S. stations it will not be possible for foreign stations to operate above 14.150 kHz when propagation conditions enable U.S.A. stations to be heard. The consequent move downward in frequency by Region 1 telephony stations will undoubtedly cause breaches of the voluntary IARU Region 1 band plans which have been in satisfactory operation for a number of years.

A similar opinion was expressed by the Radio Society of Great Britain and others.

6. Therefore, we conclude that a significant expansion of the telephony segments within the high frequency amateur bands would be at the expense of the telegraphy segments. Furthermore, we are of the opinion that the traditional amateur telegraphy radio communication mode must not be compromised. The rationale for this conclusion is well summarized in a quotation from a letter to the Chairman of the Commission from the Director of the Office of Telecommunications Policy:

> While the use of CW radio telegraph communications has been replaced in most radio communications services with more sophisticated techniques over the years, this is not considered sufficient reason to justify the curtailment of such operations among U.S. amateurs. Knowledgeable communicators agree that when other types of high frequency radio communications fail CW transmissions are likely to get through. Thus, even though other techniques might be relied on first, it still would be wise to retain a pool of U.S. citizens skilled in CW operations as a resource in reserve. Amateur operators, with their past superb record of serving the public interest when needed, are considered the best means for preserving this skill.

7. We find that amateurs have been resourceful in effectively operating in the overcrowded high frequency bands. The vast majority have adopted spectrum conservation receiving and transmitting techniques. The nearly universal incorporation of suppressed or reduced carrier types of SSB emission and other frequency conserving capabilities, such as highly selective receivers and directional antennas, has permitted more operators to conduct reliable radio communication over greater distances. Nevertheless, the question of how the existing high frequency amateur bands can accommodate even a relatively modest increase in the number of stations is now clearly in view. As evidenced by the petitions and comments, even the present number of amateurs authorized for telephony emissions on the high frequency bands at times far exceeds the capacity of the allocated A3 and F3 emission segments. We see no technological developments on the horizon to enable more simultaneous telephony amateur radio communication within the present suballocations, although this is in itself a challenge to amateurs. Any proposed amendments to Article 5 (spectrum allocation) of the International Radio Regulations to allocate additional portions of the high frequency spectrum to the amateur radio service, are at best some years in the future and only speculative. The only practical solution appears to be one of limiting access to the more crowded bands only to higher class licensees. Until such time as this becomes necessary, amateurs are encouraged to utilize other emissions and frequency bands during times of severe overcrowding of the telephony segments. Furthermore, we strongly urge that the VHF and UHF bands be utilized for all local radio communication; that the minimum power rules be strictly observed to minimize interference; that full carrier double sideband emission not be used in the lower four HF bands except in an emergency; and that all amateurs exercise good judgment and restraint when selecting a frequency and emission for their operation.

8. Accordingly, we conclude that the high frequency spectrum available to the amateur radio service does not allow treatment which would significantly alleviate the problem of overcrowding in telephony radio communication through expansion of subband allocations. We are of the opinion that a small increase for telephony operation in the 3.5 and 7.0 MHz bands can be accommodated without causing a serious deterioration in telegraphy operation. We believe any telephony expansion of the 14.0 MHz band would result in a serious degradation to nonvoice radio communication, and no expansion is adopted. Numerous comments from amateurs outside of the United States express opposition to any telephony expansion by the United States, particularly in the 14.0 MHz band. Should U.S. licensees be permitted to operate in the unofficial, but widely observed, non-U.S. telephony subband between 14.1 and 14.2 MHz, they predict a movement by non-U.S. telephony stations into the 14.0 to 14.1 MHz segment, causing a deterioration in telegraphy radio communication and a general breakdown in interregion cooperation. This must not take place. We also find the 21.0 and 28.0 MHz frequency bands not to be sufficiently crowded to warrant an expansion of the telephony segments.

9. Comments from Canadian amateurs express concern for the resulting impact of expansion of the telephony segments available to U.S. amateurs below 3.8 MHz. In addition to the 3.8 to 4.0 MHz telephony subband authorized for both U.S. and Canadian amateurs, they are also permitted 3725 to 3800 kHz. This concern is expressed in the comments from the Director of the Canadian Divison of the American Radio Relay League. Although we do not agree entirely with the implied necessity for Canadian amateurs to operate in different subbands, their comments are taken into account.

> Canadian amateur operators have always made extensive use of the 3.5 MHz band. The size of the country and the low density of population have precluded the use of other frequencies, such as 144 MHz, since they did not provide adequate coverage. It is perhaps the most widely used amateur band in Canada for internal communication, in spite of the fact that 25 kHz, (3725–3750 kHz) are shared with American novice operators. While Canadian voice operation could and undoubtedly would be moved to some lower portion of the band such as 3650–3700 kHz, in order to avoid novice interference, there would be less space available for other modes as a result • • •

10. The notice proposed 3750 to 3775 kHz for Amateur Extra Class and 3775 to 3875 kHz for Amateur Extra and Advanced Classes, an expansion of 50 kHz for telephony privileges. The American Radio Relay League, and others, recommend an expansion of only 25 kHz, limited to Amateur Extra Class operators only. This would authorize some 12,000 higher class licensees to operate within the 3775–3800 kHz subband. In recognition of the Canadian operators' comments, we are of the opinion that the American Radio Relay League recommendation is a workable compromise, and we are therefore adopting it.

11. We conclude that the 7.0 MHz telephony subband can be expanded as proposed to the extent of permitting A3 operation between 7150 and 7200 kHz. While the comments heavily favor the adoption of this proposal, objections were also made, although to a lesser extent, by Canadian amateurs, because telephony operation is authorized in Canada by the Department of Communication for the same segment. Since the expanded telephony segment of 7150 to 7200 kHz has been heavily utilized for Novice Class A1 operation, and since only a limited number of higher class licensees will be permitted to operate within the new telephony segment, the expansion is acceptable. As a result of this action, the novice band is relocated to 7100 to 7150 kHz.

12. The proposal to provide a telephony subband below 7100 kHz for contacts with stations in Regions 1 and 3, is not being adopted. Numerous comments pointed out that the proposal, if adopted, would make interregional radio communication with foreign stations occupying these frequencies more difficult since Region 2 stations would overload the segment. The proposal to permit telephony operation between 7075 and 7100 kHz for American stations located outside of Region 2 is adopted, however.

13. In the interest of encouraging beginning amateur operators to gain experience in telegraphy radio communications, a new novice privilege segment is adopted for 28.100 to 28.200 kHz. Observations indicate that the segments 21.200 to 21.250 MHz and 145–147 MHz are lightly occupied for novice operation and are therefore deleted. In light of these changes, and because of the relocation of the novice 7.0 MHz subband, the requirement that the transmitter be crystal controlled is removed. We are of the opinion that the technical state of the art for calibrated variable frequency generating devices in the amateur service permits this change and recrystalling of the many thousands of Novice Class transmitters is unwarranted. Additionally, this will enhance the operating effectiveness of novice operation through reduction of interference and increased operating flexibility. Since the distinctive "N" designator in a Novice Class call sign prefix is easily recognized in the service, novice operators are cautioned to observe strictly the authorized frequency suballocations for Novice Class licensees. While amending § 97.7(d), we revise the wording for the 75-watt power limitation to generalize its application to other amplifying devices in addition to vacuum tubes.

14. As pointed out by a number of respondents, the 28 MHz frequency band does not offer itself to providing meaningful exclusive operating segments for upgrading incentives since the frequency availability problem is not of comparable magnitude as that encountered on the other high frequency bands. For this reason, the proposed establishment of exclusive operating frequency privileges for Amateur Extra Class and Advanced Class licensees is not adopted. With thousands of amateur radio operators upgrading to Amateur Extra Class and tens of thousands upgrading to Advanced Class, while the member of General and Conditional Class licensees is decreasing, adjustments to the subband allocations must be made in order to retain the incentive principle. Additional adjustments will be made perodically in the future as the upgrading movement continues. Allocations follow a pattern of apportionment of the telephony segments into three subbands in the case of 3.5 MHz and 21.0 MHz; one restricted to amateur extra exclusively; one restricted to amateur extra and advanced; and one available to general/conditional and extra/advanced. These subband apportionments are determined by considering the number of individual licensees in each group having privileges to each subband weighted in favor of the higher classes. Proposed telephony subbands restricted to the Amateur Extra Class in the 7.0 MHz and 14.0 MHz bands are not adopted because the application of the apportionment pattern to these small telephony segments would result in Amateur Extra Class subbands so small as to be practically useless.

15. Comments received in response to the proposed reduction in the amateur extra-restricted telegraphy subband were almost entirely opposed. Reasons cited included observations to the effect that the proposed 10 kHz subband was too small to be meaningful, and that the restricted telegraphy subband was their primary incentive for upgrading. We find these comments persuasive and in agreement with our own observations. The proposal is not adopted herein, and the subband remains at 25 kHz.

16. We find the attached amendments to the rules are necessary and desirable and in the public interest. Authority for adoption of these amendments is contained in sections 4(i) and 303 of the Communications Act of 1934 as amended.

17. *Accordingly, it is ordered,* That effective November 22, 1972, Part 97 of the Commission's rules is amended as set forth below.

18. *It is further ordered,* That in addition to the 15 petitions set forth in the heading to the proceeding, the pending petition of Mr. Frederick J. Hagen, filed February 1, 1971, RM–1748; and the pending petition of Mr. George W. Flyer, filed November 1, 1971, RM–1873; and the pending petition of Mr. William G. Welsh, filed November 8, 1971, RM–1880, have been fully considered and, to the extent that they are at variance with the rule changes adopted, they are denied.

19. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: September 27, 1972.

Released: October 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 97 of the Commission's rules is amended as follows:

1. Section 97.7(a) and table, paragraphs (d) (1) and (d) (2) are revised to read as follows:

§ 97.7 **Privileges of operator license.**

(a) *Amateur Extra Class and Advanced Class.* All authorized amateur privileges including exclusive frequency operating authority in accordance with the following table:

[1] Commissioner Johnson concurring in the result.

Frequencies	*Class of license authorized*
3500–3525 kHz 3775–3800 kHz 7000–7025 kHz 14,000–14,025 kHz 21,000–21,025 kHz 21,250–21,270 kHz	Amateur Extra Only.
3800–3890 kHz 7150–7225 kHz 14,200–14,275 kHz 21,270–21,350 kHz 50–50.1 MHz	Amateur Extra and Advanced.

• • • • • •

(d) *Novice class.* Those amateur privileges designated and limited as follows:

(1) The power input to the transmitter final amplifying stage supplying radio frequency energy to the antenna shall not exceed 75 watts, exclusive of power for heating the cathode of a vacuum tube(s).

(2) Radio telegraphy is authorized in the frequency bands 3700–3750 kHz, 7100–7150 kHz (7050–7075 kHz when the terrestrial location of the station is not within Region 2), 21,100–21,200 kHz, and 28,100–28,200 kHz, using only Type A–1 emission.

2. In Section 97.61, the table in paragraph (a) is amended and (b) (10) is added to read as follows:

§ 97.61 **Authorized frequencies and emissions.**

(a) • • •

Frequency band	Emissions	Limitations (see paragraph (b))
kHz:		
1800–2000	A1, A3	1, 2
3500–4000	A1	
3500–3775	F1	
3775–3890	A5, F5	
3775–4000	A3, F3	4
7000–7300	A1	3, 4
7000–7150	F1	3, 4
7075–7100	A3, F3	10
7150–7225	A5, F5	3, 4
7150–7300	A3, F3	3, 4
14000–14350	A1	
14000–14200	F1	
14200–14275	A5, F5	
14200–14350	A3, F3	
MHz:		
21.000–21.450	A1	
21.000–21.250	F1	
21.250–21.350	A5, F5	
21.250–21.450	A3, F3	
28.000–29.700	A1	
28.000–28.500	F1	
28.500–29.700	A3, F3, A5, F5	
• • •	• • •	• • •

(b) • • •

(10) The use of A3 and F3 in this band is limited to amateur radio stations located outside Region 2.

[FR Doc.72–17257 Filed 10–6–72;8:50 am]

FEDERAL REGISTER, VOL. 37, NO. 196—SATURDAY, OCTOBER 7, 1972

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Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-21; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice amends 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to modify the method by which conformity of certain lamps to photometric requirements is determined. A notice of proposed rule making on this subject was published on November 30, 1971 (36 F.R. 22763).

Standard No. 108 requires that taillamps, stoplamps, parking lamps, and turn signal lamps meet minimum photometric candlepower requirements at up to 27 individual test points. If a lamp fails to meet the minimum requirement at any test point the lamp does not conform to Standard No. 108 even though it may exceed the specified minimum at all other test points.

As noted in the November 30, 1971, proposal this requirement appeared unnecessarily severe, since deviances at individual test points are generally not great enough to be discernible to the human eye. The method proposed and adopted sets up seven groups of test points as shown in Figure 1, each group containing from three to five test points. The groups include requirements for devices with one, two, or three separately lighted compartments, and multiple lamps used in an array to perform a function at a single design location. The minimum candlepower requirement for any single group is the sum of the minimum candlepower specified in the applicable SAE standards for individual test points within the group. Therefore, there will be no failure to conform to Standard No. 108 as long as the sum of the candlepower measured at all test points within a group equals or exceeds the required minimum figure for that group. The amendment will not have a significant effect on motor vehicle safety and is designed to set up a more realistic and cost effective method of determining compliance with photometric requirements.

Two aspects of the proposal are not adopted in the amendment. The proposal would have set a floor of 60 percent on the amount by which the measured candlepower at a single-test point could fail to reach the required minimum for that test point. The same rationale governing the overall proposal dictated that the floor not be adopted: as long as the sum of the test points within a group meets the overall minimum for the group, the difference in illumination at any discrete test point is unlikely to be great enough to be discernible.

Secondly, the proposal would have required that clearance, side marker, identification, and parking lamps have minimum candlepower equivalent to taillamps. This proposal has not been adopted. Comments indicated that the increase in candlepower would be so significantly greater as to cause a glare problem. The group test concept has been adopted for parkinglamps, but not for clearance, side marker, identification lamps, which retain minimum candlepower for all test points.

In addition, a deferred effective date has been adopted for increased grouped candlepower requirements applicable to tail, stop, and turn signal lamps with two or three lighted compartments, and to lamp arrangements where two or three lamps are used to perform a single function in a single design location. These requirements have been made effective September 1, 1974, in order to provide sufficient leadtime for redesign and retooling. In the interim, beginning January 1, 1973, such lamps or lamp arrangements may meet the grouped requirements applicable to single compartment and single stop and turn signal lamps.

It was also proposed that minimum candlepower requirements be specified for taillamps, stoplamps and turn signal lamps, measured at a 45° angle where any SAE standard incorporated by reference required visibility of the lamps at a 45° angle. Objections were raised that the proposed values were too high and that there was no safety benefit in requiring them. The National Highway Traffic Safety Administration, on the basis of its analysis of cost benefit factors, has not adopted the proposal.

The amendment does not adopt the proposal that both red and yellow rear-turn signal lamps have the same maximum candlepower limitation. The subject of the color of rear-turn signal lamps will be addressed in a forthcoming notice, in Docket No. 69-19.

The SAE standard applicable to parking lamps in Table III has been changed to SAE Standard J222, "Parking Lamps (Position Lamps)," December 1970. Paragraph S4.1.1.11, which specifies photometric values for parking lamps, is deleted as these values are incorporated in the revised SAE standard.

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is revised as follows:

1. S4.1.1.11 is deleted, and a new paragraph S4.1.1.11 is added to read:

A parking lamp is not required to meet the minimum photometric values at each test point specified in Table 1 of SAE Standard J222, "Parking Lamps (Position Lamps)," if the sum of the candlepower measured at the test points within the groups listed in Figure 1 is not less than the sum of the candlepower values for such test points specified in J222.

2. The reference in the first sentence of paragraph S4.1.1 to "S4.1.1.15" is changed to "S4.1.1.16".

3. Paragraphs S4.1.1.12, S4.1.1.13, S4.1.1.14, and S4.1.1.15, are redesignated "S4.1.1.13, S4.1.1.14, S4.1.1.15, and S4.1.1.16" respectively.

4. A new paragraph S4.1.1.12 is adopted to read as follows: S4.1.1.12 A taillamp, stoplamp, or turn signal lamp is not required to meet the minimum photometric values at each test point specified in Table 2 of SAE Standard J575d, "Tests for Motor Vehicle Lighting Devices and Components," if the sum of the candlepower measured at the test points within the groups listed in Figure 1 is not less than the sum of the candlepower values for such test points specified in J575d. A lamp with two or three lighted compartments, or a lamp that is part of an array of two or three lamps used in a single design location to perform a single function, manufactured from January 1, 1973, to September 1, 1974, need only meet the group value total specified in Figure 1 for single compartment or single lamps.

5. In Table III, the SAE standard applicable to parking lamps is changed to "SAE J222, December 1970."

Effective date: January 1, 1973. Because the amendment creates no additional burden it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392 and 1407), and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51.

Issued on October 2, 1972.

DOUGLAS W. TOMS,
Administrator.

GROUP TOTALS, CP

Groups	Test points degrees	Parking lamps	Tail lamps			Red stop and turn signal lamps			Yellow turn signal lamps		
			One	Two	Three	One	Two	Three	One	Two	Three
1	20L–5U 20L–H 20L–5D 10L–10U 10L–10D 10U–V	2.8	1.6	2.7	3.8	55	66	80	135	165	190
2	5U–10L 5U–10R	2.4	2.1	3.6	5.5	85	100	115	210	251	290
3	10L–H 5L–5U 5L–5D 5U–V	4.2	3.4	5.3	8.0	140	167	195	350	420	490
4	H–5L H–V H–5R 5D–V	16.8	9.6	16.5	24.0	380	449	520	950	1,130	1,295
5	5R–5U 5R–5D 10R–H	4.2	3.4	5.3	8.0	140	167	195	350	420	490
6	5D–10L 5D–10R 10D–V	2.4	2.1	3.6	5.5	85	100	115	210	251	290
7	10R–10U 10R–10D 20R–5U 20R–H 20R–5D	2.8	1.6	2.7	3.8	55	66	80	135	165	190
Maximum rear lamps only			15	20	25	300	360	420	900	900	900

FIGURE 1.—Grouped photometric minimum candlepower requirements for devices using one, two, or three separately lighted compartments, or for one, two, or three lamps used in a single design location to perform a single function.

[FR Doc.72-17221 Filed 10-6-72;8:51 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Quivira National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-7-72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked pheasants, bobwhite, squirrel, and rabbits on the Quivira National Wildlife Refuge, Kans., is permitted only in the areas open to waterfowl hunting. These areas, comprising 7,990 acres are delineated on maps available at refuge headquarters, Stafford, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of ring-necked pheasants, bobwhite, squirrel, and rabbits October 14, 1972, through January 14, 1973, inclusive, subject to the following special conditions:

(1) The use of rifles is prohibited for taking squirrel and rabbits.

(2) The hunting of any species after sunset is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1973.

CHARLES R. DARLING,
Refuge Manager, Quivira National Refuge, Stafford, Kans.

SEPTEMBER 29, 1972.

[FR Doc.72-17213 Filed 10-6-72;8:49 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[26 CFR Parts 170, 250, 251]

CARBON DIOXIDE IN NON-DOMESTIC STILL WINES; IMPORTS FROM VIRGIN ISLANDS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Acting Director, Bureau of Alcohol, Tobacco and Firearms, and the Commissioner, Bureau of Customs, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Acting Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20224 within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Acting Director within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] REX D. DAVIS,
Acting Director, Bureau of Alcohol, Tobacco and Firearms.

EDWIN F. RAINS,
Acting Commissioner, Bureau of Customs.

Approved: October 2, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary.

NOTE: The Treasury decision to be issued pursuant to this notice will contain the necessary changes in titles and offices resulting from the establishment of the Bureau of Alcohol, Tobacco and Firearms as a separate agency under the Department of the Treasury.

In order to (1) provide for a tolerance to the maximum statutory limitation on carbon dioxide in nondomestic still wine, and (2) reduce by one the number of Forms 2609 required to be submitted to the internal revenue officer prior to transfer of imported or Virgin Islands spirits in bulk containers from customs custody to internal revenue bond, the regulations in 26 CFR Parts 170, 250, and 251 are amended as follows:

PARAGRAPH A. The regulations in 26 CFR 170.125 are amended to require the submission of Form 2609 in triplicate rather than in quadruplicate. As amended, § 170.125 reads as follows:

§ 170.125 Application, Form 2609.

The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 170.124, shall for each withdrawal submit an application on Form 2609, in triplicate, to the internal revenue officer in charge. The application shall appropriately identify the distilled spirits to be withdrawn, and shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the spirits are to be withdrawn, and inserting in the "Remarks" item the name and address of the assistant regional commissioner for the region in which is located the plant to which the spirits are to be transferred. If the proprietor's bond on Form 2601 is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, the internal revenue officer shall approve all copies of the Form 2609, return the original and one copy to the proprietor and retain the remaining copy. (See § 170.130 with respect to need for consent of surety on bond, Form 2601.) The proprietor shall forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from custody, who shall submit the form, with the related entry for consumption or withdrawal for consumption forms, to the district director of customs from whose custody it is proposed to withdraw the distilled spirits. The proprietor shall retain the remaining copy of Form 2609.

(68A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended; 26 U.S.C. 7652, 5007, 5232)

PAR. B. The regulations in 26 CFR Part 250 are amended as follows:

1. A new sentence is added at the end of § 250.53 and clarifying changes are made. As amended, § 250.53 reads as follows:

§ 250.53 Description of process.

The statement of process must set out in sequence each step used in the manufacture of the finished product. A statement of process covering distilled spirits must also show whether there are to be blended together in the manufacture of the finished product, liquors of less than 190 degrees of proof (a) distilled (1) from different materials, (2) by different distillers, (3) at different distilleries, or (4) from different combinations of the same materials; or (b) of different ages; or (c) which differ in kind according to the standards of identity prescribed in 27 CFR Part 5. Likewise, the statement of process must show whether spirits stored in charred new oak containers are to be mingled with spirits stored in plain, reused, or metal cooperage, or whether spirits which have been quick-aged or treated with wood chips are to be mingled with spirits not so processed, or whether spirits that have been subjected to any treatment which changes their character are to be mixed with spirits not so treated. If the statement of process covers still wine and carbon dioxide is to be added to, or retained in, the wine, it must identify the method or process and the type of equipment to be used.

2. A new § 250.53a is added immediately following § 250.53. As added, new § 250.53a reads as follows:

§ 250.53a Still wines containing carbon dioxide.

Still wines may contain not more than 0.277 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.277 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.277 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded, or where the variation results from the use of methods or equipment not in accord with good commercial practices. Where carbon dioxide is added to, or retained in, still wine, the proprietor shall so indicate on his Form 27–B Supplemental, identifying the method or process and the type of equipment to be used.

(72 Stat. 1331, as amended; 26 U.S.C. 5041)

3. A new sentence is added at the end of § 250.223 and clarifying changes are made. As amended, § 250.223 reads as follows:

§ 250.223 Description of process.

The statement of process must set out in sequence each step used in the manufacture of the finished product. A statement of process covering distilled spirits must also show whether there are to be blended together in the manufacture of the finished product, liquors of less than 190 degrees of proof (a) distilled (1) from different materials, (2) by different distillers, (3) at different distilleries, or (4) from different combinations of the same materials; or (b) of different ages; or (c) which differ in kind according to the standards of identity prescribed in 27 CFR Part 5. Likewise, the statement of process must show whether spirits stored in charred new oak containers are to be mingled with spirits stored in plain, reused, or metal cooperage, or whether spirits which have been quick-aged or treated with wood chips are to be mingled with spirits not so processed, or whether spirits that have been subjected to any treatment which changes their character are to be mixed with spirits not so treated. If the statement of process covers still wine and carbon dioxide is to be added to, or retained in, the wine, it must identify the method or process and the type of equipment to be used.

4. A new § 250.223a is added immediately following § 250.223. As added, new § 250.223a reads as follows:

§ 250.223a Still wines containing carbon dioxide.

Still wines may contain not more than 0.277 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.277 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance will not be allowed where it is found that the limitation of 0.277 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded.

(72 Stat. 1331, as amended; 26 U.S.C. 5041)

2. Section 251.172 is amended to require the submission of Form 2609 in triplicate rather than quadruplicate. As amended, § 251.172 reads as follows:

§ 251.172 Application, Form 2609.

The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 251.171, shall for each withdrawal submit an application on Form 2609, in triplicate, to the internal revenue officer in charge. The application shall appropriately identify the distilled spirits to be withdrawn, and shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the spirits are to be withdrawn, and inserting in the "Remarks" item the name and address of the assistant regional commissioner for the region in which is located the plant to which the spirits are to be transferred. If the proprietor's bond on Form 2601 is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, the internal revenue officer shall approve all copies of the Form 2609, return the original and one copy to the proprietor and retain the remaining copy. (See § 201.312 of this chapter with respect to need for consent of surety on bond, Form 2601.) The proprietor shall forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from customs custody, who shall submit the form, with the related entry for consumption or withdrawal for consumption forms, to the district director of customs from whose custody it is proposed to withdraw the distilled spirits. The proprietor shall retain the remaining copy of Form 2609.

(72 Stat. 1314, 1322, 82 Stat. 1328, as amended; 26 U.S.C. 5001, 5007, 5232)

[FR Doc.72-17237 Filed 10-6-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 58]

BUTTER

Standards for Grades

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance, as hereinafter provided, of amendments to the U.S. Standards for Grades of Butter. These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (secs. 202–208 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627) which provides for the issuance of U.S. grades to designate different levels of quality for the voluntary use of producers, buyers an dconsumers. Official grading service is also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of service.

The proposed amendments provide, under Subpart P, § 58.2627(b) U.S. Grade A or U.S. 92 Score, the inclusion of the term "whey flavor to a very slight degree" and in § 58.2635(a) inclusion of a definition for "very slight" with respect to flavor intensity.

Statement of Consideration. The changes in technology and production practices in cheese factories during the past few years have resulted in greatly improved conditions of handling whey cream. Larger volumes support better cooling and storage facilities and more frequent shipment of the whey cream to the butter manufacturing plant. Also the improved quality of manufacturing milk, cultures, and make procedures has resulted in improved flavor of the cheese whey and the cream separated from it.

As a result of these improved conditions certain factories have demonstrated that a quality of whey cream can be produced in which, when blended with a sufficient quantity of high quality sweet cream, the characteristic whey flavor is negligible or only very slight. The result is a quality stable butter comparable to the flavor of U.S. Grade A butter made entirely from cream containing certain other acceptable flavors, separated from sweet milk.

The recognition of this quality of whey cream in butter will not result in lowering the general quality level of U.S. Grade A butter. Any butter containing whey flavor to a slight degree will remain in the U.S. Grade B grade as at present. Butter having a whey flavor to a definite degree is sufficiently objectionable as to continue to be placed in U.S. Grade C without change from the present standard.

It is opinion of the Department that the recognition of the very slight whey flavor in the U.S. Grade A will give proper recognition to the extra care necessary to produce this quality over the ordinary methods of handling whey cream that has resulted in a lower quality butter. This should also be an incentive to others to improve quality, where possible, resulting in greater returns to both the cheese and butter industries and producers, as well as an improved quality of butter to the consumer.

All persons who desire to submit written data, views or arguments in connection with the aforesaid proposals shall file the same in duplicate with the Hearing Clerk, Room 112, Administration Building, Washington, D.C. 20250, not later than 30 days from the date of publication in the FEDERAL REGISTER. All written submissions pursuant to this notice will be made available for public information at the Office of the Hearing

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Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments are as follows:

§ 58.2627 [Amended]

1. Change Subpart P, § 58.2627 *Specifications for U.S. grades of butter*, paragraph (b) to read as follows:

"(b) *U.S. Grade A or U.S. 92 Score.* U.S. Grade A or U.S. 92 Score butter conforms to the following: Possesses a pleasing and desirable butter flavor. May possess the following flavor to a very slight degree; whey. May possess any of the following flavors to a slight degree: aged, bitter, coarse acid, flat, smothered and storage. May possess feed and cooked (coarse) flavors to a definite degree. The permitted total disratings for body, color and salt characteristics are limited to one-half (½), except when the flavor classification is AA a disrating total of one (1) is permitted. For detailed specifications and classification of flavor characteristics see Table I and for body, color and salt characteristics and disratings see Table II."

2. Change Table I to include "VS" in the "A" column under "Flavor Classification" for the identified flavor "whey" as follows:

Identified flavors	Flavor classification			
	AA	A	B	C
Whey		VS	S	D

and add "VS—Very slight" to the explanation under the table.

§ 58.2635 [Amended]

3. Change § 58.2635 *Explanation of Terms* to include a new definition for "very slight" under subparagraph (a) to read as follows:

(a) With respect to flavor intensity and characteristics.

(1) Very slight—Detected only upon very critical examination.

4. Change the present (1) Slight to "(2) Slight * * *" and renumber each of the definitions in successive order accordingly.

Done at Washington, D.C., this 3d day of October 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-17220 Filed 10-6-72;8:48 am]

[7 CFR Part 1099]

MILK IN PADUCAH, KY., MARKETING AREA

Notice of Proposed Suspension of a Provision of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Paducah, Ky., marketing area is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 10 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be suspended is as follows:

In § 1099.15, "cream, sweet and sour;".

STATEMENT OF CONSIDERATION

The proposed suspension, by revising the fluid milk definition, would result in fluid cream being classified as a Class II product rather than as a Class I product.

The proposed suspension was requested by Dairymen, Inc., a cooperative association representing a substantial majority of the producers on the market, and by Ryan Milk Co., Inc., a fully regulated handler under the order. The proponents maintain that Ryan Milk Co. is currently at a competitive disadvantage with respect to sales of fluid cream in markets where handlers pay a minimum price for milk in such use that is substantially less than the Paducah Class I price. Proponents contend that the proposed suspension would promote orderly marketing by permitting Ryan Milk Co. to compete on an equal basis not only with handlers regulated under other Federal orders, but also with unregulated handlers.

Proponents have requested this action pending the results of a hearing held in Clayton, Mo., on July 14-22, 1970.

Signed at Washington, D.C., on October 3, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-17222 Filed 10-6-72;8:48 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 775]

1973 FEED GRAIN SET-ASIDE PROGRAM—1973 CROP FEED GRAIN LOAN AND PURCHASE PROGRAM—RESEAL PROGRAM FOR 1973-74 STORAGE PERIOD

Notice of Proposed Determinations Relative to Set-Aside and Diversion Requirements, Payment and Loan Rates, Commodities Eligible for Reseal and Program Operating Provisions

Notice is hereby given that the Secretary of Agriculture under the authority of the Agricultural Act of 1949, as amended, proposes to make determinations and issue regulations relative to (a) the set-aside requirement for feed grains; (b) the payment rate for corn, grain sorghums, and barley; (c) whether there should be provisions for additional diversion and if so the extent of such diversion and payment rates therefor; (d) the loan level for the 1973 crop of corn, grain sorghums, barley, oats, and rye, including commodity eligibility and storage requirements; (e) the crops of feed grains and wheat eligible for reseal loan for the 1973-74 storage period; and (f) detailed operating provisions to carry out the programs.

The determinations listed above are to be made based on the following considerations:

(a) *Set-aside requirement for feed grains.* The Act requires that the Secretary shall provide for a set-aside of cropland if he determines that the total supply of feed grains or other commodities will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices of feed grains and to meet a national emergency. If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments, on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (1) such percentage of the feed grain base for the farm as may be specified by the Secretary, plus (2) the acreage of cropland on the farm devoted in preceding years to soil-conserving uses as determined by the Secretary. It was previously announced by this Department that barley has been designated for inclusion in the set-aside program for 1973.

(b) *Payment rate for corn, grain sorghum, and barley.* The Act states that the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley. The payment rate for corn shall be at such rate as, together with the national average market price received by farmers for corn during the first 5 months of the marketing year for the crop, the Secretary determines will not be less than (1) $1.35 per bushel, or (2) 70 percent of the parity price of corn as of the beginning of the marketing year, whichever is the greater. The payment rate for grain sorghums, and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. Notwithstanding the foregoing, the rate of payment for the 1973 crop shall not be such as will result in a total amount of payments which the Secretary estimates will be made pursuant to this subsection with respect to the 1973 crop of feed grains above the total amount of payments made pursuant to this subsection with respect to the 1972 crop of feed grains by reason of the level specified in clause (B) being fixed above 68 percent of the parity price for corn.

(c) *Whether there should be provision for additional diversion and, if so, the extent of such diversion and the payment rates therefor.* The Act provides that to assist in adjusting the acreage of commodities to desirable goals, the Secretary may make land diversion payments, in addition to the set-aside payments to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in addition to that required to be so devoted under the regular set-aside program. The land diversion payments for a farm are required to be at such rate or rates as the Secretary determines to be fair and reasonable taking into consideration the diversion undertaken by the producers and the productivity of the acreage diverted. The Secretary is required to limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

(d) *Loan and purchase rates.* The Act provides for making loans and purchases on the 1973 crop of corn available to producers at a level not less than $1 per bushel nor in excess of 90 percent of the parity price. The loan and purchase rate so determined must encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States. Loans and purchases on the 1973 crops of barley, oats, and rye, respectively, are required to be made available at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn. In setting such level, consideration is required to be given to the feeding value of such respective commodity in relation to corn, the supply of the commodity in relation to demand therefor, price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price-support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. Loans and purchases on the 1973 crop of grain sorghums are required to be at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn. In setting such level, consideration is required to be given to the feeding value, and the average transportation costs to market, of grain sorghums in relation to corn.

(e) *Farm stored reseal loan program.* Consideration is also being given to extending the maturity dates of outstanding loans secured by various crops of feed grains such as corn, grain sorghums, barley, and oats, and of wheat under farm storage reseal program. Determinations relating to the need for such a program are based on such factors as, but not limited to, the need to isolate stocks of these commodities from the market, to stabilize, support, and protect farm incomes and prices, assist farmers to get a fair share of the market for their commodities and to maintain a commodity reserve to meet changing world conditions.

(f) *Detailed operating provisions to carry out the program.* Detailed regulations for the set-aside program for feed grains, commodity eligibility requirements, storage requirements and related requirements necessary to carry out these programs are also being reviewed for 1973. Provisions of this kind under current programs may be found in the feed grain set-aside program regulations which appear in Title 7, Part 775 of the Code of Federal Regulations and in the regulations governing loans, purchases and other operations for grains and similarly handled commodities which appear in Title 7, Part 1421 of the Code of Federal Regulations.

Statutory authority for the foregoing determinations are contained in sections 105 and 401, 63 Stat. 1501, as amended, and sections 4 and 5, 62 Stat. 1070; 7 U.S.C. 1441 note and 1421, 15 U.S.C. 714b and 714c.

Prior to making any of the foregoing determinations, consideration will be given to any data, views and recommendations which are submitted in writing to the Director, Grain Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received by the Director not later than 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Signed at Washington, D.C., on October 2, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17217 Filed 10-6-72;8:51 am]

[7 CFR Part 811]

CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Notice of Proposed Determination for Calendar Year 1973

Notice is hereby given that the Secretary of Agriculture, pursuant to authority vested in him by the Sugar Act of 1948, as amended (61 Stat. 922), is considering the determination of the amount of sugar needed to meet the requirements of consumers in the continental United States in 1973 and the establishment of sugar quotas for the calendar year 1973.

In accordance with the rule making requirements of 5 U.S.C. 553 (80 Stat. 378), all persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file the same in duplicate with the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, no later than October 19, 1972. The period in which comments can be submitted is considered reasonable in view of the statutory requirement to issue the regulation during October and the fact that the interested persons are familiar with the issues involved.

The proposed determination of 1973 sugar requirements for the continental United States and the quotas for calendar year 1973 are set forth essentially in form and language appropriate for issuance, if adopted by the Secretary as follows:

Basis and purpose and bases and considerations. The distribution of quota sugar in the United States during the 12 months ended August 31, 1972, amounted to 11,525,000 short tons, raw value. That quantity was about 300,000 tons more than the quantity distributed in the preceding 12-month period.

Population is growing at an annual rate of about 1 percent. Accordingly, population during calendar year 1973 should be about 1.35 percent greater than in the 12-month period ended August 31, 1972. At recent per capita rates, distribution in 1973 might be expected to approximate 11,590,000 tons.

The cane sugar refining industry customarily has refining losses of about 65,000 tons annually. Therefore, it would appear that new quota supplies of 11,650,000 could have the effect of maintaining refiners' inventories of quota sugar at yearend 1973 at the same level as at the beginning of the year.

It now appears that refiners quota stocks at yearend 1972 may be considerably higher than at the beginning of the year, mostly as a result of the larger marketings of new crop mainland cane sugar at yearend to fill that area's quota. Some of these quota stocks shown as held by refiners may be in the form of constructive deliveries and actually be held by mainland cane mills. It is expected that the same marketing pattern by the mainland cane area will prevail in 1973. Physical stocks held by refiners at yearend are expected to be near normal.

During the first 8 months of 1972, the domestic price of raw sugar fluctuated from a low 8.76 cents per pound as an average for May to a high of 9.33 cents per pound as an average for August. The average for the 8-month period was 9.02 cents per pound or 6.6 percent more than the 8.46 cents per pound average for the first 8 months of 1971. The price on September 21 was 9.40 cents per pound, or 102.8 percent of the price referred to in section 201 of the Act. In developing this determination, consideration has been given to maintaining prices in 1973

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that will carry out the price objective set forth in section 201(b) of the Act.

The price objective is a price for raw sugar which will maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under section 201 of the Act as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971 (8.55 cents per pound), and (2) the simple average of such two indexes for the same period (115.4). Adjustments shall be made in the determination of requirements during the period November through February whenever the simple average price for raw sugar over 7 consecutive market days is 3 percent or more above or below the average price objective for the previous 2 calendar months. The percentage is increased to 4 percent for the March through October period.

In consideration of these matters, it is determined that 11.8 million short tons, raw value, is the quantity of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective of the Act.

A quota of 1,175,000 short tons, raw value, is established herein for Hawaii pursuant to section 202(a)(3) of the Act. Such quota is subject to adjustment pending final data on the production and marketing of sugar by Hawaii in 1972.

The quota for Southern Rhodesia has been withheld pursuant to Executive Order 11322 issued on January 5, 1967, and is prorated herein to Western Hemisphere countries pursuant to section 202(d)(1)(B) of the Act.

On the basis of information currently available to the Department, it is herein determined, pursuant to section 202(d)(3) of the Act, that total quotas be withheld and not established for Bolivia and Uganda for calendar year 1973. The total quantity of quotas withheld from Bolivia and Uganda are prorated herein to other foreign countries in the same manner as deficits under section 204 of the Act.

It is also determined on the basis of information currently available to the Department that no reduction is required at this time, pursuant to section 202(d)(3) and (4) of the Act, in the quotas established herein for other foreign countries. This action is based on the tentative assumption that each such country will fill its 1972 quota within a reasonable tolerance and that facts will be submitted which will support a finding that any deficit and/or shortfall in a country's 1972 quota was due to force majeure.

Production of sugar in Puerto Rico is not expected to exceed 335,000 short tons, raw value, while requirements for consumption in Puerto Rico are expected to be of the order of 130,000 tons. It appears that the quantity of sugar from Puerto Rico available for shipment to the continental United States would not be more than 205,000 tons. It is now estimated that the domestic beet sugar area may have a slightly lower effective inventory of sugar as of January 1, 1973, than at the beginning of 1972. The size of the effective inventory limits marketings of domestic beet sugar until new crop becomes available. Therefore, it appears that the domestic beet sugar area will be unable to market sugar in excess of 3,500,000 short tons, raw value. Accordingly, deficits are herein determined in the quotas for Puerto Rico and the domestic beet sugar area of 650,000 and 192,000 short tons, raw value, respectively, and such total quantity of 842,000 short tons, raw value, is herein allocated, pursuant to section 204 of the Act, to the Republic of the Philippines and Western Hemisphere countries with 1973 quotas in effect.

Sec.
811.20 Sugar requirements 1973.
811.21 Quotas for domestic areas.
811.22 Proration and allocation of deficits in quotas.
811.23 Quotas for foreign countries.
811.24 Applicability of quotas.
811.25 Restrictions on importations and marketings within quotas.

AUTHORITY: The provisions of §§ 811.20 to 811.25 issued under sec. 403, 61 Stat. 932, 7 U.S.C. 1153; secs. 201, 202, 204, 207, 208, 209, 210; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 927, as amended, and 928, as amended; 7 U.S.C. 1111, 1112, 1114, 1117, 1118, 1119, 1120 and Public Law 92-138 approved October 14, 1971.

§ 811.20 Sugar requirements 1973.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1973 is hereby determined to be 11,800,000 short tons, raw value.

§ 811.21 Quotas for domestic areas.

(a) (1) For the calendar year 1973, domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act in column (2), as follows:

Area	Quotas (1)	Direct-consumption limits (2)
	(Short tons, raw value)	
Domestic beet sugar	3,692,000	No limit
Mainland cane sugar	1,643,000	No limit
Hawaii	1,175,000	40,356
Puerto Rico	855,000	169,000

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1973 Puerto Rico and the domestic beet area will be unable by 650,000 and 192,000 short tons, raw value, respectively, to fill their quotas established in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

§ 811.22 Proration and allocation of deficits in quotas.

(a) The deficit in the Puerto Rican and the domestic beet area quotas determined in paragraph (a)(2) of § 811.21 of 842,000 short tons, raw value, is hereby prorated and allocated pursuant to section 204(a) of the Act, by allocating 30.08 percent or 253,274 short tons, raw value, to the Republic of the Philippines and by prorating the remaining 588,726 short tons, raw value, to Western Hemisphere countries on the basis of quotas determined herein pursuant to section 202.

(b) In establishing deficit prorations herein for Western Hemisphere countries consideration has been given to the purchase of U.S. agricultural commodities by such countries, by determining that the value of U.S. agricultural exports to each such country exceeded the total net receipts f.a.s. port of shipment derived from the sale of sugar from deficit prorations imported from each such country during the most recent 12-month period for which data are available. Each foreign country which is unable to fill its quota including its deficit proration has the responsibility to notify the Secretary the extent of and reasons for such shortfall.

§ 811.23 Quotas for foreign countries.

(a) The quotas or prorations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1973 for consumption therein and the amounts of such quotas and prorations that may be filled by direct-consumption sugar are hereby established as set forth in the following paragraphs (b), (c), (d), (e), and (f) of this section.

(b) For the calendar year 1973, the quota for the Republic of the Philippines is 1,385,619 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202(b) of the Act, 253,274 short tons established pursuant to section 204 of the Act and 6,325 short tons established pursuant to section 202(d) of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202(b) of the Act, only 59,920 short tons, raw value, maybe filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1973, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. In column (3) a portion of the deficit proration in the quotas of Puerto Rico and the domestic beet area amounting to 588,726 short tons, raw value, is herein prorated to Western Hemisphere countries listed in section 202(c)(3)(A) of the Act, on the basis of quotas determined herein pursuant to section 202. Total quotas and prorations are shown in column (4).

Production area	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d)[1]	Deficits and deficits prorations	Total quotas and prorations
		(Short tons, raw value)		
Dominican Republic	422,864	141,816	123,253	687,933
Mexico	373,971	125,419	109,002	608,392
Brazil	364,721	122,317	106,306	593,344
Peru	260,987	87,527	76,070	424,584
West Indies	136,109	45,647	39,672	221,428
Ecuador	53,849	18,060	15,696	87,605
Argentina	50,545	16,951	14,733	82,229
Costa Rica	45,590	15,291	13,288	74,169
Colombia	44,929	15,068	13,096	73,093
Panama	42,617	14,292	12,421	69,330
Nicaragua	42,617	14,292	12,421	69,330
Venezuela	40,635	13,628	11,844	66,107
Guatemala	38,983	13,073	11,362	63,418
El Salvador	28,411	9,528	8,281	46,226
British Honduras	22,465	7,535	6,548	36,548
Haiti	20,482	6,869	5,970	33,321
Bahamas	17,839	5,982	5,200	29,021
Honduras	7,929	2,660	2,311	12,900
Paraguay	4,295	1,440	1,252	6,987
Australia	165,842	45,552	----------	211394
Republic of China	69,046	18,964	----------	88,010
India	66,403	18,238	----------	84,641
South Africa	46,912	12,885	----------	59,797
Fiji Islands	36,340	9,981	----------	46,321
Mauritius	24,447	6,715	----------	31,162
Swaziland	24,447	6,715	----------	31,162
Thailand	15,197	4,173	----------	19,370
Malawi	12,223	3,358	----------	15,581
Malagasy Republic	9,911	2,722	----------	12,633
Ireland	5,351	----------	----------	5,351
Total	2,495,957	806,698	588,726	3,891,381

[1] Proration of the quotas withheld from Cuba, Southern Rhodesia, Bolivia, and Uganda.

(d) The importation of raw sugar within the annual quotas from foreign countries will be authorized on the basis of applications on Form SU-3 in accordance with the provisions of Part 817 of this chapter. Applications to import raw sugar from the Republic of the Philippines, before final approval, must be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(e) For the calendar year 1973, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the Act is as follows:

Country:	Short tons, raw value
Ireland	5,351
Panama	3,817

(f) For the calendar year 1973, the quota for liquid sugar for foreign countries as a group is 2 million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) of more than 5 percent of the total soluble solids, which is not to be used as a component of any direct-consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.24 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by §§ 811.21 to 811.23, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to section 211 and 212 of the Act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.25 Restrictions on importation and marketings within quotas.

Subject to the provisions of Parts 816 and 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States, (a) any sugar or liquid sugar from any country for which no quota is established or in excess of or after the applicable quota or quantity set forth in §§ 811.21 to 811.23 inclusive has been filled, or (b) any sugar or liquid sugar as direct-consumption sugar from any country for which no direct-consumption sugar limitation is established or after the direct-consumption portion of the applicable quota has been filled.

Signed at Washington, D.C., on October 3, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17126 Filed 10-3-72;1:01 pm]

Commodity Credit Corporation

[7 CFR Part 1421]

1973 FEED GRAIN SET-ASIDE PROGRAM—1973 CROP FEED GRAIN LOAN AND PURCHASE PROGRAM—RESEAL PROGRAM FOR 1973-74 STORAGE PERIOD

Notice of Proposed Determinations Relative to Set-Aside and Diversion Requirements, Payment and Loan Rates, Commodities Eligible for Reseal and Program Operating Provisions

CROSS REFERENCE: For a document regarding the above matters, see (F.R. Doc. 72-17217), Agricultural Stabilization and Conservation Service, *supra*.

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 390]

CAPITAL CONSTRUCTION FUND

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth below are proposed by the Secretary of Commerce for governing capital construction funds authorized by section 607 of the Merchant Marine Act, 1936, as amended, for the U.S. merchant marine. Although the capital construction fund program is exempt from the requirements of title 5, United States Code, section 553, the Secretary will give consideration to written comments prior to the final adoption of the regulations. Comments should be submitted, preferably in five copies, to the Secretary, Maritime Administration, Washington, D.C. 20235 (attention: CCF regulations), by November 6, 1972.

A sample of the proposed permanent capital construction fund agreement on which the Secretary also invites comments has been made an appendix to these proposed regulations.

Certain portions of the proposed regulations published on December 9, 1971 (36 F.R. 23395), are included in these proposed regulations and § 390.5(b) of the proposed regulations when finally adopted will supersede the provisions of § 390.3 (relating to reporting requirements) which were prescribed in General Order 109, Rev., Amendment 4 (March 24, 1972).

The proposed regulations are issued under the authority contained in sections 204 and 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 114, 1177).

Dated: October 2, 1972.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Administration.

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PART 390—CAPITAL CONSTRUCTION FUND

Sec.
390.1 Scope of the regulations.
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390.13 Nonqualified withdrawals where there has been a failure to fulfill a substantial obligation under the agreement. [Reserved.]
Appendix—Sample capital construction fund agreement.

AUTHORITY: The provisions of this Part 390 issued under sections 204 and 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1177).

§ 390.1 Scope of the regulations.

(a) *In general*—(1) *Scope.* The regulations prescribed in this part govern the capital construction fund program authorized by section 607, Merchant Marine Act, 1936, as amended (46 U.S.C. 1177), except Federal income taxation aspects which are governed by joint regulations.

(2) *Purpose of the fund.* Section 607 of the Act provides that any capital construction fund agreement entered into with the Secretary of Commerce must be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels to be built and documented in the United States and operated in the U.S. foreign, Great Lakes, or noncontiguous domestic trade.

(3) *Benefits of a fund.* The Act provides for the nontaxability of certain deposits of money or other property made into a capital construction fund (fund) established by a capital construction fund agreement (agreement) with respect to ceilings generated in amounts equal to earnings or gains realized from the operation of agreement vessels, gains realized from the sale or other disposition of agreement vessels or proceeds from insurance for indemnification for loss of agreement vessels, earnings from the investment or reinvestment of amounts held in a fund and gains with respect to amounts on deposit in the fund.

(4) *Delegation.* The Secretary of Commerce has delegated the authority to enter into agreements relating to the U.S. merchant marine to the Assistant Secretary of Commerce for Maritime Affairs (Assistant Secretary).

(b) *Act.* For purposes of this part, the term "Act" shall mean the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1249).

(c) *Joint regulations.* For purposes of this part, the term "joint regulations" shall mean the regulations prescribed by the Secretary of Commerce and the Secretary of the Treasury under section 607 of the Act and published in Title 26, Part 3 of the Code of Federal Regulations (reprinted in Part 391 of this chapter).

(d) *Cross references.* For rules relating to the Federal income tax aspects of a fund, see the joint regulations. For rules governing agreements relating to the fisheries of the United States, see the separate Secretary of Commerce regulations prescribed in Title 50 of the Code of Federal Regulations.

§ 390.2 Application for an agreement.

(a) *In general*—(1) *Application form.* The Assistant Secretary has adopted a form for making application for an agreement. Forms may be obtained by writing to the Secretary, Maritime Administration, Washington, D.C. 20235.

(2) *General eligibility requirements.* Section 607 of the Act specifies who may be eligible for a fund and the application form specifies what information is required to establish such eligibility. The following are the general eligibility requirements. An applicant must:

(i) Be a citizen of the United States within the meaning of section 905(c) of the Act;

(ii) Own or be the lessee of one or more eligible U.S.-flag vessels, as defined in section 607(k)(1) of the Act and § 390.6(b), or share thereof, as defined in § 390.6(b);

(iii) Have a program (program) for the acquisition, construction or reconstruction of a qualified U.S.-flag vessel, as defined in section 607(k)(2) of the Act and § 390.8(c), which sections provide that the applicant must agree that the vessels will be operated in the U.S. foreign, Great Lakes or noncontiguous domestic trades as defined in sections 607(k) and 905(a) of the Act and § 390.11; and

(iv) Demonstrate the financial capabilities to accomplish the program.

(b) *Information which may be required in conjunction with the application*—(1) *In general.* The fund is established by an agreement which agreement is a contract between the party (party) and the Assistant Secretary acting on behalf of the United States. Because certain aspects of the agreement are subject to negotiation, an applicant should have readily available such facts, documents, and materials as the Assistant Secretary may require in considering whether to enter into an agreement.

(2) *General items.* An applicant should be ready to make available such applicable materials, including, but not limited to: Construction plans, construction contracts, financial statements, certificates of incorporation, bylaws, articles of partnership, stock ownership data, and other information including outstanding judgments and pending litigation which could affect the proposed program. The specific information required is set forth in the application form.

§ 390.3 Policy considerations.

(a) *In general.* It is the policy of the United States, as set forth in section 101 of the Act, that for the national defense and the development of its foreign and domestic commerce, the United States shall have a merchant marine sufficient to carry its waterborne domestic commerce and a substantial portion of its waterborne export and import foreign commerce; to provide shipping service essential for maintaining the flow of such commerce at all times; capable of serving as auxiliaries in time of war or national emergency; owned and operated by U.S. citizens insofar as practicable; composed of the best equipped, safest, and most suitable vessels, constructed in the United States and manned with U.S. citizens; and supplemented by efficient facilities for shipbuilding and repair.

(b) *Unacceptable programs*—(1) *In general.* The Assistant Secretary will not enter into an agreement where the proposed program is not, in his opinion, in consonance with the policies of the Act.

(2) *Specific programs.* The Assistant Secretary will not enter into an agreement where the proposed program of the applicant is merely to accomplish any or all of the following:

(i) Reconstruction of existing vessels unless such reconstruction will exceed $1 million in cost, will be capitalized under the Internal Revenue Code of 1954, as amended, and the regulations thereunder, and will result in a vessel which is significantly more competitive and will have an extended economic life;

(ii) Acquisition, construction, or reconstruction of cargo handling equipment (as defined in § 390.8(e));

(iii) Acquisition of existing vessels; or

(iv) Payment of the principal on existing indebtedness.

(3) *Waiver of the provisions in this paragraph.* The Assistant Secretary may, for good cause shown, waive the provisions of this paragraph. Thus, for example, the Assistant Secretary may waive the monetary limit in subparagraph (2)(i) of this paragraph where the applicant proposes to reconstruct a small vessel.

§ 390.4 Description of the agreement.

(a) *In general.* The agreement consists of a standard part and appended schedules. The standard part of the agreement contains covenants, warranties, and recitals which apply to all parties. The schedules set forth the particular program of the party and contain other information unique to each agreement. This section describes the schedules. See § 390.5 (relating to administration of the agreement) for procedures and criteria for the modification of schedules.

(b) *Schedule A—Eligible agreement vessels.* Schedule A is composed of the names of eligible agreement vessels, whether owned or leased, and the allowable percentage of the depreciation ceiling, if any, available to the party. See § 390.6 (relating to deposits) for definitions of eligible agreement vessels and allowable depreciation in the case of leased vessels.

(c) *Schedule B—Program*—(1) *In general.* Schedule B sets forth the program of the party including the cost of the program and the time in which the program must be accomplished.

(2) *Specific items in Schedule B.* Schedule B shall contain:

(i) A comprehensive statement of the work to be performed with respect to each qualified agreement vessel (as defined in § 390.8) to be acquired, constructed, or reconstructed;

(ii) The date on which the acquisition, construction, or reconstruction of each qualified agreement vessel will commence;

(iii) The actual or anticipated total cost of such acquisition, construction or, reconstruction including costs which will not be paid from the fund; and

(iv) The amount to be withdrawn from the fund with respect to such acquisition, construction, or reconstruction.

(3) *Vague programs.* A party will not be granted an agreement if the proposed program is vague. A program is vague if, for example, it calls for unspecified new construction at an uncertain date. A party may, however, have a program which provides for reasonable estimates for acquisition, construction, or reconstruction, if estimated dates and costs can be agreed upon. See § 390.2 (relating to information in the application for an agreement) for examples of required information concerning the program.

(4) *Submission of contracts.* When a contract is executed in conjunction with any acquisition, construction, or reconstruction set forth in Schedule B, such contract shall be submitted promptly to the Assistant Secretary who shall then determine whether Schedule B should be amended to conform the program to the executed contracts.

(d) *Schedule C—Depositories.* Schedule C lists, by name and address, the depositories of the fund. See § 390.6 for requirements for depositories.

(e) *Schedule D—Minimum deposits.* Schedule D sets forth the minimum deposits which must be made into the fund. See § 390.6 (relating to deposits) for procedure in setting minimum deposits.

§ 390.5 Administration of the agreement.

(a) *In general.* The Assistant Secretary will administer and enforce the agreement in a manner which will insure that the fund is properly established, that the assets in the fund are used to accomplish the program and that the party fully complies with all obligations and responsibilities. This section specifies the reports which must be submitted to the Assistant Secretary and sets forth the procedures by which the agreement will be administered.

(b) *Reporting requirements*—(1) *In general.* This paragraph describes the reports required to be submitted to the Assistant Secretary by all parties.

(2) *Submission dates.* Reports must be submitted semiannually and annually for each taxable year and must reach the Assistant Secretary not later than 90 days after the close of each reporting period.

(3) *Cumulation.* The annual report submitted following the close of the taxable year shall be cumulative for the entire taxable year.

(4) *Certification.* The semiannual report shall be accompanied by an affidavit of the official responsible for the maintenance and accuracy of the financial records of the party and the annual report shall be accompanied by an affidavit of an independent certified public accountant to the effect that the exhibits and schedules composing the accounting have been prepared in accordance with this section, are true and complete statements and are in accordance with all applicable orders, rules, regulations, and instructions issued or adopted by the Assistant Secretary pertaining thereto.

(5) *Variance.* The party may vary the format of these reports provided that the reports submitted conform as closely as possible to this section and include all of the required information.

(6) *Format.* The reports shall consist of the following exhibits and schedules:

(i) "Exhibit A" shall contain a summation of cash on deposit, securities on deposit (adjusted basis and fair market value), a subtotal of cash and securities on deposit, net amount of accrued deposits and withdrawals and the fund total (adjusted basis and fair market value);

(ii) "Schedule A–1" shall contain a listing of balances in all cash accounts at the end of the period;

(iii) "Schedule A–2" shall contain a listing of the securities in the fund at the end of the period (adjusted basis and fair market value);

(iv) "Schedule A–3" shall list the accrued deposits and withdrawals at the end of the period;

(v) "Exhibit B" shall contain a summary of all transactions occurring in the period by date; and

(vi) "Exhibit C" shall contain total transactions within the fund by three separate accounts: Ordinary income account, capital gains account, and capital account.

(7) *Sample reports.* Sample reports will be provided upon request to the Secretary, Maritime Administration.

(c) *Review in the event of changed circumstances.* Each agreement provides that the party will inform the Assistant Secretary promptly of any change in circumstances which affects the agreement. Such changes may be mere form, such as a change of the party's name, or a substantive change, such as the sale of an eligible agreement vessel. The Assistant Secretary may require a full review of the agreement if the changed circumstance materially affects the agreement.

(d) *Modification of agreement*—(1) *In general.* The agreement is subject to modification and amendment by mutual consent. However, except in special circumstances, the Assistant Secretary will not consent to modification or amendment of the standard part of the agreement unless such modification or amendment is of uniform application to similarly situated parties. The Assistant Secretary will normally agree to the modification or amendment of the schedules subject to the restriction in subparagraph (2) of this paragraph.

(2) *Limitations on modifications of schedules.* The Assistant Secretary will not agree to the modification or amendment of the schedules when, in his opinion, the modification or amendment delays imposition of Federal income tax in a manner not contemplated or authorized by the Act, or the proposed modification would be violative of the Act or the rules and regulations.

(e) *Fund adjustment upon modification.* Upon application by the party for a modification to the program, the Assistant Secretary will determine whether such modification would result in an amount held in the fund in excess of that necessary or appropriate to carry out the program as modified. If there would be an excess in the fund, the Assistant Secretary will require a nonqualified withdrawal (as defined in § 390.9) of such excess as a condition to the modification.

§ 390.6 Deposits.

(a) *In general*—(1) *Source of deposits.* Section 607(b) of the Act provides ceilings against which deposits may be made into a fund. Such ceilings are further defined in the joint regulations. This section defines which eligible vessels may be used for generating such ceilings and provides rules for the qualification of depositories, constructive deposits, certain timing of deposits, the type of property which may be deposited and the volume of deposits.

(2) *Tax aspects of deposits.* For the tax aspects of deposits into a fund, see section 607(d) of the Act and § 3.3 of the joint regulations (§ 391.3 of this chapter).

(b) *Eligible agreement vessels*—(1) *Definition.* An eligible vessel which may be used to generate ceilings for deposit purposes means any vessel:

(i) Constructed in the United States, and if reconstructed, reconstructed in the United States;

(ii) Operated in the foreign or domestic commerce of the United States;

(iii) Documented under the laws of the United States;

(iv) Engaged in the waterborne carriage of men, materials, goods or wares; and

(v) Provided for in the agreement as an "eligible agreement vessel."

(2) *Inclusions in term "vessel".* For purposes of generating ceilings on deposits under section 607(b) of the Act and the joint regulations, and for this paragraph the term "vessel" includes barges or containers which are part of the complement of an eligible agreement vessel, vessels which have been contracted for or are in the process of construction, or any shares in an eligible agreement vessel.

(3) *Complement of an eligible vessel.* The complement of an eligible vessel shall be three times the maximum barge and container capacity of the vessel.

(4) *Shares in eligible vessels.* A party is considered to have a share in an eligible agreement vessel if he has the right to use the vessel to generate income or a right to the proceeds or a portion of the proceeds from its use whether or not the party would be considered as having a proprietary interest in the vessel for purposes of State or Federal law.

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(5) *Certain foreign construction and reconstruction.* For purposes of this part, the term "constructed or reconstructed in the United States" means any vessel which was constructed or reconstructed outside of the United States but documented under the laws of the United States on April 15, 1970, or constructed or reconstructed outside of the United States for use in the U.S. foreign commerce pursuant to a contract entered into before April 15, 1970.

(6) *Tugs and barges included.* For purposes of this section the term eligible agreement vessel includes tugs and barges.

(c) *Foreign or domestic commerce.* Solely for the purpose of this section, the term "foreign or domestic commerce" shall mean the waterborne carriage of men, materials, goods, or wares between any two points, whether or not the two points are in the same or different countries.

(d) *Depositories*—(1) *In general.* Section 607(c) of the Act requires that amounts in a fund shall be kept in the depository or depositories specified in the agreement and be subject to such trustee or other fiduciary requirements as the Assistant Secretary may specify.

(2) *Qualifications.* The Assistant Secretary has established general qualifications for depositories for all programs authorized under the Act, including the capital construction fund program. The general qualifications are set forth in Part 351 of this chapter.

(3) *Fiduciary requirements.* Except in unusual circumstances, the Assistant Secretary will not impose special trustee or other fiduciary requirements upon depositories of a fund. For rules relating to a fund held in trust, see paragraph (k) of this section.

(4) *Type and name of accounts.* Unless otherwise specified in the agreement, the party may select the type or types of accounts in which assets of the fund may be deposited. Thus, for example, the party may select a checking or savings account for cash which is held in the fund. Each account shall be in the name of the party and identified as a capital construction fund account.

(5) *Countervailing balances.* The use of the assets of the fund as a countervailing balance shall constitute a material breach of the agreement.

(e) *Constructive deposits*—(1) *In general.* Constructive deposits into a fund may be made for those portions of taxable years 1970 and 1971 which occur prior to the first date on which the Assistant Secretary executes an interim or permanent capital construction fund agreement for the party. For rules relating to constructive withdrawals from a fund, see § 390.8(i).

(2) *Permission of the Assistant Secretary to make constructive deposits.* Written permission of the Assistant Secretary shall be required prior to making the constructive deposits provided for in this section. Constructive deposits shall be permitted only in the same amount and in conjunction with the constructive withdrawals provided for in § 390.8 (relating to withdrawals).

(f) *Certain timing of deposits*—(1) *In general.* Section 607(d)(2) of the Act provides that nontaxability for deposits shall occur only when deposits are made in accordance with the agreement and not later than the time provided in the joint regulations. For the time provided in the joint regulations, see § 3.3(b)(3) thereof (§ 391.3(b)(3) of this chapter).

(2) *Deposits prior to the time provided in joint regulations.* A party may make deposits for any taxable year prior to the time provided in joint regulations in accordance with the following rules:

(i) Amounts representing taxable income attributable to the operation of agreement vessels (as defined in section 607(b)(1)(A) of the Act and § 3.2(b) of the joint regulations (§ 391.2(b) of this chapter)) may be deposited at any time during such taxable year, based upon the party's estimated Federal taxable income;

(ii) Amounts representing net proceeds from transactions with respect to agreement vessels (as defined in section 607(b)(1)(C) of the Act and § 3.2(c) of the joint regulations (§ 391.2(c) of this chapter)) may be deposited when accrued;

(iii) Amounts representing receipts from the investment or reinvestment of amounts held in a fund (as defined in section 607(b)(1)(D) of the Act and § 3.2(d) of the joint regulations (§ 391.2(d) of this chapter)) may be deposited when accrued; and

(iv) Amounts representing depreciation (as defined in section 607(b)(1)(B) and § 3.2(a)(1)(ii) of the joint regulations (§ 391.2(a)(1)(ii) of this chapter)) may be deposited when accrued.

(3) *Deposits required prior to the time provided in joint regulations.* The Assistant Secretary may require, in the agreement, certain deposits to be made by a specified time which may be earlier than provided for in the joint regulations. Generally, the Assistant Secretary will require early deposits only when necessary for the party to meet its agreed upon obligations.

(g) *Types of property which may be deposited into a fund.* Deposits may be made into a fund in the form of money or intangible property in which the assets of the fund may be invested under the Act, the agreement and these regulations. In the case of deposits of amounts representing net proceeds from transactions with respect to agreement vessels (as defined in section 607(b)(1)(C) of the Act and § 3.2(c) of the joint regulations (§ 391.2(c) of this chapter)) or amounts representing receipts from the investment or reinvestment of amounts held in a fund (as defined in section 607(b)(1)(D) of the Act and § 3.2(d) of the joint regulations (§ 391.2(d) of this chapter)), any intangible property received may be deposited.

(h) *Level of deposits*—(1) *In general.* Section 607(a) of the Act states that the agreement may provide for the deposit in the fund of amounts agreed upon but only to the extent necessary or appropriate to provide for qualified withdrawals to accomplish the program.

(2) *Maximum level of deposits.* The maximum level of deposits the Assistant Secretary shall permit is the amount in the agreement for qualified withdrawals as contemplated by the program. See § 390.4 (relating to a description of the agreement).

(3) *Minimum level of deposits.* Each agreement shall contain an agreed upon minimum deposit schedule. The minimum deposits are not an annual requirement, but shall apply to each 3-year period under the agreement unless different periods are agreed upon. Minimum deposits will be calculated taking into consideration the time frame for the anticipated qualified withdrawals. The purpose of the minimum deposit is to insure that the party has made a sufficient commitment to continue the agreement. See § 390.13 for options of the Assistant Secretary when there has been a failure to carry out a substantial obligation under the agreement.

(4) *Determination of minimum deposits.* The minimum deposit shall be set by the Assistant Secretary. In determining these minimum deposits, the Assistant Secretary shall give consideration to the anticipated ceilings of the party, financial history of the party and future business expectations.

(5) *Waiver of minimum deposit requirement.* The Assistant Secretary will waive a failure to meet the minimum deposit requirement when the party has deposited all allowable taxable income attributable to the operation of agreement vessels, net proceeds from the sale or other disposition of agreement vessels, receipts from the investment or reinvestment of amounts held in the fund and earned depreciation on agreement vessels. In such event, the Assistant Secretary may require modification of the schedules. See § 390.5 (relating to the administration of the agreement).

(6) *Selection of ceilings.* Except as may be otherwise provided in the agreement or these rules and regulations, the party may choose the ceilings with respect to which deposits are made.

(i) *Allocation of depreciation deposits.*—(1) *In general.* Section 607(b)(2) of the Act requires that in the case of a lessee of an eligible agreement vessel, the maximum amount which may be deposited with respect to such vessel, under the depreciation ceiling, shall be reduced by any amount which the owner is required or permitted to deposit with respect to such vessel under the depreciation ceiling.

(2) *Method of allocation.* When a vessel is subject to an agreement by both the lessor and lessee, and the lessor is not required by the Assistant Secretary to make deposits with respect to the depreciation ceiling; the agreements shall fix a percentage of the annual depreciation which each party may deposit. The percentage shall be that agreed upon between the lessor and the lessee unless the Assistant Secretary determines that

the agreed upon percentage will result in an accumulation of assets in the fund or funds which is greater than or less than that necessary or appropriate to carry out the objectives of the fund (see paragraph (h) of this section).

(j) *Sale or other disposition of agreement vessels to related persons*—(1) *In general.* Section 3.2(c)(1)(ii) of the joint regulations (§ 391.2(c)(1)(ii) of this chapter) requires that the net proceeds from the sale or other disposition of agreement vessels shall be the fair market value of the vessel, when the party and the purchaser are owned or controlled directly or indirectly by the same interests within the meaning of section 482 of the Internal Revenue Code of 1954, as amended, and the regulations thereunder. In such case, the party shall furnish evidence, sufficient in the opinion of the Assistant Secretary, to establish such fair market value. The Assistant Secretary will not hypothesize the fair market value of vessels.

(2) *Data to be submitted.* Sufficient data must be submitted to support a determination by the Assistant Secretary of the fair market value including the original cost of the vessel, cost of improvements, the sales price, costs of sale and any other information which would assist in making such determination.

(k) *Funds held in trust.* A fund may be transferred in whole or in part to the control of a trustee with the prior written permission of the Assistant Secretary. The Assistant Secretary will approve such transfer when:

(i) The trustee meets the requirements for a depository under paragraph (d) of this section;

(ii) The trust instrument provides that all investment restrictions will be observed;

(iii) The trust instrument provides that the trustee will give consideration to the party's withdrawal requirements under the agreement when investing the fund; and

(iv) The trustee agrees to be bound by all rules and regulations which have been or will be promulgated which govern the investment or management of the fund.

(l) *Federal ship mortgage insurance.* A fund may serve in lieu of a Restricted Fund required in connection with Federal Ship Mortgage Insurance under title XI of the Act and the regulations thereunder upon approval by the Assistant Secretary. Approval by the Assistant Secretary shall be conditioned upon the execution by the party of an agreement, satisfactory in form and substance to the Assistant Secretary, governing the dual use of the fund. Applications for permission to use the fund in this dual capacity should be made in writing to the Secretary, Maritime Administration.

§ 390.7 Investment of the fund.

(a) *In general.* Section 607(c) of the Act provides that assets in the fund shall be invested in accordance with certain restrictions. The rules in this section provide for restrictions on the type of stock in which a fund may invest, the quality of securities, related company investments, and miscellaneous prohibited activities.

(b) *Permissible investments*—(1) *In general.* The party may, at his discretion, invest in the types of securities specified in this paragraph.

(2) *Interest bearing securities.* Permissible interest bearing securities are:

(i) Obligations of the U.S. Government or State or local governments, including any agency or instrumentality thereof, or of any domestic corporation, which, except for U.S. Government obligations, are rated by Moody's Investors Service, Inc., as "Baa" or better and by Standard & Poor's Corp. as "BBB" or better.

(ii) Bankers acceptances, negotiable certificates of deposit and short-term commercial notes which are readily marketable, and rated in the highest grade by the National Credit Office of Dun & Bradstreet, Inc., and in one of the two highest grades by Standard & Poor's Corp.

(3) *Common and preferred stocks.* Permissible common and preferred stocks are:

(i) Stock of domestic corporations which is fully listed and registered at the time of purchase on an exchange registered with Securities and Exchange Commission as a national securities exchange and which would be acquired by prudent men of discretion and intelligence in such matters who are seeking reasonable income and preservation of their capital.

(ii) Preferred stock of a corporation if the common stock of that corporation meets the requirements of this paragraph but for the fact that it cannot be listed and registered as required because it is nonvoting stock.

(c) *Limitations on investments*—(1) *Securities.* Unless held in trust pursuant to § 390.6(k), a fund shall not have more than 5 percent of its assets invested in the securities of any one issuer.

(2) *Margin or short sale.* No securities shall be purchased on margin or be sold short for the account of a fund.

(3) *Related company investments.* Whether or not held in trust, funds shall not be invested in the securities of a related company within the meaning of section 482 of the Internal Revenue Code of 1954, as amended, and the regulations thereunder.

(4) The value of stock of any one issuer held in the fund shall not exceed 10 percent of the value of the total assets of the fund unless such stock is held in trust pursuant to § 390.6(k). Such values shall be the fair market values as determined by the party on the last day of each semiannual and annual reporting period.

§ 390.8 Qualified withdrawals.

(a) *In general.* In accordance with section 607(f) of the Act, qualified withdrawals are those made from a fund in accordance with the agreement, but only if they are for:

(1) The acquisition, construction, or reconstruction of a qualified agreement vessel (as defined in section 607(k) of the Act and this section);

(ii) The acquisition, construction, or reconstruction of barges or containers which are the complement (as defined in this section) of a qualified agreement vessel; or

(iii) The payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction of a qualified agreement vessel or a barge or container which is part of the complement of a qualified vessel.

(b) *Limitation on qualified withdrawals.* All qualified withdrawals must be for costs which are capitalized under the Internal Revenue Code of 1954, as amended, and the regulations thereunder and so reported on the party's Federal income tax return.

(c) *Qualified agreement vessels*—(1) *Defined.* For purposes of this part, a qualified vessel means any vessel:

(i) Constructed in the United States, and if reconstructed, reconstructed in the United States;

(ii) Documented under the laws of the United States;

(iii) Operated in the U.S. foreign, Great Lakes, or noncontiguous domestic trade (as defined in § 390.11);

(iv) Engaged in the waterborne carriage of men, materials, goods, or wares; and

(v) Listed in the agreement as a qualified agreement vessel.

(2) *Vessels constructed outside of the United States.* The requirements of subparagraph (1)(i) of this paragraph shall be deemed to have been met if a vessel constructed outside of the United States was documented under the laws of the United States on April 15, 1970, or was constructed for use in the U.S. foreign trade (as defined in § 390.11) pursuant to a construction contract entered into prior to April 15, 1970.

(3) *Construction of qualified agreement vessels.* (i) For purposes of this part, the term "construction of a qualified agreement vessel" shall mean the construction of a vessel, with the aid of qualified withdrawals, which vessel is eligible for documentation under the laws of the United States when constructed.

(ii) Qualified withdrawals shall not be made for construction costs until a construction contract is entered into with the constructing facility. For qualified withdrawals for costs incurred before such date, see paragraph (k) of this section (relating to reimbursement of general funds).

(4) *Reconstruction of qualified agreement vessels.* (i) For purposes of this part, once an agreement has been entered into, the term "reconstruction of a qualified agreement vessel" shall mean any improvement to an existing vessel which:

(*a*) Increases, or tends to increase the vessel's physical or economic life;

(*b*) Is capitalized under the Internal Revenue Code of 1954, as amended, and the regulations thereunder, and

(*c*) Involves an aggregate sum in excess of $100,000.

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(ii) Qualified withdrawals shall not be made for reconstruction costs until a reconstruction contract is executed with the reconstructing facility. For withdrawals for costs incurred prior to this date, see paragraph (k) of this section (relating to reimbursement of general funds).

(iii) The Assistant Secretary may waive the monetary limit in this subparagraph in the case of small vessels.

(5) *Acquisition of qualified agreement vessels.* (i) For purposes of this part, the term "acquisition of a qualified agreement vessel" shall mean any transaction in which the tax basis of the vessel in the hands of the transferee is the capitalized cost of the vessel. See § 3.5(a) of the joint regulations (§ 391.5(a) of this chapter).

(ii) Qualified withdrawals for acquisition shall not be made prior to the date on which a contract for the acquisition is executed. For withdrawals for costs incurred prior to this date, see, paragraph (k) of this section (relating to reimbursement of general funds).

(6) *Share in a qualified agreement vessel.* For purposes of this part, a share in a qualified agreement vessel shall mean a proprietary interest in such qualified vessel as, for example, that which may result from a joint venture or partnership. See § 3.5(a)(2) of the joint regulations (§ 391.5(a)(2) of this chapter).

(d) *Barges or containers which are the complement of a qualified vessel*—(1) *In general.* Qualified withdrawals may be made with respect to barges or containers which are the complement of a qualified vessel.

(2) *Complement defined.* The complement of a qualified vessel shall be three times the maximum barge and container capacity of the vessel.

(e) *Cargo handling equipment*—(1) *In general.* In accordance with section 607(k)(7) of the Act, qualified withdrawals may be made to purchase cargo handling equipment which the Assistant Secretary determines will be used primarily on the qualified agreement vessel.

(2) *Acceptable cargo handling equipment.* Any auxiliary equipment which is normally carried from port-to-port on the qualified agreement vessel and used solely in conjunction with the loading or unloading of the vessel shall be deemed to be cargo handling equipment for the purpose of making qualified withdrawals.

(f) *Tugs and barges.* For purposes of this section the term vessel includes an oceangoing towing vessel or an oceangoing barge or comparable towing vessel or barge operated on the Great Lakes.

(g) *Permission to make qualified withdrawals.* Prior approval of the Assistant Secretary is not required for qualified withdrawals except as provided in paragraphs (h) and (i) of this section. However, the Assistant Secretary will give prior approval to qualified withdrawals upon request.

(h) *Qualified withdrawals paid to related persons*—(1) *In general.* Section 3.5(c) of the joint regulations (§ 391.5(c) of this chapter) provides that a withdrawal paid to a related person, within the meaning of section 482 of the Internal Revenue Code of 1954 as amended, and the regulations thereunder, shall not constitute a qualified withdrawal unless the Assistant Secretary is satisfied that no portion of such payment constitutes a dividend, a return of capital, or a contribution to capital under the Internal Revenue Code.

(2) *Basis for the Assistant Secretary's determination.* Payment to a related person will be approved if the cost of the item sought to be acquired through qualified withdrawals is its fair market value.

(3) *Procedure.* The party must obtain the prior written permission of the Assistant Secretary before a qualified withdrawal may be paid to a related person. Any withdrawal prior to approval shall be a nonqualified withdrawal.

(i) *Constructive qualified withdrawals*—(a) *In general.* Constructive qualified withdrawals from a fund may be made for those portions of taxable years 1970 and 1971 which occur prior to the first date on which the Secretary executes an interim or permanent capital construction fund agreement for the party. For rules relating to constructive deposits into a fund, see § 390.6(e).

(2) *Permission of the Assistant Secretary to make constructive qualified withdrawals.* Written permission of the Assistant Secretary shall be required prior to making the constructive withdrawals provided for in this section. Constructive withdrawals shall be permitted only in the same amount and in conjunction with the constructive deposits provided for in § 390.6 (relating to deposits).

(j) *Payment of principal on indebtedness.*—(1) *In general.* Section 607(f)(1)(C) of the Act and section 3.5(b) of the joint regulations (§ 391.5(b) of this chapter) require that any indebtedness which the party proposes to pay through qualified withdrawals must be shown to the satisfaction of the Assistant Secretary to have been incurred in connection with the acquisition, construction, or reconstruction (as defined in paragraph (c) of this section) of a qualified agreement vessel.

(2) *Evidence of direct connection.* The fact that an indebtedness is secured by an interest in a qualified vessel, barge, or container is insufficient by itself to demonstrate the necessary direct connection. Evidence of the direct connection exists when the indebtedness is incurred to finance the acquisition, construction, or reconstruction of a qualified agreement vessel. Payments of principal on the securing the indebtedness be on the vessel, nor is it necessary that the incurring of the indebtedness be prior to or simultaneous with the acquisition, construction, or reconstruction. For example, a party may mortgage an office building in order to finance the construction of a vessel. Payments of principal on the mortgage may be made with qualified withdrawals.

(3) *Prepayment of indebtedness.* The party shall not prepay principal on indebtedness without the prior written consent of the Assistant Secretary.

(k) *Reimbursement of general funds.* Qualified withdrawals may not be made until construction, reconstruction, or acquisition contracts are executed. A party may, however, reimburse general funds with qualified withdrawals for expenditures which occur prior to the date on which qualified withdrawals may be made. All reimbursements must be made within 30 days from the date qualified withdrawals may be made.

§ 390.9 Nonqualified withdrawals.

(a) *In general*—(1) *Defined.* Any withdrawal from a fund which is not a qualified withdrawal is a nonqualified withdrawal.

(2) *Tax aspects of a nonqualified withdrawal.* For the tax aspects of a nonqualified withdrawal, see section 607(h) of the Act and § 3.7 of the joint regulations (§ 391.7 of this chapter).

(b) *Permission required*—(1) *In general.* The prior written permission of the Assistant Secretary is required before a nonqualified withdrawal may be made.

(2) *Failure to secure permission.* A nonqualified withdrawal made without the prior written permission of the Assistant Secretary shall constitute a material breach of the agreement unless the Assistant Secretary shall determine that failure to obtain prior written consent was excusable. See § 390.13 (relating to failure to fulfill a substantial obligation under the agreement).

(3) *Types of nonqualified withdrawals permitted.* The Assistant Secretary will normally give permission to make nonqualified withdrawals when:

(i) The party has incurred operating losses from the operations of agreement vessels which have impaired his working capital and it becomes necessary to reimburse his general funds to the extent of such losses; and

(ii) The party desires to make an expenditure for research, development, and design and such expenditure is incident to new and advanced ship design, machinery, and equipment.

§ 390.10 Sale or other disposition of agreement vessels.

(a) *Sale or other disposition of eligible agreement vessels.* The sale or other disposition (including mortgages) of eligible vessels shall not require prior permission of the Assistant Secretary, but shall require prior notification. Such notification shall include a description of the transaction, the identity of the transferee, the proceeds to be realized, the expected date of the transaction and whether the proceeds will be deposited into the fund.

(b) *Sale or other disposition of qualified vessels*—(1) *In general.* Section 3.6(e) of the joint regulations (§ 391.6(e) of this chapter) provides that if a qualified vessel whose basis has been reduced through the application of qualified withdrawals is disposed of within 1 year, interest on the amount of gain attributable to the basis reduction shall not attach unless the Assistant Secretary determines that the disposition was contrary to the purposes of the Act, the joint regulations, and these regulations.

(2) *Period of 1 year defined.* The 1-year period provided in § 3.6(e) of the joint regulations (§ 391.6(e) of this chapter) shall mean 365 days from:

(i) In the case of construction or reconstruction, the date the vessel is finally delivered from the shipyard, or

(ii) In all other cases, the date title vests in the party.

(3) *Prior approval.* The party shall obtain the written approval of the Assistant Secretary prior to the sale or other disposition of a qualified agreement vessel.

§ 390.11 Geographical trading restrictions on qualified agreement vessels.

(a) *In general.* Section 607 of the Act requires that any vessel constructed, reconstructed, or acquired with the use of qualified withdrawals be restricted to certain geographic trades. The rules in this section define those trades, provide for the duration of the restrictions, and specify the consequences of operating in the prohibited trades.

(b) *Permissible trades.* The following are the permissible geographical trades:

(1) *Foreign trade.* For purposes of this part, foreign trade shall mean the carriage of men, materials, goods, or wares between:

(i) A port in the United States and a port in a foreign country;

(ii) Trade permitted by section 506 of the Act (relating to certain domestic activity in conjunction with voyages in the foreign trade);

(iii) Incidental trade between ports in foreign countries; and

(iv) In case of bulk cargo vessels, trade between foreign ports as allowed under section 905(a) of the Act.

(2) *Great Lakes trade.* Great Lakes trade shall mean the carriage of men, materials, goods, or wares on the Great Lakes and their connecting and tributary waterways in the immediate environs of the Great Lakes.

(3) *Noncontiguous domestic trade.* Noncontiguous domestic trade shall mean the carriage of men, materials, goods, or wares between:

(i) The contiguous 48 States and Alaska, Hawaii, Puerto Rico, and the insular territories and possessions of the United States;

(ii) Alaska, Hawaii, and Puerto Rico and the insular territories and possessions; and

(iii) Trade between the islands of Hawaii.

(c) *Liquidated damages*—(1) *In general.* Each agreement entered into under section 607 of the Act shall contain a liquidated damages provision which will attempt to restore the party to its prefund position for each day in which a qualified agreement vessel is operated in prohibited trades. The liquidated damages provision requires that the party repay the time value of the deferral of Federal income tax which the party has received.

(2) *Calculation of liquidated damages.* The liquidated damages specified in this paragraph shall be calculated as follows:

(i) Add the sum of qualified withdrawals in the vessel to the date of breach and any unpaid principal which the agreement provides may be paid from the fund;

(ii) Multiply the total derived in subdivision (i) of this subparagraph by an assumed effective Federal income tax rate of 30 percent;

(iii) Compound the product derived in subdivision (ii) of this subparagraph at 8 percent annually for 20 years in the case where the vessel which breached the trading restrictions was constructed with qualified withdrawals, or for 10 years in all other cases;

(iv) Subtract the amount calculated in subdivision (iii) of this subparagraph from the product derived in subdivision (ii) of this subparagraph;

(v) Divide the result derived in subdivision (iv) of this subparagraph by 2; and

(vi) Divide the result derived in subdivision (v) of this subparagraph by 7,300 (days) if the vessel breaching the trading restrictions was constructed with qualified withdrawals or 3,650 (days) in all other cases.

(3) *Formula.* The calculation of the daily rate of liquidated damages may be reduced to the following formulae:

$$X=\frac{I(QT)-S}{2D}$$

Where:

X = Daily rate in dollars.

Q = Total qualified withdrawals permitted from fund.

T = Assumed effective tax rate of 30 percent.

S = Tax savings = $(Q)(T)$.

I = Interest rate for construction = 4.660957 or for acquisition or reconstruction = 2.158925 (value of $1 compounded at 8 percent for 20 or 10 years respectively).

D = 7,300 days for construction.
3,650 days for acquisition or reconstruction.

The formula may be further reduced to:

$$X=\frac{0.5491436Q}{7300}$$ for construction.

$$X=\frac{0.1738388Q}{36500}$$ for acquisition or reconstruction.

(4) *Example.* The provisions of subparagraphs (2) and (3) of this paragraph may be illustrated by the following example:

Assume that a vessel has been constructed with qualified withdrawals from a fund. The total cost was $20 million of which $6 million was withdrawn from the fund for a downpayment. Pursuant to the agreement, an additional $4 million may be withdrawn from the fund to pay principal on indebtedness. Thus, $10 million has been or may be withdrawn from the fund with respect to this vessel. The daily rate of liquidated damages would be:

$$X=\frac{0.5491436\ (10{,}000{,}000)}{7300}\ \text{or}\ X=\$752.25$$

(5) *Payment of liquidated damages.* The amount derived in subparagraph (2) of this paragraph shall be the daily rate of liquidated damages and shall be paid to the Assistant Secretary, for deposit in the Treasury of the United States, within 30 days from each event of breach.

(6) *Other remedies.* Nothing in this paragraph shall diminish the Assistant Secretary's other remedies for breach under the Act, the rules and regulations or the agreement.

(d) *Duration of restrictions.*—(1) *In general.* The geographical trading restrictions in the Act and this section and the liquidated damages provision shall apply for:

(i) Twenty years from the date of final delivery on vessels constructed with the aid of qualified withdrawals;

(ii) Ten years from the date of delivery of vessels reconstructed with the aid of qualified withdrawals; and

(iii) Ten years from the date of acquisition of vessels acquired with the aid of qualified withdrawals.

(2) *Transfer of vessel.* In the event a qualified agreement vessel is sold or transferred to another person, the transferer and the transferee shall agree with the Assistant Secretary to comply with the geographical trading restrictions and to pay liquidated damages for any breach of such agreement.

§ 390.12 Transfer of funds.

(a) *In general.* Section 3.8 of the joint regulations (§ 391.8 of this chapter) provides that upon approval by the Assistant Secretary, certain transfers of funds will not be treated as a nonqualified withdrawal. This section provides the rules for the Assistant Secretary's approval.

(b) *Certain transfers to corporations and partnerships.* Transfers to corporations or partnerships of the types described in § 3.8(b) of the joint regulations (§ 391.8(b) of this chapter) will be approved by the Assistant Secretary provided the transferee meets all requirements for the establishment of a fund, the transferee agrees to be liable for any breaches of the agreement which occured prior to the transfer, and the fund, the agreement and all vessels included in the agreement are transferred in one transaction.

(c) *Transfers upon death.* Section 3.8(c) of the joint regulations (§ 391.8(c) of this chapter) provides that if a party who is an individual dies, the transfer of property held in a fund to an executor, administrator, or to any other person by reason of his death will be treated as if it did not constitute a nonqualified withdrawal, *Provided,* That such executor, administrator, or other person receives written approval for his maintenance of the fund from the Assistant Secretary. If, upon termination of an estate which maintained a fund provided for in the preceding sentence, the property held in a fund passes to another person, such transfer will be treated as

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if it did not constitute a nonqualified withdrawal provided such person receives written approval for his maintenance of the fund from the Assistant Secretary.

§ 390.13 Nonqualified withdrawals where there has been a failure to fulfill a substantial obligation under the agreement. [Reserved]

APPENDIX—SAMPLE CAPITAL CONSTRUCTION FUND AGREEMENT

Capital Construction Fund Agreement (this Agreement), made on the date hereinafter set forth, by and between the United States of America, represented by the Assistant Secretary of Commerce for Maritime Affairs (the Assistant Secretary) and XYZ Corp. (the Party), a citizen of the United States of America:

Whereas the Assistant Secretary and the Party wish to enter into this Agreement to establish a Capital Construction Fund (the Fund);

The Party is the owner or lessee of one or more eligible vessels as defined in section 607(k) of the Merchant Marine Act, 1936, as amended (the Act), and which are listed in Schedule A to this Agreement;

The Party has a program to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the U.S. foreign, Great Lakes, or noncontiguous domestic trade which program is further described in Schedule B to this Agreement;

The Assistant Secretary desires to extend certain Federal income tax benefits to the Party to assist in achieving his program;

The Assistant Secretary has determined that the Party qualifies for this Agreement under the Act;

The Assistant Secretary authorizes the award of this Agreement, subject to the Act, as amended from time to time, and such rules and regulations, as amended from time to time, as the Secretary of Commerce or his delegate shall prescribe whether alone or jointly with the Secretary of the Treasury as necessary to carry out the powers, duties, and functions vested in them by the Act (rules and regulations);

Now, therefore, in consideration of the premises and covenants hereinafter contained, the Assistant Secretary and the Party agree as follows:

1. *Purpose of this Agreement.* The purpose of this Agreement is to establish a Fund to provide for qualified withdrawals, as defined in the Act and the rules and regulations, for achieving the program set forth in Schedule B to this Agreement.

2. *Establishment of the Fund.* The Fund is established in the depositories listed in Schedule C to this Agreement.

3. *Term of Agreement.* This Agreement shall be effective on the date of execution by the Assistant Secretary and shall continue until terminated under Article 4.

4. *Termination of Agreement.* (A) This Agreement may be terminated at any time under any of the following circumstances:

(1) Upon written mutual consent of the parties.

(2) Upon written notice to the Assistant Secretary by the Party, if, after this Agreement takes effect, a change is made in the rules and regulations which would have a substantial effect on the rights or obligations of the Party.

(B) This Agreement shall automatically terminate upon completion of the program set forth in Schedule B to this Agreement.

5. *Deposits to be made into the Fund.* (A) Subject to the restrictions in the Act, the rules and regulations, and this Agreement and as defined in the Act and the rules and regulations, the Party may deposit for each taxable year to which this Agreement applies amounts representing:

(1) Taxable income attributable to the operation of the vessels listed in Schedule A to this Agreement;

(2) The depreciation allowable under the Internal Revenue Code of 1954, as amended, on the vessels listed in Schedule A to this Agreement;

(3) The net proceeds from the sale or other disposition of the vessels listed in Schedule A to this Agreement;

(4) The net proceeds from insurance or indemnity attributable to the vessels listed in Schedule A to this Agreement; and

(5) The receipts from the investment or reinvestment of amounts held in the Fund.

(B) The Party agrees to deposit for each taxable year to which this Agreement applies:

(1) All receipts from the investment or reinvestment of amounts held in the Fund; and

(2) The net proceeds from the mortgage of any vessel listed in Schedule B to this Agreement.

(C) The Party agrees to make minimum deposits at the time and in the amount set forth in Schedule D to this agreement. If necessary to fulfill this obligation, the Party further agrees to deposit 100 percent of allowable taxable income attributable to the operation of agreement vessels.

(D) In the event that any vessel listed in Schedule A to this Agreement is included in another Capital Construction Fund Agreement, the maximum amount of depreciation which the Party may deposit in respect to that vessel under section (A)(2) this Article shall be the amount calculated by using the allowable percentage of the depreciation ceiling listed for that vessel in Schedule A to this Agreement.

6. *Withdrawals from the Fund.* The Party agrees to make all withdrawals from the Fund in accordance with the Act and the rules and regulations.

7. *Investment of the Fund.* (A) The Party agrees to invest assets held in the Fund in accordance with the Act and the rules and regulations.

(B) The Party agrees that when investing assets held in the Fund to makes such investments so as to insure that sufficient cash is available at the time qualified withdrawals are required in accordance with the program described in Schedule B to this Agreement.

(C) The Party agrees to invest not more than 60 percent of the fair market value of the Fund in the stock permitted by the rules and regulations. The Party further agrees that if at any time the fair market value of the stock in the Fund is more than 60 percent of the fair market value of the Fund, the Party will make subsequent investments and withdrawals in a manner which tends to restore the Fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

8. *Pledges, assignments and transfers.* (A) The Party agrees not to assign, pledge, or otherwise encumber, either directly or indirectly or through any reorganization, merger, consolidation, or compensating balance, all or any part of this Agreement, the Fund or any assets in the Fund without the prior written consent of the Assistant Secretary. The Party further agrees not to sell, transfer or otherwise dispose of the vessels described in Schedule B to this Agreement without the prior written consent of the Assistant Secretary.

(B) The Party may transfer the assets of the Fund, in whole or in part, to a trustee as provided in the rules and regulations.

9. *Records and reports.* (A) The Party agrees that it and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by the Party shall keep its books, records, and accounts relating to the property and to the maintenance, operations, servicing of the vessel(s) and service(s) covered by this Agreement in such form as may be prescribed by the Assistant Secretary under the rules and regulations.

(B) The Assistant Secretary agrees not to require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission or the Secretary of the Treasury.

(C) The Party agrees to file, upon notice from the Assistant Secretary, balance sheets, profit and loss statements, and such other statements of financial operations, special reports, memoranda of facts and transactions, as in the opinion of the Assistant Secretary affect the financial results in the performance of, or transactions or operations under, this Agreement.

(D) The Assistant Secretary reserves the right to require by regulation that all or any of such statements, reports, and memoranda shall be certified by independent certified public accountants acceptable to the Assistant Secretary.

(E) The Party agrees from time to time to establish and maintain such checks upon or systems of control of expenditures or revenues in connection with the operation of the agreement vessel(s) as the Assistant Secretary may require.

(F) The Party agrees to submit promptly to the Assistant Secretary any contract executed in conjunction with the program described in Schedule B to this Agreement.

(G) The Assistant Secretary is hereby authorized to examine and audit the books, records, and accounts of all persons referred to in this article whenever he may deem it necessary or desirable.

10. *Modification and amendment.* This Agreement may be modified or amended by mutual written consent.

11. *Incorporation of schedules.* The schedules which are appended to this Agreement form an integral part of this Agreement.

12. *Liquidated Damages.* (A) In the event that the Party operates the qualified agreement vessels, which are described in Schedule B to this Agreement, and which were constructed, reconstructed, or acquired in whole or in part with the aid of qualified withdrawals, in geographical trades other than those permitted by section 607 of the Act, this Agreement and the rules and regulations, the United States will suffer damage due to the improper deferral of Federal income tax. At the time this Agreement is made, actual damages arising from any such breach of geographical trading restrictions are, by their nature, uncertain and so depend on extrinsic considerations and circumstances as to be incapable of ascertainment with any reasonable degree of exactness. The Party, therefore, agrees to pay to the United States liquidated damages for each day of such impermissible geographic trading:

(1) For each vessel constructed with the aid of qualified withdrawals the daily rate shall be $0.07523 for each $1,000 which has been or may be withdrawn from the Fund pursuant to Schedule B to this Agreement;

(2) For each vessel reconstructed or acquired with the aid of qualified withdrawals the daily rate shall be $0.04763 for each $1,000 which has been or may be withdrawn from the Fund pursuant to Schedule B to this Agreement.

(B) The Party agrees to pay the daily rate of liquidated damages to the Assistant Secretary, for deposit in the Treasury of the United States, within 30 days from each event of breach.

(C) Nothing in this Article shall in any way be construed to diminish or waive any of the Assistant Secretary's other remedies for breach under the Act, this Agreement or the rules and regulations.

(D) Notwithstanding Article 4 of this Agreement, the provisions of this Article shall continue for 20 years in the case of vessels constructed with the aid of qualified withdrawals and 10 years in all other cases.

13. *Default in obligations.* (A) If the Assistant Secretary determines that any substantial obligation under this Agreement is not being fulfilled by the Party, he may under the rules and regulations and after the Party has been given notice and an opportunity to be heard, declare a breach and treat the entire Fund, or any portion thereof, as an amount withdrawn in a nonqualified withdrawal.

(B) The Assistant Secretary may provide an opportunity for the Party to cure a breach declared under section A of this article.

(C) Events of breach by the Party shall include, but shall not be limited to:

(1) Failure in any respect to use due diligence in performing the program set forth in Schedule B to this Agreement;

(2) Failure to make the deposits required in Schedule D to this Agreement;

(3) Any material misrepresentation made by the Party or any failure by the Party to disclose material information, in connection with this Agreement whether before or after execution hereof and whether made in an application, report, affidavit, or otherwise; or

(4) Failure by the Party to comply with any provisions of section 607 of the Act, the rules and regulations or this Agreement.

14. *Warranties and representations by the Party.* The Party hereby further warrants and represents as follows:

(A) The Party is a citizen of the United States within the meaning of subsection 905(c) of the Act and will continue to be so for the term of this Agreement.

(B) The Party owns or is the lessee of one or more eligible vessels within the meaning of subsection 607(k) of the Act, and as listed in Schedule A to this Agreement, and will continue to be the owner or lessee of one or more such vessels for the term of this Agreement.

(C) The qualified vessels described in Schedule B of this Agreement:

(1) Were or will be constructed or reconstructed in the United States, except as provided in subsection 607(k) of the Act;

(2) Are or will be documented under the laws of the United States and will continue to be so documented; and

(3) Will be operated in the foreign, Great Lakes, or noncontiguous domestic trade of the United States within the meaning of the Act.

(D) The Party will meet its deposit obligations as agreed upon in Article 5 of this Agreement.

(E) The Party will not pledge, assign, transfer, or otherwise encumber this Agreement, the Fund or any assets in the Fund without the prior written consent of the Assistant Secretary.

(F) The Party will promptly inform the Assistant Secretary, in writing, of any change in circumstances which would tend to adversely affect the ability of the Party to carry out its obligations under this Agreement.

(G) The Party will faithfully conform to all rules and regulations governing this Agreement and the Fund.

15. *Extension of Federal income tax benefits.* The Assistant Secretary agrees that the Federal income tax benefits provided in the Act and the rules and regulations shall be available to the Party during the term of this Agreement if the Party shall carry out its obligations hereunder.

In witness whereof, the Assistant Secretary and the Party have executed this Agreement, in duplicate, effective as of the date of execution by the Assistant Secretary.

UNITED STATES OF AMERICA,
Assistant Secretary of Commerce for Maritime Affairs.

By: _____
Date: _____
By: _____
Title: _____

SAMPLE

SCHEDULE A TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT WITH XYZ CORP.
Eligible Agreement Vessels

Name	Date of current documentation under laws of the U.S.	Owned or leased	If leased, allowable percentage of the depreciation ceiling
SS Neversail	1920	Owned	
SS A. Bunker	1926	Leased from MNO, Inc.	100
SS Traull	1919	Owned	
SS Brenmer	1970	do	
SS Sailor	1970	do	
SS Clipper	1971	do	
SS Loader	1971	do	
SS Market	Contracted for on Mar. 19, 1970.	do	
SS Leader	Contracted for on Mar. 19, 1970.	do	
MV R. P. F.	1963	Leased to MNO, Inc.	25
Barge "Okam"	1963	Owned	
Barge "Aram"	1963	do	
Barge "Iram"	1963	Leased to MNO, Inc.	100
100 containers Nos. 111032-A-10677B-1M through 111032-A-10777B-1M.		Leased from RST, Inc.	100
800 containers Nos. 312A through 1112A		Owned	
273 lash barges Nos. PM2 CAG-1221 through PM2-CAG-1494.		do	

SAMPLE

SCHEDULE B TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT WITH XYZ CORP.

Program

1. A. Name or other identification of qualified agreement vessel: SS *Traull.*

B. Objectives: To convert the *Traull* from coal burning to oil-fired propulsion, install a 60-foot midbody and install self-unloading cargo handling equipment pursuant to contract with Salem Shipyards dated October 19, 1972 (Contract No. 3-2A-1067).

C. Date construction or reconstruction will commence or acquisition will occur: October 20, 1972.

D. Total cost of acquisition, construction, or reconstruction: $2,354,000.

E. Total amount to be withdrawn from the fund: $2,354,000.

2. A. Name or other identification of qualified Agreement vessel: Unnamed.

B. Objectives: To construct a 100,000 cubic meter liquified natural gas carrier using the MarAd A-3 membrane system for use in the U.S. foreign commerce. The Party will make a downpayment from the fund of 25 percent upon signing the construction contract. Balance to be financed through Title XI insured loan for 20 years. Estimated yearly principal payments to be made from the fund are $3.75 million.

C. Date construction or reconstruction will commence or acquisition will occur: Last quarter 1979.

D. Total cost of acquisition, construction, or reconstruction: $100 million.

E. Total amount to be withdrawn from the fund: $100 million.

SAMPLE

SCHEDULE C TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT WITH XYZ CORP.

Depositories

Name	*Address*
1. National bank	1402 Park Avenue, New York, NY.
2. State bank	201 Powell Street, San Francisco, CA.
3. Local bank	12 Main Street, Toledo, OH.

SAMPLE

SCHEDULE D TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT WITH XYZ CORP.

Minimum Deposits

Taxable years:	*Minimum deposit*
1972–1974	$7,500,000
1975–1977	10,000,000
1978–1980	10,250,000
1981–1983	10,250,000
1984–1986	10,250,000
1987–1989	10,250,000
1990–1992	10,250,000
1993–1995	10,250,000
1996–1998	10,250,000
1999	3,000,000

[FR Doc.72-17094 Filed 10-6-72;8:45 am]

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 141, 141c, 146c, 149q, 150d]

ROLITETRACYCLINE MONOGRAPHS

Recodification and Technical Revisions

The Commissioner of Food and Drugs proposes that 21 CFR Parts 141, 141c, 146c, and 149q be amended as they apply to rolitetracycline and that a new Part 150d be added to Title 21. Part 150d would include all monographs in Parts 141c, 146c, and 149q which currently provide for the certification of rolitetracycline. These proposed amendments include technical revisions as well as recodification.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Parts 141, 141c, 146c, and 149q be amended and a new Part 150d be added as follows:

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

§ 141.111 [Amended]

1. In Part 141 in the table in § 141.111 (a) by revising the entry in the "Final concentrations—units or micrograms of antibiotic activity per milliliter" column for rolitetracycline to read "0.160, 0.200, 0.250, 0.312, 0.390 μg."

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS: TESTS AND METHODS OF ASSAY

§§ 141c.248, 141c.249, and 141c.250 [Revoked]

2. In Part 141c by revoking §§ 141c.248, 141c.249, and 141c.250.

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

§§ 146c.248, 146c.249, and 146c.250 [Revoked]

3. In Part 146c by revoking §§ 146c.248, 146c.249, and 146c.250.

PART 149q—ROLITETRACYCLINE

§§ 149q.1a, 149q.4, and 149q.5 [Revoked]

4. In Part 149q by revoking §§ 149q.1a, 149q.4, and 149q.5.

PART 150d—ROLITETRACYCLINE

5. By adding a new Part 150d consisting at this time of six sections, as follows:

Sec.
150d.1 Sterile rolitetracycline.
150d.2 Sterile rolitetracycline nitrate.
150d.3–150d.10 [Reserved]
150d.11 Rolitetracycline for intravenous use.
150d.12 Rolitetracycline for intramuscular use.
150d.13 Rolitetracycline nitrate for intravenous use.
150d.14 Rolitetracycline nitrate for intramuscular use.

AUTHORITY: The provisions of this Part 150d issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 150d.1 Sterile rolitetracycline.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Sterile rolitetracycline is *N*-(1-pyrrolidinylmethyl) tetracycline. It is so purified and dried that:

(i) Its potency is not less than 900 micrograms per milligram on the anhydrous basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine nor histamine-like substances.

(vi) Its moisture content is not more than 3.0 percent.

(vii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 7 and not more than 9, and such solution is substantially clear.

(viii) It is crystalline.

(ix) When calculated on an anhydrous basis, its absorptivity at 380 nanometers is 100±4.4 percent of that of the rolitetracycline standard similarly treated.

(x) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, moisture, pH, crystallinity, absorptivity, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient methyl alcohol to give a solution containing 1 milligram of rolitetracycline per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.25 microgram of rolitetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e) (1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(b) of this subchapter, using a solution containing 5.0 milligrams of rolitetracycline per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this subchapter.

(6) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(7) *pH.* Proceed as directed in § 141.503 of this subchapter, using an aqueous solution containing 10 milligrams per milliliter.

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this subchapter.

(9) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve an accurately weighed portion of approximately 40 milligrams each of the sample and standard in approximately 150 milliliters of distilled water and mix thoroughly. Dilute each to exactly 250 milliliters with distilled water and mix thoroughly. Transfer a 10.0-milliliter aliquot of each of these solutions to separate 100-milliliter volumetric flasks. Add approximately 75 milliliters of distilled water and 5.0 milliliters of 5*N* NaOH to each flask, and then dilute to volume with water and mix thoroughly. Exactly 6 minutes after the addition of the NaOH, determine the absorbance of each solution at 380 nanometers, using a suitable spectrophotometer and distilled water as the blank. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram} \times 10}{\text{Absorbance of standard} \times \text{weight of sample in milligrams} \times (100-m)}$$

where: m = percent moisture in the sample.

(10) *Identity.* Place approximately 100 milligrams of the sample to be tested in a test tube, and 5 milliliters of 1*N* NaOH, and heat gently to boiling for about 15 seconds. (The musty, amine-like odor of pyrrolidine is detectable.) Allow to cool to room temperature. A deep burgundy-red color of the clear solution indicates the presence of rolitetracycline.

§ 150d.2 Sterile rolitetracycline nitrate.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Sterile rolitetracycline nitrate is the nitrate salt of *N*-(pyrrolidinomethyl) tetracycline. It is so purified and dried that:

(i) It contains not less than 765 micrograms of rolitetracycline per milligram on an "as is" basis.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine nor histamine-like substances.

(vi) Its moisture content is not more than 5.0 percent.

(vii) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 3.5 and not more than 5.5.

(viii) It is crystalline.

(ix) When calculated on an anhydrous basis, its absorptivity at 380 nanometers is 89.2±4.0 percent of that of the rolitetracycline standard similarly treated and corrected for potency.

(x) It gives a positive result to the identity tests for rolitetracycline nitrate.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, moisture, pH, crystallinity, absorptivity, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.111 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient methyl alcohol to give a solution containing 1 milligram of rolitetracycline per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.25 microgram of rolitetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e) (1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(b) of this subchapter, using a solution containing 5.0 milligrams of rolitetracycline per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this subchapter.

(6) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(7) *pH.* Proceed as directed in § 141.503 of this subchapter, using an aqueous solution containing 10 milligrams per milliliter.

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this subchapter.

(9) *Absorptivity.* Determine the absorbance of the sample and standard solutions in the following manner: Dissolve an accurately weighed portion of approximately 40 milligrams each of the sample and standard in approximately 150 milliliters of distilled water and mix thoroughly. Dilute each to exactly 250 milliliters with distilled water and mix thoroughly. Transfer a 10.0-milliliter aliquot of each of these solutions to representative 100-milliliter volumetric flasks. Add about 75 milliliters of distilled water and 5.0 milliliters of 5*N* NaOH to each and then dilute to volume with water and mix thoroughly. Exactly 6 minutes after the addition of the NaOH, determine the absorbance of each solution at 380 nanometers, using a suitable spectrophotometer and distilled water as the blank. Determine the percent absorptivity of the sample relative to the absorptivity of the standard using the following calculations:

$$\text{Percent relative absorptivity} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{potency of standard in micrograms per milligram} \times 10}{\text{Absorbance of standard} \times \text{weight of sample in milligrams} \times (100-m)}$$

where: m = percent moisture in the sample.

(10) *Identity* — (i) *Rolitetracycline.* Place approximately 100 milligrams of the sample to be tested in a test tube, add 5 milliliters in 1*N* NaOH, and heat gently to boiling for about 15 seconds. (The musty, amine-like ador of pyrrolidine is detectable.) Allow to cool to room temperature. A deep burgundy-red color of the clear solution indicates the presence of rolitetracycline.

(ii) *Nitrate identity.* Transfer approximately 1 gram of sample to a 250-milliliter beaker, add 100 milliliters of water, and acidify with 1 milliliter of acetic acid. Heat to boiling and, with constant stirring, add 10 milliliters of a 10-percent solution of nitron (1,4-diphenyl-3,5-endo - anilino - 4,5 - dihydro - 1,2,4 - triazole) $C_{20}H_{16}N_4$[1] in 1*N* acetic acid. Allow to cool. A heavy precipitate indicates the presence of nitrate.

[1] Nitron is available from J. T. Baker Labortory Chemicals, North Phillipsburg, N.J.

§§ 150d.3–150d.10 [Reserved]

§ 150d.11 Rolitetracycline for intravenous use.

(a) *Requirements for certification—(1) Standard of identity, strength, quality, and purity.* Rolitetracycline for intravenous use is a dry mixture of rolitetracycline and one or more suitable buffer substances. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of rolitetracycline that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine nor histamine-like substances. Its loss on drying is not more than 5 percent. When reconstituted as directed in the labeling, its pH is not less than 3.0 and not more than 4.5. The rolitetracycline used conforms to the standards prescribed by § 150d.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The rolitetracycline used in making the batch for potency, moisture, pH, crystallinity, absorptivity, and identity.

(*b*) The batch for potency, sterility, pyrogens, safety, histamine, loss on drying, and pH.

(ii) Samples required:

(*a*) The rolitetracycline used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—(1) Potency.* Proceed as directed in § 141.111 of this subchapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Add sufficient methyl alcohol to give a solution containing 1 milligram of rolitetracycline per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.25 microgram of rolitetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e) (1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(b) of this subchapter, using a solution containing 5.0 milligrams of rolitetracycline per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(5) *Histamine.* Proceed as directed in § 141.7 of this subchapter.

(6) *Loss on drying.* Proceed as directed in § 141.501(b) of this subchapter.

(7) *pH.* Proceed as directed in § 141.503 of this subchapter, using a solution prepared as directed in the labeling.

§ 150d.12 Rolitetracycline for intramuscular use.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Rolitetracycline for intramuscular use is a dry mixture of rolitetracycline and one or more suitable buffer substances and anesthetic agents. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams

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of rolitetracycline that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 5 percent. When reconstituted as directed in the labeling, its pH is not less than 3.0 and not more than 4.5. The rolitetracycline used conforms to the standards prescribed by § 150d.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The rolitetracycline used in making the batch for potency, safety, histamine, moisture, pH, crystallinity, absorptivity, and identity.

(*b*) The batch for potency, sterility, pyrogens, loss on drying, and pH.

(ii) Samples required:

(*a*) The rolitetracycline used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.111 of this subchapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation; remove portion from each container. Add sufficient methyl alcohol to give a solution containing 1 milligram of rolitetracycline per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.25 microgram of rolitetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(b) of this subchapter, using a solution containing 5.0 milligrams of rolitetracycline per milliliter.

(4) *Loss on drying.* Proceed as directed in § 141.501(b) of this subchapter.

(5) *pH.* Proceed as directed in § 141.503 of this subchapter, using a solution prepared as directed in the labeling.

§ 150d.13 Rolitetracycline nitrate for intravenous use.

(a) *Requirements for certification*—(1) *Standard of identity, strength, quality, and purity.* Rolitetracycline nitrate for intravenous use is a dry mixture of rolitetracycline nitrate and one or more suitable buffer substances. Its potency is satisfactory if it contains not less than 90 percent and not more than 115 percent of the number of milligrams of rolitetracycline that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. It contains no histamine nor histamine-like substances. Its loss on drying is not more than 5 percent. When reconstituted as directed in the labeling, its pH is not less than 3.0 and not more than 4.0. The rolitetracycline nitrate used conforms to the standards prescribed by § 150d.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The rolitetracycline nitrate used in making the batch for potency, moisture, pH, crystallinity, absorptivity, and identity.

(*b*) The batch for potency, sterility, safety, pyrogens, histamine, loss on drying, and pH.

(ii) Samples required:

(*a*) The rolitetracycline nitrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.111 of this subchapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Add sufficient methyl alcohol to give a solution containing 1 milligram of rolitetracycline per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.25 microgram of rolitetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(4) *Pyrogens.* Proceed as directed in § 141.4(b) of this subchapter, using a solution containing 5.0 milligrams of rolitetracycline per milliliter.

(5) *Histamine.* Proceed as directed in § 141.7 of this subchapter.

(6) *Loss on drying.* Proceed as directed in § 141.501(b) of this subchapter.

(7) *pH.* Proceed as directed in § 141.503 of this subchapter, using a solution prepared as directed in the labeling.

§ 150d.14 Rolitetracycline nitrate for intramuscular use.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Rolitetracycline nitrate for intramuscular use is a dry mixture of rolitetracycline nitrate, one or more suitable buffer substances, and lidocaine hydrochloride. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of rolitetracycline that it is represented to contain. It is sterile. It is nonpyrogenic. Its loss on drying is not more than 5 percent. When reconstituted as directed in the labeling, its pH is not less than 2.5 nor more than 4.0. The rolitetracycline nitrate used conforms to the standards prescribed by § 150d.2(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The rolitetracycline nitrate used in making the batch for potency, safety, histamine, moisture, pH, crystallinity, absorptivity, and identity.

(*b*) The batch for potency, sterility, pyrogens, loss on drying, and pH.

(ii) Samples required:

(*a*) The rolitetracycline nitrate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.111 of this subchapter, preparing the sample for assay as follows: Reconstitute the sample as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Add sufficient methyl alcohol to give a solution containing 1 milligram of rolitetracycline per milliliter (estimated). Further dilute an aliquot of this solution with 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to the reference concentration of 0.25 microgram of rolitetracycline per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e)(1) of that section, except use diluting fluid D in lieu of diluting fluid A.

(3) *Pyrogens.* Proceed as directed in § 141.4(b) of this subchapter, using a solution containing 5.0 milligrams of rolitetracycline per milliliter.

(4) *Loss on drying.* Proceed as directed in § 141.501(b) of this subchapter.

(5) *pH.* Proceed as directed in § 141.503 of this subchapter, using a solution prepared as directed in the labeling.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum of brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 2, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-17211 Filed 10-6-72;8:47 am]

[21 CFR Part 148f]

GRAMICIDIN

Change in Identity Test

The gramicidin identity test currently in the regulations (21 CFR 148f.1) is unclear concerning whether a moisture correction should be used in calculating the limit for this test. A drug sample with a moisture content which passes the upper limit for moisture can give results outside the specification for the identity test. The Commissioner of Food and Drugs proposes that the antibiotic drug regulations be amended to require that the gramicidin identity test be calculated on the anhydrous basis.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Part 148f be amended in § 148f.1 by revising paragraphs (a)(1)(vi) and (b)(6) to read as follows:

§ 148f.1 Gramicidin.

(a) *Requirements for certification.* (1) * * *

(vi) When calculated on the anhydrous basis, the difference between the absorptivity value at the maximum occurring at 282 nanometers and the absorptivity value at the minimum occurring at 247 nanometers is 100±4 percent of the difference obtained with the gramicidin working standard.

(b) *Tests and methods of assay.* * * *

(6) *Identity.* Accurately weigh about 20 milligrams of the sample and dilute in ethyl alcohol to give a concentration of 0.05 milligram (estimated) of gramicidin per milliliter. Prepare a solution of the gramicidin working standard to contain 0.05 milligram per milliliter in ethyl alcohol. Using a suitable recording spectrophotometer with 1-centimeter cells, record the ultraviolet absorbance spectrum of each solution from 220 nanometers to 320 nanometers. The ultraviolet absorbance spectrum of the sample solution should compare qualitatively to that of the working standard solution. Determine the absorptivities of each at the maximum occurring at 282 nanometers and at the minimum occurring at 247 nanometers (the exact position of the maximum and minimum of the gramicidin working standard should be determined for the particular instrument used).

* * * * *

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 2, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-17210 Filed 10-6-72;8:47 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214]

[Docket No. 24788; EDR-233]

FOREIGN ROUTE AIR CARRIERS AND FOREIGN CHARTER AIR CARRIERS

Protection of Customers' Deposits

Notice is hereby given that the Civil Aeronautics Board proposes to amend Parts 207, 208, 212, and 214 of the Economic Regulations (14 CFR Parts 207, 208, 212, and 214) so as to require supplemental air carriers, certificated route air carriers, and, to the extent that they operate charter trips originating in the United States, foreign route air carriers and foreign charter air carriers, to provide security protection for customers' deposits made with said carriers as advance payment for charter flights in the manner prescribed therein. The principal features of the proposed amendments are explained in the attached Explanatory Statement, and the proposed amendments are set forth in the proposed rules. The amendments are proposed under the authority of sections 204(a), 401, 402, and 416(a) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143, and 82 Stat. 561), 757 and 771; 49 U.S.C. 1324, 1371, 1372 and 1386).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before November 20, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC upon receipt thereof.

Dated: September 28, 1972.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

Section 401(n)(2) of the Act provides:

In order to protect travelers and shippers by aircraft operated by supplemental air carriers, the Board may require any supplemental air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such supplemental air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

Prompted by an incident in 1970 in which a petition for reorganization in bankruptcy was filed by a supplemental carrier, the Board added provisions to Part 208 requiring supplemental air carriers to provide some security protection of customers' deposits made with such carriers as advance payment for air transportation. These provisions apply whenever the gross amount of customers' deposits exceeds 25 percent of the particular carrier's net worth (computed as of the last day of each month).[1] This financial responsibility requirement may be satisfied either by furnishing a performance bond covering such excess amount, or by placing in escrow or trust with a bank, cash or negotiable securities equal to such excess amount, if the escrow or trust agreement is approved by the Board.

In light of the circumstances surrounding a recent petition for reorganization filed by another supplemental carrier we have decided to reexamine the security arrangements prescribed by Part 208, with a view toward strengthening such rules to assure greater protection for the traveling public's advance payments.

For one thing, it now seems clear that the "net worth" test prescribed by present regulations is an unreliable benchmark to use in determining when a supplemental carrier's financial situation is such as to warrant that it be required to take security measures to protect the deposits of its customers. Like other balance sheet figures, "net worth" does not reflect such critical matters as the carrier's cash flow posture and the amount of working capital needed by the carrier to meet current debt obligations. Moreover, a carrier's "net worth" may well include a significant number of intangible assets having little realizable value. Thus, in requiring customers' deposits to be secured only to the extent that they exceed a prescribed percentage of "net worth" our present regulation may leave unsecured, a substantial amount of such

[1] 14 CFR Part 208, 208.40, 208.41, 208.42, ER-649, December 1, 1970.

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deposits because the carrier has no realizable "net worth" from which to maintain sufficient liquidity to continue its operations. While other financial indicia, such as the ratio of current tangible assets to current liabilities, might be substituted for "net worth" in order to more precisely determine the point at which a supplemental carrier should take action to protect its customers' deposits, it appears likely that the use of any one or more of such indicators as a standard for determining the extent to which customers' deposits need be secured is bound to entail some risk that the standard will prove to be inadequate to achieve its objective. In view of the instability that has plagued the supplemental industry in recent years, it is quite doubtful that periodic fluctuations in a carrier's financial situation or accounting procedures should determine whether, or to what extent, its customers' deposits should be secured.

We are now of the tentative opinion that all customers' deposits paid to a supplemental carrier as advance payment for air transportation should be protected until such air transportation is performed by said carrier, just as we already require that customers' deposits to indirect air carriers of passengers,[5] must be so protected without allowing for a specified unprotected minimum.

The Board is also of the tentative view that the escrow requirements should not be confined only to supplemental air carriers. Accordingly, we are proposing herein appropriate amendments to Parts 207, 212, and 214 so as to apply such requirements to the charter services of the U.S. certificated route carriers and the charter services originating in the United States performed by foreign route air carriers and foreign charter air carriers.

We think that the financial security measure proposed is a reasonable condition on the authority of all air carriers and foreign air carriers to perform charter operations. To begin with, over the past few years several foreign air carriers have gone into receivership,[6] and, although there have been no insolvencies involving U.S.-route air carriers which engage in substantial charter operations, we see no reason to assume that the public will never need protection of charter deposit made with such carriers. While it may be argued that the route operators as a class are more financially stable than the supplemental carriers, and that there is no need to safeguard their charter customers' deposits, by the same token there are varying degrees of financial stability among the supplemental carriers themselves, yet the within rules will apply to such carriers equally, as a class. In light of the inherent risks involved in large-scale charter operations and the substantial advance deposits which carriers receive from their customers in connection therewith, we believe it is desirable in the interest of uniform regulation to extend these financial security provisions to all classes of direct air carriers. Among other things, uniformity will avoid confusion among travel agents and the public as to the Board's regulatory requirements. Furthermore, the regulation should provide a degree of protection to all carriers, as well as all charter organizations and their participants, against defalcations by travel agents.

It should also be noted that our proposal contemplates the use of an escrow arrangement only, in securing customer deposits, whereas our existing security provisions permit the alternative use of a performance bond. Because of the high cost of bonding, and the stringent collateralization requirements imposed by surety companies on their principals, our experience is that the performance bond option is seldom used to satisfy the financial responsibility requirement which § 208.40 imposes on supplemental air carriers. On the other hand, compliance with the proposed escrow arrangement may itself entail considerable additional expense for carriers and, therefore, we are prepared to reconsider the matter in the light of comment received.

The salient features of the proposed rules are as follows:

1. Every supplemental air carrier or certificated route air carrier and, to the extent that it operates charter trips originating in the United States, every foreign route air carrier or foreign charter air carrier, would be prohibited from performing charter trips in air transportation unless there is on file with the Board a copy of an escrow agreement between the carrier and a bank.[7] By the terms of the escrow agreement all amounts payable in advance by customers to the carrier for charter flights are to be deposited and maintained by the bank in a separate escrow account. Escrowed funds would be released by the bank to the carrier only upon certification by the carrier that it has performed the one-way or round-trip charter flight with respect to which the charterer's advance payments are being held in escrow. In the event a charter flight is canceled, refunds from escrowed deposits will be paid by the bank directly to the charterer, *Provided, however,* That in the case of a split charter, refunds will be authorized only upon a written notification from the carrier specifying the facts which warrant cancellation of the charter under the provisions of the Board's regulations applicable to cancellation of split charters.[8]

The escrow agreement itself would become effective only after approval by the Board.

2. To insure that customers' deposits are, in fact, placed in the carrier's escrow account, the proposed rules would direct charterers (or their agents) to make their advance payments for the charter price by check or money order payable to the carrier's depository account and require the carrier to designate, in the charter contract itself, the bank which is authorized to receive such advance payments. Where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may deduct his commission and remit the balance to the designated bank by check or money order. Since various provisions of Part 208—and parallel provisions of Parts 207, 212, and 214—specifically require advance payments to be made to the direct air carrier in connection with charters, we would also amend those provisions so as to expressly recognize payment to the carrier's depository bank, in accordance with the subject proposal, as payment to the carrier.

3. In order to facilitate enforcement of the proposed escrow provisions, the proposed rules would prescribe reporting requirements similar to those prescribed under our existing regulations with respect to escrowed payments made by customers of study group charterers and inclusive tour operators, in Parts 373 and 378, respectively, as recently amended.[9]

We also propose to eliminate the existing provision in Part 208 under which a carrier is allowed to escrow an equivalent amount of negotiable securities instead of cash. Our experience is that this provision is rarely used, and it is cumbersome inasmuch as it entails the considerable policing problem of ascertaining that the fluctuating market value of the securities is in fact "equivalent" at all times to the cash which should be escrowed. Accordingly, we see no purpose in retaining this feature of the existing escrow provisions.

It is proposed to amend Parts 207, 208, 212, and 214 of the Economic Regulations (14 CFR Parts 207, 208, 212, and 214) as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. Amend the Table of Contents by adding new §§ 207.17 and 207.18 under Subpart A—General Provisions, the table as amended to read in pertinent part as follows:

Sec.
207.17 Escrow of cash for protection of customers' deposits.
207.18 Reporting requirements.

[5] See, for example, Parts 373 and 378, governing study group charterers and inclusive tour operators, respectively.

[6] We note the recent financial failure of a British supplemental carrier which resulted in the stranding of 15 planeloads of American citizens in Europe.

[7] Consistent with escrow provisions in Parts 372, 373, and 378 governing charters for overseas military personnel, study groups, and inclusive tours, respectively, the proposed rules contemplate that only U.S.-regulated banks may act as escrow holders, since the charter participants whose advance payments are safeguarded under said rules will for the most part be American citizens.

[8] Sections 207.13, 208.32, 212.10, and 214.14. In effect, these rules provide that advance payment for the charter price of a split charter is not refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer.

[9] SPR-57 and SPR-58 adopted June 16, 1972, effective September 11, 1972.

2. Amend § 207.4a to read as follows:

§ 207.4a Written contracts with charterers.

(a) Every agreement to perform a charter trip, except charters for the Department of Defense, shall be in writing and signed by an authorized representative of the air carrier and the charterer prior to operation of a charter flight: *Provided,* That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within seven (7) days after commencement of the flight. The written agreement shall include, without limitation:

(1) Date and place of execution of the contract or agreement;

(2) Signature, printed or typed name of each signatory, and official position of each;

(3) Dates of flights and points involved;

(4) Type and capacity of aircraft: Number of passenger seats available or pounds of cargo capacity;

(5) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges; and

(6) The name and address of the carrier's depository bank to which advance payments for the charter price are to be made, by check or money order payable to the designated depository bank, as escrow holder pending completion of the charter trip.

(b) No term or condition of the charter contract shall, on its face, be inconsistent with any provision of the carrier's published tariff.

3. Amend § 207.13(b) to read as follows:

§ 207.13 Terms of service.

* * * * *

(b) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however,* That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 207.11(c), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, not less than 30 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this paragraph payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

* * * * *

4. Add new §§ 207.17 and 207.18 to read as follows:

§ 207.17 Escrow of cash for protection of customers' deposits.

(a) No air carrier shall engage in air transportation in accordance with § 207.11 unless there is on file with the Board a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums to be paid by charterers to the carrier, as advance payment for the price of any charter in air transportation to be performed by said carrier, shall be deposited with and maintained by the bank as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay by check or money order, payable to the bank, and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the cash: *Provided, however,* That, where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may deduct his commission and remit the balance to the designated bank by check or money order.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter: *Provided, however,* That, in the case of a charter for less than the entire capacity of an aircraft (see § 207.11(c)) escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight;

(5) As used in this section the term "bank" means a bank, savings and loan institution, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The escrow agreement required under paragraph (a) of this section shall not be effective until approved by the Board. Claims against the escrow may be made only with respect to nonperformance of air transportation.

§ 207.18 Reporting requirements.

In connection with the provisions of § 207.17, the following quarterly reports shall be filed with the Board's Bureau of Accounts and Statistics not later than the 10th day of the month succeeding the reporting period: (a) by the depository bank showing the total amount of deposits received and disbursed during the reporting period, and the balance in the depository account at the end of the reporting period; and (b) by the air carrier, showing the number of charter flights performed and the amount of payment received for such flights from the depository bank during the reporting period. The term "bank" shall have the meaning set forth in § 207.17(a)(5). The reports shall be certified by an officer in charge of the bank's or the air carrier's accounts, as the case may be, and the certification shall be in the following form:

CERTIFICATION [1]

I, the undersigned _____
_____
(Title of officer in charge of accounts)
of the _____
_____
(Full name of reporting company)
do certify that this report and all supporting documents which are submitted herewith, filed for the above indicated period, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____
(Signature)

_____
(Bank's or carrier's post office address)

Date _____, 19__

5. Amend § 207.25 by adding a new paragraph (e), the section as amended to read as follows:

§ 207.25 Charter trips originating in the United States.

* * * * *

(e) For the purpose of this section, payment to the carrier's depository bank as designated in the charter contract, shall be deemed payment to the carrier.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATIONS

1. Amend the Table of Contents by changing the titles of §§ 208.40 and 208.41, and deleting and reserving the title of § 208.42 under Subpart A—General Provisions, the table as amended to read in pertinent part as follows:

Sec.
208.40 Escrow of cash for protection of customers' deposits.
208.41 Reporting requirements.
208.42 [Reserved]

2. Amend § 208.31b to read as follows:

[1] Title 18 U.S.C. Sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

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§ 208.31b Written contracts with charterers.

(a) Every agreement to perform a charter trip, except charters for the Department of Defense, shall be in writing and signed by an authorized representative of the supplemental air carrier and the charterer prior to operation of a charter flight: *Provided*, That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within seven (7) days after commencement of the flight. The written agreement shall include without limitation:

(1) Date and place of execution of the contract or agreement;

(2) Signature, printed or typed name of each signatory, and official position of each;

(3) Dates of flights and points involved;

(4) Type and capacity of aircraft: Number of passenger seats available or pounds of cargo capacity; and

(5) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges.

(6) The name and address of the carrier's depository bank to which advance payments for the charter price are to be made, by check or money order payable to the designated depository bank, as escrow holder pending completion of the charter trip.

(b) No term or condition of the charter contract shall, on its face, be inconsistent with any provision of the carrier's published tariff.

3. Amend § 208.32(e) to read as follows:

§ 208.32 Tariffs and terms of service.

* * * * *

(e) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however*, That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 208.6(c), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, not less than 30 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this paragraph, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

4. Amend §§ 208.40 and 208.41 to read as follows:

§ 208.40 Escrow of cash for protection of customers' deposits.

(a) No supplemental air carrier shall engage in air transportation unless there is on file with the Board a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums to be paid by charterers to the carrier, as advance payment for the price of air transportation to be performed by said carrier, shall be deposited with and maintained by the bank as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay by check or money order payable to the bank and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the cash: *Provided, however*, That where the charter transportation to be performed by a carrier is sold through a travel agent the agent may deduct his commission and remit the balance to the designated bank by check or money order.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter: *Provided, however*, That, in the case of a charter for less than the entire capacity of an aircraft (see § 208.6(c)) escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight;

(5) As used in this section the term "bank" means a bank, savings and loan institution, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The escrow agreement required under paragraph (a) of this section shall not be effective until approved by the Board. Claims against the escrow may be made only with respect to nonperformance of air transportation.

§ 208.41 Reporting requirements.

In connection with the provisions of § 208.40, the following quarterly reports shall be filed with the Board's Bureau of Accounts and Statistics not later than the 10th day of the month succeeding the reporting period: (1) By the depository bank showing the total amount of deposits received and disbursed during the reporting period, and the balance in the depository account at the end of the reporting period; and (2) by the air carrier showing the number of charter flights performed and the amount of payment received for such flights from the depository bank during the reporting period. The term "bank" shall have the meaning set forth in § 208.40(a)(5). The reports shall be certified by an officer in charge of the bank's or the air carrier's accounts, as the case may be, and the certification shall be in the following form:

CERTIFICATION [1]

I, the undersigned _____
(Title of officer in charge of accounts)
of the _____ do certify
(Full name of reporting company)
that this report and all supporting documents which are submitted herewith, filed for the above indicated period, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____
(Signature)

_____
(Bank's or carrier's post office address)

Date _____, 19__

§ 208.42 [Reserved]

5. Delete and reserve § 208.42

6. Amend § 208.202b by adding a new paragraph (e), the section as amended to read as follows:

§ 208.202b Charter trips originating in the United States.

* * * * *

(e) For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

1. Amend the Table of contents by adding new §§ 212.15 and 212.16 under Subpart A—General Provisions, the table as amended to read in pertinent part as follows:

Sec.
212.15 Escrow of cash for protection of customers' deposits.
212.16 Reporting requirements.

2. Amend § 212.3a to read as follows:

§ 212.3a Written contracts with charterers.

(a) Every agreement to perform a charter trip shall be in writing and signed by an authorized representative of the foreign air carrier and the charterer prior to operation of a charter flight: *Provided*, That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be affected within seven (7) days after commencement of the flight. The written agreement shall include, without limitation:

(1) Date and place of execution of the contract or agreement:

(2) Signature, printed or typed name of each signatory, and official position of each:

(3) Dates of flights and points involved;

(4) Type and capacity of aircraft: Number of passenger seats available or pounds of cargo capacity; and

(5) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges.

(6) The name and address of the carrier's depository bank to which advance payments for the charter price are to be made, by check or money order payable to the designated depository bank, as escrow holder pending completion of the charter trip.

(b) No term or condition of the charter contract shall, on its face, be inconsistent with any provision of the carrier's published tariff.

(3) Amend § 212.10(b) to read as follows:

§ 212.10 Terms of service.

* * * * *

(b) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however*, That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 212.8(b), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, not less than 30 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

4. Add new §§ 212.15 and 212.16 to read as follows:

§ 212.15 Escrow of cash for protection of customers' deposits.

(a) No foreign route air carrier shall perform any charter trips originating in the United States unless there is on file with the Board a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums to be paid by charterers to the carrier, as advance payment for the price of any charter in air transportation to be performed by said carrier, shall be deposited with and maintained by the bank as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay by check or money order payable to the bank and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the cash: *Provided, however*, That, where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may deduct his commission and remit the balance to the designated bank by check or money order.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or its assigns. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter: *Provided, however*, That, in the case of a charter for less than the entire capacity of an aircraft (see § 212.8(b)) escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight;

(5) As used in this section the term "bank" means a bank, savings and loan institution, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The escrow agreement required under paragraph (a) of this section shall not be effective until approved by the Board. Claims against the escrow may be made only with respect to nonperformance of air transportation.

§ 212.16 Reporting requirements.

In connection with the provisions of § 212.15, the following quarterly reports shall be filed with the Board's Bureau of Accounts and Statistics not later than the 10th day of the month succeeding the reporting period: (a) by the depository bank showing the total amount of deposits received and disbursed during the reporting period, and the balance in the depository account at the end of the reporting period; and (b) by the air carrier showing the number of charter flights performed and the amount of payment received for such flights from the depository bank during the reporting period. The term "bank" shall have the meaning set forth in §212.15(a)(5). The reports shall be certified by an officer in charge of the bank's or the carrier's accounts, and the case may be, and the certification shall be in the following form:

CERTIFICATION [1]

I, the undersigned _____
(Title of officer in charge of accounts)
of the _____
(Full name of reporting company)
do certify that this report and all supporting documents which are submitted herewith, filed for the above indicated period, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____
(Signature)

_____
(Bank's or carrier's post office address)

Date _____, 19_____

5. Amend § 212.25 by adding a new paragraph (e), the section as amended to read as follows:

§ 212.25 Charter trips originating in the United States.

* * * * *

(e) For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

1. Amend the Table of Contents by adding new §§ 214.9c and 214.9d, the table as amended to read in pertinent part as follows:

Sec.
214.9c Escrow of cash for protection of customers' deposits.
214.9d Reporting requirements.

2. Add new §§ 214.9c and 214.9d to read as follows:

§ 214.9c Escrow of cash for protection of customers' deposits.

(a) No foreign charter air carrier shall perform any charter trips originating in the United States unless there is on file with the Board a copy of a currently effective agreement made between said carrier and a designated bank, by the terms of which all sums to be paid by charterers to the carrier as advance payment for the price of any charter in

[1] Title 18 U.S.C. sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

[1] Title 18 U.S.C. sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

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air transportation to be performed by said carrier shall be deposited with and maintained by the bank as escrow holder, the agreement to be subject to the following conditions:

(1) The charterer (or its agent) shall pay by check or money order payable to the bank; and any cash received by the carrier from a charterer (or his agent) shall be deposited in, or mailed to, the bank no later than the close of the business day following the receipt of the cash: *Provided, however,* That, where the charter transportation to be performed by a carrier is sold through a travel agent, the agent may deduct his commission and remit the balance to the designated bank by check or money order.

(2) The bank shall pay over to the carrier escrowed funds with respect to a specific charter only after the carrier has certified in writing to the bank that such charter has been completed.

(3) Refunds to a charterer from sums in the escrow account shall be paid directly to such charterer or its assign. Upon written certification from the carrier that a charter has been canceled, the bank shall turn over directly to the charterer or its assigns all escrowed sums (less any cancellation penalties as provided in the charter contract) which the bank holds with respect to such canceled charter: *Provided, however,* That, in the case of a charter for less than the entire capacity of an aircraft (see § 214.7(b)) escrowed funds shall be turned over to a charterer or its assigns only if the carrier's written certification of cancellation of such charter includes a specific representation that either the charter has been canceled by the carrier or, if the charter has been canceled by the charterer, that the carrier has accepted a substitute charterer.

(4) The bank shall maintain a separate accounting for each charter flight;

(5) As used in this section the term "bank" means a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

§ 214.9d Reporting requirements.

In connection with provisions of § 214.9c, the following quarterly reports shall be filed with the Board's Bureau of Accounts and Statistics not later than the 10th day of the month succeeding the reporting period: (a) [illegible] depository bank showing the to[illegible] of deposits received and disbu[illegible]ng the reporting period, and th[illegible]e in the depository account a[illegible] of the reporting period; and[illegible] by the air carrier, showing nu[illegible] charter flights performed and [illegible]mount of payment received for su[illegible]s from the depository bank du[illegible]e reporting period. The term "banl[illegible]shall have the meaning set forth in § 2[illegible]c(a)(5). The reports shall be certifi[illegible] an officer in charge of the bank's [illegible]e air carrier's accounts, as the ca[illegible]may be, and the certification shall be i[illegible]e following form:

CERTIFICATION [1]

I, the undersigned _____
(Title of officer in charge of accounts)
of the _____ do certify
(Full name of reporting company)
that this report and all supporting documents which are submitted herewith, filed for the above indicated period, have been prepared by me or under my direction; that I have carefully examined them and declare that, to the best of my knowledge and belief, the information contained therein is complete and accurate.

_____
(Signature)

_____
(Bank's or carrier's post office address)

Date _____, 19____

3. Amend § 214.13a to read as follows:

§ 214.13a Written contracts with charterers.

(a) Every agreement to perform a charter trip shall be in writing and signed by an authorized representative of the foreign charter air carrier and the charterer prior to operation of a charter flight: *Provided,* That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within seven (7) days after commencement of the flight. The written agreement shall include, without limitation:

(1) Date and place of execution of the contract or agreement;

(2) Signature, printed or typed name of each signatory, and official position of each;

(3) Dates of flights and points involved;

(4) Type of aircraft and number of passenger seats available; and

(5) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges;

(6) The name and address of the carrier's depository bank to which advance payments for the charter price are to be made, by check or money order payable to the designated depository bank, as escrow holder pending completion of the charter trip.

(b) No term or condition of the charter contract shall, on its face, be inconsistent with any provision of the carrier's published tariff.

4. Amend § 214.14(b) to read as follows:

§ 214.14 Terms of service.

* * * * *

(b) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however,* That in the case of a charter for less than the entire capacity of an aircraft pursuant to 214.7(b), the carrier shall require full payment of a round trip, not less than 30 days prior to the commencement of any portion of the transportation, and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded. For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

5. Amend § 214.18 by adding a new paragraph (e), the section as amended to read as follows:

§ 214.18 Charter trips originating in the United States.

* * * * *

(e) For the purpose of this section, payment to the carrier's depository bank, as designated in the charter contract, shall be deemed payment to the carrier.

[FR Doc.72-17250 Filed 10-6-72;8:50 am]

[1] Title 18 U.S.C. sec. 1001, Crimes and Criminal Procedure, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than 5 years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 19547]

SPACE WARC, GENEVA, 1971

Extension of Time for Filing Comments

Order. In the matter of amendment of Part 2 of the Commission's rules to conform, to the extent practicable, with the Geneva Radio Regulations, as revised by the Space WARC, Geneva, 1971, Docket No. 19547.

1. On July 14, 1972, the Commission adopted a notice of proposed rule making in the above captioned proceeding with comments to be filed on or before September 29, 1972. The Central Committee on Communication Facilities of the American Petroleum Institute (Central Committee) and the Utilities Telecommunications Council (UTC) have filed motions to extend to October 30, 1972, the date for filing comments in this proceeding.

2. The Central Committee and UTC have filed for a 30-day extension in this proceeding due to their unpreparedness to fully address the impact of coequal sharing between the fixed and mobile services and the fixed-satellite service. UTC states that its Microwave Committee has a meeting scheduled for October 13, 1972, where more responsive and comprehensive comments could be prepared. The Central Committee states that footnote NG 103 which sets out

this coequal sharing is new and has not been fully discussed.

3. The Commission is always interested in obtaining the most responsive and comprehensive comments in its rule making proceedings. Therefore, since this extension does not appear to be detrimental to any party and because there does appear to be enough interest in extending this proceeding, the date for filing comments in this proceeding is extended to October 30, 1972. The date for filing reply comments is extended to November 10, 1972. The Commission believes, however, that due to the January 1, 1973, implementation date for the Space WARC, any further motions for extensions would be untimely.

4. Authority for this action is taken pursuant to § 0.251(b) of the Commission's rules.

Adopted: September 29, 1972.

Released: October 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN W. PETTIT,
General Counsel.

[FR Doc.72-17258 Filed 10-6-72;8:51 am]

[47 CFR Part 73]

[Docket No. 19598; FCC 72-860]

FM BROADCAST STATIONS IN CERTAIN STATES

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast stations. (Washington, Ia., Centerville, Tenn., Winnsboro, Tex., Stanton, Ky., Gordon, Ga., Mercersburg, Pa., Elkader, Ia., and Kernville, Calif.), Docket No. 19598, RM-1926, RM-1993, RM-1969, RM-1996, RM-1972, RM-2009, RM-1988, RM-2010.

1. Notice of proposed rule making is hereby given concerning the amendment of § 73.202(b) of the rules, the FM Table of Assignments, to add first channels to the above listed communities which now have no assignments, as has been requested in the rule making petitions. In each of the communities there is one proposal for a Class A assignment. Population figures are from the 1970 U.S. Census reports. All petitions are unopposed. The proposed channels sought by each petitioner are as follows:

RM-1926	Channel 237A to Washington, Iowa.
RM-1969	Channel 244A to Centerville, Tenn.
RM-1972	Channel 285A to Winnsboro, Texas.
RM-1988	Channel 285A to Stanton, Ky.
RM-1993	Channel 296A to Gordon, Ga.
RM-1996	Channel 221A to Mercersburg, Pa.
RM-2009	Channel 261A to Elkader, Iowa.
RM-2010	Channel 272A to Kernville, Calif.

A brief description of each petition follows:

2. *Washington, Iowa (RM-1926).* Leighton Enterprises, Inc. (petitioner), licensee of Station KCII, Washington, Iowa, filed a petition on February 17, 1972, proposing that Channel 237A be assigned to Washington, Iowa. Channel 237A could be assigned there in conformity with the Commission's minimum mileage separation rule and without affecting the FM Table of Assignments. Its engineering analysis indicates there is sufficient area in which a site meeting the spacing requirements could be established for a Channel 237A operation at Washington. Washington (6,317 population) is the seat of Washington County (18,967 population) and is located about 28 miles southwest of Iowa City. It presently has one daytime-only AM station (licensed to petitioner). There are no other AM, FM, or TV stations licensed in Washington County. Petitioner seeks the assignment of this Class A channel so that it can extend the hours of operation and the coverage not now provided by its daytime-only AM station.

3. In support of its request, petitioner states that Washington is the largest city in Washington County. Its principal industries are paper products, turnbuckles and steel wire fabrication, food products, calendars, etc. It has two banks with deposits of over $10 million, and one savings and loan association with deposits of over $3 million. Petitioner further notes that KCII (AM) serves a wide area, but, because it is a daytime-only station, it is prevented from serving this same area at night. It asserts that an FM station would be the only means of extending the hours and coverage of KCII's programing. It states that, if the channel is assigned, it will actively seek and apply for it. In view of the above, we believe consideration of the proposal for the assignment of a first Class A FM channel to Washington, Iowa, is warranted.

4. *Centerville, Tenn. (RM-1969).* Trans-Aire Broadcast Corp. (Petitioner), licensee of WHLP (AM), Centerville, Tenn., filed a petition on April 25, 1972, proposing the assignment of Channel 244A to Centerville, Tenn. Channel 244A could be assigned to Centerville in conformity with the Commission's minimum mileage separation rule without affecting any presently assigned channel if used at a distance of 6.6 miles northwest of the Centerville post office. Petitioner asserts that line-of-sight transmission into Centerville is available from this location. Centerville (2,592 population) is the seat of Hickman County (12,096 population) and is located in the western section of the middle Tennessee area, 50 miles southwest of Nashville. Centerville has one operating station, WHLP (AM), daytime-only (licensed to petitioner). It is without any local nighttime broadcast service.

5. In support of its request petitioner avers that Hickman County is one of the larger counties in Tennessee in terms of area. Centerville is the center of this area and its most dominant community. The area's major industries (clothes, shoes, plastic signs, mining, and wood products, etc.) are new businesses and have been under expansion for the past 2 years. Agriculture remains as a major business with livestock, tobacco, milk, wool, etc. marketed to a large extent in the area. Specialized minerals and forest resources are abundant and offer potential for further growth. With but one daytime-only AM station in the whole of Hickman County and no FM assignments at present, petitioner asserts that there is a need for full time broadcast service. It states that the community can and will support an FM station, and if assigned it will promptly file an application for the channel. For these reasons, we think consideration of the proposal for the assignment of a first Class A FM channel to Centerville, Tenn., is warranted.

6. *Winnsboro, Tex. (RM-1972).* Clegmo, Inc. (petitioner), filed a petition on May 3, 1972, proposing the assignment of Channel 285A to Winnsboro, Tex. Channel 285A can be assigned to Winnsboro in conformity with the Commission's minimum mileage separation rule and without affecting any presently assigned channel in the FM Table of Assignments. Winnsboro (3,064 population) is located in two Texas counties: namely, Wood (18,589 population) and Franklin (5,291 population), and is located about 78 miles southwest of Texarkana. Winnsboro has no local broadcast facilities, licensed or pending, of any type.

7. In support of its request petitioner states that Winnsboro is the hub of vast agricultural-cattle counties. It notes that the economy of Winnsboro and the surrounding region has been good. The region is part of the vast East Texas oil field which realizes approximately $51,798,000 per year from oil production. Additionally, Winnsboro is equidistant from Dallas, Tex., and Shreveport, La., and tourists and vacationers abound around the many lakes in the area. Petitioner states that the economy of the area will support a station and, if the assignment is made, it will file an application for the channel. It adds that the counties adjacent to Winnsboro (Rains, Van Zandt, Upshur, and Camp) which do not have FM assignments would also benefit from service rendered by a Winnsboro station. For these reasons, we think consideration of the proposal for the assignment of a first Class A FM channel to Winnsboro, Tex., is warranted.

8. *Stanton, Ky. (RM-1988).* A. Dale Bryant (petitioner), filed a petition on May 25, 1972, proposing the assignment of Channel 285A to Stanton, Ky. Channel 285A could be assigned to Stanton in conformity with the Commission's minimum mileage separation rule and without affecting any presently assigned channel if used at a site approximately 7 miles south southeast of Stanton. Stanton (2,037 population) is the seat of Powell County (7,704 population), and is located about 20 miles southeast of Winchester. Stanton has no local broadcast facilities, licensed or pending, of any type.

9. In support of its request petitioner states that Stanton in recent years has begun some industrialization. It notes that a shoe company employs about 200 people and a brick plant which supplies the brick products for a large area around Powell County employs several

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people. It asserts that the inhabitants of Powell County have numerous farms and mineral resources. It states further that the Red River Gorge and Daniel Boone National Forest are partially located in Powell County which is also important in bringing tourists to the area. Petitioner avers that the inhabitants of Powell County have all the advantages of a rural community and reap the benefits of the more industrialized surrounding areas. In view of the foregoing information and the fact that there is no local broadcast transmission service of any type in Powell County, we believe the above proposal to assign Channel 285A to Stanton, Ky., merits exploration in a rule making proceeding.

10. *Gordon, Ga. (RM–1993).* Piedmont Broadcasting Co., Inc. (petitioner, licensee of Station WKOG(AM), Gordon, Ga., filed a petition on June 13, 1972, proposing the assignment of Channel 296A to Gordon, Ga. Channel 296A could be assigned to Gordon without affecting any existing station or assignments in the FM Table of Assignments and would meet the Commission's minimum mileage separation rule. Gordon, a city of 2,553, is located in Wilkinson County, population 9,393, about 22 miles northeast of Macon. There is no channel assigned to Gordon or to any town within Wilkinson County. Petitioner seeks the assignment of a Class A channel so that Gordon may have nighttime coverage not now provided by its daytime-only AM station.

11. In support of its request, petitioner states that Gordon is the largest town in Wilkinson County. It asserts that Wilkinson County has a stable industrial base, that in 1969 approximately 392,000 short tons of kaolin valued at $9,380,000 was mined, and that kaolin mining and processing have expanded significantly in the past 5 years. It notes that this trend should continue in the future as a result of projected increased employment by several of the existing manufacturers and the outstanding potential for kaolin related industries. It also states the sale of farm products increased from $2,419,448 in 1964 to approximately $3,296,000 in 1970. Petitioner contends that the assignment of Channel 296A would benefit Wilkinson County and Gordon greatly by having a full-time radio service available for entertainment, news, and matters of public interest and, as a communication medium in time of emergency, its value would be inestimable. In view of the above, we believe consideration of the proposal for the assignment of Channel 296A to Gordon, Ga., is warranted.

12. *Mercersburg, Pa. (RM–1996).* Richard A. Fulton (petitioner), filed a petition on June 15, 1972, proposing the assignment of Channel 221A to Mercersburg, Pa. Mercersburg, a city of 1,727 persons, is located in Franklin County, population 100,833. It has no local broadcast facilities. The broadcast stations located in Franklin County include Stations WCBG(AM) and WCHA(AM) and FM, Chambersburg, approximately 15 miles from Mercersburg; WAYZ(AM) and FM and WEEO(AM), Waynesboro, 15 miles away and WKSL(FM), Greencastle, 10 miles removed. Petitioner states the assignment of Channel 221A to Mercersburg will provide a first local broadcast service for that city and primary and secondary coverage for upwards of 100,000 people in Franklin County. He also states that the FM station would provide a much needed source for local information such as reports on community events, weather, road conditions, and public affairs to the coverage area, as well as providing entertainment programing.

13. Petitioner's engineering analysis indicates that Channel 221A could be assigned to Mercersburg in full compliance with the Commission's minimum mileage separation rule and without affecting any presently assigned channel in the FM Table of Assignments. It further indicates there is sufficient area in which an antenna site can be established for a Channel 221A operation in Mercersburg.

14. The petitioner states that Mercersburg is in a primarily agricultural region and the labor market includes Franklin and Fulton Counties, Pa. and Washington County, Md. It also notes that, although population in Mercersburg proper has remained relatively static over the past decade, the county population has increased 13.6%. In view of the foregoing information and the fact that there is no local broadcast transmission service in Mercersburg, we believe the proposal merits exploration in a rule-making proceeding.

15. *Elkader, Iowa (RM–2009).* J. R. Evans (petitioner), filed a petition on May 19, 1972, proposing the assignment of Channel 261A to Elkader, Iowa. Elkader (1,592 population) is the seat of Clayton County (20,606 population) and is located 45 miles northwest of Dubuque. There is no local radio transmission service in Elkader or Clayton County. Petitioner states that an FM station would be of great help in keeping the people informed on school closings, weather conditions, publicizing the goods and services available, and developing the tourist business on which many people are dependent in the community.

16. Petitioner's engineering analysis indicates that Channel 261A can be assigned to Elkader in full compliance with the Commission's minimum mileage separation rule and without affecting the FM Table of Assignments if used at a site at least two miles southeast of Elkader. It further states that examination of this area reveals several possible sites which are available.

17. Petitioner asserts that for the fiscal year ending June 1971 the Central City Bank listed assets of $10,317,643, Elkader gross sales of $15,547,295, and Clay County gross sales of $51,230,151. It states that Elkader is the trade and service center and hub of government for a large area surrounding the town which has a number of State and Federal Government offices. It adds that Elkader is located in the Central Community School District which has a total enrollment of 1,100 students. In view of the foregoing information and the fact that there is no local broadcast transmission service in Elkader or Clayton County, we believe the above proposal to assign Channel 261A to Elkader, Iowa, merits exploration in a rule making proceeding.

18. *Kernville, Calif. (RM–2010).* Kern River Valley Radio, Inc. (petitioner), filed a petition on July 7, 1972, proposing that Channel 272A be assigned to Kernville, Calif. Kernville is an unincorporated community in the Lake Isabella region (9,240 population) of Kern County (329,162 population). Kern County is located in central California, immediately north of Los Angeles County. Kernville and the Lake Isabella region presently have no local broadcast transmission service of any type. Petitioner states that the assignment of the proposed channel will provide a means of dissemination of local news and items of interest, furnishing a medium for local expression and talent, and could serve as an initial means of advertising for local merchants and businessmen.

19. Petitioner's engineering analysis indicates that the requested channel could be assigned to Kernville in full compliance with the Commission's minimum mileage separation rule and without affecting the FM Table of Assignments.

20. Petitioner states that Kern County, known locally as the Kern River Valley, includes Lake Isabella, a reservoir formed by the Isabella Dam on the Kern River. It asserts that tourists to the Kern River Valley reached an alltime high of 1,625,000 in 1970, and it has been reliably estimated that total banking deposits of the two community banks, the Santa Barbara Savings and Loan, and Kern Valley Credit Union, plus those of branch banks, exceed $12 million annually, and the value of real estate as listed by the Kern County assessor is $92 million. Petitioner states that some 290 separate businesses in the valley areas that surround the lake provide adequate assurance for financial success of the proposed station. Petitioner states that he is prepared to apply for authorization to operate on Channel 272A upon its assignment to Kernville or the Kern River Valley area. In view of the foregoing information and the fact that there is no local broadcast transmission service in the Kernville and Lake Isabella region, we believe consideration of the proposal for the assignment of Channel 272A to Kernville, is warranted.

21. *Showings required.* Comments are invited on the proposals set forth and discussed above. Proponents will be expected to answer whatever questions, if any, are raised in the notice and other questions that may be presented by the initial comments. The proponents are expected to file comments even if nothing more than to incorporate by reference their petitions, and are expected to state their intentions to apply for their respective channels, if assigned, and if authorized to promptly build the station. Failure to make this showing may result in the denial of the petition.

22. *Cutoff procedure.* As in other recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

23. Authority for the action proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

24. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before November 13, 1972, and reply comments on or before November 22, 1972. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

25. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, pleadings, briefs, or other documents shall be furnished the Commission.

26. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: September 27, 1972.

Released: October 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17259 Filed 10-6-72;8:51 am]

SUSQUEHANA RIVER BASIN COMMISSION

[18 CFR Part 801]

GENERAL POLICIES

Notice of Proposed Rule Making

Notice is hereby given that the Susquehanna River Basin Commission, pursuant to section 15.2 of the Susquehanna River Basin Compact (84 Stat. 1509 et seq.) is proposing adoption of policies concerning the operations of the Commission.

Prior to final adoption of the policies consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Executive Director, Susquehanna River Basin Commission, 5012 Lenker Street, Mechanicsburg, PA 17055 by November 15, 1972. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed policies should submit his request, in writing, by November 15, 1972.

Copies of the proposed policies can be secured from the above address or from any of the signatory parties at the following addresses:

U.S. Commissioner, Susquehanna River Basin Commission, Room 5202, Interior Building, Washington, D.C. 20240.
Secretary, Department of Environmental Resources, Commonwealth of Pennsylvania, Post Office Box 1467, Harrisburg, PA 17120.
Secretary, Department of Natural Resources, State of Maryland, State Office Building, Annapolis, MD 21401.
First Deputy Commissioner, Department of Environmental Conservation, State of New York, 50 Wolf Road, Albany, NY 12201.

PART 801—GENERAL POLICY

Sec.
801.0 Introduction.
801.1 Standard definitions.
801.2 Coordination, cooperation, and intergovernmental relations.
801.3 Allocations, diversions, withdrawals, and release.
801.4 Project review (interim).
801.5 Comprehensive plan.
801.6 Water supply.
801.7 Water quality.
801.8 Flood plain management and protection.
801.9 Watershed management.
801.10 Recreation.
801.11 Public values.
801.12 Electric power generation.

AUTHORITY: The provisions of this Part 801 issued under 15.2, Public Law 91-575 (84 Stat. 1509 et seq.).

§ 801.0 Introduction.

(a) The Governors of the States of New York, Pennsylvania, and Maryland, and a representative of the President of the United States are members of the Susquehanna River Basin Commission. The Commission is a regional governmental agency whose purpose is to effect comprehensive multiple purpose planning for the conservation, utilization, development, management, and control of the water and related natural resources of the basin, which includes part of New York, Pennsylvania, and Maryland.

(b) The Susquehanna River Basin Compact provides broad authority for the Commission to carry out basinwide planning programs and projects, and to take independent action as it determines essential to fulfill its statutory regional governmental role.

(c) The objectives of the Commission shall be to: (1) Develop cooperative and coordinated Federal, State, local, and private water and related land resources planning within the basin, (2) formulate, adopt, effectuate, and keep current a comprehensive plan and a water resources program for the immediate and long-range use and development of the water resources of the basin, (3) provide for orderly collection and evaluation of data, and for the containing promotion and conduct of appropriate research relating to water resources problems, (4) establish priorities for planning, financing, development, and use of projects and facilities essential to effectively meet identified water resources needs, and to maintain these resources in a viable state.

(d) The Commission shall employ a multiobjective approach in planning for the use and development of the water resources of the basin.

(e) It is the purpose of this regulation to set forth the objectives of the Commission and to present certain basic policies that (1) have basinwide application, (2) are specifically pertinent to the formulation of a comprehensive plan, (3) will serve as guidelines for all agencies or individuals with planning responsibilities for the development and use of the water resources of the basin, (4) form the basis for working relationship between the Commission and other agencies having related responsibilities in the basin. This statement will be amended and updated from time to time.

§ 801.1 Standard definitions.

(a) Many terms that will be used in official Commission documents may have slightly different meanings to various groups. To avoid confusion and to increase the clarity of the meaning the Commission applies to frequently used terms standard definitions will be utilized.

(b) The Commission will use the standard definitions set forth for the terms shown in section 1.2 of the Compact,[1] and will add terms and appropriate definitions as deemed necessary.

§ 801.2 Coordination, cooperation, and intergovernmental relations.

(a) The interstate nature of the Susquehanna River Basin and the broad regional authority of the Commission require clear and effective working relationships with the States, Federal Government, and local and private sectors in all matters relating to the water resources of the basin.

(1) The Federal Government will be encouraged and asked to participate in water resources projects and programs having national or broad regional significance. The Commission will act to encourage local initiative to solve water resources problems within a local and regional context, but when faced with obviously needed action that is not forthcoming from other sources will act, in accordance with the Compact, on its own.

(2) The Compact provides authority for the Commission to serve in a regulatory capacity and also to act as a managing and operating agency. The Commission will exercise its regulatory authority mainly in interstate matters or where signatory authority is not being effectively exercised or where the signatory has little or no authority to act. Similarly, the Commission may manage and operate various facilities if it is determined that this is an area

[1] Filed as part of original document.

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in which an important and necessary service can be rendered.

(3) Should it become necessary for the Commission to undertake development, management and operation of projects, arrangements for repayment of all project costs and eventual operation and maintenance costs will be appropriately prorated, among the signatories or otherwise financed in accordance with the Compact. Support for this possibility is found in the Commission's potential to arrange for financing of projects and to serve in handling repayment in the form of user charges or appropriations.

(4) The Commission will utilize the functions, powers, and duties of the existing offices and agencies of government to the extent consistent with the Compact.

(5) In its actions the Commission will maintain a high level of public visibility. Broad government, public, and private sector commentary on Commission proposals and findings will be invited, and to the extent possible be incorporated and reflected in decisions for finalization of plans, projects, and programs having significant effect on the water resources of the basin. A concerted effort will be made to keep the Commission and its activities readily available to government and public scrutiny, and responsive to their concerns.

(b) The Commission shall exercise its regional jurisdiction in an effort to avoid and minimize conflicts and duplication of effort and shall:

(1) Cooperate with and help coordinate Federal, State, local government, and private sector efforts in all matters relating to the planning, conservation, preservation, use, development, management and control of the water resources of the basin.

(2) Develop administrative agreements, as needed, with appropriate agencies of the signatories and other agencies to facilitate achievement of the Commission's objectives and related responsibilities of other agencies by minimizing duplication of effort and maximizing the contributions the respective agencies are best able to make.

(3) Build upon present water resources planning and related activities of the signatory parties, local government, other public bodies, and the private sector and fully consider their recommendations and suggestions.

(4) Establish advisory committees as needed for specific assignments and seek meaningful liaison with sources of technical and scientific expertise.

(5) Share with interested parties results of investigations, studies, tests, and research undertaken by the Commission in an appropriate manner and form.

(6) Conduct its regular meetings announced in advance and open to the public.

(7) Depend upon existing public agencies for the construction, operation, and maintenance of projects except when the project is necessary to further the comprehensive plan and the responsible agency does not act or when the Commission is asked to act by one or more signatories, one or more local governments, or other responsible entities.

(8) Require that the planning of projects affecting the water resources of the basin by Federal, State, local agencies and private organizations be undertaken in coordination with the Commission and in accordance with the Compact.

(9) Require that periodic reports of projects affecting water resources within the basin and listings of discharge permits granted, and similar activities undertaken by offices or agencies of the signatory parties, be submitted to the Commission.

§ 801.3 Allocations, diversions, withdrawals and release.

(a) The extremes in availability of water in the basin means that water will not always be available when and where it is needed. One of the responsibilities of the Commission is to act upon requests for allocations, withdrawals, or diversions of water for in-basin or out-of-basin use.

(b) The Commission will require evidence that interbasin transfers of water will not jeopardize, impair or limit the efficient development and management of the Susquehanna River Basin's water resources, or any aspects of these resources for in-basin use, or have a significant unfavorable impact on the resources of the basin and the receiving waters of the Chesapeake Bay.

(c) Water emergencies may be expected to develop in portions of the basin due to drought conditions or other causes. The Commission will act promptly to effect alleviation of the condition to the extent possible.

(d) The Commission may, in making decisions on allocations, diversions, withdrawals, and releases, consider the following principles:

(1) That allocations, diversions, or withdrawals of water be based on the common law principles of riparian rights which entitles landholders in any watershed to draw upon the natural stream flow in reasonable amounts and be entitled to the stream flow not unreasonably diminished in quality or quantity by upstream use or diversion of water.

(2) That recognizes land use development in any watershed may in certain instances be limited by the water supply capacity of that watershed.

(3) That one of the prerequisites to the intra and interbasin transfer of water should be that the receiving watershed has developed within reasonable limits of economic and technical feasibility, its resources and reserves, including ground water, and committed them to current use.

(e) When the need arises for action on requests for allocations, diversions, or withdrawals of water from either surface or ground waters of the basin the Commission shall:

(1) Allocate waters of the basin to and among the signatory States to the Compact as the need appears, and impose related conditions, obligations, and release requirements.

(2) Determine if a proposed allocation, withdrawal or diversion is in conflict with or will significantly affect the comprehensive plan, and assure existing immediate and projected long term local and regional uses are protected.

(3) Impose conditions, obligations and release requirements for dams and/or diversion structures to protect prior local interests, downstream interests, and environmental quality.

(4) In the matter of drought, disasters or catastrophes, natural or manmade, which cause actual and immediate shortage of available and usable water supply, determine and delineate the area of shortage and by unanimous vote declare a state of water supply emergency therein, and impose direct controls on any and all allocations, diversions and uses of water to meet the emergency condition.

(5) In water emergencies coordinate the efforts of Federal, State, local, and other persons and entities in dealing with the emergency.

(6) Determine and delineate, after public hearing, areas within the basin wherein the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or impair or conflict with the comprehensive plan.

(7) When areas in need of protection from overdemand of safe yield of the supply have been delineated, declare such areas protected from further depletion, with the consent of the member or members from the affected State or States.

(8) Require that no person divert or withdraw from any protected area water for domestic, municipal, agricultural, or industrial uses in excess of such quantities as the Commission may prescribe by general regulation or pursuant to a permit granted heretofore under the laws of any of the signatory States.

§ 801.4 Project review (interim).

(a) The Compact provides generally that no project affecting the water resources of the basin shall be undertaken by any person, governmental authority, or other entity prior to approval by the Commission.

(b) In many instances, one or more of the signatory parties will exercise project review authority regarding proposed projects in the basin coming under the purview of the Commission. Accordingly the Commission will direct its attention to reviewing the completeness and effectiveness of the review procedures of the signatories and will endeavor to minimize duplication of staff effort, and time and cost to the applicant.

(c) The Commission will establish exempt categories in accordance with the section 3.10–3 of the Compact, and for projects determined not to have a substantial effect on the water resources of the basin. In dealing with Federal or federally licensed projects, the Commission will take the provisions of reservations (r) and (w) of United States PL 91–575 (84 Stat. 1509) and provisions of the Compact into account.

(d) It is expected that project review procedures will be modified following adoption of the comprehensive plan. In the meantime the Commission will:

(1) Base its review and comments pertaining to proposed projects within the basin coming under the purview of the Commission, on review and comments of signatory parties. In general, the Commission review will seek to ascertain the completeness of procedures followed by the signatory parties in their review, and will refrain from specifically rechecking detailed evaluations. (Susquehanna River Basin Commission Resolution No. 72–5)

(2) Require as it determines necessary, submission of pertinent project plans and documents for its independent review and approval. The purpose of their review will be to ascertain whether all relevant provisions of the Compact and actions taken pursuant thereto have been observed:

(i) When the Commission has determined that a project may have a significant effect on the water resources of the basin.

(ii) When a proposed project does not fall under the review jurisdiction of any agency of the signatory parties.

§ 801.5 Comprehensive plan.

(a) The Compact requires that the Commission formulate and adopt a comprehensive plan for the immediate and long-range development and use of the water resources of the basin.

(1) The plan will include existing and proposed public and private programs, projects, and facilities which are required, in the judgment of the Commission, to meet present and future water resources needs of the basin. Consideration shall be given to the effect of the plan, or any part of the plan, on the receiving waters of the Chesapeake Bay. The Commission shall consult with interested public bodies and public utilities and fully consider the findings and recommendations of the signatory parties, their various subdivisions and interested groups. Prior to adoption of the plan the Commission shall conduct at least one public hearing in each signatory State.

(2) The plan will reflect consideration, of the multiobjectives of national economy, regional development and environmental quality; and multipurpose use of projects.

(3) Water quantity and water quality planning will be studied together and correlated to the extent feasible, with existing and proposed land uses. The development of a basinwide land use study to enable full consideration of basic and alternative proposals to meet water resources needs will be explored.

(4) An important phase of the plan formulation process is a thorough review and evaluation of the Susquehanna River Basin Coordinating Committee Study report, other pertinent plans and reports of the signatories, the data source, and the water quality standards of the signatories and progress towards their achievement. The findings and recommendations presented in the Susquehanna River Basin Coordinating Committee Study report will be considered for incorporation in the Commission's plan to the extent they are feasible and compatible with the current and projected needs and interests.

(5) Essentially the comprehensive plan will reflect the findings of an analysis of a mix of alternative futures for industrial, agricultural, residential, and recreational development in the basin.

(6) The Commission will act diligently to promote Federal, State, local governmental, and private sector cooperation and coordination in the implementation of the adopted plan. It is expected that recommended development programs will be undertaken by the signatories, local governmental agencies, or private interests. If expeditious action by others is not forthcoming or is not possible the Commission will act in accordance with the Compact to implement programs, projects, and standards to the extent necessary to further the aims of the comprehensive plan.

(b) The comprehensive plan shall provide for the immediate and long-range use, development, conservation, preservation, and management of the water resources of the basin, and shall include the following parts.

(1) *Part I.* (i) Statement of authority, purpose, objectives and scope.

(ii) Description of the physical and human environment.

(iii) Inventory of the basin's water resources and existing developments and facilities.

(iv) Projection of immediate and long-range water resources needs of the basin.

(v) Description of a general system of measures and programs, including water quality and other standards as determined necessary, and reasonable alternatives considered essential to and capable of satisfying water resources needs into the reasonably foreseeable future.

(vi) Criteria used for review and acceptance of projects within the plan.

(vii) Procedures for updating and modifying the plan.

(2) *Part II.* Details on specific projects and programs in the comprehensive plan.

§ 801.6 Water supply.

(a) The Susquehanna River Basin is rich in water resources. With proper planning and management, and with adequate public and private investment in treatment, storage, and distribution facilities, the high potential of the basin to provide water of suitable quality for a wide array of public and private purposes into the foreseeable future should be possible.

(b) The Commission may regulate the withdrawal of waters of the basin not regulated by the signatory parties for domestic, municipal, industrial, and agricultural uses if regulation is considered essential to further the aims set forth in the comprehensive plan.

(c) The Commission shall study the basin's water supply needs, the potential surface and ground water resources, and the interrelationships to meet these needs through existing and new facilities and projects. Efficient use and management of existing facilities with emphasis on the full utilization of known technology will be explored in meeting water supply needs for domestic, municipal, agricultural, and industrial water supply before new programs or projects are approved.

§ 801.7 Water quality.

(a) The signatory States have the primary responsibility in the basin for water quality management and control. However, protection of the water resources of the basin from pollution, and actions by the signatory parties to achieve abatement and control of pollution are important to the Commission.

(b) The signatory parties have adopted water quality standards for the intra and interstate waters of the basin. Initially these standards will serve as the basis for the Commission's water quality program in the comprehensive plan.

(c) The Commission's role in water quality management and control essentially will be one of coordination to ensure water quality standards are adequate to protect broad public water resources interests, and that uniform policies and enforcement are effected by the signatories.

(d) The Commission, if necessary, shall recommend to the signatory parties amendment of the standards of quality for any waters of the basin in relation to their reasonable and necessary use. The Commission may adopt water quality standards, after public notice and hearing, and may undertake investigations, studies, and surveys pertaining to existing water quality, probable future water quality, and the effects of new materials and proposed discharges.

(e) The Commission shall:

(1) Encourage and coordinate efforts of the signatory parties to prevent, reduce, control, and eliminate water pollution and to maintain water quality in accordance with established standards.

(2) Promote government and private sector implementation of maximum practical use of waste utilization and treatment technology.

(3) Promote and encourage State and local governments and industry to plan for regional waste water treatment and management.

(4) In cooperation with appropriate agencies of the signatory parties, make periodic inspections to ascertain the state of compliance with appropriate water quality standards, and as needed establish and operate water quality monitoring stations.

§ 801.8 Flood plain management and protection.

(a) Periodic inundation of lands along waterways has not discouraged development of flood hazards areas. Major

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floods cause loss of life, extensive damages, and other conditions not in the public interest. A balanced flood plain management and protection program is needed to reduce the flood hazard to a minimum.

(b) The Commission may regulate the use of flood prone lands with approval of the appropriate signatory party, to safeguard public health, welfare, safety and property, and to sustain economic development.

(c) To foster sound flood plain controls, as an essential part of water resources management, the Commission shall:

(1) Encourage and coordinate the efforts of the signatory parties to control modification of the Susquehanna River and its tributaries by encroachment.

(2) Plan and promote implementation of projects and programs of a structural and nonstructural nature for the protection of flood plains subject to frequent flooding.

(3) Assist in the study and classification of flood prone lands to ascertain the relative risk of flooding, and establish standards for flood plain management.

(4) Promote the use of flood insurance by helping localities qualify for the national program.

(5) Assist in the development of a modern flood forecasting and warning system.

§ 801.9 Watershed management.

(a) The character, extent, and quality of water resources of a given watershed are strongly affected by the land use practices within that watershed. Accordingly the Commission will maintain close liaison with Federal, State, and local highway, mining, soil, forest, fish and wildlife, and recreation agencies and with government agencies dealing with urban and residential development programs.

(b) The Commission shall:

(1) Promote sound practices of watershed management including soil conservation measures, land restoration and rehabilitation, erosion control, forest management, improvement of fish and wildlife habitat, and land use in highway, urban, and residential development as related to water resources.

§ 801.10 Recreation.

(a) The use of surface water resources of the basin for recreation purposes is extensive. Swimming, fishing, boating, and other water oriented activities have regional and local economic benefit as well as recreational benefit.

(b) The Commission shall cooperate with public and private agencies in the planning and development of water-related recreation and fish and wildlife programs and projects within the basin and shall:

(1) Promote public access to and recreational use of existing and future public water areas.

(2) Promote recreational use of public water supply reservoirs and lakes where adequate treatment of water is provided, and/or where recreational uses are compatible with primary project purposes.

(3) Include recreation as a purpose where feasible, in multipurpose water use planning of reservoirs and other water bodies.

§ 801.11 Public values.

(a) The basin has many points of archeological and historic interest, and is well endowed with vistas of aesthetic significance.

(b) The Commission fully recognizes that the value of these areas cannot be measured simply in economic terms and will strive to preserve and promote them for the enjoyment and enrichment of present and future generations.

(c) The Commission shall:

(1) Seek the advice and assistance of appropriate societies and governmental agencies in the identification of archeological, historic, and scenic areas, and in any planning or development affecting these attributes of the basin.

§ 801.12 Electric power generation.

(a) Significant uses are presently being made of the waters of the basin for the generation of electric power at hydro, pumped storage, and thermoelectric generating stations. Increased demands for electric power throughout the East Coast can be expected to result in proposals for the development of additional electric power generating stations located either in the basin or nearby its borders.

(b) There appears to be limited site potential in the basin for additional hydroelectric generation, and considerable potential for additional pumped storage and thermoelectric generation. The direct and indirect effects of existing and proposed electric generation projects will be considered by the Commission. Items of concern will include consumptive uses of water, alteration of natural stream regimen, effects on water quality, and on other uses of the streams affected.

(c) The Commission, in cooperation with appropriate agencies of the signatory parties, and with other public and private agencies shall:

(1) Conduct a thorough review of applications to relicense existing electric power generating projects and facilities, and applications to amend existing licenses to determine if the proposal is in accord with the comprehensive plan.

(2) Require that the proposed siting and location in the basin of any type of electric generating facility or any facility located outside the basin having an effect on the waters of the basin, shall be planned in direct consultation with the Commission to enable advance consideration of the possible effects of such installation on the water resources of the basin.

Dated: October 4, 1972.

SUSQUEHANNA RIVER BASIN COMMISSION,
[SEAL] ROBERT J. BIELO,
Executive Director.

[FR Doc.72-17234 Filed 10-6-72;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T. D. 72-278]

FOREIGN CURRENCIES

Rates of Exchange

SEPTEMBER 26, 1972.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which vary by 5 percent or more from the quarterly rate published in Treasury Decision 72-194 for the Ceylon rupee. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:	
September 18, 1972	$0.1565
September 19, 1972	.1560
September 20, 1972	.1560
September 21, 1972	.1560
September 22, 1972	.1540

Rates of exchange certified for the Ceylon rupee which vary by 5 percent or more from the rate $0.1680 during the balance of the calendar quarter ending September 30, 1972, will be published in a Treasury Decision for dates subsequent to September 22, 1972, and before October 1, 1972.

[SEAL] R. N. MARRA,
Acting Assistant Commissioner,
Office of Operations.

[FR Doc.72-17253 Filed 10-6-72;8:50 am]

Fiscal Service

[Dept. Cir. 570, 1972 Rev., Supp. 4]

NEW YORK GUARANTY CORPORATION

Surety Company Acceptable on Federal Bonds

A certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $1,117,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

New York Guaranty Corporation
New York, New York
New York

Certificates of authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: October 3, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-17251 Filed 10-6-72;8:50 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

METHYLPHENIDATE (RITALIN)

Notice of Hearing

On July 5, 1972, a notice of the proposed aggregate production quota for methylphenidate (Ritalin) was published in the FEDERAL REGISTER (37 F.R. 13279). In response to this notice, the Bureau received comments on the proposed aggregate production quota with many specific recommendations that the quota be increased or decreased. Comments were filed by Ciba Pharmaceutical Corp.; New Jersey Association for Children with Hearing Disabilities; California Association for Neurologically Handicapped Children; Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y.; Arkansas Association for Children with Hearing Disabilities, Inc.; New York Association for Brain Injured Children; and the Honorable Claude S. Pepper, Chairman, Select Committee on Crime, House of Representatives.

Hearings were requested by two parties, Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y. and the Ciba Pharmaceutical Co.

The Ciba-Geigy Pharmaceutical Co. is an "interested party" because it is the owner of the methylphenidate patent and is the sole manufacturer and distributor of the product in the United States.

Because Ciba Pharmaceutical Corp. has standing to request a hearing, the Director has determined to grant its request. This eliminates the need to determine whether the Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y. is an "interested party". All persons who have filed comments will be given an opportunity to appear at the hearing as witnesses or to submit their comments in writing.

The Director of the Bureau of Narcotics and Dangerous Drugs pursuant to the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811) and delegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations hereby orders that a public hearing will be held for the purposes of determining the aggregate production quota for methylphenidate (Ritalin) on October 24, 1972, at 10 a.m. at Room 402, Bureau of Narcotics and Dangerous Drugs, 1405 Eye Street NW., Washington, DC 20537.

Dated: October 5, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-17322 Filed 10-6-72;8:53 am]

PHENMETRAZINE (PRELUDIN)

Notice of Hearing

On July 6, 1972, a notice of the proposed aggregate production quota for phenmetrazine (Preludin) was published in the FEDERAL REGISTER (37 F.R. 13279). In response to this notice, the Bureau received comments on the proposed aggregate production quota with recommendations that the quota be increased or decreased. Comments were filed by the Honorable Claude S. Pepper, Chairman, Select Committee on Crime, House of Representatives; by New York Association for Brain Injured Children; by Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y.; and by Boehringer Ingelheim Ltd.

Hearings were requested by two parties, Boehringer Ingelheim Ltd. and Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y.

Boehringer Ingelheim Ltd. is an "interested party" because it represents the owner of the patent, C. H. Boehringer Sohn, covering phenmetrazine. In addition, Boehringer Ingelheim Ltd. has been authorized to represent the interests of Ciba-Geigy Corp., the manufacturer and distributor of phenmetrazine dosage forms (Preludin) in the United States and Fher Corp. Ltd., the manufacturer of phenmetrazine anhydrous free base used in the production of Preludin.

Because Boehringer Ingelheim Ltd. has standing to request a hearing, the Director has determined to grant its request. This eliminates the need to determine whether the Narcotics Guidance Council of the Town of Huntington, Long Island, N.Y. is an "interested party." All persons who filed comments will be given an opportunity to appear at the hearing as witnesses or to submit their comments in writing.

The Director of the Bureau of Narcotics and Dangerous Drugs, pursuant to the authority vested in the Attorney

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General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811) and delegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 Code of Federal Regulations hereby orders that a public hearing will be held for the purpose of determining the aggregate production quota for phenmetrazine (Preludin) on November 9, 1972, at 10 a.m. at Room 402, Bureau of Narcotics and Dangerous Drugs, 1405 Eye Street NW., Washington, DC 20537.

Dated: October 5, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-17321 Filed 10-6-72;8:53 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Notice of Public Meetings

The Bonneville Power Administration hereby gives notice of additional meetings in its series of public meetings to be held to discuss BPA's fiscal year 1974 draft environmental statement. A notice of the first series of public meetings was published in the FEDERAL REGISTER, vol. 37, No. 186, page 20047 on September 3, 1972. The purpose of the meetings is twofold: To present to the public BPA's projected fiscal year 1974 program, and to elicit comments from the public with respect to the environmental impact of BPA's projected program. The dates, hours, and places of this series of meetings are as follows: November 8, 1972, 1:30 p.m., Wasco County Courthouse, The Dalles, Oreg.; November 9, 1972, 7 p.m., Parkdale Grange Hall, Parkdale, Oreg.; November 14, 1972, 7 p.m., Federal Building (auditorium) Richland, Wash.; November 15, 1972, 7 p.m., Walla Walla County Extension Building, Walla Walla, Wash.; November 9, 1972, 8 p.m., the Valley Bank, St. Anthony, Idaho; November 6, 1972, 7:30 p.m., Fisher's Grange Hall No. 211, Vancouver, Wash.; November 8, 1972, 7:30 p.m., Mari-Linn Elementary School, Lyons, Oreg.; November 2, 1972, 7:30 p.m., Blaine City Hall, Blaine, Wash.; November 9, 1972, 7:30 p.m., Grange Hall-Long Beach Grange No. 667, Long Beach, Wash.; November 13, 1972, 7:30 p.m., Cedar Grange No. 534, Maple Valley, Wash.; November 14, 1972, 7:30 p.m., Aberdeen Public Library, Aberdeen, Wash.; November 20, 1972, 7:30 p.m., Islander Motel, Lopez Island, Wash.; November 29, 1972, 10 a.m., BPA Building Auditorium, Portland, Oreg.

Dated: October 2, 1972.

H. R. RICHMOND,
Administrator.

[FR Doc.72-17286 Filed 10-6-72;8:53 am]

Fish and Wildlife Service

VALENTINE NATIONAL WILDLIFE REFUGE

Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (P.L. 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on December 12, 1972, at the Cherry County Court House, Valentine, Nebr., on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including the Valentine Wilderness proposal within the National Wilderness Preservation System. The wilderness proposal consists of approximately 16,317 acres within Valentine National Wildlife Refuge, which is located in Cherry County, State of Nebraska.

A study summary containing a map and information about the Valentine Wilderness proposal may be obtained from the Refuge Manager, Valentine National Wildlife Refuge, Kennedy Star Route, Valentine, Nebr. 69201, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Twin Cities, Minn. 55111.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by January 13, 1973.

E. V. SCHMIDT,
Deputy Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 29, 1972.

[FR Doc.72-17214 Filed 10-6-72;8:49 am]

National Park Service

OLYMPIC NATIONAL PARK

Intention To Extend Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Becker's Ocean Resort, Inc., authorizing it to provide concession facilities and services for the public at the Kalaloch area, Olympic National Park, for a period of one (1) year from January 1, 1973, through December 31, 1973.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: September 29, 1972.

LAWRENCE C. HADLEY,
Assistant Director, National Park Service.

[FR Doc.72-17215 Filed 10-6-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Forest Service

MINERAL EXPLORATION PROPOSAL IN MAZATZAL WILDERNESS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for a Mineral Exploration Proposal in the Mazatzal Wilderness, USDA-FS-DES(Adm) 73-20.

The environmental statement considers probable environmental effects or impacts of a proposal for mineral exploration in the Mazatzal Wilderness.

This draft environmental statement was filed with CEQ on September 25, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, NM 87101.

Tonto National Forest, 230 North First Avenue, Room 6428, Phoenix, AZ 85025.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151; and Colorado Plateau Environmental Advisory Council, Post Office Box 1389, Flagstaff, AZ 85001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, NM 87101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Fred J. Wirth, Tonto National Forest, 230 North First Avenue, Room 6428, Phoenix, AZ 85025. Comments must be received within 30 days of the date of this notice in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 3, 1972.

[FR Doc.72-17269 Filed 10-6-72;8:51 am]

MONARCH WILDERNESS

Public Hearing on Forest Service Proposal

Notice is hereby given in accordance with the provisions of the Wilderness Act of September 3, 1964 (78 Stat. 890-892; 16 U.S.C. 1131-1132) that a public hearing will be held, beginning at 9 a.m. on Saturday, November 18, 1972 in the Fresno Fashion Fair Community Hall, 1st and Shaw, Fresno, CA, on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States that a recommendation be submitted to the Congress for the establishment of the Monarch Wilderness, comprised of approximately 36,000 acres within and contiguous to the High Sierra Primitive Area. The proposed Monarch Wilderness is located in portions of the Sequoia and Sierra National Forests located in Fresno County in the State of California.

A brochure containing a map, information, and draft environmental statement about the proposed Wilderness may be obtained from the Forest Supervisors of the Sequoia National Forest, 900 West Grand Avenue, Post Office Box 391, Porterville, CA 93257; Sierra National Forest, 1130 "O" Street, Federal Building, Fresno, CA 93721; or the Regional Forester, 630 Sansome Street, San Francisco, CA 94111.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, Attention 2100, 630 Sansome Street, San Francisco, CA 94111, by December 18, 1972.

REXFORD A. RESLER,
Associate Chief, Forest Service.

OCTOBER 4, 1972.

[FR Doc.72-17267 Filed 10-6-72;8:51 am]

TRINITY ALPS WILDERNESS

Public Hearing on Forest Service Proposal

Notice is hereby given in accordance with the provisions of the Wilderness Act of September 3, 1964 (78 Stat. 890-892; 16 U.S.C. 1131-1132) that a public hearing will be held, beginning at 9 a.m. on Saturday, December 9, 1972 in the Civic Auditorium, Redding, Calif., on a proposal for a recommendation to be made by the Secretary of Agriculture to the President of the United States that a recommendation be submitted to the Congress for the establishment of the Trinity Alps Wilderness, comprised of approximately 238,000 acres within and contiguous to the Salmon-Trinity Alps Primitive Area. The proposed Trinity Alps Wilderness is located in portions of the Klamath, Shasta-Trinity, and Six Rivers National Forests located in Humboldt, Siskiyou, and Trinity Counties in the State of California.

A brochure containing a map, information, and draft environmental statement about the proposed Wilderness may be obtained from the Forest Supervisors of the Klamath National Forest, 1215 South Main Street, Yreka, CA 96097; Shasta-Trinity National Forest, 1615 Continental Street, Redding, CA 96001; Six Rivers National Forest, 710 East Street, Eureka, CA 94111.

Individuals and organizations may express their views by appearing at this hearing or may submit written comments for inclusion in the official record to the Regional Forester, Attention 2100, 630 Sansome Street, San Francisco, CA 94111, by January 8, 1973.

REXFORD A. RESLER,
Associate Chief, Forest Service.

OCTOBER 4, 1972.

[FR Doc.72-17268 Filed 10-6-72;8:51 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-294]

ERIE NAVIGATION CO.

Notice of Application

Notice is hereby given that the Erie Navigation Co. has filed an application under the Merchant Marine Act, 1936, as amended, for operating-differential subsidy on a vessel to be employed in U.S. foreign trade. Inasmuch as Erie Navigation Co. owns and operates U.S.-flag bulk-cargo vessels which are employed in the domestic Great Lakes service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended will be required for Erie Navigation Co. if its application for operating-differential subsidy is granted.

Erie Navigation Co. advises that it owns and operates the U.S.-flag vessels MV John R. Emery and the MV Peerless for the transportation of dry bulk cargoes in coastwise service on the Great Lakes. In addition, Officers and Directors of the applicant are Officers and Directors of Erie Sand Steamship Co., which owns and operates the steamers Alpena and Sidney E. Smith, Jr., and the motor vessels Lakewood, Lil' Rock, Niagara, and J. S. St. John in coastwise commerce on the Great Lakes.

Interested parties may inspect the application under consideration in the Office of Subsidy Administration, Maritime Administration, Room No. 4888, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Any person, firm or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application, must, by close of business on October 20, 1972, file same with the Maritime Subsidy Board/Maritime Administration, in writing in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

(Generally, comments or views are invited on whether the extraction of sand from Lake Erie and its deposit ashore in the United States is domestic commerce within the meaning of section 805(a).)

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m. on Friday, October 27, 1972, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the domestic services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: October 4, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-17337 Filed 10-6-72;8:53 am]

[Docket No. S-293]

ERIE NAVIGATION CO.

Notice of Application

Notice is hereby given that Erie Navigation Co., a Pennsylvania corporation

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which has its principal office at the foot of Sassafras Street, Erie, Pa. 16512, has filed an application with the Maritime Subsidy Board (the Board) pursuant to the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy agreement on the bulk cement carrier MV Day Peckinpaugh. Intended operations are limited exclusively to the transportation of bulk cement in foreign commerce between Picton, Ontario, Canada, and Rochester and Rome, N.Y. It is anticipated that about 80 sailings will move out of Picton, Ontario, Canada, per Great Lakes navigation season with 70 percent of such cargoes terminating at Rome, N.Y., and 30 percent terminating at Rochester, N.Y.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1175, should, by the close of business on October 20, 1972, notify the Secretary, Maritime Subsidy Board, in writing in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel operated or to be operated in an essential service served by two or more citizens of the United States with vessels of U.S. registry, and if so whether the effect of such an agreement would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in such essential service; and (2) whether it is necessary to enter into such agreement in order to provide adequate service by vessels of U.S. registry.

Since Rome, N.Y., is on the State barge canal system and is some distance inland from Lake Ontario, interested parties are also invited to furnish written comment on whether the service between Picton, Ontario, Canada, and Rome, N.Y., is an essential bulk-cargo carrying service in the foreign commerce of the United States within the meaning of section 211(b) of the Merchant Marine Act, 1936, as amended.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated: October 4, 1972.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-17338 Filed 10-6-72;8:53 am]

National Oceanic and Atmospheric Administration

[Docket No. C—370]

ANDREW H. BROWN

Notice of Loan Application

OCTOBER 2, 1972.

Andrew H. Brown, Post Office Box 444, Mendocino, CA 95460 has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new-steel vessel, about 52 foot in length, to engage in the fishery for salmon, Dungeness crab, albacore, black cod, and shrimp off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-17199 Filed 10-6-72;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL CANCER INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Cancer Research Training Committee, October 5–6, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 9, Bethesda, Md. There will be introductions and indoctrination of new members and discussion of the structure, purpose, and functions of the committee when the meeting will be open to the public from 9 a.m. to 9:30 p.m., October 5. The meeting will be closed to the public at all other times to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of Cancer Research Training Committee members and/or summary of the meeting may be obtained:

Dr. Kenneth Potter, Westwood Building, Room 855, Bethesda, Md. 20014

Dated: October 3, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72-17204 Filed 10-6-72;8:47 am]

NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Hypertension Information and Education Advisory Committee, October 17 and 18, 1972, National Institutes of Health, Building 31, Conference Room 6. The committee will review development of the National Hypertension Information and Education Program Plan to date. The meeting will be open to the public from 7:30 p.m. to 10 p.m., October 17, and from 9 a.m. to 4:30 p.m. on October 18.

Name of the person from whom rosters of committee members and/or summary of the meeting may be obtained: Miss Rosalie Silverberg, National Institutes of Health, Building 31, Room 5A50.

Dated: October 2, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72-17203 Filed 10-6-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

National Motor Vehicle Safety Advisory Council

NOTICE OF PUBLIC MEETING

On October 11 and 12, 1972, the National Motor Vehicle Safety Advisory Council will hold open meetings in the Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC. The Advisory Council is composed of 22 members, a majority of which are representatives of the general public, including representatives of State and local governments, with the remainder including representatives of motor vehicle manufacturers, motor vehicle equipment manufacturers, and motor vehicle dealers. The Secretary of Transportation consults with the Advisory Council on motor vehicle safety standards promulgated under the National Traffic and Motor Vehicle Safety Act of 1966 (16 U.S.C. 1381 et seq.).

The following meetings will be held:

The Executive Committee of the National Motor Vehicle Safety Advisory Council will meet at 9 a.m. on October 11, room 4238, with the following agenda:

Discussion of Council Charter, Bylaws, and Organization.
New Business.

The Ad Hoc Awards Committee of the National Motor Vehicle Safety Advisory Council will meet at 9 a.m. on October 11, room 5220, with the following agenda:

Development of Guidelines and Criteria for Council Awards.

The National Motor Vehicle Safety Advisory Council will meet in regular session from 1:30 p.m. to 4 p.m. on October 11 and from 9 a.m. to 12 noon on October 12 in room 4238 with the following agenda:

Review of Motor Vehicle Safety Standards Program.
Cost Effectiveness Studies in Automotive Safety.
Future Council Priorities.
Report of Executive Committee.
Report of Ad Hoc Committee on Awards.
Status of Pending Resolutions.
New Business.

This notice is given pursuant to section 13 of Executive Order 11671, June 5, 1972.

Issued: October 5, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-17346 Filed 10-6-72;9:29 am]

ATOMIC ENERGY COMMISSION

[Docket No. RM-50-1]

ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS FOR LIGHT-WATER-COOLED NUCLEAR POWER REACTORS

Resumption of Hearing in the Above Captioned Proceeding

According to the schedule in Board order Confirming October 16, 1972, Filing Date for Redirect and Rebuttal Testimony filed September 27, 1972, hearing sessions will resume on Wednesday, November 1, 1972, in Suite 100 at 8120 Woodmont Avenue, Bethesda, MD, for the purpose of permitting participants to question witnesses offered in support of redirect and rebuttal testimony.

Issued at Washington, D.C., this 3d day of October 1972.

NATHANIEL H. GOODRICH,
Chairman, Hearing Board
Emergency Core Cooling Systems.

[FR Doc.72-17209 Filed 10-6-72;8:51 am]

[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Order for Prehearing Conference

In the Matter of Long Island Lighting Co. (Shoreham Nuclear Power Station), Docket No. 50-322.

A prehearing conference in the above proceeding will be held on Tuesday, October 10, 1972, at 1:30 p.m. in Room 2008, Federal Office Building No. 7 (enter on 17th Street), 726 Jackson Place NW., Washington, DC 20506.

Dated at Washington, D.C., this 4th day of October 1972.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,
Chairman.

[FR Doc.72-17284 Filed 10-6-72;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1308) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing establishment of a tolerance (40 CFR Part 180) for residues of the insecticide methomyl (*S*-methyl *N*-[methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodity apples at 1 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a modification of the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry", vol. 16, pp. 554–7 (1968), using a flame protometric detector instead of a microcoulometric detector.

Dated: September 26, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17183 Filed 10-6-72;8:45 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1307) has been filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl) oxy] thioacetimidate) in or on the raw agricultural commodity sorghum forage at 1 part per million and sorghum grain at 0.2 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a modification of the method of H. L. Pease and J. J. Kirkland, "Journal of Agricultural and Food Chemistry," vol. 16, pp. 554–7 (1968). The modified method utilities a flame photometric detector instead of a microcoulometric detector.

Dated: September 26, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17184 Filed 10-6-72;8:45 am]

METHOMYL

Notice of Extension of Temporary Tolerance

E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, was granted a temporary tolerance for residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl) oxy] thioacetimidate) in or on cottonseed at 5 parts per million on July 12, 1971 (notice was published in the FEDERAL REGISTER of July 15, 1971 (36 F.R. 13174)). This temporary tolerance expired July 12, 1972.

The firm has requested a 1-year extension to obtain additional experimental data. It has been determined that this extension of the temporary tolerance of 5 parts per million for residues of the insecticide in or on cottonseed will protect the public health. It is therefore extended as requested on condition that the insecticide be used in accordance with the temporary permits being issued concurrently by the Pesticides Regulation Division of the Environmental Protection Agency and which provide for distribution under the E. I. du Pont de Nemours & Co. name.

This extended temporary tolerance expires July 12, 1973.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: September 26, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17182 Filed 10-6-72;8:45 am]

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NIPAK, INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1270) has been filed by Nipak, Inc., Post Office Box 338, Pryor, OK 74361, proposing establishment of an exemption from the requirement of a tolerance for residues of the plant regulator biuret in or on sugar beets.

The analytical method proposed in the petition for determining residues of the plant regulator is a spectrophotometric procedure in which the colored reaction product is measured at 555 nanometers.

Dated: September 26, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17185 Filed 10-6-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 17617, 17618; FCC 72R-262]

ATHENS BROADCASTING COMPANY, INC., AND 3 J's BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Athens Broadcasting Company, Inc., Athens, Tenn., Docket No. 17617, File No. BPH-5668; John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Co., Athens, Tenn., Docket No. 17618, File No. BPH-5768; for construction permits.

1. This proceeding involves the mutually exclusive applications of Athens Broadcasting Company, Inc. (Athens Broadcasting) and John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Company (3 J's), for authority to construct an FM broadcast station in Athens, Tenn. Each of the applicants is presently the licensee of a standard broadcast station in Athens: Daytime-only standard broadcast Station WYXI (1390 kHz, 500 w.) is licensed to 3 J's; and unlimited time standard broadcast Station WLAR (1450 kHz, 1 kw., daytime, 250 w. nighttime) is licensed to Athens Broadcasting. The FM applications were designated for hearing in 1967[1] on an air hazard issue against 3 J's and the standard comparative issue.[2] Since 1967, three separate hearings have been held and three Initial Decisions[3] and one Review Board Decision[4] have been released. All three initial decisions recommended a grant of the application of Athens Broadcasting, while the Board's decision granted the application of 3 J's. On April 18, 1972, the Review Board heard oral argument on exceptions to the last two initial decisions. Recently, serious questions concerning the basic and comparative qualifications of Athens Broadcasting have been brought to the Board's attention. These questions are raised in several pleadings filed by the applicants and the Broadcast Bureau. The two major pleadings now before the Board are: (1) A petition for leave to amend application, filed April 4, 1972, by Athens Broadcasting;[5] and (2) a petition to enlarge issues, filed August 3, 1972, by 3 J's.[6] Athens Broadcasting's petition to amend reflects a change in principals of the corporation and a change in management of the applicant's existing AM station (WLAR) and proposed FM station. 3 J's' petition to enlarge requests the addition of three issues against Athens Broadcasting, one inquiring into alleged violations of §§ 1.65 and 1.615 of the Commission's rules, one inquiring into whether Athens Broadcasting and/or its principals filed "false or misleading statements" with the Commission, and a requisite and comparative qualifications issue.

[1] Order of the Chief of the Broadcast Bureau, acting under delegated authority, 32 F.R. 11712, published Aug. 12, 1967.

[2] A site suitability issue against 3 J's was later added by the Review Board, by Memorandum Opinion and Order, 11 FCC 2d 559, 12 RR 2d 285, released Feb. 5, 1968.

[3] Initial Decision of Hearing Examiner Thomas H. Donahue, 17 FCC 2d 458, 13 RR 2d 1217, released Aug. 23, 1968; Cumulative Initial Decision of Hearing Examiner Donahue, FCC 70D-32, released July 29, 1970; and Supplemental Initial Decision of Hearing Examiner Ernest Nash, FCC 71D-32, released June 10, 1971. Examiner Nash was assigned to preside over this proceeding upon the retirement of Examiner Donahue.

[4] 17 FCC 2d 452, 16 RR 2d 638, released May 2, 1969.

[5] Also before the Board are the following related pleadings: (a) Notice of intention to amend application, filed Mar. 31, 1972, by Athens Broadcasting; (b) motion for extension of time, filed April 10, 1972, by 3 J's; (c) motion to make more definite and certain, filed April 10, 1972, by 3 J's; (d) Broadcast Bureau's comments on petition for leave to amend application, filed April 12, 1972; (e) supplement to petition for leave to amend application, filed May 5, 1972, by Athens Broadcasting; (f) response to (e), filed May 8, 1972, by 3 J's; (g) second supplement to petition for leave to amend application, filed May 15, 1972, by Athens Broadcasting; (h) third supplement to petition for leave to amend application, filed May 25, 1972, by Athens Broadcasting; (i) comments on behalf of 3 J's, filed June 2, 1972; and (j) reply to (i), filed June 16, 1972, by Athens Broadcasting.

[6] Related pleadings before the Board are an opposition, filed Aug. 16, 1972, by Athens Broadcasting; and the Broadcast Bureau's comments, filed Aug. 16, 1972.

BACKGROUND OF THE PROCEEDING

2. To facilitate a better understanding of our disposition of the pleadings, we will first set out a résumé of the history of this proceeding. As noted above, the FM applications of Athens Broadcasting and 3 J's were designated for hearing in 1967 on, inter alia, the standard comparative issue. In his initial decision, released August 23, 1968 (note 3, supra), the Hearing Examiner recommended a grant of Athens Broadcasting's application on the basis of a comparative preference for more efficient use of the frequency, which he concluded outweighed an integration preference awarded to 3 J's. The Examiner rejected arguments that preferences be awarded in the categories of diversification of control of the media of mass communications, past broadcast record, and duplication of programing.[7] On May 2, 1969, the Review Board released a decision (note 4, supra), reversing the Examiner's recommendation and granting the application of 3 J's. The grant of 3 J's was awarded on the basis of: (1) A "slight" preference for diversification of media control because 3 J's operates a daytime-only standard broadcast station in Athens, while Athens Broadcasting is the licensee of a full-time standard broadcast facility in that community; and (2) a "substantial" preference for integration of ownership, due to 3 J's' plan to integrate 100 percent of its ownership into the operation of its station on a substantially full-time basis, while Athens Broadcasting proposed full-time integration of only its general manager and 10 percent stockholder, William P. Atkins.[8] The Board held that these preferences outweighed a "moderate" preference awarded to Athens Broadcasting for its more efficient utilization of the frequency, which was based on its greater coverage and lesser duplication of AM and FM programing.

3. On June 2, 1969, Athens Broadcasting filed with the Commission an application for review of the Board's decision, requesting reversal of the decision, or, in the alternative, that the case be remanded to the Examiner for further hearings on the past broadcast record of 3 J's. On January 26, 1970, the Commission released a Memorandum Opinion and Order (21 FCC 2d 161, 18 RR 2d 231) granting Athens Broadcasting's alternative request to reopen the record to adduce evidence under the comparative issue concerning 3 J's' past broadcast record, and directing the Examiner to prepare a cumulative initial decision to cover all aspects of the proceeding. There was no request by Athens Broadcasting for a requisite qualifications issue against 3 J's and none was added. On July 29, 1970, the Hearing Examiner released his cumulative initial decision (note 3, supra), in which he found that John Frew, 3 J's' co-owner: (1) Induced the addition of a false jurat to a letter which was submitted to the Commission in violation of a U.S. criminal statute; (2) disseminated a misleading survey in connection with his standard broadcast station in Athens; (3) violated the Communications Act of 1934, as amended, and the Commission's rules and regulations by failing to reveal the correct sponsor of broadcast material; (4) engaged in at least three reporting failures in regard to the transfer of his interests in a number of broadcast stations; (5) failed to keep accurate logs for his Athens station in violation of the Commission's rules; (6) advertised a lottery on his station in violation of law; and (7) failed to carry out many of the programing commitments on his Athens station. All of these findings led the Examiner to conclude that, assuming that 3 J's did enjoy a preference over Athens Broadcasting in the initial part of the proceeding, "it would shock credulity to arrive at any other ultimate conclusion than that the very substantial array of deviations from the norm of sound licenseeship * * * outweigh, on (Athens Broadcasting's) side, the comparatively negligible preferences awarded 3 J's by the Review Board."

4. Then, in response to a petition to enlarge issues, filed September 30, 1970, by 3 J's, the Review Board, by Memorandum Opinion and Order, released January 14, 1971 (27 FCC 2d 7, 20 RR 2d 1115), reopened the record and remanded the proceeding to the Examiner for the adduction of evidence on additional issues to determine: First, whether Athens Broadcasting misrepresented the coverage area and contours of its AM radio station in Athens on promotional maps; second, whether Athens Broadcasting has kept its radio tower lighted in accordance with the terms of its license and Commission rules; and, third, in light of the evidence adduced pursuant to the added issues, the effect on Athens Broadcasting's basic and/or comparative qualifications. On June 10, 1971, Hearing Examiner Ernest Nash released a Supplemental Initial Decision (note 3, supra) concluding that the record on remand "present(s) no more than trifling examples of licensee misfeasance" which cannot be accorded weight in determining which application should be granted. Therefore, the Examiner determined that the evidence on remand did not affect the recommended grant to Athens Broadcasting in the cumulative initial decision. Exceptions to both the Cumulative and Supplemental Initial Decisions have been filed[9] and the case was ripe for decision at the time of the oral argument in April of this year. Then, the pleadings referred to in paragraph 1, supra, were filed. We will now proceed to a discussion of Athens Broadcasting's amendment, 3 J's' petition to enlarge, and 3 J's' past broadcast record.

[7] In preferring Athens Broadcasting for a grant, the Examiner concluded that: "There is an element of conjecture in the assumption that integration of ownership into station operation begets sensitivity to changing area needs that is not present in the solid grounds for preference won by Athens Broadcasting." 17 FCC 2d at 474, 13 RR 2d at 1225. (Footnote omitted.)

[8] The April 4, 1972, petition for leave to amend application filed by Athens Broadcasting (paragraph 1, supra) reflects that Atkins, general manager of Station WLAR and proposed general manager of the applicant's FM station, and vice president, director, and 10 percent stockholder of the applicant, has resigned and that Thomas A. Arterburn has assumed Atkins' corporate and operating positions and would purchase Atkins' 10 percent interest in the applicant. See paragraphs 5–11, infra.

[9] 3 J's filed exceptions to both initial decisions; Athens Broadcasting filed limited exceptions to the cumulative initial decision; and the Broadcast Bureau filed exceptions to the supplemental initial decision.

PETITION FOR LEAVE TO AMEND

5. Athens Broadcasting's petition for leave to amend application was filed 4 days after the applicant filed a "notice of intention to amend application." See note 5, supra. The "notice" advised the Board that "it will be necessary within the next several days"[10] to file a petition to amend to reflect the fact that William P. Atkins "will no longer be a stockholder of the applicant and will not be the general manager of the proposed new FM station." The "notice" further advised the Board that the amendment "will be filed as soon as it is received from the applicant." Finally, the "notice" states that: "It is contemplated that Mr. Atkins' (10 percent) interest in the applicant will be acquired by Mr. Thomas Arterburn who will replace Mr. Atkins as the general manager of the proposed new FM station." Arterburn is not identified in the "notice" or in the petition for leave to amend. The petition states that the amendment is necessary because Atkins resigned from his positions as officer, director, stockholder and general manager and was replaced by Arterburn who, "when present plans are realized," will become a 14.16 percent stockholder of the applicant. It is not explained in the petition (or in the earlier "notice") how Arterburn can become a 14.16 percent stockholder by purchasing Atkins' 10 percent stock interest.

6. In its motion to make more definite and certain, filed April 10, 1972, 3 J's states that it cannot respond properly to the petition to amend until the applicant provides further information concerning Arterburn, *i.e.*, biographical data in response to section II of FCC Form 301.[11] According to 3 J's, "An applicant on Form 301 must answer all questions in section II in regard to each and every principal. These are important questions, and the requirement cannot be evaded by slipping in someone new at a subsequent date by way of amendment, without any information on his qualifications."[12]

[10] At the time the "notice" was filed, oral argument on exceptions to the cumulative and supplemental initial decisions had already been scheduled for April 18, 1972, FCC 72R-77, released March 29, 1972.

[11] On the same day it filed its motion to make more definite and certain, 3 J's also filed a motion for extension of time within which to file a response to Athens Broadcasting's petition. In view of our dispositions of Athens Broadcasting's petition to amend and 3 J's' petition to enlarge, infra, 3 J's' motions of April 10, 1972, will be dismissed as moot.

[12] In its comments, filed June 2, 1972, 3 J's states that it has "no objection" to the acceptance of the amendment as supplemented.

7. The Broadcast Bureau opposes Athens Broadcasting's petition for leave to amend on the ground that acceptance of the amendment would result in the applicant obtaining a comparative advantage over its competitor, 3 J's. In the Bureau's opinion, it would be "totally inappropriate" to allow Athens Broadcasting to improve its competitive posture "at this late stage" of the proceeding. The Bureau acknowledges that "disallowing (the) amendment will result in a fiction * * * (however), it is preferable to accept a fiction as compared to the administrative chaos that would result if amendments of this type are permitted." Finally, the Bureau maintains that while Athens Broadcasting was required by § 1.65 of the Commission's rules to report Atkins' resignation, that section was not intended to allow post-designation amendments which would improve an applicant's comparative position.

8. The three supplements to the petition for leave to amend[13] disclose, among other things, that Thomas Arterburn is the son of Helen F. Arterburn, Athens Broadcasting's majority stockholder;[14] that Thomas and his brother, Donald, each became 4.16 percent stockholders of the corporation on July 2, 1971; that they received their shares of stock as gifts from their mother;[15] that the Arterburn brothers became officers and directors[16] of the corporation on February 20, 1972;[17] that Thomas Arterburn became general manager of Station WLAR on February 20, 1972; that Thomas Arterburn purchased William Atkins' 10 percent stock interest on April 28, 1972; and that Thomas Arterburn filed a petition for bankruptcy in the U.S. District Court, Chattanooga, Tenn., on July 16, 1970[18] mainly, the applicant represented, because of "medical bills incurred as a result of an operation undergone by his wife in (sic) September 18, 1969." In its second supplement, filed May 15, 1972, Athens Broadcasting states that it failed to report the gift of stock made on July 2, 1971 to the Arterburn brothers because Mrs. Arterburn "did not realize that it

[13] The supplements were filed on May 5, 15, and 25, 1972, respectively. See note 5, supra.

[14] When the record in this proceeding was closed, Mrs. Arterburn owned 90% of the stock and William Atkins owned 10%.

[15] The gifts of stock to Thomas and Donald Arterburn were first disclosed by counsel for Athens Broadcasting at the April 18, 1972 oral argument. Counsel stated: "To the best of my knowledge, Mrs. Arterburn * * * gave five shares of stock to each of her sons." * * * I am not sure (when she made the gifts.) I believe it was late last summer." Tr. 871-872. The exact date and other details concerning the gifts were disclosed for the first time in the May 5, 1972 supplement.

[16] Thomas Arterburn became vice-president and director and Donald Arterburn became secretary-treasurer and director.

[17] These facts were first reported to the Commission on May 5, 1972.

[18] The fact of Arterburn's bankruptcy was first disclosed to the Commission on May 15, 1972. A more complete statement of the alleged circumstances surrounding the bankruptcy was submitted on May 25, 1972.

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was necessary to report the transfer of stock to the Commission and since no dividends have ever been paid on the applicant's stock, Mr. Atkins did not realize a change in ownership report was required involving the gift of such a few shares to members of the stockholders' family."

9. Athens Broadcasting's petition for leave to amend will be denied and the amendment attached thereto will be rejected. Section 1.522 of the Commission's rules provides, in part, that requests to amend an application after it has been designated for hearing will be granted only for "good cause" shown. In satisfying the "good cause" criteria for post-designation amendments, the moving party must demonstrate that it acted with due diligence; that the proposed amendment was not required by the voluntary act of the applicant; that no modification or addition of issues or parties would be necessitated; that the proposed amendment would not disrupt the orderly conduct of the hearing or necessitate additional hearing; that the other parties will not be unfairly prejudiced; and that the applicant will not gain a competitive advantage. "Erwin O'Connor Broadcasting Co.", 22 FCC 2d 140, 143, 18 RR 2d 820, 824 (1970). See "Sands Broadcasting Corp.", FCC 61M–1218, 22 RR 106. Athens Broadcasting's petition does not meet any of the above criteria.

10. First, Athens Broadcasting has not acted with "due diligence" in submitting its amendment. Most of the events reported in the petition, as supplemented, transpired in February of this year, while they came to the Board's attention in piecemeal fashion months later. See paragraphs 5, 6, and 8, supra. In this regard, the Arterburn brothers became stockholders of the applicant in July 1971, and this fact was not properly reported until May, 1972. See note 15, supra. Moreover, it was after 3 J's filed its requests for clarification that the applicant submitted further necessary information concerning Thomas Arterburn. Under these circumstances, we cannot conclude that Athens Broadcasting acted with "due diligence". Second, the applicant has failed to show that the amendment was not required by its own voluntary act. The circumstances surrounding Atkins' resignation from his various positions at Athens Broadcasting are not explained. In fact, the date of his resignation is not even disclosed. The burden was on Athens Broadcasting to make such a showing and in its absence we do not know whether the amendment was necessitated by the applicant's own voluntary act. In this regard, we note that Atkins, as general manager of Athens Broadcasting's AM station, was responsible for the rate card and tower lighting incidents referred to in paragraph 4, supra. Therefore, the applicant's glaring failure to disclose the circumstances surrounding his departure at this late date in the proceeding—and after 18 years of employment at the station—raise serious questions about the applicant's candor and motivations. See paragraph 21, infra. Third, acceptance of the amendment might require the modification or addition of issues or parties; however, because we do not know the circumstances behind Atkins' resignation, it is impossible to determine whether Athens Broadcasting satisfied this criterion. We note that it was the petitioner's obligation to make the required showing and its failure to do so is merely one of several factors leading us to the conclusion that the petition to amend must be denied.

11. Fourth, the proposed amendment would disrupt the orderly conduct of the hearing because it would necessitate an evidentiary inquiry under the standard comparative issue into the qualifications of Thomas Arterburn, who proposes to serve as general manager of Athens Broadcasting's FM station.[19] The fact that further issues are being added against Athens Broadcasting (see paragraph 27, infra) does not justify acceptance of the amendment because: (1) It would unnecessarily further prolong an already long-protracted proceeding; and (2) it would be in disregard of the fact that Athens Broadcasting would be gaining an unwarranted competitive advantage over 3 J's, which is the final—and perhaps the most important—reason for denying the petition. "Post-designation amendments attempting to substitute principals have not been looked upon with favor by the Commission where * * * such amendments would result in the amending party gaining a comparative advantage." "Chapman Radio and Television Co.," 26 FCC 2d 891, 893, 20 RR 2d 977, 979 (1970), citing "The News-Sun Broadcasting Co.," 24 FCC 2d 770, 19 RR 2d 942 (1970); and "Grayson Television Co.," 11 FCC 2d 881, 12 RR 2d 512 (1968). In this case, since the new general manager, Thomas Arterburn, would be a 14.16 percent stockholder, while his predecessor, William Atkins, had only a 10 percent interest, to accept the amendment would improperly permit it to improve its comparative position at this late date in the proceeding. While the improvement might be slight, there is, in our view, "a reasonable possibility that the amendment could result in a comparative advantage" for Athens Broadcasting. "Great River Broadcasting, Inc.," 12 FCC 2d 35, 36, 12 RR 2d 659, 661 (1968). This would be grossly unfair to 3 J's. As the Bureau points out, rejection of Athens Broadcasting's amendment means that we must proceed with the "fiction" that Atkins remains a 10 percent stockholder integrated into the operation of the proposed station (but see note 34, infra), and that the applicant will receive credit for integration only on that basis. However, "such a result is to be preferred when the integrity of the Commission's rules and of its processes is at stake." "Martin Lake Broadcasting Co.," 26 FCC 2d 963, 970, 20 RR 2d 964, 974 (1970). See "Grayson Television Co.," supra. In sum, Athens Broadcasting's petition for leave to amend must be denied because the applicant has failed to show "good cause" for acceptance of the amendment.

[19] In our May 1969 Decision, supra, Athens Broadcasting received credit for the proposed participation was qualitatively enhanced by his full-time participation of William Atkins as general manager of the FM station. His past experience. See 17 FCC 2d at 457, 16 RR 2d at 645.

PETITION TO ENLARGE ISSUES

12. In its petition to enlarge issues, 3 J's requests the addition of the following three issues against Athens Broadcasting:

1. To determine whether Athens Broadcasting Co., Inc. complied with the provisions of §§ 1.65 and 1.615 of the rules, and if not, the facts and circumstances surrounding such failure to comply.

2. To determine whether Athens Broadcasting Co., Inc. and/or its principals filed false or misleading statements with the Commission in this proceeding, and if so, the facts and circumstances thereof.

3. To determine the effect of the conduct of Athens Broadcasting Co., Inc., as shown by the evidence under the foregoing issues, upon its comparative and absolute qualifications.

The gist of the petition is that Athens Broadcasting has failed to comply with the reporting requirements of §§ 1.65 and 1.615 of the Commission's rules and has not explained its failure to do so. The alleged violations concern the disclosures made by Athens Broadcasting in its petition to amend, as supplemented. 3 J's also alleges that ever since Athens Broadcasting filed its "notice of intention to amend application" (see paragraph 5, supra), it has been "guilty of evasiveness and lack of candor in reporting the circumstances surrounding the filings". At the outset, 3 J's states that it filed the instant petition "out of an abundance caution" because it believes that the facts alleged in its petition may be considered under the present comparative issue. In this regard, petitioner notes that in its comments, filed June 2, 1972 (note 5, supra), it requested the Board to set a date upon which supplemental proposed findings and conclusions would be filed by the parties based upon the various pleadings filed by Athens Broadcasting and 3 J's in connection with the former's petition to amend. The earlier comments essentially dealt with the question of Athens Broadcasting's candor in reporting the matter of Thomas Arterburn's 1970 bankruptcy petition. See paragraph 8, supra. The instant petition repeats and amplifies that allegation and, in addition, argues that Athens Broadcasting violated two of the Commission's reporting rules.

13. In support of its request for the first issue, 3 J's alleges: (1) that Athens Broadcasting failed to report to the Commission until April 18, 1972, the transfer in July 1971 of 10 shares of the applicant's stock from Helen Arterburn (90 percent owner) to her two sons who, prior to the transfer, held no stock in the

applicant; and (2) that Athens Broadcasting failed to timely report to the Commission the change in the applicant's proposal that its 10 percent stockholder, William Atkins, would be general manager of its proposed FM station. See paragraph 8, supra. According to 3 J's, "it is clear" that Athens Broadcasting has violated Commission §§ 1.65 and 1.615[20] and an appropriate issue must therefore be added. The second requested issue stems from statements made by the applicant and Thomas Arterburn in the May 25, 1972 supplement (paragraph 8, supra) concerning Arterburn's bankruptcy petition. The supplement represents that, at the time the petition in bankruptcy was filed, Arterburn had net assets of $1,000 and liabilities of approximately $12,800; that the "great majority of the liabilities stemmed from medical bills incurred as a result of an operation undergone by his wife in September 18, 1969"; and that the hospital had threatened to file suit to collect $4,100 which Arterburn's insurance company refused to pay. The supplement claimed that the information provided was "a full explanation" and that the applicant's obligation to inform the Commission of changes in its application was "complete(d)." 3 J's notes, however, that attached to its comments, filed June 2, 1972, was a copy of Arterburn's bankruptcy petition, which, 3 J's contends, indicates, contrary to Arterburn's sworn statement, that Arterburn's two largest creditors were banks and that bills due hospitals constituted a very small portion of Arterburn's debts.[21] 3 J's further argues that, "faced with this evidence" (i.e., 3 J's comments) Arterburn filed another affidavit on June 16, 1972,[22] in which he admitted that the bill for his wife's operation was only $947.56, but claimed that "other costs stemming from his wife's illness and listed in the bankruptcy petition totaled about $1,000 * * *." In 3 J's view, Arterburn's explanation of May 25, 1972, that the "great majority of the liabilities stemmed from medical bills incurred as a result of the operation", was, in 3 J's words, "not true." And, 3 J's continues, also "not true" was the figure of $4,000 for the operation. In sum, 3 J's concludes that Athens Broadcasting has been "guilty of evasiveness and lack of candor"; that Athens Broadcasting has supplied information concerning Arterburn's bankruptcy "only as a result of constant nudging by 3 J's"; and that the information supplied was "inaccurate."

14. The Broadcast Bureau supports 3 J's' request for a §§ 1.65 and 1.615 issue. The Bureau maintains that the Commission must be able to rely upon broadcast licensees and applicants to comply with the reporting rules. In the Bureau's opinion, Athens Broadcasting was "Clearly * * * remiss in failing to report July 1971, ownership transfers until May 1972." The failure to report the transfers until May 1972 is characterized by the Bureau as "a 'blatant disregard of Commission rules." The Bureau also supports addition of the second requested issue, "but for comparative purposes only." The Bureau does not believe that the inaccuracies in reporting Arterburn's bankruptcy involve factual matters of significance.

15. Athens Broadcasting bases its opposition to 3 J's' petition on two major arguments: (1) That the petition is untimely and should be dismissed without further consideration; and (2) that the factual allegations are insufficient to warrant addition of the requested issues. With regard to timeliness, respondent argues that "all of the facts" relied upon by 3 J's have been on file with the Commission for more than 60 days, and that 3 J's has therefore violated the timeliness requirement of Commission § 1.229(b). Respondent then notes the age of this proceeding (the applications were designated for hearing in August 1967); the fact that 3 J's failed to plead good cause for the filing of an earlier petition to enlarge issues against Athens Broadcasting;[23] and the doctrine of administrative finality (citing "Greater Boston Television" "Corp. v. FCC," — U.S. App. D.C. ——, — F.2d ——, 23 RR 2d 2055 (1972)). Athens Broadcasting contends that, "Surely, 5 years is a sufficient time period in which to select a licensee for the only FM station allocated to a city of 12,000 people." On the merits, Athens Broadcasting first concedes that it violated §§ 1.65 and 1.615 of the rules. However, it insists that the failure to report the stock transfers from Mrs. Arterburn to her two sons was "isolated" and "minor" and does not affect its basic or comparative qualifications. According to respondent: (1) The stock transfer did not constitute a transfer of control; (2) "no principal of the applicant was aware of the Commission's requirement that the transfer be reported until March of 1972" (see paragraph 8, supra); (3) there was no motive to conceal the stock transfer because it has no effect on the applicant's qualifications; and (4) the change in ownership was voluntarily reported to the Commission before any questions concerning it were raised. For these reasons, Athens Broadcasting argues, 3 J's' petition must be denied. In support, respondent cites several Commission and Review Board cases in which requests to add § 1.65 issues were denied.[24]

16. Next, Athens Broadcasting maintains that the delay in reporting the change in general manager is "obviously 'de-minimus'". Again, respondent relies on its voluntary disclosure of the change and the cases cited in regard to the stock transfer (note 24, supra). Finally, with respect to the applicant's and Thomas Arterburn's representations concerning the bankruptcy, Athens Broadcasting submits that the conceded inconsistencies between Arterburn's first affidavit[25] and the bankruptcy petition[26] are "minor" and "immaterial to the question of which * * * (applicant) will better serve the public interest." Respondent points out that it voluntarily reported the bankruptcy before another party brought it to the Commission's attention and argues that Arterburn's affidavit was "obviously prepared in a hurried manner in order to report the bankruptcy." Athens Broadcasting states that the same type of "unintentional mistakes" were dismissed by the Commission in "Emerald Broadcasting Co.," 30 FCC 2d 879, 22 RR 2d 633 (1971), and that the Board should follow the "Emerald" precedent and deny 3 J's' petition.

17. At the outset, we cannot agree with Athens Broadcasting that 3 J's' petition should be dismissed out-of-hand without consideration of the merits. This argument is based on the misplaced contention that the petition is untimely under Commission § 1.229(b). Contrary to Athens Broadcasting's assertions, 3 J's has shown good cause for the delay in filing its petition.[27] 3 J's notes at the very beginning of its petition that it filed the request "out of an abundance of caution" in view of its earlier comments requesting the Board to set a date for the filing of supplementary findings and conclusions on the subject of Athens Broad-

[20] Rule 1.65 requires disclosure when the information furnished in an application is no longer substantially accurate and complete in all significant respects or when changes which may be of decisional significance have occurred. Rule 1.615 provides, in part, that:

(c) A supplemental ownership report (FCC Form 323) shall be filed by each licensee or permittee within 30 days after any change occurs in the information required by the ownership report from that previously reported. Such report shall include without limitation:

(1) Any change in capitalization or organization;

(2) Any change in officers and directors;

(3) Any transaction affecting the ownership, direct or indirect, or voting rights of licensee's or permittee's stock, such as:

(i) A transfer of stock * * *.

[21] According to the bankruptcy petition, Arterburn owned a total of $1,233.78 to three hospitals.

[22] The affidavit is attached to Athens Broadcasting's reply to comments of 3 J's, filed June 16, 1972. See note 5, supra.

[23] Despite 3 J's' "inexcusable" failure to plead good cause for the late filing of its September 30, 1970 petition, the Board granted it and added three potentially disqualifying issues against Athens Broadcasting because of "the very serious public interest questions raised." See paragraph 4, supra.

[24] Greenfield Broadcasting Corp., 30 FCC 2d 774, 22 RR 2d 497 (1971); Channel 41, Inc., 24 FCC 2d 603, 19 RR 2d 879 (1970); The Big Chief, 29 FCC 2d 154, 21 RR 2d 971 (1971); Lamar Life Broadcasting Co., 27 FCC 2d 224, 20 RR 2d 1162 (1971); Media, Inc., 22 FCC 2d 486, 18 RR 2d 970 (1970); Georgia Radio, Inc., 19 FCC 2d 779, 17 RR 2d 330 (1969); Sumiton Broadcasting Co., Inc., 14 FCC 2d 208, 13 RR 2d 1086 (1968).

[25] Arterburn's affidavit is attached to Athens Broadcasting's third supplement to its petition for leave to amend, filed May 25, 1972.

[26] A copy of the bankruptcy petition is attached to 3 J's' comments, filed June 2, 1972.

[27] Compare our earlier memorandum opinion and order, supra, 27 FCC 2d 7, 20 RR 2d 1115, where we held that good cause for the late-filing of 3 J's' September, 1970 petition to enlarge issues had not been shown.

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casting's candor. See paragraph 12, supra. Ever since Athens Broadcasting filed its "notice of intention to amend application" on March 31, 1972, 3 J's has consistently requested Athens Broadcasting to supply complete and accurate information concerning the amendment. See note 5, supra. See also paragraph 6, supra. Athens Broadcasting responded to these requests by submitting no less than three supplements to its petition for leave to amend, which, in turn, was preceded by its March 31st "notice". While 3 J's may have chosen an inappropriate form of relief in orginally requesting the Board to set a date for the filing of supplementary proposed findings and conclusions,[28] it was not, under the circumstances, dilatory in requesting enlargement of the issues by the Review Board on August 3d. However, even if the petition was not timely filed, we would consider the petition on our own motion because 3 J's' allegations "present serious public interest considerations which merit our attention." "DuPage County Broadcasting, Inc.", 21 FCC 2d 395, 397, 18 RR 2d 321, 324, reconsideration granted in part and denied in part, 23 FCC 2d 22, 19 RR 2d 568 (1970). See "Charles W. Jobbins," 29 FCC 2d 849, 21 RR 2d 1205 (1971); "The Edgefield-Saluda Radio Co. (WJES)", 5 FCC 2d 148, 8 RR 2d 611 (1966).

18. There is no question that Athens Broadcasting has violated §§ 1.65 and 1.615 of the Commission's rules. The applicant admits as much. The question for us to determine is whether the violations are serious enough to warrant the addition of hearing issues inquiring into the violation. Addition of issues against Athens Broadcasting would necessarily entail a reopening of the record and a remand for further hearing in this already long-protracted proceeding. In this regard, we are aware of the doctrine of administrative finality and the important public policy of "orderliness, expedition, and finality in the adjudicating process." "Valley Telecasting Co. v. FCC," 118 U.S. App. D.C. 410, 413, 336 F.2d 914, 917, 2 RR 2d 2064, 2068 (1964). However, the doctrine is not a bar to a remand where the public interest demands a further hearing on the qualifications of a potential broadcast licensee. After all, "there is a public interest in administrative finality" and a "public interest" in the "selection of optimum applicants" for broadcast facilities. "Greater Boston Television Corp. v. FCC," supra, —— U.S. App. D.C. at ———, ——— F.2d at ———, 23 RR 2d at 2074.[29] The question in each case where the conflict arises is whether the need for finality outweighs the need for further hearing. "Valley Telecasting Co. v. FCC," supra. Cf. "Kidd v. FCC," 112 U.S. App. D.C. 288, 302 F.2d 873, 22 RR 2065 (1962); "The News-Sun Broadcasting Co.", 27 FCC 2d 61, 20 RR 2d 1084 (1970). Unnecessarily prolonged hearings are, ipso facto, not in the public interest. However, "merely because a further hearing will delay a final grant does not relieve the Commission of the obligation to make reasonably certain that the prospective broadcast licensee will operate the facility responsibly and in the public Interest." "DuPage County Broadcasting, Inc.", supra, 23 FCC 2d at 25, 19 RR 2d at 572.[30] We believe that serious questions have been raised as to whether Athens Broadcasting "will operate the (proposed Athens FM) facility responsibly and in the public interest."

19. In this case, we are confronted not simply with a situation involving an inexperienced broadcast applicant who, in an isolated instance, failed to comply with the Commission's reporting rules, but with an applicant for a second broadcast facility which has been a licensee for several years, which has always been represented by experienced communications counsel, and which has, among other things, admittedly violated two reporting rules. Of course, all applicants (novices and licensees alike) are expected to comply with the Commission's rules and regulations; when an existing licensee fails to do so, however, it raises questions of "licensee responsibility expected of the operator of a broadcast facility." "DuPage County Broadcasting, Inc.", supra, 21 FCC 2d at 398, 18 RR 2d at 325. In our opinion, Athens Broadcasting's violations of §§ 1.65 and 1.615 in failing to report until April 1972, the July 1971, transfers of stock from Helen Arterburn to her two sons are not, as the applicant argues, "minor" and "isolated". To the contrary, they are serious, and, when viewed in the context of the evidence already adduced in this case with regard to the "rate card" and "tower lighting" incidents (paragraph 4, supra), indicate the possibility of a pattern of carelessness and ineptitude by the applicant, an existing broadcast licensee. Compare Emerald Broadcasting Co., supra. None of the excuses afforded by the applicant mitigate the violations. The fact that the stock transfers did not constitute a transfer of control does not mitigate the significance of the violation. All stock transfers must be reported within 30 days, whether or not they involve a transfer of control.[31] Next, the plea by the applicant (a broadcast licensee for several years), that "no principal of the applicant was aware of the Commission's requirements that the transfer be reported", indicates either ineptness and carelessness on the part of the applicant's principles, which would warrant an evidentiary inquiry in the particular circumstances of this case, or intentional misrepresentation, which would also warrant a further hearing. In this regard, we note that William Atkins, principal of the applicant and the general manager of its station until February of this year, has been involved in broadcasting for over 20 years. He became general manager of WIAR in 1957. In fact, Athens Broadcasting, in its exceptions to the first initial decision in this proceeding,

[28] See paragraph 6, supra. In view of our determination herein to add issues against Athens Broadcasting, we need not rule on 3 J's' earlier request.

[29] Greater Boston is cited by Athens Broadcasting in support of its argument that 3 J's' petition should be dismissed out-of-hand. Greater Boston was a novel case involving a Commission request to the Court of Appeals to recall its mandate affirming the Commission's order awarding a television station construction permit to one of the applicants in the Boston, Mass., Channel 5 proceeding. In a lengthy decision (the slip opinion is 43 pages long), the court ultimately decided not to recall its mandate. While the court did speak of the "public interest in administrative finality", it also stated that the "finality [of a final administrative decision which has been reviewed and affirmed on court appeal] is dominant but not absolute * * * [D]octrines deeply rooted in equity jurisprudence permit a recall of an appellant mandate of affirmance to avoid an unconscionable justice growing out of misconduct undercutting the integrity of the administrative or judicial process". ——— U.S. App. D.C. at ———, ——— F.2d at ———, 23 RR 2d at 2081. (Emphasis added.)

[30] In DuPage County, the urgency for a final grant and the concomitant undesirability of a further hearing was, if anything, greater than the need at this time for a final grant in this case. In DuPage, two applicants were competing for Commission authorization to construct new standard broadcast stations in two Illinois communities. Consequently, a 307(b) determination had to be made. Neither community had a local commercial broadcast service; and each had a population of approximately 26,000 persons and 40,000 persons, respectively. Yet, despite the obvious need for a local broadcast outlet, the Commission rejected the argument that "the remand proceeding will seriously delay a needed first local transmission facility * * * and effectuation of the section 307(b) mandate will thereby be thwarted for an indefinite period." 23 FCC 2d at 23, 19 RR 2d at 570. Athens has a population of 12,103 persons (1960 U.S. census) and two local broadcast outlets (3 J's' WYXI and Athens Broadcasting's WLAR). We do not mean to suggest that there is no need for a third broadcast outlet in Athens, but if the Commission could determine that a remand and further hearing was necessary in DuPage, we can certainly do the same here. Finally, we note that while this proceeding is now over 5 years old (see paragraph 1, supra), the DuPage case was designated for hearing on November 7, 1966, and the Commission's remand order was released on February 13, 1970, following a Review Board decision released August 29, 1969 (19 FCC 2d 250, 17 RR 2d 229).

[31] Rule 1.615 clearly states that a supplemental ownership report "shall include without limitation * * * any transaction affecting the ownership, direct or indirect, or voting rights of licensee's * * * stock, such as * * * a transfer of stock. * * *" (Emphasis added.)

vigorously argued that Atkins' experience in broadcasting was comparatively superior to that of John Frew, coowner and general manager of 3 J's' station (WYXI). In addition, the applicant stated in its application for the FM station that it keeps on hand an up-to-date copy of the Commission's rules and regulations. If the applicant had consulted its copy of the Commission's rules and regulations which it states it had on hand—or sought the advice of its experienced communications counsel—it would have discovered that it was required to report the stock transfers. In light of all of these facts, it is difficult to accept Athens Broadcasting's claim that its prinicpals are ignorant of the Commission's rules and regulations. In any event, this claim and others should be examined at an evidentiary hearing.

20. Third, although there may have been no "motive" to conceal the stock transfer, "there still remains the problem * * * that the applicant may be so inept and careless that it should not be entrusted with (another) license." "Beamon Advertising, Inc.", 1 RR 2d 285, 289, review denied FCC 63–1182, released December 27, 1963. In this regard, we believe it to be significant that the applicant failed to report the transfer for nearly 1 year when it had to be reported within 30 days.[32] Finally, the fact that Athens Broadcasting voluntarily disclosed the change in ownership before another party discovered it is relevant, but does not excuse the violation. All of the cases cited by Athens Broadcasting in support of its position (note 24, supra) are clearly distinguishable. While all the cases differ on the facts, the common thread running through them as the isolated nature of the rule violation and the clear absence of a motive for concealment. In this case, the applicant concedes that it violated two Commission rules and the rules violations are clearly not isolated. Serious questions have already been raised in this proceeding concerning Athens Broadcasting's failure to accurately depict the 0.5 mv./m. contour of its AM station on a rate card distributed for several years to advertisers and its failure to comply with the Commission's rules and regulations with respect to tower lights. See our prior memorandum opinion and order, supra, 27 FCC 2d 7, 20 RR 2d 1115. A hearing has been held on those issues and a supplemental initial decision, excusing the applicant's conduct, has been released. See paragraph 4, supra. We need not decide now whether Athens Broadcasting is disqualified under the issues added in our prior memorandum opinion and order. The point is that in addition to the serious questions raised by 3 J's in 1970 concerning Athens Broadcasting's basic qualifications, more serious questions have now been raised concerning the applicant's qualifications.

21. The failure to report the stock transfers for almost 1 year is a serious matter. While the delay of a few days in reporting the corporate and managerial changes that occurred in February 1972 may not be as blatant, it does indicate a "pattern of carelessness and in advertence",[33] at least when viewed in the context of the failure to report the stock transfers. The "rate card" and "tower lighting" incidents provide further indication of a "pattern". Moreover, Athens Broadcasting has not revealed any of the facts and circumstances surrounding Williams Atkins' departure from the applicant. Atkins was the general manager of Station WLAR at the time of the rate card and tower lighting incidents. His candor at the third hearing has been called into question by both 3 J's and the Broadcast Bureau. Significantly, he was general manager of WLAR and an officer, director, and stockholder when Mrs. Arterburn gave 10 shares of her stock in the corporation to her sons. Therefore, an inquiry under the issues being added herein should also include the subject of Atkins' departure.[34]

22. Finally, we believe that the inconsistencies between Athens Broadcasting's third supplement to its petition for leave to amend and Thomas Arterburn's petition in bankruptcy, reveal, at least, a case of confusion and carelessness in reporting the details of the bankruptcy proceeding to the Commission. Certainly, it was inaccurate for Arterburn—who was, after all, the bankrupt who petitioned for relief—to state, without reservation, that the "great majority of the liabilities stemmed from medical bills incurred as a result of (his wife's) operation." As 3 J's notes in its petition (and in its earlier comments, filed June 2, 1972), a copy of the bankruptcy petition shows that medical bills accounted for only a small portion of Arterburn's debts. They did not constitute a "great majority" of the debts, as Arterburn represented, but only a small minority. The majority of the liabilities were business debts. Yet, in the applicant's third supplement to its petition to amend, Arterburn certifiied] that the above statement was "true, complete and correct to the best of his knowledge and belief and (was) made in good faith." Arterburn's explanation for the inconsistency—that "at the time he prepared the amendment * * * he did not have a copy of the petition for bankruptcy * * *, but relied upon his memory when estimating the size of the hospital bill"—indicates that Arterburn was careless in the preparation of his affidavit and underscores the need for a hearing on Athens Broadcasting's qualifications to be the licensee of another radio station. It is well established that the Commission must rely on its licensees for complete and accurate information. This is the basic cornerstone of efficient government regulation. Cf. Report and Order on "Reporting of Changed Circumstances," 29 FR 15516, 3 RR 2d 1622 (1964). Here, it was only after 3 J's submitted comments on Athens Broadcasting's third supplement, that the applicant—an existing broadcast licensee—supplied the "true, complete and correct" information on the bankruptcy. In view of the apparent carelessness and ineptness in connection with the reporting failures noted above, and also in light of the tower lighting incident, we will add appropriate issues against Athens Broadcasting. "Beamon Advertising, Inc., supra. Cf. Marvin C. Hanz," 22 FCC 2d 147, 18 RR 2d 830 (1970), review denied FCC 70–724, released July 13, 1970. The questions of misrepresentation and lack of candor will also be included because of the number of nondisclosures and misstatements made by the applicant.[35] "Cf. Glenn West," 23 FCC 2d 235, 19 RR 2d 29 (1970). All of the issues being added will inquire into the basic and/or comparative qualifications of Athens Broadcasting to be a Commission licensee.[36]

3 J's' Past Broadcast Record

23. Finally, we come to the matter of 3 J's' past broadcast record. The second hearing in this proceeding was ordered by the Commission for the express purpose of inquiring into that record under the standard comparative issue. See paragraph 3, supra. The Hearing Examiner, in his cumulative initial decision, released July 29, 1970, concluded, in effect, that 3 J's' record was "unusually poor." In the Examiner's opinion, 3 J's deviated substantially "from the norm of sound licenseeship." In reaching his ultimate conclusion, the Examiner found several flaws in 3 J's' record, including the filing of a false jurat with the Commission (which is a Federal crime), dissemination of a misleading survey, sloppy log keeping in violation of Commission rules, and broadcasting a lottery. See

[32] While the transfer was voluntarily brought to the Board's attention on April 18, 1972, it was disclosed in haphazard fashion without any details. The first genuine report of the transfer was on May 5, 1972. See note 15, supra.

[33] Folkways Broadcasting Co., Inc., 26 FCC 2d 176, 179, 20 RR 2d 528, 534 (1970). See Beamon Advertising, Inc., supra.

[34] We have denied Athens Broadcasting's petition for leave to amend to reflect, among other things, the substitution of Thomas Arterburn for William Atkins as a principal of the applicant corporation. See paragraphs 9–11, supra. However, both Arterburn and Atkins will be treated as "principals" of Athens Broadcasting for the purpose of resolving the serious public interest questions being added. Cf. Rhinelander Television Cable Corp., 37 FCC 1071, 3 RR 2d 1014 (1964).

[35] There is insufficient basis in the record, however, to inquire into the narrow question of Atkins' candor at the third hearing.

[36] "Whether misconduct such as that (apparently) committed (by Athens Broadcasting) is of sufficient gravity to warrant the revocation or denial of renewal of a station license is not the critical issue here. We are not now concerned with the renewal or revocation of (WLAR's) station license, but with the question of whether (Athens Broadcasting) * * * should be entrusted with a second broadcast facility." DuPage County Broadcasting, Inc., supra, 21 FCC 2d at 397–98, 18 RR 2d at 324–25.

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paragraph 3, supra. Exceptions to the cumulative initial decision are now pending before us. We need not decide at this time whether 3 J's' record is "unusually poor" within the meaning of the term as used in the Commission's Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 398, 5 RR 2d 1901, 1911–13 (1965). See also East St. Louis Broadcasting, Inc., 9 FCC 2d 212, 10 RR 2d 859 (1967). Suffice it to say that the evidence already adduced in this proceeding raises serious questions as to whether 3 J's should be entrusted with a second broadcast facility in Athens, Tenn. In this regard, it is well settled that, "before a grant (of a broadcast license) may be found to be in the public interest, the Commission is entitled to have some reasonable assurance that the applicant will diligently exercise that degree of licensee responsibility expected of the operator of a broadcast facility, and past conduct of an applicant in the operation of a station must be accorded substantial weight." DuPage County Broadcasting, Inc., supra, 21 FCC 2d at 398, 18 RR 2d at 325. (Emphasis added.) Cf. Harvit Broadcasting Corp., 31 FCC 2d 876, 22 RR 2d 1062 (1971). Several of the incidents and violations e.g., the false jurat) are admitted by 3 J's, although it pleads that its record is not "unusually poor" because of mitigating circumstances. In our opinion, the serious questions raised by the record at the second hearing necessitate an examination into whether 3 J's is basically qualified to be a Commission licensee. Therefore, we will specify an appropriate disqualification issue on our own motion. Cf. Charles County Broadcasting Co., Inc., 25 RR 903, 906 (1963). The past broadcast record of 3 J's is not to be retried, however; the existing record is sufficient, in our view, upon which to base conclusions on the issue being added. However, if any of the parties wish to tender new evidence relating to 3 J's' past broadcast record, they may do so at the remand hearing. The parties will, of course, be free to argue as they wish on whether 3 J's should be disqualified.[37]

24. *Accordingly, it is ordered,* That the Petition for Leave to Amend Application, filed April 4, 1972, by Athens Broadcasting Co., Inc., as supplemented, is denied; and

25. *It is further ordered,* That the Motion to Make More Definite and Certain, and the Motion for Extension of Time, both filed April 10, 1972, by John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Co., are dismissed as moot; and

26. *It is further ordered,* That the Petition to Enlarge Issues, filed August 3, 1972, by John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Co., is granted; and

27. *It is further ordered,* That the record herein is reopened and the proceeding is remanded for the purpose of hearing evidence on the following issues:

(a) To determine whether Athens Broadcasting Co., Inc. complied with the provisions of §§ 1.65 and 1.615 of the Commission's rules, and, if not, the facts and circumstances surrounding such failure to comply.

(b) To determine whether there have been any false statements, misrepresentations, lack of candor, or nondisclosure of material facts in this proceeding by Athens Broadcasting Co., Inc. and/or its officers, directors or stockholders, and, if so, the facts and circumstances thereof.

(c) To determine whether Athens Broadcasting Co., Inc. and/or its officers, directors and stockholders have been negligent, careless or inept either in the operation of standard broadcast Station WLAR, Athens, Tenn., or in this proceeding, and, if so, the facts and circumstances thereof.

(d) To determine, in the light of the evidence adduced pursuant to the foregoing issues, the effect on Athens Broadcasting Co., Inc.'s basic and/or comparative qualifications to be a Commission licensee.

(e) To determine whether, in light of the evidence adduced at the second hearing in this proceeding concerning the past broadcast record of John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Co., the applicant may reasonably be expected to exercise diligently that degree of licensee responsibility required by the operator of a broadcast facility and whether the public interest would be served by permitting the applicant to acquire an additional broadcast authorization.

28. *It is further ordered,* That the burden of proceeding with the introduction of evidence on Issues (a)–(d) shall be upon John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Co.; and that the burden of proof under issues (a)–(d) shall be upon Athens Broadcasting Co., Inc.; and

29. *It is further ordered,* That the burdens of proceeding and proof under Issue (e) shall be upon John P. Frew and Julia N. Frew, doing business as 3 J's Broadcasting Company; and

30. *It is further ordered,* That the Administrative Law Judge shall issue a "Further Supplemental Initial Decision" pertaining to all aspects raised under these additional issues.

Adopted: September 22, 1972.

Released: September 28, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[38]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72-17262 Filed 10-6-72;8:52 am]

[Docket No. 19410, 19411; FCC 72R-272]

KEY BROADCASTING CORP. AND SOUND MEDIA, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Key Broadcasting Corp., Lexington Park, Md., Docket No. 19410, File No. BPH-6540; Sound Media, Inc., Leonardtown, Md., Docket No. 19411, File No. BPH-6886, for construction permits.

1. This proceeding involves the mutually exclusive applications of Key Broadcasting Corp. (Key) and Sound Media, Inc. (Sound) for a new Class A FM facility at Lexington Park and Leonardtown, Md., respectively. By order, FCC 72-78, 37 F.R. 2804, published February 5, 1972, the Commission designated this proceeding for hearing on various issues, including a section 307(b) issue and a contingent comparative issue. Presently before the Review Board for consideration is a petition to enlarge issues, filed February 22, 1972, by Sound, seeking the addition of misrepresentation and nondisclosure issues.[1]

MISREPRESENTATION ISSUES

2. Initially, Sound asserts that Key has engaged in several misleading practices relating to the operations of its broadcast facilities and that these matters should be explored at the hearing.[2] Specifically, Sound contends that Key has falsely represented to the public that it operates an FM station in Lexington Park and, in support thereof, petitioner submits photographs of a trailer bearing a three-lined sign reading "WPTX, AM–FM, Lexington Park, Md." According to the affidavit of the photographer, the pictures were taken in December of 1971, at a shopping center in Lexington Park. Petitioner also alleges that Key misrepresents to the public and advertisers that its FM station is located in Baltimore, rather than Catonsville, Md., the community of license. Submitted in support of this allegation is a sample of the licensee's stationery. The stationery depicts, as part of the heading, an eagle followed on the right by the call letters WBMD. Above the call letters is the word "Baltimore" with "AM–75, FM–105 · 24 hours a day" appearing below the call sign. Beneath the stations' frequency is the following description, "Key Broadcasting Corp., 5200 Moravia Road, Baltimore, Md."

3. In its opposition, Key alleges that following a modification of Station WPTX's authorized facilities, the trailer was purchased in January of 1969 with a view toward its use as an auxiliary studio in Waldorf, Md.; that inscriptions promoting the station's new AM facilities were printed on both sides of the trailer; and that, in order to minimize costs, the FM designation was also included in this sign.[3] Since Station WPTX's new AM and FM facilities were yet to be constructed, a "disclaimer sign," bearing the words "Coming Soon," was also obtained and placed atop the trailer, which was reportedly used at a Waldorf shopping center for a 3-month period in early 1969. According to Key, after it was decided not to establish an auxiliary studio in Waldorf, the trailer was moved to Lexington Park and placed in storage, where it has remained except for a 3-week period in December of 1971 when the trailer was used as a studio by a photographer to take pictures of children and Santa Claus at a Lexington Park shopping center. Key further contends that the photographer was directed to cover with his own promotional sign the WPTX AM–FM sign that was visible to the public; that to prevent its theft, the photographer removed his sign when he was not at the trailer; and that as a result of the photographer's unanticipated action, the WPTX AM–FM sign was exposed to public view at certain times during the period in question. Arguing that petitioner has misread its stationery, Key points out that the letterhead in question does not state that Station WBMD–FM is located in Baltimore. Key also explains that the Baltimore address set forth in the letterhead is simply intended to indicate that the main studios and business offices of both stations are located in that community. In Key's view, correspondence addressed to Station WBMD–FM, Catonsville, Md., "probably would not even arrive at the station."[4]

4. The Broadcast Bureau, in its comments, agrees with petitioner that the stationery in question raises an inference that Key is attempting to mislead the public and advertisers concerning the location of Station WBMD–FM.[6] This inference is further strengthened, in the Bureau's opinion, by an excerpt from "Standard Rate and Data Service (SRDS)", which Key submitted to the Commission on September 23, 1971, in lieu of a rate card, for its FM facility. The trade publication incorrectly identifies Station WBMD–FM as a Baltimore station with the same Baltimore mailing address that Key used in its stationery. See paragraph 2, supra. Since SRDS continues to list Station WKTK–FM (formerly WBMD–FM) as a Baltimore station and since Key now uses stationery for Station WKTK–FM, which sets forth the aforenoted Baltimore mailing address and again fails to mention that the facility is licensed to Catonsville, the Broadcast Bureau submits that the requested issue is especially appropriate.[7]

5. In its reply, Sound posits that the only reasonable interpretation of the Station WBMD–FM letterhead is that Key's FM facility is located in Baltimore. In the same vein, petitioner argues that the "Coming Soon" sign, which Key used at the Waldorf shopping center, was not sufficiently related to the FM designation to alter the false impression that Station WPTX also had an FM outlet. Sound also submits a March 14, 1972, affidavit of its vice president, who avers that on at least five separate occasions he personally saw the WPTX AM–FM sign fully exposed during the day at the Lexington Park shopping center.[8] Finally, petitioner contends that the trailer was not out of public view when it was not being used and, in support thereof, Sound submits an August 1, 1971, photograph showing the trailer stored outside the Station WPTX studio with the sign in question uncovered.

6. The Review Board believes that the requested issue relating to Key's use of the WPTX AM–FM sign should be denied. That Key acted presumptuously when it obtained the WPTX AM–FM sign is without question; however, affirmative steps were taken by the applicant to forestall an impression that it was the license of an FM facility in Lexington Park, Md. That other, perhaps more effective steps, could have been taken does not detract from the reasonableness of Key's actions. We have no reason to question (and none is proffered by petitioner) the sworn representations of Key that it instructed the photographer to cover the WPTX AM–FM sign and that this directive was unanticipated by the the photographer's failure to adhere to applicant. The fact that Key apparently neglected to cover the sign in question when the trailer was in storage does not persuade the Review Board, under the circumstances of this case, that an issue concerning the matter is warranted. We do believe, however, that a substantial question has been raised with respect to whether Key has attempted to mislead the public and advertisers as to the location of Station WBMD–FM (now WKTK–FM), and the inclusion of an issue in this regard appears appropriate. As the Commission has stated: "(F)ull disclosure, as to both coverage and location, is essential in conforming to the standard of candor required by licensees". "Universal Communications of Pittsburgh, Inc.," 21 FCC 2d 542, 18 RR 2d 491 (1970). Key's use of stationery with a letterhead, which contains no reference, direct or otherwise, to WBMD–FM's specified station location and which lists a mailing address in a community other than the station's community of license, does not appear to comport with the Commission's standard of full disclosure. See "Century Broadcasting Corp.," 30 FCC 2d 733, 22 RR 2d 221 (1971); and "Gulf Television Co. (KGUL–TV)," 20 FCC 734, 775–76, 12 RR 447, 473 (1956). And Key has not attempted to substantiate its contention that the use of a Baltimore mailing address in Station WBMD–FM's stationery is necessary to ensure mail delivery. Based upon the materials submitted by the Broadcast Bureau, a serious question is also raised, in the Board's view, concerning Key's responsibility for SRDS's identification of the station as a Baltimore, rather than a Catonsville facility.[9] The Review Board will, therefore, add an appropriate issue to permit the full exploration of these matters at the hearing.

NONDISCLOSURE ISSUE

7. The Key application, which was filed on November 22, 1968, does not contain a completed section II of FCC Form 301. Rather, the applicant refers the Commission to the "station file (for) WBMD, Baltimore, Maryland," and directs the Commission's attention to the ownership reports (FCC Form 323), submitted with respect to Stations WBMD, WBMD–FM, and WPTX, for "the most recent data on ownership and additional broadcast interests". As part of its application, Key also submits excerpts from the March 22, 1968 and June 20, 1966 ownership reports of Station WBMD–FM and Station WBMD, respectively. In support of the requested nondisclosure issue, Sound maintains that the Key application does not reflect the ownership interest (6.8 percent) of D. Ridgely Bolgiano, a Key principal, in Drexel Hill As-

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[37] If the Examiner ultimately determines that neither Athens Broadcasting nor 3 J's should be entrusted with a second broadcast facility, then a comparative evaluation of the applicants would, of course, be unnecessary. For, although there are but two applicants for the only FM station in Athens, a license does not have to be issued to either. "(T)he appropriate consideration is what the public interest dictates. If that interest commands a withholding of the license from (both) applicants * * *, then the Commission must disallow the permit until qualified application is made * * *. (T)he prospect of a 'dark' channnel is not nearly as disturbing as a channel allocation to an unqualified licensee * * *." WEBR, Inc. v. FCC, 136 U.S. App. D.C. 316, 320 n.2, 420 F.2d 158, 162 n.2, 16 RR 2d 2191, 2195 n.2 (1969). (Emphasis added.)

[38] Berkemeyer and Nelson, Board Member Kessler concurring in the result only.

[1] Other related pleadings before the Board are: (a) Opposition, filed March 3, 1972, by Key; (b) erratum, filed March 10, 1972, by Key; (c) comments, filed March 15, 1972, by the Broadcast Bureau; and (d) reply, filed March 20, 1972, by Sound.

[2] Key is the corporate licensee of standard broadcast Station WPTX in Lexington Park, as well as Stations WBMD (AM) in Baltimore and WBMD–FM (now WKTK–FM) in Catonsville, Md.

[3] At that time, Key's application was unopposed and remained so until September 29, 1969, at which date the Sound application was filed with the Commission.

[4] Allegedly, the reverse side of the trailer was opposite a brick wall and Key did not consider it necessary to cover the other WPTX inscription.

[6] Key also submits that petitioner has engaged in misleading advertising practices in its operation of standard broadcast Station WKIK, Leonardtown, Md. This accusation of misconduct, however, is improperly raised in a responsive pleading, does not form the basis for a requested issue, and is adequately rebutted by the material and affidavits submitted with Sound's reply pleading. Accordingly, based on the information presently before the Board, further consideration of this matter does not appear appropriate.

[6] The Bureau also maintains that the Board would be justified in adding an appropriate issue concerning Key's use of the WPTX AM–FM sign.

[7] Copies of a March 1, 1972, excerpt from SRDS and a March 2, 1972 correspondence from the applicant are attached to the Bureau's pleading.

[8] Based upon other information that he believed to be true, the affiant also states that the WPTX AM–FM sign was uncovered "at all times regardless of whether Santa Claus was in the trailer or not."

[9] It is not specifically alleged that the licensee supplied the incorrect information used in the trade publication; however, we cannot conclude that Key was unaware of the erroneous station location listing in view of the licensee's use of the SRDS material. See paragraph 4, supra.

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sociates, Inc. (Drexel Hill), the licensee of Stations WMTR and WDHA–FM, Morristown and Dover, N.J., respectively. Since various ownership reports filed with the Commission by Drexel Hill and by Key conflict with respect to Bolgiano's interest in Key, petitioner suggests that the applicant may also have been remiss in apprising the Commission of changes affecting its ownership as required by § 1.615.

8. Key opposes the request, contending that its ownership reports clearly and accurately set forth D. Ridgely Bolgiano's 0.6-percent ownership interest, as well as his cotrusteeship of various trusts, which hold in the aggregate, an additional 16.2 percent interest in the corporate applicant.[10] Key further alleges that Bolgiano's association with Drexel Hill was reported in the June 1966 ownership report and the June 1969 renewal applications which Key submitted on behalf of its stations. It is conceded, however, that fluctuations in Bolgiano's interest in Drexel Hill and that corporate licensee's acquisiton of Station WMTR were not disclosed in the station files to which Key referred in its application.[11] While "something in passing" was said by Bolgiano concerning the acquisition of Station WMTR, the officers of Key were allegedly unaware of their obligation to amend Key's reports to reveal the November 1970 assignment of that station. Assertedly, affirmative steps have been taken by counsel to keep future reports of Drexel Hill and the applicant accurately cross-referenced.

9. The instructions, which accompany FCC Form 301, state at paragraph E that: "(I)nformation called for by this application which is already on file with the Commission * * * need not be refiled in this application" provided, inter alia, that specific reference is made to the document containing the relevant information. While Key's reference to the ownership reports submitted on behalf of its stations did not fully comport with the required specificity, the June, 1966 reports filed for Stations WBMD and WPTX do provide a specific and adequate description of D. Ridgely Bolgiano's ownership interest in Station WDHA–FM. Compare "Bangor Broadcasting Corp.," 33 FCC 2d 677, 23 RR 2d 711 (1972). Admittedly, fluctuations in Bolgiano's interest in Drexel Hill were not reflected in the Key application; however, no inquiry appears warranted since it has not been shown that these changes were substantial and, therefore, reportable under § 1.65.[12] See "Lawrence County Broadcasting Corp.," 15 FCC 2d 910, 15 RR 2d 482 (1969). On the other hand, Key's failure to amend its application to reflect the acquisition of Station WMTR by Drexel Hill clearly contravened the provisions of § 1.65. See "James E. Reese," FCC 72–423, 37 F.R. 10610, published May 25, 1972; "Bangor Broadcasting Corp.," supra. Notwithstanding the applicant's claim that the omission was inadvertent and unintentional, Key had, in initially amending its ownership reports to reflect Bolgiano's relationship with Station WDHA–FM, demonstrated an awareness of its responsibilities in this regard. In any event, the question of intent may be explored under the § 1.65 issue being specified herein.[13]

10. *Accordingly, it is ordered,* That the petition to enlarge issue, filed February 22, 1972, by Sound Media, Inc., is granted to the extent indicated below, and is denied in all other respects; and

11. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

To determine whether Key Broadcasting Corp. has, in its stationery and in a trade publication, misrepresented to the public and advertisers the station location of Station WBMD–FM (now Station WKTK–FM) and, if so, the effect thereof upon the basic and/or comparative qualifications of the applicant.

To determine whether Key Broadcasting Corp. has failed to comply with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of substantial changes in the matter specifically referred to in this Memorandum Opinion and Order and, if not, to determine the effect of such noncompliance on the basic and/or comparative qualifications of the applicant.

12. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Sound Media, Inc., whereas the burden of proof thereunder shall be on Key Broadcasting Corp.

Released: September 29, 1972.

Adopted: September 27, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–17263 Filed 10–6–72;8:52 am]

[10] Bolgiano is also a director of Key, whose participation in the applicant's affairs is reportedly limited to attending the directors' bimonthly meetings.

[11] In its supplemental pleading, Key submits a February 28, 1972 amendment to the Commission's ownership files, describing Bolgiano's relationship with Drexel Hill (director, secretary and 6.8-percent stockholder) and identifying the broadcast interests of that licensee.

[12] In the same vein, the Board finds that petitioner's charge of a possible § 1.615 violation is largely speculative and sufficiently answered in Key's responsive pleading.

[13] Although Key has amended its ownership reports on file with the Commission, the Board notes, in passing, that the requirements of § 1.65 are not satisfied by such notification. Rather, as we pointed out in Folkways Broadcasting Co., Inc., 26 FCC 2d 175, 178, 20 RR 2d 528, 532 (1970): "[A]ny subsequent changes of a substantial and significant nature must be reported by amending the pending application or by furnishing a statement for the record containing the appropriate information".

[Dockets Nos. 19594–19595; FCC 72–851]

MENTER RADIO SERVICE AND TEL-PAGE CORP.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of: Alfred Menter, doing business as Menter Radio Service, Fulton, N.Y., Docket No. 19594, File No. 7083–C2–P–71, for a construction permit to establish a new one-way signalling station in the Domestic Public Land Mobile Radio Service at Fulton, N.Y.; Tel-Page Corp., Jamesville, N.Y., Docket No. 19595, File No. 825–C2–P–72, for a construction permit to establish additional one-way signalling facilities for Station KRH631 in the Domestic Public Land Mobile Radio Service at Jamesville, N.Y.

1. The Commission has before it for consideration the above-captioned applications to establish one-way signalling facilities in the Domestic Public Land Mobile Radio Service (DPLMRS). Since both applicants propose to operate radio stations on the same radio frequency and in the same general geographical area, the applications are considered mutually exclusive because of potentially harmful electrical interference. The applications must, therefore, be designated for a comparative evidentiary hearing to determine whether the public interest, convenience, and necessity would be better served by a grant of either the application of Alfred Menter, doing business as Menter Radio Service (Menter), or the application of Tel-Page Corp. (Tel-Page). "Ashbacker Radio Corp. v. FCC," 326 U.S. 327 (1945).

2. It appears from the Menter application that Menter Radio Service is personally owned by Alfred Menter whose place of business is at 706 South First Street, Fulton, N.Y. Mr. Menter is engaged fulltime in the ambulance service in the Fulton, N.Y. area, and has a business interest in the Oswego County Ambulance and Hearse Service, which is the licensee of Business Radio Station KRM591. Fulton, N.Y., is located in Oswego County about 20 miles northeast of Syracuse, and has a population of approximately 16,000. In addition to Fulton, Menter proposes to serve the Phoenix and Oswego, N.Y., areas with populations of 9,000 and 20,000 respectively (Application, Exhibit 10).

3. Menter proposes to operate a new tone-only and tone-plus-voice paging service from a base station 0.4 mile northeast of Fulton, and controlled from his present place of business at 760 South First Street in Fulton. The Menter application alleges a need for the proposed service based upon a request from Lee Memorial Hospital for a paging system to enable the hospital staff, not only to contact its physicians in case of emergency when they are away from the hospital, but also to page the nurses within the hospital without resorting to a patient-disturbing wired intercom system. Other business establishments which have been surveyed and have expressed a need for the service are: Nestles Chocolate Co.; six funeral directors; eight attorneys; and Sealright Corp. The station proposed by Menter would operate initially 16 hours a day, 7 days a week; but would expand its operation to 24 hours if there should be sufficient future demand for its proposed service (Menter Application, Exhibit 10).

4. Maintenance and repair of the facilities proposed by Menter would be provided on a 24-hour basis by Leo-Mac Radio Service, Inc. of Syracuse, N.Y.; and it is estimated that it will require approximately 2 hours for service personnel to reach the base station transmitter (Menter Application, Exhibit 7). Mr. Menter would be responsible for the operation of the proposed system on a day-to-day basis; and the Menter application also states that he will have four employees who will devote 4 hours a day each to "develop, achieve, and maintain the best possible service to their subscribers." In addition, Menter will do its own dispatching (Menter Application, Exhibit 8). The Menter application also states that Mr. Menter will spend approximately 8 hours a day at the proposed facility; but when he is not at the station he would be in "constant touch" with the station by telephone. He will also institute a training program to insure that all employees of the station "are fully versed with all the applicable FCC rules and regulations concerning the proposed operation," and "that common carrier matters should be given priority over noncommon carrier matters." In addition, all proposed subscribers will be members of the public (Menter Application, Exhibit 9).

5. Menter's financial qualifications are stated to consist of current assets of $24,011.16 of which nearly $11,000 is cash on hand or in banks. Current liabilities are only $30; and capitalization is $110,164.54. (Balance sheet dated April 30, 1971 (unaudited), Menter Application, Exhibit 6.) Since the total cost of the proposed facilities is estimated to be $4,618 (Menter Application, Item 47), the financial resources of Menter appear to be completely adequate to meet the construction expenses of the proposed facility, and to operate it for a year; and we, therefore, find Menter to be financially qualified to construct the station proposed in his application.

6. Menter proposes to operate a General Electric type ET–55A transmitter with an input/output power of 180/100 watts and two emissions, 15F2 and 16F3 on 35.22 MHz. The transmitter would be located 0.4 mile northeast of Fulton, N.Y. The antenna will be mounted on a 60-foot tower, with a 9-foot unity gain antenna. It would appear, therefore, in consideration of all the foregoing that Menter is financially, legally, and technically qualified to construct and operate the proposed station.

7. Tel-Page is a corporation which is the licensee of two-way Radio Station KRH643 and one-way signalling station KRH631, both operating in the DPLMRS in Syracuse, N.Y. The Tel-Page application proposes a Motorola type CC–1044–C transmitter with an input/output power of 500/330 watts with 15F2 emission on 35.22 MHz, located at Jamesville, N.Y. Jamesville is aproximately 6 miles southwest of the center of Syracuse.

8. Tel-Page is, also, the licensee of 13 radio stations in the DPLMRS in northern New York State, and one in Rutland, Vt. In addition, Tel-Page is the licensee of Public Coast Station KLU788 in Rochester, N.Y. The principal office of Tel-Page is in Rochester, N.Y.; and its principal stockholders appear to be Salvatore J. Albano (President), Donald J. Lemon, Angel S. Grande, Frank A. DiMino, and James Lustumbo. (FCC File 4245–C2–P–69, Station KRH631, Exhibit 3.)

9. While the technical and legal qualifications of Tel-Page to be a licensee do not appear to offer any problem, the matters of financial qualification to construct the proposed station, as well as the showing of need, pose questions which, we believe, require some extended consideration. The Tel-Page application estimates the cost of establishing the proposed one-way signalling facilities at $5,500 of which 10 percent would be the downpayment with the balance paid over a 60-month period, per a standard Motorola Lease-Purchase Agreement. Operating costs appear to be low, because Tel-Page proposes to use existing operational and maintenance staffs for the new facilities. (Application, Exhibit 4.) Tel-Page apears to have an adequate line of credit with Associates Capital Services Corp., Chicago, Ill. The line of credit has apparently existed since 1968, and is for use by Motorola Communications and Electronics, Inc. in discounting leases or contracts for Motorola radio equipment which was ordered from it by Tel-Page. This line of credit was apparently increased by $500,000 in February 1971. (Tel-Page Application, Exhibit 3.) Our general rule of financial qualification is to insure that the applicant has sufficient funds to cover the cost of constructing the proposed facilities and operating them for a year; and upon full consideration of all the financial data available to us we find Tel-Page financialy qualified. While the balance sheet submitted by Tel-Page discloses total current assets of $56,087.74, as of March 31, 1971, and a retained earnings deficit of $157,387.32, nevertheless net income for Station KRH631 from DPLMRS operations for the year 1971 was $6,700 with net income from all sources stated to be $6,613. (Annual Report for 1971 (Form L) filed April 20, 1972.) In addition, Tel-Page's net income from DPLMRS operations for all 14 of its stations was stated in another annual report (Form L) filed the same date, to be $32,687, with a net income from all sources of $13,712. Considering the cost of the new facilities ($5,500) and the financing terms, which require a downpayment of only $550, and repayment of the loan over a 60-month period, as well as the above-described sources of income available to Tel-Page we find Tel-Page to be legally, financially, and technically qualified.

10. In Exhibit 4 to its application, Tel-Page states that there is a "significant need for a tone-only paging facility in the greater Syracuse area;" and that the proposed station looks toward meeting that demand in the Jamesville-Syracuse area. The exhibit also states that the proposed station would be used exclusively for tone-only paging with its presently licensed one-way signalling station reserved for tone-plus-voice paging.[1] At the time of filing the application (August 1971) Tel-Page was serving over 20 tone-only units on the Guardband channel, but it expected to be serving 100 tone-only subscribers within a year from that date. However, in March 1972 in response to a Commission letter raising questions about the showing of need for the additional one-way signalling channel, Tel-Page informed the Commission that it had 42 paging units in service on its one-way signalling channel, of which 13 were of the tone-only type (Letter, Tel-Page to FCC, dated March 31, 1972). Tel-Page submitted a channel loading study to the Commission on May 18, 1972, which discloses that Tel-Page has no "held orders" for one-way signalling service; that there are four subscribers using 13 units who would be moved from the high-band (158.70 MHz) paging channel to the low-band (35.22 MHz) channel; and that Tel-Page has received inquiries from "several persons" in the area indicating interest in the tone-only service, if Tel-Page is licensed to provide it. The Channel Loading Study dated April 26, 1972, shows Tel-Page serving 51 pagers with the peak hour from 10 a.m. to 11 a.m. During that time 24 pager calls were tabulated, using a total time of 12 minutes. It would appear that there is a substantial question as to which applicant has the greater need for a one-way signalling channel. We will, therefore, include issues regarding the needs of Tel-Page and Menter for their proposed facilities.

11. Accordingly, in view of the foregoing: *It is ordered,* Pursuant to sections 309 (d) and (e) of the Communications Act of 1934, as amended, that the captioned applications of Alfred Menter, doing business as Menter Radio Service, and Tel-Page Corp. are designated for hearing in a consolidated proceeding upon the following issues:

1. To determine the nature and extent of services proposed by each applicant, including the rates, charges, personnel, practices, classifications, regulations, and facilities pertaining thereto.

2. To determine the total area and population to be served by Alfred Menter, doing business as Menter Radio Service, within the 43-dbu contour of his proposed station, based upon the standards set forth in § 21.504 of the FCC rules and

[1] Station KRH631, Jamesville, N.Y., operating on 158.70 MHz, a "Guardband" channel.

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regulations; and to determine the need for his proposed service in that area.[3]

3. To determine the total area and population to be served by Tel-Page Corp. within the 43-dbu contour of its proposed station based upon the standards set forth in § 21.504 of the FCC rules and regulations; and to determine the need for the proposed service in that area.

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the above-captioned applicants would better serve the public interest, convenience, and necessity.

12. *It is further ordered,* That the burden of proof upon Issue 3 is upon Tel-Page Corp.; the burden of proof upon Issue 2 is upon Alfred Menter, doing business as Menter Radio Service; and the burden of proof upon Issues 1 and 4 is upon both applicants.

13. *It is further ordered,* That the hearing shall be held at the Commission offices in Washington, D.C. at a time and place, and before an administrative law judge, to be specified in a subsequent order.

14. *It is further ordered,* That the Chief, Common Carrier Bureau is made a party to this proceeding.

15. *It is further ordered,* That interested parties may avail themselves of an opportunity to be heard by filing with the Commission, pursuant to § 1.221(c) of the Commission's rules within 20 days of the release date hereof, a written notice stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

Adopted: September 27, 1972.

Released: October 3, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17261 Filed 10-6-72;8:52 am]

[Docket Nos. 18791, 18792; FCC 72 R-268]

WTAR RADIO-TV CORP. (WTAR-TV) AND HAMPTON ROADS TELEVISION CORP.

Memorandum Opinion and Order Enlarging Issues

In regard applications of WTAR Radio-TV Corp. (WTAR-TV), Norfolk, Va., Docket No. 18791, File No. BRCT-54, for renewal of broadcast license; Hampton Roads Television Corp., Norfolk, Va., Docket No. 18792, File No. BPCT-4281, for construction permit for new television broadcast station.

1. This proceeding involves the application of WTAR Radio-TV Corp. (WTAR) for renewal of license of its television broadcast Station WTAR-TV, operating on Channel 13 in Norfolk, Va., and the mutually exclusive application of Hampton Roads) Television Corp. (Hampton Roads) for a construction permit to establish a new television broadcast station operating on the same channel in Norfolk. By order FCC 70-97, 21 FCC 2d 234, released January 27, 1970, the Commission designated the applications for consolidated hearing on, inter alia, the standard comparative issue. By Memorandum Opinion and Order, 31 FCC 2d 812, 19 RR 2d 661, released July 20, 1971,[1] the Review Board added, inter alia, a cross-interest issue against WTAR and its parent corporation, Landmark Communications, Inc. (Landmark).[2] The applications were redesignated for hearing by Commission Order, FCC 72-142, released February 24, 1972. Presently before the Review Board is a petition to enlarge issues, filed March 16, 1972, by Hampton Roads,[3] seeking the addition of § 1.514(a), § 1.65, and false swearing issues against WTAR.[4]

RULE 1.514(a) AND RULE 1.65 ISSUES

2. In support of its request for the addition of §§ 1.514(a) and 1.65 issues, Hampton Roads claims that WTAR failed in its application to disclose to the Commission all of the media and business interests of its parent corporation, Landmark, and to report business interests subsequently acquired by Landmark and P. S. Huber, Jr., an officer and director of both WTAR and Landmark. With respect to the § 1.514(a) issue, Hampton Roads asserts that WTAR's reporting of Landmark's then-existing CATV interests in WTAR's renewal application is "vague, imprecise and fails to reveal the pertinent facts." According to Hampton Roads, WTAR reported Landmark's CATV interests as follows: "Landmark Communications, Inc. also owns TeleCable Corp. which is engaged, through subsidiary corporations, in the operations of community antenna television systems in several communities in West Virginia, Alabama, and North Carolina." In "Media, Inc.," 22 FCC 2d 875, 18 RR 2d 1175 (1970), reviewed denied FCC 70-1106, released October 7, 1970, petitioner maintains, the Review Board held that the reporting of a CATV "headend" was inadequate and that each community served by the system must be identified separately. Hampton Roads argues that WTAR's failure to disclose Landmark's ownership of CATV systems in Roanoke Rapids, N.C.; Beckley and Princeton, W. Va.; and Auburn-Opelika, Decatur and Selma, Ala.,[5] is a more serious omission than failure to report communities served by a CATV "headend"; therefore, these systems should have been individually listed in the application form and WTAR's failure to do so warrants, in petitioner's view, addition of a § 1.514(a) issue. The requested Rule 1.65 issue is premised on subsequently-acquired CATV systems by Landmark as well as the failure to report the acquisition of newspaper interests. In particular, Hampton Roads asserts that WTAR failed to report after-acquired interests in CATV systems in Wytheville, Va.; Columbus, Ga.; Bloomington, Ill.; Kokomo, Ind.; Overland Park, Kans.; and Racine, Wis. Petitioner further argues that WTAR failed to amend its application to reflect the acquisition by Landmark of two daily newspapers in Roanoke, Va. (the Roanoke "Times" and the Roanoke "World-News") and a semiweekly newspaper in Galax, Va. (The Galax Gazette). Also, petitioner contends, WTAR did not report Landmark's acquisition of a shopping center in Roanoke, Va.[6] A § 1.65 issue is further warranted, according to Hampton Roads, because WTAR did not fully report media interests held by P. S. Huber, Jr. in Media General, Inc. (Media General). Huber is vice president and director of Media General and owns 1,365 Class B (voting) and 10,970 Class A (nonvoting) shares of stock in the company. Hampton Roads claims that Media General's interests which are not reported in WTAR's application are: (1) Its two daily newspapers in Winston-Salem, N.C.; (2) a CATV system in Lakeland, Fla.; (3) two newspapers in Newark, N.J.; and (4) an AM-FM combination also in Newark. Failure to report these interests is significant, petitioner argues, because of their close proximity to one another. For example, in Greensboro-Winston-Salem-High Point, N.C., Landmark owns the only newspaper in Greensboro and television Station WFMY-TV, Channel 3, Greensboro; therefore, Hampton Roads maintains, failure to report these media

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[1] Review denied FCC 70-1251, released December 7, 1970.

[2] The issue reads as follows: To determine whether interests of principals (including stockholders, officers, and directors) of Landmark Communications, Inc., the parent company of WTAR Radio-TV Corp., would contravene the provisions of § 73.636(a) of the Commission's rules and/or the Commission's policy proscribing cross-interests in stations in the same broadcast service and serving substantially the same area.

[3] As a result of the Commission's redesignation order, the petition will be considered as timely filed. See WPIX, Inc., 34 FCC 2d 419, 24 RR 2d 59 (1972), review denied FCC 72-616, released July 19, 1972.

[4] Also before the Review Board are: (a) Broadcast Bureau's comments, filed March 29, 1972; (b) opposition, filed March 29, 1972, by WTAR; (c) response to (a), filed March 31, 1972, by WTAR; (d) reply, filed April 10, 1972, by Hampton Roads; and (e) supplement to (c), filed April 18, 1972, by WTAR.

[5] To support its factual allegations, petitioner relies on the 1971-72 Services Volume of Television Factbook, p. 685a; and the 1971 Broadcasting Yearbook, p. A-106.

[6] To support these allegations, Hampton Roads relies on an article, published on October 30, 1969, in the Norfolk Ledger-Star. A copy of the article is attached to the petition.

[3] Section 21.504(a) of the Commission's rules and regulations describes a field strength contour of 43 decibels above 1 microvolt per meter as the limit of the reliable service area for base stations engaged in the 1-way communications service. Propagation data set forth in § 21.504(b) are a proper basis for establishing both the location of the service contours and the areas of harmful interference for the facilities involved in this proceeding.

[3] Commissioner Johnson concurring in the result.

interests has a substantial bearing on the cross-interest issue in this proceeding (see note 2, supra). Finally, Hampton Roads contends, failure to report these interests raises "grave character qualification questions" and demonstrates a pattern of ineptness and carelessness by WTAR.

3. The Broadcast Bureau supports addition of the requested issues. The Bureau claims that a study by it of the docket in this proceeding reveals that many of the CATV systems owned by Landmark and its subsidiaries and noted by Hampton Roads in its petition have not been reported in WTAR's application. The Bureau, upon checking the Commission's CATV files, states that it discovered that a CATV franchise was secured by Racine TeleCable Corp.[7] for Racine, Wis., on January 10, 1969, and that on March 6, 1969, TeleCable Corp. filed a letter of notification pursuant to § 75.1105 of the Commission's rules that it would commence operation of a CATV system in Wytheville, Va., no earlier than April 7, 1969. Both of these acquisitions occurred prior to WTAR's filing of its renewal application on June 30, 1969, and were not disclosed in its application; therefore, the Bureau argues, a § 1.514 issue is warranted with respect to these interests. According to the Bureau the following subsidiaries of TeleCable Communications acquired CATV systems after the renewal application was filed: TeleCable of Columbus, Inc., Columbus, Ga.; Overland Park TeleCable Corp., Overland Park, Kans.; and TeleCable of Kokomo, Kokomo, Ind.[8] In further support of the requested issues, the Bureau notes the Commission's concern for the "cumulative future effect of greater penetration of CATV systems franchised or applied for but not yet in operation", citing the "Second Report and Order" in Dockets Nos. 14895, 15233 and 15971, 2 FCC 2d 725, 744, 6 RR 2d 1717, 1744 (1966). Finally, the Bureau urges that a Rule 1.65 issue is also warranted in this proceeding.

4. In opposition, WTAR argues that the renewal application form (FCC Form 303) only required it to disclose that Landmark owns TeleCable Corp. WTAR insists that the form did not require it to list each and every CATV system and its location.[9] WTAR therefore contends that it has not failed to disclose its business interests and that Hampton Road's reliance on Media, Inc., supra, is misplaced. WTAR insists that Media can be distinguished from the instant case because in Media, the applicant had failed to update its application to reflect all of its broadcast interests, as expressly required by section II, paragraph 19, of FCC Form 301—the application form for new broadcast stations. According to WTAR, there is no comparable question in Form 303, the renewal application. As far as the § 1.65 issue is concerned, WTAR takes the position that if it was only required to report Landmark's ownership of TeleCorp and nothing more, then it was not required to update the application to reflect new acquisitions by TeleCorp. WTAR further argues that Hampton Roads is attempting to conceal that it had previously requested a § 1.65 issue against WTAR which was denied by the Review Board in its memorandum opinion and order, released July 20, 1970, supra, 31 FCC 2d at 826, 19 RR 2d at 678-679.[10] (See paragraph 1, supra.) WTAR avers that the § 1.65 issue requested in 1970 was also premised on WTAR's alleged failure to report Landmark's acquisition of the Times World Corp. (owner of the two Roanoke, Va., newspapers, a semiweekly newspaper in Galax, Va., and a shopping center in Roanoke) and that the Board did not add an issue because the information was already before the Commission and there was no attempt by WTAR to conceal the information from the Commission.[11]

5. In a separate pleading, WTAR specifically responds to the Broadcast Bureau's support of Hampton Roads' request for §§ 1.514 and 1.65 issues. WTAR argues that the Bureau is reversing its earlier position in this proceeding when it opposed Hampton Roads' previous request for a § 1.65 issue. The Bureau, WTAR continues, then argued that "it is clear that WTAR has complied fully with Commission requirements by supplying the information called for by Form 303 and the Commission's rules", quoting from Broadcast Bureau's Comments on Petition to Enlarge Issues, filed April 17, 1970. WTAR concedes that Hampton Roads' previous request was "not entirely the same"; however, respondent claims that the reasoning behind the denial of that request is applicable here.[12]

6. At the outset, we must reject WTAR's argument that Hampton Roads' petition is procedurally deficient in that it again requests a § 1.65 issue against WTAR. The Board's previous denial of a request by Hampton Roads to add a § 1.65 issue against WTAR does not preclude the Board from considering the present request. The two petitions are premised on essentially different facts. Thus, Hampton Roads' previous request for a § 1.65 issue was made in conjunction with its request for a § 1.65 (a)(3)(iv) issue which was premised on WTAR's alleged failure in its application to report the owners of Landmark Securities[13] and those owners' other broadcast interests. The Board denied the request for a § 1.615 issue[14] because WTAR had filed an ownership report setting forth the names of the principals and their broadcast interests; consequently, a § 1.65 issue was not deemed to be warranted with respect to the alleged failure to report the owners and their interests. Also, we did not believe that a § 1.65 issue was warranted to explore Landmark's acquisition of two Roanoke newspapers because we did not know the effect these interests would have on this proceeding. (See note 10, supra.) As noted above, the present request for a § 1.65 issue by Hampton Roads is premised on grounds factually different from the earlier request. In short, the instant petition concerns WTAR's alleged failure to disclose the ownership interests of the owners and principals of WTAR in other media (CATV systems, radio and television stations, and newspapers). The request stands alone and is not associated with any other requested issue. Having determined that the instant petition is not procedurally infirm, we will now proceed to the merits.

7. Commission § 1.514(a) states that each applicant must "include all information called for by the particular form on which the application is required to be filed * * *". In our opinion, encompassed within section 1, paragraph 7, of

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[7] All the corporations mentioned by the Bureau are subsidiaries of TeleCable Communications, which is owned by Landmark.

[8] The Bureau asserts that the Kokomo system did not commence operation until after the filing of the renewal application; however, the Bureau states that it is unclear when the franchise was obtained. Therefore, it believes that either a § 1.514 or § 1.65 issue, or both, may be necessary.

[9] WTAR quotes from the instruction on Form 303 with respect to the applicant's business and media interests: "List below other businesses in which the applicant or any officer, director, or principal stockholder (any person owning 25 percent or more of applicant's stock) has a 25 percent or more interest. List also any radio station other than the station which is the subject of this application in which any of the named persons have any interest, and the nature and extent of their interest in the broadcast station."

[10] In denying the request for a § 1.65 issue, the Board stated: Hampton Roads also requested a § 1.65 issue based on the same alleged failure of WTAR to reflect the ownership of Landmark Securities, etc. In its comments, the Bureau notes that such information had been effectively incorporated in the pending renewal application and that, therefore, such an issue was not warranted. In its reply petitioner renews its requests based on WTAR's alleged failure to show Landmark's acquisition of the Roanoke newspapers and its principals' other broadcast interests in the Norfolk and Roanoke areas through their VNB participation. Since other information had been before the Commission, albeit in other contexts, prior to designation here, since there has been no apparent intention to conceal such information from the Commission, and since the actual effect of such interests is still in doubt in this renewal proceeding, we are not predisposed to add a requisite § 1.65 issue. 31 FCC 2d at 826 n. 30, 19 RR 2d at 678-79 n. 30.

[11] On April 18, 1972, WTAR submitted a supplement to its opposition which states that the hearing Examiner, on April 14, 1972, instructed WTAR to list "the locations of all the CATV systems owned and operated by TeleCable Corporation" and other media owned by WTAR, its officers, and directors. WTAR states that it will supply the requested information.

[12] In its reply pleading, Hampton Roads reasserts many of the same arguments it advanced in its petition. In addition, it requests a concealment and misrepresentation issue because of WTAR's alleged continued failure to disclose its own media interests.

[13] Landmark Securities is a holding company which owns Landmark Communications.

[14] Rule 1.615 requires an applicant to file ownership reports. Rule 1.615(a)(3)(iv) specifically requires the applicant to set forth in the ownership report the identity and interest of any party who has "any direct, indirect, fiduciary, or beneficiary interest in the licensee or any of its stock."

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FCC form 303, the renewal application, is the requirement that the applicant report not only its ownership of a corporation or corporations which own CATV interests—franchises and operating systems—but also the names and locations of each system. The Commission in TV Signal Company of Aberdeen, 23 FCC 2d 603, 19 RR 2d 298 (1970),[15] held that it was "not subject to debate" that renewal applicants must report the ownership of operating CATV systems on FCC Form 303. The Commission also held in Aberdeen that a renewal applicant must report the ownership of CATV franchises. In Media, Inc., supra,[16] we held that adequate disclosure of CATV interests in a new application (FCC Form 301) required the applicant to disclose the name of each community served by a system in order that the Commission would be placed "in full possession of all of the facts which may bear on its determination of whether the public interest would be served by a grant of an application." 22 FCC 2d at 877, 18 RR 2d at 1179. Likewise we believe the name and location of CATV franchises and systems owned by a renewal applicant for a television station is, without question, relevant to the Commission's statutory obligation to determine whether a grant of the application would be in the public interest. See section 307(a) of the Communications Act of 1934, as amended. The ownership of CATV systems is relevant, for example, to the question of concentration of control, diversification and financial qualifications.[17] Cf. "Allied Broadcasting, Inc. v. FCC," 140 U.S. App. D.C. 264, 435, F. 2d 68, 19 RR 2d 2071 (1971). These questions may be raised either in situations involving applications for new broadcast stations or in renewals; therefore, the ownership of all media of mass communications must be reported in full. For the foregoing reasons, we do not believe that WTAR's cryptic description of Landmark's ownership interests in CATV franchises and systems (see paragraph 2, supra) adequately complies with section 1, paragraph 7, of FCC Form 303. TV Signal Company of Aberdeen, supra. Consequently, the addition of a § 1.514 issue is warranted. Moreover, since it appears from petitioner's allegation that Tele-Cable may have acquired CATV franchises and systems after WTAR filed its application and since it further appears that WTAR has not amended its application to reflect those acquisitions, a § 1.65 issue is also warranted. See Lake Erie Broadcasting Company, 34 FCC 2d 354, 24 RR 2d 64 (1972). See also Report and Order on Reporting of Changed Circumstances, 29 FR 15516, 3 RR 2d 1622 (1964).

8. The §§ 1.514 and 1.65 issues to be added herein will be specified on comparative bases only because both Aberdeen, supra, and Media, Inc., supra, upon which we rely for our authority, were released after WTAR filed its renewal application on July 1, 1969.[18] The Board is sympathetic with WTAR's argument that FCC Form 303 did not require it to report each of its CATV interests. Although we have indicated the Commission's policy that CATV interests owned by a renewal applicant must be disclosed in the renewal application, neither FCC renewal application Form 303 nor the FCC ownership report form (Form 323) contains a specific question to elicit this information; therefore, the Board believes that both forms should be revised to include a question designed to elicit the renewal applicant's CATV interests. Pending such revision, and in order to deter other similar non-disclosures or omissions by other applicants and licensees, a typewritten notice could be included in all renewal and/or ownership forms mailed to licensees to place them on notice of this requirement.

9. WTAR's failure to report the acquisition of three Virginia newspapers by Landmark[19] and its apparent failure to report media interests acquired by P. S. Huber, Jr., after the filing of WTAR's application warrants exploration under the comparative § 1.65 issue to be specified herein. We do not believe petitioner has shown any intent on the part of WTAR to withhold this information from the Commission nor do we believe that this information is of such a serious nature as to reflect upon the applicant's basic qualifications; therefore, in our opinion, the comparative § 1.65 issue is sufficient to explore these omissions.[20] Cf. "RKO General Inc.," 34 FCC 2d 265, 24 FF 2d 16 (1972); "Kittyhawk Broadcasting Corp.," 17 FCC 2d 602, 16 RR 2d 73 (1969). The Board does not believe that Hampton Roads has presented sufficient allegations to warrant addition of concealment or misrepresentation issues. "Home Service Broadcasting Corp." 21 FCC 2d 565, 18 RR 2d 507 (1970). Nor, in our opinion, do petitioner's allegations demonstrate such a pattern by WTAR of carelessness, inadvertence or indifference to the Commission's Rules to warrant addition of an ineptness issue. See "Tung Broadcasting Company," 33 FCC 2d 1145, 23 RR 2d 1185 (1972); "Edward C. Atsinger, III," 29 FCC 2d 443, 21 RR 2d 1039 (1971).

FALSE SWEARING ISSUE

10. In support of its request for a false swearing issue, Hampton Roads asserts that WTAR's Ownership Report (FCC Form 323), which was filed in conjunction with WTAR's renewal application, was purportedly signed and certified on July 1, 1969, by Lee Colman Kitchin, President of WTAR Radio–TV Corp.; however, the date stamped on the form indicates that the report was received at the Commission on June 30, 1969. The certification is therefore false on its face, according to Hampton Roads. Petitioner does not speculate on how the date disparity arose, but suggests that perhaps Kitchin did not fully examine the report to determine if it was a complete and accurate statement of the business interests of WTAR. Several cases are cited by Hampton Roads to support the proposition that the Comimssion considers as a "serious matter" the preparation of accurate documents submitted for its consideration and the signing of those documents to verify their validity.[21]

[15] In Aberdeen, the Commission was requested to revoke the license of television Station KDLO–TV, Aberdeen, S. Dak., because the licensee had failed to report the ownership of twenty different CATV franchises, of which two represented operating systems. The Commission ultimately denied the petition to revoke.

[16] In Media, the petitioner requested the addition of a Rule 1.65 issue because of the alleged failure of the applicant to report all of its CATV interests. The applicant in opposing the request argued that it did not believe that the Commission's rules required it to disclose in its application anything more than the location of the "headend" and that it was not required to list separately the four communities which received the programing from the "headend" as well as two proposed communities which would operate out of the "headend".

[17] At the time we ruled on Hampton Roads' 1970 petition, the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, 22 FCC 2d 424, 18 RR 2d 1901 (1970), was in effect and diversification of control of the mass communications media was therefore not at issue in "phase one" of the proceding. Since then, however, the Policy Statement was found to be "contrary to law" by the U.S. Court of Appeals for the District of Columbia Circuit, Citizens Communications Center v. FCC, 145 U.S. App. D.C. 32, 447 F. 2d 1201, 22 RR 2d 2001 (1971). Therefore, diversification of control of the media is once again at issue in comparative proceedings involving regular renewal applicants. As the Court stated in the Citizens Communications case: "Since one very significant aspect of the public interest, convenience and necessity is the need for diverse and antagonistic sources of information, the Commission simply cannot make a valid public interest determination without considering the extent to which ownership of the media will be concentrated or diversified by the grant of one or another of the applications before it." 145 U.S. App. D.C. at 44 n. 35, 447 F. 2d at 1213 n. 36, 22 RR 2d at 2019 n. 36.

[18] Board Member Berkemeyer is of the opinion that a disqualifying § 1.65 issue is warranted for the failure of WTAR to report Landmark's subsequent acquisition of CATV interests.

[19] The relevance of the newspaper acquisitions may have been "in doubt" in 1970 (see note 10, supra), but in view of the Citizens Communications decision, supra, note 16, it is clear today.

[20] The fact that WTAR intends to comply with the Examiner's oral Order of Apr. 14, 1972 (see note 11, supra) and supply a list of its media interests for the record does not, in our view, absolve the applicant of possible violations of the Commission's reporting rules. WTAR was required to report the necessary information in its renewal application and to keep the information up-to-date thereafter. Cf. Folkways Broadcasting Company, 27 FCC 2d 614, 21 RR 2d 156 (1971). An eleventh hour attempt to report information which should have been reported years ago will not suffice

[21] Hampton Roads cites, inter alia: Sumiton Broadcasting Co., Inc., 20 FCC 2d 669, 17 RR 2d 1038 (1969); Chapman Radio and Television Co., 7 FCC 2d 464, 9 RR 2d 907 (1967); William S. Hogin, 1 FCC 2d 670 (1965) (an Initial Decision made effective pursuant to § 1.276); KAYE Broadcasters, Inc., 25 FCC 2d 96 (1970).

11. In opposition, WTAR asserts that its application has been on file with the Commission since June 30, 1969; yet Hampton Roads waited 2½ years before requesting an issue relating to the apparent date discrepancy.[22] WTAR concedes that the application was postdated; however, it denies that the contents therein were untrue. The document was postdated, WTAR explains, because it was intended to reflect WTAR's business as of July 1, 1969; if any changes had taken place between June 30 and July 1, WTAR would have amended its report. The Broadcast Bureau also opposes the requested issue. The Bureau believes that the date discrepancy is minor and only indicates that the report was postdated. The Bureau notes that the filing date for all renewal applications for the Commonwealth of Virginia was July 1, 1969. In the Bureau's opinion, WTAR merely beat its target date.

12. In reply, Hampton Roads argues that WTAR did not present an affidavit from Kitchin or any other principal of WTAR–TV opposing the requested false swearing issue; therefore, since no explanation was presented, an issue is warranted. Hampton Roads also argues that the date discrepancy is not "minor", particularly in light of the failure to fully disclose the media interests owned by WTAR's parent, Landmark. Petitioner next contends that WTAR filed ownership reports not only for the licensee but one for Landmark, and one for Landmark Securities which were also filed on June 30, 1969; yet each form was dated July 1, 1969, and contained "glaring omissions" of media interests held by each company (for example, Landmark's ownership of WFMY–TV in Greensboro, N.C., was allegedly not mentioned in the statement).

13. We do not agree with Hampton Roads that the discrepancy in dates warrants a "false swearing" or character qualifications issue against WTAR. On the face of the Ownership Reports, there is a discrepancy in the dates between the signing by Kitchin and the filing date, indicating postdating; however, Hampton Roads has not presented any facts which suggest that any untrue statements were presented in the reports. In our view, an evidentiary inquiry is not warranted without more facts suggesting that the documents themselves are not accurate.[23] WTAR's alleged failure to report all of its media interests in its renewal application would not necessarily make the statements contained in the ownership reports untrue; rather they would make the reports incomplete. Moreover, the cases cited by Hampton Roads (see note 18, supra) are inapposite in that they deal with misrepresentations and falsifications of statements in documents submitted to the Commission.[24] No facts presented by Hampton Roads suggest that WTAR's reports were falsified. For all of the foregoing reasons, Hampton Roads' request for a false swearing issue will be denied.

14. *Accordingly it is ordered*, That the petition to enlarge issues, filed March 16, 1972, by Hampton Roads Television Corp., is granted to the extent indicated below, and is denied in all other respects; and

15. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether WTAR Radio–TV Corp. (WTAR–TV) failed to comply with § 1.514(a) of the Commission's rules; and, if so, to determine the effect thereof upon the applicant's comparative qualifications to be a Commission licensee; and

(b) To determine whether WTAR Radio–TV Corp. (WTAR–TV) failed to amend its application as required by § 1.65 of the Commission's rules; and, if so, to determine the effect thereof upon the applicant's comparative qualifications to be a Commission licensee;

16. *It is further ordered*, That the burden of proceeding with introduction of evidence under the issues added herein shall be on Hampton Roads Television Corp. and the burden of proof thereunder shall be on WTAR Radio–TV Corp. (WTAR).

Adopted: September 26, 1972.

Released: September 28, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–17264 Filed 10–6–72; 8:52 am]

[22] Because this timelessness argument is no longer a valid contention (see note 2, supra), the Board will not discuss it further. WPIX, Inc., supra, 34 FCC 2d at 420 n. 5, 24 RR 2d at 62 n. 5.

[23] The obligation was on the petitioner to allege sufficient facts to raise a substantial question warranting the addition of the false swearing issue. It was not up to WTAR to make a case against itself. The burden was on Hampton Roads, as the petitioner, to justify the addition of an issue. Cf. Phil D. Jackson, 33 FCC 2d 928, 932, 23 RR 2d 1023, 1028 (1972).

[24] In addition, William S. Hogin, supra, is an Initial Decision made effective without Commission review. As such, it is "not final and has no weight as precedent". Alabama Microwave, Inc., 21 FCC 2d 549, 553, 18 RR 2d 475, 480 (1970), review denied FCC 70–652, released June 26, 1970. See WFPG, Inc., 33 FCC 673, 677, 24 RR 418, 425 (1962).

TARIFF COMMISSION

[AA1921–103]

KRAFT WRAPPING PAPER FROM CANADA

Rescheduling of Hearing Date

Notice is hereby given that the hearing in Investigation No. AA1921–103 scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC, beginning at 10 a.m. e.s.t., on November 8, 1972, has been rescheduled for 10 a.m. e.s.t., on November 9, 1972.

The hearing is being held in connection with a Commission investigation under the provisions of section 201(a) of the Anti-dumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of 30-pound MF (machine finish) kraft wrapping paper from Canada which the Assistant Secretary of the Treasury has determined is being, and is likely to be, sold at less than fair value. Notice of the investigation was published in the FEDERAL REGISTER of September 29, 1972 (37 F.R. 20354).

Issued: October 4, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72–17233 Filed 10–6–72; 8:52 am]

V37-196 OCT 7 72 XUM

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY DISTRIBUTION-TECHNICAL ADVISORY TASK FORCE-REGULATION AND LEGISLATION

Order Designating an Additional Member

OCTOBER 3, 1972.

The Federal Power Commission by Order issued May 25, 1972, established the Distribution-Technical Advisory Task Force-Regulation and Legislation of the National Gas Survey.

1. Membership. An additional member to the Distribution-Technical Advisory Task Force-Regulation and Legislation, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Hon. Carl R. Johnson, Commissioner, Ohio Public Utilities Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17206 Filed 10-6-72;8:47 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating a New Member

OCTOBER 3, 1972.

The Federal Power Commission by Order issued August 11, 1972, established the Executive Advisory Committee of the National Power Survey.

2. Membership. A new member of the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Mr. James A. O'Neill, President, Niagara Mohawk Power Corp.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17207 Filed 10-6-72;8:47 am]

[Docket No. E-7476]

BALTIMORE GAS AND ELECTRIC CO.

Notice of Application

OCTOBER 3, 1972.

Take notice that on September 15, 1972, Baltimore Gas and Electric Co. (Applicant), filed a supplemental application with the Federal Power Commission seeking authority to increase to $100 million the amount of short term unsecured promissory notes including commercial paper notes which it may have outstanding, and to extend to December 31, 1975 the latest maturity date of notes to be issued pursuant thereto.

The Commission authorized the issuance of such notes by the Applicant in its order dated June 13, 1969, and supplemental order of September 24, 1970. In that supplemental order, the Commission authorized the Applicant to issue short term promissory notes in face amounts of up to a maximum of $85 million with maturities not later than December 31, 1973.

Applicant is incorporated under the laws of the State of Maryland with its principal business office at Baltimore, Maryland, and is engaged in the electric, gas, and steam utility businesses within the State of Maryland. The Applicant has qualified to do business also in the Commonwealth of Pennsylvania where it is participating in the ownership and operation of two mine-mouth electric generating plants.

The notes are to be issued from time to time to banking institutions and/or sold to or through dealers in commercial paper of which the aggregate amount to be outstanding at any one time as commercial paper is not to exceed 25 percent of the Applicant's gross revenues during the preceding 12 months. The notes in the form of commercial paper will mature in no more than 270 days and all other notes will have maturities of up to 1 year from the date of issuance.

The proceeds from the issuance of the notes will be used as interim financing of the Applicant's $675 million 1972–74 construction program.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17243 Filed 10-6-72;8:50 am]

[Docket No. CP73-71]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

OCTOBER 3, 1972.

On September 13, 1972, Columbia Gulf Transmission Co. (Applicant), Post Office Box 683, Houston, Tex. 77001, filed in Docket No. CP73-71 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities necessary to increase the capacity of its portion of the Western Shore Line of the Blue Water Project in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that pursuant to Commission authorization granted by order issued March 6, 1969, in Docket No. CP68-231 (41 FPC 231), as amended, Applicant and Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Tennessee), have begun joint operation of the Blue Water Project for the transportation onshore of natural gas produced in the offshore Louisiana area. The Western Shore Line and the Eastern Shore Line are its main component systems. Applicant's 30-inch pipeline, which extends from Pecan Island to a connection with Applicant's West Lateral near Egan, La., forms the northern part of the Western Shore Line. Applicant states further, that pursuant to authorization granted by the Commission's order issued April 17, 1972, in Docket No. CP72-114 (47 FPC ------), Applicant and Tennessee have commenced an exchange whereby Applicant delivers out of its West Lateral system to Tennessee through facility interconnections at Cameron and Egan, La., gas volumes which would normally be delivered to Tennessee from the Western Shore Line. In return, Tennessee makes available equal aggregate volumes of gas to Applicant at the terminus of the Western Shore Line near Egan and at the Garden City plant of Humble Oil and Refining Co. (Humble) in St. Mary Parish, La. Applicant states that this exchange of gas permitted Applicant to defer construction of facilities which otherwise would have been necessary to transport gas purchased from Humble in the Pecan Island Field to the Egan terminus of the Western Shore Line along with initial Blue Water Project volumes.

Tennessee now desires to utilize its full capacity entitlement in the Western Shore Line. In order to transport volumes purchased from Humble in the Pecan Island Field which will be displaced by Tennessee's full utilization of its entitlement and to transport an additional 50,000 Mcf of gas per day of Applicant's offshore reserves, Applicant proposes to increase the capacity of its portion of the Western Shore Line by constructing and operating approximately 12.2 miles of 30-inch pipeline loop along its 30-inch Egan-to-Pecan Island pipeline. The application indicates that the estimated cost of such construction will be $2,742,700, which will be financed from current funds.

Applicant and Tennessee have filed a related application to amend the order of April 17, 1972, in Docket No. CP72-114.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make

the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17245 Filed 10-6-72;8:50 am]

[Docket No. CP70-137]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

OCTOBER 3, 1972.

Take notice that on September 6, 1972, El Paso Natural Gas Co. (Petitioner), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP70-137 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing a change in its contract demand service for its Northwest Division System resale customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By Commission orders of January 20, 1970 (43 FPC 87), and May 12, 1970 (43 FPC 723), in Docket Nos. G-8923, et al., Petitioner was authorized to import into the United States from Canada an additional 300,000 Mcf of natural gas per day. By Commisison orders of May 12, 1970 (43 FPC 723), and July 28, 1971 (46 FPC 232), in Docket No. CP70-137 Petitioner was authorized to construct and operate certain facilities in order to transport and deliver such additional quantities to its Northwest Division System customers.

Petitioner states that on November 1, 1972, delivery of the final increment of 75,000 Mcf of natural gas per day of the total 300,000 Mcf is scheduled to commence. Petitioner seeks authorization to allocate 65,000 Mcf of the final 75,000 Mcf increment to its Northwest Division System resale customers in a manner identical to that used to allocate 200,000 Mcf of the first increment of 225,000 Mcf. Petitioner states that the first increment was allocated pro rata to said resale customers based on each customer's firm contract demand compared to the total of all of such customer's firm contract demands. Petitioner further states that if a certain customer did not have need for their full allocated portion, these quantities were retendered and allocated to all customers desiring such quantities in the same pro rata manner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17179 Filed 10-6-72;8:45 am]

[Docket No. G-10426]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend Further

OCTOBER 3, 1972.

Take notice that on September 22, 1972, El Paso Natural Gas Co. (Petitioner), Post Office Box 1492, El Paso, TX 79978, filed pursuant to section 7(c) of the Natural Gas Act a petition to amend further the Commission's order issued November 21, 1957, in Docket No. G-10426 (18 FPC 690), as amended, by authorizing Petitioner to sell and deliver on a firm basis a maximum daily quantity of 150,675 Mcf of natural gas to Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Colorado Interstate) (an increase of 6,965 Mcf) and a maximum daily quantity of 75,340 Mcf to Mountain Fuel Supply Co. (Mountain Fuel) (an increase of 3,485 Mcf), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of November 21, 1957, as amended, among other things, authorized Petitioner to sell and deliver, on a firm basis a maximum daily quantity of 117,500 Mcf of natural gas to Colorado Interstate and 58,750 Mcf of natural gas to Mountain Fuel. By subsequent order issued November 4, 1971, in the instant docket (46 FPC ——), Petitioner was authorized to sell and deliver maximum daily quantities of 143,710 Mcf to Colorado Interstate and 71,855 Mcf of Mountain Fuel. Deliveries of such gas are made from Petitioner's Northwest Division System in Sweetwater County, Wyo. The additional quantities were allocated, Petitioner states, as a result of additional natural gas supplies received by Petitioner from its Canadian supplier, Westcoast Tranmission Co. Ltd. (Westcoast), at the Sumas, Wash., import point, commencing November 1, 1971.

Petitioner further states that pursuant to Commission order issued May 12, 1970, in Docket No. CP-70-138 (43 FPC 723), as amended, Petitioner is authorized and scheduled to receive from Westcoast on November 1, 1972, an additional firm daily quantity of 75,000 Mcf of natural gas at the Sumas import point. Further, the petition indicates that the proposed increase in deliveries to Colorado Interstate and Mountain Fuel results from the pro rata allocation of such additional supplies among Petitioner's Northwest Division System jurisdictional customers who are desirous of receiving additional firm supplies.

Petitioner states that both Colorado Interstate and Mountain Fuel have experienced increased requirements and have need for and can utilize the increased quantities of gas proposed herein to be allocated to them.

No additional facilities are required to render the proposed service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17208 Filed 10-6-72;8:47 am]

[Docket No. RI 73-60]

GEORGE MITCHELL & ASSOCIATES

Order Providing for Hearing on Petition for Special Relief and Granting Request for Area Rate To Be Applied to the Area of Sale Rather Than the Area of Production

OCTOBER 3, 1972.

George Mitchell & Associates (GMA) has filed two requests for special relief relating to its FPC Gas Rate Schedule No. 19 under which it makes jurisdictional sales of gas to Natural Gas Pipeline Company of America (Natural) from the Boonesville, Bend Field, Jack, Wise, and Parker Counties, Tex. On June 23, 1972, it requested that the ceiling rate at the point of sale be applied to gas produced from wells in the Texas Railroad District No. 7-B (Permian Basin Area) because such gas is commingled and processed with gas produced and

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sold in Railroad District No. 9 (Other Southwest Area). On August 11, 1972, GMA requested that the Commission waive the moratorium on rate increase filings in the Other Southwest Area and to allow GMA to receive 30 cents per Mcf for all gas sold under its Rate Schedule No. 19.

The first request. GMA requests that gas produced from wells located in Texas Railroad District No. 7–B be subject to the area rates set forth in Opinion No. 607 for the Other Southwest Area. The current effective rate under Rate Schedule No. 19 is 17.7403 cents per Mcf, subject to refund in Docket No. RI70–858. This rate is below the area ceiling for the Other Southwest Area (19.7 cents per Mcf) and also below the area ceiling recommended by staff in Permian II (21.0 cents per Mcf) for gas sold under contracts executed in 1954. GMA requests that production from its wells located in District 7–B should be subject to the Opinion No. 607 rates in instances where such gas is commingled with gas produced in Railroad District No. 9, which is in the Other Southwest Area, prior to redelivery and sale.

Applicant's production from leases in Park, Jack, and Wise Counties, Tex., is sold under a single rate schedule. This production was uniformly priced until the geographical limits of the Permian Basin area were redefined in the order instituting Permian II. We see no valid reason to subject applicant to disparate pricing for production confined to the narrow geographical limits here involved, and accordingly the request is granted.

The second request. GMA has requested a waiver of § 154.109(f) of the Commission's regulations, relating to the moratorium on the filing for rates above the area ceilings, so as to permit it to file a notice of change in rate pursuant to § 154.94(b) of the regulations, and that the rate increase be made effective subject to refund upon the date of filing. In addition, GMA requests that the matter be set for immediate hearing.

GMA and Natural have entered into a redetermination of the rates, as provided for under the basic contract, proposed to be effective December 27, 1972.[1] GMA's proposed contract reserves that it states cannot be produced under the existing well spacing pattern. Also, GMA contends that the estimated field peak day deliverability with the additional wells of approximately 200,000 Mcf per day can be maintained until 1980.

GMA's request, if granted, would permit it to collect approximately an additional $4 million annually for its current sales under Rate Schedule No. 19 above the revenues it would receive at the applicable ceiling prescribed in Opinion No. 607.

Ordering Paragraph A (e) of Opinion No. 607 provides that a producer "may not file any rate increase in excess of the applicable area rate herein prescribed unless and until the Commission grants the petition." GMA should be afforded an opportunity to provide evidentiary support for its petition for special relief, including its allegations that a higher rate will enable it to increase its exploration and development of gas reserves, resulting in greater gas production.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change in rate filed by GMA, and to allow GMA to present evidence in support of its request for special relief for the subject sales of natural gas.

The Commission orders:

(A) The request by GMA to apply the ceiling rate at the point of sale to gas produced in Railroad District No. 7–B is granted.

(B) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning this petition for special relief and the lawfulness of the proposed change.

(C) A prehearing conference including all parties to this proceeding shall be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, commencing November 8, 1972, at 10 a.m. for the purpose of aiding and expediting the orderly conduct and disposition of this proceeding and exploring the possibility of settlement of the issues herein. The Administrative Law Judge may, in his discretion, grant continuance of the prehearing conference, or pursuant to § 1.18 of the rules of practice and procedure, convene such other conferences either before or after November 8, 1972, as he may deem useful to expedite the conclusion of the proceeding. If no settlement or stipulation can be reached by the parties hereto after reasonable time and provision has been made for the same, the procedural dates for service of rebuttal testimony and exhibits, if any, and for hearings on the issues herein shall be fixed by the Administrative Law Judge.

(D) GMA shall serve upon the staff of the Federal Power Commission and all parties to this proceeding by October 20, 1972, testimony and exhibits in support of its request for special relief to permit the filing of a rate increase in excess of the area rate in the Other Southwest Area.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17244 Filed 10–6–72;8:50 am]

[1] The basic pricing provisions of the redetermination are: For the 5-year period through December 27, 1977, the base price will be 30 cents/Mcf. For each succeeding 5-year period thereafter, the base price shall increase 1 cents/Mcf.

[Docket No. CI73–222]

HYDROCARBON DEVELOPMENT CORP.

Notice of Application

OCTOBER 4, 1972.

Take notice that on September 22, 1972, Hydrocarbon Development Corp. (Applicant), Post Office Box 2806, Corpus Christi, TX 78403, filed in Docket No. CI73–222 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Petroleum Management, Inc., from the Lacal Field, Willacy County, Tex., to a point of interconnection with the pipeline of Texas Eastern Transmission Corp. (Texas Eastern) in Hidalgo County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petroleum Management, Inc., has filed an application in Docket No. CI72–846 for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to Texas Eastern from the Lasara Field Area, Willacy County, and delivery of said gas to Texas Eastern in Hidalgo County within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17241 Filed 10–6–72;8:50 am]

[Docket No. CP73–65]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

OCTOBER 3, 1972.

Take notice that on September 5, 1972, Michigan Wisconsin Pipe Line Co. (Applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73–65 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the offshore transportation of additional volumes of natural gas for Texas Gas Transmission Corp. (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it presently transports natural gas for Texas Gas from various points in the Outer Continental Shelf Lands Area, offshore Louisiana, to a point of redelivery near Calumet, La., pursuant to authorization granted in Dockets Nos. CP69–249 (41 FPC 828) and CP70–163 (44 FPC 238). Applicant further states that Texas Gas has entered into a contract to purchase the reserves of Texaco, Inc., in Block 219, Ship Shoal Area, offshore Louisiana, and that Applicant has entered into a contract with Texas Gas to transport a contract demand volume of 10,000 Mcf of natural gas per day for Texas Gas from Block 219 to Block 204, Ship Shoal Area, for further transportation through Applicant's offshore pipeline system to Calumet, St. Mary Parish, La. Applicant states that it can provide the requested transportation service without the construction of additional facilities (when the facilities) authorized by the Commission's order of May 22, 1972 (47 FPC ------), in Docket No. CP72–87 have been installed and placed in service. Pending the completion of the facilities authorized in Docket No. CP72–87, Applicant states that it will use its best efforts to transport from Block 219 to the existing redelivery point at Calumet such gas as Texas Gas may cause to be tendered to it in Block 219 for transportation. The rate for this interim transportation service will be 5.43 cents per Mcf of natural gas delivered to it in Block 219 for the account of Texas Gas. The rate for the transportation service upon the completion of the facilities in Docket No. CP72–87 will be a demand charge of 40 cents per month for each Mcf of contract demand. In addition to the demand charge, Texas Gas will pay Applicant 1.32 cents per Mcf of gas delivered to Applicant for Texas Gas' account in excess of the contract demand on any day.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17246 Filed 10–6–72;8:50 am]

[Docket No. CP72–114]

TENNESSEE GAS PIPELINE CO. AND COLUMBIA GULF TRANSMISSION CO.

Notice of Petition To Amend

OCTOBER 3, 1972.

Take notice that on September 13, 1972, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, TX 77001, and Columbia Gulf Transmission Co. (Columbia Gulf), Post Office Box 683, Houston, TX 77001, filed, pursuant to section 7(c) of the Natural Gas Act, a petition to amend the Commission's order issued April 17, 1972, in Docket No. CP72–114 (47 FPC ------) wherein petitioners were authorized to exchange natural gas in Louisiana, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of April 17, 1972, authorized an exchange arrangement between petitioners relating to the Western Shore Line of the Blue Water Project in Louisiana.[1] Petitioners state that such arrangement was necessary because Columbia Gulf was scheduled to transport through the Western Shore Line up to 192,400 Mcf per day of Tennessee's gas and 234,600 Mcf of its own gas under the Blue Water Project; additionally, Columbia Gulf was also scheduled to transport through the Western Shore Line 308,800 Mcf of gas per day purchased from Humble Oil and Refining Co. (Humble) in the Pecan Island Field. Since the available capacity of the Western Shore Line was 649,500 Mcf per day, which is less than the 735,800 Mcf capacity required to transport all the scheduled volumes, Columbia Gulf, without the exchange arrangement, would have had to provide additional capacity by constructing looping of its facilities constituting part of the Western Shore Line. The petition indicates that under the present exchange arrangement Columbia Gulf delivers to Tennessee up to 105,264 Mcf daily at the Cameron, La., point and the balance (up to a total of 255,000 Mcf) at the Egan, La., point (Egan B) and Tennessee simultaneously redelivers to Columbia Gulf up to 146,778 Mcf per day at the tailgate of Humble's Garden City Plant, St. Mary Parish, La., and the remainder at the Egan, La., point (Egan A). Petitioners state that under the existing arrangement Tennessee has been delivering 106,100 Mcf daily for exchange through the Egan "A" delivery point along the Western Shore Line and has advised Columbia Gulf that it now needs the use of its full capacity entitlement of 192,400 Mcf daily in the Western Shore Line.

Petitioners have entered into an amendatory exchange agreement, dated August 15, 1972, under which, they state, Tennessee would utilize up to its full capacity entitlement in the Western Shore Line and would take delivery of such quantity at the on-shore terminus of said Line at Egan. Additionally, it is proposed that Columbus Gulf will deliver between 70,000 Mcf and 120,000 Mcf of gas per day to Tennessee at the Cameron Delivery Point, the amount to be determined by Tennessee's use of its capacity entitlement in the Western Shore Line. The petition indicates that when Tennessee uses its full capacity entitlement, Columbia Gulf will exchange up to 70,000 Mcf per day for an equal volume of gas to be redelivered at the Garden City and/or Erath and/or other agreed-to delivery points. The petition further indicates that when Tennessee uses less than its full capacity entitlement in the Western Shore Line, Columbia Gulf's exchange gas delivery obligation to Tennessee at Cameron will increase above the 70,000 Mcf per day by an amount equal to the amount of entitlement to gas capacity in the Western Shore Line

[1] The Blue Water Project and its related facilities were authorized by Commission order issued March 6, 1969, in Docket No. CP68–231 (41 FPC 231), as amended, for the transportation onshore of natural gas produced in the offshore Louisiana area. The Western Shore Line and the Eastern Shore Line are its main component systems.

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not utilized by Tennessee: *Provided, however*, Columbia Gulf shall not be obligated to deliver a volume in excess of 120,000 Mcf per day at such point. Petitioners state that the choice of redelivery point or points is to be at Tennessee's option; however, Columbia Gulf will not be obligated to take more than 80,000 Mcf per day of exchange gas at either the Garden City or Erath delivery point, and the maximum total volume of gas which Columbia Gulf is obligated to receive as exchange gas from both such points shall not exceed 120,000 Mcf per day.

Petitioners state that the proposed exchange, as amended, will be beneficial to each in that it will provide greater operational flexibility in the gas gathering area of each company and will permit both companies to utilize more efficiently their gas supplies and facilities in the servicing of their delivery requirements.

In Docket No. CP73-71, Columbia Gulf has filed a related application to loop a portion of its Pecan Island-to-Egan pipeline (part of the Western Shore Line) to accommodate the receipts of gas from Humble at Pecan Island which would be displaced by the proposals in the instant docket.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17248 Filed 10-6-72;8:50 am]

[Project No. 2401]

UTAH POWER AND LIGHT CO.

Notice of Availability of Environmental Statement for Inspection

OCTOBER 3, 1972.

Notice is hereby given that on October 2, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, Nov. 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, Apr. 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for license filed pursuant to the Federal Power Act for the constructed Grace-Cove Project No. 2401 located on the Bear River near the town of Grace, Idaho.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, D.C. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project consists of two developments on the Bear River. The Grace Development consists of: (1) A timber crib rock filled dam, 180.5 feet long and 51 feet high; (2) a 120 foot spillway section controlled by flashboards; (3) a 200 foot earth dike; (4) a 250 acre-feet reservoir at maximum elevation of 5556 feet m.s.l.; (5) 4.8 miles of wood stave and riveted steel pipe; (6) two powerhouses with a combined capacity of 44,000 kw. The Cove Development consists of: (1) A 140-foot long, 24-foot high concrete dam; (2) a 150-foot long earth dike; (3) a small pond with high water elevation of 5,032 feet m.s.l.; (4) 1.3 miles of canal, flume, and steel penstock; (5) a plant having a capacity of 7500 kw. Both developments are basically run of the river operations.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from October 9, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17205 Filed 10-6-72;8:47 am]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Grandfather Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date). However section 4(a)(2) requires the Board of Governors of the Federal Reserve System to determine whether such grandfather privileges should be terminated and, with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a two year period. The Board has undertaken a review of nonbank activities of each bank holding company described in section 4(a)(2) of the statute that controls a bank with assets in excess of $60 million.

In exercising its authority under section 4(a)(2), the Board by order, after opportunity for hearing, may terminate the authority granted by said section if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. On the basis of the information before the Board, it appears that continuation of grandfather privileges, if any, granted by section 4(a)(2) to the companies listed below would not be inconsistent with the purposes of the Act. A Board determination not to terminate grandfather privileges would not preclude the Board from making a determination at a later date that grandfathered activities must be terminated.

Bank holding company:	*Activities engaged in on, and continuously since, June 30, 1968* [1]
Frank P. Doyle Trust, Article IX, Santa Rosa, Calif.	Ownership of bank premises corporation.
Sumitomo Bank, Ltd., Osaka, Japan.	None.
Hopeton Holding Corp., Chicago, Ill. Del.	None.
Financial Investments Corp., Chicago, Ill.	None.
First National Bank of Cicero Corp., Oak Park, Ill.	None.
Ribso, Inc., Rock Island, Ill.	Owner and lessor of bank premises. Owner of land and lessor of residual mineral rights.
Investment Securities Corp., Lexington, Ky.	None.
Tennessee Shares Corp., Cheverly, Md.	None.
Potomac Securities Corp., Silver Spring, Md.	Lessor of banking equipment.
Independent Bancorporation, Minneapolis, Minn.	None.
Mercantile Commerce Co., St. Louis, Mo.	None.
Barclay's Bank, Ltd., London, England.	None.
Royal Bank of Canada, Montreal, Canada.	None.

[1] Authority to engage in some of the activities listed may also be contained in other provisions of the Bank Holding Company Act, and such activities would not be subject to divestiture under section 4(a)(2) of the Act.

Industrial Bank of Japan, Ltd., Tokyo, Japan.	None.
International Equities, Inc., New York, N.Y.	Automated bookkeeping services for affiliated banks.
U T Securities Corp., New York, N.Y.	None.
Southeastern Shares Corp., New York, N.Y.	None.
National Bank of Greece, S.A., Athens, Greece.	None.
Alexandria Shares Corp., Alexandria, Va.	Automated bookkeeping services for affiliated banks.
Financial General Corp., Richmond, Va.	None.
Virginia Bankshares, Inc., Richmond, Va.	Automated bookkeeping services for affiliated banks.
Marine Bancorporation, Seattle, Wash.	Ownership of bank premises corporation. Ownership of two Edge Act corporations.

The Board has also examined the nonbanking activities and the grandfather privileges of North American Mortgage Corp., St. Petersburg, Fla. On the basis of information before the Board, it appears that continuation of grandfather privileges granted by section 4(a)(2) of the Act to North American Mortgage Corp. would not be inconsistent with the purposes of the Act.

To aid the Board in making its determinations, interested persons are hereby afforded an opportunity to submit relevant data, views, and arguments bearing on the proposed determinations by the Board concerning the continuation of grandfather privileges, if any, of the subject companies. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 30, 1972. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, September 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17239 Filed 10-6-72;8:50 am]

HAMILTON BANCSHARES, INC.

Acquisition of Bank

Hamilton Bancshares, Inc., Chattanooga, Tenn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Hamilton Bank of Nashville, Nashville, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve bank to be received not later than October 30, 1972.

Board of Governors of the Federal Reserve System, October 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17240 Filed 10-6-72;8:50 am]

TRUST COMPANY OF NEW JERSEY

Order Denying Request for Reconsideration

The Trust Company of New Jersey, Jersey City, N.J., has requested reconsideration of the order of the Board of Governors dated July 27, 1972, whereby the Board denied the application of the Trust Company of New Jersey for prior approval of the merger of that bank with a nonoperating wholly owned banking subsidiary of Wilshire Oil Co. of Texas, New York, N.Y.

Pursuant to § 262.3(f)(6) of the Board's rules, applicant requests reconsideration of its original proposal. The Board finds that the request for reconsideration does not present relevant facts that, for good cause shown, were not previously presented to the Board and that it does not otherwise appear that reconsideration would be appropriate in the public interest. Accordingly, the request for reconsideration is hereby denied.

By order of the Board of Governors,[1] effective September 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17189 Filed 10-6-72;8:46 am]

WESTERN BANCSHARES, INC.

Order Denying Request for Reconsideration

Western Bancshares, Inc., Stockton, Kans., has requested reconsideration of the order of the Board of Governors dated August 31, 1972, whereby the Board denied the application of Western Bancshares to retain 89.5 percent of the voting shares of Rooks County State Bank, Woodston, Kans., pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)).

Pursuant to § 262.3(f)(6) of the Board finds that the request for reconsideration of its original proposal. The Board finds that the requests for reconsideration does not present substantially new facts or issues which would appear appropriate in the public interest for the Board to consider. Accordingly, the request for reconsideration is hereby denied.

By order of the Board of Governors,[1] effective September 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17188 Filed 10-6-72;8:46 am]

[1] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

OFFICE OF EMERGENCY PREPAREDNESS

EHV POWER CIRCUIT BREAKERS AND EHV POWER TRANSFORMERS AND REACTORS

Investigation of Imports—Extension of Time

On August 17, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 16635) that, in accordance with the provisions of section 232 of the Trade Expansion Act of 1962 and OEP Regulation No. 4, the Director of the Office of Emergency Preparedness has ordered an investigation to determine whether or not Extra High Voltage (EHV) Power Circuit Breakers and EHV Power Transformers and Reactors are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

The time to submit any comment, opinion, or data relative to the investigation is extended to October 23, 1972. Rebuttal to material so submitted is extended to November 23, 1972. Any additional data or comments must be filed by December 7, 1972.

Dated: October 5, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-17318 Filed 10-6-72;8:53 am]

SECURITIES AND EXCHANGE COMMISSION

[811-964]

BCC INDUSTRIES, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

SEPTEMBER 29, 1972.

Notice is hereby given that BCC Industries, Inc. (BCC), 911 Investment Plaza, Cleveland, Ohio 4414, a Massachusetts corporation registered as a closed-end, nondiversified investment company under the Investment Company

[1] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Governors Robertson and Daane.

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Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that BCC has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which, if necessary for the protection of the investors, may be made upon appropriate conditions, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Section 3(a)(1) of the Act defines an investment company as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities.

Section 3(a)(3) of the Act further defines an investment company as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of U.S. Government securities and cash items) on an unconsolidated basis. The term "investment securities" includes all securities except U.S. Government securities, securities issued by employees' securities companies and securities issued by majority-owned subsidiaries of the owner which are not investment companies.

BCC (initially incorporated as Boston Capital Corp.) was incorporated on July 26, 1960, and registered as a closed-end, nondiversified investment company under the Act on July 28, 1960. On September 8, 1960, BCC was licensed as a small business investment company under the Small Business Investment Act of 1958. In the latter part of 1968, BCC transferred a portion of its assets and its license as a small business investment company to a wholly-owned subsidiary company which registered as a closed-end, nondiversified investment company under the Act on May 6, 1968.

At a special meeting of Stockholders of BCC held on July 22, 1970, the vote of a majority of BCC's outstanding voting securities was cast in favor of a proposal to change the nature of BCC's business from that of an investment company to that of a company operating businesses directly or through subsidiaries and authorizing management to file an application with the Commission for an order declaring that BCC has ceased to be an investment company. Since stockholder approval of such action, BCC has disposed of its holdings of stock of its former small business investment company subsidiary as well as a substantial amount of other investment securities and it has acquired some controlled companies.

BCC represents that it is not an investment company as defined in the Act. BCC's board of directors has made a determination of the value of BCC's assets as of August 30, 1972, which indicates that the value of BCC's assets (exclusive of $8,459,365 of U.S. Government securities and cash items) totalled $30,904,057. On the basis of such determination the value of BCC's holdings of investment securities aggregated $2,800,733 or 9 percent of such total assets. On the same basis the value of BCC's holdings of securities of its majority-owned subsidiaries aggregated $26,899,595 or 87 percent of such total assets.

BCC has four majority-owned subsidiaries: Invacare Corp., Ohio-Nuclear, Inc., Waukesha Industries Corp. and Chayes Virginia, Inc., BCC owns 78 percent of the outstanding voting securities of Waukesha Industries Corp. and 100 percent of the outstanding voting securities of each of the other majority-owned subsidiaries. Waukesha Industries Corp. in turn, owns 100 percent of the outstanding voting securities of Waukesha Bearings Corp. and Astro-Metallurgical Corp.; and Chayes Virginia, Inc. owns 100 percent of the outstanding voting securities of Chayes Dental Instruments Corp. and of Virginia Corp.

BCC represents that it manages the businesses of the above companies (hereinafter referred to collectively as BCC's majority-owned subsidiaries). The majority-owned subsidiaries, as a group, are engaged in the manufacture and sale of dental equipment, wheelchairs, walkers, traction stands, and other patient products. Such companies, as a group, are also engaged in the manufacture and sale of radioisotope imaging devices for medical diagnosis and cardiac monitoring, heavy load film lubricated bearings, mechanical seals and clutches, and titanium and other reactive products. BCC also represents that its officers, directors, personnel, and designees who are connected with the majority-owned subsidiaries in the capacities noted in the application participate extensively in the management, administration and affairs of each of the majority-owned subsidiaries and that BCC and its officers, directors, personnel, and designees intend hereafter to participate extensively in the management, administration and affairs of each of the present majority-owned subsidiaries and any company which may hereafter become a majority-owned subsidiary of BCC.

BCC states that its interests in the majority-owned subsidiaries are not being held for the purpose of resale and that any company which may hereafter become a majority-owned subsidiary will not be held for the purpose of resale. BCC also states that it has invested in securities issued by the U.S. Government and that it may continue to invest in securities issued by the U.S. Government and, in a limited number of instances, may invest in securities of other than majority-owned subsidiaries. However, BCC represents that any holding of or any trading in such securities will be incidental to BCC's cash-management program and will be minor in all respects as compared to BCC's primary interest in the businesses of its majority-owned subsidiaries. BCC further represents that under no circumstances does it intend to own or acquire securities having a value (after deducting the value of securities issued by the U.S. Government and by majority-owned subsidiaries of BCC which are not investing companies) equal to as much as 20 percent of the value of BCC's total assets (exclusive of securities issued by the U.S. Government and cash items).

Notice is further given that any interested person may, not later than October 20, 1972, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication shall be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by airmail (airmail if the person being served is located more than 500 miles from the point of mailing) upon BCC at the address set forth above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17225 Filed 10-6-72;8:48 am]

[70-5244]

DELMARVA POWER & LIGHT CO.

Notice of Proposed Sale of Common Stock by Holding Company at Competitive Bidding

OCTOBER 2, 1972.

Notice is hereby given that Delmarva Power & Light Co. ("Delmarva"), 600 Market Street, Wilmington, DE 19899, a registered holding company and also a public-utility company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Delmarva proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 1,250,000 shares of its authorized but unissued common stock, par value $3.375 per share. At August 31, 1972, Delmarva had 12,298,446 shares of common stock outstanding.

The net proceeds received from the proposed issue and sale of common stock will be applied toward the cost of the 1972-73 construction program of Delmarva and its subsidiary companies, including the retirement of all or a portion of unsecured short term notes issued prior to such sale. On September 25, 1972, such unsecured short term notes outstanding amounted to $14,100,000. Construction expenditures for the last 4 months of 1972 and the year 1973 are estimated at $136,338,000 including an allowance for funds used during construction of $13,330,000. It is stated that Delmarva contemplates the sale of additional securities during 1973 to finance, in part, its said construction program.

A statement of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. The filing indicates that the Public Service Commission of Delaware has jurisdiction over the proposed issue and sale of common stock by Delmarva and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 30, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rules 20(a) and 100 thereof or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17223 Filed 10-6-72;8:48 am]

[File No. 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

SEPTEMBER 29, 1972.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 30, 1972, through October 9, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17224 Filed 10-6-72;8:48 am]

[812-3230]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASSMUTUAL CORPORATE INVESTORS, INC.

Notice of Filing of Application for Order

SEPTEMBER 29, 1972.

Massachusetts Mutual Life Insurance Co. (the "Insurance Company"), 1295 State Street, Springfield, MA 01101, and MassMutual Corporate Investors, Inc. (Fund), 1295 State Street, Springfield, MA 01101, a management closed-end nondiversified investment company registered under the Investment Company Act of 1940 (Act) (hereinafter collectively referred to as "Applicants"), have filed an application for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, and pursuant to section 17(b) of the Act, to permit an arrangement whereby the Insurance Company and the Fund would each invest in an issue of 7 percent 12-year convertible subordinated notes (the Notes) of Richard Abel & Co., Inc. (Abel). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Pursuant to an Order of the Commission issued on August 19, 1971, the Insurance Company, which acts as investment adviser to the Fund, is permitted to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement, and to exercise warrants, conversion privileges and other rights at the same time. This Order is subject to several conditions. One condition generally requires purchases at direct placement of securities which would be consistent with the investment policies of the Fund to be shared equally by the Insurance Company and the Fund. Another condition limits the Order to situations in which neither the Insurance Company nor the Fund have any prior interest in the issuer, in any affiliated person of the issuer, or in securities issued by such issuer or affiliated person, other than interests in all respects identical.

The Notes were offered at private placement, through a securities dealer as intermediary, to the Insurance Company and other investors. As sponsor and investment adviser for the Fund, the Insurance Company believed that the Notes would be an attractive investment for the Fund and within its investment objective and policies, and Abel was willing to include the Fund as one of the purchasers of the Notes.

It was, therefore, the intention of each of the Applicants to acquire $1 million principal amount of the notes. However, the acquisition of the notes by the Insurance Company and the Fund would not have come within the terms of the aforementioned order because the Insurance Company held Abel's 7 percent Senior Notes (the Senior Notes), with contingent interest due in 1977, in the original principal amount of $400,000. Since the Fund owned no securities of Abel, the interests of the Insurance Company and the Fund were not in all respects identical and would not have been so prior to the purchase of the notes. Applicants have therefore applied for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting the acquisition by each of the Applicants of $1 million principal amount of the notes.

Due to the fact that the closing date for the purchase and sale of the notes, and the issuance date thereof, occurred prior to the granting of an Order pursuant section 17(d) of the Act and Rule 17d-1 thereunder, the Insurance Company acquired $2 million principal amount of the notes subject to an obligation to transfer $1 million principal amount to the Fund at cost plus accrued interest if, within 3 months after the acquisition by the Insurance Company of the notes, an order of the Commission permitting such transaction was granted. If such an order is not received, the $2 million principal amount of the notes will be retained for investment by the Insurance Company.

Rule 17d-1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of • • • any registered investment company • • •, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which any such

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registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order entered * * * prior to such adoption or modification." It is also provided that in passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Section 17(a) of the Act, as here pertinent, prohibits the Insurance Company as an affiliated person of the Fund from selling the Fund any securities unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) upon finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of Fund and with the general purposes of the Act.

Applicants represent that they will be participating in the proposed joint enterprise on a basis no different from that of the other participant. Both will acquire the same amount of the notes at the same price. Applicants also represent (1) that the terms of the transfer of $1 million principal amount of the notes from the Insurance Company to the Fund would be reasonable and fair and would not involve overreaching on the part of either the Insurance Company or the Fund since the consideration paid by the Fund would equal the price paid by the Insurance Company for the notes, plus accrued interest; (2) that the proposed transaction is consistent with the policy of the Fund as recited in its registration statement; and (3) that the proposed transaction is consistent with the general purposes of the Act. Applicants further represent that any subsequent transaction concerning the notes would be subject to the terms of the order of August 19, 1971.

Applicants request (a) an order of the Commission pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting the Insurance Company and the Fund to each acquire $1 million principal amount of the notes; and (b) an Order of the Commission pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act the transfer from the Insurance Company to the Fund of one-half of the $2 million principal amount of the notes acquired by the Insurance Company: *Provided*, That such transfer is made at a time within 3 months of the acquisition of the notes by the Insurance Company and at a price equal to one-half of the price paid by the Insurance Company for the notes together with any interest accrued on the notes to be transferred from the date such notes were purchased by the Insurance Company to the date of transfer.

Notice is further given that any interested person may, not later than October 25, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of attorney at law, by certificate) shall be filed contemporaneously with the request. At any time later than said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17226 Filed 10-6-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 93]

ASSIGNMENT OF HEARINGS

OCTOBER 4, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

MC 67996 Sub 5, Distillery Transfer Service, Inc., now being assigned December 11, 1972 (1 week), at Bardstown, Ky., in the Holiday Inn, U.S. Highway 31E south.

No. 35720, American Petrofina Company of Texas, et al. V-Williams Brothers Pipe Line Co., et al., now being assigned hearing December 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 29850 Sub 7, Trenton-Philadelphia Coach Co., now being assigned October 10, 1972, at the Public Utilities Commission, Trenton Trust Building, 28 West State Street, Trenton, NJ.

MC-136187, Contract Carrier Corp., now assigned October 10, 1972, at Washington, D.C., is canceled and application dismissed.

MC 134082 Sub 6, K. H. Transport, Inc., now assigned October 10, 1972, at Washington, D.C., hearing is postponed to October 18, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124904 Sub 1, Gibney Distributors, Inc., now assigned October 30, 1972, at New York City, N.Y., hearing will be held in Room F-2220, 26 Federal Plaza.

MC-50196 Sub 7, Auto Express, Inc., now assigned hearing October 24, 1972, at Scranton, Pa., will be held in Federal Courtroom No. 2, Post Office Building, Scranton, Pa.

MC 61396 Sub 234, Herman Bros., Inc., now being assigned October 30, 1972, at St. Paul, Minn., hearing will be held in the Judge Larson's Courtroom No. 4, 730 Federal Court Building, 316 Robert Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17273 Filed 10-6-72;8:52 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 4, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42540—*Joint water-rail container rates—United States Lines, Inc.* Filed by United States Lines, Inc. (No. 4), for itself and interested rail carriers. Rates on general commodities, from ports in the Far East, to rail stations in Massachusetts, New Jersey, Pennsylvania, Maryland, Virginia, and Texas.

Grounds for relief—Water competition.

Tariff—United States Lines, Inc., Freight Tariff No. 8, ICC No. 8, FMC No. 48. Rates are published to become effective on November 1, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17274 Filed 10-6-72;8:52 am]

[Notice No. 137]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners most be specified in their petitions with particularity.

No. MC-FC-73901. By order of September 27, 1972, the Motor Carrier Board approved the transfer to Taylor William Holt, Jr., Ruth Holt, Wanda Phillips, and Hilda Williams, a partnership, doing business as Holt Transfer Co., Greeneville, Tenn., of certificates Nos. MC-106305 and MC-106305 (Sub. No. 1) issued to Taylor Holt, doing business as Holt Transfer Co., Greeneville, Tenn., authorizing the transportation of: Household goods as defined by the Commission, between points in specified counties in Tennessee, on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia. O. C. Armitage, Jr., attorney, Post Office Box 255, Greeneville, TN 37743.

No. MC-FC-73905. By order entered September 26, 1972, the Motor Carrier Board approved the transfer to J. E. Lammert Transfer, Inc., Grand Island, Nebr., of the operating rights set forth in Certificate No. MC-125407 and sub numbers 1, 2, 3, 6, and 7, thereunder, issued between May 1, 1964, and August 18, 1967, to Charles E. King, Jr., and Harold A. Scott, doing business as King & Scott, Gray, Iowa, authorizing the transportation of: Malt beverages, general commodities, with the usual exceptions, livestock and agricultural commodities, feed, lumber, agricultural machinery, wire fencing and fencing posts or fencing materials, and new furniture, uncrated, from, to, or between points and places in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501, representative for applicants.

No. MC-FC-73917. By order of September 26, 1972, the Motor Carrier Board approved the transfer to John Arthur Fabrizio and Mary Elizabeth Fabrizio, a partnership, doing business as Norwalk Auto Transit Co., 4 Magnolia Avenue, Norwalk, CT., of Certificate No. MC-33361 issued May 7, 1942, to John J. Fabrizio, doing business as Norwalk Auto Transit Co., 4 Magnolia Avenue, Norwalk, CT., authorizing the transportation of: Passengers and their baggage, in charter operations, from Norwalk, Conn., and points within 25 miles, to points in Connecticut, Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, Ohio, Illinois, and Michigan.

No. MC-FC-73959. By order of September 27, 1972, the Motor Carrier Board approved the transfer to Merchants Fast Motor Lines, Inc., a Delaware corporation, Abilene, Tex., of the operating rights in Certificate No. MC-2228 and subs thereunder to Merchants Fast Motor Lines, Inc., Abilene, Tex., authorizing the transportation of general commodities, with certain exceptions, including Classes A and B explosives, carbon black, compressed gases, and Government-owned compressed gas trailers, empty or loaded with compressed gases other than liquefied petroleum gas, between various specified points in Texas.

Jerry C. Prestridge, Post Office Box 1148, Austin, TX 78767, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17271 Filed 10-6-72;8:52 am]

[Notice No. 133]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 29, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 82063 (Sub-No. 40 TA), filed September 22, 1972. Applicant: KLIPSCH HAULING CO., Mailing: 112 North Fourth Street 63102, 119 East Loughborough Avenue, St. Louis, MO 63111. Applicant's representative: Ernest A. Brooks II, 1301-02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pentachlotophenol*, dry, in bulk, in tank vehicles, from Memphis, Tenn., to De Queen, Ark., and Wiggins, Miss., for 180 days. Supporting shipper: Dow Chemical Co., 7733 Forsyth Boulevard, St. Louis, MO 63501. Sent protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 109847 (Sub-No. 12 TA), filed September 21, 1972. Applicant: BOSS-LINCO LINES, INC., 1 West Genesee Street, Suite 450, Genesee Building, Buffalo, NY 14240. Applicant's representative: Harold G. Hernly, Jr., 2030 Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the Mobil Chemical Distribution Center at or near Williamson, N.Y., in connection with the carrier's regular route operations, between Rochester and Syracuse, N.Y., for 180 days. Applicant states it does intend to tack with the authority sought. Supporting shipper: Mobil Chemical Co., Plastics Division, Macedon, N.Y. 14502. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 111729 (Sub-No. 359 TA), filed September 19, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds; proofs, cuts, copy, manuscripts, first copies of publication, advertising materia!, and matters pertaining thereto*, between West Pittson, Pa., and New York, N.Y.; and (2) *agricultural commodity samples for testing purposes; including cottonseed samples, cottonseed meal samples, cottonseed oil samples, soybean meal samples, soybean samples, soybean oil samples, poultry and livestock feed samples*, restricted against the transportation of packages or articles weighing in the aggregate more than 90 pounds from one consignor to one consignee on any one day, between Forrest City, Helena, Little Rock, Newport, Osceola, Pine Bluff, Stuttgart, and Wilson, Ark.; Sikeston, Mo.; Amory, Clarksdale, Corinth, Greenwood, Greenville, Jonestown, Marks, Minter City, Tunica, and Tupelo, Miss.; Tiptonville, Tenn.; and Decatur, Ala., on the one hand, and, on

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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the other, Memphis, Tenn., for 180 days. Supporting shippers: Suburban Publishers, 1212 Avenue of the Americas, New York, NY 10036; Tenent and Associates Laboratory, Post Office Box 161050, Memphis, TN 38116. Send protests to: Thomas W. Hopp, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 113666 (Sub-No. 68TA), filed September 18, 1972. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicone carbide and aluminum oxide*, from the ports of entry on the international boundary between the United States and Canada located in New York and Michigan to points in New York, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, and Minnesota, for 180 days. Supporting shipper: Gano, Moore Co., Inc., 37 East Wynnewood Road, Wynnewood, PA 19096. Send protests to: District Supervisor John J. England, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 113666 (Sub-No. 69 TA), filed September 20, 1972. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and feed ingredients*, in bulk, in tank vehicles, from Willow Island, W. Va., to points in Kansas, Iowa, Illinois, Georgia, Arkansas, Missouri, and Montana, for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC–113832 (Sub-No. 67 TA), filed August 30, 1972. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, brass, bronze, copper, steel, nickel and nickel alloy materials and products; foundry alloys; refrigeration equipment and supplies; welding equipment and supplies; fasteners and fittings; and supplies and materials*, used in the operation and maintenance of the office and warehouse activities of Williams & Co., Inc., restricted against the transportation of commodities in bulk, between the facilities of Williams & Co., Inc., in Pittsburgh, Pa., on the one hand, and, on the other, the facilities of Williams & Co., Inc., in Columbus and Cleveland, Ohio, and Buffalo, N.Y., on the other, under contract with Williams & Co., Inc., for 180 days. Supporting shipper: Williams & Co., Inc., 901 Pennsylvania Avenue, Pittsburgh, PA 15233 (M. C. Young, Vice President-Operations). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 114989 (Sub-No. 16 TA), filed September 19, 1972. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., Post Office Box 623, 1910 South Walnut Street, Hopkinsville, KY 42240. Applicant's representative: Richard D. Gleaves, 601 Stahlman Building, Nashville, TN 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising matter*, from the plantsite of the Miller Brewing Co. warehouse at Bensenville, Ill., and from the plantsites of the Carling Brewing Co. and the Stag Brewing Co., both at Belleville, Ill., to United of Lexington, Inc., at Lexington, Ky., and to John Hoyer, doing business as Cravens Distributing Co., at points in Christian County, Ky., for 180 days. Supporting shipper: John G. Hoyer, Owner, Cravens Distributing Co., Pembroke, Ky., President, United of Lexington, Inc., Lexington, Ky. Send protests to: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

No. MC 117119 (Sub-No. 465 TA), filed September 18, 1972. Applicant: WILLS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from plantsite and warehouse facilities of Jeno's, Inc., Duluth, Minn., to points in Kansas, Nebraska, Missouri, Oklahoma, Arkansas, Tennessee, Mississippi, Louisiana, Texas, Nevada, New Mexico, Arizona, California, Colorado, Utah, Idaho, Washington, and Oregon for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Avenue S., Duluth, MN 55801. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 117799 (Sub-No. 42 TA), filed September 14, 1972. Applicant: BEST WAY FROZEN EXPRESS, INC., Room 205, 3033 Excelsior Boulevard, Minneapolis, MN 55416. Applicant's representative: K. O. Petrick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural fermentation compounds and ingredients thereof;* (2) *fertilizer and ingredients thereof;* (3) *animal minerals and vitamins;* and (4) *supplies, signs and advertising materials* used in the sale of (1), (2), and (3) above (except commodities in bulk), from the plantsite and warehouse facilities of Custom Services, Inc., at or near Carson City, Nev., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Im-Pruv-All Agriculture, Inc., 93—2021 Vera Cruz Drive, Modesto, CA 95350. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 125985 (Sub-No. 11 TA), filed September 18, 1972. Applicant: AUTO DRIVEAWAY COMPANY, 343 South Dearborn Street, Chicago, IL 60604. Applicant's representative: David L. Steinhagen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Motor homes*, in initial and secondary movements by driveaway service, between points in Cincinnati, Ohio, and Minnesota, Missouri, Iowa, Wisconsin, Illinois, Indiana, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, West Virginia, Washington, D.C., Maryland, Ohio, Pennsylvania, Delaware, Rhode Island, New York, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, and Maine, for 180 days. Supporting shipper: Thomas M. Parnell, Sale Manager, Wayfarer Motor Homes, Inc., 2530 Spring Grove Avenue, Cincinnati, OH 45214. Send protests to: District Supervisor William J. Gray, Jr., Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 126899 (Sub-No. 58 TA), filed September 20, 1972. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Post Office Box 3051, Paducah, KY 42001. Applicant's representative: William A. Usher (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and incidental material and premiums* when shipped with malt beverages and on the reverse haul *empty containers* used in transporting malt beverages, from Evansville, Ind., to points in Illinois, Missouri, and Michigan (Lower Peninsula), Ohio, Kentucky (except Hopkinsville), Pennsylvania, West Virginia, New York, New Jersey, Maryland, North Carolina, Virginia, and the District of Columbia, also *empty containers* used in transporting malt beverages, from points in Illinois, Michigan (Lower Peninsula), Indiana, New York, Ohio, Pennsylvania, New Jersey, and Tennessee to Newport, Ky., for 180 days. Supporting shipper: G. Heileman Brewing Co., Inc., 925 South Third Street, La Crosse, WI 54601. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 133065 (Sub-No. 24 TA), filed September 18, 1972. Applicant: ECKLEY TRUCKING AND LEASING, INC., Post Office Box 156, Mead, NE 68041. Applicant's representative: Gailyn L. Larsen, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air handling units, makeup air systems, heating and ventilating units, gas unit heaters, and cooling and heating systems, and equipment, materials and supplies* used in the manufacture and production thereof, from Hastings, Nebr., to points in Maine, Massachusetts, Montana, New Hampshire, New Mexico, Nevada, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont, Washington, D.C., and West Virginia, under continuing contract with Hastings Industries, Inc., for 180 days. Supporting shipper: Charles I. Magee, Traffic Supervisor, Hastings Industries, Inc., 108 South Colorado Avenue, Hastings, NE 68901. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 135845 (Sub-No. 4 TA), filed September 20, 1972. Applicant: CATER, INC., 920 Holiday Drive, Moorhead, MN 56560. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* exempt from economic regulation under section 203-(b)(6) of Part II of the Interstate Commerce Act when moving at the same time and in the same vehicle with commodities named below and (2) *Such merchandise* as is dealt in by retail and wholesale food and grocery business houses for the account of Big Red Grocery Co., from points in Iowa, Illinois, Minnesota, Wisconsin, and Idaho to Fargo, N. Dak., for 180 days. Supporting shipper: Big Red Grocery Co., Post Office Box 1656, Fargo, ND 58102. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 135871 (Sub-No. 11 TA), filed September 19, 1972. Applicant: H.G.M. TRANSPORT COMPANY, 1079 West Side Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores and *supplies and equipment* used in the conduct of such business, for the account of S. E. Nichols, Inc., between Jersey City, N.J., on the one hand, and, on the other, Annville, Chambersburg, Ephrata, Hanover, Lancaster, Reading, and Shillington, Pa., for 180 days. Supporting shipper: S. E. Nichols, Inc., 500 Eighth Avenue, New York, NY 10018. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136008 (Sub-No. 4 TA), filed September 19, 1972. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, NE., Post Office Box 1669, Ardmore, OK 73401. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, Post Office Box 75124, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, from the plantsite of Sooner Rock Quarry near Davis, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, and Texas, for 180 days. Supporting shipper: Henry McCabe, president, Industrial Minerals Corp., Ardmore, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136008 (Sub-No. 5 TA), filed September 19, 1972. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., Post Office Box 1669, Ardmore, OK 73401. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, Post Office Box 75124, Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed limestone*, from the plantsite of Delta Mining, Ryder Station, located approximately 5 miles from Mill Creek, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, and Texas, for 180 days. Supporting shipper: Henry McCabe, president Delta Mining Corp., Ardmore, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136911 (Sub-No. 2 TA), filed September 18, 1972. Applicant: PACKAGE EXPRESS, INC., 22 Tyler Street, Springfield, MA 01109. Applicant's representative: David M. Marshall, 135 State Street, Springfield, MA 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment and supplies* sold, used or distributed by a manufacturer of cosmetics, between the terminal and facilities of Package Express, Inc., Springfield, Mass., on the one hand, and, on the other, points in Hampden, Hampshire, Franklin, Berkshire and Worcester Counties, Mass., Litchfield, Tolland, Windham and Hartford Counties, Conn., and Columbia, Rensselaer, Washington, Saratoga, Dutchess, Ulster, Montgomery, Schenectady and Albany Counties, N.Y. Restriction: Transportation under the above authority shall be limited to parcels and packages not exceeding fifty (50) pounds per package or parcel and not exceeding two hundred fifty (250) pounds per shipment from one consignor to one consignee, for 150 days. Supporting shipper: Avon Products, Inc. Rye, N.Y. Send protests to: District Supervisor, Joseph W. Balin, Bureau of Operations, Interstate Commerce Commission, 338 Federal Building and U.S. Court House, 436 Dwight Street, Springfield, MA 01103.

No. MC 136947 (Sub-No. 1 TA), filed September 22, 1972. Applicant: CUOMO & SON CARTAGE COMPANY, 2631 South Hillock Street, Chicago, IL 60608. Applicant's representative: Phillip A. Lee, 33 North Dearborn Street, Suite 1801, Chicago, IL. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compost*, used as a growth medium used for mushrooms, from Brighton, Ind., and Glenn, Mich., to West Chicago, Ill. (Prince Crossing), for 180 days. Supporting shipper: Albin J. Budash, Campbell Soup Co., Campbell Place, Camden, N.J. 08101. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 138006 (Sub-No. 1 TA), filed September 18, 1972. Applicant: KANSAS ELECTRIC COOPERATIVES, INC., 5709 West 21st Street, Topeka, KS 66604. Applicant's representative: Gordon Lowry, Post Office Box 82, Valley Falls, KS 66088. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Transformers, meters, and circuit breakers*, from Topeka, Kans., to points in Missouri, Iowa, Nebraska, Wyoming, Colorado, Oklahoma, Kansas, and Texas, for 180 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: Arkansas Electric Cooperatives, Inc., 8000 Interstate Drive, Little Rock, AR 72208. Send protests to: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 138006 (Sub-No. 1 TA), filed September 18, 1972. Applicant: KANSAS ELECTRIC COOPERATIVES, INC., 5709 West 21st Street, Topeka, KS 66604. Applicant's representative: Gordon Lowry, Post Office Box 82, Valley Falls, KS 66088. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Transformers, meters, and circuit breakers*, from Topeka, Kans., to points in Missouri, Iowa, Nebraska, Wyoming, Colorado, Oklahoma, Kansas, and Texas, for 180 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: Arkansas Electric Cooperatives, Inc., 8000 Interstate Drive, Little Rock, AR 72208. Send protests to: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 138027 (Sub-No. 1 TA), filed September 21, 1972. Applicant: BANNER, INC., 1205 South Denver Avenue, Tulsa, OK 74119. Applicant's representative: Wayne Case (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

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Coal, from the Mining Facilities of Sierra Coal Co., Inc., located approximately 3 miles northeast of Porum, Okla., to the loading facilities of Sierra Coal Co., Inc., located on the Arkansas River at or near Webbers Falls, Okla., for 180 days. Supporting shipper: Sierra Coal Co., Frank Podpechan, President, Claremore, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 138044 TA, filed September 20, 1972. Applicant: F. H. STEEDLEY, doing business as F. H. STEEDLEY PRODUCE COMPANY, 1914 State Street, Waycross, GA 31501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice*, from Waycross, Ga., to Jacksonville, Fla., for 180 days. Supporting shipper: Atlantic Refrigerated Warehouse, a division of Munford, Inc., 68 Brookwood Drive NE., Post Office Box 7701, Station C, Atlanta, GA 30309. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 138045 TA, filed September 19, 1972. Applicant: INTERCONTINENTAL DISTRIBUTION SYSTEMS, a corporation, 1140 Ala Moana Boulevard, Honolulu, HI 96813. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Hawaii, restricted to traffic originating at or destined to points beyond Hawaii, for 180 days, NOTE: Applicant requests that the usual restriction against tacking and combining be deleted. Supporting shippers: Acme Fast Freight, Inc., Post Office Box 3247, Terminal Annex, Los Angeles, CA 90051; Burnham World Forwarders, Inc., 1632 Second Avenue, Columbus, GA 31901; Dillingham Marine Division Hawaii, Post Office Box 3288, Honolulu, HI 96801; Garrett Forwarding Co., Post Office Box 4048, Pocatello, ID 83201; and, Interstate World Forwarders, Inc., Post Office Box 4168, Torrance, CA 90510. Send protests to: Acting District Supervisor A. J. Rodriguez, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 138049 TA, filed September 22, 1972. Applicant: R & S TRUCK SERVICE, INC., Market and Fourth Avenue, Lexington, NC 27292. Applicant's representative: John H. Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks, tractors, buses, and trailers* (except trailers designed to be drawn by passenger automobiles) as replacement vehicles for wrecked disabled trucks, tractors, buses, and trailers, in interstate or foreign commerce, from Davidson, Randolph, and Rowan Counties, N.C., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia; and *wrecked and disabled trucks, tractors, buses and trailers*, from points in the above named destination States to points in Davidson, Randolph, and Rowan Counties, N.C., for 180 days. Supported by: There are approximately six statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Frank H. Wait, Jr., Interstate Commerce Commission, Bureau of Operations, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, NC 28202.

No. MC 138052 TA, filed September 21, 1972. Applicant: GOLD COAST TRUCKING, INC., 140 North Hill Street, Albany, OR 97321. Applicant's representative: Robert G. Simpson, 12th Floor Standard Plaza, Portland, OR. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, containers, cartons, bottle openers, advertising and brewery products moving incidentally to the movement of malt beverages*, from Los Angeles and San Francisco, Calif., to Coos Bay, Medford, Grants Pass, Roseburg, Klamath Falls, Bend, Albany, Eugene, Springfield, Salem, Hillsboro, Tillamook, Astoria, The Dalles, Pendleton, and La Grande, Oreg.; and return movement from the same points in Oregon to Los Angeles and San Francisco, Calif., of *empty containers, palettes, spoiled and rejected malt beverages;* and *wine, containers, and cartons, bottle openers*, advertising and winery products moving incidentally to the movement of wine, from Madera, Italian Swiss Colony, Ripon, St. Helena, Elk Grove, Thoman, Asti, San Martin, Culter and Las Gatos, Calif., to Coos Bay, Medford, Grants Pass, Roseburg, Klamath Falls, Bend, Albany, Eugene, Springfield, Salem, Hillsboro, Tillamook, Astoria, The Dalles, Pendleton, and La Grande, Oreg., and return movement from the same points in Oregon to the same points in California, of *empty containers, palettes, spoiled and rejected wine*, for 180 days. Supported by: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17276 Filed 10-6-72;8:51 am]

[Notice No. 138]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 4, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74003. By application filed October 2, 1972, BRIAN DOYLE HORSE TRANSPORT LIMITED R.R. No. 4, Dundas, ON Canada, seeks temporary authority to lease the operating rights of LYLE M. GARNETT, 7785 Buckhorn Lake Road, Holly, MI 48442, under section 210a(b). The transfer to BRIAN DOYLE HORSE TRANSPORT LIMITED, of the operating rights of LYLE M. GARNETT, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17272 Filed 10-6-72;8:52 am]

[No. MC-116947 (Sub-No. 22)]

SCOTT TRANSFER CO., ATLANTA, GA.

Application for Contract Carrier Application

Order. At a session of the Interstate Commerce Commission, Review Board No. 3, held at its office in Washington, D.C., on the 22d day of September 1972.

It appearing, that by application filed August 19, 1971, Hugh H. Scott, doing business as Scott Transfer Co., of Atlanta, Ga., seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of metal containers and metal container parts and accessories and equipment, used in connection with the distribution of metal containers and metal container ends when moving with metal containers, from the plantsite of National Can Corp. at Madisonville, Ky., on the one hand, and, on the other, the points indicated below, under contract with National Can Corp. of Chicago, Ill.;

It further appearing, that the application has been processed under the Commission's modified procedure; that applicant has filed verified statements in support of the application; that protestant T.I.M.E.-DC, Inc., has filed a verified statement in opposition to the application; and that applicant has filed a statement in rebuttal;

It further appearing, that applicant's proposed service will meet the distinct needs of the supporting shipper and thus the proposed operation meets the criteria of contract carriage as defined in section 203(a)(15) of the Interstate Commerce Act;

It further appearing, that our required consideration of section 209(b) of the Act demonstrates: (1) That applicant meets the requirement of serving only a limited number of shippers, as he presently holds authority to serve the supporting shipper and the grant of authority will not increase the number of

shippers which applicant serves which will remain at two; (2) that applicant will be able to satisfy shipper's distinct need for a motor carrier capable of providing specialized high-cube van trailers and tractors and of effecting truckload deliveries to customers whose locations frequently change and who are scattered throughout the sought destination area; that shipper National Can Corp. requires the use of extra high-cube 45-foot vans equipped with flat floors, minimum rear door opening heights of 110 inches, rollerbeds, and other specialized equipment to protect freight and facilitate unloading; that customers require exact-time deliveries to meet production needs; (3) that protestant does not operate trailers with sufficient rear door opening height to meet shipper's loading requirements and is otherwise limited territorially in the number of destination or origin points it may serve; that protestant has participated in the involved traffic, but the impact upon protestant's operations will be minor and will be far outweighed by the benefits which will accrue to shipper; (4) that a denial of the application would deprive applicant of expanding its services to an existing contracting shipper and would deprive shipper of an efficient distribution system which is necessitated by the nature of its product; and (5) that the changing character of the shipper's requirements does not appear to be a significant factor here;

It further appearing, that the shipper describes certain items of equipment, materials, and supplies used in the manufacture and distribution of metal containers; that the application as filed seeks no inbound authority; that the application does request authority from the shipper's plant to various States (rather than between such points as is implied by the use of the limitation "on the one hand, and, on the other"); that, accordingly, the authority granted should be rephrased to more concisely describe shipper commodities and to reflect movements between the points involved; and that because the application as published is ambiguous in describing the true nature of the service required, we will require that notice of the authority granted be published as provided below;

It further appearing, that applicant holds, in addition to its outstanding permits, certificates issued in No. MC-117957 and subnumbers thereunder; that inasmuch as the commodities to be transported herein are different from the commodities authorized to be transported under the above-noted certificate, there does not appear to be an opportunity for engaging in any of the discriminatory or undesirable practices against which section 210 of the Interstate Commerce Act is aimed;

And it further appearing, that the evidence submitted in the form of verified statements demonstrates that applicant is experienced in performing the type of service proposed, and is in compliance with the rules and regulations governing motor carrier operations, has suitable and available equipment, and is able, financially and otherwise, to conduct the proposed service, and that the application should be granted as set forth below;

Wherefore, and good cause appearing therefor:

We find, that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of metal containers, and equipment, materials, and supplies used in the manufacture, sale, and distribution of metal containers and metal container ends, between the facilities of National Can Corp., at Madisonville, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Kansas, Missouri, Oklahoma, and Texas, under a continuing contract or contracts with National Can Corp., of Chicago, Ill., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a notice of the authority actually granted herein should be published in the FEDERAL REGISTER and issuance of a permit in the proceeding shall be withheld for a period of 30 days from the date of such publication, during which time any proper party in interest who would be prejudiced by the lack of proper notice of the actual origin of the traffic involved herein, may file an appropriate petition for intervention or other relief, setting forth in detail the precise manner in which it has been so prejudiced; that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; that an appropriate permit should be issued; and that the application in all other respects should be denied.

We further find, that the holding by applicant of the permit authorized to be issued in this proceeding, and the holding of the certificates in No. MC-117957 and subnumbers thereunder, will be consistent with the public interest and the national transportation policy, subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act.

It is ordered, That said application, except to the extent granted herein, be, and it is hereby, denied.

It is further ordered, That upon compliance by applicant with the requirements of sections 215, 218, and 221(c) of the Act, with the Commission's rules and regulations thereunder, and with the requirements established in Contracts of Contract Carriers, 1 M.C.C. 628, within the time specified in the next succeeding paragraph, and with the condition respecting publication in the FEDERAL REGISTER, a permit be issued to applicant authorizing the operations described above.

And it is further ordered, That unless compliance is made by applicant with the requirements of sections 215, 218, and 221(c) of the Act within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority made herein shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Review Board Number 3.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17275 Filed 10-6-72;8:52 am]

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federal register

SATURDAY, OCTOBER 7, 1972
WASHINGTON, D.C.
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PART II

DEPARTMENT OF TRANSPORTATION

COAST GUARD

■

BOATING SAFETY

Reporting of Casualties and Accidents; Numbering of Vessels

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Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER S—BOATING SAFETY

[CGD 72-54R]

PART 173—VESSEL NUMBERING AND CASUALTY AND ACCIDENT REPORTING

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

The purpose of this revision of Subchapter S of Title 33, Code of Federal Regulations, is to prescribe requirements for numbering vessels and for reporting casualties and accidents to implement the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451, et seq.).

A notice of proposed rule making was published in the April 19, 1972, issue of the FEDERAL REGISTER (37 F.R. 7751) proposing the establishment of a standard numbering system for vessels required to be numbered under the Act and a uniform reporting system of casualties and accidents involving vessels subject to the Act to be published in Parts 170 and 171 of Subchapter S of Title 46, Code of Federal Regulations.

On May 17, 1972, a public hearing was held in Washington, D.C. to receive the views of interested persons on the proposed regulations. Both before and after the public hearing, written comments from interested persons were received. The Coast Guard has considered all oral and written comments before final action was taken on the proposal.

Subsequent to the notice of proposed rule making and the public hearing, a rule was published in the July 7, 1972, issue of the FEDERAL REGISTER (37 F.R. 13346) which established Subchapter S of Title 33, Code of Federal Regulations. It was stated in that document that the new Subchapter S will eventually contain the regulations implementing the Federal Boat Safety Act of 1971. The regulations in this document are codified in Parts 173 and 174 of Subchapter S of Title 33, instead of Parts 170 and 171 of Title 46, as proposed. In addition, by a document published on page 21404 of this issue of the FEDERAL REGISTER, Parts 171, 172, and 173 of Title 46 are revoked because they are replaced by the regulations promulgated in this document.

The Coast Guard received 15 written comments on the proposed regulations. Two oral statements were made at the public hearing on the proposals.

One written comment supported the proposal. Two written comments recommended changing the style of several sections of the proposed regulations but not the substance. The style of the proposed regulations follows generally accepted drafting principles and conforms with all the requirements for publication in the FEDERAL REGISTER. Since the suggested changes did not follow these standards, they were not adopted.

Four written comments suggested changes to the proposed § 170.3. Three of the comments proposed new definitions for the phrase, "State of principal use. in paragraph (h). One commenter suggested that the test for the definition should be the use of a State's waters for more than 90 consecutive days during a calendar year. This test was rejected since it is unlikely that all vessels will be used in a single State for 90 consecutive days and some vessels may not be used for 90 consecutive days during a calendar year. Operators of vessels used in waters which serve as boundaries between States may readily break the string of consecutive days by using the vessel solely in the waters of one State for a day or so. Accordingly, the test was found to be impractical.

One commenter recommended that the definition of "State of principal use" be changed to read: "State of principal use and State in which the vessel is principally used are synonymous and mean (1) the State on whose waters a vessel is berthed or used or to be berthed or used most during a calendar year; or (2) the State determined to be the State of principal use pursuant to the provision of reciprocal agreements, arrangements or declarations with other States." The definition as proposed was submitted to each State authority and each member of the Boating Safety Advisory Council for consideration, comment, and suggested changes. The Boating Advisory Council and the majority of the comments received supported the proposed definition.

One commenter requested that the definition of the word "Use" in § 170.3(i) be changed to be more specific. The proposed definition of this word is taken from section 3(4) of the Federal Boat Safety Act of 1971 (85 Stat. 214; 46 U.S.C. 1452), and could not be changed. For these reasons, no changes were made to the definition of the word "Use" or of the phrase "State of principal use."

Five written comments were received concurring in the proposed § 170.11. One commenter suggested that the proposed exception in § 170.11(b) be changed to read: "Military or public vessels of the United States, except public vessels used for recreational purposes." The reason for the suggested change was that recreational-type public vessels are often used as work boats but no datum or evidence was submitted to support the suggestion that this occasional employment should exempt such vessels from the requirements of the law. Since recreational-type vessels were specifically excepted from the exemption granted to military and public vessels and § 170.11 (b) repeats this exemption and exception verbatim from section 4(c)(2) of the Federal Boat Safety Act of 1971 (85 Stat. 215, 46 U.S.C. 1453(c)(2)), no change was made.

One comment concerning the exceptions to the applicability listed in § 170.11 was that all undocumented vessels should be numbered and suggested that such numbering could be accomplished without cost to the Government. Another comment concerning §§ 170.11 and 170.71 requested that recreational-type vessels owned by nonappropriated fund activities of the Armed Forces be exempted from numbering fees. Both comments were rejected for the following reasons: Section 17 of the Federal Boat Safety Act of 1971 requires an undocumented vessel equipped with propulsion machinery of any type to have a number issued by the proper issuing authority in the State in which the vessel is principally used, but section 4(c) of the Act excepts from the applicability of the act—

1. Foreign vessels temporarily using waters subject to the United States jurisdiction;

2. Military or public vessels of the United States, except recreational-type public vessels;

3. A vessel, whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such; and

4. Ships' lifeboats.

The exceptions listed in § 170.11 follow section 4(c) of the Act. Although the Act and the proposed regulations require the numbering of certain mechanically propelled vessels, the States may require the numbering of vessels not specifically excepted, such as vessels without propulsion machinery. A fee may be waived without exempting a vessel or class of vessels from numbering by the provisions of section 19(a) of the Act. The provisions of section 19(b) of the Act permit a State, but do not require it, to exempt the same class of vessels exempted by the Coast Guard. The Coast Guard does not intend to collect a fee for numbering vessels owned by nonappropriated fund activities of the Armed Forces in States where the Coast Guard is the issuing authority. The States may also issue numbers to such vessels at no cost.

The above comments did not mention the number of recreation-type vessels owned by nonappropriated fund activities of the Armed Forces, where they are principally used, or the magnitude of the problem, if one exists. If further experience under these regulations shows a substantial problem, it may be necessary to propose further regulations concerning the approval of State numbering systems.

One comment suggested the deletion § 170.11(c) on the basis that vessels belonging to a State or political subdivision of a State should not be exempted from the numbering requirements. Since § 170.11 follows the exemption in section (4)(c)(3) of the Act, the suggestion was not adopted.

One written comment suggested that the wording "required to be documented" be deleted in §§ 170.11(e) and 170.77(b)(1) because this requirement is based on admeasurement. Certain vessels of 5 net tons and over are required by existing law and regulation to be documented due to their employment or use. Since section 17 of the Act applies to undocumented vessels, documented vessels should not be subject to both a requirement to be documented and a requirement to be numbered. Accordingly, no change was made to § 170.11(e) or to § 170.77(b)(1).

One written comment recommended that § 170.13(a) be changed to read, "A motorboat that is used exclusively for racing." The change was recommended to elimnate from the exemption sailing vessels equipped with propulsion machinery which were not being used exclusively for racing. The exemption from numbering as proposed is effective only where the Coast Guard issues numbers to vessels. A State under the provisions of section 19(b) of the Act and § 171.11 (b) and (c) of the proposed regulations may number such vessels. For this reason no change was made to § 170.13(a).

One written comment submitted in support of an oral comment objected to the exemption for yacht tenders in the proposed § 170.13(b) on the basis that it is contrary to the intent of Congress. The objection was considered in light of the legislative history of the Federal Boat Safety Act of 1971. In the Committee on Commerce report of July 8, 1971 (Senate Committee Report 92-248, 92d Congress, 25(1971)), the following is stated: "During the course of the Committee's consideration of the bill, it was suggested that this section be amended to provide that a dinghy or similar boat which is auxiliary to a larger numbered boat carry an identical number to the larger boat, perhaps using a prefix or suffix to distinguish it from the mother vessel. The purpose of such a provision would be to reduce the burden on the boatman of obtaining more than one number for what is essentially a single boat and ancillary equipment. In a letter dated June 11, 1971, the Coast Guard recommended that this purpose be accomplished by regulations rather than by amendment to the bill. The Committee adopted the Coast Guard's recommendation in this regard and anticipates that regulations accomplishing this objective will be promulgated as part of the standard numbering system established by the Secretary under this section." Since Congress approved this exemption, no change was made to § 170.13 (b).

A written comment requested that an additional exemption from the numbering requirements be added to the proposed § 170.13 for training vessels loaned by manufacturers for a 10-day period to a national nonprofit organization. The reason given for requesting the exemption is that numbering of consigned craft would create a number of difficulties when transferring them back to the manufacturers. The requested amendment to § 170.13 was not approved for the following reasons: First, the exemption requested by this organization would apply only when the Coast Guard is the issuing authority since a State is under no requirement to exempt from their numbering provisions any vessel or class of vessel that has been exempted by the Coast Guard. Second, any difficulties involved in transferring such consigned vessels back to the manufacturer could be eliminated by the use of the temporary certificate, as provided in § 170.75, with the permission of the issuing authority.

One comment was directed to §§ 170.15(a) and 170.19 to add a requirement that the certificate of number be current. The requirement that the certificate be valid is provided in § 170.21 and inclusion of this requirement in other sections of the regulations would be redundant. For this reason the suggested change to §§ 170.15(a) and 170.19 was not adopted.

One comment suggested that § 170.17 be rewritten as submitted by the commenter. The proposed section quotes 18 (c) and (d) of the Act for the reciprocity requirements. This permits the States to implement the requirements within the framework of the law. For this reason no change was made to § 170.17.

Six written comments and one oral comment were directed to § 170.27(b) which provides that a vessel being used by a manufacturer or by a dealer for testing or demonstrating could have the number "available to be shown upon demand," as an alternative to having the number permanently attached or having the number painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel. One of the comments recommended retention of the provision and the others recommended its deletion. The comments pointed out the enforcement difficulties where such vessels are involved and the public relations problems. The Coast Guard has found merit in these contentions. In addition, the Coast Guard has found that the proposed regulation is contrary to the requirements of section 21 of the Act. Accordingly, § 170.27(b) is amended to delete the words, "or be available to be shown upon demand."

One written comment suggested the addition of a new paragraph (e) to § 170.27 to read as follows: "This section does not apply to canoes, kayaks, or other small boats equipped with electric motors or engines less than 5 horsepower." This suggestion was not adopted because it is in conflict with section 17 of the Federal Boat Safety Act of 1971, which requires the numbering of an undocumented vessel equipped with propulsion machinery.

One comment suggested an addition to the proposed § 170.33 to require the validation sticker be removed from a vessel when removal of the number was required. The change was recommended to prevent the unlawful use of validation stickers. The comment was adopted and insertion of the recommended requirement has been made in § 170.33.

One comment concerned a problem created in the proposed § 170.35 by the required fastening of the validation sticker on inflatable boats. The commenter pointed out that stickers on such boats become wrinkled and torn, not being able to withstand the repeated foldings of the hull. The comment suggested that inflatable vessels have validation stickers affixed to the transom. The problem was considered by the Coast Guard in view of the comment made and the problem that would be created for law enforcement forces by affixing the validation sticker on inflatable vessels in a different location than other vessels. The validation sticker and the vessel number must be readily visible to identify the vessel. As manufacturers of some inflatable boats already make provision for oar locks, handrails, mounting of windshields, and other features which are not inflatable, a provision for the placement of a validation sticker on an inflatable vessel on an attached plate or molded panel on the bow is more acceptable to the Coast Guard. Accordingly, the recommended change to § 170.35 was not adopted.

Eight written comments and one oral comment objected to the proposed §§ 170.35 and 171.15 that required validation stickers issued with the certificate of number to be displayed within 3 inches aft of the number and in line with the number. The commenters pointed out that the proposed requirement if adopted would necessitate the changing of validation stickers on a large number of boats currently numbered. The Coast Guard accepted the comments and changed §§ 170.35 and 171.15 to require the validation sticker to be displayed within 6 inches of the number.

One comment was directed to the wording of § 170.51(b) suggesting that "certificate of inspection" should be defined. A definition of "certificate of inspection" was not included in these regulations since the term is defined in each part of the regulations where it is applied. In general, only commercial vessels and very large seagoing vessels are inspected by the Coast Guard, and "certificate of inspection" is a well-known term in the maritime community. Table 2.01-7(a) of Title 46, Code of Federal Regulations lists the classes of vessels examined or inspected under various Coast Guard Regulations. This table is repeated in other sections of title 46 in the regulations concerning the inspection of tank vessels, passenger vessels, small passenger vessels, and cargo and miscellaneous vessels. A repetition of the detailed regulations and tables covering the inspection of vessels in these regulations, which primarily relate to small recreational vessels that are not inspected by the Coast Guard or issued a certificate of inspection, is not considered necessary or appropriate. For this reason, the comment was not adopted.

One written comment questioned the requirement in §§ 170.53(a)(3) and 170.57 that the name of a vessel in addition to the number be listed in a casualty or accident report. The commenter's position was that the name is superfluous when a vessel is numbered. The casualty reporting system as proposed requires reports from both numbered and unnumbered vessels. The requirement for the involved vessel's name will provide additional identification of a numbered vessel and the only identification of an unnumbered vessel. For this reason the suggestion was not adopted.

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One written comment recommended that the reporting requirement in § 170.55(a)(3) exclude damage due to vandalism. The Coast Guard decided not to change the word "occurrence" to a more restrictive word since the reporting of casualties and accidents must encompass a great variety of "occurrences." In addition, a vandalism of a vessel that results in damages in excess of $100 should be reported so the authorities may take appropriate and necessary action.

Two written comments and one oral comment proposed an increase of the reportable property damage from $100 to $200 in § 170.55(a)(3). The reporting of property damage over $100 is required by existing regulations which have been in force for a number of years. It has been demonstrated that the minimum reporting requirement for property damage in order to administer effective boating safety programs is at least $100. The need for reports of lesser amounts of property damage is demonstrated by the requirements of several States, of reports of damage of $25 or more. Accordingly, the Coast Guard determined the higher limit would not be conducive to the intended results of the requirement and rejected the suggestion.

Three written comments proposed amending § 170.55 (a)(2) and (b)(2). Two of the comments requested the deletion of the requirement to submit an accident report when as a result of an accident that involves the vessel or its equipment a person loses consciousness. The other comment requested clarification. The Coast Guard has determined that the individual States have the need for reports of serious injuries to supply statistics on aid and medical attention. This need has been expressed in the past to the Coast Guard by a group of State boating law administrators. Although the States could still require such reports, even if the proposed requirement for such reports were deleted, the suggested amendment to § 170.55 (a)(2) and (b)(2) was not adopted in order to promote uniformity in reporting requirements and accident statistics.

One comment suggested that the words "medical treatment" in § 170.55 (a)(2) and (b)(2) be defined. The proposed regulations were developed to insure that all injuries other than very minor injuries would be reported. The development of a definition for these words would be superfluous since they have no other meaning than their common usage. In general, all injuries requiring aid or attention by a physician or other person trained to practice medicine or administer treatment is required to be reported. For this reason the comment was not adopted.

Three written comments proposed changing §§ 170.57 and 171.103 to simplify the accident report form for minor accidents. For uniformity, only one accident reporting form has been prescribed. The information contained in the form, as proposed in the regulations and the casualty reporting system, is intended to be a major source of information for the determinations that must be made as to promulgation of standards or regulations, or other appropriate action to be taken to promote boating safety. The report form prescribes only the minimum information necessary to fulfill all requirements of an effective boating safety program and the suggestions were not adopted.

One written comment suggested that the examples of the type of vessel operation to be listed on the accident report in § 170.57(u) include "skiing or racing." The operation of the vessel at the time of an accident or casualty is of importance in determining causative factors. For this reason, the comment was adopted.

One written comment directed to §§ 170.59 and 170.29 suggested the addition of a requirement that notification be made to the issuing authority of the "destruction or abandonment of the vessel." The provision for this notification exists in § 170.29 to assure that the issuing authority is properly notified of changes affecting the administration of its numbering system. Section 170.59 requires notification to the proper reporting authority when an accident or casualty occurs and there is damage to a vessel and other property damage totaling more than $100. Since the suggested change is already incorporated in both sections, no amendment was made.

One comment pointed out a typographical error in § 170.73(a) and the phrase "prescribed or the issuing authority" was corrected by changing the word "or" to the word "by".

One written comment proposed changing § 170.77 to invalidate the certificate of number when the person whose name appears on the certificate involuntarily loses his interest in a vessel by legal process. This proposed amendment was adopted and included in a new paragraph (e) in § 170.77.

One written comment objected to fees for numbering of small boats using propulsion machinery of less than 10 horsepower. Since the Federal Boat Safety Act of 1971 requires the numbering of an undocumented vessel equipped with propulsion machinery and authorizes the issuing authority to establish fees to carry out the intent of the Act, the comment could not be acted upon. The fees charged by the Coast Guard under § 170.55 are $6 for a number and two validation stickers for a 3-year period and cover only the administrative costs of the Coast Guard numbering program.

One written comment proposed changing § 171.13 by adding the requirements prescribed in § 170.77 validity of certificate of number to the requirements of a State numbering system. The proposed suggestion was approved and a new paragraph (k) was added to § 171.13 incorporating § 170.77 by reference.

Two written comments and one oral statement were directed to § 171.17. The suggestions included that the name of the engine manufacturer be eliminated and the place of manufacture and the name and address of the person from whom the vessel was purchased be added. One comment suggested the deletion of State of principal use and citizenship. The comments were considered in light of the wide dissemination of the proposed regulations and prior development work with each State and the members of the Boating Safety Advisory Council. The Coast Guard considered the information on the application to be the minimum necessary for administration of the Federal boating safety program and determined that none of the items in question should be eliminated. It was also determined that the information requested to be added is available from other sources; however, each approved State may add additional information considered to be necessary. Accordingly, none of the suggestions were adopted.

Three comments objected to the information requirement in § 171.17(a)(3) of the date of birth of the owner of a vessel applying for a certificate of number. Since this requirement is one of the methods of verification of identity, the suggestion to delete this requirement was rejected.

One comment recommended that the different types of commercial usage listed in § 171.17(a)(8) be eliminated in favor of just one term, "commercial." The ordinary commercial uses of a vessel were included in the proposed regulations as examples of the specificity required. The need to identify vessels or classes of vessels, together with their use or employment is important for law enforcement and for determining problem areas in boating safety that may require preventative measures. Accordingly, the suggested substitution was rejected.

Two written comments suggested that the information in § 171.17(a)(10) include "model year." The suggestion was adopted.

Two written comments from State Boating Administrators suggested that the authorization in § 171.19(b) to omit information from a certificate of number if the manufacturers hull identification number is plainly marked on the certificate be deleted. The information that may be omitted is available on the application for a certificate of number and may be referenced or found through the use of the manufacturers hull identification number. Nevertheless, a State may require the additional information on the certificate of number. Accordingly, the suggestion was not approved.

One comment directed to § 171.19 suggested the deletion of "State of principal use," "year vessel was manufactured," and "Type of vessel." Section 17 of the Federal Boat Safety Act of 1971 provides that a vessel shall have a number issued in the State in which the vessel is principally used. Difficulties would be created in law enforcement if no information on the certificate of number was available to show the State of principal use. A provision has been provided by § 171.19(b) to permit the omission of certain items of information from the certificate if the vessel has a manufacturers hull identification number which is plainly marked on the certificate. This provision would enable an issuing authority to omit

the other information desired to be deleted. For this reason, the suggestion was rejected.

One comment recommended the size of the certificate in § 171.25 be left up to the individual States, and one comment suggested that due to the amount of information required to be on the certificate, the size of the certificate should be reconsidered. The size of the certificate is unchanged from that required by existing regulations which have been in effect for a number of years. Subsection 20(a) of the Federal Boat Safety Act of 1971 requires that the certificate of number be pocket size. The contents of the certificate has been expanded from earlier requirements to include the manufacturers hull identification number and the type of vessel. In consideration of this additional information, a provision was included in § 171.19(b) to permit the omission of certain information from the certificate if the manufacturers hull identification number is plainly marked on the certificate. Accordingly, the suggestions were rejected.

The proposed regulations were provided to each State for review and comment before publishing them in the FEDERAL REGISTER as a notice of proposed rule making. Each comment was considered in preparing the proposed regulations. The Boating Safety Advisory Council has been consulted and its opinion and advice have been considered in the formulation of these regulations. The transcript of the proceedings of the meeting of the Boating Safety Advisory Council during which these regulations were discussed is available for examination in Room 6240, U.S. Coast Guard Headquarters, Department of Transportation Building, 400 Seventh Street SW., Washington, DC 20590. The minutes of the meeting are available from the Executive Director, Boating Safety Advisory Council, at this address.

After consideration of all relevant matters, the amendments proposed in the April 19, 1972, issue of the FEDERAL REGISTER (37 F.R. 7751) are hereby adopted, subject to the following changes:

(1) The regulations in this document are codified in Parts 173 and 174 instead of, as proposed, in Parts 170 and 171, and contained in Subchapter S of Title 33, Code of Federal Regulations instead of Subchapter S of Title 46, Code of Federal Regulations.

(2) In paragraph (b) of § 173.27 (proposed as § 170.27), the words "or be available to be shown upon demand" are deleted.

(3) In § 173.33 (proposed as § 170.33), the words "remove the number from the vessel when * * *" are changed to read "remove the number and validation sticker from the vessel when * * *"

(4) In § 173.35 (proposed as § 170.35), the words "within 3 inches aft of the number and in line with the number" are changed to read "within 6 inches of the number".

(5) In paragraph (u) of § 173.57 (proposed as § 170.57(u)), the words "(cruising, drifting, fishing, hunting, or other)" are changed to read "(cruising, drifting, fishing, hunting, skiing, racing, or other)."

(6) In paragraph (a) of § 173.73 (proposed as § 170.73(a)), the word "or" is changed to "by."

(7) In § 173.77 (proposed as § 170.77), a new paragraph (e) is added to read as follows:

"(e) The certificate of number is invalid when the person whose name appears on the certificate involuntarily loses his interest by legal process."

(8) In § 174.13 (proposed as § 171.13), paragraph (k) is added to read as follows: "(k) Section 173.77 Validity of certificate of number."

(9) In paragraph (a) of § 174.15 (proposed as § 171.15), the words "displayed aft of the number" are changed to read "displayed within 6 inches of the number."

In consideration of the foregoing, Subchapter S, of Title 33 Code of Federal Regulations, is amended by adding Parts 173 and 174 to read as follows:

Subpart A—General

Sec.
173.1 Purpose.
173.3 Definitions.

Subpart B—Numbering

173.11 Applicability.
173.13 Exemptions.
173.15 Vessel number required.
173.17 Reciprocity.
173.19 Other numbers prohibited.
173.21 Certificate of number required.
173.23 Inspection of certificate.
173.25 Location of certificate of number.
173.27 Numbers; Display; size; color.
173.29 Notification to issuing authority.
173.31 Surrender of certificate of number.
173.33 Removal of number.
173.35 Coast Guard validation sticker.

Subpart C—Casualty and Accident Reporting

173.51 Applicability.
173.53 Immediate notification of death or disappearance.
173.55 Report of casualty or accident.
173.57 Casualty or accident report.
173.59 Where to report.

Subpart D—Issue of Certificate of Number

173.71 Application for certificate of number.
173.73 Duplicate certificate of number.
173.75 Temporary certificate.
173.77 Validity of certificate of number.
173.79 Expiration of Coast Guard certificate of number.
173.81 Coast Guard forms for numbering and casualty reporting.
173.83 Availability of Coast Guard forms.
173.85 Coast Guard fees.
Appendix A—Issuing authorities and reporting authorities.

AUTHORITY: The provisions of this Part 173 issued under sections 18 and 39, 85 Stat. 213, 220, 228; 46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(c)(1).

Subpart A—General

§ 173.1 Purpose.

This part prescribes requirements for numbering vessels and for reporting casualties and accidents to implement sections 17, 18, and 37 of the Federal Boat Safety Act of 1971.

§ 173.3 Definitions.

As used in this part:

(a) "Act" means the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451, et seq.).

(b) "Issuing authority" means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a number system has not been approved. Issuing authorities are listed in Appendix A of this part.

(c) "Operator" means the person who is in control or in charge of a vessel while it is in use.

(d) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(e) "Person" means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.

(f) "Reporting authority" means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of this part.

(g) "State" means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(h) "State of principal use" means the State on whose waters a vessel is used or to be used most during a calendar year.

(i) "Use" means operate, navigate, or employ.

Subpart B—Numbering

§ 173.11 Applicability.

This subpart applies to each vessel equipped with propulsion machinery of any type used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States except—

(a) Foreign vessels temporarily using waters subject to U.S. jurisdiction;

(b) Military or public vessels of the United States, except recreational-type public vessels;

(c) A vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;

(d) Ships' lifeboats;

(e) A vessel which has or is required to have a valid marine document as a vessel of the United States.

§ 173.13 Exemptions.

Where the Coast Guard issues numbers, the following classes of vessels are exempt, under section 19(a) of the Act, from the numbering provisions of the Act and this part:

(a) A vessel that is used exclusively for racing.

(b) A vessel equipped with propulsion machinery of less than 10 horsepower that—

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(1) Is owned by the owner of a vessel for which a valid certificate of number has been issued;

(2) Displays the number of that numbered vessel followed by the suffix "1" in the manner prescribed in § 173.27; and

(3) Is used as a tender for direct transportation between that vessel and the shore and for no other purpose.

§ 173.15 Vessel number required.

(a) Except as provided in § 173.17, no person may use a vessel to which this part applies unless—

(1) It has a number issued on a certificate of number by the issuing authority in the State in which the vessel is principally used; and

(2) The number is displayed as described in § 173.27.

(b) This section does not apply to a vessel for which a valid temporary certificate has been issued to its owner by the issuing authority in the State in which the vessel is principally used.

§ 173.17 Reciprocity.

(a) Subsection 18(c) of the Act states:

When a vessel is actually numbered in the State of principal use, it shall be considered as in compliance with the numbering system requirements of any State in which it is temporarily used.

(b) Subsection 18(d) of the Act states:

When a vessel is removed to a new State of principal use, the issuing authority of that State shall recognize the validity of a number awarded by any other issuing authority for a period of at least 60 days before requiring numbering in the new State.

§ 173.19 Other numbers prohibited.

No person may use a vessel to which this part applies that has any number that is not issued by an issuing authority for that vessel on its forward half.

§ 173.21 Certificate of number required.

(a) Except as provided in §§ 173.13 and 173.17, no person may use a vessel to which this part applies unless it has on board—

(1) A valid certificate of number or temporary certificate for that vessel issued by the issuing authority in the State in which the vessel is principally used; or

(2) For the vessel described in paragraph (b) of this section, a copy of the lease or rental agreement, signed by the owner or his authorized representative and by the person leasing or renting the vessel, that contains at least—

(i) The vessel number that appears on the certificate of number; and

(ii) The period of time for which the vessel is leased or rented.

(b) Section 20(a) of the Act states in part:

The certificate of number for vessels less than 26 feet in length and leased or rented to another for the latter's noncommercial use of less than 24 hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative.

§ 173.23 Inspection of certificate.

Each person using a vessel to which this part applies shall present the certificate or lease or rental agreement required by § 173.21 to any Federal, State, or local law enforcement officer for inspection at his request.

§ 173.25 Location of certificate of number.

No person may use a vessel to which this part applies unless the certificate or lease or rental agreement required by § 173.21 is carried on board in such a manner that it can be handed to a person authorized under § 173.23 to inspect it.

§ 173.27 Numbers: Display; size; color.

(a) Each number required by § 173.15 must—

(1) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by paragraph (b) or required by paragraph (c) of this section;

(2) Be in plain vertical block characters of not less than 3 inches in height;

(3) Contrast with the color of the background and be distinctly visible and legible;

(4) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (Example: DC 5678 EF or DC–5678–EF); and

(5) Read from left to right.

(b) When a vessel is used by a manufacturer or by a dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.

(c) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(d) Each number displayed on a tender exempted under § 173.13 must meet the requirements of paragraph (a) of this section and have a space or hyphen that is equal to the width of a letter other than "I" or a number other than "1" between the suffix and the number. (Example: DC 5678 EF 1 or DC–5678–EF–1.)

§ 173.29 Notification to issuing authority.

A person whose name appears as the owner of a vessel on a certificate of number shall, within 15 days, notify the issuing authority in a manner prescribed by the issuing authority of—

(a) Any change in his address;

(b) The theft or recovery of the vessel;

(c) The loss or destruction of a valid certificate of number;

(d) The transfer of all or part of his interest in the vessel; and

(e) The destruction or abandonment of the vessel.

§ 173.31 Surrender of certificate of number.

A person whose name appears as the owner of a vessel on a certificate of number shall surrender the certificate in a manner prescribed by the issuing authority within 15 days after it becomes invalid under paragraph (b), (c), (d), or (e) of § 173.77.

§ 173.33 Removal of number.

The person whose name appears on a certificate of number as the owner of a vessel shall remove the number and validation sticker from the vessel when—

(a) The vessel is documented by the Coast Guard;

(b) The certificate of number is invalid under paragraph (c) of § 173.77; or

(c) The vessel is no longer principally used in the State where the certificate was issued.

§ 173.35 Coast Guard validation sticker.

No person may use a vessel except a vessel exempted in § 173.13 that has a number issued by the Coast Guard unless it has the validation sticker issued with the certificate of number displayed within 6 inches of the number.

Subpart C—Casualty and Accident Reporting

§ 173.51 Applicability.

(a) This subpart applies to each vessel used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States that—

(1) Is used by its operator for recreational purposes; or

(2) Is required to be numbered under this part.

(b) This subpart does not apply to a vessel required to have a certificate of inspection under Chapter I of Title 46, Code of Federal Regulations.

§ 173.53 Immediate notification of death or disappearance.

(a) When, as a result of an occurrence that involves a vessel or its equipment, a person dies or disappears from a vessel, the operator shall, without delay, by the quickest means available, notify the nearest reporting authority listed in Appendix A of this part of—

(1) The date, time, and exact location of the occurrence;

(2) The name of each person who died or disappeared;

(3) The number and name of the vessel; and

(4) The names and addresses of the owner and operator.

(b) When the operator of a vessel cannot give the notice required by paragraph (a) of this section, each person on board the vessel shall notify the casualty reporting authority or determine that the notice has been given.

§ 173.55 Report of casualty or accident.

(a) The operator of a vessel shall submit the casualty or accident report prescribed in § 173.57 to the reporting authority prescribed in § 173.59 when, as a result of an occurrence that involves the vessel or its equipment—

(1) A person dies;

(2) A person loses consciousness or receives medical treatment or is disabled for more than 24 hours;

(3) Damage to the vessel and other property damage totals more than $100; or

(4) A person disappears from the vessel under circumstances that indicate death or injury.

(b) A report required by this section must be made—

(1) Within 48 hours of the occurrence if a person dies within 24 hours of the occurrence;

(2) Within 48 hours of the occurrence if a person loses consciousness or receives medical treatment or is disabled for more than 24 hours or disappears from a vessel; and

(3) Within 5 days of the occurrence or death if an earlier report is not required by this paragraph.

(c) When the operator of a vessel cannot submit the casualty or accident report required by paragraph (a) of this section, the owner shall submit the casualty or accident report.

§ 173.57 Casualty or accident report.

Each report required by § 173.55 must be in writing, dated upon completion, and signed by the person who prepared it and must contain, if available, at least the following information about the casualty or accident:

(a) The numbers and names of each vessel involved.

(b) The name and address of each owner of each vessel involved.

(c) The name of the nearest city or town, the county, the State, and the body of water.

(d) The time and date the casualty or accident occurred.

(e) The location on the water.

(f) The visibility, weather, and water conditions.

(g) The estimated air and water temperatures.

(h) The name, address, age, or date of birth, telephone number, vessel operating experience, and boating safety training of the operator making the report.

(i) The name and address of each operator of each vessel involved.

(j) The number of persons on board or towed on skiis by each vessel.

(k) The name, address, and date of birth of each person injured or killed.

(l) The cause of each death.

(m) Weather forecasts available to, and weather reports used by, the operator before and during the use of the vessel.

(n) The name and address of each owner of property involved.

(o) The availability and use of personal flotation devices.

(p) The type and amount of each fire extinguisher used.

(q) The nature and extent of each injury.

(r) A description of all property damage and vessel damage with an estimate of the cost of all repairs.

(s) A description of each equipment failure that caused or contributed to the cause of the casualty.

(t) A description of the vessel casualty or accident.

(u) The type of vessel operation (cruising, drifting, fishing, hunting, skiing, racing, or other), and the type of accident (capsizing, sinking, fire, or explosion or other).

(v) The opinion of the person making the report as to the cause of the casualty.

(w) The make, model, type (open, cabin, house, or other), beam width at widest point, length, depth from transom to keel, horsepower, propulsion (outboard, inboard, inboard outdrive, sail, or other), fuel (gas, diesel, or other), construction (wood, steel, aluminum, plastic, fiberglass, or other), and year built (model year), of the reporting operator's vessel.

(x) The name, address, and telephone number of each witness.

(y) The manufacturer's hull identification number, if any, of the reporting operator's vessel.

(z) The name, address, and telephone number of the person submitting the report.

§ 173.59 Where to report.

A report required by § 173.55 must be submitted to—

(a) The reporting authority listed in Appendix A of this part where the vessel number was issued, or, if the vessel has no number, where the vessel is principally used; or

(b) The reporting authority where the casualty or accident occurred, if it occurred outside the State where the vessel is numbered or principally used.

Subpart D—Issue of Certificate of Number

§ 173.71 Application for certificate of number.

Any person who is the owner of a vessel to which § 173.11 applies may apply for a certificate of number for that vessel by submitting to the issuing authority, listed in Appendix A of this part, where the vessel will principally be used—

(a) An application on a form and in a manner prescribed by the issuing authority; and

(b) The fee required by the issuing authority.

§ 173.73 Duplicate certificate of number.

If a certificate of number is lost or destroyed, the person whose name appears on the certificate as the owner may apply for a duplicate certificate by submitting to the issuing authority that issued the certificate—

(a) An application on a form or in a manner prescribed by the issuing authority; and

(b) The fee required by the issuing authority, if any.

§ 173.75 Temporary certificate.

A temporary certificate valid for not more than 60 days after it is issued may be issued by an issuing authority pending the issue of a certificate of number. A temporary certificate is not valid after the date that the owner receives the certificate of number from the issuing authority.

§ 173.77 Validity of certificate of number.

(a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, a certificate of number is valid until the date of expiration prescribed by the issuing authority.

(b) A certificate of number issued by an issuing authority is invalid after the date upon which—

(1) The vessel is documented or required to be documented under Part 67 of Title 46, Code of Federal Regulations;

(2) The person whose name appears on the certificate of number as owner of the vessel transfers all of his ownership in the vessel; or

(3) The vessel is destroyed or abandoned.

(c) A certificate of number issued by an issuing authority is invalid if—

(1) The application for the certificate of number contains a false or fraudulent statement; or

(2) The fees for the issuance of the certificate of number are not paid.

(d) A certificate of number is invalid 60 days after the day on which the vessel is no longer principally used in the State where the certificate was issued.

(e) The certificate of number is invalid when the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal process.

§ 173.79 Expiration of Coast Guard certificate of number.

A certificate of number issued by the Coast Guard expires 3 years from the date it is issued.

§ 173.81 Coast Guard forms for numbering and casualty reporting.

(a) In a State where the Coast Guard is the issuing authority, the following Coast Guard forms must be used:

(1) Each application for a certificate of number or renewal must be made on two-part Form CG–3876 and 3876A, Application for Number and Temporary Certificate.

(2) Each notification required by § 173.29(b) must be made on Form CG–2921, Notification of Change in Status of Vessel.

(3) Each notification required by § 173.29(a) must be made on Form CG–3920, Change of Address Notice.

(4) Each notification required by § 173.29(c) must be made in writing.

(5) Each application for a duplicate certificate of number must be made on

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two-part Form CG–3919 and CG–3919A, Application for Duplicate Certificate of Number and Temporary Duplicate Certificate.

(6) Each vessel casualty required to be reported by § 173.55 must be made on Form CG–3865.

(b) Each surrender of a certificate of number required by § 173.31 may be made in any form but must contain a written statement as to why the certificate is being surrendered.

§ 173.83 Availability of Coast Guard forms.

In a State where the Coast Guard is the issuing authority, forms required by § 173.81 are available at all manned Coast Guard shore units, except light and loran stations and except for Form CG–3865, at all first- and second-class and some third- and fourth-class post offices.

§ 173.85 Coast Guard fees.

(a) In a State where the Coast Guard is the issuing authority the fees for numbering are—

(1) Original number and two validation stickers—$6;

(2) Renewal of number and two validation stickers—$6;

(3) Duplicate certificate of number—$1; and

(4) Replacement of lost or destroyed validation sticker—$0.25 each.

(b) Fees must be paid by check or money order made payable to the "U.S. Coast Guard," except when the application is made in person by the owner, the fee may be paid in cash.

APPENDIX A—ISSUING AUTHORITIES AND REPORTING AUTHORITIES

(a) The State is the issuing authority and reporting authority in:

STATE	
Alabama—AL.	Nebraska—NB.
Arizona—AZ.	Nevada—NV.
Arkansas—AR.	New Jersey—NJ.
California—CF.	New Mexico—NM.
Colorado—CL.	New York—NY.
Connecticut—CT.	North Carolina—NC.
Delaware—DL.	North Dakota—ND.
Florida—FL.	Ohio—OH.
Georgia—GA.	Oklahoma—OK.
Hawaii—HA.	Oregon—OR.
Idaho—ID.	Pennsylvania—PA.
Illinois—IL.	Puerto Rico—PR.
Indiana—IN.	Rhode Island—RI.
Iowa—IA.	South Carolina—SC.
Kansas—KA.	South Dakota—SD.
Kentucky—KY.	Tennessee—TN.
Louisiana—LA.	Texas—TX.
Maine—ME.	Utah—UT.
Maryland—MD.	Vermont—VT.
Massachusetts—MS.	Virginia—VA.
Michigan—MC.	Virgin Islands—VI.
Minnesota—MN.	West Virginia—WV.
Mississippi—MI.	Wisconsin—WS.
Missouri—MO.	Wyoming—WY.
Montana—MT.	

(b) The Coast Guard is the issuing authority and reporting authority in:

STATE	
Alaska—AK.	Guam—GM.
American Samoa—AS.	New Hampshire—NH.
District of Columbia—DC.	Washington—WN.

(c) The abbreviations following the names of the State listed in paragraphs (a) and (b) are the two capital letters that must be used in the number format to denote the State of principal use as prescribed in § 174.23 of this chapter.

Subpart A—General

Sec.
174.1 Applicability.
174.3 Definitions.
174.5 Requirements for approval.
174.7 Approval procedure.

Subpart B—Numbering System Requirements

174.11 Applicability of State numbering system.
174.13 Owner or operator requirements.
174.15 Validation stickers.
174.17 Contents of application for certificate of number.
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174.21 Contents of temporary certificate.
174.23 Form of number.
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Subpart C—Casualty Reporting System Requirements

174.101 Applicability of State casualty reporting system.
174.103 Administration.
174.105 Owner or operator casualty reporting requirements.
174.107 Contents of casualty or accident report.

Subpart D—State Reports

174.121 Forwarding of casualty or accident reports.
174.123 Annual report of numbered vessels.
174.125 Coast Guard address.

AUTHORITY: The provisions of this Part 174 issued under sections 18 and 39, 85 Stat. 213, 220, 228; 46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(o)(1).

Subpart A—General

§ 174.1 Applicability.

This part establishes a standard numbering system for vessels and a uniform vessel casualty reporting system for vessels by prescribing requirements applicable to the States for the approval of State numbering systems.

§ 174.3 Definitions.

As used in this part:

(a) "Act" means the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451, et seq.).

(b) "Operator" means the person who is in control or in charge of a vessel while it is in use.

(c) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(d) "Reporting authority" means a State where a numbering system has been approved by the Coast Guard or the Coast Guard where a numbering system has not been approved. Reporting authorities are listed in Appendix A of Part 173 of this chapter.

§ 174.5 Requirements for approval.

The Commandant approves a State numbering system if he finds, after examination of the information submitted by a State, that the State numbering system and vessel casualty reporting system meet the requirements in this part and the provisions of sections 18 through 24 and section 37 of the Act relating to numbering and casualty reporting.

§ 174.7 Approval procedure.

To obtain approval by the Commandant of a numbering system or of any revision to a numbering system, an authorized representative of the State must submit three copies of the State laws, regulations, forms, and policy statements, if any, that pertain to the numbering system or revision to U.S. Coast Guard (GBL/62), 400 Seventh Street SW., Washington, DC 20590.

Subpart B—Numbering System Requirements

§ 174.11 Applicability of State numbering system.

(a) Except as allowed in paragraph (c) of this section, a State numbering system must require the numbering of vessels to which § 173.11 of this chapter applies.

(b) A State numbering system may require the numbering of any vessel subject to the jurisdiction of the State unless prohibited by the regulations in Part 173 of this chapter.

(c) A State numbering system may exempt from its numbering requirements any vessel or class of vessels to which § 173.13 of this chapter applies.

§ 174.13 Owner or operator requirements.

A State numbering system must contain the requirements applicable to an owner or a person operating a vessel that are prescribed in the following sections of Part 173 of this chapter:

(a) Paragraph (a) of § 173.15 *Vessel number required of this chapter.*

(b) Section 173.19 *Other numbers prohibited of this chapter.*

(c) Paragraph (a) of § 173.21 *Certificate of number required of this chapter.*

(d) Section 173.23 *Inspection of certificate of this chapter.*

(e) Section 173.25 *Location of certificate of number of this chapter.*

(f) Section 173.29 *Notification to issuing authority of this chapter.*

(g) Section 173.31 *Surrender of certificate of number of this chapter.*

(h) Section 173.33 *Removal of number of this chapter.*

(i) Section 173.71 *Application for certificate of number of this chapter.*

(j) Section 173.73 *Duplicate certificate of number of this chapter.*

(k) Section 173.77 *Validity of certificate of number of this chapter.*

§ 174.15 Validation stickers.

(a) If a State issues validation stickers, its numbering system must contain the requirements that stickers must be displayed within 6 inches of the number and the stickers must meet the requirements in paragraphs (b) and (c) of this section.

(b) Validation stickers must be approximately 3 inches square.

(c) The year in which each validation sticker expires must be indicated by the colors, blue, international orange, green, and red, in rotation beginning with blue for stickers that expire in 1973.

§ 174.17 Contents of application for certificate of number.

(a) Each form for application for a certificate of number must contain the following information:

(1) Name of the owner.

(2) Address of the owner, including ZIP code.

(3) Date of birth of the owner.

(4) Citizenship of the owner.

(5) State in which vessel is or will be principally used.

(6) The number previously issued by an issuing authority for the vessel, if any.

(7) Whether the application is for a new number, renewal of a number, or transfer of ownership.

(8) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use.

(9) Make of vessel.

(10) Year vessel was manufactured or model year.

(11) Manufacturer's hull identification number, if any.

(12) Overall length of vessel.

(13) Type of vessel (open, cabin, house, or other).

(14) Whether the hull is wood, steel, aluminum, fiberglass, plastic, or other.

(15) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail and name of engine manufacturer if available.

(16) Whether the fuel is gasoline, diesel, or other.

(17) The signature of the owner.

(b) An application made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes may omit items 9 through 16 of paragraph (a) of this section.

(c) An application made by a person who intends to lease or rent the vessel without propulsion machinery may omit items 15 and 16 of paragraph (a) of this section.

§ 174.19 Contents of a certificate of number.

(a) Except as allowed in paragraphs (b), (c), and (d) of this section, each certificate of number must contain the following information:

(1) Number issued to the vessel.

(2) Expiration date of the certificate.

(3) State of principal use.

(4) Name of the owner.

(5) Address of owner, including ZIP code.

(6) Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying commercial fishing or other commercial use.

(7) Manufacturer's hull identification number (if any).

(8) Make of vessel.

(9) Year vessel was manufactured.

(10) Overall length of vessel.

(11) Whether the vessel is an open boat, cabin cruiser, houseboat, or other type.

(12) Hull material.

(13) Whether the propulsion is inboard, outboard, inboard-outdrive, or sail.

(14) Whether the fuel is gasoline, diesel, or other.

(15) A quotation of the State regulations pertaining to change of ownership or address; documentation, loss, destruction, abandonment, theft, or recovery of vessel; carriage of the certificate of number on board when the vessel is in use; rendering aid in a boat accident; and reporting of vessel casualties and accidents.

(b) A certificate of number issued to a vessel that has a manufacturer's hull identification number assigned, may omit items 8 through 14 of paragraph (a) of this section if the manufacturer's hull identification number is plainly marked on the certificate.

(c) A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit items 7 through 14 of paragraph (a) of this section if the word "manufacturer" or "dealer" is plainly marked on the certificate.

(d) A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit items 13 and 14 of paragraph (a) of this section if the words "livery vessel" are plainly marked on the certificate.

§ 174.21 Contents of temporary certificate.

A temporary certificate issued pending the issuance of a certificate of number must contain the following information:

(a) Make of vessel.

(b) Length of vessel.

(c) Type of propulsion.

(d) State in which vessel is principally used.

(e) Name of owner.

(f) Address of owner, inculding ZIP code.

(g) Signature of owner.

(h) Date of issuance.

(i) Notice to the owner that the temporary certificate is invalid after 60 days from the date of issuance.

§ 174.23 Form of number.

(a) Each number must consist of two capital letters denoting the State of the issuing authority, as specified in Appendix A of Part 173 of this chapter, followed by—

(1) Not more than four numerals followed by not more than two capital letters (example: NH 1234 BD); or

(2) Not more than three numerals followed by not more than three capital letters (example: WN 567 EFG).

(b) A number suffix must not include the letters "I", "O", or "Q," which may be mistaken for numerals.

§ 174.25 Size of certificate of number.

Each certificate of number must be approximately 2½ by 3½ inches.

§ 174.27 Duration of certificate of number.

A certificate of number must not be valid for more than 3 years.

§ 174.29 Temporary certificate of number.

A State may issue a temporary certificate of number that is effective for not more than 60 days.

§ 174.31 Terms and conditions for vessel numbering.

A State numbering system may condition the issuance of a certificate of number on—

(a) Title to, or other proof of ownership of a vessel except a recreational-type public vessel of the United States; or

(b) The payment of State or local taxes, except for a recreational-type public vessel of the United States.

Subpart C—Casualty Reporting System Requirements

§ 174.101 Applicability of State casualty reporting system.

(a) A State casualty reporting system must require the reporting of vessel casualties and accidents involving vessels to which §173.51 of this chapter applies.

(b) The State casualty reporting system may require vessel casualty or accident reports resulting in property damage of less than $100.

§ 174.103 Administration.

The State casualty reporting system must be administered by a State agency that—

(a) Will provide for the reporting of all casualties and accidents prescribed in § 173.55 of this chapter;

(b) Receives reports of vessel casualties or accidents required in § 174.101;

(c) Reviews accident and casualty reports to assure accuracy and completeness of reporting;

(d) Determines the cause of casualties and accidents reported;

(e) Notifies the Coast Guard, in writing, when a problem area in boating safety peculiar to the State is determined, together, with corrective measures instituted or recommended; and

(f) Reports on vessel numbering and vessel casualties and accidents as required in Subpart D of this part.

§ 174.105 Owner or operator casualty reporting requirements.

A State vessel casualty reporting system must contain the following requirements of Part 173 of this chapter applicable to an owner or a person operating a vessel:

(a) Section 173.55 *Report of casualty or accident of this chapter.*

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(b) Section 173.59 *Where to report of this chapter.*

(c) Section 173.53 *Immediate notification of death or disappearance of this chapter.*

(d) Section 173.57 *Casualty or accident report of this chapter.*

(e) Section 173.61 *Rendering of assistance in casualties of this chapter.*

§ 174.107 Contents of casualty or accident report form.

Each form for reporting a vessel casualty or accident must contain the information required in § 173.57 of this chapter.

Subpart D—State Reports

§ 174.121 Forwarding of casualty or accident reports.

Within 30 days of the receipt of a casualty or accident report, each State that has an approved numbering system must forward a copy of that report to the Commander of the Coast Guard District in which the State Capitol is located, except that Ohio and Minnesota must forward reports to the Commander, Ninth Coast Guard District, and Vermont to the Commander, Third Coast Guard District.

§ 174.123 Annual report of numbered vessels.

Before March 1 of each year, each State that has an approved numbering system must prepare and submit Coast Guard Form CGHQ–3923, Report of Certificates of Number Issued to Boats, to the Coast Guard.

§ 174.125 Coast Guard address.

The report required by § 174.123 must be sent to U.S. Coast Guard (GBD/62), 400 Seventh Street SW., Washington, DC 20590.

Effective date. These amendments are effective on July 1, 1973.

(Secs. 18, 39, 85 Stat. 213, 220, 228; 46 U.S.C. 1451, 1467, 1488; 49 CFR 1.46(o)(1))

Dated: September 29, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.72-17046 Filed 10-6-72;8:45 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 72-176R]

SUBCHAPTER S—NUMBERING OF UNDOCUMENTED VESSELS, STATISTICS ON NUMBERING AND "BOATING ACCIDENT REPORTS" AND ACCIDENT STATISTICS

PART 171—STANDARDS FOR NUMBERING

PART 172—INTERPRETIVE RULINGS—FEDERAL BOATING ACT AND ACT OF APRIL 25, 1940, AS AMENDED

PART 173—BOATING ACCIDENTS, REPORTS, AND STATISTICAL INFORMATION

Revocation

The purpose of the amendments in this document is to revoke Parts 171, 172, and 173 of Subchapter S of Title 46, Code of Federal Regulations.

A notice of proposed rule making was published in the April 19, 1972, issue of the FEDERAL REGISTER (37 F.R. 7751) proposing the establishment of a standard numbering system for vessels required to be numbered by the Federal Boat Safety Act of 1971 (85 Stat. 213; 46 U.S.C. 1451, et seq.) and a uniform reporting system of casualties and accidents involving vessels subject to the Federal Boat Safety Act of 1971. The Coast Guard issued the notice as a proposed revision of Subchapter S of Title 46, Code of Federal Regulations.

On page 21396 of this issue of the FEDERAL REGISTER, a rule is published based on the notice of proposed rule making of April 19, 1972. In that document, it is explained that the amendments are made to Subchapter S of Title 33, Code of Federal Regulations, which was established in the July 7, 1972, issue of the FEDERAL REGISTER (37 F.R. 13346) to contain the regulations implementing the Federal Boat Safety Act of 1971.

The amendments in this document revoke Parts 171, 172, and 173 of Subchapter S, Title 46, Code of Federal Regulations because they are superseded by the regulations promulgated on page 21396 of this issue of the FEDERAL REGISTER. Since the explanation in the April 19, 1972, notice of proposed rule making fully explained the proposed revision of Subchapter S of Title 46, Code of Federal Regulations and the public participated in that rule making by submitting oral and written comments, and additional notification of the change in codification is considered unnecessary because there has been no substantive change in the regulations as proposed.

In consideration of the foregoing, Subchapter S of Title 46, Code of Federal Regulations is amended as follows:

1. By revoking Parts 171, 172 and 173.

Effective date. These amendments are effective on July 1, 1973.

(Sec. 39, 85 Stat. 213, 228; 46 U.S.C. 1488; 46 CFR 1.46(o)(1))

Dated: September 29, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

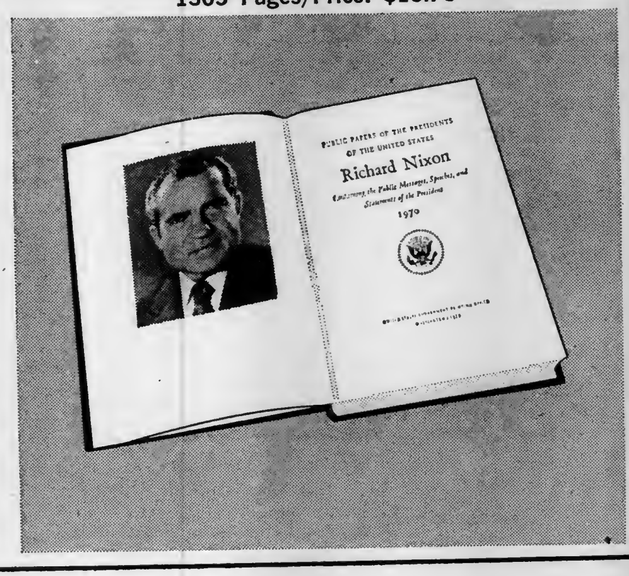
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federal register

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Presidential Documents

Title 3—The President

PROCLAMATION 4162

National Legal Secretaries' Court Observance Week

By the President of the United States of America

A Proclamation

Secretaries to lawyers and judges play an important role in our judicial system, providing competent, dedicated and loyal service to the leaders of the bar.

Many legal secretaries, however, have never visited a court and observed justice in action. In order that they may have an opportunity to do so, and in the belief that such visits can further a legal secretary's understanding, interest, and efficiency in her work, the Congress, by House Joint Resolution 807, has requested the President to designate the second full week in October, 1972, as National Legal Secretaries' Court Observance Week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning October 8, 1972, as National Legal Secretaries' Court Observance Week. I call upon the people of the United States, particularly the legal community, to observe that week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17469 Filed 10-10-72;11:34 am]

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PROCLAMATION 4163

National School Lunch Week, 1972

By the President of the United States of America

A Proclamation

The National School Lunch Program, now in its twenty-sixth year, has become one of the Nation's most important programs for safeguarding the health and well-being of America's children.

Last year some 25 million children shared nearly four billion lunches served in their schools. Of these, nearly one-third were needy youngsters who were fed without charge.

This program has expanded at such a rapid rate—today it is nearly two and one-half times as large as it was three years ago—that we can now foresee the day when the hunger gap will be closed across America.

Through the efforts of local, State, and Federal agencies and private groups and organizations, children in over 82,000 schools now can buy a nutritious lunch at low cost—or enjoy a free lunch.

In recognition of the fact that the National School Lunch Program involves a community effort, dependent upon the interest and support of citizens, the Congress, by a joint resolution of October 9, 1962, designated the week beginning on the second Sunday of October each year as National School Lunch Week, and requested the President to issue annually a proclamation for the observance of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby urge the people of the United States to observe the week of October 8, 1972, as National School Lunch Week, to give special and deserved recognition to the role of good nutrition in building a stronger America through its youth.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72–17470 Filed 10–10–72;11:34 am]

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PROCLAMATION 4164

Drug Abuse Prevention Week

By the President of the United States of America

A Proclamation

Ordinary modes of expression scarcely do justice to outrage. The enormous human tragedy of drug abuse gives pause to our customary gesture of setting aside seven days a year for intensified concern with this or that social problem. More than a problem, narcotics and dangerous drugs are a grave emergency threatening each and all of us.

Drug Abuse Prevention Week, therefore, is but one more occasion to redouble our war against this enemy, to take stock of large victories won in a short time, identify areas of continuing concern and target more resources on them.

The first lesson America has had to learn is that drug abuse prevention, all abstractions aside, is a matter of saving lives: our children's, our neighbors', our own, our Nation's. Heroin addicts, as many as half a million of them, need all the help we can give them; so do countless others who abuse pills of every sort, hallucinogens and marijuana.

That help is now on the way. The glamorization of drugs has been halted. The full power of government has been mobilized to provide rehabilitation and treatment, to enforce the laws, to pinch off opium and other drug sources all over the world. Medical research has been stepped up. Our schools, our churches, and our communications media are pushing preventive educational campaigns.

With national heroin shortages now developing, with more and more addicts seeking treatment, and with the steady resurgence of those moral and spiritual strengths which are a people's ultimate defense against drug abuse, we can find good reason to be hopeful for the future. But even one person addicted or led into drug abuse is one too many, and we shall not have discharged our humane duty until all are rescued from this plague. In this spirit let us press forward.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning October 15, 1972, as the third annual Drug Abuse Prevention Week.

I call upon officials at every level of government, upon educators, medical professionals, and communicators, upon the business community and the civic groups of our Nation, upon the churches and the clergy, and upon all who bear the special trusts of parenthood and care of the

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young, to rededicate themselves during this week to the total banishment of drug abuse from American life.

I urge every American to commit himself wholeheartedly, beginning now, to this supremely important humanitarian cause.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17471 Filed 10-10-72;11:34 am]

PROCLAMATION 4165

National Day of Prayer

By the President of the United States of America

A Proclamation

The great king Solomon, told in a night vision to ask what he wished of God, was reverent and humble enough to pray, "I am but a little child . . . Give therefore Thy servant an understanding heart . . . for who is able to judge this Thy so great a people?"

In our time as in Solomon's, no nation can expect to prosper and live in peace—no people can govern themselves wisely—except they invoke and rely on the divine wisdom.

In all our concerns and all our affairs as a nation; both at home and abroad, prayer should be not merely an embellishment, but an essential: both the prayer of affirmation that our God is great and good, that He made us and not we ourselves, and the prayer of petition that He may guide and protect us every one.

In 1952 the Congress directed the President to set aside a suitable day other than a Sunday each year as a National Day of Prayer, in recognition of the profound religious faith on which America is built.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim Wednesday, October 18, as National Day of Prayer, 1972.

I call upon all Americans to pray that day, each after his or her own manner and convictions, for Deity's blessing on our land and for peace on earth, goodwill among all men.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17473 Filed 10-10-72;11:35 am]

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PROCLAMATION 4166

Country Music Month, October 1972

By the President of the United States of America

A Proclamation

The heart of a people is found in their music, and no music is more deeply rooted in the soul of America than country music.

It is no accident that country music is more popular today than ever before. For in the strum of the guitar, the twang of the banjo, and the proud pure voices of country singers, we hear the echo of America's past and the hope for our future.

Strong, simple and moving, country music reflects the joys, the sorrows and the ideals of our people. Love of family, love of country, faith in God, and the happiness and heartbreak of everyday life—these are the themes that run throughout our country music, and that bind us all together as Americans.

Who can resist tapping foot and joining in when the strains of country music strike up? Country music belongs to no one region or set of people, but to us all. It has given us some of the greatest entertainers and folk heroes, and we have taken it to our heart as a nation.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, ask the people of this Nation to mark the month of October, 1972, with suitable observances as Country Music Month.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17474 Filed 10-10-72;11:35 am]

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EXECUTIVE ORDER 11686

Committee Management

I have approved the Federal Advisory Committee Act which provides standards for the establishment, operation, termination, and control of advisory committees, assigns responsibility for the performance of those functions, and requires the submission of an annual report to the Congress concerning the administration of the act. The provisions of the act, in effect, supersede and replace the committee management standards and procedures set forth in Executive Order No. 11671 which I issued on June 5, 1972.

NOW, THEREFORE, by virtue of the authority vested in me by the Federal Advisory Committee Act (hereinafter referred to as the act), section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Section 1. The heads of all executive departments and agencies shall take appropriate action to assure their ability to comply with the provisions of the act.

Sec. 2. The Director of the Office of Management and Budget shall:

(1) perform, or designate, from time to time, other officers of the Federal Government to perform, without the approval, ratification, or other action of the President, the functions vested in the President by the act, except the function of making the annual reports to the Congress required by section 6(c) of the act;

(2) prepare for the consideration of the President the annual reports to the Congress required by section 6(c) of the act; and

(3) prescribe administrative guidelines and management controls for advisory committees composed wholly of full-time officers or employees of the Federal Government (inter-agency committees not subject to the provisions of the act), as well as for advisory committees covered by the act.

Sec. 3. Section 8(4) of Executive Order No. 11671 of June 5, 1972, is hereby revoked and the remainder of that order shall be deemed to be superseded effective as of the expiration of ninety days following the date of my approval of the act.

THE WHITE HOUSE,
October 7, 1972.

Richard Nixon

[FR Doc.72-17472 Filed 10-10-72;11:35 am]

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Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

Subpart—U.S. Standards for Grades of Pecans in the Shell

SIZE CLASSIFICATION; CORRECTION

In F.R. Doc. 72-15610 appearing in the issue of Wednesday, September 13, 1972 (37 F.R. 18515), the size classification table under § 51.1402 in column 3 of page 18515, is corrected to read as follows:

§ 51.1402 Size classification.

• • • • •

Size classification	No. of nuts per pound	Minimum weight of the 10 smallest nuts in a 100-nut sample
Oversize	55 or less	In each classification, the 10 smallest nuts per 100 must weigh at least 7 percent of the total weight of the 100-nut sample.
Extra large	56 to 63	
Large	64 to 77	
Medium	78 to 95	
Small	96 to 120	

Dated: October 5, 1972.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.72-17339 Filed 10-10-72;8:51 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 966—TOMATOES GROWN IN FLORIDA

Limitation of Shipments

Notice of rulemaking with respect to a proposed limitation of shipments, to be effective under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulating the handling of tomatoes grown in the production area, was published in the September 22, 1972, FEDERAL REGISTER (37 F.R. 19819). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto not later than October 2, 1972. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice which was recommended by the Florida Tomato Committee, established pursuant to the said marketing agreement and order, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of 1972 fall crop production area tomatoes will begin on or about the effective date specified herein and this regulation should apply to all such shipments; (2) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date; (3) reasonable time is permitted under the circumstances for such preparation; and (4) notice of the regulation has been given to producers and handlers in the production area and by publication in the FEDERAL REGISTER of September 22, 1972.

The recommendations of the committee reflect its appraisal of the composition of the 1972-73 crop of Florida tomatoes and of the marketing prospects for this season. The proposed standardization of weights, containers and size classfications is needed in the interest of orderly marketing so as to improve net returns to producers. The proposals with respect to special pack and special purpose shipments are designed to meet the different requirements for such shipments. The minimum size requirement will preclude shipments to fresh market of especially small tomatoes which usually are of negligible economic value to producers.

§ 966.310 Limitation of shipments.

During the period October 15, 1972, through June 15, 1973, the following regulations shall be effective with respect to all varieties of tomatoes handled, except elongated types, commonly referred to as pear shaped or paste tomatoes and including, but not limited to, San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes, commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(a) *Size classification and minimum size requirements.* (1) Except as otherwise provided in this section, no person shall handle any lot of tomatoes which are smaller than $1\frac{25}{32}$ inches in diameter. In addition, the tomatoes must be packed in one or more of the following ranges of diameters:

Size classification	*Diameter (inches)*
7 x 8	$2\frac{1}{32}$ and smaller.
7 x 7	Over $2\frac{1}{32}$ to $2\frac{9}{32}$, inclusive.
6 x 7	Over $2\frac{9}{32}$ to $2\frac{17}{32}$, inclusive.
6 x 6	Over $2\frac{17}{32}$ to $2\frac{25}{32}$, inclusive.
5 x 6 and larger	Over $2\frac{25}{32}$.

Measurement of diameters shall be in accordance with the methods prescribed in the U.S. standards for grades of fresh tomatoes (§§ 51.1855 to 51.1877 of this title).

(2) Tomatoes of designated sizes may not be commingled unless they are over $2\frac{17}{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(3) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(b) *Container net weight requirements.* (1) No person shall handle any lot of tomatoes unless they are packed in one of the following net weight ranges:

Container net weight (pounds)	Minimum net weight (pounds)	Maximum net weight (pounds)
20	20	$21\frac{1}{2}$
30	30	$31\frac{1}{2}$
40	40	$41\frac{1}{2}$
60	60	$61\frac{1}{2}$

(2) To allow for variations incident to proper packing, not more than a total of 10 percent, by count, of the containers in any lot may vary from the net weight specified.

(c) *Inspection.* No person shall handle any lot of tomatoes unless such tomatoes are inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall be registered with the committee pursuant to § 966.7. Annual certificates of registration will be issued to known handlers and to new handlers upon application to the committee and each will be assigned a registration number. Registered handlers are the first handlers of tomatoes and shall pay assessments as provided in § 966.42.

(d) *Truck shipments.* For purposes of these regulations, the rule, § 966.140, relating to truck shipments of tomatoes grown in the Florida production area, shall continue in effect.

(e) *Minimum quantity.* For purpose of these regulations, each person subject thereto may handle, pursuant to § 966.53, up to, but not to exceed, 60 pounds of tomatoes per day without regard to the requirements of this part, but this exception shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(f) *Special pack exemption.* Tomatoes packed by a handler who has been designated as a "Certified Tomato Repacker" by the committee, are exempt from the size classifications of paragraph (a) of this section and the container weight requirements of paragraph (b) of this section if such tomatoes comply with inspection requirements of paragraph (c)

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of this section and are packed in containers of less than 20 pounds net weight.

(g) *Special purpose shipments.* (1) The requirements of paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of tomatoes for canning, relief or charity if the handler thereof complies with the safeguard requirements of paragraph (h) of this section. Shipments for canning are exempt from the assessment requirements of this part.

(2) The requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of tomatoes which are 2 2/32 inches in diameter or smaller for processing into pickles if the handler thereof complies with the safeguard requirements of paragraph (h) of this section.

(3) The requirements of paragraphs (a) and (b) of this section shall not be applicable to shipments of tomatoes for export if the handler thereof complies with the safeguard requirements of paragraph (h) of this section.

(h) *Safeguards.* Each handler making shipments of tomatoes for processing into pickles, for canning, for relief or charity, or for export, in accordance with paragraph (g) of this section shall:

(1) First apply to the committee for and obtain a certificate of privilege to make such shipments;

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (g) of this section;

(3) Bill or consign each shipment directly to the designated applicable receiver; and

(4) Forward one copy of such report to the committee office, and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within 10 days after shipment shall be cause for cancellation of such handler's certificate and/or the receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(i) *Definitions.* "Hydroponic Tomatoes" means tomatoes grown in solution without soil. "Greenhouse Tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for holding, regarding, resorting, and repacking tomatoes into consumer size packages and has been certified as such by the committee. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part.

(j) *Applicability to imports.* Pursuant to section 608e–1 of the Act (7 U.S.C. 608e–1) imports of tomatoes are subject to the same minimum size as specified in paragraph (a) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date. Dated October 4, 1972, to become effective October 15, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17341 Filed 10–10–72;8:49 am]

PART 980—VEGETABLES: IMPORT REGULATIONS

Tomatoes

Findings. (a) Notice of rule making regarding proposed restrictions on importation of tomatoes into the United States was published in the September 22, 1972, FEDERAL REGISTER (37 F.R. 19819). The notice afforded interested persons an opportunity to file written data, views, or arguments in regard thereto not later than October 2, 1972. None was filed.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the proposal as published in the notice should be made effective, and that the minimum size requirement is the same as that being made effective under Marketing Order No. 966, as amended (7 CFR Part 966), for shipments of tomatoes grown in the Florida production area. This regulation is subject to amendment with reasonable notice.

(b) It is hereby further found that good cause exists for not postponing the effective date of this regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements established by this regulation are mandatory under section 8e–1 of the act; (2) notice of the proposed regulation was given on September 18, 1972, by issuance of a press release and by publication in the FEDERAL REGISTER of September 22, 1972; (3) in fixing the effective date hereof consideration was given to the time required for transportation of the tomatoes and entry into the United States; and (4) such notice is in excess of the 3-day minimum required by the act.

§ 980.206 Tomato import regulation.

Except as otherwise provided, during the period October 15, 1972, through June 15, 1973, no person may import fresh tomatoes, except pear shaped, cherry, hydroponic, and greenhouse tomatoes, as defined herein, unless they are inspected and meet the requirements of this section.

(a) *Minimum size requirements.* (1) 1 7/8 inches in diameter;

(2) Not more than 10 percent, by count, in any lot may be smaller than the specified minimum diameter.

(b) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(c) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(d) *Designation of governmental inspection service.* The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality, and maturity of tomatoes that are imported into the United States under the provisions of section 8e–1 of the act.

(e) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the U.S. import requirements for tomatoes under section 8e–1 (7 U.S.C. 608e–1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables, and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

Ports	Office	Advance notice
All Texas points.	W. T. McNabb, Post Office Box 310, Austin, TX 78767, Phone: 512—385–5385	1 day.
All Arizona points.	B. O. Morgan, Post Office Box 1614, Nogales, A R 85621, Phone: 602—287–2902.	1 day.
All California points.	D. P. Thompson, 294 Wholesale Terminal Bldg., 784 South Central Ave., Los Angeles, CA 90021, Phone: 213—622–8756.	3 days.
All Hawaii points.	Stevenson Ching, 1428 South King St., Honolulu, HI 96814, Phone: 808—941–3071.	1 day.
New York City.	Officer-In-Charge, Room 28A Hunts Point Market, Bronx, N.Y. 10474, Phone: 212—991–7669—7668.	1 day.
New Orleans...	Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70113, Phone: 504—527–6741—6742.	1 day.
All other points.	D. S. Matheson, Fruit and Vegetable Division, Agriculture Marketing Service, Washington, DC 20250, Phone: 202—447–5870.	3 days.

(4) Inspection certificates shall cover only the quantity of tomatoes that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certification issued with respect to any tomatoes to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper, or applicant;

(iii) The commodity inspected;

(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e–1.

(f) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of tomatoes for the purpose of making it eligible for importation.

(g) *Definitions.* For the purpose of this section, "Importation" means release from custody of the U.S. Bureau of Customs. "Cherry tomatoes" means cerasiform types commonly referred to as "cherry tomatoes." "Pear shaped tomatoes" means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top, and Roma varieties. "Hydroponic tomatoes" means tomatoes grown in solution without soil. "Greenhouse tomatoes" means tomatoes grown indoors. Measurement of the diameter of tomatoes shall be in accordance with the methods prescribed in the U.S. Standards for Grades of Fresh Tomatoes (§§ 51.1855 to 51.1877 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated October 4, 1972, to become effective October 15, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17340 Filed 10–10–72;8:49 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 410.1]

PART 1801—RECEIVING AND PROCESSING APPLICATIONS

Review Procedures; Correction

In F.R. Doc. 72–16155 published at page 20105 in the issue dated Tuesday, September 26, 1972, in the third paragraph on page 20105, beginning "As a result of these changes * * *" lines 4 and 5, and in § 1801.3(d), the subparagraphs numbered (6) and (7) should be renumbered as subparagraphs (5) and (6), respectively.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 510, 63 Stat. 437, 42 U.S.C. 1480; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Acting Secretary of Agriculture, 36 F.R. 21529; Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529; Order of Director, OEO, 29 F.R. 14764)

Dated: October 5, 1972.

JOSEPH H. LINSLEY,
Chief, Directives Management Branch, Farmers Home Administration.

[FR Doc.72–17352 Filed 10–10–72;8:51 am]

SUBCHAPTER E—ACCOUNT SERVICING

[AL–116(451)]

PART 1861—ROUTINE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

PART 1890n—SERVICING OF INTEREST CREDIT FOR SECTION 502rh BORROWERS

Account Servicing Policies

Section 1861.10 of Subpart A of Part 1861 is hereby redesignated as Part 1890n of this chapter.

The requirement of 5 U.S.C. 553 involve a delay in making available the assistance provided by this authority. Part 1890n, redesignated from § 1861.10 of this chapter, is amended to provide a new method for reviewing interest credits and instructions for servicing existing interest credit accounts. The review period for considering interest credits is lengthened to include October, November, and December, and the new method for reviewing interest credits in accordance with this part will begin October 1, 1972.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. See the Secretary of Agriculture's statement setting forth the policy on public participation in rule making 36 F.R. 13804, dated July 24, 1971. In accordance with the spirit of that policy, interested parties may submit written comments, suggestions, data, or arguments to the Office of the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250, within 30 days after the publication of this part. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, this Part 1890n as amended, shall be effective until it is further amended, in order to permit the public business to proceed expeditiously. The new Part 1890n reads as follows:

Sec.
1890n.1 Purpose.
1890n.2 Definitions.
1890n.3 Processing interest credits.
1890n.4 Determination of interest credits for existing loans.
1890n.5 Processing interest credit renewals.
1890n.6 Cancellation of existing credit agreements.
1890n.7 Liquidations of loans with interest credit agreements in effect.

AUTHORITY: The provisions of this Part 1890n issued under sec. 510, 63 Stat. 437, 42 U.S.C. 1480; order of Acting Secretary of Agriculture, 36 F.R. 21529; order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529.

§ 1890n.1 Purpose.

This part supplements Part 1822, Subpart A, and Part 1861, Subpart A of this chapter. This part outlines the policies and conditions under which interest credits will be allowed on section 502 Rural Housing (RH) loans.

§ 1890n.2 Definitions.

As used in this part:

(a) "Borrower" means an RH borrower who has a low or moderate income and is indebted for a section 502 insured loan that was approved on or after August 1, 1968.

(b) "Interest credit agreement" means an agreement between Farmers Home Administration (FHA) and the borrower executed on Form FHA 444–6, "Interest Credit Agreement (section 502 RH loans)" or Form FHA 444–A6, "Interest Credit Agreement (section 502 RH loans)," which provides for interest credits on his loan.

(c) "Review period" means only the months of October, November, and December.

(d) "Substantial change" means a change in a borrower's circumstances that warrants a review of his situation during the next review period. Such a change occurs when:

(1) Either his current family income has been significantly reduced by causes such as death, physical or mental impairment, or loss of employment; or his family size has increased; and

(2) As a result of subparagraph (1) of this paragraph, the annual interest credit to which he would be entitled has been increased by at least $100. "Substantial change" does not apply to circumstances that warrant cancellation of an agreement in accordance with § 1890n.6(a).

§ 1890n.3 Processing interest credits.

(a) Form FHA 444–6 and Form FHA 444–A6 will be prepared by County Offices as prescribed in the guide available in all FHA offices for preparation of these forms.

(b) The agreement will be effective for two installment years unless the borrower experiences a substantial change or the agreement is canceled in accordance with § 1890n.6.

(c) The signed original of Form FHA 444–6 should be received by the Finance Office at the same time as the promissory note for initial loans and Form FHA 444–A6 not later than December 31 of the calendar year for interest credit renewals.

(d) For borrowers who have an interest credit agreement in effect, the following changes will be shown on Form FHA 451–26, "Transaction Record," or

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Form FHA 451-31, "Borrower Transaction Record," prepared by the Finance Office.

(1) *Interest rate field.* The interest rate field will continue to show the interest rate on the note. The Finance Office will recompute the interest rate of the borrower's note to allow for the dollar amount provided for in the interest credit agreement. The computed rate, rounded to the nearest one-eighth of a percent, will be shown as a footnote on the form as "reduced interest rate." Subsequent transactions will be applied to the loan at the reduced interest rate by the Finance Office until such time as renewal or cancellation occurs.

(2) *Daily interest accrual field.* The daily interest accrual will be shown at the reduced interest rate, and interest will accrue at the same rate, until such time as renewal or cancellation occurs.

(3) *Application of credit field.* Since interest will accrue on the loan at the reduced interest rate, no amounts will be reflected in this field when the interest credit transaction is processed. The interest credit transaction code for this method of processing interest credits will be 4Z.

(4) *Payment status field.* The payment status field will not reflect the dollar amount of the interest credit.

(5) *Minimum amount due by date shown field.* The amount of the installment, reduced by the amount of interest credit reflected on the Forms FHA 444-6 or FHA 444-A6 will be shown.

(6) *Advance from insurance fund.* Interest on advance from insurance fund will be computed at net interest rate in effect at time of payment.

§ 1890n.4 Determination of interest credits for existing loans.

(a) Review of outstanding interest credit agreements expiring December 31 of the current calendar year. For a borrower in this category, a new interest credit agreement may be executed during the review period provided the following conditions can be met:

(1) The borrower meets the eligibility requirements outlined in § 1822.7(n)(1) of this chapter, except that the amount of a borrower's net worth will not be considered unless the County Supervisor has knowledge that the family's net worth has increased sufficiently to enable him to graduate to other sources of credit.

(2) Current and accurate information is obtained about the borrower's family income. Verification of income from salary or wages will be obtained by using Form FHA 410-5, "Request for Verification of Employment."

(3) None of the conditions outlined in § 1890n.6(a) exist.

(b) Substantial change or subsequent loan during first year of interest credit agreement. For a borrower who has experienced a "substantial change" as defined in § 1890n.2(d), or a borrower who has an interest credit agreement which will expire December 31 of the succeeding calendar year and receives a subsequent loan, not subject to an interest credit agreement, a new agreement may, at his request, be executed during the review period in accordance with the conditions outlined in paragraph (a) of this section. The old agreement will be canceled as of December 31 of the current calendar year.

(c) Execution of interest credit agreement by borrowers who do not now have such an agreement. For a borrower who does not now have an interest credit agreement because he was ineligible at the time of receiving his initial loan or because his agreement was canceled, but who is now eligible because of a "substantial change," a new agreement may, at his request, be executed during the review period in accordance with the conditions for borrowers receiving an initial loan.

§ 1890n.5 Processing interest credit renewals.

(a) During the first week of October, the Finance Office will mail to the County Offices a list of borrowers whose interest credit agreement is expiring. The Finance Office will simultaneously mail to the borrowers a package containing the following:

(1) A letter of explanation and instructions for completing the interest credit agreement;

(2) Form FHA 444-A6 (3 parts with carbon interleaved);

(3) Two copies of Form FHA 410-5. The County Office name and address will be preprinted in the space provided; and

(4) Three window envelopes to be used by the borrower in mailing interest credit agreements to the County Offices and for the employer to mail two copies of Form FHA 410-5 to the County Office.

(b) The interest credit agreement form will have the following information preprinted by the computer:

(1) Borrower's name and address,

(2) County Office name and address,

(3) Borrower's case number,

(4) Amount of loan and date of loan,

(5) Both annual note installment fields,

(6) Note installment if the loan was amortized at 1 percent interest note, and

(7) "Difference" field related to subparagraph (6) of this paragraph.

(c) Upon receipt of the "package" the borrower will give one copy of the Form FHA 410-5 to the employer of each member of the family who has income to be considered. A window envelope will be provided each employer to transmit the Form FHA 410-5 to the County Office. The borrower will also complete Part 2 of the interest credit agreement form leaving carbon intact), sign each copy of the form, and mail all copies to the County Office. After receiving the executed interest credit agreement from the borrower and Form FHA 410-5 from the employer, the County Supervisor will complete the interest credit agreement, and if the borrower is eligible for interest credits, the County Supervisor will send the original of the interest credit agreement to the Finance Office, retain one copy in the County Office, and return the other copy to the borrower. Borrowers not eligible to receive additional interest credits will be notified and informed of the amount of their revised payments. A new supplementary payment agreement will be obtained when needed.

(d) The Finance Office will send to the County Office, around November 30 and again on or about December 20, a list of borrowers for whom a renewal interest credit agreement has not been received. The County Office staff will place a checkmark in the last column to denote a borrower who is no longer eligible for interest credits. The original will be retained by the County Office and a copy returned to the Finance Office after noting any interest credits that will not be renewed. A renewal interest credit agreement for all other borrowers whose name appears on the list should be completed and mailed to the Finance Office by December 31.

§ 1890n.6 Cancellation of existing credit agreements.

(a) An existing interest credit agreement will be canceled whenever:

(1) The borrower ceases to occupy the housing, or

(2) Liquidation action is initiated against the borrower, or

(3) The borrower sells or conveys title to the property, or

(4) The borrower has had a substantial increase in income and is clearly able to repay the loan without interest credits, or

(5) The FHA loan will not be continued with the borrower and the borrower has never occupied the dwelling.

(b) The effective date of cancellation for subparagraphs (1) through (4) of paragraph (a) of this section will be the last day of the month in which the earliest action occurs which causes the cancellation. If the date cannot be determined, the date on which the County Supervisor became aware of the situation will be used. The effective date of cancellation for paragraph (a)(5) of this section will be the date of loan closing.

(c) The County Supervisor will determine the date of cancellation and notify the Finance Office. The Finance Office will process the cancellation and will accrue interest from the date of cancellation at the note rate of interest.

§ 1890n.7 Liquidations of loans with interest credit agreements in effect.

(a) When liquidation of a loan is started, the interest credit agreement will be canceled. The effective date of cancellation will be determined in accordance with § 1890n.6. Prompt notification to the Finance Office is extremely important. Any transaction affecting the borrower's account subsequent to cancellation will be incorrect if cancellation has not been completed by the Finance Office. In such cases the daily interest accrual from the effective date of cancellation of the interest credit agreement will be at the rate of interest.

(b) If the account is being liquidated, show type of action such as transfer, foreclosure, or sale of property.

(c) The notification of cancellation should show the date the borrower vacated the property.

Dated: October 4, 1972.

DARREL A. DUNN,
Associate Administrator,
Farmers Home Administration.

[FR Doc.72-17351 Filed 10-10-72;8:50 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Released From Quarantine

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a)(1) relating to the State of California, subdivision (i) relating to Orange, Ventura, Los Angeles, San Bernardino, and Riverside Counties is deleted, and new subdivisions (ii) relating to Ventura County; (iii) relating to Riverside and San Bernardino Counties; (iv) relating to Orange County; and (v) relating to Los Angeles County are added to read:

(1) *California.* (i) That portion of Ventura County bounded by a line beginning at the junction of the north bank of the Santa Clara River and the Pacific Ocean; thence, following the north bank of the Santa Clara River in a generally northeasterly direction to the Ventura-Los Angeles County line; thence, following the Ventura-Los Angeles County line in a southeasterly, then generally southwesterly direction to its junction with the Pacific Ocean; thence, following the Pacific Ocean shoreline in a generally northwesterly direction to its junction with the north bank of the Santa Clara River.

* * * * *

(iii) That portion of Riverside and San Bernardino Counties bounded by a line beginning at the junction of the Orange-Riverside-San Diego County lines; thence, following the Orange-Riverside County line in a generally northwesterly direction to the junction of the Orange-Riverside-San Bernardino County lines; thence, following the Orange-San Bernardino County line in a northwesterly direction to the junction of the Orange-San Bernardino-Los Angeles County lines; thence, following the Los Angeles-San Bernardino County line in a generally northerly direction to the dividing line between T. 3 N. and T. 2 N. of the San Bernardino base line; thence, following the dividing line between T. 3 N. and T. 2 N. in an easterly direction to the dividing line between R. 3 E. and R. 4 E. of the San Bernardino meridian in San Bernardino County; thence, following the dividing line between R. 3 E. and R. 4 E. in a southerly direction to the Riverside-San Diego County line; thence, following the Riverside-San Diego County line in a westerly, then northwesterly direction to the junction of the Riverside-San Diego-Orange County lines.

(iv) The following areas in Orange County:

(*a*) The premises of Gerald Gorman, at 5631 Lakeview Avenue, Yorba Linda.

(*b*) The premises of James New, 4490 Avenida Del Estates, Yorba Linda.

(v) The following areas in Los Angeles County.

(*a*) The premises of Ruth Clark, 15563 Denley, Hacienda Heights.

(*b*) The premises of Casa De Pets, 11814 Ventura Boulevard, Studio City.

(*c*) The premises of Bob Swoboda, 126 South Juanita, Redondo Beach.

(*d*) The premises of Ernest Welch, 8800 Paso Robles Avenue, Northridge.

(*e*) The premises of Luis Mandoza, 5019—134th Place, Hawthorne.

(*f*) The premises of Gross Egg Ranch, West Covina, Calif. in Los Angeles County, comprised of lots 34, 35, and 36 of the NW¼ of sec. 16.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Orange and Los Angeles Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 82.3. Further, the provisions of the regulations relating to movements from nonquarantined areas apply with respect to the dequarantined areas.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additonal relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant
Health Inspection Service.

[FR Doc.72-17295 Filed 10-10-72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-NW-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revise the description of the control area outside the continental control area associated with Jet Route No. 501. This amendment is necessary to accomplish compatibility between the control area description and the current jet route alinement.

Since this amendment is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (10-11-72), as hereinafter set forth.

In § 71.161 (37 F.R. 2047) Jet Route No. 501 is amended to read as follows:

Jet Route No. 501 from Oakland, Calif., to Anchorage, Alaska.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 3, 1972.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.72-17278 Filed 10-10-72;8:45 am]

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Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965-)

Subpart P—Certification and Recertification; Requests for Payment

TIME REQUIREMENTS FOR FILING

On July 13, 1971, there was published in the FEDERAL REGISTER (36 F.R. 13037) a notice of proposed rule making with proposed amendments to Subpart P of Regulations No. 5. The proposed amendments set forth the time limitations on filing requests and claims for payment under the programs for hospital insurance benefits and supplementary medical insurance benefits for the aged pursuant to title XVIII of the Social Security Act. The notice provided that the time limitations prescribed in §§ 405.1663(b), 405.1667(b), and 405.1692(b) would be made effective only with respect to requests for payment or claims for payment, as applicable, filed more than 6 months after the month in which the amendments are finally adopted and published in the FEDERAL REGISTER. Interested parties were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendments.

A comment has been received recommending that if a provider of services can demonstrate that circumstances beyond its control prevented it from meeting the time requirements for filing a claim for payment, an extension should be granted. This recommendation has not been adopted because it would prevent the Administration from ever closing its books for a year, as a time limit is designed to do. The proposed time limitations are ample and generous, by comparison with most similar limitations in business and government practice.

A comment has also been received recommending that paragraph (a) of § 405.1692 be amended to provide for an extension of time for filing a claim under this paragraph to correspond with extensions provided for other claims or requests for payment. This recommendation has not been adopted. The time limit in § 405.1692(a) for claiming payment under the supplementary medical insurance benefits plan (other than for benefits for emergency hospital services) is prescribed by section 1842(b) of the Social Security Act, which permits no leeway for any extensions.

No other comments, except for one which was favorable to the proposed amendments, were received. Accordingly, the amendments as proposed are hereby adopted, subject to the following changes:

1. In paragraph (a)(3) of § 405.1663 the word "claims" is changed to "claim."

2. In paragraph (b)(1)(iii) of § 405.1663, the word "any" is changed to "an."

3. New paragraphs (c) are added to §§ 405.1663, 405.1667, and 405.1692 to reflect the effective dates for the time limitations in the respective sections.

4. In paragraph (a) of § 405.1692, the word "lasts" is changed to "last."

(Secs. 1102, 1814, 1835, 1842, and 1871, 49 Stat. 647, as amended, 79 Stat. 294, 309, and 331, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 1302, 1395 et seq.)

Effective date. Except as otherwise noted in the text of the amendments, they shall be effective upon publication in the FEDERAL REGISTER (10-11-72).

Dated: September 12, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: October 3, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart P of Regulation No. 5 is amended as set forth below.

1. Section 405.1663 is revised to read as follows:

§ 405.1663 Individual's request for payment for services reimbursable on a reasonable cost basis.

(a) *General.* Except as provided in subparagraph (1), (2), or (3) of this paragraph or in § 405.1664, before payment may be made on behalf of an individual, a written request for payment must be executed by the individual or an authorized person acting on his behalf. The individual or the authorized person may do this by signing the request for payment statement on the form designated by the Social Security Administration (see § 405.1662) or any statement which evidences an intent to claim payment for authorized services. A participating provider of services, or the hospital which has elected to claim payment for emergency services, shall have the individual or an authorized person sign the request for payment before the claim is submitted for payment (see § 405.1667).

(1) In the case of inpatient hospital services (see §§ 405.116 and 405.152) a request for payment is not required for the second or subsequent claim submitted on behalf of such individual by the same participating provider of services (or hospital claiming payment for emergency services) with respect to the same continuous period of inpatient hospital services.

(2) In the case of home health services (see § 405.131 and 405.236), a request for payment is not required for the second or subsequent claim submitted on behalf of such individual by the same participating provider of services under the same home care plan (see §§ 405.131 and 405.236).

(3) In the case of posthospital extended care services (see § 405.125), a request for payment is not required for the second or subsequent claim submitted on behalf of such individual by the same participating provider of services with respect to the same continuous period of extended care services.

(b) *Time limitation on requesting payment.* (1) A request for payment for provider services which are reimbursable on a reasonable cost basis must be filed (preferably with the provider, otherwise with the Social Security Administration or one of its carriers or intermediaries) by or on behalf of the individual furnished such services on or before whichever of the following is latest:

(i) December 31 of the calendar year following the year in which the services were furnished. Services furnished in the last 3 months of a calendar year shall be deemed furnished in the succeeding calendar year.

(ii) The last day of the sixth calendar month following the month in which the individual is sent notice of his entitlement to hospital or supplementary medical insurance, whichever is required for payment.

(iii) The last day of the sixth calendar month following the month in which an error or fault of the Social Security Administration or one of its carriers or intermediaries is rectified, where such error or fault was the cause of the failure of the individual or person acting on his behalf to file a request for payment within the time limit in subdivision (i) or (ii) of this subparagraph, whichever is applicable. Where written notice to the individual or his representative is necessary in order to rectify the error or fault, the error or fault shall be considered rectified on the date such notice is sent.

(2) For purposes of this paragraph, the whole of a continuous period of inpatient services in a hospital, psychiatric hospital, or extended care facility will be considered to have been furnished on the last day such services were provided, or if earlier, on the last day of the individual's eligibility to have payment made for the services (including services furnished on lifetime reserve days—see § 405.110(a)).

(c) *Effective date.* The time limitation in paragraph (b) of this section shall be effective only with respect to requests for payment filed after April 1973.

2. Section 405.1667 is revised to read as follows:

§ 405.1667 Claim for payment by a provider of services or a hospital which has elected to claim payment for emergency services.

(a) *Submitting a claim.* A participating provider of services, or a hospital which has elected to claim payment for emergency services, shall submit claims for payment under the hospital insurance plan and the supplementary medical insurance plan to its designated intermediary or carrier or to the Social Security Administration, as appropriate. Such provider or hospital shall file an individual's request for payment (see § 405.1663) with its intermediary or carrier or with the Social Security Administration, as appropriate, prior to, or with, the submittal of the claim for payment for services furnished to the individual; except that, a provider or hospital which has entered into an arrangement to do so with its intermediary or carrier or with the Social Security Administration may retain an individual's request for payment as part of its files.

(b) *Time limitation on claiming payment.* A claim for payment for services furnished to a beneficiary must be filed on or before whichever of the following is the latest:

(1) The last day in which the beneficiary (or his representative) is permitted under § 405.1663(b) to file his request for payment.

(2) The last day of the sixth calendar month following the month in which the request for payment with respect to the services is filed by or on behalf of the individual. (For this purpose, where the request is filed with the Social Security Administration or one of its carriers or intermediaries, such request will be considered filed as of the date notice of the filing is sent to the provider.)

(3) The last day of the sixth calendar month following the month in which an error or fault of the Social Security Administration or one of its intermediaries or carriers is rectified, where such error or fault is the cause of the failure of the provider to file a claim for payment within the time limit in subparagraph (1) or (2) of this paragraph, whichever is applicable. Where written notice to the provider is necessary in order to rectify the error or fault, the error or fault shall be considered rectified on the date such notice is sent.

(c) *Effective date.* The time limitation in paragraph (b) of this section shall be effective only with respect to claims for payment filed after April 1973.

3. Section 405.1692 is revised to read as follows:

§ 405.1692 Time limitation for claiming benefits payable on a reasonable charge basis.

The time limit for claiming benefits payable on a reasonable charge basis are as follows:

(a) *Claim for payment for services other than emergency hospital services.* Effective with respect to claims submitted after April 1, 1968, a claim for payment under the supplementary medical insurance benefits plan (other than a claim for benefits for emergency hospital services (see paragraph (b) of this section)) submitted by, or on behalf of, any person(s) for the purpose of claiming payment on a reasonable charge basis, for covered services furnished an individual entitled under such plan, must be filed with the Social Security Administration, a carrier, or an intermediary on or before December 31 of the calendar year following the year in which such services were furnished. However, services furnished in the last 3 months of a calendar year shall be deemed furnished in the succeeding calendar year.

Example. An individual received surgery in August 1969. He (or the individual performing the surgery, if the right to claim payment has been assigned), must file a claim for payment for such services on or before December 31, 1970. If the surgery had been performed in November 1969, the claim must be filed on or before December 31, 1971.

(b) *Claim for payment for emergency hospital services.* (1) An individual's claim for payment under the hospital insurance or supplementary medical insurance benefits plan for covered emergency hospital services he has received from a nonparticipating hospital must be filed with the Social Security Administration, a carrier, or an intermediary on or before whichever of the following is the latest:

(i) December 31 of the calendar year following the year in which the services were furnished. Services furnished in the last 3 months of a calendar year shall be deemed furnished in the succeeding calendar year.

(ii) The last day of the sixth calendar month following the month in which the individual is sent notice of his entitlement to hospital or supplementary medical insurance, whichever is required for payment.

(iii) The last day of the sixth calendar month following the month in which an error or fault of the Social Security Administration or one of its carriers or intermediaries is rectified, where such error or fault is the cause of the failure of the individual or the person acting on his behalf to file a claim for payment within the time limit in subdivision (i) or (ii) of this subparagraph, as applicable. Where written notice to the individual or his representative is necessary in order to rectify the error or fault, the error or fault shall be considered rectified on the date such notice is sent.

(2) For purposes of this paragraph, the whole of a continuous period of inpatient hospital services will be considered to have been furnished on the date the services ended, or if earlier, on the last day of the individual's eligibility to have payment made for the services (including services furnished on lifetime reserve days—see § 405.110(a)).

(c) *Effective date.* The time limitation in paragraph (b) of this section shall be effective only with respect to claims for payment filed after April 1973.

4. Section 405.1694 is revised to read as follows:

§ 405.1694 Extension of time limitation.

Notwithstanding the provisions of § 405.1663(b), § 405.1667(b), or § 405.1692, where the last day of the time limitation falls on a nonworkday (Saturday, Sunday, legal holiday, or a day all or part of which is declared to be a nonworkday for Federal employees by statute or Executive order) a claim for payment will be considered filed timely if deposited in the U.S. Postal System or received by the Social Security Administration, a carrier, or an intermediary as applicable on the first workday thereafter.

[FR Doc.72-17308 Filed 10-10-72;8:48 am]

Chapter VI—Employment Standards Administration, Department of Labor

SUBCHAPTER B—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, AS AMENDED

PART 722—CRITERIA FOR DETERMINING WHETHER STATE WORKMEN'S COMPENSATION LAWS PROVIDE ADEQUATE COVERAGE FOR PNEUMOCONIOSIS AND LISTING OF APPROVED STATE LAWS

List of State Laws Found To Meet Criteria of Approval; Correction

In 37 F.R. Doc. 72-15148, dated September 7, 1972 (37 F.R. 18076), there was published as an amendment to Part 722 of Title 20, Code of Federal Regulations, a new section designated as § 722.401 and entitled *List of States' laws which meet the criteria for approval.*

Through typographical error, said section was numbered § 722.401. It should have been numbered § 722.104.

Signed at Washington, D.C., this 4th day of October 1972.

RICHARD J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-17344 Filed 10-10-72;8:49 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Ketamine Hydrochloride Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (43-304V) filed by Bristol Laboratories and a supplemental new animal drug application (45-290V) filed by Parke, Davis & Co., proposing to revise the conditions of use of ketamine hydrochloride injection used as an anesthetic for cats. The supplemental applications are approved.

For consistency, the addresses of the sponsors are being deleted from § 135b.28(c) and the firms are being identified by their code number as listed in § 135.501(c).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.28 by revising paragraph (c) and subparagraph (e)(2) to read as follows:

§ 135b.28 Ketamine hydrochloride injection, veterinary.

• • • • •

(c) *Sponsors.* (1) See code No. 044 in § 135.501(c) of this chapter.

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(2) See code No. 049 in § 135.501(c) of this chapter.

* * * * *

(e) *Conditions of use.* (1) It is used in cats for restraint or as the sole anesthetic agent in diagnostic or minor, brief surgical procedures that do not require skeletal muscle relaxation.

(2) It is administered intramuscularly at a recommended dose that ranges from 5 to 15 milligrams per pound of body weight depending on the effect desired.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–11–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 3, 1972.

FRED J. KINGMA,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17282 Filed 10–10–72;8:45 am]

Title 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Guidelines for Consideration of Economic, Social, and Environmental Effects

Section 1.32 of Title 23 of the Code of Federal Regulations provides in the last sentence that "Selected order and memorandums are contained in Appendix A to this part." On August 30, 1972, the Federal Highway Administration issued Instructional Memorandum 20–4–72 entitled "Guidelines for Consideration of Economic, Social, and Environmental Effects (PPM 20–8 Modification)."

Part 1 of Title 23 of the Code of Federal Regulations is amended by adding the following instructional memorandum at the end of Appendix A.

Issued on October 2, 1972.

R. R. BARTELSMEYER,
Acting Federal
Highway Administrator.

[Instructional Memorandum 20–4–72
HEV–20]

AUGUST 30, 1972.

GUIDELINES FOR CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL EFFECTS (PPM 20–8 MODIFICATION)

1. *Purpose.* a. This memorandum is issued to assure that:

(1) Possible adverse economic, social, and environmental effects relating to any proposed federally funded project on any Federal-aid highway system have been fully considered in developing such project.

(2) Final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and the costs of eliminating or minimizing adverse effects.

b. Policy and Procedure Memorandum 20–8, issued January 14, 1969, provided guidance for the consideration of social, economic, and environmental effects in the design and location of highways. This instructional memorandum supersedes the list of effects in paragraph 4.c. of PPM 20–8 by consolidating it with the effects listed in 23 U.S.C. 109(h). It also sets forth reporting procedures to assure that the general types of consequences that may be expected from construction of the proposed highway improvement are being considered with respect to costs, gains, and losses.

2. *Authority.* Sections 135(a), 135(b) and 136(b) of the Federal-Aid Highway Act of 1970; 23 U.S.C. 109(h), 128(a) and 128(b).

3. *Application.* This memorandum applies to proposed projects which have not received PS&E (plans, specifications, and estimates) approval as of the effective date of this memorandum. These guidelines do not apply to projects which are already in various stages of physical construction or are exempt under the emergency provisions of paragraph 3.c. of PPM 20–8.

4. *Procedures.* a. As of the effective date of this memorandum, projects which have received design approval (as defined in PPM 90–1), may receive PS&E approval, if otherwise satisfactory, on the basis of past State highway department submissions which identify and document the economic, social, and environmental effects previously considered with respect to these advanced projects, together with a supplemental report, if necessary, covering the consideration and disposition of the items not previously covered and now listed herein in paragraph 4.b. The supplemental report shall be prepared by the State and submitted to the division engineer not later than the time of submission of PS&E documents for the next Federal-aid improvement of the highway section. This supplemental documentation may take the form of statements in the program submission (PR–1 or PR–9 forms and attachments), relative to the overall proposal being advanced, unless the division engineer determines that a more detailed report is warranted.

b. After the effective date of this memorandum, a State highway department request for location and design approval, as required under PPM 20–8, shall be accompanied by reports and other documents showing that the development of the project has taken into consideration the need for fast, safe, and efficient transportation together with highway costs, traffic benefits, and public services including provisions of national defense; and which discuss the anticipated economic, social, and environmental effects of the proposal and alternatives under consideration, to the extent applicable, on the following:

(1) "Regional and community growth" including general plans and proposed land use, total transportation requirements, and status of the planning process.

(2) "Conservation and preservation" including soil erosion and sedimentation, the general ecology of the area as well as man-made and other natural resources, such as: Park and recreational facilities, wildlife and waterfowl areas, historic and natural landmarks.

(3) "Public facilities and services" including religious, health and educational facilities; and public utilities, fire protection, and other emergency services.

(4) "Community cohesion" including residential and neighborhood character and stability, highway impacts on minority and other specific groups and interests, and effects on local tax base and property values.

(5) "Displacement of people, businesses, and farms" including relocation assistance, availability of adequate replacement housing, economic activity (employment gains and losses, etc.).

(6) "Air, noise, and water pollution" including consistency with approved air quality implementation plans, FHWA noise level standards (as required under PPM 90–2), and any relevant Federal or State water quality standards.

(7) "Aesthetic and other values" including visual quality, such as: "View of the road" and "view from the road," and the joint development and multiple use of space.

c. In addition to coverage of the significant differences and reasons supporting the alternative locations and designs, discussions of the above items and other economic, social, and environmental effects, which were raised during public hearings or which were otherwise considered, shall include: (1) Identification of the adverse effects, (2) appropriate measures to eliminate or minimize the adverse effects, (3) the estimated costs (expressed in either monetary, numerical or qualitative terms) of the meaaures considered.

d. The degree of analysis of the items may vary, depending upon the scope and the nature of project, the stage of project development, and the extent of the adverse effect.

e. Where material required by this memorandum has been previously submitted pursuant to other requirements, such as those in PPM's 20–8 or 90–1, the State highway department may either resubmit such material or make reference to it.

5. *Effective date.* The effective date of this memorandum is September 29, 1972.

[FR Doc.72–17317 Filed 10–10–72;8:50 am]

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Process Guidelines (Economic, Social, and Environmental Effects on Highway Projects)

Section 1.32 of Title 23 of the Code of Federal Regulations provides in the last sentence that "Selected orders and memorandums are contained in Appendix A to this part." On September 21, 1972, the Federal Highway Administration issued Policy and Procedure Memorandum 90–4 entitled "Process Guidelines (Economic, Social, and Environmental Effects on Highway Projects)."

This memorandum implements section 136(b) of the Federal-Aid Highway Act of 1970 (23 U.S.C. 109(h)).

Part 1 of Title 23 of the Code of Federal Regulations is amended by adding the following policy and procedure memorandum at the end of Appendix A.

Issued on October 2, 1972.

R. R. BARTELSMEYER,
Acting Federal
Highway Administrator.

[Policy and Procedure Memorandum 90–4;
Transmittal 259]

PROCESS GUIDELINES (ECONOMIC, SOCIAL, AND ENVIRONMENTAL EFFECTS ON HIGHWAY PROJECTS)

PAR.
1. Purpose.
2. Authority.
3. Definitions.
4. Policy.
5. Application.
6. Procedures.
7. Implementation and Revision.

PAR.
8. Contents of the Action Plan.
9. Identification of Social, Economic, and Environmental Effects.
10. Consideration of Alternative Courses of Action.
11. Involvement of Other Agencies and the Public.
12. Systematic Interdisciplinary Approach.
13. Decisionmaking Process.
14. Interrelation of System and Project Decisions.
15. Levels of Action by Project Category.
16. Responsibility for Implementation.
17. Fiscal and Other Resources.
18. Consistency with Existing Laws and Directives.

1. *Purpose.* To provide to Highway Agencies and Federal Highway Administration (FHWA) field offices guidelines for the development of Action Plans to assure that adequate consideration is given to possible social, economic, and environmental effects of proposed highway projects and that the decisions on such projects are made in the best overall public interest. These guidelines identify issues to be considered in reviewing the present organization and processes of a Highway Agency as they relate to social, economic, and environmental considerations, and in developing desirable improvements. The guidelines recognize the unique situation of each State and do not prescribe specific organizations or procedures.

2. *Authority.* Section 109(h), title 23, United States Code, directs the following: "(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

(1) Air, noise, and water pollution;

(2) Destruction or disruption of manmade and natural resources, esthetic values, community cohesion and the availability of public facilities and services;

(3) Adverse employment effects, and tax and property value losses;

(4) Injurious displacement of people, businesses and farms; and

(5) Disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications and estimates are approved by the Secretary after the issuance of such guidelines."

3. *Definitions.* a. *Highway agency.*—The State highway department or State department of transportation with the primary responsibility for initiating and carrying forward the planning, design, and construction of Federal-aid highway projects.

b. *Human environment.*—The aggregate of all external conditions and influences (esthetic, ecological, biological, cultural, social, economic, historical, etc.) that affect the lives of humans.

c. *Environmental effects.*—The totality of the effects of a highway project on the human and natural environment.

d. *A–95 clearinghouse.*—Those agencies and offices in States, metropolitan areas, and multi-State regions which perform the coordination functions called for in Office of Management and Budget (OMB) Circular A–95.

e. The following definitions are provided solely to clarify the terms "system planning," "location," and "design" as they are used in these guidelines. A highway agency may choose to use different definitions in responding to these guidelines. If not stated otherwise, the following definitions will be assumed to be applicable:

(1) *System Planning*—Regional analysis of transportation needs and the identification of transportation corridors.

(2) *Location*—From the end of system planning through location approval.

(3) *Design*—From location approval through the approval of plans, specifications, and estimates.

4. *Policy.* a. It is the FHWA's policy that full consideration shall be given to economic, social, and environmental effects in the development of proposed Federal-aid projects, that provisions for insuring such consideration shall be incorporated in the decisionmaking process, and that decisions on such projects shall be made in the best overall public interest, taking into consideration the need for fast, safe, and efficient transportation, public services, and the costs of eliminating or minimizing possible adverse economic, social, and environmental effects.

b. The process by which decisions are reached should be such as to merit public confidence in the Highway Agency. To achieve this objective, it is the FHWA's policy that:

(1) Economic, social, and environmental effects be identified and studied early enough to permit analysis and consideration while alternatives are being formulated and evaluated.

(2) Other agencies and the public be involved in project development early enough to influence technical studies and final decisions.

(3) Appropriate consideration be given to reasonable alternatives, including the alternative of not building the project and alternative modes.

5. *Application.* These guidelines apply to State Highway Agencies that propose projects for which plans, specifications, and estimates are approved by the FHWA. Other agencies forwarding projects for the approval of the FHWA need not develop the "Action Plan" specified herein, but shall be guided by the stated principles in the development of such Federal-aid highway projects.

6. *Procedures.* a. To meet the requirements of these guidelines, each Highway Agency shall develop an Action Plan which describes the organization to be utilized and the processes to be followed in the development of Federal-aid highway projects from initial system planning through design.

b. The Action Plan should be consistent with the requirements of PPM's 20–8, 90–1, and of other applicable directives.

c. Involvement of other Federal, State, and local agencies, including A–95 Clearinghouses, and, where appropriate, agencies responsible for transportation planning in accordance with PPM 50–9, officials, and interested groups should be sought throughout the development stages of the Action Plan. Comments on the proposed Action Plan should be solicited from these agencies, groups, and individuals, and the Plan forwarded to the FHWA should include a summary of comments on the Plan (including the sources of such comments) and the State's disposition of them.

d. The FHWA, through its division and regional offices, will consult with the State in the development of the Action Plan and, within the limits of its resources, will be prepared to assist or advise.

e. The Action Plan shall be submitted to the Governor of the State for review and approval as a means of obtaining a high degree of interagency and intergovernmental coordination. Approval by the Governor may occur prior to submittal of the Action Plan to the FHWA, or, if desired by the State, may occur concurrently with FHWA approval.

f. The Action Plan shall be submitted to the FHWA not later than June 15, 1973, for approval. The FHWA will not give location approval on projects after November 1, 1973, unless the Action Plan has been approved.

7. *Implementation and revision.* a. The FHWA may review the States' implementation of their Action Plans at appropriate intervals. The FHWA may withhold location approvals, or such other project approvals as it deems appropriate, if the Action Plan is not being followed.

b. The Action Plan shall be implemented as quickly as feasible. A program of staged implementation for the period up to November 1, 1974, shall be developed and described in the Action Plan. It is expected that all aspects of the Action Plan will be implemented by this date. If the Highway Agency believes that any provision in its Action Plan cannot be implemented prior to November 1, 1974, it shall present a schedule for the implementation of such provisions to the FHWA, which will consider the proposed schedule on a case-by-case basis.

c. If the schedule for implementation set forth in an approved Action Plan is not met, the FHWA may withhold location approvals or such other project approvals as it deems appropriate.

d. The Action Plan may be revised by the Highway Agency. Major revisions will be reviewed and approved by the FHWA by the same process as for the initial Action Plan.

8. *Contents of the action plan.* a. The Action Plan shall indicate the procedures to be followed in developing highway projects, including organizational structure and assignments of responsibility by the chief administrative officer of the Highway Agency to positions or units within the Agency. Where participation of other agencies or consultants will be utilized, this should be so indicated. The topics to be covered by the Action Plan are outlined in the following paragraphs of this PPM.

b. The Action Plan should describe the procedures followed in developing the Action Plan and the steps taken to involve other agencies and the public during development of the Plan.

9. *Identification of social, economic, and environmental effects.* a. Identification of potential social, economic, and environmental effects, both beneficial and adverse, of alternative courses of action should be made as early in the study process as feasible, in accordance with PPM's 90–1 and 20–8 and IM 20–4–72. Timely information on such effects should be produced so that the development and consideration of alternatives and studies can be influenced accordingly. Further, the costs, financial and otherwise, of eliminating or minimizing possible adverse social, economic, and environmental effects should be determined.

b. The Action Plan should identify:

(1) The assignment of responsibility for:

(a) Providing information on social, economic, and environmental effects of alternative courses of action during system planning, location, and design stages.

(b) Controlling the technical quality of social, economic, and environmental studies.

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(c) Monitoring current social, economic, and environmental research; monitoring environmental effects of completed projects, where appropriate; and disseminating "state-of-the-art" information within the agency.

(2) Procedures to be followed to insure that timely information on social, economic, and environmental effects:

(a) Is developed in parallel with alternatives and related engineering data, so that the development and selection of alternatives and other elements of technical studies can be influenced appropriately.

(b) Indicates the manner and extent to which specific groups and interests are beneficially and/or adversely affected by alternative proposed highway improvements.

(c) Is made available to other agencies and to the public early in studies.

(d) Is developed with participation of staffs of local agencies and interested citizens.

(e) Is developed sufficiently to allow for the estimation of costs, financial or otherwise, of eliminating or minimizing identified adverse effects.

10. *Consideration of alternative courses of action.* a. Alternatives considered should include, where appropriate, alternative types and scales of highway improvements and other transportation modes. The option of no highway improvement should be considered and used as a reference point for determining the beneficial and adverse effects of other alternatives. Appropriate alternatives which might minimize or avoid adverse social, economic, or environmental effects should be studied and described, particularly in terms of impacts upon specific groups and in relationship to 42 U.S.C. 2000d–2000d–4 (title VI of the Civil Rights Act 1964) and 41 U.S.C. 3601–3619 (title VIII of the Civil Rights Act of 1968). The key tradeoffs among the alternatives should be presented.

b. The Action Plan should identify the assignment of responsibility and the procedures to be followed to insure that:

(1) The consequences of the no-highway-improvement option are set forth, with data of a level of completeness and of detail consistent with that developed for other alternatives.

(2) A range of alternatives appropriate to the stage is considered at each stage from system studies through final design.

(3) The development of new transportation modes or the improvement of other modes are adequately considered, where appropriate.

(4) Nontransportation components, such as replacement housing, joint development, multiple use of rights-of-way, etc., are in coordination with transportation components.

(5) Suggestions from outside the Agency are given careful consideration.

11. *Involvement of other agencies and the public.* a. The President has directed Federal agencies to "develop procedures to insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties" (Executive Order 11514). Policy and Procedure Memorandum 20–8 contains similar provisions. Interested parties should have adequate opportunities to express their views early enough in the study process to influence the course of studies, as well as the actions taken. Information about the existence, status, and results of studies should be made available to the public throughout those studies. The required public hearings (PPM 20–8) should be only one component of the agency's program to obtain public involvement.

b. The Action Plan should identify the assignment of responsibility and procedures to be followed:

(1) To insure that information is made available to other agencies and the public throughout the duration of project studies, and that such information is as clear and comprehensible as practicable concerning:

(a) The alternatives being considered.

(b) The effects of alternatives, both beneficial and adverse, and the manner and extent to which specific groups are affected.

(c) Right-of-way and relocation assistance programs and relocation plans.

(d) The proposed time schedule of project development, including major points of public interest.

(2) To insure that interested parties, including local governments and metropolitan, regional, State and Federal agencies, and the public have an opportunity to participate in an open exchange of views throughout the stages of project development.

(3) To select and coordinate procedures, in addition to formal public hearings, to be used to inform and involve the public.

(4) To utilize appropriate agencies with areawide responsibilities to assist in the coordination of viewpoints during project development.

(5) To involve appropriately the organization which is officially established in urbanized areas of over 50,000 population to conduct continuing, comprehensive, cooperative transportation planning (consistent with PPM 50–9 and IM 50–3–71).

12. *Systematic interdisciplinary approach.* a. United States Code, title 42, section 4332 (National Environmental Policy Act, 1969) requires that agencies use "a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment."

b. The Action Plan should indicate procedural arrangements or assignments of responsibilities which will be necessary to meet this requirement, including:

(1) The organization and staffing of interdisciplinary project groups which are systematic and interdisciplinary in approach, including the possible use of consultants and representatives of other State or local agencies.

(2) Recruitment and training of personnel with skills which are appropriate to add on a full-time basis, and the development of appropriate career patterns, including management opportunities.

(3) Additional training for present personnel to enhance their capabilities to work effectively in an interdisciplinary environment.

13. *Decisionmaking process.* a. The process of reaching various decisions on highway improvement projects should be reviewed to assure that it provides for the appropriate consideration of all economic, social, environmental, and transportation factors as required by these guidelines.

b. The Action Plan should identify:

(1) The processes through which other State and local agencies, government officials, and private groups may contribute to reaching decisions, and the authority, if any, which other agencies or government officials can exercise over decisions.

(2) Different decision processes, if any, for various categories of projects (e.g., Interstate, Primary, Secondary, TOPICS) and for various geographic regions of the State (e.g., in various urban and rural regions) to reflect local differences in the nature of potential environmental effects or in the structure of local governments and institutions.

(3) The processes to be used to obtain participation in decisions by officials of appropriate agencies in other States for those situations in which the potential social, economic, and environmental effects are of interstate concern.

14. *Interrelation of system and project decisions.* a. Many significant economic, social, and environmental effects of a proposed project are difficult to anticipate at the system planning stage and become clear only during location and design studies. Conversely many significant environmental effects of a proposed project are set at the system's planning stage. Decisions at the system and project stages shall be made with consideration of their social, economic, environmental, and transportation effects to the extent possible at each stage.

b. The Action Plan should identify:

(1) Procedures to be followed to:

(a) Insure that potential social, economic, and environmental effects are identified insofar as practicable in system planning studies as well as in later stages of location and design.

(b) Provide for reconsideration of earlier decisions which may be occasioned by results of further study, the availability of additional information, or the passage of time between decisions.

(2) Assignment of responsibility for insuring that project studies are effectively coordinated with system planning on a continuing basis.

15. *Levels of action by project category.* a. A Highway Agency may develop different procedures to be followed depending upon the economic, social, environmental, or transportation significance of the highway section to be developed. Different procedures may also be adopted for various categories of projects, such as TOPICS, new route locations, or secondary roads, and for various regions of the State, such as urban areas or zones of particular environmental significance.

b. The Action Plan should identify:

(1) The categories which the Highway Agency will use to distinguish the different degrees of effort which under normal circumstances will be devoted to various types of projects.

(2) Assignment of responsibility for determining, initially and in periodic reviews, the category of each ongoing highway project.

(3) Procedures to be followed for each category (including identification of impacts, public involvement, decision process, and other issues covered in these guidelines).

16. *Responsibility for implementation.* Assignment of responsibility for implementation of the Action Plan should be identified.

17. *Fiscal and other resources.* a. An important component of the Action Plan is identification of resources of the Highway Agency and of other agencies required to perform the identified procedures and execute the assigned responsibilities.

b. The Action Plan should identify:

(1) The resources of the Highway Agency (in terms of personnel and funding) that will be utilized in implementing and carrying out the Action Plan.

(2) Resources that are available in other agencies to provide necessary information on social, economic, and environmental effects.

(3) Programs for the addition of trained personnel or fiscal or other resources to either the Highway Agency itself or other agencies.

18. *Consistency with existing laws and directives.* The Highway Agency should identify and report, either in the Action Plan or otherwise, areas where existing Federal and State laws and administrative directives prevent or hamper full compliance with these guidelines. Where appropriate, recommendations and proposed actions to overcome such difficulties should be described.

[FR Doc.72-17290 Filed 10-10-72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Alabama	Coffee	Elba	I 01 031 1010 01 through I 01 031 1010 04	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, AL 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36101.	City Hall, Elba, Ala. 36323. Coffee County Courthouse, Elba, Ala. 36323.	Oct. 13, 1971. Emergency. Oct. 6, 1972. Regular.
Connecticut	Hartford	Avon				Oct. 6, 1972. Emergency.
Do.	New Haven	West Haven				Do.
Florida	Collier	Everglades	I 12 021 0070 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Office of the City Clerk, City of Everglades, Everglades, Fla. 33929.	July 18, 1970. Emergency. Oct. 6, 1972. Regular.
Do.	St. Johns	St. Augustine	I 12 109 2690 03	do.	Office of the City Manager, City of St. Augustine, St. Augustine, Fla. 32084.	Sept. 25, 1970. Emergency. Oct. 6, 1972. Regular.
Do.	Broward	Margate				Oct. 6, 1972. Emergency.
Massachusetts	Essex	Newbury				Do.
Do.	do.	Newburyport				Do.
Minnesota	Wright	Unincorporated areas.				Do.
New Jersey	Middlesex	Edison Township.				Do.
Do.	Bergen	Old Tappan				Do.
North Carolina	Beaufort	Washington				Do.
Pennsylvania	Bucks	Hilltown Township.				Do.
Do.	do.	Middletown Township.				Do.
Do.	Cambria	Lower Yoder Township.				Do.
Do.	Lancaster	Lititz Borough				Do.
Do.	Luzerne	Kingston Borough.				Do.
Do.	York	York				Do.
Rhode Island	Providence	North Providence				Do.
Texas	Bexar	Alamo Heights				Do.
Do.	Hidalgo	Unincorporated areas.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 2, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-17235 Filed 10-10-72;8:45 am]

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PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Coffee	Elba	H 01 031 1010 01 through H 01 031 1010 04	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, AL 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36101.	City Hall, Elba, Ala. 36323. Coffee County Courthouse, Elba, Ala. 36323.	Oct. 13, 1971.
Connecticut	Hartford	Avon				Oct. 6, 1972.
Do.	New Haven	West Haven				Do.
Florida	Collier	Everglades	H 12 021 0170 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32301.	Office of the City Clerk, City of Everglades, Everglades, Fla. 33929.	July 18, 1970.
Do.	St. Johns	St. Augustine	H 12 109 2690 03	do	Office of the City Manager, City of St. Augustine, St. Augustine, Fla. 32084.	Sept. 25, 1970.
Do.	Broward	Margate				Oct. 6, 1972.
Massachusetts	Essex	Newbury				Do.
Do.	do	Newburyport				Do.
Minnesota	Wright	Unincorporated areas.				Do.
New Jersey	Middlesex	Edison Township				Oct. 6, 1972. Emergency.
Do.	Bergen	Old Tappan				Do.
North Carolina	Beaufort	Washington				Do.
Pennsylvania	Bucks	Hilltown Township.				Do.
Do.	do	Middletown Township.				Do.
Do.	Cambria	Lower Yoder Township.				Do.
Do.	Lancaster	Lititz Borough				Do.
Do.	Luzerne	Kingston Borough.				Do.
Do.	York	York				Do.
Rhode Island	Providence	North Providence				Do.
Texas	Bexar	Alamo Heights				Do.
Do.	Hidalgo	Unincorporated areas.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 2, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-17236 Filed 10-10-72;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7211]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Controlled Foreign Corporations Not Availed of To Reduce Taxes

On April 1, 1972, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under section 954(b)(4) of the Internal Revenue Code of 1954 (relating to exception for foreign corporations not availed of to reduce taxes) to conform the regulations to changes made by section 909 of the Tax Reform Act of 1969 (83 Stat. 718) was published in the FEDERAL REGISTER (37 F.R. 6688). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted without change.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 4, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 954(b)(4) of the Internal Revenue Code of 1954, relating to exception for foreign corporations not availed of to reduce taxes, to section 909 of the Tax Reform Act of 1969 (83 Stat. 718), such regulations are amended as follows:

PARAGRAPH 1. Section 1.954 is amended by revising section 954(b)(4) and the historical note to read as follows:

§ 1.954 Statutory provisions; foreign base company income.

SEC. 954. *Foreign base company income.* • • •

(b) *Exclusions and special rules.* • • •

(4) *Exception for foreign corporations not availed of to reduce taxes.* For purposes of subsection (a), foreign base company income does not include any item of income received by a controlled foreign corporation if it is established to the satisfaction of the Secretary or his delegate that neither—

(A) The creation or organization of such controlled foreign corporation under the laws of the foreign country in which it is incorporated (or, in the case of a controlled foreign corporation which is an acquired corporation, the acquisition of such corporation created or organized under the laws of the foreign country in which it is incorporated), nor

(B) The effecting of the transaction giving rise to such income through the controlled foreign corporation,

has as one of its significant purposes a substantial reduction of income, war profits, or excess profits or similar taxes.

• • • • • •

[Sec. 954 as added by sec. 12(a), Rev. Act 1962 (76 Stat. 1006); as amended by sec. 909, Tax Reform Act 1969 (83 Stat. 718)]

PAR. 2. Section 1.954–1(b) is amended by revising the heading and subdivision (i) of subparagraph (3) and by adding a new subparagraph (4). These amended and added provisions read as follows:

§ 1.954–1 Foreign base company income.

• • • • • •

(b) *Exclusions from foreign base company income.* • • •

(3) *Income of controlled foreign corporations not availed of to substantially reduce income or similar taxes; taxable years ending on or before October 9, 1969*—(i) *General rule.* Foreign base company income does not include any item of gross income if it is established to the satisfaction of the district director that the creation or organization of the controlled foreign corporation receiving such item of gross income does not have the effect of substantially reducing income, war profits, excess profits, or similar taxes with respect to such item. See section 954(b)(4). For taxable years ending after October 9, 1969, see also subparagraph (4) of this paragraph.

• • • • • •

(4) *Income of controlled foreign corporations not availed of to substantially reduce income or similar taxes; taxable years ending after October 9, 1969*—(i) *General rule.* Foreign base company income of a controlled foreign corporation for any taxable year ending after October 9, 1969, does not include any item of gross income received or accrued by such corporation during such year if it is established that both (*a*) the creation or organization of such corporation under the laws of the foreign country or possession of the United States in which it is incorporated, and (*b*) the effecting through such corporation of the transaction which gives rise to such income did not have as a significant purpose a substantial reduction of income, war profits, excess profits, or similar taxes. If the controlled foreign corporation receives or accrues an item of income in respect of which there has been no substantial reduction for the taxable year of income, war profits, excess profits, or similar taxes, it may, without reference to (*a*) or (*b*) of this subdivision, be excluded from foreign base company income under section 954(b)(4) and this subparagraph. On the other hand, if the controlled foreign corporation receives or accrues an item of income in respect of which there has been a substantial reduction for the taxable year of income, war profits, excess profits, or similar taxes, it may not be excluded from foreign base company income under section 954(b)(4) and this subparagraph if there is a failure to satisfy the requirements of either (*a*) or (*b*) of this subdivision. If it is established that the creation or organization of such corporation under the laws of the foreign country or possession of the United States in which it is incorporated did not have as one of its significant purposes a substantial reduction of income, war profits, excess profits, or similar taxes, then only that income may be excluded for the taxable year in respect of which it is established that the effecting through such corporation of the transaction giving rise to such income did not have as one of its significant purposes a substantial reduction of income, war profits, excess profits, or similar taxes. If with respect to the U.S. shareholder the foreign corporation became a controlled foreign corporation by reason of the acquisition of its stock, rather than by reason of its creation or organization under the laws of the foreign country or possession of the United States in which it is incorporated, it must be established, for purposes of (*a*) of this subdivision, that the acquisition of such corporation did not have as one of its significant purposes a substantial reduction of income, war profits, excess profits, or similar taxes.

(ii) *Substantial reduction of income taxes.* For purposes of this subparagraph, a determination as to whether there has been a substantial reduction of income, war profits, excess profits, or similar taxes with respect to an—

(*a*) Item of foreign personal holding company income described in § 1.954–2 shall be made by applying the principles of subparagraph (3)(ii) of this paragraph, or

(*b*) Item of foreign base company sales income described in § 1.954–3 or an item of foreign base company services income described in § 1.954–4 shall be made by applying the principles of subparagraph (3) (iii) and (iv) of this paragraph.

For illustrations of cases in which for purposes of this subparagraph it may be determined whether or not there has been a substantial reduction of income, war profits, excess profits, or similar taxes with respect to an item of income, see the examples in subparagraph (3)(viii) of this paragraph.

(iii) *Significant purpose defined.* For purposes of this subparagraph, to be significant a purpose must be important, but it is not necessary that it be the principal purpose or the purpose of first importance.

(iv) *Application of significant purpose test.* For purposes of determining whether the creation or organization of a controlled foreign corporation in a particular foreign country or possession of the United States, or whether the acquisition of a controlled foreign corporation in that country or possession, or whether the effecting of the income-producing transaction through that corporation had as one of its significant purposes a substantial reduction of income, war profits, excess profits, or similar taxes, all the facts and circumstances involved will be taken into account. Among the factors to be considered are the various purposes for the action; the type of business carried on, or to be carried on, by the controlled foreign corporation; the classes of income derived, or to be derived, by such corporation; the frequency with which the particular item of income is derived; the effective rate of tax imposed on such income; the place in which the income-producing transaction occurs or the source of such income; and the location of the persons purchasing the corporation's goods or services. Generally, if the income-producing activity carried on by a controlled foreign corporation takes place within the foreign country or possession of the United States in which the corporation is created or organized, the creation or organization of the corporation in that country or possession will not be considered to have as a significant purpose a substantial reduction of income, war profits, excess profits, or similar taxes.

(v) *Manner of demonstrating lack of tax reduction purpose.* It is the U.S. shareholder's responsibility, in accordance with § 1.964–3 and paragraph (d)(6) of § 1.964–4, to provide the district director with books or records sufficient to verify the gross income excluded from foreign base company income under section 954(b)(4) and this subparagraph. However, if the U.S. shareholder of a controlled foreign corporation desires to establish in respect of a proposed transaction that neither the creation or organization (or acquisition) of such corporation under the laws of the foreign country or possession of the United States in which it is incorporated nor the effecting through such corporation of the transaction giving rise to an item or items of income has as one of its significant purposes a substantial reduction of income, war profits, excess profits, or similar taxes, he may forward a statement setting forth sufficient facts and circumstances to the Commissioner of Internal Revenue, Attention: Income Tax Division, Washington, D.C. 20224, for a ruling. Where the Commissioner determines that a ruling is appropriate, a letter setting forth the Commissioner's determination will be mailed to the taxpayer. If the Commissioner determines that, upon the basis of the facts presented, the exclusion of section 954(b)(4) and this subparagraph applies to the income involved, the taxpayer should retain a copy of the Commissioner's letter as authority for excluding such income from foreign base company income for the taxable year.

(vi) *Other applicable rules.* The principles of subparagraph (3)(vi) of this paragraph, relating to the effect of the exclusion under section 954(b)(4) upon other amounts, and subparagraph (3)(vii) of this paragraph, relating to a branch treated as a separate wholly owned subsidiary corporation, apply for purposes of this subparagraph.

(vii) *Illustration.* The application of this subparagraph may be illustrated by the following example:

Example. A controlled foreign corporation is incorporated under the laws of a foreign

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country. In the past the controlled foreign corporation has organized a number of other corporations in that country to operate radio and television stations there. The purpose of establishing these other corporations was to form a centrally managed radio and television network. The controlled foreign corporation's stock interest in these other corporations ranges from 10 percent to 100 percent. By reason of its stock interests and for other financial or technical reasons, the controlled foreign corporation has exercised effective practical control over the other corporations. The controlled foreign corporation also has conducted several businesses in the foreign country for a number of years which are related to the communications network it has been attempting to establish. In 1969, the communications agency of the foreign country changes its policy and rules that foreign corporations may not own more than 10 percent of the stock of local communications corporations. Since the controlled foreign corporation is more than 50 percent owned by U.S. persons, it is treated by the communications agency of the foreign country as being subject to this new rule. Because of this policy change, the controlled foreign corporation sells all its shares of stock in the radio and television corporations in the foreign country and realizes capital gains on the sales which are not taxed by the foreign country. Under this subparagraph, these gains are excluded from foreign base company income, since the controlled foreign corporation was organized in the foreign country to actively engage in business in that country and because the acquisition and the sale of the stock of the radio and television corporations by the controlled foreign corporation (rather than by its parent corporation or an affiliated corporation) did not have as one of its significant purposes a substantial reduction of income or similar taxes.

* * * * * * *

PAR. 3. Section 1.964–4 is amended by revising paragraph (d)(6) to read as follows:

§ 1.964–4 Verification of certain classes of income.

* * * * * * *

(d) *Foreign base company income and exclusions therefrom.* * * *

(6) *Income on which taxes are not substantially reduced.* The gross income excluded from foreign base company income under section 954(b)(4) and paragraph (b)(3) or (4) of § 1.954–1 in the case of a controlled foreign corporation not availed of to substantially reduce income taxes, the income or similar taxes incurred with respect thereto, and all other factors necessary to verify the application of such exclusion.

* * * * * * *

[FR Doc.72–17310 Filed 10–5–72;12:48 pm]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Certain National Wildlife Refuges in Nevada; Correction

In F.R. Doc. 72–12528, Volume 37, No. 155, dated Thursday, August 10, 1972, on page 16085, "Sheldon National Antelope Refuge" should be amended to read "Charles Sheldon Antelope Range."

JOHN D. FINDLAY,
Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 29, 1972.

[FR Doc.72–17288 Filed 10–10–72;8:46 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

WAIVER OF RETIREMENT BENEFITS

On page 16881 of the FEDERAL REGISTER of August 22, 1972, there was published a notice of proposed regulatory development to issue a regulation concerning waiver of retirement benefits. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written objections have been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date. This VA Regulation is effective the date of approval.

Approved: October 4, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

In § 3.261(a), subparagraph (15) is amended to read as follows:

§ 3.261 Character of income; exclusions and estates.

* * * * * * *

	Dependency (parents)	Dependency and indemnity compensation (parents)	Pension; protected (veterans, widows and children)	Pension; Pub. Law 86–211 (veterans, widows and children)	See
(a) *Income:*					
* * *	* * *	* * *	* * *	* * *	* * *
(15) Retirement pay received direct from service department.	Included....	Included.	Included ...	Included....	§ 3.262(e). § 3.262(h).
* * *	* * *	* * *	* * *	* * *	* * *

2. In § 3.262, paragraph (h) is amended to read as follows:

§ 3.262 Evaluation of income.

* * * * * * *

(h) *Retirement benefits waived.* Except as provided in this paragraph, retirement benefits (pension or retirement payments) which have been waived will be included as income. For the purpose of determining dependency of a parent, or eligibility of a parent for dependency and indemnity compensation or eligibility of a veteran, widow, or child for pension under laws in effect on June 30, 1960, retirement benefits from the following sources which have been waived pursuant to Federal statute will not be considered as income:

(1) Civil Service Retirement and Disability Fund;

(2) Railroad Retirement Board (see paragraph (g)(2) of this section);

(3) District of Columbia, firemen, policemen, or public school teachers;

(4) Former lighthouse service.

* * * * * * *

[FR Doc.72–17311 Filed 10–10–72;8:48 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 131—COLLEGE LIBRARY RESOURCES PROGRAM

Acquisition of Books and Other Material

On page 13350 of the FEDERAL REGISTER of July 7, 1972, there was published a notice of proposed rule making to issue regulations which would allow grant assistance to be used for various preparation costs involved in the acquisition by grantees under Part 131 of books and other materials to be used for library purposes.

Due consideration having been given to comments received and because of the weight of benefits that will result, the proposed regulations are hereby adopted without change and set forth below.

Effective date. The regulations shall be effective on the date of their publication in the FEDERAL REGISTER (10–11–72).

Dated: September 20, 1972.

S. P. MARLAND, JR.,
Commissioner of Education.

Approved: October 2, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Part 131 of Chapter I of Title 45 of the Code of Federal Regulations is amended by adding a new paragraph (u) to § 131.2, as follows:

§ 131.2 Definitions.

* * * * * * *

(u) "Acquisition of books and other materials to be used for library purposes" means the purchase, lease-purchase, or straight lease of such books and other materials and includes the necessary costs of ordering, processing, and cataloging such books and other materials and delivery of them to the initial place at which they are to be available for use. Such term does not include the rebinding or repair of such books and other materials.

[FR Doc.72–17309 Filed 10–10–72;8:47 am]

Chapter X—Office of Economic Opportunity

PART 1068—COMMUNITY ACTION PROGRAM GRANTEE FINANCIAL MANAGEMENT

Subpart—Allowances and Reimbursements for Members of Policymaking Bodies (OEO Instruction 6803–1a)

MISCELLANEOUS AMENDMENTS

A. The first sentence of § 1068.5–1 is revised to read as follows:

§ 1068.5–1 Applicability of this subpart.

This subpart applies to all members of policymaking bodies of organizations receiving financial assistance under titles II and III–B of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by OEO. * * *

* * * * * * *

B. Paragraphs (c) and (d) (1) and (2) of § 1068.5–2 are revised and paragraph (d)(5) is deleted as follows:

§ 1068.5–2 Definitions.

* * * * * * *

(c) "Meeting." A meeting for which proper notification has been given shall qualify as a meeting even though the meeting may fail for lack of quorum.

(d) "Policymaking Body." The following representative boards of a grantee will be considered policymaking bodies:

(1) Principal representative boards which are (i) the administering board of a public CAA, (ii) the governing board of a private CAA, and (iii) policy advisory committees of other grantees if constituted as required by § 1060.1 of this chapter.

(2) Delegate agency governing bodies if the delegate agency meets both the following tests: (i) Its activities are solely or substantially financed with OEO funds as part of the community action program; and (ii) at least one-third of its governing body is composed of democratically selected representatives of the poor persons whom the delegate agency serves.

* * * * * * *

§ 1068.5–3 [Amended]

C. In § 1068.5–3 *Policy:*

1a. The first sentence of paragraph (a) is revised as follows:

(a) *General.* Allowances and reimbursements may be paid to members of grantee policymaking bodies who are eligible for such payments in accordance with this subpart for attendance at meetings, when such payments serve to assure and encourage the maximum feasible participation of members of groups and residents of the areas served. * * *

b. In the fourth sentence of paragraph (a) delete "(see OEO Instruction 6710–1, section V, pages 3–24)".

C. Paragraph (b) (1) and (2) is revised to read as follows:

(b) *Allowances.* (1) *Who may be paid an allowance?* Any person who is a member of a grantee's policymaking body is eligible to be paid an allowance (i) as long as his family income falls within OEO Poverty Guidelines (§ 1060.2 of this chapter); and (ii) as long as he is not a Federal employee, not an employee of an OEO assisted organization, and not an employee of a State or local public agency.

(2) *Limitation on allowances.* (i) Allowances should not exceed $5 per meeting unless the grantees' principal representative board determines a higher payment more suitable. Allowances in excess of $5 may be paid only if justifiable on the basis of comparability with similar fees paid to the poor by anti-poverty programs administered by non-CAP grantees and funded from sources other than OEO (e.g., Model Cities) in the same community. (Comparability means that the allowance plus the reimbursements paid by the OEO grantee would be commensurate with the total payments made to the poor by other agencies.) Grantees should consult with other antipoverty programs in their area to determine if the fees being paid to the poor by the various programs are comparable; (ii) no person shall be paid an allowance by any one OEO-assisted organization for attendance at more than two meetings per month, regardless of whether the meetings are for the same or different policymaking bodies.

d. Paragraphs (c)(1) (i), (ii), (2), (3) (i), (ii) are revised to read as follows:

(c) *Reimbursements.* (1) *Who may be paid a reimbursement?* (i) Any person, including a Federal employee, an employee of an OEO assisted organization, or an employee of a State or local public agency, whose family income falls within OEO Poverty Guidelines and who is a member of a grantee's policymaking body is eligible to be paid a reimbursement. Receiving an allowance does not preclude receiving a reimbursement for actual expenses incurred in attending that meeting; (ii) nonpoor members of a grantee's policymaking body may receive reimbursements for travel under conditions set forth in subparagraph (3) (i) of this paragraph and may receive per diem.

(2) *Limitations on reimbursements.* Persons may be reimbursed for up to six meetings per month. Any grantee reimbursement to an individual for monthly meetings over this number must be approved by the OEO Regional Office or headquarters funding office.

(3) *What expenses may be reimbursed?* The following expenses incurred as the result of actual attendance at meetings, or in the performance of other official duties and responsibilities in connection with a community action may be reimbursed:

(i) *Travel.* Reimbursement may be made for transportation to and from official meetings or other official appointments by the least expensive, convenient means of transportation. This shall be by public transportation or, when no public transportation is available. Where the community served by the community action programs covers a large geographic area, as in the case of a multi-county CAA or a statewide grantee, reimbursements may also be made to those nonpoor members of a policymaking body who must travel a "substantial distance" from their home to attend meetings within the community. The grantee's principal representative board shall determine what constitutes a "substantial distance" in this community. Such payments shall accord with the Standardized Government Travel Regulations, and Subparts 1069.3 and 1069.4 of this chapter. In cases where there is group riding, only the board member providing the vehicle shall be reimbursed.

(ii) *Per diem.* Per diem may be paid to both poor and nonpoor members of policymaking bodies when attendance at a meeting requires overnight lodging. Such payments shall accord with the Standardized Government Travel Regulations, and with Subparts 1069.3 and 1069.4 of this chapter, cited above. (A per diem allowance is paid in lieu of meals, lodging, and other subsistence expenses.)

e. The second sentence of paragraph (c)(3)(iii) is revised to read: "Such reimbursement shall be for the actual cost of the meal (including applicable tax and reasonable tip), but may not exceed $2.50 per person for lunch and $4 per person for dinner."

f. The third sentence of paragraph (c)(3)(iv) is revised to read: "In no event shall the rate of hourly reimbursement exceed the Federal minimum wage (currently $1.60)."

g. In the first sentence of paragraph (c)(3)(v), substitute "$18" for "$15".

h. Paragraph (c)(3)(vi) is revised to read as follows:

(vi) *Other expenses.* A grantee or delegate agency may permit board members to make telephone calls free of charge on telephones in the agency office for matters relating to official business. When agency telephones are not available, as for example when a meeting is held elsewhere than at agency offices, board members may be reimbursed for telephone calls relating to matters of official business. No reimbursement shall be made, however, for calls made on home telephones. Other unusual expenses may also be reimbursed subject to the availability of funds and with the approval of the appropriate OEO funding office.

i. Paragraph (c)(4) is revised as follows:

(4) *Meetings outside the community.* The eligibility for reimbursement of expenses incurred in attendance at meetings by board members as limited in this subpart applies only to meetings held within the area served by the community action program. Reimbursement for travel and per diem outside this area is covered in Subparts 1069.3 and 1069.4 of this chapter.

§ 1068.5–4 [Amended]

D. In § 1068.5–4 *Administration:*

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1. Paragraph (a) is revised to read as follows:

(a) *Applying for funds.* Funds to pay allowances and reimbursements as defined in this subpart may be requested as part of any community action program application, or as an amendment to an existing program, but approval is subject to the availability of funds.

2. The second sentence of paragraph (b) is revised to read "Grantees shall obtain from individuals requesting reimbursement appropriate documentation of actual expenses incurred."

3. Paragraph (d) is revised to read as follows:

(d) *Public records.* The accounting records of allowance payments and expense reimbursements are required to be available for public inspection under the rules set forth in Subpart 1070.1 of this chapter.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-17307 Filed 10-10-72;8:47 am]

PART 1069—COMMUNITY ACTION PROGRAM GRANTEE PERSONNEL MANAGEMENT

Subpart—Travel Regulations for CAP Grantees and Delegate Agencies (OEO Instruction 6910–1)

MISCELLANEOUS AMENDMENTS

Subpart 1069.3 of Part 1069 of Chapter X of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 1069.3–1 is revised to read as follows:

§ 1069.3–1 Applicability of this subpart.

This subpart applies to all grant programs financially assisted under titles I–D, II, and III–B of the Economic Opportunity Act, as amended, if the assistance is administered by OEO.

§ 1069.3–4 [Amended]

2. The second sentence of subparagraph (2) of paragraph (a) of § 1069.3–4 *General travel regulations* is revised to read as follows: "In no event, however, may the rates paid exceed 11 cents a mile."

3. A new § 1069.3–7 is added to read as follows:

§ 1069.3–7 Effective date.

The increase in the maximum rate of reimbursement for travel by privately owned automobile may be applied to travel on or after January 20, 1972, for those grantees and delegate agencies whose travel policies provide for using mileage rates in the Standardized Government Travel Regulations. Each grantee and delegate agency must determine whether the new maximum mileage rate will apply retroactively for travel undertaken between January 20, 1972, and April 5, 1972. Increased travel costs that may occur as a result must be absorbed within existing grant funds.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-17305 Filed 10-10-72;8:47 am]

PART 1069—COMMUNITY ACTION PROGRAM GRANTEE PERSONNEL MANAGEMENT

Subpart—Per Diem Rates for OEO Grantees and Delegate Agencies (OEO Instruction 6910–2a)

Part 1069 of Chapter X of Title 45 of the Code of Federal Regulations is amended to read as follows:

1. Section 1069.3–7 *Per diem rates for OEO grantees and delegate agencies* is recodified as Subpart 1069.4.

2. The table of contents for Subpart 1069.4 is as follows:

Sec.
1069.4–1 Applicability of this subpart.
1069.4–2 Purpose.
1069.4–3 Background.
1069.4–4 Policy.
1069.4–5 Establishing per diem rates.
1069.4–6 Computation of per diem.
1069.4–7 Supply of per diem regulations.

AUTHORITY: The provisions of this subpart issued under section 602(n), 78 Stat. 530; 42 U.S.C. 2942.

3. Sections 1069.4–1 and 1069.4–2 are amended to read as follows:

§ 1069.4–1 Applicability of this subpart.

This subpart applies to all grant programs financially assisted under titles I–D, II, and III–B of the Economic Opportunity Act, as amended, if the assistance is administered by the Office of Economic Opportunity.

§ 1069.4–2 Purpose.

The purpose of this subpart is to establish the method for OEO grantees and delegate agencies to compute per diem.

4. Paragraph (a) of § 1069.3–7 is recodified as § 1069.4–3 and is revised to read as follows.

§ 1069.4–3 Background.

Public Law 91–114 amended the Standardized Government Travel Regulations (SGTR) by increasing the authorized maximum per diem rate from $16 to $25 for travel within the limits of the continental United States (the 48 contiguous States and the District of Columbia). The Office of Management and Budget has prescribed in Circular A–7, Standardized Government Travel Regulations, dated August 17, 1971, that all Government agencies shall fix per diem rates partly on the basis of the average amount the traveler pays for lodgings and that to this amount a suitable allowance for meals and miscellaneous expenses shall be added. The total per diem, however, Transportation Allowance Committee, Department of Defense, prescribes the per diem rates for civilian travel by Federal employees in Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. These rates are published in the Civilian Personnel Per Diem Bulletin.

5. Paragraph (b) of § 1069.3–7 is recodified as § 1069.4–4 and is revised to read as follows:

§ 1069.4–4 Policy.

Although the Standardized Government Travel Regulations do not apply by their terms to OEO grantees or delegate agencies, OEO has reached the conclusion that the regulations contained therein represent reasonable restrictions and limitations which OEO grantees and delegate agencies should not exceed. Grantees and delegate agencies that follow the travel policies in the SGTR are authorized to reimburse employees, consultants, and members of governing or administrative boards up to a maximum per diem rate of $25 for official travel within the continental United States. However, the amount of per diem paid must be based on the average lodging cost per trip (including applicable taxes) not to exceed $13, plus a daily allowance for meals and miscellaneous expenses not to exceed $12. If an agency's own travel policies establish a lower maximum per diem rate, or the terms of its grants require a lower rate, the lower maximum applies. The maximum rates adopted by a grantee or delegate agency for official travel outside the continental United States shall be no higher than those prescribed by the Civilian Personnel Per Diem Bulletin.

6. Paragraph (c) of § 1069.3–7 is recodified as § 1069.4–5 establishing per diem rates and in the first sentence the word "new" is deleted.

7. Paragraph (d) of § 1069.3–7 is deleted.

8. Section 1069.4–6 is added to read as follows:

§ 1069.4–6 Computation of per diem.

(a) *General.* Per diem rates will be computed partly on the basis of the average amount the traveler pays for lodgings (not to exceed $13), plus a suitable allowance (subsistence) for meals and miscellaneous expenses not to exceed $25 in total (lodging, plus subsistence). The resulting amount should be rounded to the next whole dollar, if the result is not in excess of the maximum per diem. If the amount (average lodging plus subsistence) is more than the maximum per diem allowable, the maximum per diem will be the amount allowed. Travelers will be required to furnish hotel and motel receipts for lodging when they request reimbursement for travel.

(b) *Period of entitlement.* The traveler is entitled to per diem from the time he leaves his home or office for official travel to the time of return to his home or office at the end of a trip; i.e., portal to portal. However, when the beginning time is within 30 minutes prior to the end of a quarter day, per diem for such quarter day will not be allowed without a statement with the travel voucher explaining the official necessity for such departure or arrival.

(c) *Method of computation.* Per diem will be computed as follows:

Example (a).

Time and date	Lodging cost	Number of quarters
10:30 a.m., Nov. 1	$20	3
10:30 a.m., Nov. 2	18	4
10:30 a.m., Nov. 3	(1)	4
4:45 p.m., Nov. 4	(2)	3
Total	38	14

$38 lodgings+3 night's travel=$12.60 per night rounded up to a $13 average per night.
$13 lodging average and $12 (meals and miscellaneous expenses)=$25 per diem.
$25×3½ days=$87.50 total per diem reimbursement for trip.

Example (b).

Time and date	Lodging cost	Number of quarters
7 p.m., Oct. 4	$12	1
7 p.m., Oct. 5	11	4
7 p.m., Oct. 6	(1)	4
7 p.m., Oct 7	13	4
7 p.m., Oct. 8	13	4
4 p.m., Oct. 9	(2)	3
Total	49	20

$49 lodgings+5 nights=$9.80 per night, rounded up to $10 average per night.
$10 lodging average and $12 (meals and miscellaneous expenses)=$22 per diem.
$22×5=$110 total per diem reimbursement for the trip.

[1] Free lodging for the night is assumed.
[2] Lodging costs were not incurred.

9. Paragraph (e) of § 1069.3–7 is recodified as § 1069.4–7 and is revised to read as follows:

§ 1069.4–7 Supply of per diem regulations.

Copies of the Standardized Government Travel Regulations are attached to OEO Instruction 6910–2a. Copies of the Civilian Personnel Per Diem Bulletin will be provided to grantees and delegate agencies that travel in these areas upon request to the appropriate Regional Offices. Headquarters-funded grantees will receive copies from the funding office.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-17306 Filed 10-10-72;8:47 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC–9; Notice 72–17]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Coupling Devices and Towing Methods

On August 6, 1971, the Director of the Bureau of Motor Carrier Safety issued a notice of proposed rule making, in which he announced that he was considering a revision of § 393.70 of the Motor Carrier Safety Regulations, dealing with coupling and towing of articulated motor vehicles (other than vehicles used in driveaway-towaway operations), and an amendment to § 393.71 of the regulations, which pertains to coupling devices and towing methods for vehicles engaged in driveaway-towaway operations, to update the reference to an SAE standard (36 F.R. 14477, as corrected, 36 F.R. 17513).

The major feature of the proposal was the addition of requirements under which fifth wheel upper and lower half assemblies and full trailer towing devices would be certified and marked by their manufacturers with maximum gross load ratings, and commercial motor carriers using those assemblies and devices would be prohibited from using them to tow loads in excess of the ratings. The majority of the comments received in response to the notice was directed to the practicability of this scheme. Persons commenting indicated that, while a marking system appears to be meritorious as a means of conveying information to a driver, the weight of the towed vehicle should not be used as the sole benchmark for determining the capabilities of the coupling system. According to these comments, jerk loads, braking-induced loads, and loads generated during the coupling operations all must be considered in determining minimum strength characteristics of a coupling system. The respondents suggested that various portions of SAE Recommended Practices J700b, J133, and J848a should be considered for adoption as the criteria.

The Director, after considering these comments and other available data, has concluded that the marking scheme, as proposed, is not practicable at this time. Further research and study must be done along the lines suggested by the comments to develop a practicable marking requirement that can be safely implemented by the motor carrier industry. Accordingly, this aspect of the proposal is not now being implemented. The Bureau will continue to study this issue. If implementation of a marking requirement is deemed advisable in the future, another notice of proposed rule making will be issued to permit interested persons to comment on its contents.

The Director is, however, revising § 393.70 in an attempt to restate its present requirements with greater clarity and to make some changes to improve safety in light of comments and other data. Under § 393.70(f)(1) of the current rules, it is possible for safety chains, or devices having the same purpose as safety chains, to be attached to the pintle hook casting or forging of the towing vehicle. The Director is removing this exemption from the general prohibition against attaching safety devices in the nature of safety chains to the pintle hook or its backup support structure, effective with respect to vehicles having pintle hooks (or other tow-bar attachment devices) manufactured after July 1, 1973. The objective of this changed requirement—found in § 393.70(d)(1) of the revised rules—is to eliminate the possibility of total separation of the towed unit from the towing unit in the event of a failure of either the pintle hook or its supporting structure.

Section 393.71(h)(8) is being amended to update the reference to the SAE standard applicable to hitches and coupling systems used in driveaway-towaway operations of passenger car trailers. One person who responded to the notice of proposed rule making took the view that the reference to SAE Recommended Practice J684c would impose unnecessarily severe requirements upon motorists who use trailer hitches to tow recreational or utility vehicles. It is clear, however, that the rules now being issued, as well as all of the provisions of the Motor Carrier Safety Regulations, apply only to commercial interstate or foreign operations and are inapplicable to recreational or other pleasure trips in which motorists use combination vehicles. The imposition of a higher standard for commercial operations seems clearly warranted in light of the higher usage rates of commercial driveaway-towaway operations and the heavy-duty uses to which equipment employed in those operations is subjected.

In consideration of the foregoing, Part 393 of the Motor Carrier Safety Regulations (Subchapter III in Title 49, CFR) is amended as set forth below.

Effective date. These amendments are effective on July 1, 1973.

(Sec. 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 389.4)

Issued on September 30, 1972.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

I. Section 393.70 of the Motor Carrier Safety Regulations is revised to read as follows:

§ 393.70 Coupling devices and towing methods, except for driveaway-towaway operations.

(a) *Tracking.* When two or more vehicles are operated in combination, the coupling devices connecting the vehicles shall be designed, constructed, and installed, and the vehicles shall be designed and constructed, so that when the combination is operated in a straight line on a level, smooth, paved surface, the path of the towed vehicle will not deviate more than 3 inches to either side of the path of the vehicle that tows it.

(b) *Fifth wheel assemblies*—(1) *Mounting*—(i) *Lower half.* The lower half of a fifth wheel mounted on a truck tractor or converter dolly must be secured to the frame of that vehicle with properly designed brackets, mounting plates or angles and properly tightened bolts of adequate size and grade, or devices that provide equivalent security. The installation shall not cause cracking, warping, or deformation of the frame. The installation must include a device for positively preventing the lower half

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of the fifth wheel from shifting on the frame to which it is attached.

(ii) *Upper half.* The upper half of a fifth wheel must be fastened to the motor vehicle with at least the same security required for the installation of the lower half on a truck tractor or converter dolly.

(2) *Locking.* Every fifth wheel assembly must have a locking mechanism. The locking mechanism, and any adapter used in conjunction with it, must prevent separation of the upper and lower halves of the fifth wheel assembly unless a positive manual release is activated. The release may be located so that the driver can operate it from the cab. If a motor vehicle has a fifth wheel designed and constructed to be readily separable, the fifth wheel locking devices shall apply automatically on coupling.

(3) *Location.* The lower half of a fifth wheel shall be located so that, regardless of the condition of loading, the relationship between the kingpin and the rear axle or axles of the towing motor vehicle will properly distribute the gross weight of both the towed and towing vehicles on the axles of those vehicles, will not unduly interfere with the steering, braking, and other maneuvering of the towing vehicle, and will not otherwise contribute to unsafe operation of the vehicles comprising the combination. The upper half of a fifth wheel shall be located so that the weight of the vehicles is properly distributed on their axles and the combination of vehicles will operate safely during normal operation.

(c) *Towing of full trailers.* A full trailer must be equipped with a tow-bar and a means of attaching the tow-bar to the towing and towed vehicles. The tow-bar and the means of attaching it must—

(1) Be structurally adequate for the weight being drawn;

(2) Be properly and securely mounted;

(3) Provide for adequate articulation at the connection without excessive slack at that location; and

(4) Be provided with a locking device that prevents accidental separation of the towed and towing vehicles. The mounting of the trailer hitch (pintle hook or equivalent mechanism) on the towing vehicle must include reinforcement or bracing of the frame sufficient to produce strength and rigidity of the frame to prevent its undue distortion.

(d) *Safety devices in case of tow-bar failure or disconnection.* Every full trailer and every converter dolly used to convert a semitrailer to a full trailer must be coupled to the frame, or an extension of the frame, of the motor vehicle which tows it with one or more safety devices to prevent the towed vehicle from breaking loose in the event the tow-bar fails or becomes disconnected. The safety device must meet the following requirements:

(1) The safety device must not be attached to the pintle hook or any other device on the towing vehicle to which the tow-bar is attached. However, if the pintle hook or other device was manufactured prior to July 1, 1973, the safety device may be attached to the towing vehicle at a place on a pintle hook forging or casting if that place is independent of the pintle hook.

(2) The safety device must have no more slack than is necessary to permit the vehicles to be turned properly.

(3) The safety device, and the means of attaching it to the vehicles, must have an ultimate strength of not less than the gross weight of the vehicle or vehicles being towed.

(4) The safety device must be connected to the towed and towing vehicles and to the tow-bar in a manner which prevents the tow-bar from dropping to the ground in the event it fails or becomes disconnected.

(5) Except as provided in subparagraph (6) of this paragraph, if the safety device consists of safety chains or cables, the towed vehicle must be equipped with either two safety chains or cables or with a bridle arrangement of a single chain or cable attached to its frame or axle at two points as far apart as the configuration of the frame or axle permits. The safety chains or cables shall be either two separate pieces, each equipped with a hook or other means for attachment to the towing vehicle, or a single piece leading along each side of the tow-bar from the two points of attachment on the towed vehicle and arranged into a bridle with a single means of attachment to be connected to the towing vehicle. When a single length of cable is used, a thimble and twin-base cable clamps shall be used to form the forward bridle eye. The hook or other means of attachment to the towing vehicle shall be secured to the chains or cables in a fixed position.

(6) If the towed vehicle is a converter dolly with a solid tongue and without a hinged tow-bar or other swivel between the fifth wheel mounting and the attachment point of the tongue eye or other hitch device—

(i) Safety chains or cables, when used as the safety device for that vehicle, may consist of either two chains or cables or a single chain or cable used alone;

(ii) A single safety device, including a single chain or cable used alone as the safety device, must be in line with the centerline of the trailer tongue; and

(iii) The device may be attached to the converter dolly at any point to the rear of the attachment point of the tongue eye or other hitch device.

(7) Safety devices other than safety chains or cables must provide strength, security of attachment, and directional stability equal to, or greater than, safety chains or cables installed in accordance with subparagraphs (5) and (6) of this paragraph.

(8) When two safety devices, including two safety chains or cables, are used and are attached to the towing vehicle at separate points, the points of attachment on the towing vehicle shall be located equally distant from, and on opposite sides of, the centerline of the towing vehicle. Where two chains or cables are attached to the same point on the towing vehicle, and where a bridle or a single chain or cable is used, the point of attachment must be on the longitudinal centerline of the towing vehicle. A single safety device, other than a chain or cable, must also be attached to the towing vehicle at a point on its longitudinal centerline.

II. Section 393.71(h)(8) of the Motor Carrier Safety Regulations is revised to read as follows:

§ 393.71 Coupling devices and towing methods, driveaway-towaway operations.

* * * * *

(h) *Requirements for tow-bars.* Tow-bars shall comply with the following requirements:

* * * * *

(8) *Passenger car-trailer type couplings.* Trailer couplings used for driveaway-towaway operations of passenger car trailers shall conform to Society of Automotive Engineers Standard No. J684c, "Trailer Couplings and Hitches—Automotive Type," July 1970.[1]

* * * * *

[FR Doc.72-17316 Filed 10-10-72;8:48 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Institutional Providers of Health Services; Uniform Rates for Nursing Homes

The purpose of this amendment is to revise § 300.18 by adding a new paragraph (i) which will permit certain institutional health providers to accept increased state uniform payments for nursing home services.

Payments to institutional providers of health services on behalf of patients under title XIX of the Social Security Act (Medicaid) or similar aid programs are set in accordance with State laws and regulations. Many States reimburse nursing homes for costs incurred by Medicaid patients on a uniform rate basis which may be an amount less than or equal to cost. In the past year nursing homes have been inspected to verify that Medicaid's quality standards are being met. As a result, about 9 percent of the nursing homes were decertified, and approximately 70 percent were required to make improvements. As the States establish new uniform rates, those new rates will reflect the increased costs of conformity to standards as well as cost increases, changes in the proportion of costs paid by the uniform rate, and, in some instances, cost increases for past years.

The new paragraph (i) of § 300.18 allows skilled nursing homes, extended care facilities, and intermediate care facilities to increase their prices for health care to Medicaid or other aid recipients when their State has certified the increased uniform rate to the Price Commission and when such a home or facility has increased no other prices during the fiscal year.

Under this procedure the State would certify through its single State agency for the administration of title XIX of the Social Security Act. In the event the State does not have such an agency, the Governor may designate the department of health or welfare to act as the certifier for the State. Prior to certification, the certifying agent must obtain a certificate of compliance from the Price Commission.

The State's certification must contain the former price; the date it was established; the new price; the percentage increase; the proposed effective date of the new price; and a statement that the new price to be paid for the purchase of health services from skilled nursing homes, extended care facilities, or intermediate care facilities is based on uniform rates set by the State, county or municipal government, is cost related, is necessary to implement and maintain the minimum standards of service required by Federal or State regulations, or both, and is, in the opinion of the certifier, not inflationary within the meaning of the Economic Stabilization Program guidelines.

In the event that an institutional provider has increased the price for services to other than Medicaid or similar aid program recipients during the fiscal year in which the uniform rate increase is effective, paragraph (i)(1) will not apply unless the provider rescinds all price increases made since the end of the prior fiscal year and remits to customers the revenues derived from charging prices in excess of the prior year's prices.

However, should an institutional provider increase the price for any other service after charging an increased price under the new paragraph (i) for aid recipients, the requirements of § 300.18(a)–(h) will apply to all of the increased prices. Revenues derived both from price increases made subject to paragraph (i) and from any other price increase will then be included in the calculation of net revenue or profit margins and the limitation on aggregate annual revenues. In addition, each price increased above base must be justified by increases in allowable costs.

Since the purpose of this amendment is to provide immediate information and guidance with respect to compliance with price stabilization rules, it is hereby found that further notice and public procedure is impracticable and that good cause exists for making it effective in less than 30 days after publication in the FEDERAL REGISTER.

(Economic Stabilization Act of 1970, as amended, Public Law 90-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1486; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210, 85 Stat. 743; E.O. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth herein, effective October 6, 1972.

Issued in Washington, D.C., on October 6, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

Section 300.18 is amended by adding the following new paragraph at the end thereof:

§ 300.18 Institutional providers of health services.

* * * * *

(i) *Uniform rates.* (1) Notwithstanding any other provision of this section, a skilled nursing home, extended care facility or intermediate care facility may charge a price in excess of the base price when the increased price has been certified to the Price Commission by the certifying agent for the State in which the provider is located and when the provider has not increased any other price during the fiscal year in which this increase becomes effective. If the provider has increased any other price, it may increase a price subject to this paragraph only if it—

(i) Rescinds all price increases made since the end of the fiscal year immediately preceding the effective date of the increase made under the authority of the first sentence of this paragraph; and

(ii) Remits to customers the revenues derived from those price increases, using the methods prescribed in § 300.54(d)(1)(ii).

If the provider increases the price for any other service after charging an increased price under this paragraph, the requirements of paragraphs (a)–(h) of this section will apply to all of the increases in price.

(2) The single State agency for the administration of title XIX of the Social Security Act, as amended July 30, 1965, Public Law 89-97, or, in the case of a State without such an agency, the department of health or welfare as designated by the Governor of the State, is the certifying agent for the purposes of this paragraph. Such certifying agent must receive a certificate of compliance from the Price Commission before it can certify an increase price.

(3) The certifying agent must certify to the Price Commission with respect to the price to be paid for the purchase of health services from skilled nursing homes, extended care facilities or intermediate care facilities—

(i) The former price, the date it was established, the new price, the percentage increase, and the proposed effective date of the new price;

(ii) That the new price is based on uniform rates set by the State, county, or municipal government;

(iii) That the increase is cost related;

(iv) That the increase is necessary to implement and maintain the minimum standards of service required by Federal or State regulations, or both; and

(v) That the increase, in the opinion of the certifying agent, is not inflationary within the meaning of the Economic Stabilization Program guidelines.

[FR Doc.72-17435 Filed 10-6-72;4:46 pm]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 115—STATE CERTIFICATION OF ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

PART 123—STATE CERTIFICATION OF ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

Redesignation

Pursuant to the provisions of Reorganization Plan No. 3 of 1970 (3 CFR 1970 Comp., p. 199), Part 115 of Title 40 of the Code of Federal Regulations is hereby redesignated as Part 123. This redesignation is made to free a block of numbers in Title 40 for related regulations of the Division of Oil and Hazardous Materials. These regulations will be proposed and published at a later date. No substantive change in the text of former Part 115 is made by this order except that the internal references are hereby changed to refer to the new Part 123.

Effective date period. Since the change made by this document is merely an editorial change, notice of proposed rule making under 5 U.S.C. 553, is unnecessary. Accordingly, this amendment is effective upon publication in the FEDERAL REGISTER (10-11-72).

Dated: October 2, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-17315 Filed 10-10-72;8:47 am]

[1] Copies of the SAE standard may be obtained from the Society of Automotive Engineers, 2 Pennsylvania Plaza, New York, NY 10001.

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

LEVIES ON SALARIES AND WAGES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 13, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601 (b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by November 13, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 6331(d) and 7805 of the Internal Revenue Code of 1954 (85 Stat. 520, 26 U.S.C. 6331(d); 68A Stat. 917, 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to provide regulations under section 6331(d) of the Internal Revenue Code of 1954 as added by section 211 of the Revenue Act of 1971 (85 Stat. 520), the Regulations on Procedure and Administration (26 CFR Part 301) are amended as follows:

PARAGRAPH. 1. Section 301.6331–1 is amended by redesignating subsection (d) as (e), by adding a new subsection (d) immediately after subsection (c), and by revising the historical note. As amended, these redesignated, added, and revised provisions read as follows:

§ 301.6331 Statutory provisions; levy and distraint.

SEC. 6331. *Levy and distraint* • • •

(d) *Salary and Wages*—(1) *In general.* Levy may be made under subsection (a) upon the salary or wages of an individual with respect to any unpaid tax only after the Secretary or his delegate has notified such individual in writing of his intention to make such levy. Such notice shall be given in person, left at the dwelling or usual place of business of such individual, or shall be sent by mail to such individual's last known address, no less than 10 days before the day of levy. No additional notice shall be required in the case of successive levies with respect to such tax.

(2) *Jeopardy.* Paragraph (1) shall not apply to a levy if the Secretary or his delegate has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(e) *Cross references.* (1) For provisions relating to jeopardy, see Subchapter A of Chapter 70.

(2) For proceedings applicable to sale of seized property, see section 6335.

[Section 6331 as amended by sec. 104 (a), Federal Tax Lien Act 1966 (80 Stat. 1135); sec. 211 (a) Revenue Act 1971 (85 Stat. 520)]

PAR. 2. Section 301.6331–1 is amended by adding at the end thereof the following new paragraph:

§ 301.6331–1 Levy and distraint.

• • • • •

(c) *Notice of intent to levy on salary or wages*—(1) *In general.* Levy may be made under this section upon the salary or wages of an individual with respect to any unpaid tax only after the district director or the director of the service center has notified such individual in writing of his intention to make such levy. Such notice shall be given in person, left at the dwelling or usual place of business of such individual, or shall be sent by mail to such individual's last known address, no less than 10 days before the day of levy. If a notice has been given under this paragraph with respect to an unpaid tax, no further notice is required in the case of successive levies with respect to such unpaid tax. The notice required to be given under this paragraph is in addition to, and may be given at the same time as, the notice and demand described in § 301.6303–1.

(2) *Jeopardy.* Subparagraph (1) of this paragraph shall not apply to a levy if the district director or director of the service center has made a finding under paragraph (a) (2) of this section that the collection of tax is in jeopardy.

(3) *Effective date.* This paragraph shall apply with respect to levies made after March 31, 1972.

[FR Doc.72–17386 Filed 10–10–72;8:52 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 982]

FILBERTS GROWN IN OREGON AND WASHINGTON

Proposed Expenses of the Filbert Control Board and Rate of Assessment for 1972–73 Fiscal Year

Notice is hereby given of a proposal regarding expenses of the Filbert Control Board for the 1972–73 fiscal year and rate of assessment for that fiscal year, pursuant to §§ 982.60 and 982.61 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982; 37 F.R. 588), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Board has recommended for the 1972–73 fiscal year beginning August 1, 1972, a budget of expenses in the total amount of $34,459. Based on the volume of filberts estimated to be subject to this regulatory program during the 1972–73 fiscal year, an assessment rate of 0.20 cent per pound of assessable filberts is expected to provide sufficient funds to meet the estimated expenses of the Board.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 18, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 982.317 Expenses of the Filbert Control Board and rate of assessment for the 1972–73 fiscal year.

(a) *Expenses.* Expenses in the amount of $34,459 are reasonable and likely to be incurred by the Filbert Control Board during the fiscal year beginning August 1, 1972, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said fiscal year, payable by each handler in accordance with § 982.61, is fixed at 0.20 cent per pound of filberts.

Dated: October 5, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17342 Filed 10–10–72;8:49 am]

[7 CFR Part 984]

WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Proposed Marketing Control Percentages for 1972–73 Marketing Year

Notice is hereby given of a proposal to establish marketable and surplus control percentages for walnuts for the 1972–73 marketing year. The year began August 1, 1972. The proposed percentages would be established in accordance with the provisions of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington. The amended agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proopsed marketable and surplus percentages are as follows: California (District 1), 82 percent and 18 percent, respectively; and Oregon and Washington (District 2), 91 percent and 9 percent, respectively. These percentages were recommended by the Walnut Control Board and are based on estimates of supply, and inshell and shelled trade demands adjusted for handler carryover, for the 1972–73 marketing year.

The total 1972–73 supply subject to regulation is estimated to be 123.3 million kernelweight pounds. Inshell and shelled trade demands adjusted for handler carryover are estimated at 28.6 and 72.5 million kernelweight pounds, respectively. The trade demand area includes the United States, Puerto Rico, and the Canal Zone.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 20, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 984.219 Marketable and surplus percentages for walnuts during the 1972–73 marketing year.

The marketable and surplus percentages during the marketing year beginning August 1, 1972, shall be as follows:

	California	Oregon-Washington
	District 1	*District 2*
Marketable percentages	82	91
Surplus percentages	18	9

Dated: October 5, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17343 Filed 10–10–72;8:49 am]

Agricultural Stabilization and Conservation Service (Agricultural Adjustment)

[7 CFR Part 725]

FLUE-CURED TOBACCO

Determinations on Marketing Quotas for the 1973–74 Marketing Year

Pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the "Act"), the Secretary under section 317 is preparing to determine and announce for flue-cured tobacco for the 1973–74 marketing year, (a) the amount of the national marketing quota, (b) the national average yield goal, (c) the national acreage allotment, (d) the reserve acreage for making corrections in farm acreage allotments, adjusting inequities, and for establishing allotments for new farms, (e) the national acreage factor, and (f) the national yield factor. Flue-cured tobacco farmers approved marketing quotas on an acreage-poundage basis for the 1971–72, 1972–73, and 1973–74 marketing years (35 F.R. 13076).

Section 317(a) of the Act provides the following definitions:

"National marketing quota" means the amount of a kind of tobacco produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 percent of such estimated utilization and exports.

"National average yield goal" means the yield per acre which on a national average basis the Secretary detemines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant.

"National acreage allotment" means the acreage determined by dividing the national marketing quota by the national average yield goal.

"Farm acreage allotment" for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction for violations, so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction for violations, and including any adjustment for errors or inequities from the reserve.

A national yield factor shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined for the farm prior to adjustments for overmarketing, undermarketing, or reductions required for violations and dividing the sum of the products by the national acreage allotment.

Section 317(d) of the Act requires the Secretary to determine and announce the national marketing quota, national acreage allotment, and national average yield goal for the 1973–74 marketing year for Flue-cured tobacco not later than December 1, 1972.

Section 317(e) provides in part that for each marketing year for which acreage-poundage quotas are in effect the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding 5 years.

Section 317(g) provides, in part, that if the Secretary, in his descretion, determines it is desirable to encourage the marketing of grade N_r tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the farm marketing quota for the farm on which the tobacco was produced.

The Act (7 U.S.C. 1301(b)) defines the "reserve supply level" as the normal supply plus 5 percent thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly

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average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The subjects and issues involved in the proposed determinations are:

(1) The amount of the reserve supply level.

(2) The amount of the national marketing quota on an acreage-poundage basis.

(3) The amount of the national average yield goal.

(4) The amount of the national acreage allotment.

(5) The amount of acreage to be reserved from the national acreage allotment for making corrections in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms.

(6) The national acreage factor.

(7) Whether the Secretary should implement the provision in section 317(g) relating to N_2 or other grades of tobacco not eligible for price support.

The national yield factor is not considered an issue in this determination because it varies directly with the national average yield goal and the national average yield.

The community average yields, as computed in 1965 (30 F.R. 6207, 9875, 14487), will be used for the 1973–74 marketing year.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations, rules, and regulations covered by this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741, South Building, 14th and Independence Avenue SW., Washington, D.C. All submissions must, in order to be sure of consideration, be postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 6, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–17437 Filed 10–10–72;9:45 am]

Animal and Plant Health Inspection Service

[7 CFR Part 319]

UNSHU ORANGES FROM JAPAN

Proposed Deletion of Marking Requirement

Notice is hereby given under the administrative procedure provisions of 5 U.S.C. 553 that a proposal has been made to the U.S. Department of Agriculture to amend Notice of Quarantine 28 (7 CFR 319.28, as amended, 37 F.R. 7481), relating to the importation of citrus fruit (Unshu oranges) pursuant to the Plant Quarantine Act (7 U.S.C. 151 et seq.) by deleting the first sentence of paragraph (b)(4)(i) thereof.

(Sec. 9, 37 Stat. 318; 7 U.S.C. 162; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

The effect of this amendment would be to delete the marking requirement on each individual orange to show the country of origin.

On June 2, 1967, there was published in the FEDERAL REGISTER (32 F.R. 7958) a revision of Quarantine 319.28 which permitted the importation of Unshu oranges from Japan into specific areas of the United States. A number of safeguards were specified in the quarantine to prevent the introduction of citrus canker. One such safeguard was the marking of each individual fruit to show the country of origin. Following the admission of Unshu oranges in 1967 and during the past 5 years, the importer has experienced considerable hardship in meeting this requirement. Due to the odd shape of the Unshu orange, stamping cannot be done by machine and consequently each orange must be hand stamped.

The principal method of maintaining the identity of the Unshu oranges, under present regulations, is by stamping or printing a statement on the individual fruit wrapper and also on each box specifying the States into which the Unshu oranges may be imported and from which they are prohibited removal. Information made available by the present importer of the Unshu orange shows that 100 percent of the fruit was marketed and retailed exclusively by the box during the 1970 and 1971 seasons. It is anticipated that marketing by the box will continue for future sales. It appears that the deletion of the individual fruit marking requirement will not affect the degree of pest risk of introducing citrus canker into the United States nor prevent the effective enforcement of the restrictions on interstate distribution of the fruit within the United States.

All persons who desire to submit written data, views, or arguments in connection with the above proposal should file the same with the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 not later than October 25, 1972. All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 5th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72–17294 Filed 10–10–72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 12292]

ROLLS ROYCE DART MODEL 542 SERIES ENGINES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Rolls Royce Dart Model 542 Series engines. There have been reports of engine mounting feet cracks, loose studs and nuts on the engine mounting feet, and fracture of engine mounting feet studs on Rolls Royce Dart Model 542 Series engines that could result in excessive vibration and loss of retention of the engine from its mounts. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require inspection of the engine mounting feet for cracks and loose nuts, and the engine mounting feet studs for fracture and looseness, and repair, if necessary, on Rolls Royce Dart Model 542 Series engines.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before November 10, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

ROLLS ROYCE (1971) LTD. Applies to Rolls Royce Dart Engine Models 542–4, 542–4K, 542–10, 542–10J, and 542–10K. These engines are installed on, but not necessarily limited to, Convair Model 340/440 (commonly known as Convair 600/640) which have the subject engines installed as a result of modification, and NAMC YS–11 airplanes.

Compliance is required as indicated.

To detect engine mounting foot cracks, and engine mounting foot stud fractures, looseness, and loose nuts, accomplish the following:

(a) Within the next 200 hours' time in service after the effective date of this AD, unless already accomplished within the last 200 hours' time in service prior to the effective date of this AD, and thereafter at intervals not to exceed 400 hours' time in service from the last inspection, inspect the engine mounting feet for cracks and the mounting feet studs for fracture, looseness, and loose nuts, in accordance with Rolls Royce Service Bulletin DA. 72–384 dated August 24, 1971, or an FAA-approved equivalent.

(b) If any engine mounting feet are found cracked or any engine mounting feet studs are found to have loose nuts, or to be loose or fractured during an inspection required by paragraph (a), before further flight, repair in accordance with Rolls Royce Service Bulletin DA. 72–384 dated August 24, 1971, or an FAA-approved equivalent.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 4, 1972.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[FR Doc.72–17279 Filed 10–10–72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 239, 249]

[Release Nos. 33–5313, 34–9801]

FORMS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration certain proposed amendments to Form 8–K (17 CFR 249.308), which is used for reporting certain specified events under sections 13 and 15(d) of the Securities Exchange Act of 1934 (Exchange Act); Forms 7–Q (17 CFR 249.307a) and 10–Q (17 CFR 249.308a), which are used for quarterly reporting of summarized financial information pursuant to those sections of the Exchange Act; Forms 10–K (17 CFR 249.310) and 12–K (17 CFR 249.312), which are used for annual reports pursuant to those sections of the Exchange Act; Forms S–1 (17 CFR 239.11), S–7 (17 CFR 239.26), S–8 (17 CFR 239.16b), S–9 (17 CFR 239.22), and S–11 (17 CFR 239.18), which are used for registration of securities under the Securities Act of 1933; and Forms 10 (17 CFR 249.210) and 12 (17 CFR 249.212), which are used for registration of securities under the Exchange Act.

The Commission has observed an increasing number of large charges to income which have come as a surprise to investors and which have called into question the adequacy of prior years' financial statements. Some of these charges have been of a size and nature such that it might be expected that they could have been foreseen by the entity involved. In this connection, registrants are urged to make special efforts to recognize incipient problems which might lead to these types of charges and to identify them clearly at the earliest possible time in financial statements and other forms of public disclosure, including public reports filed with the Commission, so that investors may recognize the risks involved. In this connection, registrants may consider disclosure of the investment involved in divisions operating at a loss and subject to discontinuance, the undepreciated cost of plant and equipment currently considered to be obsolete or of marginal utility, the extent of research and development costs incurred in connection with products whose success is not reasonably assured and other similar items where significant uncertainties exist as to realization. The Commission has previously urged more comprehensive disclosure of progress and problems encountered in defense and other long-term contracts which may also give rise to major charges against income (Securities Act Release No. 5263 dated June 22, 1972 (37 F.R. 21464)) and has urged greater diligence in the release of information on quarterly and other interim reports of operations (Securities Exchange Act Release No. 9559 dated April 5, 1972 (37 F.R. 21465)).

The Commission is concerned that investors may be misled as a result of such charges and the lack of information regarding their possible impact on prior or future years' earnings, and, accordingly, it is proposing certain changes in the above forms to require increased disclosure regarding the charges and to require timely review of them by the company's independent accountants. It is considered that the increased disclosure will enable the investing public to better evaluate the charges, once recorded, in the context of prior and future years' operations. These requirements cover data to be supplied in filings with the Commission. In addition, registrants are urged to make timely and adequate public disclosure of charges and credits of the type outlined herein prior to the filings with the Commission where it is possible to do so and to make public supplemental data at the time of filing.

Item 10 of Form 8–K would be amended to require disclosures specifically for extraordinary item charges and credits and material provisions for loss, in addition to the categories presently included therein, by revisions in the title and in paragraph (a). The phrase "revaluation of assets" would be eliminated from the title since it is only one of several kinds of extraordinary items included in the item.

Paragraph (a) of Item 10 would be expanded to require (1) a detailed description of the various components of such charges or credits; (2) disclosure of provisions for current or subsequent year losses; (3) a pro forma statement of operations for applicable prior periods showing the nature of all adjustments relating to the charge; (4) a detailed statement, where future losses are provided for, supporting the estimates of the loss and showing the quarterly periods in which it is estimated the loss and the cash outflow (if different) will be incurred; and (5) a report from the registrant's independent accountants attesting whether the factual data presented pertaining to the charge are fairly stated and whether the transaction has been presented properly.

New instructions would be added to pertinent items of Forms 7–Q, 10–Q, 10–K, 12–K, S–1, S–7, S–8, S–9, S–11, 10, and 12 to require, for any transaction previously reported pursuant to Item 10(a) of Form 8–K, a statement of the estimated and the actual loss for the period and a reconciliation of all charges and credits to any reserve provided, and (excepting Forms 7–Q and 10–Q) pro forma statements of net income reflecting adjustments for the charge.

Commission action. The Commission proposes to amend certain items and instructions of various sections of Parts 239 and 249 of Chapter II of Title 17 of the Code of Federal Regulations, and as so amended they would read as follows:

I. Form 8–K (17 CFR 249.308)

The caption of Item 10 would be amended and paragraph (a) would be amended as follows:

ITEM 10. Extraordinary Item Charges and Credits, Other Material Charges and Credits to Income of an Unusual Nature, Material Provisions for Loss, and Restatement of Capital Share Account.

(a) If there have been any extraordinary item charges or credits, any other material charges or credits to income of an unusual nature, or any material provisions for loss, the following shall be furnished for each charge (or credit):

(1) The date of the registrant's determination to make such charge (or credit) and the reasons therefor.

(2) Identification of the accounts affected, together with—

(i) A description of the various types of assets written down or off,

(ii) Provisions for losses on liquidation of assets, for current year operating losses, and for subsequent year losses,

(iii) Explanation of any credits,

(iv) A description of any change in accounting principles or practices or in the methods of applying such principles or practices which was made in connection with the transaction.

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(3) Pro forma statements of operations for the past 5 fiscal years (and for any interim period in the current year and the comparable period of the prior year) reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported.

(4) Where future losses are provided for, a detailed statement supporting the estimate of the loss including information regarding any administrative or fixed costs allocated to the loss. This statement shall also show the quarters in which it is estimated that the loss and the cash outflow (if different from the loss) will be incurred.

(5) A report from the registrant's independent accountants in which they state that they have examined the documentation underlying the transaction being reported, whether the facts presented are fairly stated, and whether the transaction (both actual and forma) has been presented properly.

NOTE: For purposes of this paragraph, any item giving rise to a charge or credit to income which is (or is expected to be) set forth separately in the statement of operations or which is (or is expected to be) mentioned in a communication to stockholders (such as a quarterly report or a president's message) or which is the subject of a press release or is material by any other normal or usual test shall be deemed to be material.

II. Form 7–Q (17 CFR 249.307a).

A new instruction (k) would be added to General Instruction H, as follows:

(k) For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, state the amount of loss which was estimated therein to be applicable to the quarterly period being reported on and the comparable quarter of the prior years, if applicable, and the amount of the actual loss incurred in such quarters, and provide a detailed reconciliation showing all charges and credits to any reserve provided.

III. Form 10–Q (17 CFR 249.308a).

A new instruction (*l*) would be added to General Instruction H, as follows:

(*l*) For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, state the amount of loss which was estimated therein to be applicable to the quarterly period being reported on and the comparable quarter of the prior year, if applicable, and the amount of the actual loss incurred in such quarters, and provide a detailed reconciliation showing all charges and credits to any reserve provided.

IV. Form 10–K (17 CFR 249.310).

A new instruction (6) would be added to the instructions to Item 2, Summary of Operations, as follows:

(6) For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the period being reported on and the amount of the actual loss incurred in such period, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported. If the issuer was not a registrant of the Commission prior to the filing of this registration statement, this instruction shall apply to any transaction which would have been required to be reported pursuant to Item 10(a) of Form 8–K had the issuer been a registrant.

V. Form 12–K (17 CFR 249.312).

A new instruction 6 would be added to the instructions as to exhibits, as follows:

6. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the period being reported on and the amount of the actual loss incurred in such period, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported.

VI. Form S–1 (17 CFR 239.11).

A new instruction 7 would be added to Item 6, Summary of Operations, as follows:

7. For any transaction which was required to be reported pursuant to item (10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported. If the issuer was not a registrant of the Commission prior to the filing of this registration statement, this instruction shall apply to any transaction which would have been required to be reported pursuant to Item 10(a) of Form 8–K had the issuer been a registrant.

VII. Form S–7 (17 CFR 239.26).

Instruction 8 of Item 6, Statements of Income, would be changed to number 9 and a new instruction 8 would be added, as follows:

8. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported.

VIII. Form S–8 (17 CFR 239.16b).

Instruction 4 of Item 19, Summary of Earnings, would be changed to No. 5 and a new instruction 4 would be added, as follows:

4. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported.

IX. Form S–9 (17 CFR 239.22).

Instruction 6 to part (a) of Item 3, Statements of Income, would be changed to No. 7 and a new instruction 6 would be added, as follows:

6. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported. If the issuer was not a registrant of the Commission prior to the filing of this registration statement, this instruction shall apply to any transaction which would have been required to be reported pursuant to Item 10(a) of Form 8–K had the issuer been a registrant.

X. Form S–11 (17 CFR 239.18).

A new instruction 7 would be added to part (a) of Item 6, Summary of Financial Data, as follows:

7. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported. If the issuer was not a registrant of the Commission prior to the filing of this registration statement, this instruction shall apply to any transaction which would have been required to be reported pursuant to Item 10(a) of Form 8–K had the issuer been a registrant.

XI. Form 10 (17 CFR 249.210).

A new instruction 5 would be added to Item 2, Summary of Operations, as follows:

5. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported. If the issuer was not a registrant of the Commission prior to the filing of this registration statement, this instruction shall apply to any transaction which would have been required to be reported pursuant to Item 10(a) of Form 8–K had the issuer been a registrant.

XII. Form 12 (17 CFR 249.212).

A new instruction 9 would be added to the instructions as to exhibits, as follows:

9. For any transaction which was required to be reported pursuant to Item 10(a) of Form 8–K, which shall be cross-referenced hereto, (i) state the amount of loss which was estimated therein to be applicable to the periods being reported on and the amount of the actual loss incurred in such periods, and provide a detailed reconciliation showing all charges and credits to any reserve provided; and (ii) furnish pro forma statements of operations for the past 5 fiscal years and for any interim period in the current year reflecting the allocation of the charge (or credit) to these prior periods on the basis of the facts at the date of filing. In this statement, accumulated research and development costs shall be allocated to the year of incurrence when the charge involves a writeoff of such costs, and depreciation charges shall be revised to reflect adjusted asset lives when fixed assets are written down or off in the transaction being reported. If the issuer was not a registrant of the Commission prior to the filing of this registration statement, this instruction shall apply to any transaction which would have been required to be reported pursuant to Item 10(a) of Form 8–K had the issuer been a registrant.

The proposed amendments would be adopted pursuant to sections 6, 7, 8, 10, and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, and 77s) of the Securities Act of 1933 and sections 13, 15(d), and 23(a) (15 U.S.C. 78m, 78o, and 78w) of the Securities Exchange Act of 1934. All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to the Chief Accountant, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 17, 1972. All such communications should refer to File No. S7–455, and they will be available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 2, 1972.

[FR Doc.72–17296 Filed 10–10–72;8:51 am]

[17 CFR Part 240]

[Release No. 34–9808; File No. S7–452]

MEMBERSHIP ON REGISTERED SECURITIES EXCHANGES FOR OTHER THAN PUBLIC PURPOSES

Additional Procedures

Introduction. On August 3, 1972, the Commission issued for public comment a proposal to adopt Securities Exchange Act Rule 19b–2, 17 CFR 240. 19b–2, concerning membership on registered securities exchanges for other than public puposes.[1] Although the comment period expired October 3, 1972, the Commission has received requests for a short extension of time in which to file comments on the proposed rule. The Commission release announcing the proposed rule also left open questions concerning additional hearing procedures to be followed, if any, after initial comments were received.[2] This release sets forth the additional procedures the Commission believes are appropriate at this time.[3]

Extention of time. In order to afford all interested persons an opportunity to express their views fully, the initial comment period is extended 10 days, and will expire on October 16, 1972. The Commission adheres to its previously expressed view that the public interest requires the prompt resolution of the issues arising out of the appropriate utilization of exchange membership;[4] nevertheless, the grant of a short extension of time for initial comments appears to be sufficient to enable all interested observers to make their views known on this important matter, and the Commission has determined that the grant of such an extension is in the public interest.

Supplementary written comments. In order to permit the fullest exposition of views, and to consider carefully the views already expressed on the Commission's proposed rule, the Commission has determined to permit supplementary written comments on its proposed rule after all persons wishing to do so have submitted their initial written views. To facilitate the efforts of those persons not in the Washington, D.C. area, copies of all initial comments received will be on file in each of the Commission's regional and branch offices.[5] It is expected that a significant portion of these supplementary written comments will be devoted to an analysis of the initial comments received, although this is not required. Furthermore, these supplementary written comments should consider, among other things, the competitive implications, if any, of the Commission's proposed rule.

Supplementary written comments should be addressed to the Office of the Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549, and must be received no later than November 6, 1972. All communications should refer to File No. S7–452 and will be available for public inspection in accordance with the Commission's Public Information Rules (17 CFR 200.80).

Oral presentation. In light of the significance of the issues involved, the Commission has determined to entertain oral statements by those persons submitting written comments. In order to facilitate the Commission in its consideration of any oral statements, the following procedures will be employed:

1. Oral statements shall be held during the week of November 27, 1972, and shall be limited to 15 minutes. Persons desiring additional time should request a specified additional amount of time, and accompany their request with an adequate explanation of their need for addition time. Thereafter, the Commission will notify all persons requesting an opportunity to make an oral presentation of the date and amount of time allocated therefor.

2. The written text of the oral statement to be given must be received by the Office of the Secretary of the Commission no later than 1 week prior to the scheduled oral statement.

3. Persons making an oral presentation should be prepared to respond to inquiries from the Commission and its staff.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 5, 1972.

[FR Doc.72–17384 Filed 10–10–72;8:51 am]

[1] Securities Exchange Act Release No. 9716 (Aug. 3, 1972) and in the FEDERAL REGISTER for August 12, 1972, at 37 F.R. 16409.

[2] Securities Exchange Act Release No. 9716, supra n. 1, at p. 5; 37 F.R. supra n. 1, at p. 16411.

[3] A number of comments received thus far, either by the Commission or its staff, have requested a trial-type, evidentiary hearing. In its release proposing Rule 19b–2, the Commission indicated its view that hearings of that nature would be inappropriate in this, a quasi-legislative context. Securities Exchange Act Release No. 9716, supra n. 1, at p. 5; 37 F.R., supra n. 1, at p. 16411. But any definitive conclusions respecting these requests will be deferred, at least until all comments on the proposed rule, written and oral, are received.

[4] Securities Exchange Act Release No. 9716, supra n. 1 at p. 2; 37 F.R. supra n. 1, at p. 16410.

[5] Copies of all initial comments may also be purchased from the Commission's contract copier by placing orders with the Commission's public reference room.

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Notices

DEPARTMENT OF STATE

Agency for International Development

LIST OF INELIGIBLE SUPPLIERS

The following "List of Ineligible Suppliers" under AID Regulation 8 is currently in effect. All persons who anticipate AID financing for a transaction involving any person whose name appears on this list should take special notice of its contents.

SECTION 1. *Purpose of the list.* The list of ineligible suppliers implements the provisions of AID Regulation 8, "Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing" (22 CFR Part 208). Subject to the conditions described below AID will not make funds available to finance the cost of commodities or commodity-related services furnished by any supplier whose name appears on the list. A debarred supplier whose name appears in section 4 of a printed or published list has been placed thereon for the causes specified in § 208.5 of Regulation 8; a suspended supplier whose name appears in section 4 of a printed or published list has been placed thereon for the causes specified in § 208.7 of Regulation 8. AID has taken such action in accordance with the procedures described in Subpart D of Regulation 8

With respect to the interest of any U.S. bank which holds an AID letter of commitment special attention is called to the fact that the list as periodically modified by AID constitutes a special amendment to every letter of commitment to the effect that AID will not provide reimbursement to a bank for payment to any supplier whose name appears on the list, excepting only: (a) A payment made to a supplier on or before the initial date of suspension indicated for that supplier under an AID letter of commitment issued prior to that date, and (b) a payment made to a supplier under an irrevocable letter of credit opened or confirmed on or before the initial date of suspension indicated for that supplier under an AID letter of commitment issued prior to that date. A bank which receives copies of the list and the periodic modifications thereto shall be held in its relationship with AID to the standard of care described in § 201.73(f) of Regulation 1 (22 CFR § 201.73(f)) with respect to every transaction governed by an AID letter of commitment issued to that bank.

SEC. 2. *Contents of the list.* The list of ineligible suppliers consists of all suppliers and affiliates who have been debarred or suspended by AID. Additions to or deletions from the list are communicated directly to every U.S. bank holding an AID letter of commitment as they occur. AID endeavors to keep printed and published lists as current as possible by superseding or supplementary issuance. No prejudice whatsoever shall attach to a supplier whose name has been removed from this list.

SEC. 3. *Suppliers Debarred from AID financing.*

NAME, ADDRESS, INITIAL DATE OF SUSPENSION, AND PERIOD OF DEBARMENT

Liao, Mr. J. Y. (aka Liao, Chi Yo), president, Summid Corp., 7–2 Alley 13, Lane 1032, Chung Cheng Road, Taipei, Taiwan, April 7, 1970, 5–7–71 to 5–7–74.
Mane Fils, Inc., 250 Park Avenue South, New York, NY, January 7, 1969, 2–6–70 to 2–6–73.
Mutual International Inc., 420–444 Market Street, San Francisco, CA 94111, September 23, 1968, 12–1–69 to 12–1–72.
Palmetto Industry Co., 32 Broadway, Suite 808, New York, NY 10004, March 15, 1968, 10–26–69 to 10–26–72.
Summid Corp., 7–2 Alley 13, Lane 1032, Chung Cheng Road, Taipei, Taiwan, April 7, 1970, 5–7–71 to 5–7–74.
Tumay, Mr. Francis, president, 32 Broadway, Suite 808, New York, NY 10004, March 15, 1968, 10–26–69 to 10–26–72.
Wong, P. C., & Co., 156 Funston Street, San Francisco, CA, September 23, 1968, 12–1–69 to 12–1–72.
Wong, Mr. Peter C., 156 Funston Street, San Francisco, CA, September 23, 1968, 12–1–69 to 12–1–72.

SEC. 4. *Suppliers suspended from AID financing.*

The following suppliers have been suspended from AID financing until further notice pending completion of an AID investigation of facts which may lead to the eventual debarment of such suppliers:

NAME, ADDRESS, AND INITIAL DATE OF SUSPENSION

Archifar Pharmaceutical Products, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.
Associated Chemo-Pharm Industries, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.
Chatham Shipping Corp., 375 Park Avenue, New York, NY 10022, April 30, 1970.
Colony Steel Co., 122 East 42d Street, New York, NY, March 26, 1968.
Concepcion, Mr. Segismundo, 160 Broadway, New York, NY 10036, April 22, 1969.
Concrete Pipe Machinery Co., Post Office Box 1708, Sioux City, IA 51102, August 10, 1970.
Corrigan-Gonzalez Export Corp., 4001 Northwest 25th Street, Miami, FL, November 17, 1970.
Corrigan & Sons, Inc., Post Office Box 218, San Antonio, FL, November 17, 1970.
Dixie Chick Co., 510 Davis Street SW., Gainesville, GA 30501, March 5, 1969.
Domestic Export Corp., 288 New York Avenue, Huntington, NY, February 14, 1972.
Eastar Trading Co., 1830 West Olympic Boulevard, Los Angeles, CA 90006, May 20, 1970.
Fertig, Capt. Arthur H., 19 West Street, New York, NY 10011, April 30, 1970.
Gubbay, Mr. Clement, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Higgins, Thomas Edison, Enterprises, Inc., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Higgins, Mrs. Mabel, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Higgins, Mr. Thomas Edison, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Industrial Waxes, Inc., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
International Clay Machinery Co. of Delaware, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
International Engineering, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
International Enterprises, 160 Broadway, New York, NY 10038, April 22, 1969.
Kim, Mr. Peter, Eastar Trading Co., 1830 West Olympic Boulevard, Los Angeles, CA 90006, May 20, 1970.
Lesh, Mr. George B., vice president, Chatham Shipping Corp., 375 Park Avenue, New York, NY 10022, April 30, 1970.
LeVita Industries, 35 La Patera Lane, Goleta, CA 93016, November 2, 1971.
LeVita, Mr. Frank O., North American Steel Co., Pontiac State Bank Building, Pontiac, Mich. 48058, November 2, 1971.
Long, Mr. Sumner A., president, Chatham Shipping Corp., 375 Park Avenue, New York, NY 10022, April 30, 1970.
Lowens, Mr. Ernest, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Marclem, S.A., c/o Buffete Tapia, Calle 31 3–80 Panama City, Republic of Panama, October 25, 1967.
Meoni, Mr. A., 20 Exchange Place, New York, NY 10005, November 9, 1966.
McElroy, Mr. Roy H., president, International Clay Machinery Co. of Delaware, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
Navarro, Mr. Ben, 20 Exchange Place, New York, NY 10005, November 9, 1966.
North American Steel Co., Pontiac State Bank Building, Pontiac, Mich. 48058, November 2, 1971.
North Georgia Feed and Poultry, Inc., 514 Davis Street SW., Gainesville, GA 30501, March 5, 1969.
Pharma Scienta, 156 Rue de Damas, Imm. Homsi, Beirut, Lebanon, December 19, 1966.
Premium Finishes Sales, Inc., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
Price Paper Products Corp., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
Price, Mr. Thomas E., c/o Price Paper Products Corp., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
Price y Cia, Inc., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
R & Z Co., Inc., 2041–67 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.
Richter, Gedeon, Pharmaceutical Products, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.
Rogers, Mr. Henry, 2041–47 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.
Rolquin, Mr. E. R., president, Domestic Export Corp., 288 New York Avenue, Huntington, NY, February 14, 1972.
Scheinis, Mr. Samuel, 122 East 42d St., New York, NY 10017, March 25, 1971.
Shalom, Mr. Raleigh, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Societe des Laboratories Reunis (SOLAR), 156 Rue de Damas, Imm. Homsi, Beirut, Lebanon, December 19, 1966.
Spe-D-Magic Co., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Tricon International, Inc., 160 Broadway, New York, NY 10038, April 22, 1969.
United Pharmacal Laboratories, Post Office Box 1718, Lot 28, Foreign Trade Zone, Mayaguez, PR, December 19, 1966.
Westerling, Mr. Horst P. G., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
White Magic Co., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Wolff, Mr. Tom G., 787 Tucker Road, North Dartmouth, MA, October 23, 1969.
Zubof, Mr. Samuel, 2041–47 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.

Dated: October 3, 1972.

JAMES F. CAMPBELL,
Assistant Administrator for Program and Management Services.

[FR Doc.72-17285 Filed 10-10-72;8:45 am]

Office of the Secretary

[Public Notice 367; Delegation of Authority 104-8]

UNDER SECRETARY FOR SECURITY ASSISTANCE

Delegation of Authority

By virtue of the authority vested in me by section 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381), and section 4 of the Act of May 26, 1949, as amended (22 U.S.C. 2658), State Department Delegation of Authority No. 104 of November 3, 1961 (26 F.R. 10608), as heretofore amended, is hereby further amended as follows:

1. Section 2 is amended as follows:

a. Paragraph (a)(2) is amended by changing the period at the end thereof to a comma and adding "not including chaper 4 of Part II of the Act."

b. Paragraph (a)(3) is amended to read as follows:

(3) The functions of negotiating, concluding, and terminating international agreements under the Act, other than agreements relating to security assistance programs, and under the Latin American Development Act, subject to the concurrences required by the State Department Circular 175 procedure.

c. Subsection (c) is revoked.

2. Section 6 is amended as follows:

a. Paragraph (b)(1) is amended to read as follows:

(1) To the Under Secretary for Security Assistance:

(A) Exclusive of the functions reserved to the Secretary of State herein, the functions conferred upon the Secretary of State by section 101 of the ex-Executive order insofar as such functions relate to programs under Part II of the Act and by Executive Order 11501 relating to sales under the Foreign Military Sales Act.

(B) Subject to section 2(a)(2) of this delegation of authority, the functions conferred upon the Secretary of State by section 622(c) of the Act and by section 2(b) of the Foreign Military Sales Act relating to continuous supervision and general direction of economic assistance and military assistance programs and military sales, including, but not limited to, whether there shall be a military assistance program for a country and the value thereof or a sale to a country and the amount thereof, to the end that such programs and sales are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

(C) The functions conferred upon the Secretary of State by section 42(b) of the Foreign Military Sales Act, as amended.

(D) The functions conferred upon the President by section 8(d) of Public Law 91–672 (84 Stat. 2055).

(E) The functions of negotiating, concluding, and terminating international agreements relating to security assistance programs, subject to the concurrences required by the State Department Circular 175 procedure.

(F) The Under Secretary for Security Assistance shall be the officer with whom the Secretary of Defense shall consult pursuant to section 202 of the Executive order.

b. Paragraph (b)(2) is revoked.

c. Paragraphs (b)(3), (b)(4), and (b)(5) are redesignated as (b)(2), (b)(3), and (b)(4), respectively.

3. Section 7 is amended as follows:

a. Subsection (a) is amended to read as follows:

(a) (1) Any reference in this delegation of authority to any Act, order, determination, or delegation of authority shall be deemed to be a reference to such Act, order, determination, or delegation of authority as amended from time to time.

(2) Any reference in this delegation of authority to provisions of any appropriation Act shall be deemed to include a reference to any hereafter enacted provisions of law which are the same or substantially the same as such appropriation Act provisions.

(3) Unless otherwise specified, any reference in this delegation of authority to part I of the Act shall be deemed to be a reference also to chapter 4 of part II, and any reference in this delegation of authority to part II of the Act shall be deemed not to include chapter 4 of such part II, in accordance with section 202 (b) of Public Law 92–226 (86 Stat. 27).

(4) Any reference in this delegation of authority to security assistance shall be deemed to include all forms of security assistance, including military assistance under part II of the Act, sales, credit sales and guarantees under the Foreign Military Sales Act, security supporting assistance under chapter 4 of Part II of the Act, and naval vessel loans as authorized by law."

(2) Subsection (c) is amended to read as follows:

(c) Notwithstanding any provision of this delegation of authority, the Secretary of State or the Deputy Secretary of State may at any time exercise any function delegated to any officer of the Department of State, including the Agency, by this delegation of authority.

The foregoing amendments to State Department Delegation of Authority No. 104 shall become effective upon publication in the FEDERAL REGISTER. Any determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, standards, criteria, and other actions made, issued or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before such effective date shall continue in full force and effect until amended, modified or terminated by appropriate authority.

Dated: October 2, 1972.

WILLIAM ROGERS,
Secretary of State.

[FR Doc.72-17324 Filed 10-10-72;8:48 am]

[Public Notice 366]

PROPOSED OCEAN DUMPING CONVENTION

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of State has prepared a draft environmental impact statement for the proposed draft Convention for the Prevention of Marine Pollution by Dumping produced by the Intergovernmental Meeting on Ocean Dumping at Reykjavik, Iceland, from April 10–15, 1972, as amended in certain respects at the Intergovernmental Meeting on Ocean Dumping at London on May 30 and 31, 1972. The Government of the United Kingdom has invited the United States to send representatives to a plenipotentiary conference to be held in London from October 30–November 10, 1972, for the purpose of concluding a final Convention for the Prevention of Marine Pollution by Dumping.

The Reykjavik Draft, as altered by the London amendments, would prohibit all deliberate disposal at sea from vessels and aircraft of certain dangerous substances, and require permits for the dumping of other substances in accordance with detailed criteria.

Copies of the environmental impact statement may be obtained by writing to the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Comments on the proposed action are welcome before October 27, 1972, addressed to the Office of Environmental Affairs, Room 7822, Department of State, Washington, D.C. 20520.

Dated: October 2, 1972.

For the Secretary of State.

CHRISTIAN A. HERTER, JR.,
Special Assistant to the Secretary for Environmental Affairs.

[FR Doc.72-17325 Filed 10-10-72;8:48 am]

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[Public Notice 369]

PROPOSED USE OF DETROIT RIVER PIPES TO PERMIT HYDROCARBON TRANSMISSION

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of State has prepared a draft Environmental Impact Statement that evaluates the environmental implications of a proposed pipeline to be constructed by the Dome Pipeline Corp., that will transport liquid hydrocarbons from a storage cavern at Windsor, Ontario, to a natural gas reforming plant at Green Springs, Ohio. The preparation of this statement has been occasioned by the fact that the Dome Corp. requires an amendment to a permit issued on March 13, 1969, pursuant to Executive Order 11423. The permit, which was originally issued to American Brine, Inc., authorized the construction, connection, operation, and maintenance of two pipelines for the transportation of commercial fluids other than hydrocarbons, and one appurtenant electric cable, under the Detroit River to a point on the international boundary line between the United States and Canada. Dome Petroleum now seeks an amendment of the permit to authorize transportation in these existing pipelines which are to be part of the Windsor-Green Springs line of liquid hydrocarbons.

Copies of the Environmental Impact Statement may be obtained by writing to the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

Comments on the proposed action are welcome within 30 days and should be addressed to the Office of Environmental Affairs, Room 7822, Department of State, Washington, D.C. 20520.

Dated: October 2, 1972.

For the Secretary of State.

CHRISTIAN A. HERTER, Jr.,
Special Assistant to the Secretary for Environmental Affairs.

[FR Doc.72-17326 Filed 10-10-72;8:48 am]

POSTAL RATE COMMISSION

POSTAL FACILITIES

Notice of Visits

OCTOBER 6, 1972.

In furtherance of the Postal Rate Commission's training program published in the FEDERAL REGISTER on September 20, 1972 (37 F.R. 19404), Commissioners will be visiting the Washington, D.C., Post Office and associated facilities in the Washington area on October 16, 17, and 18, 1972.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

Reports of the visits will be on file in the Commission's docket room.

Place of visit:	*Date of visit*
Washington, D.C., Post Office	Oct. 16, 1972
Northern Virginia Sectional Center Facility	Oct. 17, 1972
Prince Georges Sectional Center Facility	Oct. 18, 1972

By direction of the Commission.

JOSEPH A. FISHER,
Secretary.

[FR Doc.72-17376 Filed 10-10-72;8:51 am]

POSTAL FACILITIES

Notice of Visits

OCTOBER 6, 1972.

In furtherance of the Postal Rate Commission's training program published in the FEDERAL REGISTER on September 20, 1972 (37 F.R. 19404), employees of the Commission will be visiting the Washington, D.C., Post Office and associated facilities in the Washington area during the week of October 24, 1972.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed.

Reports of the visits will be on file in the Commission's docket room.

By direction of the Commission.

JOSEPH A. FISHER,
Secretary.

[FR Doc.72-17377 Filed 10-10-72;8:51 am]

DEPARTMENT OF THE INTERIOR

National Park Service

NORTHEAST REGIONAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meetings of the Northeast Regional Advisory Committee on October 12 and 13, 1972, in Philadelphia, Pa.

The October 12 meetings will be assembled in the Conference Room of Independence National Historical Park, 313 Walnut Street, at 9 a.m. for a field trip through Independence National Historical Park. The meeting will reassemble in the National Park Service, Northeast Regional Office Conference Room, 143 South Third Street, at 2 p.m., to discuss the planning and programing for Independence National Historical Park, and the planning and programing for the region.

The October 13 meetings will begin at 9 a.m. and 1:30 p.m. in the Northeast Regional Office Conference Room to discuss and critique the regional bicentennial program, and consider the recent report of the Conservation Foundation on the National Park System.

Further information may be obtained from the Office of the Director, Northeast Region, National Park Service, 143 South Third Street, Philadelphia, PA.

Dated: October 5, 1972.

STANLEY W. HULETT,
Acting Director,
National Park Service.

[FR Doc.72-17345 Filed 10-10-72;8:49 am]

Office of the Secretary

[INT FES 72-36]

AUTHORIZED SAN LUIS UNIT—CENTRAL VALLEY PROJECT, CALIF.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the authorized San Luis Unit of Central Valley Project, Calif. The environmental statement concerns a proposed water supply for the purpose of furnishing irrigation water to a 600,000-acre service area on the west side of the San Joaquin Valley in the Los Banos to Kettleman City area of California. Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone: (303) 343-4491.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, Telephone: (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, Telephone: (916) 481-6100.

Fresno CVP Construction Office, Bureau of Reclamation, Federal Building, Room 5301, 1130 O Street, Fresno, CA 93721, Telephone: (209) 487-5000.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 4, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-17287 Filed 10-10-72;8:45 am]

JOHN E. FORD, Jr.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 28, 1972.

Dated: September 28, 1972.

JOHN E. FORD, Jr.

[FR Doc.72-17300 Filed 10-10-72;8:46 am]

MAXWELL S. McKNIGHT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of October 26, 1972.

Dated: September 29, 1972.

MAXWELL S. MCKNIGHT.

[FR Doc.72-17301 Filed 10-10-72;8:46 am]

EDGAR A. WEYMOUTH, Jr.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 24, 1972.

Dated: September 27, 1972.

EDGAR A. WEYMOUTH, Jr.

[FR Doc.72-17302 Filed 10-10-72;8:46 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

INSTITUTE FOR MUSCLE DISEASE, INC., ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897).

Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73-00151-00-46040. Applicant: Institute for Muscle Disease, Inc., 515 East 71st Street, New York, NY 10021. Article: Anticontamination device for Elmiskop I electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is a compatible accessory for an existing electron microscope currently in use for scientific investigation. Application received by Commissioner of Customs: August 17, 1972.

Docket No. 73-00152-33-46070. Applicant: Sloan-Kettering Institute for Cancer Research, 425 East 68th Street, New York, NY 10021. Article: Scanning electron microscope, Model S-4. Manufacturer: Cambridge Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used to study:

(a) The surface configuration of cells;

(b) The three-dimensional relationship of various tissues (collections of cells such as intestinal mucosa, tumors, etc.);

(c) The relationship of certain microorganisms such as mycoplasma or viruses with the cells these organisms attach to and enter; and

(d) The arrangement and attachment of antigens to cell surfaces.

The article will also be used in the courses "Microscopy for Cancer Research" and "Advanced Cytology" to teach graduate students and postdoctoral fellows the configuration and relationships of cancer cells versus normal cells. Application received by Commissioner of Customs: September 14, 1972.

Docket No. 73-00155-00-46070. Applicant: University of California at Santa Cruz, Purchasing Office, Santa Cruz, Calif. 95060.

Article: Goniometer Stage (GS-3). Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is an accessory for an existing scanning electron microscope being used by students and faculty in the fields of biology, geology, and paleontology. Biologists are studying the form, structure, development, and chemical composition of spores of lower land plants, especially of bryophytes; as well as conducting a study of the structure of the outer membrane of mitochondria. Geologists are investigating terrestrial and lunar glasses and their alteration products; and also structures and defects within crystals are being studied. Paleontological study with the scanning electron microscope is being made of ultramicroscopic fossils such as coccoliths and discoasters. The addition of this accessory to the scanning electron microscope will permit observation of any material with much greater facility and thus be extremely useful as a teaching aid. Application received by Commissioner of Customs: September 19, 1972

Docket No. 73-00157-91-32500. Applicant: University of Georgia, Botany Department, Athens, Ga. 30601. Article: InfraRed Gas Analyser, Model SB2. Manufacturer: Grubb Parsons, United Kingdom. Intended use of article: The article is intended to be used in studies of the gas exchange properties of plant leaves, for simultaneous determinations of H_2O and CO_2 fluxes while holding the leaf environment nearly constant. Application received by Commissioner of Customs: September 18, 1972.

Docket No. 73-00158-33-37100. Applicant: Bucknell University, Lewisburg, Pa. 17837. Article: Yeda-press (tissue homogenizer). Manufacturer: Yeda Research & Development Co., Ltd., Israel. Intended use of article: The article is intended to be used to prepare subcellular organelles or membrane fractions. Specifically it will be used to homogenize rat testicular tissue for preparation of Golgi apparatus membranes from the male germ cell in a research project designed to gain information regarding the Golgi apparatus membrane system as it relates to acrosome formation and sperm competence.

Docket No. 73-00159-99-07500. Applicant: State University College of New York, Brockport, N.Y. 14420. Article: Precision Calorimetry System, Model 8700. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in chemistry courses to familiarize students with modern precision calorimetry as applied to physiochemical measurements, instrumental analysis, inorganic thermochemistry, biochemical studies and research techniques in thermochemistry for the study of the energetics of organic reactions in their mechanisms. Application received by Commissioner of Customs: September 14, 1972.

SETH M. BODNER,
Director, Office of Import Programs Divisions.

[FR Doc.72-17320 Filed 10-10-72;8:48 am]

Maritime Administration

CONSTRUCTION OF COMBINATION RO/RO CONTAINERSHIP

Recomputation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board to determine whether there has been a significant change in the foreign shipbuilding

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market conditions of combination RO/RO containerships (identified as MA Design C-7-S-95a) and if there has been such a change, to recompute the foreign cost for the construction of such type of vessels, pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended, and in connection with the award of any new contract related to the construction of such type of vessels.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such recomputations may file written statements by the close of business on October 18, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: October 6, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-17430 Filed 10-10-72;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3B2828]

MONSANTO CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2828) has been filed by Monsanto Co., 1101 17th Street NW., Washington, DC 20036, proposing that § 121.2536 *Filters, resin-bonded* (21 CFR 121.2536), be amended to provide for the safe use of phenol-formaldehyde resins chemically modified with cyanoguanidine and urea in the manufacture of resin-bonded glass fiber filters intended for filtering food.

Dated: October 1, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-17280 Filed 10-10-72;8:45 am]

[FAP 2B2788]

PENNWALT CORP.

Notice of Withdrawal of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Pennwalt Corp., Plastics Department, 900 First Avenue, King of Prussia, PA 19406, has withdrawn its petition (FAP 2B2788), notice of which was published in the FEDERAL REGISTER of August 2, 1972 (37 F.R. 15443), proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of copolymers of vinylidene fluoride and tetrafluoroethylene as articles or components of articles used in contact with food.

Dated: October 1, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-17281 Filed 10-10-72;8:45 am]

Office of the Secretary

INPATIENT HOSPITAL DEDUCTIBLE

Announcement of Dollar Amount

Pursuant to authority contained in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2), as amended, and a ruling of the Price Commission under 6 CFR 300.18 of its regulations, I hereby determine and announce that the dollar amount which shall be applicable for the inpatient hospital deductible, for purposes of section 1813(a) of the Act, as amended, shall be $72 in the case of any spell of illness beginning during 1973.

The Social Security Act provides that, for calendar years after 1968, the inpatient hospital deductible shall be equal to $40 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for the calendar year preceding the year in which the promulgation is made (in this case, 1971) to (2) the current average per diem rate for such services for 1966. The law further provides that, if the amount so determined is not an even multiple of $4, it shall be rounded to the nearest multiple of $4. Further, it is provided that the current average per diem rates referred to shall be determined by the Secretary of Health, Education, and Welfare from the best available information as to the amounts paid under the program for inpatient hospital services furnished during the year by hospitals who are qualified to participate in the program, and for whom there is an agreement to do so, for individuals who are entitled to benefits as a result of insured status under the Old-Age, Survivors, and Disability Insurance program or the Railroad Retirement program.

The data available to make the necessary computations of the current average per diem rates for calendar years 1966 and 1971 are derived from individual inpatient hospital bills that are recorded on a 100-percent basis in the records of the program. These records show, for each bill, the total inpatient days of care, the interim reimbursement amount, and the total interim cost (the sum of interim reimbursement, deductible, and coinsurance).

Each individual bill is assigned both an initial month and a terminal month, as determined from the first day covered by the bill and the last day so covered. Insofar as the initial month and the terminal month fall in the same calendar year, no problems of classification occur.

Two tabulations of interim reimbursements are prepared, one summarizing the bills with each assigned to the year in which the period it covers begins, and the other summarizing the same bills with each assigned to the year in which the period it covers ends. The true value with respect to the interim costs for a given year on an accrual basis should fall between the amount of total costs shown for bills beginning in that year and the amount shown for bills ending in that year.

The average interim per diem rate for inpatient hospital services for calendar year 1966, on the basis described, is $37.93, while the corresponding figure for calendar year 1971 is $72.21. It may be noted that these averages are based on about 30 million days of hospitalization in 1966 and 63 million days of hospitalization in 1971. The ratio of the 1971 rate to the 1966 rate is 1.904.

In order to reflect accurately the change in the average per diem hospital cost under the program, the average interim cost (as shown in the tabulations) must be adjusted for (i) the effect of final cost settlements made with each provider of services after the end of its fiscal year to adjust the reimbursement to that provider from the amount paid during that year on an interim basis to the actual cost of providing covered services to beneficiaries, and for (ii) changes in the benefit structure since the base year, 1966. To the extent that the ratio of final cost to interim cost is different in the current year than it was in 1966, the increase in average interim per diem costs will not coincide with the increase in actual cost that has occurred. The inclusion of the lifetime reserve days in the current tabulation of the average interim per diem cost when such days were not included in the corresponding tabulation for the base year, 1966, will understate the estimate of the increase in cost that has occurred, because the average cost per day of very long confinements in a hospital is less than the average for all confinements. In order to estimate the increase in average per diem cost that has occurred, a comparison must be based on similar benefits in the two periods (1971 and 1966); thus the effect of lifetime reserve days, must be eliminated from the current year tabulation. Actuarial analysis of the data available indicates that these adjustments do not change the ratio shown above by enough to result in a different deductible for 1973. The values shown in this report do not reflect these adjustments for final cost settlements or lifetime reserve days.

When the ratio of 1.904 is multiplied by $40, it produces an amount of $76.16, which must be rounded to $76. The Cost-of-Living Council, however, has ruled that the inpatient hospital deductible represents a price paid by Medicare recipients for hospital services and is, therefore, governed by Price Commission regulations limiting the increase which

can be charged by institutional providers of health services. The Price Commission has further ruled that the increase allowable is limited to 6 percent. Rounded to the nearest multiple of $4, this produces a rate of $72 for 1973. Accordingly, the inpatient hospital deductible for spells of illness beginning during the calendar year 1973 is $72.

Dated: October 5, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.72-17399 Filed 10-10-72;8:52 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-72-119; Administrative Division File No. 2-59]

CORONA DE TUCSON ET AL.

Notice of Hearing

Notice is hereby given that:

1. Corona de Tucson, Inc., its officers and agents, hereinafter referred to as Respondent being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing dated August 29, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's Statement of Record for Corona de Tucson and the failure of the Developer to amend the pertinent sections of the Statement of Record and Property Report.

2. The Respondent filed an answer received September 11, 1972, in answer to the allegations of the Notice of Proceedings and Opportunity for a Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for a Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b): *It is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before David Knight in Room 7233, Department of HUD Building, 451 7th Street SW., Washington, DC, on November 10, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 27, 1972.

5. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-17289 Filed 10-10-72;8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA-Pet-No. 59]

VERMONT RAILWAY, INC.

Notice of Petition for Exemption From Hours of Service Act

OCTOBER 5, 1972.

The Vermont Railway, Inc., has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64(a) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA-Pet-No. 59, 400 Seventh Street SW., Washington, DC 20590. Communications received before November 10, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC

EDWARD F. CONWAY, JR.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72-17323 Filed 10-10-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-277, 50-278]

ENVIRONMENTAL REPORT, SUPPLEMENTAL ENVIRONMENTAL REPORTS, AND AEC DRAFT ENVIRONMENTAL STATEMENT FOR PEACH BOTTOM ATOMIC POWER STATION UNITS 2 AND 3

Notice of Availability

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report and Supplement 1 through Supplement No. 6 to Environmental Report" (collectively known as the "reports"), submitted by the Philadelphia Electric Co., have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC and in Martin Memorial Library, 159 East Market Street, York, PA. The reports are also available at the Pennsylvania State Planning Board, 503 Finance Building, State Capitol, Harrisburg, Pa., and at the York County Planning Commission, 1320 West Market Street, York, PA.

Notice of availability of the applicant's Environmental Report and Supplement No. 1 was published in the FEDERAL REGISTER on January 18, 1972 (37 F.R. 747).

The reports have been analyzed by the Commission's Directorate of Licensing, and a Draft Environmental Statement, dated October 1972, related to the proposed issuance of operating licenses for the Peach Bottom Atomic Power Station Units 2 and 3, located at Philadelphia Electric Co.'s site in Peach Bottom Township, has been prepared and has been made available for public inspection at the locations designated above. Copies of the Commission's Draft Environmental Statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to Appendix D to CFR Part 50, interested persons may, within forty-five (45) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the Report and Supplements, on the Draft Environmental Statement, and on the proposed action. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 4th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-17283 Filed 10-10-72;8:45 am]

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[Docket No. 50-336]

CONNECTICUT LIGHT & POWER CO. ET AL.

Facility Operating License; Notice of Receipt of Application, Consideration of Issuance, and Opporunity for Hearing

Connecticut Light & Power Co., the Hartford Electric Light Co., Western Massachusetts Electric Co., and the Millstone Point Co. (the applicants), pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, have filed an application, which was docketed on August 14, 1972, together with a final safety analysis report, for a license to operate the Millstone Nuclear Power Station, Unit No. 2, a pressurized water nuclear reactor (the facility), located at the Millstone Nuclear Power Station, an approximately 500-acre site on Long Island Sound in the town of Waterford, Conn.

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the applicants which would authorize the applicants to possess, use, and operate Millstone Unit No. 2 at steady-state power levels not to exceed 2,560 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto. The license would be issued upon receipt of a report on the applicants' application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation of the application by the Commission's Directorate of Licensing, the Completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-76 issued by the Commission on December 11, 1970.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-76. In addition, the license will not be issued until the Commision has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of section B of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits or operating licenses were issued in the period January 1, 1970–September 9, 1971. Notice is hereby given, pursuant to the Act and the regulations in 10 CFR Part 2, rules of practice, and Appendix D to 10 CFR Part 50 Implementation of the National Environmental Policy Act of 1969, that a hearing will be held in the captioned proceeding by an Atomic Safety and Licensing Board (Board) at a time and place to be fixed by subsequent order of the Board to consider and make determinations on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's rules of practice, the Board will without conducting a de novo evaluation of the application determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is a contested proceeding, the Board will decide any matters in controversy among the parties within the scope of Appendix D to 10 CFR Part 50, with regard to whether, in accordance with the requirements of Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D to 10 CFR Part 50, (a) determine whether the requirements of section 102(2)(c) and (D) of NEPA and Appendix D to 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; and (c) determine, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, whether the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

The Board will be designated by the Atomic Energy Commission. Notice as to its membership will be published in the FEDERAL REGISTER. Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicants may file a request for a hearing with respect to issuance of the facility operating license and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

If a request for a hearing or petition for leave to intervene with respect to the issuance of a facility operating license is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

Any person who does not wish to, or is not qualified to become a party to this proceeding concerning continuation, modification, termination, or conditioning the construction permit may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be

fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit is not contested, the Board will convene a prehearing conference of the parties within sixty (60) days after this notice of hearing or such other time as may be appropriate, at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding concerning continuation, modification, termination, or conditioning the construction permit becomes a contested proceeding, the Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held within sixty (60) days from the date of publication of this notice in the FEDERAL REGISTER, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference and within sixty (60) days after discovery has been completed, or within such other time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

Notices of the dates and places of the special prehearing conference, the prehearing conference, and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matters under consideration, see the application for the facility operating license dated August 10, 1972, as amended, and the applicant's environmental report dated November 15, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Conn. 06385. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the proposed technical specifications, which will be attached to the proposed facility operating license. Copies of items (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

With respect to this proceeding concerning continuation, modification, termination, or conditioning the construction permit, the Commission will delegate to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission will establish the Appeal Board pursuant to 10 CFR 2.785 and will make the delegation pursuant to subparagraph (a)(1) of that section. The Appeal Board will be composed of a Chairman, and two other members to be designated by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Germantown, Md., this 5th day of October 1972.

UNITED STATES ATOMIC ENERGY COMMISSION,
PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-17403 Filed 10-10-72;8:52 am]

[Dockets Nos. 50-282, 50-306]

NORTHERN STATES POWER CO.

Notice of Consideration of Issuance of Facility Operating Licenses; Notice of Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Northern States Power Co. (the applicant) which would authorize the applicant to possess, use, and operate the Prairie Island Nuclear Generating Plant Units 1 and 2, two pressurized water nuclear reactors (the facilities), located on the applicant's site northwest of Red Wing, Goodhue County, Minn. Each unit would operate at steady-state power levels not to exceed 1,650 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto. The licenses would be issued upon the receipt of a report on the applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facilities was authorized by Construction Permits Nos. CPPR-45 and CPPR-46, issued by the Commission on June 25, 1968. Construction of Unit 1 is anticipated to be completed by February 1, 1973, and Unit 2 by February 1, 1974.

Prior to issuance of any operating licenses, the Commission will inspect each facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the above noted Construction Permit. In addition, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facilities are subject to the provisions of 10 CFR Part 50, Appendix D, section C.3 which sets forth procedures applicable to review of invironmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of the facility operating licenses. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the

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basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated January 28, 1971, as amended, and the applicant's environmental report dated November 5, 1971, as supplemented, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Environmental Library of Minnesota, 1222 Southeast Fourth Street, Minneapolis, MN 55414. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facility operating licenses.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 6th day of October 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects Directorate of Licensing.

[FR Doc.72-17402 Filed 10-10-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23542]

ATC BYLAWS INVESTIGATION

Postponement of Hearing

Notice is hereby given that, because of a conflict involving one party and to serve the convenience of at least two others, the hearing in this proceeding is postponed from October 25, 1972 (37 F.R. 20049, September 23, 1972), to October 30, 1972, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 4, 1972.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.72-17328 Filed 10-10-72;8:48 am]

[Docket No. 22628; Order 72-9-89]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Fare Matters; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 25th day of September, 1972.

The above order printed in the FEDERAL REGISTER on page 20741 of the issue for Tuesday, October 3, 1972, should be Order 72-10-1 and the adoption date should be October 2, 1972.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-17327 Filed 10-10-72;8:48 am]

CIVIL SERVICE COMMISSION

PRINTING MANAGEMENT SPECIALIST, NATIONWIDE

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on September 19, 1972, for positions of Printing Management Specialist (for applicants with a baccalaureate degree with a major in Printing Management), GS-1654-7/11, Nationwide.

Assuming other legal requirements are met, the agency may pay the expense of travel and transportation to first post of duty for appointees to these positions.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-17396 Filed 10-10-72;8:51 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COSTA RICA

Entry or Withdrawal From Warehouse for Consumption

OCTOBER 5, 1972.

On October 1, 1971, the United States Government requested the Government of Costa Rica to enter into consultations concerning exports to the United States of cotton textile products in Categories 53 and 61 produced or manufactured in Costa Rica. Since no solution was mutually agreed upon, the U.S. Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 3, paragraph 3, and Article 6(c) relating to nonparticipants, established restraints at levels of 29,400 dozen for Category 53 and 89,250 dozen for Category 61 for the 12-month period beginning October 1, 1971, and extending through September 30, 1972. (See 36 F.R. 23096.)

On September 29, 1972, the United States Government informed the Government of Costa Rica that it was renewing for an additional 12-month period, beginning October 1, 1972, and extending through September 30, 1973, the restraint on cotton textile products in Category 53 only, produced or manufactured in Costa Rica. Pursuant to Annex B, paragraph 2, of the Long-Term Arrangement, the level of restraint for this 12-month period is 5 percent greater than the level of restraint applicable to Category 53 for the preceding 12-month period.

There is published below a letter of October 5, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amount of cotton textile products in Category 53, produced or manufactured in Costa Rica, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning October 1, 1972, be limited to the designated level.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

OCTOBER 5, 1972.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning October 1, 1972, and extending through September 30, 1973, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 53, produced or manufactured in Costa Rica, in excess of a level of restraint for the period of 30,870 dozen.

In carrying out this directive, entries of cotton textile products in Category 53, produced or manufactured in Costa Rica, which have been exported to the United States from Costa Rica prior to October 1, 1972, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period October 1, 1971, through September 30, 1972. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

A detailed description of Category 53 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of cotton textiles and cotton textile products from Costa Rica have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-17411 Filed 10-10-72;8:52 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01027---	Flensburger Befrachtungskontor Uwe C. Hansen & Co. Volta Venture.
01062---	Mayfair Tankers, Ltd.: Mayfair Loyalty.
01088---	Schulte & Bruns: Ilse Schulte.
01428---	The Ocean Steam Ship Co., Ltd.: Antenor.
01713---	Egeria S.P.A.—Palermo: Gherenuk.
01861---	BP Tanker Co., Ltd.: British Dart.
02039---	"GRYF" Deep Sea Fishing Co.: Buran.
02179---	Globtik Tankers International Ltd.: Tundra Breeze.
02198---	The Peninsular & Oriental Steam Navigation Co.: Garmula.
02332---	Lykes Bros. Steamship Co., Inc.: Almeria Lykes.
02575---	Sandra Shipping Co., Ltd.: Aurora.
02831---	Ednasa Co. Ltd.: Lennia. Lalinda.
02935---	Cable and Wireless Ltd.: Mercury.
02959---	Kokuyo Kaiun K.K.: Kinukawa Maru.
02977---	J. Ray McDermott & Co., Inc.: McDermott Tidelands 08.
02982---	The Shipping Corp. of India Ltd.: State of Meghalaya.
03047---	E. I. du Pont de Nemours & Co.: EIDC-8.
03471---	Nippo Kisen Kabushiki Kaisha: Queen Venture.
03501---	Osaka Shosen Mitsui Senpaku K. K.: New York Maru.
03509---	Taiyo Shosen K. K.: Pegasus No. 1.
03546---	A/S Mosvolds Rederi: Mosbrook.
03720---	Global Marine Inc.: Hughes Glomar Explorer.
03923---	Shinwa Kaiun Kabushiki Kaisha: Shinen Maru. Shinyu Maru. Yawata Maru. Tojo Maru.
03933---	Newdigate Steamship Co., Ltd.: Erisort.
04046---	A/S Mosbulkers: Mosfield.
04087---	Merichem Co.: NMS 1400.
04088---	Petrolane Offshore Construction Services Inc.: Alligator.
04413---	Leif Hoegh & Co. A/S: Hoegh Vedette.
04462---	Empresa Nacional "Elcano" De La Marina Mercante S.A.: Castillo Manzanares.
04567---	Ken Hieng Navigation (Panama) Corp., S.A.: Kensei.
04601---	American Tunaboat Association: Anna Maria. City of Lisbon. City of Panama.
04623---	Seaspan International Ltd.: Doris Yorke. Greg Yorke.
04625---	American Commercial Lines, Inc.: Pat Breen.
04637---	McAllister Bros. Inc. (New York): McAllister 128.
05245---	Blaesbjerg & Co.: Arctic Scan.
05471---	Belcher Oil Co.: Belcher No. 24.
05505---	Marmanosa Compania Naviera S.A.: Pantokrator.
05617---	Maritima Del Norte, S.A.: Sierra Jara.
05713---	W. B. Enterprises, Inc.: W-8.
05735---	Solstad Rederi: Concordia Fonn.
05816---	Allan B. Hyde & Meade D. Hyde: Hybur Transport. Hybur.
05862---	World Tide Shipping Corp.: Shomron.
06347---	Marlineas Mundiales S.A.: Pioneer.
06435---	Dampskibsaktieselskabet Den Norske Afrika-OG Australie-linie, Wilhelmsens Dampskibsaktieselskab, A/S Tonsberg, A/S Tankfart, I, A/S Tankfart IV, A/S Tankfart V, A/S Tankfart IV: Tricolor.
06510---	Compagnie Nationale Algerienne De Navigation C.N.A.N.: Ibn Badis.
06516---	Stott, Mann & Co., Ltd.: Calvados.
06671---	Kitanihon Kisen Kabushiki Kaishiya: Oji Maru No. 1.
06709---	Ahjin Haewoon Jushik Hoesa: Yongjin.
06799---	Compagnie Generale Transbaltique: Sibelius.
07067---	Liberian Dove Transports, Inc.: Eastern Treasure.
07075---	Federal Off-Shore Services Ltd.: Mary B VI. Cathy B. Janie B.
07113---	Cape Sable Shipping, Ltd.: Cape Sable.
07129---	Cape Cod Maritime Ltd.: Cape Cod.
07198---	Navarino Shipping Co. Ltd.: Aegis Bounty.
07203---	Nava Shipping Co., Ltd.: Alexandros T.
07207---	Althea Maritime Corp.: Aeolos.
07217---	Prodos Compania Naviera, S.A.: Marigo.
07218---	Juno Maritime Corp.: Comet.
07236---	Independent Marine Transport, Inc.: Peter Reiss. John Purves.
07240---	Swan Steamship Co., S.A.: Asia Falcon.
07244---	Three Rivers Shipping Co., Ltd.: Buenos Aires.
07249---	Astrofeliz Armadora S.A.: Vasso.
07250---	Astrocamino Armadora S.A.: Pacific Colocotronis.
07251---	Fundadora Armadora S. A.: Aspassia.
07252---	Hidalgo Atlantico Navegacion S.A.: Natal.
07253---	Oxford Shipping Inc.: Lord Frontenac.
07256---	Tiha Inc.: Atlantic Carrier.
07258---	Kee Yeh Navigation (Panama) Corp. S.A.: Kee Lee.
07265---	Kitanihon Gyogyo Kabushiki Kaisha: Yusho-Maru No. 2.
07266---	Hamaya Suisan Kabushiki Kaisha: Eikyu-Maru No. 82.
07267---	Taiheiyo Suisan Kabushiki Kaisha: Hatsue Maru No. 55. Hatsue Maru No. 38.
07268---	Kabushiki Kaisha Shinya Shoten: Shintoku Maru No. 25.
07269---	Nemuro Daiichi Gyogyo Seisan Kumiai: Fukuyoshi-Maru No. 75. Fukuyoshi-Maru No. 85.
07270---	Maruhon Suisan Kabushiki Kaisha: Ebisu-Maru No. 88.
07271---	Sasaki Junzo: Mito Maru No. 82.
07272---	Tenyo Gyogyo Kabushiki Kaisha: Tenyo Maru No. 25.
07273---	Nemuro Kaiyogyogyo Seisan Kumiai: Tsune Maru No. 31.
07274---	Shinya Tetsuzo: Shinko-Maru No. 3.
07275---	Kabushiki Kaisha Watarai Shoten: Koshin Maru No. 11.
07276---	Anglo-Pacific Line Ltd.: Biak Maru.

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Certificate No.	Owner/Operator and Vessels
07277---	Cape Hatteras Shipping Co., Inc.: Cape Hatteras.
07280---	Angelbros Compania Naviera S.A.: Theoris.
07281---	Styico Comp. Naviera S.A.: Brothers.
07282---	I. S. Joseph Shipping Co. (Liberia) Ltd.: Anna K.
07283---	Evergreen Line S.A.: Ever Welfare. Ever Nobility. Ever Lucky.
07284---	Laxia Shipping Co. Ltd.: San George.
07286---	Halifax Shipping Co. Ltd.: Halifax.
07292---	Hinode Kisen Co. Ltd.: Tomiwaka Maru No. 8.
07293---	Hellespont Shipping Co. Ltd.: Kimon.
07294---	Aetos Shipping Co. Ltd. S.A.: Ithaki Castle.
07295---	Andina Compania Naviera S.A.: Ithaki Reefer.
07296---	Astroleal Compania Naviera S.A.: Ithaki Island.
07300---	Kemira Oy: Kotkaniemi.
07301---	Alimar Compania Naviera S.A. Panama: Annitsa Carras.
07303---	Panfam Navigation Co., Ltd.: Karyatis.
07306---	Kong Heung Industrial Co., Ltd.: Kum Yong No. 103.
07312---	Tetien Navigation Co., Ltd.: Tetien.
07323---	Pamphilos Shipping Co., Ltd.: Marathon.
07324---	Voleon Navigation Co., Ltd.: Atticos.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17329 Filed 10-10-72;8:48 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01185---	Aksjeselskapet Kosmos: Jagarda. Jaricha.
01426---	Kuwait Shipping Co. (S.A.K.): Al Mubarakiah.
01437---	Carlton Steamship Co. Ltd.: Lynton.
01448---	Burnside Shipping Co. Ltd.: Simonburn.
01570---	Rimnes Compania Naviera S.A.: Panagiotis Xilas.
01884---	Northern Barge Line Co.: NBL-2.
02198---	The Peninsular & Oriental Steam Navigation Co.: Northumberland.
02501---	Standard Oil Co. of California: Hawaii Standard.
02625---	Partenreederei M.V. Anita: Anita.
02976---	Arthur-Smith Corp.: J.T.S. 600.
02990---	Tota Shipping Co. S.A. Panama: Navishipper.
03128---	Global Seas Inc.: Tichi.
03153---	Caprice Navigation Corp.: Tigris.
03154---	Valiant Navigation Corp.: Delfini.
03156---	Deneb Navigation Corp.: Trechon.
03158---	Aquarius Navigation Corp.: Taktikos.
03161---	Andromeda Navigation Corp.: Triena.
03428---	Hachiuma Kisen K.K.: Malay Maru.
03458---	Matsuoka Kisen K.K.: Andes Maru.
03459---	Meiji Kaiun K.K.: Melten Maru.
03471---	Nippo Kisen K.K.: Homei Maru.
03518---	Tokyo Senpaku K.K.: Kyoto Maru.
03561---	Skibsaksjeselskapet "Solvang": Kongsborg.
03727---	Continental Oil Co.: CAGC No. 1. CAGC No. 2.
03841---	American Export Lines: Expeditor.
03979---	Moran Towing Corp.: Moran 106.
04009---	Kameve Cia. Nav. S.A.: Aegis Star.
04088---	Petrolane Offshore Construction Services, Inc.: Packer Jet Barge II.
04394---	Philippine President Lines, Inc.: Liberty Three. President. President Macapagal. President Marcos. President Osmena. President Quezon.
04484---	Choshi Maguro Gyogyo Seisan Kumiai: Itomaru No. 18.
04526---	Eifuku Gyogyo Kabushiki Kaisha: Eifukumaru No. 18.
04644---	Koberg Corp. Ltd.: Koberg.
05046---	Magnolia Marine Transport Co.: Levi. Quin. Waring.
05573---	Companhia De Navegacao Carregadores Acoreanos: Ribeira Grande.
05576---	Aeas Compania Naviera S.A.: Aeas.
05746---	Campanella Corp.: Pittsburgh. PRR 44. U701.
05800---	Partenreederei MS Brunskappel: Brunskappel.
05890---	Enterprise Shipping Co. Ltd.: Robert Clifton.
06369---	Spartan Endeavour Shipping Co. Ltd.: Tachys.
06370---	Pisces Navigation Corp.: P Tekton.
06371---	Aires Navigation Corp.: Tropis.
06509---	River Transportation Inc.: T-200.
06805---	Spartan Pride Shipping Co. Ltd.: Aris.
06841---	Southeast Tanker Co.: Aquario.
06943---	Alphard Navigation Corp.: Tychos.
07071---	Epidavros Shipping Co. Ltd.: Tagma.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17330 Filed 10-10-72;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. G-7009 etc.]

CITIES SERVICE OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

OCTOBER 3, 1972.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 30, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-7009 D 9-25-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Columbia Gas Transmission Corp., Big Sandy Field, various counties, Ky.	Nonproductive	
C167-1519 E 9-18-72	General American Oil Co. of Texas (successor to Austral Gas Co.), 1900 First National Bank Bldg., Dallas, Tex. 75206.	Michigan Wisconsin Pipe Line Co., Lawson Field, Acadia Parish, La.	21.7211	15.025
C170-149 A 9-20-72	Forest Oil Corp., 1300 National Bank of Commerce, San Antonio, Tex. 78205.	Columbia Gas Transmission Corp., Blocks 255 and 256 Fields, Vermilion area, Offshore Louisiana.	35.0	15.025
C171-105 E 9-11-72	Petro-Lewis Corp. (successor to Monterey Pipeline Co.), 1600 Broadway, Denver, CO 80202.	United Gas Pipe Line Co., Sunrise Field, Terrebonne Parish, La.	22.375	15.025
C171-665 D 9-18-72	King Resources Co., 100 Security Life Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Gomez Field, Pecos County, Tex.	(1)	
C173-198 B 9-15-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., (North Louise Field, Wharton County, Tex.).	Depleted	
C173-199 B 9-18-72	Belco Petroleum Corp., 2100 First City National Bank Bldg., Houston, Tex. 77002.	Oklahoma Natural Gas Co., Major County, Okla.	Depleted	
C173-200 A 9-18-72	Midwest Oil Corp., 1700 Broadway, Denver, CO 80202.	Northern Natural Gas Co., Davidson Ranch Area, Crockett County, Tex.	[2] 30.0	14.65
C173-201 A 9-18-72	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Southern Natural Gas Co., Main Pass Block 122 and 133 Field, Offshore (Federal) Louisiana.	[2] 26.0	15.025
C173-202 A 9-19-72	Pennzoil Co., 900 Southwest Tower, Houston, Tex. 77002.	Northern Natural Gas Co., Quito Area, Ward County, Tex.	[3] 37.0	14.65
C173-203 A 9-15-72 [4]	Pioneer Production Corp., Post Office Box 2542, Amarillo, TX 79105.	Texas Eastern Transmission Corp., South Bird Island Field, Kleberg County, Tex.	16.0654063	14.65
C173-205 B 9-19-72	Deposit Guaranty National Bank, Executor, Estate of Joe W. Latham, Post Office Box 1200, Jackson, MS 39205.	United Gas Pipe Line Co., Pistol Ridge, Pearl River, Miss.	Depleted	
C173-206 A 9-21-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Consolidated Gas Supply Corp., Island Creek Coal C Well No. 4, acreage in Big Creek District, McDowell County, W. Va.	40.0	15.325
C173-207 B 9-18-72	Ralph H. Meriwether, Ted Collins, Jr., Robert E. Tucker, Jr., 1006 Midland National Bank Bldg., Midland, Tex. 79701.	Northern Natural Gas Co., Gomez (Ellenburger) Field, Pecos County, Tex.	(5)	
C173-208 B 9-21-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., Barham Unit, Simsboro Field, Lincoln Parish, La.	Depleted	
C173-210 A 9-21-72	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Colorado Interstate Gas Co., Division of Colorado Interstate Corp., Laverne Field, Harper County, Okla.	[6] 21.32	14.65
C173-211 A 9-22-72	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, TX 76107.	El Paso Natural Gas Co., Eddy County, N. Mex.	[2] 30.0	14.65
C173-212 A 9-22-72	Stephens Production Co., 115 North 12th St., Fort Smith, AR 72901.	Arkansas Louisiana Gas Co., Kinta Field, Le Flore County, Okla.	23.75	14.65
C173-213 (C170-145) F 8-25-72	Dwight S. Ramsay (successor to King Resources Co.), Post Office Box 52027, Lafayette, La. 70501.	United Gas Pipe Line Co., South Bourg Field, Terrebonne Parish, La.	[7] 21.25	15.025
C173-215 (C164-1192) F 9-21-72	S.S.C. Gas Producing Co. (successor to Pennzoil Producing Co. et al), Post Office Box 292, Pettus, TX 78146.	United Gas Pipe Line Co., Strauch-Wilcox Field, Bee County, Tex.	[8] 24.8472	14.65
C173-216 A 9-21-72 [9]	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Tennessee Gas Pipeline Co., Hagist Ranch Field, Duval County, Tex.	24.25	14.65
C173-218 A 9-25-72	Amoco Production Co., Post Office Box 591, Tulsa, OK 74102.	Natural Gas Pipe Line Co. of America, West Johnson Bayou Field, Cameron Parish, La.	[2] 36.8	15.025
C173-219 A 9-25-72	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Columbia Gas Transmission Corp., Pecan Island Field, Vermilion Parish, La.	36.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Production of gas has never commenced from the subject acreage, and the deletion of this acreage from the certificate will permit the acreage to be developed in connection with other land for the production of gas.
[2] Subject to upward and downward B.t.u. adjustment.
[3] Applicant is willing to accept a certificate at an initial rate of 27 cents per Mcf subject to B.t.u. adjustment; however, the contract price is 37 cents per Mcf.
[4] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Carl Oil, now applicant for a small producer certificate.
[5] Ralph H. Meriwether, Ted Collings, Jr., and Robert E. Tucker, small producer certificate holders in Dockets Nos. CS71-985, CS71-1041, and CS71-1044, respectively, seek permission and approval to release nonproductive acreage so that it may be included in a drilling unit for an additional well to be drilled in the Gomez Field.
[6] Applicant is willing to accept a certificate at an initial rate of 21.32 cents subject to B.t.u. adjustment; however, the contract price is 25 cents.
[7] Rate in effect subject to refund in R171-473.
[8] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Ralph E. Fair, Inc., now holder of a small producer certificate.
[9] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Ralph E. Fair, Inc., now holder of a small producer certificate.

[FR Doc.72-17242 Filed 10-10-72;8:45 am]

[Docket Nos. CP72-5, CP72-170]

MOUNTAIN FUEL SUPPLY CO. AND COLORADO INTERSTATE GAS CO.

Order Granting Portion of Petition To Amend Prior Order, Granting Interventions and Setting Dates for Submittal of Evidence and for Hearing

OCTOBER 2, 1972.

On August 28, 1972, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (CIG), filed a petition to amend the Commission's order issued August 11, 1972, in Docket Nos. CP72-5 and CP72-170. In addition, CIG applied for temporary authority and requested a shortened notice period.

On May 24, 1972, the Commission consolidated a section 7(a) application by Mountain Fuel Supply Co. (Mountain Fuel) in Docket No. CP72-5 with section 7(c) applications by CIG in Docket Nos. CP72-170 and CP72-210. The May 24, 1972, order as modified by a July 7, 1972, order authorized CIG to construct facilities proposed in Docket No. CP72-170. On August 11, 1972, the Commission at Docket Nos. CP72-5 and CP72-170 authorized CIG to operate the aforementioned facilities and to make peak day sales of 1,304,499 Mcf. In addition CIG was ordered to sell and deliver up to 1,500 Mcf per day to Mountain Fuel for a period of 20 years.

CIG now requests that the Commission amend the order issued August 11, 1972, to authorize an increase in peak day deliveries from 1,304,499 to 1,320,271 Mcf. This proposed increase in peak day deliveries would be to the following types of customers:

Type of Customer	Peak Day Increase (Decrease) Mcf
Residential and Commercial	16,152
Electric Generation	1,820
Industrial process	(2,200)
Total	15,772

As indicated above, the primary use of the increased peak day sales will be residential and commercial which should be approved. However, included in the proposed amendment are sales increases to Greeley Gas Co. (Greeley) of 60 Mcf per day and 1,820 Mcf per day for industrial process use and electric generation, respectively, and to Ideal Cement Co. (Ideal) of 800 Mcf per day for industrial process use. In light of the current national gas supply situation, these proposed sales increases to Greeley and Ideal should be more closely analyzed, particularly as to (1) the necessity of these increases, (2) the ultimate end use of the gas involved, and (3) the alternatives available. Accordingly, a hearing will be held to develop a complete record concerning these proposed increases.

The granting of CIG's petition except as to the specific sales increases to Greeley and Ideal renders CIG's request for temporary relief moot.

Notice of CIG's petition was issued August 30, 1972, and published in the FEDERAL REGISTER on September 1, 1972 (37 F.R. 17868), September 11, 1972, was set as the date by which all protests and petitions to intervene were to be filed.

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A joint petition to intervene in support of CIG was timely filed by Public Service Co. of Colorado, Western Slope Gas Co., The Pueblo Gas and Fuel Co., and Cheyenne Light, Fuel and Power Co.

The Commission orders:

(A) The order issued August 11, 1972, in Docket Nos. CP72–5 and CP72–170 is hereby amended to permit the increased peak day sales by Colorado Interstate Gas Co. indicated on the attached Appendix A. In all other respects the order remains unchanged.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held before a duly designated Administrative Law Judge commencing at 10 a.m. (E.d.t.) on October 26, 1972, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426 for the purpose of determining whether increased peak day sales by Colorado Interstate Gas Co. to Greeley Gas Co. of 1,880 Mcf per day and to Ideal Cement Co. of 800 Mcf per day would serve the public convenience and necessity.

(C) The above-named petitioners to intervene are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said joint petition for leave to intervene: *And Provided further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) Colorado Interstate Gas Co. and all interveners shall file with the Commission and serve upon all parties and the Commission Staff on or before October 13, 1972, case-in-chief evidence upon which they rely in support of their respective positions.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

	Peak day authorized 8-11-72	Peak day authorized this order
JURISDICTIONAL CUSTOMERS		
Rate Schedule G-1:	(*Mcf*)	(*Mcf*)
City of Colorado Springs, Colo.	112,856	115,000
City of Fort Morgan, Colo.	4,500	4,500
City of Trinidad, Colo.	6,000	6,000
Greeley Gas Co.	8,410	8,602
Northern Gas Co.	400	400
Northern Natural Gas Co. (Peoples Division) [1]	24,450	24,400
Public Service Company of Colorado	411,030	422,423
Pueblo Gas & Fuel Co.	57,400	58,050
Western Gas Interstate Co.	3,357	3,394
Total Rate Schedule G-1	628,433	642,769
Rate Schedule SG-1:		
City of Walsenburg, Colo.	2,000	2,000
Eastern Colorado Utility Co.	2,200	2,100
Town of Keyes, Okla.	400	400
Total Rate Schedule SG-1	4,600	4,500
Rate Schedule P-1:		
Cheyenne Light, Fuel & Power Co.	47,935	50,010
Citizens Utilities Co.	24,867	23,675
Kansas-Nebraska Natural Gas Co., Inc.	21,000	21,000
Mountain Fuel Supply Co.		1,500
Raton Natural Gas Co.	6,298	6,200
Western Slope Gas Co.	196,421	194,595
Total Rate Schedule P-1	296,521	296,980
Rate Schedule PS-1:		
Cheyenne Light, Fuel & Power Co.	839	500
Citizens Utilities Co.	1,208	
City of Colorado Springs, Colo.	36,767	42,000
City of Fort Morgan, Colo.	2,400	2,400
City of Trinidad, Colo.	1,240	1,300
Greeley Gas Co.	1,160	1,160
Northern Natural Gas Co. (Peoples Division) [1]	7,500	6,890
Public Service Co. of Colorado	119,209	123,427
Pueblo Gas & Fuel Co.	8,242	7,000
Raton Natural Gas Co.	3,702	3,600
Western Gas Interstate Co.	693	732
Western Slope Gas Co.	43,560	35,908
Total Rate Schedule PS-1	226,520	224,917
Rate Schedule H-1:		
Natural Gas Pipeline Co. of America	50,000	50,000
Total jurisdictional	1,206,074	1,219,166
NONJURISDICTIONAL CUSTOMERS		
General firm:		
City of Colorado Springs, Colo.	5,000	5,000
City of Trinidad, Colo.	1,100	1,100
CF&I Steel Corp.	45,000	45,000
Great Western Sugar Co.	14,000	14,000
Ideal Cement Co.	125	3,825
Public Service Co. of Colorado	24,500	24,500
Total general firm	89,725	86,225
Peaking service firm:		
CF&I Steel Corp.	5,000	5,000
Ideal Cement Co.	3,700	
Total peaking service firm	8,700	5,000
Total nonjurisdictional	98,425	98,425
Total transmission system	1,304,499	1,317,591

[1] Based upon the assumption that Northern Natural Gas Co., Peoples Division, and Northern Natural Gas Co., Plateau Region, be combined effective Oct. 1, 1972.

[FR Doc.72–17247 Filed 10–10–72;8:45 am]

[Dockets Nos. RP72–91 etc.]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 6, 1972.

Southern Natural Gas Company, Dockets Nos. RP72–91, RP73–13, RP73–16, RP73–46.

Take notice that Southern Natural Gas Co. (Southern) on September 29, 1972, tendered for filing two sets of revised tariff sheets to its FPC Gas Tariff, Sixth Revised Volume No. 1, proposed to become effective on November 1, 1972. One set of revised tariff sheets contains proposed changes in rates and charges which would increase annual revenues for jurisdictional sales and service in the amount of $2,929,728, of which $2,044,485 is based upon purchased gas costs and $885,243 is based upon advance payments in the amount of $10 million which Southern states it anticipates it will make in October 1972. The other set of tariff sheets, designated "Alternative Proposed Tariff Sheets," reflects only the increased purchased gas costs. The proposed revenue increases are over and above the rates and charges which became effective on October 1, 1972, subject to refund in Dockets Nos. RP72–91 et al.

In the event that the anticipated advance payment agreements have not been executed by October 21, 1972, Southern says it will immediately notify the Commission, and thereupon, it requests: (i) That the Alternate Proposed Tariff Sheets become effective November 1, 1972, reflecting only the increased purchased gas costs; and (ii) that the first set of tariff sheets be suspended until the time such advance payment agreements have been executed.

Southern states that the reasons for the proposed rate increases are: (1) The increased cost of gas supply resulting from the "millage adjustment" filed by United Gas Pipe Line Co. on August 18, to become effective October 21, 1972, through December 31, 1972, in Dockets Nos. RP71–41 et al., and (2) the aforementioned advance payments to producers which are in excess of amounts reflected in its rate increase filing in Dockets Nos. RP72–91 et al. All other items of cost included in this rate filing are identical to those in the rate filings in Dockets Nos. RP72–91 et al. No other tariff changes are proposed.

Copies of the increased rate filing have been served upon all jurisdictional customers and upon interested State commissions.

Any person desiring to be heard or to protest said application should file a protest, or if not previously granted intervention in Dockets Nos. RP72–91 et al., file a petition to intervene with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17350 Filed 10–10–72;8:51 am]

FOREIGN-TRADE ZONES BOARD

[Order 90]

LITTLE ROCK, ARK.

Resolution Approving Application and Order Authorizing Issuance of Grant for a Foreign-Trade Zone

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and order. Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following resolution and order:

The Board, having considered the matter hereby orders:

After consideration of the application of the State of Arkansas, made by its Department of Industrial Development, filed with the Foreign-Trade Zones Board on January 31, 1972, requesting a grant of authority for the establishing, operating, and maintaining of a foreign-trade zone at the Port Terminal Warehouse, Little Rock, Ark., the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, approves the application for a grant. Should any proposal be made to use the zone for any manufacturing operation, the grantee shall prenotify the Board's executive secretary for clearance prior to the commencement of such an operation. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized and directed to sign and issue an appropriate grant of authority in favor of the State of Arkansas.

GRANT TO ESTABLISH, OPERATE, AND MAINTAIN A FOREIGN-TRADE ZONE AT LITTLE ROCK, ARK.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u), (hereinafter referred to as "the Act") the Foreign-Trade Zones Board (hereinafter referred to as "the Board") is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the State of Arkansas (hereinafter referred to as "the Grantee"), through its Department of Industrial Development, has made application in due and proper form to the Board which requests the establishment, operation, and maintenance of a foreign-trade zone at Little Rock, Ark.;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that under the Act the proposed plans and location are suitable for the accomplishment of the purposes of a foreign-trade zone at Little Rock, Ark., and that the facilities and appurtenances which in said application it is proposed to provide are sufficient;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 14, at the specific location mentioned above and more particularly described on the maps accompanying the application requesting authority for a foreign-trade zone at Little Rock, Ark., marked as Exhibits No. IX and No. X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations, to-wit:

The Grantee shall make no deviation from the maps, plans, specifications, drawings, and blueprints accompanying the said application and marked as Exhibits Nos. I to XIII inclusive, before or after completion of the structures or work involved, unless such deviation has previously been submitted to and has received the approval of the Board.

The work of construction under this grant shall commence immediately following the date of the grant. Said work shall be diligently prosecuted to completion and the work of construction shall be completed and operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant.

The Grantee shall fully comply with all applicable provisions of the laws relating to the protection and preservation of the navigable waters of the United States, and shall secure legally required authorization and approval for work in navigable waters of the United States. The Grantee shall also obtain all necessary construction permits from Federal, State, and municipal authorities. The grant herein made shall not be construed as conveying such approvals.

The Grantee shall allow officers and employees of the United States of America free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall prenotify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States of America be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer, Peter G. Peterson, at Washington, D.C., this 4th day of October 1972, pursuant to order of the Board.

FOREIGN-TRADE ZONING BOARD,
PETER G. PETERSON,
Chairman and Executive Officer.

Attest:

JOHN J. DA PONTE, JR.,
Executive Secretary.

[FR Doc.72–17319 Filed 10–10–72;8:47 am]

GENERAL SERVICES ADMINISTRATION

BATTERY, STORAGE: VEHICULAR, IGNITION, LIGHTING, AND STARTING

Industry Specification Development Conference

Notice is hereby given that the Federal Supply Service, General Services Administration, will hold an Industry Specification Development Conference in connection with Proposed Federal Specification W–B–131J, Battery, Storage: Vehicular, ignition, lighting, and starting.

The primary purpose of the conference is to provide a forum for review and discussion of the proposed qualification testing program. In addition, consideration will be given to suggestions, ideas, or ways and means to improve the specification to: (1) Promote mutual understanding by both the Government and industry of the Government's technical requirements for the items, and (2) enhance the quality of the products shipped to the Government. It will be open to all those in the private sector who have an interest or concern for these matters and all other Government departments or agencies having an interest therein are also being invited to send their representatives.

The conference will be held on October 24, 1972, at 9:30 a.m., Room 508, Building 3, Crystal Mall, 1931 Jefferson Davis Highway, Arlington, VA. Anyone who wants to attend or desires further information should contact Mr. John T. Miller, General Services Administration, Federal Supply Service, at telephone number (Area Code 703) 557–7827 or write General Services Administration, Federal Supply Service (FMSE), Washington, D.C. 20406.

Issued in Washington, D.C., on September 29, 1972.

M. S. MEEKER,
Commissioner.

[FR Doc.72–17313 Filed 10–10–72;8:47 am]

VENETIAN BLINDS

Industry Specification Development Conference

Notice is hereby given that the Federal Supply Service, General Services Administration, will hold an Industry Specification Development Conference in connection with Proposed Federal Specification AA–V–200B, Venetian Blinds.

The purpose of the conference is to provide a forum for consideration of suggestions, ideas, or ways and means to improve the specification to: (1) Promote mutual understanding by both the Government and industry of the Government's technical requirements for the items, and (2) enhance the quality of the

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products shipped to the Government. It will be open to all those in the private sector who have an interest or concern for these matters, and all other Government departments or agencies having an interest therein are also being invited to send their representatives.

The conference will be held on October 25, 1972, at 9:30 a.m., Room 508, Building 3, Crystal Mall, 1931 Jefferson Davis Highway, Arlington, VA. Anyone who wants to attend or desires further information should contact Mr. Joseph F. Lawless, General Services Administration, Federal Supply Service, at telephone number (Area Code 703) 557-7866 or write General Services Administration, Federal Supply Service (FMSF), Washington, D.C. 20406.

Issued in Washington, D.C., on September 29, 1972.

M. S. MEEKER,
Commissioner.

[FR Doc.72-17312 Filed 10-10-72;8:47 am]

[Federal Property Management Regs.; Temporary Reg. E-25]

SOLE SOURCE ADPE PROCUREMENTS

To: Heads of Federal Agencies.

1. *Purpose.* This regulation establishes policy and procedures which are designed to restrict the procurement of automatic data processing equipment (ADPE) in excess of $10,000 without a specific delegation of procurement authority (DPA) from GSA when such procurement is to be accomplished as a sole source procurement action.

2. *Effective date.* This regulation is effective upon publication (10-11-72) in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires April 2, 1973, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all Federal agencies.

5. *General.* Automatic data processing equipment, software, and maintenance services are procured in conformance with applicable regulations and the provisions of Office of Management and Budget (OMB) Circular No. A-54, dated October 14, 1961. These directives provide that ADPE procurements will not be accomplished until systems specifications are available and equal opportunity and appropriate consideration are provided to all responsible and responsive offerors capable of meeting the Government's requirements. Any procurement action which does not conform with these requirements is considered a "sole source" procurement, the basis and justification for which are to be documented in accordance with prevailing regulations governing sole source procurement by agencies of the Federal Government.

6. *Restriction on sole source ADPE procurements.* Irrespective of the provisions of FPMR 101-32.403-1, sole source procurement of ADPE in excess of $10,000 by either lease or purchase is permitted only after receiving a DPA from GSA. Where a sole source procurement appears to be in the best interest of the Government, agencies shall submit to GSA a request for a delegation of procurement authority accompanied by a statement or determination and finding justifying the requested action. The determination and finding shall be prepared under the provisions of FPMR 101-26.105(b), signed by the contracting officer, and approved by the head of the agency or his authorized designee. The determination and finding shall be accompanied by a certification as to the availability of a systems specificaton in accordance with the provisions of OMB Circular No. A-54 or, in the absence of a systems specification, a written explanation of the basis for the selection and certification which indicates that it is in the best interest of the Government to deviate from the provisions of OMB Circular No. A-54.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations or programs should be submitted to the General Services Administration (CP), Washington, D.C. 20405, no later than December 29, 1972, for consideration and possible incorporation into the permanent regulation.

8. *Effect on other issuances.* This regulation supplements the ADPE procurement policy in FPMR 101-32.403 and FPMR 101-32.404.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

OCTOBER 3, 1972.

[FR Doc.72-17314 Filed 10-10-72;8:47 am]

NATIONAL SCIENCE FOUNDATION

VERY LARGE ARRAY (VLA)

Summary Statement of Federal Action Affecting the Environment

A summary statement concerning the VLA was published in the FEDERAL REGISTER, Volume 37, No. 139, page 14338, July 19, 1972. Comments received on the draft environmental impact statement have been reviewed and taken into consideration in preparing the final environmental statement.

The final environmental statement has been filed with the Council on Environmental Quality. Copies are available from the Deputy Assistant Director for National and International Programs, National Science Foundation, Washington, D.C. 20550.

Dated: October 6, 1972.

RAYMOND L. BISPLINGHOFF,
Acting Director.

[FR Doc.72-17380 Filed 10-10-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3224]

CHRISTINA SECURITIES CO. AND E. I. DU PONT DE NEMOURS & CO.

Notice of Filing of Application for an Order Exempting Transactions Between Affiliates Incident to a Merger

OCTOBER 3, 1972.

Notice is hereby given that Christiana Securities Co. (Christiana) Wilmington, Del. 19898, a Delaware corporation, registered under the Investment Company Act of 1940 (Act) as a closed-end nondiversified management investment company, and E. I. du Pont de Nemours & Co. (Du Pont), a Delaware corporation (hereinafter collectively referred to as "Applicants"), have filed a joint application pursuant to sections 6(c), 17(b), and 17(d) of the Act and Rule 17d-1 thereunder, for an order exempting from the provisions of 17(a) and permitting under section 17(d) and Rule 17d-1 certain transactions incident to a proposed merger of Christiana into Du Pont, with Du Pont as the surviving corporation. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Christiana owns approximately 28.3 percent of the outstanding common stock of Du Pont. Accordingly, Christiana presumptively controls Du Pont within the meaning of section 2(a)(9) of the Act, and the companies are affiliated persons as defined in section 2(a)(3) of the Act. Moreover, certain directors, officers and other affiliated persons of Applicants are stockholders of Christiana or Du Pont or both companies.

Christiana has outstanding 106,500 shares of 7 percent cumulative preferred stock, having a liquidation value of $100 per share and a redemption price of $120 per share, and 11,710,103 shares of common stock. Christiana's common stock is traded in the over-the-counter market in only limited quantities, and its market price consistently has been less than the market value of Christiana's underlying assets, generally ranging from 20 percent to 25 percent less during the 2 years preceding public announcement of a possible merger. There are approximately 6,683 holders of Christiana common stock and 1,516 holders of the preferred stock. Christiana's assets consist of cash and securities, of which the most important holding is 13,417,120 shares (28.28 percent) of the outstanding common stock of Du Pont. The value of the total security holdings of Christiana as of July 17, 1972, based primarily on market values, was $2,226,814,066, of which 98.7 percent was represented by its holdings of common stock of Du Pont. The remaining security holdings of Christiana consist primarily of 16,256 (0.96 percent) shares of the $4.50 preferred stock of Du Pont, 69,216 (3.45 percent) shares of the common stock of Wilmington Trust Co. (Wilmington) and all of the outstanding shares of the News Journal Co. (News Journal). The total value of $2,226,814,066 for the security holdings of Christiana is based on the average closing prices on the New York Stock Exchange on July 10 through 14, 1972 for the Du Pont common and preferred stock ($2,199,854,642); the average closing bid prices in the over-the-counter market on July 10 through July 14, 1972, for the Wilmington common stock ($2,699,424); and the fair market value of the News Journal common stock based upon an appraisal as of July 17, 1972 ($24,260,000). Christiana also has other assets consisting, at June 30, 1972, of (1) cash and cash equivalents, less current liabilities, in the net amount of $5,981,367 and (2) a claim for refund of Federal income taxes and interest, carried on the books as a deferred charge in the amount of $11,723,013.

Christiana's net asset value has been adjusted as follows for purposes of the proposed merger:

Total Net Asset Value of Christiana (as above)	$2,244,518,446
Less adjustments:	
Adjustment to reflect tax claim at no value	11,723,013
Distribution cost for Wilmington Trust (3 percent of market value)	80,983
Capital gains tax @ 30 percent on sale of:	
Wilmington Trust (tax basis=$903,592)	514,455
News-Journal (tax basis =$846,107)	7,024,168
Merger expenses (50 percent of estimated total expenses)	750,000
Cash reserved for tax claim expenses	1,000,000
Adjusted net asset value of Christiana	2,223,425,827

Under the plan of merger, the tax claim, together with $1 million of Christiana's cash to be reserved to cover expenses to pursue the claim, will be treated at the time of the merger as having no value. The tax claim and related cash reserved for expenses will become the property of Du Pont on the effective date of the merger, and if upon settlement of the tax claim any proceeds are realized they will be distributed to the former Christiana shareholders as described below. The expenses of the merger are to be shared equally. Accordingly, the net asset value of Christiana's cash and cash equivalents has been adjusted to reflect both the reservation of the $1 million related to the tax claim and $750,000 related to merger expenses. The application also states that Du Pont intends to hold the Wilmington and News-Journal stock for only the period required for the orderly disposition thereof. Accordingly, the net asset values of these holdings have been adjusted to reflect the estimated expenses of disposition and a tax of 30 percent on the capital gains which would result from their sale at the values reflected for such assets.

Du Pont has outstanding 1,688,850 shares of $4.50 series cumulative preferred stock without par value, 700,000 shares of $3.50 series cumulative preferred stock without par value, and 47,566,694 shares of common stock held by approximately 224,964 shareholders.

Under the proposed plan of merger, the outstanding common stock of Christiana will be converted into Du Pont common stock at the rate of one share of Christiana common stock for each 1.123 shares of Du Pont common stock. For the purpose of computing this conversion ratio, Christiana was valued at 97½ percent of the adjusted value of its net assets, as described below, and the Du Pont common stock to be issued to the Christiana common stockholders was valued at $163.875 a share, the average closing market price for Du Pont common stock on the New York Stock Exchange on the 5 trading days immediately preceding July 17, 1972, the date on which the proposed merger plan was approved in principle by Christiana and Du Pont's boards of directors. The number of additional shares of Du Pont common stock, if any, to be distributed to the former Christiana common stockholders upon settlement of the tax claim will be determined by converting any net proceeds from the settlement, along with any residue of funds reserved for payment of expenses of pursuing the tax claim, into Du Pont common stock having corresponding value and such shares will be delivered to an agent appointed for such purpose. The agent will distribute such additional shares of Du Pont common stock pro rata to the former Christiana common stockholders in proportion to the Du Pont common stock received by them in the merger transaction. The price for Du Pont common stock to be used for the foregoing conversion will be the average of the closing prices for Du Pont common on the New York Stock Exchange for the 10 trading days preceding the date on which refund payment by the Government is received by Du Pont or, if no refund is to be received, the date on which judgment to that effect becomes final.

On the effective date of the merger the Christiana preferred stock will be converted into Du Pont common stock having a current market value equal to $120 per preferred share, the preferred call price. The Du Pont common stock to be exchanged for such preferred stock will be valued at the average of the closing prices for the common stock on the New York Stock Exchange for the 10 trading days preceding the effective date of the merger. The conversion rate was estimated at 0.7323 shares of Du Pont common stock for one share of Christiana preferred stock, based on the current average price for Du Pont common stock on July 17, 1972.

The shares of Du Pont common stock used for the merger will be newly issued shares. All common and preferred stock of Du Pont owned by Christiana will be retired in the merger. All other shares of Du Pont will remain outstanding. Du Pont will not issue fractional shares to the stockholders of Christiana. Instead, such stockholders having a fractional interest in a share of Du Pont common stock will be provided an opportunity, through an agent appointed for such purpose, to: (1) Sell such interest, or (2) purchase the additional fractional interest required to make up one full share.

Under Delaware Corporaton Law, after approval of the agreement of merger by the respective boards of directors of Christiana and Du Pont, the affirmative vote of the holders of a majority of the total outstanding shares of common stock of each company will be required. Christiana and Du Pont will arrange for special meetings of their stockholders, after obtaining the requested exemption order, for stockholder vote on the merger proposal, such vote to be subject to receipt of a Ruling from the Internal Revenue Service that the proposed merger may be consummated on a tax-free basis. Under Delaware Corporation Law, any holder of Christiana's preferred stock who objects in writing within the prescribed time may receive a cash payment equal to the appraised value of his preferred stock. No such right is available with respect to any Christiana common shares or to any Du Pont common or preferred shares.

The proposed plan of merger and the method of determining the conversion ratios were developed on the basis of independent financial studies made by three investment banking firms acting as financial advisors. The investment banking firms were engaged by special committees of the boards of Christiana and Du Pont, which had been appointed to negotiate and submit recommendations with respect to the proposed merger. In the case of each company, the special board committee consisted of two directors with no director, officer or employee relationship with the other company. Independent studies and recommendations regarding a suitable range of merger terms were prepared by Morgan Stanley and Co., to advise both Christiana and Du Pont; Kidder, Peabody and Co., Inc., to advise Christiana separately; and First Boston Corp. to advise Du Pont separately. Negotiations by the special board committees were conducted with due consideration of the recommendations made by the financial advisers regarding ranges of merger terms they would consider fair and reasonable, and resulted in proposals by the special board committees for a merger with terms thereof based on 97½ percent of Christiana's adjusted net asset value, that is a discount of 2½ percent. However, the effective rate of discount is approximately 1.8 percent to the Christiana shareholders when effect is given to their recapture of approximately 28 percent by reason of becoming shareholders of Du Pont. The Du Pont special board committee considered merger terms reflecting the proposed discount of Christiana's adjusted net asset

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valuc fair and reasonable for all parties affected, and appropriate in the circumstances to provide sound business reasons for Du Pont to undertake the merger and the disposition of those securities acquired in the merger which Du Pont does not wish to retain. The Christiana special board committee considered the terms fair and reasonable for all concerned in the light of significant benefits in the merger to the Christiana common stockholders in acquiring a more readily marketable security, elimination of the sizable market discount from net asset value which has prevailed on the Christiana stock prior to the merger announcement, and the elimination of the Federal income tax payable by Christiana at the currently effective rate of 7.2 percent on dividends received on the Du Pont common stock. As to the Christiana preferred stockholders, the application states that the market value of their holdings will increase to the amount at which they could have been redeemed.

Applicants state they are requesting a ruling from the Internal Revenue Service to the effect that no gain or loss for Federal income tax purposes will be recognized to either Du Pont or Christiana or to their stockholders as a result of the merger except with respect to: (1) Cash received by any Christiana stockholder in connection with his disposition of an interest in a fractional share of Du Pont common stock, (2) cash received by any dissenting preferred stockholder of Christiana who elects appraisal rights, and (3) certain portions of any contingent distribution in connection with the tax claim.

The proposed discount as a basis for the merger falls within the range recommended by each of the financial advisors, and each has expressed the opinion that the resultant merger terms are fair and reasonable for all parties affected.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, from selling to or purchasing from such registered company or any company controlled by such registered company, any security or other property, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of the registered investment company, as recited in its registration statement and reports filed under the Act, and is consistent with the general purposes of the Act. Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide among other things, that it shall be unlawful for any affiliated person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by an order of the Commission. Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any transaction or class of transaction from any provision of the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than October 27, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–17293 Filed 10–10–72;8:46 am]

[File No. 500–1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

OCTOBER 2, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian Fast Food Services, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 3, 1972, through October 12, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–17299 Filed 10–10–72;8:46 am]

[Releases Nos. 33–5263, 34–9650]

DEFENSE AND OTHER LONG TERM CONTRACTS

Prompt and Accurate Disclosure of Information

The Securities and Exchange Commission today emphasized the need for publicly held companies to make prompt and accurate disclosure to securities holders and the investing public of material information, both favorable and unfavorable, with respect to progress and problems encountered in the course of performing under long-term contracts and programs involving significant technical or engineering problems and significant dollar amounts, including certain defense procurement contracts.

There are a number of factors arising from defense and other forms of long-term contracting on which clear and meaningful disclosure is necessary if the public is to be adequately apprised of the investment merits and risks of the securities of companies significantly involved in this type of business. Many defense contracts, for example, are extremely complex in their terms, calling for multifaceted weapons systems involving significant technological advances; such contracts may be performed over extended periods of time and may be subject to numerous changes in specifications or in delivery schedules. In addition, significant additional costs may be incurred which were not anticipated at the time a bid was submitted for the contract. A contractor also may incur substantial costs before reaching agreement with the Government on the price for any contract changes. Thus, at any given time in the performance of such a contract an estimate of its profitability is often subject not only to additional costs to be incurred but also to the outcome of future negotiations or possible claims relating to costs already incurred. While long-term defense contracts have presented significant examples of these factors, there can be comparable risks and disclosure problems in other long-term contracts or programs, particularly those involving advanced technology.

Government contracts are subject to renegotiation of profit and to termination for the convenience of the Government, which in some cases may have a material financial impact upon the company. Extended periods of time may be required to settle claims and during such periods the possibility exists, particularly in major contracts, that the working capital of the company may be materially affected.

Contracts also vary as to type, such as, for example, cost-plus fixed fee, fixed price, fixed price incentive, and so on. The ability to estimate progress at any given time may vary from contract to contract depending in part on the type of contract and its terms.

Because of the above factors, costs to be incurred in the performance of such contracts and ultimate profit to be realized often cannot be known in the early stages of the contract. Accordingly, such matters are necessarily the subject of estimates which are difficult to make with any certainty. Nothwithstanding such difficulties, registrants have an obligation to make every effort to assure that progress on material contracts—such as earnings, losses, anticipated losses or material cost overruns—is properly reflected in the registrant's financial statements and, where necessary to a full understanding, discussed in appropriate textual disclosure.

The Commission in emphasizing its concern about adequate disclosure in these areas has taken into account the report of the staff, released today, on disclosure practices of companies engaged in defense contracting[1] and the problems encountered by certain defense contractors as illustrated by the brief case studies contained in that report.

The defense contracting investigation was instituted following the public release of an investigative staff report on the Lockheed Aircraft Corp.[2] The severe problems encountered by Lockheed in connection with its C5A contract, viewed in the light of the investigative record in that matter, raised questions as to whether the various disclosures made by Lockheed concerning its problems had in retrospect been adequate. With respect to certain aspects of the C5A contract the staff in its Lockheed report concluded:

> While there was a very general disclosure * * * touching upon some of these points * * * the statements made did not fully and adequately disclose all pertinent factors and it requires much reading between the lines, with knowledge of the underlying circumstances, to catch the issues and the real risks facing this company.[3]

In view of the situation disclosed in the Lockheed report the Commission was concerned as to whether the Lockheed C5A contract involved problems typical of the defense industry. The Commission directed the staff to conduct an inquiry for the primary purpose of gathering information concerning disclosure of defense contracting and determining whether the Commission's rules and forms were adequate or whether they could or should be revised to provide a basis for improved disclosures in the future by such companies.

[1] See, "In the Matter of Disclosures by Registrants Engaged in Defense Contracting:" Administrative Proceeding File No. 3–2485 (June 22, 1972).

[2] See, "Report of Investigation in reference to Lockheed Aircraft Corp.," HO–423 (May 25, 1970).

[3] *Ibid.* page 58.

The defense contracting report has concluded that the Commission's present rules and disclosure forms are generally adequate and no amendments appear necessary. The staff noted, however, that the application of the present requirements by some defense contractors could be improved. Among other things, it was noted that disclosures vary in quantity and quality from company to company and to some extent according to the nature of the document in which they are contained—for example between the Form 10–K (17 CFR 249.310) and Annual Report to Stockholders. In view of the fact that of these two documents, only the Annual Report to Stockholders receives wide public dissemination, the Commission urges issuers to make every effort to assure that disclosures contained therein are as complete and accurate as those contained in documents filed with the Commission. In this connection, the Commission has published for comment and is presently considering adoption of an amendment to Form 10–K which would require specification by all reporting companies of items of information supplied in Form 10–K but omitted from the Annual Report to Stockholders.[4]

The Commission has considered the issuance of a release containing specific guidelines for disclosure by registrants engaged in defense contracting or other long-term, material dollar amount operations involving similar risks. The Commission recognizes, however, that the nature of such undertakings, particularly in the area of long-term contracts involving procurement of sophisticated weapons systems, involves such varied and complex considerations—including severe definitional problems—as to make the imposition of inflexible guidelines impracticable. Rather, the Commission regards it as incumbent on issuers to assess the special problems in each material contract or program with a view to making adequate and understandable public disclosure. Further, in considering whether to issue formal guidelines, the Commission noted that the staff's report covers a period of time when procurement was often conducted under the concept of "Total Package Procurement", the method which played such a major part in the difficulties surrounding the Lockheed C5A contract. The Department of Defense has since recognized that development of major weapons systems by its nature is dealing with the unknown, and does not contemplate continued use of the Total Package Procurement method, providing instead that contracts and subcontracts calling for the development of a weapons system, wherever appropriate, will be on a cost-contracting basis rather than a fixed-price method.

Corporate managers are urged to review their policies with respect to corporate disclosure on defense and other long-term contracting and insure that adequate disclosure policies are followed with respect to reports filed with the Commission or distributed to investors. The Commission further emphasizes that the responsibility for prompt and adequate disclosure rests with registrants and their professional advisors. The Commission also wishes to reiterate the statements made in our 1970 release regarding "Timely Disclosure of Material Corporate Developments."[5]

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JUNE 22, 1972.

[FR Doc.72–17297 Filed 10–10–72;8:51 am]

[4] Securities Exchange Act of 1934, Release No. 9576 (April 20, 1972) [37 F.R. 9045].

[Release No. 34–9559]

FINANCIAL REPORTING

Quarterly and Other Interim Reports of Operations

The Commission urges issuers to exercise greater diligence in the release of information with respect to results of operations for fiscal years and for quarterly or other portions thereof. While most issuers have displayed great skill in presenting information so that its significance can be grasped by all and have done so in complete candor, some issuers have not been successful in their communications effort. The audience to which such information is presented includes a wide range of sophistication and depth of interest. Expert financial analysts and casual investors are among those to whom such information is addressed.

Further, such news releases must compete for space and attention in news media with reports of many other events some of which may be more striking in terms of drama or human interest. In some instances a poor or weak news release with respect to results of operations has been misconstrued so that news reports with respect to the information have been incomplete, inadequate, and occasionally misleading. Such instances frequently arise because financial publishers, who are usually under severe time pressure for publication, have difficulty in deciphering the material.

The most frequent area of weakness of corporate news releases is the comparison of results of current and preceding periods without setting forth with appropriate emphasis unusual items affecting the interim periods. The Commission's position in this regard as set forth in reporting forms should be considered by issuers in designing appropriate disclosures.

In the area of results of operations for quarterly periods the Commission has provided instructions to Form 10–Q (17 CFR 249.308a) for reports to be filed with the Commission for the first three quarters of each fiscal year. See paragraph H, "Presentation of Financial Information," of Form 10–Q, Securities Exchange Act Release No. 9004 (35 F.R. 17537), dated October 28, 1970, as

[5] Securities Act of 1933, Release No. 5092 (October 15, 1970) [35 F.R. 16733].

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amended by Release No. 9344 (36 F.R. 19363), dated September 27, 1971. These instructions provide guidance for dealing with situations frequently encountered. Among events and circumstances which may require additional disclosure to provide information needed for the understanding of reports of operations for successive periods are the seasonal sale of a single-crop agricultural commodity, a business combination treated for accounting purposes as a pooling of interests, the disposition of a significant portion of the business or the acquisition of a significant amount of assets in a transaction treated for accounting purposes as a purchase, changes in accounting principles or practices or methods of applying principles or practices (including consolidation practices) adopted during the period which may have a material effect on the results of operations, seasonal or other specified factors contributing to an unusual increase or decrease in net sales or income and material retroactive adjustments subsequent to the initial reporting for the period affected. In this connection, attention is invited to subparagraph (i) of paragraph H regarding material prior period adjustments. In most instances this instruction would require that the summarized financial information for the comparable period of the preceding year be restated to give effect to the adjustments, and that information be furnished by footnote or otherwise, showing the effect of such adjustments upon results of operations previously published.

Quarterly reports on Form 10-Q are neither required to be sent to security holders nor required to be filed for the fourth quarter of an issuer's fiscal year. Some issuers publish separately the results of operations for the fourth quarter: All issuers should consider adoption of the practices. In addition, investors and other users of investment information may compare results for the full year with results for the first quarter. The issuer should include adequate information with respect to year-end adjustments or unusual transactions which occurred during the fourth quarter, otherwise the impressions with regard to operations for the fourth quarter, and possibly the trend of the affairs of the issuer, will not be accurate.

Issuers are required to report to the Commission, in response to Item 10(a) of Form 8-K (17 CFR 249.308), with respect to material charges or credits of an unusual nature such as a material charge to costs or expenses in connection with a write-down, write-off or abandonment of assets or obsolescence of inventory or a material credit to income in connection with a disposal of investments or assets. See Securities Exchange Act Release No. 9344 dated September 27, 1971. Again, the material required by Form 8-K is not required to be sent to security holders. However, some of the information called for may be so important that the principal portions should be included in news releases and periodic reports to security holders.

In some instances tax adjustments or tax management transactions made at the year-end have not been adequately explained with the result that the investing public has been furnished confusing information with regard to trends in the operations of an issuer. Since final computations of tax liability cannot be made until the results of operations of the full taxable period, usually the taxable year, are known, tax provisions for quarterly and interim periods are estimated. If such estimates differ materially from the computations for the full year, appropriate disclosure of the effect on the comparability of quarterly or other interim periods is necessary. Disclosure of the effect of elections to recognize revenues or expenses for tax purposes should be furnished also.

The Commission is giving further consideration to the provisions of Item 10(a) of Form 8-K, as mentioned above, to determine whether revision thereof may be appropriate to provide further information with respect to items required to be reported in response thereto.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

APRIL 5, 1972.

[FR Doc.72-17298 Filed 10-10-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30, Rev. 14, Amdt. 3]

REGIONAL DIRECTORS

Delegation of Authority To Conduct Program Activities in Field Offices

Delegation of Authority No. 30 (Revision 14) (37 F.R. 12651), as amended (37 F.R. 14840, 37 F.R. 19405), is hereby further amended by revising Part I, section A, paragraph 4; Part III, section C, paragraph 2; and Parts II and VIII in their entirety. This amendment more clearly defines certain authorities; eliminates references to class B disasters; includes authority to contract for local credit bureau services and loss verification services; and removes the restriction for Region III to exercise authority with respect to surety guarantees.

Part I, section A, paragraph 4, is revised to read as follows:

4. *Disaster loans.* See Part II, section A, paragraphs 1 and 2.

Part III, section C, paragraph 2, is revised to read as follows:

2. *Surety guarantee.* To guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts not to exceed $500,000.

Part II—Disaster Loans, and Part VIII—Administrative, are revised in their entirety and set forth below.

Effective dates: Part I, sec. A, par. 4—July 1, 1972; Part II and Part VIII—July 1, 1972; Part III, sec. C, par. 2—October 1, 1972.

THOMAS S. KLEPPE, *Administrator.*

PART II—DISASTER PROGRAM

SECTION A.—*Disaster loan approval authority.* 1. To decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of: (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, occupational safety and health loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan.

2. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guarantee of $1 million.

3. To appoint as a processing representative any bank in the disaster area.

4. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired.

SEC. B—*Administrative authority*—1. *Establishment of disaster field offices.*—To establish field offices upon receipt of advice of the designation of a disaster area; to close disaster field offices when no longer advisable to maintain such offices; and to obligate the Small Business Administration to reimburse General Services Administration for the rental of temporary office space.

2. *Contractual authority.*—a. To contract for local credit bureau services and loss verification services pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

b. *Other administrative authority.* See Part VIII.

PART VIII—ADMINISTRATIVE

SECTION A. *Authority to purchase, rent, or contract for equipment, services and supplies*—1. *To purchase reproduction* of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. *Purchase and contract authority.* To purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

3. *Rental of motor vehicles.* To rent motor vehicles and garage space for the storage of such vehicles when not furnished by this Administration.

4. *To rent temporarily SBA conference space* located within the respective geographical jurisdiction. Except Regional Director, Region III, whose jurisdiction excludes the Metropolitan Washington area.

[FR Doc.72-17303 Filed 10-10-72;8:46 am]

TARIFF COMMISSION

[TEA-W-157]

WORKERS' PETITION FOR DETERMINATION

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Airco Speer Electronics Components, DuBois, Pa., the U.S. Tariff Commission, on October 4, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with radio frequency coils, molded ceramic capacitors, and fixed precision metal film resistors (of the type provided for in Item Nos. 682.60, 685.80, and 686.10 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in room 437 of the customhouse.

Issued: October 5, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-17304 Filed 10-10-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 91]

ASSIGNMENT OF HEARINGS

OCTOBER 2, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

I&S M-28022, General Increase, July 1972, Eastern Central Territory, now assigned October 10, 1972 at Washington, D.C. is postponed to October 18, 1972, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 66886 Sub 28, Belger Cartage Service, Inc., hearing continued to October 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-42487 Sub 765, Consolidated Freightways Corp. of Delaware, now assigned October 30, 1972, at Lexington, Ky., is postponed indefinitely.

No. 32055, Louisville and Nashville Railroad Co., et al. v. Akron, Canton & Youngstown Railroad Co., et al., No. 34275, Cincinnati, New Orleans & Texas Pacific Railway Co., et al. v. Akron, Canton & Youngstown Railroad Co., et al., No. 35585, Akron, Canton & Youngstown Railroad Co., et al. v. Aberdeen and Rockfish Railroad Co., et al., No. 35585 Sub 1, Burlington Northern, Inc., et al. v. Aberdeen and Rockfish Railroad Co., et al., continued to November 1, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I&S No. 8761, TOFC Service, to and from Pacific coast ports, now assigned November 13, 1972, at Washington, D.C., is canceled.

MC 123383 Sub 61, Boyle Brothers, Inc., now being assigned hearing November 7, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 21866 Sub 75, West Motor Freight, Inc., now being assigned hearing November 9, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133095 Sub 30, Texas Continental Express, Inc., now being assigned hearing November 13, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133095 Sub 26, Texas Continental Express, Inc., now being assigned hearing November 15, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136748, Milton K. Morris, Inc., now being assigned hearing November 15, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11560, Cooper-Jarrett, Inc.—Purchase (Portion)—Pacific Intermountain Express Co., MC-F-11561, Lee Way Motor Freight, Inc.—Purchase (Portion)—Pacific Intermountain Express Co., FD 27141, Lee Way Motor Freight, Inc., MC-F-11562, Tidewater Inland Express, Inc.—Purchase (Portion)—Pacific Intermountain Express Co., MC-F-11594, Pacific Intermountain Express Co.—Merger—Ryder Truck Line, now being assigned November 29, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-117686 Sub 134, Hirschbach Motor Lines, Inc., now assigned October 11, 1972, at Washington, D.C., is canceled and application dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17331 Filed 10-4-72;10:10 am]

[Notice 94]

ASSIGNMENT OF HEARINGS

OCTOBER 5, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 83539 Sub 321, C & H Transportation Co., Inc., continued to January 9, 1973 (2 days), at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135772, Barrett Transfer & Storage Co., now assigned October 30, 1972, at Seattle, Wash., hearing will be held in Room 1155, 909 First Avenue.

MC-113861 Sub 51, Wooten Transports, Inc., Extension Memphis, Tenn., now assigned October 30, 1972, at Memphis, Tenn., is postponed indefinitely.

F.D. No. 27022, The Colorado & Wyoming Railway Co.—construction and operation, Pueblo County, Colo., now assigned October 30, 1972.

F.D. 26945, Colorado and Southern Railway Co.—construction and operation—near Minnequa, Pueblo County, Colo., now assigned October 30, 1972, at Denver, Colo., will be held in Court Room, Fifth Floor, Federal Building, 19th and Stout Streets, Denver, Colo.

MC-110689 Sub 5, Airway Trucking Co., now assigned November 6, 1972, at San Francisco, Calif., MC-F-11539 and MC-43038 Sub 451, directly related, Commercial Carriers, Inc.—control and merge—B.&H. Truckaway Co., now assigned November 13, 1972, at San Francisco, Calif., will be held in Court of Claims Room 2041, Federal Building, 450 Golden Gate Avenue, San Francisco, CA.

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MC 44606 Sub 39, Milne Truck Lines, Inc., now being assigned January 8, 1972 (4 weeks), at San Francisco, Calif., in a hearing room to be later designated.

MC 51146 Sub 271, Schneider Transport, Inc., now assigned October 30, 1972, MC–C–7838, Moore Van & Storage, Inc., James W. Moore, doing business as Ft. Worth Transfer Co. & Ft. Worth Storage & Transfer Co., O. K. Transfer & Storage Co., Cartwright Van Lines, Inc., and American Red Ball Transit Co., Inc.—investigation of operations, now assigned October 31, 1972, MC 133095 Sub 25, Texas Continental Express, Inc., now assigned November 1, 1972, MC 113459 Sub 70, H. J. Jeffries Truck Line, Inc., now assigned November 2, 1972, MC 115841 Sub 434, Colonial Refrigerated Transportation, Inc., now assigned November 3, 1972, MC 94350 Sub 298, Transit Homes, Inc., now assigned November 6, 1972, at Dallas, Tex., will be held in Room 5A–15, Federal Building, 1100 Commerce Street, Dallas, TX.

MC–59961 Sub 7, Lasham Cartage Co., now assigned October 30, 1972, at Miami, Fla., will be held in Room 5720, Public Utilities Commission, Southwest 17th Street, Miami, FL.

MC 3700 Sub 66, Manhattan Transit Co., now assigned October 30, 1972, at Newark, N.J., will be held in the offices of the Board of Public Utilities Commissioners of New Jersey, 1100 Raymond Boulevard, Newark, NJ.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–17334 Filed 10–10–72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 5, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42541—*Corn and grain sorghums to points in Texas.* Filed by Southwestern Freight Bureau, agent (No. B–359), for interested rail carriers. Rates on corn and grain sorghums and related articles, in carloads, as described in the application, from points in Arkansas and Missouri, to points in Texas.

Grounds for relief—Motortruck competition.

Tariff—Supplement 75 to Southwestern Freight Bureau, agent, tariff ICC 4967. Rates are published to become effective on November 4, 1972.

FSA No. 42542—*Soda ash from points in Wyoming.* Filed by Western Trunk Line Committee, agent (No. A–2678), for interested rail carriers. Rates on soda ash, in bulk, in covered hopper cars, as described in the application, from Alchem, Stauffer, and Westvaco, Wyo., to Ottawa and Utica, Ill.

Grounds for relief—Rate relationship.

Tariff—Supplement 426 to Western Trunk Line Committee, agent, tariff ICC A–4411. Rates are published to become effective on November 10, 1972.

FSA No. 42543—*Salt to Akron, Ohio.* Filed by Southwestern Freight Bureau, agent (No. B–360), for interested rail carriers. Rates on salt, common, in box cars, as described in the application, from Jefferson Island, La., to Akron, Ohio.

Grounds for relief—Barge-truck competition.

Tariff—Supplement 34 to Southwestern Freight Bureau, agent, tariff ICC 4914. Rates are published to become effective on November 5, 1972.

FSA No. 42544—*Acids between points in Minnesota, North Dakota, South Dakota, also southern and southwestern territories.* Filed by Western Trunk Line Committee, agent (No. A–2676), for interested rail carriers. Rates on acids, in tank-car loads, as described in the application, between points in Minnesota, North Dakota, and South Dakota, on the one hand, and points in southern and southwestern territories, on the other.

Grounds for relief—Market competition and short-line distance formula and grouping.

Tariffs—Supplement 155 to Western Trunk Line Committee, agent, tariff ICC A–4727, and supplement 149 to Southwestern Freight Bureau, agent, tariff ICC 4883. Rates are published to become effective on November 10, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–17335 Filed 10–10–72;8:50 am]

[Ex Parte No. 261]

INCREASED FREIGHT RATES AND CHARGES, 1972

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 27th day of September 1972.

The Commission having this day made a report on its investigation of increases in freight rates and charges proposed by common carriers by railroad in the United States in their petitions filed December 13, 1971 (surcharge), and February 28, 1972 (selective increases), and subsequent petitions related thereto, said report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That changes in freight rates and charges, to the extent authorized herein, may be made effective upon notice to the Commission and the general public of 15 days with respect to commodities not moving in the recycling process and 35 days in the case of commodities being transported for purposes of recycling, by filing and posting in the manner prescribed in the act.

It is further ordered, That subject to the same (15-day) notice requirement and contemporaneously with effective implementation of the authority relating to nonrecyclable commodities contained in the preceding paragraph, respondents be, and they are hereby, required to cancel (1) the surcharge tariff, as amended, and (2) the selective increase schedules to the extent not approved herein.

It is further ordered, That outstanding orders in other proceedings be, and they are hereby, modified so as to permit establishment of the further changes in interstate freight rates and charges herein authorized.

It is further ordered, That all tariff schedules changing interstate rates or charges under the authority of this order, which rates or charges are maintained or held in force by virtue of outstanding orders of the Commission, shall make specific reference to this order.

It is further ordered, That in making effective any increases in rates or charges herein authorized, the respondents be, and they are hereby, required to protect and maintain all established port relationships and to apply any such increases on export or import traffic subject to the limitations provided in this report.

And it is further ordered, That this proceeding be, and it is hereby, discontinued.

SUPPLEMENTAL FOURTH SECTION ORDER NO. 20367

It appearing, that, the Commission, by fourth section order No. 20367, entered December 21, 1971, in Ex Parte No. 281, Increased Freight Rates and Charges, 1972, as modified and amended by supplemental order No. 20367, entered February 1, 1972, authorized carriers parties to the proceeding to establish and maintain the increased rates and charges described therein without observing the provisions of section 4 of the Interstate Commerce Act;

And it further appearing, that carriers parties to the proceeding applied for relief from the provisions of section 4 of the act necessary to establish the rates and charges sought; that the increase in rates and charges authorized herein cannot be published and made effective without producing in some instances rates or charges that yield greater compensation in the aggregate for the transportation of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, or greater compensation as a through rate or charge than aggregate of intermediate rates or charges subject to the act, in contravention of section 4 thereof;

It is ordered, That fourth section order No. 20367, entered, modified, and amended as aforestated, be, and it is hereby, further modified and amended by adding thereto the following paragraphs:

It is further ordered, That, carriers subject to the Interstate Commerce Act and parties to said proceeding be, and they are hereby, authorized to depart from the provisions of section 4 to the extent necessary to establish and maintain the increases in rates and charges authorized in the order in Ex Parte No. 281 of this date.

It is further ordered, That, carrier parties to said proceeding be, and they are hereby, authorized to establish and maintain rates and charges authorized in the order of this date, without observing the long-and-short-haul provision of section 4 of the act in cases arising out of the failure to apply the full increases in rates and charges over interstate routes between points in a single State, in turn caused by failure of the State authorities to authorize the full increases permitted in said proceeding.

And it is further ordered, That in those instances in which rates in contravention of section 4 are established under authority contained herein, the schedules containing such shall make reference to this order in the manner required by rule 28 of Tariff Circular No. 20.

AMENDMENT TO SPECIAL PERMISSION NO. 72–2600, AS AMENDED, AUTHORIZING CERTAIN DEPARTURES FROM THE COMMISSION'S PUBLISHED TARIFF REGULATIONS

It is ordered, That Special Permission No. 72–2600, as amended, be, and it is hereby, further amended to permit the establishment of the increases in freight rates and charges authorized by the Commission in this order, subject to the terms, conditions, and limitations therein.

It is further ordered, That said special permission, as amended, be, and it is hereby further modified and amended so as to provide that all rule relief authorized shall expire on July 13, 1973, in lieu of January 13, 1973, and that the special permission, as amended, shall be void as authority for filing on and after June 12, 1973.

And it is further ordered, That, in all other respects, the terms of the original permission, as heretofore amended, shall remain the same.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–17332 Filed 10–10–72;8:50 am]

[Notice 139]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by Division 3 of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–73037. By order of August 10, 1972, Division 3, acting as an appellate division, approved the transfer to Acadian Express, Inc., Buffalo, N.Y., of the operating rights in Certificate No. MC–128529 issued October 2, 1968, to Cardinal Air Service Corp., Buffalo, N.Y., authorizing the transportation of general commodities, with the usual exceptions, between the Greater Buffalo International Airport (Erie County), N.Y., on the one hand, and, on the other, Detroit Metropolitan Airport (Wayne County), Mich., Logan International Airport (Suffolk County), Mass., and Pittsburgh International Airport (Allegheny County), Pa., and points in Erie County, N.Y.

Robert D. Gunderman, Suite 1708, Statler Hilton, Buffalo, N.Y. 14202, attorney for applicants.

No. MC–FC–73038. By order of August 10, 1972, Division 3, acting as an Appellate Division, approved the transfer to Buf-Air Freight, Inc., Cheektowaga, N.Y., of the operating rights in Certificate No. MC–128529 (Sub-No. 1), issued August 31, 1967, to Cardinal Air Service Corp., Buffalo, N.Y., authorizing the transportation of general commodities, with the usual exceptions, (1) between the Greater Buffalo International Airport (Erie County), N.Y., and Rochester-Monroe County Airport (Monroe County), N.Y., and points in Genesee County, N.Y., and (2) between the Greater Buffalo International Airport (Erie County), N.Y., and the Rochester-Monroe County Airport (Monroe County), N.Y., on the one hand, and, on the other, the following airports: Newark Airport (Essex County), N.J., Albany County Airport (Albany County), Broome County Airport (Broome County), Olean Municipal Airport (Cattaraugus County), Jamestown Municipal Airport (Chautauqua County), Chemung County Airport (Chemung County), Watertown Airport (Jefferson County), Oneida County Airport (Oneida County), Clarence E. Hancock (Onondaga County), LaGuardia and John Fitzgerald Kennedy International Airports (Queens County), Massena Airport (Lawrence County), and Tompkins County Airport (Tompkins County), N.Y., Cleveland-Hopkins Municipal Airport (Cuyahoga County), Ohio, and Bradford-McKean County Airport (McKean County), Pa.

Robert D. Gunderman, Suite 1708, Statler Hilton, Buffalo, N.Y. 14202, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–17338 Filed 10–10–72;8:50 am]

[Ex Parte No. 288]

PROTECTIVE SERVICE CHARGES—1972

Extension of Time for Filing Protests

It appearing, that by report and order of the Commission on petition, entered on September 5, 1972, the respondents herein were authorized to publish certain increases in rates and charges for protective services to become effective upon not less than 30 days' notice, but not earlier than November 6, 1972, with an appropriate refund provision, and required the filing of protests thereto not later than October 20, 1972; and

It further appearing, that the respondents have advised the Commission that they expect to file the said increases on October 16, 1972, to become effective on 30 days' notice, or on November 15, 1972; and that, in view thereof, to afford the shipping public an adequate opportunity to evaluate the proposal and to prepare any protests thereto; therefore,

It is ordered, That the time for filing protests be, and it is hereby, extended to October 30, 1972.

Dated at Washington, D.C., this 27th day of September 1972.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–17333 Filed 10–10–72;8:50 am]

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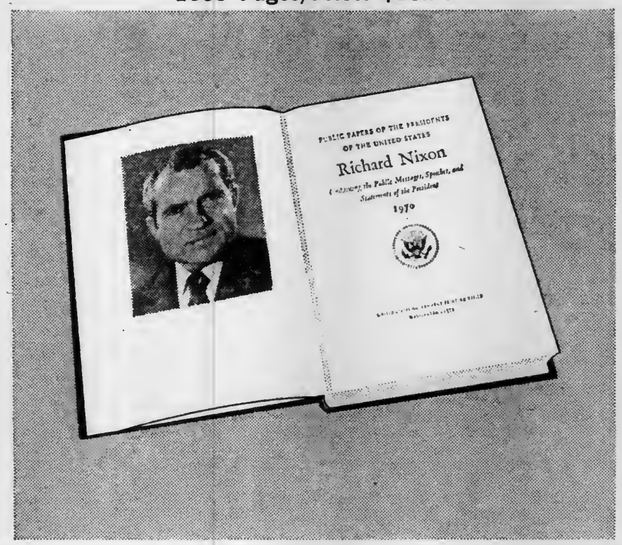
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The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

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Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11687

Delegating Functions Conferred Upon the President by Section 1455 of Title 10 of the United States Code, Establishing the Retired Serviceman's Survivor Benefit Plan

By virtue of the authority vested in me by section 1455 of title 10 of the United States Code (as added by section 1 of the act entitled "An Act To amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes"), section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. The Secretary of Defense, the Secretary of Commerce, the Secretary of Health, Education, and Welfare, and the Secretary of Transportation are hereby severally authorized and empowered to perform, without the approval, ratification or other action of the President, the function vested in the President by section 1455 of title 10 of the United States Code of prescribing regulations for the administration of subchapter II of chapter 73 of title 10 of the United States Code. The regulations prescribed by any such Secretary shall relate only to the Department of which the Secretary is the head. However, the regulations prescribed by the Secretaries shall be uniform to the extent practicable, and, in order to achieve that purpose, the regulations of the Secretary of Commerce, the Secretary of Health, Education, and Welfare, and the Secretary of Transportation shall be issued only after consultation with the Secretary of Defense.

Section 2. The regulations shall be in accordance with the provisions of subchapter II of chapter 73 of title 10 of the United States Code, shall be designed to achieve the uniform, equitable, and economical administration of that subchapter, and shall include, along with any other regulations deemed necessary, procedures for:

(1) informing the member and his spouse (when required by section 1448(a) of title 10 of the United States Code), before the date the member becomes entitled to retired or retainer pay, of the elections available and the effects of such elections;

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(2) submitting elections and claims;

(3) depositing the amounts referred to in section 1452(d) of title 10 of the United States Code; and;

(4) correcting administrative deficiencies in accordance with section 1454 of title 10 of the United States Code.

Section 3. This order shall be effective as of the date of approval of the act entitled "An Act To amend chapter 73 of title 10 of the United States Code, to establish a Survivor Benefit Plan, and for other purposes."

Richard Nixon

THE WHITE HOUSE,
October 11, 1972.

[FR Doc.72-17576 Filed 10-11-72;12:29 pm]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Correction

In F.R. Doc. 72-15804 appearing on page 18893 of the issue for Saturday, September 16, 1972, in the second line of the second paragraph the effective date should be (9-16-72) instead of (8-16-72).

Title 6—ECONOMIC STABILIZATION

Rulings—Internal Revenue Service, Department of the Treasury

[Pay Board Ruling 1972-73]

MERIT INCREASES

Pay Board Ruling

Facts. Employer X has a plan which it instituted in 1968 for its employees that provides for merit increases of from $500 to $3,000 each year. The $500 increase is for satisfactory performance and virtually all employees receive at least that amount. The increases in excess of $500 up to the $3,000 limitation are at the discretion of the employer for good, excellent, and distinguished work performances.

Issue. Can the $500 increase be considered a longevity increase and therefore be excluded from adjustment computations by reason of Economic Stabilization Regulations, 6 CFR 201.57(b) (1972), relating to the longevity exclusion?

Ruling. No. To be considered a longevity increase under § 201.57(b), the increase must be solely related to the employee's length of service and must operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work. The amount of the increase has to be determined in advance and cannot be subject to any discretionary adjustments.

This $500 increase is subject to discretionary adjustment as the employer can award a merit increase up to $3,000. The $500 award is in effect the lowest increase within a merit rate range. Hence, the $500 increase will be considered a merit increase instead of a longevity increase and be subject to the regulations dealing with merit plans.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: October 6, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 6, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-17355 Filed 10-11-72;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Hexachlorophene as a Component in Drug and Cosmetic Products for Human Use; Correction

In F.R. Doc. 72-16442 appearing at page 20160 in the FEDERAL REGISTER of Wednesday, September 27, 1972, under § 3.91 the paragraph designated "(h) *Effective date.*" should be corrected to read "(i) *Effective date.*"

Dated: October 5, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner
for Compliance.

[FR Doc.72-17375 Filed 10-11-72;8:47 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 37—FISH

Canned Pacific Salmon; Standards of Identity and Fill of Container

Correction

In F.R. Doc. 72-15209, appearing on page 18193, in the issue of Friday, September 8, 1972, the following changes should be made:

1. In the third line, in the fifth paragraph, the two words in the parentheses now reading, "(*Salmo gairdneir*)", should read "(*Salmo gairdneri*)".

2. Paragraph (b) of § 37.12 should read as follows:

"(b) If canned salmon falls below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified."

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 101—STATEMENTS OF PROCEDURE, SERIES 8

PART 102—RULES AND REGULATIONS, SERIES 8

Technical Amendments

On August 19, 1972, the Civil Service Commission published in the FEDERAL REGISTER (37 F.R. 16787) a rule changing the title of hearing examiner, as used in 5 CFR Part 930, Subpart B, to administrative law judge. The National Labor Relations Board, in order to conform its rules and regulations (29 CFR Part 102) and statements of procedure (29 CFR Part 101) to that change in title, hereby, pursuant to the authority vested in it by section 6 of the National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. Sec. 156), promulgates technical amendments to its rules and regulations and to its statements of procedure as follows: (1) wherever the term "trial examiner" appears the term "administrative law judge" is substituted therefor; (2) wherever the term "trial examiner's" appears the term "administrative law judge's" is substituted therefor; (3) wherever the term "trial examiners" appears the term "administrative law judges" is substituted therefor; and (4) in lieu of the word "examiner's," which appears as the next to last word in § 102.46(d)(2), the words "administrative law judge's" are substituted.

These technical amendments are effective as of August 19, 1972.

Dated: Washington, D.C., October 5, 1972.

By direction of the Board.

[SEAL] JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.72-17437 Filed 10-11-72;8:50 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGD 72-62R]

PART 1—GENERAL PROVISIONS

Fees and Charges for Certain Records and for Duplicate Documents, Certificates, or Licenses; Correction

In F.R. Doc. 72-16358, appearing at page 20166, in the issue of Wednesday, September 27, 1972, the third date under the column "Dated", Table 1.25-40(c), should be changed to September 1, 1966.

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Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

The following amendments to this subchapter are issued by Director of the Assistant Secretary of Defense (Installations and Logistics) pursuant to authority contained in Department of Defense Directive No. 4104.30 dated March 11, 1959 (24 F.R. 2260), as amended, and 10 U.S.C. 2202.

PART 1—GENERAL PROVISIONS

1. Section 1.112 is revised; § 1.201–33 is amended; §§ 1.201–35 and 1.201–36 are added; § 1.324–11 is amended; in § 1.329–4(b) the addresses for the Army and DCA are amended; §§ 1.333 and 1.334 are added; in § 1.406(c), subparagraph (28) is amended and subparagraph (58) is added; § 1.701–1(a)(2) is amended; in § 1.701–4 under Major Group 20—Food and Kindred Products—Census Classification Code 2011 is revoked; in § 1.705–4 (c) a sentence is added at the end of subparagraph (3) and in subparagraph (4) the first sentence is amended; in § 1.705–5(c) subdivisions (1)(iv) and (2)(vi) are amended; in § 1.706–1 the first sentence of paragraph (a) is amended and paragraph (c) is revised; §§ 1.1203–1 and 1.1203–2(a) are revised; and in §§ 1.1206–1(a) and 1.1206–2(a) the first sentence of each are amended, as follows:

§ 1.112 Federal procurement regulations and General Services Administration regulations relating to procurement of supplies and services.

Except for procurement of ADPE under delegation from GSA, all policy and procedural matter of Federal procurement regulations and General Services Administration regulations which are to be made applicable to the Department of Defense and are within the scope of this subchapter will be codified herein prior to compliance therewith by the Military departments. The applicable Department of Defense directives covering the assignments of responsibility for the purchasing of specific supplies under interagency purchase assignment will be incorporated by reference in this subchapter. For Department of Defense implementation of Federal supply schedules, see § 5.103 of this chapter.

§ 1.201–33 Exhibit.

"Exhibit" means a document attached to a procurement instrument, referenced by its capital letter identifier in a line or subline item in the procurement instrument schedule, which establishes deliverable requirements in the attached document as an alternative to establishing an extensive list of line or subline items in the procurement instrument schedule.

§ 1.201–35 Data.

"Data" means recorded information, regardless of form or characteristic.

§ 1.201–36 Technical data.

"Technical data" means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

§ 1.324–11 Technical data warranty and extended liability provisions.

(a) The clause set forth in § 7.104–9(o)(1) of this chapter is authorized for use in contracts in which the contractor is required to deliver technical data. The factors contained in § 1.324–3(b) shall be considered in deciding whether to use the clause.

(b) The factors of § 1.324–3(b) should also be considered in determining whether the extended liability clause set forth in § 7.104–9(o)(2) of this chapter should be added to the § 7.104–9(o)(1) of this chapter data warranty clause. Particular emphasis should be placed on whether the extended liability is justified by (1) the likelihood that correction or replacement of the nonconforming data, or a price adjustment in lieu thereof, will not afford adequate protection to the Government and (2) the effectiveness of the additional remedy as a deterrent against furnishing nonconforming data.

§ 1.329–4 Request for procurement records.

* * * * * *

(b) * * *

Army: Director, Materiel Acquisition, Office of the Assistant Secretary of the Army, Installations and Logistics), Department of the Army, Washington, D.C. 20310.

* * * * * *

DCA: Headquarters, Defense Communications Agency, Attention Code 201, Washington, D.C. 20305.

* * * * * *

§ 1.333 Payment of interest on contractors' claims.

All contracts except small purchases (see subpart F, Part 3 of this chapter) which contains a "Disputes" clause shall include the "Payment of Interest on Contractors' Claims" clause set forth in § 7.104–82 of this chapter.

§ 1.334 Weapons systems acquisition.

It is not possible to determine the precise production cost of a new complex defense system before it is developed. Therefore such systems shall not be procured using either the total package procurement concept or production options that are contractually priced (including ceiling priced options) in development contracts.

§ 1.406 Contract administration functions.

* * * * * *

(c) * * *

(28) Minitor compliance with labor and industrial relations matters under the contract, apprising the procuring contracting officer of actual or potential labor disputes, and removing material from strikebound contractor's plants upon instructions from the procuring contracting officer; apprising the procuring contracting officer upon receipt of notice of failure of contractor to comply with listing procedures for employment openings;

* * * * * *

(58) When authorized by the purchasing office, negotiate or negotiate and execute supplemental agreements providing for the deobligation of unexpended dollar balances considered excess to known contract requirements.

* * * * * *

§ 1.701–1 Small business concern.

(a) * * *

(2) *Industry small business size standards.* In addition to being independently owned and operated, and not dominant in the field of operation in which it is bidding on Government contracts, a small business concern in order to qualify as such must meet the criteria established for the industries set forth below. "Annual receipts" means the gross income (less returns and allowances, sales of fixed assets, and interaffiliate transactions) of a concern (and its affiliates from sales of products and services, interest, rents, fees, commissions, and/or from whatever other source derived, as entered on its regular books of account for its most recently completed fiscal year (whether on a cash accrual, completed contracts, percentage of completion, or other acceptable accounting basis) and in the case of a concern subject to U.S. Federal income taxation reported or to be reported to the U.S. Treasury Department, Internal Revenue Service, for Federal income tax purposes. If a concern has been in business less than 1 year, its annual receipts shall be computed by determining its average weekly receipts for the period in which it has been in business and multiplying such figure by 52. If a concern has 50 percent or more of its annual receipts attributable to business activity within

Alaska then whatever size criterion of "annual receipts" is used in any size definition contained in this subpart, the stated dollar limitation for the purpose of qualifying as a small business concern shall be increased by 25 percent of the indicated amount.

* * * * * *

§ 1.701–4 Manufacturing industry employment size standards.

* * * * * *

Census classification code	Industry	Employment size standard (number of employees) 1
* * *	* * *	* * *
	MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS	
2011	Meat packing plants	750 [Revoked]
* * *	* * *	* * *

§ 1.705–4 Certificates of competency.

* * * * * *

(c) * * *

(3) * * * This reporting requirement is assigned RCS DD (I&L)(Q) 1152.

(4) A referral need not be made to the SBA if the contracting officer certifies in writing, and his certification is approved by the chief of the purchasing office, that the award must be made without delay, includes such certification and supporting documentation in the contract file, and promptly furnishes a copy to the SBA. * * *

* * * * * *

§ 1.705–5 Contracting with the Small Business Administration.

* * * * * *

(c) *Procedures*—(1) *Supplies, services, and research and development.* * * *

(iv) It will be the responsibility of the SBA to provide written certification as to its competency to perform the contract to the Secretary of the Department (Attention: Economic Utilization Advisor), with a copy to the designated procuring activities.

* * * * * *

(2) *Construction.* * * *

(vi) It will be the responsibility of the SBA to provide written certification as to its competency to perform the contract to the Secretary of the Department (Attention: Economic Utilization Adviser), with a copy to the designated procuring activities.

* * * * * *

§ 1.706–1 General.

(a) Subject to any applicable preference for labor surplus area set-asides as provided in § 1.803(a)(2) and the following criteria, any individual procurement or class of procurements regardless of dollar value or any appropriate part thereof, shall be set aside for the exclusive participation of small business concerns when such action is determined to be in the interest of (1) maintaining or mobilizing the Nation's full productive capacity, (2) war or national defense programs, or (3) assuring that a fair proportion of Government procurement is placed with small business concerns. * * *

* * * * * *

(c) In addition to individual procurement set-asides, classes of current and future procurements, or portions thereof, of selected items or services, or groups of like items or services may be set aside for exclusive small business participation. The determination to make a class set-aside may be either unilateral or joint. Unilateral set-asides will normally be initiated by recommendation of the small business specialist, but may also be initiated by the contracting officer. Joint class set-asides may be recommended by SBA representative for only those items or services on which unilateral class set-asides have not previously been made by the contracting officer. The determination to make a class set-aside shall not depend on the existence of a current procurement if future procurements can be clearly foreseen. Class set-asides shall apply only to the purchasing activity making or participating in the agreement and such set-asides, which are established for projected procurements over $2,500, shall be equally applicable to purchases under $2,500, to be effected by small purchase procedures, unless it is not practicable to effect a small purchase from a small business firm in a timely manner to meet an immediate requirement. A class set-aside agreement should specifically identify the items or services subject thereto. Any class of procurements proposed to be totally set aside shall satisfy the requirements of § 1.706–5. The set-aside determination for any class of procurements proposed to be partially set aside shall specify that it does not apply to any individual procurement not severable into two or more economic production runs or reasonable lots. Records of individual procurements under each class set-aside shall be maintained by individual purchasing activities and shall include the solicitation number and date, item or service, unilateral or joint class set-aside, estimated dollar amount of the procurement, and estimated dollar amount of the set-aside. A copy of each such record shall be made available by each purchasing activity to the small business specialist or to SBA upon request.

* * * * * *

§ 1.1203–1 General.

Each solicitation shall be accompanied with the applicable specifications, standards, plans, drawings, descriptions, and any other pertinent documents, or shall state where such documents may be obtained or examined, in accordance with this section. In the case of specifications and drawings available from the purchasing office, the solicitation should identify as precisely as possible the resposible individual's name and title, address and room number, office symbol, and telephone number, for purposes of facilitating and expediting requirements for documents or for examination of such documents.

§ 1.1203–2 Specifications and standards listed in the Department of Defense Index of Specifications and Standards (DODISS) and data item description listed in the Department of Defense Index of Data Item Descriptions (TD–3).

(a) A Department of Defense Single Stock Point (DODSSP) has been established at the Naval Publications and Forms Center in Philadelphia for unclassified Federal, Military, and other specifications and standards (including commercial) listed in the DODISS and data item descriptions listed in the TD–3. Except as provided in paragraph (b) of this section, such specifications, standards and descriptions normally will not be furnished with the solicitation; but, the solicitation shall contain a provision substantially as set forth below. Only that portion of the provision applicable to the particular solicitation should be used.

AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DESCRIPTIONS

Specifications, standards, and descriptions cited in this solicitation are available as indicated below:

(a) *Unclassified Federal, Military, and Other Specifications and Standards (Excluding Commercial), and Data Item Descriptions.* Submit request on DD Form 1425 (Specifications and Standards Requisition) to:

Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

The Department of Defense Index of Data Item Descriptions (TD–3) may be ordered on the DD Form 1425. The Department of Defense Index of Specifications and Standards (DODISS) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. When requesting a specification or standard, the request shall indicate the title, number, date, and any applicable amendment thereto by number and date. When requesting a data item description, the request shall cite the applicable data item number set forth in the solicitation. When DD Form 1425 is not available, the request may be submitted in letter form, giving the same information as listed above, and the solicitation or contract number involved. Such requests may also be made to the activity by telegram or telephone (Area Code 215, 697–3321) in case of urgency.

(b) *Commercial Specifications, Standards, and Descriptions.* These specifications, standards, and descriptions are not available from Government sources. They may be obtained from the publishers.

* * * * * *

§ 1.1206–1 General.

(a) A purchase description may be used in lieu of a specification when authorized by § 1.1202(b) and (c) and, subject to the restriction on repetitive use in § 1.1202(c)(5), where no applicable specification exists. * * *

* * * * * *

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§ 1.1206–2 Brand name or equal purchase descriptions.

(a) Purchase descriptions which contain references to one or more brand name products followed by the words "or equal" may be used only when authorized by § 1.1202 (b) or (c) and in accordance with §§ 1.1206–3 and 1.1206–4. * * *

* * * * *

PART 2—PROCUREMENT BY FORMAL ADVERTISING

2. Section 2.201(a)(3)(i) is revised, (xxxv) is added, (5)(iii) is revised, (13) is amended and (b)(43) added; and § 2.407–6(a)(1) is amended, as follows:

§ 2.201 Preparation of invitation for bids.

* * * * *

(a) * * *

(3) * * *

(i) Standard Form 33A (Solicitation Instructions and Conditions); alternatively, SF 33A may be incorporated by reference to the form name, number, and edition date;

* * * * *

(xxxv) If the solicitation may result in contract awards of $10,000 or more and may generate 400 or more man-days of employment, as defined in the clause in § 7.103–27 of this chapter include the following provision:

LISTING OF EMPLOYMENT OPENINGS FOR VETERANS

Offerors should not that this solicitation includes a provision which will be included in the contract requiring the listing of employment openings with the local office of the State employment service system if the award is for $10,000 or more and involves 400 or more man-days of employment.

* * * * *

(5) * * *

(iii) Except under the circumstances set forth in § 9.505 of this chapter; DD Form 1423 (Contract Data Requirements List); one or more line or subline items of data in this section E referring to DD Form 1423; (see § 16.815 of this chapter).

* * * * *

(13) *Section M*—List of documents, exhibits, and other attachments. Here list all of the documents, exhibits, and other attachments which make up the invitation for bids package; give form number, name, date, and number of pages for each document; give type and identifier (for example, "Exhibit A"), name, and number of pages for each exhibit, appendix, or other attachment (for example, work frequency schedules, work statements, specifications, special requirements, or other documents too lengthy to be conveniently written into the invitation proper).

(b) * * *

* * * * *

(43) If the solicitation may result in contract awards of $10,000 or more and may generate 400 or more man-days of employment, as defined in the clause in § 7.103–27 of this chapter, include the following provision:

LISTING OF EMPLOYMENT OPENINGS FOR VETERANS

Offerors should note that this solicitation includes a provision which will be included in the contract requiring the listing of employment openings with the local office of the State employment service system if the award is for $10,000 or more and involves 400 or more man-days of employment.

* * * * *

§ 2.407–6 Equal low bids.

(a) (1) Where two or more low bids are equal in all respects, considering all factors except the priorities set forth in subparagraph (2) of this paragraph, award shall be made in accordance with the order of priorities therein. Only priority (vii) is applicable to construction contracts. Where two or more low bids are equal in all respects, considering all factors including the priorities set forth in subparagraph (2) of this paragraph, award shall be made by a drawing by lot which shall be witnessed by at least three persons and which may be attended by the bidders or their representatives.

* * * * *

PART 3—PROCUREMENT BY NEGOTIATION

3. Section 3.403(b)(3) is revised; in § 3.501 paragraph (a) is amended, paragraph (b)(2)(xiv) is revised, (3) (i) and (xxxii) are amended, (xliv) is added, (5)(iii) and (13) are amended and in paragraph (c) subparagraph (50) is added; §§ 3.800 and 3.801–1 are amended; §§ 3.801–2 and 3.801–3 are revised; §§ 3.801–4 and 3.801–5 are added; § 3.807–3 (d) through (g) are revised and (h) and (i) are added; § 3.807–13 (c), (d), and (e) are revised and (f) and (g) are revoked; § 3.809 is revised; and § 3.1100–2(b)(1) is revised, as follows:

§ 3.403 Negotiation of contract type.

* * * * *

(b) * * *

(3) *Engineering development and operational systems development.* Engineering and operational systems development, because of many similarities, form a logical grouping in the spectrum of R. & D. categories. These categories, the ultimate aim of which is production and deployment, include all effort the primary objective of which is the engineering design and final engineering demonstration of the technical, economic, logistic, and operational characteristics of an experimentally feasible and acceptable system, equipment, subsystem, component, or process judged to be the optimum solution to clearly stated military problems or technical objectives. In engineering development, such effort is founded on the possibility of eventual procurement for inventory and use, and, therefore, includes effort leading to the demonstration of acceptability for such procurement. Operational systems development effort has the primary objective of producibility demonstration and R. & D. support of final service test of the logical and operational development of an acceptable system, equipment, subsystem, or component, approved for procurement and operational deployment or otherwise specifically approved for inclusion in this category. It may include the building of one or more production prototypes utilizing all processes, tooling, and test equipment considered for the production process thereby constituting a demonstration and qualification of the product process. Even when the overall project is in engineering or operational system development, there may be integral supporting tasks that are still in the advanced development stage and the contract type for these tasks should be selected accordingly. The type of contract selected should be decided on the basis of major factors such as: (i) The definitiveness of the project at this stage and its bearing on the accuracy of cost estimates; (ii) the completion schedule required for satisfactory operational deployment; (iii) the degree of uncertainty expected; (iv) the contractor's willingness and ability to accept a high-risk type of contract; (v) the ability to establish meaningful and measurable incentives; (vi) the need for effort overlapping that of earlier development stages; (vii) the desirability of firm technical direction by the Government, and (viii) the degree of configuration control to be exercised. Any one or combination of these factors could have a direct bearing on the type of contract selected. Cost reimbursement type contracts are preferred for all development efforts and particularly for major defense systems. When risk has been reduced to the extent that realistic pricing can occur, fixed price type contracts should be used, e.g., when a program has reached the final stages of development and technical risks are minimal. The use of letter contracts shall be minimized.

§ 3.501 Preparation of request for proposals or request for quotations.

(a) *General.* Forms used for requesting proposals or quotations on negotiated procurement shall be as required by paragraphs (b) and (c) of this section and by Part 16 of this chapter, or if not required by such section, as prescribed by departmental regulations. Generally, requests for proposals and requests for quotations shall be in writing. However, in appropriate cases as prescribed in paragraph (d) of this section, proposals or quotations may be solicited orally: *Provided,* That the resulting definitive contract is prepared on the prescribed contract form for signature by both parties, except that in the procurement of perishable subsistence, DPSC Form 300, Order for Subsistence, may be used. Solicitations shall contain the information necessary to enable a prospective offeror or quoter to prepare a proposal or quotation properly. All such information shall be set forth in full in the solicitation rather than incorporated by reference, except that:

* * * * *

(b) * * *

(2) * * *

* * * * *

(xiv) When standard Form 33 or other request for proposals form is used, the following statement:

CONTRACTOR'S TECHNICAL DATA CERTIFICATION

The offeror shall submit with his offer a certification as to whether he has delivered or is obligated to deliver to the Government under any contract or subcontract the same or substantially the same technical data included in his offer; if so, he shall identify one such contract or subcontract under which such technical data was delivered or will be delivered, and the place of such delivery.

* * * * *

(3) * * *

(i) When standard Form 33 is used, it shall be accompanied by standard Form 33A (Solicitation Instructions and Conditions); alternatively, SF 33A may be incorporated by reference to the form name, number and edition date;

* * * * *

(xxxii) When Standard Form 33 or other request for proposals form is used with the DD Form 1423 (Contract Data Requirements List) for the procurement of data, a provision that if the offeror fails to enter the required information in blocks 25 and 26 of DD Form 1423 in accordance with instructions on the form as part of his submission and refuses to do so on request, his offer may be rejected;

* * * * *

(xliv) If the solicitation may result in contract awards of $10,000 or more and may generate 400 or more man-days of employment, as defined in the clause in § 7.103–27 of this chapter, include the following provision:

LISTING OF EMPLOYMENT OPENINGS FOR VETERANS

Offerors should note that this solicitation includes a provision which will be included in the contract requiring the listing of employment openings with the local office of the State employment service system if the award is for $10,000 or more and involves 400 or more man-days of employment.

* * * * *

(5) * * *

(iii) When Standard Form 33 or other request for proposals form is used with the DD Form 1423 (Contract Data Requirements List) for the procurement of data, one or more line or subline items of data in this section E referring to the DD Form 1423; (See § 16.815 of this chapter.)

* * * * *

(13) Section M—List of documents, exhibits, and other attachments. Here list all of the documents, exhibits, and other attachments which make up the request for proposals or request for quotations package; give form number name, data, and number of pages for each document; give type and identifier (for example, "Exhibit A"), name, and number of pages for each exhibit, appendix, or other attachment (for example, work frequency schedules, work statements, specifications, special requirements, or other documents too lengthy to be conveniently written into the request for proposals or request for quotations proper.)

(c) * * *

(50) If the solicitation may result in contract awards of $10,000 or more and may generate 400 or more man-days of employment, as defined in the clause in § 7.103–27 of this chapter, include the following provision:

LISTING OF EMPLOYMENT OPENINGS FOR VETERANS

Offerors should note that this solicitation includes a provision which will be included in the contract requiring the listing of employment openings with the local office of the State employment service system if the award is for $10,000 or more and involves 400 or more man-days of employment.

* * * * *

§ 3.800 Scope of subpart.

This subpart sets forth the price negotiation policies and techniques applicable to negotiated prime contracts and those subcontracts which are subject to consent by the Government. The principles in this subpart apply to negotiation of prices on all types of contracts and to revised prices as well as initial prices.

§ 3.801–1 General.

It is the policy of the Department of Defense to procure supplies and services from responsible sources at fair and reasonable prices calculated to result in the lowest ultimate overall cost to the Government. Good pricing depends primarily upon the exercise of sound judgment by all personnel concerned with the procurement.

§ 3.801–2 Responsibility of contracting officers.

(a) Contracting officers, or their authorized representatives acting within the scope of their authority, are the exclusive agents of their respective departments to enter into and administer contracts on behalf of the Government in accordance with ASPR and departmental procedures. Each contracting officer is responsible for performing or having performed all administrative action necessary for effective contracting. The contracting officer shall avail himself of all appropriate organizational tools such as the advice of specialists in the fields of contracting, finance, law, contract audit, packaging, engineering, traffic management, and price analysis.

(b) To the extent services of specialists are utilized in the negotiation of contracts, the contracting officer must coordinate a team of experts, requesting advice from them, evaluating their counsel, and availing himself of their skills. He shall not, however, transfer his own responsibilities to them. Thus, determination of the suitability of the contract price to the Government always remains the responsibility of the contracting officer.

(c) When the contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable, the contracting officer shall (1) determine the feasibility of developing an alternate source of supply, or (2) take any other action within his authority. If, after exhausting the above course of action, a satisfactory solution has not been obtained, the contracting officer shall refer the prospective procurement to higher authority. Such referral shall include a complete statement of the attempt made to resolve the matter. With regard to a contractor's refusal to provide cost or pricing data, see § 3.807–6.

(d) Pricing based on cost analysis involves, among other things, an appraisal of estimates of costs expected to be incurred in the future. The accounting projection of trends based on cost or pricing data, together with any known changes therein, is only one method of conducting this appraisal, others being:

(1) An engineering appraisal of the need for the estimated labor and material costs and of tooling and facilities, and the reasonableness of scrap and spoilage factors, and

(2) The preparation of independent estimates by competent technical personnel.

Occasionally, differences of opinion will exist not only on the reasonableness of cost projections, but also on the accounting techniques on which they are based. In addition, it is normally not possible to negotiate a pricing result which is in strict accord with all of the opinions of all of the specialists, or even with the Government's pricing objective. Reasonable compromises are normally necessary and this fact must be understood by all members of the team. For all of these reasons audit reports or pricing recommendations by others must be considered to be advisory only. The contracting officer is responsible for the exercise of the requisite judgments and is solely responsible for the final pricing decision. When the contracting officer does not adopt audit or other specialist recommendations that have particular significance on the contract price, comments should be included in the record of the negotiation.

(e) Whenever it becomes apparent to the contracting officer that the negotiations will require the resolution of complex problems which involve items significant in amount, he shall request attendance by audit or other representatives at the negotiation meeting.

§ 3.801–3 Responsibility of requirements and other logistics personnel in purchasing offices.

Personnel other than the contracting officer, who determine type, quality, quantity, and delivery requirements for items to be purchased, can influence the degree of competition obtainable and exert a material effect upon prices. Failure to determine requirements in sufficient time to allow:

(a) A reasonable period for preparation of requests for proposals;

(b) Preparation of quotations by offerors;

(c) Contract negotiation and preparation; or

(d) Adequate manufacturing lead time,

causes delays in deliveries and uneconomical prices. Requirements issued on an urgent basis or with unrealistic delivery schedules should be avoided since they generally increase prices or restrict desired competition.

§ 3.801–4 Responsibility of pricing personnel in purchasing office.

(a) The contract pricing team available to support the PCO in the review and analysis of pricing proposals in-

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cludes the price analyst, negotiator, buyer, project engineer, and liaison auditor at the purchasing office.

(b) The price analyst or negotiator supporting the contracting officer may be designated to develop a Government pricing ojective prior to the negotiation. This includes the responsibility for determining the extent of advice required from other specialists, requesting, obtaining, and considering such advice, and for consolidating pricing data, including cost and price analyses, historical cost or pricing data, independent government cost estimates, economic analyses, and the like. The advice and assistance of the price analyst/negotiator should always be obtained when complex pricing techniques are indicated, including the use of contract types involving the skillful balancing of price, cost and performance incentive arrangements. In many instances, he will be in the best position to conduct the price negotiation.

§ 3.801–5 Responsibility of field pricing support personnel.

(a) *Field pricing support.* Field pricing support involves analysis of the contractor's price proposal by any or all of the field technical and professional specialists including, but not limited to, the Plant Rep/ACO; contract auditor; price analyst; quality assurance personnel, engineers; and legal and small business specialists. The Plant Rep/ACO is the team manager for all PCO requests for field pricing support. Therefore the PCO shall send all requests for field pricing support to the cognizant field contract administration activity; generally, the plant representative (Plant Rep) for the Services and the administrative contracting officer (ACO) for DCAS (DSA). However, there shall be no constraints on the lines of communication within the PCO/ACO and contract auditor interface.

(b) *Field pricing reports on contract price proposals.* (1) Prior to negotiation of a contract or modification resulting from a proposal in excess of $100,000 (including initial prices, estimated costs of cost-reimbursement types, interim and final price redeterminations, escalation, target, and settlement of incentive types) when the price is based on cost or pricing data (§ 3.807–3) submitted by the contractor, the contracting officer or his authorized representative shall request a field pricing support report (which includes an audit review by the contract audit activity) unless information already available to the contracting officer is adequate to determine the reasonableness of the proposed cost or price. Whenever the contracting officer determines that current data is adequate to support a waiver of a field pricing support report, he shall document the contract file to reflect the reason for such waiver. Information of the type described in subdivisions (i) through (vi) of this subparagraph which is often available to the procuring contracting officer (PCO), or from the Plant Rep/ACO, or from the procurement liaison auditor (PLA), may be useful in reaching a decision whether or not a field pricing support report should be waived.

(i) In-house engineering determination of level of effort required in connection with research and development or study contracts.

(ii) Audited cost information from contract awards in process, or recently negotiated contracts.

(iii) Adequately reviewed data on proposed subcontracts items which constitute the major portion of the prime contract price proposal.

(iv) Prices of standard commercial items which constitute the major portion of the prime contract price proposal.

(v) Special forward pricing formulas or rates such as for support items, or forecast overhead rates, prescribed in an existing advance agreement.

(vi) Current labor rates, overhead rates, loading factors, per diem rates, and lot data based upon actual costs and labor hours.

It should be borne in mind that no single category of information is necessarily sufficient by itself; for example, information as to rates for labor and overhead would normally require data concerning the base elements—labor hours, material costs, etc.—to which the rates apply.

(2) Ordinarily, field pricing support reports should not be requested for proposed contracts or modifications of less than $100,000 except in instances, such as a lack of knowledge of the particular contractor, sensitive conditions, or an inability to perform an acceptable degree of price analysis, and thereby establish a reasonable pricing result. Before requesting field pricing support for lower dollar offers, the contracting officer should consider utilizing price analysis techniques (§ 3.807–2(b)) or the information cited in subparagraph (1) (i) through (vi) of this paragraph to establish the reasonableness of the proposed price.

(3) The PCO shall forward the request to the Plant Rep/ACO (copy to the cognizant contract audit activity) clearly stipulating specific areas for which input is required and assigning a realistic deadline for receipt of the field pricing support report. The request shall be accompanied by any information, including applicable portion of the RFP and the offeror's proposal, which would be useful in the evaluation of the proposal. In sole source procurement, when the contracting officer knows in advance that field pricing support will be required, he shall provide the cognizant Plant Rep/ACO and auditor a copy of the solicitation. In addition he may require the contractor to provide copies of his proposal direct to the Plant Rep/ACO and auditor. In this event the PCO shall, as soon as possible after receipt of the contractor's proposal, identify those specific areas for which field pricing support is required.

(4) The Plant Rep/ACO, as well as the contract auditor, will be responsible for providing a complete and accurate field pricing support report to the PCO. To accomplish this end the Plant Rep/ACO must:

(i) In concert with the auditor and in consideration of his workload, establish a deadline for the auditor's input, subject to date adjustments when considered necessary (adjustments will be coordinated by the Plant Rep/ACO with the PCO and the contract auditor);

(ii) Identify areas for special consideration (these area areas in addition to those specified by the PCO);

(iii) Arrange for exchanges of technical and audit information and coordination between the CAS and audit activities; and

(iv) Be fully responsive to a request for technical information from the auditor.

(5) The contract auditor shall treat the copy of the PCO request as a signal to arrange for and begin the audit work. He must be fully responsive to the request of the Plant Rep/ACO and he must communicate to the Plant Rep/ACO any change in audit schedule which may be required. The scope and depth of the audit, subject to time constraints, is the responsibility of the contract auditor. In addition, specific requirements in the PCO request shall be accommodated. The dollar effect of technical input vital to the audit shall be computed by the contract auditor and included in his report. The auditor's completed report shall be sent to the Plant Rep/ACO for inclusion, without change, in the field pricing support report to the PCO.

(6) When providing pricing support to the PCO, the Plant Rep/ACO has primary responsibility for consolidating and evaluating the findings of the pricing team members at the contract administration and contract audit offices and for the analysis of proposed prices in consideration of, but not limited to, such factors as the need for quantities and kinds of materials included in the proposal; the need for the number and kinds of manhours; the need for special tooling and facilities; and the reasonableness of scrap and spoilage factors. These analyses by the Plant Rep/ACO and his team shall be based on their knowledge of such factors as production, quality assurance, engineering and manufacturing practices and techniques, and information as to plant capacity, scheduling, engineering and production "know-how," Government property, make or buy considerations, and industrial security, particularly as these relate to practices of the specific prospective contractor.

(7) The contract auditor is responsible for submission of information and advice, based on his analysis of the contractor's books and accounting records or other related data, as to the acceptability of the contractor's incurred and estimated costs. The auditor shall report any denial by the contractor of access to record or cost or pricing data which the auditor considers essential to the preparation of a satisfactory report. If the auditor believes that the contractor's estimating methods or accounting system are inadequate to produce valid support for the proposal or to permit satisfactory administration

of the type of contract contemplated, this shall be stated in the audit report and concurrently made known to the contractor so that he may have the opportunity of presenting his views to the PCO and Plant Rep/ACO. When the PCO determines that deficiencies in the contractor's accounting system or estimating methods are such that the proposed contract cannot be adequately priced or administered, he shall, with the advice of the contract auditor and the Plant Rep/ACO, assure that necessary corrective action is initiated prior to the award of such contract. The auditor is responsible for performing that part of reviews and cost analyses which requires access to the contractor's books and financial records supporting proposed cost or pricing data, regardless of the dollar amount involved. Only the auditor shall have general access to the books and financial records for this purpose. This does not preclude the PCO, the Plant Rep/ACO, or their technical representative from requesting any data from, or reviewing records of, the contractor (such as lists of labor operations, process sheets, etc.) necessary to the discharge of their responsibilities.

(8) The efforts of all field pricing support team members are complementary, advisory and also offer an excellent check and balance of the various analyses imperative to the PCO's final pricing decision. Therefore it is essential that there be close understanding, cooperation, and communication to insure the exchange of information of mutual interest during the period of analysis While they shall review the data concurrently when possible, each shall render his services within his own area of responsibility. For example, on quantitative factors (such as labor hours), the auditor may find it necessary to compare proposed hours with hours actually expended on the same or similar products in the past as reflected on the cost records of the contractor. From this information he can often project trend data. The technical specialist may also analyze the proposed hours on the basis of his knowledge of such things as shop practices, industrial engineering, time and motion factors, and the contractor's plant organization and capabilities. The interchange of this information will not only prevent duplication but will assure adequate and complementary analysis.

(9) During the course of the examination, the Plant Rep/ACO and the auditor shall each confer with the contractor to fully understand the basis for each item in the contractor's proposal and to remove any doubts as to the validity and accuracy of their conclusions and findings. Before such discussions are concluded, they should have explored and discussed with the contractor any discrepancies noted in their examinations involving cost or pricing data as defined under § 3.807–3(f).

(10) The auditor, as part of his report, shall set forth the basis and method used by the contractor in preparing his proposal. Also, the report shall clearly identify the contractor's original proposal and all subsequent written formal submissions to the contracting officer or to the auditor by which cost or pricing data was furnished or identified by the contractor (see § 3.807–3(g)). In addition, cost or pricing data not submitted by the contractor but otherwise coming to the auditor which have a significant effect on the proposed cost or price shall also be described in the advisory audit report. If the auditor considers that the cost or pricing data submitted by the contractor are not accurate, complete and current, or that cost representations are unsupported, this information will be made known in his audit report. When the resulting overall effect of those deficiencies on the proposed cost or price is of such magnitude that the usefulness of the contractor's proposal is considerably impaired as a basis for negotiation, the contracting officer should be advised promptly to enable corrective action to proceed without delay. The above is not intended to relieve the contractor of his obligation to submit accurate, complete and current cost or pricing data.

(11) Reports of technical analysis and review should be furnished to the auditor at the earliest possible date and at least 5 days prior to the due date of the audit report to enable the auditor to include the financial effect of technical findings in the audit report (for example, the necessary computations of dollar amounts arising from changes in proposed kinds and quantities of materials, labor hours, etc.). In the event the technical analyses are not available in time to be reflected in the audit report, the audit report shall so state, and this shall be made known to the Plant Rep/ACO so that comments may be incorporated in his submission to the PCO. If technical analyses are received later by the auditor, he shall issue a supplemental report if the status of the negotiation is such that a report would serve a useful purpose. The original of all technical reports received by the auditor shall be made a part of the audit report submitted to the Plant Rep/ACO.

(12) If in the opinion of the PCO, Plant Rep/ACO, or auditor, the review of a prime contractor's proposal requires further review of subcontractors' cost estimates at the subcontractors' plant (after due consideration or reviews performed by the prime contractor), such reviews should be fully coordinated with the Plant Rep/ACO having cognizance of the prime contractor before being initiated. If a review is required of a subcontract proposal, the prime Plant Rep/ACO shall forward the request to the subcontract ACO with an information copy to the subcontract auditor. In the event a lower tier subcontract proposal requires review, the request should be coordinated in sequence with the Plant Rep/ACO's at higher tiers in the subcontract chain. The resulting pricing reports, including any audit reports, shall be forwarded by the subcontract Plant Rep/ACO to the prime Plant Rep/ACO with an information copy to the prime auditor. If the review is of a lower tier subcontract proposal, the report shall be transmitted through the Plant Rep/ACO's in the subcontract chain.

(13) The audit report, giving the financial effect of related technical, subcontract, and other evaluations, shall be forwarded by the auditor to the Plant Rep/ACO. The Plant Rep/ACO (price analyst or negotiator) shall query the auditor or technical personnel about matters in audit or technical reports which appear to need clarification. When developing the Plant Rep/ACO statement to the PCO transmitting audit and technical reports, comments or observations shall be added about pertinent matters whether or not covered in the audit or technical reports. However, it is not contemplated, for eample, that the price analyst or negotiator should attempt an examination of the contractor's accounting records for this purpose since the contract auditor has this responsibility. If any information disclosed subsequent to the audit report significantly affects the audit findings, the Plant Rep/ACO should promptly advise the auditor, who shall determine whether to issue a supplemental report.

(14) The Plant Rep/ACO shall transmit to the PCO by the date requested the field pricing report (including the original copy of the audit report). A copy of the Plant Rep/ACO's field pricing report (less the audit report and technical evaluation) shall be furnished to the contract auditor.

(15) The field pricing reports shall be made a part of the official contract file.

(16) Information generated through sources other than the contractor's records may be available to the contracting officer which may significantly affect the Government's negotiating position. The Plant Rep/ACO and the auditor, therefore, shall not disclose to the contractor their conclusions and recommendations to the contracting officer on the contractor's proposed costs or estimates to complete. No portion of the reports of the Plant Rep/ACO or the auditor shall be furnished to the contractor without the concurrence of the contracting officer responsible for the negotiations. The above limitations are not intended to preclude disclosure of discrepancies or mistakes of fact such as duplications, omissions, and errors in computations, contained in the contractor's cost or pricing data supporting the proposal.

§ 3.807–3 Cost or pricing data.

* * * * *

(d) Cost or pricing data furnished by a subcontractor or a prospective subcontractor pursuant to paragraphs (b) or (c) of this section, must be submitted to the prime contractor or higher-tier subcontractor. It is the responsibility of the prime contractor and higher-tier subcontractor to review and evaluate the subcontract proposal and accompanying cost or pricing data and furnish the results of such review and evaluation to the Government as part of their cost or pricing data submission.

(e)(1) When, in the contracting officer's opinion, the prime or higher-tier subcontractor's analysis of the subcon-

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tract proposal is inadequate, the contracting officer will return the analysis package to the prime for reaccomplishment. The contracting officer should indicate the areas of inadequacy of review.

(2) It is the prime contractor's responsibility to accomplish or cause the accomplishment of the additional review required and resubmission of the package to the contracting officer.

(3) If the prime or higher-tier subcontractor is unable to accomplish the required additional analysis for justifiable reason, the Goverment will assist in the performance of the limited additional review required. The prime contractor must submit in these instances convincing evidence to the contracting officer that the prime or higher-tier subcontractor is unable to accomplish the additional analysis either because the addtional review would jeopardize the subcontractor's competitive position or proprietary data is involved. In these instances, however, the contracting officer must furnish to the administrative contracting officer the review package accomplished by the prime or higher-tier subcontractor.

(4) In addition to the situations discussed in subparagraphs (1) through (3) of this paragraph there may be occasions when a prospective prime contractor or higher-tier subcontractor will request ACO assistance to perform or assist in performing a limited or complete review and evaluation of a subcontractor's proposal, in lieu of performing this work himself. The ACO should make arrangements for such assistance only when, in his opinion, it would be in the best interests of the Government to perform this contractor responsibility. Such assistance should generally be provided only when:

(i) There is a business relationship between the prime contractor and subcontractor not conducive to independence and objectivity, as in the case of a parent-subsidiary or when prime and subcontracting roles of the companies are frequently reversed; or

(ii) The contractor is sole source and the subcontract costs represent a substantial part of the prime contractor costs.

(5) There may also be situations when, in analyzing a contractor's proposal or negotiating a prime contract, the contracting officer considers it necessary to validate the prime contractor's review and evaluation of the subcontractor's proposal required under paragraph (d) of this section. The purpose would be to satisfy the Government, not the prime contractor, that these elements of the prime contractor's total proposed price are reasonable. This can be accomplished by the contracting officer requesting as part of field pricing support a review of the proposal of one or more major subcontractors be performed by cognizant Government personnel (see § 3.801–5(b)(12)).

(f) When there is adequate price competition, cost or pricing data shall not be requested regardless of the dollar amount involved. As a general rule, cost or pricing data should not be requested when it has been determined that proposed prices are, or are based on, established catalog or market prices of commercial items sold in substantial quantities to the general public. Where, however, despite the willingness of a number of commercial purchasers to buy an item at such a catalog or market price, the purchaser (e.g., the contracting officer) finds that that price is not reasonable and supports such finding by an enumeration of the facts upon which it is based, cost or pricing data may be requested if necessary to establish a reasonable price: *Provided*, That such finding is approved at a level above the contracting officer. In addition, cost or pricing data may be requested, if necessary, where there is such a disparity between the quantity being procured and the quantity for which there is such a catalog or market price that pricing cannot reasonably be accomplished by comparing the two. Where an item is substantially similar to a commercial item for which there is an established catalog or market price at which substantial quantities are sold to the general public, but the offered price of the former is not considered to be "based on" the price of the latter in accordance with § 3.807–1(b)(2), any requirement for cost or pricing data should be limited to that pertaining to the differences between the items if this limitation is consistent with assuring reasonableness of pricing result.

(g)(1) Certified cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $10,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between $10,000 and $100,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data; hence all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (e.g., analysis of only specific factors) will provide a reasonable pricing result (see § 3.807–2(a)) on awards under $100,000 without the submission of complete cost or pricing data, the contracting officer shall request, without certification, only that data which he considers adequate to support the limited extent of the cost analysis required.

(2) Although cost or pricing data was requested in the solicitation, a certification of cost and pricing data shall not be requested in connection with the award of any contract of any dollar value where the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(h) "Cost or pricing data" as used in this subpart consists of all facts existing up to the time of agreement on price which prudent buyers and sellers would reasonably expect to have a significant effect on the price negotiations. The definition of cost or pricing data embraces more than historical accounting data; it also includes, where applicable, such factors as vendor quotations, nonrecurring costs, changes in production methods and production or procurement volume, unit cost trends such as those associated with labor efficiency, and make-or-buy decisions or any other management decisions which could reasonably be expected to have a significant bearing on costs under the proposed contract. In short, cost or pricing data consists of all facts which can reasonably be expected to contribute to sound estimates of future costs as well as to the validity of costs already incurred. Cost or pricing data, being factual, is that type of information which can be verified. Because the contractor's certificate pertains to "cost or pricing data," it does not make representations as to the accuracy of the contractor's judgment on the estimated portion of future costs or projections. It does, however, apply to the data upon which the contractor's judgment is based. This distinction between fact and judgment should be clearly understood.

(i) The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available (see § 3.807–5(a)(1)) to the contractor at the time of agreement on price is submitted, either actually or by specific identification, in writing to the contracting officer or his representative. The distinction between the "submission" of cost or pricing data and the "making available" of records should be clearly understood. The mere availability of books, records, and other documents for verification purposes does not constitute submission of cost or pricing data.

§ 3.807–13 Estimated data prices (DD Form 1423).

* * * * *

(c) The contracting officer shall assure to the extent practicable that the contract does not include a requirement for data which the contractor has delivered or is obligated to deliver to the Government under another contract or subcontract, and that the successful offeror furnishes the certification required by the solicitation (see § 3.501(b)(2)(xiv) and (3) xxxii)). However, where duplicate data is desired, the contract price shall include the costs of duplication, but not of preparation, of such data.

(d) In the case of procurements of $100,000 or over, the contracting officer, after agreeing upon a negotiated contract price, will adjust the estimated prices in blocks 26 of the original DD Form 1423 for the data items listed thereon to equal the amount included in the related priced contract line or subline item(s) for the data item(s). Adjusted DD Form 1423 will be maintained so as to be available at each procuring activity. The detachable portion of the DD Form 1423 (blocks 17–26) with the estimated or adjusted prices shall not appear in the contract.

(e) When printing is to be procured as an integral part of a contract for other supplies or services, each requirement in the contract for printing shall be listed as a separate line item on DD Form 1423; and the approval or waiver obtained pursuant to § 5.601 of this chapter shall be appropriately identified.

(f) [Revoked]

(g) [Revoked]

§ 3.809 Contract audit as a pricing aid.

(a) *General.* Contract audit services are available in two forms:

(1) Audit reports which set forth the results of auditors' reviews and analyses of cost data submitted by contractors as part of pricing proposals, reviews of contractors' accounting systems, estimating methods, and other related matters, and

(2) "On-the-spot" personal consultation and advice to procurement and contract administration personnel in connection with analyses of contractors' cost representations and related matters by liaison auditors stationed at purchasing and contract administration offices.

Contract auditors are professional accountants who, although organizationally independent, are the principal advisers to contracting officers on contractor accounting and contract audit matters. The terms "audit review" and "audit" refer to examinations by contract auditors of contractors' statements of actual or estimated costs to the extent deemed appropriate by the auditors in the light of their experience with contractors and relying upon their appraisals of the effectiveness of contractors' policies, procedures, controls, and practices. Such audit reviews or audits may consist of desk reviews, test checks of a limited number of transactions, or examinations in depth, at the discretion of the auditor.

(b) *Audit reports on contractor price proposals.*

(1) The auditor's role in the evaluation of contractor pricing proposals is set out in detail in § 3.801 which, in summary, provides that a report from the Defense Contract Audit Agency will be obtained for substantially all cost-based proposals over $100,000. The procedures contemplate that the report of engineering appraisal (as to the need for the kinds and quantities of labor and material) shall be provided the auditor in order that the DCAA report may reflect the monetary effect of both the auditor's and the engineer's recommendations. Contracting officers should provide as much time as possible for the auditor to perform his evaluation, whenever possible providing advance notice that a request will be forthcoming. Although price proposals are given the highest priority by DCAA, advance notice of price proposals will assist the auditor in providing timely audit advice to the contracting officer.

(2) DCAA provides procurement liaison auditors (PLA's) at most major procurement and contract administration offices to facilitate the receipt and use of audit service and to provide accounting and audit advice as to whether or not audit review of a price proposal should be waived.

(3) In submitting his audit report, the auditor shall include comments in regard to the extent to which discrepancies or mistakes of fact in the proposal have been discussed with the contractor. Unless specifically requested to do so by the contracting officer, the auditor shall not discuss his conclusions or recommendation regarding the contractor's estimated or projected costs.

(c) *Additional functions of the contract auditor.* (1) Under cost-reimbursement type contracts, the cost-reimbursement portion of fixed-price contracts, letter contracts which provide for reimbursements of costs, time and material contracts, and labor-hour contracts:

(i) The contract auditor is the authorized representative of the contracting officer for the purpose of examining reimbursement vouchers received directly from contractors, transmitting those vouchers approved for provisional payment to the cognizant disbursing officer and issuing DCAA Form 1, "Notice of Contract Costs Suspended and/or Disapproved," with a copy to the cognizant ACO, with respect to costs claimed but not considered allowable. In the case of costs suspended, if the contractor disagrees with the suspension action by the contract auditor and the difference cannot be resolved, the contractor may appeal in writing to the cognizant ACO, who will make his determination promptly in writing. In the case of costs disapproved, the DCAA Form 1 shall include the following statement:

> As to any disapproved costs identified herein, this Notice constitutes a final decision of the Contracting Officer, effective 60 days after the date of its receipt by the Contractor, unless the Contractor mails or furnishes to the cognizant Administrative Contracting Officer a written appeal before the expiration of such 60-day period. If this Notice becomes a final decision of the Contracting Officer by virtue of expiration of the 60-day period, it may be appealed in accordance with the provisions of the "Disputes" clause of the contract identified above. If the Contractor decides to make such an appeal, written notice thereof (in triplicate) must be mailed or otherwise furnished to the Contracting Officer within 30 days from the date this decision becomes effective. Such notice should indicate that an appeal is intended and should reference this decision and identify the contract by number. The Armed Services Board of Contract Appeals is the authorized representative of the Secretary for hearing and determining such disputes. The rules of the Armed Services Board of Contract Appeals are set forth in the Armed Services Procurement Regulation, Appendix A, Part 2.

If the contractor appeals in writing to the ACO from a disallowance action by the contract auditor within the 60-day period mentioned above, the ACO will make his determination in writing, as promptly as practicable, as a final decision of the contracting officer (see § 1.314 of this chapter re decisions under the disputes clause) and mail or otherwise furnish a copy to the contractor. In those instances where the ACO does not sustain the contract auditor's disallowance the ACO shall document the contract file to set forth the specific reasons why reinstatement of the disallowed cost was considered appropriate. A copy shall be furnished to the contract auditor. In addition, the contracting officer may direct the issuance of DCAA Form 1, "Notice of Contract Costs Suspended and/or Disapproved," with respect to any cost that he has reason to believe should be suspended or disapproved. The contract audtor will approve fee portions of vouchers for provisional payment in accordance with the contract schedule and any instructions received from the administrative contracting officer. Completion vouchers shall be forwarded to the ACO for approval and transmittal to the cognizant disbursing officer.

(ii) The contract auditor shall be responsible for making appropriate recommendations to the ACO concerning the establishment of interim overhead billing rates, when such rates are provided for in the contract.

(2) Under cost-reimbursement type contracts with Canadian contractors:

(i) On contracts with the Canadian Commercial Corp., audits are automatically arranged by the Department of Defense Production (Canada) (DDP) in accordance with agreement between Departments of the Army, Navy, and Air Force; Defense Supply Agency; and Department of Defense Production (Canada) (see § 6.503(c) of this chapter). Audit reports are furnished to DDP. Upon advice from DDP, the Canadian Commercial Corp. (CCC) will certify the invoice and forward it with standard Form 1034 (Public Voucher) to the ACO for further processing and transmittal to the disbursing officer.

(ii) On contracts placed directly with Canadian firms, audits are requested by the ACO from the Audit Services Branch, Comptroller of the Treasury, Department of Finance, Ottawa, Ontario, Canada. Invoices are approved by the auditor on a provisional basis pending completion of the contract and final audit. These invoices, accompanied by standard Form 1034 (Public Voucher) are forwarded to the ACO for further processing and transmittal to the disbursing officer. Periodic advisory audit reports are furnished directly to the ACO. In the event that costs claimed are suspended or disapproved, the ACO shall issue the DCAA Form 1, "Notice of Contract Costs Suspended and/or Disapproved" to the contractor. DCAA Form 1 will be processed in the same manner as indicated in subdivision (1)(i) of this paragraph with regard to contract appeals, and shall contain the statement prescribed therein with respect to costs disapproved.

(3) Responsibilities for preaward surveys and reviews: Preaward surveys of potential contractors' competence to perform proposed contracts shall be managed and conducted by the contract administration office. Where information is requried on the adequacy of the contractor's accounting system or its suitability for administration of the proposed type of contract, such information shall always be obtained by the ACO

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from the auditor. The contract administration office shall be responsible for advising the PCO on matters concerning the contractor's financial competence or credit needs.

(4) Reviews of contractors' estimating systems:

(i) The establishment, maintenance, and consistent use of formal cost estimating systems by contractors is to the mutual benefit of the Government and industry, particularly where a large portion of the contractor's business is defense work and there are a number of significant proposals requiring review. Procuring activities and contract administration activities are required to furnish full support to a program of encouraging major defense contractors to formalize and follow good estimating procedures. It is recognized that estimating procedures will vary among contractors, and may vary between plants or divisions of a contractor due to differences in products, size and methods of operations, production vs. research, and other factors. While formal systems do not eliminate the need for judgmental factors to be applied by contractors in developing cost proposals, they do provide a sound foundation for the systematic and orderly application of these judgment factors to specific proposals. The consistent preparation of proposals in accordance with an acceptable estimating system is of material benefit in assuring both the contractor and the Government that proposals are realistically and reasonably priced, that the § 3.807–3 requirements for utilizing current, accurate, and complete cost and pricing data in developing the proposal are met, and that underestimating and overestimating of contract costs are minimized. Some of the advantages of sound estimating procedures are: a greater degree of confidence can normally be placed in the accuracy and reliability of contractors' individual pricing proposals; it expedites the negotiation process; it reduces the amount of detailed explanation of estimating processes on each individual proposal as required by the notes on DD Form 633; and, as in the case of the well established practice regarding acceptable accounting systems, reduces the scope of reviews performed by audit and other technical and procurement personnel.

(ii) A regular program for conducting reviews of selected contractors' estimating systems or methods shall be established and managed by the Defense Contract Audit Agency. Reviews and reports shall be acomplished as a joint contract audit and contract administration office team effort, with the contract auditor designated as its head. Reviews shall be tailored to take full advantage of the day-to-day work done as an integral part of both the contract audit and contract administration activities. The program established by the contract audit activity shall be coordinated with the appropriate contract administration activity to assure that team membership includes qualified technical specialists, and that adequate personnel resources are made available to accomplish the program. A copy of the survey report, together with a copy of the official notice of corrective action required, shall be furnished to each purchasing and contract administration office having substantial business with that contractor. Any significant deficiencies in the system not corrected by the contractor shall be referenced in part V of subsequent preaward surveys and will be considered in subsequent proposal reviews and by the ACO and PCO in negotiating with, and in determining the reasonableness of prices proposed by, that contractor. Where these deficiencies continue to exist and where they have an adverse effect on prices, the problem should be brought to the attention of procurement officials at a level necessary to bring about corrective action.

(iii) Among the matters to be considered in determining the acceptability of a contractor's estimating system are the following:

(*a*) Responsibilities within the contractor's organization for originating, reviewing, and approving estimates;

(*b*) Procedures followed in developing estimates for each of the direct and indirect elements of cost;

(*c*) The source of data used in developing the estimates and in assuring that such data is current, complete, and accurate;

(*d*) The documentation developed and maintained by the contractor to support the estimate;

(*e*) Management support of the program review including approval of the estimate, controls established to assure consistent compliance with estimating procedures, and personnel training and evaluation programs; and

(*f*) The extent of coordination and communication between the various elements of the contractor's organization responsibible for the estimate.

§ 3.1100–2 Review of decision to lease.

• • • • • •

(b) • • •

(1) An initial review and an annual review thereafter of the contractor's ADPE system for the purpose of evaluating, under § 15.205–48 of this chapter, his existing ADPE capability and the need to continue leasing, irrespective of whether the term of the lease was renewed or otherwise extended by the contractor; and

• • • • • •

PART 4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. In § 4.106–2 (f) and (g) are added; § 4.106–4(c) is revised; § 4.110(d)(1) is amended; and § 4.114(a) is revised, as follows:

§ 4.106–2 Solicitation.

• • • • • •

(f) Solicitations shall require offerors to identify technical uncertainties and to make specific proposals for their resolution.

(g) Solicitation and evaluation of proposals should be planned to minimize offerors' and Government expense.

§ 4.106–4 Evaluation for award.

• • • • • •

(c) In determining to whom the contract shall be awarded, the contracting officer shall consider not only technical competence, but also all other pertinent factors including management capabilities, cost controls, and past performance in adhering to contract requirements, weighing each factor in accordance with the requirements of the particular procurement (see § 1.903 of this chapter). Proposals for cost reimbursement type or fixed price incentive contracts may be penalized during evaluation to the degree that the estimated cost is unrealistically low. The contracting officer shall notify those sources whose proposals or offers have been determined to be unacceptable of that decision in accordance with § 3.508 of this chapter.

• • • • • •

§ 4.110 Cost-sharing policy.

• • • • • •

(d) • • •

(1) Major defense equipment consists of those weapons or weapons systems which required, or will require, a research, development, test and evaluation expenditure estimated in excess of $50 million or total production expenditure estimated in excess of $200 million (see DOD directive 5000.1).

• • • • • •

§ 4.114 Data under research and development contracts.

(a) Research and development contracts shall specify the technical data to be delivered under the contract since the data clauses required by Subpart B, Part 9 of this chapter, do not require the delivery of any such data.

• • • • • •

PART 5—INTERDEPARTMENTAL AND COORDINATED PROCUREMENT

5. Section 5.1201–2(a)(9) is amended; in § 5.1201–3 under Federal supply class code, items 2510 through 2990 are amended and the footnote 2 is revised; in § 5.1201–5 under Federal supply class code item 8820 is revised; in § 5.1201–6 under Federal supply class code a new item 3439 is added and items 3455 through 3470 are inserted and footnote 2 is revised, as follows:

§ 5.1201–2 Exclusions—Defense Supply Agency and General Services Administration assignments.

(a) • • •

(9) Procurements of military service-managed or noncataloged items not in excess of $2,500 per line item—this exception permits the military departments to procure a line item which does not exceed a value of $2,500. It does not apply to a line item valued at $2,500 or under which is included in a Federal supply schedule mandatory for use by DOD activities; and

• • • • • •

§ 5.1201–3 Department of the Army.

Federal Supply Class code	Commodity
FSC ("P" after the FSC number indicates a partial FSC assignment.)	
• • •	• • •
2510 P [2]	Vehicular cab, body, and frame structural components.
2520 P [2]	Vehicular power transmission components.
2530 P [2]	Vehicular brake, steering, axle, wheel, and track components.
2540 P [2]	Vehicular furniture and accessories.
2590 P [2]	Miscellaneous vehicular components.
2610	Tires and tubes, pneumatic, except aircraft.
2630	Tires, solid and cushion.
3640	Tire rebuilding and tire and tube repair materials.
2805 P [2]	Gasoline reciprocating engines, except aircraft; and components.
2910 P [2]	Engine fuel system components, nonaircraft.
2920 P [2]	Engine electrical system components, nonaircraft.
2930 P [2]	Engine cooling system components, nonaircraft.
2940 P [2]	Engine air and oil filters, strainers and cleaners, nonaircraft.
2990 P [2]	Miscellaneous engine accessories, nonaircraft.
• • •	• • •

[2] These partial FSC assignments apply only to repair parts peculiar to combat and tactical vehicles. In addition, the assignment in FSC–2805 applies to military standard engines 1.5 hp. through 20 hp. and parts peculiar therefor. Balance of these Federal supply classes are assigned to the Defense Supply Agency (Defense Construction Supply Center).

§ 5.1201–5 Department of the Air Force.

Federal Supply Class code	Commodity
FSC ("P" after the FSC number indicates a partial FSC assignment.)	
• • •	• • •
8820 P	Live animals not raised for food. This partial FSC assignment applies only to the following types of working dogs: scout, sentry, patrol, mine/tunnel, tracker, detector-narcotic/contraband, sledge, bloodhound, water dog and patrol/detector.

§ 5.1201–6 Defense Supply Agency.

FSC ("P" after the FSC number indicates a partial FSC assignment.)

Federal Supply Class Code	Commodity	DSA Center [1]
• • •	• • •	• • •
3439 P [1]	Miscellaneous Welding, Soldering and Brazing Supplies and Accessories	DGSC
• • •	• • •	• • •
3455 P [1]	Cutting Tools for Machine Tools	DGSC
3456 P [1]	Cutting and Forming Tools for Secondary Metal Working Machines	DGSC
3460 P [1]	Machine Tool Accessories	DGSC
3461 P [1]	Accessories for Secondary Metalworking Machinery	DGSC
3465 P [1]	Production Jigs, Fixtures and Templates	DGSC
3470 P [1]	Machine Shop Sets, Kits, and Outfits	DGSC
• • •	• • •	• • •

[1] DSA assignments in FSC 2510, 2520, 2530, 2540, 2590, 2805, 2910, 2920, 2930, 2940, and 2990 do not apply to repair parts peculiar to combat and tactical vehicles, which are assigned for coordinated procurement to the Department of the Army. In addition, the assignment in FSC–2805 does not apply to military standard engines 1.5 hp. through 20 hp. and parts peculiar therefor, which are assigned for coordinated procurement to the Department of the Army.

• • • • • • •

PART 6—FOREIGN PURCHASES

6. In § 6.102–3 paragraphs (a) and (b) are amended; § 6.103–2 is revised; and in § 6.1109 paragraphs (a) and (b) are revised, as follows:

§ 6.102–3 Procurement from or through other Government agencies.

• • • • • •

(a) The General Services Administration has responsibility for compliance with the Buy American Act for foreign end items acquired by Defense activities from GSA stores depots or purchased from a mandatory Federal supply schedule which does not include any domestic source for that item. Balance of payment evaluation procedures are not applicable to these transactions.

(b) Defense activities have the responsibility for compliance with the Buy American Act and balance of payment evaluation procedures when they purchase a foreign end item from a mandatory Federal supply schedule which includes a domestic source for the item, or a nonmandatory Federal supply schedule.

• • • • • •

§ 6.103–2 Nonavailability in the United States.

(a) The Buy American Act does not apply to articles, materials, or supplies of a class or kind which the Government has determined are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. Procedures for the procurement of foreign end products on the basis of nonavailability are set forth in this paragraph. For the procurement of foreign items as components of construction materials or of domestic source end products on the basis of nonavailability see § 6.105.

(b) Any procurement of foreign end products shall be made only after a determination of nonavailability has been made in accordance with departmental procedures. Each determination also shall include a reference to the Buy American Act (41 U.S.C. 10 a–d), a description of the item or items being procured, the unit, quantity, and estimated delivery cost, a brief statement establishing the necessity for the procurement and the nonavailability of a similar item or items of domestic origin. A signed copy of the determination shall be made part of the contract file. When a determination has been made that the restrictions of the Buy American Act are inapplicable for the end products being purchased, notification to this effect shall be included in the solicitation and contract.

(c) Determinations covering individual procurements in the following categories may be made by the contracting officer without further approval:

(1) Procurement of spare and replacement parts, if the procurement must be restricted to the original manufacturer or his supplier in accordance with 1 313

(2) Procurement of foreign drugs by the Defense Personnel Support Center where the Chief of the Division of Technical Operations, Directorate of Medical Materiel, has determined that only the requested foreign drug will fulfill the requirements;

(3) Procurement of swords and scabbards;

(4) Procurement of books, pamphlets, newspapers, magazines, periodicals, and printed briefs and films not printed in the United States and for which domestic editions are not available; and

(5) Procurement of bananas, tea, coffee, spices, herbs, sugar, cocoa, cream of tartar, tapioca, and coconut.

(d) Notwithstanding the foregoing, procurement of foreign end products other than those listed in paragraph (c) of this section, on the basis of "nonavailability" shall be made only if the procurement is approved:

(1) At a level above the contracting officer, if the amount involved is estimated not to exceed $2,500;

(2) By the principal staff officer responsible for procurement within the procuring activity (or, in the Air Force, within the major air command) concerned, if the procurement is estimated not to exceed $10,000;

(3) By the head of procuring activity or his immediate deputy or in the case of the Advance Research Projects Agency (ARPA), the Director, ARPA, if the procurement is estimated not to exceed $100,000; or

(4) By the Secretary of the Department concerned if the procurement is estimated to exceed $100,000.

Before granting such approval, or making such determination, the feasibility of foregoing the requirement or providing a U.S. substitute shall be considered.

(e) Commissary Resale. See § 6.103–7.

§ 6.1109 Excess and near-excess currency countries.

(a) The Department of the Treasury holds excess foreign currency in the following countries.

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Country	Currency
Burma	Kyat.
Guinea	Franc.
India	Rupee.
Israel	Pound.
Morocco*	Dirham.
Pakistan	Rupee.
Poland (see also Subpart D of this part).	Zloty.
Tunisia	Dinar.
United Arab Republic (Egypt)	Pound.
Yugoslavia	Dinar.

*1972 only.

(b) The Department of the Treasury holds near-excess foreign currency in the following countries.

Country	Currency
Ceylon	Rupee.

* * * * *

PART 7—CONTRACT CLAUSES

7. Section 7.103–27 is added; §§ 7.104–9, 7.104–23, 7.104–24(f), 7.104–35, and 7.104–74 are revised; § 7.104–82 is added; § 7.105–8 is revoked; in § 7.203–4(a) the title of the clause is amended and paragraph (b) of the clause is revised, in paragraph (b) of this section in the clause therein paragraph (b) is revised; in § 7.203–8 paragraph (a) is amended and in the clause in this paragraph the title of the clause is amended, paragraph (a) of the clause is revised, in paragraph (b) of the clause new subparagraphs (6) and (7) are added, and paragraph (g) is amended and paragraph (b) of this section is revised; § 7.203–32 is added; § 7.204–9 is revised; § 7.204–52 is added; §§ 7.205–7 and 7.302–24 are revoked; § 7.302–30 is added; § 7.303–23 is amended; § 7.303–44 is revised; §§ 7.303–53 and 7.303–54 are added; and §§ 7.304–8 and 7.304–9 are revoked, as follows:

§ 7.103–27 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the following clause:

LISTING OF EMPLOYMENT OPENINGS FOR VETERANS (NOVEMBER 1971)

(This clause is applicable pursuant to 41 CFR 50–250 if this contract is for $10,000 or more and will generate 400 or more man-days of employment.)

(1) The Contractor agrees that all employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required.

(2) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source of effort and shall involve only the normal obligations which attach to the placing of a bona fide job order, but does not require the hiring of any job applicant referred by the employment service system.

(3) The periodic reports required by paragraph (1) above shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one establishment in a State, with the central office of that State employment service. Such reports shall indicate for each establishment the number of individuals who were hired during the reporting period and the number of hires who were veterans who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge. The Contractor shall maintain copies of the reports submitted until the expiration of 1 year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor.

(4) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State wherein it has establishments of the name and location of each such establishment in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State employment service system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State systems when it is no longer bound by this contract clause.

(5) This clause does not apply (i) to the listing of employment openings which occur outside of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands; and (ii) contracts with State and local governments.

(6) This clause does not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(7) As used in this clause:

(i) "All employment openings" include, but are not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than $18,000 per year. This term includes full-time employment, temporary employment of more than three (3) days' duration, and part-time employment.

(ii) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(iii) "Openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) or outside of a special hiring arrangement which is part of the customary and traditional employment relationship which exists between the Contractor and representative of its employees and includes any openings which the Contractor proposes to fill from regularly established "recall" or "rehire" lists or from union hiring halls.

(iv) "Man-day of employment" means any day during which an employee performs more than one hour of work.

(8) The Contractor agrees to place this clause (excluding this paragraph (8)) in any subcontract directly under this contract provided, such subcontract is for $10,000 or more and will generate 400 or more man-days of employment.

§ 7.104–9 Rights in data.

(a) *Basic data clause.* In accordance with § 9.203 of this chapter, insert the following clause.

RIGHTS IN TECHNICAL DATA (APRIL 1972)

(a) *Definitions.*

(1) "Technical Data", as used in this clause, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(2) Limited Rights means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or (c) used by a party other than the Government, except for:

(i) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work: *Provided,* That the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or

(ii) Release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(3) "Unlimited Rights" means rights to use, duplicate or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Government Rights.*

(1) The Government shall have unlimited rights in:

(i) Technical data resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) Technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experiment, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components or processes developed at private expense (but see (2) (ii) below);

(iii) Technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data;

(iv) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(v) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(vi) Technical data which is in the public domain, or has been or is normally furnished without restriction by the Contractor or subcontractor; and

(vii) Technical data listed or described in an agreement incorporated into the Schedule of this contract, which the parties have predetermined, on the basis of subparagraphs (i) thru (vi) above, and agreed will be furnished with unlimited rights.

(2) The Government shall have limited rights in:

(i) Technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) Technical data pertaining to items, components or processes developed at private expense, other than such data as may be included in the data referred to in (b)(1) (i), (iii), (iv), (v), and (vi):

Provided, That only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2) (i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. The number of the prime contract under which the technical data is to be delivered,

B. The name of the Contractor and any subcontractor by whom the technical data was generated, and

C. An explanation of the indication used to identify limited rights data.

LIMITED RIGHTS LEGEND

Contract No. ----------
Contractor: ----------
Explanation of Limited Rights Data Indication Used ----------
----

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or (c) used by a party other than the Government, except for: (i) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work: *Provided,* That the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) No legends shall be marked on, nor shall any limitation on rights of use be asserted as to, any data which the Contractor has previously delivered to the Government without restriction. The limited rights provided for by this paragraph (b) (2) shall not impair the right of the Government to use similar or identical data acquired from other sources.

(c) *Material Covered by Copyright.*

(1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, prepared or required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) *Removal of Unauthorized Markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct or cancel any marking not authorized by the terms of this contract on any technical data furnished hereunder, if—

(i) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) The Contractor's response fails to substantiate within 60 days after written notice the propriety of the markings by clear and convincing evidence.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the U.S. Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(g) *Acquisition of Data from Subcontractors.*

(1) Whenever any technical data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier Contractor. However, when there is a requirement in the prime contract, for data which may be supplied with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data from their subcontractors for themselves.

(h) (1) Unless the Schedule provides otherwise, and subject to (2) below, the Contractor will promptly notify the Contracting Officer in writing of the intended use by the Contractor or a subcontractor in performance of this contract of any item, component or process for which technical data would fall within paragraph (b)(2) above.

(2) Such notification is not required with respect to:

(i) Standard commercial items which are manufactured by more than one source of supply; or

(ii) Items, components or processes for which such notice was given pursuant to predetermination of rights in technical data in connection with this contract.

(3) Contracting Officer approval is not necessary under this clause for the Contractor to use the item, component or process in the performance of the contract. (April 1972)

(b) *Notice of certain limited rights.* The paragraph (h) set forth below may be added to the clause in (b) above in any contract in which the contracting officer desires notification of limited rights data (see §9.202–2(g) of this chapter).

(c) *Technical data clause—specific acquisition.* In accordance with §9.203(d) of this chapter, insert the following clause.

RIGHTS IN TECHNICAL DATA—SPECIFIC ACQUISITION (APRIL 1972)

(a) *Definition.* "Technical Data" as used in this clause means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process to to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type

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documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) *Government Rights.* The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) *Material Covered by Copyright.*

(1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the U.S. Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(d) *Deferred delivery of technical data.* In accordance with § 9.502(b) of this chapter, insert the following additional clause.

DEFERRED DELIVERY OF TECHNICAL DATA (APRIL 1972)

The Government shall have the right to require, at any time during the performance of this contract, or within two (2) years after either acceptance of all items (other than data) to be delivered under this contract or termination of this contract, whichever is later, the delivery of any technical data item identified in this contract as "deferred delivery" data. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date contractor accepts the last delivery of that item from that subcontractor for use in performing this contract.

(e) *Production of motion pictures, histories, and other works.* In accordance with § 9.204–2 of this chapter, insert the following clause.

RIGHTS IN DATA—SPECIAL WORKS (OCTOBER 1966)

(a) The term "Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphic representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) All Data first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or in equity or establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole or in part or in any manner or form, or authorize others so to do, without the written consent of the Government until such time as the Government may have released such Data to the public.

(c) The Contractor hereby grants to the Government a royalty-free, nonexclusive, and irrevocable license throughout the world (i) to publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all Data which is not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract, and (ii) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of any Data furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in such data.

(e) Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract: *Provided*, Such incorporated material is identified by the Contractor at the time of delivery of such work.

(f) *Purchase of existing motion pictures or television recordings.* In accordance with § 9.205–2 of this chapter, insert the following clause.

RIGHTS IN DATA—EXISTING WORKS (OCTOBER 1966)

(a) Except as otherwise provided in the Schedule of this contract, the Contractor hereby grants to the Government a royalty-free, nonexclusive, irrevocable license to distribute, use, and exhibit the material called for under this contract for Governmental purposes throughout the world, and to authorize others to do so.

(b) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the distribution, use, or exhibition of any material furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in said material.

(g) *Contracts to be performed outside the United States.* In accordance with § 9.206 of this chapter, insert the following clause.

RIGHTS IN TECHNICAL DATA (FOREIGN) (OCTOBER 1966)

The U.S. Government may duplicate, use, and disclose in any manner for its purposes, including delivery to other governments for the furtherance of mutual defense of the U.S. Government and other governments, all or any part of the technical data including reports, drawings, blueprints, and other data specified to be delivered by the Contractor to the U.S. Government under this contract.

(h) *Technical data—withholding of payment.* In accordance with § 9.504 of this chapter, insert the following clause:

TECHNICAL DATA—WITHHOLDING OF PAYMENT (APRIL 1972)

(a) If "Technical Data" (as defined in the clause of this contract entitled "Rights in Technical Data"), or any part thereof, specified to be delivered under this contract, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not specifically authorized by this contract), the Contracting Officer may until such data is accepted by the Government, withhold payment to the Contractor of ten percent (10%) of the total contract price or amount unless a lesser withholding is specified in the Schedule. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor within the meaning of the clause hereof entitled "Default."

(b) After payments total ninety percent (90%) of the total contract price or amount and if all technical data specified to be delivered under this contract has not been accepted, the Contracting Officer may, withhold from further payment such sum as he considers appropriate, not exceeding ten percent (10%) of the total contract price or amount unless a lesser withholding limit is specified in the Schedule.

(c) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) The following additional paragraph may be added to the clause set forth in (b) above in accordance with § 9.204–1 of this chapter.

( ) *Publication for Sale.* If, within the period designated in the Schedule,[1] but in no event later than twenty-four (24) months after final settlement of this contract, the Contractor publishes for sale any Technical Data which are (i) designated in the Schedule as being subject to this paragraph and (ii) delivered under this contract, and promptly notifies the Contracting Officer of these publications, the Government shall not publish such Data for sale or authorize others so to do. This limitation on the Government's right to publish for sale any such Data so published by the Contractor shall continue as long as the Data are protected by copyright and are reasonably available to the public for purchase. As to all such Data not so published by the Contractor, this paragraph shall be of no force or effect.

(j) *Identification of experimental, developmental or research work.* In accordance with § 9.203(e) of this chapter, to prevent any misinterpretation of the scope of the rights in data provisions of the contract, the following schedule provision may be included in contracts which, in whole or in part, call for experimental, developmental or research work as an element of performance.

CONTRACT SCHEDULE ITEMS REQUIRING EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK (AUGUST 1969)

For purposes of defining, pursuant to Clause ------, entitled "Rights in Technical Data," the nature of the work and the scope of rights in data granted to the Government it is understood and agreed that items (list applicable schedule line items or subline items or data exhibit numbers) require the performance of experimental, developmental, or research work. This clause does not constitute a determination as to whether or not any data required to be delivered under this contract falls within the definition of limited rights data.

(k) *Rights in technical data—major systems and subsystems contracts.* In accordance with § 9.202–2(g)(3) of this chapter, the following clause may be inserted.

RIGHTS IN TECHNICAL DATA—MAJOR SYSTEM AND SUBSYSTEM CONTRACTS (NOVEMBER 1971)

The Contractor agrees that he will neither incorporate any provision in his subcontracts nor enter into any agreement, written or oral, either directly or indirectly, with subcontractors which has or may have the effect of prohibiting subcontractor sales directly to the Government of any supplies, like those manufactured or services like those furnished by such subcontractor under this contract or any follow-on production contract, or under any contract for parts or components of supplies furnished under this or any follow-on production contract. The Contractor further agrees that all data, including data in which the Government may not have unlimited rights, furnished or otherwise made available by the Contractor for use by subcontractors in furnishing such supplies or services, will be furnished to such subcontractors without payment to the Contractor of any fee, royalty or other charge by the subcontractors or the Government for use by such subcontractors in furnishing such supplies or services for sale directly to the Government. For the purpose of this paragraph, the term "fee, royalty or other charge" shall not include within its meaning fees, royalties or charges for reasonable returns on use of patents.

(l) *Identification of technical data.* In accordance with § 9.503 of this chapter, insert the following clause.

IDENTIFICATION OF TECHNICAL DATA (APRIL 1972)

Technical Data (as defined in the "Rights in Technical Data" clause of this contract) delivered under this contract shall be marked with the number of this contract, name of Contractor, and name of any subcontractor who generated the data.

(m) *Deferred ordering of technical data.* In accordance with § 9.502(c) of this chapter, insert the following clause:

DEFERRED ORDERING OF TECHNICAL DATA (APRIL 1972)

In addition to technical data specified elsewhere in this contract to be delivered hereunder, the Government may, at any time during the performance of this contract or within a period of three (3) years after acceptance of all items (other than technical data) to be delivered under this contract or the termination of this contract, order any technical data (as defined in the "Rights in Technical Data" clause of this contract) generated in the performance of this contract or any subcontract hereunder. When such technical data is ordered, the Contractor shall be compensated for converting the data into the prescribed form, for reproduction and delivery. The obligation to deliver such technical data of a subcontractor and pertaining to an item obtained from his shall expire three (3) years after the date the Contractor accepts the last delivery of that item from that subcontractor under this contract. The Government's rights to use said data shall be pursuant to the "Rights in Technical Data" clause of this contract.

(n) *Requirements for data.*

(1) The following clause shall be inserted in all contracts, except as provided in (b) below:

DATA REQUIREMENTS (APRIL 1972)

(a) Data means recorded information, regardless of form or characteristics.

(b) The Contractor is required to deliver only the data items listed on the DD Form 1423 (Contract Data Requirements List) and data items identified in and deliverable under any contract clause of section VII of the Armed Services Procurement Regulation (ASPR) made a part of the contract.

The clause set forth in (a) above need not be included in:

(i) Any contract, of which the aggregate amount involved does not exceed $10,000 and in any blanket purchase agreement and purchase order utilizing the DD Form 1155; (However, the DD Form 1423 shall be used with orders issued under a basic ordering agreement.).

(ii) Any contract awarded to a contractor outside the United States, except those under 6–501;

(iii) Any research or exploratory development contract when reports are the only deliverable item(s) under the contract;

(iv) Any service type contract, when the Contracting Officer determines that the use of the DD Form 1423 (Contract Data Requirements List) is impractical for use with respect to records prepared by a contractor in performing operation and maintenance under the contract;

(v) Any contract under which construction and architectural drawings and specifications are the only deliverable items; or

(vi) Any contract for standard commercial items when the only deliverable technical data would be packaged or furnished with such items in accordance with customary trade practices.

(o) *Technical data warranty.*

(1) In accordance with §1.324–11(a) of this chapter, the following clause may be inserted.

WARRANTY OF TECHNICAL DATA (APRIL 1972)

(a) Technical data, as used in this clause, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) Notwithstanding inspection and acceptance by the Government of technical data furnished under this contract and notwithstanding any provision of this contract concerning the conclusiveness thereof, the Contractor warrants that all technical data delivered under this contract will at the time of delivery conform with the specifications and all other requirements of this contract. The warranty period shall extend for 3 years after completion of the delivery of the line item of data (as identified in the DD Form 1423) of which the data forms a part; or any longer period specified in the contract.

(c) The Contractor agrees to notify the Contracting Officer in writing immediately of any breach of the above warranty which the Contractor discovers within the warranty period.

(d) The following remedies shall apply to all breaches of the above warranty provided that the Government notifies the Contractor of the breach in writing within the warranty period.

(1) Within a reasonable time after the Contracting Officer notifies the Contractor of a breach of warranty, he may:

(i) By written notice, direct the Contractor to correct or replace the nonconforming technical data promptly; or

(ii) If he determines that the Government no longer has a requirement for correction or replacement of the data, or that the data can be more reasonably corrected by the Government, inform the Contractor by written notice that the Government elects a price or fee adjustment in lieu of correction or replacement.

(2) If the Contractor refuses or fails to comply with a direction under (1)(i) above, the Contracting Officer may, within a reasonable time of such refusal or failure:

(i) By contract or otherwise, correct or replace the nonconforming technical data and charge the Contractor the cost occasioned to the Government thereby; or

(ii) Elect a price or fee adjustment in lieu of correction or replacement.

(e) The remedies set forth in this clause represent the exclusive means by which the

[1] The word "Schedule" may be replaced by the words "Task Order," or other appropriate reference.

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rights conferred on the Government by this clause may be enforced.

(f) The provisions of this clause apply anew to that portion of any technical data which is corrected or furnished in replacement under (d)(1)(i) above.

(2) In accordance with § 1.324–11(b) of this chapter, the following provision may be inserted in firm fixed-price contracts as paragraph (d)(3) of the Warranty of Technical Data clause set forth above.

(3) In addition to the remedies specified under (1) and (2) above, the Contractor shall be liable to the Government for all damages sustained by the Government as a result of breach of the warranty specified in this clause; however, the additional liability under this subparagraph (3) shall not exceed 10 percent of the total contract price. If the breach of the warranty specified in (b) of this clause is with respect to data supplied by an equipment subcontractor, the limit of the prime contractor's liability shall be 10 percent of the total subcontract price in the case of a firm fixed-price subcontract, 75 percent of the total subcontract fee in the case of a cost-plus-fixed-fee or cost-plus-award-fee subcontract, or 75 percent of the total subcontract target profit or fee in the case of a fixed-price or cost-plus-incentive-type contract. The additional liability specified in this paragraph (3) shall not apply:

(i) With respect to the requirement under Category E or I of MIL–D–1000: *Provided*, That the data furnished by the Contractor was current, accurate at time of submission and did not involve a significant omission of data necessary to comply with such requirements; or

(ii) With respect to specific defects as to which the Contractor discovers and gives written notice to the Government before the error is discovered by the Government.

(3) In accordance with § 1.324–11(b) of this chapter, the following provision may be inserted in fixed-price-incentive contracts as paragraph (d)(3) of the Warranty of Technical Data clause set forth in paragraph (o) of this section.

(3) In addition to the remedies specified under (d) (1) and (2) above, Contractor shall be liable to the Government for all damages sustained by the Government as a result of breach of the warranty specified in this clause; however, the additional liability under this subparagraph (3) shall not exceed 75 percent of the target profit. If the breach of the warranty specified in (b) of this clause is with respect to data supplied by an equipment subcontractor, the limit of the prime contractor's liability shall be 10 percent of the total subcontract price in the case of a firm fixed-price subcontract, 75 percent of the total subcontract fee in the case of a cost-plus-fixed-fee or cost-plus-award-fee subcontract, or 75 percent of the total subcontract target profit or fee in the case of a fixed-price or cost-plus-incentive-type contract. Damages due the Government under the provisions of this warranty shall not be considered as an allowable cost. The additional liability specified in this paragraph (3) shall not apply:

(i) With respect to the requirement under Category E or I of MIL–D–1000: *Provided*, That the data furnished by the Contractor was current, accurate at time of submission and did not involve a significant omission of data necessary to comply with such requirements; or

(ii) With respect to specific defects as to which the Contractor discovers and gives written notice to the Government before the error is discovered by the Government.

§ 7.104–23 Subcontracts.

(a) The following clause shall be inserted in all fixed-price type contracts, in accordance with § 23.201 of this chapter.

SUBCONTRACTS (APRIL 1972)

(The provisions of this clause do not apply to firm fixed-price and fixed price with escalation contracts. However, the clause does apply to unpriced modifications under such contracts.)

(a) As used in this clause, the term "subcontract" includes purchase orders.

(b) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if the Contractor's procurement system has not been approved by the Contracting Officer and if the subcontract:

(i) Is to be a cost-reimbursement, time and materials, or labor-hour contract which it is estimated will involve an amount in excess of ten thousand dollars ($10,000) including any fee;

(ii) Is proposed to exceed one hundred thousand dollars ($100,000); or

(iii) Is one of a number of subcontracts, under this contract, with a single subcontractor for the same or related supplies or services which, in the aggregate, are expected to exceed one hundred thousand dollars ($100,000).

(c) The advance notification required by paragraph (b) above shall include:

(i) A description of the supplies or services to be called for by the subcontract;

(ii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;

(iii) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(iv) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, when such data and certificates are required by other provisions of this contract to be obtained from the subcontractor;

(v) Identification of the type of subcontract to be used;

(vi) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the contractor's total price objective, the memorandum shall explain this difference; and

(vii) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time.

(d) The Contractor shall not enter into any subcontract for which advance notification to the Contracting Officer is required by this clause, without the prior written consent of the Contracting Officer: *Provided*, That the Contracting Officer, in his discretion, may ratify in writing any subcontract. Such ratifications shall constitute the consent of the Contracting Officer required by this paragraph.

(e) Neither consent by the Contracting Officer to any subcontract or any provisions thereof nor approval of the Contractor's procurement system shall be construed to be a determination of the acceptability of any subcontract price or of any amount paid under any subcontract or to relieve the Contractor of any responsibility for performining this contract, unless such approval or consent specifically provides otherwise.

(f) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(b) Insert the following additional subparagraph to the clause in (a) above in accordance with § 23.201–1(b)(3) of this chaper.

(g) Notwithstanding approval of the procurement system, the Contractor shall not enter into certain subcontracts or classes of subcontracts set forth elsewhere in this contract without the prior written consent of the Contracting Officer (April 1967).

§ 7.104–24 Government property.

* * * * *

(f) *Short form clause.* Instead of the clause in paragraph (a) of this section, the following short form clause may be used when the Government is to furnish to the contractor Government property having an acquisition cost of $25,000 or less or when property is furnished to a contractor for use on a Government installation: *Provided* That contract administration is retained by the purchasing office. When, pursuant to the authority in § 13.803 of this chapter, the procuring contracting officer has authorized Government personnel to maintain Government property records, the second sentence of subparagraph (b) of the clause shall be deleted in its entirety when inserting the Property Records clause in paragraph (g) of this section. In overseas contracts, insert the words "United States" before the words "Government furnished" in the clause below.

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (NOVEMBER 1964)

(a) The Government shall deliver to the Contractor, for use only in connection with this contract, the property described in the schedule or specifications (hereinafter referred to as "Government-furnished property"), at the times and locations stated therein. If the Government-furnished property, suitable for its intended use, is not so delivered to the Contractor, the Contracting Officer shall, upon timely written request made by the Contractor, and if the facts warrant such action, equitably adjust any affected provision of this contract pursuant to the procedures of the "Changes" clause hereof.

(b) Title to Government-furnished property shall remain in the Government. The Contractor shall maintain adequate property control records of Government-furnished property in accordance with sound industrial practice.

(c) Unless otherwise provided in this contract, the Contractor, upon delivery to him of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract.

(d) The Contractor shall, upon completion of this contract, prepare for shipment, deliver f.o.b. origin, or dispose of all Government-furnished property not consumed in the performance of this contract or not theretofore delivered to the Government, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or paid in such other manner as the Contracting Officer may direct.

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§ 7.104–35 Progress payments.

(a) In accordance with § 163.79–1 of this chapter, insert one of the following clauses:

PROGRESS PAYMENT FOR OTHER THAN SMALL BUSINESS CONCERNS (JANUARY 1972)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than biweekly in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of Amounts.* (1) Unless a smaller amount is requested, each progress payment shall be (i) 80 percent of the amount of the Contractor's total costs which shall include only those recorded costs which result, at the time of the request, from payment made by cash, check, interdivisional notices of payments, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocated and allowable indirect costs, all as shown by records maintained by the Contractor for purposes of obtaining payment under Government contracts plus (ii) the amount of progress payments which have been paid to Contractor's subcontractors and other divisions as provided in (j) below; all less the sum of previous progress payments.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) 80 percent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 80 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed 80 percent of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience of the Government," all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 80 percent[2] of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to the alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or Suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (i) has failed to comply with any material requirement of this contract, (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, (iv) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (v) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (vi) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in the clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and

[2] For lower percentages for this paragraph (b) and for (a)(3)(ii) and (4), see §163.81–2 of this chapter.

drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocated or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocated or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Notwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

(e) *Risk of Loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) *Control of Costs and Property.* The contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports—Access to Records.* Insofar as pertinent to the administration of this clause, the Contractor will (i) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (ii) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special Provisions Regarding Default.* If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property

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as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of Rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress Payments to Subcontractors.* (1) The amounts mentioned in item (a)(1)(ii) above shall be all progress payments paid by the Contractor to his subcontractors or other divisions and remaining unliquidated when under subcontracts or interdivisional orders which conform to (2) below.

(2) Subcontractors or interdivisional orders on which progress payments to subcontractors or other divisions may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating four months or more for small business concerns and 6 months or more for firms which are not small business concerns, and in which the provisions regarding progress payments (i) are substantially similar to and as favorable to the Government as this "Progress Payment" clause, no more favorable to the subcontractor or the other division than this clause is to the Contractor and on a basis of not more than 80 percent of total costs (except that in the case of those subcontractors which are small business concerns a "Progress Payment" clause substantially similar to E-510.2 may be used); and (ii) make all rights of the subcontractor with respect to all property to which the Government has title under the subcontract subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in paragraph 503 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(b) Progress payment clause for small business concerns:

PROGRESS PAYMENT FOR SMALL BUSINESS CONCERNS (JANUARY 1972)

Progress payments shall be made to the Contractor as work progresses, from time to time upon request, in amounts approved by the Contracting Officer upon the following terms and conditions:

(a) *Computation of Amounts.* (1) Unless a smaller amount is requested, each progress payment shall be (i) 85 percent of the amount of the Contractor's total costs incurred under this contract plus (ii) the amount of progress payments to subcontractors as provided in (j) below; all less the sum of previous progress payments.

(2) The Contractor's total costs ((a)(1)(i)) shall be reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices. However, such costs shall not include (i) any costs incurred by subcontractors or suppliers, or (ii) any payments or amounts payable to subcontractors or suppliers, except for completed work (including partial deliveries) to which the Contractor has acquired title and except for amounts paid or payable under cost-reimbursement or time and material subcontracts for work to which the Contractor has acquired title, or (iii) costs ordinarily capitalized and subject to depreciation or amortization except for the depreciated or amortized portion of such costs.

(3) The amount of unliquidated progress payments shall not exceed the lesser of (i) 85 pecent of the costs mentioned in (a)(1)(i) above, plus any unliquidated progress payments mentioned in item (a)(1)(ii) above, both of which are applicable only to the supplies and services not yet delivered and invoiced to and accepted by the Government, or (ii) 85 percent of the total contract price of supplies and services not yet delivered and invoiced to and accepted by the Government, less unliquidated advance payments.

(4) The aggregate amount of progress payments made shall not exceed 85 percent of the total contract price.

(5) If at any time a progress payment or the unliquidated progress payments exceed the amount permitted by this paragraph (a), the Contractor shall pay the amount of such excess to the Government upon demand.

(b) *Liquidation.* Except as provided in the clause entitled "Termination for Convenience of the Government," all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress, the amount of unliquidated progress payments, or 85 percent[3] of the gross amount invoiced, whichever is less. Repayment to the Government required by a retroactive price reduction will be made after calculating liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly.

(c) *Reduction or Suspension.* The Contracting Officer may reduce or suspend progress payments, or liquidate them at a rate higher than the percentage stated in (b) above, or both, whenever he finds upon substantial evidence that the Contractor (i) has failed to comply with any material requirement of this contract, (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, (iv) is delinquent in payment of the costs of performance of this contract in the ordinary course of business, (v) has so failed to make progress that the unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract, or (vi) is realizing less profit than the estimated profit used for establishing a liquidation percentage in paragraph (b), if that liquidation percentage is less than the percentage stated in paragraph (a)(1).

(d) *Title.* Immediately, upon the date of this contract, title to all parts; materials; inventories; work in process; special tooling as defined in this clause of this contract entitled "Special Tooling"; special test equipment and other special tooling to which the Government is to acquire title pursuant to any other provision of this contract; nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids title to which is not obtained as special tooling pursuant to this paragraph; and drawings and technical data (to the extent delivery thereof to the Government is required by other provisions of this contract); theretofore acquired or produced by the Contractor and allocated or properly chargeable to this contract under sound and generally accepted accounting principles and practices shall forthwith vest in the Government; and title to all like property thereafter acquired or produced by the Contractor and allocated or properly chargeable to this contract as aforesaid shall forthwith vest in the Government upon said acquisition, production or allocation. Notwithstanding that title to property is in the Government through the operation of this clause, the handling and disposition of such property shall be determined by the applicable provisions of this contract such as: the Default clause and paragraph (h) of this clause; Termination for Convenience of the Government clause; and the Special Tooling clause. Current production scrap may be sold by the Contractor without approval of the Contracting Officer and the proceeds shall be credited against the costs of contract performance. With the consent of the Contracting Officer and on terms approved by him, the Contractor may acquire or dispose of property to which title is vested in the Government pursuant to this clause, and in that event, the costs allocable to the property so transferred from this contract shall be eliminated from the costs of contract performance and the Contractor shall repay to the Government (by cash or credit memorandum) an amount equal to the unliquidated progress payments allocable to the property so transferred. Upon completion of performance of all the obligations of the Contractor under this contract, including liquidation of all progress payments hereunder, title to all property (or the proceeds thereof) which had not been delivered to, and accepted by the Government under this contract or which had not been incorporated in supplies delivered to and accepted by the Government under this contract and to which title has vested in the Government under this clause shall vest in the Contractor. The provisions of this contract referring to or defining liability for Government-furnished property shall not apply to property to which the Government shall have acquired title solely by virtue of the provisions of this clause.

[3] For lower percentages for this paragraph (b) and for (a)(3)(ii) and (4), see § 163.81-2 of this chapter.

(e) *Risk of Loss.* Except to the extent that the Government shall have otherwise expressly assumed the risk of loss of property, title to which vests in the Government pursuant to this clause, in the event of the loss, theft or destruction of or damage to any such property before its delivery to and acceptance by the Government, the Contractor shall bear the risk of loss and shall repay the Government an amount equal to the unliquidated progress payments based on costs allocable to such lost, stolen, destroyed or damaged property.

(f) *Control of Costs and Property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports—Access to Records.* Insofar as pertinent to the administration of this clause, the Contractor will (i) furnish promptly such relevant reports, certificates, financial statements, and other information as may be reasonably requested by the Contracting Officer, and (ii) give the Government reasonable opportunity to examine and verify his books, records and accounts.

(h) *Special Provisions Regarding Default.* If this contract is terminated pursuant to the clause entitled "Default," (i) the Contractor shall, upon demand, pay to the Government the amount of unliquidated progress payments and (ii) with respect to all property as to which the Government elects not to require delivery under the clause entitled "Default," title shall vest in the Contractor upon full liquidation of progress payments, and the Government shall be liable for no payment except as provided by the "Default" clause.

(i) *Reservations of Rights.* The rights and remedies of the Government provided in this clause shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this contract. No payment, or vesting of title pursuant to this clause, shall excuse the Contractor from performance of his obligations under this contract, nor constitute a waiver of any of the rights and remedies of the parties under this contract. No delay or failure of the Government in exercising any right, power or privilege under this clause shall affect any such right, power or privilege, nor shall any single or partial exercise thereof preclude or impair any further exercise thereof or the exercise of any other right, power or privilege of the Government.

(j) *Progress Payments to Subcontractors.* (1) The amount mentioned in item (a)(1)(ii) above shall be the sum of (i) all the progress payments made by the Contractor to his subcontractors and remaining unliquidated, and (ii) unpaid billings for progress payments to subcontractors which have been approved for current payment in the ordinary course of business, when under subcontracts which conform to (2) below.

(2) Subcontracts on which progress payments to subcontractors may be included in the base for progress payments pursuant to paragraph (a) of this clause are limited to those subcontracts in which there is expected to be a long "lead time," between the beginning of work and the first delivery, approximating 4 months or more for small business concerns and 6 months or more for firms which are not small business concerns, and in which the provisions regarding progress payments (i) are substantially similar to and as favorable to the Government as this "Progress Payments" clause, no more favorable to the subcontractor than this clause is to the Contractor and on a basis of not more than 85 percent of total costs (except that for those subcontractors that are not small business concerns a "Progress Payments" clause substantially similar to E-510.1 will be used with a percentage of not more than 80 percent, and (ii) make all rights of the subcontractor with respect to all property to which the Government has title under the subcontract subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in paragraph 503 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

§ 7.104–74 Shipments to ports.

Clearance and documentation requirements. In accordance with § 19.213–2, of this chapter, insert the clause set forth below.

SHIPMENTS TO PORTS—CLEARANCE AND DOCUMENTATION REQUIREMENTS (APRIL 1972)

(a) All shipments to water or air ports for transshipment to overseas destinations are subject to the following, unless clearance and documentation requirements have been expressly delegated to the Contractor.

(b) At least ten (10) days prior to shipping cargo to a water port, the Contractor shall obtain an Export Release from the Government transportation office for:

(i) Each shipment weighing 10,000 pounds or more, and

(ii) Each shipment weighing less than 10,000 pounds, if the cargo either:

(A) Is classified Top Secret, Secret, or Confidential,

(B) Will require exclusive use of a motor vehicle,

(C) Will occupy full visible capacity of a railway car or motor vehicle,

(D) Is less than a carload or truckload, but will be tendered as a carload or truckload,

(E) Is to be shipped to an ammunition outloading port for water shipment; or

(iii) Each shipment weighing less than 10,000 pounds if the cargo consists of:

(A) Narcotics,

(B) Perishable biological material,

(C) Vehicles to be offered for driveway service,

(D) Explosives, or other dangerous articles classified as A, B, or C explosives.

(E) Poisons, classes A, B, or C, or

(F) Radioactive material, as defined in Title 49, Code of Federal Regulations, Parts 170–189.

(c) The contractor is cautioned not to order railway cars or motor vehicles for loading until an Export Release has been received.

(d) If the Contracting Officer directs delivery within a shorter period than ten (10) days, the Contractor shall advise the transportation office of the date on which the cargo will be ready for shipment.

(e) At least five (5) days prior to shipping cargo to either a water port or an air port (regardless of the weight, security classification, or the commodity description) the Contractor shall provide the Government transportation office the information shown in (f) below to permit preparation of a Transportation Control and Movement Document (TCMD).

(f) When applying for the Export release in (b) above or when providing information for preparation of the TCMD (e) above, the Contractor shall furnish:

(i) The proposed date or dates of shipment,

(ii) Number and type of containers,

(iii) Gross weight and cube of the shipment,

(iv) Number of cars or trucks which will be involved, and

(v) The Transportation Control Number(s) (TCN) as required for marking under MIL–STD–129.

(vi) Proper shipping name as specified in Title 46, Code of Federal Regulations, Subparts 146.04–146.05, for all items classified as dangerous substances as required for marking under MIL–STD–129.

(g) All movement documents (Government or commercial bills of lading or other delivery documents) shall be annotated by the Contractor with:

(i) The Transportation Control Number, Consignee Code, and Transportation Priority for each shipment unit.

(ii) Export Release Number and valid shipping period, if stated. (If expired, the Contractor shall request a renewal.)

(h) All annotations on the movement documents shall be made in the "Description of Articles" space except, on Government bills of lading the Export Release number and shipping period shall be entered in the space entitled "Traffic Control No.".

§ 7.104–82 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the following clause:

PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS (FEBRUARY 1972)

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate of six percent (6%) per annum from the date the Contractor furnishes to the Contracting Officer his written appeal pursuant to the Disputes clause of this contract, to the date of (i) a final judgment by a court of competent jurisdiction, or (ii) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a Board of Contract Appeals.

(b) Notwithstanding (a) above, (i) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal; and (ii) interest shall not be

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paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a Board of Contract Appeals or a court of competent jurisdiction.

§ 7.105–8 [Revoked]

§ 7.203–4 Allowable cost, fee, and payment.

(a) • • •

ALLOWABLE COST, FIXED FEE, AND PAYMENT (JANUARY 1972)

• • • • •

(b) Payments shall be made to the Contractor when requested as work progresses, but not more frequently than biweekly, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost for the performance of this contract and claimed to constitute allowable cost. For this purpose, the term costs shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, interdivisional notices of payments, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for other direct inhouse costs, and for properly allocated and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to Contractor's subcontractors under similar cost standards. The restriction on payment more frequently than bi-weekly and the requirement of prior payment for items or services purchased directly for the contract shall not apply where the Contractor is a small business concern.

• • • • •

(b) • • •

ALLOWABLE COST, INCENTIVE FEE, AND PAYMENT (JANUARY 1972)

• • • • •

(b) Payments shall be made to the Contractor when requested as work progresses, but not more frequently than biweekly, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a statement of cost for the performance of this contract and claimed to constitute allowable cost. For this purpose, the term costs shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, interdivisional notices of payments, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid, for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocated and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to Contractor's subcontractors under similar cost standards. The restriction on payment more frequently than bi-weekly and the requirement of prior payment for items or services purchased directly for the contract shall not apply where the Contractor is a small business concern.

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§ 7.203–8 Subcontracts.

(a) In accordance with § 23.201–2 of this chapter, and subject to the instructions in paragraph (b) of this section, insert the following clause.

SUBCONTRACTS (APRIL 1972)

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract which (i) is cost-reimbursement type, time and materials or labor-hour, or (ii) is fixed-price type and exceeds in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract, or (iii) provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of $1,000 or of any items of industrial facilities.

(b) • • •

(6) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference; and

(7) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, personal judgments used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time.

• • • • •

(g) Notwithstanding (c) above, the Contractor may enter into subcontracts within (i) and (ii) of (a) above without the consent of the Contracting Officer if the Contracting Officer has approved in writing the Contractor's procurement system and the subcontract is within the scope of the approval. (This subparagraph (g) however, shall not be applicable to those subcontracts subject to subparagraph (j) below, if any.)

• • • • •

(b) Insert the following additional subparagraph to the clause in paragraph (a) of this section in accordance with § 23.201–2(d) of this chapter.

(j) Notwithstanding approval of the procurement system, the Contractor shall not enter into certain subcontracts or classes of subcontracts set forth elsewhere in this contract without the prior written consent of the Contracting Officer. (April 1967)

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§ 7.203–32 Listing of employment openings for veterans.

In accordance with § 12.1102–2, of this chapter insert the clause set forth in § 7.103–27.

§ 7.204–9 Rights in data.

In accordance with § 7.104–9 insert the appropriate clause, or clauses, set forth therein.

§ 7.204–52 Payment of interest on contractors' claims.

In accordance with § 1.333, of this chapter insert the clause set forth in § 7.104–82.

§ 7.205–7 [Revoked]

§ 7.302–24 [Revoked]

§ 7.302–30 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in § 7.103–27.

§ 7.303–23 Progress payments.

In accordance with § 163.79 of this chapter, insert one of the clauses in § 7.104–35.

§ 7.303–44 Care of laboratory animals.

In compliance with law and in furtherance of the Department of Defense policy that all aspects of investigative programs involving the use of experimental or laboratory animals be humanely conducted in accordance with recognized principles, the following clause shall be included in all contracts awarded in the United States, its possessions, and Puerto Rico, which may involve the use of such animals.

CARE OF LABORATORY ANIMALS (APRIL 1972)

(a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with section 6, Public Law 89–544, Laboratory Animal Welfare Act, August 24, 1966, as amended by Public Law 91–579, Animal Welfare Act of 1970, December 24, 1970. The Contractor shall furnish evidence of such registration to the contracting officer.

(b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in (a) above.

(c) In the care of any live animals used or intended for use in the performance of this contract the Contractor shall adhere to the principles enunciated in the "Guide for Laboratory Animal Facilities and Care" prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences—National Research Council, and in the U.S. Department of Agriculture's regulations and standards issued under the Public Laws enumerated in (a) above. In case of conflict between standards, the higher standard shall be used. Contractor reports on portions of the contract in which animals were used shall contain a certificate stating that the animals were cared for in accordance with the principles enunciated in the Guide for Laboratory Animal Facilities and Care prepared by the Institute of Laboratory Animal Resources, NAS–NRC, and/or in the regulations and standards as promulgated by the Agricultural Research Service, USDA, pursuant to the Laboratory Animal Welfare Act of August 24, 1966, as amended (Public Law 89–544 and Public Law 95–579).

NOTE: The Contractor may request registration of his facility and a current listing of licensed dealers from the Veterinarian in Charge, Animal Health Division, USDA, in the capitol city of the State in which his research facility is located. (In Florida, the office of the Veterinarian in Charge is in Jacksonville.)

§ 7.303–53 Payment of interest on contractor's claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.303–54 Rights in data.

In accordance with § 7.104–9 insert the appropriate clause, or clauses, set forth therein.

§ 7.304–8 [Revoked]

§ 7.304–9 [Revoked]

8. In § 7.402–8 paragraphs (a) and (b) are revised; § 7.402–23 is revoked; §§ 7.402–34, 7.403–48, and 7.403–49 are added; §§ 7.404–8 and 7.404–9 are revoked; § 7.503–11 is added; § 7.504–2 is revised; § 7.504–12 is added; § 7.602–23 is revised; § 7.602–37 is amended; § 7.602–49 is added; §7.603–42 is revised; §§ 7.603–51 and 7.603–52 are added; §§ 7.604–5, 7.604–6, 7.606–19, and 7.606–20 are revoked; § 7.606–21 is added; §§ 7.607 through 7.607–22 are revised; §§ 7.607–23 through 7.607–29 are revoked; § 7.608 is amended; §§ 7.608–4 through 7.608–17 are added; § 7.702–29 is amended; § 7.702–53 is added; § 7.705–1 is revised; in § 7.705–5 the title of the clause is amended and subparagraph (b)(ii) of the clause is amended; § 7.705–27 is added; § 7.802–4 is revised; in § 7.901–6 the title of the clause is amended and subparagraphs (b) (1) and (2) are revised; § 7.901–29 is added; § 7.902–9 is revised; § 7.902–16 is revoked; § 7.902–34 is added; § 7.1501–3 is revoked; § 7.1501–4 is revised; §§ 7.1701–19, 7.1702–17, 7.1902–21, and 7.1902–22 are added; 7.1903–8 is revised; §§ 7.1903–47 and 7.1909–27 are added; § 7.1910–10 is revised; and § 7.1910–35 is added, as follows:

§ 7.402–8 Subcontracts.

(a) In accordance with the requirements in § 23.201–2 of this chapter, and subject to the instructions in paragraphs (b) and (c) of this section, insert the following clause.

SUBCONTRACTS (APRIL 1972)

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract which (i) is cost-reimbursement type, time and materials, or labor-hour, or (ii) is fixed-price type and exceeds in dollar amount either $25,000 or five percent (5%) of the total estimated cost of this contract, (iii) provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of $1,000 or of any items of industrial facilities; or (iv) has experimental, developmental, or research work as one of its purposes.

(b) In the case of a proposed subcontract which (i) is cost-reimbursement, time and materials, or labor-hour which would involve an estimated amount in excess of $10,000, including any fee, (ii) is proposed to exceed $100,000, or (iii) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate are expected to exceed $100,000, the advance notification required by (a) above shall include:

(1) A description of the supplies or services to be called for by the subcontract;

(2) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained;

(3) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(4) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data when such data and certificate are required by other provisions of this contract to be obtained from the subcontractor;

(5) Identification of the type of subcontract to be used;

(6) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference; and

(7) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, personal judgments used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time.

(c) The Contractor shall obtain the written consent of the Contracting Officer prior to placing any subcontract for which advance notification is required under (a) above. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(f) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which in the opinion of the Contractor, may result in litigation, related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(g) Notwithstanding (c) above, the Contractor may enter into subcontracts within (i) and (ii) of (a) above, without the consent of the Contracting Officer, if the Contracting Officer has approved in writing the Contractor's procurement system and the subcontract is within the scope of such approval. (This subparagraph (g) however, shall not be applicable to those subcontracts subject to subparagraph (j) below, if any.)

(h) The Contractor shall (i) insert in each price redetermination or incentive price revision subcontract hereunder the substance of the "Limitation on Payments" paragraph set forth in the appropriate clause prescribed by paragraph 7–108 of the Armed Services Procurement Regulation, including subparagraph (4) thereof, modified to omit mention of the Government and reflect the position of the Contractor as purchaser and of the subcontractor as vendor, and to omit that portion of subparagraph (3) thereof relating to tax credits, and (ii) include in each cost-reimbursement type subcontract hereunder a requirement that each price redetermination and incentive price revision subcontract thereunder will contain the substance of the "Limitation on Payments" provision, including subparagraph (4) thereof, modified as outlined in (i) above.

(i) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments on the fixed-price types of subcontracts of those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in paragraphs 503 and 514 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

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(b) Insert the following additional subparagraph to the clause in paragraph (a) of this section, in accordance with § 23.201–2(d) of this chapter.

(j) Notwithstanding approval of the procurement system, the Contractor shall not enter into certain subcontracts or classes of subcontracts set forth elsewhere in this contract without the prior written consent of the Contracting Officer. (April 1967)

* * * * *

§ 7.402–23 [Revoked]

§ 7.402–34 Listing of employment openings for veterans.

In accordance with §12.1102–2 of this chapter insert the clause set forth in §7.103–27.

§ 7.403–48 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in §7.104–82.

§ 7.403–49 Rights in data.

In accordance with § 7.104–9 insert the appropriate clause, or clauses, set forth therein.

§ 7.404–8 [Revoked]

§ 7.404–9 [Revoked]

§ 7.503–11 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in §7.103–27.

§ 7.504–2 Rights in data.

In accordance with §7.104–9 insert the appropriate clause, or clauses, set forth therein.

§ 7.504–12 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.602–23 Labor standards provisions.

(a) In accordance with §18.703 of this chapter, insert the following clauses.

(1) *Davis-Bacon Act.*

DAVIS-BACON ACT (40 U.S.C. 276 a TO a–7) (FEBRUARY 1972)

(a) All mechanics and laborers employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR, Part 3)), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) The Contractor may discharge his obligation under this clause to workers in any classification for which the wage determination decision contains:

(1) Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Regulations (29 CFR, Part 3); or

(2) Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by the Davis-Bacon Act, or by any combination thereof. Contributions made, or costs assumed, on other than a weekly basis shall be considered as having been constructively made or assumed, during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and the Contractor pays a cash equivalent or provides an alternative fringe benefit, he shall furnish information with his payrolls showing how he determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where the Contractor provides a fringe benefit different from any contained in the wage determination, he shall similarly show how he arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) The assumption of an enforceable commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or in the wage determination decision forming a part of the contract, may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by the Contractor. The Secretary of Labor may require the Contractor to set aside assets, in a separate account, to meet his obligations under any unfunded plan or program.

(d) The Contracting Officer shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination decision and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees, to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(e) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, the Contracting Officer may (i) by written notice to the Government Prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (ii) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(f) Paragraphs (a) through (e) of the clause shall apply to this contract to the extent that it is (i) a prime contract with the Government subject to the Davis-Bacon Act or (ii) a subcontract also subject to the Davis-Bacon Act under such prime contract.

(2) *Contract Work Hours and Safety Standards Act—overtime compensation.*

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (40 U.S.C. 327–330) (FEBRUARY 1972)

(a) The Contractor shall not require or permit any laborer or mechanic in any workweek in which he is employed on any work under this contract to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek, whichever is the greater number of overtime hours. The "basic rate of pay," as used in this clause, shall be the amount paid per hour, exclusive of the Contractor's contribution or cost for fringe benefits and any cash payment made in lieu of providing fringe benefits, or the basic hourly rate contained in the wage determination, whichever is greater.

(b) In the event of any violation of the provisions of paragraph (a), the Contractor shall be liable to any affected employee for any amounts due, and to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight (8) hours or in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (a).

(3) *Apprentices and trainees.*

APPRENTICES AND TRAINEES (FEBRUARY 1972)

(a) Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the aforesaid Bureau of Apprenticeship and Training. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph (b) of this clause, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor shall furnish written evidence of the registration of his program and apprentices as well as of the ratios allowed and the wage rates required to be paid thereunder for the area of construction, prior to using any apprentices in the contract work. "Apprentice" means a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or a person in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Council to be eligible for probationary employment as an apprentice.

(b) Trainees shall be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. "Trainee" means a person receiving on-the-job training in a construction occupation under a program which is approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and which is reviewed from time to time by the Manpower Administration to insure that the training meets adequate standards.

(c) The Contractor shall make a diligent effort to hire for performance of work under this contract a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the contract the applicable ratio as set forth in paragraph (c)(6) of this clause.

(1) The Contractor shall assure that twenty-five percent (25%) of such apprentices or trainees in each occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (i) the availability of training opportunities for first year apprentices, (ii) the hazardous nature of the work for beginning workers and (iii) excessive unemployment of apprentices in their second and subsequent years of training.

(2) The Contractor shall, during the performance of the contract, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of paragraphs (c) and (c)(1) of this clause.

(3) The Contractor shall maintain records of employment on this contract by trade of the number of apprentices and trainees, apprentices and trainees in first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen. In addition, the Contractor who claims compliance based on the criterion set forth in paragraph (4)(ii) of this clause shall maintain such records of employment on all his construction work in the same labor market area, both public and private, during the performance of this contract.

(4) The Contractor will be deemed to have made a "diligent effort" as required by paragraph (c) if during the performance of this contract, he accomplishes at least one of the following three objectives: (i) The Contractor employs under this contract a number of apprentices and trainees by craft, at least equal to the ratios established in accordance with paragraph (6) if this clause, or (ii) the Contractor employs, on all his construction work, both public and private, in the same labor market area, an average number of apprentices and trainees by craft at least equal to the ratios established in accordance with paragraph (6) of this clause, or (iii) the Contractor (A) if covered by a collective bargaining agreement, before commencement of any work on the project, has given written notice to all joint apprenticeship committees, the local U.S. Employment Security Office, local chapter of the Urban League, Workers Defense League, or other local organizations concerned with minority employment, and the Bureau of Apprenticeship and Training Representatives, U.S. Department of Labor for the locality of the work; (B) if not covered by a collective bargaining agreement, has given written notice to all of the groups stated above, except joint apprenticeship committees, and will in addition notify all non-joint apprenticeship sponsors in the labor market area; (C) has employed all qualified applicants referred to him through normal channels (such as the Employment Service, the Joint Apprenticeship Committees, and where applicable, minority organizations and apprentice outreach programs who have been delegated this function) at least up to the number of such apprentices and trainees required by paragraph (6) of this clause; (D) notice, as referred to herein, will include at least the Contractor's name and address, job site address, value of the contract, expected starting and completion dates, the estimated average number of employees in each occupation to be employed over the duration of the contract work, and a statement of his willingness to employ a number of apprentices and trainees at least equal to the ratios established in accordance with paragraph (6) of this clause. A copy of this notice shall be furnished to the Contracting Officer upon request.

(5) The Contractor shall supply, to the Contracting Officer, and to the Secretary of Labor, a report at three month intervals during performance of the contract and after completion of contract performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen.

(6) The applicable ratios of apprentices and trainees to journeymen in any occupation for the purpose of this clause shall be as follows: (i) In any occupation the applicable ratio of apprentices and trainees to journeymen shall be equal to the predominant ratio for the occupation in the area where the construction is being undertaken, set forth in collective bargaining agreements, or other employment agreements, and available through the Bureau of Apprenticeship and Training Representative, U.S. Department of Labor for the locality of the work. (ii) For any occupation for which no ratio is found, the ratio of apprentices and trainees to journeymen shall be determined by the Contractor in accordance with the recommendations set forth in the Standards of the National Joint Apprentice Committee for the occupation, which are on file at offices of the U.S. Department of Labor's Bureau of Apprenticeship and Training. (iii) For any occupation for which no such recommendations are found, the ratio of apprentices and trainees to journeymen shall be at least one apprentice or trainee for every five journeymen.

NOTE: Paragraphs (a) and (b) of this clause apply to contracts in excess of $2,000; in addition, paragraph (c) applies to contracts in excess of $10,000.

(4) *Payrolls and basic records.*

PAYROLLS AND BASIC RECORDS (JUNE 1969)

(a) The Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name and address of each such employee, his correct classification, rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Contractor has obtained approval from the Secretary of Labor as provided in paragraph (c) of the clause entitled "Davis-Bacon Act," he shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

(b) The Contractor shall submit weekly a copy of all payrolls to the Contracting Officer. The Government Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work he performed. Weekly submission of the "Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) shall satisfy the requirement for submission of the above statement. The Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph (c) of the clause entitled "Davis-Bacon Act."

(c) The Contractor shall make the records required under this clause available for inspection by authorized representatives of the Contracting Officer and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

(5) *Compliance With Copeland Regulations.*

COMPLIANCE WITH COPELAND REGULATIONS (JUNE 1964)

The Contractor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) which are incorporated herein by reference.

(6) *Withholding of funds.*

WITHHOLDING OF FUNDS (FEBRUARY 1972)

(a) The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor so much of the accrued payments or advances as may be considered necessary (i) to pay laborers and mechanics, including apprentices and trainees, employed by the Contractor or any subcontractor on the work the full amount of wages required by the contract, and (ii) to satisfy any liability of any Contractor for liquidated damages under the clause hereof entitled "Contract Work Hours and Safety Standards Act—Overtime Compensation."

(b) If any Contractor fails to pay any laborer or mechanic including any apprentice or trainee employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Government Prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

(7) *Subcontracts.*

SUBCONTRACTS (FEBRUARY 1972)

The Contractor agrees to insert the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment" in all subcontracts. The term "Contractor" as used in such clauses in any subcontract shall be

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deemed to refer to the subcontractor except in the phrase "Government Prime Contractor."

(8) *Contract termination—debarment.*

CONTRACT TERMINATION—DEBARMENT (APRIL 1972)

A breach of the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance With Copeland Regulations," "Withholding of Funds," and "Subcontracts" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

(b) In the case of construction contracts with a State or political subdivision thereof, in accordance with § 18.-703–3 of this chapter, preface the clauses required by paragraph (a) of this section with the following provision.

The Contractor agrees to comply with the requirements of the Contract Work Hours Standards Act and to insert the following clauses in all subcontracts hereunder with private persons or firms.

§ 7.602–37 Subcontractors.

SUBCONTRACTORS (FEBRUARY 1972)

Within 7 days after the award of any subcontractor either by himself or a subcontractor, the Contractor shall deliver to the Contracting Officer a statement setting forth the name and address of the subcontractor and a summary description of the work subcontracted. The Contractor shall at the same time furnish a statment signed by the subcontractor acknowledging the inclusion in his subcontract of the clauses of this contract entitled "Equal Opportunity," "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act-Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination Debarment." Nothing contained in this contract shall create any contractual relation between the subcontractor and the Government.

§ 7.602–49 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter insert the clause set forth in § 7.103–27.

§ 7.603–12 Architectural designs and data—Government rights.

(a) In accordance with § 18.910–1(a), of this chapter insert one of the following clauses, if appropriate.

(1) *Government rights (unlimited).*

GOVERNMENT RIGHTS (UNLIMITED) (APRIL 1972)

The Government shall have unlimited rights, for the benefit of the Government, in all drawings, designs, specifications, notes and other work developed in the performance of this contract, including the right to use same on any other Government work without additional cost to the Government; and with respect thereto the Contractor agrees to and does hereby grant to the Government a royalty-free license to all such data which he may cover by copyright and to all designs as to which he may assert any rights or establish any claim under the design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish and to provide access to the originals or copies of all such materials on the request of the Contracting Officer.

(2) *Drawings and other data to become property of Government.*

DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (APRIL 1972)

All designs, drawings, specifications, notes, and other work developed in the performance of this contract shall be and remain the sole property of the Government and may be used on any other work without additional compensation to the Contractor. With respect thereto, the Contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. The Contractor for a period of 3 years after completion of the project agrees to furnish and provide access to all retained materials on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all such materials beyond such period.

(b) In accordance with §§ 18.910–2 and 18.910–3, of this chapter insert the appropriate clause or clauses in § 7.104–9.

§ 7.603–51 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.603–52 Rights in data.

In accordance with § 7.104–9 insert the appropriate clause, or clauses, set forth therein.

§ 7.604–5 [Revoked]

§ 7.604–6 [Revoked]

§ 7.606–19 [Revoked]

§ 7.606–20 [Revoked]

§ 7.606–21 Payment of interest on contractors claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in §7.104–82.

§ 7.607 Required clauses for fixed-price architect-engineer contracts.

The following clauses shall be inserted in all fixed-price architect-engineer contracts:

§ 7.607–1 Definitions.

DEFINITIONS (APAIL 1972)

(a) The term "head of the agency" or "Secretary" as used herein means the Secretary, or any other head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.

(b) The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government and includes a duly appointed successor or authorized representative.

§ 7.607–2 Responsibility of the architect-engineer.

RESPONSIBILITY OF THE ARCHITECT-ENGINEER (APRIL 1972)

(a) The Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications, and other services furnished by the Architect-Engineer under this contract. The Architect-Engineer shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Architect-Engineer shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Architect-Engineer's negligent performance of any of the services furnished under this contract.

(c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

§ 7.607–3 Changes.

CHANGES (APRIL 1972)

(a) The Contracting Officer may, at any time, by written order, make changes within the general scope of the contract in the services to be performed. If such changes cause an increase or decrease in the Architect-Engineer's cost of, or time required for, performance of any services under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. Any claim of the Architect-Engineer for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Architect-Engineer of the notification of change unless the Contracting Officer grants a further period of time before the date of final payment under the contract.

(b) No services for which an additional cost or fee will be charged by the Architect-Engineer shall be furnished without the prior written authorization of the Contracting Officer.

§ 7.607–4 Termination.

TERMINATION (APRIL 1972)

(a) The Contracting Officer may, by written notice to the Architect-Engineer, terminate this contract in whole or in part at any time, either for the Government's convenience or because of the failure of the Architect-Engineer to fulfill his contract obligations. Upon receipt of such notice, the Architect-Engineer shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Architect-Engineer in performing this contract, whether completed or in process.

(b) If the termination is for convenience of the Government, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

(c) If the termination is due to the failure of the Architect-Engineer to fulfill his contract obligations, the Government may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Architect-Engineer shall be liable to the Government for any additional cost occasioned to the Government thereby.

(d) If, after notice of termination for failure to fulfill contract obligations, it is determined that the Architect-Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the Government. In such event, adjustment in the contract price shall be made as provided in paragraph (b) of this clause.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

§ 7.607–5 Disputes.

(a) Except as provided in paragraph (b) of this section, insert the following clause:

DISPUTES (APRIL 1972)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Architect-Engineer. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Architect-Engineer mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the agency involved. The decision of the head of the agency or his duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged: *Provided, however,* That any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceding under this clause, the Architect-Engineer shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Architect-Engineer shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

In accordance with departmental procedures, the foregoing clause may be modified to provide for intermediate appeal in overseas areas. The decision shall, if mailed, be sent by certified mail, return receipt requested.

(b) In procurement to be performed outside the United States, its possessions and Puerto Rico, where it is anticipated that the architect-engineer will be a foreign firm, one of the clauses provided for in § 7.103–12(b) will be inserted in accordance with the instructions therein, substituting "Architect-Engineer" for "Contractor."

(c) The form in which the contracting officer shall notify the architect-engineer of his decision under the Disputes Clause, is set forth in § 1.314 of this chapter.

§ 7.607–6 Assignment of claims.

ASSIGNMENT OF CLAIMS (APRIL 1972)

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Architect-Engineer from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act; and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Administration, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

§ 7.607–7 Architectural designs and data—Government rights.

(a) Except as provided in paragraph (b) of this section, insert the following clause:

GOVERNMENT RIGHTS (UNLIMITED) (APRIL 1972)

The Government shall have unlimited rights, for the benefit of the Government, in all drawings, designs, specifications, notes and other work developed in the performance of this contract, including the right to use same on any other Government work without additional cost to the Government; and with respect thereto the Architect-Engineer agrees to and does hereby grant to the Government a royalty-free license to all such data which he may cover by copyright and to all designs as to which he may assert any rights or establish any claim under the design patent or copyright laws. The Architect-Engineer for a period of three (3) years after completion of the project agrees to furnish and to provide access to the originals or copies of all such materials on the request of the Contracting Officer.

(b) When, in accordance with §18.910–1(a)(1) of this chapter, it is desired to acquire exclusive control of data pertaining to design, the unlimited rights clause in paragraph (a) of this section shall be deleted from Standard Form 253 and the following clause substituted therefor:

DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT (APRIL 1972)

All designs, drawings, specifications, notes, and other work developed in the performance of this contract shall be and remain the sole property of the Government and may be used on any other work without additional compensation to the Architect-Engineer. With respect thereto, the Architect-Engineer agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. The Architect-Engineer for a period of 3 years after completion of the project agrees to furnish and provide access to all retained materials on the request of the Contracting Officer. Unless otherwise provided in this contract, the Architect-Engineer shall have the right to retain copies of all such materials beyond such period.

§ 7.607–8 Examination of records by Comptroller General.

Insert the clause in § 7.104–15 substituting "Architect-Engineer" for "Contractor." Where Standard Form 253 is used, it will be necessary to delete Clause 8 and insert the clause in § 7.104–15 under the "Alterations" clause of the contract.

§ 7.607–9 Covenant against contingent fees.

COVENANT AGAINST CONTINGENT FEES (APRIL 1972)

The Architect-Engineer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Architect-Engineer for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

§ 7.607–10 Officials not to benefit.

OFFICIALS NOT TO BENEFIT (APRIL 1972)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

§ 7.607–11 Contract Work Hours and Safety Standards Act—overtime compensation.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (APRIL 1972)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No Architect-Engineer or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such work-

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week, whichever is the greater number of overtime hours.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Architect-Engineer and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Architect-Engineer and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard work-week of 40 hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidating damages. The Contracting Officer may withhold from the Architect-Engineer, from any moneys payable on account of work performed by the Architect-Engineer or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Architect-Engineer or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Architect-Engineer shall insert paragraphs (a) through (d) of this clause and the preamble in all subcontracts, and shall require their inclusion in all suocontracts of any tier.

(e) Records. The Architect-Engineer shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

§ 7.607–12 Convict labor.

CONVICT LABOR (APRIL 1972)

In connection with the performance of work under this contract, the Architect-Engineer agrees not to employ any person undergoing sentence of imprisonment at hard labor.

§ 7.607–13 Equal opportunity clause.

EQUAL OPPORTUNITY (APRIL 1972)

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

During the performance of this contract, the Architect-Engineer agrees as follows:

(a) The Architect-Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Architect-Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall included, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Architect-Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Architect-Engineer will, in all solicitations or advertisements for employees placed by or on behalf of the Architect-Engineer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Architect-Engineer will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Architect-Engineer's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Architect-Engineer will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Architect-Engineer will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Architect-Engineer's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Architect-Engineer may be declared ineligible for further Government contracts, in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Architect-Engineer will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204, of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Architect-Engineer will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Architect-Engineer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Architect-Engineer may request the United States to enter into such litigation to protect the interests of the United States.

§ 7.607–14 Method of payment.

METHOD OF PAYMENT (APRIL 1972)

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Architect-Engineer under this contract, such estimates to be prepared by the Architect-Engineer and accompanied by such supporting data as may be required by the Contracting Officer.

(b) Upon approval of such estimate by the Contracting Officer payment upon properly certified vouchers shall be made to the Architect-Engineer as soon as practicable of 90% of the amount as determined above, less all previous payments: *Provided, however,* That if the Contracting Officer determines that the work is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the Government, he may at his discretion release to the Architect-Engineer such excess amount.

(c) Upon satisfactory completion by the Architect-Engineer and acceptance by the Contracting Officer of the work done by the Architect-Engineer in accordance with the "Statement of Architect-Engineer Services" (Appendix A of the contract), the Architect-Engineer will be paid the unpaid balance of any money due for work under said statement, including retained percentages relating to this portion of the work. In the event that the Government exercises the option under Title II of this Contract, progress payments as provided for in (a) and (b) above will be made for this portion of the contract work.

(d) Upon satisafctory completion of the construction work and its final acceptance, the Architect-Engineer shall be paid the unpaid balance of any money due hereunder. Prior to such final payment under the contract, or prior to settlement upon termination of the contract, and as a condition precedent thereto, the Architect-Engineer shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Architect-Engineer from the operation of the release in stated amounts to be set forth therein.

§ 7.607–15 Contracting officer's decisions.

CONTRACTING OFFICER'S DECISIONS (JANUARY 1965)

The extent and character of the work to be done by the Architect-Engineer shall be subject to the general supervision, direction, control and approval of the Contracting Officer.

§ 7.607–16 Subcontractors and outside associates and consultants.

SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND CONSULTANTS (JANUARY 1965)

Any subcontractors and outside associates or consultants required by the Architect-Engineer in connection with the services covered by the contract will be limited to such individuals or firms as were specifically identified and agreed to during negotiations. Any substitution in such subcontractors, associates, or consultants will be subject to the prior approval of the Contracting Officer.

§ 7.607–17 Renegotiation.

In accordance with § 7.103–13, insert the appropriate clause set forth therein, substituting "Architect-Engineer" for "Contractor."

§ 7.607–18 Gratuities.

In accordance with § 7.104–16, insert the clause set forth therein, substituting "Architect-Engineer" for "Contractor."

§ 7.607–19 Interest.

In accordance with § 163.118 of this chapter, insert the clause set forth in § 7.104–39, substituting "Architect-Engineer" for "Contractor."

§ 7.607–20 Composition of architect-engineer.

COMPOSITION OF ARCHITECT-ENGINEER (APRIL 1972)

If the Architect-Engineer hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

§ 7.607–21 Pricing of adjustments.

Insert the clause set forth in § 7.103–26.

§ 7.607–22 Audit by Department of Defense.

In accordance with § 7.104–41(a), insert the clause set forth therein, substituting "Architect-Engineer" for "Contractor."

§§ 7.607–23 through 7.607–29 [Revoked]

§ 7.608 Clauses to be used when applicable for fixed-price Architect-Engineer contracts.

§ 7.608–4 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.608–5 Option for supervision and inspection services.

The following clause may be included in any fixed-price architect-engineer contract if supervision and inspection services by the architect-engineer during construction are contemplated. The details of such services must be set out in Appendix A of the contract.

OPTION FOR SUPERVISION AND INSPECTION SERVICES (APRIL 1972)

At any time prior to six (6) months after satisfactory completion and acceptance of the work to be furnished hereunder, the Government at its option, may direct, by a written order, the Architect-Engineer to perform any part or all of the supervision and inspection services provided under Appendix A. Upon receipt of such direction, the Architect-Engineer shall proceed with such work and services.

§ 7.608–6 Requirements for registration of designers.

The following clause shall be inserted in fixed-price architect-engineer contracts, except that it may be omitted from any contract (a) where the design is to be performed outside the United States, its possessions, or Puerto Rico, or (b) where the design is to be performed in a State or possession which does not have registration requirements for the particular field involved:

REQUIREMENTS FOR REGISTRATION OF DESIGNERS (APRIL 1972)

The design of architectural, structural, mechanical, electrical, civil or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered to practice in the particular professional field involved in a State or possession of the United States, in Puerto Rico, or in the District of Columbia.

§ 7.608–7 Accident prevention.

Insert the clause set forth in § 7.602–42, except in contracts where no field work is involved.

§ 7.608–8 Military security requirements.

In accordance with § 7.104–12, insert the clause set forth therein.

§ 7.608–9 Price reduction for defective cost or pricing data.

In accordance with § 7.104–29(a), insert the clause set forth therein.

§ 7.608–10 Subcontractor cost and pricing data.

In accordance with § 7.104–42(a), insert the clause set forth therein.

§ 7.608–11 Identification of expenditures in the United States.

In accordance with part 6 subpart H of this chapter, insert the clause set forth in § 7.104–58.

§ 7.608–12 Authorization and consent.

In accordance with § 18.902–1 and § 18.902–2 of this chapter, insert the appropriate clause set forth in § 9.102 of this chapter.

§ 7.608–13 Notice and approval of restricted designs.

In accordance with § 18.905 of this chapter, the clause set forth therein may be inserted.

§ 7.608–14 Patent rights.

In accordance with § 18.908(a) of this chapter, insert the appropriate clause in § 9.107 of this chapter.

§ 7.608–15 Filing of patent applications.

In accordance with § 9.106 of this chapter, insert the clause set forth therein in every classified contract which covers or is likely to cover classified subject matter.

§ 7.608–16 Alterations.

In accordance with § 7.604–1, insert the clause set forth therein.

§ 7.608–17 Rights in data.

In accordance with § 7.104–9 insert the appropriate clause, or clauses, set forth therein.

§ 7.702–29 Military security requirements.

In accordance with § 7.104–12, insert the clause set forth therein, deleting paragraphs (c) and (d), and substituting the following paragraphs (c) and (d).

(c) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such change causes an increase or decrease in the estimated cost of performance of this contract, the estimated cost, to the extent appropriate, shall be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause in this contract.

(d) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding (e) of this clause. The Contractor may insert in any such subcontract, and any such subcontract entered into may contain, in lieu of paragraph (e) of this clause, provisions which permit equitable adjustments to be made in the subcontractor price or in the estimated cost and fixed fee of the subcontract (as appropriate to the type of subcontract involved) on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved (September 1964).

§ 7.702–53 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in § 7.103–27.

§ 7.705–1 Rights in data.

In accordance with § 7.104–9, insert the appropriate clause, or clauses, set forth therein. Particular attention shall be given to obtaining data when data are necessary to the use or disposal of facilities.

§ 7.705–5 Labor standards for construction work.

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LABOR STANDARDS FOR CONSTRUCTION WORK (APRIL 1972)

* * * * * *

(b) * * *

(ii) "Apprentices and Trainees."

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§ 7.705–27 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.802–4 Payments clauses for letter contracts.

(a) *Cost type.* Insert the following clause in all letter contracts contemplating a cost-type contract except letter contracts for conversion, alteration or repair of ships.

PAYMENTS OF ALLOWABLE COSTS PRIOR TO DEFINITIZATION OF CONTRACT (JANUARY 1972)

(a) Pending the placing of the definitive contract referred to herein, the Government shall currently reimburse the Contractor for all allowable expenditures made hereunder at the following rates:

(i) One hundred percent (100%) of approved costs representing progress payments to Subcontractors under fixed-price type subcontracts: *Provided,* That payment by the Government to the Contractor shall not exceed eighty percent (80%) of the costs of such Subcontractors subject to the definition of costs contained in (c) below.

(ii) One hundred percent (100%) of approved costs representing cost-reimbursement type subcontracts: *Provided,* That payments by the Government shall not exceed eighty-five percent (85%) of the costs of such Subcontractors subject to the definition of costs contained in (c) below; and

(iii) Eighty-five percent (85%) of all other approved costs subject to the definition of costs contained in (c) below.

(b) For the purpose of determining the amounts payable to the Contractor hereunder, allowable items of cost shall be determined by the Contracting Officer in accordance with the statement of cost principles set forth in Part _____ of section XV of the Armed Services Procurement Regulation. In no event shall the total reimbursement made under this paragraph exceed eighty-five percent (85%) of the maximum amount of the Government's liability otherwise set forth in this letter contract.

(c) Payments shall be made to the Contractor when requested as work progresses, but not more frequently than bi-weekly, in amounts approved by the Contracting Officer. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as such representative may require, an invoice or public voucher supported by a state-

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ment of cost incurred by the Contractor in the performance of this contract and claimed to constitute allowable cost. Costs shall include only those recorded costs which result, at the time of the request for reimbursement, from payment by cash, check, interdivisional notices of payments, or other form of actual payment for items or services purchased directly for the contract, together with (when the Contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid for materials which have been issued from the Contractor's stores inventory and placed in the production process for use on the contract, for direct labor, for direct travel, for other direct in-house costs, and for properly allocated and allowable indirect costs, as is shown by records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to Contractor's subcontractors under similar cost standards. The restriction on payment more frequently than biweekly and the requirement of prior payment for items or services purchased directly for the contract shall not apply where the Contractor is a small business concern.

(d) Promptly after receipt of each invoice or voucher and statement of cost, the Government shall, except as otherwise provided in this contract, subject to the provisions of (e) below, make payment thereon as approved by the Contracting Officer.

(e) At any time or times prior to final payment under this contract, the Contracting Officer may have the invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayments, or increased for underpayments, on preceding invoices or vouchers.

(b) *Fixed price type.* When, in accordance with Part 163, Subpart E, of this chapter (see §§ 163.72 and 163.74), payments are to be made under letter contracts contemplating a fixed-price-type contract, insert the clause set forth in § 7.104–35(a) (see §§ 163.84 and 163.79 of this chapter) unless the contract is for construction. The clause may be supplemented as provided in §§ 163.80–6 and 163.85 of this chapter. In constructions contracts, insert the clause set forth in paragraph (a) of this section, supplemented by appropriate title, risk or loss and other provisions.

§ 7.901–6 Payments.

PAYMENTS (JANUARY 1972)

* * * * *

(b) *Materials and Subcontracts.*

(1) Allowable costs of direct materials shall be determined by the Contracting Officer in accordance with part 2, section XV, of the Armed Services Procurement Regulation in effect on the date of this contract. Reasonable and allocable material handling costs may be included in the charge for material to the extent they are clearly excluded from the hourly rate. Material handling costs are comprised of indirect costs, including, when appropriate, General and Administrative expense, allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with part 2, section XV of the Armed Services Procurement Regulation. The Contractor shall be reimbursed for items and services purchased directly for the contract only when cash, checks, or interdivisional notices of payment or other forms of actual payment has been made for such purchased items or services. Direct materials, as referenced by this clause, are defined as those materials which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of such product.

(2) The cost of subcontracts which are authorized pursuant to the "Subcontracts" clause hereof shall be reimbursable costs hereunder, provided such costs are consistent with subparagraph (3) below. Reimbursable cost in connection with subcontracts shall be limited to the amounts paid to the subcontractor in the same manner as for items and services purchased directly for the contract under subparagraph (2) above. The requirement of payment for reimbursement shall not apply to the Contractor who is a small business concern. Reimbursable costs shall not include any costs arising from the letting, administration, or supervision of performance of the subcontract, which costs are included in the hourly rate or rates payable under (a)(1) above.

* * * * *

§ 7.901–29 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in § 7.103–27.

§ 7.902–9 Rights in data.

In accordance with § 7.104–9, insert the appropriate clause, or clauses, set forth therein.

§ 7.902–16 [Revoked]

§ 7.902–34 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.1501–3 [Revoked]

§ 7.1501–4 Responsibility and liability for damage or injury/insurance.

RESPONSIBILITY AND LIABILITY FOR DAMAGE OR INJURY/INSURANCE (APRIL 1972)

(a) The Government shall be responsible for loss or damage to rented vehicles except of (1) normal wear and tear and (2) loss or damage caused by the fault or negligence of the Contractor, his agents or employees. All claims arising under this paragraph (a) shall be submitted to the Contracting Officer.

(b) The Contractor shall be liable and will indemnify and hold harmless the Government, its agents and employees against all actions or claims for all damages to persons or property, including death arising or resulting from the fault, negligence, wrongful act, or wrongful omission of the Contractor, his agents or employees. The Government shall only be responsible for loss or damage to property of third persons, or injury, including death, to such persons in accordance with the Federal Tort Claims Act (28 U.S.C. 2671–2680).

(c) The Contractor warrants that its price includes no cost for insurance or contingency to cover:

(i) Loss or damage to rented vehicles for which the Government is responsible under (a) above; or

(ii) Third party liabilities for which the Government is responsible under (b) above.

(d) At his expense, the Contractor shall maintain insurance for bodily injury and property damage liability covering his own liabilities under (b) above in amounts not less than the following:

Type	*Minimum Amount*
Public Liability------	$100,000/300,000 (Bodily injury). $10,000 (Property Damage).

(e) At all times during performance, the Contractor shall maintain with the Contracting Officer a current Certification of Insurance showing at least the insurance required by this clause, and providing for thirty (30) days prior written notice to the Contracting Officer in the event of cancellation or material change in insurance coverage. Insurance provided hereunder shall contain the following provision: "The insurer waives any right of subrogation against the United States of America which may arise by reason of any payment under the certification."

§ 7.1701–19 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in § 7.103–27.

§ 7.1702–17 Rights in data.

In accordance with § 7.104–9, insert the appropriate clause, or clauses, set forth therein.

§ 7.1902–21 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in § 7.102–27.

§ 7.1902–22 Pricing of adjustments.

Insert the clause set forth in § 7.103–26.

§ 7.1903–8 Rights in data.

In accordance with § 7.104–9, insert the appropriate clause, or clauses, set forth therein.

§ 7.1903–17 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

§ 7.1909–27 Listing of employment openings for veterans.

In accordance with § 12.1102–2 of this chapter, insert the clause set forth in § 7.103–27.

§ 7.1910–10 Rights in data.

In accordance with § 7.104–9, insert the appropriate clause, or clauses, set forth therein.

§ 7.1910–35 Payment of interest on contractors' claims.

In accordance with § 1.333 of this chapter, insert the clause set forth in § 7.104–82.

PART 8—TERMINATION OF CONTRACTS

9. Section 8.701(c) is revised; § 8.705–3 is revoked; § 8.711 is revised; and in § 8.807 the format letter is amended by adding addressees under "Copies to:", as follows:

§ 8.701 Termination clause for fixed-price contracts.

* * * * *

(c) The following clause covering terminations for convenience and terminations for default shall be included in all fixed-price architect-engineer contracts:

TERMINATION (APRIL 1972)

(a) The Contracting Officer may, by written notice to the Architect-Engineer, terminate this contract in whole or in part at any time, either for the Government's convenience or because of the failure of the Architect-Engineer to fulfill his contract obligations. Upon receipt of such notice, the Architect-Engineer shall: (1) Immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Architect-Engineer in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

(c) If the termination is due to the failure of the Architect-Engineer to fulfill his contract obligations, the Government may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Architect-Engineer shall be liable to the Government for any additional cost occasioned to the Government thereby.

(d) If, after notice of termination for failure to fulfill contract obligations, it is determined that the Architect-Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the Government. In such event, adjustment in the contract price shall be made as provided in paragraph (b) of this clause.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

* * * * *

§ 8.705–3 [Revoked]

§ 8.711 Default clause for fixed-price architect-engineer contracts.

The clause set forth in § 8.701(c) governs terminations for default in fixed-price architect-engineer contracts.

§ 8.807 Format for the release of excess funds under terminated contracts.

* * * * *

Copies to:
Paying Office.
Accounting and Finance Office.
Other.

PART 9—PATENTS, DATA, AND COPYRIGHTS

10. Section 9.200 is amended; §§ 9.201, 9.202–1(b), 9.202–2, 9.202–3, and 9.203 are revised; §§ 9.207, 9.207–1, and 9.207–2 are revoked; and a new Subpart E is added to this part, as follows:

§ 9.200 Scope of subpart.

This subpart sets forth the Department of Defense policy, implementing instructions, and contract clauses with respect to acquisition of rights in technical and other data and copyrights. It relates only to the acquisition of rights in data and does not establish requirements for data. (See Part 9, Subpart E of this chapter, for information concerning acquisition of data.)

§ 9.201 Definitions.

For the purposes of this subpart, the following terms have the meanings set forth below:

(a) "Data" means recorded information, regardless of form or characteristic.

(b) "Technical data" means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(c) "Limited rights" means rights to use, duplicate, or disclose technical data in whole or in part by or for the Government, with the express limitation that such technical data may not be released outside the Government, or used, duplicated, or disclosed, in whole or in part, for manufacture or procurement, except for:

(1) Emergency repair or overhaul work by or for the Government where the item or process concerned is not otherwise reasonably available to enable timely performance of the work; or

(2) Release to a foreign government, as the interests of the United States may require;

Provided, That in either case the release of such technical data shall be made subject to the foregoing limitations of this paragraph.

(d) "Unlimited rights" means rights to use, duplicate, or disclose technical data in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

§ 9.202–1 Background.

* * * * *

(b) *Contractors' interest in technical data.* Commercial organizations have a valid economic interest in data pertaining to items, components, or processes which they have developed at their own expense. Such data is often closely held because its disclosure to competitors could jeopardize the competitive advantage it was developed to provide. Public disclosure of such technical data can cause serious economic hardship to the originating company.

* * * * *

§ 9.202–2 Policy.

(a) *General.* It is the policy of the Department of Defense to acquire only such technical data rights as are essential to meet Government needs. (See Subpart E of this part, for information concerning acquisition data.)

(b) *Unlimited rights technical data.* Technical data in the following data in the following categories shall be acquired with unlimited rights:

(1) Technical data resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in a Government contract or subcontract;

(2) Technical data necessary to enable others to manufacture end-items, components and modifications, or to enable them to perform processes, when the end-items, components, modifications or processes have been, or are being, developed under Government contracts or subcontracts in which experimental, developmental or research work was specified as an element of contract performance, except technical data pertaining to items, components or processes developed at private expense;

(3) Technical data prepared or required to be delivered under any Government contract or subcontract and constituting corrections or changes to Government-furnished data;

(4) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under any Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(5) Manuals or instructional materials prepared or required to be delivered under a Government contract or subcontract for installation, operation, maintenance or training purposes; and

(6) Technical data which is in the public domain or has been or is normally furnished without restriction by the contractor or subcontractor.

(c) *Limited rights technical data.* Except as provided in paragraph (b) of this section technical data pertaining to items, components or processes developed at private expense will be acquired with limited rights, provided that the data is identified as limited rights data in accordance with paragraph (b)(2) of the clause in § 9.203(b).

(It should be clearly understood that the above statement of policy is a recital of rights to be acquired in technical data. Neither the foregoing statement of data rights policy, nor its implementing paragraph (b) (1) and (2) of the clause in § 9.203(b), establishes data requirements for a particular contract. It should also be noted that technical data pertaining to items, components or processes developed at private expense may be called for, required, or otherwise furnished under paragraph (b) (1), (3), (4), (5) and (6) of this section and, as such, it will be acquired with unlimited rights. Contract clauses and

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the schedule establish the form and type of data to be furnished; the categories into which such technical data fall, determine the rights to be obtained by the Government to use or publish such data.)

(d) *Predetermination of rights in technical data.* (1) (i) When the Government needs technical data with unlimited rights, any data which the offeror intends to deliver with limited rights pursuant to paragraph (c) of this section should be identified prior to contract award, if feasible, and an agreement with respect thereto shall be incorporated in the contract. This procedure is called predetermination of rights in technical data.

(ii) The procedure may be initiated by the contracting officer or an offeror during the negotiation of a negotiated contract. In order to be productive, the procedure should apply only to that technical data for which rights may practicably be identified. Although the agreement may also cover technical data to be delivered with unlimited rights, in no case shall the procedure be used to require the contractor to furnish, with unlimited rights, data which he is entitled to furnish with limited rights under the policy in paragraph (c) of this section. The contracting officer shall consult his counsel as fully as possible in determining whether to use the procedure and in connection with the various steps of the procedure.

(2) Any agreements reached shall be incorporated in the schedule of the contract directly or by reference and shall describe specifically the technical data which may be furnished with limited rights pursuant to paragraph (c) of this section. The contracting officer may, however, review the data asserted to be limited rights data to determine whether to invoke the procedures of paragraph (g) of this section to negotiate to purchase unlimited rights in any of the data, or adopt some alternative such as to:

(i) Delete or modify the requirement for the data in which the Government would need unlimited rights if it were ordered, or

(ii) Modify the specifications so as not to require or permit the use of the item, component or process covered by the limited rights data, or

(iii) Include a contractual option to acquire unlimited rights.

(3) When the predetermination of rights in data procedure is to be used, include the following provision in the request for proposals.

PREDETERMINATION OF RIGHTS IN TECHNICAL DATA

(a) The offeror is requested to identify in his proposal which of the below listed data (including data to be furnished in whole or in part by a subcontractor) when delivered, he intends to identify as limited rights data in accordance with paragraph (b) of the "Rights in Technical Data" clause of this Solicitation. This identification need not be made as to data which relate to standard commercial items which are manufactured by more than one source of supply.

(*The Solicitation should list here that technical data or portions thereof with respect to which the Government proposes use of the predetermination procedure. Data which clearly comes within paragraph (b)(1) of the "Rights in Technical Data" clause and would therefore be acquired with unlimited rights should not be listed.*)

(b) Limited rights data may be identified as such, pursuant to (a) above only if it pertains to items, components or processes developed at private expense. Nevertheless, it cannot be so identified if it comes within paragraph (b)(1) of the "Rights in Technical Data" clause. At the reqeust of the Contracting Officer or his representative, the offeror agrees to furnish clear and convincing evidence that the data which will be so identified comes within the definition of limited rights data.

(c) The listing of a data item in paragraph (a) above does not mean that the Government considers such item to come within the definition of limited rights data.

(4) If completion of predetermination proves impracticable before award, or if contractual requirements relating to design or data items are changed during the course of a contract, an appropriate provision shall be included in the contract, requiring the contractor to complete the identification of limited rights with respect to that data listed in the solicitation for which predetermination was proposed, or to identify limited rights data relating to the changed requirements.

(e) *Subcontracts.* It is the policy of the Department of Defense that prime contractors and higher-tier subcontractors shall not use their power to award subcontracts as economic leverage to acquire rights in the technical data of their subcontractors for themselves. Accordingly, a subcontractor who would have the right pursuant to paragraph (c) of this section to furnish technical data with limited rights, may furnish such limited rights data directly to the Government rather than through the prime contractor.

(f) *Specific acquisition of unlimited rights in technical data.* (1) Notwithstanding paragraph (c) of this section or any other provision of this subpart, the Government may acquire unlimited rights in any limited rights technical data by means of negotiation with an individual contractor or subcontractor, or as a part of a competition among several contractors or subcontractors. Such individual negotiation or competition may be conducted either by the Government, or upon Government request by the prime contractor or higher-tier subcontractor. Such unlimited rights in technical data shall be stated in the contract schedule as a separate item and shall be separately priced. Unlimited rights in technical data shall not be acquired under this paragraph unless it is determined after a finding upon a documented record by the head of the procuring activity or his designee that:

(i) There is a clear need for reprocurement of the item, component or process to which the technical data pertains;

(ii) There is no suitable item, component or process of alternate design or availability;

(iii) The item or component can be manufactured or the process performed through the use of such technical data by other competent manufacturers, without the need for additional technical data which cannot be purchased reasonably or is not readily obtained by other economic means; and

(iv) Anticipated net savings in reprocurements will exceed the acquisition cost of the technical data and rights therein.

(2) The analysis and findings referred to in subparagraph (1) of this paragraph shall specifically identify each item, component or process and the particular technical data therefor which is to be purchased.

(3) When all technical data is to be acquired under any contract with unlimited rights in accordance with the findings of subparagraph (1) of this paragraph, the clause of § 9.203(d) shall be used.

(4) (i) In addition to the acquisition of unlimited rights in data as authorized in subparagraph (1) of this paragraph, there will be situations when it is in the best interests of the Government to acquire from subcontractors repair parts or components by direct sale to the Government.

(ii) The clause set forth in § 7.104–9 (k) of this chapter may be used in contracts for major systems or major subsystems involving estimated program expenditures in excess of $50 million of RDT&E funds or in excess of $200 million of production funds. When this clause is used, any compensation the contractor requires for the right the subcontractor will have to use his limited rights data shall be included in the price of the prime contract. Also, the Government shall have the right to purchase such items direct from manufacturing subcontractors without the payment, either directly of any fee or royalty to the prime contractor, or as part of the purchase price, for use of the prime contractor's data.

(iii) For the purpose of applying the foregoing policy, the following definitions shall be utilized: A major system is a composite of equipment, skills, and techniques capable of performing and/or supporting an operational role which required or will require research, development, test and evaluation investment or design, development, test and evaluation investment estimated in excess of $50 million or total production investment estimated in excess of $200 million. A major subsystem is a major functional part of a major system (as defined above) which is essential to operational completeness. Examples are: airframe, propulsion, armament, guidance and communication. A major system or major subsystem contractor includes an associate contractor defined as a prime contractor to the Government for developing and/or producing subsystems, equipment, or components meeting specifications prepared by a contractor performing one or more of the functions of systems engineering for a major system (as defined above).

(g) *Notice of certain limited rights.* (1) Whether or not the procedure of paragraph (d) of this section for predetermination of rights in technical data is used, if continuing information is desired under a contract about a contractor's intention to use in the performance of the contract any item, component, or process for which technical data would be subject to limited rights in accordance with the policy of paragraph (c) of this section, the contractor may be required to advise the contracting officer of this fact promptly (see § 9.203(c)). If possible, the schedule should indicate the specific areas pertaining to which limited rights data is of concern and the notice requirement should be restricted to those areas of concern.

(2) No such advice shall be required as to items, components, or processes for which notice was previously given pursuant to the predetermination procedure in the same contract, or with respect to standard commercial items which are manufactured by more than one source of supply. No contracting officer approval under this clause is necessary for the contractor to use any item, component, or process, identified pursuant to this requirement, in the performance of the contract.

(3) If the contracting officer agrees that under the policy stated in paragraph (c) of this section such technical data would be subject to limited rights, he may then determine whether to invoke the procedure of paragraph (f) of this section, to negotiate for the purchase of unlimited rights in such data or to adopt other suitable alternatives. The contract shall be amended to reflect any changes required by these procedures.

§ 9.202–3 Procedures.

(a) *Deviations.* Extension of the 6-month period of § 9.202–3(d)(2) shall be processed under the authority of § 1.109–2 of this chapter. Other deviations to this subpart, shall be processed in accordance with the provisions of § 1.109–3 of this chapter.

(b) *Establishing the Government's rights to use technical data.* All technical data specified in a contract or subcontract for delivery thereunder shall be acquired subject to the rights established in the appropriate Rights in Technical Data clauses set forth in this subpart. Except as provided in § 1.1707 of this chapter and Part 18, Subpart I of this chapter, no other clauses, directives, standards, specifications or other implementation shall be included, directly or by reference, to enlarge or diminish such rights. The Government's acceptance of technical data subject to limited rights does not impair any rights in such data to which the Government is otherwise entitled or impair the Government's right to use similar or identical data acquired from other sources.

(c) *Marking of technical data.* Technical data delivered to the Government pursuant to any contract requirement shall be marked with the number of the prime contract, and the name of the contractor and any subcontractor who generated the data. Each piece of data submitted with limited rights shall also be marked with:

(1) The authorized restrictive legend,

(2) An indication (for example, by circling, underscoring, or a note) of that portion of the piece of data to which the legend is applicable, and

(3) An explanation of the indication used to identify limited rights data.

The Government shall include such identifying markings on all reproductions thereof, unless the Government cancels such markings pursuant to subparagraphs (d) (3) and (4) of this section.

(d) *Unmarked or improperly marked technical data.* (1) The Government shall have the right to require the contractor to furnish clear and convincing evidence of the propriety of any restrictive markings used by the contractor on data furnished to the Government under contract.

(2) Technical data received without a restrictive legend shall be deemed to have been furnished with unlimited rights. However, within 6 months after delivery of such data the contractor may request permission to place restrictive markings on such data at his own expense and the Government may so permit if the contractor:

(i) Demonstrates that the omission of the restrictive marking was inadvertent,

(ii) Establishes pursuant to subparagraph (1) of this paragraph that the use of the markings is authorized, and

(iii) Relieves the Government of any liability with respect to such data (see § 9.202–3(a)).

(3) If technical data which the contractor is not authorized by the contract to furnish with limited rights is received with restrictive markings, the data shall be used with limited rights pending written inquiry to the contractor. If no response to an inquiry has been received within 60 days, or if the response fails to substantiate by clear and convincing evidence that the markings were authorized, the cognizant Government personnel shall cancel or ignore such markings, notify the contractor accordingly in writing, and thereafter may use such data with unlimited rights.

(4) If technical data which the contractor is authorized by the contract to furnish with limited rights is received with restrictive markings not in the form prescribed by the contract, the data shall be used with limited rights, and the contractor shall be required by written notice to correct the markings to conform with those specified in the contract. If the contractor fails to so correct the markings within 60 days after notice, Government personnel may correct or cancel the markings, so notify the contractor in writing, and thereafter use the data accordingly.

(e) *Technical data furnished on a restricted basis in support of a proposal.* When the contracting officer contemplates awarding a contract on a solicited or unsolicited proposal which was offered on a restricted basis (see § 3.507 and § 4.106–1 of this chapter), he shall ascertain whether to acquire rights to use all or part of the technical data furnished with the proposal. If such rights are desired, the contracting officer shall negotiate with the offeror in accordance with the policies set forth in this section. If the offerer agrees to furnish the technical data under the contract, the appropriate clause in § 9.203 shall be inserted in the contract, and the contract shall identify the data to be covered by the clause as provided by Subpart E, of this part.

(f) *Delivery of technical data to foreign governments.* As provided in § 9.201 (b), limited rights include the right of the Government to deliver the technical data to foreign governments as the national interest of the United States may require, subject to the same limitations which the Goverment accepts for itself. When the Government proposes to make technical data subject to limited rights available for use by a foreign government, it will, to the maximum extent practicable, give reasonable notice thereof to the contractor or subcontractor who generated the technical data and whose name appears thereon.

§ 9.203 Contract clauses.

(a) *General.* In every contract in which technical data is specified to be delivered, insert the clause in paragraph (b) of this section: *Provided,* That such clause shall not be used in contracts:

(1) When all technical data to be delivered is to be acquired with unlimited rights pursuant to § 9.202–2(f) (1), (2), and (3) in which case the clause in paragraph (d) of this section shall be used;

(2) When existing works are acquired in accordance with § 9.205;

(3) When the clause in § 9.204 is used in accordance with the provisions of §9.204–2; or

(4) To be performed outside the United States, its territories, possessions, or Puerto Rico, in which case the clause in § 9.206 applies.

In any contract in which the contracting officer desires notification of limited rights in technical data in accordance with § 9.202–2(g) the paragraph in paragraph (c) of this section may be added to the clause in paragraph (b) of this section.

(b) *Rights in Technical Data Clause.*

RIGHTS IN TECHNICAL DATA (APRIL 1972)

(a) *Definitions.*

(1) "Technical Data," as used in this clause, means, recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

(2) "Limited Rights" means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with

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the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or (c) used by a party other than the Government, except for:

(i) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work: *Provided*, That the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or

(ii) Release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(3) "Unlimited Rights" means rights to use, duplicate or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Government Rights.*

(1) The Government shall have unlimited rights in:

(i) Technical data resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) Technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components or processes developed at private expense (but see (2) (ii) below);

(iii) Technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections for changes to Government-furnished data;

(iv) Technical data pertaining to end-items, components, or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(v) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(vi) Technical data which is in the public domain, or has been or is normally furnished without restriction by the Contractor or subcontractor; and

(vii) Technical data listed or described in an agreement incorporated into the Schedule of this contract, which the parties have predetermined, on the basis of subparagraphs (i) thru (vi) above, and agreed will be furnished with unlimited rights.

(2) The Government shall have limited rights in:

(i) Technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) Technical data pertaining to items, components or processes developed at private expense, other than such data as may be included in the data referred to in (b) (1) (i), (iii), (iv), (v) and (vi);

Provided, That only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2) (i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. The number of the prime contract under which the technical data is to be delivered,

B. The name of the contractor and any subcontractor by whom the technical data was generated, and

C. An explanation of the indication used to identify limited rights data.

LIMITED RIGHTS LEGEND

Contract No.----------
Contractor ----------
Explanation of Limited Rights Data Indication Used----------

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or (c) used by a party other than the Government, except for: (i) Emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend, together with the indications of the portions of this data which are subject to such limitations, shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) No legend shall be marked on, nor shall any limitation on rights of use be asserted as to, any data which the Contractor has previously delivered to the Government without restriction. The limited rights provided for by this paragraph (b) (2) shall not impair the right of the Government to use similar or identical data acquired from other sources.

(c) *Material Covered by Copyright.*

(1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, prepared or required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c) (1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) *Removal of Unauthorized Markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct or cancel any marking not authorized by the terms of this contract on any technical data furnished hereunder, if—

(1) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) The Contractor's response fails to substantiate within sixty (60) days after written notice the propriety of the markings by clear and convincing evidence.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the U.S. Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(g) *Acquisition of Data from Subcontractors.*

(1) Whenever any technical data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier Contractor. However, when there is a requirement in the prime contract, for data which may be supplied with limited rights pursuant to (b) (2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data from their subcontractors for themselves.

(c) *Notice of certain limited rights.* The paragraph (h) set forth below may be added to the clause in paragraph (b) of this section in any contract in which the contracting officer desires notification of limited rights data (see § 9.202–2 (g)).

(h) (1) Unless the Schedule provides otherwise, and subject to (2) below, the Contractor will promptly notify the Contracting Officer in writing of the intended use by the Contractor or a subcontractor in performance of this contract of any item, component or process for which technical data would fall within paragraph (b) (2) above.

(2) Such notification is not required with respect to:

(i) Standard commercial items which are manufactured by more than one source of supply; or

(ii) Items, components or processes for which such notice was given pursuant to predetermination of rights in technical data in connection with this contract.

(3) Contracting Officer approval is not necessary under this clause for the Contractor to use the item, component or process in the performance of the contract. (April 1972)

(d) *Technical Data Clause—Specific acquisition.* The following clause shall be used in any contract in which all technical data is to be acquired with unlimited rights pursuant to § 9.202–2(f). In addition, if the Government has determined to acquire all technical data with unlimited rights from a subcontractor pursuant to § 9.202–2(f), the following clause shall be used. The clause shall not be used under any other circumstances.

RIGHTS IN TECHNICAL DATA—SPECIFIC ACQUISITION (APRIL 1972)

(a) *Definition.* "Technical Data" as used in this clause means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be useable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) *Government Rights.* The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) *Material Covered by Copyright.* (1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c) (1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the U.S. Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the U.S. Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contract, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(e) *Identification of experimental, developmental or research work.* To prevent any misinterpretation of the scope of the rights in technical data provisions of the contract, the following schedule provision may be included in contracts which, in whole or in part, call for experimental, developmental or research work as an element of performance.

CONTRACT SCHEDULE ITEMS REQUIRING EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK (APRIL 1972)

For purposes of defining the nature of the work and the scope of rights in technical data granted to the Government pursuant to the "Rights in Technical Data" clause of this contract, it is understood and agreed that items (list applicable schedule line items or subline items or data exhibit numbers) require the performance of experimental developmental, or research work. This clause does not constitute a determination as to whether or not any data required to be delivered under this contract falls within the definition of limited rights data.

§ 9.207 [Revoked]

§ 9.207–1 [Revoked]

§ 9.207–2 [Revoked]

Subpart E—Acquisition of Technical Data

Sec.
9.500 Scope of subpart.
9.501 Definitions.
9.502 Acquisition of technical data.
9.503 Identification of technical data.
9.504 Technical data—withholding of payment.
9.505 Data requirements.

AUTHORITY: The provisions of this Subpart E issued under secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314.

§ 9.500 Scope of subpart.

This subpart applies to the acquisition of technical data. The acquisition of rights in technical data is treated in Subpart B, of this part.

§ 9.501 Definitions.

(a) *Data.* See §9.201(a).

(b) *Technical data.* See §9.201(b).

§ 9.502 Acquisition of technical data.

(a) Technical data is expensive to prepare in the required form and to maintain and update. Every effort, therefore, should be made to avoid placing a requirement upon a contractor to prepare and deliver data unless the need is positively determined. By delaying the delivery of data until needed for a specific purpose, storage requirements within DOD of technical data items are reduced, the handling of data superseded by updated versions is greatly decreased and the purchase of data which may become obsolete by pending hardware changes is minimized. Economy in the purchase of data and the probability of greater currency may be achieved by deferring the delivery, and in some cases deferring the ordering, of data until an operational need is determined, or until stability of design or production is reached during contract performance. The application of the deferred delivery and deferred ordering principles, as explained further, should be made only after a careful evaluation on a case-by-case basis of the anticipated operational uses of technical data and any other relevant considerations. When it is expected that technical data may be required, but the precise need at time of contracting has not been determined, deferred ordering will be used to avoid the cost of preparation but allow the ordering of the data at some point downstream in contract performance should the need arise. When the need but not the time of delivery can be determined, deferred delivery will be used. When deferred delivery is used, it is expected that the contractor will price the data at the time of contracting and incur the cost of preparation prior to the call for delivery. Therefore, it is important that deferred ordering rather than deferred delivery be used where the need for data is doubtful. Whether the technique of deferred delivery or deferred ordering is used, the receipt of data by the Government should be scheduled to be in phase with a specific and planned use of the technical data.

(b) "Deferred Delivery" refers to the practice of timing the delivery of technical data specified in a contract to a firm, operational need. This technique should be used only when a data requirement can be determined at the time of contracting and therefore is specified on the DD Form 1423, but the time or place of delivery is not firm. The dates for the delivery of data should be scheduled to coincide with the needs of the Government. The contractor, however, must be notified sufficiently in advance of a delivery date to enable him to provide the data in specified form on time. Thus, in

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any contract the Government may defer the delivery of all or any portion of the technical data specified in the contract until actual need can be economically determined. The Government may require the contractor to deliver any such data or portions thereof at any time during the performance of the contract or within two years from either acceptance of all items (other than data) under the contract or termination of the contract, whichever is later. However, the contractor's obligation to deliver technical data pertaining to any item obtained from a subcontractor shall cease two years after the date on which he accepts the item. The Government's rights in deferred delivery data are as prescribed in the contract under which the data is to be delivered. When the delivery of technical data is to be deferred, the Deferred Delivery of Technical Data clause of § 7.104–9(d) of this chapter shall be included in the contract.

(c) "Deferred Ordering" refers to delaying the ordering of technical data generated in the performance of the contract until such time as a need for the data can be established and the data requirements can be specifically identified for delivery under the contract. In many instances it is difficult to determine during solicitation and negotiation stages exactly what data is needed. The information available at these stages may suggest the need for some data but further information may be needed to identify the specific data items. In such situations, and also when it is desired to delay the ordering of technical data until such time as the production design becomes firm, the "Deferred Ordering" clause is appropriate. The requirement for technical data under these circumstances is not listed on the DD Form 1423 until the specific need is determined. Whenever the "Deferred Ordering" clause is used, the clause entitled "Rights in Technical Data" (see § 9.203(b)) shall also be included. When data items are ordered, the delivery dates shall be negotiated and the contractor shall be compensated for converting the data into the prescribed form, for reproduction and delivery to the Government. Compensation to the contractor shall not include the cost of generating such data since the data was generated in the performance of work for which the Government has already agreed to pay the contractor.

§ 9.503 Identification of technical data.

(a) The contractor is required to include on technical data delivered under a contract his name, the contract number and the name of any subcontractor who generated any part of such data. If technical data were marked, for example, in the manner permitted by paragraph (b)(2) of the Rights in Technical Data Clause of § 9.203(b), or if engineering drawings are marked in accordance with MIL–STD–100, such marked data would comply with the requirements of the clause identified in paragraph (b) of this section and need not be further identified pursuant to this clause. The marking requirement provides the basis for identifying the rights of the contractor and the Government in technical data.

(b) To insure that technical data is fully identified as to its source, the Identification of Technical Data Clause of § 7.104–9(l) of this chapter shall be made a part of any contract under which technical data is to be delivered.

§ 9.504 Technical data—withholding of payment.

(a) Timely delivery of data is particularly important to the operation and maintenance of equipment as well as competitive procurement of follow-on quantities of contract items and of items broken out from an assembly or equipment. The clause set forth in § 7.104–9(h) of this chapter is designed to assure timely delivery of data. The clause permits a withholding not exceeding ten percent (10%) of the total contract price or amount, but the contracting officer may specify a lesser amount in the schedule if circumstances warrant. A case-by-case determination as to the amount to be withheld shall be made by the contracting officer after considering the estimated value of the data to the Government. No amount shall be withheld when the failure to make timely delivery arises out of causes beyond the control and without the fault or negligence of the contractor.

(b) Withholding action under paragraph (b) of the clause should be taken only when the contractor has failed to make timely deliveries of acceptable data on other contracts or if the contracting officer has information which would cause him to anticipate late delivery of data or delivery of deficient data. The amount of withholding should be based on the estimated value of the data to the Government.

§ 9.505 Data requirements.

The DD Form 1423 need not be used to list data requirements in the circumstances set forth in § 7.104–9(n) of this chapter. (See § 16.815 of this chapter.)

PART 12—CONTRACTOR INDUSTRIAL LABOR RELATIONS

11. Part 12 is retitled; §§ 12.000, 12.101–1(b), 12.101–3 and 12.604(b)(2)(i) are revised; and a new Subpart K is added to this part, as follows:

§ 12.000 Scope of subpart.

This subpart (a) deals with general policies regarding contractor industrial labor relations, so far as they relate to Government contracts, (b) sets forth certain pertinent labor laws and requirements, indicating in connection with each its applicability and any procedures thereunder; and (c) prescribes the contract clauses with respect to each labor law or requirement. Labor standards and clauses which are applicable only to construction contracts are treated separately in Part 18, Subpart G of this chapter.

§ 12.101–1 General.

* * * * *

(b) All problems arising out of the industrial labor relations of contractors and all communications with contractors, labor organizations or Federal agencies relative thereto shall be handled in accordance with the procedures prescribed in this part. Industrial security matters concerning contractor employees are governed by the DOD Industrial Security Regulation 5220.22R and the DOD Industrial Security Manual 5220.22M (see § 1.320 of this chapter).

* * * * *

§ 12.101–3 Reporting of labor disputes.

(a) Any labor dispute affecting defense procurement will be reported by the Contract Administration Office (CAO). The CAO shall obtain and transmit information relating to potential or actual labor disputes which may interfere with performance of any contract within his cognizance.

(b) When an interference is likely to occur, the CAO shall notify the purchasing offices, their heads of procuring activities and their departmental headquarters labor relations office (for the Army, the Labor Advisor, OASA (I&L); for the Navy, Chief of Naval Material, Attention: Labor Relations Advisor (MAT 02L); for the Air Force, Headquarters USAF, AFSPPMA; for the Defense Supply Agency, HQ DSA CAS Labor Advisor, Attention: DCAS–HR and in addition for DSA procurements one copy to DSAH–PRS). Further dissemination of labor dispute information shall be made by the CAO as requested by the Departmental headquarters labor relations offices.

(c) Labor disputes should be reported on DD Form 1507, Work Stoppage Report. An initial report should be submitted when a work stoppage due to a labor dispute is imminent or when such work stoppage occurs and thereafter when a significant change occurs in the dispute situation. This reporting requirement is assigned RCS DD I&L (AR) 1153.

(d) Weekly reports shall be made by each Department to the Director, Management Evaluation and Material Controls, OASD (I&L), summarizing data on potential or actual work stoppages at facilities under each department's cognizance. This report will cover current conditions and will include the following:

(1) Name of contractor;
(2) Location of dispute;
(3) Expiration of reopening date of labor-management contract;
(4) Union(s) involved;
(5) Major DOD items or services rendered;
(6) Departments and agencies making procurements at the facility; and
(7) Current status of negotiations and ingress and egress at facility.

The weekly report of each department shall indicate disputes at any facility, regardless of cognizance, which threaten important military programs, including an indication of the degree of impact and any actions taken to reduce impact. Negative reports are not required.

§ 12.604 Eligibility of a bidder or offeror.

* * * * * *

(b) * * *

(2) * * *

(i) Furnish to the contractor Department of Labor WH Publication 1313, "Notice to Employees Working on Government Contracts," (form available through normal publication supply channels); and

* * * * * *

Subpart K—Listing of Employment Openings for Veterans

Sec.
12.1101 General.
12.1102 Employment openings for veterans.
12.1102–1 Policy.
12.1102–2 Clause.
12.1102–3 Deviations.
12.1102–4 Exception to listing requirements.
12.1102–5 Failure to comply.

AUTHORITY: The provisions of this Subpart K issued under secs. 2202, 2301–2314, 70A Stat. 120, 127–133; 10 U.S.C. 2202, 2301–2314.

§ 12.1101 General.

The Department of Defense shall cooperate with and encourage contractors to utilize to the fullest extent practicable the U.S. Employment Service (USES) and its affiliated local State employment service offices in meeting contractors' manpower (labor supply) requirements to staff new or expanding plant facilities, including the recruitment of workers in all occupations and skills both from local labor market areas and through the Federal-State manpower clearance system. Local State employment offices are operated throughout the United States, Puerto Rico, Guam, and the Virgin Islands. In addition to providing recruitment assistance to contractors who need and desire it, cooperation with the local State employment service offices will further the national program of maintaining continuous assessment of manpower requirements and resources on a national and local basis.

§ 12.1102 Employment openings for veterans.

§ 12.1102–1 Policy.

This section sets forth policies and procedures regarding the listing of employment openings to assist veterans in obtaining employment, implementing Executive Order 11598 of June 16, 1971 (36 F.R. 11711) and the rules and regulations of the Secretary of Labor (41 CFR Part 50–250). Executive Order 11598 requires that nonexcluded Government contracts contain assurances that contractors and their first-tier subcontractors shall, to the maximum extent feasible, list all suitable employment openings with the appropriate office of the State employment service system.

§ 12.1102–2 Clause.

Within dollar and manhour limitations established therein, or unless a deviation is obtained pursuant to § 12.1102–3, the clause set forth in § 7.103–27 of this chapter shall be included (a) in all invitations for bids and requests for proposals, and (b) in all contracts, including contracts resulting from unsolicited proposals, except with State and local governments.

§ 12.1102–3 Deviations.

Under the most compelling circumstances, such as situations when the needs of the Government cannot reasonably be otherwise supplied or when it in the best interests of the Government, a deviation from this requirement may be made, subject to approval by the Secretary of Labor under procedures in 41 CFR 50–250.5(c). However, any application for relaxation of this requirement shall be made consistent with the provisions of § 12.103–2.

§ 12.1102–4 Exception to listing requirements.

Executive Order 11598 requires Government contractors and first-tier subcontractors to list all of their suitable employment openings to the maximum extent feasible. Feasibility, in this regard, shall be taken to mean that it is reasonably possible for the listings to be made. An example of an infeasible listing is when the listing of the employment opening would be contrary to national security. Contractors with inquiries regarding situations where the listing of openings may be considered to be infeasible shall be advised that the resolution of such questions falls within the jurisdiction of the Department of Labor and should be submitted to the Manpower Administrator, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, DC 20210.

§ 12.1102–5 Failure to comply.

Upon receipt of notice of failure of a contractor to comply with the provisions of the job vacancy listing clause in § 7.103–27 in this chapter, the contracting officer shall take such action as may be appropriate under the default provision of the contracts concerned.

PART 13—GOVERNMENT PROPERTY

12. Sections 13.312 and 13.803 are revised, as follows:

§ 13.312 Items to be reported to and screened by Defense Industrial Plant Equipment Center (DIPEC).

The items to be reported to and screened by the Defense Industrial Plant Equipment Center in accordance with §§ 13.301(g), 13.306–4, 24.205–3(a), 30.2 (Part 3—Item 306.1), and 30.3 (Part 3—Item 306.1) of this chapter are listed in the following Joint DOD Handbooks.

INDEX OF INDUSTRIAL PLANT EQUIPMENT HANDBOOKS

(NOTE—Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402)

FSC	Title	Army	Navy	Air Force	DSA	Marine Corps
6625	Electrical and Electronic Properties Measuring and Testing Instruments.	SB 708–6625–1	NAVSUP Pub 5543	AFM 78–6	DSAH 4215.1	MCO P4870.52A
3220	Woodworking Machines	SB 708–3220–1	NAVSUP Pub 5500	AFM 78–7	DSAH 4215.2	MCO 4870.6A
3424, 4430	Industrial Furnaces and Ovens Volume 1 and 2.	SB 708–4430–1	NAVSUP Pub 5502	AFM 78–8	DSAH 4215.4	MCO P4870.8A
6635	Physical Properties Testing Equipment.	SB 708–6635–1	NAVSUP Pub 5504	AFM 78–10	DSAH 4215.6	MCO P4870.10A
3530, 3625	Textile Industries Machinery and Industrial Sewing Machines.	SB 708–3500–1	NAVSUP Pub 5506	AFM 78–12	DSAH 4215.8	MCO P4870.12A
6630	Environmental Chambers	SB 708–6636–1	NAVSUP Pub 5508	AFM 78–14	DSAH 4215.10	MCO P4870.14B
3422, 3426	Rolling Mills, Drawing Machines and Metal Finishing Equipment.	SB 708–3400–2	NAVSUP Pub 5510	AFM 78–15	DSAH 4215.12	MCO P4870.16A
3450, 3460, 5220.	Portable Machine Tools and Toolroom Layout Plates and Tables.	SB 708–3400–3	NAVSUP Pub 5511	AFM 78–16	DSAH 4215.13	MCO P4870.17A
6680, 6685	Liquid and Gas, Pressure, Temperature, Humidity, and Mechanical Motion Measuring and Controlling Instruments.	SB 708–6600–1	NAVSUP Pub 5513	AFM 78–18	DSAH 4215.15	MCO P4870.19A
3635	Crystal and Glass Industries Machinery.	SB 708–3635–1	NAVSUP Pub 5514	AFM 78–19	DSAH 4215.16	MCO P4870.20
4140	Driers, Dehydrators, and Anhydrators.	SB 708–4140–1	NAVSUP Pub 5515	AFM 78–20	DSAH 4215.17	MCO P4870.21A
6650, 6670	Scales, Balances and Optical Instruments.	SB 708–6600–2	NAVSUP Pub 5516	AFM 78–25	DSAH 4215.18	MCO P4870.22A
3680	Foundry Equipment	SB 708–3680–1	NAVSUP Pub 5517	AFM 78–23	DSAH 4215.19	MCO P4870.23
6695	Combination and Miscellaneous Instruments Including Dynamometers.	SB 708–6695–1	NAVSUP Pub 5519	AFM 78–30	DSAH 4215.21	MCO P4870.25B
4920	Aircraft Maintenance and Repair Shop Specialized Equipment.	SB 708–4920–1	NAVSUP Pub 5521	AFM 78–33	DSAH 4215.23	MCO P4870.27A
4330	Centrifugals, Separators and Filters.	SB 708–4330–1	NAVSUP Pub 5522	AFM 78–27	DSAH 4215.24	MCO P4870.28
6630, 6640	Chemical Analysis and Laboratory Instruments.	SB 708–6600–3	NAVSUP Pub 5529	AFM 78–38	DSAH 4215.30	MCO P4870.35A
3615, 3660	Pulp and Paper Industries and Size Reduction Machinery.	SB 708–3600–1	NAVSUP Pub 5532	AFM 78–44	DSAH 4215.33	MCO P4870.38A
3620	Rubber and Plastics Working Machinery.	SB 708–3620–1	NAVSUP Pub 5534	AFM 78–28	DSAH 4215.35	MCO P4870.40A
3611, 3685, 3693, 3694, 3695.	Marking, Metal Container, Assembly, Clean Work Stations, and Miscellaneous Industry Machinery.	SB 708–3600–2	NAVSUP Pub 5535	AFM 78–26	DSAH 4215.36	MCO P4870.41A
3650	Chemical and Pharmaceutical Products Manufacturing Machinery.	SB 708–3650–1	NAVSUP Pub 5536	AFM 78–45	DSAH 4215.37	MCO P4870.42

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INDEX OF INDUSTRIAL PLANT EQUIPMENT HANDBOOKS—Continued

(NOTE—Handbooks are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402)

FSC	Title	Army	Navy	Air Force	DSA	Marine Corps
4940	Miscellaneous Maintenance and Repair Shop Specialized Equipment.	SB 708-4940-1	NAVSUP Pub 5537	AFM 78-48	DSAH 4215.38	MCO P4870.43
3690, 4925	Specialized Ammunition and Ordnance Machinery.	SB 708-4900-1	NAVSUP Pub 5538	AFM 78-49	DSAH 4215.39	MCO P4870.44
3405	Metalworking Saws and Filing Machines.	SB 708-3405-1	NAVSUP Pub 5539	AFM 78-34	DSAH 4215.40	MCO P4870.47
3418	Planers and Shapers (Includes Shapers, formerly Part of FSC 3419).	SB 708-3418-1	NAVSUP Pub 5540	AFM 78-37	DSAH 4215.41	MCO P4870.48
3431, 3432, 3433, 3436, 3438.	Welding, Heat Cutting and Metallizing Equipment.	SB 708-3400-4	NAVSUP Pub 5541	AFM 78-39	DSAH 4215.42	MCO P4870.49
3408, 3410	Machining Centers, Way Type Machines, Electrical and Ultrasonic Erosion Machines.	SB 708-3100-5	NAVSUP Pub 5542	AFM 78-41	DSAH 4215.43	MCO P4870.50
3419	Miscellaneous Machine Tools	SB 708-3400-6	NAVSUP Pub 5544	AFM 78-46	DSAH 4215.44	MCO P4870.51
3413	Drilling and Tapping Machines	SB 708-3413-1	NAVSUP Pub 5548	AFM 78-50	DSAH 4215.45	MCO P4870.53
3411, 3412, 3414.	Boring Machines, Broaching Machines, Gear Cutting and Finishing Machines.	SB 708-3400-7	NAVSUP Pub 5549	AFM 78-51	DSAH 4215.46	MCO P4870.55
4910	Motor Vehicle Maintenance and Repair Shop Specialized Equipment.	SB 708-4910-1	NAVSUP Pub 5550	AFM 78-52	DSAH 4215.47	MCO P4870.54
3441, 3442, 3443, 3444, 3445, 3446, 3447, 3448, 3449.	Secondary Metal Forming and Cutting Machines.	SB 708-3100-S1	NAVSUP Pub 5551	AFM 78-53	DSAH 4215.48	MCO P4870.56
3416	Metal Lathes	SB 708-3416-1	NAVSUP Pub 5552	AFM 78-54	DSAH 4215.49	MCO P4870.57
5860	Stimulated Coherent Radiation Devices (Lasers).	SB 708-5860-1	NAVSUP Pub 5553	AFM 78-55	DSAH 4215.50	MCO P4870.58
3415	Grinding Machines	SB 708-3415-1	NAVSUP Pub 5554	AFM 78-56	DSAH 4215.51	MCO P4870.59
3417	Milling Machines	SB 708-3417-1	NAVSUP Pub 5555	AFM 78-57	DSAH 4215.52	MCO P4870.60

§ 13.803 Records of Government property.

Records of Government property established and maintained by the contractor pursuant to the terms of the contract shall be designated and utilized as the official contract records. Duplicate records shall not be furnished to nor be maintained by the Government personnel other than as provided for in this subchapter. Exceptions to this policy may be authorized by the procuring contracting officer if contract administration is retained by the purchasing office when Government property is furnished to a contractor (a) for repair or servicing and return to the shipping organization, (b) for use on a Government installation, or (c) under a contract with a short performance period or involving the Government property having an acquisition cost of $25,000 or less.

PART 14—PROCUREMENT QUALITY ASSURANCE

13. Section 14.307 is amended; and § 14.503 is revised, as follows:

§ 14.307 Place of acceptance.

Each contract shall specify the place of acceptance. A contract which provides for Government procurement quality assurance actions only at source shall ordinarily provide for acceptance at source. A contract which provides for performance of Government procurement quality assurance actions at destination shall ordinarily provide for acceptance at destination. Bulk petroleum contracts shall specify the point at which the Government takes title to the product.

§ 14.503 Petroleum.

The contract administration office may authorize the release of petroleum supplies without requiring the signing or stamping of shipping papers by a representative of the contract administration office, if the alternative procedures of § 14.409-2 are used. In that event on petroleum servicing contracts for receiving, storing, and issuing Government-owned petroleum products, the contractor shall be required to type or stamp and to sign the following statement on each copy of the shipping papers.

I certify that the above supplies were (a) in the quantity indicated, (b) taken from Government-owned and approved stocks, and (c) loaded into inspected and approved containers. This shipment was released in accordance with paragraph 14-503 of the Armed Services Procurement Regulation under authorization of (Name and title of the authorized representative of the Contract Administration Office) in a letter dated (Date of authorizing letter).

(Signature and Title of Contractor's designated Representative)

PART 15—CONTRACT COST PRINCIPLES AND PROCEDURES

14. Section 15.205–3 and 15.205–35 are revised; § 15.205–44(g) is added; § 15.205–48(b)(2) is revised; and § 15.205–49 is added, as follows.

§ 15.205–3 Bid and proposal costs.

(a) *Definitions*—(1) *Bid and proposal costs.* Bid and proposal (B&P) costs are the costs incurred in preparing, submitting, and supporting bids and proposals (whether or not solicited) on potential Government or non-Government contracts which fall within the following:

(i) Administrative costs including the cost of the nontechnical effort for the physical preparation of the technical proposal documents and also the cost of the technical and nontechnical effort for the preparation and publication of the cost data and other administrative data necessary to support the contractor's bids and proposals, and

(ii) Technical costs incurred to specifically support a contractor's bid or proposal, including the costs of system and concept formultation studies and the development of engineering and production engineering data.

(2) *Company.* Company as used in this section includes all divisions, subsidiaries, and affiliates of the contractor under common control.

(b) *Composition of costs.* B&P costs shall include not only all direct costs but also all allocable indirect costs except that general and administrative (G&A) costs shall not be considered allocable to B&P. Both direct and indirect costs shall be determined on the same basis as if each B&P project were under contract.

(c) *Allocation.* As a general rule, B&P costs shall be allocated to contracts on the same basis as the general and administrative expense grouping of the profit center (see § 3.1003–3 of this chapter) in which such costs are incurred. However, where B&P costs clearly benefit other profit centers, or the entire company, such costs shall be allocated through the G&A of such other profit centers or through the corporate G&A, as appropriate. In those instances when allocation of B&P through the G&A base does not provide equitable cost allocation, the contracting officer may approve use of a different base. Where allowable B&P is established by advance agreement pursuant to paragraph (d)(2)(i) of this section, the advance agreement shall specify the allocation procedures.

(d) *Allowability.* (1) B&P administrative costs, when not separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice, are allowable in accordance with the general principles of this subpart and are not subject to subparagraph (2) (i) and (ii) of this paragraph.

(2) All other B&P costs (including all technical costs and any administrative costs separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice) are allowable only in accordance with the following:

(i) *Companies required to negotiate advance agreements (CWAS–NA).* (a) Any company which received payments, either as a prime contractor or subcontractor, in excess of $2 million from the DOD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of B&P costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DOD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with section 2306(f) of title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

(b) When a company meets the criterion in subdivision (a) above, required advance agreements may be negotiated at the corporate level and/or with those profit centers (see § 3.1003–3 of this chapter) which contract directly with the DOD and which in the preceding year allocated recoverable IR&D and B&P costs in excess of $250,000 including burdening as in subdivision (a) above, to DOD contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with section 2306(f) of title 10, United States Code. When ceilings are negotiated for separate profit centers of the company, the allowability of B&P costs for any center which, in its previous fiscal year, allocated less than $250,000 of IR&D and B&P costs to such DOD contracts and subcontracts may be determined in accordance with subdivision (ii) of this subparagraph.

(c) Companies which meet the threshold in subdivision (a) above shall submit information to support their proposed B&P program in accordance with guidance furnished by the cognizant Tri-Service Departmental Office.

(d) Ceilings are the maximum dollar amounts of total costs for B&P work that will be allowable for allocation to all work of that part of the company's operation covered by an advance agreement. Within the ceiling limitations contractors will not be required to share B&P costs. In negotiating a ceiling, in addition to other considerations, particular attention must be paid to such factors as:

(1) The determination of the potential relationship of B&P projects to a military function or operation (see subdivision (e) below).

(2) Comparison with previous year's programs including the level of the Government's participation.

(3) Changes in the company business activities.

(4) The extent to which the contractor's B&P program is well planned and managed.

(e) The total amount of B&P costs allocated to DOD contracts pursuant to subdivision (i) of this subparagraph shall not exceed the total of expenditures for B&P projects with a potential relationship to a military function or operation. For contracts which do not provide for cost determinations on a historical basis, this requirement will be considered to have been met if the estimated B&P costs allocated to the contract do not exceed its proportionate share of the total estimated costs of B&P with a potential relationship to a military function or operation. B&P costs will be considered to satisfy the potential relationship requirement when the contractor can demonstrate that the effort under a proposed contract or grant would have a potential relationship to a military function or operation. The potential relationship of B&P will be determined by the contacting officer, and he will make the results of his determination available to the contractor.

(f) No B&P costs shall be allowable if a company fails to initiate negotiations of a required advance agreement prior to the end of the fiscal year for which the agreement is required.

(g) When negotiations are held with a company meeting the $2 million criterion or with separate profit centers (when negotiations are held at that level under subdivision (b) above) and an advance agreement is not reached, payment for B&P costs is required to be reduced substantially below that which the company or profit center would otherwise have received. The amount of such reduced payment shall not exceed 75 percent of the amount which, in the opinion of the contracting officer, the company or profit center would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided the contractor. In the event that an advance agreement is not reached prior to the end of the contractor's fiscal year for which such agreement is to apply, negotiations shall immediately be terminated and the contracting officer's determination of the reduced amount shall be furnished.

(h) Contractors may appeal decisions of the contracting officer to reduce payments. Such appeal shall be filed with the contracting officer within 30 days of receipt of a decision. For the purpose of hearing and deciding such appeals, each Department will establish an appeals hearing group consisting of the following:

(1) A representative to be designated by the Assistant Secretary (Installations and Logistics) or the Director, DSA, who shall be chairman;

(2) A representative to be designated by the Assistant Secretary (Research and Development), or ODDR&E in the case of DSA; and

(3) A representative to be designated by the General Counsel, Judge Advocate General of the Department, or Counsel of DSA.

Determinations of the appeals group shall be the final and conclusive determination of the Department of Defense.

(i) Advance agreements negotiated shall include at least the following:

(1) A separate dollar ceiling for B&P. However, provision shall be made permitting the company to recover costs for B&P above the negotiated ceiling, provided that recovery of IR&D costs (see § 15.205–35 of this chapter) covered by the same agreement is decreased below its ceiling by a like amount.

(2) A provision stating how B&P costs are to be allocated (see paragraph (c) of this section).

(3) A statement that the costs for B&P work recoverable under contracts citing DOD funds subject to section 203, Public Law 91–441 limitations shall not exceed (i) such contracts' allocable share of the ceiling, and (ii) the total costs of the contractor's B&P determined to have a potential relationship to a military function or operation.

(4) A statement that estimated costs or actual costs incurred, as appropriate, not in excess of the ceilings negotiated shall be used in the pricing of all contractual actions when negotiations are based on elements of cost and in final price determinations.

(j) Prior to the execution of an advance agreement, the B&P factor to be used for forward pricing and interim billing will be developed by and obtained from the cognizant central office of the Department responsible for negotiating B&P advance agreements. The B&P factor shall exclude estimated or actual costs for projects considered unrelated to a military function or operation.

(ii) *Companies not required to negotiate advance agreements (CWAS).* Allowable B&P costs for companies not required to negotiate advance agreements in accordance with subdivision (i) of this subparagraph shall be established by a formula, either on a companywide basis or by profit centers, computed as follows:

(a) Determine the ratio of B&P costs to total sales (or other base acceptable to the contracting officer) for each of the preceding 3 years and average the two highest of these ratios; this average is the B&P historical ratio;

(b) Compute the average annual B&P costs (hereafter called average), using the two highest of the preceding 3 years;

(c) B&P costs for the center for the current year which are not in excess of the product of the center's actual total sales (or other accepted base) for the current year and the B&P historical ratio computed under (a) of this subdivision (hereafter called product) shall be considered allowable only to the extent the product does not exceed 120 percent of the average. If the product is less than 80 percent of the average, costs up to 80 percent of the average shall be allowable.

(d) Costs which are in excess of the ceiling computed in (c) of this subdivision are not allowable except where the ceiling computed for IR&D cost under § 15.205–35 is reduced in an amount identical to the amount of any increase over the B&P ceiling computed in (c) of this subdivision.

However, at the discretion of the contracting officer, an advance agreement may be negotiated when the contractor can demonstrate that the formula would produce a clearly inequitable cost recovery. The requirements of subparagraph (2)(i) of this subparagraph are not mandatory for such agreements.

§ 15.205–35 Independent research and development costs.

(a) *Definitions.* A contractor's independent research and development effort (IR&D) is that technical effort which is not sponsored by, or required in per-

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formance of, a contract or grant and which consists of projects falling within the following three areas: (1) Basic and applied research, (2) development, and (3) systems and other concept formulation studies. IR&D effort shall not include technical effort expended in the development and preparation of technical data specifically to support the submission of a bid or proposal. For the purposes of this section:

(i) "Basic research" is that research which is directed toward increase of knowledge in science. The primary aim of basic research is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof.

(ii) "Applied research" is that effort which (*a*) normally follows basic research, but may not be severable from the related basic research, (*b*) attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques, and (*c*) attempts to advance the state of the art. Applied research does not include efforts whose principal aim is design, development, or test of specific items or services to be considered for sale; these efforts are within the definition of the term "development," defined below.

(iii) "Development" is the systematic use, under whatever name, of scientific and technical knowledge in the design, development, test, or evaluation of a potential new product or service (or of an improvement in an existing product or service) for the purpose of meeting specific performance requirements or objectives. Development shall include the functions of design engineering, prototyping, and engineering testing.

(iv) "Systems and other concept formulation studies" are analyses and study efforts either related to specific IR&D efforts or directed toward the identification of desirable new systems, equipments or components, or desirable modifications and improvements to existing systems, equipments, or components.

(v) "Company" includes all divisions, subsidiaries, and affiliates of the contractor under common control.

(b) *Composition of costs.* IR&D costs shall include not only all direct costs, but also all allocable indirect costs except that general and administrative costs shall not be considered allocable to IR&D. Both direct and indirect costs shall be determined on the same basis as if the IR&D project were under contract.

(c) *Allocation.* As a general rule, IR&D costs shall be allocated to contracts on the same basis as the general and administrative expense grouping of the profit center (see § 3.1003–3 of this chapter) in which such costs are incurred. However, where IR&D costs clearly benefit other profit centers, or the entire company, such costs shall be allocated through the G&A of such other profit centers or through the corporate G&A, as appropriate. In those instances when allocation of IR&D through the G&A base does not provide equitable cost allocation, the contracting officer may approve use of a different base. Where allowable IR&D is established by advance agreement pursuant to paragraph (d)(1) of this section, the advance agreement shall specify the allocation procedures.

(d) *Allowability.* Except as provided in paragraph (e) of this section, costs for IR&D are allowable only in accordance with the following:

(1) *Companies required to negotiate advance agreements (CWAS–NA).* (i) Any company which received payments, either as a prime contractor or subcontractor, in excess of $2 million from the DOD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of IR&D costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DOD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with section 2306(f) of title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

(ii) When a company meets the criterion in subdivision (i) above, required advance agreements may be negotiated at the corporate level and/or with those profit centers (see § 3.1003–3 of this chapter) which contract directly with the DOD and which in the preceding year allocated recoverable IR&D and B&P costs in excess of $250,000 including burdening as in subdivision (i) above, to DOD contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with section 2306(f) of title 10, United States Code. When ceilings are negotiated for separate profit centers of the company, the allowability of IR&D costs for any center which, in its previous fiscal year, allocated less than $250,000 of IR&D and B&P costs to such DOD contracts and subcontracts may be determined in accordance with subparagraph (2) of this paragraph.

(iii) Companies which meet the threshold in subdivision (i) above shall submit technical and financial information to support their proposed IR&D program in accordance with guidance furnished by the Armed Services Research Specialists Committee. Results of the technical evaluation performed by the Armed Services Research Specialists Committee, including determination of potential relationship, will be made available to the contractor by the cognizant departmental central office.

(iv) Ceilings are the maximum dollar amounts of total costs for IR&D work that will be allowable for allocation to all work of that part of the company's operation covered by an advance agreement. Within the ceiling limitations contractors will not be required to share IR&D costs. In negotiating a ceiling, in addition to other considerations, particular attention must be paid to such factors as:

(*a*) The technical evaluation of the Armed Services Research Specialists Committee including the potential relationship of IR&D projects to a military function or operation.

(*b*) Comparison with previous year's programs including the level of the Government's participation.

(*c*) Changes in the company's business activities.

(v) The total amount of IR&D costs allocated to DOD contracts pursuant to this subparagraph (1) shall not exceed the total of expenditures for IR&D projects with a potential relationship to a military function or operation. For contracts which do not provide for cost determinations on a historical basis, this requirement will be considered to have been met if the estimated IR&D costs allocated to the contract do not exceed its proportionate share of the total estimated costs of IR&D with a potential relationship to a military function or operation.

(vi) No IR&D costs shall be allowable if a company fails to initiate negotiation of a required advance agreement prior to the end of the fiscal year for which the agreement is required.

(vii) When negotiations are held with a company meeting the $2 million criterion or with separate profit centers (when negotiations are held at that level under subdivision (ii) above) and as an advance agreement is not reached, payment for IR&D costs is required to be reduced substantially below that which the company or profit center would otherwise have received. The amount of such reduced payment shall not exceed 75 percent of the amount which, in the opinion of the contracting officer, the company or profit center would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided the contractor. In the event that an advance agreement is not reached prior to the end of the contractor's fiscal year for which such agreement is to apply, negotiations shall immediately be terminated and the contracting officer's determination of the reduced amount shall be furnished.

(viii) Contractors may appeal decisions of the contracting officer to reduce payments. Such appeal shall be filed with the contracting officer within 30 days of receipt of a decision. For the purpose of hearing and deciding such appeals, each department will establish an appeals hearing group consisting of the following:

(*a*) A representative to be designated by the Assistant Secretary (Installations and Logistics) or the Director, DSA, who shall be chairman;

(*b*) A representative to be designated by the Assistant Secretary (Research and Development) or ODDR&E in the case of DSA; and

(*c*) A representative to be designated by the General Counsel, Judge Advocate General of the Department or Counsel of DSA. Determinations of the appeals group shall be the final and conclusive determination of the Department of Defense.

(ix) Advance agreements negotiated shall include at least the following:

(*a*) A separate dollar ceiling for IR&D. However, provision shall be made permitting the contractor to recover costs for IR&D above the negotiated ceiling; *Provided*, That recovery of B&P costs covered by the same agreement is decreased below its ceiling by a like amount.

(*b*) A provision stating how IR&D costs are to be allocated (see paragraph (c) of this section).

(*c*) A statement that the costs for IR&D work recoverable under contracts citing DOD funds subject to section 203, Public Law 91–441 limitations shall not exceed (*1*) such contracts' allocable share of the ceiling, and (*2*) the total costs of the contractor's IR&D determined to have a potential relationship to a military function or operation.

(*d*) A statement that estimated costs or actual costs incurred, as appropriate, not in excess of the ceilings negotiated shall be used in the pricing of all contractual actions when negotiations are based on elements of cost and in final price determinations.

(x) Prior to the execution of an advance agreement, the IR&D factor to be used for forward pricing and interim billing will be developed by and obtained from the cognizant central office of the department responsible for negotiating IR&D advance agreements. The IR&D factor shall exclude estimated or actual costs for projects considered unrelated to a military function or operation.

(2) *Companies not required to negotiate advance agreements (CWAS).* Allowable IR&D costs for companies not required to negotiate advance agreements in accordance with subparagraph (1) of this paragraph shall be established by a formula, either on a companywide basis or by profit centers, computed as follows:

(i) Determine the ratio of IR&D costs to total sales (or other base acceptable to the contracting officer) for each of the preceding 3 years and average the two highest of these ratios; this average is the IR&D historical ratio;

(ii) Compute the average annual IR&D costs (hereafter called average), using the two highest of the preceding 3 years;

(iii) IR&D costs for the center for the current year which are not in excess of the product of the center's actual total sales (or other accepted base) for the current year and the IR&D historical ratio computed under subdivision (i) above (hereafter called product) shall be considered allowable only to the extent the product does not exceed 120 percent of the average. If the product is less than 80 percent of the average, costs up to 80 percent of the average shall be allowable.

(iv) Costs which are in excess of the ceiling computed in subdivision (iii) above are not allowable except where the ceiling computed for bid and proposal

cost under § 15.205–3 is reduced in an amount identical to the amount of any increase over the IR&D ceiling computed in subdivision (iii) above.

However, at the discretion of the contracting officer, an advance agreement may be negotiated when the contractor can demonstrate that the formula would produce a clearly inequitable cost recovery. The requirements of subparagraph (1) of this paragraph are not mandatory for such agreements.

(e) *Deferred costs (CWAS–NA).* IR&D costs which were incurred in previous accounting periods are unallowable, except when a contractor has developed a specific product at his own risk in anticipation or recovering the development costs in the sale price of the product provided that:

(1) The total amount of IR&D costs applicable to the product can be identified,

(2) The proration of such costs to sales of the product is reasonable,

(3) The contractor had no Government business during the time that the costs were incurred or he did not allocate IR&D costs to Government contracts except to prorate the cost of developing a specific product to the sales of that product, and

(4) No costs of current IR&D programs are allocated to Government work except to prorate the costs of developing a specific product to the sales of that product.

When deferred costs are recognized, the contact (except firm fixed-price and fixed-price with escalation) will include a specific provision setting forth the amount of deferred IR&D costs that are allocable to the contract. The negotiation memorandum will state the circumstances pertaining to the case and the reason for accepting the deferred costs.

§ 15.205–44 Training and educational costs.

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(g) Training and education costs in excess of those otherwise allowable under paragraphs (b) and (c) of this section may be allowed to the extent set forth in an advance agreement negotiated pursuant to § 15.107 (the limitation of § 15.107(b) notwithstanding). To be considered for an advance agreement, the contractor must demonstrate that such costs are consistently incurred pursuant to an established engineering or scientific training and education program, and that the course or degree pursued is relative to the field in which a bona fide employee is now working or may reasonably be expected to work.

§ 15.205–48 Automatic data processing equipment (ADPE) leasing costs (CWAS).

• • • • •

(b) • • •

(2) Furthermore, the costs of leasing ADPE are allowable only to the extent that the contractor can annually demonstrate in accordance with paragraph (d) of this section that such costs meet the criteria set forth in (i) through (iii) hereunder. The aforementioned requirement for an annual demonstration is applicable irrespective of whether the term of the lease was renewed or otherwise extended by the contractor.

(i) The costs are reasonable and necessary for the conduct of the contractor's business in light of such factors as the contractor's requirements for ADPE, costs of comparable facilities, the various types of leases available and the provisions of the rental agreement;

(ii) The costs do not give rise to a material equity in the facilities (such as an option to renew or purchase at a bargain rental or price) other than that normally given to industry at large but represent charges only for the current use of the equipment including but not limited to any incidental service costs such as maintenance, insurance, and applicable taxes; and

(iii) If the total cost of leasing the ADPE is to be reimbursed under one or more cost-reimbursement type contracts, or if the total cost of leasing ADPE in a single plant, division or cost center exceeds $500,000 per year and 50 percent or more of the total leasing cost is to be allocated to cost reimbursement type contracts, the approval of the contracting officer was obtained for the leasing arrangement (see §§ 15.107 and 3.1100 of this chapter). (CWAS–NA)

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§ 15.205–49 Deferred research and development Costs (CWAS–NA).

As used herein, research and development refers to the type of technical effort which is described in § 15.205–35(a) but which is sponsored by, or required in performance of, a contract or grant. Research and development costs (including amounts capitalized) which were incurred prior to the award of a particular contract are unallowable except when allowable as precontract costs (see § 15.205–30). In addition, when costs are incurred in excess of either the price of a contract or amount of a grant for research and development effort, such excess may not be allocated as a cost to any other Government contract (see § 15.205–19).

PART 16—PROCUREMENT FORMS

15. Sections 16.101–2(b) and 16.102–3(b)(4) are amended; §§ 16.403–2, 16.403–3, and 16.403–4 are revised; § 16.403–5 is revoked; § 16.815 (a) and (b) are revised; and §§ 16.824 and 16.828 are added, as follows:

§ 16.101–2 Conditions for use.

• • • • •

(b) Standard Forms 32 and 33A and any additional general provisions may be attached to each copy of the Solicitation. Alternatively, Standard Forms 32 and 33A may be incorporated by reference to the form number, name, and edition date; also, additional general provisions (contract clauses) that (1) are authorized in Part 7, of this chapter, (2) do not contain blanks to be filled in by the offeror and (3) are not modified,

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may be incorporated by reference to the ASPR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation. Provisions relating to the solicitation, as distinct from the contract clauses, also must be set forth in full in the solicitation.

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§ 16.102–3 Solicitation, Offer, and Award (Standard Form 33).

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(b) * * *

(4) Standard Forms 32 and 33A, if applicable, and any other general provisions may be attached to each copy of the Solicitation, Offer and Award (Standard Form 33). Alternatively, Standard Forms 32 and 33A may be incorporated by reference to the form number, name, and edition date; also additional general provisions (contract clauses) that (i) are prescribed in Subpart A, Part 7 of this chapter and (ii) do not contain blanks to be filled in, may be incorporated by reference to the ASPR paragraph number, clause title and date. No other contract clauses shall be incorporated by reference but they shall be set forth in full in the solicitation. Provisions relating to the solicitation, as distinct from contract clauses, also must be set forth in full in the solicitation.

* * * * *

§ 16.103–2 Forms for architect-engineer contracts.

The following forms are prescribed for use in procuring architect-engineer services:

(a) *Architect-Engineer Fixed-Price Contract (Standard Form 252).* Instructions for Block entries are as follows:

(1) *Block 5—Project Title and Location.* Include a short description of the construction project and the esitmated cost of constructing the facilities at the project. If the space provided is insufficient, include a more detailed description in Appendix A of the contract and list the Appendix A in Block 10.

(2) *Block 6—Contract For (General description of services to be provided).* Include a brief description of the services and state that these services are fully set out in Appendix A (Scope of Work). Clearly specify the date by which design services must be completed. If supervision and inspection services during construction are to be procured, also clearly specify the date by which such services must be completed and add a statement that the Government may extend such period as provided in the Changes clause of the contract.

(3) *Block 7—Contract Amount.* If the contract is for both design and supervision and inspection services, set out the figures separately.

(b) *General Provisions (Architect-Engineer Contract) (Standard Form 253).* Additional general provisions or modifications of the general provisions as authorized in §§ 7.607 and 7.608 of this chapter may be added to this form. Standard Form 253 with any additional sheets necessary shall be attached to the executed contract.

(c) *Representations and Certifications (Construction Contract) (Standard Form 19–B).* Pending publication of a new edition of the form, when the form is used in contracting for architect-engineer services, it shall be modified by an appropriate provision in the schedule, specifications, or continuation sheet as follows:

(1) Change the title of the form to read: Representations and Certifications (Construction and Architect-Engineer Contracts) (For use with Standard Forms 19, 21, and 252).

(2) Change the reference block to read: Reference (Enter same No(s). as on SF 19, 21, and 252).

(3) Change (c) of paragraph 1, Small Business, to read: (c) Had average annual receipts for the preceding 3 fiscal years not exceeding $7,500,000 for construction contracts, $1 million for architect-engineer contracts primarily architectural, and $5 million for architect-engineer contracts primarily engineering.

§ 16.103–3 Statement of architect-engineer services.

The services to be furnished by an architect-engineer should be carefully defined during negotiation of the contract and a statement of such services inserted in Appendix A (Scope of Work) of the contract. The statement should clearly state the nature and extent of the services in a concise form and include any special services such as the nature and extent of subsurface exploration prior to designing foundations, etc. A similar statement of supervision and inspection services should be prepared for inclusion in Appendix A (Scope of Work) of the contract if supervision and inspection services are included.

§ 16.103–4 Terms, conditions and provisions.

The use of additional contract provisions, e.g., payment schedule, surveys and subsoil information, and laboratory tests, consistent with those contained in §§ 7.607 and 7.608 of this chapter are authorized, and, where required elsewhere in ASPR, the use of such additional provisions is mandatory.

§ 16.103–5 [Revoked]

§ 16.315 Contract Data Requirements List (DD Form 1423).

(a) Except as provided in paragraph (b) of this section, DD Form 1423 provides in one place in the contract a list of data items required to be delivered under the contract and, in the case of negotiated contracts over $100,000, provides the means for obtaining from the contractor (and offerors) an estimate of what portion of the total price is attributable to the production or development of the listed data (not to the sale of rights in the data). Use of DD Form 1423 also helps achieve the following objectives of the Department of Defense with respect to the acquisition of data:

* * * * *

(b) Except as set forth in § 7.104–9(n) of this chapter, DD Form 1423 or its mechanized equivalent shall be used when data is required to be delivered under a contract, and shall constitute the sole contractual list of requirements for the amounts and kinds of data required. When DD Form 1423 is used, it will be completed and furnished to the contracting officer by the personnel responsible for determining the data requirements of the contract. The reverse side of the form contains instructions for offerors to follow in entering on the form the price group and estimated price for each data item. The identification of a data item in a standard, specification or similar document does not establish data requirements under a contract; nor does the identification of a data item included in an alteration to a Part 7, of this chapter clause constituting an approved deviation pursuant to § 1.109 (and § 9.202–3 of this chapter when applicable). Government personnel are therefore cautioned that, except for the situations listed in § 7.104–9(h) of this chapter and data called for by ASPR section VII clauses included in the contract, the delivery of any data item can be assured only by listing it on the DD Form 1423. The clause set forth in § 7.104–9(n) of this chapter shall be used when the DD Form 1423 is used.

§ 16.824 Financial Report of Government Property (DD Form 1662).

DD Form 1662 is prescribed for use by contractors to report the dollar amount of certain classes of Government Property and the quantity of IPE in their possession or control (including property at subcontractor plants for which the prime contractor is accountable), as of 30 June of each year. (See § 30.2, Part 3, Item 311 of this chapter and § 30.3, Part 3, Item 311 of the chapter). Local reproduction of DD Forms 1662 is authorized.

§ 16.828 Data Item Description (DD Form 1664).

(a) DD Form 1664 describes a data item to be delivered by a contractor. Completed forms are available as indicated in § 1.1203 of this chapter.

(b) Preparation instruction on the DD Form 1664 by specifically identifying and describing the data, or by indicating the source documents for preparation of the data item, or when the data item is adequately described in another document, such as specification; the document(s) may be referenced, and the description of the data need not be repeated on tht DD Form 1664. When the reference method is practical, the DD Form 1664 will contain:

(1) Specific paragraph identification of the preparation instructions contained in the referenced document(s), and

(2) Additions, deletions or deviations to the referenced document(s) to meet the needs of a contract.

(c) Requirements to perform work tasks (i.e., perform systems analyses, perform tests, conduct reviews, etc.) which may result in the generation of data, must appear in the contract statement of work, and not on the DD Form 1664. Likewise, acceptance or inspection designations will not be included on the DD Form 1664, but evaluation criteria for acceptance of the data may be included.

PART 18—PROCUREMENT OF CONSTRUCTION AND CONTRACTING FOR ARCHITECT-ENGINEER SERVICES

16. Sections 18.307(b) and 18.619 are amended; § 18.625 is revised; §§ 18.627 and 18.628 are revoked; § 18.703–1 is revised; § 18.703–2 is revoked; §§ 18.703–4 and 18.704–2(d) (ii) and (vi) are revised; § 18.900 is amended; the clause in § 18.905 is revised; and §§ 18.908 (b) and (c) and 18.910–1(a) are revised, as follows:

§ 18.307 Additional work under fixed-price architect-engineer contracts.

* * * * *

(b) If the work to be performed under the modification is within the general scope of the contract, the contracting officer shall, under the provisions of the "Changes" clause (see § 7.607–3 of this chapter) by written order, with or without prior negotiation, direct that the changes be made, and where such action causes an increase or decrease in the contractor's cost or time required for performance of the contract, an equitable adjustment shall be made. Where there is a failure to agree as to the equitable adjustment, the provisions of the "Disputes" clause will be followed.

* * * * *

§ 18.619 Termination of fixed-price architect-engineer contracts for default.

Under the "Termination" clause set forth in § 8.701(c) of this chapter, the Government may terminate a fixed-price architect-engineer contract whenever the architect-engineer shall default in performance of the contract in accordance with its terms. The contracting officer shall consider the factors set forth in § 18.618–4(a) in determining whether to terminate an architect-engineer contract for default. If the contracting officer determines that it is in the best interest of the Government to terminate for default the notice described in § 18.618–4(c) shall be forwarded to the architect-engineer. If the contract is so terminated, the Government may take over the work and services and prosecute same to completion by contract or otherwise, and the architect-engineer shall be liable to the Government for any excess costs occasioned the Government thereby. Any such excess costs shall be liquidated by use of the retained percentages of progress payments previously made to the architect-engineer and any progress payments due for work completed prior to termination for default. If such retained funds are not sufficient to liquidate such liability, the contracting officer shall make a written demand upon the architect-engineer for the unliquidated balance thereof.

§ 18.625 Termination clause for fixed-price architect-engineer contracts.

The clause in §8.701(c) of this chapter covering both terminations for convenience and terminations for default shall be inserted in each fixed-price type contract, as defined in § 3.404 of this chapter, for architect-engineer services.

§ 18.627 [Revoked]

§ 18.628 [Revoked]

§ 18.703–1 Clauses for general use.

Every construction contract in excess of $2,000 for work within the United States shall include the following causes.

(a) *Davis-Bacon Act (40 U.S.C. 276a to a–7).*

DAVIS-BACON ACT (40 U.S.C. 276 a TO a–7) (FEBRUARY 1972)

(a) All mechanics and laborers employed or working directly upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Regulations (29 CFR, Part 3)), the full amounts due at time of payment computed at wage rates not less than the aggregate of the basic hourly rates and the rates of payments, contributions, or costs for any fringe benefits contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics. A copy of such wage determination decision shall be kept posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) The Contractor may discharge his obligation under this clause to workers in any classification for which the wage determination decision contains:

(1) Only a basic hourly rate of pay, by making payment at not less than such basic hourly rate, except as otherwise provided in the Copeland Regulations (29 CFR, Part 3); or

(2) Both a basic hourly rate of pay and fringe benefits payments, by making payment in cash, by irrevocably making contributions pursuant to a fund, plan, or program for, and/or by assuming an enforceable commitment to bear the cost of, bona fide fringe benefits contemplated by the Davis-Bacon Act, or by any combination thereof. Contributions made, or costs assumed, on other than a weekly basis shall be considered as having been constructively made or assumed, during a weekly period to the extent that they apply to such period. Where a fringe benefit is expressed in a wage determination in any manner other than as an hourly rate and the Contractor pays a cash equivalent or provides an alternative fringe benefit, he shall furnish information with his payrolls showing how he determined that the cost incurred to make the cash payment or to provide the alternative fringe benefit is equal to the cost of the wage determination fringe benefit. In any case where the Contractor provides a fringe benefit different from any contained in the wage determination, he shall similarly show how he arrived at the hourly rate shown therefor. In the event of disagreement between or among the interested parties as to an equivalent of any fringe benefit, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(c) The assumption of an enforceable commitment to bear the cost of fringe benefits, or the provision of any fringe benefits not expressly listed in section 1(b)(2) of the Davis-Bacon Act or in the wage determination decision forming a part of the contract, may be considered as payment of wages only with the approval of the Secretary of Labor pursuant to a written request by the Contractor. The Secretary of Labor may require the Contractor to set aside assets, in a separate account, to meet his obligations under any unfunded plan or program.

(d) The Contracting Officer shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the wage determination decision and which is to be employed under the contract shall be classified or reclassified conformably to the wage determination decision and shall report the action taken to the Secretary of Labor. If the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers or mechanics, including apprentices and trainees, to be used, the Contracting Officer shall submit the question, together with his recommendation, to the Secretary of Labor for final determination.

(e) In the event it is found by the Contracting Officer that any laborer or mechanic employed by the Contractor or any subcontractor directly on the site of the work covered by this contract has been or is being paid at a rate of wages less than the rate of wages required by paragraph (a) of this clause, the Contracting Officer may (i) by written notice to the Government Prime Contractor terminate his right to proceed with the work, or such part of the work as to which there has been a failure to pay said required wages, and (ii) prosecute the work to completion by contract or otherwise, whereupon such Contractor and his sureties shall be liable to the Government for any excess costs occasioned the Government thereby.

(f) Paragraphs (a) through (e) of the clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act or (ii) a subcontract also subject to the Davis-Bacon Act under such prime contract.

(b) *Contract Work Hours and Safety Standards Act—overtime compensation.*

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (40 U.S.C. 327–330) (FEBRUARY 1972)

(a) The Contractor shall not require or permit any laborer or mechanic in any workweek in which he is employed on any work under this contract to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such workweek, whichever is the greater number of overtime hours. The "basic rate of pay," as used in this clause, shall be the amount paid per hour, exclusive of the Contractor's contribution or cost for fringe benefits and any cash payment made in lieu of providing fringe benefits, or the basic hourly rate contained in the wage determination, whichever is greater.

(b) In the event of any violation of the provisions of paragraph (a), the Contractor shall be liable to any affected employee for any amounts due, and to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each

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individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight (8) hours or in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by paragraph (a).

(c) *Apprentices and trainees.*

APPRENTICES AND TRAINEES (FEBRUARY 1972)

(a) Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the aforesaid Bureau of Apprenticeship and Training. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph (b) of this clause, who is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor shall furnish written evidence of the registration of his program and apprentices as well as of the ratios allowed and the wage rates required to be paid thereunder for the area of construction, prior to using any apprentices in the contract work. "Apprentice" means a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or a person in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Council to be eligible from probationary employment as an apprentice.

(b) Trainees shall be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. "Trainee" means a person receiving on-the-job training in a construction occupation under a program which is approved (but not necessarily sponsored) by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, and which is reviewed from time to time by the Manpower Administration to insure that the training meets adequate standards.

(c) The Contractor shall make a diligent effort to hire for performance of work under this contract a number of apprentices or trainees, or both, in each occupation, which bears to the average number of the journeymen in that occupation to be employed in the performance of the contract the applicable ratio as set forth in paragraph (c)(6) of this clause.

(1) The Contractor shall assure that twenty-five percent (25%) of such apprentices or trainees in each occupation are in their first year of training, where feasible. Feasibility here involves a consideration of (i) the availability of training opportunities for first year apprentices, (ii) the hazardous nature of the work for beginning workers and (iii) excessive unemployment of apprentices in their second and subsequent years of training.

(2) The Contractor shall, during the performance of the contract, to the greatest extent possible, employ the number of apprentices or trainees necessary to meet currently the requirements of paragraphs (c) and (c)(1) of this clause.

(3) The Contractor shall maintain records of employment on this contract by trade of the number of apprentices and trainees, apprentices and trainees in first year of training, and of journeymen, and the wages paid and hours of work of such apprentices, trainees and journeymen. In addition, the Contractor who claims compliance based on the criterion set forth in paragraph (4)(ii) of this clause shall maintain such records of employment on all his construction work in the same labor market area, both public and private, during the performance of this contract.

(4) The Contractor will be deemed to have made a "diligent effort" as required by paragraph (c) if during the performance of this contract, he accomplishes at least one of the following three objectives: (i) The Contractor employs under this contract a number of apprentices and trainees by craft, at least equal to the ratios established in accordance with paragraph (6) of this clause, or (ii) the Contractor employs, on all his construction work, both public and private, in the same labor market area, an average number of apprentices and trainees by craft at least equal to the ratios established in accordance with paragraph (6) of this clause, or (iii) the Contractor (A) if covered by a collective bargaining agreement, before commencement of any work on the project, has given written notice to all joint apprenticeship committees, the local U.S. Employment Security Office, local chapter of the Urban League, Workers Defense League, or other local organizations concerned with minority employment, and the Bureau of Apprenticeship and Training Representatives, U.S. Department of Labor for the locality of the work; (B) if not covered by a collective bargaining agreement, has given written notice to all of the groups stated above, except joint apprenticeship committees, and will in addition notify all nonjoint apprenticeship sponsors in the labor market area; (C) has employed all qualified applicants referred to him through normal channels (such as the Employment Service, the Joint Apprenticeship Committee, and where applicable, minority organizations and apprentice outreach programs who have been delegated this function) at least up to the number of such apprentices and trainees required by paragraph (6) of this clause; (D) notice, as referred to herein, will include at least the Contractor's name and address, job site address, value of the contract, expected starting and completion dates, the estimated average number of employees in each occupation to be employed over the duration of the contract work, and a statement of his willingness to employ a number of apprentices and trainees at least equal to the ratios established in accordance with paragraph (6) of this clause. A copy of this notice shall be furnished to the Contracting Officer upon request.

(5) The Contractor shall supply, to the Contracting Officer, and to the Secretary of Labor, a report at three month intervals during performance of the contract and after completion of contract performance a statement describing steps taken toward making a diligent effort and containing a breakdown by craft, of hours worked and wages paid for first year apprentices and trainees, other apprentices and trainees, and journeymen.

(6) The applicable ratios of apprentices and trainees to journeymen in any occupation for the purpose of this clause shall be as follows: (i) In any occupation the applicable ratio of apprentices and trainees to journeymen shall be equal to the predominant ratio for the occupation in the area where the construction is being undertaken, set forth in collective bargaining agreements, or other employment agreements, and available through the Bureau of Apprenticeship and Training Representative, U.S. Department of Labor for the locality of the work. (ii) For any occupation for which no ratio is found, the ratio of apprentices and trainees to journeymen shall be determined by the contractor in accordance with the recommendations set forth in the Standards of the National Joint Apprentice Committee for the occupation, which are on file at offices of the U.S. Department of Labor's Bureau of Apprenticeship and Training. (iii) For any occupation for which no such recommendations are found, the ratio of apprentices and trainees to journeymen shall be at least one apprentice or trainee for every five journeymen.

NOTE: Paragraphs (a) and (b) of this clause apply to contracts in excess of $2,000; in addition, paragraph (c) applies to contracts in excess of $10,000.

(d) *Payrolls and basic records.*

PAYROLLS AND BASIC RECORDS (JUNE 1969)

(a) The Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve them for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name and address of each such employee, his correct classification, rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Contractor has obtained approval from the Secretary of Labor as provided in paragraph (c) of the clause entitled "Davis-Bacon Act," he shall maintain records which show the commitment, its approval, written communication of the plan or program to the laborers or mechanics affected, and the costs anticipated or incurred under the plan or program.

(b) The Contractor shall submit weekly a copy of all payrolls to the Contracting Officer. The Government Prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The copy shall be accompanied by a statement signed by the Contractor indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor, and that the classifications set forth for each laborer or mechanic conform with the work be performed. Weekly Submission of the "Statement of Compliance" required under this contract and the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) shall satisfy the requirement for submission of the above statement. The Contractor shall submit also a copy of any approval by the Secretary of Labor with respect to fringe benefits which is required by paragraph (c) of the clause entitled "Davis-Bacon Act."

(c) The Contractor shall make the records required under this clause available for inspection by authorized representatives of the Contracting Officer and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job.

(e) *Compliance with Copeland regulations.*

COMPLIANCE WITH COPELAND REGULATIONS (JUNE 1964)

The Contractor shall comply with the Copeland Regulations of the Secretary of Labor (29 CFR, Part 3) which are incorporated herein by reference.

(f) *Withholding of funds.*

WITHHOLDING OF FUNDS (FEBRUARY 1972)

(a) The Contracting Officer may withhold or cause to be withheld from the Government Prime Contractor so much of the accrued payments or advances as may be considered necessary (i) to pay laborers and mechanics including apprentices and trainees, employed by the Contractor or any subcontractor on the work the full amount of wages required by the contract, and (ii) to satisfy any liability of any Contractor for liquidated damages under the clause hereof entitled "Contract Work Hours and Safety Standards Act—Overtime Compensation."

(b) If any Contractor fails to pay any laborer or mechanic including any apprentice or trainee employed or working on the site of the work, all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Government Prime Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

(g) *Subcontracts.*

SUBCONTRACTS (FEBRUARY 1972)

The Contractor agrees to insert the clauses hereof entitled "Davis-Bacon Act," Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance With Copeland Regulations," "Withholding of Funds," "Subcontracts," and "Contract Termination—Debarment" in all subcontracts. The term "Contractor" as used in such clauses in any subcontract shall be deemed to refer to the subcontractor except in the phrase "Government Prime Contractor."

(h) *Contract termination — debarment.*

CONTRACT TERMINATION—DEBARMENT (APRIL 1972)

A breach of the clauses hereof entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime, Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance With Copeland Regulations," "Withholding of Funds," and "Subcontracts" may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

§ 18.703–2 [Revoked]

§ 18.703–4 Overseas contracts.

Every construction contract (a) in excess of $2,000 for work in Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island or the Canal Zone shall include (1) the clause entitled Contract Work Hours and Safety Standards Act—Overtime Compensation, set forth in § 18.703–1(b); (2) the Subcontracts clause set forth in § 18.703–1(g), except that the first sentence thereof shall be modified to refer only to the clauses entitled Contract Work Hours and Safety Standards Act—Overtime Compensation, Subcontracts, and Contract Termination—Debarment, and (3) the clause entitled Contract Termination—Debarment set forth in § 18.703–1(h), except that the clause shall be modified to refer only to the clauses entitled Contract Work Hours and Safety Standards Act—Overtime Compensation and Subcontracts; (b) in excess of $10,000 requiring payment of minimum wages determined in accordance with the Davis-Bacon Act for work in Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll or Johnston Island shall also include the clause entitled "Apprentices and Trainees" set forth in § 18.703–1(c).

§ 18.704–2 Wage determinations.

* * * * * *

(d) * * *

(ii) Under "Description of Work" include a statement of whether an area or installation (54–A) or individual determination is desired. Line 4 of the DB–11 provides for designation of the three most common types of construction (Building, Heavy, Highway Construction). Where a different type of work (such as family housing construction) is to be performed, it shall be indicated on line 4 of the DB–11 in lieu of checking any of the blocks contained on that line. When the request indicates a type of construction other than building, heavy or highway, it is of particular importance, in order to avoid delay, that the request be accompanied by (*a*) any pertinent wage payment information which may be available, and (*b*) a copy of the pertinent portions of the specifications or a detailed description of the work to be performed. Where the Secretary of Labor has issued a general wage determination, a request should be submitted only when the type of work to be performed is not included in the description of work set forth in the decision. If additional space is needed, a separate attachment may be submitted with the form. Additional information requirements for installation determination requests are set out at subdivision (vi) of this paragraph.

* * * * *

(vi) In every case where an installation wage determination is being requested, the following information shall be provided in an attachment to the DB–11, in addition to other applicable requirements contained in subdivisions (i) through (v) of this subparagraph.

(*a*) A complete statement of reasons for requiring an installation type of wage determination for the installation.

(*b*) A complete statement of the incidence of use of the last previously issued installation determination, the total dollar amount of the contract awarded thereunder, and an estimate of the use of any new determination during its 120-day life. This should include a brief description of the planned projects (i.e., commercial, residential, heavy or highway), the estimated cost of each project, and the kinds of laborers and mechanics likely to be employed.

* * * * *

§ 18.900 Scope of subpart.

This subpart sets forth the policies, instructions, and contract clauses pertaining to patents, data, and copyrights in connection with the procurement of construction and related architect-engineer services. The provisions of Part 9 of this chapter as they relate to supplies are applicable where the procurement is of 2 construction materials or supplies as such, as distinguished from "construction" as defined in § 18.101–1. Similarly, the provisions of Part 9 of this chapter as they relate to research and development apply where one of the purposes of the procurement is experimental, developmental, or research work, or test and evaluation studies (involving such work) of structures, equipment, processes, or materials for use in construction. Where the proposed contract calls for either (a) experimental, developmental, or research work, or (b) supplies and materials, in addition to either construction or architect-engineer work, the pertinent provisions of Part 9 of this chapter shall be added to the contract pursuant to instructions contained in this subpart. In such cases, the contract shall indicate clearly which of the clauses apply only to the experimental, developmental, or research work, or to the supplies and materials being procured, and which apply only to the construction or architect-engineer work. (See § 18.910–3.)

§ 18.905 Approval of restricted designs.

* * * * *

NOTICE AND APPROVAL OF RESTRICTED DESIGNS (APRIL 1972)

In the performance of this contract, the Architect-Engineer shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment which are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer the Architect-Engineer shall not, in the performance of the work called for by this contract, produce a design or specification such as to require in this construction work the use of structures, products, materials, construction equipment, or processes which are known by the Architect-Engineer to be available only from a sole source. As to any such design or specification the Architect-Engineer shall report to the Contracting Officer giving the reason or reasons why it is considered necessary to so restrict the design or specification.

§ 18.908 Patents rights.

* * * * *

(b) Any construction or architect-engineer contract which calls for or can be expected to involve only standard types of construction to be built by

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previously developed equipment, methods, and processes shall not include a patent rights clause. The term "standard types of construction" as used herein means construction in which the distinctive features, if any, in all likelihood will amount to no more than:

(1) Variations in size, shape, or capacity of otherwise structurally orthodox and conventionally acting single structural members or multi-member structural groupings; or

(2) Purely artistic or esthetic (as distinguished from functionally significant) architectural configurations and designs of both structural and nonstructural members of groupings, which may or may not be sufficiently novel or meritorious to qualify for protection under the design patent or copyright laws.

Rights of the Government in and to any such distinctive design or copyright features, as distinguished from inventions of a mechanical or functional nature resulting from an architect-engineer contract, are provided for in the clause in § 18.910–1(a)(2) entitled "Drawings and Other Data to Become Property of Government."

(c) Construction and architect-engineer contracts which require the development of novel structures, machines, products, equipment (including construction equipment), materials or processes shall include the clause in § 18.910–1(a)(2) in addition to the appropriate "Patent Rights" clause in Part 9 of this chapter.

§ 18.910–1 Architectural designs and data clauses for architect-engineer or construction contracts.

(a) *Plans and specifications and as-built drawings.* (1) Except as provided in subparagraph (2) of this paragraph, insert the following clause in contracts calling for architect-engineer services or for construction involving architect-engineer services:

GOVERNMENT RIGHTS (UNLIMITED) (APRIL 1972)

The Government shall have unlimited rights, for the benefit of the Government, in all drawings, designs, specifications, notes and other work developed in the performance of this contract, including the right to use same on any other Government work without additional cost to the Government; and with respect thereto the Architect-Engineer [4] agrees to and does hereby grant to the Government a royalty-free license to all such data which he may cover by copyright and to all designs as to which he may assert any rights or establish any claim under the design patent or copyright laws. The Architect-Engineer [4] for a period of three (3) years after completion of the project agrees to furnish and to provide access to the originals or copies of all such materials on the request of the Contracting Officer.

(2) Where the purpose of a contract for architect-engineer services or for construction involving architect-engineer services is to obtain a unique architectural design of a building, a monument, or construction of similar nature, which for artistic, esthetic or other special reasons the Government does not want duplicated by anyone else, the Government may desire to acquire exclusive control of the data pertaining to such design. In those cases only where the contracting officer determines for the foregoing reasons that it is desirable to maintain exclusive control over the design and data, the "Government Rights (Unlimited)" clause on SF 253 shall be deleted and the following clause substituted therefor:

DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF THE GOVERNMENT (APRIL 1972)

All designs, drawings, specifications, notes, and other work developed in the performance of this contract shall be and remain the sole property of the Government and may be used on any other work without additional compensation to the Architect-Engineer.[5] With respect thereto, the Architect-Engineer [5] agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. The Architect-Engineer [5] for a period of three (3) years after completion of the project agrees to furnish and provide access to all retained materials on the request of the Contracting Officer. Unless otherwise provided in this contract, the Architect-Engineer [5] shall have the right to retain copies of all such materials beyond such period.

PART 19—TRANSPORTATION

19. Section 19.213–1(c) is amended; § 19.213–2 is revised; and § 19.215 is amended, as follows:

§ 19.213–1 Solicitation provisions.

* * * * *

(c) Except for contracts to which paragraph (b) of this section applies, other CONUS ports which meet the eligibility criteria compatible with the nature and quantity of the supplies, their destination, type of carrier required, and specified overseas delivery dates also may be listed in the solicitation for evaluation purposes. This will permit bidders or offerors, who are geographically remote from the port which normally serves the overseas destination, to be competitive as far as transportation costs are concerned. Ports of loading to be included in the solicitation may be determined through coordination with the headquarters of the Military Traffic Management and Terminal Service (MTMTS) serving the area in which the purchasing office is located.

* * * * *

§ 19.213–2 Military Standard Transportation Movement Procedures (MIL STAMP) Documentation and Export Releases.

A transportation Control Movement Document (TCMD) must be dispatched to the appropriate air or water clearance authority in accordance with MIL-STAMP procedures, for all shipments consigned to either air or water terminal transshipment points. Additionally, an export release must be obtained for certain categories of supplies to be transshipped via a water port of loading to overseas destination (see § 19.213–1 and § 16.823 of this chapter). MILSTAMP procedures are designed to be compatible with export release procedures for controlling the movement of cargo via water and air terminals. To assure control of export traffic, the clause in § 104–74 of this chapter shall be inserted in solicitations and contracts calling for shipments consigned to either air or water terminal transshipment points.

§ 19.215 Diversions affecting f.o.b. destination transportation costs.

To provide the measure for adjustment of shipping costs if the contracting officer directs a change in the place of delivery on f.o.b. destination contracts, the solicitation shall include the clause in § 7.104–75 of this chapter.

PART 23—SUBCONTRACTING POLICIES AND PROCEDURES

18. Section 23.100 is amended; § 23.101 is revised; §§ 23.102 through 23.102–4 are revoked; §§ 23.201, 23.201–1, and 23.201–2 are revised; and § 23.201–4 is added, as follows:

§ 23.100 Scope of subpart.

This subpart sets forth the requirements for conducting a contractor procurement system review (CPSR) under the direction of a procurement methods analyst (PMA). The objectives of the review are to provide:

(a) A means for evaluating the efficiency and effectiveness with which the contractor spends Government funds;

(b) The basis for the administrative contracting officer (ACO) to grant, withhold, or withdraw approval of the contractor's procurement system;

(c) Reliable current information to the procuring contracting officer (PCO) on the contractor's procurement system for use in source selection, determining the appropriate type of contract, and establishing profit and fee objectives;

(d) An independent review of the contractor's procurement system to optimize its effectiveness in complying with Government policy; and

(e) Current procurement system information for appropriate Department of Defense activities in areas of Government interest.

The term "contractor," as used in this subpart, means a separate entity of a contractor, such as an affiliate, division, or plant, which performs its own purchasing.

§ 23.101 Review criteria.

(a) *Initial review.* An initial review shall be made of a contractor's purchasing system when he is expected to have sales to the Government in excess of $5 million during the next 12 months on other than firm fixed-price and fixed-price with escalation contracts. In addition, consideration shall be given to the conduct of a CPSR when sales to the Government on non-competitive negotiated contracts (including modifications to competitively awarded contracts), regardless of contract type, are expected to exceed $5 million either alone or in combination with the above criteria in this paragraph. Generally a CPSR should not be performed for a specific contract.

(b) *Subsequent review.* If a contractor's purchasing system is approved, the ACO shall make an annual evaluation of the need to perform a subsequent CPSR. If it is determined that a subsequent review is needed, it should generally be limited to areas of weakness or particular importance and may include consideration of factors listed in § 23.103(a). An in-depth subsequent review shall be conducted if necessary to validate the current adequacy of the entire system.

(c) *Special reviews of approved systems.* After approval of the contractors' procurement system, the ACO, or the PMA with the concurrence of the ACO, may initiate special reviews in connection with weaknesses revealed as a result of:

(1) The initial or subsequent review;

(2) The review of subcontracts submitted under the notification requirement of contract clauses;

(3) Major changes in the contractor's procurement policies, procedures, or key personnel;

(4) Changes in plant workload or type of work; or

(5) Information provided by Government personnel.

In conducting such reviews, the same effectiveness criteria used in previous reviews the same effectiveness criteria used in previous reviews shall be applied to the area being examined.

(d) *Review of procurement systems when approval is withheld or withdrawn.* If approval of a contractor's procurement system is withheld or withdrawn, a follow-up review shall be made as soon as evidence is received from the contractor that the factors leading to such action have been corrected. Whether this follow-up review consists of a complete re-examination of the contractor's procurement system or is confined to the areas found deficient shall be a matter of judgment and will depend on the time lapse between the notice to the contractor of withholding or withdrawal of approval and the follow-up review.

§§ 23.102 through 23.102–4 [Revoked]

§ 23.201 Subcontract clauses.

§ 23.201–1 Clause entitled "Subcontracts" for fixed-price contracts.

(a) The clause set forth in § 7.104–23 this chapter shall be inserted in all fixed-price type contracts.

(b) The clause may be modified to:

(1) Lower the $100,000 threshold set forth in (ii) and (iii) of paragraph (b) of the clause when it is determined that closer surveillance of subcontracting is desirable because of such factors as the nature of the industry involved, the criticality of work which will probably be subcontracted, the absence of competition in placing the prime contract, uncertainties as to the adequacy of the contractor's procurement system, or the novelty of the supplies or services being procured;

(2) Delete the requirement for advance notification of, or consent to, any subcontracts which were evaluated during negotiations;

(3) Require extraordinary Government surveillance in exceptional cases of subcontracts or classes of subcontracts selected during negotiation. In this event, insert as paragraph (g) of the § 7.104–23 clause, the provision set forth under § 7.104–23(b) of this chapter.

§ 23.201–2 Clause entitled "subcontracts" for cost-reimbursement and letter contracts.

(a) The appropriate clause entitled "Subcontracts" from either § 7.203–8 or § 7.402–8 of this chapter shall be included in all cost-reimbursement and letter contracts.

(b) (1) Under cost-reimbursement and letter contracts, other than facilities contracts, consent is required for:

(i) Subcontracts for fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of $1,000 or of any items of industrial facilities; and

(ii) Subcontracts for research and development (where the clause in § 7.402–8 of this chapter is used).

(2) Consent is also required for the following additional subcontracts under cost-reimbursement and letter contracts, unless the contractor's procurement system has been approved:

(i) Cost-reimbursement, time and materials or labor-hour subcontracts; and

(ii) Fixed-price subcontracts exceeding either $25,000 or 5 percent of the total estimated prime contract price.

(3) See § 7.702–33 or § 7.703–25 of this chapter for requirements for approval of subcontracts under facilities contracts.

(c) Purchases by a contractor from General Services Administration supply sources, under a written authorization by the contracting officer (see § 5.906 of this chapter), shall be treated as having been made with the consent of the contracting officer as required by the clause set forth in § 7.204–28 or § 7.403–23 of this chapter.

(d) In exceptional circumstances, certain subcontracts or classes of subcontracts may be selected during negotiation for extraordinary Government surveillance. In such circumstances, insert as subparagraph (j) of the § 7.203–8 clause, the provision set forth under § 7.203–8(b) of this chapter.

§ 23.201–4 Clause entitled "equal opportunity preaward clearance of subcontracts."

The clause set forth in § 7.104–22 of this chapter and repeated below shall be inserted in all contracts containing any of the "Subcontracts" clauses prescribed by this subpart.

EQUAL OPPORTUNITY PRE-AWARD CLEARANCE OF SUBCONTRACTS (OCTOBER 1971)

Notwithstanding the clause of this contract entitled "Subcontracts," the Contractor shall not enter into a first-tier subcontract for an estimated or actual amount of $1 million or more without obtaining in writing from the Contracting Officer a clearance that the proposed subcontractor is in compliance with equal opportunity requirements and therefore is eligible for award.

PART 24—DISPOSITION OF PERSONAL PROPERTY IN POSSESSION OF CONTRACTORS

19. Section 24.101–14 is revised; § 24.101–15 is amended; and § 24.302–8(b)(5) is revised, as follows:

§ 24.101–14 Controlled substances.

"Controlled substances" means any of the following:

(a) Narcotic (opium), depressant, stimulant (demerol), or hallucinogenic drug (marijuana) or substance;

(b) Any other drug or substance found by the Attorney General to require control as provided by title II of the Comprehensive Drug Abuse Prevention And Control Act of 1970; or

(c) Any other drug or substance required to be controlled by the United States by international treaty, convention, or protocol.

§ 24.101–15 Personal property.

"Personal property" means property of any kind or any interest therein, except real property as defined in § 30.2, Part 1, Item 102.8 of this chapter, and vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines.

§ 24.302–8 General sales terms and conditions and special conditions of sale.

* * * * *

(b) * * *

(5) *Controlled substances.* The sale of any controlled substance, e.g., narcotics, stimulants, depressants, hallucinogenic drugs, shall be subject to the following special conditions:

Controlled substances. Bids will be rejected unless the Bidder submits the following certification with his bid: "The undersigned represents and warrants that he is registered under The Comprehensive Drug Abuse Prevention And Control Act of 1970, and is authorized under the law and by the Attorney General; U.S. Department of Justice (Bureau of Narcotics and Dangerous Drugs) to buy controlled substances either as a medical practitioner, dealer or manufacturer of controlled substances."

* * * * *

PART 26—CONTRACT MODIFICATIONS

20. Section 26.101(b) is revised, as follows:

§ 26.101 Policy.

* * * * *

(b) Policy regarding the pricing of contract modifications, including changes

[4] When used in construction contracts, substitute "Contractor" for Architect-Engineer."

[5] When used in construction contracts, substitute "Contractor" for "Architect-Engineer."

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which could be issued unilaterally, is as follows:

(1) *Contracts, other than for major defense systems.* The price of contract modifications shall be negotiated prior to their execution if this can be done without adversely affecting the interests of the Government. If a significant cost increase could result from a modification and time does not permit negotiation of a price, at least a maximum price shall be negotiated unless to do so would be impractical.

(2) *Major defense systems contracts.* When modifications are necessary to major defense systems contracts, either a final price or an established ceiling shall be negotiated prior to execution, unless to do so would be patently impractical.

• • • • •

PART 30—APPENDIXES TO ARMED SERVICE PROCUREMENT REGULATIONS

21. In § 30.2, Part 1, Items 102.22 and 102.23 are added; in Part 3 of this section, Item 300 is revised, Item 301(c) is amended, and Items 306.1(a) and 311 are revised, as follows:

§ 30.2 Appendix B—Control of Government property in possession of contractors.

PART 1—INTRODUCTION

• • • • •

102.22 "Work-in-process" for the purpose of financial reporting means material (see Item 102.4 of this part) which has been released to the production element.

102.23 "Dollar amount" for the purpose of financial reporting means acquision cost of property (see Part 3, Item 302 of this section).

• • • • •

PART 3—RECORDS OF GOVERNMENT PROPERTY

300 *Scope of part.* This part prescribes minimum requirements for the establishment and maintenance of records by the contractor for Government property in his possession or control and for the submission of reports by the prime contractor of Government property, including property located at subcontractor plants, for which he is accountable.

301 *General.* • • •

(c) The official records shall be kept in such condition that at any stage of work under a contract the status of Government property may be readily ascertained.

• • • • •

306.1 *Centrally Reportable Industrial Plant Equipment.* (a) The contractor shall prepare a DD Form 1342 for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The forms will be prepared in accordance with instructions contained in AR 700-43/NAVSUP PUB 5009/AFM 78-1/DSAM 4215.1—Defense Industrial Plant Equipment Center Operations, at the time (1) of receipt and acceptance of accountability by the contractor; (2) major changes as specified by DSAM 4215.1 occur in the data initially submitted to DIPEC; (3) IPE, including components of special test equipment which would otherwise qualify as industrial plant equipment is no longer required for the purpose authorized or provided; and (4) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to the Defense Industrial Plant Equipment Center (DIPEC). The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342 shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 10 days after the event which created the need for its preparation and forwarding. AR 700-43/NAVSUP PUB 5009/AFM 78-1/DSAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

• • • • •

311 *Financial reports*—(a) *Facilities.* The contractor's property control system shall be such as to provide annually the dollar amount of Government-owned facilities as well as the quantity of Industrial Plant Equipment (IPE), for which he is accountable under each contract with each Military Department or Defense Agency including such facilities at subcontractor plants, in the following classifications:

(i) Land rights therein;

(ii) Other real property, including utility distribution systems, buildings, structures, and improvements thereto;

(iii) IPE required to be reported to DIPEC in accordance with 306.1;

(iv) Other plant equipment, including minor plant equipment but excluding property within (iii) above.

The contractor shall furnish to the property administrator, as of June 30 of each year, a separate report, by contract, of the dollar amount of Government-owned facilities and the quantity of the IPE in the contractor's possession falling in each of the above classifications. This shall include facilities at subcontractor plants for which the prime contractor is accountable. Reports shall be prepared on DD Form 1662, Financial Report of Government Property, and furnished to the property administrator in duplicate no later than July 21 of each year.

(b) *Government material.* The contractor's property control system shall be such as to provide annually the dollar amount of Government material of each Department for which he is accountable. The contractor shall furnish to the property administrtor, as of June 30 of each year, a separate report for each Department of the total dollar amount of Government material in his possession. However, the following are exempted from reporting:

(i) Items sent to the contractor for processing and return to the Government;

(ii) Work in process;

(iii) Government material amounting to less than $5,000 for any one Department;

(iv) Government shipping containers;

(v) Material accounted for under an approved multicontract cost and material control system;

(vi) Completed products returned pursuant to a warranty clause; and

(vii) Scrap and salvage.

Reports shall be prepared on DD Form 1662, Financial Report of Government Property, and furnished to the property administrator in duplicate no later than July 21 of each year.

(c) *Reporting authority.* Office of Management and Budget No. 22-RO235 has been assigned to the reports required under (a) and (b) above.

22. In § 30.3, Part 3, Item 300 is revised, Item 301(c) is amended, and Items 306.1(a) and 311 are revised, as follows:

§ 30.3 Appendix C—Control of property in possession of nonprofit research and development contractors.

• • • • •

PART 3—RECORDS OF GOVERNMENT PROPERTY

300 *Scope of part.* This part prescribes minimum requirements for the establishment and maintenance of records by the contractor for Government property in his possession or control and for the submission of reports by the prime contractor of Government property, including property located at subcontractor plants, for which he is accountable.

301 *General.*

• • • • •

(c) The official records shall be kept in such condition that at any stage of work under a contract the status of Government property can be readily ascertained.

• • • • •

306.1 *Centrally reportable industrial plant equipment.* (a) The contractor shall prepare a DD Form 1342 for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The forms will be prepared in accordance with instructions contained in AR 700-43/NAVSUP PUB 5009/AFM 78-1/DSAM 4215.1—Defense Industrial Plant Equipment Center Operations, at the time (1) of receipt and acceptance of accountability by the contractor; (2) major changes as specified by DSAM 4215.1 occur in the data initially submitted to DIPEC; (3) IPE, including components of special test equipment which would otherwise qualify as industrial plant equipment, is no longer required for the purpose authorized or provided; and (4) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to the Defense Industrial Plant Equipment Center (DIPEC). The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342 shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 10 days after the event which created the need for its preparation and forwarding. AR 700-43/NAVSUP PUB 5009/AFM 78-1/DSAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

• • • • •

311 *Financial reports*—(a) *Facilities.* The contractor's property control system shall be such as to provide annually the dollar amount of Government-owned facilities, as well as the quantity of Industrial Plant Equipment (IPE), for which he is accountable under each contract with each Department, including such facilities at subcontractor plants, in the following classifications:

(i) Land and rights therein;

(ii) Other real property, including utility distribution systems, buildings, structures, and improvements thereto;

(iii) IPE required to be reported to DIPEC in accordance with 306.1;

(iv) Other plant equipment, including minor plant equipment but excluding property within (iii) above.

The contractor shall furnish to the property administrator, as of June 30 of each year, a separate report, by contract, of the dollar amount of Government-owned facilities and the quantity of IPE in his possession falling in each of the above classifications. This shall include facilities at subcontractor plants for which the prime contractor is accountable. Reports shall be prepared on DD Form 1662, Financial Report of Government Property, and furnished to the property administrator in duplicate no later than July 21 of each year.

(b) *Reporting authority.* Office of Management and Budget No. 22-RO235 has been assigned to these reports.

23. Section 30.4, Item 1 is revised and the footnote thereto is revoked, as follows:

§ 30.4 Appendix D—Rules for notice and hearing under gratuities clause in Armed Services Procurement Regulation 7.104-16.

1. *Introduction.* 10 U.S.C. 2207 requires all contracts, other than contracts for personal services, which call for the expenditure of funds appropriated for the Department of Defense, to contain a clause permitting the termination of the contractor's right to proceed under any such contract and permitting the Government to pursue the remedies that it could pursue in the event of breach of contract if it is found after notice and hearing by the Secretary of the Department with which the contract was made, or by his duly authorized representative, that gratuities (in the form of entertainment, gifts or otherwise) were offered or given by the contractor or by his agent or representative to any officer or employee of the Government with a view toward securing a Government contract or favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such contract. The Military Departments have prescribed the use of such clause, as set forth in the Armed Services Procurement Regulation, paragraph 7.104-16, in contracts as required by the above Act and in other procurement contracts. It is the purpose of these rules to make provisions for the giving of the notice of hearing, for the conduct of the hearing, and for other procedural matters incident to the exercise of the rights and special remedies provided by the prescribed clause, wherever it is now or may hereafter be used in contracts of the Military Departments. In the interest of uniformity in proceedings before the three Military Departments, these rules are hereby adopted. Nothing herein shall be construed to affect or impair (1) the pursuit of other remedies available to the Government in any instance, or (2) the right of termination of any contract for any reason available to the Government under the terms of such contract.

24. Section 30.8, Part 1, Item I-104(a) (1) is revised, as follows:

§ 30.8 Appendix I—Material Inspection and Receiving Report (DD Forms 250, 250c, and 250-1).

PART 1—INTRODUCTION

• • • • •

I-104 *Application.*

(a) DD Form 250:

(1) The DD Form 250 shall be used for delivery of contract line, subline, exhibit line or exhibit subline items on a DD Form 1423 that indicate no DD Form 250 is required.

• • • • •

24. Section 30.9, Part 2, Item M-201.3 (vi) is revised, as follows:

§ 30.9 Appendix M—Retention requirements for contractor and subcontractor records.

• • • • •

PART B—RETENTION REQUIREMENTS

• • • • •

M-201.3. Procurement and supplies records.

• • • • •

(vi) Purchase order files for supplies, equipment, material, or services, to be used in the performance of a contract or subcontract—and supporting documentation and backup files including but not limited to invoices, memoranda, etc. (e.g., memoranda of negotiations setting forth the principal elements of subcontract price negotiations (see §§ 7.104-23(a), 7.203-8(a), and 7.402-8 (a) of this chapter.)—Retain 4 years.

• • • • •

[Rev. 11, ASPR, April 28, 1972; DPC 84, Item I; DPC 86, Items V, VI; DPC 87, Items I, VII; DPC 90, Item I; DPC 92, Item V; DPC 94, Item I; DPC 95, Items I, III, IV, V; DPC 96, Items V, VII; DPC 97, Items, I, III, IV, V, VI, VII; and DPC 98, Items II, III] (Secs. 2202, 2301-2314, 70A Stat. 120, 127-133; 10 U.S.C. 2202, 2301-2314)

For the Adjutant General.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.72-17353 Filed 10-11-72;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-97, Amdt. 39-1534]

PART 39—AIRWORTHINESS DIRECTIVES

Brantly Model B-2, B-2A, and B-2B Helicopters

There has been a failure of the pylon outboard bearing shaft, Part No. 280-6, on a Brantly Model B-2B Helicopter that resulted in the loss of a main rotor blade. Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued to reduce the service life limits of the pylon outboard bearing shafts on Brantly B-2, B-2A, and B-2B Helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BRANTLY. Applies to Model B-2, B-2A, and B-2B Helicopters certificated in all catagories.

Compliance required as indicated, unless already accomplished:

To prevent fatigue failure of the pylon outboard bearing shaft, Part No. 280-5 or 280-6, replace these parts (three per helicopter) with serviceable parts having Part No. 280-6 within the next 10 hours time in service after the effective date of this AD, or upon the accumulation of 835 hours total time in service, whichever occurs later. The replacement pylon outboard bearing shafts must be torqued to 2,500±100 inch-pounds and secured with an AN435-4-9 rivet or equivalent.

This AD effectively revises the service life limits published in Type Certificate Data Sheet No. 2H2 for Part No. 280-5 and 280-6, which are a part of the hub and inboard blade assembly Part No. 305-1. Part Nos. 280-5 and 280-6 pylon outboard bearing shafts, will now have a service life limit of 835 hours time in service.

Type certificate holder, Mr. M. K. Hynes, 1241 Lake Horney Drive, Lakeland, FL 33801, may be contacted for information regarding installation tools, replacement parts, etc.

This amendment becomes effective October 14, 1972, for all persons except those to whom it was made effective upon receipt of the airmail letter dated October 3, 1972, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on September 29, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-17356 Filed 10-11-72;8:48 am]

[Docket No. 12263, Amdt. 39-1529]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Spey Model 555-15 Series Engines

Correction

In F.R. Doc. 72-16380, appearing on page 20159, in the issue of Wednesday, September 27, 1972, the following changes are to be made:

1. In the fourth line of the new airworthiness directive (Rolls Royce (1971) Ltd.), of the third paragraph, the word now reading "now", should read "not".

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2. In the third line of paragraph (B) (1), the second word now reading "Buetin", should read "Bulletin".

[Docket No. 11377, Amdt. 39-1542]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley de Havilland Model DH-104 "Dove" Airplanes

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), an amendment to Amendment 39-1457 (37 F.R. 11155), AD 72-12-3, was adopted on August 31, 1972, and made effective immediately as to all known U.S. operators of Hawker Siddeley de Havilland Model DH-104 "Dove" airplanes. The amendment provided for the extension of the date for compliance of Amendment 39-1457 (37 F.R. 11155), AD 72-12-3 because of a shortage of replacement parts and the FAA's determination that an extension of the AD's compliance date from September 1, 1972, to November 1, 1972, would provide operators an opportunity to obtain replacement parts and would not adversely affect safety.

Since it was found that immediate action was required, notice and public procedure thereon was impracticable and good cause existed for making the amendment effective immediately as to all known U.S. operators of Hawker Siddeley de Havilland Model DH-104 "Dove" airplanes by individual telegrams dated August 31, 1972. These conditions still exist, and the amendment is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, Amendment 39-1457 (37 F.R. 11155), AD 72-12-3, is amended by amending the compliance statement to read as follows:

Compliance is required on or before November 1, 1972.

This amendment is effective upon publication in the FEDERAL REGISTER (10-12-72), as to all persons except those persons to whom it was made immediately effective by telegram dated August 31, 1972, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 4, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-17357 Filed 10-11-72;8:48 am]

[Docket No. 11480, Amdt. 47-15]

PART 47—AIRCRAFT REGISTRATION

Identification Number for Aircraft Last Previously Registered in a Foreign Country

The purpose of this amendment to Part 47 of the Federal Aviation Regulations is to provide for the issue of a U.S. identification number for an aircraft last previously registered in a foreign country, before the issue of a Certificate of Aircraft Registration, and to allow the operation of that aircraft under temporary authority.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (Notice 71-36) issued on October 22, 1971, and published in the FEDERAL REGISTER on November 9, 1971 (36 F.R. 21414). Due consideration has been given to all comments presented in response to the notice.

All six public comments received in response to the notice concurred in the proposal. Three commentators suggested expansion of the proposed 90-day period during which an applicant for aircraft registration who has been issued an identification number must file an Aircraft Registration Application, AC Form 8050-1, and comply with either § 47.33 or § 47.37, as applicable, or lose the authority to use the number. For various reasons, the commentators suggested periods of 120 days to 1 year. The FAA considers the 90-day period to be necessary to insure proper control of the identification number, as stated in the notice, and in most cases this period is sufficient to allow the applicant to comply with either § 47.33 or § 47.37. However, responsive to these comments, as issued the rule allows the applicant to obtain an extension of the 90-day period upon a showing that delay in complying with § 47.33 or § 47.37 was due to circumstances beyond his control, such as a delay in the process of deregistration in a foreign country.

A minor editorial change was made in the introductory language of paragraph (a)(3) from what originally appeared in the Notice, for the purpose of emphasizing that the provision applies whether or not the foreign registration has ended.

In consideration of the foregoing, and for the reasons given in Notice 71-36, Part 47 of the Federal Aviation Regulations is amended, effective November 11, 1972, as follows:

1. Section 47.15 is amended by amending the first sentence in paragraph (a), by amending paragraph (a)(3), and by inserting a flush paragraph at the end of paragraph (a), to read as follows:

§ 47.15 **Identification number.**

(a) *Number required.* An applicant for Aircraft Registration must place a U.S. identification number (registration mark) on his Aircraft Registration Application, AC Form 8050-1, and on any evidence submitted with the application. * * *

* * * * * * *

(3) *Aircraft last previously registered in a foreign country.* Whether or not the foreign registration has ended, the applicant must obtain a U.S. identification number from the FAA Aircraft Registry for an aircraft last previously registered in a foreign country, by request in writing describing the aircraft by make, model, and serial number, accompanied by—

(i) Evidence of termination of foreign registration in accordance with § 47.37(b) or the applicant's affidavit showing that foreign registration has ended; or

(ii) If foreign registration has not ended, the applicant's affidavit stating that the number wil' not be placed on the aircraft until foreign registration has ended.

Authority to use the identification number obtained under subparagraph (1) or (3) of this paragraph expires 90 days after the date it is issued unless the applicant submits an Aircraft Registration Application, AC Form 8050-1, and complies with § 47.33 or § 47.37, as applicable, within that period of time. However, the applicant may obtain an extension of this 90-day period from the FAA Aircraft Registry if he shows that his delay in complying with that section is due to circumstances beyond his control.

* * * * * * *

§ 47.31 [Amended]

2. The last sentence in paragraph (b) of § 47.31 is stricken out.

(Secs. 313(a), 501, 503, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1401, 1403; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); sec. 1.47(a), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.47(a))

Issued in Washington, D.C., on October 3, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-17358 Filed 10-11-72;8:48 am]

[Airspace Docket No. 71-AL-24]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On June 7, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 11343) stating that the Federal Aviation Administration (FAA) was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Cold Bay, Alaska, control zone and transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December, 7, 1972, as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056) the Cold Bay, Alaska, control zone is amended to read as follows:

COLD BAY, ALASKA

Within a 5-mile radius of the Cold Bay Airport (latitude 55°12'06" N., longitude 162°43'28" W.); within 3 miles each side of the 338° bearing from the Cold Bay RR, extending from the 5-mile radius zone to 13.5 miles north of the RR, and within 5 miles west and 2.5 miles east of the Cold Bay VORTAC 150° radial, extending from the 5-mile radius zone to 18 miles south of the VORTAC.

2. In § 71.181 (37 F.R. 2143) the Cold Bay, Alaska, transition area is amended to read as follows:

That airspace extending upward from 1,200 feet above the surface within a 16.5-mile radius of the Cold Bay VORTAC, extending clockwise from the 253° radial to the 041° radial; within 7 miles southeast of the Cold Bay VORTAC 041° radial, extending from the VORTAC to 16.5 miles northeast of the VORTAC; within 7 miles south of the Cold Bay VORTAC 253° radial, extending from the VORTAC to 16.5 miles west of the VORTAC; within 5 miles west and 11.5 miles east of the Cold Bay VORTAC 335° radial, extending from the VORTAC to 20 miles north of the VORTAC, and within 8.5 miles west and 5 miles east of the Cold Bay VORTAC 150° radial, extending from 18 to 29 miles south of the VORTAC.

(Secs. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1510); Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 4, 1972.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17359 Filed 10-11-72;8:48 am]

[Airspace Docket No. 72-EA-69]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On page 12153 of the FEDERAL REGISTER for June 20, 1972, the Federal Aviation Administration issued a proposed amendment so as to alter the Aberdeen, Md., control zone (37 F.R. 2056) and transition area (37 F.R. 2143).

Interested parties were given 30 days after publication in which to submit written data or views. A Mr. Hubert T. Montgomery objected but apparently misunderstood the purpose of the rule and has since withdrawn his objection. There were no other objections.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 29, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

1. Amend § 71.171 of the Federal Aviation Regulations so as to delete the description of the Aberdeen, Md., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 39°28'00" N., 76°10'00" W. of Phillips AAF; within 3 miles each side of the 029° bearing from the Aberdeen RBN, extending from the 5-mile-radius zone to 8.5 miles northeast of the RBN. This control zone is effective from 0600 to 2200 hours, local time, Monday through Friday, excluding Federal legal holidays.

2. Amend § 71.181 of the Federal Aviation Regulations so as to delete the description of the Aberdeen, Md. 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center 39°28'00" N., 76°10'00 W. of Phillips AAF; within a 9.5-mile radius of the center of the airport, extending clockwise from a 260° bearing to a 010° bearing from the airport and within 3.5 miles each side of the 029° bearing from the Aberdeen RBN, extending from the RBN to 11.5 miles northeast of the RBN.

[FR Doc.72-17360 Filed 10-11-72;8:48 am]

[Airspace Docket No. 72-EA-98]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Watertown, N.Y., control zone (37 F.R. 2138) and transition area (37 F.R. 2301).

The Watertown, N.Y. Municipal Airport was recently renamed the Watertown, N.Y. International Airport. To reflect the revised airport name, it is needed to amend the descriptions of the control zone and transition area.

Since the foregoing is editorial in nature and creates no burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (10-12-72), as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations by amending the description of the Watertown, N.Y., control zone by deleting, "Watertown Municipal Airport, Watertown, N.Y." and substituting, "Watertown International Airport, Watertown, N.Y." in lieu thereof.

2. Amend § 71.181 of Part 71, Federal Aviation Regulations by amending the description of the Watertown, N.Y., 700-foot floor transition area by deleting, "Watertown Municipal Airport, Watertown, N.Y." and substituting "Watertown International Airport, Watertown, N.Y." in lieu thereof.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 29, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17362 Filed 10-11-72;8:48 am]

[Airspace Docket No. 72-SO-95]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone and Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate the Jacksonville, N.C., control zone and alter the Jacksonville, N.C., transition area.

The Jacksonville control zone is described in § 71.171 (37 F.R. 2056) and the Jacksonville transition area is described in § 71.181 (37 F.R. 2143). The control zone is presently effective 24 hours per day. Since the hours of operation of the control tower are from 0700 hours, local time, to sunset, Monday through Friday; 0700 to 1200 hours, local time, Saturday; 1600 to 2000 hours, local time, Sunday, and closed on holidays, it is necessary to alter the control zone descriptions to redesignate it as part time. Additionally, the extensions predicated on the 051° bearing from New River RBN and the New River TACAN 236° radial were designated as control zone extensions in lieu of transition area extensions to avoid dual designations and for chart clarity. It is necessary to alter the transition area description by designating an extension predicated on the 051° bearing from New River RBN 6 miles wide and 8.5 miles long, and an extension predicated on New River TACAN 236° radial 4 miles wide and 9.5 miles long. These extensions are necessary to provide controlled airspace protection for IFR aircraft executing NDB runway 23 and TACAN runway 5 Instrument Approach Procedures in descent from 1,500 feet above the surface during the times the control zone is not in effect. Since these amendments are less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Jacksonville, N.C., control zone is amended as follows: "This control zone is effective from 0700 hours, local time, to sunset, Monday through Friday; 0700 to 1200 hours, local time, Saturday; 1600 to 2000 hours, local time, Sunday, and closed on holidays." is added to the description.

In § 71.181 (37 F.R. 2143), the Jacksonville, N.C., transition area is amended as follows: "* * * longitude 77°26'35" W.); * * *" is deleted and "* * * longitude 77°26'35" W.); within 3 miles each side of the 051° bearing from New River RBN, extending from the 8.5 mile radius area to 8.5 miles northeast of the RBN;

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within 2 miles each side of New River TACAN 236° radial, extending from the 8.5 mile radius area to 9.5 miles southwest of the TACAN; * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 2, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-17363 Filed 10-11-72;8:48 am]

[Airspace Docket No. 71-SO-162]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation and Alteration of Transition Areas

On February 26, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 4096) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would designate a 700-foot transition area at Naples, Fla., and alter the 1,200-foot portion of the Florida transition area southwest of Naples, Fla.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

Subsequent to the issuance of the notice of proposed rule making, it was noted that, inadvertently, the width of the 1,200-foot transition area extension predicated on the 228° bearing from Naples RBN, was described as "8.5 miles northwest" in lieu of "9.5 miles northwest." Action is taken herein to correct this error.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

Section 71.181 (37 F.R. 2143, 9461 and 36 F.R. 23796) is amended as follows:

1. The Naples, Fla., transition area is added as follows:

NAPLES, FLA.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Naples Municipal Airport (latitude 26°09'10" N., longitude 81°46'30" W.); within 3 miles each side of the 041° and 228° bearing from the Naples RBN, extending from the 6.5 mile radius area to 8.5 miles northeast and southwest of the RBN.

2. The 1,200-foot floor portion of the Florida transition area is amended by adding:

That airspace 4.5 miles southeast of and 9.5 miles northwest of the 228° bearing from the Naples RBN (latitude 26°09'00" N., longitude 81°46'31" W.), extending from the RBN to 18.5 miles southwest of the RBN.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 4, 1972.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17364 Filed 10-11-72;8:48 am]

[Airspace Docket No. 72-EA-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone, Alteration of Transition Area

On page 9490 of the FEDERAL REGISTER for May 11, 1972, the Federal Aviation Administration published a proposed rule which would designate a part-time control zone for Greenbrier Valley Airport, Lewisburg, W. Va., and alter the Lewisburg, W. Va., transition area (37 F.R. 2228).

Interested parties were given 30 days in which to submit comments or data thereon. As a result several objections were made to the inclusion of Greenbrier Airport of White Sulphur Springs, W. Va., within the control zone. A review of the criteria and purpose of the designation establishes that the control zone may be altered to exclude Greenbrier Airport.

Since this change to the proposal is less restrictive than the proposal, additional notice and public procedure hereon are unnecessary and the change may be made effective with the original proposal.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. December 7, 1972, as follows:

A. Delete the description in item 1 and amend the proposal to read:

Within a 6-mile radius of the center 37°51'35" N., 80°23'55" W. of Greenbrier Valley Airport, Lewisburg, W. Va., extending clockwise from a 110° bearing from the airport to a 275° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 275° bearing from the airport to a 040° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 040° bearing from the airport to a 110° bearing from the airport and within 3 miles each side of the Greenbrier Valley Airport ILS localizer southwest course, extending from the 6-mile-radius arc to 8.5 miles southwest of the OM. This control zone is effective from 0730 to 2100 hours, local time, daily.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Lewisburg, W. Va., 700-foot floor transition area, "extending from the RBN to 8.5 miles southwest" and insert the following in lieu thereof, "extending from the RBN to 9.5 miles southwest."

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 29, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17361 Filed 10-11-72;8:54 am]

[Airspace Docket No. 72-WA-37]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Establishment of Jet Route

On August 10, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 16107) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would establish a new Jet Route, High Level Airway J-595/HL595 between London, Ontario, Canada, and St. John, New Brunswick, Canada.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 75.100 (37 F.R. 2382) the following jet route is added:

Jet Route No. 595 (from London, Ontario, to St. John, New Brunswick) (joins Canadian High Level Airway No. 595) from London, Ontario via latitude 43°52'30" N., longitude 78°43'00" W.; Watertown, N.Y.; Plattsburgh, N.Y.; Bangor, Maine; to St. John, New Brunswick, Canada; excluding the portion outside the United States.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C 1655(c))

Issued in Washington, D.C., on October 4, 1972.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17365 Filed 10-11-72;8:48 am]

[Airspace Docket No. 72-WE-42]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Jet Route Segments

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change the alinement of J-2 and J-18 between Yuma, Ariz., and Gila Bend, Ariz., 2° at Yuma and 1° at Gila Bend.

J-2 and J-18 presently overlie VOR Federal Airway V-66 at this location. V-66 is realined, effective December 7, 1972, in Airspace Docket No. 72-WE-41. To continue the collocation of the airway and jet routes, this amendment should become effective simultaneously with Airspace Docket No. 72-WE-41.

Since the jet routes are realined by only 2°, the alteration is considered as minor in nature and no substantive change in the regulations is effected. For these reasons, notice and public procedure thereon are unnecessary and this amendment could be made effective upon publication in the FEDERAL REGISTER; however, in order to provide sufficient time for changes to be depicted on appropriate aeronautical charts, this amendment will be made effective on December 7, 1972.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

Section 75.100 (37 F.R. 2382, 4957) is amended in part as follows:

a. In Jet Route No. 2 "Yuma 087° and the Gila Bend, Ariz., 262° radials;" is deleted and "Yuma 089° and Gila Bend, Ariz., 261° radials;" is substituted therefor.

b. In Jet Route No. 18 "Yuma 087° and the Gila Bend, Ariz., 262° radials;" is deleted and "Yuma 089° and Gila Bend, Ariz., 261° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 4, 1972.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17366 Filed 10-11-72;8:49 am]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-95; Amdt. 177-22]

PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

Transportation of Blasting Caps With Other Explosives

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to prohibit the transportation of blasting caps in the same motor vehicle with other explosives, except Class C explosives, unless approved by the Department.

On December 21, 1971, the Hazardous Materials Regulations Board published Docket No. HM-95; Notice No. 71-31 (36 F.R. 24125) which proposed regulations consistent with this amendment. Interested persons were invited to give their views and several comments were received by the Board.

Several commenters objected to the proposal indicating many years of successful experience transporting blasting caps in accordance with the present regulations. The Board wishes to reiterate its concern as expressed in the preamble of the notice:

The major concern with the transportation of blasting caps in the same vehicle with other explosives is the detonation of the other explosives should the blasting caps be subjected to heat, heavy shock, or other potential initiation sources.

At the present time, § 177.835(g) authorizes the transportation of blasting caps in fiberboard boxes in the same vehicle with high explosives. In 1964, there was a serious explosion following a fire in a semitrailer. The vehicle contained blasting caps packed in fiberboard boxes placed immediately adjacent to dynamite packed in fiberboard boxes. No one is in a position to say that the blasting caps initiated the dynamite due to their penetrating effect or that the dynamite was initiated due to elevated temperature. The fact remains that blasting caps, when placed in certain orientations to high explosives, could cause the initiation of high explosives even though they are properly packaged in accordance with Part 173 of the Hazardous Materials Regulations.

Other commenters made recommendations that the Board impose additional requirements most of which are outside the scope of this rule making action. Others suggested requirements that are already in existence in 49 CFR Part 397.

Several commenters objected to the regulation being expanded to apply when blasting caps are transported with class C explosives, such as oil well jet perforating guns. The Board agrees with the commenters that the amendment should be restricted to classes A and B explosives. The suggested change has been incorporated in this amendment.

In the notice, the Board proposed to adopt by reference a standard prepared by the Institute of Makers of Explosives (IME) which contained specific requirements for the construction of containers and compartments using a barrier laminated material which was tested by IME and witnessed by representatives of the Department. The Board now believes that adoption of the IME standard would be too restrictive and would prevent the use of other barrier material that may provide equal penetration and heat transfer resistance. However, the Board believes that the IME standard contains sufficient and adequate criteria to serve as a model for approval of other containers and blasting caps on a comparative basis. In using the standard, the Board believes that containers and compartments constructed of other materials, that will perform in fire tests as well as the containers covered by the Standard, can be used to transport electric blasting caps or other types of blasting caps in the same vehicle with Class A and B explosives.

Several commenters were concerned that there might be a conflict between this amendment and the Occupational Safety and Health Administration (OSHA) standards of the Department of Labor which totally prohibit the transportation of blasting caps in the same vehicle with explosives. There is no conflict because the OSHA and the Department of Transportation regulations relate to different areas. Section 4(b)(2) of the William-Steiger Occupational Safety and Health Act of 1970 provides that the Act does not apply to working conditions with respect to which other Federal agencies exercise their statutory authority to prescribe regulations affecting occupational safety. The Department of Transportation has such statutory authority under Title 18 U.S.C. 831-835 to prescribe regulations for shippers and carriers involved in interstate commerce. Therefore, with respect to the statutory authority of the Department of Transportation relative to interstate commerce, the Department of Transportation regulations would apply and not the OSHA standard.

One commenter, representing the for-hire motor carrier industry in the transportation of munitions and explosives, objected to the proposed amendment being placed in Part 177 of Title 49, thus making the regulation applicable to motor carriers instead of shippers. This amendment relates to the loading as well as transportation of blasting caps in the same transport vehicle with other explosives. Section 173.30 specifies that any person who loads shipments of hazardous materials into transport vehicles shall comply with the applicable loading provisions, in this case with §§ 177.834 through 177.848. If a shipper loads a vehicle subject to the rules in this amendment, he must comply with these requirements.

In consideration of the foregoing, 49 CFR Part 177 is amended as follows:

In § 177.835, paragraphs (g) and (m) are amended to read as follows:

§ 177.835 Explosives.

* * * * *

(g) No blasting cap, regardless of type, may be transported on the same motor vehicle with any Class A or Class B explosive unless—

(1) It is packed in a specification MC 201 (§ 178.318 of this subchapter) container, or

(2) It is packed and loaded in accordance with a method approved by the Department. One method approved by the Department is as follows:

(i) The caps are packed in packagings prescribed in § 173.66(g) of this subchapter which in turn are loaded into portable containers or separate compartments meeting the requirements of the Institute of Makers of Explosives' Standard entitled "IME Standard for the Safe Transportation of Electric Blasting Caps in the Same Vehicle With Other Explosives," dated November 5, 1971 (IME Safety Library Publication No. 22).

* * * * *

(m) *Caps or other explosives.* Any explosive, including desensitized liquid explosives as defined in § 173.53(e) of this subchapter, other than liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, transported on any motor vehicle transporting liquid

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nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, must be segregated, each kind from every other kind, and from tools or other supplies. Blasting caps must be packed in specification MC 201 (§ 178.318 of this subchapter) containers.

This amendment is effective June 30, 1973. However, compliance with the regulations, as amended herein, is authorized immediately.

(Secs. 831–835, title 18, United States Code; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on October 6, 1972.

KENNETH L. PIERSON,
Alternate Board Member, for the Federal Highway Administration.

[FR Doc.72-17371 Filed 10-11-72;8:47 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1105]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the third day of October 1972.

It appearing, that an acute shortage of plain boxcars exists on the Maine Central Railroad Co.; that shippers located on lines of this carrier are being deprived of such cars required for loading, resulting in a severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by this railroad are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1105 Revised service order No. 1105.

(a) *Distribution of boxcars.*

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owner empty, except as otherwise authorized in paragraphs (4), (5), (6), and (7) herein, all plain boxcars which are listed in the Official Railway Equipment Register, ICC R.E.R. 384, issued by W. J. Trezise, or reissues thereof, as having mechanical designation XM, bearing reporting marks issued to the Maine Central Railroad Co.

(2) Plain boxcars described in subparagraph (1) of this section include both plain boxcars in general service and plain boxcars assigned to the exclusive use of a specified shipper.

(3) Except as otherwise authorized in paragraphs (5) and (6) herein, boxcars described in subparagraph (1) of this paragraph, located in States other than Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, or Vermont, may be loaded to any station located in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, or Vermont. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(4) Boxcars described in subparagraph (1) of this paragraph, located at stations in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, or Vermont, may be loaded only to stations on the lines of the car owner or to any station which is a junction with the car owner. After unloading at a junction with the car owner, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(5) Boxcars described in subparagraph (1) of this paragraph located at a point other than a junction with the car owner shall not be back-hauled empty, except for the purpose of loading to a junction with the car owner or to a station on the lines of the car owner.

(6) Boxcars described in subparagraph (1) of this paragraph shall not be back-hauled empty from a junction with the car owner.

(7) Exception. The provisions of this order shall not apply to Maine Central cars in series 30000 to 30249, inclusive.

(8) The return to the owner of a boxcar described in paragraph (1) herein shall be accomplished when it is delivered to the car owner, either empty or loaded.

(9) Junction points with the car owner shall be those listed by the car owner in its specific registration in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(10) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraphs (3), (4), (5), or (7) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) *Effective date.* This order shall become effective at 11:59 p.m., October 7, 1972.

(d) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hir agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17433 Filed 10-11-72;8:50 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds; Corrections

1. There was published in the FEDERAL REGISTER of September 29, 1972 (37 F.R. 20326), an amendment to § 10.106(b) of Part 10, Subpart K of Title 50, Code of Federal Regulations, which established the season for little brown cranes.

The season for little brown cranes in the seven counties of New Mexico named in that section should have read November 4, 1972–January 31, 1973.

Accordingly, § 10.106(b) is amended to read:

§ 10.106 Seasons and limits for little brown cranes.

* * * * *

(b) In the New Mexico counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt, the season dates are November 4, 1972–January 31, 1973, and in that portion of the State of Texas lying west of a line running south from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 and including all of Howard and Lynn Counties to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio; season dates are October 28, 1972–January 28, 1973.

* * * * *

2. In the FEDERAL REGISTER of September 1, 1972 (37 F.R. 17840) a revision of § 10.105, paragraph (e), which established the seasons, limits, and shooting hours for ducks, mergansers, coots, and geese in the Atlantic, Central, and Mississippi Flyways, was published. The maximum limit for geese in the Central Flyway, including the limits established for each species and for various combinations of species, should have established a limit of four daily and in possession. The opening date for geese in the counties of Alfalfa, Bryan, Johnson, and Marshall, Okla., should have been November 4.

§ 10.105 [Amended]

Accordingly, the following amendments are made in § 10.105(e) Atlantic, Mississippi, and Central Flyways:

(a) Footnote 31 is amended to read:

[31] Including all other limits on geese, the maximum bag and possession limit in the Central Flyway is four.

(b) Footnote 45 is amended to read:

[45] In Alfalfa, Bryon, Johnson, and Marshall Counties, the goose season opens November 4 and coincides with the remainder of the season for the rest of the State. The limits in those four counties are regulated by footnote 21 above.

Since these amendments are in accordance with the desires of the respective States as expressed pursuant to a notice of proposed rule making published in the FEDERAL REGISTER of April 28, 1972 (37 F.R. 8530), and make necessary corrections to the FEDERAL REGISTER of September 1 and September 29, 1972 (37 F.R. 17840 and 20326, respectively), it is determined that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest, and these amendments shall be effective upon publication in the FEDERAL REGISTER.

(16 U.S.C. 703–711)

Effective date: Upon publication in the FEDERAL REGISTER (10–12–72).

E. V. SCHMIDT,
Acting Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 6, 1972.

[FR Doc.72-17378 Filed 10-11-72;8:47 am]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER I—DETERMINATION OF PRICES

[Docket No. SH-307]

PART 874—SUGARCANE; LOUISIANA

Fair and Reasonable Prices for 1972 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and due consideration of the evidence presented at the public hearing held in Houma, La., on June 21, 1972, the following determination is hereby issued.

The regulations previously appearing in these sections under "Determination of Prices; Sugarcane; Louisiana" remain in full force and effect as to the crops to which they were applicable.

Sec.
874.33 General requirements.
874.34 Definitions.
874.35 Basic price.
874.36 Conversion of net sugarcane to standard sugarcane.
874.37 Payment for frozen sugarcane.
874.38 Molasses payment.
874.39 Hoisting, weighing, and transportation.
874.40 Mutual plan for improving harvesting and delivery.
874.41 Toll agreements.
874.42 Applicability.
874.43 Subterfuge.
874.44 Processor mill procedures and checking compliance.
874.45 Reporting requirements.

AUTHORITY: The provisions of these §§ 874.33 to 874.45 issued under secs. 301, 403, 61 Stat. 929, as amended, 932, 7 U.S.C. 1131, 1153.

§ 874.33 General requirements.

A producer of sugarcane in Louisiana who is also a processor of sugarcane, to which this part applies as provided in § 874.42 (herein referred to as "processor"), shall have paid or contracted to pay for sugarcane of the 1972 crop grown by other producers and processed by him, or shall have processed sugarcane of other processors under a toll agreement, in accordance with the following requirements.

§ 874.34 Definitions.

For the purpose of this section the term:

(a) "Price of raw sugar" means the price of 96° raw sugar quoted by the Louisiana Sugar Exchange, Inc., except that if the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, determines that such price does not reflect the true market value of raw sugar, because of inadequate volume, failure to report sales in accordance with the rules of such Exchange or other factors, he may designate the price to be effective under this determination, which he determines will reflect the true market value of raw sugar.

(b) "Price of blackstrap molasses" means the price per gallon of blackstrap molasses quoted by the Louisiana Sugar Exchange, Inc., except that if the Director of the Sugar Division determines that such price does not reflect the true market value of blackstrap molasses, because of inadequate volume, failure to report sales in accordance with the rules of such exchange or other factors, he may designate the price to be effective under this determination, which he determines will reflect the true market value of blackstrap molasses.

(c) "Weekly average price" means the simple average of the daily prices of raw sugar or blackstrap molasses, for the week (Friday through the following Thursday) in which the sugarcane is delivered.

(d) "Season's average price" means the simple average of the weekly prices of raw sugar or of blackstrap molasses for the period October 6, 1972 through April 12, 1973.

(e) "Delivered average price" means the weighted average price of 1972-crop raw sugar determined by weighting (1) the simple average of the daily prices of raw sugar for the period October 6, 1972 through December 31, 1972, by the quantity of 1972-crop sugar, raw value, marketed under the processors' 1972 marketing allotment; and (2) the simple average of the daily prices of raw sugar for the period January 1, 1973 through February 22, 1973, by the quantity of 1972-crop sugar, raw value, not marketed in 1972 under the processors' 1972 marketing allotment.

(f) "Net sugarcane" means the quantity of sugarcane obtained by deducting the weight of trash from the gross weight of sugarcane as delivered by a producer.

(g) "Trash" means green or dried leaves, sugarcane tops, dirt, and all other extraneous material delivered with sugarcane.

(h) "Standard sugarcane" means net sugarcane, containing 12 percent sucrose in the normal juice with a purity of at least 76 but not more than 76.49 percent.

(i) "Salvage sugarcane" means any sugarcane containing either less than 9.5 percent sucrose in the normal juice or less than 68 purity in the normal juice.

(j) "Percent sucrose in normal juice" means average percent sucrose in sample mill juice obtained from a producers' sugarcane multiplied by a factor representing the ratio of factory normal juice sucrose to the average percent sucrose in sample mill juice extracted from producers' sugarcane.

(k) "Average percent sucrose in sample mill juice" means the percentage of sucrose solids in juice extracted from samples of producers' sugarcane by the sample mill.

(l) "Factory crusher juice Brix" means the percentage of soluble solids in undiluted mill crusher juice as determined by direct analysis in accordance with standard procedures.

(m) "Factory normal juice sucrose" means the percentage of sucrose in undiluted juice extracted by a mill tandem, or by a mill tandem and a diffuser, as determined by multiplying factory dilute juice purity by factory normal juice Brix.

(n) "Factory normal juice Brix" means the percentage of soluble solids in the undiluted juice extracted from sugarcane by a mill tandem, or by a mill tandem and a diffuser, as determined by multiplying factory crusher juice Brix by a dry milling factor representing the ratio of factory normal juice Brix to factory crusher juice Brix.

(o) "Factory dilute juice purity" means the ratio of factory dilute juice sucrose to factory dilute juice Brix which are determined by direct analysis.

(p) "Percent purity of normal juice" means the ratio which the percentage of sucrose solids bears to the percentage of Brix solids in the normal juice of each producer's sugarcane.

(q) "State office" mans the Louisiana State Agricultural Stabilization and Conservation Service Office, 3737 Government Street, Alexandria, LA 71303.

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(r) "State committee" means the Louisiana State Agricultural Stabilization and Conservation Committee.

§ 874.35 Basic price.

(a) The basic price for standard sugarcane shall be not less than $1.05 per ton for each 1-cent per pound of raw sugar determined on the basis of the weekly average price, the season's average price, or the delivered average price as elected by the processor in writing to the State office not later than October 16, 1972, and the pricing basis elected shall be used for pricing all 1972-crop sugarcane. The average price of raw sugar as determined above shall be increased 0.02 cent for all mills located in Freight Area (1); may be decreased 0.01 cent in Freight Area (2); and may be decreased 0.04 cent in Freight Area (3).[1]

[1] Freight Area (1) includes all mills except those located in areas (b) and (c) below;

Freight Area (2) includes all mills located north of Bayou Goula between the Atchafalaya and Mississippi Rivers and southeast of New Iberia and west of the Atchafalaya River.

Freight Area (3) includes all mills located north and west of New Iberia west of the Atchafalaya River.

(b) The basic price for salvage sugarcane shall be determined in accordance with the method of settlement used by the processor for the 1971 crop, except that the processor and producer may agree upon a different method of settlement subject to written approval by the State office upon a determination by the State committee that the method of settlement and the resultant price are fair and reasonable.

§ 874.36 Conversion of net sugarcane to standard sugarcane.

Net sugarcane (except salvage sugarcane) shall be converted to standard sugarcane as follows:

(a) By multiplying the quantity of net sugarcane delivered by each producer by the applicable quality factor in accordance with the following table:

Percent sucrose in normal juice	*Standard sugarcane quality factor*[1]
9.5	0.60
10.0	.70
10.5	.80
11.0	.90
11.5	.95
12.0	1.00
12.5	1.05
13.0	1.10
13.5	1.15
14.0	1.20
14.5	1.25

[1] The quality factor for sugarcane of intermediate percentages of sucrose in normal juice shall be interpolated and for sugarcane having more than 14.5 percent sucrose in the normal juice shall be computed in proportion to the immediately preceding interval.

and,

(b) By multiplying the quantity determined pursuant to paragraph (a) of this section by the applicable purity factor in the following table:

STANDARD SUGARCANE PURITY FACTOR[1]

Percent purity of normal juice		Percent Sucrose in Normal Juice														
At least	But not more than	At least 9.50 But not more than 9.69	9.70 9.89	9.90 10.09	10.10 10.29	10.30 10.49	10.50 10.99	11.00 11.49	11.50 11.99	12.00 12.49	12.50 12.99	13.00 13.49	13.50 13.99	14.00 14.49	14.50 14.99	15.00 15.49	15.50 15.99
68.00	68.24	1.000	0.989	0.978	0.967	0.956	0.945	0.936	0.929	0.922	0.915	0.908	0.901	0.894	0.887	0.880	0.87
68.25	68.49	1.005	.993	.982	.971	.960	.949	.941	.934	.927	.920	.913	.906	.899	.892	.885	.878
68.50	68.74	1.010	.998	.987	.976	.965	.954	.945	.938	.931	.924	.917	.910	.904	.897	.890	.884
68.75	68.99	1.016	1.003	.992	.981	.970	.959	.950	.943	.936	.929	.922	.915	.909	.902	.896	.890
69.00	69.49	1.021	1.009	.997	.986	.975	.964	.955	.948	.941	.934	.927	.920	.914	.908	.902	.896
69.50	69.99	1.025	1.013	1.001	.990	.979	.968	.960	.953	.945	.937	.931	.924	.918	.912	.906	.900
70.00	70.49	1.030	1.018	1.006	.995	.984	.973	.965	.958	.950	.943	.936	.929	.923	.917	.911	.905
70.50	70.99	1.035	1.023	1.011	.999	.988	.977	.969	.962	.954	.947	.940	.933	.927	.921	.915	.909
71.00	71.49	1.040	1.028	1.016	1.004	.993	.982	.974	.966	.959	.951	.945	.938	.932	.926	.920	.914
71.50	71.99	1.045	1.033	1.021	1.009	.998	.987	.978	.970	.963	.955	.949	.942	.936	.930	.924	.918
72.00	72.49	1.050	1.038	1.026	1.014	1.003	.992	.983	.975	.967	.960	.954	.947	.940	.934	.928	.922
72.50	72.99	1.055	1.043	1.031	1.019	1.007	.996	.987	.979	.971	.964	.958	.951	.944	.938	.932	.926
73.00	73.49	1.060	1.048	1.036	1.024	1.012	1.000	.991	.984	.976	.968	.962	.955	.948	.942	.936	.930
73.50	73.99	1.065	1.052	1.040	1.028	1.016	1.004	.995	.988	.980	.972	.966	.959	.952	.946	.940	.934
74.00	74.49		1.057	1.044	1.032	1.020	1.008	1.000	.992	.984	.977	.970	.963	.956	.950	.944	.938
74.50	74.99		1.062	1.049	1.036	1.024	1.012	1.001	.996	.988	.981	.974	.967	.960	.954	.948	.942
75.00	75.49			1.054	1.041	1.028	1.016	1.008	1.000	.992	.985	.978	.971	.964	.958	.952	.946
75.50	75.99			1.059	1.046	1.033	1.020	1.011	1.001	.996	.988	.981	.974	.967	.961	.955	.949
76.00	76.49				1.051	1.038	1.025	1.015	1.008	1.000	.992	.985	.978	.971	.965	.959	.953
76.50	76.99				1.054	1.041	1.028	1.019	1.011	1.004	.996	.989	.981	.975	.969	.963	.957
77.00	77.49					1.045	1.032	1.023	1.015	1.008	1.000	.993	.985	.979	.973	.967	.961
77.50	77.99					1.049	1.035	1.027	1.019	1.011	1.003	.996	.989	.982	.976	.970	.964
78.00	78.49						1.039	1.031	1.023	1.015	1.007	1.000	.993	.986	.980	.974	.968
78.50	78.99						1.042	1.035	1.026	1.018	1.010	1.003	.996	.989	.983	.977	.971
79.00	79.49							1.039	1.030	1.022	1.014	1.007	1.000	.993	.987	.981	.975
79.50	79.99							1.043	1.033	1.025	1.017	1.010	1.003	.996	.990	.984	.978
80.00	80.49								1.037	1.029	1.021	1.014	1.007	1.000	.994	.988	.982
80.50	80.99								1.040	1.032	1.024	1.017	1.010	1.003	.997	.991	.985
81.00	81.49									1.036	1.028	1.021	1.014	1.006	1.000	.994	.988
81.50	81.99									1.039	1.032	1.024	1.017	1.009	1.003	.997	.991
82.00	82.49										1.035	1.027	1.020	1.013	1.007	1.000	.995
82.50	82.99										1.038	1.030	1.023	1.016	1.010	1.004	.998
83.00	83.49											1.033	1.027	1.019	1.013	1.007	1.000
83.50	83.99											1.036	1.030	1.022	1.016	1.010	1.004
84.00	84.49												1.033	1.025	1.019	1.013	1.007
84.50	84.99													1.028	1.022	1.016	1.010

[1] Factors applicable to higher or lower sucrose and purity of normal juice than shown in this table shall be determined by the same method of calculation used to compute the factors specified and shall be furnished by the State Office upon request.

§ 874.37 Payment for frozen sugarcane.

(a) The payment for sugarcane determined pursuant to § 874.36 may be reduced upon certification by the State office that sugarcane has been damaged by freeze and that the processing of such sugarcane has adversely affected boiling house operations. Deductions from the payment for such frozen sugarcane shall be at rates not in excess of 1.5 percent of the payment for each 0.1 cc. of acidity above 2.50 cc. of N/10 alkali per 10 cc. of juice but not in excess of 4.75 cc. (intervening fractions are to be computed to the nearest multiple of 0.05 cc.). No payment is required for the amount of sugar recoverable from sugarcane testing in excess of 4.75 cc. of acidity.

(b) In the event a general freeze causes abnormally low recoveries of raw sugar by a processor in relation to the sucrose and purity tests of sugarcane, payment for such sugarcane may be made as mutually agreed upon between the producer and the processor subject to written approval by the State office: *Provided*, That the payment for each ton of net sugarcane shall be not less than an amount equal to the total returns from raw sugar and molasses actually recovered from such sugarcane, determined on the basis of the season's average prices of raw sugar and blackstrap molasses less an amount not to exceed $3.40 per gross ton of sugarcane for processing and less the actual costs of hoisting, weighing, and transporting of such sugarcane.

§ 874.38 Molasses payment.

The processor shall pay an amount equal to teh product of 6.8 gallons times one-half of the average price per gallon of blackstrap molasses in excess of 6 cents for each ton of net sugarcane processed except for (a) salvage sugarcane where settlement is based on the so-called "Java Formula"; (b) frozen sugarcane testing in excess of 4.75 cc. of acidity; and (c) sugarcane damaged by a general freeze which is tolled by the processor and settlement is based on the net proceeds from sugar and molasses recovered from such cane. The average price of blackstrap molasses shall be the weekly average price or the season's average price as elected by the processor in writing to the State office not later than October 16, 1972, and the pricing basis elected shall be used in making molasses payments for 1972-crop sugarcane.

§ 874.39 Hoisting, weighing, and transportation.

The price for sugarcane established by this part shall be applicable to sugarcane delivered by the producer (a) to a hoist for loading into the conveyance for transportation to the mill, or (b) from the farm directly to the mill. With respect to sugarcane delivered to a hoist, the costs of hoisting, weighing, and transporting sugarcane from the hoist to the mill shall be borne by the processor. If the producer performs such services the processor shall make allowance to the producer, based on net sugarcane, at per ton rates not less than those made with respect to sugarcane of the 1971 crop: *Provided*, That the processor shall not be required to make hauling allowances to producers in excess of the rates charged by a contract or commercial carrier or the rates which such carrier would have charged for performing such service. With respect to sugarcane delivered directly from the farm to the mill the processor shall bear the cost of transportation. If the producer performs such services the processor shall make allowance to the producer, based on net sugarcane, at per ton rates not less than those made with respect to the 1971 crop. The processor shall not be required to make an allowance to the producer for hauling sugarcane directly from the farm to the mill at rates in excess of 30 cents per ton for distances of 1 mile or less, 40 cents per ton for distances of 1.1 to 2 miles, plus 5 cents per ton for each mile or fraction thereof in excess of 2 miles. Nothing in this section shall be construed as prohibiting negotiations between the processor and the producer, any change to be approved in writing by the State office upon a determination by the State committee that the change results in allowances which are fair and reasonable.

§ 874.40 Mutual plan for improving harvesting and delivery.

If a processor and the producers delivering sugarcane to such processor mutually agree upon a plan for improving harvesting and delivery operations, the processor may deduct from the price per ton of sugarcane an amount equal to one-half of the per ton cost of such plan. Such deduction may not be made until the plan has the written approval of the State office and it has been determined by the State committee that the plan is fair and reasonable.

§ 874.41 Toll agreements.

The rate for processing sugarcane produced by a processor and processed under a toll agreement by another processor shall be the rate they agree upon.

§ 874.42 Applicability.

The requirements of this part are applicable to all sugarcane purchased from other producers and processed by a processor who produces sugarcane (a processor-producer is defined in § 821.1 of this chapter); and to sugarcane purchased by a cooperative processor from nonmembers. The requirements are not applicable to sugarcane processed by a cooperative processor for its members.

§ 874.43 Subterfuge.

The processor shall not reduce the returns to the producer below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

§ 874.44 Processor mill procedures and checking compliance.

The procedures to be followed by processors in determining that sugarcane, trash, average percent sucrose in normal juice, average percent crusher juice sucrose, factory normal juice sucrose, factory crusher juice sucrose, percent purity of normal juice; and other related mill procedures and required reports are set forth in ASCS Handbook 8–SU entitled "Sampling, Testing, and Reporting for Louisiana Sugar Processors," copies of which have been furnished each processor. The procedures to be followed by the State office in checking compliance with the requirements of this part are set forth under the heading "Fair Price Compliance" in Handbook 3–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbooks 8–SU and 3–SU may be inspected at county ASCS offices and copies may be obtained from the Louisiana State ASCS Office, 3737 Government Street, Alexandria, LA 71303.

§ 874.45 Reporting requirements.

The processor shall submit to the State office no later than May 1, 1973, a statement showing the calculation of the average price of raw sugar and blackstrap molasses for the period(s) on which settlement is based. The processor shall maintain on file for a period of 5 years records of the original data compiled for the reports required by Handbook 8–SU.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1972 crop grown by other producers.

Requirements of the act. Section 301 (c)(2) of the act provides as a condition for payment, that the producer on the farm who is also, directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1972-crop price determination. This determination differs from the 1971 crop determination, as amended, in the following respects: (1) References to the effects of price controls under the President's economic stabilization program are deleted; (2) the period for determining the season's average prices of raw sugar and blackstrap molasses is from October 6, 1972, through April 12, 1973; (3) the periods for determining the delivered average price of raw sugar are from October 6, 1972, through December 31, 1972, for 1972-crop sugar, raw value, marketed under the 1972 quota, and from January 1, 1973, through February 22, 1973, for 1972-crop sugar, raw value, not marketed under the 1972 quota; and (4) the molasses payment to producers is to be based on 6.8 gallons of blackstrap molasses per ton of sugarcane, instead of 6.7 gallons, reflecting the most recent 5-year average recovery.

At the public hearing held in Houma, La., on June 21, 1972, interested persons were afforded the opportunity to present their views on fair and reasonable prices for 1972-crop Louisiana sugarcane. Representatives of the Louisiana Grower-Processor Committee recommended that the same three bases of settlement for sugarcane provided in the 1971 determination be continued for the 1972 crop; that the period for determining the season's average prices of raw sugar and blackstrap molasses extend from October 6, 1972 through April 12, 1973; and that the delivered average price of raw sugar extend from October 6, 1972 through December 31, 1972 for 1972-crop sugar marketed under the processor's 1972 marketing allotment, and from January 1, 1973 through February 22, 1973 from 1972-crop sugar not marketed under the processor's 1972 marketing allotment. The witness further recommended that any reference to the effect of price controls under the President's stabilization program which are not now applicable to the sale of sugar be omitted. They stated that the Department in its review of the pricing factor, should analyze all increases or decreases in returns and costs to be certain the proper sharing relationship between producers and processors is being maintained; and that all processors should make to their growers the largest possible advance payment at the time of the delivery of the sugarcane.

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A representative of the Louisiana Farm Bureau Federation recommended the same methods of settlement and pricing periods as recommended by the Grower-Processor Committee; and that the processor who settles with the producer on a season's average price be required to make final payment to the producer within 2 weeks of the end of the pricing period. He again recommended that the Department conduct studies on the costs of hoisting cane and the various hoisting methods and allowances made to producers for performing this service, so that minimum rates for hoisting allowances can be established.

Consideration has been given to the recommendations presented at the public hearing; to data on the returns, costs, and profits of producing and processing sugarcane in Louisiana obtained by recent field survey and recast in terms of price and production conditions likely to prevail for the 1972 crop; and to other relevant factors. Analysis of the relative positions of producers and processors indicates that the sharing relationship established in the 1971 crop determination continues to be equitable for the 1972 crop, and that producers and processors will share total returns about in line with their respective shares of total costs.

The time periods recommended by the Louisiana Grower-Processor Committee and Farm Bureau Federation for determining the average prices of raw sugar and blackstrap molasses, on which payments to producers for 1972-crop sugarcane are to be based, have been adopted.

The Farm Bureau Federation recommended that studies be made on the costs and methods of hoisting sugarcane to provide a basis for the Department to establish minimum hoisting allowances. During the first half of 1972 the Department conducted a study of hoisting practices and costs in conjunction with its periodic cost study of the Louisiana sugar industry. The survey indicated that only a small percentage of producers hoist sugarcane. There has been a trend in recent years toward greater use of field carts for transporting cane over longer distances, resulting in a reduction in the number of farms using trucks and, consequently, in the need for hoisting sugarcane. The survey also indicated that several combinations of hoist operation and ownership exist in Louisiana. The various types of arrangements and the variation in the costs of hoisting to individual producers indicate it would be difficult to establish a system of minimum hoisting allowances that would be equitable to all producers performing the service. Therefore, the Department considers it appropriate in view of the circumstances to continue the provision of prior determinations relating to hoisting. Prior determinations have provided that allowances be made to producers who perform, for the account of the processor, the services of hoisting, weighing, and transporting sugarcane from the cane delivery point to the mill. The allowance for such services is a matter of negotiation between the two parties, but the rates paid may not be less than those paid in the previous year.

Another recommendation by the Farm Bureau Federation that processors who settle with producers on a season's average price basis be required to pay the producer within 2 weeks of the end of the pricing period has not been adopted. The Department continues to believe that in most cases processors complete payment to the producer within a reasonable time after the end of the pricing period. Of course, processors are encouraged to make final settlement with producers as early as possible.

Processors are required to elect no later than October 16, 1972, a pricing basis for raw sugar and for blackstrap molasses, which must be used in making 1972-crop payments. The processors must inform the State office in writing of the bases elected.

On the basis of an examination of all pertinent factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing determination will effectuate the price provisions of the Sugar Act of 1948, as amended.

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER (10–12–72), and is applicable to the 1972 crop of Louisiana sugarcane.

Signed at Washington, D.C., on October 6, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–17429 Filed 10–11–72;8:50 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 413]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.713 Valencia Orange Regulation 413.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 10, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 13, 1972 through October 19, 1972, are hereby fixed as follows:

(i) District 1: 364,000 cartons;

(ii) District 2: 286,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 11, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17570 Filed 10–11–72;11:26 am]

[Papaya Reg. 2, Amdt. 3]

PART 928—PAPAYAS GROWN IN HAWAII

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the recommendations of the Papaya Administrative Committee, established pursuant to the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of papayas, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) In view of the seasonal low quantity of fresh Hawaiian papayas now available, the committee has recommeded that smaller individual size requirements, as hereinafter specified, be applicable to fresh Hawaiian papayas shipped to markets within the production area (State of Hawaii). Lowering of the minimum size requirements, from 14 ounces to 12 ounces, will make more of the present production available for market so as to maintain more adequate market supplies at prevailing price levels, particularly in the production area.

The lower size requirements will also make available to fresh markets, in the production area, a larger percentage of the total production of papayas from certain parts of the production area that produce relatively small papayas.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of papayas grown in Hawaii.

Order. Paragraph (a)(1) of § 928.302 *Papaya Regulation 2* (36 F.R. 23994, 37 F.R. 9557, 14687) is hereby amended to read as follows:

§ 928.302 Papaya Regulation 2.

(a) Order: * * *

(1) To any destination within the production area unless such papayas grade at least Hawaii No. 2 and are of a size which individually weigh not less than 12 ounces: *Provided,* That said papayas handled (i) as Hawaii No. 1 grade shall be of a size which individually weigh not less than 14 ounces or more than 32 ounces, or (ii) as Hawaii fancy grade shall be of a size which individually weigh not less than 16 ounces or more than 32 ounces.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated October 5, 1972, to become effective October 6, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17373 Filed 10–11–72;8:47 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Packing and Handling Limitations

Notice was published in the September 20, 1972, issue of the FEDERAL REGISTER (37 F.R. 19379) regarding a proposal to amend § 987.501 of Subpart—Container Regulation (7 CFR 987.501) by adding the United States and Canada, so that the net weight content requirements therein specifically apply to certain plastic containers of whole or pitted dates which are packaged or handled to meet the trade demand of the United States and Canada. The California Date Administrative Committee unanimously recommended the amendment of § 987.501 as proposed in said notice. Section 987.501 is operative pursuant to § 987.48 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, Calif. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. No comments were received.

The provisions of § 987.501 have been applied by the Committee to plastic containers of dates packaged or handled to meet the trade demand of the United States and Canada, but not to other countries. However, there may be circumstances by virtue of regulations established under the order for a crop year whereby it could be construed that the provisions specified in § 987.501 would also apply to such containers packaged or handled for shipment to other countries. Since this is not the objective of these provisions, § 987.501 should be amended so that its provisions apply specifically to dates which are packaged or handled in certain plastic containers to meet the trade demand of the United States and Canada.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is found that the amendment of the container requirements prescribed in § 987.501, as hereinafter set forth, so that they specifically apply to dates in certain plastic containers sold in the United States and Canada, will tend to effectuate the declared policy of the act.

Therefore, Subpart—Container Regulation (7 CFR 987.501) is amended as follows:

Section 987.501 is amended by adding in the first sentence after the words "master shipping containers," the words "to meet the trade demand of the United States and Canada."

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) and for making this action effective at the time hercinafter provided in that: (1) This action clarifies the intent of the container requirements specified in § 987.501; (2) the 1972–73 crop year began October 1, 1972, and handlers will begin shipping new crop dates in plastic containers soon; (3) handlers are aware of this action and need no time for preparation to comply therewith; and (4) postponing the effective time would serve no useful purpose.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated October 6, 1972, to become effective October 20, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17424 Filed 10–11–72;8:50 am]

V371198 OCT 12 72 XUM

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN STATES

Proposed Expenses and Rate of Assessment for 1972–73 Fiscal Period

Consideration is being given to the following proposals submitted by the Cranberry Marketing Committee, established under the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in Massachuestts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by said committee, during the fiscal period September 1, 1972, through August 31, 1973, will amount to $56,404.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 929.41, be fixed at $0.03 per barrel or equivalent quantity of cranberries.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of the notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 6, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17425 Filed 10-11-72;8:50 am]

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposal To Change List for Export Sales of Reserve Raisins

Notice is hereby given of a proposal to change the list of countries to which sale in export of reserve tonnage natural Thompson seedless raisins may be made by handlers by deleting Mexico from such list. This action would be in accordance with the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), hereinafter referred to collectively as the "order", regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Raisin Administrative Committee, established under the order.

The list of countries to which handlers may make sales of reserve tonnage natural Thompson seedless raisins was established pursuant to § 989.67(c) of the order and is contained in § 989.221 (7 CFR 989.221; 36 F.R. 20151) of the Subpart—Supplementary Orders Regulating Handing. The Committee has reviewed the list, as required by § 989.67(c) and has recommended such list be changed by deleting Mexico from the list. After such deletion, sales to Mexico by handlers could be made solely from free tonnage raisins.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 27, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 6, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17426 Filed 10-11-72;8:51 am]

[7 CFR Part 999]

RAISIN IMPORT REGULATIONS

Proposed Importation and Reporting Requirements

Notice is hereby given that the Department is giving consideration to: (1) Amending paragraph (e) of § 999.300 (7 CFR 999.300; 37 F.R. 5282; 13634) governing the importation of raisins, to permit importation of raisins which do not meet the requirements pursuant to paragraph (b) of § 999.300 with respect to mechanical damage and sugaring for use in the production of raisin paste; and (2) deleting the phrase, "at the port of arrival" from § 999.300(a)(7); § 999.300 (b); and § 999.300(d). The proposal would also provide for certain reporting requirements in conjunction with importation of raisins for production of raisin paste. The proposed amendment would be pursuant to the requirements of section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any written data, views, or arguments pertaining to this proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112–A, Washington, D.C. 20250, not later than October 27, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend § 999.300 as follows:

§ 999.300 [Amended]

1. In paragraphs (a)(7), (b), and (d), of § 999.300, the phrase "at the port of arrival" is deleted.

2. Subparagraph (2) of § 999.300(e) is revised to read as follows:

(2) Any person may import any lot of raisins which does not meet the applicable grade and size requirements of paragraph (b) of this section for use in the production of alcohol, syrup for industrial use, or which does not meet such requirements with respect to mechanical damage or sugaring for use in the production of raisin paste. Prior to such importation, such person shall file with the Bureau of Customs' Regional Commissioner or District Director, as applicable, at the port at which the customs entry is filed an executed "Raisins—Section 8e Entry Declaration" prescribed in subdivision (i) of this subparagraph as "Raisin Form No. 1." Promptly after such filing, such person shall transmit a copy of this form to the Fruit and Vegetable Division. No person may import, sell, or use any raisins which do not meet the applicable grade and size requirements of paragraph (b) of this section other than for use as set forth in this subparagraph. Each person importing raisins which do not meet the applicable grade and size requirements of paragraph (b) of this section for use in the production of alcohol, syrup for industrial use, or raisin paste shall obtain from each purchaser, not later than the time of delivery to such purchaser, and file with the Fruit and Vegetable Division not later than the fifth day of the month following the month in which the raisins were delivered, an executed "Raisins—Section 8e Certification of Processor or Reseller," prescribed in subdivision (ii) of this subparagraph as "Raisin Form No. 2." One copy of this executed form shall be retained by the importer and one copy shall be retained by the purchaser. Each reseller of raisins imported pursuant to this subparagraph should, for his protection, obtain from each purchaser and hold in his files an executed Raisin Form No. 2, covering such sales of such raisins during the calendar year. One copy of this executed form shall be retained by the reseller and one copy shall be retained by the purchaser.

(i) *Raisin Form No. 1.* The following is prescribed as Raisin Form No. 1.

RAISIN FORM NO. 1

RAISINS—SECTION 8e ENTRY DECLARATION

I certify to the U.S. Department of Agriculture and the Bureau of Customs that none of the raisins being imported and which are identified below will be used other than in the production of alcohol, syrup for industrial use, or raisin paste.

1. Name of vessel: _____
2. County of origin of raisins: _____
3. Date of arrival: _____
4. City of arrival: _____
5. Unloading pier: _____
6. USDA Certificate of Quality and Condition Number: _____
7. Raisins entered: _____

Lot or chop mark	Number of containers	Total net weight (pounds)

I agree to obtain from each person to whom any of the raisins listed above are delivered, an executed Raisin Form No. 2 "Raisins Section 8e Certification of Processor or Reseller" and to file the same with the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the fifth day of the month following the month in which the raisins were delivered.

Dated: _____
Name of firm: _____
Address: _____
Signature: _____
Title: _____

(ii) *Raisin Form No. 2.* The following is prescribed as Raisin Form No. 2.

RAISIN FORM NO. 2

RAISINS—SECTION 8e CERTIFICATION OF PROCESSOR OR RESELLER

I hereby certify to the U.S. Department of Agriculture that I have acquired the raisins covered by this certification; that I will use or sell them for use only in production of alcohol, syrup for industrial use, or raisin paste, as permitted by the Regulation Governing the Importation of Raisins (7 CFR 999.300; 37 F.R. 5282; 13634) and I am: (Check one or more if applicable)

____ Producer of alcohol ____ Producer of syrup for industrial use ____ Producer of raisin paste ____ Reseller

1. Date of purchase: _____
2. Place of purchase: _____
3. Name and address of importer or seller: _____
4. USDA Certificate of Quality and Condition Number: _____
5. Raisins acquired:

Number of containers	Total net weight (lbs.)

Dated: _____
Name of firm: _____
Address: _____
Signature: _____
Title: _____

Dated: October 5, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17374 Filed 10-11-72;8:47 am]

[7 CFR Part 991]

HOPS OF DOMESTIC PRODUCTION

Proposed Minimum Quality Standards

Notice is hereby given of a proposal, recommended by the Hop Administrative Committee, to amend the Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.601). The subpart is operative pursuant to Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Currently, § 991.231 of the administrative rules and regulations prescribe minimum quality standards for hops. These standards prescribe the maximum permissible percentage of leaf and stem content that may be present in hops. Lupulin, and lupulin sweepings, appropriately packaged and identified are exempt from these standards. The proposal would add a new paragraph (b) to § 991.231 which would establish quality standards for lupulin and lupulin sweepings.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250 to be received not later than October 24, 1972. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

Section 991.231 is amended to read:

§ 991.231 **Minimum quality standards.**

(a) *Hops.* No handler shall acquire, use, or sell, nor the Committee accept for reserve pooling, hops which have a leaf and stem content of more than 8 percent, as determined by the Federal-State Inspection Service: *Provided,* That lupulin, including lupulin sweepings, that have been packaged and so identified by Committee approved seals or stencils, shall be exempt from this leaf and stem requirement.

(b) *Lupulin, including lupulin sweepings.* No handler shall acquire, use, or sell, nor the Committee accept for reserve pooling, lupulin, including lupulin sweepings unless 95 percent by weight of such lupulin including lupulin sweepings, will pass through a No. 10 mesh screen as determined by the Federal-State Inspection Service.

Dated: October 6, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17428 Filed 10-11-72;8:50 am]

[7 CFR Part 1133]

[Docket No. AO-275-A25]

MILK IN INLAND EMPIRE MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the hearing clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Inland Empire marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the seventh day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Spokane, Wash., on September 12, 1972, pursuant to notice thereof which was issued on August 22, 1972 (37 F.R. 17855).

The material issues on the record of the hearing relate to:

1. Diversion of producer milk.
2. Pricing point for diverted milk.
3. Pool plant definition.

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FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of producer milk.* The diversion provisions of the order should be revised to provide that during the months of September through March the quantity of producer milk diverted in any of these months may not exceed 50 percent of the producer milk received at pool plants (including that diverted), and that during the months April through August, such diversion may not exceed 70 percent of the producer milk received at pool plants (including that diverted). Also, the order should provide that with respect to the diversion of producer milk to nonpool plants, at least 2 days' production must be delivered to pool plants in any of the months of September through November to be eligible for diversion during such months.

Currently, the order provides seasonal limitations on the quantity of producer milk that may be diverted. The present provisions have been effective since 1968 and provide that the quantity of milk that may be diverted in any month shall not exceed 50 percent (April through August), 30 percent (December through March), and 20 percent (September through November) of the total producer milk received at pool plants in any month or diverted therefrom. The order provides also that to be eligible for diversion at least 6 days' production of each producer must be received at a pool plant in any of the months of September through November.

Diversion of milk directly from the farm to a nonpool manufacturing plant is a method by which a handler may efficiently dispose of the reserve milk that is a necessary part of his regular supply. In order to be assured of an adequate supply every day, a handler procuring his own milk supply must arrange to purchase sufficient milk to allow for variations in production and in his daily needs for fluid processing. Production of milk varies seasonally and, accordingly, producers furnishing a sufficient supply for the low production season will produce more than an adequate supply in high production months. Handlers' daily milk requirements also vary, chiefly because fluid milk packaging is not carried on all days of the week.

A cooperative association supplying the market proposed that the proportion of producer milk that may be diverted in any month be increased to 50 percent in any of the months of September through March and be unlimited in all other months. Proponent proposed also that to be eligible for diversion at least 2 days' production of each producer should be physically received at pool plants in any of the months of September through November to be eligible for diversion during such months.

Another cooperative supplying the market concurred with the proposals except to propose that for each of the months of April through August the proportion of producer milk that may be diverted should be increased to 70 percent in any of such months and should not be unlimited as proposed by proponent. In its brief, proponent concurred in this change.

No testimony was received at the hearing in opposition to increasing the percentage of producer milk that may be diverted, or to changing the minimum delivery requirements for individual producers.

The chief reasons put forth by both associations of making the proposed changes are that (1) the present provisions no longer accommodate the orderly disposition of the reserve supplies of milk for the market, and (2) the construction of a nonfat dry milk plant in the market has resulted in larger quantities of reserve milk being handled as diverted milk rather than as transfers from pool plants to nonpool plants, as previously the case.

Proponent is a qualified cooperative association under the order. It represents 39 percent of the producers supplying the market and handles about 87 percent of the Class III disposition. It carries the major burden of handling reserve supplies of milk for the market.

The association sells milk to every handler regulated by the order. Some of the handlers buy their full supply from the association while other handlers utilize the association to balance their own supply of producer milk. During certain days of the week, months of the year, or at times when they might obtain bids to supply school or government contracts, the handlers call upon the reserve supplies of milk handled by the association.

The present order provisions concerning the diversion of producer milk to nonpool plants do not facilitate the orderly and economical disposal of milk that is in excess of the fluid needs of the market. The problems of handling excessive producer milk supplies have been such that in 1970, 1971, and currently, it has been necessary to suspend the diversion limits for the months September through November.

Annual receipts of producer milk in the market have increased steadily without a corresponding increase in the Class I utilization of such milk. Between 1970 and 1971 producer receipts increased 9.9 percent while producer milk in Class I increased 3 percent. For the months January through July 1972, producer receipts increased 6.8 percent over the same months of 1971, while Class I utilization increased 6 percent. While Class I utilization increased for the period January through July 1972, as compared with a year earlier, the problem of increased production relative to Class I utilization stems from changes in previous years and is expected to continue.

As indicated previously, proponent association assumes the responsibility of handling and disposing of its member milk that is in excess of its sales for fluid uses. During the months of seasonally high production this burden becomes greater as those handlers being supplied in part by proponent rely on their regular producer supplies for their fluid requirements. In 1971, proponent diverted 55.5 percent of its total member milk. In July of that year (the peak month for diversion) it diverted 66.6 percent of its member milk to nonpool plants. In July 1972, 73.4 percent of such milk was so diverted. This relatively large increase over the previous year results from increased production by producers regularly associated with the market, and has caused larger quantities of reserve milk to be diverted to the newly constructed nonfat dry milk plant in the market. The chronic condition of increased need to divert relative to the diversion limits provided in the order is what has encouraged review of the diversion provisions at this time. As previously indicated, a part of such need is that some milk previously transferred from pool plants to distant manufacturing plants is now being diverted to the nonpool nonfat dry milk plant at Spokane, Washington. During the months of September 1971 through March 1972 proponent diverted 53.5 percent of its total member milk.

The order provides that two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers. In the past this has aided proponent in diverting milk within the limits provided by the order. Under current marketing conditions the provision may no longer be adequate in the near future within the limits presently provided. As indicated earlier, suspension actions have been taken in the months of low production to accommodate the necessary diversion of milk. In July 1972, diversion of milk was 49.4 percent of the combined receipts of the cooperative associations, and for the future is expected to exceed the present diversion limits provided by the order. It is evident from the data introduced into evidence that the present diversion provisions may no longer be adequate in any month of the year.

In developing order provisions to pool those milk supplies that serve the fluid markets regularly, it is necessary to include provisions that will not also pool supplies that do not serve the fluid market. The level of the percentage limits provided herein for the months of September through March will accommodate the quantity of milk that proponent must divert in handling the increasing reserve supplies of the market without jeopardizing the producer status of dairy farmers who regularly have supplied milk for the fluid needs of the market.

The higher percentage limit provided herein for the remaining months of April through August recognizes the seasonally greater production of milk and the consequent need during that period for diverting a larger proportion of the total producer milk supply. The present order provisions already reflect this to a degree but need to be revised under current marketing conditions.

The diversion limits provided herein require specific performance by each producer. He must deliver to pool plants

at least 2 days' production in any of the months September through November when Class I utilization for the market is highest in relation to production. Also, the diversion privilege would continue to apply in other months only to the milk of those dairy farmers who have previously attained producer status through shipment to a pool plant. The order presently provides that to be eligible for diversion at least 6 days' production of a producer must be delivered to pool plants in any of the months of September through November. However, under present supply conditions for the market it is apparent that the present provisions may require uneconomic movements of milk to qualify producers whose milk needs to be diverted more frequently than the milk of other producers. For the most part, distributing plants in the market are located at the market center. The supply area, particularly for proponent, is located throughout most of the eastern half of the State of Washington.

Proponent regularly brings producer milk to the center of the market from farms in excess of 200 miles from Spokane. The farms are widely scattered, and under present marketing conditions of full supply it would be more economic to provide fewer days' production that individual producers must deliver milk to pool plants to have their milk qualify for diversion to nonpool plants. For example, producers whose farms are located in the Idaho panhandle (in the vicinity of Bonners Ferry) can have their milk diverted to a nonpool manufacturing plant at Sand Point, Idaho, instead of having a substantial portion of it hauled all the way to a Spokane pool plant to qualify for diversion.

The uneconomic movement of milk of producers who are regularly associated with the market then would be avoided.

In view of the aforementioned considerations, it is concluded that the diversion limits proposed herein should be adopted. Such limits will enhance orderly marketing by assuring that only milk of producers regularly supplying the market share in the proceeds of the market, but yet permitting flexibility to handle efficiently milk not needed for fluid use.

The diversion provisions of the order now provide that the operator of a pool plant may divert the milk of any producer member of a cooperative association that is commingled with milk of nonmember producers on a tank truck at the time of delivery from the farm. This provision has not been used since its inception in 1965, and it is not likely to be useful in the future because the cooperatives transport their member milk. Accordingly, the provision is not included as part of the revised diversion provisions.

2. *Pricing point on diverted milk.* The order should be amended to provide that, for purposes of pricing only, milk diverted from a pool plant to a nonpool plant, either for the account of a handler as the operator of a pool plant or for the account of a cooperative association in its capacity as a handler, shall be treated as a receipt at the plant to which diverted.

The change was requested by a cooperative association supplying the market. The representative of another cooperative association supplying the market testified at the hearing in favor of the proposal. No opposition to the proposal was expressed either at the hearing or in briefs.

Most of the producer milk in excess of Class I requirements is diverted to a nonpool plant in the base price zone where no location adjustment is applicable. Thus, a change in the point of pricing on this milk will not affect the pool obligation of most of the diverting handlers, or the uniform price received by most producers.

When diverted milk is priced at the plant from which diverted, there is always the incentive for association of distant milk with local plants in the market even though such milk is not needed for fluid use, is not a part of the market's regular supply, and is intended for manufacturing uses. If dairy farmers relatively distant from the market have their milk diverted to a nonpool plant near their farms and receive a uniform price based on the location of a pool plant in the marketing area, such farmers are compensated as if their milk had incurred the expense of delivery all the way to the market center.

We find no reason why milk diverted from a pool plant to a nonpool plant at any particular location under usual circumstances should draw a higher return from the market pool than milk received at a pool plant at the same location.

3. *Pool plant definition.* The introductory language to the pool plant definition should be changed to provide that if a portion of a plant is physically separated from the Grade A portion of such plan, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant.

The change was proposed by the cooperative association that is now operating a new nonfat dry milk plant in the market. The need for the provisions stems from the operation of the plant.

The plant is operated by proponent in space leased from another cooperative supplying the market and operating a distributing pool plant under the same roof. While the two operations are conducted under one roof they are entirely separated from each other by immovable partitions and walls. No milk or cream product lines extend from one plant into the other.

The manufacturing plant was built exclusively for the manufacture of nonfat dry milk. It is currently designated as a nonpool plant under the order. It is not licensed or inspected by the authority having jurisdiction over Grade A distribution in the marketing area, although all the milk processed in the plant is Grade A reserve milk for the market. The plant comes under the jurisdiction of the Washington Department of Agriculture, which is the licensing agency for plants engaged in the manufacture of nonfat dry milk and other manufactured dairy products.

By changing the order as proposed, the pool plant definition will provide explicitly that the manufacturing portion of the facility should be distinguished from the distributing pool plant portion of the facility, and should be designated separately as a nonpool plant as long as it meets the requirements of the provision. In such instance, the manufacturing portion of the plant would not be supplying the fluid milk needs of the market by means of Grade A milk sales to other handlers and would appropriately be distinguished from the distributing pool plant with which it shares, in common, land and a building and might otherwise be designated as a single plant under the order.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusion set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling

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of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Inland Empire marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1133.8, the introductory text is revised to read as follows:

§ 1133.8 Pool plant.

"Pool plant" means any plant described in paragraph (a) or (b) of this section, other than the plant of a producer-handler or a plant with respect to which the handler is exempt pursuant to § 1133.61, which is approved by an appropriate health authority for the receiving of milk qualified for distribution as Grade A milk in the marketing area. If a portion of such plant is physically separated from the Grade A part of such plant, is operated separately, and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

* * * * *

2. In § 1133.12, paragraph (c) is revised to read as follows:

§ 1133.12 Producer milk.

* * * * *

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account, under paragraph (b)(1) of this section, the milk of any member-producer eligible for diversion. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March, and 70 percent in any of the months of April through August, of its total member milk received at all pool plants or diverted therefrom during the month. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed in writing with the market administrator a request for such computation;

(2) A handler operating a pool plant may divert for his account under paragraph (a)(2) of this section, milk of any producer eligible for diversion, other than a member of a cooperative association which diverts milk under subparagraph (1) of this paragraph. The total quantity of milk so diverted may not exceed 50 percent in any of the months of September through March and 70 percent in any of the months of April through August, of the milk received at or diverted from such pool plant during the month from producers who are not members of a cooperative association that diverts milk under subparagraph (1) of this paragraph;

(3) Milk diverted in excess of the limits specified shall not be considered as producer milk, and the diverting handler shall specify the producers whose milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by the handler;

(4) Producers eligible for diversion are those whose milk has been received at the pool plant prior to diversion from such plant (but not necessarily in the current month). Producers eligible for diversion in the months of September, October, or November must in addition have at least 2 days' production received at a pool plant in the respective month; and

(5) For the purpose of location adjustments pursuant to §§ 1133.53 and 1133.81, diverted milk shall be considered to have been received at the location of the plant to which diverted.

3. In § 1133.81, paragraph (a) is revised to read as follows:

§ 1133.81 Location adjustments to producers and on nonpool milk.

(a) In making payments pursuant to § 1133.80 the market administrator shall reduce the uniform price computed pursuant to § 1133.71 by the location adjustment applicable at the plant where the milk was first physically received from producers, and the uniform price of producer milk diverted to a nonpool plant according to the location of the nonpool plant, each at the rates set forth in § 1133.53.

* * * * *

Signed at Washington, D.C., on October 6, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-17427 Filed 10-11-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-EA-84]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Quantico, Va., control zone (37 F.R. 2121) and Transition Area (37 F.R. 2270); and the Washington, D.C. Transition Area (37 F.R. 2300).

A review of the airspace requirements for the Quantico, Va. area indicates that we will require alteration of the control zone and 700-foot floor transition area to provide controlled airspace protection for IFR arrivals and departures at Quantico, MCAS (Turner Field) Quantico, Va.

The proposed control zone alteration includes a revision in the time of control zone designation requested by the military. The description of the Washington, D.C. 700-foot floor transition area which makes reference to the geographic position of Quantico, MCAS requires alteration to reflect the corrected geographic position of the airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal areas of Quantico, Va., and Washington, D.C., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Quantico, Va. control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 38°30'15" N., 77°18'15" W. of Quantico MCAS (Turner Field) Quantico, Va.; and within 3.5 miles each side of the 201° bearing from the Marine Quantico RBN, extending from the 5-mile radius zone to 11.5 miles south of the RBN. This control zone is effective from 0700 to 1800 hours, local time, Friday through Monday; from 0700 to sunset plus 2 hours and 45 minutes, local time, Tuesday through Thursday.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Quantico, Va. 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700-feet above the surface within a 9-mile radius of the center, 38°30'15" N., 77°18'15" W. of Quantico MCAS (Turner Field) Quantico, Va.; within a 9.5-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 350° bearing from the airport; and within 9.5 miles east and 4.5 miles west of the 201° bearing from the Marine Quantico RBN, extending from the RBN to 18.5 miles south of the RBN, excluding the portion that coincides with the Fredericksburg, Va. and Washington, D.C. 700-foot floor transition areas.

3. Amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Washington, D.C. 700-foot floor transition area "MCAS Quantico, Va. (latitude 38°30'10" N., longitude 77°18'20" W.)" and insert the following in lieu thereof, "Quantico MCAS (Turner Field), Quantico, Va. (latitude 38°30'15" N., longitude 77°18'15" W.)."

This amendment is proposed under sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 29, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17367 Filed 10-11-72;8:49 am]

[14 CFR Part 73]

[Airspace Docket No. 72-RM-22]

RESTRICTED AREAS

Proposed Revocation and Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would revoke Restricted Area R-2601A and alter Restricted Areas R-2601B and R-2602 at Fort Carson, Colo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the document number and be submitted in triplicate to the Director, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Department of the Army has requested that use of three Fort Carson Restricted Areas be changed as follows:

1. Revoke R-2601A.

2. a. Extend the northwest boundary of R-2601B northerly along Colorado Highway No. 115 from its present limit of latitude 38°42'04" N., longitude 104°49'34" W., to latitude 38°42'40" N., longitude 104°49'19" W. (approximately 6/10 NM north northeastward) thence to latitude 38°40'53" N., longitude 104°45'-35" W. (the present boundary beginning point).

b. Add to the text of "Designated altitudes": "FL 350 to FL 600, by NOTAM issued 24 hours in advance.

3. In R-202 under "Designated altitudes" add to the text: "FL 350 to FL 600, by NOTAM issued 24 hours in advance.

The Army activities in present R-2601A can be conducted under the controlled firing are concept; thus, the airspace can be restored to public use. The northern boundary of R-2601B requires a very small enlargement. Both R-2601B and R-2602 require increased vertical dimension airspace for certain missile firing activity. However, the vertical airspace involved does not contain jet routes and it normally will be required only once in each 2-month period. The planned use would be whenever possible during hours when commercial flights are not scheduled to operate. Also, a cost savings to the Government would result over the present method employed for firing missiles.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 4, 1972.

CLAUDE FEATHERSTONE,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17368 Filed 10-11-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket No. 19517]

FREQUENCY ASSIGNMENT TECHNIQUES FOR MICROWAVE SYSTEMS

Order Extending Time for Filing Comments

In the matter of the report on a study of frequency assignment techniques for microwave systems prepared for the Commission by Communications & Systems, Inc. (a subsidiary of Computer Sciences Corp.).

1. The Central Committee on Communication Facilities of the American Petroleum Institute, and the Utilities Telecommunications Council have requested the Commission to extend the time for filing comments in the above-captioned matter (FCC 72-468 released June 12, 1972) from October 2, 1972, to October 30, 1972.

2. In support of its request, each petitioner states that due to the number and complexity of some of the matters involved, each needs additional time to review and finalize proposed comments at its respective meeting in mid-October.

3. It appears that the public interest would be served by granting the additional time requested to permit the petitioners and other interested parties a full opportunity for the preparation and presentation of their views in this inquiry to aid the Commission in evaluating the Computer Sciences Corp. study.

4. Accordingly, *It is ordered*, Pursuant to § 0.331(b)(4) of the Commission's rules, that the time for filing comments in the above-captioned proceeding is extended from October 2, 1972, to October 30, 1972.

Adopted: September 29, 1972.

Released: October 3, 1972.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.72-17409 Filed 10-11-72;8:46 am]

[47 CFR Part 73]

[Docket No. 19551]

FM BROADCAST STATIONS IN CERTAIN CITIES IN GEORGIA, MISSISSIPPI, AND ARKANSAS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments*, FM broadcast stations (Dublin and Atlanta, Ga.; Starkville, Miss.; Helena, Ark.), Docket No. 19551.

1. The notice of proposed rule making in the above-entitled proceeding was adopted July 19, 1972, and published in the FEDERAL REGISTER July 29, 1972, 37 F.R. 15320. The dates for filing comments and reply comments have been extended to October 1, 1972, and October 11, 1972, respectively.

2. On October 2, 1972, Tri-Cities Broadcasting Co., Tuscaloosa, Ala. (RM-2029), made party to the proceeding by Public Notice, Report No. 826, Office of the Secretary, August 11, 1972, filed comments in which it sets forth alternative counterproposal to assign FM Channel 224A to Tuscaloosa. However, this alternative proposal conflicts with a pending proposal for assignment of Channel 224A to Jasper, Ala. (RM-2037), which in turn conflicts with a proposal for assignment of the same channel to Haleyville, Ala. (RM-2004). Since the Tri-Cities counterproposal conflicts with the petitions filed by Radio South, Inc., Tuscaloosa, and Helton and Norris Enterprises, Inc., Haleyville, the two petitions would be consolidated into this proceeding as counterproposals. A Public Notice to this effect will be given.

3. With the consolidation of the two petitions into this proceeding, we believe that it would be in the public interest to extend the time for filing comments and reply comments. *Accordingly, it is*

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ordered, That the time for filing comments and reply comments in the above docket are extended to and including October 31, 1972, and November 10, 1972, respectively.

4. This action is taken pursuant to authority found in section 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 4, 1972.

Released: October 5, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-17410 Filed 10-11-72;8:46 am]

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R-455]

STATEMENTS AND REPORTS (SCHEDULES)

Imputed Rate of Return on Jurisdictional Rate Base

Correction

In F.R. Doc. 72-16478 appearing on page 20260 of the issue for Thursday, September 28, 1972, the headings should read as set forth above.

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1611, 1623, 1624, 1626, 1627]

LOCAL BOARD

Proposed Classification Procedures

Pursuant to the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, D.C. 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

§ 1611.2 [Amended]

Section 1611.2(c) is revoked.

PART 1623—CLASSIFICATION PROCEDURE

Section 1623.1(b) is amended to read as follows:

§ 1623.1 Commencement of classification.

* * * * *

(b) The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements by the registrant at his personal appearance before the local board, appeal board, or National Selective Service Appeal Board, and oral statements by the registrant's witnesses at his personal appearance before the local board. No information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official or employee of the Selective Service System will be considered or placed in the registrant's file unless a copy of it has been furnished to the registrant by the Selective Service System.

PART 1624—APPEARANCE BEFORE LOCAL BOARD

Section 1624.4(b) is amended to read as follows:

§ 1624.4 Procedure during personal appearance before local board.

* * * * *

(b) At any such appearance, the registrant may present evidence, including witnesses, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he or his witnesses presented. Such summary shall be placed in the registrant's file.

* * * * *

Section 1624.6(a) *Procedure of local board following personal appearance,* is amended to read as follows:

§ 1624.6 Procedures of local board following personal appearance.

(a) After the registrant has appeared before the local board, it shall again classify the registrant and, as soon as practicable thereafter, it shall mail notice thereof on Notice of Classification (SSS Form 110) to the registrant. Only those members of the local board before whom the registrant appeared shall classify him. In the event that the local board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file. The local board shall inform the registrant of such reasons in writing at the time it mails his Notice of Classification (SSS Form 110).

* * * * *

PART 1626—APPEAL TO LOCAL BOARD

Section 1626.4(e) is amended to read as follows:

§ 1626.4 Review by appeal board.

* * * * *

(e) At any such personal appearance, there shall be present a quorum of the members of the board to which the registrant may present evidence, may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

* * * * *

PART 1627—APPEAL TO THE PRESIDENT

Section 1627.4(e) is amended to read as follows:

§ 1627.4 Procedures of the National Selective Service Appeal Board.

* * * * *

(e) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board or the appeal board has overlooked or to which sufficient weight has not been given. The registrant may present such further information as he believes will assist the National Board in determining his proper classification. The information furnished should be as concise as possible under the circumstances. The registrant may summarize in writing the oral information that he presented. Such summary shall be placed in the registrant's file.

* * * * *

BYRON V. PEPITONE,
Acting Director.

OCTOBER 6, 1972.

[FR Doc.72-17381 Filed 10-11-72;8:47 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 16932]

MONTANA

Opening of Land Subject to Section 24 of the Federal Power Act

SEPTEMBER 29, 1972.

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075, 16 U.S.C. 818), as amended, and pursuant to Bureau Order No. 701 of July 23, 1964, as amended October 3, 1968 (33 F.R. 15078), it is ordered as follows:

1. In DA-199-Montana, the Federal Power Commission determined that the value of the lands described below, embraced in Powersite Classification No. 57, will not be injured or destroyed for purposes of power development by selection by the Montana Power Co., for the purpose of effectuating a land exchange with the U.S. Forest Service under the Act of March 20, 1922, as amended, subject to the provisions of section 24 of the Federal Power Act.

PRINCIPAL MERIDIAN, MONTANA

GALLATIN NATIONAL FOREST

T. 12 S., R. 4 E.,
Sec. 6, N½N½ of Lot 11 and NE¼NW¼ NW¼SW¼.

The area described contains approximately 3.865 acres in Gallatin County.

2. The lands shall immediately become available for consummation of pending Forest Exchange, M 14521, subject to section 24 of the Federal Power Act.

3. The State of Montana has waived the preference right of application for highway rights of way or material sites provided by section 24 of the Federal Power Act of June 10, 1920, supra.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-17354 Filed 10-11-72;8:48 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File: 23(72)-8]

LORENZ EDV-UNTERNEHMENSBERATUNG ET AL.

Order Further Extending Temporary Denial of Export Privileges

In the matter of Lorenz EDV-Unternehmensberatung and Peter Lorenz, respondents, Lorenz Datenservice GmbH, Lorenz EDV-Systeme-Zubehor-Raumausstattung GmbH, IRI Institat fur Rationatisierung und Informatik GmbH, Informa Computerwerbung and Demoskopie, AfD Akademie fur Datenverarbeitung e.V., related parties, all of Stuttgart, Frankfurt, Munich, Dusseldorf—Federal Republic of Germany, and Vienna, Austria, File: 23(72)-8.

An order temporarily denying export privileges for a period of 60 days was issued against the above respondents and related parties on June 23, 1972 (37 F.R. 12980-12981). Said order was issued in connection with an investigation instituted by the Compliance Division, Office of Export Control, Bureau of International Commerce. On the evidence presented there was reasonable basis to believe that early in 1971 the Lorenz firm reexported from West Germany to the U.S.S.R. a computer system valued at approximately $1,600,000, which was subject to U.S. export controls, although the firm knew this was a violation of U.S. Export Control Regulations. On the evidence presented there was also reasonable basis to believe that respondents have ordered a computer system which is subject to U.S. export controls and which is more sophisticated than the system referred to above; that this system is now in the Federal Republic of Germany and its intended disposition requires further investigation.

The order of June 23, 1972, was extended for an additional 45 days on August 18, 1972 (37 F.R. 16987), and is due to expire on October 6, 1972. Pursuant to § 388.11(c) of the Export Control Regulations the respondents moved to vacate the temporary denial order and a hearing was held before the Hearing Commissioner on said motion. The motion has been denied.

The Director of the Compliance Division has applied under § 388.11 of the Export Control Regulations for a further extension of the temporary denial order until the completion of administrative compliance proceedings and has represented that a charging letter against respondents will be issued within 2 weeks in which violations of the Export Control Regulations will be alleged.

The application for further extension of the temporary denial order has been considered by the Hearing Commissioner and he has reported his recommendation to me that the present temporary denial order be extended until the completion of administrative compliance proceedings. He has found that such extension is reasonably necessary for the protection of the public interest. I confirm this finding: *Accordingly, it is hereby ordered,*

I. The prohibitions and restrictions of the temporary denial order issued in this matter on June 23, 1972 (37 F.R. 12980-12981), and extended on August 18, 1972 (37 F.R. 16987), are hereby continued in full force and effect.

II. The respondents, their successors, assigns, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control Regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license, or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith. Such related parties include Lorenz Datenservice GmbH; Lorenz EDV-Systeme-Zubehor-Raumausstattung GmbH; IRI Institut fur Rationalisierung und Informatik GmbH; Informa Computerwerbung und Demoskopie; AfD Akademie fur Datenverarbeitung e.V., with offices in the cities above mentioned.

IV. This order, unless hereafter amended, modified or vacated in accordance with the provisions of the U.S. Export Control Regulations, shall remain in effect until the completion of administrative compliance proceedings which will result from the charging letter to be issued against respondents.

V. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with respondents or any related party or

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whereby the respondents or such related party may obtain any benefit therefrom, or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any said respondents; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served upon the respondents and the related parties named herein.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondents or any related party named herein, may move at any time to vacate or modify this further extension of the temporary denial order by filing an appropriate motion therefor, supported by evidence, with the Hearing Commissioner, and may request an oral hearing thereon which, if requested, shall be held before the Hearing Commissioner in Washington, D.C., at the earliest convenient date.

Dated: October 5, 1972.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.72-17412 Filed 10-11-72;8:46 am]

Office of Import Programs

OHIO UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Subsection 701.8 of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. • • • If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of subsection 701.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Subsection 701.8 further provides:

> • • • the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 71-00495-91-46500. Applicant: Ohio University, Department of Purchases, Administrative Annex Building, 51 Smith Street, Athens, OH 45701. Article: Ultramicrotome, Model "Om U2". Date of denial without prejudice to resubmission: May 31, 1972.

Docket No. 72-00184-99-26000. Applicant: Danville High School, Administration Building, 516 North Jackson Street, Danville, IL 61832. Article: Theory of electricity device. Date of denial without prejudice to resubmission: May 31, 1972.

Docket No. 71-00339-01-77030. Applicant: Southwest Minnesota State College, Chemistry Department. Article: NMR Spectrometer, R-20-B. Date of denial without prejudice to resubmission: June 13, 1972.

Docket No. 71-00392-65-77030. Applicant: The University of West Florida, Pensacola, Fla. 32504. Article: NMR Spectrometer, Model JNM-C-60HL. Date of denial without prejudice to resubmission: June 12, 1972.

Docket No. 72-00147-75-77000. Applicant: Princeton University, Department of Physics, Princeton, N.J. 08540. Article: High Dispersion Magnetic Spectrometer. Date of denial without prejudice to resubmission: June 5, 1972.

Docket No. 72-00215-99-77040. Applicant: Columbia University, Department of Chemistry, Box 666, Havemeyer Hall, New York, NY 10027. Article: Mass Spectrometer, JMS-07. Date of denial without prejudice to resubmission: June 30, 1972.

Docket No. 72-00295-33-46040. Applicant: Columbia University, Professor of Medicine, Institute for Cancer Research, 99 Fort Washington Avenue, New York, NY 10032. Article: Electron Microscope, Model EM 9S-2. Date of denial without prejudice to resubmission: June 30, 1972.

Docket No. 72-00304-33-19000. Applicant: Boston University School of Medicine, 80 East Concord Street, Boston, MA 02118. Article: Digital Precision Density Meter. Date of denial without prejudice to resubmission: June 19, 1972.

Docket No. 72-00457-33-43780. Applicant: Jefferson Hospital Association, Inc., 1515 42d Avenue, Pine Bluff, AR 71601. Article: Tungsten Drawer No. 371. Date of denial without prejudice to resubmission: June 19, 1972.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-17379 Filed 10-11-72;8:45 am]

STANFORD UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00538-33-46040. Applicant: Stanford University, 820 Quarry Road, Palo Alto, CA 94305. Article: Electron microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article will be used for high resolution examination of nucleic acids, especially DNA. This will involve both low power analysis of shadowed DNA preparations and high resolution analysis of specially stained molecules. In addition, investigations of the structure of replicating DNA molecules will be carried out. The article will also be used to provide instruction in nucleic acid electron microscopy to faculty and students at Stanford Medical Center.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant's uses in screening specially stained DNA molecules found to exist in aberrant form in malignant cells and in studies of structures in replicating DNA requires a TV scan system for large scale screening and and a photocapacity for accumulation of adequate amounts of data. These features are provided by the foreign article. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 18, 1972, that the features described above are pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no comparable instrument of equivalent scientific value to the article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-17397 Filed 10-11-72;8:46 am]

TEMPLE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00253-33-46040. Applicant: Temple University Health Sciences Center, Skin and Cancer Hospital, 3322 North Broad Street, Philadelphia, PA 19140. Article: Electron microscope Model Corinth 275. Manufacturer: AEI Scientific Instruments, Ltd., United Kingdom. Intended use of article: The article is intended to be used to examine ultrathin sections and surface replication of biological material. The research program involves a study of the role of plasma membrane specializations in regulation normal cell behavior.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant's use in studies of tight and gap cell junctions and their role in intercellular communication requires a superior tilt stage and a serial section specimen holder as provided by the foreign article. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by Forgflo Corporation (Forgflo). We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated August 11, 1972, that the features described above are pertinent to the purposes for which the article is intended to be used. HEW further advises that the EMU-4C does not provide a scientifically equivalent stage and specimen holder. We therefore, find that the EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-17398 Filed 10-11-72;8:46 am]

WEST VIRGINIA UNIVERSITY SCHOOL OF MEDICINE ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

Correction

In F.R. Doc. 72-16598, appearing at page 20341, in the issue of Friday, September 29, 1972, change the second docket number on page 20342, now reading "Docket No. 72-00128-65-40070", to read "Docket No. 73-00128-65-40070".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

MISCELLANEOUS DRUGS; RELEASE OF EVALUATION REPORTS

Drugs for Human Use; Drug Efficacy Study Implementation

Correction

In F.R. Doc. 72-15189, appearing at page 18105, in the issue for Thursday, September 7, 1972, the sixth line in the second column on page 18106 should be deleted.

Office of the Secretary

EMPLOYEES OF THE SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION ET AL.

Authorization of Confidentiality

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)), all persons who—

1. Are employed by the Special Action Office for Drug Abuse Prevention, the Office of Economic Opportunity, the Planning Research Corporation and its subcontractors, and the Johns Hopkins University and its subcontractors, and

2. Have, in the course of such employment, access to information which would identify individuals who are the subject of the evaluative research on drug abuse and treatment conducted pursuant to the Office of Economic Opportunity contracts numbered B2C-5408 and B2C-5409,

Are hereby authorized to protect the privacy of the individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

As provided in section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)),

> Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization is applicable to all information obtained pursuant to the OEO contracts numbered B2C-5408 and B2C-5409 which would identify individuals who are the subjects of the research conducted under such contracts.

Dated October 3, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

[FR Doc.72-17400 Filed 10-11-72;8:46 am]

SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE HEALTH ISSUES ADVISORY PANEL

Notice of Meeting

The Secretary's Commission on Medical Malpractice Health Issues Advisory Panel created to provide technical assistance to the Commission on medical malpractice health issues will meet Friday, October 13, 1972, at 9 a.m. in the Chancery Room at the Embassy Row Hotel located at 2015 Massachusetts Avenue NW., Washington, DC. The panel will discuss the perceived and proposed responsibility of the hospital administration with regard to measurement and enforcement of an adequate quality of patient care in a hospital facility, both as relates to employees of the hospital and attending physicians not employed by the hospital. Meeting open to the public.

Dated: September 26, 1972.

ELI P. BERNZWEIG,
Executive Director.

[FR Doc.72-17401 Filed 10-11-72;8:46 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–72–120; Administrative Division File No. Z–69]

TANGLWOOD LAKES, INC.

Notice of Hearing

Notice is hereby given that:

1. Tanglwood Lakes, Inc., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90–448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated August 29, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's statement of record for Tanglwood Lakes, Tanglwood North and the failure of the Developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked September 7, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in room 7233, Department of HUD Building, 451 Seventh Street, SW., Washington, DC, on November 13, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, room 10150, Washington, D.C. 20410 on or before October 30, 1972.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary, George Romney, Secretary of Housing and Urban Development.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72–17431 Filed 10–11–72;8:50 am]

[Docket No. N–72–121; Administrative Division File No. Z–73]

ARROWHEAD INVESTMENT CORP.

Notice of Hearing

Notice is hereby given that:

1. Arrowhead Investment Corp., its officers and agents, developers of Beaver Mountain Paradise, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90–448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated August 29, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's statement of record for Beaver Mountain Paradise and the failure of the Developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer postmarked September 9, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in Room 7233, Department of HUD Building, 451 Seventh Street Building, Room 10150, Washington, D.C. 1972, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150 ,Washington, D.C. 20410 on or before November 2, 1972.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary, George Romney, Secretary of Housing and Urban Development.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72–17432 Filed 10–11–72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED OR DENIED

Pursuant to Docket No. HM–1, rule making procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during September 1972:

Special Permit No.	Issued to—Subject	Mode or modes of transportation
6627	Olin Corp., East Alton, Ill., to ship surplus smokeless powder in military specification wooden boxes, metal lined.	Rail.
6640	Air Products and Chemicals Inc., Allentown, Pa., to ship sulfur hexafluoride in DOT–3A and 3AA cylinders having a 10-year hydrostatic retest.	Highway, rail.
6664	Shippers registered with this Board to ship whiskey in non-DOT specification portable tanks.	Highway, cargo vessel.
6665	Neutron Products, Inc., Dickerson, Md., to make a single shipment of cobalt-60 in special form.	Highway.
6666	Osmose Wood Preserving Co., Buffalo, N.Y., to ship disodium hydrogen arsenate, a class B poisonous solid, in non-DOT specification 55-gallon, 20-gauge, open-head steel drums (single-trip).	Highway, cargo vessel.
6667	E. I. du Pont de Nemours & Co., Inc., to ship a class B poison (liquid insecticide) in DOT–6D/25L packaging.	Do.
6668	Shippers registered with this Board to ship oxygen, pressurized liquid in a DOT–4L cylinder except insulation is covered with an aluminum jacket.	Highway, rail.
6669	U.S. Department of Defense and Cities Services Co., to make limited shipments of spent sulfuric acid in DOT–111A100W2 tank cars overdue for retest.	Rail.
6670	Shippers registered with this Board to ship tetrafluoromethane in manifolded 3A, 3AA, 3AX, and 3AAX cylinders.	Highway.
6671	Dow Chemical Co., Midland, Mich., to ship certain class B poisonous liquids in original drums damaged in transit overpacked in DOT–17C (single trip) open-head drum.	Do.
6672	Shippers registered with this Board to ship helium in steel cylinders complying with DOT Specification 39 with certain exceptions.	Highway, cargo-only aircraft.
6674	Sierra Chemical Co., Reno, Nev., to ship, via private carriage, surplus cannon powder (propellant explosives, class A) in military specification containers.	Highway.
6675	Olin Corp., Stamford, Conn., to ship pressurized liquid synthetic plastic in twin MC331 cargo tanks mounted in tandem.	Do.

Following is a list of requests for special permits which were denied during September 1972:

DENIED—SUBJECT

1. Request by Turner Co., Sycamore, Ill., for a special permit to authorize deviation in DOT Specification 4B test criterion.

2. Request by Great Lakes Chemical Corp., West Lafayette, Ind., for a special permit to ship bromine in a MC310 cargo tank loaded on a flat car.

ALAN I. ROBERTS,
Secretary.

[FR Doc.72–17372 Filed 10–11–72;8:47 am]

National Highway Traffic Safety Administration

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

On October 16, 1972, the Executive Subcommittee of the National Highway Safety Advisory Committee will hold an open meeting in Chicago, Ill., at the Hyatt Regency O'Hare, 9300 West Bryn Mawe, Rosemont, adjacent Chicago O'Hare Airport.

The National Highway Safety Advisory Committee is composed of 35 members appointed by the President in accordance with the Highway Safety Act, 23 U.S.C. 401 et seq. The committee consists of representatives of State and local governments, State legislatures, public and private interests contributing to, affected by, or concerned with highway safety, other public and private agencies, organizations, and groups demonstrating an active interest in highway safety, and research scientists and other experts in highway safety.

The Advisory Committee advises, consults with, and makes recommendations to the Secretary of Transportation on matters relating to the activities of the Department in the field of highway safety. The committee is specifically authorized to (1) review research and programs and (2) review, prior to issuance, standards proposed to be issued by the Secretary under the State and Community Highway Safety Program.

The Executive Subcommittee will hold the following meeting on October 16, 10 a.m. to 3 p.m.

Review of past committee resolutions.
Report by Subcommittee on Research and Program Development.
Report by Subcommittee on Standards Implementation.
Colorado Springs Regional Conference.
Development of agenda for November Committee meeting.
New business.

This notice is given pursuant to section 13 of Executive Order 11671, dated June 5, 1972.

Issued on October 6, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72–17524 Filed 10–10–72;11:35 am]

National Transportation Safety Board

[Docket No. SA–434]

AIRCRAFT ACCIDENT AT SACRAMENTO, CALIF.

Notice of Investigation Hearing

In the matter of investigation of accident involving privately owned Canadair F–86, of United States Registry N275X, Sacramento, Calif., September 24, 1972, Docket No. SA–434.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 1 p.m. (local time), on October 16, 1972, in the Bluebeard Room of the Holiday Inn, Sacramento-South, Sacramento, Calif.

Dated this 6th day of October 1972.

[SEAL] BERNARD C. DOYLE,
Acting Hearing Officer.

[FR Doc.72–17383 Filed 10–11–72;8:47 am]

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of Accounts

[Dept. Circ. 570, 1972 Rev., Supp. 5]

BANKERS FIRE & CASUALTY INSURANCE COMPANY

Surety Company Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of title 6 of the United States Code. An underwriting limitation of $79,000 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated

Bankers Fire & Casualty Insurance Company, St. Petersburg, Florida, Florida.

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: October 5, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72–17370 Filed 10–11–72;8:47 am]

Office of the Secretary

[Dept. Circular Public Debt Series 10–72]

6-PERCENT TREASURY NOTES OF SERIES E–1974

Offering of Notes

OCTOBER 6, 1972.

I. *Offering of notes.* The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.76 percent of their face value for $2 billion, or thereabouts, of notes of the United States, designated 6-percent Treasury Notes of Series E–1974. Tenders will be received up to 1:30 p.m., eastern daylight saving time, Wednesday, October 11, 1972. The notes will be issued under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. *Description of notes.* 1. The notes will be dated October 19, 1972, and will bear interest from that date at the rate of 6 percent per annum, payable on a semiannual basis on March 31 and September 30, 1973, and March 31 and September 30, 1974. They will mature September 30, 1974, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of The Department of the Treasury, now or hereafter prescribed, governing U.S. notes.

III. *Tenders and allotments.* 1. Tenders will be received at Federal Reserve banks and branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., eastern daylight saving time, Wednesday, October 11, 1972. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.76 will

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not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $200,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes," which will be supplied by Federal Reserve banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign states, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $200,000 or less without stated price from any one bidder will be accepted in full at the average price [1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., eastern daylight saving time, Wednesday, October 11, 1972.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment.* 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before October 19, 1972, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make settlement by credit in its Treasury Tax and Loan Account for notes allotted to it for itself and its customers.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] EDWIN S. COHEN,
Acting Secretary of the Treasury.

[FR Doc.72-17421 Filed 10-11-72;8:50 am]

[1] Average price may be at, or more or less than 100.00.

ATOMIC ENERGY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER AND LIGHT CO.

Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Arkansas Power and Light Company (the applicant) which would authorize the applicant to possess, use, and operate Arkansas Nuclear One, Unit 1, a pressurized water nuclear reactor (the facility), located on the applicant's site on a peninsula in the Dardanelle Reservoir on the Arkansas River in Pope County, Arkansas, at steady-state power levels not to exceed 2568 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Ch. 1. Construction of the facility was authorized by Construction Permit No. CPPR-57, issued by the Commission on December 6, 1968.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-57. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of 10 CFR Part 50, Appendix D, section C.3 which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating license, dated April 23, 1971, as amended, and the Applicant's Environmental Report, dated June 8, 1971, as supplemented, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Arkansas River Valley Regional Library, Dardanelle, Arkansas 72834. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 6th day of October 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17404 Filed 10-11-72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21998 et al.]

CHICAGO HELICOPTER AIRWAYS, INC.

Acquisition of Control; Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on October 24, 1972 (37 F.R. 19395, September 20, 1972) will be held on November 8, 1972, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., October 5, 1972.

[SEAL] HYMAN GOLDBERG,
Administrative Law Judge.

[FR Doc.72-17405 Filed 10-11-72;8:46 am]

[Docket No. 18401; Order 72-10-10]

SERVICE TO OMAHA AND DES MOINES

Order Consolidating Applications for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of October 1972.

On July 6, 1970, Order 70-7-24, the Board awarded American Airlines a new San Francisco-Omaha-Des Moines-New York segment and granted Trans World Airlines a new Los Angeles-Omaha-Des Moines-Washintgon segment. By Order 70-9-26, September 4, 1970, the Board stayed the effectiveness of these awards and deferred action on petitions for reconsideration challenging its findings with respect to service between (1) Omaha and Des Moines, on the one hand, and Los Angeles, San Francisco/Oakland/San Jose, New York/Newark and Washington/Baltimore, on the other, and (2) Omaha and Des Moines, on the one hand, and Chicago, on the other, in conjunction with a transcontinental award. Order 70-9-26 also imposed a temporary restriction on Eastern's authority between Omaha and certain east coast points to expire 60 days after the decision finally disposing of said petitions for reconsideration.

On August 16, 1972, the Board by Order 72-8-72 reopened the record with respect to the deferred issues, including the temporary restriction on Eastern, and remanded the case for further evidentiary hearings and an initial decision by the Administrative Law Judge. The Board also rescinded the prior awards to American and TWA as well as the findings supporting those awards and the conclusions as to Omaha/Des Moines-Chicago long-haul service. Order 72-8-72 further eliminated three of the pre-trial restrictions in the previous case and retained only two pre-trial restrictions: (1) That any new award will be in the form of a separate segment, and (2) that any new authority in the Omaha-Des Moines or Omaha/Des Moines-Chicago markets will be subject to a long-haul restriction.

All parties to the original proceeding were made parties to the reopened and remanded proceeding and interested persons were given 20 days after the date of service of Order 72-8-72 to file petitions for reconsideration and 10 days thereafter to file answers to such petitions. The order also provided that applications conforming to the scope of the remanded proceeding, together with motions to consolidate such applications shall be filed within 30 days of service of Order 72-8-72.

Petitions for reconsideration of Order 72-8-72 have been filed by United, Northwest, and Frontier. Answers to these petitions were filed by Des Moines, Northwest, TWA, Frontier, Eastern, United, Omaha, American, and the Bureau of Operating Rights. American filed an amendment No. 2 to its application in Docket 19166, and TWA filed an amendment No. 1 to its application in Docket 19804, conforming to the scope of the reopened proceeding. Both carriers filed motions to consolidate their amended applications with the reopened case. Frontier filed (1) a new application in Docket 24725 requesting that its certificate for route 73 be amended to authorize service at Chicago through O'Hare Airport, and (2) a motion that this application be consolidated with the reopened case. The City of Lincoln and the Lincoln Airport Authority filed an answer in support of Frontier's motion to consolidate. The Chamber of Commerce of Rapid City, S. Dak., submitted a letter supporting Frontier's petition for reconsideration.

Frontier requests the Board to revise the scope of the reopened proceeding so as to (1) include as an issue the relaxation of Frontier's Midway restriction to permit service to both O'Hare and Midway Airports on a regulated, percentage basis, and (2) either remove the Omaha-Chicago market from consideration or place further restrictive safeguards on any Omaha-Chicago authorization which can be made in conjunction with the coastal awards. United requests the Board to recast the pretrial restriction to require that any flights operated under the new authority shall serve one of the coastal terminal points in issue both on the east coast and on the west coast. Northwest urges the Board to reimpose the two-stop restriction on all flights between New York/Newark and Washington/Baltimore, on the one hand, and Seattle and Portland, on the other.

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American, Eastern, and TWA urge the Board to reject the requests for the imposition of more rigid pretrial restrictions. The Bureau believes the best solution is to remove the limitations requiring that an Omaha-Chicago award be made only in conjunction with a coastal award and that flights operated pursuant to such an award be required to serve a point or points east of Chicago and/or west of Omaha. Des Moines requests that United's petition for reconsideration be denied and that the Board deny so much of Frontier's petition as relates to service between Des Moines and other cities at issue in the remanded proceeding. Omaha urges the Board to deny all of the petitions for reconsideration but takes the position that if the Board grants Frontier's petition seeking O'Hare authority, the case should be broadened to include the issues of turnaround service in the Chicago-Omaha market and the deletion of Frontier's service at Midway.

We have carefully considered the petitions for reconsideration and the answers filed in response thereto and have concluded that we should examine the question of turnaround service between Omaha, Des Moines, and Chicago in addition to the long-haul service under consideration in the reopened proceeding. Frontier and the Bureau contend that the long-haul pre-trial restrictions will not effectively inhibit a new carrier with extensive Chicago/east or Omaha/west authority from concentrating on the Omaha-Chicago market. While we are not passing on the validity of the Ashbacker argument, the overall public interest considerations require that we look at the total picture and that the Board be given complete flexibility to resolve the service needs of Omaha and Des Moines on the basis of an evidentiary record which covers all aspects of the problem. For this reason we have also decided to include as an issue in the reopened case the question of suspension or deletion of Frontier's Omaha-Chicago segment under section 401(g) of the Act.[1] Also, in the interest of maintaining maximum decisional flexibility, we will deny the requests of various parties for tighter pre-trial restrictions. The parties remain free to demonstrate the need for restrictions at the hearing; we see no reason to limit the record at the outset of the proceeding.

Accordingly, it is ordered, That:

1. The following applications, to the extent they conform to the scope of this proceeding, be and they hereby are consolidated for hearing and decision with the reopened proceeding: Frontier, Docket 24725; TWA, amendment No. 1 to Docket 19804; and American, amendment No. 2 to Docket 19166.

2. The petitions for reconsideration of Frontier, Northwest, and United, to the extent not granted herein, be and they hereby are denied.

3. Ordering paragraph 3 of Order 72-8-72 be and it hereby is amended to read as follows:

The issues on remand shall be:

(a) Whether the public convenience and necessity require additional nonstop service between (i) Omaha and Des Moines, on the one hand, and Los Angeles, San Francisco/Oakland/San Jose, New York/Newark, or Washington/Baltimore, on the other, and between (ii) Omaha and Des Moines, on the one hand, and Chicago, on the other;

(b) Which carrier or carriers, if any, should be selected to provide such service;

(c) Whether the public convenience and necessity require the designation of a specific airport or airports through which any of the points named in paragraph (a) above shall be served;

(d) Whether the public convenience and necessity require the amendment of Frontier's certificate for route 73 so as to suspend, terminate or otherwise modify its authority to serve between Omaha and Chicago; and

(e) Whether the public convenience and necessity require the imposition of a restriction prohibiting Eastern Air Lines from operating single-plane service between Omaha, on the one hand, and Washington, D.C., or points north or east thereof on route 5, on the other.

4. Any authority awarded in the remanded proceeding shall be subject to the following terms, conditions, and limitations:

(a) Such authority shall, except in the case of a carrier already holding onsegment authority in a particular market, be in the form of a new segment or segments, each such segment to include:

(i) Omaha, Des Moines, and one or more of the coastal terminal points named in paragraph 3(a)(i), above; or

(ii) Omaha, Des Moines, or both, and Chicago;

(b) All flights operated pursuant to such authority shall serve (i) Omaha or Des Moines, or both, plus Chicago, or at least one of the coastal terminal points named in paragraph 3(a)(i) above.

5. Additional or amended applications conforming to the revised scope of the remanded proceeding, together with motions to consolidate such applications for hearing and decision herein, shall be filed within 10 days of the date of service of this order.

6. Except to the extent granted herein, all motions, petitions and requests for relief be and they hereby are denied.

7. This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-17407 Filed 10-11-72;8:46 am]

[1] On September 28, 1972, Frontier filed a motion for leave to file an otherwise unauthorized document, i.e., a reply to the answer of the Omaha parties objecting to the inclusion of the issue of amendment or alteration of Frontier's certificate to eliminate its authority between Chicago and Omaha. We will grant Frontier's motion.

[Docket No. 18401]

SERVICE TO OMAHA AND DES MOINES

Reassignment of Prehearing Conference

Prehearing Conference in the above-entitled proceeding was previously scheduled for October 3, 1972. On September 18, 1972, Frontier filed a motion to postpone the prehearing conference in order to permit the Board to rule upon petitions for reconsideration and the answers filed in response thereto in connection with the Board's Order of Remand, Order 72-8-72. Frontier's motion was granted on September 21, 1972, and the Board's order ruling upon the petitions for reconsideration was issued on October 5, 1972, Order 72-10-10. Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the prehearing conference in the above-entitled proceeding will be held on November 15, 1972, at 10 a.m. (eastern standard time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC., before the undersigned Administrative Law Judge.

It should be noted that the Bureau of Operating Rights previously circulated its request for evidence on September 14, 1972, and the date for the submissions of the other parties was postponed in view of the postponement of the prehearing conference. Since the scope of the proceeding has been changed by Order 72-10-10, the Bureau is directed to submit by October 25, 1972, any revisions it may have to its previous statement. The positions of the other parties shall be submitted on November 8, 1972, shall be limited only to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau.

Dated at Washington, D.C., October 5, 1972.

[SEAL] ROSS I. NEWMANN,
Administrative Law Judge.

[FR Doc.72-17406 Filed 10-11-72;8:46 am]

CIVIL SERVICE COMMISSION

EXAMINING, TESTING, STANDARDS, AND EMPLOYMENT PRACTICES

Instructions

On June 30, 1972, notice of proposed instructions was published in the FEDERAL REGISTER (37 F.R. 12984) that under authority of sections 3301 and 3302 of title 5, United States Code, and E.O. 10577, 3 CFR 1954-58 Comp., p. 218, the Civil Service Commission proposed to issue supplements to the Federal Personnel Manual to comply with the requirements and limitations established by Subpart A, Part 300, Civil Service Regulations, insuring among others, that examining, testing, standards, and employment practices are not affected by discrimination on account of race, color, religion, sex, national origin, partisan political affiliation, or other nonmerit factors.

While not required to do so, the Commission published those proposed instructions in advance of their effective date in the interest of obtaining views from as many sources as possible.

Comments, objections, and suggestions having been received and thoroughly considered, the Civil Service Commission is now issuing the final instructions. These instructions are attached.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FPM Supplement 330-1]

EXAMINING PRACTICES

SUBCHAPTER S1—INTRODUCTION

S1-1—Purpose

This supplement describes the Civil Service Commission's responsibilities for administering the examining program for filling positions in the Federal service through merit and in accordance with the spirit of section 1 of Executive Order 11478 which reads: "This policy of equal opportunity applies to, and must be an integral part of every aspect of personnel policy and practices in the employment, development, advancement, and treatment of, civilian employees in the Federal Government." It complies with the requirements and limitations established by Subpart A, Employment Practices, Part 300 of the Civil Service Regulations. Persons using this supplement should be familiar with Chapter 271 (Developing Policies, Procedures, Programs and Standards) plus Supplements 1 (Development of Qualification Standards) and 2 (Tests and Other Applicant Appraisal Procedures), and with Chapters 332 (Recruitment and Selection Through Competitive Examining) and 338 (Qualification Standards, General) of the Federal Personnel Manual.

S1-2—Applicability

This supplement serves as a guide to all offices responsible for developing, approving, and using competitive examining techniques. Individual examining practices should be reviewed against it in order to assure that they meet the requirements of Subpart A, Employment Practices, Part 300 of the Civil Service Regulations.

SUBCHAPTER S2—PLANNING AN EXAMINING PROGRAM

S2-1—Commission Responsibility

The Civil Service Commission is responsible for administering an examining program which, to the fullest extent possible, embodies the principles of equal opportunity in filling competitive positions in the Federal service through the application of merit principles.

a. Merit principles involve:

(1) Open competitive examinations;

(2) Examinations based upon testing and other applicant appraisal procedures which do not discriminate on the basis of race, sex, religion, national origin, or any other factor not directly related to the requirements on the job or jobs involved;

(3) Equal opportunity for everyone to be examined for positions for which he has the minimum qualifications;

(4) Selection from among the best qualified.

S2-2—Planning

a. *Current and future needs.* Appropriate offices of the Commission at the national, regional, and area level are responsible, in their areas of jurisdiction, for being continually informed about the current and future needs of the agencies they serve and for developing a competitive examining program to meet those needs.

b. *Factors affecting examining programs.* When developing an examining program, these offices consider, in the light of merit principles, such factors as:

(1) Changes in the missions of the agencies served,

(2) Recruiting needs,

(3) Turnover rates of employees,

(4) Any other pertinent information.

S2-3—Informing the public

a. *Information program.* In implementing the examining program, Commission examining offices are responsible for:

(1) Preparing recruiting material and distributing announcements, press releases, etc.; and

(2) Making information available to the public on opportunities to compete for Federal employment.

SUBCHAPTER S3. ISSUING EXAMINATION ANNOUNCEMENTS

S3-1—Content of announcements

a. *Notices to public.* Announcements, recruiting bulletins, or similar issuances serve as official notices to the general public that applications are being accepted to fill certain types of positions in the Federal service in accordance with merit system principles. The announcement should contain enough information to enable a prospective applicant to determine reasonably well:

(1) Whether he is qualified and wishes to apply; and

(2) How, when and where to apply.

b. *Mandatory information.* Certain information must appear in every announcement, as follows:

(1) The following statement: "All qualified applicants will receive consideration for appointment without regard to race, religion, color, national origin, sex, political affiliations, or any other nonmerit factor."

(2) The qualification requirements.[1]

(3) The basis on which applications will be evaluated.

(4) The title, entrance pay (or grade), and other appropriate information regarding the positions for which applications are being sought.

(5) The location of the positions to be filled.

(6) A statement referring applicants to Civil Service Commission Pamphlet No. BRE-37, Working for the U.S.A. This pamphlet gives background information that will guide prospective applicants, by explaining requirements, terms used, employee benefits, and other matters. This pamphlet is available to all applicants upon request.

(7) List of forms required to apply, where the forms may be obtained, and where they should be sent.

c. *Closing date.* In establishing a closing date or in determining whether an announcement should remain open on a continuous basis, the following factors will be considered:

(1) The amount of time required to give adequate publicity to the announcement;

(2) The probable volume of competition as a result of the planned publicity, and the number of potentially eligible competitors;

(3) The present and future staffing needs of the Federal agencies served;

(4) The degree of urgency for early referral of qualified candidates.

d. *Optional information.* Although they are not required in all announcements, the following kinds of items must be used whenever the nature of the jobs involved require them:

(1) Special physical abilities required;

(2) Restriction of certain positions to persons entitled to veterans preference by law (section 3310 of title 5, United States Code). [See Federal Personnel Manual, Chapter 330, Recruitment, Selection, and Placement (General).]

(3) Sex restrictions, applied only when:

(a) Sharing of common sleeping quarters is required, or

(b) Institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the service.

(4) Age requirements.

(5) Salary restrictions.

(6) Interview requirement.

(7) Qualifications investigation requirement.

(8) Required fingerprinting of competitors.

(9) Special conditions of employment such as shift work, isolated duty stations, travel required, and others.

(10) Information about lists of eligibles.

(11) Referral information.

(12) Information on recompeting in the same or related examinations.

SUBCHAPTER S4—RECRUITING PLANS

S4-1—Distribution of announcements

a. *Normal distribution.* In conformity with merit system principles, examination announcements should be given appropriate distribution to assure free and open competition to potentially qualified applicants. The following are some of the organizations to which announcements should be distributed as appropriate:

[1] Usually described in general terms. Qualification standards for specific occupations are contained in CSC Handbook-118 (Qualification Standards for White Collar Positions Under the General Schedule) and Handbook X-118C (Job Qualification System for Trades and Labor Occupations), available at many libraries, personnel offices of Federal installations, and offices of the Civil service Commission.

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(1) Appropriate offices of the Commission,
(2) Agency personnel offices,
(3) State and local employment service offices and veterans employment centers,
(4) Members of Congress,
(5) Veterans information centers,
(6) Minority group and women's organizations,
(7) Military separation centers and employment counseling centers,
(8) Employee associations,
(9) Appropriate professional groups,
(10) College placement officers and college counselors if the announcement is appropriate for college students,
(11) Other educational institutions (e.g., high schools, technical institutes).

b. *Special procedures for few-of-a-kind positions.* (1) Few-of-a-kind positions are defined as those for which:

(a) There is no continuing demand for eligibles;

(b) It is expected that only one or a very few positions will be filled in the course of a year, *and*

(c) The Commission has determined that the regular examining procedures are not practical and feasible.

(2) In such cases, the appropriate office of the Commission issues either a few-of-a-kind announcement or a General Notice announcement. See Federal Personnel Manual, Chapter 332, Appendix C, Recruiting for Few-of-a-Kind Positions.

(a) In using these procedures, the appropriate office of the Commission and the recruiting agency are responsible for assuring that few-of-a-kind positions are filled with due regard to merit system and equal opportunity principles.

SUBCHAPTER S5—EVALUATING CANDIDATES

S5–1—Qualification standards and applicant appraisal procedures

a. *Job-relatedness.* Qualification standards, written tests, and other measures employed to appraise applicants must be:

(1) The same as those described in the examination announcement; and

(2) Appropriate to the positions for which candidates are being examined.

b. *Equal treatment of candidates.* All candidates applying under the same examination announcement for the same or similar positions must be examined in terms of the same qualification standard and/or other applicant appraisal procedures. See Federal Personnel Manual, Chapter 271, Supplements 1 (Development of Qualification Standards) and 2 (Tests and Other Applicant Appraisal Procedures).

S5–2—Rating schedules

a. *Rating of applicants.* Candidates' knowledges, skills, and abilities, except as measured by tests, are evaluated by trained qualifications examiners in terms of the qualification requirements for positions to be filled as described in the examination announcement.

b. *Rating schedules.* Rating schedules provide a uniform basis for evaluating experience, education and test scores. They include the following:

(1) Specific interpretations of the qualification requirements in terms of the positions being examined for.

(2) The scale of weights for the various kinds and amounts of pertinent experience, education and training.

(3) The scale of weights for use of test scores in the final rating, if tests are part of the examination.

c. *Development of rating schedules.* Rating schedules must be developed in accordance with merit system and equal opportunity principles.

(1) Rating schedules must assure that the same standards are applied to all candidates.

(2) Rating schedules are developed by qualified personnel on the basis of the requirements of the positions covered.

S5–3—Retesting and reexamination

a. *Applicants rated ineligible.* Applicants rated ineligible may reapply and be reexamined at any time if the examination is still open under such conditions as may be prescribed by the Commission.

b. *Retesting.* If a test is part of the examination process, an applicant may be retested subject to the availability of test materials.

SUBCHAPTER S6—REGISTRATION AND APPOINTMENT

S6–1—Register of eligibles

The names of all eligible candidates are listed in accordance with rules established by law and regulation; the resulting list is called a *register of eligibles.*

a. *Single-position registers.* Eligible candidates are listed on the register in the order of their numerical ratings, with no regard to race, sex, religion, national origin, or any other nonmerit factor.

(1) By law, persons entitled to veterans preference receive 5 extra points; disabled veterans receive 10 extra points.

(2) Veterans are entered on the register as follows:

(a) For nonprofessional positions, and for professional positions in grades GS–5 and GS–7, veterans who have compensable service-connected disability of 10 percent or more are entered at the top of the register in the order of their augmented ratings.

(b) For other professional positions, these veterans are placed on the register in accordance with their augmented ratings.

b. *Multiple-position registers.* When the register is used to fill many different positions for which there are infrequent vacancies, the qualifications of candidates will generally be evaluated and ratings assigned only when there is a specific vacancy for which they can be considered. Such evaluations and ratings will be made in accordance with merit system and equal opportunity principles as discussed above.

SUBCHAPTER S7—REFERRAL FOR EMPLOYMENT CONSIDERATION

S7–1—Request for certification

When an agency wishes to fill a vacant position from an outside source, it requests the appropriate examining office to provide a certificate of eligibles (a smaller list taken from the register specifically for filling a vacancy).

a. *Order of certification.* Eligibles will be placed on the certificate in the order of their standing on the register. Enough eligibles must be placed on the certificate to allow for declinations or unavailability of some of the eligibles listed.

b. *Selective certification.* An appointing officer may request certification of only those eligibles who have special qualifications needed for the job to be filled.

(1) The need for special qualifications must be based upon the duties and requirements of the job, with full regard for the merit system and equal opportunity principles.

(2) The data presented must show that the special qualifications are directly related to immediate job requirements or that they are necessary to meet known future staffing needs.

(3) If the Commission agrees that selective certification is appropriate, the certificate will list only those eligibles with the appropriate special qualifications.

c. *Job-relatedness.* Names of candidates from a register of eligibles will be referred for consideration only for:

(1) Those positions to which the announcement is limited, or

(2) Closely related positions for which the qualification requirements listed in the examination announcement have been determined to be appropriate.

d. *Selection.* When considering candidates on the certificate, the appointing officer, with sole reference to merit and fitness, is required by law to make a selection for a vacancy from among the highest three eligibles available for appointment, except that a nonveteran may not be selected when there is an available veteran with the same or a higher rating.

e. *Name requests.* When an appointing officer wishes a particular eligible to be referred for his consideration, he may so request the certifying office. The certifying office will certify the name requested in rank order, together with names of other eligibles with higher scores, if any, if it can determine that the individual is within reach for consideration in relation to other competitors or that he falls within the range of competitors normally certified, allowing for the possible nonavailability of top-standing eligibles.

S7–2—Elimination from consideration

a. *Objections.* An appointing officer may object to an eligible listed on the certificate and the Civil Service Commission must sustain or disapprove the objection.

b. *Reasons.* An appointing officer may base his objections on:

(1) A determination that the candidate is not qualified or fit to fill the specific job or jobs for which he has been judged eligible in the examining process; or

(2) A determination that the job to be filled has specialized qualification requirements which the applicant lacks, and for which selective certification would be appropriate.

S7–3—Commission action on objections

In acting upon an objection to an eligible or a request to pass over a veteran, Commission offices will apply the following general principles:

a. *Basis for objection.* The information or evidence on which the objection is based must clearly show that the eligible is disqualified for some or all of the positions to be filled from certificates from the register. This disqualification must be based upon the requirements of the job. [See S7–2(b).]

b. *Adherence to principles.* The disqualification must be made in accordance with merit and equal opportunity principles.

c. *Notification.* Eligibles must be notified if it is proposed to change their ratings or to terminate their eligibility. Eligibles have the right to appeal this decision to the appropriate examining office, with further right of appeal to the regional office of the Civil Service Commission. (See chapter 337, subchapter 2–7, of the Federal Personnel Manual.)

SUBCHAPTER S8—DOCUMENTATION

S8–1—Records

Each examining office of the Commission is required to maintain complete records documenting the basis for decisions made and actions taken.

[FPM Supplement 271–1]

DEVELOPMENT OF QUALIFICATION STANDARDS

SUBCHAPTER S1—INTRODUCTION

S1–1—Purpose

This supplement describes the process for developing qualification standards for occupations in the Federal service. It complies with the requirements and limitations established by Subpart A, Employment Practices, Part 300 of the Civil Service Regulations. Persons using this supplement should be familiar with Chapters 271 (Developing Policies, Procedures, Programs and Standards) and 338 (Qualification Standards, General) of the Federal Personnel Manual, with Qualification Standards for White Collar Positions Under the General Schedule (Handbook X–118), with the Job Qualification System for Trades and Labor Occupations (Handbook X–118C) and with the Internal Qualification Guides for Trades and Labor Jobs.

S1–2—Applicability

a. *Use of this supplement.* This supplement serves as a guide to all officials responsible for developing, approving, and using qualification standards. Every proposed standard should be reviewed against this supplement before approval to make sure that, in its development and proposed application, it meets the requirements of Subpart A, Employment Practices, Part 300 of the Civil Service Regulations.

b. *Coverage.* Qualification standards to which these instructions apply are designed to cover typical work situations and occupational categories comprising most positions under the General Schedule and the Coordinated Federal Wage System.

c. *Exceptions.* These instructions do not apply to standards developed (1) for unique, few-of-a-kind or special-need situations, (2) for occupations not covered by approved standards where a full-scale occupational study as described in S3–1 below is not necessary or feasible. In such cases, special standards may be prepared and used by qualified personnel to assure that placement needs of Federal agencies are met. Such standards will be based upon a careful analysis of job requirements, published standards for related occupations, instructions contained in Federal Personnel Manual Chapter 338 or 335 as appropriate and, to the extent feasible the provisions of this supplement. A written record will be retained of the process and rationale followed in developing these special standards. (Information regarding internal placement actions may be found in Chapters 335, 337, and 338 of the Federal Personnel Manual.)

SUBCHAPTER S2—QUALIFICATION STANDARDS

S2–1—Definition and use

Qualification standards[1] describe the knowledges, skills, activities, and other characteristics needed to perform Federal jobs successfully. They also define the evidences that the Commission will accept as indicating the extent to which candidates possess the requisite knowledges, skills, and abilities for the positions involved. Qualification standards are intended to insure the recruitment of a competent, stable work force with equal employment opportunity for all candidates on the basis of merit and fitness for the work to be done.

S2–2—Standards development

The development of a qualification standard for a specific occupation includes the following processes:

a. Identification of the knowledges, skills, abilities, and other characteristics required of workers for successful performance in the occupation (job analysis);

b. Selection of methods for determining that candidates possess or have potential for acquiring these knowledges, skills, abilities, or other characteristics, and for assessing their relative capacities for performing successfully on the job;

c. Documentation of the findings in the occupational study on which the standard is based, including identification of the knowledges, skills, and abilities required and the basis for the methods selected for assessing these knowledges, skills, and abilities.

SUBCHAPTER S3—DETERMINING KNOWLEDGES, SKILLS, ABILITIES, AND OTHER CHARACTERISTICS NECESSARY FOR JOB SUCCESS

S3–1—Occupational study

a. *Methodology.* The knowledges, skills, abilities, and other characteristics which are necessary for successful job performance are identified through a comprehensive study of the occupation by or under the direction of an occupational specialist or other qualified person. The study encompasses as many of the following steps as are feasible and relevant to the particular occupation:

(1) Review of literature concerning the occupation;

(2) Obtaining job information from personnel officials, program managers, supervisors, and employees familiar with the occupation;

(3) Consulting with appropriate employee groups, unions, professional societies (or representatives of private industry);

(4) Reviewing official position descriptions, job performance standards, training materials, work products;

(5) Observing work processes; and

(6) Reviewing policies and programs affecting jobs in the occupation.

b. *Coordination with classification standards.* The qualification requirements derived from this study are coordinated with published standards for grading or classifying positions in the same occupation to assure that the qualification and classification standards are consistent with regard to differences in kinds and levels of work. To assure this, both types of standrads will be developed on the basis of the same occupational study to the extent possible.

S3–2—Physical requirements

a. *Methodology.* Physical requirements included in qualification standards must be approved by a Commission medical officer. They are established on the basis of:

(1) Studies by medical officers of the Commission of the physical abilities necessary to perform the duties;

(2) Consultation with Federal appointing officials; and

(3) Research relating to the effects of specific diseases and defects on employment generally.

b. *Minimum requirement.* Section 7153 of title 5, United States Code, requires that applicants or employees need possess only the minimum physical abilities necessary to perform effectively and safely in the job for which they are being considered or to which they will be assigned.

S3–3—Age requirements

a. *General policy.* Section 3307 of title 5, United States Code, prohibits setting

[1] The term "qualification standard" refers to qualification requirements for positions in the General Schedule published in Qualification Standards for White Collar Positions Under the General Schedule (Handbook X–118) and qualification requirements for wage grade positions published in the Job Qualification System for Trades and Labor Occupations (Handbook X–118C) and the Internal Qualification Guides for Trades and Labor Jobs. It also includes standards developed or approved by the Commission for positions that are unique to one agency which are not published in these handbooks.

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a maximum age for entrance into the Federal service, except as amended for specific occupations (Air Traffic Controllers and U.S. Park Police.) General policy establishes a minimum age of 18 years for Federal employment, which may be lowered to 16 years under conditions set forth in the Federal Personnel Manual, Chapter 338.

(1) The Commission may for a particular job establish a different minimum age when the interests of sound administration require it.

(2) A statement on age is included in qualification standards or guide only when the age requirements for a particular occupation differ from the policy established for Federal employment generally.

S3-4—Licenses and credentials

A few occupations require professional or other licenses or credentials for performance of the work. These are required to protect the affected public from the consequences of improperly performed work, such as in the case of physicians, nurses, pharmacists, and others.

a. In these occupations that require licenses, the applicant typically must possess a valid license at the time of appointment.

b. All jobs that involve driving a motor vehicle on public highways require that the applicant possess a valid State license to operate the motor vehicle concerned.

c. The Federal Government specifies licenses or other credentials as a requisite for employment only when these are required by State and local jurisdictions, constitute prerequisites to full practice in the occupation involved, and are also found to be necessary to the proper performance of work in the Federal Government.

S3-5—Other requirements

Whenever it is essential to successful job performance, applicants may be required to speak, read, and write English.

SUBCHAPTER S-4—APPRAISING KNOWLEDGES, SKILLS, AND ABILITIES OF CANDIDATES FOR EMPLOYMENT OR INTERNAL PLACEMENT

S4-1—Equal employment opportunity

The use of all appraisal methods is subject to conditions of fair employment practices previously laid down by the Commission in accordance with the spirit of section 1 of Executive Order 11478, which reads: "* * * This policy of equal opportunity applies to and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees in the Federal Government". Also, Public personnel actions affecting employees or applicants for employment (in the Federal Government) shall be made free from any discrimination based on race, color, religion, sex, or national origin.

S4-2—Selection of applicant appraisal methods

a. *Criteria.* After the knowledges, skills, and abilities necessary for successful job performance have been identified in the occupational study, consideration is given to the selection of the best methods of evaluating applicants to determine whether they possess the needed knowledges, skills, and abilities and to assess their competitive standing. In determining evaluation, appraisal or measurement methods, the following criteria are applied:

(1) They must be relevant to the occupation, and appropriate for the qualities being measured;

(2) They must measure applicants without regard to race, color, religion, sex, or national origin;

(3) They must be practical and administratively feasible in terms of cost, workload, or other factors; and

(4) They must conform to relevant legal restrictions.

b. *Procedures.* Drafts of the proposed classification and qualification standard for an occupation are reviewed by personnel research psychologists.

(1) After consultation with the occupational specialists, they recommend appropriate evaluation methods based upon the guidelines in Federal Personnel Manual Supplement 271-2, Tests and Other Applicant Appraisal Procedures. Wherever possible, they recommend alternative measurement methods to measure the abilities of applicants who present various types of evidence of qualifications.

(2) The appropriate applicant appraisal procedures are included in the draft of the proposed qualification standards.

(3) Interested parties—agencies, unions, professional associations, and others—have the opportunity to make their views on the proposed evaluation methods known when the draft qualification standard is circulated for comment.

SUBCHAPTER S5—EXPERIENCE REQUIREMENTS AND SUBSTITUTION OF EDUCATION FOR EXPERIENCE

S5-1—Meeting qualification standards

The knowledges, skills, and abilities specified in qualification standards may be acquired or developed by means of work experience, education, training, community service activities, or a variety of other ways. The intent is to evaluate the knowledges, skills, and abilities that the person has, as these relate to a job to be done.

S5-2—Setting education and experience requirements

a. *Benchmarks.* For General Schedule positions education and experience requirements are based upon grade level descriptions established in section 5104 of title 5, United States Code. Requirements are developed more specifically for each occupation and grade based upon the results of job analysis, and are based upon the knowledges and skills necessary to perform work satisfactorily at a certain grade level in a given occupation.

S5-3—Minimum education requirements

a. *Restrictions.* Under section 3308 of title 5, United States Code, no minimum educational requirement may be prescribed for an examination for the competitive service except when the Commission decides that the duties of a scientific, technical, or professional position cannot be performed by a person who does not have a prescribed minimum education. This restriction applies to formal education at all levels.

b. *Requirements.* The Commission establishes minimum education requirements only when it is satisfied that the knowledges, skills, and abilities requisite for the position can be acquired only through successful completion of formal schooling.

S5-4—Written tests

In addition to or in place of experience and/or educational requirements, written tests may also be required for appointment. See Federal Personnel Manual Supplement 271-2, Tests and Other Applicant Appraisal Procedures.

SUBCHAPTER S6—DOCUMENTATION REQUIREMENTS

S6-1—Record of job-relatedness

A record must be maintained in support of every qualification standard developed or approved by the Civil Service Commission pursuant to this supplement. This record will show the results of the job analysis and the basis for the relationship determined to exist between the job in the occupation and the qualification requirements established by the standard. It will show evidence that the applicant appraisal methods have been approved by a professional psychologist.

S6-2—Approved modifications of standards

When atypical jobs have different job requirements from those cited in the qualification standard for an occupation, modifications made in accordance with Commission policy, including waivers of years-of-experience and educational requirements approved by the Commission, will be recorded and retained with the file.

SUBCHAPTER S7—PUBLICATION OF STANDARDS

S7-1—Media for publication

a. *Approved standards.* When the final standard is approved, it is published in the appropriate Commission issuance system, or otherwise made a matter of record.

b. *Minimum educational requirements.* Any minimum educational requirements must be published in the FEDERAL REGISTER, in accordance with section 3308 of title 5, United States Code.

SUBCHAPTER S8—MAINTENANCE

S8-1—Review of qualification standards

a. *Occupational changes.* Qualification standards, once issued, are reviewed periodically as determined by the needs of the Federal service, by significant changes in the occupation resulting from changes in technology or agency objectives, or by other factors.

b. *Revision.* As necessary, complete or partial revisions are made in accordance with the requirements of Subchapter 3.

[FPM Supplement 271-2]

TESTS AND OTHER APPLICANT APPRAISAL PROCEDURES

SUBCHAPTER S1—INTRODUCTION

S1-1—Purpose

This supplement is based on the principle that properly developed, standardized, and job-related applicant appraisal procedures can significantly contribute to sound selection and placement systems in the Federal Government on the basis of merit and fitness and without discrimination because of race, color, religion, sex, or national origin. It describes the process of developing such instruments. By informing an employer to some degree as to the probability of an applicant's job success, job-related applicant appraisal procedures significantly aid in the development and maintenance of the efficiency and well-being of the work force.

S1-2—Policy

It is the policy and practice of the Civil Service Commission to use as the basis for employment decisions such tests and other appraisal procedures as are reasonably related to job requirements, so that employment by merit principles and the concept of equal employment opportunity are served and affirmed.

S1-3—Applicability

a. *Coverage.* This supplement is designed to serve as a set of workable instructions for the Civil Service Commission staff and for Federal agencies developing and using tests and other applicant appraisal procedures as part of a systematic plan for making decisions for hiring and initial placement. It complies with the requirements and limitations established by Subpart A, Part 300, Civil Service Regulations.

Every test or other applicant appraisal procedure should be reviewed against this supplement before approval to make sure that, in its development and proposed application, it meets the requirements of Subpart A, Employment Practices, Part 300 of the Civil Service Regulations. (The use of tests for promotion, transfer, training, and other in-service placement actions is covered in Federal Personnel Manual Supplement 335-1.)

b. *Exceptions.* This supplement applies primarily to the systematic development of applicant appraisal procedures normally specified in qualification standards. As the needs of the Federal service may require, if appropriate appraisal procedures have not been developed for particular occupations or positions, or if there is a need for modifying established appraisal procedures because of new or special job requirements, appraisal procedures may be developed by qualified personnel based upon approved appraisal techniques used for related occupations. These ad hoc procedures must meet the test of rationally determined job-relatedness, but they may be revised when a formal study is completed.

SUBCHAPTER S2—APPLICANT APPRAISAL PROCEDURES

S2-1—Definition

The term "applicant appraisal procedure" is defined as any paper-and-pencil or performance measure used as a basis for an employment decision.

a. *Inclusions.* Applicant appraisal procedures include:

(1) Measures of actual demonstrations of job skills such as typing;

(2) Demonstrations of skills in structured individual or group interviews and exercises which are scored and used as the basis for an employment decision;

(3) Measures of abilities related to learning in various situations;

(4) Measures of specific classes of abilities: verbal, numerical, mechanical, clerical, and others;

(5) Measures of dexterity and coordination;

(6) Measures of knowledge and proficiency;

(7) Occupational and other interest measures; and

(8) All other formal, scored, quantified, or standardized techniques for assessing job qualifications. Such techniques include, for example, standardized methods for evaluating the quality, amount, kind, and level of knowledges, skills, and abilities acquired through training, education, and experience.

(There are special restrictions governing the use of attitude, personality, or temperament tests. See Federal Personnel Manual, Chapter 337.)

S2-2—Use of applicant appraisal procedures

a. *Policy.* The Commission's staff develops and uses applicant appraisal procedures to assess the knowledges, skills, and abilities of persons for jobs and not persons in the abstract.

(1) Appraisal procedures are designed to reflect real, reasonable, and necessary qualifications for effective job behavior.

(2) An appraisal procedure must, among other requirements, have a demonstrable and rational relationship to important job-related performance objectives identified by management, such as:

(a) Effective job performance;
(b) Capability;
(c) Success in training;
(d) Reduced turnover; or
(e) Job satisfaction.

SUBCHAPTER S3—DEVELOPMENT OF APPLICANT APPRAISAL PROCEDURES

S3-1—Standards and methods

a. *Standards.* Specific standards which appraisal procedures must meet are outlined below. (The Commission has already issued similar guides to Federal agencies for the use of written tests for internal placement in Federal Personnel Manual Supplement 335-1, Appendix A.)

(1) *Objectivity.* An applicant appraisal procedure is objective if it elicits responses which are observable, and if they can be recorded and reported in a precise, specified way. Objectivity seeks to remove personal opinion by reducing the impact of individual judgment.

(2) *Reliability.* An applicant appraisal procedure is reliable if the scores obtained with the procedure are consistent and stable.

(3) *Job-relatedness.* An applicant applicant appraisal procedure is job-related if the knowledges, skills, abilities, and other qualification requirements included in it have been determined to be necessary for successful job performance through a careful job analysis.

(4) *Validity.* An applicant appraisal procedure is valid if it measures the knowledges, skills, abilities, and other employee characteristics it is intended to measure.

b. *Methods of validation.* There are two general classes of methods of validation: (1) rational and (2) statistical.

(1) Rational validation involves definition, through empirical analyses of job duties or other job-relevant activities, of the knowledges, skills, abilities, and other employee characteristics necessary for effective job behavior, in order to assure that the applicant appraisal procedure is job-related. The applicant appraisal procedures are then designed on empirical and rational bases to provide meaningful measures of the specified qualification requirements, in order to assure that they are valid.

(2) Statistical validation methods (often referred to as criterion-related methods) involve definition of what is to be measured (i.e., criterion) by some systematic method based upon observations of job behavior of individuals. Possible measures of the knowledges, skills, abilities, and other employee characteristics are then obtained for individuals. Through statistical means, the strength of the relationships between the criterion and the measures is evaluated (validity).

If the criterion has been defined rationally through a careful empirical analysis of job duties, job-relatedness of the appraisal procedure is considered to be present. If the criterion has not been defined in this way, job-relatedness is inferred but not assured.

These are not unrelated methods or research techniques, but can be overlapping steps in a continuous process. If the researcher begins with a job analysis, establishing job-relatedness, he proceeds through the process to a point where there is evidence of the validity of the appraisal procedures through an appropriate professionally acceptable method. If, in the absence of a careful job analysis, he uses a criterion measure less rigorously developed, the evidence of validity should consist of statistical relationships between the appraisal procedure and the measure of job performance.

There is no single method of validation to the exclusion of others, nor is one to be considered superior to another as an

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abstract strategy, but only in relation to actual situations. The method(s) must be tailored to the purposes of measurement and to the individual employer's actual job needs.

S3–2—Validation requirements

This subchapter describes the general conditions for acceptability of an applicant appraisal procedure from a validity standpoint, and describes the process of rational validation in more detail.

a. *General standards for validation.* An applicant appraisal procedure is acceptable if either of two sets of conditions is met:

(1) There is evidence from a careful job analysis that the knowledge, skills, and abilities being measured are in fact an important part of the job (class of jobs, or occupation) and logically related to successful performance on that job (class of jobs, or occupation); *and* there is competent evidence of professionally determined content and/or construct validity (as defined in American Psychological Association Standards for Educational and Psychological Tests and Manuals) in the appraisal procedure being studied or

(2) There is competent evidence of a useful degree of criterion related validity arrived at by comparing applicant appraisal procedure scores with a criterion which is legitimately based on the needs of the Federal Government.

b. *Standards for rational validity.* Rational validity involves establishing both the job-relatedness of a qualification requirement and the validity of the measure used to assess the requirement. The process proceeds through the following steps:

(1) Systematic analysis of the job, class of jobs, or occupation to determine the duties and responsibilities important to successful performance, and to identify other appropriate characteristics in the work situation.

(2) Identification and definition of the knowledges, skills, abilities, and other job requirements necessary for successful performance and relevant to the objectives of management. These qualification requirements are derived systematically from the results of the analysis in (1) above.

(3) Selection or development of appropriate and feasible appraisal procedures to measure the most relevant qualification requirements in accordance with professional examining principles and methods. A systematic process is followed in which the various measurable characteristics inherent in the qualification requirements are defined; the measurement methods and devices are specified based on the information in steps (1) and (2); and the rationale therefor is properly documented. This rationale is developed, refined, and checked on the basis of a knowledge of tests and measurements; past experience; search of the literature; special studies, where appropriate; study or knowledge of available measuring devices; and application of other appropriate psychometric techniques.

A systematic process must be followed to determine the relative importance of the qualification requirements for the job in order to identify those of greatest relevance for measurement and, if appropriate, for later weighting when measures are combined.

c. *Evidence of rational validity of appraisal procedures.* Essential evidence of the rational validity of appraisal procedures shall consist of a written description of the following:

(1) The job duties or other work behaviors concerned;

(2) The method by which the qualifications requirements were determined, the results of this process, and definition of each qualification;

(3) The method by which the necessary and important qualification requirements to be measured were identified and selected and the results of these processes;

(4) The professional appraisal procedures selected or developed to measure the qualifications requirements, including relevant quantitative data (e.g., means, standard deviations, reliabilities, item indices, weights).

d. *Acceptability.* Evidence of rational validity developed through the above steps is acceptable:

(1) When there is sufficient documentation so that the processes used can be ascertained; and

(2) When each of the basic steps in the process has been carried out in a technically adequate manner.

S3–3—Statistical studies as evidence for validity (statistical criterion-related validity)

Where feasible and appropriate, validity can be established by other evidence such as through statistical studies which involve correlating scores from appraisal procedures with job-related criterion measures.

These statistical studies are necessary when it is not feasible to undertake the process described in paragraph b, S3–2. These kinds of studies are done either by relating scores on applicant appraisal procedures to measures of later success on the job (predictive validity), or by relating the scores to criterion measures collected at approximately the same time (concurrent validity).

a. *Evidence in statistical criterion-related studies.* Evidence should consist of statistical data demonstrating that the appraisal procedure, to a significant degree, measures performance or qualifications requirements which are relevant to the job or jobs for which candidates are are being evaluated. (All other data developed in the process of the study should also be available.)

b. *Criterion measures.* The work behaviors or other criteria of employee adequacy which the appraisal procedure is intended to identify or predict must be fully described. Criterion measures may include work samples, objective measures of productivity, ratings, tests, or other appropriate methods. These criterion measures are not necessarily equally appropriate in every situation, and consequently they should be tailored to each situation. Sometimes it may be necessary or desirable to use more than one criterion measure. The type and number of measures are matters to be determined on the basis of the best professional psychometric judgment of the researcher.

S3–4—Limitations of statistical criterion-related studies in merit system employment

Merit system employment requires selection from a ranking of the best qualified persons. Often this results in hiring people with high scores within a narrow range. These situations may make predictive validity studies of the applicant appraisal procedure improper or infeasible, or they may place such severe limitations on them as to make them of doubtful professional value for employment purposes.

Conducting concurrent validity studies with present employees only also may present severe problems. This is especially evident, for example, when the employed group has been selected on the basis of the appraisal procedure to be studied or one highly correlated with it. Under these circumstances, various problems can lead to inaccurate estimates of the validity of the appraisal procedure. (For example, restriction in range of both appraisal procedure and criterion.) Statistical criterion-related studies may also be infeasible under other circumstances, such as when criteria are either unreliable or less dependably measured than the appraisal procedures, or when the group size is too small to support a study.

S3–5—Appropriate job levels against which job-relatedness is determined

If job progression structures are established so that new employees may, within a reasonable period of time and in a great majority of cases, progress to a higher level, it may be considered that candidates are being evaluated for their ability to progress to or to perform jobs at that higher level. In these cases, it must be determined that the period of time between initial selection and subsequent promotion to a higher level is devoted to substantial and essential training and development, which, although it may last for several years, is a "reasonable period" of time for this purpose.

When job progression structures are not of this nature, and where such a developmental time is not appropriate, candidate should be evaluated for a job at or near the entry level.

S3–6—Use of existing statistical criterion-related studies

a. *Studies done by other organizations.* If statistical criterion-related studies conducted in other organizations are used to support use of an applicant appraisal procedure, evidence must be presented to substantiate such use. Evidence may be considered to be acceptable when:

(1) The jobs are comparable in terms of the most important qualification requirements, and

(2) There are not major differences in other variables which are likely to affect significantly the generality of the results.

S3–7—Documentation of evidence of statistical criterion-related studies

Evidence must be documented in some commonly accepted professional form and should include means, standard deviations, coefficients of correlation or expectancy tables, reliabilities, or any other appropriate statistical data.

SUBCHAPTER S4—TECHNICAL REQUIREMENTS FOR USE OF APPRAISAL PROCEDURES

a. In order to insure their proper use, each appraisal procedure must include:

(1) Standard directions for conducting or completing the procedure.

(2) Standard scoring or summarizing instructions.

(3) A method of interpreting (converting, weighting, combining, e.g.) the scores or summaries and applying them in the context of the other methods used in the total evaluation process leading to ranking of applicants.

(4) A method for recording scores so that the record is meaningful and usable in the future.

(5) Where appropriate, provisions for reporting the scores in meaningful terms to applicants and appointing officials.

(6) A method for maintaining the security of appraisal results so that they are available only to the applicant and those Federal employees who have a "need to know."

SUBCHAPTER S5—DOCUMENTATION REQUIREMENTS

S5–1—Evidence of job-relatedness

A record must be maintained in support of applicant appraisal methods used by the Civil Service Commission. Where appropriate, this record should include: All evidence of job-relatedness with any supporting statistical studies; statistical criterion-related palidity studies and criterion measures; and evidence supporting the use of statistical studies done by other organizations.

[FR Doc.72–17422 Filed 10–11–72;8:51 am]

COUNCIL ON ENVIRONMENTAL QUALITY

Environmental impact statements received by the Council on Environmental Quality, September 25–September 29, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can asnwer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388–7803.

FOREST SERVICE

Draft, September 26

Mazatzal Wilderness, Ariz., County: Maricopa. The statement refers to the proposed drilling (to 1,000 feet) of three sites by private parties who have located 22 mining claims in the wilderness, which is part of the Tonto National Forest. The purpose of the action is that of determining the economic mineral potential of the claims. The operation would necessitate construction of an access road, the development of a water source (which could affect downstream riparian habitat) and the leveling of sites and the deposition of sludge with resultant lasting scars upon the landscape. This is in direct conflict with the basic philosophy of wilderness. If drilling substantiates the presence of a large body of ore and mining results a portion of the wilderness could be lost. (ELR Order No. 05355, 42 pages) (NTIS Order No. EIS–72 5355–D)

El Dorado National Forest, Calif., Counties: Alpine, Amador, and El Dorado. The statement refers to the proposed development of the Kirkwood Winter Sports Complex in the forest. The development will include 13 ski lifts, a day lodge, support facilities, and commercial and residential construction to accommodate 2,500 living units (including some year-round units). Some wildlife habitat will be lost; species particularly affected will be the pine marten and the Columbian black-tailed deer. Major impact will be upon soil, and water quality and esthetics. (53 pages) (ELR Order No. 05354) (NTIS Order No. EIS–72 5354–D)

SOIL CONSERVATION SERVICE

Final, September 28

Oliver Bottoms, Ark., County: Sebastian. The statement refers to the proposed installations of 1.4 miles of channel improvement and appurtenant pipe overfall structures for grade stabilization and erosion control on a 521 acre watershed. (21 pages) Comments made by COE (one State agency). (ELR Order No. 05373) (NTIS Order No. EIS–72 5373–F)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973–5391. For Regulatory Matters: A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202—973–7373, Washington, D.C. 20545.

Final, September 25

Leasing of Uranium Reserves, Colorado, New Mexico, and Utah. The statement considers the proposed leasing of 25,000 acres of AEC controlled land along Uravan Mineral Belt to private industries. The area will be mined for uranium and vanadium. Mining measures devised by the Bureau of Land Management for environmental protection will be stipulated in the leases. (200 pages) Comments made by USDA, DOC, EPA, DOD, HEW, DOI, FPC, and State agencies of Colorado, New Mexico, and concerned citizens. (ELR Order No. 05340) (NTIS Order No. EIS–72 5340–F)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202—967–4335.

Draft, September 28

New Mexico, County: San Miguel. The statement refers to the proposed construction of 33 miles of two-lane all weather roadway, in order to improve access to a proposed winter recreation area which is intended to stimulate local economic conditions. Approximately 240 acres of timberland, 32 acres of rangeland, and 300 acres of wildlife habitat will be required for right-of-way. (85 pages) (ELR Order No. 05374) (NTIS Order No. EIS–72 5374–D)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314. 202—693–7168.

Draft, September 28

Apalachicola Bay, Fla. The statement refers to the proposed dredging of a new navigation channel and the construction of a breakwater at Two Mile. Temporary turbidity will adversely affect marine biota. (ELR Order No. 05370, 18 pages) (NTIS Order No. EIS–72 5370–D)

Draft, September 27

South Fork Zumbro River, Minn., County: Olmstead. The statement refers to the proposed modification of 10 miles of channel on the Zumbro, Bear Creek, and Cascade Creek, along with supplementary levee and pump station construction. The purpose of the action is that of flood control. There will be a disruption of greenbelt corridors and a loss of natural riparian habitat. The area provides an overwintering habitat for Canada geese and giant Canada geese which is of national importance; it would be adversely affected. Two residences and eight businesses would be displaced. (ELR Order No. 05365, 82 pages) (NTIS Order No. EIS–72 5365–D)

Final, September 25

Cache River Basin, Ark. The statement refers to a legislative proposal which would allow for modifications to the Cache River Basin Project to allow the acquisition of 30,000 acres which would be developed in order to mitigate the fish and wildlife losses of the project. The statement anticipates no adverse environmental effects. (70 pages) Comments made by EPA, DOI and one State agency. (ELR Order No. 05350) (NTIS Order No. EIS–72 5350–F)

Final, September 22

Santa Paula and Mud Creeks, Calif., County: Ventura. The statement refers to the proposed construction of debris basins and reinforced concrete channels on the two creeks. The purpose of the project is that of flood control. Some riparian habitat will be lost. (74 pages) Comments made by USDA, EPA, DOI, and DOT. (ELR Order No. 05334) (NTIS Order No. EIS–72 5334–F)

Final, September 25

U.S. Post Office, Honolulu, Hawaii. The statement refers to the proposed construction of a one-story general industrial-type building with a two-story office wing. Auxiliary construction will consist of parking areas, paved maneuvering area, an underpass, and necessary utilities and landscaping. The facility will comprise 400,000 gross square feet. (56 pages) Comments made by USDA, USA, DOC, USAF, HEW, DOI, DOT, EPA, and State and local agencies. (ELR Order No. 05345) (NTIS Order No. EIS–72 5345–F)

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El Dorado Lake, Kans., County: Butler. The statement refers to the proposed construction of a dam and reservoir on mile 100.2 of the Walnut River, for the purposes of flood control, water supply and quality control, and recreation. Approximately 8,000 acres would be permanently inundated by the project, with an additional 2,700 acres being retained for the flood pool. Fifty-four families would be displaced by the project, along with public utilities (approximately 450 pages). Comments made by USDA, EPA, DOI, State, local and regional agencies and concerned citizens. (ELR Order No. 05351) (NTIS Order No. EIS–72 5351–F)

Final, September 22

Pearl River Basin, Neshoba County, Miss. Proposed construction, upon authorization from Congress, of a multipurpose reservoir project on the Pearl River. The project would be constructed for purposes of flood control, water quality control, recreation, and wildlife enhancement. Approximately 16,000 acres of agricultural and wildlife lands and an unspecified amount of free-flowing stream habitat would be inundated; an unspecified number of homes would be displaced. Comments made by USDA, EPA, DOI, DOT, and HEW. (ELR Order No. 05331, 135 pages) (NTIS Order No. EIS–72 5331–F)

Pascagoula River Basin, Jefferson Davis, Covington, and Lamar Counties, Miss. The statement refers to the proposed project authorization for a multipurpose reservoir project on Bowie Creek. Approximately 5,500 acres of agricultural and forest lands would be inundated. Endangered species for which such land provides habitat include the Bald Eagle, the Perigine Falcon, the Ivory-billed Woodpecker, Bachman's Warbler and the American Alligator. Comments made by USDA, HEW, DOI, DOT, WRC, and State agencies. (ELR Order No. 05332, 133 pages) (NTIS Order No. EIS–72 5332–F)

Tallahala Project, Jasper County, Miss. The statement considers the proposed construction of a dam and reservoir on Tallahala Creek, for the purposes of flood control, water supply and quality control, recreation, and fish and wildlife enhancement. Approximately 4,435 acres of agricultural and forest land will be inundated. Comments made by USDA, EPA, DOI, DOT, State agencies, and concerned citizens. (ELR Order No. 05336, 117 pages) (NTIS Order No. EIS–72 5336–F)

Boomer Creek Channel Improvement, Payne County, Okla. The project consists of approximately 14,000 feet of channel construction on West Boomer Creek and 5,000 feet of channel improvement on Boomer Creek. The project will include 5,500 feet of concrete-lined channel, one new highway bridge, one new railroad bridge, 11 concrete culverts, three drop structures; removal of several foot bridges in the park; and alteration of several existing bridges. The purpose of the project is protection against the 100-year frequency flood. Five families will be displaced; 59 acres of land will be committed to the action. Comments made by USDA, EPA, HUD, DOI, DOT, State and local agencies. (ELR Order No. 05337, 48 pages) (NTIS Order No. EIS-72 5337–F)

FEDERAL POWER COMMISSION

Contact: Dr. Richard Hill, Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202—386–6084.

Draft, September 28

Pan Hydroelectric Project 1894, Fairfield and Newberry Counties, S.C. The statement refers to a request by the South Carolina Electric & Gas Co., for a new license for the project, and authorization to construct a pumped storage development and use the upper reservoir of the development as a cooling impoundment for a proposed nuclear electric power generating facility. Construction of the new storage facility will require the use of 9,350 acres of pine forest, hardwood forest, and farmland, and will have adverse effects upon wildlife and fish resources. (ELR Order No. 05376, Approximately 400 pages) (NTIS Order No. EIS–72 5376–D)

Draft, September 26

Badger-Rapide Croche Project 2677, Outagamie County, Wis. The statement refers to the proposed approval of an application by the Green Bay and Mississippi Canal Co., for a license for a hydroelectric power complex with a total output of 8,000 kw. The run of the river project has been in existence for 42 years; no additional impact is anticipated. (ELR Order No. 05353, 16 pages) (NTIS Order No. EIS–72 5353–D)

Draft, September 28

Project No. 2709, Tucker and Grant Counties, W. Va. The statement refers to the proposed granting of a construction license to the Monongahela Power Co., for the Davis Pumped Storage Project. The project, on the Blackwater River and Red Creek, will consist of two reservoirs, penstocks, a tunnel, a powerhouse with four 250 MW pump turbines, 12 miles of 500 kv. transmission line, and recreation facilities. Approximately 7,600 acres of wildlife habitat and grazing land will be inundated by the project. (ELR Order No. 05369, 116 pages) (NTIS Order No. EIS–72 5369–D)

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Acting Administrator, GSA–AD, Washington, D.C., 20405, 202—343–6077.

Final, September 26

Argonne National Laboratory, Du Page County, Ill. The statement considers the reassignment of 2,040 acres of land comprising a portion of AEC's Argonne National Laboratory. The land would be assigned to the Department of the Interior for conveyance to Du Page County. It would be utilized for park and recreational purposes. No major adverse environmental impact is anticipated. Comments made by EPA, AEC, and DOI. (ELR Order No. 05356, 266 pages) (NTIS Order No. EIS–72 5356–F)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C. 20410, 202—755–6186.

Draft, September 25

Harpers Square Apartments, Princess Anne County, Va. The statement refers to a proposed 400-unit Department of Defense set-aside housing project, which is to be developed under the provisions of section 236, HUD subsidized mortgage housing. The site is to the south of Oceana Naval Air Station, Virginia Beach. The site is within CNR Zone 2 of the station, making the impact of military aircraft noise significant to residents of the project. (ELR Order No. 05343, 67 pages) (NTIS Order No. EIS–72 5343–D)

Draft, September 27

Neighborhood Development Program, Colorado. The project is a Neighborhood Development Program which provides low and moderate assisted low-income housing in an area west of the central business district of Denver. The project would remove 27 businesses and 140 housing units from the 41.5-acre site and replace them with 200 units of housing for the elderly, 150 garden apartments, 250 townhouse apartments and a 300-unit motel. Adverse effects in the project area are those of air pollution and noise exposure. Land use will remain primarily residential but at a higher density level. (ELR Order No. 05366, 105 pages) (NTIS Order No. EIS–72 5366–D)

Neighborhood Development Program, Colorado. The statement refers to a Neighborhood Development Program which would provide low and moderate assisted low-income housing in an area east of the central business district of Denver. The project would remove 10 businesses and 266 housing units from the 72-acre site and replace them with 200 units of housing for the elderly, 150 garden apartments, 200 townhouse apartments, and 150 units of high rise apartments. Land use will remain primarily residential but at a higher density level. (ELR Order No. 5364, 106 pages) (NTIS Order No. EIS–72 5364–D)

Final, September 25

Downtown Urban Renewal Area, District of Columbia. The statement refers to the proposed use of redevelopment or "disposition" controls to aid redevelopment of five urban renewal sites in the retail core of the downtown urban renewal area. These controls would establish permitted uses, height, lot occupancy, floor-area ratios, offstreet parking and loading regulations for the sites. The dislocation of small retail business establishments will result. Comments made by EPA, GSA, HEW, DOI, DOT, NCPC, DOC, local agencies and concerned citizens. (ELR Order No. 05352, 3 volumes) (NTIS Order No. EIS–72 5352–F)

DEPARTMENT OF INTERIOR

Contact: Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

BUREAU OF RECLAMATION

Final, September 26

Central Arizona Project, Arizona and New Mexico. The statement refers to a project which is intended to provide water for the Tucson and Phoenix metropolitan areas and for lands in Maricopa, Pinal, and Pima Counties in Arizona, and Grant County in New Mexico. Physical features of the project will include the following: One concrete and three earthfill dams; four aqueducts, including tunnels, a major pumping plant and several smaller plants; and transmission facilities. The aqueduct system will require 16,000 acres of right-of-way; the four reservoirs will require the use of 38,000 acres. Comments made by USDA, COE, EPA, HEW, HUD, DOT, DOI, State, local and regional agencies, and concerned citizens. (ELR Order No. 05357, approximately 400 pages) (NTIS Order No. EIS–72 5357–F)

Final, September 27

O'Neill Unit, Lower Niobrara, several counties, Nebraska. The statement refers to a legislative proposal to authorize the multipurpose Norden Dam and Reservoir, which would regulate the Niobrara River. The project would provide irrigation for 77,000 acres, recreation facilities, fish and wildlife conservation, and flood control. Canals, lateral distribution systems, pumping plants, and transmission lines would be constructed. Approximately 30,355 acres would be used for the project features; 6,300 acres would be inundated, some of it wildlife habitat. Comments made by DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 05367, 217 pages) (NTIS Order No. EIS–72 5367–F)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202—426–4355.

FEDERAL AVIATION AGENCY

Draft, September 28

Somerset County Airport, Somerset County, Pa. The statement refers to the proposed extension (by 800 feet) of an existing runway, construction of a parallel taxiway and an apron and the resurfacing of existing facilities. Ten acres will be acquired for the project. Operations from the new runway (R/W 6–24), will greatly increase the ambient sound level for 650 people residing in the area; an elementary school is located in Zone II of the approach and will also be affected by increased noise. (ELR Order No. 05372, 17 pages) (NTIS Order No. EIS–72 5372–D)

Draft, September 25

Patrick Henry Airport, Va. The statement refers to the proposed purchase of 200 acres of farmland to construct a 1,500 foot runway extension and to extend and strengthen runway, taxiway, and lighting systems. An electrical substation will require relocation; 16 residences will be displaced and 45 acres of shrub growth cleared. (ELR Order No. 05338, 79 pages) (NTIS Order No. EIS–72 5338–D)

FEDERAL HIGHWAY ADMINISTRATION

Draft, September 20

Interstate 10, Maricopa County, Ariz. The statement is a draft supplement to a final statement which was dated June 15, 1971. It discusses the environmental impact of I–10 from Ehrenberg to Phoenix. (ELR Order No. 05315, 102 pages) (NTIS Order No. EIS–72 5315–D)

Draft, September 27

I–75, Lee, Charlotte, and Sarasota Counties, Fla. The proposed facility will ultimately be a four-lane, limited access, divided highway of interstate standards, 52.4 miles long. The segment covered in this statement is 41.4 miles long and lies north of the Lee-Charlotte County line. Major environmental impacts will be the Peace River crossing, the Cecil M. Webb Wildlife Management Area crossing, the displacement of people and the possible disruption of surface hydrology in the area. A section 4(f) statement has been filed for the Wildlife Management Area encroachment. (ELR Order No. 05368, 190 pages) (NTIS Order No. EIS–72 5368–D)

Draft, September 20

Illinois Route 23, La Salle County, Ill. The proposed project involves 12 miles of Route 23 from the north corporate limits of Streator to the south corporate limits of Ottawa. The project consists of widening and resurfacing 9.76 miles of two-lane pavement, reconstructing 2.24 miles to four lanes on relocation and replacing the bridge over Wolf Creek. One farmhouse and barn will be displaced; several other properties will be severed to acquire needed right-of-way. (ELR Order No. 05310, 78 pages) (NTIS Order No. EIS–72 5310–D)

Draft, September 25

Lexington to Paris Road, Fayette and Bourbon Counties, Ky. The proposed project is the replacement of a two-lane road with a four-lane, high speed, parkway type highway between Lexington and Paris Road; length would be 12.1 miles. Thirteen families would be displaced, a private country club relocated, and a private school would lose recreation ground. (ELR Order No. 05348, 40 pages) (NTIS Order No. EIS–72 5348–D)

U.S. 19, Swain County, N.C. The statement refers to the proposed reconstruction of U.S. 19, with minor relocations, to a four-lane divided highway. Project length is 6.21 miles. Approximately 250 acres of land will be committed to right-of-way. Eight families and two businesses will be displaced. There will be temporary erosion and siltation during construction. (ELR Order No. 05342, 38 pages) (NTIS Order No. EIS–72 5342–D)

Draft, September 28

S.R. 30 to S.R. 56, Logan County, N. Dak. The proposed project is the reconstruction of an existing 5 mile roadway section. Two acres for right-of-way will be acquired from the Fish and Wildlife Service. Adverse impacts will be upon wildlife, primarily birds. (ELR Order No. 05371, 14 pages) (NTIS Order No. EIS–72 5371–D)

Draft, September 25

S.R. 140 relocated, Scioto County, Ohio. The proposed project is the construction of 0.8 mile of four-lane pavement and 1.75 miles of two-lane pavement on new four-lane right-of-way. Twenty-two families and four businesses will be displaced; 80 acres of agricultural and residential land will be committed to the action. (ELR Order No. 05339, 16 pages) (NTIS Order No. EIS–72 5339–D)

Draft, September 22

L.R. 1076, sections 3, 4, and 5, Allegheny County, Pa. The proposed project is a portion of the S.R. 48 parallel expressway which will serve as an outer belt circumferential route around the Metropolitan Pittsburgh area. The action consists of construction of approximately 7 miles of four-lane expressway with interchanges at required points. Section 4(f) land from White Oak Park will be encroached upon. Twenty-six businesses and 107 families will be displaced. (ELR Order No. 05329, 55 pages) (NTIS Order No. EIS–72 5329–D)

Draft, September 25

State Route 95, Loudon County, Tenn. The proposed project, State Route 95, will be constructed to provide a four-lane divided facility, a medium, and a minimum right-of-way width of 200 feet. The project length is 4 miles. Several displacements would be necessary. The project will involve the loss of wildlife habitat and between 75 and 90 acres of agricultural land. (ELR Order No. 05344, 17 pages) (NTIS Order No. EIS–72 5344–D)

State Highway 72, Karnes County, Tex. The proposed project consists of constructing a new pavement with paved shoulders. The project length is 2 miles with approximately one half on new location. Adverse effects on the environment will include erosion, water pollution, destruction of plant vegetation, and urban congestion. (ELR Order No. 05346, 13 pages) (NTIS Order No. EIS–72 5346–D)

Draft, September 18

I–464, Virginia. The proposed project is the construction of the final 1.407 mile segment of I–464 to complete the north, south spur route connecting I–64 in Chesapeake and all points south with downtown Norfolk. One hundred sixty-four families, 14 businesses and five nonprofit organizations will be displaced. Section 4(f) land, recreational facilities, from the Lincoln Recreation Center and the area adjacent to St. Helena School will be encroached upon. (ELR Order No. 05283, 64 pages) (NTIS Order No. EIS–72 5283–D)

Draft, September 25

Northeast Pacific Street Relocation, Washington. The project is the proposed relocation of Northeast Pacific Street between 1st Avenue NE., and 15th Avenue NE., within the city limits of Seattle. The project will eliminate two existing arterial streets and allow these street areas to be incorporated into the University of Washington's West Campus development. Project length is 0.89 mile. Two businesses will be displaced to satisfy right-of-way requirements. (ELR Order No. 05341, 48 pages) (NTIS Order No. EIS–72 5341–D)

Final, September 27

U.S. 80, Dallas County, Ala. The proposed project is the improvement of U.S. 80 from a two-lane rural to a four-lane rural highway. Project length is approximately 17.6 miles. Approximately 294 acres of rural developed lands would be acquired. Dislocation includes 33 families and 14 businesses. Comments made by USDA, COE, DOC, EPA, HEW, HUD, DOI, DOT, State and regional agencies. (ELR Order No. 05361, 54 pages) (NTIS Order No. EIS–72 5361–F)

Relocation of U.S. 431, Russell County, Ala. The project is the proposed relocation and reconstruction of approximately 13.6 miles of U.S. 431 to a four-lane divided facility. An unspecified amount of rural land is required to provide a 300-foot right-of-way. Thirty-six families, six businesses and one nonprofit organization will be displaced. Comments made by USDA, COE, DOD, EPA, HEW, HUD, DOI, State and local agencies. (ELR Order No. 05362, 66 pages) (NTIS Order No. EIS–72 5362–F)

Final, September 20

I–291, Hartford County, Conn. The proposed project involves the construction of a section of I–291 in the towns of Wethersfield, Rocky Hill, Newington, New Britain, and Farmington, from an interchange with I–91 in Rocky Hill to an interchange with I–84 in Farmington. The project will provide a part of the proposed belt route around the Metropolitan Hartford area. Project length is approximately 7.6 miles. Section 4(f) lands from Churchill Park and the Eagle Lantern Village Open Space will be acquired for right-of-way. Fifteen businesses and 56 families will be displaced; 65 acres of industrial land will be committed to the project. Comments made by USDA, HUD, DOI, DOT, State and local agencies. (ELR Order No. 05309, 145 pages) (NTIS Order No. EIS–72 5309–F)

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Final, September 22
S.R. 435, Orange County, Fla. The two projects encompassed in this statement involve the four laning of 1.785 miles of the urban section of S.R. 435 and the resurfacing and widening of four miles of two-lane rural S.R. 435. The number of displacements will depend upon the route taken. Comments made by USDA, EPA, DOI, State and local agencies. (ELR Order No. 05328, 71 pages) (NTIS Order No. EIS–72 5328–F)

Final, September 27
U.S. 20, Webster County, Iowa. The statement refers to the proposed reconstruction of 1.7 miles of U.S. 20 from U.S. 169 to 12th Street in Fort Dodge. The bridge over the Des Moines River will be widened as required. Five families and two businesses will be displaced. Comments made by USDA, EPA, HUD, DOI, DOT, and State agencies. (ELR Order No. 05359, 32 pages (NTIS Order No. EIS–72 5359–F)

Final, September 22
Maryland Route 414 and I–495 interchange, Prince Georges County, Md. The project is the proposed modification of the existing interchange by providing additional ramps and the dualizing and widening of Maryland Route 414. Project length is approximately 1.70 miles. Fifteen businesses and 12 families will be displaced. Comments made by DOT. (ELR Order No. 05330, 29 pages) (NTIS Order No. EIS–72 5330–F)

Route 87, Howard County, Mo. The statement refers to the proposed reconstruction of Route 87 from the Route E junction to south of Route J. Approximately 120 acres of agricultural and 10 acres of brush covered land will be committed to the action. Channel changes to Blue and Richland Creeks will eliminate approximately 2 acres of wildlife habitat. Four houses and one mobile home will be displaced. Comments made by USDA, COE, EPA, HEW, DOI, DOT, state, and local agencies. (ELR Order No. 05358, 23 pages) (NTIS Order No. EIS–72 5358–F)

Final, September 21
N.Y. Route 3, St. Lawrence County, N.Y. The statement provides for the reconstruction of Route 3 along the existing alinement. Approximately 120 acres of forested land is required for additional right-of-way. Eighteen acres of section 4(f) Forest Preserve lands within the Adirondack State Park will be committed to highway usage. Comments made by USDA, HUD, and DOT. (ELR Order No. 05326, 27 pages) (NTIS Order No. EIS–72 5326–F)

Final, September 27
Grant Pass—New Hope Road Section, Josephine County, Oreg. The statement refers to the widening of existing Jacksonville highway from its intersection with New Hope Road, a distance of 1.4 miles. Adverse effects include temporary disruption due to construction and the loss of frontage areas. Comments made by COE, EPA, HUD, DOI, State, and local agencies. (ELR Order No. 05360, 36 pages) (NTIS Order No. EIS–72 5360–F)

Final, September 20
Hixson Pike (Route 4306), Hamilton County, Tenn. The statement considers the proposed reconstruction of Route 4306 from the S.R. 153 interchange to Middle Valley Road. Project length is 1.792 miles. The proposed facility will consist of four 12-foot traffic lanes, a bridge over the Chickamauga Creek and an overhead structure for Southern Railroad. Three families and one business may be displaced. Comments made by COE, EPA, DOI, TVA, and DOT. (ELR Order No. 005311, 38 pages) (NTIS Order No. EIS–72 5311–F)

Final, September 22
S.R. 24, Adams County, Wash. The proposed project includes the reconstruction of approximately 5.5 miles of S.R. 24 through rural farmland and within the city limits of Othello. One family will be displaced by the action. An unspecified amount of agricultural land will be committed to transportation uses. Comments made by EPA, HUD, DOT, State, and local agencies. (ELR Order No. 05333, 46 pages) (NTIS Order No. EIS–72 5333–F)

S.R. 97, Chelan to Junction S.R. 151, Chelan County, Wash. The proposed project consists of the construction on new alinement of approximately 3.56 miles of S.R. 97. It will provide a controlled access bypass of the central business district of Chelan with 2.2 miles of four-lane roadway including two two-lane bridges spanning the Chelan River. Two businesses and 48 families will be displaced. Approximately 79 acres, of which 36 acres is producing orchard, will be committed to right-of-way. Comments made by USCG, EPA, HUD, DOI, DOT, State and local agencies, and concerned citizens. (ELR Order No. 05335, 121 pages) (NTIS Order No. EIS–72 5335–F)

U.S. COAST GUARD

Draft, September 27
Oil Pollution Act of 1961, Amendments. The statement considers a bill (S. 3766, H. 15627), which would amend the Oil Pollution Act of 1961, as amended, by the implementation of the 1969 and 1971 Amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended. The bill would establish rigid control measures to prevent and control pollution of the sea by oil. The statement indicates that no adverse environmental effects would result from enactment of the bill. (ELR Order No. 05363, 52 pages) (NTIS Order No. EIS–72 5363–D)

Final, September 28
Edisto River, Colleton County, S.C. The proposed action is the approval of location and plans for a pipeline bridge across the river. The purpose of the bridge is to carry fossil fuel ash from a steam electrical generating plant to settling basins on the opposite side of the river. Both are properties of the South Carolina Electric & Gas Co. Approximately 400 acres of the company's land will be committed to the action; some of this is wildlife habitat. Comments made by USDA, DOC, COE, EPA, HEW, DOI, and DOT. (ELR Order No. 05375, 124 pages) (NTIS Order No. EIS–72 5375–F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.72–17369 Filed 10–11–72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE, PANEL 2

Notice of Meeting

SEPTEMBER 29, 1972.

Panel 2, the Subjective Evaluation Panel, of the Cable Television Technical Advisory Committee will hold a meeting on October 11, 1972, at 2 p.m. The meeting will be held in Room 847S of the main FCC building at 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–17408 Filed 10–11–72;8:46 am]

FEDERAL POWER COMMISSION

[Docket No. CI73–229]

KERR-McGEE CORP.

Notice of Application

OCTOBER 6, 1972.

Take notice that on September 28, 1972, Kerr-McGee Corp. (applicant), Kerr-McGee Building, Oklahoma City, Okla. 73102, filed in Docket No. CI73–229 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Co. from the Hobart Ranch Field, Hemphill County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to an average daily maximum of 10,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a., plus 5.25 cents per Mcf upward B.t.u. adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17347 Filed 10–11–72;8:49 am]

[Docket No. CI73–80]

SUN OIL CO.

Notice of Petition To Amend

OCTOBER 6, 1972.

Take notice that on September 21, 1972, Sun Oil Co. (petitioner), Post Office Box 2880, Dallas, TX 75221, filed in Docket No. CI73–80 a petition to amend the order issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket by authorizing the sale of natural gas to Transcontinental Gas Pipe Line Corp. from additional wells in the Humphreys Field, Terrebonne Parish, La., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner proposes to increase its maximum daily quantity from 3,000 to 3,500 Mcf of gas at 35 cents per Mcf at 15.025 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17348 Filed 10–11–72;8:49 am]

[Docket No. CI73–231]

TEXACO INC.

Notice of Application

OCTOBER 6, 1972.

Take notice that on October 2, 1972, Texaco Inc. (applicant), Post Office Box 52332, Houston, TX 77052, filed in Docket No. CI73–231 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Co. of America from Block 88, High Island Area, offshore Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 12,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a., plus 0.805 cent per Mcf upward B.t.u. adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–17349 Filed 10–11–72;8:49 am]

FEDERAL RESERVE SYSTEM

BANK OF VIRGINIA CO.

Order Denying Acquisition of Bank

Bank of Virginia Company (formerly Virginia Commonwealth Bankshares, Inc.), Richmond, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to The First National Bank in Onancock, Onancock, Va. (Bank). The bank into which Bank is to be merged has no significance except as a means of acquiring all of the voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated herein as the proposed acquisition of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in the State, has 16 subsidiary banks with aggregate deposits of $781.1 million, representing 8.5 percent of the total commercial bank deposits in the State. (Unless otherwise indicated, banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through June 30, 1972.) As a result of the acquisition of Bank ($10.5 million deposits), Applicant's position in relation to the State's other banking organizations would remain unchanged and its share of deposits in the State would be increased by 0.1 percentage point.

Bank, located in Accomack County, the northernmost of two counties on Virginia's Eastern Shore, is the third largest of six banking organizations, three of which are subsidiaries of bank holding companies, operating in Accomack County, (the relevant market),[1] and holds about 16 percent of the total commercial bank deposits therein. A branch of Applicant's lead bank (Bank of Virginia-Central, Richmond), located 16 miles north of Bank, is the largest banking organization in the market and holds deposits of $14.6 million, representing about 29 percent of the total commercial bank deposits in Accomack County. Consummation of the proposal would increase Applicant's share of deposits in the market to about 46 percent of the total.

In connection with its review of the application, the Board has considered a comment filed by the Department of Justice expressing the view that the transaction would have an adverse effect on banking competition in Accomack County. The Department indicates that the transaction would eliminate some direct competition and the possibility of future competition, increase banking concentration, and reduce the number of banking alternatives in the market.

[1] Accomack County market share data and branch deposit figures are as of June 30, 1970.

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On the basis of the facts of record, including Applicant's response to the comments of the Department of Justice, the Board finds that consummation of Applicant's proposal would have an adverse effect on existing competition and foreclose the development of potential competition.

As a result of their proximity, Bank and the Hallwood branch of Applicant's lead bank are in direct competition. The service areas of the two banks overlap, and each obtains loan and deposit business from the area served by the other. This existing competition between the two institutions would be eliminated by consummation of the proposal. In addition, by acquiring an independent bank located in the same market in which it operates, Applicant would reduce the number of banking alternatives available to area residents from six to five institutions while increasing banking concentration in the relevant market a significant degree. (Applicant would hold more than 2½ times as much in deposits as the second largest banking organization in Accomack County.) Moreover, consummation of the proposal would foreclose the development of potential competition between Bank and Applicant since Bank would be removed as an alternative means of entry into the market by a bank holding company not already represented therein, a prospect the Board considers competitively preferable to Applicant's proposal. In the Board's view, the adverse effects of Applicant's proposal on competition are even more significant when viewed in the context of the Accomack County banking market, where there are a limited number of banking alternatives and the prospect for de novo entry by banking organizations not already in the market is considered unlikely.

On the basis of the foregoing and all other facts in the record, the Board concludes that consummation of Applicant's proposal would have adverse effects on banking competition in the relevant market, and that unless the anticompetitive effects are outweighed by considerations relating to the convenience and needs of the community to be served or by other considerations, the public interest requires denial of the application.

The financial condition of Applicant and each of its subsidiary banks is regarded as generally satisfactory, their managements appear capable, and the prospects of the group are considered favorable. The same conclusions apply generally with respect to the financial and managerial resources and prospects of Bank, whether as an independent bank or as a subsidiary of Applicant. Although affiliation with Applicant would assure Bank of a source of qualified management for the future, this factor alone does not provide sufficient weight to require approval of the application.

The banking needs of the public in Accomack County are presently being met by the six banking institutions operating therein, three of which are subsidiaries of multi-bank holding companies. The new services that Applicant proposes to establish at Bank are already being offered by the existing institutions, including Applicant's branch at Hallwood. On the other hand, consummation of the proposal would remove Bank as an alternative source of banking services without providing any significant benefits to the convenience and needs of the residents of the area. Accordingly, the Board finds that the anticompetitive effects inherent in Applicant's proposal are not outweighed by the considerations relating to the convenience and needs of the community to be served.

On the basis of all relevant facts in the record, the Board concludes that approval of the proposed acquisition is not in the public interest, and the application is accordingly denied.

By order of the Board of Governors,[2] effective October 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17391 Filed 10-11-72;8:45 am]

BOONE COUNTY INSURANCE AGENCY, INC.

Acquisition of Bank

Boone County Insurance Agency, Inc., Centralia, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 25.65 percent of the voting shares of the First National Bank of Centralia, Centralia, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 30, 1972.

Board of Governors of the Federal Reserve System, October 2, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17394 Filed 10-11-72;8:45 am]

CENTRAL COLORADO BANCORP, INC.

Order Approving Acquisition of Bank

Central Colorado Bancorp, Inc., Colorado Springs, Colo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 90 percent of the voting shares of State Bank of Greeley, Greeley, Colo. (Bank).

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three subsidiary banks with aggregate deposits of approximately $51 million, representing about 1 percent of deposits of commercial banks in Colorado.[1] Consummation of the proposed transaction would increase Applicant's share of statewide deposits by only 0.1 percentage point and would not result in a significant increase in the concentration of banking resources in Colorado.

On the basis of deposits, Bank (deposits of $2.5 million) is the smallest of six banks located in Greeley and ranks 13th among 15 banks in Weld County. Applicant's closest banking subsidiary to Bank is located approximately 120 miles north of Greeley. In view of factors, such as the distances involved and the nature of Colorado's branching laws, consummation of this transaction would have no significant effect on existing competition, nor is there a reasonable probability that significant potential competition would develop among Applicant's banking subsidiaries and Bank if this application were denied. In view of the number of banks already serving the Greeley area and a proposal by another holding company to open a new bank in the area, the possibility that Applicant could reasonably enter the area through establishment of a de novo bank is remote. Indeed, consummation of this transaction may have a procompetitive effect on competition in the Greeley area since it will serve to dilute the interest in Bank of an officer of a competing bank. The Board concludes that the competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as generally satisfactory and consistent with approval of the application, particularly in view of the commitment of Applicant to raise $4.5 million of additional capital within the next 9-month period, part of which is to be supplied to its banking subsidiaries. Considerations relating to the convenience and needs of the community to be served lend some weight to approval of the application, since Applicant proposes to give financial assistance in the relocation of Bank to an office in Greeley with more modern facilities from which Bank might be able to become a more viable competitor and is expected to expand and improve its banking services. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

[1] All banking data are as of December 31, 1971.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governors Robertson and Bucher.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17392 Filed 10-11-72;8:45 am]

CHARTER NEW YORK CORP.

Order Approving Acquisition of Bank

Charter New York Corp., New York, N.Y., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Hayes National Bank of Clinton, Clinton, N.Y. (Bank). The Bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in New York, controls 10 banks with aggregate deposits of $4.3 billion representing 4.5 percent of the total domestic deposits of commercial banks in the State. (Banking data are as of December 31, 1971, with the exception of data for the Utica-Rome market which are as of June 30, 1970, and reflect holding company formations and acquisitions approved through August 31, 1972.) Consummation of the proposed acquisition of Bank, with deposits of $14.1 million, would increase Applicant's share of commercial bank deposits within the State only minimally, would not change its statewide ranking, and would not result in a significant increase in the concentration of banking resources in New York.

Bank, the fifth largest of 11 banks in the Utica-Rome area, controls 2.2 percent of market deposits. Applicant's closest subsidiary to Bank is in Syracuse, and the nearest offices of these two banks are 32 miles apart. It appears that no meaningful competition exists between Bank and any of Applicant's subsidiaries. Further, it appears unlikely that significant future competition between Bank and Applicant's present subsidiaries would be eliminated by consummation of the proposal in light of the distances separating Applicant's subsidiaries and Bank, and the orientation of Applicant's closest subsidiary to Bank to the Syracuse market. While Applicant could enter the market by establishment of a de novo bank or the acquisition of a smaller bank, the Bank's size and the relatively large number of remaining "foothold" entries make it unlikely that the acquisition would have any significant anticompetitive effects. Moreover, by strengthening the ability of Bank to compete, the affiliation with Applicant may reduce the concentration of deposits within the market (over 80 percent of bank deposits are held by two banking organizations) without adversely affecting smaller competitors. Thus, competitive considerations are consistent with approval.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank appear to be satisfactory. Bank is presently the only bank in Clinton and because of its relatively small size and resources, it has not offered the wide variety of services available at some of the area's larger banks. Among the new services to be provided by Bank are data processing and trust services for customers. Thus, considerations related to convenience and needs of the communities involved lend some weight to approval of this application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17388 Filed 10-11-72;8:45 am]

FIRST BANCORP, INC.

Order Approving Formation of Bank Holding Company

First Bancorp, Inc., Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Athens National Bank, Athens ("Athens Bank") and The New Richmond National Bank, New Richmond ("Richmond Bank"), both in Ohio.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a newly formed organization and has no operating history. Athens Bank ($36.3 million of deposits) and Richmond Bank ($3.9 million of deposits) are presently owned by a partnership whose principals organized Applicant.[1] This partnership became a regulated bank holding company as a result of the Bank Holding Company Act Amendments of 1970. The partnership and its wholly owned subsidiary corporation, which owns all of the outstanding shares (less directors' qualifying shares) of The Security Bank, Athens, Ohio, have filed irrevocable declarations pursuant to section 4(c)(12) of the Act that they will divest themselves of their respective interests in The Security Bank and the two banks which are the subjects of this proposal, prior to January 1, 1981. The proposal herein does not involve a change in the ownership of these banks. It is, however, an intermediate step toward divestiture of Athens and Richmond banks by Applicant's organizers. Upon consummation of the proposal herein, Applicant would own 100 percent of the voting shares (less directors' qualifying shares) of Athens and Richmond banks. Initially, the partnership would control all of the shares of Applicant. Thereafter, to effect divestiture of the subject banks, it is proposed that all of the shares of Applicant will be sold by the organizing partnership to a control group of Athens residents and to other members of the public.[2]

On May 4, 1972 (1972 Federal Reserve Bulletin 598), the Board denied an application filed by Applicant for approval to become a bank holding company through the acquisition of Athens Bank and Richmond Bank in addition to The Security Bank. The Board found that because The Security Bank and Athens

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, Sheehan. Absent and not voting: Governors Robertson and Bucher.

[1] All bank data are as of Dec. 31, 1971 and reflect holding company formations and acquisitions approved through Aug. 31, 1972.

[2] Organizers of Applicant have assured the Board that the future divestiture of Security Bank would in no way be connected with the sale of Applicant's shares of Athens and Richmond banks and that shares of Security Bank will be sold under different circumstances and to persons totally unrelated to those involved in the purchase of Applicant's shares.

V37-1198 OCT 12 72 XUM

Bank together hold more than 50 percent of the total deposits of commercial banks in Athens, approval would raise serious competitive questions in view of Applicant's stated intention to divest these banks as a unit through a bank holding company vehicle. Such action was seen as foreclosing any significant possibility of deconcentration and therefore would have an adverse effect on competition. On the other hand, the Board found that affiliation of Richmond Bank with either one of the Athens banks would not raise similar problems. The present proposal excludes acquisition of The Security Bank. Upon consummation of the acquisitions of Athens and Richmond banks, Applicant would hold 0.17 percent of total deposits in the State and would rank eighth among nine bank holding companies in Ohio.

Athens Bank is the largest of eight banks in the Athens County, Ohio, banking market. Richmond Bank is located approximately 130 miles west of Athens, Ohio, in New Richmond, Clermont County, Ohio (which is considered part of the Cincinnati, Ohio, banking market). Because these banks are already under common shareholder control and operate in separate banking markets, no competition exists between them which would be eliminated by consummation of the subject proposal. The prospect of competition developing in the future between these banks appears remote in view of the existing affiliation, distances involved, and the Ohio branching law which prohibits branching outside the county in which a bank's main office is located.

On the basis of the record before it, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area. Moreover, to the extent approval of this proposal facilitates the divestiture of Athens and Richmond banks and results, thereby, in a severance of the longstanding affiliation between Athens Bank and The Security Bank, such action could have a significant beneficial effect on banking competition in the Athens market.

The financial and managerial resources and future prospects of Applicant and both Athens and Richmond banks are satisfactory and consistent with approval of the proposed transaction. Due to the fact that the proposal involves essentially a restructuring of present affiliations, consummation would have little immediate effect on the banking convenience and needs of the communities served by these banks.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 3, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17393 Filed 10-11-72;8:45 am]

MID AMERICA BANCORPORATION, INC.

Acquisition of Bank

Mid America Bancorporation, St. Paul, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Hillcrest State Bank of St. Paul, St. Paul, Minn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 30, 1972.

Board of Governors of the Federal Reserve System, October 3, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17389 Filed 10-11-72;8:45 am]

NORTH AMERICAN MORTGAGE CORP.

Acquisition of Bank

North American Mortgage Corp., St. Petersburg, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 27.1 percent or more of the voting shares of The American Bank, St. Petersburg, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 1, 1972.

Board of Governors of the Federal Reserve System, October 5, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17395 Filed 10-11-72;8:45 am]

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Governors Robertson and Bucher.

NORTHWEST BANCORP.

Acquisition of Bank

Northwest Bancorp., Minneapolis, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire not less than 90 percent of the voting shares of Bettendorf Bank and Trust Co., Bettendorf, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 1, 1972.

Board of Governors of the Federal Reserve System, October 5, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17387 Filed 10-11-72;8:45 am]

THIRD NATIONAL CORP.

Acquisition of Bank

Third National Corp., Nashville, Tenn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Merchants Bank, Cleveland, Tenn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 30, 1972.

Board of Governors of the Federal Reserve System, October 3, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17390 Filed 10-11-72;8:45 am]

NATIONAL LABOR RELATIONS BOARD

STATEMENT OF ORGANIZATION AND FUNCTIONS

Technical Amendment

On August 19, 1972, the Civil Service Commission published in the FEDERAL REGISTER (37 F.R. 16787) a rule changing the title of hearing examiner, as used in 5 C.F.R., Part 930, Subpart B, to administrative law judge. The National Labor Relations Board, in order to conform its Statement of Organization and Functions (32 F.R. 9588, as amended at 37 F.R. 15956) to that change in title, hereby, in conformance with the requirements of Public Law 90-23, 5 U.S.C. (a)(1)(A), makes changes in its previously published Statement of Organization and Functions as follows: (1) wherever the term "trial examiner" appears the term "administrative law judge" is substituted therefor; (2) wherever the term "trial examiners" appears the term "administrative law judges" is substituted therefor; and (3) wherever the term "division of trial examiners" appears the term "division of judges" is substituted therefor.

These changes are effective as of August 19, 1972.

Dated, Washington, D.C., October 5, 1972.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.72-17436 Filed 10-11-72;8:50 am]

OFFICE OF ECONOMIC OPPORTUNITY

NATIONAL PRIVATE RESOURCES ADVISORY COMMITTEE

Notice of Open Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Private Resources Advisory Committee will be held on October 11 and 12, 1972, at 9 a.m., at 1200 19th Street NW., Washington, D.C. 20506.

The committee was established to advise the OEO Director on matters of national OEO policy as it relates to the mobilization of resources from the private sector community, for poverty related programs.

The proposed agenda includes presentations by OEO grantees and OEO staff personnel to the five subcommittees on Community Development, Economic Development, Health, Housing, and Human Resources.

Names of committee members and other information may be obtained from N. Tilt Kurtz, Executive Director, National Private Resources Advisory Committee, Office of Economic Opportunity, 1200 19th Street NW. (B-822), Washington, DC 20506.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72-17385 Filed 10-11-72;8:47 am]

SMALL BUSINESS ADMINISTRATION

[MESBIC License Application No. 03/03-5114]

MODEDCO INVESTMENT CO.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by MODEDCO Investment Co. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR § 107.102 (1972)).

The officers and directors of the applicant are as follows:

Thomas H. Countee, Jr., President, General Manager, 2100 Washington Avenue, No. 9D, Silver Spring, MD 20910.
Wyatt Dougherty, Vice President, Director, 1422 Ninth Street, NW., Washington, DC 20001.
Willie Leftwich, Secretary-Treasurer, Director, 1732 Shepherd Street NW., Washington, DC 20011.
Walter J. Archey, Director, 7823 12th Street NW., Washington, DC 20012.

The applicant, a District of Columbia corporation, with its principal place of business located at 1325 Massachusetts Avenue NW., Suite 110, Washington, D.C. 20005, will begin operations with $1,150,000 of paid-in capital, consisting of 1,000 shares of common stock. The issued and outstanding stock will be owned by Model Cities Economic Development Corporation (78.3 percent), a nonprofit corporation located at 1325 Massachusetts Avenue NW., Suite 110, Washington, DC 20005, receiving its principal funding from the District of Columbia Model Cities Program, and Cooperative Assistance Fund, a nonprofit corporation located at 1325 Massachuetts Avenue NW., Suite 303, Washington, DC 20005, receiving its principal funding from private foundations and charitable organizations.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Washington, D.C.

Dated: October 6, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-17475 Filed 10-11-72;8:54 am]

INTERSTATE COMMERCE COMMISSION

[Notice 95]

ASSIGNMENT OF HEARINGS

OCTOBER 6, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

MC 121499 Sub 4, William Hayes Lines, Inc., now assigned October 16, 1972, at Nashville, Tenn., is postponed indefinitely.
MC 123048 Sub 219, Diamond Transportation System, Inc., now assigned November 6, 1972, at Chicago, Ill., is postponed indefinitely.
MC 119767 Subs 287 and 292, Beaver Transport Co., now being assigned hearing November 6, 1972 (2 days), at Chicago, Ill., in a hearing room to be later designated.
MC 55889 Sub 40, Cooper Transfer Co., Inc., now being assigned January 15, 1972 (2 weeks), at Jacksonville, Fla., in the Quality Heart of Jacksonville Motel, 901 Main Street.
MC 134776 Sub 20, Milton Trucking, Inc., now being assigned hearing November 16, 1972, at the Office of the Interstate Commerce Commission, Washington, D.C.

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MC 10223 Sub 4, Robert E. Mack, Sophie R. Mack, Estelle M. Funk, Carol Brown and Theresa R. Molloy, doing business as Mack Transportation Co., MC 105809 Sub 13, Mack Transportation Co. Extension-Hardware now being assigned hearing November 30, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 116133 Sub 8, Pollard Delivery Service, Inc., continued to November 9, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135425 Sub 5, Cycles Ltd., now being assigned hearing November 16, 1972, at The Offices of the Interstate Commerce Commission, Washington, D.C.

MC 119632 Sub 54, Reed Lines, Inc., now being assigned January 8, 1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC 29886 Sub 282, Dallas & Mavis Forwarding Co., Inc., now being assigned January 9, 1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC 105566 Sub 53, Sam Tanksley Trucking, Inc., Extension—Bananas, now being assigned January 10, 1973 (3 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 114019 Sub 199, Midwest Emery Freight System, Inc., Extension—Meats, now being assigned January 15, 1973 (1 week), at Columbus, Ohio, in a hearing room to be later designated.

MC-C-4201, Midwest Emery Freight System, Inc., investigation and revocation of certificates, now assigned November 6, 1972, at Columbus, Ohio, is postponed to January 15, 1973, at Columbus, Ohio, in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17420 Filed 10-11-72;8:50 am]

[Notice 27]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 6, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 627) (Cancels Deviation No. 565), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed September 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highway 65 and U.S. Highway 62, northeast of Elizabethtown, Ky., over Interstate Highway 65 to Nashville, Tenn., with the following access routes (1) from Elizabethtown, Ky., over U.S. Highway 62 to junction Interstate Highway 65, (2) from Elizabethtown, Ky., over U.S. Highway 31-W to junction Interstate Highway 65, (3) from Horse Cave, Ky., over unnumbered highway to junction Interstate Highway 65, (4) from Cave City, Ky., over unnumbered highway to junction Interstate Highway 65, (5) from junction of access highway and U.S. Highway 31-W northeast of Bowling Green, Ky., over access highway to junction Interstate Highway 65, and (6) from Bowling Green, Ky., over U.S. Highway 231 to junction Interstate Highway 65, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) from Huntington, W. Va., over U.S. Highway 60 to Louisville, Ky., thence over U.S. Highway 31-W via West Point, Ky., to Tip Top, Ky., (2) from Tip Top, Ky., over U.S. Highway 31-W to Goodlettsville, Tenn., (3) from Evansville, Ind., over U.S. Highway 41 via Hopkinsville, Ky., and Springfield and Goodlettsville, Tenn., to Nashville, Tenn., and (4) from Elizabethtown, Ky., over the toll road extending through Shepardsville and Lebanon Junction, Ky., to be designated as the Kentucky Turnpike, to Louisville, Ky., and return over the same routes.

No. MC-1515 (Deviation No. 628) (Cancels Deviation Nos. 357 and 415), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed September 25, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Nashville, Tenn., and Knoxville, Tenn., over Interstate Highway 40, with the following access routes: (1) from Crossville, Tenn., over U.S. Highway 127 to junction Interstate Highway 40, (2) from Rockwood, Tenn., over Tennessee Highway 61 to junction Interstate Highway 40, (3) from Sparta, Tenn., over Tennessee Highway 42 to junction Interstate Highway 40, and (4) from Kingston, Tenn., over Tennessee Highway 58 to junction Interstate Highway 40, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) from Nashville, Tenn., over U.S. Highway 41 to Murfreesboro, Tenn., thence over U.S. Highway 70-S to Sparta, Tenn., thence over U.S. Highway 70 to Knoxville, Tenn., and (2) from Nashville, Tenn., over U.S. Highway 70 to junction Tennessee Highway 26 at Lebanon, Tenn., thence over Tennessee Highway 26 to Sparta, Tenn., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17416 Filed 10-11-72;8:49 am]

[Notice 82]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 6, 1972.

The following publications[1] are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 1515 (Sub-No. 176) (Republication), filed March 23, 1972, published in the FEDERAL REGISTER issue of April 27, 1972, and republished this issue. Applicant: GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113. Applicant's representative: Barrett Elkins (same address as applicant). An order of the Commission, Operating Rights Board, dated September 8, 1972, and served September 28, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle of (a) regular route: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Cincinnati, Ohio, and Richmond, Ind., serving all intermediate points. From Cincinnati over U.S. Highway 127 to Hamilton, Ohio, thence over Ohio Highway 129 to Millville, Ohio, thence over U.S. Highway 27 to Richmond, and return over the same route. (b) Alternate routes, for operating convenience only: Passengers and their baggage, and express and newspaper in the same vehicles with passengers, (1) between junction U.S. Highway 1 and Maine Highway 109 and Interchange No. 2 of the Maine Turnpike, over Maine Highway 109, serving no intermediate points, (2) between junction U.S. Highway 1 and Maine Highway 35 and Interchange No. 3 of the Maine Turnpike, over Maine Highway 35, serving no intermediate points, (3) between junction U.S. Highway 1 and Maine Highway 111 and Interchange No. 4 of the Maine Turnpike, over Maine Highway 111, serving no intermediate points.

(4) Between junction Interstate Highway 270 and Interstate Highway 71 south of Columbus, Ohio, and junction Interstate Highway 270 and U.S. Highway 62 south of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (5) Between junction Interstate Highway 270 and U.S. Highway 62 south of Columbus, Ohio, and junction Interstate Highway 270 and U.S. Highway 40 west of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (6) Between junction Interstate Highway 270 and U.S. Highway 40 west of Columbus, Ohio, and junction Interstate Highway 270 and Interstate Highway 70 west of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (7) Between junction Interstate Highway 270 and Interstate Highway 70 west of Columbus, Ohio, and junction Interstate Highway 270 and U.S. Highway 23 north of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (8) Between junction Interstate Highway 270 and U.S. Highway 23 north of Columbus, Ohio, and junction Interstate Highway 270 and Interstate Highway 71 north of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (9) Between junction Interstate Highway 270 and Interstate Highway 71 north of Columbus, Ohio, and junction Interstate Highway 270 and Ohio Highway 3 north of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (10) Between junction Interstate Highway 270 and Ohio Highway 3 north of Columbus, Ohio, and junction Interstate Highway 270 and U.S. Highway 62 east of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (11) Between junction Interstate Highway 270 and U.S. Highway 62 east of Columbus, Ohio, and junction Interstate Highway 270 and U.S. Highway 40 east of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only.

(12) Between junction Interstate Highway 270 and U.S. Highway 40 east of Columbus, Ohio, and junction Interstate Highway 270 and Interstate Highway 70 east of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (13) Between junction Interstate Highway 270 and Interstate Highway 70 east of Columbus, Ohio, and junction Interstate Highway 270 and U.S. Highway 23 south of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only. (14) Between junction Interstate Highway 270 and U.S. Highway 23 south of Columbus, Ohio, and junction Interstate Highway 270 and Interstate Highway 71 south of Columbus, Ohio, over Interstate Highway 270, serving no intermediate points, and serving the termini for purposes of joinder only, and (c) irregular routes: Passengers and their baggage, in one-way and round-trip charter operations, from points in Hamilton and Butler Counties, Ohio, and Union and Wayne Counties, Ind., to points in the United States (including Alaska, but excluding Hawaii), and return. The authority granted in (c) above shall not be severable, by sale or otherwise, from the regular-route authority granted in (a) above, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition seeking leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 108207 (Sub-No. 338) (Republication), filed November 8, 1971, published in the FEDERAL REGISTER issue of December 9, 1971, and republished this issue. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as applicant). An order of the Commission, Review Board No. 3, dated September 22, 1972, and served October 2, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate and foreign commerce, as a common carrier, by motor vehicle, over irregular routes, of candy, in vehicles equipped with mechanical refrigeration, from Memphis, Tenn., to points in Arkansas, Louisiana, Missouri, and Texas, restricted to the transportation of shipments originating at the facilities of Standard Candy Co. at Nashville, Tenn.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a notice of the authority actually granted herein should be published in the FEDERAL REGISTER and issuance of a certificate in the proceeding shall be withheld for a period of 30 days from the date of such publication, during which time any proper party in interest who would be prejudiced by the lack of proper notice of the actual origin of the traffic involved herein, may file an appropriate petition for intervening or other relief, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 114211 (Sub-No. 159) (Republication), filed August 16, 1971, published in the FEDERAL REGISTER issue of September 30, 1971, and republished this issue. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn, Chicago, IL 60602. An order on further processing of the Commission, Review Board No. 2, dated September 21, 1972, and served October 2, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of metallic aggregates, chemicals, expansion joints, curing compounds, and road blankets from Buffalo, N.Y., to points in Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings herein, a corrected notice of the authority actually granted will be republished in the FEDERAL REGISTER and issuance of a certificate herein will be withheld for a period of 30 days from the date of such republication, during which period any proper party in interest may file an appropriate petition showing how it has been prejudiced by a lack of proper notice of the authority actually granted herein.

No. MC 116947 (Sub-No. 22) (Republication), filed August 19, 1971, published in the FEDERAL REGISTER issue of October 7, 1971, and republished this issue. Applicant: HUGH H. SCOTT, doing business as SCOTT TRANSFER CO., 920 Ashby Street SW., Atlanta, GA 30310. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, GA 30309. An order of the Commission, Review Board No. 3, dated

[1] Except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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September 22, 1972, and served October 3, 1972, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of metal containers, and equipment, materials, and supplies used in the manufacture, sale, and distribution of metal containers and metal container ends, between the facilities of National Can Corp. at Madisonville, Ky., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Kansas, Missouri, Oklahoma, and Texas, under a continuing contract or contracts with National Can Corporation, of Chicago, Ill., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described below, a notice of the authority actually granted will be published in the FEDERAL REGISTER and the issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135389 (Sub-No. 4) (Republication), filed August 16, 1971, published in the FEDERAL REGISTER issue of September 30, 1971, and republished this issue. Applicant: ELNICK WAREHOUSING AND TRUCKING, INC., 85 Bishop Street, Jersey City, NJ 07304. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. A report of the Commission, Review Board No. 2, decided September 18, 1972, and served September 29, 1972, finds that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of expanded plastic foam insulating material, except in bulk, from Linden, N.J., to points in New York, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, West Virginia, Virginia, Vermont, Rhode Island, and the District of Columbia, under a continuing contract or contracts with Apache Foam Products, Division of Millmaster Onyx Corp., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings below, a notice of the authority actually granted will be published in the FEDERAL REGISTER and grant of a permit in this proceeding will be withheld for 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES FOR FILING OF PETITIONS

No. MC-8948, filed August 30, 1972 (Notice of filing of petition for interpretation, or in the alternative, for modification of certificates). Petitioner: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, CA 90058. Petitioner's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Petitioner holds certificates in No. MC-8948, issued July 29, 1965, and No. MC-8948 (Sub-No. 55), issued May 13, 1971, authorizing operations as a common carrier by motor vehicle, over regular and irregular routes, in the transportation among other things of general commodities, except classes A and B explosives (other than explosives, incendiary, gas, smoke, or tear producing ammunition). By the instant petition, petitioner requests determination that said commodity description authorizes it to transport manufactured ingredients or component parts of ammunition, or, in the alternative, to modify the described portions of the above certificates to read as follows: "Except classes A and B explosives (other than explosives, incendiary, gas, smoke, or tear producing ammunition, or manufactured ingredients and component parts of ammunition)." Any person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC-8948 (Sub-No. 68), filed August 4, 1972 (Notice of Filing of petition for modification of certificate). Petitioner: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, CA 90058. Petitioner's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Petitioner holds a certificate in No. MC-8948 (Sub-No. 68), issued March 2, 1967, authorizing, as pertinent herein, the transportation of general commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between San Bernardino, Calif., and Oklahoma City, Okla., from San Bernardino over U.S. Highway 66 (now Interstate Highway 15) to junction U.S. Highway 66 (now Interstate Highway 40) to Oklahoma City and return over the same routes, serving no intermediate points, in connection with carrier's authorized regular route operations, as an alternate route for operating convenience only. Desert Express (which was acquired by applicant in No. MC-F-10193), holds a certificate in No. MC-110147, issued April 29, 1971, authorizing, as pertinent herein, the transportation of general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and livestock, between Bakersfield, Calif., and the junction of Interstate Highways 15 and 40 immediately east of Barstow, which route consists of California Highway 58 (formerly U.S. Highway 466), from Bakersfield to Yermo, Calif., serving the intermediate point of junction U.S. Highway 15 (formerly U.S. Highway 91), thence from said intermediate point over Interstate Highway 15 (formerly known as U.S. Highway 91) to junction Interstate Highway 40. Petitioner avers that the California Division of Highways has projected the relocation of California Highway 58, at superhighway standard, between Bakersfield and its junction with Interstate Highway 15 at or immediately west of Barstow. By the instant petition, petitioner seeks to modify its certificate in No. MC-8948 (Sub-No. 68) so as to authorize service at the junction of U.S. Highways 15 and 40, and at the proposed junction of California Highway 58 and Interstate Highway 15. It seeks to modify its certificate to read as follows: "between San Bernardino, Calif., and Oklahoma City, Okla., in connection with carrier's authorized regular route operations, serving no intermediate points, but serving the junction of Interstate Highway 40 (formerly U.S. Highway 66), and Interstate Highway 15 (formerly U.S. Highway 91), and the junction of California Highway 58 (formerly U.S. Highway 466), and Interstate Highway 15 for purposes of joinder only." Any person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 121060 (Sub-No. 23), filed September 15, 1972. Applicant: ARROW TRUCK LINES, INC., 1220 West Third Street, Post Office Box 5568, Birmingham, AL 35207. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime* between Demopolis, Newala, Siluria and Saginaw, Ala.; (2) *Cottonseed meal and hulls and cotton seed* between Selma and Demopolis, Ala.; (3) *Syrup, fertilizer, farm machinery and pickles* between Montgomery and Demopolis, Ala.; and (4) *General commodities* (except commodities in bulk, Classes A and B explosives and household goods as defined by the Commission) between Mobile and Demopolis, Ala. NOTE: Applicant states that the requested authority will be tacked with its existing authority at Demopolis, Ala. Applicant also indicates that duplicating authority may be involved under certificate No. MC 121060 (Sub-No. 8). The instant application is a matter directly related to MC-F 11665 published in the FEDERAL REGISTER issue of September 27, 1972. If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11673. Authority sought for purchase by RELIANCE TRUCK COMPANY, 2500 North 24th Avenue, Phoenix, AZ 85009, of the operating rights and property of DAIGH & STEWART TRUCK CO., 3223 Brittan Road, Bakersfield, CA 93302, and for acquisition by CECIL A. PELTS also of Phoenix, Ariz. 85009, of control of such rights and property through the purchase. Applicants' attorneys: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012, and Phil Jacobson, 510 West Sixth Street, Los Angeles, CA 90014. Operating rights sought to be transferred: *Machinery, materials, supplies, and equipment*, incidental to, or used in, the construction, development, operation, and maintennace of facilities for the discovery, development, and production of natural gas and petroleum, as a *common carrier* over irregular routes, between points in Kern, King, Los Angeles, and San Joaquin Counties, Calif.; and under a certificate of registration in Docket No. MC-70011 (Sub-No. 5), covering the transportation of property, as a common carrier, in interstate commerce, within the State of California. Vendee is authorized to operate as a *common carrier* in Arizona, California, and Nevada. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-54567 (Sub-No. 12), is a matter directly related.

No. MC-F-11674. Authority sought for control by TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, GA 30316, of C.A.B.Y. TRANSPORTATION COMPANY, 3200 Hamilton Avenue, Cleveland, OH 44114, and for acquisition by AMERICAN COMMERCIAL LINES, INC., Box 13244, Houston, TX 77019, and in turn by TEXAS GAS TRANSMISSION CORPORATION, 3800 Frederica Street, Post Office Box 1160, Owensboro, KY 42301, of control of C.A.B.Y. TRANSPORTATION COMPANY, through the acquisition by TERMINAL TRANSPORT COMPANY, INC. Applicants' attorney: Harold H. Clokey, 414 The Equitable Building, Atlanta, Ga. 30303. Operating rights sought to be controlled: *General commodities*, excepting among others, dangerous explosives, livestock, household goods and commodities in bulk as a *common carrier* over regular routes between Cleveland, Ohio, and Rochester, N.Y., between Cleveland, and Youngstown, Ohio, between Rochester, N.Y., and Alton, Fairport, and Syracuse, N.Y., between Akron, and Mogadore, Ohio, between Buffalo, N.Y., and Erie, Pa. (as an alternate route for operating convenience only); *general commodities*, excepting among others, dangerous explosives, livestock, household goods, and commodities in bulk, over irregular routes, from Cleveland, Ohio, and points and places within 5 miles of Cleveland, to certain specified points and places in New York, between Buffalo, N.Y., on the one hand, and, on the other, points and places in New York within 15 miles of Buffalo; *canned or preserved foodstuffs*, from Rome, N.Y., and points and places in that part of New York on and west of New York Highway 14 from the Pennsylvania-New York State line to certain specified points in New York and Ohio; *toilet preparations*, from Newark, N.Y., to certain specified points in Ohio, and points and places within 5 miles of Cleveland; *canned or preserved foodstuffs*, minimum 10,000 pounds, from Medina, Ohio, to certain specified points and places in New York; *glass containers*, minimum 10,000 pounds, from Olean, N.Y., to certain specified points in Ohio; *cold pack and frozen foodstuffs*, from Rome, N.Y., and points and places in that part of New York on, west, and north of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 14 to certain specified points in New York, and to Cleveland, Ohio. TERMINAL TRANSPORT COMPANY, INC., is authorized to operate as a *common carrier* in Kentucky, Illinois, Ohio, Georgia, Alabama, Indiana, Florida, Michigan, Tennessee, Mississippi, and Missouri. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11675. Authority sought for control and merger by THUNDERBIRD FREIGHT LINES, INC., 1515 South 22d Avenue, Phoenix, AZ 85009, of the operating rights and property of OAKLEY TRANSFER & STORAGE COMPANY, 702 McKnight Avenue NW., Albuquerque, NM 87107, and for acquisition by ALLAN ARTHUR, JR., 261 Via Lido Nord, Newport Beach, CA 92600, HAROLD CHRISTOPHERSON, 4517 East Calle Tuberia, Phoenix, AZ 85018, and ED TOVREA, 6218 East Catalina, Scottsdale, AZ 85251, of control of such rights and property through the transaction. Applicants' attorney: Russell R. Sage, 421 King Street, Alexandria, VA 22304. Operating rights sought to be controlled and merged: *General commodities*, excepting among others, commodities in bulk, classes A and B explosives, and household goods, as a *common carrier* over irregular routes, between the Albuquerque, N. Mex., Airport, on the one hand, and, on the other, points in Bernalillo, McKinley, Valencia, Socorro, Guadalupe, San Miguel, Santa Fe, Taos, and Rio Arriba Counties, N. Mex., between the Albuquerque, N. Mex., Airport, and Los Alamos (Los Alamos County), N. Mex., with restrictions, and under certificates of registration, in Docket No. MC-129035 (Sub-No. 3) and (Sub-No. 4), covering the transportation of general commodities in interstate commerce, within New Mexico. THUNDERBIRD FREIGHT LINES, INC., is authorized to operate as a *common carrier* in Arizona, California, and New Mexico. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11676. Authority sought for purchase by SHANAHAN'S EXPRESS, INC., 126 Prospect Street, Philadelphia, PA 19109, of the operating rights of PENNSYLVANIA TRANSFER COMPANY OF PHILADELPHIA, INC., 469 North American Street, Philadelphia, PA 19123, and for acquisition by JAMES J. SHANAHAN, SR., JAMES J. SHANAHAN, JR., and EMMA SHANAHAN, all of 126 Prospect Street, Philadelphia, PA 19109, of control of such rights through the purchase. Applicants' attorney: Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, PA 19103. Operating rights sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier* over regular routes, between Philadelphia, Pa., and Atlantic City, N.J.; *general commodities*, with the usual exceptions, over irregular routes, between points in the Philadelphia, Pa., Commercial Zone, as defined by the Commission in 17 M.C.C. 533; *X-ray equipment*, from Philadelphia, Pa., to Wilmington, Del.; *malt beverages*, from Philadelphia, Pa., to Wilmington, Del., and points in New Jersey; and return with *empty containers for malt beverages; building materials*, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., and points in New Jersey within 15 miles of Philadelphia; *household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in that part of Cape May County, N.J., on and south of a line beginning at the Cumberland-Cape May County line and extending along New Jersey Highway 49 to certain specified points in New Jersey on the one hand, and, on the other, points in that part of Pennsylvania within 15 miles of City Hall, Philadelphia, Pa., between Hammonton, Atlantic City, and Ocean City, N.J., on the one hand, and, on the other, points in Delaware, Pennsylvania, Maryland, and the District of Columbia, and those in the New York, N.Y. Commercial Zone, as defined by the Commission in 1 M.C.C. 665. Vendee is authorized to operate as a *common carrier* in New Jersey and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11678. Authority sought for purchase by GEORGIA HIGHWAY EXPRESS, INC., 2090 Jonesboro Road SE., Atlanta, GA 30315, of the operating rights of OHIO-KENTUCKY EXPRESS, INC., 1818 Freeman Avenue, Cincinnati, OH 45214, and for acquisition by H. D. WINSHIP, JR., also of Atlanta, Ga.

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30315, of control of such rights through the purchase. Applicants' attorney: Robert C. Dryden, 2090 Jonesboro Road SE., Atlanta, GA 30315. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between points in the Cincinnati, Ohio Commercial Zone, as defined by the Commission. Vendee is authorized to operate as a *common carrier* in Tennessee, Georgia, Alabama, and Florida. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11679. Authority sought for control by ET&WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, TN 37601, of RED LINE TRANSFER AND STORAGE COMPANY, INC., Box 856, Pine Bluff, AR 71601. Applicants' attorney: Russell R. Sage, Suite 301 Tavern Square, 421 King Street, Alexandria, VA 22314. Operating rights sought to be controlled: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Pine Bluff, Ark., and the Arkansas-Louisiana State line, between Lake Village, Ark., and Greenville, Miss., between junction U.S. Highways 65 and 165 at or near Dermott, and West Crossett, Ark., between Pine Bluff, and Warren, Ark., serving all intermediate points with restriction, between Pine Bluff, Ark., and Memphis, Tenn., between Pine Bluff, and the Pine Bluff Municipal Airport, Ark., serving no intermediate points, between Little Rock, and Pine Bluff, Ark., serving all intermediate points, and the off-route point of Baldwin, Ark., with restriction, between Pine Bluff, Ark., and the site of Lock and Dam No. 3 on the Arkansas River (near Swan Lake, Ark.), serving no intermediate points, between Pine Bluff, Ark., and the site of Lock and Dam No. 4 on the Arkansas River (near Swan Lake, Ark.), serving no intermediate points, between Pine Bluff, Ark., and West Monroe, La., serving Bastrop and Monroe, La., as intermediate points, and also serving Greenville, Miss., and points in that part of Arkansas bounded by a line beginning at Pine Bluff, Ark., and extending along the southeast bank of the Arkansas River to certain specified points in Mississippi and Arkansas, with restriction, between Eudora, Ark., and Mer Rouge, La., serving all intermediate points and all off-route points located within 10 miles of such highways and Pioneer and Epps, La., between junction U.S. Highway 65 and Louisiana Highway 2 and Lake Providence, La., serving all intermediate points and all off-route points located within 10 miles of such highway, serving Sterlington, La., as an off-route point in connection with carrier's authorized regular-route operations between Pine Bluff, Ark., and West Monroe, La., between Memphis, Tenn., and West Monroe, La., serving the intermediate point of Monroe, La., with restriction, between Pine Bluff, Ark., and Fort Worth, Tex., serving the intermediate point of Dallas, Tex., with restriction; *seed, newsprint, paper, paper bags*, and *paper cups*, from Memphis, Tenn., to Altheimer, Ark.; *rice* and *rice products*, from Stuttgart, Ark., to Memphis, Tenn., serving no intermediate points; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Little Rock, Ark., on the one hand, and, on the other, certain specified points in Arkansas, between Pine Bluff, Ark., and the site of the U.S. arsenal plant at Baldwin, Ark. (located approximately 7 miles north of Pine Bluff), on the one hand, and, on the other, points in the Arkansas destination territory specified immediately above, between Greenville, Miss., on the one hand, and, on the other, certain specified points in Arkansas, with restrictions; *meats, meat products, and meat byproducts, dairy products*, and *articles distributed by meatpacking houses*, as defined by the Commission in the appendix to the report in *Modification of Permits of Motor Contract Carriers of Packing House Products*, 46 M.C.C. 23, from Pine Bluff, Ark., to certain specified points in Arkansas, and return with *rejected shipments; soap, soap products*, and *lard substitutes*, from Pine Bluff, Ark., to certain specified points in Arkansas, with restriction. ET&WNC TRANSPORTATION COMPANY, is authorized to operate as a *common carrier* in Tennessee, North Carolina, South Carolina, Arkansas, Alabama, Mississippi, New York, New Jersey, Delaware, Maryland, Pennsylvania, Louisiana, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC–F–11677. Authority sought for purchase by BRUSH HILL TRANSPORTATION COMPANY, 31 Milk Street, Boston, MA 02109, of a portion of the operating rights of UNION STREET RAILWAY COMPANY, 935 Purchase Street, New Bedford, MA 02740, and for acquisition by ALBERT A. ANZUONI, 112 Sandwich Street, Plymouth, MA 02360, GEORGE S. ANZUONI, 31 Milk Street, Boston, MA 02109, LAWRENCE A. ANZUONI, 109 Norfolk Street, Dorchester, MA 02124, JOHN F. ANZUONI, 36–38 Harbor Street, Lynn, MA 01901, and RICHARD W. ANZUONI, 851 Broadway, Revere, MA 02151, of control of such rights through the purchase. Applicants' attorneys: S. Harrison Kahn, 733 Investment Building, Washington, DC 20005, and Frank Daniels, 15 Court Square, Boston, MA 02108. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers in the same vehicle with passengers, as a common carrier over regular routes, between Brockton, and Boston, Mass., serving the intermediate point of Milton, Mass., between Brockton, Mass., and Providence, R.I., serving all intermediate points; (A) between Boston, and Lawrence, Mass., between Boston, Mass., and Rochester, N.H., serving all intermediate points, except that service at Plaistow, N.H., and Haverhill, Mass., and intermediate points between Plaistow and Haverhill is restricted to traffic moving to or from points north of Plaistow or south of Haverhill between Quincy and Brockton, Mass., serving all intermediate points; (B) passengers and their baggage, during the season extending from the 23d day of May to the 15th day of September, inclusive, restricted to Sundays and holidays, between Lowell and Lawrence, Mass., serving all intermediate points; passengers and their baggage, during the racing seasons, between Lynn, Mass., and Salem, N.H., serving all intermediate points in Massachusetts; (C) passengers and their baggage, in the same vehicle with passengers, between Lowell and Boston, Mass., between Lawrence and North Andover, Mass., serving all intermediate points; passengers and their baggage, in the season extending from April 1, to December 15, both inclusive, of each year, between Malden and Lawrence, Mass., serving all intermediate points; (D) passengers and their baggage, restricted to traffic originating in the territory indicated, in charter operations, over irregular routes, from points in that part of Massachusetts east of line beginning at the Rhode Island-Massachusetts State line at a point 5 miles west of Attleboro, Mass., and extending in an easterly direction to certain specified points in Massachusetts, and except those points authorized under the regular routes specified under (B) herein, to points in New Hampshire and Rhode Island. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

NOTICE

R. D. TIMPANY, trustee of the property of the Central Railroad Company of New Jersey has filed an application in Finance Docket No. 27145 with the Interstate Commerce Commission at Washington, D.C., seeking authority pursuant to section 3(5) of the Interstate Commerce Act, to use certain terminal facilities of the Penn Central Transportation Co. and Lehigh Valley Railroad Co., in and about Jersey City, N.J.

(1) The name and address of the applicant is Mr. R. D. Timpany, trustee, Central Railroad Co. of New Jersey, 1100 Raymond Boulevard, Newark, NJ 07102. The name and address of the attorney for the applicant is Mr. Stanley Weiss, 744 Broad Street, Newark, NJ 07102. (2) The proposed transaction is for the applicant to use certain terminal facilities of the Penn Central Transportation Co. and the Lehigh Valley Railroad Co. in and about Jersey City, N.J. (3) Authority is sought to use the Penn Central Transportation Co. and Lehigh Valley Railroad Co.'s bridge across Newark Bay, Penn Central Transportation Co.'s tracks between a new connection with the Central Railroad Co. of New Jersey's tracks to be built at Oak Island Junction and the western terminus of the Penn Central Transportation Co. and Lehigh Valley Railroad Co.'s bridge, Lehigh Valley Railroad Co.'s tracks between the eastern terminus of the Penn Central Transportation Co. and Lehigh Valley Railroad Co.'s bridge and Constable Junction, the junction between Lehigh Valley Railroad Co.'s tracks and Lehigh Valley Railroad Co.'s national docks railroad in Jersey City, Lehigh Valley Railroad Co.'s national docks railroad tracks between Constable Junction and a new connection with Central Railroad Co. of New Jersey's tracks to be built at Phillips Street interlocking in Jersey City.

The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER. In the opinion of the applicant, the proposed transaction will not significantly effect the quality of the human environment.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17415 Filed 10-11-72;8:49 am]

[Notice 134]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 2, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3252 (Sub-No. 82 TA), filed September 21, 1972. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, ME 04103. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore*, in dump vehicles, from Blue Hill, Maine, to Bucksport and Searsport, Maine, traffic to be interlined with rail or water carriers at destinations, for 180 days. Supporting shipper: Kerr American Co., Inc., Blue Hill Project, Maine 04614. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 82063 (Sub-No. 41 TA), filed September 22, 1972. Applicant: KLIPSCH HAULING CO., 119 East Loughborough Avenue, Mailing 112 North Fourth Street (63102), St. Louis, MO 63111. Applicant's representative: Ernest A. Brooks II, 1301–02 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sweeteners*, in bulk in tank vehicles, from Pine Bluff, Ark., to points in Arkansas and Missouri, for 180 days. Supporting shipper: Standard Brands Inc., 625 Madison Avenue, New York, N.Y. 10022. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, St. Louis, MO 63101.

No. MC 52704 (Sub-No. 93 TA), filed September 19, 1972. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer "H," Opelika Highway, Lafayette, AL 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, prepared or canned, other than frozen and other than fresh or cured meats (except in bulk), from St. Martinville, La., to points in Alabama, Florida, Georgia, Maryland, Missouri, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and the District of Columbia, for 180 days. Supporting shipper: Evangeline Food and Pepper Co., Post Office Box 151, St. Martinville, LA 70582. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 103993 (Sub-No. 731 TA), filed September 20, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani, Vice President-General Counsel, Morgan Drive Away, Inc. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Jackson County, W. Va., to points in the United States, east of the Mississippi River, and Minnesota and Louisiana, for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Douglas Associates, Inc., Post Office Box 166, Ripley, WV. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 103993 (Sub-No. 732 TA), filed September 20, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani, Vice President-General Counsel, Morgan Drive-Away, Inc. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Johnson County, Tenn., to points in the United States, east of the Mississippi River, Minnesota, and Louisiana, for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: Holly Inn Mobile Homes, Inc., 219 Vandalia Street, Mountain City, TN. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 103993 (Sub-No. 733 TA), filed September 20, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Marshall County, Tenn., to points in the United States east of the Mississippi River, including Minnesota and Louisiana, for 180 days. Supporting shipper: Wickes Homes, Inc., Marshall County, Tenn. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 107871 (Sub-No. 62 TA), filed September 21, 1972. Applicant: BONDED FREIGHTWAYS, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chrome ore*, in bulk, in pressure differential equipment, from Wilmington, Del., to Pittsburgh, Easton, and Erie, Pa., for 180 days. Supporting shipper: C-E Minerals, a division of Combustion Engineering, Inc., 443 South Gulph Road, King of Prussia, PA 19406. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 108449 (Sub-No. 344 TA) published in the FEDERAL REGISTER issue of September 16, 1972, amended and republished in part as amended this issue. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C,

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same address as above). NOTE: The purpose of this partial republication is to add to the territory description Salem, Danvers Point, Gloucester, Reading, and Revere, Mass. The rest of the application remains the same.

No. MC 110988 (Sub-No. 287 TA), filed September 22, 1972. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin liquor*, in bulk, in tank vehicles, from Rhinelander, Wis., to points in South Dakota, for 180 days. Supporting shipper: St. Regis Paper Co., 100 S. Wacker Drive, Chicago, IL 60606 (Joseph M. Gittens, Assistant Regional Transportation Manager). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 111401 (Sub-No. 372 TA), filed September 20, 1972. Applicant GROENDYKE TRANSPORT, INC., Post Office Box 632, 2310 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Victor R. Comstock, Post Office Box 632, 2510 Rock Island Boulevard, Enid, OK 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neutral paraffin wax*, in bulk, in tank vehicles, from Claymont, Del., to Port of Entry at Brownsville, Tex., in foreign commerce only, for 180 days. NOTE: Applicant does not intend to tack with its existing authority. Supporting shipper: I. R. Hearn, Manager, Traffic Research, ICI America Inc., Wilmington, Del. 19899. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240 Old Post Office Building, 215 NW. Third, Oklahoma City, OK 73102.

No. MC 116487 (Sub-No. 8 TA), filed September 21, 1972. Applicant: SULLIVAN'S MOTOR DELIVERY, INC., 711 South First Street, Milwaukee, WI 53204. Applicant's representative: Richard W. Darrow (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media of all kinds*, for the A. O. Smith Corp., between Milwaukee, Wis., on the one hand, and, on the other, points in Boone, Cook, Du Page, Lake, McHenry, and Winnebago Counties, Ill., for 180 days. Supporting Shipper: A. O. Smith Corp., Post Office Box 584, Milwaukee, WI 53201 (Allan C. Crane, Vice President and Controller). Send protests to: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 124144 (Sub-No. 2 TA), filed Se September 20, 1972. Applicant: ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO. 1516 South George, York, PA 17403. Applicant's representative: Norman T Petow, 43 North Duke Street, York, PA 17401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass screening*, from the plant of Oxford Mills in Los Angeles County, Calif., to York, Pa., serving the intermediate point of the plant of New York Wire Co. in Chicago, Ill., for 180 days. Supporting shipper: New York Wire Co., 441 East Market Street, York, PA 17403. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 124839 (Sub-No. 18 TA), filed September 6, 1972. Applicant: BUILDERS TRANSPORT, INC., Post Office Box 7057, 4800 Augusta Road, Savannah, GA 31408. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials, roofing materials and materials, supplies and equipment* used in their manufacture, distribution and installation, from points in Chatham County, Ga., to points in Florida, for 180 days. Supporting shipper: Certain-Teed Products Corp., Valley Forge, Pa. 19481. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 125687 (Sub-No. 12 TA), filed September 21, 1972. Applicant: EASTERN STATES TRANSPORTATION, INC., Post Office Box 1761, 1060 Lafayette Street, 17403, York, PA 17405. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Halethorpe, Md., to points in Connecticut, Rhode Island, and Massachusetts, for 90 days. Supporting shipper: Carling Brewing Co., 610 Lincoln Street, Waltham, MA 02154. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 126736 (Sub-No. 62 TA), filed September 21, 1972. Applicant: PETROLEUM CARRIER, Corporation of Florida, Post Office Box 5809 (32207), 6000 Powers Avenue, Jacksonville, FL 32217. Applicant's representative: Martin Sack, Jr., Gulf Life Tower, Jacksonville, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Black liquor skimmings*, from Jacksonville, Fla., to Clyattville, Ga., for 180 days. Supporting shipper: Alton Box Board Co., 1915 Wigmore Street, Jacksonville, FL. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32207.

No. MC 128878 (Sub-No. 26 TA), filed September 22, 1972. Applicant: SERVICE TRUCK LINE, INC., Post Office Box 3904, Office: 3400 Mansfield Road, Suite A, Shreveport, LA 71103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass bottles and pallets*, from Shreveport, La., to Palestine, Tex., and (2) *chocolate soft drinks*, from Palestine, Tex., to Shreveport, La., for 180 days. Supporting shipper: Melvin Goldberg, Pepsi-Cola Bottling Co., Shreveport, La. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, T-9038 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 134775 (Sub-No. 4 TA), filed September 21, 1972. Applicant: GUNTER BROTHERS, INC., 1960 Frager Road, Kent, WA 98031. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from Portland, Oreg., to points in King County, Wash., for 180 days. Supporting shipper: Roofing Supply Co., Inc., 10909—120th Avenue NE., Kirkland, WA 98033. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 138051 TA, filed September 20, 1972. Applicant: TAMELING SOIL BUILDERS, INC., 5300 West 39th Street, Cicero, IL 60650. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compost*, that is a mixture of manure and sweepings with water and bacterial agents to hasten fermentation, used as a growth medium, from points in Allegan County, Mich., and Lagrange County, Ind., to West Chicago, Ill., for 180 days. Supporting shipper: Campbell Soup Co., Campbell Place, Camden, N.J. 08101. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17417 Filed 10-11-72;8:49 am]

[Notice 135]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 4, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 59367 (Sub-No. 81 TA), filed September 26, 1972. Applicant: DECKER TRUCK LINE, INC., 3584 Fifth Avenue South, Post Office Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles* manufactured and/or dealt in by wholesale and retail grocery houses, from the warehouse of United Facilities, Inc., at Galesburg, Ill., to points in Iowa, Minnesota, Nebraska, and Wisconsin, for 180 days. Supporting shipper: United Facilities, Inc., Post Office Box 539, Peoria, IL 61601. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, IA 50309.

No. MC 94350 (Sub-No. 318 TA), filed September 26, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road at Transit Dr., Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial shipments, from Ripley, W. Va., to points in Pennsylvania, Delaware, Maryland, Ohio, Kentucky, Indiana, and West Virginia, for 180 days. Supporting shipper: Douglas Associates, Inc., Post Office Box 166, Ripley, W. Va. 25271. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 111729 (Sub-No. 360 TA), filed September 26, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit and accounting media of all kinds*, between Elk Grove Village, Ill., and Cincinnati, Ohio, for 150 days. Supporting shipper: Rex Sales Corp., 1775 Lively Boulevard, Elk Grove Village, IL 60007. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 112184 (Sub-No. 37 TA), filed September 26, 1972. Applicant: MANFREDI MOTOR TRANSIT COMPANY, 11250 Kinsman Road, Newbury, OH 44065. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, in tank vehicles, from Cleveland, Ohio, to Janesville, Wis., for 180 days. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 112713 (Sub-No. 147 TA), filed September 20, 1972. Applicant: YELLOW FREIGHT SYSTEM, INC., Post Office Box 8462, 92d Street and State Line, Kansas City, MO 64114. Applicant's representative: John M. Records (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride* (except in bulk), from Ludington and Midland, Mich., to points in Illinois, Indiana, Kentucky, Ohio, Tennessee, West Virginia, and Wisconsin; points in Minnesota on and east of Interstate Highway 35; points in Iowa on and east of U.S. Highway 69; points in Missouri on and east of U.S. Highway 65; Kansas City, Mo.; points in Pennsylvania on and west of the following line: From the Pennsylvania-Maryland State line north along U.S. Highway 220 to U.S. Highway 15; thence north on U.S. Highway 15 to Pennsylvania-New York State line, points in New York on and west of the following line: From the New York-Pennsylvania State line north on U.S. Highway 11 to Pulaski, thence along New York Highway 13 to Lake Ontario, for 180 days. Supporting shipper: Dow Chemical U.S.A., 433 Building, Midland, Mich. 48640. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 113855 (Sub-No. 259 TA), filed September 22, 1972. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from ports of entry on the United States-Canada international boundary in North Dakota and Montana, to points in New Hampshire, New Jersey, New York, Vermont, Connecticut, Massachusetts, Rhode Island, Maine, Pennsylvania, Indiana, Iowa, Illinois, Ohio, Michigan, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, Idaho, Utah, Nevada, Washington, Oregon, and California, for 180 days. Supporting shipper: Roll-O-Flex, Ltd., Post Office Box 1384, Eighth Avenue and Toronto Street, Regina, Saskatchewan, Canada. Send protests to: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 113908 (Sub-No. 238 TA), filed September 25, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, Post Office Box 3180, Glenstone Station, Springfield, MO 65804. Applicant's representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (rum), in bulk, in tank vehicles, from Lake Alfred, Fla., to Cincinnati, Ohio, for 180 days. Supporting shipper: National Distillers Products Co., 11750 Chesterdale Road, Atkinson Square, Cincinnati, OH 45246. Send protests to: District Supervisor John V. Barry, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 118910 (Sub-No. 2 TA), filed September 21, 1972. Applicant: T. E. GROTEVANT, doing business as J & G CONTRACT CARRIER, 610 West Henry Street, Pontiac, IL 61764. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel doors, channels, angles and coils, hardware, screens and awnings, and such commodities* as are used by or dealt in by manufacturers of aluminum products and component parts thereof, from Rice Lake, Wis., to Bayport, Minn., under contract with Nichols-Homeshield, Inc., for 180 days. Supporting shipper: Nichols-Homeshield, Inc., Chatsworth, Ill. Send protests to: District Supervisor Wm. J. Gray, Jr., Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 121082 (Sub-No. 4 TA), filed September 25, 1972. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell Avenue, Detroit, MI 48238. Applicant's representaitve: Robert F. McFarland, 23801 Gratiot, East Detroit, MI 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ladies wearing apparel*, in packages, from Detroit, Mich., to points in Michigan located on and south of Michigan Highway 21, for 180 days. Supporting shipper: Petrie Stores Corp., 70 Enterprise Avenue,

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Secaucus, NJ. Send protests to: District Supervisor Melvin F. Kirsch, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, MI 48226.

No. MC 123050 (Sub-No. 4 TA), filed September 26, 1972. Applicant: MICHEL TRANSPORT, INC., 4 Union Street, Arthabaska, Quebec, Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from ports of entry on the international boundary lines between the United States and Canada located in Maine, New Hampshire, Vermont, and New York to points in Maine, New Hampshire, Vermont, and New York, restricted to traffic originating at or destined to points in Arthabaska County, Quebec, for 180 days. Supporting shipper: Weyerhaeuser Quebec Limited, Post Office Box 670, Princeville, Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, NH 03301.

No. MC 129124 (Sub-No. 7 TA), filed September 25, 1972. Applicant: SAMUEL J. LANSBERRY, Rural Delivery, Woodland, Pa. 16881. Applicant's representative: S. Berne Smith, 100 Pine Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from the facilities of Walter C. Best, Inc., at or near Chardon (Geauga County), Ohio, to Claysburg and Sproul (Blair County), Pa., for 180 days. Supporting shipper: General Refractories Co., 1520 Locust Street, Philadelphia, PA 19102. Send protests to: District Supervisor James C. Donaldson, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 135234 (Sub-No. 10 TA), filed September 22, 1972. Applicant: COMMERCIAL CARTAGE, INC., Stop 24 Winfield Road, St. Albans, WV 25177. Applicant's representative: Marvin L. Meadows (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric signs and components*, from Lima, Ohio, to points in the continental United States except Alaska and Hawaii on and east of Interstate Highway 25, *and rejected or returned shipments*, from points in the continental United States except Alaska and Hawaii on the east of Interstate Highway 25 to Lima, Ohio, for 180 days. Supporting shipper: Essex International, Inc., 1601 Wall Street, Fort Wayne, IN. Attention: J. J. Phillips, corporate traffic manager. Send protests to: H. R. White, district supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 135406 (Sub-No. 2 TA), filed September 26, 1972. Applicant: LAMAR TRUCKING, INC., 19 Driscoll Street, Rockville Centre, NY 11570. Applicant's representative: Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, minerals, mineral ores, pigments and materials and supplies* used in the manufacture of paints, except commodities in bulk, between points in New York, N.Y., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in New York, N.Y., New Jersey under contract with Smith Chemical & Color Co., Inc., of Brooklyn, N.Y., for 150 days. Supporting shipper: Smith Chemical & Color Co., Inc., 124 Commerce Street, Brooklyn, NY 11231. Send protests to: Thomas W. Hopp, district supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 138003 (Sub-No. 1 TA), filed September 26, 1972. Applicant: ROBERT F. KAZIMOUR, 1200 Norwood Drive SE. (52403), Post Office Box 2011, Cedar Rapids, IA 52406. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Appliances and parts*, from Newton, Webster City, and Fort Dodge, Iowa, to points in Washington, Oregon, California, Utah, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Nevada, and Florida, for 180 days. Supporting shippers: Franklin Manufacturing Co., 600 Stockdale Street, Webster City, Iowa 50595; The Maytag Co., 403 West Fourth Street, North, Newton, Iowa 50208. Send protests to: Herbert W. Allen, transportation specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 138039 (Sub-No. 1 TA), filed September 26, 1972. Applicant: BAY DELIVERY CORP., 105 Price Parkway, Farmingdale, NY 11735. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated swimming pools, sporting goods, swimming pool accessories, equipment and supplies, and toys*, from Farmingdale, N.Y., to points in Fairfield County, Conn., Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J., for 180 days. Supporting shipper: Greenman Brothers, Inc., 105 Price Parkway, Farmingdale, L.I., NY 11735. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 138056 TA, filed September 22, 1972. Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 W., Granger, Utah 84120. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen cherries and bottled and canned fruit juices*, from the plantsite of Payson Fruit Growers Association near Payson, Utah, and from Provo and Moroni, Utah, to Los Angeles, Los Angeles Harbor commercial zone, Santa Ana, Anaheim, San Francisco, Modesto, Elk Grove, Union City, Redwood City, and San Diego, Calif., for 180 days. Supporting shipper: Payson Fruit Growers Association, Rural Free Delivery No. 1, Box 244, Payson, Utah (Don M. Christiansen, office manager). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 138060 TA, filed September 26, 1972. Applicant: WINDERMERE STORAGE COMPANY, INC., doing business as HEIL'S WINDERMERE STORAGE AND MOVING CO., 14441 Euclid Avenue, Cleveland, OH 44112. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, between points in the counties of Cuyahoga, Lake, Lorain, Summit, Geauga, Portage, Erie, and Huron, including the city of Bellevue, in the State of Ohio, restricted to the transportation of traffic having a prior or subsequent movement beyond said points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shippers: Express Forwarding and Storage Co., Inc., 19 Rector Street, New York, NY 10006.; Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle, WA 98133. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 138061 TA, filed September 26, 1972. Applicant: DUBLIN FAST FREIGHT, INC., 6457 Dublin Court, Dublin, CA 94566. Applicant's representative: James H. Vernon, 177 Front Street, Danville, CA 94526. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Auto parts, accessories, and merchandising commodities*, from San Francisco and Oakland, Calif., to Dublin and Pleasanton, Calif., Route No. 1 commencing at San Francisco docks, east across bay on Highway 80/50, south on Highway 17, east on Interstate Highway 580 to terminal in Dublin, Route No. 2 commencing at Oakland docks, south on Highway 17, east on Interstate Highway 580 to terminal in Pleasanton, for 180 days. Supporting shippers: AMFAC Merchandising Corp., 6700 Golden Gate Drive, Dublin, Calif. 94566; Reynold C. Johnson Co., 7100 Johnson Industrial Drive, Pleasanton, Calif. 94566. Send protests to: A. J. Rodriguez, Rate and Tariff Specialist, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

MOTOR CARRIERS OF PASSENGERS

No. MC 138053 (Sub-No. 1 TA), filed September 22, 1972. Applicant: YELLOW CAB OF BOCA RATON, INC., 2150 Northwest First Place, Boca Raton, FL 33432. Applicant's representative: Richard B. Austin, 5720 Southwest 17th Street, Miami, FL 33155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Interstate airline passengers and their baggage*, from Miami International Airport to Boca Raton, Fla., and from Boca Raton, Fla., to Miami International Airport, Miami, Fla., all of said passengers and their baggage to be transported in nine (9) passenger (including driver) limousines as part of a total prearranged air and ground transportation movement, for 180 days. Supporting shipper Boca Raton Hotel and Club, Boca Raton, Fla. 33432. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17418 Filed 10-11-72;8:50 am]

[Notice 140]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73711. By order entered September 28, 1972, the Motor Carrier Board approved the transfer to Hammers Moving and Storage, Inc., Lansdale, Pa., of that portion of the operating rights set forth in Certificate No. MC-81959, issued August 15, 1968, to Ascot Van Lines, Inc., Liverpool, N.Y., authorizing the transportation of household goods, as defined by the Commission, between points in Pennsylvania, on the one hand, and, on the other, points in Massachusetts, Connecticut, Pennsylvania, Maryland, Ohio, Illinois, and the District of Columbia. Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019, attorney for applicants.

No. MC-FC-73801. By order of September 22, 1972, the Motor Carrier Board approved the transfer to Bonin Auto Limitee, 20 Prince Street, Sorel, PQ, Canada, of the operating rights in Certificate No. MC-119142 issued August 28, 1964, to Archambeault & Fils, Inc., 765 Saint-Pierre Street, St. Hyacinthe, PQ, Canada, authorizing the transportation of passengers and their baggage, in round trip charter operations, beginning and ending at the United States-Canada boundary line at or near Champlain and Rouses Point, N.Y. and Swanton and Derby Line, Vt. and extending to points in New York and Vermont, subject to restrictions; and beginning and ending at the United States-Canada boundary line at or near Champlain and Rouses Point, N.Y. and Derby Line and Swanton, Vt. and extending to Washington, D.C., and to points in Florida, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont, subject to restrictions.

No. MC-FC-73924. By order of September 26, 1972, the Motor Carrier Board approved the transfer to Pinal Warehouse Company, Inc., Casa Grande, Ariz., of Certificate of Registration No. MC-97296 (Sub-No. 1) issued February 14, 1966, to R. A. Spooner, doing business as Spooner Transfer and Storage, Coolidge, Ariz., evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Convenience and Necessity No. 4058, dated November 30, 1959, issued by the Arizona Corporation Commission. Ronald V. Meeks, 100 West Camelback Road, Phoenix, AZ 85013, applicants' practitioner.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17419 Filed 10-11-72;8:50 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

OCTOBER 6, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Montana Docket (number not shown) filed September 27, 1972. Applicant: BIG SKY DISTRIBUTING CO., Route 1, Box 218-A, Sidney, MT 59270. Applicant's representative: John Berger (same address as applicant). Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of (1) *posts, lumber and processed feed* in intrastate commerce, (2) *salt and grain* from Salt Lake City, (3) *fertilizer, grain and roofing* from Minneapolis, (4) *feed* from Grand Forks, N. Dak., (5) *grain bins, hog and cattle feeders* from Omaha, (6) *steel* from Duluth and (7) *steel buildings* from Oklahoma City in interstate commerce. Both intrastate and interstate authority sought. *HEARING:* Date, time, and place not known. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission, State of Montana, 1227-11th Avenue, Helena, MT 59601 and should not be directed to the Interstate Commerce Commission.

Indiana Docket No. 8-L filed August 16, 1972. Applicant: HOOSIER MOTOR CLUB, 40 West 40th Street, Indianapolis, IN. Applicant's representative: Rex M. Joseph, Jr., 111 Monument Circle, 10th Floor, Indianapolis, Ind. 46204. Certificate of public convenience and necessity for the transportation of *passengers (and their baggage)*, from points within counties where the Hoosier Motor Club operates to points within the State of Indiana and points outside of the State of Indiana. Both intrastate and interstate authority sought. *HEARING:* Tuesday, October 16, 1972 at 9:30 a.m. e.s.t., room 903 State Office Building, Indianapolis, Ind. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission of Indiana, 901 State Office Building, Indianapolis, Ind. 46204 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17414 Filed 10-11-72;8:49 am]

[Notice 83]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 6, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed

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by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) That it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 730 (Sub-No. 340), filed September 18, 1972. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, Post Office Box 958, Oakland, CA 94604. Applicant's representative: Earl J. Brooks (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the Lost Creek Dam site located approximately 30 miles northeast of Medford, Oreg., near McLeod, Oreg., and points within 10 miles of the damsite as off-route points in connection with regular routes to and from Medford, Oreg. NOTE: Common control may be involved. Applicant states duplicating authority may be involved under certificate No. MC 730 (Sub-No. 47) authorizing transportation of frozen foods from all points in Oregon to points in seven Midwestern States. If a hearing is deemed necessary, applicant requests it be held at Portland or Salem, Oreg.

No. MC 8535 (Sub-No. 40), filed September 18, 1972. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, Interstate Highway 83 at Route 439, Parkton, Md. 21120. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board and materials and accessories* used or useful in the installation thereof (except in bulk), from Deposit, N.Y., to points in Pennsylvania, Virginia, and West Virginia. NOTE: Applicant states that the requested authority can be joined at Kenbridge or Victoria, Va., to provide service to points in North Carolina and South Carolina. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 8535 (Sub-No. 41), filed September 21, 1972. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, Interstate 83 at Route 439, Parkton, Md. 21120. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units* from Clinton and Laurinburg, N.C., to points in Virginia, Kentucky, West Virginia, Ohio, Indiana, Maryland, Delaware, New Jersey, Pennsylvania, New York, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio, or Washington, D.C.

No. MC 29886 (Sub-No. 285) (Amendment), filed August 10, 1972, published in the FEDERAL REGISTER issue of September 7, 1972, and republished, in part, as corrected this issue. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46621. Applicant's representative: Charles Pieroni (same address as applicant). NOTE: The purpose of this partial republication is to amend the tacking information to reflect that applicant intends to tack its proposed authority to its existing authority for: (1) "Size-or-weight" and "15,000-pounds" commodities at points in Illinois to operate to and from points in Indiana, Ohio, Michigan, New York, Pennsylvania, New Jersey, Massachusetts, Rhode Island, Connecticut, Maine, New Hampshire, and Vermont (Subs 184, 189, 196, and 208); and (2) specified commodities to the extent they could also be transported under "size-or-weight" or "15,000-pounds" authority at specified points; (a) in Illinois to points in the United States (Sub 73); (b) in Wisconsin to points in Indiana, Michigan, Ohio, Tennessee, and Kentucky (Sub 197), (c) in Indiana to points in the United States (Subs 72, 85, 117, and 122), and (d) in Michigan to points in the United States (Sub 55). Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. The rest of the application remains as previously published.

No. MC 30032 (Sub-No. 3), filed September 28, 1972. Applicant: HOUDEK MOTOR SERVICE, INC., 625 North 12th Street, St. Charles, IL 60174. Applicant's representative: James R. Madler, Village Suite 1608, 1255 North Sandburg Terrace, Chicago, IL 60610. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, and classes A and B explosives), (1) between Chicago, Ill., and points in Lake, McHenry, Winnebago, Ogle, Lee, Grundy, Kankakee, Boone, Cook, Du Page, Kane, De Kalb, Will, Kendall, and La Salle Counties, Ill., and Burns Harbor, Porter County, Ind.; and (2) between points in (1) on the one hand, and, on the other, points in Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 30844 (Sub-No. 427), filed August 28, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from

Carroll, Denison, and Iowa Falls, Iowa, to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 30844 (Sub-No. 428), filed September 5, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plant machinery, equipment, materials and supplies, metal and plastic boxes, metal cabinets, metal chests, and hospital carts*, from Waterloo, Iowa, to Pocahontas, Ark. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Washington, D.C.

No. MC 30887 (Sub-No. 181), filed September 13, 1972. Applicant: SHIPLEY TRANSFER, INC., 49 Main Street, Post Office Box 55, Reisterstown, MD 21136. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic granules*, in bulk, in tank vehicles, from Baltimore, Md., to West Chester, Pa., restricted to shipments having an immediately prior movement by rail. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 31533 (Sub-No. 12), filed September 18, 1972. Applicant: SOUTH BEND FREIGHT LINE, INC., 1200 South Olive Street, South Bend, IN 46621. Applicant's representative: Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Indiana Oaks, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 35628 (Sub-No. 336), filed September 18, 1972. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville SW., Grand Rapids, MI 49504. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49504. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving applicant's terminal facilities, located in Hickory Township, Mercer County, Pa., as an off-route point in connection with its regular route operations to and from Youngstown, Ohio, as authorized at sheet 15 of its Certificate No. MC 35628. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 35835 (Sub-No. 29), filed September 18, 1972. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue SE., Independence, IA 50644. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk in tank vehicles, from Elk Grove Village, Ill., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, Tennessee, West Virginia, and Wisconsin. NOTE: Applicant states that there are tacking possibilities at Elk Grove Village and various Iowa points. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 35835 (Sub-No. 30), filed September 18, 1972. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue SE., Independence, IA 50644. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lactose and lactose products*, from Independence, Iowa, to Sturgis, Mich., and Columbus, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 41522 (Sub-No. 8), filed September 1, 1972. Applicant: RENTON-ISSAQUAN AUTO FREIGHT, INC., 723 South Seventh Street, Renton, WA 98055. Applicant's representative: Carl A. Johnson, 400 Central Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, regular routes: (1) Between Seattle, Wash., and the Snoqualmie Pass Summit Area located on Interstate Highway 90, in the State of Washington, over Interstate Highway 90, serving all intermediate points and the off-route points within 5 miles of either side of Interstate Highway 90 lying between North Bend, Wash., and Snoqualmie Pass Summit Area, an unincorporated area, the easterly point of which is the Hyak Ski Resort; and (2) irregular routes: Between points in King County, Wash, on the one hand, and, on the other, Tacoma, Wash. NOTE: Applicant states that part (2) cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 43475 (Sub-No. 55), filed September 5, 1972. Applicant: GLENDENNING MOTORWAYS, INC., 1665 West County Road C, St. Paul, MN 55113. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, MN 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite clay*, in bags, from Burnett, Minn., to points in Wisconsin, and to points in Illinois on and north of a line beginning at the junction of U.S. Highway 30 with the Illinois-Indiana State line, thence west over U.S. Highway 30 to junction Interstate Highway 80 at or near Joliet, Ill., thence west over Interstate Highway 80 to junction Interstate Highway 280, thence west over Interstate Highway 280 to Rock Island, Ill., including points on said highways, and (2) *returned or rejected shipments, and equipment, materials and supplies* used in the mining and processing of bentonite clay, from the destination territory described in (1) above, to Burnett, Minn., the authority sought in (2) above being restricted against the movement of commodities in bulk and those which because of size or weight require special handling or the use of special equipment. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul or Minneapolis, Minn.

No. MC 47171 (Sub-No. 86), filed August 28, 1972. Applicant: COOPER MOTOR LINES, INC., Post Office Box 4255 (301 Hammett Street), Greenville, SC 29608. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, South Carolina, Virginia, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Atlanta, Ga.

No. MC 59150 (Sub-No. 70), filed September 18, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products and related materials, supplies,*

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and accessories incidental thereto (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp. located in Wayne County, N.C., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., Atlanta, Ga., or Washington, D.C.

No. MC 59150 (Sub-No. 71), filed September 25, 1972. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Jacksonville, FL 32202. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, and accessories* for the installation thereof, from the plantsite and facilities of Johns-Manville Corp. located at or near Butner, N.C., to points in Arkansas, Delaware, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, the District of Columbia, Alabama, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Birmingham, Ala.

No. MC 61592 (Sub-No. 281), filed August 29, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial chemicals*, in containers, from Los Angeles, San Francisco, Bay Area, Modesto, and Pittsburg, Calif., Portland and Lebanon, Oreg., Seattle, Tacoma, Olympia, and Bellingham, Wash., to ports of entry on the United States-Canada boundary line at Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 63562 (Sub-No. 51), filed September 14, 1972. Applicant: BN TRANSPORT INC., 796 South Pearl Street, Galesburg, IL 61401. Applicant's representative: Larry J. Schwarz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the site of Western Electric Co. plant and warehouse facilities located adjacent to and east of Iowa Highway 191, at or near Underwood, Iowa, as an off-route point in connection with carrier's regular-route operations authorized in Part H in Sub-50, between Chicago, Ill., and Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., Des Moines, Iowa, Chicago, Ill., or Washington, D.C.

No. MC 78228 (Sub-No. 33), filed September 12, 1972. Applicant: J MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: Henry M. Wick, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alloys, ores and silicon metals, in dump vehicles;* and (2) *materials and supplies* used in the manufacture of alloys and silicon metals, between Calvert City, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Michigan, Missouri, New York, Ohio, Pennsylvania, and West Virginia. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Buffalo, N.Y.

No. MC 78228 (Sub-No. 34), filed September 12, 1972. Applicant: J MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: Henry M. Wick, 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, between East Liverpool, Ohio, and Braddock, Pa., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Kentucky, Maine, Maryland (except Baltimore, Md.), Michigan, New Jersey (except Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), New York, Pennsylvania, Virginia, and West Virginia. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Niagara Falls, N.Y.

No. MC 78228 (Sub-No. 35), filed September 18, 1972. Applicant: J MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: Henry M. Wick, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys and metals*, in dump vehicles, from Baltimore, Md., to points in the United States (except Alaska, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and that part of Ohio east of a line beginning at Lake Erie and extending along Ohio Highway 4 to Bucyrus, Ohio, thence along Ohio Highway 98 to Weldo, Ohio, thence along U.S. Highway 23 to the Kentucky State line). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Baltimore, Md.

No. MC 78228 (Sub-No. 36), filed September 18, 1972. Applicant: J MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, PA 15220. Applicant's representative: Henry M. Wick, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores and metals*, in dump vehicles, between Niagara Falls, N.Y., on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Kentucky, Maine, Maryland (except Baltimore, Md.), Michigan, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), New York, Pennsylvania, Virginia, and West Virginia. NOTE: Applicant states common control may be involved. Applicant also states that the requested authority can be tacked with its existing authority at Niagara Falls, N.Y., but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Niagara Falls, N.Y.

No. MC 82841 (Sub-No. 102), filed September 5, 1972. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Agricultural implements, farm machinery, and farm trailers;* and (b) *parts and accessories* of the commodities as described in (a) above, from points in Merrick and Hamilton Counties, Nebr., to points in Washington, Oregon, Idaho, Montana, Wyoming, Utah, New Mexico, Minnesota, Iowa, Missouri, Arkansas, Illinois, Indiana, Ohio, Colorado, North Daktota, South Dakota, Kansas, Oklahoma, Texas, Kentucky, Tennessee, and Virginia, and (2) *materials, equipment, and supplies* used in the manufacture of the above-described commodities (except commodities in bulk), from points in the destination States named above to points in Merrick and Hamilton Counties, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 83539 (Sub-No. 349), filed September 25, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, (1) from Pueblo, Colo., to points in California, Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakaota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and (2) from Tucson, Ariz., to points in Arizona, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 95136 (Sub-No. 18), filed September 7, 1972. Applicant: ALLEN S. YEATMAN, INCORPORATED, Post Office Box 383, Montross, VA 22520. Applicant's representative: Maxwell A. Howell, Suite 1100, Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, between points in Northumberland, Richmond, and Westmoreland Counties, Va., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 130), filed September 21, 1972. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated steel buildings and iron and steel components, parts* and *accessories* for buildings, from Milwaukee, Wis., to points on and east of U.S. Highway 83 in North Dakota and South Dakota and points in Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 99780 (Sub-No. 21), filed September 5, 1972. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 Northeast Bond Street, Peoria, IL 61604. Applicant's representative: John R. Zang (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery houses (except products in bulk), from the United Facilities, Inc., at Galesburg, Ill., to points in Iowa, Minnesota, Missouri, Wisconsin, and Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Peoria, Chicago, or Springfield, Ill.

No. MC 104523 (Sub-No. 50), filed September 22, 1972. Applicant: HUSTON TRUCK LINE, INC., Friend, Nebr. 68359. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and plastic tubing and fittings therefor*, from the plantsite and facilities of Tex-Tube Division, Detroit Steel Corp., Houston, Tex., to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 104523 (Sub-No. 51), filed September 22, 1972. Applicant: HUSTON TRUCK LINE, INC., Friend, Nebr. 68359. Applicant's representative: David R. Parker, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, pipe fittings and pipe accessories*, restricted against the movement of commodities such as are included in *T. E. Mercer & G. E. Mercer, Extension Oil Field Commodities*, 74 M.C.C. 459, from Lone Star, Tex., and points within 5 miles thereof, to points in Colorado, Iowa, Kansas, Missouri, Nebraska, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Dallas, Tex.

No. MC 106195 (Sub-No. 3), filed September 18, 1972. Applicant: CLARK BROS. TRANSFER, INC., 800 North First, Norfolk, NE 68701. Applicant's representative: Richard A. Peterson, 521 South 14th Street (Post Office Box 80806), Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Lincoln, Nebr., and Sioux City, Iowa, over U.S. Highway No. 77 as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 106398 (Sub-No. 626), filed September 5, 1972. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings* in sections, mounted on wheeled undercarriages, from points in Adams County, Colo., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 107912 (Sub-No. 17), filed August 21, 1972. Applicant: REBEL MOTOR FREIGHT, INC., 3060 Gill Road, Post Office Box 9384, Memphis, TN 38109. Applicant's representative: James N. Clay III, 2700 Sterick Building, Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment, between Grenada, Miss., and Jackson, Miss., over U.S. Highway 51 and Interstate Highway 55, serving Canton, Miss., as an intermediate point. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., and Jackson, Miss.

No. MC 109847 (Sub-No. 13), filed September 18, 1972. Applicant: BOSS-LINCO LINES, INC., 450 Genesee Building, 1 Genesee Street, Buffalo, NY 14240. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except livestock, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the Mobil Chemical Co. distribution center at or near Williamson, N.Y., as an off-route point in connection with carrier's regular route operations between Rochester and Syracuse, N.Y. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Washington, D.C.

No. MC 110012 (Sub-No. 26) (Correction), filed June 26, 1972, published in the FEDERAL REGISTER issue of July 20, 1972, and republished in part, as corrected this issue. Applicant: G. B. C.,

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INC., 707 North Liberty Hill Road, Morristown, TN 37814. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. The purpose of this partial republication is to clarify the authority sought as: "* * * and materials and supplies used in the manufacture of furniture to Livingston and Morristown, Tenn., on return", in lieu of, or return which was erroneously published. The rest of the application remains as previously published.

No. MC 110525 (Sub-No. 1042), filed September 21, 1972. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oil and petroleum grease*, in bulk, in tank vehicles, from points in Niagara County, N.Y., to points in Maryland, Ohio, Pennsylvania, West Virginia, Michigan, Illinois, and ports of entry on the international boundary line between the United States and Canada located in New York, Vermont, New Hampshire, and Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Washington, D.C.

No. MC 110563 (Sub-No. 86), filed September 22, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., Ohio Building, 113 North Ohio Avenue, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux City, Iowa, to points in Nebraska, Colorado, Illinois, Wisconsin, Minnesota, Indiana, Ohio, Pennsylvania, New York, New Jersey, Maryland, Delaware, Connecticut, Massachusetts, New Hampshire, Vermont, Maine, and Missouri. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Chicago, Ill., and Cleveland, Ohio, but states that it does not intend to do so. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 110563 (Sub-No. 89), filed September 25, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Ohio Building, Post Office Box 747, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* and (2) *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, pelts, and commodities in bulk), from Omaha, Nebr., to points in Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, New Jersey, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Missouri, and Iowa. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Chicago, Ill., and Cleveland, Ohio, but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 111170 (Sub-No. 191) (Correction), filed July 5, 1972, published in the FEDERAL REGISTER issue of August 10, 1972, and republished, in part, as corrected this issue. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, El Dorado, AR 71730. Applicant's representative: Don A. Smith, Post Office Box 34, Fort Smith, AR 72901. NOTE: The purpose of this partial republication is to reflect that the commodity description under (4) should read, *liquid alum*, in bulk, in lieu of liquid aluminum, in bulk as previously published in the FEDERAL REGISTER issue of August 10, 1972. The rest of the application remains the same.

No. MC 111785 (Sub-No. 53), filed September 19, 1972. Applicant: BURNS MOTOR FREIGHT, INC., Post Office Box 149, U.S. Highway 219 North, Marlinton, WV 24954. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer and particle board*, from points in Indiana, Kentucky, North Carolina, and Virginia, to Elkins, W. Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va.

No. MC 111812 (Sub-No. 480), filed September 5, 1972. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, confectionery products* and (2) *advertising matter, premiums and display materials*, when shipped in the same vehicle with commodities described in (1) (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities of M & M/Mars at Elizabethtown, Pa., and Hackettstown, N.J., to points in Ohio, Michigan, Indiana, Illinois, Wisconsin, Missouri, Iowa, Minnesota, North Dakota, South Dakota, Nebraska, and Colorado, restricted to the transportation of traffic originating at the above-named plantsites and storage facilities and destined to the above-named destination States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113267 (Sub-No. 288), filed September 12, 1972. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dubuque, Iowa, to points in Illinois on and south of U.S. Highway 150 and on and west of U.S. Highway 45 and points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, and Texas. NOTE: Common control may be involved with certificate No. MC 2698. Applicant states duplicating authority may be involved be tacking No. MC 113267 (Sub-Nos. 86 and 141) at Paducah, Ky., and Memphis, Tenn., to serve Arkansas and part of Mississippi. Applicant also states the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 113678 (Sub-No. 466), filed August 25, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Denison and Iowa Falls, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the plantsite and/or warehouse of, or utilized by Farmland Foods, Inc., at the above-named origin and destined to the above-named location. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Omaha, Nebr., or Chicago, Ill.

No. MC 114004 (Sub-No. 119), filed August 24, 1972. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72204. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from points in Henderson County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Elkhart, Ind.

No. MC 114273 (Sub-No. 126), filed August 22, 1972. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificate*, 61 M.C.C. 209 and 766, (a) from the plantsite of Farmland Foods, Inc., at Carroll, Denison, and Iowa Falls, Iowa to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, and (b) from Farmland Foods, Inc., plantsite of Iowa Falls, Iowa to points in Minnesota, Colorado, Missouri, Indiana, and Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114290 (Sub-No. 67), filed September 15, 1972. Applicant: EXLEY EXPRESS, INC., 2610 Southeast Eighth Avenue, Portland, OR 97202. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food*, canned and dry, and *advertising matter, premiums and display material* when shipped in the same vehicle with animal food, from points in California to points in Oregon and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 114457 (Sub-No. 133), filed September 18, 1972. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Container ends and iron and steel articles*, from Portage, Ind., to points in Illinois, Iowa, Missouri, Wisconsin, Minnesota, and Nebraska. NOTE: Applicant states that the requested authority could be tacked with its existing authority to a limited extent, that certain type consignees could be served at points in North Dakota, South Dakota, and Montana, but tacking, however, is not intended. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Paul, Minn.

No MC 114632 (Sub-No. 52), filed August 31, 1972. Applicant: APPLE LINES, INC., Post Office Box 507, Madison, SD 57042. Applicant's representative: Val Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail grocery and food business houses, from the storage facilities utilized by United Facilities, Inc., at or near Galesburg, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 129706, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa, or Minneapolis, Minn.

No. MC 115242 (Sub-No. 10), filed September 19, 1972. Applicant: DONALD MOORE, 603 Buchanan Street, Prairie du Chien, WI 53821. Applicant's representative: John D. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough sawn cooperage stock, stays and heading* (except commodities in bulk, in tank vehicles), from Prairie du Chien, Wis., Hamilton, Murphysboro, Peoria, and Tremont, Ill., to Louisville and Lebanon, Ky., and Jackson, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 116273 (Sub-No. 157), filed August 20, 1972. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, IL 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, in tank vehicles having a prior movement by rail, from Detroit, Mich., to points in Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 116544 (Sub-No. 133), filed August 28, 1972. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: C. H. Fliesbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* that are dealt in by The R. T. French Co. and *foodstuffs*, from Springfield, Mo., to points in Kansas, Nebraska, Iowa, Minnesota, Illinois, Wisconsin, Florida, Louisiana, Texas, Mississippi, Alabama, Oklahoma, Colorado, Arkansas, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 116544 (Sub-No. 134), filed September 5, 1972. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: John H. Lewis, The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products* (except in bulk), *packaging materials, advertising materials, and premium merchandise*, moving in mixed loads with candy and confectionery products (except commodities in bulk), and *materials and supplies* used in the manufacture, sale and/or distribution of candy and confectionery products, from New Orleans and Thibodaux, La., to Milwaukee and Pewaukee, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or New Orleans, La.

No. MC 117823 (Sub-No. 43), filed August 28, 1972. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South Eighth West, Salt Lake City, UT 84104. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles, from points in Cache County, Utah, to points in Utah and Arizona. NOTE: Applicant states that the requested authority will be tacked from Cache County, Utah to other points in Utah with its existing authority in certificate No. MC 117823 (Sub-No. 10), authorizing the transportation of dairy products from Salt Lake City, Aurora, Loa, Spanish Fork, and Elsinore, Utah, to points in Nevada and California. Applicant also indicates that duplicating authority may be involved under certificate No. MC 117823 and Subs thereunder. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 121604 (Sub-No. 1), filed August 18, 1972. Applicant: CENTRAL TRANSFER AND DISTRIBUTION COMPANY, a corporation, 801 South 15th Street, Omaha, NE 68101. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, 605 South 14th

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Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, commodities which because of size or weight require the use of special equipment, and classes A and B explosives), between points in the Omaha, Nebr.-Council Bluffs, Iowa commercial zone on the one hand, and, on the other, points in Nebraska. NOTE: Applicant holds a certificate of registration which reads the same as the authority sought here. This application is to convert to a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 123048 (Sub-No. 230), filed August 28, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (2) *Forklifts*, (3) *Front-end loaders*, (4) *Self-propelled compactors*, (5) *Attachments* for (1) through (4) above, (6) *Parts* for (1) through (5) above, (7) *Materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities described in (1) through (6) above, between points in Burnett County, Wis., on the one hand, and, on the other hand, points in the United States (except Alaska and Hawaii). Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., Chicago, Ill., or Washington, D.C.

No. MC 123048 (Sub-No. 231), filed August 30, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEMS, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron or steel pipe and tubing and* (2) *Plastic pipe, tubing and fittings*, from the plantsite of Tex-Tube Division Detroit Steel Corp., a division of Cyclops Corp. at or near Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Washington, D.C.

No. MC 123987 (Sub-No. 4), filed September 5, 1972. Applicant: JEWETT SCOTT TRUCK LINE, INC., Post Office Box 267, Mangum, OK 73554. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, TX 79101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire clay*, in bags, (1) from Elgin, Tex., to points on and west of U.S. Highway 77 (Interstate Highway 35) in Oklahoma, and (2) *brick* and *structural tile*, (1) from Hope, Clarksville, and Malvern, Ark., to points on and west of U.S. Highway 77 (Interstate Highway 35) in Oklahoma, and that part of Texas west and north of U.S. Highway 281 from the Oklahoma-Texas State line to Wichita Falls, Tex., thence west of U.S. Highway 82 to Guthrie, Tex., thence north on U.S. Highway 83 to Paducah, Tex., thence west on U.S. Highway 70 to the Texas-New Mexico State line; (2) from Concordia and Hoisington, Tex., to points on and west of U.S. Highway 77 (Interstate Highway 35) in Oklahoma, and that part of Texas west and north of U.S. Highway 281 from the Oklahoma-Texas State line to Wichita Falls, Tex., thence west of U.S. Highway 82 to Guthrie, Tex., thence north on U.S. Highway 83 to Paducah, Tex., thence west on U.S. Highway 70 to the Texas-New Mexico State line, and (4) from Elmendorf and San Antonio, Tex., to points on and west of U.S. Highway 77 (Interstate Highway 35) in Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 124078 (Sub-No. 530), filed August 22, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement* from Fairborn, Ohio, to points in West Virginia, (2) *wood preservatives*, in bulk, in tank vehicles, from Oshkosh, Wis., to points in the Upper Peninsula of Michigan, and (3) *sand*, in bulk, in tank vehicles, from Hanover, Wis., to points in Ohio. NOTE: Common control may be involved. Applicant states that the requested authority under items (1) and (2) could be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 124109 (Sub-No. 10), filed September 11, 1972. Applicant: B. F. C. TRANSPORTATION, INC., 950 Shaver Road, Cedar Rapids, IA 52406. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Urethane foam* from Iowa City, Iowa, to Chicago and Kankakee, Ill., and Omaha, Nebr., under contract with Sheller-Globe Corp.; and (2) *Rolled paper* from Fort Madison, Iowa, to points in Illinois, Missouri, Nebraska, and Wisconsin; and (3) *Scrap paper* from points in Illinois, Missouri, Nebraska, and Wisconsin, to Fort Madison, Iowa, under contract in parts (2) and (3) with Consolidated Packaging Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124144 (Sub-No. 3), filed September 7, 1972. Applicant: ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO., Rural Delivery No. 2, York, Pa. 17403. Applicant's representative: Norman T. Petow, 43 North Duke Street, York, PA 17401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass screening*, from the plant of Oxford Mills in Los Angeles County, Calif., to York, Pa., serving the intermediate point of the plant of New York Wire Co. in Chicago, Ill., under contract with Oxford Mills, subsidiary of New York Wire Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Baltimore, Md.

No. MC 124170 (Sub-No. 31), filed August 31, 1972. Applicant: FROSTWAYS, INC., 3900 Orleans, Detroit, MI 48207. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, Suite 1700, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 272, in vehicles equipped with mechanical refrigeration, from Coldwater, Mich., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Jersey, New York, New Hampshire, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, South Carolina, West Virginia, Tennessee, and Washington, D.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 124649 (Sub-No. 2), filed September 20, 1972. Applicant: JOSEPH BONANNO, INC., 1 Cranford Avenue, Linden, NJ 07036. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferrous scrap metal*, between points in New York and New Jersey, on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Pennsylvania, Delaware, and Maryland. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124774 (Sub-No. 84), filed September 20, 1972. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 3200 Highway 75 North, Post Office Box 536, Sioux City, IA 51101. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from York, Nebr., to points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 124796 (Sub-No. 101), filed September 25, 1972. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, CA 91747. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automotive parts and accessories, automotive jacks, cranes* (not self-propelled), *hand, electric, and pneumatic tools, advertising matter, premiums, racks, and display cases, signs*, from the plantsite and warehouse facilities of Walker Manufacturing Co., Division of Tenneco, Inc., at or near Seward, Nebr., to points in the United States (except Alaska and Hawaii). (2) *Returned shipments and materials, equipment, and supplies* utilized in the manufacture, sale, and distribution of the commodities specified in (1) above in the reverse direction. Restriction: Restricted against the transportation of commodities in bulk and those which by reason of size or weight, require the use of special equipment. Also restricted to a transportation service to be performed under continuing contract, or contracts, with Walker Manufacturing Co., Division of Tenneco, Inc. NOTE: Common control may be involved. If a hearing is deemed necessary applicant requests it be held at Omaha, Nebr.

No. MC 124904 (Sub-No. 2), filed September 18, 1972. Applicant: GIBNEY DISTRIBUTORS, INC., 2335 Waterbury Avenue, Bronx, NY 10462. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Girl Scout cookies*, between the warehouse and storage facilities of Gibney Distributors, Inc., located in Bronx County and Smithtown Township, Suffolk County, N.Y., on the one hand, and, on the other, points in New Jersey and the counties of Nassau, Suffolk, Rockland, and Westchester, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 124947 (Sub-No. 18), filed September 10, 1972. Applicant: MACHINERY TRANSPORTS, INC., Post Office Box 2338 (608 Cass Street), East Peoria, IL 61611. Applicant's representative: T. M. Brown, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Refuse handling equipment, containers, compactors, and trailers;* and (2) *Parts and accessories* for the commodities in (1) above, from Cleburne, Tex., to points in the United States (including Alaska, but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas or Forth Worth, Tex.

No. MC 125168 (Sub-No. 24), filed September 18, 1972. Applicant: OIL TANK LINES, INC., Post Office Box 190, Hook Road and Darby Creek, Darby, PA 19023. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum oils*, in bulk, in tank vehicles, from Oil City, Pa., to North Bergen, N.J. Restriction: The operations are limited to a transportation service to be performed under a continuing contract or contracts with the Pennsylvania Refining Co. of Butler, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 125996 (Sub-No. 30), filed August 24, 1972. Applicant: ROAD RUNNER TRUCKING, INC., Post Office Box 37491, Omaha, NE 68137. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Suite 1133, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen processed foods*, from the plantsite and storage facilities of Delicious Foods Co., at or near Grand Island and York, Nebr., to points in Arizona; California, Colorado, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin; and (2) *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Gibbon Packing Co., at or near Gibbon and Hastings, Nebr., to points in Colorado, Illinois, Minnesota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 126346 (Sub-No. 11), filed August 28, 1972. Applicant: HAUPT CONTRACT CARRIERS, INC., 226 North 11th Avenue, Post Office Box 842, Wausau, WI 54401. Applicant's representative: Norman L. Haupt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled cranes*, in driveaway service, from Schofield, Wis., and the proving-ground site of J. I. Case Co., Drott Manufacturing Co. Division, located at or near Lincoln County, Wis., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (2) *self-propelled material handling and construction equipment* with or without attachments (except self-propelled vehicles designed for transporting property or passengers on highways), *cranes, and hoisting equipment*, from Schofield, Wis., and the proving-ground site of J. I. Case Co., Drott Manufacturing Co. Division located at or near Lincoln County, Wis., to points in Wisconsin; (3) *grading, loading, and excavating attachments* for tractors and *parts* for such attachments, and *parts and attachments* for the commodities described in (2) above, from Schofield, Wis., and the proving-ground site of J. I. Case Co., Drott Manufacturing Co. Division located at or near Lincoln County, Wis., to points in Wisconsin; (4) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1), (2), and (3) above, from points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, to Schofield, Wis. Restriction: Operations authorized limited to a transportation service to be performed under a continuing contract, or contracts, with J. I. Case Co., Drott Manufacturing Co. Division, of Schofield, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., Chicago, Ill., or Washington, D.C.

No. MC 127283 (Sub-No. 6), filed September 21, 1972. Applicant: SILICA SAND TRANSPORT, INC., Routes 47 and 71, Post Office Box 212, Yorkville, IL 60560. Applicant's representative: Albert A. Andrin, 29 LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from LaSalle County, Ill., to all points in the United States (except Alaska and Hawaii), under contract with the Ottawa Silica Co. NOTE: Applicant states that duplicating authority may be involved under permits No. MC 127283

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and (Sub-No. 2), authorizing the transportation of *sand* to various points in the United States; and No. MC 127283 (Sub-Nos. 4 and 5) authorizing the transportation of *silica sand* to various points in the United States. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 127602 (Sub-No. 13), filed September 15, 1972. Applicant: DENVER-MIDWEST MOTOR FREIGHT, INC., Post Office Box 156–D.T.S., Omaha, NE 68101. Applicant's representative: Earl H. Scudder, Jr., Post Office Box 82028, 605 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission; commodities which because of size or weight require the use of special equipment, and classes A and B explosives), serving Western Electric warehouse site located near Underwood, Iowa as an off-route point in connection with operations via Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 128270 (Sub-No. 5), filed September 19, 1972. Applicant: REDIEHS INTERSTATE, INC., 7869 Milton Road, Gary, IN 46403. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Container ends and iron and steel articles*, from Portage, Ind., to points in Illinois, Iowa, Missouri, Wisconsin, Minnesota, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128412 (Sub-No. 4), filed September 25, 1972. Applicant: LO-TEMP EXPRESS, INC., 1810 10th Avenue, Altoona, PA 16603. Applicant's representative: Arthur J. Diskin, 806 Frisk Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries and confectionery products* (except in bulk), from Altoona, Pa., to points in New Jersey, Virginia, North Carolina, South Carolina, Tennessee, Georgia, Kentucky, Arkansas, and Florida, under a continuing contract with Boyer Bros., Inc. of Altoona, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 128555 (Sub-No. 4), filed September 14, 1972. Applicant: MEAT DISPATCH, INC., 1000 Jefferson Road, Rochester, NY 14623. Applicant's representative: Raymond A. Richards, 44 North Avenue, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores between Rochester, N.Y., on the one hand, and, on the other, points in Alabama, Connecticut, Georgia, Massachusetts, New Hampshire, North Carolina, Rhode Island, South Carolina, Vermont, and Virginia, under contract with Neisner Bros., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y.

No. MC 129068 (Sub-No. 18), filed September 11, 1972. Applicant: GRIFFIN TRANSPORTATION, INC., 3002 South Douglas Boulevard, Oklahoma City, OK 73150. Applicant's representative: Jack L. Griffin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, *building (modular)* completely knocked down or in sections, when moved on wheeled undercarriage, all commodities are restricted to initial movement only, from points in Woodward County, Okla., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 129191 (Sub-No. 2), filed September 7, 1972. Applicant: RICHARD T. PLATTNER, doing business as JANS MOTOR SERVICE, 4640 West 120th Street, Alsip, IL 60658. Applicant's representative: Albert A. Andrin, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and contractor's machinery, equipment, materials and supplies* (except commodities in bulk), between Indian Oaks, Ill., and points in Lake, Porter, and La Porte Counties, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 129282 (Sub-No. 14), filed September 5, 1972. Applicant: BERRY TRANSPORTATION, INC., Post Office Box 1824, Longview, TX 75601. Applicant's representative: Fred S. Berry (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and material and supplies* ordinarily dealt in by malt beverage distributors, from San Antonio, Tex., to points in New Mexico. NOTE: Applicant states that tacking is possible at San Antonio, Tex., although tacking is not intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at San Antonio or Fort Worth, Tex.

No. MC 129282 (Sub-No. 15), filed August 28, 1972. Applicant: BERRY TRANSPORTATION, INC., Post Office Box 1824, Longview, TX 75601. Applicant's representative: Fred S. Berry (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, with or without chemicals added, in packages or machine pressed blocks, from Jefferson Island, La., to Memphis, Tenn., and points in Arkansas and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Chicago, Ill.

No. MC 129647 (Sub-No. 2), filed September 1, 1972. Applicant: R. JUDD PRICKETT, College Highway, Southampton, Mass. 01073. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Preengineered metal buildings and metal building components and materials, supplies, and equipment* used or useful in the manufacture and erection of metal buildings, between Southampton, Mass., on the one hand, and, on the other, points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada, under contract with Shenango Steel Buildings of New England, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield, Mass.; Hartford, Conn.; Boston, Mass., or Albany, N.Y.

No. MC 129719 (Sub-No. 2), filed September 18, 1972. Applicant: BURRELL TRUCKING, INC., Fifth Street, New Kensington, Pa. 15068. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt mixed with potash*, from warehouses of Standard Terminals, Inc., at points in Westmoreland, Allegheny, and Washington Counties, Pa., to points in Ohio (except the commercial zones as defined by the Commission of Akron and Cleveland), Maryland, and West Virginia, under a continuing contract with Standard Terminals, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 133977 (Sub-No. 14) (Clarification), filed August 9, 1972, published in the FEDERAL REGISTER issue of September 14, 1972, and republished as clarified this issue. Applicant: GENE'S, INC., 10115 Brookville Salem Road, Clayton, OH 45315. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lenses or reflectors, glass*, from Greenville, Ohio to ports of entry on the international boundary line between the United States and Canada located in Michigan; and (2) *returned shipments of the commodities and packing materials* used in shipping the commodities described in (1) above, from the ports of entry on the international boundary line between the United States and Canada located in Michigan to Greenville, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 134239 and Subs thereunder, therefore, dual operations may be involved. The purpose of this republication is to more clearly describe the authority sought in (1) above. If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, Ohio.

No. MC 134323 (Sub-No. 30), filed September 11, 1972. Applicant: JAY LINES, INC., 720 North Grand Street (Post Office Box 4146), Amarillo, TX 79105. Applicant's representative: Gailyn Larson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances, furnaces, air cleaners and conditioners, humidifiers, dehumidifiers and related items; and materials, parts and supplies* used in the manufacture, production, and distribution thereof, between Effingham, Ill., on the one hand, and, on the other, points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, under contract with Fedders Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Omaha, Nebr.

No. MC 134358 (Sub-No. 3), filed September 5, 1972. Applicant: CENTRAL DISPATCH, INC., 52 Kansas Avenue, Kansas City, KS 66105. Applicant's representative: Charles A. Darby, 1215 Commerce Bank Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between Lawson, Mo., and points within 10 miles thereof, on the one hand, and, on the other, all points in Missouri. NOTE: Applicant states tacking will be made at Lawson, Mo., and points within 10 miles thereof. Applicant further states instant application is filed concurrently with an application under section 212(b) of the Interstate Commerce Act wherein Central Dispatch, Inc., is seeking to acquire the intrastate Certificate of Registration of Stewart Freight, Inc., MC 121030 (Sub-No. 1) and to convert into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 134478 (Sub-No. 2), filed September 21, 1972. Applicant: CONNOLLY CARTAGE CORP., 1088 North Snelling Avenue, Post Office Box 3660, St. Paul, MN 55101. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Minneapolis, Minn., to points in Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant has pending applications under MC 135424 and Subs thereunder. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134631 (Sub-No. 143, filed September 18, 1972. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 503, Winona, MN 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, in containers, from Chetek, Wis., to points in the United States (except Alaska and Hawaii), under contract with ABC Chetek, Inc. NOTE: Applicant also presently holds common carrier authority under MC 118202 and Subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134755 (Sub-No. 32), filed September 5, 1972. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, Springfield, MO 65804. Applicant's representative: Le Roy Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, except in bulk, from the plantsites and warehouse facilities of Tony Downs Foods Co. at or near St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Colorado, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Montana, Nevada, New Jersey, New York, New Mexico, North Carolina, Ohio, California, Alabama, Arizona, Wyoming, Utah, Oregon, Washington, Wisconsin, Pennsylvania, Tennessee, West Virginia, Virginia, and South Carolina and (2) *Foodstuffs*, except in bulk, from the plantsites and warehouse facilities of Tony Downs Foods Co. at or near St. James, Madelia, and Estherville, Iowa, to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, Oklahoma, and Texas, (1) and (2) restricted to traffic originating at the named origin points and destined to the named destination States. NOTE: Applicant does not seek any duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 135702 (Sub-No. 3), filed September 22, 1972. Applicant: CHARLES R. ELLSWORTH TRUCKING, INC., Post Office Box 385, Stroud, OK 74079. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* (except in bulk, in tank vehicles), from Stroud, Okla., to points in Kansas, restricted to traffic originating at the named origin and destined to the named destination. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 135784 (Sub-No. 1), filed August 31, 1972. Applicant: GABE D. ANDERSON, JR., doing business as CONTAINER TRANSPORT, Post Office Box 99, Bovina, TX 79007. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, Tex. 79101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in containers, having a prior or subsequent movement by water, between ports on the Arkansas-Verdigris River System located in Oklahoma and points in Oklahoma, Kansas, New Mexico, Colorado and that part of Texas north of U.S. Highway 84 from the Texas-Louisiana State line; west to junction of U.S. Highway 84 and U.S. Highway 180 in Snyder, Tex., thence west on U.S. Highway 180 to the Texas-New Mexico State line. NOTE: If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex., or Oklahoma City, Okla.

No. MC 135786 (Sub-No. 4), filed September 14, 1972. Applicant: NORRIS E. BASS, doing business as N. E. BASS, 9223 Timberlake Road, Lynchburg, VA. Applicant's representative: Bolling Lambeth, 118 East Main Street, Bedford, VA 24523. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial flowers*, from West Pittston, Pa., to points in Virginia, North Carolina, South Carolina, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136146 (Sub-No. 1), filed September 11, 1972. Applicant: EMPIRE WAREHOUSE, INC., 4970 Olive Street, Commerce City, CO 80022. Applicant's representative: Kenuff D. Wolford, 946 Metropolitan Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, between points in Denver, Arapahoe, Adams, Boulder, Weld, and Larimer Counties, Colo., restricted to traffic having a prior out-of-State movement. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 136161 (Sub-No. 5), filed September 19, 1972. Applicant: ORBIT TRANPORT, INC., Post Office Box 163, Spring Valley, IL 61362. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and feed supplements*, in bulk, in tank vehicles, from Cameron, Ill., to points in Illinois, Iowa, Missouri, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

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No. MC 136642 (Sub-No. 1), filed September 1, 1972. Applicant: BEAUMONT TRANSPORT INC., 2660 Roland Therrien, Longueuil, Province of Quebec, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rough and dressed lumber*, between the ports of entry on the international boundary line between the United States and Canada located at or near Champlain, N.Y., Highgate Springs, Norton Mill, and Derby Line, Vt., and Jackman, Maine, and points in New York, Vermont, Maine, Massachusetts, Connecticut, New Hampshire, Rhode Island, Delaware, New Jersey, Pennsylvania, Maryland, Virginia, West Virginia, Kentucky, and Tennessee, and (2) *dressed lumber* from Potsdam, N.Y., to port of entry on the international boundary line between the United States and Canada at or near Champlain, N.Y., under contract with Abbot, Mading & Tardif, Inc., Canflo Division Des Industries Zodiac, Elliot Hardwood Co., Produits Forestiers M. P., Inc., and Chibougamau Lumber, Ltd., restricted to traffic originating at or destined to the above-named ports of entry on the international boundary line between the United States and Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 136845 (Sub-No. 2), filed August 23, 1972. Applicant: DEEPWELL SERVICE, INC., Post Office Box 12, Columbia, MS 39429. Applicant's representative: David B. Erwin, Suite 112, 1030 East Lafayette Street, Tallahassee, FL 32301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water used in oil and gas production* from oil well drilling sites to other drilling sites or disposal facilities, and (2) *liquid mud, oil spillage, oil emulsion, and basic sediment* in connection with oil and gas production, in vacuum equipment only, between points within the Alabama counties of Mobile, Baldwin, Escambia, Covington, Geneva, Coffee, Crenshaw, Butler, Conecuh, Monroe, Clark, Washington, and Wilcox, and points within the Florida counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, and that part of Bay County west of Florida Highway 77. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pensacola or Tallahassee, Fla.

No. MC 136899 (Sub-No. 1), filed September 18, 1972. Applicant: HIGGINS TRANSPORTATION, LTD., 824 Valley View Drive, Richland Center, WI 53581. Applicant's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Signs, sign parts, sign poles, sign pole parts, electrical advertising displays, fiber glass products, and accessories* when moving therewith from Elk Grove Village, Burr Ridge, and West Chicago, Ill., to points in the United States (except Alaska and Hawaii); and (2) *refused or rejected shipments on return and materials, equipment, and supplies* which are used or useful in the manufacture, sale, production, or distribution of the commodities named above in section (1) of this application, from points in the United States (except Alaska and Hawaii) to Elk Grove Village, Burr Ridge, and West Chicago, Ill. Restriction: Restricted against the transportation of the named commodities in bulk. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 136921 (Sub-No. 1), filed September 18, 1972. Applicant: E. & R. FREIGHT, INC., Rural Route No. 1, Byron, Ill. 61010. Applicant's representative: Allan C. Zuckerman, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, livestock, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Rockford, Ill., on the one hand, and, on the other, points in Stephenson, Winnebago, Whiteside, Boone, Ogle, and Lee Counties, Ill., and Rock County, Wis., restricted to the transportation of traffic moving from or to the terminal facilities of Lifschultz Fast Freight, Inc., at Rockford, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138019 (Sub-No. 1), filed September 5, 1972. Applicant: ARTUS TRUCKING CO., INC., Tomkins Tidewater Terminal, Building 20, Kearny, N.J. 07032. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Suite 1515, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper bags*, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, within 250 miles of New York, N.Y. NOTE: Applicant presently holds a permit to engage in operations as a contract carrier in Docket No. MC–43734, authorizing it to engage in the service proposed herein. This application is filed for the purpose of converting its existing authorization from a permit to a Certificate of Public Convenience and Necessity so as to permit it to operate as a common carrier by motor vehicle. This is in accordance with the order of the Commission in Docket No. MC–43734 (Sub-No. 5) dated June 7, 1972, and hearing service date June 30, 1972. It should also be noted that approval of dual operations may be required in view of the holding by applicant of another permit in Docket No. MC 43734 (Sub-No. 1). In the event dual operations are not approved by your Commission, applicant will consent to a revocation of his permit in Docket No. MC 43734 (Sub-No. 1). If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138046 filed September 15, 1972. Applicant: JOHN S. GRIMM, INC., 890 Shorewood Drive, Medina, OH 44256. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from Medina, Ohio to points in Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Pennsylvania, West Virginia, and the District of Columbia, and *materials and supplies used in the manufacture of plastic products* (except commodities in bulk), from points in the above-named destination States to Medina, Ohio, under contract with Plastipak Packaging Div. of Absopure Water Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 138047 filed September 18, 1972. Applicant: HUEMARK, INC., Post Office Box 453, Atlantic, IA 50022. Applicant's representative: Einar Viren, 904 City National Bank Building, Omaha, NE 68102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lampshades, lamps* (assembled), *lamp parts* (unassembled), *lampshade components* (unassembled), from Atlantic, Iowa, to points in the United States (except Alaska and Hawaii); (2) *wire* used in the manufacturing of *lampshade frames, both round and flat wire and cloth and fabrics*, from Kansas City, Mo., to Atlantic, Iowa; (3) *wire* used in the manufacturing of *lampshade frames, both round and flat wire*, from Crawfordsville, Ind., to Atlantic, Iowa; (4) *wire* used in the manufacturing of *lampshade frames, both round and flat wire, paper, cloth, glue, solvents, plastic, fiber glass, tape, trims, certain lampshade machine parts, etc., metal lamp parts, lamp pipe, ceramic lamp bases, metal components for lamp shade frames and lamp parts*, such as *harps, finials, risers, washers, harp holders, shade clamps, etc., paper tubes for packaging and lamp columns, elastic, printed poly sheeting* on rolls, *textile trimmings* (lampshade trim), *vinyl and cloth bindings, electrical wire* on reels, *electrical plugs and sockets, electrical wire* made up in cord sets, from Chicago, Ill., to Atlantic, Iowa; (5) *Corrugated paper cartons*, from Lincoln, Nebr., to Atlantic, Iowa; (6) *Metal lamp base loaders*, from Wayland, Mich., to Atlantic, Iowa; (7) *polyethylene sheeting*, from Terre Haute, Ind., to Atlantic, Iowa; (8) *rolled paper, cloth, laminated fiber glass* and *plastic*, from Union, N.J., to Atlantic, Iowa; (9) *lamp parts, metal and glass and metal lamp bases*, from Philadelphia, Pa., to Atlantic, Iowa; (10) *textile trimmings*, from West Conshohocken, Pa., to Atlantic, Iowa; (11) *textile trimmings* and *cloth*, from New York, N.Y., to Atlantic, Iowa; (12) *metal lamp bases* and *textile trimmings*, from Brooklyn, N.Y., to Atlantic, Iowa; (13) *electrical wire* on reels, *electrical plugs and sockets, electrical light cords and sockets, electrical wire* made up in cord sets, from Trenton, N.J., to Atlantic, Iowa; (14) *wood lamp parts*, finished, from Paoli, Ind., to Atlantic, Iowa; (15) *glass lamp parts*, from Jeannette, Pa., to Atlantic, Iowa; (16) *wood lamp parts*, finished, from Hoboken, N.J., to Atlantic, Iowa; (17) *metal lamp parts*, from Bronx, N.Y., to Atlantic, Iowa; (18) *felt pads and textiles*, from Weehawken, N.J., to Atlantic, Iowa; and (19) *gold paint*, from Alliance, Ohio, to Atlantic, Iowa. NOTE: All of the above under a continuing contract with Beaudine Manufacturing Co. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., Chicago, Ill., Des Moines, Iowa or Washington, D.C.

No. MC 138056 (Sub-No. 1), filed September 25, 1972. Applicant: DICK SIMON TRUCKING, INC., 3700 South 4355 West, Granger UT 84120. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen cherries, and bottled and canned fruit juices*, from the plantsite of Payson Fruit Growers Association at or near Payson, Provo, and Moroni, Utah, to points in California, under contract with Payson Fruit Growers Association. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City or Provo, Utah.

No. MC 138063, filed September 11, 1972. Applicant: KELLER TRUCKING CO., INC., Post Office Box 43, Rubicon, WI 53078. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese*, from Rubicon, Wis., to points in Connecticut, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Rhode Island; (2) *returned shipments of cheese*, from the destination points named in (1) to Rubicon, Wis.; and (3) *salt*, except in bulk, from Akron and Rittman, Ohio, to Rubicon, Wis., with (1), (2), and (3) restricted to a continuing contract with Stanga Cheese Corp. of Rubicon, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

MOTOR CARRIER OF PASSENGERS

No. MC 136729 (Sub-No. 1), filed September 21, 1972. Applicant: DEL–VAL Coach, Inc., 35 Cornell Avenue, Gloucester City, NJ 08030. Applicant's representative: Raymond A. Thistle, Jr., Suite 1012, 4 Penn Center Plaza, Philadelphia, PA 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, occupants-tenants* (non-fare-paying passengers), whom reside in various apartment complexes in New Jersey within ten (10) miles of Collingswood, N.J., over to Philadelphia. Passengers, for the accounts of Somerset House Apartments, Towers of Windsor Park Apartments, New Parkview Village Apartments, and Cherry Hill Apartments, between Collingswood, N.J., and points within 10 miles of Collingswood, on the one hand, and, on the other, Philadelphia, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Camden, N.J., or Philadelphia, Pa.

APPLICATIONS FOR FREIGHT FORWARDERS

No. FF–211 (Sub-No. 5) (SHULMAN AIR FREIGHT, INC., EXTENSION—ALASKA), filed September 26, 1972. Applicant: SHULMAN AIR FREIGHT, INC., 20 Onley Avenue, Cherry Hill, NJ 08034. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, NY 10048. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, motor vehicle, and water in the transportation of: *General commodities* (except classes A and B explosives, commodities in bulk, and commodities which because of size or weight require special equipment), (1) between points in the United States on the one hand, and, on the other, Alaska and Hawaii; and (2) between points in Alaska on the one hand, and, on the other, points in Hawaii, restricted to the transportation of shipments having an immediately prior or subsequent movement by air forwarding service of Shulman Air Freight, Inc.

No. FF–245 (Sub-No. 5) (Empire HOUSEHOLD SHIPPING COMPANY OF NEW YORK, INC., EXTENSION—BAGGAGE), filed September 19, 1972. Applicant: EMPIRE HOUSEHOLD SHIPPING COMPANY OF NEW YORK, INC., 187 Florida Street, Farmingdale, NY 11735. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, NY 10048. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to continue operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, water, air, and motor vehicle in the transportation of: *Unaccompanied baggage*, between points in the United States, including Alaska and Hawaii.

No. FF–419 (Amendment) (DELCHER INTERCONTINENTAL MOVING SERVICE, INC., FREIGHT FORWARDER APPLICATION), filed June 23, 1972, published in the FEDERAL REGISTER issue of July 13, 1972, and republished as amended this issue. Applicant: DELCHER INTERCONTINENTAL MOVING SERVICE, INC., 4219 Central Avenue, St. Petersburg, FL 33733. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate under section 410, Part IV of the Interstate Commerce Act, for a permit authorizing applicant to continue operations as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers, in the forwarding of: (a) *Used household goods and unaccompanied baggage*, between points in the United States (including Hawaii, but excluding Alaska); and (b) *used automobiles*, between points in the United States (including Hawaii, but excluding Alaska), restricted to the transportation of import-export traffic. NOTE: The purpose of this republication is to remove the import-export restriction on used household goods and unaccompanied baggage, in (a) above.

No. FF–420 (Amendment) (PERFECT PAK COMPANY FREIGHT FORWARDER APPLICATION), filed June 27, 1972, published in the FEDERAL REGISTER issue of July 13, 1972, and republished as amended this issue. Applicant: PERFECT PAK COMPANY, a corporation, 1001 Westlake Avenue N., Seattle, WA 98129. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate under section 410, Part IV of the Interstate Commerce Act, for a permit authorizing applicant to continue operations as a freight forwarder in interstate or foreign commerce, through the use of the facilities of common carriers, in the forwarding of: (a) *Used household goods and unaccompanied baggage*, between points in the United States (including Hawaii, but excluding Alaska); and (b) *used automobiles*, between points in the United States (including Hawaii, but excluding Alaska), restricted to the transportation of import-export traffic. NOTE: The purpose of this republication is to remove the import-export restriction on used household goods and unaccompanied baggage, and unaccompanied baggage, in (a) above.

APPLICATIONS FOR BROKERAGE LICENSE

No. MC 12951 (Sub-No. 1), filed August 7, 1972. Applicant: GEORGE K. NERVIG, doing business as NERVIG TRAVEL SERVICE, 569 Harrison Avenue, Panama City, FL 32401. Applicant's representative: Acie W. Matthews, 801 National Bank of South Dakota Building, Sioux Falls, S. Dak. 57102. For a license (BMC 5) to engage in operations as a *broker*, at Panama City, Fla., in arranging for the transportation by motor vehicles, in interstate or foreign commerce, of individual passengers, or groups of passengers and their baggage, in special or charter operations, from Panama City, Fla., to points in the United States (including Alaska but excluding Hawaii).

No. MC 130172 filed July 6, 1972. Applicant: AMERICAN ADVERTISING AND SALES CO., a corporation, doing business as AMERICAN TRAFFIC, 8002 San

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Leon Circle, Buena Park, CA 90620. For a license (BMC–4) to engage in operations as a *broker*, at Buena Park, Calif., in arranging for transportation by motor vehicle, in interstate or foreign commerce of (1) *General commodities;* and (2) *commodities*, the transportation of which is partially exempt under the provisions of section 203(b)(6) of the Interstate Commerce Act if transported in vehicles not used in carrying any other property, when moving in the same vehicle at the same time with the commodities above, beginning and ending at points in Calilifornia and extending to points in the United States including Alaska and Hawaii.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 135958 (Sub-No. 1), filed September 25, 1972. Applicant: D. F. PAYNE, doing business as DON PAYNE TRUCKING COMPANY, 223 Echo Dale Lane, Knoxville, TN 37920. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete blocks, cinder blocks and brick*, from Knoxville, Tenn., to points in Kentucky and North Carolina, under contract with General Shale Products Corporation, Johnson City, Tenn. NOTE: The instant application seeks to convert applicant's Certificate of Public Convenience and Necessity under MC 116736 into a Permit.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17413 Filed 10-11-72;8:45 am]

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WASHINGTON, D.C.

Volume 37 ■ Number 198

PART II

DEPARTMENT OF TRANSPORTATION

■

Federal Aviation Administration

■

Advisory Circular Checklist
and
Status of Federal
Aviation Regulations

No. 198—Pt. II——1

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 00-2V—Effective August 15, 1972]

ADVISORY CIRCULAR CHECKLIST AND STATUS OF FEDERAL AVIATION REGULATIONS

1. *Purpose.* This notice contains the revised checklist of current FAA advisory circulars and the status of Federal Aviation Regulations as of August 15, 1972.

2. *Explanation.* The FAA issues advisory circulars to inform the aviation public in a systematic way of nonregulatory material of interest. Unless incorporated into a regulation by reference, the contents of an advisory circular are not binding on the public. Advisory circulars are issued in a numbered-subject system corresponding to the subject areas in the recodified Federal Aviation Regulations (14 CFR Ch. I). This checklist is issued triannually listing all current circulars and now includes information concerning the status of the Federal Aviation Regulations.

3. *The Circular Numbering System.*

a. *General.* The advisory circular numbers relate to the subchapter titles and correspond to the Parts, and when appropriate, the specific sections of the Federal Aviation Regulations. Circulars of a general nature bear a number corresponding to the number of the general subject (subchapter) in the FAR's.

b. *Subject numbers.* The general subject matter areas and related numbers are as follows:

Subject Number	*and Subject Matter*
00	General.
10	Procedural.
20	Aircraft.
60	Airmen.
70	Airspace.
90	Air Traffic Control and General Operations.
120	Air Carrier and Commercial Operators and Helicopters.
140	Schools and Other Certified Agencies.
150	Airports.
170	Air Navigational Facilities.
180	Administrative.
210	Flight Information.

c. *Breakdown of subject numbers.* When the volume of circulars in a general series warrants a subsubject breakdown, the general number is followed by a slash and a subsubject number. Material in the 150, Airports, series is issued under the following subsubjects:

Number	*and Subject*
150/1900	Defense Readiness Program.
150/4000	Resource Management.
150/5000	Airport Planning.
150/5100	Federal-aid Airport Program.
150/5150	Surplus Airport Property Conveyance Programs.
150/5190	Airport Compliance Program.
150/5200	Airport Safety—General.
150/5210	Airport Safety Operations (Recommended Training, Standards, Manning).
150/5220	Airport Safety Equipment and Facilities.
150/5230	Airport Ground Safety System.
150/5240	Civil Airports Emergency Preparedness.
150/5300	Design, Construction, and Maintenance—General.
150/5320	Airport Design.
150/5325	Influence of Aircraft Performance on Aircraft Design.
150/5335	Runway, Taxiway, and Apron Characteristics.
150/5340	Airport Visual Aids.
150/5345	Airport Lighting Equipment.
150/5360	Airport Buildings.
150/5370	Airport Construction.
150/5380	Airport Maintenance.
150/5390	Heliports.

d. *Individual circular identification numbers.* Each circular has a subject number followed by a dash and a sequential number identifying the individual circular. This sequential number is not used again in the same subject series. Revised circulars have a letter A, B, C, etc., after the sequential number to show complete revisions. Changes to circulars have CH 1, CH 2, CH 3, etc., after the identification number on pages that have been changed. The date on a revised page is changed to the effective date of the change.

4. *The Advisory Circular Checklist.*

a. *General.* Each circular issued is listed numerically within its subject-number breakdown. The identification number (AC 120-1), the change number of the latest change, if any, to the right of the identification number, the title, and the effective date for each circular are shown. A brief explanation of the contents is given for each listing.

b. *Omitted numbers.* In some series sequential numbers omitted are missing numbers, e.g., 00-8 through 00-11 have not been used although 00-7 and 00-12 have been used. These numbers are assigned to advisory circulars still in preparation which will be issued later or were assigned to advisory circulars that have been canceled.

c. *Free and sales circulars.* This checklist contains advisory circulars that are for sale as well as those distributed free of charge by the Federal Aviation Administration. Please use care when ordering circulars to ensure that they are ordered from the proper source.

d. *Internal directives for sale.* A list of certain internal directives sold by the Superintendent of Documents is shown at the end of the checklist. These documents are not identified by advisory circular numbers, but have their own directive numbers.

5. *How to get circulars.*

a. When a price is listed after the description of a circular, it means that this circular is for sale by the Superintendent of Documents. When (Sub.) is included with the price, the advisory circular is available on a subscription basis only. After your subscription has been entered by the Superintendent of Documents, supplements or changes to the basic document will be provided automatically at no additional charge until the subscription expires. When no price is given, the circular is distributed free of charge by FAA.

b. Request free advisory circulars shown without an indicated price from:

Department of Transportation, Distribution Unit, TAD 484.3, Washington, D.C. 20590.

NOTE: Persons who want to be placed on FAA's mailing list for future circulars should write to the above address. Be sure to identify the subject matter desired by the subject numbers and titles shown in paragraph 3b because separate mailing lists are maintained for each advisory circular subject series. Checklists and circulars issued in the general series will be distributed to every addressee on each of the subject series lists. Persons requesting more than one subject classification may receive more than one copy of related circulars and this checklist because they will be included on more than one mailing list. Persons already on the distribution list for AC's and changes to FAR's will automatically receive related circulars.

c. Order advisory circulars and internal directives with purchase price given from:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

or from any of the following bookstores located throughout the United States:

GPO Bookstore, Federal Building, Room 1023, 450 Golden Gate Avenue, San Francisco, CA 94102.
GPO Bookstore, Federal Office Building, Room 1463, 14th Floor, 219 South Dearborn Street, Chicago, IL 60604.
GPO Bookstore, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.
GPO Bookstore, Federal Building, Room 135, 601 East 12th Street, Kansas City, MO 64106.
GPO Bookstore, Room G25, John F. Kennedy Federal Building, Sudbury Street, Boston, MA 02203.
GPO Bookstore, Room 110, 26 Federal Plaza, New York, NY 10007.
GPO Bookstore, Federal Building, U.S. Courthouse, Room 1421, 1961 Stout Street, Denver, CO 80202.
GPO Bookstore, Room 1C46, Federal Building, U.S. Courthouse, 1100 Commerce Street, Dallas, TX 75202.
GPO Bookstore, Room 100, Federal Building, 275 Peachtree Street NE., Atlanta, GA 30303.
GPO Bookstore, Room 102A, 2121 Building, 2121 Eighth Avenue North, Birmingham, AL 35203.
GPO Bookstore, Federal Office Building, 201 Cleveland Avenue SW., Canton, OH 44702.
GPO Bookstore, Room 1015, Federal Office Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

Send check or money order with your order to the Superintendent of Documents. Make the check or money order payable to the Superintendent of Documents in the amounts indicated in the list. Order for mailing to foreign countries should include an additional amount of 25 percent of the total price to cover postage. No c.o.d. orders are accepted.

6. *Reproduction of Advisory Circulars.* Advisory circulars may be reproduced in their entirety or in part without permission from the Federal Aviation Administration.

7. *Cancellations.* The following advisory circulars are canceled:

AC 00-2U Advisory Circular Checklist, 3-15-72. Canceled by AC 00-2V, Advisory Circular Checklist, 8-15-72.
AC 00-23B Near Midair Collision Reporting, 12-4-69. Canceled by AC 00-23C, Near Midair Collision Reporting, 1-20-72.
AC 20-6Q U.S. Civil Aircraft Register, 7-1-71. Canceled by AC 20-6R, U.S. Civil Aircraft Register, 1-1-72.
AC 20-17 Surplus Military Aircraft, 1-6-64. Canceled by AC 20-17A, Surplus Aircraft of the Armed Forces, 3-7-72.
AC 20-25A Identification of Technical Standard Order (TSO) Safety Belts, 3-14-69. Canceled.
AC 20-27A Certification and Operation of Amateur-Built Aircraft, 8-12-68. Canceled by AC 20-27B, Certification and Operation of Amateur-Built Aircraft, 4-20-72.
AC 20-50 Ultrasonic Nondestructive Testing, 11-9-66. Canceled.
AC 60-2H Annual Aviation Mechanic Safety Awards Program, 3-7-72. Canceled by AC 60-2J, Annual Aviation Mechanic Safety Awards Program, 3-20-72.
AC 60-5 Advisory Information on Written Test Questions Missed, 4-24-67. Canceled.
AC 61-1C Aircraft Type Ratings, 5-8-70. Canceled by AC 61-1D, Aircraft Type Ratings, 5-15-72.
AC 61-17A—Flight Test Guide—Instrument Pilot Airplane, 6-6-67. Canceled by AC 61-17B, Flight Test Guide—Instrument Pilot Airplane, 1-12-72.
AC 61-23 Private Pilot's Handbook of Aeronautical Knowledge, 5-27-66. Canceled by AC 61-23A, Pilot's Handbook of Aeronautical Knowledge, 7-10-70.
AC 61-41 Glider Flight Instructor Written Test Guide, 11-7-67. Canceled by AC 61-41A, Glider Flight Instructor Written Test Guide, 1-12-72.
AC 61-43 Glider Pilot Written Test Guide—Private and Commercial, 11-30-67. Canceled by AC 61-43A, Glider Pilot Written Test Guide—Private and Commercial, 1-12-72.
AC 65-14 The Seventh Annual FAA International Aviation Maintenance Symposium, 4-19-71. Canceled.
AC 90-23B Wake Turbulence, 5-17-71. Canceled by AC 90-23C, Wake Turbulence, 5-16-72.
AC 90-41A Standard Instrument Departure/Arrival Procedures, 2-18-71. Canceled by AC 90-41B, Revised Standard Instrument Department/Arrival Procedures, 12-8-71.
AC 90-41B Revised Standard Instrument Department/Arrival Procedures, 12-8-71. Canceled by AC 90-41C, Revised Standard Instrument Department/Arrival Procedures, 4-13-72.
AC 91-5A Waivers of Subpart B, Part 91 of the Federal Aviation Regulations (FAR's), 5-6-69. Canceled by AC 91-5B, Waivers of Subpart B, Part 91 of the Federal Aviation Regulations (FAR's), 1-28-72.
AC 91-25 Loss of Visual Cues During Low Visibility Landings, 9-22-69. Canceled by AC 91-25A, Loss of Visual Cues During Low Visibility Landings, 6-22-72.
AC 121-9 Maintenance of Evacuation Slides, 9-22-66. Canceled.
AC 147-2H Directory of FAA Certificated Aviation Maintenance Technician Schools, 10-19-71. Canceled by AC 147-2J, Directory of FAA Certificated Aviation Maintenance Technician Schools, 2-4-72.
AC 150/5100-7 Requirement for Public Hearing in the Airport Development Aid Program, 1-4-71. Canceled by AC 150/5100-7A, Requirement for Public Hearing in the Airport Development Aid Program, 2-25-72.
AC 150/5190-2 Exclusive Rights at Airports, 9-2-66. Canceled by AC 150/5190-2A, Exclusive Rights at Airports, 4-4-72.
AC 150/5200-1 Bird Hazards to Aviation, 3-1-65. Canceled by AC 150/5200-3A, Bird Hazards to Aircraft, 3-2-72.
AC 150/5200-2A Bird Strike/Incident Report Form, 1-9-70. Canceled by AC 150/5200-3A, Bird Hazards to Aircraft, 3-2-72.
AC 150/5200-3 Bird Hazards to Aircraft, 10-7-66. Canceled by AC 150/5200-3A, Bird Hazards to Aircraft, 3-2-72.
AC 150/5210-7 Aircraft Fire and Rescue Communications, 10-28-66. Canceled by AC 150/5210-7A, Aircraft Fire and Rescue Communications, 3-16-72.
AC 150/5220-2 Guide Specification for 1,800-Gallon Aircraft Fire and Rescue Truck, 7-24-64. Canceled by AC 150/5220-10, Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks, 5-26-72.
AC 150/5220-3 Guide Specification for 1,900-Gallon Aircraft Fire and Rescue Truck, 3-9-67. Canceled by AC 150/5220-10, Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks, 5-26-72.
AC 150/5220-5 Guide Specification for a Combination Foam and Dry Chemical Aircraft Fire and Rescue Truck, 12-29-67. Canceled by AC 150/5220-10, Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks, 5-26-72.
AC 150/5220-7 Guide Specification for 2,500-Gallon Aircraft Fire and Rescue Truck, 8-30-68. Canceled by AC 150/5220-10, Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks, 5-26-72.
AC 150/5340-15A Taxiway Edge Lighting System, 11-1-67. Canceled by AC 150/5340-15B, Taxiway Edge Lighting System, 4-4-72.
AC 150/5345-3A Specification for L-821 Airport Lighting Panel for Remote Control of Airport Lighting, 10-20-67.
AC 150/5345-28A Specification for L-851 Visual Approach Slope Indicator System, 3-17-70. Canceled by AC 150/5345-28B, Specification for L-851 Visual Approach Slope Indicators and Accessories, 2-16-72.
AC 211-5 Recommended Symbols and Terminologies for use with Terminal Area Graphic Notices, 6-28-71. Canceled.

8. *Additions.* The following advisory circulars are added to the list:

AC 00-23C Near Midair Collision Reporting (1-20-72).
AC 00-34 Aircraft Ground Handling and Servicing (4-12-72).
AC 20-6R U.S. Civil Aircraft Register (1-1-72).
AC 20-7H Supplement 8, General Aviation Inspection Aids (April 1972).
AC 20-7H Supplement 9, General Aviation Inspection Aids (May 1972).
AC 20-7H Supplement 10, General Aviation Inspection Aids (June 1972).
AC 20-7H Supplement 11, General Aviation Inspection Aids (July 1972).
AC 20-17A Surplus Aircraft of the Armed Forces (3-7-72).
AC 20-27B Certification and Operation of Amateur-Built Aircraft (4-20-72).
AC 20-77 Use of Manufacturers' Maintenance Manuals (3-22-72).
AC 20-79 National Seminar—Quality Assurance Systems Analysis Review (QASAR) Program (7-19-72).
AC 21-11 Quality Assurance Systems Analysis Review (QASAR) Program Manufacturers/Suppliers (5-26-72).
AC 60-2J Annual Aviation Mechanic Safety Awards Program (3-20-72).
AC 61-1D Aircraft Type Ratings (5-15-72).
AC 61-17B Flight Test Guide—Instrument Pilot Airplane (1-12-72).
AC 61-23A Pilot's Handbook of Aeronautical Knowledge (7-10-70).
AC 61-41A Glider Flight Instructor Written Test Guide (1-12-72).
AC 61-43A Glider Pilot Written Test Guide—Private and Commercial (1-12-72).
AC 61-49 Airline Transport Pilot—Airplane Practical Test Guide (8-9-72).
AC 61-50 Aerial Applicator Aerodynamics Review of "Region of Reversed Command" (2-7-72).
AC 61-51 Reporting Flight Time on Pilot Applications, FAA Form 8420-3 (6-26-72).
AC 65-16 The Eighth Annual FAA International Aviation Maintenance Symposium (3-20-72).
AC 90-23C Wake Turbulence (5-16-72).
AC 90-41C Revised Standard Instrument Departure/Arrival Procedures (4-13-72).
AC 90-58 VOR Course Errors Resulting from 50KHz Channel Selection (2-16-72).
AC 90-59 Arrival and Departure Handling of High Performance Aircraft (2-28-72).
AC 90-60 Weather Observation Reporting Obscured or Partially Obscured Sky Condition (3-31-72).
AC 91-5B Waivers of Subpart B, Part 91 of the Federal Aviation Regulations (FAR's) (1-28-72).
AC 91-25A Loss of Visual Cues During Low Visibility Landings (6-22-72).
AC 91-35 Noise, Hearing Damage, and Fatigue in General Aviation Pilots (3-28-72).
AC 107-1 Aviation Security—Airports (5-19-72).
AC 121-17 Aviation Security: Certain Air Carriers and Commercial Operators—Security Programs and Other Requirements (3-14-72).
AC 135.144-1 Small Propeller-Driven Air Taxi Airplanes that Meet Section 135.144 (4-13-72).
AC 147-2J Directory of FAA Certificated Aviation Maintenance Technician Schools (2-4-72).
AC 150/5000-3 Address List for Regional Airports Divisions and Airport District Offices (2-29-72).
AC 150/5100-7A Requirement for Public Hearing in the Airport Development Aid Program (2-25-72).
AC 150/5100-10 Accounting Records Guide for Airport Development Aid Program Sponsors (5-15-72).
AC 150/5190-2A Exclusive Rights at Airports (4-4-72).
AC 150/5200-3A Bird Hazards to Aircraft (3-2-72).
AC 150/5210-7A Aircraft Fire and Rescue Communications (3-16-72).
AC 150/5210-12 Fire and Rescue Service for Certificated Airports (3-2-72).
AC 150/5210-13 Water Rescue Plans, Facilities, and Equipment (5-4-72).
AC 150/5220-10 Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks (5-26-72).
AC 150/5280-1 Airport Operations Manual (6-16-72).
AC 150/5300-6 Ch-1 Airport Design Standards, General Aviation Airports, Basic and General Transport (4-13-72).

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AC 150-5340-15B Taxiway Edge Lighting System (4-4-72).
AC 150/5345-3B Specification for L-821 Airport Lighting Panel for Remote Control of Airport Lighting (4-21-72).
AC 150/5345-28B Specification for L-851 Visual Approach Slope Indicators and Accessories (2-16-72).

ADVISORY CIRCULAR CHECKLIST

Notice

Superintendent of Documents catalogue numbers have been included to aid Superintendent of Documents personnel in processing orders. Please use them when ordering—along with the title and FAA number. To avoid unnecessary delays, do not order single-sales material and subscription-sales material on the same order form, as orders are separated for processing by different departments when they arrive at Superintendent of Documents.

General

SUBJECT NO. 00

00-1 The Advisory Circular System (12-4-62).

Describes the FAA Advisory Circular System.

00-2V Advisory Circular Checklist (8-15-72).

Transmits the revised checklist of current FAA advisory circulars and the status of the Federal Aviation Regulations as of 8-15-72.

00-6 Aviation Weather (5-20-65).

Provides an up-to-date and expanded text for pilots and other flight operations personnel whose interest in meteorology is primarily in its application to flying. Reprinted 1969. ($4 GPO.) FAA 5.8/2: W 37.

00-7 State and Regional Defense Airlift Planning (4-30-64).

Provides guidance for the development of plans by the FAA and other Federal and State agencies for the use of non-air-carrier aircraft during an emergency.

00-7 CH 1 State and Regional Defense Airlift Planning (1-5-65).

Provides an example of a State Plan for the Emergency Management of Resources in Appendix 4, and adds new Appendix 9.

00-7 CH 2 State and Regional Defense Airlift Planning (2-20-67).

Revises Appendix 6, SCATANA.

00-14 Flights by U.S. Pilots Into and Within Canada (4-16-65).

Provides information concerning flights into and within Canada.

00-15 Potential Hazard Associated With Passengers Carrying "Anti-Mugger" Spray Devices (8-20-65).

Advises aircraft operators, crewmembers, and others who are responsible for flight safety, of a possible hazard to flight should a passenger inadvertently or otherwise discharge a device commonly known as an "anti-mugger" spray device in the cabin of an aircraft.

00-17 Turbulence in Clear Air (12-16-65).

Provides information on atmospheric turbulence and wind shear, emphasizing important points pertaining to the common causes of turbulence, the hazards associated with it, and the conditions under which it is most likely to be encountered.

00-21 Shoulder Harness (10-5-66).

Provides information concerning the installation and use of shoulder harnesses by pilots in general aviation aircraft.

00-23C Near Midair Collision Reporting (1-20-72).

Advises that the FAA policy on the reporting of near midair collisions, made effective in 1968 (32 F.R. 16539) and continued in effect since that time, will terminate on December 31, 1971, and advises how the reports will be handled after December 31, 1971.

00-24 Thunderstorms (6-12-68).

Contains information concerning flights in or near thunderstorms.

00-25 Forming and Operating a Flying Club (3-24-69).

Provides preliminary information that will assist anyone or any group of people interested in forming and operating a flying club ($0.35 GPO.) TD 4.8:F 67.

00-26 Definitions of "U.S. National Aviation Standards" (1-22-69).

Informs the aviation community of the approval by the FAA Administrator of a definition of U.S. National Aviation Standards, the need for such standards, and their relationship to the Federal Aviation Regulations.

00-27 U.S. National Standard for the IFF Mark X (SIF) Air Traffic Control Radar Beacon System Characteristics (ATCRBS) (1-24-69).

Informs the aviation community of the approval by the FAA Administrator of the U.S. National Aviation Standard for the ATCRBS.

00-28 Communications Interference Caused by Sticking Microphone Buttons (8-6-69).

Alerts the industry of communications interference from undesired radiofrequency transmissions.

00-29 Airborne Automatic Altitude Reporting Systems (12-9-69).

Provides information regarding the nature and extent of erroneous altitude reporting systems.

00-30 Rules of Thumb for Avoiding or Minimizing Encounters with Clear Air Turbulence (3-5-70).

Brings to the attention of pilots and other interested personnel, the "Rule of Thumb" for avoiding or minimizing encounters with clear air turbulence (CAT).

00-31 U.S. National Aviation Standard for the VORTAC System (6-10-70).

Informs the aviation community of the establishment and content of the U.S. National Aviation Standard for the VORTAC (VOR-TACAN-DME) System.

00-32 Civil Air Patrol and State and Regional Defense Airlift Relationships (7-2-70).

Advises interested persons of the Memorandum of Understanding between CAP and FAA, and provides additional guidance to further improve the use of non-air carrier aircraft in time of national emergency.

00-33 Nickel-Cadmium Battery Operational, Maintenance, and Overhaul Practices (8-26-71).

Provides guidelines for more reliable nickel-cadmium battery operation through sound operational and maintenance practices.

00-34 Aircraft Ground Handling and Servicing (4-12-72).

Contains information and guidance for the servicing and ground handling of aircraft.

Procedural

SUBJECT NO. 10

11-1 Airspace Rule-Making Proposals and Changes to Air Traffic Control Procedures (10-28-54).

Emphasizes the need for the early submission of proposals involving airspace rule-making activity or changes to existing procedures for the control of air traffic.

Aircraft

SUBJECT NO. 20

20-3B Status and Availability of Military Handbooks and ANC Bulletins for Aircraft (5-12-69).

Announces the status and availability of Military Handbooks and ANC Bulletins prepared jointly with FAA.

20-5B Plane Sense (1970).

Provides general aviation information for the private aircraft owner.

20-6R U.S. Civil Aircraft Register (1-1-72).

Lists all active U.S. civil aircraft by registration number. ($11.75 GPO.) TD 4.18/2:970.

20-7H General Aviation Inspection Aids, Summary (August 1971).

Provides the aviation community with a uniform means for interchanging service experience that may improve the durability and safety of aeronautical products. Of value to mechanics, operators of repair stations, and others engaged in the inspection, maintenance, and operation of aircraft in general. ($3, $3.75 foreign—Sub. GPO.) TD 4.409:9710.

20-7H Supplement 1 (September 1971).
20-7H Supplement 2 (October 1971).

20-7H Supplement 3 (November 1971).
20-7H Supplement 4 (December 1971).
20-7H Supplement 5 (January 1972).
20-7H Supplement 6 (February 1972).
20-7H Supplement 7 (March 1972).
20-7H Supplement 8 (April 1972).
20-7H Supplement 9 (May 1972).
20-7H Supplement 10 (June 1972).
20-7H Supplement 11 (July 1972).

20-9 Personal Aircraft Inspection Handbook (12-2-64).

Provides a general guide, in simple, nontechnical language, for the inspection of aircraft. Reprinted 1967. ($1 GPO.) FAA 5.8/2:Ai 7/2.

20-10 Approved Airplane Flight Manuals for Transport Category Airplanes (7-30-63).

Calls attention to the regulatory requirements relating to FAA Approved Airplane Flight Manuals.

20-13A Surface-Effect Vehicles (8-28-64).

States FAA policy on surface-effect vehicles (vehicles supported by a cushion of compressed air).

20-17A Surplus Aircraft of the Armed Forces (3-7-72).

Sets forth the method of obtaining copies of regulations which might be required for certification of surplus aircraft of the Armed Forces.

20-18A Qualification Testing of Turbojet Engine Thrust Reversers (3-16-66).

Discusses the requirements for the qualification of thrust reversers and sets forth an acceptable means of compliance with the tests prescribed in Federal Aviation Regulations, Part 33, when run under nonstandard ambient air conditions.

20-20A Flammability of Jet Fuels (4-9-65).

Gives information on the possibility of combustion of fuel in aircraft fuel tanks.

20-23D Interchange of Service Experience—Mechanical Difficulties (2-12-71).

Provides information on the voluntary exchange service experience data used in improving durability and safety of aeronautical products.

20-24A Qualification of Fuels, Lubricants, and Additives (4-1-67).

Establishes procedures for the approval of the use of subject materials in certificated aircraft.

20-27B Certification and Operation of Amateur-Built Aircraft (4-20-72).

Provides information and guidance concerning certification and operation of amateur-built aircraft, including gliders, free balloons, helicopters, and gyroplanes, and sets forth an acceptable means, not the sole means, of compliance with FAR Part 21 and FAR Part 91.

20-28 Nationally Advertised Aircraft Construction Kits (8-7-64).

Explains that using certain kits could render the aircraft ineligible for the issuance of an experimental certificate as an amateur-built aircraft.

20-29B Use of Aircraft Fuel Anti-icing Additives (1-18-72).

Provides information on the use of anti-icing additives PFA-55MB and Mil-I-27686 as an acceptable means of compliance with the FARs that require assurance of continuous fuel flow under conditions where ice may occur in turbine aircraft fuel systems.

20-30A Airplane Position Lights and Supplementary Lights (4-18-68).

Provides an acceptable means for complying with the position light requirements for airplane airworthiness and acceptable criteria for the installation of supplementary lights on airplanes.

20-32A Carbon Monoxide (CO) Contamination in Aircraft—Detection and Prevention (9-13-68).

Informs aircraft owners, operators, maintenance personnel, and pilots of the potential dangers of carbon monoxide contamination and discusses means of detection and procedures to follow when contamination is suspected.

20-33 Technical Information Regarding Civil Aeronautics Manuals 1, 3, 4a, 4b, 5, 6, 7, 8, 9, 10, 13, and 14 (2-8-65).

Advises the public that policy information contained in the subject Civil Aeronautics Manuals may be used in conjunction with specific sections of the Federal Aviation Regulations.

20-34A Prevention of Retractable Landing Gear Failures (4-21-69).

Provides information and suggested procedures to minimize landing accidents involving aircraft having retractable landing gear.

20-35B Tie-Down Sense (4-19-71).

Provides information of general use on aircraft tie-down techniques and procedures.

20-36A Index of Materials, Parts, and Appliances Certified Under the Technical Standard Order System—March 1, 1966 (4-8-66).

Lists the materials, parts, and appliances for which the Administrator has received statements of conformance under the Technical Standard Order system as of March 1, 1966. Such products are deemed to have met the requirements for FAA approval as provided in Part 37 of the Federal Aviation Regulations.

20-37A Aircraft Metal Propeller Blade Failure (4-4-69).

Provides information and suggested procedures to increase service life and to minimize blade failures of metal propellers.

20-38A Measurement of Cabin Interior Emergency Illumination in Transport Airplanes (2-8-66).

Outlines acceptable methods, but not the only methods, for measuring the cabin interior emergency illumination on transport airplanes, and provides information as to suitable measuring instruments.

20-39 Installation Approval of Entertainment Type Television Equipment in Aircraft (7-15-65).

Presents an acceptable method (but not the only method) by which compliance may be shown with Federal Aviation Regulations 23.1431, FAR 25.1309(b), FAR 27.1309(b), or FAR 29.1309(b), as applicable.

20-40 Placards for Battery-Excited Alternators Installed in Light Aircraft (8-11-65).

Sets forth an acceptable means of complying with placarding rules in Federal Aviation Regulations 23 and 27 with respect to battery-excited alternator installations.

20-41 Replacement TSO Radio Equipment in Transport Aircraft (8-30-65).

Sets forth an acceptable means for complying with rules governing transport category aircraft installations in cases involving the substitution of technical standard order radio equipment for functionally similar radio equipment.

20-42 Hand Fire Extinguishers in Transport Category Airplanes and Rotorcraft (9-1-65).

Sets forth acceptable means (but not the sole means) of compliance with certain hand fire extinguisher regulations in FAR 25 and FAR 29, and provides related general information.

20-43B Aircraft Fuel Control (6-8-71).

Alerts the aviation community to the potential hazards of inadvertent mixing or contamination of turbine and piston fuels, and provides recommended fuel control and servicing procedures.

20-44 Glass Fiber Fabric for Aircraft Covering (9-3-65).

Provides a means, but not the sole means, for acceptance of glass fiber fabric for external covering of aircraft structure.

20-45 Safetying of Turnbuckles on Civil Aircraft (9-17-65).

Provides information on turnbuckle safetying methods that have been found acceptable by the FAA during past aircraft type certification programs.

20-46 Suggested Equipment for Gliders Operating Under IFR (9-23-65).

Provides guidance to glider operators on how to equip their gliders for operation under instrument flight rules (IFR), including flight through clouds.

20-47 Exterior Colored Band Around Exits on Transport Airplanes (2-8-66).

Sets forth an acceptable means, but not the only means, of complying with

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the requirement for a 2-inch colored band outlining exits required to be openable from the outside on transport airplanes.

20–48 Practice Guide for Decontaminating Aircraft (5–5–66).

The title is self-explanatory.

20–49 Analysis of Bird Strike Reports on Transport Category Airplanes (7–27–66).

Provides the results of a statistical study on the frequency of collisions of birds with transport aircraft and the resulting damages.

20–51 Procedures for Obtaining FAA Approval of Major Alterations to Type Certificated Products (4–12–67).

Provides assistance to persons who desire to obtain FAA approval of major alterations to type certificated products.

20–52 Maintenance Inspection Notes for Douglas DC–6/7 Series Aircraft (8–24–67).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of DC–6/7 series aircraft.

20–53 Protection of Aircraft Fuel System Against Lightning (10–6–67).

Sets forth acceptable means, not the sole means, by which compliance may be shown with fuel system lightning protection airworthiness regulations.

20–54 Hazards of Radium-Activated Luminous Compounds Used on Aircraft Instruments (10–24–67).

Provides information concerning health hazards associated with the repair and maintenance of instruments containing luminous markings activated with radium-226 or radium-228 (mesothorium).

20–55 Turbine Engine Overhaul Standard Practices Manual—Maintenance of Fluorescent Penetrant Inspection Equipment (1–22–68).

Advises operators of the necessity for periodic checking of black light lamps and filters used during fluorescent penetrant inspection of engine parts.

20–56 Marking of TSO–C72a Individual Flotation Devices (1–19–68).

Outlines acceptable methods for marking individual flotation devices which also serve as seat cushions.

20–57A Automatic Landing Systems (ALS) (1–12–71).

Sets forth an acceptable means of compliance, but not the only means, for the installation approval of automatic landing systems in transport category aircraft which may be used initially in Category II operations. Approval of these aircraft for use under such conditions will permit the accumulation of data for systems which may be approved for Category IIIa in the future.

20–58A Acceptable Means of Testing Automatic Altitude Reporting Equipment for Compliance With FAR 91.36(b) (4–28–69).

Title is self-explanatory.

20–59 Maintenance Inspection Notes for Convair 240, 340/440, 240T, and 340T Series Aircraft (2–19–68).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of Convair 240, 340/440, 240T, and 340T series aircraft.

20–60 Accessibility to Excess Emergency Exits (7–18–68).

Sets forth acceptable means of compliance with the "readily accessible" provisions in the Federal Aviation Regulations dealing with excess emergency exits.

20–61 Nondestructive Testing for Aircraft (May 1969).

Reviews the basic principles underlying nondestructive testing. ($0.45 GPO.) TD 4.8:T28

20–62A Eligibility, Quality, and Identification of Approved Aeronautical Replacement Parts (6–16–70).

Provides information relative to the determination of the eligibility of aeronautical parts and materials for installation on certificated aircraft.

20–63 Airborne Automatic Direction Finder Installations (Low and Medium Frequency) (7–7–69).

Sets forth one means, but not the only means, of demonstrating compliance with the airworthiness rules governing the functioning of airborne automatic direction finders. It does not pertain to installations previously approved.

20–64 Maintenance Inspection Notes for Lockheed L–188 Series Aircraft (8–1–69).

Describes maintenance inspection notes which can be used for the maintenance support of certain structural parts of Lockheed L–188 series aircraft.

20–65 U.S. Airworthiness Certificates and Authorizations for Operation of Domestic and Foreign Aircraft (8–11–69).

Provides general information and guidance concerning issuance of airworthiness certificates for U.S. registered aircraft, and issuance of special flight authorizations for operation in the United States of foreign aircraft not having standard airworthiness certificates issued by the country of registry.

20–66 Vibration Evaluation of Aircraft Propellers (1–29–70).

Outlines acceptable means, but not the sole means, for showing compliance with the requirements of the FARs concerning propeller vibration.

20–67 Airborne VHF Communication System Installations (3–6–70).

Sets forth one means, but not the only means, of demonstrating compliance with the airworthiness rules governing the functioning of airborne VHF communication systems.

20–68 Recommended Radiation Safety Precautions for Airborne Weather Radar (3–11–70).

Sets forth recommended radiation safety precautions for ground operation of airborne weather radar.

20–69 Conspicuity of Aircraft Instrument Malfunction Indicators (5–14–70).

Provides design guidance information on methods of improving conspicuity of malfunction indication devices.

20–71 Dual Locking Devices on Fasteners (12–8–70).

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the requirements for dual locking devices on removable fasteners installed in rotocraft and transport category airplanes.

20–72 Restricted Category Helicopter Maximum Weight Increases (3–11–71).

Provides assistance to persons who desire to obtain FAA approval of overmaximum certificated takeoff weight condition for restricted category helicopter operations.

20–73 Aircraft Ice Protection (4–21–71).

Provides information relating to the substantiation of ice protection systems on aircraft.

20–74 Aircraft Position and Anticollision Light Measurements (7–29–71).

Contains useful information concerning measurements for intensity, covering and color of aircraft position and anticollision lights.

20–76 Maintenance Inspection Notes for Boeing B–707/720 Series Aircraft (10–21–71).

Provides maintenance inspection notes which can be used for the maintenance support program for certain structural parts of the B–707/720 series aircraft.

20–77 Use of Manufacturers' Maintenance Manuals (3–22–72).

Informs owners and operators about the usefulness of manufacturers' maintenance manuals for servicing, repairing, and maintaining aircraft, engines, and propellers.

20–79 National Seminar—Quality Assurance Systems Analysis Review (QASAR) Program (7–19–72).

Announces and extends an invitation to interested persons to attend one of the three QASAR seminars.

21–1A Production Certificates (7–9–71).

Provides information concerning Subpart G of Federal Aviation Regulations (FAR) Part 21, and sets forth acceptable means of compliance with its requirements.

21–2B Export Airworthiness Approval Procedures (10–2–69).

Announces the adoption of new regulations and provides guidance to the public regarding the issuance of export airworthiness approvals for aeronautical products to be exported from the United States.

21–2B Ch. 1 (11–13–70).

21–2B Ch. 2 (2–8–71).

21–3 Basic Glider Criteria Handbook (1962).

Provides individual glider designers, the glider industry, and glider operating organizations with guidance material that augments the glider airworthiness certification requirements of the Federal Aviation Regulations. Reprinted 1969. ($1 GPO.) FAA 5.8/2:G49/962.

21–4B Special Flight Permits for Operation of Overweight Aircraft (7–30–69).

Furnishes guidance concerning special flight permits necessary to operate an aircraft in excess of its usual maximum certificated takeoff weight.

21–5B Summary of Supplemental Type Certificates (Announcement of Availability) (2–10–71).

Announces the availability to the public of a new edition of the Summary of Supplemental Type Certificates (SSTC), dated January 1971.

21–6 Production Under Type Certificate Only (5–26–67).

Provides information concerning Subpart F of FAR Part 21, and sets forth examples, when necessary, of acceptable means of compliance with its requirements.

21–7A Certification and Approval of Import Products (11–24–69).

Provides guidance and information relative to U.S. certification and approval of import aircraft, aircraft engines and propellers that are manufactured in a foreign country with which the United States has an agreement for the acceptance of those products for export and import.

21–8 Aircraft Airworthiness; Restricted Category: Certification of Aircraft With Uncertificated or Altered Engines or Propellers (5–21–69).

Sets forth acceptable means of substantiating that uncertificated or altered engines and propellers have no unsafe features for type certification of aircraft in the restricted category.

21–9 Manufacturers Reporting Failures, malfunctions, or Defects (12–30–70).

Provides information to assist manufactures of aeronautical products (aircraft, aircraft engines, propellers, appliances, and parts) in notifying the Federal Aviation Administration of certain failures, malfunctions, or defects, resulting from design or quality control problems, in the products which they manufacture.

21–10 Flight Recorder Underwater Locating Device (5–20–71).

Provides one acceptable means (not the only means) of showing compliance with the underwater locating device requirements of FAR 25.1459 and FAR 121.343.

21–11 Quality Assurance Systems Analysis Review (QASAR) Program Manufacturers/Suppliers (5–26–72).

Explains the objectives and concept of the FAA's subject program.

21.25–1 Use of Restricted Category Airplanes for Glider Towing (4–20–65).

Announces that glider towing is now considered to be a special purpose for type and airworthiness certification in the restricted category.

21.303–1 Replacement and Modification Parts (3–2–66).

Provides information concerning section 21.303 of Federal Aviation Regulations, Part 21, and sets forth examples of acceptable means of compliance with its requirements.

23–1 Type Certification Spin Test Procedures (4–1–64).

Sets forth an acceptable means by which compliance may be shown with the one-turn spinning requirement in Part 3 of the CAR's.

23.1329–1 Automatic Pilot Systems Approval (Non-Transport) (12–23–65).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 23.1329 may be shown.

25–2 Extrapolation of Takeoff and Landing Distance Data Over a Range of Altitude for Turbine-Powered Transport Aircraft (7–9–64).

Sets forth acceptable means by which compliance may be shown with the requirements in CAR 4b and SR–422B.

25–4 Inertial Navigation Systems (INS) (2–18–66).

Sets forth an acceptable means for complying with rules governing the installation of inertial navigation systems in transport category aircraft.

25–5 Installation Approval on Transport Category Airplanes of Cargo Unit Load Devices Approved as Meeting the Criteria in NAS 3610 (6–3–70).

Sets forth an acceptable means, but not the sole means, of complying with the requirements of the Federal Aviation Regulations (FAR's) applicable to the installation on transport category airplanes of cargo unit load devices approved as meeting the criteria in NAS 3610.

25.253–1 High-Speed Characteristics (11–24–65).

Sets forth an acceptable means by which compliance may be shown with FAR 25.253 during certification flight tests.

25.253–1 CH 1 (1–10–66).

Provides amended information for the basic advisory circular.

25.981–1A Guidelines for Substantiating Compliance With the Fuel Tank Temperature Requirements (1–20–71).

Sets forth some general guidelines for substantiating compliance with fuel tank temperature airworthiness standards, section 25.981.

25.1329–1A Automatic Pilot System Approval (7–8–68).

Sets forth an acceptable means by which compliance with the automatic pilot installation requirements of FAR 25.1329 may be shown.

25.1457–1A Cockpit Voice Recorder Installations (11–3–69).

Sets forth one acceptable means of compliance with provisions of FAR 25.1457 (b), (e), and (f) pertaining to area microphones, cockpit voice recorder location, and erasure features.

29–1 Approval Basis for Automatic Stabilization Equipment (ASE) Installations in Rotorcraft (12–26–63).

Gives means for compliance with flight requirements in various CAR's.

29–1 CH 1 (3–26–64).

Transmits revised information about the time delay of automatic stabilization equipment.

29.773–1 Pilot Compartment View (1–19–66).

Sets forth acceptable means, not the sole means, by which compliance with FAR 29.773(a)(1), may be shown.

33–1B Turbine-Engine Foreign Object Ingestion and Rotor Blade Containment Type Certification Procedures (4–22–70).

Provides guidance and acceptable means, not the sole means, by which compliance may be shown with the design and construction requirements of Part 33 of the Federal Aviation Regulations.

33–2 Aircraft Engine Type Certification Handbook (3–30–66).

Contains guidance relating to type certification of aircraft engines which will constitute acceptable means, although not the sole means, of compliance with the Federal Aviation Regulations.

33–2 CH 1 (9–13–67).

Transmits revised material to the basic advisory circular.

33–3 Turbine and Compressor Rotors Type Certification Substantiation Procedures (9–9–68).

Sets forth guidance and acceptable means, not the sole means, by which compliance may be shown with the turbine and compressor rotor substantiation requirements in FAR Part 33.

37–2 Test Procedures for Maximum Allowable Airspeed Indicators (12–9–68).

Provides guidance concerning test procedures which may be used in showing compliance with the standards in FAR 37.145 (TSO–C46a).

37–3 Radio Technical Commission for Aeronautics Document DO–138 (1–10–69).

This circular announces RTCA Document DO–138 and discusses how it may be used in connection with technical standard order authorizations.

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39–1A Jig Fixtures; Replacement of Wing Attach Angles and Doublers on Douglas Model DC–3 Series Aircraft Airworthiness Directive 66–18–2 (3–5–70).

Describes methods of determining that jig fixtures used in the replacement of the subject attached angles and doublers meet the requirements of Airworthiness Directive 66–18–2.

39–6B Summary of Airworthiness Directives (5–20–70).

Announces the availability of a new Summary of Airworthiness Directives dated January 1, 1970.

43–1 Matching VHF Navigation Receiver Outputs With Display Indicators (8–2–65).

Alerts industry to the possibility of mismatching outputs, both guidance and flag alarm, of certain VHF navigation receivers when used with some types of display indicators causing the receiver to fail without providing a flag alarm.

43–2 Minimum Barometry for Calibration and Test of Atmospheric Pressure Instruments (9–10–65).

Sets forth guidance material which may be used to determine the adequacy of barometers used in the calibration of aircraft static instruments and presents information concerning the general operation, calibration, and maintenance of such barometers.

43.9–1B Instruction for Completion of FAA Form 337 (6–27–66).

Provides instructions for completing revised FAA Form 337, Major Repair and Alteration (Airframe, Powerplant, Propeller or Appliance).

43.13–1 Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair (5–16–66).

Contains methods, techniques, and practices acceptable to the Administrator for inspection and repair to civil aircraft. Published in 1965. ($3—Sub. GPO.) FAA 5.15:965.

Subscription now includes: Ch. 1 (5–1–67); Ch. 2 (8–9–67); Ch. 3 (1–24–68); Ch. 4 (1–29–68); Ch. 5 (9–20–68); Ch. 6 (5–1–69); Ch. 7 (6–12–69); Ch. 8 (6–11–70 and 10–22–70).

43.13–2 Acceptable Methods, Techniques, and Practices—Aircraft Alterations (4–19–66).

Contains methods, techniques, and practices acceptable to the Administrator in altering civil aircraft. Published in 1965. ($2—Sub. GPO.) FAA 5.16:965.

Subscription now includes: Ch. 1 (1–12–67); Ch. 2 (5–26–67); Ch. 3 (6–26–67); Ch. 4 (9–12–67); Ch. 5 (11–9–67); Ch. 6 (4–12–68); Ch. 7 (5–12–69); Ch. 8 (10–29–69); Ch. 9 (10–19–70); Ch. 10 (1–20–71); Ch. 11 (8–11–71).

43–202 Maintenance of Weather Radar Radomes (6–11–65).

Provides guidance material useful to repair facilities in the maintenance of weather radar radomes.

43–203A Altimeter and Static System Tests and Inspections (6–6–67).

Specifies acceptable methods for testing altimeter and static system. Also, provides general information on test equipment used and precautions to be taken.

47–1 Aircraft Registration Eligibility, Identification and Activity Report (2–25–70).

Advises owners and operators of U.S. civil aircraft of recent regulatory changes that require the annual submission of current information related to aircraft registration eligibility, and requests similar submission of information related to identification and activity of aircraft; and to call attention to the availability of the reporting form to be used in complying with this regulatory change.

Airmen

SUBJECT No. 60

60–1 Know Your Aircraft (6–12–63).

Describes potential hazards associated with operation of unfamiliar aircraft and recommends good operating practices.

60–2J Annual Aviation Mechanic Safety Awards Program (3–20–72).

Provides the details of the annual Aviation Mechanic Safety Awards Program.

60–4 Pilot's Spatial Disorientation (2–9–65).

Acquaints pilots flying under visual flight rules with the hazards of disorientation caused by the loss of reference with the natural horizon.

60–6 FAA Approved Airplane Flight Manuals, Placards, Listings, Instrument Markings—Small Airplanes (12–13–68).

Alerts pilots to the regulatory requirements relating to the subject and provides information to aid pilots to comply with the provisions of FAR section 91.31.

60–7 Statement of Additional Instruction for Retest (1–27–72).

Announces a new procedure for the use of a computer printed "Statement of Additional Instruction" on each Airman Written Test Report that has an unsatisfactory grade for any section. It explains the statement and strongly recommends its use.

61–1D Aircraft Type Ratings (5–15–72).

Provides designators adopted by the Federal Aviation Administration for aircraft type ratings issued with pilot certificates.

61–2A Private Pilot (Airplane) Flight Training Guide (9–1–64).

Contains a complete private pilot flight training syllabus which consists of 30 lessons. Published in 1964. ($1 GPO.) FAA 5.8/2:P 64/4/964.

61–3B Flight Test Guide—Private Pilot—Airplane—Single Engine (4–2–68).

Assists the private pilot applicant in preparing for his certification flight test. Reprinted in 1969. ($0.25 GPO.) TD 4.408:P 64/2.

61–4C Multiengine Airplane Class or Type Rating—Flight Test Guide (2–1–71).

Assists the private pilot applicant in preparing for certification or rating flight tests. ($0.25 GPO.) TD 4.408:M 91.

61–5A Helicopter Pilot Written Test Guide—Private—Commercial (8–14–67).

Gives guidance to applicants preparing for the aeronautical knowledge requirements for a private or commercial pilot certificate with a helicopter rating.

61–8B Instrument Rating (Airplane) Written Test Guide (4–24–69).

Outlines the scope of the written test and directs applicants to appropriate study materials. Details subject areas covered in the test and indicates areas of aviation knowledge in which instrument pilots must be well informed. ($0.70 GPO.) TD 4.8:In 7/4.

61–9 Pilot Transition Courses for Complex Single-Engine and Light Twin-Engine Airplanes (6–16–64).

Provides training syllabuses and check-out standards for pilots who seek to qualify on additional types of airplanes. Published in 1964. ($0.15 GPO.) FAA 5.8/2:P 64/7.

61–10 Private and Commercial Pilots Refresher Courses (9–1–64).

Provides a syllabus of ground instruction periods and training lessons. Reprinted in 1969. ($0.25 GPO.) FAA 5.8/2:P 64/9.

61–11A Airplane Flight Instructor Written Test Guide (9–5–67).

Provides information to prospective airplane flight instructors about certification requirements, application procedures, and reference study materials; a sample examination is presented with explanations of the correct answers. Reprinted in 1969. ($0.70 GPO.) TD 4.408:In 7.

61–12D Student Pilot Guide (7–16–70).

Serves as a guide for prospective student pilots and presents general procedures for obtaining student and private pilot certificates. ($0.20 GPO.) TD 4.8:P 64/3/970.

61–13 Basic Helicopter Handbook (1–20–66).

Provides detailed information to applicants preparing for private, commercial, and flight instructor pilot certificates with a helicopter rating about helicopter aerodynamics, performance, and flight maneuvers. It will also be useful to certificated helicopter flight instructors as an aid in training students. Published in 1965. ($0.75 GPO.) FAA 5.8/2:H 36.

61–14A Flight Instructor Practical Test Guide (10–23–69).

Provides assistance to the certificated pilot in preparing for the practical demonstration required for the issuance of the flight instructor certificate. Reprinted in 1972. ($0.15 GPO.) TD 4.408:In 7/4.

61–16A Flight Instructor's Handbook (10–14–69).

Gives guidance and information to pilots preparing to apply for flight instructor certificates, and for use as a reference by flight instructors. ($1.25 GPO.) TD 4.408:In 7/3.

61–17B Flight Test Guide—Instrument Pilot Airplane (1–12–72).

Provides assistance for the instrument pilot applicant in preparing for his instrument rating flight test. ($0.25 GPO.) TD 4.408:In 7/2.

61–18C Airline Transport Pilot (Airplane) Written Test Guide (4–19–71).

Reflects current operating procedures and techniques in a background setting appropriate for applicants preparing for the Airline Transport Pilot (Airplane) Written Test. ($0.55 GPO.) TD 4.408:P64/3.

61–19 Safety Hazard Associated With Simulated Instrument Flights (12–4–64).

Emphasizes the need for care in the use of any device restricting visibility while conducting simulated instrument flights that may also restrict the view of the safety pilot.

61–21 Flight Training Handbook (1–11–66).

Provides information and direction in the introduction and performance of training maneuvers for student pilots, pilots requalifying or preparing for additional ratings, and flight instructors. Reprinted in 1969. ($1.25 GPO.) FAA 1.8:F 64/4.

61–23A Pilot's Handbook of Aeronautical Knowledge (7–10–70).

Contains essential, authoritative information used in training and guiding applicants for private pilot certification, flight instructors, and flying school staffs. ($4 GPO.) TD 4.408:P 64/5.

61–25 Flight Test Guide—Helicopter, Private and Commercial Pilot (12–7–65).

Assists the helicopter pilot applicant in preparing for the certification flight tests; provides information concerning applicable procedures and standards. Published in 1965. ($0.10 GPO.) FAA 1.8:H 36/2.

61–27B Instrument Flying Handbook (9–22–70).

Provides the pilot with basic information needed to acquire an FAA instrument rating. It is designed for the reader who holds at least a private pilot certificate and is knowledgeable in all areas covered in the "Pilot's Handbook of Aeronautical Knowledge." ($2.50 GPO.) TD 4.408:In 7/3.

61–28A Commercial Pilot Written Test Guide (4–28–70).

Reflects current operating procedures and techniques for the use of applicants in preparing for the Commercial Pilot-Airplane Written Test. ($1.50 GPO.) TD 4.408:P 64/4.

61–29A Instrument Flight Instructor Written Test Guide (10–16–70).

Reflects current operating procedures, regulations, and techniques for the use of applicants in preparing for the Flight Instructor Instrument Written Test ($0.50 GPO.) TD 4.8:In 7/5.

61–30 Flight Test Guide—Gyroplane, Commercial Pilot (2–8–66).

Assists commercial pilot operator in preparing for certification test. Revised in 1966. ($0.15 GPO.) FAA 5.8/2:G 99/2/966.

61–31 Gyroplane Pilot Examination Guide, Private and Commercial (2–9–66).

Outlines information basic to a gyroplane pilot, lists sources useful in acquiring this knowledge, and presents sample examination questions.

61–32 Private Pilot Written Examination Guide (8–15–67).

A combination workbook, written test guide. Includes 71 exercises covering every section of the Private Pilot's Handbook of Aeronautical Knowledge plus a sample written test presented in a fashion similar to the current Private Pilot Written Examination. Reprinted in 1969. ($1.75 GPO.) TD 4.408:P64.

61–33 Gyroplane Flight Instructor Examination Guide (3–25–66).

Assists applicants who are preparing for the Flight Instructor Rotorcraft Gyroplane Written Examination. Revised in 1966.

61–34A Federal Aviation Regulations Written Test Guide for Private, Commercial and Military Pilots (6–18–70).

Outlines the scope of the basic knowledge required of civilian or military pilots who are studying FARs as they pertain to the Regulations terminology; to the certification of private and commercial pilots; to the operation of aircraft in the national airspace; and to the requirements of the National Transportation Safety Board. For use as a guide in preparing for the FAR Written Test. ($0.40 GPO.) TD 4.8:P 64.

61–38 Rotorcraft Helicopter Written Test Guide (8–16–67).

Gives guidance to applicants preparing for the aeronautical knowledge requirement for a flight instructor certificate with a helicopter rating.

61–39 Flight Test Guide, Private and Commercial Pilot—Glider (8–28–67).

Assists applicants for private and commercial pilot flight tests in gliders.

61–41A Glider Flight Instructor Written Test Guide (1–12–72).

Provides information, guidelines, and sample test items, to assist applicants for the Glider Flight Instructor rating in attaining necessary aeronautical knowledge.

61–42 Airline Transport Pilot (Helicopter) Written Test Guide (11–7–67).

Provides guidance to applicants preparing for the Airline Transport Pilot Rotorcraft/Helicopter (VFR and/or IFR) Written Tests. Describes the type and scope of required aeronautical knowledge covered by the written test. ($0.35 GPO.) TD 4.408:H 36.

61–43A Glider Pilot Written Test Guide—Private and Commercial (1–12–72).

Provides information, guidelines, and sample test items, to assist applicants for the Glider Pilot Certificate in attaining necessary aeronautical knowledge.

61–45 Instrument Rating (Helicopter) Written Test Guide (1–24–68).

Assists applicants who are preparing for the helicopter instrument rating. Presents a study outline, study materials and a sample test with answers.

61–46 Flight Instructor Procedures (6–4–69).

Informs flight instructors of the procedures involved in the renewal or reinstatement of Flight Instructor Certificates, qualification for "Gold Seal" certificates, and endorsing student pilot logbooks for various operations.

61–47 Use of Approach Slope Indicators for Pilot Training (9–16–70).

Informs pilot schools, flight instructors and student pilots of the recommendation of the Federal Aviation Administration on the use of approach slope indicator systems for pilot training.

61–49 Airline Transport Pilot—Airplane Practical Test Guide (8–9–71).

Describes the practical test requirements for Airline Transport Pilot Certificates (Airplane) and associated class and type ratings.

61–50 Aerial Applicator Aerodynamics Review of "Region of Reversed Command" (2–7–72).

Provided for the purpose of increasing pilot awareness of the aerodynamic limitations pertinent to aerial applicator operations.

61–51 Reporting Flight Time on Pilot Applications, FAA Form 8420–3 (6–26–72).

Advises applicants of the importance of entering their pilot flight time on subject form. (OBM No. 04–R0064.)

61.117–1C Flight Test Guide—Commercial Pilot, Airplane (2–7–69).

Assists the commercial applicant in preparing for his certification flight test. ($0.20 GPO.) TD 4.8:P 64/3.

63–1B Flight Engineer Written Test Guide (10–22–70).

Provides information to prospective flight engineers and others interested in this certification area. Contains informa-

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tion about certification requirements and describes the type and scope of the written test. Lists appropriate study and reference material and presents sample questions similar to those found in the official written tests. ($0.50 GPO.) TD 4.408:En 3.

63–2A Flight Navigator Written Test Guide (4–4–69).

Defines the scope and narrows the field of study to the basic knowledge required for the Flight Navigator Certificate. Published in 1969. ($0.40 GPO.) TD 4.8:F 64/2.

65–2A Airframe and Powerplant Mechanics Certification Guide (10–12–67).

Provides information to prospective airframe and powerplant mechanics and other persons interested in FAA certification of aviation mechanics. Reprinted in 1969. ($0.65 GPO.) TD 4.8:Al 7/6.

65–4A Aircraft Dispatcher Written Test Guide (8–16–68).

Describes the type and scope of aeronautical knowledge covered by the aircraft dispatcher written examination, lists reference materials, and presents sample questions. Published in 1969. ($0.50 GPO.) TD 4.8:Al 7/12.

65–5 Parachute Rigger Certification Guide (6–19–67).

Provides information on how to apply for a parachute rigger certificate or rating and assists the applicant in preparing for the written, oral, and practical tests. Reprint in 1970. ($0.25 GPO.) TD 4.8:P 21.

65–9 Airframe and Powerplant Mechanics—General Handbook (8–26–70).

Designed as a study manual for persons preparing for a mechanic certificate with airframe or powerplant ratings. Emphasis in this volume is on theory and methods of application, and is intended to provide basic information on principles, fundamentals, and airframe and powerplant ratings. ($4 GPO.) TD 4.408:Al 7/2.

65–11A Airframe and Powerplant Mechanics Certification Information (4–21–71).

Provides answers to questions most frequently asked about Federal Aviation Administration certification of aviation mechanics. ($0.20 GPO.) TD 4.8:Al:7/21 9–71.

65–12 Airframe and Powerplant Mechanics Powerplant Handbook (9–25–70).

Designed to familiarize student mechanics with the construction, theory of operation, and maintenance of aircraft powerplants. ($3.75 GPO.) TD 4.408:Al 7/3.

65–13 FAA Inspection Authorization Directory (12–14–70).

Provides a new directory of all FAA certificated mechanics who hold an inspection authorization as of the effective date shown above.

65–16 The Eighth Annual FAA International Aviation Maintenance Symposium (3–20–72).

Informs the aviation community that the FAA will hold the eighth annual symposium on November 28, 29, and 30, 1972.

65.95–2B Handbook and Study Guide for Aviation Mechanics Inspection Authorization (10–9–70).

This handbook gives guidance to persons conducting annual and progressive inspections and approving major repairs or alterations of aircraft. While the handbook is primarily intended for mechanics holding or preparing for an Inspection Authorization, it may be useful to aircraft manufacturers and certificated repair stations who have these privileges.

Airspace

SUBJECT No. 70

70/7460–1A Obstruction Marking and Lighting (1–1–72).

Describes FAA standards on obstruction marking and lighting and establishes the methods, procedures, and equipment types for both aviation red and high intensity white obstruction lights.

70/7460–2C Proposed Construction or Alteration of Objects that may Affect the Navigable Airspace (9–16–71).

Advises those persons proposing to erect or alter an object that may affect the navigable airspace of the requirement to submit a notice to the Administrator of the Federal Aviation Administration (FAA).

70/7460–3 Petitioning the Administrator for Discretionary Review; Section 77.37, FAR (8–8–68).

Revises and updates information concerning the submission of petitions to the Administrator for review, extension, or revision of determinations issued by regional directors or their designees.

73–1 Establishment of Alert Areas (3–11–68).

Announces the establishment of alert areas and sets forth the procedures which FAA will follow in establishing such areas.

Air Traffic Control and General Operations

SUBJECT No. 90

90–1A Civil Use of U.S. Government Produced Instrument Approach Charts (4–10–68).

Clarifies landing minimums requirements and revises instrument approach charts.

90–5 Coordination of Air Traffic Control Procedures and Criteria (6–13–63).

States Air Traffic Service policy respecting coordination of air traffic procedures and criteria with outside agencies and/or organizations.

90–12 Severe Weather Avoidance (4–15–64).

Provides information regarding air traffic control assistance in avoiding severe weather conditions.

90–14A Altitude—Temperature Effect on Aircraft Performance (1–26–68).

Introduces the Denalt Performance Computer and reemphasizes the hazardous effects density altitude can have on aircraft.

90–19 Use of Radar for the Provision of Air Traffic Control Services (10–29–64).

Advises the aviation community of FAA practice in the use of radar information to provide air traffic control services.

90–20 Weather Radar Radomes (11–12–64).

Highlights some important points to consider in the selection and maintenance of weather radar radomes.

90–22C Automatic Terminal Information Service (ATIS) (2–2–71).

Provides updated information concerning the operation of Automatic Terminal Information Service.

90–23C Wake Turbulence (5–16–72).

Alerts pilots to the hazards of trailing vortex wake turbulence and recommends avoidance procedures.

90–31 Retention of Flight Service Station (FSS) Civil Flight Plans and Related Records (7–1–67).

Establishes new retention periods for flight plans, preflight briefings logs, visual flight rule flight progress strips, and related records with FSS's.

90–32 Radar Capabilities and Limitations (8–15–67).

Advises the aviation community of the inherent capabilities and limitations of radar systems and the effect of these factors on the service provided by air traffic control (ATC) facilities.

90–34 Accidents Resulting from Wheelbarrowing in Tricycle Gear Equipped Aircraft (2–27–68).

Explains "wheelbarrowing", the circumstances under which it is likely to occur, and recommended corrective action.

90–36 The Use of Chaff as an In-Flight Emergency Signal (5–22–68).

Advises of the value and proper usage of chaff to alert radar controllers to the presence of an aircraft in distress which has a two-way radio failure.

90–38A Use of Preferred IFR Routes (12–29–69).

Outlines the background, intent, and requested actions pertaining to the use of preferred IFR routes.

90–41C Revised Standard Instrument Departure/Arrival Procedures (4–13–72).

Describes the revised Standard Instrument Departure (SID) and Standard Terminal Arrival Route (STAR) program.

90–42 Traffic Advisory Practices at Nontower Airports (12–9–68).

This circular establishes, as good operating practices, procedures for pilots to exchange traffic information when operating to or from nontower airports.

90–43C Operations Reservations for High-Density Traffic Airports (11–14–71).

Advises the aviation community of the means for all aircraft operators, except helicopters, scheduled and supplemental air carriers and scheduled air taxis, to obtain a reservation to operate to and/or from designated high-density traffic airports.

90–44 Airport Ground Operations During Low Visibility Conditions (4–25–69).

Alerts the aviation community to potential problem areas which may exist on airport movement areas during periods of extremely low visibility.

90–45 Approval of Area Navigation Systems for Use in the U.S. National Airspace System (8–18–69).

Provides guidelines for implementation of area navigation (RNAV) within the National Airspace System (NAS).

90–45 CH–I (10–20–70).

Deletes certain items found to be in excess of minimum requirements and clarifies certain other items.

90–47 Abbreviated Instrument Flight Rules Departure Clearance (3–18–70).

Provides guidance to pilots and operators for participation in the Abbreviated IFR Departure Clearance Program.

90–48 Pilots' Role in Collision Avoidance (3–20–70).

Alerts all pilots to the midair collision and near midair collision hazard and to emphasize those basic problem areas of concern, as related to the human causal factors, where improvements in pilot education, operating practices, procedures, and techniques are needed to reduce midair conflicts.

90–50 Air Traffic Control Radio Frequency Assignment Plan for VFR and IFR Communications (9–29–70).

Describes the civil air traffic control assignment of frequencies in the very high frequency (118–136 MHz) band.

90–51 FAA Motion Picture—"Caution—Wake Turbulence" (11–17–70).

Announces the availability of a new wake turbulence film and encourages its viewing.

90–54 Cruise Clearances (5–25–71).

Provides the aviation community guidance when operating under a "cruise" clearance.

90–55 Identification of Air Taxi Operations for Air Traffic Counting (8–31–71).

Informs air taxi and commercial operators (ATCO), certificated under the provisions of Federal Aviation Regulations, Part 135, that they now fall under a separate category for air traffic counting purposes and outlines air traffic identification procedures to be used.

90–58 VOR Course Errors Resulting from 50KHz Channel Selection (2–16–72).

Provides information concerning a potentially hazardous situation when a VOR receiver is tuned 50KHz from the ground station frequency.

90–59 Arrival and Departure Handling of High-Performance Aircraft (2–28–72).

Describes ATC handling of high performance aircraft in terminal areas.

90–60 Weather Observation Reporting Obscured or Partially Obscured Sky Condition (3–31–72).

Provides pilots with information concerning weather conditions reported by weather observers as obscuration or partial obscuration.

91–3 Acrobatic Flight (9–30–63).

Sets safe operating practices for the conduct of acrobatic flight operations.

91–5B Waivers of Subpart B, Part 91 of the Federal Aviation Regulations (FARs) (1–28–72).

Provides information concerning the submission of applications for and the issuance of waivers of Subpart B, FAR Part 91.

91–6 Water, Slush, and Snow on the Runway (1–21–65).

Provides background and guidelines concerning the operation of turbojet aircraft with water, slush, and/or snow on the runway.

91–7 Hazards Associated With In-Flight Use of "Visible-Fluid" Type Cigarette Lighters (3–16–65).

Discusses the potential hazards associated with in-flight use of "visible-fluid" type cigarette lighters.

91–8A Use of Oxygen by General Aviation Pilots/Passenger (8–11–70).

Provides general aviation personnel with information concerning the use of oxygen.

91–9 Potential Hazards Associated With Turbojet Ground Operations (6–19–65).

Alerts turbojet operators and flight crews to potential hazards involving turbojet operations at airports.

91–10A Suggestions for Use of ILS Minima by General Aviation Operators of Turbojet Airplanes (10–8–65).

Provides general aviation operators of turbojet airplanes with information on practices and procedures to be considered before utilizing the lowest published IFR minima prescribed by FAR Part 97 and provides information on pilot-in-command experience, initial and recurrent pilot proficiency, and airborne airplane equipment.

91–11A Annual Inspection Reminder (12–3–69).

Provides the aviation community with a uniform visual reminder of the date an annual inspection becomes due. (Reference section 91.169(a) (1) of the FAR's.)

91.11–1 Guide to Drug Hazards in Aviation Medicine (7–19–63).

Lists all commonly used drugs by pharmacological effect on airmen with side effects and recommendations. Reprinted 1970. ($0.50 GPO.) FAA 7.9:D 84.

91–12B Required Inspection for Aircraft Operating Under FAR Parts 121, 123, 127, or 135 and Reverting to General Operation Under FAR Part 91 (12–9–70).

Describes acceptable methods for complying with the required inspections set forth in FAR Part 91.

91–13A Cold Weather Operation of Aircraft (1–2–70).

Provides background and guidelines relating to operation of aircraft in the colder climates where wide temperature changes may occur.

91–14B Altimeter Setting Sources (10–1–71).

Provides the aviation public, industry, and FAA field personnel with guidelines for setting up reliable altimeter setting sources.

91–15 Terrain Flying (2–2–67).

A pocket-size booklet designed as a tool for the average private pilot. Contains a composite picture of the observations, opinions, warnings, and advice from veteran pilots who have flown this vast land of ours that can help to make flying more pleasant and safer. Tips on flying into Mexico, Canada, and Alaska. ($0.55 GPO.) TD 4.2:T 27.

91–16 Category II Operations—General Aviation Airplanes (8–7–67).

Sets forth acceptable means by which Category II operations may be approved in accordance with FAR Parts 23, 25, 61, 91, 97, and 135.

91–17 The Use of View Limiting Devices on Aircraft (2–20–68).

Alerts pilots to the continuing need to make judicious and cautious use of all view limiting devices on aircraft.

91–21 Inspection Schedule—for Handley-Page Model HP–137 (4–24–69).

Provides information for use by persons planning to develop an inspection schedule for the Handley-Page Model HP–137 aircraft.

91–22A Altitude Alerting Devices/Systems (12–23–71).

Provides guidelines for designing, installing, and evaluating altitude alerting systems.

91–23 Pilot's Weight and Balance Handbook (5–6–69).

Provides an easily understood text on aircraft weight and balance for pilots who need to appreciate the importance of weight and balance control for safety of flight. Progresses from an explana-

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tion of basic fundamentals to the complete application of weight and balance principles in large aircraft operations. ($0.70 GPO.) TD 4.408: P 64/3.

91–24 Aircraft Hydroplaning or Aquaplaning on Wet Runways (9–4–69).

Provides information to the problem of aircraft tires hydroplaning on wet runways.

91–25A Loss of Visual Cues During Low Visibility Landings (6–22–72).

Provides information concerning the importance of maintaining adequate visual cues during the descent below MDA or DA.

91–26 Maintenance and Handling of Air-Driven Gyroscopic Instruments (10–29–69).

Advises operators of general aviation aircraft of the need for proper maintenance of air-driven gyroscopic instruments and associated air filters.

91–27A Systemsworthiness Analysis Program—General Aviation (12–16–70).

Explains the purpose and applicability of the Systemsworthiness Analysis Program (SWAP) to certificated air taxis, repair stations, pilot and aviation maintenance technician schools that are operated under the privileges of certificates issued by the Federal Aviation Administration.

91–28 Unexpected Opening of Cabin Doors (12–23–69).

Outlines the importance of assuring that cabin doors are properly closed prior to takeoff.

91–29 Radar Transponder Requirements (3–30–70).

Describes certain aspects of the planned operation of the Air Traffic Control Radar Beacon System (ATCRBS) which will be of interest to aircraft operators who expect to use radar transponders in their aircraft.

91–30 Terminal Control Areas (TCA) (6–11–70).

Explains the TCA concept and answers some of the most frequently asked questions pertaining to TCA.

9–31 FAR Requirement for the Filing of Flight Plans for Flights Between Mexico and the United States (2–1–71).

Informs pilots of the requirements of section 91.12(c) of Part 91 of the Federal Aviation Regulations.

91–32 Safety in and Around Helicopters (5–7–71).

Provides suggestions to improve helicopter safety by means of acquainting nonflight crew personnel and passengers with the precautions and procedures necessary to avoid undue hazards.

91–33 Use of Alternate Grades of Aviation Gasoline for Grade 80/87 (10–6–71).

Provides information relating to the use of alternate grades of aviation gasoline when grade 80/87 is not available, and the resultant effects of the use of the alternate fuels which may have higher TEL (tetraethyl lead) content.

91–35 Noise, Hearing Damage, and Fatigue in General Aviation Pilots (3–28–72).

Acquaints pilots with the hazards of regular exposure to cockpit noise. Especially pertinent are piston-engine, fixed-wing, and rotary-wing aircraft.

91.29–1 Special Structural Inspections (1–8–68).

Discusses occurrences which may cause structural damage affecting the airworthiness of aircraft.

91.83–1 Canceling or Closing Flight Plans (3–12–64).

Outlines the need for canceling or closing flight plans promptly to avoid costly search and rescue operations.

91.83–2 IFR Flight Plan Route Information (2–16–66).

Clarifies the air traffic control needs for the filing of route information in an IFR (Instrument Flight Rules) flight plan.

95–1 Airway and Route Obstruction Clearance (6–17–65).

Advises all interested persons of the airspace areas within which obstruction clearance is considered in the establishment of Minimum En Route Instrument Altitudes (MEA's) for publication in FAR Part 95.

99–1 Security Control of Air Traffic (1–12–72).

Provides civil aviation with recommended practices for operating aircraft within or penetrating an Air Defense Identification Zone (ADIZ).

101–1 Waivers of Part 101, Federal Aviation Regulations (1–13–64).

Provides information on submission of applications and issuances of waivers to FAR Part 101.

103–2 Information Guide for Air Carrier Handling of Radioactive Materials (7–23–70).

Acquaints air carrier industry and in particular, air freight handling personnel, with the essential requirements and practical application of the various regulations pertaining to the handling and transportation of radioactive materials.

105–2 Sport Parachute Jumping (9–26–68).

Provides suggestions to improve sport parachuting safety; information to assist parachutists in complying with FAR Part 105; and a list of aircraft which may be operated with one cabin door removed, including the procedures for obtaining FAA authorization for door removal.

107–1 Aviation Security—Airports (5–19–72).

Furnishes guidance to those individuals and organizations having responsibilities under Part 107 of the Federal Aviation Regulations. It also provides recommendations for establishing and improving security for restricted or critical facilities and areas the security of which is not dealt with in Part 107.

Air Carrier and Commercial Operators and Helicopters

SUBJECT NO. 120

120–1A Reporting Requirements of Air Carriers, Commercial Operators, and Travel Clubs (4–24–69).

Advises of the mechanical reliability reporting requirements contained in FAR Parts 121 and 127 and the accident and incident reporting requirements of NTSB Part 430, Rules Pertaining to Aircraft Accidents, Incidents, Overdue Aircraft, and Safety Investigations.

120–2A Precautionary Propeller Feathering To Prevent Runaway Propellers (8–20–63).

Emphasizes the need for prompt feathering when there is an indication of internal engine failure.

120–5 High Altitude Operations in Areas of Turbulence (8–26–63).

Recommends procedures for use by jet pilots when penetrating areas of severe turbulence.

120–7A Minimum Altitudes for Conducting Certain Emergency Flight Training Maneuvers and Procedures (7–27–70).

Issued to emphasize to all air carriers and other operators of large aircraft the necessity for establishing minimum altitudes above the terrain or water when conducting certain simulated emergency flight training maneuvers.

120–12 Private Carriage Versus Common Carriage by Commercial Operators Using Large Aircraft (6–24–64).

Provides guidelines for determining whether current or proposed transportation operations by air constitute private or common carriage.

120–13 Jet Transport Aircraft Attitude Instrument Systems (6–26–64).

Provides information about the characteristics of some attitude instrument systems presently installed in some jet transport aircraft.

120–16A Continuous Airworthiness Program (9–11–69).

Provide air carriers and commercial operators with guidance and information pertinent to certain provisions of Federal Aviation Regulations Parts 121 and 127.

120–17 Handbook for Maintenance Control by Reliability Methods (12–31–64).

Provides information and guidance material which may be used to design or develop maintenance reliability programs which include a standard for determining the time limitations.

120–17 CH1 (6–24–66).

120–17 CH2 (5–6–68).

120–18 Preservation of Maintenance Records (5–10–65).

Provides information and guidance relative to the microfilming of maintenance records.

120–21 Aircraft Maintenance Time Limitations (6–24–66).

Provides methods and procedures for the initial establishment and revision of time limitations on inspections, checks, maintenance or overhaul.

120–24A Establishment and Revision of Aircraft Engine Overhaul and Inspection Periods (2–25–69).

Describes methods and procedures used by the FAA in the establishment and revision of aircraft engine overhaul periods.

120–26B Civil Aircraft Operator Designators (5–11–71).

Revises the criteria and states the procedures for the assignment of a designator and a corresponding air/ground call sign to civil aircraft operators engaged in domestic services on a repetitive basis.

120–27 Aircraft Weight and Balance Control (10–15–68).

Provides a method and procedures for weight and balance control.

120–28A Criteria for Approval of Category IIIa Landing Weather Minima (12–14–71).

States an acceptable means, not the only means, for obtaining approval of Category IIIa minima and the installation approval of the associated airborne systems.

120–29 Criteria for Approving Category I and Category II Landing Minima for FAR 121 Operators (9–25–70).

Sets forth criteria used by FAA in approving turbojet landing minima of less than 300–¾ or RVR 4,000 (Category I) and Category II minima for all aircraft.

120–29 CH 1 (12–15–71).

Revises Appendix 1 and deletes statement in Appendix 2 regarding 19-foot criteria (does not apply when using an approved automatic landing system).

121–1 Standard Maintenance Specifications Handbook (12–15–62).

Consolidated reprint 3–2–72, includes Changes 1 through 26.

Provides procedures acceptable to FAA which may be used by operators when establishing inspection intervals and overhaul times.

121–3M Maintenance Review Board Reports (9–29–71).

Revises the list of Maintenance Review Board Reports that are currently in effect (August 1971).

121–6 Portable Battery-Powered Megaphones (1–5–66).

Sets forth an acceptable means for complying with rules (applicable to various persons operating under Part 121 of the Federal Aviation Regulations) that prescribe the installation of approved megaphones.

121–7 Use of Seat Belts by Passengers and Flight Attendants To Prevent Injuries (7–14–66).

Concerned with the prevention of injury due to air turbulence.

121–12 Wet or Slippery Runways (8–17–67).

Provides uniform guidelines in the application of the "wet runway" rule by certificate holders operating under FAR 121.

121–13 Self-Contained Navigation Systems (Long Range) (10–14–69).

States an acceptable means, not the only means, of compliance with the referenced sections of the FAR as they apply to persons operating under Parts 121 or 123 who desire approval of Doppler RADAR navigation systems or Inertial Navigation Systems (INS) for use in their operations.

121–13 CH–1 (7–31–70).

Assures standardization of the Minimum Equipment List (MEL) with respect to Inertial Navigation Systems (INS) through the appropriate Flight Operations Evaluation Board (FOEB).

121–13 CH 2 (12–21–70).

Permits all flight training for Doppler and INS qualification, to be completed in a simulator or training device approved for conducting the required pilot training and qualifications in the use of these systems.

121–14 Aircraft Simulator Evaluation and Approval (12–19–69).

Sets forth one means that would be acceptable to the Administrator for approval of aircraft simulators or other training devices requiring approval under section 121.407.

121–16 Maintenance Certification Procedures (11–9–70).

Provides guidance for the preparation of an Operations Specification—Preface Page which will afford nominal and reasonable relief from approved service and overhaul time limits when a part is borrowed from another operator.

121–17 Aviation Security: Certain Air Carriers and Commercial Operators—Security Programs and Other Requirements (3–14–72).

Provides general information regarding the requirements of FAR Amdt. 121–85.

121.195(d)–1 Alternate Operational Landing Distances for Wet Runways; Turbojet Powered Transport Category Airplanes (11–19–65).

Sets forth an acceptable means, but not the only means, by which the alternate provision of section 121.195(d) may be met.

123–1 Air Travel Clubs (10–17–68).

Sets forth guidelines and procedures to assist air travel clubs using large aircraft in meeting safety requirements of FAR Part 123.

135.144–1 Small Propeller-Driven Air Taxi Airplanes That Meet Section 135.144 (4–13–72).

Provides a summary of and information on small propeller-driven air taxi airplanes that comply with section 135.144 and may continue operations under FAR Part 135 after May 31, 1972, with 10 or more passenger seats.

135.155–1 Alternate Static Source for Altimeters and Airspeed and Vertical Speed Indicators (2–16–65).

Sets forth an acceptable means of compliance with provision in FAR Part 135 and Part 23 dealing with alternate static sources.

135–1A Air Taxi Aircraft Weight and Balance Control (9–26–69).

Provides a method and procedures for developing a weight and balance control system for small aircraft operating in the air taxi fleet under FAR Part 135.

135–2 Air Taxi Operators of Large Aircraft (10–14–69).

Provides guidelines and procedures for use by air taxi operators or applicants for Air Taxi Operator certificates who desire to obtain FAA authorization to operate large aircraft (more than 12,500 pounds maximum certificated takeoff weight) in air taxi operations.

135–3 Air Taxi Operators of Small Aircraft (2–17–70).

Sets forth guidelines and procedures to assist persons in complying with the requirements of Federal Aviation Regulations, Part 135.

135.60–1 Aircraft Inspection Programs (5–1–70).

Provides information for use by air taxi operators and commercial operators of small aircraft developing an aircraft inspection program for FAA approval.

137–1 Agricultural Aircraft Operations (11–29–65).

Explains and clarifies the requirements of FAR Part 137 and provides additional information, not regulators in nature, which will assist interested persons in understanding the operating privileges and limitations of this Part.

Schools and Other Certificated Agencies

SUBJECT NO. 140

140–1F Consolidated Listing of FAA Certificated Repair Stations (10–29–71).

Provides a revised directory of all FAA certificated repair stations as of July 1, 1971.

140–2F List of Certificated Pilot Flight and Ground Schools (7–9–71).

Lists FAA certificated pilot schools as of January 1, 1971.

140–3B Approval of Pilot Training Courses Under Subpart D of Part 141 of the FAR (1–8–70).

The title is self-explanatory.

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140–4 Use of Audio-Visual Courses in Approved Pilot Ground Schools Certificated Under Part 141 (8–7–68).

Informs operators of certificated pilot schools on the use of audio-visual training aids for instruction in approved ground school courses conducted under the FARs.

140–5 Radio Maintenance Technician School Curriculum (8–11–71).

Provides information on curriculum subjects for persons desiring to establish radio maintenance technician training courses.

143–1B Ground Instructor Examination Guide — Basic — Advanced (4–18–67).

Designed to assist applicants preparing for the Basic or Advanced Ground Instructor Written Examination by outlining the required knowledge and by providing sample questions for practice. Revised in 1967. ($1 GPO.) TD 4.408: G 91.

143–2B Ground Instructor—Instrument—Written Test Guide (6–25–70).

Provides information to applicants for the instrument ground instructor rating about the subject areas covered in the examination and illustrated by a study outline, a list of study materials, and a sample examination with answers. ($0.65 GPO.) TD 4.8: G 91.

145.101–1A Application for Air Agency Certificate—Manufacturer's Maintenance Facility (3–10–69).

Explains how to obtain a repair station certificate.

147–2J Directory of FAA Certificated Aviation Maintenance Technician Schools (2–4–72).

Provides a revised directory of all FAA certificated aviation maintenance technician schools as of January 15, 1972.

147–3 Phase III, A National Study of the Aviation Mechanics Occupation (3–22–71).

Announces the availability for purchase by the public of a reprint of a report of Phase III, A National Study of the Aviation Mechanics Occupation.

149–2F Listing of Federal Aviation Administration Certified Parachute Lofts (10–8–71).

Provides a revised listing of all FAA certificated parachute lofts as of October 1, 1971.

Airports

SUBJECT NO. 150

AIRPORT PLANNING

150/5000–1 Cancellation of Obsolete Publications Issued by Standards Division, Airports Service (4–17–70).

Cancels outstanding airport engineering data sheets, technical standard orders, airport engineering bulletins, and miscellaneous publications that are no longer current and to direct the reader to a new source of information, where applicable.

150/5000–2 Index of Publications, Airport Service, Standards Division (9–28–70).

Transmits the first Airports Service, Standards Division, index of advisory circulars and related publications.

150/5000–3 Address List for Regional Airports Divisions and Airport District Offices (2–29–72).

Transmits the first address list for all regional Airports Divisions and Airport District Offices.

150/5040–1A Announcement of Report—Aviation Demand and Airport Facility Requirement Forecasts for Large Air Transportation Hubs Through 1980 (3–27–69).

Announces the availability of the new report and where to obtain it.

150/5040–2 Announcement of Report—Aviation Demand and Airport Facility Requirement Forecasts for Medium Air Transportation Hubs Through 1980 (5–22–69).

Announces the availability to the public, Federal Aviation Administration personnel, airport and local government planning officials, the aviation industry, and the interested public with forecasts of aviation demand and selected airport facility requirements for medium hubs through 1980.

150/5040–3 Announcement of Report—A Suggested Action Program for the Relief of Airfield Congestion at Selected Airports (6–19–69).

Announces the availability of the report to the public which identifies and analyzes the possible improvements leading to reduced aircraft delays at 18 of the Nation's highest density airports.

150/5040–4 Announcement of Supplementary Report—A Suggested Action Program for the Relief of Airfield Congestion at Selected Airports (3–31–70).

Announces the availability of the report to the public which identifies and analyzes possible improvements needed to prevent delays at 10 additional airports where demand compared to capacity indicates serious congestion will become a problem. This report is supplementary to the report announced by AC 150/5040–3.

150/5050–2 Compatible Land Use Planning in the Vicinity of Airports (4–13–67).

Advises Federal Aviation Administration personnel, local government officials and the public of the availability of the following two reports prepared under the auspices of the FAA by the firm of Transportation Consultants, Inc. *Compatible Land Use Planning On and Around Airports, and Aids Available for Compatible Land Use Planning Around Airports.*

150/5050–3 Announcement of a Report Entitled "Planning the State Airport System" (1–31–69).

Advises of the availability of the report and how to obtain it.

150/5060–1A Airport Capacity Criteria Used in Preparing the National Airport Plan (7–8–68).

Presents the method used by the Federal Aviation Administration for determining when additional runways, taxiways, and aprons should be recommended in the National Airport Plan. The material is also useful to sponsors and engineers in developing Airport Layout Plans and for determining when additional airport pavement facilities should be provided to increase aircraft accommodation capacity at airports.

150/5060–3A Airport Capacity Criteria Used in Long-Range Planning (12–24–69).

Describes the method used by the Federal Aviation Administration for determining the approximate practical hourly and practical annual capacities of various airport runway configurations and is used in long-range (10 years or more) planning for expansion of existing airports and construction of new airports to accommodate forecast demand.

150/5070–1 Rapid Transit Service for Metropolitan Airports (8–26–65).

Informs airport officials of a Federal assistance program for rapid transit.

150/5070–2 Planning the Metropolitan Airport (9–17–65). (Consolidated reprint 6–30–66 includes change 1.)

Provides guidance and methodology for planning the metropolitan airport system as a part of the comprehensive metropolitan planning program.

150/5070–3 Planning the Airport Industrial Park (9–30–65).

Provides guidance to communities, airport boards, and industrial developers for the planning and development of Airport Industrial Parks.

150/5070–4 Planning for Rapid Urbanization Around Major Metropolitan Airports (3–31–66).

Alerts planning agencies to the need for developing appropriate planning programs to guide rapid urbanization in the vicinity of major metropolitan airports and suggests procedures for such planning programs.

150/5070–5 Planning the Metropolitan Airport System (5–22–70).

Gives guidance in developing airport-system plans for large metropolitan areas. It may be used by metropolitan planning agencies and their consultants in preparing such system plans and by the FAA in reviewing same. ($1.25 GPO.) TD 4.108:M56/2.

150/5070–6 Airport Master Plans (2–5–71).

Provides guidance for the preparation of individual airport master plans as provided for under the Airport Airway Development Act of 1970. ($1.25 GPO.) TD 4.108:P69.

150/5090–1 Regional Air Carrier Airport Planning (2–2–67).

This circular: (1) Informs local and State governments, airport operators, and area planners of a Federal policy concerning the development of a single airport to serve two or more cities and their environs; and (2) provides such planners with guidance for evaluating the feasibility of establishing such regional airports.

150/5090–2 National Airport Classification System (Airport System Planning) (6–25–71).

Sets forth the new national airport classification system. The system is designed for use in the identification and classification of airports within the National System of Airports and for use as a planning tool in long-range airport system planning.

FEDERAL-AID AIRPORT PROGRAMS

150/5100–3A Federal-aid Airport Program-Procedures Guide for Sponsors (9–20–68).

Provides guidance to public agencies that sponsor or propose to sponsor projects under the Federal-aid Airport Program (FAAP) authorized by the Federal Airport Act.

150/5100–3A CH 1 (11–28–69).

Transmits revised pages to subject advisory circular.

150/5100–5 Land Acquisition in the Federal-aid Airport Program (1–30–69).

Provides general information to sponsors of airport development projects under the Federal-aid Airport Program on the eligibility of land acquisition and extent of Federal participation in land acquisition costs.

150/5100–6 Labor Requirements in Federal-aid Airport Program Contracts (6–6–69).

Covers the basic labor requirements applicable to the Federal-aid Airport Program (FAAP). Intended primarily for the guidance of those public agencies sponsoring projects under the program and the contractors and subcontractors engaged in work under a project.

150/5100–7A Requirement for Public Hearing in the Airport Development Aid Program (2–25–72).

Provides guidance to sponsors of airport development projects under the Airport Development Aid Program (ADAP) on the necessity for and conduct of public hearings.

150/5100–8 Request for Aid; Displaced Persons; Public Hearings; Environmental Considerations; Opposition to the Project (1–19–71).

Provides general guidance on the information and coordination required in support of a request for aid for an airport development project under the Airport and Airway Development Act of 1970.

150/5100–10 Accounting Records Guide for Airport Development Aid Program Sponsors (5–15–72).

Assists sponsors of Airport Development Aid Program (ADAP) projects in maintaining accounting records that will satisfy the recordkeeping and auditing requirements which are necessary to support claims for progress and final payments under the Airport and Airway Development Act of 1970 (Public Law 91–258).

SURPLUS AIRPORT PROPERTY CONVEYANCE PROGRAMS

150/5150–2 Federal Surplus Personal Property for Public Airport Purposes (6–27–68).

Outlines policies and procedures for State and local agencies applying for and acquiring surplus Federal personal property for public airport purposes.

150/5150–2 CH 1 (4–22–69).

Revises the flow of copies of the SF 123 to provide for more accurate review of donated property.

AIRPORT COMPLIANCE PROGRAM

150/5190–1 Minimum Standards for Commercial Aeronautical Activities on Public Airports (8–18–66).

Gives to owners of public airports information helpful in the development and application of minimum standards for commercial aeronautical activities.

150/5190–2A Exclusive Rights at Airports (4–4–72).

Makes available to public airport owners, and to other interested persons, basic information and guidance on FAA's policy regarding exclusive rights at public airports on which Federal funds, administered by FAA, have been expended.

150/5190–3 Model Airport Zoning Ordinance (1–16–67).

Provides a guide to be used in preparing airport zoning ordinances. This model will require modification and revision to suit circumstances and fulfill State and local law.

AIRPORT SAFETY—GENERAL

150/5200–3A Bird Hazards to Aircraft (3–2–72).

Transmits to the aviation public the latest published information concerning the reduction of bird strike hazards to aircraft in flight and in the vicinity of airports.

150/5200–4 Foaming of Runways (12–21–66).

Discusses runway foaming and suggests procedures for providing this service.

150/5200–5 Considerations for the Improvement of Airport Safety (2–2–67).

Emphasizes that, in the interest of accident/incident prevention, airport management should conduct self-evaluations and operational safety inspections. An exchange of information and suggestions for the improvement of airport safety is also suggested.

150/5200–6A Security of Aircraft at Airports (6–28–68).

Directs attention to the problem of pilferage from aircraft on airports and suggests action to reduce pilferage and the hazards that may result therefrom.

150/5200–7 Safety on Airports During Maintenance of Runway Lighting (1–24–68).

Points the possibility of an accident occurring to airport employees caused by electrocution.

150/5200–8 Use of Chemical Controls to Repel Flocks of Birds at Airports (5–2–68).

Acquaints airport operators with new recommendations on the use of chemical methods for dispersing flocks of birds.

150/5200–9 Bird Reactions and Scaring Devices (6–26–68).

Transmits a report on bird species and their responses and reactions to scaring devices.

150/5200–11 Airport Terminals and the Physically Handicapped (11–27–68).

Discusses the problems of the physically handicapped air traveler and suggests features that can be incorporated in modification or new construction of airport terminal buildings.

150/5200–12 Fire Department Responsibility in Protecting Evidence at the Scene of an Aircraft Accident (8–7–69).

Furnishes general guidance for employees of airport management and other personnel responsible for firefighting and rescue operations, at the scene of an aircraft accident, on the proper presentation of evidence.

150/5200–13 Removal of Disabled Aircraft (8–27–70).

Discusses the responsibility for disabled aircraft removal and emphasizes the need for prearranged agreements, plans, equipment, and improved coordination for the expeditious removal of disabled aircraft from airport operating areas. It also illustrates some of the various methods used, equipment employed, equipment available, and concepts for aircraft recovery.

150/5200–14 Results of 90-Day Trial Exercise on Fire Department Activity (9–8–70).

Transmits statistical data collected during a 90-day trial exercise conducted to determine the relationship between aircraft fire and rescue service activities and airport aeronautical operations.

150/5200–15 Availability of the International Fire Service Training Association's (IFSTA) Aircraft Fire Protection and Rescue Procedures Manual (9–11–76).

Announces the availability of the subject manual.

150/5200–16 Announcement of Report AS–71–1 "Minimum Needs for Airport Fire Fighting and Rescue Services" Dated January 1971 (4–13–71).

Announces the availability of the subject report and describes how to get it.

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150/5200–17 Emergency Plan (2–5–72).

Contains guidance material for airport managements to use in developing an emergency plan at civil airports.

150/5200–18 Airport Safety Self-Inspection (2–5–72).

Suggests functional responsibility, procedures, a checklist, and schedule for an airport safety self-inspection.

150/5200–19 Availability of Report No. FAA–RD–71–20 "An Analysis of Airport Snow Removal and Ice Control" dated March 1971 (11–23–71).

Announces the availability of subject report.

150/5210–2 Airport Emergency Medical Facilities and Services (9–3–64).

Provides information and advice so that airports may take specific voluntary preplanning actions to assure at least minimum first-aid and medical readiness appropriate to the size of the airport in terms of permanent and transient personnel.

150/5210–4 FAA Aircraft Fire and Rescue Training Film, "Blanket for Survival" (10–27–65).

Provides information on the purpose, content, and availability of the subject training film.

150/5210–5 Painting, Marking, and Lighting of Vehicles Used on an Airport (8–31–66).

Makes recommendations concerning safety, efficiency, and uniformity in the interest of vehicles used on the aircraft operational area of an airport.

150/5210–6A Aircraft Fire and Rescue Facilities and Extinguishing Agents (1–14–70).

Furnishes general guidance for estimating the aircraft fire and rescue facilities needed at civil airports.

150/5210–7A Aircraft Fire and Rescue Communications (3–16–72).

Provides guidance information for use by airport management in establishing communication and alarm facilities by which personnel required to respond to and function at aircraft ground emergencies may be alerted and supplied with necessary information.

150/5210–8 Aircraft Firefighting and Rescue Personnel and Personnel Clothing (1–13–67).

Provides guidance concerning the manning of aircraft fire and rescue trucks, the physical qualifications that personnel assigned to these trucks should meet, and the protective clothing with which they should be equipped.

150/5210–9 Airport Fire Department Operating Procedures During Periods of Low Visibility (10–27–67).

Suggests training criteria which airport management may use in developing minimum response times for aircraft fire and rescue trucks during periods of low visibility.

150/5210–10 Airport Fire and Rescue Equipment Building Guide (12–7–67).

This title is self-explanatory.

150/5210–11 Response to Aircraft Emergencies (4–15–69).

Informs airport operators and others of an existing need for reducing aircraft firefighting response time, and outlines a uniform response time goal of 2 minutes within aircraft operational areas on airports.

150/5210–12 Fire and Rescue Service for Certificated Airports (3–2–72).

Furnishes guidance and explains to Federal Aviation Administration (FAA) airport inspectors and airport management the minimum critera to be applied when evaluating the aircraft fire and rescue service required at an airport for its compliance with the requirements of FAR Part 139.

150/5210–13 Water Rescue Plans, Facilities, and Equipment (5–4–72).

Suggests planning procedures, facilities, and equipment to effectively perform rescue operations when an aircraft lands in a body of water, swamp, or tidal area where normal aircraft firefighting and rescue service vehicles are unable to reach the accident scene.

150/5220–1 Guide Specification for a Light-Weight Airport Fire and Rescue Truck (7–24–64).

Describes a vehicle with performance capabilities considered as minimum for an acceptable light rescue truck.

150/5220–4 Water Supply Systems for Aircraft Fire and Rescue Protection (12–7–67).

The title is self-explanatory.

150/5220–6 Guide Specification for 1,000-Gallon Tank Truck (4–10–68).

Assists airport management in the development of local procurement specifications.

150/5220–8 Guide Specification for 2,000-Gallon Tank Truck (6–13–69).

Assists airport management in the development of local procurement specifications for 2,000-gallon tank truck.

150/5220–9 Aircraft Arresting System for Joint Civil/Military (4–6–70).

Updates existing policy and describes and illustrates the various types of military aircraft emergency arresting systems that are now installed at various joint civil/military airports. It also informs users of criteria concerning installations of such systems at joint civil/military airports.

150/5220–10 Guide Specification for Water/Foam Type Aircraft Fire and Rescue Trucks (5–26–72).

Assists airport management in the development of local procurement specifications.

150/5230–3 Fire Prevention During Aircraft Fueling Operations (4–8–69).

This advisory circular provides information on fire preventative measures which aircraft servicing personnel should observe during fueling operations.

150/5280–1 Airport Operations Manual (6–16–72).

Sets forth guidelines to assist airport operators in developing an Airport Operations Manual in compliance with the requirements of FAR Part 139.

DESIGN, CONSTRUCTION, AND MAINTENANCE—GENERAL

150/5300-2B Airport Design Standards—Site Requirements for Terminal Navigational Facilities (11–22–71).

Provides information regarding the relative location and siting requirements for the terminal navigation facilities that may be established on an airport.

150/5300–3 Adaptation of TSO–N18 Criterion to Clearways and Stopways (10–18–64).

Sets forth standards recommended by the FAA for guidance of the public for the adaptation of TSO–N18 criterion to clearways and stopways.

150/5300–4A Utility Airports—Air Access to National Transportation (5–6–69).

Presents recommendations of the Federal Aviation Administration for the design of utility airports. These airports are developed for general aviation operations and this guide has been prepared to encourage and guide persons interested in their development. ($1.75 GPO.) TD 4.8:Ai 7/968.

150/5300–5 Airport Reference Point (9–26–68).

Defines and presents the method for calculating an airport reference point.

150/5300–6 Airport Design Standards, General Aviation Airports, Basic and General Transport (7–14–69).

Provides recommended design criteria for the development of larger than general utility airports.

150/5300–6 CH–1 (4–13–72).

150/5300–7A FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes (9–27–71).

Informs the aviation community of the FAA policy governing responsibility for funding relocation, replacement and modification to air traffic control and air navigation facilities that are made necessary by improvements or changes to the airport.

150/5300–8 Planning and Design Criteria for Metropolitan STOL Ports (11–5–70).

Provides the criteria recommended for the planning and design of STOL ports in metropolitan areas.

150/5310–3 FAA Order 5310.2, Relocating Thresholds Due to Obstructions at Existing Runways (5–27–68).

Announces the issuance of instructions to FAA field personnel on the displacement or relocation of thresholds.

150/5320–5B Airport Drainage (7–1–70).

Provides guidance for engineers, airport managers, and the public in the design and maintenance of airport drainage systems. ($1 GPO.) TD 4.8: 78/970.

150/5320–6A Airport Paving (5–9–67).

Provides data for the design and construction of pavements at civil airports.

150/5320–6A CH 1 (6–11–68).

Transmits page changes and adds new chapter 6 to basic AC.

150/5320–6A CH 2 (2–2–70).

Transmits new paragraphs 3, 4. and 5, and adds a new Appendix 2.

150/5320–6A CH 3 (4–1–70).

Transmits several page changes and new subgrade compaction criteria.

150/5325–2B Airport Design Standards—Air Carrier Airports—Surface Gradient and Line of Sight (2–18–70).

Establishes design standards for airports served by certificated air carriers to assist engineers in (1) designing the gradients of airport surface areas used to accommodate the landing, takeoff, and other ground movement requirements of airplanes while (2) providing adequate line of sight between airplanes operating on airports.

150/5325–3 Background Information on the Aircraft Performance Curves for Large Airplanes (1–26–65).

Provides airport designers with information on aircraft performance curves for design which will assist them in an objective interpretation of the data used for runway length determination.

150/5325–3 CH 1 (5–12–66).

Transmits a revision to the effective runway gradient standards.

150/5325–4 Runway Length Requirements for Airport Design (1–5–65).

Presents aircraft performance curves and sets forth standards for the determination of runway lengths to be provided at airports. The use of these standards is required for project activity under the Federal-Aid Airport Program when a specific critical aircraft is considered as the basis for the design of a runway.

150/5325–4 CH 1 (8–5–65).

Provides amended information for the basic advisory circular and includes aircraft performance curves for the BAC 1–11.

150/5325–4 CH 2 (9–21–65).

Transmits aircraft performance curves for the Boeing 707–300C and the Fairchild F–27 and F–27B.

150/5325–4 CH 3 (4–25–66).

Transmits aircraft performance curves for the Douglas DC–8–55, DC–8F–55, and DC–9–10 Series, the Fairchild F–27J, and the Nord 262.

150/5325–4 CH 4 (5–12–66).

Transmits a revision to the effective runway gradient standards.

150/5325–4 CH 5 (7–13–66).

Transmits aircraft performance curves for the Douglas DC–9–10 Series equipped with Pratt & Whitney JT8D–1 Engines.

150/5325–4 CH 6 (12–8–66).

It is recommended that turbojet powered aircraft use more runway length when landing under wet or slippery, rather than under dry conditions. This change furnishes a basis for estimating the additional recommended length.

150/5325–4 CH 7 (2–7–67).

Presents design curves for landing and takeoff requirements of airplanes in common use in the civil fleet. Also presented are instructions on the use of these design curves and a discussion of the factors considered in their development.

150/5325–4 CH 8 (11–8–67).

Transmits aircraft performance curves for the Boeing 747, Convair 640 (340D or 440D), and Douglas DC–9–30 Series.

150/5325–5A Aircraft Data (1–12–68).

Presents a listing of principal dimensions of aircraft affecting airport design for guidance in aircraft development.

150/5325–6 Effects of Jet Blast (4–15–65).

Presents the criteria for treatment of jet blast effects which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

150/5325–8 Compass Calibration Pad (5–8–69).

Provides guidelines for the design, location on the airport, and construction of a compass calibration pad, and basic information concerning its use in determining the deviation error in an aircraft magnetic compass.

150/5330–2A Runway/Taxiway Widths and Clearances for Airline Airports (7–26–68).

Presents the Federal Aviation Administration recommendations for landing strip, runway, and taxiway widths and clearances at airports served by certificated air carriers.

150/5330–3 Wind Effect on Runway Orientation (5–5–66).

Provides guidance for evaluating wind conditions and determining their effect on the orientation of runways.

150/5335–1A Airport Design Standards—Airports Served by Air Carriers—Taxiways (5–15–70).

Provides criteria on taxiway design for airports served by certificated route air carriers with present airplanes and those anticipated in the near future.

150/5335–2 Airport Aprons (1–27–65).

Provides the criteria for airport aprons which are acceptable in accomplishing a project meeting the eligibility requirements of the Federal-aid Airport Program.

150/5335–3 Airport Design Standards—Airports Served by Air Carriers—Bridges and Tunnels on Airports (4–19–71).

Provides general guidance to those contemplating the construction of a bridge-type structure to allow aircraft to cross over an essential surface transportation mode.

150/5340–1C Marking of Paved Areas on Airports (11–3–70).

Describes standards for marking serviceable runways and taxiways as well as deceptive, closed, and hazardous areas on airports.

150/5340–4B Installation Details for Runway Centerline and Touchdown Zone Lighting Systems (5–6–69).

Describes standards for the design and installation of runway centerline and touchdown zone lighting systems.

150/5340–5A Segmented Circle Airport Marker System (9–10–71).

Sets forth standards for a system of airport marking consisting of certain pilot aids and traffic control devices.

150/5340–8 Airport 51-foot Tubular Beacon Tower (6–11–64).

Provides design and installation details on the subject tower.

150/5340–9 Prefabricated Metal Housing for Electrical Equipment (8–18–64).

Provides design and installation details on the subject metal housing.

150/5340–13A High Intensity Runway Lighting System (4–14–67).

Provides corrected curves for estimating loads in high intensity series circuits.

150/5340–14B Economy Approach Lighting Aids (6–19–70).

Describes standards for the design, selection, siting, and maintenance of economy approach lighting aids.

150/5340–15B Taxiway Edge Lighting System (4–4–72).

Describes the recommended standards for the design, installation, and maintenance of a taxiway edge lighting system.

150/5340–16B Medium Intensity Runway Lighting System and Visual Approach Slope Indicators for Utility Airports (10–26–70).

Describes standards for the design, installation, and maintenance of medium intensity runway lighting system (MIRL), and visual approach slope indicators for utility airports.

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150/5340–17A Standby Power for Non-FAA Airport Lighting Systems (3–19–71).

Describes standards for the design, installation, and maintenance of standby power for nonagency owned airport visual aids associated with the National Airspace System (NAS).

150/5340–18 Taxiway Guidance System (9–27–68).

Describes the recommended standards for design, installation, and maintenance of a taxiway guidance sign system.

150/5340–19 Taxiway Centerline Lighting System (11–14–68).

Describes the recommended standards for design, installation, and maintenance of a taxiway centerline lighting system.

150/5340–20 Installation Details and Maintenance Standards for Reflective Markers for Airport Runway and Taxiway Centerlines (2–17–69).

Describes standards for the installation and maintenance of reflective markers for airport runway and taxiway centerlines.

150/5340–21 Airport Miscellaneous Lighting Visual Aids (3–25–71).

Describes standards for the system design, installation, inspection, testing, and maintenance of airport miscellaneous visual aids; i.e., airport beacons, beacon towers, wind cones, wind tees, and obstruction lights.

150/5340–22 Maintenance Guide for Determining Degradation and Cleaning of Centerline and Touchdown Zone Lights (4–20–71).

Contains maintenance recommendations for determining degradation and cleaning of centerline and touchdown zone lights installed in airport pavement.

150/5340–22 CH 1 (6–23–71).

Transmits a page change to subject advisory circular.

150/5340–23 Guide for Location of Supplemental Wind Cones (8–24–71).

Describes standards for the performance and location of supplemental wind cones.

150/5345–1C Approved Airport Lighting Equipment (10–26–71).

Contains lists of approved airport lighting equipment and manufacturers qualified to supply their product in accordance with the indicated specification requirements.

150/5345–2 Specification for L–810 Obstruction Light (11–4–63).

Required for FAAP project activity.

150/5345–2 CH 1 (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–3B Specification for L–821 Airport Lighting Panel for Remote Control of Airport Lighting (4–21–72).

Describes the specification requirements for an airport lighting control panel for the remote control of airport lighting circuits and is published by the Federal Aviation Administration for the guidance of the public.

150/5345–4 Specification for L–289 Internally Lighted Airport Taxi Guidance Sign (10–15–63).

Required for FAAP project activity.

150/5345–4 CH 1 (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–5 Specification for L–847 Circuit Selector Switch, 5,000 Volt 20 Ampere (9–3–63).

Required for FAAP project activity.

150/5345–7B Specification for L–824 Underground Electrical Cables for Airport Lighting Circuits (3–18–71).

Describes the specification requirements for underground electrical cables for airport lighting circuits. Published by the FAA for the guidance of the public.

150/5345–9C Specification for L–819 Fixed Focus Bidirectional High Intensity Runway Lights (12–23–69).

Describes the subject specifications requirements and is published by the Federal Aviation Administration for the guidance of the public.

150/5345–10C Specification for L–828 Constant Current Regulators (10–22–71).

Describes the subject specification requirements and is published by the Federal Aviation Administration for the guidance of the public.

150/5345–11 Specification for L–812 Static Indoor Type Constant Current Regulator Assembly, 4 Kw and 7½ Kw, With Brightness Control for Remote Operations (3–2–64).

Required for FAAP project activity.

150/5345–12A Specification for L–801 Beacon (5–12–67).

Describes the subject specification requirements.

150/5345–12A CH 1 (3–19–71).

Transmits paragraph changes to the subject advisory circular.

150/5345–13 Specification for L–841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits (1–6–64).

Required for FAAP project activity.

150/5345–15 Specification for L–842 Airport Centerline Light 1–6–64).

Required for FAAP project activity.

150/5345–16 Specification for L–843 Airport In-Runway Touchdown Zone Light (1–20–64).

Required for FAAP project activity.

150/5345–17 Specification for L–845 Semiflush Inset Prismatic Airport Light (3–3–64).

Describes the subject specification requirements.

150/5345–18 Specification for L–811 Static Indoor Type Constant Current Regulator Assembly, 4 Kw; With Brightness Control and Runway Selection for Direct Operation (3–3–64).

Required for FAAP project activity.

150/5345–18 CH 1 (5–28–64).

Advises that a detail requirement is not applicable to the circular.

150/5345–19 Specification for L–838 Semiflush Prismatic Airport Light (5–11–64).

Describes the subject specification requirements.

150/5345–20 Specification for L–802 Runway and Strip Light (6–24–64).

Describes the subject specification requirements.

159/5345–20 CH 1 (8–31–64).

Provides amended information for the basic advisory circular.

150/5345–20 CH 2 (1–14–66).

Provides new dimensions for the thickness of the metal stake and an organizational change.

150/5345–20 CH 3 (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–20 CH 4 (8–5–69).

Describes the subject specification requirements for a runway and strip light.

150/5345–21 Specification for L–813 Static Indoor Type Constant Current Regulator Assembly; 4 Kw and 7½ Kw; for Remote Operation of Taxiway Lights (7–28–64).

Describes the subject specification requirements.

150/5345–22 Specification for L–834 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit (10–8–64).

Describes the subject specification requirements.

150/5345–23 Specification for L–822 Taxiway Edge Light (10–13–64).

Describes the subject specification requirements.

150/5345–23 CH 1 (1–14–66).

Provides new dimensions for the thickness of the metal stake and an organizational change.

150/5345–23 CH 2 (10–28–66).

Transmits page changes to the subject advisory circular. This change provides for a new Alloy 360 in the die casting process.

150/5345–23 CH 3 (8–5–69).

Describes the subject specification requirements for a taxiway edge light.

150/5345–26A Specification for L–823 Plug and Receptacle, Cable Connectors (5–4–71).

Describes the subject specification requirements.

150/5345–27A Specification for L–807 Eight-foot and Twelve-foot Unlighted or Externally Lighted Wind Cone Assemblies (6–16–69).

Describes the subject specification requirements for a hinged steel pole support, an anodized tapered aluminum hinged base pole support, and an "A" frame fixed support with a pivoted center pipe support.

150/5345–28B Specification for L–851 Visual Approach Slope Indicators and Accessories (2–16–72).

Describes the specification requirements for visual approach slope indicator (VASI) and simple abbreviated visual approach slope indicator (SAVASI) equipment and accessories.

150/5345–29A FAA Specification L–852, Light Assembly, Airport Taxiway Centerline (4–28–71).

Describes FAA Specification L–852, Light Assembly, Airport Taxiway Centerline, for the guidance of the public.

150/5345–30A Specification for L–846 Electrical Wire for Lighting Circuits To Be Installed in Airport Pavements (2–3–67).

Describes, for the guidance of the public, subject specification requirements for electrical wire.

150/5345–31A Specification for L–833 Individual Lamp Series-to-Series Type Insulating Transformer for 600-Volt or 5,000-Volt Series Circuits (4–24–70).

Describes the subject specification requirements and is published by the FAA for the guidance of the public.

150/5345–33 Specification for L–844 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit 6.6/20 Amperes 200 Watt (1–13–65).

Describes the subject specification requirements.

150/5345–34 Specification for L–839 Individual Lamp Series-to-Series Type Insulating Transformer for 5,000 Volt Series Circuit 6.6/20 Amperes 300 Watt (1–13–65).

Describes the subject specification requirements.

150/5345–35 Specification for L–816 Circuit Selector Cabinet Assembly for 600 Volt Series Circuits (1–28–65).

Describes the subject specification requirements.

150/5345–36 Specification for L–808 Lighted Wind Tee (2–3–65).

Describes the subject specification requirements.

150/5345–37B FAA Specification L–850, Light Assembly Airport Runway Centerline and Touchdown Zone (1–8–68).

Revises subject light assembly.

150/5345–38 Changes to Airport Lighting Equipment (3–23–67).

The title is self-explanatory.

150/5345–39A FAA Specification L–853, Runway and Taxiway Centerline Retroreflective Markers (9–17–71).

Describes specification requirements for L–853 Runway and Taxiway Retroreflective markers, for the guidance of the public.

150/5345–41 Specification for L–855, Individual Lamp, Series-to-Series Type Insulating Transformer for 5,000-Volt Series Circuit, 6.6/6.6 Amperes, 65 Watts (4–24–70).

Describes the subject specification and is published by the FAA for the guidance of the public.

150/5345–42 FAA Specification L–857, Airport Light Bases, Transformer Housing and Junction Boxes (10–27–70).

Describes specification requirements for airport light bases, transformer housing and junction boxes for the guidance of the public.

150/5345–43A FAA/DOD Specification L–856, High Intensity Obstruction Lighting Systems (11–19–71).

Describes specification requirements for high intensity obstruction lighting systems.

150/5345–44A Specification for L–858 Retroreflective Taxiway Guidance Signs (7–20–71).

Describes the specification for retroreflective taxiway guidance signs.

150/5355–1A International Signs to Facilitate Passengers Using Airports (11–3–71).

Informs airport authorities of the desirability to provide international signs and diagrammatic maps within terminal buildings and of the need for clearly marked road signs for airports.

150/5355–2 Fallout Shelters in Terminal Buildings (4–1–69).

Furnishes guidance for the planning and design of fallout shelters in airport terminal buidlings.

150/5360–1 Airport Service Equipment Buildings (4–6–64).

Provides guidance on design of buildings for housing equipment used in maintaining and repairing operational areas.

150/5360–2 Airport Cargo Facilities (4–6–64).

Provides guidance material on air cargo facilities.

150/5360–3 Federal Inspection Service Facilities at International Airports (4–1–66).

Describes and illustrates recommended facilities for inspection of passengers, baggage, and cargo entering the United States through international airport terminals. The material is for the guidance of architect-engineers and others interested in the planning and design of these airport facilities.

150/5370–1A Standard Specifications for Construction of Airports (5–28–68).

Contains specification items for construction of airports and other related information. Acceptable for FAAP project activity. Published in 1968. ($3.50 GPO.) TD 4.24:968

150/5370–2 Safety on Airports During Construction Activity (4–22–64).

Provides guidelines concerning safety at airports during periods of construction activity.

150/5370–4 Procedures Guide for Using the Standard Specifications for Construction of Airports (5–29–69).

Provides guidance to the public in the use and application of the Standard Specifications for Construction of Airports.

150/5370–5 Offshore Airports (12–15–69).

Announces to the public the availability of a two-volume report on offshore airport planning and construction methods.

150/5370–6 Construction Progress and Inspection Report—Federal-Aid Airport Program (3–16–70).

Provides for a report on construction progress and inspection of Federal-aid Airport Program (FAAP) projects, suggests a form for the report, and recommends use of the form unless other arrangements exist to obtain the type of information provided by the form.

150/5370–7 Airport Construction Controls To Prevent Air and Water Pollution (4–26–71).

Supplies guidance material on compliance with air and water standards during construction of airports developed under the Airport and Airway Development Act of 1970.

150/5370–8 Grooving of Runway Pavements (3–16–71).

Provides guidance for the design, installation, and maintenance of grooves in runway pavements.

150/5380–1 Airport Maintenance (4–14–63).

Provides a basic checklist and suggestions for an effective airport maintenance program.

150/5380–2A Snow Removal Techniques Where In-Pavement Lighting Systems Are Installed (12–24–64).

Provides information on damage to in-pavement lighting fixtures by snow removal equipment and recommends procedures to avoid such damage.

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150/5380-3A Removal of Contaminants from Pavement Surfaces (10-27-70).

Provides information to the aviation industry relative to cleaning rubber deposits, oil, grease, and jet aircraft exhaust deposits from runway surfaces.

150/5380-4 Ramp Operations During Periods of Snow and Ice Accumulation (9-11-68).

Directs attention to an increased accident potential when snow or ice accumulates on the surfaces of ramps and aircraft parking and holding areas and suggests some measures to reduce this potential.

150/5380-5 Debris Hazards at Civil Airports (3-8-71).

Discusses problems of debris at airports, gives information on foreign objects, and tells how to eliminate such objects from operational areas.

150/5390-1A Heliport Design Guide (11-5-69).

Contains design guidance material for the development of heliports, both surface and elevated. ($0.75 GPO.) TD 4.108:H36.

Air Navigational Facilities

SUBJECT No. 170

170-3B Distance Measuring Equipment (DME) (11-8-65).

Presents information on DME and some of its uses to pilots unfamiliar with this navigational aid.

170-6A Use of Radio Navigation Test Generators (3-30-66).

Gives information received from the Federal Communications Commission as to the frequencies on which the FCC will license test generators (used to radiate a radio navigation signal) within the scope of its regulations and gives additional information to assist the user when checking aircraft navigation receivers.

170/6850-1 Aeronautical Beacons and True Lights (8-28-68).

Describes FAA standards for the installation and operation of aeronautical beacons serving as true lights.

170-8 Use of Common Frequencies for Instrument Landing Systems Located on Opposite Ends of the Same Runway (11-7-66).

In the future, common frequencies may be assigned to like components of two instrument landing systems serving opposite ends of the same runway. This will include the localizers, glide slopes, and associated outer and middle marker compass locators (LOM and LMM).

170-9 Criteria for Acceptance of Ownership and Servicing of Civil Aviation Interest(s) Navigational and Air Traffic Control Systems and Equipment (11-26-68).

Contains a revised FAA policy under which the FAA accepts conditional ownership of equipment and systems from civil aviation interests, without the use of Federal funds, and operates, maintains, and provides the logistic support of such equipment.

170-10 FAA Recommendations to FCC on Licensing of Non-Federal Radio Navigation Aids (10-17-69).

Gives background information and describes the basis for recommendations to be made by the FAA to the Federal Communications Commission (FCC) regarding licensing of radio navigation aids.

170-11 Amendment of Federal Aviation Regulation Part 171 (FAR-171)—Cost of Flight and Ground Inspections (9-17-70).

Alerts the public to the amendment to FAR Part 171 pertaining to the payment of ground and flight inspection charges prior to the issuance of an approved IFR procedure.

170-12 Implementation of 50 KHz/Y Channels for ILS/VOR/DME (10-7-70).

Advises aircraft owners, operators and radio equipment manufacturers of plans for future implementation of split channel assignments in the aeronautical radio navigation bands.

171-1 Estimating Packing and Shipping Costs for Export Shipments for ATC and Navaid Equipments (2-18-66).

Assists personnel engaged in preparing packing and shipping estimates of air navigation and traffic control equipments for overseas shipment.

Administrative

SUBJECT No. 180

183-30 Directory of FAA Designated Mechanic Examiners (12-14-70).

Provides a new directory of all FAA designated mechanic examiners as of the effective date shown above.

183-31A FAA Designated Parachute Rigger Examiner Directory (1-17-72).

Provides a new directory of all FAA designated parachute rigger examiners as of November 30, 1971.

183.29-1E Designated Engineering Representatives (1-5-70).

Lists in Appendix 1 the Designated Engineering Representatives who are available for consulting work.

Flight Information

SUBJECT No. 210

210-1 National Notice to Airmen System (2-8-64).

Announces FAA policy for the preparation and issuance of essential flight information to pilots and other aviation interests.

210-2A Established Schedule for Flight Information Effective Dates (9-19-69).

Emphasizes the importance of adherence to the established schedule of effective dates for flight information, and provides a copy of the schedule through June 1971.

210-3 National Notice to Airmen System—Elimination of NOTAM Code (5-22-70).

Announces changes in criteria and procedures for the Notice to Airmen System required to accommodate the transmission of all domestic Notice to Airmen data in clear contracted language and eliminate use of the NOTAM code on the domestic service A circuits.

211-2 Recommended Standards for IFR Aeronautical Charts (3-20-67).

Sets forth standards recommended by the Federal Aviation Administration for the guidance of the public in the issuance of IFR aeronautical charts for use in the National Airspace System (NAS).

Internal Publications

Contractions Handbook, 7340.1B (9-16-69).

Gives approved word and phrase contractions used by personnel connected with air traffic control, communications, weather, charting, and associated services. ($3.75 Sub.—GPO.) TD 4.308:C76/969.

Location Identifiers, 7350.1S.

Incorporates all authorized 3-letter location identifiers for special use in United States, worldwide, and Canadian assignments. Dated 5-15-71. ($6 Sub.—GPO.) TD 4.310:.

Flight Services, 7110.10A (4-1-71).

This handbook consists of two parts. Part I, the basic, prescribes procedures and phraseology for use by personnel providing flight assistance and communications services. Part II, the teletypewriter portion, includes Services A and B teletypewriter operating procedures, pertinent International Teletypewriter Procedures, and the conterminous U.S. Service A Weather Schedules. ($9 Sub.—GPO.) TD 4.308: F 64.

International Flight Information Manual, Vol. 19 (April 1971).

This Manual is primarily designed as a preflight and planning guide for use by U.S. nonscheduled operators, business and private aviators contemplating flights outside of the United States.

The Manual, which is complemented by the International Notams publication, contains foreign entry requirements, a directory of aerodromes of entry including operational data, and pertinent regulations, and restrictions. It also contains passport, visa, and health requirements for each country. Published annually with quarterly amendments. $3-$3.75 foreign—Annual Sub. GPO.) TD 4.309:16.

International Notams.

Covers notices on navigational facilities and information on associated aeronautical data generally classified as "Special Notices". Acts as a notice-to-airmen service only. Published weekly. ($5—Annual Sub. GPO.) D 4.11:.

Airman's Information Manual:

Part 1—Basic Flight Manual and ATC Procedures.

This part is issued quarterly and contains basic fundamentals required to fly in the National Airspace System; adverse factors affecting Safety of Flight; Health and Medical Facts of interest to pilots; ATC information affecting rules, regulations, and procedures; a Glossary of Aeronautical Terms; U.S. Entry and Departure Procedures, including Airports of Entry and Landing Rights Airports; Air Defense Identification Zones (ADIZ); Designated Mountainous Areas, Scatana, and Emergency Procedures. (Annual Sub. $4, Foreign mailing—$1 additional. GPO.) TD 4.12:pt. 1/.

Part 2—Airport Directory.

This part is issued semiannually and contains a Directory of all Airports, Seaplane Bases, and Heliports in the conterminous United States, Puerto Rico, and the Virgin Islands which are available for transient civil use. It includes all of their facilities and services, except communications, in codified form. Those airports with communications are also listed in Part 3 which reflects their radio facilities. A list of new and permanently closed airports which updates this part is contained in Part 3.

Included, also, is a list of selected Commercial Broadcast Stations of 100 watts or more of power and Flight Service Stations and National Weather Service telephone numbers. (Annual Sub. $4, Foreign mailing—$1 additional. GPO.) TD 4.12:pt. 2/.

Parts 3 and 3A—Operational Data and Notices to Airmen.

Part 3 is issued every 28 days and contains an Airport/Facility Directory containing a list of all major airports with communications; a tabulation of Air Navigation Radio Aids and their assigned frequencies; Preferred Routes; Standard Instrument Departures (SIDs); Substitute Route Structures; a Sectional Chart Bulletin, which updates Sectional charts cumulatively; Special General and Area Notices; a tabulation of New and Permanently Closed Airports, which updates Part 2; and Area Navigation Routes.

Part 3A is issued every 14 days and contains Notices to Airmen considered essential to the safety of flight as well as supplemental data to Part 3 and Part 4. (Annual Sub. $20, Foreign mailing—$5 additional. GPO.) TD 4.12:pt. 3/.

Part 4—Graphic Notices—Supplemental Data.

Part 4 is issued semiannually and contains abbreviations used in all parts of AIM; Parachute Jump Areas; VOR Receiver Check Points; Special Notice Area Graphics; and Heavy Wagon and Oil Burner Routes.

Future editions will be expanded to include Special Terminal Area Charts and data not subject to frequent change. (Annual Sub. $1.50, Foreign mailing—$0.50 additional GPO.) TD 4.12:pt. 4/.

Aircraft Type Certificate Data Sheets and Specifications.

Contains all current aircraft specifications and type certificate data sheets issued by the FAA. Monthly supplements provided. ($40—Sub., Foreign mailing—$10 additional. GPO.) TD 4.15:967.

Aircraft Engine and Propeller Type Certificate Data Sheets.

Contains all current aircraft engine and propeller type certificate data sheets and specifications issued by FAA. Monthly supplements provided. ($16—Sub., Foreign mailing—$4 additional. GPO.) TD 4.15/2:968.

Summary of Supplemental Type Certificates.

Contains all supplemental type certificates issued by FAA regarding design changes in aircraft, engines, or propellers. List includes description of change, the model and type certificate number, the supplemental type certificate number, and the holder of the change. Quarterly supplements provided. ($23—Sub., Foreign mailing—$5.75 additional, GPO.) TD 4.36:971.

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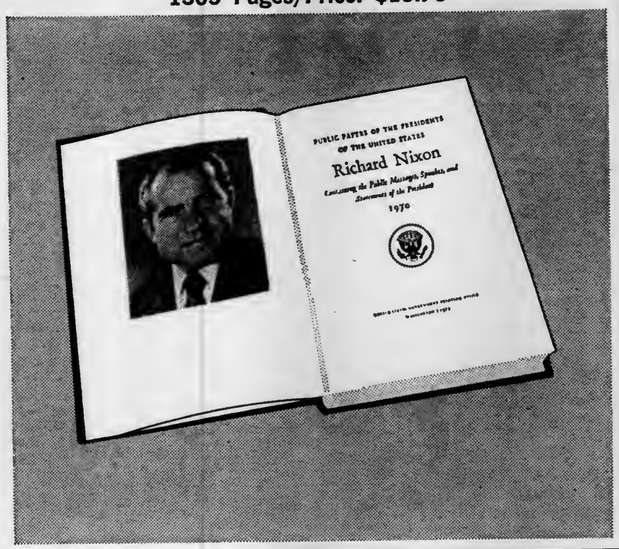
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PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e)(11) relating to the State of Ohio, a new subdivision (v) relating to Fayette, Highland, and Clinton Counties is added to read:

(v) The adjacent portions of Fayette, Highland, and Clinton Counties bounded by a line beginning at the junction of U.S. Highway 22, State Highway 3, and State Highway 41 in Fayette County; thence, following State Highway 41 in a southeasterly direction to Township Road 156; thence, following Township Road 156 in a generally westerly direction to Township Road 163; thence, following Township Road 163 in a southerly direction to Township Road 371 in Highland County; thence, following Township Road 371 in a southerly direction to State Highway 28; thence, following State Highway 28 in a westerly direction to State Highway 41; thence, following State Highway 41 in a northwesterly direction to State Highway 729 in Clinton County; thence, following State Highway 729 in a northeasterly, then northwesterly direction to U.S. Highway 22, State Highway 3; thence, following U.S. Highway 22, State Highway 3 in a northeasterly direction to its junction with State Highway 41 in Fayette County.

2. In § 76.2, a new paragraph (e)(15) relating to the State of Mississippi is added to read:

(15) *Mississippi.* The adjacent portions of Kemper and Lauderdale Counties bounded by a line beginning at the junction of State Highway 16 and State Highway 39 in Kemper County; thence, following State Highway 39 in a generally southerly direction to U.S. Highway 45 in Lauderdale County; thence, following U.S. Highway 45 in a northeasterly, then northerly direction to State Highway 16 in Kemper County; thence, following State Highway 16 in a southwesterly direction to its junction with State Highway 39 in Kemper County.

3. In § 76.2, paragraph (e)(6) relating to the State of Florida is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Fayette, Highland, and Clinton Counties in Ohio, and portions of Kemper and Lauderdale Counties in Mississippi because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments exclude a portion of Duval County in Florida from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded area. No areas in Florida remain under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17479 Filed 10-12-72;8:47 am]

[Docket No. 72-565]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(12) relating to the State of Tennessee, subdivision (i) relating to Macon and Clay Counties is deleted.

2. In § 76.2, in paragraph (e)(7) relating to the State of Kentucky, subdivisions (ii) relating to Hardin and Larue Counties; (iii) relating to Bullitt County; (iv) relating to Warren County; (v) relating to Barren and Monroe Counties, (vi) relating to Hart, Barren, and Metcalfe Counties; and (vii) relating to Washington and Marion Counties are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude portions of Macon and Clay Counties in Tennessee and portions of Hardin, Larue, Bullitt, Warren, Barren, Monroe, Hart, Metcalfe, Washington, and Marion Counties in Kentucky from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the

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restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

The amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17480 Filed 10-12-72;8:47 am]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Securities Eligible for Underwriting and Unlimited Holding

The following new sections are added to Part 1 of Title 12:

Sec.
1.333 Parking Authority of the city of Oxnard.
1.334 Pleasant Hill Civic Center Authority.
1.335 Alaska State Housing Authority State Lease Revenue Bonds.
1.336 Huntington Beach Public Facilities Corporation Leasehold Mortgage Bonds.
1.337 Fullerton Library Building Authority.
1.338 Santa Clara County Public Facilities Corporation Lease Rental Bonds.
1.339 New York State Housing Finance Agency Health Facilities Bonds.
1.340 Los Angeles County—Alhambra Courthouse Building Corporation Leasehold Mortgage Bonds.
1.341 Wayne County Stadium Authority Bonds.
1.342 Los Angeles County—Wayside Honor Rancho Building Corporation Leasehold Mortgage Bonds.
1.343 Battery Park City Authority Bonds.
1.344 Small Business Investment Company Debentures represented by guaranty agreements of the Small Business Administration.
1.345 Reedy Creek Improvement District Ad Valorem Tax Bonds.
1.346 Omaha-Douglas Public Building Commission Bonds.
1.347 New York City Housing Development Corporation General Housing Bonds.
1.348 California Department of Water Resources, Central Valley Project Revenue Bonds.
1.349 Parking Authority of the city of Napa.

AUTHORITY: The provisions of these §§ 1.333–1.349 issued under R.S. 324 et seq., as amended, paragraph seven of R.S. 5136, as amended; 12 U.S.C. 1 et seq., 24(7), unless otherwise noted.

§ 1.333 Parking Authority of the City of Oxnard.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $910,000 1972 Revenue Bonds of the Parking Authority of the city of Oxnard for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the city of Oxnard is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The city council has made the appropriate finding and, in accordance with the law, has declared itself to be the parking authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease. The Authority is issuing these bonds to finance the construction of 525 surface parking places on 17 lots in the downtown area of the city.

(2) Under the lease rental agreement, the city has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The city, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $910,000 Revenue Bonds of the Parking Authority of the city of Oxnard are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated January 4, 1972.)

§1.334 Pleasant Hill Civic Center Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,200,000 Pleasant Hill Civic Center Authority Community Center Revenue Bonds for purchase, ihprincidealPlfor
dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Pleasant Hill Civic Center Authority is a public entity created under the laws of California by an agreement between the city of Pleasant Hill and the Pleasant Hill Recreation and Park District. Under this agreement, the Authority is authorized to acquire a site by lease from the city and to construct and lease to the city a community center and to issue bonds to finance the project. The District will contribute $516,000, the remaining proceeds of a general obligation bond issue sold by the District in 1970, as its share of the cost of the project. The Authority is issuing these bonds to finance the remaining costs.

(2) The city, as required by its agreement with the District, has unconditionally promised in the lease rental agreement to pay annual rentals to the Authority in an amount sufficient to enable the Authority to meet annual interest and principal payments on these bonds as well as other necessary expenses. The city which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,200,000 Pleasant Hill Civic Center Authority Community Center Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24. (Comptroller's letter dated November 17, 1971.)

§ 1.335 Alaska State Housing Authority State Lease Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $9,410,000 State Lease Revenue Bonds, 1972 Projects, of the Alaska State Housing Authority for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Alaska State Housing Authority is a public corporate authority under the laws of the State of Alaska. The Authority is authorized to provide for the acquisition, construction and financing of public building projects for lease to the State. The Authority is issuing its general obligation bonds to finance the construction of a new court building in Juneau and the acquisition of an office building for the State Highway Department in Douglas.

(2) The State of Alaska which possesses general powers of taxation has promised in the lease rental agreement to pay the Authority, for the right to use and occupy the projects, annual rentals in amounts sufficient to enable the Authority to make the annual principal and interest payments on these bonds and the Authority has pledged these rentals to secure such payments. The bonds of the Authority are thus supported by the faith and credit of the State.

(c) *Ruling.* It is our conclusion that the $9,410,000 Lease Revenue Bonds, 1972 Projects, of the Alaska State Housing Authority are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated January 11, 1972.)

§ 1.336 Huntington Beach Public Facilities Corporation Leasehold Mortgage Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $11,100,000 Huntington Beach Public Facilities Corporation Leasehold Mortgage Bonds, First Issue for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Huntington Beach Public Facilities Corporation, a California nonprofit corporation acting for the city of Huntington Beach, was created to construct or finance the construction on land leased to it by the city of municipal buildings and related facilities to be leased to and operated by the city. The Corporation is issuing these bonds to finance the construction of a Civic Center consisting of a city hall, a police building and related facilities.

(2) The city has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The city, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $11,100,000 Huntington Beach Public Facilities Corporation Leasehold Mortgage Bonds, First Issue are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated January 11, 1972.)

§ 1.337 Fullerton Library Building Authority.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $1,300,000 Fullerton Library Building Authority, 1972 Library Revenue Bonds, for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Fullerton Library Building Authority is a public entity created under the laws of California by an agreement between city of Fullerton and the county of Orange. Under this agreement, the Authority is authorized to acquire a site and to acquire, construct, maintain, operate, and lease public library buildings and related facilities to be leased to and operated by the city, and to issue bonds to finance such projects. The Authority is issuing these bonds for that purpose.

(2) The city has unconditionally promised in the lease rental agreement to pay annual rental to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The city which possesses general powers of taxation has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $1,300,000 Fullerton Library Building Authority, 1972 Library Building Revenue Bonds, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Comptroller's letter dated February 14, 1972.)

§ 1.338 Santa Clara County Public Facilities Corporation Lease Rental Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $3,700,000 Santa Clara County Public Facilities Corporation, Series A, Lease Rental Revenue Bonds for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Santa Clara County Public Facilities Corporation, a California non-profit corporation, was organized to finance the acquisition, construction and improvement of public buildings and facilities for the county of Santa Clara by leasing certain property from the county and leasing the improved property back to the county. The Corporation is issuing these bonds to finance the construction of seven building projects including new buildings and additions to and reconstruction of existing buildings to provide courtrooms, detention and communication facilities, an animal shelter, and additional facilities for a children's shelter.

(2) The county has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The county, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $3,700,000 Santa Clara County Public Facilities Corporation, Series A, Lease Rental Revenue Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated February 16, 1972.)

§ 1.339 New York State Housing Finance Agency Health Facilities Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $175,000,000 New York State Housing Finance Agency, Health Facilities Bonds, 1972 Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The New York State Housing Finance Agency is a corporate governmental agency of the State and a public benefit corporation created in 1960 by the New York State Housing Finance Agency Act. The agency is authorized, inter alia, to cause health facilities to be constructed, acquired, reconstructed, rehabilitated, or improved on real property purchased or leased from a municipality, to lease or sublease such facilities to the municipality and to finance the cost thereof by issuance of bonds and notes. The agency is issuing these bonds for that purpose.

(2) The bonds will be general obligations of the agency and will be further secured by a pledge of the annual lease rentals received from the municipalities and a health facilities reserve fund established and maintained by the agency for the benefit of the holders of the bonds. In order to assure the maintenance of health facilities reserve funds the Act provides for the annual apportionment and payment from State funds for deposit to each health facilities reserve fund of such sum as is certified to be necessary to restore the fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the health facilities bonds of the agency then outstanding which are secured by such reserve fund. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $175,000,000 New York State Housing Finance Agency, Health Facilities Bonds, 1972 Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated February 23, 1972.)

§ 1.340 Los Angeles County-Alhambra Courthouse Building Corporation Leasehold Mortgage Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $6,550,000 Los Angeles County-Alhambra Courthouse Building Corporation Leasehold Mortgage Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Los Angeles County-Alhambra Courthouse Building Corporation, a California nonprofit corporation acting for Los Angeles County, was created to finance the construction in the city of Alhambra on land leased to it by the county of a county courthouse to be leased to and operated by the county. The Corporation is issuing these bonds for that purpose.

(2) The county has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The county, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

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(c) *Ruling.* It is our conclusion that the $6,550,000 Los Angeles County-Alhambra Courthouse Building Corporation Leasehold Mortgage Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated March 29, 1972.)

§ 1.341 Wayne County Stadium Authority Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $126 million Wayne County Stadium Authority Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph 7 of 12 U.S.C. 24.

(b) *Opinion.* (1) The Wayne County Stadium Authority is a body corporate incorporated by the county of Wayne pursuant to the Building Authority Act of the State of Michigan. The Authority is authorized by law to acquire, furnish, improve, operate and maintain stadiums, parking structures and the necessary sites therefor, to lease the project to the county and to finance the project through the issuance of self-liquidating revenue bonds. Where such bonds are payable from lease rentals the county is authorized under the State constitution to impose taxes without limitation of rate or amount for the payment of the lease rentals.

(2) The Authority is issuing these bonds to finance the acquisition and construction of a multi-purpose domed stadium and a separate parking structure to be leased to the county. The county has unconditionally promised in the lease rental agreement to pay annual rentals in an amount equal to the principal of and interest on the bonds and on any additional bonds of equal standing which may be issued to complete the stadium.

(c) *Ruling.* It is our conclusion that the $126 million Wayne County Stadium Authority Bonds are general obligations of a State or political subdivision thereof under paragraph Seventh of U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated April 12, 1972.)

§ 1.342 Los Angeles County-Wayside Honor Rancho Building Corporation Leasehold Mortgage Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $7,775,000 Los Angeles County-Wayside Honor Rancho Building Corporation Leasehold Mortgage Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Los Angeles County-Wayside Honor Rancho Building Corporation, a California nonprofit corporation was organized to render financial assistance to the county of Los Angeles by financing the rehabilitation and construction of certain buildings and related facilities at Wayside Honor Rancho a minimum and maximum security detention facility owned and operated by the county. The Corporation is issuing these bonds to finance the rehabilitation and construction on land leased to it by the county of an infirmary, dormitories, a laundry and warehouse and a central heating plant and distribution facility. The completed facility will be leased to and operated by the county.

(2) The county has unconditionally promised in the lease rental agreement to pay annual lease rentals to the Corporation in an amount sufficient to meet annual interest and principal payments on these bonds, as well as other necessary expenses. The county, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $7,775,000 Los Angeles County-Wayside Honor Rancho Building Corporation Leasehold Mortgage Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Acting Comptroller's letter dated April 25, 1972.)

§ 1.343 Battery Park City Authority Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $200 million Battery Park City Authority Bonds, Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Battery Park City Authority is a body corporate and politic and a public benefit corporation created in 1968 by the Battery Park City Authority Act of the New York State Legislature. The Authority is authorized to acquire, construct, improve, enlarge, operate and maintain a replanning, reconstruction and redevelopment project on the lower West Side of Manhattan, north of Battery Park and on and adjacent to the Hudson River. The Authority is also authorized to issue its bonds and notes to provide funds for achieving its corporate purposes.

(2) These bonds will be secured by a project debt service reserve fund which will be established in an amount not less than the maximum annual debt service with respect to the project bonds, including principal, interest and sinking fund requirements. In order to assure the continued operation and solvency of the Authority for the fulfillment of its corporate puropses the Act provides for the annual apportionment and payment from State funds for deposit to the reserve fund of such sum as is certified to be necessary to restore the fund to an amount equal to the maximum annual debt service with respect to the project bonds. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $200 million Battery Park City Authority Bonds, Series A are general obligations of a State or a political subdivision thereof under paragraph 7 of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Acting Comptroller's letter April 27, 1972.)

§ 1.344 Small Business Investment Company Debentures represented by guaranty agreements of the Small Business Administration.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24 of debentures due May 1, 1982 issued by small business investment companies and offered fully guaranteed as to principal and interest by the Small Business Administration (SBA), an agency of the United States.

(b) *Opinion.* (1) The debentures, offered under and represented by guaranty agreements, will be held for the purchasers and holders of the guaranty agreements by the SBA as bailee and will be payable to the SBA which, as collection agent for the holders, will remit payments of principal and interest on the debentures to such holders.

(2) A 1971 amendment to the Small Business Investment Act of 1958 authorizes the SBA to guarantee (when authorized in appropriation Acts) the timely payment of all principal and interest as scheduled on the debentures and provides that the full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the guaranty. The current appropriation Act contains language appropriate to authorize these guaranties.

(c) *Ruling.* It is our conclusion that small business investment company debentures offered and guaranteed by the Small Business Administration are obligations of the United States and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Comptroller's letter dated May 18, 1972.)

§ 1.345 Reedy Creek Improvement District Ad Valorem Tax bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $20 million Reedy Creek Improvement District ad valorem tax bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Reedy Creek Improvement District is a public corporation created by a special act of the State of Florida to provide reclamation, drainage, irrigation, water and flood control, sewer, and solid waste disposal services within its area of 42.4 square miles in Orange and Osceola Counties. The District is authorized to issue and have outstanding at any one time general obligation bonds in aggregate amounts not in excess of 50 percent of the assessed valuation of the taxable property within the District. It is also authorized to levy an ad valorem tax not in excess of 30 mills on the dollar per year to pay the principal of and interest on any general obligation bonds of the District, to provide for sinking or other funds in connection therewith and to defray the cost of District projects and activities. The 1972 assessable value of taxable property in the District is in excess of $150 million.

(2) The District is issuing these bonds to retire $12,450,000 of its short-term borrowings for the construction and acquisition of drainage, reclamation and water control improvements, a sanitary sewer system and solid waste disposal facilities which are now for the most part completed and in operation; to finance the planned expansion and enlargement of such projects; and to provide for capitalization of interest, reserves and other financing expenses. The District has promised to levy the authorized ad valorem tax annually in amounts sufficient to pay the principal of and interest on the bonds.

(3) Substantially all of the taxable property within the District is owned by the Walt Disney World Co. and its affiliates. The Supreme Court of Florida has determined however that the benefit to the principal taxpayer from the construction of the project of the District is purely incidental to the primary public purposes of tourism, recreation and the conservation of natural resources.

(c) *Ruling.* It is our conclusion that the $20 million Reedy Creek Improvement District ad valorem tax bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated June 6, 1972.)

§ 1.346 Omaha-Douglas Public Building Commission bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $25 million Omaha-Douglas Public Building Commission bonds, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Omaha-Douglas Public Building Commission is a body politic and corporate and an instrumentality of the State of Nebraska activated by the County of Douglas and the city of Omaha in the manner authorized by an Act of the State Legislature. The purpose of the Act is to provide a means whereby buildings, structures, and facilities can be acquired, constructed, remodeled or renovated and financed for use jointly by cities of the metropolitan class and the counties in which they are located. The commission is authorized to issue bonds, to annually levy a tax not to exceed one-half mill on the dollar on all taxable property in the county and to enter into agreements with the city or county or both as to the operation, maintenance, repair and use of its projects. The city and the county are authorized to enter into agreements with each other and the commission necessary, desirable or useful in carrying out the purposes of the Act.

(2) The commission is issuing these bonds to finance the construction of an Omaha-Douglas Civic Center consisting of a 12-story office building and a related legislative chamber to provide space for the executive and legislative functions of the city and the county; the remodeling of the present county courthouse and the construction of a connecting tunnel and other related facilities.

(3) In the agreements entered into among the city, the county and the commission, the city and the county have unconditionally agreed to make rental and other payments in amounts which together with the proceeds of the commission's tax levy and other available funds will be sufficient to pay the principal and interest on the bonds when due as well as other necessary expenses. The city and the county, each of which possess general powers of taxation, have thus committed their faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $25 million Omaha-Douglas Public Building Commission bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated July 14, 1972.)

§ 1.347 New York City Housing Development Corp. general housing bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $133 million New York City Housing Development Corp. general housing bonds, Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) New York City Housing Development Corp. is a corporate government agency and a public benefit corporation created by the New York City Housing Development Corporation Act of the New York State Legislature to encourage the investment of private capital and provide safe and sanitary dwelling accommodations within the financial reach of families and persons of low income through provision for low interest mortgage loans. The corporation is authorized to have outstanding at any time not more than $800 million of bonds and notes for its corporate purposes. It is issuing these bonds to provide mortgage loans for three low income housing projects: two in Manhattan and one in Queens.

(2) These bonds are general obligations of the corporation and are additionally secured by a capital reserve fund established in an amount required to be not less than the maximum annual debt service, including principal, interest and sinking fund requirements, for the current or any future fiscal year on all outstanding bonds of the corporation. In order to assure the continued operation and solvency of the corporation for the carrying out of its corporate purposes the Act provides that the city of New York shall pay annually either from appropriated or borrowed funds to the corporation for deposit to the capital reserve fund such sum as is certified to be necessary to restore the fund to an amount equal to the maximum annual debt service on all bonds of the corporation then outstanding. This statutory requirement commits the faith and credit of the city of New York in support of the bonds.

(c) *Ruling.* It is our conclusion that the $133 million New York City Housing Development Corp. general housing bonds, Series A, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated August 7, 1972.)

§ 1.348 California Department of Water Resources, Central Valley project revenue bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $139,165,000 California Department of Water Resources, Central Valley project revenue bonds, Devils Canyon and Castaic facilities, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The California Department of Water Resources is issuing these bonds as a part of the financing plan for a project by which surplus water in northern California will be conserved and delivered to water deficient areas in parts of central and southern California. The major part of the project has been financed by the sale of general obligation bonds of the State of California. Local public water-using agencies will reimburse the State for a portion of the costs (reimbursable costs) financed by the general obligation bonds in accordance with the terms of water supply contracts. Certain power facilities have been financed by the sale of revenue bonds secured by contracts for the sale of electric power to public utilities.

(2) The proceeds from the sale of these bonds will be used to cover the costs apportioned to power of the Devils Canyon and Castaic facilities. It is expected that the power produced will be used by the department principally for the pumping of water. The security for the bonds is provided by payments to be made under contracts between the department and six local public water agencies in southern California which will receive water through Devils Canyon and Castaic facilities and which will benefit from the power production of these facilities.

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(3) Each of these local public water agencies possesses general powers of taxation and has agreed to pay to the department amounts equivalent to its respective portion of the debt service on the bonds and the operation and maintenance costs of the power facilities financed by the bonds.

(4) The power facilities agreement contains provisions designed to preclude payment for the costs apportioned to power under both the power facilities agreement and the water supply contracts. The State has determined that the costs apportioned to power are not costs reimbursable by the agencies under their water supply contracts and the California Supreme Court has determined that the department is authorized under the Central Valley project to issue Central Valley project revenue bonds and to pledge revenues from facilities financed by such bonds as security for the repayment of the bonds. In these circumstances, the provisions designed to preclude double payment need not be considered as making the agreement conditional.

(c) *Ruling.* It is our conclusion that the $139,165,000 California Department of Water Resources, Central Valley project revenue bonds, Devils Canyon and Castaic facilities, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting, and unlimited holding by national banks. (Comptroller's letter dated Aug. 7, 1972.)

§ 1.349 Parking Authority of the City of Napa.

(a) *Request.* (1) The Comptroller of the Currency has been requested to rule on the eligibility of the $400,000 1972 parking revenue bonds, Series A, of the Parking Authority of the city of Napa for purchase, dealing in, underwriting, and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Parking Authority of the city of Napa is a public body corporate and politic created by the laws of California but authorized to function only upon a finding of need. The City Council has made the appropriate finding and, in accordance with the law, has declared itself to be the Parking Authority. Under the law, a parking authority is authorized to issue revenue bonds to finance public parking facilities and may issue such bonds without obtaining the approval of the electors of the city where the bonds are issued to finance a project which is to be leased to the city and where the principal of and interest on the bonds are to be payable from rentals paid by the city under such lease. The Authority is issuing these bonds to finance the acquisition and construction of two paved ground-level parking lots in the central business district of the city.

(2) Under the lease rental agreement, the city has unconditionally promised to pay annual rentals to the Authority in an amount sufficient to meet annual interest and principal payments on these bonds as well as other necessary expenses. The city, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the $400,000 1972 parking revenue bonds, Series A, of the Parking Authority of the city of Napa are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and accordingly are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Comptroller's letter dated August 28, 1972.)

Dated: October 10, 1972.

[SEAL] WILLIAM B. CAMP,
Comptroller of the Currency.

[FR Doc.72-17530 Filed 10-12-72;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-EA-81, Amdt. 39-1536]

PART 39—AIRWORTHINESS DIRECTIVE

Canadair Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Canadair CL-44 type aircraft.

There have been reports of cracked rear horizontal stabilizer fittings on the Canadair CL-44 type airplanes. Since this deficiency can exist or develop in airplanes of similar type design, an airworthiness directive is being issued which requires periodic inspection and replacement when necessary of the affected parts.

Since the foregoing constitutes a hazard to air safety expeditious adoption of this amendment is required. Therefore notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

CANADAIR. Applies to all Canadair CL-44 type aircraft certificated in all categories.

Compliance required as indicated.

Within the next 100 hours in service after the effective date of this airworthiness directive, unless already accomplished within the last 1,900 hours in service and at intervals not exceeding 2,000 hours in service from the last inspection accomplish the following:

1. Inspect the horizontal stabilizer rear spar to fuselage attachment fittings, P/N44A45022 A and B, for cracks in accordance with paragraph 3.4 of Canadair Service Information Circular No. 379-CL44, dated 7 July, 1971, or equivalent inspection approved by the Chief, Engineering and Manufacturing Branch, FAA, Easteern Region.

2. Replace cracked parts before further flight with parts of the same part number or FAA-approved equivalent parts approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, except that the airplane may be flown in accordance with FAR 21.197 to a base where the repair can be performed.

Upon request, with substantiating data submitted through an FAA maintenance inspector, the replacement intervals specified herein may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective October 17, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17460 Filed 10-12-72;8:46 am]

[Docket No. 72-EA-90, Amdt. 39-1539]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 72-13-8 applicable to Fairchild Hiller UH12 type helicopters.

There have been reports of failures of the main rotor blade as a result of fatigue. Since this deficiency can exist or develop in helicopters of similar type design, an airworthiness directive is being issued which requires the removal of certain blades from service and an inspection and alteration of remaining blades.

Since the foregoing deficiency constitutes a hazard to air safety, expeditious adoption of this amendment is required. Therefore notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended so as to amend AD 72-13-8 as follows:

1. In the first paragraph insert the numeral 1 before the word "Within • • •"

2. Delete the second paragraph and insert in lieu thereof the following:

2. Within 30 hours time in service after the effective date of this airworthiness directive, inspect and alter all other main rotor blades in accordance with Fairchild Hiller Service Bulletin SBUH12L-51-1, July 31, 1972, paragraphs 2A through 2K, or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective October 19, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17463 Filed 10-12-72;8:46 am]

[Docket No. 72-EA-89; Amdt. 39-1538]

PART 39—AIRWORTHINESS DIRECTIVE

Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 72-2-2 applicable to Grumman G-164A type airplanes.

Subsequent to the promulgation of AD 72-2-2 there has been a failure of an AN912-4D reducer at the carburetor inlet of a G-164A airplane. The failure is attributable to either overtorquing or vibration and bears a strong relation to the deficiency involving the AN911-3D fittings which justified AD 72-2-2.

Since the foregoing can occur in other airplanes of similar design AD 72-2-2 is being amended to require replacement of the aluminum reducer with a stainless steel reducer. Further since the deficiency poses a hazard to air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended so as to amend AD 72-2-2 as follows:

1. Number the paragraph beginning with "Replace" as "1".

2. Add the following paragraph:

2. Replace the aluminum AN912-4D reducer at the carburetor fuel inlet boss with corrosion resistant steel reducers P/N AN912-4S or AN912-4K or AN912-4J.

3. Include in the parenthetical statement after the numbers "46" the following: "and 49".

This amendment is effective October 18, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17464 Filed 10-12-72;8:47 am]

[Docket No. 72-EA-73; Amdt. 39-1535]

PART 39—AIRWORTHINESS DIRECTIVE

Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue a new airworthiness directive applicable to Lycoming IGSO-540 type aircraft engines.

There have been reports of failures of the stepped crankcase main bearing dowel in the subject engine. Since this deficiency can exist or develop in other aircraft of similar type design an airworthiness directive is being issued which will require periodic inspection of the lubrication system and replacement of parts where necessary.

Since the foregoing deficiency poses a hazard to air safety, expeditious adoption of this amendment is required. Therefore notice and public procedure hereon are impractical, and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AVCO LYCOMING. Applies to IGSO-540-A series engines except S/N 2537-50 and subsequent; and IGSO-540-B series engines except S/N 2541-50 and subsequent; and IGSO-540 -A and -B engines S/N 747-50, 844-50, 852-50, 947-50, 1184-50, 1240-50, 1361-50, 1402-50, 1453-50, 1544-50, 1767-50, 1773-50, 1794-50, 1799-50, 1933-50 overhauled (also known as remanufactured) by Lycoming after January 26, 1970.

To prevent shifting and possible failures of the crankcase bearings perform the following:

(a) Engines that have accumulated less than 500 hours in service since new or overhaul must have the lubrication system inspected for metal contaminants within the next 10 hours in service after the effective date of this AD and every 25 hours in service thereafter. Further, at the accumulation of 525 hours in service compliance with (d) or (f) is required.

(b) Engines that have accumulated 500 hours or more in service since new or overhaul must have the lubrication system inspected for metal contaminants within the next 10 hours in service after the effective date of this AD, and every 25 hours in service thereafter. Further, compliance with (d) or (f) is required within 25 hours in service after the effective date of this AD.

(c) Compliance with (d) or (f) is required if metal contaminants are detected during the above inspections.

(d) Remove No. 4 cylinder and examine visually the position of No. 3 main bearing for shifting in accordance with Part II of Avco Lycoming Service Bulletin No. 327B. Should shifting be detected, comply with paragraph (f).

(e) Unless already accomplished, compliance with paragraph (f) is required within 50 hours in service after the effective date of this AD on engines that have accumulated 1,200 hours or more in service since new or last overhaul.

(f) Repair the crankcase as described in Lycoming Service Instructions No. 1112C and install straight cranckcase bearing dowels per Lycoming Service Bulletin No. 326 or equivalent repair and alteration approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Compliance with the provisions of this paragraph eliminates the inspection requirements of this AD.

This amendment is effective October 17, 1972.

(Sec. 313(a) 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6 (c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17461 Filed 10-12-72;8:46 am]

[Docket No. 72-EA-87; Amdt. 39-1537]

PART 39—AIRWORTHINESS DIRECTIVE

Lycoming Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to revise AD 71-5-2 applicable to Lycoming type IO-360-A aircraft engines.

Since the publication of AD 71-5-2, the manufacturer has revised its service bulletin to recommend visual inspection of the center main bearing and the agency is additionally requiring a periodic inspection of the lubrication system for metal contaminants.

Since the foregoing is an additional safeguard to a deficiency which poses an air hazard, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended so as to revise AD 71-5-2 as follows:

AVCO LYCOMING. Applies to all IO-360-A series engines except S/N 7100-51A and subsequent and except all engines overhauled (also known as remanufactured) by Lycoming after January 26, 1970, except S/N 354-51, 1049-51A, 3003-51A, 3281-51A, 6526-51A.

To prevent shifting and possible failures of the crankcase main bearings, perform the following:

(a) Engines that have accumulated less than 500 hours in service since new or overhaul must have the lubrication system inspected for metal contaminants within the next 10 hours in service after the effective date of this AD and every 25 hours in service thereafter. Further at the accumulation of 525 hours in service compliance with (d) or (f) is required.

(b) Engines that have accumulated 500 hours or more in service since new or overhaul must have the lubrication system inspected for metal contaminants within the next 10 hours in service after the effective date of this AD and every 25 hours in service thereafter. Further compliance with (d) or (f) is required within 25 hours in service after the effective date of this AD.

(c) Compliance with (d) or (f) is required if metal contaminants are detected during the above inspections.

(d) Remove No. 2 position cylinder and examine visually the position of the center main bearing for shifting in accordance with Part II of Avco Lycoming Service Bulletin No. 327B. Should shifting be detected, comply with paragraph (f).

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(e) Unless already accomplished, compliance with paragraph (f) is required within 50 hours in service after the effective date of this AD on engines that have accumulated 1,200 hours or more in service since new or last overhaul.

(f) Repair the crankcase as described in Lycoming Service Instructions No. 1112C and install straight crankcase bearing dowels per Lycoming Service Bulletin No. 326 or equivalent repair and alteration approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. Compliance with the provisions of this paragraph eliminates the inspection requirements of this AD.

This amendment is effective October 17, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17462 Filed 10-12-72;8:46 am]

[Docket No. 72-EA-101; Amdt. 39-1540]

PART 39—AIRWORTHINESS DIRECTIVE

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA 23-250 type airplanes.

Flight test reevaluations of the subject aircraft have revealed that the airplane did not comply with the requirements for power-on stall characteristics and static longitudinal stability in climb. A correction for this deficiency involves installation of a stabilator bungee spring.

Since this deficiency can exist in other airplanes of similar type design, an airworthiness directive is being issued to require the bungee spring installation. While the service history of the aircraft does not disclose this deficiency as a problem, nevertheless the technical airworthiness of the aircraft is affected and and expeditious adoption of the amendment is appropriate. Thus notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Piper Aircraft Corp. Applies to PA 23-250 airplanes, S/Ns 27-4575 to 27-4587 inclusive, 27-4589 to 27-4620 inclusive, 27-4622 to 27-4672 inclusive, 27-4674 to 27-4682 inclusive, and 27-4684 to 27-4694 inclusive, certificated in all categories.

Compliance required within 30 days after the effective date of this AD, unless already accomplished.

To improve the longitudinal stability characteristics and to prevent longitudinal stick force reversal during certain flight conditions, accomplish the alteration contained in Piper Service Bulletin No. 345, dated October 7, 1971; or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

Upon request through a maintenance inspector, accompanied by substantiating data, the compliance time specified in the AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective October 19, 1972.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 3, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17465 Filed 10-12-72;8:47 am]

[Airspace Docket No. 71-AL-19]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Control Zone Description and Alteration of Transition Area

On June 3, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11187) stating that the Federal Aviation Administration proposed amendments to Part 71 of the Federal Aviation Regulations that would change the airport name and alter the Tanana, Alaska, transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

1. Section 71.171 (37 F.R. 2056) is amended as follows: In Tanana, Alaska, "Tanana Airport" is deleted and "Ralph M. Calhoun Memorial Airport" is substituted therefor.

2. In § 71.181 (37 F.R. 2143) the Tanana, Alaska, transition area is amended to read:

TANANA, ALASKA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ralph M. Calhoun Memorial Airport, latitude 65°10'30" N., longitude 152°06'32" W. and within 9.5 miles south and 4.5 miles north of the Bear Creek radio beacon 251° bearing extending from the radio beacon to 18.5 miles west.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Anchorage, Alaska on October 2, 1972.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.72-17466 Filed 10-12-72;8:47 am]

[Docket No. 12295, Amdt. No. 833]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's *effective September 26, 1972.*

North Myrtle Beach, S.C.—Myrtle Beach Airport; VOR Runway 5, Amdt. 6; Revised.
North Myrtle Beach, S.C.—Myrtle Beach Airport; VOR Runway 23, Amdt. 8; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's *effective October 6, 1972.*

Panama City, Fla.—Panama City-Bay County Airport; VOR-A, Amdt. 6; Revised.
Panama City, Fla.—Panama City-Bay County Airport; VOR Runway 14, Amdt. 6; Revised.
Panama City, Fla.—Panama City-Bay County Airport; VOR Runway 32, Amdt. 3; Revised.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's *effective November 9, 1972.*

Austin, Tex.—Tims Airpark; VOR/DMA-A, Amdt. 1; Revised.
Georgetown, Tex.—Municipal Airport; VOR/DME Runway 35, Amdt. 1; Revised.
Kearney, Nebr.—Kearney Municipal Airport; VOR Runway 18, Amdt. 5; Revised.
Kearney, Nebr.—Kearney Muncipal Airport; VOR Runway 36, Amdt. 2; Revised.

4. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs effective November 23, 1972.

Alton, Ill.—Civic Memorial Airport; VOR-A, Amdt. 1; Revised.
Baker, Oreg.—Baker Municipal Airport; VOR-A, Amdt. 1; Revised.
Baker, Oreg.—Baker Municipal Airport, VOR/DME Runway 12, Amdt. 7; Revised.
Battle Creek, Mich.—W. K. Kellogg Regional Airfield; VOR Runway 4, Amdt. 9; Revised.
Battle Creek, Mich.—W. K. Kellogg Regional Airfield; VOR Runway 22, Amdt. 7; Revised.
Battle Creek, Mich—W. K. Kellogg Regional Airfield; VOR Runway 31, Amdt. 5; Revised.
Bozeman, Mont.—Gallatin Field; VOR Runway 12, Amdt. 7; Revised.
Centralia, Ill.—Centralia Municipal Airport; VOR Runway 36, Amdt. 7; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; VOR Runway 9, Amdt. 5; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; VOR Runway 27, Amdt. 6; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; VOR Runway 3R, Amdt. 2; Revised.
Hastings, Nebr.—Hastings Municipal Airport; VOR Runway 32, Amdt. 8; Revised.
Kansas City, Mo.—Municipal Airport; VOR-A, Amdt. 5; Revised.
Kansas City, Mo.—Municipal Airport; VOR Runway 3, Amdt. 6; Revised.
Kansas City, Mo.—Municipal Airport; VOR Runway 18, Amdt. 10; Revised.
Kansas City, Mo.—Municipal Airport; VOR Runway 21, Amdt. 5; Revised.
Sacramento, Calif.—Sacramento Metropolitan Airport; VOR/DME Runway 34, Amdt. 5; Revised.
Stevens Point, Wis.—Stevens Point Municipal Airport; VOR Runway 3, Amdt. 5; Revised.
Stevens Point, Wis.—Stevens Point Municipal Airport; VOR Runway 21, Amdt. 10; Revised.
Stevens Point, Wis.—Stevens Point Municipal Airport; VOR Runway 30, Amdt. 9; Revised.
Syracuse, N.Y.—Syracuse Hancock International Airport; VOR Runway 14, Amdt. 14; Revised.
Wausau, Wis.—Wausau Municipal Airport; VOR-A, Amdt. 11; Revised.

5. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective October 12, 1972.

Chicago, Ill.—Chicago O'Hare International Airport; LOC(BC) Runway 9R, Original; Established.

6. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective November 23, 1972.

Battle Creek, Mich.—W. K. Kellogg Regional Airport; LOC(BC) Runway 4, Amdt. 6; Revised.
Sacramento, Calif.—Sacramento Metropolitan Airport; LOC(BC) Runway 34, Amdt. 4; Revised.
Syracuse, N.Y.—Syracuse Hancock International Airport; LOC(BC) Runway 10, Amdt. 16; Revised.

7. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective November 9, 1972.

Holdredge, Nebr.—Brewster Field, NDB Runway 18, Original; Established.

8. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective November 23, 1972.

Alton, Ill.—Civic Memorial Airport; NDB Runway 17R, Amdt. 4; Revised.
Alton, Ill.—Civic Memorial Airport; NDB Runway 29, Amdt. 1; Revised.
Battle Creek, Mich.—W. K. Kellogg Regional Airport; NDB Runway 22, Amdt. 6; Revised.
Bozeman, Mont.—Gallatin Field, NDB-A, Amdt. 5; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; NDB Runway 3L, Amdt. 1; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; NDB Runway 3R, Amdt. 1; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; NDB Runway 21L, Amdt. 1; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport; NDB Runway 21R, Amdt. 1; Revised.
Grand Marais, Minn.—Devils Track Municipal Airport; NDB Runway 27, Amendment 2; Revised.
Kansas City, Mo.—Municipal Airport, NDB Runway 18, Amendment 9; Revised.
Macomb, Ill.—Macomb Municipal Airport NDB Runway 26, Amendment 2; Revised.
Merrill, Wis.—Merrill Municipal Airport, NDB Runway 16, Amendment 1; Revised.
Minocqua-Woodruff, Wis.—Lakeland Airport, NDB Runway 10, Amendment 1; Revised.
Minocqua-Woodruff, Wis.—Lakeland Airport, NDB Runway 18, Amendment 4; Revised.
Minocqua-Woodruff, Wis.—Lakeland Airport, NDB Runway 28, Amendment 1; Revised.
Minocqua-Woodruff, Wis.—Lakeland Airport, NDB Runway 36, Amendment 2; Revised.
Sacramento, Calif.—Sacramento Metropolitan Airport, NDB Runway 16, Amendment 5; Revised.
Syracuse, N.Y.—Syracuse Hancock International Airport, NDB Runway 10, Amendment 6; Revised.
Syracuse, N.Y.—Syracuse Hancock International Airport, NDB Runway 28, Amendment 22; Revised.

9. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective September 28, 1972.

Huntington, W. Va.—Tri-State (Walker-Long Field), ILS Runway 12, Amendment 2; Revised.

10. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective October 6, 1972.

Panama City, Fla.—Panama City-Bay County Airport, ILS Runway 14, Amendment 6; Revised.

11. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective November 23, 1972.

Alton, Ill.—Civic Memorial Airport, ILS Runway 29, Amendment 1; Revised.
Battle Creek, Mich.—W. K. Kellogg Regional Airport, ILS Runway 22, Amendment 7; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport, ILS Runway 3L, Amendment 1; Revised.
Detroit, Mich.—Detroit Metropolitan Wayne County Airport, ILS Runway 21R, Amendment 7; Revised.
Detroit, Mich—Detroit Metropolitan Wayne County Airport, ILS Runway 27, Amendment 2; Revised.
Kansas City, Mo.—Municipal Airport, ILS Runway 18, Amendment 11; Revised.
Pontiac, Mich.—Oakland-Pontiac Airport, ILS Runway 9, Original; Established.
Sacramento, Calif.—Sacramento Metropolitan Airport, ILS Runway 16, Amendment 6; Revised.
Syracuse, N.Y.—Syracuse Hancock International Airport, ILS Runway 28, Amendment 23; Revised.

12. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's effective November 23, 1972.

Detroit, Mich.—Detroit Metropolitan Wayne County Airport; Radar-1, Amendment 6; Revised.
Syracuse, N.Y.—Syracuse Hancock International Airport; Radar-1, Amendment 2; Revised.

13. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's effective November 23, 1972.

Alton, Ill.—Civic Memorial Airport, RNAV Runway 29, Original; Established.
Glens Falls, N.Y.—Warren County Airport, RNAV Runway 1, Original; Established.

NOTE: Reference Docket 12262, Amendment No. 831, § 97.23 effective November 9, 1972—Change effective date of Torrance, Calif.—Torrance Municipal Airport, VOR Runway 11L, Amendment 8; Revised from November 9, 1972 to November 16, 1972.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 5, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-17459 Filed 10-12-72;8:46 am]

FEDERAL REGISTER, VOL. 37, NO. 199—FRIDAY, OCTOBER 13, 1972

V37-1972 OCT 13 72 XUM

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965– ——)

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

PROVIDER COST REPORT FILING REQUIREMENTS

On August 25, 1971, there was published in the FEDERAL REGISTER (36 F.R. 16678) a notice of proposed rule making with proposed amendments to Subpart D of Regulation No. 5 (1) requiring providers to aline their Medicare cost reporting periods with their Internal Revenue Service income tax or information return reporting periods and (2) adopting the Internal Revenue Service due dates as the due dates for filing Medicare cost reports.

Interested parties were given 30 days within which to submit data, views, or arguments pertaining to the proposed amendments. All comments submitted with respect to the proposed amendments were given due consideration. Comments were received from chain organizations, including some nonprofit chains, to the effect that where their member providers utilize different reporting periods for Medicare and the Internal Revenue Service, they do so primarily to stagger their reporting workloads throughout the year, thus achieving optimum utilization of their accounting specialists. In addition, some chain organizations pointed out that, while their providers' Medicare cost reports must be filed on the accrual basis of accounting, many file their Internal Revenue Service returns on the cash basis of accounting. This dissimilarity in accounting bases does not generally permit the data gathered for use in the preparation of the Internal Revenue Service returns to be routinely used in the preparation of the Medicare cost report without significant adjustment. A further point raised was that by alining cost report due dates with Internal Revenue Service return due dates different types of providers, i.e., corporations, partnerships, and sole proprietorships operated for profit, and voluntary nonprofit organizations would not have uniform filing periods.

In view of these comments, the proposed regulations have been modified as follows: The proposed revision of paragraph (b) of § 405.406 is deleted. The proposed subparagraphs (1), (2), and (3) of § 405.453(f) are deleted. The proposed subparagraphs (4) and (5) of § 405.453(f) are redesignated subparagraphs (1) and (2). Subdivisions (i) and (ii) of § 405.453(f)(2) as so redesignated are revised. The deletion of paragraph (h) of § 405.454 is changed to deletion of paragraph (i) to take account of an intervening redesignation of such paragraph. These changes (1) permit a provider to establish a cost reporting period without regard to its Internal Revenue Service reporting period, (2) provide for a uniform filing period for all participating providers, including an extension for good cause, and (3) separately identify the cost reporting period and filing period for cost reports where a provider terminates participation under Medicare or experiences a change of ownership.

Accordingly, with these changes, the proposed amendments as set forth below are hereby adopted.

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (10–13–72).

(Secs. 1102, 1815, and 1871, 49 Stat. 647, as amended, 79 Stat. 298, 322, and 331, as amended; 42 U.S.C. 1302, 1395 et seq.)

Dated: September 12, 1972.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: October 5, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) are further amended as follows:

1. Section 405.453 is amended by adding paragraph (f) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * * * *

(f) *Cost reports.* For cost reporting purposes, the health insurance program requires each provider of services to submit periodic reports of its operations which generally cover a consecutive 12-month period of the provider's operations. Amended cost reports to revise cost report information which has been previously submitted by a provider may be permitted or required as determined by the Social Security Administration.

(1) *Cost reports—terminated providers and changes of ownership.* A provider which voluntarily or involuntarily ceases to participate in the health insurance program or experiences a change of ownership must file a cost report for that period under the program beginning with the first day not included in a previous cost reporting period and ending with the effective date of termination of its provider agreement or change of ownership.

(2) *Due dates for cost reports.* (i) Cost reports are due on or before the last day of the third month following the close of the period covered by the report.

(ii) A 30-day extension of the due date of a cost report may, for good cause, be granted by the intermediary, after first obtaining the approval of the Social Security Administration.

(iii) The cost report from a provider which voluntarily or involuntarily ceases to participate in the health insurance program or experiences a change of ownership is due no later than 45 days following the effective date of the termination of the provider agreement or change of ownership.

2. Paragraph (i) of § 405.454 is deleted.

§ 405.454 Payments to providers.

* * * * * * *

(i) [Deleted]

[FR Doc.72–17520 Filed 10–12–72;8:54 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Hexachlorophene as a Component in Drug and Cosmetic Products for Human Use

Correction

In F.R. Doc. 72–16442 appearing at page 20160 of the issue for Wednesday, September 27, 1972, the last line of § 3.91 (h)(3) should read "and Cetrimonium Bromide.", instead of "and Centrimonium Bromide."

SUBCHAPTER C—DRUGS

PHENYLBUTAZONE

The Commissioner of Food and Drugs has evaluated new animal drug applications (48–646V and 48–647V) filed by Western Serum Co., Post Office Box 7025, Phoenix, AZ 85011, proposing the safe and effective use of phenylbutazone in tablet and injectable forms as anti-inflammatory agents for use in horses. The applications are approved.

To facilitate referencing, Western Serum Co. is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135, 135b, and 135c are amended as follows:

PART 135—NEW ANIMAL DRUGS

1. Section 135.501 is amended in paragraph (c) by adding a new code No. 087 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
087	Western Serum Co., Post Office Box 7025, Phoenix, AR 85011.

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OF INJECTION

2. Section 135b.47 is revised to read as follows:

§ 135b.47 Phenylbutazone injection.

(a)(1) *Specifications.* Phenylbutazone injection contains 200 milligrams of phenylbutazone in each milliliter of sterile aqueous solution.

(2) *Sponsor.* See code Nos. 062 and 076 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in dogs and horses.

(ii) It is administered intravenously to dogs at a dosage level of 10 milligrams per pound of body weight but not to exceed 800 milligrams per animal daily regardless of weight. Intravenous injections to dogs should be limited to 2 successive days but may be followed by oral medication. It is administered intravenously to horses at a dosage level of 1 to 2 grams per 1,000 pounds of body weight for a maximum of 5 successive days.

(iii) Treated animals should not be slaughtered for food purposes.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b)(1) *Specifications.* Phenylbutazone injection contains 200 milligrams of phenylbutazone in each milliliter of sterile aqueous solution.

(2) *Sponsor.* See code No. 087 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in horses.

(ii) It is administered intravenously to horses at a dosage level of 1 to 2 grams per 1,000 pounds of body weight daily for a maximum of 5 successive days.

(iii) Not for use in horses intended for food.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

3. Section 135c.57 is revised to read as follows:

§ 135c.57 Phenylbutazone tablets and boluses.

(a)(1) *Specifications.* The drug is in tablet form with each tablet containing 100 milligrams or 1 gram of phenylbutazone per tablet and/or the drug is in a bolus containing 4 grams of phenylbutazone per bolus.

(2) *Sponsor.* See code No. 062 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal systems in dogs and horses.

(ii) It is administered to dogs at a dosage level of 20 milligrams per pound of body weight in three divided doses daily with a maximum dosage level of 800 milligrams per day regardless of body weight. It is used at a relatively high-dosage level for the first 48 hours and then reduced gradually to a maintenance dosage level with the lowest dosage maintained at a level capable of producing desired clinical response. It is used in horses at a dosage level of 1 to 2 grams per 500 pounds of body weight but not to exceed 4 grams per animal daily with a relatively high dosage level given for the first 48 hours which is reduced gradually to a maintenance dosage level which is maintained at the lowest dosage level capable of producing the desired clinical response.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(iv) Not for use in animals intended for food purposes.

(b)(1) *Specifications.* The drug is in tablet form with each tablet containing 100 milligrams or 1 gram of phenylbutazone per tablet.

(2) *Sponsor.* See code No. 076 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in dogs and horses.

(ii) It is administered to dogs at a dosage level of 20 milligrams per pound of body weight in three divided doses daily with a maximum dosage level of 800 milligrams per day regardless of body weight. It is used at a relatively high-dosage level for the first 48 hours and then reduced gradually to a maintenance dosage level with the lowest dosage maintained at a level capable of producing desired clinical response. It is used in horses at a dosage level of 1 to 2 grams per 500 pounds of body weight but not to exceed 4 grams per animal daily with a relatively high dosage level given for the first 48 hours which is reduced gradually to a maintenance dosage level which is maintained at the lowest dosage level capable of producing the desired clinical response.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(iv) Not for use in animals intended for food purposes.

(c)(1) *Specifications.* The drug is in tablet form with each tablet containing 100 milligrams of phenylbutazone.

(2) *Sponsor.* See code No. 059 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in dogs.

(ii) It is administered to dogs at a dosage level of 20 milligrams per pound of body weight in three divided doses daily with the maximum dosage level of 800 milligrams per day regardless of body weight. It is used at a relatively high dosage level for the first 48 hours and then reduced gradually to a maintenance dosage level with the lowest dosage maintained at the level capable of producing the desired clinical response.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(iv) Not for use in animals intended for food purposes.

(d)(1) *Specifications.* The drug is in tablet form with each tablet containing 1 gram of phenylbutazone.

(2) *Sponsor.* See code No. 087 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) The drug is used for the relief of inflammatory conditions associated with the musculoskeletal system in horses.

(ii) It is administered orally to horses as a non-hormonal, antiinflammatory agent at a dosage level of 1 to 2 grams per 500 pounds of body weight daily but not to exceed 4 grams per animal daily.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(iv) Not for use in horses intended for food.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–13–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 5, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72–17451 Filed 10–12–72;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Phenylbutazone

The Commissioner of Food and Drugs has evaluated a new animal drug application (49–554V) filed by John D. Copanos & Co., Inc., proposing the safe and effective use of phenylbutazone injection in horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.47 by adding a new paragraph (d) as follows:

§ 135b.47 Phenylbutazone injection.

* * * * * * *

(d)(1) *Specifications.* Phenylbutazone injection contains 200 milligrams of phenylbutazone in each milliliter of sterile aqueous solution.

(2) *Sponsor.* See code No. 054 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in horses.

(ii) It is administered intravenously to horses at a dosage level of 1 to 2 grams per 1000 pounds of body weight daily for a maximum of 5 successive days.

(iii) Not to be used in horses intended for food.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–13–72).

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(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 5, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-17450 Filed 10-12-72;8:45 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Disophenol Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (12-598V) filed by American Cyanamid Co., Post Office Box 400, Princeton, NJ 08540, proposing revised labeling for the safe and effective use of disophenol injection, veterinary, for the treatment of dogs and cats infested with hookworms. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding the following new section:

§ 135b.71 Disophenol injection, veterinary.

(a) *Chemical name.* 2,6-Diiodo-4-nitrophenol.

(b) *Specifications.* The drug is sterile and contains 4.5 percent disophenol in polyethylene glycol 400 and distilled water.

(c) *Sponsor.* See code No. 004 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) The drug is used for the treatment of both dogs infested with hookworms (including *Ancylostoma caninum, A. braziliense* and *Uncinaria stenocephala*) and cats infested with the hookworm *A. tubaeforme.*

(2) The drug is administered subcutaneously at a dosage level of 4.5 milligrams per pound of body weight. A second injection may be indicated 14 to 21 days after the initial treatment.

(3) Do not repeat treatment in less than 14 days.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10-13-72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 5, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-17449 Filed 10-12-72;8:45 am]

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards for Household Substances in Liquid Form Containing Methyl Alcohol (Methanol)

In the FEDERAL REGISTER of April 18, 1972 (37 F.R. 7631), the Commissioner of Food and Drugs proposed child protection packaging standards for household substances in liquid form containing 4 percent or more by weight of methyl alcohol (methanol).

Twelve of the 18 comments received in response to the notice favor the standards as proposed. The principal issues raised in the remainder of the comments, and the Commissioner's conclusions are as follows:

A. *Need for special packaging.* A consumer states that the problem of accidental ingestion of hazardous household substances could be solved by the exercise of reasonable care by parents and the education of children.

Passage of the Poison Prevention Packaging Act of 1970, is recognition of the fact that many children are able to gain access to harmful household substances in spite of normal precautionary measures by parents and others. The toxicity information and injury data reported in the proposal show that methyl alcohol is a toxic substance and that its use in various household products presents a serious problem of accidental poisonings. Application of the special packaging standards will make it more difficult for children to gain access to household substances containing methyl alcohol. Accordingly, the finding required by section 3(a)(1) of the act is affirmed.

B. *Continuing effectiveness.* A consumer suggests that the special packaging should retain its child-resistant effectiveness after several openings. The Commissioner previously recognized this need. Section 295.3(a) requires that the special packaging must continue to function with the effectiveness specifications for the number of openings and closings customary for its size and contents and when in actual contact with the substance contained therein.

C. *Use by the handicapped.* A consumer expresses concern that handicapped persons (particularly those with arthritis) may be unable to use, or may have difficulty using, special packaging. Section 4(a) of the act acknowledges such a possibility and provides that substances subject to special packaging standards may also be packaged in noncomplying packaging within prescribed limitations.

D. *Nonconsumer packages.* A manufacturer asks whether one gallon size containers of methyl alcohol will be required to be in special packaging. The person who places a household substance subject to packaging standards into a container or package must determine if that container is in fact a package in which the substance may be delivered to the consumer for use or storage in the household. If it is not, then these standards do not apply.

E. *Single-use containers requiring a tool for entry.* A manufacturer asks whether a single-use container requiring a tool for entry would qualify as "special packaging". The Commissioner concludes that such a container is special packaging if it meets the effectiveness specifications of the standards when tested by the testing procedure for special packaging prescribed by 21 CFR 295.10. On testing such a container, however, no tool need be provided the children unless such tool accompanies the container when offered for sale to the consumer. If the package is intended and clearly labeled that the entire package contents be used in a single application, it shall not be subject to the resecuring provisions of the adult testing portion of the above-noted testing procedure.

F. *Effective date.* A manufacturer requests that the effective date of the regulation be delayed until January 1, 1973, due to a present contractual obligation for conventional packaging. Another manufacturer requests that the effective date be at least one year from the date of promulgation in the FEDERAL REGISTER because it needs additional time to develop suitable and economical special packaging for its products. Neither of these requests present valid justification for a delay in the effective date. The Commissioner concludes that a period of 180 days is a necessary, reasonable, and sufficient time to allow affected persons to achieve full compliance with the standard established by this order. A sufficient amount of special packaging for preparations containing methyl alcohol is not presently available to permit promulgating an effective date of less than 180 days.

G. *Technically feasible, practicable, and appropriate.* A manufacturer, in seeking an extended effective date, contends that the proposed special packaging is not technically feasible, practicable, and appropriate for preparations containing methyl alcohol since the firm does not yet have a suitable closure that will fit its present package and packaging equipment without modification. Also, this manufacturer states that it would take longer than 180 days after promulgation to determine whether the package is compatible with the substance relative to its storage stability.

The Commissioner concludes that the finding required under section 3(a)(2) of the act (that the required special packaging be technically feasible, practicable, and appropriate for such substance) does not imply a delay in the effective date of child protection packaging standards until special packaging is available conforming exactly with existing packages and packaging equipment of all manufacturers or packers of such substances. On the basis of reports and data from industry and other relevant information, the Commissioner finds that the special packaging required herein is:

1. Technically feasible because technology exists to produce special packages conforming to the standard. On April 18, 1972, when special packaging was proposed for methyl alcohol, at least 15 different special packages had been tested in accordance with the testing procedure for special packaging that met or exceeded the effectiveness specifications of § 295.3(b). To date, at least 25 manufacturers have submitted data indicating that one or more package designs meet or exceed the effectiveness specifications of the standards when tested by the protocol prescribed by 21 CFR 295.10. These designs include special packaging for glass, plastic, or metal containers.

2. Practicable in that it is susceptible to modern mass production and assembly line techniques. Reported production data indicate a capability to adequately meet the needs of the affected industries.

3. Appropriate since special packaging is not detrimental to the integrity of the substance and will not interfere with its storage or use. The manufacturer did not submit data demonstrating any incompatibility of special packages with a product containing methyl alcohol. Furthermore, the Commissioner is not aware of any significant incompatibility between this substance and presently available special packaging materials.

H. *Pressurized spray containers.* The standard as proposed was not intended to apply to preparations packaged in pressurized spray containers. Although no comments questioned this, the Commissioner concludes that the final order should be revised to clarify this point.

Therefore, having evaluated the comments and other relevant material, the Commissioner concludes that the proposal, with changes, should be adopted as set forth below.

The amendment below adds a new subparagraph (8) on methyl alcohol to §295.2(a). To give complete information on packaging requirements for methyl alcohol, applicable portions of existing §§ 295.2 and 295.3 are included herein as follows:

Section 295.2 *Substances requiring "special packaging"*

* * * * *

(b) *Sample packages.* (1) The manufacturer or packer of any of the substances listed under paragraph (a) of this section as substances requiring special packaging shall provide the Commissioner with a sample of each type of special packaging, as well as the labeling for each size product that will be packaged in special packaging and the labeling for any noncomplying package. Sample packages and labeling should be sent to the Food and Drug Administration, Attention: Bureau of Product Safety, 5600 Fishers Lane, Rockville, Md. 20852.

(2) Sample packages should be submitted without contents when such contents are unnecessary for demonstrating the effectiveness of the packaging.

(3) Any sample packages containing drugs listed under paragraph (a) of this section shall be sent by registered mail.

(4) As used in subparagraph (1) of this paragraph, the term "manufacturer or packer" does not include pharmacists and other individuals who dispense, at the retail or user level, drugs listed under paragraph (a) of this section as requiring special packaging.

* * * * *

Section 295.3 *Poison prevention packaging standards.* To protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, the Commissioner has determined that packaging designed and constructed to meet the following standards shall be regarded as "special packaging" within the meaning of section 2(4) of the act. Specific application of these standards to substances requiring special packaging is in accordance with § 295.2.

(a) *General requirements.* The special packaging must continue to function with the effectiveness specifications set forth in paragraph (b) of this section when in actual contact with the substance contained therein. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the special packaging to determine that the chemical and physical characteristics of the substance will not compromise or interfere with the proper functioning of the special packaging. The special packaging must also continue to function with the effectiveness specifications set forth in paragraph (b) of this section for the number of openings and closings customary for its size and contents. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors, force required for activation, and other such relevant factors which would establish that, for the duration of normal use, the effectiveness specifications of the packaging would not be expected to lessen.

(b) *Effectiveness specifications.* Special packaging which when tested by the method described in § 295.10, meets the following specifications:

(1) Child-resistant effectiveness of not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging. In the case of unit packaging, child-resistant effectiveness of not less than 80 percent.

(2) Adult-use effectiveness not less than 90 percent.

* * * * *

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under authority delegated to the Commissioner (21 CFR 2.120), subparagraph (7) of § 295.2(a) is reserved for future use and a new subparagraph (8) is added to § 295.2(a) as follows:

§ 295.2 Substances requiring "special packaging".

(a) *Substances.* The Commissioner of Food and Drugs has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * * *

(7) [Reserved]

(8) *Methyl alcohol (methanol).* Household substances in liquid form containing 4 percent or more by weight of methyl alcohol (methanol), other than those packaged in pressurized spray containers, shall be packaged in accordance with the provisions of § 295.3 (a) and (b).

* * * * * *

Effective date. This order shall become effective 180 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474)

Dated: October 6, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17447 Filed 10-12-72;8:53 am]

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards for Household Substances Containing Sodium and/or Potassium Hydroxide

In the FEDERAL REGISTER of March 9, 1972 (27 F.R. 5047), the Commissioner of Food and Drugs proposed child protection packaging standards for household substances containing sodium and/or potassium hydroxide at specified concentrations.

Twenty comments were received in response to the notice. Consumers, a consumer interest group, the medical community, a local city government, and manufacturers of substances subject to the proposed standards responded. Eight comments, seven from consumers and one from the medical community, support the standards as proposed. The principal issues raised in the remainder of the comments and the Commissioner's conclusions are as follows:

A. *Support with suggestions.* The following support the proposal and suggest changes:

1. Two consumers and a consumer interest group suggest that such products be made less toxic in general and be made less attractive to children by the addition of an objectionable taste, odor, and color. They also suggest deletion of the provision exempting household substances containing less than 2 percent of sodium and/or potassium hydroxide. The Poison Prevention Packaging Act of 1970 (the PPPA) does not provide for the prescribing of product content, and available data fails to support a need for special packaging of substances containing

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less than 2 percent of sodium and/or potassium hydroxide.

2. A city government representative suggests that all homes be routinely equipped with an accessible, locked cabinet for the purpose of storing common household poisons. Such would be of value in reducing childhood poisonings, and the Food and Drug Administration endorses this suggestion, but the PPPA does not authorize promulgating this as a requirement.

3. The American Academy of Pediatrics recommends that all substances subject to the standards be prohibited from being packaged in noncomplying packaging under the exemption provided by section 4 of the PPPA. The Academy suggests that such substances be banned under the Federal Hazardous Substances Act (the FHSA) unless in child protection packaging. Also, the Academy recommends that the regulation establishing the standards be made effective 30 days after its promulgation in the FEDERAL REGISTER. Liquid drain cleaners containing 10 percent or more of sodium and/or potassium hydroxide are already banned (21 CFR 191.9(a)(4)) under the FHSA unless packaged in compliance with child protection packaging standards. This banning is based on a finding that despite any possible labeling the product is too dangerous for household use. In view of this, the Commissioner is considering available data to determine if an extension of the banning prescribed by 21 CFR 191.9(a)(4) should be proposed under the FHSA. The Commissioner concludes that adequate quantities of suitable special packaging will not be sufficiently available to permit adoption of the suggested 30-day effective date.

B. *Consumer dissatisfaction.* 1. A consumer states that child protection should be the responsibility of parents and that the general public should not have to pay the higher cost that may result from the use of child protection packaging. Parents have a definite responsibility in the prevention of childhood poisonings and the standards are not intended to lessen that responsibility. Data on childhood ingestions, hospitalizations, and deaths, however, clearly indicate the need for requiring child protection packaging for the subject substances.

2. A consumer comments that certain individuals, such as arthritics, may not be able to use the special packaging. Section 4 of the PPPA provides that substances subject to child protection packaging standards may be marketed in noncomplying packaging, within prescribed limitations, to make them readily available to the elderly or handicapped.

C. *Restricted distribution.* The Shriners Hospital for Crippled Children, Burns Institute, contends that child protection packaging is an inadequate approach to the problem of childhood injuries involving the subject substances and recommends that such substances be removed from the consumer market and restricted to purchase by licensed professionals, such as plumbers. Attempted restriction of such products to professional use may still result in children gaining access to these products in standard packaging. For the present, requiring child protection packaging appears to be the most appropriate approach to reducing childhood injuries from these products. If experience shows that this approach is inadequate, additional measures may be taken under the banning provisions of the FHSA.

D. *Applicability.* A manufacturer recommends (1) that the proposed regulation be clarified to show that it applies to substances containing free or chemically unneutralized sodium and/or potassium hydroxide in the specified amounts and (2) that it specify a method of analysis for determining free alkali such as the American Oil Chemists Society's official method, Da 4a–48. The Commissioner adopts the first suggestion which clarifies the proposal's intended meaning. Specifying a test method, however, is unnecessary in this instance because any method may be used that is scientifically valid and reliable for determining the presence of free sodium and/or potassium hydroxide.

E. *Need for special packaging.* Two manufacturers question the Commissioner's finding under section 3(a)(1) of the PPPA that special packaging is required for the subject products to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting them.

1. A producer of household lye in a dry form contends that the supportive data in the proposal fails to provide scientific or legal proof that the reported ingestions and resulting hospitalizations and fatalities were the fault of the packaging; specifically, that the data does not show that the infants who died from ingestion of such products were able to open the properly closed containers and gain access to the substance. The more than 1,661 ingestions and 609 hospitalizations resulting from accidental ingestion by children under 5 years of age of such substances, as reported in the proposal, reflect the accessibility of these products in their present packaging to children under 5 years of age.

This manufacturer further contends that household lye in a flake or dry form is not as hazardous as the various other forms of household substances containing sodium and/or potassium hydroxide. Grounds given in support of this contention are that (1) formulated products rise to higher temperatures in the presence of moisture than does household lye, (2) lye tends to cake when exposed to moisture in the atmosphere and thus would tend to reduce the likelihood of accidental ingestion, (3) the dry flake form of household lye is unfamiliar to children and not associated with any substance commonly known to children, such as sugar, candy, salt, sand, etc., and (4) products labeled as lye are commonly known to be dangerous in the household and to require careful handling. A significant number of ingestions of household lye by children under 5 years of age and resulting hospitalizations have been reported, and at least one death of a child under 5 years of age from such accidental ingestion has been reported. These ingestions and the death reaffirm the hazard posed by household lye and the need for special packaging of this substance. The Commissioner does not have evidence showing that household lye in flake or dry form is significantly less dangerous and accordingly cannot exempt these products.

2. A producer of an aerosol oven cleaner containing more than 2 percent of sodium and/or potassium hydroxide states that approximately 20 million units of the product have been sold without reports of permanent eye injury caused thereby. The manufacturer states that the only problem reported with the aerosol oven cleaner has been adults accidentally spraying it into their faces and that no benefit will result from subjecting these cleaners to the proposed standards. In the proposal, the Commissioner reported at least seven incidents where such household substances had been sprayed or otherwise introduced accidentally into the eyes of children under 5 years of age. Furthermore, substances containing 2 percent or more of sodium and/or potassium hydroxide have been demonstrated to be corrosive to living tissue. The PPPA was enacted to protect children under 5 years of age from serious personal injury or serious illness. Injury to the eye need not be a permanent loss of sight or other permanent damage to be considered a serious personal injury. Exemption of this product is not justifiable.

Accordingly, the finding required by section 3(a)(1) of the act is affirmed.

F. *Technically feasible, practicable, and appropriate.* Three manufacturers of household substances containing sodium and/or potassium hydroxide contend that the special packaging to be required is not technically feasible, practicable, and appropriate.

Two of these maintain that this finding cannot be made for closures for oven cleaners in pressurized spray containers because:

1. Technical difficulties in manufacturing tolerances between the safety closures and the containers result in units either too easy or too difficult to open.

2. The safety closures may not withstand shipment, marketing, and normal household stress and handling for the life of the unit.

3. Safety closures for aerosols have not been available from full-scale production molds for evaluation.

4. Safety closures for aerosols do not adequately protect users from accidental contact with the product or from spray deflection.

5. A closure has not been developed that meets the effectiveness specifications of the proposed standards for the 8-ounce aerosol package of oven cleaner, which is the most popular size. Also, marketing this most popular size as the noncomplying package without also marketing it in a complying package would be contrary to the intent of section 4 of the PPPA.

One of the two also contends that special packaging for paste oven cleaners requiring a brush applicator is not technically feasible, practicable, and appropriate because:

1. A minimum inside neck diameter of 45 millimeters is required to facilitate the safe use of the applicator. No safety closure tested in accordance with 21 CFR 295.10 is available in this diameter.

2. Those sample closures available with a minimum diameter of 45 millimeters are from sample or prototype molds and are not available in sufficient quantity for adequate evaluation.

The third alleges (1) that a closure meeting the effectiveness specifications of the proposed standards is not available for a 43-millimeter neck container for a solid lye product, (2) that the 43-millimeter diameter closure is necessary because the lye tends to cake and requires insertion of a spoon to remove the product, and (3) that inserting a spoon into the package to obtain a portion is safer than pouring the product which can result in spillage.

Regarding these comments and similar responses to other PPPA proposals, the Commissioner notes that manufacturers tend to conclude erroneously that the section 3(a)(2) finding has not been satisfied unless (a) special packaging meeting the effectiveness specifications of the standards is immediately available and (b) such packaging will conveniently lend itself to the specific type of package currently in use and to the existing packaging equipment within each firm. Under section 3(a)(2) of the PPPA, the Commissioner must establish that special packaging complying with the standards is technically feasible, practicable, and appropriate for the subject substances. The Commissioner is not required to find that the packaging is readily available and will lend itself conveniently to existing packages or packaging equipment of each firm.

The PPPA requires that the packaging of certain household substances must be changed or modified for the purpose of reducing injuries to children under 5 years of age. The various industries involved have been aware since passage of the act in December 1970 that one approach to child poison prevention would be child-resistant packaging. The PPPA does not contemplate delaying promulgation of standards for the special packaging of those substances where indicated until such time as industry is in a position to adopt the use of a closure or special package 100 percent compatible with their existing operations.

Accordingly, the finding required by section 3(a)(2) of the act is affirmed.

The Commissioner, however, in view of the data provided in the comments, concludes that additional compliance time is necessary regarding special packaging for the aerosols and the paste oven cleaners requiring a brush applicator. The effective date of this order for these two products is 270 days after publication hereof in the FEDERAL REGISTER. However, the Commissioner expects that industry will begin using the special packaging in the event it becomes available prior to this effective date.

Therefore, having evaluated the comments received and other relevant material, the Commissioner concludes that the proposal, with changes, should be adopted as set forth below.

The amendment below adds a new subparagraph (5) on sodium and/or potassium hydroxide to § 295.2(a). To give complete information on packaging requirements for sodium and/or potassium hydroxide, applicable portions of existing §§ 295.2 and 295.3 are included herein as follows:

Section 295.2 *Substances requiring "special packaging".*

. . . . . .

(b) *Sample packages.* (1) The manufacturer or packer of any of the substances listed under paragraph (a) of this section as substances requiring special packaging shall provide the Commissioner with a sample of each type of special packaging, as well as the labeling for each size product that will be packaged in special packaging and the labeling for any noncomplying package. Sample packages and labeling should be sent to the Food and Drug Administration, Attention: Bureau of Product Safety, 5600 Fishers Lane, Rockville, MD 20852.

(2) Sample packages should be submitted without contents when such contents are unnecessary for demonstrating the effectiveness of the packaging.

(3) Any sample packages containing drugs listed under paragraph (a) of this section shall be sent by registered mail.

(4) As used in subparagraph (1) of this paragraph, the term "manufacturer or packer" does not include pharmacists and other individuals who dispense, at the retail or user level, drugs listed under paragraph (a) of this section as requiring special packaging.

. . . . . .

Section 295.3 *Poison prevention packaging standards.* To protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, the Commissioner has determined that packaging designed and constructed to meet the following standards shall be regarded as "special packaging" within the meaning of section 2(4) of the act. Specific application of these standards to substances requiring special packaging is in accordance with § 295.2.

(a) *General requirements.* The special packaging must continue to function with the effectiveness specifications set forth in paragraph (b) of this section when in actual contact with the substance contained therein. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the special packaging to determine that the chemical and physical characteristics of the substance will not compromise or interfere with the proper functioning of the special packaging. The special packaging must also continue to function with the effectiveness specifications set forth in paragraph (b) of this section for the number of openings and closings customary for its size and contents. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors, force required for activation, and other such relevant factors which would establish that, for the duration of normal use, the effectiveness specifications of the packaging would not be expected to lessen.

(b) *Effectiveness specifications.* Special packaging which when tested by the method described in § 295.10, meets the following specifications:

(1) Child-resistant effectiveness of not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging. In the case of unit packaging, child-resistant effectiveness of not less than 80 percent.

(2) Adult-use effectiveness not less than 90 percent.

. . . . . .

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under authority delegated to the Commissioner (21 CFR 2.120), a new subparagraph (5) is added to § 295.2(a) as follows:

§ 295.2 Substances requiring "special packaging".

(a) *Substances.* The Commissioner of Food and Drugs has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

. . . . . .

(5) *Sodium and/or potassium hydroxide.* Household substances in dry forms such as granules, powder, and flakes, containing 10 percent or more by weight of free or chemically unneutralized sodium and/or potassium hydroxide, and all other household substances containing 2 percent or more by weight of free or chemically unneutralized sodium and/or potassium hydroxide, shall be packaged in accordance with the provisions of § 295.3 (a) and (b).

. . . . . .

Effective date. This order shall become effective 180 days after its date of publication in the FEDERAL REGISTER except as it applies to paste-type oven cleaners requiring a brush applicator and substances in pressurized spray containers for which the effective date shall be 270 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474)

Dated: October 6, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17448 Filed 10-12-72;8:53 am]

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards for Household Substances in Liquid Form Containing Turpentine

In the FEDERAL REGISTER of April 14, 1972 (37 F.R. 7407), the Commissioner

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of Food and Drugs proposed child protection packaging standards for household substances in liquid form containing 10 percent or more by weight of turpentine.

Nine of the 14 comments received in response to the notice support the standards as proposed. The principal issues raised in the remainder of the comments and the Commissioner's conclusions are as follows:

A. *Expanded coverage.* The American Academy of Pediatrics recommends that the proposal be expanded to include substances used as substitutes for turpentine (e.g., paint thinners and solvents for household use). The Commissioner is considering making such additional substances the subject of a future proposal.

B. *Application.* The Academy also recommends that all products packaged prior to the effective date of the standards, and remaining on the market for sale, be returned to the manufacturer for repacking or restricted to purchasers without young children. Section 9 of the Poison Prevention Packaging Act of 1970 provides that a regulation establishing a special packaging standard shall not apply to any household substance packaged prior to the regulation's effective date. This recognizes that inventories may be exhausted while product packaging is altered to comply with the standard.

C. *Impact upon industry.* A packager and a trade association state that the adverse economic impact upon industry from the required packaging changes may become prohibitive. Passage of the act is recognition that any required package change is warranted to protect children from serious personal injury or serious illness. The standards for substances containing turpentine do not specify a particular package type or design and, therefore, allow industry the latitude to develop or use any form, type, or design of packaging that will meet the performance requirements.

The packager also questions whether industry might have financial recourse to the government for the difference in cost between conventional packaging and special packaging. The Commissioner concludes that there are no provisions in the act for such reimbursement.

D. *Need for special packaging.* A packager questions the Commissioner's finding, required by section 3(a)(1) of the act, that special packaging is required to protect children from serious personal injury or serious illness. It contends that the traditional screwcap closure is as safe as special packaging when properly resecured. Also, the packager states that when adults improperly resecure special packaging, it offers no safety advantage over conventional packaging.

Available data on accidental ingestions of turpentine clearly indicate the need for special packaging of this substance. The data reported in the proposal show 2,062 accidental ingestions of turpentine-containing products by children under 5 years of age for the 3-vear period 1968–70. This shows that children are gaining access to this substance marketed in conventional packaging. The Commissioner previously recognized the need that special packaging be convenient for adults to use properly. Accordingly, § 295.10 *Testing procedure for special packaging* (21 CFR 295.10) includes adult testing to insure that adults can open and properly resecure the special packaging. For these reasons, and because the packager did not provide supportive data, the Commissioner's findings pursuant to section 3(a)(1) stands as set forth in the proposal.

E. *Use by the handicapped.* A consumer expresses concern that handicapped persons (particularly those with arthritis) may be unable to use, or may have difficulty using, the special packaging. Section 4(a) of the act acknowledges such a possibility and provides that substances subject to special packaging standards may also be packaged in noncomplying packaging within prescribed limitations.

F. *Effective date.* The American Academy of Pediatrics recommends that the standards be effective 60 days following promulgation in the FEDERAL REGISTER. A trade association requests that adequate time be allowed for packaged products to enter the market and for all present inventories and currently ordered conventional packaging to be utilized. The Commissioner finds (1) that adequate stocks of special packaging will not be sufficiently available for a 60-day effective date, (2) that the act provides that these standards shall not apply to stocks of the substance packaged prior to the effective date, and (3) that existing inventories of conventional packaging material on hand is not a valid reason for extension of the effective date. The Commissioner concludes that a period of 180 days is necessary, reasonable, and sufficient time to allow affected persons to achieve full compliance with the standards established by this order.

G. *Continuing effectiveness.* A consumer suggests that the special packaging should retain its child-resistant effectiveness quality after several openings. The Commissioner previously recognized this need. Section 295.3(a) requires that the special packaging must continue to function with the effectiveness specifications for the number of openings and closings customary for its size and contents and when in actual contact with the substance contained therein.

H. *Nonconsumer packages.* A manufacturer asks whether 1 gallon size containers of turpentine will be required to be in special packaging. The person who places a household substance subject to packaging standards into a container or package must determine if that container is in fact a package in which the substance may be delivered to the consumer for use or storage in the household. If it is not, then these standards do not apply.

No comments were received concerning the finding made by the Commissioner pursuant to section 3(a)(2) of the act, and the finding that the subject special packaging is technically feasible, practicable, and appropriate is hereby affirmed.

Therefore, having evaluated the comments and other relevant material, the Commissioner concludes that the proposal, without change, should be adopted as set forth below.

The amendment below adds a new paragraph (a)(6) on turpentine to § 295.2. To give complete information on packaging requirements for turpentine, applicable portions of existing §§ 295.2 and 295.3 are included herein as follows:

Section 295.2 *Substances requiring "special packaging".*

* * * * * *

(b) *Sample packages.* (1) The manufacturer or packer of any of the substances listed under paragraph (a) of this section as substances requiring special packaging shall provide the Commissioner with a sample of each type of special packaging, as well as the labeling for each size product that will be packaged in special packaging and the labeling for any noncompliance package. Sample packages and labeling should be sent to the Food and Drug Administration, Attention: Bureau of Product Safety, 5600 Fishers Lane, Rockville, MD 20852.

(2) Sample packages should be submitted without contents when such contents are unnecessary for demonstrating the effectiveness of the packaging.

(3) Any sample packages containing drugs listed under paragraph (a) of this section shall be sent by registered mail.

(4) As used in subparagraph (1) of this paragraph, the term "manufacturer or packer" does not include pharmacists and other individuals who dispense, at the retail or user level, drugs listed under paragraph (a) of this section as requiring special packaging.

* * * * * *

Section 295.3 *Poison prevention packaging standards.* To protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, the Commissioner has determined that packaging designed and constructed to meet the following standards shall be regarded as "special packaging" within the meaning of section 2(4) of the Act. Specific application of these standards to substances requiring special packaging is in accordance with § 295.2

(a) *General requirements.* The special packaging must continue to function with the effectiveness specifications set forth in paragraph (b) of this section when in actual contact with the substance contained therein. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the special packaging to determine that the chemical and physical characteristics of the substance will not compromise or interfere with the proper functioning of the special packaging. The special packaging must also continue to function with the effectiveness specifications set forth in paragraph (b) of this section for the number of openings and closings customary for its size and contents. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors, force required for activation, and other such relevant factors which establish that, for the duration of normal use, the effectiveness specifications of the packaging would not be expected to lessen.

(b) *Effectiveness specifications.* Special packaging which when tested by the method described in § 295.10, meets the following specifications:

(1) Child-resistant effectiveness of not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging. In the case of unit packaging, child-resistant effectiveness of not less than 80 percent.

(2) Adult-use effectiveness not less than 90 percent.

* * * * * *

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474), and under authority delegated to the Commissioner (21 CFR 2.120), a new paragraph (a)(6) is added to § 295.2 as follows:

§ 295.2 Substances requiring "special packaging".

(a) *Substances.* The Commissioner of Food and Drugs has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * * *

(6) *Turpentine.* Household substances in liquid form containing 10 percent or more by weight of turpentine shall be packaged in accordance with the provisions of § 295.3 (a) and (b).

* * * * * *

Effective date. This order shall become effective 180 days after its date of publication in the FEDERAL REGISTER.

(Secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474)

Dated: October 6, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17446 Filed 10-12-72;8:53 am]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.678]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Miscellaneous Amendments

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is amended to provide for submission of a report directly to the approving office of the Immigration and Naturalization Service, rather than to the Department, whenever a consular officer knows or has reason to believe that an alien applying for a visa under section 101(a)(15)(H) or (L) of the Immigration and Nationality Act is not qualified under that section to perform the services or undertake the training specified in the approved petition.

1. Paragraph (b) of § 41.55 is amended to read:

§ 41.55 Temporary workers and trainees.

* * * * * *

(b) If a consular officer knows or has reason to believe that an alien applying for a visa under section 101(a)(15)(H) of the Act is not qualified to perform the services, or to undertake the training, specified in the employer's petition approved by the Attorney General he shall suspend action on the alien's application and submit a report to the approving office of the Immigration and Naturalization Service for whatever action appears to be warranted.

* * * * * *

2. Paragraph (b) of § 41.67 is amended to read:

§ 41.67 Executives, managers, and specialists (intracompany transferees).

* * * * * *

(b) If a consular officer knows or has reason to believe that an alien applying for a visa under section 101(a)(15)(L) of the Act has not been continuously employed for 1 year by the same employer or an affiliate or subsidiary thereof, or has not been employed in a managerial or executive capacity, or does not possess specialized knowledge, as specified in the employer's petition approved by the Attorney General, he shall suspend action on the alien's application and submit a report to the approving office of the Immigration and Naturalization Service for whatever action appears to be warranted.

* * * * * *

Effective date. The amendment to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER (10–13–72).

The provisions of the Administrative Procedures Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104).

For the Secretary of State.

Dated: October 2, 1972.

[SEAL] BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs, Department of State.

[FR Doc.72-17508 Filed 10-12-72;8:54 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. ATF-1]

PART 201—DISTILLED SPIRITS PLANTS

Green Bottled-in-Bond Strip Stamps

Correction

In F.R. Doc. 72-16182 appearing at page 19805 of the issue for Friday, September 22, 1972, in the 22d line of § 201.541(a) the word "extended" should read "exported".

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 15—Environmental Protection Agency

PART 15-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 15-4.53—Procurements Involving Use of Radio Frequencies

Subpart 15-4.53, Procurements Involving Use of Radio Frequencies, is hereby added to Chapter 15, Title 41, of the Code of Federal Regulations.

Effective date. This regulation will become effective on its date of publication in the FEDERAL REGISTER (10-13-72).

Dated: October 10, 1972.

ROBERT W. FRI,
Acting Administrator.

Sec.
15-4.5300 Scope of subpart.
15-4.5301 General.
15-4.5302 Policy.
15-4.5303 Procedures.

AUTHORITY: The provisions of this Subpart 15-4.53 issued under 40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15-4.5300 Scope of subpart.

This subpart provides background information and prescribes the policy and procedures applicable to contractual commitments involving radio frequencies.

§ 15-4.5301 General.

(a) One of the objectives of the Office of Telecommunications Management, Executive Office of the President, is to insure within the Executive Branch the development of telecommunications plans and policies which will promote the optimum use of resources through better management of the radio frequency spectrum. The Director of the Office of Telecommunications Management has requested the EPA Communications Office to support this objective

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in order to bring about more efficient and effective frequency management throughout the Executive Branch.

(b) The Director invited Federal users of radio in December 1964, to examine procurement procedures and controls and ensure availability of adequate radio frequency support before developing and procuring communications-electronics equipment.

(c) In March 1968, the Director invited attention to the modification of the Office of Telecommunications Management's Manual of Regulations and Procedures for Radio Frequency Management. The modification required that the obligation of funds involving the selection, procurement, and development of terrestrial station sites and facilities be withheld pending assurance of the availability of appropriate frequency support.

(d) By July 1968, the Director was appraised that another related frequency support area warranted increased attention. In several instances, the Federal Communications Commission had faced difficult decisions as the result of licensing requests from civilian interests other than electronics equipment manufacturers. The development and application of communications-electronics devices were undertaken by these interests as the direct result of efforts/studies having governmental contractual support. This situation is expected to become increasingly important with the added interest and emphasis on the part of the Executive Branch in areas such as urban development, transportation, and crime prevention.

§ 15–4.5302 Policy.

To insure that budgetary and radio frequency resources are utilized in an efficient manner and to minimize the likelihood of potential conflicts, it is the policy of EPA to:

(a) Assure the availability of radio frequency support prior to the development and procurement of communications-electronics equipment;

(b) Withhold the obligation of funds involving the selection, procurement, and development of terrestrial station sites, facilities, and related components pending assurance of the availability of appropriate frequency support; and

(c) Assure that, wherein the development and application of communications-electronics devices are undertaken as the direct result of efforts/studies having Government contractual support, adequate radio frequency resources are available prior to the completion of contractual arrangements.

§ 15–4.5303 Procedures.

(a) The chief officer responsible for procurement at the contracting activity shall submit, through administrative channels to the Communications Officer, Data and Support Systems Division (AMAD), Environmental Protection Agency, a request to determine availability of radio frequency support. The request shall contain the following information:

(1) A brief statement or circumstances establishing the need;

(2) Description of equipment required;

(3) The desired radio frequency band;

(4) The area of operation (range or radius) in which the radio frequency will perform; and

(5) The control number assigned by the chief officer responsible for procurement at the contracting activity to identify the frequency support request. (Refer to § 15–4.5303(d)).

(b) The Communications Officer will coordinate the request to assure that the frequency band is properly allocated and will process all applications to secure the frequency assignment.

(c) The Communications Officer will inform the chief officer responsible for procurement at the contracting activity through administrative channels, of the result of such coordination.

(d) The control number assigned to the request shall be used in all subsequent actions for identification of the specific transaction.

[FR Doc.72–17517 Filed 10–12–72;8:53 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5264]

[Fairbanks 480]

ALASKA

Partial Revocation of Withdrawal for Air Navigation Facility; Withdrawal of Released Lands for Townsite Purposes

By virtue of the authority contained in section 4 of the Act of May 24, 1928, 49 U.S.C. 214 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 2334 of April 17, 1961, which withdrew lands for use of the former Federal Aviation Agency, now Federal Aviation Administration, as an air navigation facility, is hereby revoked so far as it affects the following described lands:

KOTZEBUE

Beginning at Corner No. 10 of U.S. Survey No. 2083; thence N. 59°59' E., 1,821.95 feet to a point on the shore of Kotzebue Sound; thence following said meanders, S. 79°22' E., 626.9 feet; S. 61°55' E., 435.6 feet; S. 74°05' E., 543.5 feet; S. 87°25'10" E., 893.0 feet to Meander Corner No. 4, Tract B, U.S. Survey No. 4498; S. 26°30' W., 2,016.42 feet to Meander Corner No. 5 of said survey; thence N. 64°08' W., approximately 3,394.35 feet to Corner No. 10, U.S. Survey No. 2083, the point of beginning, containing 112.49 acres, excepting therefrom that portion now described as Tract 10, U.S. Survey No. 2645, Alaska, and a 50-foot right-of-way for a utility line more particularly described as commencing at Corner No. 10, U.S. Survey No. 2083, thence S. 64°8'00" E., 1,590 feet to the true point of beginning, thence N. 42°-42'00" E., 500 feet to a point on the south boundary of Tract 10, U.S. Survey No. 2645, containing a total of 35.01 acres of land, which will remain withdrawn by Public Land Order No. 2334 for use by the Federal Aviation Administration.

2. The remaining 77.48 acres of the land described in paragraph 1 of this order, are portions of the Kotzebue Townsite Addition, Tracts "A" and "B", U.S. Survey No. 4498, the plat of which was officially approved on December 5, 1969. Subject to valid existing rights, these lands shall remain withdrawn and may be entered for townsite purposes pursuant to section 11 of the Act of March 3, 1891, 43 U.S.C. 732 (1970), the Act of May 25, 1926, 43 U.S.C. 733–736 (1970), and the Act of February 26, 1948, 43 U.S.C. 737 (1970).

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, AK 99501.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 10, 1972.

[FR Doc.72–17458 Filed 10–12–72;8:48 am]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM–96, Amdts. 172–17, 173–67]

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170–189 OF THIS CHAPTER

Etiologic Agents

Correction

In F.R. Doc. 72–16609 appearing at page 20554 of the issue for Saturday, September 30, 1972, in § 172.5(a) the number in the tabulated material under "Label required if not exempt" should read "(173.388)" instead of "(17.383)".

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192–10; Docket No. OPS–14]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Liquefied Natural Gas Systems

The Department of Transportation is amending Part 192 to create a new § 192.12 that will establish Federal safety standards for liquefied natural gas (LNG). This will be accomplished by incorporating into the regulations, by reference, standards developed in the revised and enlarged version of Standard 59A approved by the National Fire Protection Association (NFPA) on May 19, 1971.

On January 6, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER proposing that NFPA Standard 59A be incorporated into Part 192 (OPS Notice 72–1; 37 F.R. 145, January 6, 1972). Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. opinions and data presented in the comments that were subsequently received have been given full consideration.

Many commenters were concerned that LNG facilities presently in existence or under construction would be required to comply with the adopted NFPA Standard. Such a retroactive application of these LNG regulations is not intended and indeed is restricted by the Natural Gas Pipeline Safety Act (49 U.S.C. 1672 (b)). A provision has therefore been added to section 192.12 to make clear that LNG facilities in operation or under construction before January 1, 1973, need not be in compliance with NFPA Standard 59A, except that they will be required to adhere to the applicable operating requirements and, after December 31, 1972, to the modification and repair requirements of NFPA Standard 59A and of Part 192.

A number of commenters suggested specific modifications of individuals sections of the NFPA Standard. Such changes are not feasible at this time as the Department is adopting the NFPA Standard only as an interim measure while developing permanent regulations specifically applicable to LNG facilities. With this development of LNG regulations, full attention will be given by the Department to these recommendations.

As suggested by commenters, the term "process" in the proposed regulation has been replaced with the term "treat", and the term "pipeline facility" has been substituted for the term "system". These changes are made to clarify the applicability of the adopted NFPA standard by employing terms used in the Natural Gas Pipeline Safety Act and in Part 192. Further, the term "transport" has been replaced by the term "transfer" to indicate that these interim LNG safety standards govern the transfer of LNG by pipeline within an LNG pipeline facility and not to its transportation over extended distances.

In the event of a conflict between adopted NFPA Standard 59A and Part 192, § 192.12 allows the operator of the LNG facility the opportunity to make a considered determination as to which standard should prevail in resolving such conflicts. When no such conflicts are apparent, both NFPA Standard 59A and the provisions of Part 192 must be complied with to the fullest possible extent.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 has been submitted to the committee and it has submitted a favorable report. The committee's report and the proceedings which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows, effective November 13, 1972.

1. The table of sections for Part 192 is amended by adding the following new section heading after § 192.11:

Sec.
192.12 Liquefied natural gas facilities.

2. The following new section is added after § 192.11:

§ 192.12 Liquefied natural gas facilities.

(a) Except for a pipeline facility in operation or under construction before January 1, 1973, no operator may store, treat, or transfer liquefied natural gas in a pipeline facility unless that pipeline facility meets the applicable requirements of this part and of NFPA Standard No. 59A.

(b) No operator may store, treat, or transfer liquefied natural gas in a pipeline facility in operation or under construction before January 1, 1973, unless—

(1) The facility is operated in accordance with the applicable operating requirements of this part and of NFPA Standard 59A; and

(2) Each modification or repair made to the facility after December 31, 1972, conforms to the applicable requirements of this part and NFPA Standard 59A, insofar as is practicable.

3. Section II.F. of Appendix A to Part 192 is amended by adding the following new item at the end thereof:

4. NFPA Standard 59A "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)" (1971 edition).

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672), section 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on October 10, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.72–17525 Filed 10–12–72;8:51 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Monte Vista National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER. (10–13–72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

Archery hunting of pheasants, rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat on the Monte Vista National Wildlife Refuge, Colo., is permitted only on the area designated by signs or maps as open to hunting. This open area, comprising 2,865 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Archery hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat subject to the following special conditions:

(1) The archery hunting season on the refuge extends from November 18 through November 26, 1972, inclusive.

(2) Weapons — Only nonmechanical bow as permitted by State regulations and flu-flu arrows may be used for hunting.

(3) Dogs—Not to exceed two dogs per hunter may be used in the hunting of pheasants, rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat.

(4) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 27, 1972.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

OCTOBER 4, 1972.

[FR Doc.72–17452 Filed 10–12–72;8:45 am]

PART 32—HUNTING

Monte Vista and Alamosa National Widlife Refuges, Colo.

The following special regulation is issued and is effective on date of

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publication in the FEDERAL REGISTER (10–13–72).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

The public hunting of pheasants on the Monte Vista National Wildlife Refuge, Colo., is permitted only on the area designated by signs as open to hunting. This open area, comprising 5,314 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) The pheasant hunting season on the refuge extends from November 18 through November 26, 1972, inclusive.

(2) Dogs—Not to exceed two dogs per hunter may be used in the hunting of pheasants.

(3) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 27, 1972.

ALAMOSA NATIONAL WILDLIFE REFUGE

The public hunting of pheasants on the Alamosa National Wildlife Refuge, Colo., is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,267 acres, is delineated on maps available at refuge headquarters, Alamosa, Colo., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) The pheasant hunting season on the refuge extends from November 18 through November 26, 1972, inclusive.

(2) Dogs—Not to exceed two dogs per hunter may be used in the hunting of pheasants.

(3) Admittance—Entrance to the open area and parking of vehicles will be restricted to designated parking areas.

(4) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 27, 1972.

CHARLES R. BRYANT,
Refuge Manager, Monte Vista National Wildlife Refuge, Monte Vista, Colo.

OCTOBER 4, 1972.

[FR Doc.72–17453 Filed 10–12–72;8:45 am]

PART 32—HUNTING

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10–13–72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted on the Salt Plains National Wildlife Refuge, Okla., but only on the area designated by signs as open to hunting. This open area, comprising 2,347 acres, is delineated on maps available at refuge headquarters, Jet, Okla., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Participants are to be selected on the basis of a special drawing, and applications are to be submitted to the Oklahoma Department of Wildlife Conservation, 1801 North Lincoln, Oklahoma City, OK 73105. Application may be made by letter, and must contain the applicant's name, address, and Oklahoma deer hunting license number. Application for bow hunting may be made between September 1 and September 30, 1972. Application for gun hunting may be made between September 15 and October 15, 1972. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The bow hunting season is October 21, 22, 25, 26, 28, and 29, 1972.

(2) The gun hunting season is November 18, 19, 22, 23, 25, and 26, 1972.

(3) Hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office before leaving the area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and, effective through November 30, 1972.

RONALD S. SULLIVAN,
Salt Plains National Wildlife Refuge, Jet, Okla.

OCTOBER 2, 1972.

[FR Doc.72–17493 Filed 10–12–72;8:48 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

Self-Propelled Electric Face Equipment; Objections Filed and Hearing Requested

In accordance with the provisions of section 305(r) of the Federal Coal Mine Health and Safety Act of 1969, as amended (83 Stat. 779; 30 U.S.C. 865(r)), and pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Act (83 Stat. 745; 30 U.S.C. 811(a)), there was published, as proposed rulemaking, in the FEDERAL REGISTER for June 23, 1972 (37 F.R. 12395), §§ 75.523–1 through 75.523–3 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, setting forth proposed mandatory standards which would: (1) Establish installation and performance requirements for devices that would deenergize self-propelled electric face equipment in the event of an emergency; and, (2) establish installation and performance requirements for automatic emergency brakes on rubber-tired, self-propelled electric face equipment.

Interested persons were afforded a period of 45 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to these proposed mandatory safety standards, stating the grounds therefor, and to request a public hearing on such objections.

Section 101(f) of the Act directs the Secretary to publish in the FEDERAL REGISTER, as soon as practicable after the period for filing such objections has expired, a notice specifying proposed mandatory safety standards to which objections have been filed and a hearing requested.

Notice is hereby given that written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a hearing on proposed §§ 75.523–1 through 75.523–3.

Pursuant to section 101(g) of the Act, the Secretary shall, promptly after publication of this notice in the FEDERAL REGISTER, issue notice of the time and place at which a public hearing will be held for the purpose of receiving evidence relevant to the objections received.

JOHN B. RIGG,
Deputy Assistant, Secretary of the Interior.

OCTOBER 10, 1972.

[FR Doc.72–17510 Filed 10–12–72;8:52 am]

POSTAL SERVICE

[39 CFR Part 123]

SOLICITATIONS BY MAIL IN THE GUISE OF BILLS OR STATEMENTS OF ACCOUNT

Notice of Proposed Rule Making

Section 123.4(e) of Title 39, Code of Federal Regulations, provides that solicitations in the guise of bills or statements of account are nonmailable unless such matter conforms with certain requirements as to format or presentation. Experience in administering these regulations necessitates a revision of them for purposes of clarification, and in order to better carry out the intent of the statutory requirements upon which the regulations are based. (39 U.S.C. 3001(d)). Accordingly, complying voluntarily with the advance notice requirement of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rule making, the Postal Service proposes that § 123.4(e), *Solicitations in the guise of bills or statements of account*, be revised to read as hereinafter stated.

Interested persons who desire to do so may submit written data, views or arguments concerning the proposed regulations to the Assistant General Counsel, Consumer Protection Division, Law Department, U.S. Postal Service, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

In § 123.4 *Lotteries, false representations, libelous matter and solicitations in the guise of bills or statements of account*, amend paragraph (e) to read as follows:

§ 123.4 Lotteries, false representations, libelous matter and solicitations in the guise of bills or statements of account.

* * * * *

(e) *Solicitations in the guise of bills or statements of account (39 U.S.C. 3001(d))*. Any otherwise mailable matter which reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, is nonmailable unless it conforms to the following requirements:

(1) Each such solicitation shall bear the notice: This is not a bill. The notice shall appear on the face of such solicitation in boldface capital letters of a color prominently contrasting with the background against which it appears, including all other print thereon, and at least as large and as bold as any other print thereon but not smaller than 30-point type. The notice shall be located in accordance with one of the following options:

(i) On the center of the diagonal described by a straight line drawn from the vertex of the lower left corner to the vertex of the upper right corner; or

(ii) Overprinting each portion of the solicitation which reasonably could be considered to specify a monetary amount due and payable by the recipient.

(2) In addition to the requirements of subparagraph (1) of this paragraph, such solicitation shall bear on its face the following disclaimer:

This is a solicitation. You are under no obligation to pay unless you accept this offer.

(3) The disclaimer required by subparagraph (2) of this paragraph shall meet the following requirements:

(i) It shall be surrounded by clear space of at least one-quarter inch;

(ii) It shall appear in boldface capital letters no smaller than 18-point type and of the same color as the notice required by subparagraph (1) of this paragraph; and

(iii) It shall not, by folding or any other device, be rendered less prominent than any other information on the face of the solicitation.

(4) Any solicitation which states that it has been approved by the Postal Service or by the Postmaster General or that it conforms to any postal law or regulation is nonmailable.

(39 U.S.C. 401, 3001(d))

LOUIS A. COX,
General Counsel.

OCTOBER 11, 1972.

[FR Doc.72–17457 Filed 10–12–72;8:53 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1062]

[Docket No. AO 10–A46]

MILK IN ST. LOUIS-OZARKS MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held November 1 at the Holiday Inn-West, Interstate 270 at St. Charles Rock Road, Bridgeton, Mo., beginning at 10 a.m., with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the St. Louis-Ozarks marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

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The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Sunny Hill Farms Dairy Co., Inc.:

Proposal No. 1. The order be amended by deletion of "plus a location adjustment of 15 cents;" from § 1062.53(b), thereby making the price in Zone II the same as the price in Zone I.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 2. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Post Office Box 1485, Maryland Heights, MO 63043, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on October 10, 1972.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.72-17533 Filed 10-12-72;8:51 am]

Agricultural Stabilization and Conservation Service

[7 CFR Parts 722, 728, 775]

FEED GRAIN, WHEAT AND UPLAND COTTON SET-ASIDE PROGRAMS

Permission To Produce Crops on 1973 Set-Aside Acreage

Notice is hereby given that the Secretary is considering what crops should be permitted to be produced on acreage set aside under the Feed Grain, Wheat, and Upland Cotton Set-Aside programs. Pursuant to the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949, as amended by the Agricultural Act of 1970, the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the acreage set aside under the Feed Grain, Wheat, and Upland Cotton Set-Aside programs to be devoted to the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income. The regulations governing the programs will be amended to specify the commodities which may be produced on the set-aside acreage during the 1973 crop year.

Interested persons are invited to submit written data, views, and recommendations pertaining to the commodities which may be produced in 1973 to the Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.). All submissions must, in order to be sure of consideration, be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 4, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17476 Filed 10-12-72;8:52 am]

[7 CFR Part 730]

RICE

Proposed Marketing Quota Regulations for 1967 and Subsequent Crop Years

Pursuant to authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C., 1353, 1375), the Department proposes to amend the Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years.

The purpose of these amendments is to (1) establish a date by which time a producer must apply for a downward adjustment in the amount of the farm marketing excess if the actual production on an excess farm is less than the normal production of the acreage allotment, (2) establish a specified time when marketing quota penalties become due and must be remitted by the producer, (3) change the time when marketing quota penalties collected by buyers must be remitted from 15 days after purchase of the rice to 10 days, (4) provide for the county office to remit rice marketing quota penalties directly to the appropriate Federal Reserve Bank as opposed to being forwarded to the credit of the Treasurer of the United States, and (5) withdraw the requirement that intermediate buyers make a report of all rice purchased within 15 days after date of purchase, except as may be required of any buyer upon a written request by the State committee, State executive director, or the county committee, in the form of a special report.

1. Section 730.10 be amended by revising paragraph (a) thereof to read as follows:

§ 730.10 Farm marketing excess adjustment.

(a) *Adjustment in the amount of the farm marketing excess.* (1) Any producer having an interest in the rice produced on any farm for which there is an excess may (i) not later than January 15 or within 30 days after a late notice of farm marketing quota and farm marketing excess is mailed, as provided in § 730.9, apply in writing to the county office for a downward adjustment in the amount of the farm maketing excess on the basis of the amount of rice produced on the farm in the applicable crop year, or (ii) apply in writing to the county office at any time prior to the institution of court proceedings to collect the penalty for a determination that there was no farm marketing excess for the farm because the actual production of rice on the farm was not in excess of the normal production of the acreage allotment.

(2) Unless application for an adjustment in the farm marketing excess is made as provided under subparagraph (1) of this paragraph, the excess for any farm in the county as determined on the basis of the normal production of the excess rice acreage for the farm shall be final as to the producers on the farm.

(3) If an application is timely filed a record of filing shall be made and the date thereof shall be maintained in the county office. The county committee shall set a time and a place to consider the application and notify the applicant.

* * * * *

2. Section 730.25 be amended by revising paragraph (b) thereof to read as follows:

§ 730.25 Payment of penalties by producers.

* * * * *

(b) *Time when penalties become due.* To the extent collection has not been made prior thereto, the amount of the penalty with respect to the farm marketing excess for any farm shall be remitted by the producer not later than January 15, or not later than 30 calendar days after notice of farm marketing quota and farm marketing excess is mailed as provided for in § 730.9: *Provided,* That the penalty on that amount of the farm marketing excess delivered to the Secretary pursuant to § 730.31 or § 730.9 shall not be remitted: *Provided further,* That the penalty on that amount of the farm marketing excess which is stored pursuant to § 730.30 or § 730.9 shall not be remitted until the time, and to the extent, of any depletion in the amount of rice so stored not authorized as provided in § 730.30(g).

3. Section 730.26 be amended by revising paragraphs (b) and (d) thereof to read as follows:

§ 730.26 Payment of penalties by buyers.

* * * * *

(b) *Time when penalties become due.* The penalty to be paid by a person who buys or acquires rice pursuant to paragraph (a) of this section shall be due at the time the rice is purchased or acquired and shall be remitted not later than 10 calendar days thereafter.

* * * * *

(d) *Collection by buyer at a sale which depleted stored excess rice.* Any buyer within the United States who purchases rice at a sale which has the effect of depleting stored excess rice, including a sale for stored excess rice, including a sale for storage charges, shall be liable for the penalty due from the producer under § 730.30(g) and shall remit the amount of the penalty to the county office within 10 days after such purchase in the manner provided in § 730.27. Failure to collect from the producer shall not relieve the buyer of his duty to remit the amount of the penalty.

4. Section 730.28 be amended by revising the entire section to read as follows:

§ 730.28 Deposit of funds.

All funds received in the county office in connection with penalties for rice shall be scheduled and transmitted within 24 hours to the appropriate Federal Reserve Bank. In the event the funds so received are in the form of cash, such funds shall be deposited in the county committee bank account and a check shall be issued in the amount thereof, payable to the order of the Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, and transmitted to the Federal Reserve Bank. A record shall be maintained of each amount received in the county office, showing the name of the person who remitted the funds, the identification of the farm or farms in connection with which the funds were received, and the name of the person who marketed the rice in connection with which the funds were remitted.

§ 730.34 [Amended]

5. Section 730.34 be amended by withdrawing paragraph (c).

Prior to the issuance of these amendments any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration provided such submissions are submitted within 15 days from date of publication of this notice. To be sure of consideration, such submission should be postmarked not later than 15 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on October 3, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17478 Filed 10-12-72;8:54 am]

[7 CFR Part 730]

RICE

Proposed Acreage Allotments for 1969 and Subsequent Crops

Notice is hereby given that pursuant to the authority contained in the applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C., 1353, 1375), the Department proposes to amend the regulations for determination of acreage allotments for 1969 and subsequent crops of rice.

The purpose of these amendments is to (1) rephrase and redefine the terms "Rice acreage planted and considered planted on a farm," "Farm rice history acreage," "Producer rice history acreage," and "Rice acreage planted and considered planted by a producer," (2) revise and update the provisions for establishing preliminary allotments for old rice farms and producers, and (3) revise and update the provisions for determining new rice farm and producer allotments, changing the application filing date from January 31 to February 15 in the process. The primary reason for these changes results from having recently eliminated certain commodity county office instructional handbooks and combining others to consolidate and unify, where possible, instructions by commodities for voluntary set-aside and mandatory marketing quota programs basically along functional lines.

Prior to the issuance of these amendments, any data, views, or recommendations pertaining thereto which are submitted in writing to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration provided such submissions are postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

It is proposed that the Subpart—Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice (33 F.R. 14520), as amended, be amended as follows:

1. Section 730.62 be amended by revising subparagraphs (4), (10), (13), and (14) of paragraph (b) to read as follows:

§ 730.62 Definitions.

* * * * *

(b) * * *

(4) "Farm rice history acreage" means the acreage determined in accordance with § 730.1516(b) or § 730.67(b) and § 730.1527(b) or § 730.78(b), as applicable.

* * * * *

(10) "Producer rice history acreage" means the producer's share(s) of the farm rice history acreage determined in accordance with § 730.67(b) and apportioned among the producers who were engaged in the production of rice on farms as provided under § 730.67(d).

* * * * *

(13) "Farm planted and considered planted acreage" means the acreage determined in accordance with §§ 730.67(b) and 730.78(b), as applicable.

(14) "Producer rice history acreage" means the acreage determined in accordance with § 730.67(d).

* * * * *

2. Section 730.67 be amended by revising the entire section thereof to read as follows:

§ 730.67 Establishment of preliminary allotments for old producers.

(a) *Basic factors.* In a producer State, the past production of rice in the State by the producer engaged in the production of rice on farms and the allotments previously established in the State for such producer; abnormal conditions affecting acreage, land, labor, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice, are the factors for apportioning the State allotment, less appropriate reserves, to producers who shared in the history acreage determined for a farm in any one or more of the 5 calendar years immediately preceding the year for which the allotment is determined. Taking these factors into consideration, the county committee shall, with approval of the State committee or its representative, establish a rice allotment for the current year for each old producer in the county in accordance with § 730.68. Prior to establishing such allotments the county committee shall determine:

(1) For each old farm the planted and considered planted acreage of rice and the rice history acreage for the year immediately preceding the year for which the producer allotment is to be established.

(2) For each producer engaged in the production of rice on the farm for which such planted and considered planted and history acreages are being established, his share of such acreages.

(b) *Farm planted and considered planted acreage.* The farm planted and considered planted acreage is the farm rice acreage determined in accordance with Part 718 of this chapter, including any prevented planting credit determined thereunder, plus any allotment acreage:

(1) Preserved under the provisions of Part 719 of this chapter.

(2) Underplanted in the current year to deplete stored excess produced in a prior year as provided in this Part 730.

(c) *Farm rice history acreage.* The farm rice history acreage is:

(1) For a farm consisting of federally owned land, the allotment determined under § 730.73, minus any acreage allotment reapportioned to the farm.

(2) For a farm other than one consisting of federally owned land, the allotment determined under § 730.73, minus any acreage allotment reapportioned to the farm: *Provided,* That in the current year or either of the 2 preceding years the planted and considered planted acreage for the farm is 75 percent or more of the allotment determined under § 730.73, minus any reapportioned acreage for such year.

(3) For a farm other than one consisting of federally owned land and when the provisions of subparagraph (2) of this paragraph are not applicable, the planted and considered planted acreage as determined for the farm under paragraph (b) of this section.

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(4) Notwithstanding any other provisions of this paragraph (c), the rice history acreage determined for any farm shall not exceed the allotment determined under the provisions of § 730.73, minus any reapportioned acreage.

(d) *Producer rice history acreage.* The producer rice history acreage is determined by:

(1) Apportioning the farm rice history acreage determined under paragraph (c) of this section among the producers who were engaged in the production of rice on the farms in the same proportion that each producer's allotment minus any reapportioned acreage he received and allocated to the farm for such years bears to the farm allotment established under § 730.73, minus any reapportioned acreage, and

(2) Adding any allotment released by the producer under the provisions of § 730.75.

(3) If a producer fails (i) to release his producer allotment in accordance with § 730.75, or (ii) allocate his producer allotment to a farm in accordance with § 730.72, or (iii) was determined not to have been engaged in the production of rice in accordance with the provisions of § 730.72(e), his producer history acreage will be zero for such year.

(e) *Recommended producer preliminary allotment.* If the producer's rice history acreage as determined under paragraph (d) of this section is:

(1) 75 percent or more of the allotment determined under § 730.68, minus any reapportioned acreage, such allotment will become the preliminary allotment for the following year.

(2) Less than 75 percent of the allotment determined under § 730.68, minus any reapportioned acreage, the preliminary allotment for the following year will be the average of the allotment determined under § 730.68 and the producer's rice history acreage for such year.

(3) If a definitely established crop-rotation system is being carried out on a farm on which the producer is engaged in the production of rice and the preliminary allotment does not represent anticipated plantings for the current year because of a definitely established crop-rotation system, the preliminary allotment may be adjusted by the county committee taking into consideration annual State apportionment factors during the base period.

(i) For a farm due for an increase under the rotation system, the adjusted preliminary allotment for the producer shall not be greater than the largest allotment established for the producer during the 5-year base period.

(ii) For a farm due for a decrease under the rotation system, the adjusted preliminary allotment for the producer shall not be less than the smallest allotment established for the producer during the 5-year base period.

3. Section 730.69 be amended by revising the entire section thereof to read as follows:

§ 730.69 Determination of allotments for new producers.

(a) *Basis.* In a producer State or administrative area in which a new producer reserve is held the State committee with the assistance of the county committee shall establish a rice allotment for the current year for each eligible new producer whose application is timely filed in writing on or before February 15 of the year for which the new producer allotment is requested.

(b) *Eligibility requirements.* To be eligible for an allotment as a new producer, the applicant shall timely file his application for an allotment and shall establish to the satisfaction of the county committee that:

(1) He does not own or operate any other farm in the United States for which a rice allotment is established for the current crop year.

(2) The available land, type of soil, and topography of the land on the farm to which the requested allotment will be allocated is suitable for the production of rice.

(3) He owns, or otherwise has readily available, adequate equipment and irrigation water necessary for the production of rice on the farm.

(4) He expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products; except when the county committee, with the approval of a State committee representative determines that the income of the applicant from farming or otherwise will not provide a reasonable standard of living for him and his family.

(5) He has not filed his application for the purpose of obtaining an allotment as a new producer which would be used, if obtained, as a device to offset a reduction in the rice acreage of an old producer with whom he was formerly, or will be, associated in financing, producing, or marketing rice.

(c) *Income determination.* In making income determinations pursuant to paragraph (b) of this section the following will apply:

(1) Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). Do not include estimated return from the production of the requested rice allotment.

(2) Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(3) Spouse's farm and nonfarm income shall be included in the computation.

(4) If the applicant is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(5) If the applicant is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their reported income. Salaries and dividends from the corporation shall be considered as income from farming.

(6) When applying the income exception referred to under (b)(4) the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated farming off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(d) *Individual farm allotment limitations.* The allotment determined for any new producer shall not exceed the smallest of (1) the preliminary allotment established under § 730.67 for old rice producers in the county producing rice under similar conditions except for the acreage planted to rice during the base period, (2) the allotment requested by the applicant, or (3) the acreage of rice intended to be planted by the applicant on the farm(s) to which the allotment is to be allocated in the current year; *Provided*, That, if the acreage planted to rice by the applicant in the current year is less than 75 percent of the allotment established under this section, the allotment for the producer shall be reduced to the acreage actually planted to rice by the producer. The acreage resulting from any such allotment reduction in each county shall be transferred for accounting purposes to the reserve for appeals and correction, missed farms, and adjustments as provided for under § 730.68.

(e) *Total new producer allotments limited to reserve.* The sum of all new producer allotments established in any State or area, in accordance with the provisions of this section shall not exceed the reserve made available by the State committee for new producers in the State or area, and such reserve shall not exceed 3 percent of the applicable State or area allotment. Any part of such reserve that is not used for the establishment of new producer allotments shall remain in the new producer reserve for the current year and may not be used for any other purpose.

(f) *No State or area reserve.* Requests for new producer allotments shall not be accepted for any year for a State or area for which no new producer reserve has been held by the State committee.

(g) *Cancellation of new producer rice allotment for misrepresentation.* If a new producer rice allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information the allotment shall be cancelled effective for the next crop year. If it is determined that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be cancelled as of the date issued. The applicant shall be notified of the action taken in either case.

4. Section 730.78 be amended by revising the entire section thereof to read as follows:

§ 730.78 Establishment of preliminary allotments for old farms.

(a) *Basic factors.* In a farm State, the past production of rice on farms and the allotments previously established for such farms; abnormal conditions affecting acreage; land, labor, and equipment available for the production of rice; crop-rotation practices; and the soil and other physical factors affecting the production of rice are the factors for apportioning the State allotment among counties and less appropriate reserves, to farms on which history acreage has been determined for the farm in any one or more of the 5 calendar years immediately preceding the year for which the allotment is determined. Taking these factors into consideration, the county committee shall, with the approval of the State committee or its representatives, establish a rice allotment for the current year for each old farm in the county in accordance with § 730.79. Prior to establishing such allotments the county committee shall determine for each old farm the planted and considered planted acreage of rice and the rice history acreage for the year immediately preceding the year for which the allotment is to be established.

(b) *Farm planted and considered planted acreage.* The farm planted and considered planted acreage is the farm rice acreage determined in accordance with Part 718 of this chapter, including any prevented planting credit determined thereunder, plus any allotment acreage:

(1) Preserved under the provisions of Part 719 of this chapter.

(2) Underplanted in the current year to deplete stored excess produced in a prior year as provided in this Part 730.

(c) *Farm rice history acreage.* The farm rice history acreage is:

(1) For a farm consisting of federally owned land, the allotment determined under § 730.79 minus any acreage reapportioned to the farm.

(2) For a farm other than one consisting of federally owned land, the allotment determined under § 730.79, minus any acreage allotment reapportioned to the farm: *Provided*, That in the current year or either of the 2 preceding years the planted and considered planted acreage for the farm is 75 percent or more of the allotment determined under § 730.79 minus any reapportioned acreage for such year.

(3) For a farm other than one consisting of federally owned land and when the provisions of subparagraph (2) of this paragraph are not applicable, the planted and considered planted acreage as determined for the farm under paragraph (b) of this section.

(4) Notwithstanding any other provisions of this paragraph (c), the rice history acreage determined for any farm shall not exceed the allotment determined under § 730.79, minus any reapportioned acreage.

(d) *Recommended farm preliminary allotment.* If the farm rice history acreage as determined under paragraph (c) of this section is:

(1) 75 percent or more of the allotment determined under § 730.79, minus any reapportioned acreage, such allotment will become the preliminary allotment for the following year.

(2) Less than 75 percent of the allotment determined under § 730.79, minus any reapportioned acreage, the preliminary allotment for the following year will be the average of the allotment determined under § 730.79 and the farm rice history acreage for such year.

(3) If a definitely established crop-rotation system is being carried out on a farm and the preliminary allotment does not represent anticipated plantings for the current year because of a definitely established crop-rotation system, the preliminary allotment may be adjusted by the county committee taking into consideration annual county apportionment factors.

(i) For a farm due for an increase under the rotation system, the adjusted preliminary allotment for the farm shall not be greater than the largest allotment established for the farm during the 5-year base period.

(ii) For a farm due for a decrease under the rotation system, the adjusted preliminary allotment for the farm shall not be less than the smallest allotment established for the farm during the 5-year base period.

5. Section 730.80 be amended by revising the entire section thereof to read as follows:

§ 730.80 Determination of allotments for new farms.

(a) *Basis.* In a farm State or administrative area in which a new farm reserve is held the State committee with the assistance of the county committee shall establish a rice allotment for the current year for each eligible new farm application timely filed in writing by the owner or operator on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements.* To be eligible for an allotment as a new farm, the operator or owner shall timely file his application for an allotment and shall establish to the satisfaction of the county committee that:

(1) Neither the owner nor the operator of the farm covered by the application owns or operates any other farm in the United States for which a rice allotment is established for the current crop year.

(2) The available land, type of soil, and topography of the land on the farm for which the allotment is requested is suitable for the production of rice.

(3) The operator owns, or otherwise has readily available, adequate equipment and irrigation water necessary for the production of rice on the farm.

(4) The operator expects to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products; except when the county committee, with the approval of a State committee representative, determines that the income of the operator from farming or otherwise will not provide a reasonable standard of living for the operator and his family.

(c) *Income determination.* In making income determinations pursuant to paragraph (b) of this section the following will apply:

(1) Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). Do not include estimated return from the production of the requested rice allotment.

(2) Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(3) Spouse's farm and nonfarm income shall be included in the computation.

(4) If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(5) If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their reported income. Salaries and dividends from the corporation shall be considered as income from farming.

(6) When applying the income exception referred to under paragraph (b)(4) of this section, the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made only to those who qualify. In making their determinations, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family farm income, estimated farming off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(d) *Eminent domain.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire rice allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agriculture production, shall not be eligible for a new farm allotment for a period of 3 years from the date the former owner was displaced.

(e) *Entire allotment designated by owner as a result of reconstitution.* A farm which includes land which has no

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rice allotment because the owner did not designate an allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm rice allotment for a period of 5 years beginning with the year in which the reconstitution became effective.

(f) *Individual farm allotment limitations.* The allotment determined for any new farm shall not exceed the smallest of (1) the preliminary allotment established under § 730.78 for old rice farms in the county which are similar except for the acreage planted to rice on such farms during the base period, (2) the allotment requested by the applicant, or (3) the acreage of rice intended to be planted on the farm in the current year; *Provided,* That if the acreage planted to rice on the farm in the current year is less than 75 percent of the allotment established under this section, the allotment for the farm shall be reduced to the acreage actually planted to rice on the farm. The acreage resulting from any such allotment reduction in each county shall be transferred for accounting purposes to the reserve for appeals and corrections, missed farms, and adjustments as provided for under § 730.79.

(g) *Total new farm allotments limited to reserve.* The sum of all new farm allotments established in any State or area, as applicable, in accordance with the provisions of this section shall not exceed the reserve made available by the State committee for new farms in the State or area, as applicable, and such reserve shall not exceed 3 percent of the applicable State or area allotment. Any part of such reserve that is not used for the establishment of new farm allotments shall remain in the new farm reserve for the current year and may not be used for any other purpose.

(h) *No State or area reserve.* Requests for new farm allotments shall not be accepted for any year for a State or area for which no new farm reserve has been held by the State committee.

(i) *Cancellation of new rice farm allotment for misrepresentation.* If a new farm allotment is established and it is later determined by the county committee that the applicant unknowingly furnished incomplete or inaccurate information the allotment shall be canceled effective for the next crop year. If it is determined that the applicant knowingly furnished incomplete or inaccurate information and the State committee concurs in the county committee determination, the allotment shall be canceled as of the date issued. The applicant shall be notified of the action taken in either case.

Signed at Washington, D.C., on October 3, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17534 Filed 10-12-72;8:54 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

[13 CFR Part 308]

RELOCATION ASSISTANCE AND LAND ACQUISITION POLICIES

Proposed Revision

The Department of Commerce proposes to issue the attached revised regulations governing relocation assistance and land acquisition policies under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Part 308, Title 13, Chapter III, Code of Federal Regulations). These proposed revisions conform our regulations with OMB Circular No. A-103 (May 1, 1972) and add a new Subpart J concerning administrative review by State agencies which acquire land or displace persons in pursuance of projects receiving Federal financial assistance.

The Department wishes to invite written comments, suggestions, or objections regarding these proposed revisions. Accordingly, interested persons are invited to submit written comments regarding the proposed regulations to Herbert S. Becker, Economic Development Administration, 14th Street between Constitution Avenue and E Street NW., Washington, D.C. 20230, within 30 days of publication of this notice in the FEDERAL REGISTER.

Dated: October 6, 1972.

ROBERT A. PODESTA,
Assistant Secretary for Economic Development.

The Economic Development Administration is revising Part 308 of Chapter III of Title 13 of the Code of Federal Regulations to read as follows:

Subpart A—Introduction

Sec.
308.1 Purpose.
308.2 Definitions.

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

308.10 Scope of subpart.
308.11 Determination.

Subpart C—Moving and Related Expenses

308.20 Scope of subpart.
308.21 Actual reasonable expenses in moving.
308.22 Nonallowable moving expenses and losses.
308.23 Expenses in searching for replacement business or farm.

Subpart D—Payments in Lieu of Moving and Related Expenses

308.30 Scope of subpart.
308.31 Dwellings—schedules.
308.32 Businesses.
308.33 Farms—partial taking.
308.34 Nonprofit organizations.
308.35 Net earnings.
308.36 Amount of business fixed payment.

Subpart E—Replacement Housing Payments for Homeowners

308.40 Scope of subpart.
308.41 Eligibility.
308.42 Comparable replacement dwelling.
308.43 Computation of replacement housing payment.

Subpart F—Replacement Housing Payments for Tenants and Certain Others

308.50 Scope of subpart.
308.51 Eligibility.
308.52 Computation of replacement housing payment for displaced tenants.
308.53 Computation of replacement housing payments for certain others.

Subpart G—Relocation Assistance Advisory Services

308.60 Relocation assistance advisory program.

Subpart H—Federally Assisted Programs

308.70 Assurances.
308.71 Administration — relocation assistance programs.
308.72 Notification procedures.

Subpart I—Uniform Real Property Acquisition Policy

308.80 Scope of subpart.
308.81 Acquisition policies.
308.82 Assurances.

Subpart J—Administrative Review

308.90 Scope of subpart.
308.91 Right to review.

AUTHORITY: The provisions of this Part 308 are issued under sec. 213 (b) and (c), 84 Stat. 1901; 42 U.S.C. 4633.

Subpart A—Introduction

§ 308.1 Purpose.

The purpose of the regulations in this part and procedures is to provide for the application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to undertakings by State agencies with financial assistance by EDA.

§ 308.2 Definitions.

(a) "State agency" means any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

(b) "Act", as used in this part, means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(c) "Person" means any individual, partnership, corporation, or association.

(d) "Displaced person" means any person who, on or after January 2, 1971, moves from real property or moves his personal property from real property as a result of the acquisition of such real property in whole or in part, or as a result of the written order of the acquiring State agency to vacate real property for a program or project undertaken with EDA financial assistance; and solely for the purposes of sections 202 (a) and (b), and 205 of the Act, as a result of the acquisition of or as a result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation for such program or project.

(e) "Regional Directors" means those officials of EDA appointed by the Assistant Secretary for Economic Development pursuant to the authority delegated to him by the Secretary of Commerce as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 89-136, to further the aims and objectives of said Act.

(f) "Business" means any lawful activity, excepting a farm operation, conducted primarily—

(1) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purpose of implementing section 202(a) of the Act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(g) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

§ 308.10 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing sections 205(c)(3) and 206(b) of the Act.

§ 308.11 Determination.

(a) *Availability.* No State agency shall proceed with the phase of any project which phase will cause the displacement of any person until it has provided satisfactory assurance to the EDA Regional Director that within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of title VIII of the Civil Rights Act of 1968 (Public Law 90-284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in paragraph (d) of this section, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(b) *Support.* This determination or assurance should be based on a current survey and analysis of available replacement housing by the displacing State agency. Such survey and analysis must take into account the competing demands on available housing.

(c) *Waiver.* The Regional Director may in unusual situations waive the determination required by paragraph (a) of this section. These should be limited only to emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by section 214 of the Act.

(d) *Decent, safe, and sanitary housing.* A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weathertight condition, and which meets local housing codes. The displacing State agency and the Regional Director shall consider the following criteria in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may only be made in the cases of unusual circumstances or in unique geographic areas.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the State agency causing the displacement, with the concurrence of the Regional Director.

(3) *Occupancy standards.* Occupancy standards for replacement housing shall comply with State agency approved occupancy requirements, with the concurrence of the Regional Director, or comply with local codes.

(e) *Absence or inadequacy of local standards.* In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the head of the State agency, with the concurrence of the Regional Director, may establish the standards.

Subpart C—Moving and Related Expenses

§ 308.20 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing section 202(a) of the Act.

§ 308.21 Actual reasonable expenses in moving.

(a) *To be allowed.* (1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing agency determines that relocation beyond this 50-mile area is justified.

(2) Packing and unpacking, crating and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the displacing agency determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing agency determines that it is necessary.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the displacing agency of, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the displacing State agency is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent, or employees), in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses determined to be eligible under regulations issued by the head of the State agency with the concurrence of the Regional Director.

(b) *Limitations.* (1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the head of the displacing State agency, with the concurrence of the regional director, determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved, but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated costs of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the head of the State agency responsible for the program or project causing the displacement and with the concurrence of the regional director, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing

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the same with a comparable item available on the market. This provision will be applicable in the case of moving junk yards, stockpiled sand, gravel, minerals, metals and similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 308.22 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures or other improvements in which the displaced person reserved ownership, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Such other items as the head of the State agency with the concurrence of the regional director determines should be excluded.

§ 308.23 Expenses in searching for replacement business or farm.

(a) *To be allowed.* (1) Actual travel costs. (2) Extra costs for meals and lodging. (3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(4) In the discretion of the head of the displacing State agency with the concurence of the regional director, necessary broker, real estate or other professional fees to locate a replacement business or farm operation under circumstances prescribed in Federal agency regulations.

(b) *Limitation.* The total amount a displaced person may be paid for searching expenses may not exceed $500 unless the head of the displacing State agency with the concurrence of the regional director determines that a greater amount is justified based on the circumstances involved.

§ 308.24 Actual direct losses by business or farm operations.

When the displaced person does not move personal property, he should be required to make a bona fide effort to sell it, and should be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated costs of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

Subpart D—Payments in Lieu of Moving and Related Expenses

§ 308.30 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and regional directors in implementing section 202 (b) and (c) of the Act.

§ 308.31 Dwellings—schedules.

(a) Subsection 202(b) provides that at the option of the displaced person he may receive a moving expense allowance not to exceed $300, based on schedules established by each agency head, and a dislocation allowance of $200. State agencies with the concurrence of the regional director may pay a moving expense allowance based on moving allowance schedules maintained by the respective State highway departments. These schedules should provide for adequacy of reimbursement in every locality. The Federal Highway Administration will approve all such schedules on a current basis, and will make them available to displacing agencies upon request.

(b) Where there are no highway department schedules, the heads of the Federal agencies undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which displacement occurs regardless of where he relocates.

§ 308.32 Businesses.

(a) Eligibility: A person displaced from his business, as defined in subsection 101(7) (A), (B), and (C) of the Act, is eligible under subsection 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised, in each instance, however, to assure that such payments are made only in connection with a bona fide business. The head of the State agency responsible for the program or project causing displacement shall, by regulation, with the concurrence of the Regional Director, prescribe appropriate criteria for a determination that a given activity does, in fact, constitute a bona fide business.

(b) Those businesses described in subsection 101(7)(D) of the Act are not eligible under subsection 202(c) for a payment in lieu of moving and related expenses.

(c) Where a displaced person is displaced from his place of business, no payment shall be made under subsection 202(c) of the Act until the head of the displacing State agency, with the concurrence of the Regional Director, determines (1) that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and (2) that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing State agency only after consideration of all pertinent circumstances, including but not limited to, the following factors:

(i) The type of business conducted by the displaced concern.

(ii) The nature of the clientele of the displaced concern.

(iii) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 308.33 Farms—partial taking.

Where a displaced person is displaced from only a part of his farm operation, the fixed payment provided by subsection 202(c) of the Act shall be made only if the displacing State agency determines, with the concurrence of the Regional Director, that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

§ 308.34 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under subsection 202(c) of the Act until the head of the displacing State agency determines, with the concurrence of the Regional Director:

(1) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(2) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 308.35 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) of the Act means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for a project, or during such other period as the head of the displacing State agency, with the concurrence of the Regional Director, determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment authorized by subsection 202(c).

§ 308.36 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than $2,500 nor more than $10,000.

Subpart E—Replacement Housing Payments for Homeowners

§ 308.40 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing section 203(a) of the Act.

§ 308.41 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment, authorized by section 203(a) of the Act, not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property covered or qualified under section 217 of the Act for not less than 180 days prior to displacement. The term "initiation of negotiations" means the day on which the acquiring State agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property.

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing State agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this paragraph may be eligible for a replacement housing payment under Subpart F of this part.

§ 308.42 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary and:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirements of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors,

(2) Public utilities, and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

(h) If housing meeting the requirements of this paragraph is not available on the market, the head of a displacing State agency may, upon a proper finding of the need therefor, and with the concurrence of the Regional Director, consider available housing exceeding these basic criteria.

§ 308.43 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The head of the displacing State agency with the concurrence of the Regional Director may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* The State agency may establish, with the concurrence of the Regional Director, a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one State agency is causing displacement in a community or an area, the respective heads of the State agencies concerned shall coordinate the establishment of the schedule for replacement housing payments.

(2) *Comparative method.* The State agency may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meets the definition of a comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(3) *Alternative to subparagraphs (1) and (2) of this paragraph.* When neither above-described method is feasible, the head of the State agency with the concurrence of the Regional Director may develop criteria for computing the payment.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The head of the State agency, with the concurrence of the Regional Director, shall determine the amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage, i.e., one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. The following shall be considered in computing the interest payment:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by the commercial banks in the general area in which the replacement dwelling is located.

(3) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount financed, not to exceed the amount of the unpaid debt on the acquired dwelling for its remaining term.

(c) *Incidental expenses.* (1) The head of the State agency with the concurrence of the Regional Director shall determine the amount, if any, necessary to reimburse a displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling

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(but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparation of conveyance instruments, notary fees, surveys, preparation of plats, and charges incident to recordation.

(ii) Lenders', FHA, or VA, appraisal fees.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA, or VA.

(v) Credit report.

(vi) Title policies or abstracts of titles.

(vii) Escrow agent's fee.

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, title 1, Public Law 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

Subpart F—Replacement Housing Payments for Tenants and Certain Others

§ 308.50 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing section 204 of the Act.

§ 308.51 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204, if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. Tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203 of the Act.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204, when he rents a decent, safe, and sanitary replacement dwelling instead of purchasing and occupying a replacement dwelling, which is decent, safe, and sanitary not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 308.52 Computation of replacement housing payment for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a downpayment including expenses incidental to closing not to exceed $4,000.

(a) *Rental replacement housing payment.* The head of the State agency with the concurrence of the regional director may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* A rental schedule may be established for renting comparable replacement dwellings as described in § 308.42 and which are available on the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if such rent was reasonable. The State agency with the concurrence of the regional director may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant. For purposes of the regulations in this part, "economic rent" is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, the respective heads of the agencies shall cooperate in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 308.42. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. The State agency with the concurrence of the Regional Director may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The head of the State agency with the concurrence of the Regional Director may establish the average months' rent paid by the displaced person by using more than 3 months, if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to subparagraphs (1) and (2) of this paragraph.* When neither method is feasible, the head of the State agency with the concurrence of the Regional Director shall develop criteria for computing the payment.

(5) *Disbursement of rental replacement housing payments.* All rental replacement housing payments in excess of $500 will be made in four equal annual installments.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a downpayment and to cover incidental expenses in the purchase of replacement housing, as follows:

(1) The downpayment shall be the amount necessary to make a downpayment on a comparable replacement dwelling. Determination of the amount necessary for such downpayment shall be based on the amount of downpayment that would be required for purchase of the dwelling using a conventional loan.

(2) Incidental expenses of closing the transaction are those as described in § 308.43(c).

(3) The maximum payment may not exceed $4,000, except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount, in making the downpayment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 308.53 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E of this part because of the 180-day occupancy requirement and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment will be computed in the same manner as shown in § 308.52(a) except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E of this part because of the 180-day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing costs not to exceed $4,000. The payment will be computed in the same manner as shown in § 308.52(b).

Subpart G—Relocation Assistance Advisory Services

§ 308.60 Relocation assistance advisory program.

The head of the State agency shall provide a relocation assistance advisory program including such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act and acceptable to the regional director, for persons displaced as a result of EDA assisted programs or projects. In the implementation of this section, when more than one State agency is causing displacement in a community or area, the heads of the agencies shall take positive action to assure the maximum coordination of relocation activities. To assure simplification and coordination in administering relocation activities, State agencies shall consider contracting with a single agency to assume full responsibility for providing relocation services and assistance in a given community or area. The head of the State agency with the concurrence of the regional director shall issue regulations and procedures requiring officials responsible for programs displacing persons, businesses, and farm operations to contact State and local agencies in the community to determine the availability of housing resources and to assure coordination of all relocation activities in the community.

Subpart H—Federally Assisted Programs

§ 308.70 Assurances.

(a) *Information.* The State agency shall provide EDA with a statement assuring EDA that the affected persons will be adequately informed of the benefits, policies, and procedures described in this part.

(b) *Inability to provide assurances.* The State agency shall provide an assurance to EDA that will comply with the provisions of this part as required by sections 210 and 305 of the Act. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement should be supported by an opinion of the chief legal officer of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances. Except that after July 1, 1972, the assurances shall be completely applicable to all States.

(c) *Compliance.* The State agency shall provide an assurance that it will comply with the provisions of sections 301 and 302 of the Act, as required by section 305 of the Act. If unable to comply with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. Such opinion shall contain a full discussion of the issues involved and shall cite legal authority in support of any conclusion of legal inability to comply with any of the provisions set forth in sections 301 and 302 of the Act.

(d) *Monitoring assurances.* The Regional Directors shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

§ 308.71 Administration—relocation assistance programs.

(a) *Approval.* If a State agency elects to contract for services pursuant to section 212 of the Act, it shall enter into a written contract consistent with Part 308 of EDA's regulations and subject to the concurrence of the Regional Director.

§ 308.72 Notification procedures.

To the greatest extent practicable, at least 90 days written notice of displacement must be given by the head of the State agency to each individual, family, business, or farm to be displaced. Such notice shall be served personally or by first class mail.

Subpart I—Uniform Real Property Acquisition Policy

§ 308.80 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies and Regional Directors in implementing title III of the Act.

§ 308.81 Acquisition policies.

Before initiation of negotiations for the acquisition of real property, the head of the State agency, with the concurrence of the Regional Director, shall establish an amount which he believes to be just compensation therefor. In no event shall such amount be less than the State agency's approved appraisal of the fair market value of the property. When negotiations are initiated the owner of such real property shall be provided with a written statement of, and summary of the basis for, the amount estimated as the just compensation. The summary statement of the basis for the agency's determination of just compensation should include, as a minimum, the following:

(a) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land, as well as the fixtures considered to be a part of the real property, and

(b) The amount of the estimated just compensation for the property to be acquired, as determined by the acquiring agency, and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(c) For the purpose of promoting uniformity under section 301(3) of the Act, the head of each State agency acquiring real property shall, with the concurrence of the Regional Director, establish standards for appraisals used in real property acquisition, criteria for determining the qualifications of appraisers, and a system of review by qualified appraisers consistent to the maximum extent possible under State law with the Uniform Appraisal Standards for Federal Land Acquisition published in 1972 (or at such later date as may become relevant if such Uniform Standards are revised) by the Interagency Land Acquisition Conference.

§ 308.82 Payment or reimbursement for necessary expenses.

The State agency shall provide EDA with a statement that, as required by section 305 of the Act, property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of the Act.

Subpart J—Administrative Review

§ 308.90 Scope of subpart.

The provisions set forth in this subpart are to guide State agencies in providing administrative review of decisions made with respect to duties and responsibilities established under the Act.

§ 308.91 Right to review.

Any person aggrieved by a determination as to:

(a) Eligibility for a payment authorized by the Act, or

(b) The amount of such payment, shall have the right to have his application reviewed by the head of the State agency acquiring real property. The head of the State agency shall establish procedures which at the minimum guarantee claimants under the Act (1) prompt consideration of all requests for administrative review, (2) prompt written notice to the claimant of any determination made in connection with his application, including a full explanation concerning any amount claimed which has been disallowed, and (3) prompt payment of any amounts which are determined to be due the claimant.

[FR Doc.72-17529 Filed 10-12-72;8:55 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 73]

[Airspace Docket No. 72-WE-34]

RESTRICTED AREAS AND CONTINENTAL CONTROL AREA

Proposed Designation and Alterations

The Federal Aviation Administration (FAA) is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate two joint-use restricted areas in the vicinity of Fallon, Nev., and include them in the Continental Control Area; and also, alter an existing joint-use restricted area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and

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be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 92007, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The airspace actions proposed in this docket would:

1. Designate a new joint-use restricted area R–4816, Dixie Valley, Nev., as follows:

BOUNDARIES

Beginning at latitude 39°51'00" N., longitude 118°00'00" W.; to latitude 39°51'00" N., longitude 117°31'00" W.; to latitude 39°18'00" N., longitude 117°47'30" W.; to latitude 39°18'00" N., longitude 118°13'15" W.; to latitude 39°17'00" N., longitude 118°21'00" W.; to latitude 39°30'00" N., longitude 118°15'30" W.; to point of beginning.

Designated altitudes: Surface to 18,000 feet MSL.

Time of designation: 0700 to 2100 local time, Monday through Saturday.

Controlling agency: Federal Aviation Administration, Oakland ARTC Center.

Using agency: Commanding Officer, Naval Auxiliary Air Station, Fallon, Nev.

2. Designate a new joint-use restricted area R–4805, Shawave Mountains, Nev., as follows:

BOUNDARIES

Beginning at latitude 40°40'00" N., longitude 118°49'00" W.; to latitude 40°04'00" N., longitude 118°49'00" W.; to latitude 40°00'00" N., longitude 118°57'00" W.; to latitude 40°00'00" N., longitude 119°13'00" W.; to latitude 40°40'00" N., longitude 119°13'00" W.; to point of beginning.

Designated altitudes: Surface to 18,000 feet MSL.

Time of designation: One-half hour before sunrise to one-half hour after sunset, local time, Monday through Friday.

Controlling agency: Federal Aviation Administration, Oakland ARTC Center.

Using agency: Commanding Officer, Naval Auxiliary Air Station, Fallon, Nev.

3. Alter the lateral and vertical dimensions and the time of designation of restricted area R–4813 Carson Sink, Nev., as follows:

BOUNDARIES

Beginning at latitude 39°51'00" N., longitude 118°38'00" W.; to latitude 40°01'00" N., longitude 118°15'00" W.; to latitude 40°01'00" N., longitude 118°01'00" W.; to latitude 39°58'00" N., longitude 118°01'00" W.; to latitude 39°38'00" N., longitude 118°17'00" W.; thence via the arc of a 15-nautical-mile radius circle centered at latitude 39°52'36" N., longitude 118°20'27" W.; to latitude 39°45'50" N., longitude 118°38'00" W.; thence to point of beginning.

Designated altitudes: Surface to 18,000 feet MSL.

Time of designation: 0600 to 2400 local time, Monday through Saturday.

4. Alter the Continental Control Area by adding R–4816, Dixie Valley, Nev., and R–4805, Shawave Mountains, Nev.

The proposed Dixie Valley Restricted Area R–4816 will be used by the Department of the Navy as an Electronic Warfare (EW) range which includes electronics and ground radar facilities to provide training for attack, fighter, and reconnaissance air crews in the employment of EW equipment, tactics, and techniques.

The proposed Shawave Mountains Restricted Area R–4805 will be used for air-to-air gunnery training for Naval attack and fighter aircraft.

The lateral dimensions of Carson Sink, Nev., Restricted Area R–4813 are proposed for reduction to free airspace northeast of the Fallon Municipal Airport for visual flight rule general aviation aircraft. An analysis of R–4813 also indicates that the vertical dimension can be reduced to 18,000 feet MSL and the time of designation changed to 0600 to 2400 local time, Monday through Saturday.

Part 71 of the Federal Aviation Regulations would be altered to include the proposed restricted areas R–4816 and R–4805, in the continental control area. This action would designate controlled airspace within which air traffic control services could be provided to instrument flight rule traffic transiting the proposed areas.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 5, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72–17467 Filed 10–12–72;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 70–17; Notice 6]

AIR BRAKE SYSTEMS

Notice of Public Meeting

The purpose of this notice is to announce a public meeting on the subject of Motor Vehicle Safety Standard No. 121, Air Brake Systems, in response to a petition submitted by the American Trucking Association (ATA). The meeting will be held on October 25, 1972, at 9:30 a.m. in Room 2232 of the Department of Transportation Headquarters Building, 400 Seventh Street SW., Washington, DC.

The meeting will be limited to discussion of the proposals made in the ATA petition, which are summarized as follows:

1. Automatic parking brake application as a means of emergency braking should be prohibited and the parking brake restricted primarily to parking situations. In effect, S5.7 of the standard would be amended by the substantial deletion of S5.7.1.

2. A "secondary" braking system should be provided that is modulatable and is controlled by the service system treadle valve. This would appear to be the system currently provided under S5.7.2, but without the option for hand control application.

3. The parking brake should be capable of application and release whenever either the primary system or the secondary system is operable and should apply automatically in the event that both systems fail, without provision for release unless one system or the other becomes operable. This appears to be a request for a parking brake that conforms to S5.7.1.4 but does not conform to S5.7.1.3.

4. The secondary system should be capable of making at least two full-pressure applications but should not be permitted more than six applications.

Persons who want to make a formal presentation should advise the agency of the length of the presentation and of any need for audiovisual equipment. Requests for time or equipment should be submitted to Mr. Sidney Williams (telephone 202—246–2153), not later than October 20, 1972.

This notice is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 11, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.72–17603 Filed 10–11–72;3:36 p.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Posting of Enforcement Correspondence at Licensees' Facilities

The Atomic Energy Commission is considering an amendment to its regulation 10 CFR Part 20, "Standards for Protection Against Radiation," which would require licensees to post in a conspicuous place copies of all notices of violation, notices of proposed imposition of civil penalty, and orders issued pursuant to Subpart B of 10 CFR Part 2, and the licensee's written response thereto, so that the information therein may be readily accessible to all employees. AEC regulations (10 CFR 2.790) presently provide for documents pertaining to licenses, including enforcement correspondence resulting from AEC inspections or investigations, to be made available for public inspection and copying in the AEC Public Document Room, located at 1717 H Street NW., Washington, DC. Similar information is also on file at local public document rooms which are established by the Commission in the vicinity of reactors and certain other facilities. It appears that enforcement correspondence relating to the results of AEC inspections or investigations at licensed facilities should be more readily accessible to employees of licensees at their place of employment so that employees may be aware of matters affecting their health and safety. The proposed amendment to § 20.206 of 10 CFR Part 20 set forth below would require a licensee to post notices of violation and other enforcement correspondence received from the Commission and the licensee's responses thereto.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 20 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendment should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C., 20545; Attention: Chief, Public Proceedings Staff, within sixty (60) days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC.

1. A new paragraph (d) is added to § 20.206 of 10 CFR Part 20 to read as follows:

§ 20.206 Instruction of personnel; posting notices to employees.

* * * * *

(d) Except for documents or parts thereof relating to nuclear materials safeguards, each licensee shall post within 24 hours after receipt, unless otherwise authorized by the Commission, a copy of any notice of violation, notice of proposed imposition of civil penalty, and order issued pursuant to Subpart B of Part 2 of this chapter, and shall post, within 24 hours after dispatch, a copy of his response to such document(s). Such documents shall be conspicuously posted in a sufficient number of places in the licensee's establishment where employees are employed in activities licensed by the Commission to permit employees working in or frequenting any portion of the establishment to observe a copy on the way to or from their place of employment. Such documents shall remain posted until 10 working days after the licensee's response is dispatched. If no response from the licensee is required, such documents from the Commission shall remain posted for 10 working days. The licensee shall assure that such documents are not covered by other materials, and are not defaced or altered during the period when posting is required.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 26th day of September 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72–17483 Filed 10–12–72;8:54 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Emissions During Startup, Shutdown and Malfunction; Extension of Time for Comment

On August 25, 1972 (37 F.R. 17214) the Agency proposed regulations setting forth procedures for dealing with emissions during startup, shutdown, and malfunction of sources subject to the new source performance standards in 40 CFR Part 60. A number of industries affected have requested that the period for comment be extended, in order to permit them to make a detailed evaluation and response to the proposal. The Agency agrees that additional time for comment is appropriate, and hereby extends for an additional 45 days the period for public comment on the proposal. All relevant comments received not later than November 23, 1972, will be considered.

Interested persons may participate in this proposed rule making by submitting written comment in triplicate to the Division of Stationary Source Enforcement, Environmental Protection Agency, 5600 Fishers Lane, Room 17–70, Rockville, MD 20852, Attention: Mr. Megonnel. Receipt of comments will be acknowledged, but the Division of Stationary Source Enforcement will not provide substantive responses to individual comments. Comments received will be available for public inspection during normal business hours at the Office of Public Affairs, 401 M Street SW., Washington, DC 20460.

Dated: October 10, 1972.

ROBERT W. FRI,
Acting Administrator, Environmental Protection Agency.

[FR Doc.72–17526 Filed 10–12–72;8:51 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 303]

TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

New Generic Name and Definition of Manufactured Fiber; Extension of Time for Comment

On June 21, 1972, a notice concerning the application of E. I. du Pont de Nemours and Co., Wilmington, Del., for generic name for a textile fiber produced by applicant was published in the FEDERAL REGISTER at 37 F.R. 12243. Such application was filed pursuant to section 1.15 of the Procedures and Rules of Practice of the Federal Trade Commission (16 CFR 1.15) and the Textile Fiber Products Identification Act, 72 Stat. 1717, et seq., 79 Stat. 124, 15 U.S.C. section 70, et seq., requesting that § 303.7 of the rules and regulations under the Act (16 CFR 303.7) setting forth generic names and definitions of manufactured textile fibers, be amended (1) to add thereto a new generic name and definition to cover certain aromatic polyamide fibers of applicant, and (2) to restrict the present nylon definition, paragraph (1) of 16 CFR 303.7, so as to exclude fibers which would fall within the proposed new generic class.

Such notice provided for the submission of written views, arguments, or other pertinent data to the Division of Textiles and Furs, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, on or before August 21, 1972.

Upon application of an interested party, namely Monsanto Textiles Co., St. Louis, Mo., the time for such written submissions was extended to September 21, 1972, by Notice of the Commission published in the FEDERAL REGISTER August 31, 1972, at 37 F.R. 17765.

Now, upon a second application of Monsanto Textiles Co., and for good cause shown, the time for submission of written views, arguments, or other pertinent data is extended to and including October 24, 1972. Further, the Commission has determined to allow an additional 15-day comment period to and including November 8, 1972, during which time interested parties may submit answering comments to comments of other parties.

This action is taken pursuant to section 7(c) of the Act, 72 Stat. 1721, 15 U.S.C. section 70e(c), in accordance with 5 U.S.C. section 553 and Subpart B of Part 1 of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq.

By direction of the Commission dated October 6, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72–17546 Filed 10–12–72;8:52 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Part 1660]

SELECTIVE SERVICE REGULATIONS

Alternate Service

Pursuant to sections 6(j) and 13(b) of the Military Selective Service Act, as amended (50 App. U.S. Code, sections 451 et seq.), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective

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Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement section 6(j) of the Military Selective Service Act, as amended (50 App. U.S. Code, 456(j)).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

Section 1660.2 *Examination of registrants*, is amended to read as follows:

§ 1660.2 Examination of registrants.

A registrant classified in Class 1–O shall be ordered to report for Armed Forces examination in accord with the provisions of Part 1628 of this chapter. If he fails to report for or submit to this examination, or if he is found to be qualified for military service, he will be selected for alternate service in accord with § 1660.4.

Section 1660.3 *Volunteer for alternate service*, is amended to read as follows:

§ 1660.3 Volunteer for alternate service.

Only registrants classified in Class 1–O may volunteer for alternate service in lieu of induction. Any registrant in Class 1–O may submit Application of Volunteer for Alternate Service (SSS Form 151) to his local board. If the volunteer wishes to propose jobs which he feels would be approved for his alternate service he will submit each job on an Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) simultaneously with his completed Application of Volunteer for Alternate Service (SSS Form 151). The State Director will approve or disapprove the proposed jobs. If the registrant fails to locate a suitable job or if the jobs submitted on the Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) are not approved, the State Director will not request the issuance of the Order to Report for Alternate Service (SSS Form 153) until the registrant would have been issued an Order to Report for Alternate Service (SSS Form 153) in accordance with § 1660.4 had he not volunteered.

Section 1660.4, *Selection of nonvolunteer for alternate service*, is amended to read as follows:

§ 1660.4 Selection of nonvolunteer for alternate service.

(a) A registrant classified in Class 1–O will be issued an Order to Report for Alternate Service (SSS Form 153) by the Executive Secretary or clerk, if so authorized, or a member of the registrant's local board together with Conscientious Objectors Skills Questionnaire (SSS Form 152) and three copies of Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) at the same time that he would be issued an Order to Report for Induction (SSS Form 252) were he classified in Class 1–A or 1–A–O. Such order to report for alternate service (SSS Form 153) shall specify the place and a date on which the registrant is to report for alternate service in accord with the instructions of the State Director. The date specified shall be not earlier than 70 days after such order is mailed.

(b) If a registrant to whom an order to report for alternate service (SSS Form 153) has been issued submits within 60 days after the issuance of such order a proposed job that is approved by the State Director, a suitable Amendment to order to report for alternate service (SSS Form 153A) will be issued by the registrant's local board in accord with instructions of the State Director.

(c) When a registrant in the medical, dental, or allied specialist category is classified in Class 1–O, he will be ordered to alternate service in lieu of induction at the time that he would have been called for induction if he were in Class 1–A or 1–A–O.

Section 1660.7 *Assigning alternate service*, is amended to read as follows:

§ 1660.7 Assigning alternate service.

(a) A registrant who has been classified in Class 1–O will be furnished conscientious objectors skills questionnaire (SSS Form 152) within 15 days after such classification.

(b) A registrant classified in Class 1–O may submit employer's statement of availability of a job as alternate service (SSS Form 156) or a letter from an employer to the State Director at any time within 60 days following the issuance to him of an order to report for alternate service (SSS Form 153). The State Director will determine whether the proposed job is acceptable. When a job is approved, the registrant's local board will issue an appropriate amendment to order to report for alternate service (SSS Form 153A) in accord with instructions of the State Director.

(c) Any time the State Director disapproves, a job proposed by the registrant in accord with paragraph (b) of this section, he will inform the registrant of his decision within 15 days after the State Director receives such form. The registrant may request that the State Director's decision(s) be reviewed by the Director. The registrant's case will be considered by the Director on only one occasion in accordance with this paragraph, but the registrant may request a review of as many as three adverse decisions on jobs in this one review. If the Director approves a job proposed by the registrant he shall direct the registrant's local board to issue an appropriate amendment to order to report for alternate service (SSS Form 153A).

(d) A registrant classified in Class 1–O may take a job anticipating that it might later be approved as alternate service. If such a job is approved, the registrant will be credited with having performed acceptable service, when in fact he has performed such service, from the date he started the job, or the date he was classified in Class 1–O, whichever is later.

(e) An order to report for alternate service will be deemed an order to report for induction within the meaning of § 1632.2 of this chapter.

Paragraphs (c) and (d) of § 1660.9 *Administration of alternate service*, are amended, and a new paragraph (f) is added, to read as follows:

§ 1660.9 Administration of alternate service.

* * * * *

(c) If, after completing the investigation in accord with paragraph (b) of this section, the State Director finds no failure of the registrant to perform satisfactorily he will request the registrant's local board to order the registrant to another job as quickly as possible by issuing an appropriate amendment to order to report for alternate service (SSS Form 153A). If the registrant complies with the order to report to the new job, the intervening time between jobs will not constitute a break in the required period of alternate service.

(d) The State Director may reassign a working registrant at any time that he determines the job to which the registrant is assigned ceases to be acceptable as alternate service as defined in § 1660.6 or upon the request of the registrant by requesting the registrant's local board to issue an appropriate amendment to order to report for alternate service (SSS Form 153A). Prior to the issuance of an amendment to order to report for alternate service (SSS Form 153A) in accord with this paragraph, the registrant is required to continue in the alternate service to which he had been ordered most recently.

* * * * *

(f) No action shall be required of a registrant by an amendment to order to report for alternate service (SSS Form 153A) within 10 days after the issuance of such form without his consent.

BYRON V. PEPITONE,
Acting Director.

OCTOBER 5, 1972.

[FR Doc.72–17509 Filed 10–12–72;8:54 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

STAINLESS STEEL AUTOMOBILE SPLASH GUARDS FROM CANADA

Determination of Sales at Not Less Than Fair Value

OCTOBER 6, 1972.

On August 18, 1972, there was published in the FEDERAL REGISTER (37 F.R. 16683) a "Notice of Tentative Negative Determination" that stainless steel automobile splash guards from Canada are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

No written submissions or requests having been received, I hereby determine that, for the reasons stated in the tentative determination, stainless steel automobile splash guards from Canada are not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(c), Customs Regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–17468 Filed 10–12–72;8:47 am]

PERCHLORETHYLENE FROM FRANCE

Amendment of Determination of Sales at Less Than Fair Value

OCTOBER 6, 1972.

A notice of "Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER of September 28, 1972 (37 F.R. 20268, F.R. Doc. 72–16638), advising that perchlorethylene imported from France was being, or was likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

To clarify that notice, it is amended by inserting a comma followed by the words "including technical grade perchlorethylene and purified grade perchlorethylene," immediately after the word "perchlorethylene" wherever that word appears therein.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–17532 Filed 10–12–72;8:51 am]

PERCHLORETHYLENE FROM JAPAN

Amendment of Determination of Sales at Less Than Fair Value

OCTOBER 6, 1972.

A notice of "Determination of Sales at Less Than Fair Value" was published in the FEDERAL REGISTER of September 28, 1972 (37 F.R. 20269, F.R. Doc. 72–16640), advising that perchlorethylene imported from Japan was being, or was likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

To clarify that notice, it is amended by inserting a comma followed by the words "including technical grade perchlorethylene and purified grade perchlorethylene," immediately after the word "perchlorethylene" wherever that word appears therein.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72–17531 Filed 10–12–72;8:51 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 5303]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Land

OCTOBER 5, 1972.

The Bureau of Indian Affairs, U.S. Department of the Interior, has filed application Serial No. S 5303 for the withdrawal of the following described public land, subject to all valid existing rights, from appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2) and from leasing under the mineral leasing laws, in aid of legislation to add the land to the Barona Ranch Reservation, Calif.

The land is located in San Diego County and adjoins the reservation to the east. Acquisition of the parcel will provide access to reservation land now separated from the main reservation lands and will further the orderly development of reservation land.

On or before November 14, 1972, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E–2841 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The land involved in the application is:

SAN BERNARDINO MERIDIAN

T. 14 S., R. 2 E.,
Sec. 7, lot 6 (SW¼SW¼).

The area described aggregates 44.10 acres.

WALTER F. HOLMES,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72–17488 Filed 10–12–72;8:48 am]

[M 589]

MONTANA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

OCTOBER 5, 1972.

Notice of the Department of Transportation's application, M 589, for withdrawal and reservation of lands for highway construction, was published as FEDERAL REGISTER Document No. 67–641 on pages 621–622 of the issue for January 19, 1967. The applicant agency has canceled its application insofar as it affects the following described land:

PRINCIPAL MERIDIAN, MONTANA

T. 6 N., R. 5 W.,
Sec. 17, lot 17.

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The area described contains 0.32 acres.

Therefore, pursuant to the regulations contained in 43 CFR, Part 2091.2–5(b), the land at 10 a.m. on November 7, 1972, will be relieved of the segregative effect of the above mentioned application.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72–17490 Filed 10–12–72;8:48 am]

NEVADA

Notice of Filing of Plat of Survey and Order Providing for Opening of Lands

OCTOBER 6, 1972.

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nev., effective 10 a.m., on November 17, 1972:

MOUNT DIABLO MERIDIAN, NEVADA

T. 6 N., R. 62 E.

2. The surveyed area aggregates 11,343.21 acres.

3. The area is nearly level to mountainous. Elevation from 5,220 to 6,500 feet above sea level. Soil is sandy clay to rocky limestone. Timber is scattered pinon and juniper. Vegetation consists of sagebrush, shadscale, budsage, greasewood and whitesage. Access is by a graded gravel road and other trail roads.

4. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10 a.m. on November 17, 1972 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, NV 89502.

DOROTHY F. GIBBENS,
Acting Chief, Branch of Records and Data Management.

[FR Doc.72–17489 Filed 10–12–72;8:48 am]

[OR 9144]

OREGON

Notice of Proposed Classification of Public Lands

OCTOBER 4, 1972.

1. Pursuant to the regulations under 43 CFR 2462, notice is hereby given of a proposal to classify the lands described below for disposal through exchange, under the Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315g; 43 CFR 2220) for lands within the Burns District.

WILLAMETTE MERIDIAN

HARNEY COUNTY

T. 31 S., R. 34 E.,
Sec. 4, W½SE¼;
Sec. 7, E½SE¼;
Sec. 8, NE¼SE¼;
Sec. 9, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 10, W½NE¼ and W½;
Sec. 11, W½SE¼ and SE¼SE¼;
Sec. 13, lot 4, and SW¼SE¼;
Sec. 15, W½, W½SE¼, and SE¼SE¼;
Sec. 20, E½, S½NW¼, and SW¼;
Sec. 21, N½, SW¼, and W½SE¼;
Sec. 22, N½NE¼, NW¼NW¼, and NE¼SE¼;
Sec. 24, lot 1, NW¼NE¼, SE¼NW¼, and W½SW¼;
Sec. 25, W½W½;
Sec. 26, E½E½;
Sec. 27, W½SW¼;
Sec. 28, NE¼, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 32, lots 3 and 4, and NW¼SW¼;
Sec. 33, E½NE¼;
Sec. 34, lots 1, 2, 3, and 4, W½NW¼, and N½SW¼;
Sec. 35, lots 3 and 4, E½NW¼, and NE¼SW¼.
T. 32 S., R. 34 E.,
Sec. 2, lots 3 and 4, and SW¼NW¼;
Sec. 3;
Sec. 4, SE¼NE¼ and SE¼;
Sec. 5, lot 4, SW¼NW¼, and W½SW¼;
Sec. 6, E½SW¼;
Sec. 7, NE¼NW¼;
Sec. 8, N½SE¼ and SE¼SE¼;
Sec. 9, N½, N½S½, SW¼SW¼, and SE¼SE¼;
Sec. 10, N½N½, SW¼NW¼, NW¼SW¼, and S½SE¼;
Sec. 11;
Sec. 14, N½ and N½S½;
Sec. 15, E½, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 17, E½NE¼, E½SW¼, and SE¼;
Sec. 20, NE¼ and NE¼NW¼;
Sec. 21, W½NE¼ and NW¼;
Sec. 23, W½NW¼ and E½SW¼.

The area described aggregates 9,058.81 acres.

2. In accordance with 43 CFR 2201.1 and 2201.2, no application for an exchange will be accepted until the lands have been classified and the application is accompanied by a statement from the Burns District Manager, Bureau of Land Management that the proposal is feasible.

3. For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Department of the Interior, 74 South Alvord Street, Burns, OR 97720.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

After having considered comments received as a result of this publication, and hearing if such is deemed necessary to be held, the authorized officer will classify the above-described lands, which classification shall be published in the FEDERAL REGISTER.

ARTHUR W. ZIMMERMAN,
Associate State Director.

[FR Doc.72–17491 Filed 10–12–72;8:48 am]

[U–18619]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 3, 1972.

The U.S. Bureau of Reclamation, Department of the Interior, has filed an application, Serial No. Utah 18619, for the withdrawal of the lands described below from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws.

The applicant desires the land for the construction, operation, and maintenance of the Tyzack Dam and Reservoir, involving diversion and storage of water from Brush Creek, a tributary stream of the Green River. The water will be used for municipal, industrial, initial and supplimental irrigation, recreation, and fish and wildlife requirements in the Vernal and Jensen areas.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 11505, Salt Lake City, Utah 84111.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential that the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH

T. 3 S., R. 22 E.,
Sec. 14, NW¼;
Sec. 15, NE¼, E½NW¼.

400 acres.

WILLIAM G. LEAVELL,
Acting State Director.

[FR Doc.72–17492 Filed 10–12–72;8:48 am]

ADMINISTRATIVE ASSISTANT, ANCHORAGE DISTRICT

Delegation of Authority Regarding Contracts and Leases

OCTOBER 3, 1972.

A. Pursuant to delegation of authority contained in Bureau Manual 1510–03B2c, the Administrative Assistant is authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment, regardless of amount, and

2. To enter into contracts on the open market for supplies and materials, excluding capitalized equipment, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources.

GERALD W. ZAMBER,
Acting District Manager, Anchorage District Office, Anchorage, Alaska.

[FR Doc.72–17516 Filed 10–12–72;8:50 am]

Office of the Secretary

[DES 72–103]

BONNEVILLE POWER ADMINISTRATION, PROJECTED PROGRAM, FISCAL 1974

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft statement which discusses environmental considerations relating to BPA's projected program for fiscal year 1974.

Copies of the draft environmental statement are available for inspection in the library of the headquarter's office of BPA, 1002 Northeast Holladay Street, Portland, OR 97208; the Washington, D.C. Office in the Interior Building, Room 5600; and in the following Area and District Offices: Idaho Falls, Idaho; Portland, Oreg.; Seattle, Wash.; Spokane, Wash.; Walla Walla, Wash.; Eugene, Oreg.; Kalispell, Mont.; and Wenatchee, Wash.

A limited number of single copies are available and may be obtained by writing to the Administrator, Bonneville Power Administration, Post Office Box 3621, Portland, OR 97208.

Dated: October 6, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72–17514 Filed 10–12–72;8:50 am]

CARROL M. BENNETT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) Sold: APCO.
(2) Bought: Cullum Companies.
(3) None.
(4) None.

This statement is made as of October 11, 1972.

Dated: September 25, 1972.

CARROL M. BENNETT.

[FR Doc.72–17512 Filed 10–12–72;8:50 am]

ROBERT W. THOMAS, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of September 29, 1972.

Dated: September 28, 1972.

ROBERT W. THOMAS.

[FR Doc.72–17513 Filed 10–12–72;8:50 am]

[DES 72–102]

PROPOSED WILDERNESS AREA VALENTINE NATIONAL WILDLIFE REFUGE, NEBRASKA

Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the Department of the Interior has prepared a draft envirnomental statement for a proposed wilderness area, located in Cherry County, Nebr., and invites written comments within 45 days of this notice.

Under the proposal, 16,317 acres of the Valentine National Wildlife Refuge would be designated as wilderness within the National Wilderness Preservation System. The statement examines the environmental impacts of the proposed designation.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.
Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and "C" Streets NW., Washington, DC 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. Please refer to the statement number above.

Dated: October 4, 1972.

W. W. LYONS,
Deputy Assistant Secretary, Program Policy.

[FR Doc.72–17515 Filed 10–12–72;8:50 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1971-CROP LOAN COTTON

Loans to be Carried in Past-Due Status

The U.S. Department of Agriculture announced on September 26, 1972, that Commodity Credit Corp. would carry in a past-due status through July 31, 1973, loans on 1971-crop upland and extra long staple cotton which mature the last day of each month from September 1972 through February 1973.

Under the 1971 cotton loan program, loans mature on the last day of the 9th calendar month following the month in which the loan (or advance) was disbursed, with certain exceptions. Loans on 1971-crop cotton were available through May 31, 1972; thus, loans in May 1972 mature on February 28, 1973. The action announced on September 26, however, provides producers from 5 to 10 additional months to redeem their cotton.

The 1971-crop loan cotton not redeemed by July 31, 1973, will be acquired on that date by Commodity Credit Corp. Until the close of business on that date, producers may either sell their "equity" in the loan cotton or redeem the cotton from the loan and sell it in the open market.

This notice amends a notice concerning acquisitions of 1971-crop loan cotton by CCC (37 F.R. 8895, May 2, 1972) as to final maturity dates for 1971-crop loans. All other provisions of the earlier notice remain in effect.

Signed at Washington, D.C., on October 2, 1972.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72–17477 Filed 10–12–72;8:47 am]

V37 I199 OCT 13 72 XUM

Packers and Stockyards Administration

[P. & S. Docket No. 4675]

MODIFICATIONS OF RATES AND CHARGES

Notice of Order Extending Period of Suspension

On August 21, 1972, an order was issued instituting the following proceeding under Title III of the Packers and Stockyards, 1921, as amended (7 U.S.C. 181 et seq.), in re: Corona Livestock Auction, Inc., a corporation, respondent, P. & S. Docket No. 4675 (37 F.R. 17981). Such order, among other things, suspended and deferred the operation and use by the respondent of modifications of its current schedule of rates and charges to become effective on September 1, 1972, for a period of 30 days beyond the time such modifications would otherwise go into effect.

Notice is hereby given that, since the hearing in this proceeding could not be concluded within such period of suspension, an order has been issued in the above proceeding suspending and deferring the operation and use of such modifications of the current schedule of rates and charges for a further period of 30 days beyond the date when such modifications would have otherwise become effective.

Done at Washington, D.C., this 10th day of October 1972.

MARVIN L. MCLAIN,
Administrator, Packers and Stockyards Administration.

[FR Doc.72-17536 Filed 10-12-72;8:54 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-587]

THORVALD E. FENEIDE

Notice of Loan Application

October 4, 1972.

Thorvald E. Feneide, Star Route Box 600, Aberdeen, WA 98520, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel about 37 feet in length, to engage in the fishery for salmon, albacore, and Dungeness crab off the coasts of Washington, Oregon, and California.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-17484 Filed 10-12-72;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL INSTITUTE OF ARTHRITIS METABOLISM, AND DIGESTIVE DISEASES

Establishment of Program of Diabetes-Endocrinology Centers

Notice is hereby given that the National Institute of Arthritis, Metabolism, and Digestive Diseases, under authority of section 301 and Title IV, Part D of the Public Health Service Act, as amended (42 U.S.C. 241, 289 et seq.), intends to support a number of Diabetes-Endocrinology Centers geographically dispersed throughout the United States.

During the next year or two, only centers in which the research emphasis is in the area of diabetes will be supported. Center grants will be limited to institutions where there is established ongoing research in diabetes and will be used to strengthen and to permit further development of these research efforts. The scientific community will be informed when the support is expanded to centers with other areas of research emphasis.

There is no prescribed model for a Diabetes-Endocrinology Center. A center should encompass a unique and substantial research program that has already developed as a result of the efforts of the investigators and the institution's particular resources and strengths.

It is intended, through establishment of these centers for research in diabetes, to facilitate, improve coordination in, or otherwise enhance the productivity of the research environment of the recipient institution. These centers will provide core resources and services at an institution where a broad and substantial volume of excellent diabetes research already exists.

The centers are conceived as supporting scientific personnel, administration, and central support services to accomplish research goals that would not otherwise be possible. The center grant is not intended to provide direct support for established ongoing research projects.

Funds to initiate projects by new investigators and for exploratory or feasibility studies may be supported by a center grant. While such funds may be requested each year of the center grant, support of any particular new project will be limited to a 3-year period, at which time the project should compete for a regular research grant.

A center grant application, prepared on Form PHS 398, "Application for Research Grant," will be reviewed by a special study section of the Division of Research Grants, composed of NIH consultants, and by the National Arthritis, Metabolism, and Digestive Diseases Advisory Council. A grant-supported center will also receive continuing review and evaluation by NIH staff and consultants.

Applications for the direct support of individual research projects, program projects, training grants, and fellowships will be reviewed in the usual fashion by appropriate initial review groups and by the National Arthritis, Metabolism, and Digestive Diseases Advisory Council.

In order that applications may be eligible for funding during the present fiscal year, a special deadline of January 1, 1973, has been established for the receipt of applications for such center support. To facilitate the planning of the review of these applications a letter of intent to submit an application should be sent to the Diabetes Program Director (address below) by November 15, 1972. Subsequently, the established NIH deadlines for receipt of applications will apply, i.e., June 1, October 1, etc.

Additional information and applications may be obtained by writing:

Diabetes Program Director, Extramural Programs, National Institute of Arthritis, Metabolism, and Digestive Diseases, National Institutes of Health, Westwood Building, Room 626, Bethesda, Md. 20014, telephone: Area code 301, 496-7792.

Dated: October 4, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.72-17454 Filed 10-12-72;8:46 am]

BUREAU OF HEALTH MANPOWER EDUCATION, DIVISION OF NURSING

Notice of Meetings

Pursuant to Executive Order 11671 notice is hereby given of meetings of the following committees and the executive secretaries from whom summaries of meetings may be obtained.

Committee, date, time, and location

Nurse Training Act Project Grants Review Committee, Dr. Hazel M. Aslakson, Executive Secretary, October 16-20, 1972, 9:30 a.m., Conference Room 10, Building 31.

Construction of Nurse Training Facilities Review Committee, Miss Anastasia Petras, Executive Secretary, October 16-17, 1972, 9 a.m., Conference Room 2, Building 31.

These meetings shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss, and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

OCTOBER 4, 1972.

[FR Doc.72-17455 Filed 10-12-72;8:46 am]

NATIONAL CANCER INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Cancer Advisory Board, October 10-12, 1972, at 9 a.m., Conference Room 6, National Institutes of Health, Building 31. This meeting will be open to the public from 9 a.m., October 10 through adjournment October 12. Subject to the availability of space any interested person may attend on a first-come first-serve, basis. Agenda items will include reports from the Divisions of Cancer Cause and Prevention; Cancer Treatment; and Cancer Biology and Diagnosis, of the National Cancer Institute.

Name of the person from whom rosters of Board members and/or summary of the meeting may be obtained: Mrs. Marjorie F. Early, National Cancer Institute, Building 31, Room 10A16, Bethesda, Md. 20014.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

OCTOBER 4, 1972.

[FR Doc.72-17456 Filed 10-12-72;8:46 am]

NATIONAL EYE INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Eye Council, November 21, 1972, at 9 a.m., National Institutes of Health, Building 31C, Conference Room 7. This meeting will be open to the public to discuss items of general interest by the Director, National Eye Institute, public information aspects of the cooperative diabetic retinopathy study, meeting reports on task forces dealing with retina, cornea, and axoplasmic transport and intraocular pressure from 9 a.m. to 12:30 p.m., November 21, and closed to the public from 1:30 p.m., November 21, to review, discuss and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

The Executive Secretary from whom rosters of Council members and/or summary of the meeting may be obtained is:

Dr. George T. Brooks, Associate Director for Extramural and Collaborative Programs, National Eye Institute, National Institutes of Health, Bethesda, Md. 20014, Building 31, Room 6A-04, telephone: 496-4903.

Dated: October 4, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72-17495 Filed 10-12-72;8:49 am]

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Board of Scientific Counselors, October 6-7, 1972, at 9 a.m., Building 4, Room 336, National Institutes of Health, Bethesda, Md. This meeting will be open to the public from 4 to 5 p.m. on October 6, 1972, to discuss administrative matters, and will be closed to the public from 9 to 4 p.m. on October 6, 1972, and 9 a.m. to 12:30 p.m. on October 7, 1972, to evaluate the productivity and performance of staff scientists in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members and/or summary of the meeting may be obtained: Dr. J. E. Rall, National Institutes of Health, Building 10, Room 9N222, Bethesda, Md. (301) 496-4128.

Dated October 5, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72-17494 Filed 10-12-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Nebraska Public Power District (the applicant), which would authorize the applicant to possess, use, and operate Cooper Nuclear Station, a boiling water nuclear reactor (the facility), located on the applicant's site near the village of Brownville, Nemaha County, Nebr., at steady-state power levels not to exceed 2,381 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-42, issued by the Commission on June 4, 1968.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-42. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of 10 CFR Part 50, Appendix D, section C.3 which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not

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later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.71(a).

For further details pertinent to the matters under consideration, see the application for the facility operating license, dated February 26, 1971, as amended, and the Applicant's Environmental Report, dated September 17, 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Auburn Public Library, 1118 15th Street, Auburn, NE 68305. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 6th day of October 1972.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17457 Filed 10-12-72;8:46 am]

[Docket No. 50-363]

JERSEY CENTRAL POWER AND LIGHT CO.

Notice of Availability of AEC Draft Environmental Statement and Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a draft environmental statement related to the proposed issuance of a construction permit to Jersey Central Power and Light Co. for the proposed Forked River Nuclear Generating Station, Unit 1, to be located in Lacey Township, Ocean County, N.J., has been prepared by the Commission's Directorate of Licensing. The Statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, and in the Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753. The Statement is also being made available at the Division of State and Regional Planning, Department of Community Affairs, Post Office Box 1978, Trenton, NJ 08625, and at the Ocean County Planning Board, Courthouse Square, Toms River, N.J. 08753. Copies of the Commission's Draft Environmental Statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

A document entitled "Applicant's Environmental Report-Construction Permit Stage, January 24, 1972," submitted by Jersey Central Power and Light Co. is also available for public inspection at the above-designated locations. Notice of the availability of the report was published in the FEDERAL REGISTER on February 26, 1972 (37 F.R. 4107).

Pursuant to 10 CFR 50, Appendix D, interested persons may, within thirty (30) days from date of publication of this notice in the FEDERAL REGISTER, submit comments on the proposed action, the report, and the draft environmental statement for the Commission's consideration. Federal and State agencies are being provided with copies of the report and the draft environmental statement (local agencies may obtain these documents upon request) and when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 10th day of October 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors Directorate of Licensing.

[FR Doc.72-17563 Filed 10-12-72;8:54 am]

CIVIL AERONAUTICS BOARD

AIR FREIGHT FORWARDERS ASSOCIATION OF AMERICA

Notice of Meeting

Notice is hereby given that a meeting with the above Association will be held on October 20, 1972, at 2 p.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at which time Air Freight Forwarders Association will make an informal presentation regarding the Association's view of the present status of the industry and of the industry's future.

Dated at Washington, D.C., October 10, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-17537 Filed 10-12-72;8:51 am]

AIR TRANSPORT ASSOCIATION OF AMERICA

Notice of Meeting

Notice is hereby given that a meeting with the above Association will be held on October 19, 1972, at 2:30 p.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at which time ATA will make a 3-year financial outlook presentation to the Civil Aeronautics Board.

Dated at Washington, D.C., October 10, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-17538 Filed 10-12-72;8:51 am]

BOEING CO.

Notice of Meeting

Notice is hereby given that a meeting with the above company will be held on October 20, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at which time the Boeing Co., will discuss several topics that will be of interest to the Civil Aeronautics Board.

Dated at Washington, D.C., October 10, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-17539 Filed 10-12-72;8:52 am]

TRANSPORTATION ASSOCIATION OF AMERICA

Notice of Meeting

Notice is hereby given that a meeting with the above Association will be held on October 26, 1972, at 11 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, at which time the Investor Panel of the Transportation Association of America will discuss airline economics.

Dated at Washington, D.C., October 10, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-17540 Filed 10-12-72;8:52 am]

[Docket 24248; Order 72-10-19]

AEROLINEAS ARGENTINAS

Notification and Order Disapproving Schedules

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of September 1972.

Aerolineas Argentinas is the holder of a foreign air carrier permit issued pursuant to Order 69-2-112, authorizing it to perform foreign air transportation with respect to persons, property and mail, over three routes between a point or points in Argentina, via specified intermediate points, to New York, Miami, and Los Angeles. There exists no civil air transport agreement between the Government of the United States and the Government of Argentina. The rights exchanged are based on comity and reciprocity.

The Government of Argentina has issued various licenses to Braniff Airways, Inc., and to Pan American World Airways, Inc., authorizing scheduled air services between specified points in the United States and Buenos Aires, via named intermediate points. These permits specify the maximum number of frequencies which may be operated over each route, the number of seats which may be sold on each flight, and the number of seats which may be sold on a weekly basis for all flights. Applications for increases of the number of frequencies specified are not freely granted but required participation in lengthy regulatory proceedings. In October 1970, Pan American requested authority to operate two all-cargo frequencies between the United States and Argentina. This request was recently denied. In June 1971, the carrier applied for an additional nonstop New York-Buenos Aires passenger frequency and for a second weekly Miami-Caracas-Buenos Aires passenger flight. On January 24, 1972, the Argentine Undersecretary of Transport denied these applications. On February 16, 1972, the carrier filed a formal appeal to the President of the Republic requesting reconsideration of the decision. This appeal was denied August 14, 1972.

During the last half of 1971, Pan American also requested permission to increase its weekly passenger capacity from 1,712 to 2,336 seats. After a hearing, the Argentine civil aviation authorities ruled that Pan American could increase its weekly capacity to 1,892 seats which provides for an average of only 118 seats to be sold on a 140-seat B-707 aircraft for eight round-trip weekly flights. On September 1, 1972, the President of Argentina refused the carrier's appeal of this decision.

In contrast, Aerolineas enjoys the freedom to operate its routes to the United States with whatever number of frequencies it wishes and using all of the seats available on whatever aircraft it chooses to operate. In July 1971, Aerolineas increased its flights to New York from five to six and in December 1971 it expanded its operations to New York to daily service. Also in December 1971, the carrier announced the scheduling of a fourth flight to Los Angeles. Thus Aerolineas has increased its U.S.-Argentina frequencies by three flights completely at its own discretion and without any U.S. Government requirements for approval.

On January 19, 1972 the Government of Argentina notified Braniff that quotas had been imposed on its carriage of "regional" fifth freedom traffic. For the period March 1–June 30, 1972, Braniff received a fifth freedom quota of 1,818 on the Buenos Aires-Santiago, Chile sector and 1,131 on the Buenos Aires-La Paz, Bolivia sector—some two-third less than Braniff currently carries. The Argentine authorities also limited the number of seats Braniff was permitted to make available for sale.

Faced with these new restrictions on the operations of U.S. carriers to Argentina and the consequent erosion of reciprocity, on February 25, 1972, the Civil Aeronautics Board issued Order 72-2-88 requiring Aerolineas to file its existing schedules so that the Board could determine whether the operation of such services, or any part thereof, were contrary to applicable law or adverse to the public interest.

Subsequent to the issuance of this Order, representatives of the two governments met for consultations in Buenos Aires. At the close of the talks both parties agreed not to impose restrictions or penalties on the other's carriers pending further consultations.

On September 7, 1972, the Government of Argentina informed Braniff that it must suspend the carriage of all fifth freedom passengers between Buenos Aires and Santiago, Chile, and between Buenos Aires and La Paz, Bolivia, from September 15 through December 31, 1972.

The Board finds that this latest Argentine restriction will deprive a U.S. carrier of substantial revenues and thereby further diminish the foundation of reciprocity upon which operations between the two countries are based and adversely affects the public interest. The Board therefore finds that the public interest requires it to again exercise its powers pursuant to Part 213 of the Economic Regulations and to require Aerolineas to suspend operation of the three flights which it has recently implemented, to suspend certain other flights, to suspend service to certain intermediate points on its routes on certain days and to submit to the Board monthly statistical reports on those flights which it continues to operate.

Accordingly, it is ordered, That:

1. Within 30 days after service of this Order, Aerolineas Argentinas shall cease operating the following flights between the United States and Argentina:

a. Flight 300 departing Buenos Aires on Wednesday and arriving in New York on Thursday and the return Flight 301 departing New York on Thursday and arriving in Buenos Aires on Friday.

b. Flight 320 departing Buenos Aires on Monday and arriving in New York on Tuesday and the return Flight 321, departing from New York on Tuesday and arriving in Buenos Aires on Wednesday.

c. Flight 380 departing Buenos Aires on Friday and arriving in Los Angeles on the same day and the return Flight 381, departing Los Angeles on Friday and arriving in Buenos Aires on Saturday.

d. Flight 360 departing Buenos Aires on Saturday and Wednesday arriving in Miami on the same days and the return Flight 361 departing Miami on Sunday and arriving in Buenos Aires on the same day.[1]

e. Flight 391 departing Miami on Tuesday and arriving in Buenos Aires on the same day.[1]

2. Within 30 days after service of this Order, Aerolineas Argentinas shall suspend service at the intermediate points specified on the following flights on the days listed:

a. Lima on Flight 361 which departs from Miami on Thursday and arrives in Buenos Aires on the same day.

b. Lima on Flight 370 which terminates in Los Angeles on Tuesday and Thursday and on the return sector, Flight 371, on Monday, Wednesday, and Friday.

c. Bogota on Flight 370 which terminates in Los Angeles on Thursday and Sunday and the return Flight 371, on Monday, Wednesday, and Friday.

3. Aerolineas Argentinas shall file with the Civil Aeronautics Board (Attention: Director, Bureau of International Affairs) within 30 days after the close of each calendar month the original and three copies of a statistical report covering its remaining operations. Such report shall include:

a. The total number of third and fourth freedom passengers and the total number of fifth freedom passengers to/from the United States listed by city pair and with indication of percentage distribution.

(b) The total number of seats available and load factor achieved to/from the United States listed by flight.

c. Cargo data including weight carried, freedom classification, and load factor achieved to/from the United States by flight.

4. This Order shall be submitted to the President[2] and shall become effective on October 10, 1972.

5. This Order shall remain in effect until December 31, 1972, unless otherwise ordered by the Board.

6. This Order shall be served on Aerolineas Argentinas and the Ambassador of Argentina in Washington, D.C.

This Order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72-17541 Filed 10-12-72;8:52 am]

[1] The Board will consider an application for approval of a proposed schedule pursuant to section 213.3(e) to enable Aerolineas Argentinas to provide turnaround service at Miami by changing the day of operation of existing Flights 390 and 361.

[2] This Order was submitted to the President on September 26, 1972.

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COMMISSION ON CIVIL RIGHTS

ARIZONA AND NEW MEXICO

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on November 14, 1972, and that executive sessions, if appropriate, will be convened on November 14, 1972, to be held at the Albuquerque Convention Center, 401 Second Street NW., Albuquerque, NM; and on November 17, 1972, at the Phoenix Indian High School, 45 East Midway, Phoenix, AZ. The purpose of this hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, or national origin regarding the living conditions, the educational opportunities, the employment opportunities, the opportunities for adequate health services, the administration of justice, and the protection and preservation of water resources as they affect American Indians residing in the States of Arizona and New Mexico; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, or national origin as they affect the educational opportunities, the employment opportunities, the health care opportunities, the administration of justice, and the protection and preservation of water resources as it affects American Indians in the above areas, and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, or national origin in the fields of employment, education, health care, the administration of justice, and the preservation and protection of tribal water rights and related areas.

Dated at Washington, D.C., October 6, 1972.

THEODORE M. HESBURGH,
Chairman.

[FR Doc.72-17438 Filed 10-12-72;8:45 am]

FEDERAL RESERVE SYSTEM

UNITED OHIO BANCORP

Formation of Bank Holding Company

United Ohio Bancorp, Cleveland, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the First National Bank of Ashland, Ashland, Ohio, and of the Medina County Bank, Lodi, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 31, 1972.

Board of Governors of the Federal Reserve System, October 4, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17444 Filed 10-12-72;8:45 am]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCILS

Notice of Meetings

Notice is hereby given that the Archives Advisory Councils shown below will meet at the times and places indicated. Anyone who is interested in attending, or wants additional information should contact the persons shown below.

NATIONAL ARCHIVES ADVISORY COUNCIL

Meeting date: October 20–21, 1972.
Time: October 20th, 1 to 4 p.m., October 21st, 9 to 11:30 a.m.
Place: National Archives Building, Room 105, Seventh and Pennsylvania Avenue, Washington, DC 20408.
For further information contact: Dr. Frank G. Burke, Director, Educational Programs Staff, Seventh and Pennsylvania Avenue, Washington, DC 20408, 202—963-6404.

REGIONAL ARCHIVES ADVISORY COUNCILS

REGION 5

Meeting date: October 16, 1972.
Time: 8:30 a.m. to 4:30 p.m.
Place: Dirksen Building, Dirksen Room, 219 South Dearborn Street, Chicago, IL 60604.
For further information contact: A. K. Johnson, NARS Regional Commissioner, 1776 Peachtree Street, NW., Atlanta, GA 30309, 404—526-5611.

REGION 8

Meeting date: November 10, 1972.
Time: 1:30 p.m.
Place: University of Utah, 1400 East 2d South, Salt Lake City, UT 84112.
For further information contact: Ivan Eyler, NARS Regional Commissioner, 819 Taylor Street, Fort Worth, TX 76102, 817—334-2759.

REGION 10

Meeting date: November 10, 1972.
Time: 9:30 a.m. to 4 p.m.
Place: Federal Records Center, Conference training room, 6125 Sand Point Way NE., Seattle, WA 98115.
For further information contact: Paul Kohl, NARS Regional Commissioner, 49 Fourth Street, San Francisco, CA 94103, 415—556-3425.

The purpose of these meetings is to obtain support and guidance for new and on-going programs of the National Archives and Records Service, General Services Administration.

Issued in Washington, D.C., October 5, 1972.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.72-17445 Filed 10-12-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 616]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 2, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary,

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

1899-C1-ML-73—Pacific Northwest Bell Telephone Co. (KOJ93), Joe Butte, 7 miles south of Kennewick, Wash. Latitude 46°06'12" N., longitude 119°07'59" W. Modification of license to correct azimuth and distance on frequencies 10,755V and 10,995H MHz towards Pasco, Wash.

1900-C1-ML-73—Southwestern Bell Telephone Co. (KKZ86), Nelson Street, near 15th Street, Port Bolivar, Tex. Modification of license to change antenna system on frequencies 6286.2V and 6404.8V MHz towards Galveston, Tex.

1901-C1-ML-73—American Telephone and Telegraph Co. (KQA67), 2.2 miles northeast of Richfield, Ohio. Latitude 41°15'43" N., longitude 81°38'19" W. Modification of license to change azimuth on frequencies 3730V, 3810V, 3890V, 3970V, and 4050V MHz towards Cleveland, Ohio; frequencies 3710H and 3830H MHz towards Akron, Ohio.

1902-C1-P-73—The Ohio Bell Telephone Co. (KVI36), 111 North Fourth Street, Columbus, Ohio. Latitude 39°57'54" N., longitude 82°59'51" W. C.P. to add frequencies 6212.1H, 6271.4H, 6330.7H, and 6390.0H MHz toward Johnston, Ohio; frequencies to be removed from service: 6390.0H and 11,645H MHz towards Johnston, Ohio.

1903-C1-P-73—Same (KQL33), Township Road, 4.7 miles south of Johnston, Ohio. Latitude 40°05'09" N., longitude 82°41'44" W. C.P. to add frequencies 5980.0H, 6019.3H, 6078.6H, and 6137.9H MHz towards Columbus, Ohio; frequencies 10,756H and 10,995V MHz towards Mt. Vernon, Ohio; frequencies 5980.0V, 6078.6V, and 6137.9V MHz towards Brownsville, Ohio; frequencies 10,836H and 11,075V MHz towards Granville, Ohio; frequencies to be removed from service: 6108.3H and 10,715H MHz towards Columbus, Ohio; frequencies 10,755H and 10,995V MHz towards Mt. Vernon, Ohio.

1904-C1-P-73—Same (KQN74), County Road 312, 2.9 miles north-northwest of Brownsville, Ohio. Latitude 39°59'10" N., longitude 82°16'46" W. C.P. to add frequencies 6212.1V, 6271.4V, and 6330.7V MHz towards Johnston, Ohio.

1905-C1-P-73—Same (KQN48), 2.5 miles south-southeast of Hopedale, Ohio. Latitude 40°17'25" N., longitude 80°53'17" W.

1906-C1-P-73—The Ohio Bell Telephone Co. (KQL32), Knox Road, 4.4 miles west of Mt. Vernon, Ohio. Latitude 40°22'50" N., longitude 82°33'59" W. C.P. to change power output from 1.0 to 1.3 and change transmitter type form TJ to TI-2/TI-A2 on frequencies 11,685H and 11,445V MHz towards Johnston, Ohio.

1894-C1-P-73—RCA Alaska Communications, Inc. (New), Kasaan Mountain, Alaska. Latitude 55°32'38" N., longitude 132°21'33" W. C.P. for a new station on frequency 2162H MHz toward Ketchikan, Alaska.

1895-C1-P-73—Same (WGF59), 2319 North Tongass, Ketchikan, AK. Latitude 55°21'12" N., longitude 131°40'51" W. C.P. for a new station on frequency 2112H MHz towards Kasaan Mountain, Alaska.

1929-C1-P-73—Puerto Rico Telephone Co. (WWT49), 0.3 mile northwest from the intersection of State Roads 141 and 533 near Jayuya, P.R. Latitude 18°14'04" N., longitude 66°33'39" W. C.P. to delete frequencies 6308.4H and 6367.7H MHz towards Manati, P.R.; add frequency 4010V MHz toward Hato Tejas, P.R.; add frequency 3750H and 3830H MHz towards Manati, P.R.

1930-C1-P-73—Same (WWY34), Manuel Freytes, Esq., calle No. 1, Arecibo, P.R. Latitude 18°28'13" N., longitude 66°43'61" W. C.P. to add frequencies 6056.4V and 6116.7V MHz towards Jayuya, P.R.

1931-C1-P-73—Same (WWZ49), Calle Morales, State Road No. 2, Hato Tejas, P.R. Latitude 18°24'33" N., longitude 66°10'52" W. C.P. to add frequency 3890V MHz towards Jayuya, P.R.

1932-C1-P-73—Same (WWY33), San Jose Street, Manati, P.R. Latitude 18°26'06" N., longitude 66°29'19" W. C.P. to change frequencies 6056.4H and 6116.7H MHz to frequencies 4030H and 4110H MHz towards Jayuya, P.R.

1933-C1-P-73—RCA Alaska Communications Inc. (New), 0.7 mile east of Aniak Post Office, Aniak, Alaska. Latitude 61°34'53" N., longitude 159°32'60" W. C.P. for a new station on frequency 2162H MHz towards Aniak, Alaska; frequency 2174H MHz towards SE Agnatuk Mountain, Alaska.

1934-C1-P-73—Same (New), on hilltop approximately 1 mile north of village of Kalskag, Hill 986, Alaska. Latitude 61°33'02" N., longitude 160°18'10" W. C.P. for a new station on frequency 2112H MHz toward Aniak, Alaska; frequency 2116V MHz towards Bonasila Dome, Alaska; frequency 2126H MHz towards Pilcher Mountain, Alaska.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

1893-C2-P-(3)-73—Location Airsignal International, Inc. (New), for a new 1-way signaling station to be located at location No. 1: Off Highway 780, approximately 1.5 miles east of Sarasota, Fla., location No. 2: 4212 30th Street West, Bradenton, FL, and location No. 3: 0.86 mile north of Venice Boulevard, Venice, Fla., to operate on frequency 35.58 MHz.

1896-C2-MP-73—Airsignal International, Inc. (KIF951), for modification of C.P. to relocate facilities at Location No. 1 operating on 35.58 MHz to First National Bank Building, 1 Financial Plaza, Fort Lauderdale, FL.

1897-C2-P-73—The Bell Telephone Co. of Pennsylvania (KGA585), for additional facilities to operate 459.425, 459.475, 459.575, 459.650 MHz. (Test) at location No. 1: 1631 Arch Street, Philadelphia, PA.

1939-C2-P-(2)-73—General Communications Service, Inc. (KOA265), for additional control facilities to operate on 2112.0 MHz at location No. 2: 365 North Sixth Avenue, Phoenix, AZ, and for additional repeater facilities to operate on 2162.0 MHz at location No. 3: Atop South Mountain, 7.5 miles south of Phoenix, Ariz.

1940-C2-P-(2)-73—Colonial Mobile Telephone & Paging Service, Inc. (New), for a new 2-way station. Frequencies: 454.300 and 469.300 MHz. Location: Mt. Tom, Holyoke, Mass.

1941-C2-P-73—Elden Jr. Heinz, doing business as E & J Mobile Radio Service (New), for a new 2-way station to be located at 3.6 miles southwest of New Holland, Ohio to operate on base frequency 152.15 MHz.

1942-C2-P-73—North Shore Radio-Telephone, Inc. (KTS200), for additional facilities to operate on 158.70 MHz at a new site described as location No. 2: 1741 South O'Plane Road, Warren Township, IL.

1953-C2-P-73—RCC of Virginia, Inc. (New), for a new 2-way station to be located at Route 10, 0.94 mile south of Rushmere, Va., to operate on 152.12 MHz.

1954-C2-P-(3)-72—Communication Equipment & Service, Co. (KWA632), for additional facilities to operate on 152.15 MHz (base) and install a repeater channel to operate on 75.68 MHz at location No. 1: Ester Dome, Alaska and for additional Control facilities to operate on 72.66 MHz at location No. 2: 1010 College Road, Fairbanks, AK.

1955-C2-P-73—William L. Eisele (KJU804), for additional facilities to operate on base frequency 454.050 MHz at station located at junction of Johnson Road, 4 miles northwest of La Porte, Ind.

1956-C2-P-73—William L. Eisele (KSJ818), for additional facilities to operate on base frequency 454.125 MHz at station located at junction of Route 49 and Road 750 North, 4 miles north of Valparaiso, Ind.

7979-C2-P-73—Kentucky Communications (New), for a new 1-way station to be located at Duty Knob at the tower, Pikeville, Ky., to operate on base frequency 152.24 MHz.

Major Amendments

6522-C2-P-71—General Telephone Co. of Wisconsin (New), amended to change location to 114 North Apple Avenue, Marshfield, WI, operating on 152.840 MHz. See public notice dated May 24, 1971, Report No. 546.

Correction

1742-C2-P-(2)-73—Mobilfone, Correct entry to read: Call Sign (KKX709) and correct location to read Abilene, Tex. All other particulars remain as reported on public notice No. 615, dated September 25, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE

1892-C1-MP-73—Michigan Bell Telephone Co. (WJL84), 130 Royce Road, Ripley, MI. Latitude 42°07'39" N., longitude 86°34'08" W. Modification of C.P. to change frequencies from 11,765 MHz to 10,768V MHz toward Dodgeville, Mich.

1908-C1-TC-(3)-73—Garden State Micro Relay, Inc., KEM55, KEM56, KYZ90, various locations in the State of New Jersey. Transfer of Control from Community Cablecasting Corp. et al. (controlling stockholders) de jure, Transferors, to Cypress Communications Corp. et al. (Controlling stockholders) de facto, Transferees.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (MAJOR AMENDMENTS)—continued

1935–C1–P–73—Same (New), Pilcher Mountain, Alaska. Latitude 61°55'44" N., longitude 161°59'35" W. C.P. for a new station on frequency 2178H MHz towards Hill 986, Alaska; frequency 2166H MHz towards Hill 1142, Alaska.

1936–C1–P–73—RCA Alaska Communications, Inc. (New), C.P. for a new station on frequency 2166V MHz towards Hill 986, Alaska.

1937–C1–P–73—Same (New), Hill 1142, Alaska (latitude 62°20'53" N., longitude 163°33'28" W.) C.P. for a new station on frequency 2116H MHz towards Pilcher Mountain, Alaska.

1938–C1–P–73—Same (New), southeast Aghaluk Mountain, Alaska (latitude 61°30'27" N., longitude 158°08'58" W.) C.P. for a new station on frequency 2124H MHz towards Aniak, Alaska.

1907–C1–MP–73—American Telephone & Telegraph Co. (KAK78), 3 miles southeast of Zimmerman, Minn. (latitude 45°24'59" N., longitude 93°32'42" W.) Modification of C.P. to change frequencies from 3950H 4030H to 3990H 4070H MHz towards Cambridge, Minn.

1943–C1–MP–73—Navajo Communication Co., Inc. (WCZ39), 8.1 miles southwest of Kayenta, Black Mesa, Ariz. (latitude 36°39'50" N., longitude 110°21'01" W.) Modification of C.P. to change frequency from 2164.2V MHz to 2162.4V MHz towards Monument Valley, Utah, via Passive Reflector.

1944–C1–P–73—The Mountain States Telephone & Telegraph Co. (New), 21st Street and H Street, Ronan (Lake) Mont. (latitude 47°31'47" N., longitude 114°05'52" W.) C.P. for a new station on frequency 6264.0H MHz towards Charlo, Mont.

1945–C1–P–73—Same (KPH62), 4.5 miles northwest of Charlo, Mont. (latitude 47°27'54" N., longitude 114°15'35" W.) C.P. to add frequency 6011.9H MHz towards Ronan, Mont.

1946–C1–P–73—Public Service Telephone Co. (KVU90), 18 miles east of Knoxville on Georgia Highway 42, Knoxville, Ga. (latitude 32°43'06" N., longitude 83°58'11" W.) C.P. for a new station on frequency 6301.0H MHz towards Culloden, Ga.

1947–C1–P–73—Same (New), Old Post Road, Culloden, Ga. (latitude 32°51'44" N., longitude 84°05'37" W.) C.P. for a new station on frequency 6019.3H MHz towards Knoxville, Ga.

1948–C1–P–73—The Pacific Telephone & Telegraph Co. (KNL75), 1.2 miles west-northwest of Lodi, Calif. (latitude 38°08'31" N., longitude 121°18'58" W.) C.P. to change frequencies from 5945.2H and 6063.8H to 10,775V and 10,935V MHz towards Ben Bolt, Calif.

1949–C1–P–73—Same (KNM28), Ben Bolt, 3 miles northwest of Latrobe, Calif. (latitude 38°35'17" N., longitude 121°01'26" W.) C.P. to change frequencies 6197.2V and 6315.9V MHz to frequencies 11,345V and 11,665V MHz towards Lodi, Calif.; frequencies 6197.2H and 6315.9H MHz to 11,385V and 11,545V MHz towards Union Hill, Calif.

1950–C1–P–73—The Pacific Telephone & Telegraph Co. (KNM29), 1.7 miles east of Pollock Pines, Calif. (latitude 38°45'24" N., longitude 120°33'13" W.) C.P. to change from frequencies 5945.2V and 6063.8V MHz to 10,975V and 11,135V MHz towards Ben Bolt, Calif.

1951–C1–P–73—Same (KNM30), Echo Summit, 4.5 miles south-southwest of Meyers, Calif. (latitude 38°48'11" N., longitude 120°02'40" W.) C.P. to change from frequencies 6197.2V and 6315.9V MHz to frequencies 11,345H and 11,665H MHz towards Union Hill, Calif.; frequencies 6197.2H and 6315.9V MHz to frequencies 11,385H and 11,545H MHz towards Topaz Lake, Nev.

1052–C1–P–73—Bell Telephone Co. of Nevada (KPY21), Topaz Lake, 11 miles west-southwest of Wellington, Nev. (latitude 38°43'23" N., longitude 119°35'26" W.) C.P. to change from frequencies 5945.2H and 6063.8H MHz to frequencies 10,975H and 1135H MHz towards Echo Summit, Calif.

MULTIPOINT DISTRIBUTION SERVICE

1965–C1–P–73—Radio Americas Corp. (New), Ponce, P.R. (latitude 18°01'25" N., longitude 66°37'18" W.) C.P. for a new station on frequencies 2154.75(Visual) and 2150.25(Aural) towards various receiving points in the system.

1966–C1–P–73—Winnebago Multipoint Distribution Co. (New), Rockford, 1917 North Meridian Road, 2.5 miles west of Rockford, Ill. (latitude 42°17'14" N., longitude 89°10'18" W.) C.P. for a new station on frequencies 2154.750V(Visual) and 2150.25V(Aural) towards various receiving points in the system.

MULTIPOINT DISTRIBUTION SERVICE—continued

1967–C1–P–73—Multipoint Information Systems, Inc. (New), Central Tower Building at intersection of Market and Federal Streets, Youngstown, Ohio (latitude 41°06'00" N., longitude 80°39'00" W.) C.P. for a new station on frequencies 2154.75(Visual) and 2150.25(Aural) towards various receiving points in the system.

1968–C1–P–73—Same (New), Bank of Indiana Twin Tower Building, intersection of Interstate 65 and Lincoln Highway, Merrillville, Ind. (latitude 41°28'19" N., longitude 87°19'14" W.) C.P. for a new station on frequencies 2154.750(Visual) and 2150.250(Aural) towards various receiving points in the system.

1969–C1–P–73—Multi-Communications Services, Inc. (New), Bank of Indiana, Twin Tower Building, intersection of Interstate 65 and Lincoln Highway, Merrillville, Ind. (latitude 41°28'19" N., longitude 87°19'14" W.) C.P. for a new station on frequencies 2154.750 (Visual) and 2150.250(Aural) toward various receiving points in the system.

1970–C1–P–73—Same (New), Quality Court Building, 3 miles east of Destin, Fla. (latitude 30°23'10" N., longitude 86°27'57" W.) C.P. for a new station on frequencies 2154.75 (Visual) and 2150.25(Aural) toward various receiving points in the system.

1971–C1–P–73—Buckeye Cablevision, Inc. (New), Red Bank, N.J. (latitude 40°18'53" N., longitude 74°03'49" W.) C.P. for a new station on frequency 2154.750H(Visual) towards various receiving points in the system.

1972–C1–P–73—Same (New), Monterey, Calif. (latitude 36°36'59" N., longitude 121°54'35" W.) C.P. for a new station on frequency 2154.750H(Visual) towards various receiving points in the system.

1973–C1–P–73—International Television Corp. (New), Franklin Avenue and Calle Principal, Monterey, Calif. (latitude 36°36'01" N., longitude 121°53'39" W.) C.P. for a new station on frequencies 2154.750V(Visual) and 2150.250V(Aural) towards various receiving points in the system.

1974–C1–P–73—Same (New), Chester and Truxtun Streets, Bakersfield, Calif. (latitude 35°-22'25" N., longitude 119°01'04" W.) C.P. for a new station on frequencies 2154.750V (Visual) and 2150.250V(Aural) towards various receiving points in the system.

1975–C1–P–73—Same (New), Pikes Peak and Cascade Avenue, Colorado Springs, Colo. (latitude 38°50'04" N., longitude 104°49'39" W.) C.P. for a new station on frequencies 2154.750 (Visual) and 2150.250(Aural) toward various receiving points in the system.

1976–C1–P–73—International Television Corp. (New), Sutter and Miner Streets, Stockton, Calif. (latitude 38°57'13" N., longitude 121°17'08" W.) C.P. for a new station on frequencies 2154.750V (Visual) and 2150.250V (Aural) towards various receiving points in the system.

1977–C1–P–73—Stockton Mobilphone, Inc. (New), On Pock Lane, approximately 1,500 feet North of Carpenter Road, Stockton, Calif. (latitude 37°55'32" N., longitude 121°14'35" W.) C.P. for a new station on frequencies 2154.750 (Visual) and 2150.250 (Aural) towards various receiving points in the system.

1978–C1–P–73—Little Rock Signal Corp. (New), southwest Corner, Capitol and Center Streets, Little Rock, Ark. (latitude 34°44'39" N., longitude 92°16'25" W.) C.P. for a new station on frequencies 2154.75H (Visual) and 2150.25H (Aural) towards various receiving points in the system.

Informative: It appears that the following applications may be mutually exclusive subject to the Commission's rules regarding ex parte presentations, reasons of potential electrical interference.

Puerto Rico—Ponce:
International TV Corp. (New), 558–C1–P–73.
Radio Americas Corp. (New), 1965–C1–P–73.
Illinois—Rockford:
Chicago Communications Service, Inc. (New), 561–C1–P–73.
Winnebago Multipoint Distribution Co. (New), 1966–C1–P–73.
Indiana—Merrillville:
Multi-Communication Services, Inc. (New), 1969–C1–P–73.
Multipoint Information Systems, Inc. (New), 1968–C1–P–73.
California—Monterey:
International Television Corp. (New), 1973–C1–P–73.
Buckeye Cablevision, Inc. (New), 1972–C1–P–73.

Colorado—Colorado Springs:
A. Michael Lipper (New), 360–C1–P–73.
International Television Corp. (New), 1975–C1–P–73.
California—Stockton:
A. Michael Lipper (New), 359–C1–P–73.
International Television Corp. (New), 1976–C1–P–73.
Stockton Mobilphone, Inc. (New), 1977–C1–P–73.

POINT-TO-POINT MICROWAVE RADIO SERVICE (MAJOR AMENDMENTS)

Informative: Western Tele-Communications, Inc., has amended 21 of 24 applications proposing specialized common carrier services between Denver, Colo., Omaha, Nebr., and Sioux City, Iowa. The applications were filed June 12, 1970, and appeared on Public Notice June 22, 1970. Subsequent amendments appeared on Public Notice August 2, 1971, FCC Report No. 555.

8300–C1–P–70—Western Tele-Communications, Inc. (New), station 4 miles southeast of Denver, Colo., latitude 39°37'03" N., longitude 104°53'36" W. Change frequency 6034.2H to 6152.8H toward Colorow Hill, Colo., azimuth 292°39'.

8303–C1–P–70—Western Tele-Communications, Inc. (New), station at Eagle Point, 12 miles south-southeast of Sterling, Colo., latitude 40°28'48" N., longitude 103°05'08" W. Change polarization of frequency 3810 MHz toward Crook, Colo., azimuth 15°50', to vertical.

8304–C1–P–70—Western Tele-Communications, Inc. (New), relocate station to 8.8 miles northwest of Crook, Colo., latitude 40°58'46" N., longitude 102°53'55" W. Frequencies 3850V toward Julesburg, Colo., azimuth 94°23', and 4150H toward Eagle Point, Colo., azimuth 195°57'.

8305–C1–P–70—Western Tele-Communications, Inc. (New), station 5 miles southeast of Julesburg, Colo., latitude 40°56'18" N., longitude 102°13'35" W. Change polarization of frequency 3810 to vertical toward Ogallala, Nebr., azimuth 63°02'.

8306–C1–P–70—Same (New), relocate station to 10 miles northeast of Ogallala, Nebr., latitude 41°09'46" N., longitude 101°38'20" W. Change polarization of frequency 4150 to horizontal toward Julesburg, Colo., azimuth 243°25'. Frequency 3850V toward North Platte, Nebr., azimuth 111°47'.

8307–C1–P–70—Same (New), relocate station to 18 miles southwest of North Platte, Nebr., latitude 40°58'00" N., longitude 100°59'50" W. Frequencies 3810H toward Curtis, Nebr., azimuth 102°37', and 4110H toward Ogallala, Nebr., azimuth 292°12'.

8309–C1–P–70—Same (New), relocate station to 17 miles northwest of Curtis, Nebr., latitude 40°52'12" N., longitude 100°26'10" W. Change polarization of frequency 3850 to horizontal toward Elwood, Nebr., azimuth 123°28'. Change frequency 3930V to 4150V toward North Platte, Nebr., azimuth 282°59'.

8310–C1–P–70—Same (New), relocate station to 0.5 mile southwest of Elwood, Nebr., latitude 40°35'05" N., longitude 99°52'23" W. Change polarization of frequency 4110 to vertical toward Curtis, Nebr., azimuth 303°50'. Frequency 3810H toward Kearney, Nebr., azimuth 99°25'.

8311–C1–P–70—Same (New), relocate station to 14 miles south of Kearney, Nebr., latitude 40°28'55" N., longitude 99°05'00" W. Change polarization of frequency 3850 to horizontal toward Rosedale, Nebr., azimuth 64°08'. Frequency 4150V toward Elwood, Nebr., azimuth 279°56'.

8313–C1–P–70—Same (New), relocate station to 2 miles east of Rosedale, Nebr., latitude 40°43'11" N., longitude 98°26'06" W. Change frequency 3890H to 4110V MHz toward Kearney, Nebr., azimuth 244°31'. Frequency 3610H toward Sutton, Nebr., azimuth 95°50'.

8314–C1–P–70—Same (New), relocate station to 4 miles north-northeast of Sutton, Nebr., latitude 40°40'20" N., longitude 97°50'38" W. Change frequency 3930V to 4150V toward Rosedale, Nebr., azimuth 276°13'. Frequency 3850V toward Beaver Crossing, Nebr., azimuth 80°24'.

8316–C1–P–70—Same (New), relocate station to Beaver Crossing, 6.5 miles west-southwest of Milford, Nebr., latitude 40°45'22" N., longitude 97°10'38" W. Change polarization of 3810 MHz to vertical toward Lincoln Repeater, Nebr., azimuth 78°44'. Frequency 4110H MHz toward Sutton, Nebr., azimuth 260°50'.

POINT-TO-POINT MICROWAVE RADIO SERVICE (MAJOR AMENDMENTS)—continued

8317–C1–P–70—Same (New), station: Lincoln Repeater, 4 miles east of Lincoln, Nebr., latitude 40°50'58" N., longitude 96°32'56" W. Change polarization of 4150 and 3850 MHz to horizontal toward Lincoln, Nebr., azimuth 246°24', and Wahoo, Nebr., azimuth 9°08', respectively. Frequency 4150V toward Beaver Crossing, Nebr., azimuth 259°09'.

8318–C1–P–70—Same (New), station at 27th and Randolph Streets, Lincoln, NE, latitude 40°48'19" N., longitude 96°40'54" W. Change frequency 3790H to 3890V toward Lincoln Repeater, Nebr., azimuth 66°19'.

8319–C1–P–70—Same (New), relocate station to 9 miles northeast of Wahoo, Nebr. Latitude 41°15'51" N., longitude 96°27'38" W. Change frequencies 6286.2V and 6345.5V to 3810H and 3890H toward Omaha, Nebr., azimuth 99°28'. Change polarization of frequency 3790 to vertical toward Knievel, Nebr., azimuth 346°49'. Frequency 3710H toward Lincoln Repeater, Nebr., azimuth 189°11'.

8320–C1–P–70—Same (New), relocate station to I Street and 110th Street, Omaha, Nebr. Latitude 41°12'59" N., longitude 96°05'10" W. Change frequencies 6093.5V and 6123.1H to 3910V and 4150V toward Wahoo, Nebr., azimuth 279°43'.

8321–C1–P–70—Same (New), station at Knievel, 7 miles southeast of West Point, Nebr. Latitude 41°45'12" N., longitude 96°36'49" W. Change polarization of frequency 3930 toward Wahoo, Nebr., azimuth 166°43' and 4150 toward Walthill, Nebr., azimuth 16°41', to horizontal.

8322–C1–P–70—Same (New), station 3 miles northeast of Walthill, Nebr. Latitude 42°10'14" N., longitude 96°26'44" W. Change polarization of frequency 3810 toward Knievel, Nebr., azimuth 96°47', and 3890 toward Sioux City, Iowa, azimuth 13°20', to vertical. Frequency 4110H toward Waterbury, Nebr., azimuth 324°44'.

8323–C1–P–70—Same (New), relocate station to 2 miles northeast of Sioux City, Iowa. Latitude 42°31'05" N., longitude 96°20'03" W. Change polarization of frequency 3930 to vertical toward Walthill, Nebr., azimuth 197°41'.

8324–C1–P–70—Same (New), relocate station to 1 mile southwest of Waterbury, Nebr. Latitude 42°26'42" N., longitude 96°45'04" W. Change polarization of frequency 4150 to horizontal toward Moe, S. Dak., azimuth 6°1'. Frequency 3930V toward Walthill, Nebr., azimuth 140°19'.

8325–C1–P–70—Same (New), station at Moe, 8 miles northeast of Beresford, S. Dak. Latitude 43°09'25" N., longitude 96°38'55" W. Change polarization of frequency 3810 to vertical toward Waterbury, Nebr., azimuth 165°24'.

4778–C1–P–71—Pacific Telatronics, Inc. (KTG39), Horse Mountain, 7.0 miles southwest of Willow Creek, Calif. (latitude 45°52'20" N., longitude 123°44'08" W.): Application amended to change point of communication from Moores Prairie to Monument Ridge, Calif. (latitude 40°25'23" N., longitude 124°06'21" W.), on azimuth 212°08'. Frequencies are unchanged.

[FR Doc.72–17260 Filed 10–12–72;8:45 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 278]

CORPUS CHRISTI TERMINAL CO., INC.

Order of Revocation

On September 28, 1972, the Federal Maritime Commission received notification that Corpus Christi Terminal Co., Inc., Post Office Box 1236, Corpus Christi, TX 78403, wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 278 for immediate revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated May 1, 1972;

It is ordered, That Independent Ocean Freight Forwarder License No. 278 be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Corpus Christi Terminal Co., Inc., be and is hereby revoked effective September 28, 1972, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order by published in the FEDERAL

REGISTER and served upon Corpus Christi Terminal Co., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.72-17544 Filed 10-12-72;8:52 am]

[Independent Ocean Freight Forwarder License 296]

FARRELL SHIPPING CO., INC.

Order of Revocation

By letter dated August 30, 1972, Farrell Shipping Co., Inc., 521 Whitney Building, New Orleans, LA 70130, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 296 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before September 27, 1972.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Farrell Shipping Co., Inc., has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated 5/1/72);

It is ordered, That the Independent Ocean Freight Forwarder License of Farrell Shipping Co., Inc., be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Farrell Shipping Co., Inc., be and is hereby revoked effective September 27, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Farrell Shipping Co., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.72-17543 Filed 10-12-72;8:52 am]

PORT OF SEATTLE AND PUGET SOUND TERMINALS, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Alvin L. Sklow, Director of Real Estate, Port of Seattle, Post Office Box 1209, Seattle, WA 98111.

Agreement No. T-2658, between the Port of Seattle (Port) and Puget Sound Terminals, Inc. (PST), provides for the month-to-month lease to PST of approximately 70,400 square feet of the South Transit Shed located at Pier 42, Seattle, Wash., which is to be used for general warehousing and distribution. As compensation, the Port is to receive $4,224 per month in lieu of tariff charges.

Dated: October 6, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17545 Filed 10-12-72;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. E-7477]

KANSAS CITY POWER & LIGHT CO.

Notice of Application

OCTOBER 4, 1972.

Take notice that on September 18, 1972, Kansas City Power & Light Co. (Applicant) filed a second supplemental application seeking authority pursuant to section 204 of the Federal Power Act to increase to $75 million the amount of short-term, unsecured promissory notes authorized to be issued under the Commission's order of June 13, 1969, in Docket No. E-7477, of which aggregate amount a maximum of $32,500,000 may be in the form of commercial paper, and to extend to not later than December 31, 1973, the final maturity date of said notes. By prior supplemental order issued June 1, 1971, the Commission authorized Applicant to issue up to $50 million short-term promissory notes, of which aggregate amount up to $25 million could be in the form of commercial paper, with final maturities not later than December 31, 1972.

Applicant is incorporated under the laws of the State of Missouri with its principal business office at Kansas City, Mo., and authorized to do business in the State of Kansas.

The interest rate applicable to the promissory notes will be, in the case of demand notes issued to commercial banks, the prime rate in effect at the time of issuance; in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers; and in the case of commercial paper placed directly with regular purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. The applicant contemplates the issuance of promissory notes, including the "roll-over" of commercial paper promissory notes, without further application to this Commission, at any time and from time to time, each of such notes to have a maturity date of not later than December 31, 1973.

The proceeds will be used to finance in part applicant's construction program to December 31, 1973. The increase in authorization to $75 million and the extension of 1 year to December 31, 1973, will allow applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17443 Filed 10-12-72;8:45 am]

[Docket No. CI73-180]

LOUIS H. WELTMAN

Further Notice of Application

OCTOBER 10, 1972.

Take notice[1] that on September 6, 1972, Louis H. Weltman (Applicant), 1011 Wilson Building, Corpus Christi, TX 78401, filed in Docket No. CI73-180 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from the Willmann Field, San Patricio County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 1,000 Mcf of gas per day at 35.0 cents per Mcf at 14.65 p.s.i.a. within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to shorten the period for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a protest or petition to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17548 Filed 10-12-72;8:55 am]

[1] The subject application is included in the Notice of Applications issued September 27, 1972, in Docket No. G-4424, et al., which prescribes Oct. 24, 1972, as the date by which protests and petitions to intervene should be filed.

[Dockets Nos. CP71-222, CP71-223]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Petition to Amend

OCTOBER 4, 1972.

Take notice that on September 12, 1972, Great Lakes Gas Transmission Co. (Applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Dockets Nos. CP71-222 and CP71-223 a petition to amend the orders of the Commission issued in said dockets pursuant to sections 3 and 7(c) of the Natural Gas Act by reducing the firm volumes of natural gas to be imported, transported, and exported by petitioner for TransCanada Pipelines Ltd (TransCanada), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Pursuant to Commission orders issued on June 1, 1971, in Dockets Nos. CP71-222 (45 FPC 1034) and CP71-223 (45 FPC 1037), petitioner was authorized to import, transport, and export for TransCanada from the United States-Canadian international boundary near Emerson, Manitoba, to points on the United States-Canadian international boundary near Sault St. Marie and St. Clair, Mich., a firm volume of natural gas in the amount of 900,000 Mcf per day and any overrun volumes on a capability basis in accordance with the terms of Applicant's Rate Schedule T-4. Petitioner states that the portion of its pipeline system used for such service has not been able to achieve the flow efficiency assumed in its design and that certain of its compressor units have not performed as expected, resulting in a smaller than planned system capability. Accordingly, petitioner further states that TransCanada has agreed by precedent agreement dated July 14, 1972, to reduce the firm daily transportation volume by 85,000 Mcf per day subject to the approval of the National Energy Board of Canada and seeks authorization to implement such agreement herein.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17485 Filed 10-12-72;8:48 am]

[Docket No. E-7774]

NORTHWESTERN PUBLIC SERVICE CO.

Notice of Application

OCTOBER 4, 1972.

Take notice that on September 21, 1972, Northwestern Public Service Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of promissory notes to evidence short-term borrowings as needed for its business from time to time from the present through September 1, 1975, provided that the aggregate principal amount of such notes outstanding at any one time shall not exceed $11 million.

Applicant is incorporated under the laws of the State of Delaware and is qualified to do business as a foreign corporation in the States of South Dakota and North Dakota, and as a domesticated corporation in the State of Nebraska. The notes proposed to be issued pursuant to this application will be short-term promissory notes which will be issued to commercial banks. Notes for the new short-term borrowings shall bear interest at the prime commercial rate of the lending bank, or principal lending bank, as it is in effect from time to time during the terms of such notes. Notes evidencing renewals or extensions of maturity of short-term borrowings shall bear interest at a rate not to exceed one-quarter of 1 percent above such prime commercial rate as it is in effect from time to time during such renewal or extended terms. The initial term, and each renewal or extended term, of the notes shall not exceed 360 days (although successive renewals or extensions may occur), subject to the limitation that no initial or renewal or extended term of any note shall extend beyond September 1, 1975.

The net proceeds from the notes will be used, together with other funds of the Applicant, for construction, extension, and improvement of facilities. Applicant's construction program for the period ending December 31, 1975, is estimated at $54,600,000, of which approximately $39,200,000 is for expenditures in connection with construction of a large electric generating plant near Big Stone City, S. Dak., which is jointly owned by Applicant and two other utilities; $3,200,000 is for major electric transmission lines; $1,900,000 for major electric substations; $6,500,000 for routine extensions and additions to electric systems; $2,800,000 for routine extensions and additions to natural gas distribution systems; and $1,000,000 for miscellaneous and general items.

Any person desiring to be heard or to make any protest with reference to this application should on or before October 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17486 Filed 10-12-72;8:48 am]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Acceptance of Initial Rate Schedule Filing

OCTOBER 4, 1972.

Take notice that on October 2, 1972, the Federal Power Commission issued a letter order accepting for filing an Initial Rate Schedule of the Vermont Yankee Nuclear Power Corp. The Rate Schedule provides for the sale of the entire output of the Vermont Yankee Nuclear Power Corp. to 10 purchasers who are also stockholders. According to a power contract dated February 2, 1968 and amended June 1, 1972, each of the purchasers are entitled to receive and are

V37-199 OCT 13 72 XUM

obligated to pay for a percentage of the plant's net output in proportion to their respective shares of stock ownership.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17487 Filed 10-12-72;8:48 am]

[Docket No. CI73-174]

AUSTER OIL & GAS, INC.

Notice of Application

OCTOBER 11, 1972.

Take notice that on September 7, 1972, Auster Oil & Gas, Inc. (Applicant), Post Office Box 3189, Lake Charles, LA 70601, filed in Docket No. CI73-174 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the Johnson Bayou Area, Cameron Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to commence the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act and to continue the sale of approximately 3,500 Mcf of gas per day for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) at the rate of 35 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17593 Filed 10-12-72;8:55 am]

OFFICE OF EMERGENCY PREPAREDNESS

ILLINOIS

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Illinois, dated September 5, 1972, and published September 12, 1972 (37 F.R. 18500), is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 4, 1972:

The county of:
Grundy.

Dated: October 6, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-17521 Filed 10-12-72;8:50 am]

VIRGINIA

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on October 7, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Virginia from severe storms and flooding, beginning about September 20, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Virginia. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Francis X. Carney, Regional Director, OEP Region 3, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Virginia to have been adversely affected by this declared major disaster:

The cities of:
Hampton. Virginia Beach.
Newport News.

Dated: October 7, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-17522 Filed 10-12-72;8:50 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Notice of Public Meeting

Pursuant to section 13(a)(2) of Executive Order No. 11671 of June 5, 1972, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 10103, New Executive Office Building, 726 Jackson Place (entrance on 17th Street between Pennsylvania Avenue and H Street, NW.), Washington, DC on Thursday, October 19, 1972 at 9:30 a.m.

The Advisory Council assists the Office of Management and Budget in the performance of certain duties imposed by the Federal Reports Act of 1942 (40 U.S.C. 3501-3511).

The names and affiliations of members of the Council are as follows:

Charles W. Stewart, Machinery & Allied Products Institute (Chairman).
Carl A. Beck, Charles Beck Machine Corp.
William P. Betts, Association of American Railroads.
Thomas M. Brennan, Brennan & Vallone.
A. Arthur Charous, Sears, Roebuck & Co.
Walter Couper, Federated Department Stores, Inc.
William E. Dunn, Associated General Contractors of America.
James G. Ellis, Automobile Manufacturers Association.
Edwin W. Gaynor, Chrysler Corp.
James M. Goldberg, American Retail Federation.
Eugene J. Hardy, National Association of Manufacturers.
Eugene H. Hasenberg, National Gas Pipeline Co. of America.
Benjamin F. Holcomb, United States Steel Corp.
Charles C. Hornbostel, Financial Executives Institute.
Wayne E. Kuhn, Omark Industries, Inc.
John E. Lewis, National Small Business Association.
Herbert Liebenson, National Small Business Association.
Carl H. Madden, Chamber of Commerce of the United States.
David J. Mahrer, Aluminum Co. of America.
G. H. McDaniel, member-at-large.
Joseph F. Miller, Executives Consultants, Inc.
Robert H. North, International Association of Ice Cream Manufacturers.
Edwin M. Patterson, Pan American Sulphur Co.
Joseph A. Sciarrino, Financial Executives Institute.
William H. Shaw, E. I. du Pont de Nemours & Co., Inc.
Robert H. Stewart, Jr., Gulf Oil Corp.
Vincent T. Wasilewski, National Association of Broadcasters.
Robert O. Welk, Eastman Kodak Co.

The purpose of the meeting is to conduct business relating to the organization and finances of the Council; to elect officers of the Council; to hear remarks from the Associate Director and the Chief of the Statistical Policy Division of the Office of Management and Budget and to receive reports of recent actions by the Office of Management and Budget on forms on which the Council's committees and panels have provided advice on reporting problems. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.72-17523 Filed 10-12-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5123]

EASTERN UTILITIES ASSOCIATES ET AL.

Notice of Post-Effective Amendment Regarding Issue and Sale of Notes

OCTOBER 6, 1972.

Notice is hereby given that Eastern Utilities Associates, Post Office Box 2333, Boston, MA 02107 (EUA), a registered holding company, and its four electric utility subsidiary companies, Blackstone Valley Electric Co. (Blackstone), Brockton Edison Co. (Brockton), Fall River Electric Light Co. (Fall River), and Montaup Electric Co. (Montaup), have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, and 12(b) of the Public Utility Holding Company Act of 1935 (Act) and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 28, 1971 (Holding Company Act Release No. 17415), EUA, Blackstone, Brockton, Fall River, and Montaup were authorized to issue and sell short-term, unsecured, promissory notes to banks, and, in the cases of Blackstone, Brockton, and Fall River, to also receive open-account advances from EUA, from time to time during the period beginning January 3, 1972, and ending January 2, 1973. It is now proposed that the maximum amount of borrowings from banks and from EUA to be outstanding at any time be increased from $18,100,000 to $20,200,000 in the case of Brockton and increased from $9 million to $9,735,000 in the case of Fall River; that the maximum amount of Montaup's borrowings from banks to be outstanding at any one time be increased from $11,200,000 to $13 million; and that the maximum amount of EUA's borrowings from banks to be outstanding at any one time be increased from $10,700,000 to $12,300,000. The amounts shown for Brockton are nominal amounts before reduction of any of the proceeds received from permanent financings pursuant to a condition contained in the original order. Brockton received $6,879,000 of net proceeds from the sale of $8 million principal amount of bonds in July 1972 and will receive the balance of $1,121,000 left on deposit with the bond trustee when it becomes available to Brockton. The maximum borrowings for the period January 3, 1972, to January 2, 1973, as presently proposed are as follows:

[Thousands of dollars]

	EUA	Blackstone	Brockton	Fall River	Montaup
The Chase Manhattan Bank (N.A.), New York, N.Y.		$1,000	$1,500	$2,000	$2,500
Industrial National Bank of Rhode Island, Providence, R.I.		1,850			
Rhode Island Hospital Trust National Bank, Providence, R.I.		1,850			
The First National Bank of Boston, Boston, Mass.	$12,300		1,500	4,400	10,500
State Street Bank and Trust Co., Boston, Mass.			1,425		
Plymouth-Home National Bank, Brockton, Mass.			400		
First County National Bank, Brockton, Mass.			375		
B.M.C. Durfee Trust Co., Fall River, Mass.				650	
Fall River Trust Co., Fall River, Mass.				700	
Fall River National Bank, Fall River, Mass.				250	
Total from banks	12,300	4,700	5,200	8,000	13,000
From EUA		12,200	15,000	1,735	
Maximum amount of aggregate short-term borrowings from banks and advances from EUA to be outstanding at any one time	12,300	16,900	20,200	9,735	13,000

In all other respects the proposed transactions remain unchanged.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 26, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17518 Filed 10-12-72;8:50 am]

[812-3241]

NARRAGANSETT CAPITAL CORP.

Notice of Filing of Application for Order

OCTOBER 6, 1972.

Notice is hereby given that Narragansett Capital Corp., 40 Westminster Street, Providence, RI 02903 (Narragansett), a Rhode Island corporation registered as a closed-end, nondiversified, management investment company under the Investment Company Act of 1940 (Act) and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to Rule 17d-1 under the Act for an order permitting the issuance by Bevis Industries, Inc. (Bevis) of 500,000 shares of its Common Stock, par value $0.10 per share (the "Company Shares") to Bernhardt Denmark (Denmark) in connection with his employment by Bevis, an undertaking by Narragansett not to sell a portion of its holdings of Bevis Common Stock during the term of Denmark's employment, and certain other undertakings. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

BACKGROUND

Under an employment agreement between Bevis and Denmark made as of January 26, 1972 (the "Original Agreement"), Denmark, who was not then employed by Bevis, agreed to render services to Bevis as president and chief executive officer for a 5-year term commencing March 1, 1972. As compensation, Bevis agreed to pay to Denmark salary at the rate of $90,000 a year plus profit sharing compensation equal to 2 percent of Bevis' pretax profits for each of the calendar years 1972 through 1976.

Pursuant to the original agreement, Denmark purchased from Bevis 300,000 company shares for a purchase price of

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$0.95 a share, an aggregate of $285,000. Denmark also acquired the right to purchase an additional 200,000 company shares at the purchase price of $0.95 a share.

In addition, Royal Little (Little), chairman of the board and a director of Bevis and chairman of the executive committee and a director of Narragansett, agreed, subject to appropriate approval by the Commission under section 17 of the Act, to repurchase from Denmark at his request up to 200,000 of the company shares at the original purchase price per share. In the event such Commission approval was obtained, Denmark would then be obligated to purchase an additional 200,000 company shares at a purchase price of $0.95 a share.

The original agreement gave Bevis the right to repurchase from Denmark at $0.95 a share from 25 percent to 100 percent (depending on the termination date) of the company shares if his employment were terminated by him in breach of the original agreement or by Bevis for cause. Bevis' repurchase rights lapsed, however, if Narragansett ceased to be the principal stockholder of Bevis or ceased to hold more than 25 percent of Bevis' outstanding common stock. In either such event, Denmark had the right to require registration of his shares under the Securities Act of 1933. Similarly, if Narragansett sold all or any portion of its Bevis common stock in a "private offering," then Denmark had the right to participate with Narragansett in the private offering on a pro rata basis.

Acting on Denmark's request, and expressly subject to the prior approval by the Commission of the transaction as not being in violation of Section 17 of the Act, the executive committee of the board of directors of Narragansett on January 26, 1972, resolved that Narragansett would not reduce its holdings in Bevis to less than 25 percent of the outstanding Common Stock of Bevis while Denmark was employed under the Original Agreement. This resolution was subsequently ratified by the board of directors of Narragansett on February 18, 1972.

In April, 1972, Bevis's financial difficulties required it to refinance certain of its obligations and to obtain new working capital. This refinancing was described in detail in Narragansett's application for an order under Rule 17d–1 (File No. 812–3132), which was granted by order of Commission on May 9, 1972 (Investment Company Act Release No. 7167), and is incorporated by reference in Narragansett's present application. Narragansett participated in the refinancing by lending to Bevis $1,500,000. Industrial Bank of Rhode Island (Industrial Bank) participated by lending Bevis up to an aggregate of $4,600,000 in two separate loans.

Among the restrictions provided for in the term loan agreement pursuant to which Industrial Bank has advanced part of its commitment is a provision that the loan will be in default if Denmark shall cease to be the chief executive officer of Bevis.

The parties subsequently learned that the financial condition of Bevis was significantly worse than they had believed it to be on January 26, 1972, and that they were therefore mutually mistaken as to the fair market value of the Company Shares on that date. The parties also learned that the attorney general of the State of New York had commenced a lawsuit against Bevis arising out of the business practices of its Colonial Division as conducted by the former management of Bevis. The parties' understanding of the relative financial status of Bevis on January 26, 1972, and subsequently, are reflected in opinions of Paine, Webber, Jackson & Curtis (an independent investment banking firm) dated January 26, 1972, and June 5, 1972. The earlier opinion concluded that the fair market value of the Bevis common stock was $1 per share on January 26, 1972, while the second opinion concluded that such value was $0.70 per share.

Based upon the mutual mistake of fact referred to above, Denmark demanded rescission of the Original Agreement.

In order, therefore, to settle any claims which Denmark might have against Bevis, and to induce him to continue as president and chief executive officer of the company, the parties entered into an employment agreement as of June 6, 1972 (the "Superseding Agreement").

The superseding agreement provides that, except as set forth therein, the Original Agreement is rescinded and terminated. In accordance with the Superseding agreement Denmark has delivered to Bevis the 300,000 company shares which he purchased pursuant to the original agreement and Bevis has delivered to him an aggregate of $285,000 against receipt of the shares. Denmark agrees to remain employed by Bevis upon the terms and conditions set forth in those sections of the original agreement which do not relate to the company shares.

Under the superseding agreement Bevis agrees to sell and Denmark to purchase 500,000 company shares for $0.60 a share, an aggregate purchase price of $300,000, also subject to a determination by the Commission pursuant to an application that the issuance of the shares is permitted under Section 17(d) of the Act. Bevis agrees to request promptly that Narragansett make such application. Bevis also agrees to solicit the consent of a majority of its stockholders to the purchase and sale of the 500,000 company shares pursuant to the superseding agreement.

The parties to the superseding agreement acknowledge that the obligations of Little under the annex to the Original Agreement (the provisions calling for a repurchase of company shares by Little at Denmark's request) never came into effect and that neither the parties nor Little have or will have any obligations thereunder.

If the closing of the purchase and sale of 500,000 company shares shall not have occurred by November 30, 1972, the superseding agreement shall be terminated and of no force and effect, it being understood that the parties shall then be free to pursue whatever remedies they may have as if the superseding agreement had never existed.

At the closing, the parties will exchange mutual written releases of any liabilities either may have to the other under the original agreement with respect to the purchase and sale of the company shares thereunder.

Should the purchase and sale of the company shares in accordance with the superseding agreement take place, the parties have agreed that the restrictions on transfer and the other undertakings contained in the original agreement as to the company shares shall be applicable to the 500,000 company shares transferred pursuant to the superseding agreement.

Narragansett now holds directly 836,952 shares, or approximately 43.2 percent of the outstanding shares of common stock of Bevis. This amount does not include 356,246 shares of Bevis stock (including 161,227 shares in escrow) which may be payable to Narragansett in 1973 contingent upon future earnings of the Casper Division of Bevis. Narragansett's aggregate investment at March 31, 1972, in Bevis was $1,260,016. The value of this investment on that date as determined by the Board of Directors of Narragansett was also $1,260,016.

As noted, Little is chairman of the Executive Committee and a director of both Narragansett and Bevis. He acted as chief executive officer of Bevis from March 8, 1971, to January 26, 1972, when he was succeeded by Denmark. Harvey J. Sarles ("Sarles") is president and a director of Narragansett, and vice chairman and a director of Bevis. Robert S. Davis is the secretary of both Narragansett and Bevis.

Little owns beneficially 73,010 shares, or approximately 7.9 percent of the outstanding shares of common stock of Narragansett and Sarles owns 6,953 shares, or approximately 0.7 percent of such shares outstanding. Little owns 60,997 shares, or approximately 3.2 percent of the outstanding shares of common stock of Bevis. Little holds a 5-year-term note of Bevis for $333,844, bearing interest at the rate of 6 percent per annum, payable quarterly, with the final installment due in 1977, convertible into common stock of Bevis at $5 per share.

Prior to the execution of his employment agreement by Bevis on January 26, 1972, Denmark held no stock in Bevis or Narragansett, and was not an officer or director of either company.

COMMISSION JURISDICTION

As Denmark is an affiliate of an affiliate of Narragansett (i.e., Bevis), and as Bevis is a company controlled by Narragansett, the purchase of the company shares pursuant to the superseding agreement might be considered a joint enterprise within the meaning of section 17(d) of the Act and rule 17d–1 thereunder. Similarly, Narragansett's agreement not to sell a portion of its Bevis stock may be considered a transaction

effected in connection with a joint enterprise in which a company controlled by it is a participant. Furthermore, as certain rights and duties of Denmark and Bevis may be affected by Narragansett's disposition of its stock, Narragansett might, although it would deny it, be considered a participant in a joint transaction with a company controlled by it. Taken together, the section and rule provide, as here pertinent, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such person, acting as principal, to participate in, or to effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or a company controlled by such registered company, is a participant unless an exemption regarding such arrangement has been granted by the Commission. In passing upon an application, the Commission must consider whether the participation of such registered company or controlled company in such arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Narragansett seeks an order under section 17(d) and rule 17d–1 under the Act to the extent they may be applicable to the proposed transactions.

SUPPORTING STATEMENTS

Narragansett contends that the proposed transactions are consistent with the general purposes of the Act, are in the best interests of Narragansett and its shareholders (because by obtaining the services of Denmark for Bevis the value of Narragansett's own substantial investment in Bevis, which might otherwise be jeopardized, is protected), and an undertaking by Narragansett not to sell its interests in Bevis during the term of Denmark's employment is consistent with its investment policy.

Notice is further given, that any interested person may, no later than October 30, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person served is located more than 500 miles from the point of mailing) upon Narragansett at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17519 Filed 10–12–72;8:50 am]

[File No. 500–1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 7, 1972, through October 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17498 Filed 10–12–72;8:49 am]

[File No. 500–1]

CLINTON OIL CO.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 9, 1972, through October 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17499 Filed 10–12–72;8:49 am]

[File No. 500–1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

OCTOBER 5, 1972.

The common stock, 2 cents par value, of Ecological Science Corp., being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Ecological Science Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 10, 1972, through October 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17500 Filed 10–12–72;8:49 am]

[File No. 500–1]

FIRST LEISURE CORP.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 8, 1972, through October 17, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17501 Filed 10–12–72;8:49 am]

[File No. 500–1]

FIRST WORLD CORP.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the class A and class B common stocks, $0.15 par value,

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and all other securities of First World Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 7, 1972, through October 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17502 Filed 10-12-72;8:49 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of LDS Dental Supplies, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 8, 1972 through October 17, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17503 Filed 10-12-72;8:49 am]

[70-5242]

LOUISIANA POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Bonds at Competitive Bidding

OCTOBER 5, 1972.

Notice is hereby given that Louisiana Power & Light Co. (Louisiana), 142 Delaronde Street, New Orleans, LA 70114, a registered holding company and an electric utility subsidiary company of Middle South Utilities, Inc., also a registered holding company, has filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rules 23, 27 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $25 million principal amount of First Mortgage Bonds, —— percent Series due 2002. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to Louisiana (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by competitive bidding. The bonds will be issued under Louisiana's Mortgage and Deed of Trust dated as of April 1, 1944, to The Chase Manhattan Bank (National Association), successor to The Chase National Bank of the City of New York and Charles F. Ruge, successor to Carl E. Buckley, as Trustees, as heretofore supplemented by various indentures and as to be further supplemented by a Seventeenth Supplemental Indenture to be dated November 1, 1972, and which contains a prohibition until November 1, 1977, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

Louisiana will apply the net proceeds derived from the issue and sale of the bonds to the reduction of short-term borrowings made for the purpose of temporarily financing its 1972 construction program, estimated to total $30 million at the time of the issue and sale of the bonds.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred by Louisiana in connection with the bonds are estimated at $100,000 including legal fees of $30,000 and auditor's fees of $7,000. The fees of counsel for the underwriters are estimated at $10,000 and are to be paid by the successful bidders.

Notice is further given that any interested person may, not later than October 27, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further development in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17507 Filed 10-12-72;8:50 am]

[File No. 500-1]

OCEANOGRAPHY MARICULTURE INDUSTRIES, INC.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Oceanography Mariculture Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 7, 1972, through October 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17504 Filed 10-12-72;8:49 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

OCTOBER 5, 1972.

The common stock, $1 par value of Topper Corp., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Topper Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 6, 1972, through October 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17506 Filed 10-12-72;8:49 am]

[File No. 500-1]

TRANS-EAST AIR, INC.

Order Suspending Trading

OCTOBER 5, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 7, 1972, through October 16, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17505 Filed 10-12-72;8:49 am]

PRICE COMMISSION

[Order No. 11]

RECLASSIFIED LUMBER FIRMS

Report Requirements; Correction

The purpose of this amendment is to make two minor corrections in the language of paragraphs (1) and (4) of Price Commission Order No. 11, dated October 3, 1972 (37 F.R. 21019).

In paragraph (1), the words "and PC-51," were inadvertently omitted after the words "and PC-50." In paragraph (4)(c), the words "if that fiscal year" should have been deleted. It was the Commission's intention that these changes be made in the filed document.

In consideration of the foregoing, Order No. 11 is amended as follows:

(1) Paragraph (1) is amended by inserting the words "and PC-51," after the words "and PC-50."

(2) Paragraph (4)(c) is amended by striking out the words ", if that fiscal year."

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1486; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; E.O. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

Issued in Washington, D.C., on October 6, 1972.

By direction of the Price Commission.

JAMES B. MINOR, *General Counsel, Price Commission.*

[FR Doc.72-17439 Filed 10-12-72;8:45 am]

TARIFF COMMISSION

[AA1921-105]

NORTHERN BLEACHED HARDWOOD KRAFT PULP FROM CANADA

Rescheduling of Hearing Date

Notice is hereby given that the hearing in Investigation No. AA1921-105, scheduled to be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on November 20, 1972, has been rescheduled for 10 a.m., e.s.t., on November 21, 1972.

The hearing is being held in connection with a Commission investigation under the provisions of section 201(a) of the Antidumping Act, 1921, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of prime grade and off-grade northern bleached hardwood kraft pulp from Canada which the Assistant Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value. Notice of the investigation was published in the FEDERAL REGISTER of October 6, 1972 (37 F.R. 21210).

Issued: October 10, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-17542 Filed 10-12-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 96]

ASSIGNMENT OF HEARINGS

OCTOBER 10, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

I&S M-25958 Classification ratings on cushions, pads, or pillows, is continued to October 30, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 107615 Sub 4, United News Transportation Co., now assigned October 30, 1972, at Philadelphia, Pa., is canceled and the application is dismissed.

AB-49, Ann Arbor Railroad Co., abandonment entire line of railroad, including all of its car ferry routes, in Benzie County, Mich., and Kewaunee and Manitowoc Counties, Wis., now assigned October 24, 1972, at Frankfort, Mich., is postponed to December 4, 1972, at Frankfort, Mich., in a hearing room to be later designated.

MC-F-11393, E. L. Murphy Trucking Co., control and merge, Dyer Transport, Inc., now assigned November 13, 1972, at St. Paul, Minn., will be held in Judge Lawson's court room No. 4, 730 Federal Court Building, 316 Robert Street, St. Paul, Minn.

MC-124692 Sub 92, Sammons Trucking, MC-127187 Sub 10, Floyd Duenow, now assigned November 16, 1972, at St. Paul, Minn., will be held in Judge Lawson's court room No. 4, 730 Federal Court Building, 316 Robert Street, St. Paul, Minn.

MC 121142 Sub 10, J & G Express, Inc., assigned October 30, 1972, at Jackson, Miss., will be held in room 536, U.S. Post Office and Courthouse, East Capitol and Southwest Street, Jackson, Miss.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates, now being assigned October 16, 1972 (2 weeks), at Chicago, Ill., in room 1614, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates, now being assigned October 30, 1972 (1 week), at Dallas, Tex., in room 101, Mezzanine Floor, 1114 Commerce Street.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates, now being assigned November 6, 1972 (1 week), at San Francisco, Calif., in room 13025, 13th floor, Federal Building, 450 Golden Gate Avenue.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates, now being assigned November 13, 1972 (1 week), at Miami, Fla., in room 5720, Public Utilities Commission, Southwest 17th Street.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates, now being assigned November 20, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates, now being assigned December 4, 1972, at Chicago, Ill., in room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17528 Filed 10-12-72;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 10, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42545—*Salt to Points in Virginia.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3025), for interested rail carriers. Rates on salt, common (sodium chloride), in bulk, in covered hopper cars, as described in the application, from specified points in Ohio and Michigan, to Rocky Mount and Danville, Va.

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Grounds for relief—Market competition.

Tariff—Supplement 96 to Traffic Executive Association-Eastern Railroads, agent, tariff I.C.C. C–262. Rates are published to become effective on November 10, 1972.

FSA No. 42546—*Joint Water-Rail Container Rates—Japan Line, Ltd.* Filed by *Japan Line, Ltd.* (No. 2), for itself and interested rail carriers. Rates on general commodities, between ports in Japan and Peoples Republic of China, on the one hand, and rail stations on the U.S. Atlantic and Gulf Seaboard, on the other.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–17527 Filed 10–12–72;8:51 am]

SMALL BUSINESS ADMINISTRATION

MAXIMUM INTEREST RATES

Establishment

Notice is hereby given that the Small Business Administration has established as the maximum interest rate per annum that participating lending institutions may charge on guaranteed loans (except revolving line of credit) approved on or after October 1, 1972, pursuant to section 7(a) of the Small Business Act, as amended, section 402 of the Economic Opportunity Act of 1964, as amended, and section 502 of the Small Business Investment Act, as amended, the following interest rate: Eight and one-half (8½%) per centum per annum. On immediate participation loans approved on or after October 1, 1972, the maximum interest rate shall be seven and one-half (7½%) per centum per annum. Said maximum interest rates shall remain in effect until further amendment or revision.

This notice implements the notification of maximum interest rates as provided in § 120.3(b)(2)(vi) of Part 120 (36 F.R. 21332).

Effective date: October 1, 1972.

THOMAS S. KLEPPE, *Administrator.*

[FR Doc.72–17496 Filed 10–12–72;8:54 am]

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FRIDAY, OCTOBER 13, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 199

PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

No. 199—Pt. II——1

V37-199 OCT 13 72 XUM

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decision, Modifications and Supersedeas Decisions

New determination. There is set forth below general area wage determination decision No. AP–438 of the Secretary of Labor. This decision specifies, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the locality specified therein. This decision is applicable to Federal and federally assisted construction in the State of Vermont.

The determinations in this decision of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in this decision shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the locality described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of this determination as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

This wage determination is effective for a period of 120 days from the date of publication in the FEDERAL REGISTER and is to be used in accordance with the provisions of 29 CFR Part 5. Accordingly, this determination together with any modifications issued subsequent to this date during this 120-day period, shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and/or supersedeas decisions to area wage determination decisions for specified localities in the States of Alabama, Arizona, Arkansas, California, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Idaho, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, Montana, North Dakota, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, and West Virginia.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM–1,591(AP–435); AM–1,592(AP–436); AM–1,596 (AP–437).	Aug. 6, 1971.
AM–451; AM–480(AP–132); AM–481(AP–134); AM–482 (AP–133); AM–505.	Aug. 20, 1971.
AM–2,509; AM–2,510; AM–2,511; AM–2,512; AM–2,513.	Aug. 27, 1971.
AM–7,704(AP–352)	Nov. 19, 1971.
AM–6,314(AP–247)	Nov. 26, 1971.
AM–6,705; AM–6,706	Mar. 10, 1972.
AM–6,710	Mar. 24, 1972.
AM–6,713(AP–509); AM–6,714(AP–508); AM–6,715 (AP–508); AM–6,716(AP–507).	Apr. 14, 1972.
AM–9,694(AP–135)	Apr. 28, 1972.
AM–8,610; AM–8,611; AM–8,612.	May 19, 1972.
AM–8,621; AM–8,622	June 9, 1972.
AM–11,424	June 16, 1972.
AM–6,735(AP–246); AM–8,625.	June 23, 1972.
AP–201(AP–245); AP–300	July 7, 1972.
AP–106; AP–107; AP–402; AP–403.	July 21, 1972.
AP–302; AP–303; AP–405	July 28, 1972.
AP–208; AP–409; AP–411	Aug. 4, 1972.
AP–308	Aug. 11, 1972.
AP–120; AP–221; AP–222; AP–223; AP–311.	Aug. 18, 1972.
AP–227; AP–313; AP–314; AP–315; AP–316; AP–318; AP–319.	Aug. 25, 1972.
AP–229; AP–230; AP–413; AP–414; AP–415; AP–416; AP–417; AP–418.	Sept. 1, 1972.
AP–334	Sept. 22, 1972.
AP–244(AP–248); AP–342; AP–343; AP–344; AP–345; AP–349; AP–350; AP–421; AP–426; AP–427; AP–428.	Sept. 29, 1972.

are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified and/or superseded were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

Signed at Washington, D.C., this 6th day of October 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

STATE: Vermont
DECISION NO.: AP–438
DESCRIPTION OF WORK: Highway construction

COUNTIES: Statewide
DATES: Date of Publication

VERMONT HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS:						
Shovels, crawler and truck cranes, derricks, backhoes, trenching machines, elevating grader, gradall, pile drivers, concrete plants on site processing plant (engineer in charge), dragline, clam shell, cableways	$7.20	.20	.30		.05	
Rotary drill (with mounted compressor), compressor house (3 to 6 compressors), rock & earth boring machines (excluding McCarthy & similar drills), grader, 4-yd. or over front end loader (used as a loader)	6.95	.20	.30		.05	
Bulldozer, push cats, scraper (self-propelled or tractor-drawn), self-powered asphalt raver, 3/4 yd. to 4 yd. front end loader, mechanics, well driller, concrete machine, engineer or fireman on high pressure boiler (on job) self-loading batch plant (on job), well point operators	6.75	.20	.30		.05	
Hoists, conveyors, self-powered rollers & compactors, power pavement breaker, self-propelled material spreader, self-powered concrete finishing machine, two bag mixer with skip, front end loader under 3/4 yd), McCarthy & similar drills, batch plant (not self-loading), bulk cement plant, 3 or more welding machines	6.30	.20	.30		.05	
Compressor (315 cu. ft. or over, one or two), pump 4" or over, tractor w/o blade drawing, sheepsfoot, rubber tired roller or other type of compactors including machines for pulverizing & aerating soil	5.975	.20	.30		.05	
Compressor (up to 315 cu. ft.), small mixers with skip, oiler, pumps up to 4", grease truck, power heaters, A frame trucks, fork lift	5.45	.20	.30		.05	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
CARPENTERS:						
(Addison, Chittenden, Franklin, Grand Isle, & Lamoille Counties)						
Carpenters	$6.30	.20	.10	a		
Millwrights	6.55	.20	.10	a		
Piledrivermen	6.65	.20	.10	a		
(Bennington, & Rutland Counties)						
Carpenters	6.20	.20	.20	a		
Millwrights	6.45	.20	.20	a		
Piledrivermen	6.55	.20	.20	a		
(Caledonia, Essex, Orange, Orleans, & Washington Counties)						
Carpenters	5.95			a		
Millwrights	6.20			a		
Piledrivermen	6.30			a		
(Windsor County)						
Carpenters	6.40	.20		a		
Millwrights	6.00	.20		a		
Piledrivermen	6.75	.20		a		
LABORERS:						
(Addison, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, Washington, & Windsor Counties)						
Laborers, Chuck tenders	3.85	.15		b		
Air tool op., Drillers, Pipelayers, Powdermen, Scalers, & Vibrator op.	4.10	.15		b		
Blasters	4.35	.15		b		
(Bennington, & Windham Counties)						
Laborers, Asphalt rakers	3.95	.15	.15			
Air tool op., Concrete pipelayers, Scalers on boatmen's chair, Vibrators, & Mason drillers	4.20	.15	.15			
Blasters, & Powdermen	4.45	.15	.15			
TRUCK DRIVERS:						
Two axle equipment	5.00	.25				
Three axle equipment	5.15	.25				
Specialized earth moving equipment	5.25	.25				

FOOTNOTES:
a. 2 Paid Holidays: Memorial Day, & Independence Day, provided the employee work the day before and the day after the holiday.
b. 2 Paid Holidays: Memorial Day, & Independence Day, provided the employee has been employed for at least 7 days or more prior to the holiday and has worked 2 full days in the calendar week in which the holiday falls.

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MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-120 - Mod. # 2 (37 FR 16734 - August 18, 1972) Jefferson County, Alabama						
Change:						
Building Construction:						
Carpenters:						
Carpenters and soft floor layers	$6.30	.30	.20		.04	
Millwrights	7.60				.04	
Piledrivermen	6.50	.30	.20		.04	
Plumbers and pipefitters	8.05	.25	.25		.07	
Power Equipment Operators:						
Group A	6.80	.20	.20			
Group B	6.60	.20	.20			
Group C	5.95	.20	.20			
Group D	7.40	.20	.20			
Group E	7.05	.20	.20			
Group F	6.05	.20	.20			
Roofers	4.95		.20			
Sprinkler fitters	8.05	.30	.40		.05	
DECISION #AM-6710 - Mod. #1 (37 FR 6424 - March 24, 1972) Pima County, Arizona						
Change:						
Electricians:	$ 6.60	.30	1%		1/2%	
Zone A	7.10	.30	1%		1/2%	
Zone B	7.60	.30	1%		1/2%	
Zone C	8.10	.30	1%		1/2%	
Zone D						
Painters, brush	6.25	.29	.25		.02	
Zone A	7.00	.29	.25		.02	
Zone B	7.25	.29	.25		.02	
Zone C	7.50	.29	.25		.02	
Zone D						
Painters, structural steel, brush	7.20	.29	.25		.02	
Zone A	7.95	.29	.25		.02	
Zone B	8.20	.29	.25		.02	
Zone C	8.45	.29	.25		.02	
Zone D						

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-221 - Mod. #2 (37 FR 16737 - August 18, 1972) Maricopa County, Arizona						
Change:						
Boilermakers	$ 7.45	.60	1.00	.50	.02	
Bricklayers; Stonemasons:						
Zone A	8.85	.35	.30		.03	
Zone B	9.74	.35	.30		.03	
Zone C	10.18	.35	.30		.03	
Zone D	10.62	.35	.30		.03	
Ironworkers:						
Ornamental - Structural	8.58	.58	.625		.04	
Reinforcing	8.58	.58	.625		.04	
Marble Setters:						
Zone I-VI	7.39	.35	.30		.01	
Zone VII	8.515	.35	.30		.01	
Zone VIII	9.265	.35	.30		.01	
Zone IX	9.265	.35	.30		.01	
Painters:						
(Remainder of County):						
Zone A						
Brush; Soft Floor Layers	6.775	.275	.20	.50	.02	
Steel & Bridge, Brush	7.125	.275	.20	.50	.02	
Spray	7.025	.275	.20	.50	.02	
Spray (Steel & Bridge)	7.325	.275	.20	.50	.02	
Zone B						
Brush; Soft Floor Layers	7.775	.275	.20	.50	.02	
Steel & Bridge, Brush	8.125	.275	.20	.50	.02	
Spray	8.025	.275	.20	.50	.02	
Spray (Steel & Bridge)	8.325	.275	.20	.50	.02	
Zone C						
Brush; Soft Floor Layers	8.275	.275	.20	.50	.02	
Steel & Bridge, Brush	8.625	.275	.20	.50	.02	
Spray	8.525	.275	.20	.50	.02	
Spray (Steel & Bridge)	8.825	.275	.20	.50	.02	
Plasterers:						
(Remainder of County)						
Zone A	7.25	.30	.50		.035	
Zone B	7.75	.30	.50		.035	
Zone C	8.00	.30	.50		.035	
Zone D	8.875	.30	.50		.035	
Terrazzo & Mosaic Workers:						
Zone I-VI	7.96					
Zone VII	9.085					
Zone VIII	9.635					
Zone IX	9.835					

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-222 - Mod. #2 (37 FR 16744 - August 18, 1972) Cochise and Pima Counties, Arizona						
Change:						
Boilermakers	$7.45	.60	1.00	.50	.02	
Bricklayers; Stonemasons:						
Zone A	7.825	.40	.30	.25	.02	
Zone B	8.20	.40	.30	.25	.02	
Zone C	8.575	.40	.30	.25	.02	
Zone D	9.325	.40	.30	.25	.02	
Ironworkers:						
Structural & Ornamental	8.58	.58	.625		.04	
Reinforcing	8.58	.58	.625		.04	
Lathers:						
Zone A	8.66	.20				
Zone B	9.16	.20				
Zone C	9.41	.20				
Zone D	10.16	.20				
Painters, Brush:						
Zone A	6.25	.29	.25		.02	
Zone B	7.00	.29	.25		.02	
Zone C	7.25	.29	.25		.02	
Zone D	7.50	.29	.25		.02	
Painters, Structural Steel, Brush:						
Zone A	7.20	.29	.25		.02	
Zone B	7.95	.29	.25		.02	
Zone C	8.20	.29	.25		.02	
Zone D	8.45	.29	.25		.02	
Plasterers:						
Zone A	8.12	.35	.60			
Zone B	8.62	.35	.60			
Zone C	8.87	.35	.60			
Zone D	9.62	.35	.60			
Roofers:						
Zone A						
Waterproofing, Asbestos, Shingle & Tile	6.60	.35	.10		.02	
Enamel & Pitch	7.60	.35	.10		.02	
Zone B						
Waterproofing, Asbestos, Shingle & Tile	7.85	.35	.10		.02	
Enamel & Pitch	8.85	.35	.10		.02	

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-223 - Mod. #2 (37 FR 16750 - August 18, 1972) Statewide, Arizona						
Change:						
Bricklayers (Phoenix Area)						
Zone A	$ 8.85	.35	.30		.03	
Zone B	9.74	.35	.30		.03	
Zone C	10.18	.35	.30		.03	
Zone D	10.62	.35	.30		.03	
Zone E	11.06	.35	.30		.03	
Zone F	11.51	.35	.30		.03	
Bricklayers (Tucson Area):						
Zone A	7.825	.40	.30	.25	.02	
Zone B	8.20	.40	.30	.25	.02	
Zone C	8.575	.40	.30	.25	.02	
Zone D	9.325	.40	.30	.25	.02	
Manhole Builders						
Zone A	8.075	.40	.30	.25	.02	
Zone B	8.45	.40	.30	.25	.02	
Zone C	8.825	.40	.30	.25	.02	
Zone D	9.575	.40	.30	.25	.02	
Electricians (Flagstaff Area):						
Electricians						
Zone A	8.90		1% + .60		1/2%	
Zone B	10.40		1% + .60		1/2%	
Cable Splicers						
Zone A	9.10		1% + .60		1/2%	
Zone B	10.60		1% + .60		1/2%	
Electricians (Globe-Miami Area)						
Electricians						
Zone A	9.25	.30	1%		1/2%	
Zone B	9.95	.30	1%		1/2%	
Zone C	10.55	.30	1%		1/2%	
Zone D	11.25	.30	1%		1/2%	
Cable Splicers						
Zone A	9.50	.30	1%		1/2%	
Zone B	10.20	.30	1%		1/2%	
Zone C	10.80	.30	1%		1/2%	
Zone D	11.50	.30	1%		1/2%	
Electricians (Yuma Area):						
Electricians						
Zone A	9.05	.30	1%		1/2%	
Zone B	9.55	.30	1%		1/2%	
Zone C	10.05	.30	1%		1/2%	
Zone D	10.50	.30	1%		1/2%	
Cable Splicers						
Zone A	9.80	.30	1%		1/2%	
Zone B	10.30	.30	1%		1/2%	
Zone C	10.80	.30	1%		1/2%	
Zone D	11.25	.30	1%		1/2%	

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	/Others
DECISION #AP-223 (Cont'd)						
Ironworkers (Central & Southern Areas):						
Structural	$ 8.58	.58	.625		.04	
Reinforcing	8.58	.58	.625		.04	
Ironworkers (Northern Area):						
Structural	10.21	.58	.625		.04	
Reinforcing	10.21	.58	.625		.04	
Painters (Phoenix Area):						
Brush						
Zone A	6.775	.275	.20	.50	.02	
Zone B	7.775	.275	.20	.50	.02	
Zone C	8.275	.275	.20	.50	.02	
Brush, steel & bridge						
Zone A	7.125	.275	.20	.50	.02	
Zone B	8.125	.275	.20	.50	.02	
Zone C	8.625	.275	.20	.50	.02	
Spray, steel & bridge						
Zone A	7.325	.275	.20	.50	.02	
Zone B	8.325	.275	.20	.50	.02	
Zone C	8.825	.275	.20	.50	.02	
Painters (Tucson Area):						
Brush						
Zone A	6.25	.29	.25		.02	
Zone B	7.00	.29	.25		.02	
Zone C	7.25	.29	.25		.02	
Zone D	7.50	.29	.25		.02	
Brush, steel & bridge						
Zone A	7.20	.29	.25		.02	
Zone B	7.95	.29	.25		.02	
Zone C	8.20	.29	.25		.02	
Zone D	8.45	.29	.25		.02	
Spray, steel & bridge						
Zone A	7.70	.29	.25		.02	
Zone B	8.45	.29	.25		.02	
Zone C	8.70	.29	.25		.02	
Zone D	8.95	.29	.25		.02	

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	/Other
DECISION #AP-319 - Mod. #2 (37 FR 17303 - August 25, 1972) Union County, Arkansas						
Change:						
Carpenters:						
Carpenters	$5.35	.25			.02	
Millwrights & Piledrivermen	5.85	.25			.02	
DECISION #AP-411 - Mod. #3 (37 FR 15790 - August 4, 1972) Washington, D. C.						
Change:						
Painters:						
Brush, spray, paper hangers, tapers	$7.46	.41	.18		.03	
Steel, sandblasting, swing stage, power brushing	7.79	.41	.18		.03	
DECISION #AP-409 - Mod. #3 (37 FR 15821 - August 4, 1972) Montgomery and Prince Georges Counties, Maryland; City of Alexandria, Virginia; Arlington and Fairfax Counties, Virginia and Dulles International Airport						
Change:						
Painters:						
Brush, spray, paper hangers, tapers	$7.46	.41	.18		.03	
Steel, sandblasting swing stage, power brushing	7.79	.41	.18		.03	
DECISION #AP-451 - Mod. #6 (36 FR 16367 - August 20, 1971) Brevard and Volusia Counties, Florida (Cape Kennedy, Kennedy Space Flight Center and Patrick Air Force Base only).						
Change:						
Electricians	$7.35	.25	1%		½%	
Cable splicers	7.60	.25	1%		½%	

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-106 - Mod. #2 (37 FR 14671 - July 21, 1972) Fulton, Cobb and DeKalb Counties, Georgia						
Change:						
Building Construction:						
Bricklayers	$7.80	.30	.30		.05	
Stonemasons	7.80	.30	.30		.05	
Cement masons	6.85	.25	.45			
Electricians	8.90	4%	6%		.25%	
Painters:						
Brush and rollers	7.30	.25	.40		.03	
Spray & sandblasting	8.30	.25	.40		.03	
Paperhanging	7.55	.25	.40		.03	
Plasterers	7.32	.25	.45			
Sprinkler fitters	8.05	.30	.40		.05	
DECISION #AP-107 - Mod. #3 (37 FR 14675 - July 21, 1972) Chatham County, Georgia						
Change:						
Building Construction:						
Bricklayers & Stonemasons	$6.25	.20	.20			
Cement masons	5.50					
Ironworkers:						
Structural and sheeter	6.75	.40	.30		.01	
Ornamental & reinforcing	6.75	.40	.30		.01	
Plumbers and Pipefitters:						
Air conditioning mechanics:						
Contracts $2,000 or less	6.52	.25	.30		.02	
Contracts, over $2,000	7.17	.25	.30		.02	

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	/Others
DECISION #AP-208 - Mod. #1 (37 FR 15797 - August 4, 1972) Hawaii						
Change:						
Cement Masons:						
Cement Masons	$5.81	.22	.30		.02	
Trowel Machine Operators	5.91	.22	.30		.02	
Electricians:						
Line equipment operators	6.84	.25	.90	7.2%	.10	
Electricians; Linemen	7.28	.25	.90	7.2%	.10	
Cable splicers	8.01	.25	.90	7.2%	.10	
Glaziers	6.70	.53	.15	.43	.08	
Painters:						
Brush	6.50	.30	.40		.04	
Spray	7.00	.30	.40		.04	
Taper	6.70	.30	.40		.04	
Plasterers	7.05	.45	.20		.15	
Soft Floor Layers	6.25	.20		.10	.04	
Terrazzo Workers:						
Terrazzo Workers	6.15	.20	.30			
Terrazzo Base Grinder	5.85	.20	.30			
Floor machine grinder & helper	5.05	.20	.30			
Terrazzo Workers' Helpers:						
1st 60 calendar days' experience	4.75	.20	.30			
Tile Setters (Ceramic)	6.15	.20	.30			
Tile Setters' Helpers (Ceramic):						
1st 60 calendar days' experience	4.75	.20	.30			
Over 60 but less than 90 calendar days' experience	4.85	.20	.30			
After 90 calendar days' experience	5.05	.20	.30			
Laborers:						
High Scaler	5.91	.25	.35		.02	
Gunnite Operator	5.86	.25	.35		.02	
Miners	5.96	.25	.25		.02	
Powderman	6.06	.25	.35		.02	

MODIFICATIONS P. 9

DECISION #AP-227 - Mod. #2
(37 FR 20332 - August 25, 1972) Shoshone, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Cos., Idaho

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.
Change:					
Laborers:					
(remainder of Counties and that portion of Idaho County north of the 46th parallel					
Group I					
Carpenters tender; Concrete crewman; Concrete signalman; Crusher feeder; Demolition; Driller helper, Dumpman; Fence erector; General laborer; Grout machine header tender; Nipper; Riprap man; Scaleman; Stake jumper; Structural mover; Tailhoseman (water nozzle); Track laborer (RR); Truck loader; Timber bucker and faller; Window cleaner	$5.00	.30	.50		.02
Group II					
Cement finisher tender; Cement handler; Demolition torch; Dope pot fireman, nonmechanical; Form cleaning machine, feeder, stacker; Form setter, paving; Grade checker using level, optional; Nozzleman, water & air or steam; Pipe layer, corrugated metal culvert; Pipe-wrapper; Pot tender; Powderman helper; Power tool op; gas, electric, pneumatic Railroad equipment, power driven; Rodder & spreader; Sandblast tailhoseman; Scaffold erector, wood or steel; Vibrator up to 4"; Wallpoint man; Wheelbarrow, power driven	5.15	.30	.50		.02
Group III					
Asphalt raker; Asphalt roller, walking; Chain saw op. w/attachments; Concrete saw, walking; Creosote material; High scaler; Jackhammer op.; Multi-section pipelayer; Nozzleman; Pavement breaker; Tamper; Trencher; shawnee; Vibrator, 4" & over; Wagon drills; Water pipe liner	5.25	.30	.50		.02
Group IV					
Pipelayer (caulker, collarman, jointer, mortarman, rigger, jacker, shearer & lagger)	5.30	.30	.50		.02
GROUP V					
Concrete stack, Hod carriers; Mortar mixer	5.35	.30	.50		.02

MODIFICATIONS P. 10

DECISION #AP-227 Mod. #2 Cont'd.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Other
Laborers (cont'd):						
GROUP VI						
Caisson worker, free air	$5.40	.30	.50		.02	
GROUP VII						
Brush machine; Drills, Gunnite; Monitor op., Air Track or similar mounting; Nozzleman; Powderman	5.45	.30	.50		.02	
GROUP VIII						
Air track drills with dual masts and drills; Powderman	5.65	.30	.50		.02	
TUNNEL & SHAFT, FREE AIR						
GROUP IX						
Class A:						
Bull gang, pump crete crewman incl. distributing pipe, assembling & dismantle and nipper	5.05	.30	.50		.02	
Class B:						
Brakeman, dumpman	5.10	.30	.50		.02	
Class C:						
Miner & nozzleman for concrete and laser beam op. on tunnels	5.50	.30	.50		.02	
Class D:						
Raise & shaft miner and laser beam op. on raises and shafts	5.55	.30	.50		.02	
GROUP X						
Sand Hogs (Under compressed air conditions):						
1 lb thru 14 lbs - 6 hrs. work	52.40	.30	.50		.02	
Over 14 lbs thru 18 lbs - 6 hrs. work	55.10	.30	.50		.02	
Over 18 lbs thru 22 lbs - 4 hrs. work	55.10	.30	.50		.02	
Over 18 lbs thru 22 lbs - 6 hrs. work	75.35	.30	.50		.02	
Over 22 lbs thru 26 lbs - 4 hrs. work	59.30	.30	.50		.02	
Over 26 lbs thru 32 lbs - 4 hrs. work	61.70	.30	.50		.02	
Over 32 lbs thru 38 lbs - 3 hrs. work	64.40	.30	.50		.02	
Over 38 lbs thru 44 lbs - 2 hrs. work	65.70	.30	.50		.02	
Outside lock & guage tender(per shift)	42.80	.30	.50		.02	

MODIFICATIONS P. 11

DECISION #AM-8,625 - Mod. #1
(37 FR 12471 - June 23, 1972)
Boyd County, Kentucky

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Others
Change:						
Carpenters:						
Carpenters	$7.36	.30	.50		.02	
Millwrights	8.70	.30	.37		.02	
Piledrivermen	7.61	.30	.50		.02	
Soft floor layers	7.36	.30	.50		.02	
Ironworkers:						
Structural, ornamental and reinforcing	8.40	.50	.55		.01	
Plumbers and Steamfitters:						
Within a 5 mile radius of 17th St., & Winchester Ave., Ashland	7.05	.35	.60	c+1.00	.10	
Over 5 miles & within 15 miles radius of 17th & Winchester Ave., Ashland	7.45	.35	.60	c+1.00	.10	
Over 30 miles radius of 17th St., & Winchester Ave., Ashland	7.55	.35	.60	c+1.00	.10	
Sheet metal workers	8.68	.45	.40			

Footnote:
d. Nine paid holidays, A through F plus Washington's Birthday, Good Friday, and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Others
DECISION #AM-11,424 - Mod. #5 (37 FR 12038 - June 16, 1972) East Baton Rouge Parish, Louisiana						
Change:						
Plasterers	$5.875				.01	
Plumbers & Pipefitters	7.20	.365	.475		.035	
Laborers:						
Building & general laborers, Carpenter tenders	4.31	.10	.10			
Mason tender, Plaster tender, Cement mix(wet or dry) tender, Hod carrier tender, Mortar and Cement mixer(wet or dry)	4.46	.10	.10			
Power tool operators(Hammer men, Tamper men, Vibrators, Power buggies, Concrete chippers or cutters, Chain saw operators, etc.	4.41	.10	.10			
Pipelayers (non-metallic)	4.41	.10	.10			
DECISION #AP-300 - Mod. #4 (37 FR 13455 - July 7, 1972) Rapides Parish, Louisiana						
Change:						
Electricians	$7.25	.30	1%		½%	
DECISION #AP-302 - Mod. #4 (37 FR 15225 - July 28, 1972) Calcasieu Parish, Louisiana						
Change:						
Sheet Metal Workers	$7.42		.15		.04	
DECISION #AP-303 - Mod. #4 (37 FR 15227 - July 28, 1972) Calcasieu Parish, Louisiana						
Change:						
Sheet Metal Workers	$7.42		.15		.04	

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-311 - Mod. #3 (37 FR 16776 - August 18, 1972) Caddo & Bossier Parishes, Louisiana						
Change: Laborers:						
Building laborers	$3.80	.10	.10			
Mason & Plasterer tenders	3.90	.10	.10			
Mortar mixers	3.95	.10	.10			
Air Jack & Vibrator operators	4.00	.10	.10			
Pipelayers (concrete & clay)	4.00	.10	.10			
Asphalt rakers & smoothers	3.90	.10	.10			
DECISION #AP-318 - Mod. #2 (37 FR 17306 - August 25, 1972) Caddo & Bossier Parishes, Louisiana						
Change: Laborers:						
Building laborers	$3.80	.10	.10			
Mason & Plasterer tenders	3.90	.10	.10			
Mortar mixers	3.95	.10	.10			
Air Jack & Vibrator operators	4.00	.10	.10			
Pipelayers (concrete & clay)	4.00	.10	.10			
Asphalt rakers & smoothers	3.90	.10	.10			

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-413 - Mod. #2 (37 FR 17912 - September 1, 1972) Barnstable County, Massachusetts						
Omit: Laborers: Heavy & Highway:						
Block pavers; Curb setters; Rammer	$6.30	.20	.25		.05	
Blasters; Powdermen	6.60	.20	.25		.05	
Hod carriers; Pneumatic, gas & electric tool operator; Jackhammerman	6.10	.20	.25		.05	
Pipelayers	6.10	.20	.25		.05	
Laborers	5.85	.20	.25		.05	
Add: Laborers: Heavy & Highway:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	5.80	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.05	.40	.40		.05	
Air track operators; Block pavers; Curb setters; Rammers	6.30	.40	.40		.05	
Blasters; Powdermen	6.55	.40	.40		.05	
DECISION #AP-414 - Mod. #2 (37 FR 17915 - September 1, 1972) Essex County, Massachusetts						
Change: Laborers' schedule (Heavy & Highway construction)						

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-415 - Mod. #3 (37 FR 17919 - September 1, 1972) Hampden County, Massachusetts						
Change: Building, heavy & highway construction: Electricians: Holyoke	$8.35	.35	1%+.20		.01	
Laborers' schedule (Heavy & Highway)						

MASS-8-LAB-2-3-s

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$5.80	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.05	.40	.40		.05	
Air track operators; Block pavers; Curb setters; Rammers	6.30	.40	.40		.05	
Blasters; Powdermen	6.55	.40	.40		.05	
DECISION #AP-416 - Mod. #2 (37 FR 17922 - September 1, 1972) Middlesex County, Massachusetts						
Change: Building, heavy & highway construction: Ironworkers	$8.29	.45	1.05		.03	
Laborers' schedule (Heavy & Highway)						

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

MODIFICATIONS P. 16

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-417 - Mod. #2 (37 FR 17926 - September 1, 1972) Suffolk County, Massachusetts						
Change: Building, heavy & highway construction: Ironworkers: Ornamental; Reinforcing; & Structural	$8.29	.45	1.05		.03	
Laborers' schedule (Heavy & Highway)						

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	
DECISION #AP-418 - Mod. #2 (37 FR 17930 - September 1, 1972) Worcester County, Massachusetts						
Change: Laborers' schedule (Heavy & Highway construction)						

MASS-1-LAB-2-3-h

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers	$6.05	.40	.40		.05	
Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators	6.30	.40	.40		.05	
Air track operators; Block pavers; Rammers; Curb setters	6.55	.40	.40		.05	
Blasters; Powdermen	6.80	.40	.40		.05	

MODIFICATIONS P. 17

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-229 - Mod. #1						
(37 FR 17940 - September 1, 1972)						
Eastern Counties, Montana						
Blaine-Carter-Custer-Daniels-Dawson-Fallon-Garfield-McCone-Petroleum-Phillips-Powder River-Prairie-Richland-Roosevelt-Sheridan-Valley-Wibaux						
Change:						
Cement masons:						
Cement masons	$5.64	.35	.15			
Grinder; Bash hammer & clipping fao preparing finished surfacing; Epoxy	5.79	.35	.15			
Line Construction:						
(Jobs over 69,000 volts)						
Cable splicer	6.88	.25	1%		1%	
Lineman; Pole sprayer	6.53	.25	1%		1%	
Line equipment ops.; Powderman	6.00	.25	1%		1%	
Groundman	4.96	.25	1%		1%	
(Jobs 69,000 volts or less)						
Cable splicer	6.71	.25	1%		1%	
Line equipment op.; Powderman	5.96	.25	1%		1%	
Experienced groundmen (2 yrs.); Truck drivers	4.72	.25	1%		1%	
Groundman; Pole digger (groundman)	4.20	.25	1%		1%	
Linemen	6.07	.25	1%		1%	
DECISION #AP-230 - Mod. #1						
(37 FR 17945 - September 1, 1972)						
Western Counties, Montana						
Beaverhead-Big Horn-Broadwater-Carbon-Cascade-Choteau-Deerlodge-Fergus-Flathead-Gallatin-Glacier-Golden Valley-Granite-Hill-Jefferson-Judith Basin-Lake-Lewis & Clark-Liberty-Lincoln-Madison-Meagher-Mineral-Missoula-Musselshell-Park-Pondera-Powell-Ravalli-Rosebud-Sanders-Silverbow-Stillwater-Sweetgrass-Teton-Toole-Treasure-Wheatland-Yellowstone						
Change:						
(Fergus-Hill-Musselshell-Rosebud & Treasure)						
Cement masons:						
Cement masons	5.64	.35	.15			

MODIFICATIONS P. 18

DECISION #AP-230 (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Cement masons (cont'd):						
Grinder; Bash hammer; Clipping fan preparing finished surface; Epoxy	5.79	.35	.15			
(Remaining Counties):						
Cement masons	5.89	.35	.15			
Grinder; Bash hammer; Clipping fan preparing finished surface; Epoxy	6.04	.35	.15			
Add:						
Line Construction						
(Remaining Counties):						
(Jobs 69,000 volts or less)						
Cable splicer	6.71	.25	1%		1%	
Line equipment op.; Powderman	5.96	.25	1%		1%	
Experienced groundmen (2 yrs.); Truck drivers	4.72	.25	1%		1%	
Groundman; Pole digger (groundman)	4.20	.25	1%		1%	
Linemen	6.07	.25	1%		1%	
(Jobs over 69,000 volts)						
Cable splicer	6.88	.25	1%		1%	
Lineman; Pole sprayer	6.53	.25	1%		1%	
Line equipment op.; Powderman	6.00	.25	1%		1%	
Groundman	4.96	.25	1%		1%	

DECISION #AM-2,509 - Mod. 43
(36 FR 17133 - August 27, 1971)
Statewide North Dakota

MODIFICATIONS P. 19

Change:

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
CABLEWAY OPERATOR; Crane Operator with over 135' boom; Derrick (Guy & Stiff Leg), (Power), (Skids & Stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Mole Operator, including Power Supply or Tunnel Mucking Machine; Power Shovel and/or other Equipment with Shovel Type Controls 3 - 1/2 cu. yd.	$ 5.95	.25	.25		
CONCRETE MIXER STATIONARY PLANT OPERATOR over 34E; Dredge Operator or Engineer, Dredge Operator (Power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (Paving) Concrete Paving Operator, road; Power Shovels and/or other Equipment with shovels and/or other Equipment with shovel type controls up to 3 - 1/2 cu. yds.; Scraper Tandem; Tandem Pusher Quad. 9 or similar; Tractor Operator (Pipeline) Side Boom; Truck Crane Operator	5.80	.25	.25		
DOPE MACHINE OPERATOR (Pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. & over; Locomotive, all types; Pipeline Wrapping, Cleaning & Bending Machine Operator; Power Actuated Horizontal Boring Machine over 6" Op. (Pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Op. (Power Driven) (Paving); Tandem Scraper-Twin Engine, 50 cu. yds. Struck & over	5.65	.25	.25		
ASPHALT PAVING MACHINE OPERATOR; Asphalt Plant Operator and Console Board Op.; CMI Grading Operator; Crushing Plant Operator (Gravel & Stone or Gravel Washing, Crushing and Screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (Heavy Duty); Rubber Tired Dozer Napco or similar & over; Rubber Tired Industrial Tractor with Backhoe Attachment (Water Main Sanitary Sewer & Storm Sewer, Trunk Line Construction); Scraper Op.; Tractor Type Dozer D-6 & over; Trenching Machine Operator, Sewer & Water, (Except Ditch Witch or Similar use oiler rate); Turnapull Operator, (or similar type)	5.60	.25	.25		
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator & Spray Operator; Concrete Mixer Operator on Job Site 36S or Over; Paving Breaker or Tamping Machine Op., including Machine with Power Shovel Attachments (Power Driven); Power Actuated Augers & Boring Machine Operator; Power Actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. & over; Push Tractor; Self-Propelled Traveling Soil Stabilizer; Soil Cement Stabilizer	5.35	.25	.25		
CONCRETE SAW OPERATOR (MULTIPLE BLADE) (Power Operated); Fine Grade Operator; Roller, Steel, and Self-Propelled Rubber, on Hot Mix Asphalt Paving; Rubber Tired Dozer under Napco or similar; Tractor Type Dozer under D-6; Truck Mechanic	5.12	.25	.25		
BRAKEMAN OR SWITCHMAN; Concrete Batch Plant Operator (Cement, Rock and Sand) electronic; Concrete Mixer Operator on Job Site under 16S; Crane Truck Oiler; Distributor Operator; Grader Operator (Motor Patrol) (Haul Road); Gravel Screening Plant Operator (Portable not Crushing or Washing); Greaser (Truck or Tractor); Gunnite Operator Gunall; Hoist Engineer (Power); Hydro Crane Operator Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over Hopper Capacity; Shouldering Machine Operator (Power) (Apsco or similar type) including Self-Propelled Sand Chip Spreader Flaherty or Similar	4.19	.25	.25		

MODIFICATIONS P. 20

DECISION #AM-2,509 (cont'd)

MODIFICATIONS P. 21

DECISION #AM-2,509 (cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CRAWLER TYPE TRACTOR PULLING COMPACTION OR AREATING EQUIPMENT; Farm Type Rubber Tired Tractor with Backhoe Attachment; Self-Propelled Vibrating Packer Op. Pad Type (35 H.P. & Over); Sheepsfoot Roller or Compactor (Self-Propelled); Off road Self-Propelled Watering Equipment	4.04	.25	.25		
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Helper) (Power); Boom Truck Operator; Concrete Batch Operator (Cement, Rock & Sand) (Manual); Fireman or Tank Car Heater Op.; Form Trench Digger (Power); Front End Loader Op., up to 1 cu. yd.; Hyster Carrier; Leverman; Loader Operator (Barber Greene or Similar Type); Mechanics' Helper; Oiler (Power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Roller, Steel & Self-Propelled Rubber, on other than Hot Mix Asphalt Paving; Self-Propelled Broom	3.94	.25	.25		
CONVEYOR OPERATOR: Curb Machine Operator; Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting & Areating; Front End Loader Operator (Farm Type Rubber Tired Tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator	3.60	.25	.25		

MODIFICATIONS P. 22

DECISION #AM-2,510 - Mod. #4
(36 FR 17119 - August 27, 1971)
Burleigh-Morton Counties, North Dakota

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Building Construction						
Electricians - From Main P. O. in Bismarck-Mandan:						
0-12 miles	$7.00	.20	1%	6%	1½%	
Over 12 miles	8.00	.20	1%	6%	1½%	
Cable splicers:						
0-12 miles	7.40	.20	1%	6%	1½%	
Over 12 miles	8.40	.20	1%	6%	1½%	
Power Equipment Operators:						
Group I						
Hoist, Greaser; Concrete mixer op.; Boom truck; Firemen; Tractor, 75 HP & under; Frontend loader, 1½ cu. yds. & under; Air compressor, 300 & under; Forklift	4.70		.25			
Group II						
Brakemen; Any air compressed operations over 300; Well points; Frontend loader, over 1½ cu. yd.; Power plant engineer; Straddle carrier; Oiler; Mechanic & welder; Batch plant drill rig; Tractor, over 75 HP	5.60		.25			
Group III						
Cranes, tower & overhead; Derrick; Cherry picker	6.20		.25			

MODIFICATIONS P. 23

DECISION #AM-2,510 (cont'd)

(Site prep., excav. & incid. paving) 2-NO. DAK.-PEO-2-3-L (1-3)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
CABLEWAY OPERATOR; Crane Operator with over 135' boom; Derrick (Guy & Stiff Leg), (Power), (Skids & Stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Hole Operator, including Power Supply or Tunnel Mucking Machine; Power Shovel and/or other Equipment with Shovel Type Controls 3 - 1/2 cu. yd.	$ 5.95	.25	.25			
CONCRETE MIXER STATIONARY PLANT OPERATOR over 34E; Dredge Operator or Engineer, Dredge Operator (Power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (Paving) Concrete Paving Operator, road; Power Shovels and/or other Equipment with shovels and/or other Equipment with shovel type controls up to 3 - 1/2 cu. yds.; Scraper Tandem; Tandem Pusher Quad. 9 or similar; Tractor Operator (Pipeline) Side Boom; Truck Crane Operator	5.80	.25	.25			
DOPE MACHINE OPERATOR (Pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. & over; Locomotive, all types; Pipeline Wrapping, Cleaning & Bending Machine Operator; Power Actuated Horizontal Boring Machine over 6" Op. (Pipeline); Pumperete Operator; Refrigeration Plant Engineer; Slip Form Op. (Power Driven) (Paving); Tandem Scraper-Twin Engine, 50 cu. yds. Struck & over	5.65	.25	.25			
ASPHALT PAVING MACHINE OPERATOR; Asphalt Plant Operator and Console Board Op.; CMI Grading Operator; Crushing Plant Operator (Gravel & Stone or Gravel Washing, Crushing and Screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (Heavy Duty); Rubber Tired Dozer Napco or similar & over; Rubber Tired Industrial Tractor with Backhoe Attachment (Water Main Sanitary Sewer & Storm Sewer, Trunk Line Construction); Scraper Op.; Tractor Type Dozer D-6 & over; Trenching Machine Operator, Sewer & Water, (Except Ditch Witch or Similar use oiler rate); Turnapull Operator, (or similar type)	5.60	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator & Spray Operator; Concrete Mixer Operator on Job Site 16S or Over; Paving Breaker or Tamping Machine Op., including Machine with Power Shovel Attachments (Power Driven); Power Actuated Augers & Boring Machine Operator; Power Actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. & over; Push Tractor; Self-Propelled Traveling Soil Stabilizer; Soil Cement Stabilizer	5.35	.25	.25			
CONCRETE SAW OPERATOR (MULTIPLE BLADE) (Power Operated); Fine Grade Operator; Roller, Steel, and Self-Propelled Rubber, on Hot Mix Asphalt Paving; Rubber Tired Dozer under Napco or similar; Tractor Type Dozer under D-6; Truck Mechanic	5.12	.25	.25			
BRAKEMAN OR SWITCHMAN; Concrete Batch Plant Operator (Cement, Rock and Sand) electronic; Concrete Mixer Operator on Job Site under 16S; Crane Truck Oiler; Distributor Operator; Grader Operator (Motor Patrol) (Haul Road); Gravel Screening Plant Operator (Portable not Crushing or Washing); Greaser (Truck or Tractor); Gunnite Operator Gunall; Hoist Engineer (Power); Hydro Crane Operator Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over Hopper Capacity; Shouldering Machine Operator (Power) (Apsco or similar type) including Self-Propelled Sand Chip Spreader Flaherty or Similar	4.19	.25	.25			

MODIFICATIONS P. 24

DECISION #AM-2,510 (cont'd)

2-NO. DAK.-PEO-2-3-L (2-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.

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DECISION #AN-2,510 (cont'd) MODIFICATIONS P. 25

2-NO. DAK.-PEO-2-3-L (3-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
CRAWLER TYPE TRACTOR PULLING COMPACTION OR AREATING EQUIPMENT; Farm Type Rubber Tired Tractor with Backhoe Attachment; Self-Propelled Vibrating Packer Op. Pad Type (35 H.P. & Over); Sheepsfoot Roller or Compactor (Self-Propelled); Off road Self-Propelled Watering Equipment	4.04	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Helper) (Power); Boom Truck Operator; Concrete Batch Operator (Cement, Rock & Sand) (Manual); Fireman or Tank Car Heater Op.; Form Trench Digger (Power); Front End Loader Op., up to 1 cu. yd.; Hyster Carrier; Leverman; Loader Operator (Barber Greene or Similar Type); Mechanics' Helper; Oiler (Power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Roller, Steel & Self-Propelled Rubber, on other than Hot Mix Asphalt Paving; Self-Propelled Broom	3.94	.25	.25			
CONVEYOR OPERATOR: Curb Machine Operator; Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting & Areating; Front End Loader Operator (Farm Type Rubber Tired Tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator	3.60	.25	.25			

MODIFICATIONS P. 26

DECISION #AN-2,511 - Mod. #3 (36 FR 17122 - August 27, 1971) Cass-Richland Counties, North Dakota	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Building Construction						
Electricians - From Main P. O. in Fargo:						
0-15 miles	$7.15	.20	1%	6%	1½%	
15-30 miles	7.77	.20	1%	6%	1½%	
Over 30 miles	8.15	.20	1%	6%	1½%	
Power Equipment Operators:						
Group I						
Hoist, Greaser; Concrete mixer op.; Boom truck; Firemen; Tractor, 75 HP & under; Frontend loader, 1½ cu. yds. & under; Forklift	4.70		.25			
Group II						
Brakemen; Any air compressed operations over 300; Well points; Frontend loader, over 1½ cu. yd.; Power plant engineer; Straddle carrier; Oiler; Mechanic & welder; Batch plant drill rig; Tractor, over 75 HP	5.60		.25			
GROUP III						
Cranes, tower & overhead; Derrick; Cherry picker	6.20		.25			

NOTICES

DECISION #AN-2,511 (cont'd) MODIFICATIONS P. 27

(Site prep., excav. & incid. paving)

2-NO. DAK.-PEO-2-3-L (1-3)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
CABLEWAY OPERATOR; Crane Operator with over 135' boom; Derrick (Guy & Stiff Leg), (Power), (Skids & Stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Hole Operator, including Power Supply or Tunnel Mucking Machine; Power Shovel and/or other Equipment with Shovel Type Controls 3 - 1/2 cu. yd.	$ 5.95	.25	.25			
CONCRETE MIXER STATIONARY PLANT OPERATOR over 34E; Dredge Operator or Engineer, Dredge Operator (Power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (Paving) Concrete Paving Operator, road; Power Shovels and/or other Equipment with shovels and/or other Equipment with shovel type controls up to 3 - 1/2 cu. yds.; Scraper Tandem; Tandem Pusher Quad. 9 or similar; Tractor Operator (Pipeline) Side Boom; Truck Crane Operator	5.80	.25	.25			
DOPE MACHINE OPERATOR (Pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. & over; Locomotive, all types; Pipeline Wrapping, Cleaning & Bending Machine Operator; Power Actuated Horizontal Boring Machine over 6" Op. (Pipeline); Pumpcrete Operator; Refrigeration Plant Engineer; Slip Form Op. (Power Driven) (Paving); Tandem Scraper-Twin Engine, 50 cu. yds. Struck & over	5.65	.25	.25			
ASPHALT PAVING MACHINE OPERATOR; Asphalt Plant Operator and Console Board Op.; CMI Grading Operator; Crushing Plant Operator (Gravel & Stone or Gravel Washing, Crushing and Screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (Heavy Duty); Rubber Tired Dozer Napco or similar & over; Rubber Tired Industrial Tractor with Backhoe Attachment (Water Main Sanitary Sewer & Storm Sewer, Trunk Line Construction); Scraper Op.; Tractor Type Dozer D-6 & over; Trenching Machine Operator, Sewer & Water, (Except Ditch Witch or Similar use oiler rate); Turnapull Operator, (or similar type)	5.60	.25	.25			

DECISION #AN-2,511 (cont'd) MODIFICATIONS P. 28

2-NO. DAK.-PEO-2-3-L (2-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator & Spray Operator; Concrete Mixer Operator on Job Site 16S or Over; Paving Breaker or Tamping Machine Op., including Machine with Power Shovel Attachments (Power Driven); Power Actuated Augers & Boring Machine Operator; Power Actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. & over; Push Tractor; Self-Propelled Traveling Soil Stabilizer; Soil Cement Stabilizer	5.35	.25	.25			
CONCRETE SAW OPERATOR (MULTIPLE BLADE) (Power Operated); Fine Grade Operator; Roller, Steel, and Self-Propelled Rubber, on Hot Mix Asphalt Paving; Rubber Tired Dozer under Napco or similar; Tractor Type Dozer under D-6; Truck Mechanic	5.12	.25	.25			
BRAKEMAN OR SWITCHMAN; Concrete Batch Plant Operator (Cement, Rock and Sand) electronic; Concrete Mixer Operator on Job Site under 16S; Crane Truck Oiler; Distributor Operator; Grader Operator (Motor Patrol) (Haul Road); Gravel Screening Plant Operator (Portable not Crushing or Washing); Greaser (Truck or Tractor); Gunnite Operator Gunall; Hoist Engineer (Power); Hydro Crane Operator Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over Hopper Capacity; Shouldering Machine Operator (Power) (Apsco or similar type) including Self-Propelled Sand Chip Spreader Flaherty or Similar	4.19	.25	.25			

NOTICES

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DECISION #AM-2,511 (cont'd) MODIFICATIONS P. 29

2-NO. DAK.-PEO-2-3-L (3-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
CRAWLER TYPE TRACTOR PULLING COMPACTION OR AREATING EQUIPMENT; Farm Type Rubber Tired Tractor with Backhoe Attachment; Self-Propelled Vibrating Packer Op. Pad Type (35 H.P. & Over); Sheepsfoot Roller or Compactor (Self-Propelled); Off road Self-Propelled Watering Equipment	4.04	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Helper) (Power); Boom Truck Operator; Concrete Batch Operator (Cement, Rock & Sand) (Manual); Fireman or Tank Car Heater Op.; Form Trench Digger (Power); Front End Loader Op., up to 1 cu. yd.; Hyster Carrier; Leverman; Loader Operator (Barber Greene or Similar Type); Mechanics' Helper; Oiler (Power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Roller, Steel & Self-Propelled Rubber, on other than Hot Mix Asphalt Paving; Self-Propelled Broom	3.94	.25	.25			
CONVEYOR OPERATOR: Curb Machine Operator; Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting & Areating; Front End Loader Operator (Farm Type Rubber Tired Tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator	3.60	.25	.25			

MODIFICATIONS P. 30

DECISION #AM-2,512 - Mod. #3 (36 FR 17125 - August 27, 1971) Grand Forks-Steele-Walsh Counties, North Dakota	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Building Construction Electricians - Grand Forks-Fargo-West Fargo-Valley City):						
0-15 miles from all cities)						
0-5 miles from Grafton	$7.15	.20	1%	6%	1¾%	
15-30 miles	7.77	.20	1%	6%	1¾%	
Over 30 miles	8.15	.20	1%	6%	1¾%	
Power Equipment Operators:						
Group I						
Hoist, Greaser; Concrete mixer op.; Boom truck; Firemen; Tractor, 75 HP & under; Frontend loader, 1½ cu. yds. & under; Forklift	4.70		.25			
Group II						
Brakemen; Any air compressed operations over 300; Well points; Frontend loader, over 1½ cu. yd.; Power plant engineer; Straddle carrier; Oiler; Mechanic & welder; Batch plant drill rig; Tractor, over 75 HP	5.60		.25			
Group III						
Cranes, tower & overhead; Derrick; Cherry picker	6.20		.25			

DECISION #AM-2,512 (cont'd) MODIFICATIONS P. 31

(Site prep., excav. & incid. paving)

2-NO. DAK.-PEO-2-3-L (1-3)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
CABLEWAY OPERATOR; Crane Operator with over 135' boom; Derrick (Guy & Stiff Leg), (Power), (Skids & Stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Hole Operator, including Power Supply or Tunnel Mucking Machine; Power Shovel and/or other Equipment with Shovel Type Controls 3 - 1/2 cu. yd.	$ 5.95	.25	.25			
CONCRETE MIXER STATIONARY PLANT OPERATOR over 34E; Dredge Operator or Engineer, Dredge Operator (Power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (Paving) Concrete Paving Operator, road; Power Shovels and/or other Equipment with shovels and/or other Equipment with shovel type controls up to 3 - 1/2 cu. yds.; Scraper Tandem; Tandem Pusher Quad. 9 or similar; Tractor Operator (Pipeline) Side Boom; Truck Crane Operator	5.80	.25	.25			
DOPE MACHINE OPERATOR (Pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. & over; Locomotive, all types; Pipeline Wrapping, Cleaning & bending Machine Operator; Power Actuated Horizontal Boring Machine over 6" Op. (Pipeline); Pumperete Operator; Refrigeration Plant Engineer; Slip Form Op. (Power Driven) (Paving); Tandem Scraper-Twin Engine, 50 cu. yds. Struck & over	5.65	.25	.25			
ASPHALT PAVING MACHINE OPERATOR; Asphalt Plant Operator and Console Board Op.; CMI Grading Operator; Crushing Plant Operator (Gravel & Stone or Gravel Washing, Crushing and Screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (Heavy Duty); Rubber Tired Dozer Napco or similar & over; Rubber Tired Industrial Tractor with Backhoe						

DECISION #AM-2,512 (cont'd) MODIFICATIONS P. 32

2-NO. DAK.-PEO-2-3-L (2-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth.
Attachment (Water Main Sanitary Sewer & Storm Sewer, Trunk Line Construction); Scraper Op.; Tractor Type Dozer D-6 & over; Trenching Machine Operator, Sewer & Water, (Except Ditch Witch or Similar use oiler rate); Turnapull Operator, (or similar type)	5.60	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator & Spray Operator; Concrete Mixer Operator on Job Site 16S or Over; Paving Breaker or Tamping Machine Op., including Machine with Power Shovel Attachments (Power Driven); Power Actuated Augers & Boring Machine Operator; Power Actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. & over; Push Tractor; Self-Propelled Traveling Soil Stabilizer; Soil Cement Stabilizer	5.35	.25	.25			
CONCRETE SAW OPERATOR (MULTIPLE BLADE) (Power Operated); Fine Grade Operator; Roller, Steel, and Self-Propelled Rubber, on Hot Mix Asphalt Paving; Rubber Tired Dozer under Napco or similar; Tractor Type Dozer under D-6; Truck Mechanic	5.12	.25	.25			
BRAKEMAN OR SWITCHMAN; Concrete Batch Plant Operator (Cement, Rock and Sand) electronic; Concrete Mixer Operator on Job Site under 16S; Crane Truck Oiler; Distributor Operator; Grader Operator (Motor Patrol) (Haul Road); Gravel Screening Plant Operator (Portable not Crushing or Washing); Greaser (Truck or Tractor); Gunnite Operator Gunall; Hoist Engineer (Power); Hydro Crane Operator Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over Hopper Capacity; Shouldering Machine Operator (Power) (Apsco or similar type) including Self-Propelled Sand Chip Spreader Flaherty or Similar	4.19	.25	.25			

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DECISION #AM-2,512 (cont'd) MODIFICATIONS P. 33

2-NO. DAK.-PEO-2-3-L (3-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
CRAWLER TYPE TRACTOR PULLING COMPACTION OR AREATING EQUIPMENT; Farm Type Rubber Tired Tractor with Backhoe Attachment; Self-Propelled Vibrating Packer Op. Pad Type (35 H.P. & Over); Sheepsfoot Roller or Compactor (Self-Propelled); Off road Self-Propelled Watering Equipment	4.04	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Helper) (Power); Boom Truck Operator; Concrete Batch Operator (Cement, Rock & Sand) (Manual); Fireman or Tank Car Heater Op.; Form Trench Digger (Power); Front End Loader Op., up to 1 cu. yd.; Hyster Carrier; Leverman; Loader Operator (Barber Greene or Similar Type); Mechanics' Helper; Oiler (Power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Roller, Steel & Self-Propelled Rubber, on other than Hot Mix Asphalt Paving; Self-Propelled Broom	3.94	.25	.25			
CONVEYOR OPERATOR: Curb Machine Operator; Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting & Areating; Front End Loader Operator (Farm Type Rubber Tired Tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator	3.60	.25	.25			

DECISION #AM-2,513 - Mod. 54 (36 FR 17129 -August 27, 1971)
Ward County, North Dakota

MODIFICATIONS P. 34

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Change:						
Building Construction						
Electricians - From Main P. O. in Minot						
0-12 miles	$7.00	.20	1%	6%	1½%	
Over 12 miles	8.00	.20	1%	6%	1½%	
Cable Splicers:						
0-12 miles	7.40	.20	1%	6%	1½%	
Over 12 miles	8.40	.20	1%	6%	1½%	
Laborers:						
Laborers; Concrete bucket dumpman; Mortar mixers; Plaster tenders; Cutting torch for demolition; All power tool ops. of all tools (under laborers' jurisdiction)	4.40					
Non-metallic pipelayers; Gas line wrapping or taping (distribution only)	4.50					
	4.65					
Power Equipment Operators:						
Group I						
Hoist, Greaser; Concrete mixer op.; Boom truck; Firemen; Tractor, 75 HP & under; Frontend loader, 1½ cu. yds. & under; Forklift	4.70		.25			
Group II						
Brakemen; Any air compressed operations over 300; Well points; Frontend loader, over 1½ cu. yd.; Power plant engineer; Straddle carrier; Oiler; Mechanic & welder; Batch plant drill rig; Tractor, over 75 HP	5.60		.25			
Group III						
Cranes, tower & overhead; Derrick; Cherry picker	6.20		.25			

DECISION #AM-2,513 (cont'd)

(Site prep. excav. & incid. paving)

MODIFICATIONS P. 35

2-NO. DAK.-PEO-2-3-L (1-3)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
CABLEWAY OPERATOR; Crane Operator with over 135' boom; Derrick (Guy & Stiff Leg), (Power), (Skids & Stationary); Front End Loader over 10 cu. yds.; Gantry Crane Operator; Mole Operator, including Power Supply or Tunnel Mucking Machine; Power Shovel and/or other Equipment with Shovel Type Controls 3 - 1/2 cu. yd.	$ 5.95	.25	.25			
CONCRETE MIXER STATIONARY PLANT OPERATOR over 34E; Dredge Operator or Engineer, Dredge Operator (Power) and Engineer; Elevator Grader Operator; Locomotive, Crane Operator; Master Mechanic; Mixer (Paving) Concrete Paving Operator, road; Power Shovels and/or other Equipment with shovels and/or other Equipment with shovel type controls up to 3 - 1/2 cu. yds.; Scraper Tandem; Tandem Pusher Quad. 9 or similar; Tractor Operator (Pipeline) Side Boom; Truck Crane Operator	5.80	.25	.25			
DOPE MACHINE OPERATOR (Pipeline); Drill Rigs, Heavy Duty Rotary or Churn or Cable Drill; Front End Loader Operator, 6 cu. yds. & over; Locomotive, all types; Pipeline Wrapping, Cleaning & Bending Machine Operator; Power Actuated Horizontal Boring Machine over 6" Op. (Pipeline); Pumperete Operator; Refrigeration Plant Engineer; Slip Form Op. (Power Driven) (Paving); Tandem Scraper-Twin Engine, 50 cu. yds. Struck & over	5.65	.25	.25			
ASPHALT PAVING MACHINE OPERATOR; Asphalt Plant Operator and Console Board Op.; CMI Grading Operater; Crushing Plant Operator (Gravel & Stone or Gravel Washing, Crushing and Screening Plant Operator); Front End Loader Operator, 1 cu. yd. up to 6 cu. yds.; Grader or Motor Patrol, Finishing Earth Work and Bituminous; Mechanic or Welder (Heavy Duty); Rubber Tired Dozer Napco or similar & over; Rubber Tired Industrial Tractor with Backhoe Attachment; Self-Propelled Vibrating Packer Op. Pad Type (35 H.P. & Over); Sheepsfoot Roller or Compactor (Self-Propelled); Off road Self-Propelled Watering Equipment	4.04	.25	.25			

DECISION #AM-2,513 (cont'd)

MODIFICATIONS P. 36

2-NO. DAK.-PEO-2-3-L (2-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Attachment (Water Main Sanitary Sewer & Storm Sewer, Trunk Line Construction); Scraper Op.; Tractor Type Dozer D-6 & over; Trenching Machine Operator, Sewer & Water, (Except Ditch Witch or Similar use oiler rate); Turnapull Operator, (or similar type)	5.60	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Power); Concrete Distributor and Spreader Operator, Finishing Machine Longitudinal Float Operator, Ft. Machine Operator & Spray Operator; Concrete Mixer Operator on Job Site 16S or Over; Paving Breaker or Tamping Machine Op., including Machine with Power Shovel Attachments (Power Driven); Power Actuated Augers & Boring Machine Operator; Power Actuated Jacks Operator; Power Plant Engineer, 100 K.W.H. & over; Push Tractor; Self-Propelled Traveling Soil Stabilizer; Soil Cement Stabilizer	5.35	.25	.25			
CONCRETE SAW OPERATOR (MULTIPLE BLADE) (Power Operated); Fine Grade Operator; Roller, Steel, and Self-Propelled Rubber, on Hot Mix Asphalt Paving; Rubber Tired Dozer under Napco or similar; Tractor Type Dozer under D-6; Truck Mechanic	5.12	.25	.25			
BRAKEMAN OR SWITCHMAN; Concrete Batch Plant Operator (Cement, Rock and Sand) electronic; Concrete Mixer Operator on Job Site under 16S; Crane Truck Oiler; Distributor Operator; Grader Operator (Motor Patrol) (Haul Road); Gravel Screening Plant Operator (Portable not Crushing or Washing); Greaser (Truck or Tractor); Gunnite Operator Gunall; Hoist Engineer (Power); Hydro Crane Operator Launchman (Tankerman or Pilot License); Pick-up Sweeper, 1 yd. and over Hopper Capacity; Shouldering Machine Operator (Power) (Apsco or similar type) including Self-Propelled Sand Chip Spreader Flaherty or Similar	4.19	.25	.25			

DECISION #AM-2,513 (cont'd)

MODIFICATIONS P. 37

2-NO. DAK.-PEO-2-3-L (3-3)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
CRAWLER TYPE TRACTOR PULLING COMPACTION OR AREATING EQUIPMENT; Farm Type Rubber Tired Tractor with Backhoe Attachment; Self-Propelled Vibrating Packer Op. Pad Type (35 H.P. & Over); Sheepsfoot Roller or Compactor (Self-Propelled); Off road Self-Propelled Watering Equipment	4.04	.25	.25			
BITUMINOUS SPREADER & BITUMINOUS FINISHING OPERATOR (Helper) (Power); Boom Truck Operator; Concrete Batch Operator (Cement, Rock & Sand) (Manual); Fireman or Tank Car Heater Op.; Form Trench Digger (Power); Front End Loader Op., up to 1 cu. yd.; Hyster Carrier; Leverman; Loader Operator (Barber Greene or Similar Type); Mechanics' Helper; Oiler (Power Shovel, Crane, Dragline); Pugmill Operator; Pump Operator (Well Points); Roller, Steel & Self-Propelled Rubber, on other than Hot Mix Asphalt Paving; Self-Propelled Broom	3.94	.25	.25			
CONVEYOR OPERATOR: Curb Machine Operator; Dredge Deck Hand; Farm Tractors, Rubber Tired for Compacting & Areating; Front End Loader Operator (Farm Type Rubber Tired Tractor); Stump Chipper Operator; Tie Tamper and Ballast Machine Operator	3.60	.25	.25			

MODIFICATIONS P. 38

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-308 - Mod. #5 (37 FR 16354 - August 11, 1972) Oklahoma County, Oklahoma						
Change: SOFT FLOOR LAYERS:						
Resilient floor layers	$6.05	.30				
Carpet layers	6.05	.30				
DECISION #AP-316 - Mod. #2 (37 FR 17358 - August 25, 1972) Tulsa County, Oklahoma						
Change: Asbestos workers	7.70		.20		.015	
DECISION #AP-421 - Mod. #1 (37 FR 20447 - September 29, 1972) Allegheny County, Pennsylvania						
Change: Building Construction: Line Construction:						
Lineman	$10.02	.15	.10		.095	
Winch truck operator	7.01	.15	.10		.095	
Groundman	6.01	.15	.10		.095	
Piledrivermen, heavy & highway	7.96	5%	6%			

MODIFICATIONS P. 39

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-426 - Mod. #1 (37 FR 20471 - September 29, 1972) Bristol, Kent & Providence Counties, Rhode Island						
Change: Building Construction: Electricians	$8.15	.18	1%		.02	
Power Equipment Operators Schedule						
Heavy, Highway and Marine Construction: Power Equipment Operators Schedule						
**See Modifications P. 40						
DECISION #AP-427 - Mod. #1 (37 FR 20476 - September 29, 1972) Washington County, Rhode Island						
Change: Building Construction: Electricians: Remainder of County	8.15	.18	1%		.02	
Power Equipment Operators Schedule						
Heavy, Highway and Marine Construction: Power Equipment Operators Schedule						
**See Modifications P. 40						
DECISION #AP-428 - Mod. #1 (37 FR 20480 - September 29, 1972) Newport County, Rhode Island						
Change: Building Construction: Electricians: Remainder of County	8.15	.18	1%		.02	
Power Equipment Operators Schedule						
Heavy, Highway and Marine Construction: Power Equipment Operators Schedule						
**See Modifications P. 40						

MODIFICATIONS P. 40

DECISION #AP-426; AP-427; AP-428 (Cont'd)

RI-1-PEO-1 0

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists pavers, and front-end loaders 3 yds. and over	$9.35	.40	.40		.05	
Economobile type equipment	9.10	.40	.40		.05	
Fork lift	8.85	.40	.40		.05	
Firemen and Oilers	7.45	.40	.40		.05	
Bulldozers, graders, spreaders, tractors, scrapers, rollers and front-end loaders less than 3 yds.	8.00	.40	.40		.05	
Pippin type backhoes	8.30	.40	.40		.05	
Maintenance Engineers	7.90	.40	.40		.05	
Well-point Installation	8.05	.40	.40		.05	
Gas or electric driven pumps, heater, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.20	.40	.40		.05	

RI-1-PEO-2-4- 0

BRIDGES, CAISSONS, DOCKS, MARINE, PIERS, SUBEASEMENTS, SUBTERRANEAN, TUNNELS, & HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers and front end loaders 3 yds. and over	$10.05	.40	.40		.05	
Firemen and Oilers	8.05	.40	.40		.05	
Bulldozers, graders, spreaders, scrapers, rollers and front-end loaders less than 3 yds	8.65	.40	.40		.05	
Maintenance Engineers	8.35	.40	.40		.05	
Well-point Installation Crews	8.85	.40	.40		.05	
Gas or electric driven pumps, heaters, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants	8.65	.40	.40		.05	
Boat and Tug Operators	10.05	.40	.40		.05	
Apprentices (Deckhands)	8.15	.40	.40		.05	

MODIFICATIONS P. 41

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8610 - Mod. #2 (37 FR 10322 - May 19, 1972) Anderson and Roane Counties, Tennessee						
Change:						
Boilermakers	$6.85	.40	.60		.01	
Electricians (Oak Ridge in Anderson and Roane Counties):						
Electricians & Linemen	6.91	.20	1%		.5%	
Cable splicers	7.41	.20	1%		.5%	
Sheetmetal workers	7.75	.30	.30		.02	
DECISION #AM-8611 - Mod. #2 (37 FR 10324 - May 19, 1972) Hamilton County, Tennessee						
Change:						
Building and Heavy Construction:						
Asbestos workers	$7.40	.25	.15		.03	
Carpenters & soft floor layers	6.33	.15	.15		.03	
Millwrights	6.78	.15	.15		.03	
Piledrivermen	6.455	.15	.15		.03	
Ironworkers:						
Structural, ornamental and reinforcing	6.60	.15	.15		.5%	
Painters:						
Commercial	5.70		.15			
Industrial	5.95		.15			
Sandblasting	6.30		.15			
Plasterers	6.35					
Plumbers	7.50	.25	.25		.07	
Sheetmetal workers	7.25	.30	.30		.02	
Steamfitters	7.50	.25	.25		.07	

MODIFICATIONS P. 42

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8612 - Mod. #2 (37 FR 10327 - May 19, 1972) Shelby County, Tennessee						
Change:						
Building Construction:						
Glaziers	$6.80	.35	.20			
Ironworkers:						
Structural, ornamental and reinforcing	7.45	.25	.25		.125	
Lathers	6.80	.20			.01	
Roofers:						
Composition	6.30		.20			
Slate, tile, asbestos and precast tile	6.55		.20			
Sprinkler fitters	8.05	.30	.40		.05	
DECISION #AM-8621 - Mod. #2 (37 FR 11629 - June 9, 1972) Knox County, Tennessee						
Change:						
Building Construction:						
Boilermakers	$6.85	.40	.60		.01	
Glaziers	5.75		.25		.005	
Ironworkers:						
Fence erectors	6.17	.125	.10		.02	
Sheet metal workers	7.25	.30	.30		.02	
DECISION #AM-505 - Mod. #1 (36 FR 16494 - August 20, 1971) Cheatham, Davidson, Dickson, Lawrence, Marshall, Maury, Robertson, Rutherford, Sumner, Trousdale, Williamson and Wilson Counties, Tennessee						
Add:						
Insulator installers	$2.45					

DECISION #AM-8622 - Mod. #3
(37 FR 10332 - May 19, 1972)
Davidson County, Tennessee

MODIFICATIONS P. 43

Change:
Schedule issued for Power Equipment Operators, Building Construction

Tenn. 4 - PEO - G

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
GROUP A: Shovel, backhoes, draglines, cranes, derricks, gantreys, gradall, winches, w/boom, motor patrol, trenching machines (18 inches or over), piledriver, tug boat operator, mechanic, forklifts, central mixing plant, locomotive engineers, straddle carrier, core drills over 3", tower cranes, hydro-cranes, austin western and all similar type cranes (drilling of piling all types) tugger, hoist more than one drum when used, earth freezing equipment, side boom, dredge operator, dredge engineer, hopto, pump crete, mucking machine, cableway, finishing machine, central compressor, derrick boat, concrete pump, welders, helicopters, de-watering system - all type, sweeper Traxcavator, dozer, scraper, front end loader, push dozer, pan, pulls	$6.00	.25	.25		
GROUP B: Trenching machines (18 inches or smaller) tandem rollers, pavers, mixer mobiles, back fillers, blade grader, dinkey operators over (10) ten tons, elevating graders, winches operated from trucks and tractors without booms, distributors - bituminous surfaces, hoist (1) drum, mechanics - light equipment, mixer larger than 11-S, group pumps, motor boat, switchman, brakeman, elevator All earth compactors, core drills under 3"	5.70	.25	.25		
GROUP C: Locomotive fireman on boilers (100 HP and over), air compressor (stationery) concrete placing machines, earth drills, scale operators, tractors (40 HP or less), motor crane driver and oiler, mixers (11-S or smaller), pump on excavation 4" and larger, concrete placing machines, and larger, concrete placing machines, dinkey operaters (10 tons or less), oilers on gantrys, greasers, tractors over 40 H.P.	5.28	.25	.25		
GROUP D: Air compressor, mechanic helpers, firemen (low pressure), pumps (under 4"), oilers welding machine operators, deckhands	4.95	.25	.25		

MODIFICATIONS P. 44

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-313 - Mod. #4 (37 FR 17361 - August 25, 1972) Lubbock County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	$6.075	.40	.40		.10	
All ironworkers on jobs (30) miles or more from the city of Lubbock	6.20	.40	.40		.10	
DECISION #AP-314 - Mod. #4 (37 FR 17364 - August 25, 1972) Jefferson & Orange Counties, Texas						
Change:						
Ironworkers:						
Structural; Ornamental; Reinforcing	6.77	.40	.40		.05	
DECISION #AP-315 - Mod. #4 (37 FR 17366 - August 25, 1972) Jefferson & Orange Counties, Texas						
Change:						
Ironworkers:						
Structural; Ornamental; Reinforcing	6.77	.40	.40		.05	
DECISION #AP-334 - Mod. #1 (37 FR 20009 - September 22, 1972) Collin, Dallas, Ellis, Grayson and Rockwall Counties, Texas						
Omit:						
Reinforcing steel setter helper	2.50					

MODIFICATIONS P. 45

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others 1/
DECISION #AP-342 - Mod. #1 (37 FR 20485 - September 29, 1972) Nueces County, Texas						
Change:						
Building Construction:						
Carpenters:						
Carpenters	$5.70	.21	.07		.02	
Cement masons	5.90	.15				
Electricians:						
Electricians	7.15	.35	1%		1/2%	
Cable splicers	7.275	.35	1%		1/2%	
Glaziers	4.80		.20			
Ironworkers:						
Structural; Ornamental	5.325	.40	.30		.025	
Reinforcing	5.20	.40	.30		.025	
Laborers:						
Common	3.25	.15				
Mason tenders, plasterers tenders, concrete & mortar mixers, pipelayers, lathers tenders, finish carpenters, slip form operators, scaffolding waterproofers, cement finishers	3.35	.15				
Paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrators or drills, sump pumps and any and all power driven equipment operated by laborers	3.35	.15				
Gunnite nozzlemen	3.50	.15				
Pipe wrappers & dopers	3.45	.15				
Powderman or blasterer	3.85	.15				
Lathers	5.70	.20	.10	1.00	.01	
Power Equipment Operators:						
Oiler:						
Oiler, first year	4.625	.15	.20			
Oiler, second year	4.775	.15	.20			

MODIFICATIONS P. 46

DECISION #AP-342 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others 1/
Power Equipment Operators (Cont'd):						
Light Equipment:						
Air compressor (1); Blade grader (towed); Conveyor; Fireman; Form grader; Flex plane; Generator (gas or diesel over 1500 watts); Hoist (1 drum); Lubrication truck driver; Mixer (less than 14 cu.ft.); Pulsometer; Pump (1); Roller (towed); Tractor (wheel type); Truck crane driver-oiler; Wagon drill; Welding machines (3 to 6) other than electric; All other equipment of similar nature coming with light equipment class when power operated	$5.225	.15	.20			
Heavy Equipment:						
Air compressors (2); Asphalt plant mixer; Backfiller; Backhoe; Batch plant (concrete); Blade grader; Boring machine; Bull clam; Bulldozer; Cableway; Clamshell; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevator grader; Elevator, building (used on construction); Euclids & similar type machines; Forklift; Grade-all; Hi-Lift; Hoist (2 drums or more); Locomotive and switch engines; Mixer (paving); Mixer (concrete); Piledriver; Pumps (2); Pumpcrete machine; Push cat or pull cat; Roller (flat-wheel); Scraper (all types); Shovel (power); Scoopmobile; Trench machine; Tugboat (on construction); Turnapulls & similar machines; Welding machines (7 to 13) other than electric); Well point; Winch truck; Mechanic; All other equipment of similar nature coming with heavy equipment class when power operated	5.80	.15	.20			

MODIFICATIONS P. 47

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-343 - Mod. #1 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change:						
Building Construction:						
Plasterers	$6.98				.01	
DECISION #AP-344 - Mod. #1 (37 FR 20491 - September 29, 1972) Travis County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	6.465	.40	.40		.12	
Line Construction:						
Linemen	7.13	.17	1%		1/2%	
Ground mechanics	5.99	.17	1%		1/2%	
Groundmen	5.10	.17	1%		1/2%	
Groundmen (1st 6 mos.)	4.01	.17	1%		1/2%	
DECISION #AP-345 - Mod. #1 (37 FR 20494 - September 29, 1972) El Paso County, Texas						
Change:						
Building Construction:						
Plasterers	5.63	.26			.01	
Truck drivers:						
Dump truck, over 4 cu. yds.	3.75	.26				
Truck over 4 tons including transit mix, all semitruck, etc.	3.75	.26				
Lowboy	3.75	.26				

MODIFICATIONS P. 48

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-349 - Mod. #1 (37 FR 20503 - September 29, 1972) Galveston County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	$6.825	.40	.40		.05	
Laborers:						
Common	4.70	.25	.15		.02	
Air tool operator (jackhammer-vibrator)	4.875	.25	.15		.02	
Mason tenders "	4.675	.25	.15		.02	
Pipelayers (concrete & clay)	4.875	.25	.15		.02	
Sandblasters	4.675	.25	.15		.02	
Power buggy operators	4.875	.25	.15		.02	
Lather tenders	4.975	.25	.15		.02	
Mortar mixers	4.975	.25	.15		.02	
Well driller	5.25	.25	.15		.02	
Well drillers' helpers	4.825	.25	.15		.02	
Blaster, powderman	5.125	.25	.15		.02	
Plasterer tender & hod carrier	4.975	.25	.15		.02	
DECISION #AP-350 - Mod. #1 (37 FR 20506 - September 29, 1972) Harris County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	6.825	.40	.40		.05	
Laborers:						
Common	4.70	.25	.15		.02	
Air tool operator (jackhammer-vibrator)	4.875	.25	.15		.02	
Mason tenders	4.875	.25	.15		.02	
Pipelayers (concrete & clay)	4.875	.25	.15		.02	
Sandblasters	4.875	.25	.15		.02	
Power buggy operator	4.875	.25	.15		.02	
Lather tender	4.975	.25	.15		.02	
Mortar mixers	4.975	.25	.15		.02	
Well driller	5.25	.25	.15		.02	
Well driller helpers	4.825	.25	.15		.02	
Blaster, powderman	5.125	.25	.15		.02	
Plaster tender & hod carrier	4.975	.25	.15		.02	

DECISION #AM-6,705 Mod. # 3
(37 FR 5128-March 10, 1972)
Adams-Asotin-Benton-Columbia-Ferry-Franklin-Garfield-Grant-Lincoln-Pend Oreille-Spokane-Stevens-Walla Walla and Whitman Counties, Washington

Change 1:

Laborers:

1-WAS-Lab-1-2-3 (1-2)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group I Carpenters tender; Concrete crewman; Concrete signalman; Crusher feeder; Demolition; Driller helper, Dumpman; Fence erector; General laborer; Grout machine header tender; Nipper; Riprap man; Scaleman; Stake jumper; Structural mover; Tailhoseman (water nozzle); Track laborer (RR); Truck loader; Timber bucker and faller; Window cleaner	$5.00	.30	.50		.02
Group II Cement finisher tender; Cement handler; Demolition torch; Dope pot fireman, nonmechanical; Form cleaning machine, feeder, stacker; Form setter, paving; Grade checker using level, optional; Nozzleman, water & air or steam; Pipe layer, corrugated metal culvert; Pipe-wrapper; Pot tender; Powderman helper; Power tool op; gas, electric, pneumatic Railroad equipment, power driven; Rodder & spreader; Sandblast tailhoseman; Scaffold erector, wood or steel; Vibrator up to 4"; Wallpoint man; Wheelbarrow, power driven	5.15	.30	.50		.02
Group III Asphalt raker; Asphalt roller, walking; Chain saw op. w/attachments; Concrete saw, walking; Creosote material; High scaler; Jackhammer op.; Multi-section pipelayer; Nozzleman; Pavement breaker; Tamper; Trencher; shawnee; Vibrator, 4" & over; Wagon drills; Water pipe liner	5.25	.30	.50		.02
Group IV Pipelayer (Caulker, collarman, jointer, mortarman, rigger, jacker, shorer & lagger)	5.30	.30	.50		.02
GROUP V Concrete stack, Mud carriers; Mortar mixer	5.35	.30	.50		.02

DECISION #AM-6,705 Mod. #3 Cont'd.

1- WAS-Lab-1-2-3 (2-2)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Laborers (cont'd):						
GROUP VI Caisson worker, free air	$5.40	.30	.50		.02	
GROUP VII Brush machine; Drills, Gunnite; Monitor op., Air Track or similar mounting; Nozzleman; Powderman	5.45	.30	.50		.02	
GROUP VIII Air track drills with dual masts and drills; Powderman	5.65	.30	.50		.02	
TUNNEL & SHAFT, FREE AIR						
GROUP IX Class A: Bull gang, pump crete crewman incl. distributing pipe, assembling & dismantle and nipper	5.05	.30	.50		.02	
Class B: Brakeman, dumpman	5.10	.30	.50		.02	
Class C: Miner & nozzleman for concrete and laser beam op. on tunnels	5.50	.30	.50		.02	
Class D: Raise & shaft miner and laser beam op. on raises and shafts	5.55	.30	.50		.02	
GROUP X Sand Hogs (Under compressed air conditions): 1 lb thru 14 lbs - 6 hrs. work	52.40	.30	.50		.02	
Over 14 lbs thru 18 lbs - 6 hrs. work	55.10	.30	.50		.02	
Over 18 lbs thru 22 lbs - 4 hrs. work	55.10	.30	.50		.02	
Over 18 lbs thru 22 lbs - 6 hrs. work	75.35	.30	.50		.02	
Over 22 lbs thru 26 lbs - 4 hrs. work	59.30	.30	.50		.02	
Over 26 lbs thru 32 lbs - 4 hrs. work	61.70	.30	.50		.02	
Over 32 lbs thru 38 lbs - 3 hrs. work	64.40	.30	.50		.02	
Over 38 lbs thru 44 lbs - 2 hrs. work	65.70	.30	.50		.02	
Outside lock & guage tender(per shift)	42.80	.30	.50		.02	

DECISION #AM-6,705 Mod. #3
(37 FR 5128-March 10, 1972)
Chelan, Douglas, Kittitas, Okanogan and Yakima Counties, Washington

Change 2:

Chelan, Douglas, Kittitas, Okanogan and Yakima Cos. East of the 120th Meridian

1-WAS-Lab-1-2-3 (1-2)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Laborers:					
Group I Carpenters tender; Concrete crewman; Concrete signalman; Crusher feeder; Demolition; Driller helper, Dumpman; Fence erector; General laborer; Grout machine header tender; Nipper; Riprap man; Scaleman; Stake jumper; Structural mover; Tailhoseman (water nozzle); Track laborer (RR); Truck loader; Timber bucker and faller; Window cleaner	$5.00	.30	.50		.02
Group II Cement finisher tender; Cement handler; Demolition torch; Dope pot fireman, nonmechanical; Form cleaning machine, feeder, stacker; Form setter, paving; Grade checker using level, optional; Nozzleman, water & air or steam; Pipe layer, corrugated metal culvert; Pipe-wrapper; Pot tender; Powderman helper; Power tool op; gas, electric, pneumatic Railroad equipment, power driven; Rodder & spreader; Sandblast, tailhoseman; Scaffold erector, wood or steel; Vibrator up to 4"; Wallpoint man; Wheelbarrow, power driven	5.15	.30	.50		.02
Group III Asphalt raker; Asphalt roller, walking; Chain saw op. w/attachments; Concrete saw, walking; Creosote material; High scaler; Jackhammer op.; Multi-section pipelayer; Nozzleman; Pavement breaker; Tamper; Trencher; shawnee; Vibrator, 4" & over; Wagon drills; Water pipe liner	5.25	.30	.50		.02
Group IV Pipelayer (Caulker, collarman, jointer, mortarman, rigger, jacker, shorer & lagger)	5.30	.30	.50		.02
GROUP V Concrete stack, Mud carriers; Mortar mixer	5.35	.30	.50		.02

DECISION #AM-6,705 Mod. #3 Cont'd.

1- WAS-Lab-1-2-3 (2-2)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Laborers (cont'd):						
GROUP VI Caisson worker, free air	$5.40	.30	.50		.02	
GROUP VII Brush machine; Drills, Gunnite; Monitor op., Air Track or similar mounting; Nozzleman; Powderman	5.45	.30	.50		.02	
GROUP VIII Air track drills with dual masts and drills; Powderman	5.65	.30	.50		.02	
TUNNEL & SHAFT, FREE AIR						
GROUP IX Class A: Bull gang, pump crete crewman incl. distributing pipe, assembling & dismantle and nipper	5.05	.30	.50		.02	
Class B: Brakeman, dumpman	5.10	.30	.50		.02	
Class C: Miner & nozzleman for concrete and laser beam op. on tunnels	5.50	.30	.50		.02	
Class D: Raise & shaft miner and laser beam op. on raises and shafts	5.55	.30	.50		.02	
GROUP X Sand Hogs (Under compressed air conditions): 1 lb thru 14 lbs - 6 hrs. work	52.40	.30	.50		.02	
Over 14 lbs thru 18 lbs - 6 hrs. work	55.10	.30	.50		.02	
Over 18 lbs thru 22 lbs - 4 hrs. work	55.10	.30	.50		.02	
Over 18 lbs thru 22 lbs - 6 hrs. work	75.35	.30	.50		.02	
Over 22 lbs thru 26 lbs - 4 hrs. work	59.30	.30	.50		.02	
Over 26 lbs thru 32 lbs - 4 hrs. work	61.70	.30	.50		.02	
Over 32 lbs thru 38 lbs - 3 hrs. work	64.40	.30	.50		.02	
Over 38 lbs thru 44 lbs - 2 hrs. work	65.70	.30	.50		.02	
Outside lock & guage tender(per shift)	42.80	.30	.50		.02	

MODIFICATIONS P. 53

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-402 - Mod. #2 (37 FR 14659 - July 21, 1972) Kanawha County, West Virginia						
Change: Carpenters	$8.35	.25	.25		.02	
DECISION #AP-403 - Mod. #2 (37 FR 14661 - July 21, 1972) Cabell County, West Virginia						
Change: Bricklayers & Stonemasons	8.60		.10		d	
Lathers	7.45		.50			
Sprinkler Fitters	8.75	.30			.05	
Footnote: d. Employer contributes $25.00 per year.						
DECISION #AP-405 - Mod. #2 (37 FR 15236 - July 28, 1972) Kanawha County, West Virginia						
Change: Carpenters	8.35	.25	.25		.02	

SUPERSEDEAS DECISION

AP-245 P. 2

STATE: California

COUNTIES: Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura

DECISION NO. AP-245

DATE: Date of Publication

Supersedes Decision No. AP-201 dated July 7, 1972 in 37 FR 13440

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

8-CAL-SCAL-Counties (Res.) (1-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$9.77	.48	.35		.025	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS						
Imperial County	7.95	.58	.75		.05	
Kern County	7.80	.40	.40	.30	.05	
Los Angeles & Orange Counties	8.00	.40	.40		.05	
Riverside & San Bernardino Cos.	6.26	.29	.17			
Santa Barbara County	8.175	.40	.40			
BRICK TENDERS						
Imperial, Riverside and San Bernardino Counties	5.85	.45	.85	.30		
Kern, Los Angeles, & Orange Cos.	5.85	.45	.85	.30		
Santa Barbara County (except Santa Maria)	5.37	.45	.85	.475		
CARPENTERS	6.75	.69	.85	.60	.01	
CEMENT MASONS	6.16	.90	.95	.70	.0325	
DRYWALL INSTALLERS	7.80	.61	.75	.50	.04	
ELECTRICIANS:						
Imperial County						
Electricians	8.20	.40	1% + .75			
Cable Splicers	8.48	.40	1% + .75			
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)						
Electricians; Technicians	9.95	.70	1% + .90		.10	
Cable Splicers	10.945	.70	1% + .90		.10	
Kern County (Remainder of County)						
Electricians; Technicians	7.95	.70	1% + .90		.10	
Cable Splicers	8.745	.70	1% + .90		.10	
Los Angeles County						
Electricians	8.95	.30	1% + .45		.02	
Cable Splicers	9.25	.30	1% + .45		.02	
Orange County						
Electricians	8.90	.25	1% + .45		.02	
Cable Splicers	9.31	.25	1% + .45		.02	
Riverside County						
Electricians	8.12	.40	1% + .40		.02	
Cable Splicers	8.42	.40	1% + .40		.02	
San Bernardino County						
Electricians	8.47	.40	1% + .75		.02	
Cable Splicers	8.77	.40	1% + .75		.02	
Santa Barbara County						
Vandenberg Air Force Base:						
Electricians	9.33	.42	1% + .85		.03	
Cable Splicers	10.33	.42	1% + .85		.03	

8-CAL-SCAL-Counties (Res. (2-4)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ELECTRICIANS (Cont'd)						
Santa Barbara (Remainder of County)						
Electricians	8.08	.42	1% + .85		.03	
Cable Splicers	9.08	.42	1% + .85		.03	
Ventura County						
Electricians	8.03	.40	1% + .45			
Cable Splicers	8.83	.40	1% + .45			
GLAZIERS						
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, & Ventura Counties	7.03	.30	.30		.04	
IRONWORKERS:						
Reinforcing	8.34	.58	.625	.70	.02	
Fence Erectors	8.24	.58	.625	.70	.02	
Ornamental; Structural	8.38	.58	.625	.70	.02	
IRRIGATION & LAWN SPRINKLERS						
Imperial, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara & Ventura Counties	6.50	10%	16%	13%	1%	
LATHERS:						
Imperial County	7.00	.24			.01	
Kern County	6.73	.35	.65	.50		
Los Angeles (County (except city of Lancaster)						
Metal furring	7.12	.39	.50		.03	
Nail on (Area I)*	6.985	.29	.35		.045	
Nail on (Area II; III; IV)**	7.12	.39	.50		.03	
Orange County	6.08	.19	.35	.50	.02	
Riverside County	7.375	.24	.105	.53	.01	
San Bernardino County	8.61	.245	.60		.015	
Ventura County	6.11	.30	.50	.60	.01	
PAINTERS:						
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (except western portion)						
Brush; Paint burners	7.43	.39	.39	.60	.03	
Paperhangers; Sheet rock Taper	7.93	.39	.39	.60	.03	
Spray	7.68	.39	.39	.60	.03	
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station & Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (west of a line north in Trona including China Lake area, Johannesburg, Boron, south including the Wrightwood area)						
Brush	7.30	.305	.35	.30		
Paperhanger; Spray	7.42	.305	.35	.30		
Kern County (Remainder of County)						
Brush	6.97	.20	.36		.01	
Paperhangers; Spray	7.22	.20	.36		.01	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS (Cont'd)						
Santa Barbara & Ventura Counties						
Brush	7.41	.35	.35		.02	
Paperhangers; Paste machine op.	7.61	.35	.35		.02	
Spraymen	7.91	.35	.35		.02	
PLASTERERS:						
Kern County	7.17	.45	.50	.60	.01	
Los Angeles & Orange Counties	7.495	.53	1.25	.50	.07	
Riverside & San Bernardino Counties	9.995					
Santa Barbara County	8.64	.40	.75		.01	
Ventura County	7.74	.25	.30	.50	.02	
PLASTERERS' TENDERS						
Imperial, Riverside and San Bernardino Counties "	7.93	.45	.85	.30		
Kern County	6.385	.45	.85	.30		
Los Angeles & Orange Counties	7.175	.45	1.30	.60		
Santa Barbara County (except Santa Maria)	6.9375	.35	.60	1.00		
Ventura County	6.86	.45	1.35	1.00		
PLUMBERS: Steamfitters						
Imperial, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, & Ventura Counties	8.30	10%	16%	13%	1%	
Kern County (except east of Los Angeles Aqueduct)	7.22	.60	1.38	.70	.08	
Kern County (East of Los Angeles Aqueduct)	9.22	.60	1.38	.70	.08	
ROOFERS:						
Kern County	6.30	.30	.30			
Los Angeles, Orange, & Ventura Counties	6.64	.35	.50		.02	
Riverside & San Bernardino Counties	6.10		.20	.20	.01	
Santa Barbara County	6.48	.175	.15	.35	.0025	
SHEET METAL WORKERS:						
Imperial County	8.83	.39	.40			
Kern County & Los Angeles County (north of line between Gorman & Big Pines)	7.07	.39	.23			
Los Angeles County (remaining portion)	6.27	.39	.40		.025	
Orange County	9.52	.69	1.20			
Riverside & San Bernardino County	6.65	.39	.40		.03	
Santa Barbara & Ventura Counties	9.32	.69	1.05			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
SOFT FLOOR LAYERS						
Imperial County	7.45	.45	.30	.50	.05	
Kern (east of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, & Ventura Counties	8.14	.37	.28	.44	.02	
Kern County (remaining portion)	7.20	.29	.15	.39		
TILE SETTERS:						
Imperial County	6.71	.30	.45	.60		
Kern County	6.90	.40		.30		
Los Angeles, Orange, & Ventura Cos.	7.75	.145	.35		.02	
Riverside, & San Bernardino Counties	6.75	.40	.40		.025	
Santa Barbara County	8.175	.40	.40			
TILE SETTERS' HELPERS "						
Imperial County	5.69	.20	.45	.60		
Los Angeles, Orange, & Ventura Cos.	5.96	.245	.50		.08	
Riverside & San Bernardino Counties	6.41	.245	.50		.08	

* Area 1 - That portion of Los Angeles County including the Cities of Burbank, Castaic, Chatsworth, Cornell, Glendale, Hermosa Beach, Hollywood, Los Angeles, Malibou Beach, Redondo Beach, San Fernando, Santa Monica, Torrance. Van Nuys, Whittier, Zuma Beach.

** Areas II; III; & IV:

Area II - That portion of Los Angeles County including the Cities of Pomona, El Monte, Covina, Alhambra, Pasadena, South Pasadena, La Canada, to line that intersects Acton, east to San Bernardino County line, then south along the San Bernardino County line.

Area III - Beginning at the edge of Reeves Field, north along Long Beach City limits to 223rd Street, west to Avalon Boulevard, north to Torrence Boulevard west to Pacific Ocean, including Santa Catalina Island.

Area IV - Beginning at the edge of Reeves Field, north along Long Beach City limits to 223rd Street, west to Avalon Boulevard, north to Rosecrans Avenue, east to Atlantic Avenue, north to Imperial Highway, east to the Orange County line, south along County line to Western Avenue, south to Lincoln Avenue, east to Highway 39 (Beach Boulevard), south to the Pacific Ocean, including San Clemente Island.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
CLEANING & HANDLING OF PANEL FORMS; Concrete Screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick & lumber; Dry packing of concrete, plugging, filling of Shee-Bolt Holes; Fire watcher, limbers, brush loaders, pilers & debris handler; Gas & oil pipeline; Laborers, general or construction; Laborer, temporary water & air lines; Material hoseman (walls, alab, floors & decks); Mixer-truck chute man (walls, slabs decks, floors foundations & footing-curb & gutter & sidewalks); Rigging & signalling; Slip form raisers; Window cleaner	$ 5.495	.55	1.10	.30		
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	5.545	.55	1.10	.30		
GUINEA CHASER	5.675	.55	1.10	.30		
ASPHALT SHOVELER; Fine grader, highway & street paving, airports, runways, & similar type heavy construction; Landscape gardener & nursery man	5.595	.55	1.10	.30		
PACKING ROD STEEL & PANS; Tanks scaler & cleaner	5.62	.55	1.10	.30		
UNDERGROUND (INCL. CAISSON BELLOWER)	5.625	.55	1.10	.30		
CHUCKTENDER; Septic tank digger & installer	5.645	.55	1.10	.30		
CESSPOOL DIGGER & INSTALLER	5.675	.55	1.10	.30		
CONCRETE CURER-IMPERVIOUS MEMBRANE & FORM OILER: Riprap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	5.685	.55	1.10	.30		
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING	5.785	.55	1.10	.30		

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer & handling bulk cement); Gas & oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper & tiller; Tree climber, faller, chain saw op., Pittsburgh chipper & similar type brush shredders; Trenching machine, hand propelled	$ 5.705	.55	1.10	.30		
ASPHALT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sender Concrete saw man, cutting, scoring old or new concrete; Impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines & similar mechanical tools not separately classified herein; Tampers, Barko Wacker & similar type	5.805	.55	1.10	.30		
ROCK SLINGER	5.755	.55	1.10	.30		
DRILLER, JACKHAMMER - 2 - 1/2 DRILL STEEL OR LONGER	5.885	.55	1.10	.30		
CONCRETE VIBRATOR OP., 70 lbs. & OVER	5.905	.55	1.10	.30		
PIPELAYER (NON-METALLIC INCL. SEWER, DRAIN & UNDERGROUND TILE); Prefabricated manhole installer	6.005	.55	1.10	.30		
GAS & OIL PIPELINE WRAPPER - (6" & Over; Kettlemen, potmen & men applying asphalt, lay-kold, creosote, lime caustic & similar type materials	5.835	.55	1.10	.30		
CRIBBER, SHORER, LAGGING, SHEETING, & TRENCH BRACING, HAND-GUIDED LAGGING HAMMER	6.005	.55	1.10	.30		
BLASTER POWDERMAN	6.055	.55	1.10	.30		
STEEL HEADERBOARD MAN & GUIDELINE SETTER	5.92	.55	1.10	.30		

LABORERS (Cont'd)	Basic Hourly Rates*	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
SANDBLASTER (Nozzleman)	$ 5.945	.55	1.10	.30		
DRILLER (Core-Diamond-Wagon)	6.145	.55	1.10	.30		
HEAD ROCK SLINGER	6.015	.55	1.10	.30		
GUNNITE LABORERS: NOZZLEMEN & RODMEN	6.97	.55	1.10	.30		
GUNMEN	6.47	.55	1.10	.30		
REBOUNDMEN	5.61	.55	1.10	.30		

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
GROUP I BRAKEMAN; Compressor Operator; Deck Hand; Engineer Oiler; Generator Operator; Heavy Duty Repairman Helper; Pump Operator; Signalman; Switchman	$7.03	.75	1.20	.30	.02	
GROUP II CONCRETE MIXER, Skip type; Conveyor; Fireman; Generator, Pump or Compressor, (2-5 inclusive) Portal Units-over 5 units, .10¢ per hour for each additional unit up to nine units.; Hydrostatic Pump; Oiler Crusher (Asphalt or Concrete Plant); Plant Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd. without attachment; Tar Pot Fireman; Temporary Heating Plant Op.; Trenching Machine Oiler; Truck Crane Oiler	7.27	.75	1.20	.30	.02	
GROUP III A-FRAME or Winch Truck; Chainman; Elevator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Power Concrete Curing Machine; Power Concrete Saw; Power-Driven Jumbo Form Setter; Ross Carrier (jobsite); Stationary Pipe Wrapping & Cleaning Machine	7.51	.75	1.20	.30	.02	
GROUP IV ASPHALT PLANT FIREMAN; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (Grease Truck); Helicopter Hoist Operator; Highline Cableway Signalman; Hydra-Hammer-Arco Stomper; Power Sweeper; Roller (compacting); Screed (Asphalt or Concrete); Rodman; Trenching Machine (up to 6 ft.)	7.62	.75	1.20	.30	.02	
GROUP V ASPHALT PLANT ENGINEER; Concrete Batch Plant Operator - (Oiler or Journeyman-trainee required); Backhoe (up to and						

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
GROUP V (cont'd) including 3/4 yds.); Bit Sharpener; Concrete Joint Machine Operator (Canal and similar type); Concrete Planer; Derrickman (Oilfield type); Deck Engine Operator; Drilling Machine (including water wells); Forklift (under 5 ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm, curb or gutter (concrete or asphalt); Mechanical Finisher Operator (concrete Clary - Johnson-Bidwell or similar); Pavement Breaker (truck mounted, Oiler) Road Oil Mixing Machine; Roller Op. (asphalt or finish); Rubber Tired Earth Moving Equipment, (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine Operator; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive Operator (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Operator (Crawler and Wheel type over 3/4 yd. and up to and including 1½ yds.); Tractor Operator-Bulldozer, Tamper Scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types.)	7.81	.75	1.20	.30	.02	
GROUP VI ASPHALT OR CONCRETE SPREADER (tamping or finishing); Asphalt Paving Machine (Barber Green or similar type-2 screedman required); BHL Lima Road Pactor, Wagner Pactor or similar; Bridge Crane Operator; Cast in Place Pipe Laying Machine Operator; Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted) (Oiler required); Concrete Mixer Operator-Paving; Crane Operator (up to and including 25 tons capacity); Crushing Plant Operator; Elevating Grader						

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
GROUP VI (Cont'd) Forklift (over 5 tons); Grade Checker; Gradall Operator; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtburg and similar types); Lift Mobile Operator; Loader Operator (Athey, Euclid, Sierra and similar type; Material Hoist; Mucking Machine (¾ yd.-rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-Tired Earth Moving Equipment, (single engine-Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-Tired Scraper (self-loading - Paddle wheel type; Skiploader (Crawler and Wheel type-over 1½ yds., up to and including 6½ yds); Surface Heaters and Planer; Rubber-Tired Earth Moving Equipment, Multiple engine, (up to and including 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5 - 100 Flywheel h.p. and over, or similar) (Bull Dozer, Tamper, Scraper, and Push Tractor, single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 ton); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yds. and up to 5 cu. yds. M.R.C.	7.91	.75	1.20	.30	.02	

MXM

POWER EQUIPMENT OPERATORS

	Basic Hourly Rate	Fringe Benefits Payments: H & W	Pensions	Vacation	Apr. Tr.	Other
GROUP VII CRANE - Over 25 tons up to and including 100 tons; Derrick Barge; Dual Drum Mixer; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade (single engine); Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-Tired Earth Moving Equipment, single engine over fifty (50) yds. struck; Rubber-Tired Earth Moving Equipment (Multiple engine, Euclid, Caterpillar and similar) (over 25 yds and up to 50 cu. yds. struck); Tractor Loader (Crawler and wheel type over 6½ yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds., M.R.C.; Woods Mixer and similar Pugmill Equipment; Heavy Duty Repair-Man - Welder Combination	$8.01	.75	1.20	.30	.02	
GROUP VIII AUTO GRADER OPERATOR; Automatic Slip Form; Crane-over 100 tons; Hoist, Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator; Mechanical Finishing Machine; Motor Patrol (Multi-engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (Multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-Tired Scraper (Push-Pull) (.50¢ per hour additional to base rate); Tandem Equipment Operator (2 units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator	8.15	.75	1.20	.30	.02	
GROUP IX CANAL LINER; Canal trimmer; Helicopter pilot; Highline cableway; Rubber-tired self-loading scraper (Paddle wheel-Auger type self-loading - 2 or more units); Wheel excavator (over 750 cu. yds.); Remote controlled earth moving equipment op. ($1.00 per hour additional)	8.25	.75	1.20	.30	.02	

TRUCK DRIVERS:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP I Warehouseman and Teamster	$6.02	.65	.55	.75		
GROUP II Drivers of Vehicle or combination of vehicles of 2 axles (incl. all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load	6.10	.65	.55	.75		
GROUP III Truck Mounted Power Broom	6.16	.65	.55	.75		
GROUP IV Drivers of Vehicle or combination of vehicles of 3 axles; Water Truck, 2 axles	6.25	.65	.55	.75		
GROUP V Bootman; Cement Distributor Truck; Fuel Truck	6.28	.65	.55	.75		
GROUP VI Drivers of Transit-Mix Truck, under 3 yds.; Dumpcrete Trucks, less than 6½ yds. water level	6.34	.65	.55	.75		
GROUP VII Water Truck, 3 or more axles; Truck Repairman Helper	6.35	.65	.55	.75		
GROUP VIII Truck Greaser and Tireman (50¢ per hour additional when working on tire sizes above 24 inch in wheel diameter)	6.43	.65	.55	.75		
GROUP IX Driver of Transit-Mix Trucks, 3 yards or more; Dumpcrete Trucks, 6½ yds. water level and over	6.48	.65	.55	.75		
GROUP X Drivers of Vehicle or Combination of vehicles of 4 or more axles	6.50	.65	.55	.75		
GROUP XI A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier Driver (Hwy)	6.55	.65	.55	.75		

TRUCK DRIVERS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP XII All off-highway equipment within Teamsters Jurisdiction (off-highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Truck Repairman	$7.05	.65	.55	.75		
GROUP XIII Truck Repairman (Welder)	7.15	.65	.55	.75		

XUM

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Alameda, Amador, Contra Costa, Fresno, Marin, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Sutter, Yolo, and Yuba

DECISION NO. AP-246

DATE: Date of Publication

Supersedes Decision No. AM-6735 dated June 23, 1972 in 37 FR 12459

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

20-CAL-NCAL Counties (1-6)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
ASBESTOS WORKERS	$ 9.17	.60	.40	.90	.04	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS; Stonemasons:						
Marin, Napa, San Francisco, San Mateo, Solano and Sonoma Counties	8.70	.78	.58	.55		
Alameda and Contra Costa Counties	8.50	.65	.60	.70		
Fresno and Merced Counties	7.35	.42	.38			
Nevada, Placer, Sacramento, Sutter, Yolo, and Yuba Counties	8.20	.40	.40		1.00 p/mo	
Monterey County	7.01	.63	.40			
Santa Clara County	8.25	.54	.50	.55	.01	
Amador and San Joaquin Counties	7.80	.25	.15	.75		
BRICK TENDERS:						
Alameda and Contra Costa Counties	6.50	.50	.50		.10	
Sutter and Yuba Counties	5.185	.50	.60	.60		
Fresno County	6.05	.50	.60			
Marin County	7.05	.50	.40			
Merced County	5.15	.50	.60	.60		
Monterey County	5.55	.50	.80	.30		
Napa County	5.64	.50	.60	.60		
Amador, Nevada, Placer, Sacramento, and Yolo Counties	5.355	.245	.60	.50		
San Joaquin County	5.20	.50	.60	.60		
Santa Clara County	6.58	.45	.40			
Solano County	5.55	.50	.60	.60		
Sonoma County	5.44	.40	.50	.50		
CARPENTERS	8.10	.60	.55	.75	.02	
CEMENT MASONS	7.23	.56	.75	.75		
DRYWALL INSTALLERS	7.82	.60	.50	.50	.04	
ELECTRICIANS:						
Alameda County						
Electricians	8.85	.50	4%			
Cable splicers	9.99	.50	4%			

AP-246 P. 2

20-CAL-NCAL Counties (2-6)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
ELECTRICIANS: (Cont'd)						
Amador, Sacramento, Sutter, Yolo, Yuba & those portions of Nevada & Placer Counties West of the Main Sierra Mountain Watershed						
Electricians	8.83	.31	1% + .55		.045	
Cable splicers	9.71	.31	1% + .55		.045	
Lake Tahoe Area:						
Electricians; Instrument Technicians	8.79	.33	1% + .25		.01	
Cable splicers	9.67	.33	1% + .25		.01	
San Joaquin County						
Electricians; Technicians	8.47	.40	1%		.01	
Cable splicers	9.48	.40	1%		.01	
Contra Costa County						
Electricians	8.80	.40	1% + .50		.02	
Cable splicers	9.90	.40	1% + .50		.02	
Fresno County						
Electricians	8.48	.28	1% + .35		.05	
Cable splicers	8.88	.28	1% + .35		.05	
Marin and Sonoma Counties						
Electricians	7.10	.23	1% + .10		.02	
Cable splicers	7.92	.23	1% + .10		.02	
Merced County						
Electricians	8.69	.27	1%		.01	
Cable splicers	9.56	.27	1%		.01	
Monterey County (West of the Salinas River)						
Electricians	8.50	.25	1% + .75		.01	
Cable splicers	9.18	.25	1% + .75		.01	
Monterey County (East of the Salinas River						
Electricians	8.46	.40	1%		.01	
Cable splicers	9.52	.40	1%		.01	
Napa and Solano Counties						
Electricians	8.92	.58	1% + .25		.02	
Cable splicers	9.42	.58	1% + .25		.02	
Santa Clara County						
Electricians	9.22	.45	1% + .35			
Cable splicers	10.35	.45	1% + .35			
San Francisco County						
Electricians	8.82	.455	1% + .35		.04	
Cable splicers	9.93	.455	1% + .35		.04	
San Mateo County						
Electricians	8.88	.43	1% + .15		.03	
GLAZIERS:						
Amador, Nevada, Placer, Sacramento, San Joaquin, Sutter, Yolo, Yuba & Merced (North of the city of Livingston) Counties	7.605	.15	.25	8%		

AP-246 P. 3

20-CAL-NCAL Counties (3-6)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GLAZIERS: (CONT'D)						
Alameda, Contra Costa, Marin, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Solano (SW from E. of Fairfield), and Sonoma Counties	8.225	.25	.25	6%	.01	
Merced (Remainder of County), & Fresno County	6.78	.35	.55	.41		
IRONWORKERS:						
Fence erectors	8.24	.58	.625	.70	.02	
Ornamental; Structural	8.36	.58	.625	.70	.02	
Reinforcing	8.34	.58	.625	.70	.02	
LATHERS:						
Alameda and Contra Costa Counties	7.84	.34	.385		.025	
Amador, Sacramento and Yolo Counties	6.40	.195	.20			
Nevada and Placer Counties	7.68	.43	.40		.01	
San Joaquin County "	7.20	.25	.20	.80		
Fresno County	5.90	.15				
Marin and Sonoma Counties	6.71	.37	.45	.91	1/8%	
Merced County	6.50				.01	
Monterey County	7.10	.40	.40	.20a	.01	
Napa and Solano Counties	5.20	.24	.20	.50	.01	
San Francisco County	8.23	.46	.65	1.00	.01	
Santa Clara County	7.73	.30	.25			
PAINTERS:						
Sutter and Yuba Cos.						
Brush; Roller	5.40	.25	.25	.65		
Spray	5.65	.25	.25	.65		
Alameda, Contra Costa, Napa, Sacramento, Solano, Yolo, Nevada and Placer Cos.						
(excluding Lake Tahoe Area)						
Brush	7.77	.64	.65	.80		
Spray	8.02	.64	.65	.80		
Tapers	8.27	.64	.65	.80		
Lake Tahoe Area						
Brush	6.00	.20	.20	.40		
Decorators; Machine tapers; Paperhangers; Spray	6.25	.20	.20	.40		
Marin, San Francisco & Sonoma Counties						
Brush; Decorators; Paperhangers; Sheet rock tapers	8.57	.64	.65			
Monterey, San Mateo, and Santa Clara Counties						
Brush	7.77	.64	.65			
PLASTERERS:						
Alameda & Contra Costa Counties (western portion of Contra Costa Co. from Carquinez Straits using westerly						

AP-246 P. 4

20-CAL-NCAL Counties (4-6)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
PLASTERERS: (CONT'D)						
city limits of Potta Costa to junction of McEwen Rd. & along McEwen, Rd. to junction of Franklin Canyon Rd. (State Hwy. #4) & continues as Arnold Industrial Hwy. to junction of State Hwy. #21, south along Hwy. #21 to Hookston Rd., east to Bancroft Rd., southeast to Ygnacio Rd., east to junction Oakgrove Rd. (Mt. Diablo Blvd.) to summit of Mt. Diablo & on 45 degree angle southeast from base line of Mt. Diablo to Alameda and Contra Costa County line).	8.24	.575	.45		.01	
Sutter, and Yuba Counties	6.05	.25	.25	.50	.01	
Fresno County	7.12	.28	.25		.01	
Monterey County "	7.70	.46	.35		.01	
Nevada, Placer, Sacramento and Yolo Counties	7.65	.245	.25	.65		
Santa Clara County	7.38	.54	.40	.70	.01	
San Francisco County	8.35	.38	.63	b		
San Mateo County	7.45	.43	.55	1.17		
Marin, Napa, Solano, and Sonoma Counties	7.75	.43	.25		.01	
Merced County	6.00	.60	.45	.75		
PLASTERERS' TENDERS:						
Alameda & Contra Costa Counties	7.22	.50	.60		.10	
Sutter & Yuba Counties	5.185	.50	.60	.60		
Fresno County	6.60	.20	.60			
Marin County	7.05	.50	.40			
Merced County	5.25	.50	.60	.60		
Monterey County	5.70	.50	.60	.46		
Napa County	6.65	.50				
Amador, Nevada, Placer, Sacramento & Yolo Counties	5.75	.295	.50	.70		
San Francisco & San Mateo Counties	7.50	.25	.40	.95		
Santa Clara County	7.65	.50	.50			
Solano County	5.55	.50	.60	.60		
Sonoma County	5.44	.40	.50	.50		
PLUMBERS:						
Alameda County	9.54	.55	1.00	.01	.075	
Contra Costa County	9.57	.53	1.00	.01	.07	
Monterey County	8.39	.77	.79		.03	
Amador (northern half of County), Sacramento, Yolo, Nevada & Placer Counties (excluding Lake Tahoe Area)	8.58	.65	1.05		.06	
Lake Tahoe Area	7.40	.30	.60	1.55	.07	
Marin, San Francisco, & Sonoma Counties	8.03	1.44	.705	.735	.065	
Santa Clara County	8.83	.46	.65		.08	

AP-246 P. 5 — 20-CAL-NCAL Counties (5-6)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
PLUMBERS: (CONT'D)						
San Mateo County	9.075	.485	.50		.075	
Amador (southern portion of County), Fresno, Merced, San Joaquin, Sutter, & Yuba Counties	8.39	.77	.79		.03	
Napa & Solano Counties	8.50	.35	.58		.07	
ROOFERS:						
Alameda and Contra Costa Counties	7.30	.43	.50		.01	
Merced and San Joaquin Counties	6.64	.45	.20	.75		
Placer, Sutter, and Yuba Counties	7.04	.50	.40			
Fresno County	8.15	.20	.10			
Sonoma County	7.34	.38	.50		.01	
Marin County	7.37	.30	.55		.01	
Monterey County	6.30	.30	.50	1.00		
San Francisco & San Mateo Counties	7.26	.35	.60		.01	
Napa and Solano Counties	6.70	.25	.50	.50		
Amador, Sacramento and Yolo Counties	6.67	.48	.40			
SHEET METAL WORKERS:						
Alameda & Contra Costa Counties	7.25	.39	.505	10% c	.015	
San Joaquin County	6.375	.36	.50	1.00		
Amador, Nevada, Placer, Sacramento, Sutter, and Yolo Counties	8.21	.36	.83		.07	
Fresno County	7.00	.38	.69	.70	.05	
Marin, Napa, Sonoma, & Solano Cos.	8.55	.36	.44		.15	
Merced County	6.33	.36	.40		.01	
Monterey and Santa Clara Counties	7.70	.38	.50	10%		
San Francisco County	8.48	.38	.55		10%	
San Mateo County	8.35	.38	.62		2%	
SOFT FLOOR LAYERS:						
Alameda, Contra Costa, Napa, & Solano Counties	7.50	.36	.30	d + 28e	.05	
Amador, Merced (east of the San Joaquin River), San Joaquin, Sacramento, Sutter, Yolo, & Yuba Counties, & those portions of Nevada and Placer Counties excluding Lake Tahoe Area	6.96	.455	.45	.95	.07	
Lake Tahoe Area	6.02	.20	.20	.40		
Fresno County	6.55	.20				
Marin, San Francisco, San Mateo, & Sonoma Counties	7.10	.41	.30	f + .28g	.04	
Monterey & Santa Clara Counties	7.39	.35	.30	.89	.05	
TILE SETTERS:						
Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano and Sonoma Counties	8.05	.56	.60		.015	
Amador and San Joaquin Counties	6.60	.25		.65		
Nevada, Placer, Sacramento, Sutter, Yolo, & Yuba Counties	6.40	.42	.35	.80	h	
Fresno County	6.02	.25				
Monterey County	6.96	.575	.20			

AP-246 P. 6 — 20-CAL-NCAL Counties (6-6)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.						

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.20 per hour to Paid Holiday Fund. 6 paid holidays: A through F.

b. 8 Paid Holidays: A through F, Washington's Birthday and Admission Day.

c. 4 Paid Holidays: C, D, E, and Washington's Birthday.

d. 1st year of employment employer contributes $.14 p/h to Vacation; 2nd thru 5th year $.30 p/h; 6th year and thereafter $.46 p/h.

e. Employer contributes $.28 p/h to Holiday Fund.

f. 1st year of employment, employer contributes $.14 per hour to Vacation Fund; 2nd through 5th year, $.295 per hour; 6th year and thereafter $.46 per hour.

g. Employer contributes $.28 per hour to Holiday Fund.

h. Employer contributes $2.00 per month per apprentice employed.

AP-246 P. 7 — 1-CAL-NCAL-LAB-1-2-3-v (1-1)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Bridge; Brush loaders & Piler; Clean-up; Dumpman; General; Landscape; Limbers Tool room attendant	$5.435	.55	1.05	.70	.06	
Asphalt Shovelers; Cement Dumper; Chipper; Choker setter & rigger; Chucktender; Concrete; Guinea Chaser; High pressure Nozzleman-Hydraulic Monitor; Nipper; Pneumatic-Gas-Electric tool Operator (not otherwise classified); Sloper; Loading, Unloading, handling materials for reinforcing concrete construction	5.535	.55	1.05	.70	.06	
Aligners; Asphalt Ironers & Rakers; Bucker; Buggymobile, Chainsaw; Compactors; Concrete Saw & pan work; Cribber and/or Shoring; Curb setter; Form Raiser; Faller; Headerboard Man; Post hole digger (air-gas-electric); Jackhammer; Kettleman; Log loader; Magnesite & Mastic Workers; Pavement Breaker Pipelayer; Pipewrapper; Power Broom Sweeper; Riprap stonepaver & Rockslinger; Rotary Scarifier; Roto-Tiller; Sandblaster; Barko, wackers & similar type tampers; Tank cleaners; Tree Climber; Vibrator; Vibra-Screed Bull Float.	5.685	.55	1.05	.70	.06	
Burning and Welding	5.735	.55	1.05	.70	.06	
Pipelayers; Caulkers; Banders (Contra-Costa County only)	5.885	.55	1.05	.70	.06	
Blasters; Drills (Daimond-Wagon); High scaler; Powderman; Tree Topper	5.91	.55	1.05	.70	.06	
Laborers on General Construction Work on or in Bell Hole Fottings, & Shaft	6.235	.55	1.05	.70	.06	
Gunnite Laborers:						
Nozzleman; Rodman; Gunman, Groundman	6.145	.55	1.05	.70	.06	
Reboundman	5.555	.55	1.05	.70	.06	

AP-246 P. 8 — 1-CAL-NCAL-PEO-1-2-3-h (1-5)

*AREA 1

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP I						
ASSISTANTS TO ENGINEERS (Brakeman; Fireman; Heavy duty repairman helper; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (Heavy Duty repair shop parts room)	$6.03	.62	.90	.60	.24	
GROUP II						
COMPRESSOR OPERATOR; Concrete mixer (up to & incl. 1 yd.); Conveyor belt op. (tunnel); Fireman hot plant; hydraulic monitor; Mechanical conveyor (handling building materials); Mixer box operator (concrete plant); Pump operator Spreader boxman (with screeds); Tar Pot fireman (power agitated)	6.91	.62	.90	.60	.24	
GROUP III						
BOX OPERATOR (bunker); Locomotive; Motorman; Oiler; Rodman or chainman; Ross carrier (construction job site); Rotomist operator; Screedman (except asphaltic concrete paving); Self-propelled, Automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching machine (maximum digging capacity 3 ft. depth); Tugger hoist, single drum	7.08	.62	.90	.60	.24	
GROUP IV						
BALLAST JACK TAMPER: Ballast regulator; ballast tamper multi-purpose; boxman (asphalt plant); Fork lift or lumber stacker (construction job site); Line Master; Lubrication & service engineer (mobile and grease rack); Material hoist (1 drum); Shuttlecar; Tie spacer; Towermobile	7.53	.62	.90	.60	.24	
GROUP V						
COMPRESSOR OPERATOR (2 to 7); Concrete mixers (over 1 yd.); Concrete pumps or pumpcrete guns; Generators (100 K.W. or over); Press-weld (air-operated); Pumps (2 to 7); Welding machines (gasoline or diesel) (2 to 7)	7.70	.62	.90	.60	.24	

*AREA 1 (cont'd)

1-CAL-NCAL-PEO-1-2-3- h (3-5)

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oths
GROUP VI BLH LIMA ROAD PACTOR or similar; Boom truck or dual purpose A-frame truck; concrete batch plants (wet or dry); Concrete saws (self-propelled unit) on strects, highways, airports, and canals; Drilling and boring machinery, vertical & horizontal (not to apply to waterliners, wagon drills or jack-hammers); Gradesetter, grade checker (mechanical or otherwise); Highline cableway signalman; Locomotives (steam or over 30 tons) Maginnis internal full alab vibrator (on airports, highways, canals & warehouses); Mechanical finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical burm, curb and/or curb and gutter machine, concrete or asphalt; Portable crushers; Power jumbo operator (aetting slip forms, etc. in tunnels); Roller; Screedman (Barber-Greene & similar) (asphaltic concrete paving); Self-propelled compactor (single engine); Self-propelled pipeline wrapping machine (perault, CRC, or similar types); Slip forms pumps (lifting device for concrete forms); small rubber tired tractors; Surface heater	7.81	.62	.90	.60	.24	
GROUP VII CONCRETE CONVEYOR OR CONCRETE PUMP, Truck or equipment mounted (boom length to apply); Concrete conveyor, building aite; Deck engineers; Dual drum mixer; Fuller Kenyon pump and similar types; Instrument man; Material hoist (2 or more drums); Mechanical finishers or spreader machine (asphalt, Barber-Greene & similar; Mine or shaft hoist; Mixer-mobile; Pavement breaker with or without compressor combination; Pavement breaker, Truck mounted with compressor combination; Pipe bending machine (pipe lines only); Pipe cleaning machine (tractor propelled & supported); Pipe wrapping machine (tractor propelled and supported); Refrigeration plant; Self-propelled boom type lifting device; Self-propelled Elevating grade plane; Slusher operator; Small tractor (with boom); Soil tester; Truck type loader	7.94	.62	.90	.60	.24	

AREA 1* (cont'd)

AP-246 P. 10

1-CAL-NCAL-PEO-1-2-3- h (3-5)

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oths
GROUP VIII ARMOR-COATER (or similar); Asphalt plant engineer; Cast-in-place pipe laying machine; Combination slusher and motor operator; Concrete batch plant (multiple units); Dozer; heavy duty repairman and/or welders; Ken seal machine (or similar); Kolman loader; Loader (up to 2 yds.); Mechanical shield operator (or similar); Mechanical trench shield; Portable crushing & screening plants; Push cat ; Rubber tired earth moving equipment (up to & incl. 45 cu. yds. "struck" m.r.c., euclids, T-pulls, DW-10,20,21 and similar); Tractor drawn scraper; Self-propelled compactor with dozer; Sheepfoot; Tractof; Trenching machine; Tri-batch paver; Tunnel mole boring machine operator; Welder; Woods-mixer (and other similar pugmill equipment)	8.26	.62	.90	.60	.24	
GROUP IX CANAL FINGER DRAIN DIGGER; Chicago Boom; Combination mixer & compressor (gunite); Combination Slurry mixer and/or cleaner; Highline cableway (5 tons & under); Lull hi-lift or similar (20 ft. or over); Mucking machine; Tractor (with boom) (D-6 or larger and similar)	8.44	.62	.90	.60	.24	

AREA 1* (cont'd)

1-CAL-NCAL-PEO-1-2-3- h (4-5)

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oths
GROUP X BOOM-TYPE BACKFILLING MACHINE; Bridge crane; Cary-lift (or similar); Chemical grouting machine; Chief of party; Combination backhoe & Loader (up to and incl. 1/2 cu. yd. m.r.c.); Derricks (2 operators required when swing engine remote from hoist); Derrick Barges (except excavation work); Do-more loader & Adams Elegrader; Elevating grader op.; Rubber tired scraper, self-loading (paddle wheels, etc.); Heavy duty rotary drills rigs (incl. caisson foundation work & Robbins type drills); Koehring Skooper (or similar); Lift alab machine (Vagtborg & similar types); Loader (2 yds. up to & incl. 4 yds.); Locomotive (over 100 tons) (single or multiple units); Multiple engine earth-moving machine (euclids, dozers, etc.) (no tandem scraper); Prestress wire wrapping machine; Shuttle car (reclaim station); Soil stabilizer (P & H or equal); Subgrader (gurries or other automatic type); Track laying type-Earth moving machine (single engine with tandem scrapers); Tractor, compressnr drill comb.; Train loading station; Vacuum cooling plant; Single engine scraper over 45 yds.; Whirley crane (up to & incl. 25 tons)	8.60	.62	.90	.60	.24	
GROUP X-A BACKHOE (hydraulic) (up to and incl. 1 cu. yd. m.r.c.); Backhoe (cable) (up to and incl. 1 cu. yd. m.r.c.); Combination backhoe and loader over 1/2 cu. yd. m.r.c.); Continuous flight tie back Auger (up to and incl. 1 cu. yd.) (crane attached); Cranes (not over 25 tons, hammerhead & gantry); Grade all up to and incl. 1 cu. yd.); Power shovels, Clamshells, Draglines, (up to and incl. 1. cu. yd. m.r.c.); Power blade; Self-propelled boom-type lifting device (center mount) (over 10 tons); Self-propelled boom-type lifting device (center mounted) (over 15 tons)	8.69	.62	.90	.60	.24	

AREA 1* (Cont'd)

AP-246 P. 12

1-CAL-NCAL-PEO-1-2-3- h (5-5)

POWER EQUIPMENT OPERATORS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oths
GROUP XI AUTOMATIC CONCRETE SLIP FORM PAVER; Automatic railroad car dumper; Canal finger drain backfiiler; Canal trimmer; Canal trimmer w/ditching attachments; Cranes. (over 25 tons up to and incl. 125 tons); Continuous flight tie back Auger over 1 cu. yd. (incl. crane); Drott travelift 650-A-1 or similar (45 tons or over); Rubber tired earth moving machines (multiple propulsion power units & two or more scrapers) (up to & incl. 75 cu. yds. "struck" m.r.c.); Highline cableway (over 5 tons); Loader (over 4 yds. up to & incl. 12 cu. yds.); Power blades operator (multi-engine); Power shovels, Clamshells, Draglines, Backhoes, Grad--alls, (over 1 yd. up to & incl. 7 cu. yds. m.r.c.); Self-propelled compactor (with multiple propulsion power units); Slip form paver (concrete or asphalt); Tandem cats; Tower Cranes mobile; Trencher (pulling attached shield); Tower cranes mobile; Single engine rubber tired earth moving machine (with tandem scrapers); Universal Liebher and Tower cranes (and similar types); Wheel excavator (up to & incl. 750 cu. yds. per hour); Whirley cranes (over 25 tons)	8.83	.62	.90	.60	.24	
GROUP XI-A LOADER (over 12 cu. yds. up to & incl-18 cu. yds.); Rubber tired multi-purpose earth moving machine (2 units) (over 75 cu. yds. "struck" m.r.c.); Power shovels & draglines (over 7 cu. yds. m.r.c.); Band Wagons (in conjunction with wheel excavator) Wheel excavator (Over 750 yds. per hour); Cranes (over 125 tons)	9.70	.62	.90	.60	.24	
GROUP XI-B LOADER (over 18 cu. yds.)	9.92	.62	.90	.60	.24	
GROUP XI-C OPERATOR OF HELICOPTER (when used in erection work); Remote controlled earth moving equipment	10.15	.62	.90	.60	.24	

XUM

AREA 2**

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP I ASSISTANTS TO ENGINEERS (Brakeman; Fireman; Heavy duty repairman helper; Oiler; Deckhand; Signalman; Switchman; Tar Pot Fireman); Partsman (Heavy Duty repair shop parts room)	7.76	.62	.90	.60	.24	
GROUP II COMPRESSOR OPERATOR; Concrete mixer (up to & incl. 1 yd.); Conveyor belt op. (tunnel); Fireman hot plant; hydraulic monitor; Mechanical conveyor (handling building materials); Mixer box operator (concrete plant); Pump operator Spreader boxman (with screeds); Tar Pot fireman (power agitated)	8.04	.62	.90	.60	.24	
GROUP III BOX OPERATOR (bunker); Locomotive; Motorman; Oiler; Rodman or chainman; Ross carrier (construction job site); Rotomist operator; Screedman (except asphaltic concrete paving); Self-propelled, Automatically applied concrete curing machine (on streets, highways, airports and canals); Trenching machine (maximum digging capacity 3 ft. depth); Tugger hoist, single drum	8.21	.62	.90	.60	.24	
GROUP IV BALLAST JACK TAMPER: Ballast regulator; Ballast tamper multi-purpose; boxman (asphalt plant); Fork lift or lumber stacker (construction job site); Line Master; Lubrication & service engineer (mobile and grease rack); Material hoist (1 drum); Shuttlecar; Tie spacer; Towermobile	8.66	.62	.90	.60	.24	
GROUP V COMPRESSOR OPERATOR (2 to 7); Concrete mixers (over 1 yd.); Concrete pumps or pumpcrete guns; Generators (100 K.W. or over); Press-weld (air-operated); Pumps (2 to 7); Welding machines (gasoline or diesel) (2 to 7)	8.83	.62	.90	.60	.24	

AREA 2** (cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP VI BLH LIMA ROAD PACTOR or similar; Boom truck or dual purpose A-frame truck; concrete batch plants (wet or dry); Concrete saws (self-propelled unit) on streets, highways, airports, and canals; Drilling and boring machinery, vertical & horizontal (not to apply to waterliners, wagon drills or jack-hammers); Gradesetter, grade checker (mechanical or otherwise); Highline cableway signalman; Locomotives (steam or over 30 tons) Maginnis internal full slab vibrator (on airports, highways, canals & warehouses); Mechanical finishers (concrete) (Clary, Johnson, Bidwell Bridge Deck or similar types); Mechanical burm, curb and/or curb and gutter machine, concrete or asphalt; Portable crushers; Power jumbo operator (setting slip forms, etc. in tunnels); Roller; Screedman (Barber-Greene & similar) (asphaltic concrete paving); Self-propelled compactor (single engine); Self-propelled pipeline wrapping machine (perault, CRC, or similar types); Slip forms pumps (lifting device for concrete forms); small rubber tired tractors; Surface heater	8.94	.62	.90	.60	.24	
GROUP VII CONCRETE CONVEYOR OR CONCRETE PUMP, Truck or equipment mounted (boom length to apply); Concrete conveyor, building site; Deck engineers; Dual drum mixer; Fuller Kenyon pump and similar types; Instrument man; Material hoist (2 or more drums); Mechanical finishers or spreader machine (asphalt, Barber-Greene & similar; Mine or shaft hoist; Mixer-mobile; Pavement breaker with or without compressor combination; Pavement breaker, Truck mounted with compressor combination; Pipe bending machine (pipe lines only); Pipe cleaning machine (tractor propelled &						

AREA 2** (cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP VII (Cont'd) supported); Pipe wrapping machine (tractor propelled and supported); Refrigeration plant; Self-propelled boom type lifting device; Self-propelled Elevating grade plane; Slusher operator; Small tractor (with boom); Soil tester; Truck type loader	9.07	.62	.90	.60	.24	
GROUP VIII ARMOR-COATER (or similar); Asphalt plant engineer; Cast-in-place pipe laying machine; Combination slusher and motor operator; Concrete batch plant (multiple units); Dozer; Heavy duty repairman and/or welders; Ken seal machine (or similar); Kolman loader; Loader (up to 2 yds.); Mechanical shield operator (or similar); Mechanical trench shield; Portable crushing & screening plants; Push cat; Rubber tired earth moving equipment (up to & incl. 45 cu. yds. "struck" m.r.c., euclids, T-pulls, DW-10,20,21 and similar); Tractor drawn scraper; Self-propelled compactor with dozer; Sheepfoot; Tractor; Trenching machine; Tri-batch paver; Tunnel mole boring machine operator; Welder; Woodsmixer (and other similar pugmill equipment)	9.39	.62	.90	.60	.24	
GROUP IX CANAL FINGER DRAIN DIGGER; Chicago Boom; Combination mixer & compressor (gunnite); Combination Slurry mixer and/or cleaner; Highline cableway (5 tons & under); Lull hi-lift or similar (20 ft. or over); Mucking machine; Tractor (with boom) (D-6 or larger and similar)	9.57	.62	.90	.60	.24	
GROUP X BOOM-TYPE BACKFILLING MACHINE; Bridge crane; Cary-lift (or similar); Chemical grouting machine; Chief of party; Combination backhoe & Loader (up to and incl. 1 1/2 cu. yd. m.r.c.); Derricks (2 operators required when swing engine remote from hoist); Derrick Barges (except excavation work); Do-more loader & Adams Elegrader, Elevating grader op.; Rubber tired scraper, self-						

AREA 2** (cont'd)

POWER EQUIPMENT OPERATORS (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP X (Cont'd) loading (paddle wheels, etc.); Heavy duty rotary drills rigs (incl. caisson foundation work & Robbins type drills) Kochring Skooper (or similar); Lift slab machine (Vagtborg & similar types); Loader (2 yds. up to & incl. 4 yds.); Locomotive (over 100 tons) (single or multiple units); Multiple engine earth-moving machine (euclids, dozers, etc.) (No tandem scraper); Prestress wire wrapping machine; Shuttle car (reclaim station); Soil stabilizer (P & H or equal); Subgrader (gurries or other automatic type); Track laying type-Earth moving machine (single engine with tandem scrapers); Tractor, compressor drill comb.; Train loading station; Vacuum cooling plant; Single engine scraper over 45 yds.; Whirley crane (up to & incl. 25 tons)	9.73	.62	.90	.60	.24	
GROUP X-A BACKHOE (hydraulic) (up to and incl. 1 cu. yd. m.r.c.); Backhoe (cable) (up to and incl. 1 cu. yd. m.r.c.); Combination backhoe and loader over 1/2 cu. yd. m.r.c.); Continuous flight tie back Auger (up to and incl. 1 cu. yd.) (crane attached); Cranes (not over 25 tons, hammerhead & gantry); Crade all up to and incl. 1 cu. yd.); Power shovels, Clamshells, Draglines, (up to and incl. 1 cu. yd. m.r.c.): Power blade; Self-propelled boom-type lifting device (center mount) (over 10 tons); Self-propelled boom-type lifting device (center mounted) (over 15 tons)	9.82	.62	.90	.60	.24	
GROUP XI AUTOMATIC CONCRETE SLIP FORM PAVER; Automatic railroad car dumper; Canal finger drain backfiller; Canal trimmer; Canal trimmer w/ditching attachments; Cranes, (over 25 tons up to and incl. 125 tons); Continuous flight tie back Auger over 1 cu. yd. (incl. crane); Drott travelift 650-A-1 or similar (45 tons or over); Rubber tired earth-moving machines (multiple propulsion power units & two or more scrapers)						

XUM

AREA 2** (cont'd)

7-CAL-NCAL-PEO-1-2-3- C (5-5)

POWER EQUIPMENT OPERATORS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP XI (Cont'd) (up to & incl. 75 cu. yds. "struck" m.r.c.); Highline cableway (over 5 tons); Loader (over 4 yds. up to & incl. 12 cu. yds.); Power blades operator (multi-engine); Power shovels, Clamshells, Draglines, Backhoes, Gradalls, (over 1 yd. up to & incl. 7 cu. yds. m.r.c.); Self-propelled compactor (with multiple propulsion power units) Slip form paver (concrete or asphalt); Tandem cats; Tower Cranes mobile; Trencher (pulling attached shield); Tower cranes mobile; Single engine rubber tired earth moving moving machine (with tandem scrapers); Universal Liebher and Tower cranes (and similar types); Wheel excavator (up to & incl. 750 cu. yds. per hour); Whirley cranes (over 25 tons)	9.96	.62	.90	.60	.24	
GROUP XI-A LOADER (over 12 cu. yds. up to & incl. 18 cu. yds.); Rubber tired multi-purpose earth moving machine (2 units) (over 75 cu. yds. "struck" m.r.c.); Power shovels & draglines (over 7 cu. yds. m.r.c.); Band Wagons (in conjunction with wheel excavator) Wheel excavator (over 750 yds. per hour); Cranes (over 125 tons)	10.83	.62	.90	.60	.24	
GROUP XI-B LOADER (over 18 cu. yds.)	11.05	.62	.90	.60	.24	
GROUP XI-C OPERATOR OF HELICOPTER (when used in erection work); Remote controlled earth moving equipment	11.28	.62	.90	.60	.24	

1-CAL-NCAL-TD-1-2-3- C (1-4)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
BULK CEMENT SPREADER (w/wo auger, over 80 yds. & including 95 yds. water level); Dump (over 80 yds. & incl. 95 yds. water level); Dumpcrete Truck (over 80 yds. & incl. 95 yds. water level); Dumpster (over 80 yds. & incl. 95 yds. water level); Skid Truck (debris box over 80 yds. & incl. 95 yds. water level); Trucks (dry pre-batch concrete mix, over 80 yds. & incl. 95 yds. water level)	$7.41	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, over 65 yds. & including 80 yds. water level); Dump (65 yds. & incl. 80 yds. water level); Dumpcrete Truck (65 yds. & incl. 80 yds. water level); Dumpster (65 yds. & incl. 80 yds. water level); Skid Truck (debris box, 65 yds. & incl. 80 yds. water level); Trucks (dry pre-batch concrete mix, 65 yds. & incl. 80 yds. water level)	7.26	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, over 50 yds. & under 65 yds. water level); Dump (over 50 yds. & under 65 yds. water level); Dumpcrete Truck (over 50 yds. & under 65 yds. water level); Dumpster (over 50 yds. & under 65 yds. water level); Helicopter pilot (when transporting men or materials); Skid Truck (debris box, over 50 yds. & under 65 yds. water level); Trucks (dry pre-batch concrete mix, over 50 yds. & under 65 yds. water level)	7.11	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, over 35 yds. & including 50 yds. water level); Dump (over 35 yds. & incl. 50 yds. water level); Dumpcrete Truck (over 35 yds. & incl. 50 yds. water level); Dumpster (over 35 yds. & incl. 50 yds. water level); Skid Truck (debris box, over 35 yds. & incl. 50 yds. water level); Trucks (dry pre-batch concrete mix, over 35 yds. & incl. 50 yds. water level)	6.96	.765	.50	.75		

1-CAL-NCAL-TD-1-2-3- (2-4)

TRUCK DRIVERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
BULK CEMENT SPREADER (w/wo auger, over 24 yds. & including 35 yds. water level); Dump (over 24 yds. & incl. 35 yds. water level); Dumpcrete Truck (over 24 yds. & incl. 35 yds. water level); Dumpster (over 24 yds. & incl. 35 yds. water level); DW 10's, 20's, 21's, & other similar cat type, Terra Cobra, LeTourneau Pulls, Tournorocker, Euclid & similar type equipment when pulling Aqua/Pak, water tank trailers & fuel and/or grease tank trailers or other miscellaneous trailers; Skid Truck (debris box, over 24 yds. & incl. 35 yds. water level); Trucks (dry pre-batch concrete mix, over 24 yds. & incl. 35 yds. water level)	$6.81	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, over 18 yds. & including 24 yds. water level); Combination Dump Truck & Dump Trailer; Dump (over 18 yds. & incl. 24 yds. water level); Dumpcrete Truck (over 18 yds. & incl. 24 yds. water level); Dumpster (over 18 yds. & incl. 24 yds. water level); Skid Truck (debris box, over 18 yds. & incl. 24 yds. water level); Transit Mix, agitator (over 14 yds through 16 yds.); Trucks (dry pre-batch concrete mix, over 17 yds. & incl. 24 yds. water level)	6.735	.765	.50	.75		
TRUCK REPAIRMAN	6.745	.765	.50	.75		
P. B. or SIMILAR TYPE Self-Loading Truck	6.71	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, over 12 yds. & incl. 18 yds. water level); Dump (over 12 yds. & incl. 18 yds. water level); Dumpcrete Truck (over 12 yds. & incl. 18 yds. water level); Dumpster (over 12 yds. & incl. 18 yds. water level); Skid Truck (debris box, over 12 yds. & incl. 18 yds. water level); Trucks (dry pre-batch concrete mix, over 12 yds. & incl. 18 yds. water level)	6.65	.765	.50	.75		
TRANSIT MIX, AGITATOR (Over 12 yds. through 14 yds.)	6.625	.765	.50	.75		

1-CAL-NCAL-TD-1-2-3- (3-4)

TRUCK DRIVERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
BULK CEMENT SPREADER (w/wo auger, 8 yds. & incl. 12 yds. water level); Dump (8 yds. & incl. 12 yds. water level) Dumpcrete (8 yds. & incl. 12 yds. water level); Dumpster (8 yds. & incl. 12 yds. water level); Self-propelled Street Sweeper with Self-contained Refuse Bin; Skid Truck (debris box, 8 yds. & incl. 12 yds. water level); Snow go &/or Snow Plow; Trucks (dry pre-batch concrete mix, 8 yds. & incl. 12 yds. water level)	$6.61	.765	.50	.75		
TRANSIT MIX, AGITATOR (over 10 yds. through 12 yds.)	6.525	.765	.50	.75		
HEAVY DUTY TRANSPORT (gooseneck low bed)	6.62	.765	.50	.75		
JETTING TRUCK AND WATER TRUCK (5,000 and under 7,000 gals)	6.485	.765	.50	.75		
VACUUM TRUCK (5,000 gals, and under 7,500 gals.)	6.435	.765	.50	.75		
TRANSIT MIX, AGITATOR (8 yds. through 10 yds.)	6.425	.765	.50	.75		
ROSS HYSTER, similar Straddle Carrier	6.415	.765	.50	.75		
HEAVY DUTY TRANSPORT (high bed)	6.39	.765	.50	.75		
"A" Frame drivers, winch truck; Buggy-mobile; Hydro-lift, Swedish Crane Type (incl. when Swedish Crane is used for Jetting); Jetting Truck & Water Truck (4,000 & under 5,000 gals); Rubber-tired Truck Jumbo	6.385	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, 6 yds. & under 8 yds. water level); Dump (6 yds. & under 8 yds. water level); Dumpcrete Truck (6 yds. & under 8 yds. water level); Dumpster (6 yds. & under 8 yds. water level); Skid Truck (debris box, 6 yds. & under 8 yds. water level); Trucks (dry pre-batch concrete mix, 6 yds. & under 8 yds. water level)	6.37	.765	.50	.75		
RUBBER-TIRED MUCK CAR (not self-loaded)	6.345	.765	.50	.75		
VACUUM TRUCK (3,500 gals & under 5,500 gals)	6.335	.765	.50	.75		

XUM

TRUCK DRIVERS (cont'd)	Basic Hourly Rates	Fringe Benefits Payments H&W	Pensions	Vacation	Supp. Ir.	Oth
COMBINATION WINCH TRUCK with hoist-transit mix, agitator (6 yds. & under 8 yds.)	$6.325	.765	.50	.75		
JETTING TRUCK & Water Truck (2,500 gals. under 4,000 gals.)	6.285	.765	.50	.75		
SCISSOR TRUCK; Single Unit Flat Rack (3 axle unit-industrial lidt truck, mechanical tailgate); Small Rubber Tired Tractor (when used within teamstere jurisdiction)	6.27	.765	.50	.75		
VACUUM TRUCK (under 3,500 gals.)	6.255	.765	.50	.75		
TRUCK REPAIRMAN HELPER	6.245	.765	.50	.75		
TRANSIT MIX, AGITATOR (under 6 yds.)	6.225	.765	.50	.75		
LIFT JITNEYS, Fork Lift	6.205	.765	.50	.75		
JETTING TRUCK & WATER TRUCK (under 2,500 gals.)	6.185	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, 4 yds. and under 6 yds. water level); Dump (4 yds. & under 6 yds. water level); Dumpcrete Truck (4 yds. & under 6 yds. water level); Dumpster (4 yds. & under 6 yds. water level); Skid Truck (debris box, 4 yds. & under 6 yds. water level); Single unit Flat Rack (2 axle unit-industrial lift truck, mechanical tailgate); Trucks (dry pre-batch concrete mix, 4 yds. & under 6 yds. water level)	6.17	.765	.50	.75		
BULK CEMENT SPREADER (w/wo auger, under 4 yds. water level); Bus or Manhaul Driver; Concrete Pump Machine; Concrete Pump Truck (when Flat Rack Truck is used appropriate Flat Rack rate shall apply); Dump (under 4 yds. water level); Dumpcrete Truck (under 4 yds. water level); Dumpster (under 4 yds. water level level); Escort or Pilot Car Driver; Nipper Truck (when flat rack truck is used appropriate flat rack rate shall apply); Pickup Trucks; Skid Trucks (debris box, under 4 yds. water level); Team Drivers; Trucks (dry pre-batch concrete mix, under 4 yds. water level); Vacuum Truck Helpers Warehousemen	6.075	.765	.50	.75		

CALIFORNIA
AREA DEFINITIONS for
POWER EQUIPMENT OPERATORS (1-3)

**AREA 2: All areas not included within Area 1 as defined below.

*AREA 1: All areas included in the description defined below which is based upon township and range lines of Areas 1 and 2.

Commencing in the Pacific Ocean on the extension of the Southerly line of Township 19S,
Thence Easterly along the Southerly line of Township 19S, crossing the Mt. Diablo meridian to the S.W. corner of township 19S, range 6E, Mt. Diablo base line and meridian,
Thence Southerly to the S.W. corner of township 20S, range 6E,
Thence Easterly to the S.W. corner of township 20S, range 13E,
Thence Southerly to the S.W. corner of township 21S, range 13E,
Thence Easterly to the S.W. corner of township 21S, range 17E,
Thence Southerly to the S.W. corner of township 22S, range 17E,
Thence Easterly to the S.E. corner of township 22S, range 17E,
Thence Southerly to the S.W. corner of township 23S, range 18E,
Thence Easterly to the S.E. corner of township 23S, range 18E,
Thence Southerly to the S.W. corner of township 24S, range 19E,
falling on the Southerly line of Kings County, thence Easterly along the Southerly boundary of Kings County and the Southerly boundary of Tulare County, to the S.E. corner of township 24S, range 29E,
Thence Northerly to the N.E. corner of township 21S, range 29E,
Thence Westerly to the N.W. corner of township 21S, range 29E,
Thence Northerly to the N.E. corner of township 13S, range 28E,
Thence Westerly to the N.W. corner of township 13S, range 28E,
Thence Northerly to the N.E. corner of township 11S, range 27E,
Thence Westerly to the N.W. corner of township 11S, range 27E,
Thence Northerly to the N.E. corner of township 10S, range 26E,
Thence Westerly to the N.W. corner of township 10S, range 26E,
Thence Northerly to the N.E. corner of township 9S, range 25E,
Thence Westerly to the N.W. corner of township 9S, range 25E,
Thence Northerly to the N.E. corner of township 8S, range 24E,
Thence Westerly to the N.W. corner of township 8S, range 24E,
Thence Northerly to the N.E. corner of township 6S, range 23E,
Thence Westerly to the S.E. corner of township 5S, range 19E,
Thence Northerly to the N.E. corner of township 5S, range 19E,
Thence Westerly to the N.W. corner of township 5S, range 19E,
Thence Northerly to the N.E. corner of township 3S, range 18E,
Thence Westerly to the N.W. corner of township 3S, range 18E,
Thence Northerly to the N.E. corner of township 2S, range 17E,
Thence Westerly to the N.W. corner of township 2S, range 17E,
Thence Northerly crossing the Mt. Diablo baseline to the N.E. corner of township 2N, range 16E,
Thence Westerly to the N.W. corner of township 2N, range 16E,
Thence Northerly to the N.E. corner of township 3N, range 15E,
Thence Westerly to the N.W. corner of township 3N, range 15E,
Thence Northerly to the N.E. corner of township 4N, range 14E,
Thence Westerly to the N.W. corner of township 4N, range 14E,
Thence Northerly to the N.E. corner of township 5N, range 13E,
Thence Westerly to the N.W. corner of township 5N, range 13E,
Thence Northerly to the N.E. corner of township 10N, range 12E,

*Area 1 (cont'd):
Thence Easterly to the S.E. corner of township 11N, range 14E,
Thence Northerly to the N.E. corner of township 11N, range 14E,
Thence Westerly to the N.E. corner of township 11N, range 10E,
Thence Northerly to the N.E. corner of township 15N, range 10E,
Thence Easterly to the S.E. corner of township 16N, range 11E,
Thence Northerly to the N.E. corner of township 16N, range 11 E,
Thence Easterly to the S.E. corner of township 17N, range 14E,
Thence Southerly to the S.W. corner of township 14N, range 15E,
Thence Easterly to the S.E. corner of township 14N, range 15E,
Thence Southerly to the S.W. corner of township 13N, range 16E,
Thence Easterly to the S.E. corner of township 13N, range 16E,
Thence Southerly to the S.W. corner of township 12N, range 17E,
Thence Easterly along the Southern line of township 12N to the Eastern boundary of the state of California,
Thence Northwesterly, thence Northerly along the Eastern boundary of the state of California to the N.E. corner of township 17N, range 18E,
Thence Westerly to the N.W. corner of township 17N, range 11E,
Thence Northerly to the N.E. corner of township 20N, range 10E,
Thence Westerly to the N.W. corner of township 20N, range 10E,
Thence Northerly to the N.E. corner of township 21N, range 9E,
Thence Westerly to the N.W. corner of township 21N, range 9E,
Thence Northerly to the N.E. corner of township 22N, range 8E,
Thence Westerly to the N.W. corner of township 22N, range 8E,
Thence Northerly to the S.W. corner of township 27N, range 8E,
Thence Easterly to the S.E. corner of township 27N, range 8E,
Thence Northerly to the N.E. corner of township 28N, range 8E,
Thence Westerly to the N.W. corner of township 28N, range 7E,
Thence Northerly to the N.E. corner of township 30N, range 6E,
Thence Westerly to the N.W. corner of township 30N, range 1E,
Thence Northerly along the Mt. Diablo meridian to the N.E. corner of township 34N, range 1W,
Thence Westerly to the N.W. corner of township 34N, range 6W,
Thence Southerly to the N.E. corner of township 32N, range 7W,
Thence Westerly to the N.W. corner of township 32N, range 7W,
Thence Southerly to the S.W. corner of township 30N, range 7W,
Thence Easterly to the S.E. corner of township 30N, range 7W,
Thence Southerly to the S.W. corner of township 16N, range 6W,
Thence Easterly to the S.E. corner of township 16N, range 6W,
Thence Southerly to the S.W. corner of township 14N, range 5W,
Thence Westerly to the S.E. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 14N, range 7W,
Thence Westerly to the N.W. corner of township 14N, range 7W,
Thence Northerly to the N.E. corner of township 15N, range 8W,
Thence Westerly to the S.E. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 16N, range 12W,
Thence Westerly to the N.W. corner of township 16N, range 12W,
Thence Northerly to the N.E. corner of township 18N, range 13W,

*Area 1 (cont'd):
Thence Westerly to the N.W. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 18N, range 14W,
Thence Easterly to the S.E. corner of township 18N, range 14W,
Thence Southerly to the S.W. corner of township 15N, range 13W,
Thence Westerly to the N.W. corner of township 15N, range 14W,
Thence Southerly to the S.W. corner of township 14N, range 14W,
Thence Easterly to the S.E. corner of township 14N, range 14W,
Thence Southerly to the S.W. corner of township 13N, range 13W,
Thence Easterly to the S.E. corner of township 13N, range 13W,
Thence Southerly to the S.W. corner of township 11N, range 12W,
Thence Easterly to the S.E. corner of township 11N, range 12W,
Thence Southerly along the Eastern line of range 12W to the Pacific Ocean excluding that portion of Northern California within Santa Clara County included within the following line:
Commencing at the N.W. corner of township 6S, range 3E, Mt. Diablo baseline and meridian:
Thence in a Southerly direction to the S.W. corner of township 7S, range 3E,
Thence in a Easterly direction to the S.E. corner of township 7S, range 4E,
Thence in a Northerly direction to the N.E. corner of township 6S, range 4E,
Thence in a Westerly direction to the N.W. corner of township 6S, range 3E, to the point of beginning, which portion is a part of Area 2.
Area 1 also includes that portion of Northern California within the following lines:
Commencing in the Pacific Ocean on an extension of the Southerly line of township 2N, Humboldt baseline and meridian:
Thence Easterly along the Southerly line of township 2N to the S.W. corner of township 2N, range 1W,
Thence Southerly to the S.W. corner of township 1N, range 1W,
Thence Easterly along the Humboldt baseline to the S.W. corner of township 1N, range 2E,
Thence Southerly to the S.W. corner of township 2S, range 2E,
Thence Easterly to the S.E. corner of township 2S, range 2E,
Thence Southerly to the S.W. corner of township 4S, range 3E,
Thence Easterly to the S.E. corner of township 4S, range 3E,
Thence Northerly to the N.E. corner of township 2S, range 3E,
Thence Westerly to the N.W. corner of township 2S, range 3E,
Thence Northerly crossing the Humboldt baseline to the S.W. corner of township 1N, range 3E,
Thence Easterly along the Humboldt baseline to the S.E. corner of township 1N, range 3E,
Thence Northerly to the N.E. corner of township 9N, range 3E,
Thence Westerly to the N.W. corner of township 9N, range 2E,
Thence Northerly to the N.E. corner of township 10N, range 1E,
Thence Westerly along the Northerly line of township 10N, into the Pacific Ocean.
Area 1 also includes that portion of Northern California included within the following line:
Commencing at the Northerly boundary of the state of California at the N.W. corner of township 48N, range 7W, Mt. Diablo baseline and meridian:
Thence Southerly to the S.W. corner of township 44N, range 7W,
Thence Easterly to the S.E. corner of township 44N, range 7W,
Thence Southerly to the S.W. corner of township 43N, range 6W,
Thence Easterly to the S.E. corner of township 43N, range 5W,
Thence Northerly to the N.E. corner of township 48N, range 5W,
on the Northerly boundary of the state of California,
Thence Westerly along the Northerly boundary of the state of California to the point of beginning.

XUM

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, & Ventura

DECISION NO. AP-248

DATE: Date of Publication

Supersedes Decision No. AP-244 dated September 29, 1972 in 37 FR 20402

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction & dredging.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	//Others
ASBESTOS WORKERS	9.77	.48	.35		.025	
BOILERMAKERS	7.45	.60	1.00	.50	.02	
BRICKLAYERS						
Imperial County	7.95	.58	.75		.05	
Inyo, Kern, & Mono Counties	7.80	.40	.40	.30	.05	
Los Angeles & Orange Counties	8.00	.40	.40		.05	
Riverside & San Bernardino Cos.	6.26	.29	.17			
Santa Barbara & San Luis Obispo Cos.	8.175	.40	.40			
BRICK TENDERS						
Imperial, Inyo, Mono, Riverside, & San Bernardino Counties	5.85	.45	.85	.30		
Kern, Los Angeles, & Orange Cos.	5.85	.45	.85	.30		
San Luis Obispo County	5.35	.45	.85	.30		
Santa Barbara County (except Santa Maria)	5.37	.45	.85	.475		
CARPENTERS						
Carpenters	6.75	.69	.95	.60	.01	
Saw filers	6.83	.69	.85	.60	.01	
Table power saw operators	6.85	.69	.85	.60	.01	
Shinglers	6.88	.69	.85	.60	.01	
Hardwood floor layers; Millwrights	6.95	.69	.85	.60	.01	
Pneumatic nailer	7.00	.69	.85	.60	.01	
Piledrivermen:						
Rock slinger	6.86	.69	.85	.60	.01	
Bridge, dock carpenters; Derrick bargemen	6.88	.69	.85	.60	.01	
Head rock slingers	6.98	.69	.85	.60	.01	
CEMENT MASONS:						
Cement masons	6.16	.90	.95	.70	.0325	
Cement floating & finishing operators	6.28	.90	.95	.70	.0325	
DRYWALL INSTALLERS	7.80	.61	.75	.50	.04	
ELECTRICIANS:						
Imperial County						
Electricians	8.20	.40	1% + .75			
Cable Splicers	8.48	.40	1% + .75			
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)						
Electricians; Technicians	9.95	.70	1% + .90		.10	
Cable splicers	10.945	.70	1% + .90		.10	
Kern County (Remainder of County)						
Electricians; Technicians	7.95	.70	1% + .90		.10	
Cable splicers	8.745	.70	1% + .90		.10	
Los Angeles County						
Electricians	8.95	.30	1% + .45		.02	
Cable splicers	9.25	.30	1% + .45		.02	
Tunnel:						
Electricians	9.85	.30	1% + .45		.02	
Cable splicers	10.15	.30	1% + .45		.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
ELECTRICIANS:						
Orange County						
Electricians	8.90	.25	1% + .45		.02	
Cable splicers	9.31	.25	1% + .45		.02	
Riverside County						
Electricians	8.12	.40	1% + .40		.02	
Cable splicers	8.42	.40	1% + .40		.02	
Inyo, Mono, & San Bernardino Counties						
Electricians	8.47	.40	1% + .75		.02	
Cable splicers	8.77	.40	1% + .75		.02	
Tunnel:						
Electricians	9.32	.40	1% + .75		.02	
Cable splicers	9.62	.40	1% + .75		.02	
San Luis Obispo County						
Electricians	6.43	.20	1%		.01	
Cable splicers	7.10	.20	1%		.01	
Santa Barbara County						
Vandenberg Air Force Base:						
Electricians	9.33	.42	1% + .85		.03	
Cable splicers	10.33	.42	1% + .85		.03	
Remainder of County:						
Electricians	8.08	.42	1% + .85		.03	
Cable splicers	9.08	.42	1% + .85		.03	
Ventura County						
Electricians	8.03	.40	1% + .45			
Cable splicers	8.83	.40	1% + .45			
ELEVATOR CONSTRUCTORS						
Imperial, Inyo, Kern (South of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara & Ventura Cos.						
Elevator Constructors	7.58	.185	.20	2% + a		
Elevator Constructors' Helpers	70%JR	.185	.20	2% + a		
Elevator Constructors' Helpers (Prob.)	50%JR					
Kern County (North of Tehachapi Range)						
Elevator Constructors	8.15	.185	.20	2% + a		
Elevator Constructors' Helpers	70%JR	.185	.20	2% + a		
Elevator Constructors' Helpers (Prob.)	50%JR					
GLAZIERS						
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo, & Ventura Counties	7.03	.30	.30		.04	
IRONWORKERS:						
Reinforcing	8.34	.58	.625	.70	.02	
Fence erectors	8.24	.58	.625	.70	.02	
Ornamental; Structural	8.38	.58	.625	.70	.02	
IRRIGATION & LAWN SPRINKLERS						
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, & Ventura Counties	6.50	10%	16%	13%	1%	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LATHERS:						
Imperial County	7.00	.24			.01	
Inyo & Kern Counties	6.73	.35	.65	.50		
Los Angeles County (except city of Lancaster)						
Metal furring	7.12	.39	.50		.03	
Nail on (Area I)*	6.985	.29	.35		.045	
Nail on (Area II; III; IV)**	7.12	.39	.50		.03	
Orange County	6.08	.19	.35	.50	.02	
Riverside County	7.375	.24	.105	.53	.01	
San Bernardino County	8.61	.245	.60		.015	
Ventura County	6.11	.30	.50	.60	.01	
LINE CONSTRUCTION						
Imperial County						
Groundman	7.38	.25	1%			
Linemen; equipment operators	8.20	.25	1%			
Cable splicers	8.48	.25	1%			
Kern (China Lake Naval Ordnance Test Station & Edwards AFB)						
Groundmen	7.96	.70	1% + .90		.10	
Linemen	9.95	.70	1% + .90		.10	
Cable splicers	10.945	.70	1% + .90		.10	
Kern County (Remainder of County)						
Groundmen						
Linemen	5.96	.70	1% + .90			
Cable splicers	7.95	.70	1% + .90			
Los Angeles County	8.745	.70	1% + .90			
Groundmen	6.74		1%			
Linemen	8.98		1%			
Cable splicers	9.28		1%			
Orange County						
Groundmen, 1st year	7.25	.25	1% + .45			
Groundmen, 2nd year	7.68	.25	1% + .45			
Linemen	8.90	.25	1% + .45			
Cable splicers	9.31	.25	1% + .45			
Riverside County						
Groundmen	6.09	.40	1% + .40		.02	
Linemen; Line equipment Operators	8.12	.40	1% + .40		.02	
Cable splicers	8.42	.40	1% + .40		.02	
Inyo, Mono, San Bernardino Counties						
Linemen	8.47	.40	1% + .75		.02	
Cable splicers	8.77	.40	1% + .75		.02	
San Luis Obispo County						
Linemen	6.43	.20	1%		.01	
Cable splicer	7.10	.20	1%		.01	
Santa Barbara County						
Vandenberg AFB:						
Groundmen	6.95	.35	1% + .45		.03	
Linemen	8.85	.35	1% + .45		.03	
Cable splicers	9.10	.35	1% + .45		.03	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINE CONSTRUCTION (cont'd)						
Santa Barbara County (Remainder of County						
Linemen	$7.60	.35	1% + .45		.03	
Cable splicers	7.85	.35	1% + .45		.03	
Ventura County						
Groundmen	6.50	.25	1%			
Linemen	7.68	.25	1%			
Cable splicers	8.45	.25	1%			
MARBLE SETTERS:						
Imperial County	6.71	.30	.45	.60		
MARBLE SETTERS' HELPERS:						
Imperial County	5.69	.20	.45	.60		
PAINTERS:						
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding western portion)						
Brush; Paint burners	7.43	.39	.39	.60	.03	
Paperhangers; Iron, steel & bridge (Swing Stage); Sheet Rock Taper	7.93	.39	.39	.60	.03	
Brush (Swing Stage); Spray	7.68	.39	.39	.60	.03	
Steeplejack	8.83	.39	.39	.60	.03	
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station & Edwards AFB), Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north in Trono including China Lake area, Johannesburg, Boron, south including the Wrightwood area)						
Brush	7.30	.305	.35	.30		
Bridge; Paint burner; Steel; Taper	7.42	.305	.35	.30		
Brush swing stage (13 stories or less); Paperhanger; Sandblasters; Spray	7.55	.305	.35	.30		
Bridge swing stage; Steel swing stage	7.70	.305	.35	.30		
Spray, sandblaster swing stage (13 stories or less)	7.55	.305	.35	.30		
Steeplejack	8.55	.305	.35	.30		
Kern County (Remainder of County)						
Brush	6.97	.20	.36		.01	
Brush swing stage; Structural steel	7.12	.20	.36		.01	
Tapers, sheet rock	7.17	.20	.36		.01	
Paperhangers; Sandblasters; Spray	7.22	.20	.36		.01	
Sandblaster swing stage; Spray swing stage	7.37	.20	.36		.01	
San Luis Obispo, Santa Barbara, & Ventura Counties						
Brush	7.41	.35	.35		.02	
Iron & steel; Paperhangers; Paste machine op.; Sandblaster; Taper	7.61	.35	.35		.02	
Spraymen	7.91	.35	.35		.02	
Steeplejack	8.41	.35	.35		.02	

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11-CAL-SCAL-Counties-1-2-3-b (5-7)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
PAINTERS:						
Parking Lot Striping Work and/or Highway Markers:						
Inyo & Mono Counties						
Traffic delineating device applicator; Traffic surface protective coating applicator; Wheel stop installer; Traffic surface sandblaster	5.27	.35	.20	b		
Helper (Traffic surface sandblaster, wheel stop installer, protective coating applicator)	4.77	.35	.20	b		
Striper	6.37	.35	.20	b		
Helper (Striper)	5.37	.35	.20	b		
Remaining Counties						
Traffic delineating device applicator	5.01	.20	.20	b		
Wheel stop installer; Traffic surface sandblaster; Striper; Traffic surface protective coating applicator	4.88	.20	.20	b		
Helper (Traffic surface sandblaster; wheel stop installer; traffic surface protective coating applicator, striper)	4.28	.20	.20	b		
PLASTERERS:						
Inyo, Kern, & Mono Counties	7.17	.45	.50	.60	.01	
Los Angeles & Orange Counties	7.495	.53	1.25	.50	.07	
Riverside & San Bernardino Counties	9.995					
San Luis Obispo County	8.70				.01	
Santa Barbara County	8.64	.40	.75		.01	
Ventura County	7.74	.25	.30	.50	.02	
PLASTERERS' TENDERS						
Imperial, Inyo, Mono, Riverside, & San Bernardino Counties	7.93	.45	.85	.30		
Kern County	8.305	.45	.85	.30		
Los Angeles & Orange Counties	7.175	.45	1.30	.60		
San Luis Obispo County	6.05	.45	.85	.30		
Santa Barbara County: (except Santa Maria)	6.9375	.35	.60	1.00		
Ventura County	6.86	.45	1.35	1.00		
PLUMBERS: Steamfitters						
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, & Ventura Cos.	8.30	10%	16%	13%	1%	
Inyo, Kern, (except east of Los Angeles Aqueduct), & Mono Counties	7.22	.60	1.38	.70	.08	
Kern County (East of Los Angeles Aqueduct)	9.22	.60	1.38	.70	.08	
REFRIGERATION & AIR CONDITIONING						
Riverside & San Bernardino Cos.	6.15	.29	.31	.39	.05	

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11-CAL-SCAL Counties-1-2-3-b (5-7)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
ROOFERS:						
Inyo, Kern, & Mono Counties	6.30	.30	.30			
Los Angeles, Orange, & Ventura Counties	6.64	.35	.50		.02	
Riverside & San Bernardino Counties	6.10		.20	.20	.01	
San Luis Obispo & Santa Barbara Counties	6.48	.175	.15	.35	.0025	
SHEET METAL WORKERS:						
Imperial County	8.83	.39	.40			
Inyo, Kern, Los Angeles (north of line between Gorman & Big Pines), & Mono Counties	7.07	.39	.23			
Los Angeles County (remaining portion)	6.27	.39	.40		.025	
Orange County	9.52	.69	1.20			
Riverside & San Bernardino County	6.65	.39	.40		.03	
San Luis Obispo, Santa Barbara, & Ventura Counties	9.32	.69	1.05			
SOFT FLOOR LAYERS:						
Imperial County	7.45	.45	.30	.50	.05	
Inyo (incl. Inyo-Kern Naval Reservation), Kern (east of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo, & Ventura Counties	8.14	.37	.28	.44	.02	
Kern County (remaining portion)	7.20	.29	.15	.39		
SPRINKLER FITTERS:						
Imperial, Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario), San Luis Obispo, Santa Barbara, & Ventura (except Santa Paula, Point Mugu, & Port Hueneme)	11.30	.30	.50		.05	
Los Angeles (Los Angeles City & area within 25 miles; & Pomona), Orange (Santa Ana), San Bernardino (Ontario), & Ventura (Santa Paula, Point Mugu, & Port Hueneme)	9.66	.29	.25	1.40	.02	
TERRAZZO WORKERS:						
Imperial County	6.71	.30	.45	.60		
Inyo, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, & Ventura Cos.	6.42	.15		.15		
TERRAZZO WORKERS' HELPERS:						
Kern, Los Angeles, Orange, Riverside San Bernardino, San Luis Obispo, Santa Barbara, & Ventura Cos.	5.58	.15		.45		

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11-CAL-SCAL-Counties-1-2-3-b (7-7)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
TILE SETTERS:						
Imperial County	6.71	.30	.45	.60		
Inyo, Kern & Mono Counties	6.90	.40		.30		
Los Angeles, Orange, & Ventura Cos.	7.75	.145	.35		.02	
Riverside, & San Bernardino Counties	6.75	.40	.40		.025	
San Luis Obispo & Santa Barbara Cos.	8.175	.40	.40			
TILE SETTERS' HELPERS:						
Imperial County	5.69	.20	.45	.60		
Los Angeles, Orange, & Ventura Cos.	5.96	.245	.50		.08	
Riverside & San Bernardino Counties	6.41	.245	.50		.08	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service & 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. Employer contributes $.17 per hour to Holiday Fund plus $.10 per hour to Vacation for 1 year's service, $.20 per hour after 1 year but less than 5 years' service, $.30 per hour after 5 years but less than 10 years' service, $.40 per hour after 10 years' service.

* Area I - That portion of Los Angeles County including the Cities of Burbank, Castaic, Chatsworth, Cornell, Glendale, Hermosa Beach, Hollywood, Los Angeles, Malibou Beach, Redondo Beach, San Fernando, Santa Monica, Torrance, Van Nuys, Whittier, Zuma Beach.

** Areas II; III; & IV:

Area II - That portion of Los Angeles County including the Cities of Pomona, El Monte, Covina, Alhambra, Pasadena, South Pasadena, La Canada, to line that intersects Acton, east to San Bernardino County line, then south along the San Bernardino County line.

Area III - Beginning at the edge of Reeves Field, north along Long Beach City limits to 223rd Street, west to Avalon Boulevard, north to Torrence Boulevard, west to Pacific Ocean, including Santa Catalina Island.

Area IV - Beginning at the edge of Reeves Field, north along Long Beach City limits to 223rd Street, west to Avalon Boulevard, north to Rosecrans Avenue, east to Atlantic Avenue, north to Imperial Highway, east to the Orange County line, south along County line to Western Avenue, south to Lincoln Avenue, east to Highway 39 (Beach Boulevard), south to the Pacific Ocean, including San Clemente Island.

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2-CAL-SCAI-LA3-1-2-3-g (1-3)

LABORERS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
CLEANING & HANDLING OF PANEL FORMS; Concrete Screeding for rough strike off; Concrete, water curing; Demolition laborer, the cleaning of brick & lumber; Dry packing of concrete, plugging, filling of Shee-Bolt Holes; Fire watcher, limbers, brush loaders, pilers & debris handler; Gas & oil pipeline; Laborers, general or construction; Laborer, temporary water & air lines; Material hoseman (walls, slab, floors & decks); Mixer-truck chute man (walls, slabs decks, floors foundations & footing-curb & gutter & sidewalks); Rigging & signalling; Slip form raisers; Window cleaner	$ 5.495	.55	1.10	.30		
CUTTING TORCH (Demolition); Scaler; Tarman; Mortarman	5.545	.55	1.10	.30		
GUINEA CHASER	5.675	.55	1.10	.30		
ASPHALT SHOVELER; Fine grader, highway & street paving, airports, runways, & similar type heavy construction; Landscape gardener & nursery man	5.595	.55	1.10	.30		
PACKING ROD STEEL & PANS; Tanks scaler & cleaner	5.62	.55	1.10	.30		
UNDERGROUND (INCL. CAISSON BELLOWER)	5.625	.55	1.10	.30		
CHUCKTENDER; Septic tank digger & installer	5.645	.55	1.10	.30		
CESSPOOL DIGGER & INSTALLER	5.675	.55	1.10	.30		
CONCRETE CURER-IMPERVIOUS MEMBRANE & FORM OILER: Riprap stonepaver placing stone or sacked concrete; Sandblaster (pot tender)	5.685	.55	1.10	.30		
PIPELAYERS' BACKUP MAN, COATING, GROUTING, MAKING OF JOINTS, SEALING, CAULKING	5.785	.55	1.10	.30		

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LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
BUGGYMOBILE MAN; Cement dumper (on 1 yd. or larger mixer & handling bulk cement); Gas & oil pipeline wrapper-pot tender; Power broom sweepers (small); Roto scraper & tiller; Tree climber, faller, chain saw op., Pittsburgh chipper & similar type brush shredders; Trenching machine, hand propelled	$ 5.705	.55	1.10	.30		
ASPHALT RAKER, LUTEMAN & IRONER; Concrete core cutter, grinder or sender Concrete saw man, cutting, scoring old or new concrete; Impact wrench, multi-plate; Pneumatic, gas, electric tools, vibrating machines & similar mechanical tools not separately classified herein; Tampers, Barko Wacker & similar type	5.805	.55	1.10	.30		
ROCK SLINGER	5.755	.55	1.10	.30		
DRILLER, JACKHAMMER - 2 - 1/2 DRILL STEEL OR LONGER	5.885	.55	1.10	.30		
CONCRETE VIBRATOR OP., 70 lbs. & OVER	5.905	.55	1.10	.30		
PIPELAYER (NON-METALLIC INCL. SEWER, DRAIN & UNDERGROUND TILE); Prefabricated manhole installer	6.005	.55	1.10	.30		
GAS & OIL PIPELINE WRAPPER - (6" & Over; Kettlemen, potmen & men applying asphalt, lay-kold, creosote, lime caustic & similar type materials	5.835	.55	1.10	.30		
CRIBBER, SHORER, LAGGING, SHEETING, & TRENCH BRACING, HAND-GUIDED LAGGING HAMMER	6.005	.55	1.10	.30		
BLASTER POWDERMAN	6.055	.55	1.10	.30		
STEEL HEADERBOARD MAN & GUIDELINE SETTER	5.92	.55	1.10	.30		

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
SANDBLASTER (Nozzleman)	$ 5.945	.55	1.10	.30		
DRILLER (Core-Diamond-Wagon)	5.145	.55	1.10	.30		
HEAD ROCK SLINGER	6.015	.55	1.10	.30		
GUNNITE LABORERS: NOZZLEMEN & RODMEN	6.97	.55	1.10	.30		
GUNMEN	6.47	.55	1.10	.30		
REBOUNDMEN	5.61	.55	1.10	.30		

LABORERS (Tunnel & Tunnel-Shaft Construction)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHER
SHAFT, Raise Miner; Diamond Driller	$6.73	.55	1.10	.30		
BLASTER, Driller, Powderman; Chemical Grout Jetman; Cherry Pickerman; Grout Gunman; Grout Mixerman; Grout Pumpman; Jackleg Miner; Jumbo Man; Kemper & other Pneumatic; Concrete Placer Op.; Miner Tunnel (hand or machine); Powderman (Primer House); Primer Man; Shotcrete Man; Steel Form Raiser & Setter; Timberman, Retimberman (wood or steel); Tunnel Concrete Finisher	6.48	.55	1.10	.30		
CABLE TENDER, Chucktender; Nipper; Steel Form Raiser & Setter's Helper; Vibratorman, Jackhammer, Pneumatic Tools (except driller)	6.33	.55	1.10	.30		
BATCH PLANT LABORERS; Bull Gang Mucker Trackman; Concrete Crew, incl. Rodders & Spreaders; Dumpman; Dumpman (outside); Swamper (brakeman & switchman on tunnel work); Tunnel materials handling man; Tool man	6.23	.55	1.10	.30		

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
GROUP I BRAKEMAN; Compressor Operator; Deck Hand; Engineer Oiler; Generator Operator; Heavy Duty Repairman Helper; Pump Operator; Signalman; Switchman	$7.03	.75	1.20	.30	.02	
GROUP II CONCRETE MIXER, Skip type; Conveyor; Fireman; Generator, Pump or Compressor, (2-5 inclusive) Portal Units-over 5 units, .10¢ per hour for each additional unit up to nine units.; Hydrostatic Pump; Oiler Crusher (Asphalt or Concrete Plant); Plant Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd. without attachment; Tar Pot Fireman; Temporary Heating Plant Op.; Trenching Machine Oiler; Truck Crane Oiler	7.27	.75	1.20	.30	.02	
GROUP III A-FRAME or Winch Truck; Chainman; Elevator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Power Concrete Curing Machine; Power Concrete Saw; Power-Driven Jumbo Form Setter; Ross Carrier (jobsite); Stationary Pipe Wrapping & Cleaning Machine	7.51	.75	1.20	.30	.02	
GROUP IV ASPHALT PLANT FIREMAN; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (Grease Truck); Helicopter Hoist Operator; Highline Cableway Signalman; Hydra-Hammer-Areo Stomper; Power Sweeper; Roller (compacting); Screed (Asphalt or Concrete); Rodman; Trenching Machine (up to 6 ft.)	7.62	.75	1.20	.30	.02	
GROUP V ASPHALT PLANT ENGINEER; Concrete Batch Plant Operator - (Oiler or Journeyman-trainee required); Backhoe (up to and						

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.	Other
GROUP V (cont'd) including 3/4 yds.); Bit Sharpener; Concrete Joint Machine Operator (Canal and similar type); Concrete Planer; Derrickman (Oilfield type); Deck Engine Operator; Drilling Machine (including water wells); Forklift (under 5 ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm, curb or gutter (concrete or asphalt); Mechanical Finisher Operator (concrete Clary - Johnson-Bidwell or similar); Pavement Breaker (truck mounted, Oiler) Road Oil Mixing Machine; Roller Op. (asphalt or finish); Rubber Tired Earth Moving Equipment, (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine Operator; Slip Form Pump (power driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive Operator (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Operator (Crawler and Wheel type over 3/4 yd. and up to and including 1½ yds.); Tractor Operator-Bulldozer, Tamper Scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types.)	7.81	.75	1.20	.30	.02	
GROUP VI ASPHALT OR CONCRETE SPREADER (tamping or finishing); Asphalt Paving Machine (Barber Green or similar type-2 screedman required); BHL Lima Road Pactor, Wagner Pactor or similar; Bridge Crane Operator; Cast in Place Pipe Laying Machine Operator; Combination Mixer and Compressor (Gunite work); Concrete Pump (truck mounted) (Oiler required); Concrete Mixer Operator-Paving; Crane Operator (up to and including 25 tons capacity); Crushing Plant Operator; Elevating Grader						

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.	Other
GROUP VI (Cont'd) Forklift (over 5 tons); Grade Checker; Gradall Operator; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtburg and similar types); Lift Mobile Operator; Loader Operator (Athey, Euclid, Sierra and similar type; Material Hoist; Mucking Machine (¾ yd.-rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding Caisson type); Rubber-Tired Earth Moving Equipment, (single engine-Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-Tired Scraper (self-loading - Paddle wheel type; Skiploader (Crawler and Wheel type-over 1½ yds., up to and including 6½ yds); Surface Heaters and Planer; Rubber-Tired Earth Moving Equipment, Multiple engine, (up to and including 25 yds. struck); Trenching Machine (over 6 ft. depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5 - 100 Flywheel h.p. and over, or similar) (Bull Dozer, Tamper, Scraper, and Push Tractor, single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 ton); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yds. and up to 5 cu. yds. M.R.C.	7.91	.75	1.20	.30	.02	

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.	Other
GROUP VII CRANE - Over 25 tons up to and including 100 tons; Derrick Barge; Dual Drum Mixer; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade (single engine); Multiple Engine Tractor (Euclid and similar type, except Quad 9 Cat); Rubber-Tired Earth Moving Equipment, single engine over fifty (50) yds. struck; Rubber-Tired Earth Moving Equipment (Multiple engine, Euclid, Caterpillar and similar) (over 25 yds and up to 50 cu. yds. struck); Tractor Loader (Crawler and wheel type over 6½ yds.); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds., M.R.C.; Woods Mixer and similar Pugmill Equipment; Heavy Duty Repair-Man - Welder Combination	$8.01	.75	1.20	.30	.02	
GROUP VIII AUTO GRADER OPERATOR; Automatic Slip Form; Crane-over 100 tons; Hoist, Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator; Mechanical Finishing Machine; Motor Patrol (Multi-engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (Multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber-Tired Scraper (Push-Pull) (.50¢ per hour additional to base rate); Tandem Equipment Operator (2 units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator	8.15	.75	1.20	.30	.02	
GROUP IX CANAL LINER; Canal trimmer; Helicopter pilot; Highline cableway; Rubber-tired self-loading scraper (Paddle wheel-Auger type self-loading - 2 or more units); Wheel excavator (over 750 cu. yds.); Remote controlled earth moving equipment op. ($1.00 per hour additional)	8.25	.75	1.20	.30	.02	

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.	Other
DREDGING (Hydraulic Suction Dredges)						
LEVERMAN	$8.20	.75	1.20	.30	.015	
WATCH ENGINEER; Welder	7.71	.75	1.20	.30	.015	
DECKMATE	7.31	.75	1.20	.30	.015	
WINCHMAN (stern winch or dredge)	7.25	.75	1.20	.30	.015	
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	6.79	.75	1.20	.30	.015	
DREDGING (Clam Shell Dredges)						
LEVERMAN	8.20	.75	1.20	.30	.015	
WATCH ENGINEER	7.71	.75	1.20	.30	.015	
DECKMATE	7.31	.75	1.20	.30	.015	
BARGEMATE	7.25	.75	1.20	.30	.015	
BARGEMAN; Deckhand; Fireman; Oiler	6.79	.75	1.20	.30	.015	

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2-CAL-SCAL-TD-1-2-3-J (1-2)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
GROUP I Warehouseman and Teamster	$6.02	.65	.55	.75		
GROUP II Drivers of Vehicle or combination of vehicles of 2 axles (incl. all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load	6.10	.65	.55	.75		
GROUP III Truck Mounted Power Broom	6.16	.65	.55	.75		
GROUP IV Drivers of Vehicle or combination of vehicles of 3 axles; Water Truck, 2 axles	6.25	.65	.55	.75		
GROUP V Bootman; Cement Distributor Truck; Fuel Truck	6.28	.65	.55	.75		
GROUP VI Drivers of Transit-Mix Truck, under 3 yds.; Dumpcrete Trucks, less than 6½ yds. water level	6.34	.65	.55	.75		
GROUP VII Water Truck, 3 or more axles; Truck Repairman Helper	6.35	.65	.55	.75		
GROUP VIII Truck Greaser and Tireman (50¢ per hour additional when working on tire sizes above 24 inch in wheel diameter)	6.43	.65	.55	.75		
GROUP IX Driver of Transit-Mix Trucks, 3 yards or more; Dumpcrete Trucks, 6½ yds. water level and over	6.48	.65	.55	.75		
GROUP X Drivers of Vehicle or Combination of vehicles of 4 or more axles	6.50	.65	.55	.75		
GROUP XI A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier Driver (Hwy)	6.55	.65	.55	.75		

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2-CAL-SCAL-TD-1-2-3-J (2-2)

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
GROUP XII All off-highway equipment within Teamsters jurisdiction (off-highway combination of vehicles or equipment with multiple power sources, $1.00 per hour additional); Truck Repairman	$7.05	.65	.55	.75		
GROUP XIII Truck Repairman (Welder)	7.15	.65	.55	.75		

SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: Litchfield
DECISION NO.: AP-435 DATE: Date of Publication
Supersedes Decision No. AM-1591, dated August 6, 1971, in 36 FR 14552.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

3-CONN-1-2-3-L 1-4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers: Canaan, Colebrook, Norfolk, North Canaan and Salisbury	$7.60	.34	.15		.01	
Remainder of County	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, cement masons-finishers, marble setters, plasterers, stone masons, terrazzo workers, tile setters (Building Only): Thomaston, Watertown, Woodbury	8.05	.25	.40			
Bridgewater, Kent, New Milford, Roxbury	7.50	.25	.40			
Plymouth, Terryville	8.60	.20	2%+.40			
Remainder of County	4.65	.10	.15			
Marble setters' helpers, terrazzo workers' helpers, tile setters' helpers	7.50	.25	.15			
Bricklayers, Cement Mason-Finishers, Stonemasons: (Heavy and Highway): West of Housatonic River	7.65	.40	.25	h		
East of Housatonic River	7.60	.40	.25	h		
Carpenters & Piledrivermen: (Hvy & Hwy): West of Housatonic River	8.30	.35	.20	h	.03	
East of Housatonic River	8.30	.35	.20	h	.03	
Carpenters, soft floor layers, piledrivermen: (Building Only): Bethlehem, Bridgewater, Kent, Woodbury, New Milford, Roxbury, Gaylordville	5.25	.15	.15			
Northfield, Thomaston, Watertown, Morris	8.058	.40	.20	g	.02	
Plymouth, Terryville, Harwinton	8.12	.35	.20			
Remainder of County	8.25	.40	.20	f		
Electricians: Plymouth	8.50	.35	1%+.30		½ of 1%	
Bridgewater, New Milford	8.35	.33	1%+.20		½ of 1%	
Remainder of County	8.30	.25	1%+.20		1/8 of 1%	
Elevator constructors	8.02	.195	.20	½%+a+b	.005	
Elevator constructors' helpers	5.61	.195	.20	½%+a+b	.005	
Elevator constructors' helpers (prob.)	4.61					
Glaziers	5.30	.125	.125			
Ironworkers: Structural, ornamental & reinforcing	9.30	.35	.44		.04	

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3-CONN-1-2-3-L 2-4

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Laborers: (Building Only): Bridgewater, New Milford: Laborers	$5.30	.15	.15			
Jackhammer operators, pavement breaker & wagon drill operators	5.55	.15	.15			
Remainder of County: Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipelayers, plasterer tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops., and sandblasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew: Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers: (Heavy & Highway): Laborers	6.00	.30	.25		.05	
Asphalt rakers, adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, mason tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operations connected	6.25	.30	.25		.05	
Air track operators	6.50	.30	.25		.05	
Block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers: Barkhamsted, Colebrook, New Hartford, Norfolk, Winchester	9.15	.25	.30		.01	
Kent, Salisbury, Sharon	7.70	9%	.55		.01	
Remainder of County	8.75	.25	.15		.01	
Lead Burners	7.80	.30		c	.01	
Line Construction: Bridgewater, New Milford: Lineman, cable splicer, welder, pipelayer, dynamite man	6.11	.15	1%	d		
Digger operator, equipment operator	5.21	.15	1%	d		
Groundman, truck driver	4.99	.15	1%	d		
Cable splicer helper	4.85	.15	1%	d		
Groundman, experienced	4.39	.15	1%	d		

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Plymouth Townships:						
Linemen, dynamite man	$5.18	.10	1%	e		
Equipment operator	4.37	.10	1%	e		
Groundman, truck driver	3.85	.10	1%	e		
Groundman, experienced	3.41	.10	1%	e		
Groundman, inexperienced	2.98	.10	1%	e		
Remainder of County:						
Linemen, dynamite man	5.18	.15	1%	e	½ of 1%	
Equipment operator	4.37	.15	1%	e	½ of 1%	
Groundman, truck driver	3.85	.15	1%	e	½ of 1%	
Groundman, inexperienced	2.98	.15	1%	e	½ of 1%	
Groundman, experienced	3.41	.15	1%	e	½ of 1%	
Painters:						
Brush:						
New Milford	6.20	.25				
Remainder of County	7.25	.50	.20			
Structural steel:						
New Milford	7.20	.25				
Remainder of County (Bridge)	8.50	.50	.20			
Spray:						
Remainder of County	10.875	.50	.20			
Plumbers:						
Bridgewater, New Milford	8.10	.30	.30			
Barkhamsted, New Hartford	8.65	5%	5%		.15	
Bethlehem, Roxbury, Washington, Woodbury, New Preston, Plymouth, Terryville, Thomaston and Watertown	7.97	.43	.30		.05	
Remainder of County	7.35	.40	.30			
Roofers:						
Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury, Warren:						
Composition, kettlemen	8.50	.60	.30			
Slate & tile	8.75	.60	.30			
Slate & tile helpers	7.75	.60	.30			
Precast slab	9.00	.60	.30			
Precast helper	8.25	.60	.30			
Remainder of County:						
Composition	7.90	.425	.35	.30		
Slate & tile	8.40	.425	.35	.30		
Helpers Class A	7.325	.425	.35	.30		
Helpers Class B	3.60	.425	.35	.30		
Sheet metal workers	5.42	.10	.20			
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters:						
Barkhamsted, New Hartford	8.54	.50	.45		.05	
Waterproofers:						
Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury, Warren	8.50	.60	.30			
Remainder of County	7.55	.325	.35	.30		
Welders - rate for craft.						

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

b. Six (6) paid holidays: A through F.

c. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked at least 45 full days during the 220 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. Five (5) paid holidays: A and D through F and Good Friday, provided the employee is available for work the days preceding and following the holiday.

e. Seven (7) paid holidays: A through F, and Good Friday, provided the employee has been employed at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

f. Paid holidays: C and E.

g. Paid Holidays: B through E.

h. Paid Holidays: A through F plus Good Friday.

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintennace engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Crader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (not over 4 ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						
Paid Holidays (Where applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day						
FOOTNOTE: a. Employer contributes $.15 to Supplemental Unemployment Fund. b. Seven (7) paid holidays: A through F and Good Friday.						

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, combination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power payement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						
Paid Holidays (Where Applicable): A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.						
FOOTNOTE: a. Employer contributes $.15 to Supplemental Unemployment Fund. b. Seven (7) paid holidays: A through F and Good Friday.						

AP-435 P. 7

4-CONN-1-2-3- B

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Truck Drivers:						
Two axle trucks	$4.70	a	b	c		
Three axle trucks	4.80	a	b	c		
Four axle trucks	4.90	a	b	c		
Two axle ready-mix	4.80	a	b	c		
Three axle ready-mix	4.85	a	b	c		
Four axle ready-mix	4.95	a	b	c		
Heavy duty trailer - to 40 tons	4.85	a	b	c		
Heavy duty trailer - over 40 tons	5.00	a	b	c		
Helpers	4.70	a	b	c		
Specialized earth moving equipment	4.95	a	b	c		
Paid Holidays (Where applicable):						
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.						
Footnotes:						
a. $11.00 per week for employees employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.						
b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.						
c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.						

SUPERSEDEAS DECISION

STATE: Connecticut
DECISION NO.: AP-436
COUNTY: Middlesex
DATE: Date of Publication
Supersedes Decision No. AM-1,592, dated August 6, 1971, in 36 FR 14556.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Asbestos Workers	8.715	.42	.28			
Boilermakers	7.25	.40	10%		.01	
Bricklayers, Cement Masons-Finishers, Marble Setters, Plasterers, Stonemasons, Terrazzo Workers, Tile Setters (Building Only)	8.75	.20	.30			
Marble setters helpers, Terrazzo workers, helpers, Tile setters helpers	5.45		.15			
Bricklayers, Cement Masons-Finishers, Stonemasons (Heavy & Highway Only)	7.60	.40	.25	f		
Carpenters & Piledrivermen (Heavy & Highway Only)	8.30	.35	.20	f	.03	
Carpenters, Soft Floor Layers (Building Only)	8.12	.35	.20			
Electricians:						
Cromwell-Middlefield-Middletown-Portland	8.35	.40	1% + .20		1%	
Remainder of County	8.40	.40	1% + .20		.5%	
Elevator Constructors	8.02	.195	.20	1½%+b+c	.005	
Elevator Constructors' helpers	5.61	.195	.20	1½%+b+c	.005	
Elevator Constructors' helpers (Prob.)	4.01					
Glaziers (Outside)	8.01	.47	.32			
Ironworkers: Structural, Ornamental & Reinforcing	9.30	.45	.44		.04	
Laborers (Building)						
Laborers, carpenters tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipelayers, plasterer tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill ops. and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Laborers: (Heavy & Highway)						
Laborers	$6.00	.30	.25		.05	
Asphalt Rakers, Adzemen, bracers, burners, concrete and power buggy operators, concrete saw op., chain saw op., fence and guard rail erectors, from setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders, pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpers & all operators connected	6.25	.30	.25		.05	
Air track operators, block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Cromwell-East Haddam-East Hampton-Middlefield-Middletown-Portland	9.15	.25	.30		.01	
Remainder of County	8.52	.25	.20		.01	
Lead burners	7.80	.30		d	.01	
Line Construction:						
Lineman, Dynamite	5.18	.10	1%	e		
Equipment Operator	4.37	.10	1%	e		
Groundman, Truck Driver	3.85	.10	1%	e		
Groundman, Experienced	3.41	.10	1%	e		
Groundman, Inexperienced	2.98	.10	1%	e		
Painters:						
Brush	7.25	.50	.20			
Bridge	8.50	.50	.20			
Spray	10.87	.50	.20			
Piledrivermen (Building Only)	4.60	.15	.15			
Plumbers and Steamfitters:						
Clinton-Westbrook-Killingworth	7.55	.40	.30		g	
Essex-Old Saybrook-Ivoryton-Saybrook	8.75	.20	.20			
Remainder of County, Plumbers	8.65	5%	5%		.15	
Remainder of County, Steamfitters	8.54	.50	.45		.05	
Roofers:						
Composition	7.90	.425	.35	.30		
Composition, Helpers, Class A	7.325	.425	.35	.30		
Composition, Helpers, Class B	3.60	.425	.35	.30		
Slate, Tile, Precast Concrete	8.40	.425	.35	.30		
Waterproofers	7.90	.425	.35	.30		
Sheet metal workers	8.45	.50	.36		.02	
Sprinkler fitters	8.00	.25	.40		.05	
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS: (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Paid Holidays: A through F.

d. Nine (9) paid holidays: A through F, Washington's Birthday, Good Friday, and Christmas Eve, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and regular scheduled work days immediately preceding and following the holiday.

e. Seven (7) paid holidays: A through F, and Good Friday, provided the employee has been employed for at least 10 working days prior to the holiday and is availabe for work the day before and after the holiday.

f. Paid holidays: A through F plus Good Friday.

g. Paid Holiday: D.

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumpcrete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller, power chipper fork lift, finishing machine, asphalt plant, firemen (high pressure), power pavement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader (7yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintenance engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ½ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Grader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (not over 4 ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						

Paid Holidays (Where applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	O.
Truck Drivers:						
Two axle trucks	$4.70	a	b	c		
Three axle trucks	4.80	a	b	c		
Four axle trucks	4.90	a	b	c		
Two axle ready-mix	4.80	a	b	c		
Three axle ready-mix	4.85	a	b	c		
Four axle ready-mix	4.95	a	b	c		
Heavy duty trailer - to 40 tons	4.85	a	b	c		
Heavy duty trailer - over 40 tons	5.00	a	b	c		
Helpers	4.70	a	b	c		
Specialized earth moving equipment	4.95	a	b	c		

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $11.00 per week for employee employed over 16 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

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SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: Windham
DECISION NO.: AP-437 DATE: Date of Publication
Supersedes Decision No. AM-1,996, dated August 6, 1971, in 36 FR 1437.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

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BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH
Asbestos workers:						
Ashford, Chaplin, Eastford, Hampton, Scotland, Windham	$8.715	.42	.28			
Woodstock	7.60	.34	.15		.01	
Remainder of County	8.70	.39	.35		.005	
Boilermakers	7.25	.40	10%		.01	
Bricklayers, Cement masons-finishers, marble setter, plasterers, stone masons, terrazzo workers, tile setters, (Building only):	6.20	.14	.15			
Bricklayers, Cement Masons-finishers stonemasons (Heavy and Highway):	7.60	.40	.25	f		
Carpenters & Piledrivermen (hvy. & hwy.)	8.30	.35	.20	f	.03	
Carpenters, Soft floor layers, piledrivermen (Building only)	8.27	.25	.20			
Electricians	8.35	.40	1%+.20		¼%	
Elevator Constructors	8.02	.195	.20	½%+a+b	.005	
Elevator Constructors' helpers	5.61	.195	.20	½%+a+b	.005	
Elevator Constructors' helpers (prob.)	4.01					
Glaziers (Outside)	8.01	.47	.32			
Ironworkers, Str. Orn. Reinforcing	9.30	.35	.44		.04	
Laborers (Building)						
Laborers, carpenter tenders, wrecking laborers	6.00	.30	.25		.05	
Jackhammer op., mason tenders, mortar mixer, pipe layers, plasterer tenders & power buggy	6.25	.30	.25		.05	
Air track operators, wagon drill op., and sand blasters	6.50	.30	.25		.05	
Open Air Caisson, Cylindrical Work and Boring Crew:						
Bottom man	6.50	.30	.25		.05	
Top man	6.00	.30	.25		.05	
Laborers: (Heavy and Highway):						
Laborers	6.00	.30	.25		.05	
Asphalt Rakers adzemen, bracers, burners, concrete and power buggy Operators, concrete saw op., chain saw op., fence and guard rail erectors, form setters, mortar mixers, pipelayers, riprap and drywall builders, stone spreaders, masons tenders' pneumatic drill operators, tool operators, wagon drill op., tree trimmers, tree toppers, mulchers, chippers, stumpres & all operations connected	6.25	.30	.25		.05	
Air track operators	6.50	.30	.25		.05	
Block pavers, rammers, curb setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	

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8-Conn.-1-2-3-K 2 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTHER
Laborers: (Heavy & Highway) Cont'd						
Block pavers, rammers, curo setters	6.50	.30	.25		.05	
Powdermen and blasters	6.75	.30	.25		.05	
Lathers:						
Chaplin, Hampton, Scotland, Windham	9.15	.20	.30		.01	
Danielson	7.40	.45	.50		.01	
Remainder of County	7.60	.45	.25			
Lead burners	7.80	.30		c	.01	
Line Construction:						
Linemen, Dynamite man	5.18	.10	1%	e		
Equipment Operator	4.37	.10	1%	e		
Groundman, Truck driver	3.85	.10	1%	e		
Groundman, Experienced	3.41	.10	1%	e		
Groundman, Inexperienced	2.98	.10	1%	e		
Marble setters' helpers, terrazzo workers' helpers tile setters' helpers	7.50	.25	.15			
Painters:						
Willimatic						
Brush	7.50	.20	.20			
Spray	11.25	.20	.20			
Bridge	8.50	.20	.20			
Remainder of County	6.70	.25	.40	.20		
Plumbers:						
Windham	8.65	5%	5%		.15	
Remainder of County	6.55	.15	.20			
Roofers:						
Composition	7.90	.425	.35	.30		
Composition, Helpers, Class A	7.325	.425	.35	.30		
Composition, Helpers, Class B	3.60	.425	.35	.30		
Slate, tile, Precast concrete	8.40	.425	.35	.30		
Waterproofers	7.90	.425	.35	.30		
Sheet Metal Workers	8.45	.50	.36		.02	
Sprinkler fitters	8.00	.25	.40		.05	
Steamfitters:						
Windham	8.54	.50	.45		.05	
Remainder of County	6.55	.15	.20			
Welders - receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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8-CONN-1-2-3-K 3 of 3

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

FOOTNOTES:

a. Employer contributes 4% of the basic hourly rate for 5 years or more of service or 2% of the basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Six (6) paid holidays: A through F.

c. Nine (9) paid holidays: A through F, Washington's Brithday, Good Friday, and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Seven (7) paid holidays: A through F, and Good Friday provided the employee has worked at least 10 working days prior to the holiday and is available for work the day before and after the holiday.

e. Paid holidays: A through F plus Good Friday.

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8-CONN-2-3-T

POWER EQUIPMENT OPERATORS HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Erecting and handling structural steel	$7.50	.20	.15+a	b		
Front end loader (7 yds. or over), pile driver, crane shovel, dragline, gradall, trenching machine, lighter derrick, paver (concrete), derrick (stiff leg and guy), steel pile sheeting, Kohering loader (skooper)	7.44	.20	.15+a	b		
Drill (Joy Heavy weight champion or equivalent) side boom, loader (Euclid) mucking machine, pumperete, rock and earth boring machine post and well digger compressor (battery operated), hammer (vibratory), central mix operator, combination hoe & loader (over ¾ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.00	.20	.15+a	b		
Front end loader (3 yds. or over), grader power stone spreader	6.90	.20	.15+a	b		
Well point system, conbination hoe & loader	6.88	.20	.15+a	b		
Asphalt roller, bulldozer, carryall, maintenance engineer	6.75	.20	.15+a	b		
Front end loader (under 3 yds.), roller, power chipper fork lift, finishing machine, asphalt plant, tiremen (high pressure), power pavement breaker, dinky machine	6.60	.20	.15+a	b		
Compressor, pump	6.52	.20	.15+a	b		
Batch plant, bulk cement plant, oiler	6.25	.20	.15+a	b		
Crane with 150 ft. boom - additional $.25 per hour						
Crane with 200 ft. boom - additional $.50 per hour						

Paid Holidays (Where Applicable):
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

POWER EQUIPMENT OPERATORS BUILDING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Derrick, hoist (2 drums or over), structural steel (hoisting and handling), stone setting, pile driver, lighter derrick, stiff leg and guy derrick	$7.50	.20	.15+a	b		
Tower crane, dragline, gradall, hoist, Kohering scooper loader and/or hoe, shovel, front end loader 7yds. or over) fork lift (over 4 ft. lift)	7.40	.20	.15+a	b		
Maintenance engineer	7.30	.20	.15+a	b		
Boiler (portable-high pressure), hammer (vibratory), front end load (3-7 yds.), Coleman loader and screening plant or similar equip., drill (joy-heavy weight champion or equivalent), mucking machine, pumpcrete, rock and earth boring machine, compressor (battery op.) post hole and well digger, conveyor, central mix operator, combination hoe and loader (over ¼ yd.)	7.15	.20	.15+a	b		
Asphalt spreader	7.15	.20	.15+a	b		
Bulldozer	7.05	.20	.15+a	b		
Grader, scraperpan, carryall operator	6.95	.20	.15+a	b		
Combination hoe and loader	6.95	.20	.15+a	b		
Concrete mixer (5 bags or over), front end loader (under 3 yds), powerstone spreader	6.90	.20	.15+a	b		
Compressor, generator, pump & well point opr., welding machine, air steam valve oprs.	6.88	.20	.15+a	b		
Steam Jenny, fork lift (not over 4 ft.), mechanical heater oprs.	6.80	.20	.15+a	b		
Roller operators	6.75	.20	.15+a	b		
Dinky machine opr., firemen (high pressure), power pavement breaker	6.60	.20	.15+a	b		
Oiler	6.30	.20	.15+a	b		
Crane with boom, 150 ft. Additional $.25 per hour						
Crane with boom, 200 ft. Additional $.50 per hour						

Paid Holidays (Where applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Employer contributes $.15 to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS H & W	PENSIONS	VACATION	APP. TR.	OTH.
Truck Drivers:	$4.70	a	b	c		
Two axle trucks	4.80	a	b	c		
Three axle trucks	4.90	a	b	c		
Four axle trucks	4.80	a	b	c		
Two axle ready-mix	4.85	a	b	c		
Three axle ready-mix	4.95	a	b	c		
Four axle ready-mix	4.85	a	b	c		
Heavy duty trailer - to 40 tons	5.00	a	b	c		
Heavy duty trailer - over 40 tons	4.70	a	b	c		
Helpers	4.95	a	b	c		
Specialized earth moving equipment						

Paid Holidays (Where applicable):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas.

Footnotes:
a. $11.00 per week for employee employed over 15 hours and $.2675 per hour for employed less than 16 hours during the week.

b. $14.00 per week for employees employed over 24 hours and $.30 per hour for employees employed less than 24 hours during the week.

c. Seven (7) holidays: A through F, and Good Friday provided the employee has 31 calendar days service and is available for work the day preceding and following the holiday.

21758

NOTICES

SUPERSEDEAS DECISION

STATE: Hawaii
DECISION No. AP-247
Supersedes Decision No. AM-6314 dated November 2b, 1971 in 36 FR 22706
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTIES: Statewide
DATE: Date of Publication

1-HAW-1-2-3-u

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
ASBESTOS WORKERS	6.20	.23	.50		.02	
BOILERMAKERS; Blacksmith	7.00	.18	.30		.03	
BRICKLAYERS	6.16	.17	.30		.02	
CARPENTERS:						
Carpenters; Piledrivermen	6.43	.25	.35		.02	
Millwrights	6.58	.25	.35		.02	
CEMENT MASONS:						
Cement Masons	5.81	.22	.30		.02	
Trowel Machine Operators	5.91	.22	.30		.02	
DRYWALL INSTALLERS	6.53	.25	.35		.07	
ELECTRICIANS:						
Line Equipment Operator	6.84	.25	.90	7.2%	.10	
Electricians; Linemen	7.28	.25	.90	7.2%	.10	
Cable Splicers	8.01	.25	.90	7.2%	.10	
ELEVATOR CONSTRUCTORS	6.90	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.185	.20	2% + a		
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR					
GLAZIERS	6.70	.53	.15	.43	.08	
IRONWORKERS:						
Ornamental; Structural; Bridge	7.00		.45		.02	
Reinforcing	7.00		.45			
LATHERS (metal, wire and wood)	6.65	.24	.50		.01	
MARBLE SETTERS; Stonemasons	6.16	.17	.30		.02	
PAINTERS:						
Brush	6.50	.30	.40		.04	
Spray	7.00	.30	.40		.04	
Taper	6.70	.30	.40		.04	
PLASTERERS:						
Plasterers	7.05	.45	.30		.15	
Mortar Mixers	4.95	.23	.30		.02	
Hod Carriers	4.75	.23	.30		.02	
PLUMBERS; Steamfitters	7.30	.29	.90	8%	.05	
SHEET METAL WORKERS	7.40	.35	.90	8.11%	.10	
SOFT FLOOR LAYERS	6.25	.20		.10	.04	
SPRINKLER FITTERS	7.95	.25	.40		.05	
TERRAZZO WORKERS:						
Terrazzo Workers	6.15	.20	.30			
Terrazzo Base Grinder	5.85	.20	.30			
Floor machine grinder & helper	5.05	.20	.30			
TERRAZZO WORKERS' HELPERS:						
1st 60' calendar days' experience	4.75	.20	.30			
TILE SETTERS (CERAMIC)	6.15	.20	.30			
TILE SETTERS' HELPERS (CERAMIC):						
1st 60 calendar days' experience	4.75	.15	.30			
Over 60 but less than 90 calendar days' experience	4.85	.20	.30			
After 90 calendar days' experience	5.05	.20	.30			

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Flatbed	5.10	.37	.525	.20	.10	
Dump, 8 yds. & under; Water truck (up to & incl. 1500 gals.)	5.36	.37	.525	.20	.10	
Water truck (over 1500 gals.)	5.51	.37	.525	.20	.10	
Tandem, semi-trailer, or semi-dump	5.97	.37	.525	.20	.10	
Slip-in or Rock cans	6.27	.37	.525	.20	.10	
End dumps, unlicensed (Euclid, Mack, Caterpillar, or similar); Tractor trailer (hauling equipment)	6.19	.37	.525	.20	.10	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.						

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

NOTICES

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LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP I Asphalt ironers & rakers; Barko and similar type tampers; Buggymobile; Chainsaw, faller, logloader & bucker; Concrete & magnesite mixer under 1/2 yd.; Concrete grinder; Concrete pan work; Concrete saw (walking or hand type); Cribbers; Cut granite curb setter; Form raisers; Header board; Mortar mixers (block-brick-masonry); Jackhammer op.; Jackson & similar type compactors; Lagging, sheeting, whaling bracing, trench-jacking, hand-guided lagging hammer; Magnesite & mastic workers (wet or dry); Mechanical drillers not covered elsewhere; Pavement breakers; Pipelayers, caulkers, bander; Pipe-wrappers, kettlemen, potmen & men applying asphalt, Lay-Kold, creosote & similar type materials; Post hole diggers (hand held--gas, air & electric); Riprap, stonepaver & rock-slinger, incl. placing of sacked concrete (wet or dry); Rotary scarifier; Rototiller; Sandblasters; Tank cleaners; Tree climbers; Vibra-screed (Bull float in connection with laborers' work); Vibrator; Burning, welding, signaling; & rigging in connection with laborers' work; Concrete pump machine; Joy drill Model TWM-2A, Gardner Denver DH-143, & similar type drills (Track Drillers, Diamond Core, & Wagon Drillers; & Davis Troncher T-66 or similar	5.56	.25	.35		.02	
GROUP II Asphalt shovelers; Cement Dumpers; Choke setter & rigger (clearing work); Concrete chipping; Concrete laborers (wet or dry) incl. bucket tender for concrete; Driller's helper, chuck tender, outside nipper; Guinea chaser (stakeman); High pressure nozzleman-hydraulic monitor (over 100# pressure) excl. levee work; Loading & unloading, carrying & handling of all rods & materials for use in reinforcing concrete construction; Mucker (underground) Sloper; All Pneumatic, gas & electric tools not listed in Group I	5.36	.25	.35		.02	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
GROUP III All clean-up work of debris, grounds & buildings; Bridge laborers; Construction laborers; Dumpman; Gardeners; horticultural & landscape laborers; General Laborers; Limbers, brush loaders & pilers; Maintenance, repair (track and roadbeds)	5.26	.25	.35		.02	
MINERS' HELPERS	5.61	.25	.35		.02	
MASON TENDERS, more than 60 days' service	5.39	.25	.35		.02	
HIGH SCALER	5.81	.25	.35		.02	
GUNNITE OPERATOR	5.86	.25	.35		.02	
MINERS	5.96	.25	.35		.02	
POWDERMAN	6.06	.25	.35		.02	

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP I Partsman (heavy duty repair shop parts room when needed); Repairman helper	4.84	.37	.525	.20	.10	
GROUP II Compressor, electrically, diesel or gas powered etc.; Hydraulic monitor; Material loader &/or conveyer op. (handling building material); Mixer hox op. (concrete plant); Pump op.; Spreader buxman (with screeds); Tar pot fireman (power agitated); Rodman or Chainman	4.95	.37	.525	.20	.10	
GROUP III Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar pot fireman; Box op. (Bunker); Locomotive (up to & incl. 30 tons); Roller (5 tons & under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports & canals); Tugger hoist, single drum	5.10	.37	.525	.20	.10	
GROUP IV Boom truck or dual purpose "A" Frame Truck; Fork lift or lumber stacker (construction job site); Material hoist (1 drum); Straddle truck; Ross carrier & similar (jobsite); Dinky op.	5.36	.37	.525	.20	.10	
GROUP V Concrete mixer (up to 2 yds.); Concrete pumps or pumpcrete guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication & service engineer (mobile and Grease rack); Towermobile; Welding machine (gasoline or diesel); Agri-Cat (Mini Cat); Slip form pumps (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms)	5.65	.37	.525	.20	.10	
GROUP VI Combination loader & backhoe incl. Hop to (up to & incl. 1/2 yd.) Concrete Batch plants (wet or dry); Concrete saws &/or grinder (self-propelled unit on streets, Highways, airports & canals); Drilling machinery (not to						

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
GROUP VI (CONT'D) apply to waterliners, wagon drills or jackhammers); Highline cable-way signalman; Loader (up to & incl. 2-1/2 cu. yds.); Lull high lift; Crushers plant engineer; Grade setter (mechanical or otherwise); Pavement breaker; Maginnis Internal Full Slab Vibrator (on airports, highways, canals, & warehouses); Mechanical finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile crane driver; Portable crushers; Power Jumbo op. (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled compactor (single engine); Small rubber-tired tractors; Trencher (up to & incl. 6')	5.97	.37	.525	.20	.10	
GROUP VII Dual drum mixer; Instrument man; Hoist (2 drums); Kolman loader; Loader (over 2-1/2 cu. yds.. up to & incl. 5 cu. yds.); Mechanical finishers or spreader machine asphalt (Barber Greene & similar) (Screedman required); Mine or shaft hoist; Pavement breaker, truck mounted, with compressor combination; Pavement breaker with compressor combination (operates 1 or 2); Pipe cleaning machine (Tractor propelled & supported); Pipe wrapping machine (tractor propelled & supported); Pipe bending machine (pipe lines only); Self-propelled elevating grade plane; Slusher operator; Trencher (over 6'); Water tanker (pulled by Euclida, T-pulls, DW-10, 20, 21 or similar); Mixermobile (over 5 tons); Small tractor (with boom D-6 or similar)	6.27	.37	.525	.20	.10	
GROUP VIII Boring machine; Cast-in-place pipe laying machine; Concrete batch plant (multiple units); Combination loader & hydraulic backhoe (over 1/2 yd. to & incl. 3/4 yd.); Conveyor (tunnel); Engineer, locomotive (over 30 tons up to & incl. 100 tons); finishing ma-						

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
GROUP VIII (CONT'D)						
chine operator (airports & highways); Hydraulic backhoe (over 1/2 yd. to & incl. 3/4 yd.); Mechanical trench shield; Mucking machine; No-joint pipe laying machine; Portable crushing & screening plants; Saurman type dragline (under 5 yds.); Self-propelled boom type lifting device; Stationary pipe wrapping cleaning & bending machine; Surface heater & planer; Tunnel badger; Tri-batch paver	6.37	.37	.525	.20	.10	
GROUP IX						
Boom type backfilling machine; Combination mixer & compressor (gunnite); Domar loader & Adams Elegrader; Lull Hi-lift (40' or over); Rubber tired earthmoving equipment (up to 12 cu. yds.); Wheel trencher (over 6')	6.48	.37	.525	.20	.10	
GROUP IX A						
Dozer; Heavy duty repairman or welder; Push cats; Scrapers; Self-propelled compactor with dozer; Sheep foot; Tractors; Tractors (with boom, larger than D-6, & similar)	6.64	.37	.525	.20	.10	
GROUP X						
Chicago boom; Hoist (3 drums); Koehring skooper; Loader (over 5 yds. up to & incl. 12 yds.); Locomotive (over 100 tons) (Single or multiple units); Power blade op.; Rubber tired earthmoving equipment (up to & incl. 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 & similar); Saurman type dragline (5 yds. or over); Soil stabilizer (P & H equal); Sub-grader (Curries or other automatic type); Track-laying type earthmoving machine (single engine with tandem scraper); Tractor, compressor, Drill combination; Tractor (Tandem scraper); Tractors (D-9 or equivalent)	6.75	.37	.525	.20	.10	
GROUP X A						
Cranes (not over 25 tons); Power shovels, clamshells, draglines, gradealls (up to & incl. 1 cu. yd.)	6.89	.37	.525	.20	.10	

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
GROUP XI						
Automatic slip form paver (concrete or asphalt) (Gradesetter, Screedman required); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earth-moving machines (multiple propulsion power units & two or more scrapers) (up to & incl. 35 cu. yds. struck "MRC"); High-line cableway; Lift slab machine; Loader (over 12 yds.); Power shovels, clamshells, draglines, backhoes, Gradealls (over 1 yd. & up to 7 yds.); Power blade op. (16 or over); Prestress wire wrapping machine; Self-propelled compactor (with multiple propulsion power units); Single engine rubber tired earthmoving machine (with tandem scraper); Tandem cats; Tower cranes, mobile; Trencher (pulling attached shield); Wheel excavator (up to & incl. 750 cu. yds.)	7.02	.37	.525	.20	.10	
GROUP XII						
Band wagon (in conjunction with wheel excavator); Derricks; Drill rigs; Multi-propulsion earthmoving machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power shovels & draglines (7 cu. yds. MRC & over); Rubber tired earthmoving equipment (over 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 & similar); Wheel excavator (over 750 cu. yds.)	7.37	.37	.525	.20	.10	

SUPERSEDEAS DECISION

STATE: Kentucky
COUNTY: Jefferson
DECISION NUMBER: AP-132
DATE: Date of Publication
Supersedes Decision No. AP-480 dated August 20, 1971 in 36 FR 16437.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$8.40	.25	.20			
Boilermakers - Blacksmiths	7.95	.30	.60		.01	
Boilermakers - Blacksmiths' helpers	7.70	.30	.60		.01	
Bricklayers:						
Bricklayers and concrete block layers	8.13	.25	.40			
Caulkers	8.13	.25	.40			
Cleaners	8.13	.25	.40			
Pointers	8.13	.25	.40			
Stone masons	8.13	.25	.40			
Carpenters:						
Carpenters	7.80	.30	.30			
Carpenters when work in excess of 30' to 100' above ground or a solid floor on scaffold, skip hoist, tower or slip form	8.05	.30	.30			
Carpenters, when working in excess of 100' above ground or a solid floor on scaffold, skip hoist, tower or slip form	8.30	.30	.30			
Carpenters, when working on suspended or swinging scaffold	8.05	.30	.30			
Cement masons	8.33					
Electricians, linemen and hole digger:						
Zone 1	8.98	.20	1%		& of 1%	
Zone 2	9.13	.20	1%		& of 1%	
Zone 3	9.28	.20	1%		& of 1%	
Zone 4	9.58	.20	1%		& of 1%	
Groundmen:						
Zone 1	5.57	.20	1%		& of 1%	
Zone 2	5.72	.20	1%		& of 1%	
Zone 3	5.87	.20	1%		& of 1%	
Zone 4	6.17	.20	1%		& of 1%	
Zone 1 - Within a 15 mile radius of 3rd and Broadway Louisville						
Zone 2 - 15 to 20 miles radius						
Zone 3 - 20 to 26 miles radius						
Zone 4 - Over 26 miles radius						
Elevator constructors	8.03	.195	.20	2%+a+b	.005	
Elevator constructors' helpers	5.62	.195	.20	2%+a+b	.005	
Elevator constructors' helpers (prob.)	4.015					
Glaziers	7.15	.30	.30			
Ironworkers:						
Conveyormen, machinery movers	8.30	.50	.75		.04	
Structural, ornamental and reinforcing	8.30	.50	.75		.04	
Riggers, fence erectors, sheeters	8.30	.50	.75		.04	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Lathers	$7.39		.20		.01	
Marble, tile and terrazzo workers	7.85	.25	.40			
Marble, tile and terrazzo workers' helpers	6.45					
Millwrights	8.08	.30	.30			
Millwrights, when working 30' above ground or solid floor	8.58	.30	.30			
Painters:						
Zone 1 - 35 mile radius from Jefferson Co. Courthouse, Louisville, Ky.						
New Construction:						
Basic	6.94	.15	.10		.03	
Special	7.29	.15	.10		.03	
Spray	7.39	.15	.10		.03	
Old Construction:						
Basic	6.74	.15	.10		.03	
Special	7.09	.15	.10		.03	
Spray	7.19	.15	.10		.03	
Zone 2 - Over 35 miles radius from Jefferson Co. Courthouse, Louisville, Ky.						
New Construction:						
Basic	7.29	.15	.10		.03	
Special	7.64	.15	.10		.03	
Spray	7.74	.15	.10		.03	
Old Construction:						
Basic	7.09	.15	.10		.03	
Special	7.44	.15	.10		.03	
Spray	7.54	.15	.10		.03	
Work on bridges (over navigable water) $2.00 per hour premium all Zones						
Piledrivermen	7.45	.30	.30			
Plasterers	7.60					
Plumbers	7.85	.25	.38	.77	.065	
Roofers:						
Roofers	6.00	.15	.20			
Slats, tile and precast concrete slab	6.40	.15	.20			
Helpers	4.15	.15	.20			
Sheet metal workers	6.50	.15	.30		.02	
Soft floor layers	7.80	.30	.30			
Sprinkler fitters	8.20	.25	.40		.05	
Steam fitters	7.90	.25	.60	.50	.065	

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Indepenence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Laborers:						
General laborers	$5.80	.25	.25			
Air tool operator and vibrator	6.00	.25	.25			
Power driven Georgia buggy and chain saw	5.95	.25	.25			
Wagon drill, pipe layer, well man, burner man and joint maker	6.00	.25	.25			
Stackman	6.20	.25	.25			
Powderman	6.25	.25	.25			
Sand hog or mucker (free air)	6.50	.25	.25			
Caisson worker	7.25	.20	.25			
Asphalt raker	6.00	.25	.25			
Side rail setter (metal)	6.15	.25	.25			
Sand miner (tunnel) (free air)	6.80	.25	.25			
Gunnite nozzle man (sewer)	6.30	.25	.25			
Tunnel (free air)	6.30	.25	.25			
Driller, air track	6.05	.25	.25			
Mason tenders, mortar mixers	6.15	.25	.25			

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Truck Drivers:						
3 tons and under	$4.52	a	a	b		
Over 3 tons	4.63	a	a	b		
Semi-trailer, tandem axle of pole trailers and dumps	4.63	a	a	b		
Euclid and other heavy earth moving equipment and lowboy	4.80	a	a	b		
Winch truck and A-Frame and monirail truck when used to transport building materials	4.80	a	a	b		
Fork lift truck when used to transport building materials	4.80	a	a	b		
Mechanic	4.70	a	a	b		
Mechanic helpers, greasers and tire changers	4.52	a	a	b		
Helpers	4.40	a	a	b		
Concrete mixers (all types), hauling only on job site	4.70	a	a	b		

FOOTNOTES:

a. $8.00 contribution per week for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period.

b. Employees who have been regularly employed on a project by an employer for one year and who have worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Class A Operators:						
Auto patrol, batcher plant, bituminous paver, cableway (clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader & all types of loaders, hoe-type machine, Hoisting engine locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, orange-peel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel tractor, shovel truck crane, well points, winch truck, push dozer, grout pump, high lift, fork lift (regardless of lift height) all types of boom cats, multiple op., core drill, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, material pump, pumpcrete, ross carrier, sheep feet, side boom, tail boom, throttle valve man, rotary drill, joint sealing machine, power generator, mucking machine, rock spreader attached to equip., scoopmobile, KeCal loader, Tower Cranes (French, German & other types), hydrocrane, tugger, backfiller, gurries, sub-grader, electric vibrator compactor	$6.65	.25	.25			
Class B Operators:						
All air compressors (200 cu. ft. per min. or greater cap.), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tractor (50 HP & over) bull float, finish machine, outboard motor boat, flex-plane, firemen, boom type tamping machine, self-propelled drill, truck crane oiler, greaser on grease facilities servicing heavy equip., switchman or brakeman, mechanic helper whirley oiler, air track drill, Ingersoll Rand track drill, self-propelled compactor, tractor & road widening trencher	5.50	.25	.25			

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS (Contd.)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Class C Operators						
Bituminous Pist., Cement gun, Conveyor, mud jack, paving joint machine pump, roller (earth), tamping machine, tractor (under 50 HP) vibrator, oiler, air compressor (under 200 cu. ft. per min., cap), concrete saw, burlap & curing machine, hydro seeder, power form handling equip. deckhand oiler and hydraulic boatdriver	$5.10	.25	.25			

STATE: Kentucky COUNTY: Warren

PUBLICATION NUMBER: AP-133 PAGE: [illegible]

Supersedes Decision No. AP-482 dated August 20, 1971, in 36 F.R. 16466.

DESCRIPTION OF WORK: Building Construction, (excluding [illegible] heavy loads and garden type apartments up to and including 4 stories).

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BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asbestos workers	$7.50	.25	.15			
Boilermakers	7.95	.30	.60		.01	
" helpers	7.70	.30	.60		.01	
Bricklayers and stone masons	6.36					
Carpenters	6.69	.30				
Cement masons	5.75	.20	.10		.01	
Electricians	7.40		1%		¢ of 1%	
Glaziers	6.25	.30	.20		.02	
Ironworkers:						
Structural, ornamental and reinforcing	6.55	.30	.10		.04	
Laborers:	3.675	.15	.15			
Unskilled						
Mason tenders, mortar mixers, air tools and vibrators, power driven Georgia buggies, chain-saw, pipe layers (non-metallic), joint makers, hod carriers, marble tenders, tile tenders and sewer bottom men	3.825	.15	.15			
Wagon drill and concrete saw	3.925	.15	.15			
Sand hogs, tunnel laborers and hard caisson workers	4.175	.15	.15			
Hard rock miners	4.475	.15	.15			
Asphalt rakers	3.975	.15	.15			
Side rail form setters	4.025	.15	.15			
Powdermen	4.125	.15	.15			
Handling of creosote or toxide materials - additional $.25 per hour over basic wage rate	6.30		.20		.01	
Lathers	6.90		1%		¢ of 1%	
Line Construction:						
Linemen	6.90		1%		¢ of 1%	
Line truck, hole digger and cable splicer	5.40		1%		¢ of 1%	
Groundmen	6.36					
Marble setters	4.50					
Painters:	5.50					
Brush	4.50					
Spray	6.69	.30				
Structural steel up to 40'	5.75	.20	.10		.01	
Piledrivermen	7.85	.25	.38	.77	.065	
Plasterers						
Plumbers						

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Roofers:						
Composition	$5.70		.10	a		
Slate and tile	5.95		.10	a		
Sheet metal workers	6.50	.30	.30		.02	
Soft floor layers	6.69	.30				
Steam fitters	7.90	.25	.60		.065	
Welders--Receive rate prescribed for craft performing to which welding is incidental						

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:

a. Three paid holidays: C - D - F

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Truck Drivers:						
3 tons and under	$4.[illegible]	a	a	b		
Over 3 tons	4.63	a	a	b		
Semi-trailer, tandem axle or pole trailers and dumps	4.63	a	a	b		
Euclid and other heavy earth moving equipment and lowboy	4.80	a	a	b		
Winch truck and A-Frame and monirail truck when used to transport building materials	4.80	a	a	b		
Fork lift truck when used to transport building materials	4.80	a	a	b		
Mechanic	4.70	a	a	b		
Mechanic helpers, greasers and tire changers	4.52	a	a	b		
Helpers	4.40	a	a	b		
Concrete mixers (all types), hauling only on job site	4.70	a	a	b		

FOOTNOTES:

a. $8.00 contribution per week for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period.

b. Employees who have been regularly employed on a project by an employer for one year and who have worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

BUILDING CONSTRUCTION

HOUSE EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Class A Operators: Auto patrol, batcher plant, bituminous paver, cableway clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader & all types of loaders, hoe-type machine, Hoisting engine locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, orange-peel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel tractor, shovel truck crane, well points, winch truck, push dozer, grout pump, high lift, fork lift (regardless of lift height) all types of boom cats, multiple op., core drill, tow or push boat, A-frame winch-truck, concrete paver, gradall, hoist, hyster, material pump, pumpcrete, ross carrier, sheep feet, side boom, tail boom, throttle valve man, rotary drill, joint sealing machine, power generator, mucking machine, rock spreader attached to equip., scoopmobile, ReCal loader, Tower Cranes (French, German & other types), hydrocrane, tugger, backfiller, gurries, sub-grader, electric vibrator compactor	$6.65	.25	.25			
Class B Operators: All air compressors (900 cu. ft. per min. or greater cap.), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tractor (50 HP & over), bull float, finish machine, outboard motor boat, flex-plane, firemen, boom type tamping machine, self-propelled drill, truck crane oiler, greaser on grease facilities servicing heavy equip., switchman or brakeman, mechanic helper shirley oiler, air track drill, Ingersoll Rand track drill, self-propelled compactor, tractor & road widening trencher	5.50	.25	.25			

POWER EQUIPMENT OPERATORS (Cont'd.)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Class C Operators: Bituminous Dist., Cement gun, Conveyor, mud jack, paving joint machine pump, roller (earth), tamping machine, tractor (under 50 HP) vibrator, oiler, air compressor (under 200 cu. ft. per min., cap), concrete saw, burlap & curing machine, hydro seeder, power form handling equip. deckhand oiler and hydraulic boatdriver	$5.10	.25	.25			

DECISION

STATE: Kentucky COUNTY: McCracken
DATE: Date of Publication
dated August 20, 1971, in 36FR 16472.

"Building" Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

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BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Asbestos workers	$7.75	.15	.10			
Boilermakers - Blacksmiths	7.95	.30	.60		.01	
" " helpers	7.70	.30	.60		.01	
Bricklayers	6.75					
Carpenters:						
Carpenters	6.15					
Millwrights and piledrivermen	6.40					
Cement masons	5.10	.30	.20		.03	
" " working on swinging scaffold up to 50'	5.35	.30	.20		.03	
Electricians:						
Electricians	7.30	.25	1%		½ of 1%	
Cable splicers	7.50	.25	1%		½ of 1%	
Elevator constructors:						
Elevator constructors	8.03	.19	.20	1½%+a+b	.005	
Helpers	5.63	.19	.20	1½%+a+b	.005	
" probationary	4.015	.19	.20	1½%+a+b	.005	
Glaziers	7.415	.26	.20		.01	
Ironworkers, structural, ornamental and reinforcing	7.00	.35	.50		.02	
Laborers:						
Unskilled	3.85	.15	.15			
Hod carriers, mason and finishers' tenders, mortar mixers, jackhammers, vibrators, wagon drill, core drill, test drill and all power driven tools used by laborers (operators), all men in tunnel and crib ditch work, riprap, rock setters and handlers, asphalt rakers, tarpers and smoothers, pipe layers, powdermen, tar kettlemen, grout pumpmen, deck hand, dumpmen, log turner, swamping and all straight cable hooking, pipe doping and wrapping	4.05	.15	.15			
Lathers	6.26		.10		.01	
Line Construction:						
Linemen	7.35	.20	1%		½ of 1%	
Operator, truck with winch	7.35	.20	1%		½ of 1%	
Groundmen	5.63	.20	1%		½ of 1%	
Marble masons	6.75					

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Painters: Commercial						
Brush	5.40	.15				
Spray	6.55	.15				
Sandblasting	6.55	.15				
Painters: Industrial						
Brush	6.20	.15				
Spray	6.85	.15				
Sandblasting	6.85	.15				
Plasterers	5.25			.10	.01	
Plumbers and steam fitters	7.55	.35	.30	.40	.04	
Roofers	5.50		.10			
Sheet metal workers	6.50	.30	.30		.02	
Soft floor layers	5.60					
Sprinkler fitters "	8.20	.20	.40		.05	
Stone masons	6.75					
Terrazzo workers	6.75					
Tile setters	6.75					
Truck drivers:						
Up to but not including five (5) tons, such as pick-up trucks, dump, flat beds and stake bodies	4.40		c			
Five (5) tons and over, including special equipment such as Euclids, winch, dempsters, dumpsters, crawler type trucks	4.75		c			
Tractor-trailer drivers and similar equipment such as lowboys, distributors, water tank and fork lifts	4.75		c			
Ready-mix and mechanics	4.75		c			
Material checkers, tire changers, greasers, mechanics' helpers	4.45		c			
Welders--Receive rate prescribed for craft performing operation to which welding is incidental						

Paid Holidays
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:
a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employer who has worked in business less than 5 years.

c. $6.00 per week per employee.

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Class A Operators: Auto patrol, batcher plant, bituminous paver, cableway clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, orange-peel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel tractor, shovel truck crane, well points, winch truck, push dozer, grout pump, high lift, fork lift (regardless of lift height) all types of boom cats, multiple op., core drill, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, material pump, pumpcrete, ross carrier, sheep foot, side boom, tail boom, throttle valve man, rotary drill, joint sealing machine, power generator, mucking machine, rock spreader attached to equip., scoopmobile, KeCal loader, Tower Cranes (French, German & other types), hydrucrane, tugger, backfiller, gurries, sub-grader, electric vibrator compactor	$6.65	.25	.25			
Class B Operators: All air compressors (200 cu. ft. per min. or greater cap.), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tractor (50 HP & over) bull float, finish machine, outboard motor boat, flex-plane, firemen, boom type tamping machine, self-propelled drill, truck crane oiler, greaser on grease facilities servicing heavy equip., switchman or brakeman, mechanic helper whirley oiler, air track drill, Ingersoll Rand track drill, self-propelled compactor, tractor & road widening trencher	5.50	.25	.25			

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS (Cont'd.)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Class C Operators: Bituminous Dist., Cement pum, Conveyor, mud jack, paving joint machine pump, roller (earth), tamping machine, tractor (under 50 HP) vibrator, oiler, air compressor (under 200 cu. ft. per min., cap), concrete saw, burlap & curing machine, hydro seeder, power form handling equip. deckhand oiler and hydraulic boatdriver	$5.10	.25	.25			

STATE: Kentucky
DECISION NUMBER: AP-135
Supersedes Decision No. AP-9694 dated April 28, 1972, in 37 FR 8636.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Fayette
DATE: Date of Publication

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oths
BUILDING CONSTRUCTION						
Asbestos workers	$8.40	.25	.20			
Boilermakers	7.95	.30	.60		.01	
" helpers	7.70	.30	.60		.01	
Bricklayers	7.20	.25	.25			
Carpenters:						
Carpenters	7.35	.30	.30		.02	
Millwrights "	7.85	.30	.30		.02	
Piledrivermen	7.85	.30	.30		.02	
Cement masons	7.95					
Electricians	8.35	.35	1%	.30	½ of 1%	
Elevator constructors	8.03	.195	.20	2%+a+b	.005	
" " helpers	5.62	.195	.20	2%+a+b	.005	
" (prob.)	4.015					
Glaziers	6.50					
Ironworkers:						
Structural	8.30	.50	.75		.04	
Ornamental	8.30	.50	.75		.04	
Reinforcing	8.30	.50	.75		.04	
Lead burners	6.90	.30		c	.01	
Lathers	4.55		.10			
Line Construction:						
Linemen and equipment operators	8.80	.20	1%		½ of 1%	
Groundmen truck driver	7.04	.20	1%		½ of 1%	
" " " " with winch or pole steel handling	7.48	.20	1%		½ of 1%	
Marble setters	7.45	e	e	.25		
" " helpers	5.05					
Painters:						
Brush	6.47					
Hazardous	7.22					
Spray	6.97					
Plasterers	7.00					
Plumbers and steam fitters	8.35	.25	.45	d	.02	
Sheet metal workers	6.50	.30	.30		.02	
Soft floor layers	7.35	.30	.30		.02	
Sprinkler fitters	8.20	.25	.40		.05	
Stone masons	7.20	.25	.25			
Terrazzo workers	7.45	e	e	.25		
" " helpers	5.05					
Tile setters	7.45	e	e	.25		
" " helpers	5.05					
Roofers	4.15					
Welders--Receive rate prescribed for craft performing operation to which welding is incidental						

PAID HOLIDAYS

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnotes:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F, plus Washington's Birthday, Christmas Eve and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Employee on payroll November 24 through December 23 will receive one paid holiday--Christmas Eve.

e. Employer contributes $.35 per hour combined to health, welfare and pension funds.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Laborers:						
Tool room checkers, carpenters' tenders, landscapers, roofers' helpers, sheeting and shoring, construction laborers	$3.80	.15	.15			
Air track drills, jackhammers, wagon drills, pavement breakers, chain saws, Barco tampers, all types of vibrators for concrete and grade work, concrete saws, sewer pipe layers, all storm sewers, sanitary sewers, signal men, asphalt men, rakers, batchmen, plant scale men, form setters (street or highway), hand spiker	4.00	.15	.15			
Gunnite nozzlemen	4.20	.15	.15			
" nozzle machine	4.40	.15	.15			
Powderman and blasters	4.40	.15	.15			
" helpers	4.20	.15	.15			
Tunnels and cofferdams	4.30	.15	.15			
Caisson holes (6' and over including tools)	5.00	.15	.15			
Sand hogs (free air)	4.30	.15	.15			
" " (pressure air)	5.00	.15	.15			
Miners tunnels or cofferdams	4.40	.15	.15			
Hod carriers, mortar mixers and buggy operators	4.70	.20	.15			
Fork lift	4.95	.20	.15			
Pumpmen	4.95	.20	.15			

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Truck Drivers:						
3 tons and under	$4.64					
Over 3 tons	5.04					
Semitrailer or pole trailers (pulling building material or equipment)	5.04					
Dump and tandem axle	5.04					
Euclid, low-boy and other heavy earth moving equipment	5.04					
Winch and A-frames (when used to transport building materials)	5.04					
Mechanics	4.97					
" helpers, greasers and tire changers	4.69					
Distributors	5.04					
Pavement breakers	5.04					
Mixers (all types)	5.04					
Helpers	4.69					

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Class A Operators:						
Auto patrol, batcher plant, bituminous paver, calloway clamshell, concrete mixer (2) cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, dredge engineer, elevator (regardless of ownership when used for hoisting any building material), elevating grader & all types of loaders, hoe-type machine, hoisting engine locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, orange-peel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel tractor, shovel truck crane, well points, winch truck, push dozer, grout pump, high lift, fork lift (regardless of lift height) all types of boom cats, multiple op., core drill, tow or push boat, A-frame winch truck, concrete paver, gradall, hoist, hyster, material pump, pumperete, ross carrier, sheep feet, side boom, tail boom, throttle valve man, rotary drill, joint sealing machine, power generator, mucking machine, rock spreader attached to equip., scoopmobile, KeCal loader, Tower Cranes (French, German & other types), hydrocrane, tugger, backfiller, gurries, sub-grader, electric vibrator compactor	$6.65	.25	.25			
Class B Operators:						
All air compressors (200 cu. ft. per min. or greater cap.), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tractor (50 HP & over) bull float, finish machine, outboard motor boat, flex-plane, firemen, boom type tamping machine, self-propelled drill, truck crane oiler, greaser on grease facilities servicing heavy equip., switchman or brakeman, mechanic helper, Gurley oiler, air track drill, Ingersoll Rand track drill, self-propelled compactor, tractor & road widening trencher	5.50	.25	.25			

POWER EQUIPMENT OPERATORS (Contd.)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Class C Operators						
Bituminous Dist., Cement gun, Conveyor, mud jack, paving joint machine pump, roller (earth), tamping machine, tractor (under 50 HP) vibrator, oiler, air compressor (under 200 cu. ft. per min., cap), concrete saw, burlap & curing machine, hydro seeder, power form handling equip. deckhand oiler and hydraulic boatdriver	$5.10	.25	.25			

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Holt
DECISION NO.: AP-506 DATE: Date of Publication
Supersedes Decision No. AM-6,714, dated April 14, 1972, in 37 FR 7431.
DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Carpenters & piledrivermen	$6.87	.23	.15		.03	
Electricians	7.52	.20	1%	7%		
Ironworkers	8.50	.40	.40	.50	.05	

MO-6-HO-2,3 (1-1)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Flat bed trucks - single axle	$5.83	.50	.50			
Flat bed trucks - tandem axle	5.98	.50	.50			
Station wagons	5.83	.50	.50			
Pickup trucks	5.83	.50	.50			
Material truck -single axle	5.83	.50	.50			
Material trucks - tandem axle	5.98	.50	.50			
Semi and/or pole trailers	6.10	.50	.50			
Winch, fork and steel trucks	6.10	.50	.50			
Distributer drivers and operators	6.10	.50	.50			
Agitator and transit mix trucks	5.99	.50	.50			
Tank wagon - single axle	5.83	.50	.50			
Tank wagon - semi-trailer	6.10	.50	.50			
Tank wagon - tandem axle	5.98	.50	.50			
Insley wagons, dumpsters, half-tracks, speedace, euclids, and other similar equipment	6.10	.50	.50			
A-frame and derrick trucks	6.10	.50	.50			
Float or low boy	6.10	.50	.50			
Warehouseman	5.73	.50	.50			

AP-506 P.2

MO-6-HO-2,3 (1-2)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
General Labor Concrete Vibrators; Salamander Tenders; Dump Man and Ticket Issers on Stock Piles; Mixerman; Loading Trucks under Bins, Hoppers and Conveyors; Track Man and all other General Laborers.	$5.125	.40	.40		.10	
First Semi-Skill Air Tool Operator; Cement Handler-Bulk or Sack; Dump Man on Earth Fill; Georgia Buggie Man; Material Batch Hopper Man; Scale Man; Spreader on Asphalt Machine: Material Mixer Man (except on manholes); Coffer Dams; Riprap Pavers-Rock, Block or Brick; Signal Man; Scaffolds over Ten Feet not Self-Supported from Ground Up; Skipman on Concrete Paving; Wire Mesh Setters on Concrete Paving; All Work in Connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct Lines and all other pipe lines; Power Tool Operator; All Work in Connection with Hydraulic or General Dredging Operations; Form Setter Helpers; Puddlers (paving only); Straw Blower Nozzleman.	5.275	.40	.40		.10	
Second Semi-Skill Asphalt Plant Platform Man; Chuck Tender; Crusher Feeder; Men Handling Creosote Ties or Creosote Materials; Men Working With and Handling Epoxy Material or Materials (where special protection is required); Head Pipe Layer on Sewer Work; Topper of Standing Trees; Batter Board Man on Pipe and Ditch Work; Vibrator Man; Feeder Man on Wood Pulverizers; Board and Willow Mat Weavers and Cable Tiers on River Work; Deck Hands; Pile Bike and Revetment Work; All Laborers working on underground tunnels less than 25 feet where compressed air is not used; Abutment and Pier Hole Men working six(6) feet or more below ground; Men working in Coffer Dams for Bridge Piers and Footings in the River.	5.425	.40	.40		.10	

AP-506 P.3

MO-6-HO-2,3 (2-2)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Third Semi-Skill Power Saw Operator; Asphalt Raker; Barco Hammer; Wacker or any other similar Tamp; Wagon Driller; Churn Drills; Air Track Drills; All other similar Drills; Cutting Torch Man; Form Setters; Liners and Stringline Men on Concrete Paving, Curb, Gutters, etc.; Hot Mastic Kettleman; Hot Tar Applicator; Hand Blade Operators; Manhole Builder Helpers and Mortar Men on Brick or Block Manholes; Sand Blasting and Gunite Nozzle Men; Rubbing Concrete; Air Tool Operator in Tunnels; Caulker and Lead Man; Screed Man on Asphalt Machine; Chain or Concrete Saw; Cliff Scalers working from Scaffolds, Bosuns' Chairs or Platforms on Dams or Power Plants over Ten(10) Feet Above Ground; Grade Checker on Cuts and Fills.	$5.625	.40	.40		.10	
Fourth Semi-Skill Manhole Builders-Brick or Block; Dynamite and Powder Men; Welder	5.875	.40	.40		.10	

AP-506 P.4

MO-9-HO-2-3 (1-2)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Asphalt Finishing Machine & Trench Widening Spreader; Asphalt Plant Console Operator; Autograder; Automatic Slipform Paver; Backhoe, Blade Operator-all types; Boat Operator-tow; Boilers-2; Central Mix Concrete Plant Operator; Clamshell Operator; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dozer Operator; Dragline Operator; Dredge Booster Pump; Dredge Engineman; Dredge Operator; Drill Cat with Compressor mounted on Cat; Drilling or Boring Machine Rotary selfpropelled; Highloader; Hoisting Engine-2 active drums; Lauchhammer Wheel; Locomotive Operator-standard gauge; Mechanics and Welders; Mucking Machine; Pile-driver Operator; Pitman Crane Operator; Push Cat Operator; Quad Trac; Scoop Operator-all types; Shovel Operator; Sideboom Cats; Skimmer Scoop Operator; Trenching Machine Operator; Truck Crane	8.15	.40	.40		.05	
A-Frame; Asphalt Hot-Mix Silo; Asphalt Plant Fireman (drum or boiler); Asphalt Plant Man; Asphalt Plant Mixer Operator; Asphalt Roller Operator; Backfiller Operator; Barber-Greene Loader; Boat Operator (bridges & dams); Chip Spreader; Compressor Maintenance Operator-2; Concrete Mixer Operator-Skip Loader; Concrete Plant Operator; Concrete Pump Operator; Crusher Operator; Dredge Oiler; Elevating Grader Operator; Fork Lift; Greaser-Fleet; Hoisting Engine-1; Locomotive Operator narrow gauge; Multiple Compactor; Pavement Breaker; Powerbroom-self-propelled; Power Shield; Rooter; Side Discharge Concrete Spreader; Slip Form Finishing Machine; Stumpcutter Machine; Throttle Man; Tractor Operator (over 50 H.P.); Welding Machine Maintenance Operator-2; Winch Truck	7.80	.40	.40		.05	

XUM

AP-506 F. 5

MO-9-FEQ-2-3 (2-2)

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Scott
DECISION NO.: AP-507 DATE: Date of Publication
Supersedes Decision No. AN-6,716, dated April 14, 1972, in 37 FR 7434.
DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
POWER EQUIPMENT OPERATORS (CONT'D):						
Boilers-1; Chip Spreader (front man); Churn Drill Operator; Clef Plane Operator; Compressor Maintenance Operator-1; Concrete Saw Operator (self-propelled); Conveyor Operator; Curb Finishing Machine; Distributor Operater; Finishing Machine Operator; Fireman-Rig; Flex Plane Operator; Float Operator; Form Grader Operator; Generater-Maintenance Operator; Light Plant-Maintenance Operator; Maintenance Operator; Oiler Driver; Pugmill Operator; Pump Maintenance Operator (other than Dredge); Roller Operator, other than high type asphalt; Screening & Washing Plant Operator; Siphons & Jets; Sub-grading Machine Operator; Spreader Box Operator, selfpropelled (not asphalt); Tank Car Heater Operator (combination Boiler & Booster); Tractor Operator (50 H.P. or less); Ulmac, Ulric or similar spreader; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator-1	7.60	.40	.40		.05	
Oiler	7.10	.40	.40		.05	
Clamshells, 3 yds. or over; Crane, Rigs or Piledrivers 100 ft. to 200 ft of boom (including jib); Draglines, 3 yds. or over; Hoists - each additional active drum over 2 drums; Shovels, 3 yds. or over	8.40	.40	.40		.05	
Tandem Scoop; Crane, Rigs or Piledrivers 200 ft. of boom or over (including jib)	8.65	.40	.40		.05	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Carpenters & Piledrivermen	$6.82	.23			.03	
Electricians:						
Electrical contracts $5,000.00 & under	5.43	5%	1%+5½%	11%+6½%	1%	
Electrical contracts over $5,000.00	7.76	5%	1%+5½%	11%+6½%	1%	
Ironworkers	6.60	.20	.20		.02	

MO. 1 - TD - 2,3 (1-1)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Flat bed trucks - single axle	$6.60	.50	.50			
Flat bed trucks - tandem axle	6.75	.50	.50			
Station wagons	6.60	.50	.50			
Pickup trucks	6.60	.50	.50			
Material trucks - single axle	6.60	.50	.50			
Material trucks - tandem axle	6.75	.50	.50			
Semi and/or pole trailers	6.87	.50	.50			
Winch, fork and steel trucks	6.87	.50	.50			
Distributor drivers and operators	6.87	.50	.50			
Agitator and transit mix trucks	6.76	.50	.50			
Tank wagon - single axle	6.60	.50	.50			
Tank wagon - semi-trailer	6.87	.50	.50			
Tank wagon - tandem axle	6.75	.50	.50			
Insley wagons, dumpsters, half-tracks, speedace, euclids, and other similar equipment	6.87	.50	.50			
A-frame and derrick trucks	6.87	.50	.50			
Float or low boy	6.87	.50	.50			
Warehouseman	6.50	.50	.50			

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
[illegible] Caisson Workers; Salamander Tenders; [illegible] Mixer Tenders on Stockpiles; Plugging; Loading Trucks under Bins, Hoppers and Conveyors; Track Men and all other General Laborers.	5.825	.30	.40		.10	
First Semi-Skill Air Tool Operator; Cement Handler-Bulk or Sack; Dump Man on Earth Fill; Georgia Buggie Man; Material Batch Hopper Man; Scale Man; Spreader on Asphalt Machine; Material Mixer Man (except on manholes); Coffer Dams; Riprap Pavers-Rock, Block or Brick; Signal Man; Scaffolds over Ten Feet not self-supported from Ground Up; Skipman on Concrete Paving; Wire Mesh Setters on Concrete Paving; All Work in Connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct Lines and all other pipe lines; Power Tool Operator; All work in Connection with Hydraulic or General Dredging Operations; Form Setter Helpers; Puddlers (Paving only); Straw Blower Nozzleman.	5.975	.30	.40		.10	
Second Semi-Skill Asphalt Plant Platform Man; Chuck Tender; Crusher Feeder; Men Handling Creosote Ties or Creosote Materials; Men working with and Handling Epoxy Material or Materials (where special protection is required); Head Pipe Layer on Sewer Work; Topper of Standing Trees; Batter Board Man on Pipe and Ditch Work; Vibrator Man; Feeder Man on Wood Pulverizers; Board and Willow Mat Weavers and Cable Tiers on River Work; Deck Hands; Pile Dike and Revetment Work; All Laborers working on underground tunnels less than 25 feet where compressed air is not used; Abutment and Pier Hole Men working six (6) feet or more below ground; Men working in Coffer Dams for Bridge Piers and Footings in the River.	6.125	.30	.40		.10	

AP-507 P. 3 MO. 26-Feb 2,3 (2-2)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
Third Semi-Skill Power Chain Saw; Asphalt Raker; Barco Jumper; Jackson or any other similar Type; Vagen Drillers; Churn Drills; Air Track Drills; All other similar Drills; Cutting Torch Man; Form Setters; Liners and Stringline Men on Concrete Paving, Curb, Gutters, etc.; Hot Mastic Kettleman; Hot Tar Aplicator; Hand Blade Operators; Manhole Builder Helpers and Mortar Men on Brick or Block Manholes; Sand Blasting and Gunite Nozzlemen; Rubbing Concrete; Air Tool Operator in Tunnels; Caulker and Lead Man; Screed Man on asphalt Machine; Chain or Concrete Saw; Cliff Scalers working from Scaffolds, Bosuns' Chairs or Platforms on Dams or Power Plants over Ten (10) Feet above the Ground; Grade Checker on Cuts and Fills.	6.325	.30	.40		.10	
Fourth Semi-Skill Manhole Builders-Brick or Block; Dynamite and Powder Men; Welder	6.575	.30	.40		.10	

XUM

AP-507 P. 4

NO. 12 - [illegible] - 2,3 (1-7)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
Asphalt finishing machine & trench widening spreader; Autograder; Backhoe; Blade operator - fill type; Boat operator; Boilers - 2; Central mix concrete plant operator; Chinchill operator; Concrete mixer paver; Crane operator; Derrick or derrick trucks; Ditching machine; Dozer operator; Dragline operator; Dredge engineman; Dredge operator; Drill Cat with compressor mounted on Cat; Drilling or Boring machine, Rotary, self-propelled; Highloader; Hoisting engine - 2 or more active drums; Lauchhammer wheel; Locomotive operator - standard gauge; Mechanics and Welders; Mucking machine; Piledrive operator; Pitman crane operator; Quad trac; Scoop operator; Shovel operator; Sideboom cats; Skimmer scoop operator; Trenching machine operator; Truck crane	6.80	.35	.40		.02	
A-Frame; Asphalt roller operator; Asphalt plant operator; Asphalt plant mixer operator; Backfiller operator; Barber-Greene loader; Boat operator (bridges & dams); Chip spreader; Compressor maintenance operator - 2; Concrete mix operator, skip loader; Concrete plant operator; Concrete pump operator; Crusher operator; Dredge oiler; Elevating grader operator; Fork lift; Greaser-Fleet; Hoisting engine - 1; Locomotive operator - narrow gauge; Multiple compactor; Pavement breaker; Powerbroom - self-propelled; Rooter; Slip form finishing machine; Stumpcutter machine; Throttle man; Tractor operator (over 50 H.P.); Welding machine maintenance operator - 2; Winch truck	6.45	.35	.40		.02	

AP-507 P. 5

NO. 12 - [illegible] - 2,3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Boilers - 1; Chip spreader (front man); Churn drill operator; Clef plane operator; Compressor maintenance operator - 1; Conveyor operator; Core finishing machine; Distributor operator; Finishing machine operator; Fireman - Big Flex plane operator; Float operator; Foam grader operator; Generator maintenance operator; Light plant maintenance operator; Maintenance operator; Pump maintenance operator; Roller operator, other than high type asphalt; Screening & washing plant operator; Siphons & jets; Sub-grading machine operator; Spreader box operator, self-propelled (not asphalt); Tank car heater operator (combination boiler & booster); Fireman on asphalt plants, drum or boiler; Ulmac, Ulric or similar spreader; Vibrating machine operator, not hand; Welding machine maintenance operator - 1	6.25	.35	.40		.02	
Concrete saw operator (self-propelled); Oiler; Tractor operator (50 H.P. or less)	5.75	.35	.40		.02	
Dragline operator - 3 yds. & over; shovel - 3yds. & over	7.05	.35	.40		.02	
Scoop operator, tandem	7.30	.35	.40		.02	

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NO.: AP-508
Supersedes Decision No. AM-6,715, dated April 14, 1972, in 37 FR 7432.
DESCRIPTION OF WORK: Heavy & Highway Construction

COUNTIES: Linn and Pettis
DATE: Date of Publication

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Carpenters & piledrivermen	$7.02	.23			.03	
Cement masons:						
Linn County	6.70					
Pettis County	6.85					
Electricians (Pettis County):						
Electrical contracts over $5,000.00	7.95	.15	12+.20	.70	.03	
Electrical contracts $5,000.00 & under	7.45	.15	12+.20	.70	.03	
Ironworkers	8.50	.40	.40	.50	.05	

NO. 3 - TD - 2,3 (3-1)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Flat bed trucks - single axle	$6.58	.50	.50			
Flat bed trucks - tandem axle	6.73	.50	.50			
Station wagons	6.58	.50	.50			
Pickup trucks	6.58	.50	.50			
Material trucks - single axle	6.58	.50	.50			
Material trucks - tandem axle	6.73	.50	50			
Semi and/or pole trailers	6.85	.50	.50			
Winch, fork and steel trucks	6.85	.50	.50			
Distributor drivers and operators	6.85	.50	.50			
Agitator and transit mix trucks	6.74	.50	.50			
Tank wagon - single axle	6.58	.50	.50			
Tank wagon - semi-trailer	6.85	.50	.50			
Tank wagon - tandem axle	6.73	.50	.50			
Insley wagons, dumpsters, half tracks, speedace, euclids, and other similar equipment	6.85	.50	.50			
A-frame and derrick trucks	6.85	.50	.50			
Float or low boy	6.85	.50	.50			
Warehousemen	6.48	.50	.50			

AP-508 P. 2

"Pettis County"

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
[illegible]	[illegible]	.15	[illegible]			
[illegible]	6.35	.15	12+.15			
[illegible]	[illegible]	.15	[illegible]			
GROUNDMAN FOREMAN	4.59	.15	12+.15			
GROUNDMAN	4.29	.15	12+.15			
GROUNDMAN (1st year)	3.52	.15	12+.15			

"Linn County"

Missouri Line Construction 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Lineman & cable splicers	$7.35	3%	1%	12½%	1%	
Groundman-winch driver	5.35	3%	1%	12½%	1%	
Groundman-driver	5.09	3%	1%	12½%	1%	
Equipment operator	6.60	3%	1%	12½%	1%	
Groundman - 1st 6 mos.	3.98	3%	1%	12½%	1%	
Groundman - next 12 mos.	4.17	3%	1%	12½%	1%	
Groundman - next 12 mos.	4.65	3%	1%	12½%	1%	
Groundman - thereafter	5.09	3%	1%	12½%	1%	

AP-508 P. 3 — No. 23 - LAB-2,3 (1-2)

"Pettis County"

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
General Laborer Carpenter tenders; Salamander tenders; Dump man and ticket takers on Stock Piles; Flagmen; Loading trucks under bins, hoppers and conveyors; Truck Men and all other General Laborers.	$5.875	.40	.40		.10	
First Semi-Skill Air Tool Operator; Cement Handler-Bulk or Sack; Dump Man on Earth Fill; Georgie Buggie Man; Material Batch Hopper Man; Scale Man; Spreader on Asphalt Machine; Material Mixer Man (except on manholes); Coffer Dams; Riprap Pavers-Rock, Block or Brick; Signal Man; Scaffolds over Ten Feet not Self-Supported from Ground Up; Shipman on Concrete Paving; Wire Mesh Setters on Concrete Paving; All Work in Connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct Lines and all other pipe lines; Power Tool Operator; All Work in Connection with Hydraulic or General Dredging Operations; Form Setter Helpers; Puddlers (paving only); Straw Blower Nozzleman.	6.025	.40	.40		.10	
Second Semi-Skill Asphalt Plant Platform Man; Chuck Tender; Crusher Feeder; Men Handling Creosote Ties or Creosote Materials; Men Working With and Handling Epoxy Material or Materials (where special protection is required); Head Pipe Layer on Sewer Work; Topper of Standing Trees; Batter Board Man on Pipe and Ditch Work; Vibrator Man; Feeder Man on Wood Pulverizers; Board and Willow Mat Weavers and Cable Tiers on River Work; Deck Hands; Pile Dike and Revetment Work; All Laborers working on underground tunnels less than 25 Feet where compressed air is not used; Abutment and Pier Hole Men working six(6) feet or more below ground; Men working in Coffer Dams for Bridge Piers and Footings in the River.	6.175	.40	.40		.10	

AP-508 P. 4 — No. 23 - LAB-2,3 (2-2)

"Pettis County"

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS (Cont'd)						
Third Semi-Skill Laser beam man; Asphalt Raker; Barco Tamper; Jackson or any other similar Tamp; Wagon Driller; Churn Drills; Air Track Drills; All other Air Flex Drills; Cutting Torch Man; Form Setters; Liners and Stringline Men on Concrete Paving, Curb, Gutters, etc.; Hot Mastic Kettleman; Hot Tar Applicator; Hand Blade Operators; Manhole Builder Helpers and Mortar Men on Brick or Block Manholes; Sand Blasting and Gunite Nozzle Men; Rubbing Concrete; Air Tool Operator in Tunnels; Caulker and Lead Man; Screed Man on Asphalt Machine; Chain or Concrete Saw; Cliff Scalers working from Scaffolds, Bosuns' Chairs or Platforms on Dams or Power Plants over Ten(10) Feet above Ground; Grade Checker on Cuts and Fills.	6.375	.40	.40		.10	
Fourth Semi-Skill Manhole Builders-Brick or Block; Dynamite and Powder Men; Welder	6.625	.40	.40		.10	

NOTICES

AP-508 P. 5 — No. 27-LAB-2,3 (1-2)

"Linn County"

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS: General Labor Carpenter tenders; Salamander tenders; Dump man and ticket takers on stock piles; flagmen; Loading trucks under bins, hoppers and conveyors; Truck men and all other General laborers	$5.525	.30	.40		.10	
First Semi-Skill Air tool operator; Cement handler-bulk or sack; Dump man on earth fill; Georgie buggie man; Material batch hopper man; Scale man; Spreader on asphalt machine; Material mixer man (except on manholes); Coffer Dams; Riprap pavers-rock, block or brick; Signal man; Scaffolds over ten feet not self-supported from ground up; Skipman on concrete paving; All work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; Power tool operator; All work in connection with hydraulic or general dredging operations; Form setter helpers; Puddlers (paving only); Straw blower nozzleman; Wire mesh setters on concrete paving.	5.675	.30	.40		.10	
Second Semi-Skill Asphalt plant platform man; Chuck tender; Crusher feeder; Men handling creosote ties or creosote materials; Men working with and handling epoxy material or materials (where special protection is required); Head pipe layer on sewer work; Topper of standing trees; Batter board man on pipe and ditch work; Vibrator man; Feeder man on wood pulverizers; Board and willow mat weavers and cable tiers on river work; Deck hands; Pile dike and revetment work; All laborers working on underground tunnels less than 25 feet where compressed air is not used; Abutment and pier hole men working six (6) feet or more below ground; Men working in Coffer Dams for bridge piers and footings in the river.	5.825	.30	.40		.10	

AP-508 P. 6 — No. 27-LAB-2,3 (2-2)

"Linn County"

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
LABORERS (CONT'D):						
Third Semi-Skill Laser beam man; Asphalt rakers; Barco tamper; Jackson or any other similar tamp; Wagon driller; Churn drills; Air track drills; All other similar drills; Cutting torch man; Form setters; Liners and stringline men on concrete paving, curb, gutters, etc.; Hot mastic kettleman; Hot tar applicator; Hand blade operators; Manhole builder helpers and mortar men on brick or block manholes; Sandblasting & gunnite nozzlemen; Rubbing concrete; Air tool operator in tunnels; Caulker and lead man; Screed man on asphalt machine; Chain or concrete saw; Cliff scalers working from scaffolds, Bosuns' Chairs or platforms on Dams or Power Plants over ten (10) feet above ground; Grade checker on cuts and fills	6.025	.30	.40		.10	
Fourth Semi-Skill Manhole builders - brick or block; Dynamite and powder men; Welder	6.275	.30	.40		.10	

NOTICES

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Asphalt Finishing Machine & Trench Widening Spreader; Asphalt Plant Console Operator; Autograder; Automatic Slipform Paver; Backhoe, Blade Operator-all types; Boat Operator-tow; Boilers-2; Central Mix Concrete Plant Operator; Clamshell Operator; Concrete Mixer Paver; Crane Operator; Derrick or Derrick Trucks; Ditching Machine; Dozer Operator; Dragline Operator; Dredge Booster Pump; Dredge Engineman; Dredge Operator; Drill Cat with Compressor mounted on Cat; Drilling or Boring Machine Rotary selfpropelled; Highloader; Hoisting Engine-2 active drums; Lauchhammer Wheel; Locomotive Operator-standard gauge; Mechanics and Welders; Mucking Machine; Piledriver Operator; Pitman Crane Operator; Push Cat Operator; Quad Trac; Scoop Operator-all types; Shovel Operator; Sideboom Cats; Skimmer Scoop Operator; Trenching Machine Operator; Truck Crane	8.15	.40	.40		.05	
A-Frame; Asphalt Hot-Mix Silo; Asphalt Plant Fireman (drum or boiler); Asphalt Plant Man; Asphalt Plant Mixer Operator; Asphalt Roller Operator; Backfiller Operator; Barber-Greene Loader; Boat Operator (bridges & dams); Chip Spreader; Compressor Maintenance Operator-2; Concrete Mixer Operator-Skip Loader; Concrete Plant Operator; Concrete Pump Operator; Crusher Operator; Dredge Oiler; Elevating Grader Operator; Fork Lift; Greaser-Fleet; Hoisting Engine-1; Locomotive Operator narrow gauge; Multiple Compactor; Pavement Breaker; Powerbroom-self-propelled; Power Shield; Rooter; Side Discharge Concrete Spreader; Slip Form Fipishing Machine; Stumpcutter Machine; Throttle Man; Tractor Operator (over 50 H.P.); Welding Machine Maintenance Operator-2; Winch Truck	7.80	.40	.40		.05	

POWER EQUIPMENT OPERATORS (CONT'D):	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Othe
Boilers-1; Chip Spreader (front man); Churn Drill Operator; Clef Plane Operator-1; Compressor Maintenance Operator-1; Concrete Saw Operator (self-propelled); Conveyor Operator; Curb Finishing Machine; Distributor Operator; Finishing Machine Operator; Fireman-Rig; Flex Plane Operator; Float Operator; Form Grader Operator; Generator-Maintenance Operator; Light Plant-Maintenance Operator; Maintenance Operator; Oiler Driver; Pugmill Operator; Pump Maintenance Operator (other than Dredge); Roller Operator, other than high type asphalt; Screening & Washing Plant Operator; Siphons & Jets; Sub-grading Machine Operator; Spreader Box Operator, selfpropelled (not asphalt); Tank Car Heater Operator (combination Boiler & Booster); Tractor Operator (50 H.P. or less); Ulmac, Ulric or similar spreader; Vibrating Machine Operator, not hand; Welding Machine Maintenance Operator-1	7.60	.40	.40		.05	
Oiler	7.10	.40	.40		.05	
Clamshells, 3 yds. or over; Crane, Rigs or Piledrivers 100 ft. to 200 ft of boom (including jib); Draglines, 3 yds. or over; Hoists - each additional active drum over 2 drums; Shovels, 3 yds. or over	8.40	.40	.40		.05	
Tandem Scoop; Crane, Rigs or Piledrivers 200 ft. of boom or over (including jib)	8.65	.40	.40		.05	

SUPERSEDEAS DECISION

STATE: Missouri

COUNTIES: Barton, Laclede, and Lawrence

DECISION NO.: AP-509

DATE: Date of Publication

Supersedes Decision No. AM-6,713, dated April 14, 1972, in 37 FR 7429

DESCRIPTION OF WORK: Heavy and Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	1/ Other
Carpenters & piledrivermen	$6.87	.23	.15		.03	
Cement masons (Laclede County)	5.50					
Electricians:						
Barton & Lawrence Counties	6.50	.20	1%		.005	
Laclede County	7.60	.30	1%	6%	.01	
Ironworkers:						
Barton & Laclede Counties	8.50	.40	.40	.50	.05	
Lawrence County "	7.44	.20	.25		.04	

MO. 1 - 10 - 2,3 (1-1)

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Flat bed trucks - single axle	$6.60	.50	.50			
Flat bed trucks - tandem axle	6.75	.50	.50			
Station wagons	6.60	.50	.50			
Pickup trucks	6.60	.50	.50			
Material trucks - single axle	6.60	.50	.50			
Material trucks - tandem axle	6.75	.50	.50			
Semi and/or pole trailers	6.87	.50	.50			
Winch, fork and steel trucks	6.67	.50	.50			
Distributor drivers and operators	6.87	.50	.50			
Agitator and transit mix trucks	6.76	.50	.50			
Tank wagon - single axle	6.60	.50	.50			
Tank wagon - semi-trailer	6.87	.50	.50			
Tank wagon - tandem axle	6.75	.50	.50			
Insley wagons, dumpsters, half-tracks, speedace, euclids, and other similar equipment	6.87	.50	.50			
A-frame and derrick trucks	6.87	.50	.50			
Float or low boy	6.87	.50	.50			
Warehousemen	6.50	.50	.50			

"Lawrence County" POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth
Asphalt finishing machine & trench widening spreader; Asphalt plant console Op.; Autograder; Automatic slipform paver; backhoe, Blade Op. - all types; Boat Op.-tow; Boilers - 2; Central mix concrete plant Op.; Clamshell Op.; Concrete mixer paver; Crane Op.; Derrick or Derrick trucks; Ditching machine; Dozer Op.; Dragline Op.; Dredge booster pump; Dredge engineman; Dredge Op.; Drill Cat with compressor mounted on Cat; Drilling or Boring machine rotary self-propelled; Highloader; Hoisting engine - 2 active drums; Lauchhammer wheel; Locomotive Op. - Standard gauge; Mechanics and Welders; Mucking machine; Piledriver Op.; Pitman crane Op.; Push Cat Op.; Quad trac; Scoop Op. - all types; Shovel Op.; Sideboom Cats; Skimmer scoop Op.; Trenching machine Op.; Truck crane	$7.00	.40	.25		.02	
A-Frame; Asphalt hot-mix silo; Asphalt plant Fireman (drum or boiler); Asphalt plant man; Asphalt plant mixer Op.; Asphalt roller Op.; Backfiller Op.; Barber-Greene loader; Boat Op. (bridges & dams); Chip spreader; Compressor maintenance Op.-2; Concrete mixer Op., Skip loader; Concrete plant Op.; Concrete pump Op.; Crusher Op.; Dredge Oiler; Elevating grader Op.; Fork lift; Greaser-fleet; Hoisting engine - 1; Locomotive Op. narrow gauge; Multiple compactor; Pavement breaker; Powerbroom self-propelled; Power shield; Rooter; Side discharge concrete spreader; Slipform finishing machine; Stumpcutter machine; Throttle man; Tractor Op. (over 50 H.P.); Welding machine maintenance Op. - 2; Winch truck	6.65	.40	.25		.02	

"Lawrence County"

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
Boiler - 1; Chip Spreader (front man); Churn Drill Op.; Clef Flare Op.; Compressor Maintenance Op. - 1; Concrete Saw Op. (self-propelled); Conveyor Op.; Curb Finishing Machine; Distributor Op.; Finishing Machine Op.; Fireman-Rig; Flex Plane Op.; Float Op.; Form Grader Op.; Generator-Maintenance Op.; Light Plant-Maintenance Op.; Maintenance Op.; Oiler Driver; Pugmill Op.; Pump Maintenance Op. (other than Dredge); Roller Op., other than high type asphalt; Screening & Washing Plant Op.; Siphons & Jets; Sub-grading Machine Operator; Spreader Box Op., self-propelled (not asphalt); Tank Car Heater Op. (combination Boiler & Booster); Tractor Op. (50 H.P. or less); Ulmac, Ulric or similar spreader; Vibrating Machine Op., Welding Machine Maintenance Op. -1	6.45	.40	.25		.02	
Oiler	5.95	.40	.25		.02	
Clamshells, 3 yds. or over; Crane, Rigs or Piledrivers 100' to 200' of boom (including jib); Draglines, 3 yds. or over; Hoists - each additional active drum over 2 drums; Shovels, 3 yds. or over	7.25	.40	.25		.02	
Tandem Scoop; Crane, Rigs or Piledrivers 200' of boom or over (including jib)	7.50	.40	.25		.02	

Barton & Laclede Counties

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
Asphalt finishing machine & trench widening spreader; Asphalt plant console Op.; Autograder; Automatic slipform paver; Backhoe, Fluid Op. - all types; Boat Op.-tow; Boilers - 2; Central mix concrete plant Op.; Clamshell Op.; Concrete mixer paver; Crane Op.; Derrick or Derrick trucks; Ditching machine; Dozer Op.; Dragline Op.; Dredge booster pump ; Dredge engineman; Dredge Op.; Drill Cat with compressor mounted on Cat; Drilling or Boring machine rotary self-propelled; Highloader; Hoisting engine - 2 active drums; Lauchhammer wheel; Locomotive Op. - standard gauge; Mechanics and Welders; Mucking machine; Piledriver Op.; Pitman crane Op.; Push Cat Op.; Quad trac; Scoop Op. - all types; Shovel Op.; Sideboom Cats; Skimmer scoop Op.; Trenching machine Op.; Truck crane	$7.65	.40	.25		.02	
A-Frame; Asphalt hot-mix silo; Asphalt plant Fireman (drum or boiler); Asphalt plant man; Asphalt plant mixer Op.; Asphalt roller Op.; Backfiller Op.; Barber-Greene loader; Boat Op. (bridges & dams); Chip spreader; Compressor maintenance Op. - 2; Concrete mixer Op. Skip loader; Concrete plant Op.; Concrete pump Op.; Crusher Op.; Dredge Oiler; Elevating grader Op.; Fork lift; Greaser-fleet; Hoisting engine - 1; Locomotive Op. narrow gauge; Multiple compactor; Pavement breaker; Powerbroom self-propelled; Power shield; Rooter; Side discharge concrete spreader; Slipform finishing machine; Stumpcutter machine; Throttle man; Tractor Op. (over 50 H.P.); Welding machine maintenance Op. - 2; Winch truck	7.30	.40	.25		.02	

Barton & Laclede Counties

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Oth.
Boilers - 1; Chip Spreader (front man); Churn Drill Op.; Clef Flare Op.; Compressor Maintenance Op. - 1; Concrete Saw Op. (self-propelled); Conveyor Op.; Curb Finishing Machine; Distributor Op.; Finishing Machine Op.; Fireman-Rig; Flex Plane Op.; Float Op.; Form Grader Op.; Generator-Maintenance Op.; Light Plant - Maintenance Op.; Maintenance Op.; Oiler Driver; Pugmill Op.; Pump Maintenance Op. (other than Dredge); Roller Op., other than high type asphalt; Screening & Washing Plant Op.; Siphons & Jets; Sub-grading Machine Operator; Spreader Box Op., self-propelled (not asphalt); Tank Car Heater Op.(combination Boiler & Booster); Tractor Op. (50 H.P. or less); Ulmac, Ulric or similar spreader; Vibrating Machine Op., Welding Machine Maintenance Op. - 1	7.10	.40	.25		.02	
Oiler	6.35	.40	.25		.02	
Clamshells, 3 yds. or over; Crane, Rigs or Piledrivers 100' to 200' of boom (including jib); Draglines, 3 yds. or over; Hoists - each additional active drum over 2 drums; Shovels, 3 yds. or over	7.90	.40	.25		.02	
Tandem Scoop; Crane, Rigs or Piledrivers 200' of boom or over (including jib)	8.15	.40	.25		.02	

Laborers:

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Other
General Labor Carpenter Tenders; Salamander Tenders; Dump Man and Ticket Taker on Stock Piles; Flagman; Loading Trucks under Bins, Hoppers and Conveyors; Track Men and all other General Laborers.	$5.875	.40	.40		.10	
First Semi-Skill Air Tool Operator; Cement Handler-Bulk or Sack; Dump Man on Earth Fill; Georgia Buggie Man; Material Batch Hopper Man; Scale Man; Spreader on Asphalt Machine; Material Mixer Man (except on manholes); Coffer Dams; Riprap Layers-Rock, Block or Brick; Signal Man; Scaffolds over Ten Feet not Self-Supported from Ground Up; Skipman on Concrete Paving; Wire Mesh Setters on Concrete Paving; All Work in Connection with Sewer, Water, Gas, Gasoline, Oil, Drainage Pipe, Conduit Pipe, Tile & Duct Lines and all other pipe lines; Power Tool Operator; All Work in Connection with Hydraulic or General Dredging Operations; Form Setter helpers; Puddlers (paving only); Straw Blower Nozzleman.	6.025	.40	.40		.10	
Second Semi-Skill Asphalt Plant Platform Man; Chuck Tender; Crusher Feeder; Men Handling Creosote Ties or Creosote Materials; Men Working With and Handling Epoxy Material or Materials (where special protection is required); Head Pipe Layer on Sewer Work; Topper of Standing Trees; Batter Board Man on Pipe and Ditch Work; Vibrator Man; Feeder Men on Wood Pulverizers; Board and Willow Mat Weavers and Cable Tiers on River Work; Dock Hands; Pile Dike and Revetment Work; All Laborers working on underground tunnels less than 25 feet where compressed air is not used; Abutment and Pier Hole Men working six(6) feet or more below ground; Men working in Coffer Dams for Bridge Piers and Footings in the River.	6.175	.40	.40		.10	

MXM 37-199 10-13-72

AP-5C9 P. 7 [illegible] (2-2)

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Oth
Third Semi-Skill						
Asbestos Gasket Man; Asphalt Raker; Barco Tamper; Jackson or any other Similar Tamp; Mason Driller; Churn Drills; Air Track Drills; All other Similar Drills; Cutting Torch Man; Form Setters; Liners and Stringline Men on Concrete Paving, Curb, Gutters, etc.; Hot Mastic Kettleman; Hot Tar Applicator; Hand Blade Operators; Manhole Builder Helpers and Mortar Men on Brick or Block Manholes; Sand Blasting and Gunite Nozzle Men; Rubbing Concrete; Air Tool Operator in Tunnels; Caulker and Lead Man; Screed Man on Asphalt Machine; Chain or Concrete Saw; Cliff Scalers working from Scaffolds, Bosuns' Chairs or Platforms on Dams or Power Plants over Ten(10) Feet above Ground; Grade Checker on Cuts and Fills.	6.375	.40	.40		.10	
Fourth Semi-Skill						
Manhole Builders-Brick or Block; Dynamite and Powder Men; Welder	6.625	.40	.40		.10	

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bailey, Lamb, Hale, Floyd, Cochran, Hockley, Lubbock, Crosby, Yoakum, Terry, Lynn & Garza

DECISION NO.: AP-352

DATE: Date of Publication

Supersedes Decision No. AM-7,794, dated November 19,1971. 36 FR 22117

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others1/
BRICKLAYERS	$4.93					
CARPENTERS	4.47					
CARPENTERS' HELPERS	3.00					
CEMENT MASONS	4.00					
DRYWALL INSTALLERS	3.50					
ELECTRICIANS	6.35	.25	1%			
FENCE BUILDERS	2.10					
INSULATION INSTALLERS	3.00					
IRONWORKERS	2.50					
IRONWORKERS' HELPERS	2.00					
LABORERS:						
Laborers	2.00					
PAINTERS, BRUSH	4.09					
PAINTERS' HELPERS	2.35					
PLUMBERS	4.66					
PLUMBERS' HELPERS	2.34					
ROOFERS	3.52					
SHEET METAL WORKERS	4.13					
SHEET METAL WORKERS' HELPERS	2.75					
SOFT FLOOR LAYERS	5.00					
SOFT FLOOR LAYERS' HELPERS	3.50					
TAPE & BEDDERS	5.00					
TAPE & BEDDERS' HELPERS	2.62					
TILE SETTERS	5.50					
TRUCK DRIVERS	2.50					

AP-352 P. 2

24 - Texas - 3 R (1 - 2)

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Air Tool Man	$2.60					
Asphalt Heaterman	2.65					
Asphalt Raker	2.75					
Asphalt Shoveler	2.15					
Batching Plant Scaleman	2.95					
Carpenter	3.50					
Carpenter Helper	3.25					
Concrete Finisher (Paving)	3.50					
Concrete Finisher (Structures)	3.35					
Concrete Finisher Helper(Structures)	3.00					
Form Builder (Structures)	3.25					
Form Builder Helper (Structures)	2.50					
Form Setter (Paving and Curb)	2.35					
Form Setter (Structures)	3.75					
Form Setter Helper (Structures)	2.50					
Laborer, Common	2.00					
Laborer, Utility Man	2.50					
Mechanic	3.05					
Oiler	2.80					
Serviceman	3.00					
Powderman	2.75					
Powderman Helper	2.50					
Spreader Box Man	2.80					
Swamper	2.50					
Power Equipment Operators:						
Asphalt Distributor	2.60					
Asphalt Paving Machine	3.00					
Broom or Sweeper Operator	2.10					
Bulldozer, 150 H.P. and Less	3.00					
Bulldozer, over 150 H.P.	3.50					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ C.Y.)	3.40					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ C.Y. and Over)	3.75					
Crusher or Screening Plant Operator	3.00					
Foundation Drill Operator (Truck Mounted)	3.75					
Front End Loader (2½ C.Y. and Less)	3.00					
Front End Loader (Over 2½ C.Y.)	3.10					
Motor Grader Operator, Fine Grade	4.10					

AP-352 P. 3

24 - Texas - 3 R (2 - 2)

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd):						
Motor Grader Operator	$3.50					
Roller, Steel Wheel (Plant-Mix Pavements)	2.50					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.60					
Roller, Pneumatic (Self-Propelled)	2.30					
Scrapers (17 C.Y. and Less)	3.00					
Scrapers (Over 17 C.Y.)	3.25					
Tractor (Crawler Type) 150 H.P. and Less	2.85					
Tractor (Crawler Type) over 150 H.P.	3.00					
Tractor (Pneumatic) 80 H.P. and Less	2.50					
Tractor (Pneumatic) over 80 H.P.	2.65					
Wagon Drill, Boring Machine or Post Hole Driller Operator	2.75					
Truck Drivers:						
Single Axle, Light	2.00					
Single Axle, Heavy	2.50					
Tandem Axle or Semitrailer	2.25					
Winch	2.60					
Weighman (Truck Scales)	2.30					
Welder	4.35					

[FR Doc.72-17396 Filed 10-12-72;8:45 am]

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federal register

SATURDAY, OCTOBER 14, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 200

Pages 21789–21894

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Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH–307]

PART 864—SUGARCANE; LOUISIANA

Fair and Reasonable Wage Rates

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearing held in Houma, La., on June 21 and June 22, 1972, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Wage Rates; Sugarcane; Louisiana" remain in full force and effect as to the crops to which they were applicable.

Sec.

864.23 Requirements.
864.24 Applicability of wage requirements.
864.25 Payment of wages.
864.26 Evidence of compliance.
864.27 Subterfuge.
864.28 Claim for unpaid wages.
864.29 Failure to pay all wages in full.
864.30 Checking compliance.

AUTHORITY: Sections 864.23 to 864.30 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 864.23 Requirements.

A producer of sugarcane in Louisiana shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in production, cultivation, or harvesting work, as provided in § 864.24, shall have been paid in accordance with the following:

(a) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, whichever is higher, but not less than the following, which shall become effective on October 23, 1972, and shall refain in effect until amended, superseded, or terminated:

(1) *Work performed on a time basis.*

Class of worker	*Rate per hour*
Harvest Work:	
Harvester, loader and transfer loader operators	$1.95
Tractor drivers, truck drivers, harvester bottom blade operators, and hoist operators	1.90
All other harvesting workers	1.80
Production and Cultivation Work:	
Tractor drivers	1.85
All other production and cultivation workers	1.80

(2) *Workers 14 and 15 years of age and full-time students when employed on a time basis.* For workers 14 and 15 years of age and, where the Secretary of Labor has by certificate or order provided for the employment of full-time students 14 years of age or older on a part-time basis (not to exceed 20 hours in any workweek during the time school is in session) or on a part-time or a full-time basis during school vacations, the rate shall be not less than 85 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph. (The act provides that the employment of workers under 14 years of age, or the employment of workers 14 and 15 years of age for more than 8 hours per day, will result in a deduction from Sugar Act payments to the producer.)

(3) *Handicapped workers when employed on a time basis.* The wage rate for workers certified by the Regional Director, Wage and Hour Division, U.S. Department of Labor, 1931 Ninth Avenue South, Birmingham, Ala. 35205, to be handicapped because of age or physical or mental deficiency or injury, and whose productive capacity is thereby impaired, shall be not less than 75 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph.

(4) *Work performed on a piecework basis.* The piecework rate for any operation shall be as agreed upon between the producer and the worker. The hourly rate of earnings of each worker employed on piecework during each pay period (not to be in excess of 2 weeks) shall average for the time worked at piecework rates during such pay period not less than the applicable hourly rate for the class of worker prescribed in subparagraphs (1), (2), and (3) of this paragraph.

(b) *Compensable working time.* For work performed under paragraph (a) of this section, compensable working time commences at the time the worker is required to start work and ends upon completion of work in the field, except time taken out for meals during the working day. If the producer requires the operator of mechanical equipment, driver of animals, or any other class of worker to report to a place other than the field, such as an assembly point or a tractor shed located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Time spent in performing work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(c) *Equipment necessary to perform work assignment.* The producer shall furnish without cost to the worker any equipment required in the performance of any work assignment. The worker may be charged for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Equipment includes, but is not limited to, hand and mechanical tools and special wearing apparel, such as boots and raincoats, required to discharge the work assignment.

§ 864.24 Applicability of wage requirements.

The wage requirements of this part apply to all persons who are employed or who work on the farm in operations directly connected with the production, cultivation, or harvesting of sugarcane on any acreage from which sugarcane is marketed or processed for the production of sugar, harvested for seed or any acreage which qualifies as bona fide abandoned. Such persons include field overseers or supervisors while directing other workers, and those workers employed by an independent contractor who perform services on the farm. The wage requirements are not applicable to persons who voluntarily perform work without pay on the farm for a religious or charitable institution or organization; inmates of a prison who work on a farm operated by the prison; truck drivers employed by a contractor engaged only in hauling sugarcane; members of a cooperative arrangement among producers for the exchange of labor to be performed by themselves or members of their families; persons who have an agreement with the producer to perform all work on a specified acreage in return for a share of the crop or crop proceeds if such share, including the share of any Sugar Act payments, results in earnings at least as much as would otherwise be received in accordance with the requirements of this part for the work performed; custom operators or independent contractors and members of their immediate families; or workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugarcane, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

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§ 864.25 Payment of wages.

Workers shall be paid by check or in currency for all work performed, except to the extent that the cash payment is reduced by the following deductions: cash advances made to the worker by the producer; the market value or the amount agreed upon for supplies furnished by the producer at the request of the worker; meals, lodging, and transportation expense which the producer agreed to furnish for a stated amount; and mandatory deductions such as taxes and Social Security contributions. In addition, a producer may deduct the amounts he has paid to a third party on behalf of the worker in connection with his employment as a farm worker which are acknowledged in writing signed by the worker or his agent or substantiated by other evidence acceptable to the county ASC committee to be an indebtedness of the worker, and which cover the expense of services and benefits furnished the worker by the third party, and which the worker or his agent has agreed may be deducted from his wages, such as public utilities, medical services, group hospitalization, or other insurance for the benefit of the worker. As evidence of payments to a third party for which a deduction is made from the earnings of a worker, the producer shall maintain for a period of 3 years, for the inspection of the worker and the local county ASCS office, receipted bills or other written satisfactory evidence that support such deductions. Payments made to a labor contractor, supervisor, or labor trainer, or the cost of meals, lodging, transportation, and insurance covering injury or illness resulting from employment, any or all of which the producer agreed to furnish the worker free of charge, shall not be deducted from cash wages due the worker. When any deductions are made, the producer shall furnish to the worker, at time of settlement, a statement showing the gross amount of wages due for work performed and the amount of each deduction properly identified.

§ 864.26 Evidence of compliance.

Each producer subject to the provisions of this part shall keep and preserve, for a period of 3 years following the date on which his application for a Sugar Act payment is filed, such wage records as will demonstrate that each worker has been paid in full in accordance with the requirements of this part. Wage records should set forth dates work was performed, the class of work performed, units of work (piecework or hours), agreed-upon rates per unit of work, total earnings and any permissible deductions, and the amount paid each worker. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records or other evidence as may satisfy such committee that the requirements of this part have been met.

§ 864.27 Subterfuge.

The producer shall not reduce the wage rates to workers below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

§ 864.28 Claim for unpaid wages.

Any person who believes he has not been paid in accordance with this part may file a wage claim with the local Agricultural Stabilization and Conservation County Committee against the producer on whose farm the work was performed. Such claim must be filed on Form SU–191, entitled "Claim Against Producer for Unpaid Wages," within 2 years from the date the work with respect to which the claim is made was performed. Detailed instructions and Forms SU–191 are available at the local county ASCS office. Upon receipt of a wage claim the county office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the Louisiana State Agricultural Stabilization and Conservation Committee, 3737 Government Street, Alexandria, LA 71303, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC committee is not acceptable either party may file an appeal with the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, DC 20250. All such appeals shall be filed within 15 days after the date the written notice of the recommended settlement is mailed by the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, State and County Operations, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780 of this title.

§ 864.29 Failure to pay all wages in full.

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment, representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer has made a full disclosure to the county committee or its representatives of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer, or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this paragraph, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid wages.

(b) Except as provided in paragraph (a) of this section, if upon investigation the county committee determines that the producer failed to pay all workers on the farm the required wages, the entire Sugar Act payment with respect to such farm shall be withheld from the producer until such time as evidence is presented to the county committee which will satisfy the county committee that all workers have been paid in full the wages earned by them; or if unpaid workers cannot be located and the county committe determines that the producer used reasonable diligence to locate such workers, the amounts of unpaid wages shall be deducted from the Sugar Act payment computed for the farm and the balance released to the producer after the expiration of 1 year from the date payment would otherwise be made. If payment had been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the claims control record for the total payment until the county committee determines that all workers on the farm have been paid in full, the producer refunds the entire amount of the debt, or a setoff in the amount of the debt is made from a program payment otherwise due the producer, or the county committee after determining that the producer used reasonable diligence to locate such workers has recovered from such producer the amount of unpaid wages computed for the farm.

§ 864.30 Checking compliance.

The procedures to be followed by county ASCS offices in checking compliance with the wage requirements of this part are set forth under the heading "Wage Rate Determinations" in Handbook 3–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 3–SU may be inspected at local county ASCS offices, and

copies may be obtained from the Louisiana State ASCS Office, 3737 Government Street, Alexandria, LA 71303.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the production, cultivation, or harvesting of sugarcane in Louisiana as one of the conditions with which producers must comply to be eligible for payments under the act.

Requirements of the act and standards employed. Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing, and in making such determinations, the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and byproducts, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

Wage determination. This determination differs from the prior determination in that minimum hourly wage rates are increased by 20 cents per hour for all worker classifications, and the harvest work classification "Harvester and loader operators" is changed to "Harvester, loader and transfer loader operators." The new minimum hourly wage rates established for work during the harvest season are $1.95 for harvester, loader and transfer loader operators; $1.90 for tractor and truckdrivers, and harvester bottom blade and hoist operators; and $1.80 for all other workers. During the production and cultivation season, minimum wages are $1.85 for tractor drivers and $1.80 for all other workers. Other provisions of the prior determination continue unchanged.

A public hearing was held in Houma, La., on June 21 and 22, 1972, at which interested persons were afforded the opportunity to testify on whether the wage rates established for Louisiana sugarcane fieldworkers in the wage determination which became effective on January 10, 1972, continue to be fair and reasonable under the circumstances, or whether such determination should be amended.

Witnesses appearing at the public hearing on behalf of sugarcane fieldworkers recommended minimum wage rates ranging from $2.65 per hour for unskilled workers up to $4 or $5 per hour for skilled workers. Several witnesses recommended that the wage increase which became effective January 10, 1972, be made retroactive to the beginning of the 1971 harvest season. Others recommended that Louisiana sugarcane fieldworkers' wages be made equal to cane workers' wages in Florida; and that one wage scale prevail for both the harvesting and cultivating seasons.

Several worker representatives indicated that impartial committees should be set up to investigate the Louisiana sugarcane operation, including surveys to determine growers' ability to pay wage increases; to obtain the opinion of fieldworkers concerning minimum wage rates, wage differentials, and job classifications; and to determine the income necessary for sugarcane fieldworkers and their families to maintain themselves adequately, so that fair and reasonable minimum wage rates may be established.

Worker representatives further recommended that growers be required to provide adequate housing for their fieldworkers; that the Department provide workers with legal counsel and economic advisors comparable to those employed by producers; that sugarcane fieldworkers be notified of wage and price hearings and encouraged to attend; and that fieldworkers be represented on local ASC committees designated to hear workers' grievances.

In support of their recommendations on wage rates, worker representatives suggested that if growers are unable to pay adequate increases, the following alternatives might be possible: (1) Sugar Act payments could be increased; (2) direct government payments to workers could be financed through surplus funds accruing under the Sugar Act; or (3) the price of sugar could be increased. They testified that because the wage increase for the 1971 crop was not made retroactive to the beginning of harvest season, fieldworkers lost between $50 and $70; that a Louisiana sugarcane worker works an average of 1,756 hours a year, has an average family consisting of 6.8 persons, and therefore, under present OEO guidelines, should expect to earn at least $3.48 an hour in order to survive at the poverty level; that sugarcane fieldworkers in Louisiana are still exposed to primitive health conditions found only in undeveloped countries of the world; and that these workers are trapped in a poverty cycle, unable to afford the proper necessities.

With regard to other recommendations, worker representatives testified that the Department has acted on wage determinations without sufficient investigation into the conditions that exist in the area; that if the Government can legislate for proper housing in the cities, it should provide the same opportunities for rural areas; and that the lack of representation for fieldworkers forces them to accept the Department as their legal guardian.

Representatives of sugarcane producers recommended that operators of transfer loaders be included in the harvest work classification "Harvester and loader operators"; and that equipment operators cutting and loading seed cane be included with tractor drivers under the general classification of "Production and Cultivation Work." They also recommended that the minimum rate for "Harvester, loader and transfer loader operators" be increased by 5 cents to $1.80 per hour; that the rates for the other worker classifications remain unchanged; that field overseers or supervisors be excluded from the minimum wage determination; and that the determination provide a minimum rate for full-time students and workers 14 and 15 years of age of not less than 80 percent of the applicable hourly rate, as opposed to the current 85 percent minimum.

In support of the recommendation that transfer loader operators be included in the skilled harvest work classification, grower representatives stated that the operator of the equipment making the transfer may not technically be considered a loader operator under the old understanding of that job classification, but that the operation requires the same degree of skill and should be entitled to the same minimum rate provided for operators of harvesters and loaders. With regard to the recommendation that harvester and loader operators engaged in the cutting of seed cane be classified as skilled production and cultivation workers rather than harvest workers, the grower representatives stated that it should be recognized that planting is a part of production and not a part of harvest; that workers engaged in planting operations are not working under the same continuous pressure as those cutting or loading cane during the harvest season; and that planting work is performed under considerably better weather conditions than harvesting work.

In support of their other recommendations, growers testified that field overseers or supervisors are relatively well-paid salaried employees who have no well-defined working hours which presents difficulty in keeping time records; and that full-time students and workers 14 and 15 years of age are usually assigned work that is supplemental and normally would not be economically justified if performed by adult workers at the specified wage rates.

One witness, testifying on behalf of the American Sugar Cane League, presented an analysis of economic conditions on Louisiana sugarcane farms. He stated that wage rates have been increased every year since 1961, even in years of adverse growing and harvesting conditions. He testified further that unless increases in costs of labor per unit are offset by increases in efficiency, total labor costs per unit as well as total costs of producing an acre or a ton of sugarcane can be expected to increase; and that unless income can be expected to continue to increase sufficiently to offset these increases in costs, which appears unlikely, net incomes of sugarcane farmers can be expected to decrease.

Consideration has been given to the testimony and recommendations presented at the public hearing; to the returns, costs, and profits of producing sugarcane obtained by field survey for recent crops and recast to reflect price and production conditions likely to prevail for the 1972 crop; and to other standards generally considered in wage determinations, including the cost of living and the producers' ability to pay.

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The recommendation by worker representatives that fieldworkers be paid wages retroactive to the beginning of the 1971 harvest season has not been adopted. The Department does not believe that a producer, in order to become eligible for a Sugar Act payment, should be required to meet minimum wage requirements that were not known or were not in existence when the work was performed.

The proposed alternatives to enable the producer to pay substantially higher minimum wage rates have not been adopted. The computation of the base rate of payment under the Sugar Act and reductions thereto is specified in section 304 of the act and cannot be changed except by act of Congress. The suggestion that surplus funds accruing under the act be used to aid fieldworkers has previously been brought before Congress and rejected when the act was last amended. The last alternative—to raise the price of sugar—would also require an act of Congress since the Department must attempt to maintain the price of sugar within the statutory guidelines specified in sections 201 and 202 of the act.

The recommendation that Louisiana sugarcane fieldworkers' wages be raised to the levels of wages in Florida has not been adopted. The act provides that the Secretary, in making wage determinations, shall take into consideration the differences in conditions among various producing areas. In Florida, substantially higher yields of cane and recoveries of sugar are attained. Man-hour requirements are greater in Louisiana, and Louisiana has a shorter growing season and is more susceptible to freeze damage, resulting in higher costs and reduced gross returns to producers.

The recommendation by fieldworker representatives that one wage scale prevail through both the harvest and cultivation seasons has not been adopted. However, the Department will invite testimony on this matter at the next public hearing on wage rates and will give consideration to the proposal in next year's determination.

The establishment of investigative committees as recommended by fieldworker represenatives has not been adopted. The Department employs a staff of qualified cost accountants who conduct comprehensive studies on the returns, costs, and profits of producing and processing sugarcane. Such studies enable the Department to determine the ability of producers to pay increased wage rates. The Department conducts public hearings each year in Louisiana at which all interested persons are invited to present their views and recommendations concerning sugarcane fieldworkers' wage rates and worker classifications. Concerning the recommended inquiry to determine the income needed for a sugarcane fieldworker's family to maintain themselves adequately, the Office of Economic Opportunity has established poverty guidelines for both farm and nonfarm families. It has been estimated that there are 1.27 farm wage workers per farm wage worker household in the United States. Therefore, such a household with 1.27 workers fully employed (2,000 hours annually) in the Louisiana sugarcane industry at the lowest minimum rate specified in this determination would earn more than $4,500—the average income guideline established by OEO for a farm family of six persons. While these Louisiana families may not technically be considered farm families in all cases, they nevertheless generally live outside of urban areas and would, therefore, properly be considered under the criteria for farm families.

With regard to the recommendation that growers be required to provide adequate housing to their hired workers, the Department deems it inadvisable to require by regulation that which Congress has specifically refused to require by legislation. For those growers who voluntarily furnish housing to their employees, such housing is subject to the housing and sanitation regulations issued under the Occupational Safety and Health Act, administered by the Secretary of Labor. The recommendation that the Department provide workers with legal counsel and economic advisors has not been adopted. Such services are provided in rural areas by the Office of Economic Opportunity's extensive Rural Legal Services Program. Concerning the notification of sugarcane fieldworkers of the wage hearings, the Department believes that adequate notification is given to all interested parties. A notice of hearing is published in the FEDERAL REGISTER, and an announcement is released to the press, wire services, and other news media. In addition, notices and press releases are mailed directly to those persons known to have an interest in the hearings. The Department has frequently stated at public hearings that anyone desiring to be placed on the mailing list for hearing announcements should notify the Department or the local county ASCS office. The recommendation that fieldworkers have membership on local ASC committees has not been adopted since the use of the farmer committee system is specifically authorized in the act. This recommendation was also rejected by Congress when the 1971 amendments to the act were being considered.

The recommendation by producers that the harvest work classification "Harvester and loader operators" be changed to "Harvester, loader and transfer loader operators" has been adopted. However, the recommendations that the general classification presently designated as "Production and Cultivation Work" be changed to "Production, Cultivation and Planting Work" and that the subclassification "Tractor drivers" be changed to "Tractor drivers and operators of other mechanical equipment" have not been adopted. It has previously been interpreted by the Department that the cutting of sugarcane is a harvesting operation regardless of whether the cane is cut for seed or for sugar; and that harvester and loader operators, therefore, should not receive less than the minimum rates specified under harvest work. However, tractor drivers hauling seed cane to the field are considered to be production and cultivation workers. It is believed that this interpretation continues to be equitable.

The recommendation that field overseers or supervisors be excluded from the minimum wage determination has not been adopted. The Sugar Act specifically requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application is made shall have been paid in full for all such work, and shall have been paid wages not less than those determined to be fair and reasonable. Therefore, for purposes of compliance under the Sugar Act, such employees' earnings must be not less than the minimum determination rate times the number of hours he is employed in such work.

The recommendation that the minimum wage rate for full-time students and workers 14 and 15 years of age be lowered to 80 percent of the applicable determination rate has not been adopted. That action would be inconsistent with the provision for such employment under the Fair Labor Standards Act, as amended in 1966. The Fair Labor Standards Act provides that such workers' wages shall be not less than 85 percent of the applicable hourly rate.

This determination is issued on a continuing basis and will remain in effect until amended, superseded, or terminated. However, the Department will keep the wage situation under review and will conduct investigations and hold hearings annually.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective on October 23, 1972.

Signed at Washington, D.C., on October 11, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17619 Filed 10-13-72;8:49 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 71, Grapefruit Reg. 73, Tangerine Reg. 44, Tangelo Reg. 44, Export Reg. 22]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Notice was published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20036), that consideration was being given to proposals relative to limitation of shipments of oranges, including Navel oranges (but not including Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type), grapefruit, tangerines, and tangelos handled between the production area and any point outside thereof in the continental United States, Canada, or Mexico; and oranges (except Navel oranges, Temple oranges, and Murcott Honey oranges), and grapefruit handled to any destination outside the continental United States, other than to Canada or Mexico, recommended by the Growers Administrative Committee, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice provided a period of 10 days after publication thereof in the FEDERAL REGISTER during which interested persons could file written data, views, or arguments pertaining thereto. None were received.

The limitations herein specified applicable to shipments of the respective varieties of oranges, grapefruit, tangerines, and tangelos are based upon an appraisal of the crops and the current and prospective market conditions. Such limitations are necessary to continue in effect the current quality and size requirements for such fruits during the specified period, so as to provide consumers with good quality fruit, consistent with (1) the overall size and quality of the crops and (2) improving returns to the producers pursuant to the declared policy of the act.

After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice and other available information, it is hereby found that the regulations, as hereinafter set forth, are in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of these regulations until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning these regulations, with an effective date of October 16, 1972, was published in the FEDERAL REGISTER on September 23, 1972 (37 F.R. 20036), and no objection to these regulations or such effective date was received; (2) the recommendation and supporting information for regulation of the aforesaid fruits were submitted to the Department after an open meeting of the Growers Administrative Committee on September 7, 1972; (3) the provisions of these regulations including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has been disseminated among handlers of such fruits; and (5) compliance with the regulations will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

§ 905.545 Orange Regulation 71.

(a) Order: During the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than $2^{5}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than $2^{5}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size $2^{14}/_{16}$ inches in diameter or smaller;

(3) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden; or

(4) Any Navel oranges, grown in the production area, which are of a size smaller than $2^{5}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised United States Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1179 of this title).

§ 905.546 Grapefruit Regulation 73.

(a) Order: During the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any seeded grapefruit, grown in the production area, which are smaller than $3^{15}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Grapefruit;

(3) Any seedless grapefruit, grown in Regulation Area I, which do not grade at least U.S. No. 1;

(4) Any seedless grapefruit, grown in Regulation Area II, which do not grade at least Improved No. 2; or

(5) Any seedless grapefruit, grown in the production area, which are smaller than $3^{5}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the United States Standards for Florida Grapefruit.

(b) Terms used in the amended marketing agreement and order, including Improved No. 2 grade, shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, except Improved No. 2 grade, and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised United States Standards for Florida Grapefruit (§§ 51.750–51.783 of this title).

§ 905.547 Tangerine Regulation 44.

(a) Order: During the period October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangerines, grown in the production area, which are of a size smaller than $2^{5}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines.

(b) Terms used in the amended marketing agreement and order shall, when

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used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Florida Tangerines (§§ 51.1810–51.1834 of this title).

§ 905.548 Tangelo Regulation 44.

(a) Order: During the period beginning October 16, 1972, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangelos, grown in production area, which do not grade at least U.S. No. 1; or

(2) Any tangelos, grown in production area, which are of a size smaller than 2$^{9}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangelos smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos.

(b) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1179 of this title).

§ 905.549 Export Regulation 22.

(a) Order: During the period October 16, 1972, through September 30, 1973, no handler shall ship to any destination outside the continental United States, other than to Canada or Mexico:

(1) Any oranges, other than Navel, Temple, and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2$^{1}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the amended U.S. Standards for Florida Oranges and Tangelos;

(3) Any grapefruit, grown in the production area, which do not grade at least Improved No. 2; or

(4) Any grapefruit, grown in the production area, which are of a size smaller than 3$^{5}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of grapefruit smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the revised U.S. Standards for Florida Grapefruit.

(b) Terms used in the amended marketing agreement and order, including Improved No. 2 grade, shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, except Improved No. 2 grade, and diameter as used herein, shall have the same meaning as is given to the respective terms in the revised U.S. Standards for Florida Grapefruit (§§ 51.750–51.783 of this title), or the revised U.S. Standards for Florida Oranges and Tangelos (§§ 51.1140–51.1179 of this title).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated October 10, 1972, to become effective October 16, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17571 Filed 10–13–72;8:49 am]

[Amdt. 12]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Container, Pack, and Container Marking Regulations

On September 28, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20253) regarding a proposal, applicable to § 906.340 *Container, pack, and container marking regulations,* (7 CFR 906.340; 37 F.R. 2765; 4707), recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This notice allowed interested persons 7 days during which they could submit written data, views, or arguments pertaining to the proposal. None were submitted. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action reflects the Department's appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of grapefruit to promote orderly marketing, so as to provide consumers with good quality fruit and improve returns to producers pursuant to the declared policy of the act.

The amendment extends beyond October 15, 1972, certain pack requirements with respect to pack size 96 grapefruit, and adds such requirements for pack size 112 grapefruit. Such requirements restrict the diameter range for pack size 96 by prescribing 3$^{9}/_{16}$ inches as the minimum diameter limit and 3$^{5}/_{16}$ inches for pack size 112, instead of the 3$^{9}/_{16}$ inches and 3$^{7}/_{16}$ inches, respectively, specified in § 51.630(c) of the U.S. Standards for Grades of Grapefruit (Texas and States other than Florida, California, and Arizona). This packing requirement is intended to effect the handling of larger and more uniform size fruit, thereby improving its appearance and marketability.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Texas Valley Citrus Committee, and other available information, it is hereby found and determined that the amendment, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipment of such grapefruit is expected to continue on and after the expiration date of the existing regulation and this amendment should be applicable to all such shipments in order to effectuate the declared policy of the act; (2) notice of proposed rule making concerning this amendment, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (37 F.R. 20253), and no objection to this amendment or such effective date was received; and (3) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. Therefore, the provisions of paragraph (a) (2) (ii) of § 906.340 (7 CFR 906.340; 37 F.R. 2765; 4707) are amended, reading as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) • • •
(2) • • •

(ii) *Grapefruit.* Grapefruit, when packed in any box, bag, or carton shall be within the diameter limits specified for the various pack sizes in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona): *Provided,* That the minimum diameter limit for pack size 96 grapefruit shall be 3$^{9}/_{16}$ inches and for pack size 112 grapefruit shall be 3$^{5}/_{16}$ inches, and *Provided further,* That any grapefruit in boxes or cartons shall be packed in accordance with the requirements of standard pack.

• • • • • •

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 11, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17615 Filed 10–13–72;8:49 am]

[Orange Reg. 24]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

On September 23, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20037) regarding a proposed regulation to be made effective pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This notice allowed interested persons 7 days during which they could submit written data, views, or arguments pertaining to this proposed regulation. None were submitted. The proposed regulation was recommended by the Texas Valley Citrus Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action reflects the Department's appraisal of the need for regulation, and of the crop and current and prospective market conditions. Shipments of oranges from the production area are expected to begin on or about October 16, 1972. The grade and size requirements provided herein are necessary to prevent the handling on and after October 16, 1972, of any oranges of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to the producers pursuant to the declared policy of the act. The grade and size requirements are the same as those currently in effect under § 906.348 *Orange Regulation 23* (36 F.R. 19007), effective for the period October 16, 1971, through October 15, 1972.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Texas Valley Citrus Committee, and other available information, it is hereby found and determined that the regulation as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (37 F.R. 20037), and no objection to this regulation or such effective date was received; (2) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of such oranges are expected to begin on or about the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such oranges in order to effectuate the declared policy of the act.

§ 906.350 Orange Regulation 24.

(a) *Order.* During the period October 16, 1972, through October 15, 1973, no handler shall handle:

(1) Any oranges of any variety, grown in the production area, unless such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination with not less than 90 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1 grade; or U.S. No. 2;

(2) Any oranges of any variety, grown in the production area, which are smaller than pack size 288, as such size is specified in § 51.691(c) of the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 288 oranges in any lot shall be 2$^{9}/_{16}$ inches;

(3) Any oranges of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment; or

(4) Any oranges of any variety, grown as aforesaid, unless such oranges meet all the applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during the period.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, have the same meaning as is given to the respective term in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 51.680–51.714).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 11, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17655 Filed 10–13–72;8:51 am]

[Grapefruit Reg. 24]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

On September 28, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20253) regarding a proposed regulation to be made effective pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This notice allowed interested persons 7 days during which they could submit written data, views, or arguments pertaining to this proposed regulation. None were submitted. The proposed regulation was recommended by the Texas Valley Citrus Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action reflects the Department's appraisal of the need for regulation, and of the crop and current and prospective market conditions. Shipments of grapefruit from the production area are expected to begin on or about October 16, 1972. The grade and size requirements provided herein are necessary to prevent the handling on and after October 16, 1972, of any grapefruit of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to the producers pursuant to the declared policy of the act.

The grade requirements provided herein are the same as those currently in effect, while the size requirements for the periods specified are comparable to those in effect during the past season. The more stringent size requirement, for the period November 6, 1972, through February 25, 1973, is designed to prevent a weakening of the market during a period of normally heavy shipments, and to maintain the competitiveness of Texas grapefruit when other areas are shipping greater volumes of larger grapefruit. Grade and size requirements are currently in effect through October 15, 1972, under § 906.349 *Grapefruit Regulation 23* (36 F.R. 19971). The recommended requirements would become effective October 16, 1972.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Texas Valley Citrus Committee, and other available information, it is hereby found and determined that the regulation, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (37 F.R. 20253), and no objection to this regulation or such effective date was received; (2) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of such grapefruit are expected to begin on or about the effective date hereof and this regulation should be applicable, insofar as practicable, to all

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shipments of such grapefruit in order to effectuate the declared policy of the act.

§ 906.351 Grapefruit Regulation 24.

(a) Order: During the period October 16, 1972, through October 15, 1973, no handler shall handle:

(1) Any grapefruit of any variety, grown in the production area, unless such grapefruit grade U.S. Fancy; U.S. No. 1 Bright; U.S. No. 1; U.S. No. 1 Bronze; or U.S. No. 2;

(2) Any grapefruit of any variety, grown in the production area, which are smaller than pack size 112, as such size is specified in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3 5/16 inches: *Provided*, That during the period November 6, 1972, through February 25, 1973, no handler shall handle any grapefruit of any variety, grown in the production area, which are smaller than pack size 96, as such size is specified in § 51.630(c) of the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3 9/16 inches;

(3) Any grapefruit of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment; or

(4) Any grapefruit of any variety, grown as aforesaid, unless such grapefruit meet all the applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during the period.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (7 CFR 51.620–51.653).

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 11, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 72-17616 Filed 10-13-72;8:49 am]

[Valencia Orange Reg. 412, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.712 (Valencia Orange Regulation 412, 37 F.R. 20933) during the period October 6, through October 12, 1972, are hereby amended to read as follows:

§ 944.712 Valencia Orange Regulation 412.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 440,000 cartons.

(ii) District 2: 360,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 11, 1972.

PAUL A. NICHOLSON,
Deputy director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17617 Filed 10-13-72;8:49 am]

[Lemon Reg. 555]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.855 Lemon Regulation 555.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 10, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 15 through October 21, 1972, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 11, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17654 Filed 10-13-72;8:51 am]

[Grapefruit Reg. 13; Grapefruit Reg. 12 Terminated]

PART 944—FRUITS; IMPORT REGULATIONS

Limitation of Grapefruit Imports

On September 29, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20332) that consideration was being given to a proposed regulation, which would limit the importation of grapefruit into the United States, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944).

Said notice allowed interested persons 7 days in which to submit written data, views, or arguments for consideration in connection with the proposed import regulation. None were received.

Section 608e–1 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of the aforesaid act contains any terms or conditions regulating the grade, size, quality, or maturity of grapefruit produced in the United States, the importation of grapefruit into the United States during the period of time such order is in effect shall be prohibited unless the fruit complies with the grade, size, quality, and maturity provisions of such order, or comparable restrictions, promulgated under said section 608e–1. This import regulation prescribes a grade and size regulation which is the same as the domestic grade and size regulation for grapefruit, pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, which becomes effective October 16, 1972.

It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of this regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 608e–1 of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) the grade and size requirements of this import regulation are the same as those being made applicable to domestic shipments of grapefruit grown in Florida under Grapefruit Regulation 73 (§ 905.546); (c) notice that such action was being considered was published in the September 29, 1972, issue of the FEDERAL REGISTER (37 F.R. 20332), and no objection to this regulation was received; (d) except for the later effective date of October 19, 1972, the provisions of this import regulation are the same as those contained in said notice; (e) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (f) notice hereof in excess of 3 days, the minimum prescribed by said section 8e, is given with respect to this import regulation by prescribing an effective date of October 19, 1972, and (g) such notice is hereby determined, under the circumstances, to be reasonable.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the grade and size restrictions in effect pursuant to the said amended marketing agreement and order shall apply to grapefruit to be imported.

The import regulation as proposed in the FEDERAL REGISTER issue of September 29, 1972 (F.R. Doc. 72–16633; 37 F.R. 20332) is hereby adopted as set forth below subject to the following change which is made for the purpose of conforming to the effective date of October 19, 1972: in § 944.109(a) preceding paragraph (a)(1) "October 16" is changed to "October 19".

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 10, 1972, to become effective October 19, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

§ 944.109 Grapefruit Regulation 13.

(a) On and after October 19, 1972, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than 3 15/16 inches in diameter, except that a tolerance of 10 percent, by count, of seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than 3 9/16 inches in diameter, except that a tolerance of 10 percent, by count, of seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Grapefruit ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color).

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports of grapefruit. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of grapefruit should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the grapefruit will be imported:

Ports	Office	Advance notice
All Texas points..	L. M. Denbo, 506 South Nebraska St., San Juan, TX 78589 (Phone—512-787-4091), or	1 day.
	A. D. Mitchell, Room 516, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-533-5461).	Do.
All New York points.	Carmine J. Cavallo, Room 28A Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7668 and 7669), or	Do.
	Charles D. Renlek, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206 (Phone—716-824-1585).	Do.
All Arizona point.	B. O. Morgan, 225 Terrace Ave., Nogales, AZ 85621 (Phone—602-287-2202).	Do.
All Florida points.	Lloyd W. Boney, 1350 Northwest 12th Ave., Room 538, Miami, FL 33136 (Phone—305-371-2517), or	Do.
	Hubert S. Flynt, 775 Warner Lane, Orlando, FL 32814 (Phone—305-894-9511), or	Do.
	Kenneth C. McCourt, Unit 46, 3335 Bright Ave., Jacksonville, FL 32205 (Phone—904-354-5683).	Do.
All California points.	Daniel P. Thompson, 784 South Central Ave., Room 284, Los Angeles, CA 90021 (Phone—213-622-8756).	3 days.
All Louisiana points.	Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70113 (Phone—504-527-6741 and 6742).	1 day.
All other points..	D. S. Matheson, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-447-5870).	3 days.

(c) Inspection certificates shall cover only the quantity of grapefruit that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any grapefruit to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

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(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provision of this regulation, any importation of grapefruit which, in the aggregate, does not exceed five standard nailed boxes, or equivalent quantity, may be imported without regard to the restrictions specified herein.

(g) It is hereby determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements set forth in this section are the same as those being made effective for grapefruit grown in Florida.

(h) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(i) Nothing contained in this regulation shall be deemed to preclude any importer from reconditioning prior to importation any shipment of grapefruit for the purpose of making it eligible for importation.

(j) The terms used herein relating to grade, except Improved No. 2 grade which is defined in this regulation, diameter, standard pack, and standard box shall have the same meaning as when used in the revised U.S. Standards for Florida Grapefruit (7 CFR 51.750–51.783). Importation means release from custody of the U.S. Bureau of Customs.

Grapefruit Regulation 12 (§ 944.108, 36 F.R. 20883; 37 F.R. 7687, 9983, 13699) is hereby terminated at the effective time hereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, October 10, 1972, to become effective October 19, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17614 Filed 10-13-72;8:49 am]

[T.D. 72-288]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

PART 12—SPECIAL CLASSES OF MERCHANDISE

International Coffee Organization; Nonmember Import Quotas

OCTOBER 6, 1972.

In accordance with the obligations of the United States under Article 45 of the International Coffee Agreement of 1968, the Department of State has requested that in the period October 1, 1972–March 31, 1973 (the first 6 months of the coffee year 1972–73), the Bureau of Customs authorize the entry of 2,513,244 pounds of green coffee of nonmember origin. A further notice will be issued regarding the quota for the period April 1, 1973–September 30, 1973. Accordingly, § 12.71(b) of the Customs regulations is amended to read as follows:

§ 12.71 Import quotas on coffee.

* * * * *

(b) *Basket quota.* All coffee not specifically identified as a product of or shipment from a member country shall be charged to the quota of 2,513,244 pounds of green coffee, or its equivalent, which is established for the period October 1, 1972–March 31, 1973 (the first 6 months of the coffee year 1972–73).

* * * * * *

(Sec. 302, 82 Stat. 1348, as amended; 19 U.S.C. 1356f. E.O. 11449, January 22, 1969, 34 F.R. 917; 3 CFR 1966–70 Comp.

Effective date. This amendment shall become effective as of October 1, 1972.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 6, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-17622 Filed 10-13-72;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Exemptions of Requirements

Pursuant to the provisions of section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), Part 92, Title 9, Code of Federal Regulations is hereby amended in the following respects:

Sections 92.31(a), 92.34(a), and 92.40 are amended by adding the names of the Mexican States of Colima, Jalisco, Nayarit, and Sinaloa immediately after the name of the State of Aguas Calientes in the first sentence of each of these sections.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (10–14–72).

The purposes of these amendments are to add the States of Colima, Jalisco, Nayarit, and Sinaloa, to the list of Mexican States from which ruminants may be imported into the United States under certain conditions at a land border port without an import permit; to exempt ruminants originating in said States from quarantine at the port of entry and to provide for the detention, disinfection, testing, and dipping of ruminants from such States as required to determine freedom from disease; to allow importation for immediate slaughter of ruminants (other than sheep and goats) from such States if they comply with specified conditions, including inspection on the premises of origin by a salaried veterinarian of the Mexican Government and certification by him of their freedom from communicable diseases and exposure thereto.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of animal diseases, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17618 Filed 10-13-72;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-GL-36]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On August 9, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 16001) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a south alternate to VOR Federal Airway No. 2 between Nodine, Wis., and Lone Rock, Wis.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

Section 71.123 (37 F.R. 2009) is amended as follows:

In V–2 "Lone Rock, Wis.;" is deleted, and "Lone Rock, Wis., including a south alternate via INT Nodine 150° and Lone Rock 286° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 3, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17551 Filed 10-13-72;8:46 am]

[Airspace Docket No. 72-WE-41]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segment

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (FAR's) is to realine the segment of VOR Federal Airway V–66 between Yuma, Ariz., and Gila Bend, Ariz., 2° at Yuma and 1° at Gila Bend.

The southern portion of Restricted Area R–2307 penetrates V–66 airway for a short distance between Yuma and Gila Bend. The minor realinement of V–66 as affected herein will eliminate this penetration.

Since the airway is realined by only 2°, the alteration is considered as minor in nature and no substantive change in the regulations is effected. For these reasons, notice and public procedure thereon are unnecessary and this amendment could be made effective upon publication in the FEDERAL REGISTER; however, in order to provide sufficient time for changes to be depicted on appropriate aeronautical charts, this amendment will be made effective on December 7, 1972.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

Section 71.123 (37 F.R. 2009, 16537, 36 F.R. 23358) is amended, in part, as follows:

In V–66, "Yuma 087° and Gila Bend, Ariz. 262° radials;" is deleted and "Yuma 089° and Gila Bend, Ariz. 261° radials;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 3, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17553 Filed 10-13-72;8:46 am]

[Airspace Docket No. 72-AL-20]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Federal Airway

On June 17, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 12068) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke VOR Federal Airway No. 463.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

Section 71.125 (37 F.R. 2042) is amended as follows:

V–463 is deleted.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 6, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17550 Filed 10-13-72;8:46 am]

[Airspace Docket No. 72-SW-57]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot transition area at Marksville, La.

On August 25, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17213) stating the Federal Aviation Administration proposed to designate the Marksville, La., transition area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

MARKSVILLE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Marksville Municipal Airport (latitude 31°05'45" N., longitude 92°04'00" W.).

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 4, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-17552 Filed 10-13-72;8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-772, Amdt. 12]

PART 297—CLASSIFICATION AND EXEMPTION OF INTERNATIONAL AIR FREIGHT FORWARDERS

Limitations on Use of Aircraft

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of October 1972.

Part 297 of the Board's Economic Regulations (14 CFR Part 297) provides for the classification and exemption of international air freight forwarders. Section 297.21 thereof sets forth certain limitations on such exemption authority and provides, in part, that the exemption "shall be effective only with respect to aircraft * * * operated in overseas or foreign air transportation * * *." That language can be read as prohibiting international air freight forwarders from transporting property in overseas or foreign air transportation insofar as one or more legs of such transportation involves flights operated wholly within the United States (not including its territories and possessions). Under that interpretation, international air freight forwarders could not, under their Part 297 authority, serve between points within the United States on a movement of property in overseas or foreign air transportation. Thus, a U.S. international air freight forwarder could provide service between points within the United States with respect to a shipment of property in overseas or foreign air transportation only if it also had domestic authority under Part 296; and foreign indirect air carriers of property could not provide service between U.S. points on a shipment of property in foreign air transportation, since they have no domestic authority but are subject, by the terms of their section 402 permits, to the provisions of § 297.21.

The legislative history of § 297.21 [1] shows nothing to suggest that the Board

[1] Section 297.21 was added to the part as a result of the International Air Freight Forwarder Investigation, Docket 7132. (ER-288, 24 F.R. 9978, December 10, 1959.)

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intended to prevent international air freight forwarders from transporting property to or from points within the United States, so long as the property moves solely in overseas or foreign air transportation. Moreover, the Board has consistently construed Part 297 as not so intending, inasmuch as we have, as a matter of administrative practice, accepted the filing by persons subject to § 297.21, including foreign indirect air carriers of property, of tariffs which patently cover transportation between points within the United States as part of the movement of such property in overseas or foreign air transportation.

In order to remove any ambiguity as to the intention of Part 297, the Board is amending § 297.21 by deleting the phrase "in overseas or foreign air transportation" in the two places where it appears. This amendment makes clear that international air freight forwarders have authority to serve between U.S. points, even using aircraft operating solely between such points, so long as the property transported by the international air freight forwarder moves only in overseas or foreign air transportation.

Also, the Board is taking this occasion to amend § 297.21 in one other respect, to remove surplusage. Section 297.21 contains a proviso reading:

Provided, however, That the authority to use the services of supplemental air carriers on an individually waybilled shipment basis shall terminate on July 10, 1964.

While the Board may in the future again grant supplemental air carriers temporary authority to perform individually waybilled services, pursuant to section 417 of the Act, at this time the proviso serves no purpose.[2] Accordingly, the proviso will be eliminated from § 297.21.

The exemptions provided by Part 297 will, of course, continue to be applicable only to the provision of overseas and foreign air transportation (see § 297.1(a)) and, with respect to the transportation of traffic within this country by a foreign indirect air carrier of property, only to traffic that such carrier itself brings into or carries out of the United States by air ("cf. Qantas Empire, Foreign Transfer Traffic," 29 CAB 33 (1959)).

Since this is an interpretative rule which serves solely to clarify an existing provision and relieves a restriction, notice and public procedure thereon are not required, and the amendment may be made effective on less than 30 days notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends § 297.21 of Part 297 of the Economic Regulations (14 CFR Part 297) effective October 10, 1972, as follows:

[2] In the event that the Board were to consider a grant of authority to a supplemental air carrier pursuant to section 417, the question of the carrier's authority to provide transportation for international air freight forwarders could be raised at that time by interested parties.

§ 297.21 Limitations on use of aircraft.

The exemption authority provided to international air freight forwarders by this part shall be effective only with respect to shipments of property in aircraft operated by direct air carriers, as defined in this part, which have effective tariffs for the services thus utilized on file with the Board. No international air freight forwarder shall ship property by air, except in aircraft operated by a direct air carrier as specified in this section.

(Secs. 101(3), 204, 416, Federal Aviation Act of 1958, 72 Stat. 737, as amended, 743, 771; 49 U.S.C. 1301, 1324, 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-17612 Filed 10-13-72;8:50 am]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-66, Amdt. 13]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Filing Fees Relating to Travel Group Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of October 1972.

By SPR-61, adopted September 27, 1972, the Board issued a new Part 372a of the Special Regulations establishing a new class of charters to be known as "travel group charters" and providing for a new class of indirect air carriers to organize and perform such charters, to be called "travel group charter organizers." Since the filing of documents and requests for waiver under Part 372a will be similar to the filing of documents and requests for waivers under Part 378 of the Board's Special Regulations (14 CFR Part 378), we are prescribing herein the same fees for filing these documents in connection with travel group charters as are presently prescribed for the filing of these documents in connection with inclusive tour charters.

For the above reasons, we are amending § 389.25 of Part 389 to prescribe the following filing fees for travel group charters under Part 372a: For a request for waiver, $55 plus $5 for each charter, subject to a maximum fee of $200; and for documents under § 372a.22(a), $25.

Since the amended rule is one of agency procedure and practice, the Board finds that notice and public procedure thereon are not required, and the rule may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends § 389.25 of Part 389 of the Organization Regulations (14 CFR Part 389), effective October 6, 1972, by amending paragraphs (j) and (l) thereof, the section as amended to read as follows:

§ 389.25 Schedule of filing and license fees.

* * * * *

(j) *Other exemptions and Parts 207, 208, 372, 372a, 373, 378, and 378a waivers.* The filing fee for (1) an application for exemption under section 101(3) or section 416(b) of the Act, except applications within the provisions of paragraph (h) or (i) of this section, or (2) a request under §§ 207.16, 208.3a, 372.3, 372a.3, 373.30, 378.30, or 378a.20 of this chapter for a waiver of any of the provisions of Parts 207, 208, 372, 372a, 373, 378, or 378a of this chapter, respectively, is $55: *Provided,* That the filing fee for an application for exemption or a request for waiver for the performance of a specific number of charters (one-way or round-trip) is $55, plus $5 for each charter (one-way or round-trip) described, subject to a maximum fee of $200.

* * * * *

(l) *Tour prospectus or bulk inclusive tour contracts and bonds.* The filing fee for each tour prospectus filed pursuant to § 378.10 or § 378.19 of this chapter, or for contracts and bonds covering a bulk inclusive tour or series of tours filed pursuant to § 378a.10 of this chapter, or for bonds covering overseas military personnel charter operations filed pursuant to § 372.24 of this chapter, or for a filing fee under § 372a.22(a) of this chapter, covering travel group charters, is $25.

* * * * *

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; 65 Stat. 290, 31 U.S.C. 483a)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-17613 Filed 10-13-72;8:50 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter IX—National Oceanic and Atmospheric Administration, U.S. Department of Commerce

SUBCHAPTER A—GENERAL REGULATIONS

PART 911—THE U.S. GEOSTATIONARY OPERATIONAL ENVIRONMENTAL SATELLITE DATA COLLECTION SYSTEM

Availability of System

§ 911.1 General.

(a) With the advent of the United States of America Geostationary Operational Environmental Satellite, operated and controlled by the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce, a satellite environmental data collection capability will become available to meet national requirements.

(b) The environmental data collection system includes the NOAA Command and Data Acquisition (CDA) Station (Wallops, Va.) and the spacecraft which collects information from radio equipped environmental sensor platforms, and conforms to applicable standards and regulations established by NOAA and the International Telecommunications Union (ITU).

(c) The use of the data collection system of the operational environmental satellites operated and controlled by NOAA will be limited to the collection of environmental data in accordance with applicable ITU regulations concerning use of the allocated frequency bands. Environmental data are defined as observations and measurements of the physical, chemical, or biological properties of the oceans, rivers, lakes, solid earth, and atmosphere (including space).

(d) Users of the environmental data collection system—Government agencies, academic institutions, industry—will be responsible for the costs of the environmental sensors and platform, the radio equipment required to provide the communications link between the environmental sensor platform and the satellite, and any unique equipment/communications required to receive the data at the user's facility.

(e) Design characteristics of the environmental data collection system on the spacecraft require that users conform to technical standards established by NOAA. A use agreement will be required between NOAA and the using agency. This agreement will contain, but will not be limited to, statements as to (1) the period of time the agreement in valid and procedures for canceling it, (2) conformance with ITU agreements and regulations, (3) required equipment standards, (4) standards of operation, (5) priorities for use, (6) reporting times and frequencies, (7) data formats, (8) data delivery systems and schedules, and (9) user-borne costs.

(5 U.S.C. 552)

Additional information may be obtained by writing to the National Oceanic and Atmospheric Administration, National Environmental Satellite Service, Washington, D.C. 20233.

ROBERT M. WHITE, *Administrator.*

SEPTEMBER 25, 1972

[FR Doc.72-17441 Filed 10-13-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 51—CANNED VEGETABLES

Order Amending Standard of Identity To Provide for Use of Any Safe and Suitable Organic Acid

In the matter of amending the standard of identity for canned vegetables, other than those specifically regulated (21 CFR 51.990):

A notice of proposed rule making in the above identified matter was published in the FEDERAL REGISTER of April 11, 1972 (37 F.R. 7164), based on a petition filed by the National Canners Association, Washington, D.C. 20036, to permit the use of any edible organic acid as an alternative to the acidifiers presently permitted. The NCA's proposal provided for label declaration of the name of the edible organic acid used in all canned vegetables, except for canned artichokes. The omission as it concerned artichokes was apparently an oversight, and therefore the Commissioner of Food and Drugs proposed, on his own initiative, that the proposed labeling provision also apply to canned artichokes.

No comments were received in response to the proposal. However, to be in conformity with the language contained in a number of the more recent nonrecipe standards and consistent with the intent of the proposal, the Commissioner concludes that the term "edible" organic acid used in the proposal should be changed to read "safe and suitable" organic acid.

The policy statement (21 CFR 3.88) appearing in the FEDERAL REGISTER of March 10, 1972 (37 F.R. 5120), concerning label designation of ingredients for standardized foods stated that there is significant consumer interest that the labels of standardized foods bear complete information on the ingredients. It further stated that the Food and Drug Administration intends to amend the definitions and standards of identity of food by setting into motion as rapidly as possible the provisions of section 401 of the Federal Food, Drug, and Cosmetic Act, to require label declaration of all optional ingredients, with the exception of optional spices, flavorings, and colorings, which may continue to be designated as such without specific ingredient declaration. Statutory authority does not exist to require the declaration of mandatory ingredients on the label of standardized foods. The Commissioner concludes that the subject order should not provide for complete label declaration as reflected by § 3.88 since the National Canners Association proposal did not concern label designation of all optional ingredients, and since it would be more appropriate to amend all standards for canned vegetables at the same time. It is anticipated that the inclusion of requirements for label declaration of all optional ingredients in all standardized canned vegetables will be proposed in the near future.

On the basis of information submitted in the petition and other relevant material, it is concluded that it will promote honesty and fair dealing in the interest of consumers, to amend the standard of identity for canned vegetables (§ 51.990) to provide for the optional use of any safe and suitable organic acid in all vegetables (except canned artichokes and canned mushrooms) to permit effective processing by heat without discoloration or other impairment of the article, and in the case of canned artichokes to provide for the optional use of any safe and suitable organic acid to accomplish the prescribed effect of reducing the pH of the finished canned vegetable to 4.5 or below, and to provide for label declaration of such organic acid when used.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That § 51.990 be amended by revising the introductory text and subparagraph (12) of paragraph (c) and by adding a new subparagraph (13) to paragraph (f), as follows:

§ 51.990 Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients.

* * * * *

(c) Water is added to the vegetable ingredient, except that pimientos may be canned with or without added water, and sweet potatoes in mashed form are canned without added water. Asparagus may be canned with added water, asparagus juice, or a mixture of both. For the purposes of this section, asparagus juice is the clear, unfermented liquid expressed from the washed and heated sprouts or parts of sprouts of the asparagus plant, and mixtures of asparagus juice and water are considered to be water when such mixtures are used as a packing medium for canned asparagus. In the case of artichokes, a vinegar or any safe and suitable organic acid, which either is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if it is a food additive as so defined, is used in conformity with regulations established pursuant to section 409 of the act, is added in such quantity as to reduce the pH of the finished canned vegetable to 4.5 or below. The following optional ingredients, in the case of the vegetables specified, may be added:

* * * * *

(12) A vinegar or any safe and suitable organic acid, which either is not a food additive as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act, or if it is a food additive as so defined, is used in conformity with regulations established pursuant to section 409 of the act, in the cases of all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section, and except canned mushrooms, in which no such ingredient is permitted), in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article.

* * * * *

(f) * * *

(13) When the optional safe and suitable organic acid provided for in the in-

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troductory text of paragraph (c) of this section and subparagraph (12) of paragraph (c) of this section is used, the label shall bear the statement "with -------- acid added" or "with added -------- acid," the blank to be filled in with the name of the acid used.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: October 5, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17566 Filed 10–13–72;8:46 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

SUBPART C—SPONSORS OF APPROVED APPLICATIONS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Selenium, Vitamin E Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (30–315V) filed by Burns-Biotec Laboratories, Inc., Subsidiary of Chromalloy American Corp., 7711 Oakport Street, Oakland, CA 94621, proposing the safe and effective use of selenium, Vitamin E injection for the treatment of horses. The supplemental application is approved.

To facilitate referencing, Burns-Biotec Laboratories, Inc., is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135b are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code number 070 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.:	*Firm name and address*
* * *	* * *
070	Burns-Biotec Laboratories, Inc., Subsidiary of Chromalloy American Corp., 7711 Oakport St., Oakland, CA 94621.
* * *	* * *

2. Part 135b is amended by adding the following new section:

§ 135b.53 Selenium, vitamin E injection, veterinary.

(a) *Specifications.* The drug is an emulsion containing in each milliliter, 5.48 milligrams sodium selenite (equivalent to 2.5 milligrams selenium), 50 milligrams of vitamin E (68 I.U.) (as d-alpha tocopheryl acetate), 250 milligrams polyoxyethylated vegetable oil, and 0.1 milligram thimerosal, and water for injection.

(b) *Sponsor.* See code No. 070 in §135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is intended for use for the prevention and treatment of selenium-tocopherol deficiency syndrome in horses.

(2) The drug is administered by intravenous or deep intramuscular injection in divided doses in 2 or more sites in the gluteal or cervical muscles at a dosage level or 1 milliliter per 100 pounds of body weight and may be repeated at 5 to 10 day intervals.

(3) Do not use in horses intended for food.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–14–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 6, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17567 Filed 10–13–72;8:46 am]

PART 135f—NEW ANIMAL DRUGS FOR MISCELLANEOUS USE

Gentamicin Sulfate Intrauterine Solution

The Commissioner of Food and Drugs has evaluated a new animal drug application (46–724V) filed by Schering Corp., 86 Orange Street, Bloomfield, NJ 07003, proposing the safe and effective use of gentamicin sulfate intrauterine solution for control of bacterial infections of the uterus in horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135f is amended by adding a new section as follows:

§ 135f.3 Gentamicin sulfate intrauterine solution.

(a) *Specifications.* Each milliliter of solution contains gentamicin sulfate equivalent to 50 milligrams of gentamicin base.

(b) *Sponsor.* See code No. 032 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is indicated for use for control of bacterial infections of the uterus in horses (metritis) and as an aid in improving conception in mares with uterine infections caused by bacteria sensitive to gentamicin.

(2) It is administered at a dosage level of 2 to 2.5 grams per day for 3 to 5 days during estrus, each dose being diluted with 200 to 500 milliliters of sterile physiological saline before aseptic infusion into the uterus.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(4) Not for use in horses intended for food.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–14–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 5, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17568 Filed 10–13–72;8:46 am]

[DESI 8218]

POLYMYXIN B SULFATE OINTMENT

Revocation of Certification or Release

In the FEDERAL REGISTER of June 5, 1971 (36 F.R. 10992), the Commissioner of Food and Drugs announced (DESI 8218) the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Polymyxin B Sulfate Ointment; formerly marketed by Pfizer Inc., 235 East 42d Street, New York, NY 10017 (NDA 8–218).

The notice stated that this drug was regarded as probably effective and possibly effective for its labeled indications. The indications have been reclassified as lacking substantial evidence of effectiveness in that such evidence has not been submitted pursuant to the above notice. By letter of July 19, 1971, Pfizer Inc. stated that the drug is no longer marketed.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions for certification or release of such antibiotic drug for human use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 148i, 148n and 148p are amended as follows:

PART 148i—NEOMYCIN SULFATE

1. Section 148i.16 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 148i.16 Neomycin sulfate-polymyxin B sulfate ointment.

* * * * *

(b) * * *

(1) * * *

(ii) *Polymyxin content.* Proceed as directed in § 141.110 of this chapter, except add to each concentration of the polymyxin standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Remove the buffer layer and repeat the extraction procedure with each of three more 20 to 25 milliliter quantities of solution 6. Combine the extractives in a suitable volumetric flask and fill to volume with solution 6. Further dilute an aliquot with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated). Its content of polymyxin is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin that it is represented to contain.

PART 148n—OXYTETRACYCLINE

2. Section 148n.20 is amended by revising the introductory text of paragraph (b)(1)(ii) to read as follows:

§ 148n.20 Oxytetracycline hydrochloride-polymyxin B sulfate topical ointment.

* * * * *

(b) * * *

(1) * * *

(ii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay by either of the following methods:

* * * * *

PART 148p—POLYMYXIN

§ 148p.3 [Revoked]

3. In Part 148p by revoking § 148p.3 *Polymyxin B sulfate ointment.*

4. Section 148p.9 is amended by revising paragraph (b)(1) to read as follows:

§ 148p.9 Sterile polymyxin B sulfate-benzalkonium chloride urethral lubricant.

* * * * *

(b) *Tests and methods of assay.*

(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay by either of the following methods:

(i) Accurately weigh a representative portion of the ointment (usually 1.0 gram) and transfer it to a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake with four 25 milliliter portions of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and combine the aqueous extractives. After adjusting the volume of the combined extractives to 100 milliliters with solution 6, remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(ii) Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing sufficient 1.0 milliliter polysorbate 80 and 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order and request a hearing, showing reasonable grounds for the hearing. The statement of reasonable grounds and request for a hearing shall be submitted in writing within 30 days after publication hereof in the FEDERAL REGISTER, shall state the reasons why the antibiotic drug regulations should not be so amended, and shall include a well-organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and susbtantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order, the Commissioner will publish an order stating his findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) (21 U.S.C. 371 (f) and (g)) of the Federal Food, Drug, and Cosmetic Act (35 F.R. 7250, May 8, 1970).

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date.

(Secs. 502, 507, 52 Stat. 1050–1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: October 6, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17565 Filed 10–13–72;8:46 am]

Title 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Environmental Impact and Related Statements

Section 1.32 of Title 23 of the Code of Federal Regulations provides in the last sentence that "Selected orders and memorandums are contained in Appendix A to this part." On September 7, 1972, the Federal Highway Administration issued policy and procedure memorandum 90–1 entitled "Environmental Impact and Related Statements."

This memorandum implements the National Environmental Policy Act of 1970, section 4(f) of the Department of Transportation Act, and other statutes designed to protect the environment, with regard to all Federal or federally assisted highway programs and projects. This supersedes a previous issuance dated August 24, 1971.

Part 1 of Title 23 of the Code of Federal Regulations is amended by adding the following policy and procedure memorandum at the end of Appendix A.

Issued on October 2, 1972.

R. R. BARTELSMEYER,
Acting Federal Highway Administrator.

ENVIRONMENTAL IMPACT AND RELATED STATEMENTS

PAR.

1. Purpose.
2. Authority.
3. Definitions.
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Appendix A—Procedures on Historic Preservation.

Appendix B—Example of Design Concurrence Letter.

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troductory text of paragraph (c) of this section and subparagraph (12) of paragraph (c) of this section is used, the label shall bear the statement "with -------- acid added" or "with added -------- acid," the blank to be filled in with the name of the acid used.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: October 5, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17566 Filed 10–13–72;8:46 am]

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

SUBPART C—SPONSORS OF APPROVED APPLICATIONS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Selenium, Vitamin E Injection

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (30–315V) filed by Burns-Biotec Laboratories, Inc., Subsidiary of Chromalloy American Corp., 7711 Oakport Street, Oakland, CA 94621, proposing the safe and effective use of selenium, Vitamin E injection for the treatment of horses. The supplemental application is approved.

To facilitate referencing, Burns-Biotec Laboratories, Inc., is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135b are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code number 070 as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.:	*Firm name and address*
* * *	* * *
070	Burns-Biotec Laboratories, Inc., Subsidiary of Chromalloy American Corp., 7711 Oakport St., Oakland, CA 94621.
* * *	* * *

2. Part 135b is amended by adding the following new section:

§ 135b.53 Selenium, vitamin E injection, veterinary.

(a) *Specifications.* The drug is an emulsion containing in each milliliter, 5.48 milligrams sodium selenite (equivalent to 2.5 milligrams selenium), 50 milligrams of vitamin E (68 I.U.) (as d-alpha tocopheryl acetate), 250 milligrams polyoxyethylated vegetable oil, and 0.1 milligram thimerosal, and water for injection.

(b) *Sponsor.* See code No. 070 in §135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is intended for use for the prevention and treatment of selenium-tocopherol deficiency syndrome in horses.

(2) The drug is administered by intravenous or deep intramuscular injection in divided doses in 2 or more sites in the gluteal or cervical muscles at a dosage level or 1 milliliter per 100 pounds of body weight and may be repeated at 5 to 10 day intervals.

(3) Do not use in horses intended for food.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–14–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 6, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17567 Filed 10–13–72;8:46 am]

PART 135f—NEW ANIMAL DRUGS FOR MISCELLANEOUS USE

Gentamicin Sulfate Intrauterine Solution

The Commissioner of Food and Drugs has evaluated a new animal drug application (46–724V) filed by Schering Corp., 86 Orange Street, Bloomfield, NJ 07003, proposing the safe and effective use of gentamicin sulfate intrauterine solution for control of bacterial infections of the uterus in horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135f is amended by adding a new section as follows:

§ 135f.3 Gentamicin sulfate intrauterine solution.

(a) *Specifications.* Each milliliter of solution contains gentamicin sulfate equivalent to 50 milligrams of gentamicin base.

(b) *Sponsor.* See code No. 032 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is indicated for use for control of bacterial infections of the uterus in horses (metritis) and as an aid in improving conception in mares with uterine infections caused by bacteria sensitive to gentamicin.

(2) It is administered at a dosage level of 2 to 2.5 grams per day for 3 to 5 days during estrus, each dose being diluted with 200 to 500 milliliters of sterile physiological saline before aseptic infusion into the uterus.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(4) Not for use in horses intended for food.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–14–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 5, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17568 Filed 10–13–72;8:46 am]

[DESI 8218]

POLYMYXIN B SULFATE OINTMENT

Revocation of Certification or Release

In the FEDERAL REGISTER of June 5, 1971 (36 F.R. 10992), the Commissioner of Food and Drugs announced (DESI 8218) the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Polymyxin B Sulfate Ointment; formerly marketed by Pfizer Inc., 235 East 42d Street, New York, NY 10017 (NDA 8–218).

The notice stated that this drug was regarded as probably effective and possibly effective for its labeled indications. The indications have been reclassified as lacking substantial evidence of effectiveness in that such evidence has not been submitted pursuant to the above notice: By letter of July 19, 1971, Pfizer Inc. stated that the drug is no longer marketed.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions for certification or release of such antibiotic drug for human use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 148i, 148n and 148p are amended as follows:

PART 148i—NEOMYCIN SULFATE

1. Section 148i.16 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 148i.16 Neomycin sulfate-polymyxin B sulfate ointment.

* * * * *

(b) * * *

(1) * * *

(ii) *Polymyxin content.* Proceed as directed in § 141.110 of this chapter, except add to each concentration of the polymyxin standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Remove the buffer layer and repeat the extraction procedure with each of three more 20 to 25 milliliter quantities of solution 6. Combine the extractives in a suitable volumetric flask and fill to volume with solution 6. Further dilute an aliquot with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated). Its content of polymyxin is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin that it is represented to contain.

PART 148n—OXYTETRACYCLINE

2. Section 148n.20 is amended by revising the introductory text of paragraph (b)(1)(ii) to read as follows:

§ 148n.20 Oxytetracycline hydrochloride-polymyxin B sulfate topical ointment.

* * * * *

(b) * * *

(1) * * *

(ii) *Polymyxin B content.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay by either of the following methods:

* * * * *

PART 148p—POLYMYXIN

§ 148p.3 [Revoked]

3. In Part 148p by revoking § 148p.3 *Polymyxin B sulfate ointment.*

4. Section 148p.9 is amended by revising paragraph (b)(1) to read as follows:

§ 148p.9 Sterile polymyxin B sulfate-benzalkonium chloride urethral lubricant.

* * * * *

(b) *Tests and methods of assay.*

(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay by either of the following methods:

(i) Accurately weigh a representative portion of the ointment (usually 1.0 gram) and transfer it to a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake with four 25 milliliter portions of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and combine the aqueous extractives. After adjusting the volume of the combined extractives to 100 milliliters with solution 6, remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(ii) Place an accurately weighed representative portion of the sample into a high-speed glass blender jar containing sufficient 1.0 milliliter polysorbate 80 and 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order and request a hearing, showing reasonable grounds for the hearing. The statement of reasonable grounds and request for a hearing shall be submitted in writing within 30 days after publication hereof in the FEDERAL REGISTER, shall state the reasons why the antibiotic drug regulations should not be so amended, and shall include a well-organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and susbtantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order, the Commissioner will publish an order stating his findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) (21 U.S.C. 371 (f) and (g)) of the Federal Food, Drug, and Cosmetic Act (35 F.R. 7250, May 8, 1970).

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852. Received objections and requests for a hearing may be seen in the above office during regular business hours, Monday through Friday.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date.

(Secs. 502, 507, 52 Stat. 1050–1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: October 6, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17565 Filed 10–13–72;8:46 am]

Title 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Environmental Impact and Related Statements

Section 1.32 of Title 23 of the Code of Federal Regulations provides in the last sentence that "Selected orders and memorandums are contained in Appendix A to this part." On September 7, 1972, the Federal Highway Administration issued policy and procedure memorandum 90–1 entitled "Environmental Impact and Related Statements."

This memorandum implements the National Environmental Policy Act of 1970, section 4(f) of the Department of Transportation Act, and other statutes designed to protect the environment, with regard to all Federal or federally assisted highway programs and projects. This supersedes a previous issuance dated August 24, 1971.

Part 1 of Title 23 of the Code of Federal Regulations is amended by adding the following policy and procedure memorandum at the end of Appendix A.

Issued on October 2, 1972.

R. R. BARTELSMEYER,
Acting Federal Highway Administrator.

ENVIRONMENTAL IMPACT AND RELATED STATEMENTS

PAR.

1. Purpose.
2. Authority.
3. Definitions.
4. Policy.
5. Application.
6. Procedures.

Appendix A—Procedures on Historic Preservation.

Appendix B—Example of Design Concurrence Letter.

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Appendix C—Location Stage Flow Chart.
Appendix D—Design Stage Flow Chart.
Appendix E—Environmental Statements—Contents and Format.
Appendix F—Evaluating Highway Section Environmenal Effects.
Appendix G—Inter-Agency Review of Draft Environmental Statements.
Appendix H—Selections from PPM 20–8, for Use in Preparing Environmental Statements.[1]
Appendix I—Purchasing Copies of Environmental Statements.

1. *Purpose.* To provide guidelines to highway departments and Federal Highway Administration (FHWA) field offices to assure that the human environment is carefully considered and national environmental goals are met when developing federally financed highway improvements.

2. *Authority.* a. Section 4332(2)(C), title 42, United States Code (popularly known as section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190) states in part that all agencies of the Federal Government shall:

"Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible officials on—

"(i) The environmental impact of the proposed action,

"(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented.

"(iii) Alternatives to the proposed action,

"(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies which are authorized to develop and enforce environmental standards, shall accompany the proposal through the existing agency review processes."

b. Section 1653(f), title 49, United States Code,[2] section 138, title 23, United States Code (hereafter referred to as "Section 4(f)") permits the Secretary of Transportation to approve a program or project which requires the use of publicly owned land from a park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or land from an historic site of national, State, or local significance as so determined by such officials (hereafter "Section 4(f) land") only if:

(1) There is no feasible and prudent alternative to the use of such land, and

(2) Such program includes all possible planning to minimize harm to the section 4(f) land resulting from such use.

c. Section 470f, title 16, United States Code[3] provides that the head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such undertaking.

d. Section 1857h–7, title 42, United States Code (popularly known as section 309 of the Clean Air Act of 1970—Public Law 91–604), provides:

"(a) The Administrator (Environmental Protection Agency) shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any * * * (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 4332(2)(C) of this title applies * * *. Such written comment shall be made public at the conclusion of any such review."

3. *Definitions* (as used in this memorandum). a. *Highway section.* A substantial length of highway between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study. (See paragraph 6.)

b. *Federal Agency decision.* FHWA approval of the location of a highway improvement (approval of the design; right-of-way acquisition; the plans, specifications, and estimates (PS & E) or authorization to construct a project within the highway section is not, for the purposes of this memorandum, an additional agency decision).

(1) A decision for a change in either the highway location or design (see paragraph 6p) of sufficient magnitude to require a public hearing or which significantly alters the environmental impact discussed in the statement previously filed would be the basis to prepare and process a supplemental environmental statement.

c. *Environmental statement.* A written statement containing an assessment of the anticipated significant beneficial and detrimental effects which the agency decision may have upon the quality of the human environment for the purposes of:

(1) Assuring that careful attention is given to environmental matters,

(2) Providing a vehicle for implementing all applicable environmental requirements, and

(3) To insure that the environmental impact is taken into account in the agency decision.

d. *Negative declaration.* A written document in support of a determination that, should the proposed highway section improvement be constructed, the anticipated effects upon the human environment will not be significant.

e. *Highway agency (HA).* The agency with the primary responsibility for initiating and carrying forward the planning, design, and construction of the highway. For highway sections financed with Federal-aid highway funds, the HA will normally be the appropriate State highway department. For highway sections financed with other funds, such as Forest highways, Park roads, etc., the HA will be the appropriate Federal or State highway agency.

f. *Human environment.* The aggregate of all external conditions and influences (aesthetic, ecological, biological, cultural, social, economic, historical, etc.) that affect the life of a human.

4. *Policy.* It is a national policy that all Federal agencies promote efforts for improving the relationship between man and his environment and to make special effort for preserving the natural beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges, and historic sites. It is also national policy that Federal agencies consult with other appropriate Federal, State, and local agencies; assess in detail the potential environmental impact in order that adverse effects are avoided and environmental quality is restored or enhanced, to the fullest extent practicable; and utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment. The environmental assessments include the broad range of both beneficial and detrimental effects.

5. *Application.* a. An environmental statement or combined environmental/section 4(f) statement or negative declaration, whichever is appropriate, shall be prepared and processed in accordance with this memorandum for each highway section proposed for construction with funds administered by the FHWA, including in appropriate cases any section financed from funds transferred to the FHWA from other agencies, which receives or received design approval (see paragraph 5e) on or after February 1, 1971.

b. An environmental statement or combined environmental/section 4(f) statement, whichever is appropriate, shall be prepared and processed in accordance with this memorandum for each highway section which received design approval on or after January 1, 1970, and before February 1, 1971, and which constitutes a major action significantly affecting the environment (see Appendix F, paragraphs 2 and 3) if, in the judgment of the FHWA division engineer, implementation of the National Environmental Policy Act to the fullest extent possible requires preparation and processing of an environmental statement. In making his judgment the FHWA division engineer should consider, in addition to the written reassessment prepared by the HA (see paragraph 5c) for each such highway section, the status of the design; right-of-way acquisition including demolition of improvements within the right-of-way; number of families already rehoused and those yet to be rehoused; construction scheduling; benefits to accrue from the proposed highway improvement; significant impacts; and measures to minimize any adverse impacts of the highway.

c. Highway sections which received design approval on or after January 1, 1970, and before February 1, 1971, that are classed as a major action are to be reassessed by the HA in consultation with the FHWA division engineer or his representative. The written reassessment should consider if the highway plans were developed in such a manner as to minimize adverse environmental consequences.

d. A highway section involving an historic site included in the National Register of Historic Places shall be coordinated with the State Liaison Officer for Historic Preservation and representatives of the Office of Archeology and Preservation of the National Park Service, Department of the Interior, as set forth in Appendix A. The provisions of 16 U.S.C. 470f, should be satisfied before submitting the final environment/section 4(f) statement to the FHWA (see paragraph 2c).

e. Design approval may be regarded as having been obtained prior to February 1, 1971, if any one of the following conditions is satisfied.

(1) Prior to the issuance of revised PPM 20–8 dated January 14, 1969, procedures of the FHWA did not require a HA to receive a formally documented FHWA design approval before undertaking right-of-way acquisition and/or preparation of the plans, specifications and estimate (PS&E). Therefore, design approval was that action or series of actions by which the FHWA indicated to the HA that the essential elements of the highway as set out in PPM 20–8 were satisfactory or acceptable for preparation of the PS&E. Such actions may have consisted of review and comments upon preliminary plans, schematic drawings, design studies, layouts or reports or unconditional approval to acquire all the right-of-way for a project. The HA shall identify those projects (both Federal-aid and non-Federal-aid) in the above category which it anticipates Federal-aid funds will be requested for a subsequent stage and furnish the FHWA division engineer for his concurrence a letter similar to Appendix B of this memorandum citing the document(s) or action(s) which it believes are equivalent to design approval. The FHWA division engineer's concurrence in the HA's determination will serve as verification that the previous actions or approvals were in effect design approval.

(2) Written approval by the FHWA of the design submitted in accordance with PPM 20–8.

(3) Similar type evidence that an official of the State highway department approved the design prior to February 1, 1971, for projects administered under an approved Secondary Road Plan. Such evidence need not be submitted to the FHWA division engineer for concurrence but shall be available in the State highway department's files.

f. A single environmental statement, or negative declaration, is applicable to jointly planned undertakings between the FHWA and other Federal agencies. The lead agency will be responsible for the appropriate document (i.e. the HA for a proposed highway section that also requires a U.S. Coast Guard action for bridge clearance over navigable water). Highway section proposals submitted for an FHWA approval shall include a copy of the statement prepared and processed by another Federal agency or reference to such a statement previously furnished to FHWA. A highway section in this category will generally be of the nature where there is no actual transfer of funds to the FHWA and the FHWA acts only in the capacity of a review agency or consultant advisor to the other Federal agency.

g. An environmental statement shall not be required in connection with any highway section that is urgently needed because of a national emergency, a disaster, a catastophic failure, or similar great urgency. The HA may request and the FHWA may exempt such urgently needed highway sections from the environmental statement requirement after consultation with the Office of the Secretary of Transportation and the Council on Environmental Quality.

6. *Procedures* (see Appendixes C and D for a flow chart). The highway section included in an environmental statement should be as long as practicable to permit consideration of environmental matters on a broad scope. Piecemealing proposed highway improvements in separate environmental statements should be avoided. If possible, the highway section should be of substantial length that would normally be included in a multi-year highway improvement program.

a. A proposal to develop or improve a highway section should be coordinated in the early stages with appropriate local, State, and Federal agencies (PPM 20–8 and IM 50–1–70). Initiation of coordination at the beginning of the location study will assist in identifying natural and cultural areas of significance, agency and public concerns, and help in determining the need for and preparation of an environmental statement. Existing coordination mechanisms, such as above cited (public hearings, Office of Management and Budget Circular No. A–95 reviews) and other established procedures for coordination should be used to the greatest extent practicable.

(1) The information obtained through coordination and the highway studies (technical, engineering, social, economic, and environmental, as appropriate) should be used in making an assessment of the potential environmental impact (both beneficial and detrimental) of the proposed action. This environmental assessment should be accomplished utilizing a systematic, interdisciplinary approach to assure that proper consideration is given to the identification and evaluation of potential environmental impacts. This environmental assessment, performed in consultation with FHWA for all projects, will provide the basis for determining whether an environmental statement will be prepared.

(2) The environmental statement and/or section 4(f) statement may be a part of the study report for the highway location, if desired; however, if included in the study report, the statements are to be consolidated in one place in the report and in a form that can be reproduced separate from the report.

b. A draft environmental statement shall be prepared only for those sections for which the HA or division engineer determine that construction and operation of the highway section will have a significant impact upon the environment. Appendix F lists guidelines to assist in determining significant impacts associated with the construction and operation of a highway. In addition, the HA or FHWA may wish to consult other local, State and Federal agencies with specific expertise when determining the significance of an impact. The draft environmental impact statements, including section 4(f) information, shall be prepared and circulated by the HA in cooperation with the FHWA during the location study. A representative of the FHWA division office shall indicate his review and adoption of the draft environmental statement by signing and dating before it is released for comment.

c. The draft environmental statement, including necessary section 4(f) information when required, is to be circulated by the HA to the appropriate agencies (see Appendix G) for comment, and made available to the public not later than the first required notice of location public hearing (30 to 40 days before date of hearing) or notice of opportunity for a public hearing as set out in PPM 20–8 (see Appendix H). If the highway section qualifies for exemption from public hearing procedures, a draft environmental statement, if required (including necessary section 4(f) information), is to be prepared and circulated for comment, and made available to the public as early as practicable. Regardless of whether or not there is a public hearing, a notice should be placed in the newspaper advising the public that the draft environmental impact statement is going to be circulated for review and comment. The notice should include information on where the statement is available for review and how copies can be obtained.

(1) The HA shall request a determination of significance from the section 4(f) lands agency and include the letter requesting such determination and the determination, if received, as exhibits to the draft statement.

(2) An additional location or design public hearing will not be required for the sole purpose of presenting and receiving comments on the draft environmental statement for those projects which were processed in accordance with procedures in effect at the time.

(3) The comments received on the draft statement are to be made available at the HA office for public review.

d. The HA shall furnish 17 copies of each draft environmental statement to the FHWA division engineer who shall distribute 16 copies to the following recipients:

FHWA Regional Office	1
FHWA (to the Office of Environmental Policy, HEV–10)	2
DOT's Office of Environment and Urban Systems (TEU)	3
Council on Environmental Quality (CEQ), 722 Jackson Place NW., Washington, DC 20006	10

NOTE: The HA is to make distribution to all other required local, State, and Federal agencies (see Appendix G).

e. The HA shall announce the availability of and briefly explain the draft environmental statement or negative declaration in its presentation at the location public hearing (or at the highway design hearing when a draft statement is prepared and circulated in conjunction with design studies).

f. The HA may establish a date not less than 30 days from the date of transmittal, plus a normal time for mail to reach and be returned from the recipient, for return of the comments, except 45 days plus mailing time shall be allowed for the Environmental Protection Agency (EPA) to comment. The FHWA division engineer should include a similar time period (30 days plus mailing) for return of comments in his distribution correspondence. If an agency does not respond by the indicated date, the HA may assume the agency had no comments. The HA should endeavor to grant requests for a time extension of up to 15 days for return of comments unless a 45-day review period, plus mailing time, was originally established.

g. Draft environmental statements shall be available for review by the public at the HA headquarters; the State, regional, and metropolitan clearinghouses; the FHWA division, regional, and headquarters offices; and at the appropriate public hearings. The HA and FHWA may charge nongovernmental individuals and organizations for copies of environmental statements in accordance with established fee schedules.

(1) The public and private organizations may also order copies of draft and final environmental statements from the National Technical Information Service, U.S. Department of Commerce (see Appendix I).

h. Similar procedures apply to highway sections which have reecived location approval but did not have design approval before February 1, 1971. In such instances the environmental statement, combination environmental/section 4(f) statement or negative declaration shall be prepared and processed during the design studies. The final environmental statement or negative declaration for such highway sections shall be furnished to FHWA before or with the request for design approval. If the design public hearing was held prior to the issuance of this memorandum, an additional design public hearing will not be required for the sole purpose of presenting and receiving comments

[1] Filed as part of the original document.
[2] Section 1653(f), title 49, United States Code, is identical to sections 138, title 23, United States Code, and 4(f) of the Department of Transportation Act as amended by section 18 of the Federal-Aid Highway Act of 1968.
[3] This requirement is also found in section 106 of the National Historic Preservation Act of 1966.

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on the draft statement. All other requirements for circulation for comment and availability to the public will apply.

l. The HA shall prepare a final environmental statement or combined environmental/4(f) statement in consultation with the FHWA for each project for which it prepared and circulated a draft environmental statement following the format in Appendix E. The final statement shall include a copy of all comments received and the consideration and disposition of environmental comments raised at the public hearing and on the draft statement. The correspondence included in the final statement should contain marginal notes indicating where in the statement the comments are treated or discussed (any other suitable method of showing where the comments are discussed is satisfactory).

j. FHWA review and adoption of the final environmental statement shall be the responsibility of the Regional Federal Highway Administrator. The Regional Federal Highway Administrator shall indicate his adoption by signature thereon, and forward 15 signed copies of the final statement to the Office of Environmental Policy, HEV–10. A copy of a signed statement may also be returned to the originating office. The HA and FHWA may, upon request of an individual or organization, make a copy of the statement as signed by the Regional Federal Highway Administrator available, but such document should be marked "Not Official—Subject to Approval by U.S. Department of Transportation."

k. FHWA's Office of Environmental Policy shall be responsible for:

(1) Submitting copies of the final statement to TEV,

(2) Forwarding copies of the final statement to CEQ,

(3) Informing the Regional Federal Highway Administrator when CEQ is furnished copies of the final statement.

l. The Regional Federal Highway Administrator shall be responsible for:

(1) Assuring that a copy of the final statement as sent to CEQ is furnished the HA; the appropriate State, regional, and metropolitan clearinghouses; and the FHWA division, and

(2) Assuring that the following time limitations have expired prior to FHWA's approval of the location (or design if the location was previously approved).

(a) Ninety (90) days have expired since the draft environmental statement was circulated for comment, sent to CEQ (postmarked), and made available to the public as described in 6g.

(b) Thirty (30) days have expired since the final environmental statement was made available to both CEQ and the public. This time period may run concurrently with the ninety (90) day period.

m. Negative declarations shall be prepared by the HA when the anticipated impact of construction and operation of a highway section is determined to be not significant (not of major importance). Appendix F outlines several types of highway section improvements which may warrant a negative declaration; however, each highway section should be evaluated to determine whether its impact is significant. Their purpose is to include in the written record evidence that the highway section was evaluated and a determination made that it would have no significant effect upon the quality of human environment. They should be based on the information developed during the highway study and coordination with local, State, and Federal agencies.

n. A negative declaration need not be circulated for comment, but its availability should be included in the notice of the public hearing or opportunity for public hearing. The FHWA division engineer shall concur in the negative declaration before he approves the location or design, whichever is appropriate.

o. The HA or FHWA may, based upon comments at the public hearing, rescind a negative declaration and prepare and process an environmental statement if in their judgment significant impacts have been identified which were not previously considered. It would not be necessary in such instances to hold additional public hearings for the purpose of presenting the draft environmental statement.

p. The HA shall include reference to the previous environmental statement, negative declaration, or reassessment when requesting design approval, authorization for right-of-way acquisition, approval of PS&E, and construction authorization.

(1) A new environmental statement, or a supplemental statement will be necessary for a highway section when the proposal being processed introduces a new or changed environmental effect of significance to the quality of environment. The FHWA may also request an environmental statement for a highway section which received design approval before February 1, 1971, when in its judgment changes in the highway subsequent to the reassessment (see paragraph 5c) introduce significantly different impacts on the environment.

(2) A supplemental statement is to be processed in the same manner as a new environmental statement. Where the need for a supplemental statement results from the use of section 4(f) land only, a section 4(f) statement may be prepared in lieu of a supplemental environmental statement and coordinated with the Departments of the Interior and Housing and Urban Development by the HA. The coordinated section 4(f) statement, with comments and suggestions and the HA disposition of same, shall be furnished to the FHWA for appropriate processing.

q. State highway agencies operating in accordance with a Secondary Road Plan approved pursuant to 23 U.S.C. 117 have the responsibility for approval of most Federal-aid project actions, including the highway location and design. However, environmental statements and negative declarations require Federal approvals as indicated in this memorandum.

PROCEDURES FOR HISTORIC PRESERVATION

1. The provisions of 16 U.S.C. 470(f) require that all proposed highway sections that are federally assisted be developed with consideration to effected districts, sites, buildings, structures, or objects that are included in the National Register for Historic Preservation. This authority derives from Section 106 of the National Historic Preservation Act. Procedures for compliance have been implemented by the Advisory Council on Historic Preservation, and the National Park Service, Department of the Interior, as follows:

a. At the earliest stage of planning or consideration of any undertakings carried out, licensed, or financially assisted by the Federal Government, the HA and FHWA should follow these steps:

(1) Consult the National Register of Historic Places to determine if a National Register property is involved in the undertaking. The National Register is maintained by the Office of Archeology and Historic Preservation, National Park Service, and monthly addenda are published in the FEDERAL REGISTER.

(2) Apply the "Criteria for Effect." If there is no effect, the undertaking may proceed. (See paragraph 3 of this appendix.) This determination of effect should be made by the HA in consultation with the division engineer, the State Liaison Office and a representative of the Office of Archeology and Historic Preservation. If there is documented agreement that a project will not have an effect on the National Register Historic Site, no further review is required under the National Historic Preservation Act.

(3) If there is an effect, the HA in consultation with the FHWA division engineer, State Liaison Officer[1] and a representative of the Office of Archeology and Historic Preservation of the National Park Service shall:

(a) Determine if the effect is adverse—if not, the undertaking may proceed;

(b) Upon finding an adverse effect, select and agree upon a prudent and feasible alternative to remove the adverse effect, in which case the undertaking may proceed;

(c) Failing to find and agree upon an alternative, recommend all possible planning to minimize the adverse effect and delay further processing of the undertaking pending the receipt of comments from the Advisory Council.

(4) Provide written notice affording the Advisory Council an opportunity to comment upon doubtful or unresolved situations of adverse effect and upon request submit a report of the undertaking.

2. If there is a finding of adverse effect, the proposed highway section is to be processed in accordance with these procedures and the Office of Environmental Policy should be notified and kept informed of further developments. If it becomes necessary to provide a written notice affording the Advisory Council on Historic Preservation an opportunity to comment in doubtful or unresolved situations of adverse effect, the Office of Environmental Policy will act as the coordinating element for the FHWA.

3. *Criteria for effect.* a. A federally financed or licensed undertaking shall be considered to have an effect on a National Register listing (districts, sites, buildings, structures, and objects, including their settings) when any condition of the undertaking creates a change in the quality of the historical, architectural, archeological, or cultural character that qualified the property under the National Register criteria for listing in the National Register.

b. Generally, adverse effect occurs under conditions which include but are not limited to:

(1) Destruction or alteration of all or part of a property;

(2) Isolation from or alteration of its surrounding environment;

(3) Introduction of visual, audible, or atmospheric elements that are out of character with the property and its setting. (i.e. introduction of a new highway or a higher type functional highway, such as a freeway for an arterial, into the environment of a historic site).

EXAMPLE OF DESIGN CONCURRENCE LETTER

MR. JOHN DOE,
Division Engineer,
Federal Highway Administration.

DEAR MR. DOE: The initial phases (PE–ROW) for the proposed improvement of State Route 35 between State Route 64 and Springfield were accomplished without Federal-aid highway funds. Preliminary drawings, which included the elements outlined in paragraph 10b(1)(b) of PPM–20–8, were commented upon in your letters of August 18, 1966, and September 12, 1967. We have, therefore, determined that your review and comments were equivalent to design approval of this project.

For your convenience we have included below a space for your concurrence in our determination.

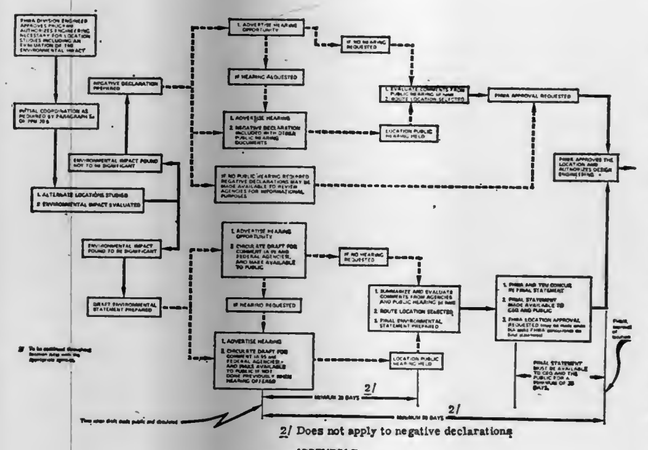
Sincerely,

Endorsement to (SHD)

Concur_____ Date_____

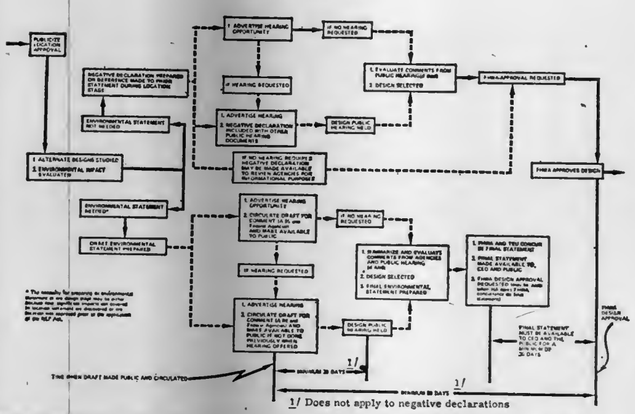
[1] State Liaison Officers are appointed by the Governors to be responsible for State activities under the National Historic Preservation Act.

APPENDIX C
LOCATION STAGE FLOW CHART



2/ Does not apply to negative declarations

APPENDIX D
DESIGN STAGE FLOW CHART



1/ Does not apply to negative declarations

ENVIRONMENTAL STATEMENTS—CONTENTS AND FORMAT

1. Environmental statements and combination environmental/section 4(f) statements (draft and final) shall have a title page similar to the examples attached to this appendix and numbered by the method shown.

2. The following sections, as a minimum, are to be covered in environmental statements:

a. A description of the proposed highway improvement and its surroundings. The description should include the following type information: Type of facility; length; termini; traffic data; right-of-way width (including existing ROW); lengths on existing and new location; major design features such as number of lanes, access control, location of bridges and interchanges, etc.; a general description of the surrounding terrain, existing land use and proposed land use (a map preferable), and other existing environmental features; existing highway facilities including their deficiencies; the need for the proposal; the benefits to the State, region, and community; an estimate of when the proposal will be constructed; and the current status of the proposal with a brief historical resume. Inventory of economic factors such as employment, taxes, property values, etc., should be included as appropriate. The description should also include any involvement with section 4(f) land (paragraph 3 of this appendix). A vicinity map(s) shall be furnished which will show the proposed highway section and its relationship to surrounding natural and cultural features such as towns, lakes, streams, mountains, historic sites, landmarks, institutions, developed areas, principal roads and highways and similar features that are pertinent to a highway study. Detailed maps, sketches, pictures, and other visual exhibits should be used to show specific environmental involvements as necessary. Maps and layouts of the proposed highway/section 4(f) land involvement should be sufficiently detailed to give a layman reviewer a reasonable understanding of the highway impact and proposed measures to minimize harm.

b. The probable impact of the proposed development or improvement. The evaluation and discussion should specifically emphasize significant beneficial and detrimental environmental consequences upon the State or region or community, as appropriate, of building a new highway into or through an area, or modernizing the existing highway by upgrading and/or relocation.

(1) This section, for instance, would discuss and evaluate the broad impacts on the area or region such as the problems relating to anticipated increase in urbanization or the probable impact of displacing people (if these are significant elements of the highway proposal). Efforts to minimize impact should also be discussed in broad items. For example, measures necessary to insure proper rehousing should be discussed and other differences of the alternatives. The significant environmental impacts of alternative locations and, as appropriate, designs, including a "do nothing" alternative is a proper subject for discussion under "Alternatives" paragraph 2d of this appendix.

(2) Impacts upon the narrow band (i.e., about 1,000 feet) adjacent to the highway may be included when significant to the whole of the region or community. However, the discussions under this section should address the probable significant impacts of the highway proposal (as opposed to individual alternative locations or designs) which might include the probable impact upon such elements, factors, and features listed in paragraph 3 of Appendix F.

c. Any probable adverse environmental effects which cannot be avoided should the proposal be implemented such as water or air pollution, effect upon section 4(f) land, damage to life systems, urban congestion, threats to health or other consequences adverse to the environment identified under paragraph 2b of this appendix. Adverse effects should include those which cannot be reduced in severity and those which can be reduced (but not eliminated) to an acceptable level unless the reduction is a result of a different location in which case it should be included in the discussion of alternatives (paragraph 2d of this appendix).

d. Alternatives. The locations and/or designs studied in detail by the HA are to be described (narratively and with maps and other visual aids, as necessary) and the probable beneficial and/or adverse effects of each alternate (including a do-nothing alternative) identified to the extent practicable consistent with the scale of the proposed highway improvement and significance of the impact. The exploration of alternatives should include an objective evaluation and analysis of estimated costs (social and transportation), engineering factors, transportation requirements, and environmental consequences. The description of alternatives

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will include information, as appropriate, similar to that suggested in paragraph 2a of this appendix. The discussion of environmental impacts will include more detailed impacts for each alternative that the broad environmental consequences for the corridor identified in paragraphs 2b and 2c of this appendix. The draft environmental statement should indicate that all alternatives are under consideration and that a specific alternative will be selected by the HA following the public hearing. The final environmental statement will be prepared for the selected alternative. Unless the final statement is included in the location study report (design report when prepared and circulated during design study), the final statement should include a brief discussion of the data supporting the selected alternative. This section should also include a discussion of alternatives to the use of section 4(f) lands.

e. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. The short-term uses should be evaluated (construction, changes in traffic patterns, the taking of natural features such as trees, etc., and man-made features such as homes, churches, etc.) as compared to the long-term effects (foreseen changes in land use resulting from the highway improvement or other similarly related items that may either limit or expand land use, affect water, air, wildlife, etc., and other environmental factors.)

f. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. Highways require use of natural resources such as forest or agricultural land, however, these are generally not in sufficient quantity to be significant. The improved access and transportation afforded by a highway may generate other related actions that could reach major proportion and which would be difficult to rescind. An example would be a highway improvement which provides access to a nonaccessible area, acting as a catalyst for industrial, commercial, or residential development of the area.

g. Where unavoidable adverse environmental effects are encountered, planning and measures taken and proposed to minimize harm should be identified. These include procedural and standard measures which are required by standard specifications or standard operating procedures such as erosion control, stream pollution prevention, borrow pit screening or rehabilitation, fencing, relocation of people and businesses, land acquisition procedures, joint development, etc. Measures unique to a specific project should be discussed in detail. Examples of such would be depressing an urban highway to minimize audio and visual effects, providing buffer zones for esthetic purposes, replacement of parklands, etc.

h. Final statements shall incorporate all comments received on the draft (including environmental comments contained in the public hearing transcript) along with a discussion of the comments and suggestions. The HA shall describe its disposition of the comments and suggestions (e.g., revisions to the proposed development or improvement to overcome anticipated problems or objections; reasons why specific comments and suggestions could not be accepted; factors of overriding importance prohibiting the incorporation of suggestions, etc.). This section may be added at the end of the review process in the final text of the environmental statement.

i. Measures to minimize harm to section 4(f) lands should be included under a separate paragraph even though discussed elsewhere in the final statement.

j. Each draft and final environmental statement shall include a summary sheet (see paragraph 4 of this appendix).

3. The following information, when pertinent and available, should be included in the combination environmental/section 4(f) statements. (See paragraphs 2a, 2c, 2d, and 2i of this appendix.) To the extent practicable, this information should be included in the draft to initiate the necessary interagency review.

a. The description of the project (see paragraph 2a of this appendix) shall include information about the section 4(f) land in sufficient detail to permit those not acquainted with the project to have an understanding of the relationship between the highway and park and the extent of the impact, such as:

(1) Size (acres or square feet) and location (maps or other exhibits such as photographs, slides, sketches, etc., as appropriate).

(2) Type (recreation, historic, etc.).

(3) Available activities (fishing, swimming, golf, etc.).

(4) Facilities existing and planned (description and location of ball diamonds, tennis courts, etc.).

(5) Usage (approximate number of users for each activity if such figures are available).

(6) Patronage (local, regional, and national).

(7) Relationship to other similarly used lands in the vicinity.

(8) Access (both pedestrian and vehicular).

(9) Ownership (city, county, State, etc.).

(10) If applicable, deed restrictions or reversionary clauses.

(11) The determination of significance by the Federal, State, or local officials having jurisdiction of the section 4(f) land.

(12) Unusual characteristics of the section 4(f) land (flooding problems, terrain conditions, or other features that either reduce or enhance the value of portions of the area).

(13) Consistency of location, type of activity, and use of the section 4(f) land with community goals, objectives, and land use planning.

(14) If applicable, prior use of State or Federal funds for acquisition or development of the section 4(f) land.

b. A description of the manner in which the highway will affect the section 4(f) land (include within paragraph 2c of this appendix) such as:

(1) The location and amount of land (acres or square feet) to be used by the highway.

(2) A detailed map or drawing of sufficient scale to discern the essential elements of the highway/section 4(f) land involvement.

(3) The facilities affected.

(4) The probable increase or decrease in physical effects on the section 4(f) land users (noise, fumes, etc.).

(5) The effect upon pedestrian and vehicular access to the section 4(f) land.

c. A specific statement (with supporting reasons) that there is no feasible and prudent alternative. (Include in discussion of alternatives, paragraph 2d of this appendix.)

d. Information to demonstrate that all possible planning to minimize harm is or will be included in the highway proposal. (See paragraph 2i of this appendix.) Such information should include:

(1) The agency responsible for furnishing the highway right-of-way.

(2) Provisions for compensating or replacing the section 4(f) land and improvements thereon, including the status of any agreements. (Include agreed upon compensation, replacement acreages, and type land, etc., when known.)

(3) Highway design features developed to enhance the section 4(f) land or to lessen or eliminate adverse effects (improving or restoring existing pedestrian or vehicular access, landscaping, esthetic treatment, etc.).

(4) Coordination of highway construction to permit orderly transition and continual usage of section 4(f) land facilities (new facilities constructed and available for use prior to demolishing existing facilities, moving of facilities during off-season, etc.).

e. Evidence that the provisions of 16 U.S.C. 470(f) (section 106 of the Historic Preservation Act of 1966) have been satisfied when National Register Properties are involved.

4. *Summary Sheet.* a. Check Appropriate Box(es).

Administrative Action:

( ) Draft ( ) Final
( ) Environmental Statement
( ) Combination Environmental/Section 4(f) Statement

b. Brief description of highway improvement indicating route, termini, length, county, city, State, etc., as appropriate.

c. Summary of environmental impacts (identified in paragraphs 2b and 2c of this appendix).

d. Summarize alternatives considered (as described under paragraph 2d of this appendix).

e. (1) (For draft statements)—List Federal, State, and local agencies and other organizations from which comments are being requested.

(2) (For final statements)—List Federal, State, and local agencies and other organizations from which comments were requested and identify those that returned written comments.

f. Date draft statement was made available to CEQ (date mailed) which will also be considered the date the draft statement was made available to the public.

Report Number FHWA—State—EIS—Year—Number (Sequential for each State)—Draft or Final (Example: FHWA—Az—EIS—72-01-D)

U.S. DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION
AND

Appropriate Highway Agency

DRAFT
Whichever is appropriate
FINAL

Environmental Statement or Environmental/Section 4(f) Statement

ADMINISTRATIVE ACTION

for

(Brief Description of Highway Improvement: Route, Termini, County, City, etc.)

THIS HIGHWAY IMPROVEMENT IS PROPOSED FOR FUNDING UNDER TITLE 23, UNITED STATES CODE. THIS STATEMENT FOR THE IMPROVEMENT WAS DEVELOPED IN CONSULTATION WITH THE FEDERAL HIGHWAY ADMINISTRATION AND IS SUBMITTED PURSUANT TO:

42 U.S.C. 4332(2)(C)
and
(when applicable)
49 U.S.C. 1653(f)

FINAL ONLY

Date — Signature of Appropriate Highway Agency Official — Reserve 3" x 3" space for DOT approval

APPROVED AND ADOPTED BY THE FHWA

Date — Signature of FHWA Reviewing Official

The number placed at the top left-hand corner of the title page on all draft and final environmental statements is as follows:

FHWA–Az–EIS–72–01–D or F.

FHWA—Name of Federal agency.

Az—Name of State (cannot exceed four characters).

EIS—Environmental Impact Statement.

72—Year draft statement was prepared.

01—Sequential number of statement for each calendar year.

D or F—D-designates the statement as the draft statement; F-designates the statement as the final statement.

The first draft statement prepared each year is numbered one (1) and other draft statements prepared in that same year are numbered sequentially in accordance with the date prepared. Final statements carry the same number based upon the date the draft was prepared.

EVALUATING HIGHWAY SECTION ENVIRONMENTAL EFFECTS

1. Draft and final environmental statements should be prepared and processed in accordance with the procedures required by this memorandum for all highway sections falling under one or more of the following three categories:

a. Highway sections where organized opposition has occurred or is anticipated to occur.

b. Highway sections significantly affecting historic or conservation lands (public or private) independent of whether they are section 4(f) cases.

c. Highway sections which are classed as major actions and are also likely to significantly affect the quality of the human environment. This category requires a two-step analysis. First, it must be determined if the proposed highway section is a major action (paragraph 2 of this appendix); secondly, the significance of the effects upon the human environment must be determined (paragraph 3 of this appendix).

2. The following should be used to determine whether a proposal to construct or improve a highway section is a major action.

a. Highway sections entirely or generally on new location.

b. Major upgrading of an existing highway section resulting in a functional characteristic change (e.g., a local road becoming an arterial highway). Such changes usually result by adding lanes, interchanges, access control, medians, etc., and require extensive right-of-way acquisition and construction (grading, base, paving, bridges, etc.) which have the potential of significantly affecting the human environment.

3. Any of the following highway sections should ordinarily be considered as significantly affecting the quality of the human environment.

a. A highway section that is likely to have a significantly adverse impact on natural ecological, cultural, or scenic resources of national, State, or local significance.

b. A highway section that is likely to be highly controversial regarding relocation housing resources.

c. A highway section that divides or disrupts an established community or disrupts orderly, planned development or is inconsistent with plans or goals that have been adopted by the community in which the project is located or causes increased congestion.

d. A highway section which involves inconsistency with any national, State, or local standard relating to the environment; has a significantly detrimental impact on air or water quality or on ambient noise levels for adjoining areas; involves a possibility of contamination of a public water supply system; or affects ground water, flooding, erosion, or sedimentation.

The comments, suggestions, and information obtained during the highway studies, including the coordination and evaluation required by paragraphs 5a and 4c of PPM 20–8 will in most instances supply the information necessary to make the determination required above.

4. Negative declarations shall be prepared for all highway sections which are not major actions and for highway sections, even though classed as major actions, where it is determined there is no significant effect upon the quality of human environment as a result of the study and early coordination. Highway improvements of the following types are not likely to have significant impacts upon the environment:

a. Signing, marking, signalization, and railroad protective devices,

b. Acquisition of scenic easements,

c. Modernization of an existing highway by resurfacing; less than lane width widening; adding shoulders; auxiliary lanes for localized purposes (weaving, climbing, speed-changing, etc.),

d. Correcting substandard curves,

e. Reconstruction of existing stream crossings where stream channels are not affected,

f. Reconstruction of existing highway/highway or highway/railroad separations,

g. Reconstruction of existing intersections including channelization,

h. Reconstruction of existing roadbed (existing curb to curb for urban cross sections), including minor widening, shoulders and additional right-of-way.

i. Rural two-lane highways on new or existing location which are found to be generally environmentally acceptable to the public and local, State, and Federal officials.

INTERAGENCY REVIEW OF DRAFT ENVIRONMENTAL STATEMENTS

1. Draft environmental statements are to be circulated to appropriate Federal, State, and local agencies. State and local agency review comments will be solicited from State, regional, and metropolitan clearinghouses. Federal agencies are those having jurisdiction by law or special expertise with respect to any environmental impact involved.

2. Careful attention should be given to the selection of agencies having jurisdiction by law or special expertise in an anticipated impact to avoid the unnecessary solicitation of agencies. Appendix II to CEQ's guidelines published in the April 23, 1971 (36 F.R. 7724), FEDERAL REGISTER lists agencies with their respective areas of jurisdiction by law or special expertise. A majority of the areas are the concern of the Departments of Housing and Urban Development, the Interior, Agriculture, and the Environmental Protection Agency.

3. The Department of Housing and Urban Development (HUD) generally deals with urban aspects of historic and archeological sites, flood plains and watersheds, parks, forests, outdoor recreation, noise, congestion, low-income neighborhoods, and urban planning. Draft environmental statements in urban areas and all draft combination environmental/section 4(f) statements should be furnished to HUD for comment.

a. It is desirable to develop a written understanding with the regional office of HUD about which rural statements it wishes to review. HUD has delegated review of environmental statements to its regional offices.

4. The Department of the Interior has an interest in several environmental impact areas, including energy transmission, land use, historic and archeological sites, flood plains and watersheds, parks, forests, outdoor recreation, erosion, urban congestion, low-income neighborhoods, urban planning, rivers, canals, stream control, and wildlife. It may be advantageous to include the Department of the Interior in the mailing list for all draft environmental statements.

5. The Department of Agriculture is oriented toward rural matters. It has an interest in rural electrical energy transmission, toxins, pesticides, herbicides, land use, flood plains, watersheds, parks, forests, outdoor recreation, erosion, rivers, canals, stream control, and wildlife. Accordingly, it should be furnished draft statements on rural highway sections.

6. The Environmental Protection Agency (EPA) has jurisdiction by law or expertise in all major Federal actions significantly affecting the environment. The EPA should be furnished five copies of all draft statements. Comments should be solicited under both section 102(2)(C) of the National Environmental Policy Act and section 309 of the Clean Air Act of 1970.

7. The Department of the Army, Office of the Chief of Engineers (Corps of Engineers), is interested in land use and management (coastal areas and navigable waters), flood plains and watersheds, soil and plant life, transportation (harbors, channels, inlets, inland waterways, locks and dams, dredged spoil disposal), and water quality and pollution control. Early coordination is the best guide in determining if the Corps of Engineers has an interest in commenting on the highway section. This early coordination will establish which projects will subsequently require a Corps of Engineers permit.

8. Other agencies, that should be consulted and furnished a copy of the draft environmental statements for comment, will usually be identified during early coordination.

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9. Other administrations within the Department of Transportation will need to be solicited for comment in some cases such as a proposed highway section with a bridge over navigable water that requires a permit from the Coast Guard. The administration from which comments are sought (preferably local offices) may be contacted directly by the HA.

10. In its letter asking an agency for comment on any anticipated environmental impacts for which the agency has jurisdiction by law or special expertise, it is suggested that the HA identify which impacts described in the statement the HA would specifically wish discussed. The Federal agency should be asked to comment on each alternative and, if it desires, state a preference and reasons therefor. When the HA places a time limit on the commenting period, the Federal agencies are to be advised at the time comments are solicited and should be informed that if no comments are received within that time period, the HA will assume that the review agency has no comments to offer. The HA should clearly indicate where responding agencies are to return their comments.

PURCHASING COPIES OF ENVIRONMENTAL STATEMENTS

1. A copy of any draft or final environmental statement prepared by a Federal agency can be obtained by sending report number or order number and payment, and return address to the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

2. The report number can be obtained from the FHWA or HA while the order number is found at the end of the summary of each statement in the 102 Monitor which is published by the Council on Environmental Quality (722 Jackson Place NW., Washington, DC 20006) and sent to State clearinghouses and other interested agencies.

3. Payment is normally $3. Copies over 300 pages require $6 and will be noted in the 102 Monitor.

[FR Doc.72-17291 Filed 10-13-72;8:50 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CGD 72-150R]

SUBCHAPTER D—TANK VESSELS

PART 31—INSPECTION AND CERTIFICATION

Inspection and Certification; Factors of Safety

Correction

In F.R. Doc 72-16794 appearing on page 20826 of the issue for Wednesday, October 4, 1972, the tabulated material should read as follows:

TABLE 31.37-25(a)

Safe working loads for component parts	Safety factors based on [1]— Ultimate strength	Yield point	Breaking test load
All metal structural parts except steel booms, stayed masts, pins and connections:			
5 tons or less working load of the assembled gear	5.00	[2] 2.75	
15 tons working load of the assembled gear	4.00	[2] 2.20	
60 tons or more working load of the assembled gear	3.75	[2] 2.05	
Steel booms:			
10 tons or less working load of the assembled gear		3.00	
13 tons or more working load of the assembled gear		2.50	
Stayed masts:			
10 tons or less working load of assembled gear	5.00		
13 tons or more working load of assembled gear	4.00		
Pins and connections:			
10 tons or less working load of assembled gear		[2] 3.00	
13 tons or more working load of assembled gear		[2] 2.50	
Wire rope:			
10 tons or less working load			5.00
13 tons or more working load			4.00
Fiber rope:			
For running rigging	7.00		
For fixed gear and vangs	5.00		
Wooden structural parts	8.00		
Chains	4.50		

[1] Intermediate values of safety factors may be used.
[2] The minimum yield point for design purposes shall not be considered greater than 72 percent of the minimum ultimate strength of the steel.

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1, Amdt. 1-60]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Urban Mass Transportation Administrator

The purpose of this amendment is to delegate to the Urban Mass Transportation Administrator certain authority vested in the Secretary by the National Capital Transportation Act of 1972 (Public Law 92-349, 86 Stat. 464), which amended the National Capital Transportation Act of 1969 (83 Stat. 320) by adding sections 9 through 12 to provide for Federal guarantees of obligations issued by the Washington Metropolitan Area Transit Authority.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective October 6, 1972, § 1.50(d) of Title 49, Code of Federal Regulations, is amended to read as follows:

§ 1.50 Delegations to Urban Mass Transportation Administrator.

* * * * *

(d) Sections 3 and 9 through 12 of the National Capital Transportation Act of 1969, as amended (Public Law 91-143, 83 Stat. 320).

* * * * *

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e))

Issued in Washington, D.C., on October 6, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72-17577 Filed 10-13-72;8:47 am]

Chapter I—Department of Transportation

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Amdt. 192-11; Docket No. OPS-20]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Mechanically Coupled Repair Sleeves

The purpose of this amendment of § 192.717(b) is to modify a provision of the Federal safety standards for gas pipeline facilities. This change will permit the permanent field repair of pipeline leaks by means other than welded repair sleeves when the transmission line involved operates at less than 40 percent of SMYS.

For the permanent field repair of pipeline leaks when it is not feasible to take the segment being repaired out of service, § 192.717(b) requires that it must be repaired by installing a full encirclement welded split sleeve. The section of the interim safety standards from which this provision was derived was limited in application to lines operating above 40 percent of SMYS. By removing this limitation and using the term "transmission line" as defined in Part 192, the requirement was made applicable to all lines operating at 20 percent or more of SMYS. Thus while under the interim standards the requirement applied only to lines operating over 40 percent of SMYS, the regulation issued applied as well to transmission lines operating between 20 percent and 40 percent of SMYS.

Since the issuance of Part 192, experience and further study have demonstrated that, in certain instances, there are insufficient safety reasons for this requirement in light of its practicality and the costs involved. If a pipeline operating between 20 percent and 40 percent of SMYS is joined by means other than welding, very little is gained by requiring that repairs be made by welding on a full encirclement repair sleeve. This paragraph is therefore being amended to exempt lines joined by means other than welding that operate below 40 percent of SMYS.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal". This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

As this amendment removes an unnecessary restriction and imposes no additional burdens, I find that notice and public procedure thereon are not necessary.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended by revising § 192.717(b) to read as follows, effective November 14, 1972.

§ 192.717 Transmission lines: permanent field repair of leaks.

* * * * *

(b) If it is not feasible to take the segment of transmission line out of service, repairs must be made by installing a full encirclement welded split sleeve of appropriate design, unless the transmission line—

(1) Is joined by mechanical couplings; and

(2) Operates at less than 40 percent of SMYS.

* * * * *

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1672), § 1.58(d) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on October 11, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

[FR Doc.72-17690 Filed 10-13-72;9:24 am]

V37-200 OCT 14 72 XUM

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 49, 301, 601]

COLLECTION OF FACILITIES AND SERVICES EXCISE TAX

Notice of Hearing on Proposed Regulations

Proposed regulations to be prescribed under sections 4291 and 6672 of the Internal Revenue Code of 1954, and a proposed amendment to 26 CFR Part 601 (Statement of Procedural Rules), relating to the collection of facilities and services excise tax, appear in the FEDERAL REGISTER for Friday, July 28, 1972 (37 F.R. 15159). A Notice of Extension of Time for Comments appears in the FEDERAL REGISTER for Tuesday, August 29, 1972 (37 F.R. 17478).

A public hearing on provisions of the proposed regulations will be held on November 13, 1972, beginning at 10 a.m. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments at such hearing should by October 30, 1972, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments, or suggestions, or outlines, and who desire to be assured of their availability on, or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by November 6, 1972. In such case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to a minimum charge of $1.

LEE H. HENKEL, Jr.,
Chief Counsel.

[FR Doc.72-17693 Filed 10-13-72;9:56 am]

DEPARTMENT OF THE ARMY

Corps of Engineers

[33 CFR Part 209]

[ER 1105-2-502]

ADMINISTRATIVE PROCEDURE

Proposed Regulation on Public Meetings

Notice is hereby given that the following regulations is proposed for adoption by the Corps of Engineers. All interested persons are invited to submit written data, views, or comments concerning the proposed regulation to HQDA (DAEN-CWP-A), Washington, D.C. 20314. Following the consideration of any comments received within 30 days of the date of publication of this notice in the FEDERAL REGISTER, a final revision will be published and adopted.

The proposed regulation, to be issued under the authority contained in 10 U.S.C. 3012, is as follows:

For the Adjutant General.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

OCTOBER 10, 1972.

1. *Purpose.* This regulation [1] sets forth the policy, responsibility, and guidance for holding formally organized, announced, and recorded public meetings in connection with all civil works planning activities and regulating the uses of navigable waters.

2. *Applicability.* The regulation applies to all Corps of Engineers elements having responsibilities for civil works planning and for regulating the uses of navigable waters.

3. *Policy.* In keeping the policy of the Chief of Engineers to conduct his civil works program in an atmosphere of public understanding, trust, and mutual cooperation, all interested individuals and agencies are to be informed and afforded an opportunity to be fully heard and their views considered in arriving at conclusions, decisions, and recommendations in the formulation of civil works proposals, plans, and projects and on the proposed uses of navigable waters. Formally organized and announced public meetings provide one important means of accomplishing this objective, and they will be held as specified herein. They are not, however, a substitute for other desirable public participation and information measures.

[1] This regulation supersedes ER 1135-2-5, April 14, 1967, and EC 1120-2-55.

4. *Definitions.* As used herein, the terms "public meeting" and "Announcement of Public Meeting" refer to those public meetings which are formally organized, announced, and recorded; they do not include other smaller and less formally organized group discussion meetings which may also be open to the public and which are the subject of other guidance. However, it is emphasized that formality is intended only in respect to organization and announcement. The atmosphere of the meetings should be informal to the extent practicable, in keeping with the concept of public involvement and the need to encourage and develop more meaningful, two-way communication.

5. *Purposes of public meetings.* The primary purpose of public meetings is to help to insure that solutions to water resources problems and the uses of navigable waters satisfy the needs and preferences of the people to the maximum degree possible within the bounds of local, State, and Federal interests, responsibilities, and authorities. More specifically, the purposes of public meetings are to inform the public about studies and proposals related to water resources development and the uses of navigable waters; to give all interested persons an opportunity to fully and publicly express their views concerning such studies and proposals; to obtain and exchange information which will assist all those involved in arriving at sound conclusions and recommendations; and to contribute to interagency coordination.

6. *Holding of public meetings.* Public meetings will be held when needed, in keeping with the policy and purposes stated herein, generally as follows:

a. For specifically authorized planning studies:

(1) An initial meeting will be held early in the course of each study to advise on the nature and scope of the study, to open lines of communication, to listen to the needs and views of the public, and to identify interested individuals and agencies.

(2) A formulation stage meeting will be held during the course of each study when all alternative solutions are reasonably known, generally after the completion of preliminary studies but before a plan has been tentatively selected. A meeting at this stage is critical, and its scheduling and conduct will be given careful attention. A major purpose of this meeting is to present the results of preliminary studies, including the advantages and disadvantages of the various alternatives to the extent that such information has been developed, and to further develop public views and desires, particularly as they relate to the various alternatives. If the preliminary studies reveal that further studies are unwarranted, a public meeting at this stage will be held only at the discretion of the reporting officers, giving appropriate consideration to public participation concepts, including unusual circumstances.

(3) A late stage meeting will be held after detailed studies but before report completion. Findings of the detailed studies, including the rationale for any proposed solution, and the tentative recommendations of the reporting officer will be presented. In the event that, due to the nature of the study, the formulation stage meeting was, in effect, also a late stage meeting and the proposed plan was a foregone conclusion at that meeting, a late stage meeting may be dispensed with, if approved by the Division Engineer. However, it must be apparent that no residual public meeting requirement is being imposed on the Board of Engineers for Rivers and Harbors. In all cases where no structural improvments or similar investments by the Corps of Engineers are to be recommended, a late stage public meeting will be held only at the discretion of the reporting officers, giving appropriate consideration to public participation concepts, including unusual circumstances.

(4) An additional late stage meeting will be held for those studies where there have been no recent public meetings and there are indications that public acceptance may have changed materially or that further public views should be sought. Similarly, an additional late stage meeting will be held in those cases where there have been substantive changes in the tentative plan previously presented.

b. For small planning studies under continuing authorities, the number and timing of the meetings are left to the discretion of the reporting officer due to the simplicity and smallness of such studies, except that at least one public meeting will be held during the course of each study under the authority of "section 103," "107" or "205" if structural improvements or similar investments by the corps are indicated. Normally, this meeting should be held in the detailed study stages; however, other forms of public participtation should be used throughout the study. For studies under other continuing authorities, such as for clearing and snagging, other forms of public participtation should be relied upon to the extent practicable, but public meetings may be held if the reporting officer considers them desirable in specific instances.

c. For studies of lock and dam replacements under section 6 of the River and Harbor Act of March 3, 1909, a formulation stage and a late stage meeting will be held as described in paragraphs 6a(2) and 6a(3). However, for relatively small studies the meetings will be held as described for small studies in paragraph 6b.

d. For fish and wildlife studies under section 2 of the Fish and Wildlife Coordination Act of August 12, 1958, for projects not completed before that date, a public meeting will be held in connection with the consideration of any wildlife management plan proposing the authorization of additional land for wildlife purposes. When appropriate, such meetings will be held jointly with the Fish and Wildlife Service which will present its plan at the meeting.

e. For other planning studies not included in any of the above paragraphs, such as modification studies of completed projects under authority of section 216 of the 1970 Flood Control Act, mitigation studies of navigation effects under section 111 of the 1968 River and Harbor Act, and Phase I of General Design Memorandums, the number and timing of public meetings will be as considered desirable by the reporting officers, in keeping with the policy and purposes stated herein and giving consideration to similarities with the study categories in the previous paragraphs. However, at least one public meeting will be held in connection with the preconstruction planning of authorized projects. For all studies, other forms of public participation should be utilized to the extent practicable.

f. Public meetings may be held by the Board of Engineers for Rivers and Harbors prior to any final action by the Board when non-Federal interests request such meetings in their response to the announcement of the public release of a field report and the Board decides favorably on such requests. Normally, there will be no need for such meetings if adequate meetings have been held by the reporting officers.

g. Public meetings will be held in connection with proposed actions concerning the uses and control of navigable waters whenever there appears to be sufficient public interest and it is likely that the meeting will develop information that will be of assistance in evaluating the proposed action. Such actions include applications for permits for work in or affecting navigable waters, designation of proposed danger zones and restricted areas, the promulgation of regulations, and proposals for the establishment or revision of harbor lines.

h. A public meeting should be held in any special situation where either the public or the Corps, or both, would benefit by the exchange of views and information. Possibilities include situations of unusual time lapse or unexpected developments since the last public meeting, unusual interest or controversy, and official requests by congressional interests or responsible non-Federal authorities for meetings which would fulfill the policy and purposes stated herein.

7. *Conduct of public meetings.* All public meetings will be fair and impartial two-way communications. As such, they will be conducted as informally and simply as possible, and make liberal use of uncluttered graphics, slides, and displays. The use of high-quality audiovisual aids may be used when available. Public meetings will normally be chaired by the senior officer or a suitable representative in view of the importance of these meetings. The meetings may be held jointly with other agencies when desirable but will be chaired by the Corps. This does not, however, preclude Corps participation in meetings held by others.

a. At the beginning of a public meeting, the presiding officer will explain the purpose of the meeting. Subsequently, he will summarize the study, proposed uses of navigable waters, or other situation for which the meeting is being held. In the case of planning studies, this will include, as appropriate, the problems and needs under study; the status of pertinent plans, programs, and improvements; the programs or improvements desired by various interests; the formulation of a plan or solution which considers all appropriate measures and is not limited to considerations of Federal construction measures; participation and coordination in such formulation; plan accomplishments and effects, both advantageous and disadvantageous; and Federal and non-Federal responsibilities. In discussing formulation, national objectives will be cited as well as technical and economic criteria and environmental and social considerations. All plausible alternatives should be mentioned and commented upon, however infeasible in the specific case. In particular, active participation by others in the study and coordination will be explained to clearly demonstrate the cooperative nature of the effort. Supporting presentations will be given by staff members, as appropriate.

b. Following the presentations, or at suitable points, all interested persons will be given an opportunity to present their views. In the interest of informality and equity, structured orders of presentation should be avoided. For example, officials and private individuals could be given opportunity to speak in random order. All communications received for placement into the meeting record will be read or summarized to the extent practicable.

8. *Arrangements for public meetings.* Meetings will be held in the locality or localities most convenient to the people of the area under investigation, and local convenience will be recognized in selecting the place, date, and hour. Prior to final selection, however, interested Members of Congress should be consulted regarding the schedule and their intent to participate. Individuals and organized groups, including those with conservation and environmental interests, whose local knowledge renders their opinion of value should be encouraged to participate in order to develop a good understanding of diverse views. In the case of public meetings by the Board of Engineers for Rivers and Harbors, such meetings may be held in Washington, D.C., if the Board considers this more advantageous to the purpose of the meeting. When Board public meetings are held in the field, the appropriate field office will act as liaison, make all pertinent arrangements, and carry out such meeting activities as requested by the Board.

9. *Advice and information to participants.* Good public relations practices

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will be observed and, to the extent possible, those interested should be advised to organize their case so that all pertinent aspects of their problem may be rapidly and effectively presented. In particular, those interested should be encouraged to submit detailed data on the justification of their requests. Written information suitable to clarify the issues for those interested, assist them in preparing factual material and expressions of views or opinions, and indicate possible alternative courses of action should be supplied to them in advance of a meeting. Without such advance information, participants will often be unable to contribute in full measure to the meeting, and they may feel that their views have not been adequately considered. Insofar as practicable, advice and advance information to those interested should be presented in the announcement or as inclosures thereto. Such inclosures may be brochures or other materials setting forth environmental information, alternatives and their pros and cons, and other information such as listed in paragraph 7a.

10. *Announcements of public meetings.* Announcements of public meetings will be issued, dated, and signed by the senior officer concerned. In the case of preauthorization studies, they may be similar to the suggested wording in Appendix A, tailored to fit the situation and status of the study. More drastic modification will be needed for special meetings or situations. In any event, the suggested wording should not be unreasonably adhered to. Moreover, the announcements should be written in layman's language and be informative and inviting in format, appearance, and content. Their tone should reflect a sincere intent to produce a mutual exchange of views and information. In this regard, the announcements should in all cases avoid implications that final decisions have been made.

11. *Distribution of announcements.* Announcements of public meetings will be distributed directly to all interested individuals and agencies, including the press, radio, and television stations, about 1 month in advance of the meeting, preferably longer in the case of deep-draft waterway and harbor studies. Shorter periods may be used for small, simple studies. Advance notification will be given Members of Congress and Governors of the States in accordance with ER 360–1–1. The announcements may be inserted as an advertisement subject to the requirements for authority to advertise as prescribed in ER 1180–1–1. Copies will also be supplied to Postmasters and other agencies where they may be posted for public information. An additional notice to newspapers, radio, and television stations should be made about 3 days prior to the meeting. Distribution will be accomplished from a prepared distribution list for which up-to-date records will be kept of individuals or agencies desiring copies of announcements or which may be interested or affected. Special effort will be made to identify those which may be interested or affected in each situation and to develop pertinent distribution lists; outdated or stereotyped lists will be avoided. Distribution of the announcement will include the following:

	Quantity
Members of Congress concerned: One copy of announcement and mailing list to home address and one copy of each to Washington, D.C., office.) (Members of Congress will be listed under a heading "Congressional," with Senators in order of seniority grouped by States, first, followed by Representatives in same manner. Seniority is based upon latest period of continuous service and can be determined from the Congressional Directory.)	2.
Governor or designated representative of States affected (with mailing list).	1.
Chief of Engineers: HQDA (DAEN–CWP–__) Washington, D.C. 20314, except, in the case of permits, 1 copy to (DAEN–CWO–N.)	2.
Board of Engineers for Rivers and Harbors.	1.
Division Engineer	2 (or as requested).

12. *Record of meeting.* A complete record of public meetings will be taken stenographically and by electrical transcription, and a written record will be made therefrom. Such records should be reasonably accurate but need not be precise legal documents. Study reports sent by reporting officers to the Board of Engineers for Rivers and Harbors will be accompanied by one copy of the pertinent written record, including the announcement and list of persons notified. The Board will forward these materials to the Chief of Engineers upon completion of Board action on the report. In all other cases, the materials will be supplied to the Chief of Engineers in one copy at the time of submission of a study or permit report or other primary document on the subject for which the meeting was held. Each record will be accompanied by an index and a very simple digest indicating major characteristics such as attendance, reactions, and major concerns. Copies of the record for representatives of other agencies participating in joint meetings will be supplied in accordance with any arrangements made by them with the responsible senior officer. Others will be advised that they may arrange for copies of the record at the cost of reproduction.

13. *Joint public meetings.* Representatives of other Federal agencies or non-Federal public agencies may actively participate in joint public meetings whenever such organizations have a particular interest and express a desire to participate. Notification of a desire to participate and the subsequent designation of a participant should be accomplished officially by written communications from a responsible level. It should be understood that the agency representative designated should be knowledgeable in the subject of the meeting, that the Corps of Engineers is responsible for arrangements and procedure, that the meeting will be conducted by the Corps presiding officer, and that the meeting will be reasonably limited to Corps purposes for the meeting. If the participating agency's interest requires extension of the meeting or additional meetings, the additional expense will be the responsibility of that agency.

14. *Funding.* The expense of public meetings will be charged to the pertinent program, project, or study for which they are being held.

APPENDIX A

SUGGESTED WORDING FOR ANNOUNCEMENT OF PUBLIC MEETING ON A PREAUTHORIZATION STUDY

Announcement of public meeting on (For) ---------- (indicate purpose, study, and study area).

Meeting to be held at ---------- on (Time) ---------- in auditorium of (Date)

---------- (Street Address)

---------- (City and State)

The Corps of Engineers is studying the (describe study and its purpose, and identify study area). The study was requested by the U.S. Congress in the (identify and cite or paraphrase appropriate acts or resolutions, or portions thereof).

In order that the study may be responsive to the desires and needs of everyone affected, a public meeting will be held as indicated above. We invite you to attend the meeting and to participate in the exchange of information concerning the study, the water resource and related problems involved, and possible solutions. We are also interested in knowing about ecological and environmental conditions and problems in the study area. A map of the study area is attached.

Generally, the problems and needs that we are aware of (very briefly list problems and needs, status of existing plans and improvements, improvements desired, and possible solutions, tailored to suit the situation and status of the study). (An inclosed brochure may be desirable.)

All interested individuals, groups, and agencies are invited and urged to be present or represented at this meeting. Everyone will be given an opportunity to express his views and furnish specific data on all aspects of the study, including technical, economic, social, and ecological and environmental material. Statements should be supported by factual information insofar as practicable. (Identify matters or data on which information is particularly being sought.)

For accuracy of record, all important facts and statements should be submitted in writing. Written statements may be handed to the Chairman at the meeting or may be mailed beforehand to our office. Mailed statements both oral and written, will become part of the official record on this study and will be made available for public examination.

Full consideration will be given to the views presented prior to making a recommendation to higher authority. However, this cannot be taken as an indication that the Federal Government will undertake any improvements or programs. Although the study may result in recommendations for undertakings by the Federal Government, their accomplishment would depend upon subsequent authorization and funding by the Congress.

Please bring this announcement to the attention of anyone you know who is interested.

(List Enclosures.)

[FR Doc.72–17578 Filed 10–13–72;8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1127, 1128, 1129, 1130, 1132, 1138]

[Docket No. AO–231–A39, etc.]

MILK IN NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

7 CFR Part	Marketing area	Docket No.
1071	Neosho Valley	AO–227–A28.
1073	Wichita	AO–173–A28.
1097	Memphis	AO–219–A27.
1102	Fort Smith	AO–237–A22.
1104	Red River Valley	AO–298–A21.
1106	Oklahoma Metropolitan	AO–210–A33.
1108	Central Arkansas	AO–243–A25.
1120	Lubbock-Plainview	AO–328–A15.
1126	North Texas	AO–231–A39
1127	San Antonio	AO–232–A25.
1128	Central West Texas	AO–238–A28.
1129	Austin-Waco	AO–256–A21.
1130	Corpus Christi	AO–259–A25.
1132	Texas Panhandle	AO–262–A24.
1138	Rio Grande Valley	AO–335–A20.

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Dallas, Tex., on June 28–29, 1972, pursuant to notice thereof issued on June 6, 1972 (37 F.R. 11587).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 6, 1972, filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record relate to:

1. Adoption of an advertising and promotion program as authorized under Public Law 91–670; and

2. The specific terms and provisions necessary to implement such program under the aforesaid marketing areas.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof.

1. *Adoption of an advertising and promotion program.* The respective orders should be amended to provide for an advertising and promotion program to be administered in each case by an agency organized by producers and producers' cooperative associations and financed by producer moneys deducted from pool proceeds in the case of those orders with marketwide pools or, in the case of individual handler pools, withheld by handlers from producer payments and turned over to the market administrator.

The amendments to the Agricultural Marketing Agreement Act under Public Law 91–670 provide that a Federal milk order may, with the approval of producers on the market, include provisions for establishing or providing for the establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products (hereinafter referred to in this part as the "advertising and promotion program" or "the program").

The hearing on the matter here under consideration was requested by Associated Milk Producers, Inc. AMPI), a cooperative association representing the majority of producers supplying milk for the 15 markets.

Under the proposal supported at the hearing and as herein adopted, the advertising and promotion program under each respective order will be funded through a 5-cent per hundredweight assessment each month on producer milk pooled during such month. Under this program, the market administrator will deduct the moneys from the producer settlement fund prior to the computation of the uniform price (marketwide pools) or handlers will deduct the moneys from payments due individual producers (individual handler pools) and pay such moneys to the market administrator. All of the moneys so deducted, except for certain reserves withheld by the market administrator to cover refunds and administrative costs, will be turned over to and administerd by an agency organized by producers and producers' cooperative associations under such order. The agency will be responsible for the development and implementation of programs and projects approved by the Secretary and designed to carry out the purposes of the Act as prescribed in the attached amending orders.

Any producer not desiring to participate in the program, upon proper application, will be eligible for refund of the assessments made against his proportionate share of total producer marketings of milk, such refunds to be made by the market administrator on a quarterly basis.

The principal reason cited by proponents for the establishment of advertising and promotion programs in these 15 markets was the need to increase Class I sales to improve and maintain dairy farmers' income at reasonable levels. Proponent witnesses pointed out that there has been a continuing downward trend in per capita consumption of milk and milk products, both nationally and in individual markets. They held that improvement of dairy farmers' income could be attained only by reversing this trend in consumption. This, they suggested, could be achieved if dairy farmers (member and nonmember alike) joined together to give strong unified support to an advertising and promotion program.

Proponents stated that it is the policy of the AMPI Board of Directors to establish and support strong and effective advertising and promotion programs throughout the area served by the approximately 43,000 members of that cooperative. Since 1967, AMPI members in the southern region and its predecessor, MPI organization, have contributed in excess of $12 million toward financing and advertising and promotion program for milk and milk products in the AMPI southern region. In terms of rate per hundredweight, AMPI southern region member contributions have ranged from 3 to 10 cents per hundredweight, and have averaged slightly over 6 cents.

Proponent witnesses said that AMPI members should not bear alone the cost of an advertising and promotion program in these markets. The adoption of a program in each of the 15 markets under the authority of Public Law 91–670, they said, will provide "producers who are not members of AMPI the opportunity to carry their proportionate share of the cost of the program while they continue to share the benefits accruing therefrom." Further, they pointed out that the uniform adoption of their proposal in all 15 orders at this time will facilitate greater comparability of announced producer pay prices among the markets than could result from separate actions in the individual orders.

The majority of the producers in these markets are presently participating in an advertising and promotion program and, according to proponent witnesses, at a somewhat higher average assessment rate per hundredweight than that proposed under the program as here adopted. It is not to be expected, therefore, that adoption of the program under each of the 15 orders will materially increase the amount of funds being expended by producers on advertising and promotion efforts. Nevertheless, the majority of producers apparently feel that this program will provide a more equitable sharing of advertising and promotion expenditures in these markets and elliminate misunderstandings and confusion which may now exist.

Since the program is totally a producer-financed program and is voluntary in that any producer not wishing to participate has assurance of refund of the assessment made against his milk marketings, there can be no compelling reason for not acceding to the wishes of the majority of the producers.

In view of the foregoing, it is concluded that a program essentially as producers proposed should be adopted.

2. *Terms and provisions.* The proposed rate of 5 cents per hundredweight on producer milk suggested by proponents is a reasonable assessment on the marketings of producers under the respective orders and is adopted.

Based on the volume of milk marketed in 1971 under these orders, an assessment rate of 5 cents per hundredweight

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on producer milk will gross approximately $2½ million annually. Allowing for refunds to nonparticipating producers and for the necessary administrative costs, it can be reasonably expected that the money which will be available for advertising and promotion in these markets will compare favorably with that presently being expended in this area by proponents.

The enabling legislation specifically provides that the promotion funds deducted from producer proceeds "shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order."

A definition of "Agency" therefore is incorporated in each order to identify the administrative body organized by producers and producers' cooperatives that will be authorized to expend the funds for advertising and promotional activities.

The Agency under the terms prescribed herein is responsible for administration of the terms and provisions of the program within the scope of its authority. Subject to the approval of the Secretary, it also is empowered to enter into contracts and agreements with persons or organizations as deemed necessary to carry out such program. In addition, the Agency may recommend to the Secretary amendments to the terms of the program and make such rules and regulations as are necessary to carry out its stated objectives.

The powers, duties, and functions specifically assigned to the Agency under the terms herein adopted are of a nature and scope to provide participating producers on the market full and necessary authority through their representatives on the Agency to develop and administer advertising and promotion programs designed to accomplish the purposes of Public Law 91-670.

The Act states that the Agency "* * * may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order." The guidelines concerning this matter are set forth in the amendments to the respective orders., Under the terms of such amendments the Agency will develop and submit to the Secretary for approval, programs and projects that may provide for: (a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising and promotion of milk and milk products on a nonbrand basis; (b) the utilization of the services of other organizations to carry out Agency programs and projects, if the Agency finds that such activities will benefit producers supplying the market; and (c) the establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers supplying the market.

There was no testimony on the record in opposition to these Agency guidelines, although one cooperative association, representing dairy farmers marketing their milk in several of these markets, testified in opposition to the program generally.

Agency members are to be selected from producers who actively support the program. Representation on the Agency as it relates to cooperatives may include, however, individuals not directly engaged in the production of milk, e.g., employees of the cooperative.

Under the terms of the program as herein provided, the selection of cooperative representatives for the Agency will be entirely at the discretion of the cooperative(s). Each cooperative association, authorized one or more representatives on the Agency, shall notify the market administrator of the name and address of each representative selected who shall serve at the pleasure of the cooperative.

In most of the markets here being considered, AMPI, the proponent cooperative, represents the preponderance of producers. In some of the markets, all the producers now serving the market are members of AMPI.

Since a cooperative's Agency representatives are selected by the cooperative's board of directors and serve at the pleasure of the cooperative, the position of such representatives with respect to Agency matters no doubt will reflect the position of the cooperative's members. Thus, in situations where all producers are members of one cooperative, a single individual appropriately can constitute the Agency. In all other circumstances, the composition of the Agency should be such that it insures fair representation for all participating producers. Where a single cooperative represents a substantial majority of the participating producers, there is no apparent reason why its Agency representation need exceed that number necessary to retain for such cooperative a voting majority on the Agency. Producers held that Agency representation should be as small as possible, consistent with fair and proportionate representation of producers. Under their proposal, the number of representatives would have varied from a maximum of three for six of the markets to 11 in the North Texas market.

It cannot be presumed that the composition of producers in any particular market will remain static. Ideally, the rules adopted with respect to the composition of the Agency under each order should accommodate changes in the market structure under the guidelines set forth by proponents.

To meet these conditions, it is provided under each order that each cooperative will be authorized one Agency representative for each full 5 percent of the participating producers (producers who have not requested refunds [1]) that such cooperative represents. For the purpose of meeting the 5 percent requirement, or multiples thereof, any cooperative association, including a cooperative having less than the required 5 percent of the producers participating in the program, may elect to combine its participating membership with that of one or more other cooperatives.

The participating producer members of any cooperative association(s) having less than the required 5 percent that elects not to combine, as discussed above, and nonmember producers together will be authorized one Agency representative for each full 5 percent that such producers constitute of the total number of participating producers under the order. If such group of producers in total constitutes less than the full 5 percent, the group, nevertheless, will be authorized to select from such group, in total, one Agency representative.

Notwithstanding the above, if any cooperative association or group of associations that elects to combine for purposes of selecting Agency representation has a majority of the participating producers, representatives from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number necessary to constitute a majority of the Agency representatives.

As previously indicated, the selection of cooperative representation will be entirely at the discretion of the cooperative. The market administrator will conduct a referendum annually to determine the representation on the Agency of participating nonmember producers and participating producer members of cooperative associations having less than the required 5 percent of the producers participating in the program and not electing to combine membership for purposes of selecting Agency representation.

Within 30 days after the effective date of the amended order and annually thereafter, the market administrator shall give notice to all such producers (member and nonmember) of their opportunity to nominate from among their groups Agency members and shall specify the number of representatives that such nonmember and member producers together are authorized.

Following the closing date for nominations, the market administrator shall notify the nominees who are eligible for Agency membership and then shall conduct a referendum in which each individual producer (member or nonmember) shall have one vote.

Since cooperative associations may freely elect to combine or not combine for purposes of selecting agency representation, it is provided in the case of a cooperative with less than the 5 percent that does not combine, that the balloting of its participating producer members shall be on an individual basis, the same as nonmembers. This procedure will tend to promote equity between member and nonmember producers in the selection of representation.

Election to Agency membership will be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes.

[1] Provision is made in the program adopted herein that for the purposes of the Agency's initial formation under each order all producers under such order will be considered as participating producers.

Each person selected for the Agency shall qualify by filing with the market administrator a written acceptance of his willingness and intention to serve in such capacity. It is anticipated that any eligible nominee included on the list that the market administrator is required to circulate to participating nonmember producers and certain participating member producers in the conduct of the referendum, as discussed elsewhere in these findings, would advise the market administrator promptly if he were not willing to be a nominee. Notwithstanding, it is possible that a person elected to membership or so designated by a cooperative may not be able or may not wish to accept the position. This requirement, therefore, is necessary in order that the market administrator will know whether or not the position has been filled. Such acceptance should be filed promptly after notification in order that the formation of the Agency can be prompt.

The term of office of each member of the Agency as herein adopted is 1 year or until a replacement is designated by the cooperative association or is elected

It is possible that an elected representative may leave the market or otherwise be unable to complete his term of office. It is desirable, therefore, that some procedure be provided for filling the vacancy. It is concluded appropriate in such circumstance that the market administrator appoint as his replacement the then currently participating producer who received the next highest number of eligible votes in the referendum.

Actions to be taken by the Agency are of such importance that a majority of the representatives should be required to be present at any meeting to constitute a quorum and any action taken by the Agency should require a majority of concurring votes of those present and voting. The provisions herein adopted so provide.

The Agency's duties set forth in the respective orders are generally necessary for the discharge of its responsibilities. It is intended that activities undertaken by the Agency shall be confined to those reasonably necessary to carry out its responsibilities as prescribed by the program. At the same time it should be recognized that these specified duties are not necessarily all inclusive, and it may develop that there are other duties the Agency may need to perform.

Congress clearly contemplated that producer activities under Public Law 91-670 would be under direct surveillance of the Secretary. It was specifically provided that "all funds collected under this subparagraph (I) shall be separately accounted for and shall be used only for the purposes for which they are collected." It is essential, therefore, that the Agency prepare and submit to the Secretary for his approval budgets showing projected amounts of available funds and how such funds are to be disbursed. Also, in order to make the audit necessary to establish that Agency funds are used only for authorized purposes, the market administrator or other representative of the Secretary must have access to all of the Agency's records and access to, and the right to examine, any directly pertinent books, documents, papers, and records of any organization performing advertising and promotion activities for such Agency.

Proponents proposed that budgets be prepared and submitted for approval on a quarterly basis. The Agency must be in a position to develop firm plans and make commitments covering a sufficient forward period to insure a continuing viable program. A calendar quarter is concluded to be the minimum practical period for achieving this end and it is provided therefore that a budget shall be submitted to the Secretary for his approval prior to each quarterly period.

All of the possible promotion and other authorized activities that the Agency may wish to pursue cannot be anticipated at this time. Therefore, the authority for the Agency to establish programs and projects is purposely left broad and flexible to facilitate the timely development of such programs suitable to prevailing circumstances in the market.

Any promotion program or project the Agency may consider must comport with the terms and conditions of the order and be evaluated in terms of cost, the statutory objectives to be accomplished, the time required to complete the program or project, and other such factors, in order to arrive at a sound decision as to whether the program or project is justified.

The required budget submissions will permit the Secretary to evaluate projected programs in terms of the declared policy of the Act and also will serve as policy guidelines for Agency members in the conduct of their operations for each ensuing quarterly period. This will be particularly helpful in the transition of Agency membership as the terms of office of individual members expire.

The Agency appropriately must follow prudent operating procedures in the furtherance of the best interests of producers. It is required, therefore, that it shall keep minutes of its meetings and such other books and records as will clearly reflect all its transactions, and on request shall submit such books and records to the Secretary for his examination. It also shall provide for the bonding of all persons handling Agency funds with surety thereon satisfactory to the Secretary.

The amending orders prescribe no specific requirements of the Agency to publish an account of funds collected and the use made thereof or to make releases of information concerning the operation of the program to producers and other interested parties. Since the activities of the Agency are under the direct supervision of the Secretary, it is not necessary to prescribe such requirements to insure the integrity of the program. However, since the degree of producer participation in the program, and thus its relative success, will depend in large part upon the interest and confidence it generates among producers, the Agency undoubtedly will keep producers on the market fully informed of its milk promotion plans, projects, and activities. In view of these considerations, it is not necessary to prescribe specific informational releases to producers and other parties.

It is possible that the Agency may find it desirable to enlist the aid of individuals with special talents who might be helpful in program and promotion planning by virtue of their particular knowledge, skills, or expertise, on matters directly involved with advertising and promotion programs. Provision is made, therefore, whereby the Agency, at its pleasure, may establish an advisory committee(s) of persons other than Agency members. Such a committee(s) may include, but would not be necessarily limited to persons drawn from universities, land grant colleges, or extension services, public officials, and others, in the dairy industry. Such committee(s) could make recommendations and participate in the deliberations of the Agency but would have no voting rights.

It would not be expected that the market administrator or his staff or other officials of the U.S. Department of Agriculture would serve on such a committee(s) since the activities of the Agency are under the surveillance of the Department.

The Agency should be authorized to incur reasonable expense in its administration of the program, including the employment and the fixing of compensation of any person necessary to the exercise of its powers and performance of its duties. For example, the Agency may find it necessary to retain the services of an attorney from time to time to assist in the preparation of contracts, or to employ a stenographer, or other individual(s) to handle its recordkeeping and bookkeeping functions. Other Agency costs could be expected to involve miscellaneous office costs usually associated with a business office.

It is, of course, appropriate and necessary, that Agency representatives be reimbursed for reasonable expenses incurred in attending meetings and while on other Agency business. This could involve expenses for travel in private car, and expenses incurred for public transportation, meals, and lodging. It would be unreasonable to require members of the Agency to bear such expenses incurred in the interest of all producers on the market.

It was proposed, and it is here adopted, that the amount of money utilized by the Agency for its expenses in administering the program should not exceed 5 percent of the funds received by the Agency from the market administrator. This establishes a reasonable limitation on Agency costs and assurance to producers that the funds collected under the program will be expended prudently on advertising and promotion activities.

The Agency, of course, is handling funds otherwise payable to producers. The Agency members therefore should have assurance that they will not be personally liable for the impact of their official acts except for willful misconduct, gross negligence, or any acts that are criminal in nature. To assure that the

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Agency funds are used only for the purpose contemplated by the Congress, it is provided that such funds shall not be used for political activities, or for influencing governmental policy or acts.

It is possible that at some later date producers could request termination of the program or that the order provisions could be terminated by the Secretary on a finding that they no longer tend to effectuate the declared policy of the Act. In the event that the provisions of the advertising and promotion program are terminated in their entirety, any remaining uncommitted funds applicable thereto should revert to producers since such moneys are derived solely from funds otherwise due producers. In the case of those orders with marketwide pools such uncommitted funds appropriately should be deposited in the producer-settlement fund for distribution to producers. Since individual handler pool orders do not provide a producer-settlement fund, the market administrator of such orders will have to set up a separate fund for advertising and promotion moneys which he receives. In the event of termination of the program, remaining uncommitted advertising and promotion funds should revert to this account for distribution to individual producers on an equitable basis.

Expenses incurred by the market administrator in the administration of the advertising and promotion program should be charged against the advertising and promotion funds. Neither the marketing service fund nor the administrative fund should be charged with costs directly related to the administration of the advertising and promotion program. The program is producer originated and should be self-sustaining. The expenses attendant to its administration appropriately should be borne by producers.

The statutory authority under Public Law 91-670 supports this position and makes it clear that this is intended to be strictly a producer program. In part the law states that "Establishing or providing for the establishment of * * * program * * * to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. * * * All funds collected under this subparagraph shall be separately accounted for and shall be used only for the purpose for which they are collected."

Much interest was evidenced by the several hearing participants in the procedure by which producers not wishing to participate in the program can request and be granted refunds.

Public Law 91-670 provides that "notwithstanding any other provisions of this Act, as amended, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph, and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order."

As adopted herein, a producer desiring a refund on the assessments made against his marketings must submit to the market administrator his signed request in the form prescribed by the market administrator within the first 15 days of the month (December, March, June, or September) preceding the calendar quarter for which refund is requested.

Congress clearly intended that producers not wishing to participate in the promotion program should get their money refunded with no unnecessary impediments. It must be recognized, however, that there is necessarily a significant cost in making refunds and, in addition, that any promotion program could have only limited success unless the moneys to be available for it are known in time to make firm forward plans and commitments.

Refunding on a quarterly basis was proposed by proponents and is a reasonable basis for implementing the intent of Congress in that it insures refunds on a timely basis and without undue administrative costs.

Without appropriate safeguards it would be possible for any cooperative or individual not in harmony with the program to impede its effectiveness through the filing of refund requests in the name of individual producers or by solicitation of refund requests from individual producers without their full knowledge or understanding of the nature of their action. To deter this result, reasonable procedures must be set up to clearly establish that any refund request received originated with and is the action of the individual producer.

The provisions as herein adopted, will permit the market administrator to develop appropriate procedures to this end. It is provided that the application must be filed in the form prescribed by the market administrator and signed by the producer. However, so that there can be no unnecessary demands placed on producers, only that information necessary to identify the producer and the records relevant to the refund may be required.

Proponents at the hearing recognized that the refund request procedure as proposed (e.g., a request filed with the market administrator during the first 15 days of the month preceding the beginning of each calendar quarter) could not accommodate new producers who might not wish to participate in the program during their first few months on the market. They suggested, therefore, that, until the beginning of the initial quarter for which a new producer could comply with the regular refund request procedure, such producer be granted a refund on his marketings upon proper application filed with the market administrator at any time during the period.

This suggested flexibility in the refund procedure will accommodate the effectuation of the program at the earliest possible date, since it will make it unnecessary that the program be initiated at the beginning of a calendar quarter and with adequate prior notice to accommodate the filing of refund requests during the first 15 days of the month preceding such quarter. Such procedure is necessary also in order that new producers will not be denied refunds during their first few months under the order because of their inability to comply with the quarterly refund request procedure.

Proponents proposed that the market administrator be required to advise each producer promptly of the advertising and promotion program when effectuated and thereafter with respect to new producers. To insure that producers have an awareness of the program and of their rights thereunder, it is provided that the market administrator shall make such notification by forwarding each producer a copy of the amended order.

Proponents recognized that the production units of some producers under these orders could be located in a State that has a mandatory checkoff for similar advertising and promotion program under State law. They held that in such circumstance a double assessment was not intended and that such producers appropriately should be refunded from the program under the Federal order an amount equal to such State assessment but not in excess of the 5-cent assessment under this program. This procedure is provided for in the statute and should be adopted.

The provisions, as herein adopted, provide that all refunds shall be made by the market administrator. Refund moneys have no relationship to the purpose for which the Agency is formed. Also, refunds to individual producers may vary depending on whether there has been a mandatory deduction from such producer's payments under a State program. The Agency could not have the necessary information to make refunds except as it was obtained from the market administrator. By making the market administrator wholly responsible for all refund activities, the overall administrative costs to the program will be minimized and, conversely, the funds available to the Agency for advertising and promotion will be maximized.

Since this is a voluntary program there should be no provision for disclosure by the market administrator regarding the status of any producer under the program. It will be incumbent upon the participants, through their Agency to conduct programs in a manner and of a nature to set the climate for maximum participation by producers.

To implement the advertising and promotion program under each order, it is necessary that certain provisions of the current orders be modified.

The procedure for computing the weighted average (uniform) price (marketwide pool orders) and the uniform price for each handler (individual handler pool orders) must be modified by the addition of a new paragraph prescribing the deduction from the aggregate value of an amount computed by multiplying by 5 cents the total hundredweight of producer milk included in the computation. It is through this procedure that the advertising and promotion funds are reserved. This, of course, has the result of reducing the weighted average (uniform) price(s) by approximately 5 cents.

In the marketwide pool orders the advertising and promotion moneys so reserved are held in the producer settlement fund for disposition by the market administrator in accordance with the terms and conditions prescribed under the advertising and promotion program order provisions. In the individual handler pool orders provisions are needed to require that the advertising and promotion moneys withheld by handlers from producer payments are paid to the market administrator. Provision also must be made for the establishment of an advertising and promotion fund in which such payments received from handlers are held prior to disposition in accordance with the terms and conditions of the provisions of the advertising and promotion program. This procedure is necessary under the individual handler pool orders because the market administrator does not operate an equalization pool as in marketwide pool orders and therefore does not otherwise receive any producer moneys.

For those orders with base-excess payment plans, it is also necessary to modify the provisions prescribing the computation of the uniform prices for base and excess milk so that the cost of the advertising and promotion program will be divided pro rata between base and excess milk rather than be placed on base milk alone.

It is also necessary in the marketwide pool orders that appropriate corollary changes be made in the provisions prescribing the obligations of a handler operating a partially regulated distributing plant and the obligations of any handler with respect to other source milk allocated to Class I (on which the pool obligation is the difference between the Class I and the weighted average price) so that such handlers' pool obligations will not be increased by 5 cents because of the change in the weighted average price.

It is recognized that, unless otherwise provided for, an audit adjustment involving any handler's balance of payment to or from the producer-settlement fund (marketwide pools) or to or from producers (individual handler pools) could also require adjustments in the moneys to be turned over to the program or refunded to producers, as the case may be. However, such adjustment normally would not involve sufficient volumes of milk to significantly affect the moneys available to the program. For this reason and because of the substantial administrative costs that would be involved in reflecting audit adjustment in adjusted payments to the program, it is intended that such audit adjustments shall not result in adjustments of funds available to the program.

Other order modifications not specifically discussed herein are necessary and incidental to insure the proper functioning of the order to accommodate the advertising and promotion program as here established.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending each of the specified orders contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 6, 1972, and published in the Federal Register on September 9, 1972 (37 F.R. 18340), shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

PART 1071—MILK IN THE NEOSHO VALLEY MARKETING AREA

1. Section 1071.60 is revised as follows:

§ 1071.60 Producer-handlers.

Sections 1071.40 through 1071.46, 1071.50 through 1071.52, 1071.70, 1071.71, 1071.90 through 1071.97, and 1071.110 through 1071.122 shall not apply to a producer-handler.

2. In § 1071.62, paragraph (b)(5) is revised as follows:

§ 1071.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

3. In § 1071.71, add a new paragraph (c-1) as follows:

§ 1071.71 Computation of uniform price.

* * * * * *

(c-1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * *

4. In § 1071.93, paragraph (b)(2) is revised as follows:

§ 1071.93 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1071.70(d).

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5. Immediately following § 1071.97, a new centerhead and new §§ 1071.110 through 1071.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1071.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1071.121 (b) (1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1071.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1071.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1071.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1071.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1071.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1071.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1071.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1071.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1071.110 and 1071.117.

§ 1071.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1071.110 and 1071.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1071.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1071.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1071.121(b) (1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1071.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1071.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1071.121 Duties of the market administrator.

Except as specified in § 1071.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1071.113(c).

(b) Set aside the amounts subtracted under § 1071.71(c-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1071.71(c-1).

(3) After the end of each calendar quarter make a refund to each producer who has made application for such refund pursuant to § 1071.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1071.71(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1071.110 through 1071.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1071.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1071.92.

PART 1073—MILK IN THE WICHITA MARKETING AREA

1. Section 1073.60 is revised as follows:

§ 1073.60 Producer-handler.

Sections 1073.40 through 1073.46, 1073.50 through 1073.54, 1073.61, 1073.62, 1073.70 through 1073.72, 1073.80 through 1073.88, and 1073.110 through 1073.122 shall not apply to a producer-handler.

2. In § 1073.62, paragraph (b) (5) is revised as follows:

§ 1073.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class III price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class III price.

3. In § 1073.71, a new paragraph (c-1) is added as follows:

§ 1073.71 Computation of uniform prices.

* * * * * * *

(c-1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * * *

4. In § 1073.84, paragraph (b) (2) is revised as follows:

§ 1073.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the "weighted average" price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1073.70(g).

5. Immediately following § 1073.88, a new centerhead and new §§ 1073.110 through 1073.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1073.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1073.121(b) (1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1073.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1073.113(b), and participating producers who are not members of cooperatives, are authorized

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to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1073.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1073.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1073.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1073.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1073.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1073.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1073.110 and 1073.117.

§ 1073.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1073.110 and 1073.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1073.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1073.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1073.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1073.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1073.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for

milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A diary farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1073.121 Duties of the market administrator.

Except as specified in § 1073.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1073.113(c).

(b) Set aside the amounts subtracted under § 1073.71(c-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1073.71(c-1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1073.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1073.71(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1073.110 through 1073.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1073.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1073.83.

PART 1097—MILK IN THE MEMPHIS, TENN. MARKETING AREA

1. Section 1097.60 is revised as follows:

§ 1097.60 Producer-handler.

Sections 1097.40 through 1097.46, 1097.50 through 1097.53, 1097.70 through 1097.72, 1097.80 through 1097.83, 1097.90 through 1097.97, and 1097.110 through 1097.122 shall not apply to a producer-handler.

2. In § 1097.71, a new paragraph (d-1) is added as follows:

§ 1097.71 Computation of uniform prices for handlers.

* * * * *

(d-1) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

* * * * *

3. In § 1097.72, paragraphs (a) and (b) are revised as follows:

§ 1097.72 Computation of the uniform prices for base and excess milk for handlers.

* * * * *

(a) Following the computations and adjustments provided for in § 1097.71 (a), (b), (c), (d), and (d-1);

(b) Compute the value of excess milk received by such handler as producer milk and bulk milk from a cooperative association in its capacity as a handler pursuant to § 1097.10(c), by multiplying the quantity of such milk not in excess of the total quantity of Class II milk for such handler pursuant to § 1097.70(a) by the Class II price less 5 cents; multiply the remaining excess milk by the Class I price less 5 cents, and add together the resulting amounts;

* * * * *

4. Immediately following § 1097.97, a new centerhead and new §§ 1097.110 through 1097.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1097.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1097.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1097.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1097.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1097.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1097.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the

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Agency under the rules of § 1097.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1097.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1097.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1097.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1097.110 and 1097.117.

§ 1097.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1097.110 and 1097.117;

(c) Keep minutes, books and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1097.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1097.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1097.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1097.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commision or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1097.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1097.121 Duties of the market administrator.

Except as specified in § 1097.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1097.113(c).

(b) Set aside the amounts substracted under § 1097.71(d-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising

and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1097.71(d-1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1097.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1097.71(d-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1097.110 through 1097.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1097.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1102—MILK IN THE FORT SMITH, ARK., MARKETING AREA

1. Section 1102.60 is revised as follows:

§ 1102.60 Producer-handler.

Sections 1102.40 through 1102.46, 1102.50 through 1102.54, 1102.70 through 1102.72, 1102.80 through 1102.86, 1102.90, through 1102.93, and 1102.110 through 1102.122 shall not apply to a producer-handler.

2. In § 1102.71, at the end of paragraph (c) the word "and" is deleted, and a new paragraph (c-1) is added as follows:

§ 1102.71 Computation of uniform prices for handlers.

* * * * *

(c-1) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

3. In § 1102.72, paragraphs (a) and (b) are revised as follows:

§ 1102.72 Computation of the uniform prices for base and excess milk for each handler.

* * * * *

(a) Following the computations and adjustments provided for in § 1102.71 (a), (b), (c), and (c-1);

(b) Compute the value of excess milk received by such handler from producers, by multiplying the quantity of such milk not in excess of the total Class II milk included in this computation by the Class II price less 5 cents; multiply the remaining excess milk by the Class I price less 5 cents and add together the resulting amounts;

* * * * *

4. Add a new § 1102.87 as follows:

§ 1102.87 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1102.71c-1).

5. Immediately following § 1102.93, a new centerhead and new §§ 1102.110 through 1102.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1102.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1102.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1102.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provide for under § 1102.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1102.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1102.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1102.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1102.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

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§ 1102.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1102.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1102.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1102.110 and 1102.117.

§ 1102.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1102.110 and 1102.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1102.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1102.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1102.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1102.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1102.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1102.121 Duties of the market Administrator.

Except as specified in § 1102.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1102.113(c).

(b) Set aside the amounts subtracted under § 1102.71(c-1) and received pursuant to § 1102.87 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1102.71(c-1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1102.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1102.71(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1102.110 through 1102.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1102.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1104—MILK IN THE RED RIVER VALLEY MARKETING AREA

1. Section 1104.60 is revised as follows:

§ 1104.60 Producer-handler.

Sections 1104.40 through 1104.46, 1104.50 through 1104.54, 1104.70 through 1104.74, 1104.80 through 1104.86, and 1104.110 through 1104.122 shall not apply to a producer-handler.

2. In § 1104.62, paragraph (b)(5) is revised as follows:

§ 1104.62 Obligation of handler operating a partially regulated distributing plant.

• • • • • •

(b) • • •

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price applicable to milk used in the manufacture of American cheese, butter, and nonfat dry milk) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at such Class II price.

3. In § 1104.71, a new paragraph (c-1) is added as follows:

§ 1104.71 Computation of uniform prices.

(c-1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

• • • • • •

4. In § 1104.82, paragraph (b)(2) is revised as follows:

§ 1104.82 Payments to the producer-settlement fund.

• • • • • •

(b) • • •

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price applicable to milk used in the manufacture of butter, American cheese and nonfat dry milk) with respect to other source milk for which a value is computed pursuant to § 1104.70(e).

5. Immediately following § 1104.86, a new centerhead and new §§ 1104.110 through 1104.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1104.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1104.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1104.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under §1104.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1104.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1104.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1104.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1104.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1104.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1104.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1104.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1104.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1104.110 and 1104.117.

§ 1104.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1104.110 and 1104.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any

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information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1104.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1104.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1104.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1104.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1104.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1104.121 Duties of the market administrator.

Except as specified in § 1104.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1104.113(c).

(b) Set aside the amounts subtracted under § 1104.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1104.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1104.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1104.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1104.110 through 1104.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1104.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1104.81.

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

1. Section 1106.60 is revised as follows:

§ 1106.60 Producer-handler.

Sections 1106.40 through 1106.46, 1106.50 through 1106.53, 1106.70 through 1106.72, 1106.80 through 1106.88, and 1106.110 through 1106.122 shall not apply to a producer-handler.

2. In § 1106.62, paragraph (b)(5) is revised as follows:

§ 1106.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price applicable to milk used in the manufacture of American cheese, butter, and nonfat dry milk), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at such Class II price.

3. In § 1106.71, a new paragraph (e) is added as follows:

§ 1106.71 Computation of aggregate value used to determine price(s).

* * * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1106.84, paragraph (b)(2) is revised as follows:

§ 1106.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price applicable to milk used in the manufacture of American cheese, butter and nonfat dry milk) with respect to other source milk for which a value is computed pursuant to § 1106.70(e).

5. Immediately following § 1106.88, a new centerhead and new §§ 1106.110 through 1106.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1106.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative association, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1106.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1106.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1106.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1106.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1106.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1106.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1106.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1106.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1106.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1106.110 and 1106.117.

§ 1106.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1106.110 and 1106.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1106.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency

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finds will benefit all producers under this part.

§ 1106.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1106.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1106.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1106.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1106.121 Duties of the market administrator.

Except as specified in § 1106.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1106.113(c).

(b) Set aside the amounts subtracted under § 1106.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1106.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1106.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1106.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1106.110 through 1106.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1106.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1106.83.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.60 is revised as follows:

§ 1108.60 Producer-handler.

Sections 1108.40 through 1108.46, 1108.50 through 1108.53, 1108.61, 1108.62, 1108.70 through 1108.75, 1108.80 through 1108.86, 1108.90 through 1108.93, and 1108.110 through 1108.122 shall not apply to a producer-handler.

2. In § 1108.62, paragraph (b)(5) is revised as follows:

§ 1108.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

3. In § 1108.71, a new paragraph (c–1) is added as follows:

§ 1108.71 Computation of the uniform price.

* * * * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * * *

4. In § 1108.72, subparagraphs (b)(1) and (2) are revised as follows:

* * * * * * *

(b) * * *

(1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk of handlers included in these computations by the Class II price less 5 cents;

(2) Multiply any additional hundredweight of such milk by the Class I price less 5 cents; and

* * * * * * *

5. In § 1108.82, paragraph (b)(2) is revised as follows:

§ 1108.82 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1108.70(e).

6. Immediately following § 1108.93, a new centerhead and new §§ 1108.110 through 1108.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1108.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1108.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1108.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1108.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1108.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1108.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1108.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1108.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1108.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1108.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1108.110 and 1108.117.

§ 1108.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1108.110 and 1108.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1108.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1108.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1108.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

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§ 1108.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1108.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1108.121 Duties of the market administrator.

Except as specified in § 1108.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside the amounts subtracted under § 1108.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1108.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1108.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.122).

(d) Make the necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1108.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1108.81.

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW MARKETING AREA

1. Section 1120.60 is revised as follows:

§ 1120.60 Producer-handler.

Sections 1120.40 through 1120.46, 1120.50 through 1120.53, 1120.70 through 1120.75, 1120.80 through 1120.87, and 1120.110 through 1120.122 shall not apply to a producer-handler.

2. In § 1120.62, paragraph (b)(5) is revised as follows:

§ 1120.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1120.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1120.71 Computation of aggregate value used to determine uniform price.

* * * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1120.82, paragraph (b)(2) is revised as follows:

§ 1120.82 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1120.70(e).

5. Immediately following § 1120.87, a new centerhead and new §§ 1120.110 through 1120.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1120.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1120.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1120.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1120.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall

nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1120.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1120.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1120.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1120.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1120.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1120.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1120.110 and 1120.117.

§ 1120.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1120.110 and 1120.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1120.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1120.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1120.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1120.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1120.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) thorugh (c) of this section.

(a) Refund shall be accomplished only by the producer. Only that information through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b)

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of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1120.121 Duties of the market administrator.

Except as specified in § 1120.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1120.113(c).

(b) Set aside the amounts subtracted under § 1120.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1120.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund purusant to § 1120.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1120.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1120.110 through 1120.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1120.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1120.81.

PART 1126—MILK IN THE NORTH TEXAS MARKETING AREA

1. Section 1126.60 is revised as follows:

§ 1126.60 Producer-handler.

Sections 1126.40 through 1126.46, 1126.50 through 1126.53, 1126.70 through 1126.72, 1126.90 through 1126.97, and 1126.110 through 1126.122 shall not apply to a producer-handler.

2. In § 1126.62, paragraph (b)(5) is revised as follows:

§ 1126.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1126.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1126.71 Computation of aggregate value used to determine uniform price.

* * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1126.93, paragraph (b)(2) is revised as follows:

§ 1126.93 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1126.70(e).

5. Immediately following § 1126.97, a new centerhead and new §§ 1126.110 through 1126.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1126.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1126.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1126.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1126.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1126.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1126.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

§ 1126.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1120.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1126.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1126.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1126.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of his section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1126.121 Duties of the market administrator.

Except as specified in § 1126.116, the market administrator in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this

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paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1126.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.92.

PART 1127—MILK IN THE SAN ANTONIO MARKETING AREA

1. In § 1127.61, paragraph (b)(5) is revised as follows:

§ 1127.61 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) less the value of such skim milk at the Class II price.

2. In § 1127.71, a new paragraph (c–1) is added as follows:

§ 1127.71 Computation of uniform price.

* * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * *

3. In § 1127.84, paragraph (b)(2) is revised as follows:

§ 1127.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1127.70(d).

4. Immediately following § 1127.88, a new centerhead and new §§ 1127.110 through 1127.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1127.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1127.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1127.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1127.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1127.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1127.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1127.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1127.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1127.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1127.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1127.110 and 1127.117.

§ 1127.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1127.110 and 1127.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1127.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1127.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1127.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1127.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1127.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) though (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1127.121 Duties of the market administrator.

Except as specified in § 1127.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1127.113(c).

(b) Set aside the amounts subtracted under § 1127.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1127.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1127.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1127.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1127.110 through 1127.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1127.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1127.83.

PART 1128—MILK IN THE CENTRAL WEST TEXAS MARKETING AREA

1. Section 1128.60 is revised as follows:

§ 1128.60 Producer-handler.

Sections 1128.40 through 1128.46, 1128.50 through 1128.53, 1128.70 through 1128.75, 1128.80, 1128.81, 1128.90 through

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1128.98, and 1128.110 through 1128.122 shall not apply to a producer-handler.

2. In § 1128.62, paragraph (b)(5) is revised as follows:

§ 1128.62 Obligation of handler operating a partially regulated distributing plant.

* * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1128.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1128.71 Computation of aggregate value used to determine uniform price.

* * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1128.94, paragraph (b)(2) is revised as follows:

§ 1128.94 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1128.70(e).

5. Immediately following § 1128.98, a new centerhead and new §§ 1128.110 through 1128.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1128.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1128.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1128.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1128.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1128.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1128.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1128.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1128.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1128.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1128.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1128.110 and 1128.117.

§ 1128.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1128.110 and 1128.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1128.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1128.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1128.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1128.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1128.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1128.121 Duties of the market administrator.

Except as specified in § 1128.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1128.113(c).

(b) Set aside the amounts subtracted under § 1128.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1128.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1128.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1128.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1128.110 through 1128.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1128.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1128.93.

PART 1129—MILK IN THE AUSTIN-WACO MARKETING AREA

1. Section 1129.60 is revised as follows:

§ 1129.60 Producer-handler.

Sections 1129.40 through 1129.46, 1129.50 through 1129.54, 1129.70 through 1129.72, 1129.90 through 1129.95, and 1129.110 through 1129.122 shall not apply to a producer-handler.

2. In § 1129.71, the word "and" at the end of paragraph (b) is deleted, the period at the end of paragraph (c) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (d) is added as follows:

§ 1129.71 Computation of aggregate value used to determine uniform price.

* * * * *

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents;

3. Add a new § 1129.96 as follows:

§ 1129.96 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1129.71(d).

4. Immediately following § 1129.96, a new centerhead and new §§ 1129.110 through 1129.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1129.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1129.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for

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establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1129.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1129.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1129.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1129.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1129.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1129.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1129.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1129.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1129.110 and 1129.117.

§ 1129.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business.

(b) Develop programs and projects pursuant to §§ 1129.110 and 1129.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish and advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1129.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1129.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1129.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1129.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1129.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1129.121 Duties of the market administrator.

Except as specified in § 1129.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1129.113(c).

(b) Set aside the amounts subtracted under § 1129.71(d) and received pursuant to § 1129.96 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1129.71(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1129.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1129.71(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1129.110 through 1129.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1129.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

PART 1130—MILK IN THE CORPUS CHRISTI, TEXAS, MARKETING AREA

1. Section 1130.62 is revised as follows:

§ 1130.62 Producer-handler.

Sections 1130.40 through 1130.46, 1130.51 through 1130.54, 1130.70 through 1130.72, 1130.80 through 1130.88, and 1130.110 through 1130.122 shall not apply to a producer-handler.

2. In § 1130.61, paragraph (b)(5) is revised as follows:

§ 1130.61 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class III price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class III price) less the value of such skim milk at the Class III price.

3. In § 1130.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1130.71 Computation of aggregate value used to determine uniform price.

* * * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1130.84, paragraph (b)(2) is revised as follows:

§ 1130.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the uniform price applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1130.70(e).

5. Immediately following § 1130.88, a new centerhead and new §§ 1130.110 through 1130.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1130.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1130.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1130.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1130.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For

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the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1130.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1130.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1130.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1130.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1130.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1130.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1130.110 and 1130.117.

§ 1130.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1130.110 and 1130.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1130.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval of all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1130.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1130.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1130.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1130.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1130.121 Duties of the market administrator.

Except as specified in § 1130.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1130.113(c).

(b) Set aside the amounts subtracted under § 1130.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1130.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1130.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1130.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1130.110 through 1130.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1130.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1130.83.

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

1. Section 1132.60 is revised as follows:

§ 1132.60 Producer-handler.

Sections 1132.40 through 1132.46, 1132.50 through 1132.53, 1132.70 through 1132.72, 1132.80 through 1132.89, and 1132.110 through 1132.122 shall not apply to a producer-handler.

2. In § 1132.62, paragraph (b)(5) is revised as follows:

§ 1132.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant subtract its value at the weighted average price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

3. In § 1132.71, the word "and" at the end of paragraph (c) is deleted, the period at the end of paragraph (d) is deleted and a semicolon followed by the word "and" is added thereat, and a new paragraph (e) is added as follows:

§ 1132.71 Computation of aggregate value used to determine uniform price.

* * * * * * *

(e) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

4. In § 1132.84, paragraph (b)(2) is revised as follows:

§ 1132.84 Payments to the producer-settlement fund.

* * * * * * *

(b) * * *

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1132.70(e).

5. Immediately following § 1132.89, a new centerhead and new §§ 1132.110 through 1132.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1132.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1132.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1132.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1132.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall, nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1132.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1132.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5

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percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1132.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1132.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1132.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1132.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1132.110 and 1132.117.

§ 1132.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1132.110 and 1132.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1132.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1132.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1132.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1132.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1132.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1132.121 Duties of the market administrator.

Except as specified in § 1132.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1132.113(c).

(b) Set aside the amounts subtracted under § 1132.71(e) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1132.71(e).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1132.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1132.71(e) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1132.110 through 1132.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1132.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1132.83.

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

1. Section 1138.60 is revised as follows:

§ 1138.60 Producer-handler.

Section 1138.40 through 1138.46, 1138.50 through 1138.54, 1138.70 through 1138.72, 1138.80 through 1138.88, and 1138.110 through 1138.122 shall not apply to a producer-handler.

2. In § 1138.62, paragraph (b)(5) is revised as follows:

§ 1138.62 Obligation of handler operating a partially regulated distributing plant.

* * * * * *

(b) * * *

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price), subtract its value at the uniform price applicable at such location plus 5 cents (not to be less than the Class II price) and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant (not to be less than the Class II price) less the value of such skim milk at the Class II price.

3. In § 1138.71, a new paragraph (c–1) is added as follows:

§ 1138.71 Computation of the uniform price.

* * * * * *

(c–1) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

* * * * * *

4. In § 1138.84, paragraph (b)(2) is revised as follows:

§ 1138.84 Payments to the producer-settlement fund.

* * * * * *

(b) * * *

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1138.70(e).

5. Immediately following § 1138.88, a new centerhead and new §§ 1138.110 through 1138.122 are added as follows:

ADVERTISING AND PROMOTION PROGRAM

§ 1138.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1138.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1138.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1138.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1138.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1138.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1138.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement

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the participating producer who received the next highest number of eligible votes.

§ 1138.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1138.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1138.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1138.110 and 1138.117.

§ 1138.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1138.110 and 1138.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1138.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1138.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1138.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1138.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1138.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1138.121 Duties of the market administrator.

Except as specified in § 1138.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1138.113(c).

(b) Set aside the amounts subtracted under § 1138.71(c-1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1138.71(c-1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1138.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1138.71(c-1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§ § 1138.110 through 1138.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1138.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1138.83.

[FR Doc.72-17423 Filed 10-13-72;8:51 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 729]

PEANUTS

Acreage Allotments and Marketing Quotas

Correction

In F.R. Doc. 72-16593 appearing on page 20333 of the issue for Friday, September 29, 1972, the following changes are to be made:

1. In § 729.19, insert "A new farm allotment may be established if each of the following conditions is met:" immediately before paragraph (a).

2. The first sentence of § 729.19(b) *Eligibility requirements for operator* should read, "The eligibility requirements for the operator are as follows:", instead of "A new farm allotment may be established if each of the following conditions are met:".

3. The following redesignations are made in § 729.19(b):

"Computing operator's income." should be designated "(i)" instead of "(5)".

"Income from farming." should be designated "*(a)*" instead of "(i)".

"Income from nonfarming." should be designated "*(b)*" instead of "(ii)".

"Spouse's income." should be designated "(c)" instead of "(iii)".

"Operator a partnership." should be designated "(ii)" instead of "(iv)".

"Operator a corporation." should be designated "(iii)" instead of "(6)".

"Special provision for low-income farmers." should be designated "(iv)" instead of "(7)".

"Experience." should be designated "(5)" instead of "(8)".

4. The first sentence of § 729.19(c) *Eligibility requirements for the farm* should read, "The eligibility requirements for the farm are as follows:", instead of "A new farm allotment may be established if each of the following conditions are met:".

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72 203P]

ALABAMA RIVER, ALABAMA

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the U.S. Highways 31 and 82 Swing Bridge across the Alabama River, mile 278.2 near Montgomery, Ala., to require at least 24 hours notice to open the draw for the passage of vessels. The draw is presently required to open on signal. The draw was last opened for the passage of vessels in 1942.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, La. 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before November 20, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new subparagraph (12-a) immediately after subparagraph (12) of paragraph (i) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * * * *

(i) * * *

(12-a) Alabama River, Ala.; U.S. Highway 31 and 82 Swing Bridge, mile 278.2 near Montgomery. The draw shall open on signal if at least 24 hours notice has been given.

* * * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: October 6, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72-17579 Filed 10-13-72;8:47 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-63]

TRANSITION AREA

Proposed Alteration

Correction

In F.R. Doc. 72-16303 appearing on page 20121 of the issue for Tuesday, September 26, 1972, the fourth and fifth lines of the transition area should read as follows:

tude 30°17'55" N., longitude 97°42'00" W.); within 2 miles each side of the Bergstrom ILS

[14 CFR Part 71]

[Airspace Docket No. 72-EA-91]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Cortland, N.Y., transition area over Cortland County Chase Field Airport.

A new VOR instrument approach procedure has been developed for the Cortland County Chase Field Airport which will require the designation of a 700-foot floor transition area to contain IFR arrival and departure procedures.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Cortland, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of the Federal Aviation Regulations so as to designate a Cortland, N.Y., 700-foot floor transition area as follows:

CORTLAND, N.Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 42°35'30" N., 76°13'00" W. of Cortland County Chase Field Airport, Cortland, N.Y., and within 6.5 miles north and 5-miles south of the Georgetown, N.Y., VORTAC 236° radial extending from the 9-mile radius area to the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

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Issued in Jamaica, N.Y., on September 29, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17559 Filed 10-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-94]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Dover, Del., control zone (37 F.R. 2077) and transition area (37 F.R. 2184).

A review of the airspace requirements for the Dover, Del., terminal area indicates alteration of the control zone and 700-foot floor transition area will be required to provide controlled airspace protection for IFR arrivals and departures at Dover AFB, Dover, Del. The transition area airspace required to protect IFR arrivals and departures at Delaware Airpark, Dover-Cheswold, Del., is included in the description of the Dover, Del. 700-foot floor transition area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Dover, Del., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Dover, Del., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 39°07'30" N., 75°28'00" W. of Dover AFB, Dover, Del.; within 3 miles each side of the Dover TACAN 178° radial, extending from the 5-mile radius zone to 6.5 miles south of the TACAN; within 3 miles each side of the Dover TACAN 012° radial, extending from the 5-mile radius zone to 6.5 miles north of the TACAN; within 3 miles each side of the Dover TACAN 132° radial, extending from the 5-mile radius zone to 6.5 miles southeast of the TACAN.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Dover, Del., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the center 39°07'30" N., 75°28'00" W. of Dover AFB, Dover, Del.; within 3.5 miles each side of the Dover TACAN 178° radial, extending from the 9-mile radius area to 10.5 miles south of the TACAN; within 3.5 miles each side of the Dover TACAN 012° radial, extending from the 9-mile radius area to 10.5 miles north of the TACAN; within 3.5 miles each side of the Dover TACAN 132° radial, extending from the 9-mile radius area to 10.5 miles southeast of the TACAN; and within a 5-mile radius of the center 39°13'04" N., 75°35'56" W., of Delaware Airpark, Dover-Cheswold, Del.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17555 Filed 10-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SO-96]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fort Rucker, Ala., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Fort Rucker transition area described in § 71.181 (37 F.R. 2143) would be amended as follows:

"* * * to the point of beginning * * *" would be deleted and "* * * to point of beginning; within a 6.5-mile radius of Blackwell Field, Ozark, Ala. (lat. 31°25'50" N., long. 85°37'10" W.) * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Blackwell Field. A prescribed instrument approach procedure to this airport, utilizing Dothan VORTAC, is proposed in conjunction with the alteration of this transition area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 2, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72-17562 Filed 10-13-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-95]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Lancaster, Pa., control zone (37 F.R. 2099) and transition area (37 F.R. 2225).

To provide controlled airspace compatible with the Terminal Instrument Procedures (TERP's), there will be a required alteration of the control zone and 700-foot floor transition area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Cortland, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of Federal Aviation Regulations so as to delete the description of the Lancaster, Pa., control zone and substituting the following therefor:

LANCASTER, PA.

Within a 5-mile radius of the center 40°07'16" N., 76°17'47" W. of Lancaster Airport, Lancaster, Pa.; within 3-miles each side of the Lancaster VORTAC 260° radial extending from the 5-mile radius zone to 8.5 miles west of the VORTAC and within 3 miles each side of the Lancaster VORTAC 128° radial extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC. This control zone shall be in effect 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Lancaster, Pa., 700-foot floor transition area and substituting the following therefor:

LANCASTER, PA.

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the center 40°07'16" N., 76°17'47" W. of Lancaster Airport, Lancaster, Pa.; within 3 miles each side of the Lancaster VORTAC 260° radial extending from the 7.5mile radius area to 8.5 miles west of the VORTAC; within 3 miles each side of the Lancaster VORTAC 128° radial extending from the 7.5-mile radius area to 8.5 miles southeast of the VORTAC and within 3.5 miles each side of the Lancaster ILS southwest localizer course extending from the 7.5-mile radius area to 10.5 miles southwest of the OM.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17556 Filed 10-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-54]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Monticello, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018.

A new public use instrument approach procedure has been developed for the White County Airport, Monticello, Ind. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new procedure by designating a transition area at Monticello, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143) the following transition area is added:

MONTICELLO, IND.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the White County Airport (40°43'15" N., 86°45'45" W.), and within 3.5 miles either side of the 185° bearing extending from the 5.5-mile radius to 8 miles south.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on September 22, 1972.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc. 72-17561 Filed 10-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-97]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Newburgh, N.Y., transition area (37 F.R. 2250).

Alteration of the 700-foot floor transition area is required to provide additional controlled airspace protection for aircraft executing the NDB Runway 3 and LOC Runway 3 instrument approach procedures for Orange County Airport, Montgomery, N.Y.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Newburgh, N.Y., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to add the following to the description of the Newburgh, N.Y., 700-foot floor transition area:

and within 3.5 miles each side of the Orange County Airport, Montgomery, N.Y., ILS localizer south course, extending from the OM to a point 14 miles south of the OM.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17558 Filed 10-13-72;8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-86]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Wildwood, N.J., transition area (37 F.R. 2305).

A review of the Wildwood, N.J., area indicates a need to alter the 700-foot transition area to provide additional controlled airspace protection for IFR arrivals and departures at Cape May County Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action

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is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Wildwood, N.J., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Wildwood, N.J., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, 39°00'15" N., 74°54'30" W. of Cape May County Airport, Wildwood, N.J.; within 2 miles each side of the Sea Isle, N.J., VORTAC 225° radial, extending from the 6-mile-radius area to the VORTAC and within 2.5 miles each side of a 360° bearing from a point 39°00'15" N., 74°54'30" W., extending from the 6-mile-radius area to 6.5 miles north of said point.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 29, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17560 Filed 10-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-96]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Wilkes-Barre, Pa., control zone (37 F.R. 2139) and transition area (37 F.R. 2305).

A review of the airspace requirements for the Wilkes-Barre, Pa., area indicates that we will require alteration of the control zone and 700-foot floor transition area to provide additional controlled airspace protection for IFR arrivals and departures at Wilkes-Barre-Scranton Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Wilkes-Barre, Pa., proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Wilkes-Barre, Pa., control zone and insert the following in lieu thereof:

Within an 8-mile radius of the center 41°20'18" N., 75°43'29" W. of Wilkes-Barre-Scranton Airport, extending clockwise from a 235° bearing to a 355° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 025° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 050° bearing from the airport; within a 12-mile radius of the center of the airport, extending clockwise from a 050° bearing to a 210° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 210° bearing to a 235° bearing from the airport; within 3.5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer southwest course extending from the OM to 6 miles southwest of the OM and within 4 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer northeast course extending from the localizer to a point 11.5 miles northeast of the localizer.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Wilkes-Barre, Pa., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center 41°20'18" N., 75°43'29" W. of Wilkes-Barre-Scranton Airport, extending clockwise from a 260° bearing to a 355° bearing from the airport; within a 15.5-mile radius of the center of the airport, extending clockwise from a 355° bearing to a 025° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 050° bearing from the airport; within a 17.5-mile radius of the center of the airport, extending clockwise from a 050° bearing to a 210° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 210° bearing to a 260° bearing from the airport; within 3.5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer southwest course, extending from the OM to 11.5 miles southwest of the OM; and within 5 miles each side of the Wilkes-Barre-Scranton Airport ILS localizer northeast course, extending from the localizer to 13.5 miles northeast of the localizer, excluding the portions that coincide with the Honesdale, Pa., and Mount Pocono, Pa., transition areas.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 2, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17557 Filed 10-13-72;8:45 am]

[14 CFR Part 73]

[Airspace Docket No. 72-WE-40]

RESTRICTED AREAS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would alter Restricted Areas R-4802, R-4803, R-4804, R-4810, and R-4812 in the vicinity of Fallon, Nev., by reducing the time of designation of the restricted areas and lowering the designated altitudes of Restricted Areas R-4804, R-4810 and R-4812.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 92007, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA has conducted a review of restricted areas in the Fallon, Nev., complex and believes that the time of designation for the areas can be reduced from continuous to 0600 to 2400 local time, Monday through Saturday. Also, the maximum altitude for certain areas can be reduced to 18,000 feet mean sea level. Operations above this altitude will be conducted in air traffic control assigned airspace within positive control airspace.

The FAA proposes to:

1. Amend the time of designation from continuous to 0600 to 2400 local time, Monday through Saturday, in Restricted Areas R-4802, R-4803, R-4804, R-4810, and R-4812.

2. Lower the designated altitudes from surface to flight level 240 to surface to 18,000 feet mean sea level in Restricted Areas R-4804, R-4810, and R-4812.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 5, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17554 Filed 10-13-72;8:45 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 178]

[Docket No. HM-103]

TRANSPORTATION OF HAZARDOUS MATERIALS

Hazard Information System; Notice of Extension of Time To File Comments

In response to requests for additional time to comment of the Board's proposed Hazard Information System, the Board has extended the closing date for comments on Docket No. HM-103 from October 9, 1972, to November 14, 1972.

Issued at Washington, D.C. on October 11, 1972.

ALAN I. ROBERTS,
Secretary, Hazardous Materials Regulations Board.

[FR Doc.72-17607 Filed 10-13-72;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19551]

FM BROADCAST STATIONS IN CERTAIN CITIES IN GEORGIA, MISSISSIPPI, AND ARKANSAS

Proposed Table of Assignments; Extension of Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202, *Table of Assignments*, FM Broadcast Stations. (Dublin and Atlanta, Ga.; Starkville, Miss.; Helena, Ark.), Docket No. 19551.

1. The notice of proposed rule making in the above-entitled proceeding was adopted July 19, 1972, and published in the FEDERAL REGISTER on July 29, 1972, 37 F.R. 15320. The dates for filing comments and reply comments have been extended to October 1, 1972, and October 11, 1972, respectively.

2. On October 2, 1972, Tri-Cities Broadcasting Co., Tuscaloosa, Ala. (RM-2029), made party to the proceeding by public notice, Report No. 826, Office of the Secretary, August 11, 1972, filed comments in which it sets forth alternative counterproposal to assign FM Channel 224A to Tuscaloosa. However, this alternative proposal conflicts with a pending proposal for assignment of Channel 224A to Jasper, Ala. (RM-2037), which in turn conflicts with a proposal for assignment of the same channel to Haleyville, Ala. (RM-2004). Since the Tri-Cities counterproposal conflicts with the petitions filed by Radio South, Inc., Jasper, and Helton and Norris Enterprises, Inc., Haleyville, the two petitions would be consolidated into this proceeding as counterproposals. A public notice to this effect will be given.

3. With the consolidation of the two petitions into this proceeding, we believe that it would be in the public interest to extend the time for filing comments and reply comments. *Accordingly, It is ordered,* That the time for filing comments and reply comments in the above docket are extended to and including October 31, 1972, and November 10, 1972, respectively.

4. This action is taken pursuant to authority found in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 4, 1972.

Released: October 10, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-17588 Filed 10-13-72;8:50 am]

[47 CFR Part 73]

[Docket No. 19561]

FM BROADCAST STATIONS IN CERTAIN CITIES IN ALABAMA AND FLORIDA

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Enterprise and Greenville, Ala.; Bonifay, Chipley, and Pensacola, Fla.), Dockets Nos. 19561, RM-1844, RM-1855, RM-1982.

1. On July 26, 1972, the Commission adopted a notice of proposed rule making in the above-captioned proceeding. Publication in the FEDERAL REGISTER was given on August 8, 1972 (37 F.R. 15940). Comment and reply comment dates presently designated are October 6, and October 20, 1972, respectively.

2. On September 29, 1972, Fletcher Fleming, attorney for Mr. Roy Hess, petitioner in RM-1982, filed a petition for extension of time in which to submit comments to and including October 20, 1972. Counsel states that the additional time is necessary in order to permit proper analysis of comments and the preparation of a meaningful response to such comments.

3. It appears that the requested extension is warranted and would serve the public interest: *Accordingly, it is ordered,* That the time for filing comments and reply comments in Docket No. 19561 is extended to and including October 20, 1972, and November 3, 1972, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: October 6, 1972.

Released: October 10, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-17589 Filed 10-13-72;8:50 am]

[47 CFR Part 76]

[Docket No. 19554; FCC 72-854]

CABLECASTING OF PROGRAMS

Extension of Time for Filing Comments

Order. In the matter of amendment of Part 76, Subpart G, of the Commission's rules and regulations pertaining to the cablecasting of programs for which a per-program or per-channel charge is made, Docket No. 19554.

Order.

1. On August 22, 1972, the National Association of Theatre Owners, Inc. (NATO) requested an extension of time for filing comments in this proceeding to December 15, 1972, indicating that it was compiling a comprehensive study of motion picture exhibition practices throughout the United States and needed additional time to complete the study. The notice in this proceeding had specified that comments should be submitted by September 15, 1972. Pursuant to delegated authority the Chief, Cable Television Bureau granted a 2-week extension of comment and reply dates but otherwise denied NATO's request.

2. Now before us is an application for review of that action filed by NATO alleging prejudicial error by the Chief, Cable Television Bureau in refusing to grant the requested time extension. NATO is supported in its application by the National Association of Broadcasters and American Broadcasting Co. ABC indicates that it is also in need of additional time, due in part to vacation

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schedules during the month of August and in part to the recent full-time involvement of ABC personnel with knowledge and expertise in the sports field in the Olympic games.

3. In issuing the notice in this proceeding we indicated our intention to complete it expeditiously. Expedition was felt to be especially desirable because the existing rules were to be retained during the course of the proceeding although they had been subject to serious criticism on both procedural and other grounds. We cannot therefor accede to an extension of the duration sought by NATO which would almost double the initially established comment period. We do not wish, however, to unduly limit parties in the collection of information with respect to the important issues involved in this proceeding and will accordingly grant a one month extension of time in which to file comments.

Accordingly, it is ordered, That the "Application for Review" filed by the National Association of Theatre Owners, Inc. on September 13, 1972, is granted to the extent indicated herein and is otherwise denied.

It is further ordered, That the time for filing comments and reply comments in the above captioned proceeding are extended until November 1, 1972, and November 15, 1972, respectively.

Adopted: September 27, 1972.

Released: October 5, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17590 Filed 10-13-72;8:50 am]

[1] Commissioner Johnson concurring in the result.

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-284]

WHITE OR IRISH POTATOES, OTHER THAN CERTIFIED SEED

Tariff-Rate Quota

The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to Item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1972, is 45 million pounds.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1972, made by the U.S. Department of Agriculture as of September 1, 1972, was 29,497,500,000 pounds.

In accordance with Headnote 2, Part 8A, of Schedule 1, Tariff Schedules of the United States, the quantity is not increased because the estimated production is greater than 21 billion pounds.

R. N. MARRA,
Acting Assistant Commissioner, Office of Operations.

[FR Doc.72-17621 Filed 10-13-72;8:50 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[FES 72-37]

LOUISIANA; PROPOSED OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a final environmental impact statement relating to a proposed Outer Continental Shelf General Oil and Gas Lease Sale. The environmental statement considers 135 tracts of Outer Continental Shelf lands which have been identified for oil and gas leasing potential. All 135 tracts are located in the Gulf of Mexico offshore Louisiana.

Reading copies of the Final Environmental Impact Statement are available in Room 5643 of the Interior Building in Washington, and in BLM's New Orleans Office. Copies may be obtained for $3 by writing the Director, Bureau of Land Management (130), U.S. Department of the Interior, Washington, D.C. 20240, or the Manager, BLM Outer Continental Shelf Office, Post Office Box 53226, New Orleans, LA 70153.

BURT SILCOCK,
Director, Bureau of Land Management.

Approved: October 11, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-17659 Filed 10-13-72;8:51 am]

DEPARTMENT OF AGRICULTURE

Office of Plant and Operations

FEE SCHEDULE

Pursuant to the authority delegated to the Director, Office of Plant and Operations, in Title 7, Code of Federal Regulations, § 1.2(b), there is published the following:

FEE SCHEDULE

SECTION 1. *General.* This notice sets forth the fees to be charged for providing copies of records, including photographic reproductions, microfilm, maps, and mosaics and related services to the public.

SEC. 2. *Facilities.* Records and related services are available at the locations specified by the agencies in their statements of organization and services. Each agency establishes procedures to facilitate public inspection and copying of records. Any materials offered for sale by the Government Printing Office should be purchased from that source.

Agencies do not stock copies of forms and publications or maintain records at any facility which does not of itself require these materials in its operations.

SEC. 3. *Fees for Materials and Services.* All agencies of the Department shall be governed by the fees set forth herein. Any changes or additions to this fee schedule shall be made by amendment to or revision of this schedule. Agencies may set their own fees on specialized materials, such as printouts, magnetic tapes, directives, handbooks, building plans, and other material unique to any one agency. Where a fee has not been established in this schedule, an appropriate fee will be set by the individual agency.

SEC. 4. *Circumstances Governing Exceptions to the Charging of Fees for Records and Related Services.* (For photographic reproductions, see SEC. 12.)

A. *Waiver of Fees for Records and Related Services.* Fees may be waived under the following conditions:

1. Where individual collections are $1 or less.

2. Where individual collections are more than $1 and the total cost of collecting the fees would be an unduly large part of the receipts.

3. Where the furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable fees are set on a reciprocal basis with a foreign country.

4. Where the recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare.

5. Where payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program involved, all or part of the fee may be waived.

B. *Fees not to be Charged for Records and Related Services.* Fees shall not be charged under the following conditions:

1. When the furnishing of records and related services primarily benefits the general public.

2. When filling requests from other Departments or Government agencies for official use, provided quantities requested are reasonable in number.

3. When members of the public provide their own copying equipment, in which case no copying fee will be charged.

4. When any notices, decisions, orders, or other material are required by law to be served on a party in any proceeding or matter before any Department agency.

SEC. 5. *Limitations of Copies.* Agencies may restrict numbers of photocopies and directives furnished the public to one copy of each page. Copies of forms provided the public shall also be held to the minimum practical. Persons requiring any large quantities should be encouraged to take single copies to commercial sources for further appropriate reproduction.

When transcripts are requested which have been provided the Department under a reporting service contract which requires that copies of transcripts be sold only by the contractor, the public may be shown a copy of the transcript. However, the agency shall refer the public to the contractor for purchase of copies.

SEC. 6. *Searches and Deletions.* Because of the nature of the Department's business and records, the normal location of a document in a file or other facility will not be considered a search. This would be the same as quickly locating a piece of material for purposes of answering a letter or telephone inquiry, and is based on the Department's obligation to respond to requests furnishing reasonably specific description of the record.

Where a requested record is not discovered by normal location efforts, or where deletion of part of a record is necessary, the office will notify the requester of that fact and require payment of the estimated search or deletion charge as prescribed in the fee schedule in advance before further efforts are undertaken to locate the requested record. Such searches shall be limited by availability of time and staff to perform them and to locations where the record would reasonably be expected to be found.

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SEC. 7. *Payments of Fees and Charges.* Payments will be made to the fullest extent possible in advance or at the time of the transaction. Except as otherwise stipulated by agency procedures, payment shall be made by check, draft, or money order made payable to Treasurer of the United States, but small amounts may be paid in cash, particularly where services are performed in response to a visit to a Department office.

SEC. 8. *Fees for Records and Related Services.*

Class of service		Price	Minimum
Photocopies 8½" x 14" or smaller	each	$0.10 1st copy; $0.05 additional copies.	None
Certifications	do	$1 additional to any other charge.	$1
Authentications under Department Seal (excluding aerial photographs).	do	$2 additional to any other charge.	2
Searches and deletions.	do	$1 each 15 minutes or fraction thereof.	4

(e) An additional handling charge of $0.50 for each order may be imposed when a request must be sent to another office for filing, or request is handled by mail.

SEC. 9. *Photographic Reproduction, Microfilm, Mosaic, and Maps.* Reproduction of such aerial or other photographic microfilm, mosaic, and maps as have been obtained in connection with the authorized work of the Department may be sold at the estimated cost of furnishing such reproductions as prescribed in this schedule.

SEC. 10. *Agencies Which Furnish Photographic Reproductions.*

a. *Aerial photographic reproductions.* The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS).
Forest Service (FS).

Soil Conservation Service (SCS).

b. *Other photographic reproductions.* Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Service.
Forest Service.
Office of Information.
Soil Conservation Service.
National Agricultural Library.

SEC. 11. *Photographic Sales Committee.* The Photographic Sales Committee consists of representatives designated by Department agencies principally concerned with the sale of photographic reproductions. The Committee recommends prices at which photographic and mosaic reproductions, except library material, shall be sold, and other matters related to photographic reproductions.

SEC. 12. *Circumstances Under Which Photographic Reproductions May Be Provided Free.* Reproductions may be furnished free at the discretion of the agencies of the Department to:

a. Press, radio, television, and newsreel representatives for dissemination to the general public.

b. Agencies of State and local governments which are carrying on a function related to that of the Department when furnishing the service will help to accomplish an objective of the Department.

c. Cooperators and others furthering agricultural programs. As a general rule, only one print of each photograph should be provided free. Care should be exercised in approving requests for free prints to determine that such action is in the public interest.

SEC. 13. *Loans.* Aerial photographic film negatives or reproductions may not be loaned to the general public.

SEC. 14. *Sales of Positive Prints Under Government Contracts.* The annual contract for furnishing single and double frame slide film negatives and positive prints to agencies of the Department, County Extension Agents, and other agencies cooperating with the Department, carries a stipulation that the successful bidder must agree to furnish slide film positive prints to such persons, organizations, and associations as may be authorized by the Department to purchase them.

SEC. 15. *Procedure for Handling Orders.* In order to expedite handling, all orders shall contain adequate identifying information. Agencies furnishing aerial photographic reproductions require that all such orders identify the photographs. Each agency has its own procedure and order forms.

SEC. 16. *Photographic Reproduction Prices.* The prices for photographic reproduction listed here are for the most generally requested items.

a. *National Agricultural Library.* The following prices are applicable to National Agricultural Library items only:

Microfilm—$1 for each 30 pages or fraction thereof.

Photoreproduction—$1 for each 10 pages or fraction thereof.

b. *General Photographic Reproductions.* Minimum charge $1 per order. All sizes are approximate. An extra charge may be necessary for excessive laboratory time caused by any special instructions from the purchaser.

Class of work		Price
1. Copy negatives and film positives:		
4 x 5 and 5 x 7	each	$3.25
8 x 10	do	3.75
11 x 14	do	6.00
2. Contact and projection prints. (Single weight glossy or matte finish; quotations will be furnished on quantities of 6 or more reproductions from the same negative):		
4 x 5	do	1.40
5 x 7	do	1.75
8 x 10	do	2.00
11 x 14	do	3.25
Larger sizes (matte only)	square foot	2.00
Double weight paper—add 20 percent for air drying, spotting and finishing matte paper.		
3. Mounting: Cardboard and wallboard	do	2.00
1. Projection slides (black and white) made from flat copy. (Quotations will be furnished on quantities of 6 or more reproductions from the same negative): 2 x 2 (bound in cardboard)	each	.95
5. Projection slides (color) made from flat copy: 2 x 2 (mounts) cardboard	do	1.15
6. Duplicate projection 2 x 2 slides (color)—Number of cardboard mounts:		
1 to 5	do	.55
6 to 30	do	.50
31 to 50	do	.45
51 or more	do	.35
7. Duplicate transparencies:		
4 x 5	do	6.80
Prints, same copy	do	2.90

c. *Aerial Photographic Reproductions.* No minimum charge on aerial photographic reproductions.

Single or double weight paper not ferrotyped (double weight, semimatte furnished, unless otherwise specified). All contact prints and enlargements unmounted and untrimmed. Contact prints trimmed for 5 cents each when requested.

1. Contact prints.

The prices for contact prints are set forth below. The size refers to the approximate size of the contact print.

Size 9" x 9" on commercial grade paper

Quantity	Price each
1 to 25	$1.75
Excess over 25	1.25

For polyester base paper, add $0.75 for contact print (available from ASCS only).

Size 70mm contact prints

Quantity	Price each
1 to 25	$1.25
Excess over 25	1.00

2. Enlargements (projection prints).

The prices for enlargements of various sizes, made from 9 x 9 inch negatives, are set forth below. The size in each case refers to the approximate size of paper required to produce the enlargement ordered. For "scale accuracy," add $0.50 per print.

Size 9 x 9 inches (from 70mm)

Quantity	Price each
1 to 25	$1.75
Excess over 25	1.25

Size 12 x 12 inches

1 to 25	3.00
Exces over 25	2.50

Size 17 x 17 inches

1 to 25	3.50
Excess over 25	3.00

Size 24 x 24 inches

1 to 25	4.50
Excess over 25	3.50

Size 38 x 38 inches

1 to 25	9.00
Excess over 25	8.00

For larger size reproductions, add $2 for each additional 12 inches or fraction thereof, linear measurement.

3. *Aerial Photo-Index Sheets.*

size 20 x 24 inches

Quantity	Price each
Any quantity	$3.00

4. *Film Positives.*

Contact printed from aerial negatives, size 9 x 9 inches.

Quantity	Price each
1 to 25	$3.00
Excess over 25	2.50

5. *Copy Negatives.*

On film, of aerial exposures, size 9 x 9 inches.

One-step method (direct duplicating film)

Quantity	Price each
1 to 25	$3.25
Excess over 25	2.75

Two-step method

Any quantity	6.00

6. *Diapositives.*

Prints on glass, size 9 x 9 inches, thickness .06 inch.

Quantity	Price each
1 to 25	$8.50
Excess over 25	6.00

7. *Aperture Cards and Printouts.*

Quantity	Size 20 x 24 inches	1st Unit	Each additional unit
Duplicate of an aperture card		$1.00	$0.10
Aperture card from photo-index sheet		1.00	.25
Printout from aperture card		1.00	.50

8. *Color Photography.*

Furnished only by the Regional Forest Service Aerial Photography Laboratories at Ogden, Utah, and San Francisco, Calif., and the Agricultural Stabilization and Conservation Service Aerial Photography Laboratory in Salt Lake City, Utah.

Positive contact print made from negative

Quantity	Price each
First print	$7.00
Each additional print	3.00

Enlargements 9 x 9 inches (from 70mm.)

First print	7.00
Each additional print	5.00

Enlargements 17 x 17 inches

First print	15.00
Each additional print	9.00

Enlargements 24 x 24 inches

First print	20.00
Each additional print	14.00

Enlargements 38 x 38 inches

First print	25.00
Each additional print	20.00

Color film transparencies (Positives or Negatives).

Contacts 70mm.

Quantity	Price each
First print	$4.00
Each additional print	2.50

Contacts 9 x 9 inches

First print	10.00
Each additional print	8.00

Enlargements 9 x 9 inches (from 70mm.)

First print	10.00
Each additional print	8.00

Enlargements 17 x 17 inches

First print	20.00
Each additional print	15.00

Enlargements 24 x 24 inches

First print	30.00
Each additional print	25.00

Enlargements 38 x 38 inches

First print	60.00
Each additional print	55.00

9. *Special Needs.*

For special needs not covered above, persons desiring aerial photographic reproduction should contact the agencies listed in Section 10a, or the Coordinator, Aerial Photographic Work of the Department of Agriculture, ASCS, 2505 Parley's Way, Salt Lake City, UT 84109.

SEC. 17. The fee schedule published in the FEDERAL REGISTER on April 3, 1971 (36 F.R. 6442) is superseded by this fee schedule.

SEC. 18. *Effective Date.* This fee schedule and related procedures shall become effective upon publication in the FEDERAL REGISTER (10–14–72).

Dated: October 11, 1972.

T. M. BALDAUF,
Director,
Office of Plant and Operations.

[FR Doc.72-17620 Filed 10-13-72;8:49 am]

Office of the Secretary

HOG CHOLERA

Declaration of Emergency

Whereas the swine disease known as hog cholera exists in the United States, and

Whereas the disease has appeared in several States from which it previously had been eradicated, and

Whereas the potential dissemination to other States constitutes a real danger to producers, shippers, slaughterers, and others concerned with the livestock industry and to the national economy, and

Now, THEREFORE, in accordance with the provisions of the appropriation item for the Animal and Plant Health Inspection Service in title I of the Agriculture-Environmental and Consumer Protection programs Appropriation Act, 1973 (Public Law 92-399) and section 11, of the Act of May 29, 1884, 23 Stat. 32, as amended (21 U.S.C. 114a), I find an emergency arising out of the spread of hog cholera, which constitutes a threat to the livestock industry of the country, and I hereby authorize the transfer from other appropriations or funds available to the agencies and corporations of the Department such sums as may be necessary for all proper purposes in a program conducted independently or in cooperation with States and political subdivisions thereof, farmers' associations, and similar organizations and individuals, to control and eradicate the disease wherever found.

J. PHIL CAMPBELL,
Acting Secretary of Agriculture.

OCTOBER 11, 1972.

[FR Doc.72-17680 Filed 10-13-72;9:14 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

SANGAMON STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00498-99-46040. Applicant: Sangamon State University, Springfield, Ill. 62703. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for educational and teaching purposes in the following applications:

(a) Instrumentation for the Sciences—course including theory and use of several instruments including the electron microscope.

(b) Research Techniques in Cell Biology—course dealing with theory and use of microscopy and related techniques.

(c) Pollution Biology—use in studying effects of environmental pollutants such as pesticides, herbicides, elements, detergents, etc., on cell structure and function.

(d) Electron Microscopy—theory and use of the instrument and related techniques.

(e) Courses in organic and biochemistry will utilize the electron microscope in drug studies and toxicology.

(f) Courses and use in Cytology and Cytochemistry.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp.

The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated August 11, 1972, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-17608 Filed 10-13-72;8:48 am]

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UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72–00190–01–77040. Applicant: University of California, San Diego, Scripps Institution for Oceanography, Post Office Box 109, La Jolla, CA 92037. Article: Mass Spectrometer for He^3/HE^4 Isotopic Analysis. Manufacturer: McMasters University Physics Department, Canada. Intended use of article: The article will be used for research involving primordial helium in ocean and volcanic gases and rocks, and tracing advective flow in deep oceans. The article will also be used to educate students in nuclear techniques in geochemistry and oceanography.

Comments: Comments have been received from Nuclide Corp. (Nuclide) which state inter alia that "Nuclide does not object to duty-free entry of this very special apparatus * * *" Nuclide also states that it does have the capability to build equipment similar to the foreign article. Decision: Application approved. No domestic manufacturer was both able and willing to manufacture an instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 701.11(b) of the regulations. Reasons: The foreign article is a custom-made instrument within the meaning of the regulations (see § 701.2 (k)). In reply to Question 9 the applicant asserts that three domestic firms Nuclide, Consolidated Engineering Corp., now doing business as Du Pont Instruments (Du Pont), and Varian Associates (Varian) were furnished a description of its technical requirements as presented in its reply to Question 7; and offered a verbal opportunity to bid. The applicant states it received "couldn't make" responses. We are informed by Nuclide that at the time the applicant made its arrangements with the manufacturer of the foreign article Nuclide was not prepared to undertake to divert manpower to build equipment precisely as described in the applicant's specifications.

Section 701.11(b) of the regulations provide in pertinent part:

> In determining whether a U.S. manufacturer is able and willing to produce a produced on order, custom made instrument, apparatus or accessory and * * * the Deputy Assistant Secretary shall take into account the production and delivery of instruments, apparatus, or accessories of the same general category.

The regulations require that a domestic manufacturer be both "able and willing" to produce an instrument for the purposes of comparison with the foreign article. Where an applicant, as is the case in the captioned application, extends a good faith offer to bid to a domestic manufacturer, and that manufacturer either replies "no bid" or does not reply at all, it is apparent that the domestic manufacturer is not "willing" to produce a custom-made instrument of equivalent scientific value to the foreign article.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72–17610 Filed 10–13–72;8:48 am]

UNIVERSITY OF CALIFORNIA ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73–00161–75–40600. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Isotope Separator. Manufacturer: Nucletec S.A., Switzerland. Intended use of article: The article is intended to be used to separate the radioisotopes of selected elements for the study of neutron reaction phenomena, as part of a nuclear weapons program. The article will also provide isotopically pure sources of neutron-deficient radioisotopes produced by the proton spallation process with the Los Alamos Mesom Physics Facility accelerator. Application received by Commissioner of Customs: September 18, 1972.

Docket No. 73–00162–33–46040. Applicant: Gerontology Research Center, NICHD, NIH, Baltimore City Hospitals, Baltimore, Md. 21224. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss AG, West Germany. Intended use of article: The article is intended to be used in studies concerned with the cellular aspects of the immune response with emphasis on research at the level of cells and cellular structures. Lymphoid tissues or cells from both human and animal sources constitute the main type of material to be examined. The article will also be used in postdoctoral and predoctoral training programs to insure that the individuals are familiar with (1) the operation of the electron microscope, (2) specimen preparation and (3) the meaning and relevance of electron micrographs. Application received by Commissioner of Customs: September 19, 1972.

Docket No. 73–00163–33–46500. Applicant: Roosevelt University, 430 South Michigan Avenue, Chicago, IL 60605. Article: Ultramicrotome, Model "Om U2". Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used in studies involving the following:

(1) Cytochemical localization of phosphatase activity in the branchial epithelium of the black mollie in fresh water and during sea water adaptation. This study is part of an effort to identify the cytological basis for an extrarenal salt excreting mechanism in euryhaline fish species adapted to sea water.

(2) A comparison of the fine structure of Tetrahymena cells in stock cultures with that in cells following a 24-hour bout of parasitism in the hemolymph of the cockroach.

The article will also be used in the course Biological Electron Microscopy (Biology 385) to help each student acquire skill in processing a particular specimen for electron microscopy and to acquaint him with the variety of techniques available for the preparation of biological materials frequently used in research and clinical electron microscope laboratories. Application received by Commissioner of Customs:

Docket No. 73–00166–33–46040. Applicant: University of Miami, Post Office Box 8184, Coral Cables, FL 33124. Article: Electron Microscope, Model EM 300 and accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in investigations to assess the structural details of cells and their components, and to relate these, by ancillary and collaborative work, to physiological and biochemical function of the cell. The primary area of study is excitable tissue, including muscle, and the central and peripheral nervous system of a variety of animals, including the organization of cells within the tissue, and the fine details of membrane structure at specific points of intercellular communication and synapse. The article will be used for educational purposes through the training of post doctoral fellows, visiting scientists, and faculty members whose research calls for fine structural information. Application received by Commissioner of Customs: September 26, 1972.

SETH M. BODNER,
Director, Office of Import Programs Division.

[FR Doc.72–17609 Filed 10–13–72;8:48 am]

Office of the Secretary

[Dept. Organization Order 25–5B, Amdt. 3]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

This order, effective September 26, 1972, further amends the material appearing at 37 F.R. 6411 of March 19, 1972, 37 F.R. 14421 of July 20, 1972 and 37 F.R. 19390 of September 20, 1972.

Department Organization Order 25–5B, effective March 10, 1972, is hereby further amended as follows:

1. SEC. 10. *Assistant Administrator for Administration.* a. Paragraph .03 is amended to read:

".03 The Office of Management and Computer Systems shall conduct studies and provide analytical assistance to develop or improve the organization and staffing structure and other management systems within NOAA; provide management staff services in the application of advance management principles and techniques; develop and maintain a central system for collecting, analyzing, presenting, and disseminating information on program status and performance; develop systems for measuring productivity and performance; exercise overall management, planning and coordination of NOAA's automatic data processing and telecommunication needs and facilities including serving as the focal point within NOAA for intra- and interagency matters, and the review and evaluation of proposals for automatic data processing and telecommunications requirements and systems; and engage in research into advance system concepts and apply or provide guidance in the application of these concepts. It shall provide systems analysis and programing support to NOAA's executive and administrative management functions and to other NOAA functions as requested, and shall operate and provide system and special software support for automatic data processing facilities for all NOAA components except where separate facilities are approved."

b. Paragraph .06, the Computer Division is deleted.

c. Paragraphs .07 and .08 are renumbered .06 and .07 respectively.

2. SEC. 14. *Environmental data Service.* Add the following new paragraph .06:

".06 The *Center for Experiment Design and Data Analysis* shall provide service and support in data management and scientific analysis for large scale environmental field research projects, and assist in the planning, design, and implementation of such projects to insure that data needs are met."

3. SEC. 16. *Environmental Research Laboratories.* Subparagraph .01e., the *Center for Experiment Design and Data Analysis* is deleted.

4. The organization chart of August 31, 1972, attached to Amendment 2, is superseded by the organization chart attached to this amendment. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Effective date: September 26, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Adminstration.

[FR Doc.72–17587 Filed 10–13–72;8:48 am]

[Dept. Organization Order 20–4]

OFFICE OF EMERGENCY READINESS

Organization and Functions

This order, effective September 27, 1972, supersedes the material appearing at 32 F.R. 10382 of July 14, 1967.

SECTION 1. *Purpose.* This order prescribes the functions and organization of the Office of Emergency Readiness.

SEC. 2. *Status and line of authority.* .01 The Office of Emergency Readiness (OER), a Departmental Office, shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director who shall perform the functions of the Director during the latter's absence.

.02 The Director, OER, may redelegate his authority to appropriate officials of the OER and to operating units of the Department subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 3. *Functions.* .01 Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10–5 and subject to such policies and directives as may be prescribed, OER shall be the primary contact within the Department for identifying emergency readiness programs within the Department, and for the functional monitoring, reviewing and reporting on all such programs departmentwide. To carry out this responsibility, OER shall perform the following functions:

a. Direct the development, coordination, testing, evaluation and implementation of all emergency plans and programs in the fields of continuity of government, natural disaster recovery assistance, civil defense, and domestic crises which affect the Department of Commerce and its operating units;

b. Provide leadership and guidance to operating units in the development of their emergency plans and review these plans for adequacy in terms of assigned functions, and assure the correlation and compatibility of all emergency preparedness plans and programs and the maximum utilization of existing resources and capabilities of the Department;

c. Administer the Department's National Defense Executive Reserve Program;

d. Prepare, maintain and control emergency plans for the Secretary and Secretarial officials and, as required, brief these officials on the current status of the Department's emergency functions;

e. Establish and maintain an emergency alerting procedure for headquarters and field personnel;

f. Plan for, coordinate, and evaluate emergency tests and exercises conducted by the Department;

g. Coordinate the plans, procedures and activities of the Department and its operating units in disaster assistance and crises management programs to assure the Department's resources will be promptly mobilized to provide assistance at national, regional, and local levels;

h. Establish and maintain a civil defense or self-protection organization to provide for the protection and welfare of employees during emergencies;

i. Establish and maintain a Command Post in the Main Commerce Building for use by Secretarial Officers and others in the event of an emergency;

j. Furnish Departmental representation at the Exercises and Facilities Division of the Office of Emergency Preparedness (OEP), and serve as liaison for the Department with that Division and its activities;

k. Develop and coordinate Department Administrative Orders pertaining to emergency preparedness plans, procedures, operations and related programs of the Department;

l. Control approval of the obligation of funds for emergency activities charged against the Working Capital Fund;

m. Review and evaluate budget requests of other areas of the Department concerned with emergency programs;

n. Coordinate Departmental reports to the Joint Congressional Committee on Defense Production, OEP, and other Federal agencies on emergency matters; and

o. Develop and administer, both at national and field levels, the Department's policies on:

1. Continuity of essential functions, including lines of succession; predelegation of emergency authorities; composition and training of emergency cadres; a vital records program; emergency communications; assignment and training of the Commerce Communications Corps; a damage assessment capability; and,

2. The acquisition, maintenance, staffing, and operations of all emergency operating facilities including the Department's Headquarters Emergency Operating Facility.

SEC. 4. *Specified authority.* .01 In addition to the authority implicit in and essential to carrying out the functions of the office, the Director, OER, is also designated the Emergency Coordinator for the Department and as such shall be the key contact within the Department for all emergency preparedness programs

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of concern to the Department and its operating units.

.02 In the capacity of Emergency Coordinator for the Department, the Director, OER, shall:

a. Represent the Department on interagency committees, boards, and working groups concerned with emergency activities of the Department;

b. Maintain a roster of program specialists or technical experts from the various elements of the Department at both national and field levels whom he can call on to provide operating unit expertise or representation related to a particular plan or emergency program; and,

c. Serve as the representative of the Assistant Secretary for Administration on all emergency readiness program matters, and as adviser to other Department officials with respect to these matters.

SEC. 5. *Regional Emergency Coordinators.* .01 *Field Operations.* Emergency programs at the field level shall be coordinated by the Business Services Field Office Directors selected to represent the Secretary in each of the 10 Federal Regional Council cities (i.e., Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle.)

.02 *Designation.* The Business Services Field Office Directors in the 10 cities are hereby designated Regional Emergency Coordinators and as such they shall be the principal adviser and contact point for the Department in their respective regions, and shall provide staff liaison concerning activities of interest to the Department. Also, they shall maintain a list of specialists from other Commerce field facilities whom they can call on for expertise related to a particular plan or program.

.03 *Responsibilities.* Acting in accordance with instructions and guidance issued by the Director, OER, through the Office of Business Services, Bureau of Domestic Commerce, the Regional Emergency Coordinators shall:

a. Represent the Department on regional, State, and local government committees, boards and working groups involved in emergency preparedness plans and programs, including continuity of essential functions, emergency management of resources, civil defense, disaster assistance, and related activities;

b. Provide guidance and assistance to those elements of State governments charged with preparedness planning for the emergency management of resources for which the Department has been assigned responsibilities;

c. Serve as the Department's principal adviser to the Directors of the respective OEP/Defense Civil Preparedness Agency (DCPA) regions on matters relating to the functions of the operating units of the Department;

d. Serve as liaison between the field installations of the Department and the OEP/DCPA Regional Directors in emergency preparedness matters;

e. Establish and maintain an emergency essential records file at the OEP/DCPA emergency operations centers, and provide guidance and advice to field installations on provisions for emergency essential records;

f. Establish and maintain a Regional Alerting Procedure for Commerce field installations;

g. Participate in planning and evaluating periodic regional, State and local government emergency preparedness tests and exercises;

h. Prepare, as necessary, reports on the status of emergency preparedness plans, programs and operations; and

i. Inform the Director, OER, of their activities and emergency programs to enable OER to fulfill its department-wide liaison and coordinating role.

Effective date: September 27, 1972.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.72-17586 Filed 10-13-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 9892; Docket No. FDC-D-486; NDA 9-892]

CIBA PHARMACEUTICAL CO.

Tripelennamine Hydrochloride With Methylphenidate Hydrochloride for Oral Use; Notice of Withdrawal of Approval of New Drug Application

On July 6, 1972, there was published in the FEDERAL REGISTER (37 F.R. 13281) a notice of opportunity for hearing (DESI 9892) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new drug application in the absence of substantial evidence that this fixed combination drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

NDA 9-892 Plimasin Tablets containing tripelennamine hydrochloride and methylphenidate hydrochloride; Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., 556 Morris Avenue, Summit, NJ 07901.

Neither Ciba Pharmaceutical Co. nor any other interested person have filed a written appearance of election as provided by said notice. The failure to file such an appearance is construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended, 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds, on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of the above new drug application, and all amendments and supplements applying thereto, is withdrawn effective on the date of publication hereof in the FEDERAL REGISTER (10-14-72).

Dated: October 5, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17564 Filed 10-13-72;8:46 am]

National Institutes of Health

ADVISORY COMMITTEE TO THE DIRECTOR

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, October 30, at 1 p.m., National Institutes of Health, Building 1, Conference Room 114. This meeting will be open to the public from 1 p.m. to 5 p.m. on October 30, and 9 a.m. to 5 p.m. on October 31, to discuss Health Manpower issues and other administrative concerns of the NIH.

Rosters of Committee members and summary of the meeting may be obtained from the Executive Secretary, Charles R. McCarthy, Ph.D., Building 1, Room 224, 496-3471.

Dated: October 5, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-17606 Filed 10-13-72;8:48 am]

NATIONAL CANCER INSTITUTE

Notice of Meeting of Etiology Program Advisory Committee

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Etiology Program Advisory Committee, November 9-10, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 4. Topics to be discussed will be in the area of Demography. This meeting will be open to the public from 9 a.m. to 5 p.m., November 9-10.

Name of person from whom rosters of committee members and/or summary of the meeting may be obtained: Mrs. Kay E. Kennedy, National Cancer Institute, Building 31, Room 11A03, Bethesda, Md. 20014.

Dated: October 5, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-17605 Filed 10-13-72;8:48 am]

Office of Education

NATIONAL ADVISORY COMMITTEE ON EDUCATION OF SPANISH AND MEXICAN AMERICANS

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Committee on the Education of Spanish and Mexican Americans will be held on October 26, 1972, at 9 a.m., local time, in Room 1164-B, FOB 6, 400 Maryland Avenue SW., Washington, DC.

The National Advisory Committee on the Education of Spanish and Mexican Americans is established under section 1 of Executive Order 11007, U.S.C. 20. The Committee is established to advise the Commissioner of Education on problems central to the education of Spanish-speaking children and adults, particularly those of bilingual, bicultural families.

The meeting of the Committee shall be open to the public. The proposed agenda includes a review of previous meetings in which the Advisory Committee divided itself into subcommittees and met with various associate commissioners from bureaus within the U.S. Office of Education. These meetings were to facilitate information and discussions concerning the bureaus programs for the Spanish speaking. Records shall be kept of all Committee proceedings (and shall be available for public inspection at the Office for Spanish Speaking American Affairs, located in Room 1155, FOB 6, 400 Maryland Avenue SW., Washington, DC).

Signed at Washington, D.C., on October 3, 1972.

GILBERT CHAVEZ,
Director for Spanish Speaking American Affairs.

[FR Doc.72-17497 Filed 10-13-72;8:51 am]

Office of the Secretary

GRANTS ADMINISTRATION ADVISORY COMMITTEE

Notice of Subcommittee Meeting

A Subcommittee of the Grants Administration Advisory Committee, which advises the Secretary on matters relating to administrative and fiscal policies for grants administered by the Department, will meet on October 20, 1972, on the fourth floor of the Mosely Building, Massachusetts General Hospital, 32 Fruit Street, Boston, MA 02114. The session will begin at 10 a.m. and is open to the public. The agenda covers discussion on indirect cost issues. A roster of committee members may be obtained from Dr. Ernest M. Allen, Deputy Assistant Secretary for Grant Administration Policy, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201.

Dated at Washington, D.C., this 10th day of October 1972.

ERNEST M. ALLEN,
Executive Secretary, Grants Administration Advisory Committee.

[FR Doc.72-17600 Filed 10-13-72;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-72-123; Administrative Decision File No. 72-7]

LAKEWOOD HILLS, ET AL.

Notice of Hearing

Notice is hereby given that:

1. Perry Development Co., Inc., its officers and agents, hereinafter referred to as Respondent, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a notice of proceedings and opportunity for hearing dated September 1, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the developer's statement of record for Lakewood Hills and the failure of the developer to amend the pertinent sections of the statement of record and property report.

2. The Respondent filed an answer received September 21, 1972, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b): *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before David Knight in room 7233, Department of HUD Building, 451 Seventh Street SW., Washington, DC on December 6, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before November 22, 1972.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-17574 Filed 10-13-72;8:47 am]

[Docket No. N-72-122, Administrative Division File No. Z-88]

WEST VILLAGE ET AL.

Notice of Hearing

Notice is hereby given that:

1. Snowmass American Corp., its officers and agents, hereinafter referred to as Respondent, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing dated August 29, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing the failure of the developer to amend the pertinent sections of the Statement of Record and Property Report.

2. The Respondent filed an answer dated September 13, 1972, in answer to the allegations of the Notice of Proceedings and Opportunity for a Hearing.

3. In said answer, the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for a Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b): *It is hereby ordered, That* a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before David Knight in Room 7233, Department of HUD Building, 451 Seventh Street SW., Washington, DC, on November 20, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before November 6, 1972.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-17575 Filed 10-13-72;8:47 am]

V37-200 OCT 14 72 XUM

ATOMIC ENERGY COMMISSION

[Docket No. 27-47]

CHEM-NUCLEAR SERVICES, INC.

Notice of Proposed Amendment of Byproduct, Source, and Special Nuclear Material License

Please take notice that Chem-Nuclear Services, Inc., with principal office at Wenatchee, Wash. 98801, holder of License No. 46-13536-01 which authorizes the receipt and possession of packaged waste byproduct, source, and special nuclear material in any State of the United States except in Agreement States, has applied for a license amendment which would authorize the possession and subsequent burial of up to 850 grams of uranium-235 at its burial ground located near Barnwell, S.C.

Chem-Nuclear Services, Inc., has been licensed by the State of South Carolina to dispose of waste byproduct, source, and special nuclear material by burial in the ground. The maximum amount of uranium-235 which an Agreement State may license for possession and subsequent burial is 350 grams. Since the quantity would exceed that which may be licensed by South Carolina, an Agreement State, Chem-Nuclear Services, Inc., has applied for an amendment to Atomic Energy Commission License No. 46-13536-01.

Under the amendment proposed by the applicant, the maximum quantity of uranium-235 which would be contained in any single package would be 15 grams and no single shipment would be in excess of 850 grams. The packaged waste uranium-235 will be buried in trenches approximately 400 feet long, 15 feet deep, and 50 feet wide. Packages containing special nuclear material will be buried so that there will be a minimum distance of 8 inches of earth between packages.

The geological and hydrological characteristics of the site have been reviewed by the State of South Carolina with the assistance of the U.S. Geological Survey. The site was found to be satisfactory for the burial of radioactive wastes.

The Commission has determined that Chem-Nuclear Services, Inc., has adequate facilities, equipment, and procedures for receipt, possession, storage, and burial of radioactive wastes at its facility in South Carolina.

The Atomic Energy Commission has reviewed Chem-Nuclear Services, Inc.'s application for license amendment and has found that the issuance of the proposed amendment will not be inimical to the common defense and security or the health and safety of the public and that the application complies with the requirements of the Atomic Energy Act of 1954, as amended, and Commission regulations.

The Atomic Energy Commission proposes to issue the requested amendment unless within fifteen (15) days after publication of this notice in the FEDERAL REGISTER, the applicant files a request for a hearing or a petition for leave to intervene is filed with the Commission by any person whose interest may be affected by the proceeding in the manner prescribed in the Commission's rules of practice, 10 CFR Part 2 or unless the Commission, upon further consideration on its own motion, directs such a hearing be held.

Dated at Bethesda, Md., October 3, 1972.

For the Atomic Energy Commission.

S. H. SMILEY,
Deputy Director for Fuels and Materials, Directorate of Licensing.

[FR Doc.72-17581 Filed 10-13-72;8:47 am]

[Docket No. 50-302]

FLORIDA POWER CORP.

Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing

In the Matter of Florida Power Corp. (Crystal River Unit 3 Nuclear Generating Plant).

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Florida Power Corp. (the applicant) which would authorize the applicant to possess, use, and operate the Crystal River Unit 3 Nuclear Generating Plant, a pressurized water nuclear reactor (the facility), located on the applicant's site on the Gulf of Mexico, about 7½ miles northwest of the town of Crystal River, Citrus County, Fla., at steady-state power levels not to exceed 2452 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safegaurds, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-51, issued by the Commission on September 25, 1968.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-51. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provision in 10 CFR Part 50, Appendix D, section C.2 for notice of opportunity for filing petitions for leave to intervene and requests for hearing on environmental considerations related to continuation, modification, termination or conditioning of the construction permit.

Accordingly, notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice," and Appendix D of 10 CFR Part 50, "Implementation of the National Environmental Policy Act of 1969," that the Commission is providing an opportunity for hearing with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit in the captioned proceeding should be continued, modified, terminated or appropriately conditioned to protect environmental values.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene (1) with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated of appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR § 2.714. As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR § 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating license, dated January 25, 1971, as amended, and the Applicant's Environmental Report, dated January 4, 1972, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Crystal River Public Library, Crystal River, Fla. 32629. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 11th day of October 1972.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17599 Filed 10-13-72;8:48 am]

[Dockets Nos. 50-398 and 50-399]

PACIFIC GAS & ELECTRIC CO.

Notice of Availability of Supplement to Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Supplement to Applicant's Environmental Report—Construction Permit Stage," dated June 30, 1972 (Volumes I and II), and September 5, 1972 (Volume III), for Units 1 and 2 of the Mendocino Power Plant, submitted by the Pacific Gas & Electric Co., has been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Mendocino County Library, 108 West Clay Street, Ukiah, CA 95482. The report is also available at the Office of the Lieutenant Governor, Office of Intergovernmental Management, 1400 10th Street, Sacramento, CA. 95814. This report supersedes in its entirety the report entitled "Environmental Report—Construction Permit Stage," dated September 1971, for Units 1 and 2 of the Mendocino Power Plant for which a notice of availability was published in the FEDERAL REGISTER on January 5, 1972 (37 F.R. 105).

This report discusses environmental considerations related to the proposed construction of the Mendocino Power Plant, Units 1 and 2, to be located adjacent to the city of Point Arena in Mendocino County, Calif. Any comments by interested persons on the report will be considered by the Commission's regulatory staff. After the report has been analyzed by the Commission's Director of Regulation, or his designee, a draft environmental statement related to the proposed action will be prepared by the Commission. Upon preparation of the draft environment statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement. The summary notice will request comments from Federal agencies, State and local officials, and interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 6th day of October 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-17580 Filed 10-13-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19596, 19597; FCC 72-858]

BURNS, RIEKE AND VOSS ASSOCIATES AND BRAVERMAN BROADCASTING COMPANY, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of John F. Burns, Thomas Rieke, and Raymond Voss, doing business as Burns, Rieke and Voss Associates, Iowa City, Iowa, Requests: 1560 kHz, 1 kw., DA-2, S.H., Docket No. 19596, File No. BP-17838; Braverman Broadcasting Company, Inc., kw., DA-2, S.H., Docket No. 19597, File No. BP-19134; for construction permits.

1. The Commission has before it for consideration the above-captioned mutually exclusive applications.

2. Burns, Rieke and Voss Associates estimates it will require $110,077, to meet first-year construction and operation costs, itemized as follows: Lease payments for equipment, $19,467; miscellaneous expenses, $30,500; interest (estimated), $4,000; and working capital, $56,110. It proposes to meet these expenses with contributions from the partners of $25,000, stock subscriptions of $17,000, loans from certain stockholders of $24,000, and a bank loan of $50,000, for a total of $116,000. However, several defects have been noted in this proposal. Raymond Voss, Thomas M. Nereim, and Robert B. McDowell submitted balance sheets which indicate they do not possess sufficient liquid assets in excess of current liabilities to meet their commitments to the proposed operation. Moreover, since the Hawkeye State Bank will require the endorsements of those listed above, as well as Thomas Rieke, John F. Burns, and Adam F. Kuchenbaker, and they have not indicated their willingness to be so bound, the bank letter cannot be accepted. In view of the foregoing, the Commission is unable to find that the applicant is financially qualified and a financial issue will be included.

3. On September 11, 1972, Burns, Rieke and Voss Associates submitted an engineering amendment specifying a new antenna site, "standard" radiation patterns, and revised population data. Since the amendment was filed prior to designation, it will be accepted as a matter of right to the extent it complies with the rules. The Commission has examined the engineering amendment and finds that the "standard" patterns do not comply with § 73.150(b)(1)(i) of the rules which requires the loss resistance incorporated in an antenna design to be 1 ohm.[1] Therefore, we will reject that portion of the amendment specifying "standard" radiation patterns. Moreover, since the new antenna site specified by the applicant has been moved less than 1,000 feet north of its former site and BRV is not required to file a "standard" pattern,[2] our determination as to the BRV proposal will be based upon its engineering data on file for the former site. As such, the disparity between the areas and populations to be served by the two proposals is so little that neither applicant will be afforded a comparative advantage, and thus, an area and populations issue will not be included.

4. Braverman requests a waiver of § 73.150(a) of the rules which requires all applicants for new stations or major

[1] Both of BRV's proposed "standard" radiation patterns are based on loss resistances greater than 1 ohm.

[2] As noted below in paragraph 4, the BRV application was filed before the effective date of § 73.150 requiring a "standard" pattern.

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changes proposing a directional antenna to specify a standard radiation pattern. The rule became effective after BRV filed its application, but before Braverman filed its application. Braverman's application is timely filed with BRV's, and proposes to operate on the same frequency with the same power from an antenna site located less than 100 feet from the site proposed by BRV. It is apparent, therefore, that protection requirements to existing stations, as well as city coverage considerations, require Braverman to propose radiation patterns essentially identical to those proposed by BRV. Moreover, as recited above in paragraph 3, the Commission is denying BRV's most recent engineering amendment to the extent it specifies "standard" patterns because they do not comply with the rules. In light of the above, and since BRV's engineering proposal is based on theoretical patterns, equity requires that we grant Braverman's waiver request.

5. By memorandum opinion and order,[3] the Commission accepted the application of Burns, Rieke and Voss Associates for filing, and placed the proposal on a cutoff list to permit other parties an opportunity to file proposals in direct conflict with the BRV application. Subsequently, Braverman Broadcasting Company, Inc., timely filed a mutually exclusive application. Accordingly, Braverman's application will be accepted and, at the same time, will be designated for hearing in a proceeding with the BRV application. Although § 1.580(b) of the Commission's rules provides that no application will be acted upon less than thirty (30) days following issuance of public notice of the acceptance of the application, the Commission will, on its own motion, waive § 1.580(b) in order that the applications herein may proceed to hearing without further delay.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *Accordingly, it is ordered,* That the request of Braverman Broadcasting, Inc., for a waiver of § 73.150(a) of the Commission's rules is granted; that the application of Braverman Broadcasting Company, Inc., is hereby accepted for filing; that on the Commission's own motion, § 1.580(b) of the Commission's rules is waived; and that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Burns, Rieke and Voss Associates:

(a) Whether the applicant partnership and its financial contributors, Raymond Voss, Thomas M. Nereim, and Robert B. McDowell, possess adequate current assets to finance the proposed station;

(b) Whether all the contributors are willing to endorse the note as required by the Hawkeye State Bank; and

(c) Whether in light of the evidence adduced pursuant to (a) and (b), above, the applicant is financially qualified.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. *It is further ordered,* That those portions of the engineering amendment submitted by Burns, Rieke and Voss Associates on September 11, 1972, specifying "standard" radiation patterns for its proposed day and nighttime operations are dismissed.

9. *It is further ordered,* That, in the event of a grant of the application of either Burns, Rieke and Voss Associates or Braverman Broadcasting Company, Inc., the construction permit shall contain the following conditions:

Upon the completion of the proof of performance measurements, the permittee shall, without making any adjustment of the operating parameters, observe the daily variations occurring in the phases and currents of the individual towers as well as the nondirectional and directional fields at the monitoring points, over a period of at least 30 days. The data shall be recorded and plotted in a manner that will permit a determination of the permissible limits of parameter variations for incorporation in the station license. This information shall be submitted 45 days after commencement of authorized program test operation.

In order to insure maintenance of the radiated fields within the required tolerance, a properly designed phase monitor shall be installed in the transmitter room, and shall be continuously available as a means of correctly indicating the relative phase and magnitude of the currents in the several elements of the directional system to demonstrate that the array is maintained during day-to-day operation within the maximum expected operating values of radiation.

10. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

11. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 27, 1972.

Released: October 5, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17591 Filed 10-13-72;8:49 am]

[3] 32 FCC 2d 175, 23 RR 2d 182 (1971).

CABLE TELEVISION FEDERAL-STATE/LOCAL ADVISORY COMMITTEE

Notice of Rescheduling of Steering Committee Meetings

The Steering Committee meetings of the Cable Television Federal-State/local Advisory Committee, which were scheduled for October 16 and October 17, have been canceled. These meetings have been rescheduled for November 20 and 21. They will be held in Room 847S of the main FCC building at 10 a.m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17592 Filed 10-13-72;8:49 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY

Agenda of Meeting

Supply - Technical Advisory Task Force—Regulation and Legislation, to be held in Conference Room 2043 of the Federal Power Commission, 441 G Street NW., Washington, DC, November 16 and 17, 1972, 9 a.m.

Presiding: Dr. Paul J. Root, FPC Survey coordinating representative and secretary.

1. Call to order and introductory remarks, Dr. Root.

2. Review of redrafts, Mr. R. Earle Wright, Task Force Director, Supply-Technical Advisory Task Force—Regulation and Legislation

3. Review of conclusions to individual reports, Mr. Wright.

4. Status of assigned work programs and estimated date for completion, Mr. Wright.

5. Other business.

6. Adjournment, Dr. Root.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17585 Filed 10-13-72;8:47 am]

[4] Commissioner Johnson abstaining from voting.

[Dockets Nos. RI71-691 RI73-70]

AMOCO PRODUCTION CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund [1]

OCTOBER 6, 1972.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas-Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Order also consolidates proceedings, provides for prehearing conference, and sets time limit for notices or petitions to intervene.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI73-70	Amoco Production Co	57	26	Phillips Petroleum Co. (Texas R.R. District No. 10 and Oklahoma, Hugoton Field Area).	$26,413	9-7-72		9-8-72	[1] [3] 13.5	[2] [3] 13.99682	RI71-691.
	do			do	9,427	9-7-72		9-8-72	[2] [4] 13.44875	[2] [4] 13.89129	RI71-691.

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Texas production.
[2] Oklahoma production.
[3] Rates computed on basis of 172.928 percent of Amoco's base price of 7.9956 cents plus applicable tax reimbursement (172.928 percent=16.22 cents—Phillips' current resale rate÷9.3796 cents—Phillips' base price as of Jan. 18, 1965, the date Phillips amended its contract with Michigan-Wisconsin to provide for fixed periodic price escalations only). Phillips contends that correct contractually due rate should be computed on basis of 167.891 percent of 7.9956 cents. (167.891 percent=16.22 cents÷10.2729 cents—Phillips' current base price).
[4] Sweet gas rate. Subject to deduction of 0.7723 cents if gas is sour.

Amoco's proposed increased rates do not exceed the applicable area rate ceilings established in Opinion No. 586 for the Hugoton-Anadarko Area. There is, however, a dispute between Amoco and Phillips as to whether the rates proposed here are authorized under the subject contract. Accordingly, the proposed rates are suspended for 1 day from the date of filing (the date an acceptable filing would be effective under Opinion No. 586).

Amoco's current rates are effective subject to refund in Docket No. RI71-691 pending resolution of a similar contractual dispute to the one involved here. Docket No. RI71-691 is therefore consolidated with the subject case and these matters are set for prehearing conference with respect to such contractual issues.

In order to resolve the aforementioned contractual questions, and to expedite the hearing provided for in ordering paragraph A, supra, a prehearing conference shall be held in accordance with § 1.18(c) of the rules of practice and procedure, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on November 7, 1972, at 10 a.m. (e.s.t.) concerning the contractual issues hereinbefore discussed.

A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene the prehearing conference in these proceedings.

Notices of intervention or petitions seeking leave to intervene in these consolidated proceedings shall be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure, 18 CFR 1.8 and 1.37(f), on or before November 3, 1972.

After convening the prehearing conference provided for herein, the Administrative Law Judge may recess the same to provide the parties an opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment for settlement of the issues in these proceedings.

The Administrative Law Judge may in his discretion grant recesses from time to time if he deems settlement or submission of the issues upon stipulated facts to be possible. If no settlement or stipulation can be reached by the parties hereto after reasonable time and provision has been made for the same, the procedural dates for service of prepared testimony and exhibits, and for hearings on the issues herein shall be fixed by the Administrative Law Judge.

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1 day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15 U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1 day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically,

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this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-17594 Filed 10-13-72;8:50 am]

[Dockets Nos. RI73-61 et al.]

AMOCO PRODUCTION CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 4, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective Date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI73-61	Amoco Production Co	163	25	El Paso Natural Gas Co. (San Juan Basin, N. Mex. and Colo.).	$1,072	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
	do	[2] 346	4	do	(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[1] 469	9	do	1,000	9-7-72		3-25-73	21.0	22.0	R169-440.
	do				[3] 817	9-5-72		3-6-73	[3] 21.33	22.0	R172-231.
	do	[1] 484	8	do	(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
					[3] 94	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
	do	[1] 485	10	do	(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
					[3] 94	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
	do	529	3	do	(4 7)	9-5-72		3-6-73	[3] 22.0	[4] [5] [8] 28.0	R172-231.
RI73-62	C. Crady Davis	2	8	El Paso Natural Gas Co. (San Juan Basin, N. Mex.).		9-5-72	10-6-72	[13] Accepted			
	do	2	9	do	5,431	9-5-72		3-6-73	14.0593	[3] [9] 22.0	R169-683.
RI73-63	Texas Pacific Oil Co., Inc	100	4	Northern Natural Gas Co. (Ozona (Canyon Sand) Field, Crockett County, Tex.) (Permian Basin).	241	9-5-72		11-6-72	[14] 16.06	[14] 17.064	
RI73-64	Pubco Petroleum Corp	10	[11] 9	Southern Union Gathering Co. (Blanco Mesa Verde Field, San Juan County, N. Mex., San Juan Basin).	5,170	9-5-72		4-1-73	15.2886	[10] 29.23	R170-217.
	do	11	[11] 9	do	2,684	9-5-72		4-1-73	15.2886	[10] 29.23	R170-217.
RI73-65	Amoco Production Co	[1] 320	7	El Paso Natural Gas Co. (San Juan Basin, N. Mex. and Colo.).	[3] 121	9-7-72		3-8-73	[3] 21.33	[3] [9] 22.0	R172-231.
					(4 7)	9-7-72		3-8-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[1] 370	26	do	[3] 21	9-7-72		3-8-73	[3] 21.33	[3] [9] 22.0	R172-231.
					(4 7)	9-7-72		3-8-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[1] 497	20	do	[3] 107	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
					(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[1] 498	25	do	[3] 221	9-7-72		3-8-73	[3] 21.33	[3] [9] 22.0	R172-231.
					(4 7)	9-7-72		3-8-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[1] 499	17	do	[3] 1,210	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
					(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[1] 500	14	do	[3] 858	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
	do			do	(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R173-231.
RI73-65	Amoco Production Co	[1] 517	10	El Paso Natural Gas Co. (San Juan Basin, N. Mex. and Colo.).	[3] 422	9-5-72		3-6-73	[4] 21.33	[3] [9] 22.0	R172-231.
	do			do	(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
	do	[3] 530	3	do	(3)	9-7-72		3-8-73	[3] 22.0	[4] [5] [8] 28.0	R172-231.
	do	[1] 535	7	do	[3] 60	9-5-72		3-6-73	[3] 21.33	[3] [9] 22.0	R172-231.
	do			do	(4 7)	9-5-72		3-6-73	[3] 21.33	[4] [5] [8] 28.0	R172-231.
RI73-66	Sun Oil Co	[1] 319	9	do	2,057	9-8-72		3-9-73	[3] 21.33	[3] [9] 22.0	R172-227.
	do	[1] [3] 353	14	do	587	9-8-72		3-9-73	[3] 21.33	[3] [9] 22.0	R172-227.
	do	[1] 431	[12] 7	do	14,237	9-8-72		3-9-73	[3] 21.33	[3] [9] 22.0	R172-227.
RI73-67	Beta Development Co	1	15	El Paso Natural Gas Co. (San Juan Basin, N. Mex.).	[3] 67,565	9-7-72		3-8-73	[3] 21.33	[3] [9] 22.0	R172-226.
					[3] 42,564	9-7-72		3-8-73	[3] 21.33	[3] [5] [9] 28.0	R172-226.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective Date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI73-68	Belco Petroleum Corp	4	8	Mountain Fuel Supply Co. (Big Piney Field, Sublette and Lincoln Counties, Wyo.).	26,061	9-12-72		3-13-73	20.3	[4] 23.87	RI73-35.
	do	17	1	Natural Gas Pipeline Co. of America (James Ranch Area, Eddy County, N. Mex., Permian Basin).	72,000	9-11-72		3-12-73	[3] [14] 27.0	[3] [13] [14] 32.0	
RI73-69	Hunt Oil Co	68	3	El Paso Natural Gas Co. (Sand Dune West (Atoka) Field, Eddy County, N. Mex., Permian Basin).	115	9-11-72		5-11-73	[3] [14] 30.0	[3] [14] 30.35	R172-160.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] New Mexico production.
[2] Colorado production.
[3] For gas from wells completed prior to June 1, 1970.
[4] For gas from wells completed after June 1, 1970.
[5] Subject to B.t.u. adjustment.
[6] Increase from fractured renegotiated rate to total renegotiated rate.
[7] No production at present.
[8] Contract amendment.
[9] Exclusive of quality adjustments.
[10] Unilateral increase.
[11] Includes letter from Pubco to buyer giving notice of termination of contract effective November 1, 1972.
[12] Does not include gas from acreage added by Supplement No. 3 for which 22 cents is being collected.
[13] Increase from initial certificated rate to initial contract rate.
[14] The pressure base is 14.65 p.s.i.a.
[15] Accepted for filing to be effective on the date shown in the "Effective Date" column.

The proposed increase of Texas Pacific Oil Co., Inc., under Supp. No. 4 to its FPC Gas Rate Schedule No. 100, does not exceed the corresponding rate filing limitation imposed in southern Louisiana and therefore is suspended for 1 day from the expiration of the 60-day notice period.

The other proposed increased rates involved here exceed the corresponding rate filing limitations imposed in southern Louisiana and therefore are suspended for 5 months from the expiration of the 30-day statutory notice period or from the contractual effective date, whichever is later.

All of the producers' proposed rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, Chapter I, Part 2, section 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)), in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-17442 Filed 10-13-72;8:45 am]

[Project No. 2600]

BANGOR-HYDRO ELECTRIC CO.

Notice of Further Postponement of Hearing

OCTOBER 6, 1972.

On September 7, 1972, a notice was issued postponing the hearing in the above matter until October 11, 1972. The hearing is further postponed until December 11, 1972, for the reasons stated in the prior notice.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17597 Filed 10-13-72;8:50 am]

[Docket No. CI73-239]

CHARLES A. BARTON, SR. ET AL.

Notice of Application

OCTOBER 12, 1972.

Take notice that on October 4, 1972, Charles A. Barton, Sr. et al. (Applicants), 903 Beck Building, Shreveport, La. 71101, filed in Docket No. CI73-239 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. from the Fields Field Area, Beauregard Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of gas on September 19, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that they propose to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicants propose to sell approximately 2,000 Mcf of gas per day at 35 cents per Mcf at 15.025 p.s.i.a., plus 1 cent per Mcf upward B.t.u. adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17678 Filed 10-13-72;8:51 am]

[OPINION 622-A; Dockets Nos. CP71-68, etc.]

COLUMBIA LNG CORP., ET AL.

Opinion and Order on Rehearing

OCTOBER 5, 1972.

Columbia LNG Corp., Docket No. CP71-68, Consolidated System LNG Co., Docket No. CP71-153, Southern Energy Co., Dockets Nos. CP71-151 and CP71-264, Southern Natural Gas Co., Docket No. CP71-276, Columbia LNG Corp., Consolidated System LNG Co., Docket No. CP71-289, and Consolidated System LNG Co., Docket No. CP71-290.

In Opinion No. 622 and order we granted Columbia LNG Corp., Consolidated LNG Corp. and Southern Energy Co. (Applicants) authority to import liquefied natural gas (LNG) from Algeria to be purchased by El Paso Algeria Corp. from Sonatrach, a corporation owned by the Algerian Government, to be transported in tankers owned by an affiliate of El Paso Algeria, and to be delivered to Columbia LNG and Consolidated LNG at Cove Point, Md., and to Southern Energy at Savannah, Ga. We issued certificates of public convenience and necessity to Columbia LNG, Consolidated LNG, Southern Energy and Southern Natural Gas Co. for necessary facilities including the terminal facilities and associated pipelines. Our authorizations were subject to several conditions which were discussed more fully in Opinion No. 622.

A large number of parties, including the Applicants, as well as El Paso Algeria Corp. and Sonatrach, filed timely applications for rehearing of the Commission's Opinion No. 622 and order issued June 28, 1972. Several additional applications for rehearing were not filed within the prescribed time. A number of motions to intervene or notices of intervention were filed, usually with applications for rehearing attached. A number of motions were filed asking leave to file briefs amici curiae with briefs attached requesting rehearing or reconsideration. Philadelphia Gas Works filed a petition for clarification. Oral argument was requested in many of the filings.

In an order in this docket dated August 2, 1972, we granted rehearing for purposes of further consideration. We also granted all requests for intervention as well as all motions to file briefs amici. Finally, we held that, since the contentions made in the filings involved such important questions of policy, we would afford oral argument and provide for filing supplemental briefs after the oral argument.

On August 18 and 21, 1972, oral argument was held before the Commission. On the basis of the petitions for rehearing, briefs amici curiae, oral argument and supplemental briefs the Commission modifies its original opinion and order in this docket as set out below. Except for those changes expressly stated in this opinion and order, the findings and orders contained in Opinion No. 622 shall govern.

GAS SHORTAGE

Our Opinion No. 622 stated that we were approving this project and authorizing the importation of foreign LNG because of a shortage of gas in the United States and a shortage of gas on the systems represented by the importers. None of the filings or arguments presented in response to Opinion No. 622 has contradicted this conclusion. All of the parties in these proceedings maintain that the parent companies of the three pipeline importers do not have adequate supplies of gas to maintain service to existing customers and that absent this project the pipelines face curtailments of service in the future. We remain convinced that this gas is badly needed by the pipeline parents of the Applicants and that at the present time it represents the cheapest additional increment of gas available to these three pipelines. Therefore, we sustain our authorization of this project and, moreover, hope by so doing to encourage similar projects by others.

We have been persuaded by the pleadings, however, that this project would not be economically viable unless some of the conditions we imposed in Opinion No. 622 are modified. Therefore, we shall modify those conditions which we find necessary to make the project economically viable while at the same time preserving those conditions which we find to be essential for the protection of the consumers of gas in the United States.

JURISDICTION

In Opinion No. 622 we found that El Paso Algeria is a "natural gas company" within the meaning of section 2(6) of the Natural Gas Act and that as such it would be required to obtain a section 7(c) certificate for the sale of LNG to the Applicants. This position has been attacked by El Paso Algeria, ESSO LNG, Inc., Shell Oil and others who state that even though the transportation and sale by El Paso Algeria to the Applicants is for resale in interstate commerce, the fact that none of El Paso Algeria's activities take place in interstate commerce precludes us from taking jurisdiction over the company. Our reconsideration of this question leads us to agree and, accordingly, to alter the jurisdictional posture set forth in Opinion No. 622.

The Natural Gas Act imposes the obligations of a natural gas company only upon those engaged in the transportation and/or sale for resale of natural gas in interstate commerce. Section 2(6), Natural Gas Act. The Act provides a definition of interstate commerce as:

> Commerce between any point in a State and any point outside thereof, * * * but only insofar as commerce takes place within the United States. Section 2(7), Natural Gas Act.

We find herein that all sales and transportation proposed by El Paso Algeria in this project are activities wholly in foreign commerce. Thus, we necessarily find that El Paso Algeria's proposed activities do not bring it within the definition of a natural gas company and that no section 7(c) certificate will be required. Chairman Nassikas dissents on this issue.

ECONOMIC ISSUES

The overriding concern among most of the filings and arguments for rehearing was that many of the conditions imposed in Opinion No. 622 would make it impossible for the Applicants to obtain financing for this project. If the Applicants cannot obtain financing, the project is not viable and consumers of natural gas on these three pipeline systems would not receive the benefit of this gas. Therefore, we make certain modifications in our earlier opinion to assure the financing of this project consonant with the public interest.

At the same time we modify our earlier opinion to assure the financing of this project, we must caution that we will continue to review all supplemental gas supply projects to assure appropriate consumer safeguards. The supply of available, deliverable natural gas in the United States is dangerously short. New supplemental supplies of gas are badly needed. These facts we readily acknowledge. We will not acknowledge, however, that it is in the best interest of gas consumers in the United States that any project which promises new supplies of gas be approved regardless of the associated price and other conditions. In this project, as in other supplemental supply projects, we must develop those policies which will assure all consumers in the United States the most economical and most efficient mix of energy possible. It is this latter objective which we are attempting to achieve by the conditions we have imposed in our approval of the applications in this proceeding.

CONTRACTUAL TERMS

We modify our earlier order so as to approve the Sonatrach contract with El Paso Algeria as it has been signed and presented to the Commission. This contract includes a fixed base price of 30.5 cents per million B.t.u. The contract allows for an escalation of this price to the extent of 20 percent of future increases in two selected Bureau of Labor Statistics indexes, specifically the index of wages in the petroleum industry and the United States cost of steel mill products. We conclude that these contractual arrangements are reasonable and in the public interest, and that the import price paid by the importing companies may properly reflect all changes in Sonatrach's price to El Paso Algeria which result from application of the contract formula.

Under the contracts between El Paso Algeria and the three importers, the LNG will be sold at a base price reflecting the Sonatrach price, the investment in the facilities including the tankers, operating expenses and the cost of debt. The base price is subject to change, either upward or downward, to reflect the Sonatrach price, operating expenses and capital recovery. In Opinion No. 622, we accepted this formula pricing and set a fixed import price utilizing the applicants' computation of what the prices would be in the first full year of operation. On rehearing it is argued that the effect of our fixed import price will be to limit the recovery of El Paso Algeria to something less than actual costs and that therefore the condition is unworkable.

Opinion No. 622 was not sufficiently clear to express our intentions as to the import price, and we now undertake to clarify that opinion.

We approve, as in the public interest, the base initial prices of 64.6 cents per MMB.t.u. at Cove Point and 68.6 cents per MMB.t.u. at Elba Island. We approve, as in the public interest, the contract pricing formula which permits change in the base prices to recover prudently incurred costs during the time prior to actual commencement of deliveries. We estimate, as do the parties, that delivered prices in the year of first delivery will be 77 cents per MMB.t.u. at Cove Point and 83 cents per MMB.t.u. at Elba Island, and accordingly, we accept the projected price range as establishing an acceptable zone of reasonableness.

We recognize, however, that costs actually experienced may vary from the estimates which are now agreed upon. Accordingly, if a revision of the import price which we authorize in issuing sections 3 and 7 approval of these imports is necessary because actual costs, reasonably and prudently incurred, exceed present estimates, the Applicants are free to request amendment of the import authorizations and establish the justification for any increase.

Because of our lack of jurisdiction over El Paso Algeria, it is necessary that we maintain, as the parties concede we should, control over the price to be paid by the importers for this gas. Our standard, as set forth in judicial interpretations of the Natural Gas Act, is the lowest reasonable cost consistent with adequate service to meet consumer demands. The Natural Gas Act does not equate "actual cost" with "lowest reasonable cost," and it is not, therefore, proper for us to look only to what the importers pay. We must examine also the basis for any requested change in import price and accordingly we will require that any requested change in import price over 77 cents at Cove Point and 83 cents at Elba Island, except changes in the cost of purchased gas under the Sonatrach contract, be substantiated by original testimony and exhibits from El Paso Algeria and/or El Paso Marine. It will be the responsibility of the importers to secure and submit such evidence as part of their case-in-chief.

CURTAILMENT

With respect to our findings concerning curtailment of LNG (para. 46), we have reconsidered and find that because of our full costing of the LNG on an incremental basis, such LNG should be contracted for on a firm basis, not subject to curtailment. We also find that Columbia, Consolidated and Southern should be allowed to recover the transportation or other charges allocated to the LNG supplements herein authorized during periods when these pipelines are curtailing their non-LNG service. Separate rate schedules of LNG during periods of curtailment need not be filed.

CHEAPER ALTERNATIVE SUPPLY

There was misunderstanding concerning paragraph 48 of Opinion No. 622. In that paragraph, we state that the reasonableness of the prices being paid by domestic pipelines for foreign LNG will be determined in part on the basis of prices for other alternative supplies of gas. This has been read by many parties as indicating that at some future date we would rewrite the contracts approved herein so that the consumers of natural gas will have to pay no more for this foreign LNG than they would for the cheapest available alternative supply of gas. The Applicants have read this provision to mean that certificates might be modified to their detriment at some future date so that the project would not continue to be economically viable. Understandably, they claim this condition creates an intolerable uncertainty which they should not be asked to bear and also which makes the project very difficult, and perhaps impossible, to finance.

More has been read into paragraph 48 than we had intended. Our intention was only to state that any time a new supplemental supply project comes before us, it must pass the test of being the cheapest alternative supply of gas currently available to the affected interstate pipelines. If the supplemental supply project does not meet this criterion, then we will not approve it for sale in the interstate market. In the instant case, we are convinced that at the current time this LNG project represents the cheapest available supplemental supply of gas. Therefore, we certify it without qualification as to future prices of alternative supplies.

We should possibly clarify one other point on the cheaper alternative concept. We are approving in this project certain quantities of gas for certain periods of time under certain price and other conditions. To the extent that our statutory authority permits, we are sanctifying the certificates issued in this project. Regardless of what alternative supplies become available or the conditions under which the alternative supplies can be purchased, we have no intention of altering the terms and conditions of the certificates approved herein. However, if at some future date, Applicants propose for this project an increase in the amount of gas to be imported, the cheaper alternative concept will again become operative in considering approval of the proposed modification as to additional volumes of gas not previously certificated. At that point in time, it must be shown that the proposed increase in volumes imported represent the cheapest alternative supply of gas available to the respective pipelines.

INCREMENTAL PRICING

We conclude that Opinion No. 622 should be modified to delete paragraph 49 which required, in effect, incremental pricing by pipeline customers. We so order.

Although we agree that the Natural Gas Act precludes us from determining the prices at which distributors must sell to their ultimate customers, we do not necessarily agree that it is outside our jurisdiction to require our jurisdictional pipelines to impose certain conditions on their sales to distributors. Nevertheless, we are convinced that it is not sound regulatory policy to require the distributors to develop separate LNG incremental pricing schedules. We are impressed with the argument that such schedules would be administratively impracticable to implement at this time and, moreover, that the appropriate State or local regulatory commissions should analyze the particular needs of their consumers and distributors and determine appropriate rate designs on the basis of their evaluation.

Incremental pricing, under separate rate schedules, by the pipeline purchasers of this LNG,[1] is still required under the terms of Opinion No. 622. The purchasing pipelines may transport and sell regasified LNG only under separate rate schedules which reflect recovery of all LNG costs and a fair allocation of cost of service of transport and storage in the existing jurisdictional system of the pipelines.

Incremental pricing by the pipeline is adopted for this project, without attempting to delineate Commission policy on other proposals now before us or which may be filed in the future. Incremental pricing at the pipeline level is predicated upon considerations of economic principles, efficient allocation of resources, distributor flexibility, and consumer protection, as stated and discussed in the separate statements of Commissioners Walker and Moody. There are opposing considerations of administrative difficulty, possible impairment of financing, consumer protection and system benefits to be derived from this project, as stated and discussed in the separate statements of Chairman Nassikas and Commissioner Brooke.

MINIMUM BILLS

In Opinion No. 622 the Commission unanimously rejected the proposed "cost-

[1] Columbia Gas Transmission Corp., Consolidated Gas Supply Corp., and Southern Natural Gas Co.

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of-service" tariffs of Columbia LNG, Consolidated System LNG Co., and Southern Energy Co., which among other provisions, required payment by the pipeline purchasers of a minimum bill, irrespective of whether LNG deliveries were made to the pipelines.

We are now persuaded that although full "cost-of-service" tariffs are not in the public interest, the type of minimum bill proposed by Consolidated LNG is acceptable for this project, and that, in the event of nondelivery, certain fixed costs should be recovered by the LNG companies. Stockholders of the LNG companies would not be permitted during any period of nondelivery to recover a return on its equity investment or to recover its equity investment through depreciation. Such tariff provisions are required by the public convenience and necessity as an equitable apportionment of the risk between customers and stockholders and in order to assure the financing of the project on reasonable terms to the consumer.

Accordingly, we modify paragraph 44 of Opinion No. 622 to permit inclusion in the tariffs, rate schedules, and service agreements to be filed by Columbia LNG, Consolidated LNG, and Southern Energy (see ordering paragraph F(2) of Opinion No. 622) of minimum bill provisions worded as follows:

In the event that Seller is unable to deliver gas to Buyer during any period exceeding 1 day, Buyer shall reimburse Seller for all out-of-pocket expenses incurred during such period, limited to the following:

(a) Operating and maintenance expenses;

(b) Taxes payable;

(c) Interest expense based on that portion of Seller's then existing debt which was incurred for the construction of the LNG and related facilities;

(d) The requirements for repayment of such debt; and

(e) Amounts, if any, Seller shall be obligated to pay suppliers arising from Buyer's failure to accept deliveries from Seller.

Provided, however, That Buyer's obligation to pay shall not extend beyond the time at which Seller, if it is the party claimng force majeure, could have remedied the cause in an adequate manner with all reasonable dispatch in order to resume deliveries to Buyer.

DEPRECIATION

Consolidated LNG objects to our condition in the certificates granted to it and Columbia LNG that the rate schedules be based on depreciation on the transmission facilities not to exceed the rate, approved by the Commission, to be charged for such class property by their respective affiliated customers instead of the 5 percent allowed on the terminal facilities. Consolidated LNG now yields on the north-south Loudoun-to-Leidy line because of its possible use for other purposes but argues that the Cove Point-to-Loudoun line is an east-west line, basically, and can only be used for LNG, not for conventional purposes. We are persuaded that those facilities which can be utilized only as an adjunct to the terminal facilities should be depreciated at the same rate of 5 percent as the terminal facilities, and we so order.

ESCALATION OF CONSTRUCTION COSTS

At oral argument and in supplemental briefs, it was brought to the Commission's attention that the cost for construction of the liquefication facilities in Algeria is escalating at the rate of 0.6 percent per month after March 15, 1972, through agreement between Chemico and Sonatrach. (T. 6041–2) This escalation approximates $1.86 million per month and will terminate when Sonatrach gives notice to Chemico to commence construction.

We conclude that the Applicants should be permitted to charge to the LNG cost of service the accumulated escalation through the date of this order under the terms of the Chemico-Sonatrach contract since these are legitimate project costs. Thus, the public convenience and necessity will be served by preventing this contract from being terminated.

ENVIRONMENT

Two issues have been raised on rehearing and at oral argument concerning the environment. Sierra alleges that the Commission erred in not considering alternatives to Cove Point, Md., and Potomac challenges alternatives to the Loudoun, Virginia-Leidy, Pa., pipeline route of Consolidated and the pipeline route from Cove Point to Leidy (T. 6330–1). With respect to Potomac's assertions, we are satisfied that a pipeline direct from Cove Point to Leidy is not a viable alternative, inasmuch as a joint line and the compressor facilities at Loudoun make such an alternative impractical. Over two-thirds of the 82.6 miles of pipeline from Cove Point to Loudoun will be on or adjacent to existing rights-of-way with an insignificant environmental impact. With respect to the 190 miles of pipeline from Loudoun to Leidy, we are convinced that the record establishes the two fixed termini. However, we are also convinced that the state of the present record in this proceeding is inadequate for us to make findings regarding the actual route of the line between Loudoun and Leidy and alternatives to that proposed by Consolidated. Accordingly, we will sever this limited issue and remand for a limited reopening of the record to study alternatives to Consolidated's actual proposed routing of the line from Loudoun to Leidy. We will receive evidence from all parties, including staff, on alternatives of the pipeline route between Leidy and Loudoun. In all other respects, the pipeline certificates issued in Opinion No. 622 will remain as is.

Sierra alleges there has been inadequate consideration of alternatives to the Cove Point facilities and terminal site. Indeed, any other "environmental" arguments were waived by counsel for Sierra at oral argument (T. 6355). We need not reiterate our reasons for rejecting Sierra's alleged technical violations of our Orders Nos. 415 and 415–B, which reasons were set forth in length in Opinion No. 622. Sierra does not deny that it knew of the pending proceeding (T. 6347).

The crux of Sierra's argument cannot be that there is a lack of substantial record evidence to support the Commission's finding respecting Cove Point; on the contrary, Sierra merely disagrees with the Commission's determination even though such decision was based upon substantial evidence developed in the hearing record of this proceeding. In their offer of proof, Sierra would have the Commission select one of four alternate sites, such alternates having been mentioned in the Bechtel report (T. 6351) prepared for El Paso Algeria, not for the pipeline applicants. Counsel for El Paso Algeria has pointed out that this study was prepared prior to NEPA, without using environmental criteria, and not for the purposes which Sierra would have this Commission believe the report was prepared for (see T. 6449–50; El Paso Algeria Supplemental Brief, pp. 38–42). Sierra has not rebutted these statements.

We reiterate that the Cove Point facility was selected after record examination of alternatives (e.g., T. 4976–8, 5112–3, 5134–7, 6075–9). Moreover, the impracticality and infeasibility of any of the four sites advocated by Sierra persuades us that no purpose would be served to reopen the record (see Columbia's Supplemental Brief, pp. IV 25–30 and related exhibits). Contrary to Sierra's contentions, the record establishes that the Cove Point location was not designated as a park (Exh. 218; Exh. 215, App. B).

The Commission further finds and so orders:

(1) Except for the clarifications in the opinion and order, and as herein provided, the applications for rehearing are denied, inasmuch as no new facts or legal authorities have been presented which would require further modification in Opinion No. 622.

(2) The record in this proceeding shall be reopened for the limited purpose of permitting the submission of evidence relating to the proposed pipeline route from Loudoun, Va., to Leidy, Pa., and such issue is hereby severed and remanded for the receipt of additional evidence.

(3) On or before November 15, 1972, Consolidated shall serve evidence on the proposed pipeline route from Loudoun, Va., to Leidy, Pa., including applicable evidence concerning the environmental consequences of such a route or routes. On or before November 30, 1972, Intervenors and Staff shall serve answering evidence. Hearings for the purpose of cross-examination shall commence December 14, 1972.

(4) The Administrative Law Judge shall preside at and control this proceeding in accordance with policies expressed in the Commission's rules of practice and procedure.

(5) Columbia LNG be, and it is hereby authorized, subject to the conditions specified herein, to import LNG from Algeria to proposed facilities in the United States located at Cove Point, Md., in annual quantities of approximately 123,187.5 billion B.t.u., at a base rate calculated in accordance with the existing contracts of 64.6 cents per MM B.t.u., plus other prudently incurred costs. Such authorization is limited to a price of 77 cents per MM B.t.u., plus additional costs which may be shown to serve the future public convenience and necessity, by application filed under section 3.

(6) Consolidated LNG be, and it is hereby authorized, subject to the conditions specified herein, to import LNG from Algeria to proposed facilities in the United States located at Cove Point, Md., in annual quantities of approximately 143,718.75 billion B.t.u., at a base rate calculated in accordance with the existing contracts of 64.6 cents per MMBtu, plus other prudently incurred costs. Such authorization is limited to a price of 77 cents per MMBtu, plus additional costs which may be shown to serve the future public convenience and necessity by application filed under section 3.

(7) Southern Energy be, and it is hereby authorized, subject to the conditions specified herein, to import LNG from Algeria to proposed facilities in the United States located at Elba Island, Ga., in annual quantities of approximately 143,718.75 billion B.t.u. at a base rate calculated in accordance with the existing contracts of 68.6 cents per MMBtu, plus other prudently incurred costs. Such authorization is limited to a price of 83 cents per MMBtu, plus additional costs which may be shown to serve the future public convenience and necessity and by application filed under section 3.

(8) Ordering paragraph (D)(3) of Opinion No. 622 is hereby deleted.

(9) Ordering paragraph (F)(2)(a) of Opinion No. 622 is amended so that the 5 percent depreciation rate is applicable to transmission facilities from Cove Point to Loudoun, Va.

(10) Ordering paragraph (F)(2)(c) of Opinion No. 622 is amended to read as follows:

Separate incremental rate schedules, consistent with the terms and conditions of this opinion and order.

(11) Ordering paragraph (F)(2) is clarified so that the filing of separate incremental rate schedules is applicable to Southern Natural Gas Co. in addition to Columbia Gas Transmission Corp. and Consolidated Gas Supply Corp.

(12) Ordering paragraph (E) is amended by adding the following:

for the Loudoun-to-Leidy pipeline shall be determined in the separate proceeding herein ordered.

(13) Ordering paragraph (I) is deleted.

By the Commission. Chairman Nassikas filed a separate statement which is filed as part of the original document. Commissioners Walker and Moody filed a joint concurring statement which is filed as part of the original document. Commissioner Walker concurring filed a separate statement which is filed as part of the original document. Commissioner Brooke dissenting on single issue filed a separate statement as part of the original document.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17596 Filed 10-13-72;8:50 am]

[Docket No. CI73-240]

HUMBLE OIL & REFINING CO.

Notice of Application

OCTOBER 12, 1972.

Take notice that on October 5, 1972, Humble Oil & Refining Co. (Applicant), Post Office Box 2180, Houston, TX 77001, filed in Docket No. CI73-240 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Co. from the Howe Field, Ward County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 20,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a. for 10 months within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17677 Filed 10-13-72;8:51 am]

[Docket No. E-7760]

IOWA PUBLIC SERVICE CO.

Order Accepting for Filing and Suspending Proposed Changes in Rate Schedules

SEPTEMBER 29, 1972.

On August 2, 1972, Iowa Public Service Co. (IPS) tendered for filing proposed changes in its FPC Rate Schedules Nos. 20–25, 27–29, 31, and 33–35 to become effective October 2, 1972. The proposed rates would constitute an increase of approximately $102,238 based on test year 1971 revenues. IPS avers that the proposed increase is necessary to enable it to recover operating expenses and depreciation for the test year 1971.

The notice of proposed increases, issued on August 8, 1972, provided that the closing date for petition to intervene, protests, and comment was September 5, 1972. Timely petitions to intervene were filed by the following parties: Town of Hudson; town of Auburn; city of Pocahontas; Lincoln Light & Power Cooperative; town of Forda; town of Aplington; Farmers Cooperative Light & Power Company of Goldfield; town of Denver, Iowa; and the Iowa State Commerce Commission. Protests were submitted by the town of Livermore and the town of Anthon.

IPS rate filing indicates that the proposed rates would yield a rate of return of approximately 4 percent, based on 1971 test year operations. Under these circumstances, in order to determine the necessity of an evidentiary hearing, the Commission requests that intervenors and staff submit offers of proof within thirty (30) days of the issuance of this order to support their views as to the lawfulness of the proposed rates. Upon review of such pleadings, the Commission will determine if a full evidentiary hearing is justified and set such further procedural dates as may be necessary.

Pending the Commission's determination of whether an evidentiary hearing is necessary and in order to allow IPS's customers adequate time to take the necessary steps to adjust their rates to reflect IPS's proposed increase, it is appropriate that the proposed increased rates be suspended for a period of 45 days.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission request offer of proof from intervenors and staff concerning the lawfulness of the

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rates and charges contained in IPS Rate Schedules Nos. 20–25, 27–29, 31, and 33–35 as proposed to be amended in this docket, and that the tendered Rate Schedule be suspended as hereinafter provided.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

(4) Participation in this proceeding of the above-named petitioners to intervene may be in the public interest.

The Commission orders:

(A) The aforementioned proposed rate schedules, filed on August 2, 1972, are accepted for filing subject to the terms and conditions of this order.

(B) The above-named petitions to intervene are hereby granted subject to the Commission's rules of practice and procedure: *Provided, however,* The participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in these respective petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered in this proceeding.

(C) Not more than thirty (30) days after the issuance of this order, the Commission Staff and the above-named intervenors shall submit offers of proof as to the lawfulness of the proposed rate increases, from which the Commission can make a finding as to the necessity of an evidentiary hearing.

(D) Pending a final decision in this proceeding, IPS's proposed Rate Schedules tendered August 2, 1972, are suspended and the use thereof deferred until November 16, 1972, subject to refund as provided by section 205(e) of the Federal Power Act and the regulations thereunder.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17584 Filed 10-13-72;8:47 am]

[Docket No. CI73-220]

JONES & PELLOW OIL CO.

Notice of Application

OCTOBER 10, 1972.

Take notice that on September 22, 1972, Jones & Pellow Oil Co. (Applicant) c/o Barth P. Walker, 950 National Foundation Life Building, Oklahoma City, Okla. 73112, filed in Docket No. CI73-220 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas to Michigan Wisconsin Pipe Line Co. from the Woodward Area of Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant, small producer certificate holder in Docket No. CS71-157, states that under a contract dated October 25, 1968, providing for the sale and delivery of gas attributable to Applicant's interest on the date of the contract occurring above the base of the Hunton Formation underlying the lands and leaseholds covered by the contract, the buyer is required within a 90-day period after written notice by Applicant of the completion of a well to connect that well, if economically feasible to connect, or to begin paying for the quantity of gas which would have been delivered if connected. Applicant states that it is agreed that a well which has a reserve of not less than 1½ million Mcf of gas for each mile of pipeline must be connected.

The application indicates that the contract provides for reserve redetermination not more frequently than once each year; that the buyer is obligated to use due diligence to construct the facilities to take the gas; under certain circumstances, the buyer shall be obligated to pay for gas or to release the acreage from the agreement; and if withdrawal from the reservoir causes drainage of Applicant's reserves, the buyer is obligated to take additional gas to the extent necessary to equalize withdrawals and prevent such drainage. Applicant states that the contract was amended April 17, 1970, that certain acreage was brought thereunder, and that it was agreed that the reserves contributed were 1.506 million Mcf of gas.

Applicant alleges that the buyer has failed and refused and continues to fail and refuse to accept delivery of gas from certain wells on lands or leaseholds covered by the contract, as amended, and that as a result thereof Applicant is losing current income and is in imminent danger of losing its gas by drainage to others. Applicant alleges further that unless the service covered by the subject contract is abandoned and unless all lands, leaseholds, and wells are removed from the purview of the contract, Applicant will suffer irreparable damage and harm.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17595 Filed 10-13-72;8:50 am]

[Docket No. E-7758]

NORTHERN INDIANA PUBLIC SERVICE CO.

Order Accepting for Filing and Suspending Proposed Revised Tariff Sheets and Denying Motion To Make Proposed Settlement Rates Effective

SEPTEMBER 29, 1972.

On July 28, 1972, Northern Indiana Public Service Co. (NIPSCO) tendered for filing proposed changes in its FPC Electric Service Tariff, Original Volume No. 1[1] which would increase NIPSCO's revenues from jurisdictional sales and service to its municipal and corporate utility customers by $140,277 and to its Rural Electric Membership Corp., customers by $2,124,619 based on the 12-month period ending December 31, 1971, to become effective on October 1, 1972.

Notice of the proposed increased rates was issued on August 15, 1972. No protests or petitions to intervene were received. On August 18, 1972, an offer of settlement, to become effective October 1, 1972, was filed by NIPSCO with the Commission which included the written consent thereto of NIPSCO and all of its jurisdictional customers, but contained no cost-of-service data in support of the proposed settlement rates. Letters supporting the offer of settlement were received from the counsel for the municipal customers of Argos, Breman, Brookston, Chalmer, Kingsford Heights, Winamac and Walkerton; and from LaGrange County REMC and Carroll County REMC on August 23, 1972, June 22, 1972, and July 31, 1972, respectively. Since no supporting cost-of-service was filed with the offer of settlement, it cannot be evaluated at this time.

[1] First Revised Sheet No. 9 and Second Revised Sheet Nos. 5 and 11.

On September 25, 1972, NIPSCO filed a motion to make the proposed settlement rates effective on October 1, 1972. In support of its motion NIPSCO states that all of its jurisdictional customers signed the proposed settlement agreement filed with the Commission on August 18, 1972, and that all the customers agree that the settlement rates should be approved by the Commission and that these rates, rather than any other rates, should be made effective October 1, 1972, subject to refund.

Since no supporting cost of service data was filed with NIPSCO's offer of settlement we do not have sufficient information to determine whether a suspension of less than 5 months is justified. We will therefore deny NIPSCO's motion filed September 25, 1972, and, for reasons hereinafter stated, will suspend NIPSCO's proposed rate increase, tendered on July 28, 1972, for 5 months. However, upon the submission by NIPSCO of a cost-of-service in support of the settlement rates and if our review and analysis of that cost of service indicates that those rates are appropriate we can approve the settlement rates, allow them to become effective prospectively from the date of our order and terminate the suspension ordered herein.

Review of the tendered filing indicates that it raises certain issues which may require development in an evidentiary hearing. The proposed increases in rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in NIPSCO's FPC Electric Tariff as proposed to be amended in this docket, and that the tendered tariff sheets be suspended as hereinafter provided.

(2) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly section 205(e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held, commencing with a prehearing conference on January 23, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in NIPSCO's Electric Service Tariff, original Volume No. 1 as proposed to be revised herein.

(B) At the prehearing conference on January 23, 1973, NIPSCO's prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice.

(C) On or before January 16, 1973, the Commission staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any or all interveners shall be served on or before January 30, 1973. Any rebuttal evidence by NIPSCO shall be served on or before February 13, 1973. Cross-examination of the evidence filed will commence February 27, 1973.

(D) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose (see delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(E) Pending hearing and a final decision in this proceeding, NIPSCO's proposed revised tariff sheets listed in Footnote 1 and tendered on July 28, 1972, are suspended and the use thereof deferred until March 1, 1973.

(F) NIPSCO's motion to place its proposed settlement rates into effect, filed on September 25, 1972, is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17582 Filed 10-13-72;8:47 am]

[Docket No. E-7779]

NORTHERN STATES POWER CO.

Notice of Application

OCTOBER 6, 1972.

Take notice that on October 2, 1972, Northern States Power Co. (Applicant) of Minneapolis, Minn., filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured promissory notes to commercial banks and to commercial paper dealers in amounts not exceeding in the aggregate $100 million outstanding at any one time.

The promissory notes to be issued by the Applicant to commercial banks will be issued on various days in 1973, but no note will mature more than 12 months after date of issue or renewal. The interest rate of such notes will be at the prime loan interest rate of the banks in effect from time to time.

The promissory notes issued to commercial paper dealers will be issued on various days in 1973, but no note will mature more than 9 months after date of issue nor will any note be extended or renewed. The interest rate on such notes will be dependent upon the term of the notes and the money market conditions at the time of issuance. According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed the sum of (1) the dollar amount of Applicant's receivables arising out of the sale of electric, gas, heating, and telephone service and merchandise, (2) the dollar amount of Applicant's fuel inventory exclusive of nuclear fuels, and (3) the dollar amount of depreciation and amortization charges on plant and equipment for the preceding year.

The proceeds from the issuance of the notes will be added to the general funds of the Applicant which general funds will be used, among other things, to finance in part the Applicant's 1973 construction program and advances to Northern States Power Co. (Wisconsin), a wholly owned subsidiary, for similar purposes. Applicant estimates that construction expenditures for 1973 will total about $203,400,000 for NSP–MINN and $29,209,000 for NSP–WIS.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-17598 Filed 10-13-72;8:50 am]

[Docket No. CS71-828, etc.]

DOROTHEA B. PRENTISS ET AL.

Notice of Applications for Small Producer Certificates[1]

OCTOBER 5, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before No-

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vember 2, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS71-828...	[1] 9-14-72	Dorothea B. Prentiss, 730 Lane Bldg., Shreveport, La. 71101.
CS73-220...	8-26-72	Dwight S. Ramsay, Post Office Box 52027, Lafayette, LA 70501.
CS73-230 ..	9-22-72	Wilbur R. White, 1000 Fidelity Plaza, Oklahoma City, OK 73102.
CS73-231 ..	9-22-72	Amerex Drilling Program, Ltd., 313 Hightower Bldg., Oklahoma City, Okla. 73102.
CS73-232...	9-25-72	Ronny J. Hissom, Post Office Box 82, Midland, TX 79701.
CS73-233...	9-25-72	Robert L. Glossop, Post Office Box 82, Midland, TX 79701.
CS73-234...	9-25-72	James R. Groves, 4312 Redbud Pl., Edmond, OK 73034.
CS73-235...	9-25-72	David A. Chambers, 1022 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-236...	9-25-72	Powell-Sisney Co., Box 1140, Levelland, TX 79336.
CS73-238...	9-27-72	James R. Cox, Grand Junction, Colo. 81501.
CS73-239...	9-27-72	Arrowhead Oil Co., Grand Junction, Colo. 81501.
CS73-240...	9-27-72	Burt Day, Grand Junction, Colo. 81501.
CS73-241...	9-27-72	Richard P. Saunders, Grand Junction, Colo. 81501.
CS73-242 ..	9-27-72	Max Krey, Grand Junction, Colo. 81501.
CS73-243 ..	9-27-72	Charles L. Walker, Grand Junction, Colo. 81501.
CS73-244 ..	9-27-72	R. F. Gilmore, Grand Junction, Colo. 81501.
CS73-245 ..	9-27-72	Chapman & Morehouse Mining Co., Grand Junction, Colo. 81501.
CS73-246 ..	9-27-72	Gertrude O. Dalby, Grand Junction, Colo. 81501.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS73-247...	9-27-72	James H.Cox, Grand Junction, Colo. 81501.
CS73-248...	9-27-72	Carl Treece, Grand Junction, Colo. 81501.
CS73-249...	9-27-72	O. B. Hubbard, Grand Junction, Colo. 81501.
CS73-250...	9-27-72	Leroy Bacon, Grand Junction, Colo. 81501.
CS73-251...	9-27-72	Geno Saccomanno, Grand Junction, Colo. 81501.
CS73-252...	9-27-72	Charles Holmes, Grand Junction, Colo. 81501.
CS73-253...	9-27-72	Bruce Brownson & Co., Grand Junction, Colo. 81501.
CS73-254 ..	9-27-72	Slimon Smith, Grand Junction, Colo. 81501.

[1] Petition to amend filed Sept. 14, 1972.

[FR Doc.72-17583 Filed 10-13-72;8:47 am]

[Docket No. RP73-49]

SOUTH GEORGIA NATURAL GAS CO.

Notice of Proposed Change in Tariff

OCTOBER 12, 1972.

Take notice that South Georgia Natural Gas Co. (South Georgia) on September 29, 1972, tendered for filing revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1, proposed to become effective as of August 12, 1972, the date of termination of its purchased gas tracking authority in Docket No. RP70–7 et al. The rate filing is for the purpose of including a purchased gas adjustment provision (PGA clause) in the tariff, pursuant to § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act.

South Georgia states that it has been delayed while it sought determination by means of an application for rehearing of its authority to track increased costs in its Commission approved rate settlement in Docket No. RP70–7. For these reasons, South Georgia states it could not make this filing prior to August 12, 1972. Meanwhile, the application recites, its supplier, Southern Natural Gas Co., has filed increased rates to reflect an increase in the Louisiana severance tax effective September 1, 1972, in Docket No. RP73–16 and also to reflect changes in rate design effective October 1, 1972 in Docket Nos. RP72–91 et al. South Georgia, therefore, requests waiver of the notice requirements under the Commission's regulations. In support of the proposed tariff filing, South Georgia submits the abbreviated cost and operations statements pursuant to the regulations.

Copies of South Georgia's filing have been mailed to each of its jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17676 Filed 10-13-72;8:51 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 6–72]

TOLEDO, OHIO

Contiguous Expansion of Foreign-Trade Zone; Notice of Filing and Investigation

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (Board) by the Toledo-Lucas County Port Authority, Grantee of Foreign-Trade Zone No. 8, Toledo, Ohio, requesting authority from the Board for the contiguous expansion of the zone in accordance with § 400.607 of the Board's regulations (15 CFR Part 400). Permission is requested to expand the present zone to include a warehouse type building which covers an area of 69,900 square feet. The application was found to be in filing order and was filed with the Board on October 6, 1972.

The Toledo zone was authorized by the Board on October 11, 1960 (Board Order No. 51). It presently comprises a warehouse complex of 62,832 square feet located at 3332 St. Lawrence Drive, Toledo, OH, which is leased and operated for the grantee by Toledo Foreign Trade Zone Operators, Inc. The facility is situated within the grantee's 135 acre tract designated Toledo-Lucas County Port Authority Facility No. 1 which borders on the east bank of the Maumee River.

During the past fiscal year 31 business firms occupied facilities in the zone on a permanent basis. Their operations included alloying and smelting nonferrous metals, conversion of trucks into campers, and the storage and processing of glassware, tools, machine parts and liquor. The additional area being requested is needed to accommodate the expansion of some of the existing non-manufacturing operations and new storage and processing operations that involve steel bearings, heavy machinery accessories, jet engines, sheet glass, and glass containers.

In accordance with the Board's regulations an Examiners Committee has been appointed to conduct an investigation of the proposal and report its findings to the Board. The Committee is composed of: John J. DaPonte, Jr. (Chairman), Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Washington, D.C. 20230; Donald E. Grimwood, Acting Deputy Assistant Regional Commissioner, Office of the Regional Commissioner of Customs, Region IX, Chicago, Ill. 60606; and Colonel Myron D. Snoke, District Engineer, U.S. Army Engineer District Detroit, Post Office Box 1027, Detroit, MI 48231.

A copy of the application and accompanying exhibits will be available for public inspection during regular business hours for 21 calendar days from the appearance of this notice in the FEDERAL REGISTER at the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 2203, 14th and Constitution Avenue NW., Washington, D.C. 20230.
Office of the Port Director of Customs, U.S. Customhouse, 1732 Spielbusch Avenue, Toledo, OH 43624.

Notice is hereby given that in connection with its investigation of the application the Examiners Committee invites interested persons and organizations to submit their written views regarding the proposal. They should be addressed to the Committee chairman and be postmarked within 21 calendar days of the publication of this notice in the FEDERAL REGISTER.

Dated: October 10, 1972.

JOHN J. DAPONTE, JR.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.72-17611 Filed 10-13-72;8:49 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full as follows:

Section 625.2 was revised on September 1, 1972, to read as follows:

SECTION 625.2 *Reopening of classification.* The local board shall reopen and consider anew the classification of a registrant:

(1) Upon the written request of the Director of Selective Service or the State Director of Selective Service and upon receipt of such request shall immediately cancel any Order to Report for Induction, Selection for Alternate Service, or Order to Report for Alternate Service which may have been issued to the registrant;

(2) Who is in Class 1–H and becomes subject to processing for induction;

(3) In any classification for the purpose of classifying him in Class 1–H when he becomes eligible for that classification;

(4) Upon its own motion if such action is based upon facts not considered when the registrant was classified which, in the opinion of the board, would justify a change in the registrant's classification; or

(5) Upon the written request of the registrant that is accompanied by written information presenting facts not considered when the registrant was classified which, if true in the opinion of the board, would justify a change in the registrant's classification. For purposes of reopening, the local board will consider the facts presented by the registrant to be true unless there is evidence in the registrant's file to the contrary, or the registrant's claim is plainly unbelievable. A registrant who make false statements to his local board is subject to criminal penalties.

In the event of (4) or (5) the local board may reopen the classification of a registrant who is:

(a) Under an order for induction or alternate service which has not been postponed, or

(b) Under an order for induction or alternate service which has been postponed and the reporting date has been rescheduled, only when it specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

The local board may reopen a registrant's classification without finding there has been a change in the registrant's status resulting from circumstances over which the registrant had no control when the registrant is:

(a) Not under an order for induction or alternate service, or

(b) Under an order for induction or alternate service which has been postponed and the reporting date has not been rescheduled.

[Temporary Instruction 660–5]

PROCESSING OF REGISTRANTS IN CLASS 1–O IN CONJUNCTION WITH THE SEPTEMBER 1972 INDUCTION CALL

In conjunction with the September 1972 induction call, all fully available registrants in Class 1–O in the First Priority Selection Group, with RSN 75 or below, will be selected for alternate service in lieu of induction. Selection notices will be issued beginning August 1, 1972, and not later than August 30, 1972 (Reference Part 1660, SSR.)

This temporary instruction will terminate on September 30, 1972.

Issued: July 28, 1972.

CHAPTER 600—GENERAL

INDEX

Sec.	
600.1	Introduction.
600.2	Distribution.
600.3	Revisions.
Table 1	Distribution schedule.
Check List	Current page check list.
Check List	Temporary instructions check list.

CHAPTER 600—GENERAL

SECTION 600.1 *Introduction.* The Registrants Processing Manual (RPM) is established for the dissemination of directives which will govern the operational aspects of the Selective Service System at national, state and local levels. It will contain all operational instructions necessary for registration, classification, examination, induction, and allied subjects.

This manual will provide, in one place, ready access to all operational instructions. It has full force and effect and will replace all previous operational directives.

SEC. 600.2 *Distribution.* The RPM is contained in a distinctive looseleaf binder and dividers with appropriate subject tabs will be issued to separate and organize sections. When portions of the manual text are issued, either initially or as revisions, they shall be placed in the binder according to the identified chapter, section, and page number.

Copies of the manual and its revisions will be distributed according to the publications schedule shown at Table 600–1 attached. When need for additional copies exists, State directors may request them from national headquarters (Attention: AA).

All chapters and revisions will show an effective date in the lower right-hand corner. As new chapters and revisions are issued, they will be forwarded to each State headquarters in advance of the effective date. In the case of Temporary Instructions, they will be forwarded directly to local boards and State headquarters, becoming effective upon receipt. State directors will be responsible for the timely delivery of new chapters and revisions to local boards, appeal boards, and advisors to registrants. The State director will insure that all operational personnel and supervisors are, prior to the effective date, familiar with all new issuances received, so they are able to explain them to personnel under their control.

SEC. 600.3 *Revisions.* The RPM is designed to facilitate changes. The looseleaf manual may be revised by substituting new pages containing revisions of pages.

To highlight the portions of the manual text that have been revised, black stripes will be placed in the outside margin. A thin stripe will indicate minor changes, such as in the wording. A thick stripe will indicate revisions which reflect a "policy" or "procedural" change. All personnel are cautioned to note the changes indicated (striped) in new material, particularly those concerning policy (thick stripe).

All RPM's throughout the System must be maintained in current, up-to-date status. The State director is responsible for insuring that all manuals in his State are maintained in a current status. Supervisors must continually check copies of the RPM in use in their territories for completeness and proper posting of new material.

In order to insure that RPM's in the field are up-to-date, RPM Check Lists will be distributed periodically. The latest Check Lists showing chapters, pages, and Temporary Instructions that are current, and bearing dates of issuance, will be maintained in the front of each manual.

All personnel of the System are encouraged to make recommendations for RPM revisions wherever improvement can be made. Recommendations should be in writing and sent through established operational channels.

BASIC FIELD DISTRIBUTION SCHEDULE FOR SSS REGISTRANTS PROCESSING MANUAL

1.	State director	1
2.	State operations staff	1
3.	Inspector	1
4.	Supervisor, group	1
	Supervisor, area	1
5.	Area substitute clerk	1
6.	Group executive secretary	1
7.	Local board chairman (only)	1
8.	Local board office and panel	2
9.	Appeal board or panel	1
10.	Service center	2
11.	Reserve and National Guard unit	1
12.	Presidential Appeal Board and National Advisory Committee	2

REGISTRANTS PROCESSING MANUAL

CURRENT PAGE CHECKLIST

Chapter	Page numbers	Date of issue
600	Index	Oct. 1, 1972.
600	1 through 3	Do.
600	Table 600–1	Do.
603	1 through 16	May 27, 1972.
604	1 through 7	Original.
608	Index	June 5, 1972.
608	1 through 3	Do.
608	4	Aug. 14, 1972.
608	5 through 6	June 5, 1972.
608	7	Aug. 14, 1972.
608	8 through 16	June 5, 1972.
611	1 through 6	Original.
612	1 through 4	Do.
613	1 through 19	Sept. 9, 1972.
617	1 through 4	Original.
619	1 through 3	May 31, 1972.
619	Attachment 1	Original.
621	1 through 5	Mar. 13, 1972.
622	Index	Oct. 1, 1972.
622	1 through 41	Do.
622	Attachments 1 and 2	Do.
623	1 through 6	Original.
624	1 through 4	Do.
624	5 through 6	June 30, 1972.
624	7 through 10	Original.
625	1 through 2	May 1, 1972.
625	3 through 5	Sept. 1, 1972.
625	Attachment 1	Aug. 14, 1972.

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CURRENT PAGE CHECKLIST—continued

Chapter	Page numbers	Date of issue
626	1 through 9	June 17, 1972.
627	1 through 2	Mar. 13, 1972.
627	3 through 8	May 27, 1972.
628	1 through 36	May 1, 1972.
628	37 through 38	June 30, 1972.
628	39 through 41	May 1, 1972.
628	Attachment 1 (1 through 3)	Do.
628	Attachment 2	Do.
628	Attachment 3	June 30, 1972.
628	Attachment 4	May 1, 1972.
630	1 through 3	Do.
631	1 through 2	Aug. 14, 1972.
631	3 through 4	Original.
631	5 through 6	June 5, 1972.
631	7 through 24	Original.
631	Tables 2 through 10	Do.
632	1 through 28	June 5, 1972.
632	29 through 30	July 17, 1972.
632	Attachment 1	June 5, 1972.
642	1 through 8	Do.
643	1 through 5	Original.
655	Index	Oct. 1, 1972.
655	1 through 16	Do.
655	Attachments 1a through 3e	Do.

REGISTRANTS PROCESSING MANUAL

TEMPORARY INSTRUCTIONS CHECKLIST

Appendix 2

Temporary instruction number	Issue date	Expiration date
Appendix 1	Mar. 15, 1972	Upon transfer of forms.
SSS Form 110	do	May 22, 1972.
600-2	Sept. 1, 1972	Upon issuance of cross index.
622-1	Jan. 31, 1972	Upon completion of action.
622-2	Sept. 11, 1972	Dec. 31, 1972.
624-1	Mar. 9, 1972	Apr. 1, 1972.
626-1	do	Do.
627-1	do	Do.
628-1	Feb. 2, 1972	When announced.
628-2	Feb. 16, 1972	Mar. 31, 1972.
628-3	Aug. 30, 1972	Dec. 31, 1972.
628-4	do	Dec. 29, 1972.
631	Feb. 2, 1972	When announced.
631-2	do	Mar. 31, 1972.
632-1	do	Do.
632-2	Feb. 18, 1972	When announced.
632-3	Mar. 8, 1972	May 31, 1972.
632-4	Mar. 14, 1972	Apr. 1, 1972.
632-5	May 5, 1972	June 30, 1972.
632-6	May 25, 1972	July 31, 1972.
632-7	June 22, 1972	July 16, 1972.
632-8	June 19, 1972	Aug. 31, 1972.
632-9	July 14, 1972	Sept. 30, 1972.
632-10	Aug. 30, 1972	Dec. 29, 1972
660-1	Feb. 14, 1972	July 12, 1972.
660-2	Mar. 8, 1972	May 31, 1972.
660-3	May 17, 1972	Upon issuance of numbered form when announced.
660-4	July 12, 1972	Do.
660-5	July 28, 1972	Sept. 30, 1972.
660-6	Aug. 30, 1972	Dec. 29, 1972.
670-1	Aug. 24, 1972	Upon receipt of chapter 670.
670-2	Sept. 12, 1972	Nov. 30, 1972.

CHAPTER 622—CLASSIFICATION RULES AND PRINCIPLES

INDEX

Sec.
622.1 General principles of classification.
622.2 Classes.
622.10 Class 1–A, available for military service.
622.11 Class 1–A–O, conscientious objector available for noncombatant military service only.
622.12 Class 1–C, member of the Armed Forces, National Oceanic and Atmospheric Administration or Public Health Service.
622.13 Class 1–D, member of Reserve Component or student taking military training.
622.14 Class 1–O, conscientious objector available for alternate service.
622.16 Class 1–W, conscientious objector performing alternate service.
622.18 Class 1–H, not currently subject to processing.
622.20 General rules for classification in Class 2.
622.21 Length of deferments in Class 2.
622.22 Class 2–A, deferred because of civilian occupation (except agriculture) or nondegree study.
622.23 Necessary employment defined.
622.23a Requirements for apprentice training programs.
622.24 Class 2–C, deferred because of agricultural occupation.
622.25 Class 2–S, degree study deferment.
622.26 Class 2–S, graduate study deferment.
622.27 Class 2–D, ministerial study deferment.
622.30 Class 3–A, hardship and paternity deferment.
622.40 Class 4–A, completed military service.
622.41 Class 4–B, official deferred by law.
622.42 Class 4–C, aliens.
622.43 Class 4–D, Minister of religion.
622.44 Class 4–F, not qualified for military service.
622.45 Class 4–G, surviving son exemption.
622.46 Class 4–W, Conscientious objector who has completed alternate service.
622.47 Registrants in former class 1–Y.

CHAPTER 622—CLASSIFICATION RULES AND PRINCIPLES

SECTION 622.1 *General principles of classification.* 1. It is the local board's responsibility to decide, subject to appeal, the class in which each registrant shall be placed. Each registrant will be considered as available for military service until his eligibility for deferment or exemption from military service is clearly established to the satisfaction of the local board. The local board will receive and consider, at the appropriate time, all information presented to it pertinent to the classification of the registrant. The mailing by the local board of any selective service form, questionnaire or letter, requesting information on which to base a registrant's classification, to the latest address furnished by a registrant, shall be notice to the registrant that unless information is presented to the local board, within the time specified in each instance, which will justify his deferment or exemption from military service, the registrant will be classified on the basis of the information in his file, and the applicable rules and regulations.

2. In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious or other organization. Each registrant shall receive equal consideration.

SEC. 622.2 *Classes.* Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1–A: Available for military service.
Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1–D: Member of reserve component or student taking military training.
Class 1–H: Registrant not currently subject to processing for induction as a nonvolunteer.
Class 1–O: Conscientious objector available for alternate service.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agricultural occupation.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–S: Registrant deferred because of activity in study leading to a baccalaureate or higher degree.

CLASS 3

Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4–A: Registrant who has completed military service.
Class 4–B: Official deferred by law.
Class 4–C: Alien.
Class 4–D: Minister of religion.
Class 4–F: Registrant not qualified for military service.
Class 4–G: Registrant exempted as a surviving son from service during peace.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.

SEC. 622.10 *Class 1–A: Available for military service.* In Class 1–A shall be placed every registrant who has failed to establish to the satisfaction of the local board, subject to appeal, that he is eligible for classification in another class.

SEC. 622.11 *Class 1–A–O: Conscientious objector available for noncombatant military service only.* In Class 1–A–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found, by reason of religious, ethical or moral belief, to be conscientiously opposed to participation in combatant training and service in the Armed Forces.

SEC. 622.12 *Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.* In Class 1–C shall be placed:

1. Every registrant who is, or who by enlistment, induction, or appointment becomes, a commissioned officer, a warrant officer, an enlisted man or an aviation cadet of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration or the regular Public Health Service.

2. Every registrant who is a cadet, United States Military Academy; or a midshipman, United States Naval Academy; or a cadet, United States Air Force Academy; or a cadet, United States Coast Guard Academy.

3. Except for periods of active duty for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the Reserve of the Public Health Service on active duty on or before June 30, 1967, or who after such date is on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration.

SEC. 622.13 *Class 1–D: member of Reserve component or student taking military training.* 1. In Class 1–D shall be placed any registrant who is certified by the Armed Forces to be a member of a reserve component thereof. Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) and Record of Military Status of Registrant (DD Form 44) are used to certify entrance into a reserve component. DD Form 44 is also used to certify changes in status of a reservist.

2. In Class 1–D shall be placed any registrant, other than a registrant referred to in paragraph 3 of this section for whom a DD Form 44 has been received showing he has been enlisted or appointed in a reserve component of the Army, Navy, Air Force, Marine Corps or Coast Guard, and the date of such enlistment or appointment was (a) prior to the issuance of orders for him to report for induction, or (b) after June 30, 1972, and at least 10 days prior to his scheduled reporting date for induction. No registrant shall have his induction postponed for the purpose of permitting him to qualify under (b) above.

3. In Class 1–D shall be placed any registrant who (1) has been selected for enrollment or continuance in the Senior Division (entire college level) of the Army Reserve Officers' Training Corps, or the Air Force Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or who is appointed an ensign in the United States Naval Reserve while he is undergoing professional training; (2) has signed an agreement to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the United States Coast Guard), not less than two years on active duty after receipt of a commission; and (3) has signed an agreement to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. A registrant may qualify for a 1–D classification if a DD Form 44 is received by the local board verifying his status as a member of the ROTC program at any time prior to his induction date. Such registrant shall remain eligible for Class 1–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C.

4. To assist local boards in continuing a uniform procedure in classifying registrants who are satisfactorily participating in an ROTC program, the following comments set forth our understanding with the Department of Defense:

a. *Four-Year Program.* Upon enrollment into an ROTC program and after completion of an "ROTC Deferment Agreement" the responsible Professor of Military Science, Professor of Naval Science or Professor of Aerospace Studies will submit a DD Form 44 (Record of Military Status of Registrant) to the enrollee's selective service local board. Upon receipt of a DD Form 44, the registrant's local board shall place him in Class 1–D, and retain him in this classification until reason for a change in his classification is a matter of record in his selective service file.

b. *Two-Year Program.* The local board shall postpone the induction of a registrant providing the Professor of Military Science or Professor of Aerospace Studies furnishes a form letter during the spring term confirming the registrant's acceptance for training in an ROTC Basic Camp that following summer. If he is under an order to report for induction and an enrollment letter is received, he shall be issued an SSS Form 264 (Postponement of Induction) and the reporting date postponed until October 31 of that year. If he is accepted for the summer basic camp and is later reached for induction, his local board will issue an SSS Form 252 (Order to Report for Induction) and postpone his date of induction until October 31, providing the appropriate form letter is in his selective service file.

If the registrant enters an Advanced ROTC Program that fall, the Professor of Military Science or Professor of Aerospace Studies will registrant will be considered for Classinh issue a DD Form 44 and upon its receipt, the registrant will be considered for Class 1–D. If a DD Form 44 is not received by October 31, if the registrant drops from the basic camp, or if he fails to enroll in the fall course, his postponement shall be terminated at that time and he shall be placed on the local board's induction call when he is again reached.

c. Registrants who have been awarded ROTC Scholarships but who have not yet enrolled in the ROTC Program will be issued their orders to report for induction, when reached, and then postponed until October 31 of that year. If a registrant is under an outstanding order to report for induction, he shall be postponed until October 31 of that year.

If the registrant enrolls in college and enters the ROTC Program on an ROTC Scholarship and a DD Form 44 is received he will be considered for Class 1–D. If a DD Form 44 is not received by October 31, his postponement shall be terminated at that time and he shall be placed on the local board's induction call when again reached.

5. In Class 1–D shall be placed any registrant who is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the Secretary of Defense. Such registrant shall be retained in Class 1–D during the period covered by such agreement but in no case in excess of 4 months.

6. In Class 1–D shall be placed any registrant who is a student enrolled in an officer procurement program in one of the following colleges, the curriculum of which has been approved by the Secretary of Defense:

a. The Citadel, Charleston, S.C.
b. Norwich University, Northfield, Vt.
c. Virginia Military Institute, Lexington, Va.
d. North Georgia College, Dahlonega, Ga.

SEC. 622.14 *Class 1–O: Conscientious objector available for alternate service.* In Class 1–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces.

SEC. 622.16 *Class 1–W: Conscientious objector performing alternate service in lieu of induction.* In Class 1–W shall be placed any registrant who has entered upon and is performing alternate service contributing to the maintenance of the national health, safety, or interest, in accordance with the order of the local board.

SEC. 622.18 *Class 1–H: Registrant not currently subject to processing for induction.* 1. A 1–H classification by board action can be granted only to registrants subject to a regular call.

2. Registrants subject to a regular call are eligible for Class 1–H unless eligible for a lower class if they are:

a. Members of the first priority group whose random sequence number is above the administrative processing number (APN) which will be designated by the Director from time to time;

b. Members of the second or lower priority groups;

c. Registrants, in the year of their 19th birthday, whose random sequence number is above the APN designated by the Director for the following year's first priority group;

d. Registrants, in the year of their 19th birthday who have been assigned RSN's but for whom no APN has yet been set;

e. Registrants who have not yet been assigned a random sequence number;

f. Registrants not in one of the above categories, who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide relationship in their home.

3. The following registrants are specifically ineligible for classification into Class 1–H by board action:

a. Volunteers;

b. Registrants in the extended priority group;

c. Registrants in the first priority group below the APN;

d. Registrants, in the year of their 19th birthday, whose RSN is below the APN designated for the following year's first priority group;

e. Any registrant who qualifies for Class 4–F, 4–A, 4–G, 1–W, 4–W, 1–D or 1–C.

f. Registrants subject to special calls.

4. Every registrant is to be administratively assigned to Class 1–H as of the time of registration. Any 1–H classification after this initial administrative assignment must be made by local board or appeal board action. Any new registrant who qualifies for a class lower than 1–H will be classified out of 1–H and into that lower class by the local board as soon as practicable.

5. The APN will be designated by the Director for each year's first priority selection group. All registrants, in deferred or exempt classes above 1–H, except Class 4–C, who upon reclassification out of that deferred or exempt class would become members of the First Priority Selection Group and who have an RSN above the APN for that First Priority Selection Group, are eligible for Class 1–H.

6. The designation of an APN by the Director for the next year's first priority group is a basis for reopening the classification of those registrants in Class 1–H who have RSN's equal to or below the APN and who will attain the age of 20 in the following year. Unless information in their file indicates these registrants are eligible for another class, they will be reclassified into Class 1–A.

7. When a local board classifies a registrant into Class 1–H, it will send a letter to the registrant with his Notice of Classification (SSS Form 110), clarifying his 1–H status. This letter will also be given or mailed to registrants who are administratively assigned into Class 1–H at the time of registration. A sample letter to be used for this purpose is attached to this Chapter. This procedure will not be used when a registrant is issued an SSS Form 110 with the 1–H information on the reverse.

SEC. 622.20 *General rules for classification in Class 2.* 1. The local board has primary responsibility, under applicable rules and instructions in this Chapter, for determining which men should be deferred because of their civilian activities. Civilian activities which are contributing to the national health, safety, or interest should be disrupted as little as possible, consistent with the fundamental purpose of the Military Selective Service Act.

2. No deferment from training and service shall be granted in the case of any registrant except upon the basis of his individual status, as reflected in his selective service file.

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3. The local board may avail itself of the assistance of all Federal, State, or local agencies to obtain information which will help it to determine whether a claim for deferment should be granted.

SEC. 622.21 *Length of deferments in Class 2.* 1. Class 2 deferments shall be for a period of one year or less. If there is a change in the registrant's status during the period of deferment which would affect his eligibility for Class 2, his classification shall be reopened and considered anew.

2. After the expiration of the period of a registrant's deferment in Class 2, his classification shall be reopened and he shall be classified anew based upon the information in his selective service file, and applicable rules and regulations. The registrants may be continued in Class 2 for a further period of one year or less if such classification is considered warranted by the classifying board. The same procedures shall apply when classifying a registrant at the end of each successive period for which he has been classified in Class 2.

3. Nothing in this section is intended to require or permit the local board to retain in Class 2 any registrant when the reason for his classification has ceased to exist.

SEC. 622.22 *Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.* 1. In Class 2–A shall be placed any registant whose continued employment is found to be necessary to the maintenance of the national health, safety, or interest in an activity which may be identified as essential by the Director of Selective Service upon the advice of the National Security Council. Any registrant who was classified into Class 2–A prior to April 23, 1970, or who was later classified into Class 2–A as a result of a request filed prior to April 23, 1970, may be retained in such class so long as he qualifies under the provisions of paragraph 1 of section 622.23 and remains on the same job. Any registrant who qualified for deferment in Class 2–A as an apprentice in an approved program will be qualified for the 2–A status until he completes his apprentice program or ceases to satisfactorily pursue the course of training.

2. In Class 2–A shall be placed any registrant who (1) was satisfactorily pursuing an approved full-time course of instruction, not leading to a baccalaureate degree, in a junior college, community college or technical school during the 1970–71 academic school year, (2) is engaged in an apprentice training program which was approved and in operation prior to July 1971, or (3) is satisfactorily pursuing full-time training which was approved and begun prior to July 1, 1971, in a technical or trade school not on an academic year. Deferment under the authority of this paragraph will continue until such registrant fails to pursue satisfactorily such full-time course of instruction or training or until the expiration of the period of time normally required to complete such course of full-time instruction or training.

SEC. 622.23 *Necessary employment defined.* 1. A registrant's continued employment in an occupation identified in the preceding section shall be considered to be necessary to the maintenance of the national health, safety, or interest only when all of the following conditions exist:

a. The registrant is, or but for a seasonal or temporary interruption would be, engaged in such activity.

b. The registrant cannot be replaced because of a shortage of persons with his qualifications or skill in such activity.

c. The removal of the registrant would cause a material loss of effectiveness in such activity.

2. A registrant's activity as an apprentice in an apprentice training program will qualify him for deferment when all of the following conditions exist:

a. The apprentice training program meets the standards and requirements prescribed in section 622.23a, based upon the recommendations of the Secretary of Labor.

b. The program has been accepted by the Director or State Director of Selective Service for deferment purposes.

c. The registrant is satisfactorily pursuing his training in the program.

SEC. 622.23a *Standards and requirements for apprentice training programs and acceptance of such programs for deferment purposes.* 1. The apprentice training program must be an organized plan, written or implied, embodying the terms and conditions of employment, training, and supervision of one or more apprentices in one or more apprenticeable occupations, as defined in paragraph 2 of this section, and subscribed to by a sponsor who has undertaken to carry out the apprentice training program. The sponsor may be an employer of labor, a joint apprenticeship committee, a trade union, a group of employers of labor, or an association of journeymen.

2. The apprentice training program must offer apprentice training in an occupation which:

a. Customarily has been learned in a practical way through on-the-job training;

b. Requires 4,000 or more hours of work experience to learn;

c. Is clearly identified and commonly recognized throughout the industry;

d. Requires during each year of apprenticeship the completion of 144 hours or more of organized and systematic related trade instruction designed to provide the apprentice with learning in theoretical and technical subjects related to the occupation;

e. Is not merely a part of an occupation normally learned through apprenticeship;

f. Involves a development of skill sufficiently broad to be applicable in like occupations throughout an industry rather than of restricted application to the products of one employer; and

g. Does not fall within any of the following categories:

(1) Selling, retailing or similar occupations in the distributive field;

(2) Managerial occupations;

(3) Clerical occupations;

(4) Professional or semiprofessional occupations including occupations for which entrance requirements customarily include education of college level; or

(5) Agricultural occupations which include occupations such as the growing of crops, fruits or nuts, and the raising of livestock or poultry.

3. A registrant's activity in an apprentice training program will qualify him for deferment when all of the following conditions exist:

a. The program sponsor has submitted to the local board a request for the occupational deferment of the registrant accompanied by the certificate of the sponsor that (1) the apprentice training program has been accepted for the purpose of deferment by the State Director of Selective Service for the State within which the program is being operated or by the Director of Selective Service, and (2) the registrant is meeting the conditions prescribed in the following paragraph.

b. The registrant currently is meeting all the standards and requirements of the apprentice training program and is satisfactorily performing and progressing in his on-the-job training and related trade instruction.

4. All approved apprentice training programs with deferred participants should be reviewed by the State Director periodically to determine whether the required standards are being maintained.

SEC. 622.24 *Class 2–C: Registrant deferred because of agricultural occupation.* 1. In Class 2–C shall be placed any registrant who was classified in Class 2–C prior to April 23, 1970, or who was later classified into Class 2–C as a result of a request filed prior to April 23, 1970, and who continues to be employed in the same agricultural activity, but only when all of the conditions described in paragraph 1 of section 622.23 are found by the local board to exist, and he is endeavoring to maintain the same or higher level of production.

SEC. 622.25 *Class 2–S: Registrant deferred because of activity in degree study.* 1. In Class 2–S shall be placed any registrant who requests such classification, who was satisfactorily pursuing a full-time course of instruction leading to a baccalaureate degree at a college, university, or similar institution of learning during the 1970–71 regular academic school year and who is satisfactorily pursuing such course, such classification to continue until the registrant completes the requirement for his baccalaureate degree, fails to pursue satisfactorily a full-time course of instruction, or attains the 24th anniversary of the date of his birth, whichever occurs first.

2. A registrant will be deemed to be satisfactorily pursuing a full-time course of instruction when he is making proportionate progress toward his degree. For example, if the registrant is enrolled in a four year course of instruction, the registrant should complete approximately one-fourth of the total requirements by the end of the first academic year, approximately one-half by the end of the second academic year, approximately three-fourths by the end of the third academic year, and should graduate by the end of the fourth academic year. If the registrant is in a course of instruction for which the curriculum has been prescribed in the official college catalog as requiring five or more years duration, he must make similar proportionate progress, such as completing one-fifth of the requirements each year of a five year course. If, for reasons beyond the registrant's control, such as illness or accident, he fails to maintain normal progress, the local board may, at its discretion, grant the registrant further deferment for so long as he continues to maintain satisfactory progress from the time of re-entry in full time student status. The registrant's academic year, for the purpose of this section, shall terminate on the anniversary of his entrance into the course of study. If the registrant is scheduled to complete his graduation requirements prior to such anniversay, the scheduled graduation date will be shown as the termination date of the 2–S classification. The deferment expiration date shall subsequently be extended to a date not later than such anniversay, only if the local board is satisfied that the additional time is needed in order for the registrant to complete his graduation requirements prior to such anniversary.

3. When a registrant, who was satisfactorily pursuing a full-time course of instruction leading to a baccalaureate degree during the 1970–1971 regular academic school year, transfers from a junior college or community college to a baccalaureate degree granting institution, even though approximately 25 percent or less of his credits for satisfactorily completed courses are not accepted through no fault of his own, he shall be eligible for continued deferment so long as he remains a full-time student and maintains satisfactory progress from the status in which he was accepted for transfer.

4. It shall be the registrant's duty to provide the local board each academic year with verification from a college, university, or similar institution of learning that he is satisfactorily pursuing a full-time course of instruction at that institution of learning.

5. When a registrant otherwise qualified for Class 2–S interrupts his course of study (for a period not exceeding 2 years) for religious activities which qualify him for Class 4–D, such interruption will not make him ineligible for further deferment in Class 2–S.

SEC. 622.26 *Class 2–S: Registrant deferred because of activity in graduate study.* 1. In Class 2–S shall be placed any registrant who is satisfactorily pursuing a full-time course of graduate study in medicine, dentistry, veterinary medicine, osteopathy, optometry or podiatry. It shall be the registrant's duty to provide the local board each academic year with verification from a college, university, or similar institution of learning that he is satisfactorily pursuing a full-time course of instruction in one of these fields of study at such institution of learning. Any registrant who is ordered to report for induction or alternate service, and who has or receives a firm acceptance into the next beginning class in such course of study, shall have his reporting date for induction or alternate service postponed until the beginning of such course of study, citing this Section as authority. Upon entry into such course of study, his classification shall be reopened.

2. A registrant who is pursuing a full-time joint program of less than eight years duration combining both undergraduate and professional courses leading to the M.D. degree shall be considered a full-time medical student. The program must be approved and supervised by the medical school. Such a program exists at the medical schools listed on Attachment 622–2. Not all students at these schools are enrolled in the joint program, therefore an individual determination must be made in each case.

SEC. 622.27 *Class 2–D: Registrant deferred because of study preparing for the ministry.* 1. In Class 2–D shall be placed any registrant preparing for the ministry under the direction of a recognized church or religious organization, who requests such deferment and who:

a. Is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school, or

b. Is satisfactorily pursuing a full-time post-high school course of instruction required for his entrance into a recognized theological or divinity school in which he has been preenrolled, or

c. Having completed theological or divinity school, is a student in a full-time graduate program or is a full-time intern, and

d. Is preparing for the ministry under the direction of a recognized church or religious organization.

2. It shall be the duty of any registrant who is a theological or divinity student to provide the local board each year with evidence that:

a. He is a student preparing for the ministry under the direction of a recognized church or religious organization, and

b. He is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school.

3. It shall be the duty of any registrant who is a pre-theological student to provide the local board each year with evidence that:

a. He is a student preparing for the ministry under the direction of a recognized church or religious organization, and

b. He is satisfactorily pursuing a full-time college-level course of instruction required for entrance into a recognized theological or divinity school in which he has been preenrolled, and is making proportionate progress toward completing the academic program established as a preentry requirement in accordance with paragraph 2 of section 622.25.

4. It shall be the duty of any registrant who is a student in a full-time program preparing for the ministry to provide the local board each year with evidence that:

a. He is a student preparing for the ministry under the direction of a recognized church or religious organization,

b. His studies relate to and lead toward entry into service as a regular or duly ordained minister of religion, as defined in section 622.43 of this chapter, and

c. He is making proportionate progress toward completion of the program of preparation for the ministry in accordance with paragraph 2 of section 622.25.

5. The local board or appeal board may require from the church, religious organization, or school detailed information in order to determine whether or not the theological or divinity school is in fact recognized and whether or not the church or religious organization which is sponsoring the registrant is recognized.

6. A school, to be recognized as a theological or divinity school, should enjoy a good reputation, and its graduates should be acceptable by the church sponsoring the registrant for ministerial duties, either as an ordained or regular minister.

7. A church or religious organization should be able to show that it was established on the basis of a community of faith and belief, doctrines and practices of a religious character, and that it engages primarily in religious activities.

8. If the local board or appeal board considers the information it has received to be insufficient for the purpose of making a determination, it should request assistance or additional information from the State Director of Selective Service. When the church or religious organization of the theological or divinity school is located in another State, the State Director may contact the appropriate State Director for advice and recommendation, or may request advice from the Director of Selective Service. In any case, the advice of the State Director or the Director of Selective Service shall not be binding upon the local board.

SEC. 622.30 *Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.* 1. In Class 3–A shall be placed any registrant whose induction into the armed forces would result in extreme hardship to (1) his wife, divorced wife, child, parent, grandparent, brother, or sister who is dependent upon him for support, or (2) to a person under 18 years of age, or a person of any age who is physically or mentally handicapped, whose support the registrant has assumed in good faith.

2. The term "child" as used in this section shall include a legitimate or illegitimate child from the date of its conception, a child legally adopted, a stepchild, or a foster child.

3. In Class 3–A shall be placed any registrant who prior to April 23, 1970, submitted to his local board information establishing his eligibility for deferment on the grounds of fatherhood under regulations in effect prior to that date, or who was classified in Class 3–A prior to that date, and who continues to maintain a bona fide family relationship in their home with his child or children, except that this paragraph shall not apply to any registrant who subsequently becomes a physician or allied medical specialist.

4. Request for deferment based upon extreme hardship:

a. A person shall be considered financially dependent upon the registrant only if such person depends upon the registrant for his maintenance, and not if he receives only partial help to live more comfortably.

b. The phrase "extreme hardship" must be interpreted with emphasis on the word "extreme" which means, in any case, that there exists a severe condition of physical or mental dependency or extreme economic factors. Keep in mind that the interruption of a family routine, the difference in pay, and other factors may be hardships to some degree, but are not different than those experienced by thousands of others who enter the service and are generally not grounds for hardship deferment.

c. A registrant may file a written claim for hardship deferment at any time. The claim may be by letter or other writing such as Dependency Questionnaire (SSS Form 118), which indicates that such deferment is desired.

d. After the issuance of an order to report for induction, or selection for alternate service, a request for, or submission of, a Dependency Questionnaire (SSS Form 118) does not constitute a basis for delay of a registrant's processing for induction or alternate service. Such delay will not be permitted, unless information is presented which, if true, would be a basis for reopening a registrant's classification, and the late submission of the information is due to reasons beyond the registrant's control.

5. Preclassification action:

a. Prior to a local board classifying or reclassifying a registrant who has claimed hardship, the local board shall furnish the registrant a Dependency Questionnaire (SSS Form 118) and request the registrant to furnish such additional information to support his claim for deferment as he may desire.

b. In the event the registrant fails to return the SSS Form 116 within the time indicated on the form, the local board shall consider the registrant's claim without the benefit of the information on the form. The local board shall not postpone a registrant's induction or alternate service to allow the filing of the form.

c. Classification need not be based solely upon the information contained in the questionnaire. When the local board determines that the information in the file is inadequate, it may request further information from his registrant, his dependents, or other government or civilian agencies.

6. Financial hardship:

a. Information to be considered:

(1) Financial needs of the claimed dependent.

(2) Reasonableness of such claim.

(3) Earnings of the claimed dependent if employed and/or other income.

(4) Income of other members of the registrant's family and their ability to contribute to the claimed dependent.

(5) Financial effect of entry into military service including all pay and allowances, and the Soldiers and Sailors Relief Act.

(6) The indebtedness of the registrant or claimed dependent.

b. For the purpose of determining whether or not the induction of a registrant would result in extreme hardship to his dependent(s), the local board must consider the pay, along with clothing allowances, lodging, and food, which the registrant would receive as a member of the Armed Forces, the free medical care for the member and his dependents, as well as the allowances which are payable by the United States to dependents of persons serving in the Armed Forces. However, the fact that such pay and allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon finan-

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cial considerations and shall not be deemed to remove the grounds for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents.

c. The following table sets forth, according to pay grade, the amount of pay and the allowance for quarters, the amount deducted from the enlisted man's pay, and the total amount payable to his dependents for each month:

Pay grade	Monthly pay	Allowance for quarters—one or more dependents	Deducted from soldier's pay	Total dependency allowance—with one or more dependents
E-1	$288.00	$105.00	$40.00	$145.00
E-2	320.70	105.00	40.00	145.00
E-3	333.60	105.00	40.00	145.00
E-4	346.80	121.50	40.00	161.50

7. Physical or mental hardship.

a. Medical documentation of the dependent should be evaluated as to degree of disability, the length of time the medical condition has been in existence and the prognosis as to the continuation of the medical condition. The dependent's ability to care for himself, or be cared for without the aid of the registrant shall be considered.

b. Doctors' statements must verify any claimed disability of dependents. It must be determined that the registrant alone is responsible for the care of the dependent. The normal anxiety attributable to a son or husband entering the Armed Forces should not be a basis for deferment. The prognosis for the registrant's dependent must also be considered to determine if this is a short- or long-term condition.

8. Paternity claims.

a. April 23, 1970, was the termination date for eligibility for paternity deferments. A young man who registers after that date shall be eligible for consideration for a Class 3–A paternity deferment only if documentation is presented prior to his classification into Class 1–A which establishes that he is the natural father of a child which was conceived prior to April 23, 1970, and prior to the time set for registration of the claimant, and he maintains a bona fide family relationship with the child in his home.

b. Since June 30, 1967, registrants who have requested and received a student deferment in Class 2–S have not been eligible for deferment Class 3–A solely on the basis of having a child or children with whom they maintain a bona fide family relationship. The registrants may qualify for Class 3–A on the basis of extreme hardship upon presentation of convincing evidence to the classifying board which conclusively substantiates the claim.

9. All 3–A classifications shall be reviewed annually at the local board meeting nearest the anniversary of the last classification or last annual review of the case, and at any other time information indicates a registrant might no longer be entitled to Class 3–A. Not less than 30 days prior to the review, the local board shall request current information by mailing Current Information Questionnaire (SSS Form 127) to those deferred as fathers and Dependency Questionnaire (SSS Form 118) to those deferred for hardship.

SEC. 622.40 *Class 4–A: Registrant who has completed military service.* 1. In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or 1–D who is within any of the following categories:

a. A registrant separated from the Armed Forces of the United States, with an honorable discharge or a discharge under honorable conditions, after having served for a period of not less than 6 months of active duty other than active duty for training, in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, and who is not a member of a reserve component.

b. A registrant who has served on active duty for a period of not less than 24 months as a commissioned officer in the National Oceanic and Atmospheric Administration or in the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned reserve officer commencing after June 30, 1967, shall have been performed by the registrant while assigned to staff any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration.

c. A registrant who while an alien has served on active duty for a period of not less than 12 months in the Armed Forces of any of the following nations which are certified by the Department of State to be nations with which the United States is associated in mutual defense activities.

Argentina.	Jamaica.
Australia.	Japan.
Barbados.	Korea, Republic of (South).
Belgium.	Luxembourg.
Bolivia.	Mexico.
Brazil.	Netherlands.
Canada.	New Zealand.
Chile.	Nicaragua.
China, Republic of Nationalist.	Norway.
Columbia.	Pakistan.
Costa Rica.	Panama.
Denmark.	Paraguay.
Dominican Republic.	Peru.
Ecuador.	Philippines, Republic of.
El Salvador.	Portugal.
France.	Spain.
Germany, Federal Republic of (West).	Thailand.
Greece.	Trinidad and Tobago.
Guatemala.	Turkey.
Haiti.	United Kingdom.
Honduras.	Uruguay.
Iceland.	Venezuela.
Iran.	Vietnam, Republic of (South).
Italy.	

When an alien believes he qualifies for exemption from training and service under the provisions of this paragraph, he must request a certificate verifying his military service from his country's diplomatic mission in Washington, D.C., or from the nearest consular office of his country. The mission or the consular office, after verification of the alien's service, will provide a certificate written in English evidencing such service, direct to the local board of record.

d. A registrant who has completed 6 years of satisfactory service as a member of one or more of the Armed Forces including the Reserve components thereof, and is no longer a member of any Active or Reserve component of the Armed Forces.

2. For the purpose of computation of periods of active duty referred to in subparagraphs a or b of paragraph 1 of this section, no credit shall be allowed for:

a. Periods of active duty training performed as a member of a Reserve component pursuant to an order or call to active duty solely for training purposes;

b. Periods of active duty in which the service consisted solely of training under a college training program under the jurisdiction of the Army, Air Force, Navy, Marine Corps, or Coast Guard;

c. Periods of active duty as a cadet at the U.S. Military Academy, U.S. Air Force Academy, or U.S. Coast Guard Academy, or as a midshipman at the U.S. Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any such academies;

d. Periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institution referred to in subparagraph b or c of this paragraph; or

e. Periods of active duty performed by medical, dental, or allied specialists in student programs prior to receipt of the appropriate professional degree or in intern training.

f. Periods of active duty of members of the Reserve of the Public Health Service other than when assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or the Coast Guard, or the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration.

SEC. 622.41 *Class 4–B: Official deferred by law.* In Class 4–B shall be placed any registrant who is the Governor of a State, territory, or possession, or any other official chosen by the voters of the entire State, territory, or possession; a member of a legislative body of the United States or of a State, territory, or possession; a judge of a court of record of the United States or of a State, territory, or possession, or the District of Columbia.

SEC. 622.42 *Class 4–C: Aliens.* 1. In class 4–C shall be placed any registrant who is an alien who has not resided in the United States for 1 year, including any period before his registration. When such a registrant has been within the United States for two or more periods and the total of such periods equals 1 year, he shall be deemed to have resided in the United States for 1 year. In computing the length of such periods, any portion of 1 day shall be counted as 1 full day. When any such registrant has resided in the United States for 1 year, he shall be classified as available for military service unless he is found to be eligible for a lower classification.

2. In Class 4–C shall be placed any registrant who is an alien who furnishes documentation establishing that he is a national of the following countries (treaty alien) and who has made application on Request for Relief From Training and Service in the Armed Forces of the United States (SSS Form 130) to be exempted from liability for training and service in the Armed Forces of the United States.

Argentina.	Italy.
Austria.	Latvia.
China, Republic of (Nationalist).	Liberia.
Costa Rica.	Norway.
Estonia.	Paraguay.
Honduras.	Spain.
Ireland.	Switzerland.
	Yugoslavia.

3. In Class 4–C shall be placed any registrant who is an alien who has departed from the United States. If any registrant so classified under this paragraph returns to the United States, his classification shall be reopened and he shall be classified anew. If the registrant has failed to comply with an order to report for induction or alternate service, the reopening of his classification by the local board for the purpose of placing him in or removing him from Class 4–C shall not cancel the order with which he has failed to comply.

4. In Class 4–C shall be placed any alien admitted for permanent or temporary residence who has registered at a time when he was required by the selective service law to register and thereafter has acquired status within one of the groups of persons exempt from registration.

5. In Class 4–C shall be placed any registrant who is an alien who by reason of occupational status (such as employment at the World Bank or United Nations) is subject to adjustment to nonimmigrant status, but who executes a waiver of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

6. Treaties between the United States and the countries listed below, relating to military obligations in certain cases of dual nationality, provide that a person possessing two or more nationalities who habitually resides in one of the countries whose nationality he possesses, and who is in fact closely connected with that country, shall be exempt from all military obligation in the other countries:

Mauritius.	Australia.
Netherlands.	Austria.
Niger.	Belgium.
Nigeria.	Brazil.
South Africa.	Burma.
Swaziland.	Colombia.
Sweden.	Cuba.
United Kingdom of Great Britain and Northern Ireland, and the remainder of the British Empire except Canada and New Zealand.	Cyprus.
	El Salvador.
	Finland.
	India.
	Indonesia.
	Malawi.
	Malta.
	Mauritania.

A registrant who is a national of both the United States and any of the above-listed countries, and who meets the above requirements, as evidenced by information submitted on Special Form for Alien or Dual National (SSS Form 131) and documentation of his claim, shall be classified in Class 4–C.

7. Agreements between the United States and Switzerland, and between the United States and Norway, provide that a person born in Switzerland or Norway, of parents who are nationals of the United States, and who is a national of both the United States and the other country, and who habitually resides in the other country is exempt from liability for military service in the United States. A registrant who qualifies for exemption under this provision as evidenced by information submitted on Special Form for Alien or Dual National (SSS Form 131) and documentation of his claim, shall be classified in Class 4–C.

SEC. 622.43 *Class 4–D: Minister of religion.* 1. In Class 4–D shall be placed any registrant who is a regular or duly ordained minister of religion.

2. The term "duly ordained minister of religion" means a person who has been ordained, in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies in public worship, and who as his regular customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

3. The term "regular minister of religion" means one who as his regular customary vocation preaches and teaches the principles of religion of a church, religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

4. The terms regular or duly ordained minister of religion do not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and do not include any person who may have been duly ordained a minister in accordance with the ceremonial rite or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

5. If the local board or appeal board considers the information it has received to be insufficient for the purpose of making a determination, it should request assistance or additional information from the State Director of Selective Service. When the church or religious organization is located in another State, the State director may contact the appropriate State director for advice and recommendation, or may request advice from the Director of Selective Service. In any case, the advice of the State director or the Director of Selective Service shall not be binding upon the local board.

SEC. 622.44 *Class 4–F: Registrant not qualified for military service.* 1. In Class 4–F shall be placed any registrant who is found under applicable physical, mental, and moral standards to be not qualified for service in the Armed Forces, except that no such registrant whose further examination or reexamination may be justified shall be placed in Class 4–F until such further examination as the Director of Selective Service deems appropriate has been accomplished and such registrant continues to be found not qualified for military service.

2. In Class 4–F shall be placed any registrant who has a very obvious disqualifying physical condition, such as loss of leg, loss of arm, loss of eye, excessive obesity, or severe mental retardation, which has been observed by a compensated or uncompensated employee of the Selective Service System. The condition will be noted on SSS Form 119, dated and signed by the employee or board member making the observation and the form shall be placed in the registrant's file folder.

3. In Class 4–F shall be placed any registrant in the medical, dental, and allied specialist categories who has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and has been rejected for such appointment on the sole ground of physical disqualification.

4. In Class 4–F shall be placed any registrant who is confined in a jail, penitentiary, or similar institution, for as long as the registrant remains confined, provided that his confinement in such institution is expected to continue for 1 year or longer.

5. In Class 4–F shall be placed any registrant who is an inmate or patient in a mental institution or recognized drug rehabilitation center, for as long as the registrant continues in this status, provided that his commitment or confinement in such institution is expected to continue for 1 year or longer.

6. In Class 4–F shall be placed any registrant who is currently under active supervision of a parole officer, probation officer, or other supervision of a court, including the courses of treatment prescribed by an order of commitment, provided that the registrant's supervision or requirement for reporting to a supervisor or agency is expected to continue for 1 year or longer. The registrant shall remain in Class 4–F for as long as he remains under such supervision.

7. When the local board receives information indicating a registrant is confined in a jail, penitentiary, mental institution, drug rehabilitation center or similar institution, the Executive Secretary, or other authorized personnel, shall document the registrant's file with verification, in writing, from the clerk of the court, or other authorized official of the court or institution concerned. If the verification indicates the registrant's sentence or order of confinement or commitment in such institution will result in his continued confinement for 1 year or longer, the local board shall classify the registrant into Class 4–F. The registrant shall remain in Class 4–F for as long as he remains confined or committed in such institution.

8. When a registrant has been classified into Class 4–F under the provisions of paragraph 2 or 3 of this section, the "Y" symbol shall be shown for the first element of his acceptability symbol on his Registrant File Folder (SSS Form 101). When a registrant has been classified into Class 4–F under the provisions of paragraph 4, 5, 6, or 7 of this section, the "Y" symbol shall be shown for the third element of his acceptability symbol. Other elements of the acceptability symbol will be shown as zeros (i.e., O–O–Y) for a registrant who has not been found acceptable as a result of an Armed Forces examination, and as X's (i.e., X–X–Y) for a registrant who has been previously found acceptable as a result of an Armed Forces examination.

9. Executive Secretaries will make appropriate entries in the local board suspense file of the dates when registrants will conclude confinement, commitment, detention, etc., to insure proper local board action.

10. Whenever a local board receives an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) or similar form evidencing that one of its registrants has been separated from the Armed Forces, including the Reserve components, because of physical, mental or moral disqualification, such registrant shall be placed in Class 4–F, unless he is qualified for Class 4–A.

SEC. 622.45 *Class 4–G: Registrant exempted as a surviving son from service during peace.* 1. Prior to September 28, 1971, when amendments to the Military Selective Service Act of 1967 were adopted, the law and regulations made provision for exemption from service for only the registrant who was the sole surviving son of a family of which the father or one or more sons or daughters were killed in action or died in line of duty while serving in the Armed Forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service. Dates of service or death of the family member were not specified.

2. As of September 28, 1971, section 6 of the Military Selective Service Act reads as follows:

"Except during the period of a war or national emergency declared by Congress, no person may be inducted for training and service under this title unless he volunteers for such induction—

"(1) If the father or a brother or a sister of such person was killed in action or died in line of duty while serving in the Armed

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Forces after December 31, 1959, or died subsequent to such date as a result of injuries received or disease incurred in line of duty during such service, or

"(2) during any period of time in which the father or a brother or a sister of such person is in a captured or missing status as a result of such service.

"As used in this subsection, the term 'brother' or 'sister' means a brother of the whole blood or a sister of the whole blood, as the case may be."

Section 101(d)(3) of Public Law 92-129 provides:

"Notwithstanding the (above quoted paragraph), except during the period of a war or a national emergency declared by Congress, the sole surviving son of any family in which the father or one or more sons or daughters thereof were killed in action before January 1, 1960, while serving in the Armed Forces of the United States, or died subsequent to such date as a result of injuries received or disease incurred before such date during such service shall not be inducted under the Military Selective Service Act unless he volunteers for induction."

3. The death of an individual as a result of his military service will be considered "in line of duty", unless information from the service concerned or the Veterans' Administration indicates otherwise. Determinations by the Armed Forces or the Veterans' Administration as to the status of the registrant's father, brother, or sister who was killed or who died or who is captured or missing will be conclusive as to facts to which they pertain.

4. As explained above, provisions now exist for the local board to consider the exemption of both sole surviving sons, and surviving sons and brothers. Dates of service and death of the family member have been prescribed and will establish which of the above provisions applies in each individual case. Any registrant classified in Class 4-A as a sole surviving son prior to September 28, 1971, shall be eligible for Class 4-G, and shall be placed in Class 4-G as time permits.

5. The following examples may be of assistance to local boards in considering claims for exemption under this section:

a. The father of John Smith, an only child, served in the Navy from 1943 until 1945 when he was discharged because of multiple wounds. He died in 1950 from those injuries. John is eligible for exemption as a sole surviving son.

b. Same as above, except John's father died in 1964 from wounds sustained in 1945. John qualifies for exemption as a sole surviving son.

c. Same as above, except the father's death was due to an automobile accident in 1961. John does not qualify for exemption as the death was not from a service connected cause.

d. John's father and mother were divorced in 1946. His mother, who gained custody of John, remarried and bore a son by her second husband. John's father died in 1950 from wartime wounds. John qualifies for exemption, even though he was a half-brother, because he was the only son of a man who died from wounds sustained while in the Navy. (John's half-brother would not qualify as he was not a son of John's father.)

e. John joined the Marines in 1962. He was killed by a training exercise explosion in 1964. His half-brother would not qualify for exemption as he was not of the whole blood.

f. William Miller's half-brother joined the Army and was killed in 1969 in Vietnam. William would not be eligible for exemption as the deceased was not a brother of the whole blood.

g. James Nelson had four brothers of the whole blood. Tom, the second oldest, died in service on January 4, 1963. All three remaining brothers qualify for exemption from service as surviving brothers.

h. Edward Kolski's mother, a Reserve officer in the WAC, was killed in a plane crash during her annual 2 weeks tour of active duty. Edward would not qualify for exemption since there is no provision for exemption based on the death of a mother.

i. Robert Duran's father died in 1961 from World War II injuries. Robert has two brothers who are still living. None of the sons qualify for exemption because there is no sole surviving son.

SEC. 622.46 *Class 4-W: Registrant who has completed alternate service in lieu of induction.* In Class 4-W shall be placed any registrant who subsequent to being ordered by the local board to perform alternate service in lieu of induction has been released from such service by the local board after satisfactorily performing the work for a period of 24 consecutive months or has been released from such service by the Director of Selective Service.

SEC. 622.47 *Registrants in former Class 1-Y.* The 1-Y classification was terminated on December 10, 1971. Registrants who are in Class 1-Y are to be classified out of this class as soon as possible, retroactive to December 1971.

(SAMPLE LETTER TO 1-H REGISTRANT)

Dear _____: The enclosed notification advises you that you have been placed in Class 1-H. This is a holding classification for registrants who are not currently subject to processing for induction. If your lottery number is high enough, you will be left in Class 1-H indefinitely, with the realization that each year your likelihood of being selected for induction is decreasing.

If at any future time, your lottery number and priority group fall in the range of those being selected for induction, you will be reclassified out of 1-H. At that time, you will have the opportunity to present any claim for deferment and you will be classified into an appropriate class. You will also have the procedural rights of personal appearance and appeal during the 15-day period following the issuance of the notice that you have been reclassified.

As a 1-H registrant, you are required to inform the local board of any change in your address. However, it will not be necessary for you to inform the local board of any change in your occupational, marital, family, or dependency status, or of your physical condition until such time as your local board requests further information.

By direction of the local board.

Enclosure.

U.S. MEDICAL SCHOOLS OFFERING COMBINED PREMED AND M.D. PROGRAMS IN LESS THAN 8 YEARS

NAME AND LOCATION OF SCHOOL
Albany Medical College, Albany, N.Y.
Boston University, School of Medicine, Boston, Mass.
Dartmouth Medical School, Hanover, N.H.
George Washington University, School of Medicine, Washington, D.C.
Howard University, College of Medicine, Washington, D.C.
Indiana University, School of Medicine, Indianapolis, Ind.
Jefferson Medical College, Philadelphia, Pa.
Loma Linda University, School of Medicine, Loma Linda, Calif.
Louisiana State University, Medical Center, Shreveport, La.
University of Michigan, Medical School, Ann Arbor, Mich.
University of Missouri, School of Medicine, Kansas City, Mo.
University of Nevada, School of Medical Sciences, Reno, Nev.
State University of New York—Upstate Medical Center, Syracuse, N.Y.
Northwestern University, Medical School, Chicago, Ill.
Ohio State University, College of Medicine, Columbus, Ohio.
University of Puerto Rico, School of Medicine, San Juan, P.R.
Rush Medical College, Chicago, Ill.
Medical University of South Carolina, Charleston, S.C.
University of Tennessee, College of Medicine, Memphis, Tenn.
Texas Tech University, School of Medicine, Lubbock, Tex.

CHAPTER 655—PROCESSING OF REGISTRANTS RESIDING IN FOREIGN COUNTRIES

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CHAPTER 655—PROCESSING OF REGISTRANTS RESIDING IN FOREIGN COUNTRIES

SECTION 655.1 *Purpose.* The purpose of this chapter of the Registrant Proceeding Manual is to establish procedures for the selective service processing of registrants residing in foreign countries.

SEC. 655.2 *Registration.* Registration in foreign countries is accomplished by diplomatic and consular officials of the Department of State and by registrars appointed by those officers, in the same manner as registration is accomplished within the United States. Each male citizen of the United States shall accomplish registration by reporting to the nearest U.S. consular office or designated registrar on the anniversary of the day of his birth or within the period of 60 days commencing 30 days before such date unless he has been registered by or will register with a local board within the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone within the prescribed period.

SEC. 655.3 *Place of residence.* The registrant may determine what place he desires to give as his residence when he is not located in the same place all of the time. If a registrant presents himself for registration outside of the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, he should, if possible, give a place of residence within one of those places, but in any case must give a place of residence. If the place of residence is outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone, Local Board No. 100 (Foreign), Washington, D.C., shall have jurisdiction over the registrant.

SEC. 655.4 *Transmittal of forms and communications.* All forms and communications to be transmitted to registrants in foreign countries shall be mailed in regular franked government envelopes stamped "Airmail". No other supplementary postage is required.

SEC. 655.5 *Local board processing of foreign registrations.* 1. All registration processing initiated by diplomatic or consular officials in foreign countries will be completed by the local board of record upon receipt of the Registration Card (SSS Form 1). Assignment of selective service number, classification, preparation, and mailing of Certificate of Registration (SSS Form 2) and Notice of Classification (SSS Form 110), completion of administrative entries, and creation of a registrant's file folder will be accomplished in accordance with current directives.

2. Upon entry into the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone and establishing residence in any of these places, registrants assigned to Local Board No. 100 (Foreign) must notify that board of the address of their new place of residence. Except in cases where a registrant has a personal appearance or appeal pending, or is under an order to report for induction or alternate service, he will be transferred to the local board having jurisdiction over his new place of residence and his former registration with Local Board No. 100 (Foreign) will be canceled in accordance with current directives.

3. Registrants assigned to local boards other than Local Board No. 100 (Foreign) will not be transferred.

SEC. 655.6 *Processing of transferred registrants.* Registrants transferred to the jurisdiction of a new local board will be processed in the same manner as a late registrant. Upon receipt of records of a transferred registrant, the new local board need not reopen and reclassify as a matter of routine.

SEC. 655.7 *Registrant processing.* 1. All registrants who registered in foreign countries shall be assigned random sequence numbers, classified, placed in selection groups, and processed for Armed Forces examination, induction, or alternate service in lieu of induction in the same manner as registrants who registered within the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone. The above instruction applies whether or not registrants may have subsequently entered into or established residence in any of these places, or whether they continue to reside in foreign countries, and regardless of whether they are assigned to District of Columbia Local Board No. 100 (Foreign) or any other local board.

2. However, all regular registrants in the group described in the above paragraph who were born in 1950 or prior years who were in Class 1-A, 1-A-O, or 1-O on December 31, 1970, shall be assigned to the second or lower priority selection group.

3. Registrants under the age of 35 years in the categories of physicians, dentists, and allied medical specialists will be processed in accordance with current directives to meet the needs of special calls from the Department of Defense when so required.

SEC. 655.8 *Examination of registrants in Canada and Mexico.* Registrants residing in Canada and Mexico selected for examination will be processed as follows:

1. **Local board action:** Local boards will forward the following to registrants and place a copy of each in his Registrant File Folder:

a. An Order to Report for Armed Forces Examination (SSS Form 223) establishing "Place of Reporting" as the address of the local board, and "Date" at least 30 days after issuance.

b. A "Transmittal Letter for Examination of Registrants Residing in Canada or Mexico". A sample letter for this purpose is Attachment 655-1.

Any medical information or doctor's statements in the registrant's file folder will not be forwarded to the Armed Forces Examining and Entrance Station (AFEES) in advance of the original date of scheduled examination. This information will be forwarded to the transfer board upon receipt of notification that a new SSS Form 223 has been issued in accordance with paragraph 8d of this section.

2. Action by registrant: Registrants desiring to transfer examination shall submit a request for transfer of Armed Forces examination together with the Order to Report for Armed Forces Examination (SSS Form 223) to the State Director of Selective Service of that State proximate to the area of Canada or Mexico in which they reside. A table indicating the addresses of these State Directors is listed in the "Transmittal Letter for Registrants Residing in Canada or Mexico."

3. Action by State director: Upon receipt of the letter from the registrant requesting transfer of Armed Forces examination, the appropriate State director shall select a local board of transfer and forward the request for transfer and the Order to Report for Armed Forces Examination (SSS Form 223) to that local board.

4. Action by transfer board: This board shall initiate a new Order to Report for Armed Forces Examination (SSS Form 223), establishing the place of reporting, date and time in accordance with a regularly scheduled examination date of that local board. A copy of this order will be transmitted directly to the local board to which the registrant is assigned.

5. Final action by transfer board: When the registrant's medical records and results of examination are received from AFEES, the transfer board will forward them to the State director in whose jurisdiction the registrant is assigned, for transmittal to the local board to which the registrant is assigned.

SEC. 655.9. *Examination of registrants residing outside the United States except those in Canada and Mexico.* Registrants residing outside the United States, except those in Canada and Mexico, selected for Armed Forces examination will be processed as follows:

1. Local board action: Local boards will prepare the following and forward them to the registrant and place a copy of each in his Registrant File Folder:

a. An Order to Report for Armed Forces Examination (SSS Form 223), establishing "Place of Reporting" as the address of the local board, and "Date" at least 30 days after issuance;

b. A "Transmittal Letter for Examination of Overseas Registrants" reading per enclosed sample.

2. Action by registrant: Registrants desiring to be examined overseas are required to submit a written request for accomplishment of Armed Forces examination overseas to the Commander of the Army Area in which they reside.

Army Area Commanders and A.P.O. Addresses

Pacific Area: Commander in Chief, U.S. Army, Pacific, Fort Shafter, Hawaii, A.P.O. 96558, San Francisco, Calif.

European Area: Commander in Chief, U.S. Army, Europe, Heidelberg, Germany, APO 09403, New York, N.Y.

Carribbean Area: Commander in Chief, U.S. Army Forces, Southern Command, Fort Amador, Canal Zone, APO 09834, New York, N.Y.

Instructions for submitting this request are contained in the "Transmittal Letter for Examination of Overseas Registrants." A sample letter for this purpose is Attachment 655-2.

3. Processing by the U.S. Army: The Army Area Commander in whose area of jurisdiction the registrant is located shall accomplish the following:

a. Upon receipt of letter from the registrant requesting Armed Forces examination, the examination shall be scheduled and the registrant advised of the place, time, and date to report for Armed Forces examination, and a copy of the communication shall be be forwarded to the registrant's local board.

b. Perform Armed Forces examination and other processing requirements in accordance with the applicable provisions of AR 601-270.

4. Final action by local board: Upon receipt of Statement of Acceptability (DD Form 62) the local board will forward the duplicate copy to the registrant and retain the original copy in his Registrant File Folder.

SEC. 655.10 *Delivery for induction of registrants residing in Canada and Mexico.* 1. Registrants selected for induction will be issued an Order to Report for Induction (SSS Form 252) giving "Place of Reporting" as the address of the local board and "Date" at least 30 days after issuance.

2. Assisting local boards proximate to the United States borders with Canada and Mexico shall provide transportation to registrants residing in Canada or Mexico from the assisting local board to the AFEES servicing its area and advise the AFEES Commander of the expected time of the registrant's arrival at his AFEES. No delivery lists or other administration will be required of assisting local boards. Registrants in Class 1-O selected for processing to alternate service in lieu of induction will be processed in accordance with current directives.

SEC. 655.11 *Delivery for induction of certain categories of registrants residing overseas.* 1. The following categories of Selective Service registrants who have been selected for induction are entitled to receive transportation to the continental United States, Puerto Rico, or Hawaii via military aircraft to permit them to present themselves and submit to induction into the Armed Forces:

a. Registrants assigned to Local Board No. 100 (foreign) who reside outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, the Canal Zone, Canada, and Mexico.

b. Registrants assigned to any other local board who registered outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone and who have not subsequently entered into and resided in any of these places and do not reside in Canada or Mexico.

2. These registrants will be processed as follows:

a. Local board action: Local boards shall prepare an Order to Report for Induction (SSS Form 252) in accordance with its procedural directive, establishing "Place of Reporting" as the address of the local board, and "Date" at least 30 days after issuance, a Record of Induction (DD Form 47) in five copies, and a Transmittal Letter for Delivery

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for Induction of Overseas Registrants in two copies. All copies of both SSS Form 252 and DD Form 47 shall be coded:

CIC:
S61230090000001

The above code identifying the Selective Service System is to be typed on the SSS Form 252 in the blank space immediately above the block provided for the local board stamp, and is to be typed on DD Form 47 in the "Remarks" block (item 17.c.). Two-line code entries are required. The top line shall read "CIC:". (NOTE: All letters must be capitalized followed by a colon; "CIC" is the abbreviation for Customer Identification Code.) The bottom line shall read "S61230090000001." These documents will be distributed as follows:

(1) The original and one copy of SSS Form 252 and one copy of the Transmittal Letter will be sent to the registrant. A sample Transmittal Letter for this purpose is Attachment 655–3.

(2) Two copies of SSS Form 252 and one copy of Transmittal Letter will be retained in the registrant's file.

(3) Upon receipt of notification from an overseas Army Area Commander that he has approved the request of a registrant residing outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone to be delivered from an overseas point for induction, the local board shall prepare and/or forward to the Army Area Commander forms in number of copies as follows:

(a) Original and three copies of Record of Induction (DD Form 47);

(b) Original and one copy of the Report of Medical Examination (SF 88);

(c) Two copies of Report of Medical History (SF 93) with any X-ray film made at the time of Armed Forces examination, any waiver of disqualification, any order terminating civil custody, and any other such information concerning qualifications of the registrant for service in the armed forces.

In cases where the originals of the items mentioned in (b) and (c) are at the AFEES which examined the registrant, the local board shall request these items from the AFEES, so they may be forwarded to the overseas Army Area Commander by the local board.

(4) One copy of the Order to Report for Induction (SSS Form 252) will be forwarded to National Headquarters, Attention: ACFB.

b. Processing by the U.S. Army Area Commander: The Army Area Commander in whose jurisdiction the registrant resides shall complete the following:

(1) Upon receipt of letter from registrant requesting delivery for induction from overseas area, schedule such delivery by establishing time, date, and collection point for delivery processing.

(2) Authorize transportation of registrant from U.S. military airbase closest to his place of overseas residence to collection point if required.

(3) Advise registrant of the name and location of the military airbase and flight information for his transportation to the collection point and furnish him necessary travel authorization.

(4) When a registrant is to report to the collection point directly, advise him of time, date, and place of reporting for processing at collection point.

(5) Forward copy of the communication described in (3) or (4) to registrant's local board.

(6) Perform processing at collection point to determine registrant's acceptability for delivery for induction.

(7) Release registrants found not acceptable for induction into the Armed Forces during processing at the collection point. Registrants who were delivered to the collection point shall be authorized return air transportation when requested by the registrant.

(8) Provide registrants with necessary Travel Orders or MAC Transportation Requests for transportation to the United States and advise them of particular flight arrangements.

(9) Release physical examination and induction records to registrants for hand transmittal to local board and Armed Forces Examining and Entrance Station upon return to the continental United States.

c. Delivery of registrants: Registrants returning to the continental United States or Puerto Rico shall be required to report to local board alined with Port of Aerial Embarkation for transportation to the Armed Forces Examining and Entrance Station handling inductions in their area as follows:

ALIGNMENT CHART

Army area commander	Port of aerial embarkation	Local board and address	Location of AFEES
Europe	McGuire AFB, N.J	No. 29, Carrol Bldg., 428 East State St., Trenton, N.J.	Philadelphia, Pa.
Caribbean	Charleston AFB, S.C.	No. 10, Federal Bldg., Room 333, Charleston, S.C.	Fort Jackson, S.C.
Pacific	McChord AFB, Wash.	No. 12, Hawthorne Bldg., 813 South K St., Tacoma, WA	Seattle, Wash.
	Travis AFB, Calif.	No. 27, Civic Center, Room 407, Fairfield, Calif.	Oakland, Calif.
	Norton AFB, Calif.	No. 130, 547 North Sierra Way, San Bernardino, CA.	Los Angeles, Calif.
Caribbean [1]	Ramey AFB, P.R.	No. 3, M. Acevedo St., Aguadilla, P.R.	San Juan, P.R.

[1] The Caribbean Army Area Commander may elect to forward certain overseas registrants to the AFEES in Puerto Rico to be processed for induction in lieu of delivering them to the continental United States when transportation arrangements so permit. In these cases, registrants will be so advised at the collection point and instructed to report to the alined local board for delivery to AFEES accordingly.

The Pacific Army Area Commander has established procedures whereby registrants being delivered to Hickam Air Force Base or Honolulu International Airport in Hawaii, are to be instructed to report to the Army Air Traffic Coordinating Offices upon arrival, for transportation to the AFEES at Fort De Russy, Hawaii, for induction in lieu of reporting to a local board of Selective Service.

The registrant shall be responsible for providing his own housing, meals and transportation expenses incurred during the time between his departure from his place of residence overseas and his arrival at the overseas military air base to which he is ordered to report for delivery or processing, as well as during the time between his arrival in the United States and his reporting to the alined local board. The registrant must also pay for his housing, meals, and incidental expenses during his overseas travel and processing.

d. Processing by alined local boards: Alined local boards shall process overseas registrants reporting for induction as follows:

(1) Registrants shall be scheduled for special forwarding to Armed Forces Examining and Entrance Stations handling inductions for each local area;

(2) Transportation by commercial or other expeditious means shall be provided;

(3) Registrants are to be given appropriate instructions regarding travel schedule and location of Armed Forces Examining and Entrance Station;

(4) The Commander of the Armed Forces Examining and Entrance Station will be advised by the local board of expected time of registrant's arrival at his station.

SEC. 655.12 *Induction of registrants residing overseas who have been selected for military service.* Registrants shall be processed by the Armed Forces Examining and Entrance Stations for induction and disposition of records accomplished in accordance with AR 601–270.

SEC. 655.13 *Ordering of registrants residing overseas to report for alternate service in lieu of induction.* Overseas registrants in Class 1–O selected for alternate service in lieu of induction may apply to their State director and request overseas work assignments. He shall provide guidance in the form of advice on approved employers having such work assignments available. Processing of registrants for assignments to alternate service shall be accomplished in accordance with current directives.

SEC. 655.14 *Registrants residing overseas not inducted at Armed Forces examining and entrance stations.* Overseas registrants who fail to qualify for induction into the Armed Forces may either elect to be released from Armed Forces Examining and Entrance Stations or request air transportion back to initial place of reporting for delivery or collection point established by the Army Commander of the area of jurisdiction. In either case, the AFEES Commander will return the registrant's records to his local board. In the event the registrant has elected to be returned overseas, the local board will forward one copy of DD Form 47 to National Headquarters, Attention: ACFB.

When the registrant elects to be returned overseas, the AFEES Commander will prepare Military Travel Authorization for return from the Port of Aerial Embarkation to the overseas point at which registrant reported to the Army Area Commander for delivery for induction. AFEES Commanders are requested to enter on all copies of Military Travel Authorization in block 7, the rejection code as follows:

CIC:
S61240090000001

The registrant being returned shall report to the Port of Aerial Embarkation and present Military Travel Authorization in order to obtain return transportation overseas. The registrant shall be responsible for providing his own housing, meals and transportation expenses incurred during the time between his return to the local board from AFEES and departure of his overseas flight from the Aerial Port of Embarkation in the United States, as well as during the time between his return to the military airbase overseas at which he was originally ordered to report for delivery or processing and his arrival at his place of residence overseas. The registrant must also pay for his housing, meals, and incidental expenses during his overseas travel and processing.

SEC. 655.15 *Special departure and entrance procedures.* Overseas registrants will be processed through Immigration and Customs Offices at Aerial Ports of Embarkation overseas and in the United States in accordance with Immigration and Naturalization Service and Customs Agency procedures.

SAMPLE LETTER FOR EXAMINATION OF REGISTRANTS RESIDING IN CANADA AND MEXICO

Dear ----------,

You have been selected to take an Armed Forces examination to determine your acceptability for induction into the Armed Forces of the United States. The enclosed Order to Report for Armed Forces Examination (SSS Form 223) is the official notification issued by the Selective Service System. In lieu of reporting to this local board, you may be examined at an Armed Forces Examining and Entrance Station in the United States closest to the area of Canada or Mexico in which you reside by doing the following:

CONTACT THE STATE DIRECTOR OF SELECTIVE SERVICE

Select from the following list of States the State Director of Selective Service whose State borders that part of Canada or Mexico in which you reside:

Canada

Maine---------State Director, Selective Service System, Federal Building, 40 Western Avenue, Augusta, ME 04330.

New York------State Director, Selective Service System, Federal Building, 441 Broadway, Albany, NY 12207.

Michigan ------State Director, Selective Service System, Post Office Box 626, Lansing, MI 48903.

Minnesota -----State Director, Selective Service System, Room 1503, Post Office and Custom House, St. Paul, MN 55101.

North Dakota--State Director, Selective Service System, Post Office Box 1417, Bismarck, ND 58501.

Montana ------State Director, Selective Service System, Post Office Box 1183, Helena, MT 59601.

Washington ---State Director, Selective Service System, Post Office Box 5247, Tacoma, WA 98405.

Mexico

California -----State Director, Selective Service System, 801 I Street, Sacramento, CA 95814.

Arizona -------State Director, Selective Service System, Room 202, Post Office Building, 522 North Central Avenue, Phoenix, AZ 85004.

New Mexico----State Director, Selective Service System, Post Office Box 5175, Santa Fe, NM 87501.

Texas ---------State Director, Selective Service System, 209 West Ninth Street, Austin, TX 78701.

Write the State director immediately requesting that your Armed Forces examination be accomplished by the Armed Forces Examining and Entrance Station which handles the examinations for local boards in his State. You should include the following information in your letter:

a. Your full name.
b. Your selective service number.
c. Your present address.
d. The town or city within the United States nearest the Canadian or Mexican border in which a local board of selective service is located, if known to you. You may also wish to indicate a city which is most easily accessible by public means of transportation from the area of Canada or Mexico in which you reside.

YOUR EXAMINATION

The State Director of Selective Service will advise you of the local board at which you are to report for transportation to the examining station and establish a new reporting date and time.

It is your responsibility to present yourself for examination at the time and place designated. Be sure to bring the Order To Report for Armed Forces Examination (SSS Form 223), to which this is inclosed, with you, and read all instructions carefully. You must pay all expenses going to and returning from the local board or AFEES. The Armed Forces examination is usually accomplished in 1 day; however, you should be prepared to be held over for special examination or tests for a period of up to 3 days if such is required to determine your acceptability or nonacceptability.

NOTIFICATION OF RESULTS OF YOUR EXAMINATION

You may be advised informally of the results of your Armed Forces examination when you take it at the military installation. However, the official notification will be sent to you by the local board with which you are registered on a Statement of Acceptability (DD Form 62), which will indicate "Found Fully Acceptable" or "Found Not Acceptable" • • • "For Induction Under Current Standards".

If you are found "Fully Acceptable," you may be selected for induction into the Armed Forces of the United States when your lottery number is reached by your local board in filling calls for young men for military service.

If you are found "Not Acceptable" you may be subject to reexamination at a later date if the reason for your nonacceptability is considered of a temporary or minor nature.

SPECIAL INSTRUCTIONS:

If you fail to report for the scheduled Armed Forces examination, or to contact the State Director of Selective Service nearest the area in which you reside regarding your examination, it is a serious violation of the selective service law, and you may be scheduled for induction into the Armed Forces in normal sequence without such examination.

By direction of the local board.

SAMPLE TRANSMITTAL LETTER FOR EXAMINATION OF OVERSEAS REGISTRANT

Dear ----------: You have been selected to take an Armed Forces Examination to determine your acceptability for induction into the Armed Forces of the United States. The enclosed Order to Report for Armed Forces Examination (SSS Form 223) is the official notification issued by the Selective Service System. In lieu of reporting to this local board, you may be examined at an overseas examining facility of the U.S. Armed Forces by doing the following:

CONTACT THE ARMY COMMANDER OF YOUR OVERSEAS AREA

Select from the following list the closest Army Area Commander:

Army area commander and A.P.O. address

Pacific Area: Commander in Chief, U.S. Army, Pacific, Fort Shafter, Hawaii, A.P.O. 96558, San Francisco, Calif.

European Area: Commander in Chief, U.S. Army, Europe, Heidelberg, Germany, A.P.O. 09403, New York, N.Y.

Caribbean Area: Commander in Chief, U.S. Army Forces, Southern Command, Fort Amador, Canal Zone, A.P.O. 09834, New York, N.Y.

Write this Army Commander immediately requesting that your Armed Forces examination be accomplished at a U.S. military installation overseas. You should include the following information in your letter:

a. Your full name.
b. Your selective service number.
c. Your present address.

YOUR EXAMINATION

The Army Commander will send you a new reporting date and place of examination. It is your responsibility to present yourself for examination at the time and place designated. Be sure to bring the enclosed prepared papers with you and read instructions on the Order to Report for Armed Forces Examination (SSS Form 223) carefully. You must pay all expenses going to, while at, and returning from the examining facility. The Armed Forces examination is usually accomplished in 1 day, however, you should be prepared to be held over for special examination or tests for a period of up to 3 days if such is required to determine your acceptability or nonacceptability.

NOTIFICATION OF RESULTS OF YOUR EXAMINATION:

You may be advised informally of the results of your Armed Forces examination when you take it at the military installation. However, the official notification will be sent to you by the local board with which you are registered on a "Statement of Acceptability", DD Form 62, which will indicate "Found Fully Acceptable" or "Found Not Fully Acceptable" • • • "For Induction Under Current Standards".

If you are found "Fully Acceptable", you may be selected for induction into the Armed Forces of the United States when your lottery number is reached by your local board in filling calls for young men for military service.

If you are found "Not Acceptable" you may be subject to reexamination at a later date if the reason for your nonacceptability is considered of a temporary or minor nature.

SPECIAL INSTRUCTIONS:

If you fail to report for the scheduled Armed Forces examination, or to contact the Army Commander of your overseas area regarding being examined overseas, it is a serious violation of the selective service law, and you may be scheduled for induction into the Armed Forces in normal sequence without such examination.

By direction of the local board.

No. 94299 Warden On Machine 6----------

SAMPLE TRANSMITTAL LETTER FOR DELIVERY FOR INDUCTION OF OVERSEAS REGISTRANT

Dear ----------: You have been selected for induction into the Armed Forces of the United States.

Instead of reporting to this local board for delivery to the Armed Forces Examining and Entrance Station handling inductions for this area as indicated in the Order to Report for Induction (SSS Form 252) to which this is enclosed, you may request transportation from certain U.S. military airbases overseas to the United States for this induction. Upon your arrival in the United States, you are required to report to the local board of the Selective Service System aligned with the Aerial Port of Embarkation at which you landed in the United States. That local board will provide transportation to an Armed Forces Examining and Entrance Station where you will be inducted. If you wish to request transportation to the United States for induction, you must do the following:

CONTACT THE ARMY AREA COMMANDER

Select from the following list the closest Army Area Commander:

Army area commander and A.P.O. address

Pacific Area: Commander in Chief, U.S. Army, Pacific, Fort Shafter, Hawaii, A.P.O. 96558, San Francisco, Calif.

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European Area: Commander in Chief, U.S. Army, Europe, Heidelberg, Germany, A.P.O. 09403, New York, N.Y.
Caribbean Area: Commander in Chief, U.S. Army Forces, Southern Command, Fort Amador, Canal Zone, A.P.O. 09834, New York, N.Y.

You must immediately write to the appropriate Army Area Commander, enclosing a copy of your Order to Report for Induction (SSS Form 252), to which this letter is enclosed, requesting that he arrange for your delivery for induction. Be sure to include in your letter the following information:

a. Your full name.
b. Your selective service number.
c. Your present address.

ACTION BY ARMY AREA COMMANDER

The Army Area Commander may advise you to report to a U.S. airbase closest to your place of overseas residence for transportation to the collection point where you will be processed before being returned to the continental United States for induction. He will forward Military Travel Authorization which will serve as your airline ticket and advise you of the time, date, and place to report for your flight, and the name of the MAC base and its location. The Army Area Commander may, on the other hand, advise you to report directly to the collection point at which you will be processed.

GOING TO THE OVERSEAS DELIVERY POINT

It is your responsibility to make your own transportation arrangements from your place of overseas residence to the military airbase specified and to present yourself on the proper date at the time and place specified by the Army Area Commander. You are restricted to 66 pounds of total baggage including suitcases, briefcases, and other hand luggage. You must pay for your own travel going to this military airbase. You must also pay for your housing, meals, and incidental expenses during your overseas travel and processing. If you are not accepted for delivery as the result of overseas processing, you may be released if you reported directly to the collection point for processing or returned to the military airbase to which you originally reported for delivery. You should be prepared to pay for the return expenses to your overseas residence.

YOUR DELIVERY PROCESSING OVERSEAS

You will be processed as follows:

a. Medical records from your Armed Forces physical examination will be reviewed and you will receive preliminary processing to determine your acceptability for military service.

b. You will be issued a MAC Transportation Request or Travel Order which will serve as your ticket for transportation via military airlift to the United States. You should have DD Form 47 available to show at all points of travel in order to assure continuous movement by MAC.

c. Since you will be requested to pass through customs and immigration stations both overseas and in the United States, be sure to accomplish the following:

(1) Bring your U.S. Passport or other proof of citizenship and immunization or vaccination records.

(2) Observe the various customs and agricultural regulations relative to transporting alcoholic beverages, drugs, plants, fruit, and vegetables of a restricted nature, animals, and other items restricted from import.

d. The Army Area Commander's representative will provide information relative to your return flight and place your medical papers and induction record in your hands for delivery to the local board in the United States to which you must report. For overseas registrants being returned from the Pacific and Caribbean areas, the Army Area Commander may decide to provide transportation to Puerto Rico or Hawaii instead of the continental United States. In these cases, his representative will instruct you to report to the Armed Forces Examining and Entrance Station in San Juan, Puerto Rico, or Honolulu, Hawaii, for induction rather than reporting to a Selective Service local board.

UPON ARRIVAL IN THE UNITED STATES

You are required to report to the local board of the Selective Service System alined with the Port of Aerial Embarkation in the United States per the enclosed schedule. After processing through customs and immigration offices at the military installation, it is your responsibility to arrange and pay for your transportation to the local board office designated.

YOUR DELIVERY FOR INDUCTION

The executive secretary of the local board of Selective Service will provide a travel authorization or bus ticket for your transportation to the Armed Forces Examining and Entrance Station servicing that area and give you instructions on reporting to the Commander of the AFEES. She will advise you of the schedule for your arrival at the AFEES and advise the Commander to expect you.

YOUR INDUCTION

You will be inducted into the Armed Forces under procedures which are under the control of the Department of the Army. After induction, you will be transported to an Army Reception Center for basic military training.

IF YOU ARE NOT ACCEPTED

If you are not accepted for induction into the Armed Forces you may (1) elect to be released from your order to report for induction at the AFEES upon your execution of a written waiver of your right to return transportation overseas, at which point you are free to leave the AFEES, or (2) request to be returned to the overseas military airbase to which you were instructed to report for delivery or processing by the overseas Army Area Commander in which case the following would take place:

a. The AFEES Commander will provide (1) a bus ticket or travel authorization for your return from the AFEES to the local board to which you reported, and (2) a MAC Transportation Request or Travel Order for your return flight overseas to the point from which you departed for the United States and to the point of departure to the United States and travel to the military airbase to which you originally reported for delivery or processing. You should make certain that the Commander of the AFEES rejecting you enters the correct code for rejection:

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on the Military Travel Authorization.

b. You must make your own arrangements for travel from the local board to the Port of Aerial Embarkation in the United States and from the military airbase to which you originally reported for delivery or processing overseas to your place of residence, and pay for meals, housing, transportation, and incidental expenses involved.

SPECIAL INSTRUCTIONS

1. If you fail to comply with the Order to Report for Induction (SSS Form 252) and this set of allied instructions, or fail to submit to induction for which you are ordered, such actions are in violation of the selective service law, and punishable by fine and/or imprisonment.

2. Overseas registrants arriving in the United States shall be required to report to the local board aligned with the Port of Aerial Embarkation for transportation to the Armed Forces Examining and Entrance Station handling inductions for their area as follows:

ALIGNMENT CHART

Army area commander	Port of aerial embarkation	Local board and address	Location of AFEES
Europe	McGuire AFB, N.J.	No. 29, Carroll Bldg., 428 East State St., Trenton, N.J.	Philadelphia, Pa.
Caribbean	Charleston AFB, S.C.	No. 10, Federal Bldg., Room 333, Charleston, S.C.	Fort Jackson, S.C.
Pacific	McChord AFB, Wash.	No. 12, Hawthorne Bldg., 813 South K St., Tacoma, WA.	Seattle, Wash.
	Travis AFB, Calif.	No. 27, Civic Center, Room 409, Fairfield, Calif.	Oakland, Calif.
	Norton AFB, Calif.	No. 130, 547 North Sierra Way, San Bernardino, CA.	Los Angeles, Calif.
Caribbean [1]	Ramey AFB, P.R.	No. 3, M. Acevedo St., Aguadilla, P.R.	San Juan, P.R.

[1] The Caribbean Army Area Commander may elect to forward certain overseas registrants to the AFEES in Puerto Rico to be processed for induction in lieu of delivering them to the continental United States when transportation arrangements so permit. In these cases, registrants will be so advised at the collection point and instructed to report to the aligned local board for delivery to AFEES accordingly.
The Pacific Army Area Commander has established procedures whereby registrants being delivered to Hickam Air Force Base or Honolulu International Airport in Hawaii, are to be instructed to report to the Army Air Traffic Coordinating Offices upon arrival, for transportation to the AFEES at Fort De Russy, Hawaii, for induction in lieu of reporting to a local board of Selective Service.

By direction of the local board.

BYRON V. PEPITONE,
Acting Director.

OCTOBER 6, 1972.

[FR Doc.72-17382 Filed 10-13-72;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 97]

ASSIGNMENT OF HEARINGS

OCTOBER 11, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-F-11436, Milton Transportation, Inc.—purchase—Milton Trucking, Inc., MC 136343, Milton Transportation, Inc., conversion of operating authorities, now assigned October 24, 1972, at Washington, D.C., is postponed indefinitely.

MC-135509 Sub 2, William R. Wade, common carrier application, now assigned October 16, 1972, at Kansas City, Mo., is postponed to November 27, 1972, at Kansas City, Mo., in a hearing room to be later designated.

MC 21958 Sub 8, Starck Van Lines, Inc., continued to October 17, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 109373, National Trucking, Inc., now assigned October 18, 1972, at Austin, Tex., is postponed indefinitely.

MC 61396 Sub 234, Herman Bros., Inc., MC 107496 Sub 839, Ruan Transport Corp., MC 108449 Sub 337, Indianhead Truck Line, Inc., and MC 124078 Sub 518, Schwerman Trucking Co., now assigned October 30, 1972, at St. Paul, Minn., is postponed indefinitely.

MC 117799 Sub 17, Best Way Frozen Express, Inc., now assigned November 13, 1972, at Philadelphia, Pa., hearing is canceled and the application dismissed.

MC 126278 Sub 9, Frigid Way Cartage Co., now assigned October 30, 1972, MC 135960, Jacob Sackett, doing business as Fleetwood Ski & Sports Club, now assigned October 31, 1972, MC 123048 Subs 216 and 218, Diamond Transportation System, Inc., now assigned November 2, 1972, MC 107818 Sub 56, Green-Stein Trucking Co., now assigned November 6, 1972, hearings will be held in Room 1672, 536 South Clark Street, Chicago, Ill.

MC 119493 Sub 89, Monkem Co., Inc., now assigned November 13, 1972, hearing will be held in Room 140, 601 East 12th Street, Kansas City, Mo.

MC 105644 Sub 121, Superior Trucking Co., Inc., MC 108676 Sub 39, A. J. Metlor Hauling & Rigging, Inc., MC 106497 Sub 62, Parkhill Truck Co., now assigned November 1, 1972, at Memphis, Tenn., will be held in the Albert Pick Motor Inn, 300 North Second Avenue.

MC 6143 Sub 2, Dunbar Transfer & Storage Inc., now assigned November 6, 1972, hearing will be held in Room 204, Federal Building, 167 North Main Street, Memphis, Tenn.

MC 107515 Sub 804, Refrigerated Transport Co., Inc., now assigned November 13, 1972, at Atlanta, Ga., is postponed to January 15, 1973, at Atlanta, Ga., in the VIP Room, Atlanta Cabana Motor Hotel, 870 Peachtree Street NE.

MC-F-11498, Commercial Carriers, Inc.—control and merger—Hughes Truck-Away, Inc., MC 43038 Sub 450, Commercial Carriers, Inc., now assigned November 6, 1972, hearing is transferred to November 6, 1972, Fairmont Hotel, 950 Mason Street, San Francisco, Calif.

I & S M-25960, general increase, from, to and between southern territory, now being assigned hearing December 11, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

No. 35617, Lo Shippers Action Committee, et al.-V-Aberdeen and Rockfish Railroad Co., et al., now assigned for prehearing conference on November 8, 1972, at Washington, D.C., is postponed to November 9, 1972, for prehearing conference at the offices of the Interstate Commerce Commission, Washington, D.C.

I & S 8739, Cancellation of TOFC Rates, C. & O. Railway now assigned December 18, 1972, at Milwaukee, Wis., is canceled. The rates are being canceled.

MC-107107 Sub 423, Alterman Transport Lines, Inc., now being assigned hearing January 8, 1973 (2 days) at Atlanta, Ga., in a hearing room to be later designated.

MC-127418 Sub 5, Trop-Artic Refrigerated Service, Inc., now being assigned hearing January 10, 1973 (3 days) at Atlanta, Ga., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17602 Filed 10-13-72;8:48 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 11, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42547—*Asbestos to Points in Southern Territory.* Filed by M. B. Hart, Jr., agent (No. A6324), for interested rail carriers. Rates on asbestos, viz.: Shorts (testing 0-0-5-11 or lower) and inorganic binder combined, in carloads, as described in the application, from Carey Mine, Quebec, Canada, to points in southern territory.

Grounds for relief—Rate relationship, short-line distance formula and grouping.

Tariff—Supplement 14 to Canadian Freight Association tariff ICC 346. Rates are published to become effective on November 20, 1972.

FSA No. 42548—*Iron or Steel Bars from Points in Illinois and Minnesota.* Filed by Western Trunk Line Committee, agent (No. A-2677), for interested rail carriers. Rates on iron or steel articles, viz.; Bars, in carloads, as described in the application, from specified points in Illinois and Minnesota, to specified points in Illinois, Iowa, Kansas, Missouri, Minnesota, and Nebraska.

Grounds for relief—Rate relationship.

Tariff—Supplement 159 to Western Trunk Line Committee, agent, tariff ICC A-4663. Rates are published to become effective on November 10, 1972.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17601 Filed 10-13-72;8:48 am]

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CUMULATIVE LIST OF PARTS AFFECTED—OCTOBER

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Title 3—The President

PROCLAMATION 4167

National Newspaper Carrier Day, 1972

By the President of the United States of America

A Proclamation

Young boys and girls who serve as newspaper carriers all across our country are the inheritors of a great American tradition. For many decades, the roster of former news carriers has included leaders in every area of our society. The responsibilities of newspaper carrying have long provided an ideal training experience for millions of young Americans.

There are now more than one million newspaper carriers in our country. The habits they are learning today will make them better citizens tomorrow. And we can expect that the important and diligent service they are presently providing for the American people will also continue as they move into full time occupations.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Saturday, October 14, 1972, as National Newspaper Carrier Day. I urge all the people of this country to join on this day in paying generous tribute to the boys and girls who serve them in this vital capacity.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17757 Filed 10-13-72;3:41 pm]

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PROCLAMATION 4168

National Forest Products Week, 1972

By the President of the United States of America

A Proclamation

Each year America's forest lands provide our people with a growing supply of useful wood products—lumber and plywood for housing and industrial purposes, paper for wrappings, containers, newspapers and books, and numerous other items that contribute to the comfort and well-being of our citizens. The people derive many other benefits from our forest lands; among them, recreation sites for families, wildlife habitats, fishing and hunting opportunities, and natural beauty.

In meeting the steadily increasing demands of an expanding population for wood and wood products, our forest products industries produce jobs and help to assure economic stability, especially to our rural and small communities. They also contribute substantially to maintaining the high standard of living which Americans of this century have come to enjoy and to expect.

With far-sighted management and utilization practices, America can continue to provide products of utility and beauty from the country's renewable forest resources without adverse impact on the environment. Through cooperative research between Federal agencies and private industries, we can find new and better ways both to utilize commercial timber more completely, and simultaneously to protect our forest lands.

In order to give further recognition and emphasis to the importance of forest resources and forest products to the Nation, the Congress, by a joint resolution of September 13, 1960 (74 Stat. 898), has designated the seven-day period beginning on the third Sunday of October in each year as National Forest Products Week, and has requested the President to issue an annual proclamation calling for the observance of that week.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning October 15, 1972, as National Forest Products Week, with activities and ceremonies designed to direct public attention toward, and demonstrate our appreciation for, the forest resources which are ours in such abundance and for the role they play in enhancing our material, emotional, and spiritual well-being.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of October, in the year of our Lord nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-17771 Filed 10-16-72; 9:17 am]

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Rules and Regulations

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

DIISONONYL ADIPATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2693) filed by Esso Research and Engineering Co., Post Office Box 45, Linden, NJ 07036, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of diisononyl adipate as a plasticizer in vinyl chloride homo- and/or copolymer films for food contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2511 is amended in paragraph (b) by alphabetically inserting a new item in the list of substances, as follows:

§ 121.2511 Plasticizers in polymeric substances.

• • • • •

(b) List of substances:

	Limitations
• • •	• • •
Diisononyl adipate.	For use only: 1. At levels not exceeding 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty, nonalcoholic foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not exceeding 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact under conditions of use F and G described in table 2 of § 121.2526(c) with fatty, nonalcoholic foods having a fat and oil content not exceeding a total of 30 percent by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch.
• • •	• • •

• • • • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–17–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17649 Filed 10–16–72;8:48 am]

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Neomycin Sulfate, Hydrocortisone Acetate, Tetracaine Hydrochloride Ear Ointment, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (10–524V) filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of an ear ointment containing neomycin sulfate and other drugs for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.31 Neomycin sulfate, hydrocortisone acetate, tetracaine hydrochloride ear ointment, veterinary.

(a) *Specifications.* The product contains 5 milligrams of neomycin sulfate, equivalent to 3.5 milligrams of neomycin base, 5 milligrams of hydrocortisone acetate, and 5 milligrams of tetracaine hydrochloride in each gram of ointment.

(b) *Sponsor.* See Code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is indicated for treating acute otitis externa and, to a lesser degree, chronic otitis externa in dogs and cats. In treatment of ear canker and other inflammatory conditions of the external ear canal, a quantity of ointment sufficient to fill the external ear canal may be applied one to three times daily.

(2) Tetracaine and neomycin have the potential to sensitize. Care should be taken to observe animals being treated for evidence of hypersensitivity or allergy to the product. If such signs are noted, therapy with the product should be stopped. Incomplete response or exacerbation of corticosteroid responsive lesions may be due to the presence of nonsusceptible organisms or to prolonged use of antibiotic-containing preparations resulting in overgrowth of nonsusceptible organisms, particularly Monilia.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–17–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 10, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72–17650 Filed 10–16–72;8:48 am]

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Ketamine Hydrochloride Injection

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications (45–290V) filed by Parke-Davis & Co., Joseph Campau at the River, Detroit, Mich. 48232, and (43–304V) filed by Bristol Laboratories, Post Office Box 657, Syracuse, N.Y. 13201, proposing the safe and effective use of ketamine hydrochloride injection for restraint in subhuman primates. The supplemental applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended in § 135b.28 by revising paragraph (e) as follows:

§ 135b.28 Ketamine hydrochloride injection, veterinary.

• • • • •

(e) *Conditions of use.* (1) In cats: (i) It is used for restraint or as the sole anesthetic agent in diagnostic or minor,

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brief surgical procedures that do not require skeletal muscle relaxation.

(ii) It is administered intramuscularly at a recommended dose that ranges from 5 to 15 milligrams per pound of body weight depending on the effect desired.

(2) In subhuman primates: (i) It is used for restraint.

(ii) It is administered intramuscularly at a recommended dose that ranges from 3 to 15 milligrams per kilogram of body weight depending upon the species, general condition, and age of the subject.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–17–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 11, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17646 Filed 10–16–72;8:48 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE-(OR TETRACYCLINE-)CONTAINING DRUGS

Tetracycline Hydrochloride

The Commissioner of Food and Drugs has evaluated a new animal drug application (65–064V) filed by E. R. Squibb & Sons, New Brunswick, N.J. 08903, proposing the safe and effective use of tetracycline hydrochloride capsules in dogs. The application is approved.

The drug is subject to batch certification under the provisions of section 512(n) of the act, and accordingly Part 146c is amended to provide that the drug under its approved labeling shall be dispensed on a prescription basis.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512 (i) and (n), 82 Stat. 347 and 350–351; 21 U.S.C. 360b (i) and (n)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 146c are amended as follows:

1. Part 135c is amended in § 135c.34 by revising paragraph (b) and by adding a new table 3 to paragraph (e) as follows:

§ 135c.34 Tetracycline oral veterinary.

* * * * * * *

(b) *Sponsor.* (1) See Code Nos. 030 and 037 in § 135.501(c) of this chapter for conditions of use provided in Tables 1 and 2 of paragraph (e) of this section.

(2) See Code No. 035 in § 135.501(c) of this chapter for conditions of use provided for in table 3 of paragraph (e) of this section.

* * * * * * *

(e) *Conditions of use.* * * *

TABLE 3—IN CAPSULES

Milligrams per capsule	Limitations	Indications for use
Tetracycline... 250	For dogs; as tetracycline hydrochloride; administer orally 25 mg. per lb. of body weight per day given in divided doses every 6 hours; treatment should be continued until symptoms of the disease have subsided and the temperature is normal for 48 hours; not for use in animals which are raised for food production; Federal law restricts this drug to use by or on the order of a licensed veterinarian.	For treatment of infections caused by organisms sensitive to tetracycline hydrochloride, such as bacterial gastroenteritis due to *E. coli* and urinary tract infections due to *Staphylococcus spp.* and *E. coli.*

2. Part 146c is amended by revising § 146c.204(c)(2) to read as follows:

§ 146c.204 Chlortetracycline hydrochloride capsules, tetracycline hydrochloride capsules; tetracycline capsules; tetracycline phosphate complex capsules.

* * * * * * *

(c) * * *

(2) *It is packaged for dispensing and intended solely for veterinary use.* Its label and labeling shall bear the statement "Warning: Not for use in animals which are raised for food production" and shall comply with all of the requirements prescribed by subparagraph (1) of this paragraph, except that in lieu of the statement "Caution: Federal law prohibits dispensing without a prescription," each package shall include information containing directions and warnings adequate for the veterinary use of the drug by the laity in all cases except those in which the veterinary prescription statement is required by regulations under Part 135c. In those cases, the veterinary prescription statement shall comply with the requirements prescribed by § 1.106(c) of this chapter.

* * * * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–17–72).

(Secs. 512 (i), (n), 82 Stat. 347, 350–351; 21 U.S.C. 360b (i), (n))

Dated: October 10, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72–17647 Filed 10–16–72;8:48 a.m.]

[DESI 50015]

PART 148i—NEOMYCIN SULFATE

Confirmation of Order Revoking Provisions for Certification of Neomycin Palmitate—Hydrocortisone Acetate—Trypsin—Chymotrypsin Ointment

An order was published in the FEDERAL REGISTER of March 8, 1972 (37 F.R. 4959), amending the antibiotic drug regulations to repeal provisions for certification of neomycin palmitate-hydrocortisone acetate-trypsin-chymotrypsin ointment. The order amended Part 148i by revising the section heading and paragraph (a)(1) of § 148i.33.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly, the amendment promulgated thereby became effective April 17, 1972.

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17648 Filed 10–16–72;8:48 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7212]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Private Foundation Defined

On November 20, 1970, notice of proposed rule making with respect to promulgation of regulations which relate to the definition of a private foundation under section 509 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (35 F.R. 17845). A public hearing on these proposed regulations was held on June 28, 1971. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. There are inserted immediately before § 1.511–1, the following new sections:

§ 1.509(a) Statutory provisions; private foundation defined; general rule.

SEC. 509. *Private foundation defined*—(a) *General rule.* For purposes of the purposes of thia title, the term "private foundation" means a domestic or foreign organization described in section 501(c)(3) other than—

(1) An organization described in section 170(b)(1)(A) (other than in clauses (vii) and (viii));

(2) An organization which—

(A) Normally receives more than one-third of its support in each taxable year from any combination of—

(i) Gifts, grants, contributions, or membership fees, and

(ii) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), not including such receipts from any person, or from any bureau or similar agency of a governmental unit (as described in section 170(c)(1)), in any taxable year to the extent such receipts exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year, from persons other than disqualified persons (as defined in section 4946) with respect to the organization, from governmental units described in section 170(c)(1), or from organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

(B) Normally receives not more than one-third of its support in each taxable year from gross investment income (as defined in subsection (e));

(3) An organization which—

(A) Is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in paragraph (1) or (2),

(B) Is operated, supervised, or controlled by or in connection with one or more organizations described in paragraph (1) or (2), and

(C) Is not controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in paragraph (1) or (2); and

(4) An organization which is organized and operated exclusively for testing for public safety.

For purposes of paragraph (3), an organization described in paragraph (2) shall be deemed to include an organization described in sections 501(c)(4), (5), or (6) which would be described in paragraph (2) if it were an organization described in section 501(c)(3).

[Sec. 509(a), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 496)]

§ 1.509(a)–1 Definition of private foundation.

In general. Section 509(a) defines the term "private foundation" to mean any domestic or foreign organization described in section 501(c)(3) other than an organization described in section 509(a)(1), (2), (3), or (4). Organizations which fall into the categories excluded from the definition of "private foundation" are generally those which either have broad public support or actively function in a supporting relationship to such organizations. Organizations which test for public safety are also excluded.

§ 1.509(a)–2 Exclusion for certain organizations described in section 170(b)(1)(A).

(a) *General rule.* Organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) are excluded from the definition of "private foundation" by section 509(a)(1). For the requirements to be met by organizations described in section 170(b)(1)(A)(i) through (vi), see § 1.170A–9 (a) through (e) and paragraph (b) of this section. For purposes of this section, the parenthetical language "other than in clauses (vii) and (viii)" used in section 509(a)(1) means "other than an organization which is described only in clause (vii) or (viii)." For purposes of this section, an organization may qualify as a section 509(a)(1) organization regardless of the fact that it does not satisfy section 170(c)(2) because:

(1) Its funds are not used within the United States or its possessions, or

(2) It was created or organized other than in; or under the law of, the United States, any State or territory, the District of Columbia, or any possession of the United States.

(b) *Medical research organizations.* In order to qualify under section 509(a)(1) as a medical research organization described in section 170(b)(1)(A)(iii), an organization must meet the requirements of section 170(b)(1)(A)(iii) and § 1.170A–9(c)(2), except that, solely for purposes of classification as a section 509(a)(1) organization, such organization need not be committed to spend every contribution for medical research before January 1 of the fifth calendar year which begins after the date such contribution is made.

§ 1.509(a)–3 Broadly, publicly supported organizations.

(a) *In general.* (1) Section 509(a)(2) excludes certain types of broadly, publicly supported organizations from private foundation status. An organization will be excluded under section 509(a)(2) if it meets the one-third support test under section 509(a)(2)(A) and the one-third gross investment income test under section 509(a)(2)(B).

(2) An organization will meet the one-third support test if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives more than one-third of its support in each taxable year from any combination of:

(i) Gifts, grants, contributions, or membership fees, and

(ii) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business (within the meaning of section 513), subject to certain limitations described in paragraph (b) of this section.

from permitted sources. For purposes of this section, governmental units, organizations described in section 509(a)(1) and persons other than disqualified persons with respect to the organization shall be referred to as permitted sources. For purposes of this section, the amount of support received from the sources described in subdivisions (i) and (ii) of this subparagraph (subject to the limitations referred to in this subparagraph) will be referred to as the numerator of the one-third support total amount of support received (as defined in section 509(d)) will be referred to as the denominator of the one-third support fraction. For purposes of section 509(a)(2), paragraph (f) of this section distinguishes gifts and contributions from gross receipts; paragraph (g) of this section distinguishes grants from gross receipts; paragraph (h) of this section defines membership fees; paragraph (i) of this section defines "any bureau or similar agency of a governmental unit"; paragraph (j) of this section describes the treatment of certain indirect forms of support; paragraph (k) of this section describes the method of accounting for support; paragraph (l) of this section describes the treatment of gross receipts from section 513(a)(1), (2), or (3) activities; and paragraph (m) of this section distinguishes gross receipts from gross investment income.

(3) An organization will meet the one-third gross investment income test if it normally (within the meaning of paragraph (c), (d), or (e) of this section) receives not more than one-third of its support in each taxable year from gross investment income (as defined in section 509(e)). For purposes of this section, the amount of gross investment income received will be referred to as the numerator of the one-third gross investment income fraction, and the total amount of support received (as defined in section 509(d) will be referred to as the denominator of the one-third gross investment income fraction. For purposes of section 509(a)(2), paragraph (m) of this section distinguishes gross receipts from gross investment income.

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(4) The one-third support test and the one-third gross investment income test are designed to insure that an organization which is excluded from private foundation status under section 509(a)(2) is responsive to the general public, rather than to the private interests of a limited number of donors or other persons.

(b) *Limitation on gross receipts*—(1) *General rule.* In computing the amount of support received from gross receipts under section 509(a)(2)(A)(ii) for purposes of the one-third support test of section 509(a)(2)(A), gross receipts from related activities received from any person, or from any bureau or similar agency of a governmental unit, are includible in any taxable year only to the extent that such receipts do not exceed the greater of $5,000 or 1 percent of the organization's support in such taxable year.

(2) *Examples.* The application of this paragraph may be illustrated by the examples set forth below. For purposes of these examples, the term "general public" is defined as persons other than disqualified persons and other than persons from whom the foundation receives gross receipts in excess of the greater of $5,000 or 1 percent of its support in any taxable year, and the term "gross receipts" is limited to receipts from activities which are not unrelated trade or business (within the meaning of section 513).

Example (1). For the taxable year 1970, X, an organization described in section 501(c)(3), received support of $10,000 from the following sources:

Bureau M (a governmental bureau from which X received gross receipts for services rendered)	$25,000
Bureau N (a governmental bureau from which X received gross receipts for services rendered)	25,000
General public (gross receipts for services rendered)	20,000
Gross investment income	15,000
Contributions from individual substantial contributors (defined as disqualified persons under section 4946(a)(2))	15,000
Total support	100,000

Since the $25,000 received from each bureau amounts to more than the greater of $5,000 or one percent of X's support for 1970 (1% of $100,000=$1,000) under section 509(a)(2)(A)(ii), each amount is includible in the numerator of the one-third support fraction only to the extent of $5,000. Thus, for the taxable year 1970, X received support from sources which are taken into account in meeting the one-third support test of section 509(a)(2)(A) computed as follows:

Bureau M	$5,000
Bureau N	5,000
General public	20,000
Total	30,000

Therefore, in making the computations required under paragraph (c), (d), or (e) of this section, only $30,000 is includible in the aggregate numerator and $100,000 is includible in the aggregate denominator of the support fraction.

Example (2). For the taxable year 1970, Y, an organization described in section 501(c)(3), received support of $600,000 from the following sources:

Bureau O (gross receipts for services rendered)	$10,000
Bureau P (gross receipts for services rendered)	10,000
General public (gross receipts for services rendered)	150,000
General public (contributions)	40,000
Gross investment income	150,000
Contributions from substantial contributors	240,000
Total support	600,000

Since the $10,000 received from each bureau amounts to more than the greater of $5,000 or 1 percent of Y's support for 1970 (1% of $600,000=$6,000), each amount is includible in the numerator of the one-third support fraction only to the extent of $6,000. Thus, for the taxable year 1970, Y received support from sources required to meet the one-third support test of section 509(a)(2)(A) computed as follows:

Bureau O	$6,000
Bureau P	6,000
General public (gross receipts)	150,000
General public (contributions)	40,000
Total	202,000

Therefore, in making the computations required under paragraph (c), (d), or (e) of this section, $202,000 is includible in the aggregate numerator and $600,000 is includible in the aggregate denominator of the support fraction.

(c) *"Normally"*—(1) *In general*—(i) *Definition.* The support tests set forth in section 509(a)(2) are to be computed on the basis of the nature of the organization's "normal" sources of support. An organization will be considered as "normally" receiving one-third of its support from any combination of gifts, grants, contributions, membership fees, and gross receipts from permitted sources (subject to the limitations described in paragraph (b) of this section) and not more than one-third of its support from gross investment income for its current taxable year and the taxable year immediately succeeding its current year, if, for the 4 taxable years immediately preceding the current taxable year, the aggregate amount of the support received during the applicable period from gifts, grants, contributions, membership fees, and gross receipts from permitted sources (subject to the limitations described in paragraph (b) of this section) is more than one-third, and the aggregate amount of the support received from gross investment income is not more than one-third, of the total support of the organization for such 4-year period.

(ii) *Exception for material changes in sources of support.* If for the current taxable year there are substantial and material changes in an organization's sources of support other than changes arising from unusual grants excluded under subparagraph (3) of this paragraph, then in applying subdivision (i) of this subparagraph, neither the 4-year computation period applicable to such year as an immediately succeeding taxable year, not the 4-year computation period applicable to such year as a current taxable year shall apply, and in lieu of such computation periods there shall be applied a computation period consisting of the taxable year of substantial and material changes and the 4 taxable years immediately preceding such year. Thus, for example, if there are substantial and material changes in an organization's sources of support for taxable year 1976, then even though such organization meets the requirements of subdivision (i) of this subparagraph based on a computation period of taxable years 1971 through 1974 or 1972 through 1975, such an organization will not meet the requirements of section 509(a)(2) unless it meets the requirements of subdivision (i) of this subparagraph for a computation period of the taxable years 1972 through 1976. See example (3) in subparagraph (6) of this paragraph for an illustration of this subdivision. An example of a substantial and material change is the receipt of an unusually large contribution or bequest which does not qualify as an unusual grant under subparagraph (3) of this paragraph. See subparagraph (5)(ii) of this paragraph as to the procedure for obtaining a ruling whether an unusually large grant may be excluded as an unusual grant.

(iii) *Status of grantors and contributors.* (*a*) If as a result of subdivision (ii) of this subparagraph, an organization is not able to meet the requirements of either the one-third support test described in paragraph (a)(2) of this section or the one-third gross investment income test described in paragraph (a)(3) of this section for its current taxable year, its status (with respect to a grantor or contributor under sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522) will not be affected until notice of change of status under section 509(a)(2) is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or was aware of, the substantial and material change referred to in subdivision (ii) of this subparagraph, or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as section 509(a)(2) organization.

(*b*) A grantor or contributor (other than one of the organization's founders, creators, or foundation managers (within the meaning of section 4946(b)) will not be considered to be responsible for, or aware of, the substantial and material change referred to in subdivision (ii) of this subparagraph if such grantor or contributor has made such grant or contribution in reliance upon a written statement by the grantee organization that such grant or contribution will not result in the loss of such organization's classification as not a private foundation under section 509(a). Such statement must be signed by a responsible officer of the grantee organization and must set forth sufficient information, including a summary of the pertinent financial data for the 4 preceding years, to assure a reasonably prudent man that his grant or contribution will not result

in the loss of the grantee organization's classification as not a private foundation under section 509(a). If a reasonable doubt exists as to the effect of such grant or contribution, or if the grantor or contributor is one of the organization's founders, creators, or foundation managers, the procedure set forth in subparagraph (5)(ii) of this paragraph may be followed by the grantee organization for the protection of the grantor or contributor.

(iv) *Special rule for new organizations.* If an organization has been in existence for at least 1 taxable year consisting of at least 8 months, but for fewer than 5 taxable years, the number of years for which the organization has been in existence immediately preceeding each current taxable year being tested will be substituted for the 4-year period described in subdivision (i) of this subparagraph to determine whether the organization "normally" meets the requirements of paragraph (a) of this section. However, if subdivision (ii) of this subparagraph applies, then the period consisting of the number of years for which the organization has been in existence (up to and including the current year) will be substituted for the 4-year period described in subdivision (i) of this subparagraph. An organization which has been in existence for at least 1 taxable year, consisting of 8 or more months, may be issued a ruling or determination letter if it "normally" meets the requirements of paragraph (a) of this section for the number of years described in this subdivision. Such an organization may apply for a ruling or determination letter under the provisions of this paragraph, rather than under the provisions of paragraph (d) of this section. The issuance of a ruling or determination letter will be discretionary with the Commissioner. See paragraph (e)(4) of this section as to the initial determination of the status of a newly created organization. This subdivision shall not apply to those organizations receiving an extended advance ruling under paragraph (d)(4) of this section.

(2) *Terminations under section 507(b)(1)(B).* For the special rules applicable to the term "normally" as applied to private foundations which elect to terminate their private foundation status pursuant to the 12-month or 60-month procedure provided in section 507(b)(1)(B), see the regulations under such section.

(3) *Exclusion of unusual grants.* For purposes of applying the 4-year aggregation test for support set forth in subparagraph (1) of this paragraph, one or more contributions (including contributions made prior to Jan. 1, 1970) may be excluded from the numerator of the one-third support fraction and from the denominator of both the one-third support and one-third gross investment income fractions only if such a contribution meets the requirements of this subparagraph. The exclusion provided by this subparagraph is generally intended to apply to substantial contributions and bequests from disinterested parties, which contributions or bequests:

(i) Are attracted by reason of the publicly supported nature of the organization;

(ii) Are unusual or unexpected with respect to the amount thereof; and

(iii) Would by reason of their size, adversely affect the status of the organization as normally meeting the one-third support test for any of the applicable periods described in paragraph (c), (d), or (e) of this section.

In the case of a grant (as defined in paragraph (g) of this section) which meets the requirements of this subparagraph, if the terms of the granting instrument (whether executed before or after 1969) require that the funds be paid to the recipient organization over a period of years, the amount received by the organization each year pursuant to the terms of such grant may be excluded for such year. However, no item of gross investment income may be excluded under this subparagraph. The provisions of this subparagraph shall apply to exclude unusual grants made during any of the applicable periods described in paragraph (c), (d), or (e) of this section. See subparagraph (5)(ii) of this paragraph as to reliance by a grantee organization upon an unusual grant ruling under this subparagraph.

(4) *Determining factor.* In determining whether a particular contribution may be excluded under subparagraph (3) of this paragraph, all pertinent facts and circumstances will be taken into consideration. No single factor will necessarily be determinative. Among the factors to be considered are:

(i) Whether the contribution was made by any person (or persons standing in a relationship to such person which is described in section 4946(a)(1)(C) through (G)) who created the organization, previously contributed a substantial part of its support or endowment, or stood in a position of authority, such as a foundation manager (within the meaning of section 4946(b)), with respect to the organization. A contribution made by a person other than those persons described in this subdivision will ordinarily be given more favorable consideration than a contribution made by a person described in this subdivision.

(ii) Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.

(iii) Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.

(iv) Except in the case of a new organization, whether, prior to the receipt of the particular contribution, the organization (*a*) has carried on an actual program of public solicitation and exempt activities and (*b*) has been able to attract a significant amount of public support.

(v) Whether the organization may reasonably be expected to attract a significant amount of public support subsequent to the particular contribution. In this connection, continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future support from the general public.

(vi) Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in subparagraph (1) of this paragraph without the benefit of any exclusions of unusual grants pursuant to subparagraph (3) of this paragraph;

(vii) Whether neither the contributor nor any person standing in a relationship to such contributor which is described in section 4946(a)(1)(C) through (G) continues directly or indirectly to exercise control over the organization;

(viii) Whether the organization has a representative governing body as described in § 1.509(a)-3(d)(3)(i); and

(ix) Whether material restrictions or conditions (within the meaning of § 1.507-2(a)(8)) have been imposed by the transferor upon the transferee in connection with such transfer.

(5) *Grantors and contributors.* (i) As to the status of grants and contributions which result in substantial and material changes in the organization (as described in subparagraph (1)(ii) of this paragraph) and which fail to meet the requirements for exclusion under subparagraph (3) of this paragraph, see the rules prescribed in subparagraph (1)(iii) of this paragraph.

(ii) Prior to the making of any grant or contribution which will allegedly meet the requirements for exclusion under subparagraph (3) of this paragraph, a potential grantee organization may request a ruling whether such grant or contribution may be so excluded. Requests for such ruling may be filed by the grantee organization with the district director. The issuance of such ruling will be at the sole discretion of the Commissioner. The organization must submit all information necessary to make a determination of the applicability of subparagraph (3) of this paragraph, including all information relating to the factors described in subparagraph (4) of this paragraph. If a favorable ruling is issued, such ruling may be relied upon by the grantor or contributor of the particular contribution in question for purposes of sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 and by the grantee organization for purposes of subparagraph (3) of this paragraph.

(6) *Examples.* The application of the principles set forth in this paragraph is illustrated by the examples set forth below. For purposes of these examples, the term "general public" is defined as persons other than disqualified persons and other than persons from whom the foundation received gross receipts in excess of the greater of $5,000 or 1 percent of its support in any taxable year, the term "gross investment income" is

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as defined in section 509(e), and the term "gross receipts" is limited to receipts from activities which are not unrelated trade or business (within the meaning of section 513).

Example (1). For the years 1970 through 1973, X, an organization exempt under section 501(c)(3) which makes scholarship grants to needy students of a particular city, received support from the following sources:

1970	
Gross receipts (general public)	$35,000
Contributions (substantial contributors)	36,000
Gross investment income	29,000
Total support	100,000
1971	
Gross receipts (general public)	34,000
Contributions (substantial contributors)	35,000
Gross investment income	31,000
Total support	100,000
1972	
Gross receipts (general public)	35,000
Contributions (substantial contributors)	30,000
Gross investment income	35,000
Total support	100,000
1973	
Gross receipts (general public)	30,000
Contributions (substantial contributors)	39,000
Gross investment income	31,000
Total support	100,000

In applying section 509(a)(2) to the taxable year 1974 on the basis of subparagraph (1)(i) of this paragraph, the total amount of support from gross receipts from the general public ($134,000) for the period 1970 through 1973 was more than one-third, and the total amount of support from gross investment income ($126,000) was less than one-third, of its total support for the same period ($400,000). For the taxable years 1974 and 1975, X is therefore considered "normally" to receive more than one-third of its support from the public sources described in section 509(a)(2)(A) and less than one-third of its support from gross investment income referred to in section 509(a)(2)(B) since due to the pattern of X's support, there are no substantial and material changes in the sources of the organization's support in these years. The fact that X received less than one-third of its support from section 509(a)(2)(A) sources in 1973 and more than one-third of its support from gross investment income in 1972 does not affect its status since it met the "normally" test over a 4-year period.

Example (2). Assume the same facts as in example (1) except that in 1973 X also received an unexpected bequest of $50,000 from A, an elderly widow who was interested in encouraging the work of X, but had no other relationship to it. Solely by reason of the bequest, A became a disqualified person. X used the bequest to create five new scholarships. Its operations otherwise remained the same. Under these circumstances X could not meet the 4-year support test since the total amount received from gross receipts from the general public ($134,000) would not be more than one-third of its total support for the 4-year period ($450,000). Since A is a disqualified person, her bequest cannot be included in the numerator of the one-third support test under section 509(a)(2)(A). However, based on the factors set forth in subparagraph (4) of this paragraph, A's bequest may be excluded as an unusual grant under subparagraph (3) of this paragraph. Therefore, X will be considered to have met the support test for the taxable years 1974 and 1975.

Example (3). In 1970, Y, an organization described in section 501(c)(3), was created by A, the holder of all the common stock in M corporation, B, A's wife, and C, A's business associate. Each of the three creators made small cash contributions to Y to enable it to begin operations. The purpose of Y was to sponsor and equip athletic teams for underprivileged children in the community. Between 1970 and 1973, Y was able to raise small amounts of contributions through fund raising drives and selling admission to some of the sponsored sporting events. For its first year of operations, it was determined that Y was excluded from the definition of "private foundation" under the provisions of section 509(a)(2). A made small contributions to Y from time to time. At all times, the operations of Y were carried out on a small scale, usually being restricted to the sponsorship of two to four baseball teams of underprivileged children. In 1974, M recapitalized and created a first and second class of 6 percent nonvoting preferred stock, most of which was held by A and B. A then contributed 49 percent of his common stock in M to Y. A, B, and C continued to be active participants in the affairs of Y from its creation through 1974. A's contribution of M's common stock was substantial and constituted 90 percent of Y's total support for 1974. Although Y could satisfy the one-third support test on the basis of the four taxable years prior to 1974, a combination of the facts and circumstances described in subparagraph (4) of this paragraph preclude A's contribution of M's common stock in 1974 from being excluded as an unusual grant under subparagraph (3) of this paragraph. A's contribution in 1974 constituted a substantial and material change in Y's sources of support within the meaning of subparagraph (1)(ii) of this paragraph and on the basis of the 5-year period prescribed in subparagraph (1)(ii) of this paragraph (1970 to 1974), Y would not be considered as "normally" meeting the one-third support test described in paragraph (a)(2) of this section for the taxable years 1974 (the current taxable year) and 1975 (the immediately succeeding taxable year).

Example (4). M, an organization described in section 501(c)(3), was organized in 1971 to promote the appreciation of ballet in a particular region of the United States. Its principal activities will consist of erecting a theater for the performance of ballet and the organization and operation of a ballet company. The governing body of M consists of 9 prominent unrelated citizens residing in the region who have either an expertise in ballet or a strong interest in encouraging appreciation of the art form. In order to provide sufficient capital for M to commence its activities, X, a private foundation, makes a grant of $500,000 in cash to M. Although A, the creator of X, is one of the nine members of M's governing body, was one of M's original founders, and continues to lend his prestige to M's activities and fund raising efforts, A does not, directly or indirectly, exercise any control over M. By the close of its first taxable year, M has also received a significant amount of support from a number of smaller contributions and pledges from other members of the general public. Upon the opening of its first season of ballet performances, M expects to charge admission to the general public. Under the above circumstances, the grant by X to M may be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether M meets the one-third support test under section 509(a)(2). Although A was a founder and member of the governing body of M, X's grant may be excluded.

Example (5). Assume the same facts as example (4). In 1974, during M's third season of operations, B, a widow, passed away and bequeathed $4 million to M. During 1971 through 1973, B had made small contributions to M, none exceeding $10,000 in any year. During 1971 through 1974, M had received approximately $550,000 from receipts for admissions and contributions from the general public. At the time of B's death, no person standing in a relationship to B described in section 4946(a)(1)(C) through (G) was a member of M's governing body. B's bequest was in the form of cash and readily marketable securities. The only condition placed upon the bequest was that it be used by M to advance the art of ballet. Under the above circumstances, the bequest of B to M may be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether M meets the one-third support test under section 509(a)(2).

Example (6). O is a research organization described in section 501(c)(3). O was created by A in 1971 for the purpose of carrying on economic studies primarily through persons receiving grants from O and engaging in the sale of economic publications. O's five-member governing body consists of A, A's sons, B, and C, and two unrelated economists. In 1971, A made a contribution to O of $100,000 to help establish the organization. During 1971 through 1974 A made annual contributions to O averaging $20,000 a year. During the same period, O received annual contributions from members of the general public averaging $15,000 per year and receipts from the sale of its publications averaging $50,000 per year. In 1974, B made an inter vivos contribution to O of $600,000 in cash and readily marketable securities. Under the above circumstances, B's contribution cannot be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether O meets the one-third support test.

Example (7). P is an educational organization described in section 501(c)(3). P was created in 1971. The governing body of P has 9 members, consisting of A, a prominent civic leader and 8 other unrelated civic leaders and educators in the community, who also participated in the creation of P. During 1971 through 1974, the principal source of income for P has been receipts from the sale of its educational periodicals. These sales have amounted to $200,000 for this period. Small contributions amounting to $50,000 have also been received during the same period from members of the governing body, including A, as well as other members of the general public. In 1974 A contributed $750,000 of the nonvoting stock of Y, a closely held corporation. A retained a substantial portion of the voting stock of Y. By a majority vote, the governing body decided to retain the Y stock for a period of at least 5 years. Under the above circumstances, A's contribution of the Y stock cannot be excluded as an unusual grant under subparagraph (3) of this paragraph for purposes of determining whether P meeta the one-third support test.

(d) *Advance rulings to newly created organizations*—(1) *In general.* A ruling or determination letter that an organization is described in section 509(a)(2) will not be issued to a newly created organization prior to the close of its first taxable year consisting of at least 8 months. However, such organization may request a ruling or determination letter that it will be treated as a section 509(a)(2) organization for its first 2 taxable years (or its first 3 taxable years, if its first taxable year consists of less than 8 months). For purposes of this section such 2- or 3-year period, whichever is applicable, shall be referred to as the advance ruling period. Such an advance ruling or determination letter may be issued if the organization can reasonably be expected to meet the requirements of paragraph (a) of this section during the advance ruling period. The issuance of a ruling or determination letter will be discretionary with the Commissioner.

(2) *Basic consideration.* In determining whether an organization "can reasonably be expected" (within the meaning of subparagraph (1) of this paragraph) to meet the one-third support test under section 509(a)(2)(A) and the one-third gross investment income test under section 509(a)(2)(B) described in paragraph (a) of this section for its advance ruling period or extended advance ruling period as provided in subparagraph (4) of this paragraph, if applicable, the basic consideration is whether its organizational structure, proposed programs or activities, and intended method of operation are such as to attract the type of broadly based support from the general public, public charities, and governmental units which is necessary to meet such tests. While the factors which are relevant to this determination, and the weight accorded to each of them, may differ from case to case, depending on the nature and functions of the organization, a favorable determination will not be made where the facts indicate that an organization is likely during its advance or extended advance ruling period to receive less than one-third of its support from permitted sources (subject to the limitations of paragraph (b) of this section) or to receive more than one-third of its support from gross investment income.

(3) *Factors taken into account.* All pertinent facts and circumstances shall be taken into account under subparagraph (2) of this paragraph in determining whether the organizational structure, programs or activities, and method of operation of an organization are such as to enable it to meet the tests under section 509(a)(2) for its advance or extended advance ruling period. Some of the pertinent factors are:

(i) Whether the organization has or will have a governing body which is comprised of public officials, or individuals chosen by public officials acting in their capacity as such, of persons having special knowledge in the particular field or discipline in which the organization is operating, of community leaders, such as elected officials, clergymen, and educators, or, in the case of a membership organization, of individuals elected pursuant to the organization's governing instrument or bylaws by a broadly based membership. This characteristic does not exist if the membership of the organization's governing body is such as to indicate that it represents the personal or private interests of disqualified persons, rather than the interests of the community or the general public.

(ii) Whether a substantial portion of the organization's initial funding is to be provided by the general public, by public charities, or by government grants, rather than by a limited number of grantors or contributors who are disqualified persons with respect to the organization. The fact that the organization plans to limit its activities to a particular community or region or to a special field which can be expected to appeal to a limited number of persons will be taken into consideration in determining whether those persons providing the initial support for the organization are representative of the general public. On the other hand, the subsequent sources of funding which the organization can reasonably expect to receive after it has become established and fully operational will also be taken into account.

(iii) Whether a substantial proportion of the organization's initial funds are placed, or will remain, in an endowment, and whether the investment of such funds is unlikely to result in more than one-third of its total support being received from gross investment income.

(iv) In the case of an organization which carries on fund-raising activities, whether the organization has developed a concrete plan for solicitation of funds from the general public on a community or area-wide basis; whether any steps have been taken to implement such plan; whether any firm commitments of financial or other support have been made to the organization by civic, religious, charitable, or similar groups within the community; and whether the organization has made any commitments to, or established any working relationships with, those organizations or classes of persons intended as the future recipients of its funds.

(v) In the case of an organization which carries on community services, such as slum clearance and employment opportunities, whether the organization has a concrete program to carry out its work in the community; whether any steps have been taken to implement that program; whether it will receive any part of its funds from a public charity or governmental agency to which it is in some way held accountable as a condition of the grant or contribution; and whether it has enlisted the sponsorship or support of other civic or community leaders involved in community service programs similar to those of the organization.

(vi) In the case of an organization which carries on educational or other exempt activities for, or on behalf of, members, whether the solicitation for dues-paying members is designed to enroll a substantial number of persons in the community, area, profession, or field of special interest (depending on the size of the area and the nature of the organization's activities); whether membership dues for individual (rather than institutional) members have been fixed at rates designed to make membership available to a broad cross-section of the public rather than to restrict membership to a limited number of persons; and whether the activities of the organization will be likely to appeal to persons having some broad common interest or purpose, such as educational activities in the case of alumni associations, musical activities in the case of symphony societies, or civic affairs in the case of parent-teacher associations.

(vii) In the case of an organization which provides goods, services, or facilities, whether the organization is or will be required to make its services, facilities, performances, or products available (regardless of whether a fee is charged) to the general public, public charities, or governmental units, rather than to a limited number of persons or organizations; whether the organization will avoid executing contracts to perform services for a limited number of firms or governmental agencies or bureaus; and whether the service to be provided is one which can be expected to meet a special or general need among a substantial portion of the general public.

(4) *Extension of advance ruling period.* (i) The advance ruling period described in subparagraph (1) of this paragraph shall be extended for a period of 3 taxable years after the close of the unextended advance ruling period if the organization so requests, but only if such organization's request accompanies its request for an advance ruling and is filed with a consent under section 6501(c)(4) to the effect that the period of limitation upon assessment under section 4940 for any taxable year within the extended advance ruling period shall not expire prior to 1 year after the date of the expiration of the time prescribed by law for the assessment of a deficiency for the last taxable year within the extended advance ruling period. An organization's extended advance ruling period is 5 taxable years if its first taxable year consists of at least 8 months, or is 6 taxable years if its first taxable year is less than 8 months.

(ii) Notwithstanding subdivision (i) of this subparagraph, an organization which has received or applied for an advance ruling prior to October 16, 1972, may file its request for the 3-year extension within 90 days from such date, but only if it files the consents required in this section.

(iii) See paragraph (e)(4)(i)(*d*) of this section for the effect upon the initial determination of status of an organization which receives an advance ruling for an extended advance ruling period.

(e) *Status of newly created organizations*—(1) *Advance or extended advance ruling.* This subparagraph shall apply to a newly created organizatfon which has received a ruling or determination letter under paragraph (d) of this section that it be treated as a section 509(a)(2) organization for its advance or extended advance ruling period. So long as such an organization's ruling or determination letter has not been terminated by the Commissioner before the expiration of the advance or extended advance ruling period, then whether or not such organization has satisfied the requirements

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of paragraph (a) of this section during such advance or extended advance ruling period, such an organization will be treated as an organization described in section 509(a)(2) in accordance with subparagraphs (2) and (3) of this paragraph, both for purposes of the organization and any grantor or contributor to such organization.

(2) *Reliance period.* Except as provided in subparagraphs (1) and (3) of this paragraph, an organization described in subparagraph (1) of this paragraph will be treated as an organization described in section 509(a)(2) for all purposes other than section 507(d) and 4940 for the period beginning with its inception and ending 90 days after its advance or extended advance ruling period. Such period will be extended until a final determination is made of such an organization's status only if the organization submits, within the 90-day period, information needed to determine whether it meets the requirements of paragraph (a) of this section for its advance or extended advance ruling period (even if such organization fails to meet the requirements of such paragraph (a)). However, since this subparagraph does not apply to section 4940, if it is subsequently determined that the organization was a private foundation from its inception, then the tax imposed by section 4940 shall be due without regard to the advance ruling or determination letter. Consequently, if any amount of tax under section 4940 in such a case is not paid on or before the last date prescribed for payment, the organization is liable for interest in accordance with section 6601. However, since any failure to pay such tax during the period referred to in this subparagraph is due to reasonable cause, the penalty under section 6651 with respect to the tax imposed by section 4940 shall not apply.

(3) *Grantors or contributors.* If a ruling or determination letter is terminated by the Commissioner prior to the expiration of the period described in subparagraph (2) of this paragraph, for purposes of sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 the status of grants or contributions with respect to grantors or contributors to such organizations will not be affected until notice of change of status of such organization is made to the public (such as by publication of the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or aware of, the act or failure to act that resulted in the organization's loss of classification under section 509(a)(2) or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from such classification. See, however, § 1.509(a)-3(c)(5)(ii) for the procedures to be followed to protect the grantor or contributor from being considered responsible for, or aware of, the act or failure to act resulting in the grantee's loss of classification under section 509(a)(2).

(4) *Initial determination of status*—(i) *New organizations.* (*a*) The initial determination of status of a newly created organization is the first determination (other than by issuance of an advance ruling or determination letter under paragraph (d) of this section) that the organization will be considered as "normally" meeting the requirements of paragraph (a) of this section for a period beginning with its first taxable year.

(*b*) In the case of a new organization whose first taxable year is at least 8 months, except as provided for in subdivision (i)(*d*) of this subparagraph, the initial determination of status shall be based on a computation period of either the first taxable year or the first and second taxable years.

(*c*) In the case of a new organization whose first taxable year is less than 8 taxable months, except as provided for in subdivision (i)(*d*) of this subparagraph, the initial determination of status shall be based on a computation period of either the first and second taxable years or the first, second and third taxable years.

(*d*) In the case of an organization which has received a ruling or determination letter for an extended advance ruling period under paragraph (d)(4) of this section, the initial determination of status shall be based on a computation period of all of the taxable years in the extended advance ruling period. However, where the ruling or determination letter for an extended advance ruling period under paragraph (d)(4) of this section is terminated by the Commissioner prior to the expiration of the period described in subparagraph (2) of this paragraph, the initial determination of status shall be based on a computation period of the period provided for in (*b*) or (*c*) of this subdivision or, if greater, the number of years to which the advance ruling applies.

(*e*) An initial determination that an organization will be considered as "normally" meeting the requirements of paragraph (a) of this section shall be effective for each taxable year in the computation period plus (except as provided by paragraph (c)(1)(ii) of this section relating to material changes in sources of support) the two taxable years immediately succeeding the computation period. Therefore, in the case of an organization referred to in (*b*) of this subdivision to which paragraph (c)(1)(ii) of this section does not apply, with respect to its first, second, and third taxable years, such an organization shall be described in section 509(a)(2) if it meets the requirements of paragraph (a) of this section for either its first taxable year or for its first and second taxable years on an aggregate basis. In addition, if it meets the requirements of paragraph (a) of this section for its first and second taxable years it shall be described in section 509(a)(2) for its fourth taxable year. Once an organization is considered as "normally" meeting the requirements of paragraph (a) for a period specified under this subdivision, paragraph (c)(1)(i), (ii), or (iv) of this section shall apply.

(*f*) The provisions of this subdivision may be illustrated by the following examples:

Example (1). X, a calendar year organization described in section 501(c)(3), is created in February 1972 for the purpose of displaying African art. The support X received from the public in 1972 satisfies the one-third support and gross investment income tests described in section 509(a)(2) for its first taxable year, 1972. X may therefore get an initial determination that it meets the requirements of paragraph (a) of this section for its first taxable year beginning in February 1972 and ending on December 31, 1972. This determination will be effective for taxable years 1972, 1973, and 1974.

Example (2). Assume the same facts as in example (1) except that X also receives a substantial contribution from one individual in 1972 which is not excluded from the denominator of the one-third support fraction described in section 509(a)(2) by reason of the unusual grant provision of subparagraph (c)(3) of this section. Because of this substantial contribution, X fails to satisfy the one-third support test over its first taxable year, 1972. However, the support received from the public over X's first and second taxable years in the aggregate satisfies the one-third support and gross investment income tests. X may therefore get an initial determination that it meets the requirements of paragraph (a) of this section for its first and second taxable years in the aggregate beginning in February 1972 and ending on December 31, 1973. This determination will be effective for taxable years 1972, 1973, 1974, and 1975.

Example (3). Y, a calendar year organization described in section 501(c)(3), is created in July 1972 for the encouragement of the musical arts. Y requests and receives an extended advance ruling period of five full taxable years plus its initial short taxable year of 6 months under subparagraph (d)(4) of this section. The extended advance ruling period begins in July 1972 and ends on December 31, 1977. The support received from the public over Y's first through sixth taxable years in the aggregate will satisfy the one-third support and gross investment income tests described in section 509(a)(2). Therefore, Y in 1978 may get an initial determination that it meets the requirements of paragraph (a) of this section in the aggregate over all the taxable years in its extended advance ruling period beginning in July 1972 and ending on December 31, 1977. This determination will be effective for taxable years 1972 through 1979.

Example (4). Assume the same facts as in example (3) except that the ruling for the extended advance ruling period is terminated prospectively at the end of 1975, so that Y may not rely upon such ruling for 1976 or any succeeding year. The support received from the public over Y's first through fourth taxable years (1972 through 1975) will not satisfy the one-third support and gross investment income tests described in section 509(a)(2). Because the ruling was terminated, the computation period for Y's initial determination of status is the period 1972 through 1975. Since Y has not met the requirements of paragraph (a) of this section for such computation period, Y is not described in section 509(a)(2) for purposes of its initial determination of status. If Y is not described in section 509(a) (1), (3), or (4), then Y is a private foundation. As of 1976, Y shall be treated as a private foundation for all purposes (except as provided in

subparagraph (3) of this paragraph with respect to grantors and contributors), and as of July 1972 for purposes of the tax imposed by section 4940 and for purposes of section 507(d) (relating to aggregate tax benefit).

(ii) *Advance rulings.* Unless a newly created organization has obtained a ruling or determination letter under paragraph (d) of this section that it be treated as a section 509(a)(2) organization for its advance or extended advance ruling period, it can not rely upon the possibility it will meet the requirements of paragraph (a) of this section for a taxable year which begins before the close of either applicable computation period provided for in subdivision (i) (*b*) or (*c*) of this subparagraph. Therefore, an organization which has not obtained such a ruling or determination letter, in order to avoid the risks associated with subsequently being determined to be a private foundation, may comply with the rules applicable to private foundations, and may pay, for example, the tax imposed by section 4940. In that event, if the organization subsequently meets the requirements of paragraph (a) for either applicable computation period, it shall be treated as a section 509(a)(2) organization from its inception, and, therefore, any tax imposed under chapter 42 shall be refunded and section 509(b) shall not apply.

(iii) *Penalties.* If a newly created organization fails to obtain a ruling or determination letter under paragraph (d) of this section, and fails to meet the requirements of paragraph (a) of this section for the first applicable computation period provided for in subdivision (i) (*b*) or (*c*) of this subparagraph, see section 6651 for penalty for failure to file return and pay tax.

(iv) *Examples.* This subparagraph may be illustrated by the following examples:

Example (1). On January 1, 1972, A contributes $100,000 to X, an organization described in section 501(c)(3) which he created on such date. X is not described in section 509(a)(1), (3), or (4). X's governing instrument does not contain the provisions referred to in section 508(e). Therefore, A is not entitled to a deduction under section 170 for the $100,000 contribution by reason of section 508(d)(2)(A) unless X is described in section 509(a)(2). If X meets the requirements of section 509(a)(2) for 1972 and 1973 on an aggregate basis, then whether or not X met the requirements of section 509(a)(2) for 1972 based on the support received in 1972, X would not have to meet the governing instrument requirements of section 508(e), and section 508(d)(2)(A) would not prevent A from claiming the deduction under section 170 for 1972. If X fails to meet the requirements of section 509(a)(2) for both 1972 and, on an aggregate basis, 1972 and 1973, X would lose its exempt status under section 508(e) for both 1972 and 1973, and A would be barred by section 508(d)(2)(A) from claiming a deduction for the $100,000 contribution to X.

Example (2). Assume the same facts as in example (1) except that X's governing instrument contains provisions which meet the requirements of section 508 (e) in the event X is a private foundation, but do not apply to X in the event X is not a private foundation. Whether or not X meets the requirements of section 509(a)(2) for 1972 based on the support received in 1972 or 1972 and 1973 on an aggregate basis, since X meets the requirements of section 508(e), section 508(d)(2)(A) would not bar A from claiming a deduction under section 170 for 1972 for the contribution to X.

(f) *Gifts and contributions distinguished from gross receipts*—(1) *In general.* In determining whether an organization normally receives more than one-third of its support from permitted sources, all "gifts" and "contributions" (within the meaning of section 509(a)(2)(A)(i)) received from permitted sources, are includible in the numerator of the support fraction in each taxable year. However, "gross receipts" (within the meaning of section 509(a)(2)(A)(ii)) from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, are includible in the numerator of the support fraction in any taxable year only to the extent that such gross receipts do not exceed the limitation with respect to the greater of $5,000 or 1 percent of support which is described in paragraph (b) of this section. The terms "gifts" and "contributions" shall, for purposes of section 509(a)(2), have the same meaning as such terms have under section 170(c) and also include bequests, legacies, devises, and transfers within the meaning of section 2055 or 2106(a)(2). Thus, for purposes of section 509(a)(2)(A), any payment of money or transfer of property without adequate consideration shall be considered a "gift" or "contribution." Where payment is made or property transferred as consideration for admissions, sales of merchandise, performance of services, or furnishing of facilities to the donor, the status of the payment or transfer under section 170(c) shall determine whether and to what extent such payment or transfer constitutes a "gift" or "contribution" under section 509(a)(2)(A)(i) as distinguished from "gross receipts" from related activities under section 509(a)(2)(A)(ii).

(2) *Valuation of property.* For purposes of section 509(a)(2), the amount includible in computing support with respect to gifts, grants or contributions of property or use of such property shall be the fair market or rental value of such property at the date of such gift or contribution.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. P is a local agricultural club described in section 501(c)(3). In order to encourage interest and proficiency by young people in farming and raising livestock, it makes awards at its annual fair for outstanding specimens of produce and livestock. Most of these awards are cash or other property donated by local businessmen. When the awards are made, the donors are given recognition for their donations by being identified as the donor of the award. The recognition given to donors is merely incidental to the making of the award to worthy youngsters. For these reasons, the donations will constitute "contributions" for purposes of section 509(a)(2)(A)(i). The amount includible in computing support with respect to such contributions is equal to the cash contributed or the fair market value of other property on the dates contributed.

(g) *Grants distinguished from gross receipts*—(1) *In general.* In determining whether an organization normally receives more than one-third of its support from public sources, all "grants" (within the meaning of section 509(a)(2)(A)(i)) received from permitted sources are includible in full in the numerator of the support fraction in each taxable year. However, "gross receipts" (within the meaning of section 509(a)(2)(A)(ii)) from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity which is not an unrelated trade or business, are includible in the numerator of the support fraction in any taxable year only to the extent that such gross receipts do not exceed the limitation with respect to the greater of $5,000 or 1 percent of support which is described in paragraph (b) of this section. A grant is normally made to encourage the grantee organization to carry on certain programs or activities in furtherance of its exempt purposes. It may contain certain terms and conditions imposed by the grantor to insure that the grantee's programs or activities are conducted in a manner compatible with the grantor's own programs and policies and beneficial to the public. The grantee may also perform a service or produce a work product which incidentally benefits the grantor. Because of the imposition of terms and conditions, the frequent similarity of public purposes of grantor and grantee, and the possibility of benefit resulting to the grantor, amounts received as grants "for" the carrying on of exempt activities are sometimes difficult to distinguish from amounts received as gross receipts "from" the carrying on of exempt activities. The fact that the agreement, pursuant to which payment is made, is designated a "contract" or a "grant" is not controlling for purposes of classifying the payment under section 509(a)(2).

(2) *Distinguishing factors.* For purposes of section 509(a)(2)(A)(ii), in distinguishing the term "gross receipts" from the term "grants," the term "gross receipts" means amounts received from an activity which is not an unrelated trade or business, if a specific service, facility, or product is provided to serve the direct and immediate needs of the payor, rather than primarily to confer a direct benefit upon the general public. In general, payments made primarily to enable the payor to realize or receive some economic or physical benefit as a result of the service, facility, or product obtained will be treated as "gross receipts" with respect to the payee. The fact that a profitmaking organization would, primarily for its own economic or physical betterment, contract with a nonprofit organization for the rendition of a comparable service, facility or product from such organization constitutes evidence that any payments received by the nonprofit payee organization (whether from a governmental unit, a

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nonprofit or a profitmaking organization) for such services, facilities or products are primarily for the economic or physical benefit of the payor and would therefore be considered "gross receipts," rather than "grants" with respect to the payee organization. For example, if a nonprofit hospital described in section 170(b)(1)(A)(iii) engages an exempt research and development organization to develop a more economical system of preparing food for its own patients and personnel, and it can be established that a hospital operated for profit might engage the services of such an organization to perform a similar benefit for its economic betterment, such fact would constitute evidence that the payments received by the research and development organization constitute "gross receipts," rather than "grants." Research leading to the development of tangible products for the use or benefit of the payor will generally be treated as a service provided to serve the direct and immediate needs of the payor, while basic research or studies carried on in the physical or social sciences will generally be treated as primarily to confer a direct benefit upon the general public.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). M, a nonprofit research organization described in section 501(c)(3), engages in some contract research. It receives funds from the government to develop a specific electronic device needed to perfect articles of space equipment. The initiative for the project came solely from the government. Furthermore, the government could have contracted with profitmaking research organizations which carry on similar activities. The funds received from the government for this project are gross receipts and do not constitute "grants" within the meaning of section 509(a)(2)(A)(i). M provided a specific product at the government's request and thus was serving the direct and immediate needs of the payor within the meaning of subparagraph (2) of this paragraph.

Example (2). N is a nonprofit educational organization described in section 501(c)(3). Its principal activity is to operate institutes to train employees of various industries in the principles of management and administration. The government pays N to set up a special institute for certain government employees and to train them over a 2-year period. Management training is also provided by profitmaking organizations. The funds received are included as "gross receipts." The particular services rendered were to serve the direct and immediate needs of the government in the training of its employees within the meaning of subparagraph (2) of this paragraph.

Example (3). The Office of Economic Opportunity makes a community action program grant to O, an organization described in section 509(a)(1). O serves as a "delegate agency" of OEO for purposes of financing a local community action program. As part of this program, O signs an agreement with X, an educational and charitable organization described in section 501(c)(3), to carry out a housing program for the benefit of poor families. Pursuant to this agreement, O pays X out of the funds provided by OEO to build or rehabilitate low income housing and to provide advisory services to other nonprofit organizations in order for them to meet similar housing objectives, all on a nonprofit basis. Payments made from O to X constitute "grants" for purposes of section 509(a)(2)(A) because such program is carried on primarily for the direct benefit of the community.

Example (4). P is an educational institute described in section 501(c)(3). It carries on studies and seminars to assist institutions of higher learning. It receives funds from the government to research and develop a program of black studies for institutions of higher learning. The performance of such a service confers a direct benefit upon the public. Because such program is carried on primarily for the direct benefit of the public, the funds are considered a "grant."

Example (5). Q is an organization described in section 501(c)(3) which carries on medical research. Its efforts have primarily been directed toward cancer research. Q sought funds from the government for a particular project being contemplated in connection with its work. In order to encourage its activities, the government gives Q the sum of $25,000. The research project sponsored by government funds is primarily to provide direct benefit to the general public, rather than to serve the direct and immediate needs of the government. The funds are therefore considered a "grant."

Example (6). R is a public service organization described in section 501(c)(3) and composed of State and local officials involved in public works activities. The Bureau of Solid Waste, Management of the Department of Health, Education, and Welfare paid R to study the feasibility of a particular system for disposal of solid waste. Upon completion of the study, R was required to prepare a final report setting forth its findings and conclusions. Although R is providing the Bureau of Solid Waste Management with a final report, such report is the result of basic research and study in the physical sciences and is primarily to provide direct benefit to the general public by serving to further the general functions of government, rather than a direct and immediate governmental need. The funds paid to R are therefore a "grant" within the meaning of section 509(a)(2).

Example (7). R is the public service organization referred to in example (6). W, a municipality described in section 170(c)(1), decides to construct a sewage disposal plant. W pays R to study a number of possible locations for such plant and to make recommendations to W, based upon a number of factors, as to the best location. W instructed R that in making its recommendation, primary consideration should be given to minimizing the costs of the project to W. Since the study commissioned by W was primarily directed toward producing an economic benefit to W in the form of minimizing the costs of its project, the services rendered are treated as serving W's direct and immediate needs and are includible as "gross receipts" by R.

Example (8). S in an organization described in section 501(c)(3). It was organized and is operated to further African development and strengthen understanding between the United States and Africa. To further these purposes, S receives funds from the Agency for International Development and the Department of State under which S is required to carry out the following programs: Selection, transportation, orientation, counseling, and language training of African students admitted to American institutions of higher learning; payment of tuition, other fees, and maintenance of such students; and operation of schools and vocational training programs in underdeveloped countries for residents of those countries. Since the programs carried on by S are primarily to provide direct benefit to the general public, all of the funds received by S from the Federal agencies are considered "grants" within the meaning of section 509(a)(2).

(h) *Definition of membership fees*—(1) *General rule.* For purposes of section 509(a)(2), the fact that a membership organization provides services, admissions, facilities, or merchandise to its members as part of its overall activities will not, in itself, result in the classification of fees received from members as "gross receipts" rather than "membership fees." If an organization uses membership fees as a means of selling admissions, merchandise, services, or the use of facilities to members of the general public who have no common goal or interest (other than the desire to purchase such admissions, merchandise, services, or use of facilities), then the income received from such fees shall not constitute "membership fees" under section 509(a)(2)(A)(i), but shall, if from a related activity, constitute "gross receipts" under section 509(a)(2)(A)(ii). On the other hand, to the extent the basic purpose for making the payment is to provide support for the organization rather than to purchase admissions, merchandise, services, or the use of facilities, the income received from such payment shall constitute "membership fees."

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M is a symphony society described in section 501(c)(3). Its primary purpose is to support the local symphony orchestra. The organization has three classes of membership. Contributing members pay annual dues of $10, sustaining members pay $25, and honorary members pay $100. The dues are placed in a maintenance fund which is used to provide financial assistance in underwriting the orchestra's annual deficit. Members have the privilege of purchasing subscriptions to the concerts before they go on sale to the general public, but must pay the same price as any other member of the public. They also are entitled to attend a number of rehearsals each season without charge. Under these circumstances, M's receipts from members constitute "membership fees" for purposes of section 509(a)(2)(A)(i).

Example (2). N is a theater association described in section 501(c)(3). Its purpose is to support a repertory company in the community in order to make live theatrical performances available to the public. The organization sponsors six plays each year. Members of the organization are entitled to a season subscription to the plays. The fee paid as dues approximates the retail price of the six plays, less a 10-percent discount. Tickets to each performance are also sold directly to the general public. The organization also holds a series of lectures on the theater which members may attend. Under these circumstances, the fees paid by members as dues will be considered "gross receipts" from a related activity. Although the fees are designated as membership fees, they are actually admissions to a series of plays.

(i) *"Bureau" defined*—(1) *In general.* The term "any bureau or similar agency of a governmental unit" (within the meaning of section 509(a)(2)(A)(ii)), refers to a specialized operating unit of the executive, judicial, or legislative branch of government where business is conducted under certain rules and regulations. Since the term "bureau" refers to a unit functioning at the operating, as distinct from the policymaking, level of government, it is normally descriptive of a subdivision of a department of government. The term "bureau," for purposes of section 509(a)(2)(A)(ii), would therefore not usually include those levels of government which are basically policymaking or administrative, such as the office of the Secretary or Assistant Secretary of a department, but would consist of the highest operational level under such policymaking or administrative levels. Each subdivision of a larger unit within the Federal Government, which is headed by a Presidential appointee holding a position at or above Level V of the Executive Schedule under 5 U.S.C. 5316, will normally be considered an administrative or policymaking, rather than an operating, unit. Amounts received from a unit functioning at the policymaking or administrative level of government will be treated as received from one bureau or similar agency of such unit. Units of a governmental agency above the operating level shall be aggregated and considered a separate bureau for this purpose. Thus, an organization receiving gross receipts from both a policymaking or administrative unit and an operational unit of a department will be treated as receiving gross receipts from two "bureaus" within the meaning of section 509(a)(2)(A)(ii). For purposes of this subparagraph, the Departments of Air Force, Army, and Navy are separate departments and each is considered as having its own policymaking, administrative, and operating units.

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). The Bureau of Health Insurance is considered a "bureau" within the meaning of section 509(a)(2)(A)(ii). It is a part of the Department of Health, Education, and Welfare, which Secretary performs a policymaking function, and is under the Social Security Administration, which is basically an administrative unit. The Bureau of Health Insurance is in the first operating level within the Social Security Administration. Similarly, the National Cancer Institute would be considered a "bureau," as it is an operating part of the National Institutes of Health within the Department of Health, Education, and Welfare.

Example (2). The Bureau for Africa and the Bureau for Latin America are considered "bureaus" within the meaning of section 509(a)(2)(A)(ii). Both are separate operating units under the Administrator of the Agency for International Development, a policymaking official. If an organization received gross receipts from both of these bureaus, the amount of gross receipts received from each would be subject to the greater of $5,000 or 1 percent limitation under section 509(a)(2)(A)(ii).

Example (3). The Bureau of International Affairs of the Civil Aeronautics Board is considered a "bureau" within the meaning of section 509(a)(2)(A)(ii). It is an operating unit under the administrative office of the Executive Director. The subdivisions of the Bureau of International Affairs are Geographic Areas and Project Development Staff. If an organization received gross receipts from these subdivisions, the total gross receipts from these subdivisions would be considered gross receipts from the same "bureau," the Bureau of International Affairs, and would be subject to the greater of $5,000 or 1 percent limitation under section 509(a)(2)(A)(ii).

Example (4). The Department of Mental Health, a State agency which is an operational part of State X's Department of Public Health, is considered a "bureau." The Department of Public Health is basically an administrative agency and the Department of Mental Health is at the first operational level within it.

Example (5). The Aeronautical Systems Division of the Air Force Systems Command, and other units on the same level, are considered separate "bureaus" with the meaning of section 509(a)(2)(A)(ii). They are part of the Department of the Air Force which is a separate department for this purpose, as are the Army and Navy. The Secretary and the Under Secretary of the Air Force perform the policymaking function, the Chief of Staff and the Air Force Systems Command are basically administrative, having a comprehensive complement of staff functions to provide administration for the various divisions. The Aeronautical Systems Division and other units on the same level are thus the first operating level, as evidenced by the fact that they are the units that let contracts and perform the various operating functions.

Example (6). The Division of Space Nuclear Systems, the Division of Biology and Medicine, and other units on the same level within the Atomic Energy Commission are each separate "bureaus" within the meaning of section 509(a)(2)(A)(ii). The Commissioners (which make up the Commission) are the policymakers. The general manager and the various assistant general managers perform the administrative function. The various divisions perform the operating function as evidenced by the fact that each has separate programs to pursue and contracts specifically for these various programs.

(j) *Grants from public charities*—(1) *General rule.* For purposes of the one-third support test in section 509(a)(2)(A), grants (as defined in paragraph (g) of this section) received from an organization described in section 509(a)(1) (hereinafter referred to in this subparagraph as a "public charity") are generally includible in full in computing the numerator of the recipient's support fraction of the taxable year in question. It is sometimes necessary to determine whether the recipient of a grant from a public charity has received such support from the public charity as a grant, or whether the recipient has in fact received such support as an indirect contribution from a donor to the public charity. If the amount received is considered a grant from the public charity, it is fully includable in the numerator of the support fraction under section 509(a)(2)(A). However, if the amount received is considered to be an indirect contribution from one of the public charity's donors which has passed through the public charity to the recipient organization, such amount will retain its character as a contribution from such donor and, if, for example, the donor is a substantial contributor (as defined in section 507(d)(2)) with respect to the ultimate recipient, such amount shall be excluded from the numerator of the support fraction under section 509(a)(2). If a public charity makes both an indirect contribution from its donor and an additional grant to the ultimate recipient, the indirect contribution shall be treated as made first.

(2) *Indirect contributions.* For purposes of subparagraph (1) of this paragraph, an indirect contribution is one which is expressly or impliedly earmarked by the donor as being for, or for the benefit of, a particular recipient (rather than for a particular purpose).

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a national foundation for the encouragement of the musical arts, is an organization described in section 170(b)(1)(A)(vi). A gives M a donation of $5,000 without imposing any restrictions or conditions upon the gift. M subsequently makes a $5,000 grant to X, an organization devoted to giving public performances of chamber music. Since the grant to X is treated as being received from M, it is fully includible in the numerator of X's support fraction for the taxable year of receipt.

Example (2). Assume M is the same organization described in example (1). B gives M a donation of $10,000, but requires that M spend the money for the purpose of supporting organizations devoted to the advancement of contemporary American music. M has complete discretion as to the organizations of the type described to which it will make a grant. M decides to make grants of $5,000 each to Y and Z, both being organizations described in section 501(c)(3) and devoted to furthering contemporary American music. Since the grants to Y and Z are treated as being received from M, Y and Z may each include one of the $5,000 grants in the numerator of its support fraction for purposes of section 509(a)(2)(A). Although the donation to M was conditioned upon the use of the funds for a particular purpose, M was free to select the ultimate recipient.

Example (3). N is a national foundation for the encouragement of art and is an organization described in section 170(b)(1)(A)(vi). Grants to N are permitted to be earmarked for particular purposes. O, which is an art workshop devoted to training young artists and claiming status under section 509(a)(2), persuades C, a private foundation, to make a grant of $25,000 to N. C is a disqualified person with respect to O. C made the grant to N with the understanding that N would be bound to make a grant to O in the sum of $25,000, in addition to a matching grant of N's funds to O in the sum of $25,000. Only the $25,000 received directly from N is considered a grant from N. The other $25,000 is deemed an indirect contribution from C to O and is to be excluded from the numerator of O's support fraction.

(k) *Method of accounting.* For purposes of section 509(a)(2), an organization's support will be determined solely on the cash receipts and disbursement method of accounting described in section 446(c)(1). For example, if a grantor makes a grant to an organization payable over a term of years, such grant will be includible in the support fraction of the grantee organization only when and to the extent amounts payable under the grant are received by the grantee.

(l) *Gross receipts from section 513(a)(1), (2), or (3) activities.* For purposes

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of section 509(a)(2)(A)(ii), gross receipts from activities described in section 513(a) (1), (2), or (3) will be considered gross receipts from activities which are not unrelated trade or business.

(m) *Gross receipts distinguished from gross investment income.* (1) For purposes of section 509(a)(2), where the charitable purpose of an organization described in section 501(c)(3) is accomplished through the furnishing of facilities for a rental fee or loans to a particular class of persons, such as aged, sick, or needy persons, the support received from such persons will be considered "gross receipts" (within the meaning of section 509(d)(2)) from an activity which is not an unrelated trade or business, rather than "gross investment income." However, if such organization also furnishes facilities or loans to persons who are not members of such class and such furnishing does not contribute importantly to the accomplishment of such organization's exempt purposes (aside from the need of such organization for income or funds or the use it makes of the profits derived), the support received from such furnishing will be considered "rents" or "interest" and therefore will be treated as "gross investment income" within the meaning of section 509(d)(4), unless such income is included in computing the tax imposed by section 511.

(2) The provisions of this paragraph may be illustrated by the following example:

Example. X, an organization described in section 501(c)(3), is organized and operated to provide living facilities for needy widows of deceased servicemen. X charges such widows a small rental fee for the use of such facilities. Since X is accomplishing its exempt purpose through the rental of such facilities, the support received from the widows is considered "gross receipts" within the meaning of section 509(d)(2). However, if X rents part of its facilities to persons having no relationship to X's exempt purpose, the support received from such rental will be considered "gross investment income" within the meaning of section 509(d)(4), unless such income is included in computing the tax imposed by section 511.

§ 1.509(a)-4 Supporting organizations.

(a) *In general.* (1) Section 509(a)(3) excludes from the definition of "private foundation" those organizations which meet the requirements of subparagraphs (A), (B), and (C) thereof.

(2) Section 509(a)(3)(A) provides that a section 509(a)(3) organization must be organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations described in section 509(a) (1) or (2). Section 509(a)(3)(A) describes the nature of the support or benefit which a section 509(a)(3) organization must provide to one or more section 509(a) (1) or (2) organizations. For purposes of section 509(a)(3)(A), paragraph (b) of this section generally describes the organizational and operational tests; paragraph (c) of this section describes permissible purposes under the organizational test; paragraph (d) of this section describes the requirement of supporting or benefiting one or more "specified" publicly supported organizations; and paragraph (e) of this section describes permissible beneficiaries and activities under the operational test.

(3) Section 509(a)(3)(B) provides that a section 509(a)(3) organization must be operated, supervised, or controlled by or in connection with one or more organizations described in section 509(a) (1) or (2). Section 509(a)(3)(B) and paragraph (f) of this section describe the nature of the relationship which must exist between the section 509(a)(3) and section 509(a) (1) or (2) organizations. For purposes of section 509(a)(3)(B), paragraph (g) of this section defines "operated, supervised, or controlled by"; paragraph (h) of this section defines "supervised or controlled in connection with;" and paragraph (i) of this section defines "operated in connection with."

(4) Section 509(a)(3)(C) provides that a section 509(a)(3) organization must not be controlled directly or indirectly by disqualified persons (other than foundation managers or organizations described in section 509(a) (1) or (2)). Section 509(a)(3)(C) and paragraph (j) of this section prescribe a limitation on the control over the section 509(a)(3) organization.

(5) For purposes of this section, the term "supporting organization" means either an organization described in section 509(a)(3) or an organization seeking section 509(a)(3) status, depending upon its context. For purposes of this section, the term "publicly supported organization" means an organization described in section 509(a) (1) or (2).

(b) *Organizational and operational tests.* (1) Under subparagraph (A) of section 509(a)(3), in order to qualify as a supporting organization, an organization must be both organized and operated exclusively "for the benefit of, to perform the functions of, or to carry out the purposes of" (hereinafter referred to in this section as being organized and operated "to support or benefit") one or more specified publicly supported organizations. If an organization fails to meet either the organizational or the operational test, it cannot qualify as a supporting organization.

(2) In the case of supporting organizations created prior to January 1, 1970, the organizational and operational tests shall apply as of January 1, 1970. Therefore, even though the original articles of organization did not limit its purposes to those required under section 509(a)(3)(A) and even though it operated before January 1, 1970, for some purpose other than those required under section 509(a)(3)(A), an organization will satisfy the organizational and operational tests if, on January 1, 1970, and at all times thereafter, it is so constituted as to comply with these tests. For the special rules pertaining to the application of the organizational and operational tests to organizations terminating their private foundation status under the 12-month or 60-month termination period provided under section 507(b)(1)(B) by becoming "public" under section 509(a)(3), see the regulations under section 507(b).

(c) *Organizational test*—(1) *In general.* An organization is organized exclusively for one or more of the purposes specified in section 509(a)(3)(A) only if its articles of organization (as defined in § 1.501(c)(3)-1(b)(2)):

(i) Limit the purposes of such organization to one or more of the purposes set forth in section 509(a)(3)(A);

(ii) Do not expressly empower the organization to engage in activities which are not in furtherance of the purposes referred to in subdivision (i) of this subparagraph;

(iii) State the specified publicly supported organizations on whose behalf such organization is to be operated (within the meaning of paragraph (d) of this section); and

(iv) Do not expressly empower the organization to operate to support or benefit any organization other than the specified publicly supported organizations referred to in subdivision (iii) of this subparagraph.

(2) *Purposes.* In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes set forth in section 509(a)(3)(A). Therefore, an organization which, by the terms of its articles, is formed "for the benefit of" one or more specified publicly supported organizations shall, if it otherwise meets the other requirements of this paragraph, be considered to have met the organizational test. Similarly, articles which state that an organization is formed "to perform the publishing functions" of a specified university are sufficient to comply with the organizational test. An organization which is "operated, supervised, or controlled by" (within the meaning of paragraph (g) of this section) or "supervised or controlled in connection with" (within the meaning of paragraph (h) of this section) one or more sections 509(a)(1) or (2) organizations to carry out the purposes of such organizations, will be considered as meeting the requirements of this paragraph if the purposes set forth in its articles are similar to, but no broader than, the purposes set forth in the articles of its controlling section 509(a) (1) or (2) organizations. If, however, the organization by which it is operated, supervised, or controlled is a publicly supported section 501(c) (4), (5), or (6) organization (deemed to be a section 509(a)(2) organization for purposes of section 509(a)(3) under the provisions of section 509(a)), the supporting organization will be considered as meeting the requirements of this paragraph if its articles require it to carry on charitable, etc., activities within the meaning of section 170(c)(2).

(3) *Limitations.* An organization is not organized exclusively for the purposes set forth in section 509(a)(3)(A) if its articles expressly permit it to operate to support or benefit any organization other than those specified publicly supported organizations referred to in subparagraph (1)(iii) of this paragraph. Thus, for example, an organization will not meet the organizational test under section 509(a)(3)(A) if its articles expressly empower it to pay over any part of its income to, or perform any service for, any organization other than those publicly supported organizations specified in its articles (within the meaning of paragraph (d) of this section). The fact that the actual operations of such organization have been exclusively for the benefit of the specified publicly supported organizations shall not be sufficient to permit it to meet the organizational test.

(d) *Specified organizations.*—(1) *In general.* In order to meet the requirements of section 509(a)(3)(A), an organization must be organized and operated exclusively to support or benefit one or more "specified" publicly supported organizations. The manner in which the publicly supported organizations must be "specified" in the articles for purposes of section 509(a)(3)(A) will depend upon whether the supporting organization is "operated, supervised, or controlled by" or "supervised or controlled in connection with" (within the meaning of paragraphs (g) and (h) of this section) such organizations or whether it is "operated in connection with" (within the meaning of paragraph (i) of this section) such organizations.

(2) *Nondesignated publicly supported organizations; requirements.* (i) Except as provided in subdivision (iv) of this subparagraph, in order to meet the requirements of subparagraph (1) of this paragraph, the articles of the supporting organization must designate each of the "specified" organizations by name unless:

(*a*) The supporting organization is operated, supervised, or controlled by (within the meaning of paragraph (g) of this section), or is supervised or controlled in connection with (within the meaning of paragraph (h) of this section) one or more publicly supported organizations; and

(*b*) The articles of organization of the supporting organization require that it be operated to support or benefit one or more beneficiary organizations which are designated by class or purpose and which include:

(*1*) The publicly supported organizations referred to in (*a*) of this subdivision (without designating such organizations by name); or

(*2*) Publicly supported organizations which are closely related in purpose or function to those publicly supported organizations referred to in subdivision (i)(*a*) or this subparagraph (without designating such organization by name).

(ii) If a supporting organization is described in subdivision (i)(*a*) of this subparagraph, it will not be considered as failing to meet the requirements of subparagraph (1) of this paragraph that the publicly supported organizations be specified merely because its articles of organization permit the conditions described in subparagraphs (3) (i), (ii), and (iii) and (4)(i) (*a*) and (*b*) of this paragraph.

(iii) This subparagraph may be illustrated by the following examples:

Example (1). X is an organization described in section 501(c)(3) which operates for the benefit of institutions of higher learning in the State of Y. X is controlled by these institutions (within the meaning of paragraph (g) of this section) and such institutions are all section 509(a)(1) organizations. X's articles will meet the organizational test if they require X to operate for the benefit of institutions of higher learning or educational organizations in the State of Y (without naming each institution). X's articles would also meet the organizational test if they provided for the giving of scholarships to enable students to attend institutions of higher learning but only in the State of Y.

Example (2). M is an organization described in section 501(c)(3) which was organized and operated by representatives of N church to run a home for the aged. M is controlled (within the meaning of paragraph (g) of this section) by N church, a section 509(a)(1) organization. The care of the sick and the aged are longstanding temporal functions and purposes of organized religion. By operating a home for the aged, M is operating to support or benefit N church in carrying out one of its temporal purposes. Thus M's articles will meet the organizational test if they require M to care for the aged since M is operating to support one of N church's purposes (without designating N church by name).

(iv) A supporting organization will meet the requirements of subparagraph (1) of this paragraph even though its articles do not designate each of the "specified" organizations by name if:

(*a*) There has been an historic and continuing relationship between the supporting organization and the section 509(a)(1) or (2) organizations, and

(*b*) By reason of such relationship, there has developed a substantial identity of interests between such organizations.

(3) *Nondesignated publicly supported organizations; scope of rule.* If the requirements of subparagraph (2)(i)(*a*) of this paragraph are met, a supporting organization will not be considered as failing the test of being organized for the benefit of "specified" organizations solely because its articles:

(i) Permit the substitution of one publicly supported organization within a designated class for another publicly supported organization either in the same or a different class designated in the articles;

(ii) Permit the supporting organization to operate for the benefit of new or additional publicly supported organizations of the same or a different class designated in the articles; or

(iii) Permit the supporting organization to vary the amount of its support among different publicly supported organizations within the class or classes of organizations designated by the articles.

For example, X is an organization which operates for the benefit of private colleges in the State of Y. If X is controlled by these colleges (within the meaning of paragraph (g) of this section) and such colleges are all section 509(a)(1) organizations, X's articles will meet the organization test even if they permit X to operate for the benefit of any new colleges created in State Y in addition to the existing colleges or in lieu of one which has ceased to operate, or if they permit X to vary its support by paying more to one college than to another in a particular year.

(4) *Designated publicly supported organizations.* (i) If an organization is organized and operated to support one or more publicly supported organizations and it is "operated in connection with" such organization or organizations, then, except as provided in subparagraph (2)(iv) of this paragraph, its articles of organization must, for purposes of satisfying the organizational test under section 509(a)(3)(A), designate the "specified" organizations by name. Under the circumstances described in this subparagraph, a supporting organization which has one or more "specified" organizations designated by name in its articles, will not be considered as failing the test of being organized for the benefit of "specified" organizations solely because its articles:

(*a*) Permit a publicly supported organization which is designated by class or purpose, rather than by name, to be substituted for the publicly supported organization or organizations designated by name in the articles, but only if such substitution is conditioned upon the occurrence of an event which is beyond the control of the supporting organization, such as loss of exemption, substantial failure or abandonment of operations, or dissolution of the publicly supported organization or organizations designated in the articles;

(*b*) Permit the supporting organization to operate for the benefit of a beneficiary organization which is not a publicly supported organization, but only if such supporting organization is currently operating for the benefit of a publicly supported organization and the possibility of its operating for the benefit of other than a publicly supported organization is a remote contingency; or

(*c*) Permit the supporting organization to vary the amount of its support between different designated organizations, so long as it meets the requirements of the integral part test set forth in paragraph (i)(3) of this section with respect to at least one beneficiary organization.

(ii) If the beneficiary organization referred to in subdivision (i)(*b*) of this subparagraph is not a publicly supported organization, the supporting organization will not then meet the operational test of paragraph (e)(1) of this section. Therefore, if a supporting organization substituted in accordance with such subdivision (i)(*b*) a beneficiary other than a publicly supported organization and operated in support of such beneficiary organization, the supporting organization would not be described in section 509(a)(3).

(iii) This subparagraph may be illustrated by the following example:

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Example. X is a charitable trust described in section 4947(a)(1) organized in 1966. Under the terms of its trust instrument, X's trustees are required to pay over all of X's annual income to M University Medical School for urological research. If M University Medical School is unable or unwilling to devote these funds to urological research, the trustees are required to pay all of such income to N University Medical School. However if N University Medical School is also unable or unwilling to devote these funds to urological research, X's trustees are directed to choose a similar organization willing to apply X's funds for urological research. From 1968 to 1973, X pays all of its net income to M University Medical School pursuant to the terms of the trust. M and N are publicly supported organizations. Although the contingent remainderman may not be a publicly supported organization, the possibility that X may operate for the benefit of other than a publicly supported organization is, in 1973, a remote possibility, and X will be considered as operating for the benefit of a "specified" publicly supported organization under subdivision (i)(b) of this subparagraph. However, if, at some future date, X actually substituted a nonpublicly supported organization as beneficiary, X would fail the requirements of the operational test set forth in paragraph (e)(1) of this section.

(e) *Operational test*—(1) *Permissible beneficiaries.* A supporting organization will be regarded as "operated exclusively" to support one or more specified publicly supported organizations (hereinafter referred to as the "operational test") only if it engages solely in activities which support or benefit the specified publicly supported organizations. Such activities may include making payments to or for the use of, or providing services or facilities for, individual members of the charitable class benefited by the specified publicly supported organization. A supporting organization may also, for example, make a payment indirectly through another unrelated organization to a member of a charitable class benefited by the specified publicly supported organization, but only if such a payment constitutes a grant to an individual rather than a grant to an organization. In determining whether a grant is indirectly to an individual rather than to an organization the same standard shall be applied as in § 53.4945–4(a)(4) of this chapter. Similarly, an organization will be regarded as "operated exclusively" to support or benefit one or more specified publicly supported organizations even if it supports or benefits an organization, other than a private foundation, which is described in section 501(c)(3) and is operated, supervised, or controlled directly by or in connection with such publicly supported organizations, or which is described in section 511(a)(2)(B). However, an organization will not be regarded as operated exclusively if any part of its activities is in furtherance of a purpose other than supporting or benefiting one or more specified publicly supported organizations.

(2) *Permissible activities.* A supporting organization is not required to pay over its income to the publicly supported organizations in order to meet the operational test. It may satisfy the test by using its income to carry on an independent activity or program which supports or benefits the specified publicly supported organizations. All such support must, however, be limited to permissible beneficiaries in accordance with subparagraph (1) of this paragraph. The supporting organization may also engage in fund raising activities, such as solicitations, fund raising dinners, and unrelated trade or business to raise funds for the publicly supported organizations, or for the permissible beneficiaries.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M is a separately incorporated alumni association of X University and is an organization described in section 501(c)(3). X University is designated in M's articles as the sole beneficiary of its support. M uses all of its dues and income to support its own program of educational activities for alumni, faculty, and students of X University and to encourage alumni to maintain a close relationship with the university and to make contributions to it. M does not distribute any of its income directly to X for the latter's general purposes. M pays no part of its funds to, or for the benefit of, any organization other than X. Under these circumstances, M is considered as operated exclusively to perform the functions and carry out the purpose of X. Although it does not pay over any of its funds to X, it carries on a program which both supports and benefits X.

Example (2). N is a separately incorporated religious and educational organization described in section 501(c)(3). It was formed and is operated by Y Church to provide religious training for the members of the church. While it does not maintain a regular faculty, N conducts a Sunday school, weekly adult education lectures on religious subjects, and other similar activities for the benefit of the church members. All of its funds are disbursed in furtherance of such activities and no part of its funds is paid to, or for the benefit of, any organization other than Y Church. N is considered as operated exclusively to perform the educational functions of Y Church and to carry out its religious purposes by providing various forms of religious instruction.

Example (3). P is an organization described in section 501(c)(3). Its primary activity is providing financial assistance to S, a publicly supported organization which aids underdeveloped nations in Central America. P's articles of organization designate S as the principal recipient of P's assistance. However, P also makes a small annual general purpose grant to T, a private foundation engaged in work similar to that carried on by S. T performs a particular function that assists in the overall aid program carried on by S. Even though P is operating primarily for the benefit of S, a specified publicly supported organization, it is not considered as operated exclusively for the purposes set forth in section 509(a)(3)(A). The grant to T, a private foundation, prevents it from complying with the operational test under section 509(a)(3)(A).

Example (4) Assume the same facts as example (3), except that T is a section 501(c)(3) organization other than a private foundation and is operated in connection with S. Under these circumstances, P will be considered as operated exclusively to support S within the meaning of section 509(a)(3)(A).

Example (5) Assume the same facts as example (3) except that instead of the annual general purpose grant made to T, each grant made by P to T is specifically earmarked for the training of social workers and teachers, designated by name, from Central America. Under these circumstances, P's grants to T would be treated as grants to the individual social workers and teachers under section 4945(d)(3) and § 53.4945–4(a)(4), rather than as grants to T under section 4945(d)(4). These social workers and teachers are part of the charitable class benefitted by S. P would thus be considered as operating exclusively to support S within the meaning of section 509(a)(3)(A).

(f) *Nature of relationship required between organizations*—(1) *In general.* Section 509(a)(3)(B) describes the nature of the relationship required between a section 501(c)(3) organization and one or more publicly supported organizations in order for such section 501(c)(3) organization to qualify under the provisions of section 509(a)(3). To meet the requirements of section 509(a)(3), an organization must be operated, supervised, or controlled by or in connection with one or more publicly supported organizations. If an organization does not stand in one of such relationships (as provided in this paragraph) to one or more publicly supported organizations, it is not an organization described in section 509(a)(3).

(2) *Types of relationships.* Section 509(a)(3)(B) sets forth three different types of relationships, one of which must be met in order to meet the requirements of subparagraph (1) of this paragraph. Thus, a supporting organization may be:

(i) Operated, supervised, or controlled by,

(ii) Supervised or controlled in connection with, or

(iii) Operated in connection with, one or more publicly supported organizations.

(3) *Requirements of relationships.* Although more than one type of relationship may exist in any one case, any relationship described in section 509(a)(3)(B) must insure that:

(i) The supporting organization will be responsive to the needs of demands of one or more publicly supported organizations; and

(ii) The supporting organization will constitute an integral part of, or maintain a significant involvement in, the operations of one or more publicly supported organizations.

(4) *General description of relationships.* In the case of supporting organizations which are "operated, supervised, or controlled by" one or more publicly supported organizations, the distinguishing feature of this type of relationship is the presence of a substantial degree of direction by the publicly supported organizations over the conduct of the supporting organization, as described in paragraph (g) of this section. In the case of supporting organizations which are "supervised or controlled in connection with" one or more publicly supported organizations, the distinguishing feature is the presence of common supervision or control among the governing bodies of all organizations involved, such as the presence of common directors, as described in paragraph

(h) of this section. In the case of a supporting organization which is "operated in connection with" one or more publicly supported organizations, the distinguishing feature is that the supporting organization is responsive to, and significantly involved in the operations of, the publicly supported organization, as described in paragraph (i) of this section.

(g) *Meaning of "operated, supervised, or controlled by".* (1)(i) Each of the items "operated by," "supervised by," and "controlled by," as used in section 509(a)(3)(B), presupposes a substantial degree of direction over the policies, programs, and activities of a supporting organization by one or more publicly supported organizations. The relationship required under any one of these terms is comparable to that of a parent and subsidiary, where the subsidiary is under the direction of, and accountable or responsible to, the parent organization. This relationship is established by the fact that a majority of the officers, directors, or trustees of the supporting organization are appointed or elected by the governing body, members of the governing body, officers acting in their official capacity, or the membership of one or more publicly supported organizations.

(ii) A supporting organization may be "operated, supervised, or controlled by" one or more publicly supported organizations within the meaning of section 509(a)(3)(B) even though its governing body is not comprised of representatives of the specified publicly supported organizations for whose benefit it is operated within the meaning of section 509(a)(3)(A). A supporting organization may be "operated, supervised, or controlled by" one or more publicly supported organizations (within the meaning of section 509(a)(3)(B)) and be operated "for the benefit of" one or more different publicly supported organizations (within the meaning of section 509(a)(3)(A)) only if it can be demonstrated that the purposes of the former organizations are carried out by benefitting the latter organizations.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). X is a university press which is organized and operated as a nonstock educational corporation to perform the publishing and printing for M University, a publicly supported organization. Control of X is vested in a Board of Governors appointed by the Board of Trustees of M University upon the recommendation of the president of the university. X is considered to be operated, supervised, or controlled by M University within the meaning of section 509(a)(3)(B).

Example (2). Y Council was organized under the joint sponsorship of seven independent publicly supported organizations, each of which is dedicated to the advancement of knowledge in a particular field of social science. The sponsoring organizations organized Y Council as a means of pooling their ideas and resources for the attainment of common objectives, including the conducting of scholarly studies and formal discussions in various fields of social science. Under Y Council's by-laws, each of the seven sponsoring organizations elects three members to Y's board of trustees for 3-year terms. Y's board also includes the president of Y Council and eight other individuals elected at large by the board. Pursuant to policies established or approved by the board, Y Council engages in research, planning, and evaluation in the social sciences and sponsors or arranges conferences, seminars, and similar programs for scholars and social scientists. It carries out these activities through its own full-time professional staff, through a part-time committee of scholars, and through grant recipients. Under the above circumstances, Y Council is subject to a substantial degree of direction by the sponsoring publicly supported organizations. It is therefore considered to be operated, supervised, or controlled by such sponsoring organizations within the meaning of section 509(a)(3)(B).

Example (3). Z is a charitable trust created by A in 1972. It has three trustees, all of whom are appointed by M University, a publicly supported organization. The trust was organized and is operated to pay over all of its net income for medical research to N, O, and P, each of which is specified in the trust, is a hospital described in section 509(a)(1), and is located in the same city as M. Members of M's biology department are permitted to use the research facilities of N, O, and P. Under subparagraph (1)(ii) of this paragraph, Z is considered to be operated, supervised, or controlled by M within the meaning of section 509(a)(3)(B), even though it is operated for the benefit of N, O, and P within the meaning of section 509(a)(3)(A).

(h) *Meaning of "supervised or controlled in connection with".* (1) In order for a supporting organization to be "supervised or controlled in connection with" one or more publicly supported organizations, there must be common supervision or control by the persons supervising or controlling both the supporting organization and the publicly supported organizations to insure that the supporting organization will be responsive to the needs and requirements of the publicly supported organizations. Therefore, in order to meet such requirement, the control or management of the supporting organization must be vested in the same persons that control or manage the publicly supported organizations.

(2) A supporting organization will not be considered to be "supervised or controlled in connection with" one or more publicly supported organizations if such organization merely makes payments (mandatory or discretionary) to one or more named publicly supported organizations, even if the obligation to make payments to the named beneficiaries is enforceable under State law by such beneficiaries and the supporting organization's governing instrument contains provisions whose effect is described in section 508(e)(1)(A) and (B). Such arrangements do not provide a sufficient "connection" between the payor organization and the needs and requirements of the publicly supported organizations to constitute supervision or control in connection with such organizations.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, a philanthropist, founded X school for orphan boys (a publicly supported organization). At the same time A founded X school, he also established Y trust into which he transferred all of the operating assets of the school, together with a substantial endowment for it. Under the provisions of the trust instrument, the same persons who control and manage the school also control and manage the trust. The sole function of Y trust is to hold legal title to X school's operating and endowment assets, to invest the endowment assets and to apply the income from the endowment to the benefit of the school in accordance with direction from the school's governing body. Under these circumstances, Y trust is organized and operated "for the benefit of" X school and is "supervised or controlled in connection with" such organization within the meaning of section 509(a)(3). The fact that the same persons control both X and Y insures Y's responsiveness to X's needs.

Example (2). In 1972, B, a philanthropist, created P, a charitable trust for the benefit of Z, a symphony orchestra described in section 509(a)(2). B transferred 100 shares of common stock to P. Under the terms of the trust instrument, the trustees (none of whom is under the control of B) were required to pay over all of the income produced by the trust assets to Z. The governing instrument of P contains certain provisions whose effect is described in section 508(e)(1)(A) and (B). Under applicable State law, Z can enforce the provisions of the trust instrument and compel payment to Z in a court of equity. There is no relationship between the trustees of P and the governing body of Z. Under these circumstances P is not supervised or controlled in connection with a publicly supported organization. Because of the lack of any common supervision or control by the trustees of P and the governing body of Z, P is not supervised or controlled in connection with Z within the meaning of section 509(a)(3)(B).

Example (3). T is a charitable trust described in section 501(c)(3) and created under the will of D. Prior to his death, D was a leader and very active in C church, a publicly supported organization. D created T to perpetuate his interest in, and assistance to, C. The sole purpose of T was to provide financial support for C and its related institutions. All of the original named trustees of T are members of C, are leaders in C, and hold important offices in one or more of C's related institutions. Successor trustees of T are by the terms of the charitable trust instrument to be chosen by the remaining trustees and are also to be members of C. All of the original trustee have represented that any successor trustee will be a leader in C and will hold an important office in one or more of C's related institutions. By reason of the foregoing relationship T and its trustees are responsive to the needs and requirements of C and its related institutions. Under these circumstances, T trust is organized and operated "for the benefit of" C and is "supervised or controlled in connection with" C and its related institutions within the meaning of section 509(a)(3)(B).

(i) *Meaning of "operated in connection with"*—(1) *General rule.* (i) Except as provided in subdivisions (ii) and (iii) of this subparagraph and subparagraph (4) of this paragraph, a supporting organization will be considered as being operated in connection with one or more publicly supported organizations only if it meets the "responsiveness test" which is defined in subparagraph (2) of this paragraph and the "integral part test" which is defined in subparagraph (3) of this paragraph.

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(ii) In the case of an organization which was supporting or benefiting one or more publicly supported organizations before November 20, 1970, additional facts and circumstances, such as a historic and continuing relationship between organizations, may be taken into account, in addition to the factors described in subparagraph (2) of this paragraph, to establish compliance with the responsiveness test.

(iii) If—

(*a*) A supporting organization can establish that it has met the integral part test set forth in subparagraph (3)(iii) of this paragraph for any 5-year period, period,

(*b*) Such organization cannot meet the requirements of such test for its current taxable year solely because the amount received by one or more of the publicly supported beneficiary organizations from such supporting organization is no longer sufficient, with respect to such beneficiary organizations, to satisfy subparagraph (3)(iii) of this paragraph, and

(*c*) There has been a historic and continuing relationship of support between such organizations between the end of such 5-year period and the taxable year in question,

then such supporting organization will be considered as meeting the requirements of the integral part test in subparagraph (3)(iii) of this paragraph for such taxable year.

(2) *Responsiveness test.* (i) For purposes of this paragraph, a supporting organization will be considered to meet the "responsiveness test" if the organization is responsive to the needs or demands of the publicly supported organizations within the meaning of this subparagraph. In order to meet this test, either subdivision (ii) or subdivision (iii) of this subparagraph must be satisfied.

(ii)(*a*) One or more officers, directors, or trustees of the supporting organization are elected or appointed by the officers, directors, trustees, or membership of the publicly supported organizations;

(*b*) One or more members of the governing bodies of the publicly supported organizations are also officers, directors, or trustees of, or hold other important offices in, the supporting organization; or

(*c*) The officers, directors, or trustees of the supporting organization maintain a close and continuous working relationship with the officers, directors, or trustees of the publicly supported organizations; and

(*d*) By reason of (*a*), (*b*), or (*c*) of this subdivision, the officers, directors or trustees of the publicly supported organizations have a significant voice in the investment policies of the supporting organization, the timing of grants, the manner of making them, and the selection of recipients by such supporting organization, and in otherwise directing the use of the income or assets of such supporting organization.

(iii)(*a*) The supporting organization is a charitable trust under State law;

(*b*) Each specified publicly supported organization is a named beneficiary under such charitable trust's governing instrument; and

(*c*) The beneficiary organization has the power to enforce the trust and compel an accounting under State law.

(3) *Integral part test; general rule.* (i) For purposes of this paragraph, a supporting organization will be considered to meet the "integral part test" if it maintains a significant involvement in the operations of one or more publicly supported organizations and such publicly supported organizations are in turn dependent upon the supporting organization for the type of support which it provides. In order to meet this test, either subdivision (ii) or subdivision (iii) of this subparagraph must be satisfied.

(ii) The activities engaged in for or on behalf of the publicly supported organizations are activities to perform the functions of, or to carry out the purposes of, such organizations, and, but for the involvement of the supporting organization, would normally be engaged in by the publicly supported organizations themselves.

(iii) (*a*) The supporting organization makes payments of substantially all of its income to or for the use of one or more publicly supported organizations, and the amount of support received by one or more of such publicly supported organizations is sufficient to insure the attentiveness of such organizations to the operations of the supporting organization. In addition, a substantial amount of the total support of the supporting organization must go to those publicly supported organizations which meet the attentiveness requirement of this subdivision with respect to such supporting organization. Except as provided in (*b*) of this subdivision, the amount of support received by a publicly supported organization must represent a sufficient part of the organization's total support so as to insure such attentiveness. In applying the preceding sentence, if such supporting organization makes payments to, or for the use of, a particular department or school of a university, hospital or church, the total support of the department or school shall be substituted for the total support of the beneficiary organization.

(*b*) Even where the amount of support received by a publicly supported beneficiary organization does not represent a sufficient part of the beneficiary organization's total support, the amount of support received from a supporting organization may be sufficient to meet the requirements of this subdivision if it can be demonstrated that in order to avoid the interruption of the carrying on of a particular function or activity, the beneficiary organization will be sufficiently attentive to the operations of the supporting organization. This may be the case where either the supporting organization or the beneficiary organization earmarks the support received from the supporting organization for a particular program or activity, even if such program or activity is not the beneficiary organization's primary program or activity so long as such program or activity is a substantial one.

(*c*) This subdivision may be illustrated by the following examples:

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Example (1). X, an organization described in section 501(c)(3), pays over all of its annual net income to Y, a museum described in section 509(a)(2). X meets the responsiveness test described in subparagraph (2) of this paragraph. In recent years, Y has earmarked the income received from X to underwrite the cost of carrying on a chamber music series consisting of 12 performances a year which are performed for the general public free of charge at its premises. Because of the expense involved in carrying on these recitals, Y is dependent upon the income from X for their continuation. Under these circumstances, X will be treated as providing Y with a sufficient portion of Y's total support to assure Y's atentiveness to X's operations, even though the chamber music series is not the primary part of Y's activities.

Example (2). M, an organization described in section 501(c)(3), pays over all of its annual net income to the Law School of N University, a publicly supported organization. M meets the responsiveness test described in subparagraph (2) of this paragraph. M has earmarked the income paid over to N's Law School to endow a chair in its Department of International Law. Without M's continued support, N might not continue to maintain this chair. Under these circumstances, M will be treated as providing N with a sufficient portion of N's total support to assure N's attentiveness to M's operations.

(*d*) All pertinent factors, including the number of beneficiaries, the length and nature of the relationship between the beneficiary and supporting organization and the purpose to which the funds are put (as illustrated by subdivision (iii) (*b*) and (*c*) of this subparagraph), will be considered in determining whether the amount of support received by a publicly supported beneficiary organization is sufficient to insure the attentiveness of such organization to the operations of the supporting organization. Normally the attentiveness of a beneficiary organization is motivated by reason of the amounts received from the supporting organization. Thus, the more substantial the amount involved, in terms of a percentage of the publicly supported organization's total support the greater the likelihod that the required degree of attentiveness will be present. However, in determining whether the amount received from the supporting organization is sufficient to insure the attentiveness of the beneficiary organization to the operations of the supporting organization (including attentiveness to the nature and yield of such supporting organization's investments), evidence of actual attentiveness by the beneficiary organization is of almost equal importance. An example of acceptable evidence of actual attentiveness is the imposition of a requirement that the supporting organization furnish reports at least annually for taxable years beginning after December 31, 1971, to the beneficiary organization to assist such beneficiary organization in insuring that the supporting organization has invested its endowment in assets productive of a

reasonable rate of return (taking appreciation into account) and has not engaged in any activity which would give rise to liability for a tax imposed under section 4941, 4943, 4944, or 4945 if such organization were a private foundation. The imposition of such requirement within 120 days after October 16, 1972, will be deemed to have retroactive effect to January 1, 1970, for purposes of determining whether a supporting organization has met the requirements of this subdivision for its first two taxable years beginning after December 31, 1969. The imposition of such requirement is, however, merely one of the factors in determing whether a supporting organization is complying with this subdivision and the absence of such requirement will not preclude an organization from classification as a supporting organization based on other factors.

(*e*) However, where none of the beneficiary organizations is dependent upon the supporting organization for a sufficient amount of the beneficiary organization's support within the meaning of this subdivision, the requirements of this subparagraph will not be satisfied, even though such beneficiary organizations have enforceable rights against such organization under State law.

(4) *Integral part test; transitional rule.* (i) A trust (whether or not exempt from taxation under section 501(a)) which on November 20, 1970, has met and continues to meet the requirements of subdivisions (ii) through (vi) of this subparagraph shall be treated as meeting the requirements of the integral part test (whether or not it meets the requirements of subparagraph (3) (ii) or (iii) of this paragraph) if for taxable years beginning after October 16, 1972, the trustee of such trust makes annual written reports to all of the beneficiary publicly supported organizations with respect to such trust setting forth a description of the assets of the trust, including a detailed list of the assets and the income produced by such assets. A trust organization which meets the requirements of this subparagraph may request a ruling that it is described in section 509(a)(3) in such manner as the Commissioner may prescribe.

(ii) All the unexpired interests in the trust are devoted to one or more purposes described in section 170(c) (1) or (2)(B) and a deduction was allowed with respect to such interests under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), 2522, or corresponding provisions of prior law (or would have been allowed such a deduction if the trust had not been created before 1913).

(iii) The trust was created prior to November 20, 1970, and did not receive any grant, contribution, bequest or other transfer on or after such date. For purpose of this subdivision, a split-interest trust described in section 4947(a)(2) which was created prior to November 20, 1970, which was irrevocable on such date, and which becomes a charitable trust described in section 4947(a)(1) after such date shall be treated as having been created prior to such date;

(iv) The trust is required by its governing instrument to distribute all of its net income currently to a designated publicly supported beneficiary organization. Where more than one publicly supported beneficiary organization is designated in the governing instrument of a trust, all of the net income must be distributable and must be distributed currently to each of such beneficiary organizations in fixed shares pursuant to such governing instrument. For purposes of this subdivision, the governing instrument of a charitable trust shall be treated as requiring distribution to a designated beneficiary organization where the trust instrument describes the charitable purpose of the trust so completely that such description can apply to only one existing beneficiary organization and is of sufficient particularity as to vest in such organization rights against the trust enforceable in a court possessing equitable powers;

(v) The trustee of the trust does not have discretion to vary either the beneficiaries or the amounts payable to the beneficiaries. For purposes of this subdivision, a trustee shall not be treated as having such discretion where the trustee has discretion to make payments of principal to the single section 509(a) (1) or (2) organization that is currently entitled to receive all of the trust's income or where the trust instrument provides that the trustee may cease making income payments to a particular charitable beneficiary in the event of certain specific occurrences, such as the loss of exemption under section 501(c)(3) or classification under section 509(a) (1) or (2) by the beneficiary or the failure of the beneficiary to carry out its charitable purpose properly;

(vi) None of the trustees would be disqualified persons within the meaning of section 4946(a) (other than foundation managers under 4946(a)(1)(B)) with respect to the trust if such trust were treated as a private foundation.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). N is a nonprofit publishing organization described in section 501(c)(3). It does all of the publishing and printing for the churches of a particular denomination (which are publicly supported organizations). Control of the organization is vested in a five-man Board of Directors, which includes one church official and four lay members of the congregations of that denomination. N does no other printing or publishing. It publishes all of the churches' religious as well as secular tracts and materials. Under these circumstances, N is considered as being "operated in connection with" a number of publicly supported organizations. Publishing religious literature is an integral part of the churches' activities; it is carried on by N on behalf of the churches, and there is sufficient direction of N's activities by the churches to insure responsiveness by N to their needs.

Example (2). O, an alumni association described in section 501(c)(3), was formed to promote a spirit of loyalty among graduates of Y University, a publicly supported organization, and to effect united action in promoting the general welfare of the university. A special committee of Y's governing board meets with O and makes recommendations as to the allocation of O's program of gifts and scholarships to the university and its students. O also provides certain functions which would otherwise be part of Y's functions, such as maintaining records of alumni. O publishes a bulletin to keep alumni aware of the activities of the university. Under these circumstances O is considered to be operated in connection with Y within the meaning of section 509(a)(3)(B).

Example (3). P is a trust created under the will of A for the purpose of furthering musical education. As a means of accomplishing its purposes P founded X, a school of music described in section 509(a)(1). The trust instrument is thereafter amended to name X specifically as the beneficiary of the trust. X can enforce its equitable rights as trust beneficiary under State law. Members of the governing body of X form a minority of the foundation managers of P. For many years the organizations have been operated in close association with each other. P provides the principal endowment fund for the operation of X. In addition, while the governing body of X concerns itself with artistic policies, the foundation managers of P handle the budgetary concerns of X. X's annual budget is prepared with the assistance of P's foundation managers and is approved by P. Under these circumstances, P is considered to be operated in connection with X within the meaning of section 509(a)(3)(B).

Example (4). Q is a charitable trust described in section 501(c)(3) and created under the will of C. Prior to his death, C built H Hospital and deeded it to I University for use as a training and clinical facility for I's medical school. Both H and I are publicly supported organizations. C created Q to perpetuate his interest in, and assistance to, H Hospital. The sole purpose of Q was to provide financial support for H, the beneficiary organization named in C's will. H can enforce its equitable rights as trust beneficiary under State law. After the death of C, Q continued to provide substantial support for H. It was primarily responsible for the erecting of a new hospital building, as well as the construction of other facilities for the hospital. In addition, each medical department of H indicates during the year what its greatest needs are. Once these requests are approved by the medical director of I University's Medical School, they are presented to Q, and subject to the amount of Q's income (all of which is applied to H), these requests are honored and the new equipment of facility is supplied through Q's funds. The governing body of Q and those of H and I are completely independent. However, based on the above facts, Q is responsive to the needs of H, Q maintains a substantial involvement in the conduct of H, and H is substantially dependent upon the receipt of support from Q. Accordingly, Q is operated in connection with one or more section 509(a)(1) organizations within the meaning of section 509(a)(3)(B).

Example (5). R is a charitable trust created under the will of B, who died in 1971. Its purpose is to hold assets as an endowment for S, a hospital, T, a university, and U, a national medical research organization (all being publicly supported organizations and specifically named in the trust instrument), and to distribute all of the income each year in equal shares among the three named beneficiaries. S, T, and U have certain enforceable rights against R under State law, including the right to compel an accounting. Except for making these annual payments, the trustees of R have no further contacts or relationships with S, T, or U. The payments by R to such organizations do not comprise a sufficient amount of support to meet the requirements of subparagraph

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(3) of this paragraph for any of these organizations. Although R meets the responsiveness test described in subparagraph (2) of this paragraph, it does not meet the integral part test described in subparagraph (3) of this paragraph. R is not, therefore, considered as operated in connection with one or more publicly supported organizations within the meaning of section 509(a)(3)(B). However, if B had died prior to November 20, 1970, R could, upon meeting all of the requirements of subparagraph (4) of this paragraph, be considered as operated in connection with one or more of publicly supported organizations within the meaning of section 509(a)(3)(B).

Example (6). S is a charitable trust described in section 501(c)(3). S was created under the will of C in 1910 for the purpose of providing aged and indigent women with care and shelter. Prior to his death in 1910, C helped to create T, a home for aged women, through a substantial inter vivos contribution. Although T is not specifically named in C's will, the trustees of S (who are completely independent of T) have paid over all of S's income to T in furtherance of the trust's purposes since the death of C. S establishes that between 1910 and 1955, the amount of support received by T from S was sufficient support to satisfy the provisions of § 1.509(a)–4(i)(3)(iii). In 1956, T merged with U, a home for aged and indigent men, and V, a nursing home. S continued to pay all its income to W, the organization resulting from the merger of T, U, and V. However, as a result of the merger and certain changes in the methods of financing the operations, the payments made by S after 1955 no longer were sufficient to satisfy the integral part test of § 1.509(a)–4(i)(3)(iii). W qualifies as an organization described in section 509(a)(2). For the taxable year 1971, S meets the responsiveness test under § 1.509(a)–4(i)(2)(ii). Although W is not a named beneficiary under S's governing instrument, pursuant to § 1.509(a)–4(i)(1)(ii) the historic and continuing relationship between the organizations will be taken into account to establish compliance with the responsiveness test. Furthermore, pursuant to § 1.509(a)–4(i)(1)(iii), under the facts set forth above, the integral part test under § 1.509(a)–4(i)(3)(iii) will be considered as being satisfied for the taxable year 1971. Thus S will be considered as "operated in connection with" W for the taxable year 1971.

(j) *Control by disqualified persons*—(1) *In general.* Under the provisions of section 509(a)(3)(C) a supporting organization may not be controlled directly or indirectly by one or more disqualified persons (as defined in section 4946) other than foundation managers and other than one or more publicly supported organizations. If a person who is a disqualified person with respect to a supporting organization, such as a substantial contributor to the supporting organization, is appointed or designated as a foundation manager of the supporting organization by a publicly supported beneficiary organization to serve as the representative of such publicly supported organization, then for purposes of this paragraph such person will be regarded as a disqualified person, rather than as a representative of the publicly supported organization. An organization will be considered "controlled," for purposes of section 509(a)(3)(C), if the disqualified persons, by aggregating their votes or positions of authority, may require such organization to perform any act which significantly affects its operations or may prevent such organization from performing such act. This includes, but is not limited to, the right of any substantial contributor or his spouse to designate annually the recipients, from among the publicly supported organizations of the income attributable to his contribution to the supporting organization. Except as provided in subparagraph (2) of this paragraph, a supporting organization will be considered to be controlled directly or indirectly by one or more disqualified persons if the voting power of such persons is 50 percent or more of the total voting power of the organization's governing body or if one or more of such persons have the right to exercise veto power over the actions of the organization. Thus, if the governing body of a foundation is composed of five trustees, none of whom has a veto power over the actions of the foundation, and no more than two trustees are at any time disqualified persons, such foundation will not be considered to be controlled directly or indirectly by one or more disqualified persons by reason of this fact alone. However, all pertinent facts and circumstances including the nature, diversity, and income yield of an organization's holdings, the length of time particular stocks, securities, or other assets are retained, and its manner of exercising its voting rights with respect to stocks in which members of its governing body also have some interest, will be taken into consideration in determining whether a disqualified person does in fact indirectly control an organization.

(2) *Proof of independent control.* Notwithstanding subparagraph (1) of this paragraph, an organization shall be permitted to establish to the satisfaction of the Commissioner that disqualified persons do not directly or indirectly control it. For example, in the case of a religious organization operated in connection with a church, the fact that the majority of the organization's governing body is composed of lay persons who are substantial contributors to the organization will not disqualify the organization under section 509(a)(3)(C) if a representative of the church, such as a bishop or other official, has control over the policies and decisions of the organization.

(k) *Organizations operated in conjunction with certain section 501(c)(4), (5), or (6) organizations.* (1) For purposes of section 509(a)(3), an organization which is operated in conjunction with an organization described in section 501(c)(4), (5), or (6) (such as a social welfare organization, labor or agricultural organization, business league, or real estate board) shall, if it otherwise meets the requirements of section 509(a)(3), be considered an organization described in section 509(a)(3) if such section 501(c)(4), (5), or (6) organization would be described in section 509(a)(2) if it were an organization described in section 501(c)(3). The section 501(c)(4), (5), or (6) organization, which the supporting organization is operating in conjunction with, must therefore meet the one-third tests of a publicly supported organization set forth in section 509(a)(2).

(2) This paragraph may be illustrated by the following example:

Example. X medical association, described in section 501(c)(6), is supported by membership dues and funds resulting from the performance of its exempt activities. This support, which is entirely from permitted sources, constitutes more than one-third of X's support. X does not normally receive more than one-third of its support from gross investment income. X organized and operated an endowment fund for the sole purpose of furthering medical education. The fund is an organization described in section 501(c)(3). Since more than one-third of X's support is derived from membership dues and from funds resulting from the performance of exempt purposes (all of which are from permitted sources) and not more than one-third of its support is from gross investment income, it would be a publicly supported organization described in section 509(a)(2) if it were described in section 501(c)(3) rather than section 501(c)(6). Accordingly, if the fund otherwise meets the requirements of section 509(a)(3) with respect to X, it will be considered an organization described in section 509(a)(3).

§ 1.509(a)–5 Special rules of attribution.

(a) *Retained character of gross investment income.* (1) For purposes of determining whether an organization meets the gross investment income test set forth in section 509(a)(2)(B), amounts received by such organization from:

(i) An organization which seeks to be described in section 509(a)(3) by reason of its support of such organization; or

(ii) A charitable trust, corporation, fund, or association described in section 501(c)(3) (including a charitable trust described in section 4947(a)(1)) or a split interest trust described in section 4947(a)(2), which is required by its governing instrument or otherwise to distribute, or which normally does distribute, at least 25 percent of its adjusted net income (within the meaning of section 4942(f)) to such organization, and such distribution normally comprises at least 5 percent of such distributee organization's adjusted net income,

will retain their character as gross investment income (rather than gifts or contributions) to the extent that such amounts are characterized as gross investment income in the possession of the distributing organization described in subdivision (i) or (ii) of this subparagraph or, if the distributing organization is a split interest trust described in section 4947(a)(2), to the extent that such amounts would be characterized as gross investment income attributable to transfers in trust after May 26, 1969, if such trust were a private foundation. For purposes of this section, all income which is characterized as gross investment income in the possession of the distributing organization shall be deemed to be distributed first by such organization and shall retain its character as such in the possession of the recipient of amounts described in this paragraph. If an organization described in subdivision (i) or (ii) of this subparagraph makes distributions to more than one organization, the amount of gross investment income

deemed distributed shall be prorated among the distributees.

(2) For purposes of subparagraph (1) of this paragraph, amounts paid by an organization to provide goods, services, or facilities for the direct benefit of an organization seeking section 509(a)(2) status (rather than for the direct benefit of the general public) shall be treated in the same manner as amounts received by the latter organization. Such amounts will be treated as gross investment income to the extent that such amounts are characterized as gross invetment income in the possession of the organization spending such amounts. For example, X is an organization described in subparagraph (1)(i) of this paragraph. It uses part of its funds to provide Y, an organization seeking section 509(a)(2) status, with certain services which Y would otherwise be required to purchase on its own. To the extent that the funds used by X to provide such services for Y are characterized as gross investment income in the possession of X, such funds will be treated as gross investment income received by Y.

(3) An organization seeking section 509(a)(2) status shall file a separate statement with its Form 990, Annual Information Return, setting forth all amounts received from organizations described in subparagraph (1)(i) or (ii) of this paragraph.

(b) *Relationships created for avoidance purposes.* (1) If a relationship between an organization seeking section 509(a)(3) status and an organization seeking section 509(a)(2) status:

(i) Is established or availed of after October 9, 1969, and

(ii) One of the purposes of establishing or utilizing such relationship is to avoid classification as a private foundation with respect to either organization,

the character and amount of support received by the section 509(a)(3) organization will be attributed to the section 509(a)(2) organization for purposes of determining whether the latter meets the one-third support test and the one-third gross investment income test under section 509(a)(2). If a relationship described in this subparagraph is established or utilized by an organization seeking section 509(a)(3) status and two or more organizations seeking section 509(a)(2) status, the amount of support received by the former organization will be prorated among the latter organizations and the character of each class of support (as defined in section 509(d)) will be attributed pro rata to each such organization. The provisions of this paragraph and of paragraph (a) of this section are not mutually exclusive.

(2) In determining whether a relationship between one or more organizations seeking section 509(a)(2) status (hereinafter referred to as "beneficiary organizations") and an organization seeking section 509(a)(3) status (hereinafter referred to as the "supporting organization") has been established or availed of to avoid classification as a private foundation (within the meaning of subparagraph (1) of this paragraph), all pertinent facts and circumstances, including the following, shall be taken into account as evidence that a relationship was not established or availed of to avoid classification as a private foundation:

(i) The supporting organization is operated to support or benefit several specified beneficiary organizations.

(ii) The beneficiary organization has a substantial number of dues-paying members (in relation to the public it serves and the nature of its activities) and such members have an effective voice in the management of both the supporting and beneficiary organizations.

(iii) The beneficiary organization is composed of several membership organizations, each of which has a substantial number of members (in relation to the public it serves and the nature of its activities), and such membership organizations have an effective voice in the management of the supporting and beneficiary organizations.

(iv) The beneficiary organization receives a substantial amount of support from the general public, public charities, or governmental grants.

(v) The supporting organization uses its funds to carry on a meaningful program of activities to support or benefit the beneficiary organization and such use would, if such supporting organization were a private foundation, be sufficient to avoid the imposition of any tax upon such organization under section 4942.

(vi) The supporting organization is not able to exercise substantial control or influence over the beneficiary organization by reason of the former's receiving support or holding assets which are disproportionately large in comparison with the support received or the assets held by the latter.

(vii) Different persons manage the operations of the beneficiary and supporting organizations and each organization performs a different function.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, an organization described in section 509(a)(2), is a council composed of 10 learned societies. Each member society has a large membership of scholars interested in a particular academic area. In 1970 M established N, an organization seeking section 509(a)(3) status, for the purpose of carrying on research and study projects of interest to the member societies. The principal source of funds for N's activities is from foundation and government grants and contracts. The principal source of funds for M's activities after the creation of N is membership dues. M continued to maintain a wide variety of activities for its members, such as publishing periodicals and carrying on seminars and conferences. N is subject to complete control by the governing body of M. Under these circumstances, the relationship between these organizations is not one which is described in subparagraph (1) of this paragraph.

Example (2). Q is a local medical research organization described in section 509(a)(2). Its fixed assets are negligible and it carries on research activities on a limited scale. It also makes a limited number of grants to scientists and doctors who are engaged in medical research of interest to Q. It receives support through small government grants and a few research contracts from private foundations. R is an organization described in section 501(c)(3). As of January 1, 1970, R was classified as a private foundation under section 509. It has a substantial endowment which it uses to make grants to various charitable and scientific organizations described in section 501(c)(3). During 1970, R agrees to subsidize the research activities of Q. R amends its governing instrument to provide specifically that all of R's support will be used for research activities which are approved and supervised by Q. R also amends its bylaws to permit a minority of Q's board of directors to be members of R's governing body. R then gives timely notification under section 507(b)(1)(B)(ii) that R is terminating its private foundation status by meeting the requirements of section 509(a)(3) by the end of the 12-month period described in section 507(b)(1)(B)(i). For purposes of determining whether R has met the requirements of section 509(a)(3) by the end of the 12-month period, as well as determining Q's status under section 509(a)(2), the character and amount of support received by R will be attributed to Q.

(c) *Effect on organizations claiming section 509(a)(3) status.* If an organization claiming section 509(a)(2) status fails to meet either the one-third support test or the one-third gross investment income test under section 509(a)(2) by reason of the application of the provisions of paragraph (a) or (b) of this section, and such organization is one of the specified organizations (within the meaning of section 509(a)(3)(A)) for whose support or benefit an organization claiming section 509(a)(3) status is operated, the organization claiming section 509(a)(3) status will not be considered to be operated exclusively to support or benefit one or more section 509(a)(1) or (2) organizations.

§ 1.509(a)–6 Classification under section 509(a).

If an organization is described in section 509(a)(1) and also in another paragraph of section 509(a), it will be treated as described in section 509(a)(1). For purposes of this section, the parenthetical language "other than in clauses (vii) and (viii)" used in section 509(a)(1) shall be construed to mean "other than an organization which is described only in clause (vii) or (viii)". For example, X is an organization which is described in section 170(b)(1)(A)(vi), but could also meet the description of section 170(b)(1)(A)(viii) as an organization described in section 509(a)(2). For purposes of the one-third support test in section 509(a)(2)(A), contributions from X to other organizations will be treated as support from an organization described in section 170(b)(1)(A)(vi) rather than from an organization described in section 170(b)(1)(A)(viii).

§ 1.509(a)–7 Reliance by grantors and contributors to section 509(a)(1), (2), and (3) organizations.

(a) *General rule.* Once an organization has received a final ruling or deter-

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mination letter classifying it as an organization described in section 509(a)(1), (2), or (3), the treatment of grants and contributions and the status of grantors and contributors to such organization under sections 170, 507, 545(b)(2), 556(b)(2), 642(c), 4942, 4945, 2055, 2106(a)(2), and 2522 will not be affected by reason of a subsequent revocation by the service of the organization's classification as described in section 509(a)(1), (2), or (3) until the date on which notice of change of status is made to the public (such as by publication in the Internal Revenue Bulletin) or another applicable date, if any, specified in such public notice. In appropriate cases, however, the treatment of grants and contributions and the status of grantors and contributors to an organization described in section 509(a)(1)(2), or (3) may be affected pending verification of the continued classification of such organization under section 509(a)(1), (2), or (3). Notice to this affect will be made in a public announcement by the service. In such cases the effect of grants and contributions made after the date of the announcement will depend upon the statutory qualification of the organization as an organization described in section 509(a)(1), (2), or (3).

(b) *Exceptions.* (1) Paragraph (a) of this section shall not apply if the grantor or contributor:

(i) Had knowledge of the revocation of the ruling or determination letter classifying the organization as an organization described in section 509(a)(1), (2), or (3), or

(ii) Was in part responsible for, or was aware of, the act, the failure to act, or the substantial and material change on the part of the organization which gave rise to the revocation of the ruling or determination letter classifying the organization as an organization described in section 509(a)(1), (2), or (3).

(2) Paragraph (a) of this section shall not apply where a different rule is otherwise expressly provided in the regulations under sections 170(b)(1)(A), 507(b)(1)(B), or 509.

§ 1.509(b) Statutory provisions; private foundation defined; continuation of private foundation status.

SEC. 509. *Private foundation defined.*

* * * * *

(b) *Continuation of private foundation status.* For purposes of this title, if an organization is a private foundation (within the meaning of subsection (a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507.

[Sec. 509(b), as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 497)]

§ 1.509(b)–1 Continuation of private foundation status.

(a) *In general.* If an organization is a private foundation (within the meaning of section 509(a)) on October 9, 1969, or becomes a private foundation on any subsequent date, such organization shall be treated as a private foundation for all periods after October 9, 1969, or after such subsequent date, unless its status as such is terminated under section 507. Therefore, if an organization was described in section 501(c)(3) and was a private foundation within the meaning of section 509(a) on October 9, 1969, it shall be treated as a private foundation for all periods thereafter, even though it may also satisfy the requirements of an organization described in some other paragraph of section 501(c). For example, if on October 9, 1969, an organization was described in section 501(c)(3), but because of its activities, it could also have qualified as an organization described in section 501(c)(4), such organization will continue to be treated as a private foundation, if it was a private foundation within the meaning of section 509(a) on October 9, 1969.

(b) *Taxable private foundations.* If an organization is a private foundation on October 9, 1969, and it is determined that it is not exempt under section 501(a) as an organization described in section 501(c)(3) as of any date after October 9, 1969, such organization, even though it may operate thereafter as a taxable entity, will continue to be treated as a private foundation unless its status as such is terminated under section 507. For example, X organization is a private foundation on October 9, 1969. It is subsequently determined that, as of July 1, 1972, X is no longer exempt under section 501(a) as an organization described in section 501(c)(3) because, for example, it has not conformed its governing instrument pursuant to section 508(e). X will continue to be treated as a private foundation after July 1, 1972, unless its status as such is terminated under section 507. However, if an organization is not exempt under section 501(a) as an organization described in section 501(c)(3) on October 9, 1969, then it will not be treated as a private foundation within the meaning of section 509(a) by reason of section 509(b), unless it becomes a private foundation on a subsequent date.

§ 1.509(c) Statutory provisions; private foundation defined; status of organization after termination of private foundation status.

SEC. 509. *Private foundation defined.*

* * * * *

(c) *Status of organization after termination of private foundation status.* For purposes of this part, an organization the status of which as a private foundation is terminated under section 507 shall (except as provided in section 507(b)(2)) be treated as an organization created on the day after the date of such termination.

[Sec. 509(c), as added by sec. 101(a), Tax Reform Act of 1969 (83 Stat. 497)]

§ 1.509(c)–1 Status of organization after termination of private foundation status.

(a) *In general.* For purposes of Part II of Subchapter F of this chapter, an organization whose status as a private foundation is terminated under section 507 shall be treated as an organization created on the day after the date of such termination. An organization whose private foundation status has been terminated under the provisions of section 507(a) will, if it continues to operate, be treated as a new organization and must, if it desires to be classified under section 501(c)(3), give notification that it is applying for recognition of section 501(c)(3) status pursuant to the provisions of section 508(a).

(b) *Effect upon section 507(d)(1).* If the private foundation status of an organization has been terminated under section 507(b)(1)(B) and the regulations thereunder, and:

(1) Such organization does not continue at all times thereafter to meet the requirements of section 509(a)(1), (2), or (3) (and is therefore no longer excluded from the definition of a private foundation); and

(2) The status of such organization as a private foundation is thereafter terminated under section 507(a),

then the tax imposed under section 507(c)(1) upon the aggregate tax benefit (described in section 507(d)(1)) resulting from section 501(c)(3) status shall be computed only upon the aggregate tax benefit resulting after the date on which the organization again becomes a private foundation under subparagraph (1) of this paragraph.

§ 1.509(d) Statutory provisions; private foundation defined; definition of support.

SEC. 509. *Private foundation defined.*

* * * * *

(d) *Definition of support.* For purposes of this part and chapter 42, the term "support" includes (but is not limited to)—

(1) Gifts, grants, contributions, or membership fees,

(2) Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business (within the meaning of section 513),

(3) Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business,

(4) Gross investment income (as defined in subsection (e)),

(5) Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization, and

(6) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in section 170(c)(1) to an organization without charge.

Such term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset, or the value of exemption from any Federal, State, or local tax or any similar benefit.

[Sec. 509(d), as added by section 101(a), Tax Reform Act 1969, (83 Stat. 497)]

§ 1.509(d)–1 Definition of support

For purposes of section 509(a)(2), the term "support" does not include amounts received in repayment of the principal of a loan or other indebtedness. See, however, section 509(e) as to amounts received as interest on a loan or other indebtedness.

§ 1.509(e) Statutory provisions; private foundation defined; definition of gross investment income.

SEC. 509. *Private foundation defined.*

* * * * *

(e) *Definition of gross investment income.* For purposes of subsection (d), the term "gross investment income" means the gross amount of income from interest, dividends, rents, and royalties, but not including any such income to the extent included in computing the tax imposed by section 511.

[Sec. 509(e), as added by section 101(a), Tax Reform Act 1969 (83 Stat. 498)]

§ 1.509(e)–1 Definition of gross investment income.

For the distinction between gross receipts and gross investment income, see § 1.509(a)–3(m).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 6, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-17511 Filed 10-16-72;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 175—CSC SECURITY PROGRAM

A new Part 175 is added to Chapter I of Title 5 of the Code of Federal Regulations to prescribe the procedures whereby members of the public or Departments may direct requests for a review of the classification of a Commission document. The new Part 175 reads as follows:

§ 175.101 Requests for review of classification of documents.

A person desiring a review of the classification of a Commission document under Executive Order 11652 and the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information shall submit his request in writing to the Commission's Security Officer. Procedures for submitting requests for review of classification, and for appeals from unfavorable action thereon, and the addresses to which requests and appeals should be directed are set out in Appendix A to this part.

APPENDIX A

REQUESTS FOR DECLASSIFICATION REVIEW

The following guidance is provided for members of the public desiring a classification review of a document of the Civil Service Commission (CSC) pursuant to section 5.(c) of Executive Order 11652 (37 F.R. 5209, March 10, 1972) and section III.B of the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information (37 F.R. 10053, May 19, 1972).

(a) *Request for classification review of documents.* (1) Any person desiring a classification review of a CSC document containing information classified as National Security Information by reason of the provisions of Executive Order 11652 (or any predecessor Executive order) and which is more than 10 years old, should address such requests to the Security Officer, U.S. Civil Service Commission, Washington, D.C. 20415. (2) Requests need not be made on any special form but shall, as specified in the Executive order, describe the document with sufficient particularity to enable CSC personnel to identify and obtain the document from CSC records without expending more than a reasonable amount of effort. (3) Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a and the requester will be so notified.

(b) *Action on requests for classification review.* (1) The Security Officer shall assign the request to the appropriate office for action. The Security Officer or the office which has been assigned action shall immediately acknowledge receipt of the request in writing. Every effort will be made to complete action on each request within thirty (30) days of receipt of the request. If action cannot be completed within thirty (30) days, the requester shall be so advised by the Security Officer or the office acting on the request along with the reasons for the need for additional time. (2) If the requester does not receive a decision on his request within sixty (60) days from the date of receipt of his request by CSC, or from the date of the most recent receipt of his response to a CSC request for more particulars, he may apply to the CSC Committee on Classification of Security Information, U.S. Civil Service Commission, Washington, D.C. 20415, for a decision on his request. (3) In the event the Security Officer or the office which has been assigned action on the request makes the determination that the requested information must remain classified by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and, whenever possible, shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be advised that if he desires he may appeal that determination to the CSC Committee on Classification of Security Information, U.S. Civil Service Commission, Washington, D.C. 20415. Any such request shall include a brief statement as to why the requester disagrees with the decision which he is appealing. (4) The CSC Committee on Classification of Security Information shall normally render its decision within thirty (30) days of receipt of a request. If a longer period is likely to be required because of the need for additional communications or conferences with the requester, he shall be advised of the time needed to complete review of the matter.

(c) *Appeal to Interagency Classification Review Committee.* Whenever the CSC Committee on Classification of Security Information confirms a determination for continued classification, it shall so notify the requester who shall be entitled to appeal that action to the Interagency Classification Review Committee established under section 7(A) of Executive Order 11652. Such appeals should be addressed to the Interagency Classification Review Committee, The Executive Office Building, Washington, D.C. 20500.

(d) *Suggestions and complaints.* Any person may also direct suggestions or complaints with respect to the administration of the other provisions of Executive Order 11652 and the NSC Directive by the CSC to the CSC Committee for Classification of Security Information, U.S. Civil Service Commission, Washington, D.C. 20416.

(e) *Other material.* CSC Administrative Manual, Chapter 175.02 covering CSC policies and procedures relating to classified information or material is available for inspection by the public in the CSC Library, Room 5H27, 1900 E Street NW., Washington, D.C. or in one of the 10 CSC regional offices in the following cities: Atlanta, Boston, Chicago, Dallas, Denver, New York, Philadelphia, St. Louis, San Francisco, and Seattle.

(E.O. 11652, 37 F.R. 5209)

Effective date. This regulation shall be effective upon its publication in the FEDERAL REGISTER (10–17–72).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-17644 Filed 10-16-72;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

PART 56—SWINE DESTROYED BECAUSE OF HOG CHOLERA

Payment of Indemnities

Pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a, 114g, 115, 117, 120, 121, 123–126, 134a–134h), Part 56, Title 9, Code of Federal Regulations relating to the payment of indemnity for swine destroyed because of hog cholera, is thereby amended in the following respects:

In § 56.7, paragraphs (a) and (b) are amended to read:

§ 56.7 Payment to owners for swine destroyed.

(a) Subject to paragraph (b) of this section, owners of swine destroyed in accordance with this part in States listed in § 76.2 (f) or (g) of this chapter and in States not listed in either of these sections, may be paid an indemnity by the United States not to exceed the percentage of the appraised value of swine destroyed as specified in the following schedule: *Providing,* That each such State has laws, rules or regulations requiring the individual identification of all feeder and breeder swine moving through livestock markets and other concentration points in intrastate and interstate movement:

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(1) 90 percent of the appraised value in States listed in § 76.2(g) of this chapter;

(2) 75 percent of the appraised value in States listed in § 76.2(f) and in other States not listed in § 76.2(g) of this chapter; and

(3) In States, whether listed in § 76.2 (f) or (g) or unlisted in either of these sections, which do not qualify under the identification requirement in this paragraph, an indemnity may be paid by the United States not to exceed 50 percent of the appraised value of swine destroyed.

(b) Federal indemnity as specified in this paragraph may be paid for swine destroyed subject to the provisions of paragraph (a) of this section:

(1) In States listed in § 76.2(g) of this chapter, which qualify under the provisions of paragraph (a) of this section, an indemnity may be paid not to exceed $180 per head for purebred, inbred, or hybrid swine and for breeding swine, or $90 per head for all other swine.

(2) In States listed in § 76.2(f) and in those States not listed in either § 76.2 (f) or (g) of this chapter, which qualify under the provisions of paragraph (a) of this section, an indemnity may be paid not to exceed $150 per head for purebred, inbred, or hybrid swine and for breeding swine, or $75 per head for all other swine.

(3) In States, whether listed or unlisted in § 76.2 (f) or (g) of this chapter, which do not qualify under the identification requirement in paragraph (a) of this section, an indemnity may be paid not to exceed $100 per head for purebred, inbred, or hybrid swine and for breeding swine, or $50 per head for all other swine.

* * * * *

(Secs. 3–5, 23 Stat. 32, as amended; sec. 2, 32 Stat. 792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 11, 58 Stat. 734, as amended; 75 Stat. 481, 76 Stat. 129–132; 21 U.S.C. 111–113, 114, 114a, 114g, 115, 117, 120, 121, 123–126, and 134a–134h; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment would (1) increase the ratio of indemnity which may be paid for swine destroyed because of hog cholera in States not listed in § 76.2 (f) or (g) from 50 percent to 75 percent of appraised value; (2) would increase the maximum which may be paid for purebred, inbred, or hybrid swine and for breeding swine in such States from $100 to $150 per head; and (3) would increase the maximum which may be paid for all other swine in such States from $50 to $75 per head.

Because of the urgency involved in eradicating the current outbreak of hog cholera in this country, it is essential that the provisions of this amendment be placed in effect without delay. Accordingly, under administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17658 Filed 10-16-72;8:48 am]

Chapter III—Animal and Plant Health Inspection Service (Meat and Poultry Products Inspection), Department of Agriculture

IMPORT INSPECTION ESTABLISHMENTS

On December 4, 1971, there was published in the FEDERAL REGISTER (36 F.R. 23161) in accordance with the administrative procedure provisions in 5 U.S.C. 553, a notice of proposed rule making under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) to amend the Federal meat inspection regulations (9 CFR Chapter III, Subchapter A) for the purpose of prescribing the sanitary conditions under which imported meat is to be inspected. Interested persons were given 60 days in which to submit data, views or arguments concerning the proposed amendments.

Fourteen letters of comment were received. Of these, six supported the proposed amendments, three were in opposition and five sought interpretations or suggested editorial changes to clarify intent.

Some comments objected to application of the proposed regulations to mobile inspection units as used in certain geographical areas. In order to assure the sanitary handling of all imported meat products and avoid discrimination among importers, the regulations must be applied to all facilities where import meat inspections are to be made.

Concern was expressed in some comments on requirement of quick defrosting equipment at the inspection facilities. Facilities for defrosting meat will be required only at those locations where frozen boneless meat is presented for inspection. Facilities requirements will depend on the type and quantity of meat product imported.

Some of the comments recommended clarification of the proposal to assure that boxed cuts would not have to be marked directly with the official inspection legend; and that boxes of products refused entry would not be required to be marked "Refused Entry" if they were otherwise sufficiently identified as such in the judgment of the area supervisor.

After consideration of these comments and other relevant information, it has been decided to issue the regulations substantially as they were proposed. However, certain wording changes have been made to clarify intent without significantly affecting the content. The changes in § 327.6 (f) and (g) are necessary to permit coordination of their provisions with applicable rules of practice and to reflect the authority in section 401 of the Act. It does not appear that further public participation in this proceeding would make additional information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such further public proceedings are impracticable and unnecessary. Accordingly, pursuant to section 21 of the Federal Meat Inspection Act (21 U.S.C. 621), the proposed amendments are adopted as proposed (36 F.R. 23161; F.R. Doc. 71–17674) with the following changes:

1. In proposed § 312.7(a), the phrase "and size" is deleted; the phrase "For Application to Carcasses, Primal Parts, and Cuts, Not in Containers" is substituted for the phrase "For Application To Carcasses, Primal Parts of A Carcass, and Cuts Therefrom;" and the phrase "For Application To Outside Containers" is substituted for the phrase "For Application To The Outside Container."

2. In proposed § 312.7(c) the word "when" is inserted before the phrase "required by Part 327."

3. In footnote 2 relating to proposed § 327.6, the word "or" is deleted.

4. In the heading for proposed § 327.7, the phrase "facilities and" is deleted, and in § 327.6 (f) and (g) changes are made in the provisions for refusing or withdrawing approval of establishments for import inspection.

5. In proposed §§ 327.5(a) and 327.6 (b) and (c), the phrase "Animal and Plant Health Inspection Service" is substituted for the phrase "Consumer and Marketing Service."

6. In § 301.2 the definition is designated (kkk).

With these changes the amendments are as follows:

PART 301—DEFINITIONS

1. A new paragraph is added to § 301.2 to read:

§ 301.2 Definitions.

* * * * *

(kkk) *Official import inspection establishment.* This term means any establishment, other than an official establishment as defined in paragraph (i) of this section, where inspections are authorized to be conducted as prescribed in § 327.6 of this subchapter.

* * * * *

PART 312—OFFICIAL MARKS, DEVICES AND CERTIFICATES

2. Section 312.7 is revised to read:

§ 312.7 Official import inspection marks and devices.

(a) When import inspections are performed in official import inspection establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be in the appropriate form[1] as hereinafter specified:



FOR APPLICATION TO CARCASSES, PRIMAL PARTS, AND CUTS, NOT IN CONTAINERS



FOR APPLICATION TO OUTSIDE CONTAINERS

(b) When import inspections are performed in official establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be the appropriate form as specified in § 312.2 of this Part.

(c) When products are refused entry into the United States, the official mark, when required by Part 327 of this subchapter, to be applied to the products refused entry shall be in the following form:

UNITED STATES
REFUSED ENTRY

(d) Devices for applying such marks will be furnished to Program inspectors by the Department.

* * * * *

PART 327—IMPORTED PRODUCTS

3. Section 327.5 is revised to read:

[1] The number I-38 is given as an example only. The establishment number of the official import inspection establishment where the product is inspected shall be used in lieu thereof.

§ 327.5 Importer to make application for inspection of products for importation; information required.

(a) Each importer shall apply for inspection of any product for importation to the officer in charge, if one is stationed at the port where such product is to be offered for entry. Otherwise, application for inspection shall be made to the Administrator, "Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) The application should be made as long as possible in advance of the anticipated arrival of each consignment, except in case of consignments of products expressly exempted from inspection by §§ 327.16 and 327.17.

(c) Each application shall state the approximate date on which the consignment is due to arrive at such port in the United States, the name of the ship or other carrier transporting it, the name of the country from which the product was, or is to be, shipped, the place where inspection is desired in accordance with § 327.6, the quantity and kind of product, and whether it is fresh, cured, canned or otherwise prepared. In case of consignments arriving in the United States by water, the application shall also state the port of first arrival in the United States.

4. In § 327.6, the section heading is amended, paragraphs (b) through (h) are revised, paragraphs (i) and (j) are revoked, and paragraphs (k), (l), (m), (n), and (o) are redesignated as paragraphs (i), (j), (k), (l), and (m) respectively.

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

* * * * *

(b) All products, required by this part to be inspected, shall be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator as provided in this section. Such approved official import inspection establishments will be listed in the Directory of Meat and Poultry Inspection Program Establishments, Circuits and Officials, published by the Animal and Plant Health Inspection Service. The listing will categorize the kind or kinds of product[2] which may be inspected at each official import inspection establishment, based on the adequacy of the facilities for making such inspections and handling such products in a sanitary manner.

(c) Owners or operators of facilities, other than official establishments, who want to have import inspections made at their facilities, shall apply to the Administrator for approval of their facilities for such purpose. Application shall be made on a form furnished by the Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C., and shall include all information called for by that form.

(d) Each applicant seeking approval of his facilities for import inspections shall submit to the Administrator necessary drawings with specifications to determine compliance with the requirements of this section. Approval shall be sought in accordance with § 304.2(a) of this subchapter. Submission of drawings is not required if the applicant's facilities are operated under a State inspection program in a State not listed in § 331.2 of this subchapter.

(e) Owners or operators of establishments at which import inspections of product are to be made shall furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 304.2(e), 307.1, 307.2 (b), (d), (f), (h), (k), and (l) and 308.3, 308.4, 308.5, 308.6, 308.7, 308.8, 308.9, 308.11, 308.13, 308.14, and 308.15 of this subchapter shall apply as conditions for approval of facilities as official import inspection establishments to the same extent and in the same manner as they apply with respect to official establishments.

(f) The Administrator is authorized to approve any facility as an official import inspection establishment provided that an application has been filed and drawings have been submitted in accordance with the requirements of paragraphs (c) and (d) of this section and he determines that such facility meets the requirements under paragraph (e) of this section. If it is determined that the facility does not meet such requirements, approval of the facility as an official import inspection establishment may be refused in accordance with the applicable rules of practice. A written notice, specifying the premises to which the approval applies, shall be given to each applicant granted approval. When approval is refused for any such reason, the applicant shall be informed of the action and the reason therefor. Approval may also be refused in accordance with § 401 of the act and applicable rules of practice.

(g) Approval of an official import inspection establishment may be withdrawn in accordance with applicable rules of practice if it is determined that the sanitary conditions are such that the product is rendered adulterated, that that such action is authorized by section 21(b) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), or that the requirements of paragraph (e) of this section were not complied with. Approval may also be withdrawn in accordance with section 401 of the Act and applicable rules of practice.

(h) A special official number shall be assigned to each official import inspection establishment. Such number shall be used to identify all products inspected and passed for entry at the establishment.

* * * * *

5. In § 327.7, paragraph (g) is amended to read:

[2] For example: Canned product, boneless meat, carcasses and cuts.

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§ 327.7 Products for importation; movement prior to inspection; sealing; handling; bond; assistance.

* * * * *

(g) The consignee or his agent shall provide such assistance as Program inspectors may require for the handling and marking of product offered for entry.

* * * * *

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 601 et seq.; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

These amendments shall become effective 30 days after publication in the FEDERAL REGISTER. However, to afford the affected industry reasonable opportunity to adjust its operations to comply with the requirements of the amendments, the Department will continue for a period of 1 year after such effective date to provide import inspection at facilities where such inspection is now provided, so long as the import inspector finds that the facilities are such that handling of product thereat will not result in adulteration of the product.

This will provide time for such persons to apply for formal approval and to provide the required drawings. New facilities must get program approval before they will qualify as official import inspection establishments.

The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., on October 10, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-17569 Filed 10-16-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

SUBCHAPTER C—AIRCRAFT

[Docket No. 72-EA-102, Amdt. 39-1543]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to models of Piper PA 23, 24, 28, 31, 32, 34, and 39 type airplanes.

As a result of reports of inadvertent activation of the Garrett RESCU/88 emergency locator transmitter for certain technical reasons, an airmail dispatch was issued on September 18, 1972, to all owners of models of the aforesaid type airplanes. The same need for immediate adoption of this amendment still exists and therefore notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Applies to Piper airplanes incorporating Garrett Model RESCU/88 Part No. 627484-1 Series 1 or Series 2 emergency locator transmitters with serial numbers of which the last four digits are less than 1525.

Compliance required as indicated.

(a) Before further flight, unless (b) has been accomplished, install a placard in full view of the pilot which reads "This airplane is not to be operated in IFR flight." The placard may be removed when (b) has been accomplished.

(b) Within the next 50 hours time in service after the effective date of this airworthiness directive, check for inadvertent activation of all Garrett Model RESCU/88 Part No. 627484-1 Series 1 and Series 2 emergency locator transmitters, with serial numbers of which the last four digits are less than 1525, by keying all VHF communications transmitters installed on the airplane for a period of at least 3 seconds on all tunable frequencies to within 0.5 MHz when possible throughout the VHF communications band. Replace any emergency locator transmitters which activate during this check with transmitters of the same type having serial numbers of which the last four digits are greater than 1524 or other FAA approved emergency locator transmitters. The check required by this AD may be performed by the pilot.

NOTE: During check required by paragraph (b) be prepared for immediate deactivation of the emergency locator transmitter if activation occurs.

(c) Before further flight, install, on all aircraft incorporating a Garrett Model RESCU/88 Part No. 627484-1 Series 1 emergency locator transmitter, a placard in full view of the pilot which reads "VOR indications may be affected when the VHF radio is keyed." The placard may be removed when (d) has been accomplished.

(d) Within the next 300 hours time in service after the effective date of this airworthiness directive, replace all Garrett Model RESCU/88 Part No. 672484-1 Series 1 emergency locator transmitters with Garrett Model RESCU/88 Part No. 627484-1 Series 2 emergency locator transmitters or other FAA approved locator transmitters.

(e) Upon request with substantiation data submitted through an FAA Maintenance/Avionics Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

NOTE: For the requirements regarding the listing of compliance and method of compliance with this AD in the airplane's permanent maintenance record, see FAR 91.173.

(Piper Service Letter No. 617 pertains to the replacement required by paragraph (d) of this AD.)

This amendment is effective October 20, 1972, and was effective for all recipients, upon receipt of the airmail dispatch dated September 18, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 5, 1972.

F. A. CARBOINE,
Acting Director, Eastern Region.

[FR Doc.72-17640 Filed 10-16-72;8:47 am]

SUBCHAPTER E—AIRSPACE

[Airspace Docket No. 72-EA-80]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

Correction

In F.R. Doc. 72-16897 appearing on page 20806 of the issue for Wednesday, October 4, 1972, the airspace docket number was inadvertently omitted. It should read as set forth above.

[Airspace Docket No. 72-WA-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Terminal Control Area at San Francisco, Calif.

On June 1, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 10957) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Group I terminal control area (TCA) for San Francisco, Calif.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all relevant matter presented.

Of the comments in objection, the substance of several went to the basic concept of the terminal control area plan itself. These comments concerned compression of traffic beneath the floors and at the edges of the TCA airspace; the additional workload placed on the controller; a questioning of the resource capability of handling VFR traffic and radar advisory service in the area; and a preference for climb and descent corridors rather than the circular area concept. Each of these objections was discussed in detail when the general air traffic rules for operation within terminal control areas were adopted in Docket No. 9880 (35 F.R. 7782), effective June 25, 1970. It is not considered necessary or appropriate to discuss them further at this point.

A total of 33 replies were received in response to the notice. Several suggested not establishing a TCA at all while others proposed reductions in the size of the airspace that would render it ineffective.

Two of the replies recommended that Area A west of San Francisco Airport be reduced to permit flights to operate outside the TCA along the Pacific coast shoreline. These comments have merit and Area A has been modified, to the extent that containment of San Francisco Runways 10 L/R approach procedures allow, by creating Area K with a floor of 1,500 feet MSL.

Another comment recommended establishing two VFR corridors through Area A, one north of San Francisco Airport over the bay at 1,000 feet and below and the other south of the airport along the San Andreas rift valley at 2,500 feet and below. Neither proposal can be adopted due to the runway configuration at San Francisco Airport. Both proposals apparently failed to consider that aircraft landing and departing Runways 01/19 would routinely penetrate the suggested corridors, a deviation from the TCA rule which would be unacceptable. Both recommended corridors would be in such proximity to the airport as to preclude necessary circle-to-land maneuvers by turbine-powered aircraft when either Runways 01 or 19 were in use.

The majority of the comments (approximately 76 percent) were from gliding and soaring interests. While there was some variation, nearly all of these comments suggested elimination of Areas E and I from the proposal to allow continued unrestricted soaring activities in the Mission Peak and Mt. Diablo areas. A meeting was held in Fremont, Calif., on August 28, 1972, with representatives of the Soaring Society of America to discuss possible solutions.

The changes recommended for Areas E and I were not adopted since the airspace within these subareas is the minimum needed to contain the radar vectoring, sequencing and descent of arrivals within the TCA. The proposed modifications would reduce the TCA to such an extent that it would not afford the degree of safety for which it was designed and would create reading problems for VFR pilots. A minor adjustment in the northern portion of Area I was made to keep the TCA wholly within airspace delegated to the Bay Terminal Radar Control (TRACON) facility.

Subsequent to the publication of the notice, a typographical error was noted in the description of a portion of the common boundary of Areas A and F. The 4-mile radius of the Oakland VORTAC referred to in the description of Areas A and F should have been the 3-mile radius. Action is taken herein to correct the error.

All other comments received, both to the notice and at a series of local FAA/pilot group meetings held over the past several weeks, have been given serious consideration. Subsequent meetings will be held from time to time to discuss how the program is going and the need for any changes.

In consideration of the foregoing, § 71.401(a) (37 F.R. 2327) of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 11, 1972, by adding the San Francisco, Calif., Group I terminal control area to read as follows:

SAN FRANCISCO, CALIF., TERMINAL CONTROL AREA

PRIMARY AIRPORT

San Francisco International Airport (latitude 37°37'07" N., longitude 122°22'35" W.).

San Francisco LVOR/DME (latitude 37°37'10" N., longitude 122°22'22" W.).

Boundaries—

1. *Area A.* That airspace extending upward from the surface to and including 8,000 feet MSL within a 7-mile radius of the San Francisco (SFO) VOR extending clockwise from the SFO VOR 247° radial to the SFO VOR 127° radial and within a 5-mile radius of the SFO VOR extending clockwise from the SFO VOR 127° radial to the SFO VOR 247° radial, excluding that airspace within a 3-mile radius of the Oakland VORTAC and excluding that airspace within Area K.

2. *Area B.* That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 5-mile radius arc of the SFO VOR, on the southeast by a 10-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial, excluding that airspace within Area A.

3. *Area C.* That airspace extending upward from 2,500 feet MSL to and including 8,000 feet MSL bounded on the northwest by a 10-mile radius arc of the SFO VOR, on the southeast by a 15-mile radius arc of the SFO VOR, on the northeast by the SFO VOR 107° radial, and on the southwest by the SFO VOR 137° radial.

4. *Area D.* That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 137° radial thence southeast along the 137° radial to and counterclockwise along a 15-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 20-mile radius DME arc of the SFO VOR to and northwest along the SFO VOR 167° radial to and counterclockwise along the 5-mile radius DME arc of the SFO VOR to the point of beginning.

5. *Area E.* That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 5-mile DME point on the SFO VOR 167° radial thence southeast along the 167° radial to and counterclockwise along the 20-mile DME arc of the SFO VOR to and east along the SFO VOR 107° radial to and clockwise along the 25-mile DME arc of the SFO VOR to and northwest along the Point Reyes VOR TAC 161° radial to and northeast along the SFO VOR 217° radial to and counterclockwise along the 5-mile DME arc of the SFO VOR to the point of beginning.

6. *Area F.* That airspace extending upward from 2,100 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the 10-mile DME point on the SFO VOR 247° radial thence clockwise along the 10-mile DME arc to and west along the SFO VOR 107° radial to and counterclockwise along the 7-mile DME arc of the SFO VOR to and clockwise along the 3-mile DME arc of the Oakland VORTAC to and counterclockwise along the 7-mile DME arc of the SFO VOR to and southwest along the SFO VOR 247° radial to the point of beginning.

7. *Area G.* That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL between the 10- and 15-mile radii of the SFO VOR from the SFO VOR 247° radial clockwise to the SFO VOR 107° radial, excluding the airspace southwest of the Point Reyes VORTAC 161° radial.

8. *Area H.* That airspace extending upward from 4,500 feet MSL to and including 8,000 feet MSL bounded by a line beginning at the intersection of the Sausalito VORTAC 052° radial and the Oakland VORTAC 305° radial thence northeast along the Sausalito VORTAC 052° radial to and clockwise along the 20-mile DME arc of the SFO VOR to and southwest along the SFO VOR 072° radial to and counterclockwise along the 15-mile DME arc of the SFO VOR to and northwest along the Oakland VORTAC 305° radial to the point of beginning.

9. *Area I.* That airspace extending upward from 6,000 feet MSL to and including 8,000 feet MSL between the 20- and 25-mile radii of the SFO VOR from the Sausalito VORTAC 052° radial clockwise to the SFO VOR 072° radial, excluding the airspace north of latitude 38°00'00" N.

10. *Area J.* That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL bounded on the northeast by a 5-mile radius arc of the SFO VOR, on the southeast by the SFO VOR 217° radial, on the southwest by the Point Reyes VORTAC 161° radial, and on the northwest by the SFO VOR 247° radial.

11. *Area K.* That airspace extending upward from 1,500 feet MSL to and including 8,000 feet MSL bounded on the west by a 7-mile radius arc of the SFO VOR and on the east by the Pacific coast shoreline.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 10, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17641 Filed 10-16-72;8:47 am]

[Airspace Docket No. 72-RM-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On August 30, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17563) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Pierre, S. Dak., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received to this proposal.

Subsequent to the publication of the notice of proposed rule making on August 30, 1972, it was noted that the description of the Pierre, S. Dak., transition area, as it appears in § 71.181 of 37 F.R. 2056, has been amended by F.R. Doc. 72-2403 (F.R. 3509) and F.R. Doc. 72-3541 (F.R. 37 5012). Accordingly, action is taken herein to change the FEDERAL REGISTER redesignation so that it reads correctly.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.171 (37 F.R. 2056) the description of the Pierre, S. Dak., control zone is amended to read:

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PIERRE, S. DAK.

Within a 5-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); and within 1 mile each side of the Pierre ILS localizer northwest course extending from the 5-mile radius zone to 6 miles northwest of the airport.

In § 71.181 (F.R. 37 2143) the description of the Pierre, S. Dak., transition area as amended by F.R. Doc. 72-2403 (F.R. 37-3509) and F.R. Doc. 72-3541 (F.R. 37 5012) is further amended to read:

PIEARE, S. DAK.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of the Pierre Municipal Airport (latitude 44°22'50" N., longitude 100°17'15" W.); within 5 miles each side of the Pierre VORTAC 087° radial extending from the 8½-mile radius area to 7 miles east of the VORTAC; within 5 miles each side of the Pierre VORTAC 265° radial extending from the 8½-mile radius area to 18½ miles west of the VORTAC; within 5 miles each side of the Pierre ILS localizer northwest course extending from the 8½-mile radius area to 17½ miles northwest of the airport; within 3½ miles each side of the Pierre ILS localizer southeast course extending from the 8½-mile radius area to 18 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of the Pierre VORTAC.

Effective date. These amendments shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., October 5, 1972.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

[FR Doc.72-17642 Filed 10-18-72;8:47 am]

[Airspace Docket No. 72-RM-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

On August 30, 1972 a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17564) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would designate a control zone at Butts Army Airfield, Fort Carson, Colo.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendments are hereby adopted subject to the following change:

Add to the description of the Fort Carson, Colo. control zone: "excluding the portion within the Colorado Springs, Colo. control zone."

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 5, 1972.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

In § 71.171 (37 F.R. 2056) the following control zone is added:

FORT CARSON, COLO.

Within a 5-mile radius of Butts Army Airfield (latitude 38°40'46" N., longitude 104°-45'41" W.) excluding the portion within the Colorado Springs, Colo. control zone. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.72-17643 Filed 10-16-72;8:47 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 12298; Amdt. 95-225]

PART 95—IFR ALTITUDES

Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 95 of the Federal Aviation Regulations is amended, effective November 9, 1972, as follows:

1. By amending Subpart C as follows:

Section 95.51 *Green Federal airway 11* is amended to read in part:

From, to, and MEA

Shemya, Alaska, LF/RBN; Amchitka, Alaska, LF/RBN; 6,000.
Amchitka, Alaska, LF/RBN; Adiak, Alaska, LF/RBN; *8,000. **7,900—MOCA.

Section 95.1001 *Direct routes—United States* is amended by adding:

Yellowtail INT, S.C., Carolina Beach, S.C., RBN (via Control 1151); *2,500. *1,200—MOCA.
Quitman, Tex., VOR; Tulsa, Okla., VOR; *9,000. *3,000—MOCA.

Section 95.1001 *Direct routes—United States* is amended to delete:

Ashley, S.C., RBN; Smelt INT, S.C. (via Control 1152); 2,500; MAA 45,000.

Section 95.1001 *Direct routes—United States* is amended to read in part:

Bimini, Bahamas, RBN; Carolina Beach, N.C., RBN (via Control 1150); 2,500.
Nassau Bahamas, RBN; Carolina Beach, N.C., RBN (via Control 1151); 2,500.
College Station, Tex., VOR; Tracy INT, Tex.; *2,700. *2,100—MOCA.
College Station, Tex., VOR; Int. CLL VOR 293 and ACT, VOR 187; *3,900. *2,100—MOCA.

Section 95.5000 *High Altitude RNAV Routes:*

From/to; total distance; changeover point, distance from geographic location; track angle; MEA; and MAA

J802R is amended to read in part:
Furnace, Pa., W/P, Shiloh, Ohio, W/P; 204.3; 102.3, Furnace; 40°48'29" N., 80°16'16" W.; 284°/104° to COP, 276°/096° to Shiloh; 18,000; 45,000.
J812R is amended to read in part:
Borden, Ind., W/P, Foresman, Ind., W/P; 144.3; 52.3, Borden, 39°25'55" N., 86°26'50" W.; 335°/155° to COP; 339°/159° to Foresman; 18,000; 45,000.
J819R is amended to read in part:
Merrimack, Mass., W/P; Spad, N.Y., W/P; 147.1; 100.0, Merrimack, 42°57'57" N., 73°38'12" W.; 294°/114° to COP, 288°/108° to Spad; 18,000; 45,000.
J844R is amended to read in part:
Borden, Ind., W/P, Foresman, Ind., W/P; 144.3; 52.3, Borden, 39°25'55' N., 86°26'50" W.; 335°/165° to COP, 339/159° to Foresman; 18,000; 45,000.
J863R is amended to read in part:
Galax, Va., W/P, Lanier, Ga., W/P; 194.1; 50.0, Galax, 35°58'34" N., 81°33'17" W.; 231°/051° to COP, 229°/049° to Lanier; 18,000; 45,000.
J864R is amended to read in part:
Tippecanoe, Ind., W/P, Rosewood, Ohio, VORTAC; 101.3; 50.7, Tippecanoe, 40°41'58" N., 85°00'29" W.; 117°/297° to COP, 121°/301° to Rosewood; 18,000; 45,000.
J880 is amended to read in part:
Henderson, W. Va., W/P, Rittman, Ohio, W/P; 135.2; 67.6, Henderson, 39°52'34" N., 81°53'01" W.; 009°/189° to COP, 010°/190° to Rittman; 18,000; 45,000.
J890R is amended to read in part:
Mayhue, Ind., W/P, Prairie, Ill., W/P; 201.1; 116.1, Mayhue, 39°24'03" N., 88°07'14" W.; 253°/073° to COP, 248°/068° to Prairie; 18,000; 45,000.
J897R is amended to read in part:
Furnace, Pa., W/P, Shiloh, Ohio, W/P; 204.3; 102.3, Furnace, 40°48'29" N., 80°16'16" W.; 284°/104° to COP, 276°/096° to Shiloh; 18,000; 45,000.
J907R is amended to read in part:
Humble, Tex., W/P, Austin, Tex., W/P; 124.4; 62.2, Humble, 30°07'55" N., 96°31'22" W., 272°/092° to COP, 270°/090° to Austin; 18,000; 45,000.
Austin, Tex., W/P, Junction, Tex., W/P; 111.1; 55.5, Austin, 30°27'10" N., 98°45'26" W.; 271°/091° to COP, 268°/088° to Junction; 18,000; 45,000.
J934R is amended to read in part:
Greater Southwest, Tex., VORTAC, 155.2; Texarkana, Ark., W/P; 77.6, Greater Southwest, 33°10'29" N., 95°33'44" W.; 065°/245° to COP, 068°/248° to Texarkana; 18,000; 45,000.

J952R is amended to read in part:
Coyle, N.J., VORTAC, Gordonsville, Va., W/P; 205.1; 102.5, Coyle, 38°56'01" N., 76°18'39" W.; 249°/089° to COP, 244°/064° to Gordonsville; 18,000; 45,000.
J954R is amended to read in part:
Martinsburg, W. Va., W/P, Balsam, Ohio, W/P; 162.6; 120.6, Martinsburg, 40°12'44" N., 80°13'35" W.; 302°/122° to COP, 294°/114° to Balsam; 18,000; 45,000.
40°12'44" N., 80°13'35" W.; 302°/122° to COP, 294°/114° to Balsam; 18,000; 45,000.
Balsam, Ohio, W/P, Burt, Ohio, W/P; 105.3; 315°/135° to Burt; 18,000; 45,000.
J972R is amended to read in part:
Waco, Tex., W/P, Austin, Tex., W/P; 84.7; 42.3, Waco, 30°58'51" N., 97°29'12" W., 188°/006° to COP, 186°/006° to Austin; 18,000; 45,000.
J989R is amended to read in part:
Hamlet, N.Y., W/P, Wixom, Mich., W/P; 198.6; 43.9, Hamlet, 42°24'45" N., 80°04'53" W., 285°/105° to COP, 277°/097° to Wixom; 18,000; 45,000.

Section 95.6112 *VOR Federal airway 112* is amended to read in part:

From, to, and MEA

Lamar INT, Oreg.; *Rodna INT, Wash.; **5,000. *6,000—MRA. **4,400—MOCA.
Rodna INT, Wash.; Spokane, Wash., VOR; 5,000.

Section 95.6131 *VOR Federal airway 131* is amended to read in part:

McAlester, Okla., VOR; *Hoffman INT, Okla.; **2,700. *4,700—MRA. **2,300—MOCA.
Hoffman INT, Okla.; Okmulgee, Okla., VOR; *2,700. *2,300—MOCA.

Section 95.6159 *VOR Federal airway 159* is amended to read in part:

Albany, Ga., VOR; *Shellman INT, Ga.; **2,000. *2,800—MRA. **1,700—MOCA.

Section 95.6163 *VOR Federal airway 163* is amended to read in part:

San Antonio, Tex., VOR; Winters INT, Tex.; *3,300. *3,100—MOCA.
Winters INT, Tex.; *Wirtz INT, Tex.; **4,000. *3,300—MRA. **3,000—MOCA.
San Antonio, Tex., VOR, via W alter.; *Guadalupe INT, Tex., via W alter.; **3,000. *4,300—MRA. **2,500—MOCA.
Guadalupe INT, Tex., via W alter.; Llano, Tex., VOR, via W alter.; *4,000. *3,200—MOCA.

Section 95.6187 *VOR Federal airway 187* is amended to read in part:

Missoula, Mont., VOR; Rivulet INT, Mont.; 10,000.
Rivulet INT, Mont.; Orofino INT, Idaho; *13,000. *9,400—MOCA.

Section 95.6306 *VOR Federal airway 306* is amended to read in part:

Austin, Tex., VOR; Elgin INT, Tex.; *2,500. *2,000—MOCA.
Elgin INT, Tex.; Navasota, Tex., VOR; *2,500. *1,800—MOCA.

Section 95.6453 *VOR Federal airway 453* is amended to read in part:

Dillingham, Alaska, VOR; Eek DME Fix, Alaska; 6,500.
Eek DME Fix, Alaska; Bethel, Alaska, VOR; *4,000. *1,500—MOCA.
King Salmon, Alaska, VOR; via S alter.; Dillingham, Alaska, VOR; via S alter.; *2,000.
*MEA 6,500 feet westbound when Dillingham FSS shutdown.

Section 95.6497 *VOR Federal airway 497* is amended to read in part:

Kimberly, Oreg., VOR; The Dalles, Oreg., VOR; 7,300.

Section 95.6500 *VOR Federal airway 500* is amended to read in part:

Gateway INT, Oreg.; Kimberly, Oreg., VOR; *8,500. *7,900—MOCA.
Kimberly, Oreg., VOR; *Harper INT, Oreg.; 11,000. *11,700—MRA.

Section 95.7003 *Jet Route No. 3* is amended by adding:

From, to, MEA, and MAA

Kimberly, Oreg., VORTAC; Spokane, Wash., VORTAC; 18,000; 45,000.

Section 95.7003 *Jet Route No. 3* is amended to delete:

John Day, Oreg., VORTAC; Spokane, Wash., VORTAC; 18,000; 45,000.

Section 95.7015 *Jet Route No. 15* is amended by adding:

Kimberly, Oreg., VORTAC; Portland, Oreg., VORTAC; 18,000; 45,000.

Section 95.7015 *Jet Route No. 15* is amended to delete:

John Day, Oreg., VORTAC; Portland, Oreg., VORTAC; 18,000; 45,000.

Section 95.7021 *Jet Route No. 21* is amended by adding:

Austin, Tex., VORTAC; Waco, Tex., VORTAC; 18,000; 45,000.
Waco, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000; 45,000.

Section 95.7021 *Jet Route No. 21* is amended to delete:

Austin, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000; 45,000.

Section 95.7025 *Jet Route No. 25* is amended by adding:

Austin, Tex., VORTAC; Waco, Tex., VORTAC; 18,000; 45,000.
Waco, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000; 45,000.

Section 95.7025 *Jet Route No. 25* is amended to delete:

Austin, Tex., VORTAC; Greater Southwest, Tex., VORTAC; 18,000 45,000.

Section 95.7102 *Jet Route No. 102* is amended by adding:

Phoenix, Ariz., VORTAC; Zuni, N. Mex., VORTAC; 18,000 45,000.
Zuni, N. Mex., VORTAC; Alamosa, Colo., VORTAC; [1] 18,000 45,000.

Section 95.7102 *Jet Route No. 102* is amended to delete:

Phoenix, Ariz., VORTAC; Gallup, N. Mex., VORTAC; 18,000 45,000.
Gallup, N. Mex., VORTAC; Alamosa, Colo., VORTAC; 18,000 45,000.

Section 95.7123 *Jet Route No. 123* is amended to read in part:

Kotzebue, Alaska, VORTAC; Browerville, Alaska, LF/RBN; [1] 18,000 45,000.

[1] MEA is established with a gap in navigation signal coverage.

[1] MEA is established with a gap in navigation signal coverage.

Section 95.7157 *Jet Route No. 157* is deleted.

Section 95.7161 *Jet Route No. 161* is amended to read:

Zuni, N. Mex., VORTAC; Farmington, N. Mex., VORTAC; 18,000 45,000.

Section 95.7163 *Jet Route No. 163* is deleted.

Section 95.7507 *Jet Route No. 507* is amended to read in part:

Browerville, Alaska, LF/RBN; Oliktok, Alaska, LF/RBN; 18,000; 45,000.

Section 95.7511 *Jet Route No. 511* is amended to read in part:

Dillingham, Alaska, VORTAC; Anchorage, Alaska, VORTAC; 18,000; 45,000.

Section 95.7515 *Jet Route No. 515 is* amended to read in part:

Bettles, Alaska, VOR; Browerville, Alaska, LF/RBM; 18,000; 45,000.

2. By amending Subpart D as follows:

Section 95.8005 *Jet Routes changeover points:*

Airway segment, from, to, and changeover points, distance from

J-102 is amended to delete:
Gallup, N. Mex., VORTAC; Alamosa, Colo., VORTAC; 99; Gallup.
J-515 is amended to read in part:
Bettles, Alaska, VOR; Browerville, Alaska, LF/RBN; 150; Bettles.

Section 95.6007 *VOR Federal airway 7* is amended to read in part:

From, to, and MEA

Lewis, Ind., VOR; Terre Haute, Ind., VOR; *2,400. *1,900—MOCA.
Miami, Fla., VOR; *Westland IN, Fla.; **2,000. *2,500—MRA. *3,300—MCA, Westland INT, Northwestbound. **1,300—MOCA.

Section 95.6010 *VOR Federal airway 10* is amended to read in part:

Bradford, Ill., VOR; Piano INT, Ill.; *2,500. *2,100—MOCA.
Piano INT, Ill.; Naperville, Ill., VOR; *2,700. *2,100—MOCA.

Section 95.6017 *VOR Federal airway 17* is amended to read in part:

San Antonio, Tex., VOR; via E alter.; Elroy INT, Tex., via E alter.; 3,000.
Elroy INT, Tex., via E alter.; Bergstrom INT, Tex., via E alter.; *3,000. *2,300—MOCA.
Bergstrom INT, Tex., via E alter.; Austin, Tex., VOR, via E alter.; *3,000. *1,900—MOCA.
Walburg INT, Tex.; Belton INT, Tex.; *2,500. *2,200—MOCA.
Belton INT, Tex.; Pendleton INT, Tex.; *2,400. *2,200—MOCA.
Pendleton INT, Tex.; Waco, Tex., VOR; *2,400. *2,000—MOCA.

Section 95.6021 *VOR Federal airway 21* is amended to read in part:

Hurricane INT, Utah, via E alter.; Cedar City, Utah, VOR, via E alter., 12,000.

Section 95.6023 *VOR Federal airway 23* is amended to read in part:

Yuba INT, Calif.; Gridley INT, Calif.; *4,000. *3,300—MOCA.

Section 95.6066 *VOR Federal airway 66* is amended to read in part:

Athens, Ga., VOR, via S alter.; Vesta INT, Ga., via S alter.; *3,000. *2,300—MOCA.

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Vesta INT, Ga., via S alter.; Greenwood, S.C., VOR, via S alter.; *4,000. *2,100—MOCA.

Greenwood, S.C., VOR, via S alter.; Pinehurst, N.C., VOR, via S alter.; *4,000. *2,100—MOCA.

Section 95.6067 *VOR Federal airway 67* is amended to read in part:

Centralia, Ill., VOR; Hookdale INT, Ill.; *2,400. *2,100—MOCA.

Hookdale INT, Ill.; Vandalia, Ill., VOR; *2,400. *1,900—MOCA.

Section 95.6076 *VOR Federal airway 76* is amended by adding:

Austin, Tex., VOR, via N alter.; Elgin INT, Tex., via N alter; *2,500. *2,000—MOCA.
Elgin INT, Tex., via N alter.; Industry, Tex., VOR, via N alter; *2,500. *1,800—MOCA.

Section 95.6076 *VOR Federal airway 76* is amended to read in part:

Llano, Tex., VOR, via S alter.; *Wirtz INT, Tex., via S alter.; **3,300. *3,300—MRA. **1,900—MOCA.
Wirtz INT, Tex.; via S alter; Capitol INT, Tex., via S alter.; *3,000. *1,900—MOCA.
Capitol INT, Tex., via S alter.; Austin, Tex., VOR, via S alter.; 3,000.
Austin, Tex., VOR; *Butler INT, Tex.; **2,400. *3,000—MRA. **2,000—MOCA.
Butler INT, Tex.; Industry, Tex., VOR; *2,500. *1,800—MOCA.

Section 95.6102 *VOR Federal airway 102* is amended to read in part:

Chip River INT, Alaska; Browerville, Alaska, LF/RBN; *2,000. *1,900—MOCA.

(Secs. 307, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510)

Issued in Washington, D.C. on October 5, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-17549 Filed 10-16-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2284]

PART 13—PROHIBITED TRADE PRACTICES

Cumberland Packing Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.170 *Qualities or properties of product or service:* 13.170–64 Nutritive; § 13.280 *Unique nature or advantages.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 *Qualities or properties;* § 13.1770 *Unique nature or advantages.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Cumberland Packing Corp. et al., New York, N.Y., Docket No. C-2284, Sept. 13, 1972]

In the Matter of Cumberland Packing Corp., a Corporation, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt, and Ira Eisenstadt, Individually and as Officers of said Corporation; and Stiefel/Raymond Advertising, Inc., a Corporation

Consent order requiring a Brooklyn, N.Y., manufacturer and seller of a sugar product and its New York City advertising agency, among other things to cease representing that their product is organically grown: Representing that their product has not been processed; and misrepresenting the nutritional value of their product.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent Cumberland Packing Corp., a corporation, and its officers, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt and Ira Eisenstadt, individually and as officers of said corporation, and Stiefel/Raymond Advertising, Inc., a corporation, and its officers, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale or distribution of any sugar sold for consumer use forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, an advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication, that;

(a) Any such product has been grown without the use of chemical fertilizers or pesticides; or specifically that any such product is "organic," in that it has been organically grown.

(b) Any such product has not been processed.

(c) Any such product supplies any amount of a vitamin or mineral unless the amount is above five (5) percent of the recommended daily dietary allowance or ten (10) percent of the minimum daily requirement and is clearly and conspicuously stated in terms of percentage of whichever standard is used.

(d) Any such product is in any way more nutritious than any other product which is substantially identical in composition.

(e) Any such product differs from or is superior to any other such product because no chemicals or preservatives have been added.

2. Disseminating, or causing the dissemination of, any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which misrepresents, in any manner, the nutritional value of any such product.

3. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act which contains any of the representations prohibited in subparagraph 1, above, or the misrepresentation prohibited in subparagraph 2, above.

II. *It is further ordered,* That respondent Cumberland Packing Corp., a corporation, and its officers, and Benjamin Eisenstadt, Marvin E. Eisenstadt, Betty Eisenstadt and Ira Eisenstadt, individually and as officers of said corporation, and their successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any sugar sold for consumer use in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making, directly or by implication, any statement or representation that:

1. Any such product has been grown without the use of chemical fertilizers or pesticides; or specifically that any such product is "organic," in that it has been organically grown.

2. Any such product has not been processed.

3. Any such product supplies any amount of a vitamin or mineral unless the amount is above five (5) percent of the recommended daily dietary allowance or ten (10) percent of the minimum daily requirement and is clearly and conspicuously stated in terms of percentage of whichever standard is used.

4. Any such product is in any way more nutritious than any other product which is substantially identical in composition.

5. Any such product differs from or is superior to any other such product because no chemicals or preservatives have been added.

It is further ordered, That repondents shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service of the order upon it, file with the Commission a report in writing setting forth in detail the manner and form of its compliance with the order to cease and desist.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17668 Filed 10-16-72;8:50 am]

[Docket No. C-2285]

PART 13—PROHIBITED TRADE PRACTICES

Fairfax Family Fund, Inc., and Spiegel, Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.73. *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; —Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act; —Services: § 13.1843 *Terms and conditions.* Subpart—Neglecting, unfairly or receptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1855 *Identity;* § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act. Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1925 *Coupon, certificate, check, credit voucher, etc;, deductions in price.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Fairfax Family Fund, Inc., et al., Louisville, Ky., Docket No. C-2285, Sept. 13, 1972]

In the Matter of Fairfax Family Fund, Inc., a Corporation, and Spiegel, Inc., a Corporation

Consent order requiring a Chicago, Ill., and Louisville, Ky., mail-order loan organization to cease, among other things, using any facsimile of a negotiable check or cash voucher as a loan application; failing to label all loan applications as "loan application"; representing that only the customer's signature is required to consummate loans; misrepresenting the benefits to be derived from procurement of a loan through respondents; and failing to disclose to customers information required by Regulation Z of the Truth in Lending Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Spiegel, Inc. and Fairfax Family Fund, Inc., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, solicitation, or consummation of loans in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Use of a form of loan application which is a facsimile of a check and which represents, directly or by implication, that it is a negotiable check or a cash voucher or other similar negotiable instrument.

2. Failure to clearly, conspicuously, and prominently label all loan applications as "loan application."

3. Failure to affirmatively disclose in writing on each loan application form that the loan will be subject to credit approval by respondents, unless such is not true; and making a representation, directly or by implication, that only the consumer's signature is needed to consummate the loan, unless such is true.

4. Failure to inform the applicant for a loan that the loan will not be authorized prior to credit approval, unless such is true.

5. Making a representation, directly or by implication, in any comparison or example, that the consumer can reduce his present monthly payments substantially by taking advantage of respondents' loan offer or that his loan cost without inclusion of the finance charge is comparable to his present indebtedness which includes finance charges, unless such comparison or example is, in fact, true.

6. Failure to inform the consumer of the actual cash amount he will receive after the deduction for the cost of credit life insurance if the credit life insurance is procured through respondents.

7. Misrepresenting in any manner the benefits to be derived, through debt consolidation or otherwise, from the procurement of a loan from respondents.

8. Making a representation to the consumer that he has a choice of credit life insurers, unless the consumer, in fact, has such a choice.

9. Failure to provide a clear and conspieuous place for the consumer to indicate his desire to use the insurer of his own choice when that option is provided by respondents.

It is further ordered, That respondents Spiegel, Inc., and Fairfax Family Fund, Inc., corporations, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or in connection with any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulations Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failure to disclose the "amount financed," using that term, as required by § 226.8(d)(1) of Regulation Z.

2. Failure to disclose the annual percentage rate clearly, conspicuously, and in meaningful sequence, as required by § 226.6(a) of Regulation Z.

3. Failure to disclose the "total of payments," using that term, as required by § 226.8(b)(3) of Regulation Z.

4. Stating in any advertisement the amount of any installment payment or the number of installments or the period of repayment, unless all of the following items are stated in the manner and form prescribed by § 226.10(d)(2) of Regulation Z:

(i) The amount of the loan;

(ii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iii) The amount of the finance charge expressed as an annual percentage rate; and

(iv) The sum of payments.

5. Failure to set forth in multipage advertising, when setting forth one or more of the following credit terms other than in a schedule of credit terms contained in the multipage advertisement, all of the credit terms as required by § 226.10(d) of Regulation Z; or in the alternative, referring to such schedule by stating in immediate conjunction with the specific credit term, in print of at least equal prominence to such term, "for full disclosure of credit terms, see page ------," wherever any of the following appears:

(i) The amount of the loan;

(ii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iii) The amount of the finance charge expressed as an annual percentage rate; and

(iv) The sum of the payments.

However, the disclosure of (i) or (iii) above, either separately or together, does not require any of the disclosures set forth in § 226.10(d)(2) of Regulation Z.

6. Failure in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents shall deliver a copy of this order to all of their personnel engaged in the consummation of any extension of consumer credit or engaged in any aspect of the preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17670 Filed 10-16-72;8:50 am]

V37-201 OCT 17 72 XUM

[Docket No. C-2289]

PART 13—PROHIBITED TRADE PRACTICES

Georgia Fabric Corp. and Elliott I. Reich

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–75 Textile Fiber Products Identification Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73–90 Textile Fiber Products Identification Act; § 13.155 *Prices:* 13.155–80 Retail as cost, wholesale, discounted, etc.; 13.155–85 Sales below cost. Subpart—Concealing, obliterating or removing law required and informative marking: § 13.523 *Textile fiber products tags or identification.* Subject—Furnishing false guaranties: § 13.1053 *Furnishing False Guaranties:* 13.1053–80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; 13.1185–90 Wool Products Labeling Act; § 13.1212 Formal regulatory and statutory requirements: 13.1212–80 Textile Fiber Products Identification Act; 13.1212–90 Wool Products Labeling Act. Subpart—Misrepresenting oneself and goods—Prices: § 13.1820 *Retail as cost, etc., or discounted;* § 13.1822 *Sales below cost.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717, secs. 2–5, 54 Stat. 1128–1130, 15 U.S.C. 45, 70, 68) [Cease and desist order, Georgia Fabric Corp., et al., Atlanta, Ga., Docket No. C–2289, Sept. 21, 1972]

In the Matter of Georgia Fabric Corp., a Corporation, and Elliott I. Reich, Individually and as an Officer of Georgia Fabric Corp.

Consent order requiring an Atlanta, Ga., purchaser and wholesaler of fabrics, among other things to cease falsely advertising, deceptively guaranteeing, and misbranding his textile fiber products; misbranding the fiber content of his wool products; and misrepresenting the prices of certain products as being at "cost or below" and discounted from the "regular" price.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale, in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Removing or mutilating, or causing or participating in the removal or mutilation of, the stamp, tag, label, or other identification required by the Textile Fiber Products Identification Act to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce, and prior to the time such textile fiber product is sold and delivered to the ultimate consumer without substituting therefor labels conforming to section 4 of said Act and the rules and regulations promulgated thereunder and in the manner prescribed by section 5(b) of the Act.

C. Failing to maintain and preserve, as required by section 6(b) of the Textile Fiber Products Identification Act, such records of the fiber content of textile fiber products as will show the information set forth on the stamps, tags, labels, or other identification removed by respondents, together with the name or names of the person or persons from whom such textile fiber products were received, when substituting stamps, tags, labels, or other identification pursuant to section 5(b) of the Textile Fiber Products Identification Act.

D. Advertising textile fiber products by disclosing or implying fiber content in any written advertisement which is used to aid, promote, or assist directly or indirectly in the sale or offering for sale of such textile fiber products, unless the same information as that required to be shown on the stamp, tag, label, or other identification under section 4(b) (1) and (2), Textile Fiber Products Identification Act, is contained in the heading, body, or other part of such written advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

It is further ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely or deceptively invoiced or advertised under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Georgia Fabric Corp., a corporation, its successors and assigns, and its officers, and Elliott I. Reich, individually and as an officer of Georgia Fabric Corp., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering for sale, sale or distribution of fabrics or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing the price of any fabrics or any other articles of merchandise as being "reg.", "regular", "regularly", "usually", "normally", or any other term of like import, unless the price quoted is the actual bona fide price at which the described fabrics or any other articles of merchandise were openly and actively offered by respondents to the purchasing public on a regular basis for a reasonably substantial period of time in the recent, regular course of business.

2. Representing any fabrics or any other articles of merchandise as being offered for sale at "Below Our Cost", "Below Cost", or other terminology of like meaning, unless such fabrics or any other articles of merchandise are being offered by respondents at below actual purchase invoice cost.

3. Misrepresenting in any manner, the amount of savings available to purchasers of respondents' fabrics or any other articles of merchandise or the amount by which the price of fabrics or any other articles of merchandise have been usually and customarily sold by respondents in the recent regular course of business or from the prices at which they have been usually and customarily sold at retail in the trade area where the representations are made.

4. Failing to maintain full and adequate records disclosing the facts upon which any pricing claims are based.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, Georgia Fabric Corp., such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondent corporation, Georgia Fabric Corp., shall forthwith distribute a copy of the order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 21, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17669 Filed 10-16-72;8:50 am]

[Docket No. C-2286]

PART 13—PROHIBITED TRADE PRACTICES

Steven Lewis et. al.

Subpart—Advertising falsely or misleadingly: § 13.60 *Earnings and profits:* § 13.170 *Qualities or properties of product or service:* 13.170–70 Preventive or protective; § 13.225 *Services.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1615 *Earnings and profits:* § 13.1710 *Qualities or properties:*—Services § 13.1843 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Steven Lewis, Hollywood, Calif., Docket No. C–2286, Sept. 19, 1972]

In the Matter of Steven Lewis, an Individual Formerly Trading and Doing Business as The Steven Lewis Co., and Twenty First Century Industries, Inc., a corporation and Steven Lewis, Individually, and as an Officer and Said Corporation

Consent order requiring two former Hollywood, Calif., franchisors of distributorships of cologne and other products and their successor firm, among other things to cease representing the past earnings of distributors or franchisees unless past earnings represent a substantial number of distributors or franchisees; misrepresenting the amount of time and effort respondents will spend to obtain accounts for their distributors or franchisees; misrepresenting the prior experience or necessary training required by distributors or franchisees in order to operate successfully; and misrepresenting the nature, character, performance or efficacy of any product. Respondents are further required to furnish all prospective franchisees with a written statement giving, among other things, rights and obligations of all parties, complete financial details of the agreement, and a list of previous purchasers. Also, franchisees must be allowed 5 days in which to cancel the contract for any reason with a refund of all moneys by respondent.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents, Steven Lewis, an individual formerly trading and doing business as The Steven Lewis Co., and Twenty First Century Industries, Inc., a corporation and its officers, and Steven Lewis, individually and as an officer of said corporation, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporate or other device or through any distributor or franchisee, in connection with the advertising, offering for sale, sale or distribution of men's cologne, Ronson products, Life Breathers, greeting cards or any other products or of distributorships or franchises in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Directly or by implication:

A. Representing that distributors or franchisees will earn or can reasonably expect to earn or receive any stated or gross or net amount of earnings or profits; or representing, in any manner, the past earnings of distributors or franchisees unless in fact the past earnings represented are those of a substantial number of distributors or franchisees and accurately reflect the average earnings of said distributors or franchisees under circumstances similar to those of the person to whom the representation is made.

B. Representing that respondents, their agents, representatives, or employees will secure profitable customers or accounts for purchasers of respondents' distributorships or franchises or misrepresenting, in any manner, the amount of time and effort respondents will spend in attempting to obtain such customers or accounts for their distributors or franchisees.

C. Representing that purchasers of respondents' distributorships or franchises will not be required to sell products or engage in sales activities with potential customers in order to operate and maintain the distributorship or franchise successfully or misrepresenting, in any manner, the amount and type of work required of distributors or franchisees in order to operate and maintain the distributorship or franchise successfully.

D. Representing that prior business experience is not required of purchasers of respondents' distributorships or franchises in order to operate and maintain the distributorship or franchise successfully or misrepresenting, in any manner, the prior experience required of distributors or franchisees in order to operate and maintain the distributorship or franchise successfully.

E. Representing that purchasers of respondents' distributorships or franchises will be trained in the operation of their distributorship or franchise or misrepresenting, in any manner, the quality, amount or nature of respondents' contribution to the training of their distributors of franchisees.

F. Representing that respondents' Life Breather product is an effective device for the prevention of death or injury from asphyxiation or otherwise misrepresenting, in any manner, the nature, character, performance, or efficacy of any product.

2. Representing that respondents will secure cash sale or open account sale customers or accounts, for each distributor or franchisee, or will obtain orders for merchandise for each distributor or franchisee from customers or accounts with payment to be remitted directly to the distributor or franchisee or misrepresenting, in any manner, the number or type of customers or accounts respondents will secure or the selling services or assistance that respondents will provide their distributors or franchisees.

3. Representing that any product or products or sales aids, offered for sale or sold by respondents to their distributors or franchisees, will be delivered to said distributors or franchisees on or before a particular date, or within a specified time period, unless respondents have available, or in stock, all such products or sales aids in quantities sufficient to meet all reasonably anticipated orders.

4. Representing that respondents will provide their distributors or franchisees with sales literature, promotional literature, instruction manuals, guarantee forms, or any other material relating to products offered for sale or sold by respondents to their distributors or franchisees unless respondents have on hand, or in stock, all such literature, manuals, forms, or such other material in quantities sufficient to meet the reasonable requirements of the distributors or franchisees to whom such representations are made or misrepresenting, in any manner, the amount and type of additional materials respondents will provide their distributors or franchisees along with the products offered for sale or sold by respondents to their distributors or franchisees.

5. Representing that respondents will provide national and local advertising of

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the products offered for sale or sold by respondents to their distributors or franchisees or misrepresenting, in any manner, the extent, type and method of promotion and services provided by respondents in connection with the advertising of products offered for sale or sold by respondents to their distributors or franchisees or misrepresenting, in any manner, the media in which said advertising has appeared or will appear.

6. Failing to furnish any prospective distributor or franchisee, in a separate written statement in a clear and concise manner, prior to the consummation of any contract between respondents and any such prospective distributor or franchisee:

A. A detailed statement setting forth all the rights and obligations of the parties under the distributor or franchise agreement.

B. Complete financial details pertaining to the distributor or franchise agreement including the amount to be paid by the distributor or franchisee for the distributorship or franchise, the amount to be paid for any services to be rendered by respondents and the amount to be paid for any merchandise offered for sale or sold thereunder.

C. A list of the names and addresses of all persons who, in the 2 calendar years immediately preceding, purchased a distributorship or franchise, for products or product lines similar to, or the same as, those being offered by respondents to any prospective distributor or franchisee, and the gross dollar volume of purchases of such products from respondents, by each such distributor or franchisee, in each of said calendar years, exclusive of the dollar amount of merchandise purchased and paid for at the time of the purchase of the distributorship or franchise.

7. Failing to disclose, in each contract for the sale of a distributorship or franchise, to those prospective distributors or franchisees whose accounts will be obtained on a consignment basis, that said accounts will not be cash sale or open account sale customers or accounts, but will be consignment accounts and that merchandise so placed or delivered may be returned to the distributor or franchisee.

It is further ordered, That respondents:

1. Inform all prosective purchasers of distributorships, franchises, or merchandise, orally and provide in writing in all contracts that, (1) the contract may be cancelled for any reason by mailing a notice of cancellation to respondents' business address prior to midnight of the fifth day following the date upon which the purchaser signed the distributor or franchise agreement.

2. Promptly refund all moneys to distributors, franchisees, or customers who have requested contract cancellation in accordance with the provisions of paragraph 1 above.

It is further ordered, That respondents maintain files containing all inquiries or complaints from any source relating to acts or practices prohibited by this order, for a period of 2 years after their receipt, and that such files be made available for examination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business for inspection and copying.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or corporate affiliates or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future employees, agents, and representatives engaged in the offering for sale or sale of respondents' distributorships, franchises, or products or in any aspect of preparation, creation or placing of advertising and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the corporate respondent distribute a copy of this order to each of its operating divisions or departments.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: September 19, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17667 Filed 10-16-72;8:50 am]

[Docket No. C-2288]

PART 13—PROHIBITED TRADE PRACTICES

Virginia Crafts, Inc., and J. C. Riepe, Jr.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191)

[Cease and desist order, Virginia Crafts, Inc., et al., Keysville, Va., Docket No. C-2288, Sept. 19, 1972]

In the Matter of Virginia Crafts, Inc., a Corporation, and J. C. Riepe, Jr., Individually and as an Officer of Said Corporation

Consent order requiring a Keysville, Va., manufacturer of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Virginia Crafts, Inc., a corporation, its successors and assigns, and its officers, and respondent J. C. Riepe, Jr., individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued, or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since April 4, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: September 19, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-17671 Filed 10-16-72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
California	Contra Costa	El Cerrito	1 06 013 1100 03 through 1 06 013 1100 05	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	City Hall, 10890 San Pablo Ave., El Cerrito, CA 94530.	Mar. 6, 1971, Emergency. Oct. 13, 1972, Regular.
Do	Los Angeles	Inglewood	1 06 037 1700 02 through 1 06 037 1700 05	do	Public Works Department Office, City of Inglewood, Civic Center, 105 East Queen St., Inglewood, CA 90301.	Jan. 15, 1971, Emergency. Oct. 13, 1972, Regular.
Do	San Diego	Chula Vista	1 06 073 0710 06 through 1 06 073 0710 12	do	Engineering Department, City of Chula Vista, Chula Vista, Calif. 92012.	Feb. 9, 1971, Emergency. Oct. 13, 1972 Regular.
Florida	Broward	Plantation				Oct. 13, 1972 Emergency.
Illinois	Cook and Lake	Deerfield				Do.
Do	Cook	Des Plaines				Do.
Do	do	Schaumburg				Do.
Do	Peoria	Peoria Heights				Do.
Maryland	Montgomery	Unincorporated areas.				Do.
New Jersey	Bergen	Mahwah Township.				Do.
Pennsylvania	Delaware	Collingdale Borough.				Do.
Do	Dauphin	Middletown Borough.				Do.
Do	Centre	Spring Township				Do.
Texas	Hidalgo	Edinburg				Do.
Virginia	Clarke	Unincorporated areas.				Do.
Washington	King	do				Do.
West Virginia	Mingo	Delbarton				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 10, 1972.

GEORGE K. BERNSTEIN, *Federal Insurance Administrator.*

[FR Doc.72-17572 Filed 10-16-72;8:45 am]

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PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
California	Contra Costa	El Cerrito	H 06 013 1100 03 through H 06 013 1100 05	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	City Hall, 10890 San Pablo Ave., El Cerrito, CA 94530.	Mar. 6, 1971.
Do	Los Angeles	Inglewood	H 06 037 1700 02 through H 06 037 1700 05	do	Public Works Department Office, City of Inglewood, Civic Center, 105 East Queen St., Inglewood, CA 90301.	Jan. 15, 1971.
Do	San Diego	Chula Vista	H 06 073 0710 06 through H 06 073 0710 12	do	Engineering Department, City of Chula Vista, Chula Vista, Calif. 92012.	Feb. 9, 1971.
Florida	Broward	Plantation				Oct. 13, 1972.
Illinois	Cook and Lake	Deerfield				Do.
Do	Cook	Des Plaines				Do.
Do	do	Schaumburg				Do.
Do	Peoria	Peoria Heights				Do.
Maryland	Montgomery	Unincorporated areas.				Do.
New Jersey	Bergen	Mahwah Township.				Do.
Pennsylvania	Delaware	Collingdale Borough.				Do.
Do	Dauphin	Middletown Borough.				Do.
Do	Centre	Spring Township.				Do.
Texas	Hidalgo	Edinburg				Do.
Virginia	Clarke	Unincorporated areas.				Do.
Washington	King	do				Do.
West Virginia	Mingo	Delbarton				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 196B), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 10, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-17573 Filed 10-16-72;8:45 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

PART 225—BANK HOLDING COMPANIES

Nonbanking Activities

Correction

In F.R. Doc. 72-16683 appearing on page 20329 of the issue of Friday, September 29, 1972, in § 225.126(h), the reference to "Fed. Res. Bulletin 177", should refer to "Fed. Res. Bulletin 717".

Title 25—INDIANS

Chapter III—Indian Claims Commission

PART 503—GENERAL RULES OF PROCEDURE

Miscellaneous Amendments

§ 503.1 [Amended]

1. Section 503.1, Chapter III of Title 25, the general rules of procedure of the Indian Claims Commission, is amended by deleting the word "petitioners" and substituting therefor "plaintiffs".

§§ 503.2–503.42 [Amended]

2. All subsequent references to "petitioners" in Part 503, Chapter III of Title 25, the general rules of procedure of the Indian Claims Commission, are amended to read "plaintiffs".

3. Section 503.5(a), Chapter III of Title 25, the general rules of procedure of the Indian Claims Commission, is hereby amended as follows:

§ 503.5 Time.

(a) *Computation.* (1) In computing any period of time prescribed or allowed by the rules in this part by order of the Commission, Commissioner or Examiner or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event the period runs until the end of the next day upon which the Commission is open for business. As used in these rules, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and and other day appointed as a holiday by the President or the Congress of the United States. (As amended Public Law 90–363, sec. 1(a), June 28, 1968, 82 Stat. 250.)

(2) When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

4. Section 503.9(a), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended as follows:

§ 503.9 Form of pleadings.

(a) *Caption; identification of moving party.* Every pleading, motion in writing, and other paper filed with the Commission shall contain a caption setting forth the name of the Commission, the title of the action, the docket number, and a designation of what it is, e.g., "Answer", "Plaintiff's Motion to Strike Paragraph III of Answer", "Defendant's Motion for Extension of Time Within Which to File Requested Findings of Fact". The designation shall clearly show which party, whether plaintiff or defendant, is filing the paper. In pleadings, motions, and other papers filed subsequently to the petition the title of the case may be abbreviated. Where cases have been consolidated, the docket numbers of each case included in the consolidation shall be shown; and the designation shall show which particular party is filing the paper and which other party it is applicable to, e.g., "Plaintiff Doe Tribe's Response to Plaintiff Roe Tribe's Motion for Summary Judgment".

* * * * *

§ 503.12 [Amended]

5. Section 503.12(a), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended by deleting the word "cross-claim".

6. Section 503.25, Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission is hereby added as follows:

§ 503.25 Consolidation; separate trials.

(a) *Consolidation.* When actions involving a common question of law or fact are pending before the Commission, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

(b) *Separate trials.* The Commission in furtherance of convenience or to avoid prejudice may order a separate trial of any claim or of any separate issue or of any number of claims or issues.

7. Section 503.33(a), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended as follows:

§ 503.33 Motions for rehearing and for amendment of findings.

(a) Whenever either party desires to question the correctness or the sufficiency of the Commission's conclusions on its findings of fact or to amend the same, the complaining party shall file a motion which shall be known as a motion for a rehearing. All grounds relied upon for any or all of said objections shall be included in one motion. After the Commission has announced its decision upon such motion no other motion for a rehearing shall be filed by the same party unless by leave of the Commission. Motions for a rehearing shall be filed within 30 days from the time the Commission's aforesaid conclusions on its findings of fact are filed with the Clerk.

* * * * *

§ 503.33 [Amended]

8. Section 503.33(b), Chapter III of Title 25, the General Rules of Procedure of the Indian Claims Commission, is hereby amended by deleting the word "hearing" and substituting therefor "rehearing".

Dated at Washington, D.C., this 4th day of October 1972.

JEROME Y. KUYKENDALL,
Chairman.

MARGARET H. PIERCE,
Commissioner.

BRANTLEY BLUE,
Commissioner.

JOHN T. VANCE,
Commissioner.

RICHARD W. YARBOROUGH,
Commissioner.

[FR Doc.72-17656 Filed 10-16-72;8:48 am]

Title 29—LABOR

Chapter I—National Labor Relations Board

PART 103—OTHER RULES

Offers of Reinstatement to Employees in Armed Forces

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935,[1] the National Labor Relations Board hereby issues the following rule which it finds necessary to carry out the provisions of said Act.

This rule is issued following proceedings conforming to the requirements of 5 U.S.C. sec. 553 (see 37 F.R. 15710, August 4, 1972). As stated in the explanatory statement published as part of the notice of proposed rule making, the rule does not alter substantive requirements. The rule shall be effective upon publication in the FEDERAL REGISTER (10–17–72) and shall apply to all proceedings affected thereby which are pending at the time of such publication or which may arise thereafter.

Dated: Washington, D.C., October 12, 1972.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

Subpart F—Remedial Orders

§ 103.100 Offers of reinstatement to employees in Armed Forces.

When an employer is required by a Board remedial order to offer an employee employment, reemployment, or reinstatement, or to notify an employee of his or her entitlement to reinstatement upon application, the employer shall, if the employee is serving in the Armed Forces of the United States at the time such offer or notification is made, also notify the employee of his or her right to reinstatement upon application in accordance with the Universal Military Training and Service Act, as amended, after discharge from the Armed Forces.

[FR Doc.72-17685 Filed 10-16-72;8:51 am]

[1] 49 Stat. 449; 29 U.S.C. 151–166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Supp. 151–167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), and act of September 14, 1959 (73 Stat. 519; 29 U.S.C. 141–168).

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING, STUDENT LOANS, EDUCATIONAL IMPROVEMENT, AND SCHOLARSHIPS

Grants To Improve the Quality of Training Centers for Allied Health Professions

On May 2, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 8885–8888) proposing to amend Part 57 by repealing Subpart H of Part 57 and substituting in lieu thereof a new Subpart H to conform the regulations to the amendments to this program made by title II of the Health Training Improvement Act of 1970.

Interested persons were afforded the opportunity to participate in the rule making through submission of comments within 30 days after publication of the notice in the FEDERAL REGISTER, and a number of such comments were received. Due consideration having been given to all material presented, it has been decided that none of the comments received warranted any changes in the proposed regulations.

In addition to several technical changes in these regulations, however, § 57.703(d)(3) has been revised to delete

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the reference to March 1, 1973, and thus require that, effective 30 days after the date of publication of this regulation, the affiliation agreements required of applicants which do not have hospitals as institutional components must be reduced to writing. The decision to change this requirement was made in light of the fact that institutions were informed in the fall of 1971 that the Department intended to require written affiliation requirements for 1973 fiscal year grants, and therefore there was no need to postpone further the effective date of this requirement.

The following regulations shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: September 21, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

Approved: October 11, 1972.

ELLIOTT L. RICHARDSON,
Secretary.

1. Subpart H of the table of contents of Part 57 is hereby amended as follows:

Subpart H—Grants To Improve the Quality of Training Centers for Allied Health Professions

Sec.
57.701 Applicability.
57.702 Definitions.
57.703 Eligibility.
57.704 Specified curriculums.
57.705 Equivalents of degrees.
57.706 Accreditation.
57.707 Application.
57.708 Assurance required.
57.709 Grant awards.
57.710 Payments.
57.711 Expenditure of grant funds.
57.712 Nondiscrimination.
57.713 Accountability.
57.714 Publications and copyright.
57.715 Inventions or discoveries.
57.716 Records, reports, inspection, and audit.
57.717 Additional conditions.
57.718 Early termination and withholding of payments.

2. Subpart H is revised to read as follows:

Subpart H—Grants To Improve the Quality of Training Centers for Allied Health Professions

AUTHORITY: The provisions of this Subpart H issued under sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Sec. 792(b), 84 Stat. 1344; 42 U.S.C. 295h–1(b).

§ 57.701 Applicability.

The regulations in this subpart are applicable to the award of special improvement grants under section 792(b) of the Public Health Service Act (42 U.S.C. 295h–1(b)) to assist training centers for the allied health professions in projects for the provision, maintenance, or improvement of the specialized function which the center serves.

§ 57.702 Definitions.

As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "Training Center for the Allied Health Professions" or "center" means a junior college, college, or university which meets the requirements specified in section 795(1) of the Act and which provides training in one or more of the specified allied health professional or technical curriculums listed in § 57.704: *Provided,* That a total of not less than 20 persons received training in curriculums listed in § 57.704. In calculating the number of students required by this subsection, only those students in curriculums for which the applicant provides assurance satisfactory to the Secretary that a minimum of six full-time students received training on October 15 of the fiscal year in which the application is made, shall be counted.

(d) "Curriculum" means that portion of a program of study, leading to an associate or baccalaureate degree or to the equivalent of either or to a higher degree, which the center demonstrates to be the professional or technical portion of the program of study.

(e) "Full-time student" means a student who (1) in the case of a curriculum (as defined in paragraph (d) of this section) specified in § 57.704(a) is enrolled in either of the last 2 academic years or a period of affiliated clinical experience not longer than 24 months required for professional certification, registration or licensure, or (2) in the case of a curriculum specified in § 57.704(b) is enrolled in the last academic year, and (3) is carrying a full-time academic workload as determined by the center.

(f) "Budget period" means the period specified in the grant award document during which the grantee may expend the funds granted.

(g) "Fiscal year" means the Federal fiscal year beginning on July 1 and ending on the following June 30.

§ 57.703 Eligibility.

To be eligible for a special improvement grant under section 792(b) of the Act, the applicant shall:

(a) Meet the applicable requirements of sections 792 and 795 of the Act and of these regulations;

(b) File an application as required in § 57.707;

(c) Be located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(d) Either (1) have as one of its institutional components a teaching hospital which provides the hospital component of the clinical training required for completion of those curriculums listed in § 57.704 which are used to meet the requirements of a training center (see § 57.702(c)); or (2) be affiliated with one or more such hospitals by means of a written agreement executed by individuals authorized to act for their respective institutions and to assume on behalf of the institution the obligations imposed by such agreement. The agreement shall provide:

(i) A description of the responsibilities of the center, the responsibilities of the hospital, and their joint responsibilities with respect to the clinical components of such curriculums;

(ii) A description of the procedure by which the center and the hospital will coordinate the academic and clinical training of students in such curriculums; and

(iii) That, with respect to the clinical component of each such curriculum, the teaching plan and resources have been jointly examined and approved by the appropriate faculty of the center and staff of the hospital:

(e) Demonstrate in its application that the special improvement grant funds will be utilized to contribute toward provision, maintenance, or improvement of the specialized functions which the center serves.

§ 57.704 Specified curriculums.

(a) For the purposes of section 795(1)(A) of the Act, specified curriculums means those curriculums which qualify students for the baccalaureate degree or its equivalent or masters degree to the extent required to meet the basic professional requirements for employment as one of the following:

(1) Medical technologist.
(2) Optometric technologist.
(3) Dental hygienist.
(4) Radiologic technologist.
(5) Medical record librarian.
(6) Dietitian.
(7) Occupational therapist.
(8) Physical therapist.
(9) Sanitarian.

(b) For the purposes of section 795(1)(A) of the Act, specified curriculums also means those curriculums which qualify students for the associate degree or its equivalent and for employment as one of the following:

(1) X-ray technician.
(2) Medical record technician.
(3) Inhalation therapy technician.
(4) Dental laboratory technician.
(5) Dental hygienist.
(6) Dental assistant.
(7) Ophthalmic assistant.
(8) Occupational therapy assistant.
(9) Dietary technician.
(10) Medical laboratory technician.
(11) Optometric technician.
(12) Sanitarian technician.

§ 57.705 Equivalents of degrees.

(a) A certificate, diploma, or other document awarded by the center which signifies satisfactory completion of a program of study of not less than 2 academic years shall be considered to be the equivalent of an associate degree.

(b) In the curriculums which include a clinical component that is undertaken in whole or in part, after the awarding of the baccalaureate degree, but not creditable to a higher degree, the certificate or document which signifies satisfactory completion of the clinical experience, shall be considered to be the equivalent of a baccalaureate degree.

§ 57.706 Accreditation.

Applicant colleges and universities must be accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education. Junior colleges must be accredited by the regional accrediting agency for the region in which they are located or provide satisfactory assurance afforded by such accrediting agency to the Secretary that reasonable progress is being made toward accreditation.

§ 57.707 Application.

(a) Each center desiring a special improvement grant under the Act shall submit an application in such form and at such time as the Secretary may require.[1] Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulation of this subpart.

(b) An application for a special improvement grant shall include a plan setting forth specifically the manner and methods by which grant funds will be used to contribute toward provision, maintenance or improvement of the specialized function which the training center serves.

§ 57.708 Assurance required.

With respect to the assurance required by section 792(d)(2) of the Act, relating to the continued expenditure of non-Federal funds, the amounts of non-Federal funds to be expended during the fiscal years immediately preceding the fiscal year for which the grant is sought shall be determined on the basis of the non-Federal funds expended in support of those specified curriculums which qualify the applicant as a training center (as defined in § 57.702(c)), excluding the cost of construction.

§ 57.709 Grant awards.

(a) The Secretary may award a special improvement grant to any applicant after determining that such grant will be utilized by the applicant in accordance with the purposes specified in section 792(b) of the Act. In determining priority for awarding special improvement grants, the Secretary will give consideration to the following factors:

(1) The relative financial need of the applicant for such grant.

(2) The relative effectiveness of the applicant's proposal in contributing toward provision, maintenance, or improvement of the specialized functions which the center serves.

(3) The extent to which the applicant's proposal contributes to an equitable geographical distribution of training centers offering high quality training in the curriculums specified in § 57.704.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(c) Except as may otherwise be provided by the regulations of this subpart, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in conformance with the applicable principles set forth in chapters 3–60 and 3–80 of the Department of Health, Education, and Welfare Grants Administration Manual.[2]

(d) All grant awards shall be in writing, shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(e) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually and at such times and in such forms as the Secretary may dictate.

§ 57.710 Payments.

The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 57.711 Expenditure of grant funds.

Any funds granted pursuant to this subpart shall be expended solely for carrying out the approved project in accordance with the statute, the regulations of this subpart, the terms and conditions of the award and cost principles set forth in chapters 3–60 and 3–80 of the Department of Health, Education, and Welfare Grants Administration Manual and applicable policy issuances of the National Institutes of Health, available from the Division of Allied Health Manpower, Bureau of Health Manpower Education, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014.

§ 57.712 Nondiscrimination.

(a) Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 251; 42 U.S.C. 2000(d) et seq.) which provides that no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial Assistance. A regulation implementing such title VI, which is applicable to grants made under this part, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(b) Each grant for expansion, remodeling, alteration, or repairs shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 F.R. 12319 (September 24, 1965), as amended, and with the applicable rules, regulations and procedures prescribed pursuant thereto.

(c) Attention is called to the requirements of section 799A of the Act, and to 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under title VII of the Act to or for the benefit of any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

§ 57.713 Accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect cost was based on a fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for equipment.* As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in Chapter 1–410–50 of the Department of Health, Education, and Welfare Grants Administration Manual

[1] Applications and instructions may be obtained from the Director, Division of Allied Health Manpower, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20014.

[2] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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shall be identified and reported by the grantee in accordance with such procedures, and, accounted for by one or a combination of the following methods, as determined by the Secretary:

(1) *Retention of equipment for other health projects.* Equipment may be used, without adjustment of accounts, on other grant supported projects (whether or not federally supported) within the scope of section 792(b) of the Act, and no other accounting for such equipment shall be required: *Provided, however,* (i) That during such period of use no charge for depreciation, amortization or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (ii) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of section 792(b) of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(2) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of sale credited to the grant account for project use, or it may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(3) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants Administration Manual may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

(c) *Accounting for grant related income* (1) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in § 102 of the Intergovernmental Cooperation Act, means any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(2) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in subparagraph (3) of this paragraph.

(3) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in chapter 1–420 of the Grants Administration Manual as determined by the Secretary in the grant award.

(d) *Grant closeout*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for material on hand as provided in paragraph (b) of this section;

(iii) Any credits for earned interest;

(iv) Any other settlements required pursuant to paragraph (c) (2) and (3) of this section.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by set off or other action as provided by law.

§ 57.714 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films or similar materials developed or resulting from a project supported by a grant under this subpart, subject, however, to a royalty free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 57.715 Inventions or discoveries.

Any grant award pursuant to § 57.709 is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligations. Laboratory notes, related technical data, and information pertaining to inventions and discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary, or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 57.716 Records, reports, inspection and audit.

(a) *Records and reports.* Each grant awarded pursuant to this subpart shall be subject to the condition that the grantee shall maintain such operational and accounting records, identifiable by grant number, and file with the Secretary such operational and fiscal reports relating to the use of grant funds, as the Secretary may find necessary to carry out the purposes of the applicable provisions of the Act and the regulations. All records shall be retained for 3 years after the close of the budget period. Such records may be destroyed at the end of such 3-year period if the applicant has been notified of the completion of the Federal audit by such time. If the applicant has not been so notified, such records shall be retained (1) for 5 years after the close of the budget period, or (2) until the grantee is notified of the completion of the Federal audit, whichever comes first. In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant award under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment, and other resources of the applicant at reasonable times by persons designated by the Secretary, and to interviews with the principal staff members and students to the extent that such resources, personnel, and students are, or will be involved in the project. In addition, the acceptance of any grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 57.717 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health or the conservation of grant funds.

§ 57.718 Early termination and withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the applicable provisions of the Act, the regulations of this subpart, or the terms of the grant, he may, on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the applicable provisions of the Act and regulations. Noncancellable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

[FR Doc.72–17674 Filed 10–16–72;8:50 am]

Title 49—TRANSPORTATION

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1, Amdt. 1–61]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority With Respect to Ports and Waterways Safety

The purpose of this amendment is to delegate to the Commandant of the Coast Guard authority vested in the Secretary by Public Law 92–340, the Ports and Waterways Safety Act of 1972. It also delegates to the Administrator of the St. Lawrence Seaway Development Corporation certain authority vested in the Secretary by the Ports and Waterways Safety Act with respect to the operation of the St. Lawrence Seaway.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended effective October 5, 1972, as follows:

1. The table of contents is amended by adding the following new item immediately after the item "§ 1.50 Delegations to Urban Mass Transportation Administrator":

Sec.
1.50a Delegations to Administrator of the St. Lawrence Seaway Corporation.

2. Section 1.46(o) is amended by adding a new subparagraph (4) at the end thereof to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(o) Carry out the responsibilities and exercise the authority vested in the Secretary by the following statutes:

* * * * *

(4) Ports and Waterways Safety Act of 1972 (86 Stat. 424), except sections 101, 102, 104, 106, and 107 to the extent that those sections pertain to the operation of the St. Lawrence Seaway.

3. The following new section is added immediately after § 1.50:

§ 1.50a Delegations to Administrator of the St. Lawrence Seaway Corporation.

The Administrator of the St. Lawrence Seaway Development Corporation is delegated authority to carry out the functions vested in the Secretary by sections 101, 102, 104, 106, and 107 of the Ports and Waterways Safety Act of 1972 (86 Stat. 424), to the extent that they pertain to the operation of the St. Lawrence Seaway.

(Secs. 3(e), 9(e), Department of Transportation Act, 49 U.S.C. 1652(e), 1657(e))

Issued in Washington, D.C., on October 5, 1972.

JAMES M. BEGGS,
Under Secretary of Transportation.

[FR Doc.72–17662 Filed 10–16–72;8:49 am]

Title 6—ECONOMIC STABLIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Miscellaneous Amendments

The purpose of these amendments to the price stabilization regulations of the Price Commission is to make certain corrections and revisions to Special Regulation No. 1, and §§ 300.11, 300.51(a), 300.51(d), 300.53(a)(2), 300.373, and 300.402.

The purpose of the amendments to Special Regulation No. 1, relating to the effect of certain price reductions and refunds on the profit margin limitation, is to provide that institutional and non-institutional providers of health services, governed by §§ 300.18 and 300.19, respectively, may qualify under that special regulation. Special Regulation No. 1 currently applies to manufacturers, retailers, wholesalers, and certain service organizations; the Commission has determined that it should also apply to nonprofit and for-profit providers of health services governed by the limitations of §§ 300.18(b) (1) and (2), and 300.19(b) (1) and (2). Paragraph 2 of Special Regulation No. 1 is also amended to clarify the number of days within which the Commission may consider a letter of intent to remit revenues and to correct the citation to Part 101 in Paragraph 3 to reference § 101.15 instead of § 101.11.

A new paragraph (c) is added to § 300.11 to provide that any retaliatory action, taken by a vendor or lessor, against a vendee or lessee who exercises any of his rights under the Economic Stabilization Act of 1970, as amended, or the price stabilization regulations promulgated thereunder, is a violation. A similar provision presently exists in § 301.303 of the rent regulations with respect to real property rentals. Prior to this amendment to § 300.11, no administrative relief or protection was afforded any vendee or lessee who filed or threatened to file a complaint against a vendor or lessor. The complaining party was subject to a possible loss of supply sources, unfavorable terms of payment or credit and other such abuses. The Commission has determined that the threat of such retaliatory actions is counter productive to the goals of the Economic Stabilization Program and severely restricts necessary enforcement activities. In addition, such a provision is necessary to deter violations of the regulations.

Section 300.51(a) is amended to delete the requirement that a prenotification firm must request approval by the Commission before charging an increased price as a result of the calculation of a base price under Subpart F. Until June 8, 1972, § 300.402 provided that the base price was either the highest price permitted for the period August 16–November 13, 1971, or the price as computed under § 300.405. The pertinent language of § 300.51(a) was intended to require prenotification of any such computation under § 300.405 in cases where the base price so determined exceeded the highest price permitted during the August 16–November 13, 1971, period. In view of the amendment to § 300.402 on June 8, 1972 (37 F.R. 11472), deleting reference to the August 16–November 13, 1971, period, the amendments to § 300.403 in Subpart F on September 20, 1972 (37 F.R. 19377), and the amendment to § 300.402 in this document, the Commission has determined that the requirement in § 300.51(a) for prenotification of the recalculation of a base price under Subpart F is obsolete and should be deleted to prevent misinterpretation and confusion on the part of prenotification firms. Section 300.51 is further amended to delete the obsolete reference in paragraph (d) to "the 72-hour period provided in paragraph (c) of this section." Provision for a 72-hour review of certain requests for price increases was deleted from paragraph (c) on January 8, 1972 (37 F.R. 284).

Section 300.53(a)(2) is amended to provide that the Commission may in any case, based upon a written request of the person concerned citing hardship or inequity, authorize continued consideration of pending requests for price increases or exceptions by a person who failed to file a report or other document required by a provision of Part 300. Currently, suspension of consideration on pending cases is automatic with respect to such persons, and does not provide for the exercise of discretion by the Commission. The amendment provides added authority to the Commission to waive the suspension when warranted by the circumstances of a particular case.

The last paragraph of § 300.373, relating to the requirements for an exception under § 300.371, is redesignated as paragraph (c) to correct its present incorrect designation as paragraph (b).

The purpose of the revision of § 300.402 is to eliminate any possible conflict with § 300.403, revised on September 20, 1972 (37 F.R. 19377), which governs the determination of base prices, and to provide that a base price for a product or service which cannot be determined under any other section of Subpart F (§§ 300.401–300.410) is the highest price permitted for the property or service during the period beginning on August 16, 1971, and ending on November 13, 1971. This latter provision was included in § 300.402 until June 8, 1972

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(37 F.R. 11472), and is reinstated to insure that base prices can be calculated under all circumstances.

Since the purpose of these amendments is to make certain corrections to Part 300 of the regulations of the Price Commission and to provide immediate guidance as to the requirements of the Commission with respect to the stabilization of prices, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making them effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1486; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Special Regulation No. 1 and Part 300 of the regulations of the Price Commission are amended as follows, effective October 17, 1972.

Issued in Washington, D.C., on October 16, 1972.

CARLETON S. JONES,
Deputy General Counsel,
Price Commission.

1. The second and fourth paragraphs of the language preceding paragraph 1 of Special Regulation No. 1 are amended to read as follows:

Under §§ 300.12, 300.13(a)(2), 300.14(a), 300.18(b)(2), and 300.19(b)(2) of the regulations of the Price Commission, manufacturers, retailers, wholesalers, certain service organizations and institutional and noninstitutional providers of health services may charge a price in excess of the base price, in accordance with applicable rules, only to the extent that such a price increase does not result in an increase in profit margain over the firm's base period profit margin. Sections 300.18(b)(1) and 300.19(b)(1) provide a similar limitation for nonprofit providers of health services. If a firm does not raise any price above the base price pursuant to these sections, there is no limitation on profit margin.

The Price Commission interprets §§ 300.12, 300.13(a)(2), 300.14(a), 300.18(b)(2), and 300.19(b)(2) of its regulations to mean that price increases will not "result in," have the "effect of," or otherwise contribute to a profit margin excess if, before the end of the fiscal year in which the price increases are charged, the firm completes the following two actions:

(1) Rescinds all price increases above base price levels; and

(2) Remits to customers the revenues derived in that fiscal year from charging prices in excess of base prices. The same interpretation applies to the limitations on nonprofit providers of health services under §§ 300.18(b)(1) and 300.19(b)(1).

2. Paragraph 1 of Special Regulation No. 1 is revised to read as follows:

1. *General rule.* Any firm subject to § 300.12, § 300.13(a)(2), § 300.14(a), § 300.18(b)(2), or § 300.19(b)(2) of Part 300 of the regulations of the Price Commission is not subject to the profit margin limitation contained therein, and any firm subject to § 300.18(b)(1) or § 300.19(b)(1) is not subject to the limitation contained therein, if, before the end of the fiscal year in which it raised a price above the base price or charged a price above the base price, the firm (a) rescinds all price increases above base price levels, and (b) in conformity with paragraphs 2, 3, and 4 hereof, remits to customers in the form of refunds, or future sales at below-base prices of the same goods and services previously sold at above-base price levels, or both, an amount equal to or greater than the revenues derived in that fiscal year from charging a price or prices in excess of base prices.

3. Paragraph 2(b) of Special Regulation No. 1 is revised to read as follows:

2. *Prenotification and reporting firms.*

* * * * *

(b) Before remitting revenues derived from above-base charges, each firm shall submit, for the approval of the Price Commission, a letter of intent to remit revenues under this regulation. If the firm receives no written response to its letter of intent within 20 days after the date it was received by the Price Commission, the firm may assume approval and proceed to remit revenues in accordance with paragraph 4 of this regulation.

4. The first sentence of paragraph 3 of Special Regulation No. 1 is revised to read as follows:

3. *Price Category III Firms.* A price category III firm (as defined in § 101.15 of Chapter I of this title) that intends to make price reductions and refunds under this regulation shall, before remitting revenues derived from above-base charges, record its intent in a notarized statement. * * *

5. Section 300.11 is amended by adding the following new paragraph (c) at the end thereof:

§ 300.11 General rule.

* * * * *

(c) No person may take retaliatory action against any other person who files or manifests an intent to file a complaint of alleged violation of, or who otherwise exercises any rights conferred by, the Economic Stabilization Act of 1970, as amended, any provision of this part, or any order issued under this part. For the purposes of this paragraph, "retaliatory action" includes any refusal to continue to sell or lease, any reduction in quality, any reduction in quantity of services or products customarily available for sale or lease, any violation of privacy, any form of harassment, or any inducement of others to retaliate.

6. The first two sentences of § 300.51 (a) and the last sentence of paragraph (d) are amended to read as follows:

§ 300.51 Prenotification firms.

(a) *General—Manufacturers and service organizations.* A manufacturer or service organization which is a prenotification firm may not charge a price in excess of the base price or determine a base price with respect to a contract or group of related contracts involving an amount in excess of $1 million for custom products or services under § 300.410 until the Price Commission has approved that price in excess of the base price or determination of base price. If the Price Commission does not act upon a request under this paragraph within 30 days after receiving it, that price in excess of the base price, or determination of base price may go into effect without Commission action.

* * * * *

(d) *Manner of Notification.* * * * If the Commission finds that the information submitted is not sufficient to make such a determination it shall so notify the person and the 30-day period provided in paragraph (a) of this section does not begin to run until the time the additional information is received.

* * * * *

7. Section 300.53(a)(2) is amended to read as follows:

§ 300.53 Effect of failure to file reports or other documents required by or under certain sections of this part.

(a) * * *

(2) Except to the extent specifically authorized otherwise by the Commission in any case, based upon a written request of the person concerned citing hardship or inequity, action is suspended on all pending requests for price increases and exceptions by that person until he has complied with the reporting requirement; and

* * * * *

9. The last paragraph of § 300.373 is revised to read sa follows:

§ 300.373 Requirements for an exception under § 300.371.

* * * * *

(c) The financial data describing each acquisition must be restated on Price Commission forms and reconciled with previous financial statements of the person requesting the exception as if each acquisition were accounted for as a pooling of interests. The financial data describing each divestiture must be restated on Price Commission forms reconciled with previous financial statements as if each divestiture were accounted for on the same basis as a spin-off or a split-off.

10. Section 300.402 is revised to read as follows:

§ 300.402 Base price—general.

The base price of a property or service is the base price determined in accordance with the other provisions of this subpart. However, if a base price of a property or service cannot be determined in accordance with the other provisions of this subpart, the base price of that property or service is the highest price permitted to be charged by the person for the property or service during the period beginning on August 16, 1971, and ending on November 13, 1971.

[FR Doc.72-17772 Filed 10-16-72;10:31 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

EDUCATIONAL BROADCASTING FACILITIES PROGRAM

Closing Date and Priorities for Fiscal Year 1973 Grants

On August 8, 1972, notice of proposed rule making regarding a closing date and priorities for fiscal year 1973 grants under the Educational Broadcasting Facilities program was published in the FEDERAL REGISTER (37 F.R. 15970-71). Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed rule.

Only one objection, regarding the closing date, has been received, and the proposed rule is hereby adopted, subject to the following changes:

1. In section 2, the closing date for receipt of new applications and documents to reactivate pending applications is changed from September 15, 1972, to 30 days from the date of publication of this notice in the FEDERAL REGISTER. A conforming change is also made in section 6.

2. Other, minor typographical changes has been made in the rule.

Effective date. This notice is effective on the date of publication (10-17-72).

Dated: October 2, 1972.

S. P. MARLAND, JR.,
Commissioner of Education.

Approved: October 12, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Sec.
1. Scope.
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5. Limit on applications.
6. FCC and FAA filing.
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8. Funding emphases.
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AUTHORITY: The provisions of this rule issued under Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390-99); 45 CFR Part 60.

Section 1. Scope.

This temporary rule establishes a closing date for receipt of applications and priorities and procedures to govern educational broadcasting facilities grants for fiscal year 1973 awarded under Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390-99) and 45 CFR Part 60 (47 U.S.C. 390, 392(d), 394; 45 CFR 60.1).

Sec. 2. Closing date.

(a) Both new applications and documents required to be filed under paragraph (b) of this section to reactivate pending applications must be received by the Commissioner of Education, Office of Education, 400 Maryland Avenue SW., Washington, DC 20202, postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

(b) To reactivate any pending application, an applicant must either: (1) Submit a statement that it wishes the application to be reviewed as it stands, together with any new exhibits not included in the original application and required by sections 3 and 4 and by application form OE-4152 revised as of October 1970 or (2) amend its application, including any new exhibits required by such sections and by such revised form. (47 U.S.C. 392(a); 45 CFR 60.5, 60.12(a)(3)).

Sec. 3. Project summary.

Applicants will be required to prepare a project summary of the application (OE Form 3167), summarizing essential data and the project justification. (47 U.S.C. 392(a), 45 CFR 60.5).

Sec. 4. Complete applications; operating budget.

Only complete or substantially complete applications filed on or before the closing date will be accepted for filing. It is emphasized that an application must contain information with respect to the proposed operating budget of the applicant, since particular stress in evaluation will be placed upon the adequacy of such budget to provide program services on a scale consistent with the purposes of the Act and regulations. (47 U.S.C. 392(a); 45 CFR 60.5, 60.8, 60.9(e)(3)).

Sec. 5. Limit on applications.

Only one application in radio and one in television by any single applicant in a single State (other than a State radio or television agency which may be permitted to file additional applications upon approval of the Commissioner) will be accepted for filing. Applicants may by the closing date withdraw a pending application and replace it with a new application. Applicants with more than one application on file must indicate by the closing date which application or applications are to be withdrawn. (47 U.S.C. 392(d); 45 CFR 60.12).

Sec. 6. FCC and FAA filing.

Applicants whose projects require filing for operational authority with the FCC (and the FAA) are urged to recognize and resolve problems related to such authorization as soon as possible. Applications with problems relating to FAA and/or FCC approval which cannot be resolved within a reasonable period of time following 30 days from the date of publication of this notice in the FEDERAL REGISTER will be subject to deferral until the following fiscal year. (45 CFR 60.6).

Sec. 7. Prior grantees.

Applicants who have received grant awards in a given fiscal year may file applications under the foregoing provisions in the next fiscal year. However, in determining grant awards among competitive applications having the same priority, the lapse of time between grant awards to an applicant may be taken into account. (47 U.S.C. 392(d), 394).

Sec. 8. Funding emphases.

In order to provide adequately for required expansion and improvement of individual stations within the national television system, it is anticipated that the largest portion of television funds will be used for expansion and improvement projects. In radio, the initial funding emphasis will be on the activation of new stations and the expansion of existing low powered stations where substantial audiences remain unserved. In the light of this program emphasis, priorities which are set forth in Appendix A will be assigned to applications, in accordance with the provisions of Appendix B. (47 U.S.C. 392(d), 394; 45 CFR 60.12(a)(2), 60.13).

Sec. 9. Awards schedule.

In order to allow for evaluation and priority interrelation of new applications with those which are pending, at least two-thirds (67 percent) of the appropriation will not be obligated until after the submission deadline. (45 CFR 60.12).

Sec. 10. Further information.

Further information with respect to the Educational Broadcasting Facilities Program including program bulletins and application forms and instructions (for pending as well as for new applications) may be obtained from the Director, Educational Broadcasting Facilities Program, U.S. Office of Education, 400 Maryland Avenue SW., Washington, DC 20202. (47 U.S.C. 390-99; 45 CFR 60.1-60.22).

APPENDIX A—PROJECT PRIORITIES

In evaluation of applications the Educational Broadcasting Facilities Program will consider the criteria in 45 CFR 60.13. Subject to these criteria, projects will be funded in the order of the priorities and sub-priorities listed below, except as provided in the limitations described in paragraphs 3, 4, and 5 of Appendix B.

PRIORITY I

A. Proposals to activate new stations in areas currently without a public broadcasting station with appropriate local or State license, to serve populations of 500,000 or more. Proposals to activate the first broadcasting station in a State.

B. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend station coverage where the in-state population to be served increases substantially, or which are necessary to provide improved signal (including color, SCA, or stereo signals) for larger population groupings, and provide comparability with commercial station coverage.

C. Projects to provide stations with first state-of-the-art reproduction capability. This refers to color capability of a videotape recorder and film chain, stereo capability of an audio turntable and tape recorder and other associated radio or television apparatus.

D. Projects to acquire apparatus for the interconnection of stations in a State network (or a particular geographical region

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across State lines) where applicant ownership of interconnection facilities can be fully justified as advantageous in comparison with leasing of interconnection services.

PRIORITY II

A. Proposals to activate new stations in areas currently without a public broadcasting station under appropriate local or State license, to serve populations between 250,000 and 500,000.

B. Projects to provide local stations with first state-of-the-art "live" production capability (i.e., first studio color cameras, stereo apparatus) where this need can be justified by proven production requirements to meet identified community needs.

C. Projects to provide production capability for stations providing program services beyond their local requirements for distribution over national, regional, and statewide interconnection. (To qualify in this category, a project justification must be verified by production commitment from recognized national, regional, or State network program clients supporting such production need, the applicant must demonstrate the inability of presently owned apparatus to meet production requirements, and the apparatus requested may not exceed the reasonable requirements of the verified production commitments.)

D. Projects to acquire transmitter/antenna apparatus necessary to increase power or otherwise extend or improve station coverage where the increase in population does not justify inclusion in Category IB.

PRIORITY III

A. Projects to activate new stations in areas currently without a public broadcasting station under appropriate local or State license where population to be served is less than 250,000.

B. Projects to augment production and reproduction capabilities of local stations beyond the basic or initial capability. Such proposals will require documentation of local live production requirements in excess of existing capability.

PRIORITY IV

A. Projects to activate second (or more) public broadcasting stations in areas already served by such a station under appropriate local or State license.

B. Projects to equip auxiliary studios at other than the main studio.

(47 U.S.C. 392(d), 394; 45 CFR 60.12)

APPENDIX B—ASSIGNMENT OF PRIORITIES TO APPLICATIONS

1. Upon receipt of application (or amendment to a pending application), it will be accorded the priority of the lowest component in the project.

For example, an application to relocate a new, more powerful transmitter which increases audience by 300,000 (Priority I–B); which includes the station's first color cameras (Priority II–B); and also requests matching funds for 3d and 4th color VTR's (Priority III–B) would be assigned a priority of III–B.

2. To avoid low priority rating, applicants should limit their requests to apparatus to meet their most immediate needs at the priority level which in their judgment will qualify within limitations of available funds in relation to the national backlog of needs for equipment.

If an applicant feels it is warranted by his evaluation of the national appropriation, the other demands to be made from within his State, the State maximum limitation, and his awareness of the national backlog of needs, he may file an application with components of lower priorities, provided he indicates clearly the financial parameters of each component and states clearly a willingness to "phase" out the project. In that event, the applicant must be prepared to accept a grant award for whatever portion, if any, of the project which the Commissioner determines can be accommodated within funding limitations for the current fiscal year. (In such an application, using the above example, EBFP would rank the appplication at Priority IB, for the transmitter component, and would fund components of lower priority only if relative priority among applications competing in such lower category would make such a step possible.)

3. To the extent permitted by categorical allowances, projects will be funded in the order of listed priorities.

Proportions of total available funds to be awarded in the various priority categories will be determined, with the counsel of national advisors, after the total requests are known following the cut-off date for submission of applications. It will be an administrative objective to achieve a fair distribution of funds over the major priority categories consistent with the pattern of needs reflected in the FY 1973 applications.

4. Where projects have identical priorities, preference will be given to those having the earlier date of filing, with reasonable allowance for the relative population groupings being served.

5. The order of funding according to the priority structure may be affected by consideration of geographical equity or the State maximum limitation (47 U.S.C. 392 (b) and (d), 394).

[FR Doc. 72–17755 Filed 10–16–72;8:52]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 161]

RIGHTS-OF-WAY OVER INDIAN LANDS

Power Projects

OCTOBER, 6, 1972.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

Notice is hereby given that it is proposed to revise § 161.27 of Part 161, Subchapter 0, Chapter I, of Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in 5 U.S.C. 301; in the Act of February 5, 1948 (62 Stat. 17; 25 U.S.C. 323–328); and in the Act of March 4, 1911 (36 Stat. 1253), as amended by the Act of May 27, 1952 (66 Stat. 95; 43 U.S.C. 961).

The purpose of the amendment is to revise 25 CFR 161.27 by deleting the word "lands" from line 8 of paragraph (b); deleting lines 9 and 10 from paragraph (b); and inserting the words "government owned lands shall" after the word "involving" on line 8 of paragraph (b); inserting the words "across government owned land" after the word "line" on line 2 of paragraph (f). This revision will remove applicable requirements of paragraphs (b) and (f), including subparagraphs and subdivisions thereof as they relate to rights-of-way for power projects over trust or restricted Indian-owned lands. They will be required, however, where public lands are concerned. In view of the Secretary of the Interior's trust responsibilities of protecting Indian property rights, it is felt that the requirements of paragraphs (b) and (f) which are applicable to public land and public land reserves should not apply to trust or restricted Indian-owned lands, which for these purposes should be considered the same as privately owned lands.

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Economic Development, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, DC 20242, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Section 161.27(b)(f) of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

§ 161.27 Power projects.

* * * * *

(b) All applications, other than those made by power-marketing agencies of the Department of the Interior, for authority to survey, locate, or commence construction work on any project for the generation of electric power, or the transmission or distribution of electrical power of 66 kv. or higher involving Government-owned lands shall be referred to the Office of the Assistant Secretary of the Interior for Water and Power Resources or such other agency as may be designated for the area involved, for consideration of the relationship of the proposed project to the power development program of the United States. Where the proposed project will not conflict with the program of the United States, the Secretary, upon notification to the effect, may then proceed to act upon the application. In the case of necessary changes respecting the proposed location, construction, or utilization of the project in order to eliminate conflicts with the power development program of the United States, the Secretary shall obtain from the applicant written consent to or compliance with such requirements before taking further action on the application.

* * * * *

(f) An applicant for a right-of-way for a transmission line across Government-owned lands having a voltage of 66 kv. or more must, in addition to the stipulation required by § 161.5, execute and file with its application a stipulation agreeing to accpt the right-of-way grant subject to the following conditions:

* * * * * *

LOUIS R. BRUCE,
Commissioner.

[FR Doc.72–17635 Filed 10–16–72;8:49 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Expenses and Rate of Assessment for Fiscal 1972–73

Consideration is being given to the following proposals submitted by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Lower Rio Grande Valley in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee, during the period August 1, 1972, through July 31, 1973, will amount to $825,000.

(2) That there be fixed at $0.045 per seven-tenths bushel carton or equivalent quantity of oranges and grapefruit, the rate of assessment payable by each handler in accordance with § 906.34 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 12, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17687 Filed 10–16–72;8:51 am]

[7 CFR Part 1106]

[Docket No. AO 210–A34]

MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Oklahoma Metropolitan marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Tulsa, Okla., on June 27, 1972, pursuant to notice thereof issued on June 9, 1972 (37 F.R. 11780).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on September 1, 1972 (37 F.R. 18216), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issue on the record of the hearing relates to location adjustments.

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FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Location adjustments. The schedule of location adjustments (the amounts by which the Class I price and uniform price are reduced for location of plant where milk is received from producers) should be revised.

No location adjustments now apply under this order at (1) plants in the State of Texas, (2) plants in Oklahoma that are south of the northern boundaries of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties, and west of the eastern boundaries of Seminole, Pontotoc, Johnston, and Marshall Counties, and (3) plants, wherever located, that are within 50 miles of Oklahoma City. There were no proposals to provide location adjustments at plants at which no location adjustments now apply.

At plants 50 miles or more from Oklahoma City (except for the designated territory within which no location adjustments apply) the present location adjustment rate is 10 cents at plants 50–150 miles of Oklahoma City, plus 2 cents for each 15 miles or fraction thereof between 150 and 240 miles, and plus 1 cent for each 15 miles or fraction thereof beyond 240 miles.

A handler proposed that the area 50–150 miles from Oklahoma City in which the 10-cent location adjustment applies be changed to 50–110 miles. At plants between 110 and 200 miles from Oklahoma City, he proposed that the location adjustment be an additional 2 cents for each 10 miles. Beyond 200 miles, the additional proposed location adjustment would be 1.5 cents for each 10 miles or fraction thereof.

The proponent of the above revised location adjustments operates a pool plant in Tulsa under the Oklahoma Metropolitan order and a Neosho Valley order pool plant in Coffeyville, Kans., which is 77 miles from Tulsa and 183 miles from Oklahoma City.

Substantial quantities of fluid milk products from the Tulsa and Coffeyville plants are distributed in the Oklahoma Metropolitan marketing area and at other locations in competition with handlers regulated by the Oklahoma Metropolitan order. Also, there are substantial interplant movements of packaged fluid milk products between the handler's Coffeyville and Tulsa plants.

Of the total Class I distribution from the Coffeyville plant, about 40 percent is in the Neosho Valley marketing area and 35 percent in the Oklahoma Metropolitan marketing area. The handler claims that in order to keep the Coffeyville plant regulated under the Neosho Valley order (instead of under the Oklahoma Metropolitan order) it has been necessary to make uneconomic movements of milk between the Tulsa and Coffeyville plants. If the Coffeyville plant's Class I distribution in the Oklahoma Metropolitan marketing area were to exceed such distribution in the Neosho Valley marketing area during the same month (and it otherwise qualified as a pool plant under both orders, as it now does) the Coffeyville plant would become an Oklahoma Metropolitan pool plant for the month.

The Oklahoma Metropolitan order Class I price is determined by adding $1.98 to the basic formula price for the second preceding month. The Class I price under the Neosho Valley order is 33 cents less than the Oklahoma Metropolitan order Class I price.

No location adjustment is applicable at Coffeyville under the Neosho Valley order. However, if the Coffeyville plant became a pool plant under the Oklahoma Metropolitan order, the Class I and uniform prices at that location would be subject to a location adjustment of 16 cents, based on the 183-mile distance from Oklahoma City to Coffeyville. The effect of such change in order of regulation would be to increase the applicable Class I price at the Coffeyville plant by 17 cents.

Proponent held that a 17-cent change in his applicable Class I price solely on the basis of a shift in order of regulation is unwarranted. While he suggested that complete interorder price alignment at his plant location might be unattainable under existing circumstances, he stated that the location adjustment applicable at Coffeyville under the Oklahoma Metropolitan order should reflect the cost of transporting milk from Coffeyville to the Oklahoma Metropolitan order market. This, he contended, would result if his proposal, which would provide a 26-cent location differential (in lieu of the present 16 cents) at Coffeyville, were adopted and his Coffeyville plant became regulated under the Oklahoma Metropolitan order.

A handler who operates plants under the Red River Valley, Wichita, and Greater Kansas City orders opposed changing the location adjustments in the Oklahoma Metropolitan order without at the same time considering the Class I prices in nearby orders. He stated that changing the location adjustments as proposed would upset the historical relationship in Class I pricing among the various orders. Fluid milk products from his plants, which products are distributed over a wide area in Kansas, Missouri, Oklahoma, and Texas, compete for sales with those of handlers regulated by the Oklahoma Metropolitan order.

An Oklahoma City handler urged that no location adjustments apply at plants within the State of Oklahoma. At plants outside the State, he proposed location adjustments of 1.5 cents for each 10 miles or fraction thereof for the distance of a plant from the nearer of Oklahoma City or Tulsa. The handler claims that he is at a disadvantage in competing with handlers whose plants are located in Tulsa and at other places in Oklahoma where Class I milk costs are lower than his because of the 10-cent location adjustment.

The order's present location adjustment provisions are substantially the same as those adopted when the Oklahoma City and the Tulsa-Muskogee orders were combined in 1957. The 10-cent location adjustment applicable at Tulsa and Muskogee under the combined order retained the identical price relationship between the Oklahoma City and the Tulso and Muskogee locations that existed under separate regulation. Tulsa and Muskogee are 104 and 140 miles, respectively, from Oklahoma City.

The six regulated plants under the Oklahoma Metropolitan order at which location adjustments now apply are all in Oklahoma and within 50 to 150 miles of Oklahoma City. The 10-cent location adjustment now applicable at these plants reflects a pattern of location pricing within the State of Oklahoma that has prevailed for at least several years. It was not shown that conditions in the market warrant a different price relationship than now exists among the order's presently regulated Oklahoma-based plants. Similarly, there was no showing that location adjustments should apply at locations within 50 miles of Oklahoma City or at Texas locations.

For locations outside the State, basing points should be adopted so as to result in location adjustments that approximate the cost of moving milk to the market.

Under present circumstances, Tulsa and Ponca City are locations in the marketing area most suitable as basing points for determining the mileage for applying location adjustments at plants outside the State of Oklahoma. Tulsa, the second largest city in the State, is 104 miles northeast of Oklahoma City; Ponca City, the northernmost sizable city in the marketing area is 103 miles directly north of Oklahoma City.

The location adjustment under the Oklahoma Metropolitan order applicable at plants in Tulsa, Ponca City, and other specified locations in Oklahoma gives recognition to the fact that such locations are closer than Oklahoma City to main alternative sources of supply. With the adoption of these two cities as basing points for measuring distances to plants outside Oklahoma where location adjustments should apply, it is not necessary to retain Oklahoma City as a basing point for this purpose.

The rate of adjustment of 1.5 cents per 10 miles for any plant location outside the State (except Texas), measured from the nearer of Tulsa or Ponca City and subtracted from the Class I and uniform prices applicable at these cities, will provide a reasonable alignment of the Oklahoma Metropolitan order prices with prices at plants serving other nearby markets that may compete with handlers under this order.

A similar location adjustment rate, 1.5 cents for each 10 miles or fraction thereof, is widely used in Federal orders and is recognized as being reasonably reflective of the cost of transporting milk. The adoption of the 1.5-cent rate, as herein provided, will provide for the Oklahoma Metropolitan market the same rate as is used in the other nearby markets under regulation. The revised schedule provided in this decision will not change the location pricing at any of the 13 plants now regulated by the order. It will insure, however, that the location pricing at outlying plants that might become subject to the order will approximate the order price at the basing point location less the cost of moving milk to such point. The 10-cent difference in Class I prices between Tulsa (or Ponca City) and Oklahoma City allows for any movement of milk the greater distance to Oklahoma City.

The rate of 1.5 cents per hundredweight for each 10 miles from the nearer of Tulsa or Ponca City, as adopted in this decision, provides a more realistic transportation allowance from distant locations from the market than is presently provided in the order. The present location adjustment rates, which were instituted in the order in 1957, are not appropriate under current marketing conditions.

Revising the order's location adjustment provisions in the manner here adopted will not change appreciably the existing relationship between the Oklahoma Metropolitan Class I price and those in nearby Federal order markets.

The location adjustment applicable at Coffeyville, Kansas, under this decision would be 22 cents compared to the 16 cents provided under the existing order. While 4 cents less than proposed by the handler operating the Coffeyville plant, the change will provide him a rate of adjustment, if he becomes regulated under the Oklahoma Metropolitan order, similar to that applicable under nearby orders, i.e., available to handlers with whom he may compete.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Oklahoma metropolitan marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

August 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Oklahoma Metropolitan marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 11, 1972.

RICHARD E. LYNG,
Assistant Secretary.

ORDER[1] AMENDING THE ORDER REGULATING THE HANDLING OF MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oklahoma Metropolitan marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Oklahoma metropolitan marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on September 1, 1972, and published in the FEDERAL REGISTER on September 8, 1972 (37 F.R. 18216), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modification in § 1106.81:

Section 1106.53 is revised as follows:

§ 1106.53 Location adjustment to handlers.

(a) At a plant in the State of Oklahoma north of Beckham, Washita,

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

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Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the Class I price for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the Class I price for milk received from producers shall be the price applicable at Tulsa or Ponca City, Oklahoma, pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1106.11(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1106.81 [Amended]

2. In § 1106.81, replace the three references therein to "§ 1106.53(a)" with "§ 1106.53."

[FR Doc.72-17657 Filed 10-16-72;8:48 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO

Allotment and Marketing Quotas, 1972–73 and Subsequent Marketing Years

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended, the Department is preparing to amend the regulations pertaining to establishing farm acreage allotments and farm marketing quotas, lease and transfer of farm acreage allotments, release and reapportionment, the identification of marketings of tobacco and the records and reports incident thereto for Fire-cured, Dark air-cured, Virginia Sun-cured, Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco.

The purpose of this document is to give notice of the proposed changes in the regulations which are as follows:

1. Section 724.57 would be completely amended for clarification, to withdraw the provision that prohibited the establishment of an allotment for farms where the only history in the base period is history acreage restored because of violation of marketing quota regulations, and to provide that where the history acreage in the preceding year was not as much as 75 percent of the allotment, the preliminary acreage allotment shall be the simple average of the sum of the basic allotment and history acreage for the preceding year and that failed acreage and acreage prevented from being planted because of natural disaster to be included in computation of history acreage for the farm. It also would withdraw a special provision for determining history acreage for new farms making the determination of history for a new farm the same as that for an old farm.

2. Sections 724.60(b), 724.62, 724.67(a) and 724.72, would be amended to provide language uniformly adopted for all commodity allotments, quotas, and bases relative to making inequity adjustments, establishing new farm allotments and quotas and release and reapportionment.

3. Section 724.60(c) and the introductory phrase and subparagraph (1) of § 724.70(m) would be amended by changing the references to CR, CCP, and CAP farms to farms under long-term land use programs.

4. In § 724.67(b) the first and second sentences, 724.69(c)(1), the first sentence of § 724.70(b) and the first sentence of the main paragraph (a) and the last sentence of paragraph (b) of § 724.72 would be amended and § 724.73 would be added to require State committees to determine final dates for releasing farm allotments and reapportionment of allotments to farms, and for filing records of lease and transfer of farm acreage allotments.

5. In § 724.69, paragraph (q)(2) and in § 724.70, paragraph (v)(2) would be revised to permit the county committee, with State committee approval, to accept a late filed request to dissolve or revise a transfer effective for the current year if the producer was prevented from timely filing because of reasons beyond his control. In addition a new paragraph would be added to §§ 724.69 and 724.70 which would prohibit the transfer of allotments from federally owned land except where the land is leased back with uninterrupted possession to the former owner after acquisition under the right of eminent domain.

6. Section 724.86 would be amended by adding a sentence at the beginning to allow marketing of producer tobacco where AMS certification shows it to be a nonquota kind of tobacco and paragraph (h) would be revised to clarify that separate display on warehouse floor and separate records are required where quota and nonquota tobacco is sold on the same warehouse floor.

7. Section 724.88 would be amended by adding paragraph (d) to provide the 1971–72 average market prices and the rates of penalty for the 1972–73 marketiny year for various kinds of tobacco.

8. In § 724.90, the beginning sentence and the first sentence of § 724.97(c) would be amended to provide that in a quota area tobacco marketed from a farm under an AMS certification that such tobacco is a nonquota kind shall not be considered excess tobacco.

9. Section 724.95(f) would be amended to require the return of marketing cards to the county office where issued not later than 20 days after the close of auction markets for the season, except for cigar tobacco.

10. In §§ 724.96 and 724.97, the first sentence of each section would be amended to clarify that dealers and warehousemen are required to keep records and make reports separately for quota and nonquota tobacco.

11. Section 724.96(a)(3) would be amended, a new second sentence would be added at the beginning of § 724.97 and paragraph (e) of § 724.97 would be amended by revision to require dealers and warehousemen to prepare and maintain negative adjustment invoices.

12. In § 724.96(a), subparagraph (6) would be amended to require sale bills for warehouse resales to be identified as floor sweeping or leaf account tobacco, and subparagraphs (7) and (8) would be added to provide for orderly filing of sale bills and basket tickets by the warehouseman and to provide for determination by the Agricultural Marketing Service of this Department of tobacco presented for sale at an auction warehouse that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered for sale.

13. In § 724.96(b), a new sentence would be added at the beginning to clarify that warehousemen shall not weigh in producer tobacco for marketing unless properly identified.

14. Sections 724.96(g) and 724.97(f) would be amended to clarify that the dealer or warehouseman reporting tobacco on hand on his final MQ–79 or MQ–80 is responsible for the actual weighing of such tobacco.

15. Section 724.96(j) would be added to require warehousemen to maintain copies of bill-out invoices to purchaser or daily summary journal sheet reflecting daily transactions.

16. In § 724.98, the first sentence would be amended to clarify that all dealers are required to make a daily report to warehouseman for buyers corrections account.

17. Section 724.104 would be amended to include warehouse bill-out invoices or daily summary journal sheet among the list of records to be maintained by warehousemen and to provide that basket tickets may be kept in an orderly manner by numerical order.

18. Section 724.110 would be amended by revising paragraphs (d) through (f) and adding paragraphs (g) through (i) to provide for collection of producer cured leaf samples, chemical analysis of samples for residues of DDT and TDE, producer refusal to permit sampling, notice to farm operator of county committee determinations on use of DDT–TDE, and producer's right of appeal.

The proposed changes are set forth as follows:

1. Section 724.57 is amended to read as follows:

§ 724.57 Determination of preliminary acreage allotments and tobacco history acreage for old farms.

(a) *Determination of preliminary acreage allotments*—(1) *Farms with history acreage in base period.* A preliminary farm acreage allotment shall be determined for each farm which has tobacco history acreage, as defined and explained in paragraph (b) of this section, in the base period, except that no preliminary farm acreage allotment shall be established in the current year under any one of the following conditions: (i) A new farm allotment was established in any prior year but was canceled for such year and the farm had no other tobacco history acreage during the base period; (ii) an allotment was pooled under Part 719 of this chapter but was canceled; or (iii) the county committee determines that the farm has been retired from agricultural production and the farm was not or could not have been acquired under right of eminent domain by the acquiring person or agency. This subdivision (iii) shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production if the allotment for the retired land was not allocated to other land contained in the farm of which the retired land was a part, or for a farm for which an acreage allotment may be determined under the provisions of § 724.67(a).

(2) *Preliminary farm acreage allotments.* The preliminary farm acreage allotment for the current year for a farm which qualifies for a preliminary farm acreage allotment under subparagraph (1) of this paragraph shall be the same as the basic allotment for the preceding year: *Provided*, That if the tobacco history acreage for the farm in the immediately preceding year was not as much as 75 percent of the basic allotment, the preliminary acreage allotment shall be the simple average of the sum of the basic allotment and history acreage for the preceding year.

(b) *Determination of tobacco history acreage.* Tobacco history acreage shall be determined for each farm for which a tobacco farm acreage allotment has been established for the current year.

(1) *Farm acreage allotment fully preserved.* The farm acreage allotment is fully preserved as tobacco history acreage for any year if: (i) In such year or either of the two immediately preceding years the sum of (*a*) the final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter, (*b*) the acreage leased and transferred from the farm, (c) the acreage regarded as planted under the conservation practices determined pursuant to Part 719 of this chapter, and (*d*) the acreage temporarily released to the State committee under the provisions of § 724.72, was as much as 75 percent of the basic allotment after any reduction for violation, or (ii) the farm consists of federally owned land for which a restrictive lease is in effect prohibiting the production of tobacco; or (iii) in such year or either of the two immediately preceding years the farm acreage allotment was in the eminent domain pool.

(2) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under subparagraph (1) of this paragraph, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

(i) Final tobacco acreage (including failed acreage and acreage prevented from being planted because of a natural disaster) as determined under Part 718 of this chapter.

(ii) Acreage regarded as planted under the conservation programs and conservation practices determined pursuant to Part 719 of this chapter.

(iii) Acreage temporarily released to the State committee under the provisions of § 724.72.

(iv) Acreage leased and transferred from the farm.

(v) Acreage reduced for violation of the regulations of this part.

2. In § 724.60, the first sentence of paragraph (b) and paragraph (c) are revised to read as follows:

§ 724.60 Corrections of errors and adjusting inequities in acreage allotments for old farms.

* * * * *

(b) *Basis for adjustment.* Acreage increases to adjust inequities in acreage allotments shall be made on the basis of the past farm acreage and past farm acreage allotments of tobacco, making due allowances for failed acreage and acreage prevented from being planted because of a natural disaster as determined under Part 718 of this chapter; land, labor and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. * * *

(c) *Farms under long-term land use programs.* The allotment for a farm under a long-term land use program agreement shall be given the same consideration under this section as the allotment for any other old farm.

* * * * *

3. Section 724.62 is amended to read as follows:

§ 724.62 Determination of acreage allotments for new farms.

The acreage allotment, other than an allotment made under § 724.67(a), for a new farm shall be that acreage which the county committee, with approval of the State committee, determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That, the acreage allotment so determined shall not exceed 50 percent (75 percent for Cigar-binder and Cigar-filler and Binder tobacco) of the average of the acreage allotments established for two or more but not more than five old farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further*, That, if the areage planted to tobacco on a new tobacco farm is less than 75 percent of the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the sum of the tobacco planted acreage and the prevented planted tobacco acreage as determined under Part 718 of this chapter for the farm.

(a) *Written application.* The farm operator must file an application for a new farm allotment at the office of the county committee where the farm is administratively located on or before February 15 of the year for which the new farm allotment is requested.

(b) *Eligibility requirements for operator.* A new farm allotment may be established if each of the following conditions is met:

(1) *Owner and operator of the farm.* The operator shall be the sole owner of the farm. For the purpose of applying this subparagraph (1) a person who owns only part of a farm cannot be considered the owner of the farm except that both husband and wife shall be considered the owner and operator of a farm which they jointly own. For Cigar-binder and Cigar-filler and Binder tobacco, the operator need not own the farm.

(2) *Interest in another farm.* The farm operator shall not own or operate any other farm in the United States for which a tobacco allotment or quota is established for the current year.

(3) *Availability of equipment and facilities.* The operator must own, or have readily available, adequate equipment and any other facilities of production necessary to the production of tobacco on the farm.

(4) *Income requirement (except cigar tobacco).* The operator must expect to obtain during the current year more than 50 percent of his income from the production of agricultural commodities or products.

(i) *Computing operator's income.* The following shall be considered in computing operator's income:

(*a*) *Income from farming.* Income from farming shall include the estimated return from home gardens, livestock and livestock products, poultry, or other agricultural products produced for home consumption or other use on the farm(s). The estimated return from the

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production of the requested new farm allotment shall not be included.

(b) *Income from nonfarming.* Nonfarming income shall include but shall not be limited to salaries, commissions, pensions, social security payments, and unemployment compensations.

(c) *Spouse's income.* The spouse's farm and nonfarm income shall be used in the computation.

(ii) *Operator a partnership.* If the operator is a partnership, each partner must expect to obtain more than 50 percent of his current year income from farming.

(iii) *Operator a corporation.* If the operator is a corporation, it must have no other major corporate purpose other than ownership or operation of the farm(s). Farming must provide its officers and general manager with more than 50 percent of their expected income. Salaries and dividends from the corporation shall be considered as income from farming.

(iv) *Special provision for low-income farmers (except cigar tobacco).* The county committee may waive the income provisions in this section provided they determine that the farm operator's income, from both farm and nonfarm sources, is so low that it will not provide a reasonable standard of living for the operator and his family, and a State committee representative approves such action. In waiving the income provisions the county committee must exercise good judgment to see that their determination is reasonable in the light of all pertinent factors, and that this special provision is made applicable only to those who qualify. In making their determination, the county committee shall consider such factors as size and type of farming operations, estimated net worth, estimated gross family income, estimated family off-farm income, number of dependents, and other factors affecting the individual's ability to provide a reasonable standard of living for himself and his family.

(5) *Experience*—(i) *Fire-cured, Dark air-cured, and Virginia Sun-cured.* Operator must have had experience in producing, harvesting, and marketing the kind of tobacco requested. Such experience must have been gained: by being a sharecropper, tenant, or farm operator (bona fide tobacco production experience gained by a person as a member of a partnership shall be accepted as experience gained in meeting this requirement) during at least 2 of the 5 years immediately preceding the year for which the new farm allotment is requested. If the operator was in the armed services during the 5-year period, the period shall be extended 1 year for each year of military service during the 5 years. The experience must have been gained on a farm having a tobacco allotment for such years for the kind of tobacco requested in the application.

(ii) *Cigar-binder and Cigar-filler and Binder.* Operator shall have had experience in any prior year in the production of tobacco as a farm owner, farm operator, sharecropper, tenant, warehand, or laborer on a farm which produced the kind of tobacco for which an allotment is requested in the application.

(c) *Eligibility requirements for the farm.* A new farm allotment may be established if each of the following conditions is met:

(1) *Current allotment or quota.* The farm must not have on the date of approval of a new farm acreage allotment an allotment or quota for any kind of tobacco.

(2) *Available land, type of soil, and topography.* The available land, type of soil, and topography of the land on the farm must be suitable for tobacco production. Also continuous production of tobacco must not result in an undue erosion hazard.

(3) *Entire allotment permanently transferred by sale or owner.* A farm which includes land from which the entire farm allotment for Fire-cured, Dark air-cured, or Virginia Sun-cured tobacco is transferred by sale or by owner to another farm owned or controlled by him, under § 724.70, shall not be eligible for a new farm tobacco allotment for the kind transferred during the 5 years following the year in which such transfer is made.

(4) *Entire allotment permanently released.* A farm which includes land from which the entire tobacco allotment was permanently released shall not be eligible for a new farm allotment for a period of 5 years beginning with the year the release was effective.

(5) *Entire allotment designated by owner where farm reconstituted.* A farm which includes land which has no tobacco allotment because the owner did not designate a tobacco allotment for such land when the parent farm was reconstituted pursuant to Part 719 of this chapter shall not be eligible for a new farm tobacco allotment for a period of 5 years beginning with the year in which the reconstitution became effective.

(6) *Eminent domain acquisition.* A farm which includes land acquired by an agency having the right of eminent domain for which the entire tobacco allotment was pooled pursuant to Part 719 of this chapter, which is subsequently returned to agricultural production, shall not be eligible for a new farm allotment for a period of 5 years from the date the former owner was displaced.

(7) *Downward adjustment.* The acreage allotment established as provided in this section for each kind of tobacco shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms.

(8) *False information.* Any new farm acreage allotment which was determined by the county committee on the basis of incomplete or inaccurate information knowingly furnished by the applicant shall be canceled by the county committee as of the date the allotment was established. When incomplete or inaccurate information was unknowingly furnished by the applicant, the allotment shall be canceled effective for the current crop year except where the provisions of § 724.65(d) apply.

(9) *Eligibility for released acreage for Cigar-binder and Cigar-filler and Binder tobacco.* Any new farm allotment established under this section may also be considered by the county committee to receive additional acreage from the acreage released to the State committee under § 724.72.

4. In § 724.67 the section heading and paragraph (a) and the first and second sentences of paragarph (b) are revised to read as follows:

§ 724.67 Release and reapportionment of allotments determined for farms acquired by an agency having the right of eminent domain, or shifted from production of Cigar-binder (types 51 and 52) tobacco and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco to production of shade-grown Cigar-leaf (type 61) wrapper tobacco.

(a) The determination of allotments for farms acquired by an agency having the right of eminent domain, the transfer of such allotments to a pool, and the reapportionment from the pool shall be administered as provided in Part 719 of this chapter. The normal yield for each farm to which a reapportionment is made shall be determined as provided in § 724.59 for determining normal yields for old farms.

(b) The displaced owner of a farm may, not later than the final release date established by the State committee for the current year, release in writing to the county committee for the current year all or part of the acreage for the farm in a pool under Part 719 of this chapter for reapportionment for the current year by the county committee to other farms in the county having allotments for the same kind of tobacco. The county committee may reapportion, not later than the final date established by the State committee for requesting reapportioned acreage for the current year, the released acreage or any part thereof to other farms in the county on the basis of the past farm acreage and past farm acreage allotments for the same kind of tobacco; land, labor, equipment available for the production of such kind of tobacco; crop rotation practices; and soil and other physical factors affecting the production of such kind of tobacco. * * *

* * * * * *

5. In § 724.69, paragraph (c)(1) and paragraph (q)(2) are revised and a new paragraph (t) is added to read as follows:

§ 724.69 Lease and transfer of tobacco acreage allotment—Cigar-Binder (Types 51 and 52) and Cigar-filler and Binder (Types 42, 43, 44, and 53) tobacco.

* * * * * *

(c) *Filing and approval of transfer agreement*—(1) *Filing transfer agreement.* The lease and transfer of any allotment or any part thereof from the farm for which the allotment was established to another tobacco farm shall not become effective until a copy of the transfer agreement, determined by the county committee to be in compliance with the provisions of this section, is filed with the county committee not later than the final filing date for the current year established by the State committee, except that a lease shall be effective if the county committee, with the approval of a State committee representative, finds that the producer was prevented from timely filing the transfer agreement due to reasons beyond his control. The county committee may redelegate authority to approve leasing agreements to the county executive director. The filing of a properly executed Form ASCS–375, Record of Transfer of Allotment or Quota, will be considered to meet the requirements of this subparagraph (1).

* * * * * *

(q) *Cancellation, dissolution, or revision of transfer.* * * *

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committees. Such written notification shall be filed prior to planting the tobacco. A late filed request to dissolve or revise the transfer may be effective for the current year if the county committee with approval of a State committee representative determines that the producer was prevented from timely filing for reasons beyond his control.

* * * * * *

(t) *Federally owned land.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

6. Section 724.70 is amended by revising the section heading, paragraph (b), the paragraph heading and subparagraph (1) of paragraph (m), the proviso of the second sentence of paragraph (s), and the heading and text of subparagraph (2) of paragraph (v), and adding a new paragraph (x) to read as follows:

§ 724.70 Transfer of Fire-cured, Dark air-cured, and Virginia Sun-cured tobacco allotments by lease, sale, or by owner under section 318 of the act.

* * * * * *

(b) *Time for filing records of transfer.* For a transfer to be effective in the current year, a Form ASCS–375, Record of Transfer of Allotment or Quota, shall be filed with the county committee no later than the final date for filing records of transfer established by the State committee for the current year. The State committee may authorize the acceptance of a late-filed ASCS–375 in cases where the county committee determines that the late filing resulted from reason(s) beyond the producer's control.

* * * * * *

(m) *Farms under long-term land use programs.* (1)(i) Temporary transfer of an allotment to or from a farm covered by a long-term land use program agreement shall not be approved if the transferring or receiving farm has the allotment crop base for a kind of tobacco designated under such program agreement; (ii) permanent transfer by sale or by owner of an allotment may be approved for any farm under a CAP or CCP agreement.

* * * * * *

(s) *Farm in violation.* * * *

Provided, That, if the transfer was by lease, the allotment reduction for such farm shall be delayed until the following year.

* * * * * *

(v) *Cancellation, dissolution, or revision of transfer.* * * *

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committee. Such written notification shall be filed prior to planting the tobacco. A late-filed request to dissolve or revise the transfer may be effective for the current year if the county committee with approval of a State committee representative determines that the producer was prevented from timely filing for reason(s) beyond his control.

* * * * * *

(x) *Federally owned land.* No transfer under this section shall be made from any land owned by the United States, or any agency or instrumentality wholly owned by the United States, except that the transfer may be approved in cases where the land is leased back with uninterrupted possession to the former owner after acquisition under right of eminent domain. For such transfers, the Government agency or instrumentality is not required to sign the record of transfer.

7. Section 724.72 is revised to read as follows:

§ 724.72 Release and reapportionment of old farm acreage allotments for Cigar-binder (types 51 and 52) and Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco.

(a) *Annual or permanent release of acreage allotments to State committee.* Except as provided in this paragraph, all or any part of a farm acreage allotment on which Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco will not be produced and which the operator of the farm voluntarily releases on an annual basis, or both the owner and operator voluntarily releases on a permanent basis, in writing to the State committee by not later than the final date for filing releases established by the State committee for the current year shall be deducted from the allotment of such farm.

(1) For the farm voluntarily releasing tobacco farm acreage allotment on an annual basis, such acreage will be considered as having been planted on the releasing farm for the purpose of establishing allotments for subsequent years. For the farm receiving such annual released acreage such acreage shall not be taken into account in establishing future allotments for the farm. The tobacco history acreage for a farm releasing on a permanent basis shall be adjusted downward to reflect the acreage permanently released.

(2) Acreage allotments shall not be released either annually or permanently (i) from a farm owned by the Federal Government or any agency thereof if there is in effect a lease or operating agreement prohibiting the production of Cigar-binder (Types 51 and 52) or Cigar-filler and Binder (Types 42, 43, 44, 53, 54 and 55) tobacco, (ii) from the eminent domain allotment pool if an application for transfer from the pool has been filed in accordance with Part 719 of this chapter, (iii) from new farms, or (iv) from a farm covered by a whole farm Conservation Reserve Contract, by a whole farm Cropland Conservation Program agreement entered into in 1966 and 1967, or by a Cropland Adjustment Program agreement.

(b) *Reapportionment or released acreage allotment.* The acreage voluntarily released on an annual or permanent basis for the current year may be reapportioned by the State committee to any farm in any county in the State. In addition, a farm receiving a new farm allotment may be considered for an increase as set forth in § 724.62(h). The State committee shall select the counties to which the released acreage will be reapportioned. The county committee shall select the farms to which the released acreage will be reapportioned. The State committee shall keep records on both an annual and permanent basis of the source of acreage released. Any acreage released for the current year on an annual basis which is not reapportioned by the State committee in the current year shall not be available for use in any subsequent year. Any acreage released for the current year on a permanent basis which is not reapportioned by the State committee in the current year may be reapportioned in the following year. The county committee for the county receiving released acreage may reapportion the tobacco allotment acreage on an annual or permanent basis to other farms in the county in amounts determined by the county committee to be fair and reasonable on the basis of land, labor, and equipment available for production of Cigar-binder (types 51 and 52) or Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55) tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Released acreage should not be reapportioned on a temporary or permanent basis to any farm unless there is assurance from the operator to the county

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committee that the released acreage being received will be produced. Allotment reapportioned to a farm on an annual basis can only be used by the receiving farm for increased production during the current year. Allotment reapportioned to a farm on a permanent basis shall be added to the current year allotment if the farm has an allotment or serve to establish an allotment for a farm that does not currently have one. A farm shall be eligible to receive reapportionment of released acreage on either or both an annual or permanent basis only if a written request is filed by the farm owner or operator at the office of the county committee not later than the final date for filing such requests established by the State committee for the current year.

8. Section 724.73 is added to read as follows:

§ 724.73 Final date for filing record of transfer, release, filing request for reapportioned acreage, and reapportionment.

The State committee shall establish a final date for filing records of transfers, releasing acreage allotments to the county and State committees and for filing requests to receive reapportioned acreage allotment from the county committee for the current year. Such date(s) shall be for the entire State or for areas consisting of one or more counties in the State taking into consideration normal planting dates within the State. The dates will be determined and announced by regulations in this subpart or amendment thereto.

9. Section 724.86 is amended by adding a sentence immediately preceding paragraph (a) of the section and revising paragraph (h) to read as follows:

§ 724.86 Identification of marketings, excluding cigar tobacco.

Each auction and nonauction marketing of producer tobacco from a farm in a quota area shall be identified by a marketing card, MQ–76 or MQ–77, issued for the farm unless an AMS certification shows it to be nonquota tobacco.

* * * * *

(h) *Separate display on auction warehouse floor.* Any warehouseman upon whose floor more than one kind of tobacco is offered for sale at public auction shall for each different kind of tobacco:

(1) Display it in separate areas on the auction warehouse floor.

(2) Identify each basket by a distinguishably different basket ticket clearly showing the kind of tobacco.

(3) Make and keep records that will insure a separate accounting and reporting of each of such kinds of tobacco (quota or nonquota) sold at auction over the warehouse floor.

* * * * *

10. Section 724.88 is amended by adding paragraph (d) to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(d) (1) *1971–72 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1971–72 marketing year was:

AVERAGE MARKET PRICE

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	54.8
Fire-cured (types 22, 23, 24)	60.8
Dark air-cured	47.1
Virginia Sun-cured	54.1
Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55)	53.1
Cigar-binder (types 51 and 52)	65.5

(2) *1972–73 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1972–73 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	41
Fire-cured (types 22, 23, 24)	46
Dark air-cured	35
Virginia Sun-cured	41
Cigar-filler and Binder (types 42, 43, 44, 53, 54, and 55)	40
Cigar-binder (types 51 and 52)	(1)

[1] Quotas terminated for 1972 crop.

11. Section 724.90 is amended by revising the first sentence of the section and the second sentence of paragraph (d) to read as follows:

§ 724.90 Penalties considered to be due from warehousemen, dealers, buyers and others excluding the producer.

Any marketing of tobacco from a farm in a quota tobacco producing area under any one of the following conditions shall be considered to be a marketing of excess tobacco (unless prior to the marketing of such tobacco an AMS inspection certificate is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

* * * * *

(d) *Leaf account tobacco.* * * * The actual quantity of floor sweepings which the State executive director determines has been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the floor sweepings for the season determined by multiplying the limitation set forth in § 724.51(j) by total first sales at auction for Fire-cured, Dark Air-cured and Virginia Sun-cured tobacco.

* * * * *

§ 724.95 [Amended]

12. Section 724.95(f) is amended by revising the phrase "not later than 30 days" following the fourth comma of the first sentence to read "not later than 20 days."

13. In § 724.96, a general statement at the beginning of the section, new subparagraphs (7) and (8) of paragraph (a), a new sentence at the beginning of paragraph (b), and a new paragraph (j) are added, and paragraphs (a)(3), (a)(6), and (g)(13) are revised to read as follows:

§ 724.96 Warehouseman's records and reports.

Each warehouse shall keep the records and make the reports separately for each kind of tobacco (quota or nonquota) as provided in this section.

(a) *Record of marketings.* * * *

(3) *Buyers corrections account.* Each warehouseman shall keep such records including negative adjustment invoices as will enable him to furnish the State ASCS office on Form MQ–71, the total pounds of the debits (for returned baskets, short baskets and short weights of tobacco) and credits (for long baskets and long weights of tobacco) to the Buyers Corrections Account. Where the warehouseman returns to the seller tobacco debited to the Buyers Corrections Account, the warehouseman shall prepare an adjustment invoice to the seller. This invoice shall be the basis for a credit entry for the warehouse in the Buyers Corrections Account and a corresponding purchase (debit entry) in the case of a dealer on his MQ–79, Dealer's Record. Any balancing figure reflected on the warehouseman's summary of bill-outs shall not be included in the Buyers Corrections Account.

* * * * *

(6) *Labeling tobacco sale bill for resale tobacco.* In the case of resales, each sale bill shall show resale and: (i) For dealers, the name of the dealer making each resale; and (ii) for the warehouse, the name of the warehouse and either "floor sweepings" or "leaf account" tobacco.

(7) *Filing sale bills.* At the end of each sale day, the tobacco sale bills shall be sorted and filed by numerical order by sale dates, and basket tickets shall be filed in an orderly manner by sale dates or by numerical order.

(8) *Nonquota tobacco or quota tobacco of a different kind.* Should tobacco be presented for sale that is represented to be nonquota tobacco or there is question as to what kind of quota tobacco is being offered, an inspection shall be obtained from the Agricultural Marketing Service (AMS) of this Department after the tobacco is weighed and in line for sale. If an AMS inspection shows that a basket or lot of tobacco is of a different kind than that identified by the basket ticket after it is weighed in and a sale bill prepared, such tobacco shall be deleted from the original sale bill and a revised sale bill prepared.

(b) *Identification of producer sales of tobacco.* The warehouseman shall not weigh in any producer tobacco for sale unless a marketing card (MQ–76 or MQ–77) is furnished the weighman or the tobacco is represented to be a nonquota kind which is required to be displayed in a separate area on the warehouse floor under § 724.86(h). * * *

* * * * *

(g) *Daily report of auction warehouse business.* * * *

(13) At the end of the season, each warehouseman shall: (i) Report on his final MQ–80 for the season the quantity of leaf account tobacco and floor sweepings, if any, on hand and its location, (ii) permits its inspection by a representative of ASCS, and (iii) provide for the weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been obtained as provided in subdivision (iii) of this subparagraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due. Separate data shall be reported for floor sweeping tobacco.

* * * * *

(j) *Maintaining copies of bill-out invoices to purchaser or daily summary journal sheet to reflect daily transactions.* For each marketing year, the warehouseman shall maintain copies of the bill-out invoice to the purchaser by grades showing the pounds purchased. In lieu of this requirement, the warehouseman may prepare and maintain for each sale day on a current basis a daily summary journal sheet to reflect for each purchaser (including warehouse leaf account or other similar account) pounds and dollar amounts for:

(1) Tobacco originally billed to the purchaser.

(2) Mathematical billing errors and corrections (added and deducted) from purchaser's adjustment invoices.

(3) Short (deducted) and long (added) weights from purchaser's adjustment invoices.

(4) Short (deducted) and long (added) baskets from purchaser's adjustment invoices.

(5) Net tobacco received and paid for by purchaser.

14. Section 724.97 is amended by revising the general statement at the beginning of the section, the first sentence of paragraph (c), and paragraph (e) and (f) to read as follows:

§ 724.97 Dealer's record and reports, excluding Cigar tobacco buyers.

Each dealer, except as provided in § 724.98, or any other person as provided in paragraph (e) of this section, shall keep by kinds of tobacco the records and make the reports separately for each kind (quota and nonquota) of tobacco as provided by this section. Adjustment invoices, including the adjustment invoices for any sale day for which there is no adjustment to be made, required to be furnished to an auction warehouse shall be identified by the warehouse identification number (if applicable) and the reporting dealer's identification number (if applicable) as well as the names of the warehouse and dealers involved in the transaction.

* * * * *

(c) *Nonauction sale (country purchase) to a dealer.* Each purchase of tobacco by a dealer from a producer from from a quota producing area other than through an auction sale, including farm scrap tobacco obtained from grading tobacco for farmers or as a result of furnishing curing space or stripping space, shall be identified by an MQ–76 or MQ–77 (including a sale memo from the marketing card) issued for the farm on which the tobacco was produced (unless prior to purchase as AMS inspection certificate is obtained showing that the tobacco offered for sale is of a kind of tobacco not subject to marketing quotas). * * *

* * * * *

(e) *Daily report to warehouseman for buyers' corrections account.* Notwithstanding the provisions of § 724.98, reports shall be made as follows:

(1) Any dealer, buyer, or any other person receiving tobacco from or through a warehouseman at an auction sale or otherwise, which is not invoiced to him or which is incorrectly invoiced to him by the warehouseman, shall furnish to the warehouseman on a daily sales basis an adjustment invoice or buyers settlement sheet.

(2) Each dealer who purchases tobacco on a warehouse floor for any sale day in which there is no adjustment required in the account as shown on the warehouse bill-out invoice for that sale day, shall file a negative report with the warehouseman for that sale day.

(3) Such reports as required under subparagraph (1) and (2) of this paragraph shall be furnished daily, if practicable (otherwise, they shall be furnished at the end of each week), and shall show the identification number of the purchasing dealer (if applicable) and the identification number of the warehouse (if applicable), where the purchase was made.

(f) *Final report for season.* Not later than April 1, each dealer who bought, or sold or had tobacco available for marketing during the current year, shall for each kind of tobacco: (1) Show the word "final" on his final report, MQ–79, for the season, (2) report on such final MQ–79 for the season the quantity of tobacco on hand and its location, (3) permit its inspection by a representative of ASCS, and (4) provide for weighing of such tobacco (to be witnessed by ASCS) and furnish to ASCS at that time a certification as to the actual weight of such tobacco. After the weight of such tobacco has been determined as provided in subparagraph (4) of this paragraph, it shall be considered as the official weight for comparing purchases and resales for the purpose of determining the amount of penalty, if penalty is due.

15. The first sentence in § 724.98 is amended to read as follows:

§ 724.98 Dealers exempt from regular records and reports, excluding cigar tobacco buyers.

Any dealer or buyer who acquires tobacco only at an auction sale and resells, in the form in which tobacco ordinarily is sold by farmers, 5 percent or less of any such tobacco shall not be subject to the provisions of § 724.97 except as provided in paragraph (e) of § 724.97: *Provided*, That, where deemed necessary, the Director, Commodity Stabilization Division, or the State committee may require a report of all tobacco purchased by the dealer without regard to the 5-percent exemption. * * *

16. Section 724.104 is amended by adding in paragraph (a) the language "warehouse bill-out invoices or daily summary journal sheets," immediately following the language "documents," and in paragraph (b) a second sentence to read as follows:

§ 724.104 Examination of records and reports.

(a) *Examination.* * * * warehouse bill-out invoices or daily summary journal sheet, * * *

(b) *Orderly retention of records.* * * * In lieu of filing by sale dates, basket tickets may be filed in orderly manner by numerical order.

17. Section 724.110 is amended by revising paragraphs (d) through (f) and adding paragraphs (g) through (i) to read as follows:

§ 724.110 Determination of use of DDT and TDE.

* * * * *

(d) *Producers right to recertify.* Any producer on a farm shall have the right to recertify on MQ–38 to the use or nonuse of DDT or TDE if the recertification is filed with the county committee prior to the time any tobacco has been marketed from the farm or a request has been made to collect a sample of cured leaves.

(e) *Collection of samples for chemical analysis.* Samples shall be collected from selected producer tobacco crops during weigh-in at the auction warehouse. Samples shall also be collected on any farm where the county committee has reason to believe the producer used DDT or TDE on the tobacco and the producer certified to nonuse of DDT or TDE on the crop.

(f) *Producer refusal to permit sampling.* If a producer or producer representative refuses to permit the sampling of a tobacco crop, all tobacco of such crop produced on the farm shall be considered by the county committee to have been treated with DDT or TDE.

(g) *Chemical analyzation of samples.* Each sample shall be analyzed for residues of DDT, TDE and their metabolites.

(h) *Notice to farm operator.* A written notice shall be furnished to the operator of each farm where the county committee determines that tobacco, after being transplanted in the field or after being harvested from a farm, was treated with DDT or TDE. Such determination by the county committee shall be based on (1) the certification on MQ–38, or (2) failure to file MQ–38, or (3) refusal to permit sampling, or (4) chemical analysis showing total DDT–TDE residue to be greater than or equal to 3.0 parts per million. The notice to the farm operator shall constitute notice to all persons who,

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as owner, operator, landlord, tenant, or sharecropper, are interested in the tobacco being grown on the farm.

(1) *Producer's right to appeal.* Any producer on a farm who believes that the DDT–TDE determination for the farm by the county committee is not correct may file an appeal with the county committee asking for reconsideration of such determination. The request for appeal and facts constituting a basis for such reconsideration must be submitted in writing and postmarked or delivered to the county committee within 7 days after the date of mailing of the notice of such determination. The request for appeal must be signed by the person making the appeal. If the appellant believes that the county committee's determination of such appeal is not correct, he may appeal to the State committee within 7 days after the date of mailing of the notice of the decision of the county committee. The decision of the State committee shall be final.

Prior to issuance of the proposed changes in the regulations, data, views, or recommendations pertaining thereto which are submitted to the Director, Commodity Stabilization Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration. To be sure of consideration, such submission should be postmarked not later than 15 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places in the manner convenient to the public business (7 CFR 1.27 (b)).

Signed at Washington, D.C., on October 12, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17689 Filed 10-16-72;8:51 am]

Commodity Credit Corporation

[7 CFR Part 1464]

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Notice of Advance Grade Rates for Price Support on 1972 Crop

Consideration will be given to data, views, and recommendations pertaining to the advance rates set out in this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All submissions, in order to be sure of consideration, must be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Under the Tobacco Loan Program published June 18, 1970 (35 F.R. 1000), and amended June 17, 1971 (36 F.R. 11634, 12509), and August 5, 1972 (37 F.R. 15856), CCC proposes to establish advance rates by grades for the 1972 crop Fire-cured tobacco, Types 21 and 22–23, Dark air-cured tobacco, types 35 and 36, and Virginia sun-cured tobacco, Type 37.

With respect to Virginia sun-cured tobacco, a notice of a proposal to establish advance rates for both untied and tied tobacco was published in the FEDERAL REGISTER May 26, 1972 (37 F.R. 10672). In response to that notice, the export buyers, who normally purchase a substantial portion of each year's production, furnished information showing that the foreign users of Virginia sun-cured tobacco are not presently equipped to use untied tobacco, and expressed views that untied marketings would substantially reduce export sales. After consideration of all the responses received, it was decided that for the 1972 crop, as in the past, price support would be provided only on tied tobacco, the traditional form of marketing for Virginia sun-cured tobacco.

The proposed rates, as set forth herein, calculated to provide the levels of support of 50.8 cents per pound for the Fire-cured types and 45.2 cents per pound for the Dark air-cured and Virginia sun-cured types, as determined under section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445), are as follows:

Sec.
1464.17 1972 Crop—Virginia Fire-cured tobacco, Type 21, advance schedule.
1464.18 1972 Crop—Kentucky-Tennessee Fire-cured tobacco, Types 22 and 23, advance schedule.
1464.19 1972 Crop—Dark air-cured tobacco, Types 35 and 36, advance schedule.
1464.20 1972 Crop—Virginia Sun-cured, Type 37, advance schedule.

AUTHORITY: The provisions of §§ 1464.17–1464.20 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c.

§ 1464.17 1972 crop—Virginia Fire-cured tobacco, Type 21—advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A2F	69.25	69.25	69.25		
A2F	65.25	65.25	66.25		
A1D	69.25	69.25	69.25		
A2D	65.25	65.25	65.25		
B1F	68.25	68.25	68.25		
B2F	62.25	62.25	63.25	58.25	
B3F	55.25	55.25	56.25	55.25	46.25
B4F	51.25	51.25	52.25	50.25	44.25
B5F	46.25	46.25	47.25	46.25	41.25
B1D	68.25	68.25	68.25		
B2D	61.25	61.25	62.25	57.25	
B3D	53.25	53.25	54.25	52.25	46.25
B4D	49.25	49.25	50.25	49.25	44.25
B5D	44.25	44.25	45.25	44.25	41.25
B3M	50.25	50.25	51.25	50.25	46.25
B4M	47.25	47.25	48.25	47.25	44.25
B5M	44.25	44.25	45.25	44.25	39.25
B3G	47.25	47.25	48.25	47.25	43.25
B4G	45.25	45.25	46.25	45.25	42.25
B5G	42.25	42.25	43.25	42.25	38.25
C1L	73.25	73.25	74.25		
C2L	69.25	69.25	70.25	62.25	
C3L	60.25	60.25	61.25	59.25	
C4L	53.25	53.25	54.25	53.25	
C5L	48.25	48.25	49.25	47.25	
C1F	72.25	72.25	73.25		
C2F	68.25	68.25	69.25	62.25	
C3F	60.25	59.25	60.25	56.25	
C4F	53.25	53.25	54.25	53.25	
C5F	48.25	48.25	50.25	48.25	
C2D	48.25	48.25	49.25	47.25	
C3D	46.25	46.25	47.25	46.25	
C4D	43.25	43.25	44.25	43.25	
C5D	39.25	39.25	40.25	39.25	
C3M	50.25	50.25	51.25	50.25	
C4M	48.25	48.25	49.25	48.25	
C5M	44.25	44.25	45.25	44.25	
C3G	45.25	45.25	46.25	44.25	
C4G	43.25	43.25	44.25	43.25	
C5G	40.25	40.25	41.25	40.25	

Grade	Proposed price	Grade	Proposed price
X1L	54.25	X3M 45	47.25
X2L	53.25	X4M	47.25
X3L	52.25	X4M 45	44.25
X4L	50.25	X5M	44.25
X5L	47.25	X5M 45	42.25
X1F	54.25	X3G	48.25
X2F	53.25	X3G 45	45.25
X3F	52.25	X4G	45.25
X4F	49.25	X4G 45	43.25
X5F	46.25	X5G	41.25
X1D	50.25	X5G 45	39.25
X2D	48.25	N1L	38.25
X3D	47.25	N1D	37.25
X4D	45.25	N1G	36.25
X5D	41.25	N2	27.25
X3M	49.25		

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

§ 1464.18 1972 crop—Kentucky-Tennessee Fire-cured tobacco, Types 22 and 23—advance schedule.[2]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 47	Length 46	Length 45
A1F	72	72	72
A2F	67	67	67
A3F	59	59	59

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
A1D	72	72	72		
A2D	67	67	67		
A3D	59	59	59		
B1F	63	63	63	58	
B2F	60	60	60	56	
B3F	57	57	57	54	48
B4F	53	53	53	50	43
B5F	49	49	49	46	40
B1D	62	62	62	57	
B2D	59	59	59	55	
B3D	58	58	58	54	48
B4D	52	52	52	49	42
B5D	48	48	48	44	38
B3M	53	53	53	49	44
B4M	49	49	49	45	38
B5M	44	44	44	39	34
B3VF	53	53	53	49	42
B4VF	51	51	51	48	41
B5VF	47	47	47	44	37
B3G	53	53	53	49	41
B4G	48	48	48	44	36
B5G	44	44	44	39	34
C1L	62	62	62	58	
C2L	59	59	59	56	
C3L	58	58	58	54	48
C4L	55	55	55	52	46
C5L	52	52	52	50	43
C1F	62	62	62	58	

[2] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

Grade	Length 47	Length 46	Length 45	Length 44	Length 43
C2F	59	59	59	56	
C3F	58	58	58	55	48
C4F	55	55	55	52	45
C5F	53	53	53	49	42
C1D	63	63	63	58	
C2D	55	55	56	52	
C3D	52	52	52	49	43
C4D	47	47	47	45	39
C5D	46	46	46	44	37
C3M	53	53	53	50	44
C4M	49	49	49	48	42
C5M	47	47	47	45	37
C3VF	54	54	54	51	45
C4VF	51	51	51	49	43
C5VF	49	49	49	47	38
C3G	49	49	49	46	41
C4G	46	46	46	42	37
C5G	42	42	42	39	36

Grade	Proposed price	Grade	Proposed price
X1L	54	X5D	42
X2L	52	X3M	47
X3L	51	X4M	45
X4L	48	X5M	42
X5L	46	X3VF	49
X1F	53	X4VF	47
X2F	51	X5VF	44
X3F	50	X3G	47
X4F	48	X4G	43
X5F	46	X5G	40
X1D	52	N1L	42
X2D	50	N1D	38
X3D	47	N1G	37
X4D	45	N2	33

§ 1464.19 1972 crop—Dark air-cured tobacco, Types 35 and 36—advance schedule.[3]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	63	63	
A1R	63	63	
A2F	59	59	
A2R	59	59	
A3F	54	54	
A3R	54	54	
B1F	59	59	56
B1R	58	58	56
B1D	58	58	56
B2F	55	55	54
B2R	54	54	53
B2D	54	54	53
B3F	53	53	51
B3R	51	51	50
B3D	51	51	50
B3M	50	50	49
B3G	49	49	48
B4F	50	50	49
B4R	49	49	48
B4D	50	50	49
B4M	46	46	45
B4G	46	46	45
B5F	46	46	45
B5R	46	46	45
B5D	45	45	44
B5M	42	42	41
B5G	42	42	41
C1L	59	59	58
C1F	59	59	58
C1R	57	57	56
C2L	58	58	57
C2F	57	57	56
C2R	55	55	54
C3L	56	56	55
C3F	55	55	53
C3R	52	52	50
C3M	50	50	49
C3G	51	51	49
C4L	52	52	51
C4F	52	52	51
C4R	47	47	46
C4M	44	44	43
C4G	45	45	44
C5L	45	45	43
C5F	46	46	45
C5R	42	42	41
C5M	41	41	40
C5G	41	41	40

Grade	Proposed Loan Rate Prices	Grade	Proposed Loan Rate Prices
T3F	46	X3R	48
T3R	46	X3D	49
T3D	46	X3M	46
T3M	45	X3G	45
T3G	44	X4L	50
T4F	41	X4F	49
T4R	42	X4R	44
T4D	42	X4D	44
T4M	40	X4M	43
T4G	39	X4G	41
T5F	34	X5L	47
T5R	34	X5F	47
T5D	34	X5R	42
T5M	33	X5D	42
T5G	33	X5M	40
X1L	55	X5G	36
X1F	55	N1L	41
X1R	55	N2L	35
X2L	53	N1R	35
X2F	53	N2R	32
X2R	52	N1G	33
X3L	52	N2G	33
X3F	50	N2G	31

[3] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor.

§ 1464.20 1972 crop—Virginia Sun-cured tobacco, Type 37—advance schedule.[4]

[Dollars per hundred pounds, farm sales weight]

Grade	Length 46	Length 45	Length 44
A1F	67.25	67.25	65.25
A2F	63.25	63.25	60.25
A3F	60.25	60.25	57.25
A1R	67.25	67.25	64.25
A2R	63.25	63.25	60.25
A3R	60.25	60.25	57.25
B1F	66.25	67.25	59.25
B2F	63.25	65.25	60.25
B3F	56.25	59.25	56.25
B4F	50.25	54.25	52.25
B5F	45.25	46.25	45.25
B1R	66.25	67.25	60.25
B2R	63.25	65.25	60.25
B3R	57.25	59.25	56.25
B4R	50.25	53.25	51.25
B5R	47.25	48.25	45.25
B1D	66.25	66.25	61.25
B2D	65.25	65.25	60.25
B3D	55.25	56.25	54.25
B4D	49.25	50.25	49.25
B5D	44.25	46.25	44.25
B3M	49.25	51.25	48.25
B4M	47.25	50.25	47.25
B5M	42.25	45.25	44.25
B3G	48.25	52.25	49.25
B4G	45.25	48.25	47.25
B5G	43.25	44.25	42.25
C1L	65.25	66.25	58.25
C2L	59.25	60.25	58.25
C3L	57.25	58.25	55.25
C4L	49.25	52.25	50.25
C5L	43.25	44.25	43.25
C1F	65.25	66.25	58.25
C2F	59.25	60.25	57.25
C3F	55.25	57.25	55.25
C4F	49.25	53.25	50.25
C5F	42.25	45.25	44.25
C1R	62.25	62.25	56.25
C2R	56.25	56.25	52.25
C3R	49.25	50.25	48.25
C4R	44.25	46.25	44.25
C5R	39.25	40.25	39.25
C3M	45.25	48.25	47.25
C4M	42.25	46.25	43.25
C5M	40.25	43.25	41.25
C3G	40.25	43.25	40.25
C4G	38.25	42.25	40.25
C5G	33.25	35.25	34.25

Grade	Loan rate	Grade	Loan rate
T3F	46.25	X4F	46.25
T4F	44.25	X5F	42.25
T5F	38.25	X1R	51.25
T3R	46.25	X2R	48.25
T4R	44.25	X3R	44.25
T5R	39.25	X4R	42.25
T3D	44.25	X5R	35.25
T4D	42.25	X3D	40.25
T5D	38.25	X4D	38.25
T3M	43.25	X5D	32.25
T4M	41.25	X3M	46.25
T5M	35.25	X4M	43.25
T3G	46.25	X5M	41.25
T4G	44.25	X3G	44.25
T5G	38.25	X4G	41.25
X1L	53.25	X5G	37.25
X2L	51.25	N1L	28.25
X3L	48.25	N2L	20.25
X4L	46.25	N1R	30.25
X5L	41.25	N2R	22.25
X1F	53.25	N1G	30.25
X2F	52.25	N2G	22.25
X3F	49.25		

[4] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged), or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

All written submissions received pursuant to this notice will be available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C. on October 4, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-17535 Filed 10-16-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-66]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Orange Grove, Tex.

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Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

ORANGE GROVE, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Orange Grove NALF (latitude 27°-54'03'' N., longitude 98°03'05'' W.), within 2.5 miles each side of the NAS Kingsville TACAN 332° radial extending from the 5-mile-radius area to 21 miles northwest of the NAS Kingsville TACAN and within 5 miles each side of the NAS Kingsville TACAN 31-mile arc extending from the 5-mile-radius area to the NAS Kingsville TACAN 320° radial, excluding that portion that lies within the Alice, Tex., control zone.

The transition area will provide controlled airspace where aircraft will reach 1,200 feet above the surface and will provide controlled airspace for aircraft executing TACAN instrument approach procedures.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on October 4, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-17638 Filed 10-16-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SO-89]

FEDERAL AIRWAY

Proposed Revocation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would revoke V-437 east alternate between Charleston, S.C., and Florence, S.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320.

All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The last three IFR peak-day traffic counts for V-437E between Charleston and Florence indicated four movements for fiscal year 1970, zero movements for fiscal year 1971, and three movements for fiscal year 1972. Such limited use does not justify retention of this segment of the airway. In addition, revocation would provide additional off-airway airspace where military aerobatic training could be accommodated without derogation of service to other users.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c), of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 10, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17639 Filed 10-16-72;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-9775]

CUSTOMERS' SECURITIES AND FUNDS

Obligations of Broker-Dealers To Maintain Physical Possession or Control and Certain Reserves

Correction

In F.R. Doc. 72-16503 appearing at page 20260 of the issue for Thursday, September 28, 1972, the first two words in the heading of § 240.15c3-3, reading "Custom reprotection", should read "Customer protection".

Notices

DEPARTMENT OF STATE

Agency for International Development

DEPUTY ASSISTANT ADMINISTRATOR FOR SUPPORTING ASSISTANCE

Redelegation of Authority

Pursuant to the authority delegated to me as Assistant Administrator for Supporting Assistance, I hereby delegate to the Deputy Assistant Administrator for Supporting Assistance, authority to act as my alter ego, to be responsible, under my direction and concurrently with me, for all aspects of the activities of the Bureau for Supporting Assistance. In accordance with this delegation, said Deputy Assistant Administrator is authorized to represent me, and to exercise my authority, with respect to all functions now or hereafter conferred upon me, in accordance with their terms, by AID delegations of authorities, regulations, manual orders, directives, notices, or other documents, by law or by any competent authority.

The redelegation of authority to the Deputy Coordinator, Bureau for Supporting Assistance, dated September 23, 1971 (36 F.R. 19518), is superseded.

This redelegation of authority is effective immediately.

Dated: October 4, 1972.

ROBERT H. NOOTER,
Assistant Administrator for Supporting Assistance.

[FR Doc.72-17661 Filed 10-16-72;8:49 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-287]

FOREIGN CURRENCIES

Rates of Exchange for Ceylon Rupee

OCTOBER 2, 1972.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which vary by 5 percent or more from the quarterly rate published in Treasury Decision 72-194 for the Ceylon rupee. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Ceylon rupee:

September 25, 1972	$0.1550
September 26, 1972	.1555
September 27, 1972	.1560
September 28, 1972	.1560
September 29, 1972	.1560

[SEAL] R. N. MARRA,
Acting Assistant Commissioner, Office of Operations.

[FR Doc.72-17645 Filed 10-16-72;8:47 am]

DEPARTMENT OF THE INTERIOR

Bonneville Power Administration

DRAFT ENVIRONMENTAL STATEMENT

Public Meeting; Change of Date

The Bonneville Power Administration hereby gives notice of the correction of a meeting date in its series of public meetings to be held to discuss BPA's Fiscal Year 1974 Draft Environmental Statement. In the notice published in the FEDERAL REGISTER, vol. 37, No. 196, page 21360, on October 7, 1972, the meeting shown as scheduled at the Aberdeen Public Library, Aberdeen, Wash., will be held on November 15, 1972, 7:30 p.m., not November 14, as the previous notice indicated. There are no other changes in the meeting dates listed in the earlier FEDERAL REGISTER notice.

Date: October 10, 1972.

H. R. RICHMOND,
Administrator.

[FR Doc.72-17692 Filed 10-13-72;12:35 pm]

National Park Service

HUBBELL TRADING POST NATIONAL HISTORIC SITE, ARIZ.

Establishment

Under the Act of August 28, 1965 (79 Stat. 584; 16 U.S.C. 461 note), the Secretary of the Interior was authorized to acquire the site and remaining structures of the Hubbell Trading Post at Ganado, Ariz., along with contents of cultural and historical value, and such additional land and interests in land as in his discretion are needed to preserve and protect the post and its environs for the benefit and enjoyment of the public; but the total area so acquired could not exceed 160 acres.

Pursuant to section 2 of the aforesaid act, notice is given that within the prescribed acreage limitation, sufficient land, structures, and other property have been acquired by the United States to provide for the purposes stated above and, therefore, establishment of the Hubbell Trading Post National Historic Site is hereby declared.

Dated: October 10, 1972.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

[FR Doc.72-17633 Filed 10-16-72;8:47 am]

Office of the Secretary

LINCOLN HOME NATIONAL HISTORIC SITE, ILLINOIS

Establishment

In order to preserve and interpret the home of Abraham Lincoln in Springfield, Ill., for the benefit of present and future generations, the Act of August 18, 1971 (85 Stat. 347; 16 U.S.C. 461, note), authorized the acquisition of certain property deemed necessary for establishment and administration as the Lincoln Home National Historic Site within an area generally depicted on the map entitled "Boundary Map, Lincoln Home National Historic Site", numbered LIHO-20,000 and dated April 1970. The map is available for inspection in the administrative office of the Lincoln Home National Historic Site and in the offices of the National Park Service, Department of the Interior, Washington, D.C.

Notice is given that the home of Abraham Lincoln in Springfield, Ill., and lands necessary for the establishment of this area have been acquired to implement the purposes of the act and, therefore, the Lincoln Home National Historic Site is hereby declared established.

Dated: October 9, 1972.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.72-17634 Filed 10-16-72;8:47 am]

DEPARTMENT OF COMMERCE

Maritime Administration

OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARRIAGE OF GRAIN BETWEEN THE UNITED STATES AND THE UNION OF SOVIET SOCIALIST REPUBLICS

Amended Notice of Intent

In F.R. Doc. 72-16033, appearing in the FEDERAL REGISTER issue of September 19, 1972 (37 F.R. 19157), notice was given of the intent of the Maritime Administration/Maritime Subsidy Board to provide operating-differential subsidy to American Flag Bulk Cargo Vessels for the carriage of grain from the United States

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to the Union of Soviet Socialist Republics.

Said notice is hereby amended to read as follows:

1. Under the provisions of section 603(b) Merchant Marine Act, 1936, as amended, subsidy will be paid to make the cost of operating U.S.-flag bulk vessels competitive with the cost of operating foreign flag bulk vessels participating in such trade.

2. Because of the recent consummation of the grain sale agreement with the Union of Soviet Socialist Republics, it is requested that applications for participation in this program be received by the Secretary, Maritime Subsidy Board as soon as practicable.

3. Any person, firm or corporation having any interest in this program may request further information and application forms from the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Dated: October 16, 1972.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-17780 Filed 10-16-72;10:53 am]

National Oceanic and Atmospheric Administration

MARINE FISHERIES ADVISORY COMMITTEE

Notice of Meeting

Pursuant to section 13 of Executive Order 11671, notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC) on October 24, 25, 26, 1972, in Room 6802, U.S. Department of Commerce, 14th Street NW., between E Street and Constitution Avenue NW., Washington, D.C. 20230.

MAFAC was chartered on February 17, 1971, to advise the Secretary of Commerce on matters pertinent to the Department's responsibilities for fisheries resources, and to facilitate cooperation between public and private interests in these matters.

MAFAC is composed of 27 members, 15 selected from the commercial fishery industries, seven selected from recreational fisheries interests, three selected from the academic community, one representative of consumer interests, and one representative of State government. The Committee Chairman is Dr. Robert M. White, Administrator, National Oceanic and Atmospheric Administration.

All sessions of the MAFAC meeting will be open to interested members of the public. The agenda for the meeting is as follows:

AGENDA

OCTOBER 24, 1972

10 a.m.	NOAA Marine Advisory Service.
2 p.m.	State-Federal Fisheries Management Program—Principles of Fishery Management.

OCTOBER 25, 1927

8:30 a.m.	Introductions and Announcements.
8:45 a.m.	Subcommittee Reports. NOAA Marine Advisory Services. State-Federal Fisheries Management Program—Principles of Fishery Management.
9:45 a.m.	Management Plan for American Lobsters.
10:15 a.m.	NACOA Report.
11:15 a.m.	Review of UN Conference on the Human Environment.
1:15 p.m.	New Coast Guard Policies on Pollution and Safety Violations.
2 p.m.	Environmental Impact Statements.
2:30 p.m.	Great Lakes Fisheries Problems.
3:30 p.m.	Discussion of Agenda Items Suggested by Committee Members. Feasibility Study of Dogfish Shark Control in Puget Sound. California Fisheries Problems.
4:30 p.m.	Motion Picture on Atlantic Salmon.

OCTOBER 26, 1972

9:30 a.m.	Progress Report on Law of the Sea.
10:15 a.m.	Review of Pending Legislation Relating to Fisheries.
11:15 a.m.	Natural Resources Disasters, NMFS Assistance Programs.
1:30 p.m.	NMFS Marketing Programs.
2:15 p.m.	NMFS Financial Assistance Programs.

The meeting room has facilities to accommodate approximately 20 members of the press and the public.

All questions or requests for information should be addressed to:

Mr. John L. Baxter, Executive Secretary, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202—343-2228.

T. P. GLEITER,
Assistant Administrator for Administration.

OCTOBER 10, 1972.

[FR Doc.72-17672 Filed 10-16-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-494; NADA 36-479V]

BACITRACIN METHYLENE DISALICYLATE IN DRY FEED FOR CATTLE

Reinstatement of Approval of New Animal Drug Application

An order published in the FEDERAL REGISTER of August 4, 1972 (37 F.R. 15747), included the findings and conclusions of the Commissioner of Food and Drugs regarding withdrawal of approval of new animal drug applications for liquid and dry premixes containing diethylstilbestrol. It has been brought to the attention of the Comissioner that an application listed for S. B. Penick Co., 100 Church Street, New York, NY 10007, NADA No. 36-479V, provides for the administration of bacitracin methylene disalicylate to cattle in dry feed. The application includes an approved supplement for its use in combination with diethylstilbestrol.

The order is hereby amended to provide that the withdrawal of approval for this application only applies with respect to the supplement to that application providing for bacitracin methylene disalicylate when used in combination with diethylstilbestrol.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), the order cited above is deemed as amended on the date of publication of this document.

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associated Commissioner for Compliance.

[FR Doc.72-17652 Filed 10-16-72;8:48 am]

[Docket No. FDC-D-515]

E. R. SQUIBB & SONS, INC., AND RICHLYN LABORATORIES, INC.

Certain Drug Products Containing Potassium Penicillin G; Notice of Opportunity for Hearing

In an announcement in the FEDERAL REGISTER of August 19, 1970 (35 F.R. 13222, DESI 0060NV), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Penicillin Powder Veterinary, NADA (new animal drug application) No. 65-294 and COPEN, Penicillin Powder; marketed by E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (formerly The Gland-O-Lac Co.) and Oral Buffered Penicillin Crystalline G Potassium U.S.P. and Penicillin G. U.S.P.; marketed by Richlyn Laboratories, Inc., Castor Avenue at Kensington Avenue, Philadelphia, Pa. 19124. The announcement invited the holders of said new animal drug applications and any other interested persons to submit pertinent data on the drugs' effectiveness.

Adequate data were not received in response to the announcement and available information fails to provide substantial evidence that these drugs will have the effect they purport to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, notice is given to E. R. Squibb & Sons, Inc. and Richlyn Laboratories, Inc., and to any other interested persons who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), withdrawing approval of the new animal drug applications for the above antibiotic-containing drugs, including all amendments and supplements thereto.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicants and any other interested persons who would be adversely affected by an order withdrawing such approvals an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the NADA's for the listed drugs should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing. If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug applications should not be withdrawn together with a well-organized full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the applications and from the reasons and factual analysis in the request for a hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the applications, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Response to this notice will be available in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 5, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17651 Filed 10-16-72;8:48 am]

SOCIAL SECURITY ADMINISTRATION

Notice of Health Insurance Benefits Advisory Council Meeting

Notice is hereby given, pursuant to Executive Order No. 11671, published in the FEDERAL REGISTER of June 7, 1972 (37 F.R. 11307), that the Health Insurance Benefits Advisory Council, established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of the Department of Health, Education, and Welfare on Medicare matters, will meet on Friday, October 27, 1972, and Saturday, October 28, 1972, at 9 a.m. in Room 5169, Department of Health, Education, and Welfare, North Building, Third and C Streets SW., Washington, DC. The various committees will meet Thursday evening, October 26, and will report to the Council on Saturday. The meetings are open to the public. The Council will continue the discussion of its annual report and consider other matters relating to the Medicare program.

Further information on the Council may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, Room 585 East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, MD. 21235, telephone 301—594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated: October 6, 1972.

MAX PERLMAN,
Executive Secretary, Health Insurance Benefits Advisory Council.

[FR Doc.72-17660 Filed 10-16-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72 205 PH]

PROPOSED BRIDGE ACROSS EWING NARROWS, HARPSWELL, MAINE

Notice of Public Hearing

Notice is hereby given that the Commandant has authorized a public hearing to be held by the Commander, First Coast Guard District at 7 p.m., November 21, 1972, in the Community Center, Cundys Harbor, Maine. The purpose of the hearing is to consider the application from the Maine State Highway Commission for a permit to construct a fixed highway bridge over Ewing Narrows, Harpswell, Maine.

The plans submitted by the applicant are for a three-span, fixed highway bridge with a minimum vertical clearance of 25 feet above mean high tide and a horizontal clearance in the navigation span of 230 feet, between faces of the substructure. The minimum vertical clearance will be 30 above mean high tide in the midportion of 100 feet in width to be marked for navigation.

All interested persons may present data, views, and comments orally or in writing at the public hearing concerning the impact of the proposed bridge on present and prospective navigation on the waterway and the environment. The environmental issues may include but are not limited to the impact of the bridge on recreational areas, wildlife and waterfowl refuges, public parks, and historical sites.

The hearing will be informal. A Coast Guard representative, who will preside at the hearing, will make a brief opening statement describing the proposed bridge and announce the procedures to be followed at the hearing.

Each person who wishes to make an oral statement should notify the Commander (oan), First Coast Guard District, J. F. Kennedy Federal Building, Government Center, Boston, Mass. 02203, by November 15, 1972. Such notification should include the approximate time required to make the presentation. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit application by submitting their comments in writing on or before December 6, 1972, to the Commander (oan), First Coast Guard District. Each comment should state the reasons for any objections or proposed changes to the plans and the name and address of the person or organization submitting the comment. Copies of all written communications will be available for examination by interested persons at the office of the Commander (oan), First Coast Guard District.

All comments received will be considered before final action is taken on the proposed bridge permit application. After the time set for the submission of comments, the Commander, First Coast Guard District, will forward the record, including all written comments and his recommendations to the Commandant, U.S. Coast Guard, Washington, D.C. 20590. The Commandant will make the final determination on the bridge permit.

(Sec. 502, 60 Stat. 847, as amended, secs. 4(f), 6(g)(6)(c), 80 Stat. 933 as amended;

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33 U.S.C. 525, 49 U.S.C. 1653(f), 1655(g)(C); 40 CFR 1.46 (c)(10))

Dated: October 12, 1972.

J. D. McCann,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-17673 Filed 10-16-72;8:50 am]

ATOMIC ENERGY COMMISSION

CRITERIA FOR DETERMINING ENFORCEMENT ACTION

Notice of Issuance of Enforcement Criteria

The Atomic Energy Commission has issued criteria for determining enforcement actions to be taken with respect to future violations of the Commission's rules and license conditions relating to health and safety, in accordance with sections 161, 186, and 234 of the Atomic Energy Act of 1954, as amended, and Subpart B of the Commission's rules of practice, 10 CFR Part 2. This document is a formalization of enforcement procedures employed by the Commission. Guides and standards are being developed rapidly and should materially aid and facilitate safe operations through the implementation of adequate Quality Assurance programs by licensees of the Commission.

The enforcement actions available to the Commission in the exercise of its regulatory responsibilities include administrative actions in the form of written notices of violation, civil monetary penalties, and Orders to "cease and desist" or for modification, suspension, or revocation of a license. Fitting the spectrum of enforcement actions to the spectrum of violations is not complex for extreme cases; i.e., a citation for a minor violation of posting or labeling requirements at one end of the spectrum, and an order to eliminate an immediate threat to the health and safety of employees or the public at the other end of the spectrum. In some cases, however, judgment must be exercised in selecting the enforcement action most appropriate for the situation. The criteria include a discussion of factors to be considered when making such judgments and should provide a reasonable degree of uniformity in the enforcement process.

A copy of the criteria is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Copies of the criteria may be obtained by writing the Director of Regulatory Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(5 U.S.C. 552(a))

Dated at Bethesda, Md., this 4th day of October 1972.

For the Atomic Energy Commission.

F. E. Kruesi,
Director of Regulatory Operations.

[FR Doc.72-17653 Filed 10-16-72;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket 24387]

CLUB INTERNATIONAL ET AL.

Notice of Postponement of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding now scheduled to commence on October 24, 1972 (37 F.R. 17983), is hereby postponed until further notice.

Dated at Washington, D.C., October 12, 1972.

[SEAL] Louis W. Sornson,
Administrative Law Judge.

[FR Doc.72-17686 Filed 10-16-72;8:51 am]

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Order Designating New Member

October 11, 1972.

The Federal Power Commission by order issued September 29, 1972, established the Technical Advisory Committee on Fuels of the National Power Survey.

2. Membership: A new member of the Technical Advisory Committee on Fuels, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Mr. Charles E. Wier, Head, State Geological Survey, Bloomington, Ind.

By the Commission.

[SEAL] Kenneth F. Plumb,
Secretary.

[FR Doc.72-17681 Filed 10-16-72;8:50 am]

[Docket No. CI73-255]

CLINTON OIL CO.

Notice of Application

October 13, 1972.

Take notice that on October 10, 1972, Clinton Oil Co. (Applicant), 217 North Water Street, Wichita, KS 67202, filed in Docket No. CI73-255 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America from the Fulton Beach Field, Aransas County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on October 5, 1972, within the contemplation of § 157.29 of the rgulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 22 months from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell between 3,000 and 6,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a. Applicant has reserved the right to process the gas in the Hunt Industries Zoller Processing Plant in Refugio County, Tex. The contract provides for a transportation charge of 0.02 cent per Mcf per mile for gas lost as a result of processing. This charge is estimated at 0.0336 cent per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 72-17695 Filed 10-16-72;8:51 am]

[Project No. 178]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for New Major License

October 11, 1972.

Public notice is hereby given that application has been filed under Section 15 of the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Gas and Electric Co. (Correspondence to: Mr. J. F. Roberts, Jr., Vice President-Rates and Valuation, Pacific Gas and Electric Co., 77 Beale Street, San Francisco, CA 94106) for a new major license for Project No. 178, known as Kern Canyon Project, located on the Kern River near Bakersfield, Calif.

The installed capacity of the Kern Canyon Project is 8,480 kw. (12,000 hp.). The project consists of: (1) A diversion dam impounding a reservoir having a storage capacity of 27 acre-feet at a maximum water surface elevation of 948 feet (USGS; (2) a concrete diversion dam with a crest length of 150 feet and a maximum height of 23 feet containing trippable and removable flashboards with permanent stoplogs and 4 radial gates; (3) a 8,435-foot long horseshoe shaped tunnel from the intake; (4) a 574-foot long steel penstock varying in diameter from 96 to 90 inches; (5) a concrete powerhouse containing one 8,480 kw. hydroelectric generating unit; (6) an outdoor substation containing one 11/70 kv. transformer; (7) an 8.3-mile long 70 kv. transmission line; and (8) all other facilities and interests appurtenant to the operation of the project.

According to the application: (1) The estimated net investment in the project as of December 31, 1971, was $1,457,362 which is less than applicant's estimate of fair value; (2) the amount of taxes paid annually to county, State, and Federal governments is $123,858; (3) applicant did not provide an estimate with regard to severance damages in the event of take over by the United States.

Because of safety considerations and the severe physical limitations imposed by the project's location (a steep, rugged canyon with almost vertical walls), there are no recreation facilities constructed or planned for this project area.

Any person desiring to be heard or to make any protest with reference to said application should, on or before December 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426 petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc.72-17679 Filed 10-16-72;8:50 am]

FEDERAL RESERVE SYSTEM

FLORIDA BANCORP, INC.

Order Approving Acquisition of Bank

Florida Bancorp, Inc., Pompano Beach, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 98.6 percent of the voting shares of Northwestern Bank of Broward County, Margate, Fla. (Margate Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks with aggregate deposits of $58.4 million, representing 0.4 percent of the total deposits in commercial banks in Florida and is the 27th largest banking organization and bank holding company in the State. (All banking data are as of December 31, 1971, adjusted to reflect holding company formations and acquisitions approved by the Board through August 31, 1972.) Since Margate Bank is a proposed new bank no existing competition would be eliminated nor would the concentration of banking resources be affected.

The proposed site of Margate Bank is west of Pompano Beach in a market area comprised of the Fort Lauderdale, Pompano Beach, and Boca Raton sections of Broward and Palm Beach Counties. There are 37 banks operating in the market. Applicant, the smallest of seven bank holding companies represented in the market, holds 4.4 percent of total market deposits, whereas the two largest holding companies hold 42.3 percent. Applicant's present subsidiaries are situated 6 and 8 miles, respectively, from the proposed site of Margate Bank. They compete locally with four subsidiaries of a holding company which controls 65.61 percent of the total deposits of the Pompano Beach area. It appears that the competing banks would not be adversely affected by consummation of the proposed acquisition nor would any significant amount of potential competition be foreclosed thereby. Competitive considerations are consistent with approval of the application.

The financial and managerial resources of applicant and its two subsidiary banks are considered to be satisfactory, and prospects for the group appear favorable. The proposed new bank has no financial or operating history, however prospects for Margate Bank as a member of applicant's system appear favorable. Banking factors are consistent with approval of the application. The major banking needs of the area are being adequately served at the present time, and no new services would be provided area residents by Margate Bank. However, the residents would benefit from the introduction of an alternative source of banking services to the area. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after that date, and (c) Northwestern Bank of Broward County, Margate, Fla., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 10, 1972.

[SEAL] Tynan Smith,
Secretary of the Board.

[FR Doc.72-17665 Filed 10-16-72;8:49 am]

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank

Southeast Banking Corp., Miami, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of American National Bank and Trust Co. of South Pasadena, South Pasadena, Fla. (American Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 17 banks with aggregate deposits of $1.24 billion, representing 7.64 percent of the total commercial bank deposits held by Florida banks, and is the largest banking organization in the State.[2] The acquisition of American Bank would increase applicant's share of Florida deposits by 0.24 percentage points, and would not substantially increase the concentration of banking resources on a State or local level.

American Bank controls 4.06 percent of commercial deposits in the South Pinellas banking market and is the 10th largest of 25 banks in this market. At the present time there are six multibank holding companies represented in the

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[2] All banking data are as of December 31, 1971, except applicant's acquisitions approved by the Board are as of September 21, 1972, and all other formations and acquisitions approved by the Board are as of August 31, 1972.

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market, controlling 54.27 percent of area deposits. It appears that consummation of the proposal would not adversely affect any of these area banks.

The proposed acquisition would represent applicant's first entry into the South Pinellas market. Its closest subsidiary offices are located 30 miles to the south and to the northwest, respectively, from American Bank. Consummation of this proposal would not eliminate significant present competition between these offices nor would meaningful potential competition be removed considering the distances involved, the presence of intervening banks, and restrictions on branching imposed by State law. Competitive considerations are consistent with approval of the application.

The financial and managerial resources of applicant and its subsidiaries are deemed to be generally satisfactory and prospects for the group appear favorable. Applicant proposes to inject equity capital into American Bank which will significantly improve its capital position, and will also supplement present management. Banking factors are consistent with and lend support toward approval of the application in view of the proposed improvements and support to be derived by American Bank from affiliation with applicant. Although the major banking needs of the area are adequately served at the present time, the proposed affiliation will improve American Bank's ability to compete with larger area banks through its expanded and improved services and larger lending capabilities. Considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 10, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17664 Filed 10-16-72;8:49 am]

TEXAS COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to San Angelo National Bank of San Angelo, San Angelo, Tex. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks located in the Houston area with aggregate deposits of $1.2 billion, representing 3.9 percent of total deposits of commercial banks in the State. Applicant, the fourth largest banking organization in Texas and the second largest in the Houston banking market, controls approximately 16.5 percent of total commercial bank deposits in the Houston area. (All banking data are as of December 31, 1971, and reflect bank holding company acquisitions and formations approved through June 30, 1972.) In addition to its two subsidiary banks, applicant holds, through a subsidiary, 24.9 percent of the outstanding voting shares of Airline Bank and Reagan State Bank of Houston.[1] Applicant's subsidiary also holds between 20 and 24 percent of each of three other banks in the Houston area. These five banks hold aggregate deposits of $168.7 million representing 2.4 percent of total deposits of commercial banks in the Houston area. Upon consummation of the acquisition of Bank, applicant's share of commercial bank deposits in the State would increase by 0.2 percentage points and its ranking among banking organizations in the State would be unchanged. Consummation of the proposal herein would constitute applicant's initial entry into the San Angelo banking market.

Bank ($70 million of deposits) operates one banking office located in downtown San Angelo and is the largest of five banks operating in that market largely by virtue of its correspondent bank and public deposits which total approximately $20 million. The Central National Bank of San Angelo ($63.2 million of deposits) and The First National Bank of San Angelo ($38 million of deposits), the second and third largest banks in Bank's market, control respectively 33.4 and 20 percent of total deposits of commercial banks in the area. Bank ranks second in the market on the basis of total IPC deposits with 33.5 percent of the total, compared with 33.8 percent for The Central National Bank of San Angelo. If the IPC deposits of The First National Bank of San Angelo are combined with those of its affiliate, West Side National Bank of San Angelo, First National's IPC deposit total represents 27.4 percent of the market total. Thus, size disparity among the top banks is not so wide as to enable Bank to dominate the San Angelo banking market. Bank is affiliated through common share ownership with three other banks located in the west Texas area.[2] Although two of these banks have been under common ownership along with Bank since 1961, the record indicates that they have not been operated cooperatively as a group. The common majority shareholders have not taken an active part in the management of these banks and have stated that they have no intention of doing so in the future. Nor do the facts of record evidence that this group of banks possesses either the financial or managerial resources to form a regional holding company.

Applicant's two present subsidiary banks are located in Houston, Tex., more than 360 miles southeast of Bank. It appears that no meaningful competition exists between Bank and any of applicant's subsidiary or associated banks. Further, it appears unlikely that meaningful competition would develop in the future between Bank and any of applicant's subsidiary or associated banks in light of the facts presented, particularly the distances separating these banks and the Texas statutes prohibiting branch banking. Applicant could enter the San Angelo market de novo or conceivably through the acquisition of the only smaller bank in that market that is presently unaffiliated. However, there is no indication as to the availability for purchase of this unaffiliated bank and, in any case, its location does not lend itself for effective competition with the downtown San Angelo banks. The facts of record indicate that the prospects for entry de novo by applicant are remote. While the population per banking office ratio for the San Angelo market is above the ratio for the entire State, as noted in one of the dissenting opinions, it is below the ratio for Texas metropolitan areas (the State average ratio is brought down by the relatively low population per banking office in the sparsely populated rural areas of Texas). The rate of population growth of the area is below the State average and below the rate for other Texas metropolitan area. These factors, in addition to others, including the relatively small deposit size of the San Angelo banking market,[3] indicate that the prospect for entry de novo or through acquisition of a foothold bank in the San Angelo market is unlikely. The record also indicates that the majority shareholders of Bank intend to dispose of their shares of Bank (and their other banking interests) even if the subject applications are denied. Acquisition of Bank by applicant (or some other statewide banking organization) would not appear to have an adverse effect on competition in the San Angelo market nor foreclose entry by other bank holding companies into the market. The second and third largest banks in the market each controls a significant share of market deposits and each has evidenced its ability to compete successfully with Bank.[4] Furthermore, entry by applicant may serve to stimulate competition among the three largest banks in the market, either through applicant's initiative or through the probable entry of other banking organizations through acquisition of Bank's largest competitors. To the extent this occurs, the subject proposal will have procompetitive effects on banking in the San Angelo market.

At the present time the level of concentration of banking resources in Texas is not particularly high. As of December 31, 1971, there were 108 bank holding companies in the State controlling 47.4 percent of the assets and 44.8 percent of the deposits of all commercial banks in the State. In August 1972, the 15 multibank organizations in the State controlled 34.2 percent of the deposits in the State and the four largest of these organizations controlled 24.3 percent and 21.7 percent of assets and deposits, respectively. The Board does not view the present level of either asset or deposit concentration of commercial banks in Texas to be so significantly high as to lessen the ability of Texas bank holding companies to develop and compete effectively on either a regional or statewide basis. There remain throughout the State a large number of moderately sized independent banks which are available as potential members of banking organizations now developing in the State. Banking organizations in Texas are presently unable to satisfy the capital demands of the large industrial concerns which have located in the State. Proposals involving the largest banking organizations in the State require the weighing by the Board of the impact of further concentration of banking resources with the need to increase the ability of Texas banks to satisfy the financial requirements of these large corporations. The effect upon concentration of banking resources of the present proposal is not so significant as to outweigh the probable benefits to be achieved from consummation of the proposal.

On the record before it, the Board concludes that consummation of the subject proposal would not result in a monopoly nor be in furtherance of any combination, conspiracy, or attempt to monopolize the business of banking in any area, nor have any substantially anticompetitive effects.

The financial condition and managerial resources of applicant and its subsidiary banks appear satisfactory and future prospects of all seem favorable. The financial condition and management of Bank appears satisfactory and its future prospects appear favorable and consistent with approval. The major banking needs of the residents of the San Angelo area appear to be adequately served at the present time by existing institutions. However, applicant has stated its intention to make available through Bank additional banking services such as real estate, international banking and petroleum financing services. Such services would be made available to several industrial interests operating in the San Angelo area that must now obtain larger loans and more sophisticated banking services from larger city banks outside the San Angelo market. Considerations relating to the convenience and needs of the relevant areas are consistent with and lend some weight toward approval of the application. It is the Board's judgment that consummation of the proposed transaction is in the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.[5] The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[6] effective October 6, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17666 Filed 10-16-72;8:49 am]

TWIN CITY CORP.

Order Approving Formation of Bank Holding Company and Acquisition of Insurance Agency

Twin City Corp., Kansas City, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 80 percent or more of the voting shares of Twin City State Bank, Kansas City, Kans. (Bank).

At the same time applicant has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to engage in insurance agency activities through the acquisition of the shares of Twin City Financial Services, Inc., Kansas City, Kans. (Agency).

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the facts set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and finds that:

Applicant, a nonoperating company, was formed for the purpose of reorganizing the individual ownership of Bank and Agency into corporate form. Applicant would acquire Bank through an exchange of its stock for Bank's stock, and a cash offering. In addition, since Agency presently owns 4.69 percent of Bank's shares, applicant would acquire such shares through its acquisition of Agency.

Bank, with deposits of $18.2 million,[1] controls less than 0.5 percentage points of deposits in commercial banks in the Kansas City SMSA. Since the transaction involves only a change from individual to corporate ownership, consummation of the proposal would have no adverse effects on existing or potential competition.

The financial and managerial resources and future prospects of applicant are largely dependent on those of Bank and Agency. Bank has been operated capably since 1963, and substantially the same management would continue to operate Bank. Although applicant will incur debt in acquiring Bank, its income from Bank and Agency should provide sufficient revenue to retire debt within 10 years. Financial and managerial considerations are, therefore, consistent with approval. Considerations relating to the convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to acquire Bank should be approved.

Agency operates on the premises of Bank and sells primarily credit life and

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[1] On August 31, 1972, the Board approved applicant's application to acquire American National Bank of Beaumont, Beaumont, Tex. ($112 million of deposits). At the same time the Board directed applicant to divest shares of Beaumont State Bank, Beaumont, Tex. ($25 million of deposits) which would be acquired indirectly through applicant's acquisition of American National Bank. On September 1, 1972, the Board approved applicant's applications to acquire the successors by merger to Airline Bank ($26.5 million of deposits) and Reagan State Bank of Houston ($65 million of deposits), both of Houston, Tex. Applicant is in the process of organizing seven de novo banks located in the Houston market.

[2] These three banks are Citizens National Bank, Lubbock, Tex. ($105.5 million of deposits); American Bank of Commerce ($43.5 million of deposits); and Permian Bank and Trust ($4.7 million of deposits), both of Odessa, Tex. Applicant has filed separate applications with the Board to acquire shares in each of these banks.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[3] The total deposits of the five banks in the San Angelo market are only $189.5 million and for IPC deposits, only $147 million. Approximately 12 percent of these deposits are deposits due to commercial banks, and hence were probably generated outside of the San Angelo market.

[4] Bank's share of deposits of commercial banks in the San Angelo market has declined from 46.4 percent to the present 36.9 percent from 1961 to 1971.

[5] Dissenting Statements of Governors Robertson and Brimmer are filed as part of the original documents. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Dallas.

[6] Voting for this action: Governors Mitchell, Daane, Sheehan, and Bucher. Voting against this action: Vice Chairman Robertson and Governor Brimmer. Absent and not voting: Chairman Burns.

[1] Banking data are as of Dec. 31, 1971.

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credit accident insurance in connection with extensions of credit by Bank. Agency also sells automobile collision insurance in connection with automobile financing, with the Bank named as the loss payee. Agency proposes to act as agent for the sale of insurance for applicant, its subsidiaries, and the protection of their respective employees. These insurance agency activities have previously been determined by regulation to be closely related to banking (12 CFR 225.4(a)(9)).

Agency began operations on April 1, 1971, to sell insurance in connection with loans made by Bank. Agency appears to adequately serve the convenience of Bank's installment loan customers. Because of the limited nature of its insurance activities, Agency does not compete significantly with general insurance agencies in the Kansas City SMSA and the proposed reorganization of Agency's operations should have no effect on competition for insurance services in that market.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors that the Board is required to consider regarding the acquisition of Agency under section 4(c)(8) is favorable and that the application should be approved.

The provision of any credit, property or services by the holding company or any affiliate thereof shall not be subject to any condition which, if imposed by the bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

On the basis of the record, the applications to acquire Bank and Agency are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority. The determination as to Agency's activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective October 10, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17663 Filed 10-16-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-4265-7-4272]

ALASKA INTERSTATE CO. ET AL

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 6, 1972.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Alaska Interstate Co	7-4265
American South African Investment Co., Ltd	7-4266
Aztec Oil & Gas Co	7-4267
Banister Continental Corp	7-4268
Gino's Inc	7-4269
Homestake Mining Co	7-4270
Lubrizol Corp	7-4271
Monroe Auto Equipment Co	7-4272

Upon receipt of a request, on or before October 22, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17631 Filed 10-16-72;8:46 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[811-1320, 812-3120]

AMOSKEAG CO.

Notice of Filing of Application for Order Declaring That Company Is Not an Investment Company for Order Terminating Its Registration

OCTOBER 6, 1972.

Notice is hereby given that Amoskeag Co. (Amoskeag), Suite 4500, Prudential Center, Boston, Mass. 02199, a Delaware corporation, registered as a closed-end, nondiversified investment company under the Investment Company Act of 1940 (Act), has filed an application: (1) Pursuant to section 3(b)(2) of the Act for an order declaring that Amoskeag is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses; and (2) pursuant to section 8(f) of the Act for an order declaring that Amoskeag has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

The application states that Amoskeag registered under the Act on June 4, 1965, in anticipation of succeeding to the business of its predecessor company which had registered under the Act in 1941, and that it carried on its business as an investment company through January 13, 1971, at which time the stockholders of Amoskeag authorized management to change the nature of Amoskeag's business so that it would cease to be an investment company.

A summary of the value of Amoskeag's assets as of December 31, 1971, as submitted by Amoskeag is set forth in Table I below:

TABLE I

	Percent of voting securities owned	Amoskeag's assets: Amount	Amoskeag's assets: Percent
Securities of wholly owned and majority owned subsidiaries:			
Bangor and Aroostook Railroad Co.	99.30	$6,897,635	9.29
Industrial Technology Interface, Inc.	60.00	75,000	.10
Moore's Falls Corp.	100.00	512,011	.69
Springfield Street Railway	57.94	490,369	.67
Westville Homes Corp.	85.00	1,399,750	1.89
Total wholly owned and majority owned companies		9,383,765	12.64
Securities of companies less than majority owned:			
Affiliated companies 25 percent to 49 percent owned:			
Bedford Advisors, Inc.	36.36	51,000	.07
Fanny Farmer Candy Shops, Inc.	37.32	1,874,525	2.53
Fieldcrest Mills, Inc.	39.71	49,247,700	66.36
Maine Central Railroad Co.	26.18	1,004,200	1.35
Worcester Bus Co.	35.19	147,866	.20
Affiliated companies 5 percent to 24 percent owned:			
Computek, Inc.	13.83	513,455	.69
Intercomputer Corp.	13.09	84,000	.07
Unaffiliated companies (less than 5 percent owned)		11,830,492	15.95
Total companies less than majority owned		64,681,238	87.22
Assets other than securities and cash items		102,928	.14
Total assets less Government securities and cash items		74,218,931	100.00
Government securities and cash items		2,672,122	

Section 3(a)(3) of the Act defines as an investment company any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuers total assets (exclusive of Government securities and cash items) on an unconsolidated basis. As used in section 3(a)(3) the term investment securities includes all securities except so far as here pertinent securities issued by majority-owned subsidiaries of the owner which are not investment securities, Government securities and cash items. Table I indicates that investment securities represented by Amoskeag's holdings of securities of less than majority-owned subsidiaries aggregate $64,681,238 or 87.22 percent of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Accordingly, it appears that Amoskeag is an investment company as defined in section 3(a)(3).

Section 3(b)(2) of the Act, however, excepts from the definition of an investment company any issuer which the Commission finds and by order declares to be primarily engaged in a business or business other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (a) through majority-owned subsidiary, or (b) through controlled companies conducting similar types of businesses. Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon taking effect of such order, the registration of such company shall cease to be in effect.

Amoskeag contends that it is entitled to an order pursuant to section 3(b)(2) finding that it is not an investment company because of the circumstances described below and, based on such findings and order, that it is entitled to an order pursuant to section 8(f) declaring that it has ceased to be an investment company.

Amoskeag states that it is now primarily engaged in the business of manufacturing and selling textiles through Fieldcrest, a controlled company (39.71 percent owned) and in the following businesses through the companies noted, which are hereinafter referred to collectively as the "wholly owned and majority-owned subsidiaries:" the surface transportation business through Springfield Street Railway (57.94 percent owned); the railroad business through Bangor and Aroostook Railroad Co. (99.30 percent owned); the development of land through Moore's Falls Corp. (100 percent owned); the manufacture and sale of prefabricated residences through Westfield Homes Corp. (85 percent owned); and the technology transfer business through Industrial Technology Interface, Inc. (60 percent owned).

On the basis of the values of its assets at December 31, 1971, as shown in the application, the value of Amoskeag's interest in the businesses of Fieldcrest and in the businesses of Amoskeag's wholly owned and majority-owned subsidiaries represented 79 percent of Amoskeag's total assets (exclusive of Government securities and cash items); and the value of Amoskeag's interest in Fieldcrest alone represented 66.36 percent of such total assets.

For the year 1971, Amoskeag's net income excluding and including realized capital gains from the sale of securities was $2,801,593 and $3,602,226, respectively. Of these amounts, the dividends of $1,984,080 received from Fieldcrest alone represent 70.8 and 55.07 percent thereof, respectively; and the dividends of $2,042,931 received from Fieldcrest and the wholly owned and majority-owned subsidiaries represent 72.9 and 56.71 percent thereof, respectively.

The application shows that, prior to the recent death of the chairman of the Amoskeag board for whom no successor has been named, six individuals who were officers or directors of Amoskeag also served as directors of Fieldcrest whose board of directors consists of 12 members; that five individuals who were offirecs or directors of Amoskeag were members of Fieldcrest's executive committee which consists of six members. Included among the persons who serve both Fieldcrest and Amoskeag as directors is the new president of Fieldcrest who was nominated for such position by Amoskeag and who thereafter became a director of Amoskeag.

The application states that Amoskeag's president spends a substantial portion of his working time on the affairs of Fieldcrest, and that Amoskeag through its president and its other representatives (including the president of Fieldcrest), who are members of Fieldcrest's executive committee, controls and directs all aspects of the operations of Fieldcrest.

The application indicates that representatives of Amoskeag are among the officers and directors of each of Amoskeag's wholly owned and majority-owned subsidiaries. The application states that the president of Amoskeag and his assistant railroads serve Bangor and Aroostook Railroad as chief executive officer and chief operating officer, respectively, and that through these individuals and one other of its representatives Amoskeag operates Bangor and Aroostook Railroad. The application also states that Amoskeag exercises operating and financial control over Westville Homes Corp.; that Amoskeag exercises financial control and general policy supervision over Industrial Technology Interface, Inc.; and that Amoskeag participates in the direction of the affairs of Springfield Street Railway through two of its directors who are also on the board of directors of Springfield and, until his recent death, through the chairman of the board of directors of Amoskeag who also served as the chairman of the board of directors of Springfield.

The application shows that the management of Amoskeag has stated that although Amoskeag may continue to trade in securities, the scope of such trading would be minor in relation to the value of its investments in the majority-owned subsidiaries or otherwise controlled companies through which it conducts its noninvestment company businesses. The application further shows that Amoskeag's management has also stated that while Amoskeag would continue to keep its funds not needed for the conduct of the noninvestment company businesses of its majority-owned and controlled companies invested in Government or investment securities, management believes that full attainment of its noninvestment company business objectives would reduce the value of Amoskeag's holdings of investment securities to a point where their value would represent less than 40 percent of the value of Amoskeag's total assets exclusive of Government securities and cash items; and that management considers that the value of such investment securities would normally not exceed 30 percent of the value of such total assets, less Government securities and cash items.

The application suggests that Amoskeag became primarily engaged in the noninvestment company businesses of Fieldcrest and Amoskeag's wholly owned

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and majority-owned subsidiaries after January 13, 1971, when the stockholders of Amoskeag authorized changing the nature of that company's business so as to cease to be an investment company. However, it should be noted that for some time prior to January 13, 1971, Amoskeag held voting interests in Fieldcrest and the wholly owned and majority-owned subsidiaries (except for Industrial Technology Interface, Inc.) roughly equivalent to those shown in Table I and representatives of Amoskeag served each of the other companies in various important capacities such as officers or directors and that through its representatives Amoskeag participated in the affairs of each of the other companies. Furthermore, the application shows that prior to January 13, 1971, Amoskeag's interest in Fieldcrest and the wholly owned and majority-owned subsidiaries constituted an important part of Amoskeag on an asset and earnings basis. For example, on the basis of the information contained in the application, Amoskeag's investment in Fieldcrest alone at December 31, 1969, amounted to $39,905,500 or 59.86 percent of total assets, exclusive of Government securities and cash items; and at the same date the value of Amoskeag's interests in Fieldcrest and its wholly owned and majority-owned subsidiaries was $47,112,061 or 70.67 percent of total assets, exclusive of Government securities and cash items. Nonetheless, the application states that prior to January 13, 1971, when Amoskeag's stockholders approved changing the nature of its business, Amoskeag considered itself to be engaged in the business of an investment company and not to be primarily engaged in the noninvestment businesses of Fieldcrest or of Amoskeag's wholly owned and majority-owned subsidiaries, because its interest in each of such companies was then viewed solely as a "special situation" investment.

The application states that by a special situation Amoskeag means an investment in a company as to which Amoskeag exercises some degree of control and in the organization of which Amoskeag participated or in which its investment has constituted a substantial percentage of the voting securities of the particular company, and which investment has been made on the basis of a judgment that it offered an unusual opportunity for increase in value and eventual realization of gain when the investment should be sold. It should be noted that Amoskeag or its predecessor company has owned a substantial common stock interest in Fieldcrest since 1953; that the predecessor company of Amoskeag participated in the organization of Fieldcrest in 1953, and owned over 50 percent of Fieldcrest's common stock during the period 1953–63; and that at December 31, 1971, Amoskeag still owned 39.71 percent of Fieldcrest's outstanding common stock. It should also be noted that Amoskeag has held interests in each of its wholly owned and majority-owned subsidiaries listed below since the dates shown as follows: Moore's Falls Corp., 1921; Springfield Street Railroad Co., 1941; Bangor and Aroostook Railroad Co., 1969; Westville Homes Corp., 1969; Industrial Technology Interface, Inc., 1970.

The application states that Amoskeag no longer considers its interests in Fieldcrest and its wholly owned and majority-owned subsidiaries to be special situations but that Amoskeag considers that they constitute investments in business operations to realize profits and increases in values from such operations. In support, the application cites, among other things, the formal declaration by the board of directors on November 30, 1971, of an operating and business policy providing, in part, for the development and expansion of the businesses conducted by Fieldcrest and the wholly owned and majority-owned subsidiaries with a view to the realization of profits out of the conduct of such businesses (rather than the eventual realization of gain when the interest should be sold). The application also asserts the intention of Amoskeag to hold and to continue to operate and develop these businesses.

Notice is further given that any interested person may, not later than October 31, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Amoskeag at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17632 Filed 10-16-72;8:46 am]

[70-5236]

COLUMBIA GAS SYSTEM, INC. AND COLUMBIA GAS DEVELOPMENT CORP.

Notice of Proposed Issue and Sale of Common Stock by Subsidiary Company To Finance Drilling Joint Venture and Acquisition Thereof by Parent Registered Holding Company

OCTOBER 10, 1972.

Notice is hereby given that Columbia Gas System, Inc. (Columbia), 20 Montchanin Road, Wilmington, DE 19807, a registered holding company, and its wholly owned nonutility subsidiary company, Columbia Gas Development Corp. (Development), have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said application-declaration, which is summarized below, for a complete statement of the proposed transactions.

In recognition of the increased demand for gas and oil reserves, the Federal Government is leasing a number of tracts offshore Louisiana and Texas for exploration and development. Natural gas suppliers (including Columbia), desiring to obtain additional reserves from these offshore areas, must either buy gas from companies which have acquired leases and subsequently developed reserves thereon, or must, individually or as a member of a group, seek to acquire such leases. The Federal Government proposes to conduct lease sales of offshore Louisiana and Texas acreage in December 1972. Present indications are that 135 tracts, involving 618,758 acres, will be put up for bidding.

Columbia proposes the formation of a joint drilling venture (Main Drilling Venture) to bid for offshore leases and thus to be a major participation in the lease purchases. The participants in Main Drilling Venture, as noted below, will be two other joint ventures, in both of which Development will participate. These two constituent joint ventures and their respective capital obligations to Main Drilling Venture are: Coleve, $150 million; and Forest Drilling Venture, $50 million. Leases obtained by Main Drilling Venture will be operated by Forest Oil Corp. (Forest Oil), a nonaffiliated oil and gas production company.

The two participants in Coleve will be Development and a nonaffiliated company, Energy Ventures, Inc. (Energy). Capitalization of Coleve is to consist of a contribution by Energy of a $50 million advance in the form of a loan (Energy Loan), and of $50 million for equity entitling Energy to a 50 percent participation in Coleve. The remaining $50 million contribution of Coleve is to be made by Development as needed to provide for 75 percent of the cost of exploratory and development drilling and will entitle Development to a 50 percent participation in Coleve. Energy intends to sell its stock to the public to obtain the capital for its participation. It is contemplated that Energy's contribution of $100 million, when paid to Main Drilling Venture, will represent 75 percent of the amounts to be paid to the Federal Government for leases.

The Coleve agreement provides that unless a minimum of $25 million has been spent for leases and participation is acquired in at least five offshore tracts, Energy has the option to withdraw from Coleve, in which case Development will assume the Coleve obligations for leases which have been obtained. If funds in excess of $150 million are required by Coleve, both Energy and Development are to provide funds equal to their then participation. However, Energy has the option to decline to meet the call for additional funds, in which case, such funds will be provided by Development with pro rata adjustment in the participation percentages of Energy and Development.

The Coleve agreement further provides that the $50 million Energy Loan may be converted at any time into an equity participation in Coleve on a dollar-for-dollar basis. Thus, should the entire Energy Loan be converted, Energy would then own 66⅔ percent and Development 33⅓ percent respectively, participation in Coleve. To the extent the Energy Loan is not converted, Energy has the option to present one-third of the Energy Loan for payment in each of the years 1977, 1978, and 1979. In such event, Development is obliged to make additional contributions to Coleve in an amount equal to the principal amount of the Energy Loan surrendered, and the participation of Energy and Development will remain at 50 percent each. In the event the Energy Loan is not converted or presented for payment, it will remain as outstanding debt of Coleve and will be payable in eight annual installments, beginning 7½ years after its issuance. The Energy Loan will bear interest at the prime commercial bank rate, adjusted quarterly, except that for the first 4½ years interest will be limited to the extent of Coleve's net earnings, payable annually on a noncumulative basis only.

Under the Coleve agreement, Development's maximum obligation would be $100 million. Columbia requests authorization to purchase, at $15 par value per share, up to 6,666,666 shares of common stock to be issued and sold by Development so as to provide Development with the $50 million needed to meet the cost of exploratory and development drilling plus such additional amounts, not to exceed $50 million, as to permit Development to make advances to Coleve in the event Energy requests Coleve to repay the full amount of the Energy Loan.

Forest Drilling Venture, the other member of Main Drilling Venture, is to have a $50 million capitalization, $45 million to be contributed by Forest Oil for a 90 percent participation and $5 million by Development for a 10 percent participation. Forest Drilling Venture is to devote $33,330,000 of its capitalization towards lease acquisitions, 90 percent of which ($30 million) will represent Forest Oil's contribution and 10 percent ($3,330,000), that of Development. Development has agreed to advance Forest Oil's $30 million contribution for lease acquisitions. The balance of Forest Drilling Venture capitalization, estimated to be $16,670,000, will be initially provided by Development for exploratory and development costs.

Forest Oil is to repay the advance to it for lease acquisitions in amounts equal to 180 percent of the amounts provided by Development for exploratory and development costs. If the exploratory and development costs total $16,670,000, Forest Oil will have repaid Development $30 million, but it will then owe Development approximately $15 million for Forest Oil's 90 percent share of the exploratory and development costs.

Development's advances to Forest Oil for lease acquisitions and for exploratory and development costs will bear simple interest at a rate equal to one-half of 1 percent over the current prime rate of the Chase Manhattan Bank (National Association). Interest on these advances will be paid out of the income allocable to Forest Oil from the Main Drilling Venture. Any such remaining income will be applied to the repayment of Forest Oil's obligations for lease acquisitions or for exploratory and development costs. If payment of the advance has not been recouped by or paid to Development by December 31, 1980, Forest Oil is to pay one-half of the amount not recouped by or paid to Development. The remaining one-half will continue to be subject to the recoupment and payment provisions described above.

Columbia states that through the Main Drilling Venture, the amount of acreage which could be acquired is double the amount which Columbia could obtain if it were only to apply its own cash resources. Development or an affiliated company will have the first right to purchase at competitive prices all gas assignable to Coleve and Forest Drilling Venture by reason of their participation in Main Drilling Venture. Both the Coleve and The Forest Drilling Venture agreements provide that Development will be entitled to all drilling deductions for tax purposes.

It is stated that the fees, commissions and expenses to be paid or incurred, directly or indirectly, in connection with these transactions by the applicant or declarant or any associate company thereof are to be filed by amendment, and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 20, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17624 Filed 10-16-72;8:46 am]

[812-3214]

HAMILTON FUNDS, INC., ET AL.

Notice of Application for an Order Exempting Applicants

OCTOBER 10, 1972.

Notice is hereby given that Hamilton Funds, Inc., Hamilton Growth Fund, Inc., and Hamilton Income Fund, Inc. (Funds), all open-end diversified management investment companies registered under the Investment Company Act of 1940 (Act), and Hamilton Management Corp. (Hamilton), c/o Edward F. O'Keefe, 7400 South Alton Court, Post Office Box 5061, Denver, CO 80217, a registered broker-dealer and principal underwriter of the shares of the Funds (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

The shares of the Funds are normally offered and sold to the public at a price

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which includes a maximum sales load of 8½ percent of the offering price.

Applicants propose to offer to persons who redeem any one or any portion of any one of his Fund accounts a one-time privilege to elect to utilize all or any portion of his redemption proceeds to purchase shares of any one of the Funds at net asset value.

The privilege would be communicated to redeeming investors of the Funds either orally or in writing and would have to be exercised within 15 days after receipt by Hamilton of the investor's redemption request. Shares would be sold to an investor who has exercised the privilege of reinvestment at the applicable Fund's net asset value next computed after receipt of the investor's written, telephoned or telegraphed order.

The privilege will be disclosed in the prospectuses of each of the Funds, and may be exercised only once by any one investor. No sales commission will be paid, either directly or indirectly, to any individual or entity as consideration for the exercise of the privilege and any costs and expenses associated with efforts expended to advise redeeming investors of the privilege will be borne by Hamilton or some entity other than the Funds. Where the proceeds from the redemption of any one or any portion of any one of the investor's Fund accounts are utilized to purchase shares in one or more of the Funds other than the Fund from which the investor has made a redemption, the customary $5 exchange fee will be assessed. Where the investor's account is merely reinstated in the same Fund from which he has made a redemption within the preceding 15 days, no such service charge will be made.

Applicants contend, among other things, that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked, or of which they may have been unaware at the time they redeemed; that the privilege does not operate to the prejudice of the Funds or their shareholders; and that the one-time feature will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17627 Filed 10-16-72;8:46 am]

[812-3253]

MANHATTAN FUND, INC., ET AL.

Notice of Application Pursuant for an Order Exempting Applicants

OCTOBER 10, 1972.

Notice is hereby given that Manhattan Fund, Inc., TMR Appreciation Fund, Inc., and Liberty Fund, Inc. (Funds), all of which are open-end diversified management investment companies registered under the Investment Company Act of 1940 (the Act), and Tsai Management & Research Corp. (Corporation), 245 Park Avenue, New York, NY 10017, a Delaware corporation, the Funds' principal underwriter (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Applicants propose to offer to persons who redeem shares of any of the Funds a one-time privilege to: (a) Reinstate their accounts by repurchasing shares at net asset value without a sales charge up to the amount redeemed; or (b) purchase under the exchange privilege available generally to shareholders of the Funds, shares of any other of the Funds at net asset value without a sales charge up to the amount redeemed. Notice of this proposed privilege will be given to eligible persons in writing or by telephone as part of the processing of their redemption request. To be effective, notice from such eligible persons of the exercise of the privilege must be received or postmarked within 15 days after the redemption request is received. The reinstatement or exchange will be made at the net asset value on the day that notice of the exercise of the privilege is received.

Applicants assert that in order to defeat the possibility of abuse, the privilege will be offered to shareholders who have requested redemption on a one-time basis. Once a person has exercised the privilege as to his holdings in any of the Funds, the privilege will not thereafter be available to him upon redemption of shares in that or any other of the Funds.

Applicants state that no compensation of any kind will be paid to any dealer or salesman in connection with the purchase or exchange of shares pursuant to exercise of the privilege. Any cost involved will be borne by the underwriter of the Funds' shares, Tsai Management & Research Corp., except that the $5 service fee payable by all shareholders exercising the exchange privilege will be charged where appropriate.

Applicants contend that the proposed privilege will remind investors of features of their investment which they may have overlooked or which they may have been unaware at the time they redeemed. In addition, Applicants assert that the privilege does not operate to the prejudice of the Funds or their shareholders and that the one-time feature will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17626 Filed 10-16-72;8:46 am]

[File No. 7-4264]

McDONOUGH CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 6, 1972.

In the matter of application of the Boston Stock Exchange, for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

McDonough Co., File No. 7-4264

Upon receipt of a request, on or before October 22, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17630 Filed 10-16-72;8:46 am]

[File No. 24NY-7365]

MINUTE APPROVED CREDIT PLAN, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

SEPTEMBER 26, 1972.

I. Minute Approved Credit Plan, Inc. (Minute) is a New York corporation located at 2 Ralph Avenue, Brooklyn, NY. It was organized on June 8, 1961, and was engaged in the business of purchasing installment credit consumer obligations from retail dealers.

On June 25, 1971, it filed a notification pursuant to Regulation A in connection with a proposed offering of 100,000 shares of its $0.05 par value common stock at $5 per share. The offering was conducted by A. C. Kluger & Co. (underwriter) as underwriter on a "best efforts 50 percent or none" basis. After several post-effective amendments the offering was actually commenced on June 9, 1972. A "closing" was held on July 17, 1972, covering the sale of 50 percent of the 100,000 shares being offered.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The notification and offering circular filed by Minute contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in the following respects:

1. The offering circular fails to state material facts concerning the proposed use of proceeds, in particular that a substantial portion of the proceeds of the offering would be used to make loans and payments to certain individuals.

2. The offering circular is materially false and misleading in that Minute failed to conduct the offering in accordance with the terms set forth therein, which provided that funds received under the offering would be returned to subscribers unless a minimum number of shares were sold within 120 days and that the money received during the 120-day period would be deposited in a special account.

3. The offering circular is false and misleading in that a substantial portion of the funds received by Minute did not represent shares sold in a bona fide distribution, but were given by the underwriter to Minute merely to make the minimum (the sale of 50,000 shares).

4. The notification and offering circular failed to state that Michael Hellerman (Hellerman) and Ivan Ezrine (Ezrine) would participate as underwriters in the offering, as that term is defined in section 2(11) of the Securities Act of 1933.

5. The offering circular omitted to state material facts concerning injunctions filed against Hellerman and Ezrine from further violations of the antifraud provisions of the Federal securities laws in connection with the sale of Globus International, Ltd., stock and Manor Nursing Centers, Inc., stock, respectively.

B. Hellerman and Ezrine, undisclosed underwriters, and the subject of injunctions restraining them from further violations of the antifraud provisions of the Federal securities laws, commenced participation in the offering after the filing of the notification and such participation is deemed an event which would have rendered the exemption unavailable if it had occurred prior to such filing.

C. Based on the foregoing, the use of the offering circular by Minute and underwriter operated as a fraud and deceit upon purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-17623 Filed 10-16-72;8:46 am]

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[Files Nos. 7-4273—7-4280]

NATIONAL SEMICONDUCTOR CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 6, 1972.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
National Semiconductor Corp	7-4273
Peabody Gallon Corp	7-4274
Reichhold Chemicals, Inc	7-4275
Scott & Fetzer Co	7-4276
Tandy Corp	7-4277
Texas Oil & Gas Corp	7-4278
Winnebago Industries, Inc	7-4280

Upon receipt of a request, on or before October 22, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17629 Filed 10-16-72;8:46 am]

[812-3244]

SMITH, BARNEY EQUITY FUND, INC., ET AL.

Notice for Application for Exemption

OCTOBER 10, 1972.

Notice is hereby given that Smith, Barney Equity Fund, Inc., and Smith, Barney Income and Growth Fund, Inc. (Funds), diversified open-end management investment companies registered under the Investment Company Act of 1940 (Act), Smith, Barney & Co. Incorporated, 1345 Avenue of Americas, New York, NY 10019, distributor of the Funds' shares (Distributor), and James H. Walker (Walker), 437 Main Street, Bethlehem, PA 18018 (hereinafter collectively called Applicants), have filed an application for an order of the Commission pursuant to section 6(c) of the Act declaring that Walker shall not be deemed an "interested person" of the Funds or the Distributor within the meaning of section 2(a)(19) of the Act solely by reason of his status as a director of the Equitable Life Assurance Society of the United States (Equitable). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Walker, a member of the board of directors of each of the Funds, is also a director of Equitable, a mutual insurance company incorporated under the laws of New York, which is in the business of selling life insurance and variable annuities. Equitable sells individual variable annuities funded by separate accounts that are registered under the Act, and HR-10 plans funded by separate accounts, interests in which are registered under the Securities Act of 1933. Equitable is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers (NASD).

In December 1971, Equitable organized a wholly owned brokerage subsidiary, Equico Securities, Inc. (Equico), which is a member of the Philadelphia-Baltimore-Washington Stock Exchange. Equico is not at present registered as a broker-dealer under the Securities Exchange Act of 1934, nor is it at present a member of the NASD. The Applicants are informed that Equico deals only in listed securities, and acts as a broker solely for Equitable.

Applicants represent that neither Equitable nor Equico has ever engaged in securities transactions on behalf of either of the Fund, or of Distributor. Furthermore, the Funds have undertaken not to purchase any securities from or through, or sell any securities to or through, Equitable or Equico so long as Walker remains a director of the Funds.

Walker in no way participates in the day-to-day operations of Equitable, and he is neither a director or officer of Equico, nor in any other way a participant in the day-to-day operations of Equico.

Section 2(a)(19) of the Act defines an "interested person" of an investment company and its principal underwriter to include any broker or dealer registered under the Securities Exchange Act of 1934, or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an affiliated person of another person to include any director of such other person.

Walker, as a director of Equitable, is and affiliate of a broker-dealer, and is thus an "interested person" of the other Applicants.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants contend that Walker should not be deemed an "interested person" of Applicants because his affiliation with Equitable does not affect, and will not impair, his independence in acting on behalf of Applicants and their shareholders, and the requested exemption is therefore consistent with the provisions of section 6(c) of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17628 Filed 10-16-72;8:46 am]

[70-5243]

SOUTHERN CO.

Notice of Proposed Issue and Sale of Common Shares by Holding Company

OCTOBER 10, 1972.

Notice is hereby given that The Southern Co. (Southern), Perimeter Center East, Post Office Box 720071, Atlanta, GA 30346, a registered holding company, has filed a declaration and an amendment thereto with this Commision pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Southern proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, additional shares of its authorized but unissued common stock, par value $5 per share, in an amount which will result in aggregate cash proceeds of approximately $143 million. The precise number of shares of such additional common stock to be issued and sold will be supplied by amendment. At June 30, 1972, Southern had 62,449,500 shares of common stock outstanding. The proceeds of the sale of the common stock, together with other funds, will be invested by Southern in its subsidiary companies in the aggregate amount of $170,500,000 ($75 million had been invested at June 30, 1972), and will be used to pay all outstanding short-term promissory notes of Southern estimated to aggregate approximately $69,600,000 at the time of the sale of the common stock, which notes were issued for the purpose of making such investments, and for other corporate purposes.

Estimates of the fees and expenses to be incurred in connection with the proposed issue and sale of common stock are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 31, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17625 Filed 10-16-72;8:46 am]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5106]

BURGER KING MESBIC, INC.

Notice of Issuance of License To Operate as a Minority Enterprise Small Business Investment Company

On August 26, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 17445), stating that Burger King MESBIC, Inc., 7360 North Kendall Drive, Miami, FL 33156, had filed an application with the Small Business Administration (SBA), pursuant to section 107.102 of the SBA rules and regulations governing Small Business Investment Companies (13 CFR 107.102 (1972)), for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business September 10, 1972, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 04/04-5106 to Burger King MESBIC, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: October 6, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-17636 Filed 10-16-72;8:47 am]

[License No. 02/02-0110]

STUYVESANT CAPITAL CORP.

Notice of Surrender of License

Notice is hereby given that Stuyvesant Capital Corp., 485 Madison Avenue, New York, NY 10022, incorporated under the laws of the State of New York on July 6, 1961, has surrendered its License No. 02/02-0110, issued by the Small Business Administration (SBA) on September 8, 1961.

Stuyvesant Capital Corp. has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of Stuyvesant Capital Corp. is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: October 6, 1972.

ANTHONY G. CHASE, *Deputy Administrator.*

[FR Doc.72-17637 Filed 10-16-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 136]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 5, 1972.

The following are notices of filing of applications [1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub-No. 203 TA), filed September 26, 1972. Applicant: GARRETT FREIGHTLINES, INC., 2055 GARRETT Way, Post Office Box 4048, Pocatello, ID 83201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the plantsite of J. R. Simplot Co., near Orchard, Idaho, as an off-route point in connection with carrier's regular route operations, for 180 days. NOTE: Applicant does intend to tack authority and to interline with other carriers. Supporting shipper: J. R. Simplot, 805 Idaho Street, Boise, ID 83701. Send protests to: C. W. Campbell, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, ID 83702.

No. MC 16634 (Sub-No. 16 TA), filed September 25, 1972. Applicant: STRANG TRANSPORTATION, INC., Center and Elmer Streets, Elmer, N.J. 08318. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal and poultry*

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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feeds, from the plantsite of the Ralston Purina Co., Hampden Township (Camp Hill), Pa., to points in New Jersey and New York, for 180 days. Supporting shipper: Ralston Purina Co., Post Office Box 248, Camp Hill, PA 17011. Send protests to: Richard M. Regan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 26396 (Sub-No. 61 TA), filed September 22, 1972. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Post Office Box 990, 201 West Park, Livingston, MT 59047. Applicant's representative: Wayne Waggoner (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products*, from Laramie, Wyo., to points in Colorado and Nebraska, for 180 days. Supporting shipper: St. Regis Paper Co., Wheeler Division, West Des Moines, Iowa. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 41098 (Sub-No. 37 TA), filed September 27, 1972. Applicant: GLOBAL VAN LINES, INC., No. 1, Global Way, Anaheim, CA 92803. Applicant's representative: Stanley I. Goldman, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers, in mixed loads with household goods, as defined by the Commission, in interstate or foreign commerce, between (1) Oklahoma City, Okla., and Tulsa, Okla., and (2) Tulsa, Okla., and Mid-Continent International Airport, Kansas City, Mo., restricted to shipments having a prior or subsequent movement by air in the service of Trans World Airlines, Inc., for 180 days. Supporting shipper: Trans World Airlines, Inc., 605 Third Avenue, New York, NY 10016. Send protests to: John E. Nance, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 44639 (Sub-No. 59 TA), filed September 26, 1972. Applicant: L & M EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Franklin, Va., on the one hand, and, on the other, Crewe, Va., Emporia, Va., and points in the New York, N.Y., commercial zone, for 180 days. NOTE: Applicant states it does intend to tack at Crewe, Va., Emporia, Va., and New York, N.Y., with all authorized operations in MC-44639. Supporting shipper: Emporia Garment Co., 415 Main Street, Emporia, VA 23847. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 71446 (Sub-No. 6 TA), filed September 26, 1972. Applicant: JAMES R. STINNETT AND EVELYN K. STINNETT, doing business as STINNETT TRUCKING, Route 1, Box 86, Lovelock, NV 89419. Applicant's representative: James R. Stinnett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore*, in bulk, from Mammoth, Calif., to Luning, Nev., for 150 days. Supporting shipper: David L. Pruett, Route 2, Box 69, Gardnerville, NV 89410. Send protests to: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 103051 (Sub-No. 258 TA), filed September 26, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: W. G. North (same address as above). Authority sought to operative as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petrolcum products*, in bulk, in tank vehicles, from Tampa, Fla., to points in North Carolina, for 180 days. Supporting shipper: Sun Oil Co., 1808 Walnut Street, Philadelphia, PA 19103. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite 803, 1808 West End Building, Nashville, TN 37203.

No. MC 106674 (Sub-No. 99 TA), filed September 26, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 46923. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compost*, from points in Allegan County, Mich., and Lagrange County, Ind., to West Chicago, Ill., for 180 days. Supporting shipper: Campbell Soup Co., Campbell Place, Camden, N.J. 08101. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 110420 (Sub-No. 664 TA), filed September 25, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158, Office: I-94 County Highway C, Bristol, Kenosha County, Wis. 53104. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal food ingredients*, liquid, in bulk, in tank vehicles, from Madison, Wis., to Albert Lea, Minn., for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., Madison, Wis. 53701 (Dale M. Gillings, Assistant General Traffic Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Madison, WI 53203.

No. MC 111687 (Sub-No. 35 TA), filed September 13, 1972. Applicant: BEN RUEGSEGGER TRUCKING SERVICE, INC., Route No. 1, Kawkawlin, Mich. 48631. Applicant's representative: Benjamin H. Ruegsegger (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* and the *return of malt beverage containers*, from Bensenville, Ill., to Bay City, Mich., for 150 days. Supporting shipper: Robert H. Kolb, Kolb Sales Co., Bay City, Mich. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225, Federal Building, Lansing, Mich. 48933.

No. MC 113025 (Sub-No. 4 TA), filed September 22, 1972. Applicant: RALPH C. ISLAND, doing business as ISLAND FREIGHT, Box 147, Deadwood, SD 57732. Applicant's representative: A. Milton Evans, Post Office Box 1286, Rapid City, SD 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Seeds, flour, and animal and mineral feeds*, in bulk and in bags, from Rapid City, S. Dak., to points in Adams, Billings, Mowman, Golden Valley, Grant, Hettinger, Morton, Sioux, Slope, and Stark Counties, N. Dak., and that area in Nebraska west of U.S. Highway 281, including all cities, towns, or municipalities located therein, for 180 days. Supporting shipper: Hubbard Milling Co. of South Dakota, Feed Division, Post Office Box 431, Rapid City, SD 57701, Dennis W. Fredericksen, Plant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 123255 (Sub-No. 28 TA), filed September 27, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 East Everett Avenue, Newark, OH 43055. Applicant's representative: C. J. Schnee, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty foodstuffs containers*, from Holland, Mich., to Muscatine, Iowa, for 180 days. Supporting shipper: H. J. Heinz Co., Post Office Box 57, Pittsburgh, PA 15230. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 125522 (Sub-No. 5 TA), filed September 26, 1972. Applicant: SUNBURY TRANSPORT, LIMITED, Hoyt, New Brunswick, Canada. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Windsor, N.C., to ports of entry on

boundary line between the United States and Canada at or near Houlton, Vanceboro, and Calais, Maine, for 180 days. Supporting shipper: Swedane Co. Ltd., Post Office Box 217, Oromocto, NB, Canada. Send protests to: Donald G. Weller, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Portland, ME 04112.

No. MC 127238 (Sub-No. 5 TA), filed September 27, 1972. Applicant: DOROTHY R. ZUMMO, doing business as AIR DELIVERY SERVICE, Post Office Box 1102, Remington Avenue and Locust Street, Scranton, PA 18505. Applicant's representative: S. J. Zummo (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, restricted to shipments having a prior or subsequent movement by air, between Kennedy International Airport, New York, N.Y.; LaGuardia Airport, New York, N.Y.; Newark Airport, Newark, N.J.; Allentown-Bethlehem-Easton Airport, Allentown, Pa.; and Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, points in Washington Township, Morris County, N.J., for 180 days. Supporting shippers: Elastimold Division, Amerace-Esna Corp., Esna Park, Hackettstown, N.J. 07840; United States Radium Corp., Chemical Products Division, Kings Highway—Box 409, Hackettstown, NJ 07840. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 128384 (Sub-No. 2 TA), filed September 25, 1972. Applicant: JUNIOR EVERETT DEPRIEST, doing business as JUNIOR DEPRIEST TRUCKING CO., Birch Tree, Mo. 65438. Applicant's representative: B. W. LaTourette, Jr., 611 Olive Street, Room 1850, St. Louis, MO 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Stacking strips*, from Birch Tree, Mo., to points in Texas, for 180 days. Supporting shipper: Missouri Hardwood Flooring Co., 8866 Ladue Road, St. Louis, MO 63124. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 128616 (Sub-No. 10 TA), filed September 27, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities) as are used in the conduct and operation of banks and banking institutions, between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware and Mercer, Burlington, Ocean, Camden, Gloucester, Atlantic, Salem, Cumberland, and Cape May Counties, N.J., for 180 days. Supporting shipper: Federal Reserve Bank of Philadelphia, Philadelphia, Pa. 19101. Send protests to: District Supervisor R. G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 138030 (Sub-No. 1 TA), filed September 28, 1972. Applicant: C. I. WHITTEN TRANSFER (QUEBEC) INC., Post Office Box 181, Montreal 260, PQ, Canada. Applicant's representative: Joseph G. Dail, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammunition, explosives, substitutes for explosives, and equipment or accessories related to the use or storage of explosives*, between points on the international boundary between the United States (New York) and Canada (Quebec) on the one hand, and Plattsburgh and Malone, N.Y., on the other, restricted to shipments originating in or destined to the dominion of Canada, for 180 days. NOTE: Applicant states it does intend to interline at Malone or Plattsburg and join with applicants Quebec Permit No. 22654-V at the border. Supporting shipper: Canadian Industries, Limited, Quebec Sales Office, Box 10, Montreal 101, PQ, Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17682 Filed 10-16-72;8:51 am]

[Notice 137]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 10, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 8872 (Sub-No. 8 TA), filed September 29, 1972. Applicant: DYERSBURG EXPRESS, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Applicant's representative: William H. Pendleton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products*, serving the plantside of Consolidated Aluminum, Newbern, Tenn., as an off-route point in conjunction with applicant's existing authority, for 180 days. NOTE: Applicant intends to tack the authority herein applied for to other authority held by it and to interline freight at Memphis, Tenn. Supporting shipper: Consolidated Aluminum Corp., Post Office Box 129, Conalco Drive, Jackson, TN 38301. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 71459 (Sub-No. 28 TA), filed September 28, 1972. Applicant: O. N. C. FREIGHT SYSTEMS, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from Page, Ariz., to Salt Lake City, Utah, over regular routes as follows: From Page, Ariz., over U.S. Highway 89 to Salt Lake City, Utah, and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant does intend to tack the authority here applied for to other authority held by it, or to interline with other carriers, as follows: MC-71459 and Subs, and to interline with carriers at Salt Lake City, Utah. Supported by: There are approximately 20 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Claud W. Reeves, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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No. MC 71718 (Sub-No. 2 TA) (Amendment), filed July 18, 1972, published in the FEDERAL REGISTER issue of August 4, 1972, amended and republished as amended this issue. Applicant: SPOKANE TRANSFER & STORAGE CO., 117 North Napa Street, Post Office Box 3181, Spokane, WA 99220. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods, commodities requiring the use of special equipment, and articles of unusual value), between Spokane, Wash., and Moyie Springs, Idaho, from Spokane over U.S. Highway 10 to its junction with Sullivan Road, thence north to Washington State Highway 290, thence east on said highway to Idaho State Highway 53, thence east on said highway to its junction with U.S. Highway 95, thence north on U.S. Highway 95 to its junction with U.S. Highway 2, thence east on U.S. Highway 2 to Moyie Springs and return over the same routes, serving all intermediate points in Idaho and all off-route points in Idaho within 5 miles of the specified highways, for 180 days. Supported by: There are approximately 25 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101. NOTE: The purpose of this republication is to redescribe the territorial scope.

No. MC 111401 (Sub-No. 373 TA), filed September 26, 1972. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride brine*, in bulk, from Dallas, Tex., to Shreveport, La., for 180 days. Supporting shipper: Van Waters & Rogers, Bill Crouch, Traffic Coordinator, Box 34749, Dallas, TX 75234. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 126291 (Sub-No. 20 TA), filed September 29, 1972. Applicant: QUIRION TRANSPORT, INC., Notre Dame, La Guadeloupe, Cte. (Frontenac), Quebec, mailing: 4516 Laval, Lac M'egantic, PQ Canada. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper machinery and parts*, from Ridgefield Park, N.J., to ports of entry on the international boundary lines between the United States and Canada located at Coburn Gore, Maine, restricted to traffic destined to Kingsey Falls, Quebec, for 150 days. Supporting shipper: Kingsey Falls Paper, Inc., Kingsey Falls, Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 126844 (Sub-No. 17 TA), filed September 25, 1972. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Applicant's representative: Terrence D. Jones, 1108 16th Street NW., Suite 400, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and bottled foodstuffs*, from Cade and Lozes, La., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, Virginia, and West Virginia, for 180 days. Supporting shipper: Bruce Foods Corp., New Iberia, La. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 134264 (Sub-No. 12 TA), filed September 27, 1972. Applicant: OCKENFEL'S TRANSFER, INC., 1301 Sheridan Avenue, Iowa City, IA 52240. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Collapsible tubes, caps, and necks and materials, equipment, and supplies* used in the manufacture, processing, sale, and distribution of collapsible tubes, caps, and necks, between Iowa City, Iowa, and Cincinnati, Ohio, on the one hand, and, on the other, points in Michigan, New York, North Carolina, and Tennessee, for 180 days. Supporting shipper: Victor Metals Products Corp., Iowa City, Iowa, 52240. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 135561 TA, filed September 26, 1972. Applicant: N. E. FINCH CO., 1120 West Camp Street, East Peoria, IL 61611. Applicant's representative: Robert T. Lawley, 300 Reisch Building, 4 West Old State Capitol Plaza, Springfield, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint and groundwood paper*, from Peoria, Ill., to points in Illinois, restricted to traffic having a prior out-of-State movement by water or rail, for 180 days. Supporting shipper: G. C. Lessig, Assistant Traffic Manager, Nowaters Southern Paper Corp., Calhoun, Tenn. Send protests to: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 136885 (Sub-No. 1 TA) (Correction), filed July 12, 1972, published in the FEDERAL REGISTER issue of August 4, 1972, corrected and republished in part as corrected this issue. Applicant: LEO PAUL GUAY, 4 Gosselin Street, St-Henry (Levis) PQ, Canada. Applicant's representative: Adrien R. Paquette, 200 Rue St-Jacques, Montreal 126, PQ. NOTE: The purpose of this partial republication is to include the States of Rhode Island and Connecticut as destination points, which were inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 136891 TA (Amendment), filed July 18, 1972, published in the FEDERAL REGISTER issues of August 4, 1972, and September 23, 1972, respectively, amended and republished as amended this issue. Applicant: STAN WATKINS TRUCKING, INC., 406 Fifth Avenue South, Shelby, MT 59474. Applicant's representative: Howard C. Burton, Post Office Box 2265, Great Falls, MT 59403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in bottles, cans, and kegs: (A) (1) From Theodore Hamm Brewing Co., San Francisco, Calif., and St. Paul, Minn., to Shelby, Mont.; (2) from Theodore Hamm Brewing Co., San Francisco, Calif., to Kalispell and Libby, Mont.; (B) from Ranier Brewing Co., Seattle, Wash., to Missoula, Great Falls, and Shelby, Mont.; (C) from Carling Brewing Co., Tacoma, Wash., to Libby, Kalispell, Shelby, and Great Falls, Mont.; (D) from Lucky Breweries, Inc., Vancouver, Wash., and San Francisco, Calif., to Shelby and Harve, Mont.; (E) from Pabst Brewing Co., Los Angeles, Calif., and Milwaukee, Wis., to Missoula, Mont.; (F) from Miller Brewing Co., Azusa, Calif., to Great Falls, Kalispell, and Libby, Mont.; (G) from Anhauser-Busch, Inc., Van Nuys, Calif., to Missoula, Shelby, and Harve, Mont.; (H) from Minneapolis Brewing Co. (Grain Belt), Minneapolis, Minn., to Missoula, Mont.; (I) from Jacob Schmidt Brewing Co., Minneapolis, Minn., to Missoula, Mont.; (J) from Helleman Brewing Co. (Old Style), La Crosse, Wis., to Shelby, Mont.; (K) from Joseph Schlitz Brewing Co., Milwaukee, Wis., to Shelby, Mont.; and (2) *carbonated beverages*, in bottles and cans, from Chico and Vista, Calif.; Portland and Eugene, Oreg., and Seattle and Yakima, Wash., to Missoula, Great Falls, Shelby, Harve, Kalispell, and Libby, Mont., and return movement of bottles, kegs, cans, and pallets, from all destination points specified above to all points or origin specified above, for 180 days. Supporting shippers: Gusto Distributors, Post Office Box 1213, Great Falls, MT 59403; Lee Distributors, Post Office Box 1194, Kalispell, MT 59901; Triple C Distributors, Post Office Box 489, Shelby, MT 59474; Havre Distributors, 935 First Avenue, Shelby, MT 59501; Shelby Distributors, 120 Central Avenue, Shelby, MT 59474; Zip Beverage, 938 Phillips Street, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 251 U.S. Post Office Building, Billings, Mont. 59101. NOTE: The purpose of this republication is to redescribe the commodity description, and to broaden the territorial scope.

No. MC 136960 (Sub-No. 1 TA), filed September 25, 1972. Applicant: A. B. CHANCEY and L. T. STEFFEY, doing business as CHEROKEE TRANSPORT, 13037 East Valley Boulevard, La Puente, CA 91744. Applicant's representative: Judge Herbert Cameron, 149 North Gramercy Place, Los Angeles, CA. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Including but not limited to meat, fresh, frozen, cooked, cured, or preserved and packinghouse products* more particularly set out in contract attached and made a part hereof, from Vernon, Calif., to Portland and Eugene, Oreg., Seattle, Tacoma, and Spokane, Wash., and within a 50-mile radius thereof, and from Tucson, Ariz., to Vernon, Calif., for 160 days. Supporting shipper: Farmer John Meats, 3049 East Vernon Avenue, Los Angeles, CA 90058. Send protests to: John E. Nance, Officer-in-Charge, Bureau of Operations, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136998 TA (Amendment), filed August 25, 1972, published in the FEDERAL REGISTER issue of September 16, 1972, amended and republished as amended this issue. Applicant: KORAL SALES, INC., doing business as KSI, Route No. 2, Box 659, Kenosha, WI 53180. Applicant's representative: Jerry Seidman (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, lamps and parts for both, wrought iron, plastics, and general surplus commodities*, points between Paterson, N.J.; Chicago, Ill.; Kenosha and Milwaukee, Wis.; Los Angeles, San Francisco, and San Diego, Calif.; and port of entry United States-Mexico boundary at or near San Ysidro, Calif., and return over the same routes, for 180 days. Supporting shipper: Mex-Am Enterprises, Ltd., Route No. 2, Box 659, Kenosha, WI 53180 (Annette Seidman, president). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203. NOTE: The purpose of this republication is to redescribe the territorial scope.

No. MC 138072 TA, filed September 29, 1972. Applicant: MAY TRUCKING COMPANY, INC., Allen, Ky. 41601. Applicant's representative: Francis P. Desmond, 115 East Fifth Street, Chester, PA 19013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nitro carbo nitrate*, from Allen, Ky., to points in Mingo and McDonell Counties, W. Va., and Buckingham, Dickenson, Russell, and Wise Counties, Va., for 180 days. Supporting shipper: Paul J. Keehan, Assistant Manager, Truck & Air Transportation Section, Traffic Department, E. I. du Pont de Nemours & Co., 1007 Market Street, Wilmington, DE 19801. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, 222 Bakhaus Building, 1500 West Main Street, Lexington, KY 40505.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17683 Filed 10-16-72;8:51 am]

[Notice 141]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions wth particularity.

No. MC-FC-73807. By order of September 27, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to Warren Wilson, doing business as Warren Wilson Truck Lines, Stover, Mo., of Certificate No. MC-115623 (Sub-No. 4), subject to a restriction, originally issued to Gartin Truck Lines, Inc., Tuscumbia, Mo., authorizing the transportation of: General commodities, usual exceptions, between Tipton, Mo., and 20 miles thereof, and points in St. Clair County, Ill., in a radial movement. Thomas P. Rose, attorney, Post Office Box 205, Jefferson City, MO 65101.

No. MC-FC-73884. By order of September 27, 1972, the Motor Carrier Board approved the transfer to Elmer F. Stevens and Sandra M. Stevens, doing business as Stevens Stage Line, Nordland, Wash., of certificate of registration No. MC-99039 (Sub-No. 1) issued to Franklin McDowell, doing business as J. J. Lafferty Stage Line, 1726 Portland Street, Port Townsend, WA, evidencing a right of the holder thereof to engage in interstate or foreign commerce in the transportation of: Passenger and express service between specified points solely within the State of Washington.

No. MC-FC-73918. By order of September 28, 1972, the Motor Carrier Board approved the transfer to Carrol Morton, doing business as Morton Trucking, Brooklyn, N.Y., of permit No. MC-134647 (Sub-No. 1), issued February 8, 1972, to Mildred Mazza, doing business as Shepherd Transportation Co., Brooklyn, N.Y., authorizing the transportation of: Home furnishings, furniture, and giftware from points in the New York, N.Y., Harbor Limits, as defined, to Westbury and New Cassel, N.Y., restricted to shipments having an immediately prior movement by water, under contract with Ireb Import-Export. Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368, attorney for applicants.

No. MC-FC-73932. By order entered September 27, 1972, the Motor Carrier Board approved the transfer to Harry L. Allison, Germantown, Ky., of the operating rights set forth in permit No. MC-127830, issued September 29, 1966, to Everett Phillips, Maysville, Ky., authorizing the transportation of such commodities as are dealt in by retail department stores, in retail delivery service, from Maysville, Ky., to points in Adama, Brown, Clermont, Highland, and Scioto Counties, Ohio, restricted to a transportation service to be performed under a continuing contract or contracts with Montgomery Ward & Co., of Chicago, Ill. George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601, attorney for applicants.

No. MC-FC-73942. By order entered September 29, 1972, the Motor Carrier Board approved the transfer to Barnett Bros., Inc., Henderson, Ky., of the operating rights set forth in certificates Nos. MC-124951, MC-124951 (Sub-No. 26), and MC-124951 (Sub-No. 30), issued by the Commission November 8, 1965, February 24, 1969, and June 3, 1969, respectively, to Wathen Transport, Inc., Henderson, Ky., authorizing the transportation of: Precast and prestressed concrete products from Henderson, Ky., to points in Indiana, Illinois, Kentucky, Missouri, Georgia, and West Virginia. George M. Catlett, 703-706 McClure Building, Frankfort, Ky. 40601, attorney for applicants.

No. MC-FC-73960. By order entered September 27, 1972, the Motor Carrier Board approved the transfer to Oil Transport Co., a Nevada corporation, Abilene, Tex., of the operating rights set forth in certificates Nos. MC-111740 (Sub-No. 1), MC-111740 (Sub-No. 6), MC-111740 (Sub-No. 7), MC-111740 (Sub-No. 8), MC-111740 (Sub-No. 11), MC-111740 (Sub-No. 15), MC-111740 (Sub-No. 17), MC-111740 (Sub-No. 19), MC-111740 (Sub-No. 21), MC-111740 (Sub-No. 22), MC-111740 (Sub-No. 23), and MC-111740 (Sub-No. 26), issued by the Commission June 24, 1970, September 16, 1958, August 29, 1960, April 5, 1961, December 24, 1963, October 7, 1964, December 14, 1965, December 28, 1966, September 21, 1967, December 27, 1968, and April 3, 1969, respectively, in the name of Oil Transport Co., a Texas corporation, Abilene, Tex., authorizing the transportation of various specified commodities from, to, or between points in Arizona, Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, and Texas. Jerry C. Prestridge, Post Office Box 1148, Austin, TX 78767, attorney for applicants.

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No. MC-FC-73961. By order of September 27, 1972, the Motor Carrier Board approved the transfer to Gypsum Transport, Inc., a Delaware corporation, Abilene, Tex., of the operating rights in certificate No. MC-126421 (Sub-No. 4) issued December 2, 1969, to Gypsum Transport, Inc., a Texas corporation, Abilene, Tex., authorizing the transportation of: Building materials, except lumber, gypsum and gypsum products, and materials and supplies used in the manufacture, installation, and distribution thereof, except commodities in bulk, between the plantsite and facilities of United States Gypsum Co., at or near Sweetwater, Tex., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Nebraska, Oklahoma, and Tennessee. Jerry C. Prestridge, Post Office Box 1148, Austin, TX 78767, attorney for applicants.

No. MC-FC-73967. By order entered September 29, 1972, the Motor Carrier Board approved the transfer to Gasoline Alley 25 Hour Towing, Inc., Phoenix, Ariz., of the operating rights set forth in certificate No. MC-116305, issued September 27, 1957, to Clyde Martin, doing business as Clyde Martin Service, Phoenix, Ariz., authorizing the transportation of wrecked and disabled vehicles, by use of wrecker equipment only, between Phoeniz, Ariz., on the one hand, and, on the other, points in California, New Mexico, Utah, and Nevada, Donald E. Fernaays, 4040 East McDowell Road, Suite 312, Phoenix, AZ 85008, practitioner for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR. Doc.72-17684 Filed 10-16-72;8:51 am]

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List of CFR Parts Affected

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3112 of Schedule A is amended to show that the experience requirement for Seasonal Park Ranger, Park Aid, and Park Technician positions at the IGS–5 level has been changed from two seasons at the IGS–4 level to one season.

Effective on publication in the FEDERAL REGISTER (10–18–72), subparagraphs (1) and (2) of paragraph (f) of § 213.3112 are amended as set out below:

§ 213.3112 Department of the Interior.

* * * * *

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–5 or GS–4 and those equivalent to grade GS–7 or GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. (The total number of Park Ranger and Park Technician positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (2) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Ranger at a salary equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) Park Aid and Park Technician positions at salaries equivalent to GS–2 through GS–5 to perform technical and practical work supporting the management, conservation, interpretation, development, and use of park areas and resources; and positions at salaries equivalent to GS–7 and GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career resources management, interpretive or visitor service personnel of the National Park Service. (The total number of Park Technician and Park Ranger positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (1) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Aid or Park Technician equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

(iv) For IGS–4: One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3: One season at IGS–2 level or its equivalent in experience.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

* * * * *

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–17731 Filed 10–17–72;8:48 am]

Title 6—ECONOMIC STABILIZATION

Ruling—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972–261]

PROFIT MARGIN DETERMINATION; INVENTORY WRITEDOWN

Price Commission Ruling

Facts. Company A, a manufacturing firm, uses a standard cost method of accounting in preparing its financial statements. A generally writes down its inventory valuation each year upon physical count by approximately $100,000. This writedown reflects losses due to spoilage, obsolescence, and other acceptable reasons. This writedown is contemplated in the cost standards. This year, however, A proposes to write down its inventory by $400,000 due to unusual reasons, i.e., pilferage, undiscovered employee theft, and a market loss.

Issue. Is an unusual inventory writedown considered an extraordinary item or is it a general and recurring cost of business operations which may be used in determining a firm's profit margin?

Ruling. An unusual inventory writedown is not considered an extraordinary item. Such a writedown may be used in determining a firm's profit margin if it is made, as in this case, in accordance with generally accepted accounting principles consistently applied.

The profit margin of a firm is defined as, "The ratio that operating income (net sales less cost of sales and less normal and generally recurring costs of business operations, determined before nonoperating items, extraordinary items, and income taxes) bears to net sales as reported on a person's financial statement prepared in accordance with generally accepted accounting principles consistently applied." Economic Stabilization Regulations, 6 CFR 300.5 (1972). In accordance with this regulation, the expenses which may be used in calculating the profit margin must not be extraordinary and must be determined in accordance with generally accepted accounting principles, and with the practices customarily followed by the firm applied consistently.

Extraordinary items result from events or transactions which are of a character significantly different from the typical or customary business activities of the firm. They are events and transactions of material effect which would not be expected to recur frequently and which would not be considered as recurring factors in any evaluation of the ordinary operating processes of the business. Opinion No. 9 of the Accounting Principles Board, paragraph 21 (1966). A loss due to an inventory writedown, regardless of size, does not constitute an extraordinary item for A because that loss is of a character typical of the customary business activities of the firm. Opinion No. 9 supra, paragraph 22. Further, it has been A's customary practice to make an inventory adjustment at the end of each year in determining its cost of sales. The adjustment this year is therefore being made in accordance with generally accepted accounting principles consistently applied whether or not that adjustment is due to "unusual reasons."

Price Commission Ruling 1972–183, 37 F.R. 11696 (1972) which held that an inventory writedown by a firm due to

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extraordinary reasons is an extraordinary item which may not be used in determining the firm's current profit margin is hereby revoked.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 13, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 13, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-17728 Filed 10-17-72;8:48 am]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

1973 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas

The provisions of §§ 722.558 to 722.561 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act") with respect to the 1973 crop of extra-long staple cotton (referred to as "ELS cotton"). The purpose of these provisions is to: (1) Proclaim a national marketing quota and national acreage allotment for the 1973 crop of ELS cotton; (2) apportion the national acreage allotment to States; and (3) fix the period for holding the national marketing quota referendum. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 6, 1972 (37 F.R. 18039), in accordance with 5 U.S.C. 553. The views and recommendations received in response to such notice have been duly considered.

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required to be made not later than October 15, 1972. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest, and §§ 722.558 to 722.561 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in these sections under centerhead "1972 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas" remain in full force and effect as to the crop to which it was applicable.

§ 722.558 National marketing quota for the 1973 crop of ELS cotton.

The marketing quota for the 1973 crop of ELS cotton is hereby proclaimed to be an amount of 113,800 standard bales determined in accordance with the formula prescribed under section 347(b)(1) of the act. For the 1971 and succeeding crops of ELS cotton, it has been determined that the minimum quota of 82,481 standard bales under section 347(b)(2) of the act shall not be required to be a maximum quota under section 347(b)(3) of the act. See § 722.558 published in the FEDERAL REGISTER of October 17, 1970 (35 F.R. 16312). The marketing quota for the 1973 crop is not less than the minimum quota prescribed under section 347(b)(2) of the act. The quota is based on the following data:

(1) Estimated domestic consumption, 1973–74	[1] 105,000
(2) Estimated exports, 1973–74	[1] 17,000
(3) Adjustment to assure adequate stocks	[1] 16,800
(4) Estimated imports, 1973–74	[2] 25,000
Total	113,800

[1] Running bales.
[2] Equivalent running bales.

§ 722.559 National acreage allotment for the 1973 crop of ELS cotton.

It is hereby determined and proclaimed that a national acreage allotment shall be in effect for the crop of ELS cotton produced in the calendar year 1973. The amount of such national allotment is 117,724 acres calculated by multiplying the national quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield of 464 pounds per planted acre of ELS cotton for the 4-calendar years 1968, 1969, 1970, and 1971.

§ 722.560 Apportionment of national acreage allotment to the States.

The national acreage allotment of 117,724 acres is apportioned to the States in accordance with section 344(b) of the act as follows:

State	State allotment (acres)
Arizona	51,090
California	777
Florida	173
Georgia	157
New Mexico	23,921
Texas	41,606

§ 722.561 National marketing quota referendum for the 1973 crop of ELS cotton.

The national marketing quota referendum for the 1973 crop of ELS cotton shall be held during the referendum period December 4 to 8, 1972, each inclusive, by mail ballot in accordance with Part 717 of this chapter (33 F.R. 18345, 34 F.R. 12940, 36 F.R. 12730).

(Secs. 301, 343, 344, 347, 375, 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended; 7 U.S.C. 1301, 1343, 1344, 1375)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 12, 1972.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.72-17691 Filed 10-17-72;9:32 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Free and Restricted Percentages for 1972–73 Fiscal Year

Notice was published in the September 30, 1972, issue of the FEDERAL REGISTER (37 F.R. 20562) regarding a proposal to establish free and restricted percentages applicable to filberts grown in Oregon and Washington for the 1972–73 fiscal year beginning August 1, 1972. The percentages are based on the unanimous recommendation of the Filbert Control Board and other available information in accordance with the applicable provisions of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982; 37 F.R. 588), regulating the handling of filberts grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted.

The free and restricted percentages are based upon the following estimates for the 1972–73 fiscal year;

(1) Production of 10,200 tons;

(2) Total requirements for 1972 crop merchantable filberts of 5,866 tons, which is the sum of an inshell trade demand of 5,500 tons and provision for inshell handler carryover on July 31, 1973, of 750 tons, less the inshell handler carryover on August 1, 1972, of 384 tons not subject to regulation; and

(3) A total supply of merchantable filberts subject to regulation of 8,753 tons which is the estimated production of 10,200 tons, less 1,625 tons nonmerchantable production, plus 178 tons of carryin subject to regulation.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that to establish free and restricted percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the free and restricted percentages for merchantable filberts during the 1972–73 fiscal year are established as follows:

§ 982.222 Free and restricted percentages for merchantable filberts during the 1972–73 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1972:

Free percentage	67
Restricted percentage	33

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that free and restricted percentages designated for a particular fiscal year shall be applicable to all inshell filberts handled during such year; and (2) the current fiscal year began on August 1, 1972, and the percentages established herein will automatically apply to all such filberts beginning with such date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 12, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17768 Filed 10-17-72;8:51 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Released From Quarantine

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3, in paragraph (a)(1) relating to the State of California, subdivision (vii) relating to San Francisco County is deleted.

2. In § 82.3, the references to Alabama and Missouri in the introductory portion of paragraph (a) and paragraphs (a)(3) relating to the State of Alabama and paragraph (a)(6) relating to the State of Missouri are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude a portion of Jefferson County in Alabama, a portion of San Francisco County in California, and a portion of St. Louis City County in Missouri from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas. No areas in Alabama and Missouri remain under quarantine.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17721 Filed 10-17-72;8:47 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 269—POLICY ON UNIONIZATION AND COLLECTIVE BARGAINING FOR THE FEDERAL RESERVE BANKS

Objections to Election Procedure

By notice of proposed rule making published in the FEDERAL REGISTER of November 4, 1971 (36 F.R. 21212), which revised an earlier proposal published August 6, 1971 (36 F.R. 14479), the Board of Governors proposed to amend Part 269, "Policy on Unionization and Collective Bargaining for the Federal Reserve Banks". As indicated in its proposal, the purpose of the amendment is: (1) To protect employees from any interference with their making a fair and free choice in selecting or rejecting a bargaining representative even if such interference does not constitute an unfair labor practice within the meaning of § 269.6 and (2) to authorize the Federal Reserve System Labor Relations Panel to establish an expedited procedure for processing charges of interference, to promulgate rules to guide the conduct of all parties, and to provide appropriate remedies when interference has been found to have affected the outcome of the election.

Following consideration of the comments received the Board has determined that adoption of the proposed amendments would be in the best interests of the labor organizations, the Federal Reserve Bank employees, and Federal Reserve Bank management.

To implement its decision, the Board has amended § 269.5 by adding paragraph (f) to read as follows:

§ 269.5 Elections.

* * * * *

(f)(1) If at any time prior to an election, an appreciable number of employees evidence substantial interest in representation by one or more labor organizations, whether or not a 30 percent interest has yet been shown, it shall be incumbent on the Bank, labor organizations, and all others to refrain from any conduct, action, or policy that interferes with or restrains employees from making a fair and free choice in selecting or rejecting a bargaining representative.

(2) A Bank, labor organizations, or employees are not precluded from exercise of the free speech privileges of § 269.6(c) but such exercise may properly be held to be contrary to the intent of this section even if the conduct, action, or policy in question does not constitute an unfair labor practice under § 269.6 (a)(1), (2), or (3), or § 269.6(b)(1) or (2) of this policy.

(3) The Panel may promulgate expedited procedures for prompt disposition of allegations that a violation of this section has affected the outcome of the election.

(4) The Panel may determine whether there has been a violation of this section, may render appropriate interpretations of this section, and may set forth as guidelines the circumstances the Panel believes necessary for a fair and free election by a Code of Preelection Conduct or by decision in specific cases.

(5) In the event of a proven violation of this section by a Bank, by labor organizations, or by other individuals or organizations, found sufficient to affect the outcome of an election, the Panel may take appropriate remedial action such as the setting aside of the results of an election and the ordering of a new election: *Provided, however,* That the Panel may not require a Bank to recognize a labor organization without an election unless the violation is found to be

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an unfair labor practice under § 269.6 that would make a free election unlikely.

Effective date: November 20, 1972.

By order of the Board of Governors, October 5, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17696 Filed 10-17-72;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12317, Amdt. 91-105]

PART 91—GENERAL OPERATING AND FLIGHT RULES

Flights Over Cuba; Rescission of Certain Requirements

The purpose of this amendment to Part 91 of the Federal Aviation Regulations is to rescind the application of § 91.101 to flights overflying Cuba.

Federal Aviation Regulation § 91.101 was originally issued as Special Civil Air Regulations SR-437 on October 30, 1959. It was issued during a period of international tension to provide for the proper coordination and clearance of all civil aircraft (with exceptions) departing the United States for flights "to or over" Cuba.

Many civil pilots, who overfly Cuba, believe that the applicability of § 91.101 to overflights is now no longer necessary and have requested its revocation with respect to overflights. The Department of State has advised that even though it still believes that the regulation should continue to be applied to flights "to" Cuba, there is no strong objection to rescinding the regulation with respect to flights, to other countries, passing "over" Cuba. The Department of Defense has advised that it concurs in this because the DVFR or IFR flight plan filed in accordance with FAR Part 99 satisfies air defense requirements. The Immigration and Naturalization Service and the U.S. Customs Service have also advised that they have no objection.

Section 91.101 now requires that no person may operate a civil aircraft (except the operation of aircraft by a scheduled air carrier over routes authorized in operations specifications issued by the Administrator) from the United States to, or over, Cuba unless—

(1) Departure is from an international airport of entry;

(2) The pilot has filed a DVFR or IFR flight plan; and

(3) The pilot has filed a written statement containing specified information with the Office of Immigration and Naturalization Service.

Rescission of the application of § 91.101 to flights overflying Cuba will grant relief and eliminate an unnecessary inconvenience to pilots by permitting departure from any airport and by eliminating the need for filing the written statement with the Immigration and Naturalization Service.

Rescission of the application of § 91.101 to flights "over" Cuba does not in any way affect other requirements relating to flights over Cuba. Other procedures and regulations are still in effect which provide for aircraft safety, and also provide assurance that the Cuban Government will be informed before any civil aircraft of the United States overflies Cuban territory. These other procedures and regulations include the following:

1. The "International Flight Information Manual" procedures for flights entering and overflying Cuban territory.

2. Federal Aviation Regulation § 99.11, which requires that an aircraft operating in or penetrating a coastal ADIZ must file a flight plan with an appropriate aeronautical facility.

3. Paragraph 3.3.1.1.2, Chapter 3, of the "International Standards, Rules of the Air," (Annex 2 to ICAO), which provides for a flight plan to be filed for operations across international borders.

4. Federal Aviation Administration Order 7110.10A, "Flight Services," paragraphs 790 and 1180, directing controllers to use ICAO procedures and documents for handling flight plans and other messages.

5. ICAO Document No. 4444-RAC/501/10, "Rules of the Air and Air Traffic Services," Part VII, Coordination, providing for flight plans submitted under Annex 2 to be forwarded to the adjacent Flight Information Region.

6. Section 91.1(b)(1) of the Federal Aviation Regulations, which requires compliance with Annex 2 to ICAO over the high seas.

The entry procedures for Cuba stated in the "International Flight Information Manual" provide for a notification, by the overflying operator, by means of a cablegram addressed to AEROCIVIL, Habana, not less than 48 hours in advance of the anticipated time of departure.

These procedures provide for specific information (such as name, nationality, and official address of the operator, name of pilot in command, air corridor to be used under the flight plan, and date of the overflight) to be included in the cablegram. Under these procedures, this information is sent to AEROCIVIL, and the reply from AEROCIVIL insures that the notification has been received, and communicates its decision in the matter. Any aircraft which is authorized to make an overflight transmits its flight plan to the Habana air traffic control center not less than 1 hour before it enters the Flight Information Region assigned to the Republic of Cuba. Finally, these procedures provide for overflying aircraft to furnish the position reports prescribed by the areonautical authority for the area of its jurisdiction, and to make use of any services and facilities for aid to navigation that have been established or that are required under regional agreements of the ICAO or for reasons of safety.

It should be clearly noted that rescinding the applicability of § 91.101 to aircraft overflying Cuba does not eliminate the requirement of filing a flight plan for such flights. As stated above, § 99.11(a) of the Federal Aviation Regulations provides that "no person may operate an aircraft in or penetrating a coastal or domestic ADIZ unless he has filed a flight plan with an appropriate aeronautical facility." Any flight from the United States to Cuba that penetrates an ADIZ involves the required filing of a flight plan. Also, as stated above, paragraph 3.3.1.1.2, Chapter 3, of the "International Standards, Rules of the Air" (Annex 2 to ICAO), provides for a flight plan to be filed when operating across international borders. The United States, being a member of ICAO, complies with this provision.

The mere filing of a flight plan does not insure that the Cuban Government is informed that a United States civil aircraft will overfly Cuban territory. However, FAA Order 7110.10A "Flight Services," paragraphs 790 and 1180, directs a controller to use ICAO procedures for handling flight plans and flight plan information. Therefore, pursuant to ICAO Document No. 4444-RAC/501/10 "Rules of the Air and Air Traffic Services," Part VII, "Coordination" and Part VII, "Air Traffic Messages," controllers forward flight plans to adjacent Flight Information Regions. This procedure does assure that the Cuban Government will receive necessary prior information relating to overflights.

The safe operation of U.S. civil aircraft overflying Cuba is further achieved through § 91.1(b) of the Federal Aviation Regulations. This regulation requires, with certain exceptions, that each person operating a civil aircraft of U.S. registry outside of the United States, when over high seas, shall comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation, and, when within a foreign country, comply with the regulations relating to the flight and maneuver of aircraft there in force.

Based upon the above discussion, and for the reasons stated, the FAA believes that the applicability of § 91.101 to flights overflying Cuba should be rescinded.

Since this amendment is minor in nature, and relieves the public of a burden that was imposed in response to an international situation that no longer requires that burden, it is found that notice and public procedure hereon would serve no useful purpose and are not necessary.

In consideration of the foregoing, Part 91 of the Federal Aviation Regulations is amended, effective October 18, 1972, as hereinafter set forth.

The introductory sentence of § 91.101 is amended to read as follows:

§ 91.101 Operations to Cuba.

No person may operate a civil aircraft from the United States to Cuba unless—

* * * * *

(Secs. 307(a), 313(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1354(a); and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 11, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-17716 Filed 10-17-72;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Hexachlorophene as a Component in Drug and Cosmetic Products for Human Use; Correction

In F.R. Doc. 72-16442 appearing at page 20160 in the FEDERAL REGISTER of Wednesday, September 27, 1972, the reference to "§ 135.9(d)" in the last line of § 3.91(c)(4)(ii) should read "§ 130.9(d)".

Dated: October 12, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17713 Filed 10-17-72;8:46 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

COPPER

A notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of February 15, 1972 (37 F.R. 3366), proposing establishment of a food-additive tolerance (21 CFR Part 121) of 1 part per million for residues of copper in potable water. Such residues would result from the use of the algicides or herbicides copper sulfate pentahydrate and basic copper carbonate (malachite) to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water. No requests for referral to an advisory committee were received. However, "copper sulfate pentahydrate" was changed to "copper sulfate" in response to a comment that the degree of hydration of the copper sulfate is not important. It is concluded that the amended proposal should be adopted.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Program (36 F.R. 9038), Part 121 is amended by adding the following new section to Supart D:

§ 121.1241 Copper.

A tolerance of 1 part per million is established in potable water for residues of copper resulting from the use of the algicides or herbicides copper sulfate and basic copper carbonate (malachite) to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10-18-72).

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17705 Filed 10-17-72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7213]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Bonds and Other Evidences of Indebtedness

On July 22, 1971, a notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under section 1232 to conform the regulations to changes made by section 413 of the Tax Reform Act of 1969 (83 Stat. 609) was published in the FEDERAL REGISTER (36. F.R. 13605). On December 28, 1971, Treasury Decision 7154, published in the FEDERAL REGISTER on December 28, 1971 (36 F.R. 24995), adopted with modifications certain of the proposed changes and reserved certain of the items. After consideration of all relevant matters as were presented by interested persons regarding the rules proposed, the amendment of the regulations with respect to such proposed rules reserved in Treasury Decision 7154, and certain other of such relevant matters, are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.163-4 is amended by revising paragraph (a) to read as set forth below.

PAR. 2. Section 1.1001-1 is amended by adding a new paragraph (g) immediately after paragraph (f) to read as set forth below.

PAR. 3. Section 1.1012-1 is amended by revising paragraph (f) to read as set forth below.

PAR. 4. Paragraph (b) of § 1.1232-3, as set forth in paragraph 15 to the notice of proposed rule making, is amended by revising subparagraphs (1)(iv) and (2)(iii) (*b*) and (*c*) to read as set forth below.

PAR. 5. Paragraph (a)(2)(iii) and Example (4) of paragraph (d) of § 1.1232-3A, as set forth in paragraph 16 to the notice of proposed rule making, are adopted without change.

PAR. 6. Paragraph (e) of § 1.1232-3A is amended by revising subparagraph (5)(ii), by redesignating subparagraph (5)(ii) as (5)(iii), and by adding a new subparagraph (7), to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 7, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 1.163-4 Deduction for original issue discount on certain obligations issued after May 27, 1969.

(a) *In general.* (1) If an obligation is issued by a corporation with original issue discount, the amount of such discount is deductible as interest and shall be prorated or amortized over the life of the obligation. For purposes of this section the term "obligation" shall have the same meaning as in § 1.1232-1 (without regard to whether the obligation is a capital asset in the hands of the holder) and the term "original issue discount" shall have the same meaning as in section 1232(b)(1) (without regard to the one-fourth of 1 percent limitation in the second sentence thereof). Thus, in general, the amount of original issue discount equals the excess of the amount payable at maturity over the issue price of the bond (as defined in paragraph (b)(2) of § 1.1232-3), regardless of whether that amount is less than one-fourth of 1 percent of the redemption

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price at maturity multiplied by the number of complete years to maturity. For the rule as to whether there is original issue discount in the case of an obligation issued in an exchange for property other than money, and the amount therof, see paragraph (b)(2)(iii) of § 1.1232–3. In any case in which original issue discount is carried over from one corporation to another corporation under section 381(c)(9) or from an obligation exchanged to an obligation received in any exchange under paragraph (b)(1)(iv) of § 1.1232–3, such discount shall be carried over for purposes of this section. The amount of original issue discount carried over in an exchange of obligations under the preceding sentence shall be prorated or amortized over the life of the obligation issued in such exchange. For computation of issue price and the amount of original issue discount in the case of serial obligations, see paragraph (b)(2)(iv) of § 1.1232–3.

* * * * *

§ 1.1001–1 Computation of gain or loss.

* * * * *

(g) *Certain exchanges involving original issue discount.* In the case of certain obligations or investment units exchanged for property, involving original issue discount under the provisions of section 1232(b), the amount realized will be determined in accordance with the rules of paragraph (b)(2)(iii)(b) of § 1.1232–3.

§ 1.1012–1 Basis of property.

* * * * *

(f) *Special rules.* For special rules for determining the basis for gain or loss in the case of certain vessels acquired through the Maritime Commission (or its successors) or pursuant to an agreement with the Secretary of Commerce, see sections 510, 511, and 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1160, 1161) and Parts 2 and 3 of this Chapter. For special rules for determining the unadjusted basis of property recovered in respect of war losses, see section 1336. For special rules with respect to taxable years beginning before January 1, 1964, for determining the basis for gain or loss in the case of a disposition of a share of stock acquired pursuant to the timely exercise of a restricted stock option where the option price was between 85 percent and 95 percent of the fair market value of the stock at the time the option was granted, see paragraph (b) of § 1.421–5. See section 423(c)(1) or 424(c)(1), whichever is applicable, for special rules with respect to taxable years ending after December 31, 1963, for determining the basis for gain or loss in the case of the disposition of a share of stock acquired pursuant to the timely exercise of a stock option described in such sections. See section 422(c)(1) for special rules with respect to taxable years ending after December 31, 1963, for determining the basis for gain or loss in the case of an exercise of a qualified stock option. For special rules with respect to certain exchanges creating original issue discount under the provisions of section 1232(b), see paragraph (b)(2)(iii)(b) of § 1.1232–3.

§ 1.1232–3 Gain upon sale or exchange of obligations issued at a discount.

* * * * *

(b) *Definitions*—(1) *Original issue discount.* * * *

(iv) *Carryover of original issue discount.* If in pursuance of a plan of reorganization an obligation is received in an exchange for another obligation, and if gain or loss is not recognized in whole or in part on such exchange of obligations by reason, for example, of section 354 or 356, then the obligation received shall be considered to have the same original issue discount as the obligation surrendered reduced by the amount of gain (if any) recognized as ordinary income upon such exchange of obligations, and by the amount of original issue discount with respect to the obligation surrendered which was included as interest income under the ratable inclusion rules of sections 1232(a)(3) and 1.1232–3A. If inclusion as interest of the ratable monthly portion of original issue discount is required under section 1232(a)(3) with respect to the obligation received, see paragraph (a)(2)(iii) of § 1.1232–3A for computation of the ratable monthly portion of original issue discount. For special rules in connection with certain exchanges of U.S. obligations, see section 1037.

(2) *Issue price defined.* * * *

(iii) *Issuance for property after May 27, 1969*—(a) *In general.* Except as provided in (b) of this subdivision, if an obligation or an investment unit is issued for property other than money, the issue price of such obligation shall be the stated redemption price at maturity and, therefore, no original issue discount is created as a result of the exchange. However, in such case, there may be an amount treated as interest under section 483. In the case of certain exchanges of obligations of the United States for other such obligations, see section 1037 for the determination of the amount of original issue discount on the obligation acquired in the exchange. For carryover of original issue discount in the case of certain exchanges of obligations, see subparagraph (1)(iv) of this paragraph.

(b) *Exceptions for original issue discount.* If an obligation or investment unit is issued for property in an exchange which is not pursuant to a plan of reorganization referred to in (d) of this subdivision, and if—

(1) The obligation, investment unit, or an element of the investment unit is part of an issue a portion of which is traded on an established securities market, or

(2) The property for which such obligation or investment unit is issued is stock or securities which are traded on an established securities market,

then the issue price of the obligation or investment unit shall be the fair market value of the property for which such obligation or investment unit is issued, as determined under (c) of this subdivision. Such issue price shall control for purposes of determining the amount realized by the person exchanging the property for the obligation or unit issued and the bases of the property acquired by the holder and issuer.

(3) An obligation which is not traded on an established securities market and which is not part of an issue or investment unit a portion of which is so traded shall not be treated as property decribed in (1) of this (b) even though the obligation is convertible into property so traded. For purposes of this (b), an obligation, investment unit, or element of an investment unit shall be treated as traded on an established securities market if it is so traded on or within 10 "trading" days after the date it is issued. "Trading" days shall mean those days on which an established securities market is open. For purposes of this subdivision (iii), the term "established securities market" shall have the same meaning as in paragraph (d)(4) of § 1.453–3 (relating to limitations on installment method for purchaser evidences of indebtedness payable on demand or readily tradable).

(c) *Determination of fair market value in cases to which (b) of this subdivision applies.* In general, for purposes of (b) of this subdivision, the fair market value of property for which an obligation or investment unit is issued shall be deemed to be the same as the fair market value of such obligation or investment unit, determined by reference to the fair market value of that portion of the issue, of which such obligation or unit is a part, which is traded on an established securities market. The fair market value of such obligation or unit shall be determined as of the first date after the date of issue (within the meaning of section 1232(b)(3)) that such obligation or unit is traded on an established securities market. If, however, the obligation or investment unit is not part of an issue a portion of which is traded on an established securities market, but the property for which the obligation or investment unit is issued is stock or securities which are traded on an established securities market, the fair market value of such property shall be the fair market value of such stock or securities on the date such obligation or unit is issued for such property. The fair market value of property for purposes of this (c) shall be determined as provided in § 20.2031–2 of this chapter (Estate Tax Regulations) but without applying the blockage and other special rules contained in paragraph (e) thereof.

(d) *Not in reorganization.* An exchange which is not pursuant to a reorganization referred to in this subdivision (d) is an exchange in which the obligation or investment unit is not issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or pursuant to an insolvency reorganization within the meaning of section 371, 373, or 374. Thus, for example, no original issue discount is created on an obligation issued in a recapitalization within the meaning of section 368(a)(1)(E). Similarly, no original issue discount is created on an obligation issued in an exchange, pursuant to a plan of reorganization, to which section 361 applies regardless of the income tax consequences to any person who pursuant to such plan is the ultimate recipient of the obligation. The application of section 351 shall not preclude the creation of original issue discount. For carryover of original issue discount in the case of an exchange of obligations pursuant to a plan of reorganization, see subparagraph (1)(iv) of this paragraph.

(e) *Effective date.* Determinations with respect to obligations issued on or before May 27, 1969, or pursuant to a written commitment which was binding on that date and at all times thereafter, shall be made without regard to this subdivision (iii).

* * * * *

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

(a) *Ratable inclusion as interest.* * * *

(2) *Ratable monthly portion of original issue discount.* * * *

(iii) *Ratable monthly portion upon carryover to new obligation.* In any case in which there is a carryover of original issue discount under paragraph (b)(1)(iv) of § 1.1232–3 from an obligation exchanged to an obligation received in such exchange, the ratable monthly portion of original issue discount in respect of the obligation received shall be computed by dividing the amount of original issue discount carried over by the sum of the number of complete months (plus any fractional part of a month) beginning on the date of the exchange and ending the day before the stated maturity date of the obligation received.

* * * * *

(4) *Examples.* * * *

Example (4). On January 1, 1968, D, a calendar year taxpayer, purchases at original issue, for cash of $8,000, P Corporation's 20-year, 6 percent bond which has a stated redemption price of $10,000 and which will mature on January 1, 1988. The original issue discount with respect to such bond is $2,000. However, the ratable inclusion rules of section 1232(a)(3) do not apply to D, since the bond was issued by P before May 28, 1969. On January 1, 1973, pursuant to a plan of reorganization as defined in section 368(a)(1)(E), and in which no gain or loss is recognized by D under section 354, D's 20-year bond is exchanged for a 10-year, 6 percent bond which also has a stated redemption price of $10,000 but will mature on January 1, 1983. Under paragraph (b)(1)(iv) of § 1.1232–3, the $2,000 of original issue discount is carried over to the new 10-year bond received in such exchange. Since the new bond is an obligation issued after May 27, 1969, D is required to begin ratable inclusion of the $2,000 of discount as interest in his gross income for 1973. The ratable monthly portion of original issue discount, as determined under section 1232(a)(3) to be included as interest in gross income is computed as follows:

Amount of original issue discount carried over	$2,000
Divide by: Number of complete months beginning on January 1, 1973, and ending on December 31, 1982	120 months
Ratable monthly portion	$16.67

§ 1.1232–3A Inclusion as interest of original issue discount on certain obligations issued after May 27, 1969.

* * * * *

(e) *Application of section 1232 to certain deposits in financial institutions and similar arrangements.* * * *

(5) *Time deposit open account arrangements.* * * *

(ii) *Obligations redeemed before maturity.* In the event of a partial redemption of a time deposit open account before maturity, the following rules, in addition to subparagraph (2) of this paragraph, shall apply:

(a) If, pursuant to the terms of the withdrawal, the amount received by the depositor is determined with reference to the principal amount of a specific deposit and interest earned from the date of such deposit, then such terms shall control for the purpose of determining which deposit was withdrawn.

(b) If (a) of this subdivision (ii) does not apply, then the withdrawal shall be deemed to be of specific deposits together with interest earned from the date of such deposits, on a first-in, first-out basis.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). (i) F is a cash method taxpayer who uses the calendar year as his taxable year. On December 1, 1970, F enters into a 5-year deposit open account arrangement with M Savings and Loan Corp. The terms of the arrangement provide that F will deposit $100 each month for a period of 5 years, and that interest will be compounded semiannually (on June 1 and December 1) at 6 percent, but will be paid only at maturity. Thus, assuming F makes deposits of $100 on the first of each month beginning with December 1, 1970, the account will have a stated redemption price of $6,998.20 at maturity on December 1, 1975. Since, however, section 1232 applies only to deposits made after December 31, 1970 (see paragraph (d) of § 1.1232–1), the $34.39 of compound interest to be earned on the first deposit of $100 over the term of the arrangement will not be subject to the ratable inclusion rules of section 1232(a)(3). F must include such $34.39 of interest in his gross income on December 1, 1975, the date it is paid.

(ii) For 1971, F must include $44.19 of original issue discount as interest in gross income, to be computed as follows:

(1) Date of $100 deposit	(2) Months to maturity	(3) Redemption price at maturity	(4) Original issue discount (col. 3—$100)	(5) Ratable monthly portion (col. 4÷col. 2)	(6) Months on deposit in 1971	(7) 1971 original issue discount (col. 5×col. 6)
1-1-71	59	$133.73	$33.73	$0.5717	12	$6.86
2-1-71	58	133.07	33.07	.5702	11	6.27
3-1-71	57	132.42	32.42	.5688	10	5.69
4-1-71	56	131.77	31.77	.5673	9	5.11
5-1-71	55	131.12	31.12	.5658	8	4.53
6-1-71	54	130.48	30.48	.5644	7	3.95
7-1-71	53	129.84	29.84	.5630	6	3.38
8-1-71	52	129.20	29.20	.5615	5	2.81
9-1-71	51	128.56	28.56	.5600	4	2.24
10-1-71	50	127.93	27.93	.5586	3	1.68
11-1-71	49	127.30	27.30	.5571	2	1.11
12-1-71	48	126.68	26.68	.5558	1	0.56
Total original issue discount to be included as interest in F's gross income for 1971						44.19

Example (2). (i) G is a cash method taxpayer who uses the calendar year as his taxable year. On February 1, 1971, G enters into a 4-year deposit open account arrangement with T Bank, a corporation. The terms of the deposit arrangement provide that G may deposit any amount from time to time in multiples of $50 for a period of 4 years. The terms also provide that G may not redeem any amount until February 1, 1975, except in an emergency as defined in, and subject to the qualifications provided by, Regulation Q of the Board of Governors of the Federal Reserve System. See 12 CFR § 217.4(d). Interest will be compounded semiannually (on February 1 and August 1) at 6 percent, providing there is no redemption prior to February 1, 1975. However, if there is a redemption prior to such date, interest will be compounded semiannually at 5½ percent.

(ii) The schedule of deposits made by G pursuant to the arrangement, and computation of ratable monthly portion for each deposit, is set forth in the table below:

(1) Date of deposit	(2) Months to maturity	(3) Amount of deposit	(4) Redemption price at maturity	(5) Original issue discount (col. 4—col. 3)	(6) Ratable monthly portion (col. 5÷col. 2)
2-1-71	48	100	$126.68	$26.68	$0.5558
6-1-71	44	200	248.42	48.42	1.1005
12-1-71	38	500	602.95	102.95	2.7092
2-1-72	36	800	955.24	155.24	4.3122
3-1-72	35	800	950.56	150.56	4.3017
7-1-72	31	600	699.00	99.00	3.1935
8-1-72	30	250	289.82	39.82	1.3275

(iii) With respect to amounts on deposit pursuant to the arrangement, the amounts of original issue discount G must include as interest in his gross income for 1971 and 1972 are computed in the table below:

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(1) Date of deposit	(2) Ratable monthly portion	(3) Months on deposit in 1971	(4) 1971 original issue discount (Col. 2 × Col. 3)	(5) Months on deposit in 1972	(6) 1972 original issue discount (Col. 2 × Col. 5)
2-1-71	$0.5558	11	$6.11	12	$6.67
6-1-71	1.1005	7	7.70	12	13.21
12-1-71	2.7092	1	2.71	12	32.51
2-1-72	4.3122			11	47.43
3-1-72	4.3017			10	43.02
7-1-72	3.1935			6	19.16
8-1-72	1.3273			5	6.64
Total original issue discount includible as interest in gross income for taxable year			16.52		168.64

(7) *Contingent interest arrangements other than those described in subparagraph* (6)—(i) *In general.* If under the terms of a deposit arrangement, contingent interest may be earned and credited to a depositor's account, but is neither actually or constructively received before a fixed maturity date nor treated under subparagraph (6)(i) of this paragraph as creating a separate obligation, then the redemption price shall include the amount which would be credited to such account assuming the issuer, during the term of such account, credits contingent interest at the greater of the rate—

(*a*) Last credited on a similar account, or

(*b*) Equal to the average rate credited for the preceding 5 calendar years on a similar account.

(ii) *Adjustments for additional interest.* The rate taken into account under this subparagraph in computing the redemption price shall be treated as the guaranteed minimum rate for purposes of applying subparagraph (6) of this paragraph in the event the rate at which contingent interest is actually credited to the depositor's account exceeds such rate previously taken into account. If for any period the actual rate at which contingent interest is credited to the account exceeds by more than 1 percentage point the rate for the previous period taken into account under this subparagraph in computing the redemption price, a new computation shall be made to determine the ratable monthly portion of original issue discount to be included as interest in the gross income of the depositor over the remaining term of the account. For purposes of such computation, the date that interest is first so credited to the account shall be treated as the issue date, the adjusted basis of the account on such date shall be the issue price, and the redemption price shall equal the amount actually on deposit in the account on such date plus the amount which would be credited to such account assuming the issuer, during the remaining term of such account, continues to credit contingent interest at the new rate.

(iii) *Adjustment for reduced interest.* If for any period the actual rate of interest at which contingent interest is credited to the depositor's account is less than the rate for the previous period taken into account under this subparagraph in computing the redemption price, the difference between the amount of interest which would have been credited to the account at the rate for such previous period and the amount actually credited shall be allowed as a deduction against the amount of original issue discount with respect to such account required to be included in the gross income of the depositor. If an account is redeemed for a price less than the adjusted basis of the account, the depositor shall be allowed as a deduction, in computing adjusted gross income, the amount of the original issue discount he included in gross income but did not receive.

[FR Doc.72-17604 Filed 10-17-72;8:51 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1472—CONDUCT OF RENEGOTIATION

Miscellaneous Amendments to Chapter

Correction

In F.R. Doc. 72-16816 appearing at page 20690 of the issue for Tuesday, October 3, 1972, in § 1472.3(j)(4), the third complete sentence, reading, "In the event of the issuance of an order, as the case may be, will be followed", should be deleted. In addition, the phrase "the co will be entitled, upon request,", which appears in the fourth sentence, should be deleted.

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 1—RULES OF PRACTICE IN PATENT CASES

Formula and Table Format

On February 2, 1972, notice of proposed rule making regarding the amendment of §§ 1.52 and 1.75 and the addition of a new § 1.58 of Title 37, Code of Federal Regulations, dealing with Formula and Table Format, was published in the FEDERAL REGISTER (37 F.R. 2520). Interested persons were given until April 30, 1972, to submit written comments, suggestions, or objections. Full and careful consideration was given to all written comments received. In view of these comments the proposed rule language has been revised. The revised rules do not now require that the formulas and tables be presented on separate bristolboard sheets but simply require them to be presented in the specification in a form suitable for photographic reproduction.

These rule changes are intended to facilitate the microfilming of application papers and the printing of patents which contain formulas and tables in the text.

Under the new rules the text of printed patents would continue to be typeset, with formulas and tables being photographically reproduced and appearing at their proper location in the text. This procedure should result in a reduction of printing errors and costs.

This rule change also makes more liberal the size of paper permissible in patent applications.

In consideration of the comments received and pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), Part 1 of Title 37, Code of Federal Regulations, is hereby amended as follows:

1. Section 1.52 is revised to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The specification and oath or declaration must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink or its equivalent in quality. All of the application papers must be presented in a form having sufficient clarity and contrast between the paper and the writing or printing thereon to permit the production of readily legible copies in any number by use of photographic, electrostatic, photooffset, and microfilming processes. If the papers are not of the required quality, substitute typewritten or printed papers of suitable quality may be required.

(b) The application papers (specification, including claims, oath, or declaration, papers as provided for in §§ 1.42, 1.43, 1.47, etc.) and also papers subsequently filed, must be plainly written on but one side of the paper. The size of all sheets of paper should be 8 to 8½ by 10½ to 13 inches (20.3 to 21.6 cm. by 26.6 to 33.0 cm.). A margin of 1½ inches (3.8 cm.) must be reserved on the left-hand side and on the top of each page of the specification, including claims. The lines must not be crowded too closely together; typewritten lines should be double spaced. The pages of the specification, including claims, should be numbered consecutively, starting with 1, the numbers being placed in the center of the bottom margins.

(c) Any interlineation, erasure, or cancellation or other alteration of the application papers as filed must have been made before the application was signed and sworn to or declaration made, and should be dated and initialed or signed by the applicant in a marginal note or footnote on the same sheet of paper to indicate such fact. No such alterations are permissible after execution of the application papers. (See § 1.56.)

2. A new § 1.58 is added to read as follows:

§ 1.58 Chemical and mathematical formulas and tables.

(a) The specification, including the claims, may contain chemical and mathematical formulas, but shall not contain drawings or flow diagrams. The description portion of the specification may contain tables; claims may contain tables only if necessary to conform to 35 U.S.C. 112.

(b) All tables and chemical and mathematical formulas in the specification, including claims, and amendments thereto, must be on pure white durable paper, the surface of which is calendered and smooth, in order to permit use as camera copy when printing any patent which may issue. A good grade of bond paper is acceptable; watermarks should not be prominent. India ink or its equivalent, or solid black typewriter ribbon must be used to secure perfectly black solid lines.

(c) To facilitate camera copying when printing, the width of formulas and tables as presented should be limited normally to 5 inches (12.7 cm.) so that it may appear as a single column in the printed patent. If it is not possible to limit the width of a formula or table to 5 inches (12.7 cm.), it is permissible to present the formula or table with a maximum width of 10¾ inches (27.3 cm.) and to place it sideways on the sheet, in which case the formula or table will appear printed across both columns of the page in the printed patent. Typewritten characters used in such formulas and tables must be from a block (nonscript) type font or lettering style having capital letters which are at least 0.085 inch (2.2 mm.) high (elite type). Hand lettering must be neat, clean, and have a minimum character height of 0.085 inch (2.2 mm.). A space at least ¼ inch (6.4 mm.) high should be provided between the formulas and tables and the text. Tables should have the lines and columns of data closely spaced to conserve space, consistent with high degree of legibility.

§ 1.75 [Amended]

3. Section 1.75 is amended by adding at the end of paragraph (d)(1) the expression "(See § 1.58(a).)".

Effective date. These amendments shall become effective on January 1, 1973, and will apply to applications filed after that date.

RICHARD A. WAHL,
Acting Commissioner of Patents.

Approved: October 12, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.72-17727 Filed 10-17-72;8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-Chloro-1-(2,4-Dichlorophenyl) Vinyl Diethyl Phosphate

A notice (PP 1E1082) was published by the Environmental Protection Agency in the FEDERAL REGISTER of August 19, 1972 (37 F.R. 16812), proposing establishment of tolerances for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate in the raw agricultural commodities fat of cattle and sheep at 0.15 part per million to control ectoparasites on foreign animals (spray or dip application). A minimum 3-day preslaughter interval is usually observed after application. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 F.R. 9038), Part 180 is amended as follows:

1. In § 180.3(e)(5), by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item, as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * * * *

(e) * * *

(5) * * *

2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate.

* * * * * * *

2. In Subpart C, by adding a new section as follows:

§ 180.322 2-Chloro-1-(2,4-dichlorophenyl)vinyl diethyl phosphate; tolerances for residues.

A tolerance of 0.15 part per million is established for residues of the insecticide 2-chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate from dermal application to animals (minimum preslaughter interval 3 days) in or on the raw agricultural commodity fat of cattle and sheep.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10-18-72).

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).)

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17707 Filed 10-17-72;8:46 a.m.]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O-Ethyl S,S-Dipropylphosphorodithioate

A petition (PP 2F1250) was filed by Mobil Chemical Co., Industrial Chemicals Division, Post Office Box 677, Richmond, VA 23208, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the insecticide *O*-ethyl *S,S*-dipropylphosphorodithioate in or on the raw agricultural commodities brussels sprouts and cabbage at 0.02 part per million.

Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance on brussels sprouts.

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Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.262 is revised to read as follows to establish the new tolerance:

§ 180.262 *O*-Ethyl *S,S*-dipropylphosphorodithioate; tolerances for residues.

Tolerances are established for negligible residues of the insecticide *O*-ethyl *S,S*-dipropylphosphorodithioate in or on the raw agricultural commodities bananas, cabbage, corn grain, corn fodder and forage, fresh corn including sweet corn (kernels plus cob with husk removed), peanuts, peanut hay, pineapples, pineapple fodder and forage, soybeans, soybean forage and hay, sugarcane, sugarcane fodder and forage, and sweet potatoes at 0.02 part per million.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–18–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–17706 Filed 10–17–72;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19074; FCC 72–882]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities in Kentucky, Tennessee, and Virginia

Memorandum opinion and order. In the matter of amendment of § 73.202 (b), Table of assignments, FM Broadcast Stations (Greenville, Ky.; Burnside, Greensburg, and Jamestown, Ky.; Oak Ridge and Jamestown, Tenn.; Pineville, Barbourville, and Middlesboro, Ky.; and Big Stone Gap, Va.), Docket No. 19074.

1. The Commission here considers the Petition for Reconsideration filed by Veer Broadcasting Co., Inc., from that portion of the report and order, adopted January 12, 1972, denying the proposal for allocating Channel 276A to Greensburg, population 1,990, the seat and largest community of Green County, population 10,350, to be used 1 mile or more northeast of the city. 32 FCC 2d 937, 938–940.

2. In denying the assignment to Greensburg, we relied primarily on the fact that the petitioners Messrs. Milby and Price had not commented in the proceeding thus "evidencing a present lack of interest" (32 FCC 2d at 939), while Welby Hoover, doing business as Lake Cumberland Broadcasters (Lake Cumberland, the licensee of Station WJRS–FM, Jamestown, Ky., had opposed the assignment (primarily on the basis of considerations of reimbursement). As to reimbursement, it is "well settled" law that operating stations are entitled to reasonable payment; see paragraph 15 of the notice; paragraph 11 of the Second Report and Order in Docket No. 18476, 26 FCC 2d 162, 166 (1970); paragraph 14 of the report and order in this docket (32 FCC 2d at 942–3). In this respect, Lake Cumberland's claim for loss of listeners and good will, money and time expended for programing, and jingles to promote its current frequency are not reimbursable costs under the cited cases. We also rejected Lake Cumberland's other contentions—that service from its station to Greensburg (a distance of 30 miles) especially public service and public affairs programings and that WJRS–FM earns some revenue from Greensburg—were not reasons for rejecting an allocation to Greensburg under section 307(b) of the Act. While we stated that there was no presumption because of such failure, we speculated that petitioners' interest had waned because of the financial burden of building AM Station WGRK and the need to reimburse Station WJRS–FM to change from Channel 276A to 285A.

3. In fact, it appears that Messrs. Milby and Price had lost interest in radio service at Greensburg. They had relinquished their interest in Veer Broadcasting Co., Inc. (Veer Broadcasting) to Robert L. Towers and James M. Hay. Veer Broadcasting was granted AM Station WGRK at Greensburg. Veer Broadcasting then filed a petition for reconsideration in this proceeding.

4. We deferred action on the petition for reconsideration pending an agreement between Veer Broadcasting and Lake Cumberland as to reimbursement. The parties have now negotiated such an agreement, although Lake Cumberland will recover only from the successful applicant for Channel 276A. Accordingly, we deem it in the public interest to allocate a channel to Greensburg and change the assignment at Jamestown. Authority for adoption of the amendment proposed herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

5. In accordance with the foregoing: *It is ordered*, That, effective November 20, 1972, the FM Table of Assignments (§ 73.202(b) of the rules) is amended, with respect to the cities listed below, as follows:

City	Channel No.
Greensburg, Kentucky	276A
Jamestown, Kentucky	285A

6. *It is further ordered*, That, effective November 20, 1972, and pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Lake Cumberland Broadcasters for Station WJRS–FM, Jamestown, Ky., is modified to specify operation on Channel 285A in lieu of Channel 276A subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than November 20, 1972, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by December 11, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WJRS–FM on Channel 285A at Jamestown, Ky.

(c) The licensee may continue to operate on Channel 276A under its outstanding authorization until it is ready to operate on the new frequency or until 45 days after a construction permit has been granted for Channel 276A at Greensburg, Ky. Within 30 days of commencing operation on Channel 285A, the licensee shall submit measurement data of the sort normally required in an application for an FM broadcast station license.

(d) Lake Cumberland Broadcasters shall not commence operation on Channel 285A until the Commission specifically authorizes it to do so.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: October 5, 1972.

Released: October 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–17738 Filed 10–17–72;8:50 am]

[Docket No. 17824; FCC 72–894]

PART 91—INDUSTRIAL RADIO SERVICES

Transmission of Program Material to Community Antenna Television (CATV) Systems

Report and order. In the matter of amendment of § 91.552 of the Commission's rules to provide that stations licensed in the Business Radio Service may not be used for the transmission of program material to community antenna television (CATV) systems, Docket No. 17824.

1. When the Commission established the Community Antenna Relay Service (CAR) in 1965, it also adopted rules which provide that authorizations would no longer be granted in the Business Radio Service for microwave point-to-point radio stations for relaying television, standard, or FM broadcast signals to community antenna television (CATV) systems. "First Report and Order" in Docket 15586, 1 FCC 2d 897; and § 91.552(e). The basic reason, for the Commission's decision, among others, was that the regulatory problems involved in CATV operations were markedly different from those involved in the Business Radio Service and, therefore, private CATV microwave relay systems should be accommodated and regulated in a separate radio service.

2. The instant proposal, which would prohibit microwave systems licensed in the Business Radio Service from carrying program material from any source to CATV systems, is merely a further step in the process and would implement the Commission's earlier basic decision. The comments filed[1] did not disagree with this basic proposition. However, when the notice was issued, the Community Antenna Relay Service rules did not provide for the transmission of other than off-the-air broadcast signals by CAR licensed private systems, and the comments urged delay of finalization of the proposed rules until the CAR rules were also appropriately amended so as to avoid a hiatus. The CAR rules have since been amended and now permit transmission of locally originated programs and, therefore, action may be taken in this proceeding.

3. Accordingly, the proposed amendments will be adopted. However, as suggested by the comments of H & B Communications, CATV microwave relay systems currently authorized in the Business Radio Service will be permitted to carry off-the-air broadcast signals as well as program material obtained from other sources until they are required to discontinue their operations pursuant to § 91.552(e) of the Commission's rules. An amendment to § 91.552 (e) adopted in Docket No. 18916 (FCC 70–1272, released December 10, 1970), provides that previously "grandfathered" CATV microwave systems may be continued to be authorized in the Business Radio Service on a year-to-year basis until February 1, 1976.

4. *Accordingly, it is ordered*, Pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, That effective November 20, 1972, § 91.552(e) is amended as set forth below.

5. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 5, 1972.

Released: October 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

In § 91.552 of the Commission's rules, paragraph (e) is amended to read:

§ 91.552 Availability and use of service.

* * * * *

(e) Stations licensed in the Business Radio Service may not be used for the transmission of program material to cable television systems: *Provided, however*, That existing systems authorized to transmit programs for distribution on a cable television system prior to November 22, 1965, may continue to do so until not later than February 1, 1976, or until an earlier date if the Commission determines that the frequencies in the 12,200–12,700 MHz band are needed for operational fixed stations in the Safety and Special Radio Services. Expansion of these existing systems in the Business Radio Service is not contemplated and it is further provided that:

(1) No additional stations or frequencies will be authorized in this service;

(2) Replacement of equipment may be authorized only if the new equipment can be modified easily for operation in the 12,700–12,950 MHz band;

(3) The license term of all authorizations will not exceed 1 year.

* * * * *

[FR Doc.72–17739 Filed 10–17–72;8:50 am]

[Docket No. 19245; FCC 72–895]

PART 97—AMATEUR RADIO SERVICE

Amateur Stations Used on Behalf of Nonamateur Organizations

Report and Order. In the matter of inquiring into the extent to which amateur stations should be used on behalf of nonamateur organizations, Docket No. 19245, RM–1687.

1. On April 28, 1971, the Commission issued a notice of inquiry in the above-entitled matter. The notice which was published in the FEDERAL REGISTER on May 8, 1971 (36 F.R. 8611) requested that comments be filed by interested parties by July 1, 1971. Subsequently, the time for filing comments was extended to August 31, 1971. Seventy-five comments were filed by both individuals, amateur organizations, and other organizations which have in the past used the facilities of amateur radio stations.

2. The notice of inquiry was the proximate result of § 97.39 which prohibits certain organizations from both obtaining an amateur station license or having an amateur operator use his station on behalf of those organizations. One of the effects of this rule is to prohibit amateur operators from using their stations on behalf of such parties as the Eye Bank, American Red Cross, and the March of Dimes as well as commercial businesses.

3. Our notice requested comments regarding whether any restriction on the use of amateur radio stations by nonamateur organizations is needed. We also requested comments on what those restrictions should be. The notice further related to the fact that unlimited operation on behalf of organizations (third party communications) could lead to the creation of large numbers of new networks which would create additional unwarranted interference on the amateur bands.

4. The comments received in the docket suggested many solutions to the problem of which organizations, if any, should be allowed to use amateur radio facilities. The comments covered the full range from no third party communications to any communications that individual amateurs wish to carry. Most of the comments advocated a position between those two positions. Three comments suggested that amateur radio be used on behalf of nonamateur organizations but only when normal communications are unavailable. Many other comments suggested that third party communications be allowed for charitable nonprofit organizations but only during emergencies. A majority of the comments agreed that it is not a sound practice to allow commercial organizations to use amateur radio stations but there was no concensus as to what other organization should have use of amateur stations.

[1] Commissioners Robert E. Lee and Reid absent.

[1] Comments were filed by: New Channels Corp.; National Trans-Video, Inc.; Cosmos Cablevision Corp.; Association of Maximum Service Telecasters, Inc.; Cox Cablevision Association, Inc.; H & B Communications Corp.; Times Herald Printing Co.; All-Channel Television Society; The Jerrold Corp.; National Cable Television Association, Inc.

[2] Commissioner Johnson concurring in the result; Commissioner Reid absent.

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5. The Commission believes that the best solution lies between the extremes of prohibiting entirely third party communication and permitting unlimited third party operations. To prohibit entirely third party traffic would tend to stifle one of the basic purposes of the Amateur Radio Service which is to provide a voluntary noncommercial radio service. But to allow all third party communications would tend to cause increased congestion in the Amateur bands. A basic principle permeating our rules and the international radio regulations is that amateur radio shall not be used for any pecuniary interest to any party or for commercial communications. The international rules specifically provide that amateur radiocommunications must be of a technical nature or remarks of a personal character for which, by reason of their unimportance, recourse to a public telecommunications service is not justified. There can be no legitimate reason for an amateur station to carry message traffic of a commercial nature. Radiocommunications, the sole purpose of which is to facilitate regular business or commercial activities, do not enchance the intended purpose of the Amateur Service and should not be allowed except for an emergency communication as defined in our rules.

6. Several comments were received which suggested that the thrust of the Commission's notice of inquiry was to censor the Amateur Radio Service. These comments suggested that any categorization of groups, some of which could use amateur radio facilities and others who could not, would be in violation of section 326 of the Communications Act of 1934 which prohibits censorship of radio communications. It has been established, however, that eligibility restrictions and reasonable rules limiting communications to those consistent with the purpose of the radio service involved are within the scope of the Commission's authority. See, Lafayette Radio Electronics Corp. v. United States, 345 F. 2d 278 (2d Cir. 1965). Moreover, it is not only permissible but an affirmative duty of this Commission to classify radio stations and to regulate the nature of the radiocommunication service that is to be rendered by stations in that class. See section 303 (a) and (b). Our rules adopted today regarding commerical third party traffic merely regulate generally the nature of the radio communication service which may be rendered by amateur stations.

7. The rules adopted today will delete the phrase "nor for its use" which is contained in § 97.39. The result of this action will make § 97.39 a rule concerned only with who or what organizations may obtain a license. The amended § 97.39 will not be directed to permissible communication or to the use of an amateur station.

8. We are adding a new section, § 97.114, which will both prohibit commercial third party traffic and clarify the permissible international third party traffic. As to the provisions of paragraph (a) concerning international third party traffic, these rules simply incorporate the already existing international rules. As such they make no change in permissible communications and they are therefore considered to be of an editorial nature. Paragraph (c) of § 97.114 prohibits corporations, companies, associations, and other organizations engaged in commercial activities from using amateur radio facilities. It will not prohibit the use of the Amateur Radio Service on behalf of organizations such as the Eye Bank and the American Red Cross except for traffic which relates to the regular business affairs of those organizations. Paragraph (b) will prohibit amateur control operators or station licensees from receiving any compensation including a salary or reimbursement for noncollect telephone calls for operating an amateur station for transmitting or delivering third party traffic. This provision explicitly sets forth the fact that both domestic and international amateur traffic must not be handled with a pecuniary interest in mind.

9. To prevent unnecessary confusion as to what is meant by third party traffic, we are adopting a definition of that term and are making editorial changes in § 97.79(d).

10. The provisions of §§ 97.114(b) and 97.112 will clearly prohibit the American Radio Relay League's longstanding practice of providing compensation to the control operators of station W1AW. As a consequence, we are today issuing a notice of proposed rule making in a separate proceeding which would allow in certain instances involving club stations the compensation of control operators. We are also herein granting a waiver of the necessary rules to the licensee of station W1AW to allow the station to continue to operate pending the final action on our notice of proposed rule making. Any other club station providing similar services as W1AW may apply for a similar waiver. Such requests will be handled on a case by case basis.

11. The American Radio Relay League and several other individuals filed comments which suggested that the Commission adopt a rule specifically prohibiting communications for any purpose or activity which is contrary to Federal, State, or local law. We find that this suggestion as it applies to any radio communications including third party traffic, has substantial merit. Therefore, with certain editorial changes, we are adopting their proposal as § 97.116.

12. Authority for the rule changes adopted herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

13. The Commission finds that further public notice in regard to the subject matter of this report and order is unnecessary. Notice of the general subject matter and of the issues involved was previously given and extensive comments from interested parties have been received and given careful consideration. No public interest would be served by further notice and public participation in this matter.

14. *It is ordered*, Effective December 1, 1972, that Part 97 of the Commission's rules is amended as set forth below.

15. *It is further ordered*, That a waiver of §§ 97.112 and 97.114(b) is granted to the licensee of amateur station W1AW.

16. *It is further ordered*, That RM-1687 is denied to the extent that it is inconsistent with the rules adopted in this report and order and that this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: October 5, 1972.

Released: October 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Part 97 of the Commission's rules is amended as follows:

1. Paragraphs (w) and (x) are added to § 97.3, to read as follows:

§ 97.3 Definitions.

• • • • •

(w) *Third-party traffic.* Amateur radio communication by or under the supervision of the control operator at an amateur radio station to another amateur radio station on behalf of anyone other than the control operator.

(x) *Emergency communication.* Any amateur radio communication directly relating to the immediate safety of life of individuals or the immediate protection of property.

2. Section 97.39 is amended to read as follows:

§ 97.39 Eligibility of corporations or organizations to hold station license.

An amateur station license will not be issued to a school, company, corporation, association, or other organization, except that in the case of a bona fide amateur radio organization or society, a station license may be issued to a licensed amateur operator, other than the holder of a Novice Class license, as trustee for such society.

3. Section 97.79(d) is amended to read as follows:

§ 97.79 Control operator requirements.

• • • • •

(d) The licensee of an amateur radio station may permit any third party to participate in amateur radio communication from his station, provided that a control operator is present and continuously monitors and supervises the radiocommunication to insure compliance with the rules.

4. Section 97.114 is added to read as as follows:

§ 97.114 Third party traffic.

The transmission or delivery of the following amateur radiocommunication is prohibited:

(a) International third party traffic except with countries which have assented thereto;

(b) Third party traffic involving material compensation, either tangible or intangible, direct or indirect, to a third party, a station licensee, a control operator, or any other person.

(c) Except for an emergency communication as defined in this part, third party traffic consisting of business communications on behalf of any party. For the purpose of this section business communication shall mean any transmission or communication the purpose of which is to facilitate the regular business or commercial affairs of any party.

4. Section 97.116 is added as follows:

§ 97.116 Amateur radiocommunication for unlawful purposes prohibited.

The transmission of radiocommunication or messages by an amateur radio station for any purpose, or in connection with any activity, which is contrary to Federal, State, or local law is prohibited.

[FR Doc.72-17736 Filed 10-17-72;8:50 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1003—LIST OF FORMS

Quarterly Reports of Split or Divided Shipments of Household Goods and Underestimates and Overestimates

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of October 1972.

Prescription of quarterly reports of (1) underestimates and overestimates (Form BOp No. 101) and (2) split or divided shipments of household goods (Form BOp No. 106).[1]

It is ordered, That form BOC No. 101 (49 CFR 1003.1), be, and it is hereby, vacated and revoked.

It is further ordered, That forms BOp No. 101 and BOp No. 106 (49 CFR 1003.1), entitled respectively, Quarterly Report of Underestimates and Overestimates and Quarterly Report of Split or Divided Shipments of Household Goods, which are attached hereto and incorporated in this order, be, and they are hereby, prescribed and approved.

It is further ordered, That § 1003.1 of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by the revocation of subhead BOC 101, and the addition of subheads BOp 101 and BOp 106 as follow:

BOp 101. Quarterly Report of Underestimates Overestimates to be used by motor carriers of household goods.

BOp 106. Quarterly Report of Split or Divided Shipments of Household Goods.

(Sec. 222(h), 49 U.S.C. 322(h))

It is ordered, That this order shall become effective on November 20, 1972.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17761 Filed 10-17-72;8:50 am]

[1] Forms BOp No. 101 and BOp No. 106 filed as part of the original document.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Rachel Carson National Wildlife Refuge, Maine

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10–18–72).

§ 28.28 Special regulations: Recreation; for the individual wildlife refuge areas.

MAINE

RACHEL CARSON NATIONAL WILDLIFE REFUGE

Entrance into Rachel Carson National Wildlife Refuge is permitted the public for the purpose of nature study, bird watching, hiking, photography, sightseeing, picnicking, snowshoeing, cross-country skiing, and clamming.

All terrain vehicles, trail bikes, air cushion vehicles, snowmobiles, camping, littering, horses, and unleashed pets are prohibited on refuge lands. Cutting or defacing trees and signs, removal of live vegetation, and fires are also prohibited.

The above regulations are a supplement to those set forth in Title 50, Code of Federal Regulations, § 28.28. Clamming is subject to the applicable provisions of State laws and regulations and local ordinances.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 4, 1972.

[FR Doc.72-17702 Filed 10-17-72;8:45 am]

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Wapack National Wildlife Refuge, N.H.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10–18–72).

§ 28.28 Special regulations: Recreation; for the individual wildlife refuge areas.

NEW HAMPSHIRE

WAPACK NATIONAL WILDLIFE REFUGE

Entrance onto designated trails of Wapack National Wildlife Refuge is permitted for the purposes of sightseeing, nature study, bird watching, hiking, photography, snowshoeing, and cross-country skiing. The refuge is open for these activities on a year-round basis.

All terrain vehicles, trail bikes, air cushion vehicles, snowmobiles, littering, horses, and unleashed pets are prohibited on refuge lands. Cutting or defacing of trees and signs, removal of any live vegetation, are also prohibited.

The above regulations are a supplement to those set forth in Title 50, Code of Federal Regulations, § 28.28.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 4, 1972.

[FR Doc.72-17703 Filed 10-17-72;8:45 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[26 CFR Part 201]

DISTILLED SPIRITS PLANTS

Package Identification, Records and Reports

Correction

In F.R. Doc. 72–16877, appearing at page 20838, in the issue of Wednesday, October 4, 1972, in § 201.628(a)(5), after the twelfth line reading "identification for packages or serial num-", insert, "bers for cases. In addition, separate files".

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 984]

WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Proposed Expenses of Walnut Control Board and Rates of Assessment for 1972–73 Marketing Year

Notice is hereby given of a proposal regarding expenses of the Walnut Control Board and rates of assessment for the 1972–73 marketing year. The year began August 1, 1972. The proposal is pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a recommendation of the Board.

The proposed expenses total $175,000; the proposed assessment rates are 10 cents per pound for inshell walnuts and 25 cents per pound for shelled walnuts. These rates will be applied to all merchantable walnuts handled or declared for handling during the 1972–73 marketing year. Such rates of assessment are expected to provide sufficient funds to meet the estimated expenses of the Board.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 27, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 984.324 Expenses of the Walnut Control Board and rates of assessment for the 1972–73 marketing year.

(a) *Expenses.* Expenses in the amount of $175,000 are reasonable and likely to be incurred by the Walnut Control Board during the marketing year beginning August 1, 1972, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 10 cents per pound for merchantable inshell walnuts and 25 cents per pound for merchantable shelled walnuts.

Dated: October 12, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17720 Filed 10–17–72;8:47 am]

[7 CFR Part 1002]

[Docket No. AO–71–A65]

MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held in the Conference Room of the Market Administrator's office, 205 East 42d Street, New York, NY, beginning at 9:30 a.m., on November 16, 1972, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New York-New Jersey marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY NORTHEAST DAIRY COOPERATIVE FEDERATION, INC., AND DAIRYLEA COOPERATIVE, INC.

Proposal No. 1. In § 1002.55 (Transportation Credit), revise the terms "ten cents" to read "fifteen cents".

Proposal No. 2. In § 1002.80 (Time and Method of Payment), delete the second, third, and fourth sentences (negotiable tank truck service charge up to 10 cents per hundredweight) and amend § 1002.82 by revising the heading and adding a new paragraph (c) to that section as follows:

§ 1002.82 Volume and location differential.

* * * * * *

(c) For pool milk received in a pool or partial pool unit, a stop-charge of not more than one dollar and fifty cents ($1.50) for each stop of a tank truck at a producer's farm may be deducted in making payments to producers pursuant to § 1002.80 to cover the cost of transferring the producer's milk from his farm bulk tank to the tank truck for transport of the milk to the market outlet.

PROPOSED BY THE DAIRY DIVISION, CONSUMER AND MARKETING SERVICE

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 205 East 42d Street, New York, NY 10017, or from the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on October 12, 1972.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.72–17719 Filed 10–17–72;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 191]

CERTAIN PACIFIERS AND OTHER SIMILAR ARTICLES

Proposal To Classify as Banned Hazardous Substances

The Federal Hazardous Substances Act, as amended by the Child Protection and Toy Safety Act of 1969 (Public Law 91–113; 83 Stat. 187–90), provides that any toy or other article intended for use by children may be classified as a hazardous substance upon a determination that it presents a mechanical hazard. Such a determination may be made by a regulation promulgated in accordance with 5 U.S.C. 553. The nature of a mechanical hazard is set forth in section 2(s) of the Federal Hazardous Substances Act. A determination that any toy or other article intended for use by children presents such a hazard classifies it as a banned hazardous substance.

In 1971, a 2-month-old child died of asphyxiation from a pacifier with a rigid, unhinged handle, and a small-diameter guard. The rigid handle served to wedge the pacifier in the throat after the small guard allowed the entire pacifier to be taken into the mouth. Reports have also been received by the Commissioner of Food and Drugs of incidents where prompt first aid or hospital emergency room treatment resulted in the removal of pacifier components which had lodged in infants' throats. Consumers have reported that many pacifiers can be easily disassembled by infants, resulting in the availability of small components which may be put into the mouth and accidentally aspirated or ingested. Complaints have also been received concerning plastic pacifiers that break into sharp pieces, pacifiers that rupture and exude jelly fillings, and hard candy pacifiers.

The Commissioner has determined that some of these articles and their components have mechanical hazards associated with their design and manufacture which present an unreasonable risk of personal injury or illness from ingestion, aspiration, or laceration, and that such articles should be banned from interstate commerce.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (s), 3(e)(1); 74 Stat. 372, 374, 375, as amended 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 191 by adding a new subparagraph to § 191.9a(a) and by adding a new § 191.18, as follows:

§ 191.9a Banned toys and other banned articles intended for use by children.

(a) * * *

(8) Any pacifier or other similar article that is not designed and constructed in accordance with the following:

(i) The guard (or shield) shall not be less than 43 millimeters (1¾ inches) in diameter if the guard is made of a flexible material or shall not be less than 38 millimeters (1½ inches) if the guard is made of an inflexible material (if the guard is not round it shall have the above dimensions in each of two principal perpendicular planes); and

(ii) The handle or ring shall be hinged or collapsible; and

(iii) The article shall not bear or contain any object or substance that is non-

sterile or any object that may become accessible for aspiration or ingestion during normal use or when subjected to reasonably foreseeable damage or abuse; and

(iv) The article shall be of a one-piece construction or shall be otherwise designed and constructed so that it remains intact when tested by the method described in § 191.18, or if the article does not remain intact when tested in accordance with § 191.18 its nipple is permanently attached to the guard and any components which separate when tested in accordance with § 191.18 have dimensions no smaller than those required for guards in subdivision (i) of this subparagraph; and

(v) The article shall not consist, in whole or in part, of any food; and

(vi) The article shall be otherwise designed and constructed so as to prevent the possibility of injury or illness by ingestion, aspiration, or laceration from the article itself or from any of its components.

§ 191.18 Method for determining the durability of pacifiers.

The test to determine whether a pacifier is designed and constructed so as to remain intact under normal use and reasonably foreseeable damage or abuse is as follows:

(a) Hold the nipple of the pacifier in a stationary position. Using a spring scale (Chatillon No. 719–40 MRP or equivalent) attached to the handle of the pacifier, subject the pacifier to a straight pull of 10 pounds.

(b) Hold the guard (or shield) of the pacifier in a stationary position. Using the spring scale attached to the handle of the pacifier, subject the pacifier to a pull of 10 pounds applied at right angles to a line drawn through the length of the nipple.

(c) Repeat the procedure described in paragraph (b) of this section with the spring scale attached to the nipple of the pacifier.

(d) Submerge the pacifier in boiling water for 10 minutes and allow the pacifier to remain in the water until the water has cooled to 100° F. Then repeat the tests described in paragraphs (a), (b), and (c) of this section.

(e) Repeat the entire procedure described in paragraph (d) nine times.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 12, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72–17714 Filed 10–17–72;8:48 am]

[21 CFR Part 295]

CHILD PROTECTION PACKAGING STANDARDS

Proposed Exemption From Packaging Requirements for Products Used by the Elderly and the Handicapped

Section 4 of the Poison Prevention Packaging Act of 1970 provides that any household substance subject to a special packaging standard under section 3 of the act may be packaged in a noncomplying package for the purpose of making such substance readily available to elderly or handicapped persons unable to use the special packaging. The legislative history of the act clearly indicates that the manufacturer or packer is expected: (1) To use noncomplying packaging only when the required special packaging is of a kind that will create significant difficulty in use for the elderly or handicapped; (2) to make every effort to assure adequate distribution and advertisement of the specially packaged substance; and (3) to choose a noncomplying package in a size most likely to be used by the elderly and handicapped.

Although section 4 contains specific requirements and restrictions, the Commissioner of Food and Drugs concludes that a regulation is needed to establish the parameters for compliance. Most significant is the establishment of placement, size, and prominence specifications adequate to satisfy the statutory requirement that the prescribed labeling to be used on noncomplying packaging appear conspicuously on the package. Such specifications, as set forth below, are based upon regulations issued by the Commissioner pursuant to the Fair Packaging and Labeling Act. With respect to the alternate label statement for packaging too small to accommodate the statutory statement, the Commissioner invites suggestions as to other substitute statements.

Therefore, pursuant to provisions of the Poison Prevention Packaging Act (sec. 4, 84 Stat. 1671; 15 U.S.C. 1473) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to add the following new section to Part 295:

§ 295.8 Noncomplying package requirements.

(a) *General requirements.* A manufacturer or packer of a household substance subject to the special packaging provisions of §§ 295.2 and 295.3 may package such substance for elderly or handicapped persons in packaging of a single size that does not comply with such provisions if he meets all of the following conditions:

(1) The special packaging required for such substance is of a kind that will create significant difficulty in use for the elderly or handicapped;

(2) The specially packaged substance is supplied by such manufacturer or packer in popular sizes;

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(3) The specially packaged substance has been adequately distributed and advertised by such manufacturer or packer;

(4) The noncomplying package is a size most likely to be used by the elderly or handicapped;

(5) The noncomplying package bears the labeling statement specified in paragraph (b) or (c) of this section;

(6) The Commissioner has not issued an order requiring the exclusive use of special packaging for such substance pursuant to paragraph (e) of this section.

(b) *Labeling statement requirements.* (1) The labeling statement, "This Package for Households Without Young Children," shall appear conspicuously on the labeling of all noncomplying packages permitted under paragraph (a) of this section.

(2) The statement required by subparagraph (1) of this paragraph shall appear on the principal display panel which shall be the part of the labeling most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. If a package bears alternate principal display panels, the required statement shall appear on each principal display panel, as well as on the principal display panel or panels of any outer container or wrapping used in the retail display of the substance.

(3) The required labeling statement shall appear within the borderline of a square or rectangle on the principal display panel in conspicuous and easily legible capital letters, shall be in distinct contrast, by typography, layout, color, or embossing) to other matter on the package, and shall appear in lines generally parallel to the base on which the package rests as it is designed to be displayed.

(4) The declaration shall be in letters in type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type-size specifications:

(i) Not less than one-sixteenth inch in height on packages the principal display panel of which has an area of 5 square inches or less.

(ii) Not less than one-eighth inch in height on packages the principal display panel of which has an area of more than five but not more than 25 square inches.

(iii) Not less than three-sixteenths inch in height on packages the principal display panel of which has an area of more than 25 but not more than 100 square inches.

(iv) Not less than one-fourth inch in height on packages the principal display panel of which has an area of more than 100 square inches, but not more than 400 square inches.

(v) Not less than one-half inch in height if the area of the principal display panel is more than 400 square inches.

(5) For the purpose of obtaining uniform type size for the required statement for all packages of substantially the same size, the area of the principal display panel is the area of the side or surface that bears the principal display panel, which shall be:

(i) In the case of a rectangular package where one entire side properly can be considered to be the principal display panel, the product of the height times the width of that side.

(ii) In the case of a cylindrical or nearly cylindrical container, 40 percent of the product of the height of the container times the circumference.

(iii) In the case of any other shape of container, 40 percent of the total surface of the container; however, if such container presents an obvious principal display panel such as the top of a triangular or circular package, the area shall consist of the entire top surface.

In determining the area of the principal display panel, exclude tops, bottoms, flanges at the tops and bottoms of cans, and shoulders and necks of bottles or jars. In the case of cylindrical or nearly cylindrical containers, the labeling statement required by this section to appear on the principal display panel shall appear within that 40 percent of the circumference most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

(c) *Alternate labeling statement.* If the area of the principal display panel, as determined in accordance with paragraph (b)(5) of this section, is too small to accommodate the required statement specified in paragraph (b)(1) of this section, the statement "Caution: This Package Is Not Child-Safe" may be used. This alternate statement must comply with the size, placement, and conspicuousness requirements prescribed by paragraph (b) of this section.

(d) *Order of licensed medical practitioner.* A household substance subject to the special packaging provisions of §§ 295.2 and 295.3 and dispensed pursuant to an order of a licensed medical practitioner authorized to prescribe may be packaged in noncomplying packaging only when directed in such order or when requested by the purchaser.

(e) *Exclusive use of special packaging.* (1) The Commissioner may by order require a manufacturer or packer of a household substance subject to the special packaging provisions of §§ 295.2 and 295.3 to package such substance exclusively in special packaging complying with such provisions if:

(i) The household substance is packaged in a noncomplying package under section 4(a) of the act; and

(ii) The Commissioner determines that such substance is not also being supplied by such manufacturer or packer in popular size packages which comply with such provision; and

(iii) Such manufacturer or packer has been given an opportunity to comply with the purposes of the act; and

(iv) The Commissioner finds, after opportunity for hearing, that such exclusive use of special packaging is necessary to accomplish the purposes of the act.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 12, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17715 Filed 10-17-72;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 97]

[Docket No. 19605; FCC 72-896]

AMATEUR RADIO SERVICE

Compensation of Control Operators and Modification of Logging Requirements Regarding Third-Party Communications

In the matter of amendment of Part 97 to allow the compensation in certain instances of control operators of stations operating in the Amateur Radio Service and modification of the logging requirements regarding third party communications, Docket No. 19605.

1. In our report and order adopted today in Docket 19245 we established rules regarding the type of third-party traffic that amateur licensees may properly handle including the compensation of control operators for transmitting such messages. The Commission hereby gives notice of proposed rule making concerning the collateral issues of compensation of amateur club station control operators and possible relaxation of the logging requirement for third-party communications.

2. The American Radio Relay League operates an amateur station that is engaged in multiple address point to point communications. They broadcast bulletins, informational matter, and code practice of particular significance to amateur licensees. This type of communication is highly beneficial to both amateur operators and the Amateur Radio Service and should be encouraged.

3. The equipment used by these stations is in many instances as complex as a standard or FM broadcast station. As a result, it is impractical to operate these stations with volunteers, especially if the station operates for a substantial period each week.

4. The Commission is considering two different solutions. First, we are proposing specific rules which are designed to allow any bona fide amateur organization to operate a station and provide reasonable compensation to the control operator when the station transmits material solely related to the Amateur Radio Service. The rules, which will be designated as § 97.112(b), set forth specific criteria which a club station must meet in order to provide compensation to their operators. These criteria are designed to insure that stations compensating their operators are in fact engaged in providing a service to a significantly large segment of amateur licensees. Another solution would be to create a new class of amateur station which will be required, before they will be licensed, to make a showing similar to our proposed rules contained below. Comments are invited regarding these two possible solutions and any other proposals regarding this type of operation.

5. Section 97.103(b)(3) requires that an amateur radio station log include a notation of third-party messages sent or received, including names of all participants and a brief description of the message content. The Commission invites comments regarding the usefulness of this requirement and whether it should be modified or deleted.

6. Authority for the proposed rule changes contained herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.419 of the Commission's rules, an original and 14 copies of all material requested by this proceeding should be submitted on or before December 20, 1972, and reply comments on or before January 3, 1973. All relevant material will be considered by the Commission. In reaching its decision in this proceeding, the Commission may also take into account other relevant data before it in addition to the specific data invited by this notice. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

Adopted: October 5, 1972.

Released: October 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

In § 97.112, the present text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 97.112 No remuneration for use of station.

* * * * *

(b) Control operators of a club station may be compensated when the club station is operated primarily for the purpose of conducting amateur radio communication to provide code practice transmissions intended for persons learning or improving proficiency in the International Morse Code, or to disseminate information bulletins consisting solely of subject matter having direct interest to the Amateur Radio Service provided:

(1) The station is operated weekly for a period of at least 40 hours;

(2) The station schedules operations on all allocated high frequency amateur bands using reasonable measures to maximize coverage;

(3) The schedule of normal operating times and frequencies is published at least 30 days in advance of the actual transmissions.

[FR Doc.72-17737 Filed 10-17-72;8:50 am]

[1] Commissioner Johnson dissenting; Commissioner Reid absent.

FEDERAL MARITIME COMMISSION

[46 CFR Part 547]

[Docket No. 72-54]

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Establishment of Implementation Procedures; Enlargement of Time To File Comments

Upon request of interested parties, and good cause appearing, time within which comments may be filed in response to the Commission's notice of proposed rule making in this proceeding (37 F.R. 20185; September 27, 1972) is enlarged to and including November 15, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17700 Filed 10-17-72;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 291]

LABOR RELATIONS PANEL

Elections, Unionization Policy, and Collective Bargaining for Federal Reserve Banks

This statement relates to action of this date by the Board of Governors of the Federal Reserve System in amending the "Policy on Unionization and Collective Bargaining for the Federal Reserve Banks" by adding a new section (published elsewhere in this issue of the FEDERAL REGISTER), relating to "Objections to Election Procedure" covering applicable standards of conduct once it has been shown that an appreciable number of employees at any Reserve bank are interested in labor organization representation.

Under dates of August 6, 1971, and November 4, 1971, three documents were published in the FEDERAL REGISTER: (1) A proposed amendment to the policy, (2) a proposed Code of Preelection Conduct, and (3) proposed Rules and Regulations Pertaining to Preelection Conduct. The amendment would require action by the Board of Governors. The other two documents were proposed by the Panel.

Subsequent to both the first and second publications in the FEDERAL REGISTER, extensive comments were submitted by banks, by a subcommittee to the System Committee on Management Personnel, and by unions.

After careful consideration by the panel of the comments received following publication for comment of the proposed policy amendment, the panel has decided not to issue at this time either a Code of Preelection Conduct or Rules and Regulations Pertaining to Preelection Conduct.

The basic reason for this decision is that the proposed code dealt in large part with hypothetical situations. On further reflection, it is our conclusion that a general statement, supported if necessary by decisions in specific cases, will be a preferable method for implementation of the amendment. While we had hoped that a code would provide helpful guidance, we now believe that a cease-by-case approach will be preferable, at least until enough experience has been obtained to make a code more directly relevant.

Nonissuance of a code at this time is not to be construed as a decision by the panel to withdraw from or alter the so-called "in-between" position that was the central thesis of the proposed code.

Consistent with the unique position of Federal Reserve banks within a private sector-public sector spectrum, rulings by the NLRB and the courts under the provisions of the NLRA (section 9) will provide general guidance for minimum standards of conduct. Greater restraint, however, in the exercise of free speech by a Reserve bank than may be mandated by the NLRA will be expected. On the other hand, the general practice of strict neutrality exercised in the public sector will not be required.

The panel's unanimous July 19, 1971, Opinion and Decision in the Federal Reserve Bank of San Francisco and Professional, Office, and Industrial Union, MEBA (AFL–CIO) case may be examined for further exposition of the so-called "in-between" position, noted in the above paragraph. Moreover, that opinion and decision discusses a number of very specific matters, relevant to that case, that might conceivably arise elsewhere. The panel will adhere to those findings in other situations if the facts should be comparable.

As respects hypothetical questions that might arise, not covered directly by the San Francisco case, the panel will expect Federal Reserve banks and labor organizations to adhere to the spirit and intent of the "in-between" position by exercise of commonsense and good will. As noted earlier, and as empowered by the amendment, the panel will decide such questions in future cases if the need arises. If a Code of Preelection Conduct should be needed, it will be promulgated on the basis of additional experience.

As respects Rules and Regulations Pertaining to Preelection Conduct, the panel

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likewise concludes that no detailed procedures are needed at this time. If either a labor organization or a Federal Reserve bank believes that there has been a violation of the amendment, prompt notice can be given to the panel. After consultation with the parties, the panel will develop procedures appropriate to the circumstances.

By order of the Federal Reserve System Labor Relations Panel,[1] October 5, 1972.

PAUL M. METZGER,
Secretary.

[FR Doc.72-17697 Filed 10-17-72;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-9821]

CUSTOMERS' SECURITIES AND FUNDS

Obligations of Broker-Dealers To Maintain Physical Possession or Control and Certain Reserves; Extension of Time for Comments

In Securities Exchange Act of 1934, Release No. 9775, dated September 14, 1972, which was published in the FEDERAL REGISTER for September 28, 1972, at 37 F.R. 20260, the Securities and Exchange Commission republished proposed § 240.15c3-3 in a revised form. The release stated that the comments should be submitted on or before October 14, 1972.

As a result of requests received from members of the public concerned, notice is hereby given that the time within which such comments may be submitted has been extended from October 14, 1972, until October 24, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

OCTOBER 13, 1972.

[FR Doc.72-17794 Filed 10-17-72;8:51 am]

[1] Voting for this action: Chairman Simkin and Governors Daane and Mitchell.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 70-17; Notice 6]

AIR BRAKE SYSTEMS

Notice of Public Meeting; Correction

In the notice of public meeting on Air Brake Systems published October 13, 1972, 37 F.R. 21652, the telephone number for requests for time or equipment was incorrectly given. The correct telephone number is 202—426-2153.

This notice is issued under the authority of section 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 17, 1972.

ROBERT L. CARTER,
Associate Administrator, Motor Vehicle Programs.

[FR Doc.72-17923 Filed 10-17-72;10:56 am]

Notices

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document regarding joint call for report of condition of insured banks, see F.R. Doc. 72-17717, Federal Deposit Insurance Corporation, *infra.*

DEPARTMENT OF DEFENSE

Department of the Army

U.S. ARMY TRANSPORTATION SCHOOL

Notice of Meeting

In accordance with Executive Order No. 11671, dated June 5, 1972, 37 F.R. 11307, annoucement is made of a meeting of the U.S. Army Transportation School Board of Visitors, as follows:

The U.S. Army Transportation School Board of Visitors will meet during the period November 9-11, 1972, in Room 2, Wylie Hall, Fort Eustis, Va. Sessions on Thursday and Friday will commence at 9 a.m. and conclude approximately 3 p.m. The Saturday session will begin at 8:30 a.m. and conclude at approximately 10 a.m.

Agenda subjects will be as follows:

School Status and Forecast.
The Virginia Polytechnic Institute and State University Graduate Program to be offered at Fort Eustis.
The Student Oriented Learning Environment Program with the Transportation Officer Advanced Course and Developments in Nonresident Instruction.

E. W. GANNON,
Lieutenant Colonel, U.S. Army Chief, Plans Office, TAGO.

[FR Doc.72-17694 Filed 10-17-72;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Docket No. SH-302]

WEIGHING OF IMPORTED SUGAR

Notice of Determination

Basis and purpose. This notice is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended) hereinafter referred to as the "Act." The purpose of this notice is to inform all interested parties of the determination made herein pursuant to section 403(c) of the Act.

Section 403(c) of the Act reads as follows: "Whenever the Secretary determines that such is necessary to protect the interest of the United States, consumers of sugar, or the exporters or importers of sugar, he is authorized to require, in accordance with such rules and regulations as he may prescribe, any or all shipments of imported sugar to be weighed by persons not controlled, directly or indirectly, by any person having a direct financial interest in such sugar."

Paragraph (c) was added to section 403 when the Act was amended in October 1971. The history of its inclusion in the Act is summarized briefly as follows: The matter of weighing imported raw sugar was not discussed when the House Committee on Agriculture was considering the 1971 amendments to the Act, nor was the matter mentioned on the floor when vote was taken on the bill by the House. The matter was first brought before the Senate Finance Committee, but only after public hearings had been concluded. It was then proposed that all imported sugar be weighed by public weighers who are not associated with any firm having a "financial interest" in the sugar, e.g., a broker or refiner. The term "dependent weighmaster" was used by the proponents of the amendment to describe such a weigher, and the term "independent weighmaster" was used to describe all others.

The Senate Finance Committee adopted a compromise that would have allowed the present "dependent" weigher (there is only one) to continue to operate, but would have required that any new firm would have to be "independent." The full Senate agreed to this amendment, but when the bill went to conference the conferees were unable to agree to the Senate version, and another compromise resulted in adopting the provision presently in section 403(c) of the Act.

Basis for findings and conclusions. Bulk raw sugar cargos are unloaded and weighed under the supervision of firms that specialize in the weighing of sugar. These firms are called weighmasters and usually represent only the sellers of the sugar. A representative of the buyer or refiner is also present during the weighing of sugar, and if the cargo is of foreign origin a representative of the Bureau of Customs is present during the scale balancing each day and at other periodic intervals.

Most of the raw sugar imported is weighed on automatic batch type scales having weighing hoppers which hold from about 10,000 to 60,000 pounds. When the hopper is filled, the weight is automatically recorded and the sugar is dumped. The same sequence of events is repeated until the ship is unloaded. The scales, though large, are very accurate.

The Bureau of Standards and most individual States have adopted a tolerance which permits scales to vary one-tenth of 1 percent. Scales are tested with test weights at the beginning of each unloading operation and usually at 12-hour intervals thereafter until loading is completed. Scales are usually disassembled and serviced annually. Self-contained check weights are tested at 6-month intervals. The testing of check weights and the disassembly and servicing of scales are performed under the supervision of a customs official, a representative of a weighmaster firm (designated by the Weighmasters Association at Atlantic ports), and a State official responsible for weights and measures.

The Association of American Weighmasters represents all firms engaged in weighing ship cargos of any kind at Atlantic coast ports: There are 17 member firms, but only four weigh sugar. Of these four, three have full membership and one is an associate member. The associate member is denied full membership by the rules of the association due to its affiliation with a sugar brokerage firm, and is permitted to weigh sugar only for its parent firm. The association is the sole bargaining agent for the weighmaster firms with the weigher's union (United Weighers and Sugar Samplers Association, ILA). The weighing firms or weighmasters usually employ several full-time weighers, called steadies, and hire the other necessary weighmen from a union pool.

In addition to supplying the broker or importer of sugar with a weight certificate, weighmasters keep the importer informed of all problems involved in unloading and weighing a cargo and also provide assistance to the importer in case of disputes with refiners and shipowners. For their services, weighmasters charge in excess of 60 cents a ton of sugar in the Northeast and somewhat less in the Gulf.

The discharge weights of foreign sugar determined under the supervision of a weighmaster are used in the determination of refiner payments to the seller, charges to sugar quotas established under the Sugar Act and payment of customs duties.

A public hearing was held in Washington, D.C., on February 29, 1972, at which interested persons were afforded the opportunity to testify or submit information likely to be of assistance to the Secretary in determining if it is necessary, in order to protect the interest of the United States, consumers of sugar, or the buyers or sellers of imported sugar, to issue regulations requiring that the weighing of sugar imported into the

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United States be limited to only those persons not controlled, directly or indirectly, by any person having a direct financial interest in such sugar. Testimony was given and/or supplemental evidence was received from representatives of one dependent and several independent sugar weighing firms, raw sugar sellers, sugar brokerage firms, the United States Cane Sugar Refiners' Association, the Association of American Weighmasters, and the U.S. Bureau of Customs. The testimony and supplemental evidence are briefly summarized in the following paragraphs. Hereinafter, a weighing firm controlled by anyone having a direct financial interest in the sugar being weighed shall be referred to as a dependent or affiliated firm, while a weighing firm not controlled by a firm having a direct financial interest in the sugar being weighed shall be referred to as an independent or nonaffiliated firm.

A representative of Sugar Brokers, Inc., a broker engaged in selling approximately 80,000 tons of Philippine raw sugar annually, testified that accurate weights can only be determined by independent weighmasters since that is their sole business activity and accuracy is their only motivation. He stated that a conflict of interest exists when a weigher of sugar is affiliated with a company which buys and sells sugar.

The witness for R. Markey & Sons, Inc., an independent weigher of sugar, testified that the interests of the sellers of sugar and the United States in sugar quota and duty are not protected in a manner intended by Congress when the weighing of sugar is controlled by a person with a financial interest in the sugar being weighed. In support of his views, he stated that the dependent weighing company had a conflict of interest and the lack of motivation for obtaining accurate weights; that influence may be exerted on the affiliated company through the parent company so as not to offend the refiner customer in disagreements over weighing and spillage; and, maintaining a desirable business relationship with the refiner buyers would take precedence over the desire to be entirely objective in obtaining accurate weights.

The witness also testified that the affiliated operator could offer "package deals" to the foreign seller of sugar which include weighing and, therefore, have a competitive advantage over independent weighmasters; and since the revenues from weighing sugar are small as compared to the total revenue accruing to the parent company on a cargo of sugar, more attention will be given to customer relations than to determining the most accurate weight. The witness stated that he had no indications of specific irregularities, fraud, or wrongdoing. However, at the hearing and in a brief submitted subsequent to the hearing, he cited several examples of irregularities which he had discovered but had gone unreported by the dependent weigher despite the fact that the dependent weigher had used the scales with the same amount of evidence indicating errors. Further, in the brief, the witness pointed out that only the weigher, who is present at all times at the scales, can guarantee accurate weighing and that the checks and requirements of the U.S. Bureau of Customs and other interested parties though needed, are not adequate to guarantee accurate weights.

The representative of William C. Galligan & Son, Inc., an independent weighmaster, recommended that regulations be adopted requiring all shipments of imported sugar to be weighed by persons not controlled by anyone having a financial interest in such sugar or, if this is not possible, precluding the establishment of any new dependent weighmasters. In support of his recommendation, the witness again cited conflict of interest and the lack of motivation on the part of dependent weighers. He noted that a broker can offer a producer a complete package whereby he arranges financing, shipping, and insurance, and could conceivably be tempted to make those services dependent upon the choice of a weighmaster whose ownership is under his control. He further stated that in the interests of objectivity and fairness to the producers, steps should be taken to preclude the possibility of such practices. In answer to questioning, the witness stated that the incentive for the independent weighmaster is different than for the dependent weighmaster; that the independent weigher is dependent upon his competence and how thoroughly he does his job; that the independent weighmaster does not have anyone guaranteeing his employment; and that the independent earns his living on how well he performs his job.

In a supplemental brief submitted subsequent to the hearing, the witness stated that the sugar regulation should at least have the following stipulations; (1) That weighmasters disclose their dependency in all solicitations for business and in all contracts, (2) that a written conspicuous disclosure be made to all foreign producers or exporters informing them that they are not required to use the service of the named dependent weighmaster and could select their own, and (3) that the Department's Sugar Quota Clearance Record be accompanied by a statement indicating that the foreign producer was informed of his rights in selecting a weighmaster.

The representative of the Venezuelan Sugar Distributors, in a brief, recommended exclusive use of independent weighmasters in international sugar transactions.

The representative of International Weighers, Inc. (an affiliate of Czarnikow-Rionda Co., a firm engaged in business as a sugar broker and trader), testified that an affiliated weighmaster has the same interest in the sugar being weighed as an independent weighmaster insofar as to give the best possible service to his client and that International Weighers, Inc., has had no complaints from importers, buyers, or from U.S. Customs as to their competence or integrity. He stated that all weighmen used by weighmasters, whether dependent or independent, are members of the same union and that with the exception of a few steady employees, are obtained from the same union "pool". The witness stated that the "package deal" claim made by the proponents of a change in the regulations is not true in that: (1) The selection of the weighmaster is separate and negotiated independently of the purchase contract, (2) weighing is discussed only after purchase, and (3) the foreign seller has complete freedom in selecting the weigher. The witness further testified that the rules of the Association of American Weighmasters, Inc., prohibit International Weighers, Inc., from bidding on the weighing of sugar handled by brokers or traders other than Czarnikow-Rionda Co., and that International Weighers, Inc., believes the weighing of sugar is adequately protected through Customs, the Bureau of Standards, the Sugar Exchange, and the buyer-seller representation at the weighing. The witness stated that the attacks made on the integrity of International Weighers, Inc., are without foundation and are designed not to protect the seller or the public but to serve the private interests of the independent weighmasters by eliminating the competition of International Weighers, Inc., or any future affiliated weighmasters. He pointed out that the weighing scales are subject to balancing at zero and at capacity with test weights at the beginning of unloading and at noon each day or more often if necessary. The daily checks are made usually in the presence of Customs officials and all parties must agree that the scale is balanced. The witness noted that the U.S. Department of Treasury requires scales and test weights to be checked semiannually and a full disassembled test to be made annually in the presence of Customs, the refiner, the scale manufacturer, weighmaster, and in some ports, local officials.

The witness presented statements from the Philippine Department of Industry and Commerce and from various Philippine exporters indicating complete satisfaction with the service provided by International Weighers, Inc. Similar statements were also presented in regard to the weighing of Australian and Fiji sugar along with a letter from the Venezuelan Sugar Distributors (recommendation previously summarized) that indicated though they have not used the services of International Weighers, Inc., they have heard of the honest and efficient work they provide. In response to questioning, the witness stated that they do not act as weighmaster on all the sugar handled by Czarnikow-Rionda; that they act as weighmaster only on sugar handled by Czarnikow-Rionda; and that they have had no complaints from seller-importers, refiners, or Customs. In a supplemental brief, the witness argued in opposition to the "examples" of irregularities cited by the independent firm of R. Markey & Sons, Inc. questioning the integrity and competence of International Weighers, Inc., and emphasized that sugar trading is fiercely competitive and that no "cozy relationship" exists with refiners.

The president of the U.S. Cane Sugar Refiners' Association, testified that his association was opposed to any regulations which would stipulate how and by whom sugar imported from foreign countries would be weighed. In support of his recommendation, the witness stated that foreign sugar represents about 45 percent of the total U.S. requirements and any regulation made governing this percentage and ignoring the remaining 55 percent was illogical; and that present weighing practices adequately protect the government interest as to duty and quota integrity as well as the private parties concerned. He stated that the Bureau of Customs has always exercised close control over the weighing of imported sugar and has ample authority to regulate the operations for both duty and quota purposes. The witness concluded his testimony by describing weighing procedures and presented several exhibits on weighing and sampling procedures. In answer to questioning, the witness stated that as refiners they have no objection as to whether a dependent or independent weighmaster employed by the seller weighs the sugar; that the seller has the privilege of selecting the weighmaster; that the adoption of regulations permitting only independent weighers would create a monopoly; that they are unable to discern any differences in performance or efficiency among the various weighing firms; and that they are reluctant to see the Sugar Act further complicated and confused by regulations which are totally unnecessary.

The representative of Cargill, Inc., a sugar broker and trader testified that they are opposed to any regulation which would limit any importer from engaging in weighing sugar. The witness stated that under the assumption that membership in the Association of American Weighmasters is a prerequisite to becoming a licensed weighmaster, the Rogers Terminal & Shipping Corp. (a subsidiary of Cargill) has attempted, since January 1970, to have its membership application in the Association processed without success or explanation. He further stressed that any action taken by the Department should be to promote entry of raw sugar weighing firms rather than limit them in order to insure a more competitive market for weighing services.

A representative of Amerop Corp., a seller of raw sugar, in a brief submitted subsequent to the hearing, recommended that no action be taken which would further reduce their choice in the selection of weightmasters. He stated that as a seller of raw sugar he is keenly interested in obtaining the most accurate weights and wishes to see complete and careful discharge of all cargos. He further pointed out that as a seller, they hold complete financial risk for the outturn weights; and that affiliation with another firm does not affect the qualifications of a weigher.

The Association of American Weighmasters, in a brief submitted subsequent to the hearing, presented material on their operations including a listing of the membership, a copy of the bylaws, and a copy of the collective bargaining agreement between the Association and the United Weighers and Sugar Sampler Association, Local 3, ILA. He stated that of the 17 members in the Association, only four firms weigh sugar; that of these four, three have full membership and one is an associate member with no voting privileges since, by rules of the Association, it is affiliated with a sugar brokerage firm; and that the Association is the sole bargaining agent with the weigher's union.

A representative of the U.S. Bureau of Customs submitted the following statement summarizing Customs regulations and procedures: "Customs regulations require that when dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unloading the sugar shall be submitted to the Bureau as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing such sugar. With regard to the actual weighing of such sugar, the instructions of the Bureau to our field personnel state that all scales used shall be balanced before each day's use and at such intervals during the day as the weighing inspector considers necessary. Hopper scales having self-contained check weights shall be tested with such weights at least once each day when in use, and the check weights shall be verified against standard test weights at least semiannually. Additionally, reports from our field offices state the representatives are usually present from both the purchaser and seller of the merchandise, in addition to the Customs officer."

In arriving at the findings and conclusions set forth in this notice, all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining thereto.

Findings and conclusions. On the basis of the record of the hearing I hereby find and conclude that: (1) Weighmasters are those persons who usually represent the sellers of sugar in the unloading and weighing of sugar from ships. (2) The term "dependent weighmaster" is used to identify a weigher of sugar who is associated with a firm having a financial interest in the sugar being weighed while "independent weighmaster" is used to identify all other weighers of sugar. (3) The weighmen who do the actual weighing for both dependent and independent weighmasters are members of the same union and, except for some full-time weighmen who work for only one weighmaster, are assigned to jobs from a union pool without regard to employer. (4) The U.S. Bureau of Customs has the responsibility for protecting customs revenue and the primary responsibility for the integrity of weights. (5) U.S. Customs representatives observe or participate in testing scales before and during weighing along with weighmen of buyers and sellers of sugar. (6) The U.S. Bureau of Standards in conjunction with the States has determined that sugar scales should operate within one-tenth of 1 percent tolerance. (7) The hopper scales customarily used in weighing offshore sugar have self-contained check weights, that are tested with external check weights at least once each day when in use. These external check weights are further verified against standard test weights at least semiannually. (8) All scales are balanced before each day's use and at such intervals during the day as the weighing inspector considers necessary. (9) Refiner-buyers, with few exceptions, concurrently weigh sugar with a weighmaster representing the seller of sugar. (10) The foreign seller of sugar has the right to choose any weighmaster he may wish to represent him. (11) No information was received which indicated that any seller of sugar was dissatisfied with the services provided by International Weighers, Inc., the only dependent weighmaster. (12) Prohibiting dependent weighmasters from weighing sugar would tend to reduce competition. (13) Sugar program operations should not be complicated with unnecessary regulations on the weighing of raw sugar since present trade practices protect all interests. (14) The record of the hearing does not give support to a determination that a depending weighmaster should be prohibited from weighing imported sugar.

Determination. On the basis of the record of the hearing (SH-302) and the findings and conclusions, stated herein, it is hereby determined that no action is necessary pursuant to the provisions of paragraph (c) of section 403 of the Act.

Signed at Washington, D.C., on October 12, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-17722 Filed 10-17-72;8:48 am]

Forest Service

GILA WILDERNESS PROPOSAL

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Gila Wilderness Proposal, USDA-FS-DES (Leg) 73-24.

The environmental statement proposes that portions of the Gila Primitive Area to be designated as Gila Wilderness and added to the Gila Wilderness.

The draft environmental statement was filed with CEQ on October 5, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

USDA, Forest Service, Southwestern Region, 517 Gold Avenue SW., Albuquerque, NM 87101.

Gila National Forest, 301 West College Avenue, Silver City, NM 88061.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151; and Colorado Plateau Environmental Advisory Council, Post Office Box 1389, Flagstaff, AZ 85001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, NM 87101.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Richard C. Johnson, Gila National Forest, 301 West College Avenue, Silver City, NM 88061. Comments must be received within 30 days of the date of this notice in order to be considered in the preparation of the final environmental statement.

Dated: October 12, 1972.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

[FR Doc.72-17724 Filed 10-17-72;8:47 am]

Office of the Secretary

ORGANIZATION AND DELEGATIONS

Statement Regarding Redelegations on Temporary Basis

The notice published in 36 F.R. 21529 (November 10, 1971) with respect to delegations of authority within the Department of Agriculture stated that delegations of authority to those agencies and offices reporting directly to the Secretary of Under Secretary had been reconfirmed for a 90-day period, effective October 20, 1971. Notices published in 37 F.R. 888 (January 20, 1972), 37 F.R. 7725 (April 19, 1972), and 37 F.R. 14245 (July 18, 1972), provided for additional 90-day extensions. Such period, as extended, is hereby further extended until further notice.

Dated: October 13, 1972.

RICHARD E. LYNG,
Acting Secretary of Agriculture.

[FR Doc.72-17769 Filed 10-17-72;8:51 am]

Soil Conservation Service

HORSE RANGE SWAMP WATERSHED PROJECT, S.C.

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Horse Range Swamp Watershed Project, Orangeburg County, S.C., USDA-SCS-ES-WS-(ADM)-73-9(F).

The environmental statement concerns a plan for watershed protection, flood prevention, and agricultural water management. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by 25 miles of multiple-purpose channel work for flood prevention and agricultural water management.

The final environmental statement was transmitted to CEQ on October 3, 1972.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, 901 Sumter Street, Columbia, SC 29201.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please order by name and number of statement: The estimated cost is $4.40.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Dated: October 12, 1972.

J. W. HAAS,
Acting Deputy Administrator for Watersheds, Soil Conservation Service.

[FR Doc.72-17723 Filed 10-17-72;8:47 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case 436(CP-22)]

VEECO INSTRUMENTS, INC.

Order Imposing Civil Penalties and Placing Respondent on Probation for Export Control Violations

In the matter of Veeco Instruments, Inc., Terminal Drive, Plainview, N.Y. 11803, respondent, Case No. 436(CP-22).

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, issued a charging letter on May 30, 1972, charging the above respondent with violations of the regulations issued under the Export Control Act of 1949 and the Export Administration Act of 1969.[1] The charging letter alleges in substance the following: (1) On 12 occasions between March 1, 1968, and March 1, 1970, respondent knowingly exported to three of its subsidiaries in Europe certain commodities without applying for or obtaining the required validated export licenses; (2) on January 20, 1970, the respondent through its subsidiary in France reexported to U.S.S.R. for exhibition at a scientific fair in Moscow certain U.S.-origin commodities without obtaining from the Office of Export Control the required authorization for such reexportation. The respondent was duly served with the charging letter and appeared in the proceedings through an attorney.

Pursuant to § 388.10 of the Export Control Regulations, with agreement of the Director, Compliance Division, there was submitted to the Hearing Commissioner a consent proposal for the issuance of an order imposing a civil penalty and placing respondent on probation for 6 months. In said consent proposal the respondent, for the purpose of this compliance proceeding only, did not contest or deny the violations set forth in the charging letter of May 30, 1972. The respondent waived: (1) All rights to oral hearing before the Hearing Commissioner; (2) all rights of administrative appeal from and judicial review of said order; and (3) all rights to request refund of any civil penalty imposed pursuant to the consent proposal. It consented to an order imposing the civil penalties hereinafter set forth and probation for 6 months.

The Hearing Commissioner has considered the facts in the case and the respondent's proposal. He has approved the proposal and recommended that it be accepted. The undersigned, having considered the Hearing Commissioner's report and the consent proposal, hereby makes the following:

FINDINGS OF FACT

1. The respondent Veeco Instruments, Inc., with a place of business in Plainview, N.Y., is a producer of high and ultra high vacuum systems, vacuum measuring and control instruments and related components and accessories. The respondent has several subsidiaries including Veeco S.A., in France, Veeco G.m.b.H. in West Germany, and Veeco Instruments, Ltd., in England.

[1] Section 13(b) of this Act (50 U.S.C. APP. 2412(b)) provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 • • • shall, until amended or revoked, remain in full force and effect, the same as if promulgated under this Act."

2. During the period from March 13, 1968, to February 27, 1970, the respondent exported from the United States to its abovementioned subsidiaries a total of 12 shipments of thin film deposition equipment. Six shipments were made to France, three to West Germany, and three to England. Each exportation required a validated export license from the Office of Export Control which respondent did not apply for or obtain. The respondent knew or had reason to know that such a license was required in each instance.

3. Investigations after the exportations were made disclosed that the ultimate destination of the equipment in each instance was to a destination that would have been authorized by the Office of Export Control. If proper applications for export licenses had been filed they would have been approved. By failing to apply for the license before making the exportations the respondent precluded the Office of Export Control from determining in advance if the ultimate consignee would be approved for receipt of the equipment.

4. On January 27, 1970, the respondent through its subsidiary in France reexported from France to U.S.S.R. for exhibition at a scientific fair in Moscow a high vacuum thin film evaporator system and an ion pumped fast cycle system, both of U.S. origin. The respondent knew or should have known that the reexportation of this equipment from France to U.S.S.R. required prior authorization from the Office of Export Control. Neither respondent nor it subsidiary in France had applied for or obtained such authorization.

5. Within a few days of the arrival in Moscow of the equipment referred to in the previous finding the Office of Export Control learned of its presence there. At the request of the Office of Export Control the equipment was promptly returned to respondent's subsidiary in France.

Based on the foregoing, I have concluded that respondent violated §§ 387.4 and 387.6 of the United States Export Control Regulations in that on 12 occasions it knowingly exported commodities from the United States to France, West Germany, and England without having obtained the required validated export licenses for such exportations. I have also concluded that respondent violated §§ 387.2, 387.4, and 387.6 of said regulations in that it knowingly caused the reexportation of U.S.-origin commodities from France to U.S.S.R. without obtaining the specific authorization which was required for such reexportation.

On consideration of the record in the case, I hereby accept the consent proposal: *And it is hereby ordered,*

I. Pursuant to § 388.1(a)(4) of the Export Control Regulations, civil penalties totaling twenty-two hundred dollars ($2,200) are hereby imposed on respondent. One-half of said penalty (eleven hundred dollars, $1,100) is payable to the Treasurer of the United States upon issuance of this order. Payment of the balance is held in abeyance as hereinafter set forth.

II. Not later than 6 months after the date of said order, the Compliance Division, Office of Export Control, will transmit a report to the Hearing Commissioner containing (a) a description of the procedures adopted by the firm to prevent reoccurrence of violations of the Export Administration Act of 1969, as amended, and regulations issued thereunder, and (b) any violations which may have been committed during the aforesaid period. Thereafter, within a reasonable time the Hearing Commissioner, based upon said report, will make a finding as to whether the firm is in substantial compliance with the Export Administration Act as amended, and regulations thereunder, and report to the Director OEC.

III. If it is found that the firm is in substantial compliance, payment of the balance of the penalty ($1,100) will be waived and the firm notified accordingly.

IV. If it is found that the firm is not in substantial compliance, the firm will be notified that the balance of the civil penalty ($1,100) is due and payable to the Treasurer of the United States. If the balance of said penalty is not paid within 5 days of said notification, a supplemental order denying all export privileges to the firm may be issued for a period not to exceed 1 year from the date of initial order.

V. If, in the discretion of the Compliance Division, Office of Export Control, and the Office of General Counsel, such action is warranted, new proceedings may be initiated against the firm pursuant to 15 CFR 388.3, based upon any violations described in the aforesaid report by the Hearing Commissioner or upon any other violations committed by the firm subsequent to the date of, but not contained in, the charging letter by which this proceeding was initiated.

VI. In addition to the foregoing civil penalties the respondent is placed on probation for a period of 6 months from the date of this order. The conditions of probation are that respondent shall fully comply with all requirements of the Export Administration Act of 1969 as amended by the Equal Export Opportunity Act and all regulations, licenses, and orders issued thereunder.

VII. Upon a finding by the Director, Office of Export Control, or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation said official, without notice, when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of said respondent, revoke all outstanding validated export licenses to which said respondent may be a party, and deny to said respondent all export privileges for the period of the order. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice, it may file objections and request an oral hearing as provided in § 388.16 of the Export Control Regulations, but pending such further proceedings the order of revocation shall remain in effect.

Dated: October 12, 1972.

WILSON E. SWEENEY,
Acting Director,
Office of Export Control.

[FR Doc.72-17770 Filed 10-17-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24817; Order 72-10-34]

AIR TRAFFIC CONFERENCE OF AMERICA

Order Deferring Action and Requesting Comments Regarding Standard Agent's Ticket and Area Settlement Plan

Issued under delegated authority October 11, 1972.

The Air Traffic Conference of America (ATC), on behalf of its air carrier members, has filed with the Board under section 412 of the Federal Aviation Act of 1958, as amended (the Act) an agreement proposing changes in the ATC Standard Agent's Ticket and Area Settlement Plan.

The Agreement deals in part with two general areas of air carrier/travel agent relations, i.e., (1) the required use of Standard Agents' tickets for all travel to or from the United States; and (2) the reporting of credit card sales.[1]

It appears that the agreement raises issues of importance to ATC and IATA agents and others. Accordingly, it has been decided to defer action on the matter temporarily and to allow an opportunity for interested persons to file written comments in support of or in opposition to the agreement and its various provisions.[2]

The provisions of the Settlement Plan affected by the agreement[2] and the principal changes provided for in the agreement are as follows.

(1) Paragraph 20—*The use of carrier ticket stock under a Special Supplemental Agreement* [Amended]

At the present time participants in the Settlement Plan cannot, for the most part, furnish an agent with a supply of participants' ticket forms or exchange orders. However, under certain circumstances participants may provide agents with participants' ticket stock for use in international travel. In such cases, the

[1] Other provisions relating to proposed increases in the bonding requirements applicable to agents are being separately considered.

[2] The provisions of the agreement are intended to become effective after approval by the Civil Aeronautics Board.

agent is required to report and remit to the carrier not later than the 1st and 16th days of each calendar month. Under the agreement before the Board, it appears that participants would no longer be able to enter into Supplemental Agreements with their agents and provide the agents with participants' ticket stock. The foregoing remitting frequencies would no longer apply and the agent would have to report international sales three times a month, which accords with the existing reporting arrangement for domestic sales.

In addition to those arrangements mentioned above, participants in the Settlement Plan may, at the present time, furnish agents which are under IATA appointment with participants' own ticket forms to be issued for transportation to or from points outside the area of the Continental United States, Hawaii, and Canada. Under the agreement it appears that participants in the Settlement Plan would no longer be able to provide their own ticket forms to agents under IATA appointment and located within the area to which the Settlement Plan applies.

At the present time if an ATC approved agent is temporarily unable to issue Standard Agent's tickets for certain reasons then a participant may, during the period of the emergency, authorize the use of ticket forms supplied under IATA appointment for domestic air transportation. It appears that the agreement would eliminate this particular provision from the Agency Resolution.

(2) Paragraph 31—*Specifies the form of the Special Supplemental Sales Agency Agreement* [Deleted]

The Agreement eliminates the Supplemental Agreement under which carriers have provided their own ticket forms to agents subject to the Settlement Plan.

(3) Paragraph 22—*Provides for, inter alia, the issuance by an agent of a carrier's ticket forms pursuant to a Supplemental Agreement or an IATA Passenger Sales Agency Agreement*—Amended.

The Agreement deletes those provisions providing for the issuance of a carrier's ticket forms by an agent who has entered into a Supplemental Agreement or to whom a carrier has issued ticket forms pursuant to an IATA Passenger Sales Agency Agreement.

(4) Paragraph 34—*Provides, inter alia, for the use of a standard form of Agency Sales Report to be used by agents in connection with sales under Supplemental Agreements*—[Amended.]

The Agreement deletes reference to an Agency Sales Report to be utilized in connection with Supplemental Agreements.

(5) Paragraph 47—*Provides for withdrawal of IATA ticket stock where ATC and IATA reporting and remitting procedures have become uniform in the United States and/or Canada*'—[Amended.]

The Agreement provides for the immediate withdrawal of all IATA ticket stock from all ATC agents located within the area in which the Settlement Plan applies.

(6) Paragraph 23—*Provides for, inter alia, the reporting and remitting three times each month by ATC agents subject to the Settlement Plan*—[Amended.]

The Agreement adds transportation receipts and other required documents accepted by the agent in payment for air transportation sold pursuant to credit card plans accepted by the carrier and in addition to the Universal Air Travel Plan to (a) those items to be reported on an agent's sales report and (b) those items to be held in trust by an agent as property of a carrier participant in the Settlement Plan. In addition, the Agreement adds to the Sales Agency Agreement a provision that: "No Agent may report to the carrier the sale of any air transportation as a credit card transaction where at any time the agent bills, invoices, or receives payment in cash from the customers for such air transportation, or where the agent purports to act as agent for the customer with respect to any aspect of the credit card transaction."

In connection with the foregoing, it would be helpful to receive comments from all interested persons. Explanation submitted by the carriers should include, but not be limited to, answers to the following questions:

1. What are the specific reasons for adoption of each of the proposed revisions in the Settlement Plan listed in items (1) through (6) above?

2. What is the practical effect (in terms of the type of ticket forms which may or may not be used, air transportation to be covered under the Settlement Plan, increases in remitting frequencies, etc.) of the proposed revisions listed in items (1) through (6) above on (a) ATC appointed agents located in the continental United States, Alaska, Hawaii, and Canada, (b) agents in the continental United States, Alaska, Hawaii, and Canada holding both ATC and IATA appointments; and (c) agents in the continental United States, Alaska, Hawaii, and Canada holding only IATA appointments?

3. What is the practical effect of the proposed revisions on air carriers, foreign air carriers and other carriers participating or concurring in the Settlement Plan insofar as the issuance of their own ticket forms to appointed agents is concerned. In this connection, what effect will the proposed revisions have on any carrier's right pursuant to section II–D of the ATC Agency Resolution which exempts an ATC member from certain provisions of such resolution with respect to transportation between the continental United States and Alaska or Hawaii or between points within Alaska to meet the practices of competitors not bound by the resolution?

4. Will, as a result of any of the provisions of the Agreement, (a) the bond required of ATC agents cover sales between the continental United States, Alaska, Hawaii, Canada, or any combination thereof; and (b) the use of Standard Agent's tickets be mandatory for air transportation within and between all of the aforesaid areas, as well as between the United States, on the one hand, and any of its possessions or territories, on the other hand?

5. At the present time, to what extent must ATC agents writing tickets for air transportation between the continental United States, Alaska, Hawaii, and Canada abide by the provisions of the Settlement Plan including the use of Standard Agent's tickets, reporting procedures, etc.?

6. To what extent, if any, do the provisions of the Agreement conflict with those existing IATA procedures and resolutions affecting air transportation or foreign air transportation and approved by the Board insofar as the use of an individual carrier's own ticket stock, or, if applicable, an IATA standard ticket, is concerned?

We have decided to allow the air carrier members of ATC a period of 14 days within which to comment on the questions posed herein. Upon receipt of these comments we shall allow a further period for comments, if any, by other interested persons in support of, or in opposition to, the Agreement. Thereafter, we shall allow a further period for rebuttal comments, if any, by those persons filing initial comments pursuant to this order.

Acting pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.3, it is concluded that it is in the public interest to defer action on the Agreement in order to permit interested persons to file comments as provided for herein.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 16874–A29 be and it hereby is deferred;

2. The air carrier members of ATC be and they hereby are afforded an opportunity to file comments on Agreement CAB 16874–A29, as discussed herein, within 14 days from the date of this order;

3. All other interested persons are afforded a further period not exceeding 21 days from the date of this order to file comments in support of or in opposition to Agreement CAB 16874–A29; [6]

4. Rebuttal comments may be filed by those persons filing initial comments pursuant to paragraph 2 hereof within 28 days of the date of this order;

5. This order shall be served upon the air carrier members of the Air Traffic Conference of America, the American Society of Travel Agents, the Association of Retail Travel Agents, and the Department of Justice;

6. Comments filed pursuant to ordering paragraphs 2, 3, and 4 shall be served on all persons named in ordering paragraph 5; [6]

7. Rebuttal comments filed pursuant to ordering paragraph 4 shall be served upon all persons filing initial comments pursuant to ordering paragraph 3; and

8. This proceeding shall be assigned Docket 24817.

This order shall be published in the FEDERAL REGISTER.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72–17758 Filed 10–17–72;8:50 am]

[Docket No. 24573]

WARDAIR CANADA, LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on November 6, 1972, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC before the undersigned.

For information concerning the issues and other details involved in this proceeding, interested persons are referred to the prehearing conference report, served October 11, 1972, and other documents in this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 12, 1972.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.72–17759 Filed 10–17–72;8:50 am]

[1] The underlined captions for each paragraph of the Settlement Plan reflect the present purpose for each such paragraph.

[4] Paragraph 47 in its existing form has not yet been acted upon by the Board due to the lack of uniformity in ATC and IATA reporting and remitting procedures.

[6] We note that Pan American World Airways, Inc., the Association of Retail Travel Agents, and Ultramar Travel Bureau, Inc., have already filed comments concerning the Agreement. These comments, as well as such additional comments as may be filed pursuant to this ordering paragraph, will be considered in reaching final decision in this proceeding.

[6] An original and two copies of all comments filed pursuant to ordering paragraphs 2, 3, and 4 hereof shall be filed with the Board's Docket Section.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–72–206]

ACTING ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY

Designation

During the current vacancy in the position of Assistant Secretary for Equal Opportunity, Malcolm E. Peabody, Jr., is designated to serve as Acting Assistant Secretary for Equal Opportunity with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Equal Opportunity.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This designation shall be effective September 6, 1972.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.72–17726 Filed 10–17–72;8:47 am]

[Docket No. D–72–205]

REGIONAL ADMINISTRATORS AND DEPUTY REGIONAL ADMINISTRATORS

Designation and Redelegation of Authority With Respect To Administering Oaths Required in Connection With Employment

SECTION A. *Designation and redelegation.* Each Regional Administrator and each Deputy Regional Administrator is hereby:

1. Designated to administer the oath of office required by 5 U.S.C. 3331 incident to entrance into the executive branch, or any other oath required by law in connection with employment in the executive branch, as authorized under 5 U.S.C. 2903(b).

2. Authorized to:

a. Designate in writing subordinate employees by position to administer oaths as authorized under 5 U.S.C. 2903(b); and

b. Redelegate to subordinate employees the authority to designate in writing subordinate employees by position to administer oaths as authorized under 5 U.S.C. 2903(b).

SEC. B. *Supersedure.* This designation and redelegation supersedes unpublished designation and redelegation effective May 19, 1967.

(Sec. 7(d), Department of HUD Act. 42 U.S.C. 3535(d))

Effective date. This designation and redelegation shall be effective October 15, 1972.

HARRY T. MORLEY,
Assistant Secretary for Administration.

[FR Doc.72–17725 Filed 10–17–72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA–Pet–No. 61]

SANDERSVILLE RAILROAD CO.

Notice of Petition for Hours of Service Exemption

OCTOBER 12, 1972.

The Sandersville Railroad Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 61, 400 Seventh Street SW., Washington, DC 20590. Communications received before November 13, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72–17732 Filed 10–17–72;8:48 am]

[FRA–Pet–No. 62]

MANUFACTURERS' JUNCTION RAILWAY CO.

Notice of Petition for Hours of Service Exemption

OCTOBER 12, 1972.

The Manufacturers' Junction Railway Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 62, 400 Seventh Street SW., Washington, DC 20590. Communications received before November 13, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428,

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EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72-17733 Filed 10-17-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Sacramento Municipal Utility District (the applicant), which would authorize the applicant to possess, use, and operate the Rancho Seco Nuclear Generating Station, Unit 1, a pressurized water nuclear reactor (the facility), located on the applicant's site in southeast Sacramento County, Calif., at steady-state power levels not to exceed 2,772 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-56, issued by the Commission on October 11, 1968.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-56. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of 10 CFR Part 50, Appendix D, section C.3, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding at to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating license, dated April 14, 1971, as amended, and the Applicant's Environmental Report, dated May 18, 1971, and supplements thereto, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Sacramento City County Library, 828 I Street, Sacramento, CA 95814. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 6th day of October 1972.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17440 Filed 10-17-72;8:45 am]

[Docket No. RM-50-1]

LIGHT-WATER-COOLED NUCLEAR POWER REACTORS

Acceptance Criteria for Emergency Core Cooling Systems; Resumption of Hearing

According to Board order Postponing Dates for Filing Redirect and Rebuttal Testimony and Areas of Questioning, and Resumption of Hearings filed October 10, 1972, hearing sessions will resume on Tuesday, November 14, 1972, at 9:30 a.m., in Suite 100 at 8120 Woodmont Avenue, Bethesda, MD. These hearing sessions will continue on a daily basis thereafter until questioning sessions are completed.

Issued at Washington, D.C., this 12th day of October 1972.

NATHANIEL H. GOODRICH,
Chairman, Hearing Board, Emergency Core Cooling Systems.

[FR Doc.72-17704 Filed 10-17-72;8:46 am]

CIVIL SERVICE COMMISSION

LOAN AND FINANCIAL EXAMINATION OFFICER

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on September 26, 1972, for two positions of Loan and Financial Examination Officer, GS-301-15, Farm Credit Administration, Nationwide.

This finding is self-canceling when these two positions are filled. The Commission also found a manpower shortage, under 5 U.S.C. 5723, for positions of Loan Examiner (Agriculture), GS-1101-9/14, Farm Credit Administration, Nationwide.

Assuming other legal requirements are met, the Administration may pay the expense of travel and transportation to first post of duty for appointees to these positions.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-17730 Filed 10-17-72;8:48 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ADVISORY COMMITTEE ON ADVANCED AUTOMOTIVE POWER SYSTEMS

Notice of Meeting

Pursuant to section 13 of Executive Order 11671 (June 5, 1972), notice is hereby given that a meeting of the Advisory Committee on Advanced Automotive Power Systems will be held on October 23-24, 1972, in Room 153, Chrysler Center for Continuing Education, University of Michigan, North Campus Road, Ann Arbor, Mich. The meeting, which is open to the public, will convene at 9 a.m. on October 23.

The purpose of the Advisory Committee on Advanced Automotive Power Systems is to advise the Council on Environmental Quality with respect to research and development of low-emission, surface-vehicle powered systems as potential alternatives to the internal combustion engine. The agenda for the October 23-24 meeting includes the following:

1. Status report on the Advanced Automotive Power Systems (AAPS) Program of the Environmental Protection Agency.

2. Review of AAPS combustor development projects.

3. Review of AAPS projects on heat engine-clectric hybrid power systems.

4. Summary of Transportation Energy Panel report on research and development for fuel economy in automotive propulsion.

5. Status of diesel and Sterling cycle projects.

A list of advisory committee members is available from, and requests for additional information should be made to: Dr. Philip E. Schambra, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006 (202—382-6754).

TIMOTHY ATKESON,
General Counsel.

[FR Doc.72-17812 Filed 10-17-72;8:50 am]

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality October 2 to October 6, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388-7803.

FOREST SERVICE

Draft, October 4

Big Game Habitat Improvement, Idaho. The statement considers the prescribed burning of brushfield and coniferous trees in northern Idaho during (fiscal) 1973-75, for the purpose of providing forage for Rocky Mountain elk and mule deer. The project area includes the drainages of the Spokane, St. Joe, Clearwater, and Salmon Rivers. Adverse impact will result to air, water, soil, and esthetic qualities. (49 pages) (ELR Order No. 05399) (NTIS Order No. EIS 72 5399-D)

ATOMIC ENERGY COMMISSION

Contact: For nonregulatory matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973-5391.

For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, D.C. 20545, 202—973-7373.

Draft, October 4

Virgil G. Summer Nuclear Station, S.C., county: Fairfield. The statement refers to the proposed issuance of a construction permit to the South Carolina Electric & Gas Co. for the station. Unit 1 will employ a pressurized water reactor of 2,775 MWt to produce 900 MWe (net); "stretch" levels of 2,914 MWt and 950 MWe are anticipated. A 6,800-acre lake will be constructed by the applicant in order to provide cooling water for the station. Small quantities of radioactive material will be released to the environs. (A Federal Power Commission impact statement, FPC No. 1894, refers to South Carolina Electric's Fairfield Pumped Storage Hydrostation. The two statements together will cover the overall impact of the project.) (230 pages) (ELR Order No. 05394) (NTIS Order No. EIS 72 5394-D)

Final, October 4

Indian Point Generating Plant. The statement refers to the proposed issuance of an operating license to the Consolidated Edison Co. of New York, Inc., for Unit 2 of the three-unit plant. The unit will employ a pressurized water reactor of 873 MWe. A total of 2,600 c.f.s. of water for once-through cooling and service systems will be drawn from the Hudson River and discharged at 15° F. above ambient. The dissolved oxygen concentration in discharge water will be reduced to levels which may be harmful to aquatic life. The impacts of the cooling system intake struoture, thermal discharge, and chemical (including chlorine) discharge, will adversely affect aquatic life in the New York, New Jersey, and New England regions. (2 volumes). Comments made by: USDA, COE, DOC, EPA, FPC, HEW, DOI, DOT, State, and local agencies and concerned citizens. (ELR Order No. 05400) (NTIS Order No. EIS 72 5400-F)

Arkansas Nuclear One Unit 2, Ark., county: Pope. The statement considers the issuance of a construction permit to the Arkansas Power & Light Co. for Unit 2, a 2,760 MWt, 950 MWe pressurized water reactor, with anticipated future power levels of 2,900 MWt and 974 MWe. Water for the closed cycle cooling system (with a natural-draft tower) will be drawn from the Illinois Bayou of the Dardanelle Reservoir. Fish may be entrapped on the cooling system inlet. Radioactivity released from the Unit will include 4,350 curies of gaseous effluents and 1,005 curies of liquid effluents (including 1,000 of tritium), annually. (294 pages) Comments made by: USDA, COE, DOC, EPA, FPC, HEW, HUD, DOI, and DOT. (ELR Order No. 05393) (NTIS Order No. EIS 72 5393-F)

Final, October 6

Shoreham Nuclear Power Station, N.Y., county: Suffolk. The statement refers to the proposed issuance of a construction permit to the Long Island Lighting Co. A single boiling water reactor, of 2,436 MWt and 820 MWe (net) capacity will be installed. Cooling water will be drawn from and discharged to Long Island Sound, at 14° above ambient. Marine organisms may become impinged upon intake apparatus; radioactive gaseous and liquid effluents will be released to the environment. (580 pages) Comments made by: USDA, COE, DOC, HEW, DOT, EPA, and FPC. (ELR Order No. 05423) (NTIS Order No. EIS 72 5423-F)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202—967-4335.

Draft, October 2

Marine Resource Facility, N.C., county: Carteret. The proposed project involves the construction of a single building, parking lots, an access road, a pier and boat basin, a septic system, and related facilities. Several acres of maritime forest will be committed to the action. (25 pages) (ELR Order No. 05381) (NTIS Order No. EIS 72 5381-D)

Final, October 4

Artificial Reefs, Cape Henry, Va. The statement refers to the proposed creation of two artificial reefs, of 80 and 400 acres, which would be constructed 15 and 30 miles east of Cape Henry by the sinking of 166 surplus Navy landing craft and barges. The purposes of the project are those of creating a habitat attractive to sport fishes and of providing research on the benefits of artificial reefs. Benthic fauna will be damaged at the two sites. (27 pages) Comments made by: COE, USN, and DOI. (ELR Order No. 05392) (NTIS Order No. EIS 72 5392-F)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693-7168.

Draft, October 6

Petit Anse, Tigre, and Carlin Bayous, La. The statement refers to the proposed replacement of a railroad bridge and the enlargement of Bayou Carlin and Bayou Petit Anse in order to reduce navigation hazards. Approximately 1,200,000 cubic yards of spoil will be dredged and deposited on a 2,900-acre area (400 acres of which is agricultural-pastureland and 500 of which is marsh). (73 pages) (ELR Order No. 05422) (NTIS Order No. EIS 72 5422-D)

FEDERAL POWER COMMISSION

Contact: Mr. Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386-6084.

Draft, October 6

Grace-Cove Project No. 2401, Idaho County: Caribou. The statement refers to the proposed approval of an application by the Utah Power and Light Co. for the 44,000 kw. hydroelectric power project. The statement mentions no significant adverse impacts. (9 pages) (ELR Order No. 05407) (NTIS Order No. EIS 72 5407-D)

Molly's Falls Project No. 2439, Vermont County: Washington, Caledonia. The statement considers an application by the Green Mountain Power Corp. for a major license for the 5,000 kw. hydroelectric power project. The statement indicates that no adverse environmental impact will result from the action. (25 pages) (ELR Order No. 05429) (NTIS Order No. EIS 72 5429-D)

DEPARTMENT OF STATE

Contact: Mr. Christian Herter, Jr., Special Assistant to the Secretary for Environmental Affairs, Room 7819, Washington, D.C. 20520, 202—632-7964.

Draft, September 29

Proposed Ocean Dumping Convention. The statement refers to the proposed signature and ratification of the draft Convention for the Prevention of Marine Pollution by Dumping, which was produced by the Intergovernmental Meeting on Ocean Dumping at Reykjavik, Iceland, and amended at the Intergovernmental Meeting on Ocean Dumping at London. The Convention would prohibit all deliberate disposal at sea, from vessels and aircraft, of certain dangerous substances, and require permits for the dumping of other substances in accordance with detailed criteria. (91 pages) (ELR Order No. 05377) (NTIS Order No. EIS 72 5377-D)

Draft, October 4

Dome Pipeline Corp. Permit. The statement refers to an amendment to a permit held by the Dome Pipeline Corp. which would authorize the transmittal of oil through an existing pipeline segment that crosses under the Detroit River between Windsor, Ontario, and Detroit, Mich. The section is part of a 110-mile long pipe which will run from storage facilities in Windsor to a natural gas reforming plant now being built in Green Springs, Ohio. (27 pages) (ELR Order No. 05398) (NTIS Order No. EIS 72 5398-D)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chatanooga, Tenn. 37401, 615—755-2002.

Final, October 4

Control of Eurasian Watermilfoil. The statement refers to the proposed continued use of water level management and the herbicide 2, 4-D in an annual program which is intended to control the growth of Eurasian Watermilfoil (Myriophyllum spicatum L.) in the TVA reservoir system. Adverse effects will include the possibility of low concentrations of herbicides in water supplies, damage to nontarget aquatic and terrestial plants, and the loss of food and shelter for fish and waterfowl populations. (92 pages) Comments made by: USDA, DOC, COE, HEW, DOI, EPA. State, local, and regional agencies (ELR Order No. 05397) (NTIS Order No. EIS 72 5397-F)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426-4355.

FEDERAL AVIATION AGENCY

Draft, October 4

Marshall Airport, Mo., County: Saline. The statement refers to the proposed widening and lengthening of a runway from its present 50' x 3,500' to 75' x 3,900', the relocation of lighting and the installation of VASI. Air and noise pollution levels will increase. (23 pages) (ELR Order No. 05390) (NTIS Order No. EIS 72 5390-D)

Columbus Airport, Nebr., County: Platte. The statement refers to the proposed acquisition of 187 acres of land for the future extension of runways and instrumentation of the airport. Two residences would be displaced by the action. (28 pages) (ELR Order No. 05391) (NTIS Order No. EIS 72 5391-D)

Tri-State Airport, W. Va., County: Wayne. The statement refers to the proposed construction of a new 3,000' x 60' lighted runway. The new facility will generate new traffic, with a concomitant increase in noise. (22 pages) (ELR Order No. 05389) (NTIS Order No. EIS 72 5389-D)

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 6

Coosa River Bridge, Ala., County: Etowah. The statement considers the proposed construction of a bridge across the Coosa River between Southside and Rainbow City. The project provides an additional bridge for southbound traffic and retains the existing bridge for northbound traffic. Approximately 32 acres of land are required for right-of-way. Three families and one combination residence and business will be displaced. (20 pages) (ELR Order No. 05409) (NTIS Order No. EIS 72 5409-D)

Kirby Avenue (FAU Route 8320), Illinois, County: Champaign. The proposed project is the reconstruction of two-lane Kirby Avenue to four-lanes. All construction will be done on existing right-of-way. Construction easements required throughout the project include a temporary easement of 4(f) land from the Champaign Park District. (29 pages) (ELR Order No. 05408) (NTIS Order No. EIS 72 5408-D)

Draft, October 2

Kentucky 237, Kentucky, County: Boone. The proposed project is the relocation and reconstruction of Kentucky 237 to a four-lane facility. Length of project is 2.69 miles. The number of family and business dislocations will depend upon the route selected. Wildlife will be affected. (4 pages) (ELR Order No. 05383) (NTIS Order No. EIS 72 5383-D)

U.S. 6 and U.S. 34, Nebraska, County: Furnas, Harlan, and Phelps. The proposed project entails the reconstruction of a segment of U.S. highways 6 and 34. Project length, amount of land acquisition and number of family and business displacements will depend upon the route chosen; each would have adverse effects on wildlife and farming and livestock operations. Land erosion and water pollution will occur. (21 pages) (ELR Order No. 05384) (NTIS Order No. EIS 72 5384-D)

New Hampshire Route 111, New Hampshire, County: Rockingham. The proposed project is the relocation of New Hampshire Route 111. Project length is approximately 6 miles. Displacements include 14 families and 8 businesses. The relocated road will be constructed through agricultural and residential areas. One historical site and wildlife in nearby wetlands will be affected. Increases of noise and soil siltation are expected. (45 pages) (ELR Order No. 05385) (NTIS Order No. EIS 72 5385-D)

Draft, October 6

I-79, West Virginia, County: Kanawha. The statement contains a location study for construction of a portion of I-79 beginning near Charleston and ending near the community of Big Chimney. The number of families and businesses displaced will depend upon the alternate selected. Adverse impacts include increases in air, noise and water pollution and temporary erosion and siltation during construction. (138 pages) (ELR Order No. 05410) (NTIS Order No. EIS 72 5410-D)

Final, October 6

Illinois Route 4 (F.A.P. Route 68), Illinois, County: Madison. The proposed project involves the relocation of existing F.A.P. Route 68 in the vicinity of its crossing over U.S. 40. Three bridges will be reconstructed. Project length is approximately 1 mile. Thirty acres are required for right-of-way. (102 pages) Comments made by: USDA, DOC, COE, HEW, DOI, and DOT (ELR Order No. 05419) (NTIS Order No. EIS 72 5419-F)

U.S. 36, Kansas, County: Brown. The statement refers to a corridor study for the relocation of approximately 13 miles of U.S. 36. Acquisition of right-of-way will reduce the amount of land available for agricultural and wildlife use. Some properties will be severed and an unspecified number of residences displaced. (177 pages) Comments made by: USDA, COE, EPA, HEW, HUD, and DOI (ELR Order No. 05418) (NTIS Order No. EIS 72 5418-F)

U.S. 287, Texas, County: Ellis. The statement considers a proposal to construct a four-lane divided highway along the existing alignment of two-lane U.S. 287. Approximately 200 acres of agricultural land will be committed to right-of-way. Six families will be displaced, several businesses will be either bypassed or encroached upon. (57 pages) Comments made by: USDA, COE, EPA, HEW, and HUD (ELR Order No. 05412) (NTIS Order No. EIS 72 5412-F)

Final, October 4

Groton-Marshfield State Highway, Vermont, County: Caledonia. The statement considers a proposal to relocate 1,900 feet of the Groton-Marshfield State Highway. The purpose of the project is to eliminate two sharp curves. A section 4(f) statement has been filed for the 0.5-acre impingement on the Groton State Forest. (53 pages) Comments made by: EPA and DOT (ELR Order No. 05396) (NTIS Order No. EIS 72 5396-F)

U.S. 16, Wisconsin, County: Waukesha. The statement refers to a proposal to widen existing U.S. 16 from a two-lane highway to a four-lane freeway between the communities of Oconomowoc and Pewaukee. Project length is 11.9 miles. Approximately 296 acres are required for additional right-of-way. Six businesses, 40 fixed homes and 45 mobile homes may be displaced. (429 pages) Comments made by: USDA, EPA, HEW, HUD, DOT, and DOT State, regional, and local agencies (ELR Order No. 05401) (NTIS Order No. EIS 72 5401-F)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final, October 2

Baltimore Region Rapid Transit System, Maryland County: Baltimore. The statement considers an application by the Maryland Department of Transportation for a grant of two-thirds of the cost of the final design, construction, and land acquisition of a rail rapid transit line for Section A of Phase 1 of the System. Total cost of Phase 1 is $404,513,000. The section discussed in the statement includes 8.5 miles of double-track line and 10 stations. Approximately 46 families and 32 businesses will be displaced by the project. (96 pages) Comments made by: USDA, DOC, EPA, and DOI (ELR Order No. 05387) (NTIS Order No. EIS 72 5387-F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72-17757 Filed 10-17-72;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

DOW CHEMICAL CO.

Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1313) has been filed by the Dow Chemical Co., Post Office Box 1706, Midland, MI 48640, proposing establishment of tolerances (40 CFR Part 180) for residues of the herbicide dalapon (2,2-dichloropropionic acid) from application of dalapon sodium salt or dalapon sodium-magnesium salt mixtures in or on the raw agricultural commodities almond hulls at 50 parts per milion; almonds and pasture and range grass at 10 parts per million; lemons, plums (fresh prunes), and walnuts at 5 parts per million; and pecans at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure with electron-capture detection.

Dated: October 10, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17709 Filed 10-17-72;8:46 am]

DOW CHEMICAL CO. AND M. & T. CHEMICALS, INC.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408 (d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 3F1312) has been filed jointly by The Dow Chemical Co., Post Office Box 1706, Midland, MI 48640 and M. & T. Chemicals, Inc., Post Office Box 1104, Rahway, NJ 07065, proposing establishment of a tolerance (CFR Part 180) for combined residues of the insecticide tricyclohexyltin hydroxide and its organotin metabolites (calculated as tricyclohexyltin hydroxide) in or on the raw agricultural commodity citrus at 2 parts per million.

Notice is also given that the same firms have filed a related food additive petition (FAP 3H5021) proposing establishment of a food additive tolerance (21 CFR Part 121) of 8 parts per million for residues of tricyclohexyltin hydroxide including its organotin metabolites (calculated as tricyclohexyltin hydroxide) in citrus pulp resulting from application of the insecticide to growing citrus fruit.

The analytical method proposed in the pesticide petition for determining residues of the insecticide is a procedure where the organotin compounds are converted to an inorganic form measurable by the dithiol colorimetric method at 530 nanometers.

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17708 Filed 10-17-72;8:46 am]

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Correction

In F.R. Doc. 72-17184, appearing at page 21363, in the issue of Saturday, October 7, 1972, in the seventh line of the second paragraph, the third word now reading "utilities", should read "utilizes".

FMC CORP.

Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1314) has been filed by FMC Corp., 100 Niagara Street, Middleport, NY 14105, proposing establishment of tolerances (40 CFR Part 180) for combined residues of the insecticide endosulfan (6,7,8,9,10,10 - hexachloro - 1,5,5a,6,9,9a-hexahydro - 6,9 - methano - 2,4,3 - benzodioxathiepin-3-oxide) and its metabolite endosulfan sulfate in or on the raw agricultural commodities almond hulls at 1 part per million and almonds at 0.2 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the insecticide is a microcoulometric gas chromatographic procedure for chlorine.

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17710 Filed 10-17-72;8:46 am]

UNIROYAL CHEMICAL

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1311) has been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Elm Street, Naugatuck, Conn. 06770, proposing establishment of a tolerance (40 CFR Part 180) for residues of the herbicide CIPC (isopropyl N - (3 - chlorophenyl) carbamate) in or on the raw agricultural commodity soybeans at 0.3 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a procedure using gas-liquid chromatography with nitrogen detection.

Dated: October 6, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17711 Filed 10-17-72;8:46 am]

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from September 16, 1972, to September 30, 1972, as required by section 102(2)(C)

of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of the nature of EPA's comments, and the source for copies of the comments.

Appendix II contains definitions of the four classifications of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix III contains a listing of the addresses of the sources for copies of EPA comments listed in Appendix I.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: October 10, 1972.

SHELDON MEYERS,
Director,
Office of Federal Activities.

APPENDIX I.—ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN SEPTEMBER 16, 1972, AND SEPTEMBER 30, 1972

Responsible Federal Agency	Title and identifying number	General nature of comments	Source for copies of comments
Atomic energy commission	D-AEC-00066-27: LaSalle County Nuclear Power Stations, Units 1 and 2, Ill.	2	A
Do	D-AEC-00063-26: Kewaunee Nuclear Power Plant, Wis.	2	A
Corps of Engineers	D-COE-35042-07: Permit for dam on Murderers Creek, Greene County, N.Y.	3	C
Do	D-COE-25025-07: Application for discharge permit by Con Ed Co., New York.	2	C
Do	D-COE-35040-15: Maintenance dredging of Hampton Creek, Va., Westmoreland County, Pa.	2	D
Do	D-COE-89102-00: Construction of mooring facilities, Ohio River Navigation system.	2	E
Do	D-COE-32308-29: American Cyanamid Co., Savannah Harbor, Chatham County, Ga.	3	E
Department of Agriculture	D-DOA-01019-14: Approval of operating plans for development of coal mines on Shavers Fork of Cheat River, W. Va.	3	D
Do	D-DOA-36150-28: Fall Creek Watershed, Warren County, Ind.	2	F
Department of Commerce	D-DOC-89105-15: Artificial reef construction, Cape Henry, Va	1	D
Department of the Interior	D-DOI-02040-35: Proposed Outer Continental Shelf Oil and Gas Lease Sale, Louisiana.	2	A
Do	D-DOI-07067-42: Second Watertown Brookings 115 kv. line, South Dakota.	1	I
Department of Transportation	D-DOT-41418-05: Route 10, Hamden to North Haven, Conn.	2	B
Do	D-DOT-41490-07: New bridge over Susquehanna River, Binghamton, Broome County, N.Y.	2	C
Do	D-DOT-41461-14: U.S. Route 30—Chester to Pennsylvania State line, West Virginia.	1	D
Do	D-DOT-41468-16: I-695, District of Columbia, Lincoln Memorial to Washington Monument, Washington, D.C.	2	D
Do	D-DOT-41450-21: Indian River County connecting road, Florida.	2	E
Do	D-DOT-41439-22: Completion of I-40 through Memphis, Tenn.	2	E
Do	D-DOT-41407-27: FA Route 402, Whiteside County, Ill.	2	F
Do	D-DOT-41416-30: TH 87, Becker County, Minn.	1	F
Do	D-DOT-41441-34: Southwest Freeway, FR 1-35W to Tarrant-Johnson County line, Tex.	2	G
Do	D-DOT-51185-39: Springfield Municipal Airport, Green County, Mo.	1	H
Do	D-DOT-41456-39: Route 40, TR St. Louis, Mo.	2	H
Do	D-DOT-41455-38: (SF) 69-61 F 083 2(11) and (18) Miami County, Kans.	2	H
Do	D-DOT-41445-36: S-406(6) Brule—South, Keith County, Nebr.	2	H
Do	D-DOT-41186-36: Seward Municipal Airport, Nebr.	2	H
Do	D-DOT-41430-38: K-4, Jefferson County, Kans.	1	H
Do	D-DOT-52328-45: Los Animas County Airport, Colo.	2	I
Do	D-DOT-41379-44: Highway Projects I-215 and I-80, Interchange, Salt Lake City, Utah.	1	I
Do	D-DOT-41417-48: Improvements to U.S. 80, Yuma, Ariz.	1	J
Federal Power Commission	D-FPC-03028-08: Tecon Gasification Plant, South Plainfield, N.J.	1	C
Do	D-FPC-05408-22: Martin Project No. 349, Tallapoosa River, Ala.	2	E
Do	D-FPC-06390-44: Application of relicensing, Weber Project No. 1744, Utah.	1	I
Department of Health, Education, and Welfare.	D-HEW-81004-27: Grant Hospital, Cook County, Ill.	1	F
Department of Housing and Urban Development.	D-HUD-81101-34: Bergstrom Arms Apr., Austin, Tex.	1	G
Department of the Treasury	D-TRE-10022-12: Proposed facilities for the Consolidated Federal Law Enforcement Training, Maryland.	2	D
Do	D-TRE-80199-45: Proposed new Denver Mint, Colorado.	1	I
Tennessee Valley Authority	D-TVA-25024-22: Experimental SO_2 removal system and waste disposal pond, Widows Creek Steam Plant, Jackson County, Ala.	1	E

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General agreement/lack of objections:* The Agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) Suggests only minor changes in the proposed action or the draft impact statement; or

(c) Has no comments on the draft impact statement or the proposed action.

(2) *Inadequate information:* The Agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The Agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major changes necessary:* The Agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory:* The Agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The Agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX III

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, NY 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.72-17734 Filed 10-17-72;8:50 am]

NATIONAL AMBIENT AIR QUALITY STANDARDS

Proposed State Implementation Plans; Notice of Public Hearing

On July 27, 1972 (37 F.R. 15094), the Administrator published proposed regulations to correct certain deficiencies in State plans for implementation of national ambient air quality standards. Pursuant to a notice published on August 18, 1972 (37 F.R. 16694), a public hearing was held on the proposed regulations in Utah on September 14, 1972.

On September 16, 1972 (37 F.R. 18944), notice was published to reconvene the hearing on October 27, 1972. Such hearing will be postponed to reconvene instead on November 9, 1972, at 9 a.m., State Office Building, Highway Auditorium, Salt Lake City. The Hearing Officer will be Mr. Leonard W. D. Campbell.

Persons wishing to participate in these public hearings should signify their intentions by notifying the hearing officer, and, where practicable, supplying five copies of their statements 5 days in advance of the hearing date. Written statements may also be submitted for the record of the hearing. Notifications and copies of statements should be addressed to:

Environmental Protection Agency, Hearing Officer, Regional Counsel, 1860 Lincoln Street, Suite 900, Denver, CO 80203.

Copies of the proposed regulations which will be considered at these public hearings are available from the Agency's Regional Office at the following address:

Environmental Protection Agency, Air and Water Programs Division, 1860 Lincoln Street, Suite 900, Denver, CO 80203.

Dated: October 13, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-17729 Filed 10-17-72;8:48 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

INSURED BANKS

Joint Call for Report of Condition

Pursuant to the provisions of section 7(a)(3) of the Federal Deposit Insurance Act, each insured bank is required to make a report of condition as of the close of business October 10, 1972, to the appropriate agency designated herein, within 10 days after notice that such report shall be made: *Provided*, That if such reporting date is a nonbusiness day for any bank, the preceding business day shall be its reporting date.

Each national bank and each bank in the District of Columbia shall make its original report of condition on Office of the Comptroller Form CC-8022-05 (Call No. 483),[1] and shall send the same to the Comptroller of the Currency and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank which is a member of the Federal Reserve System, except a bank in the District of Columbia, shall make its original report of condition on Federal Reserve Form F.R. 105 (Call 205)[1] and shall send the same to the Federal Reserve Bank of the District wherein the bank is located and shall send a signed and attested copy thereof to the Federal Deposit Insurance Corporation. Each insured State bank not a member of the Federal Reserve System, except a bank in the District of Columbia and a mutual savings bank, shall make its original report of condition on FDIC Form 64 (Call No. 101)[1] and shall send the same to the Federal Deposit Insurance Corporation.

The original report of condition required to be furnished hereunder to the Comptroller of the Currency and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for Preparation of Consolidated Reports of Condition by National Banking Associations," as amended.[1] The original report of condition required to be furnished hereunder to the Federal Reserve Bank of the District wherein the bank is located and the copy thereof required to be furnished to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Reports of Condition by State Member Banks of the Federal Reserve System," as amended.[1] The original report of condition required to be furnished hereunder to the Federal Deposit Insurance Corporation shall be prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 by Insured State Banks Not Members of the Federal Reserve System," as amended.[1]

Each insured mutual savings bank not a member of the Federal Reserve System shall make its original report of condition on FDIC Form 64 (Savings),[1] prepared in accordance with "Instructions for the Preparation of Report of Condition on Form 64 (Savings), and Report of Income on Form 73 (Savings) by Insured Mutual Savings Banks," as amended,[1] and shall send the same to the Federal Deposit Insurance Corporation.

[SEAL] FRANK WILLE,
Chairman, Federal Deposit Insurance Corporation.

WILLIAM B. CAMP,
Comptroller of the Currency.

J. L. ROBERTSON,
Vice Chairman, Board of Governors of the Federal Reserve System.

[FR Doc.72-17717 Filed 10-17-72;8:48 am]

[1] Filed as part of original document.

FEDERAL MARITIME COMMISSION

[Docket No. 72-51]

NEW YORK SHIPPING ASSOCIATION

Enlargement of Time To File Replies

Docket No. 72-51, New York Shipping Association—NYSA-ILA man-hour/tonnage method of assessment; possible violation of sections 15, 16, and 17, Shipping Act, 1916.

Upon request of counsel for Wallenius Line, and good cause appearing, time within which replies to respondents affidavits and memoranda may be filed in this proceeding is enlarged to and including October 30, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-17701 Filed 10-17-72;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP73-98]

BOSTON GAS CO.

Notice of Application

OCTOBER 16, 1972.

Take notice that on October 10, 1972, Boston Gas Co. (Applicant), 4900 Prudential Tower, Boston, Mass. 02199, filed in Docket No. CP73-98 an application pursuant to section 3 of the Natural Gas Act for authorization to import from Algeria into the United States, by ship, up to approximately 630,000 barrels of liquefied natural gas (LNG), with a heating value of approximately 2,380 billion B.t.u.'s, during the period October 15, 1972, through January 31, 1973, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to import LNG from production at Hassi R'Mel, Algeria, by Sonatrach, and purchased from British Methane Ltd., a Bahamian corporation. Applicant states that the price of the LNG to be imported will be approximately $1.10 per million B.t.u.'s after allowance for in-transit boiloff and ship cooldown, plus freight and related expenses estimated at 33 cents per million B.t.u.'s. Applicant proposes to transport the LNG from LNG processing plants in Arzew, Algeria, to Boston Harbor by an oceangoing tanker or tankers to be chartered by Applicant. Applicant indicates that the LNG will be transferred on arrival in Boston from the tanker to LNG tanks at Everett, Mass., owned by Distrigas Corp. of Massachusetts, a wholly owned subsidiary of Distrigas Corp., by direct lines from dockside. Applicant states that the proposed importation of LNG will assist Applicant in alleviating curtailments in supplies from its pipeline supplier, Algonquin Gas Transmission Co., and from

Distrigas Corp. and that Applicant expects to share approximately 50 percent of the LNG with other customers of Distrigas Corp.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17848 Filed 10-17-72;8:50 am]

[Docket No. CP73-95]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

OCTOBER 16, 1972.

Take notice that on October 6, 1972, Columbia Gas Transmission Corp. (Applicant), 20 Montchanin Road, Wilmington, DE 19807, filed in Docket No. CP73-95 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas storage facilities in Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced emergency injections of natural gas into its proposed Artemas-B Storage Field in Bedford County, Pa., on September 21, 1972, within contemplation of § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22) and proposes herein to activate and operate two wells and to drill a new well in this storage field, which is a depleted production field.

Applicant states that the proposed conversion of this depleted production field, which is adjacent to its existing Artemas-A Storage Field, is necessary to enable it to utilize its present gas supply and storage capacity available to it in order to assist in maintaining as reliable and adequate service as possible to its customers during 1972-73 winter period and thereafter.

Applicant proposes to construct in 1973, 2,700 feet of 6-inch line and related facilities to connect the two existing wells and a new well to be drilled to Applicant's existing Line No. 29500 in Bedford County. Applicant indicates that existing facilities are presently being utilized for injection and will be used for withdrawals during the 1972-73 winter season.

Applicant estimates that it will require a period of 2 years to develop completely the proposed storage field and that the storage field will have a gas inventory capacity of 1,700,000 Mcf. at an average static wellhead pressure of 1,900 p.s.i.g.

Applicant estimates the total cost of the proposed project at $521,000, which it plans to finance from internally generated funds.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of petitions to intervene and protests. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17849 Filed 10-17-72;8:50 am]

FEDERAL RESERVE SYSTEM

ELLIS BANKING CORP.

Acquisition of Bank

Ellis Banking Corporation, Bradenton, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First Security Bank, Bradenton, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 8, 1972.

Board of Governors of the Federal Reserve System, October 11, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17698 Filed 10-17-72;8:45 am]

PACESETTER FINANCIAL CORP.

Formation of Bank Holding Company

Pacesetter Financial Corp., Grand Haven, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of the successor by consolidation to Security First Bank & Trust Co., Grand Haven, Mich.; and the successor by consolidation to Traverse City State Bank, Traverse City, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 8, 1972.

Board of Governors of the Federal Reserve System, October 11, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17699 Filed 10-17-72;8:45 am]

BANK HOLDING COMPANIES

Grandfather Privileges

Correction

In F.R. Doc. 72-17239 appearing on page 21382 of the issue for Saturday, October 7, 1972, in the second paragraph of the "Bank Holding Companies", the third holding company should read "Hopeton Holding Corp., Wilmington, Del.", instead of "Chicago, Ill."

INSURED BANKS

Joint Call for Report of Condition

CROSS REFERENCE: For a document regarding joint call for condition of insured banks, see F.R. Doc. 72-17717, Federal Deposit Insurance Corporation, *supra*.

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR OCEANOGRAPHY

Notice of Meeting

Notice is hereby given in accordance with Executive Order 11671, section 13.(a) (1) and (2), dated June 5, 1972, that a meeting of the Advisory Panel for Oceanography will be held at 9 a.m. on October 26 and 27, 1972, at 1800 G Street NW., Washington, DC 20550 (meeting room locations are indicated in the agenda, below). The purpose of this panel is to provide advice and recommendations (a) concerning support for research in Oceanography; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting is as follows:

OCTOBER 26 SESSION

This session will be devoted to the review and evaluation of pending proposals—Rooms 642 and 321.

OCTOBER 27 SESSION

1. Review and evaluation of pending proposals—Rooms 642 and 321.
2. Remarks on Executive Order 11671 by the Deputy Assistant Director for Research—Room 642.
3. Discussion on Oceanography Section activities—Room 642.

The entire October 26 session as well as the period covered by agenda item 1 of the October 27 session will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13.(d). The remaining portion of the meeting, covering agenda items 2 and 3 of the October 27 session, will be open to the public as observers only.

Summary minutes relative to this meeting may be obtained by contacting the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 12, 1972.

[FR Doc.72-17741 Filed 10-17-72;8:49 am]

ADVISORY PANEL FOR GENETIC BIOLOGY

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Panel for Genetic Biology will be held at 9 a.m. on October 27 and 28, 1972, in Room 511, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

The agenda will be devoted to the review and evaluation of research proposals or projects; therefore, the meeting will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

For further information relative to this committee, contact Mrs. Mary Wolff, Associate Program Director, Genetic Biology Program, Division of Biological and Medical Sciences, Room 326, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 12, 1972.

[FR Doc.72-17742 Filed 10-17-72;8:49 am]

ADVISORY PANEL FOR PSYCHOBIOLOGY

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Panel for Psychobiology will be held at 9 a.m. on October 31 and November 1, 1972, in Room 338, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

The agenda will be devoted to the review of research proposals or projects which have been assigned to the Psychobiology Program to evaluate their scientific merit; therefore, the meeting will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

For further information relative to this committee, contact Dr. Henry S. Odbert, Program Director, Psychobiology Program, Division of Biological and Medical Sciences, Room 333, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 12, 1972.

[FR Doc.72-17743 Filed 10-17-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3018]

CONTINENTAL ASSURANCE CO. AND CONTINENTAL ASSURANCE CO. SEPARATE ACCOUNT (B)

Notice of Filing of Application for Exemption From Provisions

OCTOBER 11, 1972.

Notice is hereby given that Continental Assurance Company (Company), an Illinois life insurance company, and Continental Assurance Company Separate Account (B) (Account), 310 South Michigan Avenue, Chicago, IL 60604, an open-end diversified management company registered under the Investment Company Act of 1940 (Act) (hereinafter collectively called "Applicants"), have filed an application pursuant to section 6(c) of the Act for an order exempting the Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus.

Applicants propose to establish a schedule of reduced sales charges and request an exemption to permit, in determining the points at which discounts will apply, consideration of the total of purchase payments made rather than the quantity of securities previously purchased or acquired and then held plus the securities being purchased. Applicants contend that it is administratively impractical to consider redemptions or fluctuations in the value of the Account. In addition, they assert that redemptions by participants having an interest in the Account are an infrequent occurrence.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than November 8, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issue, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be

issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17744 Filed 10-17-72;8:49 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 11, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 12, 1972, through October 21, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17747 Filed 10-17-72;8:49 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

OCTOBER 11, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Crystalography Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 1:50 p.m., e.d.t., on October 11, 1972, through October 20, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 72-17748 Filed 10-17-72;8:49 am]

[812-3250]

EATON & HOWARD BALANCED FUND

Notice of Filing of Application for An Order Exempting Sale By Open-End Company of Its Shares at Other Than Public Offering Price

OCTOBER 11, 1972.

Notice is hereby given that Eaton & Howard Balanced Fund (Applicant), 24 Federal Street, Boston Massachusetts 02110, a common law trust existing under the laws of Massachusetts registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price described in the prospectus, in exchange for substantially all of the assets of George A. Meyer Finance Co. (Meyer). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Meyer, a corporation existing under the laws of Delaware, is a private investment company. All of the outstanding preferred stock of Meyer is held in 15 shareholder accounts and all of its outstanding common stock is held by seven shareholders. Meyer is exempt from registration under the Act by reason of the provisions of section (3)(c)(1) thereof. Pursuant to an agreement between Applicant and Meyer substantially all of the cash and securities owned by Meyer with a value of approximately $3,748,000 as of June 30, 1972, will be transferred to Applicant in exchange for shares of its capital stock. The number of shares of Applicant to be issued is to be determined by dividing the aggregate market value (with certain adjustments as set forth in detail in the application) of the assets of Meyer to be transferred to Applicant by the net asset value per share of Applicant both to be determined as of a valuation time, as defined in the agreement. If the valuation under the agreement had taken place on June 30, 1972, Meyer would have received 341,975 shares of Applicant's stock. The exchange contemplated by the agreement would be prohibited by section 22(d) as being a sale of a redeemable security by a registered investment company at a price other than a current offering price described in the prospectus, unless exempted by an order under section 6(c) of the Act.

When received by Meyer, the shares of Applicant, which are registered under the Securities Act of 1933, are to be distributed to the shareholders of Meyer as a distribution in complete liquidation and Meyer will be dissolved. Applicant has been advised by the management of Meyer that the shareholders of Meyer have no present intention of redeeming any of Applicant's shares following the proposed transaction.

There is no affiliation between Applicant and Meyer. Meyer is not an affiliated person of any affiliated person of Applicant, and the agreement was negotiated at arm's length by the two companies. Applicant states that the Board of Trustees approved the agreement as being beneficial to its shareholders, because among other things, Applicant will be able to acquire at one time substantial additions to its portfolio securities without affecting the market in those securities and without incurring brokerage commissions.

Section 22(d) of the Act provides that registered investment companies issuing redeemable securities may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt such a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant contends that the proposed offering of its stock will comply with the provisions of the Act, other than section 22(d) and submits that the granting of the application is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17745 Filed 10-17-72;8:49 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

OCTOBER 10, 1972.

The common stock, $0.10 par value of Goodway Inc. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12 p.m. on October 10, 1972, through October 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17749 Filed 10-17-72;8:49 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

OCTOBER 10, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from October 11, 1972, through October 20, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17750 Filed 10-17-72;8:49 am]

[File No. 500-1]

NORTH AMERICAN PLANNING CORP.

Order Suspending Trading

OCTOBER 11, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class B nonvoting common stock, $0.01 par value and all other securities of North American Planning Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 12, 1972, through October 21, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17751 Filed 10-17-72;8:49 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

OCTOBER 6, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 6 p.m., E.D.T., on October 6, 1972, through October 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17752 Filed 10-17-72;8:49 am]

[70-5241]

SOUTHERN CO. ET AL.

Notice of Proposed Change of Corporate Domicile

OCTOBER 11, 1972.

In the matter of The Southern Co., Atlanta, Ga. 30346; Mississippi Power Co. (a Maine Corporation); Mississippi Power Co. (a Mississippi Corporation), 2992 West Beach, Gulfport, MS 39501 (70-5241).

Notice is hereby given that The Southern Co. (Southern), a registered holding company, Mississippi Power Co. (Maine Company), a public-utility subsidiary of Southern, and Mississippi Power Co. (Mississippi Company), a proposed subsidiary of Southern, have filed an application-declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9(a), 9(b), 10, 12(c), 12(e), and 12(f) of the Act and Rules 42, 43, and 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

In order to change its corporate domicile from the State of Maine to the State of Mississippi, Maine Company proposes to merge with the Mississippi Company which was incorporated for such purpose. This merger will be presented to the stockholders at a Special Meeting to be held on December 18, 1972, for their approval. Maine Company intends to solicit proxies from the holders of its preferred stock through the use of solicitation material. It is stated that an affirmative vote of the holders of a majority of the total number of outstanding shares of Maine Company stock and of the total number of outstanding shares of Maine Company preferred stock are required for approval of the merger. It is further stated that a favorable vote of the holders of two-thirds of the outstanding shares of Mississippi Company common stock are required for approval of the merger. It is the present intention of Southern, as holder of all outstanding shares of Maine Company common stock, and of the holders of all outstanding shares of Mississippi Company common stock to vote in favor of the merger.

The application-declaration states that although the Maine Company has been incorporated in the State of Maine for many years, substantially all of the Maine Company's utility properties, operations and all other business offices are located in the State of Mississippi, and the Maine Company's business is carried on subject to and in accordance with the laws of the State of Mississippi thereby making the State of Mississippi the most appropriate place to incorporate. It is further stated that incorporation in Mississippi is beneficial in that it: (1) Promotes better understanding of the company by State and local governmental authorities, (2) relieves the company of annual taxes now payable to the State of Maine, amounting currently to $7,000, and of the miscellaneous other expenses incident to the maintenance of a statutory office in the State of Maine, and (3) can be effectuated without any alteration in the rights of stockholders or the indenture rights of the holders of outstanding debt.

It is stated that following the merger, Mississippi Company will own and operate the electric utility properties formerly owned and operated by Maine Company, and will also have a capital structure

identical with the present capital structure of Maine Company so that the accounts of Mississippi will be identical in all material respects with the accounts of Maine Company; furthermore no changes in accounting principles or practices are contemplated. There are no variations of substance between the Articles of Incorporation or the bylaws of the two companies, except that (1) in accordance with the requirement of the Mississippi Business Corporation Act, (a) the Articles of Incorporation of Mississippi Company provides that its corporate existence shall be limited to 99 years whereas the Maine Company's provides perpetual existence and (b) the rights and preferences of the various series of preferred stock are set forth in the Mississippi Company's Articles of Incorporation whereas they were included in Maine Company's bylaws, and; (2) absent an amendment of its Articles, Mississippi Company will not be authorized, as is Maine Company, to engage in the street railway, telegraph, or telephone business. The present directors will continue as directors of Mississippi, and the present officers of Maine Company will hold corresponding officers in Mississippi Company.

It is stated that the fees and expenses incurred in connection with the proposed transaction total $57,500 including fees for counsel of $37,500. It is further stated that the proposed transaction is subject to the jurisdiction of the Mississippi Public Service Commission and that the requisite order of that Commission will be filed herein by amendment.

Notice is further given that any interested person may, not later than October 30, 1972, request in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the application-declaration at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration as filed or as amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17746 Filed 10-17-72;8:49 am]

INTERSTATE COMMERCE COMMISSION

[Notice 98]

ASSIGNMENT OF HEARINGS

OCTOBER 13, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 41432 Sub 126, East Texas Motor Freight Lines, Inc., MC 83539 Sub 345, C & H Transportation Co., Inc., now being assigned December 4, 1972 (1 day), at Dallas, Tex., in a hearing room to be later designated.

MC-F-11539, Commercial Carriers, Inc.—control and merger—B & H Truckaway Co., MC 43038 Sub 451, Commercial Carriers, Inc., now assigned November 13, 1972, at San Francisco, Calif., is postponed indefinitely.

MC-C-7650, American Movers & Storage, C & M Moving & Storage, American Red Ball Transit Co., Inc., Bekins Van Lines Co., and Towne Services Household Goods Transportation Co., Inc.—investigation of operations—now assigned December 4, 1972, at Dallas, Tex., hearing is postponed indefinitely.

MC 117465 Sub 18, Beaver Express Service, Inc., now assigned November 27, 1972, at Amarillo, Tex., is postponed indefinitely.

MC-F-11372, Roadway Express, Inc.—control and merger—Poole Transfer, now assigned October 30, 1972, at Chicago, Ill., will be held at La Salle Hotel, 10 North La Salle Street, Chicago, IL.

MC-112989 Sub 23, West Coast Truck Lines, Inc., now assigned November 6, 1972, at Portland, Oreg., will be held in Room 401, Multnomah Building, 319 South West Pine Street, Portland, OR.

MCC-7796, C. A. White Trucking Co. and McAlister Trucking Co.—investigation and revocation of certificates, MC 23618 Sub 18, McAlister Trucking Co., MC 60157 Sub 18, C. A. White Trucking Co., now assigned November 27, 1972, at Denver, Colo., hearing will be held in Room 595, U.S. Courthouse, 1929 Stout Street.

MCC-7796, C. A. White Trucking Co. and McAlister Trucking Co.—investigation and revocation of certificates, MC 23618 Sub 18, McAlister Trucking Co., MC 60157 Sub 18, C. A. White Trucking Co., now assigned November 30, 1972, at Tucson, Ariz., hearing will be held in Room 200, New State Office Building, 415 West Congress Street.

MC 61592 Sub 269, Jenkins Truck Line, Inc., now assigned November 6, 1972, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 121060 Sub 17, Arrow Truck Lines, Inc., now assigned November 7, 1972, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street, NW.

MC 115841 Sub 407, Colonial Refrigerated Transportation, Inc., now assigned November 8, 1972, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC-115826 Sub 220, W. J. Digby, Inc., now being assigned continued hearing November 13, 1972, at Denver, Colo., will be held in Courtroom, Fifth Floor Federal Building, 19th and Stout Streets, Denver, Colo.

MC 115840 Sub 75, Colonial Fast Freight Lines, Inc., now assigned October 30, 1972, MC-C-7346, Gulf Transport Co.—investigation of practices, now assigned November 1, 1972, MC 73165 Sub 304, Eagle Motor Lines, Inc., now assigned November 2, 1972, MC 135274, Britton & Southern, Inc., now assigned November 3, 1972, MC 73688 Sub 50, Southern Trucking Corp., now assigned November 6, 1972, MC 107295 Sub 521, Pre-Fab Transit Co., now assigned November 7, 1972, MC 115162 Sub 224, Poole Truck Line, Inc., now assigned November 8, 1972, MC-C-7668, Georgia - Florida - Alabama Transp. Co. and Bay Transp., Inc.—investigation and revocation of certificates, now assigned November 9, 1972, will be held in the Department of Labor, Conference Room, 1931 Ninth Avenue South, Birmingham, Ala.

MC 116544 Sub 129, Wilson Brothers Truck Line, Inc., now assigned November 6, 1972, at New Orleans, La., is postponed indefinitely.

MC 4405 Sub 494, Dealers Transit, Inc., now assigned October 24, 1972, at Washington, D.C., is postponed indefinitely.

MC 109462 Sub 18, Lumber Transport, Inc., now assigned December 4, 1972, MC 133093 Sub 4, Clifford Jones, doing business as Jones Truck Line, now assigned December 11, 1972, at Albuquerque, N. Mex., hearings will be held in Room 1410, Federal Office Building, 517 Gold SW.

MC 115841 Sub 421, Colonial Refrigerated Transportation, Inc., now assigned December 13, 1972, MC 133796 Sub 7, George Appel, now assigned December 14, 1972, at Los Angeles, Calif., will be held in Room 7210, Federal Building, 300 North Los Angeles Street.

NO. 35632, Nebraska Intrastate Freight Rates and Charges—1972, now being assigned hearing January 29, 1973 (1 week), at Lincoln, Nebr., in a hearing room to be later designated.

NO. 35598, North Carolina Intrastate Freight Rates and Charges—1972, now being assigned hearing January 29, 1973 (1 week), at Raleigh, N.C., in a hearing room to be later designated.

MC-C-7838, Moore Van & Storage, Inc., James W. Moore, doing business as Fort Worth Transfer Co. & Fort Worth Storage & Transfer Co., O. K. Transfer & Storage Co., Cartwright Van Lines, Inc., and American Red Ball Transit Co. Inc.—investigation of operations, now assigned October 31, 1972, at Dallas, Tex., is postponed indefinitely.

MC 124606 Sub 3, Ford Truck Line, Inc., now being assigned December 11, 1972 (1 week), at Memphis, Tenn., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17766 Filed 10-17-72;8:50 am]

[Notice 28]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 13, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (59 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 629) (Cancels Deviation No. 490), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed September 28, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Jacksonville, Fla., over Interstate Highway 95 to junction Georgia Highway 40, thence over Georgia Highway 40 to junction U.S. Highway 17 at Kingsland, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Pocatalico, S.C., over U.S. Highway 17 to Brunswick, Ga., thence over unnumbered highway to Sea Island, Ga., thence return over unnumbered highway to Brunswick, Ga., thence over U.S. Highway 17 to Jacksonville, Fla., and return over the same route.

No. MC-1515 (Deviation No. 630) (Cancels Deviation No. 588), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed September 28, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Memphis, Tenn., over Interstate Highway 55 to junction U.S. Highway 51 just south of Ponchatoula, La., with the following access routes: (1) From Crystal Springs, Miss., over Mississippi Highway 27 to junction Interstate Highway 55, (2) from McComb, Miss., over U.S. Highway 98 to junction Interstate Highway 55, and (3) from McComb, Miss., over Mississippi Highway 24 to junction Interstate Highway 55, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Turrell, Ark., over U.S. Highway 61 to Clarksdale, Miss., (2) from Clarksdale, Miss., over U.S. Highway 49 to Tutwiler, Miss., thence over U.S. Highway 49-E to junction old U.S. Highway 49-E at a point approximately 1.3 miles north of Yazoo City, Miss., thence over U.S. Highway 49-E to Yazoo City, Miss., thence over U.S. Highway 49 to Jackson, Miss., (3) from Jackson, Miss., over U.S. Highway 51 to LaPlace, La., and (4) from Fulton, Ky., over U.S. Highway 51 via Union City, Dyersburg, and Memphis, Tenn., to Jackson, Miss., and return over the same routes.

No. MC-1515 (Deviation No. 631) GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed September 28, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Baton Rouge, La., over Interstate Highway 12 to junction U.S. Highway 51, thence over U.S. Highway 51 to Hammond, La., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Baton Rouge, La., over U.S. Highway 190 to Hammond, La., and return over the same route.

No. MC-1515 (Deviation No. 632), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed October 2, 1972. Carrier proposes to operate as a *common carrier* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Macon, Ga., over Interstate Highway 16 to junction Georgia Highway 257, thence over Georgia Highway 257 to junction U.S. Highway 80, near Dublin, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: Between Macon, Ga., and Savannah, Ga., over U.S. Highway 80.

No. MC-1515 (Deviation No. 633) (Cancels Deviation No. 508), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed October 2, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes, as follows: (1) From junction U.S. Highway 31 and Interstate Highway 10 at Spanish Fort, Ala., over Interstate Highway 10 to junction U.S. Highway 331, thence over U.S. Highway 331 to junction U.S. Highway 90 at Defuniak Springs, Fla., with the following excess routes: (a) From Pensacola, Fla., over U.S. Highway 29 to junction Interstate Highway 10, (b) from Milton, Fla., over Florida Highway 191 to junction Interstate Highway 10, and (c) from Crestview, Fla., over Florida Highway 85 to junction Interstate Highway 10, and (2) from Jacksonville, Fla., over Interstate Highway 10 to junction Florida Highway 53, thence over Florida Highway 53 to junction U.S. Highway 90 at Madison, Fla., with the following access routes (a) from Lake City, Fla., over U.S. Highway 441 to junction Interstate Highway 10, and (b) from Live Oak, Fla., over U.S. Highway 129 to junction Interstate Highway 10, and return over the same routes, for operating covenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Montgomery, Ala., over U.S. Highway 31 via Flomation, Ala., to Mobile, Ala., (2) from Marianna, Fla., over U.S. Highway 90 via Pensacola, Fla., to Bridgehead, Ala., thence over U.S. Highway 98 via Fairhope, Fla., to Point Clear, Ala., (3) from Dothan, Ala., over U.S. Highway 231 to junction Florida Highway 73, thence over Florida Highway 73 to Marianna, Fla., thence over U.S. Highway 90 to Lake City, Fla., (4) from Chattanooga, Tenn., over U.S. Highway 41 via Macon, Ga., to Lake City, Fla., thence over U.S. Highway 90 to Jacksonville, Fla., and (5) from junction Alabama Highway 104 and U.S. Highway 98 (about 2 miles north of Fairhope, Ala.), over Alabama Highway 104 to junction Alabama Highway 59 (about one-half mile south of Robertsdale, Ala.), and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17763 Filed 10-17-72;8:50 am]

[Notice 31]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 13, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11) and notice thereof to all interested persons

is hereby given as provided in such rules (40 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-61788 (Deviation No. 1), GEORGIA FLORIDA ALABAMA TRANSPORTATION COMPANY, 1541 Reeves Street, Dotham, AL 36301, filed September 28, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, Ga., over Interstate Highway 85 (using U.S. Highway 29 pending completion of any unfinished portions) to Montgomery, Ala., thence over Interstate Highway 65 to junction Alabama Highway 21, thence over Alabama Highway 21 to the Alabama-Florida State line, thence over Florida Highway 97 to junction U.S. Highway 29, thence over U.S. Highway 29 to Pensacola, Fla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Atlanta, Ga., over U.S. Highway 29 to La Grange, Ga., thence over U.S. Highway 27 to Columbus, Ga., thence over U.S. Highway 431 to Dothan, Ala., thence over Alabama Highway 53 to the Alabama-Florida State line, thence over Florida Highway 141 to Malone, Fla., (2) from Dothan, Ala., over Alabama Highway 52 to Opp, Ala., thence over U.S. Highway 331 to the Alabama-Florida State line, thence over Florida Highway 85 to Crestview, Fla., thence over U.S. Highway 90 to Pensacola, Fla., and (3) from Florala, Ala., over Alabama Highway 54 to junction Alabama Highway 52, thence over Alabama Highway 52 to Samson, Ala., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17764 Filed 10-17-72;8:50 am]

[Notice 85]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 13, 1972.

The following publications[1] are governed by the new special rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 116710 (Sub-No. 17), filed September 28, 1972. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., Post Office Box 1634, Hattiesburg, MS 39401. Applicant's representative: Leland D. Smith, Navasota, Tex. 77868. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid sulphur dioxide*, in bulk, in tank vehicles, and in shipper-owned demountable cylinders, from Baton Rouge, La., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, New Mexico, Oklahoma, Tennessee, Texas, and Canton, N.C.; and (2) *Anhydrous aluminum chloride*, dry, in bulk, in tank vehicles, and in shipper-owned demountable containers, from Baton Rouge, La., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Louisiana, Maryland, Mississippi, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, and West Virginia.

HEARING: November 7, 1972 (2 days), at 9:30 a.m. U.S. standard time, at New Orleans, La., at a hearing room to be later designated.

No. MC 84933 (Sub-No. 3) (Republication) filed December 7, 1971, published in the FEDERAL REGISTER issue of February 10, 1972, and republished this issue. Applicant: ELMIRA WATKINS GLEN TRANSIT CORPORATION, 220 Owego Street, Montour Falls, NY 14065. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. An order of the Commission, operating rights board, dated September 18, 1972, and served October 4, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of passengers and their baggage, in the same vehicle with passengers in special operations, in round trip, sightseeing, and pleasure tours, beginning and ending at points in Chemung, Yates, Schuyler, and Ontario Counties, N.Y., and Bradford County, Pa., and extending to points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by lack of proper notice of the authority described below, a notice of the authority actually granted will be published in the FEDERAL REGISTER and the issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE FOR FILING OF PETITION

No. MC-69365 (Notice of Filing of Petition), filed June 12, 1972. Petitioner: CONTRACT CARRIER SERVICE, INC., doing business as ALPINE EXPRESS, INC., Post Office Box 2426, Eugene, OR 97402. Petitioner's representative: Tommie J. Yates (same address as petitioner). Petitioner presently holds permits in No. MC-69365 (Sub-No. 4), No. MC-69365 (Sub-No. 11), No. MC-69365 (Sub-No. 12), and No. MC 69365 (Sub-No. 13), issued February 24, 1959; October 6, 1960; December 8, 1960, and September 27, 1965, respectively, authorizing operations as a contract carrier by motor vehicle, over irregular routes, of: (1) Laminated wood products and prefabricated wooden timbers and trusses, from Longview, Wash., and Springfield, Oreg., to points in Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, under a continuing contract, or contracts, with Rosboro Lumber Co., of Springfield, Oreg., and Rilco Laminated Products, Inc., of Longview, Wash.; (2) laminated wooden beams, timbers, and arches, from the plantsite of the Rilco Laminated Products Division of the Weyerhaeuser Co., at or near Cottage Grove, Oreg., to points in Arizona, California, Colorado, Montana, Nevada, New Mexico, Utah, Wyoming, and points in that part of Nebraska in and west of Sheridan, Garden, and Deuel Counties, under a continuing contract, or contracts, with Rilco Laminated Products Division of Weyerhaeuser Co., of Cottage Grove, Oreg., and Associated Glu-Lam Products, Inc., of Berkeley, Calif.; (3) laminated wooden beams, timbers, and arches, from the site of the plant of Rilco Laminated Products Division of the Weyerhaeuser Co. at or near Cottage Grove, Oreg., to points in Washington, under a continuing contract, or contracts, with Rilco Laminated Products Division of the Weyerhaeuser Co.; and (4) (a) laminated wooden decking, from the plantsite of Weyerhaeuser Co. at Cottage Grove, Oreg., to points in California, Idaho, Montana, Nevada, Utah, and Washington, and (b) lumber, timbers, millwork, panels, boards, and sheets, and hardware and accessories used in the installation of timbers and laminated wooden decking, beams, and arches, when moving with laminated wooden decking, beams, and arches, from the plantsite of Weyerhaeuser Co. at Cottage Grove, Oreg., and from Eugene and Springfield, Oreg., to points in California, Idaho, Montana, Nevada, Utah, and Washington, under a continuing contract, or contracts, with Weyerhaeuser Co. of Tacoma, Wash. By the instant petition, petitioner seeks to add to its already existent authority service for Cheney Lumber Company of Eugene, Oreg. In addition, petitioner seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of laminated wood products and prefabricated wooden timbers and trusses, laminated wooden beams, timbers, and arches, laminated wooden decking, lumber, timbers, millwork, panels, boards and sheets, and hardware used in the installation thereof when moving with same from the plantsite of Eugene, Oreg., to points in Washington, Oregon, Idaho, Montana, Wyoming, California, Nevada, Utah, Colorado, New Mexico, and Arizona. Any person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petitions within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11658. Authority sought for control and merger by PUROLATOR SECURITY SERVICES, INC., 1341 West Mockingbird Lane, Dallas, TX 75202, of the operating rights and properties of (1) ARMORED MOTOR SERVICE OF ARIZONA, INCORPORATED, 712 East Roosevelt Street, Phoenix, AZ 85006; (2) BONDED ARMORED CARRIER, INC., 810 Old Harford Road, Baltimore, MD 21234; (3) PROTECTIVE MOTOR SERVICE COMPANY, INC., 725-29 South Broad Street, Philadelphia, PA 19147; and (4) MERCER & DUNBAR ARMORED CAR SERVICE, INC., doing business as DAS, 75 Maxim Road, Hartford, CT 06101, and for acquisition by AMERICAN COURIER CORPORATION and in turn by PUROLATOR SERVICES, INC., both of 2 Nevada Drive, Lake Success, NY 11040, of control of such rights and properties through the transaction. Applicant's attorneys: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040 and Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Operating rights sought to be controlled and merged: (1) *Coin, currency, securities, and valuables*, in armored or armed guard car service, as a contract carrier, over irregular routes, between points in Arizona; and *coin, currency, and securities*, between Los Angeles, Calif., on the one hand, and, on the other, points in Arizona. (Restricted to service under a continuing contract or contracts with named banks); (2) *cash, coin, currency, and negotiable and nonnegotiable securities* (excluding cash letters and accompanying checks), in armored vehicles, as a *contract carrier*, over irregular routes, between Baltimore, Md., on the one hand, and, on the other, points in Mineral, Hampshire, Berkeley, Morgan, and Jefferson Counties, W. Va., and Accomack and Northampton Counties, Va.; and *cash, coin, currency, and negotiable and nonnegotiable securities* (excluding cash letters and accompanying checks), in armored vehicles, between Baltimore, Md., on the one hand, and, on the other, certain specified points in West Virginia; (3) *articles of unusual value*, as a *contract carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey and Delaware within 75 miles of the City Hall, Philadelphia; *coin*, between Atlanta, Ga., Baltimore, Md., Birmingham, Ala., Boston, Mass., Buffalo and New York, N.Y., Charlotte, N.C., Cleveland and Cincinnati, Ohio, Jacksonville, Fla., Memphis and Nashville, Tenn., Philadelphia and Pittsburgh, Pa., Richmond, Va., and Washington, D.C.; *bullion* (a) from New York, N.Y., to Philadelphia, Pa., and Fort Knox, Ky., and (b) from Fort Knox, Ky., to Philadelphia, Pa.; *coin*, between Atlanta, Ga., Baltimore, Md., Birmingham, Ala., Boston, Mass., Buffalo, N.Y., Charlotte, N.C., and Cincinnati and Cleveland, Ohio, Detroit, Mich., Denver, Colo., Jacksonville, Fla., Memphis and Nashville, Tenn., New York, N.Y., Philadelphia and Pittsburgh, Pa., Richmond, Va., and Washington, D.C.; *bullion*, between Fort Knox, Ky., New York, N.Y., Denver, Colo., Philadelphia, Pa., and West Point, N.Y., *checks, coupons, and all types of bank papers and bank records*, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey (except points in Bergen, Essex, Hudson, Morris, Passaic, and Union Counties) and Delaware, within 75 miles of City Hall, Philadelphia, Pa. (restricted to service under a continuing contract, or contracts, with banks or banking institutions); *commercial papers, documents, written instruments and business records of banks and banking institutions* (except currency and negotiable securities) as are used in the business of banks and banking institutions between Harrisburg, Pa., on the one hand, and, on the other, Baltimore, Md. (restricted to service under a continuing contract, or contracts, with persons engaged in business as banks or banking institutions); (a) *metal articles, foreign coin, and jewelry*, and (b) *materials* used in the production of the commodities described in (a) above, between the Franklin Mint, at Wawa, Pa., on the one hand, and, on the other, Atlanta, Ga., Baltimore, Md., Boston, Mass., Carteret, Newark and Perth Amboy, N.J., Chicago, Ill., Denver, Colo., Fairfield, Conn., Wallace and Kellogg, Idaho, Los Angeles, Calif., Mount Vernon, Niagara Falls, Rouses Point, and New York, N.Y., Philadelphia, Pa., and Washington, D.C. (restricted to service under a continuing contract or contracts, with the Franklin Mint of Wawa, Pa.); food coupons, between Washington, D.C., on the one hand, and, on the other, points in the United States (restricted to service under a continuing contract, or contracts, with General Services Administration of Washington, D.C.); and *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature moving therewith* (except motion picture film used primarily for commercial theater and television exhibition), as a *common carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, certain specified points in Pennsylvania; and (4) *bullion*, as a *contract carrier*, over irregular routes, from West Point, N.Y., to Philadelphia, Pa. (restricted to service under a continuing contract, or contracts, with agencies of the U.S. Government); *bank bills, bonds, negotiable and nonnegotiable securities, drafts, and other valuable papers*, except cash letters and checks moved therewith, in armored car service, between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., Baltimore, Md., and Washington, D.C. (restricted to service under a continuing contract, or contracts, with banks or banking institutions); *bank bills, negotiable and nonnegotiable securities, notes, drafts, and other valuable papers*, between points in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island (with restrictions as to commodity and territory), and *such commodities*, except those specified immediately above, *as require special protection by guard and armored cars*, between Hartford, Conn., on the one hand, and, on the other, Boston, Mass., and New York, N.Y. PUROLATOR SECURITY SERVICES, INC., is authorized to operate as a *contract carrier* in Texas, Oklahoma, Louisiana, Arkansas, Colorado, and Tennessee. Application has not been filed for temporary authority under section 210a(b).

NOTE: Applicants state that each of the carriers above named, including PUROLATOR SECURITY SERVICE, INC., are wholly owned subsidiaries of AMERICAN COURIER CORPORATION operated under common control approved by the Commission. The purpose of the instant transaction is to comply with the directive of the Commission in Docket No. MC-F-11004, requiring corporate simplification. The instant application is a matter directly related to MC-F-11680.

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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U. S. DEPOSITORY DOCUMENT

No. MC–F–11680. Authority sought for merger by (A) AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040, of the operating rights and properties of (1) INDEPENDENT DELIVERY, INC., 100 South Weller Street, Seattle, WA 98104; (2) OKLAHOMA ARMORED CAR, INC., 1005 SW., Second Street, Oklahoma City, OK 73125; and (3) SECURITIES TRANSPORT COMPANY, INC., 712 East Roosevelt Street, Phoenix, AZ 85006; and (B) for purchase by AMERICAN COURIER CORPORATION of a portion of the operating rights of (4) COLORADO ARMORED SERVICE COMPANY, 5275 Quebeck Street, Commerce City, CO 80022, and for acquisition by PUROLATOR SERVICES, INC., 2 Nevada Drive, Lake Success, NY 11040, of control of such rights and properties through the transaction. Applicant's attorneys: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040 and Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Operating rights sought to be merged: (1) *Toilet and drug preparations, medicines, prescriptions and ingredients thereof, and drug store displays*, as a *common carrier*, over irregular routes, between Seattle and Tacoma, Wash., on the one hand, and, on the other, certain specified points in Washington; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, from Seattle, Wash., to certain specified points in Washington; *electrical parts and controls, photographic and recording supplies, and replacement parts* for automobiles, tractors, and construction equipment, and tractor and construction equipment attachments, between points in King, Mason, Pierce, Snohomish, and Thurston Counties, Wash., on the one hand, and, on the other, certain specified points in Oregon; and *business records* as are used in the business of banks and banking institutions, *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature* moving therewith (except motion picture film used primarily for commercial theater and television exhibition), and *medical supplies*, between points in King, Mason, Pierce, Snohomish, and Thurston Counties, Wash., on the one hand, and, on the other, certain specified points in Oregon (with restrictions);

(2) in pending Docket No. MC–129442 (Sub–No. 3), *commercial papers, documents, written instruments and business records* (except currency and negotiable securities) as a *contract carrier*, over irregular routes, between Tulsa, Okla., and certain specified points in Missouri, and Kansas, pursuant to a continuing contract with persons engaged in the business of banks or banking institutions; in pending Docket No. MC–129442 (Sub–No. 4) *commercial papers, documents, written instruments and business records* (except currency, coins, bullion and negotiable instruments) as are used in the business of banks and banking institutions, between Wichita Falls and Dallas, Tex., on the one hand, and, on the other, points in Oklahoma (restricted to a service under a continuing contract with persons engaged in the business of banks or banking institutions); in pending Docket No. MC–135320 (Sub–No. 1) *audit media and business records* (except cash letters), as a *common carrier*, over irregular routes, between Dallas, Tex., on the one hand, and, on the other, points in Oklahoma; *unprocessed film*, from points in Oklahoma to Dallas and San Antonio, Tex.; *processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising material* moving therewith (except motion picture film used primarily for commercial theater and television exhibition) from Dallas and San Antonio, Tex., to points in Oklahoma; and *radiopharmaceuticals, radioactive drugs, and medical isotopes*, between Dallas and Houston, Tex., on the one hand, and, on the other, points in Oklahoma; and in pending Docket No. MC–135320 (Sub–No. 3) *audit media and other business records* (except as used in the business of banks and banking institutions), *radiopharmaceuticals, radioactive drugs, and medical isotopes*, and medical instruments and replacement parts, between points in Oklahoma; and

(3) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising literature*, moving therewith and *microfilm*, as a *common carrier*, over irregular routes, between Phoenix, Ariz., on the one hand, and, on the other, points in Arizona; business records and reports, payroll checks, data processing records and utility meter books, between Phoenix, Ariz., on the one hand, and, on the other, points in Arizona (except Navajo and Apache Counties); and *radiopharmaceuticals, radioactive drugs, and medical isotopes, proofs, cuts, copy, artwork and materials related thereto*, used in advertising, *small parts* used in the manufacture, replacement and servicing of computer, calculator, typewriter, and photo reproduction equipment; *bank checks, binders, check books, registers and other bank stationery*, between points in Arizona (with restrictions). Operating rights sought to be transferred:

(4) *Business papers, records, and audit accounting media; exposed and processed film and prints, replacement film, camera replacement parts* (except motion picture film used primarily for commercial theater and television exhibition); *Dentistry materials and supplies; Opthalmic goods and order forms; prescription pharmaceuticals, radiopharmaceuticals, medical isotopes, narcotics, biological specimens and related records, and exposed X-ray films and materials;* and *replacement parts* for computers, data processing equipment, photocopy equipment and office machines; between Stapleton Airport in Denver, Colo., and Preston Field Airport near Colorado Springs, Colo., on the one hand, and, on the other, certain specified points in Colorado (with restrictions). AMERICAN COURIER CORPORATION is authorized to operate as a *common carrier*, in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, Pennsylvania, New York, Iowa, Illinois, Nebraska, Kentucky, Tennessee, Ohio, West Virginia, Rhode Island, Michigan, Indiana, Maryland, Virginia, Delaware, Wisconsin, Missouri, Minnesota, North Dakota, South Dakota, Kansas, North Carolina, Texas, Arkansas, Mississippi, Oklahoma, Florida, South Carolina, California, and the District of Columbia and as a contract carrier in New York, New Jersey, Connecticut, Pennsylvania, West Virginia, Ohio, Massachusetts, Delaware, Virginia, Maryland, Louisiana, Rhode Island, Iowa, Missouri, Illinois, Indiana, Maine, Kentucky, Minnesota, Wisconsin, New Hampshire, Nebraska, Vermont, Michigan, South Dakota, North Dakota, North Carolina, Alabama, Georgia, Tennessee, South Carolina, Texas, Mississippi, Oklahoma, and Florida. Application has not been filed for temporary authority under section 210a(b).

NOTE: Applicants state that each of the above-named carriers are wholly owned subsidiaries of AMERICAN COURIER CORPORATION. The purpose of the instant transaction is to comply with the Commission directive in Docket No. MC–F–11004, requiring corporate simplification. The instant application is a matter directly related to MC–F–11658.

No. MC–F–11681. Authority sought for control by ORSCHELN BROS. TRUCK LINES, INC., Highway 24 East, Moberly, Mo. 65270, of H. R. RINKER TRANSFER & STORAGE CO., 109 North Chestnut Street, Taylorville, IL 65268, and for acquisition by HAROLD W. ORSCHELN, 510 Hafner, Hannibal, MO 63401, EDWARD G. ORSCHELN, 526 West Carpenter, Moberly, MO 65270, GEORGE A. VITT, 530 East Rollins, Moberly, MO 65270, FRANCIS J. ORSCHELN, 601 Shumate, Moberly, MO 65270, ELMER A. ORSCHELN, 811 Gilman, Moberly, MO 65270, LOUIS H. LUTH, 1416 Boonslick Road, St. Charles, MO 64114, A. G. ORSCHELN, 301 West 116th Street, Kansas City, MO 64114, T. B. ORSCHELN, 7467 Overbrook Drive, St. Louis, MO 63121, EDWARD J. ORSCHELN, R.F.D. No. 1, Moberly, Mo. 65270, and MARILYN J. CORRIGAN, 1573, Chastham Drive, Creve Coeur, MO 63141, of control of H. R. RINKER TRANSFER & STORAGE CO., through the acquisition by ORSCHELN BROS. TRUCK LINES, INC. Applicants' attorney: Gregory M. Rebman, 1230 Boatmen's Bank Building, St. Louis, Mo. 63102. Operating rights sought to be controlled: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between St. Louis, Mo., and points in Illinois; *general commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Toledo and Cincinnati, Ohio, serving all intermediate points, between Toledo and Cincinnati, Ohio, over two routes generally via Wapakoneta and Dayton, Ohio, and another route via Columbus, Springfield, and Xenia, Ohio, serving most intermediate and various off-route points, between Wapakoneta and Lancaster, Ohio, serving various intermediate and off-route points, between Fosteria and Springfield, Ohio, serving various intermediate and off-route points, between Carey and Springfield, Ohio, serving various intermediate and off-route points, serving the site of the Feeds Materials Production Center of the U.S. Atomic Energy Commission near Fernald, Ohio, as an off-route point in connection with carriers otherwise regular route operations to and from Cincinnati, Ohio. Vendee is authorized to operate as a *common carrier* in Michigan and Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11683. Authority sought for purchase by WILSON FREIGHT COMPANY, 3636 Follett Avenue, Cincinnati, OH 45223, of a portion of the operating rights and property of TRANSPORTATION SERVICE, INC., 2021 South Schaefer, Detroit, MI 48217, and for acquisition by DAVID M. GANTZ, JOSEPH M. GANTZ, S. DAVID SHOR, and JOHN SHORE, all of Cincinnati, Ohio 45223, of control of such rights and property through the purchase. Applicants' attorneys: David Axelrod, 39 South LaSalle Street, Chicago, IL 60603, and Milton H. Bortz, 3636 Follett Avenue, Cincinnati, OH 45223. Operating rights sought to be transferred: *General commodities* excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, serving most intermediate and various off-route points in connection with carrier's presently authorized regular route operations to and from Detroit and Pontiac, Mich., between Flint, Mich., and Toledo, Ohio, serving all intermediate points, and serving points within 5 miles of Detroit, Mich., as intermediate or off-route points, between Detroit, Mich., and Willow Run, Mich., serving the intermediate point of Wayne, Mich., between the junction of U.S. Highway 25 and Michigan Highway 17 and Willow Run, Mich., with no service at intermediate points, serving an off-route point, in connection with carrier's regular route operations to and from Detroit, Mich., and the commercial zone thereof, between Toledo, Ohio, and Detroit, Mich., as an alternate route for operating convenience only, in connection with carrier's presently authorized regular-route operations, serving no intermediate points, and serving junction U.S. Highways 23 and 12 and junction Interstate Highway 94 and U.S. Highway 12 for purposes of joinder only, between junction U.S. Highways 23 and 12 and junction U.S. Highway 12 and Interstate Highway 94, as an alternate route for operating convenience only, in connection with carrier's presently authorized regular-route operations, serving no intermediate points, and serving junction U.S. Highways 23 and 12 and junction Interstate Highway 94 and U.S. Highway 12 for purposes of joinder only. Vendee is authorized to operate as a *common carrier* in Connecticut, New Jersey, New York, Pennsylvania, Ohio, Maryland, Massachusetts, West Virginia, District of Columbia, North Carolina, Virginia, Rhode Island, Indiana, Kentucky, Tennessee, Illinois, Minnesota, Wisconsin, Missouri, Iowa, Delaware, Maine, New Hampshire, Vermont, Oklahoma, and Kansas. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11688. Authority sought for control and merger by Murphy Motor Freight Lines, Inc., 2323 Terminal Road, St. Paul, MN 55113, of the operating rights and properties of Werner Continental, Inc., 2500 West County Road C, Roseville, MN 55113, and for acquisition by Edward L. Murphy, Jr., 2323 Terminal Road, St. Paul, MN 55113, and Stanley L. Wasie, 2323 Terminal Road, St. Paul, MN 55113, of control of such rights and property through the purchase. Applicants' attorneys: David Axelrod, 39 South La Salle Street, Chicago, IL 60603; Thomas Feinberg, 33 South Fifth Street, Minneapolis, MN 55402; and Joseph Maun, 332 Hamm Building, St. Paul, MN 55102. Werner Continental, Inc., operates as a *common carrier* of general commodities with the usual exceptions primarily over regular routes, extending between Minneapolis-St. Paul, Minn., on the west, Cincinnati, Ohio, on the south, and Baltimore, Md., New York, and Boston, Mass., on the east serving to, from, and between specified points in the States of Minnesota, Wisconsin, Iowa, Illinois, Indiana, Michigan, Ohio, Kentucky, West Virginia, Pennsylvania, New York, Virginia, Maryland, New Jersey, Connecticut, Rhode Island, Massachusetts, and the District of Columbia. MURPHY MOTOR FREIGHT LINES, INC., is authorized to operate as a *common carrier* in New York, Pennsylvania, Ohio, Michigan, Indiana, Illinois, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, and Nebraska. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–17765 Filed 10–17–72;8:50 am]

[Notice 142]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 13, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC–FC–74017. By application filed October 10, 1972, JOE DOCTORMAN AND SON, INC., 2900 South Second West, Salt Lake City, UT 84115, seeks temporary authority to lease the operating rights of GLEN JENSEN, doing business as GLEN PRODUCE CO., Maurine B. Jensen, Administratrix of the Estate, 2474 Redondo Avenue, Salt Lake City, UH 84108, under section 210a(b). The transfer to JOE DOCTORMAN AND SON, INC., of the operating rights of GLEN JENSEN, doing business as GLEN PRODUCE CO., Maurine B. Jensen, Administratrix of the Estate, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–17767 Filed 10–17–72;8:51 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

OCTOBER 13, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published

in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Montana docket number unknown, filed October 2, 1972. Applicant: M. G. BOSTWICK, doing business as BOSTWICK TRUCK LINES, 710 South Pacific Street, Dillon, MT 59725. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities:* (1) Between Dillon, Mont., and Billings, Mont., serving all intermediate and off-route points, over Highways 41, 287, Interstate 90 (U.S. 10). (2) Between Butte, Mont., and Missoula, Mont., serving all intermediate and off-route points over Interstate 90 (U.S. 10). Limitations: Transportation of petroleum or petroleum products in bulk in tank vehicles is prohibited. Transportation of livestock is prohibited. Transportation of commodities requiring special equipment is prohibited. Both intrastate and interstate authority sought. *HEARING:* Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Montana Public Service Commission, 1227 11th Avenue, Helena, MT 59601, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 24296 (Sub-No. 1), filed October 9, 1972. Applicant: JIM REDWINE, 600 West Broadway, Kingfisher, OK. Applicant's representative: G. Timothy Armstrong, 280 National Foundation Life Building 3535 Northwest 58th Street, Oklahoma City, OK. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Iron and steel articles*, between the Port of Muskogee, Okla., on the one hand, and all points within the State of Oklahoma, on the other. Both intrastate and interstate authority sought.

HEARING: November 27, 1972, 9 a.m., Third Floor, Jim Thorpe Office Building, Oklahoma City, Okla. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, Jim Thorpe Office Building, Oklahoma City, Okla. 73501, and should not be directed to the Interstate Commerce Commission.

Alabama Docket No. 16632, filed September 25, 1972. Applicant: JACK PHILLIPS, Post Office Box 141, Little River, AL 36550. Applicant's representative: Thomas A. Johnston, III, Post Office Box 1643, Mobile, AL 36601. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of (1) *Commodities generally*, except articles injurious to other lading such as explosives, property requiring special equipment, etc., over regular routes; namely, (a) between Mobile, Ala., and Evergreen, Ala., over U.S. Highway No. 31 and (b) between Bay Minette, Ala., and Evergreen, Ala., as follows: Commencing at Bay Minette, thence over State Highway No. 59 to Uriah, thence over State Highway No. 11 to Frisco City, thence over U.S. Highway No. 84 to Evergreen. Off-route points: Claiborne, Perdue Hill, Mexia, Monroeville, Goodway, Husford, McCullough, Littie, Rabun, Robinsville, Sardine, Range, Daphne, and Loxley, and (2) *Household goods*, over irregular routes in south Alabama bound on the north by U.S. Highway No. 80; east by the Alabama-Georgia State line; south by the Alabama-Florida State line and west by the Mississippi-Alabama State line. From Monroeville over State Highway No. 47 to Beatrice, thence over unnumbered highway through Corduroy and Vredenburg to Hybart, Ala., and return over the same route, serving all intermediate points. Both intrastate and interstate authority sought.

HEARING: Contact Alabama Public Service Commission. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of Alabama, Alabama Public Service Commission, Post Office Box 991, Montgomery, AL 36102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17762 Filed 10-17-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services and Mental Health Administration

NATIONAL ADVISORY COMMITTEES

Announcement of Meetings and Cancellation During the Month of October 1972

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following national advisory bodies scheduled to assemble during the month of October 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive Order:

Committee name, date, time, place, type of meeting and/or contact person

U.S. National Committee on Vital and Health Statistics, October 19 and 20, 9:30 a.m., Room 200, Brookings Institution, Washington, D.C., Open, Contact Mrs. Jean Peterson, Room 9A-54, Parklawn Building, 5600 Fishers Lane, Rockville, Md., Code 301—443-1068.

Purpose: To delineate statistical problems on public health importance which are of national or international interest; review findings submitted by other organizations and agencies, and make recommendations for national and/or international adoption; cooperate with and advise other organizations on matters relating to vital and health statistics in the U.S., national committees of other countries, and the world Health Organization, in the study of problems of mutual interest.

Agenda: Agenda items will include the status of subcommittees, working parties and technical consultant panels in the areas of ambulatory medical care records, Ninth Revision of the International Classification of Diseases and hospital discharge abstracts. Items to be discussed include current activities in relation to health indicators, Health Services, and Mental Health Administration evaluation of the National Center for Health Statistic's "health data Strategy" and evaluation of proposed technical consultant panels concerning social indicators, needed statistics and data systems for formulation of national population policies and analytical potentialities.

Committee name, date, time, place, type of meeting and/or contact person

Regional Health Advisory Committee, Region I, October 26-27, 9:30 a.m., Conference Room 1507, John F. Kennedy Federal Building, Boston, Mass., Open, Contact—Natalie Freeman, John F. Kennedy Federal Building, Boston, Mass., Code 617—223-6255.

Purpose: Provides advice and guidance to the Regional Health Director on Regional health policies, programs, and plans. Reviews studies, and deliberates on those major health and health-related problems and opportunities which confront the Region.

Agenda: The Committee will update the health planning conference; conduct an in-depth review of Comprehensive Health Planning in Southern Maine agency presentation; discuss the task force report on health planning program evaluation strategies; and discuss the future role of the Regional Health Advisory Committee in Regional Health policy development.

Public Health Conference on Records and Statistics—Standing Committee, October 26-27, 1:30 p.m., Board Room, Sheraton Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, MD, Open, Contact—Mary Lou Dundon, Room 9A-19, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-1470.

Purpose: To advise and make recommendations on the Public Health Conference on Records and Statistics, a study program in the National Center for Health Statistics which fosters the development of improved techniques and concepts in vital records and health statistics in the United States. Investigates current and future problems and develops recommendations for practical solutions, with a view to improved services to health programs, the public, and the Nation.

Agenda: Items will cover Report of the Director, National Center for Health Statistics on the evaluation of the program, components and recent developments of the Federal-State-local health statistics system; future meetings of the Committee; report on identifying health service scarcity area in the United States and other technical studies.

Committee name, date, time, place, type of meeting and/or contact person

Board of Scientific Counselors, NIMH, October 27, 9:30 a.m., NIH Animal Center, Poolesville, Md., October 28, 9 a.m., Building 36, Room 1B-07, National Institutes of Health, Bethesda, Md., October 27, 9:30-10:30 a.m., Open, October 27, 10:30 through end of Meeting, Closed Contact, John C. Eberhart, Room 1A-05, Building 36, National Institutes of Health, Bethesda, Md., Code 301-496-3501.

Purpose: Provides expert advice to the Director, National Institute of Mental Health, on the mental health intramural research program through periodic visits to the laboratories for assessment of the research in progress and evaluation of productivity and performance of staff scientists.

Agenda: The Board will meet in the Library of Building 110 at Poolesville and be open to the public for approximately 1 hour for a report by the Director, Intramural Research, NIMH, on recent administrative developments. The remainder of the 2-day session will be devoted to the review of intramural research projects and evaluation of productivity and performance of the scientists. This portion will be closed in accordance with section 1 of the determination by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, Section 13(d).

Cancellation:

Regional Health Advisory Committee, Region VII, October 26 and 27, 9 a.m., Glenwood Manor, Overland Park, Kans.

Items for discussion are subject to change due to the priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Dated: October 16, 1972.

ANDREW J. CARDINAL,
Acting Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72-17869 Filed 10-17-72;8:51 am]

Office of Education

VOCATIONAL EDUCATION

Establishment of Closing Date for Receipt of Applications for Exemplary Programs and Projects; Fiscal Year 1973 Funds

The Vocational Education Act of 1963, Public Law 88-210, as amended by Public Law 90-576, Title I, provides for educational programs designed to stimulate new ways to create a bridge between school and earning a living for young people, who are still in school, who have left school either by graduation or by dropping out, or who are in postsecondary programs of vocational preparation, and to promote cooperation between public education and manpower agencies; and to broaden occupational aspirations and opportunities for youths, with special emphasis given to youths who have academic, socioeconomic, or other handicaps. Section 142(c) of Part D of Public Law 90-576 authorizes the U.S. Commissioner of Education, from 50 percent of the sums allotted to each State for the purposes of this part, to make grants to or contracts with State boards or local educational agencies for the purpose of stimulating and assisting in the development, establishment, and operation of programs or projects designed to carry out the purposes of this part.

The Commissioner may also make, in such State from such sums:

(1) Grants to other public or nonprofit private agencies, organizations, or institutions; or

(2) Contracts with public or private agencies, organizations, or institutions, when such grants or contracts will make an especially significant contribution to achieving the objectives of this part.

Grants or contracts pursuant to this part may be made, upon terms and conditions consistent with the provisions of this part, to pay all or part of the cost of:

(1) Planning and developing exemplary programs or projects,

(2) Establishing, operating, or evaluating exemplary programs or projects designed to carry out the purposes set forth in this part.

Applications may be submitted to the U.S. Commissioner of Education for grants or contracts for exemplary programs and projects in accordance with the applicable rules and regulations contained in FEDERAL REGISTER, Vol. 35, No. 143. Eligible applications for FY 1973 must be postmarked no later than December 16, 1972, and will be considered competitively with other applications from a given State.

Suggested guidelines and instructions for the development of proposals may be obtained from the Bureau of Adult, Vocational, and Technical Education, U.S. Office of Education, Washington, D.C. 20202.

The above is contingent upon funds being appropriated by the Congress to support section 142(c) activities during fiscal year 1973.

Dated: October 6, 1972.

S. P. MARLAND, JR.,
U.S. Commissioner of Education.

[FR Doc.72-17740 Filed 10-17-72;8:50 am]

Office of the Secretary

ADVISORY COMMITTEE ON OLDER AMERICANS; SOCIAL SERVICES SUBCOMMITTEE

Notice of Meeting

The Advisory Committee on Older Americans was established by the Older Americans Act of 1965 for the purpose of advising the Secretary of Health, Education, and Welfare on matters bearing on his responsibilities under this Act and related activities of his Department.

The Social Services subcommittee of the committee will meet on October 19, 9 a.m. to 4 p.m., HEW North Building, Room 3627, 330 Independence Avenue SW., Washington, DC. Representatives of several national voluntary organizations and various HEW offices will provide an overview of the relationships between the government and the voluntary social welfare sector on social services for the elderly. Meeting open to public observation.

Dated: October 11, 1972.

CLEONICE TAVANI,
Staff Director.

[FR Doc.72-17712 Filed 10-17-72;8:46 am]

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PART II



DEPARTMENT OF LABOR

■

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

■

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Pursuant to authority in sections 6 and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1600; 29 U.S.C. 655, 657) and in Secretary of Labor's Order No. 12–71 (36 F.R. 8754), Part 1910 of Title 29 of the Code of Federal Regulations is hereby revised to read as set forth below. This revision includes amendments through Sept. 22, 1972. The purpose of the revision is (1) to publish fully in one place the present occupational safety and health standards contained therein in order to reflect many changes made during the current year and thereby to improve their usefulness and facilitate their enforcement; (2) to correct a number of typographical and clerical errors in the text of the standards; and (3) to publish indexes with the standards, which are intended to permit quicker access to pertinent standards.

Since this revision does not make any substantive changes in the standards, it is not necessary to provide notice of proposed rulemaking, opportunity for public participation therein, nor any delay in effective date. For the same reason, good cause is found for not following the regular procedure for rulemaking provided in 5 U.S.C. 553 and for making this revision effective immediately.

Signed at Washington, D.C. this 4 day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

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AUTHORITY: The provisions of this Part 1910 issued under secs. 6(a), 8(g), 84 Stat. 1593, 1598; 29 U.S.C. 655, 657.

Subpart A—General

§ 1910.1 Purpose and scope.

(a) Section 6(a) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593) provides that "without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending 2 years after such date, by rule promulgate as an occupational safety or health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees." The legislative purpose of this provision is to establish, as rapidly as possible and without regard to the rule-making provisions of the Administrative Procedure Act, standards with which industries are generally familiar, and on whose adoption interested and affected persons have already had an opportunity to express their views. Such standards are either (1) national concensus standards on whose adoption affected persons have reached substantial agreement, or (2) Federal standards already established by Federal statutes or regulations.

(b) This part carries out the directive to the Secretary of Labor under section 6(a) of the Act. It contains occupational safety and health standards which have been found to be national consensus standards or established Federal standards.

§ 1910.2 Definitions.

As used in this part, unless the context clearly requires otherwise:

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590).

(b) "Assistant Secretary of Labor" means the Assistant Secretary of Labor for Occupational Safety and Health;

(c) "Employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State;

(d) "Employee" means an employee of an employer who is employed in a business of his employer which affects commerce;

(e) "Commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof;

(f) "Standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment;

(g) "National consensus standard" means any standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary of Labor or by the Assistant Secretary of Labor that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered, and (3) has been designated as such a standard by the Secretary or the Assistant Secretary, after consultation with other appropriate Federal agencies; and

(h) "Established Federal standard" means any operative standard established by any agency of the United States and in effect on April 28, 1971, or contained in any Act of Congress in force on the date of enactment of the Williams-Steiger Occupational Safety and Health Act.

§ 1910.3 Petitions for the issuance, amendment, or repeal of a standard.

(a) Any interested person may petition in writing the Assistant Secretary of Labor to promulgate, modify, or revoke a standard. The petition should set forth the terms or the substance of the rule desired, the effects thereof if promulgated, and the reasons therefor.

(b) (1) The relevant legislative history of the Act indicates congressional recognition of the American National Standards Institute and the National Fire Protection Association as the major sources of national consensus standards. National consensus standards adopted on May 29, 1971, pursuant to section 6(a) of the Act are from those two sources. However, any organization which deems itself a producer of national consensus standards, within the meaning of section 3(9) of the Act, is invited to submit in writing to the Assistant Secretary of Labor at any time prior to February 1, 1973, all relevant information which may enable the Assistant Secretary to determine whether any of its standards satisfy the requirements of the definition of "national consensus standard" in section 3(9) of the Act.

(2) Within a reasonable time after the receipt of a submission pursuant to subparagraph (1) of this paragraph, the Assistant Secretary of Labor shall publish or cause to be published in the FEDERAL REGISTER a notice of such submission, and shall afford interested persons a reasonable opportunity to present written data, views, or arguments with regard to the question whether any standards of the organization making the submission are national consensus standards.

§ 1910.4 Amendments to this part.

(a) The Assistant Secretary of Labor shall have all of the authority of the Secretary of Labor under §§ 3(9) and 6(a) of the Act.

(b) The Assistant Secretary of Labor may at any time before April 28, 1973, on his own motion or upon the written petition of any person, by rule promulgate as a standard any national consensus standard and any established Federal standard, pursuant to and in accordance with section 6(a) of the Act, and, in addition, may modify or revoke any standard in this Part 1910. In the event of conflict among any such standards, the Assistant Secretary of Labor shall take the action necessary to eliminate the conflict, including the revocation or modification of a standard in this part, so as to assure the greatest protection of the safety or health of the affected employees.

§ 1910.5 Applicability of standards.

(a) Except as provided in paragraph (b) of this section, the standards contained in this part shall apply with respect to employments performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone.

(b) None of the standards in this part shall apply to working conditions of employees with respect to which Federal agencies other than the Department of Labor, or State agencies acting under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021), exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(c) (1) If a particular standard is specifically applicable to a condition, practice, means, method, operation, or process, it shall prevail over any different general standard which might otherwise be applicable to the same condition, practice, means, method, operation, or process. For example, § 1501.23(c)(3) of this title prescribes personal protective equipment for certain ship repairmen working in specified areas. Such a standard shall apply, and shall not be deemed modified nor superseded by any different general standard whose provisions might otherwise be applicable, to the ship re-

pairmen working in the areas specified in § 1915.23(c)(3).

(2) On the other hand, any standard shall apply according to its terms to any employment and place of employment in any industry, even though particular standards are also prescribed for the industry, as in Subpart B or Subpart R of this part, to the extent that none of such particular standards applies. To illustrate, the general standard regarding noise exposure in § 1910.95 applies to employments and places of employment in pulp, paper, and paperboard mills covered by § 1910.261.

(d) In the event a standard protects on its face a class of persons larger than employees, the standard shall be applicable under this part only to employees and their employment and places of employment.

(e) [Reserved]

(f) An employer who is in compliance with any standard in this part shall be deemed to be in compliance with the requirement of section 5(a)(1) of the Act, but only to the extent of the condition, practice, means, method, operation, or process covered by the standard.

§ 1910.6 Incorporation by reference.

(a) The standards of agencies of the U.S. Government and organizations which are not agencies of the U.S. Government which are legally incorporated by reference in this part, have the same force and effect as other standards in this part.

(b) Copies of the standards which are incorporated by reference may be examined at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, or at any of its regional offices. Copies of such private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subparts of this part.

(c) Any changes in the standards incorporated by reference in this part and an official historic file of such changes are available for inspection at the national office of the Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

Subpart B—Adoption and Extension of Established Federal Standards

§ 1910.11 Scope and purpose.

The provisions of this Subpart B adopt, and extend the applicability of, established Federal standards in effect on April 28, 1971, with respect to every employer, employee, and employment covered by the Act.

§ 1910.12 Construction work.

(a) *Standards.* The standards prescribed in Part 1926 of this chapter are adopted as occupational safety and health standards under section 6 of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in construction work. Each employer shall protect the employment and places of employment of each of his employees engaged in construction work by complying with the appropriate standards prescribed in this paragraph.

(b) *Definition.* For purposes of this section, "construction work" means work for construction, alteration, and/or repair, including painting and decorating. See discussion of these terms in § 1926.13 of this title.

(c) *Construction Safety Act distinguished.* This section adopts as occupational safety and health standards under section 6 of the Act the standards which are prescribed in Part 1926 of this chapter. Thus, the standards (substantive rules) published in Subpart C and the following subparts of Part 1926 of this chapter are applied. This section does not incorporate Subparts A and B of Part 1926 of this chapter. Subparts A and B have pertinence only to the application of section 107 of the Contract Work Hours and Safety Standards Act (the Construction Safety Act). For example, the interpretation of the term "subcontractor" in paragraph (c) of § 1926.13 of this chapter is significant in discerning the coverage of the Construction Safety Act and duties thereunder. However, the term "subcontractor" has no significance in the application of the Act, which was enacted under the Commerce Clause and which establishes duties for "employers" which are not dependent for their application upon any contractual relationship with the Federal Government or upon any form of Federal financial assistance.

§ 1910.13 Ship repairing.

(a) *Adoption and extension of established safety and health standards for ship repairing.* The standards prescribed by Part 1501 of this title and in effect on April 28, 1971, are adopted as occupational safety or health standards under section 6(a) of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in ship repair or a related employment. Each employer shall protect the employment and places of employment of each of his employees engaged in ship repair or a related employment, by complying with the appropriate standards prescribed by this paragraph.

(b) *Definitions.* For purposes of this section:

(1) "Ship repair means any repair of a vessel, including, but not restricted to, alterations, conversions, installations, cleaning, painting, and maintenance work;

(2) "Related employment" means any employment performed as an incident to, or in conjunction with, ship repair work, including, but not restricted to, inspection, testing, and employment as a watchman; and

(3) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for, or used as a means of, transportation on water.

§ 1910.14 Shipbuilding.

(a) *Adoption and extension of established safety and health standards for shipbuilding.* The standards prescribed by Part 1502 of this title and in effect on April 28, 1971, are adopted as occupational safety or health standards under section 6(a) of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in shipbuilding or a related employment. Each employer shall protect the employment and places of employment of each of his employees engaged in shipbuilding or a related employment, by complying with the appropriate standards prescribed by this paragraph.

(b) *Definitions.* For purposes of this section:

(1) "Shipbuilding" means the construction of a vessel, including the installation of machinery and equipment;

(2) "Related employment" means any employment performed as an incident to, or in conjunction with, shipbuilding work, including, but not restricted to, inspection, testing trials, and employment as a watchman: and

(3) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for, or used as a means of, transportation on water.

§ 1910.15 Shipbreaking.

(a) *Adoption and extension of established safety and health standards for shipbreaking.* The standards prescribed by Part 1503 of this title and in effect on April 28, 1971, are adopted as occupational safety or health standards under section 6(a) of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in shipbreaking or a related employment. Each employer shall protect the employment and places of employment of each of his employees engaged in shipbreaking or a related employment, by complying with the appropriate standards prescribed by this paragraph.

(b) *Definitions.* For purposes of this section:

(1) "Shipbreaking" means any breaking down of a vessel's structure for the purpose of scrapping the vessel, including the removal of gear, equipment, or any component part of a vessel;

(2) "Related employment" means any employment performed as an incident to, or in conjunction with, shipbreaking work, including, but not restricted to, inspection, survey, and employment as a watchman; and

(3) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for, or used as a means of, transportation on water.

§ 1910.16 Longshoring.

(a) *Adoption and extension of established safety and health standards for longshoring.* The standards prescribed by Part 1504 of this title and in effect on April 28, 1971, are adopted as occupational safety or health standards under section 6(a) of the Act and shall apply, according to the provisions thereof, to every employment and place of employment of every employee engaged in longshoring operations or a related employment. Each employer shall protect the employment and places of employment of each of his employees engaged in a longshoring operation or a related employment, by complying with the appropriate standards prescribed by this paragraph.

(b) *Definitions.* For purposes of this section:

(1) "Longshoring operation" means the loading, unloading, moving, or handling of, cargo, ship's stores, gear, etc., into, in, on, or out of any vessel;

(2) "Related employment" means any employment performed as an incident to or in conjunction with, longshoring operations including, but not restricted to, securing cargo, rigging, and employment as a porter, checker, or watchman; and

(3) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for, or used as a means of, transportation on water.

§ 1910.17 Effective dates.

(a) Except as provided in paragraphs (b) and (c) of this section, the standards prescribed in this Subpart B shall be effective on August 27, 1971.

(b) (1) To the extent that the standards prescribed in § 1910.12 apply to light residential construction or to other construction work, as defined in § 1910.12(b), which is not subject to the construction safety standards published in Part 1926 of this title, their application is delayed until September 27, 1971.

(2) For the purpose of subparagraph (1) of this paragraph, "light residential construction" is limited to the construction of homes and apartments which do not exceed three stories in height, and which have no elevator.

(c) Except as provided in paragraph (b) of this section, whenever any employment or place of employment is, or becomes, subject to any safety and health standard prescribed in Part 1915, 1916, 1917, 1918, or 1926 of this title on a date before August 27, 1971, by virtue of the Construction Safety Act or the Longshoremen's and Harbor Workers' Compensation Act, that occupational safety and health standard as incorporated by reference in this subpart shall also become effective under the Williams-Steiger Occupational Safety and Health Act of 1970 on that date.

§ 1910.18 Changes in established Federal standards.

Whenever an occupational safety and health standard adopted and incorporated by reference in this Subpart B is changed pursuant to section 6(b) of the Act and the statute under which the standard was originally promulgated, and in accordance with Part 1911 of this chapter, the standard shall be deemed changed for purposes of that statute and this Subpart B, and shall apply under this Subpart B. For the purposes of this section, a change in a standard includes any amendment, addition, or repeal, in whole or in part, of any standard.

§ 1910.19 Asbestos dust.

Section 1910.93a shall apply to the exposure of every employee to asbestos dust in every employment and place of employment covered by § 1910.12, § 1910.13, § 1910.14, § 1910.15, or § 1910.16, in lieu of any different standard on exposure to asbestos dust which would otherwise be applicable by virtue of any of those sections.

Subpart C—[Reserved]

Subpart D—Walking-Working Surfaces

§ 1910.21 Definitions.

(a) As used in § 1910.23, unless the context requires otherwise, floor and wall opening, railing and toe board terms shall have the meanings ascribed in this paragraph.

(1) *Floor hole.* An opening measuring less than 12 inches but more than 1 inch in its least dimension, in any floor, platform, pavement, or yard, through which materials but not persons may fall; such as a belt hole, pipe opening, or slot opening.

(2) *Floor opening.* An opening measuring 12 inches or more in its least dimension, in any floor, platform, pavement, or yard, through which persons may fall; such as a hatchway, stair or ladder opening, pit, or large manhole. Floor openings occupied by elevators, dumb waiters, conveyors, machinery, or containers are excluded from this subpart.

(3) *Handrail.* A single bar or pipe supported on brackets from a wall or partition, as on a stairway or ramp, to furnish persons with a handhold in case of tripping.

(4) *Platform.* A working space for persons, elevated above the surrounding floor or ground; such as a balcony or platform for the operation of machinery and equipment.

(5) *Runway.* A passageway for persons, elevated above the surrounding floor or ground level, such as a footwalk along shafting or a walkway between buildings.

(6) *Standard railing.* A vertical barrier erected along exposed edges of a floor opening, wall opening, ramp, platform, or runway to prevent falls of persons.

(7) *Standard strength and construction.* Any construction of railings, covers, or other guards that meets the requirements of § 1910.23.

(8) *Stair railing.* A vertical barrier erected along exposed sides of a stairway to prevent falls of persons.

(9) *Toeboard.* A vertical barrier at floor level erected along exposed edges of a floor opening, wall opening, platform, runway, or ramp to prevent falls of materials.

(10) *Wall hole.* An opening less than 30 inches but more than 1 inch high, of unrestricted width, in any wall or partition; such as a ventilation hole or drainage scupper.

(11) *Wall opening.* An opening at least 30 inches high and 18 inches wide, in any wall or partition, through which persons may fall; such as a yard-arm doorway or chute opening.

(b) As used in § 1910.24, unless the context requires otherwise, fixed industrial stair terms shall have the meaning ascribed in this paragraph.

(1) *Handrail.* A single bar or pipe supported on brackets from a wall or partition to provide a continuous handhold for persons using a stair.

(2) *Nose, nosing.* That portion of a tread projecting beyond the face of the riser immediately below.

(3) *Open riser.* The air space between the treads of stairways without upright members (risers).

(4) *Platform.* An extended step or landing breaking a continuous run of stairs.

(5) *Railing.* A vertical barrier erected along exposed sides of stairways and platforms to prevent falls of persons. The top member of railing usually serves as a handrail.

(6) *Rise.* The vertical distance from the top of a tread to the top of the next higher tread.

(7) *Riser.* The upright member of a step situated at the back of a lower tread and near the leading edge of the next higher tread.

(8) *Stairs, stairway,* A series of steps leading from one level or floor to another, or leading to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment that are used more or less continuously or routinely by employees, or only occasionally by specific individuals. A series of steps and landings having three or more risers constitutes stairs or stairway.

(9) *Tread.* The horizontal member of a step.

(10) *Tread run.* The horizontal distance from the leading edge of a tread to the leading edge of an adjacent tread.

(11) *Tread width.* The horizontal distance from front to back of tread including nosing when used.

(c) As used in § 1910.25, unless the context requires otherwise, portable wood ladders terms shall have the meanings ascribed in this paragraph.

(1) *Ladders.* A ladder is an appliance usually consisting of two side rails joined at regular intervals by crosspieces called steps, rungs, or cleats, on which a person may step in ascending or descending.

(2) *Stepladder.* A stepladder is a self-supporting portable ladder, nonadjustable in length, having flat steps and a hinged back. Its size is designated by the overall length of the ladder measured along the front edge of the side rails.

(3) *Single ladder.* A single ladder is a non-self-supporting portable ladder, nonadjustable in length, consisting of but one section. Its size is designated by the overall length of the side rail.

(4) *Extension ladder.* An extension ladder is a non-self-supporting portable ladder adjustable in length. It consists of two or more sections traveling in guides or brackets so arranged as to permit length adjustment. Its size is designated by the sum of the lengths of the sections measured along the side rails.

(5) *Sectional ladder.* A sectional ladder is a non-self-supporting portable ladder, nonadjustable in length, consisting of two or more sections of ladder so constructed that the sections may be combined to function as a single ladder. Its size is designated by the overall length of the assembled sections.

(6) *Trestle ladder.* A trestle ladder is a self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

(7) *Extension trestle ladder.* An extension trestle ladder is a self-supporting portable ladder, adjustable in length, consisting of a trestle ladder base and a vertically adjustable single ladder, with suitable means for locking the ladders together. The size is designated by the length of the trestle ladder base.

(8) *Special-purpose ladder.* A special-purpose ladder is a portable ladder which represents either a modification or a combination of design or construction features in one of the general-purpose types of ladders previously defined, in order to adapt the ladder to special or specific uses.

(9) *Trolley ladder.* A trolley ladder is a semifixed ladder, nonadjustable in length, supported by attachments to an overhead track, the plane of the ladder being at right angles to the plane of motion.

(10) *Side-rolling ladder.* A side-rolling ladder is a semifixed ladder, nonadjustable in length, supported by attachments to a guide rail, which is generally fastened to shelving, the plane of the ladder being also its plane of motion.

(11) *Wood characteristics.* Wood characteristics are distinguishing features which by their extent and number determine the quality of a piece of wood.

(12) *Wood irregularities.* Wood irregularities are natural characteristics in or on wood that may lower its durability, strength, or utility.

(13) *Cross grain.* Cross grain (slope of grain) is a deviation of the fiber direction from a line parallel to the sides of the piece.

(14) *Knot.* A knot is a branch or limb, imbedded in the tree and cut through in the process of lumber manufacture, classified according to size, quality, and occurrence. The size of the knot is determined as the average diameter on the surface of the piece.

(15) *Pitch and bark pockets.* A pitch pocket is an opening extending parallel to the annual growth rings containing, or that has contained, pitch, either solid or liquid. A bark pocket is an opening between annual growth rings that contains bark.

(16) *Shake.* A shake is a separation along the grain, most of which occurs between the rings of annual growth.

(17) *Check.* A check is a lengthwise separation of the wood, most of which occurs across the rings of annual growth.

(18) *Wane.* Wane is bark, or the lack of wood from any cause, on the corner of a piece.

(19) *Decay.* Decay is disintegration of wood substance due to action of wood-destroying fungi. It is also known as dote and rot.

(20) *Compression failure.* A compression failure is a deformation (buckling) of the fibers due to excessive compression along the grain.

(21) *Compression wood.* Compression wood is an aberrant (abnormal) and highly variable type of wood structure occurring in softwood species. The wood commonly has density somewhat higher than does normal wood, but somewhat lower stiffness and tensile strength for its weight in addition to high longitudinal shrinkage.

(22) *Low density.* Low-density wood is that which is exceptionally light in weight and usually deficient in strength properties for the species.

(d) As used in § 1910.26, unless the context requires otherwise, portable metal ladder terms shall have the meanings ascribed in this paragraph.

(1) *Ladder.* A ladder is an appliance usually consisting of two side rails joined at regular intervals by crosspieces called steps, rungs, or cleats, on which a person may step in ascending or descending.

(2) *Step ladder.* A step ladder is a self-supporting portable ladder, nonadjustable in length, having flat steps and a hinged back. Its size is designated by the overall length of the ladder measured along the front edge of the side rails.

(3) *Single ladder.* A single ladder is a non-self-supporting portable ladder, nonadjustable in length, consisting of but one section. Its size is designated by the overall length of the side rail.

(4) *Extension ladder.* An extension ladder is a non-self-supporting portable ladder adjustable in length. It consists of two or more sections traveling in guides or brackets so arranged as to permit length adjustment. Its size is designated by the sum of the lengths of the sections measured along the side rails.

(5) *Platform ladder.* A self-supporting ladder of fixed size with a platform provided at the working level. The size is determined by the distance along the front rail from the platform to the base of the ladder.

(6) *Sectional ladder.* A sectional ladder is a non-self-supporting portable ladder, non-adjustable in length, consisting of two or more sections so constructed that the sections may be combined to function as a single ladder. Its size is designated by the overall length of the assembled sections.

(7) *Trestle ladder.* A trestle ladder is a self-supporting portable ladder, nonadjustable in length, consisting of two sections, hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

(8) *Extension trestle ladder.* An extension trestle ladder is a self-supporting portable ladder, adjustable in length, consisting of a trestle ladder base and a vertically adjustable single ladder, with suitable means for locking the ladders together. The size is designated by the length of the trestle ladder base.

(9) *Special-purpose ladder.* A special-purpose ladder is a portable ladder which represents either a modification or a combination of design or construction features in one of the general-purpose types of ladders previously defined, in order to adapt the ladder to special or specific uses.

(e) As used in § 1910.27, unless the context requires otherwise, fixed ladder terms shall have the meanings ascribed in this paragraph.

(1) *Ladder.* A ladder is an appliance usually consisting of two side rails joined at regular intervals by crosspieces called steps, rungs, or cleats, on which a person may step in ascending or descending.

(2) *Fixed ladder.* A fixed ladder is a ladder permanently attached to a structure, building, or equipment.

(3) *Individual-rung ladder.* An individual-rung ladder is a fixed ladder each rung of which is individually attached to a structure, building, or equipment.

(4) *Rail ladder.* A rail ladder is a fixed ladder consisting of side rails joined at regular intervals by rungs or cleats and fastened in full length or in sections to a building, structure, or equipment.

(5) *Railings.* A railing is any one or a combination of those railings constructed in accordance with § 1910.23. A standard railing is a vertical barrier erected along exposed edges of floor openings, wall openings, ramps, platforms, and runways to prevent falls of persons.

(6) *Pitch.* Pitch is the included angle between the horizontal and the ladder, measured on the opposite side of the ladder from the climbing side.

(7) *Fastenings.* A fastening is a device to attach a ladder to a structure, building, or equipment.

(8) *Rungs.* Rungs are ladder crosspieces of circular or oval cross-section on which a person may step in ascending or descending.

(9) *Cleats.* Cleats are ladder crosspieces of rectangular cross-section placed on edge on which a person may step in ascending or descending.

(10) *Steps.* Steps are the flat crosspieces of a ladder on which a person may step in ascending or descending.

(11) *Cage.* A cage is a guard that may be referred to as a cage or basket guard which is an enclosure that is fastened to the side rails of the fixed ladder or to the structure to encircle the climbing space of the ladder for the safety of the person who must climb the ladder.

(12) *Well.* A well is a permanent complete enclosure around a fixed ladder, which is attached to the walls of the well. Proper clearances for a well will give the person who must climb the ladder the same protection as a cage.

(13) *Ladder safety device.* A ladder safety device is any device, other than a cage or well, designed to eliminate or reduce the possibility of accidental falls and which may incorporate such features as life belts, friction brakes, and sliding attachments.

(14) *Grab bars.* Grab bars are individual handholds placed adjacent to or as an extension above ladders for the purpose of providing access beyond the limits of the ladder.

(15) *Through ladder.* A through ladder is one from which a man getting off at the top must step through the ladder in order to reach the landing.

(16) *Side-step ladder.* A side-step ladder is one from which a man getting off at the top must step sideways from the ladder in order to reach the landing.

(f) As used in § 1910.28, unless the context requires otherwise, scaffolding terms shall have the meaning ascribed in this paragraph.

(1) *Bearer.* A horizontal member of a scaffold upon which the platform rests and which may be supported by ledgers.

(2) *Boatswain's chair.* A seat supported by slings attached to a suspended rope, designed to accommodate one workman in a sitting position.

(3) *Brace.* A tie that holds one scaffold member in a fixed position with respect to another member.

(4) *Bricklayers' square scaffold.* A scaffold composed of framed wood squares which support a platform limited to light and medium duty.

(5) *Carpenters' bracket scaffold.* A scaffold consisting of wood or metal brackets supporting a platform.

(6) *Coupler.* A device for locking together the component parts of a tubular metal scaffold. The material used for the couplers shall be of a structural type, such as a drop-forged steel, malleable iron, or structural grade aluminum. The use of gray cast iron is prohibited.

(7) *Crawling board or chicken ladder.* A plank with cleats spaced and secured at equal intervals, for use by a worker on roofs, not designed to carry any material.

(8) *Double pole or independent pole scaffold.* A scaffold supported from the base by a double row of uprights, independent of support from the walls and constructed of uprights, ledgers, horizontal platform bearers, and diagonal bracing.

(9) *Float or ship scaffold.* A scaffold hung from overhead supports by means of ropes and consisting of a substantial platform having diagonal bracing underneath, resting upon and securely fastened to two parallel plank bearers at right angles to the span.

(10) *Guardrail.* A rail secured to uprights and erected along the exposed sides and ends of platforms.

(11) *Heavy duty scaffold.* A scaffold designed and constructed to carry a working load not to exceed 75 pounds per square foot.

(12) *Horse scaffold.* A scaffold for light or medium duty, composed of horses supporting a work platform.

(13) *Interior hung scaffold.* A scaffold suspended from the ceiling or roof structure.

(14) *Ladder jack scaffold.* A light duty scaffold supported by brackets attached to ladders.

(15) *Ledger (stringer).* A horizontal scaffold member which extends from post to post and which supports the putlogs or bearer forming a tie between the posts.

(16) *Light duty scaffold.* A scaffold designed and constructed to carry a working load not to exceed 25 pounds per square foot.

(17) *Manually propelled mobile scaffold.* A portable rolling scaffold supported by casters.

(18) *Masons' adjustable multiple-point suspension scaffold.* A scaffold having a continuous platform supported by bearers suspended by wire rope from overhead supports, so arranged and operated as to permit the raising or lowering of the platform to desired working positions.

(19) *Maximum intended load.* The total of all loads including the working load, the weight of the scaffold, and such other loads as may be reasonably anticipated.

(20) *Medium duty scaffold.* A scaffold designed and constructed to carry a working load not to exceed 50 pounds per square foot.

(21) *Mid-rail.* A rail approximately midway between the guardrail and platform, used when required, and secured to the uprights erected along the exposed sides and ends of platforms.

(22) *Needle beam scaffold.* A light duty scaffold consisting of needle beams supporting a platform.

(23) *Outrigger scaffold.* A scaffold supported by outriggers or thrustouts projecting beyond the wall or face of the building or structure, the inboard ends of which are secured inside of such a building or structure.

(24) *Putlog.* A scaffold member upon which the platform rests.

(25) *Roofing bracket.* A bracket used in sloped roof construction, having provisions for fastening to the roof or supported by ropes fastened over the ridge and secured to some suitable object.

(26) *Runner.* The lengthwise horizontal bracing or bearing members or both.

(27) *Scaffold.* Any temporary elevated platform and its supporting structure used for supporting workmen or materials or both.

(28) *Single-point adjustable suspension scaffold.* A manually or power-operated unit designed for light duty use, supported by a single wire rope from an overhead support so arranged and operated as to permit the raising or lowering of the platform to desired working positions.

(29) *Single pole scaffold.* Platforms resting on putlogs or crossbeams, the outside ends of which are supported on ledgers secured to a single row of posts or uprights and the inner ends of which are supported on or in a wall.

(30) *Stone setters' adjustable multiple-point suspension scaffold.* A swinging-type scaffold having a platform supported by hangers suspended at four points so as to permit the raising or lowering of the platform to the desired working position by the use of hoisting machines.

(31) *Toe board.* A barrier secured along the sides and ends of a platform, to guard against the falling of material.

(32) *Tube and coupler scaffold.* An assembly consisting of tubing which serves as posts, bearers, braces, ties, and runners, a base supporting the posts, and special couplers which serve to connect the uprights and to join the various members.

(33) *Tubular welded frame scaffold.* A sectional, panel, or frame metal scaffold substantially built up of prefabricated welded sections which consist of posts and horizontal bearer with intermediate members. Panels or frames shall be braced with diagonal or cross braces.

(34) *Two-point suspension scaffold (swinging scaffold).* A scaffold, the platform of which is supported by hangers (stirrups) at two points, suspended from overhead supports so as to permit the raising or lowering of the platform to the desired working position by tackle or hoisting machines.

(35) *Window jack scaffold.* A scaffold, the platform of which is supported by a bracket or jack which projects through a window opening.

(36) *Working load.* Load imposed by men, materials, and equipment.

(g) As used in § 1910.29, unless the context requires otherwise, manually propelled mobile ladder stand and scaffold (tower) terms shall have the meaning ascribed in this paragraph.

(1) *Bearer.* A horizontal member of a scaffold upon which the platform rests and which may be supported by ledgers.

(2) *Brace.* A tie that holds one scaffold member in a fixed position with respect to another member.

(3) *Climbing ladder.* A separate ladder with equally spaced rungs usually attached to the scaffold structure for climbing and descending.

(4) *Coupler.* A device for locking together the components of a tubular metal scaffold which shall be designed and used to safely support the maximum intended loads.

(5) *Design working load.* The maximum intended load, being the total of all loads including the weight of the men, materials, equipment, and platform.

(6) *Equivalent.* Alternative design or features, which will provide an equal degree or factor of safety.

(7) *Guardrail.* A barrier secured to uprights and erected along the exposed sides and ends of platforms to prevent falls of persons.

(8) *Handrail.* A rail connected to a ladder stand running parallel to the slope and/or top step.

(9) *Ladder stand.* A mobile fixed size self-supporting ladder consisting of a wide flat tread ladder in the form of stairs. The assembly may include handrails.

(10) *Ledger (stringer).* A horizontal scaffold member which extends from post to post and which supports the bearer forming a tie between the posts.

(11) *Mobile scaffold (tower).* A light, medium, or heavy duty scaffold mounted on casters or wheels.

(12) *Mobile.* "Manually propelled."

(13) *Mobile work platform.* Generally a fixed work level one frame high on casters or wheels, with bracing diagonally from platform to vertical frame.

(14) *Runner.* The lengthwise horizontal bracing and/or bearing members.

(15) *Scaffold.* Any temporary elevated platform and its necessary vertical, diagonal, and horizontal members used for supporting workmen and materials. (Also known as a scaffold tower.)

(16) *Toe board.* A barrier at platform level erected along the exposed sides and ends of a scaffold platform to prevent falls of materials.

(17) *Tube and coupler scaffold.* An assembly consisting of tubing which serves as posts, bearers, braces, ties, and runners, a base supporting the posts, and uprights, and serves to join the various members, usually used in fixed locations.

(18) *Tubular welded frame scaffold.* A sectional, panel, or frame metal scaffold substantially built up of prefabricated welded sections, which consist of posts and bearers with intermediate connecting members and braced with diagonal or cross braces.

(19) *Tubular welded sectional folding scaffold.* A sectional, folding metal scaffold either of ladder frame or inside stairway design, substantially built of prefabricated welded sections, which consist of end frames, platform frame, inside inclined stairway frame and braces, or hinged connected diagonal and horizontal braces, capable of being folded into a flat package when the scaffold is not in use.

(20) *Work level.* The elevated platform, used for supporting workmen and their materials, comprising the necessary vertical, horizontal, and diagonal braces, guardrails, and ladder for access to the work platform.

§ 1910.22 General requirements.

This section applies to all permanent places of employment, except where domestic, mining, or agricultural work only is performed. Measures for the control of toxic materials are considered to be outside the scope of this section.

(a) *Housekeeping.* (1) All places of employment, passageways, storerooms, and service rooms shall be kept clean and orderly and in a sanitary condition.

(2) The floor of every workroom shall be maintained in a clean and, so far as possible, a dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places should be provided where practicable.

(3) To facilitate cleaning, every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards.

(b) *Aisles and passageways.* (1) Where mechanical handling equipment is used, sufficient safe clearances shall be allowed for aisles, at loading docks, through doorways and wherever turns or passage must be made. Aisles and passageways shall be kept clear and in good repairs, with no obstruction across or in aisles that could create a hazard.

(2) Permanent aisles and passageways shall be appropriately marked.

(c) *Covers and guardrails.* Covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc.

(d) *Floor loading protection.* (1) In every building or other structure, or part thereof, used for mercantile, business, industrial, or storage purposes, the loads approved by the building official shall be marked on plates of approved design which shall be supplied and securely affixed by the owner of the building, or his duly authorized agent, in a conspicuous place in each space to which they relate. Such plates shall not be removed or defaced but, if lost, removed, or defaced, shall be replaced by the owner or his agent.

(2) It shall be unlawful to place, or cause, or permit to be placed, on any floor or roof of a building or other structure a load greater than that for which such floor or roof is approved by the building official.

§ 1910.23 Guarding floor and wall openings and holes.

(a) *Protection for floor openings.* (1) Every stairway floor opening shall be guarded by a standard railing constructed in accordance with paragraph (e) of this section. The railing shall be provided on all exposed sides (except at entrance to stairway). For infrequently used stairways where traffic across the opening prevents the use of fixed standard railing (as when located in aisle spaces, etc.), the guard shall consist of a hinged floor opening cover of standard strength and construction and removable standard railings on all exposed sides (except at entrance to stairway).

(2) Every ladderway floor opening or platform shall be guarded by a standard railing with standard toeboard on all exposed sides (except at entrance to opening), with the passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening.

(3) Every hatchway and chute floor opening shall be guarded by one of the following:

(i) Hinged floor opening cover of standard strength and construction equipped with standard railings or permanently attached thereto so as to leave only one exposed side. When the opening is not in use, the cover shall be closed or the exposed side shall be guarded at both top and intermediate positions by removable standard railings.

(ii) A removable railing with toeboard on not more than two sides of the opening and fixed standard railings with toeboards on all other exposed sides. The removable railings shall be kept in place when the opening is not in use and should preferably be hinged or otherwise mounted so as to be conveniently replaceable.

Where operating conditions necessitate the feeding of material into any hatchway or chute opening, protection shall be provided to prevent a person from falling through the opening.

(4) Every skylight floor opening and hole shall be guarded by a standard skylight screen or a fixed standard railing on all exposed sides.

(5) Every pit and trapdoor floor opening, infrequently used, shall be guarded by a floor opening cover of standard strength and construction which should be hinged in place. While the cover is not in place, the pit or trap opening shall be constantly attended by someone or shall be protected on all exposed sides by removable standard railings.

(6) Every manhole floor opening shall be guarded by a standard manhole cover which need not be hinged in place. While the cover is not in place, the manhole opening shall be constantly attended by someone or shall be protected by removable standard railings.

(7) Every temporary floor opening shall have standard railings, or shall be constantly attended by someone.

(8) Every floor hole into which persons can accidentally walk shall be guarded by either:

(i) A standard railing with standard toeboard on all exposed sides, or

(ii) A floor hole cover of standard strength and construction that should be hinged in place. While the cover is not in place, the floor hole shall be constantly attended by someone or shall be protected by a removable standard railing.

(9) Every floor hole into which persons cannot accidentally walk (on account of fixed machinery, equipment, or walls) shall be protected by a cover that leaves no openings more than 1 inch wide. The cover shall be securely held in place to prevent tools or materials from falling through.

(10) Where doors or gates open directly on a stairway, a platform shall be provided, and the swing of the door shall not reduce the effective width to less than 20 inches.

(b) *Protection for wall openings and holes.* (1) Every wall opening from which there is a drop of more than 4 feet shall be guarded by one of the following:

(i) Rail, roller, picket fence, half door, or equivalent barrier.

The guard may be removable but should preferably be hinged or otherwise mounted so as to be conveniently replaceable. Where there is exposure below to falling materials, a removable toe board or the equivalent shall also be provided. When the opening is not in use for handling materials, the guard shall be kept in position regardless of a door on the opening. In addition, a grab handle shall

be provided on each side of the opening with its center approximately 4 feet above floor level and of standard strength and mounting.

(ii) Extension platform onto which materials can be hoisted for handling, and which shall have side rails or equivalent guards of standard specifications.

(2) Every chute wall opening from which there is a drop of more than 4 feet shall be guarded by one or more of the barriers specified in subparagraph (1) of this paragraph, or as required by the conditions.

(3) Every window wall opening at a stairway landing, floor, platform, or balcony, from which there is a drop of more than 4 feet, and where the bottom of the opening is less than 3 feet above the platform or landing, shall be guarded by standard slats, standard grill work (as specified in paragraph (e)(11) of this section), or standard railing.

Where the window opening is below the landing, or platform, a standard toe board shall be provided.

(4) Every temporary wall opening shall have adequate guards but these need not be of standard construction.

(5) Where there is a hazard of materials falling through a wall hole, and the lower edge of the near side of the hole is less than 4 inches above the floor, and the far side of the hole more than 5 feet above the next lower level, the hole shall be protected by a standard toeboard, or an enclosing screen either of solid construction, or as specified in paragraph (e)(11) of this section.

(c) *Protection of open-sided floors, platforms, and runways.* (1) Every open-sided floor or platform 4 feet or more above adjacent floor or ground level shall be guarded by a standard railing (or the equivalent as specified in paragraph (e)(3) of this section) on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a toeboard wherever, beneath the open sides,

(i) Persons can pass,

(ii) There is moving machinery, or

(iii) There is equipment with which falling materials could create a hazard.

(2) Every runway shall be guarded by a standard railing (or the equivalent as specified in paragraph (e)(3) of this section) on all open sides 4 feet or more above floor or ground level. Wherever tools, machine parts, or materials are likely to be used on the runway, a toeboard shall also be provided on each exposed side.

Runways used exclusively for special purposes (such as oiling, shafting, or filling tank cars) may have the railing on one side omitted where operating conditions necessitate such omission, providing the falling hazard is minimized by using a runway of not less than 18 inches wide. Where persons entering upon runways become thereby exposed to machinery, electrical equipment, or other danger not a falling hazard, additional guarding than is here specified may be essential for protection.

(3) Regardless of height, open-sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units, and similar hazards shall be guarded with a standard railing and toe board.

(d) *Stairway railings and guards.* (1) Every flight of stairs having four or more risers shall be equipped with standard stair railings or standard handrails as specified in subdivisions (i) through (v) of this subparagraph, the width of the stair to be measured clear of all obstructions except handrails:

(i) On stairways less than 44 inches wide having both sides enclosed, at least one handrail, preferably on the right side descending.

(ii) On stairways less than 44 inches wide having one side open, at least one stair railing on open side.

(iii) On stairways less than 44 inches wide having both sides open, one stair railing on each side.

(iv) On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side.

(v) On stairways 88 or more inches wide, one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing located approximately midway of the width.

(2) Winding stairs shall be equipped with a handrail offset to prevent walking on all portions of the treads having width less than 6 inches.

(e) *Railing, toe boards, and cover specifications.* (1) A standard railing shall consist of top rail, intermediate rail, and posts, and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The top rail shall be smooth-surfaced throughout the length of the railing. The intermediate rail shall be approximately halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(2) A stair railing shall be of construction similar to a standard railing but the vertical height shall be not more than 34 inches nor less than 30 inches from upper surface of top rail to surface of tread in line with face of riser at forward edge of tread.

(3) Minimum requirements for standard railings under various types of construction are specified in the following subdivisions. Dimensions specified are based on the U.S. Department of Agriculture Wood Handbook, No. 72, 1955 (No. 1 [S4S] Southern Yellow Pine [Modulus of Rupture 7,400 p.s.i.]) for wood; ANSI G41.5–1970, American National Standard Specifications for Structural Steel, for structural steel; and ANSI B125.1–1970, American National Standard Specifications for Welded and Steamless Steel Pipe, for pipe.

(i) For wood railings, the posts shall be of at least 2-inch by 4-inch stock spaced not to exceed 6 feet; the top and intermediate rails shall be of at least 2-inch by 4-inch stock. If top rail is made of two right-angle pieces of 1-inch by 4-inch stock, posts may be spaced on 8-foot centers, with 2-inch by 4-inch intermediate rail.

(ii) For pipe railings, posts and top and intermediate railings shall be at least 1½ inches nominal diameter with posts spaced not more than 8 feet on centers.

(iii) For structural steel railings, posts and top and intermediate rails shall be of 2-inch by 2-inch by ⅜-inch angles or other metal shapes of equivalent bending strength with posts spaced not more than 8 feet on centers.

(iv) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least 200 pounds applied in any direction at any point on the top rail.

(v) Other types, sizes, and arrangements of railing construction are acceptable provided they meet the following conditions:

(*a*) A smooth-surfaced top rail at a height above floor, platform, runway, or ramp level of 42 inches nominal;

(*b*) A strength to withstand at least the minimum requirement of 200 pounds top rail pressure;

(*c*) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(*d*) Elimination of overhang of rail ends unless such overhang does not constitute a hazard; such as, baluster railings, scrollwork railings, paneled railings.

(4) A standard toeboard shall be 4 inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place and with not more than ¼-inch clearance above floor level. It may be made of any substantial material either solid or with openings not over 1 inch in greatest dimension.

Where material is piled to such height that a standard toeboard does not provide protection, paneling from floor to intermediate rail, or to top rail shall be provided.

(5)(i) A handrail shall consist of a lengthwise member mounted directly on a wall or partition by means of brackets attached to the lower side of the handrail so as to offer no obstruction to a smooth surface along the top and both sides of the handrail. The handrail shall be of rounded or other section that will furnish an adequate handhold for anyone grasping it to avoid falling. The ends of the handrail should be turned in to the supporting wall or otherwise arranged so as not to constitute a projection hazard.

(ii) The height of handrails shall be not more than 34 inches nor less than 30 inches from upper surface of handrail to surface of tread in line with face of riser or to surface of ramp.

(iii) The size of handrails shall be: When of hardwood, at least 2 inches in diameter; when of metal pipe, at least

1½ inches in diameter. The length of brackets shall be such as will give a clearance between handrail and wall or any projection thereon of at least 3 inches. The spacing of brackets shall not exceed 8 feet.

(iv) The mounting of handrails shall be such that the completed structure is capable of withstanding a load of at least 200 pounds applied in any direction at any point on the rail.

(6) All handrails and railings shall be provided with a clearance of not less than 3 inches between the handrail or railing and any other object.

(7) Floor opening covers may be of any material that meets the following strength requirements:

(i) Trench or conduit covers and their supports, when located in plant roadways, shall be designed to carry a truck rear-axle load of at least 20,000 pounds.

(ii) Manhole covers and their supports, when located in plant roadways, shall comply with local standard highway requirements if any; otherwise, they shall be designed to carry a truck rear-axle load of at least 20,000 pounds.

(iii) The construction of floor opening covers may be of any material that meets the strength requirements. Covers projecting not more than 1 inch above the floor level may be used providing all edges are chamfered to an angle with the horizontal of not over 30 degrees. All hinges, handles, bolts, or other parts shall set flush with the floor or cover surface.

(8) Skylight screens shall be of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied perpendicularly at any one area on the screen. They shall also be of such construction and mounting that under ordinary loads or impacts, they will not deflect downward sufficiently to break the glass below them. The construction shall be of grillwork with openings not more than 4 inches long or of slatwork with openings not more than 2 inches wide with length unrestricted.

(9) Wall opening barriers (rails, rollers, picket fences, and half doors) shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward) at any point on the top rail or corresponding member.

(10) Wall opening grab handles shall be not less than 12 inches in length and shall be so mounted as to give 3 inches clearance from the side framing of the wall opening. The size, material, and anchoring of the grab handle shall be such that the completed structure is capable of withstanding a load of at least 200 pounds applied in any direction at any point of the handle.

(11) Wall opening screens shall be of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied horizontally at any point on the near side of the screen. They may be of solid construction, of grillwork with openings not more than 8 inches long, or of slatwork with openings not more than 4 inches wide with length unrestricted.

§ 1910.24 Fixed industrial stairs.

(a) *Application of requirements.* This section contains specifications for the safe design and construction of fixed general industrial stairs. This classification includes interior and exterior stairs around machinery, tanks, and other equipment, and stairs leading to or from floors, platforms, or pits. This section does not apply to stairs used for fire exit purposes, to construction operations to private residences, or to articulated stairs, such as may be installed on floating roof tanks or on dock facilities, the angle of which changes with the rise and fall of the base support.

(b) *Where fixed stairs are required.* Fixed stairs shall be provided for access from one structure level to another where operations necessitate regular travel between levels, and for access to operating platforms at any equipment which requires attention routinely during operations. Fixed stairs shall also be provided where access to elevations is daily or at each shift for such purposes as gauging, inspection, regular maintenance, etc., where such work may expose employees to acids, caustics, gases, or other harmful substances, or for which purposes the carrying of tools or equipment by hand is normally required. (It is not the intent of this section to preclude the use of fixed ladders for access to elevated tanks, towers, and similar structures, overhead traveling cranes, etc., where the use of fixed ladders is common practice.) Spiral stairways shall not be permitted except for special limited usage and secondary access situations where it is not practical to provide a conventional stairway. Winding stairways may be installed on tanks and similar round structures where the diameter of the structure is not less than five (5) feet.

(c) *Stair strength.* Fixed stairways shall be designed and constructed to carry a load of five times the normal live load anticipated but never of less strength than to carry safely a moving concentrated load of 1,000 pounds.

(d) *Stair width.* Fixed stairways shall have a minimum width of 22 inches.

(e) *Angle of stairway rise.* Fixed stairs shall be installed at angles to the horizontal of between 30° and 50°. Any uniform combination of rise/tread dimensions may be used that will result in a stairway at an angle to the horizontal within the permissible range. Table D–1 gives rise/tread dimensions which will produce a stairway within the permissible range, stating the angle to the horizontal produced by each combination. However, the rise/tread combinations are not limited to those given in Table D–1.

(f) *Stair treads.* Each tread and the top landing of a stairway, where risers are used, should have a nose which extends one-half inch to 1 inch beyond the face of the lower riser. Noses should have an even leading edge. All treads shall be reasonably slip-resistant and the nosings shall be of nonslip finish. Welded bar grating treads without nosings are acceptable providing the leading edge can be readily identified by personnel descending the stairway and provided the tread is serrated or is of definite nonslip design. Rise height and tread width shall be uniform throughout any flight of stairs including any foundation structure used as one or more treads of the stairs.

TABLE D–1

Angle to horizontal	Rise (in inches)	Tread run (in inches)
30°35′	6½	11
32°08′	6¾	10¾
38°41′	7	10½
35°16′	7¼	10¼
36°52′	7½	10
38°29′	7¾	9¾
40°08′	8	9½
41°44′	8¼	9¼
43°22′	8½	9
45°00′	8¾	8¾
46°38′	9	8½
48°16′	9¼	8¼
49°54′	9½	8

(g) *Length of stairways.* Long flights of stairs, unbroken by landings or intermediate platforms, should be avoided. Consideration should be given to providing intermediate platforms where practical and where such stairways are in frequent use. Stairway platforms shall be no less than the width of a stairway and a minimum of 30 inches in length measured in the direction of travel.

(h) *Railings and handrails.* Standard railings shall be provided on the open sides of all exposed stairways and stair platforms. Handrails shall be provided on at least one side of closed stairways, preferably on the right side descending. Stair railings and handrails shall be installed in accordance with the provisions of § 1910.23.

(i) *Vertical clearance.* Vertical clearance above any stair tread to an overhead obstruction shall be at least 7 feet measured from the leading edge of the tread.

(j) *Open risers.* Stairs having treads of less than 9-inch width should have open risers.

(k) *General.* Open grating type treads are desirable for outside stairs.

§ 1910.25 Portable wood ladders.

(a) *Application of requirements.* This section is intended to prescribe rules and establish minimum requirements for the construction, care, and use of the common types of portable wood ladders, in order to insure safety under normal conditions of usage. Other types of special ladders, fruitpicker's ladders, combination step and extension ladders, stockroom step ladders, aisle-way step ladders, shelf ladders, and library ladders are not specifically covered by this section.

(b) *Materials*—(1) *Requirements applicable to all wood parts.* (i) All wood parts shall be of the species specified in Table D–5, seasoned to a moisture content of not more than 15 percent; smoothly machined and dressed on all sides; free from sharp edges and splinters; sound and free by accepted visual inspection from shake, wane, compression failures, decay, or other irregularities except as hereinafter provided. Low-density wood shall not be used.

(ii) Black streaks in western hemlock shall not be considered an irregularity, except that chambers associated with black streaks, when present in the part, shall be limited as specified for pitch and bark pockets.

(2) *Permissible irregularities in side rails and back rails* (i) The general slope of grain in side rails of minimum dimension shall not be steeper than 1 in 12, except that for ladders under 10 feet in length and having flat steps for treads, the general slope of grain shall not be steeper than 1 in 10. The slope of grain in areas of local grain deviation shall not be steeper than 1 in 12 or 1 in 10 as specified above when occurring on the edges or in the outer one-fourth of the width of the wide face. Local areas of grain deviation within the center half of the width of the wide face may contain grain slope as steep as 1 in 8. Local deviations of grain associated with otherwise permissible irregularities are permitted.

(ii) Knots shall not appear in narrow faces of side rails. Knots, if tight and sound and less than one-half inch in diameter, are permitted on the wide face provided they are at least one-half inch back from either edge and not more frequent than 1 to any 3 feet of ladder length.

(iii) Pitch and bark pockets are permitted provided they are not more than one-eighth inch in width, or more than 2 inches in length, or more than one-half inch in depth, and then only if they are not more frequent than 1 to any 3 feet of ladder length.

(iv) Checks are permitted on side rails provided they are not more than 6 inches in length or more than one-half inch in depth.

(v) Occurrences of compression wood in relatively small amounts and positively identified by competent and conscientious visual inspection of side rails are permitted provided no single streak shall exceed one-half inch in width nor shall the aggregate of streaks exceed one-fourth of the face of the side rail. Borderline forms of compression wood not positively identified by competent and conscientious visual inspection are permitted. Ladder parts containing bow or crook which would interfere with the operation of the ladder shall not be used.

(3) *Permissible irregularities in flat steps, rungs, and cleats.* (i) The general slope of grain in flat steps of minimum dimension shall not be steeper than 1 in 12, except that for ladders under 10 feet in length the slope of grain shall not be steeper than 1 in 10. The slope of grain in areas of local deviation shall not be steeper than 1 in 12 or 1 in 10 as specified above. For all ladders, cross grain not steeper than 1 in 10 are permitted in lieu of 1 in 12, provided the size is increased to afford at least 15 percent greater calculated strength than for ladders built to minimum dimensions. Local deviations of grain associated with otherwise permissible irregularities are permitted.

(ii) The general slope of grain and that in areas of local deviations of grain shall not be steeper than 1 in 15 in rungs and cleats. For all ladders cross grain not steeper than 1 in 12 are permitted in lieu of 1 in 15, provided the size is increased to afford at least 15 percent greater calculated strength for ladders built to minimum dimensions. Local deviations of grain associated with otherwise permissible irregularities are permitted.

(iii) Knots over one-eighth inch in diameter shall not appear in rungs. Knots shall not appear in the narrow faces of flat steps and cleats. Knots appearing in the wide faces of flat steps and cleats shall not exceed a diameter of one-fourth inch.

(4) *Classification of species of wood.* Table D–5 gives a list of native woods, divided into four groups on the basis of mechanical properties considered from the standpoint of use for ladder construction.

(i) All minimum dimensions and specifications set forth hereinafter for side rails and flat steps are based on the species of wood listed in Group 3 in Table D–5 except where otherwise provided. The species of all other groups may be substituted for those of Group 3 when used in sizes that provide at least equivalent strength. (See Table D–5 for suggested methods of size adjustment.)

(ii) All minimum dimensions and specifications set forth hereinafter for rungs and cleats are based on the species of wood listed in Group 1 in Table D–5. Cleats may be made of species of any other group provided that the cross-sectional dimensions specified for Group 1 species are increased by the factors shown in this subdivision (based on the percentages of Table D–5) for the species group of which the cleats are to be made.

FACTOR FOR INCREASE IN

Species group	Each dimension	Width only (thickness unchanged)
1	1.00	1.00
2	1.03	1.05
3	1.11	1.19
4	1.17	1.26

(5) *Metal parts.* All metal parts shall be made of aluminum, steel, wrought iron, malleable iron, or other material, adequate in strength for the purpose intended.

(c) *Construction requirements*—(1) *Basis of requirements.* (i) Dimensions specified hereinafter for wood ladders are the minimum dressed cross-sectional dimensions for the types of ladders herein designated, based on the species of woods specified in paragraph (b) (4) of this section, at a moisture content of 15 percent. The dimensions for side rails are based on a mortise or gain as specified for the various types of ladders for step or rung attachments. Where the strength of the side rails or back legs is reduced by a greater mortise or gain than shown, or where it is desired to use a cross section for any wood part either dimension of which is less than that specified, the required dimensions may be found as indicated in subdivision (ii) of this subparagraph.

(ii) For the side rails of single extension and sectional ladders, the proposed section shall develop an actual stress per square inch not greater than 2,150 pounds for Group 1 woods, 2,000 pounds for Group 2 woods, 1,600 pounds for Group 3 woods, or 1,375 pounds for Group 4 woods when computed by the following formula applying to rectangular sections, with a maximum tolerance of 5 percent over these stresses:

$$S=\frac{3LD\,(P+W/16)}{2B\,(D^3-d^3)}=\frac{1.5LD\,(25+W/16)}{B\,(D^3-0.67)}$$

P=25 pounds, which is the normal component on each rail of a load of 200 pounds at the center of the ladder, equally distributed between the rails, when the foot of the ladder is moved out of the perpendicular by one-quarter of its length.
S=Stress in extreme fiber in pounds per square inch.
W=Weight of ladder in pounds.
L=Maximum working length of ladder in inches.
B=Net thickness of each side rail in inches.
D=Depth of side rail in inches.
d=Diameter of hole board for rung (d^3 shall be taken as not less than 0.67).

(iii) Adjustment of sizes for wood parts of stepladders and other ladder types covered by this section may be made as follows:

(a) The dimensions specified in later sections for parts having rectangular cross sections generally represent only one of a number of possible combinations of thickness and width which could satisfy the requirements for strength and stiffness. Depending upon the material sizes available, manufacturing practices, and like factors, parts produced by a particular manufacturer may or may not agree exactly with the sizes given later. The following provisions provide means for determining equality of load-carrying capacity of parts of different sizes or of determining sizes needed to provide equality.

(b) Any changes in dimensions shall result in a change in the width-thickness ratio for side rails of back legs not greater than 25 percent from the ratio for a corresponding ladder as now covered in this section.

(c) Where both dimensions are different from those specified, the load-carrying capacity in bending of a part will be equal to or greater than that of a part of specified dimensions if the ratio P_2/P_1 is not less than 1, where

$$\frac{P_2}{P_1}=\frac{B_2D_2^2}{B_1D_1^2}$$

and

B=Dimension of the part at right angles to the direction of load (width of a step, thickness of a side rail or back leg).
D=Dimension of the part parallel to the direction of load (thickness of a step, width of a side rail or back leg).
B_1D_1=Dimensions as specified.
B_2D_2=Dimensions of part being considered.

(d) The dimensions to be used in the computations are net dimensions. For example, in the case of a stepladder side rail, the dimension B is to be taken as the gross thickness of the rail minus the

depth of the gain for the steps. Where there is a rung hole at the center of depth of a rail, a somewhat more accurate comparison may be made by the use of the formula

$$\frac{P_2}{P_1} = \frac{B_2 D_1 (D_2^2 - d^2)}{B_1 D_2 (D_1^2 - d^2)}$$

where the symbols have the same meanings as before and d is the diameter of the hole for the rung tenon. In most instances the difference in results calculated by this and by the earlier formula will be slight.

(2) *Portable stepladders.* Stepladders longer than 20 feet shall not be supplied. Stepladders as hereinafter specified shall be of three types:

Type I—Industrial stepladder, 3 to 20 feet for heavy duty, such as utilities, contractors, and industrial use.

Type II—Commercial stepladder, 3 to 12 feet for medium duty, such as painters, offices, and light industrial use.

Type III—Household stepladder, 3 to 6 feet for light duty, such as light household use.

(i) *General requirements.* (*a*) Slope is the inclination of side rails or back legs with respect to the vertical and is expressed as a deviation from the vertical per unit length of the member. Stepladders shall be so constructed, that when in the open position, the slope of the front section shall not be less than 3½ inches and the slope of the back section not less than 2 inches, for each 12-inch length of side rail.

(*b*) A uniform step spacing shall be employed which shall be not more than 12 inches. Steps shall be parallel and level when the ladder is in position for use.

(c) The minimum width between side rails at the top, inside to inside, shall be not less than 11½ inches. From top to bottom, the side rails shall spread at least 1 inch for each foot of length of stepladder.

(*d*) When minimum thickness of side rails is used, steps shall be closely fitted into the grooves in the side rails one-eighth inch in depth with a tolerance of one thirty-second inch, and shall be firmly secured as hereinafter described; or they shall be closely fitted into metal brackets of an equivalent strength, which in turn shall be firmly secured to the side rails. The depth of groove herein provided may be increased in proportion to the thickness of side rails as provided in subdivisions (ii) (*a*), (iii) (*a*), and (iv) (*a*) of this subparagraph.

(*e*) All stepladders shall have a top with wood or metal brackets or fittings tightly secured to the top, side rails, and back legs, to allow free swinging of the back section without excessive play or wear at the joints.

(*f*) A metal spreader or locking device of sufficient size and strength to securely hold the front and back sections in open positions shall be a component of each stepladder. The spreader shall have all sharp points covered or removed to protect the user. For Type III ladder, the pail shelf and spreader may be combined in one unit (the so-called shelf-lock ladder).

(*g*) When measured along the front edge of the side rails, all stepladders shall measure within 3 inches of the specified length.

(*h*) Where bucket shelves are provided, they shall be constructed to support a load of 25 pounds and shall be so fastened that they can be folded up when the ladder is closed.

(*i*) All metal parts and fittings shall be securely attached by means of rivets, bolts, screws, or equivalent fasteners.

(ii) *Type I industrial stepladder.* (*a*) (*1*) The minimum dimensions of the parts of the Type I stepladder shall be as shown in Table D–2 when made of Group 2 or Group 3 woods.

(2) The minimum thickness of side rails provides for the cutting of a groove of one-eighth inch in depth with the tolerance indicated in subdivisions (i) (*d*) of this subparagraph, and shall be increased when grooves of greater depth are used.

(*b*) Steps shall be secured with at least two 6–d nails at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 0.160 inch in diameter with standard commercial tolerances, which shall pass through metal washers of sufficient thickness and diameter on each end to prevent pressing—into the side rails, and a truss block which shall be fitted between the rod and the center of each step, or by a metal angle brace on each end firmly secured to the steps and side rails, or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rails. In addition, all steps 35⅝ inches wide and 27 inches or more in overall length and all steps 4¼ inches wide and 32 inches or more in overall length shall be provided with a metal angle brace at each end securely attached to the step and side rail.

(c) The back section shall be braced by one of the following methods:

(*1*) The back legs shall be braced with 1⅛-inch diameter rungs of Group 1 woods (see Table D–5), or material of equivalent strength, having ⅞-inch diameter tenons or oval wood rungs, or rectangular wood rungs of equivalent strength, spaced not more than 12 inches apart. The back legs shall be bored with holes either extending through the legs or to within three-sixteenths inch of the outside face of the legs, the size of the hole to be such as to insure a tight fit for the rung. The shoulder of the rung shall be forced firmly against the leg, and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning of the rungs. The back legs shall be braced by a metal angle brace on each side, securely fastened to the rung and the back legs, one rung to be braced for each 4 feet of length or fraction thereof, on ladders 4 feet or more in length, with braces required only on the bottom rung for ladders that are 4 feet or shorter. Where rungs are more than 28 inches in length between the back legs they shall be provided with center bearing consisting of a wood bar not less than ¾ by 2 inches in cross-section securely nailed to each rung passing through it and long enough to include each rung longer than 28 inches.

(2) The back leg shall be braced with horizontal wood bars of Group 1, 2, or 3 woods in Table D–5 and not less than ¾ by 2½ inches in cross-section, spaced not more than 12 inches apart. The ends of the bars shall fit into metal sockets of not less than 20-gauge (Manufacturers Standard) steel, or other material of equivalent strength, or into mortises of not less than one-eighth inch (tolerance of ±one-thirty-second inch) in depth in the back legs. A steel rod not less than 0.160 inch in diameter with standard commercial tolerance shall pass through the back legs, the bar, and at each end through metal washers of sufficient diameter and thickness to prevent passing into the back legs. The back legs shall also be braced by a metal angle brace on each side, securely fastened to the bar and to the legs, one bar to be so braced for at least each 4 feet of length or fraction thereof, with braces required only on bottom bar for ladders that are 4 feet or shorter. Metal sockets when used shall be attached to the back legs by rivets or by means of a rod running through the socket or equivalent thereof.

TABLE D–2

DIMENSIONS FOR TYPE I STEP LADDER

	Length, 12 feet and less		Length, 14 and 16 feet		Length, 18 and 20 feet	
	Thickness (inch)	*Depth (inches)*	*Thickness (inch)*	*Depth (inches)*	*Thickness (inch)*	*Depth (inches)*
Side rails	¾	3½	¾	3½	1 1/16	3½
Back legs	¾	2½	¾	2⅝	1 1/16	2½
Steps	¾	3⅝	¾	4½	¾	4½
Tops	¾	5½	¾	5½	¾	5½

TABLE D–3

DIMENSIONS FOR TYPE II STEP LADDER

	Length, 3 to 8 feet		Length, 10 feet		Length, 12 feet	
	Thickness (inch)	*Depth (inches)*	*Thickness (inch)*	*Depth (inches)*	*Thickness (inch)*	*Depth (inches)*
Side rails	¾	2⅝	¾	2⅝	¾	3
Back legs	¾	1⅝	¾	1⅞	¾	2
Steps	¾	3½	¾	3½	¾	3⅝
Tops	¾	5	¾	5	¾	5

(*d*) The back legs shall be reinforced by a rivet through the depth of the leg above the hinge point, by metal plates or collars at the hinge point, or by other means suitable for preventing splitting of the back leg from the hinge pin to the top.

(iii) *Type II commercial stepladder.* (*a*) (*1*) The minimum dimensions of the parts of the Type II stepladder shall be as given in Table D–3 when made of Group 2 or Group 3 woods.

(2) The minimum thickness of side rails provides for the cutting of a groove of one-eighth inch in depth with the tolerance indicated in subdivision (i) (*d*) of this subparagraph, and shall be increased when grooves of greater depth are used.

(*b*) Steps shall be secured with at least two 6-d nails at each end, or the equivalent thereof. Each step shall be reinforced by by a steel rod not less than 0.160 inch in diameter with standard commercial tolerances which shall pass through metal washers of sufficient thickness and diameter on each end to prevent pressing into the side rails, and a truss block shall be fitted between the truss rod and center of each step; or by a metal angle brace on each end firmly secured to the steps and side rails; or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rails. In addition all steps 27 inches or more in overall length shall be provided with a metal angle brace at each end securely attached to the step and side rails.

(c) The back legs shall be braced by one of the three following methods:

(*1*) (*i*) With ⅞-inch diameter wood dowels of Group 1 woods (see Table D–5) or material of equivalent strength having not less than ⅝-inch tenons firmly secured in the back legs and spaced not more than 12 inches apart. The back legs shall be bored with holes either extending through the legs or to within three-sixteenths inch of the outside face of the legs, the size of the hole to be such as to insure a tight fit for the dowel. The shoulder of the dowel shall be forced firmly against the leg and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning of the dowel.

(*ii*) A bar connecting two or more of the dowels shall be provided on all ladders of 6 feet or more. The cross-sectional dimensions of the bar shall be the same as the cross-sectional dimensions of the back legs, and the dowels shall pass through holes at the centerline of the bar. The bar shall be attached at the center of the length of the lower two dowels on a 6-foot ladder and shall extend upward one dowel for each 2 feet of added length.

(2) With wood dowels as set forth in this subdivision (iii) (c) (*1*), plus an inverted V bracing of ¾- by 1½-inch material through which the dowels extend, the length of the V to extend two-thirds of the way up the back.

(3) With horizontal bracing of Group 1, 2, 3, or 4 woods (see Table D–5) not less than ¾ by 2 inches in cross-section, the ends of which shall fit into metal sockets of not less than 20-gauge (Manufacturing Standard), steel, or other material of equivalent strength or into mortises not less than one-eighth inch in depth in back legs. The bars shall be reinforced by steel rods not less than 0.160 inch in diameter with standard commercial tolerances which shall pass through the back legs, the bar, and, at each end, through metal washers of sufficient diameter and thickness to prevent pressing into the back legs. The spacing of such braces shall not exceed 3 feet, and there shall be one brace on 3- and 4-foot ladders, two braces on 5- and 6-foot ladders, three braces on 7- and 8-foot ladders, and four braces on 10- and 12-foot ladders. The bottom bar shall not be more than 18 inches from the bottom of the ladder, and, where only one bar is used, it shall be braced by a metal angle brace on each end securely attached to the bar and the back leg.

(iv) *Type III household stepladder.* (*a*) The minimum dimensions of the parts of the Type III stepladder shall be as follows when made of Group 2 or Group 3 woods:

	Length, 3 to 6 feet	
	Thickness (inch)	Depth (inches)
Side rails	¾	2½
Back legs	¾	1 5/16
Steps	¾	3
Top	¾	5

The minimum thicknesses of side rails provide for the cutting of a groove one-eighth inch in depth with the tolerance indicated in subdivision (i) (*d*) of this subparagraph, and shall be increased when grooves of greater depth are used.

(*b*) Steps shall be secured with at least one 6-d nail at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 0.160 inch in diameter with standard commercial tolerance which shall pass through metal washers of sufficient thickness and diameter to prevent pressing into the back legs, or by a metal brace at each end firmly secured to steps and side rails or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rail.

(c) Back legs shall be braced by one of the two following methods or by construction of equivalent strength and safety:

(*1*) By diagonal slates of groups 1, 2, 3, or 4 wood (see Table D–5) not less than ⅞ by 1¼ inches securely fastened to the back legs by nails, screws, or the equivalent thereof.

(2) With horizontal bracing of Groups 1, 2, 3, or 4 wood (see Table D–5) not less than ⅝ by 1⅝ inches in cross section, the ends of which shall fit into metal sockets of not less than 20-gauge (Manufacturing Standard) steel or other material of equivalent strength or into mortises not less than one-eighth inch in depth in back legs. The bars shall be reinforced by steel rods not less than 0.160 inch in diameter with standard commercial tolerances which shall pass through the back leg, the bar, and at each end through metal washers of sufficient diameter and thickness to prevent pressing into each leg. The spacing of such bars shall not exceed 3 feet, and there shall be one brace on 3- and 4-foot ladders, two braces on 5- and 6-foot ladders. The bottom bar shall be not more than 18 inches from the bottom of the ladder.

(3) *Portable rung ladders.* Portable rung ladders as herein specified shall be of four types, as follows: single ladder; two-section extension ladder; sectional ladder; trestle and extension trestle ladder.

(i) *General requirements.* (*a*) The base or lower portion of a ladder may have either parallel sides or flared sides in accordance with commercial practice.

(*b*) Rungs shall be parallel, level, and uniformly spaced. The spacing shall be not more than 12 inches, except as hereinafter specified.

(c) All holes for wood rungs shall either extend through the side rails or be bored so as to give at least a thirteen-sixteenths-inch length of bearing to the rung tenon. In through-bored construction, the rungs shall extend at least flush with the outside rail surface. All holes shall be located on the center line of the wide face of the side rails and shall be of such size as to insure a tight fit for the rung. The shoulder of the rung shall be forced firmly against the side rails and the tenon secured in place with a nail or the equivalent thereof, for the sole purpose of preventing the turning of the rung and maintaining the rung position in the side rail.

(*d*) Round rungs shall be of Group 1 woods (see Table D–5), shall be not less than 1⅛ inches in diameter for lengths up to 36 inches between side rails and 1¼ inches in diameter for lengths over 36 up to and including 72 inches, and shall have not less than seven-eighths-inch-diameter tenons, or rungs of equivalent strength and bearing shall be provided. When rungs are 28 inches or more in length between side rails, they shall, in addition, be provided with center bearing.

(*e*) Oval rungs or rungs of any other cross section may be used provided they are secured by a nail at each end or the equivalent thereof, and have at least the same strength and bearing as round rungs of the same length.

(*f*) All metal parts and fittings shall be securely attached by means of rivets, bolts, screws, or equivalent fasteners.

(*g*) The construction and assembly of the movable parts shall be such that they shall operate freely and securely without binding or unnecessary play.

(*h*) When measured along the side rails, no rung ladder or section thereof shall be more than 4 inches shorter than the specified length.

(i) Nonslip bases shall be securely bolted, riveted, or attached by equivalent construction to the side rails.

(j) Hooks shall be securely bolted or riveted to the side rails or equivalent construction and shall be of such dimensions as to withstand the loads imposed upon them.

(ii) *Single ladder.* (a) Single ladders longer than 30 feet shall not be supplied.

(b) The minimum dimensions of the side rails of the single ladder shall be as follows when made of group 2 or group 3 woods:

Length of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 16	1⅛	2½
Over 16 up to and including 22	1¼	2¾
Over 22 up to and including 30	1¼	3

(c) Smaller side rails will be acceptable in all ladders of this type when reinforced by a steel wire, rod, or strap running the length of the side rails and adequately secured thereto. Where such reinforcement is used, the reinforced rails shall be equivalent in strength to the side rails specified in this subdivision (ii) (b),

(d) The width between the side rails at the base, inside to inside, shall be at least 11½ inches for all ladders up to and including 10 feet. Such minimum widths shall be increased at least one-fourth inch for each additional 2 feet of length.

(iii) *Two-section ladder.* (a) Two-section extension ladders longer than 60 feet shall not be supplied. All ladders of this type shall consist of two sections, one to fit within the side rails of the other, and arranged in such a manner that the upper section can be raised and lowered.

(b) The minimum dimensions of the side rails of the two-section extension ladder shall be not less than specified in Table D–4 of this section.

(c) The minimum dimensions of side rails set forth in Table D–4 are based on the maximum working length, which is the size of ladder less the minimum overlap, which shall be as follows:

Size of ladder (feet):	Overlap (feet)
Up to and including 36	3
Over 36 up to and including 48	4
Over 48 up to and including 60	5

(d) Smaller side rails will be acceptable in all ladders of this type when reinforced by a steel wire, rod, or strap running the length of the side rails and adequately secured thereto. Where such reinforcement is used, the reinforced rails shall be equivalent in strength to the side rails specified in Table D–4.

(e) The minimum distance between side rails of the bottom section, inside to inside, shall be 14½ inches on ladders up to and including 28 feet; 16 inches on all ladders over 28 feet up to and including 40 feet; 18 inches on all ladders over 40 feet.

(f) All locks and guide irons shall be of metal and shall be of such construction and strength as to develop the full strength of the side rails. All locks shall be positive in their action. The guide irons shall be securely attached and so placed as to prevent the upper section from tipping or falling out while raising, lowering, or in use.

(g) (1) Ladders of this type may be equipped with a rope and pulley, which shall be securely attached to the ladder in such manner as not to weaken either the rungs or the side rails. The pulley shall be not less than 1¼ inches in diameter.

(2) The rope used with the pulley shall be not less than five-sixteenths inch in diameter having a minimum breaking strength of 560 pounds, and shall be sufficient length for the purpose intended.

(iv) *Sectional Ladder.* (a) Assembled combinations of sectional ladders longer than lengths specified in this subdivision shall not be used.

(b) The minimum dimensions of side rails shall be as follows for Group 2 or Group 3 woods:

Assembled length of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 21	1⅛	2¾
Over 21 up to and including 31	1⅜	3⅜

(c) Ladders of this type shall have either straight sides slightly converging toward the top of each section, or shall have flaring sides at the bottom of the first (or bottom) section, with the top section having converging side rails to a width that shall be not less than 4 inches. Except for the top section, the minimum width between side rails shall be 11 inches.

(1) Adjacent sections shall be jointed by means of a groove in the bottom end of each rail of the upper of the two sections setting firmly over extensions outside the side rails, of the topmost rung of the next lower section and, at the same time, a groove in the top end of each rail of the lower of the two sections setting firmly over the bottom rung, inside the side rails, of the section next above.

TABLE D–4—DIMENSIONS OF SIDE RAILS FOR TWO-SECTION LADDER

Size of ladder, overall length (feet)	Rail	
	Thickness (inches)	Depth (inches)
For group 2 woods		
16	1 13/16 ×	2
20	1 13/16 ×	2 1/4
24	1 13/16 ×	2 1/2
28	1 13/16 ×	2 3/4
32	1⅞ ×	2 3/4
36	1 15/16 ×	2 3/4
40	1 15/16 ×	2 3/4
44	1 15/16 ×	3
For group 3 woods		
16	1⅝ ×	2
20	1⅝ ×	2 1/4
24	1⅝ ×	2 1/2
28	1⅝ ×	2 3/4
32	1 15/16 ×	2 3/4
36	1 15/16 ×	3
40	1⅞ ×	3
44	1⅞ ×	3 1/4
48–52	1⅞ ×	3 3/4
56–60	1⅞ ×	3 3/4

(2) The distance between the two rungs (top-most rung of one section, bottom rung of the section next above) mentioned in this subdivision (iv) (c) (1) shall not be less than 1 foot.

(3) The fit between rail grooves and rungs mentioned in this subdivision (iv) (c) (1) shall be such as to provide a good fit without binding or unnecessary play.

(4) The grooved ends of the sections shall be reinforced with a metal plate of not less than 18-gauge (Manufacturing Standard) material properly secured thereto, and a rivet adjacent to the groove, extending through the depth of the rail, or the equivalent thereof.

(v) *Trestle and extension trestle ladder.* (a) Trestle ladders, or extension sections or base sections of extension trestle ladders longer than 20 feet shall not be supplied.

(b) The minimum dimensions of the side rails of the trestle ladder, or the base sections of the extension trestle ladder, shall be as follows for Group 2 or Group 3 woods:

Size of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 16	1 5/16	2¾
Over 16 up to and including 20	1 5/16	3

The minimum dimensions of the side rails of the extension section of the extension trestle ladder, which shall have parallel sides, shall be as follows for Group 2 or Group 3 woods:

Size of ladder (feet)	Thickness (inches)	Depth (inches)
Up to and including 12	1 5/16	2¼
Over 12 up to and including 16	1 5/16	2½
Over 16 up to and including 20	1 5/16	2¾

(c) Trestle ladders and base sections of extension trestle ladders shall be so spread that when in an open position the spread of the trestle at the bottom, inside to inside, shall be at least 5½ inches per foot of the length of the ladder.

(d) The width between the side rails at the base of the trestle ladder and base sections of the extension trestle ladder shall be at least 21 inches for all ladders and sections up to and including 6 feet. Longer lengths shall be increased at least 1 inch for each additional foot of length. The width between the side rails of the extension sections of the trestle ladder shall be not less than 12 inches.

(e) The tops of the side rails of the trestle ladder and of the base section of the extension trestle ladder shall be beveled, or equivalent construction, and shall be provided further with a metal hinge to prevent spreading.

(f) A metal spreader or locking device to hold the front and back sections in an open position, and to hold the extension section securely in the elevated position, shall be a component of all extension trestle ladders and all trestle ladders over 12 feet in length.

(g) Rungs shall be parallel and level. On the trestle ladder, or on the base sections of the extension trestle ladder, rungs shall be spaced not less than 8 inches or more than 18 inches apart; on the extension section of the extension trestle ladder, rungs shall be spaced not less than 6 inches or more than 12 inches apart.

(4) *Special-purpose ladders.* All special-purpose ladders shall comply with the appropriate requirements of subparagraphs (1), (2), and (3) of this paragraph, except as hereinafter modified in this subparagraph.

(i) *Platform stepladder.* A platform stepladder is a modification of a portable stepladder with a working platform provided near the top.

(a) Platform stepladders shall be made in accordance with the requirements of type I stepladders or in accordance with the requirements for type II stepladders.

(b) The slope of the back section shall be such that a vertical from the back edge of the platform will strike the floor at a distance measured toward the front section of not less than 3 inches from the base of the back section.

(c) The minimum width between side rails at the platform shall be not less than 15 inches.

(d) The back legs and side rails shall extend at least 24 inches above the platform and shall be connected with a top member to form a three-sided rail, or equivalent construction shall be provided.

(e) Platforms shall be so constructed as to be capable of supporting a load of 200 pounds placed at any point on the platform.

(f) A separate spreader may be omitted from platform ladders in which the height to the platform is 6 feet or less. If the spreader is omitted, the platform shall be so designed as to function as a spreader or locking device to hold the front and back sections securely in an open position, with the connection between side rails and back legs being through the metal parts of the platform. The wood parts of a combined wood and metal platform functioning as a spreader shall not be depended upon to contribute to the spreading or locking action.

(ii) *Painter's stepladder.* (a) Painter's stepladders longer than 12 feet shall not be supplied.

(b) Painter's stepladders shall be made in accordance with the requirements of type II stepladders except for the following:

(1) The top may be omitted.

(2) A rope spreader may be substituted for the metal spreader required in subparagraph (2)(i)(f) of this paragraph. The rope shall not be less than No. 6 sash cord or its equivalent.

(iii) *Mason's ladder.* A mason's ladder is a special type of single ladder intended for use in heavy construction work.

(a) Mason's ladders longer than 40 feet shall not be supplied.

(b) The minimum dimensions of the side rails when made of Group 2 or Group 3 woods and rungs (Group 1 woods) of the mason's ladder shall be as follows:

Length of ladder (feet)	Side rails		Diameter	
	Thickness (inches)	Depth (inches)	Rung (inches)	Tenon (inches)
Up to and including 22	1⅝	3⅝	1⅜	1
Over 22 up to and including 40	1⅝	4½	1⅜	1

(c) The width between the side rails at the bottom rung, inside to inside, shall be not less than 12 inches for all ladders up to and including 10 feet. Such minimum widths shall be increased by at least one-fourth inch for each additional 2 feet of length.

(d) Rungs shall be parallel and level and shall be spaced not less than 8 inches or more than 12 inches apart.

(5) *Trolley and side-rolling ladders*—(i) *Length.* Trolley ladders and side-rolling ladders longer than 20 feet should not be supplied.

(ii) *Dimensions.* The dimensions of the side rails shall not be less than the following for Group 2 or Group 3 woods:

Length of side rails (feet)	Thickness (inch)	Depth (inches)
Up to and including 10	2 5/32	3
Over 10 up to and including 20	2 5/32	3¾

The minimum thicknesses of side rails provide for the cutting of a groove not over one-eighth inch in depth and shall be increased when grooves of greater depth are used. Flat steps shall have the following minimum dimensions for Group 2 or Group 3 woods:

Length of step (inches)	Thickness (inch)	Width (inches)
Up to and including 16	2 5/32	3
Over 16 up to and including 20	2 5/32	3¼
Over 20 up to and including 24	2 5/32	3½
Over 24 up to and including 28	2 5/32	4

(iii) *Width.* The width between the side rails, inside to inside, shall be at least 12 inches.

(iv) *Step attachment.* Flat steps shall be inset in the side rails one-eighth inch and secured with at least two 6–d nails at each end or the equivalent thereof. They shall be reinforced with angle braces or a 3/16-inch steel rod.

(v) *Locking device.* Locking devices should be provided on all trolley ladders.

(vi) *Tracks.* (a) Tracks shall be wood, or metal (excluding cast iron), or a combination of these materials.

(b) Tracks for the top end of ladders shall be fastened securely and shall be so constructed that the wheels will not jump the track. Tracks shall be so designed as to provide for all probable loads to which they will be subjected.

(c) The supports shall be securely fastened by lag screws, machine, hook, or toggle bolts, or their equivalent.

(d) Track for side-rolling ladders shall be supported by metal or wood brackets securely screwed or bolted to shelving or other permanent structure at not over 3 feet.

(vii) *Wheel carriages.* (a) Wheel carriages shall be so designed as to provide for all loads to which they will be subjected. Two-point suspension should be used.

(b) The wheel carriage for the top end of the ladder shall be securely fastened to the top of the ladder with metal brackets bolted either to the side rails or to the top step. When bolted to the top step, this step shall be secured to the side rails with metal braces in addition to those otherwise provided. The wheel carriage shall be so designed that a loose or broken wheel will not allow the ladder to drop or become detached from the track.

(c) The wheel carriage for the bottom end of the ladder shall be securely fastened to the bottom of the ladder.

(d) The wheels at the upper end of the ladder shall have minimum wheel base of 8 inches.

(e) When wheels are used at the bottom of the ladder, there shall be at least one wheel supporting each side rail.

(f) Running gear for bottoms of both trolley and side-rolling ladders shall be so designed and constructed as to provide for any load to which they will be subjected.

(d) *Care and use of ladders*—(1) *Care.* To insure safety and serviceability the following precautions on the care of ladders shall be observed:

(i) Ladders shall be maintained in good condition at all times, the joint between the steps and side rails shall be tight, all hardware and fittings securely attached, and the movable parts shall operate freely without binding or undue play.

(ii) Metal bearings of locks, wheels, pulleys, etc., shall be frequently lubricated.

(iii) Frayed or badly worn rope shall be replaced.

(iv) Safety feet and other auxiliary equipment shall be kept in good condition to insure proper performance.

(v) Ladders should be stored in such a manner as to provide ease of access or inspection, and to prevent danger of accident when withdrawing a ladder for use.

(vi) Wood ladders, when not in use, should be stored at a location where they will not be exposed to the elements, but where there is good ventilation. They shall not be stored near radiators, stoves, steam pipes, or other places subjected to excessive heat or dampness.

(vii) Ladders stored in a horizontal position should be supported at a sufficient number of points to avoid sagging and permanent set.

(viii) Ladders carried on vehicles should be adequately supported to avoid sagging and securely fastened in position to minimize chafing and the effects of road shocks.

(ix) Ladders should be kept coated with a suitable protective material. The painting of ladders is satisfactory pro-

viding the ladders are carefully inspected prior to painting by competent and experienced inspectors acting for, and responsible to, the purchaser, and providing the ladders are not for resale.

(x) Ladders shall be inspected frequently and those which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as "Dangerous, Do Not Use."

(xi) Rungs should be kept free of grease and oil.

(2) *Use.* The following safety precautions shall be observed in connection with the use of ladders:

(i) Portable rung and cleat ladders shall, where possible, be used at such a pitch that the horizontal distance from the top support to the foot of the ladder is one-quarter of the working length of the ladder (the length along the ladder between the foot and the top support). The ladder shall be so placed as to prevent slipping, or it shall be lashed, or held in position. Ladders shall not be used in a horizontal position as platforms, runways, or scaffolds;

(ii) Ladders for which dimensions are specified should not be used by more than one man at a time nor with ladder jacks and scaffold planks where use by more than one man is anticipated. In such cases, specially designed ladders with larger dimensions of the parts should be procured;

(iii) Portable ladders shall be so placed that the side rails have a secure footing. The top rest for portable rung and cleat ladders shall be reasonably rigid and shall have ample strength to support the applied load;

(iv) Ladders shall not be placed in front of doors opening toward the ladder unless the door is blocked upon, locked, or guarded.

(v) Ladders shall not be placed on boxes, barrels, or other unstable bases to obtain additional height;

(vi) To support the top of the ladder at a window opening, a board should be attached across the back of the ladder, extending across the window and providing firm support against the building walls or window frames;

(vii) When ascending or descending, the user should face the ladder;

(viii) Ladders with broken or missing steps, rungs, or cleats, broken side rails, or other faulty equipment shall not be used; improvised repairs shall not be made.

(ix) Short ladders shall not be spliced together to provide long sections;

(x) Ladders made by fastening cleats across a single rail shall not be used;

(xi) Ladders shall not be used as guys, braces, or skids, or for other than their intended purposes;

(xii) Tops of the ordinary types of stepladders shall not be used as steps;

(xiii) On two-section extension ladders the minimum overlap for the two sections in use shall be as follows:

Size of ladder (feet):	*Overlap (feet)*
Up to and including 36	3
Over 36 up to and including 48	4
Over 48 up to and including 60	5

(xiv) Portable rung ladders with reinforced rails (see paragraphs (c)(3)(ii)(*c*) and (iii)(*d*) this section) shall be used only with the metal reinforcement on the under side. Ladders of this type should be used with great care near electrical conductors, since the reinforcing itself is a good conductor;

(xv) No ladder should be used to gain access to a roof unless the top of the ladder shall extend at least 3 feet above the point of support, at eave, gutter, or roof line;

(xvi) Adjustment of extension ladders should only be made by the user when standing at the base of the ladder, so that the user may observe when the locks are properly engaged. Adjustment of extension ladders from the top of the ladder (or any level over the locking device) is a dangerous practice and should not be attempted. Adjustment should not be made while the user is standing on the ladder.

(xvii) Middle and top sections of sectional or window cleaner's ladders should not be used for bottom section unless the user equips them with safety shoes.

(xviii) Extension ladders should always be erected so that the upper section is resting on the bottom section.

(xix) The user should equip all portable rung ladders with nonslip bases when there is a hazard of slipping. Nonslip bases are not intended as a substitute for care in safely placing, lashing, or holding a ladder that is being used upon oily, metal, concrete, or slippery surfaces.

(xx) The bracing on the back legs of step ladders is designed solely for increasing stability and not for climbing.

(xxi) When service conditions warrant, hooks may be attached at or near the top of portable ladders to give added security.

TABLE D–5—CLASSIFICATION OF VARIOUS SPECIES OF WOOD ACCEPTABLE FOR USE IN LADDERS

The species are listed alphabetically within each group. The position of any species within a group therefore bears no relation to its strength or acceptability.

Where ladders are desired for use under conditions favorable to decay, it is recommended that the heartwood of decay-resistant species be used, or that the wood be given a treatment with a wood preservative. The species having the most durable heartwood are marked with an asterisk (*), and these should be preferred where resistance to decay is required.

GROUP 1

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 2,150 pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions may be not more than 10 percent smaller for each cross-section dimension, or the thickness may remain unchanged, in which case the width may not be more than 15 percent smaller if used edgewise (as in a rail) or 25 percent smaller if used flatwise (as in a tread).

White ash	Fraxinus americana, pennsylvanica, quadrangulata
Beech	Fagus grandifolia
Birch	Betula lenta, alleghaniensis, nigra (2)
Rock elm	Ulmus thomasii
Hickory	Carya ovata, laciniosa, tomentosa, glabra
Locust*	Robinia pseudoacacia, Gleditsia triacanthos
Hard maple	Acer nigrum, saccharum
Red maple	Acer rubrum (3)
Red oak	Quercus velutina, marilandica, kelloggii, falcata var. pagodaefolia, laurifolia, ellipsoidalis, rubra, nuttallii, palustris, coccinea, shumardii, falcata, laevis, phellos
White oak	Quercus arizonica, douglasii, macrocarpa, lobata, prinus, muehlenbergii, emoryi, gambelii, oblongifolia, virginiana, garryana, lyrata, stellata, michauxii, bicolor, alba
Pecan	Carya illinoensis, cordiformis, myristicaeformis (4), aquatica (4)
Persimmon	Diospryros virginiana

GROUP 2

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 2,000 pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions may be not more than 7½ percent smaller for each cross-section dimension, or the thickness may remain unchanged, in which case the width may be not more than 11 percent smaller if used edgewise (as in a rail) or 20 percent smaller if used flatwise (as in a tread).

Douglas fir (coast region)	Pseudotsuga menziesii
Western larch	Larix occidentalis
Southern yellow pine	Pinus taeda, palustris, echinata, elliotii, rigida, virginiana

GROUP 3

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 1,600 pounds per square inch.

Red alder	Alnus ruba, rhombifolia (2)
Oregon ash	Fraxinus latifolia
Pumpkin ash	Fraxinus profunda
Alaska cedar*	Chamaecyparis nootkatensis
Port Orford cedar.*	Chamaecyparis lawsoniana
Cucumber	Magnolia acuminata
Cypress*	Taxodium distichum
Soft elm	Ulmus americana, rubra
Douglas fir (Rocky Mountain type).	Pseudotsuga menziesii var. glauca
Noble fir	Abies procera
Gum	Liquidambar styraciflua
West coast hemlock.	Tsuga heterophylla
Magnolia	Magnolia grandiflora
Oregon maple	Acer macrophyllum
Norway pine	Pinus resinosa
Poplar	Liriodendron tulipifera
Redwood*	Sequoia sempervirens
Eastern spruce	Picea glauca, rubens
Sitka spruce	Picea sitchensis
Sycamore	Platanus occidentalis
Tamarack	Larix laricina
Tupelo	Nyssa aquatica, sylvatica

GROUP 4

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 1,375 pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions shall be at least 5 percent greater for each cross-section dimension, or the thickness may remain unchanged, in which case the width shall be at least 7½ percent greater if used edgewise (as in a rail) or 15 percent greater if used flatwise (as in a tread).

Aspen	Populus tremuloides, grandidentata
Basswood	Tilia americana, heterophylla (2)
Buckeye	Aesculus octandra, glabra (2)
Butternut	Juglanscinerea
Incense cedar*	Libocedrus decurrens
Western red cedar.*	Thuja plicata
Cottonwood	Populus balsamifera, deltoides, sargentii, heterophylla
White fir	Abies concolor, grandis, amabilis, lasiocarpa, magnifica
Hackberry	Celtis occidentalis, laevigata (2)
Eastern hemlock	Tsuga canadensis
Holly	Ilex opaca
Soft maple	Acer saccharinum
Lodgepole pine	Pinus contorta
Idaho white pine	Pinus monticola
Northern white pine.	Pinus strobus
Ponderosa pine	Pinus ponderosa, pinus jeffreyi (Jeffrey pine)
Sugar pine	Pinus lambertiana
Engelmann spruce.	Picea engelmannii

NOTE 1: The common and scientific names of species used conform to the American Lumber Standards nomenclature and in most cases to U.S. Department of Agriculture Handbook No. 41, "Check List of Native and Naturalized Trees of the United States (including Alaska)," by Elbert L. Little. These publications can be obtained from the Superintendent of Documents, Washington, D.C. 20225.

NOTE 2: This species is commonly associated with others of the same genus under American Lumber Standards nomenclature, but no strength tests have been made on it at the Forest Products Laboratory.

NOTE 3: Included under soft maple in American Lumber Standards nomenclature.

NOTE 4: This species is not included under this common name in American Lumber Standards nomenclature, but strength data are available and it is accordingly included in this classification.

§ 1910.26 Portable metal ladders.

(a) *Requirements*—(1) *General.* Specific design and construction requirements are not part of this section because of the wide variety of metals and design possibilities. However, the design shall be such as to produce a ladder without structural defects or accident hazards such as sharp edges, burrs, etc. The metal selected shall be of sufficient strength to meet the test requirements, and shall be protected against corrosion unless inherently corrosion-resistant.

(i) Because of the varied conditions, and the wide variety of ladder uses, ladders may be designed with parallel side rails, with side rails varying uniformly in separation along the length (tapered), or with side rails flaring at the base to increase stability.

(ii) The design of the side rails shall be such as to insure a product which will conform to the requirements of this section.

(iii) The spacing of rungs or steps shall be on 12-inch centers.

(iv) Rungs or steps to side rail connections should be so constructed as to insure rigidity as well as strength.

(v) Rungs and steps shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping.

(vi) Hardware shall meet strength requirements of the ladder's component parts, and shall be of a material that is protected against corrosion unless inherently corrosion-resistant. Metals shall be so selected as to avoid excessive galvanic action.

(2) *General specifications — straight and extension ladders.* (i) The minimum width between side rails of a straight ladder or any section of an extension ladder shall be 12 inches.

(ii) The length of single ladders or individual sections of ladders shall not exceed 30 feet. Two-section ladders shall not exceed 48 feet in length and over two-section ladders shall not exceed 60 feet in length.

(iii) Based on the nominal length of the ladder, each section of a multisection ladder shall overlap the adjacent section by at least the number of feet stated in the following:

Nominal length of ladder (feet):	*Overlap (feet)*
Up to and including 36	3
Over 36, up to and including 48	4
Over 48, up to 60	5

(iv) Extension ladders shall be equipped with positive stops which will insure the overlap specified in the table above.

(v)(*a*) Extension ladders may be equipped with a rope and pulley which shall be securely attached to the ladder in such a manner as not to weaken either the rungs or the side rails. The pulley shall be not less than 1¼ inches in diameter.

(b) The rope used with the pulley shall be not less than five-sixteenths inch in diameter, having a minimum breaking strength of 560 pounds, and shall be of sufficient length for the purpose intended.

(3) *General specifications—step ladders.* (i) Step ladders shall be designed and constructed to give a minimum slope of 3½ inches per foot of length of the front section, and a minimum slope of 2 inches per foot of length of the back section, except that special ladders designed for straight-in-wall work shall maintain at least 1¼-inch back slope per foot of length.

(ii) The minimum width between the side rails at the top step shall be 12 inches. The width spread of the side rails shall increase a minimum of 1 inch per foot of length. The width of the step or tread shall not be less than 3 inches.

(iii) The length of a stepladder is measured by the length of the front rail. To be classified as a standard length ladder, the measured length shall be within plus or minus one-half inch of the specified length. Stepladders shall not exceed 20 feet in length.

(iv) The pail shelf shall be designed to fold completely within the ladder.

(v) The back section may be designed with either rungs or cross bracing as long as it meets the general and testing requirements.

(vi) Steps shall be corrugated, knurled, dimpled, coated with skid-resistant materials, or otherwise treated to minimize the possibility of slipping.

(vii) The bottoms of the four rails are to be supplied with insulating nonslip material for the safety of the user.

(viii) A metal spreader or locking device of sufficient size and strength to securely hold the front and back sections in the open position shall be a component of each stepladder. The spreader shall have all sharp points or edges covered or removed to protect the user.

(4) *General specifications—trestles and extension trestle ladders.* (i) Trestle ladders or extension sections or base sections of extension trestle ladders shall be not more than 20 feet in length.

(ii) The minimum distance between side rails of the trestle or extension section at the narrowest point shall not be less than 12½ inches. The width spread shall not be less than 1 inch per foot of length of side rail.

(iii) Spread of base when section is open shall not be less than 5½ inches per foot of base section side rail.

(iv) The extension locking device shall be designed to withstand all load tests.

(v) A metal spreader or locking device of sufficient size and strength to securely hold the front and back sections in the open position shall be a component of each trestle ladder. The spreader shall have all sharp points or edges covered or removed to protect the user.

(5) *General specifications—platform ladders.* (i) The length of a platform ladder shall not exceed 20 feet. The length of a platform ladder shall be measured along the front rail from the floor to the platform.

(ii) Minimum width between side rails at platform level shall be 14 inches.

Width spread shall not be less than 1 inch per foot of rise.

(iii) Slope of the front rail when unit is in open position shall not be less than 3½ inches per foot of rise, and the back section shall have a minimum slope of 1 inch per foot of rise.

(iv) The platform shall be at least 20 inches from the top of the ladder, and shall have an area of not less than 200 square inches nor more than 400 square inches.

(v) The back legs and side rails of a platform ladder shall extend at least 20 inches above the platform and shall be connected with the top member to form a three-sided top guard rail, or equivalent construction shall be provided.

(vi) Spreaders shall be provided where the hinging apparatus is not designed to lock the unit open.

(b) *Testing.* (1) *General.* The following tests are intended to insure uniform testing methods for metal ladders.

(2) *Straight and extension ladders.* (i) Ladder inclined strength is measured by placing the ladder unit in a flat, horizontal position, supported 6 inches from the ends of the side rails. When testing extensions, the unit is opened to the required overlap. A load of 200 pounds is applied equally to the side rails at the center of the unit by means of a beam. The ladder must withstand this test with no permanent deformation or other visible weakening of the structure. This test is based on a 200-pound man using the ladder, set at 75½° to the ground. With the man on the center rung, the component of his 200-pound weight at right angles to the ladder will be 50 pounds. Applying the load factor of 4, the test weight becomes 200 pounds.

(ii) Test unit need only be of sufficient length for test purposes and is to consist of the base and fly sections of an extension ladder with all the hardware or fittings attached. The ladder unit is placed in a vertical position and a downward load of 775 pounds equally distributed on the ends of the side rails of the upper portion of the test unit. The unit shall withstand this test with no permanent deformation or other visible weakening of the structure.

(iii) A test unit of at least three rungs is to be used from the maximum width portion of the ladder. A load of 800 pounds shall be applied to a 3½-inch wide block resting on the center of the widest rung. A rung of 14 inches or less in length shall withstand this test with no permanent deformation or other visible weakening of the structure. A rung of more than 14 inches in length may have a permanent deflection of not more than one-eighth inch provided the rung cross section is not deformed and there is no other visible weakening of the structure.

(iv) With at least a three-rung test unit set in a vertical position, a load of 800 pounds shall be applied to a 3½-inch wide block resting on the center rung as near to the side rail as possible. On removing the load, the unit must show no indication of failure in the fasteners attaching the rungs to the side rail.

(v) The rung shall be so secured to the side rail that a torque load of 360 inch-pounds applied to the rung at a side rail shall cause no visible relative motion between the rung and the side rail.

(vi) With the ladder extended to its maximum working length, and resting horizontally on level supports located 6 inches from each end of the ladder, a weight of 50 pounds shall be suspended from one of the side rails midway between supports.

The deflection of the loaded rail, and the difference in deflection between the loaded and unloaded rails shall not exceed the values in Table D–6.

(vii) Deflections in Table D–6 are to be determined by measuring, at the midpoint between supports, the distance from the outside edges of both rails to the floor or other reference surface both before and after the test load of 50 pounds is applied to one rail of the ladder. The test is to be repeated loading the other rail of the ladder. The angle (a) between the loaded and unloaded rails and the horizontal is to be calculated from the trigonometric equation:

$$\text{Sine } a = \frac{\text{Difference in deflection}}{\text{Ladder width}}$$

(3) *Step, trestle, extension trestle, and platform ladders.* (i) (*a*) Load test of the entire ladder is made with the ladder in an open position, and an 800-pound load applied to the center of the top. Resistance to side rail bending is tested by placing an 800-pound load on the center of the middle step. The strength of the step section is tested by applying an 800-pound load to a 3½-inch-wide block resting on the center of the longest or bottom step. The pail shelf shall be so constructed as to support a distributed load of 50 pounds.

(*b*) In each test case, the unit must withstand the load without failure or permanent deformation.

(ii) Set ladder in open position on a level floor. Place a 200-pound distributed load on the top step. The ladder is then subjected to a horizontal pulling load, applied at the top step, of 12-pound force to the side; 58-pound force to the front; 33-pound force to the back. In each test, all side rails must remain on the floor.

TABLE D–6—TABLE OF DEFLECTIONS

Length of ladder in feet	Maximum deflection of loaded rail in inches	Maximum difference in deflection between loaded and unloaded rails in degrees from horizontal
20	3.0	3.6
24	3.8	4.7
28	4.6	5.4
32	5.5	5.7
36	6.4	6.1
40	7.2	6.5
44	8.0	6.5
48	8.8	6.5

(c) *Care and maintenance of ladders*—(1) *General.* To get maximum serviceability, safety, and to eliminate unnecessary damage of equipment, good safe practices in the use and care of ladder equipment must be employed by the users.

The following rules and regulations are essential to the life of the equipment and the safety of the user.

(2) *Care of ladders.* (i) Ladders, like any tool, must be handled with care and not subject to unnecessary dropping, jarring, or misuse. They are designed for a specific purpose or use; therefore, any variation from this use constitutes a mishandling of the equipment.

(ii) Ladders should be stored on racks designed to protect the ladder when not in use. The racks should have sufficient supporting points to prevent any possibility of excessive sagging.

(iii) Ladders transported on vehicles must be properly supported. Supporting points should be of a softer material, such as hardwood or rubber-covered iron pipe, to minimize the chafing and effects of road shock. Tying the ladder to each support point will greatly reduce damage due to road shock.

(iv) Ladders must be maintained in good usable condition at all times. Hardware fittings and accessories should be checked frequently and kept in good working condition.

(v) Ropes or cables should be inspected frequently and replaced if defective.

(vi) Complete ladder inspection should be periodical. If a ladder is involved in any of the following, immediate inspection is necessary:

(*a*) If ladders tip over, inspect ladder for side rails dents or bends, or excessively dented rungs; check all rung-to-side-rail connections; check hardware connections; check rivets for shear.

(*b*) If ladders are exposed to excessive heat as in the case of fire, the ladder should be inspected visually for damage and tested for deflection and strength characteristics. In doubtful cases, refer to manufacturer.

(*c*) If ladders are to be subjected to certain acids or alkali solutions, a protective coating such as asphalt and varnish should be applied to the equipment.

(*d*) If ladders are exposed to oil and grease, equipment should be cleaned of oil, grease, or slippery materials. This can easily be done with a solvent or steam cleaning.

(vii) Ladders having defects are to be marked and taken out of service until repaired by either maintenance department or the manufacturer.

(3) *Use of ladders.* (i) Portable nonself-supporting ladders should be erected at a pitch of 75½ degrees for maximum balance and strength. A simple rule for setting up a ladder at the proper angle is to place the base a distance from the vertical wall equal to one-fourth the working length of the ladder.

(ii) Portable ladders are designed as a one-man working ladder based on a 200-pound load.

(iii) The ladder base section must be placed with a secure footing. Safety shoes of good substantial design should be installed on all ladders. Where ladders with no safety shoes or spikes are used on hard, slick surfaces, a foot-ladder board should be employed.

(iv) The top of the ladder must be placed with the two rails supported, unless equipped with a single support attachment. Such an attachment should be substantial and large enough to support the ladder under load.

(v) When ascending or descending, the climber must face the ladder.

(vi) Ladders must not be tied or fastened together to provide longer sections. They must be equipped with the hardware fittings necessary if the manufacturer endorses extended uses.

(vii) Ladders should not be used as a brace, skid, guy or gin pole, gangway, or for other uses than that for which they were intended, unless specifically recommended for use by the manufacturer.

(viii) Users are cautioned to take proper safety measures when metal ladders are used in areas containing electric circuits to prevent short circuits or electrical shock.

§ 1910.27 Fixed ladders.

(a) *Design requirements*—(1) *Design considerations.* All ladders, appurtenances, and fastenings shall be designed to meet the following load requirements:

(i) The minimum design live load shall be a single concentrated load of 200 pounds.

(ii) The number and position of additional concentrated live-load units of 200 pounds each as determined from anticipated usage of the ladder shall be considered in the design.

(iii) The live loads imposed by persons occupying the ladder shall be considered to be concentrated at such points as will cause the maximum stress in the structural member being considered.

(iv) The weight of the ladder and attached appurtenances together with the live load shall be considered in the design of rails and fastenings.

(2) *Design stresses.* Design stresses for wood components of ladders shall not exceed those specified in § 1910.25. All wood parts of fixed ladders shall meet the requirements of § 1910.25(b).

For fixed ladders consisting of wood side rails and wood rungs or cleats, used at a pitch in the range 75 degrees to 90 degrees, and intended for use by no more than one person per section, single ladders as described in § 1910.25(c)(3)(ii) are acceptable.

(b) *Specific features*—(1) *Rungs and cleats.* (i) All rungs shall have a minimum diameter of three-fourths inch for metal ladders, except as covered in subparagraph (7)(i) of this paragraph, and a minimum diameter of 1⅛ inches for wood ladders.

(ii) The distance between rungs, cleats, and steps shall not exceed 12 inches and shall be uniform throughout the length of the ladder.

(iii) The minimum clear length of rungs or cleats shall be 16 inches.

(iv) Rungs, cleats, and steps shall be free of splinters, sharp edges, burrs, or projections which may be a hazard.

(v) The rungs of an individual-rung ladder shall be so designed that the foot cannot slide off the end. A suggested design is shown in figure D–1.

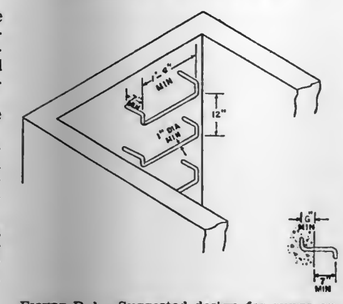


FIGURE D–1.—Suggested design for rungs on individual-rung ladders.

(2) *Side rails.* Side rails which might be used as a climbing aid shall be of such cross sections as to afford adequate gripping surface without sharp edges, splinters, or burrs.

(3) *Fastenings.* Fastenings shall be an integral part of fixed ladder design.

(4) *Splices.* All splices made by whatever means shall meet design requirements as noted in paragraph (a) of this section. All splices and connections shall have smooth transition with original members and with no sharp or extensive projections.

(5) *Electrolytic action.* Adequate means shall be employed to protect dissimilar metals from electrolytic action when such metals are joined.

(6) *Welding.* All welding shall be in accordance with the "Code for Welding in Building Construction" (AWS D1.0–1966).

(7) *Protection from deterioration.* (i) Metal ladders and appurtenances shall be painted or otherwise treated to resist corrosion and rusting when location demands. Ladders formed by individual metal rungs imbedded in concrete, which serve as access to pits and to other areas under floors, are frequently located in an atmosphere that causes corrosion and rusting. To increase rung life in such atmosphere, individual metal rungs shall have a minimum diameter of 1 inch or shall be painted or otherwise treated to resist corrosion and rusting.

(ii) Wood ladders, when used under conditions where decay may occur, shall be treated with a nonirritating preservative, and the details shall be such as to prevent or minimize the accumulation of water on wood parts.

(iii) When different types of materials are used in the construction of a ladder, the materials used shall be so treated as to have no deleterious effect one upon the other.

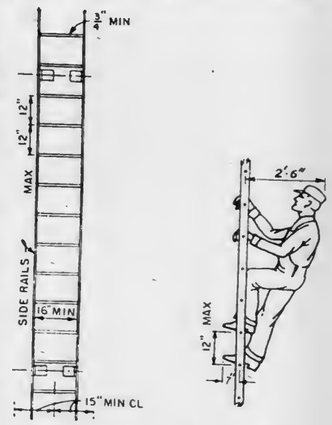
(c) *Clearance*—(1) *Climbing side.* On fixed ladders, the perpendicular distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder shall be 36 inches for a pitch of 76 degrees, and 30 inches for a pitch of 90 degrees (fig. D–2 of this section), with minimum clearances for intermediate pitches varying between these two limits in proportion to the slope, except as provided in subparagraphs (3) and (5) of this paragraph.

(2) *Ladders without cages or wells.* A clear width of at least 15 inches shall be provided each way from the centerline of the ladder in the climbing space, except when cages or wells are necessary.

(3) *Ladders with cages or baskets.* Ladders equipped with cage or basket are excepted from the provisions of subparagraphs (1) and (2) of this paragraph, but shall conform to the provisions of paragraph (d)(1)(v) of this section. Fixed ladders in smooth-walled wells are excepted from the provisions of subparagraph (1) of this paragraph, but shall conform to the provisions of paragraph (d)(1)(vi) of this section.

(4) *Clearance in back of ladder.* The distance from the centerline of rungs, cleats, or steps to the nearest permanent object in back of the ladder shall be not less than 7 inches, except that when unavoidable obstructions are encountered, minimum clearances as shown in figure D–3 shall be provided.

(5) *Clearance in back of grab bar.* The distance from the centerline of the grab bar to the nearest permanent ob-



RAIL LADDER WITH BAR STEEL RAILS AND ROUND STEEL RUNGS

FIG. D-2

Minimum Ladder Clearances

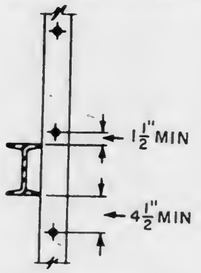


FIG. D-3

Clearance for Unavoidable Obstruction at Rear of Fixed Ladder

ject in back of the grab bars shall be not less than 4 inches. Grab bars shall not protrude on the climbing side beyond the rungs of the ladder which they serve.

(6) *Step-across distance.* The step-across distance from the nearest edge of ladder to the nearest edge of equipment or structure shall be not more than 12 inches, or less than 2½ inches (fig. D–4).

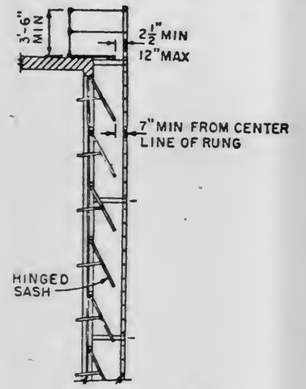
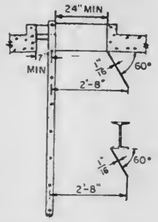


Fig. D–4
Ladder Far from Wall

(7) *Hatch cover.* Counterweighted hatch covers shall open a minimum of 60 degrees from the horizontal. The distance from the centerline of rungs or cleats to the edge of the hatch opening on the climbing side shall be not less than 24 inches for offset wells or 30 inches for straight wells. There shall be no protruding potential hazards within 24 inches of the centerline of rungs or cleats; any such hazards within 30 inches of the centerline of the rungs or cleats shall be fitted with deflector plates placed at an angle of 60 degrees from the horizontal as indicated in figure D–5.



Deflector Plates for Head Hazards

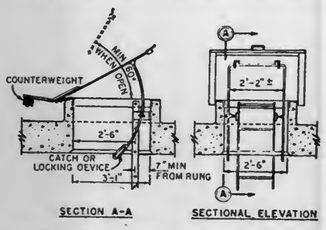
Fig. D–5

The relationship of a fixed ladder to an acceptable counterweighted hatch cover is illustrated in figure D–6.

(d) *Special requirements*—(1) *Cages or wells.* (i) Cages or wells (except on chimney ladders) shall be built, as shown on the applicable drawings, covered in detail in figures D–7, D–8, and D–9, or of equivalent construction.

(ii) Cages or wells (except as provided in subparagraph (5) of this paragraph) conforming to the dimensions shown in figures D–7, D–8, and D–9 shall be provided on ladders of more than 20 feet to a maximum unbroken length of 30 feet.

(iii) Cages shall extend a minimum of 42 inches above the top of landing, unless other acceptable protection is provided.

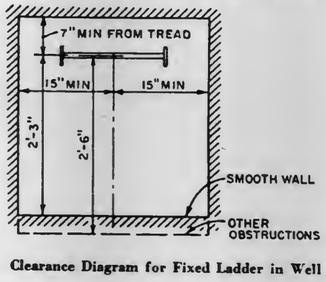


Relationship of Fixed Ladder to a Safe Access Hatch

Fig. D–6

(iv) Cages shall extend down the ladder to a point not less than 7 feet nor more than 8 feet above the base of the ladder, with bottom flared not less than 4 inches, or portion of cage opposite ladder shall be carried to the base.

(v) Cages shall not extend less than 27 nor more than 28 inches from the centerline of the rungs of the ladder. Cage shall not be less than 27 inches in width. The inside shall be clear of projections. Vertical bars shall be located at a maximum spacing of 40 degrees around the circumference of the cage; this will give a maximum spacing of approximately 9½ inches, center to center.



Clearance Diagram for Fixed Ladder in Well

Figure D–7

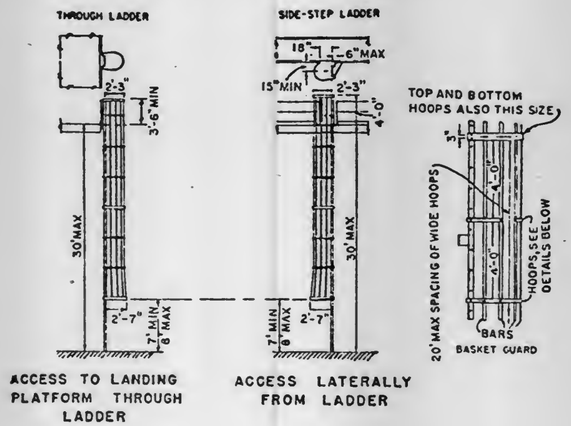


Fig. D–8
Cages for Ladders More Than 20 Feet High

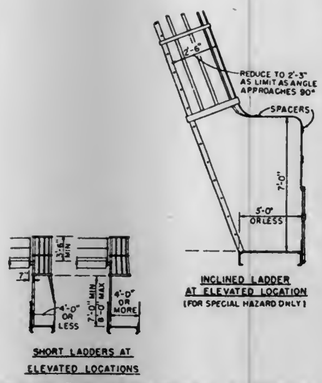


FIGURE D–9.—Cages—Special applications.

(vi) Ladder wells shall have a clear width of at least 15 inches measured each way from the centerline of the ladder. Smooth-walled wells shall be a minimum of 27 inches from the centerline of rungs to the well wall on the climbing side of the ladder. Where other obstructions on the climbing side of the ladder exist, there shall be a minimum of 30 inches from the centerline of the rungs.

(2) *Landing platforms.* When ladders are used to ascend to heights exceeding 20 feet (except on chimneys), landing platforms shall be provided for each 30 feet of height or fraction thereof, except that, where no cage, well, or ladder safety device is provided, landing platforms shall be provided for each 20 feet of height or fraction thereof. Each ladder section shall be offset from adjacent sections. Where installation conditions (even for a short, unbroken length) require that adjacent sections be offset, landing platforms shall be provided at each offset.

(i) Where a man has to step a distance greater than 12 inches from the centerline of the rung of a ladder to the nearest edge of structure or equipment, a landing platform shall be provided. The minimum step-across distance shall be 2½ inches.

(ii) All landing platforms shall be equipped with standard railings and toeboards, so arranged as to give safe access to the ladder. Platforms shall be not less than 24 inches in width and 30 inches in length.

(iii) One rung of any section of ladder shall be located at the level of the landing laterally served by the ladder. Where access to the landing is through the ladder, the same rung spacing as used on the ladder shall be used from the landing platform to the first rung below the landing.

(3) *Ladder extensions.* The side rails of through or side-step ladder extensions shall extend 3½ feet above parapets and landings. For through ladder extensions, the rungs shall be omitted from the extension and shall have not less than 18 nor more than 24 inches clearance between rails. For side-step or offset fixed ladder sections, at landings, the side rails and rungs shall be carried to the next regular rung beyond or above the 3½ feet minimum (fig. D–10).

(4) *Grab bars.* Grab bars shall be spaced by a continuation of the rung spacing when they are located in the horizontal position. Vertical grab bars shall have the same spacing as the ladder side rails. Grab-bar diameters shall be the equivalent of the round-rung diameters.

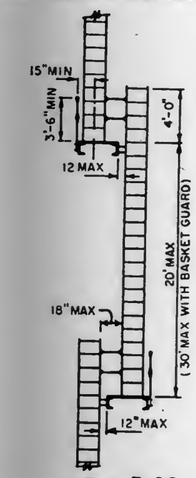


FIG. D–10
Offset Fixed Ladder Sections

(5) *Ladder safety devices.* Ladder safety devices may be used on tower, water tank, and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform is required in these cases. All ladder safety devices such as those that incorporate lifebelts, friction brakes, and sliding attachments shall meet the design requirements of the ladders which they serve.

(e) *Pitch*—(1) *Preferred pitch.* The preferred pitch of fixed ladders shall be considered to come in the range of 75 degrees and 90 degrees with the horizontal (fig. D–11).

(2) *Substandard pitch.* Fixed ladders shall be considered as substandard if they are installed within the substandard pitch range of 60 and 75 degrees with the horizontal. Substandard fixed ladders are permitted only where it is found necessary to meet conditions of installation. This substandard pitch range shall be considered as a critical range to be avoided, if possible.

(3) *Scope of coverage in this section.* This section covers only fixed ladders within the pitch range of 60 degrees and 90 degrees with the horizontal.

(4) *Pitch greater than 90 degrees.* Ladders having a pitch in excess of 90 degrees with the horizontal are prohibited.

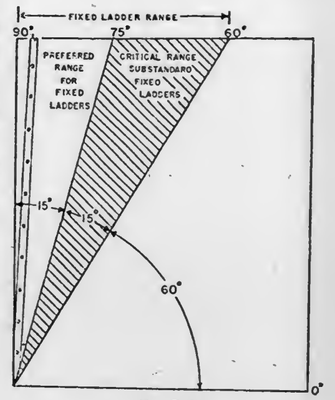


FIG. D–11
Pitch of Fixed Ladders

(f) *Maintenance.* All ladders shall be maintained in a safe condition. All ladders shall be inspected regularly, with the intervals between inspections being determined by use and exposure.

§ 1910.28 Safety requirements for scaffolding.

(a) *General requirements for all scaffolds.* (1) Scaffolds shall be furnished and erected in accordance with this standard for persons engaged in work that cannot be done safely from the ground or from solid construction, except that ladders used for such work shall conform to § 1910.25 and § 1910.26.

(2) The footing or anchorage for scaffolds shall be sound, rigid, and capable of carrying the maximum intended load without settling or displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks shall not be used to support scaffolds or planks.

(3) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor except:

(i) Scaffolding wholly within the interior of a building and covering the entire floor area of any room therein and not having any side exposed to a hoistway, elevator shaft, stairwell, or other floor openings, and

(ii) Needle-beam scaffolds and floats in use by structural iron workers.

Guardrails should all be 2 x 4 inches or the equivalent, installed no less than 36 inches or not more than 42 inches high, with a midrail, when required, of 1- x 4-inch lumber or equivalent. Supports should be at intervals not to exceed ten feet. Toeboards shall be a minimum of 4 inches in height.

(4) Scaffolds and their components shall be capable of supporting without failure at least four times the maximum intended load.

(5) Scaffolds and other devices mentioned or described in this section shall be maintained in safe condition. Scaffolds shall not be altered or moved horizontally while they are in use or occupied.

(6) Any scaffold damaged or weakened from any cause shall be immediately repaired and shall not be used until repairs have been completed.

(7) Scaffolds shall not be loaded in excess of the working load for which they are intended.

(8) All load-carrying timber members of scaffold framing shall be a minimum of 1,500 *f*. (Stress Grade) construction grade lumber. All dimensions are nominal sizes as provided in the American Lumber Standards, except that where rough sizes are noted, only rough or undressed lumber of the size specified will satisfy minimum requirements. (NOTE: Where nominal sizes of lumber are used in place of rough sizes, the nominal size lumber shall be such as to provide equivalent strength to that specified in tables D–7 through D–12 and D–16.)

(9) All planking shall be Scaffold Grade as recognized by grading rules for the species of wood used. The maximum permissible spans for 2- x 9-inch or wider planks are shown in the following table:

	Material				
	Full thickness undressed lumber			Nominal thickness lumber	
Working load (p.s.f.)	25	50	75	25	50
Permissible span (ft.)	10	8	6	8	6

The maximum permissible span for 1¼ x 9-inch or wider plank of full thickness is 4 feet with medium loading of 50 p.s.f.

(10) Nails or bolts used in the construction of scaffolds shall be of adequate size and in sufficient numbers at each connection to develop the designed strength of the scaffold. Nails shall not be subjected to a straight pull and shall be driven full length.

(11) All planking or platforms shall be overlapped (minimum 12 inches) or secured from movement.

(12) An access ladder or equivalent safe access shall be provided.

(13) Scaffold planks shall extend over their end supports not less than 6 inches nor more than 18 inches.

(14) The poles, legs, or uprights of scaffolds shall be plumb, and securely and rigidly braced to prevent swaying and displacement.

(15) Materials being hoisted onto a scaffold shall have a tag line.

(16) Overhead protection shall be provided for men on a scaffold exposed to overhead hazards.

(17) Scaffolds shall be provided with a screen between the toeboard and the guardrail, extending along the entire opening, consisting of No. 18 gauge U.S. Standard Wire one-half-inch mesh or the equivalent, where persons are required to work or pass under the scaffolds.

(18) Employees shall not work on scaffolds during storms or high winds.

(19) Employees shall not work on scaffolds which are covered with ice or snow, unless all ice or snow is removed and planking sanded to prevent slipping.

(20) Tools, materials, and debris shall not be allowed to accumulate in quantities to cause a hazard.

(21) Only treated or protected fiber rope shall be used for or near any work involving the use of corrosive substances or chemicals.

(22) Wire or fiber rope used for scaffold suspension shall be capable of supporting at least six times the intended load.

(23) When acid solutions are used for cleaning buildings over 50 feet in height, wire rope supported scaffolds shall be used.

(24) The use of shore scaffolds or lean-to scaffolds is prohibited.

(25) Lumber sizes, when used in this section, refer to nominal sizes except where otherwise stated.

(26) Scaffolds shall be secured to permanent structures, through use of anchor bolts, reveal bolts, or other equivalent means. Window cleaners' anchor bolts shall not be used.

(27) Special precautions shall be taken to protect scaffold members, including any wire or fiber ropes, when using a heat-producing process.

(b) *General requirements for wood pole scaffolds.* (1) Scaffold poles shall bear on a foundation of sufficient size and strength to spread the load from the poles over a sufficient area to prevent settlement. All poles shall be set plumb.

(2) Where wood poles are spliced, the ends shall be squared and the upper section shall rest squarely on the lower section. Wood splice plates shall be provided on at least two adjacent sides and shall not be less than 4 feet 0 inches in length, overlapping the abutted ends equally, and have the same width and not less than the cross-sectional area of the pole. Splice plates of other materials of equivalent strength may be used.

(3) Independent pole scaffolds shall be set as near to the wall of the building as practicable.

(4) All pole scaffolds shall be securely guyed or tied to the building or structure. Where the height or length exceeds 25 feet, the scaffold shall be secured at intervals not greater than 25 feet vertically and horizontally.

(5) Putlogs or bearers shall be set with their greater dimensions vertical, long enough to project over the ledgers of the inner and outer rows of poles at least 3 inches for proper support.

(6) Every wooden putlog on single pole scaffolds shall be reinforced with a $\frac{1}{16}$ x 2-inch steel strip or equivalent secured to its lower edge throughout its entire length.

(7) Ledgers shall be long enough to extend over two pole spaces. Ledgers shall not be spliced between the poles. Ledgers shall be reinforced by bearing blocks securely nailed to the side of the pole to form a support for the ledger.

(8) Diagonal bracing shall be provided to prevent the poles from moving in a direction parallel with the wall of the building, or from buckling.

(9) Cross bracing shall be provided between the inner and outer sets of poles in independent pole scaffolds. The free ends of pole scaffolds shall be cross braced.

(10) Full diagonal face bracing shall be erected across the entire face of pole scaffolds in both directions. The braces shall be spliced at the poles.

(11) Platform planks shall be laid with their edges close together so the platform will be tight with no spaces through which tools or fragments of material can fall.

(12) Where planking is lapped, each plank shall lap its end supports at least 12 inches. Where the ends of planks abut each other to from a flush floor, the butt joint shall be at the centerline of a pole. The abutted ends shall rest on separate bearers. Intermediate beams shall be provided where necessary to prevent dislodgment of planks due to deflection, and the ends shall be nailed or cleated to prevent their dislodgment.

(13) When a scaffold turns a corner, the platform planks shall be laid to prevent tipping. The planks that meet the corner putlog at an angle shall be laid first, extending over the diagonally placed putlog far enough to have a good safe bearing, but not far enough to involve any danger from tipping. The planking running in the opposite direction at right angles shall be laid so as to extend over and rest on the first layer of planking.

(14) When moving platforms to the next level, the old platform shall be left undisturbed until the new putlogs or bearers have been set in place, ready to receive the platform planks.

(15) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1 x 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(16) All wood pole scaffolds 60 feet or less in height shall be constructed and erected in accordance with tables D–7 through D–12 of this section. If they are over 60 feet in height they shall be designed by a registered professional engineer and constructed and erected in accordance with such design. A copy of the typical drawings and specifications shall be made available to the employer and for inspection purposes.

TABLE D–7—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS LIGHT DUTY

	Maximum height of scaffold	
	20 feet	60 feet
Uniformly distributed load	Not to exceed 25 pounds per square foot.	
Poles or uprights	2 by 4 in.	4 by 4 in.
Pole spacing (longitudinal)	6 ft. 0 in.	10 ft. 0 in.
Maximum width of scaffold	5 ft. 0 in.	5 ft. 0 in.
Bearers or putlogs to 3 ft. 0 in. width	2 by 4 in.	2 by 4 in.
Bearers or putlogs to 5 ft. 0 in. width	2 by 6 in. or 3 by 4 in.	2 by 6 in. or 3 by 4 in. (rough).
Ledgers	1 by 4 in.	1¼ by 9 in.
Planking	1¼ by 9 in. (rough)	2 by 9 in.
Vertical spacing of horizontal members	7 ft. 0 in.	7 ft. 0 in.
Bracing, horizontal and diagonal	1 by 4 in.	1 by 4 in.
Tie-ins	1 by 4 in.	1 by 4 in.
Toeboards	4 in. high (minimum)	4 in. high (minimum).
Guardrail	2 by 4 in.	2 by 4 in.

All members except planking are used on edge.

(17) Wood-pole scaffolds shall not be erected beyond the reach of effective firefighting apparatus.

TABLE D–8—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS

MEDIUM DUTY

Uniformly distributed load.	Not to exceed 50 pounds per square foot.
Maximum height of scaffold.	60 ft.
Poles or uprights	4 by 4 in.
Pole spacing (longitudinal).	8 ft. 0 in.
Maximum width of scaffold.	5 ft. 0 in.
Bearers or putlogs	2 by 9 in. or 3 by 4 in.
Spacing of bearers or putlogs.	8 ft. 0 in.
Ledgers	2 by 9 in.
Vertical spacing of horizontal members.	9 ft. 0 in.
Bracing, horizontal	1 by 6 in. or 1¼ by 4 in.
Bracing, diagonal	1 by 4 in.
Tie-ins	1 by 4 in.
Planking	2 by 9 in.
Toeboards	4 in. high (minimum).
Guardrail	2 by 4 in.

All members except planking are used on edge.

TABLE D–9—MIMIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS

HEAVY DUTY

Uniformly distributed load.	Not to exceed 75 pounds per square foot.
Maximum height of scaffold.	60 ft.
Poles or uprights	4 by 4 in.
Pole spacing (longitudinal).	6 ft. 0 in.
Maximum width of scaffold.	5 ft. 0 in.
Bearers or putlogs	2 by 9 in. or 3 by 5 in. (rough).
Spacing of bearers or putlogs.	6 ft. 0 in.
Ledgers	2 by 9 in.
Vertical spacing of horizontal members.	6 ft. 6 in.
Bracing, horizontal and diagonal.	2 by 4 in.
Tie-ins	1 by 4 in.
Planking	2 by 9 in.
Toeboards	4 in. high (minimum).
Guardrail	2 by 4 in.

All members except planking are used on edge.

TABLE D–10—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS LIGHT DUTY

	Maximum height of scaffold	
	20 feet	60 feet
Uniformly distributed load	Not to exceed 25 pounds per square foot.	
Poles or uprights	2 by 4 in.	4 by 4 in.
Pole spacing (longitudinal)	6 ft. 0 in.	10 ft. 0 in.
Pole spacing (transverse)	6 ft. 0 in.	10 ft. 0 in.
Ledgers	1¼ by 4 in.	1¼ by 9 in.
Bearers to 3 ft. 0 in. span	2 by 4 in.	2 by 4 in.
Bearers to 10 ft. 0 in. span	2 by 6 in. or 3 by 4 in.	2 by 9 (rough) or 3 by 8 in.
Planking	1¼ by 9 in.	2 by 9 in.
Vertical spacing of horizontal members	7 ft. 0 in.	7 ft. 0 in.
Bracing, horizontal and diagonal	1 by 4 in.	1 by 4 in.
Tie-ins	1 by 4 in.	1 by 4 in.
Toeboards	4 in. high	4 in. high (minimum).
Guardrail	2 by 4 in.	2 by 4 in.

All members except planking are used on edge.

TABLE D–11—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS

MEDIUM DUTY

Uniformly distributed load.	Not to exceed 50 pounds per square foot.
Maximum height of scaffold.	60 ft.
Poles or uprights	4 by 4 in.
Pole spacing (longitudinal).	8 ft. 0 in.

MEDIUM DUTY—continued

Pole spacing (transverse).	8 ft. 0 in.
Ledgers	2 by 9 in.
Vertical spacing of horizontal members.	6 ft. 0 in.
Spacing of bearers	8 ft. 0 in.
Bearers	2 by 9 in. (rough) or 2 by 10 in.
Bracing, horizontal	1 by 6 in. or 1¼ by 4 in.
Bracing, diagonal	1 by 4 in.
Tie-ins	1 by 4 in.
Planking	2 by 9 in.
Toeboards	4 in. high (minimum).
Guardrail	2 by 4 in.

TABLE D–11—Continued

MEDIUM DUTY—continued

Planking	2 by 9 in.
Toeboards	4 in. high (minimum).
Guardrail	2 by 4 in.

All members except planking are used on edge.

TABLE D–12—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS

HEAVY DUTY

Uniformly distributed load.	Not to exceed 75 pounds per square foot.
Maximum height of scaffold.	60 ft.
Poles or uprights	4 by 4 in.
Pole spacing (longitudinal).	6 ft. 0 in.
Pole spacing (transverse).	8 ft. 0 in.
Ledgers	2 by 9 in.
Vertical spacing of horizontal members.	4 ft. 6 in.
Bearers	2 by 9 in. (rough).
Bracing, horizontal and diagonal.	2 by 4 in.
Tie-ins	1 by 4 in.
Planking	2 by 9 in.
Toeboards	4 in. high (minimum).
Guardrail	2 by 4 in.

All members except planking are used on edge.

TABLE D–13—TUBE AND COUPLER SCAFFOLDS LIGHT DUTY

Uniformly distributed load	Not to exceed 25 p.s.f.
Post spacing (longitudinal)	10 ft. 0 in.
Post spacing (transverse)	6 ft. 0 in.

Working levels	Additional planked levels	Maximum height
1	8	125 ft.
2	4	125 ft.
3	0	91 ft. 0 in.

TABLE D–14—TUBE AND COUPLER SCAFFOLDS MEDIUM DUTY

Uniformly distributed load	Not to exceed 50 p.s.f.
Post spacing (longitudinal)	8 ft. 0 in.
Post spacing (transverse)	6 ft. 0 in.

Working levels	Additional planked levels	Maximum height
1	6	125 ft.
2	0	78 ft. 0 in.

TABLE D–15—TUBE AND COUPLER SCAFFOLDS HEAVY DUTY

Uniformly distributed load	Not to exceed 75 p.s.f.
Post spacing (longitudinal)	6 ft. 6 in.
Post spacing (traverse)	6 ft. 0 in.

Working levels	Additional planked levels	Maximum height
1	6	125 ft.

(c) *Tube and coupler scaffolds.* (1) A light-duty tube and coupler scaffold shall have all posts, bearers, runners, and bracing of nominal 2-inch O.D. steel tubing. The posts shall be spaced no more than 6 feet apart by 10 feet along the length of the scaffold. Other structural metals when used must be designed to carry an equivalent load.

(2) A medium-duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing. Posts spaced not more than 6 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2½-inch O.D. steel tubing. Posts spaced not more than 5 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2-inch O.D. steel tubing. Other structural metals when used must be designed to carry an equivalent load.

(3) A heavy-duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing, with the posts spaced not more than 6 feet apart by 6 feet 6 inches along the length of the scaffold. Other structural metals when used must be designed to carry an equivalent load.

(4) Tube and coupler scaffolds shall be limited in heights and working levels to those permitted in tables D–13, 14, and 15, of this section. Drawings and specifications of all tube and coupler scaffolds above the limitations in tables D–13, 14, and 15 of this section shall be designed by a registered professional engineer and copies made available to the employer and for inspection purposes.

(5) All tube and coupler scaffolds shall be constructed and erected to support four times the maximum intended loads as set forth in tables D–13, 14, and 15 of this section, or as set forth in the specifications by a registered professional engineer, copies which shall be made available to the employer and for inspection purposes.

(6) All tube and coupler scaffolds shall be erected by competent and experienced personnel.

(7) Posts shall be accurately spaced, erected on suitable bases, and maintained plumb.

(8) Runners shall be erected along the length of the scaffold located on both the inside and the outside posts at even height. Runners shall be interlocked to form continuous lengths and coupled to each post. The bottom runners shall be located as close to the base as possible. Runners shall be placed not more than 6 feet 6 inches on centers.

(9) Bearers shall be installed transversely between posts and shall be securely coupled to the posts bearing on the runner coupler. When coupled directly to the runners, the coupler must be kept as close to the posts as possible.

(10) Bearers shall be at least 4 inches but not more than 12 inches longer than the post spacing or runner spacing. Bearers may be cantilevered for use as brackets to carry not more than two planks.

(11) Cross bracing shall be installed across the width of the scaffold at least every third set of posts horizontally and every fourth runner vertically. Such bracing shall extend diagonally from the inner and outer runners upward to the next outer and inner runners.

(12) Longitudinal diagonal bracing shall be installed at approximately a 45-degree angle from near the base of the first outer post upward to the extreme top of the scaffold. Where the longitudinal length of the scaffold permits, such bracing shall be duplicated beginning at every fifth post. In a similar manner, longitudinal diagonal bracing shall also be installed from the last post extending back and upward toward the first post. Where conditions preclude the attachment of this bracing to the posts, it may be attached to the runners.

(13) The entire scaffold shall be tied to and securely braced against the building at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(14) Guardrails not less than 2×4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1×4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(d) *Tubular welded frame scaffolds.* (1) Metal tubular frame scaffolds, including accessories such as braces, brackets, trusses, screw legs, ladders, etc., shall be designed and proved to safely support four times the maximum intended load.

(2) Spacing of panels or frames shall be consistent with the loads imposed.

(3) Scaffolds shall be properly braced by cross bracing or diagonal braces, or both, for securing vertical members together laterally, and the cross braces shall be of such length as will automatically square and align vertical members so that the erected scaffold is always plumb, square, and rigid. All brace connections shall be made secure.

(4) Scaffold legs shall be set on adjustable bases or plain bases placed on mud sills or other foundations adequate to support the maximum intended load.

(5) The frames shall be placed one on top of the other with coupling or stacking pins to provide proper vertical alinement of the legs.

(6) Where uplift may occur, panels shall be locked together vertically by pins or other equivalent suitable means.

(7) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- x 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(8) All tubular metal scaffolds shall be constructed and erected to support four times the maximum intended loads.

(9) To prevent movement, the scaffold shall be secured to the building or structure at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(10) Maximum permissible spans of planking shall be in conformity with paragraph (a)(9) of this section.

(11) Drawings and specifications for all frame scaffolds over 125 feet in height above the base plates shall be designed by a registered professional engineer and copies made available to the employer and for inspection purposes.

(12) All tubular welded frame scaffolds shall be erected by competent and experienced personnel.

(13) Frames and accessories for scaffolds shall be maintained in good repair and every defect, unsafe condition, or noncompliance with this section shall be immediately corrected before further use of the scaffold. Any broken, bent, excessively rusted, altered, or otherwise structurally damaged frames or accessories shall not be used.

(14) Periodic inspections shall be made of all welded frames and accessories, and any maintenance, including painting, or minor corrections authorized by the manufacturer, shall be made before further use.

(e) *Outrigger scaffolds.* (1) Outrigger beams shall extend not more than 6 feet beyond the face of the building. The inboard end of outrigger beams, measured from the fulcrum point to the extreme point of support, shall be not less than one and one-half times the outboard end in length. The beams shall rest on edge, the sides shall be plumb, and the edges shall be horizontal. The fulcrum point of the beam shall rest on a secure bearing at least 6 inches in each horizontal dimension. The beam shall be secured in place against movement and shall be securely braced at the fulcrum point against tipping.

(2) The inboard ends of outrigger beams shall be securely supported either by means of struts bearing against sills in contact with the overhead beams or ceiling, or by means of tension members secured to the floor joists underfoot, or by both if necessary. The inboard ends of outrigger beams shall be secured against tipping and the entire supporting structure shall be securely braced in both directions to prevent any horizontal movement.

(3) Unless outrigger scaffolds are designed by a licensed professional engineer, they shall be constructed and erected in accordance with table D–16. Outrigger scaffolds designed by a registered professional engineer shall be constructed and erected in accordance with such design. A copy of the detailed drawings and specifications showing the sizes and spacing of members shall be kept on the job.

(4) Planking shall be laid tight and shall extend to within 3 inches of the building wall. Planking shall be nailed or bolted to outriggers.

(5) Where there is danger of material falling from the scaffold, a wire mesh or other enclosure shall be provided between the guardrail and the toeboard.

(6) Where additional working levels are required to be supported by the outrigger method, the plans and specifications of the outrigger and scaffolding structure shall be designed by a registered professional engineer.

TABLE D–16—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF OUTRIGGER SCAFFOLDS

	Light duty	Medium duty
Maximum scaffold load	25 p.s.f.	50 p.s.f.
Outrigger size	2 x 10 in.	3 x 10 in.
Maximum outrigger spacing	10 ft 0 in.	6 ft 0 in.
Planking	2 x 9 in.	2 x 9 in.
Guardrail	2 x 4 in.	2 x 4 in.
Guardrail uprights	2 x 4 in.	2 x 4 in.
Toeboards	4 in. (minimum).	4 in. (minimum).

(f) *Masons' adjustable multiple-point suspension scaffolds.* (1) The scaffold shall be capable of sustaining a working load of 50 pounds per square foot and shall not be loaded in excess of that figure.

(2) The scaffold shall be provided with hoisting machines that meet the requirements of Underwriters' Laboratories or Factory Mutual Engineering Corp.

(3) The platform shall be supported by wire ropes in conformity with paragraph (a)(22) of this section, suspended from overhead outrigger beams.

(4) The scaffold outrigger beams shall consist of structural metal securely fastened or anchored to the frame or floor system of the building or structure.

(5) Each outrigger beam shall be equivalent in strength to at least a standard 7-inch, 15.3-pound steel I-beam, be at least 15 feet long, and shall not project more than 6 feet 6 inches beyond the bearing point.

(6) Where the overhang exceeds 6 feet 6 inches, outrigger beams shall be composed of stronger beams or multiple beams and be installed in accordance with approved designs and instructions.

(7) If channel iron outrigger beams are used in place of I-beams, they shall be securely fastened together with the flanges turned out.

(8) All outrigger beams shall be set and maintained with their webs into vertical position.

(9) A stop bolt shall be placed at each end of every outrigger beam.

(10) The outrigger beam shall rest on suitable wood-bearing blocks.

(11) All parts of the scaffold such as bolts, nuts, fittings, clamps, wire rope, and outrigger beams and their fastenings, shall be maintained in sound and good working condition and shall be inspected before each installation and periodically thereafter.

(12) The free end of the suspension wire ropes shall be equipped with proper size thimbles and be secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum and at least four turns of rope shall at all times remain on the drum.

(13) Where a single outrigger beam is used, the steel shackles or clevises with which the wire ropes are attached to the outrigger beams shall be placed directly over the hoisting drums.

(14) The scaffold platform shall be equivalent in strength to at least 2-inch planking. (For maximum planking spans see paragraph (a)(9) of this section.)

(15) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1 x 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(16) Overhead protection shall be provided on the scaffold, not more than 9 feet above the platform, consisting of 2-inch planking or material of equivalent strength laid tight, when men are at work on the scaffold and an overhead hazard exists.

(17) Each scaffold shall be installed or relocated in accordance with designs and instructions, of a registered professional engineer, and supervised by a competent, designated person.

(g) *Two-point suspension scaffolds (swinging scaffolds).* (1) Two-point suspension scaffold platforms shall be not less than 20 inches nor more than 36 inches wide overall. The platform shall be securely fastened to the hangers by U-bolts or by other equivalent means.

(2) The hangers of two-point suspension scaffolds shall be made of wrought iron, mild steel, or other equivalent material having a cross-sectional area capable of sustaining four times the maximum intended load, and shall be designed with a support for guardrail, intermediate rail, and toeboard.

(3) When hoisting machines are used on two-point suspension scaffolds, such machines shall be of a design tested and approved by Underwriters' Laboratories or Factory Mutual Engineering Corp.

(4) The roof irons or hooks shall be of wrought iron, mild steel, or other equivalent material of proper size and design, securely installed and anchored. Tiebacks of three-fourth inch manila rope or the equivalent shall serve as a secondary means of anchorage, installed at right angles to the face of the building whenever possible and secured to a structurally sound portion of the building.

(5) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- x 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(6) Two-point suspension scaffolds shall be suspended by wire or fiber ropes. Wire and fiber ropes shall conform to paragraph (a)(22) of this section.

(7) The blocks for fiber ropes shall be of standard 6-inch size, consisting of at least one double and one single block. The sheaves of all blocks shall fit the size of rope used.

(8) All wire ropes, fiber ropes, slings, hangers, platforms, and other supporting parts shall be inspected before every installation. Periodic inspections shall be made while the scaffold is in use.

(9) On suspension scaffolds designed for a working load of 500 pounds no more than two men shall be permitted to work at one time. On suspension scaffolds with a working load of 750 pounds, no more than three men shall be permitted to work at one time. Each workman shall be protected by a safety lifebelt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the workman in case of a fall.

(10) Where acid solutions are used, fiber ropes are not permitted unless acid-proof.

(11) Two-point suspension scaffolds shall be securely lashed to the building or structure to prevent them from swaying. Window cleaners' anchors shall not be used for this purpose.

(12) The platform of every two-point suspension scaffold shall be one of the following types:

(i) The side stringer of ladder-type platforms shall be clear straight-grained spruce or materials of equivalent strength and durability. The rungs shall be of straight-grained oak, ash, or hickory, at least 1⅛ inch in diameter, with seven-eighth inch tenons mortised into the side stringers at least seven-eighth inch. The stringers shall be tied together with the tie rods not less than one-quarter inch in diameter, passing through the stringers and riveted up tight against washers on both ends. The flooring strips shall be spaced not more than five-eighth inch apart except at the side rails where the space may be 1 inch. Ladder-type platforms shall be constructed in accordance with table D–17.

(ii) Plank-type platforms shall be composed of not less than nominal 2- x 8-inch unspliced planks, properly cleated together on the underside starting 6 inches from each end; intervals in between shall not exceed 4 feet. The plank-type platform shall not extend beyond the hangers more than 18 inches. A bar or other effective means shall be securely fastened to the platform at each end to prevent its slipping off the hanger. The span between hangers for plank-type platforms shall not exceed 10 feet.

(iii) Beam platforms shall have side stringers of lumber not less than 2 x 6 inches set on edge. The span between hangers shall not exceed 12 feet when beam platforms are used. The flooring shall be supported on 2- and 6-inch crossbeams, laid flat and set into the upper edge of the stringers with a snug fit, at intervals of not more than 4 feet, securely nailed in place. The flooring shall be of 1- x 6-inch material properly nailed. Floorboards shall not be spaced more than one-half inch apart.

TABLE D–17—SCHEDULE FOR LADDER-TYPE PLATFORMS

	Length of platform (feet)				
	12	14 & 16	18 & 20	22 & 24	28 & 30
Side stringers, minimum cross section (finished sizes):					
At ends (in.)	1¾ x 2¾	1¾ x 2¾	1¾ x 3	1¾ x 3	1¾ x 3½
At middle (in.)	1¾ x 3¾	1¾ x 3¾	1¾ x 4	1¾ x 4¼	1¾ x 5
Reinforcing strip (minimum)	A ⅛x1½-in. steel reinforcing strip or its equivalent shall be attached to the side or underside full length.				
Rungs	Rungs shall be 1⅛-in. minimum, diameter with at least ⅛-in. diameter tenons, and the maximum spacing shall be 12 in. center to center.				
Tie rods:					
Number (minimum)	3	4	4	5	6
Diameter (minimum)	½ in.	½ in.	½ in.	½ in.	½ in.
Flooring, minimum finished size (in.)	½ x 2¾	½ x 2¾	½ x 2¾	½ x 2¾	½ x 2¾

(h) *Stone setters' adjustable multiple-point suspension scaffolds.* (1) The scaffold shall be capable of sustaining a working load of 25 pounds per square foot and shall not be overloaded. Scaffolds shall not be used for storage of stone or other heavy materials.

(2) The hoisting machine and its supports shall be of a type tested and listed by Underwriters' Laboratories or Factory Mutual Engineering Corp.

(3) The platform shall be securely fastened to the hangers by U-bolts or other equivalent means.

(4) The scaffold unit shall be suspended from metal outriggers, iron brackets, wire rope slings, or iron hooks which will safely support the maximum intended load.

(5) Outriggers when used shall be set with their webs in a vertical position, securely anchored to the building or structure and provided with stop bolts at each end.

(6) The scaffold shall be supported by wire rope conforming with paragraph (a)(22) of this section, suspended from overhead supports.

(7) The free ends of the suspension wire ropes shall be equipped with proper size thimbles, secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum and at least four turns of rope shall remain on the drum at all times.

(8) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(9) When two or more scaffolds are used on a building or structure they shall not be bridged one to the other but shall be maintained at even height with platforms butting closely.

(10) Each scaffold shall be installed or relocated in accordance with designs and instructions of a registered professional engineer, and such installation or relocation shall be supervised by a competent designated person.

(i) *Single-point adjustable suspension scaffolds.* (1) The scaffolding, including power units or manually operated winches, shall be of a type tested and listed by Underwriters' Laboratories or Factory Mutual Engineering Corp.

(2) The power units may be either electrically or air motor driven.

(3) All power-operated gears and brakes shall be enclosed.

(4) In addition to the normal operating brake, all-power driven units must have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(5) Guards, mid-rails, and toeboards shall completely enclose the cage or basket. Guardrails shall be no less than 2 by 4 inches or the equivalent installed no less than 36 inches nor more than 42 inches above the platform. Mid-rails shall be 1 by 6 inches or the equivalent, installed equidistant between the guardrail and the platform. Toeboards shall be a minimum of 4 inches in height.

(6) The hoisting machines, cables, and equipment shall be regularly serviced and inspected after each installation and every 30 days thereafter.

(7) The units may be combined to form a two-point suspension scaffold. Such scaffold shall comply with paragraph (g) of this section.

(8) The supporting cable shall be straight for its entire length, and the operator shall not sway the basket and fix the cable to any intermediate points to change his original path of travel.

(9) Equipment shall be maintained and used in accordance with the manufacturers' instructions.

(10) Suspension methods shall conform to applicable provisions of paragraphs (f) and (g) of this section.

(j) *Boatswain's chairs.* (1) The chair seat shall be not less than 12 by 24 inches, and of 1-inch thickness. The seat shall be reinforced on the underside to prevent the board from splitting.

(2) The two fiber rope seat slings shall be of ⅝-inch diameter, reeved through the four seat holes so as to cross each other on the underside of the seat.

(3) Seat slings shall be of at least ⅜-inch wire rope when a workman is conducting a heat producing process such as gas or arc welding.

(4) The workman shall be protected by a safety life belt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the worker in case of a fall.

(5) The tackle shall consist of correct size ball bearing or bushed blocks and properly spliced ⅝-inch diameter first-grade manila rope.

(6) The roof irons, hooks, or the object to which the tackle is anchored shall be securely installed. Tiebacks when used shall be installed at right angles to the face of the building and securely fastened to a chimney.

(k) *Carpenters' bracket scaffolds.* (1) The brackets shall consist of a triangular wood frame not less than 2 by 3 inches in cross section, or of metal of equivalent strength. Each member shall be properly fitted and securely joined.

(2) Each bracket shall be attached to the structure by means of one of the following:

(i) A bolt no less than five-eighths inch in diameter which shall extend through the inside of the building wall.

(ii) A metal stud attachment device.

(iii) Welding to steel tanks.

(iv) Hooking over a well-secured and adequately strong supporting member.

The brackets shall be spaced no more than 10 feet apart.

(3) No more than two persons shall occupy any given 10 feet of a bracket scaffold at any one time. Tools and materials shall not exceed 75 pounds in addition to the occupancy.

(4) The platform shall consist of not less than two 2- by 9-inch nominal size planks extending not more than 18 inches or less than 6 inches beyond each end support.

(5) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(l) *Bricklayers' square scaffolds.* (1) The squares shall not exceed 5 feet in width and 5 feet in height.

(2) Members shall be not less than those specified in Table D–18.

(3) The squares shall be reinforced on both sides of each corner with 1- by 6-inch gusset pieces. They shall also have braces 1 by 8 inches on both sides running from center to center of each member, or other means to secure equivalent strength and rigidity.

(4) The squares shall be set not more than 5 feet apart for medium duty scaffolds, and not more than 8 feet apart for light duty scaffolds. Bracing 1 x 8 inches, extending from the bottom of each square to the top of the next square, shall be provided on both front and rear sides of the scaffold.

TABLE D–18—MINIMUM DIMENSIONS FOR BRICKLAYERS' SQUARE SCAFFOLD MEMBERS

Members:	*Dimensions (inches)*
Bearers or horizontal members	2 by 6.
Legs	2 by 6.
Braces at corners	1 by 6.
Braces diagonally from center frame	1 by 8.

(5) Platform planks shall be at least 2- by 9-inch nominal size. The ends of the planks shall overlap the bearers of the squares and each plank shall be supported by not less than three squares.

(6) Bricklayers' square scaffolds shall not exceed three tiers in height and shall be so constructed and arranged that one square shall rest directly above the other. The upper tiers shall stand on a continuous row of planks laid across the next lower tier and be nailed down or otherwise secured to prevent displacement.

(7) Scaffolds shall be level and set upon a firm foundation.

(m) *Horse scaffolds.*

(1) Horse scaffolds shall not be constructed or arranged more than two tiers or 10 feet in height.

(2) The members of the horses shall be not less than those specified in Table D–19.

(3) Horses shall be spaced not more than 5 feet for medium duty and not more than 8 feet for light duty.

(4) When arranged in tiers, each horse shall be placed directly over the horse in the tier below.

(5) On all scaffolds arranged in tiers, the legs shall be nailed down to the planks to prevent displacement or thrust and each tier shall be substantially cross braced.

TABLE D–19—MINIMUM DIMENSIONS FOR HORSE SCAFFOLD MEMBERS

Members:	*Dimensions (inches)*
Horizontal members or bearers	3 by 4.
Legs	1¼ by 4½.
Longitudinal brace between legs	1 by 6.
Gusset brace at top of legs	1 by 8.
Half diagonal braces	1¼ by 4½.

(6) Horses or parts which have become weak or defective shall not be used.

(7) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches high with a mid-rail, when required, of 1- by 4-inch lumber or equivalent and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(n) *Needle beam scaffold.* (1) Wood needle beams shall be in accordance with paragraph (a) (5) and (9) of this section, and shall be not less than 4 by 6 inches in size, with the greater dimension placed in a vertical direction. Metal beams or the equivalent conforming to paragraph (a) (4) and (8) of this section may be used.

(2) Ropes or hangers shall be provided for supports. The span between supports on the needle beam shall not exceed 10 feet for 4- by 6-inch timbers. Rope supports shall be equivalent in strength to 1-inch diameter first-grade manila rope.

(3) The ropes shall be attached to the needle beams by a scaffold hitch or a properly made eye splice. The loose end of the rope shall be tied by a bowline knot or by a round turn and one-half hitch.

(4) The platform span between the needle beams shall not exceed 8 feet when using 2-inch scaffold plank. For spans greater than 8 feet, platforms shall be designed based on design requirements for the special span. The overhang of each end of the platform planks shall be not less than 1 foot and not more than 18 inches.

(5) When one needle beam is higher than the other or when the platform is not level the platform shall be secured against slipping.

(6) All unattached tools, bolts, and nuts used on needle beam scaffolds shall be kept in suitable containers.

(7) One end of a needle beam scaffold may be supported by a permanent structural member conforming to paragraph (a) (4) and (8) of this section.

(8) Each man working on a needle beam scaffold 20 feet or more above the ground or floor and working with both hands, shall be protected by a safety life belt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the workman in case of a fall.

(o) *Plasterers', decorators', and large area scaffolds.* (1) Plasterers', decorators', lathers', and ceiling workers' inside scaffolds shall be constructed in accordance with the general requirements set forth for independent wood pole scaffolds.

(2) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(3) All platform planks shall be laid with the edges close together.

(4) When independent pole scaffold platforms are erected in sections, such sections shall be provided with connecting runways equipped with substantial guardrails.

(p) *Interior hung scaffolds.* (1) An interior hung scaffold should be hung or suspended from the roof structure or substantial ceiling beams.

(2) The suspended steel wire rope shall conform to paragraph (a)(22) of this section. Wire may be used providing the strength requirements of paragraph (a)(22) of this section are met.

(3) For hanging wood scaffolds, the following minimum nominal size material is recommended:

(i) Supporting bearers 2 by 9 inches on edge.

(ii) Planking 2 by 9 inches or 2 by 10 inches, with maximum span 7 feet for heavy duty and 10 feet for light duty or medium duty.

(4) Steel tube and coupler members may be used for hanging scaffolds with both types of scaffold designed to sustain a uniform distributed working load up to heavy duty scaffold loads with a safety factor of four.

(5) When a hanging scaffold is supported by means of wire rope, such wire rope shall be wrapped at least twice around the supporting members and twice around the bearers of the scaffold, with each end of the wire rope secured by at least three standard wire-rope clips.

(6) All overhead supporting members shall be inspected and checked for strength before the scaffold is erected.

(7) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with paragraph (a)(17) of this section.

(q) *Ladder-jack scaffolds.* (1) All ladder-jack scaffolds shall be limited to light duty and shall not exceed a height of 20 feet above the floor or ground.

(2) All ladders used in connection with ladder-jack scaffolds shall be heavy-duty ladders and shall be designed and constructed in accordance with § 1910.25 and § 1910.26.

(3) The ladder jack shall be so designed and constructed that it will bear on the side rails in addition to the ladder rungs, or if bearing on rungs only, the bearing area shall be at least 10 inches on each rung.

(4) Ladders used in conjunction with ladder jacks shall be so placed, fastened, held, or equipped with devices so as to prevent slipping.

(5) The wood platform planks shall be not less than 2 inches nominal in thickness. Both metal and wood platform planks shall overlap the bearing surface not less than 12 inches. The span between supports for wood shall not exceed 8 feet. Platform width shall be not less than 18 inches.

(6) Not more than two persons shall occupy any given 8 feet of any ladder-jack scaffold at any one time.

(r) *Window-jack scaffolds.* (1) Window-jack scaffolds shall be used only for the purpose of working at the window opening through which the jack is placed.

(2) Window jacks shall not be used to support planks placed between one window jack and another or for other elements of scaffolding.

(3) Window-jack scaffolds shall be provided with suitable guardrails unless safety belts with lifelines are attached and provided for the workman. Window-jack scaffolds shall be used by one man only.

(s) *Roofing brackets.* (1) Roofing brackets shall be constructed to fit the pitch of the roof.

(2) Brackets shall be secured in place by nailing in addition to the pointed

metal projections. The nails shall be driven full length into the roof. When rope supports are used, they shall consist of first-grade manila of at least three-quarter-inch diameter, or equivalent.

(3) A substantial catch platform shall be installed below the working area of roofs more than 20 feet from the ground to eaves with a slope greater than 3 inches in 12 inches without a parapet. In width the platform shall extend 2 feet beyond the projection of the eaves and shall be provided with a safety rail, mid-rail, and toeboard. This provision shall not apply where employees engaged in work upon such roofs are protected by a safety belt attached to a lifeline.

(t) *Crawling boards or chicken ladders.* (1) Crawling boards shall be not less than 10 inches wide and 1 inch thick, having cleats 1 x 1½ inches. The cleats shall be equal in length to the width of the board and spaced at equal intervals not to exceed 24 inches. Nails shall be driven through and clinched on the underside. The crawling board shall extend from the ridge pole to the eaves when used in connection with roof construction, repair, or maintenance.

(2) A firmly fastened lifeline of at least three-quarter-inch rope shall be strung beside each crawling board for a handhold.

(3) Crawling boards shall be secured to the roof by means of adequate ridge hooks or equivalent effective means.

(u) *Float or ship scaffolds.* (1) Float or ship scaffolds shall support not more than three men and a few light tools, such as those needed for riveting, bolting, and welding. They shall be constructed in accordance with subparagraphs (2) through (6) of this paragraph, unless substitute designs and materials provide equivalent strength, stability, and safety.

(2) The platform shall be not less than 3 feet wide and 6 feet long, made of three-quarter-inch plywood, equivalent to American Plywood Association Grade B–B, Group I, Exterior.

(3) Under the platform, there shall be two supporting bearers made from 2- x 4-inch, or 1- x 10-inch rough, selected lumber, or better. They shall be free of knots or other flaws and project 6 inches beyond the platform on both sides. The ends of the platform shall extend about 6 inches beyond the outer edges of the bearers. Each bearer shall be securely fastened to the platform.

(4) An edging of wood not less than ¾ x 1½ inches, or equivalent, shall be placed around all sides of the platform to prevent tools from rolling off.

(5) Supporting ropes shall be 1-inch diameter manila rope or equivalent, free from deterioration, chemical damage, flaws, or other imperfections. Rope connections shall be such that the platform cannot shift or slip. If two ropes are used with each float, they should be arranged so as to provide four ends which are to be securely fastened to an overhead support. Each of the two supporting ropes shall be hitched around one end of a bearer and pass under the platforms to the other end of the bearer where it is hitched again, leaving sufficient rope at each end for the supporting ties.

(6) Each workman shall be protected by a safety lifebelt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the workman in case of a fall.

(v) *Scope.* This section establishes safety requirements for the construction, operation, maintenance, and use of scaffolds used in the construction, alteration, demolition, and maintenance of buildings and structures.

§ 1910.29 Manually propelled mobile ladder stands and scaffolds (towers).

(a) *General requirements*—(1) *Application.* This section is intended to prescribe rules and requirements for the design, construction, and use of mobile work platforms (including ladder stands but not including aerial ladders) and rolling (mobile) scaffolds (towers). This standard is promulgated to aid in providing for the safety of life, limb, and property, by establishing minimum standards for structural design requirements and for the use of mobile work platforms and towers.

(2) *Working loads.* (i) Work platforms and scaffolds shall be capable of carrying the design load under varying circumstances depending upon the conditions of use. Therefore, all parts and appurtances necessary for their safe and efficient utilization must be integral parts of the design.

(ii) Specific design and construction requirements are not a part of this section because of the wide variety of materials and design possibilities. However, the design shall be such as to produce a mobile ladder stand or scaffold that will safely sustain the specified loads. The material selected shall be of sufficient strength to meet the test requirements and shall be protected against corrosion or deterioration.

(a) The design working load of ladder stands shall be calculated on the basis of one or more 200-pound persons together with 50 pounds of equipment each.

(b) The design load of all scaffolds shall be calculated on the basis of:

Light—Designed and constructed to carry a working load of 25 pounds per square foot.

Medium—Designed and constructed to carry a working load of 50 pounds per square foot.

Heavy—Designed and constructed to carry a working load of 75 pounds per square foot.

All ladder stands and scaffolds shall be capable of supporting at least four times the design working load.

(iii) The materials used in mobile ladder stands and scaffolds shall be of standard manufacture and conform to standard specifications of strength, dimensions, and weights, and shall be selected to safely support the design working load.

(iv) Nails, bolts, or other fasteners used in the construction of ladders, scaffolds, and towers shall be of adequate size and in sufficient numbers at each connection to develop the designed strength of the unit. Nails shall be driven full length. (All nails should be immediately withdrawn from dismantled lumber.)

(v) All exposed surfaces shall be free from sharp edges, burrs or other safety hazards.

(3) *Work levels.* (i) The maximum work level height shall not exceed four (4) times the minimum or least base dimension of any mobile ladder stand or scaffold. Where the basic mobile unit does not meet this requirement, suitable outrigger frames shall be employed to achieve this least base dimension, or provisions shall be made to guy or brace the unit against tipping.

(ii) The minimum platform width for any work level shall not be less than 20 inches for mobile scaffolds (towers). Ladder stands shall have a minimum step width of 16 inches.

(iii) The supporting structure for the work level shall be rigidly braced, using adequate cross bracing or diagonal bracing with rigid platforms at each work level.

(iv) The steps of ladder stands shall be fabricated from slip resistant treads.

(v) The work level platform of scaffolds (towers) shall be of wood, aluminum, or plywood planking, steel or expanded metal, for the full width of the scaffold, except for necessary openings. Work platforms shall be secured in place. All planking shall be 2-inch (nominal) scaffold grade minimum 1,500 *f.* (stress grade) construction grade lumber or equivalent.

(vi) All scaffold work levels 10 feet or higher above the ground or floor shall have a standard (4-inch nominal) toeboard.

(vii) All work levels 10 feet or higher above the ground or floor shall have a guardrail of 2- by 4-inch nominal or the equivalent installed no less than 36 inches or more than 42 inches high, with a mid-rail, when required, of 1- by 4-inch nominal lumber or equivalent.

(viii) A climbing ladder or stairway shall be provided for proper access and egress, and shall be affixed or built into the scaffold and so located that its use will not have a tendency to tip the scaffold. A landing platform shall be provided at intervals not to exceed 30 feet.

(4) *Wheels or casters.* (i) Wheels or casters shall be properly designed for strength and dimensions to support four (4) times the design working load.

(ii) All scaffold casters shall be provided with a positive wheel and/or swivel lock to prevent movement. Ladder stands shall have at least two (2) of the four (4) casters and shall be of the swivel type.

(iii) Where leveling of the elevated work platform is required, screw jacks or other suitable means for adjusting the height shall be provided in the base section of each mobile unit.

(b) *Mobile tubular welded frame scaffolds*—(1) *General.* Units shall be designed to comply with the requirements of paragraph (a) of this section.

(2) *Bracing.* Scaffolds shall be properly braced by cross braces and/or diagonal braces for securing vertical members together laterally. The cross braces shall be of a length that will automatically square and align vertical members so the erected scaffold is always plumb, square, and rigid.

(3) *Spacing.* Spacing of panels or frames shall be consistent with the loads imposed. The frames shall be placed one on top of the other with coupling or stacking pins to provide proper vertical alignment of the legs.

(4) *Locking.* Where uplift may occur, panels shall be locked together vertically by pins or other equivalent means.

(5) *Erection.* Only the manufacturer of a scaffold or his qualified designated agent shall be permitted to erect or supervise the erection of scaffolds exceeding 50 feet in height above the base, unless such structure is approved in writing by a registered professional engineer, or erected in accordance with instructions furnished by the manufacturer.

(c) *Mobile tubular welded sectional folding scaffolds*—(1) *General.* Units including sectional stairway and sectional ladder scaffolds shall be designed to comply with the requirements of paragraph (a) of this section.

(2) *Stairway.* An integral stairway and work platform shall be incorporated into the structure of each sectional folding stairway scaffold.

(3) *Bracing.* An integral set of pivoting and hinged folding diagonal and horizontal braces and a detachable work platform shall be incorporated into the structure of each sectional folding ladder scaffold.

(4) *Sectional folding stairway scaffolds.* Sectional folding stairway scaffolds shall be designed as medium duty scaffolds except for high clearance. These special base sections shall be designed as light duty scaffolds. When upper sectional folding stairway scaffolds are used with a special high clearance base, the load capacity of the entire scaffold shall be reduced accordingly. The width of a sectional folding stairway scaffold shall not exceed 4½ feet. The maximum length of a sectional folding stairway scaffold shall not exceed 6 feet.

(5) *Sectional folding ladder scaffolds.* Sectional folding ladder scaffolds shall be designed as light duty scaffolds including special base (open end) sections which are designed for high clearance. For certain special applications the six-foot (6') folding ladder scaffolds, except for special high clearance base sections, shall be designed for use as medium duty scaffolds. The width of a sectional folding ladder scaffold shall not exceed 4½ feet. The maximum length of a sectional folding ladder scaffold shall not exceed 6 feet 6 inches for a six-foot (6') long unit, 8 feet 6 inches for an eight-foot (8') unit or 10 feet 6 inches for a ten-foot (10') long unit.

(6) *End frames.* The end frames of sectional ladder and stairway scaffolds shall be designed so that the horizontal bearers provide supports for multiple planking levels.

(7) *Erection.* Only the manufacturer of the scaffold or his qualified designated agent shall be permitted to erect or supervise the erection of scaffolds exceeding 50 feet in height above the base, unless such structure is approved in writing by a licensed professional engineer, or erected in accordance with instructions furnished by the manufacturer.

(d) *Mobile tube and coupler scaffolds*—(1) *Design.* Units shall be designed to comply with the applicable requirements of paragraph (a) of this section.

(2) *Material.* The material used for the couplers shall be of a structural type, such as a drop-forged steel, malleable iron or structural grade aluminum. The use of gray cast iron is prohibited.

(3) *Erection.* Only the manufacturer of the scaffold or his qualified designated agent shall be permitted to erect or supervise the erection of scaffolds exceeding 50 feet in height above the base, unless such structure is approved in writing by a licensed professional engineer, or erected in accordance with instructions furnished by the manufacturer.

(e) *Mobile work platforms*—(1) *Design.* Units shall be designed for the use intended and shall comply with the requirements of paragraph (a) of this section.

(2) *Base width.* The minimum width of the base of mobile work platforms shall not be less than 20 inches.

(3) *Bracing.* Adequate rigid diagonal bracing to vertical members shall be provided.

(f) *Mobile ladder stands.*

(1) *Design.* Units shall comply with applicable requirements of paragraph (a) of this section.

(2) *Base width.* The minimum base width shall conform to paragraph (a)(3)(i) of this section. The maximum length of the base section shall be the total length of combined steps and top assembly, measured horizontally, plus five-eighths inch per step of rise.

(3) *Steps.* Steps shall be uniformly spaced, and sloped, with a rise of not less than nine (9) inches, nor more than ten (10) inches, and a depth of not less seven (7) inches. The slope of the steps section shall be a minimum of fifty-five (55) degrees and a maximum of sixty (60) degrees measured from the horizontal.

(4) *Handrails.* (i) Units having more than five (5) steps or 60 inches vertical height to the top step shall be equipped with handrails.

(ii) Handrails shall be a minimum of 29 inches high. Measurements shall be taken vertically from the center of the step.

(5) *Loading.* The load (see paragraph (a)(2)(ii)(a) of this section) shall be applied uniformly to a 3½ inches wide area front to back at the center of the width span with a safety factor of four (4).

§ 1910.30 Other working surfaces.

(a) *Dockboards (bridge plates).* (1) Portable and powered dockboards shall be strong enough to carry the load imposed on them.

(2) Portable dockboards shall be secured in position, either by being anchored or equipped with devices which will prevent their slipping.

(3) Powered dockboards shall be designed and constructed in accordance with Commercial Standard CS202–56 (1961) "Industrial Lifts and Hinged Loading Ramps published by the U.S. Department of Commerce.

(4) Handholds, or other effective means, shall be provided on portable dockboards to permit safe handling.

(5) Positive protection shall be provided to prevent railroad cars from being moved while dockboards or bridge plates are in position.

(b) *Forging machine area.* (1) Machines shall be so located as to give (i) enough clearance between machines so that the movement of one operator will not interfere with the work of another, (ii) ample room for cleaning machines and handling the work, including material and scrap. The arrangement of machines shall be such that operators will not stand in aisles.

(2) Aisles shall be provided of sufficient width to permit the free movement of employees bringing and removing material. This aisle space is to be independent of working and storage space and should be defined by marking.

(3) Wood platforms used on the floor in front of machines shall be substantially constructed.

(c) *Veneer machinery.* (1) Sides of steam vats shall extend to a height of not less than 36 inches above the floor, working platform, or ground.

(2) Large steam vats divided into sections shall be provided with substantial walkways between sections. Each walkway shall be provided with a standard handrail on each exposed side. These handrails may be removable, if necessary.

(3) Covers shall be removed only from that portion of steaming vats on which men are working and a portable railing shall be placed at this point to protect the operators.

(4) Workmen shall not ride or step on logs in steam vats.

§ 1910.31 Sources of standards.

The standards in this Subpart D are devised from the following sources:

Standard	*Source*
§ 1910.22(a) ------	ANSI Z4.1–1968, Requirements for Sanitation in Places of Employment.
§ 1910.22 (b) and (c).	41 CFR 50–204.3.
§ 1910.22(d) ------	ANSI A58.1–1955, Minimum Design Loads in Building and Other Structures.
§ 1910.23 ---------	ANSI A12.1–1967, Safety Requirements for Floor and Wall Openings, Railings, and Toeboards.
§ 1910.24 ---------	ANSI A64.1–1968, Requirements for Fixed Industrial Stairs.
§ 1910.25 ---------	ANSI A14.1–1968, Safety Code for Portable Wood Ladders.

Standard	Source
§ 1910.26	ANSI A14.2–1956, Portable Metal Ladders.
§ 1910.27	ANSI A14.3–1956, Safety Code for Fixed Ladders.
§ 1910.28	ANSI A10.8–1969, Safety Requirements for Scaffolding.
§ 1910.29	ANSI A92.1–1971, Standard for Manually Propelled Mobile Ladder Stands and Scaffolds.
§ 1910.30(a)	ANSI B56.1—1969, Safety Standard for Powered Industrial Trucks.
§ 1910.30(b)	ANSI B24.1–1963, Safety Standard for Forging.
§ 1910.30(c)	ANSI 01.1–1954, Safety Code for Woodworking Machinery.

§ 1910.32 Standards organizations.

The following organizations have been referenced in this Subpart D:

American National Standards Institute, 1430 Broadway, New York, NY 10018.

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, IL 60611.

Factory Mutual Engineering Corp., Post Office Box 688, Norwood, MA 02062.

Subpart E—Means of Egress

§ 1910.35 Definitions.

As used in this subpart

(a) *Means of egress.* A means of egress is a continuous and unobstructed way of exit travel from any point in a building or structure to a public way and consists of three separate and distinct parts: the way of exit access, the exit, and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and shall include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

(b) *Exit access.* Exit access is that portion of a means of egress which leads to an entrance to an exit.

(c) *Exit.* Exit is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in this subpart to provide a protected way of travel to the exit discharge.

(d) *Exit discharge.* Exit discharge is that portion of a means of egress between the termination of an exit and a public way.

(e) *Low hazard contents.* Low hazard contents shall be classified as those of such low combustibility that no self-propagating fire therein can occur and that consequently the only probable danger requiring the use of emergency exits will be from panic, fumes, or smoke, or fire from some external source.

(f) *High-hazard contents.* High-hazard contents shall be classified as those which are liable to burn with extreme rapidity or from which poisonous fumes or explosions are to be feared in the event of fire.

(g) *Ordinary hazard contents.* Ordinary hazard contents shall be classified as those which are liable to burn with moderate rapidity and to give off a considerable volume of smoke but from which neither poisonous fumes nor explosions are to be feared in case of fire.

(h) *Approved.* For the purposes of this subpart approved shall mean listed or approved equipment by a nationally recognized testing laboratory.

§ 1910.36 General requirements.

(a) *Application.* This subpart contains general fundamental requirements essential to providing a safe means of egress from fire and like emergencies. Nothing in this subpart shall be construed to prohibit a better type of building construction, more exits, or otherwise safer conditions than the minimum requirements specified in this subpart. Exits from vehicles, vessels, or other mobile structures are not covered by this subpart.

(b) *Fundamental requirements.* (1) Every building or structure, new or old, designed for human occupancy shall be provided with exits sufficient to permit the prompt escape of occupants in case of fire or other emergency. The design of exits and other safeguards shall be such that reliance for safety to life in case of fire or other emergency will not depend solely on any single safeguard; additional safeguards shall be provided for life safety in case any single safeguard is ineffective due to some human or mechanical failure.

(2) Every building or structure shall be so constructed, arranged, equipped, maintained, and operated as to avoid undue danger to the lives and safety of its occupants from fire, smoke, fumes, or resulting panic during the period of time reasonably necessary for escape from the building or structure in case of fire or other emergency.

(3) Every building or structure shall be provided with exits of kinds, numbers, location, and capacity appropriate to the individual building or structure, with due regard to the character of the occupancy, the number of persons exposed, the fire protection available, and the height and type of construction of the building or structure, to afford all occupants convenient facilities for escape.

(4) In every building or structure exits shall be so arranged and maintained as to provide free and unobstructed egress from all parts of the building or structure at all times when it is occupied. No lock or fastening to prevent free escape from the inside of any building shall be installed except in mental, penal, or corrective institutions where supervisory personnel is continually on duty and effective provisions are made to remove occupants in case of fire or other emergency.

(5) Every exit shall be clearly visible or the route to reach it shall be conspicuously indicated in such a manner that every occupant of every building or structure who is physically and mentally capable will readily know the direction of escape from any point, and each path of escape, in its entirety, shall be so arranged or marked that the way to a place of safety outside is unmistakable. Any doorway or passageway not constituting an exit or way to reach an exit, but of such a character as to be subject to being mistaken for an exit, shall be so arranged or marked as to minimize its possible confusion with an exit and the resultant danger of persons endeavoring to escape from fire finding themselves trapped in a dead-end space, such as a cellar or storeroom, from which there is no other way out.

(6) In every building or structure equipped for artificial illumination, adequate and reliable illumination shall be provided for all exit facilities.

(7) In every building or structure of such size, arrangement, or occupancy that a fire may not itself provide adequate warning to occupants, fire alarm facilities shall be provided where necessary to warn occupants of the existence of fire so that they may escape, or to facilitate the orderly conduct of fire exit drills.

(8) Every building or structure, section, or area thereof of such size, occupancy, and arrangement that the reasonable safety of numbers of occupants may be endangered by the blocking of any single means of egress due to fire or smoke, shall have at least two means of egress remote from each other, so arranged as to minimize any possibility that both may be blocked by any one fire or other emergency conditions.

(9) Compliance with this subpart shall not be construed as eliminating or reducing the necessity for other provisions for safety of persons using a structure under normal occupancy conditions, nor shall any provision of the subpart be construed as requiring or permitting any condition that may be hazardous under normal occupancy conditions.

(c) *Protection of employees exposed by construction and repair operations.* (1) No building or structure under construction shall be occupied in whole or in part until all exit facilities required for the part occupied are completed and ready for use.

(2) No existing building shall be occupied during repairs or alterations unless all existing exits and any existing fire protection are continuously maintained, or in lieu thereof other measures are taken which provide equivalent safety.

(3) No flammable or explosive substances or equipment for repairs or alterations shall be introduced in a building of normally low or ordinary hazard classification while the building is occupied, unless the condition of use and safeguards provided are such as not to create any additional danger or handicap to egress beyond the normally permissible conditions in the building.

(d) *Maintenance.* (1) Every required exit, way of approach thereto, and way of travel from the exit into the street or open space, shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.

(2) Every automatic sprinkler system, fire detection and alarm system, exit lighting, fire door, and other item of equipment, where provided, shall be continuously in proper operating condition.

§ 1910.37 Means of egress, general.

(a) *Permissible exit components.* An exit shall consist only of the approved components. Exit components shall be constructed as an integral part of the building or shall be permanently affixed thereto.

(b) *Protective enclosure of exits.* When an exit is protected by separation from other parts of the building the separating construction shall meet the following requirements.

(1) The separation shall have at least a 1-hour fire resistance rating when the exit connects three stories or less. This applies whether the stories connected are above or below the story at which exit discharge begins.

(2) The separation shall have at least a 2-hour fire resistance rating when the exit connects four or more stories, whether above or below the floor of discharge. It shall be constructed of noncombustible materials, and shall be supported by construction having at least a 2-hour fire resistance rating.

(3) Any opening therein shall be protected by an approved self-closing fire door.

(4) Openings in exit enclosures shall be confined to those necessary for access to the enclosure from normally occupied spaces and for egress from the enclosure.

(c) *Width and capacity of means of egress.* (1) The capacity in number of persons per unit of exit width for approved components of means of egress shall be as follows:

(i) Level Egress Components (including Class A Ramps) 100 persons.

(ii) Inclined Egress Components (including Class B Ramps) 60 persons.

(iii) A ramp shall be designated as Class A or Class B in accordance with the following Table E–1:

TABLE E-1

	Class A	Class B
Width	44 inches and greater.	30 to 44 inches.
Slope	1 to 1 3/16 inches in 12 inches.	1 3/16 to 2 inches in 12 inches.
Maximum height between landings.	No limit	12 feet.

(2) Means of egress shall be measured in units of exit width of 22 inches. Fractions of a unit shall not be counted, except that 12 inches added to one or more full units shall be counted as one-half a unit of exit width.

(3) Units of exit width shall be measured in the clear at the narrowest point of the means of egress except that a handrail may project inside the measured width on each side not more than 5 inches and a stringer may project inside the measured width not more than 1½ inches. An exit or exit access door swinging into an aisle or passageway shall not restrict the effective width thereof at any point during its swing to less than the minimum widths hereafter specified.

(d) *Egress capacity and occupant load.* (1) The capacity of means of egress for any floor, balcony, tier, or other occupied space shall be sufficient for the occupant load thereof. The occupant load shall be the maximum number of persons that may be in the space at any time.

(2) Where exits serve more than one floor, only the occupant load of each floor considered individually need be used in computing the capacity of the exits at that floor, provided that exit capacity shall not be decreased in the direction of exit travel.

(e) *Arrangement of exits.* When more than one exit is required from a story, at least two of the exits shall be remote from each other and so arranged as to minimize any possibility that both may be blocked by any one fire or other emergency condition.

(f) *Access to exits.* (1) Exits shall be so located and exit accesss shall be so arranged that exits are readily accessible at all times. Where exits are not immediately accessible from an open floor area, safe and continuous passageways, aisles, or corridors leading directly to every exit and so arranged as to provide convenient access for each occupant to at least two exits by separate ways of travel, except as a single exit or limited dead ends are permitted by other provisions of this subpart, shall be maintained.

(2) A door from a room to an exit or to a way of exit access shall be of the side-hinged, swinging type. It shall swing with exit travel when the room is occupied by more than 50 persons or used for a high hazard occupancy.

(3) In no case shall access to an exit be through a bathroom, or other room subject to locking, except where the exit is required to serve only the room subject to locking.

(4) Ways of exit access and the doors to exits to which they lead shall be so designed and arranged as to be clearly recognizable as such. Hangings or draperies shall not be placed over exit doors or otherwise so located as to conceal or obscure any exit. Mirrors shall not be placed on exit doors. Mirrors shall not be placed in or adjacent to any exit in such a manner as to confuse the direction of exit.

(5) Exit access shall be so arranged that it will not be necessary to travel toward any area of high hazard occupancy in order to reach the nearest exit, unless the path of travel is effectively shielded from the high hazard location by suitable partitions or other physical barriers.

(6) The minimum width of any way of exit access shall in no case be less than 28 inches. Where a single way of exit access leads to an exit, its capacity in terms of width shall be at least equal to the required capacity of the exit to which it leads. Where more than one way of exit access leads to an exit, each shall have a width adequate for the number of persons it must accommodate.

(g) *Exterior ways of exit access.* (1) Access to an exit may be by means of any exterior balcony, porch, gallery, or roof that conforms to the requirements of this section.

(2) Exterior ways of exit access shall have smooth, solid floors, substantially level, and shall have guards on the unenclosed sides.

(3) Where accumulation of snow or ice is likely because of the climate, the exterior way of exit access shall be protected by a roof, unless it serves as the sole normal means of access to the rooms or spaces served, in which case it may be assumed that snow and ice will be regularly removed in the course of normal occupancy.

(4) A permanent, reasonably straight path of travel shall be maintained over the required exterior way of exit access. There shall be no obstruction by railings, barriers, or gates that divide the open space into sections appurtenant to individual rooms, apartments, or other uses. Where the Assistant Secretary of Labor or his duly authorized representative finds the required path of travel to be obstructed by furniture or other movable objects, he may require that they be fastened out of the way or he may require that railings or other permanent barriers be installed to protect the path of travel against encroachment.

(5) An exterior way of exit access shall be so arranged that there are no dead ends in excess of 20 feet. Any unenclosed exit served by an exterior way of exit access shall be so located that no part of the exit extends past a vertical plane 20 feet and one-half the required width of the exit from the end of and at right angles to the way of exit access.

(6) Any gallery, balcony, bridge, porch or other exterior exit access that projects beyond the outside wall of the building shall comply with the requirements of this section as to width and arrangement.

(h) *Discharge from exits.* (1) All exits shall discharge directly to the street, or to a yard, court, or other open space that gives safe access to a public way. The streets to which the exits discharge shall be of width adequate to accommodate all persons leaving the building. Yards, courts, or other open spaces to which exits discharge shall also be of adequate width and size to provide all persons leaving the building with ready access to the street.

(2) Stairs and other exits shall be so arranged as to make clear the direction of egress to the street. Exit stairs that continue beyond the floor of discharge shall be interrupted at the floor of discharge by partitions, doors, or other effective means.

(i) *Headroom.* Means of egress shall be so designed and maintained as to provide adequate headroom, but in no case shall the ceiling height be less than 7 feet 6 inches nor any projection from the ceiling be less than 6 feet 8 inches from the floor.

(j) *Changes in elevation.* Where a means of egress is not substantially level, such differences in elevation shall be negotiated by stairs or ramps.

(k) *Maintenance and workmanship* (1) Doors, stairs, ramps, passages, signs, and all other components of means of

egress shall be of substantial, reliable construction and shall be built or installed in a workmanlike manner.

(2) Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency.

(3) Any device or alarm installed to restrict the improper use of an exit shall be so designed and installed that it cannot, even in cases of failure, impede or prevent emergency use of such exit.

(l) *Furnishings and decorations.* (1) No furnishings, decorations, or other objects shall be so placed as to obstruct exits, access thereto, egress therefrom, or visibility thereof.

(2) No furnishings or decorations of an explosive or highly flammable character shall be used in any occupancy.

(m) *Automatic sprinkler systems.* All automatic sprinkler systems shall be continuously maintained in reliable operating condition at all times, and such periodic inspections and tests shall be made as are necessary to assure proper maintenance.

(n) *Alarm and fire protection systems.* (1) Systems shall be under the supervision of a responsible person who shall cause proper tests to be made at weekly intervals and have general charge of all alterations and additions.

(2) Fire alarm signaling equipment shall be restored to service as promptly as possible after each test or alarm, and shall be kept in normal condition for operation. Equipment requiring rewinding or replenishing shall be rewound or replenished as promptly as possible after each test or alarm.

(o) *Fire retardant paints.* Fire retardant paints or solutions shall be renewed at such intervals as necessary to maintain the necessary flame retardant properties.

(p) [Reserved]

(q) *Exit marking.* (1) Exits shall be marked by a readily visible sign. Access to exits shall be marked by readily visible signs in all cases where the exit or way to reach it is not immediately visible to the occupants.

(2) Any door, passage, or stairway which is neither an exit nor a way of exit access, and which is so located or arranged as to be likely to be mistaken for an exit, shall be identified by a sign reading "Not an Exit" or similar designation, or shall be identified by a sign indicating its actual character, such as "To Basement," "Storeroom," "Linen Closet," or the like.

(3) Every required sign designating an exit or way of exit access shall be so located and of such size, color, and design as to be readily visible. No decorations, furnishings, or equipment which impair visibility of an exit sign shall be permitted, nor shall there be any brightly illuminated sign (for other than exit purposes), display, or object in or near the line of vision to the required exit sign of such a character as to so detract attention from the exit sign that it may not be noticed.

(4) Every exit sign shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs.

(5) A sign reading "Exit", or similar designation, with an arrow indicating the direction, shall be placed in every location where the direction of travel to reach the nearest exit is not immediately apparent.

(6) Every exit sign shall be suitably illuminated by a reliable light source giving a value of not less than 5-foot candles on the illuminated surface. Artificial lights giving illumination to exit signs other than the internally illuminated types shall have screens, discs, or lenses of not less than 25 square inches area made of translucent material to show red or other specified designating color on the side of the approach.

(7) Each internally illuminated exit sign shall be provided in all occupancies where reduction of normal illumination is permitted.

(8) Every exit sign shall have the word "Exit" in plainly legible letters not less than 6 inches high, with the principal strokes of letters not less than three-fourths-inch wide.

§ 1910.38 Specific means of egress requirements by occupancy. [Reserved]

§ 1910.39 Sources of standards.

The entire subpart is promulgated from NFPA 101–1970, Life Safety Code.

§ 1910.40 Standards organizations.

Specific standards of the following organization have been referenced in this subpart. Copies of the standards may be obtained from the issuing organization:

National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

§ 1910.66 Power platforms for exterior building maintenance.

(a) *Definitions applicable to this section.*—(1) *Angulated roping.* A system of platform suspension in which the upper wire rope sheaves or suspension points are closer to the plane of the building face than the corresponding attachment points on the platform, thus causing the platform to press against the face of the building during its vertical travel.

(2) *ANSI.* American National Standards Institute.

(3) *Babbitted fastenings.* The method of providing wire rope attachments in which the ends of the wire strands are bent back and are held in a tapered socket by means of poured molten babbitt metal.

(4) *Brake—disc type.* A brake in which the holding effect is obtained by frictional resistance between one or more faces of discs keyed to the rotating member to be held and fixed discs keyed to the stationary or housing member (pressure between the discs being applied axially).

(5) *Brake—self-energizing band type.* An essentially unidirectional brake in which the holding effect is obtained by the snubbing action of a flexible band wrapped about a cylindrical wheel or drum affixed to the rotating member to be held, the connections and linkages being so arranged that the motion of the brake wheel or drum will act to increase the tension or holding force of the band.

(6) *Brake—shoe type.* A brake in which the holding effect is obtained by applying the direct pressure of two or more segmental friction elements held to a stationary member against a cylindrical wheel or drum affixed to the rotating member to be held.

(7) *Building face rollers.* A specialized form of guide roller designed to contact a portion of the outer face or wall structure of the building, and to assist in stabilizing the operators' platform during vertical travel.

(8) *Continuous pressure.* Operation by means of buttons or switches, any one of which may be used to control the movement of the working platform or roof car, only as long as the button or switch is manually maintained in the actuating position.

(9) *Control.* A system governing starting, stopping, direction, acceleration, speed, and retardation of moving members.

(10) *Controller.* A device or group of devices, usually contained in a single enclosure, which serves to control in some predetermined manner the apparatus to which it is connected.

(11) *Electrical ground.* A conducting connection between an electrical circuit or equipment and the earth, or some conducting body which serves in place of the earth.

(12) *Guide roller.* A rotating, bearing-mounted, generally cylindrical member, operating separately or as part of a guide shoe assembly, attached to the platform, and providing rolling contact with building guideways, or other building contact members.

(13) *Guide shoe.* An assembly of rollers, slide members, or the equivalent, attached as a unit to the operators' platform, and designed to engage with the building members provided for the vertical guidance of the operators' platform.

(14) *Interlock.* A device actuated by the operation of some other device with which it is directly associated, to govern succeeding operations of the same or allied devices.

(15) *Operating* device. A pushbutton, lever, or other manual device used to actuate a control.

(16) *Powered platform.* Equipment to provide access to the exterior of a building for maintenance, consisting of a suspended power-operated working platform, a roof car, or other suspension means, and the requisite operating and control devices.

(17) *Rated load.* The combined weight of employees, tools, equipment, and other material which the working platform is designed and installed to lift.

(18) *Relay, direction.* An electrically energized contactor responsive to an initiating control circuit, which in turn causes a moving member to travel in a particular direction.

(19) *Relay, potential for vertical travel.* An electrically energized contactor responsive to initiating control circuit, which in turn controls the operation of a moving member in both directions. This relay usually operates in conjunction with direction relays, as covered under the definition, "relay, direction."

(20) *Roof car.* A structure for the suspension of a working platform, providing for its horizontal movement to working positions.

(21) *Roof-powered platform.* A powered platform having the raising and lowering mechanism located on a roof car.

(22) *Self-powered platform.* A powered platform having the raising and lowering mechanism located on the working platform.

(23) *Traveling cable.* A cable made up of electrical or communication conductors or both, and providing electrical connection between the working platform and the roof car or other fixed point.

(24) *Weatherproof.* Equipment so constructed or protected that exposure to the weather will not interfere with its proper operation.

(25) *Working platform.* The suspended structure arranged for vertical travel which provides access to the exterior of the building or structure.

(26) *Yield point.* The stress at which the material exhibits a permanent set of 0.2 percent.

(27) *Zinced fastenings.* The method of providing wire rope attachments in which the splayed or fanned wire ends are held in a tapered socket by means of poured molten zinc.

(b) *General requirements*—(1) *Application.* (i) This section establishes safety requirements for the design, construction, installation, operation, maintenance, inspection, and use of power-operated platforms for exterior building maintenance. The requirements of this section do not apply to temporary equipment used for construction work; or to devices which are raised and lowered manually.

(ii) The purpose of this standard is to provide for the safety of life and limb of users of exterior powered platforms, as well as of others who may be exposed. The equipment described in this section is intended for use by one or more workmen who are engaged in exterior work, such as window cleaning, caulking, metal-polishing, and general exterior building maintenance or repairs.

(2) *Existing and new equipment.* This section applies to all powered platforms installed subsequent to the effective date of these regulations with the exception of powered platforms installed for emergency purposes.

(3) *Design requirements.* All new powered platforms for exterior building maintenance purchased and used after the effective date of these regulations shall meet all of the design, construction, installation, and maintenance requirements of Part II and III of the "American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance ANSI A120.1–1970" and of this section. Reference shall be made to appropriate parts of ANSI A120.1–1970 for detail specifications for equipment and special installations.

(4) *Limitation.* The requirements of this section apply only to electric powered platforms. It is not the intent of this section to prohibit the use of other types of power. Installation of powered platforms using other types of power is permitted, provided such platforms have adequate protective devices for the type of power used, and otherwise provide for reasonable safety of life and limb to users of equipment and to others who may be exposed.

(5) *Types of powered platforms.* (i) For the purpose of applying this standard, powered platforms are divided into two basic types, Type F and Type T.

(ii) Powered platforms designated as Type F shall meet all the requirements in Part II of ANSI A120.1—1970, American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance. A basic requirement of Type F equipment is that the work platform is suspended by at least four wire ropes and designed so that failure of any one wire rope will not substantially alter the normal position of the working platform. Another basic requirement of Type F equipment is that only one layer of hoisting rope is permitted on winding drums. Type F powered platforms may be either roof-powered or self-powered.

(iii) Powered platforms designated as Type T shall meet all the requirements in Part III of ANSI A120.1—1970 American National Standard Safety Requirement for Powered Platforms for Exterior Building Maintenance. A basic requirement of Type T equipment is that the working platform is suspended by at least two wire ropes. Failure of one wire rope would not permit the working platform to fall to the ground, but would upset its normal position. The employer shall require employees working on Type T equipment to wear safety belts, which are attached by lifelines to either the working platform or the building structure. Type T powered platforms may be either roof-powered or self-powered.

(iv) The requirements of this section apply to powered platforms with winding drum type hoisting machines. It is not the intent of this section to prohibit powered platforms using other types of hoisting machines such as, but not limited to, traction drum hoisting machines, air powered machines, hydraulic powered machines, and internal combustion machines. Installation of powered platforms with other types of hoisting machines is permitted, provided adequate protective devices are used, and provided reasonable safety of life and limb to users of the equipment and to others who may be exposed is assured.

(c) *Type F powered platforms*—(1) *Roof car, general.* (i) A roof car shall be provided whenever it is necessary to move the working platform horizontally to working or storage positions.

(ii) The maximum rated speed at which a power traversed roof car may be moved in a horizontal direction shall be 50 feet per minute.

(2) *Movement and positioning of roof car.* (i) Provision shall be made to protect against having the roof car leave the roof or enter roof areas not designed for travel.

(ii) The horizontal motion of the roof cars shall be positively controlled so as to insure proper movement and positioning of the roof car.

(iii) Roof car positioning devices shall be provided to insure that the working platform is placed and retained in proper position for vertical travel and during storage.

(iv) Mechanical stops shall be provided to prevent the traversing of the roof car beyond its normal limits of travel. Such stops shall be capable of withstanding a force equal to 100 percent of the inertial effect of the roof car in motion with traversing power applied.

(v) (*a*) The operating device of a power-operated roof car for traversing shall be located on the roof car, the working platform, or both, and shall be of the continuous pressure weatherproof electric type. If more than one operating device is provided, they shall be so arranged that traversing is possible only from one operating device at a time.

(*b*) The operating device shall be so connected that it is not operable until:

(*1*) The working platform is located at its uppermost position of travel and is not in contact with the building face or fixed vertical guides in the face of the building; and

(*2*) All protective devices and interlocks are in a position for traversing.

(3) *Roof car stability.* Roof car stability shall be determined by either subdivision (i) or (ii) of this subparagraph, whichever is greater.

(i) The roof car shall be continuously stable, considering overturning moment as determined by 125 percent rated load, plus maximum dead load and the prescribed wind loading.

(ii) The roof car and its anchorages shall be capable of resisting accidental over-tensioning of the wire ropes suspending the working platform and this calculated value shall include the effect of one and one-half times the value. For this calculation, the simultaneous effect of one-half wind load shall be included, and the design stresses shall not exceed those referred to in paragraph (b)(3) of this section.

(iii) If the load on the motors is at any time in excess of three times that required for lifting the working platform with its rated load, the motor shall stall.

(4) *Access to the roof car.* Safe access to the roof car and from the roof car to the working platform shall be provided. If the access to the roof car at any point of its travel is not over the roof area or where otherwise necessary for safety, self-closing, self-locking gates shall be

provided. Applicable provisions of the American National Standard Safety Requirements for Floor and Wall Openings, Railings and Toeboard, A12.1–1967, shall apply.

(5) *Means for maintenance, repair, and storage.* Means shall be provided to run the roof car away from the roof perimeter, where necessary, and to provide a safe area for maintenance, repairs, and storage. Provisions shall be made to secure the machine in the stored position. For stored machines subject to wind forces, see special design and anchorage requirements for "wind forces" in Part II, section 10.5.1.1 of ANSI A120.1—1970, American National Standards Safety Requirements for Powered Platforms for Exterior Building Maintenance.

(6) *General requirements for working platforms.* The working platform shall be of girder or truss construction and shall be adequate to support its rated load under any position of loading, and comply with the provisions set forth in section 10 of ANSI A120.1—1970, American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance.

(7) *Load rating plate.* Each working platform shall bear a manufacturer's load rating plate, conspicuously posted; stating the maximum permissible rated load. Load rating plates shall be made of noncorrosive material and shall have letters and figures stamped, etched, or cast on the surface. The minimum height of the letters and figures shall be one-fourth inch.

(8) *Minimum size.* The working platform shall have a minimum net width of 24 inches.

(9) *Guard rails.* Working platforms shall be furnished with permanent guard rails not less than 36 inches high, and not more than 42 inches high at the front (building side). At the rear, and on the sides, the rail shall not be less than 42 inches high. An intermediate guardrail shall be provided around the entire platform between the top guardrail and the toeboard.

(10) *Toeboards.* A 4-inch toeboard shall be provided along all sides of the working platform.

(11) *Open spaces between guardrails and toeboards.* The spaces between the intermediate guardrail and platform toeboard on the building side of the working platform, and between the top guardrail and the toeboard on other sides of the platform, shall be filled with metallic mesh or similar material that will reject a ball 1 inch in diameter. The installed mesh shall be capable of withstanding a load of 100 pounds applied horizontally over any area of 144 square inches. If the space between the platform and the building face does not exceed 8 inches, and the platform is restrained by guides, the mesh may be omitted on the front side.

(12) *Flooring.* The platform flooring shall be of the nonskid type, and if of open construction, shall reject a $\frac{9}{16}$-inch diameter ball, or be provided with a screen below the floor to reject a $\frac{9}{16}$-inch diameter ball.

(13) *Access gates.* Where access gates are provided, they shall be self-closing and self-locking.

(14) *Operating device for vertical movement of the working platform.* (i) The normal operating device for the working platform shall be located on the working platform and shall be of the continuous pressure weatherproof electric type.

(ii) The operating device shall be operable only when all electrical protective devices and interlocks on the working platform are in position for normal service, and the roof car, if provided, is at an established operating point.

(15) *Emergency electric operative device.* (i) In addition, on roof-powered platforms, an emergency electric operating device shall be provided near the hoisting machine for use in the event of failure of the normal operating device for the working platform, or failure of the traveling cable system. The emergency operating device shall be mounted in a locked compartment and shall have a legend mounted thereon reading: "For Emergency Operation Only. Establish Communication With Personnel on Working Platform Before Use."

(ii) A key for unlocking the compartment housing the emergency operating device shall be mounted in a break-glass receptacle located near the emergency operating device.

(16) *Manual cranking for emergency operation.* Emergency operation of the main drive machine may be provided to allow manual cranking. This provision for manual operation shall be designed so that not more than two persons will be required to perform this operation. The access to this provision shall include a means to automatically make the machine inoperative electrically while under the emergency manual operation. The design shall be such that the emergency brake is operative at or below governor tripping speed during manual operation.

(17) *Arrangement and guarding of hoisting equipment.* (i) Hoisting equipment shall consist of a power-driven drum or drum contained in the roof car (roof-powered platforms) or contained on the working platform (self-powered platform).

(ii) The hoisting equipment shall be power-operated in both up and down directions.

(iii) Guard or other protective devices shall be installed wherever rotating shafts or other mechanisms or gears may expose personnel to a hazard.

(iv) Friction devices or clutches shall not be used for connecting the main driving mechanism to the drum or drums. Belt- or chain-driven machines are prohibited.

(18) *Hoisting motors.* (i) Hoisting motors shall be electric and of weatherproof construction.

(ii) Hoisting motors shall be in conformance with applicable provisions of subparagraph (22) of this paragraph, Electrical wiring and equipment.

(iii) Hoisting motors shall be directly connected to the hoisting machinery. Motor couplings, if used, shall be of steel construction.

(19) *Brakes.* The hoisting machine(s) shall have two independent braking means, each designed to stop and hold the working platform with 125 percent of rated load.

(20) *Hoisting ropes and rope connections.* (i) Working platforms shall be suspended by wire ropes of either 6 x 19 or 6 x 37 classification, preformed or nonpreformed.

(ii) The minimum grade of the wire rope shall be improved plow steel. Ropes shall be fabricated of drawn galvanized or bright wire. Drawn galvanized wire rope shall be fabricated of individual wires on which the zinc coating has been applied at an intermediate size, and the wire then drawn to finished size and to the same tolerances and with the same mechanical properties as for uncoated wire of equal grade.

(iii) The minimum factor of safety shall be ten, and shall be calculated by the following formula:

$$F = \frac{S \times N}{W}$$

where

S=Manufacturer's rated breaking strength of one rope.
N=Number of ropes under load.
W=Maximum static load on all ropes with the platform and its rated load at any point of its travel.

(iv) Hoisting ropes shall be sized to conform with the required factor of safety, but in no case shall the size be less than five-sixteenths-inch diameter.

(v) Winding drums shall have at least three turns of rope remaining when the platform has landed at the lowest possible point of its travel.

(vi) The lengthening or repairing of wire rope by the joining of two or more lengths is prohibited.

(vii) The nondrum ends of the hoisting ropes shall be provided with individual shackle rods which will permit individual adjustment of rope lengths, if required.

(viii) Reverse bends in rope arrangement should be avoided. More than two reverse bends in each rope is prohibited.

(21) *Rope tag data.* (i) A metal data tag shall be securely attached to one of the wire rope fastenings. This data tag shall bear the following wire rope data:

(*a*) The diameter in inches.
(*b*) Construction classification.
(*c*) Whether nonpreformed or preformed.
(*d*) The grade of material used.
(*e*) The manufacturer's rated breaking strength.
(*f*) Name of the manufacturer of the rope.
(*g*) The month and year the ropes were installed.
(*h*) Name of the person or firm who installed ropes.

(ii) Noncorrosive metal data tags shall be used. The minimum height of the letters, stamped or etched, shall be one-sixteenth inch.

(iii) A new tag shall be installed at each rope renewal. When ropes are refastened, the original tag shall be retained and a supplemental tag showing the date of refastening and the name of the person or firm who refastened the ropes shall be provided.

(22) *Electrical wiring and equipment.* (i) All electrical equipment and wiring shall conform to the requirements of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), except as modified by ANSI A120.1–1970 "American National Standard Safety Requirements for Powered Platforms for Exterior Building Maintenance." For detail design specifications for electrical equipment, see Part 2, ANSI A120.1–1970.

(ii) All motors and operation and control equipment shall be supplied from a single power source.

(iii) The power supply for the powered platform shall be an independent circuit supplied through a fused disconnect switch.

(iv) Electrical conductor parts of the power supply system shall be protected against accidental contact.

(v) Electrical grounding shall be provided.

(*a*) Provision for electrical grounding shall be included with the power-supply system.

(*b*) Controller cabinets, motor frames, hoisting machines, the working platform, roof car and roof car track system, and noncurrent carrying parts of electrical equipment, where provided, shall be grounded.

(*c*) The controller, where used, shall be so designed and installed that a single ground or short circuit will not prevent both the normal and final stopping device from stopping the working platform.

(*d*) Means shall be provided on the roof car and working platform for grounding portable electric tools.

(*e*) The working platform shall be grounded through a grounding connection in a traveling cable. Electrically powered tools utilized on the working platform shall be grounded.

(vi) Electrical receptacles located on the roof or other exterior location shall be of a weatherproof type and shall be located so as not to be subject to contact with water or accumulated snow. The receptacles shall be grounded and the electric cable shall include a grounding conductor. The receptacle and plug shall be a type designed to avoid hazard to persons inserting or withdrawing the plug. Provision shall be made to prevent application of cable strain directly to the plug and receptacle.

(vii) Electric runway conductor systems shall be of the type designed for use in exterior locations and shall be located so as not to be subject to contact with water or accumulated snow. The conductors, collectors, and disconnecting means shall conform to the same requirements as those for cranes and hoists in Article 610 of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968). A grounded conductor shall parallel the power conductors and be so connected that it cannot be opened by the disconnecting means. The system shall be designed to avoid hazard to persons in the area.

(viii) Electrical protective devices and interlocks of the weatherproof type shall be provided.

(ix) Where the installation includes a roof car, electric contact(s) shall be provided and so connected that the operating devices for the working platform shall be operative only when the roof car is located and mechanically retained at an established operating point.

(x) Where the powered platform includes a power-operated roof car, the operating device for the roof car shall be inoperative when the roof car is mechanically retained at an established operating point.

(xi) An electric contact shall be provided and so connected that it will cause the down direction relay for vertical travel to open if the tension in the traveling cable exceeds safe limits.

(xii) An automatic overload device shall be provided to cut off the electrical power to the circuit in all hoisting motors for travel in the up direction, should the load applied to the hoisting ropes at either end of the working platform exceed 125 percent of its normal tension with rated load, as shown on the manufacturer's data plate on the working platform.

(xiii) An automatic device shall be provided for each hoisting rope which will cut off the electrical power to the hoisting motor or motors in the down direction and apply the brakes if any hoisting rope becomes slack.

(xiv) Upper and lower directional limit devices shall be provided to prevent the travel of the working platform beyond the normal upper and lower limits of travel.

(xv) Operation of a directional limit device shall prevent further motion in the appropriate direction, if the normal limit of travel has been reached.

(xvi) Directional limit devices, if driven from the hoisting machine by chains, tapes, or cables, shall incorporate a device to disconnect the electric power from the hoisting machine and apply both the primary and secondary brakes in the event of failure of the driving means.

(xvii) Final terminal stopping devices of the working platform:

(*a*) Final terminal stopping devices for the working platform shall be provided as a secondary means of preventing the working platform from overtraveling at the terminals.

(*b*) The device shall be set to function as close to each terminal landing as practical, but in such a way that under normal operating conditions it will not function when the working platform is stopped by the normal terminal stopping device.

(*c*) Operation of the final terminal stopping device shall open the potential relay for vertical travel, thereby disconnecting the electric power from the hoisting machine, and applying both the primary and secondary brakes.

(*d*) The final terminal stopping device for the upper limit of travel shall be mounted so that it is operated directly by the motion of the working platform itself.

(xviii) Emergency stop switches shall be provided in or adjacent to each operating device.

(xix) Emergency stop switches shall:

(*a*) Have red operating buttons or handles.

(*b*) Be conspicuously and permanently marked "Stop".

(*c*) Be the manually opened and manually closed type.

(*d*) Be positively opened with the opening not solely dependent on springs.

(xx) The manual operation of an emergency stop switch associated with an operating device for the working platform shall open the potential relay for vertical travel, thereby disconnecting the electric power from the hoisting machine and applying both the primary and secondary brakes.

(xxi) The manual operation of the emergency stop switch associated with the operating device for a power-driven roof car shall cause the electrical power to the traverse machine to be interrupted, and the traverse machine brake to apply.

(23) *Requirements for emergency communications.* (i) Communication equipment shall be provided for each powered platform for use in an emergency.

(ii) Two-way communication shall be established between personnel on the roof and personnel on the stalled working platform before any emergency operation of the working platform is undertaken by personnel on the roof.

(iii) The equipment shall permit two-way voice communication between the working platform and

(*a*) Designated personnel continuously available while the powered platform is in use; and

(*b*) Designated personnel on roof-powered platforms, undertaking emergency operation of the working platform by means of the emergency operating device located near the hoisting machine.

(iv) The emergency communication equipment shall be one of the following types:

(*a*) Telephone connected to the central telephone exchange system; or

(*b*) Telephones on a limited system or an approved two-way radio system, provided designated personnel are available to receive a message during the time the powered platform is in use.

(d) *Type T powered platforms*—(1) *Roof car.* The requirements of paragraphs (c)(1) through (c)(5) of this section shall apply to Type T powered platforms.

(2) *Working platform.* The requirements of paragraphs (c)(6) through (c)(16) of this section apply to Type T powered platforms.

(i) The working platform shall be suspended by at least two wire ropes.

(ii) The maximum rated speed at which the working platform of self-powered platforms may be moved in a vertical direction shall not exceed 35 feet per minute.

(3) *Hoisting equipment.* The requirements of paragraphs (c) (17) and (18) of this section shall apply to Type T powered platforms.

(4) *Brakes.* Brakes requirements of paragraph (c) (19) of this section shall apply.

(5) *Hoisting ropes and rope connections.* (i) Paragraph (c) (20) (i) through (vi) and (viii) of this section shall apply to type T powered platforms.

(ii) Adjustable shackle rods in subparagraph (c) (20) (vii) of this section shall apply to type T powered platforms if the working platform is suspended by more than two wire ropes.

(6) *Electrical wiring and equipment.* (i) The requirements of paragraph (c) (22) (i) through (vi) of this section shall apply to type T powered platforms. "Circuit protection limitation," "powered platform electrical service system," all operating services and control equipment shall comply with the specifications contained in Part 2, section 26, of ANSI A120.1–1970.

(ii) For electrical protective devices the requirements of paragraph (c) (22) (i) through (viii) of this section shall apply to type T powered platforms. Requirements for the "circuit potential limitation" shall be in accordance with the specifications contained in Part 2, section 26, of ANSI A120.1–1970.

(7) *Emergency communications.* All the requirements of paragraph (c) (23) of this section shall apply to type T powered platforms.

(8) *Safety belts and lifelines.* (i) Each employee on the working platform of type T powered platforms shall be provided with a safety belt with means for attachment to a lifeline on the roof or to the working platform. It is recommended that safety belts, lines and other components, including fastening means and anchorages to the working platform, building, or structure, be capable of withstanding a static load of 4,000 pounds without damage or permanent deformation of any part.

(ii) Fastening devices should be of the self-closing type, equipped with a locking device to prevent accidental opening of the fastening device.

(iii) Harness-type belts are recommended. If body-type belts are used, it is recommended that the portion of the belt bearing on the front of the wearer's body have a minimum width of 3 inches.

(iv) It is recommended that the line used to connect the belt to the platform, or to a lifeline attached to the building, have a maximum length of 5 feet.

(e) *Inspections and tests*—(1) *Inspections and tests of new installations and alterations.* All powered platform installations shall, on their completion, and before being placed in service, be subjected to an acceptance test in the field to determine that all parts of the installation conform to applicable requirements of this standard, and that all safety and operating equipment functions as required. A similar inspection and test shall be made following a major alteration to an existing installation.

(2) *Periodic inspections and tests.* Each installation shall undergo a periodic inspection and test at least every 12 months. All parts of the equipment shall be inspected, and where necessary, tested to determine that they are in safe operating condition.

(3) *Maintenance inspections and tests.* Each installation shall undergo a maintenance inspection and test every 30 days, except where the cleaning cycle is less than 30 days such inspection and test shall be made prior to each cleaning cycle. The results of these inspections and tests shall be recorded in a log which is available for review by the Assistant Secretary of Labor or his designated representative. Each log entry shall include the date of the inspection or test and shall be signed by the person making the inspection or test.

(4) *Special inspection of governors and secondary brakes.* (i) Special inspections and tests of the governor and secondary braking system shall be made at intervals not exceeding 1 year.

(ii) The inspection and test shall include a verification that the initiating device for the secondary breaking operates at the proper overspeed.

(iii) If adequate tests cannot be performed in the field, the initiating device may be removed from the powered platform and sent to a shop equipped to make such a test.

(iv) The inspection shall include a verification of the proper functioning of the secondary brake. If an adequate test cannot be performed in the field, the hoisting machine may be removed from the building and sent to a shop equipped to make such a test.

(v) If any hoisting machine or initiating device for the secondary brake system is removed from the building for testing, all reinstalled and directly related components shall be reinspected prior to returning the powered platform installation to service.

(5) *Adverse weather.* The operation of powered platforms during severe adverse weather conditions is prohibited.

(6) *Maintenance.* (i) Required maintenance. All parts of equipment on which safe operation depends shall be maintained in proper working order so that they perform the function for which they are intended.

(ii) Broken or worn parts, worn switch contacts, brushes, and short flexible conductors of electrical devices, which may interfere with safe operation, shall be replaced promptly. Electrical receptacles and plugs shall be replaced promptly when worn or damaged. All electrical connections shall be kept tight.

(iii) Components of the electrical service system and traveling cables shall be replaced when damaged or substantially abraded.

(iv) Gears, shafts, bearings, brakes, and hoisting drums shall be maintained in proper alinement. Gears shall be replaced promptly when there is evidence of appreciable wear.

(7) *Cleaning.* (i) Controller contactors and relays shall be kept clean and free from dirt.

(ii) All other parts shall be kept clean, if their proper functioning would be affected by the presence of dirt or other contaminants.

(8) *Periodic reshackling of hoisting ropes.* The hoisting ropes shall be reshackled at the nondrum ends at intervals not exceeding 24 months. In reshackling the ropes, a sufficient length shall be cut from the end of the rope to remove damaged or fatigued portions.

(9) *Making safety devices inoperative.* No person shall at any time make any required safety device or electrical protective device inoperative, except when necessary during tests, inspections, and maintenance. Immediately upon completion of such test, inspections, and maintenance, the devices shall be restored to their normal operating condition.

(10) *Damaged rope.* Wire ropes shall be replaced whenever there are six or more broken wires in any one lay of the wire rope, or whenever the ropes are damaged or in a deteriorated condition.

(11) *Roof track system.* Roof track systems, tiedowns, or similar equipment, if provided, shall be maintained in proper working order so that they perform the function for which they are intended.

(12) *Building face guiding members.* T-rails, indented mullions, or equivalent guides located in the face of the building, if provided, shall be maintained in proper working order so that they perform the function for which they are intended. Brackets for cable stabilizers, if provided, shall similarly be maintained in proper working order.

§ 1910.67 Vehicle-mounted elevating and rotating work platforms.

(a) *Definitions applicable to this section*—(1) *Aerial device.* Any vehicle-mounted device, telescoping or articulating, or both, which is used to position personnel.

(2) *Aerial ladder.* An aerial device consisting of a single- or multiple-section extensible ladder.

(3) *Articulating boom platform.* An aerial device with two or more hinged boom sections.

(4) *Extensible boom platform.* An aerial device (except ladders) with a telescopic or extensible boom. Telescopic derricks with personnel platform attachments shall be considered to be extensible boom platforms when used with a personnel platform.

(5) *Insulated aerial device.* An aerial device designed for work on energized lines and apparatus.

(6) *Mobile unit.* A combination of an aerial device, its vehicle, and related equipment.

(7) *Platform.* Any personnel-carrying device (basket or bucket) which is a component of an aerial device.

(8) *Vehicle.* Any carrier that is not manually propelled.

(9) *Vertical tower.* An aerial device designed to elevate a platform in a substantially vertical axis.

(b) *General requirements*—(1) *Application.* (i) This section relates to the following types of vehicle-mounted aerial devices used to elevate personnel to job sites above ground:

(*a*) Extensible boom platforms.

(*b*) Aerial ladders.

(c) Articulating boom platforms.

(*d*) Vertical towers.

(*e*) A combination of any of the above.

These devices are made of metal, wood, fiberglass reinforced plastic (FRP), or other material and are powered or manually operated, whether or not they are capable of rotating about a substantially vertical axis.

(ii) The requirements of this section do not include any matter relating to firefighting equipment or any matter relating to the vehicles upon which aerial devices are mounted, except in respect to a vehicle being a stable support for the aerial device.

(2) *Design requirements.* All new vehicle-mounted elevating and rotating work platforms after the effective date of these regulations shall meet the design, construction, and test specifications of the "American National Standard for Vehicle-Mounted Elevating and Rotating Work Platforms ANSI A92.2–1969."

§ 1910.68 Manlifts.

(a) *Definitions applicable to this section*—(1) *Handhold (Handgrip).* A handhold is a device attached to the belt which can be grasped by the passenger to provide a means of maintaining balance.

(2) *Open type.* One which has a handgrip surface fully exposed and capable of being encircled by the passenger's fingers.

(3) *Closed type.* A cup-shaped device, open at the top in the direction of travel of the step for which it is to be used, and closed at the bottom, into which the passenger may place his fingers.

(4) *Limit switch.* A device, the purpose of which is to cut off the power to the motor and apply the brake to stop the carrier in the event that a loaded step passes the terminal landing.

(5) *Manlift.* A device consisting of a power-driven endless belt moving in one direction only, and provided with steps or platforms and handholds attached to it for the transportation of personnel from floor to floor.

(6) *Rated speed.* Rated speed is the speed for which the device is designed and installed.

(7) *Split-rail switch.* An electric limit switch operated mechanically by the rollers on the manlift steps. It consists of an additional hinged or "split" rail, mounted on the regular guiderail, over which the step rollers pass. It is spring-loaded in the "split" position. If the step supports no load, the rollers will "bump" over the switch; if a loaded step should pass over the section, the split rail will be forced straight, tripping the switch and opening the electrical circuit.

(8) *Step (platform).* A step is a passenger carrying unit.

(9) *Travel.* The travel is the distance between the centers of the top and bottom pulleys.

(b) *General requirements*—(1) *Application.* This section applies to the construction, maintenance, inspection, and operation of manlifts in relation to accident hazards. Manlifts covered by this section consist of platforms or brackets and accompanying handholds mounted on, or attached to an endless belt, operating vertically in one direction only and being supported by, and driven through pulleys, at the top and bottom. These manlifts are intended for conveyance of persons only. It is not intended that this section cover moving stairways, elevators with enclosed platforms ("Paternoster" elevators), gravity lifts, nor conveyors used only for conveying material. This section applies to manlifts used to carry only personnel trained and authorized by the employer in their use.

(2) *Purpose.* The purpose of this section is to provide reasonable safety for life and limb.

(3) *Design requirements.* All new manlift installations and equipment installed after the effective date of these regulations shall meet the design requirements of the "American National Safety Standard for Manlifts ANSI A90.1–1969", and the requirements of this section.

(4) Reference to other codes and subparts. The following codes, and subparts of this part, are applicable to this section. Safety Code for Mechanical Power Transmission Apparatus ANSI B15.1–1953 (R 1958) and Subpart O; National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968) and Subpart S; Safety Code for Fixed Ladders, ANSI A14.3–1956 and Safety Requirements for Floor and Wall Openings, Railings and Toeboards, ANSI A12.1–1967 and Subpart D.

(5) *Floor openings*—(i) *Allowable size.* Floor openings for both the "up" and "down" runs shall be not less than 28 inches nor more than 36 inches in width for a 12-inch belt; not less than 34 inches nor more than 38 inches for a 14-inch belt; and not less than 36 inches nor more than 40 inches for a 16-inch belt and shall extend not less than 24 inches, nor more than 28 inches from the face of the belt.

(ii) *Uniformity.* All floor openings for a given manlift shall be uniform in size and shall be approximately circular, and each shall be located vertically above the opening below it.

(6) *Landing*—(i) *Vertical clearance.* The clearance between the floor or mounting platform and the lower edge for the conical guard above it required by subparagraph (7) of this paragraph shall not be less than 7 feet 6 inches. Where this clearance cannot be obtained no access to the manlift shall be provided and the manlift runway shall be enclosed where it passes through such floor.

(ii) *Clear landing space.* The landing space adjacent to the floor openings shall be free from obstruction and kept clear at all times. This landing space shall be at least 2 feet in width from the edge of the floor opening used for mounting and dismounting.

(iii) *Lighting and landing.* Adequate lighting, not less than 5-foot candles, shall be provided at each floor landing at all times when the lift is in operation.

(iv) *Landing surface.* The landing surfaces at the entrances and exits to the manlift shall be constructed and maintained as to provide safe footing at all times.

(v) *Emergency landings.* Where there is a travel of 50 feet or more between floor landings, one or more emergency landings shall be provided so that there will be a landing (either floor or emergency) for every 25 feet or less of manlift travel.

(*a*) Emergency landings shall be accessible from both the "up" and "down" rungs of the manlift and shall give access to the ladder required in subparagraph (12) of this paragraph.

(*b*) Emergency landings shall be completely enclosed with a standard railing and toeboard.

(c) Platforms constructed to give access to bucket elevators or other equipment for the purpose of inspection, lubrication, and repair may also serve as emergency landings under this rule. All such platforms will then be considered part of the emergency landing and shall be provided with standard railings and toeboards.

(7) *Guards on underside of floor openings*—(i) *Fixed type.* On the ascending side of the manlift floor openings shall be provided with a bevel guard or cone meeting the following requirements:

(*a*) The cone shall make an angle of not less than 45° with the horizontal. An angle of 60° or greater shall be used where ceiling heights permit.

(*b*) The lower edge of this guard shall extend at least 42 inches outward from any handhold on the belt. It shall not extend beyond the upper surface of the floor above.

(c) The cone shall be made of not less than No. 18 U.S. gauge sheet steel or material of equivalent strength or stiffness. The lower edge shall be rolled to a minimum diameter of one-half inch and the interior shall be smooth with no rivets, bolts or screws protruding.

(ii) *Floating type.* In lieu of the fixed guards specified in subdivision (i) of this subparagraph a floating type safety cone may be used, such floating cones to be mounted on hinges at least 6 inches below the underside of the floor and so constructed as to actuate a limit switch should a force of 2 pounds be applied on the edge of the cone closest to the hinge. The depth of this floating cone need not exceed 12 inches.

(8) *Protection of entrances and exits*—(i) *Guardrail requirement.* The entrances and exits at all floor landings affording access to the manlift shall be guarded by a maze (staggered railing) or a handrail equipped with self-closing gates.

(ii) *Construction.* The rails shall be standard guardrails with toeboards meeting the provisions of the Safety Requirements for Floor and Wall Openings, Railings and Toeboards, ANSI A12.1–1967 and section 1910.23.

(iii) *Gates.* Gates, if used, shall open outward and shall be self-closing. Corners of gates shall be rounded.

(iv) *Maze.* Maze or staggered openings shall offer no direct passage between enclosure and outer floor space.

(v) Except where building layout prevents, entrances at all landings shall be in the same relative position.

(vi) If located in buildings to which the public has access, such manlift or manlifts shall be located in an enclosure protected by self-closing spring-locked doors. Keys to such doors shall be limited to authorized personnel.

(9) *Guards for openings*—(i) *Construction.* The floor opening at each landing shall be guarded on sides not used for entrance or exit by a wall, a railing and toeboard or by panels of wire mesh of suitable strength.

(ii) *Height and location.* Such rails or guards shall be at least 42 inches in height on the up-running side and 66 inches on the down-running side.

(10) *Bottom arrangement*—(i) *Bottom landing.* At the bottom landing the clear area shall be not smaller than the area enclosed by the guardrails on the floors above, and any wall in front of the down-running side of the belt shall be not less than 48 inches from the face of the belt. This space shall not be encroached upon by stairs or ladders.

(ii) *Location of lower pulley.* The lower (boot) pulley shall be installed so that it is supported by the lowest landing served. The sides of the pulley support shall be guarded to prevent contact with the pulley or the steps.

(iii) *Mounting platform.* A mounting platform shall be provided in front or to one side of the uprun at the lowest landing, unless the floor level is such that the following requirement can be met: The floor or platform shall be at or above the point at which the upper surface of the ascending step completes its turn and assumes a horizontal position.

(iv) *Guardrails.* To guard against persons walking under a descending step, the area on the downside of the manlift shall be guarded in accordance with subparagraph (8) of this paragraph. To guard against a person getting between the mounting platform and an ascending step, the area between the belt and the platform shall be protected by a guardrail.

(11) *Top arrangements*—(i) *Clearance from floor.* A top clearance shall be provided of at least 11 feet above the top terminal landing. This clearance shall be maintained from a plane through each face of the belt to a vertical cylindrical plane having a diameter 2 feet greater than the diameter of the floor opening, extending upward from the top floor to the ceiling on the up-running side of the belt. No encroachment of structural or machine supporting members within this space will be permitted.

(ii) *Pulley clearance.* (*a*) There shall be a clearance of at least 5 feet between the center of the head pulley shaft and any ceiling obstruction.

(*b*) The center of the head pulley shaft shall be not less than 6 feet above the top terminal landing.

(iii) *Emergency grab rail.* An emergency grab bar or rail and platform shall be provided at the head pulley when the distance to the head pulley is over 6 feet above the top landing, otherwise only a grab bar or rail is to be provided to permit the rider to swing free should the emergency stops become inoperative.

(12) *Emergency exit ladder.* A fixed metal ladder accessible from both the "up" and "down" run of the manlift shall be provided for the entire travel of the manlift. Such ladder shall be in accordance with the existing ANSI A14.3–1956. Safety Code for Fixed Ladders and section 1910.27.

(13) *Superstructure bracing.* Manlift rails shall be secured in such a manner as to avoid spreading, vibration, and misalinement.

(14) *Illumination*—(i) *General.* Both runs of the manlift shall be illuminated at all times when the lift is in operation. An intensity of not less than 1-foot candle shall be maintained at all points. (However, see subparagraph (8) (iii) of this paragraph for illumination requirements at landings.)

(ii) *Control of illumination.* Lighting of manlift runways shall be by means of circuits permanently tied in to the building circuits (no switches), or shall be controlled by switches at each landing. Where separate switches are provided at each landing, any switch shall turn on all lights necessary to illuminate the entire runway.

(15) *Weather protection.* The entire manlift and its driving mechanism shall be protected from the weather at all times.

(c) *Mechanical requirements*—(1) *Machines, general.* (i) *Brake.* A mechanically applied, electrically released brake shall be applied to the motor shaft for direct-connected units or to the input shaft for belt-driven units. The brake shall be capable of stopping and holding the manlift when the descending side is loaded with 250 pounds on each step.

(ii) *Belt.* (*a*) The belts shall be of hard-woven canvas, rubber-coated canvas, leather, or other material meeting the strength requirements of paragraph (b) (3) of this section and having a coefficient of friction such that when used in conjunction with an adequate tension device it will meet the brake test specified in subdivision (i) of this subparagraph.

(*b*) The width of the belt shall be not less than 12 inches for a travel not exceeding 100 feet, not less than 14 inches for a travel greater than 100 feet but not exceeding 150 feet and 16 inches for a travel exceeding 150 feet.

(*c*) A belt that has become torn while in use on a manlift shall not be spliced and put back in service.

(2) *Speed*—(i) *Maximum speed.* No manlift designed for a speed in excess of 80 feet per minute shall be installed.

(3) *Platforms or steps*—(i) *Minimum depth.* Steps or platforms shall be not less than 12 inches nor more than 14 inches deep, measured from the belt to the edge of the step or platform.

(ii) *Width.* The width of the step or platform shall be not less than the width of the belt to which it is attached.

(iii) *Distance between steps.* The distance between steps shall be equally spaced and not less than 16 feet measured from the upper surface of one step to the upper surface of the next step above it.

(iv) *Angle of step.* The surface of the step shall make approximately a right angle with the "up" and "down" run of the belt, and shall travel in the approximate horizontal position with the "up" and "down" run of the belt.

(v) *Surfaces.* The upper or working surfaces of the step shall be of a material having inherent nonslip characteristics (coefficient of friction not less than 0.5) or shall be covered completely by a nonslip tread securely fastened to it.

(vi) *Strength of step supports.* When subjected to a load of 400 pounds applied at the approximate center of the step, step frames, or supports and their guides shall be of adequate strength to:

(*a*) Prevent the disengagement of any step roller.

(*b*) Prevent any appreciable misalinement.

(*c*) Prevent any visible deformation of the steps or its support.

(vii) *Prohibition of steps without handholds.* No steps shall be provided unless there is a corresponding handhold above or below it meeting the requirements of subparagraph (4) of this paragraph. If a step is removed for repairs or permanently, the handholds immediately above and below it shall be removed before the lift is again placed in service.

(4) *Handholds*—(i) *Location.* Handholds attached to the belt shall be provided and installed so that they are not less than 4 feet nor more than 4 feet 8 inches above the step tread. These shall be so located as to be available on the both "up" and "down" run of the belt.

(ii) *Size.* The grab surface of the handhold shall be not less than 4½ inches in width, not less than 3 inches in depth, and shall provide 2 inches of clearance from the belt. Fastenings for handholds shall be located not less than 1 inch from the edge of the belt.

(iii) *Strength.* The handhold shall be capable of withstanding, without damage, a load of 300 pounds applied parallel to the run of the belt.

(iv) *Prohibition of handhold without steps.* No handhold shall be provided without a corresponding step. If a handhold is removed permanently or temporarily, the corresponding step and handhold for the opposite direction of travel shall also be removed before the lift is again placed in service.

(v) *Type.* All handholds shall be of the closed type.

(5) *Up limit stops*—(i) *Requirements.* Two separate automatic stop devices shall be provided to cut off the power and apply the brake when a loaded step passes the upper terminal landing. One of these shall consist of a split-rail switch mechanically operated by the step roller and located not more than 6 inches above the top terminal landing. The second automatic stop device may consist of any of the following:

(*a*) Any split-rail switch placed 6 inches above and on the side opposite the first limit switch.

(*b*) An electronic device.

(*c*) A switch actuated by a lever, rod, or plate, the latter to be placed on the "up" side of the head pulley so as to just clear a passing step.

(ii) *Manual reset location.* After the manlift has been stopped by a stop device it shall be necessary to reset the automatic stop manually. The device shall be so located that a person resetting it shall have a clear view of both the "up" and "down" runs of the manlift. It shall not be possible to reset the device from any step or platform.

(iii) *Cut-off point.* The initial limit stop device shall function so that the manlift will be stopped before the loaded step has reached a point 24 inches above the top terminal landing.

(iv) *Electrical requirements.* (*a*) Where such switches open the main motor circuit directly they shall be of the multipole type.

(*b*) Where electronic devices are used they shall be so designed and installed that failure will result in shutting off the power to the driving motor.

(*c*) Where flammable vapors or dusts may be present all electrical installations shall be in accordance with the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), requirements for such locations.

(*d*) Unless of the oil-immersed type controller contacts carrying the main motor current shall be copper to carbon or equal, except where the circuit is broken at two or more points simultaneously.

(6) *Emergency Stop*—(i) *General.* An emergency stop means shall be provided.

(ii) *Location.* This stop means shall be within easy reach of the ascending and descending runs of the belt.

(iii) *Operation.* This stop means shall be so connected with the control lever or operating mechanism that it will cut off the power and apply the brake when pulled in the direction of travel.

(iv) *Rope.* If rope is used, it shall be not less than three-eighths inch in diameter. Wire rope, unless marlin-covered, shall not be used.

(7) *Instruction and warning signs*—(i) *Instruction signs at landings or belts.* Signs of conspicuous and easily read style giving instructions for the use of the manlift shall be posted at each landing or stenciled on the belt.

(*a*) Such signs shall be of letters not less than 1 inch in height and of a color having high contrast with the surface on which it is stenciled or painted (white or yellow on black or black on white or gray).

(*b*) The instructions shall read approximately as follows:

Face the Belt.
Use the Handholds.
To Stop—Pull Rope.

(ii) *Top floor warning sign and light.* (*a*) At the top floor an illuminated sign shall be displayed bearing the following wording:

"TOP FLOOR—GET OFF"

Signs shall be in block letters not less than 2 inches in height. This sign shall be located within easy view of an ascending passenger and not more than 2 feet above the top terminal landing.

(*b*) In addition to the sign required by subdivision (*a*) of this subdivision, a red warning light of not less than 40-watt rating shall be provided immediately below the upper landing terminal and so located as to shine in the passenger's face.

(iii) *Visitor Warning.* A conspicuous sign having the following legend—AUTHORIZED PERSONNEL ONLY—shall be displayed at each landing. The sign shall be of block letters not less than 2 inches in height and shall be of a color offering high contrast with the background color.

(d) *Operating rules*—(1) *Proper use of manlifts.* No freight, packaged goods, pipe, lumber, or construction materials of any kind shall be handled on any manlift.

(e) *Periodic inspection*—(1) *Frequency.* All manlifts shall be inspected by a competent designated person at intervals of not more than 30 days. Limit switches shall be checked weekly. Manlifts found to be unsafe shall not be operated until properly repaired.

(2) *Items covered.* This periodic inspection shall cover but is not limited to the following items:

Steps.
Step Fastenings.
Rails.
Rail Supports and Fastenings.
Rollers and Slides.
Belt and Belt Tension.
Handholds and Fastenings.
Floor Landings.
Guardrails.
Lubrication.
Limit Switches.
Warning Signs and Lights.
Illumination.
Drive Pulley.
Bottom (boot) Pulley and Clearance.
Pulley Supports.
Motor.
Driving Mechanism.
Brake.
Electrical Switches.
Vibration and Misalignment.
"Skip" on up or down run when mounting step (indicating worn gears).

(3) *Inspection log.* A written record shall be kept of findings at each inspection. Records of inspection shall be made available to the Assistant Secretary of Labor or his duly authorized representative.

(SOURCE: ANSI A90.1–1969 Safety Code for Manlifts.)

§ 1910.69 Sources of standards.

Sec.	Source
1910.66	ANSI A120.1–1970 Safety Code for Powered Platforms for Exterior Building Maintenance.
1910.67	ANSI A92.2–1969. American National Standard for Vehicle-Mounted Elevating and Rotating Work Platforms.
1910.68	ANSI A90.1–1969 Safety Code for Manlifts.

§ 1910.70 Standards organizations.

Specific standards of the following organizations have been referenced in this subpart. Copies of the standards may be obtained from the issuing organization.

American National Standards Institute, 1430 Broadway, New York, NY 10018.

Subpart G—Occupational Health and Environmental Control

§ 1910.93 Air contaminants.

An employee's exposure to any material listed in table G–1, G–2, or G–3 of this section shall be limited in accordance with the requirements of the following paragraphs of this section.

(a) Table G–1:

(1) *Materials with names preceded by "C"—Ceiling Values.* An employee's exposure to any material in table G–1, the name of which is preceded by a "C" (e.g., C Boron trifluoride), shall at no time exceed the ceiling value given for that material in the table.

(2) *Other materials—8-hour time weighted averages.* An employee's exposure to any material in table G–1, the name of which is not preceded by "C", in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average given for that material in the table.

(b) Table G–2:

(1) *8-hour time weighted averages.* An employee's exposure to any material listed in table G–2, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that material in the table.

(2) *Acceptable ceiling concentrations.* An employee's exposure to a material listed in table G–2 shall not exceed at any time during an 8-hour shift the acceptable ceiling concentration limit given for the material in the table, except for a time period, and up to a concentration not exceeding the maximum duration and concentration allowed in the column under "acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift".

(3) *Example.* During an 8-hour work shift, an employee may be exposed to a concentration of Benzene above 25 p.p.m. (but never above 50 p.p.m.) only for a maximum period of 10 minutes. Such exposure must be compensated by exposures to concentrations less than 10 p.p.m. so that the cumulative exposure for the entire 8-hour work shift does not exceed a weighted average of 10 p.p.m.

(c) Table G–3: An employee's exposure to any material listed in table G–3, in any 8-hour work shift of a 40-hour work week, shall not exceed the 8-hour time weighted average limit given for that material in the table.

(d) Computation formulae:

(1) (i) The cumulative exposure for an 8-hour work shift shall be computed as follows:

$$E = \frac{C_a T_a + C_b T_b + \ldots C_n T_n}{8}$$

where:

E is the equivalent exposure for the working shift.

C is the concentration during any period of time T where the concentration remains constant.

T is the duration in hours of the exposure at the concentration C.

The value of E shall not exceed the 8-hour time weighted average limit in table

G–1, G–2, or G–3 for the material involved.

(ii) To illustrate the formula prescribed in subdivision (i) of this subparagraph, note that isoamyl acetate has an 8-hour time weighted average limit of 100 p.p.m. (table G–1). Assume that an employee is subject to the following exposure:

Two hours exposure at 150 p.p.m.
Two hours exposure at 75 p.p.m.
Four hours exposure at 50 p.p.m.

Substituting this information in the formula, we have

$$\frac{2\times150+2\times75+4\times50}{8}=81.25 \text{ p.p.m.}$$

Since 81.25 p.p.m. is less than 100 p.p.m., the 8-hour time weighted average limit, the exposure is acceptable.

(2) (i) In case of a mixture of air contaminants an employer shall compute the equivalent exposure as follows:

$$E_m=\frac{C_1}{L_1}+\frac{C_2}{L_2}+\ldots\frac{C_n}{L_n}$$

Where:

E_m is the equivalent exposure for the mixture.

C is the concentration of a particular contaminant.

L is the exposure limit for that contaminant, from table G–1, G–2, or G–3.

The value of E_m shall not exceed unity (1).

(ii) To illustrate the formula prescribed in subdivision (i) of this subparagraph, consider the following exposures:

Material	Actual concentration of 8-hour exposure	8-hour time weighted average exposure limit
Acetone (Table G–1)	500 p.p.m	1,000 p.p.m.
2-Butanone (Table G–1)	45 p.p.m	200 p.p.m.
Toluene (Table G–2)	40 p.p.m	200 p.p.m.

Substituting in the formula, we have:

$$E_m=\frac{500}{1,000}+\frac{45}{200}+\frac{40}{200}$$

$$E_m=0.500+0.225+0.200$$

$$E_m=0.925$$

Since E_m is less than unity (1), the exposure combination is within acceptable limits.

(e) To achieve compliance with paragraph (a) through (d) of this section, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed in this section. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with § 1910.134.

TABLE G–1

Substance	p.p.m.*	mg./M³ b
Acetaldehyde	200	360
Acetic acid	10	25
Acetic anhydride	5	20
Acetone	1,000	2,400
Acetonitrile	40	70
Acetylene dichloride, see 1, 2-Dichloroethylene		
Acetylene tetrabromide	1	14
Acrolein	0.1	0.25
Acrylamide—Skin		0.3
Acrylonitrile—Skin	20	45
Aldrin—Skin		0.25
Allyl alcohol—Skin	2	5
Allyl chloride	1	3
**C Allylglycidyl ether (AGE)	10	45
Allyl propyl disulfide	2	12
2-Aminoethanol, see Ethanolamine		
2-Aminopyridine	0.5	2
**Ammonia	50	35
Ammonium sulfamate (Ammate)		15
n-Amyl acetate	100	525
sec-Amyl acetate	125	650
Aniline—Skin	5	19
Anisidine (o, p-isomers)—Skin		0.5
Antimony and compounds (as Sb)		0.5
ANTU (alpha naphthyl thiourea)		
Arsenic and compounds (as As)		0.3
Arsine	0.05	0.2
Azinphos-methyl—Skin		0.2
Barium (soluble compounds)		0.5
p-Benzoquinone, see Quinone		
Benzoyl peroxide		5
Benzyl chloride	1	5
Biphenyl, see Diphenyl		
Bisphenol A, see Diglycidyl ether		
Boron oxide		15
C Boron trifluoride	1	3
Bromine	0.1	0.7
Bromoform—Skin	0.5	5
Butadiene (1, 3-butadiene)	1,000	2,200
Butanethiol, see Butyl mercaptan		
2-Butanone	200	590
2-Butoxy ethanol (Butyl Cellosolve)—Skin	50	240
Butyl acetate (n-butyl acetate)	150	710
sec-Butyl acetate	200	950
tert-Butyl acetate	200	950
Butyl alcohol	100	300
sec-Butyl alcohol	150	450
tert-Butyl alcohol	100	300
C Butylamine—Skin	5	15
C tert-Butyl chromate (as CrO_3)—Skin		0.1
n-Butyl glycidyl ether (BGE)	50	270
*Butyl mercaptan	10	35
p-tert-Butyltoluene	10	60
Calcium arsenate		1
Calcium oxide		5
**Camphor	2	
Carbaryl (Sevin ®)		5
Carbon black		3.5
Carbon dioxide	5,000	9,000
Carbon monoxide	50	55
Chlordane—Skin		0.5
Chlorinated camphene—Skin		0.5
Chlorinated diphenyl oxide		0.5
*Chlorine	1	3
Chlorine dioxide	0.1	0.3
C Chlorine trifluoride	0.1	0.4
C Chloroacetaldehyde	1	3
α-Chloroacetophenone (phenacylchloride)	0.05	0.3
Chlorobenzene (monochlorobenzene)	75	350
o-Chlorobenzylidene malononitrile (OCBM)	0.05	0.4
Chlorobromomethane	200	1,050
2-Chloro-1,3-butadiene, see Chloroprene		
Chlorodiphenyl (42 percent Chlorine)—Skin		1
Chlorodiphenyl (54 percent Chlorine)—Skin		0.5
1-Chloro, 2,3-epoxypropane, see Epichlorhydrin		
2-Chloroethanol, see Ethylene chlorohydrin		
Chloroethylene, see Vinyl chloride		
C Chloroform (trichloromethane)	50	240
1-Chloro-1-nitropropane	20	100
Chloropicrin	0.1	0.7
Chloroprene (2-chloro-1,3-butadiene)—Skin	25	90

TABLE G–1—Continued

Substance	p.p.m.*	mg./M³ b
Chromium, sol. chromic, chromous salts as Cr		0.5
Metal and insol. salts		1
Coal tar pitch volatiles (benzene soluble fraction) anthracene, BaP, phenanthrene, acridine, chrysene, pyrene		0.2
Cobalt, metal fume and dust		0.1
Copper fume		0.1
Dusts and Mists		1
Cotton dust (raw)		1
Crag® herbicide		15
Cresol (all isomers)—Skin	5	22
Crotonaldehyde	2	6
Cumene—Skin	50	245
Cyanide (as CN)—Skin		5
Cyclohexane	300	1,050
Cyclohexanol	50	200
Cyclohexanone	50	200
Cyclohexene	300	1,015
Cyclopentadiene	75	200
2, 4-D		10
DDT—Skin		1
DDVP, see Dichlorvos		
Decaborane—Skin	0.05	0.3
Demeton®—Skin		0.1
Diacetone alcohol (4-hydroxy-4-methyl-2-pentanone)	50	240
1,2-diaminoethane, see Ethylenediamine		
Diazomethane	0.2	0.4
Diborane	0.1	0.1
Dibutylphthalate		5
C o-Dichlorobenzene	50	300
p-Dichlorobenzene	75	450
Dichlorodifluoromethane	1,000	4,950
1,3-Dichloro-5,5-dimethyl hydantoin		0.2
1,1-Dichloroethane	100	400
1,2-Dichloroethylene	200	790
C Dichloroethyl ether—Skin	15	90
Dichloromethane, see Methylenechloride		
Dichloromonofluoromethane	1,000	4,200
C 1,1-Dichloro-1-nitroethane	10	60
1,2-Dichloropropane, see Propylenedichloride		
Dichlorotetrafluoroethane	1,000	7,000
Dichlorvos (DDVP)—Skin		1
Dieldrin—Skin		0.25
Diethylamine	25	75
Diethylamino ethanol—Skin	10	50
Diethylether, see Ethyl ether		
Difluorodibromomethane	100	860
C Digicydyl ether (DGE)	0.5	2.8
Dihydroxybenzene, see Hydroquinone		
Diisobutyl ketone	50	290
Diisopropylamine—Skin	5	20
Dimethoxymethane, see Methylal		
Dimethyl acetamide—Skin	10	35
Dimethylamine	10	18
Dimethylaminobenzene, see Xylidene		
Dimethylaniline(N-dimethylaniline)—Skin	5	25
Dimethylbenzene, see Xylene		
Dimethyl 1,2-dibromo-2,2-dichloroethyl phosphate, (Dibrom)		3
Dimethylformamide—Skin	10	30
2,6-Dimethylheptanone, see Diisobutyl ketone		
1,1-Dimethylhydrazine—Skin	0.5	1
Dimethylphthalate		5
Dimethylsulfate—Skin	1	5
Dinitrobenzene (all isomers)—Skin		1
Dinitro-o-cresol—Skin		0.2
Dinitrotoluene—Skin		1.5
Dioxane (Diethylene dioxide)—Skin	100	360
Diphenyl	0.2	1
Diphenylmethane diisocyanate (see Methylene bisphenyl isocyanate (MDI))		
Dipropylene glycol methyl ether—Skin	100	600
Di-sec. octyl phthalate (Di-2-ethylhexylphthalate)		5
Endrin—Skin		0.1
Epichlorhydrin—Skin	5	19
EPN—Skin		0.5
1,2-Epoxypropane, see Propyleneoxide		
2,3-Epoxy-1-propanol, see Glycidol		

See footnotes at end of table.

TABLE G–1—Continued

Substance	p.p.m.*	mg./M³ b
Ethanethiol, see Ethylmercaptan		
Ethanolamine	3	6
2-Ethoxyethanol—Skin	200	740
2-Ethoxyethylacetate (Cellosolve acetate)—Skin	100	540
Ethyl acetate	400	1,400
Ethyl acrylate—Skin	25	100
Ethyl alcohol (ethanol)	1,000	1,900
Ethylamine	10	18
Ethyl sec-amyl ketone (5-methyl-3-heptanone)	25	130
Ethyl benzene	100	435
Ethyl bromide	200	890
Ethyl butyl ketone (3-Heptanone)	50	230
Ethyl chloride	1,000	2,600
Ethyl ether	400	1,200
Ethyl formate	100	300
C Ethyl mercaptan	10	25
Ethyl silicate	100	850
Ethylene chlorohydrin—Skin	5	16
Ethylenediamine	10	25
Ethylene dibromide, see 1,2-Dibromoethane		
Ethylene dichloride, see 1,2-Dichloroethane		
C Ethylene glycol dinitrate and/or Nitroglycerin—Skin	d 0.2	1
Ethylene glycol monomethyl ether acetate, see Methyl cellosolve acetate		
Ethylene imine—Skin	0.5	1
Ethylene oxide	50	90
Ethylidine chloride, see 1,1-Dichloroethane		
N-Ethylmorpholine—Skin	20	94
Ferbam		15
Ferrovanadium dust		1
Fluoride (as F)		2.5
Fluorine	0.1	0.2
Fluorotrichloromethane	1,000	5,600
Formic acid	5	9
Furfural—Skin	5	20
Furfuryl alcohol	50	200
Glycidol (2,3-Epoxy-1-propanol)	50	150
Glycol monoethyl ether, see 2-Ethoxyethanol		
Guthion ®, see Azinphos-methyl		
Hafnium		0.5
Heptachlor—Skin		0.5
Heptane (n-heptane)	500	2,000
Hexachloroethane—Skin	1	10
Hexachloronaphthalene—Skin		0.2
Hexane (n-hexane)	500	1,800
2-Hexanone	100	410
Hexone (Methyl isobutyl ketone)	100	410
sec-Hexyl acetate	50	300
Hydrazine—Skin	1	1.3
Hydrogen bromide	3	10
C Hydrogen chloride	5	7
Hydrogen cyanide—Skin	10	11
Hydrogen peroxide (90%)	1	1.4
Hydrogen selenide	0.05	0.2
Hydroquinone		2
C Iodine	0.1	1
Iron oxide fume		10
Isoamyl acetate	100	525
Isoamyl alcohol	100	360
Isobutyl acetate	150	700
Isobutyl alcohol	100	300
Isophorone	25	140
Isopropyl acetate	250	950
Isopropyl alcohol	400	980
Isopropylamine	5	12
Isopropylether	500	2,100
Isopropyl glycidyl ether (IGE)	50	240
Ketene	0.5	0.9
Lead arsenate		0.15
Lindane—Skin		0.5
Lithium hydride		0.025
L.P.G. (liquified petroleum gas)	1,000	1,800
Magnesium oxide fume		15
Malathion—Skin		15
Maleic anhydride	0.25	1
C Manganese		5
Mesityl oxide	25	100
Methanethiol, see Methyl mercaptan		
Methoxychlor		15
2-Methoxyethanol, see Methyl cellosolve		
Methyl acetate	200	610
Methyl acetylene (propyne)	1,000	1,650
Methyl acetylene-propadiene mixture (MAPP)	1,000	1,800
Methyl acrylate—Skin	10	35
Methylal (dimethoxymethane)	1,000	3,100
Methyl alcohol (methanol)	200	260
Methylamine	10	12
Methyl amyl alcohol, see Methyl isobutyl carbinol		

TABLE G–1—Continued

Substance	p.p.m.*	mg./M³ b
Methyl (n-amyl) ketone (2-Heptanone)	100	465
C Methyl bromide—Skin	20	80
Methyl butyl ketone, see 2-Hexanone		
Methyl cellosolve—Skin	25	80
Methyl cellosolve acetate—Skin	25	120
Methyl chloroform	350	1,900
Methylcyclohexane	500	2,000
Methylcyclohexanol	100	470
o-Methylcyclohexanone—Skin	100	460
Methyl ethyl ketone (MEK), see 2-Butanone		
Methyl formate	100	250
Methyl Iodide—Skin	5	28
Methyl isobutyl carbinol—Skin	25	100
Methyl isobutyl ketone, see Hexone		
Methyl isocyanate—Skin	0.02	0.05
C Methyl mercaptan	10	20
Methyl methacrylate	100	410
Methyl propyl ketone, see 2-Pentanone		
C α Methyl styrene	100	480
C Methylene bisphenyl isocyanate (MDI)	0.02	0.2
Molybdenum:		
Soluble compounds		5
Insoluble compounds		15
Monomethyl aniline—Skin	2	9
C Monomethyl hydrazine—Skin	0.2	0.35
Morpholine—Skin	20	70
Naphtha (coaltar)	100	400
Naphthalene	10	50
Nickel carbonyl	0.001	0.007
Nickel, metal and soluble cmpds, as Ni		1
Nicotine—Skin		0.5
Nitric acid	2	5
Nitric oxide	25	30
p-Nitroaniline—Skin	1	6
Nitrobenzene—Skin	1	5
p-Nitrochlorobenzene—Skin		1
Nitroethane	100	310
Nitrogen dioxide	5	9
Nitrogen trifluoride	10	29
Nitroglycerin—Skin	0.2	2
Nitromethane	100	250
1-Nitropropane	25	90
2-Nitropropane	25	90
Nitrotoluene—Skin	5	30
Nitrotrichloromethane, see Chloropicrin		
Octachloronaphthalene—Skin		0.1
*Octane	500	2,350
*Oil mist, mineral		• 5
Osmium tetroxide		0.002
Oxalic acid		1
Oxygen difluoride	0.05	0.1
Ozone	0.1	0.2
Paraquat—Skin		0.5
Parathion—Skin		0.1 1
Pentaborane	0.005	0.01
Pentachloronaphthalene—Skin		0.5
Pentachlorophenol—Skin		0.5
*Pentane	1,000	2,950
2-Pentanone	200	700
Perchloromethyl mercaptan	0.1	0.8
Perchloryl fluoride	3	13.5
Petroleum distillates (naphtha)	500	2,000
Phenol—Skin	5	19
p-Phenylene diamine—Skin		0.1
Phenyl ether (vapor)	1	7
Phenyl ether-biphenyl mixture (vapor)	1	7
Phenylethylene, see Styrene		
Phenyl glycidyl ether (PGE)	10	60
Phenylhydrazine—Skin	5	22
Phosdrin (Mevinphos ®)—Skin		0.1
Phosgene (carbonyl chloride)	0.1	0.4
Phosphine	0.3	0.4
Phosphoric acid		1
Phosphorus (yellow)		0.1
Phosphorus pentachloride		1
Phosphorus pentasulfide		1
Phosphorus trichloride	0.5	3
Phthalic anhydride	2	12
Picric acid—Skin		0.1
Pival ® (2-Pivalyl-1,3-indandione)		0.1
Platinum (Soluble Salts) as Pt		0.002
Propargyl alcohol—Skin	1	
Propane	1,000	1,800
n-Propyl acetate	200	840
Propyl alcohol	200	500
n-Propyl nitrate	25	110
Propylene dichloride	75	350
Propylene imine—Skin	2	5
Propylene oxide	100	240
Propyne, see Methylacetylene		
Pyrethrum		5
Pyridine	5	15
Quinone	0.1	0.4
RDX—Skin		1.5

TABLE G–1—Continued

Substance	p.p.m.*	mg./M³ b
Rhodium, Metal fume and dusts, as Rh		0.1
Soluble salts		0.001
Ronnel		10
Rotenone (commercial)		5
Selenium compounds (as Se)		0.2
Selenium hexafluoride	0.05	0.4
Silver, metal and soluble compounds		0.01
Sodium fluoroacetate (1080)—Skin		0.05
Sodium hydroxide		2
Stibine	0.1	0.5
*Stoddard solvent	500	2,950
Strychnine		0.15
Sulfur dioxide	5	13
Sulfur hexafluoride	1,000	6,000
Sulfuric acid		1
Sulfur monochloride	1	6
Sulfur pentafluoride	0.025	0.25
Sulfuryl fluoride	5	20
Systox, see Demeton ®		
2,4,5T		10
Tantalum		5
TEDP—Skin		0.2
Tellurium		0.1
Tellurium hexafluoride	0.02	0.2
TEPP—Skin		0.05
C Terphenyls	1	9
1,1,1,2-Tetrachloro-2,2-difluoroethane	500	4,170
1,1,2,2-Tetrachloro-1,2-difluoroethane	500	4,170
1,1,2,2-Tetrachloroethane—Skin	5	35
Tetrachloroethylene, see Perchloroethylene		
Tetrachloromethane, see Carbon tetrachloride		
Tetrachloronaphthalene—Skin		2
Tetraethyl lead (as Pb)—Skin		0.075
Tetrahydrofuran	200	590
Tetramethyl lead (as Pb)—Skin		0.07
Tetramethyl succinonitrile—Skin	0.5	3
Tetranitromethane	1	8
Tetryl (2,4,6-trinitrophenylmethylnitramine)—Skin		1.5
Thallium (soluble compounds)—Skin as Tl		0.1
Thiram		5
Tin (inorganic cmpds, except oxides)		2
Tin (organic cmpds)		0.1
C Toluene-2,4-diisocyanate	0.02	0.14
o-Toluidine—Skin	5	22
Toxaphene, see Chlorinated camphene		
Tributyl phosphate		5
1,1,1-Trichloroethane see Methyl chloroform		
1,1,2-Trichloroethane—Skin	10	45
Titaniumdioxide		15
Trichloromethane, see Chloroform		
Trichloronaphthalene—Skin		5
1,2,3-Trichloropropane	50	300
1,1,2-Trichloro 1,2,2-trifluoroethane	1,000	7,600
Triethylamine	25	100
Trifluoromonobromomethane	1,000	6,100
2,4,6-Trinitrophenol, see Picric acid		
2,4,6-Trinitrophenylmethylnitramine, see Tetryl		
Trinitrotoluene—Skin		1.5
Triorthocresyl phosphate		0.1
Triphenyl phosphate		3
Turpentine	100	560
Uranium (soluble compounds)		0.05
Uranium (insoluble compounds)		0.25
C Vanadium:		
V_2O_5 dust		0.5
V_2O_5 fume		0.1
Vinyl benzene, see Styrene		
**C Vinyl chloride	500	1,300
Vinylcyanide, see Acrylonitrile		
Vinyl toluene	100	480
Warfarin		0.1
Xylene (xylol)	100	435
Xylidine—Skin	5	25
Yttrium		1
Zinc chloride fume		1
Zinc oxide fume		5
Zirconium compounds (as Zr)		5

*1970 Addition.

* Parts of vapor or gas per million parts of contaminated air by volume at 25° C. and 760 mm. Hg pressure.

b Approximate milligrams of particulate per cubic meter of air.

(No footnote "c" is used to avoid confusion with ceiling value notations.)

d An atmospheric concentration of not more than 0.02 p.p.m., or personal protection may be necessary to avoid headache.

* As sampled by method that does not collect vapor.

f For control of general room air, biologic monitoring is essential for personnel control.

TABLE G-2

Material	8-hour time weighted average	Acceptable ceiling concentration	Acceptable maximum peak above the acceptable ceiling concentration for an 8-hour shift. Concentration	Maximum duration
Benzene (Z37.4–1969)	10 p.p.m	25 p.p.m	50 p.p.m	10 minutes.
Beryllium and beryllium compounds (Z37.29–1970).	2 μg./M³	5 μg./M³	25 μg./M³	30 minutes.
Cadmium fume (Z37.5–1970)	0.1 mg./M³	3 mg./M³		
Cadmium dust (Z37.5–1970)	0.2 mg./M³	0.6 mg./M³		
Carbon disulfide (Z37.3–1968)	20 p.p.m	30 p.p.m	100 p.p.m	Do.
Carbon tetrachloride (Z37.17–1967)	10 p.p.m	25 p.p.m	200 p.p.m	5 minutes in any 4 hours.
Ethylene dibromide (Z37.31–1970)	20 p.p.m	30 p.p.m	50 p.p.m	5 minutes.
Ethylene dichloride (Z37.21–1969)	50 p.p.m	100 p.p.m	200 p.p.m	5 minutes in any 3 hours.
Formaldehyde (Z37.16–1967)	3 p.p.m	5 p.p.m	10 p.p.m	30 minutes.
Hydrogen fluoride (Z37.28–1969)	do			
Fluoride as dust (Z37.28–1969)	2.5 mg./M³			
Lead and its inorganic compounds (Z37.11–1969).	0.2 mg./M³			
Methyl chloride (Z37.18–1969)	100 p.p.m	200 p.p.m	300 p.p.m	5 minutes in any 3 hours.
Methylene Chloride (Z37.3–1969)	500 p.p.m	1,000 p.p.m	2,000 p.p.m	5 minutes in any 2 hours.
Organo (alkyl) mercury (Z37.30–1969)	0.01 mg./M³ [1]	0.04 mg./M³ [1]		
Styrene (Z37.15–1969)	100 p.p.m	200 p.p.m	600 p.p.m	5 minutes in any 3 hours.
Trichloroethylene (Z37.19–1967)	do	do	300 p.p.m	5 minutes in any 2 hours.
Tetrachloroethylene (Z37.22–1967)	do	do	do	5 minutes in any 3 hours.
Toluene (Z37.12–1967)	200 p.p.m	300 p.p.m	500 p.p.m	10 minutes.
Hydrogen sulfide (Z37.2–1966)		20 p.p.m	50 p.p.m	10 minutes once only if no other measurable exposure occurs.
Mercury (Z37.8–1971)		1 mg./10M³ [1]		
Chromic acid and chromates (Z37.7–1971)		do [1]		

TABLE G-3—MINERAL DUSTS

Substance	Mppcf [a]	Mg/M³	Aerodynamic diameter (unit density sphere)	Percent passing selector
Silica:				
Crystalline:			2	90
Quartz (respirable)	250 [f]	10mg/M³ [=]	2.5	75
	%SiO₂+5	%SiO₂+2	3.5	60
Quartz (total dust)		30mg/M³	5.0	25
		%SiO₂+2	10	0
Cristobalite: Use ½ the value calculated from the count or mass formulae for quartz.				
Tridymite: Use ½ the value calculated from the formulae for quartz.				
Amorphous, including natural diatomaceous earth	20	80mg/M³		
		%SiO₂		
Silicates (less than 1% crystalline silica):				
Mica	20			
Soapstone	20			
Talc (non-asbestos-form)	20 [a]			
Talc (fibrous). Use asbestos limit				
Tremolite (see talc, fibrous)				
Portland cement	50			
Graphite (natural)	15			
Coal dust (respirable fraction less than 5% SiO₂)		2.4mg/M³ or		
For more than 5% SiO₂		10mg/M³		
		%SiO₂+2		
Inert or Nuisance Dust:				
Respirable fraction	15	5mg/M³		
Total dust	50	15mg/M³		

NOTE: Conversion factors—
mppcf×35.3=million particles per cubic meter
=particles per c.c.

[a] Millions of particles per cubic foot of air, based on impinger samples counted by light-field technics.

[f] The percentage of crystalline silica in the formula is the amount determined from air-borne samples, except in those instances in which other methods have been shown to be applicable.

[1] As determined by the membrane filter method at 430×phase contrast magnification.

[=] Both concentration and percent quartz for the application of this limit are to be determined from the fraction passing a size-selector with the following characteristics:

[a] Containing < 1% quartz; if > 1% quartz, use quartz limit.

The measurements under this note refer to the use of an AEC instrument. If the respirable fraction of coal dust is determined with a MRE the figure corresponding to that of 2.4 Mg/M³ in the table for coal dust is 4.5 Mg/M³.

§ 1910.93a Asbestos.

(a) *Definitions.* For the purpose of this section, (1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.

(2) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.

(b) *Permissible exposure to airborne concentrations of asbestos fibers*—(1) *Standard effective July 7, 1972.* The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed five fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(2) *Standard effective July 1, 1976.* The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(3) *Ceiling concentration.* No employee shall be exposed at any time to airborne cencentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(c) *Methods of compliance*—(1) *Engineering methods.* (i) *Engineering controls.* Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet the exposure limits prescribed in paragraph (b) of this section.

(ii) *Local exhaust ventilation.* (a) Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2–1971, which is incorporated by reference herein.

(b) See § 1910.6 concerning the availability of ANSI Z9.2–1971, and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in § 1910.100.

(iii) *Particular tools.* All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with subdivision (ii) of this subparagraph.

(2) *Work practices*—(i) *Wet methods.* Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in paragraph (b) of this section, unless the usefulness of the product would be diminished thereby.

(ii) *Particular products and operations.* No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (b) of this section.

(iii) *Spraying, demolition, or removal.* Employees engaged in the spraying of asbestos, the removal, or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the removal or demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with paragraph (d)(2)(iii) of this section and with special clothing in accordance with paragraph (d)(3) of this section.

(d) *Personal protective equipment*—(1) Compliance with the exposure limits prescribed by paragraph (b) of this section may not be achieved by the use of respirators or shift rotation of employees, except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by paragraph (c) of this section;

(ii) In work situations in which the methods prescribed in paragraph (c) of this section are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by paragraph (b) of this section; or

(iii) In emergencies.

(iv) Where both respirators and personnel rotation are allowed by subdivisions (i), (ii), or (iii) of this subparagraph, and both are practicable, personnel rotation shall be preferred and used.

(2) Where a respirator is permitted by subparagraph (1) of this paragraph, it shall be selected from among those approved by the Bureau of Mines, Department of the Interior, or the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, under the provisions of 30 CFR Part 11 (37 F.R. 6244, Mar. 25, 1972), and shall be used in accordance with subdivisions (i), (ii), (iii), and (iv) of this subparagraph.

(i) *Air purifying respirators.* A reusable or single use air purifying respirator, or a respirator described in subdivision (ii) or (iii) of this subparagraph, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed no more than 10 times those limits.

(ii) *Powered air purifying respirators.* A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in subdivision (iii) of this subparagraph, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed 10 times, but not 100 times, those limits.

(iii) *Type "C" supplied-air respirators, continuous flow or pressure-demand class.* A type "C" continuous flow or pressure-demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed 100 times those limits.

(iv) *Establishment of a respirator program.* (a) The employer shall establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2–1969, which is incorporated by reference herein.

b. See § 1910.6 concerning the availability of ANSI Z88.2–1969 and the maintenance of an historic file in connection therewith. The address of the American National Standards Institute is given in § 1910.100.

(c) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such a different position is available.

(3) Special clothing: The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed the ceiling level prescribed in paragraph (b) of this section.

(4) Change rooms: (i) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, the employer shall provide change rooms for employees working regularly at the place.

(ii) Clothes lockers: The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent contamination of the employee's street clothes from his work clothes.

(iii) Laundering: (a) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(b) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in (a) of this subdivision to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(c) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (g) of this section.

(e) *Method of measurement.* All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400–450 × (magnification) (4 millimeter objective) with phase contrast illumination.

(f) *Monitoring*—(1) *Initial determinations.* Within 6 months of the publication of this section, every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in paragraph (b) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (c) of this section.

(2) *Personal monitoring*—(i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequency and patterns. After the initial determinations required by subparagraph (1) of this paragraph, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than 6 months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by paragraph (b) of this section.

(3) *Environmental monitoring*—(i) samples shall be collected from areas of a work environment which are representative of the airborne concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) *Sampling frequency and patterns.* After the initial determinations required by subparagraph (1) of this paragraph, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than 6 months for employees whose exposures to asbestos may reasonably be foreseen to exceed the exposure limits prescribed in paragraph (b) of this section.

(4) *Employee observation of monitoring.* Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this paragraph and shall have access to the records thereof.

(g) *Caution signs and labels.* (1) *Caution signs.* (i) *Posting.* Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in paragraph (b) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing excessive concentrations of airborne asbestos fibers.

(ii) *Sign specifications.* The warning signs required by subdivision (i) of this subparagraph shall conform to the requirements of 20" x 14" vertical format signs specified in § 1910.145(d)(4), and to this subdivision. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in this subdivision.

Legend	Notation
Asbestos	1" Sans Serif, Gothic or Block.
Dust Hazard	¾" Sans Serif, Gothic or Block.
Avoid Breathing Dust	¼" Gothic.
Wear Assigned Protective Equipment.	¼" Gothic.
Do Not Remain In Area Unless Your Work Requires It.	¼" Gothic.
Breathing Asbestos Dust May Be Hazardous To Your Health.	14 point Gothic.

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(2) *Caution labels*—(i) *Labeling.* Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section will be released.

(ii) *Label specifications.* The caution labels required by subdivision (i) of this subparagraph shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

CAUTION

Contains Asbestos Fibers

Avoid Creating Dust

Breathing Asbestos Dust May Cause Serious Bodily Harm

(h) *Housekeeping*—(1) *Cleaning.* All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion, there would be an excessive concentration.

(2) *Waste disposal.* Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, which may produce in any reasonably foreseeable use, handling, storage, processing, disposal, or transportation airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(i) *Recordkeeping*—(1) *Exposure records.* Every employer shall maintain records of any personal or environmental monitoring required by this section. Records shall be maintained for a period of at least 3 years and shall be made available upon request to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of the National Institute for Occupational Safety and Health, and to authorized representatives of either.

(2) *Employee access.* Every employee and former employee shall have reasonable access to any record required to be maintained by subparagraph (1) of this paragraph, which indicates the employee's own exposure to asbestos fibers.

(3) *Employee notification.* Any employee found to have been exposed at any time to airborne concentrations of asbestos fibers in excess of the limits prescribed in paragraph (b) of this section shall be notified in writing of the exposure as soon as practicable but not later than 5 days of the finding. The employee shall also be timely notified of the corrective action being taken.

(j) *Medical examinations*—(1) *General.* The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by this paragraph.

(2) *Preplacement.* The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination, which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(3) *Annual examinations.* On or before January 31, 1973, and at least annually thereafter, every employer shall provide, or make available, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(4) *Termination of employment.* The employer shall provide, or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(5) *Recent examinations.* No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(6) *Medical records*—(i) *Maintenance.* Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least 20 years.

(ii) *Access.* The contents of the records of the medical examinations required by this paragraph shall be made available, for inspection and copying, to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of NIOSH, to authorized physicians and medical consultants of either of them, and, upon the request of an employee or former employee, to his physician. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer of the examined employee all the information specifically required by this paragraph, and any other medical information related to occupational exposure to asbestos fibers.

§ 1910.94 Ventilation.

(a) *Abrasive blasting*—(1) *Definitions applicable to this paragraph.*—(i) *Abrasive.* A solid substance used in an abrasive blasting operation.

(ii) *Abrasive-blasting respirator.* A continuous flow air-line respirator constructed so that it will cover the wearer's head, neck, and shoulders to protect him from rebounding abrasive.

(iii) *Blast cleaning barrel.* A complete enclosure which rotates on an axis, or which has an internal moving tread to tumble the parts, in order to expose various surfaces of the parts to the action of an automatic blast spray.

(iv) *Blast cleaning room.* A complete enclosure in which blasting operations are performed and where the operator works inside of the room to operate the blasting nozzle and direct the flow of the abrasive material.

(v) *Blasting cabinet.* An enclosure where the operator stands outside and operates the blasting nozzle through an opening or openings in the enclosure.

(vi) *Clean air.* Air of such purity that it will not cause harm or discomfort to an individual if it is inhaled for extended periods of time.

(vii) *Dust collector.* A device or combination of devices for separating dust from the air handled by an exhaust ventilation system.

(viii) *Exhaust ventilation system.* A system for removing contaminated air from a space, comprising two or more of the following elements (*a*) enclosure or hood, (*b*) duct work, (*c*) dust collecting equipment, (*d*) exhauster, and (*e*) discharge stack.

(ix) *Particulate-filter respirator.* An air purifying respirator, commonly referred to as a dust or a fume respirator, which removes most of the dust or fume from the air passing through the device.

(x) *Respirable dust.* Airborne dust in sizes capable of passing through the upper respiratory system to reach the lower lung passages.

(xi) *Rotary blast cleaning table.* An enclosure where the pieces to be cleaned are positioned on a rotating table and are passed automatically through a series of blast sprays.

(xii) *Abrasive blasting.* The forcible application of an abrasive to a surface by pneumatic pressure, hydraulic pressure, or centrifugal force.

(2) *Dust hazards from abrasive blasting.* (i) Abrasives and the surface coatings on the materials blasted are shattered and pulverized during blasting operations and the dust formed will contain particles of respirable size. The composition and toxicity of the dust from these sources shall be considered in making an evaluation of the potential health hazards.

(ii) The concentration of respirable dust or fume in the breathing zone of the abrasive-blasting operator or any other worker shall be kept below the levels specified in § 1910.93.

(iii) Organic abrasives which are combustible shall be used only in automatic systems. Where flammable or explosive dust mixtures may be present, the construction of the equipment, including the exhaust system and all electric wiring, shall conform to the requirements of American National Standard Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, Z33.1–1961 (NFPA 91–1961), and the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968). The blast nozzle shall be bonded and grounded to prevent the build up of static charges. Where flammable or explosive dust mixtures may be present, the abrasive blasting enclosure, the ducts, and the dust collector shall be constructed with loose panels or explosion venting areas, located on sides away from any occupied area, to provide for pressure relief in case of explosion, following the principles set forth in the National Fire Protection Association Explosion Venting Guide, NFPA 68–1954.

(3) *Blast-cleaning enclosures.* (i) Blast-cleaning enclosures shall be exhaust ventilated in such a way that a continuous inward flow of air will be maintained at all openings in the enclosure during the blasting operation.

(*a*) All air inlets and access openings shall be baffled or so arranged that by the combination of inward air flow and baffling the escape of abrasive or dust particules into an adjacent work area will be minimized and visible spurts of dust will not be observed.

(*b*) The rate of exhaust shall be sufficient to provide prompt clearance of the dust-laden air within the enclosure after the cessation of blasting.

(*c*) Before the enclosure is opened, the blast shall be turned off and the exhaust system shall be run for a sufficient period of time to remove the dusty air within the enclosure.

(*d*) Safety glass protected by screening shall be used in observation windows, where hard deep-cutting abrasives are used.

(*e*) Slit abrasive-resistant baffles shall be installed in multiple sets at all small access openings where dust might escape, and shall be inspected regularly and replaced when needed.

(*f*) Doors shall be flanged and tight when closed.

(2) Doors on blast-cleaning rooms shall be operable from both inside and outside, except that where there is a small operator access door, the large work access door may be closed or opened from the outside only.

(4) *Exhaust ventilation systems.* (i) The construction, installation, inspection, and maintenance of exhaust systems shall conform to the principles and requirements set forth in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960, and ANSI Z33.1–1961.

(*a*) When dust leaks are noted, repairs shall be made as soon as possible.

(*b*) The static pressure drop at the exhaust ducts leading from the equipment shall be checked when the installation is completed and periodically thereafter to assure continued satisfactory operation. Whenever an appreciable change in the pressure drop indicates a partial blockage, the system shall be cleaned and returned to normal operating condition.

(ii) In installations where the abrasive is recirculated, the exhaust ventilation system for the blasting enclosure shall not be relied upon for the removal of fines from the spent abrasive instead of an abrasive separator. An abrasive separator shall be provided for the purpose.

(iii) The air exhausted from blast-cleaning equipment shall be discharged through dust collecting equipment. Dust collectors shall be set up so that the accumulated dust can be emptied and removed without contaminating other working areas.

(5) *Personal protective equipment.* (i) Only respiratory protective equipment approved by the Bureau of Mines, U.S. Department of the Interior (see 30 CFR Part 11) shall be used for protection of personnel against dusts produced during abrasive-blasting operations.

(ii) Abrasive-blasting respirators shall be worn by all abrasive-blasting operators:

(*a*) When working inside of blast-cleaning rooms, or

(*b*) When using silica sand in manual blasting operations where the nozzle and blast are not physically separated from the operator in an exhaust ventilated enclosure, or

(*c*) Where concentrations of toxic dust dispersed by the abrasive blasting may exceed the limits set in § 1910.93 and the nozzle and blast are not physically separated from the operator in an exhaust-ventilated enclosure.

(iii) Particulate filter respirators, commonly referred to as dust-filter respirators, properly fitted, may be used for short, intermittent, or occasional dust exposures such as cleanup, dumping of dust collectors, or unloading shipments of sand at a receiving point, when it is not feasible to control the dust by enclosure, exhaust ventilation, or other means. Respirators used shall be approved (see 30 CFR Part 11) for protection against the specific type of dust encountered.

(*a*) Dust-filter respirators may be used to protect the operator of outside abrasive-blasting operations where nonsilica abrasives are used on materials having low toxicities.

(*b*) Dust-filter respirators shall not be used for continuous protection where silica sand is used as the blasting abrasive, or toxic materials are blasted.

(iv) A respiratory protection program as defined and described in § 1910.134 (a) and (b), shall be established wherever it is necessary to use respiratory protective equipment.

(v) Operators shall be equipped with heavy canvas or leather gloves and aprons or equivalent protection to protect them from the impact of abrasives. Safety shoes shall be worn to protect against foot injury where heavy pieces of work are handled.

(*a*) Safety shoes shall conform to the requirements of American National Standard for Men's Safety-Toe Footwear, Z41.1–1967.

(*b*) Equipment for protection of the eyes and face shall be supplied to the operator when the respirator design does not provide such protection and to any other personnel working in the vicinity of abrasive blasting operations. This equipment shall conform to the requirements of § 1910.133.

(6) *Air supply and air compressors.* The air for abrasive-blasting respirators shall be free of harmful quantities of dusts, mists, or noxious gases, and shall meet the requirements for air purity set forth in ANSI Z9.2–1960. The air from the regular compressed air line of the plant may be used for the abrasive-blasting respirator if (i) a trap and carbon filter are installed and regularly maintained, to remove oil, water, scale, and odor, (ii) a pressure reducing diaphragm or valve is installed to reduce the pressure down to requirements of the particular type of abrasive-blasting respirator, and (iii) an automatic control is provided to either sound an alarm or shut down the compressor in case of overheating.

(7) *Operational procedures and general safety.* Dust shall not be permitted to accumulate on the floor or on ledges outside of an abrasive-blasting enclosure, and dust spills shall be cleaned up promptly. Aisles and walkways shall be kept clear of steel shot or similar abrasive which may create a slipping hazard.

(8) *Scope.* This paragraph (a) applies to all operations where an abrasive is forcibly applied to a surface by pneumatic or hydraulic pressure, or by centrifugal force. It does not apply to steam blasting, or steam cleaning, or hydraulic cleaning methods where work is done without the aid of abrasives.

(b) *Grinding, polishing, and buffing operations*—(1) *Definitions applicable to this paragraph*—(i) *Abrasive cutting-off wheels.* Organic-bonded wheels, the thickness of which is not more than one forty-eighth of their diameter for those up to, and including, 20 inches in diameter, and not more than one-sixtieth of their diameter for those larger than 20 inches in diameter, used for a multitude of operations variously known as cutting, cutting off, grooving, slotting, coping, and jointing, and the like. The wheels may be "solid" consisting of organic-bonded abrasive material throughout, "steel centered" consisting of a steel disc with a rim of organic-bonded material moulded around the periphery, or of the "inserted tooth" type consisting of a steel disc with

organic-bonded abrasive teeth or inserts mechanically secured around the periphery.

(ii) *Belts.* All power-driven, flexible, coated bands used for grinding, polishing, or buffing purposes.

(iii) *Branch pipe.* The part of an exhaust system piping that is connected directly to the hood or enclosure.

(iv) *Cradle.* A movable fixture, upon which the part to be ground or polished is placed.

(v) *Disc wheels.* All power-driven rotatable discs faced with abrasive materials, artificial or natural, and used for grinding or polishing on the side of the assembled disc.

(vi) *Entry loss.* The loss in static pressure caused by air flowing into a duct or hood. It is usually expressed in inches of water gauge.

(vii) *Exhaust system.* A system consisting of branch pipes connected to hoods or enclosures, one or more header pipes, an exhaust fan, means for separating solid contaminants from the air flowing in the system, and a discharge stack to outside.

(viii) *Grinding wheels.* All power-driven rotatable grinding or abrasive wheels, except disc wheels as defined in this standard, consisting of abrasive particles held together by artificial or natural bonds and used for peripheral grinding.

(ix) *Header pipe (main pipe).* A pipe into which one or more branch pipes enter and which connects such branch pipes to the remainder of the exhaust system.

(x) *Hoods and enclosures.* The partial or complete enclosure around the wheel or disc through which air enters an exhaust system during operation.

(xi) *Horizontal double-spindle disc grinder.* A grinding machine carrying two power-driven, rotatable, coaxial, horizontal spindles upon the inside ends of which are mounted abrasive disc wheels used for grinding two surfaces simultaneously.

(xii) *Horizontal single-spindle disc grinder.* A grinding machine carrying an abrasive disc wheel upon one or both ends of a power-driven, rotatable single horizontal spindle.

(xiii) *Polishing and buffing wheels.* All power-driven rotatable wheels composed all or in part of textile fabrics, wood, felt, leather, paper, and may be coated with abrasives on the periphery of the wheel for purposes of polishing, buffing, and light grinding.

(xiv) *Portable grinder.* Any power-driven rotatable grinding, polishing, or buffing wheel mounted in such manner that it may be manually manipulated.

(xv) *Scratch brush wheels.* All power-driven rotatable wheels made from wire or bristles, and used for scratch cleaning and brushing purposes.

(xvi) *Swing-frame grinder.* Any power-driven rotatable grinding, polishing, or buffing wheel mounted in such a manner that the wheel with its supporting framework can be manipulated over stationary objects.

(xvii) *Velocity pressure (vp).* The kinetic pressure in the direction of flow necessary to cause a fluid at rest to flow at a given velocity. It is usually expressed in inches of water gage.

(xviii) *Vertical spindle disc grinder.* A grinding machine having a vertical, rotatable power-driven spindle carrying a horizontal abrasive disc wheel.

(2) *Application.* (i) Every establishment performing dry grinding, dry polishing, or buffing shall provide suitable hood or enclosures that are connected to exhaust systems.

(ii) Such exhaust systems shall be operated continuously whenever such operations are carried on, and be capable of preventing contaminants from entering the breathing zone.

(3) *Hood and branch pipe requirements.* (i) Hoods connected to exhaust systems shall be used, and such hoods shall be designed, located, and placed so that the dust or dirt particles shall fall or be projected into the hoods in the direction of the air flow. No wheels, discs, straps, or belts shall be operated in such manner and in such direction as to cause the dust and dirt particles to be thrown into the operator's breathing zone.

(ii) Grinding wheels on floor stands, pedestals, benches, and special-purpose grinding machines and abrasive cutting-off wheels shall have not less than the minimum exhaust volumes shown in Table G–4 with a recommended minimum duct velocity of 4,500 feet per minute in the branch and 3,500 feet per minute in the main. The entry losses from all hoods except the vertical-spindle disc grinder hood, shall equal 0.65 velocity pressure for a straight takeoff and 0.45 velocity pressure for a tapered takeoff. The entry loss for the vertical-spindle disc grinder hood is shown in figure G–1 (following § 1910.94(b)).

For any wheel wider than wheel diameters shown in Table G–4, increase the exhaust volume by the ratio of the new width to the width shown.

Example:

If wheel width = 4½ inches, then

$$\frac{4.5}{4} \times 610 = 686 \text{ (rounded to 690)}.$$

TABLE G–4—GRINDING AND ABRASIVE CUTTING-OFF WHEELS

Wheel diameter (inches)	Wheel width (inches)	Minimum exhaust volume (feet³/min.)
To 9	1½	220
Over 9 to 16	2	390
Over 16 to 19	3	500
Over 19 to 24	4	610
Over 24 to 30	5	880
Over 30 to 36	6	1,200

(iii) Scratch-brush wheels and all buffing and polishing wheels mounted on floor stands, pedestals, benches, or special-purpose machines shall have not less than the minimum exhaust volume shown in Table G–5.

TABLE G–5—BUFFING AND POLISHING WHEELS

Wheel diameter (inches)	Wheel width (inches)	Minimum exhaust volume (feet³/min.)
To 9	2	300
Over 9 to 16	3	500
Over 16 to 19	4	610
Over 19 to 24	5	740
Over 24 to 30	6	1,040
Over 30 to 36	6	1,200

(iv) Grinding wheels or discs for horizontal single-spindle disc grinders shall be hooded to collect the dust or dirt generated by the grinding operation and the hoods shall be connected to branch pipes having exhaust volumes as shown in Table G–6.

TABLE G–6—HORIZONTAL SINGLE-SPINDLE DISC GRINDER

Disc diameter (inches):	*Exhaust volume (ft.³/min.)*
Up to 12	220
Over 12 to 19	390
Over 19 to 30	610
Over 30 to 36	880

(v) Grinding wheels or discs for horizontal double-spindle disc grinders shall have a hood enclosing the grinding chamber and the hood shall be connected to one or more branch pipes having exhaust volumes as shown in Table G–7.

TABLE G–7—HORIZONTAL DOUBLE-SPINDLE DISC GRINDER

Disc diameter (inches):	*Exhaust volume (ft.³/min.)*
Up to 19	610
Over 19 to 25	880
Over 25 to 30	1,200
Over 30 to 53	1,770
Over 53 to 72	6,280

(vi) Grinding wheels or discs for vertical single-spindle disc grinders shall be encircled with hoods to remove the dust generated in the operation. The hoods shall be connected to one or more branch pipes having exhaust volumes as shown in Table G–8.

TABLE G–8—VERTICAL SPINDLE DISC GRINDER

Disc diameter (inches)	One-half or more of disc covered		Disc not covered	
	Number[1]	Exhaust foot³/min.	Number[1]	Exhaust foot³/min.
Up to 20	1	500	2	780
Over 20 to 30	2	780	2	1,480
Over 30 to 53	2	1,770	4	3,530
Over 53 to 72	2	3,140	5	6,010

[1] Number of exhaust outlets around periphery of hood, or equal distribution provided by other means.

(vii) Grinding and polishing belts shall be provided with hoods to remove dust and dirt generated in the operations and the hoods shall be connected to branch pipes having exhaust volumes as shown in Table G–9.

TABLE G–9—GRINDING AND POLISHING BELTS

Belts width (inches):	*Exhaust volume (ft.³/min.)*
Up to 3	220
Over 3 to 5	300
Over 5 to 7	390
Over 7 to 9	500
Over 9 to 11	610
Over 11 to 13	740

(viii) Cradles and swing-frame grinders. Where cradles are used for handling the parts to be ground, polished, or buffed, requiring large partial enclosures to house the complete operation, a minimum average air velocity of 150 feet per minute shall be maintained over the entire opening of the enclosure. Swing-frame grinders shall also be exhausted in the same manner as provided for cradles. (See fig. G–3)

(ix) Where the work is outside the hood, air volumes must be increased as shown in American Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960 (section 4, exhaust hoods).

(4) *Exhaust systems.* (i) Exhaust systems for grinding, polishing, and buffing operations should be designed in accordance with American Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960.

(ii) Exhaust systems for grinding, polishing, and buffing operations shall be tested in the manner described in American Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960.

(iii) All exhaust systems shall be provided with suitable dust collectors.

(5) *Hood and enclosure design.* (i) (*a*) It is the dual function of grinding and abrasive cutting-off wheel hoods to protect the operator from the hazards of bursting wheels as well as to provide a means for the removal of dust and dirt generated. All hoods shall be not less in structural strength than specified in the American National Standard Code for the Use, Care, and Protection of Abrasive Wheels, B7.1–1970.

(*b*) Due to the variety of work and types of grinding machines employed, it is necessary to develop hoods adaptable to the particular machine in question, and such hoods shall be located as close as possible to the operation.

(ii) Exhaust hoods for floor stands, pedestals, and bench grinders shall be designed in accordance with figure G–2. The adjustable tongue shown in the figure shall be kept in working order and shall be adjusted within one-fourth inch of the wheel periphery at all times.

(iii) Swing-frame grinders shall be provided with exhaust booths as indicated in figure G–3.

(iv) Portable grinding operations, whenever the nature of the work permits, shall be conducted within a partial enclosure. The opening in the enclosure shall be no larger than is actually required in the operation and an average face air velocity of not less than 200 feet per minute shall be maintained.

(v) Hoods for polishing and buffing and scratch-brush wheels shall be constructed to conform as closely to figure G–4 as the nature of the work will permit.

(vi) Cradle grinding and polishing operations shall be performed within a partial enclosure similar to figure G–5. The operator shall be positioned outside the working face of the opening of the enclosure. The face opening of the enclosure should not be any greater in area than that actually required for the performance of the operation and the average air velocity into the working face of the enclosure shall not be less than 150 feet per minute.

(vii) Hoods for horizontal single-spindle disc grinders shall be constructed to conform as closely as possible to the hood shown in figure G–6. It is essential that there be a space between the back of the wheel and the hood, and a space around the periphery of the wheel of at least 1 inch in order to permit the suction to act around the wheel periphery. The opening on the side of the disc shall be no larger than is required for the grinding operation, but must never be less than twice the area of the branch outlet.

(viii) Horizontal double-spindle disc grinders shall have a hood encircling the wheels and grinding chamber similar to that illustrated in figure G–7. The openings for passing the work into the grinding chamber should be kept as small as possible, but must never be less than twice the area of the branch outlets.

(ix) Vertical-spindle disc grinders shall be encircled with a hood so constructed that the heavy dust is drawn off a surface of the disc and the lighter dust exhausted through a continuous slot at the top of the hood as shown in figure G–1.

(x) Grinding and polishing belt hoods shall be constructed as close to the operation as possible. The hood should extend almost to the belt, and 1-inch wide openings should be provided on either side. Figure G–8 shows a typical hood for a belt operation.

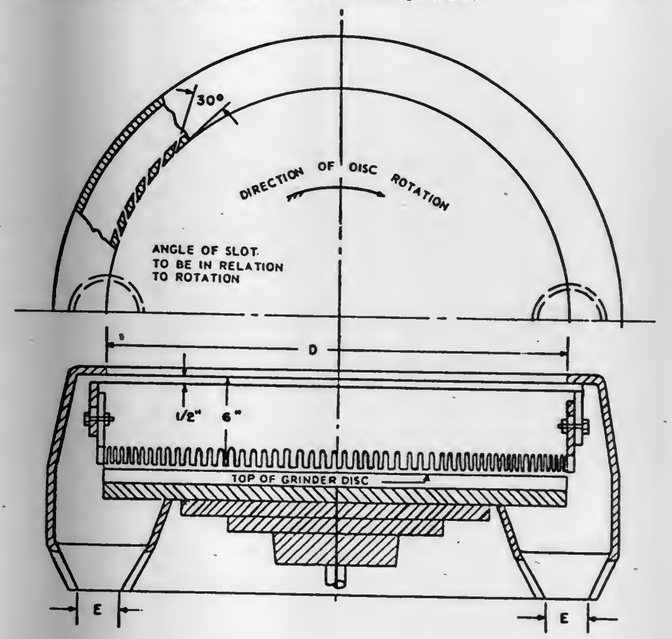


Fig. G–1

Vertical Spindle Disc Grinder Exhaust Hood and Branch Pipe Connections

Dia *D*, Inches		Exhaust *E*		Volume Exhausted at 4,500 ft/min ft³/min	Note
Min	Max	No. Pipes	Dia		
	20	1	4½	500	When one-half or more of the disc can be hooded, use exhaust ducts as shown at the left.
Over 20	30	2	4	780	
Over 30	72	2	6	1,770	
Over 53	72	2	8	3,140	
	20	2	4	780	When no hood can be used over disc, use exhaust ducts as shown at left.
Over 20	30	2	5½	1,480	
Over 30	53	4	6	3,530	
Over 53	72	5	7	6,010	

Entry loss = 1.0 slot velocity pressure + 0.5 branch velocity pressure
Minimum slot velocity = 2,000 ft/min – ½-inch slot width

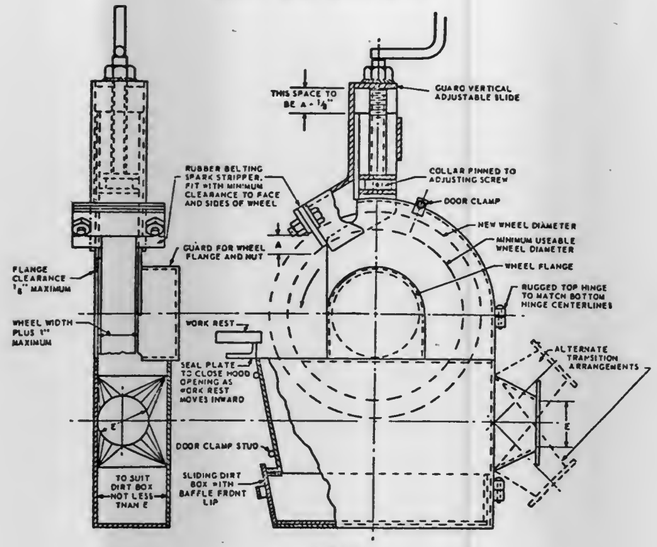


Fig. G-2
Standard Grinder Hood

Wheel Dimension			Exhaust Outlet, Inches	Volume of Air at 4,500 ft/min
Diameter, Inches		Width, Inches		
Min = *d*	Max = *D*	Max	*E*	
	9	1½	3	220
Over 9	16	2	4	390
Over 16	19	3	4½	500
Over 19	24	4	5	610
Over 24	30	5	6	880
Over 30	36	6	7	1,200

Entry loss = 0.45 velocity pressure for tapered takeoff
0.65 velocity pressure for straight takeoff

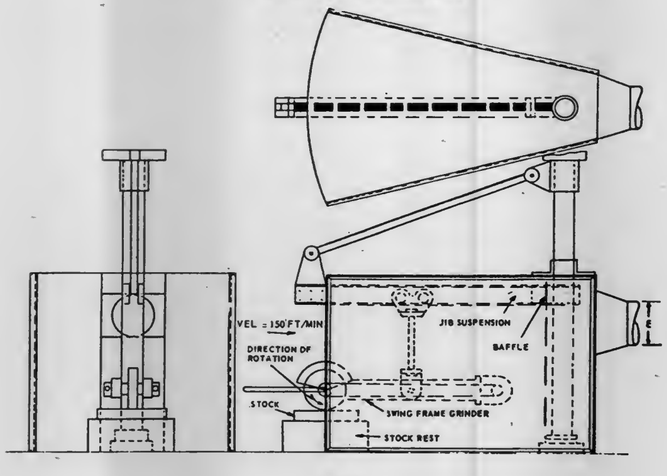


Fig. G-3
A Method of Applying an Exhaust Enclosure to Swing-Frame Grinders
NOTE: Baffle to reduce front opening as much as possible

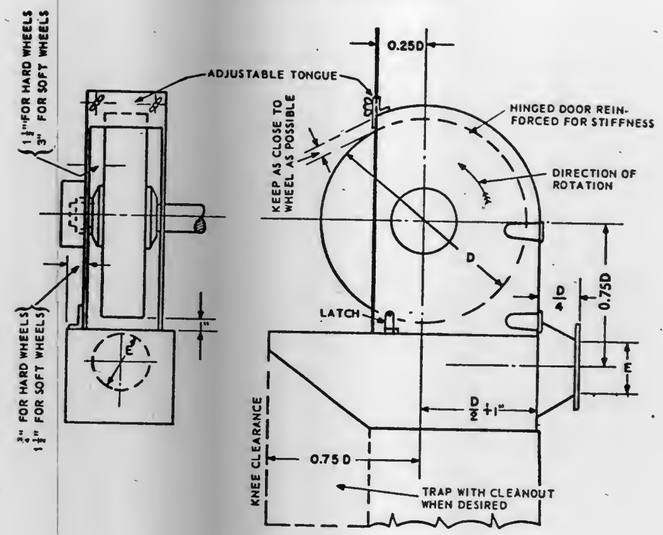


Fig. G-4
Standard Buffing and Polishing Hood

Wheel Dimension, Inches			Exhaust Outlet, Inches	Volume of Air at 4,500 ft/min
Diameter		Width		
Min = *d*	Max = *D*	Max	*E*	
	9	2	3½	310
Over 9	16	3	4	500
Over 16	19	4	5	610
Over 19	24	5	5½	740
Over 24	30	6	6½	1,040
Over 30	36	6	7	1,200

Entry loss = 0.15 velocity pressure for tapered takeoff
0.65 velocity pressure for straight takeoff

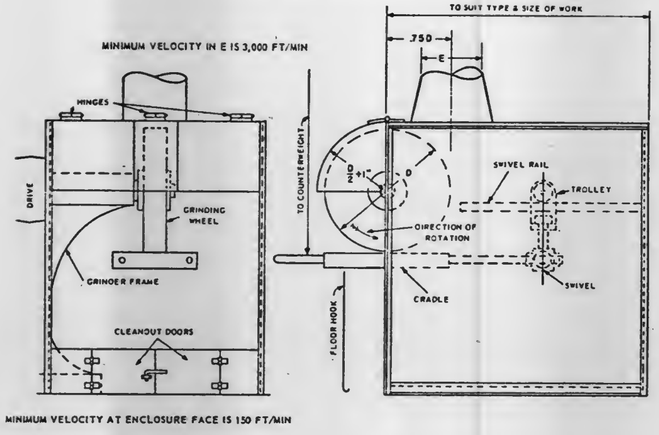


Fig. G-5
Cradle Polishing or Grinding Enclosure
Entry loss = 0.45 velocity pressure for tapered takeoff

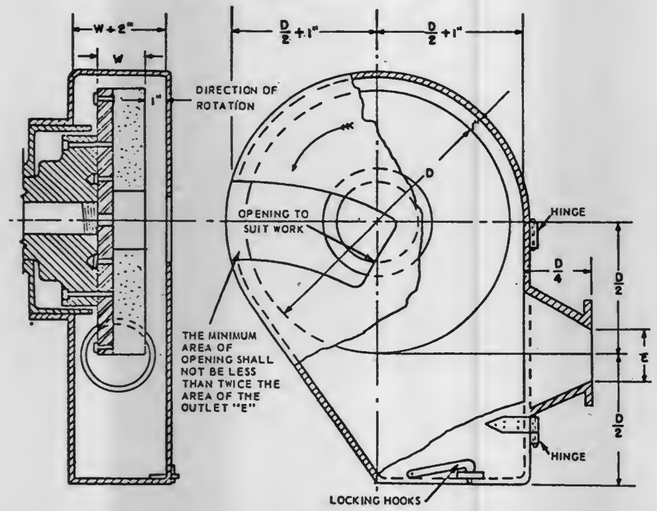


Fig. G-6
Horizontal Single-Spindle Disc Grinder Exhaust Hood and Branch Pipe Connections

Dia *D*, Inches		Exhaust *E*	Volume Exhausted at 4,500 ft/min ft³/min
Min	Max	Dia, Inches	
	12	3	220
Over 12	19	4	390
Over 19	30	5	610
Over 30	36	6	880

NOTE: If grinding wheels are used for disc grinding purposes, hoods must conform to structural strength and materials as described in 9.1.

Entry loss = 0.45 velocity pressure for tapered takeoff

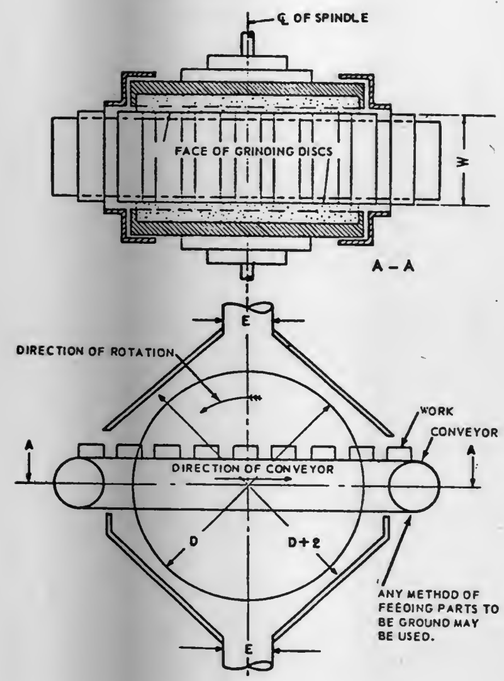


Fig. G-7
Horizontal Double-Spindle Disc Grinder Exhaust Hood and Branch Pipe Connections

Disc Dia, Inches		Exhaust *E*		Volume Exhausted at 4,500 ft, min ft³/min	Note
Min	Max	No. Pipes	Dia		
	19	1	5	610	When width "W" permits, exhaust ducts should be as near heaviest grinding as possible.
Over 19	25	1	6	880	
Over 25	30	1	7	1,200	
Over 30	53	2	6	1,770	
Over 53	72	4	8	6,280	

Entry loss = 0.45 velocity pressure for tapered takeoff

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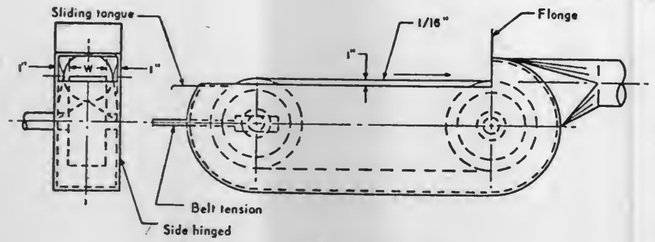


Fig. G-8

A Typical Hood for a Belt Operation

Belt Width W, Inches	Exhaust Volume, ft³/min
up to 3	220
3 to 5	360
5 to 7	390
7 to 9	500
9 to 11	610
11 to 13	740

Minimum duct velocity = 4,500 ft/min branch, 3,500 ft/min main
Entry loss = 0.45 velocity pressure for tapered takeoff
0.65 velocity pressure for straight takeoff

(6) *Scope.* This paragraph (b), prescribes the use of exhaust hood enclosures and systems in removing dust, dirt, fumes, and gases generated through the grinding, polishing, or buffing of ferrous and nonferrous metals.

(c) *Spray-finishing operations*—(1) *Definitions applicable to this paragraph*—(i) *Spray-finishing operations.* Spray-finishing operations are employment of methods wherein organic or inorganic materials are utilized in dispersed form for deposit on surfaces to be coated, treated, or cleaned. Such methods of deposit may involve either automatic, manual, or electrostatic deposition but do not include metal spraying or metallizing, dipping, flow coating, roller coating, tumbling, centrifuging, or spray washing and degreasing as conducted in self-contained washing and degreasing machines or systems.

(ii) *Spray booth.* Spray booths are defined and described in § 1910.107(a). (See sections 103, 104, and 105 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33–1969).

(iii) *Spray room.* A spray room is a room in which spray-finishing operations not conducted in a spray booth are performed separately from other areas.

(iv) *Minimum maintained velocity.* Minimum maintained velocity is the velocity of air movement which must be maintained in order to meet minimum specified requirements for health and safety.

(2) *Location and application.* Spray booths or spray rooms are to be used to enclose or confine all operations. Spray-finishing operations shall be located as provided in sections 201 through 206 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33–1969.

(3) *Design and construction of spray booths.* (i) Spray booths shall be designed and constructed in accordance with § 1910.107(b) (1)–(4) and (6)–(10) (see sections 301–304 and 306–310 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33–1969), for general construction specifications. For a more detailed discussion of fundamentals relating to this subject, see ANSI Z9.2–1960.

(a) Lights, motors, electrical equipment, and other sources of ignition shall conform to the requirements of § 1910.107 (b) (10) and (c). (See section 310 and chapter 4 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33–1969.)

(b) In no case shall combustible material be used in the construction of a spray booth and supply or exhaust duct connected to it.

(ii) Unobstructed walkways shall not be less than 6½ feet high and shall be maintained clear of obstruction from any work location in the booth to a booth exit or open booth front. In booths where the open front is the only exit, such exits shall be not less than 3 feet wide. In booths having multiple exits, such exits shall not be less than 2 feet wide, provided that the maximum distance from the work location to the exit is 25 feet or less. Where booth exits are provided with doors, such doors shall open outward from the booth.

(iii) Baffles, distribution plates, and dry-type overspray collectors shall conform to the requirements of § 1910.107 (b) (4) and (5). (See sections 304 and 305 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33–1969.)

(a) Overspray filters shall be installed and maintained in accordance with the requirements of § 1910.107(b)(5), (see section 305 of the Standard for Spray Finishing Using Flammable and Combustible Materials, NFPA No. 33–1969), and shall only be in a location easily accessible for inspection, cleaning, or replacement.

(b) Where effective means, independent of the overspray filters, are installed which will result in design air distribution across the booth cross section, it is permissible to operate the booth without the filters in place.

(iv) (a) For wet or water-wash spray booths, the water-chamber enclosure, within which intimate contact of contaminated air and cleaning water or other cleaning medium is maintained, if made of steel, shall be 18 gage or heavier and adequately protected against corrosion.

(b) Chambers may include scrubber spray nozzles, headers, troughs, or other devices. Chambers shall be provided with adequate means for creating and maintaining scrubbing action for removal of particulate matter from the exhaust air stream.

(v) Collecting tanks shall be of welded steel construction or other suitable noncombustible material. If pits are used as collecting tanks, they shall be concrete, masonry, or other material having similar properties.

(a) Tanks shall be provided with weirs, skimmer plates, or screens to prevent sludge and floating paint from entering the pump suction box. Means for automatically maintaining the proper water level shall also be provided. Fresh water inlets shall not be submerged. They shall terminate at least one pipe diameter above the safety overflow level of the tank.

(b) Tanks shall be so constructed as to discourage accumulation of hazardous deposits.

(vi) Pump manifolds, risers, and headers shall be adequately sized to insure sufficient water flow to provide efficient operation of the water chamber.

(4) *Design and construction of spray rooms.* (i) Spray rooms, including floors, shall be constructed of masonry, concrete, or other noncombustible material.

(ii) Spray rooms shall have noncombustible fire doors and shutters.

(iii) Spray rooms shall be adequately ventilated so that the atmosphere in the breathing zone of the operator shall be maintained in accordance with the requirements of subparagraph (6)(ii) of this paragraph.

(iv) Spray rooms used for production spray-finishing operations shall conform to the requirements for spray booths.

(5) *Ventilation.* (i) Ventilation shall be provided in accordance with provisions of § 1910.107(d) (see chapter 5 of the Standard for Spray Finishing Using Flammable or Combustible Materials, NFPA No. 33–1969), and in accordance with the following:

(a) Where a fan plenum is used to equalize or control the distribution of exhaust air movement through the booth, it shall be of sufficient strength or rigidity to withstand the differential air pressure or other superficially imposed loads for which the equipment is designed and also to facilitate cleaning. Construction specifications shall be at least equivalent to those of subdivision (iii) of this subparagraph.

(b) All fan ratings shall be in accordance with Air Moving and Conditioning Association Standard Test Code for Testing Air Moving Devices, Bulletin 210, April 1962.

(ii) Inlet or supply ductwork used to transport makeup air to spray booths or surrounding areas shall be constructed of noncombustible materials.

(a) If negative pressure exists within inlet ductwork, all seams and joints shall be sealed if there is a possibility of infiltration of harmful quantities of noxious gases, fumes, or mists from areas through which ductwork passes.

(b) Inlet ductwork shall be sized in accordance with volume flow requirements and provide design air requirements at the spray booth.

(c) Inlet ductwork shall be adequately supported throughout its length to sustain at least its own weight plus any negative pressure which is exerted upon it under normal operating conditions.

(iii) Ducts shall be so constructed as to provide structural strength and stability at least equivalent to sheet steel of not less than the following thickness:

Diameter or Greater Dimension	(U.S. gauge)
Up to 8 inches inclusive	No. 24
Over 8 inches to 18 inches inclusive	No. 22
Over 18 inches to 30 inches inclusive	No. 20
Over 30 inches	No. 18

(a) Exhaust ductwork shall be adequately supported throughout its length to sustain its weight plus any normal accumulation in interior during normal operating conditions and any negative pressure exerted upon it.

(b) Exhaust ductwork shall be sized in accordance with good design practice which shall include consideration of fan capacity, length of duct, number of turns and elbows, variation in size, volume, and character of materials being exhausted. See American National Standard Z9.2–1960 for further details and explanation concerning elements of design.

(c) Longitudinal joints in sheet steel ductwork shall be either lock-seamed, riveted, or welded. For other than steel construction, equivalent securing of joints shall be provided.

(d) Circumferential joints in ductwork shall be substantially fastened together and lapped in the direction of airflow. At least every fourth joint shall be provided with connecting flanges, bolted together, or of equivalent fastening security.

(e) Inspection or clean-out doors shall be provided for every 9 to 12 feet of running length for ducts up to 12 inches in diameter, but the distance between clean-out doors may be greater for larger pipes. (See 8.3.21 of American National Standard Z9.1–1951.) A clean-out door or doors shall be provided for servicing the fan, and where necessary, a drain shall be provided.

(f) Where ductwork passes through a combustible roof or wall, the roof or wall shall be protected at the point of penetration by open space or fire-resistive material between the duct and the roof or wall. When ducts pass through firewalls, they shall be provided with automatic fire dampers on both sides of the wall, except that three-eighth-inch steel plates may be used in lieu of automatic fire dampers for ducts not exceeding 18 inches in diameter.

(g) Ductwork used for ventilating any process covered in this standard shall not be connected to ducts ventilating any other process or any chimney or flue used for conveying any products of combustion.

(6) *Velocity and air flow requirements.* (i) Except where a spray booth has an adequate air replacement system, the velocity of air into all openings of a spray booth shall be not less than that specified in Table G–10 for the operating conditions specified. An adequate air replacement system is one which introduces replacement air upstream or above the object being sprayed and is so designed that the velocity of air in the booth cross section is not less than that specified in Table G–10 when measured upstream or above the object being sprayed.

Table G–10—Minimum Maintained Velocities Into Spray Booths

Operating conditions for objects completely inside booth	Crossdraft, f.p.m.	Airflow velocities, f.p.m.	
		Design	Range
Electrostatic and automatic airless operation contained in booth without operator.	Negligible	50 large booth	50–75
		100 small booth	75–125
Air-operated guns, manual or automatic	Up to 50	100 large booth	75–125
		150 small booth	125–175
Air-operated guns, manual or automatic	Up to 100	150 large booth	125–175
		200 small booth	150–250

Notes:

(1) Attention is invited to the fact that the effectiveness of the spray booth is dependent upon the relationship of the depth of the booth to its height and width.

(2) Crossdrafts can be eliminated through proper design and such design should be sought. Crossdrafts in excess of 100 fpm (feet per minute) should not be permitted.

(3) Excessive air pressures result in loss of both efficiency and material waste in addition to creating a backlash that may carry overspray and fumes into adjacent work areas.

(4) Booths should be designed with velocities shown in the column headed "Design." However, booths operating with velocities shown in the column headed "Range" are in compliance with this standard.

(ii) In addition to the requirements in subdivision (i) of this subparagraph the total air volume exhausted through a spray booth shall be such as to dilute solvent vapor to at least 25 percent of the lower explosive limit of the solvent being sprayed. An example of the method of calculating this volume is given below.

Example: To determine the lower explosive limits of the most common solvents used in spray finishing, see Table G–11. Column 1 gives the number of cubic feet of vapor per gallon of solvent and column 2 gives the lower explosive limit (LEL) in percentage by volume of air. Note that the quantity of solvent will be diminished by the quantity of solids and nonflammables contained in the finish.

To determine the volume of air in cubic feet necessary to dilute the vapor from 1 gallon of solvent to 25 percent of the lower explosive limit, apply the following formula:

$$\text{Dilution volume required per gallon of solvent} = \frac{4\,(100-\text{LEL})\ \text{(cubic feet of vapor per gallon)}}{\text{LEL}}$$

Using toluene as the solvent.

(1) LEL of toluene from Table G–11, column 2, is 1.4 percent.

(2) Cubic feet of vapor per gallon from Table G–11, column 1, is 30.4 cubic feet per gallon.

(3) Dilution volume required $= \frac{4\,(100-1.4)\,30.4}{1.4} = 8{,}564$ cubic feet.

(4) To convert to cubic feet per minute of required ventilation, multiply the dilution volume required per gallon of solvent by the number of gallons of solvent evaporated per minute.

Table G–11—Lower Explosive Limit of Some Commonly Used Solvents

Solvent	Cubic feet of vapor per gallon of liquid at 70° F	Lower explosive limit in percent by volume of air at 70° F
	Column 1	*Column 2*
Acetone	44.0	2.6
Amyl Acetate (iso)	21.6	[1] 1.0
Amyl Alcohol (n)	29.6	1.2
Amyl Alcohol (iso)	29.6	1.2
Benzene	36.8	[1] 1.4
Butyl Acetate (n)	24.8	1.7
Butyl Alcohol (n)	35.2	1.4
Butyl Cellosolve	24.8	1.1
Cellosolve	33.6	1.8
Cellosolve Acetate	23.2	1.7
Cyclohexanone	31.2	[1] 1.1
1,1 Dichloroethylene	42.4	5.6
1,2 Dichloroethylene	42.4	9.7
Ethyl Acetate	32.8	2.5
Ethyl Alcohol	55.2	4.3
Ethyl Lactate	28.0	[1] 1.5
Methyl Acetate	40.0	3.1
Methyl Alcohol	80.8	7.3
Methyl Cellosolve	40.8	2.5
Methyl Ethyl Ketone	36.0	1.8
Methyl n-Propyl-Ketone	30.4	1.5
Naphtha (VM&P) (76° Naphtha)	22.4	0.9
Naphtha (100° Flash) Safety Solvent—Stoddard Solvent	23.2	1.1
Propyl Acetate (n)	27.2	2.0
Propyl Acetate (iso)	28.0	1.8
Propyl Alcohol (n)	44.8	2.1
Propyl Alcohol (iso)	44.0	2.0
Toluene	30.4	1.4
Turpentine	20.8	0.8
Xylene (o)	26.4	1.0

[1] At 212° F.

(iii) (a) When an operator must position himself in a booth downstream of the object being sprayed, an air supplied respirator or other type of respirator approved by the Bureau of Mines,

U.S. Department of the Interior or specified in ANSI Z88.2–1969 for the material being sprayed should be used by the operator.

(*b*) Where downdraft booths are provided with doors, such doors shall be closed when spray painting.

(7) *Make-up air.* (i) Clean fresh air, free of contamination from adjacent industrial exhaust systems, chimneys, stacks, or vents, shall be supplied to a spray booth or room in quantities equal to the volume of air exhausted through the spray booth.

(ii) Where a spray booth or room receives make-up air through self-closing doors, dampers, or louvers, they shall be fully open at all times when the booth or room is in use for spraying. The velocity of air through such doors, dampers, or louvers shall not exceed 200 feet per minute. If the fan characteristics are such that the required air flow through the booth will be provided, higher velocities through the doors, dampers, or louvers may be used.

(iii) (*a*) Where the air supply to a spray booth or room is filtered, the fan static pressure shall be calculated on the assumption that the filters are dirty to the extent that they require cleaning or replacement.

(*b*) The rating of filters shall be governed by test data supplied by the manufacturer of the filter. A pressure gage shall be installed to show the pressure drop across the filters. This gage shall be marked to show the pressure drop at which the filters require cleaning or replacement. Filters shall be replaced or cleaned whenever the pressure drop across them becomes excessive or whenever the air flow through the face of the booth falls below that specified in Table G–10.

(iv) (*a*) Means for heating make-up air to any spray booth or room, before or at the time spraying is normally performed, shall be provided in all places where the outdoor temperature may be expected to remain below 55° F. for appreciable periods of time during the operation of the booth except where adequate and safe means of radiant heating for all operating personnel affected is provided. The replacement air during the heating seasons shall be maintained at not less than 65° F. at the point of entry into the spray booth or spray room. When otherwise unheated make-up air would be at a temperature of more than 10° F. below room temperature, its temperature shall be regulated as provided in section 3.6.3 of ANSI Z9.2–1960.

(*b*) As an alternative to an air replacement system complying with the preceding section, general heating of the building in which the spray room or booth is located may be employed provided that all occupied parts of the building are maintained at not less than 65° F. when the exhaust system is in operation or the general heating system supplemented by other sources of heat may be employed to meet this requirement.

(*c*) No means of heating make-up air shall be located in a spray booth.

(*d*) Where make-up air is heated by coal or oil, the products of combustion shall not be allowed to mix with the make-up air, and the products of combustion shall be conducted outside the building through a flue terminating at a point remote from all points where make-up air enters the building.

(*e*) Where make-up air is heated by gas, and the products of combustion are not mixed with the make-up air but are conducted through an independent flue to a point outside the building remote from all points where make-up air enters the building, it is not necessary to comply with (*f*) of this subdivision.

(*f*) Where make-up air to any manually operated spray booth or room is heated by gas and the products of combustion are allowed to mix with the supply air, the following precautions must be taken:

(*1*) The gas must have a distinctive and strong enough odor to warn workmen in a spray booth or room of its presence if in an unburned state in the make-up air.

(*2*) The maximum rate of gas supply to the make-up air heater burners must not exceed that which would yield in excess of 200 p.p.m. (parts per million) of carbon monoxide or 2,000 p.p.m. of total combustible gases in the mixture if the unburned gas upon the occurrence of flame failure were mixed with all of the make-up air supplied.

(*3*) A fan must be provided to deliver the mixture of heated air and products of combustion from the plenum chamber housing the gas burners to the spray booth or room.

(8) *Scope.* Spray booths or spray rooms are to be used to enclose or confine all spray finishing operations covered by this paragraph (c). This paragraph does not apply to the spraying of the exteriors of buildings, fixed tanks, or similar structures, nor to small portable spraying apparatus not used repeatedly in the same location.

(d) *Open surface tanks*—(1) *General.* (i) This paragraph applies to all operations involving the immersion of materials in liquids, or in the vapors of such liquids, for the purpose of cleaning or altering the surface or adding to or imparting a finish thereto or changing the character of the materials, and their subsequent removal from the liquid or vapor, draining, and drying. These operations include washing, electroplating, anodizing, pickling, quenching, dying, dipping, tanning, dressing, bleaching, degreasing, alkaline cleaning, stripping, rinsing, digesting, and other similar operations.

(ii) Except where specific construction specifications are prescribed in this section, hoods, ducts, elbows, fans, blowers, and all other exhaust system parts, components, and supports thereof shall be so constructed as to meet conditions of service and to facilitate maintenance and shall conform in construction to the specifications contained in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960.

(2) *Classification of open-surface tank operations.* (i) Open-surface tank operations shall be classified into 16 classes, numbered A–1 to D–4, inclusive.

(ii) *Determination of class.* Class is determined by two factors, hazard potential designated by a letter from A to D, inclusive, and rate of gas, vapor, or mist evolution designated by a number from 1 to 4, inclusive (for example, B.3).

(iii) Hazard potential is an index, on a scale of from A to D, inclusive, of the severity of the hazard associated with the substance contained in the tank because of the toxic, flammable, or explosive nature of the vapor, gas, or mist produced therefrom. The toxic hazard is determined from the concentration, measured in parts by volume of a gas or vapor, per million parts by volume of contaminated air (p.p.m.), or in milligrams of mist per cubic meter of air (mg./m.^{3}), below which ill effects are unlikely to occur to the exposed worker. The concentrations shall be those in § 1910.93.

(iv) The relative fire or explosion hazard is measured in degrees Fahrenheit in terms of the closed-cup flash point of the substance in the tank. Detailed information on the prevention of fire hazards in dip tanks may be found in Dip Tanks Containing Flammable or Combustible Liquids, NFPA No. 34–1966, National Fire Protection Association. Where the tank contains a mixture of liquids, other than organic solvents, whose effects are additive, the hygienic standard of the most toxic component (for example, the one having the lowest p.p.m. or mg./m.^{3}) shall be used, except where such substance constitutes an insignificantly small fraction of the mixture. For mixtures of organic solvents, their combined effect, rather than that of either individually, shall determine the hazard potential. In the absence of information to the contrary, the effects shall be considered as additive. If the sum of the ratios of the airborne concentration of each contaminant to the toxic concentration of that contaminant exceeds unity, the toxic concentration shall be considered to have been exceeded. (See Note A to subdivision (v) of this subparagraph.)

(v) Hazard potential shall be determined from Table G–12, with the value indicating greater hazard being used. When the hazardous material may be either a vapor with a threshhold limit value (*TLV*) in p.p.m. or a mist with a *TLV* in mg./m.^{3}, the *TLV* indicating the greater hazard shall be used (for example, A takes precedence over B or C; B over C; C over D).

NOTE A:

$$\frac{c_1}{TLV_1}+\frac{c_2}{TLV_2}+\frac{c_3}{TLV_3}+\ldots\frac{c_N}{TLV_N}>1$$

where:

c=Concentration measured at the operation in p.p.m.

TABLE G–12—DETERMINATION OF HAZARD POTENTIAL

Hazard potential	Toxicity Group		
	Gas or vapor (p.p.m.)	Mist (mg./m^3)	Flash point (in degrees F.)
A	0–10	0–0.1	
B	11–100	0.11–1.0	Under 100
C	101–500	1.1–10	100–200
D	Over 500	Over 10	Over 200

(vi) Rate of gas, vapor, or mist evolution is a numerical index, on a scale of from 1 to 4, inclusive, both of the relative capacity of the tank to produce gas, vapor, or mist and of the relative energy with which it is projected or carried upwards from the tank. Rate is evaluated in terms of

(*a*) The temperature of the liquid in the tank in degrees Fahrenheit;

(*b*) The number of degrees Fahrenheit that this temperature is below the boiling point of the liquid in degrees Fahrenheit;

(*c*) The relative evaporation of the liquid in still air at room temperature in an arbitrary scale—fast, medium, slow, or nil; and

(*d*) The extent that the tank gases or produces mist in an arbitrary scale—high, medium, low, and nil. (See Table G–13, Note 2.) Gassing depends upon electrochemical or mechanical processes, the effects of which have to be individually evaluated for each installation (see Table G–13, Note 3).

(vii) Rate of evolution shall be determined from Table G–13. When evaporation and gassing yield different rates, the lowest numerical value shall be used.

TABLE G–13—DETERMINATION OF RATE OF GAS, VAPOR, OR MIST EVOLUTION[1]

Rate	Liquid temperature,[2] F.	Degrees below boiling point	Relative evaporation[2]	Gassing[3]
1	Over 200	0–20	Fast	High.
2	150–200	21–50	Medium	Medium.
3	94–149	51–100	Slow	Low.
4	Under 94	Over 100	Nil	Nil.

NOTE 1. In certain classes of equipment, specifically vapor degreasers, an internal condenser or vapor level thermostat is used to prevent the vapor from leaving the tank during normal operation. In such cases, rate of vapor evolution from the tank into the workroom is not dependent upon the factors listed in the table, but rather upon abnormalities of operating procedure, such as carryout of vapors from excessively fast action, dragout of liquid by entrainment in parts, contamination of solvent by water and other materials, or improper heat balance. When operating procedure is excellent, effective rate of evolution may be taken as 4. When operating procedure is average, the effective rate of evolution may be taken as 3. When operation is poor, a rate of 2 or 1 is indicated, depending upon observed conditions.

NOTE 2. Relative evaporation rate is determined according to the methods described by A. K. Doolittle in Industrial and Engineering Chemistry, vol. 27, p. 1169, (3) where time for 100-percent evaporation is as follows: Fast: 0–3 hours; Medium: 3–12 hours; Slow: 12–50 hours: Nil: more than 50 hours.

NOTE 3. Gassing means the formation by chemical or electrochemical action of minute bubbles of gas under the surface of the liquid in the tank and is generally limited to aqueous solutions.

(3) *Ventilation.* Where ventilation is used to control potential exposures to workers as defined in subparagraph (2) (iii) of this paragraph, it shall be adequate to reduce the concentration of the air contaminant to the degree that a hazard to the worker does not exist. Methods of ventilation are discussed in American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960.

(4) *Control requirements.* (i) Control velocities shall conform to Table G–14 in all cases where the flow of air past the breathing or working zone of the operator and into the hoods is undisturbed by local environmental conditions, such as open windows, wall fans, unit heaters, or moving machinery.

(ii) All tanks exhausted by means of hoods which

(*a*) Project over the entire tank;

(*b*) Are fixed in position in such a location that the head of the workman, in all his normal operating positions while working at the tank, is in front of all hood openings; and

(*c*) Are completely enclosed on at least two sides, shall be considered to be exhausted through an enclosing hood.

(*d*) The quantity of air in cubic feet per minute necessary to be exhausted through an enclosing hood shall be not less than the product of the control velocity times the net area of all openings in the enclosure through which air can flow into the hood.

TABLE G–14—CONTROL VELOCITIES IN FEET PER MINUTE (F.P.M.) FOR UNDISTURBED LOCATIONS

Class	Enclosing hood		Lateral exhaust[1]	Canopy hood[2]	
	One open side	Two open sides		Three open sides	Four open sides
A–1 and A–2	100	150	150	Do not use	Do not use
A–3 (Note 2), B–1, B–2, and C–1	75	100	100	125	175
B–3, C–2, and D–1 (Note 3)	65	90	75	100	150
A–4 (Note 2), C–3, and D–2 (Note 3)	50	75	50	75	125
B–4, C–4, D–3 (Note 3), and D–4	General room ventilation required.				

NOTES:
1. See Table G–15 for computation of ventilation rate.
2. Do not use canopy hood for Hazard Potential A processes.
3. Where complete control of hot water is desired, design as next highest class.

(iii) All tanks exhausted by means of hoods which do not project over the entire tank, and in which the direction of air movement into the hood or hoods is substantially horizontal, shall be considered to be laterally exhausted. The quantity of air in cubic feet per minute necessary to be laterally exhausted per square foot of tank area in order to maintain the required control velocity shall be determined from Table G–15 for all variations in ratio of tank width (*W*) to tank length (*L*). The total quantity of air in cubic feet per minute required to be exhausted per tank shall be not less than the product of the area of tank surface times the cubic feet per minute per square foot of tank area, determined from Table G–15.

(*a*) For lateral exhaust hoods over 42 inches wide, or where it is desirable to reduce the amount of air removed from the workroom, air supply slots or orifices shall be provided along the side or the center of the tank opposite from the exhaust slots. The design of such systems shall meet the following criteria:

(*1*) The supply air volume plus the entrained air shall not exceed 50 percent of the exhaust volume.

(*2*) The velocity of the supply airstream as it reaches the effective control area of the exhaust slot shall be less than the effective velocity over the exhaust slot area.

(*3*) The vertical height of the receiving exhaust hood, including any baffle, shall not be less than one-quarter the width of the tank.

(*4*) The supply airstream shall not be allowed to impinge on obstructions between it and the exhaust slot in such a manner as to significantly interfere with the performance of the exhaust hood.

TABLE G–15—MINIMUM VENTILATION RATE IN CUBIC FEET OF AIR PER MINUTE PER SQUARE FOOT OF TANK AREA FOR LATERAL EXHAUST

Required minimum control velocity, f.p.m. (from Table G–14)	C.f.m per sq. ft. to maintain required minimum velocities at following ratios (tank width (*W*) /tank length (*L*)).[1,2]				
	0.0–0.09	0.1–0.24	0.25–0.49	0.5–0.99	1.0–2.0
Hood along one side or two parallel sides of tank when one hood is against a wall or baffle.[2] Also for a manifold along tank centerline.[3]					
50	50	60	75	90	100
75	75	90	110	130	150
100	100	125	150	175	200
150	150	190	225	260	300
Hood along one side or two parallel sides of free standing tank not against wall or baffle.					
50	75	90	100	110	125
75	110	130	150	170	190
100	150	175	200	225	250
150	225	260	300	340	375

[1] It is not practicable to ventilate across the long dimension of a tank whose ratio $\frac{W}{L}$ exceeds 2.0.

It is undesirable to do so when $\frac{W}{L}$ exceeds 1.0. For circular tanks with lateral exhaust along up to ½ the circumference, use $W/L=1.0$; for over one-half the circumference use $W/L=0.5$.

[2] Baffle is a vertical plate the same length as the tank, and with the top of the plate as high as the tank is wide. If the exhaust hood is on the side of a tank against a building wall or close to it, it is perfectly baffled.

[3] Use $\frac{W}{2}$ as tank width in computing when manifold is along centerline, or when hoods are used on two parallel sides of a tank.

Tank Width (*W*) means the effective width over which the hood must pull air to operate (for example, where the hood face is set back from the edge of the tank, this set back must be added in measuring tank width). The surface area of tanks can frequently be reduced and better control obtained (particularly on conveyorized systems) by using covers extending from the upper edges of the slots toward the center of the tank.

(5) Since most failure of push-pull systems result from excessive supply air volumes and pressures, methods of measuring and adjusting the supply air shall be provided. When satisfactory control has been achieved, the adjustable features of the hood shall be fixed so that they will not be altered.

(iv) All tanks exhausted by means of hoods which project over the entire tank, and which do not conform to the definition of enclosing hoods, shall be considered to be overhead canopy hoods. The quantity of air in cubic feet per minute necessary to be exhausted through a canopy hood shall be not less than the product of the control velocity times the net area of all openings between the bottom edges of the hood and the top edges of the tank.

(v) The rate of vapor evolution (including steam or products of combustion) from the process shall be estimated. If the rate of vapor evolution is equal to or greater than 10 percent of the calculated exhaust volume required, the exhaust volume shall be increased in equal amount.

(5) *Spray cleaning and degreasing.* Wherever spraying or other mechanical means are used to disperse a liquid above an open-surface tank, control must be provided for the airborne spray. Such operations shall be enclosed as completely as possible. The inward air velocity into the enclosure shall be sufficient to prevent the discharge of spray into the workroom. Mechanical baffles may be used to help prevent the discharge of spray. Spray painting operations are covered by paragraph (c) of this section.

(6) *Control means other than ventilation.* Tank covers, foams, beads, chips, or other materials floating on the tank surface so as to confine gases, mists, or vapors to the area under the cover or to the foam, bead, or chip layer; or surface tension depressive agents added to the liquid in the tank to minimize mist formation, or any combination thereof, may all be used as gas, mist, or vapor control means for open-surface tank operations, provided that they effectively reduce the concentrations of hazardous materials in the vicinity of the worker below the limits set in accordance with subparagraph (2) of this paragraph.

(7) *System design.* (i) The equipment for exhausting air shall have sufficient capacity to produce the flow of air required in each of the hoods and openings of the system.

(ii) The capacity required in subdivision (i) of this subparagraph shall be obtained when the airflow producing equipment is operating against the following pressure losses, the sum of which is the static pressure:

(*a*) Entrance losses into the hood.

(*b*) Resistance to airflow in branch pipe including bends and transformations.

(*c*) Entrance loss into the main pipe.

(*d*) Resistance to airflow in main pipe including bends and transformations.

(*e*) Resistance of mechanical equipment; that is, filters, washers, condensers, absorbers, etc., plus their entrance and exit losses.

(*f*) Resistance in outlet duct and discharge stack.

(iii) Two or more operations shall not be connected to the same exhaust system where either one or the combination of the substances removed may constitute a fire, explosion, or chemical reaction hazard in the duct system. Traps or other devices shall be provided to insure that condensate in ducts does not drain back into any tank.

(iv) The exhaust system, consisting of hoods, ducts, air mover, and discharge outlet, shall be designed in accordance with American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960, or the manual, Industrial Ventilation, published by the American Conference of Governmental Industrial Hygienists 1970. Airflow and pressure loss data provided by the manufacturer of any air cleaning device shall be included in the design calculations.

(8) *Operation.* (i) The required airflow shall be maintained at all times during which gas, mist, or vapor is emitted from the tank, and at all times the tank, the draining, or the drying area is in operation or use. When the system is first installed, the airflow from each hood shall be measured by means of a pitot traverse in the exhaust duct and corrective action taken if the flow is less than that required. When the proper flow is obtained, the hood static pressure shall be measured and recorded. At intervals of not more than 3 months operation, or after a prolonged shutdown period, the hoods and duct system shall be inspected for evidence of corrosion or damage. In any case where the airflow is found to be less than required, it shall be increased to the required value. (Information on airflow and static pressure measurement and calculations may be found in American National Standard Fundamental Governing the Design and Operation of Local Exhaust Systems, Z9.2–1960, or in the manual, Industrial Ventilation, published by the American Conference of Governmental Industrial Hygienists.)

(ii) The exhaust system shall discharge to the outer air in such a manner that the possibility of its effluent entering any building is at a minimum. Recirculation shall only be through a device for contaminant removal which will prevent the creation of a health hazard in the room or area to which the air is recirculated.

(iii) A volume of outside air in the range of 90 percent to 110 percent of the exhaust volume shall be provided to each room having exhaust hoods. The outside air supply shall enter the workroom in such a manner as not to be detrimental to any exhaust hood. The airflow of the makeup air system shall be measured on installation. Periodically, thereafter, the airflow should be remeasured, and corrective action shall be taken when the airflow is below that required. The makeup air shall be uncontaminated.

(9) *Personal protection.* (i) All employees working in and around open-surface tank operations must be instructed as to the hazards of their respective jobs, and in the personal protection and first aid procedures applicable to these hazards.

(ii) All persons required to work in such a manner that their feet may become wet shall be provided with rubber or other impervious boots or shoes, rubbers, or wooden-soled shoes sufficient to keep feet dry.

(iii) All persons required to handle work wet with a liquid other than water shall be provided with gloves impervious to such a liquid and of a length sufficient to prevent entrance of liquid into the tops of the gloves. The interior of gloves shall be kept free from corrosive or irritating contaminants.

(iv) All persons required to work in such a manner that their clothing may become wet shall be provided with such aprons, coats, jackets, sleeves, or other garments made of rubber, or of other materials impervious to liquids other than water, as are required to keep their clothing dry. Aprons shall extend well below the top of boots to prevent liquid splashing into the boots. Provision of dry, clean, cotton clothing along with rubber shoes or short boots and an apron impervious to liquids other than water shall be considered a satisfactory substitute where small parts are cleaned, plated, or acid dipped in open tanks and rapid work is required.

(v) Whenever there is a danger of splashing, for example, when additions are made manually to the tanks, or when acids and chemicals are removed from the tanks, the employees so engaged shall be required to wear either tight-fitting chemical goggles or an effective face shield. See § 1910.133.

(vi) When, during emergencies as described in subparagraph (11) (v) of this paragraph, workers must be in areas where concentrations of air contaminants are greater than the limit set by subparagraph (2) (ii) of this paragraph, or oxygen concentrations are less than 19.5 percent, they shall be required to wear respirators adequate to reduce their exposure to a level below these limits, or to provide adequate oxygen. Such respirators shall also be provided in marked, quickly accessible storage compartments built for the purpose, when there exists the possibility of accidental release of hazardous concentrations of air contaminants. Respirators shall be approved by the U.S. Bureau of Mines, U.S. Department of the Interior and shall be selected by a competent industrial hygienist or other technically qualified source. Respirators shall be used in accordance with § 1910.134, and persons who may require them shall be trained in their use.

(vii) Near each tank containing a liquid which may burn, irritate, or otherwise be harmful to the skin if splashed upon the worker's body, there shall be a supply of clean cold water. The water pipe (carrying a pressure not exceeding 25 pounds) shall be provided with a quick opening valve and at least 48 inches of hose not smaller than three-fourths inch, so that no time may be lost in washing off liquids from the skin or clothing. Alternatively, deluge showers and eye flushes shall be provided in

cases where harmful chemicals may be splashed on parts of the body.

(viii) Operators with sores, burns, or other skin lesions requiring medical treatment shall not be allowed to work at their regular operations until so authorized by a physician. Any small skin abrasions, cuts, rash, or open sores which are found or reported shall be treated by a properly designated person so that chances of exposures to the chemicals are removed. Workers exposed to chromic acids shall have a periodic examination made of the nostrils and other parts of the body, to detect incipient ulceration.

(ix) Sufficient washing facilities, including soap, individual towels, and hot water, shall be provided for all persons required to use or handle any liquids which may burn, irritate, or otherwise be harmful to the skin, on the basis of at least one basin (or its equivalent) with a hot water faucet for every 10 employees. See § 1910.141(d).

(x) Locker space or equivalent clothing storage facilities shall be provided to prevent contamination of street clothing.

(xi) First aid facilities specific to the hazards of the operations conducted shall be readily available.

(10) *Special precautions for cyanide.* Dikes or other arrangements shall be provided to prevent the possibility of intermixing of cyanide and acid in the event of tank rupture.

(11) *Inspection, maintenance, and installation.*

(i) Floors and platforms around tanks shall be prevented from becoming slippery both by original type of construction and by frequent flushing. They shall be firm, sound, and of the design and construction to minimize the possibility of tripping.

(ii) Before cleaning the interior of any tank, the contents shall be drained off, and the cleanout doors shall be opened where provided. All pockets in tanks or pits, where it is possible for hazardous vapors to collect, shall be ventilated and cleared of such vapors.

(iii) Tanks which have been drained to permit employees to enter for the purposes of cleaning, inspection, or maintenance may contain atmospheres which are hazardous to life or health, through the presence of flammable or toxic air contaminants, or through the absence of sufficient oxygen. Before employees shall be permitted to enter any such tank, appropriate tests of the atmosphere shall be made to determine if the limits set by subparagraph (2) (iii) of this paragraph are exceeded, or if the oxygen concentration is less than 19.5 percent.

(iv) If the tests made in accordance with subdivision (iii) of this subparagraph indicate that the atmosphere in the tank is unsafe, before any employee is permitted to enter the tank, the tank shall be ventilated until the hazardous atmosphere is removed, and ventilation shall be continued so as to prevent the occurrence of a hazardous atmosphere as long as an employee is in the tank.

(v) If, in emergencies, such as rescue work, it is necessary to enter a tank which may contain a hazardous atmosphere, suitable respirators, such as self-contained breathing apparatus; hose mask with blower, if there is a possibility of oxygen deficiency; or a gas mask, selected and operated in accordance with subparagraph (9) (vi) of this paragraph, shall be used. If a contaminant in the tank can cause dermatitis, or be absorbed through the skin, the employee entering the tank shall also wear protective clothing. At least one trained standby employee, with suitable respirator, shall be present in the nearest uncontaminated area. The standby employee must be able to communicate with the employee in the tank and be able to haul him out of the tank with a lifeline if necessary.

(vi) Maintenance work requiring welding or open flame, where toxic metal fumes such as cadmium, chromium, or lead may be evolved, shall be done only with sufficient local exhaust ventilation to prevent the creation of a health hazard, or be done with respirators selected and used in accordance with subparagraph (9) (vi) of this paragraph. Welding, or the use of open flames near any solvent cleaning equipment shall be permitted only after such equipment has first been thoroughly cleared of solvents and vapors.

(12) *Vapor degreasing tanks.* (i) In any vapor degreasing tank equipped with a condenser or vapor level thermostat, the condenser or thermostat shall keep the level of vapors below the top edge of the tank by a distance at least equal to one-half the tank width, or at least 36 inches, whichever is shorter.

(ii) Where gas is used as a fuel for heating vapor degreasing tanks, the combustion chamber shall be of tight construction, except for such openings as the exhaust flue, and those that are necessary for supplying air for combustion. Flues shall be of corrosion-resistant construction and shall extend to the outer air. If mechanical exhaust is used on this flue, a draft diverter shall be used. Special precautions must be taken to prevent solvent fumes from entering the combustion air of this or any other heater when chlorinated or fluorinated hydrocarbon solvents (for example, trichloroethylene, Freon) are used.

(iii) Heating elements shall be so designed and maintained that their surface temperature will not cause the solvent or mixture to decompose, break down, or be converted into an excessive quantity of vapor.

(iv) Tanks or machines of more than 4 square feet of vapor area, used for solvent cleaning or vapor degreasing, shall be equipped with suitable cleanout or sludge doors located near the bottom of each tank or still. These doors shall be so designed and gasketed that there will be no leakage of solvent when they are closed.

(13) *Scope.* (i) This paragraph (d) applies to all operations involving the immersion of materials in liquids, or in the vapors of such liquids, for the purpose of cleaning or altering their surfaces, or adding or imparting a finish thereto, or changing the character of the materials, and their subsequent removal from the liquids or vapors, draining, and drying. Such operations include washing, electroplating, anodizing, pickling, quenching, dyeing, dipping, tanning, dressing, bleaching, degreasing, alkaline cleaning, stripping, rinsing, digesting, and other similar operations, but do not include molten materials handling operations, or surface coating operations.

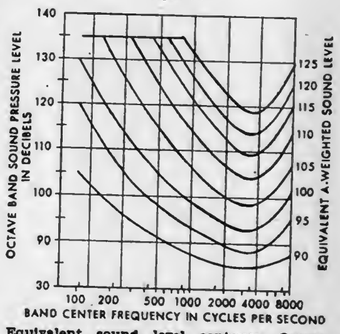
(ii) "Molten materials handling operations" means all operations, other than welding, burning, and soldering operations, involving the use, melting, smelting, or pouring of metals, alloys, salts, or other similar substances in the molten state. Such operations also include heat treating baths, descaling baths, die casting stereotyping, galvanizing, tinning, and similar operations.

(iii) "Surface coating operations" means all operations involving the application of protective, decorative, adhesive, or strengthening coating or impregnation to one or more surfaces, or into the interstices of any object or material, by means of spraying, spreading, flowing, brushing, roll coating, pouring, cementing, or similar means; and any subsequent draining or drying operations, excluding open-tank operations.

§ 1910.95 Occupational noise exposure.

(a) Protection against the effects of noise exposure shall be provided when the sound levels exceed those shown in Table G–16 when measured on the A scale of a standard sound level meter at slow response. When noise levels are determined by octave band analysis, the equivalent A-weighted sound level may be determined as follows:

Figure G-9



Equivalent sound level contours. Octave band sound pressure levels may be converted to the equivalent A-weighted sound level by plotting them on this graph and noting the A-weighted sound level corresponding to the point of highest penetration into the sound level contours. This equivalent A-weighted sound level, which may differ from the actual A-weighted sound level of the noise, is used to determine exposure limits from Table I.G–16.

(b) (1) When employees are subjected to sound exceeding those listed in Table

G–16, feasible administrative or engineering controls shall be utilized. If such controls fail to reduce sound levels within the levels of Table G–16, personal protective equipment shall be provided and used to reduce sound levels within the levels of the table.

(2) If the variations in noise level involve maxima at intervals of 1 second or less, it is to be considered continuous.

(3) In all cases where the sound levels exceed the values shown herein, a continuing, effective hearing conservation program shall be administered.

TABLE G–16—PERMISSIBLE NOISE EXPOSURES[1]

Duration per day, hours	Sound level dBA slow response
8	90
6	92
4	95
3	97
2	100
1½	102
1	105
½	110
¼ or less	115

[1] When the daily noise exposure is composed of two or more periods of noise exposure of different levels, their combined effect should be considered, rather than the individual effect of each. If the sum of the following fractions: $C1/T1+C2/T2$ Cn/Tn exceeds unity, then, the mixed exposure should be considered to exceed the limit value. Cn indicates the total time of exposure at a specified noise level, and Tn indicates the total time of exposure permitted at that level.

Exposure to impulsive or impact noise should not exceed 140 dB peak sound pressure level.

§ 1910.96 Ionizing radiation.

(a) *Definitions applicable to this section.* (1) "Radiation" includes alpha rays, beta rays, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other atomic particles; but such term does not include sound or radio waves, or visible light, or infrared or ultraviolet light.

(2) "Radioactive material" means any material which emits, by spontaneous nuclear disintegration, corpuscular or electromagnetic emanations.

(3) "Restricted area" means any area access to which is controlled by the employer for purposes of protection of individuals from exposure to radiation or radioactive materials.

(4) "Unrestricted area" means any area access to which is not controlled by the employer for purposes of protection of individuals from exposure to radiation or radioactive materials.

(5) "Dose" means the quantity of ionizing radiation absorbed, per unit of mass, by the body or by any portion of the body. When the provisions in this section specify a dose during a period of time, the dose is the total quantity of radiation absorbed, per unit of mass, by the body or by any portion of the body during such period of time. Several different units of dose are in current use. Definitions of units used in this section are set forth in subparagraphs (6) and (7) of this paragraph.

(6) "Rad" means a measure of the dose of any ionizing radiation to body tissues in terms of the energy absorbed per unit of mass of the tissue. One rad is the dose corresponding to the absorption of 100 ergs per gram of tissue (1 millirad (mrad) =0.001 rad).

(7) "Rem" means a measure of the dose of any ionizing radiation to body tissue in terms of its estimated biological effect relative to a dose of 1 roentgen (r) of X-rays (1 millirem (mrem) =0.001 rem). The relation of the rem to other dose units depends upon the biological effect under consideration and upon the conditions for irradiation. Each of the following is considered to be equivalent to a dose of 1 rem:

(i) A dose of 1 roentgen due to X- or gamma radiation;

(ii) A dose of 1 rad due to X-, gamma, or beta radiation;

(iii) A dose of 0.1 rad due to neutrons or high energy protons;

(iv) A dose of 0.05 rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye;

(v) If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron dose in rads, as provided in subdivision (iii) of this subparagraph, 1 rem of neutron radiation may, for purposes of the provisions in this section be assumed to be equivalent to 14 million neutrons per square centimeter incident upon the body; or, if there is sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to 1 rem may be estimated from Table G–17:

TABLE G–17—NEUTRON FLUX DOSE EQUIVALENTS

Neutron energy (million electron volts (Mev))	Number of neutrons per square centimeter equivalent to a dose of 1 rem (neutrons/cm²)	Average flux to deliver 100 millirem in 40 hours (neutrons/cm² per sec.)
Thermal	970×10^6	670
0.0001	720×10^6	500
0.005	820×10^6	570
0.02	400×10^6	280
0.1	120×10^6	80
0.5	43×10^6	30
1.0	26×10^6	18
2.5	29×10^6	20
5.0	26×10^6	18
7.5	24×10^6	17
10	24×10^6	17
10 to 30	14×10^6	10

(8) For determining exposures to X- or gamma rays up to 3 Mev., the dose limits specified in this section may be assumed to be equivalent to the "air dose". For the purpose of this section "air dose" means that the dose is measured by a properly calibrated appropriate instrument in air at or near the body surface in the region of the highest dosage rate.

(b) *Exposure of individuals to radiation in restricted areas.* (1) Except as provided in subparagraph (2) of this paragraph, no employer shall possess, use, or transfer sources of ionizing radiation in such a manner as to cause any individual in a restricted area to receive in any period of one calendar quarter from sources in the employer's possession or control a dose in excess of the limits specified in Table G–18:

TABLE G–18

	Rems per calendar quarter
Whole body: Head and trunk; active blood-forming organs; lens of eyes; or gonads	1¼
Hands and forearms; feet and ankles	18¾
Skin of whole body	7½

(2) An employer may permit an individual in a restricted area to receive doses to the whole body greater than those permitted under subparagraph (1) of this paragraph, so long as:

(i) During any calendar quarter the dose to the whole body shall not exceed 3 rems; and

(ii) The dose to the whole body, when added to the accumulated occupational dose to the whole body, shall not exceed 5 (N–18) rems, where "N" equals the individual's age in years at his last birthday; and

(iii) The employer maintains adequate past and current exposure records which show that the addition of such a dose will not cause the individual to exceed the amount authorized in this subparagraph. As used in this subparagraph. "Dose to the whole body" shall be deemed to include any dose to the whole body, gonad, active bloodforming organs, head and trunk, or lens of the eye.

(3) No employer shall permit any employee who is under 18 years of age to receive in any period of one calendar quarter a dose in excess of 10 percent of the limits specified in Table G–18.

(4) "Calendar quarter" means any 3-month period determined as follows:

(i) The first period of any year may begin on any date in January: *Provided*, That the second, third, and fourth periods accordingly begin on the same date in April, July, and October, respectively, and that the fourth period extends into January of the succeeding year, if necessary to complete a 3-month quarter. During the first year of use of this method of determination, the first period for that year shall also include any additional days in January preceding the starting date for the first period; or

(ii) The first period in a calendar year of 13 complete, consecutive calendar weeks; the second period in a calendar year of 13 complete consecutive weeks; the third period in a calendar year of 13 complete, consecutive calendar weeks; the fourth period in a calendar year of 13 complete, consecutive calendar weeks. If at the end of a calendar year there are any days not falling within a complete calendar week of that year, such days shall be included within the last complete calendar week of that year. If at the beginning of any calendar year there are days not falling within a complete calendar week of that year, such days shall be included within the last complete calendar week of the previous year; or

(iii) The four periods in a calendar year may consist of the first 14 complete, consecutive calendar weeks; the next 12 complete, consecutive calendar weeks, the next 14 complete, consecutive calendar weeks, and the last 12 complete, consecutive calendar weeks. If at the end of a calendar year there are any days not falling within a complete calendar week of that year, such days shall be included (for purposes of this section) within the last complete calendar week of the year. If at the beginning of any calendar year there are days not falling within a complete calendar week of that year, such days shall be included (for purposes of this section) within the last complete week of the previous year.

(5) No employer shall change the method used by him to determine calendar quarters except at the beginning of a calendar year.

(c) *Exposure to airborne radioactive material.* (1) No employer shall possess, use or transport radioactive material in such a manner as to cause any employee, within a restricted area, to be exposed to airborne radioactive material in an average concentration in excess of the limits specified in Table 1 of Appendix B to 10 CFR Part 20. The limits given in Table 1 are for exposure to the concentrations specified for 40 hours in any workweek of 7 consecutive days. In any such period where the number of hours of exposure is less than 40, the limits specified in the table may be increased proportionately. In any such period where the number of hours of exposure is greater than 40, the limits specified in the table shall be decreased proportionately.

(2) No employer shall possess, use, or transfer radioactive material in such a manner as to cause any individual within a restricted area, who is under 18 years of age, to be exposed to airborne radioactive material in an average concentration in excess of the limits specified in Table II of Appendix B to 10 CFR Part 20. For purposes of this subparagraph, concentrations may be averaged over periods not greater than 1 week.

(3) "Exposed" as used in this paragraph means that the individual is present in an airborne concentration. No allowance shall be made for the use of protective clothing or equipment, or particle size.

(d) *Precautionary procedures and personal monitoring.* (1) Every employer shall make such surveys as may be necessary for him to comply with the provisions in this section. "Survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions. When appropriate, such evaluation includes a physical survey of the location of materials and equipment, and measurements of levels of radiation or concentrations of radioactive material present.

(2) Every employer shall supply appropriate personnel monitoring equipment, such as film badges, pocket chambers, pocket dosimeters, or film rings, to, and shall require the use of such equipment by:

(i) Each employee who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 25 percent of the applicable value specified in paragraph (b)(1) of this section; and

(ii) Each employee under 18 years of age who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 5 percent of the applicable value specified in paragraph (b)(1) of this section; and

(iii) Each employee who enters a high radiation area.

(3) As used in this section:

(i) "Personnel monitoring equipment" means devices designed to be worn or carried by an individual for the purpose of measuring the dose received (e.g., film badges, pocket chambers, pocket dosimeters, film rings, etc.);

(ii) "Radiation area" means any area, accessible to personnel, in which there exists radiation at such levels that a major portion of the body could receive in any 1 hour a dose in excess of 5 millirem, or in any 5 consecutive days a dose in excess of 100 millirem; and

(iii) "High radiation area" means any area, accessible to personnel, in which there exists radiation at such levels that a major portion of the body could receive in any one hour a dose in excess of 100 millirem.

(e) *Caution signs, labels, and signals—*(1) *General.* (i) Symbols prescribed by this paragraph shall use the conventional radiation caution colors (magenta or purple on yellow background). The symbol prescribed by this paragraph is the conventional three-bladed design:

RADIATION SYMBOL

1. Cross-hatched area is to be magenta or purple.
2. Background is to be yellow.

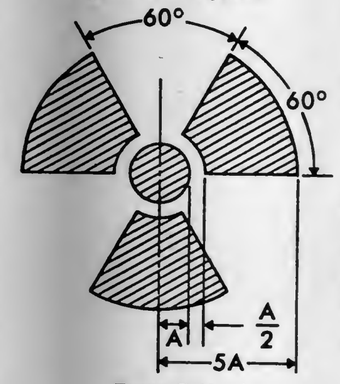


FIGURE G–10

(ii) In addition to the contents of signs and labels prescribed in this paragraph, employers may provide on or near such signs and labels any additional information which may be appropriate in aiding individuals to minimize exposure to radiation or to radioactive material.

(2) *Radiation area.* Each radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol described in subparagraph (1) of this paragraph and the words:

CAUTION
RADIATION AREA

(3) *High radiation area.* (i) Each high radiation area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:

CAUTION
HIGH RADIATION AREA

(ii) Each high radiation area shall be equipped with a control device which shall either cause the level of radiation to be reduced below that at which an individual might receive a dose of 100 millirems in 1 hour upon entry into the area or shall energize a conspicuous visible or audible alarm signal in such a manner that the individual entering and the employer or a supervisor of the activity are made aware of the entry. In the case of a high radiation area established for a period of 30 days or less, such control device is not required.

(4) *Airborne radioactivity area.* (i) As used in the provisions of this section, "airborne radioactivity area" means:

(*a*) Any room, enclosure, or operating area in which airborne radioactive materials, composed wholly or partly of radioactive material, exist in concentrations in excess of the amounts specified in column 1 of Table 1 of Appendix B to 10 CFR Part 20 or

(*b*) Any room, enclosure, or operating area in which airborne radioactive materials exist in concentrations which, averaged over the number of hours in any week during which individuals are in the area, exceed 25 percent of the amounts specified in column 1 of Table 1 of Appendix B to 10 CFR Part 20.

(ii) Each airborne radioactivity area shall be conspicuously posted with a sign or signs bearing the radiation caution symbol described in subparagraph (1) of this paragraph and the words:

CAUTION
AIRBORNE RADIOACTIVITY AREA

(5) *Additional requirements.*

(i) Each area or room in which radioactive material is used or stored and which contains any radioactive material (other than natural uranium or thorium) in any amount exceeding 10 times the quantity of such material specified in Appendix C to 10 CFR Part 20 shall be conspicuously posted with a sign or signs bearing the radiation caution symbol described in subparagraph (1) of this paragraph and the words:

CAUTION
RADIOACTIVE MATERIALS

(ii) Each area or room in which natural uranium or thorium is used or stored in an amount exceeding 100 times

the quantity of such material specified in 10 CFR Part 20 shall be conspicuously posted with a sign or signs bearing the radiation caution symbol described in subparagraph (1) of this paragraph and the words:

CAUTION
RADIOACTIVE MATERIALS

(6) *Containers.* (i) Each container in which is transported, stored, or used a quantity of any radioactive material (other than natural uranium or thorium) greater than the quantity of such material specified in Appendix C to 10 CFR Part 20 shall bear a durable, clearly visible label bearing the radiation caution symbol described in subparagraph (1) of this paragraph and the words:

CAUTION
RADIOACTIVE MATERIALS

(ii) Each container in which natural uranium or thorium is transported, stored, or used in a quantity greater than 10 times the quantity specified in Appendix C to 10 CFR Part 20 shall bear a durable, clearly visible label bearing the radiation caution symbol described in subparagraph (1) of this paragraph and the words:

CAUTION
RADIOACTIVE MATERIALS

(iii) Notwithstanding the provisions of subdivisions (i) and (ii) of this subparagraph a label shall not be required:

(*a*) If the concentration of the material in the container does not exceed that specified in column 2 of Table 1 of Appendix B to 10 CFR Part 20, or

(*b*) For laboratory containers, such as beakers, flasks, and test tubes, used transiently in laboratory procedures, when the user is present.

(iv) Where containers are used for storage, the labels required in this subparagraph shall state also the quantities and kinds of radioactive materials in the containers and the date of measurement of the quantities.

(f) *Immediate evacuation warning signal*—(1) *Signal characteristics.* (i) The signal shall be a midfrequency complex sound wave amplitude modulated at a subsonic frequency. The complex sound wave in free space shall have a fundamental frequency (f_1) between 450 and 500 hertz (Hz) modulated at a subsonic rate between 4 and 5 hertz.

(ii) The signal generator shall not be less than 75 decibels at every location where an individual may be present whose immediate, rapid, and complete evacuation is essential.

(iii) A sufficient number of signal units shall be installed such that the requirements of subdivision (ii) of this subparagraph are met at every location where an individual may be present whose immediate, rapid, and complete evacuation is essential.

(iv) The signal shall be unique in the plant or facility in which it is installed.

(v) The minimum duration of the signal shall be sufficient to insure that all affected persons hear the signal.

(vi) The signal-generating system shall respond automatically to an initiating event without requiring any human action to sound the signal.

(2) *Design objectives.* (i) The signal-generating system shall be designed to incorporate components which enable the system to produce the desired signal each time it is activated within one-half second of activation.

(ii) The signal-generating system shall be provided with an automatically activated secondary power supply which is adequate to simultaneously power all emergency equipment to which it is connected, if operation during power failure is necessary, except in those systems using batteries as the primary source of power.

(iii) All components of the signal-generating system shall be located to provide maximum practicable protection against damage in case of fire, explosion, corrosive atmosphere, or other environmental extremes consistent with adequate system performance.

(iv) The signal-generating system shall be designed with the minimum number of components necessary to make it function as intended, and should utilize components which do not require frequent servicing such as lubrication or cleaning.

(v) Where several activating devices feed activating information to a central signal generator, failure of any activating device shall not render the signal-generator system inoperable to activating information from the remaining devices.

(vi) The signal-generating system shall be designed to enhance the probability that alarm occurs only when immediate evacuation is warranted. The number of false alarms shall not be so great that the signal will come to be disregarded and shall be low enough to minimize personal injuries or excessive property damage that might result from such evacuation.

(3) *Testing.* (i) Initial tests, inspections, and checks of the signal-generating system shall be made to verify that the fabrication and installation were made in accordance with design plans and specifications and to develop a thorough knowledge of the performance of the system and all components under normal and hostile conditions.

(ii) Once the system has been placed in service, periodic tests, inspections, and checks shall be made to minimize the possibility of malfunction.

(iii) Following significant alterations or revisions to the system, tests and checks similar to the initial installation tests shall be made.

(iv) Tests shall be designed to minimize hazards while conducting the tests.

(v) Prior to normal operation the signal-generating system shall be checked physically and functionally to assure reliability and to demonstrate accuracy and performance. Specific tests shall include:

(*a*) All power sources.

(*b*) Calibration and calibration stability.

(*c*) Trip levels and stability.

(*d*) Continuity of function with loss and return of required services such as AC or DC power, air pressure, etc.

(*e*) All indicators.

(*f*) Trouble indicator circuits and signals, where used.

(*g*) Air pressure (if used).

(*h*) Determine that sound level of the signal is within the limit of subparagraph (1)(ii) of this paragraph at all points that require immediate evacuation.

(vi) In addition to the initial startup and operating tests, periodic scheduled performance tests and status checks must be made to insure that the system is at all times operating within design limits and capable of the required response. Specific periodic tests or checks or both shall include:

(*a*) Adequacy of signal activation device.

(*b*) All power sources.

(*c*) Function of all alarm circuits and trouble indicator circuits including trip levels.

(*d*) Air pressure (if used).

(*e*) Function of entire system including operation without power where required.

(*f*) Complete operational tests including sounding of the signal and determination that sound levels are adequate.

(vii) Periodic tests shall be scheduled on the basis of need, experience, difficulty, and disruption of operations. The entire system should be operationally tested at least quarterly.

(viii) All employees whose work may necessitate their presence in an area covered by the signal shall be made familiar with the actual sound of the signal—preferably as it sounds at their work location. Before placing the system into operation, all employees normally working in the area shall be made acquainted with the signal by actual demonstration at their work locations.

(g) *Exceptions from posting requirements.* Notwithstanding the provisions of paragraph (e) of this section:

(1) A room or area is not required to be posted with a caution sign because of the presence of a sealed source, provided the radiation level 12 inches from the surface of the source container or housing does not exceed 5 millirem per hour.

(2) Rooms or other areas in onsite medical facilities are not required to be posted with caution signs because of the presence of patients containing radioactive material, provided that there are personnel in attendance who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive material in excess of the limits established in the provisions of this section.

(3) Caution signs are not required to be posted at areas or rooms containing radioactive materials for periods of less than 8 hours: *Provided,* That

(i) The materials are constantly attended during such periods by an individual who shall take the precautions necessary to prevent the exposure of any individual to radiation or radioactive materials in excess of the limits established in the provisions of this section; and

(ii) Such area or room is subject to the employer's control.

(h) *Exemptions for radioactive materials packaged for shipment.* Radioactive materials packaged and labeled in accordance with regulations of the Department of Transportation published in 49 CFR Chapter I, are exempt from the labeling and posting requirements of this subpart during shipment, provided that the inside containers are labeled in accordance with the provisions of paragraph (e) of this section.

(i) *Instruction of personnel, posting.* (1) Employers regulated by the Atomic Energy Commission shall be governed by 10 CFR Part 20 standards. Employers in a State named in paragraph (p)(3) of this section shall be governed by the requirements of the laws and regulations of that State. All other employers shall be regulated by the following:

(2) All individuals working in or frequenting any portion of a radiation area shall be informed of the occurrence of radioactive materials or of radiation in such portions of the radiation area; shall be instructed in the safety problems associated with exposure to such materials or radiation and in precautions or devices to minimize exposure; shall be instructed in the applicable provisions of this section for the protection of employees from exposure to radiation or radioactive materials; and shall be advised of reports of radiation exposure which employees may request pursuant to the regulations in this section.

(3) Each employer to whom this section applies shall post a current copy of its provisions and a copy of the operating procedures applicable to the work conspicuously in such locations as to insure that employees working in or frequenting radiation areas will observe these documents on the way to and from their place of employment, or shall keep such documents available for examination of employees upon request.

(j) *Storage of radioactive materials.* Radioactive materials stored in a nonradiation area shall be secured against unauthorized removal from the place of storage.

(k) *Waste disposal.* No employer shall dispose of radioactive material except by transfer to an authorized recipient, or in a manner approved by the Atomic Energy Commission or a State named in paragraph (p)(3) of this section.

(l) *Notification of incidents*—(1) *Immediate notification.* Each employer shall immediately notify the Assistant Secretary of Labor or his duly authorized representative, for employees not protected by the Atomic Energy Commission by means of 10 CFR Part 20: paragraph (p)(2) of this section, or the requirements of the laws and regulations of States named in paragraph (p)(3) of this section, by telephone or telegraph of any incident involving radiation which may have caused or threatens to cause:

(i) Exposure of the whole body of any individual to 25 rems or more of radiation; exposure of the skin of the whole body of any individual to 150 rems or more of radiation; or exposure of the feet, ankles, hands, or forearms of any individual to 375 rems or more of radiation; or

(ii) The release of radioactive material in concentrations which, if averaged over a period of 24 hours, would exceed 5,000 times the limit specified for such materials in Table II of Appendix B to 10 CFR Part 20.

(iii) A loss of 1 working week or more of the operation of any facilities affected; or

(iv) Damage to property in excess of $100,000.

(2) *Twenty-four hour notification.* Each employer shall within 24 hours following its occurrence notify the Assistant Secretary of Labor or his duly authorized representative for employees not protected by the Atomic Energy Commission by means of 10 CFR Part 20; paragraph (p)(2) of this section, or the requirements of the laws and applicable regulations of States named in paragraph (p)(3) of this section, by telephone or telegraph of any incident involving radiation which may have caused or threatens to cause:

(i) Exposure of the whole body of any individual to 5 rems or more of radiation; exposure of the skin of the whole body of any individual to 30 rems or more of radiation; or exposure of the feet, ankles, hands, or forearms to 75 rems or more of radiation; or

(ii) A loss of 1 day or more of the operation of any facilities; or

(iii) Damage to property in excess of $10,000.

(m) *Reports of overexposure and excessive levels and concentrations.* (1) In addition to any notification required by paragraph (1) of this section each employer shall make a report in writing within 30 days to the Assistant Secretary of Labor or his duly authorized representative, for employees not protected by the Atomic Energy Commission by means of 10 CFR Part 20; or under paragraph (p)(2) of this section, or the requirements of the laws and regulations of States named in paragraph (p)(3) of this section, of each exposure of an individual to radiation or concentrations of radioactive material in excess of any applicable limit in this section. Each report required under this subparagraph shall describe the extent of exposure of persons to radiation or to radioactive material; levels of radiation and concentration of radioactive material involved, the cause of the exposure, levels of concentrations; and corrective steps taken or planned to assure against a recurrence.

(2) In any case where an employer is required pursuant to the provisions of this paragraph to report to the U.S. Department of Labor any exposure of an individual to radiation or to concentrations of radioactive material, the employer shall also notify such individual of the nature and extent of exposure. Such notice shall be in writing and shall contain the following statement: "You should preserve this report for future reference."

(n) *Records.* (1) Every employer shall maintain records of the radiation exposure of all employees for whom personnel monitoring is required under paragraph (d) of this section and advise each of his employees of his individual exposure on at least an annual basis.

(2) Every employer shall maintain records in the same units used in tables in paragraph (b) of this section and Appendix B to 10 CFR Part 20.

(o) *Disclosure to former employee of individual employee's record.* (1) At the request of a former employee an employer shall furnish to the employee a report of the employee's exposure to radiation as shown in records maintained by the employer pursuant to paragraph (n)(1) of this section. Such report shall be furnished within 30 days from the time the request is made, and shall cover each calendar quarter of the individual's employment involving exposure to radiation or such lesser period as may be requested by the employee. The report shall also include the results of any calculations and analysis of radioactive material deposited in the body of the employee. The report shall be in writing and contain the following statement: "You should preserve this report for future reference."

(2) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

(p) *Atomic Energy Commission licensees—AEC contractors operating AEC plants and facilities—AEC Agreement State licensees or registrants.* (1) Any employer who possesses or uses source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended, under a license issued by the Atomic Energy Commission and in accordance with the requirements of 10 CFR Part 20 shall be deemed to be in compliance with the requirements of this section with respect to such possession and use.

(2) AEC contractors operating AEC plants and facilities: Any employer who possesses or uses source material, byproduct material, special nuclear material, or other radiation sources under a contract with the Atomic Energy Commission for the operation of AEC plants and facilities and in accordance with the standards, procedures, and other requirements for radiation protection established by the Commission for such contract pursuant to the Atomic Energy Act of 1954 as amended (42 U.S.C. 2011 et seq.), shall be deemed to be in compliance with the requirements of this section with respect to such possession and use.

(3) AEC-agreement State licensees or registrants:

(i) *Atomic Energy Act sources.* Any employer who possesses or uses source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and has either registered such sources with, or is operating under a license issued by, a State which has an agreement in effect with the Atomic Energy Commission pursuant to section 274(b) (42 U.S.C. 2021(b)) of the Atomic Energy Act of 1954, as amended, and in accordance with the requirements of that State's laws and regulations shall be deemed to be in compliance with the radiation requirements of this section, insofar as his possession and use of such material is concerned, unless the Secretary of Labor, after conference with the Atomic Energy Commission, shall determine that the State's program for control of these radiation sources is incompatible with the requirements of this section. Such agreements currently are in effect only in the States of Alabama, Arkansas, California, Kansas, Kentucky, Florida, Mississippi, New Hampshire, New York, North Carolina, Texas, Tennessee, Oregon, Idaho, Arizona, Colorado, Louisiana, Nebraska, Washington, Maryland, North Dakota, South Carolina, and Georgia.

(ii) *Other sources.* Any employer who possesses or uses radiation sources other than source material, byproduct material, or special nuclear material, as defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and has either registered such sources with, or is operating under a license issued by a State which has an agreement in effect with the Atomic Energy Commission pursuant to section 274(b) (42 U.S.C. 2021 (b)) of the Atomic Energy Act of 1954, as amended, and in accordance with the requirements of that State's laws and regulations shall be deemed to be in compliance with the radiation requirements of this section, insofar as his possession and use of such material is concerned, provided the State's program for control of these radiation sources is the subject of a currently effective determination by the Assistant Secretary of Labor that such program is compatible with the requirements of this section. Such determinations currently are in effect only in the States of Alabama, Arkansas, California, Kansas, Kentucky, Florida, Mississippi, New Hampshire, New York, North Carolina, Texas, Tennessee, Oregon, Idaho, Arizona, Colorado, Louisiana, Nebraska, Washington, Maryland, North Dakota, South Carolina, and Georgia.

(q) [Reserved]

(r) *Radiation standards for mining.* (1) For the purpose of this paragraph, a "working level" is defined as any combination of radon daughters in 1 liter of air which will result in the ultimate emission of 1.3×10^5 million electron volts of potential alpha energy. The numerical value of the "working level" is derived from the alpha energy released by the total decay of short-lived radon daughter products in equilibrium with 100 picocuries of radon 222 per liter of air. A working level month is defined as the exposure received by a worker breathing air at one working level concentration for 4⅓ weeks of 40 hours each.

(2) Occupational exposure to radon daughters in mines shall be controlled so that no individual will receive an exposure of more than 2 working level months in any calendar quarter and no more than 4 working level months in any calendar year. Actual exposures shall be kept as far below these values as practicable.

(3) (i) For uranium mines, records of environmental concentrations in the occupied parts of the mine, and of the time spent in each area by each person involved in an underground work shall be established and maintained. These records shall be in sufficient detail to permit calculations of the exposures, in units of working level months, of the individuals and shall be available for inspection by the Secretary of Labor or his authorized agents.

(ii) For other than uranium mines and for surface workers in all mines, subdivision (i) of this subparagraph will be applicable: *Provided, however,* That if no environmental sample shows a concentration greater than 0.33 working level in any occupied part of the mine, the maintenance of individual occupancy records and the calculation of individual exposures will not be required.

(4) (i) At the request of an employee (or former employee) a report of the employee's exposure to radiation as shown in records maintained by the employer pursuant to subparagraph (3) of this paragraph, shall be furnished to him. The report shall be in writing and contain the following statement:

> This report is furnished to you under the provisions of the U.S. Department of Labor, Ionizing Radiation Safety and Health Standards (29 CFR 1910.96(r)). You should preserve this report for future reference.

(ii) The former employee's request should include appropriate identifying data, such as social security number and dates and locations of employment.

§ 1910.97 Nonionizing radiation.

(a) *Electromagnetic radiation—(1) Definitions applicable to this paragraph.* (i) The term "electromagnetic radiation" is restricted to that portion of the spectrum commonly defined as the radio frequency region, which for the purpose of this specification shall include the microwave frequency region.

(ii) *Partial body irradiation.* Pertains to the case in which part of the body is exposed to the incident electromagnetic energy.

(iii) *Radiation protection guide.* Radiation level which should not be exceeded without careful consideration of the reasons for doing so.

(iv) The word "symbol" as used in this specification refers to the overall design, shape, and coloring of the rf radiation sign shown in figure G–11.

(v) *Whole body irradiation.* Pertains to the case in which the entire body is exposed to the incident electromagnetic energy or in which the cross section of the body is smaller than the cross section of the incident radiation beam.

(2) *Radiation protection guide.* (i) For normal environmental conditions and for incident electromagnetic energy of frequencies from 10 MHz to 100 GHz, the radiation protection guide is 10 mW/cm.² (milliwatt per square centimeter) as averaged over any possible 0.1-hour period. This means the following:

Power density: 10 mW./cm.² for periods of 0.1-hour or more.
Energy density: 1 mW.-hr./cm.² (milliwatt hour per square centimeter) during any 0.1-hour period.

This guide applies whether the radiation is continuous or intermittent.

(ii) These formulated recommendations pertain to both whole body irradiation and partial body irradiation. Partial body irradiation must be included since it has been shown that some parts of the human body (e.g., eyes, testicles) may be harmed if exposed to incident radiation levels significantly in excess of the recommended levels.

(3) *Warning symbol.* (i) The warning symbol for radio frequency radiation hazards shall consist of a red isosceles triangle above an inverted black isosceles triangle, separated and outlined by an aluminum color border. The words "Warning—Radio-Frequency Radiation Hazard" shall appear in the upper triangle. See figure G–11.

(ii) American National Standard Safety Color Code for Marking Physical Hazards and the Identification of Certain Equipment, Z53.1–1953, shall be used for color specification. All lettering and the border shall be of aluminum color.

(iii) The inclusion and choice of warning information or precautionary instructions is at the discretion of the user. If such information is included it shall appear in the lower triangle of the warning symbol.



1. Place handling and mounting instructions on reverse side.
2. D = Scaling unit.
3. Lettering: Ratio of letter height to thickness of letter lines.

Upper triangle:	5 to 1	Large
	6 to 1	Medium
Lower triangle	4 to 1	Small
	6 to 1	Medium

4. Symbol is square, triangles are right-angle isosceles.

Fig. G–11
Radio-Frequency Radiation Hazard Warning Symbol

(4) *Scope.* This section applies to all radiations originating from radio stations, radar equipment, and other possible sources of electromagnetic radiation such as used for communication, radio navigation, and industrial and scientific purposes. This section does not apply to the deliberate exposure of patients by, or under the direction of, practitioners of the healing arts.

§ 1910.98 Effective dates.

(a) The provisions of this Subpart G shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

§ 1910.94 (a)(2)(iii), (a)(3), (a)(4), (b), (c)(2), (c)(3), (c)(4), (c)(5), (c)(6)(i), (c)(6)(ii), (d)(1)(ii), (d)(3), (d)(4), (d)(5), and (d)(7).

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2(a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart G which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.99 Sources of standards.

Section	Source
1910.93	41 CFR 50–204.50, except for Table G–2, the source of which is American National Standards Institute, Z37 series.
1910.94(a)	ANSI N2.3–1967, Immediate and Safe Practices, of Abrasive Blasting Operations.
1910.94(b)	ANSI Z43.1–966, Ventilation Control of Grinding, Polishing, and Buffing Operations.
1910.94(c)	ANSI Z9.3–1970, Safety Code for the Design, Construction and Ventilation of Spray Finishing Operations.
1910.94(d)	ANSI Z9.1–1969, Safety Code for Ventilation and Operation of Open-Surface Tanks.
1910.95	41 CFR 50–204.10.
1910.96 (a) through (e) and (g) through (r).	41 CFR 50–204.20.
1910.96(f)	ANSI N2.3–1967, Immediate Evacuation Signal for Use in Industrial Installations Where Radiation Exposure May Occur.
1910.97	ANSI C95.1–1966, Safety Level of Electromagnetic Radiation with Respect to Personnel and American National Standards Institute C95.2–1966, Radio Frequency Radiation Hazard and Warning Signal.

§ 1910.100 Standards organizations.

Specific standards of the following organizations have been referenced in this subpart. Copies of the standards may be obtained from the issuing organization.

American Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, OH 45202.
American National Standards Institute, 1430 Broadway, New York, NY 10018.
National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.

Subpart H—Hazardous Materials

§ 1910.101 Compressed gases (general requirements).

(a) *Inspection of compressed gas cylinders.* Each employer shall determine that compressed gas cylinders under his control are in a safe condition to the extent that this can be determined by visual inspection. Visual and other inspections shall be conducted as prescribed in the Hazardous Materials Regulations of the Department of Transportation (49 CFR Parts 171–179 and 14 CFR Part 103). Where those regulations are not applicable, visual and other inspections shall be conducted in accordance with Compressed Gas Association Pamphlets C–6–1968 and C–8–1962.

(b) *Compressed gases.* The in-plant handling, storage, and utilization of all compressed gases in cylinders, portable tanks, rail tankcars, or motor vehicle cargo tanks shall be in accordance with Compressed Gas Association Pamphlet P–1–1965.

(c) *Safety relief devices for compressed gas containers.* Compressed gas cylinders, portable tanks, and cargo tanks shall have pressure relief devices installed and maintained in accordance with Compressed Gas Association Pamphlets S–1.1–1963 and 1965 addenda and S–1.2–1963.

§ 1910.102 Acetylene.

(a) *Cylinders.* The in-plant transfer, handling, storage, and utilization of acetylene in cylinders shall be in accordance with Compressed Gas Association Pamphlet G–1–1966.

(b) *Piped systems.* The piped systems for the inplant transfer and distribution of acetylene shall be designed, installed, maintained, and operated in accordance with Compressed Gas Association Pamphlet G–1.3–1959.

(c) *Generators and filling cylinders.* Plants for the generation of acetylene and the charging (filling) of acetylene cylinders shall be designed, constructed, and tested in accordance with the standards prescribed in Compressed Gas Association Pamphlet G–1.4–1966.

§ 1910.103 Hydrogen.

(a) *General*—(1) *Definitions.* As used in this section (i) Gaseous hydrogen system is one in which the hydrogen is delivered, stored and discharged in the gaseous form to consumer's piping. The system includes stationary or movable containers, pressure regulators, safety relief devices, manifolds, interconnecting piping and controls. The system terminates at the point where hydrogen at service pressure first enters the consumer's distribution piping.

(ii) Approved—Means unless otherwise indicated listed or approved by the following nationally recognized testing laboratories: Underwriters Laboratories, Inc., and Factory Mutual Engineering Corp.

(iii) Listed—See "approved".

(iv) ASME—American Society of Mechanical Engineers.

(v) DOT Specifications—Regulations of the Department of Transportation published in 49 CFR Chapter I.

(vi) DOT regulations—See § 1910.103 (a) (1) (v).

(2) *Scope*—(i) *Gaseous hydrogen systems.* (a) Paragraph (b) of this section applies to the installation of gaseous hydrogen systems on consumer premises where the hydrogen supply to the consumer premises originates outside the consumer premises and is delivered by mobile equipment.

(b) Paragraph (b) of this section does not apply to gaseous hydrogen systems having a total hydrogen content of less than 400 cubic feet, nor to hydrogen manufacturing plants or other establishments operated by the hydrogen supplier or his agent for the purpose of storing hydrogen and refilling portable containers, trailers, mobile supply trucks, or tank cars.

(ii) *Liquefied hydrogen systems.* (a) Paragraph (c) of this section applies to the installation of liquefied hydrogen systems on consumer premises.

(b) Paragraph (c) of this section does not apply to liquefied hydrogen portable containers of less than 150 liters (39.63 gallons) capacity; nor to liquefied hydrogen manufacturing plants or other establishments operated by the hydrogen supplier or his agent for the sole purpose of storing liquefied hydrogen and refilling portable containers, trailers, mobile supply trucks, or tank cars.

(b) *Gaseous hydrogen systems*—(1) *Design.*

(i) *Containers.* (a) Hydrogen containers shall comply with one of the following:

(1) Designed, constructed, and tested in accordance with appropriate requirements of ASME Boiler and Pressure Vessel Code, Section VIII—Unfired Pressure Vessels—1968.

(2) Designed, constructed, tested and maintained in accordance with U.S. Department of Transportation Specifications and Regulations.

(b) Permanently installed containers shall be provided with substantial noncombustible supports on firm noncombustible foundations.

(c) Each portable container shall be legibly marked with the name "Hydrogen" in accordance with "Marking Portable Compressed Gas Containers to Identify the Material Contained" ANSI Z48.1—1954. Each manifolded hydrogen supply unit shall be legibly marked with the name Hydrogen or a legend such as "This unit contains hydrogen."

(ii) *Safety relief devices.* (a) Hydrogen containers shall be equipped with safety relief devices as required by the ASME Boiler and Pressure Vessel Code, Section VIII Unfired Pressure Vessels, 1968 or the DOT Specifications and Regulations under which the container is fabricated.

(b) Safety relief devices shall be arranged to discharge upward and unobstructed to the open air in such a manner as to prevent any impingement of escaping gas upon the container, adjacent structure or personnel. This requirement does not apply to DOT Specification containers having an internal volume of 2 cubic feet or less.

(c) Safety relief devices or vent piping shall be designed or located so that moisture cannot collect and freeze in a manner which would interfere with proper operation of the device.

(iii) *Piping, tubing, and fittings.*—(a) Piping, tubing, and fittings shall be suitable for hydrogen service and for the pressures and temperatures involved. Cast iron pipe and fittings shall not be used.

(b) Piping and tubing shall conform to Section 2—"Industrial Gas and Air Piping"—Code for Pressure Piping, ANSI B31.1–1967 with addenda B31.1–1969.

(c) Joints in piping and tubing may be made by welding or brazing or by use of flanged, threaded, socket, or compression fittings. Gaskets and thread sealants shall be suitable for hydrogen service.

(iv) *Equipment assembly.* (a) Valves, gauges, regulators, and other accessories shall be suitable for hydrogen service.

(b) Installation of hydrogen systems shall be supervised by personnel familiar with proper practices with reference to their construction and use.

(c) Storage containers, piping, valves, regulating equipment, and other accessories shall be readily accessible, and shall be protected against physical damage and against tampering.

(d) Cabinets or housings containing hydrogen control or operating equipment shall be adequately ventilated.

(e) Each mobile hydrogen supply unit used as part of a hydrogen system shall be adequately secured to prevent movement.

(f) Mobile hydrogen supply units shall be electrically bonded to the system before discharging hydrogen.

(v) *Marking.* The hydrogen storage location shall be permanently placarded as follows: "HYDROGEN—FLAMMABLE GAS—NO SMOKING—NO OPEN FLAMES," or equivalent.

(vi) *Testing.* After installations, all piping, tubing, and fittings shall be tested and proved hydrogen gas tight at maximum operating pressure.

(2) *Location*—(i) *General.* (a) The system shall be located so that it is readily accessible to delivery equipment and to authorized personnel.

(b) Systems shall be located above ground.

(c) Systems shall not be located beneath electric power lines.

(d) Systems shall not be located close to flammable liquid piping or piping of other flammable gases.

(e) Systems near aboveground flammable liquid storage shall be located on ground higher than the flammable liquid storage except when dikes, diversion curbs, grading, or separating solid walls are used to prevent accumulation of flammable liquids under the system.

(ii) *Specific requirements.* (a) The location of a system, as determined by the maximum total contained volume of hydrogen, shall be in the order of preference as indicated by Roman numerals in Table H–1.

TABLE H–1

Nature of location	Size of hydrogen system		
	Less than 3,000 CF	3,000 CF to 15,000 CF	In excess of 15,000 CF
Outdoors	I	I	I.
In a separate building	II	II	II.
In a special room	III	III	Not permitted.
Inside buildings not in a special room and exposed to other occupancies.	IV	Not permitted.	Not permitted.

(b) The minimum distance in feet from a hydrogen system of indicated capacity located outdoors, in separate buildings or in special rooms to any specified outdoor exposure shall be in accordance with Table H–2.

(c) The distances in Table H–2 Items 1, 14, and 3 to 10 inclusive do not apply where protective structures such as adequate fire walls are located between the system and the exposure.

TABLE H–2

Type of outdoor exposure		Size of hydrogen system		
		Less than 3,000 CF	3,000 CF to 15,000 CF	In excess of 15,000 CF
1. Building or structure	Wood frame construction*	10	25	50
	Heavy timber, noncombustible or ordinary construction*	0	10	**25
	Fire-resistive construction*	0	0	0
2. Wall openings	Not above any part of a system	10	10	10
	Above any part of a system	25	25	25
3. Flammable liquids above ground.	0 to 1,000 gallons	10	25	25
	In excess of 1,000 gallons	25	50	50
4. Flammable liquids below ground—0 to 1,000 gallons.	Tank	10	10	10
	Vent or fill opening of tank	25	25	25
5. Flammable liquids below ground—in excess of 1,000 gallons.	Tank	20	20	20
	Vent or fill opening of tank	25	25	25
6. Flammable gas storage, either high pressure or low pressure.	0 to 15,000 CF capacity	10	25	25
	In excess of 15,000 CF capacity	25	50	50
7. Oxygen storage	12,000 CF or less	Refer to NFPA No. 51, gas systems for welding and cutting (1969).		
	More than 12,000 CF	Refer to NFPA No. 566, bulk oxygen systems at consumer sites (1969).		
8. Fast burning solids such as ordinary lumber, excelsior or paper		50	50	50
9. Slow burning solids such as heavy timber or coal		25	25	25
10. Open flames and other sources of ignition		25	25	25
11. Air compressor intakes or inlets to ventilating or air-conditioning equipment		50	50	50
12. Concentration of people***		25	50	50
13. Public sidewalks		15	15	15
14. Line of adjoining property which may be built upon		5	5	5

*Refer to NFPA No. 220 Standard Types of Building Construction for definitions of various types of construction. (1969 Ed.)

**But not less than one-half the height of adjacent side wall of the structure.

***In congested areas such as offices, lunchrooms, locker rooms, time-clock areas, and places of public assembly

(d) Hydrogen systems of less than 3,000 CF when located inside buildings and exposed to other occupancies shall be situated in the building so that the system will be as follows:

(1) In an adequately ventilated area as in subparagraph (3) (ii) (b) of this paragraph.

(2) Twenty feet from stored flammable materials or oxidizing gases.

(3) Twenty-five feet from open flames, ordinary electrical equipment or other sources of ignition.

(4) Twenty-five feet from concentrations of people.

(5) Fifty feet from intakes of ventilation or air-conditioning equipment and air compressors.

(6) Fifty feet from other flammable gas storage.

(7) Protected against damage or injury due to falling objects or working activity in the area.

(8) More than one system of 3,000 CF or less may be installed in the same room, provided the systems are separated by at least 50 feet. Each such system shall meet all of the requirements of this paragraph.

(3) *Design consideration at specific locations*—(i) *Outdoor locations.* (a) Where protective walls or roofs are provided, they shall be constructed of noncombustible materials.

(b) Where the enclosing sides adjoin each other, the area shall be properly ventilated.

(c) Electrical equipment within 15 feet shall be in accordance with subpart S of this part.

(ii) *Separate buildings.* (a) Separate buildings shall be built of at least noncombustible construction. Windows and doors shall be located so as to be readily accessible in case of emergency. Windows shall be of glass or plastic in metal frames.

(b) Adequate ventilation to the outdoors shall be provided. Inlet openings shall be located near the floor in exterior walls only. Outlet openings shall be located at the high point of the room in exterior walls or roof. Inlet and outlet openings shall each have minimum total area of one (1) square foot per 1,000 cubic feet of room volume. Discharge from outlet openings shall be directed or conducted to a safe location.

(c) Explosion venting shall be provided in exterior walls or roof only. The venting area shall be equal to not less than 1 square foot per 30 cubic feet of room volume and may consist of any one or any combination of the following: walls of light, noncombustible material, preferably single thickness, single strength glass; lightly fastened hatch covers; lightly fastened swinging doors in exterior walls opening outward; lightly fastened walls or roof designed to relieve at a maximum pressure of 25 pounds per square foot.

(d) There shall be no sources of ignition from open flames, electrical equipment, or heating equipment.

(e) Electrical equipment shall be in accordance with subpart S of this part for Class I, Division 2 locations.

(f) Heating, if provided, shall be by steam, hot water, or other indirect means.

(iii) *Special rooms.* (a) Floor, walls, and ceiling shall have a fire-resistance rating of at least 2 hours. Walls or partitions shall be continuous from floor to ceiling and shall be securely anchored. At least one wall shall be an exterior wall. Openings to other parts of the building shall not be permitted. Windows and doors shall be in exterior walls and shall be located so as to be readily accessible in case of emergency. Windows shall be of glass or plastic in metal frames.

(b) Ventilation shall be as provided in subdivision (ii) (b) of this subparagraph.

(c) Explosion venting shall be as provided in subdivision (ii) (c) of this subparagraph.

(d) There shall be no sources of ignition from open flames, electrical equipment, or heating equipment.

(e) Electrical equipment shall be in accordance with Article 501 of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), for Class I Division 2 locations.

(f) Heating, if provided, shall be by steam, hot water, or indirect means.

(4) *Operating instructions.* For installations which require any operation of equipment by the user, legible instructions shall be maintaind at operating locations.

(5) *Maintenance*—(i) *Inspection.* Each hydrogen system installed on consumer premises shall be periodically inspected and maintained by a qualified representative of the hydrogen supplier.

(ii) *Clear zone.* The area within 15 feet of any hydrogen container shall be kept free of dry vegetation and combustible material.

(c) *Liquefied hydrogen systems*—(1) *Design*—(i) *Containers.* (a) Hydrogen containers shall comply with the following: Storage containers shall be designed, constructed, and tested in accordance with appropriate requirements of the ASME Boiler and Pressure Vessel Code, Section VIII—Unfired Pressure Vessels (1968) or applicable provisions of API Standard 620, Recommended Rules for Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Second Edition (June 1963) and Appendix R (April 1965).

(b) Portable containers shall be designed, constructed and tested in accordance with DOT Specifications and Regulations.

(ii) *Supports.* Permanently installed containers shall be provided with substantial noncombustible supports securely anchored on firm noncombustible foundations. Steel supports in excess of 18 inches in height shall be protected with a protective coating having a 2-hour fire-resistance rating.

(iii) *Marking.* Each container shall be legibly marked to indicate "LIQUEFIED HYDROGEN—FLAMMABLE GAS."

(iv) *Safety relief devices.* (a) (1) Stationary liquefied hydrogen containers shall be equipped with safety relief devices sized in accordance with CGA Pamphlet S–1, Part 3, Safety Relief Device Standards for Compressed Gas Storage Containers.

(2) Portable liquefied hydrogen containers complying with the U.S. Department of Transportation Regulations

shall be equipped with safety relief devices as required in the U.S. Department of Transportation Specifications and Regulations. Safety relief devices shall be sized in accordance with the requirements of CGA Pamphlet S-1, Safety Relief Device Standards, Part 1, Compressed Gas Cylinders and Part 2, Cargo and Portable Tank Containers.

(b) Safety relief devices shall be arranged to discharge unobstructed to the outdoors and in such a manner as to prevent impingement of escaping liquid or gas upon the container, adjacent structures or personnel. See subparagraph (2)(i)(*f*) of this paragraph for venting of safety relief devices in special locations.

(c) Safety relief devices or vent piping shall be designed or located so that moisture cannot collect and freeze in a manner which would interfere with proper operation of the device.

(*d*) Safety relief devices shall be provided in piping wherever liquefied hydrogen could be trapped between closures.

(v) *Piping, tubing, and fittings.* (*a*) Piping, tubing, and fittings and gasket and thread sealants shall be suitable for hydrogen service at the pressures and temperatures involved. Consideration shall be given to the thermal expansion and contraction of piping systems when exposed to temperature fluctuations of ambient to liquefied hydrogen temperatures.

(*b*) Gaseous hydrogen piping and tubing (above −20° F.) shall conform to the applicable sections of Pressure Piping Section 2—Industrial Gas and Air Piping, ANSI B31.1–1967 with addenda B31.1–1969. Design of liquefied hydrogen or cold (−20° F. or below) gas piping shall use Petroleum Refinery Piping ANSI B31.3–1966 or Refrigeration Piping ANSI B31.5–1966 with addenda B31.5a–1968 as a guide.

(*c*) Joints in piping and tubing shall preferably be made by welding or brazing; flanged, threaded, socket, or suitable compression fittings may be used.

(*d*) Means shall be provided to minimize exposure of personnel to piping operating at low temperatures and to prevent air condensate from contacting piping, structural members, and surfaces not suitable for cryogenic temperatures. Only those insulating materials which are rated nonburning in accordance with ASTM Procedures D1692–68 may be used. Other protective means may be used to protect personnel. The insulation shall be designed to have a vapor-tight seal in the outer covering to prevent the condensation of air and subsequent oxygen enrichment within the insulation. The insulation material and outside shield shall also be of adequate design to prevent attrition of the insulation due to normal operating conditions.

(*e*) Uninsulated piping and equipment which operate at liquefied-hydrogen temperature shall not be installed above asphalt surfaces or other combustible materials in order to prevent contact of liquid air with such materials. Drip pans may be installed under uninsulated piping and equipment to retain and vaporize condensed liquid air.

(vi) *Equipment assembly.* (*a*) Valves, gauges, regulators, and other accessories shall be suitable for liquefied hydrogen service and for the pressures and temperatures involved.

(*b*) Installation of liquefied hydrogen systems shall be supervised by personnel familiar with proper practices and with reference to their construction and use.

(c) Storage containers, piping, valves, regulating equipment, and other accessories shall be readily accessible and shall be protected against physical damage and against tampering. A shutoff valve shall be located in liquid product withdrawal lines as close to the container as practical. On containers of over 2,000 gallons capacity, this shutoff valve shall be of the remote control type with no connections, flanges, or other appurtenances (other than a welded manual shutoff valve) allowed in the piping between the shutoff valve and its connection to the inner container.

(*d*) Cabinets or housings containing hydrogen control equipment shall be ventilated to prevent any accumulation of hydrogen gas.

(vii) *Testing.* (*a*) After installation, all field-erected piping shall be tested and proved hydrogen gas-tight at operating pressure and temperature.

(*b*) Containers if out of service in excess of 1 year shall be inspected and tested as outlined in (*a*) of this subdivision. The safety relief devices shall be checked to determine if they are operable and properly set.

(viii) *Liquefied hydrogen vaporizers.* (*a*) The vaporizer shall be anchored and its connecting piping shall be sufficiently flexible to provide for the effect of expansion and contraction due to temperature changes.

(*b*) The vaporizer and its piping shall be adequately protected on the hydrogen and heating media sections with safety relief devices.

(c) Heat used in a liquefied hydrogen vaporizer shall be indirectly supplied utilizing media such as air, steam, water, or water solutions.

(*d*) A low temperature shutoff switch shall be provided in the vaporizer discharge piping to prevent flow of liquefied hydrogen in the event of the loss of the heat source.

(ix) *Electrical systems.* (*a*) Electrical wiring and equipment located within 3 feet of a point where connections are regularly made and disconnected, shall be in accordance with subpart S of this part, for Class I, Group B, Division 1 locations.

(*b*) Except as provided in (*a*) of this subdivision, electrical wiring, and equipment located within 25 feet of a point where connections are regularly made and disconnected or within 25 feet of a liquid hydrogen storage container, shall be in accordance with subpart S of this part, for Class I, Group B, Division 2 locations. When equipment approved for class I, group B atmospheres is not commercially available, the equipment may be—

(*1*) Purged or ventilated in accordance with NFPA No. 496–1967, Standard for Purged Enclosures for Electrical Equipment in Hazardous Locations,

(2) Intrinsically safe, or

(3) Approved for Class I, Group C atmospheres. This requirement does not apply to electrical equipment which is installed on mobile supply trucks or tank cars from which the storage container is filled.

(x) *Bonding and grounding.* The liquefied hydrogen container and associated piping shall be electrically bonded and grounded.

(2) *Location of liquefied hydrogen storage*—(i) *General requirements.* (*a*) The storage containers shall be located so that they are readily accessible to mobile supply equipment at ground level and to authorized personnel.

(*b*) The containers shall not be exposed by electric power lines, flammable liquid lines, flammable gas lines, or lines carrying oxidizing materials.

(c) When locating liquified hydrogen storage containers near above-ground flammable liquid storage or liquid oxygen storage, it is advisable to locate the liquefied hydrogen container on ground higher than flammable liquid storage or liquid oxygen storage.

(*d*) Where it is necessary to locate the liquefied hydrogen container on ground that is level with or lower than adjacent flammable liquid storage or liquid oxygen storage, suitable protective means shall be taken (such as by diking, diversion curbs, grading), with respect to the adjacent flammable liquid storage or liquid oxygen storage, to prevent accumulation of liquids within 50 feet of the liquefied hydrogen container.

(*e*) Storage sites shall be fenced and posted to prevent entrance by unauthorized personnel. Sites shall also be placarded as follows: "Liquefied Hydrogen—Flammable Gas—No Smoking—No Open Flames."

(*f*) If liquified hydrogen is located in (as specified in Table H–3) a separate building, in a special room, or inside buildings when not in a special room and exposed to other occupancies, containers shall have the safety relief devices vented unobstructed to the outdoors at a minimum elevation of 25 feet above grade to a safe location as required in subparagraph (1)(iv)(*b*) of this paragraph.

(ii) *Specific requirements.* (*a*) The location of liquefied hydrogen storage, as determined by the maximum total quantity of liquified hydrogen, shall be in the order of preference as indicated by Roman numerals in the following Table H–3.

TABLE H–3—MAXIMUM TOTAL QUANTITY OF LIQUEFIED HYDROGEN STORAGE PERMITTED

Nature of location		Size of hydrogen storage (capacity in gallons)			
		39.63 (150 liters) to 60	51 to 300	301 to 600	In excess of 600
Outdoors	I	I	I	I	I.
In a separate building	II	II	II	II	Not permitted.
In a special room	III	III	III	Not permitted	Not permitted.
Inside buildings not in a special room and exposed to other occupancies.	IV	Not permitted	Not permitted	Not permitted	Not permitted.

NOTE: This table does not apply to the storage in dewars of the type generally used in laboratories for experimental purposes.

(*b*) The minimum distance in feet from liquefied hydrogen systems of indicated storage capacity located outdoors, in a separate building, or in a special room to any specified exposure shall be in accordance with Table H–4.

TABLE H–4—MINIMUM DISTANCE (FEET) FROM LIQUEFIED HYDROGEN SYSTEMS TO EXPOSURE

Type of exposure	Liquefied hydrogen storage (capacity in gallons)		
	39.63 (150 liters) to 3,500	3,501 to 15,000	15,001 to 30,000
1. Fire-resistive building and fire walls*	5	5	5
2. Noncombustible building*	25	50	75
3. Other buildings*	50	75	100
4. Wall openings, air-compressor intakes, inlets for air-conditioning or ventilating equipment	75	75	75
5. Flammable liquids (above ground and vent or fill openings if below ground) (see 513 and 514)	50	75	100
6. Between stationary liquefied hydrogen containers	5	5	5
7. Flammable gas storage	50	75	100
8. Liquid oxygen storage and other oxidizers (see 513 and 514)	100	100	100
9. Combustible solids	50	75	100
10. Open flames, smoking, and welding	50	50	50
11. Concentrations of people†	75	75	75
12. Public ways, railroads, and property lines	25	50	75

*Refer to Standard Types of Building Construction, NFPA No. 220–1969 for definitions of various types of construction.

†In congested areas such as offices, lunchrooms, locker rooms, time-clock areas, and places of public assembly.

NOTE 1: The distance in Nos. 2, 3, 5, 7, 9, and 12 in Table H–4 may be reduced where protective structures, such as firewalls equal to height of top of the container, to safeguard the liquefied hydrogen storage system, are located between the liquefied hydrogen storage installation and the exposure.

NOTE 2: Where protective structures are provided, ventilation and confinement of product should be considered. The 5-foot distance in Nos. 1 and 6 facilitates maintenance and enhances ventilation.

(iii) *Handling of liquefied hydrogen inside buildings other than separate buildings and special rooms.* Portable liquefied hydrogen containers of 50 gallons or less capacity as permitted in Table H–3 and in compliance with subdivision (i)(*f*) of this subparagraph when housed inside buildings not located in a special room and exposed to other occupancies shall comply with the following minimum requirements:

(*a*) Be located 20 feet from flammable liquids and readily combustible materials such as excelsior or paper.

(*b*) Be located 25 feet from ordinary electrical equipment and other sources of ignition including process or analytical equipment.

(c) Be located 25 feet from concentrations of people.

(*d*) Be located 50 feet from intakes of ventilation and air-conditioning equipment or intakes of compressors.

(*e*) Be located 50 feet from storage of other flammable-gases or storage of oxidizing gases.

(*f*) Containers shall be protected against damage or injury due to falling objects or work activity in the area.

(*g*) Containers shall be firmly secured and stored in an upright position.

(*h*) Welding or cutting operations, and smoking shall be prohibited while hydrogen is in the room.

(*i*) The area shall be adequately ventilated. Safety relief devices on the containers shall be vented directly outdoors or to a suitable hood. See subparagraph (1)(iv)(*b*) of this paragraph and subdivision (i)(*f*) of this subparagraph.

(3) *Design considerations at specific locations*—(i) *Outdoor locations.* (*a*) Outdoor location shall mean outside of any building or structure, and includes locations under a weather shelter or canopy provided such locations are not enclosed by more than two walls set at right angles and are provided with ventspace between the walls and vented roof or canopy.

(*b*) Roadways and yard surfaces located below liquefied hydrogen piping, from which liquid air may drip, shall be constructed of noncombustible materials.

(c) If protective walls are provided, they shall be constructed of noncombustible materials and in accordance with the provisions of subdivision (*a*) of this subdivision as applicable.

(*d*) Electrical wiring and equipment shall comply with subparagraph (1)(ix)(*a*) and (*b*) of this paragraph.

(*e*) Adequate lighting shall be provided for nighttime transfer operation.

(ii) *Separate buildings.* (*a*) Separate buildings shall be of light noncombustible construction on a substantial frame. Walls and roofs shall be lightly fastened and designed to relieve at a maximum internal pressure of 25 pounds per square foot. Windows shall be of shatterproof glass or plastic in metal frames. Doors shall be located in such a manner that they will be readily accessible to personnel in an emergency.

(*b*) Adequate ventilation to the outdoors shall be provided. Inlet openings shall be located near the floor level in exterior walls only. Outlet openings shall be located at the high point of the room in exterior walls or roof. Both the inlet and outlet vent openings shall have a minimum total area of 1 square foot per 1,000 cubic feet of room volume. Discharge from outlet openings shall be directed or conducted to a safe location.

(c) There shall be no sources of ignition.

(*d*) Electrical wiring and equipment shall comply with subparagraph (1)(ix)(*a*) and (*b*) of this paragraph except that the provisions of subparagraph (1)(ix)(*b*) of this paragraph shall apply to all electrical wiring and equipment in the separate building.

(*e*) Heating, if provided, shall be by steam, hot water, or other indirect means.

(iii) *Special rooms.* (*a*) Floors, walls, and ceilings shall have a fire resistance rating of at least 2 hours. Walls or partitions shall be continuous from floor to ceiling and shall be securely anchored. At least one wall shall be an exterior wall. Openings to other parts of the building shall not be permitted. Windows and doors shall be in exterior walls and doors shall be located in such a manner that they will be accessible in an emergency. Windows shall be of shatterproof glass or plastic in metal frames.

(*b*) Ventilation shall be as provided in subdivision (ii)(*b*) of this subparagraph.

(c) Explosion venting shall be provided in exterior walls or roof only. The venting area shall be equal to not less than 1 square foot per 30 cubic feet of room volume and may consist of any one or any combination of the following: walls of light noncombustible material; lightly fastened hatch covers; lightly fastened swinging doors opening outward in exterior walls; lightly fastened walls or roofs designed to relieve at a maximum pressure of 25 pounds per square foot.

(*d*) There shall be no sources of ignition.

(*e*) Electrical wiring and equipment shall comply with subparagraph (1)(ix)(*a*) and (*b*) of this paragraph except that the provision of subparagraph (1)(ix)(*b*) of this paragraph shall apply to all electrical wiring and equipment in the special room.

(*f*) Heating, if provided, shall be steam, hot water, or by other indirect means.

(4) *Operating instructions*—(i) *Written instructions.* For installation which require any operation of equipment by the user, legible instructions shall be maintained at operating locations.

(ii) *Attendant.* A qualified person shall be in attendance at all times while the mobile hydrogen supply unit is being unloaded.

(iii) *Security.* Each mobile liquefied hydrogen supply unit used as part of a

hydrogen system shall be adequately secured to prevent movement.

(iv) *Grounding.* The mobile liquefied hydrogen supply unit shall be grounded for static electricity.

(5) *Maintenance*—(i) Inspection. Each liquefied hydrogen system installed on consumer premises shall be periodically inspected and maintained by a qualified representative of the equipment owner.

(ii) *Clear Zone.* Weeds or similar combustibles shall not be permitted within 25 feet of any liquefied hydrogen equipment.

§ 1910.104 Oxygen.

(a) *Scope.* This section applies to the installation of bulk oxygen systems on industrial and institutional consumer premises. This section does not apply to oxygen manufacturing plants or other establishments operated by the oxygen supplier or his agent for the purpose of storing oxygen and refilling portable containers, trailers, mobile supply trucks, or tank cars, nor to systems having capacities less than those stated in paragraph (b)(1) of this section.

(b) *Bulk oxygen systems.*—(1) *Definition.* As used in this section: A bulk oxygen system is an assembly of equipment, such as oxygen storage containers, pressure regulators, safety devices, vaporizers, manifolds, and interconnecting piping, which has storage capacity of more than 13,000 cubic feet of oxygen, Normal Temperature and Pressure (NTP), connected in service or ready for service, or more than 25,000 cubic feet of oxygen (NTP) including unconnected reserves on hand at the site. The bulk oxygen system terminates at the point where oxygen at service pressure first enters the supply line. The oxygen containers may be stationary or movable, and the oxygen may be stored as gas or liquid.

(2) *Location*—(i) *General.* Bulk oxygen storage systems shall be located above ground out of doors, or shall be installed in a building of noncombustible construction, adequately vented, and used for that purpose exclusively. The location selected shall be such that containers and associated equipment shall not be exposed by electric power lines, flammable or combustible liquid lines, or flammable gas lines.

(ii) *Accessibility.* The system shall be located so that it is readily accessible to mobile supply equipment at ground level and to authorized personnel.

(iii) *Leakage.* Where oxygen is stored as a liquid, noncombustible surfacing shall be provided in an area in which any leakage of liquid oxygen might fall during operation of the system and filling of a storage container. For purposes of this paragraph, asphaltic or bituminous paving is considered to be combustible.

(iv) *Elevation.* When locating bulk oxygen systems near above-ground flammable or combustible liquid storage which may be either indoors or outdoors, it is advisable to locate the system on ground higher than the flammable or combustible liquid storage.

(v) *Dikes.* Where it is necessary to locate a bulk oxygen system on ground lower than adjacent flammable or combustible liquid storage suitable means shall be taken (such as by diking, diversion curbs, or grading) with respect to the adjacent flammable or combustible liquid storage to prevent accumulation of liquids under the bulk oxygen system.

(3) *Distance between systems and exposures*—(i) *General.* The minimum distance from any bulk oxygen storage container to exposures, measured in the most direct line except as indicated in subdivisions (vi) and (viii) of this subparagraph, shall be as indicated in subdivisions (ii) to (xviii) of this subparagraph inclusive.

(ii) *Combustible structures.* Fifty feet from any combustible structures.

(iii) *Fire resistive structures.* Twenty-five feet from any structures with fire-resistive exterior walls or sprinklered buildings of other construction, but not less than one-half the height of adjacent side wall of the structure.

(iv) *Openings.* At least 10 feet from any opening in adjacent walls of fire resistive structures. Spacing from such structures shall be adequate to permit maintenance, but shall not be less than 1 foot.

(v) *Flammable liquid storage aboveground.*

Distance (feet)	Capacity (gallons)
50	0–1000
90	1001 or more

(vi) *Flammable liquid storage belowground.*

Distance measured horizontally from oxygen storage container to flammable liquid tank (feet)	Distance from oxygen storage container to filling and vent connections or openings to flammable liquid tank (feet)	Capacity gallons
15	50	0–1000.
30	50	1001 or more

(vii) *Combustible liquid storage aboveground.*

Distance (feet)	Capacity (gallons)
25	0–1000
50	1001 or more

(viii) *Combustible liquid storage belowground.*

Distance measured horizontally from oxygen storage container to combustible liquid tank (feet)	Distance from oxygen storage container to filling and vent connections or openings to combustible liquid tank (feet)
15	40

(ix) *Flammable gas storage.* (Such as compressed flammable gases, liquefied flammable gases and flammable gases in low pressure gas holders):

Distance (feet)	Capacity (cu. ft. NTP)
50	Less than 5000
90	5000 or more

(x) *Highly combustible materials.* Fifty feet from solid materials which burn rapidly, such as excelsior or paper.

(xi) *Slow-burning materials.* Twenty-five feet from solid materials which burn slowly, such as coal and heavy timber.

(xii) *Ventilation.* Seventy-five feet in one direction and 35 feet in approximately 90° direction from confining walls (not including firewalls less than 20 feet high) to provide adequate ventilation in courtyards and similar confining areas.

(xiii) *Congested areas.* Twenty-five feet from congested areas such as offices, lunchrooms, locker rooms, time clock areas, and similar locations where people may congregate.

(xiv) *Public areas.* Fifty feet from places of public assembly.

(xv) *Patients.* Fifty feet from areas occupied by nonambulatory patients.

(xvi) *Sidewalks.* Ten feet from any public sidewalk.

(xvii) *Adjacent property.* Five feet from any line of adjoining property.

(xviii) *Exceptions.* The distances in subdivisions (ii), (iii), (v) to (xi) inclusive, (xvi), and (xvii) of this subparagraph do not apply where protective structures such as firewalls of adequate height to safeguard the oxygen storage systems are located between the bulk oxygen storage installation and the exposure. In such cases, the bulk oxygen storage installation may be a minimum distance of 1 foot from the firewall.

(4) *Storage containers*—(i) *Foundations and supports.* Permanently installed containers shall be provided with substantial noncombustible supports on firm noncombustible foundations.

(ii) *Construction—liquid.* Liquid oxygen storage containers shall be fabricated from materials meeting the impact test requirements of paragraph UG–84 of ASME Boiler and Pressure Vessel Code, Section VIII—Unfired Pressure Vessels—1968. Containers operating at pressures above 15 pounds per square inch gage (p.s.i.g.) shall be designed, constructed, and tested in accordance with appropriate requirements of ASME Boiler and Pressure Vessel Code, Section VII—Unfired Pressure Vessels—1968. Insulation surrounding the liquid oxygen container shall be noncombustible.

(iii) *Construction—gaseous.* High-pressure gaseous oxygen containers shall comply with one of the following:

(*a*) Designed, constructed, and tested in accordance with appropriate requirements of ASME Boiler and Pressure Vessel Code, Section VIII—Unfired Pressure Vessels—1968.

(*b*) Designed, constructed, tested, and maintained in accordance with DOT Specifications and Regulations.

(5) *Piping, tubing, and fittings*—(i) *Selection.* Piping, tubing, and fittings shall be suitable for oxygen service and for the pressures and temperatures involved.

(ii) *Specification.* Piping and tubing shall conform to Section 2—Gas and Air Piping Systems of Code for Pressure Piping, ANSI, B31.1–1967 with addenda B31.10a–1969.

(iii) *Fabrication.* Piping or tubing for operating temperatures below —20° F. shall be fabricated from materials meeting the impact test requirements of paragraph UG–84 of ASME Boiler and Pressure Vessel Code, Section VIII—Unfired Pressure Vessels—1968, when tested at the minimum operating temperature to which the piping may be subjected in service.

(6) *Safety relief devices*—(i) *General.* Bulk oxygen storage containers, regardless of design pressure shall be equipped with safety relief devices as required by the ASME code or the DOT specifications and regulations.

(ii) *DOT containers.* Bulk oxygen storage containers designed and constructed in accordance with DOT specification shall be equipped with safety relief devices as required thereby.

(iii) *ASME containers.* Bulk oxygen storage containers designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code, Section VIII—Unfired Pressure Vessel—1968 shall be equipped with safety relief devices meeting the provisions of the Compressed Gas Association Pamphlet "Safety Relief Device Standards for Compressed Gas Storage Containers," S–1, Part 3.

(iv) *Insulation.* Insulation casings on liquid oxygen containers shall be equipped with suitable safety relief devices.

(v) *Reliability.* All safety relief devices shall be so designed or located that moisture cannot collect and freeze in a manner which would interfere with proper operation of the device.

(7) *Liquid oxygen vaporizers*—(i) *Mounts and couplings.* The vaporizer shall be anchored and its connecting piping be sufficiently flexible to provide for the effect of expansion and contraction due to temperature changes.

(ii) *Relief devices.* The vaporizer and its piping shall be adequately protected on the oxygen and heating medium sections with safety relief devices.

(iii) *Heating.* Heat used in an oxygen vaporizer shall be indirectly supplied only through media such as steam, air, water, or water solutions which do not react with oxygen.

(iv) *Grounding.* If electric heaters are used to provide the primary source of heat, the vaporizing system shall be electrically grounded.

(8) *Equipment assembly and installation*—(i) *Cleaning.* Equipment making up a bulk oxygen system shall be cleaned in order to remove oil, grease or other readily oxidizable materials before placing the system in service.

(ii) *Joints.* Joints in piping and tubing may be made by welding or by use of flanged, threaded, slip, or compression fittings. Gaskets or thread sealants shall be suitable for oxygen service.

(iii) *Accessories.* Valves, gages, regulators, and other accessories shall be suitable for oxygen service.

(iv) *Installation.* Installation of bulk oxygen systems shall be supervised by personnel familiar with proper practices with reference to their construction and use.

(v) *Testing.* After installation all field erected piping shall be tested and proved gas tight at maximum operating pressure. Any medium used for testing shall be oil free and nonflammable.

(vi) *Security.* Storage containers, piping, valves, regulating equipment, and other accessories shall be protected against physical damage and against tampering.

(vii) *Venting.* Any enclosure containing oxygen control or operating equipment shall be adequately vented.

(viii) *Placarding.* The bulk oxygen storage location shall be permanently placarded to indicate: "OXYGEN—NO SMOKING—NO OPEN FLAMES", or an equivalent warning.

(ix) *Electrical wiring.* Bulk oxygen installations are not hazardous locations as defined and covered in subpart S of this part. Therefore, general purpose or weatherproof types of electrical wiring and equipment are acceptable depending upon whether the installation is indoors or outdoors. Such equipment shall be installed in accordance with the applicable provisions of subpart S of this part.

(9) *Operating instructions.* For installations which require any operation of equipment by the user, legible instructions shall be maintained at operating locations.

(10) *Maintenance* — (i) *Inspection.* Each bulk oxygen system installed on consumer premises shall be periodically inspected and maintained by a qualified representative of the oxygen supplier.

(ii) *Clear zone.* Weeds and long dry grass shall be cut back within 15 feet of any bulk oxygen storage container.

§ 1910.105 Nitrous oxide.

The piped systems for the in-plant transfer and distribution of nitrous oxide shall be designed, installed, maintained, and operated in accordance with Compressed Gas Association Pamphlet G–8.1–1964.

§ 1910.106 Flammable and combustible liquids.

(a) *Definitions.* As used in this section:

(1) Aerosol shall mean a material which is dispensed from its container as a mist, spray, or foam by a propellant under pressure.

(2) Atmospheric tank shall mean a storage tank which has been designed to operate at pressures from atmospheric through 0.5 p.s.i.g.

(3) Automotive service station shall mean that portion of property where flammable or combustible liquids used as motor fuels are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles and shall include any facilities available for the sale and service of tires, batteries, and accessories, and for minor automotive maintenance work. Major automotive repairs, painting, body and fender work are excluded.

(4) Basement shall mean a story of a building or structure having one-half or more of its height below ground level and to which access for fire fighting purposes is unduly restricted.

(5) Boiling point shall mean the boiling point of a liquid at a pressure of 14.7 pounds per square inch absolute (p.s.i.a.) (760 mm.). Where an accurate boiling point is unavailable for the material in question, or for mixtures which do not have a constant boiling point, for purposes of this section the 10 percent point of a distillation performed in accordance with the Standard Method of Test for Distillation of Petroleum Products, ASTM D–86–62, may be used as the boiling point of the liquid.

(6) Bollover shall mean the expulsion of crude oil (or certain other liquids) from a burning tank. The light fractions of the crude oil burnoff producing a heat wave in the residue, which on reaching a water strata may result in the expulsion of a portion of the contents of the tank in the form of froth.

(7) Bulk plant shall mean that portion of a property where flammable or combustible liquids are received by tank vessel, pipelines, tank car, or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle, or container.

(8) Chemical plant shall mean a large integrated plant or that portion of such a plant other than a refinery or distillery where flammable or combustible liquids are produced by chemical reactions or used in chemical reactions.

(9) Closed container shall mean a container as herein defined, so sealed by means of a lid or other device that neither liquid nor vapor will escape from it at ordinary temperatures.

(10) Crude petroleum shall mean hydrocarbon mixtures that have a flash point below 150° F. and which have not been processed in a refinery.

(11) Distillery shall mean a plant or that portion of a plant where flammable or combustible liquids produced by fermentation are concentrated, and where the concentrated products may also be mixed, stored, or packaged.

(12) Fire area shall mean an area of a building separated from the remainder of the building by construction having a fire resistance of at least 1 hour and having all communicating openings properly protected by an assembly having a fire resistance rating of at least 1 hour.

(13) Flammable aerosol shall mean an aerosol which is required to be labeled "Flammable" under the Federal Hazardous Substances Labeling Act (15 U.S.C. 1261). For the purposes of paragraph (d) of this section, such aerosols are considered Class IA liquids.

(14) Flashpoint of the liquid shall mean the temperature at which it gives off vapor sufficient to form an ignitable mixture with the air near the surface of the liquid or within the vessel used as determined by appropriate test procedure and apparatus as specified below.

(i) The flashpoint of liquids having a viscosity less than 45 SUS at 100° F. (37.8° C.) and a flashpoint below 175° F. (79.4° C.) shall be determined in accordance with the Standard Method of Test for Flashpoint by the Tag Closed Tester, ASTM D–56–69.

(ii) The flashpoint of liquids having a viscosity of 45 SUS or more at 100° F. (37.8° C.) or a flashpoint of 175° F.

(79.4° C.) or higher shall be determined in accordance with the Standard Method of Test for Flashpoint by the Pensky Martens Closed Tester, ASTM D–93–69.

(15) Hotel shall mean buildings or groups of buildings under the same management in which there are sleeping accommodations for hire, primarily used by transients who are lodged with or without meals including but not limited to inns, clubs, motels, and apartment hotels.

(16) Institutional occupancy shall mean the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained.

(17) Liquid shall mean, for the purpose of this section, any material which has a fluidity greater than that of 300 penetration asphalt when tested in accordance with ASTM Test for Penetration for Bituminous Materials, D–5–65. When not otherwise identified, the term liquid shall include both flammable and combustible liquids.

(18) Combustible liquids shall mean any liquid having a flashpoint at or above 140° F. (60° C.), and shall be known as Class III liquids. Class IIIA shall include those having flashpoints at or above 140° F. (60° C.) and below 200° F. (93.4° C.). Class IIIB shall include those having flashpoints at or above 200° F. (93.4° C.).

This section does not cover Class IIIB liquids. Where the term combustible liquids or Class III liquids is used in this section, it shall mean only Class IIIA liquids.

NOTE: The upper limit of 200° F. is given because the application of this section does not extend to liquids having flashpoints above 200° F. and should not be construed as indicating that liquids with higher flashpoints are noncombustible.

(19) Flammable liquids shall mean any liquid having a flashpoint below 140° F. and having a vapor pressure not exceeding 40 pounds per square inch (absolute) at 100° F.

(i) Flammable liquids shall be divided into two classes of liquids as follows:

(ii) Class I liquids shall include those having flashpoints below 100° F. and may be subdivided as follows:

(*a*) Class IA shall include those having flashpoints below 73° F. and having a boiling point below 100° F.

(*b*) Class IB shall include those having flashpoints below 73° F. and having a boiling point at or above 100° F.

(*c*) Class IC shall include those having flashpoints at or above 73° F. and below 100° F.

(iii) Class II liquids shall include those having flashpoints at or above 100° F. and below 140° F.

NOTE: The volatility of liquids is increased when artificially heated to temperatures equal to or higher than their flashpoints. When so heated Class II and III liquids shall be subject to the applicable requirements for Class I or II liquids. This section may also be applied to high flashpoint liquids when so heated even though these same liquids when not heated are outside of its scope.

(20) Unstable (reactive) liquid shall mean a liquid which in the pure state or as commercially produced or transported will vigorously polymerize, decompose, condense, or will become self-reactive under conditions of shocks, pressure, or temperature.

(21) Low-pressure tank shall mean a storage tank which has been designed to operate at pressures above 0.5 p.s.i.g. but not more than 15 p.s.i.g.

(22) Marine service station shall mean that portion of a property where flammable or combustible liquids used as fuels are stored and dispensed from fixed equipment on shore, piers, wharves, or floating docks into the fuel tanks of self-propelled craft, and shall include all facilities used in connection therewith.

(23) Mercantile occupancy shall mean the occupancy or use of a building or structure or any portion thereof for the displaying, selling, or buying of goods, wares, or merchandise.

(24) Office occupancy shall mean the occupancy or use of a building or structure or any portion thereof for the transaction of business, or the rendering or receiving of professional services.

(25) Portable tank shall mean a closed container having a liquid capacity over 60 U.S. gallons and not intended for fixed installation.

(26) Pressure vessel shall mean a storage tank or vessel which has been designed to operate at pressures above 15 p.s.i.g.

(27) Protection for exposure shall mean fire protection for structures on property adjacent to tanks. When acceptable to the authority having jurisdiction, such structures located (i) within the jurisdiction of any public fire department or (ii) within or adjacent to plants having private fire brigades shall be considered as having adequate protection for exposures.

(28) Refinery shall mean a plant in which flammable or combustible liquids are produced on a commercial scale from crude petroleum, natural gasoline, or other hydrocarbon sources.

(29) Safety can shall mean an approved container, of not more than 5 gallons capacity, having a spring-closing lid and spout cover and so designed that it will safely relieve internal pressure when subjected to fire exposure.

(30) Vapor pressure shall mean the pressure, measured in pounds per square inch (absolute) exerted by a volatile liquid as determined by the "Standard Method of Test for Vapor Pressure of Petroleum Products (Reid Method)," American Society for Testing and Materials ASTM D323–68.

(31) Ventilation as specified in this section is for the prevention of fire and explosion. It is considered adequate if it is sufficient to prevent accumulation of significant quantities of vapor-air mixtures in concentration over one-fourth of the lower flammable limit.

(32) Storage: Flammable or combustible liquids shall be stored in a tank or in a container that complies with paragraph (d)(2) of this section.

(33) Barrel shall mean a volume of 42 U.S. gallons.

(34) Container shall mean any can, barrel, or drum.

(35) Approved unless otherwise indicated, approved, or listed by at least one of the following nationally recognized testing laboratories: Underwriters Laboratories, Inc.; Factory Mutual Engineering Corp.

(36) Listed see "approved" in § 1910.106(a)(35).

(b) *Tank storage*—(1) *Design and construction of tanks*—(i) *Materials.* (*a*) Tanks shall be built of steel except as provided in (*b*) through (*e*) of this subdivision.

(*b*) Tanks may be built of materials other than steel for installation underground or if required by the properties of the liquid stored. Tanks located above ground or inside buildings shall be of noncombustible construction.

(*c*) Tanks built of materials other than steel shall be designed to specifications embodying principles recognized as good engineering design for the material used.

(*d*) Unlined concrete tanks may be used for storing flammable or combustible liquids having a gravity of 40° API or heavier. Concrete tanks with special lining may be used for other services provided the design is in accordance with sound engineering practice.

(*e*) Tanks may have combustible or noncombustible linings.

(*f*) Special engineering consideration shall be required if the specific gravity of the liquid to be stored exceeds that of water or if the tanks are designed to contain flammable or combustible liquids at a liquid temperature below 0° F.

(ii) *Fabrication.* (*a*) Tanks may be of any shape or type consistent with sound engineering design.

(*b*) Metal tanks shall be welded, riveted, and caulked, brazed, or bolted, or constructed by use of a combination of these methods. Filler metal used in brazing shall be nonferrous metal or an alloy having a melting point above 1000° F. and below that of the metal joined.

(iii) *Atmospheric tanks.* (*a*) Atmospheric tanks shall be built in accordance with acceptable good standards of design. Atmospheric tanks may be built in accordance with:

(*1*) Underwriters' Laboratories, Inc., Subjects No. 142, Standard for Steel Aboveground Tanks for Flammable and Combustible Liquids, 1968; No. 58, Standard for Steel Underground Tanks for Flammable and Combustible Liquids, Fifth Edition, December 1961; or No. 80, Standard for Steel Inside Tanks for Oil-Burner Fuel, September 1963.

(*2*) American Petroleum Institute Standards No. 12A, Specification for Oil Storage Tanks with Riveted Shells, Seventh Edition, September 1951, or No. 650, Welded Steel Tanks for Oil Storage, Third Edition, 1966.

(*3*) American Petroleum Institute Standards No. 12B, Specification for Bolted Production Tanks, Eleventh Edition, May 1958, and Supplement 1, March 1962; No. 12D, Specification for Large Welded Production Tanks, Seventh Edition, August 1957; or No. 12F, Specification for Small Welded Production Tanks, Fifth Edition, March 1961. Tanks built in accordance with these standards shall be used only as production tanks for storage of crude petroleum in oil-producing areas.

(*b*) Tanks designed for underground service not exceeding 2,500 gallons capacity may be used aboveground.

(*c*) Low-pressure tanks and pressure vessels may be used as atmospheric tanks.

(*d*) Atmospheric tanks shall not be used for the storage of a flammable or combustible liquid at a temperature at or above its boiling point.

(iv) *Low pressure tanks.* (*a*) The normal operating pressure of the tank shall not exceed the design pressure of the tank.

(*b*) Low-pressure tanks shall be built in accordance with acceptable standards of design. Low-pressure tanks may be built in accordance with:

(*1*) American Petroleum Institute Standard No. 620, Recommended Rules for the Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Third Edition, 1966.

(*2*) The principles of the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessels Code, 1968.

(*c*) Atmospheric tanks built according to Underwriters' Laboratories, Inc., requirements in subdivision (iii)(*a*) of this subparagraph may be used for operating pressures not exceeding 1 p.s.i.g. and shall be limited to 2.5 p.s.i.g. under emergency venting conditions.

(*d*) Pressure vessels may be used as low-pressure tanks.

(v) *Pressure vessels.* (*a*) The normal operating pressure of the vessel shall not exceed the design pressure of the vessel.

(*b*) Pressure vessels shall be built in accordance with the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessel Code, 1968.

(vi) *Provisions for internal corrosion.* When tanks are not designed in accordance with the American Petroleum Institute, American Society of Mechanical Engineers, or the Underwriters' Laboratories, Inc.'s, standards, or if corrosion is anticipated beyond that provided for in the design formulas used, additional metal thickness or suitable protective coatings or linings shall be provided to compensate for the corrosion loss expected during the design life of the tank.

(2) *Installation of outside aboveground tanks.*—(i) *Location with respect to property lines and public ways.* (*a*) Every aboveground tank for the storage of flammable or combustible liquids, except those liquids with boil-over characteristics and unstable liquids, operating at pressures not in excess of 2.5 p.s.i.g. and equipped with emergency venting which will not permit pressures to exceed 2.5 p.s.i.g. shall be located in accordance with Table H–5.

(*b*) Every aboveground tank for the storage of flammable or combustible liquids, except those liquids with boil-over characteristics and unstable flammable or combustible liquids, operating at pressures exceeding 2.5 p.s.i.g. or equipped with emergency venting which will permit pressures to exceed 2.5 p.s.i.g. shall be located in accordance with Table H–6.

TABLE H–5

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way	Minimum distance in feet from nearest side of any public way or from nearest important building and shall be not less than 5 feet
Floating roof	Protection for exposures.	½ times diameter of tank but need not exceed 90 ft.	⅙ times diameter of tank but need not exceed 30 ft.
	None	Diameter of tank but need not exceed 175 ft.	⅙ times diameter of tank but need not exceed 30 ft.
Vertical with weak roof to shell seam.	Approved foam or inerting system on the tank.	½ times diameter of tank but need not exceed 90 ft. and shall not be less than 5 ft.	⅙ times diameter of tank but need not exceed 30 ft.
	Protection for exposures.	Diameter of tank but, need not exceed 175 ft.	⅓ times diameter of tank but need not exceed 60 ft.
	None	2 times diameter of tank but need not exceed 350 ft.	⅓ times diameter of tank but need not exceed 60 ft.
Horizontal and vertical, with emergency relief venting to limit pressures to 2.5 p.s.i.g.	Approved inerting system on the tank or approved foam system on vertical tanks.	½ times Table H–9 but shall not be less than 5 ft.	½ times Table H–9.
	Protection for exposures.	Table H–9	Table H–9.
	None	2 times Table H–9	Table H–9.

TABLE H–6

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way	Minimum distance in feet from nearest side of any public way or from nearest important building
Any type	Protection for exposures.	1½ times Table H–9 but shall not be less than 25 ft.	1½ times Table H–9 but shall not be less than 25 ft.
	None	3 times Table H–9 but shall not be less than 50 ft.	1½ times Table H–9 but shall not be less than 25 ft.

(c) Every aboveground tank for the storage of flammable or combustible liquids with boil-over characteristics shall be located in accordance with Table H–7.

TABLE H–7

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way	Minimum distance in feet from nearest side of any public way or from nearest important building
Floating roof	Protection for exposures.	Diameter of tank but need not exceed 175 ft.	⅓ times diameter of tank but need not exceed 60 ft.
	None	2 times diameter of tank but need not exceed 350 ft.	⅓ times diameter of tank but need not exceed 60 ft.
Fixed roof	Approved foam or inerting system.	Diameter of tank but need not exceed 175 ft.	⅓ times diameter of tank but need not exceed 60 ft.
	Protection for exposures.	2 times diameter of tank but need not exceed 350 ft.	⅔ times diameter of tank but need not exceed 120 ft.
	None	4 times diameter of tank but need not exceed 350 ft.	⅔ times diameter of tank but need not exceed 120 ft.

(d) Every aboveground tank for the storage of unstable liquids shall be located in accordance with Table H–8.

TABLE H-8

Type of tank	Protection	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way	Minimum distance in feet from nearest side of any public way or from nearest important building
Horizontal and vertical tanks with emergency relief venting to permit pressure not in excess of 2.5 p.s.i.g.	Tank protected with any one of the following: Approved water spray, approved inerting, approved insulation and refrigeration, approved barricade.	See table H-9, but the distance may be not less than 25 ft.	Not less than 25 ft.
	Protection for exposures	2½ times Table H-9 but not less than 50 ft.	Not less than 50 ft.
	None	5 times table H-9 but not less than 100 ft.	Not less than 100 ft.
Horizontal and vertical tanks with emergency relief venting to permit pressure over 2.5 p.s.i.g.	Tank protected with any one of the following: Approved water spray, approved inerting, approved insulation and refrigeration, approved barricade.	2 times table H-9 but not less than 50 ft.	Not less than 50 ft.
	Protection for exposures	4 times table H-9 but not less than 100 ft.	Not less than 100 ft.
	None	8 times table H-9 but not less than 150 ft.	Not less than 150 ft.

(e) Reference minimum distances for use in Tables H–5 to H–8, inclusive.

TABLE H-9

Capacity tank gallons	Minimum distance in feet from property line which may be built upon, including the opposite side of a public way	Minimum distance in feet from nearest side of any public way or from nearest important building
275 or less	5	5
276 to 750	10	5
751 to 12,000	15	5
12,001 to 30,000	20	5
30,001 to 50,000	30	10
50,001 to 100,000	50	15
100,001 to 500,000	80	25
500,001 to 1,000,000	100	35
1,000,001 to 2,000,000	135	45
2,000,001 to 3,000,000	165	55
3,000,001 or more	175	60

(f) Where end failure or horizontal pressure tanks and vessels may expose property, the tank shall be placed with the longitudinal axis parallel to the nearest important exposure.

(ii) *Spacing (shell-to-shell) between aboveground tanks.* (a) The distance between any two flammable or combustible liquid storage tanks shall not be less than 3 feet.

(b) Except as provided in subdivision (c) of this subdivision, the distance between any two adjacent tanks shall not be less than one-sixth the sum of their diameters. When the diameter of one tank is less than one-half the diameter of the adjacent tank, the distance between the two tanks shall not be less than one-half the diameter of the smaller tank.

(c) Where crude petroleum in conjunction with production facilities are located in noncongested areas and have capacities not exceeding 126,000 gallons (3,000 barrels), the distance between such tanks shall not be less than 3 feet.

(d) Where unstable flammable or combustible liquids are stored, the distance between such tanks shall not be less than one-half the sum of their diameters.

(e) When tanks are compacted in three or more rows or in an irregular pattern, greater spacing or other means shall be provided so that inside tanks are accessible for firefighting purposes.

(f) The minimum separation between a liquefied petroleum gas container and a flammable or combustible liquid storage tank shall be 20 feet, except in the case of flammable or combustible liquid tanks operating at pressures exceeding 2.5 p.s.i.g. or equipped with emergency venting which will permit pressures to exceed 2.5 p.s.i.g. in which case the provisions of subdivisions (a) and (b) of this subdivision shall apply. Suitable means shall be taken to prevent the accumulation of flammable or combustible liquids under adjacent liquefied petroleum gas containers such as by diversion curbs or grading. When flammable or combustible liquid storage tanks are within a diked area, the liquefied petroleum gas containers shall be outside the diked area and at least 10 feet away from the centerline of the wall of the diked area. The foregoing provisions shall not apply when liquefied petroleum gas containers of 125 gallons or less capacity are installed adjacent to fuel oil supply tanks of 550 gallons or less capacity.

(iii) *Location of outside aboveground tanks with respect to important buildings on same property.* Every outside aboveground tank shall be separated from important buildings on the same property by distances not less than those specified in subdivisions (i) (a), (b), (c), and (d) of this subparagraph, whichever is applicable. The appropriate distance column in Tables H–5, H–6, H–7, H–8, or H–9, that shall be used shall be the one reading: "Minimum Distance in Feet from Nearest Side of Any Public Way or From Nearest Important Building."

(iv) *Normal venting for aboveground tanks.* (a) Atmospheric storage tanks shall be adequately vented to prevent the development of vacuum or pressure sufficient to distort the roof of a cone roof tank or exceeding the design pressure in the case of other atmospheric tanks, as a result of filling or emptying, and atmospheric temperature changes.

(b) Normal vents shall be sized either in accordance with: (1) the American Petroleum Institute Standard 2000 (1968), Venting Atmospheric and Low-Pressure Storage Tanks; or (2) other accepted standard; or (3) shall be at least as large as the filling or withdrawal connection, whichever is larger but in no case less than 1¼ inch nominal inside diameter.

(c) Low-pressure tanks and pressure vessels shall be adequately vented to prevent development of pressure or vacuum, as a result of filling or emptying and atmospheric temperature changes, from exceeding the design pressure of the tank or vessel. Protection shall also be provided to prevent overpressure from any pump discharging into the tank or vessel when the pump discharge pressure can exceed the design pressure of the tank or vessel.

(d) If any tank or pressure vessel has more than one fill or withdrawal connection and simultaneous filling or withdrawal can be made, the vent size shall be based on the maximum anticipated simultaneous flow.

(e) Unless the vent is designed to limit the internal pressure 2.5 p.s.i. or less, the outlet of vents and vent drains shall be arranged to discharge in such a manner as to prevent localized overheating of any part of the tank in the event vapors from such vents are ignited.

(f) Tanks and pressure vessels storing Class IA liquids shall be equipped with venting devices which shall be normally closed except when venting to pressure or vacuum conditions. Tanks and pressure vessels storing Class IB and IC liquids shall be equipped with venting devices which shall be normally closed except when venting under pressure or vacuum conditions, or with approved flame arresters.

Exemption: Tanks of 3,000 bbls. capacity or less containing crude petroleum in crude-producing areas; and, outside aboveground atmospheric tanks under 1,000 gallons capacity containing other than Class IA flammable liquids may have open vents. (See subdivision (vi) (b) of this subparagraph.)

(g) Flame arresters or venting devices required in subdivision (f) of this subdivision may be omitted for Class IB and IC liquids where conditions are such that their use may, in case of obstruction, result in tank damage.

(v) *Emergency relief venting for fire exposure for aboveground tanks.* (a) Every aboveground storage tank shall have some form of construction or device that will relieve excessive internal pressure caused by exposure fires.

(b) In a vertical tank the construction referred to in subdivision (a) of this subdivision may take the form of a floating roof, lifter roof, a weak roof-to-shell seam, or other approved pressure relieving construction. The weak roof-to-shell seam shall be constructed to fail preferential to any other seam.

(c) Where entire dependence for emergency relief is placed upon pressure relieving devices, the total venting capacity of both normal and emergency vents shall be enough to prevent rupture of the shell or bottom of the tank if vertical, or of the shell or heads if horizontal. If unstable liquids are stored, the effects of heat or gas resulting from polymerization, decomposition, condensation, or self-reactivity shall be taken into account. The total capacity of both normal and emergency venting devices shall be not less than that derived from Table H–10 except as provided in subdivision (e) or (f) of this subdivision. Such device may be a self-closing manhole cover, or one using long bolts that permit the cover to lift under internal pressure, or an additional or larger relief valve or valves. The wetted area of the tank shall be calculated on the basis of 55 percent of the total exposed area of a sphere or spheroid, 75 percent of the total exposed area of a horizontal tank and the first 30 feet above grade of the exposed shell area of a vertical tank.

TABLE H-10—WETTED AREA VERSUS CUBIC FEET FREE AIR PER HOUR

(14.7 psia and 60° F.)

Square feet	CFH	Square feet	CFH	Square feet	CFH
20	21,100	200	211,000	1,000	524,000
30	31,600	250	230,000	1,200	557,000
40	42,100	300	265,000	1,400	587,000
50	52,700	350	288,000	1,600	614,000
60	63,200	400	312,000	1,800	639,000
70	73,700	500	354,000	2,000	662,000
80	84,200	600	392,000	2,400	704,000
90	94,800	700	428,000	2,800	742,000
100	105,000	800	462,000	and	
120	126,000	900	493,000	over	
140	147,000	1,000	524,000		
160	168,000				
180	190,000				
200	211,000				

(d) For tanks and storage vessels designed for pressure over 1 p.s.i.g., the total rate of venting shall be determined in accordance with Table H–10, except that when the exposed wetted area of the surface is greater than 2,800 square feet, the total rate of venting shall be calculated by the following formula:

$$CFH = 1{,}107A^{0.82}$$

Where:

CFH = Venting requirement, in cubic feet of free air per hour.

A = Exposed wetted surface, in square feet.

NOTE: The foregoing formula is based on $Q = 21{,}000A^{0.82}$.

(e) The total emergency relief venting capacity for any specific stable liquid may be determined by the following formula:

$$V = \frac{1337}{L\sqrt{M}}$$

V = Cubic feet of free air per hour from Table H–10.

L = Latent heat of vaporization of specific liquid in B.t.u. per pound.

M = Molecular weight of specific liquids.

(f) The required airflow rate of subdivision (c) or (e) of this subdivision may be multiplied by the appropriate factor listed in the following schedule when protection is provided as indicated. Only one factor may be used for any one tank.

0.5 for drainage in accordance with subdivision (vii) (b) of this subparagraph for tanks over 200 square feet of wetted area.

0.3 for approved water spray.

0.3 for approved insulation.

0.15 for approved water spray with approved insulation.

(g) The outlet of all vents and vent drains on tanks equipped with emergency venting to permit pressures exceeding 2.5 p.s.i.g. shall be arranged to discharge in such a way as to prevent localized overheating of any part of the tank, in the event vapors from such vents are ignited.

(h) Each commercial tank venting device shall have stamped on it the opening pressure, the pressure at which the valve reaches the full open position, and the flow capacity at the latter pressure, expressed in cubic feet per hour of air at 60° F. and at a pressure of 14.7 p.s.i.a.

(i) The flow capacity of tank venting devices 12 inches and smaller in nominal pipe size shall be determined by actual test of each type and size of vent. These flow tests may be conducted by the manufacturer if certified by a qualified impartial observer, or may be conducted by an outside agency. The flow capacity of tank venting devices larger than 12 inches nominal pipe size, including manhole covers with long bolts or equivalent, may be calculated provided that the opening pressure is actually measured, the rating pressure and corresponding free orifice area are stated, the word "calculated" appears on the nameplate, and the computation is based on a flow coefficient of 0.5 applied to the rated orifice area.

(vi) *Vent piping for aboveground tanks.* (a) Vent piping shall be constructed in accordance with paragraph (c) of this section.

(b) Where vent pipe outlets for tanks storing Class I liquids are adjacent to buildings or public ways, they shall be located so that the vapors are released at a safe point outside of buildings and not less than 12 feet above the adjacent ground level. In order to aid their dispersion, vapors shall be discharged upward or horizontally away from closely adjacent walls. Vent outlets shall be located so that flammable vapors will not be trapped by eaves or other obstructions and shall be at least five feet from building openings.

(c) When tank vent piping is manifolded, pipe sizes shall be such as to discharge, within the pressure limitations of the system, the vapors they may be required to handle when manifolded tanks are subject to the same fire exposure.

(vii) *Drainage, dikes, and walls for aboveground tanks.*—(a) *Drainage and diked areas.* The area surrounding a tank or a group of tanks shall be provided with drainage as in subdivision (b) of this subdivision, or shall be diked as provided in subdivision (c) of this subdivision, to prevent accidental discharge of liquid from endangering adjoining property or reaching waterways.

(b) *Drainage.* Where protection of adjoining property or waterways is by means of a natural or manmade drainage system, such systems shall comply with the following:

(1) A slope of not less than 1 percent away from the tank toward the drainage system shall be provided.

(2) The drainage system shall terminate in vacant land or other area or in an impounding basin having a capacity not smaller than that of the largest tank served. This termination area and the route of the drainage system shall be so located that, if the flammable or combustible liquids in the drainage system are ignited, the fire will not seriously expose tanks or adjoining property.

(3) The drainage system, including automatic drainage pumps, shall not discharge to adjoining property, natural water courses, public sewers, or public drains unless the discharge of flammable or combustible liquids would not constitute a hazard, or the system is so designed that it will not permit flammable or combustible liquids to be released.

(c) *Diked areas.* Where protection of adjoining property or waterways is accomplished by retaining the liquid around the tank by means of a dike, the volume of the diked area shall comply with the following requirements:

(1) Except as provided in subdivision (2) of this subdivision, the volumetric capacity of the diked area shall not be less than the greatest amount of liquid that can be released from the largest tank within the diked area, assuming a full tank. The capacity of the diked area enclosing more than one tank shall be calculated by deducting the volume of the tanks other than the largest tank below the height of the dike.

(2) For a tank or group of tanks with fixed roofs containing crude petroleum with boilover characteristics, the volumetric capacity of the diked area shall be not less than the capacity of the largest tank served by the enclosure, assuming a full tank. The capacity of the diked enclosure shall be calculated by deducting the volume below the height of the dike of all tanks within the enclosure.

(3) Walls of the diked area shall be of earth, steel, concrete or solid masonry designed to be liquidtight and to withstand a full hydrostatic head. Earthen walls 3 feet or more in height shall have a flat section at the top not less than 2 feet wide. The slope of an earthen wall shall be consistent with the angle of repose of the material of which the wall is constructed.

(4) The walls of the diked area shall be restricted to an average height of 6 feet above interior grade.

(5) Where provision is made for draining water from diked areas, drainage shall be provided at a uniform slope of not less than 1 percent away from tanks toward a sump, drainbox, or other safe means of disposal located at the greatest practical distance from the tank. Such drains shall normally be controlled in a manner so as to prevent flammable or combustible liquids from entering natural water courses, public sewers, or public drains, if their presence would constitute a hazard. Control of drainage shall be accessible under fire conditions.

(6) No loose combustible material, empty or full drum or barrel, shall be permitted within the diked area.

(7) Each diked area containing two or more tanks shall be subdivided preferably by drainage channels or at least by intermediate curbs in order to prevent spills from endangering adjacent tanks within the diked area as follows:

(*i*) When storing normally stable liquids in vertical cone roof tanks constructed with weak roof-to-shell seam or approved floating roof tanks or when storing crude petroleum in producing areas in any type of tank, one subdivision for each tank in excess of 10,000 bbls. and one subdivision for each group of tanks (no tank exceeding 10,000 bbls. capacity) having an aggregate capacity not exceeding 15,000 bbls.

(*ii*) When storing normally stable flammable or combustible liquids in tanks not covered in subdivision (*i*) of this subdivision, one subdivision for each tank in excess of 100,000 gallons (2,500 bbls.) and one subdivision for each group of tanks (no tank exceeding 100,000 gallons capacity) having an aggregate capacity not exceeding 150,000 gallons (3,570 bbls.).

(*iii*) When storing unstable liquids in any type of tank, one subdivision for each tank except that tanks installed in accordance with the drainage requirements of NFPA 15–1969, Standard for Water Spray Fixed Systems for Fire Protection shall require no additional subdivision.

(*iv*) The drainage channels or intermediate curbs shall be located between tanks so as to take full advantage of the available space with due regard for the individual tank capacities. Intermediate curbs, where used, shall be not less than 18 inches in height.

(viii) *Tank openings other than vents for aboveground tanks.* (*a*) Connections for all tank openings shall be vaportight and liquidtight. Vents are covered in subdivisions (iv) through (vi) of this subparagraph.

(*b*) Each connection to an aboveground tank through which liquid can normally flow shall be provided with an internal or an external valve located as close as practical to the shell of the tank. Such valves, when external, and their connections to the tank shall be of steel except when the chemical characteristics of the liquid stored are incompatible with steel. When materials other than steel are necessary, they shall be suitable for the pressures, structural stresses, and temperatures involved, including fire exposures.

(*c*) Each connection below the liquid level through which liquid does not normally flow shall be provided with a liquidtight closure. This may be a valve, plug, or blind, or a combination of these.

(*d*) Openings for gaging shall be provided with a vaportight cap or cover.

(*e*) For Class IB and Class IC liquids other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity. A fill pipe entering the top of a tank shall terminate within 6 inches of the bottom of the tank and shall be installed to avoid excessive vibration.

(*f*) Filling and emptying connections which are made and broken shall be located outside of buildings at a location free from any source of ignition and not less than 5 feet away from any building opening. Such connection shall be closed and liquidtight when not in use. The connection shall be properly identified.

(3) *Installation of underground tanks*—(i) *Location.* Excavation for underground storage tanks shall be made with due care to avoid undermining of foundations of existing structures. Underground tanks or tanks under buildings shall be so located with respect to existing building foundations and supports that the loads carried by the latter cannot be transmitted to the tank. The distance from any part of a tank storing Class I liquids to the nearest wall of any basement or pit shall be not less than 1 foot, and to any property line that may be built upon, not less than 3 feet. The distance from any part of a tank storing Class II or Class III liquids to the nearest wall of any basement, pit or property line shall be not less than 1 foot.

(ii) *Depth and cover.* Underground tanks shall be set on firm foundations and surrounded with at least 6 inches of noncorrosive, inert materials such as clean sand, earth, or gravel well tamped in place. The tank shall be placed in the hole with care since dropping or rolling the tank into the hole can break a weld, puncture or damage the tank, or scrape off the protective coating of coated tanks. Tanks shall be covered with a minimum of 2 feet of earth, or shall be covered with not less than 1 foot of earth, on top of which shall be placed a slab of reinforced concrete not less than 4 inches thick. When underground tanks are, or are likely to be, subject to traffic, they shall be protected against damage from vehicles passing over them by at least 3 feet of earth cover, or 18 inches of well-tamped earth, plus 6 inches of reinforced concrete or 8 inches of asphaltic concrete. When asphaltic or reinforced concrete paving is used as part of the protection, it shall extend at least 1 foot horizontally beyond the outline of the tank in all directions.

(iii) *Corrosion protection.* Corrosion protection for the tank and its piping shall be provided by one or more of the following methods:

(*a*) Use of protective coatings or wrappings;

(*b*) Cathodic protection; or,

(*c*) Corrosion resistant materials of construction.

(iv) *Vents.* (*a*) Location and arrangement of vents for Class I liquids. Vent pipes from tanks storing Class I liquids shall be so located that the discharge point is outside of buildings, higher than the fill pipe opening, and not less than 12 feet above the adjacent ground level. Vent pipes shall discharge only upward in order to disperse vapors. Vent pipes 2 inches or less in nominal inside diameter shall not be obstructed by devices that will cause excessive back pressure. Vent pipe outlets shall be so located that flammable vapors will not enter building openings, or be trapped under eaves or other obstructions. If the vent pipe is less than 10 feet in length, or greater than 2 inches in nominal inside diameter, the outlet shall be provided with a vacuum and pressure relief device or there shall be an approved flame arrester located in the vent line at the outlet or within the approved distance from the outlet.

(*b*) Size of vents. Each tank shall be vented through piping adequate in size to prevent blow-back of vapor or liquid at the fill opening while the tank is being filled. Vent pipes shall be not less than 1¼ inch nominal inside diameter.

TABLE H-11—VENT LINE DIAMETERS

Maximum flow GPM	Pipe length*		
	50 feet	100 feet	200 feet
	Inches	*Inches*	*Inches*
100	1¼	1¼	1¼
200	1¼	1¼	1½
300	1¼	1¼	1½
400	1¼	1½	2
500	1½	1½	2
600	1½	2	2
700	2	2	2
800	2	2	3
900	2	2	3
1,000	2	2	3

*Vent lines of 50 ft., 100 ft., and 200 ft. of pipe plus 7 ells.

(*c*) Location and arrangement of vents for Class II or Class III liquids. Vent pipes from tanks storing Class II or Class III flammable liquids shall terminate outside of the building and higher than the fill pipe opening. Vent outlets shall be above normal snow level. They may be fitted with return bends, coarse screens or other devices to minimize ingress of foreign material.

(*d*) Vent piping shall be constructed in accordance with paragraph (c) of this section. Vent pipes shall be so laid as to drain toward the tank without sags or traps in which liquid can collect. They shall be located so that they will not be subjected to physical damage. The tank end of the vent pipe shall enter the tank through the top.

(*e*) When tank vent piping is manifolded, pipe sizes shall be such as to discharge, within the pressure limitations of the system, the vapors they may be required to handle when manifolded tanks are filled simultaneously.

(v) *Tank openings other than vents.* (*a*) Connections for all tank openings shall be vapor or liquid tight.

(*b*) Openings for manual gaging, if independent of the fill pipe, shall be provided with a liquid-tight cap or cover. If inside a building, each such opening shall be protected against liquid overflow and possible vapor release by means of a spring loaded check valve or other approved device.

(*c*) Fill and discharge lines shall enter tanks only through the top. Fill lines shall be sloped toward the tank.

(*d*) For Class IB and Class IC liquids other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity by terminating within 6 inches of the bottom of the tank.

(*e*) Filling and emptying connections which are made and broken shall be located outside of buildings at a location free from any source of ignition and not less than 5 feet away from any building opening. Such connection shall be closed and liquidtight when not in use. The connection shall be properly identified.

(4) *Installation of tanks inside of buildings*—(i) *Location.* Tanks shall not be permitted inside of buildings except as provided in paragraphs (e), (g), (h), or (i) of this section.

(ii) *Vents.* Vents for tanks inside of buildings shall be as provided in subparagraphs (2) (iv), (v), (vi) (*b*), and (3) (iv) of this paragraph, except that emergency venting by the use of weak roof seams on tanks shall not be permitted. Vents shall discharge vapors outside the buildings.

(iii) *Vent piping.* Vent piping shall be constructed in accordance with paragraph (c) of this section.

(iv) *Tank openings other than vents.* (*a*) Connections for all tank openings shall be vapor or liquidtight. Vents are covered in subdivision (ii) of this subparagraph.

(*b*) Each connection to a tank inside of buildings through which liquid can normally flow shall be provided with an internal or an external valve located as close as practical to the shell of the tank. Such valves, when external, and their connections to the tank shall be of steel except when the chemical characteristics of the liquid stored are incompatible with steel. When materials other than steel are necessary, they shall be suitable for the pressures, structural stresses, and temperatures involved, including fire exposures.

(*c*) Flammable or combustible liquid tanks located inside of buildings, except in one-story buildings designed and protected for flammable or combustible liquid storage, shall be provided with an automatic-closing heat-actuated valve on each withdrawal connection below the liquid level, except for connections used for emergency disposal, to prevent continued flow in the event of fire in the vicinity of the tank. This function may be incorporated in the valve required in (*b*) of this subdivision, and if a separate valve, shall be located adjacent to the valve required in (*b*) of this subdivision.

(*d*) Openings for manual gaging, if independent of the fill pipe (see (*f*) of this subdivision), shall be provided with a vaportight cap or cover. Each such opening shall be protected against liquid overflow and possible vapor release by means of a spring loaded check valve or other approved device.

(*e*) For Class IB and Class IC liquids other than crude oils, gasolines, and asphalts, the fill pipe shall be so designed and installed as to minimize the possibility of generating static electricity by terminating within 6 inches of the bottom of the tank.

(*f*) The fill pipe inside of the tank shall be installed to avoid excessive vibration of the pipe.

(*g*) The inlet of the fill pipe shall be located outside of buildings at a location free from any source of ignition and not less than 5 feet away from any building opening. The inlet of the fill pipe shall be closed and liquidtight when not in use. The fill connection shall be properly identified.

(*h*) Tanks inside buildings shall be equipped with a device, or other means shall be provided, to prevent overflow into the building.

(5) *Supports, foundations, and anchorage for all tank locations*—(i) *General.* Tank supports shall be installed on firm foundations. Tank supports shall be of concrete, masonry, or protected steel. Single wood timber supports (not cribbing) laid horizontally may be used for outside aboveground tanks if not more than 12 inches high at their lowest point.

(ii) *Fire resistance.* Steel supports or exposed piling shall be protected by materials having a fire resistance rating of not less than 2 hours, except that steel saddles need not be protected if less than 12 inches high at their lowest point. Water spray protection or its equivalent may be used in lieu of fire-resistive materials to protect supports.

(iii) *Spheres.* The design of the supporting structure for tanks such as spheres shall receive special engineering consideration.

(iv) *Load distribution.* Every tank shall be so supported as to prevent the excessive concentration of loads on the supporting portion of the shell.

(v) *Foundations.* Tanks shall rest on the ground or on foundations made of concrete, masonry, piling, or steel. Tank foundations shall be designed to minimize the possibility of uneven settling of the tank and to minimize corrosion in any part of the tank resting on the foundation.

(vi) *Flood areas.* Where a tank is located in an area that may be subjected to flooding, the applicable precautions outlined in this subdivision shall be observed.

(*a*) No aboveground vertical storage tank containing a flammable or combustible liquid shall be located so that the allowable liquid level within the tank is below the established maximum flood stage, unless the tank is provided with a guiding structure such as described in (*m*), (*n*), and (*o*) of this subdivision.

(*b*) Independent water supply facilities shall be provided at locations where there is no ample and dependable public water supply available for loading partially empty tanks with water.

(*c*) In addition to the preceding requirements, each tank so located that more than 70 percent, but less than 100 percent, of its allowable liquid storage capacity will be submerged at the established maximum flood stage, shall be safeguarded by one of the following methods: Tank shall be raised, or its height shall be increased, until its top extends above the maximum flood stage a distance equivalent to 30 percent or more of its allowable liquid storage capacity: *Provided, however,* That the submerged part of the tank shall not exceed two and one-half times the diameter. Or, as an alternative to the foregoing, adequate noncombustible structural guides, designed to permit the tank to float vertically without loss of product, shall be provided.

(*d*) Each horizontal tank so located that more than 70 percent of its storage capacity will be submerged at the established flood stage, shall be anchored, attached to a foundation of concrete or of steel and concrete, of sufficient weight to provide adequate load for the tank when filled with flammable or combustible liquid and submerged by flood waters to the established flood stage, or adequately secured by other means.

(*e*) Spherical and spheroidal tanks shall be protected by applicable methods as specified for either vertical or horizontal tanks.

(*f*) At locations where there is no ample and dependable water supply, or where filling of underground tanks with liquids is impracticable because of the character of their contents, their use, or for other reasons, each tank shall be safeguarded against movement when empty and submerged by high ground water or flood waters by anchoring, weighting with concrete or other approved solid loading material, or securing by other means. Each such tank shall be so constructed and installed that it will safely resist external pressures due to high ground water or flood waters.

(*g*) At locations where there is an ample and dependable water supply available, underground tanks containing flammable or combustible liquids, so installed that more than 70 percent of their storage capacity will be submerged at the maximum flood stage, shall be so anchored, weighted, or secured by other means, as to prevent movement of such tanks when filled with flammable or combustible liquids, and submerged by flood waters to the established flood stage.

(*h*) Pipe connections below the allowable liquid level in a tank shall be provided with valves or cocks located as closely as practicable to the tank shell. Such valves and their connections to tanks shall be of steel or other material suitable for use with the liquid being stored. Cast iron shall not be permitted.

(*i*) At locations where an independent water supply is required, it shall be entirely independent of public power and

water supply. Independent source of water shall be available when flood waters reach a level not less than 10 feet below the bottom of the lowest tank on a property.

(*j*) The self-contained power and pumping unit shall be so located or so designed that pumping into tanks may be carried on continuously throughout the rise in flood waters from a level 10 feet below the lowest tank to the level of the potential flood stage.

(*k*) Capacity of the pumping unit shall be such that the rate of rise of water in all tanks shall be equivalent to the established potential average rate of rise of flood waters at any stage.

(*l*) Each independent pumping unit shall be tested periodically to insure that it is in satisfactory operating condition.

(*m*) Structural guides for holding floating tanks above their foundations shall be so designed that there will be no resistance to the free rise of a tank, and shall be constructed of noncombustible material.

(*n*) The strength of the structure shall be adequate to resist lateral movement of a tank subject to a horizontal force in any direction equivalent to not less than 25 pounds per square foot acting on the projected vertical cross-sectional area of the tank.

(*o*) Where tanks are situated on exposed points or bends in a shoreline where swift currents in flood waters will be present, the structures shall be designed to withstand a unit force of not less than 50 pounds per square foot.

(*p*) The filling of a tank to be protected by water loading shall be started as soon as flood waters reach a dangerous flood stage. The rate of filling shall be at least equal to the rate of rise of the floodwaters (or the established average potential rate of rise).

(*q*) Sufficient fuel to operate the water pumps shall be available at all times to insure adequate power to fill all tankage with water.

(*r*) All valves on connecting pipelines shall be closed and locked in closed position when water loading has been completed.

(*s*) Where structural guides are provided for the protection of floating tanks, all rigid connections between tanks and pipelines shall be disconnected and blanked off or blinded before the floodwaters reach the bottom of the tank, unless control valves and their connections to the tank are of a type designed to prevent breakage between the valve and the tank shell.

(*t*) All valves attached to tanks other than those used in connection with water loading operations shall be closed and locked.

(*u*) If a tank is equipped with a swing line, the swing pipe shall be raised to and secured at its highest position.

(*v*) Inspections. The Assistant Secretary or his designated representative shall make periodic inspections of all plants where the storage of flammable or combustible liquids is such as to require compliance with the foregoing requirements, in order to assure the following:

(*1*) That all flammable or combustible liquid storage tanks are in compliance with these requirements and so maintained.

(2) That detailed printed instructions of what to do in flood emergencies are properly posted.

(3) That station operators and other employees depended upon to carry out such instructions are thoroughly informed as to the location and operation of such valves and other equipment necessary to effect these requirements.

(vii) *Earthquake areas.* In areas subject to earthquakes, the tank supports and connections shall be designed to resist damage as a result of such shocks.

(6) *Sources of ignition.* In locations where flammable vapors may be present, precautions shall be taken to prevent ignition by eliminating or controlling sources of ignition. Sources of ignition may include open flames, lightning, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, and mechanical), spontaneous ignition, chemical and physical-chemical reactions, and radiant heat.

(7) *Testing*—(i) *General.* All tanks, whether shop built or field erected, shall be strength tested before they are placed in service in accordance with the applicable paragraphs of the code under which they were built. The American Society of Mechanical Engineers (ASME) code stamp, American Petroleum Institute (API) monogram, or the label of the Underwriters' Laboratories, Inc., on a tank shall be evidence of compliance with this strength test. Tanks not marked in accordance with the above codes shall be strength tested before they are placed in service in accordance with good engineering principles and reference shall be made to the sections on testing in the codes listed in subparagraphs (1) (iii) (*a*), (iv) (*b*), or (v) (*b*) of this paragraph.

(ii) *Strength.* When the vertical length of the fill and vent pipes is such that when filled with liquid the static head imposed upon the bottom of the tank exceeds 10 pounds per square inch, the tank and related piping shall be tested hydrostatically to a pressure equal to the static head thus imposed.

(iii) *Tightness.* In addition to the strength test called for in subdivisions (i) and (ii) of this subparagraph, all tanks and connections shall be tested for tightness. Except for underground tanks, this tightness test shall be made at operating pressure with air, inert gas, or water prior to placing the tank in service. In the case of field-erected tanks the strength test may be considered to be the test for tank tightness. Underground tanks and piping, before being covered, enclosed, or placed in use, shall be tested for tightness hydrostatically, or with air pressure at not less than 3 pounds per square inch and not more than 5 pounds per square inch.

(iv) *Repairs.* All leaks or deformations shall be corrected in an acceptable manner before the tank is placed in service. Mechanical caulking is not permitted for correcting leaks in welded tanks except pinhole leaks in the roof.

(v) *Derated operations.* Tanks to be operated at pressures below their design pressure may be tested by the applicable provisions of subdivisions (i) or (ii) of this subparagraph, based upon the pressure developed under full emergency venting of the tank.

(*c*) *Piping, valves, and fittings*—(1) *General*—(i) *Design.* The design (including selection of materials) fabrication, assembly, test, and inspection of piping systems containing flammable or combustible liquids shall be suitable for the expected working pressures and structural stresses. Conformity with the applicable provisions of Pressure Piping, ANSI B31 series and the provisions of this paragraph, shall be considered prima facie evidence of compliance with the foregoing provisions.

(ii) *Exceptions.* This paragraph does not apply to any of the following:

(*a*) Tubing or casing on any oil or gas wells and any piping connected directly thereto.

(*b*) Motor vehicle, aircraft, boat, or portable or stationary engines.

(*c*) Piping within the scope of any applicable boiler and pressures vessel code.

(iii) *Definitions.* As used in this paragraph, piping systems consist of pipe, tubing, flanges, bolting, gaskets, valves, fittings, the pressure containing parts of other components such as expansion joints and strainers, and devices which serve such purposes as mixing, separating, snubbing, distributing, metering, or controlling flow.

(2) *Materials for piping, valves, and fittings*—(i) *Required materials.* Materials for piping, valves, or fittings shall be steel or nodular iron except as provided in subdivisions (ii), (iii), and (iv) of this subparagraph.

(ii) *Exceptions.* Materials other than steel or nodular iron may be used underground or if required by the properties of the flammable or combustible liquid handled. Material other than steel or nodular iron shall be designed to specifications embodying principles recognized as good engineering design for the material used.

(iii) *Linings.* Piping, valves, and fittings may have combustible or noncombustible linings.

(iv) *Low-melting materials.* When low-melting point materials such as aluminum and brass or materials that soften on fire exposure such as plastics, or nonductile materials such as cast iron, are necessary, special consideration shall be given to their behavior on fire exposure. If such materials are used in aboveground piping systems or inside buildings, they shall be suitably protected against fire exposure or so located that any spill resulting from the failure of these materials could not unduly expose persons, important buildings or structures or can be readily controlled by remote valves.

(3) *Pipe joints.* Joints shall be made liquid tight. Welded or screwed joints or approved connectors shall be used. Threaded joints and connections shall be made up tight with a suitable lubricant or piping compound. Pipe joints dependent upon the friction characteristics of combustible materials for mechanical continuity of piping shall not be used inside buildings. They may be used outside of buildings above or below ground. If used aboveground, the piping shall either be secured to prevent disengagement at the fitting or the piping system shall be so designed that any spill resulting from such disengagement could not unduly expose persons, important buildings or structures, and could be readily controlled by remote valves.

(4) *Supports.* Piping systems shall be substantially supported and protected against physical damage and excessive stresses arising from settlement, vibration, expansion, or contraction.

(5) *Protection against corrosion.* All piping for flammable or combustible liquids, both aboveground and underground, where subject to external corrosion, shall be painted or otherwise protected.

(6) *Valves.* Piping systems shall contain a sufficient number of valves to operate the system properly and to protect the plant. Piping systems in connection with pumps shall contain a sufficient number of valves to control properly the flow of liquid in normal operation and in the event of physical damage. Each connection to pipelines, by which equipments such as tankcars or tank vehicles discharge liquids by means of pumps into storage tanks, shall be provided with a check valve for automatic protection against backflow if the piping arrangement is such that backflow from the system is possible.

(7) *Testing.* All piping before being covered, enclosed, or placed in use shall be hydrostatically tested to 150 percent of the maximum anticipated pressure of the system, or pneumatically tested to 110 percent of the maximum anticipated pressure of the system, but not less than 5 pounds per square inch gage at the highest point of the system. This test shall be maintained for a sufficient time to complete visual inspection of all joints and connections, but for at least 10 minutes.

(d) *Container and portable tank storage*—(1) *Scope*—(i) *General.* This paragraph shall apply only to the storage of flammable or combustible liquids in drums or other containers (including flammable aerosols) not exceeding 60 gallons individual capacity and those portable tanks not exceeding 660 gallons individual capacity.

(ii) *Exceptions.* This paragraph shall not apply to the following:

(*a*) Storage of containers in bulk plants, service stations, refineries, chemical plants, and distilleries;

(*b*) Flammable liquids in the fuel tanks of a motor vehicle, aircraft, boat, or portable or stationary engine;

(*c*) Flammable or combustible paints, oils, varnishes, and similar mixtures used for painting or maintenance when not kept for a period in excess of 30 days.

(*d*) Beverages when packaged in individual containers not exceeding 1 gallon in size.

(2) *Design, construction, and capacity of containers*—(i) *General.* Only approved containers and portable tanks shall be used. Metal containers and portable tanks meeting the requirements of and containing products authorized by Chapter I, Title 49 of the Code of Federal Regulations (regulations issued by the Hazardous Materials Regulations Board, Department of Transportation), shall be deemed to be acceptable.

(ii) *Emergency venting.* Each portable tank shall be provided with one or more devices installed in the top with sufficient emergency venting capacity to limit internal pressure under fire exposure conditions to 10 p.s.i.g., or 30 percent of the bursting pressure of the tank, whichever is greater. The total venting capacity shall be not less than that specified in paragraphs (b) (2) (v) (*c*) or (*e*) of this section. At least one pressure-actuated vent having a minimum capacity of 6,000 cubic feet of free air (14.7 p.s.i.a. and 60° F.) shall be used. It shall be set to open at not less than 5 p.s.i.g. If fusible vents are used, they shall be actuated by elements that operate at a temperature not exceeding 300° F.

TABLE H-12—MAXIMUM ALLOWABLE SIZE OF CONTAINERS AND PORTABLE TANKS

Container type	Flammable liquids				Combustible liquids, Class III
	Class IA	Class IB	Class IC	Class II	
Glass or approved plastic	1 pt.	1 qt.	1 gal.	1 gal.	1 gal.
Metal (other than DOT drums)	1 gal.	5 gal.	5 gal.	5 gal.	5 gal.
Safety cans	2 gal.	5 gal.	5 gal.	5 gal.	5 gal.
Metal drums (DOT spec.)	60 gal.	60 gal.	60 gal.	60 gal.	60 gal.
Approved portable tanks	660 gal.	660 gal.	660 gal.	660 gal.	660 gal.

Container exemptions: (a) Medicines, beverages, foodstuffs, cosmetics, and other common consumer items, when packaged according to commonly accepted practices, shall be exempt from the requirements of § 1910.106 (d) (2) (i) and (ii).

(iii) *Size.* Flammable and combustible liquid containers shall be in accordance with Table H-12, except that glass or plastic containers of no more than 1-gallon capacity may be used for a Class IA or IB flammable liquid if:

(*a*) (*1*) Such liquid either would be rendered unfit for its intended use by contact with metal or would excessively corrode a metal container so as to create a leakage hazard; and

(2) The user's process either would require more than 1 pint of a Class IA liquid or more than 1 quart of a Class IB liquid of a single assay lot to be used at one time, or would require the maintenance of an analytical standard liquid of a quality which is not met by the specified standards of liquids available, and the quantity of the analytical standard liquid required to be used in any one control process exceeds one-sixteenth the capacity of the container allowed under Table H-12 for the class of liquid; or

(*b*) The containers are intended for direct export outside the United States.

(3) *Design, construction, and capacity of storage cabinets*—(i) *Maximum capacity.* Not more than 60 gallons of flammable or 120 gallons of combustible liquids may be stored in a storage cabinet.

(ii) *Fire resistance.* Storage cabinets shall be designed and constructed to limit the internal temperature to not more than 325° F. when subjected to a 10-minute fire test using the standard time-temperature curve as set forth in Standard Methods of Fire Tests of Building Construction and Materials, NFPA 251-1969. All joints and seams shall remain tight and the door shall remain securely closed during the fire test. Cabinets shall be labeled in conspicuous lettering, "Flammable—Keep Fire Away."

(*a*) Metal cabinets constructed in the following manner shall be deemed to be in compliance. The bottom, top, door, and sides of cabinet shall be at least No. 18 gage sheet iron and double walled with 1½-inch air space. Joints shall be riveted, welded or made tight by some equally effective means. The door shall be provided with a three-point lock, and the door sill shall be raised at least 2 inches above the bottom of the cabinet.

(*b*) Wooden cabinets constructed in the following manner shall be deemed in compliance. The bottom, sides, and top shall be constructed of an approved grade of plywood at least 1 inch in thickness, which shall not break down or delaminate under fire conditions. All joints shall be rabbetted and shall be fastened in two directions with flathead woodscrews. When more than one door is used, there shall be a rabbetted overlap of not less than 1 inch. Hinges shall be mounted in such a manner as not to lose their holding capacity due to loosening or burning out of the screws when subjected to the fire test.

(4) *Design and construction of inside storage rooms*—(i) *Construction.* Inside storage rooms shall be constructed to meet the required fire-resistive rating for their use. Such construction shall comply with the test specifications set forth in Standard Methods of Fire Tests of Building Construction and Materials, NFPA 251-1969. Where an automatic sprinkler system is provided, the system shall be designed and installed in an acceptable manner. Openings to other rooms or buildings shall be provided with noncombustible liquid-tight raised sills or ramps at least 4 inches in height, or the floor in the storage area shall be at least 4 inches below the surrounding floor. Openings shall be provided with approved self-closing fire doors. The room shall be liquid-tight where the walls join the floor. A permissible alternate to the sill or ramp is an open-grated trench inside of the room which drains to a safe location. Where other portions of the building or other properties are exposed,

windows shall be protected as set forth in the Standard for Fire Doors and Windows, NFPA No. 80–1968, for Class E or F openings. Wood at least 1 inch nominal thickness may be used for shelving, racks, dunnage, scuffboards, floor overlay, and similar installations.

(ii) *Rating and capacity.* Storage in inside storage rooms shall comply with Table H–13.

TABLE H–13—STORAGE IN INSIDE ROOMS

Fire protection* provided	Fire resistance	Maximum size	Total allowable quantities (gals./sq ft./ floor area)
Yes	2 hours	500 sq. ft.	10
No	2 hours	500 sq. ft.	4
Yes	1 hour	150 sq. ft.	5
No	1 hour	150 sq. ft.	2

*Fire protection system shall be sprinkler, water spray, carbon dioxide, or other system.

(iii) *Wiring.* Electrical wiring and equipment located in inside storage rooms used for Class I liquids shall be approved under subpart S of this part for Class I, Division 2 Hazardous Locations; for Class II and Class III liquids, shall be approved for general use.

(iv) *Ventilation.* Every inside storage room shall be provided with either a gravity or a mechanical exhaust ventilation system. Such system shall be designed to provide for a complete change of air within the room at least six times per hour. If a mechanical exhaust system is used, it shall be controlled by a switch located outside of the door. The ventilating equipment and any lighting fixtures shall be operated by the same switch. A pilot light shall be installed adjacent to the switch if Class I flammable liquids are dispensed within the room. Where gravity ventilation is provided, the fresh air intake, as well as the exhaust outlet from the room, shall be on the exterior of the building in which the room is located.

(v) *Storage in inside storage rooms* In every inside storage room there shall be maintained one clear aisle at least 3 feet wide. Containers over 30 gallons capacity shall not be stacked one upon the other. Dispensing shall be by approved pump or self-closing faucet only.

(5) *Storage inside building*—(i) *Egress.* Flammable or combustible liquids, including stock for sale, shall not be stored so as to limit use of exits, stairways, or areas normally used for the safe egress of people.

(ii) *Containers.* The storage of flammable or combustible liquids in containers or portable tanks shall comply with subdivisions (iii) through (v) of this subparagraph.

(iii) *Office occupancies.* Storage shall be prohibited except that which is required for maintenance and operation of building and operation of equipment. Such storage shall be kept in closed metal containers stored in a storage cabinet or in safety cans or in an inside storage room not having a door that opens into that portion of the building used by the public.

(iv) *Mercantile occupancies and other retail stores.*

(a) In rooms or areas accessible to the public, storage shall be limited to quantities needed for display and normal merchandising purposes but shall not exceed 2 gallons per square foot of gross floor area. The gross floor area used for computing the maximum quantity permitted shall be considered as that portion of the store actually being used for merchandising flammable and combustible liquids.

(b) Where the aggregate quantity of additional stock exceeds 60 gallons of Class IA, 120 gallons of Class IB, 180 gallons of Class IC, 240 gallons of Class II, or 500 gallons of combustible liquids, or any combination of flammable liquids exceeding 240 gallons, it shall be stored in a room or portion of the building that complies with the construction provisions for an inside storage room as prescribed in subparagraph (4) of this paragraph. For water miscible liquids, these quantities may be doubled.

(c) Containers in a display area shall not be stacked more than 3 feet or two containers high, whichever is the greater, unless the stacking is done on fixed shelving or is otherwise satisfactorily secured.

(d) Shelving shall be of stable construction, of sufficient depth and arrangement such that containers displayed thereon shall not be easily displaced.

(e) Leaking containers shall be removed to a storage room or taken to a safe location outside the building and the contents transferred to an undamaged container.

(v) *General purpose public warehouses.* Storage shall be in accordance with Table H–14 or H–15 and in buildings or in portions of such buildings cut off by standard firewalls. Material creating no fire exposure hazard to the flammable or combustible liquids may be stored in the same area.

TABLE H–14—INDOOR CONTAINER STORAGE

Class liquid	Storage level	Protected storage maximum per pile		Unprotected storage maximum per pile	
		Gallons	Height	Gallons	Height
IA	Ground and upper floors	2,750 (50)	3 ft. (1)	660 (12)	3 ft. (1)
	Basement	Not permitted		Not permitted	
IB	Ground and upper floors	5,500 (100)	6 ft. (2)	1,375 (25)	3 ft. (1)
	Basement	Not permitted		Not permitted	
IC	Ground and upper floors	16,500 (300)	6 ft. (2)	4,125 (75)	3 ft. (1)
	Basement	Not permitted		Not permitted	
II	Ground and upper floors	16,500 (300)	9 ft. (3)	4,125 (75)	9 ft. (3)
	Basement	5,500 (100)	9 ft. (3)	Not permitted	
Combustible	Ground and upper floors	55,000 (1,000)	15 ft. (5)	13,750 (250)	12 ft. (4)
	Basement	8,250 (450)	9 ft. (3)	Not permitted	

NOTE 1: When 2 or more classes of materials are stored in a single pile, the maximum gallonage permitted in that pile shall be the smallest of the 2 or more separate maximum gallonages.
NOTE 2: Aisles shall be provided so that no container is more than 12 ft. from an aisle. Main aisles shall be at least 8 ft. wide and side aisles at least 4 ft. wide.
(Numbers in parentheses indicate corresponding number of 55-gal. drums.)
NOTE 3: Each pile shall be separated from each other by at least 4 ft.

TABLE H–15—INDOOR PORTABLE TANK STORAGE

Class liquid	Storage level	Protected storage maximum per pile		Unprotected storage maximum per pile	
		Gallons	Height	Gallons	Height
IA	Ground and upper floors	Not permitted		Not permitted	
	Basement	Not permitted		Not permitted	
IB	Ground and upper floors	20,000	7 ft.	2,000	7 ft.
	Basement	Not permitted		Not permitted	
IC	Ground and upper floors	40,000	14 ft.	5,500	7 ft.
	Basement	Not permitted		Not permitted	
II	Ground and upper floors	40,000	14 ft.	5,500	7 ft.
	Basement	20,000	7 ft.	Not permitted	
Combustible	Ground and upper floors	60,000	14 ft.	22,000	7 ft.
	Basement	20,000	7 ft.	Not permitted	

NOTE 1: When 2 or more classes of materials are stored in a single pile, the maximum gallonage permitted in that pile shall be the smallest of the 2 or more separate maximum gallonages.
NOTE 2: Aisles shall be provided so that no portable tank is more than 12 ft. from an aisle. Main aisles shall be at least 8 ft. wide and side aisles at least 4 ft. wide.
NOTE 3: Each pile shall be separated from each other by at least 4 ft.

(vi) *Flammable and combustible liquid warehouses or storage buildings.* (a) If the storage building is located 50 feet or less from a building or line of adjoining property that may be built upon, the exposing wall shall be a blank wall having a fire-resistance rating of at least 2 hours.

(b) The total quantity of liquids within a building shall not be restricted, but the arrangement of storage shall comply with Table H–14 or H–15.

(c) Containers in piles shall be separated by pallets or dunnage where necessary to provide stability and to prevent excessive stress on container walls.

(d) Portable tanks stored over one tier high shall be designed to nest securely, without dunnage, and adequate materials handling equipment shall be available to handle tanks safely at the upper tier level.

(e) No pile shall be closer than 3 feet to the nearest beam, chord, girder, or other obstruction, and shall be 3 feet below sprinkler deflectors or discharge orifices of water spray, or other overhead fire protection systems.

(f) Aisles of at least 3 feet wide shall be provided where necessary for reasons of access to doors, windows or standpipe connections.

(6) *Storage outside buildings*—(i) *General.* Storage outside buildings shall be in accordance with Table H–16 or H–17, and subdivisions (ii) and (iv) of this subparagraph.

TABLE H–16—OUTDOOR CONTAINER STORAGE

1 Class	2 Maximum per pile (see note 1)	3 Distance between piles (see note 2)	4 Distance to property line that can be built upon (see notes 3 and 4)	5 Distance to street, alley, public way (see note 4)
	gal.	*ft.*	*ft.*	*ft.*
IA	1,100	5	20	10
IB	2,200	5	20	10
IC	4,400	5	20	10
II	8,800	5	10	5
Combustible	22,000	5	10	5

NOTE 1: When 2 or more classes of materials are stored in a single pile, the maximum gallonage in that pile shal be the smallest of the 2 or more separate gallonages.
NOTE 2: Within 200 ft. of each container, there shall be a 12-ft. wide access way to permit approach of fire control apparatus.
NOTE 3: The distances listed apply to properties that have protection for exposures as defined. If there are exposures, and such protection for exposures does not exist, the distances in column 4 shall be doubled.
NOTE 4: When total quantity stored does not exceed 50 percent of maximum per pile, the distances in columns 4 and 5 may be reduced 50 percent, but not less than 3 ft.

(ii) *Maximum storage.* A maximum of 1,100 gallons of flammable or combustible liquids may be located adjacent to buildings located on the same premises and under the same management provided the provisions of subdivisions (a) and (b) of this subdivision are complied with.

(a) The building shall be a one-story building devoted principally to the handling and storing of flammable or combustible liquids or the building shall have 2-hour fire-resistive exterior walls having no opening within 10 feet of such storage.

(b) Where quantity stored exceeds 1,100 gallons, or provisions of subdivision (a) of this subdivision cannot be met, a minimum distance of 10 feet between buildings and nearest container of flammable or combustible liquid shall be maintained.

TABLE H–17—OUTDOOR PORTABLE TANK STORAGE

1 Class	2 Maximum per pile	3 Distance between piles	4 Distance to property line that can be built upon	5 Distance to street, alley, public way
	gal.	*ft.*	*ft.*	*ft.*
IA	2,200	5	20	10
IB	4,400	5	20	10
IC	8,800	5	20	10
II	17,600	5	10	5
Combustible	44,000	5	10	5

NOTE 1: When 2 or more classes of materials are stored in a single pile, the maximum gallonage in that pile shall be the the smallest of the 2 or more separate gallonages.
NOTE 2: Within 200 ft. of each portable tank, there shall be a 12-ft. wide access way to permit approach of fire control apparatus.
NOTE 3: The distances listed apply to properties that have protection for exposures as defined. If there are exposures, and such protection for exposures does not exist, the distances in column 4 shall be doubled.
NOTE 4: When total quantity stored does not exceed 50 percent of maximum per pile, the distances in columns 4 and 5 may be reduced 50 percent, but not less than 3 ft.

(iii) *Spill containment.* The storage area shall be graded in a manner to divert possible spills away from buildings or other exposures or shall be surrounded by a curb at least 6 inches high. When curbs are used, provisions shall be made for draining of accumulations of ground or rain water or spills of flammable or combustible liquids. Drains shall terminate at a safe location and shall be accessible to operation under fire conditions.

(iv) *Security.* The storage area shall be protected against tampering or trespassers where necessary and shall be kept free of weeds, debris and other combustible material not necessary to the storage.

(7) *Fire control*—(i) *Extinguishers.* Suitable fire control devices, such as small hose or portable fire extinguishers, shall be available at locations where flammable or combustible liquids are stored.

(a) At least one portable fire extinguishers having a rating of not less than 12–B units shall be located outside of, but not more than 10 feet from, the door opening into any room used for storage.

(b) At least one portable fire extinguisher having a rating of not less than 12–B units shall be located not less than 10 feet, nor more than 25 feet, from any flammable liquid storage area located outside of a storage room but inside a building.

(ii) *Sprinklers.* When sprinklers are provided, they shall be installed in an approved manner.

(iii) *Open Flames and Smoking.* Open flames and smoking shall not be permitted in flammable or combustible liquid storage areas.

(iv) *Water Reactive Materials.* Materials which will react with water shall not be stored in the same room with flammable or combustible liquids.

(e) *Industrial plants*—(1) Scope—(i) *Application.* This paragraph shall apply to those industrial plants where:

(a) The use of flammable or combustible liquids is incidental to the principal business, or

(b) Where flammable or combustible liquids are handled or used only in unit physical operations such as mixing, drying, evaporating, filtering, distillation, and similar operations which do not involve chemical reaction. This paragraph shall not apply to chemical plants, refineries or distilleries.

(ii) *Exceptions.* Where portions of such plants involve chemical reactions such as oxidation, reduction, halogenation, hydrogenation, alkylation, polymerization, and other chemical processes, those portions of the plant shall be in accordance with paragraph (h) of this section.

(2) *Incidental storage or use of flammable and combustible liquids*—(i) *Application.* This subparagraph shall be applicable to those portions of an industrial plant where the use and handling of flammable or combustible liquids is only incidental to the principal business, such as automobile assembly, construction of electronic equipment, furniture manufacturing, or other similar activities.

(ii) *Containers.* Flammable or combustible liquids shall be stored in tanks or closed containers.

(a) Except as provided in subdivisions (b) and (c) of this subdivision, all storage shall comply with paragraph (d) (3) or (4) of this section.

(b) The quantity of liquid that may be located outside of an inside storage room or storage cabinet in a building or in any one fire area of a building shall not exceed:

(1) 25 gallons of Class IA liquids in containers

(2) 120 gallons of Class IB, IC, II, or III liquids in containers

(3) 660 gallons of Class IB, IC, II, or III liquids in a single portable tank.

(c) Where large quantities of flammable or combustible liquids are necessary, storage may be in tanks which shall comply with the applicable requirements of paragraph (b) of this section.

(iii) *Separation and protection.* Areas in which flammable or combustible liquids are transferred from one tank or container to another container shall be separated from other operations in the building by adequate distance or by construction having adequate fire resistance. Drainage or other means shall be provided to control spills. Adequate natural or mechanical ventilation shall be provided.

(iv) *Handling liquids at point of final use.* (*a*) Flammable liquids shall be kept in covered containers when not actually in use.

(*b*) Where flammable or combustible liquids are used or handled, except in closed containers, means shall be provided to dispose promptly and safely of leakage or spills.

(*c*) Class I liquids may be used only where there are no open flames or other sources of ignition within the possible path of vapor travel.

(*d*) Flammable or combustible liquids shall be drawn from or transferred into vessels, containers, or portable tanks within a building only through a closed piping system, from safety cans, by means of a device drawing through the top, or from a container or portable tanks by gravity through an approved self-closing valve. Transferring by means of air pressure on the container or portable tanks shall be prohibited.

(3) *Unit physical operations*—(i) *Application.* This subparagraph shall be applicable in those portions of industrial plants where flammable or combustible liquids are handled or used in unit physical operations such as mixing, drying, evaporating, filtering, distillation, and similar operations which do not involve chemical change. Examples are plants compounding cosmetics, pharmaceuticals, solvents, cleaning fluids, insecticides, and similar types of activities.

(ii) *Location.* Industrial plants shall be located so that each building or unit of equipment is accessible from at least one side for firefighting and fire control purposes. Buildings shall be located with respect to lines of adjoining property which may be built upon as set forth in paragraph (h)(2) (i) and (ii) of this section except that the blank wall referred to in paragraph (h)(2)(ii) of this section shall have a fire resistance rating of at least 2 hours.

(iii) *Chemical processes.* Areas where unstable liquids are handled or small scale unit chemical processes are carried on shall be separated from the remainder of the plant by a fire wall of 2-hour minimum fire resistance rating.

(iv) *Drainage.* (*a*) Emergency drainage systems shall be provided to direct flammable or combustible liquid leakage and fire protection water to a safe location. This may require curbs, scuppers, or special drainage systems to control the spread of fire; see paragraph (b)(2)(vii)(*b*) of this section.

(*b*) Emergency drainage systems, if connected to public sewers or discharged into public waterways, shall be equipped with traps or separators.

(*c*) The industrial plant shall be designed and operated to prevent the normal discharge of flammable or combustible liquids into public waterways, public sewers, or adjoining property.

(v) *Ventilation.* (*a*) Areas as defined in subdivision (i) of this subparagraph using Class I liquids shall be ventilated at a rate of not less than 1 cubic foot per minute per square foot of solid floor area. This shall be accomplished by natural or mechanical ventilation with discharge or exhaust to a safe location outside of the building. Provision shall be made for introduction of makeup air in such a manner as not to short circuit the ventilation. Ventilation shall be arranged to include all floor areas or pits where flammable vapors may collect.

(*b*) Equipment used in a building and the ventilation of the building shall be designed so as to limit flammable vapor-air mixtures under normal operating conditions to the interior of equipment, and to not more than 5 feet from equipment which exposes Class I liquids to the air. Examples of such equipment are dispensing stations, open centrifuges, plate and frame filters, open vacuum filters, and surfaces of open equipment.

(vi) *Storage and handling.* The storage, transfer, and handling of liquid shall comply with paragraph (h)(4) of this section.

(4) *Tank vehicle and tank car loading and unloading.* (i) Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings or nearest line of adjoining property which may be built upon by a distance of 25 feet for Class I liquids and 15 feet for Class II and Class III liquids measured from the nearest position of any fill stem. Buildings for pumps or shelters for personnel may be a part of the facility. Operations of the facility shall comply with the appropriate portions of paragraph (f)(3) of this section.

(5) *Fire control*—(i) *Portable and special equipment.* Portable fire extinguishment and control equipment shall be provided in such quantities and types as are needed for the special hazards of operation and storage.

(ii) *Water supply.* Water shall be available in volume and at adequate pressure to supply water hose streams, foam-producing equipment, automatic sprinklers, or water spray systems as the need is indicated by the special hazards of operation, dispensing and storage.

(iii) *Special extinguishers.* Special extinguishing equipment such as that utilizing foam, inert gas, or dry chemical shall be provided as the need is indicated by the special hazards of operation dispensing and storage.

(iv) *Special hazards.* Where the need is indicated by special hazards of operation, flammable or combustible liquid processing equipment, major piping, and supporting steel shall be protected by approved water spray systems, deluge systems, approved fire-resistant coatings, insulation, or any combination of these.

(v) *Maintenance.* All plant fire protection facilities shall be adequately maintained and periodically inspected and tested to make sure they are always in satisfactory operating condition, and they will serve their purpose in time of emergency.

(6) *Sources of ignition*—(i) *General.* Adequate precautions shall be taken to prevent the ignition of flammable vapors. Sources of ignition include but are not limited to open flames; lightning; smoking; cutting and welding; hot surfaces; frictional heat; static, electrical, and mechanical sparks; spontaneous ignition, including heat-producing chemical reactions; and radiant heat.

(ii) *Grounding.* Class I liquids shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of this section shall be deemed to have been complied with.

(7) *Electrical*—(i) *Equipment.* (*a*) All electrical wiring and equipment shall be installed according to the requirements of Subpart S of this part.

(*b*) Locations where flammable vapor-air mixtures may exist under normal operations shall be classified Class I, Division 1 according to the requirements of Subpart S of this part. For those pieces of equipment installed in accordance with subparagraph (3)(v)(*b*) of this paragraph, the Division 1 area shall extend 5 feet in all directions from all points of vapor liberation. All areas within pits shall be classified Division 1 if any part of the pit is within a Division 1 or 2 classified area, unless the pit is provided with mechanical ventilation.

(*c*) Locations where flammable vapor-air mixtures may exist under abnormal conditions and for a distance beyond Division 1 locations shall be classified Division 2 according to the requirements of Subpart S of this part. These locations include an area within 20 feet horizontally, 3 feet vertically beyond a Division 1 area, and up to 3 feet above floor or grade level within 25 feet, if indoors, or 10 feet if outdoors, from any pump, bleeder, withdrawal fitting, meter, or similar device handling Class I liquids. Pits provided with adequate mechanical ventilation within a Division 1 or 2 area shall be classified Division 2. If Class II or Class III liquids only are handled, then ordinary electrical equipment is satisfactory though care shall be used in locating electrical apparatus to prevent hot metal from falling into open equipment.

(*d*) Where the provisions of subdivisions (*a*), (*b*), and (*c*), of this subdivision require the installation of electrical equipment suitable for Class I, Division 1 or Division 2 locations, ordinary electrical equipment including switchgear may be used if installed in a room or enclosure which is maintained under positive pressure with respect to the hazardous area. Ventilation makeup air shall be uncontaminated by flammable vapors.

(8) *Repairs to equipment.* Hot work, such as welding or cutting operations, use of spark-producing power tools, and chipping operations shall be permitted only under supervision of an individual in responsible charge. The individual in responsible charge shall make an inspection of the area to be sure that it is safe for the work to be done and that safe procedures will be followed for the work specified.

(9) *Housekeeping*—(i) *General.* Maintenance and operating practices shall be in accordance with established procedures which will tend to control leakage and prevent the accidental escape of flammable or combustible liquids. Spills shall be cleaned up promptly.

(ii) *Access.* Adequate aisles shall be maintained for unobstructed movement of personnel and so that fire protection equipment can be brought to bear on any part of flammable or combustible liquid storage, use, or any unit physical operation.

(iii) *Waste and residue.* Combustible waste material and residues in a building or unit operating area shall be kept to a minimum, stored in covered metal receptacles and disposed of daily.

(iv) *Clear zone.* Ground area around buildings and unit operating areas shall be kept free of weeds, trash, or other unnecessary combustible materials.

(f) *Bulk plants*—(1) *Storage*—(i) *Class I liquids.* Class I liquids shall be stored in closed containers, or in storage tanks above ground outside of buildings, or underground in accordance with paragraph (b) of this section.

(ii) *Class II and III liquids.* Class II and Class III liquids shall be stored in containers, or in tanks within buildings or above ground outside of buildings, or underground in accordance with paragraph (b) of this section.

(iii) *Piling containers.* Containers of flammable or combustible liquids when piled one upon the other shall be separated by dunnage sufficient to provide stability and to prevent excessive stress on container walls. The height of the pile shall be consistent with the stability and strength of containers.

(2) *Buildings*—(i) *Exits.* Rooms in which flammable or combustible liquids are stored or handled by pumps shall have exit facilities arranged to prevent occupants from being trapped in the event of fire.

(ii) *Heating.* Rooms in which Class I liquids are stored or handled shall be heated only by means not constituting a source of ignition, such as steam or hot water. Rooms containing heating appliances involving sources of ignition shall be located and arranged to prevent entry of flammable vapors.

(iii) *Ventilation.* (*a*) Ventilation shall be provided for all rooms, buildings, or enclosures in which Class I liquids are pumped or dispensed. Design of ventilation systems shall take into account the relatively high specific gravity of the vapors. Ventilation may be provided by adequate openings in outside walls at floor level unobstructed except by louvers or coarse screens. Where natural ventilation is inadequate, mechanical ventilation shall be provided.

(*b*) Class I liquids shall not be stored or handled within a building having a basement or pit into which flammable vapors may travel, unless such area is provided with ventilation designed to prevent the accumulation of flammable vapors therein.

(*c*) Containers of Class I liquids shall not be drawn from or filled within buildings unless provision is made to prevent the accumulation of flammable vapors in hazardous concentrations. Where mechanical ventilation is required, it shall be kept in operation while flammable liquids are being handled.

(3) *Loading and unloading facilities*—(i) *Separation.* Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings or nearest line of adjoining property that may be built upon by a distance of 25 feet for Class I liquids and 15 feet for Class II and Class III liquids measured from the nearest position of any fill spout. Buildings for pumps or shelters for personnel may be a part of the facility.

(ii) *Class restriction.* Equipment such as piping, pumps, and meters used for the transfer of Class I liquids between storage tanks and the fill stem of the loading rack shall not be used for the transfer of Class II or Class III liquids.

(iii) *Valves.* Valves used for the final control for filling tank vehicles shall be of the self-closing type and manually held open except where automatic means are provided for shutting off the flow when the vehicle is full or after filling of a preset amount.

(iv) *Static protection.* (*a*) Bonding facilities for protection against static sparks during the loading of tank vehicles through open domes shall be provided:

(*1*) Where Class I liquids are loaded, or

(*2*) Where Class II or Class III liquids are loaded into vehicles which may contain vapors from previous cargoes of Class I liquids.

(*b*) Protection as required in (*a*) of this subdivision (iv) shall consist of a metallic bond wire permanently electrically connected to the fill stem or to some part of the rack structure in electrical contact with the fill stem. The free end of such wire shall be provided with a clamp or equivalent device for convenient attachment to some metallic part in electrical contact with the cargo tank of the tank vehicle.

(*c*) Such bonding connection shall be made fast to the vehicle or tank before dome covers are raised and shall remain in place until filling is completed and all dome covers have been closed and secured.

(*d*) Bonding as specified in (*a*), (*b*), and (*c*) of this subdivision is not required:

(*1*) Where vehicles are loaded exclusively with products not having a static accumulating tendency, such as asphalt, most crude oils, residual oils, and water soluble liquids;

(*2*) Where no Class I liquids are handled at the loading facility and the tank vehicles loaded are used exclusively for Class II and Class III liquids; and

(*3*) Where vehicles are loaded or unloaded through closed bottom or top connections.

(*e*) Filling through open domes into the tanks of tank vehicles or tank cars, that contain vapor-air mixtures within the flammable range or where the liquid being filled can form such a mixture, shall be by means of a downspout which extends near the bottom of the tank. This precaution is not required when loading liquids which are nonaccumulators of static charges.

(v) *Stray currents.* Tank car loading facilities where Class I liquids are loaded through open domes shall be protected against stray currents by bonding the pipe to at least one rail and to the rack structure if of metal. Multiple lines entering the rack area shall be electrically bonded together. In addition, in areas where excessive stray currents are known to exist, all pipe entering the rack area shall be provided with insulating sections to electrically isolate the rack piping from the pipelines. No bonding between the tank car and the rack or piping is required during either loading or unloading of Class II or III liquids.

(vi) *Container filling facilities.* Class I liquids shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of this section shall be deemed to have been complied with.

(4) *Wharves*—(i) *Definition, application.* The term wharf shall mean any wharf, pier, bulkhead, or other structure over or contiguous to navigable water used in conjunction with a bulk plant, the primary function of which is the transfer of flammable or combustible liquid cargo in bulk between the bulk plant and any tank vessel, ship, barge, lighter boat, or other mobile floating craft; and this subparagraph shall apply to all such installations except Marine Service Stations as covered in paragraph (g) of this section.

(ii) *Package cargo.* Package cargo of flammable and combustible liquids, including full and empty drums, bulk fuel, and stores may be handled over a wharf and at such times and places as may be agreed upon by the wharf superintendent and the senior deck officer on duty.

(iii) *Location.* Wharves at which flammable or combustible liquid cargoes are to be transferred in bulk quantities to or from tank vessels shall be at least 100 feet from any bridge over a navigable waterway, or from an entrance to or superstructure of any vehicular or railroad tunnel under a waterway. The termination of the wharf loading or unloading fixed piping shall be at least 200 feet from a bridge or from an entrance to or superstructure of a tunnel.

(iv) *Design and construction.* Substructure and deck shall be substantially designed for the use intended. Deck may employ any material which will afford the desired combination of flexibility, resistance to shock, durability, strength, and fire resistance. Heavy timber construction is acceptable.

(v) *Tanks.* Tanks used exclusively for ballast water or Class II or Class III liquids may be installed on suitably designed wharves.

(vi) *Pumps.* Loading pumps capable of building up pressures in excess of the safe working pressure of cargo hose or loading arms shall be provided with bypasses, relief valves, or other arrangement to protect the loading facilities against excessive pressure. Relief devices shall be tested at not more than yearly intervals to determine that they function satisfactorily at the pressure at which they are set.

(vii) *Hoses and couplings.* All pressure hoses and couplings shall be inspected at intervals appropriate to the service. The hose and couplings shall be tested with the hose extended and using the "inservice maximum operating pressures." Any hose showing material deteriorations, signs of leakage, or weakness in its carcass or at the couplings shall be withdrawn from service and repaired or discarded.

(viii) *Piping and fittings.* Piping, valves, and fittings shall be in accordance with paragraph (c) of this section, with the following exceptions and additions:

(*a*) Flexibility of piping shall be assured by appropriate layout and arrangement of piping supports so that motion of the wharf structure resulting from wave action, currents, tides, or the mooring of vessels will not subject the pipe to repeated strain beyond the elastic limit.

(*b*) Pipe joints depending upon the friction characteristics of combustible materials or grooving of pipe ends for mechanical continuity of piping shall not be used.

(*c*) Swivel joints may be used in piping to which hoses are connected, and for articulated swivel-joint transfer systems, provided that the design is such that the mechanical strength of the joint will not be impaired if the packing material should fail, as by exposure to fire.

(*d*) Piping systems shall contain a sufficient number of valves to operate the system properly and to control the flow of liquid in normal operation and in the event of physical damage.

(*e*) In addition to the requirements of subdivision (*d*) of this subdivision, each line conveying flammable liquids leading to a wharf shall be provided with a readily accessible block valve located on shore near the approach to the wharf and outside of any diked area. Where more than one line is involved, the valves shall be grouped in one location.

(*f*) Means of easy access shall be provided for cargo line valves located below the wharf deck.

(*g*) Pipelines on flammable or combustible liquids wharves shall be adequately bonded and grounded. If excessive stray currents are encountered, insulating joints shall be installed. Bonding and grounding connections on all pipelines shall be located on wharfside of hose-riser insulating flanges, if used, and shall be accessible for inspection.

(*h*) Hose or articulated swivel-joint pipe connections used for cargo transfer shall be capable of accommodating the combined effects of change in draft and maximum tidal range, and mooring lines shall be kept adjusted to prevent the surge of the vessel from placing stress on the cargo transfer system.

(*i*) Hose shall be supported so as to avoid kinking and damage from chafing.

(ix) *Fire protection.* Suitable portable fire extinguishers with a rating of not less than 12–BC shall be located within 75 feet of those portions of the facility where fires are likely to occur, such as hose connections, pumps, and separator tanks.

(*a*) Where piped water is available, ready-connected fire hose in size appropriate for the water supply shall be provided so that manifolds where connections are made and broken can be reached by at least one hose stream.

(*b*) Material shall not be placed on wharves in such a manner as to obstruct access to firefighting equipment, or important pipeline control valves.

(*c*) Where the wharf is accessible to vehicle traffic, an unobstructed roadway to the shore end of the wharf shall be maintained for access of firefighting apparatus.

(x) *Operations control.* Loading or discharging shall not commence until the wharf superintendent and officer in charge of the tank vessel agree that the tank vessel is properly moored and all connections are properly made. Mechanical work shall not be performed on the wharf during cargo transfer, except under special authorization based on a review of the area involved, methods to be employed, and precautions necessary.

(5) *Electrical equipment*—(i) *Application.* This subparagraph shall apply to areas where Class I liquids are stored or handled. For areas where Class II or Class III liquids only are stored or handled, the electrical equipment may be installed in accordance with the provisions of subpart S of this part, for ordinary locations.

(ii) *Conformance.* All electrical equipment and wiring shall be of a type specified by and shall be installed in accordance with subpart S of this part.

(iii) *Classification.* So far as it applies Table H–18 shall be used to delineate and classify hazardous areas for the purpose of installation of electrical equipment under normal circumstances. In Table H–18 a classified area shall not extend beyond an unpierced wall, roof, or other solid partition. The area classifications listed shall be based on the premise that the installation meets the applicable requirements of this section in all respects.

(6) *Sources of ignition.* Class I liquids shall not be handled, drawn, or dispensed where flammable vapors may reach a source of ignition. Smoking shall be prohibited except in designated localities. "No Smoking" signs shall be conspicuously posted where hazard from flammable liquid vapors is normally present.

(7) *Drainage and waste disposal.* Provision shall be made to prevent flammable or combustible liquids which may be spilled at loading or unloading points from entering public sewers and drainage systems, or natural waterways. Connection to such sewers, drains, or waterways by which flammable or combustible liquids might enter shall be provided with separator boxes or other approved means whereby such entry is precluded. Crankcase drainings and flammable or combustible liquids shall not be dumped into sewers, but shall be stored in tanks or tight drums outside of any building until removed from the premises.

(8) *Fire control.* Suitable fire-control devices, such as small hose or portable fire extinguishers, shall be available to locations where fires are likely to occur. Additional fire-control equipment may be required where a tank of more than 50,000 gallons individual capacity contains Class I liquids and where an unusual exposure hazard exists from surrounding property. Such additional fire-control equipment shall be sufficient to extinguish a fire in the largest tank. The design and amount of such equipment shall be in accordance with approved engineering standards.

(g) *Service stations*—(1) *Storage and handling*—(i) *General provisions.* (*a*) Liquids shall be stored in approved closed containers not exceeding 60 gallons capacity, in tanks located underground, in tanks in special enclosures as described in subdivision (ii) of this subparagraph, or in aboveground tanks as provided for in subparagraphs (4)(ii), (*b*), (*c*) and (*d*) of this paragraph.

(*b*) Aboveground tanks, located in an adjoining bulk plant, may be connected by piping to service station underground tanks if, in addition to valves at aboveground tanks, a valve is also installed within control of service station personnel.

(*c*) Apparatus dispensing Class I liquids into the fuel tanks of motor vehicles of the public shall not be located at a bulk plant unless separated by a fence or similar barrier from the area in which bulk operations are conducted.

(*d*) The provisions of (*a*) of this subdivision shall not prohibit the temporary use of movable tanks in conjunction with the dispensing of flammable or combustible liquids into the fuel tanks of motor vehicles or other motorized equipment on premises not normally accessible to the public. Such installations shall only be made under permit from the enforcing authority. The permit shall include a definite time limit.

(*e*) The provisions of (*a*) of this subdivision shall not prohibit the dispensing of flammable liquids in the open from a tank vehicle to a motor vehicle. Such dispensing shall be permitted provided:

(*1*) The tank vehicle complies with the requirements covered in the Standard on Tank Vehicles for Flammable Liquids, NFPA 385–1966.

(*2*) The dispensing is done on premises not open to the public.

(*3*) The motor vehicles are owned or operated by a commercial, industrial, or governmental agency.

(*4*) The dispensing hose does not exceed 50 feet in length.

TABLE H–18—ELECTRICAL EQUIPMENT HAZARDOUS AREAS—BULK PLANTS

Location	NEC Class I Group D division	Extent of classified area
Tank vehicle and tank car:[1]		
Loading through open dome	1	Within 3 feet of edge of dome, extending in all directions.
	2	Area between 3 feet and 5 feet from edge of dome, extending in all directions.
Loading through bottom connections with atmospheric venting.	1	Within 3 feet of point of venting to atmosphere extending in all directions.
	2	Area between 3 feet and 5 feet from point of venting to atmosphere, extending in all directions. Also up to 18 inches above grade within a horizontal radius of 10 feet from point of loading connection.
Loading through closed dome with atmospheric venting.	1	Within 3 feet of open end of vent, extending in all directions.
	2	Area between 3 feet and 5 feet from open end of vent, extending in all directions. Also within 3 feet of edge of dome, extending in all directions.
Loading through closed dome with vapor recovery.	2	Within 3 feet of point of connection of both fill and vapor lines, extending in all directions.
Bottom loading with vapor recovery or any bottom unloading.	2	Within 3 feet of point of connections extending in all directions. Also up to 18 inches above grade within a horizontal radius of 10 feet from point of connection.
Drum and container filling:		
Outdoors, or indoors with adequate ventilation.	1	Within 3 feet of vent and fill opening, extending in all directions.
	2	Area between 3 feet and 5 feet from vent or fill opening, extending in all directions. Also up to 18 inches above floor or grade level within a horizontal radius of 10 feet from vent or fill opening.
Outdoors, or indoors with adequate ventilation.	1	Within 3 feet of vent and fill opening, extending in all directions.
	2	Area between 3 feet and 5 feet from vent or fill opening, extending in all directions. Also up to 18 inches above floor or grade level within a horizontal radius of 10 feet from vent or fill opening.
Tank—Aboveground:		
Shell, ends, or roof and dike area	2	Within 10 feet from shell, ends, or roof of tank, Area inside dikes to level of top of dike.
Vent	1	Within 5 feet of open end of vent, extending in all directions.
	2	Area between 5 feet and 10 feet from open end of vent, extending in all directions.
Floating roof	1	Area above the roof and within the shell.
Pits:		
Without mechanical ventilation	1	Entire area within pit if any part is within a Division 1 or 2 classified area.
With mechanical ventilation	2	Entire area within pit if any part is within a Division 1 or 2 classified area.
Containing valves, fittings or piping, and not within a division 1 or 2 classified area.	2	Entire pit.
Pumps, bleeders, withdrawal fittings, meters and similar devices:		
Indoors	2	Within 5 feet of any edge of such devices, extending in all directions. Also up to 3 feet above floor or grade level within 25 feet horizontally from any edge of such devices.
Outdoors	2	Within 3 feet of any edge of such devices, extending in all directions. Also up to 18 inches above grade level within 10 feet horizontally from any edge of such devices.
Storage and repair garage for tank vehicles	1	All pits or spaces below floor level.
	2	Area up to 18 inches above floor or grade level for entire storage or repair garage.
Drainage ditches, separators, impounding basins.	2	Area up to 18 inches above ditch, separator or basin. Also up to 18 inches above grade within 15 feet horizontally from any edge.
Garages for other than tank vehicles	Ordinary	If there is any opening to these rooms within the extent of an outdoor classified area, the entire room shall be classified the same as the area classification at the point of the opening.
Outdoor drum storage	Ordinary	
Indoor warehousing where there is no flammable liquid transfer.	Ordinary	If there is any opening to these rooms within the extent of an indoor classified area, the room shall be classified the same as if the wall, curb or partition did not exist.
Office and rest rooms	Ordinary	

[1] When classifying the extent of the area, consideration shall be given to the fact that tank cars or tank vehicles may be spotted at varying points. Therefore, the extremities of the loading or unloading positions shall be used.

(5) The dispensing nozzle is a listed automatic-closing type without a latch-open device.

(*f*) Class I liquids shall not be stored or handled within a building having a basement or pit into which flammable vapors may travel, unless such area is provided with ventilation designed to prevent the accumulation of flammable vapors therein.

(*g*) Accurate inventory records shall be maintained and reconciled on all Class I liquid storage tanks for possible indication of leakage from tanks or piping.

(ii) *Special enclosures.* (*a*) When installation of tanks in accordance with paragraph (b)(3) of this section is impractical because of property or building limitations, tanks for flammable or combustible liquids may be installed in buildings if properly enclosed.

(*b*) The enclosure shall be substantially liquid and vaportight without backfill. Sides, top, and bottom of the enclosure shall be of reinforced concrete at least 6 inches thick, with openings for inspection through the top only. Tank connections shall be so piped or closed that neither vapors nor liquid can escape into the enclosed space. Means shall be provided whereby portable equipment may be employed to discharge to the outside any liquid or vapors which might accumulate should leakage occur.

(*c*) At automotive service stations provided in connection with tenant or customer parking facilities at or below grade level in large buildings of commercial, mercantile, or residential occupancy, tanks containing Class I liquids, installed of necessity in accordance with (*b*) of this subdivision, shall not exceed 6,000 gallons individual or 18,000 gallons aggregate capacity.

(iii) *Inside buildings.* (*a*) Except where stored in tanks as provided in subdivision (ii) of this subparagraph, no Class I liquids shall be stored within any service station building except in closed containers of aggregate capacity not exceeding 60 gallons. One container not exceeding 60 gallons capacity equipped with an approved pump is permitted.

(*b*) Class I liquids may be transferred from one container to another in lubrication or service rooms of a service station building provided the electrical installation complies with Table H–19 and provided that any heating equipment complies with subparagraph (6) of this paragraph.

(*c*) Class II and Class III liquids may be stored and dispensed inside service station buildings from tanks of not more than 120 gallons capacity each.

(iv) *Labeling.* No sale or purchase of any Class I, II, or III liquids shall be made in containers unless such containers are clearly marked with the name of the product contained therein.

(v) *Dispensing into portable containers.* No delivery of any Class I liquids shall be made into portable containers unless the container is constructed of metal, has a tight closure with screwed or spring cover, and is fitted with a spout or so designed that the contents can be poured without spilling.

(2) *Private stations.* Service stations not accessible to or open to the public do not require an attendant or supervisor. Such stations may be used by commercial, industrial, governmental, or manufacturing establishments.

(3) *Dispensing systems*—(i) *Location.* Dispensing devices at automotive service stations shall be so located that all parts of the vehicle being served will be on the premises of the service station.

(ii) *Inside location.* Approved dispensing units may be located inside of buildings. The dispensing area shall be separated from other areas in an approved manner. The dispensing unit and its piping shall be mounted either on a concrete island or protected against collision damage by suitable means and shall be located in a position where it cannot be struck by a vehicle descending a ramp or other slope out of control. The dispensing area shall be provided with an approved mechanical or gravity ventilation system. When dispensing units are located below grade, only approved mechanical ventilation shall be used and the entire dispensing area shall be protected by an approved automatic sprinkler system. Ventilating systems shall be electrically interlocked with gasoline dispensing units so that the dispensing units cannot be operated unless the ventilating fan motors are energized.

(iii) *Emergency power cutoff.* A clearly identified and easily accessible switch(es) or a circuit breaker(s) shall be provided at a location remote from dispensing devices, including remote pumping systems, to shut off the power to all dispensing devices in the event of an emergency.

(iv) *Dispensing units.* (a) Class I liquids shall be transferred from tanks by means of fixed pumps so designed and equipped as to allow control of the flow

and to prevent leakage or accidental discharge.

(b) Dispensing devices for Class I liquids shall be of approved type.

(c) Class I liquids shall not be dispensed by pressure from drums, barrels, and similar containers. Approved pumps taking suction through the top of the container or approved self-closing faucets shall be used.

(d) The dispensing units, except those attached to containers, shall be mounted either on a concrete island or protected against collision damage by suitable means.

(v) *Remote Pumping systems.*

(a) This subdivision shall apply to systems for dispensing Class I liquids where such liquids are transferred from storage to individual or multiple dispensing units by pumps located elsewhere than at the dispensing units.

(b) Pumps shall be designed or equipped so that no part of the system will be subjected to pressures above its allowable working pressure. Pumps installed above grade, outside of buildings, shall be located not less than 10 feet from lines of adjoining property which may be built upon, and not less than 5 feet from any building opening. When an outside pump location is impractical, pumps may be installed inside of buildings, as provided for dispensers in subdivision (ii) of this subparagraph, or in pits as provided in subdivision (c) of this subdivision. Pumps shall be substantially anchored and protected against physical damage by vehicles.

(c) Pits for subsurface pumps or piping manifolds of submersible pumps shall withstand the external forces to which they may be subjected without damage to the pump, tank, or piping. The pit shall be no larger than necessary for inspection and maintenance and shall be provided with a fitted cover.

(d) A control shall be provided that will permit the pump to operate only when a dispensing nozzle is removed from its bracket on the dispensing unit and the switch on this dispensing unit is manually actuated. This control shall also stop the pump when all nozzles have been returned to their brackets.

(e) An approved impact valve, incorporating a fusible link, designed to close automatically in the event of severe impact or fire exposure shall be properly installed in the dispensing supply line at the base of each individual dispensing device.

(f) Testing. After the completion of the installation, including any paving, that section of the pressure piping system between the pump discharge and the connection for the dispensing facility shall be tested for at least 30 minutes at the maximum operating pressure of the system. Such tests shall be repeated at 5-year intervals thereafter.

(vi) *Delivery nozzles.* (a) Hose-nozzle valves of either the manual or automatic-closing type for dispensing Class I liquids into a fuel tank or into a container shall be manually held open during the dispensing operation except as provided in subdivision (b) of this subdivision.

(b) On any service station dispenser accessible to the public a listed automatic type nozzle with hold-open latch is permitted only when all dispensing of Class I liquids is to be done by the service station attendant.

(c) If the dispensing of Class I liquids at a service station available and open to the public is to be done by a person other than the service station attendant, the nozzle shall be a listed automatic-closing type without a hold-open latch.

(vii) *Special type dispensers.* (a) Special dispensing devices such as, but not limited to, coin-operated, and remote preset types are permitted at service stations, provided there is at least one qualified attendant on duty while the station is open to the public.

(b) Emergency controls shall be installed at an acceptable location, but controls shall not be more than 100 feet from dispensers.

(c) Instructions for the operation of dispensers shall be conspicuously posted.

(4) *Marine service stations*—(i) *Dispensing.* (a) The dispensing area shall be located away from other structures so as to provide room for safe ingress and egress of craft to be fueled. Dispensing units shall in all cases be at least 20 feet from any activity involving fixed sources of ignition.

(b) Dispensing shall be by approved dispensing units with or without integral pumps and may be located on open piers, wharves, or floating docks or on shore or on piers of the solid fill type.

(c) Dispensing nozzles shall be automatic-closing without a hold-open latch.

(ii) *Tanks and pumps.* (a) Tanks, and pumps not integral with the dispensing unit, shall be on shore or on a pier of the solid fill type, except as provided in subdivisions (b) and (c) of this subdivision.

(b) Where shore location would require excessively long supply lines to dispensers, tanks may be installed on a pier provided that applicable portions of paragraph (b) of this section relative to spacing, diking, and piping are complied with and the quantity so stored does not exceed 1,100 gallons aggregate capacity.

(c) Shore tanks supplying marine service stations may be located above ground, where rock ledges or high water table make underground tanks impractical.

(d) Where tanks are at an elevation which would produce gravity head on the dispensing unit, the tank outlet shall be equipped with a pressure control valve positioned adjacent to and outside the tank block valve specified in paragraph (b)(2)(ix)(b) of this section, so adjusted that liquid cannot flow by gravity from the tank in case of piping or hose failure.

(iii) *Piping.* (a) Piping between shore tanks and dispensing units shall be as described in paragraph (c) of this section, except that, where dispensing is from a floating structure, suitable lengths of oil-resistant flexible hose may be employed between the shore piping and the piping on the floating structure as made necessary by change in water level or shoreline.

(b) A readily accessible valve to shut off the supply from shore shall be provided in each pipeline at or near the approach to the pier and at the shore end of each pipeline adjacent to the point where flexible hose is attached.

(c) Piping shall be located so as to be protected from physical damage.

(d) Piping handling Class I liquids shall be grounded to control stray currents.

(5) *Electrical equipment*—(i) *Application.* This subparagraph shall apply to areas where Class I liquids are stored or handled. For areas where Class II or Class III liquids are stored or handled the electrical equipment may be installed in accordance with the provisions of Subpart S of this part, for ordinary locations.

(ii) All electrical equipment and wiring shall be of a type specified by and shall be installed in accordance with Subpart S of this part.

(iii) So far as it applies, Table H–19 shall be used to delineate and classify hazardous areas for the purpose of installation of electrical equipment under normal circumstances. A classified area shall not extend beyond an unpierced wall, roof, or other solid partition.

(iv) The area classifications listed shall be based on the assumption that the installation meets the applicable requirements of this section in all respects.

(6) *Heating equipment*—(i) *Conformance.* Heating equipment shall be installed as provided in subdivisions (ii) through (v) of this subparagraph.

(ii) *Application.* Heating equipment may be installed in the conventional manner in an area except as provided in subdivisions (iii), (iv), or (v) of this subparagraph.

(iii) *Special room.* Heating equipment may be installed in a special room separated from an area classified by Table H–19 by walls having a fire resistance rating of at least 1 hour and without any openings in the walls within 8 feet of the floor into an area classified in Table H–19. This room shall not be used for combustible storage and all air for combustion purposes shall come from outside the building.

(iv) *Work areas.* Heating equipment using gas or oil fuel may be installed in the lubrication, sales, or service room where there is no dispensing or transferring of Class I liquids provided the bottom of the combustion chamber is at least 18 inches above the floor and the heating equipment is protected from physical damage by vehicles. Heating equipment using gas or oil fuel listed for use in garages may be installed in the lubrication or service room where Class I liquids are dispensed provided the equipment is installed at least 8 feet above the floor.

(v) *Electric heat.* Electrical heating equipment shall conform to subparagraph (5) of this paragraph.

(7) *Drainage and waste disposal.* Provision shall be made in the area where Class I liquids are dispensed to prevent spilled liquids from flowing into the interior of service station buildings. Such provision may be by grading driveways, raising door sills, or other equally effective means. Crankcase drainings and flammable or combustible liquids shall not be dumped into sewers but shall be stored in tanks or drums outside of any building until removed from the premises.

(8) *Sources of ignition.* In addition to the previous restrictions of this paragraph, the following shall apply: There shall be no smoking or open flames in the areas used for fueling, servicing fuel systems for internal combustion engines, receiving or dispensing of flammable or combustible liquids. Conspicuous and legible signs prohibiting smoking shall be posted within sight of the customer being served. The motors of all equipment being fueled shall be shut off during the fueling operation.

(9) *Fire control.* Each service station shall be provided with at least one fire extinguisher having a minimum approved classification of 6 B, C located so that an extinguisher will be within 75 feet of each pump, dispenser, underground fill pipe opening, and lubrication or service room.

(h) *Processing plants*—(1) *Scope.* This paragraph shall apply to those plants or buildings which contain chemical operations such as oxidation, reduction, halogenation, hydrogenation, alkylation, polymerization, and other chemical processes but shall not apply to chemical plants, refineries or distilleries.

(2) *Location*—(i) *Classification.* The location of each processing vessel shall be based upon its flammable or combustible liquid capacity. Processing vessels shall be located, with respect to distances to lines of adjoining property which may be built upon, in accordance with Table H–20, except when the processing plant is designed in accordance with subdivision (ii) of this subparagraph.

TABLE H-20

Processing vessels with emergency relief venting to permit pressure	Stable liquids	Unstable liquids
Not in excess of 2.5 p.s.i.g.	Table H–9	2½ times Table H–9
Over 2.5 p.s.i.g.	1½ times Table H–9	4 times Table H–9

(ii) *Exception.* The distances required in subdivision (i) of this subparagraph may be waived when the vessels are housed within a building and the exterior wall facing the line of adjoining property which may be built upon is a blank wall having a fire-resistance rating of not less than 4 hours. When Class IA or unstable liquids are handled, the blank wall shall have explosion resistance in accordance with good engineering practice, see subparagraph (3)(iv) of this paragraph.

(3) *Processing building*—(i) *Construction.* (a) Processing buildings shall be of fire-resistance or noncombustible construction, except heavy timber construction with load-bearing walls may be permitted for plants utilizing only stable Class II or Class III liquids. Except as provided in subparagraph (2)(ii) of this paragraph or in the case of explosion resistant walls used in conjunction with explosion relieving facilities, see subparagraph (3)(iv) of this paragraph, load-bearing walls are prohibited. Buildings shall be without basements or covered pits.

(b) Areas shall have adequate exit facilities arranged to prevent occupants from being trapped in the event of fire. Exits shall not be exposed by the drainage facilities described in subdivision (ii) of this subparagraph.

(ii) *Drainage.* (a) Emergency drainage systems shall be provided to direct flammable or combustible liquid leakage and fire protection water to a safe location. This may require curbs, scuppers, or special drainage systems to control the spread of fire, see paragraph (b)(2)(vii)(b) of this section.

(b) Emergency drainage systems, if connected to public sewers or discharged into public waterways, shall be equipped with traps or separators.

(c) The processing plant shall be designed and operated to prevent the normal discharge of flammable or combustible liquids to public waterways, public sewers, or adjoining property.

(iii) *Ventilation.* (a) Enclosed processing buildings shall be ventilated at a rate of not less than 1 cubic foot per minute per square foot of solid floor area. This shall be accomplished by natural or mechanical ventilation with discharge or exhaust to a safe location outside of the building. Provision shall be made for introduction of makeup air in such a manner as not to short circuit the ventilation. Ventilation shall be arranged to include all floor areas or pits where flammable vapors may collect.

(b) Equipment used in a building and the ventilation of the building shall be designed so as to limit flammable vapor-air mixtures under normal operating conditions to the interior of equipment, and to not more than 5 feet from equipment which exposes Class I liquids to the air. Examples of such equipment are dispensing stations, open centrifuges, plate and frame filters, open vacuum filters, and surfaces of open equipment.

(iv) *Explosion relief.* Areas where Class IA or unstable liquids are processed shall have explosion venting through one or more of the following methods:

(a) Open air construction.

(b) Lightweight walls and roof.

(c) Lightweight wall panels and roof hatches.

(d) Windows of explosion venting type.

(4) *Liquid handling*—(i) *Storage.* (a) The storage of flammable or combustible liquids in tanks shall be in accordance with the applicable provisions of paragraph (b) of this section.

(b) If the storage of flammable or combustible liquids in outside aboveground or underground tanks is not practical because of temperature or production considerations, tanks may be permitted inside of buildings or structures in accordance with the applicable provisions of paragraph (b) of this section.

(c) Storage tanks inside of buildings shall be permitted only in areas at or above grade which have adequate drainage and are separated from the processing area by construction having a fire resistance rating of at least 2 hours.

(d) The storage of flammable or combustible liquids in containers shall be in accordance with the applicable provisions of paragraph (d) of this section.

TABLE H–19—ELECTRICAL EQUIPMENT HAZARDOUS AREAS—SERVICE STATIONS

Location	NEC Class I Group D division	Extent of classified area
Underground tank:		
Fill opening	1	Any pit, box or space below grade level, any part of which is within the Division 1 or 2 classified area.
	2	Up to 18 inches above grade level within a horizontal radius of 10 feet from a loose fill connection and within a horizontal radius of 5 feet from a tight fill connection.
Vent—Discharging upward	1	Within 3 feet of open end of vent, extending in all directions.
	2	Area between 3 feet and 5 feet of open end of vent, extending in all directions.
Dispenser:		
Pits	1	Any pit, box or space below grade level, any part of which is within the Division 1 or 2 classified area.
Dispenser enclosure	1	The area 4 feet vertically above base within the enclosure and 18 inches horizontally in all directions.
Outdoor	2	Up to 18 inches above grade level within 20 feet horizontally of any edge of enclosure.
Indoor:		
With mechanical ventilation	2	Up to 18 inches above grade or floor level within 20 feet horizontally of any edge of enclosure.
With gravity ventilation	2	Up to 18 inches above grade or floor level within 25 feet horizontally of any edge of enclosure.
Remote pump—Outdoor	1	Any pit, box or space below grade level if any part is within a horizontal distance of 10 feet from any edge of pump.
	2	Within 3 feet of any edge of pump, extending in all directions. Also up to 18 inches above grade level within 10 feet horizontally from any edge of pump.
Remote pump—Indoor	1	Entire area within any pit.
	2	Within 5 feet of any edge of pump, extending in all directions. Also up to 3 feet above floor or grade level within 25 feet horizontally from any edge of pump.
Lubrication or service room	1	Entire area within any pit.
	2	Area up to 18 inches above floor or grade level within entire lubrication room.
Dispenser for Class I Liquids	2	Within 3 feet of any fill or dispensin point, extending in all directions.
Special enclosure inside building per § 1910.106 (f) (1) (ii).	1	Entire enclosure.
Sales, storage and rest rooms	Ordinary	If there is any opening to these rooms within the extent of a Division 1 area, the entire room shall be classified as Division 1.

(ii) *Piping, valves, and fittings.* (*a*) Piping, valves, and fittings shall be in accordance with paragraph (c) of this section.

(*b*) Approved flexible connectors may be used where vibration exists or where frequent movement is necessary. Approved hose may be used at transfer stations.

(c) Piping containing flammable or combustible liquids shall be identified.

(iii) *Transfer.* (*a*) The transfer of large quantities of flammable or combustible liquids shall be through piping by means of pumps or water displacement. Except as required in process equipment, gravity flow shall not be used. The use of compressed air as a transferring medium is prohibited.

(*b*) Positive displacement pumps shall be provided with pressure relief discharging back to the tank or to pump suction.

(iv) *Equipment.* (*a*) Equipment shall be designed and arranged to prevent the unintentional escape of liquids and vapors and to minimize the quantity escaping in the event of accidental release.

(*b*) Where the vapor space of equipment is usually within the flammable range, the probability of explosion damage to the equipment can be limited by inerting, by providing an explosion suppression system, or by designing the equipment to contain the peak explosion pressure which may be modified by explosion relief. Where the special hazards of operation, sources of ignition, or exposures indicate a need, consideration shall be given to providing protection by one or more of the above means.

(5) *Tank vehicle and tank car loading and unloading.* Tank vehicle and tank car loading or unloading facilities shall be separated from aboveground tanks, warehouses, other plant buildings, or nearest line of adjoining property which may be built upon by a distance of 25 feet for Class I liquids and 15 feet for Class II and Class III liquids measured from the nearest position of any fill stem. Buildings for pumps or shelters for personnel may be a part of the facility. Operations of the facility shall comply with the appropriate portions of paragraph (f)(3) of this section.

(6) *Fire control*—(i) *Portable extinguishers.* Approved portable fire extinguishers of appropriate size, type, and number shall be provided.

(ii) *Other controls.* Where the special hazards of operation or exposure indicate a need, the following fire control provision shall be provided.

(*a*) A reliable water supply shall be available in pressure and quantity adequate to meet the probable fire demands.

(*b*) Hydrants shall be provided in accordance with accepted good practice.

(c) Hose connected to a source of water shall be installed so that all vessels, pumps, and other equipment containing flammable or combustible liquids can be reached with at least one hose stream. Nozzles that are capable of discharging a water spray shall be provided.

(*d*) Processing plants shall be protected by an approved automatic sprinkler system or equivalent extinguishing system. If special extinguishing systems including but not limited to those employing foam, carbon dioxide, or dry chemical are provided, approved equipment shall be used and installed in an approved manner.

(iii) *Alarm systems.* An approved means for prompt notification of fire to those within the plant and any public fire department available shall be provided. It may be advisable to connect the plant system with the public system where public fire alarm system is available.

(iv) *Maintenance.* All plant fire protection facilities shall be adequately maintained and periodically inspected and tested to make sure they are always in satisfactory operating condition and that they will serve their purpose in time of emergency.

(7) *Sources of ignition*—(i) *General.* (*a*) Precautions shall be taken to prevent the ignition of flammable vapors. Sources of ignition include but are not limited to open flames; lightning; smoking; cutting and welding; hot surfaces; frictional heat; static, electrical, and mechanical sparks; spontaneous ignition, including heat-producing chemical reactions; and radiant heat.

(*b*) Class I liquids shall not be dispensed into containers unless the nozzle and container are electrically interconnected. Where the metallic floorplate on which the container stands while filling is electrically connected to the fill stem or where the fill stem is bonded to the container during filling operations by means of a bond wire, the provisions of this section shall be deemed to have been complied with.

(ii) *Maintenance and repair.* (*a*) When necessary to do maintenance work in a flammable or combustible liquid processing area, the work shall be authorized by a responsible representative of the employer.

(*b*) Hot work, such as welding or cutting operations, use of spark-producing power tools, and chipping operations shall be permitted only under supervision of an individual in responsible charge who shall make an inspection of the area to be sure that it is safe for the work to be done and that safe procedures will be followed for the work specified.

(iii) *Electrical.* (*a*) All electrical wiring and equipment within storage or processing areas shall be installed in accordance with nationally recognized good practice.

(*b*) Locations where flammable vapor-air mixtures may exist under normal operations shall be classified Class I, Division 1 according to the requirements of Subpart S of this part. For those pieces of equipment installed in accordance with subparagraph (3)(iii)(*b*) of this paragraph, the Division 1 area shall extend 5 feet in all directions from all points of vapor liberation. All areas within pits shall be classified Division 1 if any part of the pit is within a Division 1 or 2 classified area, unless the pit is provided with mechanical ventilation.

(c) Locations where flammable vapor-air mixtures may exist under abnormal conditions and for a distance beyond Division 1 locations shall be classified Division 2 according to the requirements of Subpart S of this Part. These locations include an area within 20 feet horizontally, 3 feet vertically beyond a Division 1 area, and up to 3 feet above floor or grade level within 25 feet, if indoors, or 10 feet if outdoors, from any pump, bleeder, withdrawal fitting, meter, or similar device handling Class I liquids. Pits provided with adequate mechanical ventilation within a Division 1 or 2 area shall be classified Division 2. If Class II or Class III liquids only are handled, then ordinary electrical equipment is satisfactory though care shall be used in locating electrical apparatus to prevent hot metal from falling into open equipment.

(*d*) Where the provisions of (*a*), (*b*), and (*c*), of this subdivision (iii) require the installation of explosion-proof equipment, ordinary electrical equipment including switchgear may be used if installed in a room or enclosure which is maintained under positive pressure with respect to the hazardous area. Ventilation makeup air shall be uncontaminated by flammable vapors.

(8) *Housekeeping*—(i) *General.* Maintenance and operating practices shall be in accordance with established procedures which will tend to control leakage and prevent the accidental escape of flammable or combustible liquids. Spills shall be cleaned up promptly.

(ii) *Access.* Adequate aisles shall be maintained for unobstructed movement of personnel and so that fire protection equipment can be brought to bear on any part of the processing equipment.

(iii) *Waste and residues.* Combustible waste material and residues in a building or operating area shall be kept to a minimum, stored in closed metal waste cans, and disposed of daily.

(iv) *Clear zone.* Ground area around buildings and operating areas shall be kept free of tall grass, weeds, trash, or other combustible materials.

(i) *Refineries, chemical plants, and distilleries*—(1) *Storage tanks.* Flammable or combustile liquids shall be stored in tanks, in containers, or in portable tanks. Tanks shall be installed in accordance with paragraph (b) of this section. Tanks for the storage of flammable or combustile liquids in tank farms and in locations other than process areas shall be located in accordance with paragraph (b)(2) (i) and (ii) of this section.

(2) *Wharves.* Wharves handling flammable or combustible liquids shall be in accordance with paragraph (f)(4) of this section.

(3) *Fired and unfired pressure vessels*—(i) *Fired vessels.* Fired pressure vessels shall be constructed in accordance with the Code for Fired Pressure Vessels, Section I of the ASME Boiler and Pressure Vessel Code—1968.

(ii) Unfired vessels shall be constructed in accordance with the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessel Code—1968.

(4) *Location of process units.* Process units shall be located so that they are accessible from at least one side for the

purpose of fire control. Where topographical conditions are such that flammable or combustible liquids may flow from a processing area so as to constitute a fire hazard to property of others, provision shall be made to divert or impound the flow by curbs, drains, or other suitable means.

(5) *Fire control*—(i) *Portable equipment.* Portable fire extinguishment and control equipment shall be provided in such quantities and types as are needed for the special hazards of operation and storage.

(ii) *Water supply.* Water shall be available in volume and at adequate pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems as the need is indicated by the special hazards of operation and storage.

(iii) *Special equipment.* Special extinguishing equipment such as that utilizing foam, inert gas, or dry chemical shall be provided as the need is indicated by the special hazards of operation and storage.

(j) *Scope.* This section applies to the handling, storage, and use of flammable and combustible liquids with a flash point below 200° F. This section does not apply to:

(1) Bulk transportation of flammable and combustible liquids;

(2) Storage, handling, and use of fuel oil tanks and containers connected with oil burning equipment;

(3) Storage of flammable and combustible liquids on farms;

(4) Liquids without flashpoints that may be flammable under some conditions, such as certain halogenated hydrocarbons and mixtures containing halogenated hydrocarbons;

(5) Mists, sprays, or foams, except flammable aerosols covered in paragraph (d) of this section; or

(6) Installations made in accordance with requirements of the following standards:

(i) National Fire Protection Association Standard for Drycleaning Plants, NFPA No. 32–1970;

(ii) National Fire Protection Association Standard for the Manufacture of Organic Coatings, NFPA No. 35–1970;

(iii) National Fire Protection Association Standard for Solvent Extraction Plants, NFPA No. 36–1967; or

(iv) National Fire Protection Association Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, NFPA No. 37–1970.

§ 1910.107 Spray finishing using flammable and combustible materials.

(a) *Definitions applicable to this section*—(1) *Aerated solid powders.* Aerated powders shall mean any powdered material used as a coating material which shall be fluidized within a container by passing air uniformly from below. It is common practice to fluidize such materials to form a fluidized powder bed and then dip the part to be coated into the bed in a manner similar to that used in liquid dipping. Such beds are also used as sources for powder spray operations.

(2) *Spraying area.* Any area in which dangerous quantities of flammable vapors or mists, or combustible residues, dusts, or deposits are present due to the operation of spraying processes.

(3) *Spray booth.* A power-ventilated structure provided to enclose or accommodate a spraying operation to confine and limit the escape of spray, vapor, and residue, and to safely conduct or direct them to an exhaust system.

(4) *Waterwash spray booth.* A spray booth equipped with a water washing system designed to minimize dusts or residues entering exhaust ducts and to permit the recovery of overspray finishing material.

(5) *Dry spray booth.* A spray booth not equipped with a water washing system as described in subparagraph (3) of this paragraph. A dry spray booth may be equipped with (i) distribution or baffle plates to promote an even flow of air through the booth or cause the deposit of overspray before it enters the exhaust duct; or (ii) overspray dry filters to minimize dusts; or (iii) overspray dry filters to minimize dusts or residues entering exhaust ducts; or (iv) overspray dry filter rolls designed to minimize dusts or residues entering exhaust ducts; or (v) where dry powders are being sprayed, with powder collection systems so arranged in the exhaust to capture oversprayed material.

(6) *Fluidized bed.* A container holding powder coating material which is aerated from below so as to form an air-supported expanded cloud of such material through which the preheated object to be coated is immersed and transported.

(7) *Electrostatic fluidized bed.* A container holding powder coating material which is aerated from below so as to form an air-supported expanded cloud of such material which is electrically charged with a charge opposite to the charge of the object to be coated; such object is transported through the container immediately above the charged and aerated materials in order to be coated.

(8) *Approved.* Shall mean approved and listed by the following nationally recognized testing laboratories: Underwriters Laboratories, Inc.; Factory Mutual Engineering Corp.

(9) *Listed.* See "approved" in § 1910.107 (a)(8).

(b) *Spray booths*—(1) *Construction.* Spray booths shall be substantially constructed of steel not thinner than No. 18 U.S. gauge, securely and rigidly supported, or of concrete or masonry, except that aluminum or other substantial noncombustible material may be used for intermittent or low volume spraying. Spray booths shall be designed to sweep air currents toward the exhaust outlet.

(2) *Interiors.* The interior surfaces of spray booths shall be smooth and continuous without edges and otherwise designed to prevent pocketing of residues and facilitate cleaning and washing without injury.

(3) *Floors.* The floor surface of a spray booth and operator's working area, if combustible, shall be covered with noncombustible material of such character as to facilitate the safe cleaning and removal of residues.

(4) *Distribution or baffle plates.* Distribution or baffle plates, if installed to promote an even flow of air through the booth or cause the deposit of overspray before it enters the exhaust duct, shall be of noncombustible material and readily removable or accessible on both sides for cleaning. Such plates shall not be located in exhaust ducts.

(5) *Dry type overspray collectors — (exhaust air filters).* In conventional dry type spray booths, overspray dry filters or filter rolls, if installed, shall conform to the following:

(i) The spraying operations except electrostatic spraying operations shall be so designed, installed and maintained that the average air velocity over the open face of the booth (or booth cross section during spraying operations) shall be not less than 100 linear feet per minute. Electrostatic spraying operations may be conducted with an air velocity over the open face of the booth of not less than 60 linear feet per minute, or more, depending on the volume of the finishing material being applied and its flammability and explosion characteristics. Visible gauges or audible alarm or pressure activated devices shall be installed to indicate or insure that the required air velocity is maintained. Dry spray booths equipped with a filter roll which is automatically advanced when the air velocity is reduced to that specified in this subdivision should be arranged to cause shutdown of spraying operations if the filter roll fails to advance automatically. Maintenance procedures should be established to assure replacing filter pads before excessive restriction to airflow occurs. Filter pads should be inspected after each period of use and clogged filter pads discarded and replaced. Filter rolls shall be inspected to insure proper replacement of filter media.

(ii) All discarded filter pads and filter rolls shall be immediately removed to a safe, well-detached location or placed in a water-filled metal container and disposed of at the close of the day's operation unless maintained completely in water.

(iii) The location of filters in a spray booth shall be so as to not reduce the effective booth enclosure of the articles being sprayed.

(iv) Space within the spray booth on the downstream and upstream sides of filters shall be protected with approved automatic sprinklers.

(v) Filters or filter rolls shall not be used when applying a spray material know to be highly susceptible to spontaneous heating and ignition.

(vi) Clean filters or filter rolls shall be noncombustible or of a type having a combustibility not in excess of class 2 filters as listed by Underwriters' Labora-

tories, Inc. Filters and filter rolls shall not be alternately used for different types of coating materials, where the combination of materials may be conducive to spontaneous ignition. See also paragraph (g) (6) of this section.

(6) *Frontal area.* Each spray booth having a frontal area larger than 9 square feet shall have a metal deflector or curtain not less than 2½ inches deep installed at the upper outer edge of the booth over the opening.

(7) *Conveyors.* Where conveyors are arranged to carry work into or out of spray booths, the openings therefor shall be as small as practical.

(8) *Separation of operations.* Each spray booth shall be separated from other operations by not less than 3 feet, or by a greater distance, or by such partition or wall as to reduce the danger from juxtaposition of hazardous operations. See also paragraph (c) (1) of this section.

(9) *Cleaning.* Spray booths shall be so installed that all portions are readily accessible for cleaning. A clear space of not less than 3 feet on all sides shall be kept free from storage or combustible construction.

(10) *Illumination.* When spraying areas are illuminated through glass panels or other transparent materials, only fixed lighting units shall be used as a source of illumination. Panels shall effectively isolate the spraying area from the area in which the lighting unit is located, and shall be of a noncombustible material of such a nature or so protected that breakage will be unlikely. Panels shall be so arranged that normal accumulations of residue on the exposed surface of the panel will not be raised to a dangerous temperature by radiation or conduction from the source of illumination.

(c) *Electrical and other sources of ignition*—(1) *Conformance.* All electrical equipment, open flames and other sources of ignition shall conform to the requirements of this paragraph, except as follows:

(i) Electrostatic apparatus shall conform to the requirements of paragraphs (h) and (i) of this section;

(ii) Drying, curing, and fusion apparatus shall conform to the requirements of paragraph (j) of this section;

(iii) Automobile undercoating spray operations in garages shall conform to the requirements of paragraph (k) of this section.

(iv) Powder coating equipment shall conform to the requirements of paragraph (1) of this section.

(2) *Minimum separation.* There shall be no open flame or spark producing equipment in any spraying area nor within 20 feet thereof, unless separated by a partition.

(3) *Hot surfaces.* Space-heating appliances, steampipes, or hot surfaces shall not be located in a spraying area where deposits of combustible residues may readily accumulate.

(4) *Wiring conformance.* Electrical wiring and equipment shall conform to the provisions of this paragraph and shall otherwise be in accordance with subpart S of this part.

(5) *Combustible residues, areas.* Unless specifically approved for locations containing both deposits of readily ignitable residue and explosive vapors, there shall be no electrical equipment in any spraying area, whereon deposits of combustible residues may readily accumulate, except wiring in rigid conduit or in boxes or fittings containing no taps, splices, or terminal connections.

(6) *Wiring type approved.* Electrical wiring and equipment not subject to deposits of combustible residues but located in a spraying area as herein defined shall be of explosion-proof type approved for Class I, Group B locations and shall otherwise conform to the provisions of subpart S of this part, for Class I, Division 1, Hazardous Locations. Electrical wiring, motors, and other equipment outside of but within twenty (20) feet of any spraying area, and not separated therefrom by partitions, shall not produce sparks under normal operating conditions and shall otherwise conform to the provisions of subpart S of this part for Class I, Division 2 Hazardous Locations.

(7) *Lamps.* Electric lamps outside of, but within twenty (20) feet of any spraying area, and not separated therefrom by a partition, shall be totally enclosed to prevent the falling of hot particles and shall be protected from mechanical injury by suitable guards or by location.

(8) *Portable lamps.* Portable electric lamps shall not be used in any spraying area during spraying operations. Portable electric lamps, if used during cleaning or repairing operations, shall be of the type approved for hazardous Class I locations.

(9) *Grounding.* (i) All metal parts of spray booths, exhaust ducts, and piping systems conveying flammable or combustible liquids or aerated solids shall be properly electrically grounded in an effective and permanent manner.

(ii) "Airless" high-fluid pressure spray guns and any conductive object being sprayed should be properly electrically grounded.

(d) *Ventilation*—(1) *Conformance.* Ventilating and exhaust systems shall be in accordance with the Standard for Blower and Exhaust Systems for Vapor Removal, NFPA No. 91–1961, where applicable and shall also conform to the provisions of this section.

(2) *General.* All spraying areas shall be provided with mechanical ventilation adequate to remove flammable vapors, mists, or powders to a safe location and to confine and control combustible residues so that life or property is not endangered. Mechanical ventilation shall be kept in operation at all times while spraying operations are being conducted and for a sufficient time thereafter to allow vapors from drying coated articles and drying finishing material residue to be exhausted.

(3) *Independent exhaust.* Each spray booth shall have an independent exhaust duct system discharging to the exterior of the building, except that multiple cabinet spray booths in which identical spray finishing material is used with a combined frontal area of not more than 18 square feet may have a common exhaust. If more than one fan serves one booth, all fans shall be so interconnected that one fan cannot operate without all fans being operated.

(4) *Fan-rotating element.* The fan-rotating element shall be nonferrous or nonsparking or the casing shall consist of or be lined with such material. There shall be ample clearance between the fan-rotating element and the fan casing to avoid a fire by friction, necessary allowance being made for ordinary expansion and loading to prevent contact between moving parts and the duct or fan housing. Fan blades shall be mounted on a shaft sufficiently heavy to maintain perfect alignment even when the blades of the fan are heavily loaded, the shaft preferably to have bearings outside the duct and booth. All bearings shall be of the self-lubricating type, or lubricated from the outside duct.

(5) *Electric motors.* Electric motors driving exhaust fans shall not be placed inside booths or ducts. See also paragraph (c) of this section.

(6) *Belts.* Belts shall not enter the duct or booth unless the belt and pulley within the duct or booth are thoroughly enclosed.

(7) *Exhaust ducts.* Exhaust ducts shall be constructed of steel and shall be substantially supported. Exhaust ducts without dampers are preferred; however, if dampers are installed, they shall be maintained so that they will be in a full open position at all times the ventilating system is in operation.

(i) Exhaust ducts shall be protected against mechanical damage and have a clearance from unprotected combustible construction or other combustible material of not less than 18 inches.

(ii) If combustible construction is provided with the following protection applied to all surfaces within 18 inches, clearances may be reduced to the distances indicated:

(a) 28-gage sheet metal on ¼-inch asbestos mill board.	12 inches.
(b) 28-gage sheet metal on ¼-inch asbestos mill board spaced out 1 inch on noncombustible spacers.	9 inches.
(c) 22-gage sheet metal on 1-inch rockwool batts reinforced with wire mesh or the equivalent.	3 inches.
(d) Where ducts are protected with an approved automatic sprinkler system, properly maintained, the clearance required in subdivision (i) of this subparagraph may be reduced to 6 inches.	

(8) *Discharge clearance.* Unless the spray booth exhaust duct terminal is from a water-wash spray booth, the terminal discharge point shall be not less than 6 feet from any combustible exterior wall or roof nor discharge in the direction of any combustible construction or unprotected opening in any noncombustible exterior wall within 25 feet.

(9) *Air exhaust.* Air exhaust from spray operations shall not be directed so that it will contaminate makeup air being introduced into the spraying area or other ventilating intakes, nor directed so as to create a nuisance. Air exhausted from spray operations shall not be recirculated.

(10) *Access doors.* When necessary to facilitate cleaning, exhaust ducts shall be provided with an ample number of access doors.

(11) *Room intakes.* Air intake openings to rooms containing spray finishing operations shall be adequate for the efficient operation of exhaust fans and shall be so located as to minimize the creation of dead air pockets.

(12) *Drying spaces.* Freshly sprayed articles shall be dried only in spaces provided with adequate ventilation to prevent the formation of explosive vapors. In the event adequate and reliable ventilation is not provided such drying spaces shall be considered a spraying area. See also paragraph (j) of this section.

(e) *Flammable and combustible liquids—storage and handling*—(1) *Conformance.* The storage of flammable or combustible liquids in connection with spraying operations shall conform to the requirements of § 1910.106, where applicable.

(2) *Quantity.* The quantity of flammable or combustible liquids kept in the vicinity of spraying operations shall be the minimum required for operations and should ordinarily not exceed a supply for 1 day or one shift. Bulk storage of portable containers of flammable or combustible liquids shall be in a separate, constructed building detached from other important buildings or cut off in a standard manner.

(3) *Containers.* Original closed containers, approved portable tanks, approved safety cans or a properly arranged system of piping shall be used for bringing flammable or combustible liquids into spray finishing room. Open or glass containers shall not be used.

(4) *Transferring liquids.* Except as provided in subparagraph (5) of this paragraph the withdrawal of flammable and combustible liquids from containers having a capacity of greater than 60 gallons shall be by approved pumps. The withdrawal of flammable or combustible liquids from containers and the filling of containers, including portable mixing tanks, shall be done only in a suitable mixing room or in a spraying area when the ventilating system is in operation. Adequate precautions shall be taken to protect against liquid spillage and sources of ignition.

(5) *Spraying containers.* Containers supplying spray nozzles shall be of closed type or provided with metal covers kept closed. Containers not resting on floors shall be on metal supports or suspended by wire cables. Containers supplying spray nozzles by gravity flow shall not exceed 10 gallons capacity. Original shipping containers shall not be subject to air pressure for supplying spray nozzles. Containers under air pressure supplying spray nozzles shall be of limited capacity, not exceeding that necessary for 1 day's operation; shall be designed and approved for such use; shall be provided with a visible pressure gage; and shall be provided with a relief valve set to operate in conformance with the requirements of the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessel Code—1968. Containers under air pressure supplying spray nozzles, air-storage tanks and coolers shall conform to the standards of the Code for Unfired Pressure Vessels, Section VIII of the ASME Boiler and Pressure Vessel Code—1968 for construction, tests, and maintenance.

(6) *Pipes and hoses.* (i) All containers or piping to which is attached a hose or flexible connection shall be provided with a shutoff valve at the connection. Such valves shall be kept shut when spraying operations are not being conducted.

(ii) When a pump is used to deliver products, automatic means shall be provided to prevent pressure in excess of the design working pressure of accessories, piping, and hose.

(iii) All pressure hose and couplings shall be inspected at regular intervals appropriate to this service. The hose and couplings shall be tested with the hose extended, and using the "inservice maximum operating pressures." Any hose showing material deteriorations, signs of leakage, or weakness in its carcass or at the couplings, shall be withdrawn from service and repaired or discarded.

(iv) Piping systems conveying flammable or combustible liquids shall be of steel or other material having comparable properties of resistance to heat and physical damage. Piping systems shall be properly bonded and grounded.

(7) *Spray liquid heaters.* Electrically powered spray liquid heaters shall be approved and listed for the specific location in which used (see paragraph (c) of this section). Heaters shall not be located in spray booths nor other locations subject to the accumulation of deposits or combustible residue. Agitators, if used, should preferably be driven by compressed air, water, or low-pressure steam. If an electric motor is used, see paragraph (c) of this section.

(8) *Pump relief.* If flammable or combustible liquids are supplied to spray nozzles by positive displacement pumps, the pump discharge line shall be provided with an approved relief valve discharging to a pump suction or a safe detached location, or a device provided to stop the prime mover if the discharge pressure exceeds the safe operating pressure of the system.

(9) *Grounding.* Whenever flammable or combustible liquids are transferred from one container to another, both containers shall be effectively bonded and grounded to prevent discharge sparks of static electricity.

(f) *Protection*—(1) *Conformance.* In sprinklered buildings, the automatic sprinkler system in rooms containing spray finishing operations shall conform to the Standard for the Installation of Sprinkler Systems. NFPA 13–1969, provisions for Extra Hazard Occupancy, and in unsprinklered buildings where sprinklers are installed only to protect spraying areas, the installation shall conform to such standards insofar as they may be applicable. Sprinkler installations shall also conform to the provisions of this paragraph. Sprinkler heads shall be located to effect water distribution throughout the entire booth.

(2) *Valve access.* Automatic sprinklers protecting each spray booth (together with its connecting exhaust) shall be under an accessibly located separate outside stem and yoke (OS&Y) subcontrol valve.

(3) *Cleaning of heads.* Sprinklers protecting spraying areas shall be kept as free from deposits as practical by cleaning daily if necessary. (See also paragraph (g) of this section.)

(4) *Portable extinguishers.* An adequate supply of suitable portable fire extinguishers shall be installed near all spraying areas.

(g) *Operations and maintenance.*—(1) *Spraying.* Spraying shall not be conducted outside of predetermined spraying areas.

(2) *Cleaning.* All spraying areas shall be kept as free from the accumulation of deposits of combustible residues as practical, with cleaning conducted daily if necessary. Scrapers, spuds, or other such tools used for cleaning purposes shall be of nonsparking material.

(3) *Residue disposal.* Residue scrapings and debris contaminated with residue shall be immediately removed from the premises and properly disposed of. Approved metal waste cans shall be provided wherever rags or waste are impregnated with finishing material and all such rags or waste deposited therein immediately after use. The contents of waste cans shall be properly disposed of at least once daily or at the end of each shift.

(4) *Clothing storage.* Spray finishing employees' clothing shall not be left on the premises overnight unless kept in metal lockers.

(5) *Cleaning solvents.* The use of solvents for cleaning operations shall be restricted to those having flashpoints not less than 100° F.; however, for cleaning spray nozzles and auxiliary equipment, solvents having flashpoints not less than those normally used in spray operations may be used. Such cleaning shall be conducted inside spray booths and ventilating equipment operated during cleaning.

(6) *Hazardous materials combinations.* Spray booths shall not be alternately used for different types of coating materials, where the combination of the materials may be conducive to spontaneous ignition, unless all deposits of the first used material are removed from the booth and exhaust ducts prior to spraying with the second used material.

(7) *"No Smoking" signs.* "No smoking" signs in large letters on contrasting color background shall be conspicuously posted at all spraying areas and paint storage rooms.

(h) *Fixed electrostatic apparatus*—(1) *Conformance.* Where installation and use of electrostatic spraying equipment is

used, such installation and use shall conform to all other paragraphs of this section, and shall also conform to the requirements of this paragraph.

(2) *Type approval.* Electrostatic apparatus and devices used in connection with coating operations shall be of approved types.

(3) *Location.* Transformers, power packs, control apparatus, and all other electrical portions of the equipment, with the exception of high-voltage grids, electrodes, and electrostatic atomizing heads and their connections, shall be located outside of the spraying area, or shall otherwise conform to the requirements of paragraph (c) of this section.

(4) *Support.* Electrodes and electrostatic atomizing heads shall be adequately supported in permanent locations and shall be effectively insulated from the ground. Electrodes and electrostatic atomizing heads which are permanently attached to their bases, supports, or reciprocators, shall be deemed to comply with this section. Insulators shall be nonporous and noncombustible.

(5) *Insulators, grounding.* High-voltage leads to electrodes shall be properly insulated and protected from mechanical injury or exposure to destructive chemicals. Electrostatic atomizing heads shall be effectively and permanently supported on suitable insulators and shall be effectively guarded against accidental contact or grounding. An automatic means shall be provided for grounding the electrode system when it is electrically deenergized for any reason. All insulators shall be kept clean and dry.

(6) *Safe distance.* A safe distance shall be maintained between goods being painted and electrodes or electrostatic atomizing heads or conductors of at least twice the sparking distance. A suitable sign indicating this safe distance shall be conspicuously posted near the assembly.

(7) *Conveyors required.* Goods being painted using this process are to be supported on conveyors. The conveyors shall be so arranged as to maintain safe distances between the goods and the electrodes or electrostatic atomizing heads at all times. Any irregularly shaped or other goods subject to possible swinging or movement shall be rigidly supported to prevent such swinging or movement which would reduce the clearance to less than that specified in subparagraph (6) of this paragraph.

(8) *Prohibition.* This process is not acceptable where goods being coated are manipulated by hand. When finishing materials are applied by electrostatic equipment which is manipulated by hand, see paragraph (i) of this section for applicable requirements.

(9) *Fail-safe controls.* Electrostatic apparatus shall be equipped with automatic controls which will operate without time delay to disconnect the power supply to the high voltage transformer and to signal the operator under any of the following conditions:

(i) Stoppage of ventilating fans or failure of ventilating equipment from any cause.

(ii) Stoppage of the conveyor carrying goods through the high voltage field.

(iii) Occurrence of a ground or of an imminent ground at any point on the high voltage system.

(iv) Reduction of clearance below that specified in subparagraph (6) of this paragraph.

(10) *Guarding.* Adequate booths, fencing, railings, or guards shall be so placed about the equipment that they, either by their location or character or both, assure that a safe isolation of the process is maintained from plant storage or personnel. Such railings, fencing, and guards shall be of conducting material, adequately grounded.

(11) *Ventilation.* Where electrostatic atomization is used the spraying area shall be so ventilated as to insure safe conditions from a fire and health standpoint.

(12) *Fire protection.* All areas used for spraying, including the interior of the booth, shall be protected by automatic sprinklers where this protection is available. Where this protection is not available, other approved automatic extinguishing equipment shall be provided.

(i) *Electrostatic hand spraying equipment*—(1) *Application.* This paragraph shall apply to any equipment using electrostatically charged elements for the atomization and/or, precipitation of materials for coatings on articles, or for other similar purposes in which the atomizing device is hand held and manipulated during the spraying operation.

(2) *Conformance.* Electrostatic hand spraying equipment shall conform with the other provisions of this section.

(3) *Equipment approval and specifications.* Electrostatic hand spray apparatus and devices used in connection with coating operations shall be of approved types. The equipment should be so designed that the maximum surface temperature of the equipment in the spraying area shall not exceed 150° F. under any condition. The high voltage circuits shall be designed so as to not produce a spark of sufficient intensity to ignite any vapor-air mixtures nor result in appreciable shock hazard upon coming in contact with a grounded object under all normal operating conditions. The electrostatically charged exposed elements of the handgun shall be capable of being energized only by a switch which also controls the coating material supply.

(4) *Electrical support equipment.* Transformers, powerpacks, control apparatus, and all other electrical portions of the equipment, with the exception of the handgun itself and its connections to the power supply shall be located outside of the spraying area or shall otherwise conform to the requirements of paragraph (c) of this section.

(5) *Spray gun ground.* The handle of the spraying gun shall be electrically connected to ground by a metallic connection and to be so constructed that the operator in normal operating position is in intimate electrical contact with the grounded handle.

(6) *Grounding—general.* All electrically conductive objects in the spraying area shall be adequately grounded. This requirement shall apply to paint containers, wash cans, and any other objects or devices in the area. The equipment shall carry a prominent permanently installed warning regarding the necessity for this grounding feature.

(7) *Maintenance of grounds.* Objects being painted or coated shall be maintained in metallic contact with the conveyor or other grounded support. Hooks shall be regularly cleaned to insure this contact and areas of contact shall be sharp points or knife edges where possible. Points of support of the object shall be concealed from random spray where feasible and where the objects being sprayed are supported from a conveyor, the point of attachment to the conveyor shall be so located as to not collect spray material during normal operation.

(8) *Interlocks.* The electrical equipment shall be so interlocked with the ventilation of the spraying area that the equipment cannot be operated unless the ventilation fans are in operation.

(9) *Ventilation.* The spraying operation shall take place within a spray area which is adequately ventilated to remove solvent vapors released from the operation.

(j) *Drying, curing, or fusion apparatus*—(1) *Conformance.* Drying, curing, or fusion apparatus in connection with spray application of flammable and combustible finishes shall conform to the Standard for Ovens and Furnaces, NFPA 86A-1969, where applicable and shall also conform with the following requirements of this subparagraph.

(2) *Alternate use prohibited.* Spray booths, rooms, or other enclosures used for spraying operations shall not alternately be used for the purpose of drying by any arrangement which will cause a material increase in the surface temperature of the spray booth, room, or enclosure.

(3) *Adjacent system interlocked.* Except as specifically provided in subparagraph (4) of this paragraph, drying, curing, or fusion units utilizing a heating system having open flames or which may produce sparks shall not be installed in a spraying area, but may be installed adjacent thereto when equipped with an interlocked ventilating system arranged to:

(i) Thoroughly ventilate the drying space before the heating system can be started;

(ii) Maintain a safe atmosphere at any source of ignition;

(iii) Automatically shut down the heating system in the event of failure of the ventilating system.

(4) *Alternate use permitted.* Automobile refinishing spray booths or enclosures, otherwise installed and maintained in full conformity with this section, may alternately be used for drying with portable electrical infrared drying apparatus when conforming with the following:

(i) Interior (especially floors) of spray enclosures shall be kept free of overspray deposits.

(ii) During spray operations, the drying apparatus and electrical connections and wiring thereto shall not be located within spray enclosure nor in any other location where spray residues may be deposited thereon.

(iii) The spraying apparatus, the drying apparatus, and the ventilating system of the spray enclosure shall be equipped with suitable interlocks so arranged that:

(*a*) The spraying apparatus cannot be operated while the drying apparatus is inside the spray enclosure.

(*b*) The spray enclosure will be purged of spray vapors for a period of not less than 3 minutes before the drying apparatus can be energized.

(*c*) The ventilating system will maintain a safe atmosphere within the enclosure during the drying process and the drying apparatus will automatically shut off in the event of failure of the ventilating system.

(iv) All electrical wiring and equipment of the drying apparatus shall conform with the applicable sections of Subpart S of this Part. Only equipment of a type approved for Class I, Division 2 hazardous locations shall be located within 18 inches of floor level. All metallic parts of the drying apparatus shall be properly electrically bonded and grounded.

(v) The drying apparatus shall contain a prominently located, permanently attached warning sign indicating that ventilation should be maintained during the drying period and that spraying should not be conducted in the vicinity that spray will deposit on apparatus.

(k) *Automobile undercoating in garages.* Automobile undercoating spray operations in garages, conducted in areas having adequate natural or mechanical ventilation, are exempt from the requirements pertaining to spray finishing operations, when using undercoating materials not more hazardous than kerosene (as listed by Underwriters' Laboratories in respect to fire hazard rating 30–40) or undercoating materials using only solvents listed as having a flash point in excess of 100° F. Undercoating spray operations not conforming to these provisions are subject to all requirements of this section pertaining to spray finishing operations.

(l) *Powder coating*—(1) *Electrical and other sources of ignition.* Electrical equipment and other sources of ignition shall conform to the requirements of paragraph (c) (1) (i)–(iv), (8) and (9) (i) of this section and Subpart S of this Part.

(2) *Ventilation.* (i) In addition to the provisions of paragraph (d) of this section, where applicable, exhaust ventilation shall be sufficient to maintain the atmosphere below the lowest explosive limits for the materials being applied. All nondeposited air-suspended powders shall be safely removed via exhaust ducts to the powder recovery cyclone or receptacle. Each installation shall be designed and operated to meet the foregoing performance specification.

(ii) Powders shall not be released to the outside atmosphere.

(3) *Drying, curing, or fusion equipment.* The provisions of the Standard for ovens and furnaces, NFPA No. 86A–1969 shall apply where applicable.

(4) *Operation and maintenance.* (i) All areas shall be kept free of the accumulation of powder coating dusts, particularly such horizontal surfaces as ledges, beams, pipes, hoods, booths, and floors.

(ii) Surfaces shall be cleaned in such manner as to avoid scattering dust to other places or creating dust clouds.

(iii) "No Smoking" signs in large letters on contrasting color background shall be conspicuously posted at all powder coating areas and powder storage rooms.

(5) *Fixed electrostatic spraying equipment.* The provisions of paragraph (h) of this section and other subparagraphs of this paragraph shall apply to fixed electrostatic equipment, except that electrical equipment not covered therein shall conform to subparagraph (1) of this paragraph.

(6) *Electrostatic hand spraying equipment.* The provisions of paragraph (i) of this section and other subparagraphs of this paragraph, shall apply to electrostatic handguns when used in powder coating, except that electrical equipment not covered therein shall conform to subparagraph (1) of this paragraph.

(7) *Electrostatic fluidized beds.* (i) Electrostatic fluidized beds and associated equipment shall be of approved types. The maximum surface temperature of this equipment in the coating area shall not exceed 150° F. The high voltage circuits shall be so designed as to not produce a spark of sufficient intensity to ignite any powder-air mixtures nor result in appreciable shock hazard upon coming in contact with a grounded object under normal operating conditions.

(ii) Transformers, powerpacks, control apparatus, and all other electrical portions of the equipment, with the exception of the charging electrodes and their connections to the power supply shall be located outside of the powder coating area or shall otherwise conform to the requirements of subparagraph (1) of this paragraph.

(iii) All electrically conductive objects within the charging influence of the electrodes shall be adequately grounded. The powder coating equipment shall carry a prominent, permanently installed warning regarding the necessity for grounding these objects.

(iv) Objects being coated shall be maintained in contact with the conveyor or other support in order to insure proper grounding. Hangers shall be regularly cleaned to insure effective contact and areas of contact shall be sharp points or knife edges where possible.

(v) The electrical equipment shall be so interlocked with the ventilation system that the equipment cannot be operated unless the ventilation fans are in operation.

(m) *Organic peroxides and dual component coatings*—(1) *Conformance.* All spraying operations involving the use of organic peroxides and other dual component coatings shall be conducted in approved sprinklered spray booths meeting the requirements of this section.

(2) *Smoking.* Smoking shall be prohibited and "No Smoking" signs shall be prominently displayed and only nonsparking tools shall be used in any area where organic peroxides are stored-mixed or applied.

(n) *Scope.* This section applies to flammable and combustible finishing materials when applied as a spray by compressed air, "airless" or "hydraulic atomization," steam, electrostatic methods, or by any other means in continuous or intermittent processes. The section also covers the application of combustible powders by powder spray guns, electrostatic powder spray guns, fluidized beds, or electrostatic fluidized beds. The section does not apply to outdoor spray application of buildings, tanks, or other similar structures, nor to small portable spraying apparatus not used repeatedly in the same location.

§ 1910.108 Dip tanks containing flammable or combustible liquids.

(a) *Definitions applicable to this section*—(1) *Dip tank.* Shall mean a tank, vat, or container of flammable or combustible liquid in which articles or materials are immersed for the purpose of coating, finishing, treating, or similar processes.

(2) *Vapor area.* Shall mean any area containing dangerous quantities of flammable vapors in the vicinity of dip tanks, their drainboards or associated drying, conveying, or other equipment, during operation or shutdown periods.

(3) *Approved.* Unless otherwise indicated, approval or listing by at least one of the following nationally recognized testing laboratories: Underwriters Laboratories, Inc.; Factory Mutual Engineering Corp.

(4) *Listed.* See "approved" in paragraph (a) (3) of this section.

(b) *Ventilation*—(1) *Vapor area ventilation.* Vapor areas as defined in paragraph (a) (2) of this section shall be limited to the smallest practical space by maintaining a properly designed system of mechanical ventilation arranged to move air from all directions towards the vapor area origin and thence to a safe outside location. Ventilating systems shall conform to the Standards for Blower and Exhaust Systems (NFPA Pamphlet No. 91–1969). Required ventilating systems shall be so arranged that the failure of any ventilating fan shall automatically stop any dipping conveyor system. See also paragraph (c) (6) of this section.

(2) *Ventilation combined with drying.* When a required ventilating system serves associated drying operations utilizing a heating system which may be a source of ignition, means shall be provided for preventilation before the heating system can be started; the failure of

any ventilating fan shall automatically shut down the heating system; and the installation shall otherwise conform to the Standard for Ovens and Furnaces (NFPA No. 86A–1969).

(c) *Construction of dip tanks*—(1) *General.* Dip tanks, including drainboards if provided, shall be constructed of substantial noncombustible material, and their supports shall be of heavy metal, reinforced concrete, or masonry. Where dip tanks extend through a floor to the story below or where the weakening of the tank supports by fire may result in the tank collapse, supports should be of material having not less than 1-hour fire resistance.

(2) *Overflow pipes.* (i) Dip tanks of over 150 gallons in capacity or 10 square feet in liquid surface area shall be equipped with a properly trapped overflow pipe leading to a safe location outside buildings. Smaller dip tanks should also be so equipped, where practical. The discharge of the overflow pipe should be so located and arranged that if the entire combustible contents of the dip tank is overflowed through overflow pipe by the application of water during fire fighting, property will not be endangered. The size of the overflow pipe should be sufficient to conduct the maximum rate of flow of water expected to be applied to the liquid surface of the dip tank from automatic sprinklers or from other sources in the event of fire.

(ii) Overflow pipes shall be of sufficient capacity to overflow the maximum delivery of dip tank liquid fill pipes but shall not be less than 3 inches in diameter and shall be increased in size depending upon the area of the liquid surface and the length and pitch of pipe.

(iii) Piping connections on drains and overflow lines shall be designed so as to permit ready access for inspection and cleaning of the interior.

(iv) The bottom of the overflow connection shall be not less than 6 inches below the top of the tank. See also subparagraph (6) of this paragraph and paragraph (g)(3)(ii) of this section.

(3) *Bottom drains.* (i) Dip tanks over 500 gallons in liquid capacity shall be equipped with bottom drains automatically and manually arranged to quickly drain the tank in the event of fire, unless the viscosity of the liquid at normal atmospheric temperature makes this impractical. Manual operation shall be from a safely accessible location. Where gravity flow is not practicable, automatic pumps shall be required.

(ii) Such drain shall be trapped and discharge to a closed properly vented salvage tank or to a safe location outside which will not endanger property.

(iii) According to tank capacity the diameter of bottom drainpipe shall be not less than the following:

Gallons:	*Inches*
500 to 750	3
750 to 1,000	4
1,000 to 2,500	5
2,500 to 4,000	6
Over 4,000	8

(4) *Salvage tanks.* The capacity of the salvage tank shall be greater than the capacity of the dip tank or tanks to which they are connected.

(5) *Automatic extinguishing facilities.* Except as noted in paragraph (h)(1)(v) of this section (applying to hardening and tempering tanks), all dip tanks exceeding 150 gallons liquid capacity or having a liquid surface area exceeding 4 square feet shall be protected with at least one of the automatic extinguishing facilities conforming to paragraph (g)(2), (3), (4), (5), or (6) of this section.

(6) *Conveyor systems.* Dip tanks utilizing a conveyor system shall be so arranged that in the event of fire, the conveyor system shall automatically cease motion and required bottom drains shall open. Conveyor systems shall automatically cease motion unless required ventilation is in full operation. See also paragraph (b)(1) of this section.

(7) *Heating dip tank liquids.* When dip tank liquids are artificially heated, either by the dipping of heated articles, or by other application of heat to the liquid, provision shall be made to prevent a temperature rise greater than 50° F. below the flashpoint of the liquid. See also paragraph (h)(1) of this section.

(d) *Liquids used in dip tanks, storage and handling.* The storage of flammable and combustible liquids in connection with dipping operation shall conform to the requirements of section 1910.106, where applicable. Where portable containers are used for the replenishment of flammable and combustible liquids, provision shall be made so that both the container and tank shall be positively grounded and electrically bonded to prevent static electric sparks.

(e) *Electrical and other sources of ignition*—(1) *Vapor areas.* (i) There shall be no open flames, spark producing devices, or heated surfaces having a temperature sufficient to ignite vapors in any vapor area. Except as specifically permitted in paragraph (h)(3) of this section, relating to electrostatic apparatus, electrical wiring and equipment in any vapor area (as defined in paragraph (a)(2) of this section) shall be explosion proof type according to the requirements of Subpart S of this part for Class I, Group D locations and shall otherwise conform to Subpart S of this part.

(ii) Unless specifically approved for locations containing both deposits of readily ignitable residues and explosive vapors, there shall be no electrical equipment in the vicinity of dip tanks or associated drainboards or drying operations which are subject to splashing or dripping of dip tank liquids, except wiring in rigid conduit or in threaded boxes or fittings containing no taps, splices, or terminal connections, and except as specifically permitted in paragraph (h)(3) of this section.

(2) *Adjacent areas.* In any floorspace outside a vapor area but within 20 feet therefrom, and not separated by tight partitions, there shall be no open flames or spark producing devices except as specifically permitted in NFPA Standard No. 86A–1969, Ovens and Furnaces, paragraph 200–7, and electrical wiring and equipment shall conform to the provisions of Subpart S of this part.

(f) *Operations and maintenance*—(1) *General.* Areas in the vicinity of dip tanks shall be kept as clear of combustible stock as practical and shall be kept entirely free of combustible debris.

(2) *Waste cans.* When waste or rags are used in connection with dipping operations, approved metal waste cans shall be provided and all impregnated rags or waste deposited therein immediately after use. The contents of waste cans shall be properly disposed of at least once daily at the end of each shift.

(3) *Inspection.* Periodic inspection or tests of all dip tank facilities shall be made, including covers, overflow pipe inlets and discharge, bottom drains and valves, electrical wiring and equipment and grounding connections, ventilating facilities, and all extinguishing equipment. Any defects found shall be promptly corrected.

(4) *Warning signs.* "No Smoking" signs in large letters on contrasting color background shall be conspicuously posted in the vicinity of dip tanks.

(g) *Extinguishment*—(1) *Extinguishers.* Areas in the vicinity of dip tanks shall be provided with manual fire extinguishers suitable for flammable and combustible liquid fires, conforming to Standard for Portable Fire Extinguishers NFPA No. 10–1970.

(2) *Automatic water spray extinguishing systems.* Such systems shall conform to NFPA Standard for Water Spray Systems for Fire Protection NFPA No. 15–1969 and shall be arranged to protect tanks, drainboards, and stock over drainboards.

(3) *Automatic foam extinguishing systems.* Automatic foam extinguishing systems shall conform to NFPA Standard for Foam Extinguishing Systems, NFPA No. 11–1970 and;

(i) Foam producing material selected shall be suitable for intended use, taking into account characteristics of the dip tank liquid;

(ii) Overflow pipe shall be arranged to prevent the floating away of foam and clogging overflow pipe. This may be accomplished by either of the following:

(*a*) Overflow pipe may be extended through tank wall and terminated in an ell pointing downward. The bottom of the overflow pipe at the point it pierces tank wall should not be over 2 inches above the opening or face of the ell.

(*b*) Overflow pipe inlet may be provided with a removable screen of ¼-inch mesh having an area at least twice the cross-sectional area of overflow pipe. Screens which may be clogged by dip tank ingredients shall be inspected and cleaned periodically.

(4) *Automatic carbon dioxide systems.* Automatic carbon dioxide systems shall conform to NFPA Standard for Carbon Dioxide Extinguishing Systems, NFPA No. 12–1968, and shall be arranged to protect both dip tanks and drainboards and unless stock over drainboards is otherwise protected with automatic extinguishing facilities, shall also be arranged to protect such stock.

(5) *Dry chemical extinguishing systems.* Dry chemical extinguishing systems shall conform to NFPA Standard for Dry Chemical Extinguishing Systems NFPA No. 17–1969 and shall be arranged to protect both dip tanks and drainboards, and unless stock over drainboards is otherwise protected with automatic extinguishing facilities, shall also be arranged to protect such stock.

(6) *Dip tank covers.* (i) Covers arranged to close automatically in the event of fire shall be actuated by approved automatic devices and shall also be arranged for manual operation.

(ii) Covers shall be of substantial noncombustible material or of tin-clad type with enclosing metal applied with locked joints.

(iii) Chains or wire rope shall be used for cover support or operating mechanism where the burning of a cord would interfere with the action of a device.

(iv) Covers shall be kept closed when tanks are not in use.

(h) *Special dip tank applications*—(1) *Hardening and tempering tanks.* (i) Tanks shall be located as far as practicable from furnaces and shall not be located on or near combustible floors.

(ii) Tanks shall be provided with a noncombustible hood and vent or other equally effective means of venting to the outside of the building to serve as a vent in case of fire. All such vent ducts shall be treated as flues and be kept well away from combustible roofs or materials.

(iii) Tanks shall be so designed that the maximum workload is incapable of raising the temperature of the cooling medium to within 50° below its flashpoint, or such tanks shall be equipped with circulating cooling systems which will accomplish the same result.

(iv) Tanks shall be equipped with a high temperature limit switch arranged to sound an alarm when the temperature of the quenching medium reaches within 50° F. below the flashpoint. If practical from an operating standpoint, such limit switches shall also shut down conveying equipment supplying work to the tank.

(v) The provisions of paragraph (c)(5) of this section shall apply to tanks having a liquid surface area of 25 square feet or more or a capacity of 500 gallons or more.

(vi) Air under pressure shall not be used to fill or to agitate oil tanks.

(vii) Drain facilities from the bottom of the tank may be combined with the oil circulating system or arranged independently to drain the oil to a safe location. The drain valve shall be operated automatically with approved heat actuated devices or manually, and if the latter, the valve shall be operated from a safe distance.

(2) *Flow coat; general.* (i) Except as modified in this paragraph, all of the preceding standards for dip tanks apply.

(ii) All piping shall be strongly erected and rigidly supported.

(iii) Paint shall be supplied by direct low-pressure pumping arranged to automatically shut down by means of approved heat actuated devices, in the case of fire, or paint may be supplied by a gravity tank not exceeding 10 gallons in capacity.

(iv) The area of the sump and any areas on which paint flows should be considered the area of dip tank.

(3) *Electrostatic apparatus; general.* (i) Installation and use of electrostatic detearing equipment shall conform to paragraphs (a) through (g) of this section.

(ii) Electrostatic apparatus and devices used in connection with paint detearing operations shall be of approved types.

(iii) Transformers, powerpacks, control apparatus, and all other electrical portions of the equipment, with the exception of high voltage grids and their connections, shall be located outside the vapor area or shall conform to the requirements of paragraph (e) of this section.

(iv) Electrodes shall be of substantial construction, shall be rigidly supported in permanent locations and shall be effectively insulated from ground. Insulators shall be nonporous and noncombustible.

(v) High voltage leads to electrodes shall be effectively and permanently supported on suitable insulators, and shall be effectively guarded against accidental contact or grounding. An automatic means shall be provided for grounding and discharging any accumulated residual charge on the electrode assembly or the secondary circuit of the high voltage transformer when the transformer primary is disconnected from the source of supply.

(vi) A space shall be maintained between goods being deteared and electrodes or conductors of at least twice the sparking distance. A suitable sign stating the sparking distance shall be conspicuously posted near the assembly.

(vii) Goods being deteared using this electrostatic process are to be supported on conveyors. The conveyors shall be so arranged as to maintain safe distances between the goods and the electrodes at all times. All goods shall be so supported as to prevent any swinging or movement which would reduce the clearance to less than specified in subdivision (vi) of this subparagraph.

(viii) This electrostatic process is not approved where goods being deteared are manipulated by hand.

(ix) Electrostatic apparatus shall be equipped with automatic controls which will operate without time delay to disconnect the power supply to the high voltage transformer and to signal the operator under any of the following conditions:

(*a*) Stoppage of ventilating fans or failure of ventilating equipment from any cause.

(*b*) Stoppage of the conveyor carrying goods past the high voltage grid.

(*c*) Occurrence of a ground or of an imminent ground at any point on the high voltage system.

(*d*) Reduction of clearance below that specified in subdivision (vi) of this subparagraph.

(x) Adequate fencing, railings, or guards shall be so placed about the equipment that they, either by their location or character or both, assure that a safe isolation of the process is maintained from plant storage or personnel. Such railings, fencing and guards shall be of conducting material, adequately grounded, and should be at least 5 feet from processing equipment.

(xi) Electrode insulators shall be kept clean and dry.

(xii) The detearing area shall be ventilated by exhausting adequate air from the area as specified in paragraph (b) of this section.

(xiii) All areas for detearing shall be protected by automatic sprinklers where this protection is available. Where this protection is not available, other approved automatic extinguishing equipment shall be provided.

(xiv) Drip plates and screens subject to paint deposits shall be removable and shall be taken to a safe place for cleaning.

(4) *Roll coating.* (i) The processes of roll coating, spreading, and impregnating, in which fabrics, paper, or other material are passed directly through a tank or trough containing flammable or combustible liquids, or over the surface of a roller that revolves partially submerged in a flammable liquid, shall conform to the applicable requirements of paragraphs (a) through (g) of this section and in addition shall conform to subdivision (ii) of this subparagraph.

(ii) Adequate arrangements shall be made to prevent sparks from static electricity by electrically bonding and grounding all metallic rotating and other parts of machinery and equipment and by the installation of static collectors or maintaining a conductive atmosphere such as a high relative humidity.

§ 1910.109 Explosives and blasting agents.

(a) *Definitions applicable to this section*—(1) *Blasting agent.* Blasting agent—any material or mixture, consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

(2) *Explosive-actuated power devices.* Explosive-actuated power device—any tool or special mechanized device which is actuated by explosives, but not including propellant-actuated power devices.

Examples of explosive-actuated power devices are jet tappers and jet perforators.

(3) *Explosive.* Explosive—any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the U.S. Department of Transportation; see 49 CFR Chapter I. The term "explosives" shall include all material which is classified as Class A, Class B, and Class C explosives by the U.S. Department of Transportation, and includes, but is not limited to dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord, igniters, small arms ammunition, small arms ammunition primers, smokeless propellant, cartridges for propellant-actuated power devices, and cartridges for industrial guns. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

NOTE 1: Classification of explosives is described by the U.S. Department of Transportation as follows (see 49 CFR Chapter I):

(i) *Class A explosives.* Possessing, detonating, or otherwise maximum hazard; such as dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder, blasting caps, and detonating primers.

(ii) *Class B explosives.* Possessing flammable hazard, such as propellant explosives (including some smokeless propellants), photographic flash powders, and some special fireworks.

(iii) *Class C explosives.* Includes certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities.

(iv) *Forbidden or not acceptable explosives.* Explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the U.S. Department of Transportation, 49 CFR Chapter I.

(4) *Highway.* Highway—any public street, public alley, or public road.

(5) *Inhabited building.* Inhabited building—a building or structure regularly used in whole or part as a place of human habitation. The term "inhabited building" shall also mean any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble but excluding any building or structure occupied in connection with the manufacture, transportation, storage, and use of explosives.

(6) *Magazine.* Magazine—any building or structure, other than an explosives manufacturing building, used for the storage of explosives.

(7) *Motor vehicle.* Motor vehicle—any self-propelled vehicle, truck, tractor, semitrailer, or truck-full trailers used for the transportation of freight over public highways.

(8) *Propellant-actuated power devices.* Propellant-actuated power devices—any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.

(9) *Public conveyance.* Public conveyance—any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

(10) *Pyrotechnics.* Pyrotechnics—any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks.

(11) *Railway.* Railway—any steam, electric, diesel electric, or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives are stored or where explosives manufacturing buildings are situated.

(12) *Semiconductive hose.* Semiconductive hose—a hose with an electrical resistance high enough to limit flow of stray electric currents to safe levels, yet not so high as to prevent drainage of static electric charges to ground; hose of not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

(13) *Small arms ammunition.* Small arms ammunition—any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive-bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

(14) *Small arms ammunition primers.* Small arms ammunition primers—small percussion-sensitive explosive charges, encased in a cup, used to ignite propellant powder.

(15) *Smokeless propellants.* Smokeless propellants—solid propellants, commonly called smokeless powders in the trade, used in small arms ammunition, cannon, rockets, propellant-actuated power devices, etc.

(16) *Special industrial explosives devices.* Special industrial explosives devices—explosive-actuated power devices and propellant-actuated power devices.

(17) *Special industrial explosives materials.* Special industrial explosives materials—shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include dynamite, trinitrotoluene (TNT), pentaerythritol tetranitrate (PETN), hexahydro-1,3,5-trinitro-s-triazine (RDX), and other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

(18) *Water gels or slurry explosives.* These comprise a wide variety of materials used for blasting. They all contain substantial proportions of water and high proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are (i) those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder, (ii) those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be premixed at an explosives plant or mixed at the site immediately before delivery into the borehole.

(19) *DOT specifications.* Regulations of the Department of Transportation published in 49 CFR Chapter I.

(20) *DOT regulations.* See § 1910.109 (a) (19).

(21) *DOT requirements.* See § 1910.109 (a) (19).

(b) *Miscellaneous provisions* — (1) *General hazard.* No person shall store, handle, or transport explosives or blasting agents when such storage, handling, and transportation of explosives or blasting agents constitutes an undue hazard to life and property.

(2) *Unauthorized recipients.* No person shall sell or give away any explosive or blasting agent to any unauthorized person.

(3) *Display.* No person shall sell, display, or expose for sale any explosive or blasting agent on any highway, street, sidewalk, public way, or public place.

(c) *Storage of explosives*—(1) *General provisions.* (i) All Class A, Class B, Class C explosives, and special industrial explosives, and any newly developed and unclassified explosives, shall be kept in magazines which meet the requirements of this paragraph.

(ii) Blasting caps, electric blasting caps, detonating primers, and primed cartridges shall not be stored in the same magazine with other explosives.

(iii) Ground around magazines shall slope away for drainage. The land surrounding magazines shall be kept clear of brush, dried grass, leaves, and other materials for a distance of at least 25 feet.

(iv) Magazines as required by this paragraph shall be of two classes; namely, Class I magazines, and Class II magazines.

(v) Class I magazines shall be required where the quantity of explosives stored is more than 50 pounds. Class II magazines may be used where the quantity of explosives stored is 50 pounds or less.

(vi) Class I magazines shall be located away from inhabited buildings, passenger railways, and public highways and from other magazines in conformity with Table H–21.

TABLE H–21—AMERICAN TABLE OF DISTANCES FOR STORAGE OF EXPLOSIVES

As revised and approved by the Institute of Makers of Explosives, June 6, 1964

Explosives		Distances in feet when storage is barricaded			
Pounds over	Pounds not over	Inhabited buildings	Passenger railways	Public highways	Separation of magazines
2	5	70	30	30	6
5	10	90	35	35	8
10	20	110	45	45	10
20	30	125	50	50	11
30	40	140	55	55	12
40	50	150	60	60	14
50	75	170	70	70	15
75	100	190	75	75	16
100	125	200	80	80	18
125	150	215	85	85	19
150	200	235	95	95	21
200	250	255	105	105	23
250	300	270	110	110	24
300	400	295	120	120	27
400	500	320	130	130	29
500	600	340	135	135	31
600	700	355	145	145	32
700	800	375	150	150	33
800	900	390	155	155	35
900	1,000	400	160	160	36
1,000	1,200	425	170	165	39
1,200	1,400	450	180	170	41
1,400	1,600	470	190	175	43
1,600	1,800	490	195	180	44
1,800	2,000	505	205	185	45
2,000	2,500	545	220	190	49
2,500	3,000	580	235	195	52
3,000	4,000	635	255	210	58
4,000	5,000	685	275	225	61
5,000	6,000	730	295	235	65
6,000	7,000	770	310	245	68
7,000	8,000	800	320	250	72
8,000	9,000	835	335	255	75
9,000	10,000	865	345	260	78
10,000	12,000	875	370	270	82
12,000	14,000	885	390	275	87
14,000	16,000	900	405	280	90
16,000	18,000	940	420	285	94
18,000	20,000	975	435	290	98
20,000	25,000	1,055	470	315	105
25,000	30,000	1,130	500	340	112
30,000	35,000	1,205	525	360	119
35,000	40,000	1,275	550	380	124
40,000	45,000	1,340	570	400	129
45,000	50,000	1,400	590	420	135
50,000	55,000	1,460	610	440	140
55,000	60,000	1,515	630	455	145
60,000	65,000	1,565	645	470	150
65,000	70,000	1,610	660	485	155
70,000	75,000	1,655	675	500	160
75,000	80,000	1,695	690	510	165
80,000	85,000	1,730	705	520	170
85,000	90,000	1,760	720	530	175
90,000	95,000	1,790	730	540	180
95,000	100,000	1,815	745	545	185
100,000	110,000	1,835	770	550	195
110,000	120,000	1,855	790	555	205
120,000	130,000	1,875	810	560	215
130,000	140,000	1,890	835	565	225
140,000	150,000	1,900	850	570	235
150,000	160,000	1,935	870	580	245
160,000	170,000	1,965	890	590	255
170,000	180,000	1,990	905	600	265
180,000	190,000	2,010	920	605	275
190,000	200,000	2,030	935	610	285
200,000	210,000	2,055	955	620	295
210,000	230,000	2,100	980	635	315
230,000	250,000	2,155	1,010	650	335
250,000	275,000	2,215	1,040	670	360
275,000	300,000	2,275	1,075	690	385

NOTE 1. "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the magazine when the trees are bare of leaves.

NOTE 2. "Artificial barricade" means an artificial mound or revetted wall of earth of a minimum thickness of three feet.

NOTE 3. "Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade, or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.

NOTE 4. When two or more storage magazines are located on the same property, each magazine must comply with the minimum distances specified from inhabited buildings, railways, and highways, and in addition, they should be separated from each other by not less than the distances shown for "Separation of Magazines," except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines from magazines containing other explosives. If any two or more magazines are separated from each other by less than the specified "Separation of Magazines" distances, then such two or more magazines, as a group, must be considered as one magazine, and the total quantity of explosives stored in such group must be treated as if stored in a single magazine located on the site of any magazine of the group, and must comply with the minimum of distances specified from other magazines, inhabited buildings, railways, and highways.

NOTE 5. This table applies only to the manufacture and permanent storage of commercial explosives. It is not applicable to transportation of explosives, or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

(vii) Except as provided in subdivision (viii) of this subparagraph, class II magazines shall be located in conformity with Table H–21, but may be permitted in warehouses and in wholesale and retail establishments when located on a floor which has an entrance at outside grade level and the magazine is located not more than 10 feet from such an entrance. Two class II magazines may be located in the same building when one is used only for blasting caps in quantities not in excess of 5,000 caps and a distance of 10 feet is maintained between magazines.

(viii) When used for temporary storage at a site for blasting operations, class II magazines shall be located away from neighboring inhabited buildings, railways, highways, and other magazines. A distance of at least one hundred and fifty (150) feet shall be maintained between class II magazines and the work in progress when the quantity of explosives kept therein is in excess of 25 pounds, and at least 50 feet when the quantity of explosives is 25 pounds, or less.

(ix) This paragraph (c) does not apply to:

(*a*) Stocks of small arms ammunition, propellant-actuated power cartridges, small arms ammunition primers in quantities of less than 750,000, or of smokeless propellants in quantities less than 750 pounds;

(*b*) Explosive-actuated power devices when in quantities less than 50 pounds net weight of explosives;

(c) Fuse lighters and fuse igniters;

(*d*) Safety fuses other than cordeau detonant fuses.

(2) *Construction of magazines—general.* (i) Magazines shall be constructed in conformity with the provisions of this paragraph.

(ii) Magazines for the storage of explosives, other than black powder, Class B and Class C explosives shall be bullet resistant, weather resistant, fire resistant, and ventilated sufficiently to protect the explosive in the specific locality. Magazines used only for storage of black powder, Class B and Class C explosives shall be weather resistant, fire-resistant, and have ventilation. Magazines for storage of blasting and electric blasting caps shall be weather resistant, fire-resistant, and ventilated.

(iii) Property upon which Class I magazines are located and property where Class II magazines are located outside of buildings shall be posted with signs reading "Explosives—Keep Off." Such signs shall be located so as to minimize the possibility of a bullet traveling in the direction of the magazine if anyone shoots at the sign.

(iv) Magazines requiring heat shall be heated by either hot-water radiant heating with the magazine building; or air directed into the magazine building over either hot water or low pressure steam (15 p.s.i.g.) coils located outside the magazine building.

(v) The magazine heating systems shall meet the following requirements:

(*a*) The radiant heating coils within the building shall be installed in such a manner that the explosives or explosives containers cannot contact the coils and air is free to circulate between the coils and the explosives or explosives containers.

(*b*) The heating ducts shall be installed in such a manner that the hot-air discharge from the duct is not directed against the explosives or explosives containers.

(*c*) The heating device used in connection with a magazine shall have controls which prevent the ambient building temperature from exceeding 130° F.

(*d*) The electric fan or pump used in the heating system for a magazine shall be mounted outside and separate from the wall of the magazine and shall be grounded.

(*e*) The electric fan motor and the controls for electrical heating devices used in heating water or steam shall have overloads and disconnects, which comply with subpart S of this part. All electrical switch gear shall be located a minimum distance of 25 feet from the magazine.

(*f*) The heating source for water or steam shall be separated from the magazine by a distance of not less than 25 feet when electrical and 50 feet when fuel fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

(*g*) The storage of explosives and explosives containers in the magazine shall allow uniform air circulation so product temperature uniformity can be maintained.

(vi) When lights are necessary inside the magazine, electric safety flashlight, or electric safety lanterns shall be used.

(3) *Construction of class I magazines.* (i) Class I magazines shall be of masonry construction or of wood or of metal construction, or a combination of these types. Thickness of masonry units shall

not be less than 8 inches. Hollow masonry units used in construction required to be bullet resistant shall have all hollow spaces filled with weak cement or well-tamped sand. Wood constructed walls, required to be bullet resistant, shall have at least a 6-inch space between interior and exterior sheathing and the space between sheathing shall be filled with well-tamped sand. Metal wall construction, when required to be bullet resistant, shall be lined with brick at least 4 inches in thickness or shall have at least a 6-inch sandfill between interior and exterior walls.

(ii) Floors and roofs of masonry magazines may be of wood construction. Wood floors shall be tongue and grooved lumber having a nominal thickness of 1 inch.

(iii) Roofs required to be bullet resistant shall be protected by a sand tray located at the line of eaves and covering the entire area except that necessary for ventilation. Sand in the sand tray shall be maintained at a depth of not less than 4 inches.

(iv) All wood at the exterior of magazines, including eaves, shall be protected by being covered with black or galvanized steel or aluminum metal of thickness of not less than No. 26 gage. All nails exposed to the interior of magazines shall be well countersunk.

(v) Foundations for magazines shall be of substantial construction and arranged to provide good cross ventilation.

(vi) Magazines shall be ventilated sufficiently to prevent dampness and heating of stored explosives. Ventilating openings shall be screened to prevent the entrance of sparks.

(vii) Openings to magazines shall be restricted to that necessary for the placement and removal of stocks of explosives. Doors for openings in magazines for Class A explosives shall be bullet resistant. Doors for magazines not required to be bullet resistant shall be designed to prevent unauthorized entrance to the magazine.

(viii) Magazines shall be provided with substantial means for locking; locks shall be provided and magazine doors shall be kept locked, except during the time of placement and removal of stocks of explosives.

(ix) Provisions shall be made to prevent the piling of stocks of explosives directly against masonry walls, brick-lined or sand-filled metal walls and single-thickness metal walls; such protection, however, shall not interfere with proper ventilation at the interior of side and end walls.

(4) *Construction of Class II magazines.* (i) Class II magazines shall be of wood or metal construction, or a combination thereof.

(ii) Wood magazines of this class shall have sides, bottom, and cover constructed of 2-inch hardwood boards well braced at corners and protected by being entirely covered with sheet metal of not less than No. 20 gage. All nails exposed to the interior of the magazine shall be well countersunk. All metal magazines of this class shall have sides, bottom, and cover constructed of sheet metal, and shall be lined with three-eighths-inch plywood or equivalent. Edges of metal covers shall overlap sides at least 1 inch.

(iii) Covers for both wood- and metal-constructed magazines of this class shall be provided with substantial strap hinges and shall be provided with substantial means for locking. Covers shall be kept locked except during the placement or removal of explosives.

(iv) Magazines of this class shall be painted red and shall bear lettering in white, on all sides and top, at least 3 inches high, "Explosives—Keep Fire Away." Class II magazines when located in warehouses, and in wholesale and retail establishments shall be provided with substantial wheels or casters to facilitate easy removal in the case of fire. Where necessary due to climatic conditions, Class II magazines shall be ventilated.

(5) *Storage within magazines.* (i) Packages of explosives shall be laid flat with top side up. Black powder when stored in magazines with other explosives shall be stored separately. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down. Corresponding grades and brands shall be stored together in such a manner that brands and grade marks show. All stocks shall be stored so as to be easily counted and checked. Packages of explosives shall be piled in a stable manner. When any kind of explosive is removed from a magazine for use, the oldest explosive of that particular kind shall always be taken first.

(ii) Packages of explosives shall not be unpacked or repacked in a magazine nor within 50 feet of a magazine or in close proximity to other explosives. Tools used for opening packages of explosives shall be constructed of nonsparking materials, except that metal slitters may be used for opening fiberboard boxes. A wood wedge and a fiber, rubber, or wood mallet shall be used for opening or closing wood packages of explosives. Opened packages of explosives shall be securely closed before being returned to a magazine.

(iii) Magazines shall not be used for the storage of any metal tools nor any commodity except explosives, but this restriction shall not apply to the storage of blasting agents and blasting supplies.

(iv) Magazine floors shall be regularly swept, kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of magazines shall be properly disposed of. Magazine floors stained with nitroglycerin shall be cleaned according to instructions by the manufacturer.

(v) When any explosive has deteriorated to an extent that it is in an unstable or dangerous condition, or if nitroglycerin leaks from any explosives, then the person in possession of such explosive shall immediately proceed to destroy such explosive in accordance with the instructions of the manufacturer. Only experienced persons shall be allowed to do the work of destroying explosives.

(vi) When magazines need inside repairs, all explosives shall be removed therefrom and the floors cleaned. In making outside repairs, if there is a possibility of causing sparks or fire the explosives shall be removed from the magazine. Explosives removed from a magazine under repair shall either be placed in another magazine or placed a safe distance from the magazine where they shall be properly guarded and protected until repairs have been completed, when they shall be returned to the magazine.

(vii) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by guards) shall not be permitted inside of or within 50 feet of magazines. The land surrounding a magazine shall be kept clear of all combustible materials for a distance of at least 25 feet. Combustible materials shall not be stored within 50 feet of magazines.

(viii) Magazines shall be in the charge of a competent person at all times who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions.

(ix) Explosives recovered from blasting misfires shall be placed in a separate magazine until competent personnel has determined from the manufacturer the method of disposal. Caps recovered from blasting misfires shall not be reused. Such explosives and caps shall then be disposed of in the manner recommended by the manufacturer.

(d) *Transportation of explosives*—(1) *General provisions.* (i) No employee shall be allowed to smoke, carry matches or any other flame-producing device, or carry any firearms or loaded cartridges while in or near a motor vehicle transporting explosives; or drive, load, or unload such vehicle in a careless or reckless manner.

(ii) Explosives shall not be carried or transported in or upon a public conveyance or vehicle carrying passengers for hire.

(iii) Explosives shall not be transferred from one vehicle to another within the confines of any jurisdiction (city, county, State, or other area) without informing the fire and police departments thereof. In the event of breakdown or collision the local fire and police departments shall be promptly notified to help safeguard such emergencies. Explosives shall be transferred from the disabled vehicle to another only, when proper and qualified supervision is provided.

(iv) Blasting caps or electric blasting caps shall not be transported over the highways on the same vehicles with other explosives.

(2) *Transportation vehicles.* (i) Vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and be in good mechanical condition. If vehicles do not have a closed body, the body shall be covered with a flameproof and moisture-proof tarpaulin or other effective protection against moisture and sparks. All vehicles used for the transportation of explosives shall have tight floors and any exposed spark-producing metal on the inside of the body shall be covered with wood or other nonsparking materials to prevent contact with packages of explosives. Packages of explosives shall not be loaded above the sides of an open-body vehicle.

(ii) Every vehicle used for transporting explosives and oxidizing materials listed in (*a*) of this subdivision shall be marked as follows:

(*a*) Exterior markings or placards required on applicable vehicles shall be as follows for the various classes of commodities:

Commodity	*Type of marking or placard*
Explosives, Class A, any quantity or a combination of Class A and Class B explosives.	Explosives A (Red letters on white background).
Explosives, Class B, any quantity.	Explosives B (Red letters on white background).
Oxidizing material (blasting agents, ammonium nitrate, etc.), 1,000 pounds or more gross weight.	Oxidizers (Yellow letters on black background).

(*b*) Each marking or placard shall consist of letters not less than 4 inches high, in the color specified, using approximately a ⅝-inch stroke. The placard must be larger than the lettering required thereon by at least 1 inch at the top and bottom sides. Such marking or placard described in subdivision (*a*) shall be contained in an area on the vehicle which has no other marking, lettering, or graphic display, for at least 3 inches in each direction.

(*c*) Such markings or placards shall be displayed at the front, rear, and on each side of the motor vehicle or trailer, or other cargo carrying body while it contains explosives or other dangerous articles of such type and in such quantity as specified in (*a*) of this subdivision. The front marking or placard may be displayed on the front of either the truck, truck body, truck tractor or the trailer.

(*d*) Any motor vehicle, trailer, or other cargo-carrying body containing more than one kind of explosive as well as an oxidizing material requiring a placard under the provisions of subdivision (*a*), the aggregate gross weight of which totals 1,000 pounds or more, shall be marked or placarded "Dangerous" as well as "Explosive A" or "Explosive B" as appropriate. If explosives Class A and explosives Class B are loaded on the same vehicle, the "Explosives B" marking need not be displayed.

(*e*) In any combination of two or more vehicles containing explosives or other dangerous articles each vehicle shall be marked or placarded as to its contents and in accordance with (*a*) and (*c*) of this subdivision.

(iii) Each motor vehicle used for transporting explosives shall be equipped with a minimum of two extinguishers, each having a rating of at least 10–BC.

(*a*) Only extinguishers listed or approved by Underwriters Laboratories, Inc., or the Factory Mutual Engineering Corp. shall be deemed suitable for use on explosives-carrying vehicles.

(*b*) Extinguishers shall be filled and ready for immediate use and located near the driver's seat. Extinguishers shall be examined periodically by a competent person.

(iv) A motor vehicle used for transporting explosives shall be given the following inspection to determine that it is in proper condition for safe transportation of explosives:

(*a*) Fire extinguishers shall be filled and in working order.

(*b*) All electrical wiring shall be completely protected and securely fastened to prevent short-circuiting.

(*c*) Chassis, motor, pan, and underside of body shall be reasonably clean and free of excess oil and grease.

(*d*) Fuel tank and feedline shall be secure and have no leaks.

(*e*) Brakes, lights, horn, windshield wipers, and steering apparatus shall function properly.

(*f*) Tires shall be checked for proper inflation and defects.

(*g*) The vehicle shall be in proper condition in every other respect and acceptable for handling explosives.

(3) *Operation of transportation vehicles.* (i) Vehicles transporting explosives shall only be driven by and be in the charge of a driver who is physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs, and not less than 21 years of age. He shall be familiar with the traffic regulations, State laws, and the provisions of this section.

(ii) Except under emergency conditions, no vehicle transporting explosives shall be parked before reaching its destination, even though attended, on any public street adjacent to or in proximity to any bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble.

(iii) Every motor vehicle transporting any quantity of Class A or Class B explosives shall, at all times, be attended by a driver or other attendant of the motor carrier. This attendant shall have been made aware of the class of the explosive material in the vehicle and of its inherent dangers, and shall have been instructed in the measures and procedures to be followed in order to protect the public from those dangers. He shall have been made familiar with the vehicle he is assigned, and shall be trained, supplied with the necessary means, and authorized to move the vehicle when required.

(*a*) For the purpose of this subdivision, a motor vehicle shall be deemed "attended" only when the driver or other attendant is physically on or in the vehicle, or has the vehicle within his field of vision and can reach it quickly and without any kind of interference; "attended" also means that the driver or attendant is awake, alert, and not engaged in other duties or activities which may divert his attention from the vehicle, except for necessary communication with public officers, or representatives of the carrier, shipper, or consignee, or except for necessary absence from the vehicle to obtain food or to provide for his physical comfort.

(*b*) However, an explosive-laden vehicle may be left unattended if parked within a securely fenced or walled area with all gates or entrances locked where parking of such vehicle is otherwise permissible, or at a magazine site established solely for the purpose of storing explosives.

(iv) No spark-producing metal, spark-producing metal tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials, or corrosive compounds shall be carried in the body of any motor truck and/or vehicle transporting explosives, unless the loading of such dangerous articles and the explosives comply with U.S. Department of Transportation regulations.

(v) Vehicles transporting explosives shall avoid congested areas and heavy traffic. Where routes through congested areas have been designated by local authorities such routes shall be followed.

(vi) Delivery shall only be made to authorized persons and into authorized magazines or authorized temporary storage or handling areas.

(e) *Use of explosives and blasting agents*—(1) *General provisions.* (i) While explosives are being handled or used, smoking shall not be permitted and no one near the explosives shall possess matches, open light or other fire or flame. No person shall be allowed to handle explosives while under the influence of intoxicating liquors, narcotics, or other dangerous drugs.

(ii) Original containers or Class II magazines shall be used for taking detonators and other explosives from storage magazines to the blasting area.

(iii) When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat constructed so that it is capable of preventing fragments from being thrown.

(iv) Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, including but not limited to warning signals, flags, barricades, or woven wire mats to insure the safety of the general public and workmen.

(v) Blasting operations shall be conducted during daylight hours.

(vi) Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, and steam utilities, the blaster shall notify the appropriate representatives of such utilities at least 24 hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice.

(vii) Due precautions shall be taken to prevent accidental discharge of electric blasting caps from current induced by radar, radio transmitters, lightning, adjacent powerlines, dust storms, or

other sources of extraneous electricity. These precautions shall include:

(a) The suspension of all blasting operations and removal of persons from the blasting area during the approach and progress of an electric storm.

(b) The posting of signs warning against the use of mobile radio transmitters on all roads within 350 feet of the blasting operations.

(2) *Storage at use sites.* (i) Empty boxes and paper and fiber packing materials which have previously contained high explosives shall not be used again for any purpose, but shall be destroyed by burning at an approved isolated location out of doors, and no person shall be nearer than 100 feet after the burning has started.

(ii) Containers of explosives shall not be opened in any magazine or within 50 feet of any magazine. In opening kegs or wooden cases, no sparking metal tools shall be used; wooden wedges and either wood, fiber or rubber mallets shall be used. Nonsparking metallic slitters may be used for opening fiberboard cases.

(iii) Explosives or blasting equipment that are obviously deteriorated or damaged shall not be used.

(iv) No explosives shall be abandoned.

(3) *Loading of explosives in blast holes.* (i) All drill holes shall be sufficiently large to admit freely the insertion of the cartridges of explosives.

(ii) Tamping shall be done only with wood rods without exposed metal parts, but nonsparking metal connectors may be used for jointed poles. Violent tamping shall be avoided. Primed cartridges shall not be tamped.

(iii) When loading blasting agents pneumatically over electric blasting caps, semiconductive delivery hose shall be used and the equipment shall be bonded and grounded.

(iv) No holes shall be loaded except those to be fired in the next round of blasting. After loading, all remaining explosives shall be immediately returned to an authorized magazine.

(v) Drilling shall not be started until all remaining butts of old holes are examined with a wooden stick for unexploded charges, and if any are found, they shall be refired before work proceeds.

(vi) No person shall be allowed to deepen drill holes which have contained explosives.

(vii) After loading for a blast is completed, all excess blasting caps or electric blasting caps and other explosives shall immediately be returned to their separate storage magazines.

(4) *Initiation of explosive charges.* (i) Only electric blasting caps shall be used for blasting operations in congested districts, or on highways, or adjacent to highways open to traffic, except where sources of extraneous electricity make such use dangerous.

(ii) When fuse is used, the blasting cap shall be securely attached to the safety fuse with a standard-ring type cap crimper. All primers shall be assembled at least 50 feet from any magazine.

(iii) Primers shall be made up only as required for each round of blasting.

(iv) No blasting cap shall be inserted in the explosives without first making a hole in the cartridge for the cap with a wooden punch of proper size or standard cap crimper.

(v) Explosives shall not be extracted from a hole that has once been charged or has misfired unless it is impossible to detonate the unexploded charge by insertion of a fresh additional primer.

(vi) If there are any misfires while using cap and fuse, all persons shall be required to remain away from the charge for at least 1 hour. If electric blasting caps are used and a misfire occurs, this waiting period may be reduced to 30 minutes. Misfires shall be handled under the direction of the person in charge of the blasting and all wires shall be carefully traced and search made for unexploded charges.

(vii) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers designed for this purpose.

(viii) Only the employee making leading wire connections in electrical firing shall be allowed to fire the shot. Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(5) *Warning required.* Before a blast is fired, the employer shall require that a loud warning signal be given by the person in charge, who has made certain that all surplus explosives are in a safe place, all persons and vehicles are at a safe distance or under sufficient cover, and that an adequate warning has been given.

(f) *Explosives at piers, railway stations, and cars or vessels not otherwise specified in this standard*—(1) *Railway cars.* Except in an emergency and with permission of the local authority, no person shall have or keep explosives in a railway car unless said car and contents and methods of loading are in accordance with the U.S. Department of Transportation Regulations for the Transportation of Explosives, 49 CFR Chapter I.

(2) *Packing and marking.* No person shall deliver any explosive to any carrier unless such explosive conforms in all respects, including marking and packing, to the U.S. Department of Transportation Regulations for the Transportation of Explosives.

(3) *Marking cars.* Every railway car containing explosives which has reached its designation, or is stopped in transit so as no longer to be in interstate commerce, shall have attached to both sides and ends of the car, cards with the words "Explosives — Handle Carefully — Keep Fire Away" in red letters at least 1½ inches high on a white background.

(4) *Storage.* Any explosives at a railway facility, truck terminal, pier, wharf, harbor facility, or airport terminal, whether for delivery to a consignee, or forwarded to some other destination, shall be kept in a safe place, isolated as far as practicable and in such manner that they can be easily and quickly removed.

(5) *Hours of transfer.* Explosives shall not be delivered to or received from any railway station, truck terminal, pier, wharf, harbor facility, or airport terminal between the hours of sunset and sunrise.

(g) *Blasting agents*—(1) *General.* Unless otherwise set forth in this paragraph, blasting agents, excluding water gels, shall be transported, stored, and used in the same manner as explosives. Water gels are covered in paragraph (h) of this section.

(2) *Fixed location mixing.* (i) Buildings or other facilities used for mixing blasting agents shall be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with Table H–21. In determining the distance separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H–21), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in Table H–22) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only 50 percent of its weight shall be used because of its reduced blast effects.

(ii) Buildings used for the mixing of blasting agents shall conform to the requirements of this section.

(a) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(b) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.

(c) All fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.

(d) The building shall be well ventilated.

(e) Heating units which do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside the mixing building.

(f) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

(iii) Equipment used for mixing blasting agents shall conform to the requirements of this subdivision.

(a) The design of the mixer shall minimize the possibility of frictional heating, compaction, and especially confinement. All bearings and drive assemblies shall be mounted outside the mixer and protected against the accumulation of dust. All surfaces shall be accessible for cleaning.

(b) Mixing and packaging equipment shall be constructed of materials compatible with the fuel-ammonium nitrate composition.

(c) Suitable means shall be provided to prevent the flow of fuel oil to the mixer in case of fire. In gravity flow systems an automatic spring-loaded shutoff valve with fusible link shall be installed.

(iv) The provisions of this subdivision shall be considered when determining blasting agent compositions.

(a) The sensitivity of the blasting agent shall be determined by means of a No. 8 test blasting cap at regular intervals and after every change in formulation.

(b) Oxidizers of small particle size, such as crushed ammonium nitrate prills or fines, may be more sensitive than coarser products and shall, therefore, be handled with greater care.

(c) No hydrocarbon liquid fuel with flashpoint lower than that of No. 2 diesel fuel oil 125° F. minimum shall be used.

(d) Crude oil and crankcase oil shall not be used.

(e) Metal powders such as aluminum shall be kept dry and shall be stored in containers or bins which are moisture-resistant or weathertight. Solid fuels shall be used in such manner as to minimize dust explosion hazards.

(f) Peroxides and chlorates shall not be used.

(v) All electrical switches, controls, motors, and lights located in the mixing room shall conform to the requirements in subpart S of this part for Class II, Division 2 locations; otherwise they shall be located outside the mixing room. The frame of the mixer and all other equipment that may be used shall be electrically bonded and be provided with a continuous path to the ground.

(vi) Safety precautions at mixing plants shall include the requirements of this subdivision.

(a) Floors shall be constructed so as to eliminate floor drains and piping into which molten materials could flow and be confined in case of fire.

(b) The floors and equipment of the mixing and packaging room shall be cleaned regularly and thoroughly to prevent accumulation of oxidizers or fuels and other sensitizers.

(c) The entire mixing and packaging plant shall be cleaned regularly and thoroughly to prevent excessive accumulation of dust.

(d) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by guards) shall not be permitted inside of or within 50 feet of any building or facility used for the mixing of blasting agents.

(e) The land surrounding the mixing plant shall be kept clear of brush, dried grass, leaves, and other materials for a distance of at least 25 feet.

(f) Empty ammonium nitrate bags shall be disposed of daily in a safe manner.

(g) No welding shall be permitted or open flames used in or around the mixing or storage area of the plant unless the equipment or area has been completely washed down and all oxidizer material removed.

(h) Before welding or repairs to hollow shafts, all oxidizer material shall be removed from the outside and inside of the shaft and the shaft vented with a minimum one-half inch diameter opening.

(i) Explosives shall not be permitted inside of or within 50 feet of any building or facility used for the mixing of blasting agents.

(3) *Bulk delivery and mixing vehicles.* (i) The provisions of this subparagraph shall apply to off-highway private operations as well as to all public highway movements.

(ii) A bulk vehicle body for delivering and mixing blasting agents shall conform with the requirements of this subdivision (ii).

(a) The body shall be constructed of noncombustible materials.

(b) Vehicles used to transport bulk premixed blasting agents on public highways shall have closed bodies.

(c) All moving parts of the mixing system shall be designed as to prevent a heat buildup. Shafts or axles which contact the product shall have outboard bearings with 1-inch minimum clearance between the bearings and the outside of the product container. Particular attention shall be given to the clearances on all moving parts.

(d) A bulk delivery vehicle shall be strong enough to carry the load without difficulty and be in good mechanical condition.

(iii) Operation of bulk delivery vehicles shall conform to the requirements of this subdivision. These include the placarding requirements as specified by Department of Transportation.

(a) The operator shall be trained in the safe operation of the vehicle together with its mixing, conveying, and related equipment. The employer shall assure that the operator is familiar with the commodities being delivered and the general procedure for handling emergency situations.

(b) The hauling of either blasting caps or other explosives but not both, shall be permitted on bulk trucks provided that a special wood or nonferrous-lined container is installed for the explosives. Such blasting caps or other explosives shall be in DOT-specified shipping containers: see 49 CFR Chapter I.

(c) No person shall smoke, carry matches or any flame-producing device, or carry any firearms while in or about bulk vehicles effecting the mixing transfer or down-the-hole loading of blasting agents at or near the blasting site.

(d) Caution shall be exercised in the movement of the vehicle in the blasting area to avoid driving the vehicle over or dragging hoses over firing lines, cap wires, or explosive materials. The employer shall assure that the driver, in moving the vehicle, has assistance of a second person to guide his movements.

(e) No intransit mixing of materials shall be performed.

(iv) Pneumatic loading from bulk delivery vehicles into blastholes primed with electric blasting caps or other static-sensitive systems shall conform to the requirements of this subdivision.

(a) A positive grounding device shall be used to prevent the accumulation of static electricity.

(b) A discharge hose shall be used that has a resistance range that will prevent conducting stray currents, but that is conductive enough to bleed off static buildup.

(c) A qualified person shall evaluate all systems to determine if they will adequately dissipate static under potential field conditions.

(v) Repairs to bulk delivery vehicles shall conform to the requirements of this section.

(a) No welding or open flames shall be used on or around any part of the delivery equipment unless it has been completely washed down and all oxidizer material removed.

(b) Before welding or making repairs to hollow shafts, the shaft shall be thoroughly cleaned inside and out and vented with a minimum one-half-inch diameter opening.

(4) *Bulk storage bins.* (i) The bin, including supports, shall be constructed of compatible materials, waterproof, and adequately supported and braced to withstand the combination of all loads including impact forces arising from product movement within the bin and accidental vehicle contact with the support legs.

(ii) The bin discharge gate shall be designed to provide a closure tight enough to prevent leakage of the stored product. Provision shall also be made so that the gate can be locked.

(iii) Bin loading manways or access hatches shall be hinged or otherwise attached to the bin and be designed to permit locking.

(iv) Any electrically driven conveyors for loading or unloading bins shall conform to the requirements of Subpart S of this Part. They shall be designed to minimize damage from corrosion.

(v) Bins containing blasting agent shall be located, with respect to inhabited buildings, passenger railroads, and public highways, in accordance with Table H–21 and separation from other blasting agent storage and explosives storage shall be in conformity with Table H–22.

(vi) Bins containing ammonium nitrate shall be separated from blasting agent storage and explosives storage in conformity with Table H–22.

TABLE H-22—TABLE OF RECOMMENDED SEPARATION DISTANCES OF AMMONIUM NITRATE AND BLASTING AGENTS FROM EXPLOSIVES OR BLASTING AGENTS [1, 6]

Donor weight		Minimum separation distance of receptor when barricaded [2] (ft.)		Minimum thickness of artificial barricades [3] (in.)
Pounds over	Pounds not over	Ammonium nitrate [5]	Blasting agent [4]	
	100	3	11	12
100	300	4	14	12
300	600	5	18	12
600	1,000	6	22	12
1,000	1,600	7	25	12
1,600	2,000	8	29	12
2,000	3,000	9	32	15
3,000	4,000	10	36	15
4,000	6,000	11	40	15
6,000	8,000	12	43	20
8,000	10,000	13	47	20
10,000	12,000	14	50	20
12,000	16,000	15	54	25
16,000	20,000	16	58	25
20,000	25,000	18	65	25
25,000	30,000	19	68	30
30,000	35,000	20	72	30
35,000	40,000	21	76	30
40,000	45,000	22	79	35
45,000	50,000	23	83	35
50,000	55,000	24	86	35
55,000	60,000	25	90	35
60,000	70,000	26	94	40
70,000	80,000	28	101	40
80,000	90,000	30	108	40
90,000	100,000	32	115	40
100,000	120,000	34	122	50
120,000	140,000	37	133	50
140,000	160,000	40	144	50
160,000	180,000	44	158	50
180,000	200,000	48	173	50
200,000	220,000	52	187	60
220,000	250,000	56	202	60
250,000	275,000	60	216	60
275,000	300,000	64	230	60

Notes to Table of Recommended Separation Distances of Ammonium Nitrate and Blasting Agents from Explosives or Blasting Agents:

NOTE 1. These distances apply to the separation of stores only. Table H-21 shall be used in determining separation distances from inhabited buildings, passenger railways, and public highways.

NOTE 2. When the ammonium nitrate and/or blasting agent is not barricaded, the distances shown in the table shall be multiplied by six. These distances allow for the possibility of high velocity metal fragments from mixers, hoppers, truck bodies, sheet metal structures, metal containers, and the like which may enclose the "donor". Where storage is in bullet-resistant magazines recommended for explosives or where the storage is protected by a bullet-resistant wall, distances, and barricade thicknesses in excess of those prescribed in Table H-21 are not required.

NOTE 3. The distances in the table apply to ammonium nitrate that passes the insensitivity test prescribed in the definition of ammonium nitrate fertilizer promulgated by the National Plant Food Institute*; and ammonium nitrate failing to pass said test shall be stored at separation distances determined by competent persons. (*Definition and Test Procedures for Ammonium Nitrate Fertilizer, National Plant Food Institute, November 1964.)

NOTE 4. These distances apply to nitrocarbo-nitrates and blasting agents which pass the insensitivity test prescribed in the U.S. Department of Transportation (DOT) regulations.

NOTE 5. Earth, or sand dikes, or enclosures filled with the prescribed minimum thickness of earth or sand are acceptable artificial barricades. Natural barricades, such as hills or timber of sufficient density that the surrounding exposures which require protection cannot be seen from the "donor" when the trees are bare of leaves, are also acceptable.

NOTE 6. When the ammonium nitrate must be counted in determining the distances to be maintained from inhabited buildings, passenger railways and public highways, it may be counted at one-half its actual weight because its blast effect is lower.

NOTE 7. Guide to use of table of recommended separation distances of ammonium nitrate and blasting agents from explosives or blasting agents.

(a) Sketch location of all potential donor and acceptor materials together with the maximum mass of material to be allowed in that vicinity. (Potential donors are high explosives, blasting agents, and combination of masses of detonating materials. Potential acceptors are high explosives, blasting agents, and ammonium nitrate.)

(b) Consider separately each donor mass in combination with each acceptor mass. If the masses are closer than table allowance (distances measured between nearest edges), the combination of masses becomes a new potential donor of weight equal to the total mass. When individual masses are considered as donors, distances to potential acceptors shall be measured between edges. When combined masses within propagating distance of each other are considered as a donor, the appropriate distance to the edge of potential acceptors shall be computed as a weighted distance from the combined masses.

Calculation of weighted distance from combined masses:

Let M_1, $M_2 \ldots M_n$ be donor masses to be combined.

M_1 is a potential acceptor mass.

D_{12} is distance from M_1 to M_2 (edge to edge).

D_{13} is distance from M_1 to M_3 (edge to edge), etc.

To find weighted distance $[D_{1(2,3,\ldots n)}]$ from combined masses to M_1, add the products of the individual masses and distances and divide the total by the sum of the masses thus:

$$D_{1(2,3,\ldots n)} = \frac{M_2 \times D_{12} + M_3 \times D_{13} \ldots + M_n \times D_{1n}}{M_2 + M_3 \ldots + M_n}$$

Propagation is possible if either an individual donor mass is less than the tabulated distance from an acceptor or a combined mass is less than the weighted distance from an acceptor.

(c) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses which may propagate (i.e., lie at distances less than prescribed in the Table) from *either* individual *or* combined donor masses are included. However, when the ammonium nitrate must be included, only 50 percent of its weight shall be used because of its reduced blast effects. In applying Table H-21 to distances from highways, railroads, and inhabited buildings, distances are measured from the nearest edge of potentially explodable material as prescribed in Table H-21, Note 5.

(d) When all or part of a potential acceptor comprises Explosives Class A as defined in DOT regulations, storage in bullet-resistant magazines is required. Safe distances to stores in bullet-resistant magazines may be obtained from the intermagazine distances prescribed in Table H-21.

(e) Barricades must not have line-of-sight openings between potential donors and acceptors which permit blast or missiles to move directly between masses.

(f) Good housekeeping practices shall be maintained around any bin containing ammonium nitrate or blasting agent. This includes keeping weeds and other combustible materials cleared within 25 feet of such bin. Accumulation of spilled product on the ground shall be prevented.

(5) *Storage of blasting agents and supplies.* (i) Blasting agents and oxidizers used for mixing of blasting agents shall be stored in the manner set forth in this subdivision.

(a) Blasting agents or ammonium nitrate, when stored in conjunction with explosives, shall be stored in the manner set forth in paragraph (c) of this section for explosives. The mass of blasting agents and one-half the mass of ammonium nitrate shall be included when computing the total quantity of explosives for determining distance requirements.

(b) Blasting agents, when stored entirely separate from explosives, may be stored in the manner set forth in paragraph (c) of this section or in one-story warehouses (without basements) which shall be:

(1) Noncombustible or fire resistive;

(2) Constructed so as to eliminate open floor drains and piping into which molten materials could flow and be confined in case of fire;

(3) Weather resistant;

(4) Well ventilated; and

(5) Equipped with a strong door kept securely locked except when open for business.

(c) Semitrailer or full-trailer vans used for highway or onsite transportation of the blasting agents are satisfactory for temporarily storing these materials, provided they are located in accordance with Table H-21 with respect to inhabited buildings, passenger railways, and public highways and according to Table H-22 with respect to one another. Trailers shall be provided with substantial means for locking, and the trailer doors shall be kept locked, except during the time of placement and removal of stocks of blasting agents.

(ii) Warehouses used for the storage of blasting agents separate from explosives shall be located as set forth in this subdivision.

(a) Warehouses used for the storage of blasting agents shall be located in accordance with the provisions of Table H-21 with respect to inhabited buildings, passenger railways, and public highways, and according to Table H-22 with respect to one another.

(b) If both blasting agents and ammonium nitrate are handled or stored within the distance limitations prescribed through subparagraph (2) of this paragraph, one-half the mass of the ammonium nitrate shall be added to the mass of the blasting agent when computing the total quantity of explosives for determining the proper distance for compliance with Table H-21.

(iii) Smoking, matches, open flames, spark producing devices, and firearms are prohibited inside of or within 50 feet of any warehouse used for the storage of blasting agents. Combustible materials shall not be stored within 50 feet of warehouses used for the storage of blasting agents.

(iv) The interior of warehouses used for the storage of blasting agents shall be kept clean and free from debris and empty containers. Spilled materials shall be cleaned up promptly and safely removed. Combustible materials, flammable liquids, corrosive acids, chlorates, or nitrates shall not be stored in any warehouse used for blasting agents unless separated therefrom by a fire resistive separation of not less than 1 hour resistance. The provisions of this subdivision shall not prohibit the storage of blasting agents together with nonexplosive blasting supplies.

(v) Piles of ammonium nitrate and warehouses containing ammonium nitrate shall be adequately separated from readily combustible fuels.

(vi) Caked oxidizers, either in bags or in bulk, shall not be loosened by blasting.

(vii) Every warehouse used for the storage of blasting agents shall be under the supervision of a competent person who shall be not less than 21 years of age.

(6) *Transportation of packaged blasting agents.* (i) When blasting agents are transported in the same vehicle with explosives, all of the requirements of paragraph (d) of this section shall be complied with.

(ii) Vehicles transporting blasting agents shall only be driven by and be in charge of a driver at least twenty-one (21) years of age who is capable, careful, reliable, and in possession of a valid motor vehicle operator's license. Such a person shall also be familiar with the States vehicle and traffic laws.

(iii) No matches, firearms, acids, or other corrosive liquids shall be carried in the bed or body of any vehicle containing blasting agents.

(iv) No person shall be permitted to ride upon, drive, load, or unload a vehicle containing blasting agents while smoking or under the influence of intoxicants, narcotics, or other dangerous drugs.

(v) It is prohibited for any person to transport or carry any blasting agents upon any public vehicle carrying passengers for hire.

(vi) Vehicles transporting blasting agents shall be in safe operating condition at all times.

(vii) When offering blasting agents for transportation on public highways the packaging, marking, and labeling of containers of blasting agents shall comply with the requirements of DOT.

(viii) Vehicles used for transporting blasting agents on public highways shall be placarded in accordance with DOT regulations.

(7) *Use of blasting agents.* Persons using blasting agents shall comply with all of the applicable provisions of paragraph (e) of this section.

(h) *Water gel (Slurry) explosives and blasting agents*—(1) *General provisions.* Unless otherwise set forth in this paragraph, water gels shall be transported, stored and used in the same manner as explosives or blasting agents in accordance with the classification of the product.

(2) *Types and classifications.* (i) Water gels containing a substance in itself classified as an explosive shall be classified as an explosive and manufactured, transported, stored, and used as specified for "explosives" in this section, except as noted in subdivision (iv) of this subparagraph.

(ii) Water gels containing no substance in itself classified as an explosive and which are cap-sensitive as defined in paragraph (a) of this section under Blasting Agent shall be classified as an explosive and manufactured, transported, stored and used as specified for "explosives" in this section.

(iii) Water gels containing no substance in itself classified as an explosive and which are not cap-sensitive as defined in paragraph (a) of this section under Blasting Agent shall be classified as blasting agents and manufactured, transported, stored, and used as specified for "blasting agents" in this section.

(iv) When tests on specific formulations of water gels result in Department of Transportation classification as a Class B explosive, bullet-resistant magazines are not required, see paragraph (c)(2)(ii) of this section.

(3) *Fixed location mixing.* (i)(a) Buildings or other facilities used for mixing water gels shall be located with respect to inhabited buildings, passenger railroads and public highways, in accordance with Table H-21.

(b) In determining the distances separating highways, railroads, and inhabited buildings from potential explosions (as prescribed in Table H-21), the sum of all masses that may propagate (i.e., lie at distances less than prescribed in Table H-22) from either individual or combined donor masses are included. However, when the ammonium nitrate must be included, only 50 percent of its weight shall be used because of its reduced blast effects.

(ii) Buildings used for the mixing of water gels shall conform to the requirements of this subdivision.

(a) Buildings shall be of noncombustible construction or sheet metal on wood studs.

(b) Floors in a mixing plant shall be of concrete or of other nonabsorbent materials.

(c) Where fuel oil is used all fuel oil storage facilities shall be separated from the mixing plant and located in such a manner that in case of tank rupture, the oil will drain away from the mixing plant building.

(d) The building shall be well ventilated.

(e) Heating units that do not depend on combustion processes, when properly designed and located, may be used in the building. All direct sources of heat shall be provided exclusively from units located outside of the mixing building.

(f) All internal-combustion engines used for electric power generation shall be located outside the mixing plant building, or shall be properly ventilated and isolated by a firewall. The exhaust systems on all such engines shall be located so any spark emission cannot be a hazard to any materials in or adjacent to the plant.

(iii) Ingredients of water gels shall conform to the requirements of this subdivision.

(a) Ingredients in themselves classified as Class A or Class B explosives shall be stored in conformity with paragraph (c) of this section.

(b) Nitrate-water solutions may be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations. Spills or leaks which may contaminate combustible materials shall be cleaned up immediately.

(c) Metal powders such as aluminum shall be kept dry and shall be stored in containers or bins which are moisture-resistant or weathertight. Solid fuels shall be used in such manner as to minimize dust explosion hazards.

(d) Ingredients shall not be stored with imcompatible materials.

(e) Peroxides and chlorates shall not be used.

(iv) Mixing equipment shall comply with the requirements of this subdivision.

(a) The design of the processing equipment, including mixing and conveying equipment, shall be compatible with the relative sensitivity of the materials being handled. Equipment shall be designed to minimize the possibility of frictional heating, compaction, overloading, and confinement.

(b) Both equipment and handling procedures shall be designed to prevent the introduction of foreign objects or materials.

(c) Mixers, pumps, valves, and related equipment shall be designed to permit regular and periodic flushing, cleaning, dismantling, and inspection.

(d) All electrical equipment including wiring, switches, controls, motors, and lights, shall conform to the requirements of Subpart S of this part.

(e) All electric motors and generators shall be provided with suitable overload protection devices. Electrical generators, motors, proportioning devices, and all other electrical enclosures shall be electrically bonded. The grounding conductor to all such electrical equipment shall be effectively bonded to the service-entrance ground connection and to all equipment ground connections in a manner so as to provide a continuous path to ground.

(v) Mixing facilities shall comply with the fire prevention requirements of this subdivision.

(a) The mixing, loading, and ingredient transfer areas where residues or spilled materials may accumulate shall be cleaned periodically. A cleaning and collection system for dangerous residues shall be provided.

(b) A daily visual inspection shall be made of mixing, conveying, and electrical equipment to establish that such equipment is in good operating condition. A program of systematic maintenance shall be conducted on regular schedule.

(c) Heaters which are not dependent on the combustion process within the heating unit may be used within the confines of processing buildings, or compartments, if provided with temperature and safety controls and located away from combustible materials and the finished product.

(4) *Bulk delivery and mixing vehicles.* (i) The design of vehicles shall comply with the requirements of this subdivision.

(*a*) Vehicles used over public highways for the bulk transportation of water gels or of ingredients classified as dangerous commodities, shall meet the requirements of th Department of Transportation and shall meet the requirements of paragraphs (d) and (g)(6) of this section.

(*b*) When electric power is supplied by a self-contained motor generator located on the vehicle the generator shall be at a point separate from where the water gel is discharged.

(*c*) The design of processing equipment and general requirements shall conform to subparagraphs (3) (iii) and (iv) of this paragraph.

(*d*) A positive action parking brake which will set the wheel brakes on at least one axle shall be provided on vehicles when equipped with air brakes and shall be used during bulk delivery operations. Wheel chocks shall supplement parking brakes whenever conditions may require.

(ii) Operation of bulk delivery and mixing vehicles shall comply with the requirements of this subdivision.

(*a*) The placarding requirements contained in DOT regulations apply to vehicles carrying water gel explosives or blasting agents.

(*b*) The operator shall be trained in the safe operation of the vehicle together with its mixing, conveying, and related equipment. He shall be familiar with the commodities being delivered and the general procedure for handling emergency situations.

(*c*) The hauling of either blasting caps or other explosives, but not both, shall be permitted on bulk trucks provided that a special wood or nonferrous-lined container is installed for the explosives. Such blasting caps or other explosives shall be in DOT-specified shipping containers; see 49 CFR Chapter I.

(*d*) No person shall be allowed to smoke, carry matches or any flame-producing device, or carry any firearms while in or about bulk vehicles effecting the mixing, transfer, or down-the-hole loading of water gels at or near the blasting site.

(*e*) Caution shall be exercised in the movement of the vehicle in the blasting area to avoid driving the vehicle over or dragging hoses over firing lines, cap wires, or explosive materials. The employer shall furnish the driver the assistance of a second person to guide the driver's movements.

(*f*) No intransit mixing of materials shall be performed.

(*g*) The location chosen for water gel or ingredient transfer from a support vehicle into the borehole loading vehicle shall be away from the blasthole site when the boreholes are loaded or in the process of being loaded.

(i) *Storage of ammonium nitrate—*(1) *Scope and definitions.* (i)(*a*) Except as provided in subdivision (*d*) of this subdivision this paragraph applies to the storage of ammonium nitrate in the form of crystals, flakes, grains, or prills including fertilizer grade, dynamite grade, nitrous oxide grade, technical grade, and other mixtures containing 60 percent or more ammonium nitrate by weight but does not apply to blasting agents.

(*b*) This paragraph does not apply to the transportation of ammonium nitrate.

(*c*) This paragraph does not apply to storage under the jurisdiction of and in compliance with the regulations of the U.S. Coast Guard (see 46 CFR Parts 146–149).

(*d*) The storage of ammonium nitrate and ammonium nitrate mixtures that are more sensitive than allowed by the "Definition of Test Procedures for Ammonium Nitrate Fertilizer" is prohibited.

(*e*) Nothing in this paragraph shall apply to the production of ammonium nitrate or to the storage of ammonium nitrate on the premises of the producing plant, provided that no distinct undue hazard to the public is created.

(ii) (*a*) The definition and test procedures for ammonium nitrate fertilizer are those found in the bulletin, "Definition and Test Procedures for Ammonium Nitrate Fertilizer", available from the National Plant Food Institute, 1700 K Street NW., Washington, DC 20006. This definition limits the contents of organic materials, metals, sulfur, etc., in a product that may be classified ammonium nitrate fertilizer.

(*b*) The standards for ammonium nitrate (nitrous oxide grade) are those found in the "Specifications, Properties, and Recommendations for Packaging, Transportation, Storage, and Use of Ammonium Nitrate", available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York, NY 10036.

(2) *General provisions.* (i) This paragraph applies to all persons storing, having, or keeping ammonium nitrate, and to the owner or lessee of any building, premises, or structure in which ammonium nitrate is stored in quantities of 1,000 pounds or more.

(ii) Approval of large quantity storage shall be subject to due consideration of the fire and explosion hazards, including exposure to toxic vapors from burning or decomposing ammonium nitrate.

(iii) (*a*) Storage buildings shall not have basements unless the basements are open on at least one side. Storage buildings shall not be over one story in height.

(*b*) Storage buildings shall have adequate ventilation or be of a construction that will be self-ventilating in the event of fire.

(*c*) The wall on the exposed side of a storage building within 50 feet of a combustible building, forest, piles of combustible materials and similar exposure hazards shall be of fire-resistive construction. In lieu of the fire-resistive wall, other suitable means of exposure protection such as a free standing wall may be used. The roof coverings shall be Class C or better, as defined in the manual on Roof Coverings, NFPA 203M-1970.

(*d*) All flooring in storage and handling areas, shall be of noncombustible material or protected against impregnation by ammonium nitrate and shall be without open drains, traps, tunnels, pits, or pockets into which any molten ammonium nitrate could flow and be confined in the event of fire.

(*e*) The continued use of an existing storage building or structure not in strict conformity with this paragraph may be approved in cases where such continued use will not constitute a hazard to life or adjoining property.

(*f*) Buildings and structures shall be dry and free from water seepage through the roof, walls, and floors.

(3) *Storage of ammonium nitrate in bags, drums, or other containers.* (i) (*a*) Bags and containers used for ammonium nitrate must comply with specifications and standards required for use in interstate commerce (see 49 CFR Chapter I).

(*b*) Containers used on the premises in the actual manufacturing or processing need not comply with provisions of subdivision (*a*) of this subdivision.

(ii) (*a*) Containers of ammonium nitrate shall not be accepted for storage when the temperature of the ammonium nitrate exceeds 130° F.

(*b*) Bags of ammonium nitrate shall not be stored within 30 inches of the storage building walls and partitions.

(*c*) The height of piles shall not exceed 20 feet. The width of piles shall not exceed 20 feet and the length 50 feet except that where the building is of noncombustible construction or is protected by automatic sprinklers the length of piles shall not be limited. In no case shall the ammonium nitrate be stacked closer than 36 inches below the roof or supporting and spreader beams overhead.

(*d*) Aisles shall be provided to separate piles by a clear space of not less than 3 feet in width. At least one service or main aisle in the storage area shall be not less than 4 feet in width.

(4) *Storage of bulk ammonium nitrate.* (i) (*a*) Warehouses shall have adequate ventilation or be capable of adequate ventilation in case of fire.

(*b*) Unless constructed of noncombustible material or unless adequate facilities for fighting a roof fire are available, bulk storage structures shall not exceed a height of 40 feet.

(ii) (*a*) Bins shall be clean and free of materials which may contaminate ammonium nitrate.

(*b*) Due to the corrosive and reactive properties of ammonium nitrate, and to avoid contamination, galvanized iron, copper, lead, and zinc shall not be used in a bin construction unless suitably protected. Aluminum bins and wooden bins protected against impregnation by ammonium nitrate are permissible. The partitions dividing the ammonium nitrate storage from other products which would contaminate the ammonium nitrate shall be of tight construction.

(*c*) The ammonium nitrate storage bins or piles shall be clearly identified by signs reading "Ammonium Nitrate" with letters at least 2 inches high.

(iii) (*a*) Piles or bins shall be so sized and arranged that all material in the pile is moved out periodically in order to minimize possible caking of the stored ammonium nitrate.

(*b*) Height or depth of piles shall be limited by the pressure-setting tendency of the product. However, in no case shall the ammonium nitrate be piled higher at any point than 36 inches below the roof or supporting and spreader beams overhead.

(*c*) Ammonium nitrate shall not be accepted for storage when the temperature of the product exceeds 130° F.

(*d*) Dynamite, other explosives, and blasting agents shall not be used to break up or loosen caked ammonium nitrate.

(5) *Contaminants.* (i) (*a*) Ammonium nitrate shall be in a separate building or shall be separated by approved type firewalls of not less than 1 hour fire-resistance rating from storage of organic chemicals, acids, or other corrosive materials, materials that may require blasting during processing or handling, compressed flammable gases, flammable and combustible materials or other contaminating substances, including but not limited to animal fats, baled cotton, baled rags, baled scrap paper, bleaching powder, burlap or cotton bags, caustic soda, coal, coke, charcoal, cork, camphor, excelsior, fibers of any kind, fish oils, fish meal, foam rubber, hay, lubricating oil, linseed oil, or other oxidizable or drying oils, naphthalene, oakum, oiled clothing, oiled paper, oiled textiles, paint, straw, sawdust, wood shavings, or vegetable oils. Walls referred to in this subdivision need extend only to the underside of the roof.

(*b*) In lieu of separation walls, ammonium nitrate may be separated from the materials referred to in subdivision (*a*) of this subdivision by a space of at least 30 feet.

(*c*) Flammable liquids such as gasoline, kerosene, solvents, and light fuel oils shall not be stored on the premises except when such storage conforms to § 1910.106, and when walls and sills or curbs are provided in accordance with subdivisions (*a*) or (*b*) of this subdivision.

(*d*) LP-Gas shall not be stored on the premises except when such storage conforms to § 1910.110.

(ii) (*a*) Sulfur and finely divided metals shall not be stored in the same building with ammonium nitrate except when such storage conforms to paragraphs (a) through (h) of this section.

(*b*) Explosives and blasting agents shall not be stored in the same building with ammonium nitrate except on the premises of makers, distributors, and user-compounders of explosives or blasting agents.

(*c*) Where explosives or blasting agents are stored in separate buildings, other than on the premises of makers, distributors, and user-compounders of explosives or blasting agents, they shall be separated from the ammonium nitrate by the distances and/or barricades specified in Table H-22 of this subpart, but by not less than 50 feet.

(*d*) Storage and/or operations on the premises of makers, distributors, and user-compounders of explosives or blasting agents shall be in conformity with paragraphs (a) through (h) of this section.

(6) *General precautions.* (i) (*a*) Electrical installations shall conform to the requirements of subpart S of this part, for ordinary locations. They shall be designed to minimize damage from corrosion.

(vi) In areas where lightning storms are prevalent, lightning protection shall be provided. (See the Lightning Protection Code, NFPA 78–1968.)

(vii) Provisions shall be made to prevent unauthorized personnel from entering the ammonium nitrate storage area.

(7) *Fire protection.* (i) Not more than 2,500 tons of bagged ammonium nitrate shall be stored in a building or structure not equipped with an automatic sprinkler system. Sprinkler systems shall be of approved type and installed in accordance with the Standard for the Installation of Sprinkler Systems, NFPA 13–1969.

(ii) (*a*) Suitable fire control devices such as small hose or portable extinguishers shall be provided throughout the warehouse and in the loading and unloading areas. See the Standard for the Installation of Portable Fire Extinguishers, NFPA 10–1970, and the Standard for the Installation of Standpipe and Hose Systems, NFPA 14–1970.

(*b*) Water supplies and fire hydrants shall be available in accordance with recognized good practices.

(j) *Small arms ammunition, small arms primers, and small arms propellants*—(1) *Scope.* This paragraph does not apply to in-process storage and intraplant transportation during manufacture of small arms ammunition, small arms primers, and smokeless propellants.

(2) *Small arms ammunition.* (i) No quantity limitations are imposed on the storage of small arms ammunition in warehouses, retail stores, and other general occupancy facilities, except those imposed by limitations of storage facilities.

(ii) Small arms ammunition shall be separated from flammable liquids, flammable solids as classified in 49 CFR Part 172, and from oxidizing materials, by a fire-resistive wall of 1-hour rating or by a distance of 25 feet.

(iii) Small arms ammunition shall not be stored together with Class A or Class B explosives unless the storage facility is adequate for this latter storage.

(3) *Smokeless propellants.* (i) All smokeless propellants shall be stored in shipping containers specified in 49 CFR 173.93 for smokeless propellants.

(ii) Not more than 20 pounds of smokeless propellants, in containers of 1 pound maximum capacity, shall be displayed in commercial establishments.

(iii) Commercial stocks of smokeless propellants over 20 pounds and not more than 100 pounds shall be stored in portable wooden boxes having walls of at least 1 inch nominal thickness.

(iv) Commercial stocks in quantities not to exceed 750 pounds shall be stored in nonportable storage cabinets having wooden walls of at least 1 inch nominal thickness. Not more than 400 pounds shall be permitted in any one cabinet.

(v) Quantities in excess of 750 pounds shall be stored in magazines in accordance with paragraph (c) of this section.

(4) *Small arms ammunition primers.* (i) Small arms ammunition primers shall not be stored except in the original shipping container in accordance with the requirements of 49 CFR 173.107 for small arms ammunition primers.

(ii) Not more than 10,000 small arms ammunition primers may be displayed in commercial establishments.

(iii) Small arms ammunition primers shall be separated from flammable liquids, flammable solids as classified in 49 CFR Part 172, and oxidizing materials by a fire-resistive wall of 1-hour rating or by a distance of 25 feet.

(iv) Not more than 750,000 small arms ammunition primers shall be stored in any one building, except as provided in subdivision (v) of this subparagraph. Not more than 100,000 shall be stored in any one pile. Piles shall be at least 15 feet apart.

(v) Quantities of small arms ammunition primers in excess of 750,000 shall be stored in magazines in accordance with paragraph (c) of this section.

(k) *Scope.* This section applies to the manufacture, keeping, having, storage, sale, transportation, and use of explosives, blasting agents, and pyrotechnics. This section does not apply to the sale and use (public display) of pyrotechnics, commonly known as fireworks, nor to the use of explosives in the form prescribed by the official U.S. Pharmacopeia.

§ 1910.110 Storage and handling of liquefied petroleum gases.

(a) *Definitions applicable to this section.* As used in this section:

(1) API–ASME container—A container constructed in accordance with the requirements of paragraph (b)(3)(iii) of this section.

(2) ASME container—A container constructed in accordance with the requirements of paragraph (b)(3)(i) of this section.

(3) Container assembly—An assembly consisting essentially of the container and fittings for all container openings, including shutoff valves, excess flow valves, liquid-level gaging devices, safety relief devices, and protective housing.

(4) Containers—All vessels, such as tanks, cylinders, or drums, used for transportation or storing liquefied petroleum gases.

(5) DOT—Department of Transportation.

(6) DOT container—A container constructed in accordance with the applicable requirements of 49 CFR Chapter 1.

(7) "Liquified petroleum gases"—"LPG" and "LP-Gas"—Any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them; propane, propylene, bu-

tanes (normal butane or iso-butane), and butylenes.

(8) Movable fuel storage tenders or farm carts—Containers not in excess of 1,200 gallons water capacity, equipped with wheels to be towed from one location of usage to another. They are basically nonhighway vehicles, but may occasionally be moved over public roads or highways. They are used as a fuel supply for farm tractors, construction machinery and similar equipment.

(9) P.S.I.G.—pounds per square inch gauge.

(10) P.S.I.A.—pounds per square inch absolute.

(11) Systems—an assembly of equipment consisting essentially of the container or containers, major devices such as vaporizers, safety relief valves, excess flow valves, regulators, and piping connecting such parts.

(12) Vaporizer-burner—an integral vaporizer-burner unit, dependent upon the heat generated by the burner as the source of heat to vaporize the liquid used for dehydrators or dryers.

(13) Ventilation, adequate—when specified for the prevention of fire during normal operation, ventilation shall be considered adequate when the concentration of the gas in a gas-air mixture does not exceed 25 percent of the lower flammable limit.

(14) Approved—unless otherwise indicated, listing or approval by the following nationally recognized testing laboratories: Underwriters Laboratories, Inc.; Factual Mutual Engineering Corp.

(15) Listed—see "approved" in § 1910.110(14).

(16) DOT Specifications—regulations of the Department of Transportation published in 49 CFR Chapter I.

(17) DOT regulations—see § 1910.110(a)(16).

(18) DOT requirements—see § 1910.110(a)(16).

(19) DOT cylinders—cylinders meeting the requirements of 49 CFR Chapter I.

(b) *Basic rules.*—(1) *Odorizing gases.* (i) All liquefied petroleum gases shall be effectively odorized by an approved agent of such character as to indicate positively, by distinct odor, the presence of gas down to concentration in air of not over one-fifth the lower limit of flammability. Odorization, however, is not required if harmful in the use of further processing of the liquefied petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use or further processing.

(ii) The odorization requirement of subdivision (i) of this subparagraph shall be considered to be met by the use of 1.0 pounds of ethyl mercaptan, 1.0 pounds of thiophane or 1.4 pounds of amyl mercaptan per 10,000 gallons of LP-Gas. However, this listing of odorants and quantities shall not exclude the use of other odorants that meet the odorization requirements of subdivision (i) of this subparagraph.

(2) *Approval of equipment and systems.* (i) Each system utilizing DOT containers in accordance with 49 CFR Part 178 shall have its container valves, connectors, manifold valve assemblies, and regulators approved.

(ii) Each system for domestic or commercial use utilizing containers of 2,000 gallons or less water capacity, other than those constructed in accordance with 49 CFR Part 178, shall consist of a container assembly and one or more regulators, and may include other parts. The system as a unit or the container assembly as a unit, and the regulator or regulators, shall be individually listed.

(iii) In systems utilizing containers of over 2,000 gallons water capacity, each regulator, container valve, excess flow valve, gaging device, and relief valve installed on or at the container, shall have its correctness as to design, construction, and performance determined by listing by Underwriters Laboratories, Inc., or Factory Mutual Engineering Corp.

(3) *Requirements for construction and original test of containers.* (i) Containers used with systems embodied in paragraphs (d), (e), (g), and (h) of this section, except as provided in paragraphs (e)(3)(iii) and (g)(2)(i) of this section, shall be designed, constructed, and tested in accordance with the Rules for Construction of Unfired Pressure Vessels, section VIII, Division 1, American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, 1968 edition.

(ii) Containers constructed according to the 1949 and earlier editions of the ASME Code do not have to comply with paragraphs U–2 through U–10 and U–19 thereof. Containers constructed according to paragraph U–70 in the 1949 and earlier editions are not authorized.

(iii) Containers designed, constructed, and tested prior to July 1, 1961, according to the Code for Unfired Pressure Vessels for Petroleum Liquids and Gases, 1951 edition with 1954 Addenda, of the American Petroleum Institute and the American Society of Mechanical Engineers shall be considered in conformance. Containers constructed according to API–ASME Code do not have to comply with section I or with appendix to section I. Paragraphs W–601 to W–606 inclusive in the 1943 and earlier editions do not apply.

(iv) The provisions of subdivision (i) of this subparagraph shall not be construed as prohibiting the continued use or reinstallation of containers constructed and maintained in accordance with the standard for the Storage and Handling of Liquefied Petroleum Gases NFPA No. 58 in effect at the time of fabrication.

(v) Containers used with systems embodied in paragraph (b), (d)(3)(iii), and (f) of this section, shall be constructed, tested, and stamped in accordance with DOT specifications effective at the date of their manufacture.

(4) *Welding of containers.* (i) Welding to the shell, head, or any other part of the container subject to internal pressure, shall be done in compliance with the code under which the tank was fabricated. Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the tank manufacturer.

(ii) Where repair or modification involving welding of DOT containers is required, the container shall be returned to a qualified manufacturer making containers of the same type, and the repair or modification made in compliance with DOT regulations.

(5) *Markings on containers.* (i) Each container covered in subparagraph (3)(i) of this paragraph, except as provided in subparagraph (3)(iv) of this paragraph shall be marked as specified in the following:

(a) With a marking identifying compliance with, and other markings required by, the rules of the reference under which the container is constructed; or with the stamp and other markings required by the National Board of Boiler and Pressure Vessel Inspectors.

(b) With notation as to whether the container is designed for underground or aboveground installation or both. If intended for both and different style hoods are provided, the marking shall indicate the proper hood for each type of installation.

(c) With the name and address of the supplier of the container, or with the trade name of the container.

(d) With the water capacity of the container in pounds or gallons, U.S. Standard.

(e) With the pressure in p.s.i.g., for which the container is designed.

(f) With the wording "This container shall not contain a product having a vapor pressure in excess of — p.s.i.g. at 100° F.," see subparagraph (14)(viii) of this paragraph.

(g) With the tare weight in pounds or other identified unit of weight for containers with a water capacity of 300 pounds or less.

(h) With marking indicating the maximum level to which the container may be filled with liquid at temperatures between 20° F. and 130° F., except on containers provided with fixed maximum level indicators or which are filled by weighing. Markings shall be increments of not more than 20° F. This marking may be located on the liquid level gaging device.

(i) With the outside surface area in square feet.

(ii) Markings specified shall be on a metal nameplate attached to the container and located in such a manner as to remain visible after the container is installed.

(iii) When LP-Gas and one or more other gases are stored or used in the same area, the containers shall be marked to identify their content. Marking shall be in compliance with American National Standard Z48.1–1954, "Method of Marking Portable Compressed Gas Containers To Identify the Material Contained."

(6) *Location of containers and regulating equipment.* (i) Containers, and first stage regulating equipment if used, shall be located outside of buildings, except under one or more of the following:

(a) In buildings used exclusively for container charging, vaporization pressure reduction, gas mixing, gas manufacturing, or distribution.

(b) When portable use is necessary and in accordance with paragraph (c)(5) of this section.

(c) LP-Gas fueled stationary or portable engines in accordance with paragraph (e)(11) or (12) of this section.

(d) LP-Gas fueled industrial trucks used in accordance with paragraph (e)(13) of this section.

(e) LP-Gas fueled vehicles garaged in accordance with paragraph (e)(14) of this section.

(f) Containers awaiting use or resale when stored in accordance with paragraph (f) of this section.

(ii) Each individual container shall be located with respect to the nearest important building or group of buildings or line of adjoining property which may be built on in accordance with Table H–23.

TABLE H–23

Water capacity per container	Minimum distances: Containers: Underground	Containers: Aboveground	Between aboveground containers
Less than 125 gals [1]	10 feet	None	None.
125 to 250 gallons	10 feet	10 feet	None.
251 to 500 gallons	10 feet	10 feet	3 feet.
501 to 2,000 gallons	25 feet [2]	25 feet [2]	3 feet.
2,001 to 30,000 gallons	50 feet	50 feet	5 feet.
30,001 to 70,000 gallons	50 feet	75 feet	¼ of sum of diameters of adjacent containers.
70,001 to 90,000 gallons	50 feet	100 feet.	

[1] If the aggregate water capacity of a multi-container installation at a consumer site is 501 gallons or greater, the minimum distance shall comply with the appropriate portion of this table, applying the aggregate capacity rather than the capacity per container. If more than one installation is made, each installation shall be separated from another installation by at least 25 feet. Do not apply the MINIMUM DISTANCES BETWEEN ABOVEGROUND CONTAINERS to such installations.

[2] NOTE: The above distance requirements may be reduced to not less than 10 feet for a single container of 1,200 gallons water capacity or less, providing such a container is at least 25 feet from any other LP-Gas container of more than 125 gallons water capacity.

(iii) Containers installed for use shall not be stacked one above the other.

(iv) In industrial installations involving containers of 180,000 gallons aggregate water capacity or more, where serious mutual exposures between the container and adjacent properties prevail, firewalls or other means of special protection designed and constructed in accordance with good engineering practices are required.

(v) In the case of buildings devoted exclusively to gas manufacturing and distributing operations, the distances required by Table H–23 may be reduced provided that in no case shall containers of water capacity exceeding 500 gallons be located closer than 10 feet to such gas manufacturing and distributing buildings.

(vi) Readily ignitible material such as weeds and long dry grass shall be removed within 10 feet of any container.

(vii) The minimum separation between liquefied petroleum gas containers and flammable liquid tanks shall be 20 feet, and the minimum separation between a container and the centerline of the dike shall be 10 feet. The foregoing provision shall not apply when LP-Gas containers of 125 gallons or less capacity are installed adjacent to Class III flammable liquid tanks of 275 gallons or less capacity.

(viii) Suitable means shall be taken to prevent the accumulation of flammable liquids under adjacent liquefied petroleum gas containers, such as by diking, diversion curbs, or grading.

(ix) When dikes are used with flammable liquid tanks, no liquefied petroleum gas containers shall be located within the diked area.

(7) *Container valves and container accessories.* (i) Valves, fittings, and accessories connected directly to the container including primary shutoff valves, shall have a rated working pressure of at least 250 p.s.i.g. and shall be of material and design suitable for LP-Gas service. Cast iron shall not be used for container valves, fittings, and accessories. This does not prohibit the use of container valves made of malleable or nodular iron.

(ii) Connections to containers, except safety relief connections, liquid level gaging devices, and plugged openings, shall have shutoff valves located as close to the container as practicable.

(iii) Excess flow valves, where required shall close automatically at the rated flows of vapor or liquid as specified by the manufacturer. The connections or line including valves, fittings, etc., being protected by an excess flow valve shall have a greater capacity than the rated flow of the excess flow valve.

(iv) Liquid level gaging devices which are so constructed that outward flow of container contents shall not exceed that passed by a No. 54 drill size opening, need not be equipped with excess flow valves.

(v) Openings from container or through fittings attached directly on container to which pressure gage connection is made, need not be equipped with shutoff or excess flow valves if such openings are restricted to not larger than No. 54 drill size opening.

(vi) Except as provided in paragraph (c)(5)(i)(b) of this section, excess flow and back pressure check valves where required by this section shall be located inside of the container or at a point outside where the line enters the container; in the latter case, installation shall be made in such manner that any undue strain beyond the excess flow or back pressure check valve will not cause breakage between the container and such valve.

(vii) Excess flow valves shall be designed with a bypass, not to exceed a No. 60 drill size opening to allow equalization of pressures.

(viii) Containers of more than 30 gallons water capacity and less than 2,000 gallons water capacity, filled on a volumetric basis, and manufactured after December 1, 1963, shall be equipped for filling into the vapor space.

(8) *Piping—including pipe, tubing, and fittings.* (i) Pipe, except as provided in paragraphs (e)(6)(i) and (g)(10)(iii), of this section shall be wrought iron or steel (black or galvanized), brass, copper, or aluminum alloy. Aluminum alloy pipe shall be at least Schedule 40 in accordance with the specifications for Aluminum Alloy Pipe, American National Standards Institute (ANSI) H38.-7–1969 (ASTM, B241–69), except that the use of alloy 5456 is prohibited and shall be suitably marked at each end of each length indicating compliance with American National Standard Institute Specifications. Aluminum Alloy pipe shall be protected against external corrosion when it is in contact with dissimilar metals other than galvanized steel, or its location is subject to repeated wetting by such liquids as water (except rain water), detergents, sewage, or leaking from other piping, or it passes through flooring, plaster, masonry, or insulation. Galvanized sheet steel or pipe, galvanized inside and out, may be considered suitable protection. The maximum nominal pipe size for aluminum pipe shall be three-fourths inch and shall not be used for pressures exceeding 20 p.s.i.g. Aluminum alloy pipe shall not be installed within 6 inches of the ground.

(a) Vapor piping with operating pressures not exceeding 125 p.s.i.g. shall be suitable for a working pressure of at least 125 p.s.i.g. Pipe shall be at least Schedule 40 (ASTM A–53–69, Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal).

(b) Vapor piping with operating pressures over 125 p.s.i.g. and all liquid piping shall be suitable for a working pressure of at least 250 p.s.i.g. Pipe shall be at least Schedule 80 if joints are threaded or threaded and back welded. At least Schedule 40 (ASTM A–53–69 Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal) shall be used if joints are welded, or welded and flanged.

(ii) Tubing shall be seamless and of copper, brass, steel, or aluminum alloy. Copper tubing shall be of type K or L or equivalent as covered in the Specification for Seamless Copper Water Tube, ANSI H23.1–1970 (ASTM B88–69). Aluminum alloy tubing shall be of Type A or B or equivalent as covered in Specification ASTM B210–68 and shall be suitably marked every 18 inches indicating compliance with ASTM Specifications. The minimum nominal wall thickness of copper tubing and aluminum alloy tubing shall be as specified in Table H–24 and Table H–25.

TABLE H–24—WALL THICKNESS OF COPPER TUBING [1]

NOTE: The standard size by which tube is designated is ⅛-inch smaller than its nominal outside diameter.

Standard size (inches)	Nominal O.D. (inches)	Nominal wall thickness (inches): Type K	Type L
¼	0.375	0.035	0.030
⅜	0.500	0.049	0.035
½	0.625	0.049	0.040
⅝	0.750	0.049	0.042
¾	0.875	0.065	0.045
1	1.125	0.065	0.050
1¼	1.375	0.065	0.055
1½	1.625	0.072	0.060
2	2.125	0.083	0.070

[1] Based on data in Specification for Seamless Copper Water Tube, ANSI H23.1-1970 (ASTM B-88-69).

TABLE II-25—WALL THICKNESS OF ALUMINUM ALLOY TUBING [1]

Outside diameter (inches)	Nominal wall thickness (inches)	
	Type A	Type B
⅜	0.035	0.049
½	0.035	0.049
⅝	0.042	0.049
¾	0.049	0.058

[1] Based on data in Standard Specification for Aluminum-Alloy Drawn Seamless Coiled Tubes for Special Purpose Applications, ASTM B210-68.

Aluminum alloy tubing shall be protected against external corrosion when it is in contact with dissimilar metals other than galvanized steel, or its location is subject to repeated wetting by liquids such as water (except rainwater), detergents, sewage, or leakage from other piping, or it passes through flooring, plaster, masonry, or insulation. Galvanized sheet steel or pipe, galvanized inside and out, may be considered suitable protection. The maximum outside diameter for aluminum alloy tubing shall be three-fourths inch and shall not be used for pressures exceeding 20 p.s.i.g. Aluminum alloy tubing shall not be installed within 6 inches of the ground.

(iii) In systems where the gas in liquid form without pressure reduction enters the building, only heavy walled seamless brass or copper tubing with an internal diameter not greater than three thirty-seconds inch, and a wall thickness of not less than three sixty-fourths inch shall be used. This requirement shall not apply to research and experimental laboratories, buildings, or separate fire divisions of buildings used exclusively for housing internal combustion engines, and to commercial gas plants or bulk stations where containers are charged, nor to industrial vaporizer buildings, nor to buildings, structures, or equipment under construction or undergoing major renovation.

(iv) Pipe joints may be screwed, flanged, welded, soldered, or brazed with a material having a melting point exceeding 1,000° F. Joints on seamless copper, brass, steel, or aluminum alloy gas tubing shall be made by means of approved gas tubing fittings, or soldered or brazed with a material having a melting point exceeding 1,000° F.

(v) For operating pressures of 125 p.s.i.g. or less, fittings shall be designed for a pressure of at least 125 p.s.i.g. For operating pressures above 125 p.s.i.g., fittings shall be designed for a minimum of 250 p.s.i.g.

(vi) The use of threaded cast iron pipe fittings such as ells, tees, crosses, couplings, and unions is prohibited. Aluminum alloy fittings shall be used with aluminum alloy pipe and tubing. Insulated fittings shall be used where aluminum alloy pipe or tubing connects with a dissimilar metal.

(vii) Strainers, regulators, meters, compressors, pumps, etc., are not to be considered as pipe fittings. This does not prohibit the use of malleable, nodular, or higher strength gray iron for such equipment.

(viii) All materials such as valve seats, packing, gaskets, diaphragms, etc., shall be of such quality as to be resistant to the action of liquified petroleum gas under the service conditions to which they are subjected.

(ix) All piping, tubing, or hose shall be tested after assembly and proved free from leaks at not less than normal operating pressures. After installation, piping and tubing of all domestic and commercial systems shall be tested and proved free of leaks using a manometer or equivalent device that will indicate a drop in pressure. Test shall not be made with a flame.

(x) Provision shall be made to compensate for expansion, contraction, jarring, and vibration, and for settling. This may be accomplished by flexible connections.

(xi) Piping outside buildings may be buried, above ground, or both, but shall be well supported and protected against physical damage. Where soil conditions warrant, all piping shall be protected against corrosion. Where condensation may occur, the piping shall be pitched back to the container, or suitable means shall be provided for revaporization of the condensate.

(9) *Hose specifications.* (i) Hose shall be fabricated of materials that are resistant to the action of LP-Gas in the liquid and vapor phases. If wire braid is used for reinforcing the hose, it shall be of corrosion-resistant material such as stainless steel.

(ii) Hose subject to container pressure shall be marked "LP-Gas" or "LPG" at not greater than 10-foot intervals.

(iii) Hose subject to container pressure shall be designed for a bursting pressure of not less than 1,250 p.s.i.g.

(iv) Hose subject to container pressure shall have its correctness as to design construction and performance determined by being listed (see § 1910.110 (a)(15)).

(v) Hose connections subject to container pressure shall be capable of withstanding, without leakage, a test pressure of not less than 500 p.s.i.g.

(vi) Hose and hose connections on the low-pressure side of the regulator or reducing valve shall be designed for a bursting pressure of not less than 125 p.s.i.g or five times the set pressure of the relief devices protecting that portion of the system, whichever is higher.

(vii) Hose may be used on the low-pressure side of regulators to connect to other than domestic and commercial gas appliances under the following conditions:

(*a*) The appliances connected with hose shall be portable and need a flexible connection.

(*b*) For use inside buildings the hose shall be of minimum practical length, but shall not exceed 6 feet except as provided in pargraph (c)(5)(i)(*g*) of this section and shall not extend from one room to another, nor pass through any walls, partitions, ceilings, or floors. Such hose shall not be concealed from view or used in a concealed location. For use outside of buildings, the hose may exceed this length but shall be kept as short as practical.

(c) The hose shall be approved and shall not be used where it is likely to be subjected to temperatures above 125° F. The hose shall be securely connected to the appliance and the use of rubber slip ends shall not be permitted.

(*d*) The shutoff valve for an appliance connected by hose shall be in the metal pipe or tubing and not at the appliance end of the hose. When shutoff valves are installed close to each other, precautions shall be taken to prevent operation of the wrong valve.

(*e*) Hose used for connecting to wall outlets shall be protected from physical damage.

(10) *Safety devices.* (i) Every container except those constructed in accordance with DOT specifications and every vaporizer (except motor fuel vaporizers and except vaporizers described in subparagraph (11)(ii)(c) of this paragraph and paragraph (d)(4)(v)(*a*) of this section) whether heated by artificial means or not, shall be provided with one or more safety relief valves of spring-loaded or equivalent type. These valves shall be arranged to afford free vent to the outer air with discharge not less than 5 feet horizontally away from any opening into the building which is below such discharge. The rate of discharge shall be in accordance with the requirements of subdivision (ii) of this subparagraph or subdivision (iii) of this subparagraph in the case of vaporizers.

(ii) Minimum required rate of discharge in cubic feet per minute of air at 120 percent of the maximum permitted start to discharge pressure for safety relief valves to be used on containers other than those constructed in accordance with DOT specification shall be as follows:

Surface area (sq. ft.)	*Flow rate CFM air*
20 or less	626
25	751
30	872
35	990
40	1,100
45	1,220
50	1,330
55	1,430
60	1,540
65	1,640
70	1,750
75	1,850
80	1,950
85	2,050
90	2,150
95	2,240
100	2,340
105	2,440
110	2,530
115	2,630
120	2,720
125	2,810
130	2,900
135	2,990
140	3,080
145	3,170
150	3,260
155	3,350
160	3,440
165	3,530
170	3,620
175	3,700
180	3,790
185	3,880
190	3,960
195	4,050
200	4,130
210	4,300
220	4,470
230	4,630
240	4,800
250	4,960
260	5,130
270	5,290
280	5,450
290	5,610
300	5,760
310	5,920
320	6,080
330	6,230
340	6,390
350	6,540
360	6,690
370	6,840
380	7,000
390	7,150
400	7,300
450	8,040
500	8,760
550	9,470
600	10,170
650	10,860
700	11,550
750	12,220
800	12,880
850	13,540
900	14,190
950	14,830
1,000	15,470
1,050	16,100
1,100	16,720
1,150	17,350
1,200	17,960
1,250	18,570
1,300	19,180
1,350	19,780
1,400	20,380
1,450	20,980
1,500	21,570
1,550	22,160
1,600	22,740
1,650	23,320
1,700	23,900
1,750	24,470
1,800	25,050
1,850	25,620
1,900	26,180
1,950	26,750
2,000	27,310

Surface area=total outside surface area of container in square feet.

When the surface area is not stamped on the nameplate or when the marking is not legible, the area can be calculated by using one of the following formulas:

(1) Cylindrical container with hemispherical heads:

Area=Overall length×outside diameter×3.1416.

(2) Cylindrical container with other than hemispherical heads:

Area=(Overall length+0.3 outside diameter)×outside diameter×3.1416.

NOTE: This formula is not exact, but will give results within the limits of practical accuracy for the sole purpose of sizing relief valves.

(3) Spherical container:

Area=Outside diameter squared×3.1416.

Flow Rate-CFM Air=Required flow capacity in cubic feet per minute of air at standard conditions, 60 F. and atmospheric pressure (14.7 p.s.i.a.).

The rate of discharge may be interpolated for intermediate values of surface area. For containers with total outside surface area greater than 2,000 square feet, the required flow rate can be calculated using the formula, Flow Rate-CFM Air=$53.632\ A^{.82}$.

A=total outside surface area of the container in square feet.

Valves not marked "Air" have flow rate marking in cubic feet per minute of liquefied petroleum gas. These can be converted to ratings in cubic feet per minute of air by multiplying the liquefied petroleum gas ratings by factors listed below. Air flow ratings can be converted to ratings in cubic feet per minute of liquefied petroleum gas by dividing the air ratings by the factors listed below.

AIR CONVERSION FACTORS

Container type	100	125	150	175	200
Air conversion factor	1.162	1.142	1.113	1.078	1.010

(iii) Minimum Required Rate of Discharge for Safety Relief Valves for Liquefied Petroleum Gas Vaporizers (Steam Heated, Water Heated, and Direct Fired).

The minimum required rate of discharge for safety relief valves shall be determined as follows:

(*a*) Obtain the total surface area by adding the surface area of vaporizer shell in square feet directly in contact with LP-Gas and the heat exchanged surface area in square feet directly in contact with LP-Gas.

(*b*) Obtain the minimum required rate of discharge in cubic feet of air per minute, at 60° F. and 14.7 p.s.i.a. from subdivision (ii) of this subparagraph, for this total surface area.

(iv) Container and vaporizer safety relief valves shall be set to start-to-discharge, with relation to the design pressure of the container, in accordance with Table H-26.

TABLE II-26

Containers	Minimum (percent)	Maximum (percent)
ASME Code: Par. U-68, U-69—1949 and earlier editions	110	[1] 125
ASME Code: Par. U-200, U-201—1949 edition	88	[1] 100
ASME Code—1950, 1952, 1956, 1959, 1962, 1965 and 1968 (Division 1) editions	88	[1] 100
API—ASME Code—all editions	88	[1] 100
DOT—As prescribed in 49 CFR Chapter I		

[1] Manufacturers of safety relief valves are allowed a plus tolerance not exceeding 10 percent of the set pressure marked on the valve.

(v) Safety relief devices used with systems employing containers other than those constructed according to DOT specifications shall be so constructed as to discharge at not less than the rates shown in subdivision (ii) of this subparagraph, before the pressure is in excess of 120 percent of the maximum (not including the 10 percent referred to in subdivision (iv) of this subparagraph) permitted start to discharge pressure setting of the device.

(vi) In certain locations sufficiently sustained high temperatures prevail which require the use of a lower vapor pressure product to be stored or the use of a higher designed pressure vessel in order to prevent the safety valves opening as the result of these temperatures. As an alternative the tanks may be protected by cooling devices such as by spraying, by shading, or other effective means.

(vii) Safety relief valves shall be arranged so that the possibility of tampering will be minimized. If pressure setting or adjustment is external, the relief valves shall be provided with approved means for sealing adjustment.

(viii) Shutoff valves shall not be installed between the safety relief devices and the container, or the equipment or piping to which the safety relief device is connected except that a shutoff valve may be used where the arrangement of this valve is such that full required capacity flow through the safety relief device is always afforded.

(ix) Safety relief valves shall have direct communication with the vapor space of the container at all times.

(x) Each container safety relief valve used with systems covered by paragraphs (d), (e), (g), and (h) of this section, except as provided in paragraph (e)(3)(iii) of this section shall be plainly and permanently marked with the following: "Container Type" of the pressure vessel on which the valve is designed to be installed; the pressure in p.s.i.g. at which the valve is set to discharge; the actual rate of discharge of the valve in cubic feet per minute of air at 60° F. and 14.7 p.s.i.a.; and the manufacturer's name and catalog number, for example: T200–250–4050 AIR—indicating that the valve is suitable for use on a Type 200 container, that it is set to start to discharge at 250 p.s.i.g.; and that its rate of discharge is 4,050 cubic feet per minute of air as determined in subdivision (ii) of this subparagraph.

(xi) Safety relief valve assemblies, including their connections, shall be of sufficient size so as to provide the rate of flow required for the container on which they are installed.

(xii) A hydrostatic relief valve shall be installed between each pair of shutoff valves on liquefied petroleum gas liquid piping so as to relieve into a safe atmosphere. The start-to-discharge pressure setting of such relief valves shall not be in excess of 500 p.s.i.g. The minimum setting on relief valves installed in piping connected to other than DOT containers shall not be lower than 140 percent of the container relief valve setting and in piping connected to DOT containers not lower than 400 p.s.i.g. Such a relief valve should not be installed in the pump discharge piping if the same protection can be provided by installing the relief valve in the suction piping. The start-to-discharge pressure setting of such a relief valve, if installed on the discharge

side of a pump, shall be greater than the maximum pressure permitted by the recirculation device in the system.

(xiii) The discharge from any safety relief device shall not terminate in or beneath any building, except relief devices covered by subparagraphs (6) (i) (*a*)–(*e*) of this paragraph, or paragraphs, (c) (4) (i) or (5) of this section.

(xiv) Container safety relief devices and regulator relief vents shall be located not less than five (5) feet in any direction from air openings into sealed combustion system appliances or mechanical ventilation air intakes.

(11) *Vaporizer and housing.* (i) Indirect fired vaporizers utilizing steam, water, or other heating medium shall be constructed and installed as follows:

(*a*) Vaporizers shall be constructed in accordance with the requirements of subparagraph (3) (i)–(iii) of this paragraph and shall be permanently marked as follows:

(*1*) With the code marking signifying the specifications to which the vaporizer is constructed.

(*2*) With the allowable working pressure and temperature for which the vaporizer is designed.

(*3*) With the sum of the outside surface area and the inside heat exchange surface area expressed in square feet.

(*4*) With the name or symbol of the manufacturer.

(*b*) Vaporizers having an inside diameter of 6 inches or less exempted by the ASME Unfired Pressure Vessel Code, Section VIII of the ASME Boiler and Pressure Vessel Code—1968 shall have a design pressure not less than 250 p.s.i.g. and need not be permanently marked.

(*c*) Heating or cooling coils shall not be installed inside a storage container.

(*d*) Vaporizers may be installed in buildings, rooms, sheds, or lean-tos used exclusively for gas manufacturing or distribution, or in other structures of light, noncombustible construction or equivalent, well ventilated near the floor line and roof.

When vaporizing and/or mixing equipment is located in a structure or building not used exclusively for gas manufacturing or distribution, either attached to or within such a building, such structure or room shall be separated from the remainder of the building by a wall designed to withstand a static pressure of at least 100 pounds per square foot. This wall shall have no openings or pipe or conduit passing through it. Such structure or room shall be provided with adequate ventilation and shall have a roof or at least one exterior wall of lightweight construction.

(*e*) Vaporizers shall have, at or near the discharge, a safety relief valve providing an effective rate of discharge in accordance with subparagraph (10)(iii) of this paragraph, except as provided in paragraph (d) (4) (v) (*a*), of this section.

(*f*) The heating medium lines into and leaving the vaporizer shall be provided with suitable means for preventing the flow of gas into the heat systems in the event of tube rupture in the vaporizer. Vaporizers shall be provided with suitable automatic means to prevent liquid passing through the vaporizers to the gas discharge piping.

(*g*) The device that supplies the necessary heat for producing steam, hot water, or other heating medium may be installed in a building, compartment, room, or lean-to which shall be ventilated near the floorline and roof to the outside. The device location shall be separated from all compartments or rooms containing liquefied petroleum gas vaporizers, pumps, and central gas mixing devices by a wall designed to withstand a static pressure of at least 100 pounds per square foot. This wall shall have no openings or pipes or conduit passing through it. This requirement does not apply to the domestic water heaters which may supply heat for a vaporizer in a domestic system.

(*h*) Gas-fired heating systems supplying heat exclusively for vaporization purposes shall be equipped with automatic safety devices to shut off the flow of gas to main burners, if the pilot light should fail.

(*i*) Vaporizers may be an integral part of a fuel storage container directly connected to the liquid section or gas section or both.

(*j*) Vaporizers shall not be equipped with fusible plugs.

(*k*) Vaporizer houses shall not have unprotected drains to sewers or sump pits.

(ii) Atmospheric vaporizers employing heat from the ground or surrounding air shall be installed as follows:

(*a*) Buried underground, or

(*b*) Located inside the building close to a point at which pipe enters the building provided the capacity of the unit does not exceed 1 quart.

(*c*) Vaporizers of less than 1 quart capacity heated by the ground or surrounding air, need not be equipped with safety relief valves provided that adequate tests demonstrate that the assembly is safe without safety relief valves.

(iii) Direct gas-fired vaporizers shall be constructed, marked, and installed as follows:

(*a*) (*1*) In accordance with the requirements of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code—1968 that are applicable to the maximum working conditions for which the vaporizer is designed.

(*2*) With the name of the manufacturer; rated BTU input to the burner; the area of the heat exchange surface in square feet; the outside surface of the vaporizer in square feet; and the maximum vaporizing capacity in gallons per hour.

(*b*) (*1*) Vaporizers may be connected to the liquid section or the gas section of the storage container, or both; but in any case there shall be at the container a manually operated valve in each connection to permit completely shutting off when desired, of all flow of gas or liquid from container to vaporizer.

(*2*) Vaporizers with capacity not exceeding 35 gallons per hour shall be located at least 5 feet from container shutoff valves. Vaporizers having capacity of more than 35 gallons but not exceeding 100 gallons per hour shall be located at least 10 feet from the container shutoff valves. Vaporizers having a capacity greater than 100 gallons per hour shall be located at least 15 feet from container shutoff valves.

(*c*) Vaporizers may be installed in buildings, rooms, housings, sheds, or lean-tos used exclusively for vaporizing or mixing of liquefied petroleum gas. Vaporizing housing structures shall be of noncombustible construction, well ventilated near the floorline and the highest point of the roof. When vaporizer and/or mixing equipment is located in a structure or room attached to or within a building, such structure or room shall be separated from the remainder of the building by a wall designed to withstand a static pressure of at least 100 pounds per square foot. This wall shall have no openings or pipes or conduit passing through it. Such structure or room shall be provided with adequate ventilation, and shall have a roof or at least one exterior wall of lightweight construction.

(*d*) Vaporizers shall have at or near the discharge, a safety relief valve providing an effective rate of discharge in accordance with subparagraph (10) (iii) of this paragraph. The relief valve shall be so located as not to be subjected to temperatures in excess of 140° F.

(*e*) Vaporizers shall be provided with suitable automatic means to prevent liquid passing from the vaporizer to the gas discharge piping of the vaporizer.

(*f*) Vaporizers shall be provided with means for manually turning off the gas to the main burner and pilot.

(*g*) Vaporizers shall be equipped with automatic safety devices to shut off the flow of gas to main burners if the pilot light should fail. When the flow through the pilot exceeds 2,000 B.t.u. per hour, the pilot also shall be equipped with an automatic safety device to shut off the flow of gas to the pilot should the pilot flame be extinguished.

(*h*) Pressure regulating and pressure reducing equipment if located within 10 feet of a direct fired vaporizer shall be separated from the open flame by a substantially airtight noncombustible partition or partitions.

(*i*) Except as provided in (c) of this subdivision, the following minimum distances shall be maintained between direct fired vaporizers and the nearest important building or group of buildings or line of adjoining property which may be built upon:

Ten feet for vaporizers having a capacity of 15 gallons per hour or less vaporizing capacity.

Twenty-five feet for vaporizers having a vaporizing capacity of 16 to 100 gallons per hour.

Fifty feet for vaporizers having a vaporizing capacity exceeding 100 gallons per hour.

(*j*) Direct fired vaporizers shall not raise the product pressure above the design pressure of the vaporizer equipment nor shall they raise the product pressure within the storage container above the pressure shown in the second column of Table H–31.

(*k*) Vaporizers shall not be provided with fusible plugs.

(*l*) Vaporizers shall not have unprotected drains to sewers or sump pits.

(iv) Direct gas-fired tank heaters shall be constructed and installed as follows:

(*a*) Direct gas-fired tank heaters, and tanks to which they are applied, shall only be installed above ground.

(*b*) Tank heaters shall be permanently marked with the name of the manufacturer, the rated B.t.u. input to the burner, and the maximum vaporizing capacity in gallons per hour.

(*c*) Tank heaters may be an integral part of a fuel storage container directly connected to the container liquid section, or vapor section, or both.

(*d*) Tank heaters shall be provided with a means for manually turning off the gas to the main burner and pilot.

(*e*) Tank heaters shall be equipped with an automatic safety device to shut off the flow of gas to main burners, if the pilot light should fail. When flow through pilot exceeds 2,000 B.t.u. per hour, the pilot also shall be equipped with an automatic safety device to shut off the flow of gas to the pilot should the pilot flame be extinguished.

(*f*) Pressure regulating and pressure reducing equipment if located within 10 feet of a direct fired tank heater shall be separated from the open flame by a substantially airtight noncombustible partition.

(*g*) The following minimum distances shall be maintained between a storage tank heated by a direct fired tank heater and the nearest important building or group of buildings or line of adjoining property which may be built upon:

Ten feet for storage containers of less than 500 gallons water capacity.

Twenty-five feet for storage containers of 500 to 1,200 gallons water capacity.

Fifty feet for storage containers of over 1,200 gallons water capacity.

(*h*) No direct fired tank heater shall raise the product pressure within the storage container over 75 percent of the pressure set out in the second column of Table H–31.

(v) The vaporizer section of vaporizer-burners used for dehydrators or dryers shall be located outside of buildings; they shall be constructed and installed as follows:

(*a*) Vaporizer-burners shall have a minimum design pressure of 250 p.s.i.g. with a factor of safety of five.

(*b*) Manually operated positive shutoff valves shall be located at the containers to shut off all flow to the vaporizer-burners.

(c) Minimum distances between storage containers and vaporizer-burners shall be as follows:

Water capacity per container (gallons)	*Minimum distances (feet)*
Less than 501	10
501 to 2,000	25
Over 2,000	50

(*d*) The vaporizer section of vaporizer-burners shall be protected by a hydrostatic relief valve. The relief valve shall be located so as not to be subjected to temperatures in excess of 140° F. The start-to-discharge pressure setting shall be such as to protect the components involved, but not less than 250 p.s.i.g. The discharge shall be directed upward and away from component parts of the equipment and away from operating personnel.

(*e*) Vaporizer-burners shall be provided with means for manually turning off the gas to the main burner and pilot.

(*f*) Vaporizer-burners shall be equipped with automatic safety devices to shut off the flow of gas to the main burner and pilot in the event the pilot is extinguished.

(*g*) Pressure regulating and control equipment shall be located or protected so that the temperatures surrounding this equipment shall not exceed 140° F. except that equipment components may be used at higher temperatures if designed to withstand such temperatures.

(*h*) Pressure regulating and control equipment when located downstream of the vaporizer shall be designed to withstand the maximum discharge temperature of the vapor.

(*i*) The vaporizer section of vaporizer-burners shall not be provided with fusible plugs.

(*j*) Vaporizer coils or jackets shall be made of ferrous metal or high temperature alloys.

(*k*) Equipment utilizing vaporizer-burners shall be equipped with automatic shutoff devices upstream and downstream of the vaporizer section connected so as to operate in the event of excessive temperature, flame failure, and, if applicable, insufficient airflow.

(12) *Filling densities.* (i) The "filling density" is defined as the percent ratio of the weight of the gas in a container to the weight of water the container will hold at 60° F. All containers shall be filled according to the filling densities shown in Table H–27.

TABLE H-27—MAXIMUM PERMITTED FILLING DENSITY

Specific gravity at 60° F. (15.6° C.)	Aboveground containers		Underground containers, all capacities
	0 to 1,200 U.S. gals. (1,000 imp. gal., 4,550 liters) total water cap.	Over 1,200 U.S. gals. (1,000 imp. gal., 4,550 liters) total water cap.	
	Percent	*Percent*	*Percent*
0.496–0.503	41	44	45
.504– .510	42	45	46
.511– .519	43	46	47
.520– .527	44	47	48
.528– .536	45	48	49
.537– .544	46	49	50
.545– .552	47	50	51
.553– .560	48	51	52
.561– .568	49	52	53
.569– .576	50	53	54
.577– .584	51	54	55
.585– .592	52	55	56
.593– .600	53	56	57

(ii) Except as provided in subdivision (iii) of this subparagraph, any container including mobile cargo tanks and portable tank containers regardless of size or construction, shipped under DOT jurisdiction or constructed in accordance with 49 CFR Chapter I Specifications shall be charged according to 49 CFR Chapter I requirements.

(iii) Portable containers not subject to DOT jurisdiction (such as, but not limited to, motor fuel containers on industrial and lift trucks, and farm tractors covered in paragraph (e) of this section, or containers recharged at the installation) may be filled either by weight, or by volume using a fixed length dip tube gaging device.

(13) *LP-Gas in buildings.* (i) Vapor shall be piped into buildings at pressures in excess of 20 p.s.i.g. only if the buildings or separate areas thereof, (*a*) are constructed in accordance with this section; (*b*) are used excusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing, or distribution, or to house internal combustion engines, industrial processes, research and experimental laboratories, or equipment and processes using such gas and having similar hazard; (c) buildings, structures, or equipment under construction or undergoing major renovation.

(ii) Liquid may be permitted in buildings as follows:

(*a*) Buildings, or separate areas of buildings, used exclusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing, or distribution, or to house internal combustion engines, industrial processes, research and experimental laboratories, or equipment and processes using such gas and having similar hazard; and when such buildings, or separate areas thereof are constructed in accordance with this section.

(*b*) Buildings, structures, or equipment under construction or undergoing major renovation provided the temporary piping meets the following conditions:

(*1*) Liquid piping inside the building shall conform to the requirements of subparagraph (8) of this paragraph, and shall not exceed three-fourths iron pipe size. Copper tubing with an outside diameter of three-fourths inch or less may be used provided it conforms to Type K of Specifications for Seamless Water Tube, ANSI H23.1–1970 (ASTM B88–69) (see Table H–24). All such piping shall be protected against construction hazards. Liquid piping inside buildings shall be kept to a minimum. Such piping shall be securely fastened to walls or other surfaces so as to provide adequate protection from breakage and so located as to subject the liquid line to lowest ambient temperatures.

(*2*) A shutoff valve shall be installed in each intermediate branch line where it takes off the main line and shall be readily accessible. A shutoff valve shall also be placed at the appliance end of the intermediate branch line. Such shutoff valve shall be upstream of any flexible connector used with the appliance.

(*3*) Suitable excess flow valves shall be installed in the container outlet line supplying liquid LP-Gas to the building. A suitable excess flow valve shall be installed immediately downstream of each shutoff valve. Suitable excess flow valves shall be installed where piping size is reduced and shall be sized for the reduced size piping.

(*4*) Hydrostatic relief valves shall be installed in accordance with subparagraph (10) (xii) of this paragraph.

(5) The use of hose to carry liquid between the container and the building or at any point in the liquid line, except at the appliance connector, shall be prohibited.

(6) Where flexible connectors are necessary for appliance installation, such connectors shall be as short as practicable and shall comply with subparagraph (8)(ii) or (9) of this paragraph.

(7) Release of fuel when any section of piping or appliances is disconnected shall be minimized by either of the following methods:

(i) Using an approved automatic quick-closing coupling (a type closing in both directions when coupled in the fuel line), or

(ii) Closing the valve nearest to the appliance and allowing the appliance to operate until the fuel in the line is consumed.

(iii) Portable containers shall not be taken into buildings except as provided in subparagraph (6)(i) of this paragraph.

(14) *Transfer of liquids.* The employer shall assure that (i) at least one attendant shall remain close to the transfer connection from the time the connections are first made until they are finally disconnected, during the transfer of the product.

(ii) Containers shall be filled or used only upon authorization of the owner.

(iii) Containers manufactured in accordance with specifications of 49 CFR Part 178 and authorized by 49 CFR Chapter 1 as a "single trip" or "nonrefillable container" shall not be refilled or reused in LP-Gas service.

(iv) Gas or liquid shall not be vented to the atmosphere to assist in transferring contents of one container to another, except as provided in paragraph (e)(5)(iv) of this section and except that this shall not preclude the use of listed pump utilizing LP-Gas in the vapor phase as a source of energy and venting such gas to the atmosphere at a rate not to exceed that from a No. 31 drill size opening and provided that such venting and liquid transfer shall be located not less than 50 feet from the nearest important building.

(v) Filling of fuel containers for industrial trucks or motor vehicles from industrial bulk storage containers shall be performed not less than 10 feet from the nearest important masonry-walled building or not less than 25 feet from the nearest important building or other construction and, in any event, not less than 25 feet from any building opening.

(vi) Filling of portable containers, containers mounted on skids, fuel containers on farm tractors, or similar applications, from storage containers used in domestic or commercial service, shall be performed not less than 50 feet from the nearest important building.

(vii) The filling connection and the vent from the liquid level gages in containers, filled at point of installation, shall not be less than 10 feet in any direction from air openings into sealed combustion system appliances or mechanical ventilation air intakes.

(viii) Fuel supply containers shall be gaged and charged only in the open air or in buildings especially provided for that purpose.

(ix) The maximum vapor pressure of the product at 100° F. which may be transferred into a container shall be in accordance with paragraphs (d)(2) and (e)(3) of this section. (For DOT containers use DOT requirements.)

(x) Marketers and users shall exercise precaution to assure that only those gases for which the system is designed, examined, and listed, are employed in its operation, particularly with regard to pressures.

(xi) Pumps or compressors shall be designed for use with LP-Gas. When compressors are used they shall normally take suction from the vapor space of the container being filled and discharge to the vapor space of the container being emptied.

(xii) Pumping systems, when equipped with a positive displacement pump, shall include a recirculating device which shall limit the differential pressure on the pump under normal operating conditions to the maximum differential pressure rating of the pump. The discharge of the pumping system shall be protected so that pressure does not exceed 350 p.s.i.g. If a recirculation system discharges into the supply tank and contains a manual shutoff valve, an adequate secondary safety recirculation system shall be incorporated which shall have no means of rendering it inoperative. Manual shutoff valves in recirculation systems shall be kept open except during an emergency or when repairs are being made to the system.

(xiii) When necessary, unloading piping or hoses shall be provided with suitable bleeder valves for relieving pressure before disconnection.

(xvi) Agricultural air moving equipment, including crop dryers, shall be shut down when supply containers are being filled unless the air intakes and sources of ignition on the equipment are located 50 feet or more from the container.

(xv) Agricultural equipment employing open flames or equipment with integral containers, such as flame cultivators, weed burners, and, in addition, tractors, shall be shut down during refueling.

(15) *Tank car or transport truck loading or unloading points and operations.* (i) The track of tank car siding shall be relatively level.

(ii) A "Tank Car Connected" sign, as covered by DOT rules, shall be installed at the active end or ends of the siding while the tank car is connected.

(iii) While cars are on sidetrack for loading or unloading, the wheels at both ends shall be blocked on the rails.

(iv) The employer shall insure that an employee is in attendance at all times while the tank car, cars, or trucks are being loaded or unloaded.

(v) A backflow check valve, excess-flow valve, or a shutoff valve with means of remote closing, to protect against uncontrolled discharge of LP-Gas from storage tank piping shall be installed close to the point where the liquid piping and hose or swing joint pipe is connected.

(vi) Except as provided in subdivision (vii) of this subparagraph, when the size (diameter) of the loading or unloading hoses and/or piping is reduced below the size of the tank car or transport truck loading or unloading connections, the adaptors to which lines are attached shall be equipped with either a backflow check valve, a properly sized excess flow valve, or shutoff valve with means of remote closing, to protect against uncontrolled discharge from the tank car or transport truck.

(vii) The requirement of subdivision (vi) of this subparagraph shall not apply if the tank car or transport is equipped with a quick-closing internal valve that can be remotely closed.

(viii) The tank car or transport truck loading or unloading point shall be located with due consideration to the following:

(*a*) Proximity to railroads and highway traffic.

(*b*) The distance of such unloading or loading point from adjacent property.

(*c*) With respect to buildings on installer's property.

(*d*) Nature of occupancy.

(*e*) Topography.

(*f*) Type of construction of buildings.

(*g*) Number of tank cars or transport trucks that may be safely loaded or unloaded at one time.

(*h*) Frequency of loading or unloading.

(ix) Where practical, the distance of the unloading or loading point shall conform to the distances in subparagraph (6)(ii) of this paragraph.

(16) *Instructions.* Personnel performing installation, removal, operation, and maintenance work shall be properly trained in such function.

(17) *Electrical equipment and other sources of ignition.* (i) Electrical equipment and wiring shall be of a type specified by and shall be installed in accordance with Subpart S of this part, for ordinary locations except that fixed electrical equipment in classified areas shall comply with subparagraph (18) of this paragraph.

(ii) Open flames or other sources of ignition shall not be permitted in vaporizer rooms (except those housing direct-fired vaporizers), pumphouses, container charging rooms or other similar locations. Direct-fired vaporizers shall not be permitted in pumphouses or container charging rooms.

(iii) Liquefied petroleum gas storage containers do not require lightning protection.

(iv) Since liquefied petroleum gas is contained in a closed system of piping and equipment, the system need not be electrically conductive or electrically bonded for protection against static electricity.

(v) Open flames (except as provided for in subparagraph (11) of this paragraph), cutting or welding, portable electric tools, and extension lights capable of igniting LP-Gas, shall not be permitted within classified areas specified in Table H–28 unless the LP-Gas facilities have been freed of all liquid and vapor, or special precautions observed under carefully controlled conditions.

TABLE H–28

Part	Location	Extent of classified area [1]	Equipment shall be suitable for National Electrical Code, Class 1, Group D [2]
A	Storage containers other than DOT cylinders.	Within 15 feet in all directions from connections, except connections otherwise covered in Table H–28.	Division 2.
B	Tank vehicle and tank car loading and unloading.[3]	Within 5 feet in all directions from connections regularly made or disconnected for product transfer.	Division 1.
		Beyond 5 feet but within 15 feet in all directions from a point where connections are regularly made or disconnected and within the cylindrical volume between the horizontal equator of the sphere and grade. (See Figure H–1).	Division 2.
C	Gage vent openings other than those on DOT cylinders.	Within 5 feet in all directions from point of discharge.	Division 1.
		Beyond 5 feet but within 15 feet in all directions from point of discharge.	Division 2.
D	Relief valve discharge other than those on DOT cylinders.	Within direct path of discharge.	Divison 1. *Note*—Fixed electrical equipment should preferably not be installed.
		Within 5 feet in all directions from point of discharge.	Division 1.
		Beyond 5 feet but within 15 feet in all directions from point of discharge except within the direct path of discharge.	Division 2.
E	Pumps, compressors, gas-air mixers and vaporizers other than direct fired.		
	Indoors without ventilation	Entire room and any adjacent room not separated by a gastight partition.	Division 1.
		Within 15 feet of the exterior side of any exterior wall or roof that is not vaportight or within 15 feet of any exterior opening.	Division 2.
	Indoors with adequate ventilation.[4]	Entire room and any adjacent room not separated by a gastight partition.	Division 2.
	Outdoors in open air at or abovegrade.	Within 15 feet in all directions from this equipment and within the cylindrical volume between the horizontal equator of the sphere and grade. See Figure H–1.	Division 2.
F	Service Station Dispensing Units.	Entire space within dispenser enclosure, and 18 inches horizontally from enclosure exterior up to an elevation 4 ft. above dispenser base. Entire pit or open space beneath dispenser.	Division 1.
		Up to 18 inches abovegrade within 20 ft. horizontally from any edge of enclosure. Note: For pits within this area, see Part F of this table.	Division 2.
G	Pits or trenches containing or located beneath LP-Gas valves, pumps, compressors, regulators, and similar equipment.		
	Without mechanical ventilation.	Entire pit or trench	Division 1.
		Entire room and any adjacent room not separated by a gastight partition.	Division 2.
		Within 15 feet in all directions from pit or trench when located outdoors.	Division 2.
	With adequate mechanical ventilation.	Entire pit or trench	Division 2.
		Entire room and any adjacent room not separated by a gastight partition.	Division 2.
		Within 15 feet in all directions from pit or trench when located outdoors.	Division 2.
H	Special buildings or rooms for storage of portable containers.	Entire room	Division 2.
I	Pipelines and connections containing operational bleeds, drips, vents or drains.	Within 5 ft. in all directions from point of discharge	Division 1.
		Beyond 5 ft. from point of discharge, same as Part E of this table.	
J	Container filling:		
	Indoors without ventilation.	Entire room	Division 1.
	Indoors with adequate ventilation.[4]	Within 5 feet in all directions from connections regularly made or disconnected for product transfer.	Division 1.
		Beyond 5 feet and entire room	Division 2.
	Outdoors in open air	Within 5 feet in all directions from connections regularly made or disconnected for product transfer.	Division 1.
		Beyond 5 feet but within 15 feet in all directions from a point where connections are regularly made or disconnected and within the cylindrical volume between the horizontal equator of the sphere and grade. (See Figure H–1)	Division 2.

[1] The classified area shall not extend beyond an unpierced wall, roof, or solid vaportight partition.

[2] See Subpart S of this part.

[3] When classifying extent of hazardous area, consideration shall be given to possible variations in the spotting of tank cars and tank vehicles at the unloading points and the effect these variations of actual spotting point may have on the point of connection.

[4] Ventilation, either natural or mechanical, is considered adequate when the concentration of the gas in a gas-air mixture does not exceed 25 percent of the lower flammable limit under normal operating conditions.

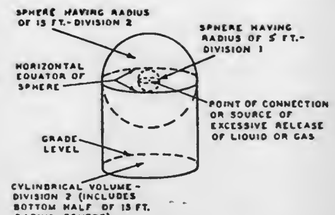


Figure H-1

(18) *Fixed electrical equipment in classified areas.* Fixed electrical equipment and wiring installed within classified areas specified in Table H–28 shall comply with Table H–28 and shall be installed in accordance with Subpart S of this part. This provision does not apply to fixed electrical equipment at residential or commercial installations of LP-Gas systems or to systems covered by paragraph (e) or (g) of this section.

(19) *Liquid-level gaging device.* (i) Each container manufactured after December 31, 1965, and filled on a volumetric basis shall be equipped with a fixed liquid-level gage to indicate the maximum permitted filling level as provided in subdivision (v) of this subparagraph. Each container manufactured after December 31, 1969, shall have permanently attached to the container adjacent to the fixed level gage a marking showing the percentage full that will be shown by that gage. When a variable liquid-level gage is also provided, the fixed liquid-level gage will also serve as a means for checking the variable gage. These gages shall be used in charging containers as required in subparagraph (12) of this paragraph.

(ii) All variable gaging devices shall be arranged so that the maximum liquid level for butane, for a 50–50 mixture of butane and propane, and for propane, to which the container may be charged is readily determinable. The markings indicating the various liquid levels from empty to full shall be on the system nameplate or gaging device or part may be on the system nameplate and part on the gaging device. Dials of magnetic or rotary gages shall show whether they are for cylindrical or spherical containers and whether for aboveground or underground service. The dials of gages intended for use only on aboveground containers of over 1,200 gallons water capacity shall be so marked.

(iii) Gaging devices that require bleeding of the product to the atmosphere, such as the rotary tube, fixed tube, and slip tube, shall be designed so that the bleed valve maximum opening is not larger than a No. 54 drill size, unless provided with excess flow valve.

(iv) Gaging devices shall have a design working pressure of at least 250 p.s.i.g.

(v) Length of tube or position of fixed liquid-level gage shall be designed to indicate the maximum level to which the container may be filled for the product contained. This level shall be based on the volume of the product at 40° F. at its maximum permitted filling density for aboveground containers and at 50° F. for underground containers. The employer shall calculate the filling point for which the fixed liquid level gage shall be designed according to the method in this subdivision.

(*a*) It is impossible to set out in a table the length of a fixed dip tube for various capacity tanks because of the varying tank diameters and lengths and because the tank may be installed either in a vertical or horizontal position. Knowing the maximum permitted filling volume in gallons, however, the length of the fixed tube can be determined by the use of a strapping table obtained from the container manufacturer. The length of the fixed tube should be such that when its lower end touches the surface of the liquid in the container, the contents of the container will be the maximum permitted volume as determined by the following formula:

$$\frac{\text{Water capacity (gals.) of container}^{*} \times \text{filling density}^{**}}{\text{Specific gravity of LP-Gas}^{*} \times \text{volume correction factor}^{\dagger} \times 100} = \text{Maximum volume of LP-Gas}$$

*Measured at 60° F.

**From subparagraph (12) of this paragraph "Filling Densities."

†For aboveground containers the liquid temperature is assumed to be 40° F. and for underground containers the liquid temperature is assumed to be 50° F. To correct the liquid volumes at these temperatures to 60° F. the following factors shall be used.

(*b*) Formula for determining maximum volume of liquefied petroleum gas for which a fixed length of dip tube shall be set:

TABLE H-29—VOLUME CORRECTION FACTORS

Specific gravity	Aboveground	Underground
0.500	1.033	1.017
.510	1.031	1.016
.520	1.029	1.015
.530	1.028	1.014
.540	1.026	1.013
.550	1.025	1.013
.560	1.024	1.012
.570	1.023	1.011
.580	1.021	1.011
.590	1.020	1.010

Example: Assume a 100-gallon total water capacity tank for aboveground storage of propane having a specific gravity of 0.510 of 60° F.

$$\frac{100 \text{ (gals.)} \times 42 \text{ (filling density from subparagraph (12) of this paragraph)}}{0.510 \times 1.031 \text{ (correction factor from Table H-29)} \times 100} = \frac{4200}{52.6}$$

$\frac{4200}{52.6}$ = 79.8 gallons propane, the maximum amount permitted to be placed in a 100-gallon total water capacity aboveground container equipped with a fixed dip tube.

$$\frac{\text{Maximum volume of LP-Gas (from formula in subdivision (b) of this subdivision)} \times 100}{\text{Total water content of container in gallons}} = \text{Maximum percent of LP-Gas}$$

	Aboveground, pounds per gallon	Underground, pounds per gallon
Propane	4.37	4.31
N Butane	4.97	4.92

(vi) Fixed liquid-level gages used on containers other than DOT containers shall be stamped on the exterior of the gage with the letters "DT" followed by the vertical distance (expressed in inches and carried out to one decimal place) from the top of container to the end of the dip tube or to the centerline of the gage when it is located at the maximum permitted filling level. For portable containers that may be filled in the horizontal and/or vertical position the letters "DT" shall be followed by "V" with the vertical distance from the top of the container to the end of the dip tube for vertical filling and with "H" followed by the proper distance for horizontal filling. For DOT containers the stamping shall be placed both on the exterior of the gage and on the container. On aboveground or cargo containers where the gages are positioned at specific levels, the marking may be specified in percent of total tank contents and the marking shall be stamped on the container.

(vii) Gage glasses of the columnar type shall be restricted to charging plants where the fuel is withdrawn in the liquid phase only. They shall be equipped with valves having metallic handwheels, with excess flow valves, and with extra-heavy glass adequately protected with a metal housing applied by the gage manufacturer. They shall be shielded against the direct rays of the sun. Gage glasses of the columnar type are prohibited on tank trucks, and on motor fuel tanks, and on containers used in domestic, commercial, and industrial installations.

(viii) Gaging devices of the float, or equivalent type which do not require flow for their operation and having connections extending to a point outside the container do not have to be equipped with excess flow valves provided the piping and fittings are adequately designed to withstand the container pressure and are properly protected against physical damage and breakage.

(20) *Requirements for appliances.* (i) Except as provided in subdivision (ii) of this subparagraph, new commercial and industrial gas consuming appliances shall be approved.

(ii) Any appliance that was originally manufactured for operation with a gaseous fuel other than LP-Gas and is in good condition may be used with LP-Gas only after it is properly converted, adapted, and tested for performance with LP-Gas before the appliance is placed in use.

(iii) Unattended heaters used inside buildings for the purpose of animal or poultry production or care shall be equipped with an approved automatic device designed to shut off the flow of gas to the main burners, and pilot if used, in the event of flame extinguishment.

(iv) All commercial, industrial, and agricultural appliances or equipment shall be installed in accordance with the requirements of this section and in accordance with the following:

(*a*) Domestic and commercial appliances—NFPA 54–1969, Standard for the Installation of Gas Appliances and Gas Piping.

(*b*) Industrial appliances—NFPA 54A–1969, Standard for the Installation of Gas Piping and Gas Equipment on Industrial Premises and Certain Other Premises.

(*c*) Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines—NFPA 37–1970.

(*d*) Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment, NFPA 96–1970.

(*c*) *Cylinder systems*—(1) *Application.* This paragraph applies specifically to systems utilizing containers constructed in accordance with DOT Specifications. All requirements of paragraph (*b*) of this section apply to this paragraph unless otherwise noted in paragraph (*b*) of this section.

(2) *Marking of containers.* (i) Containers shall be marked in accordance with DOT regulations. Additional markings not in conflict with DOT regulations may be used.

(ii) Except as provided in subdivision (iii) of this subparagraph each container shall be marked with its water capacity in pounds or other identified unit of weight.

(iii) If a container is filled and maintained only by the owner or his representative and if the water capacity of each container is identified by a code, compliance with subdivision (ii) of this subparagraph is not required.

(iv) Each container shall be marked with its tare weight in pounds or other identified unit of weight including all permanently attached fittings but not the cap.

(3) *Description of a system.* A system shall include the container base or bracket, containers, container valves, connectors, manifold valve assembly, regulators, and relief valves.

(4) *Containers and regulating equipment installed outside of buildings or structures.* (i) Containers shall not be buried below ground. However, this shall not prohibit the installation in a compartment or recess below grade level, such as a niche in a slope or terrace wall which is used for no other purpose, providing that the container and regulating equipment are not in contact with the ground and the compartment or recess is drained and ventilated horizontally to the outside air from its lowest level, with the outlet at least 3 feet away from any building opening which is below the level of such outlet.

Except as provided in paragraph (*b*) (10) (xiii) of this section, the discharge from safety relief devices shall be located not less than 3 feet horizontally away from any building opening which is below the level of such discharge and shall not terminate beneath any building unless such space is well ventilated to the outside and is not enclosed on more than two sides.

(ii) Containers shall be set upon firm foundation or otherwise firmly secured; the possible effect on the outlet piping of settling shall be guarded against by a flexible connection or special fitting.

(5) *Containers and equipment used inside of buildings or structures.* (i) When operational requirements make portable use of containers necessary and their location outside of buildings or structure is impracticable, containers and equipment are permitted to be used inside of buildings or structures in accordance with (*a*) through (*l*) of this subdivision, and, in addition, such other provisions of this subparagraph as are applicable to the particular use or occupancy.

(*a*) Containers in use shall mean connected for use.

(*b*) Systems utilizing containers having a water capacity greater than 2½ pounds (nominal 1 pound LP-Gas capacity) shall be equipped with excess flow valves. Such excess flow valves shall be either integral with the container valves or in the connections to the container valve outlets. In either case, an excess flow valve shall be installed in such a manner that any undue strain beyond the excess flow valve will not cause breakage between the container and the excess flow valve. The installation of excess flow valves shall take into account the type of valve protection provided.

(*c*) Regulators, if used, shall be either directly connected to the container valves or to manifolds connected to the container values. The regulator shall be suitable for use with LP-Gas. Manifolds and fittings connecting containers to pressure regulator inlets shall be designed for at least 250 p.s.i.g. service pressure.

(*d*) Valves on containers having a water capacity greater than 50 pounds (nominal 20 pounds LP-Gas capacity) shall be protected while in use.

(*e*) Containers shall be marked in accordance with paragraph (*b*) (5) (iii) of this section and subparagraph (2) of this paragraph.

(*f*) Pipe or tubing shall conform to paragraph (*b*) (8) of this section except that aluminum pipe or tubing shall not be used.

(*g*) (*1*) Hose shall be designed for a working pressure of at least 250 p.s.i.g. Hose and hose connections shall have their correctness as to design, construction and performance determined by listing by Underwriters Laboratories, Inc., or Factory Mutual Engineering Corp. The hose length may exceed the length specified in paragraph (*b*) (9) (vii) (*b*) of this section, but shall be as short as practicable.

(2) Hose shall be long enough to permit compliance with spacing provisions of this subparagraph without kinking or straining or causing hose to be so close to a burner as to be damaged by heat.

(*h*) Portable heaters, including salamanders, shall be equipped with an approved automatic device to shut off the flow of gas to the main burner, and pilot if used, in the event of flame extinguishment. Such heaters having inputs above 50,000 B.t.u. manufactured on or after May 17, 1967, and such heaters having inputs above 100,000 B.t.u. manufactured before May 17, 1967, shall be equipped with either.

(*1*) A pilot which must be lighted and proved before the main burner can be turned on; or

(2) An electric ignition system.

The provisions of this subdivision (*h*) do not apply to tar kettle burners, torches, melting pots, nor do they apply to portable heaters under 7,500 B.t.u.h. input when used with containers having a maximum water capacity of 2½ pounds. Container valves, connectors, regulators, manifolds, piping, and tubing shall not be used as structural supports for heaters.

(*i*) Containers, regulating equipment, manifolds, pipe, tubing, and hose shall be located so as to minimize exposure to abnormally high temperatures (such as may result from exposure to convection or radiation from heating equipment or installation in confined spaces), physical damage, or tampering by unauthorized persons.

(*j*) Heat producing equipment shall be located and used so as to minimize the possibility of ignition of combustibles.

(*k*) Containers having a water capacity greater than 2½ pounds (nominal 1 pound LP-Gas capacity) connected for use, shall stand on a firm and substantially level surface and, when necessary, shall be secured in an upright position.

(*l*) Containers, including the valve protective devices, shall be installed so as to minimize the probability of impingement of discharge of safety relief devices upon containers.

(ii) Containers having a maximum water capacity of 2½ pounds (nominal 1 pound LP-Gas capacity) are permitted to be used inside of buildings as part of approved self-contained hand torch assemblies or similar appliances.

(iii) Containers having a maximum water capacity of 12 pounds (nominal 5 pounds LP-Gas capacity) are permitted to be used temporarily inside of buildings for public exhibition or demonstration purposes, including use for classroom demonstrations.

(iv) (*a*) When buildings frequented by the public are open to the public, containers are permitted to be used for repair or minor renovation as follows:

(*1*) The maximum water capacity of individual containers shall be 50 pounds (nominal 20 pounds LP-Gas capacity).

(2) The number of LP-Gas containers shall not exceed the number of workmen assigned to using the LP-Gas.

(3) Containers having a water capacity greater than 2½ pounds (nominal 1 pound LP-Gas capacity) shall not be left unattended in such buildings.

(*b*) When buildings frequented by the public are not open to the public, containers are permitted to be used for repair or minor renovations, as follows:

The provisions of subdivision (v) of this subparagraph shall apply except that containers having a water capacity greater than 2½ pounds (nominal 1 pound LP-Gas capacity) shall not be left unattended in such buildings.

(v) Containers are permitted to be used in buildings or structures under construction or undergoing major renovation when such buildings or structures are not occupied by the public, as follows:

(*a*) The maximum water capacity of individual containers shall be 245 pounds (nominal 100 pounds LP-Gas capacity).

(*b*) For temporary heating such as curing concrete, drying plaster and similar applications, heaters (other than integral heater-container units) shall be located at least 6 feet from any LP-Gas container. This shall not prohibit the use of heaters specifically designed for attachment to the container or to a supporting standard, provided they are designed and installed so as to prevent direct or radiant heat application from the heater onto the container. Blower and radiant type heaters shall not be directed toward any LP-Gas container within 20 feet.

(*c*) If two or more heater-container units, of either the integral or nonintegral type, are located in an unpartitioned area on the same floor, the container or containers of each unit shall be separated from the container or containers of any other unit by at least 20 feet.

(*d*) When heaters are connected to containers for use in an unpartitioned area on the same floor, the total water capacity of containers manifolded together for connection to a heater or heaters shall not be greater than 735 pounds (nominal 300 pounds LP-Gas

capacity). Such manifolds shall be separated by at least 20 feet.

(e) On floors on which heaters are not connected for use, containers are permitted to be manifolded together for connection to a heater or heaters on another floor, *Provided:*

(1) The total water capacity of containers connected to any one manifold is not greater than 2,450 pounds (nominal 1,000 pounds LP-Gas capacity) and;

(2) Where more than one manifold having a total water capacity greater than 735 pounds (nominal 300 pounds LP-Gas capacity) are located in the same unpartitioned area, they shall be separated by at least 50 feet.

(f) Storage of containers awaiting use shall be in accordance with paragraph (f) of this section.

(vi) Containers are permitted to be used in industrial occupancies for processing, research, or experimental purposes as follows:

(a) The maximum water capacity of individual containers shall be 245 pounds (nominal 100 pounds LP-Gas capacity).

(b) Containers connected to a manifold shall have a total water capacity not greater than 735 pounds (nominal 300 pounds LP-Gas capacity) and not more than one such manifold may be located in the same room unless separated at least 20 feet from a similar unit.

(c) The amount of LP-Gas in containers for research and experimental use shall be limited to the smallest practical quantity.

(vii) (a) Containers are permitted to be used in industrial occupancies with essentially noncombustible contents where portable equipment for space heating is essential and where a permanent heating installation is not practical, as follows:

(b) Containers and heaters shall comply with and be used in accordance with subdivision (v) of this subparagraph.

(viii) Containers are permitted to be used in buildings for temporary emergency heating purposes, if necessary to prevent damage to the buildings or contents, when the permanent heating system is temporarily out of service, as follows:

(a) Containers and heaters shall comply with and be used in accordance with subdivision (v) of this subparagraph.

(b) The temporary heating equipment shall not be left unattended.

(ix) Containers are permitted to be used temporarily in buildings for training purposes related in installation and use of LP-gas systems, as follows:

(a) The maximum water capacity of individual containers shall be 245 pounds (nominal 100 pounds LP-Gas capacity), but the maximum quantity of LP-Gas that may be placed in each container shall be 20 pounds.

(b) If more than one such container is located in the same room, the containers shall be separated by at least 20 feet.

(c) Containers shall be removed from the building when the training class has terminated.

(6) *Container valves and accessories.*

(i) Valves in the assembly of multiple container systems shall be arranged so that replacement of containers can be made without shutting off the flow of gas in the system.

NOTE: This provision is not to be construed as requiring an automatic changeover device.

(ii) Regulators and low-pressure relief devices shall be rigidly attached to the cylinder valves, cylinders, supporting standards, the building walls or otherwise rigidly secured and shall be so installed or protected that the elements (sleet, snow, or ice) will not affect their operation.

(iii) Valves and connections to the containers shall be protected while in transit, in storage, and while being moved into final utilization, as follows:

(a) By setting into the recess of the container to prevent the possibility of their being struck if the container is dropped upon a flat surface, or

(b) By ventilated cap or collar, fastened to the container capable of withstanding a blow from any direction equivalent to that of a 30-pound weight dropped 4 feet. Construction must be such that a blow will not be transmitted to the valve or other connection.

(iv) When containers are not connected to the system, the outlet valves shall be kept tightly closed or plugged, even though containers are considered empty.

(v) Containers having a water capacity in excess of 50 pounds (approximately 21 pounds LP-Gas capacity), recharged at the installation, shall be provided with excess flow or backflow check valves to prevent the discharge of container contents in case of failure of the filling or equalizing connection.

(7) *Safety devices.* (i) Containers shall be provided with safety devices as required by DOT regulations.

(ii) A final stage regulator of an LP-Gas system (excluding any appliance regulator) shall be equipped on the low-pressure side with a relief valve which is set to start to discharge within the limits specified in Table H–30.

TABLE H–30

Regulator delivery pressure	Relief valve start-to-discharge pressure setting (percent of regulator delivery pressure)	
	Minimum	Maximum
1 p.s.i.g. or less	200	300
Above 1 p.s.i.g. but not over 3 p.s.i.g.	140	200
Above 3 p.s.i.g.	125	200

(iii) When a regulator or pressure relief valve is used inside a building for other than purposes specified in paragraph (b)(6)(i) (a)–(g) of this section, the relief valve and the space above the regulator and relief valve diaphragms shall be vented to the outside air with the discharge outlet located not less than 3 feet horizontally away from any building opening which is below such discharge. These provisions do not apply to individual appliance regulators when protection is otherwise provided nor to subparagraph (5) of this paragraph and paragraph (b)(10)(xiii) of this section. In buildings devoted exclusively to gas distribution purposes, the space above the diaphragm need not be vented to the outside.

(8) *Reinstallation of containers.* Containers shall not be reinstalled unless they are requalified in accordance with DOT regulations.

(9) *Permissible product.* A product shall not be placed in a container marked with a service pressure less than four-fifths of the maximum vapor pressure of product at 130° F.

(d) *Systems utilizing containers other than DOT containers.*

(1) *Application.* This paragraph applies specifically to systems utilizing storage containers other than those constructed in accordance with DOT specifications. Paragraph (b) of this section applies to this paragraph unless otherwise noted in paragraph (b) of this section.

(2) *Design pressure and classification of storage containers.* Storage containers shall be designed and classified in accordance with Table H–31.

TABLE H–31

Container type	For gases with vapor press. Not to exceed lb. per sq. in. gage at 100° F. (37.8° C.)	Minimum design pressure of container, lb. per sq. in. gage	
		1949 and earlier editions of ASME Code (Par. U–68, U–69)	1949 edition of ASME Code (Par. U–200, U–201); 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division I) editions of ASME Code; All editions of API–ASME Code[3]
[1] 80	[1] 80	[1] 80	[1] 100
100	100	100	125
125	125	125	156
150	150	150	187
175	175	175	219
[2] 200	215	200	250

[1] New storage containers of the 80 type have not been authorized since Dec. 31, 1947.

[2] Container type may be increased by increments of 25. The minimum design pressure of containers shall be 100% of the container type designation when constructed under 1949 or earlier editions of the ASME Code (Par. U–68 and U–69). The minimum design pressure of containers shall be 125% of the container type designation when constructed under: (1) the 1949 ASME Code (Par. U–200 and U–201), (2) 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division I) editions of the ASME Code, and (3) all editions of the API–ASME Code.

[3] Construction of containers under the API–ASME Code is not authorized after July 1, 1961.

(3) *Container valves and accessories, filler pipes, and discharge pipes.* (i) The filling pipe inlet terminal shall not be located inside a building. For containers with a water capacity of 125 gallons or more, such terminals shall be located not less than 10 feet from any building (see paragraph (b)(6)(ii) of this section), and preferably not less than 5 feet from any driveway, and shall be located in a protective housing built for the purpose.

(ii) The filling connection shall be fitted with one of the following:

(a) Combination back-pressure check valve and excess flow valve.

(b) One double or two single back-pressure check valves.

(c) A positive shutoff valve, in conjunction with either:

(1) An internal back pressure valve, or

(2) An internal excess flow valve.

(iii) All openings in a container shall be equipped with approved automatic excess flow valves except in the following: filling connections as provided in subdivision (ii) of this subparagraph; safety relief connections, liquid-level gaging devices as provided in paragraphs (b)(7)(iv), (19)(iii), and (19)(viii) of this section; pressure gage connections as provided in paragraph (b)(7)(v) of this section, as provided in subdivisions (iv), (vi), and (vii) of this subparagraph.

(iv) An excess flow valve is not required in the withdrawal service line providing the following are complied with:

(a) Such systems' total water capacity does not exceed 2,000 U.S. gallons.

(b) The discharge from the service outlet is controlled by a suitable manually operated shutoff valve which is:

(1) Threaded directly into the service outlet of the container; or

(2) Is an integral part of a substantial fitting threaded into or on the service outlet of the container; or

(3) Threaded directly into a substantial fitting threaded into or on the service outlet of the container.

(c) The shutoff valve is equipped with an attached handwheel or the equivalent.

(d) The controlling orifice between the contents of the container and the outlet of the shutoff valve does not exceed five-sixteenths inch in diameter for vapor withdrawal systems and one-eighth inch in diameter for liquid withdrawal systems.

(e) An approved pressure-reducing regulator is directly attached to the outlet of the shutoff valve and is rigidly supported, or that an approved pressure-reducing regulator is attached to the outlet of the shutoff valve by means of a suitable flexible connection, provided the regulator is adequately supported and properly protected on or at the tank.

(v) All inlet and outlet connections except safety relief valves, liquid level gaging devices and pressure gages on containers of 2,000 gallons water capacity, or more, and on any container used to supply fuel directly to an internal combustion engine, shall be labeled to designate whether they communicate with vapor or liquid space. Labels may be on valves.

(vi) In lieu of an excess flow valve openings may be fitted with a quick-closing internal valve which, except during operating periods shall remain closed. The internal mechanism for such valves may be provided with a secondary control which shall be equipped with a fusible plug (not over 220° F. melting point) which will cause the internal valve to close automatically in case of fire.

(vii) Not more than two plugged openings shall be permitted on a container of 2,000 gallons or less water capacity.

(viii) Containers of 125 gallons water capacity or more manufactured after July 1, 1961, shall be provided with an approved device for liquid evacuation, the size of which shall be three-fourths inch National Pipe Thread minimum. A plugged opening will not satisfy this requirement.

(4) *Safety devices.* (i) All safety devices shall comply with the following:

(a) All container safety relief devices shall be located on the containers and shall have direct communication with the vapor of space of the container.

(b) In industrial and gas manufacturing plants, discharge pipe from safety relief valves on pipe lines within a building shall discharge vertically upward and shall be piped to a point outside a building.

(c) Safety relief device discharge terminals shall be so located as to provide protection against physical damage and such discharge pipes shall be fitted with loose raincaps. Return bends and restrictive pipefittings shall not be permitted.

(d) If desired, discharge lines from two or more safety relief devices located on the same unit, or similar lines from two or more different units, may be run into a common discharge header, provided that the cross-sectional area of such header be at least equal to the sum of the cross-sectional area of the individual discharge lines, and that the setting of safety relief valves are the same.

(e) Each storage container of over 2,000 gallons water capacity shall be provided with a suitable pressure gage.

(f) A final stage regulator of an LP-Gas system (excluding any appliance regulator) shall be equipped on the low-pressure side with a relief valve which is set to start to discharge within the limits specified in Table H–30.

(g) When a regulator or pressure relief valve is installed inside a building, the relief valve and the space above the regulator and relief valve diaphragms shall be vented to the outside air with the discharge outlet located not less than 3 feet horizontally away from any opening into the building which is below such discharge. (These provisions do not apply to individual appliance regulators when protection is otherwise provided. In buildings devoted exclusively to gas distribution purposes, the space above the diaphragm need not be vented to the outside.)

(ii) Safety devices for aboveground containers shall be provided as follows:

(a) Containers of 1,200 gallons water capacity or less which may contain liquid fuel when installed above ground shall have the rate of discharge required by paragraph (b)(10)(ii) of this section provided by a spring-loaded relief valve or valves. In addition to the required spring-loaded relief valve(s), suitable fuse plug(s) may be used provided the total discharge area of the fuse plug(s) for each container does not exceed 0.25 square inch.

(b) The fusible metal of the fuse plugs shall have a yield temperature of 208° F. minimum and 220° F. maximum. Relief valves and fuse plugs shall have direct communication with the vapor space of the container.

(c) On a container having a water capacity greater than 125 gallons, but not over 2,000 gallons, the discharge from the safety relief valves shall be vented away from the container vertically upwards and unobstructed to the open air in such a manner as to prevent any impingement of escaping gas upon the container; loose-fitting rain caps shall be used. Suitable provision shall be made for draining condensate which may accumulate in the relief valve or its discharge pipe.

(d) On containers of 125 gallons water capacity or less, the discharge from safety relief devices shall be located not less than 5 feet horizontally away from any opening into the building below the level of such discharge.

(e) On a container having a water capacity greater than 2,000 gallons, the discharge from the safety relief valves shall be vented away from the container vertically upwards to a point at least 7 feet above the container, and unobstructed to the open air in such a manner as to prevent any impingement of escaping gas upon the container; loose-fitting rain caps shall be used. Suitable provision shall be made so that any liquid or condensate that may accumulate inside of the safety relief valve or its discharge pipe will not render the valve inoperative. If a drain is used, a means shall be provided to protect the container, adjacent containers, piping, or equipment against impingement of flame resulting from ignition of product escaping from the drain.

(iii) On all containers which are installed underground and which contain no liquid fuel until buried and covered, the rate of discharge of the spring-loaded relief valve installed thereon may be reduced to a minimum of 30 percent of the rate of discharge specified in paragraph (b)(10)(ii) of this section. Containers so protected shall not be uncovered after installation until the liquid fuel has been removed therefrom. Containers which may contain liquid fuel before being installed under ground and before being completely covered with earth are to be considered aboveground containers when determining the rate of discharge requirement of the relief valves.

(iv) On underground containers of more than 2,000 gallons water capacity, the discharge from safety relief devices shall be piped vertically and directly upward to a point at least 7 feet above the ground.

Where there is a probability of the manhole or housing becoming flooded, the discharge from regulator vent lines shall be above the highest probable water level. All manholes or housings shall be provided with ventilated louvers or their equivalent, the area of such openings equaling or exceeding the combined discharge areas of the safety relief valves and other vent lines which discharge their content into the manhole housing.

(v) Safety devices for vaporizers shall be provided as follows:

(a) Vaporizers of less than 1 quart total capacity, heated by the ground or the surrounding air, need not be equipped with safety relief valves provided that adequate tests certified by any of the authorities referred to in paragraph (b)(2) of this section, demonstrate that the assembly is safe without safety relief valves.

(b) No vaporizer shall be equipped with fusible plugs.

(c) In industrial and gas manufacturing plants, safety relief valves on vaporizers within a building shall be piped to a point outside the building and be discharged upward.

(5) *Reinstallation of containers.* Containers may be reinstalled if they do not show any evidence of harmful external corrosion or other damage. Where containers are reinstalled underground, the corrosion resistant coating shall be put in good condition (see subparagraph (7)(vi) of this paragraph). Where containers are reinstalled above ground, the safety devices and gaging devices shall comply with subparagraph (4) of this paragraph and paragraph (b)(19) of this section respectively for aboveground containers.

(6) *Capacity of containers.* A storage container shall not exceed 90,000 gallons water capacity.

(7) *Installation of storage containers.* (i) Containers installed above ground, except as provided in subdivision (vii) of this subparagraph, shall be provided with substantial masonry or noncombustible structural supports on firm masonry foundation.

(ii) Aboveground containers shall be supported as follows:

(a) Horizontal containers shall be mounted on saddles in such a manner as to permit expansion and contraction. Structural metal supports may be employed when they are protected against fire in an approved manner. Suitable means of preventing corrosion shall be provided on that portion of the container in contact with the foundations or saddles.

(b) Containers of 2,000 gallons water capacity or less may be installed with nonfireproofed ferrous metal supports if mounted on concrete pads or footings, and if the distance from the outside bottom of the container shell to the concrete pad, footing, or the ground does not exceed 24 inches.

(iii) Any container may be installed with nonfireproofed ferrous metal supports if mounted on concrete pads or footings, and if the distance from the outside bottom of the container to the ground does not exceed 5 feet, provided the container is in an isolated location.

(iv) Containers may be partially buried providing the following requirements are met:

(a) The portion of the container below the surface and for a vertical distance not less than 3 inches above the surface of the ground is protected to resist corrosion, and the container is protected against settling and corrosion as required for fully buried containers.

(b) Spacing requirements shall be as specified for underground tanks in paragraph (b)(6)(ii) of this section.

(c) Relief valve capacity shall be as required for aboveground containers.

(d) Container is located so as not to be subject to vehicular damage, or is adequately protected against such damage.

(e) Filling densities shall be as required for above-ground containers.

(v) Containers buried underground shall be placed so that the top of the container is not less than 6 inches below grade. Where an underground container might be subject to abrasive action or physical damage due to vehicular traffic or other causes, then it shall be:

(a) Placed not less than 2 feet below grade, or

(b) Otherwise protected against such physical damage.

It will not be necessary to cover the portion of the container to which manhole and other connections are affixed; however, where necessary, protection shall be provided against vehicular damage. When necessary to prevent floating, containers shall be securely anchored or weighted.

(vi) (a) Containers shall be given a protective coating before being placed under ground. This coating shall be equivalent to hot-dip galvanizing or to two coatings of red lead followed by a heavy coating of coal tar or asphalt. In lowering the container into place, care shall be exercised to prevent damage to the coating. Any damage to the coating shall be repaired before backfilling.

(b) Containers shall be set on a firm foundation (firm earth may be used) and surrounded with earth or sand firmly tamped in place. Backfill should be free of rocks or other abrasive materials.

(vii) Containers with foundations attached (portable or semiportable containers with suitable steel "runners" or "skids" and popularly known in the industry as "skid tanks") shall be designed, installed, and used in accordance with these rules subject to the following provisions:

(a) If they are to be used at a given general location for a temporary period not to exceed 6 months they need not have fire-resisting foundations or saddles but shall have adequate ferrous metal supports.

(b) They shall not be located with the outside bottom of the container shell more than 5 feet above the surface of the ground unless fire-resisting supports are provided.

(c) The bottom of the skids shall not be less than 2 inches or more than 12 inches below the outside bottom of the container shell.

(d) Flanges, nozzles, valves, fittings, and the like, having communication with the interior of the container, shall be protected against physical damage.

(e) When not permanently located on fire-resisting foundations, piping connections shall be sufficiently flexible to minimize the possibility of breakage or leakage of connections if the container settles, moves, or is otherwise displaced.

(f) Skids, or lugs for attachment of skids, shall be secured to the container in accordance with the code or rules under which the container is designed and built (with a minimum factor of safety of four) to withstand loading in any direction equal to four times the weight of the container and attachments when filled to the maximum permissible loaded weight.

(viii) Field welding where necessary shall be made only on saddle plates or brackets which were applied by the manufacturer of the tank.

(ix) For aboveground containers, secure anchorage or adequate pier height shall be provided against possible container flotation wherever sufficiently high floodwater might occur.

(x) When permanently installed containers are interconnected, provision shall be made to compensate for expansion, contraction, vibration, and settling of containers, and interconnecting piping. Where flexible connections are used, they shall be of an approved type and shall be designed for a bursting pressure of not less than five times the vapor pressure of the product at 100° F. The use of nonmetallic hose is prohibited for permanently interconnecting such containers.

(xi) Container assemblies listed for interchangeable installation above ground or under ground shall conform to the requirements for aboveground installations with respect to safety relief capacity and filling density. For installation above ground all other requirements for aboveground installations shall apply. For installation under ground all other requirements for underground installations shall apply.

(8) *Protection of container accessories.* (i) Valves, regulating, gaging, and other container accessory equipment shall be protected against tampering and physical damage. Such accessories shall also be so protected during the transit of containers intended for installation underground.

(ii) On underground or combination aboveground-underground containers, the service valve handwheel, the terminal for connecting the hose, and the opening through which there can be a flow from safety relief valves shall be at least 4 inches above the container and this opening shall be located in the dome or housing. Underground systems shall be so installed that all the above openings, including the regulator vent, are located above the normal maximum water table.

(iii) All connections to underground containers shall be located within a substantial dome, housing, or manhole and with access thereto protected by a substantial cover.

(9) *Drips for condensed gas.* Where vaporized gas on the low-pressure side of the system may condense to a liquid at normal operating temperatures and pressures, suitable means shall be provided for revaporization of the condensate.

(10) *Damage from vehicles.* When damage to LP-Gas systems from vehicular traffic is a possibility, precautions against such damage shall be taken.

(11) *Pits and drains.* Every effort should be made to avoid the use of pits, except pits fitted with automatic flammable vapor detecting devices. No drains or blowoff lines shall be directed into or in proximity to sewer systems used for other purposes.

(12) *General provisions applicable to systems in industrial plants (of 2,000 gallons water capacity and more) and to bulk filling plants.* (i) When standard watch service is provided, it shall be extended to the LP-Gas installation and personnel properly trained.

(ii) If loading and unloading are normally done during other than daylight hours, adequate lights shall be provided to illuminate storage containers, control valves, and other equipment.

(iii) Suitable roadways or means of access for extinguishing equipment such as wheeled extinguishers or fire department apparatus shall be provided.

(iv) To minimize trespassing or tampering, the area which includes container appurtenances, pumping equipment, loading and unloading facilities, and cylinder-filling facilities shall be enclosed with at least a 6-foot-high industrial type fence unless otherwise adequately protected. There shall be at least two means of emergency access.

(13) *Container-charging plants.* (i) The container-charging room shall be located not less than:

(a) Ten feet from bulk storage containers.

(b) Twenty-five feet from line of adjoining property which may be built upon.

(ii) Tank truck filling station outlets shall be located not less than:

(a) Twenty-five feet from line of adjoining property which may be built upon.

(b) Ten feet from pumps and compressors if housed in one or more separate buildings.

(iii) The pumps or compressors may be located in the container-charging room or building, in a separate building, or outside of buildings. When housed in a separate building, such building (a small noncombustible weather cover is not to be construed as a building) shall be located not less than:

(a) Ten feet from bulk storage tanks.

(b) Twenty-five feet from line of adjoining property which may be built upon.

(c) Twenty-five feet from sources of ignition.

(iv) When a part of the container-charging building is to be used for a boiler room or where open flames or similar sources of ignition exist or are employed, the space to be so occupied shall be separated from container charging room by a partition wall or walls of fire-resistant construction continuous from floor to roof or ceiling. Such separation walls shall be without openings and shall be joined to the floor, other walls, and ceiling or roof in a manner to effect a permanent gas-tight joint.

(v) Electrical equipment and installations shall conform with paragraphs (b)(17) and (18) of this section.

(14) *Fire protection.* (i) Each bulk plant shall be provided with at least one approved portable fire extinguisher having a minimum rating of 12–B, C.

(ii) In industrial installations involving containers of 150,000 gallons aggregate water capacity or more, provision shall be made for an adequate supply of water at the container site for fire protection in the container area, unless other adequate means for fire control are provided. Water hydrants shall be readily accessible and so spaced as to provide water protection for all containers. Sufficient lengths of firehose shall be provided at each hydrant location on a hose cart, or other means provided to facilitate easy movement of the hose in the container area. It is desirable to equip the outlet of each hose line with a combination fog nozzle. A shelter shall be provided to protect the hose and its conveyor from the weather.

(15) *Painting.* Aboveground containers shall be kept properly painted.

(16) *Lighting.* Electrical equipment and installations shall conform to paragraphs (b)(17) and (18) of this section.

(17) *Vaporizers for internal combustion engines.* The provisions of paragraph (e)(8) of this section shall apply.

(18) *Gas regulating and mixing equipment for internal combustion engines.* The provisions of paragraph (e)(9) of this section shall apply.

(e) *Liquefied petroleum gas as a motor fuel*—(1) *Application.* (i) This paragraph applies to internal combustion engines, fuel containers, and pertinent equipment for the use of liquefied petroleum gases as a motor fuel on easily movable, readily portable units including self-propelled vehicles.

(ii) Fuel containers and pertinent equipment for internal combustion engines using liquefied petroleum gas where installation is of the stationary type are covered by paragraph (d) of this section. This paragraph does not apply to containers for transportation of liquefied petroleum gases nor to marine fuel use. All requirements of paragraph (b) of this section apply to this paragraph, unless otherwise noted in paragraph (b) of this section.

(2) *General.* (i) Fuel may be used from the cargo tank of a truck while in transit, but not from cargo tanks on trailers or semitrailers. The use of fuel from the cargo tanks to operate stationary engines is permitted providing wheels are securely blocked.

(ii) Passenger-carrying vehicles shall not be fueled while passengers are on board.

(iii) Industrial trucks (including lift trucks) equipped with permanently mounted fuel containers shall be charged outdoors. Charging equipment shall comply with the provisions of paragraph (h) of this section.

(iv) LP-Gas fueled industrial trucks shall comply with the Standard for Type Designations, Areas of Use, Maintenance and Operation of Powered Industrial Trucks, NFPA 505–1969.

(v) Engines on vehicles shall be shut down while fueling if the fueling operation involves venting to the atmosphere.

(3) *Design pressure and classification of fuel containers.* (i) Except as covered in subdivisions (ii) and (iii) of this subparagraph, containers shall be in accordance with Table H–32.

(ii) Fuel containers for use in industrial trucks (including lift trucks) shall be either DOT containers authorized for LP-Gas service having a minimum service pressure of 240 p.s.i.g. or minimum Container Type 250. Under 1950 and later ASME codes, this means a 312.5-p.s.i.g. design pressure container.

TABLE H–32

Container type	For gases with vapor press. not to exceed lb. per sq. in. gage at 100° F. (37.8 C.)	Minimum design pressure of container lb. per sq. in. gage: 1949 and earlier editions of ASME Code (Par. U–68, U–69)	Minimum design pressure of container lb. per sq. in. gage: 1949 edition of ASME Code (Par. U–200, U–201); 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division I) editions of ASME Code; All editions of API–ASME Code[3]
[1] 200	215	200	250

[1] Container type may be increased by increments of 25. The minimum design pressure of containers shall be 100% of the container type designation when constructed under 1949 or earlier editions of the ASME Code (Par. U–68 and U–69). The minimum design pressure of containers shall be 125% of the container type designation when constructed under: (1) the 1949 ASME Code (Par. U–200 and U–201), (2) 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division I) editions of the ASME Code, and (3) all editions of the API–ASME Code.

[3] Construction of containers under the API–ASME Code is not authorized after July 1, 1961.

(iii) Containers manufactured and maintained under DOT specifications and regulations may be used as fuel containers. When so used they shall conform to all requirements of this paragraph.

(iv) All container inlets and outlets except safety relief valves and gaging devices shall be labeled to designate whether they communicate with vapor or liquid space. Labels may be on valves.

(4) *Installation of fuel containers.* (i) Containers shall be located in a place and in a manner to minimized the possibility of damage to the container. Containers located in the rear of trucks and buses, when protected by substantial bumpers, will be considered in conformance with this requirement. Fuel containers on passenger-carrying vehicles shall be installed as far from the engine as is practicable, and the passenger space and any space containing radio equipment shall be sealed from the container space to prevent direct seepage of gas to these spaces. The container compartment shall be vented to the outside. In case the fuel container is mounted near the engine or the exhaust system, the container shall be shielded against direct heat radiation.

(ii) Containers shall be installed with as much clearance as practicable but never less than the minimum road clearance of the vehicle under maximum spring deflection. This minimum clearance shall be to the bottom of the container or to the lowest fitting on the container or housing, whichever is lower.

(iii) Permanent and removable fuel containers shall be securely mounted to prevent jarring loose, slipping, or rotating, and the fastenings shall be designed and constructed to withstand static loading in any direction equal to twice the weight of the tank and attachments when filled with fuel using a safety factor of not less than four based on the ultimate strength of the material to be used. Field welding, when necessary, shall be made only on saddle plates, lugs or brackets, originally attached to the container by the tank manufacturer.

(iv) Fuel containers on buses shall be permanently installed.

(v) Containers from which vapor only is to be withdrawn shall be installed and

equipped with suitable connections to minimize the accidental withdrawal of liquid.

(5) *Valves and accessories.* (i) Container valves and accessories shall have a rated working pressure of at least 250 p.s.i.g., and shall be of a type suitable for liquefied petroleum gas service.

(ii) The filling connection shall be fitted with an approved double back-pressure check valve, or a positive shut-off in conjunction with an internal back-pressure check valve. On a removable container the filler valve may be a hand operated shutoff valve with an internal excess flow valve. Main shutoff valves on the container on liquid and vapor lines must be readily accessible.

(iii) With the exceptions of subdivision (iv) (c) of this subparagraph, filling connections equipped with approved automatic back-pressure check valves, and safety relief valves, all connections to containers having openings for the flow of gas in excess of a No. 54 drill size shall be equipped with approved automatic excess flow valves to prevent discharge of content in case connections are broken.

(iv) Liquid-level gaging devices:

(*a*) Variable liquid-level gages which require the venting of fuel to the atmosphere shall not be used on fuel containers of industrial trucks (including lift trucks).

(*b*) On portable containers that may be filled in the vertical and/or horizontal position, the fixed liquid-level gage must indicate maximum permitted filling level for both vertical and horizontal filling with the container oriented to place the safety relief valve in communication with the vapor space.

(*c*) In the case of containers used solely in farm tractor service, and charged at a point at least 50 feet from any important building, the fixed liquid-level gaging device may be so constructed that the outward flow of container content exceeds that passed by a No. 54 drill size opening, but in no case shall the flow exceed that passed by a No. 31 drill-size opening. An excess flow valve is not required. Fittings equipped with such restricted drill size opening and container on which they are used shall be marked to indicate the size of the opening.

(*d*) All valves and connections on containers shall be adequately protected to prevent damage due to accidental contact with stationary objects or from loose objects thrown up from the road, and all valves shall be safeguarded against damage due to collision, overturning or other accident. For farm tractors where parts of the vehicle provide such protection to valves and fittings, the foregoing requirements shall be considered fulfilled. However, on removable type containers the protection for the fittings shall be permanently attached to the container.

(*e*) Exchange of removable fuel containers preferably should be done outdoors but may be done indoors. When removable fuel containers are used, means shall be provided in the fuel system to minimize the escape of fuel when the containers are exchanged. This may be accomplished by either of the following methods:

(*1*) Using an approved automatic quick-closing coupling (a type closing in both directions when uncoupled) in the fuel line, or

(*2*) Closing the valve at the fuel container and allowing the engine to run until the fuel in the line is consumed.

(6) *Piping—including pipe, tubing, and fittings.* (i) Pipe from fuel container to first-stage regulator shall be not less than schedule 80 wrought iron or steel (black or galvanized), brass or copper; or seamless copper, brass, or steel tubing. Steel tubing shall have a minimum wall thickness of 0.049 inch. Steel pipe or tubing shall be adequately protected against exterior corrosion. Copper tubing shall be types K or L or equivalent having a minimum wall thickness of 0.032 inch. Approved flexible connections may be used between container and regulator or between regulator and gas-air mixer within the limits of approval. The use of aluminum pipe or tubing is prohibited. In the case of removable containers an approved flexible connection shall be used between the container and the fuel line.

(ii) All piping shall be installed, braced, and supported so as to reduce to a minimum the possibility of vibration strains or wear.

(7) *Safety devices.* (i) Spring-loaded internal type safety relief valves shall be used on all motor fuel containers.

(ii) The discharge outlet from safety relief valves shall be located on the outside of enclosed spaces and as far as practicable from possible sources of ignition, and vented upward within 45 degrees of the vertical in such a manner as to prevent impingement of escaping gas upon containers, or parts of vehicles, or on vehicles in adjacent lines of traffic. A rain cap or other protector shall be used to keep water and dirt from collecting in the valve.

(iii) When a discharge line from the container safety relief valve is used, the line shall be metallic, other than aluminum, and shall be sized, located, and maintained so as not to restrict the required flow of gas from the safety relief valve. Such discharge line shall be able to withstand the pressure resulting from the discharge of vapor when the safety relief valve is in the full open position. When flexibility is necessary, flexible metal hose or tubing shall be used.

(iv) Portable containers equipped for volumetric filling may be filled in either the vertical or horizontal position only when oriented to place the safety relief valve in communication with the vapor space.

(v) Paragraph (b)(10)(xii) of this section for hydrostatic relief valves shall apply.

(8) *Vaporizers.* (i) Vaporizers and any part thereof and other devices that may be subjected to container pressure shall have a design pressure of at least 250 p.s.i.g.

(ii) Each vaporizer shall have a valve or suitable plug which will permit substantially complete draining of the vaporizer. It shall be located at or near the lowest portion of the section occupied by the water or other heating medium.

(iii) Vaporizers shall be securely fastened so as to minimize the possibility of becoming loosened.

(iv) Each vaporizer shall be permanently marked at a visible point as follows:

(*a*) With the design pressure of the fuel-containing portion in p.s.i.g.

(*b*) With the water capacity of the fuel-containing portion of the vaporizer in pounds.

(v) Devices to supply heat directly to a fuel container shall be equipped with an automatic device to cut off the supply of heat before the pressure inside the fuel container reaches 80 percent of the start to discharge pressure setting of the safety relief device on the fuel container.

(vi) Engine exhaust gases may be used as a direct source of heat supply for the vaporization of fuel if the materials of construction of those parts of the vaporizer in contact with exhaust gases are resistant to the corrosive action of exhaust gases and the vaporizer system is designed to prevent excessive pressures.

(vii) Vaporizers shall not be equipped with fusible plugs.

(9) *Gas regulating and mixing equipment.* (i) Approved automatic pressure reducing equipment shall be installed in a secure manner between the fuel supply container and gas-air mixer for the purpose of reducing the pressure of the fuel delivered to the gas-air mixer.

(ii) An approved automatic shutoff valve shall be provided in the fuel system at some point ahead of the inlet of the gas-air mixer, designed to prevent flow of fuel to the mixer when the ignition is off and the engine is not running. In the case of industrial trucks and engines operating in buildings other than those used exclusively to house engines, the automatic shutoff valve shall be designed to operate if the engine should stop. Atmospheric type regulators (zero governors) shall be considered adequate as an automatic shutoff valve only in cases of outdoor operation such as farm tractors, construction equipment, irrigation pump engines, and other outdoor stationary engine installations.

(iii) The source of the air for combustion shall be completely isolated from the passenger compartment, ventilating system, or air-conditioning system.

(10) *Capacity of containers.* No single fuel container used on passenger carrying vehicles shall exceed 200 gallons water capacity. No single fuel container on other vehicles normally operating on the highway shall exceed 300 gallons water capacity except as provided in subparagraph (2)(i) of this paragraph.

(11) *Stationary engines in buildings.* Stationary engines and gas turbines installed in buildings, including portable engines used instead of or to supplement stationary engines, shall comply with the Standard for the Institution and Use of Stationary Combustion Engines and Gas Turbines, NFPA 37–1970, and the appropriate provisions of paragraphs (b), (c), and (d) of this section.

(12) *Portable engines in buildings.* (i) Portable engines may be used in buildings only for emergency use, except as provided by subparagraph (11) of this paragraph.

(ii) Exhaust gases shall be discharged to outside the building or to an area where they will not constitute a hazard.

(iii) Provision shall be made to supply sufficient air for combustion and cooling.

(iv) An approved automatic shutoff valve shall be provided in the fuel system ahead of the engine, designed to prevent flow of fuel to the engine when the ignition is off or if the engine should stop.

(v) The capacity of LP-Gas containers used with such engines shall comply with the applicable occupancy provision of paragraph (c)(5) of this section.

(13) *Industrial trucks inside buildings.* (i) LP-Gas-fueled industrial trucks are permitted to be used in buildings and structures.

(ii) No more than two LP-Gas containers shall be used on an industrial truck for motor fuel purposes.

(iii) LP-Gas-fueled industrial trucks are permitted to be used in buildings frequented by the public, when occupied by the public. The total water capacity of containers on each industrial truck shall not exceed 105 pounds (nominal 45 pounds LP-Gas).

(iv) Trucks shall not be left unattended in areas occupied by the public.

(v) Industrial trucks shall not be parked and left unattended in areas of possible excessive heat or sources of ignition.

(14) *Garaging LP-Gas-fueled vehicles.* (i) LP-Gas-fueled vehicles may be stored or serviced inside garages provided there are no leaks in the fuel system and the fuel tanks are not filled beyond the maximum filling capacity specified in paragraph (b)(12)(i) of this section.

(ii) LP-Gas-fueled vehicles being repaired in garages shall have the container shutoff valve closed except when fuel is required for engine operation.

(iii) Such vehicles shall not be parked near sources of heat, open flames, or similar sources of ignition or near open pits unless such pits are adequately ventilated.

(f) *Storage of containers awaiting use or resale.*—(1) *Application.* This paragraph shall apply to the storage of portable containers not in excess of 1,000 pounds water capacity, filled or partially filled, at user location but not connected for use, or in storage for resale by dealers or resellers. This paragraph shall not apply to containers stored at charging plants or at plants devoted primarily to the storage and distribution of LP-Gas or other petroleum products.

(2) *General.* (i) Containers in storage shall be located so as to minimize exposure to excessive temperature rise, physical damage, or tampering by unauthorized persons.

(ii) Containers when stored inside shall not be located near exits, stairways, or in areas normally used or intended for the safe exit of people.

(iii) Container valves shall be protected while in storage as follows:

(*a*) By setting into recess of container to prevent the possibility of their being struck if the container is dropped upon a flat surface, or

(*b*) By ventilated cap or collar, fastened to container capable of withstanding blow from any direction equivalent to that of a 30-pound weight dropped 4 feet. Construction must be such that a blow will not be transmitted to a valve or other connection.

(iv) The outlet valves of containers in storage shall be closed.

(v) Empty containers which have been in LP-Gas service should preferably be stored in the open. When stored inside, they shall be considered as full containers for the purpose of determining the maximum quantity of LP-Gas permitted by this paragraph.

(3) *Storage within buildings frequented by the public.* (i) DOT specification containers having a maximum individual water capacity of 2½ pounds, used with completely self-contained hand torches and similar applications, are permitted to be stored or displayed in a building frequented by the public. The display of such containers shall be limited to a total of 24 units of each brand and size. The total quantity on display and in storage shall not exceed 200 pounds LP-Gas.

(ii) Storage as provided in subparagraph (5) of this paragraph shall not be permitted within or attached to such a building.

(4) *Storage within buildings not frequented by the public (such as industrial buildings).* (i) The quantity of LP-Gas stored shall not exceed 300 pounds (approximately 2,550 cubic feet in vapor form) except as provided in subparagraph (5) of this paragraph.

(ii) Containers carried as a part of service equipment on highway mobile vehicles are not to be considered in the total storage capacity in subdivision (i) of this subparagraph provided such vehicles are stored in private garages, and are limited to one container per vehicle with an LP-Gas capacity of not more than 100 pounds. All container valves shall be closed.

(5) *Storage within special buildings or rooms.* (i) The quantity of LP-Gas stored in special buildings or rooms shall not exceed 10,000 pounds.

(ii) The walls, floors, and ceilings of container storage rooms that are within or adjacent to other parts of the building shall be constructed of material having at least a 2-hour fire resistance rating.

(iii) A portion of the exterior walls or roof having an area not less than 10 percent of that of the combined area of the enclosing walls and roof, shall be of single-strength glass or other similar explosion relieving construction.

(iv) Each opening from such storage rooms to other parts of the building shall be protected by a 1½ hour (B) fire door listed by Underwriters Laboratories Inc.

(v) Such rooms shall have no open flames for heating or lighting.

(vi) Such rooms shall be adequately ventilated both top and bottom to the outside only. The openings from such vents shall be at least 5 feet away from any other opening into any building.

(vii) The floors of such rooms shall not be below ground level. Any space below the floor shall be of solid fill or properly ventilated to the open air.

(viii) Such storage rooms shall not be located adjoining the line of property occupied by schools, churches, hospitals, athletic fields or other points of public gathering.

(ix) Fixed electrical equipment shall be installed in accordance with paragraph (b)(18) of this section.

(6) *Storage outside of buildings.* (i) Storage outside of buildings, for containers awaiting use or resale, shall be located in accordance with Table H–33 with respect to:

(*a*) the nearest important building or group of buildings;

(*b*) the line of adjoining property which may be built upon;

(*c*) busy thoroughfares;

(*d*) the line of adjoining property occupied by schools, churches, hospitals, athletic fields, or other points of public gathering.

TABLE H–33

Quantity of LP-Gas Stored:	*Distance*
500 pounds or less	0
501 to 2,500 pounds	0*
2,501 to 6,000 pounds	10 feet
6,001 to 10,000 pounds	20 feet
Over 10,000 pounds	25 feet

*Container or containers shall be at least 10 feet from any building on adjoining property, any sidewalk, or any of the exposures described in § 1910.110(f)(6)(i) (c) or (*d*) of this paragraph.

(ii) Containers shall be in a suitable enclosure or otherwise protected against tampering.

(7) *Fire protection.* Storage locations other than supply depots separated and located apart from dealer, reseller, or user establishments shall be provided with at least one approved portable fire extinguisher having a minimum rating of 8–B, C.

(g) *LP-Gas system installations on commercial vehicles.*—(1) *Application.* This paragraph applies to LP-Gas-system installations on vehicles (whether self-propelled or of the trailer or semi-trailer type) used for commercial, construction, or public service purposes such as mobile libraries and clinics; to all exchangeable container systems with container capacities greater than 105 pounds water capacity (approximately 45 pounds LP-Gas capacity) and to systems using containers permanently mounted on vehicles. It does not apply to LP-Gas motor fuel systems covered by paragraph (e) of this section. Paragraph (b) of this section applies to this paragraph unless otherwise noted. When such a vehicle is permanently parked, and LP-Gas is supplied from a system not mounted on and secured to the unit, paragraphs (c) and (d) of this section shall apply.

(2) *Construction and marking of containers.* Containers shall be constructed

in accordance with paragraph (b)(3) of this section, and marked in accordance with the applicable requirements of paragraph (b)(5) of this section, and shall also meet the following:

(i) Containers designed for use as portable cylinders shall be constructed in accordance with DOT specifications, and in accordance with paragraph (b)(3)(v) of this section; where applicable.

(ii) All other containers whether designed for permanent mounting, or for portable or semiportable use (such as skid tanks), shall be constructed as provided for by paragraphs (b)(3)(i) and (iv) of this section. Mounting, securing, and protection of such containers shall be as in subdivisions (iii) and (iv) of this subparagraph.

(iii) Permanently installed containers shall meet the requirements of subdivision (*a*) of this subdivision with regard to container valves and accessories, and subdivision (*b*) of this subdivision as to mounting.

(*a*) (*1*) Nonrecessed container fittings and appurtenances shall be protected against damage by either:

(*i*) Their location.

(*ii*) The vehicle frame or bumper, or

(*iii*) A protective housing. The protective housing, if used, shall comply with the requirements under which the tanks are fabricated with respect to design and construction and shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used. The housing shall be provided with a weather cover if necessary to insure proper operation of valves and safety devices.

(2) Manually operated shutoff valves, except as covered in paragraph (e)(2)(i) of this section, or self-closing internal valves shall be closed except during transfer operations.

(*b*) (*1*) Tank motor vehicles with frames not made integral with the tank, as by welding, shall be provided with turnbuckles or similar positive devices for drawing the tank down tight on the frame. In addition, suitable stops or anchors shall be attached to the frame and/or the tank to prevent relative motion between them due to starting, stopping, and turning. The stops and anchors shall be so installed as to be readily accessible for inspection and maintenance.

(2) Any tank motor vehicle designed and constructed so that the cargo tank constitutes in whole or in part the stress member used in lieu of a frame shall be supported by external cradles subtending at least 120 degrees of the shell circumference. The design calculations shall include beam stress, shear stress, torsion stress, bending moment, and acceleration stress for the cargo tank as a whole using a factor of safety of four, based on the ultimate tensile strength of the material. Maximum concentrated stresses which might be created at pads and cradles due to shear, bending, and torsion shal' also be calculated in accordance with Appendix G of the American Society of Mechanical Engineers, Unfired Pressure Vessel Code, 1968. Fully loaded vehicles shall be assumed to be operating under highway conditions equal to two "g" loading. The effects of fatigue shall be taken into consideration. Cargo tanks mounted on frames may be supported by longitudinal members attached to pads providing the above-stated factors are taken into account.

(*3*) Where any tank support is attached to any part of a tank head, the stresses imposed upon the head shall be provided for as required in (*2*) of this subdivision.

(*4*) Tank supports, stops, anchors, and bumpers shall not be welded directly to the tank but shall be attached by means of pads of the same material as the tank. The pad thickness shall be not less than one-fourth inch, or the thickness of the shell material if less, and no greater than the shell material. Each pad shall extend at least four times its thickness, in each direction, beyond the weld attaching the support, bumper, stop, or anchor. Each pad shall be preformed to an inside radius no greater than the outside radius of the tank at the place of attachment. Each pad corner shall be rounded to a radius at least one-fourth the width of the pad, and no greater than one-half the width of the pad. Weepholes and telltale holes, if used, shall be drilled or punched before the pads are attached to the tank. Each pad shall be attached to the tank by continuous fillet welding using filler material having properties conforming to the recommendations of the maker of the shell and head material.

(iv) Portable or semiportable containers (skid tanks as covered by paragraph (d)(7)(vii) of this section) shall meet the applicable requirements of (*a*) to (*f*) of this subdivision inclusive with regard to container valves and accessories and paragraph (e)(4)(iii) of this section as to mounting. Containers designed for permanent installation as part of systems under paragraph (d) of this section shall not be used.

(*a*) Nonrecessed container fittings and appurtenances shall be protected against damage by either—

(*1*) Their location.

(*2*) The vehicle frame or bumper, or

(*3*) A protective housing. The protective housing, if used, shall comply with the requirements under which the tanks are fabricated with respect to design and construction and shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used. The housing shall be provided with a weather cover if necessary to insure proper operation of valves and safety devices.

(*b*) Filling connections shall be provided with approved automatic back pressure check valves, excess flow check valves or quick closing internal valves to prevent excessive escape of gas in case the filling connection is broken, except that where the filling and discharge connect on a common opening in the container shell, and that opening is fitted with a quick-closing internal valve as specified in subdivision (c) of this subdivision, the automatic valve shall not be required. In addition every inlet and outlet connection shall be equipped with a manually or automatically operated shutoff valve. Liquid discharge openings, except those for engine fuel lines, on tanks built after September 1, 1965, shall be fitted with a remotely controlled internal shutoff valve. Such valve shall conform to the following requirements:

(*1*) The seat of the valve shall be inside the tank, or in the opening nozzle or flange, or in a companion flange bolted to the nozzle or flange.

(*2*) All parts of the valve inside the tank, nozzle, or companion flange shall be made of material not subject to corrosion or other deterioration in the presence of the lading.

(*3*) The arrangement of parts shall be such that damage to parts exterior to the tank will not prevent effective seating of the valve.

(*4*) The valve may be operated normally by mechanical means, by hydraulic means, or by air, or gas pressure.

(*5*) The valve shall be provided with remote means of automatic closure, both mechanical and thermal, in at least two places for tanks over 3,500 gallons water capacity. These remote control stations shall be located at each end of the tank and diagonally opposite each other. The thermal control mechanism shall have a fusible element with a melting point not over 220° F. or less than 208° F. At least one remote control station shall be provided for tanks of 3,500 gallons water capacity or less, and such actuating means may be mechanical.

(*c*) All other connections to containers, except those used for gaging devices, thermometer wells, safety relief devices, and plugged openings, shall be provided with suitable automatic excess flow valves, or in lieu thereof may be fitted with quick-closing internal valves.

The control mechanism for the internal valve shall be provided with a secondary control, remote from the fill or discharge connections (for use in the event of accidents or fire during delivery operations), and such control mechanism shall have a fusible element with a melting point not over 220° F. or less than 208° F.

(*d*) Manually operated shutoff valves, except as covered in paragraphs (e)(2)(i) of this section, or self-closing internal valves shall be closed except during transfer operations.

(*e*) Excess flow valves shall close automatically at the rated flow of vapor or liquid as specified by the valve manufacturers. The flow rating of the piping beyond the excess flow valve shall be greater than that of the excess flow valve and such rating shall include valves, fittings, and hose, except, when branching or necessary restrictions are incorporated in such a piping system so that flow ratings are less than that of the excess flow valve at the tank, then additional excess flow valves shall be installed in

the piping where such flow rate is reduced.

(*f*) Container inlets and outlets, except those used for safety relief valves, liquid-level gaging devices, and pressure gages, shall be labeled to designate whether they communicate with vapor or liquid space when the container is filled to maximum permitted filling density. Labels may be on valves.

(3) *Capacity of a system.* No single fuel container used on passenger carrying vehicles shall exceed 200 gallons water capacity.

(4) *Description of a system.* A system consists of an assembly of equipment installed on a commercial vehicle.

(5) *Location of containers and systems.* (i) Containers shall not be installed, transported, or stored (even temporarily) inside any vehicle covered by this paragraph except as provided by the applicable regulations of DOT.

(ii) Containers, control valves, and regulating equipment comprising a complete system shall be suitably protected against damage and weather. Systems may be installed in a recess vaportight to the inside of the vehicle and accessible from and vented to the outside.

(iii) Systems installed outside of mobile units shall be so located that discharge from safety relief devices shall be not less than 3 feet horizontally away from any opening into the unit below the level of such discharge. When the system is located in a recess vaportight to the inside, vent openings in such recess shall be not less than 3 feet horizontally away from any opening into the mobile unit below the level of these vents.

(iv) There shall be no fuel connection between tractor and trailer or other vehicle units.

(v) The container or container carrier shall be secured in place by fastenings designed and constructed with a minimum safety factor of four to withstand loading in any direction equal to twice the weight of the container when filled to normal capacity with LP-Gas.

(6) *Container valves and accessories.* Container valves and accessories shall be provided, protected and mounted as follows:

(i) Systems utilizing DOT cylinders in accordance with paragraph (c)(6) of this section.

(ii) All other systems in accordance with paragraph (d)(3)(ii) through (vii) of this section.

(iii) Portable, semiportable and permanently mounted containers shall be mounted and protected as provided under subparagraph (2)(ii) through (iv) of this paragraph.

(7) *Safety-relief devices.* (i) DOT containers shall be provided with safety-relief devices as required by the regulations of DOT.

(ii) ASME containers and API-ASME containers shall be provided with safety-relief devices as required by paragraph (b)(10) of this section.

(iii) (*a*) A final stage regulator of an LP-Gas system (excluding any appliance regulator) shall be equipped on the low-pressure side with a relief valve which is set to start to discharge within the limits specified in Table H-30.

(*b*) The relief valve and space above the regulator and relief valve diaphragms shall be vented to the outside air and terminate at a position to minimize the possibility of vapors accumulating at sources of ignition.

(iv) Whenever equipment such as a cargo heater or cooler on commercial vehicles is a type designed to be in operation while in transit, suitable means to stop the flow such as an excess flow valve or other device, shall be installed. This device will be actuated to stop the flow in the event of a break in the fuel supply line. All excess flow valves shall comply with paragraph (b)(7)(iii) of this section.

(8) *System design and line pressure.* Systems may be of either vapor withdrawal or liquid withdrawal type and shall comply with the applicable requirements for the type of usage involved.

(9) *System enclosure and mounting.* (i) Housing or enclosures shall be designed to provide proper ventilation.

(ii) Hoods, domes, or removable portions of cabinets shall be provided with means to keep them firmly in place during transit.

(iii) Provision shall be incorporated in the assembly to hold the containers firmly in position and prevent their movement during transit in accordance with paragraph (e)(4)(iii) of this section.

(iv) Containers shall be mounted on a substantial support or base secured firmly to the vehicle chassis. Neither the container nor its support shall extend below the frame.

(10) *Piping—including pipe, tubing, and fittings.* (i) Regulators shall be connected directly to the container valve outlet or mounted securely by means of a support bracket and connected to the container valve or valves with a listed high pressure flexible connector.

(ii) Provision shall be made between the regulator outlet and the gas service lines by either a flexible connector or a tubing loop to provide for expansion, contraction, jarring, and vibration.

(iii) Pipe, tubing, and fittings shall conform to paragraph (b)(8) of this section except that the use of aluminum alloy piping is prohibited. Steel tubing shall have a minimum wall thickness of 0.049 inch. Steel piping or tubing shall be adequately protected against exterior corrosion.

(iv) Approved gas tubing fittings shall be employed for making tubing connections.

(v) The fuel line shall be firmly fastened in a protected location and where under the vehicle and outside and below any insulation or false bottom, fastenings shall be such as to prevent abrasion or damage to the gasline due to vibration. Where the fuel line passes through structural members or floors, a rubber grommet or equivalent shall be installed to prevent chafing.

(vi) The fuel line shall be installed to enter the vehicle through the floor directly beneath or adjacent to the appliance which it serves. When a branch line is required the tee connection shall be in the main fuel line and located under the floor and outside the vehicle.

(vii) All parts of the system assembly shall be so designed and secured as to preclude such parts working loose during transit.

(11) *Appliances.* (i) LP-Gas appliances shall be approved for use on commercial vehicles.

(ii) In the case of vehicles not intended for human occupancy and where the gas-fired heating appliance is used to protect the cargo, such heater may be of the unvented type but provision shall be made to dispose of the products of combustion to the outside.

(iii) In the case of vehicles intended for human occupancy, all gas-fired heating appliances, including water heaters, shall be designed or installed to provide for complete separation of the combustion system from the atmosphere of the living space. Such appliances shall be installed with the combustion air inlet assembly furnished as a component of the appliance and, also, with either—

(*a*) The flue gas outlet assembly furnished as a component of the appliance, or

(*b*) A listed roof jack if the appliance is listed for such use.

The combustion air inlet assembly, flue gas outlet assembly, and roof jack shall extend to the outside atmosphere.

(iv) Provision shall be made to insure an adequate supply of outside air for combustion.

(v) All gas-fired heating appliances and water heaters shall be equipped with an approved automatic device designed to shut off the flow of gas to the main burner and to the pilot in the event the pilot flame is extinguished.

(vi) Gas-fired appliances installed in the cargo space shall be located so they are readily accessible.

(vii) Appliances shall be constructed or protected to reduce to a minimum possible damage or impaired operation resulting from cargo shifting or handling.

(viii) Appliances inside the vehicle shall be located so that a fire at an appliance will not block egress of persons therefrom.

(12) *General precautions.* (i) DOT containers shall be marked, maintained, and requalified for use in accordance with the regulations of DOT.

(ii) Requalification of containers for continued service is the responsibility of the owner; containers shall be stamped with the date of requalification. When DOT cylinders are requalified by retesting, such retest shall be made in accordance with DOT regulations.

(iii) Containers shall not be charged with fuel unless they bear the proper markings of the code or specifications under which they were constructed, and in addition, with their water capacity. In the case of cylinders or portable containers filled by weight, the container shall be marked with its tareweight.

(iv) DOT containers which have been involved in a fire shall not be recharged

until they have been requalified for service according to DOT regulations.

(v) American Petroleum Institute-American Society of Mechanical Engineers (API–ASME) containers or ASME containers which have been involved in a fire shall not be recharged until they have been retested in accordance with the requirements for their original hydrostatic test and found to be suitable for continued service.

(vi) Containers shall not be charged without the consent of the owner.

(vii) A permanent caution plate shall be provided on the appliance or adjacent to the container outside of any enclosure. It shall include the word "Caution" and following instructions, or instructions embodying substantially similar language.

(*a*) Be sure all appliance valves are closed before opening container valve.

(*b*) Connections at appliances, regulators, and containers must be checked periodically for leaks with soapy water or its equivalent.

(*c*) Never use a match or flame to check for leaks.

(*d*) Container valves must be closed when the equipment is not in use.

(13) *Charging of containers.* Containers shall be charged as provided in paragraph (b)(12) of this section.

(14) *Fire extinguisher.* Mobile cookunits shall be provided with at least one approved portable fire extinguisher having a minimum rating of 8–B,C.

(h) *Liquefied petroleum gas service stations*—(1) *Application.* This paragraph applies to storage containers, and dispensing devices, and pertinent equipment in service stations where LP-Gas is stored and is dispensed into fuel tanks of motor vehicles. See paragraph (e) of this section for requirements covering use of LP-Gas as a motor fuel. All requirements of paragraph (b) of this section apply to this paragraph unless otherwise noted.

(2) *Design pressure and classification of storage containers.* Storage containers shall be designed and classified in accordance with Table H–34.

TABLE H–34

Container type	For gases with vapor pressure not to exceed lb. per sq. in. gage of 100° F. (37.8 C.)	Minimum design pressure of container, lb. per sq. in. gage: 1949 and earlier editions of ASME Code (Par. U–68, U–69)	1949 edition of ASME Code (Par. U–200, U–201): 1950, 1952, 1956, 1959, 1962, 1965 and 1968 (Division 1) editions of ASME Code, all editions of API–ASME Code [2]
[1] 200	215	200	250

[1] Container type may be increased by increments of 25. The minimum design pressure of containers shall be 100 percent of the container type designation when constructed under 1949 or earlier editions of the ASME Code (Par. U–68 and U–69). The minimum design pressure of containers shall be 125 percent of the container type designation when constructed under: (1) the 1949 ASME Code (Paragraphs U–200 and U–201), (2) 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division 1) editions of the ASME Code, and (3) all editions of the API–ASME Code.

[2] Construction of containers under the API–ASME Code is not authorized after July 1, 1961.

(3) *Container valves and accessories.* (i) A filling connection on the container shall be fitted with one of the following:

(*a*) A combination back-pressure check and excess flow valve.

(*b*) One double or two single back-pressure valves.

(*c*) A positive shutoff valve, in conjunction with either.

(*1*) An internal back-pressure valve, or

(*2*) An internal excess flow valve.

In lieu of an excess flow valve, filling connections may be fitted with a quick-closing internal valve, which shall remain closed except during operating periods. The mechanism for such valves may be provided with a secondary control which will cause it to close automatically in case of fire. When a fusible plug is used its melting point shall not exceed 220° F.

(ii) A filling pipe inlet terminal not on the container shall be fitted with a positive shutoff valve in conjunction with either;

(*a*) A back pressure check valve, or

(*b*) An excess flow check valve.

(iii) All openings in the container except those listed below shall be equipped with approved excess flow check valves:

(*a*) Filling connections as provided in subdivision (i) of this subparagraph.

(*b*) Safety relief connections as provided in paragraph (b)(7)(ii) of this section.

(*c*) Liquid-level gaging devices as provided in paragraphs (b)(7)(iv) and (19)(iv) of this section.

(*d*) Pressure gage connections as provided in paragraph (b)(7)(v) of this section.

(iv) All container inlets and outlets except those listed below shall be labeled to designate whether they connect with vapor or liquid (labels may be on valves):

(*a*) Safety relief valves.

(*b*) Liquid-level gaging devices.

(*c*) Pressure gages.

(v) Each storage container shall be provided with a suitable pressure gage.

(4) *Safety-relief valves.* (i) All safety-relief devices shall be installed as follows:

(*a*) On the container and directly connected with the vapor space.

(*b*) Safety-relief valves and discharge piping shall be protected against physical damage. The outlet shall be provided with loose-fitting rain caps. There shall be no return bends or restrictions in the discharge piping.

(*c*) The discharge from two or more safety relief valves having the same pressure settings may be run into a common discharge header. The cross-sectional area of such header shall be at least equal to the sum of the cross-sectional areas of the individual discharges.

(*d*) Discharge from any safety relief device shall not terminate in any building nor beneath any building.

(ii) Aboveground containers shall be provided with safety relief valves as follows:

(*a*) The rate of discharge, which may be provided by one or more valves, shall be not less than that specified in paragraph (b)(10)(ii) of this section.

(*b*) The discharge from safety relief valves shall be vented to the open air unobstructed and vertically upwards in such a manner as to prevent any impingement of escaping gas upon the container; loose-fitting rain caps shall be used. On a container having a water capacity greater than 2,000 gallons, the discharge from the safety relief valves shall be vented away from the container vertically upwards to a point at least 7 feet above the container. Suitable provisions shall be made so that any liquid or condensate that may accumulate inside of the relief valve or its discharge pipe will not render the valve inoperative. If a drain is used, a means shall be provided to protect the container, adjacent containers, piping, or equipment against impingement of flame resulting from ignition of the product escaping from the drain.

(iii) Underground containers shall be provided with safety relief valves as follows:

(*a*) The discharge from safety-relief valves shall be piped vertically upward to a point at least 10 feet above the ground. The discharge lines or pipes shall be adequately supported and protected against physical damage.

(*b*) Where there is a probability of the manhole or housing becoming flooded, the discharge from regulator vent lines should be above the highest probable water level.

(*c*) If no liquid is put into a container until after it is buried and covered, the rate of discharge of the relief valves may be reduced to not less than 30 percent of the rate shown in paragraph (b)(10)(ii) of this section. If liquid fuel is present during installation of containers, the rate of discharge shall be the same as for aboveground containers. Such containers shall not be uncovered until emptied of liquid fuel.

(5) *Capacity of liquid containers.* Individual liquid storage containers shall not exceed 30,000 gallons water capacity.

(6) *Installation of storage containers.* (i) (*a*) Each storage container used exclusively in service station operation shall comply with the following table which specifies minimum distances to a building, groups of buildings, and adjoining property lines which may be built upon.

Water capacity per container (gallons)	Minimum distances: Above ground and underground (feet)	Between aboveground containers (feet)
Up to 2,000	25	3
Over 2,000	50	5

NOTE: The above distances may be reduced to not less than 10 feet for service station buildings of other than wood frame construction.

(*b*) Readily ignitible material including weeds and long dry grass, shall be removed within 10 feet of containers.

(*c*) The minimum separation between LP-Gas containers and flammable liquid tanks shall be 20 feet and the minimum separation between a container and the centerline of the dike shall be 10 feet.

(*d*) LP-Gas containers located near flammable liquid containers shall be protected against the flow or accumulation of flammable liquids by diking, diversion curbs, or grading.

(*e*) LP-Gas containers shall not be located within diked areas for flammable liquid containers.

(*f*) Field welding is permitted only on saddle plates or brackets which were applied by the container manufacturer.

(*g*) When permanently installed containers are interconnected, provision shall be made to compensate for expansion, contraction, vibration, and settling of containers and interconnecting piping. Where flexible connections are used, they shall be of an approved type and shall be designed for a bursting pressure of not less than five times the vapor pressure of the product at 100° F. The use of nonmetallic hose is prohibited for interconnecting such containers.

(*h*) Where high water table or flood conditions may be encountered protection against container flotation shall be provided.

(ii) Aboveground containers shall be installed in accordance with this subdivision.

(*a*) Containers may be installed horizontally or vertically.

(*b*) Containers shall be protected by crash rails or guards to prevent physical damage unless they are so protected by virtue of their location. Vehicles shall not be serviced within 10 feet of containers.

(*c*) Container foundations shall be of substantial masonry or other noncombustible material. Containers shall be mounted on saddles which shall permit expansion and contraction, and shall provide against the excessive concentration of stresses. Corrosion protection shall be provided for tank-mounting areas. Structural metal container supports shall be protected against fire. This protection is not required on prefabricated storage and pump assemblies, mounted on a common base, with container bottom not more than 24 inches above ground and whose water capacity is 2,000 gallons or less if the piping connected to the storage and pump assembly is sufficiently flexible to minimize the possibility of breakage or leakage in the event of failure of the container supports.

(iii) Underground containers shall be installed in accordance with this subdivision.

(*a*) Containers shall be given a protective coating before being placed under ground. This coating shall be equivalent to hot-dip galvanizing or to two coatings of red lead followed by a heavy coating of coal tar or asphalt. In lowering the container into place, care shall be exercised to minimize abrasion or other damage to the coating. Damage to the coating shall be repaired before backfilling.

(*b*) Containers shall be set on a firm foundation (firm earth may be used) and surrounded with earth or sand firmly tamped in place. Backfill should be free of rocks or other abrasive materials.

(*c*) A minimum of 2 feet of earth cover shall be provided. Where ground conditions make compliance with this requirement impractical, equivalent protection against physical damage shall be provided. The portion of the container to which manhole and other connections are attached need not be covered. If the location is subjected to vehicular traffic, containers shall be protected by a concrete slab or other cover adequate to prevent the weight of a loaded vehicle imposing concentrated direct loads on the container shell.

(7) *Protection of container fittings.* Valves, regulators, gages, and other container fittings shall be protected against tampering and physical damage.

(8) *Transport truck unloading point.* (i) During unloading, the transport truck shall not be parked on public thoroughfares and shall be at least 5 feet from storage containers, and shall be positioned so that shutoff valves are readily accessible.

(ii) The filling pipe inlet terminal shall not be located within a building nor within 10 feet of any building or driveway. It shall be protected against physical damage.

(9) *Piping, valves, and fittings.* (i) Piping may be underground, above ground, or a combination of both. It shall be well supported and protected against physical damage and corrosion.

(ii) Piping laid beneath driveways shall be installed to prevent physical damage by vehicles.

(iii) Piping shall be wrought iron or steel (black or galvanized), brass or copper pipe; or seamless copper, brass, or steel tubing and shall be suitable for a minimum pressure of 250 p.s.i.g. Pipe joints may be screwed, flanged, brazed, or welded. The use of aluminum alloy piping or tubing is prohibited.

(iv) All shutoff valves (liquid or gas) shall be suitable for liquefied petroleum gas service and designed for not less than the maximum pressure to which they may be subjected. Valves which may be subjected to container pressure shall have a rated working pressure of at least 250 p.s.i.g.

(v) All materials used for valve seats, packing, gaskets, diaphragms, etc., shall be resistant to the action of LP-Gas.

(vi) Fittings shall be steel, malleable iron, or brass having a minimum working pressure of 250 p.s.i.g. Cast iron pipe fittings, such as ells, tees, and unions shall not be used.

(vii) All piping shall be tested after assembly and proved free from leaks at not less than normal operating pressures.

(viii) Provision shall be made for expansion, contraction, jarring, and vibration, and for settling. This may be accomplished by flexible connections.

(10) *Pumps and accessories.* All pumps and accessory equipment shall be suitable for LP-Gas service, and designed for not less than the maximum pressure to which they may be subjected. Accessories shall have a minimum rated working pressure of 250 p.s.i.g. Positive displacement pumps shall be equipped with suitable pressure actuated bypass valves permitting flow from pump discharge to storage container or pump suction.

(11) *Dispensing devices.* (i) Meters, vapor separators, valves, and fittings in the dispenser shall be suitable for LP-Gas service and shall be designed for a minimum working pressure of 250 p.s.i.g.

(ii) Provisions shall be made for venting LP-Gas contained in a dispensing device to a safe location.

(iii) Pumps used to transfer LP-Gas shall be equipped to allow control of the flow and to prevent leakage or accidental discharge. Means shall be provided outside the dispensing device to readily shut off the power in the event of fire or accident.

(iv) A manual shutoff valve and an excess flow check valve shall be installed downstream of the pump and ahead of the dispenser inlet.

(v) (*a*) Dispensing hose shall be resistant to the action of LP-Gas in the liquid phase and designed for a minimum bursting pressure of 1,250 p.s.i.g.

(*b*) An excess flow check valve or automatic shutoff valve shall be installed at the terminus of the liquid line at the point of attachment of the dispensing hose.

(vi) (*a*) LP-Gas dispensing devices shall be located not less than 10 feet from aboveground storage containers greater than 2,000 gallons water capacity. The dispensing devices shall not be less than 20 feet from any building (not including canopies), basement, cellar, pit, or line of adjoining property which may be built upon and not less than 10 feet from sidewalks, streets, or thoroughfares. No drains or blowoff lines shall be directed into or in proximity to the sewer systems used for other purposes.

(*b*) LP-Gas dispensing devices shall be installed on a concrete foundation or as part of a complete storage and dispensing assembly mounted on a common base, and shall be adequately protected from physical damage.

(*c*) LP-Gas dispensing devices shall not be installed within a building except that they may be located under a weather shelter or canopy provided this area is not enclosed on more than two sides. If the enclosing sides are adjacent to each other, the area shall be properly ventilated.

(vii) The dispensing of LP-Gas into the fuel container of a vehicle shall be performed by a competent attendant who shall remain at the LP-Gas dispenser during the entire transfer operation.

(12) *Additional rules.* There shall be no smoking on the driveway of service stations in the dispensing areas or transport truck unloading areas. Conspicuous signs prohibiting smoking shall be posted within sight of the customer being served. Letters on such signs shall be not less than 4 inches high. The motors of all vehicles being fueled shall be shut off during the fueling operations.

(13) *Electrical.* Electrical equipment and installations shall conform to paragraphs (b)(17) and (18) of this section.

(14) *Fire protection.* Each service station shall be provided with at least one

approved portable fire extinguisher having at least an 8–B, C, rating.

(i) *Scope*—(1) *Application.* (i) Paragraph (b) of this section applies to installations made in accordance with the requirements of paragraphs (c), (d), (e), (g), and (h) of this section, except as noted in each of those paragraphs.

(ii) Paragraphs (c) through (h) of this section apply as provided in each of those paragraphs.

(2) *Inapplicability.* This section does not apply to:

(i) Marine and pipeline terminals, natural gas processing plants, refineries, or tank farms other than those at industrial sites.

(ii) LP-Gas refrigerated storage systems;

(iii) LP-Gas when used with oxygen. The requirements of § 1910.252 shall apply to such use;

(iv) LP-Gas when used in utility gas plants. The National Fire Protection Association Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants, NFPA No. 59–1968, shall apply to such use;

(v) Low-pressure (not in excess of one-half pound per square inch or 14 inches water column) LP-Gas piping systems, and the installation and operation of residential and commercial appliances including their inlet connections, supplied through such systems. For such systems, the National Fire Protection Association Standard for the Installation of Gas Appliances and Gas Piping, NFPA 54–1969 shall apply.

(3) *Retroactivity.* Unless otherwise stated, it is not intended that the provisions of this section be retroactive.

(i) Existing plants, appliances, equipment, buildings, structures, and installations for the storage, handling or use of LP-Gas, which were in compliance with the current provisions of the National Fire Protection Association Standard for the Storage and Handling of Liquefied Petroleum Gases NFPA No. 58, at the time of manufacture or installation may be continued in use, if such continued use does not constitute a recognized hazard that is causing or is likely to cause death or serious physical harm to to employees.

(ii) Stocks of equipment and appliances on hand in such locations as manufacturers' storage, distribution warehouses, and dealers' storage and showrooms, which were in compliance with the current provisions of the National Fire Protection Association Standard for the Storage and Handling of Liquefied Petroleum Gases, NFPA No. 58, at the time of manufacture, may be placed in service, if such use does not constitute a recognized hazard that is causing or is likely to cause death or serious physical harm to employees.

§ 1910.111 Storage and handling of anhydrous ammonia.

(a) *General*—(1) *Scope.* (i) This standard is intended to apply to the design, construction, location, installation, and operation of anhydrous ammonia systems including refrigerated ammonia storage systems.

(ii) This standard does not apply to:

(*a*) Ammonia manufacturing plants.

(*b*) Refrigeration plants where ammonia is used solely as a refrigerant.

(2) *Definitions.* As used in this section.

(i) "Appurtenances"—All devices such as pumps, safety relief devices, liquid-level gaging devices, valves, and pressure gages.

(ii) "Cylinder"—A container of 1,000 pounds of water capacity or less constructed in accordance with Department of Transportation specifications.

(iii) "Code"—The Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels of the American Society of Mechanical Engineers (ASME)—1968.

(iv) "Container"—Includes all vessels, tanks, cylinders, or spheres used for transportation, storage, or application of anhydrous ammonia.

(v) "DOT"—U.S. Department of Transportation.

(vi) "Design pressure" is identical to the term "Maximum Allowable Working Pressure" used in the Code.

(vii) "Farm vehicle" (implement of husbandry)—A vehicle for use on a farm on which is mounted a container of not over 1,200 gallons water capacity.

(viii) "Filling density"—the percent ratio of the weight of the gas in a container to the weight of water at 60° F. that the container will hold.

(ix) "Gas"—Anhydrous ammonia in either the gaseous or liquefied state.

(x) "Gas mask"—Gas masks approved by the Bureau of Mines, U.S. Department of the Interior.

(xi) "Capacity"—Total volume of the container in standard U.S. gallons.

(xii) DOT specifications—Regulations of the Department of Transportation published in 49 CFR Chapter I.

(xiii) "DOT regulations"—See § 1910.-111(a)(2)(xii).

(xiv) "DOT requirements"—See § 1910.111(a)(2)(xii).

(b) *Basic rules.* This paragraph applies to all paragraphs of this section unless otherwise noted.

(1) *Approval of equipment and systems.* The appurtenances of each system shall be listed by at least one of the following nationally recognized testing laboratories: Underwriters Laboratories, Inc.; Factory Mutual Engineering Corp.

(2) *Requirements for construction, original test and requalification of nonrefrigerated containers.* (i) Containers used with systems covered in paragraphs (c), (f), (g), and (h) of this section shall be constructed and tested in accordance with the Code except that construction under Table UW12 at a basic joint efficiency of under 80 percent is not authorized.

(ii) Containers built according to the Code do not have to comply with Paragraphs UG125 to UG128 inclusive, and Paragraphs UG132 and UG133 of the Code.

(iii) Containers exceeding 36 inches in diameter or 250 gallons water capacity shall be constructed to comply with one or more of the following:

(*a*) Containers shall be stress relieved after fabrication in accordance with the Code, or

(*b*) Cold-formed heads, when used, shall be stress relieved, or

(*c*) Hot-formed heads shall be used.

(iv) Welding to the shell, head, or any other part of the container subject to internal pressure shall be done in compliance with the Code. Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the container manufacturer.

(v) Containers used with systems covered in paragraph (e) of this section shall be constructed and tested in accordance with the DOT specifications.

(vi) The provisions of subdivision (i) of this subparagraph shall not be construed as prohibiting the continued use or reinstallation of containers constructed and maintained in accordance with the 1949, 1950, 1952, 1956, 1959, and 1962 editions of the Code or any revisions thereof in effect at the time of fabrication.

(3) *Marking nonrefrigerated containers.* (i) System nameplates, when required, shall be permanently attached to the system so as to be readily accessible for inspection and shall include markings as prescribed in subdivision (ii) of this subparagraph.

(ii) Each container or system covered in paragraphs (c), (f), (g), and (h) of this section shall be marked as specified in the following:

(*a*) With a notation "Anhydrous Ammonia."

(*b*) With a marking identifying compliance with the rules of the Code under which the container is constructed.

Under ground: Container and system nameplate.
Above ground: Container.

(*c*) With a notation whether the system is designed for underground or aboveground installation or both.

(*d*) With the name and address of the supplier of the system or the trade name of the system and with the date of fabrication.

Under ground and above ground: System nameplate.

(*e*) With the water capacity of the container in pounds at 60° F. or gallons, U.S. Standard.

Under ground: Container and system nameplate.
Above ground: Container.

(*f*) With the design pressure in pounds per square inch.

Under ground: Container and system nameplate.
Above ground: Container.

(*g*) With the wall thickness of the shell and heads.

Under ground: Container and system nameplate.
Above ground: Container.

(*h*) With marking indicating the maximum level to which the container may be filled with liquid anhydrous ammonia at temperatures between 20° F. and 130° F. except on containers provided with fixed level indicators, such as fixed length dip tubes, or containers that are filled with weight. Markings shall be in increments of not more than 20° F.

Above ground and under ground: System nameplate or on liquid-level gaging device.

(*i*) With the total outside surface area of the container in square feet.

Under ground: System nameplate.
Above ground: No requirement.

(*j*) Marking specified on the container shall be on the container itself or on a nameplate permanently attached to it.

(4) *Marking refrigerated containers.* Each refrigerated container shall be marked with nameplate on the outer covering in an accessible place as specified in the following:

(i) With the notation, "Anhydrous Ammonia."

(ii) With the name and address of the builder and the date of fabrication.

(iii) With the water capacity of the container in gallons, U.S. Standard.

(iv) With the design pressure.

(v) With the minimum temperature in degrees Fahrenheit for which the container was designed.

(vi) The maximum allowable water level to which the container may be filled for test purposes.

(vii) With the density of the product in pounds per cubic foot for which the container was designed.

(viii) With the maximum level to which the container may be filled with liquid anhydrous ammonia.

(5) *Location of containers.* (i) Consideration shall be given to the physiological effects of ammonia as well as to adjacent fire hazards in selecting the location for a storage container. Containers shall be located outside of buildings or in buildings or sections thereof especially provided for this purpose.

(ii) Permanent storage containers shall be located at least 50 feet from a dug well or other sources of potable water supply, unless the container is a part of a water-treatment installation.

(iii) Permanent storage containers shall be located outside densely populated areas.

(iv) Container locations shall comply with table H–35:

TABLE H–35

Nominal capacity of container (gallons)	Minimum distances (feet) from container to: Line of adjoining property which may be built upon highways and mainline of railroad	Place of public assembly	Institution occupancy
Over 500 to 2,000	25	150	250
Over 2,000 to 30,000	50	300	500
Over 30,000 to 100,000	50	450	750
Over 100,000	50	600	1,000

(v) Storage areas shall be kept free of readily ignitible materials such as waste, weeds, and long dry grass.

(6) *Container appurtenances.* (i) All appurtenances shall be designed for not less than the maximum working pressure of that portion of the system on which they are installed. All appurtenances shall be fabricated from materials proved suitable for anhydrous ammonia service.

(ii) All connections to containers except safety relief devices, gaging devices, or those fitted with No. 54 drill-size orifice shall have shutoff valves located as close to the container as practicable.

(iii) Excess flow valves where required by these standards shall close automatically at the rated flows of vapor or liquid as specified by the manufacturer. The connections and line including valves and fittings being protected by an excess flow valve shall have a greater capacity than the rated flow of the excess flow valve so that the valve will close in case of failure of the line or fittings.

(iv) Liquid-level gaging devices that require bleeding of the product to the atmosphere and which are so constructed that outward flow will not exceed that passed by a No. 54 drill-size opening need not be equipped with excess flow valves.

(v) Openings from the container or through fittings attached directly on the container to which pressure gage connections are made need not be equipped with excess flow valves if such openings are not larger than No. 54 drill size.

(vi) Excess flow and back pressure check valves where required by the standards in this section shall be located inside of the container or at a point outside as close as practicable to where the line enters the container. In the latter case installation shall be made in such manner that any undue strain beyond the excess flow or back pressure check valve will not cause breakage between the container and the valve.

(vii) Excess flow valves shall be designed with a bypass, not to exceed a No. 60 drill-size opening to allow equalization of pressures.

(viii) All excess flow valves shall be plainly and permanently marked with the name or trademark of the manufacturer, the catalog number, and the rated capacity.

(7) *Piping, tubing, and fittings.* (i) All piping, tubing, and fittings shall be made of material suitable for anhydrous ammonia service.

(ii) All piping, tubing, and fittings shall be designed for a pressure not less than the maximum pressure to which they may be subjected in service.

(iii) All refrigerated piping shall conform to the Refrigeration Piping Code, American National Standards Institute, B31.5–1966 with addenda B31.1a–1968 as it applies to ammonia.

(iv) Piping used on non-refrigerated systems shall be at least American Society for Testing and Materials (ASTM) A–53–69 Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal. Such pipe shall be at least schedule 40 when joints are welded, or welded and flanged. Such pipe shall be at least schedule 80 when joints are threaded. Threaded connections shall not be back-welded. Brass, copper, or galvanized steel pipe shall not be used.

(v) Tubing made of brass, copper, or other material subject to attack by ammonia shall not be used.

(vi) Cast iron fittings shall not be used but this shall not prohibit the use of fittings made specifically for ammonia service of malleable, nodular, or high strength gray iron meeting American Society for Testing and Materials (ASTM) A47–68, ASTM 395–68, or ASTM A126–66 Class B or C.

(vii) Joint compounds shall be resistant to ammonia.

(8) *Hose specifications.* (i) Hose used in ammonia service shall conform to the Joint Agricultural Ammonia Institute—Rubber Manufacturers Association Specifications for Anhydrous Ammonia Hose.

(ii) Hose subject to container pressure shall be designed for a minimum working pressure of 350 p.s.i.g. and a minimum burst pressure of 1,750 p.s.i.g. Hose assemblies, when made up, shall be capable of withstanding a test pressure of 560 p.s.i.g.

(iii) Hose and hose connections located on the low-pressure side of flow control or pressure-reducing valves shall be designed for a bursting pressure of not less than five times the pressure setting of the safety relief devices protecting that portion of the system but not less than 125 p.s.i.g. All connections shall be so designed and constructed that there will be no leakage when connected.

(iv) Where hose is to be used for transfering liquid from one container to another, "wet" hose is recommended. Such hose shall be equipped with approved shutoff valves at the discharge end. Provision shall be made to prevent excessive pressure in the hose.

(v) On all hose one-half inch outside diameter and larger, used for the transfer of anhydrous ammonia liquid or vapor, there shall be etched, cast, or impressed at 5-foot intervals the following information.

"Anhydrous Ammonia" xxx p.s.i.g. (maximum working pressure), manufacturer's name or trademark, year of manufacture.

In lieu of this requirement the same information may be contained on a nameplate permanently attached to the hose.

TABLE H–36

Minimum required rate of discharge in cubic feet per minute of air at 120 percent of the maximum permitted start to discharge pressure for safety relief valves.

Surface area (sq. ft.)	*Flow rate CFM air*
20	258
25	310
30	360
35	408
40	455
45	501
50	547
55	591
60	635
65	678
70	720
75	762
80	804
85	845
90	885
95	925
100	965
105	1,010
110	1,050
115	1,090
120	1,120
125	1,160
130	1,200
135	1,240
140	1,280

Surface area (sq. ft.)	Flow rate CFM air
145	1,310
150	1,350
155	1,390
160	1,420
165	1,460
170	1,500
175	1,530
180	1,570
185	1,600
190	1,640
195	1,670
200	1,710
210	1,780
220	1,850
230	1,920
240	1,980
250	2,050
260	2,120
270	2,180
280	2,250
290	2,320
300	2,380
310	2,450
320	2,510
330	2,570
340	2,640
350	2,700
360	2,760
370	2,830
380	2,890
390	2,950
400	3,010
450	3,320
500	3,620
550	3,910
600	4,200
650	4,480
700	4,760
750	5,040
800	5,300
850	5,590
900	5,850
950	6,120
1,000	6,380
1,050	6,640
1,100	6,900
1,150	7,160
1,200	7,410
1,250	7,660
1,300	7,910
1,350	8,160
1,400	8,410
1,450	8,650
1,500	8,900
1,550	9,140
1,600	9,380
1,650	9,620
1,700	9,860
1,750	10,090
1,800	10,330
1,850	10,560
1,900	10,800
1,950	11,030
2,000	11,260
2,050	11,490
2,100	11,720
2,150	11,950
2,200	12,180
2,250	12,400
2,300	12,630
2,350	12,850
2,400	13,080
2,450	13,300
2,500	13,520

"Surface Area = total outside surface area of container in square feet. When the surface area is not stamped on the nameplate or when the marking is not legible the area can be calculated by using one of the following formulas:

(1) Cylindrical container with hemispherical heads:

Area = overall length in feet times outside diameter in feet times 3.1416.

(2) Cylindrical container with other than hemispherical heads:

Area = (overall length in feet plus 0.3 outside diameter in feet) times outside diameter in feet times 3.1416.

(3) Spherical container:

Area = outside diameter in feet squared times 3.1416."

"Flow Rate—CFM Air = cubic feet per minute of air required at standard conditions, 60° F. and atmospheric pressure (14.7 p.s.i.a.)."

"The rate of discharge may be interpolated for intermediate values of surface area. For containers with total outside surface area greater than 2,500 square feet, the required flow rate can be calculated using the formula: Flow Rate CFM Air = $22.11\ A^{0.82}$, where A = outside surface area of the container in square feet."

(9) *Safety relief devices.* (i) Every container used in systems covered by paragraphs (c), (f), (g), and (h) of this section shall be provided with one or more safety relief valves of the spring-loaded or equivalent type. The discharge from safety-relief valves shall be vented away from the container upward and unobstructed to the atmosphere. All relief-valve discharge openings shall have suitable rain caps that will allow free discharge of the vapor and prevent entrance of water. Provision shall be made for draining condensate which may accumulate. The rate of the discharge shall be in accordance with the provisions of Table H-36.

(ii) Container safety-relief valves shall be set to start-to-discharge as follows, with relation to the design pressure of the container:

Containers	Minimum (percent)	Maximum (percent)
ASME-U-68, U-69	110	125
ASME-U-200, U-201	95	100
ASME 1959, 1956, 1952, or 1962	95	100
API-ASME	95	100
U.S. Coast Guard	95	100
As required by DOT Regulations.		

(iii) Safety relief devices used in systems covered by paragraphs (c), (f), (g), and (h) of this section shall be constructed to discharge at not less than the rates required in subdivision (i) of this subparagraph before the pressure is in excess of 120 percent (not including the 10 percent tolerance referred to in subdivision (ii) of this subparagraph) of the maximum permitted start-to-discharge pressure setting of the device.

(iv) Safety-relief valves shall be so arranged that the possibility of tampering will be minimized. If the pressure setting adjustment is external, the relief valves shall be provided with means for sealing the adjustment.

(v) Shutoff valves shall not be installed between the safety-relief valves and the container; except, that a shutoff valve may be used where the arrangement of this valve is such as always to afford full required capacity flow through the relief valves.

(vi) Safety-relief valves shall have direct communication with the vapor space of the container.

(vii) Each container safety-relief valve used with systems covered by paragraphs (c), (f), (g), and (h) of this section shall be plainly and permanently marked with the symbol "NH_3" or "AA": with the pressure in pounds-per-square-inch gage at which the valve is set to start-to-discharge; with the actual rate of discharge of the valve at its full open position in cubic feet per minute of air at 60° F. and atmospheric pressure; and with the manufacturer's name and catalog number. Example: "NH_3 250—4050 Air" indicates that the valve is suitable for use on an anhydrous ammonia container, is set to start-to-discharge at a pressure of 250 p.s.i.g., and that its rate of discharge at full open position (subdivisions (ii) and (iii) of this subparagraph) is 4,050 cubic feet per minute of air.

(viii) The flow capacity of the relief valve shall not be restricted by any connection to it on either the upstream or downstream side.

(ix) A hydrostatic relief valve shall be installed between each pair of valves in the liquid ammonia piping or hose where liquid may be trapped so as to relieve into the atmosphere at a safe location.

(10) *General.* (i) Personnel required to handle ammonia should be trained in safe operating practices and in the proper action to take in the event of emergencies.

(ii) All stationary storage installations shall have at least two suitable gas masks in readily accessible locations. Full face masks with ammonia canisters as approved by the Bureau of Mines, U.S. Department of the Interior, are suitable for emergency action for most leaks, particularly those that occur outdoors. For protection in concentrated ammonia atmospheres self-contained breathing air apparatus is required.

(iii) Stationary storage installations shall have an easily accessible shower or a 50-gallon drum of water.

(iv) Each vehicle transporting ammonia in bulk except farm applicator vehicles shall carry a container of at least 5 gallons of water and shall be equipped with a full face mask.

(11) *Charging of containers.* (i) The filling densities for containers that are not refrigerated shall not exceed the following:

Type of container	Percent by weight	Percent by volume
Aboveground—Uninsulated	56	82
Aboveground—Uninsulated		87.5
Aboveground—Insulated	57	83.5
Underground—Uninsulated	58	85
DOT—In accord with DOT regulations.		

(ii) Aboveground uninsulated containers may be charged 87.5 percent by volume provided the temperature of the anhydrous ammonia being charged is determined to be not lower than 30° F. or provided the charging of the container is stopped at the first indication of frost or ice formation on its outside surface and is not resumed until such frost or ice has disappeared.

(iii) Any container, including DOT cargo and portable tanks, shipped under DOT jurisdiction shall be filled according to DOT regulations.

(iv) Refer to paragraph (d) of this section for filling densities of refrigerated storage containers.

(12) *Transfer of liquids.* (i) Anhydrous ammonia shall always be at a temperature suitable for the material of construction and the design of the receiving container.

(ii) The employer shall require the continuous presence of an attendant in the vicinity of the operation during such time as ammonia is being transferred.

(iii) Containers shall be charged or used only upon authorization of the owner.

(iv) Containers shall be gaged and charged only in the open atmosphere or in buildings or areas thereof provided for that purpose.

(v) Pumps used for transferring ammonia shall be those manufactured for that purpose.

(*a*) Pumps shall be designed for at least 250 p.s.i.g. working pressure.

(*b*) Positive displacement pumps shall have, installed off the discharged port, a constant differential relief valve discharging into the suction port of the pump through a line of sufficient size to carry the full capacity of the pump at relief valve setting, which setting and installation shall be according to the pump manufacturer's recommendations.

(*c*) On the discharge side of the pump, before the relief valve line, there shall be installed a pressure gage graduated from 0 to 400 p.s.i.

(*d*) Plant piping shall contain shutoff valves located as close as practical to pump connections.

(vi) Compressors used for transferring or refrigerating ammonia shall be recommended for ammonia service by the manufacturer.

(*a*) Compressors shall be designed for at least 250 p.s.i.g. working pressure.

(*b*) Plant piping shall contain shutoff valves located as close as practical to compressor connections.

(*c*) A relief valve large enough to discharge the full capacity of the compressor shall be connected to the discharge before any shutoff valve.

(*d*) Compressors shall have pressure gages at suction and discharge graduated to at least one and one-half times the maximum pressure that can be developed.

(*e*) Adequate means, such as drainable liquid trap, shall be provided on the compressor suction to minimize the entry of liquid into the compressor.

(*f*) Where necessary to prevent contamination, an oil separator shall be provided on the discharge side of the compressor.

(vii) Loading and unloading systems shall be protected by suitable devices to prevent emptying of the storage container or the container being loaded or unloaded in the event of severance of the hose. Backflow check valves or properly sized excess flow valves shall be installed where necessary to provide such protection. In the event that such valves are not practical, remotely operated shutoff valves may be installed.

(13) *Tank car unloading points and operations.* (i) Provisions for unloading tank cars shall conform to the applicable recommendations contained in the DOT regulations.

(ii) The employer shall insure that unloading operations are performed by reliable persons properly instructed and given the authority to monitor careful compliance with all applicable procedures.

(iii) Caution signs shall be so placed on the track or car as to give necessary warning to persons approaching the car from open end or ends of siding and shall be left up until after the car is unloaded and disconnected from discharge connections. Signs shall be of metal or other suitable material, at least 12 by 15 inches in size and bear the words "STOP—Tank Car Connected" or "STOP—Men at Work" the word, "STOP," being in letters at least 4 inches high and the other words in letters at least 2 inches high. The letters shall be white on a blue background.

(iv) The track of a tank car siding shall be substantially level.

(v) Brakes shall be set and wheels blocked on all cars being unloaded.

(14) *Liquid-level gaging device.* (i) Each container except those filled by weight shall be equipped with an approved liquid-level gaging device. A thermometer well shall be provided in all containers not utilizing a fixed liquid-level gaging device.

(ii) All gaging devices shall be arranged so that the maximum liquid level to which the container is filled is readily determined.

(iii) Gaging devices that require bleeding of the product to the atmosphere such as the rotary tube, fixed tube, and slip tube devices shall be designed so that the maximum opening of the bleed valve is not larger than No. 54 drill size unless provided with an excess flow valve. (This requirement does not apply to farm vehicles used for the application of ammonia as covered in paragraph (h) of this section.)

(iv) Gaging devices shall have a design pressure equal to or greater than the design pressure of the container on which they are installed.

(v) Fixed tube liquid-level gages shall be designed and installed to indicate that level at which the container is filled to 85 percent of its water capacity in gallons.

(vi) Gage glasses of the columnar type shall be restricted to stationary storage installations. They shall be equipped with shutoff valves having metallic handwheels, with excess-flow valves, and with extra heavy glass adequately protected with a metal housing applied by the gage manufacturer. They shall be shielded against the direct rays of the sun.

(15) *Painting of containers.* Aboveground uninsulated containers should have a reflective surface maintained in good condition.

(16) *Electrical equipment and wiring.* (i) Electrical equipment and wiring for use in ammonia installations shall be general purpose or weather resistant as appropriate.

(ii) Electrical systems shall be installed and maintained in accordance with Subpart S of this part.

(c) *Systems utilizing stationary, nonrefrigerated storage containers.* This paragraph applies to stationary, nonrefrigerated storage installations utilizing containers other than those covered in paragraph (e) of this section. Paragraph (b) of this section applies to this paragraph unless otherwise noted.

(1) *Design pressure and construction of containers.* The minimum design pressure for nonrefrigerated containers shall be 250 p.s.i.g.

(2) *Container valves and accessories, filling and discharge connections.* (i) Each filling connection shall be provided with combination back-pressure check valve and excess-flow valve; one double or two single back-pressure check valves; or a positive shutoff valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve.

(ii) All liquid and vapor connections to containers except filling pipes, safety relief connections, and liquid-level gaging and pressure gage connections provided with orifices not larger than No. 54 drill size as required in paragraphs (b)(6)(iv) and (v) of this section shall be equipped with excess-flow valves.

(iii) Each storage container shall be provided with a pressure gage graduated from 0 to 400 p.s.i. Gages shall be designated for use in ammonia service.

(iv) All containers shall be equipped with vapor return valves.

(3) *Safety-relief devices.* (i) Every container shall be provided with one or more safety-relief valves of the spring-loaded or equivalent type in accordance with paragraph (b)(9) of this section.

(ii) The rate of discharge of spring-loaded safety relief valves installed on underground containers may be reduced to a minimum of 30 percent of the rate of discharge specified in Table H-36. Containers so protected shall not be uncovered after installation until the liquid ammonia has been removed. Containers which may contain liquid ammonia before being installed underground and before being completely covered with earth are to be considered aboveground containers when determining the rate of discharge requirements of the safety-relief valves.

(iii) On underground installations where there is a probability of the manhole or housing becoming flooded, the discharge from vent lines shall be located above the high water level. All manholes or housings shall be provided with ventilated louvers or their equivalent, the area of such openings equalling or exceeding combined discharge areas of safety-relief valves and vent lines which discharge their content into the manhole housing.

(iv) Vent pipes, when used, shall not be restricted or of smaller diameter than the relief-valve outlet connection.

(v) If desired, vent pipes from two or more safety-relief devices located on the same unit, or similar lines from two or more different units may be run into a common discharge header, provided the

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capacity of such header is at least equal to the sum of the capacities of the individual discharge lines.

(4) *Reinstallation of containers.* (i) Containers once installed under ground shall not later be reinstalled above ground or under ground, unless they successfully withstand hydrostatic pressure retests at the pressure specified for the original hydrostatic test as required by the code under which constructed and show no evidence of serious corrosion.

(ii) Where containers are reinstalled under ground, the corrosion-resistant coating shall be put in good condition; see subpargraph (5)(iv) of this paragraph. Where containers are reinstalled above ground, safety devices or gaging devices shall comply with paragraph (b)(9) of this section and this subparagraph respectively for aboveground containers.

(5) *Installation of storage containers* (i) Containers installed above ground, except as provided in subdivision (v) of this subparagraph shall be provided with substantial concrete or masonry supports, or structural steel supports on firm concrete or masonry foundations. All foundations shall extend below the frost line.

(ii) Horizontal aboveground containers shall be so mounted on foundations as to permit expansion and contraction. Every container shall be supported to prevent the concentration of excessive loads on the supporting portion of the shell. That portion of the container in contact with foundations or saddles shall be protected against corrosion.

(iii) Containers installed under ground shall be so placed that the top of the container is below the frost line and in no case less than 2 feet below the surface of the ground. Should ground conditions make compliance with these requirements impracticable, installation shall be made otherwise to prevent physical damage. It will not be necessary to cover the portion of the container to which manhole and other connections are affixed. When necessary to prevent floating, containers shall be securely anchored or weighted.

(iv) Underground containers shall be set on a firm foundation (firm earth may be used) and surrounded with earth or sand well tamped in place. The container, prior to being placed under ground, shall be given a corrosion resisting protective coating. The container thus coated shall be so lowered into place as to prevent abrasion or other damage to the coating.

(v) Containers with foundations attached (portable or semiportable tank containers with suitable steel "runners" or "skids" and commonly known in the industry as "skid tanks") shall be designed and constructed in accordance with subparagraph (1) of this paragraph.

(vi) Secure anchorage or adequate pier height shall be provided against container flotation wherever sufficiently high flood water might occur.

(vii) The distance between underground containers of over 2,000 gallons capacity shall be at least 5 feet.

(6) *Protection of appurtenances.*

(i) Valves, regulating, gaging, and other appurtenances shall be protected against tampering and physical damage. Such appurtenances shall also be protected during transit of containers.

(ii) All connections to underground containers shall be located within a dome, housing, or manhole and with access thereto by means of a substantial cover.

(7) *Damage from vehicles.* Precaution shall be taken against damage to ammonia systems from vehicles.

(d) *Refrigerated storage systems.* This paragraph applies to systems utilizing containers with the storage of anhydrous ammonia under refrigerated conditions. All applicable rules of paragraph (b) of this section apply to this paragraph unless otherwise noted.

(1) *Design of containers.*

(i) The design temperature shall be the minimum temperature to which the container will be refrigerated.

(ii) Containers with a design pressure exceeding 15 p.s.i.g. shall be constructed in accordance with paragraph (b)(2) of this section, and the materials shall be selected from those listed in API Standard 620, Recommended Rules for Design and Construction of Large, Welded, Low-Pressure Storage Tanks, Fourth Edition, 1970, Tables 2.02, R2.2, R2.2(A), R2.2.1, or R2.3.

(iii) Containers with a design pressure of 15 p.s.i.g. and less shall be constructed in accordance with the applicable requirements of API Standard 620 including its Appendix R.

(iv) When austenitic steels or nonferrous materials are used, the Code shall be used as a guide in the selection of materials for use at the design temperature.

(v) The filling density for refrigerated storage containers shall be such that the container will not be liquid full at a liquid temperature corresponding to the vapor pressure at the start-to-discharge pressure setting of the safety-relief valve.

(2) *Installation of refrigerated storage containers.* (i) Containers shall be supported on suitable noncombustible foundations designed to accommodate the type of container being used.

(ii) Adequate protection against flotation or other water damage shall be provided wherever high flood water might occur.

(iii) Containers for product storage at less than 32° F. shall be supported in such a way, or heat shall be supplied, to prevent the effects of freezing and consequent frost heaving.

(3) *Shutoff valves.* When operating conditions make it advisable, a check valve shall be installed on the fill connection and a remotely operated shutoff valve on other connections located below the maximum liquid level.

(4) *Safety relief devices.* (i) Safety relief valves shall be set to start-to-discharge at a pressure not in excess of the design pressure of the container and shall have a total relieving capacity sufficient to prevent a maximum pressure in the container of more than 120 percent of the design pressure. Relief valves for refrigerated storage containers shall be self-contained spring-loaded, weight-loaded, or self-contained pilot-operated type.

(ii) The total relieving capacity shall be the larger of:

(*a*) Possible refrigeration system upset such as (*1*) cooling water failure, (*2*) power failure, (*3*) instrument air or instrument failure, (*4*) mechanical failure of any equipment, (*5*) excessive pumping rates.

(*b*) Fire exposure determined in accordance with Compressed Gas Association (CGA) S–1, Part 3, Safety Relief Device Standards for Compressed Gas Storage Containers, 1959, except that "A" shall be the total exposed surface area in square feet up to 25 foot above grade or to the equator of the storage container if it is a sphere, whichever is greater. If the relieving capacity required for fire exposure is greater than that required by (*a*) of this subdivision, the additional capacity may be provided by weak roof to shell seams in containers operating at essentially atmospheric pressure and having an inherently weak roof-to-shell seam. The weak roof-to-shell seam is not to be considered as providing any of the capacity required in (*a*) of this subdivision.

(iii) If vent lines are installed to conduct the vapors from the relief valve, the back pressure under full relieving conditions shall not exceed 50 percent of the start-to-discharge pressure for pressure balanced valves or 10 percent of the start-to-discharge pressure for conventional valves. The vent lines shall be installed to prevent accumulation of liquid in the lines.

(iv) The valve or valve installation shall provide weather protection.

(v) Atmospheric storage shall be provided with vacuum breakers. Ammonia gas, nitrogen, methane, or other inert gases can be used to provide a pad.

(5) *Protection of container appurtenances.* Appurtenances shall be protected against tampering and physical damage.

(6) *Reinstallation of refrigerated storage containers.* Containers of such size as to require field fabrication shall, when moved and reinstalled, be reconstructed and reinspected in complete accordance with the requirements under which they were constructed. The containers shall be subjected to a pressure retest and if rerating is necessary, rerating shall be in accordance with applicable requirements.

(7) *Damage from vehicles.* Precaution shall be taken against damage from vehicles.

(8) *Refrigeration load and equipment.*

(i) The total refrigeration load shall be computed as the sum of the following:

(*a*) Load imposed by heat flow into the container caused by the temperature differential between design ambient temperature and storage temperature.

(*b*) Load imposed by heat flow into the container caused by maximum sun radiation.

(c) Maximum load imposed by filling the container with ammonia warmer than the design storage temperature.

(ii) More than one storage container may be handled by the same refrigeration system.

(9) *Compressors.*

(i) A minimum of two compressors shall be provided either of which shall be of sufficient size to handle the loads listed in subparagraphs (8)(i) (*a*) and (*b*) of this paragraph. Where more than two compressors are provided minimum standby equipment equal to the largest normally operating equipment shall be installed. Filling compressors may be used as standby equipment for holding compressors.

(ii) Compressors shall be sized to operate with a suction pressure at least 10 percent below the minimum setting of the safety valve(s) on the storage container and shall withstand a suction pressure at least equal to 120 percent of the design pressure of the container.

(10) *Compressor drives.*

(i) Each compressor shall have its individual driving unit.

(ii) An emergency source of power of sufficient capacity to handle the loads listed in subparagraphs (8)(i) (*a*) and (*b*) of this paragraph shall be provided unless facilities are available to safely dispose of vented vapors while the refrigeration system is not operating.

(11) *Automatic control equipment.*

(i) The refrigeration system shall be arranged with suitable controls to govern the compressor operation in accordance with the load as evidenced by the pressure in the container(s).

(ii) An emergency alarm system shall be installed to function in the event the pressure in the container(s) rises to the maximum allowable operating pressure.

(iii) An emergency alarm and shutoff shall be located in the condenser system to respond to excess discharge pressure caused by failure of the cooling medium.

(iv) All automatic controls shall be installed in a manner to preclude operation of alternate compressors unless the controls will function with the alternate compressors.

(12) *Separators for compressors.*

(i) An entrainment separator of suitable size and design pressure shall be installed in the compressor suction line of lubricated compression. The separator shall be equipped with a drain and gaging device.

(ii) An oil separator of suitable size shall be installed in the compressor discharge line. It shall be designed for at least 250 p.s.i.g. and shall be equipped with a gaging device and drain valve.

(13) *Condensers.* The condenser system may be cooled by air or water or both. The condenser shall be designed for at least 250 p.s.i.g. Provision shall be made for purging noncondensibles either manually or automatically.

(14) *Receiver and liquid drain.* A receiver shall be provided with a liquid-level control to discharge the liquid ammonia to storage. The receiver shall be designed for at least 250 p.s.i.g. and be equipped with the necessary connections, safety valves, and gaging device.

(15) *Insulation.* Refrigerated containers and pipelines which are insulated shall be covered with a material of suitable quality and thickness for the temperatures encountered. Insulation shall be suitably supported and protected against the weather. Weatherproofing shall be of a type which will not support flame propagation.

(e) *Systems utilizing portable DOT containers.* (1) *Conformance.* Cylinders shall comply with DOT specifications and shall be maintained, filled, packaged, marked, labeled, and shipped to comply with 49 CFR Chapter I and Marking Portable Compressed Gas Containers to Identify the Material Contained, ANSI Z48.1–1954 (R1970).

(2) *Storage.* Cylinders shall be stored in an area free from ignitable debris and in such manner as to prevent external corrosion. Storage may be indoors or outdoors.

(3) *Heat protection.* Cylinders filled in accordance with DOT regulations will become liquid full at 145° F. Cylinders shall be protected from heat sources such as radiant flame and steampipes. Heat shall not be applied directly to cylinders to raise the pressure.

(4) *Protection.* Cylinders shall be stored in such manner as to protect them from moving vehicles or external damage.

(5) *Valve cap.* Any cylinder which is designed to have a valve protection cap shall have the cap securely in place when the cylinder is not in service.

(f) *Tank motor vehicles for the transportation of ammonia.* (1) This paragraph applies to containers and pertinent equipment mounted on tank motor vehicles including semitrailers and full trailers used for the transportation of ammonia. This paragraph does not apply to farm vehicles. For requirements covering farm vehicles, refer to paragraphs (g) and (h) of this section.

Paragraph (b) of this section applies to this paragraph unless otherwise noted. Containers and pertinent equipment for tank motor vehicles for the transportation of anhydrous ammonia, in addition to complying with the requirements of this section, shall also comply with the requirements of DOT.

(2) *Design pressure and construction of containers.* (i) The minimum design pressure for containers shall be that specified in the regulations of the DOT.

(ii) The shell or head thickness of any container shall not be less than three-sixteenth inch.

(iii) All container openings, except safety relief valves, liquid-level gaging devices, and pressure gages, shall be labeled to designate whether they communicate with liquid or vapor space.

(3) *Container appurtenances.* (i) All appurtenances shall be protected against physical damage.

(ii) All connections to containers, except filling connections, safety relief devices, and liquid-level and pressure gage connections, shall be provided with suitable automatic excess flow valves, or in lieu thereof, may be fitted with quick-closing internal valves, which shall remain closed except during delivery operations. The control mechanism for such valves may be provided with a secondary control remote from the delivery connections and such control mechanism shall be provided with a fusible section (melting point 208° F. to 220° F.) which will permit the internal valve to close automatically in case of fire.

(iii) Filling connections shall be provided with automatic back-pressure check valves, excess-flow valves, or quick-closing internal valves, to prevent backflow in case the filling connection is broken. Where the filling and discharge connect to a common opening in the container shell and that opening is fitted with a quick-closing internal valve as specified in subdivision (ii) of this subparagraph, the automatic valve shall not be required.

(iv) All containers shall be equipped for spray loading (filling in the vapor space) or with an approved vapor return valve of adequate capacity.

(4) *Piping and fittings.* (i) All piping, tubing, and fittings shall be securely mounted and protected against damage. Means shall be provided to protect hoses while the vehicle is in motion.

(ii) Fittings shall comply with paragraph (b)(6) of this section. Pipe shall be Schedule 80.

(5) *Safety relief devices.* (i) The discharge from safety relief valves shall be vented away from the container upward and unobstructed to the open air in such a manner as to prevent any impingement of escaping gas upon the container; loose-fitting rain caps shall be used. Size of discharge lines from safety valves shall not be smaller than the nominal size of the safety-relief valve outlet connection. Suitable provision shall be made for draining condensate which may accumulate in the discharge pipe.

(ii) Any portion of liquid ammonia piping which at any time may be closed at both ends shall be provided with a hydrostatic relief valve.

(6) *Transfer of liquids.* (i) The content of tank motor vehicle containers shall be determined by weight, by a suitable liquid-level gaging device, or other approved methods. If the content of a container is to be determined by liquid-level measurement, the container shall have a thermometer well so that the internal liquid temperature can be easily determined. This volume when converted to weight shall not exceed the filling density specified by the DOT.

(ii) Any pump, except a constant speed centrifugal pump, shall be equipped with a suitable pressure actuated bypass valve permitting flow from discharge to suction when the discharge pressure rises above a predetermined point. Pump discharge shall also be equipped with a spring-loaded safety relief valve set at a pressure not more than 135 percent of the setting of the bypass valve or more than 400 p.s.i.g., whichever is larger.

(iii) Compressors shall be equipped with manually operated shutoff valves on both suction and discharge connections. Pressure gages of bourdon-tube type shall be installed on the suction and discharge of the compressor before the

shutoff valves. The compressor shall not be operated if either pressure gage is removed or is inoperative. A spring-loaded, safety-relief valve capable of discharging to atmosphere the full flow of gas from the compressor at a pressure not exceeding 300 p.s.i.g. shall be connected between the compressor discharge and the discharge shutoff valve.

(iv) Valve functions shall be clearly and legibly identified by metal tags or nameplates permanently affixed to each valve.

(7) *Full trailers and semitrailers.* (i) All full trailers shall be firmly and securely attached to the vehicle drawing them by means of suitable drawbars supplemented by a safety chain (or chains) or safety cables.

(ii) Every full trailer or semitrailer shall have a reliable system of brakes, and adequate provision shall be made to operate the brakes from the driver's seat.

(iii) Every full trailer shall be equipped with self-energizing brakes.

(iv) Full trailers shall be so designed that the towed vehicle will follow substantially in the path of the towing vehicle and will not whip or swerve dangerously from side to side.

(v) Where a fifth wheel is employed, it shall be ruggedly designed, securely fastened to both units, and equipped with a positive locking mechanism which will prevent separation of the two units except by manual release.

(8) *Protection against collision.* Each tank motor vehicle shall be provided with properly attached bumpers or chassis extension arranged to protect the tank, piping, valves, and fittings from physical damage in case of collision.

(9) *Chock blocks.* At least two chock blocks shall be provided. These blocks shall be placed to prevent rolling of the vehicle whenever it is parked during loading and unloading operations.

(10) *Portable tank containers (skid tanks).* Where portable tank containers are used for farm storage they shall comply with paragraph (c)(1) of this section. When portable tank containers are used in lieu of cargo tanks and are permanently mounted on tank motor vehicles for the transportation of ammonia, they shall comply with the requirements of this paragraph.

(g) *Systems mounted on farm vehicles other than for the application of ammonia*—(1) *Application.* This paragraph applies to containers of 1,200 gallons capacity or less and pertinent equipment mounted on farm vehicles (implements of husbandry) and used other than for the application of ammonia to the soil. Paragraph (b) of this section applies to this paragraph unless otherwise noted.

(2) *Design pressure and classification of containers.* (i) The minimum design pressure for containers shall be 250 p.s.i.g.

(ii) The shell or head thickness of any container shall be not less than three-sixteenths of an inch.

(3) *Mounting containers.* (i) A suitable "stop" or "stops" shall be mounted on the vehicle or on the container in such a way that the container shall not be dislodged from its mounting due to the vehicle coming to a sudden stop. Back slippage shall also be prevented by proper methods.

(ii) A suitable "hold down" device shall be provided which will anchor the container to the vehicle at one or more places on each side of the container.

(iii) When containers are mounted on four-wheel trailers, care shall be taken to insure that the weight is distributed evenly over both axles.

(iv) When the cradle and the tank are not welded together suitable material shall be used between them to eliminate metal-to-metal friction.

(4) *Container appurtenances.* (i) All containers shall be equipped with a fixed liquid-level gage.

(ii) All containers with a capacity exceeding 250 gallons shall be equipped with a pressure gage having a dial graduated from 0–400 p.s.i.

(iii) The filling connection shall be fitted with combination back-pressure check valve and excess-flow valve; one double or two single back-pressure check valves; or a positive shutoff valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve.

(iv) All containers with a capacity exceeding 250 gallons shall be equipped for spray loading or with an approved vapor return valve.

(v) All vapor and liquid connections except safety-relief valves and those specifically exempted by paragraph (b)(6)(v) of this section shall be equipped with approved excess-flow valves or may be fitted with quick-closing internal valves which, except during operating periods, shall remain closed.

(vi) Fittings shall be adequately protected from damage by a metal box or cylinder with open top securely fastened to the container or by rigid guards, well braced, welded to the container on both sides of the fittings or by a metal dome. If a metal dome is used, the relief valve shall be properly vented through the dome.

(vii) If a liquid withdrawal line is installed in the bottom of a container, the connections thereto, including hose, shall not be lower than the lowest horizontal edge of the vehicle axle.

(viii) Provision shall be made to secure both ends of the hose while in transit.

(5) *Marking the container.* There shall appear on each side and on the rear end of the container in letters at least 4 inches high, the words, "Caution—Ammonia" or the container shall be marked in accordance with DOT regulations.

(6) *Farm vehicles.*

(i) Farm vehicles shall conform with State regulations.

(ii) All trailers shall be securely attached to the vehicle drawing them by means of drawbars supplemented by suitable safety chains.

(iii) A trailer shall be constructed so that it will follow substantially in the path of the towing vehicle and will not whip or swerve dangerously from side to side.

(iv) All vehicles shall carry a can containing 5 gallons or more of water.

(h) *Systems mounted on farm vehicles for the application of ammonia.* (1) This paragraph applies to systems utilizing containers of 250 gallons capacity or less which are mounted on farm vehicles (implement of husbandry) and used for the application of ammonia to the soil. Paragraph (b) of this section applies to this paragraph unless otherwise noted. Where larger containers are used, they shall comply with paragraph (g) of this section.

(2) *Design pressure and classification of containers.* (i) The minimum design pressure for containers shall be 250 p.s.i.g.

(ii) The shell or head thickness of any container shall not be less than three-sixteenths inch.

(3) *Mounting of containers.* All containers and flow-control devices shall be securely mounted.

(4) *Container valves and accessories.* (i) Each container shall have a fixed liquid-level gage.

(ii) The filling connection shall be fitted with a combination back-pressure check valve and an excess-flow valve; one double or two single back-pressure check valves; or a positive shutoff valve in conjunction with an internal back-pressure check valve or an internal excess-flow valve.

(iii) The applicator tank may be filled by venting to open air provided the bleeder valve orifice does not exceed seven-sixteenths inch in diameter.

(iv) Regulation equipment may be connected directly to the tank coupling or flange, in which case a flexible connection shall be used between such regulating equipment and the remainder of the liquid withdrawal system. Regulating equipment not so installed shall be flexibly connected to the container shutoff valve.

(v) No excess flow valve is required in the liquid withdrawal line provided the controlling orifice between the contents of the container and the outlet of the shutoff valve does not exceed seven-sixteenths inch in diameter.

§ 1910.112 [Reserved]

§ 1910.113 [Reserved]

§ 1910.114 Effective dates.

(a) The provisions of this Subpart H shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

§ 1910.101(b).
§ 1910.102.
§ 1910.103 (a)(2), (b)(1)(i), (b)(1)(iii), (b)(2)(ii), and (b)(3).
§ 1910.105.
§ 1910.106 (b)(1), (b)(2), (b)(3), and (b)(4).
§ 1910.106 (b)(5), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (c)(6), (d)(2), (d)(3)(ii), (d)(4)(i), (d)(4)(iii), (d)(4)(iv), (d)(5)(v), (d)(5)(vi)(a), (e)(3)(iii), (e)(3)(v), (e)(4), (e)(7), (f)(2)(iii), (f)(3)(i), (f)(4)(iii), (f)(4)(iv), (f)(4)(viii), (f)(5), (g), (h), and (i).
§ 1910.107 (b)(1), (b)(2), (b)(3), (b)(4), (b)(5)(i), (b)(5)(iii), (b)(5)(iv), (b)(6), (b)(7), (b)(8), (b)(10), (c)(1), (c)(4), (c)(5), (c)(6), (c)(7), (d), (e)(7), (e)(8), (f)(1), (f)(2), (h), (i), (j), (l)(2), (l)(3), (l)(5), (l)(6), (l)(7), and (m)(1).
§ 1910.108 (b), (c), (e)(1), (c)(2), (g)(3), (g)(4), and (g)(5).
§ 1910.108 (g)(6) and (h).
§ 1910.110.
§ 1910.111.

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a), or (b) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2(a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart H which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.115 Sources of standards.

Sec.	Source
1910.101	41 CFR 50–204.67, 70, and 71.
1910.102	41 CFR 50–204.66.
1910.103	NFPA No. 50B–1968, Standard for Liquified Hydrogen Systems at Consumer Sites.
1910.104	NFPA No. 566–1965, Standard for the Installation of Bulk Oxygen Systems at Consumer Sites.
1910.105	NFPA No. 30–1969, Flammable and Combustible Liquids Code.
1910.107	NFPA No. 33–1969, Standard for Spray Finishing using Flammable and Combustible Materials.
1910.108	NFPA No. 34–1966, Standard for Dip Tanks Containing Flammable or Combustible Liquids.
1910.109	NFPA No. 492–1970, Code for Manufacture, Transportation, Storage and Use of Explosives and Blasting Agents.
1910.110	NFPA 58–69, Standard for the Handling of Liquified Petroleum Cases.
1910.111	ANSI K61.1–1966, Storage and Handling of Anhydrous Ammonia.

§ 1910.116 Standards organizations.

National Fire Protection Association (NFPA), 60 Batterymarch Street, Boston, MA 02110.
National Plant Food Institute, 1700 K Street NW., Washington, DC 20006.
Compressed Gas Association, Inc., 500 Fifth Avenue, New York, NY 10036.
American Society of Mechanical Engineers Inc., United Engineering Center, 345 East 47th Street, New York, NY 10017.
American Petroleum Institute, 1801 K Street NW., Washington, DC 20006.
National Board of Boiler and Pressure Vessel, Inspectors, 1155 North High Street, Columbus, OH 43201.
American National Standards Institute, 1430 Broadway, New York, NY 10018.
American Society for Testing and Materials (ASTM), 1916 Race Street Philadelphia, PA 19103.
Underwriters Laboratories, Inc. (UL), 207 East Ohio Street, Chicago, IL 60611.

Subpart I—Personal Protective Equipment

§ 1910.132 General requirements.

(a) *Application.* Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, shall be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) *Employee-owned equipment.* Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(c) *Design.* All personal protective equipment shall be of safe design and construction for the work to be performed.

§ 1910.133 Eye and face protection.

(a) *General.* (1) Protective eye and face equipment shall be required where there is a reasonable probability of injury that can be prevented by such equipment. In such cases, employers shall make conveniently available a type of protector suitable for the work to be performed, and employees shall use such protectors. No unprotected person shall knowingly be subjected to a hazardous environmental condition. Suitable eye protectors shall be provided where machines or operations present the hazard of flying objects, glare, liquids, injurious radiation, or a combination of these hazards.

(2) Protectors shall meet the following minimum requirements:

(i) They shall provide adequate protection against the particular hazards for which they are designed.

(ii) They shall be reasonably comfortable when worn under the designated conditions.

(iii) They shall fit snugly and shall not unduly interfere with the movements of the wearer.

(iv) They shall be durable.

(v) They shall be capable of being disinfected.

(vi) They shall be easily cleanable.

(vii) Protectors should be kept clean and in good repair.

(3) Persons whose vision requires the use of corrective lenses in spectacles, and who are required by this standard to wear eye protection, shall wear goggles or spectacles of one of the following types:

(i) Spectacles whose protective lenses provide optical correction.

(ii) Goggles that can be worn over corrective spectacles without disturbing the adjustment of the spectacles.

(iii) Goggles that incorporate corrective lenses mounted behind the protective lenses.

(4) Every protector shall be distinctly marked to facilitate identification only of the manufacturer.

(5) When limitations or precautions are indicated by the manufacturer, they shall be transmitted to the user and care taken to see that such limitations and precautions are strictly observed.

(6) Design, construction, testing, and use of devices for eye and face protection shall be in accordance with American National Standard for Occupational and Educational Eye and Face Protection, Z87.1–1968.

§ 1910.134 Respiratory protection.

(a) *Permissible practice.* (1) In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators shall be used pursuant to the following requirements.

(2) Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protective program which shall include the requirements outlined in paragraph (b) of this section.

(3) The employee shall use the provided respiratory protection in accordance with instructions and training received.

(b) *Requirements for a minimal acceptable program.* (1) Written standard operating procedures governing the selection and use of respirators shall be established.

(2) Respirators shall be selected on the basis of hazards to which the worker is exposed.

(3) The user shall be instructed and trained in the proper use of respirators and their limitations.

(4) Where practicable, the respirators should be assigned to individual workers for their exclusive use.

(5) Respirators shall be regularly cleaned and disinfected. Those issued for

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the exclusive use of one worker should be cleaned after each day's use, or more often if necessary. Those used by more than one worker shall be thoroughly cleaned and disinfected after each use.

(6) Respirators shall be stored in a convenient, clean, and sanitary location.

(7) Respirators used routinely shall be inspected during cleaning. Worn or deteriorated parts shall be replaced. Respirators for emergency use such as self-contained devices shall be thoroughly inspected at least once a month and after each use.

(8) Appropriate surveillance of work area conditions and degree of employee exposure or stress shall be maintained.

(9) There shall be regular inspection and evaluation to determine the continued effectiveness of the program.

(10) Persons should not be assigned to tasks requiring use of respirators unless it has been determined that they are physically able to perform the work and use the equipment. The local physician shall determine what health and physical conditions are pertinent. The respirator user's medical status should be reviewed periodically (for instance, annually).

(11) Approved or accepted respirators shall be used when they are available. The respirator furnished shall provide adequate respiratory protection against the particular hazard for which it is designed in accordance with standards established by competent authorities. The U.S. Department of Interior, Bureau of Mines, and the U.S. Department of Agriculture are recognized as such authorities. Although respirators listed by the U.S. Department of Agriculture continue to be acceptable for protection against specified pesticides, the U.S. Department of the Interior, Bureau of Mines, is the agency now responsible for testing and approving pesticide respirators.

(c) *Selection of respirators.* Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2–1969.

(d) *Air quality.* (1) Compressed air, compressed oxygen, liquid air, and liquid oxygen used for respiration shall be of high purity. Oxygen shall meet the requirements of the United States Pharmacopoeia for medical or breathing oxygen. Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G–7.1–1966. Compressed oxygen shall not be used in supplied-air respirators or in open circuit self-contained breathing apparatus that have previously used compressed air. Oxygen must never be used with air line respirators.

(2) Breathing air may be supplied to respirators from cylinders or air compressors.

(i) Cylinders shall be tested and maintained as prescribed in the Shipping Container Specification Regulations of the Department of Transportation (49 CFR Part 178).

(ii) The compressor for supplying air shall be equipped with necessary safety and standby devices. A breathing air-type compressor shall be used. Compressors shall be constructed and situated so as to avoid entry of contaminated air into the system and suitable in-line air purifying sorbent beds and filters installed to further assure breathing air quality. A receiver of sufficient capacity to enable the respirator wearer to escape from a contaminated atmosphere in event of compressor failure, and alarms to indicate compressor failure and overheating shall be installed in the system. If an oil-lubricated compressor is used, it shall have a high-temperature or carbon monoxide alarm, or both. If only a high-temperature alarm is used, the air from the compressor shall be frequently tested for carbon monoxide to insure that it meets the specifications in subparagraph (1) of this paragraph.

(3) Air line couplings shall be incompatible with outlets for other gas systems to prevent inadvertent servicing of air line respirators with nonrespirable gases or oxygen.

(4) Breathing gas containers shall be marked in accordance with American National Standard Method of Marking Portable Compressed Gas Containers to Identify the Material Contained, Z48.1–1954; Federal Specification BB–A–1034a, June 21, 1968, Air, Compressed for Breathing Purposes; or Interim Federal Specification GG–B–00675b, April 27, 1965, Breathing Apparatus, Self-Contained.

(e) *Use of respirators.* (1) Standard procedures shall be developed for respirator use. These should include all information and guidance necessary for their proper selection, use, and care. Possible emergency and routine uses of respirators should be anticipated and planned for.

(2) The correct respirator shall be specified for each job. The respirator type is usually specified in the work procedures by a qualified individual supervising the respiratory protective program. The individual issuing them shall be adequately instructed to insure that the correct respirator is issued. Each respirator permanently assigned to an individual should be durably marked to indicate to whom it was assigned. This mark shall not affect the respirator performance in any way. The date of issuance should be recorded.

(3) Written procedures shall be prepared covering safe use of respirators in dangerous atmospheres that might be encountered in normal operations or in emergencies. Personnel shall be familiar with these procedures and the available respirators.

(i) In areas where the wearer, with failure of the respirator, could be overcome by a toxic or oxygen-deficient atmosphere, at least one additional man shall be present. Communications (visual, voice, or signal line) shall be maintained between both or all individuals present. Planning shall be such that one individual will be unaffected by any likely incident and have the proper rescue equipment to be able to assist the other(s) in case of emergency.

(ii) When self-contained breathing apparatus or hose masks with blowers are used in atmospheres immediately dangerous to life or health, standby men must be present with suitable rescue equipment.

(iii) Persons using air line respirators in atmospheres immediately hazardous to life or health shall be equipped with safety harnesses and safety lines for lifting or removing persons from hazardous atmospheres or other and equivalent provisions for the rescue of persons from hazardous atmospheres shall be used. A standby man or men with suitable self-contained breathing apparatus shall be at the nearest fresh air base for emergency rescue.

(4) Respiratory protection is no better than the respirator in use, even though it is worn conscientiously. Frequent random inspections shall be conducted by a qualified individual to assure that respirators are properly selected, used, cleaned, and maintained.

(5) For safe use of any respirator, it is essential that the user be properly instructed in its selection, use, and maintenance. Both supervisors and workers shall be so instructed by competent persons. Training shall provide the men an opportunity to handle the respirator, have it fitted properly, test its face-piece-to-face seal, wear it in normal air for a long familiarity period, and, finally, to wear it in a test atmosphere.

(i) Every respirator wearer shall receive fitting instructions including demonstrations and practice in how the respirator should be worn, how to adjust it, and how to determine if it fits properly. Respirators shall not be worn when conditions prevent a good face seal. Such conditions may be a growth of beard, sideburns, a skull cap that projects under the facepiece, or temple pieces on glasses. Also, the absence of one or both dentures can seriously affect the fit of a facepiece. The worker's diligence in observing these factors shall be evaluated by periodic check. To assure proper protection, the facepiece fit shall be checked by the wearer each time he puts on the respirator. This may be done by following the manufacturer's facepiece fitting instructions.

(ii) Providing respiratory protection for individuals wearing corrective glasses is a serious problem. A proper seal cannot be established if the temple bars of eye glasses extend through the sealing edge of the full facepiece. As a temporary measure, glasses with short temple bars or without temple bars may be taped to the wearer's head. Wearing of contact lenses in contaminated atmospheres with a respirator shall not be allowed. Systems have been developed for mounting corrective lenses inside full facepieces. When a workman must wear corrective lenses as part of the facepiece, the facepiece and lenses shall be fitted by qualified individuals to provide good vision, comfort, and a gas-tight seal.

(iii) If corrective spectacles or goggles are required, they shall be worn so as not to affect the fit of the facepiece. Proper selection of equipment will minimize or avoid this problem.

(f) *Maintenance and care of respirators.* (1) A program for maintenance and care of respirators shall be adjusted to the type of plant, working conditions, and hazards involved, and shall include the following basic services:

(i) Inspection for defects (including a leak check),

(ii) Cleaning and disinfecting,

(iii) Repair,

(iv) Storage

Equipment shall be properly maintained to retain its original effectiveness.

(2) (i) All respirators shall be inspected routinely before and after each use. A respirator that is not routinely used but is kept ready for emergency use shall be inspected after each use and at least monthly to assure that it is in satisfactory working condition.

(ii) Self-contained breathing apparatus shall be inspected monthly. Air and oxygen cylinders shall be fully charged according to the manufacturer's instructions. It shall be determined that the regulator and warning devices function properly.

(iii) Respirator inspection shall include a check of the tightness of connections and the condition of the facepiece, headbands, valves, connecting tube, and canisters. Rubber or elastomer parts shall be inspected for pliability and signs of deterioration. Stretching and manipulating rubber or elastomer parts with a massaging action will keep them pliable and flexible and prevent them from taking a set during storage.

(iv) A record shall be kept of inspection dates and findings for respirators maintained for emergency use.

(3) Routinely used respirators shall be collected, cleaned, and disinfected as frequently as necessary to insure that proper protection is provided for the wearer. Each worker should be briefed on the cleaning procedure and be assured that he will always receive a clean and disinfected respirator. Such assurances are of greatest significance when respirators are not individually assigned to workers. Respirators maintained for emergency use shall be cleaned and disinfected after each use.

(4) Replacement or repairs shall be done only by experienced persons with parts designed for the respirator. No attempt shall be made to replace components or to make adjustment or repairs beyond the manufacturer's recommendations. Reducing or admission valves or regulators shall be returned to the manufacturer or to a trained technician for adjustment or repair.

(5) (i) After inspection, cleaning, and necessary repair, respirators shall be stored to protect against dust, sunlight, heat, extreme cold, excessive moisture, or damaging chemicals. Respirators placed at stations and work areas for emergency use should be quickly accessible at all times and should be stored in compartments built for the purpose. The compartments should be clearly marked. Routinely used respirators, such as dust respirators, may be placed in plastic bags. Respirators should not be stored in such places as lockers or tool boxes unless they are in carrying cases or cartons.

(ii) Respirators should be packed or stored so that the facepiece and exhalation valve will rest in a normal position and function will not be impaired by the elastomer setting in an abnormal position.

(iii) Instructions for proper storage of emergency respirators, such as gas masks and self-contained breathing apparatus, are found in "use and care" instructions usually mounted inside the carrying case lid.

(g) *Identification of gas mask canisters.* (1) The primary means of identifying a gas mask canister shall be by means of properly worded labels. The secondary means of identifying a gas mask canister shall be by a color code.

(2) All who issue or use gas masks falling within the scope of this section shall see that all gas mask canisters purchased or used by them are properly labeled and colored in accordance with these requirements before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the canisters have completely served their purpose.

(3) On each canister shall appear in bold letters the following:

(i)—

Canister for _____
(Name for atmospheric contaminant)
or
Type N Gas Mask Canister

(ii) In addition, essentially the following wording shall appear beneath the appropriate phrase on the canister label: "For respiratory protection in atmospheres containing not more than ------ percent by volume of _____."
(Name of atmospheric contaminant)

(iii) All of the markings specified above should be placed on the most conspicuous surface or surfaces of the canister.

(4) Canisters having a special high-efficiency filter for protection against radionuclides and other highly toxic particulates shall be labeled with a statement of the type and degree of protection afforded by the filter. The label shall be affixed to the neck end of, or to the gray stripe which is around and near the top of, the canister. The degree of protection shall be marked as the percent of penetration of the canister by a 0.3-micron-diameter dioctyl phthalate (DOP) smoke at a flow rate of 85 liters per minute.

(5) Each canister shall have a label warning that gas masks should be used only in atmospheres containing sufficient oxygen to support life (at least 16 percent by volume), since gas mask canisters are only designed to neutralize or remove contaminants from the air.

(6) Each gas mask canister shall be painted a distinctive color or combination of colors indicated in Table I–1. All colors used shall be such that they are clearly identifiable by the user and clearly distinguishable from one another. The color coating used shall offer a high degree of resistance to chipping, scaling, peeling, blistering, fading, and the effects of the ordinary atmospheres to which they may be exposed under normal conditions of storage and use. Appropriately colored pressure sensitive tape may be used for the stripes.

TABLE I–1

Atmospheric contaminants to be protected against	*Colors assigned**
Acid gases	White.
Hydrocyanic acid gas	White with ½-inch green stripe completely around the canister near the bottom.
Chlorine gas	White with ½-inch yellow stripe completely around the canister near the bottom.
Organic vapors	Black.
Ammonia gas	Green.
Acid gases and ammonia gas	Green with ½-inch white stripe completely around the canister near the bottom.
Carbon monoxide	Blue.
Acid gases and organic vapors	Yellow.
Hydrocyanic acid gas and chloropicrin vapor	Yellow with ½-inch blue stripe completely around the canister near the bottom.
Acid gases, organic vapors, and ammonia gases.	Brown.
Radioactive materials, excepting tritium and noble gases.	Purple (Magenta).
Particulates (dusts, fumes, mists, fogs, or smokes) in combination with any of the above gases or vapors.	Canister color for contaminant, as designated above, with ½-inch gray stripe completely around the canister near the top.
All of the above atmospheric contaminants	Red with ½-inch gray stripe completely around the canister near the top.

*Gray shall not be assigned as the main color for a canister designed to remove acids or vapors.

NOTE: Orange shall be used as a complete body, or stripe color to represent gases not included in this table. The user will need to refer to the canister label to determine the degree of protection the canister will afford.

§ 1910.135 Occupational head protection.

Helmets for the protection of heads of occupational workers from impact and penetration from falling and flying objects and from limited electric shock and burn shall meet the requirements and specifications established in American National Standard Safety Requirements for Industrial Head Protection, Z89.1–1969.

§ 1910.136 Occupational foot protection.

Safety-toe footwear for employees shall meet the requirements and specifications in American National Standard for Men's Safety-Toe Footwear, Z41.1–1967.

§ 1910.137 Electrical protective devices.

Rubber protective equipment for electrical workers shall conform to the requirements established in the American National Standards Institute Standards as specified in the following list:

Item	Standard
Rubber insulating gloves.	J6.6–1967.
Rubber matting for use around electric apparatus.	J6.7–1935 (R1962).
Rubber insulating blankets.	J6.4–1970.
Rubber insulating hoods.	J6.2–1950 (R1962).
Rubber insulating line hose.	J6.1–1950 (R1962).
Rubber insulating sleeves.	J6.5–1962.

§ 1910.138 Effective dates.

(a) The provisions of this Subpart I shall become effective on August 27, 1971, except that:

(1) Any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation; and

(2) If any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2(a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart I which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.139 Sources of standards.

Sec.	Source
1910.132	41 CFR 50–204.7.
1910.133(a)	ANSI Z87.1–1968, Eye and Face Protection.
1910.134	ANSI Z88.2–1969, Standard Practice for Respiratory Protection.
1910.134 Table I–I.	ANSI K13.1–1967, Identification of Gas Mask Canister.
1910.135	ASNI Z89.1–1969, Safety Requirements for Industrial Head Protection.
1910.136	ANSI Z41.1–1967, Men's Safety-Toe Footwear.
1910.137	ANSI Z9.4–1968, Ventilation and Safe Practices of Abrasive Blasting Operations.

§ 1910.140 Standards organizations.

Specific standards of the following organization have been referenced in this part. Copies of the referenced materials may be obtained from the issuing organization.

American National Standards Institute, 1430 Broadway, New York, NY 10016.

Subpart J—General Environmental Controls

§ 1910.141 Sanitation.

(a) *General requirements*—(1) *Housekeeping.* (i) All places of employment, passageways, storerooms, and servicerooms shall be kept clean and orderly and in a sanitary condition.

(ii) The floor of every workroom shall be maintained in a clean and, so far as possible, a dry condition. Where wet processes are used, drainage shall be maintained and false floors, platforms, mats, or other dry standing places should be provided where practicable.

(iii) Cleaning and sweeping shall be done in such a manner as to minimize the contamination of the air with dust and, so far as is practicable, shall be done outside of working hours.

(iv) To facilitate cleaning, every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards.

(2) *Expectorating.* (i) Expectorating upon the walls, floors, work places, or stairs of any establishment shall not be permitted.

(ii) Cuspidors are considered undesirable, but, if used, they shall be of such construction that they are cleanable. They shall be cleaned at least daily when in use.

(3) *Waste disposal.* (i) Any receptacle used for putrescible solid or liquid waste or refuse shall be so constructed that it does not leak and may be conveniently and thoroughly cleaned, and it shall be maintained in a sanitary condition. Such a receptacle shall be equipped with a tight-fitting cover.

(ii) All sweepings, solid or liquid wastes, refuse, and garbage shall be removed in such a manner as to avoid creating a nuisance or menace to health and as often as necessary to maintain the place of employment in a sanitary condition.

(4) *Rodent, insect, and vermin control.* Every enclosed work place and personal service room shall be constructed, equipped, and maintained, so far as reasonably practicable, in such a manner as to prevent the entrance or harborage of rodents, insects, and vermin of any kind.

(b) *Water supply*—(1) *Potable water.* (i) An adequate supply of potable water shall be provided for drinking, ablutionary, and culinary purposes in all places of employment. Drinking water should be made available within 200 feet of any location at which employees are regularly engaged in work.

(ii) Sanitary drinking fountains shall be of a type and construction in accordance with the Standard Specification for Drinking Fountains, ANSI Z4.2–1942.

(iii) In all instances where water is cooled by ice, the construction of the container shall be such that the ice does not come in direct contact with the water.

(iv) Open containers such as barrels, pails, or tanks for drinking water from which the water must be dipped or poured, whether or not they are fitted with a cover, are prohibited.

(v) The common drinking cup is prohibited.

(vi) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

(2) *Nonpotable water.* (i) Outlets for nonpotable water, such as water for industrial or firefighting purposes only, shall be posted to indicate clearly that the water is unsafe and is not to be used for drinking, washing, or cooking purposes.

(ii) There shall be no cross-connection, open or potential, between a system furnishing potable water and system furnishing nonpotable water.

(iii) Construction shall be such as to prevent backflow of contaminated water into a potable water system.

(iv) Nonpotable water shall not be used for bathing or for washing any portion of the person, clothing, dishes, or premises.

(c) *Toilet facilities*—(1) *General.* (i) Every place of employment shall be provided with adequate toilet facilities which are separate for each sex. The sewage disposal method shall comply with requirements of the health or other authorities having jurisdiction.

(ii) Toilet facilities shall be provided so as to be readily accessible to all employees. Toilet facilities so located that employees must use more than one floor-to-floor flight of stairs to or from them are not considered as readily accessible. As far as is practicable, toilet facilities should be located within 200 feet of all locations at which workers are regularly employed.

(iii) Water closets shall be provided for each sex according to the following table. The number to be provided for each sex shall in every case be based on the maximum number of persons of that sex employed at any one time at work on the premises for which the facilities are furnished. When persons other than employees are permitted the use of toilet facilities on the premises, a reasonable allowance shall be made for such other persons in estimating the minimum number of toilet facilities required.

Number of persons	Minimum number of facilities
1 to 9	1
10 to 24	2
25 to 49	3
50 to 74	4
75 to 100	5
over 100	1 for each additional 30 persons.

Where 10 or more are employed, urinals may be provided. One water closet less than the number specified in the foregoing may be provided for each urinal, except that the number of water closets in such cases may not be reduced to less than two-thirds of the number specified in the foregoing. Two feet of trough urinal shall be considered as equivalent to one individual urinal.

(iv) An adequate supply of toilet paper with holder shall be provided for every water closet.

(v) Covered receptacles shall be kept in all toilet rooms used by women.

(vi) Adequate washing facilities shall be provided in every toilet room or be adjacent thereto.

(2) *Construction of toilet rooms.* (i) Each toilet facility (closet) shall occupy a separate compartment, which should be equipped with a door, latch, and clothes hanger.

(ii) The walls of compartments or partitions between fixtures may be less than the height of room walls, but the top shall be sufficiently high to assure privacy.

(iii) The door to every toilet room shall be fitted with an effective self-closing device, and the entrance to the toilet room shall be so screened that the interior of the toilet room is not visible from the workroom.

(iv) In all toilet rooms installed on or after August 31, 1971, the floors and side walls, to a height of at least 6 inches, including the angle formed by the floor and side walls, shall be of watertight construction.

(v) The floors, walls, ceilings, partitions, and doors of all toilet rooms shall be of a finish that can be easily cleaned. In installations made on or after August 31, 1971, cove bases shall be provided to facilitate cleaning.

(vi) Toilet rooms, except those in work places accessible to men only, shall be completely enclosed with solid material that is nontransparent from the outside.

(3) *Construction and installation of toilet facilities.* (i) Every water closet bowl shall be set entirely free and open from all enclosing structures and shall be so installed that the space around the fixture can be easily cleaned. This provision does not prohibit the use of wall-hung type water closets.

(ii) Every water closet shall have a hinged openfront seat made of substantial material having a nonabsorbent finish.

(4) *Chemical closets and privies.* Chemical closets and privies shall be constructed and maintained in accordance with § 1910.143.

(d) *Washing facilities*—(1) *General.* Adequate facilities for maintaining personal cleanliness shall be provided in every place of employment. These shall be convenient for the employees for whom they are provided and shall be maintained in a sanitary condition.

(2) *Lavatories.* At least one lavatory with adequate hot and cold water, preferably from a combination supply fixture, shall be provided for every 10 employees (men or women) or portion thereof, up to 100 persons; and over 100 persons one lavatory for each additional 15 persons or portion thereof. Twenty-four inches of sink with individual faucet shall be considered as equal to one lavatory. In all instances, a suitable cleansing agent shall be provided at each wash place.

(3) *Towels.* Individual hand towels, or sections thereof, of cloth or paper, shall be provided and proper receptacles or other sanitary means maintained for the disposal of used towels. The provision of a towel for general or common use is prohibited.

(e) *Change rooms*—(1) *Separate facilities.* Separate change or dressing rooms equipped with individual clothes facilities shall be provided for each sex wherever it is the practice to change from street clothes or wherever it is necessary to change because the work performed involves exposure to excessive dirt, heat, fumes, vapor, or moisture. In the event that change rooms are not provided, facilities shall be furnished for hanging outer garments.

(2) *Drying facilities.* Where the process in which the worker is engaged is such that his working clothes become wet or have to be washed between shifts, provision shall be made to insure that such clothing is dry before reuse.

(f) *Retiring rooms for women.* Where 10 or more women are employed at any one time, at least one retiring room shall be provided for rest and emergencies. Where fewer than 10 women are employed and a restroom is not furnished, some equivalent space shall be provided which can be properly screened for privacy and made suitable for the use of women employees. At least one couch or bed shall be provided in every place where more than 10 women are employed. The required number of such beds or couches follows:

10 to 100	1 bed
100 to 250	2 beds

1 additional bed for each additional 250 women employees. A minimum of 60 square feet of floor space per bed or couch shall be provided.

(g) *Lunchrooms*—(1) *General.* In all places of employment where employees are permitted to lunch on the premises, an adequate space suitable for that purpose shall be provided for the maximum number of employees who may use such space at one time. Such space shall be physically separate from any location where there is exposure to toxic materials.

(2) *Waste disposal containers.* An adequate number of covered receptacles constructed of a smooth, corrosion-resistant, easily cleanable, or disposable material, shall be provided by the employer and used by the employees for the disposal of all waste food. Such receptacles shall be emptied not less than once daily and shall be maintained in a clean and sanitary manner.

(3) *Location.* (i) No food shall be stored or eaten where there are present any toxic materials or substances that may be injurious to health.

(ii) No food shall be stored or eaten in any toilet room.

(iii) In every establishment where there is exposure to injurious dusts or other toxic materials, a separate lunchroom shall be maintained unless it is convenient for the employees to lunch away from the premises. The following number of square feet per person, based on the maximum number of persons using the room at one time, shall be required:

Number of persons	Square feet per person
25 and less	13
26–74	12
75–149	11
150 and over	10

(h) *Food handling.* All employee food service facilities and operations shall meet the requirements of "Food Service Sanitation Ordinance and Code," Part V, "Food Service Sanitation Manual," U.S. Public Health Service Publication No. 934 (1965). In all places of employment where all or part of the food service is provided by vending machines, the food dispensed shall be prepared, and the machine operated in accordance with the requirements of "Vending of Foods and Beverages, A Sanitation Ordinance and Code," U.S. Public Health Service Publication No. 546 (1965).

(i) *Scope.* This section applies to all permanent places of employment except where domestic, mining, or agricultural work only is performed. Measures for the control of toxic materials are considered to be outside the scope of this section.

§ 1910.142 Temporary labor camps.

(a) *Site.* (1) All sites used for camps shall be adequately drained. They shall not be subject to periodic flooding, nor located within 200 feet of swamps, pools, sink holes, or other surface collections of water unless such quiescent water surfaces can be subjected to mosquito control measures. The camp shall be located so the drainage from and through the camp will not endanger any domestic or public water supply. All sites shall be graded, ditched, and rendered free from depressions in which water may become a nuisance.

(2) All sites shall be adequate in size to prevent overcrowding of necessary structures. The principal camp area in which food is prepared and served and where sleeping quarters are located shall be at least 500 feet from any area in which livestock is kept.

(3) The grounds and open areas surrounding the shelters shall be maintained in a clean and sanitary condition free from rubbish, debris, waste paper, garbage, or other refuse.

(4) Whenever the camp is closed for the season or permanently, all garbage, manure, and other refuse shall be collected and so disposed of as to prevent nuisance. All abandoned privy pits shall be filled with earth and the grounds and buildings left in a clean and sanitary condition. If privy buildings remain, they shall be locked or otherwise secured to prevent entrance.

(b) *Shelter.* (1) Every shelter in the camp shall be constructed in a manner which will provide protection against the elements.

(2) Each room used for sleeping purposes shall contain at east 50 square feet

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of floor space for each occupant. At least a 7-foot ceiling shall be provided.

(3) Beds, cots, or bunks, and suitable storage facilities such as wall lockers for clothing and personal articles shall be provided in every room used for sleeping purposes. Such beds or similar facilities shall be spaced not closer than 36 inches both laterally and end to end, and shall be elevated at least 12 inches from the floor. If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches. Triple-deck bunks are prohibited.

(4) The floors of each shelter shall be constructed of wood, asphalt, or concrete. Wooden floors shall be of smooth and tight construction. The floors shall be kept in good repair.

(5) All wooden floors shall be elevated not less than 1 foot above the ground level at all points to prevent dampness and to permit free circulation of air beneath.

(6) Nothing in this section shall be construed to prohibit "banking" with earth or other suitable material around the outside walls in areas subject to extreme low temperatures.

(7) All living quarters shall be provided with windows the total of which shall be not less than one-tenth of the floor area. At least one-half of each window shall be so constructed that it can be opened for purposes of ventilation.

(8) All exterior openings shall be effectively screened with 16-mesh material. All screen doors shall be equipped with self-closing devices.

(9) In a room where workers cook, live, and sleep a minimum of 100 square feet per person shall be provided. Sanitary facilities shall be provided for storing and preparing food.

(10) In camps where cooking facilities are used in common, stoves (in ratio of one stove to 10 persons or one stove to two families) shall be provided in an enclosed and screened shelter. Sanitary facilities shall be provided for storing and preparing food.

(11) All heating, cooking, and water heating equipment shall be installed in accordance with State and local ordinances, codes, and regulations governing such installations. If a camp is used during cold weather, adequate heating equipment shall be provided.

(c) *Water supply.* (1) An adequate and convenient water supply, approved by the appropriate health authority, shall be provided in each camp for drinking, cooking, bathing, and laundry purposes.

(2) A water supply shall be deemed adequate if it is capable of delivering 35 gallons per person per day to the campsite at a peak rate of 2½ times the average hourly demand.

(3) The distribution lines shall be capable of supplying water at normal operating pressures to all fixtures for simultaneous operation. Water outlets shall be distributed throughout the camp in such a manner that no shelter is more than 100 feet from a yard hydrant if water is not piped to the shelters.

(4) Where water under pressure is available, one or more drinking fountains shall be provided for each 100 occupants or fraction thereof. The construction of drinking fountains shall comply with ANSI Standard Specifications for Drinking Fountains, Z4.2–1942. Common drinking cups are prohibited.

(d) *Toilet facilities.* (1) Toilet facilities adequate for the capacity of the camp shall be provided.

(2) Each toilet room shall be located so as to be accessible without any individual passing through any sleeping room. Toilet rooms shall have a window not less than 6 square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with 16-mesh material. No fixture, water closet, chemical toilet, or urinal shall be located in a room used for other than toilet purposes.

(3) A toilet room shall be located within 200 feet of the door of each sleeping room. No privy shall be closer than 100 feet to any sleeping room, dining room, lunch area, or kitchen.

(4) Where the toilet rooms are shared, such as in multifamily shelters and in barracks type facilities, separate toilet rooms shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English and in the native language of the persons occupying the camp, or marked with easily understood pictures or symbols. If the facilities for each sex are in the same building, they shall be separated by solid walls or partitions extending from the floor to the roof or ceiling.

(5) Where toilet facilities are shared, the number of water closets or privy seats provided for each sex shall be based on the maximum number of persons of that sex which the camp is designed to house at any one time, in the ratio of one such unit to each 15 persons, with a minimum of two units for any shared facility.

(6) Urinals shall be provided on the basis of one unit or 2 linear feet of urinal trough for each 25 men. The floor from the wall and for a distance not less than 15 inches measured from the outward edge of the urinals shall be constructed of materials impervious to moisture. Where water under pressure is available, urinals shall be provided with an adequate water flush. Urinal troughs in privies shall drain freely into the pit or vault and the construction of this drain shall be such as to exclude flies and rodents from the pit.

(7) Every water closet installed on or after August 31, 1971, shall be located in a toilet room.

(8) Each toilet room shall be lighted naturally, or artificially by a safe type of lighting at all hours of the day and night.

(9) An adequate supply of toilet paper shall be provided in each privy, water closet, or chemical toilet compartment.

(10) Privies and toilet rooms shall be kept in a sanitary condition. They shall be cleaned at least daily.

(e) *Sewage disposal facilities.* In camps where public sewers are available, all sewer lines and floor drains from buildings shall be connected thereto.

(f) *Laundry, handwashing, and bathing facilities.* (1) Laundry, handwashing, and bathing facilities shall be provided in the following ratio:

(i) Handwash basin per family shelter or per six persons in shared facilities.

(ii) Shower head for every 10 persons.

(iii) Laundry tray or tub for every 30 persons.

(iv) Slop sink in each building used for laundry, hand washing, and bathing.

(2) Floors shall be of smooth finish but not slippery materials; they shall be impervious to moisture. Floor drains shall be provided in all shower baths, shower rooms, or laundry rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be coved. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.

(3) An adequate supply of hot and cold running water shall be provided for bathing and laundry purposes. Facilities for heating water shall be provided.

(4) Every service building shall be provided with equipment capable of maintaining a temperature of at least 70° F. during cold weather.

(5) Facilities for drying clothes shall be provided.

(6) All service buildings shall be kept clean.

(g) *Lighting.* Where electric service is available, each habitable room in a camp shall be provided with at least one ceiling-type light fixture and at least one separate floor- or wall-type convenience outlet. Laundry and toilet rooms and rooms where people congregate shall contain at least one ceiling- or wall-type fixture. Light levels in toilet and storage rooms shall be at least 20 foot-candles 30 inches from the floor. Other rooms, including kitchens and living quarters, shall be at least 30 foot-candles 30 inches from the floor.

(h) *Refuse disposal.* (1) Fly-tight, rodent-tight, impervious, cleanable or single service containers, approved by the appropriate health authority shall be provided for the storage of garbage. At least one such container shall be provided for each family shelter and shall be located within 100 feet of each shelter on a wooden, metal, or concrete stand.

(2) Garbage containers shall be kept clean.

(3) Garbage containers shall be emptied when full, but not less than twice a week.

(i) *Construction and operation of kitchens, dining hall, and feeding facilities.* (1) In all camps where central dining or multiple family feeding operations are permitted or provided, the food handling facilities shall comply with the requirements of the "Food Service Sanitation Ordinance and Code," Part V of the "Food Service Sanitation Manual," U.S. Public Health Service Publication 934 (1965).

(2) A properly constructed kitchen and dining hall adequate in size, separate from the sleeping quarters of any of the workers or their families, shall be provided in connection with all food handling facilities. There shall be no direct opening from living or sleeping quarters into a kitchen or dining hall.

(3) No person with any communicable disease shall be employed or permitted to work in the preparation, cooking, serving, or other handling of food, foodstuffs, or materials used therein, in any kitchen or dining room operated in connection with a camp or regularly used by persons living in a camp.

(j) *Insect and rodent control.* Effective measures shall be taken to prevent infestation by and harborage of animal or insect vectors or pests.

(k) *First aid.* (1) Adequate first aid facilities approved by a health authority shall be maintained and made available in every labor camp for the emergency treatment of injured persons.

(2) Such facilities shall be in charge of a person trained to administer first aid and shall be readily accessible for use at all times.

(l) *Reporting communicable disease.* (1) It shall be the duty of the camp superintendent to report immediately to the local health officer the name and address of any individual in the camp known to have or suspected of having a communicable disease.

(2) Whenever there shall occur in any camp a case of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom, it shall be the duty of the camp superintendent to report immediately the existence of the outbreak to the health authority by telegram or telephone.

§ 1910.143 Nonwater carriage disposal systems.

(a) *Acceptable industrial disposal systems.* (1) The waste disposal systems described in subparagraphs (2), (3), (4), (5), (6), or (7) of this paragraph, may be used only where not prohibited by codes and regulations of local authorities, and where water closets are not feasible due either to the lack of an adequate water supply or to the location or temporary nature of the operation requiring the facility. The number of units required for a place of employment shall be as specified in §§ 1910.141 and 1910.142.

(2) Privies constructed in conformity with paragraph (b) of this section may be used for the disposal of human excreta where their use will not contaminate ground or surface water because of privy location, type of soil, or ground-water table.

(3) Chemical toilets constructed in conformity with paragraph (c) of this section may be used in place of privies or where a privy is not permitted due to possible contamination of ground and surface water.

(4) Recirculating toilets constructed in conformity with paragraph (f) of this section may be used in place of privies or chemical toilets.

(5) Combustion toilets constructed in conformity with paragraph (e) of this section may be used in place of privies, chemical toilets, or recirculating toilets.

(6) Portable toilets constructed in conformity with paragraph (g) of this section may be used for temporary or mobile installations. Such temporary units may be:

(i) Chemical, recirculating, or combustion toilets designed for installation in or as an integral part of a skid mounted portable privy building, or in a separate toilet room, or

(ii) Portable privies designed for installation over a manhole of a sanitary or a combined waste water sewer system.

(7) A seepage pit constructed in conformity with paragraph (d) of this section may be used for the disposal of waste water from culinary activity, temporary bathing facilities, and clothes washing facilities where there is no available piped water supply. Human excreta shall not be discharged into a seepage pit. All units described in this paragraph shall comply with applicable codes and regulations of local authorities.

(b) *Privy specifications.* (1) A privy pit shall be separated by a minimum distance of 100 feet between the privy and a well, spring, or other source of water supply for drinking, bathing, or culinary purposes.

(i) At no time shall the pit bottom of a privy extend into ground water, nor shall it be constructed within 100 feet of the shoreline of any open body of water. Phreatic water, such as may be found in surface soil at depths of 10 feet or less, shall not be interpreted as ground water unless there is evidence of positive directional flow through the pit.

(ii) The privy shall be so located and so constructed that no surface water may enter into the pit either as runoff or as flood water.

(iii) The pit shall be constructed of such material and in such a manner as to prevent rapid deterioration, provide adequate capacity, and facilitate maintenance in a satisfactory manner under ordinary conditions of usage.

(iv) The pit and seat area shall be vented by a flue or vent pipe having not less than 7 square inches cross-sectional area, so as to provide a continuous escape of odors.

(v) The pit shall provide a capacity of 50 cubic feet for each seat installed in the privy building. The vault within 16 inches of the surface grade shall not be counted as part of the 50-cubic-foot capacity.

(vi) Pit cribbing shall fit firmly and be in uniform contact with the earth walls on all sides, and shall rise at least 6 inches above the original ground line and descend to the full depth of the pit. However, pit cribbing below the soil line may be omitted in rock formations.

(vii) An earth plateau shall be constructed level with the top of the pit cribbing, and extend horizontally for a distance of at least 18 inches before sloping to the original ground level.

(2) Privy building shall be firmly anchored, rigidly constructed, and free from hostile surface features, such as exposed nail points, sharp edges, rough or broken boards, etc., and shall provide privacy and protection from the elements. It shall be ventilated by leaving a 4-inch opening at the top of all the walls just beneath the roof.

(i) The building shall be of fly-tight construction, doors shall be self-closing, and vent and building openings shall be screened with 16-mesh screen of durable material. The vent shall extend 12 inches above the roof.

(ii) The seat shall be so spaced as to provide a minimum clear space of 24 inches between each seat in multiple unit installations, and shall provide 12 inches clear space from the seat opening to the side wall in single and multiple units.

(iii) The seat riser shall have an inside clearance of not less than 21 inches from the front wall and not less than 24 inches from the rear wall of the privy building.

(iv) The seat top shall be not less than 12 inches nor more than 16 inches above the floor.

(v) The seat opening shall be covered with an attached, movable toilet seat and lid, so constructed and installed that when closed it will limit access of insects, and which can be raised to allow sanitary use as a urinal.

(vi) The floor and riser shall be built of impervious material or tongue and groove lumber, and in a manner to deny access of insects.

(vii) Where electricity is available, lighting shall be provided with an intensity of not less than 10 foot-candles 30 inches above the floor.

(viii) A conveniently located receptacle or dispenser containing an adequate supply of toilet paper shall be provided for each seat in each privy building.

(c) *Chemical toilet specifications.* (1) Rooms, buildings, or shelters housing chemical toilets shall be of sound construction and easy to clean, and shall provide shelter and privacy. The toilet rooms shall be ventilated to the outside and adequately lighted, and all openings into the toilet room shall be covered with 16-mesh screen. The minimum requirements given in subparagraphs (2) through (7) of this paragraph shall apply.

(2) Caustic receptacles shall be durable and corrosion proof, and provide a minimum capacity of 100 gallons per seat.

(3) The caustic receptacle charge per seat shall be a minimum of 25 pounds of caustic dissolved in 10 gallons of water.

(4) The chemical shall be drained and receptacle recharged every 6 months of continuous use, or at the beginning of each season of operation when in intermittent use, or when three-fourths full, whichever occurs first.

(5) Each seat in the building shall be provided with a conveniently located agitator.

(6) Receptacles shall be vented as prescribed in paragraph (b)(1)(iv) of this section.

(7) The receptacle shall be equipped with a manhole external to the privy building for cleaning and caustic removal purposes. The manhole shall be covered so as to prevent the escape of gases and odors.

(d) *Seepage pit construction.* (1) Seepage pit construction shall conform with requirements for privy pit construction in paragraph (b) (1) (i), (ii), (iii), (vi) and (vii) of this section. The seepage pit may be filled with stone or rubble of not less than nominal 1 inch diameter.

(2) Seepage pits shall be of such dimensions as to provide side wall area equal to at least 10 square feet per person served by the facility, or such greater area as may be required by the health agency having jurisdiction.

(3) Temporary piping connections from sinks or shower platforms may be discharged beneath the floor if they have traps in accordance with the provisions of American National Standard National Plumbing Code, A 40.8–1955.

(4) The platform covering the seepage pits shall be built of impervious material and in a manner to exclude insects.

(5) The platform shall be provided with an opening at least 1 foot in each dimension and have a rim at least 1 inch above the floor to prevent precipitation from accumulating on the platform floor.

(6) The platform opening shall be covered with a self-closing lid, so constructed that it can be easily opened by foot or hand, and so installed that when closed it will exclude insects and fit closely over the raised rim of the opening.

(e) *Combustion toilet.* (1) Combustion toilets and combustion toilet buildings, rooms, or shelters shall conform to the applicable specifications given for chemical toilets in paragraph (c) of this section.

(2) All external surfaces, including bowl and hopper, shall be easy to clean.

(3) The residue must be sterile and inert.

(4) The flue effluents must be free of bacteria.

(5) The combustion system and all fuel and electrical parts shall be safe and in compliance with applicable gas and electrical codes of local authorities. Where such codes do not exist, the installations shall comply with the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968).

(f) *Recirculating toilet specifications.* (1) Recirculating toilet buildings, rooms, or shelters shall conform to the applicable specifications given for chemical toilets in paragraph (c) of this section.

(2) All materials, bowl, piping, and fittings shall be corrosion resistant.

(3) Waste passages shall have smooth surfaces and be free of obstructions, recesses, or chambers that would permit fouling.

(4) Flushing shall be accomplished by a single control so arranged as to be operated without special knowledge or effort.

(5) Recirculating toilets shall conform to "Self-Contained, Electrically Operated Recirculating, Chemically Controlled Toilet." International Association of Plumbing and Mechanical Officials Trailer Standard TSC 12–65.

(6) The unit shall be maintained and cleaned; and water, filter, and odor-controlling chemical shall be replaced in accordance with the instructions of the manufacturer.

(g) *Portable toilet construction.* (1) A portable toilet may comprise the seat and its treatment unit to be installed in a structure, or it may comprise an entire prefabricated, skid mounted, or otherwise portable structure containing a seat or treatment units with seat.

(2) No pit, tank, or other subsurface structure shall be construed as part of a portable toilet.

(i) Portable privies must be installed over a pit conforming to paragraph (b) (1) of this section, or a manhole that is part of a sanitary or combined waste water disposal system.

(ii) No portable toilet shall discharge into a storm sewer.

(3) A portable building shall be rigidly constructed, ventilated by a screened opening or a vent having a cross-sectional area of at least 1 square foot per seat, and equipped with a floor, riser, and seat meeting the requirements of paragraph (b) (2) of this section or an equivalent individual stool and seat in prefabricated metal, fiber glass, plastic, or ceramic material.

(i) The structure shall provide privacy and protection from the elements.

(ii) An airtight seal shall be provided between the structure base and any pit, receptacle, or manhole over which it is placed.

(iii) Ventilation of the pit, receptacle, or manhole shall conform to paragraph (b) (1) (iv) of this section.

(4) A portable toilet shall be provided with facilities, requisite to its construction, for the removal of chemicals, ash, or residue. All surfaces subject to soiling shall be readily accessible and easily cleaned.

§ 1910.144 Safety color code for marking physical hazards.

(a) *Color identification*—(1) *Red.* Red shall be the basic color for the identification of:

(i) *Fire protection equipment and apparatus.* (*a*) Fire alarm boxes (pull boxes).

(*b*) Fire blanket boxes.

(*c*) Fire buckets or pails.

(*d*) Fire exit signs.

(*e*) Fire extinguishers (if painting the extinguisher is impractical or undesirable, color should be used on the housing, wall, or support to identify the location).

(*f*) Fire hose locations (color should be used on the reel, supports, or housing but not on the hose).

(*g*) Fire hydrants (industrial).

(*h*) Fire pumps.

(*i*) Fire sirens.

(*j*) Post indicator valves for sprinkler system (it is suggested that if a traffic hazard is involved, the top should be colored red, and the barrel or post yellow and black stripes).

(*k*) Sprinkler piping. (See ANSI Standard Scheme for the Identification of Piping Systems, A13.1–1956.)

(ii) *Danger.* Safety cans or other portable containers of flammable liquids having a flashpoint at or below 80° F. table containers of flammable liquids (open cup tester), excluding shipping containers, shall be painted red with some additional clearly visible identification either in the form of a yellow band around the can or the name of the contents conspicuously stenciled or painted on the can in yellow. Red lights shall be provided at barricades and at temporary obstructions, as specified in ANSI Safety Code for Building Construction, A10.2–1944. Danger signs shall be painted red.

(iii) *Stop.* Emergency stop bars on hazardous machines such as rubber mills, wire blocks, flat work ironers, etc., shall be red. Stop buttons or electrical switches used for emergency stopping of machinery shall be red.

(2) *Orange.* Orange shall be used as the basic color for designating dangerous parts of machines or energized equipment which may cut, crush, shock, or otherwise injure and to emphasize such hazards when enclosure doors are open or when gear belt, or other guards around moving equipment are open or removed, exposing unguarded hazards.

(3) *Yellow.* Yellow shall be the basic color for designating caution and for marking physical hazards such as: Striking against, stumbling, falling, tripping, and "caught in between." Solid yellow, yellow and black stripes, yellow and black checkers (or yellow with suitable contrasting background) should be used interchangeably, using the combination which will attract the most attention in the particular environment.

(4) *Green.* Green shall be used as the basic color for designating "Safety" and the location of first aid equipment (other than firefighting equipment).

(5) *Blue.* Blue shall be the basic color for designating caution, limited to warning against the starting, the use of, or the movement of equipment under repair or being worked upon.

(6) *Purple.* Purple shall be the basic color for designating radiation hazards. "Radiation" as used in this subparagraph refers to radiation types such as X-ray, alpha, beta, gamma, neutron, proton, deuteron, and meson. Yellow should be used in combination with purple for markers such as tags, labels, signs, and floor markers.

(7) *Black, white, or combinations of black and white.* Black, white, or a combination of these two, shall be the basic colors for the designation of traffic and housekeeping markings. Solid white, solid black, single color striping, alternate stripes of black and white, or black and white checkers should be used in accordance with local conditions.

(b) *Color specifications.* Colors shall meet the tests specified in section 3, Color Definitions, of ANSI Z53.1–1967, Safety Color Code for Marking Physical Hazards.

§ 1910.145 Specifications for accident prevention signs and tags.

(a) *Scope.* (1) These specifications apply to the design, application, and use of signs or symbols (as included in paragraphs (c) through (e) of this section) intended to indicate and, insofar as possible, to define specific hazards of a nature such that failure to designate them may lead to accidental injury to workers or the public, or both, or to property damage. These specifications are intended to cover all safety signs except those designed for streets, highways, railroads, and marine regulations. These specifications do not apply to plant bulletin boards or to safety posters.

(2) All new signs and replacements of old signs on or after August 31, 1971, shall be in accordance with these specifications.

(b) *Definitions.* As used in this section, the word "sign" refers to a surface on which letters or other markings appear, prepared for the warning of, or safety instructions of, industrial workers or members of the public who may be exposed to hazards. Excluded from this definition, however, are news releases, displays commonly known as safety posters, and bulletins used for employee education.

(c) *Classification of signs according to use*—(1) *Danger signs.* (i) Danger signs should be used only where an immediate hazard exists. There shall be no variation in the type of design of signs posted to warn of specific dangers and radiation hazards.

(ii) All employees shall be instructed that danger signs indicate immediate danger and that special precautions are necessary.

(2) *Caution signs.* (i) Caution signs shall be used only to warn against potential hazards or to caution against unsafe practices.

(ii) All employees shall be instructed that caution signs indicate a possible hazard against which proper precaution should be taken.

(3) *Safety instruction signs.* Safety instruction signs shall be used where there is a need for general instructions and suggestions relative to safety measures.

(d) *Sign design and colors*—(1) *Design features.* The colors, proportions, and location of the identification panels on each sign shall be in accordance with this paragraph. All signs shall be furnished with rounded or blunt corners and shall be free from sharp edges, burrs, splinters, or other sharp projections. The ends or heads of bolts or other fastening devices shall be located in such a way that they do not constitute a hazard. When conditions warrant the use of a sign size not covered in the following tables, the ratio of the depth of the identifying panel (Danger, Caution, etc.) to the width of the sign shall be as established in Tables J–1 to J–4.

TABLE J-1—STANDARD PROPORTIONS FOR DANGER SIGNS

Sign size, inches Height	Width	Black rectangular panel, inches Height	Width	Red oval, inches Height	Width	Word danger, height inches	Maximum space available for sign wording, inches
			HORIZONTAL PATTERN				
7	10	3¼	9⅝	2⅞	8⅛	1 7/16	2⅝ x 9⅛
10	14	4⅝	13⅜	4⅛	11⅞	2 1/16	4⅛ x 13⅜
14	20	6½	19⅜	5¾	17	2⅝	6¾ x 19⅜
20	28	9¼	27⅜	8¼	23⅞	4⅛	9½ x 27¾
			UPRIGHT PATTERN				
10	7	2⅝	6¼	2¼	5¾	1 1/16	
14	10	3¼	9⅝	2⅞	8⅛	1 7/16	6⅝ x 6¾
20	14	4⅝	13⅜	4⅛	11⅞	2 1/16	9½ x 9⅝
28	20	6½	19⅜	5¾	17	2⅝	14 x 13⅜
							20¼ x 19⅜

(2) *Danger signs.* (i) The colors red, black, and white shall be those of opaque glossy samples as specified in Table 1 of Fundamental Specification of Safety Colors for CIE Standard Source "C", American National Standard Z53.1–1967.

(ii) Standard Proportions shall be as indicated in Table J–1, and format shall be as in Fig. J–1.



Fig. J-1
Danger Sign

(3) *Radiation warning signs.* (i) Standard color of the background shall be yellow; the panel, reddish purple with yellow letters; the symbol, reddish purple; any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard, Z53.1–1967.

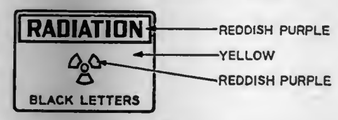


Fig. J-2
Radiation Warning Sign

(ii) The standard symbol shall be as in Figure J–3. Method of dimensioning, design, and orientation of the standard symbol (one blade pointed downward and centered on the vertical axis) shall be executed as illustrated. The symbol shall be prominently displayed, and of a size consistent with the size of the equipment or material or area to which it is attached.

(iii) Format shall be as in Figure J–2. Sign proportions shall be the same as those for danger signs in Table J–1.

(4) *Caution signs.* (i) Standard color of the background shall be yellow; and the panel, black with yellow letters. Any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard Z53.1–1967.

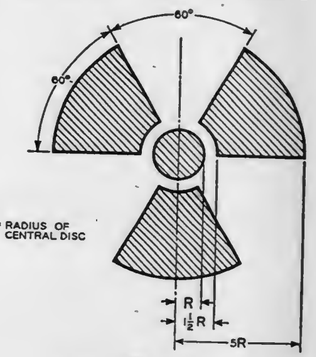


Fig. J-3
Standard Radiation Symbol

(ii) Standard proportions shall be as indicated in Table J–2, and format shall be as in Figure J–4.



Fig. J-4
Caution Sign

TABLE J-2—STANDARD PROPORTIONS FOR CAUTION SIGNS

Sign size inches height	width	Black rectangular panel, inches height	width	Word "Caution" height of letter, inches	Maximum space available for sign wording below panel inches height	width
			HORIZONTAL PATTERN			
7	10	2⅛	9⅝	1⅛	3¼	9⅝
10	14	3⅛	13⅝	2¼	5½	13⅝
14	20	3⅞	19⅝	2⅞	9	19⅝
20	28	4¼	27⅝	3⅛	14½	27⅝
			UPRIGHT PATTERN			
10	7	1⅝	6¾	1⅛	7	6¾
14	10	2⅛	9⅝	1⅝	10½	9⅝
20	14	3¼	13⅝	2¼	15½	13⅝
28	20	3⅞	19⅝	2⅞	24	19⅝

(5) *Exit signs.* Exit signs shall be in accordance with § 1910.37(q).

(6) *Safety instruction signs.* (i) Standard color of the background shall be white; and the panel, green with white letters. Any letters used against the white background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard, Z53.1–1967.

(ii) Standard proportions shall be as indicated in Table J–3, and format shall be as in Figure J–5.

(7) *Directional signs.* (i) Standard color of the background shall be white; and the panel, black with white directional symbol. Any letters used against the white background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard Z53.1–1967.

(ii) Standard proportions shall be as indicated in Table J–4, and format shall be as in Figure J–6.

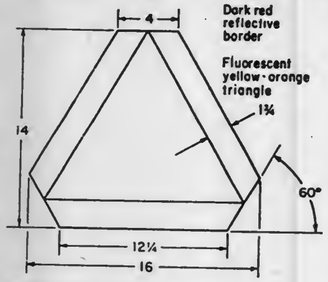
(8) *In-Plant traffic signs.* Regulatory and control signs required for the safe movement of vehicles and pedestrians on thoroughfares on plant property shall conform to the standards established in American National Standard Manual on Uniform Traffic Control Devices for Streets and Highways, D6.1–1961.



Fig. J-6
Directional Signs

(9) *Informational signs.* Blue shall be the standard color for informational signs. It may be used as the background color for the complete sign or as a panel at the top of such types of "Notice" signs, which have a white background. The colors shall be those of opaque glossy samples as specified in Table 1 of American National Standard Z53.1–1967.

(10) *Slow-moving vehicle emblem.* This emblem (see fig. J–7) consists of a



NOTE: All dimensions are in inches.

Fig. J-7
Slow-Moving Vehicle Emblem

fluorescent yellow-orange triangle with a dark red reflective border. The yellow-orange fluorescent triangle is a highly visible color for daylight exposure. The reflective border defines the shape of the fluorescent color in daylight and creates a hollow red triangle in the path of motor vehicle headlights at night. The emblem is intended as a unique identification for, and it shall be used only on, vehicles which by design move slowly (25 m.p.h. or less)





(NOTE: The words "Think" and "Be Careful," given here, are only illustrations. Other wordings may be used.)

Fig. J-5
Safety Instruction Signs

TABLE J–3—STANDARD PROPORTIONS FOR SAFETY INSTAUCTION SIGNS

Sign size, inches, height, width	Green rectangular panel, inches, height, width	Word "Think" height of letters, inches	Maximum space available for sign wording below panel, inches height, width	Sign size, inches height, width	Green panel, inches, height, width	Word "Be" height of letters, inches	Word "Careful" height of letters, inches	Maximum space available for sign wording below panel, inches, height, width
7 x 10	2¼ x 9⅛	1⅜	3½ x 9⅛	7 x 10	3⅜ x 9⅛	1¼	1⅜	2½ x 9⅛
10 x 14	3¼ x 13⅜	2¼	5½ x 13⅜	10 x 14	4¾ x 13⅜	1¾	2⅛	4 x 13⅜
14 x 20	3¾ x 19⅛	2¾	9 x 19⅛	14 x 20	6¾ x 19⅛	2½	3½	6 x 19⅛
20 x 28	4¾ x 27⅜	3¼	14½ x 27⅜	20 x 28	9½ x 27⅜	3½	4⅜	9¼ x 27⅜

Table J–4—Standard Proportions for Directional Signs

Sign size, inches height width	Black rectangular panel, inches height width	White arrow, inches				Maximum space for sign wording below panel height
		Overall length	Arrow head height width	Arrow shaft height	Arrow tail height width	
6½ x 14	3¼ x 13⅜	12⅝	2⅜ x 3	1⅛	2⅝ x 3¼	2¼ x 13⅜
9 x 20	4½ x 19⅛	18⅝	3⅜ x 4½	1⅝	3⅜ x 4½	3⅜ x 19⅛
12 x 28	6 x 27⅜	26⅜	5⅛ x 5⅜	2⅛	4⅜ x 6	4½ x 27⅜
15 x 36	7½ x 35⅜	34⅜	6⅜ x 6⅞	2⅝	5½ x 7½	6¼ x 35⅜

on the public roads. The emblem is not a clearance marker for wide machinery nor is it intended to replace required lighting or marking of slow-moving vehicles. Neither the color film pattern and its dimensions nor the backing shall be altered to permit use of advertising or other markings. The material, location, mounting, etc., of the emblem shall be in accordance with the American Society of Agricultural Engineers Emblem for Identifying Slow-Moving Vehicles, ASAE R276, 1967, or ASAE S276.2 (ANSI B114.1–1971).

(11) *Symbols.* Symbols used on signs shall follow recognized practices, such as in Figure J–8. For radioactive materials, see symbol in Figure J–3.

POISON:



ELECTRICITY:



Fig. J-8
Symbols Used on Signs

(e) *Sign wordings*—(1) *Examples of wordings.* The lists in subparagraphs (3) through (7) of this paragraph are intended to serve as a guide for choosing the correct sign design for the message to be displayed.

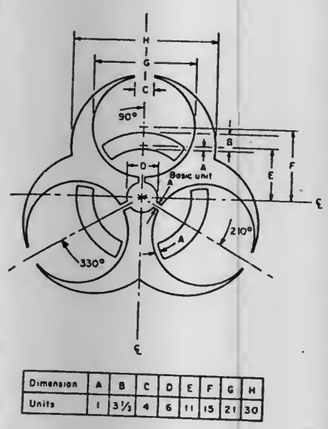
(2) *Nature of wording.* The wording of any sign should be easily read and concise. The sign should contain sufficient information to be easily understood. The wording should make a positive, rather than negative suggestion and should be accurate in fact.

(3) *Danger signs.*

Danger—Keep Off, Electric Current.
Danger—No Smoking, Matches, or Open Lights.
Danger—Men Working Above.
Danger—Not Room Enough Here to Clear Men on Cars.
Danger—Keep Away.
Danger—Men in Boiler.
Danger—Insufficient Clearance.
Danger—2,300 Volts.
Danger—Keep Out.
Danger—Crane Overhead.
Danger—Keep Off.

(4) *Biological hazard signs.* The biological hazard warning shall be used to signify the actual or potential presence of a biohazard and to identify equipment, containers, rooms, materials, experimental animals, or combinations thereof, which contain, or are contaminated with, viable hazardous agents. For the purpose of this subparagraph the term "biological hazard," or "biohazard," shall include only those infectious agents presenting a risk or potential risk to the well-being of man. The biohazard symbol shall be designed and proportioned as illustrated in figure J–9.

The symbol design shall be a fluorescent orange or orange-red color. Background color is optional as long as there is sufficient contrast for the symbol to be clearly defined. Appropriate wording may be used in association with the symbol to indicate the nature or identity of the hazard, name of individual responsible for its control, precautionary information, etc., but never should this information be superimposed on the symbol.



Dimension	A	B	C	D	E	F	G	H
Units	1	3½	4	6	11	15	21	30

Fig. J-9
Symbol for Biological Hazard

(5) *Caution signs.*

Caution—Do Not operate, Men Working on Repairs.
Caution—Hands Off Switch, Men Working on Line.
Caution—Working on Machines, Do Not Start.
Caution—Goggles Must Be Worn When Operating This Machine.
Caution—This Door Must Be Kept Closed.
Caution—Electric Trucks, Go Slow.
Caution—This Space Must Be Kept Clear at All Times.
Caution—Stop Machinery to Clean, Oil, or Repair.
Caution—Keep Aisles Clear.
Caution—Operators of This Machine Shall Wear Snug Fitting Clothing—No Gloves.
Caution—Close Clearance.
Caution—Watch Your Step.
Caution—Electric Fence.

(6) *Safety instruction signs.*

Report All Injuries to the First-Aid Room at Once.
Walk—Don't Run.
Report All Injuries No Matter How Slight.
Think, If Safe Go Ahead.
Make Your Work Place Safe Before Starting the Job.
Report All Unsafe Conditions to Your Foreman.
Help Keep This Plant Safe and Clean.

(7) *Directional signs.*

This Way Out (below arrow panel).
This Way (inside arrow) Out (below arrow panel).
Fire Exit (below arrow panel).
Fire (inside arrow) Extinguisher (below arrow panel).
To the (inside arrow) Fire Escape (below arrow panel).
To the (inside arrow) First Aid (below arrow panel).
Manway (below arrow panel).
This Way to (inside arrow) First-Aid Room (below arrow panel).

(8) *Informational signs.*

No Trespassing Under Penalty of the Law.
This Elevator Is for Freight Only, Not for Passengers.
No Admittance Except to Employees on Duty.
No Admittance.
No Admittance, Apply at Office.
No Trespassing.
Men.
Women.
For Employees Only.
Office.

NOTE: When sign wordings such as those listed in this section are contemplated, care should be taken to be aure that they are suitable for the particular location at which the sign is to be placed and that wording meets the requirements of the intended purpose. When there is a reasonable doubt, a sign of a standard design should be used.

(f) *Accident prevention tags*—(1) *Scope and purpose.* (i) The tags are a temporary means of warning all concerned of a hazardous condition, defective equipment, radiation hazards, etc. The tags are not to be considered as a complete warning method, but should be used until a positive means can be employed to eliminate the hazard; for example, a "Do Not Start" tag on power equipment shall be used for a few moments or a very short time until the switch in the system can be locked out; a "Defective Equipment" tag shall be placed on a damaged ladder and immediate arrangements made for the ladder to be taken out of service and sent to the repair shop.

(ii) The purpose of this paragraph is to establish a set of specifications for tags based on experience and previous use. The tags are to be used in industry, mercantile establishments, or wherever such tags can be utilized to help prevent accidental injury to personnel or damage to property, or both.

(2) *Definitions.* The word "tag" as used in this paragraph refers to a surface (usually card, paper, pasteboard, or some temporary or nonpermanent material) on which letters or markings, or both, appear. These letters or markings, or both, are for warning (cautioning) or safety instruction of employees who may be exposed to hazards. They are to be affixed to the device in question by string, wire, or adhesive.

(3) *Do not start tags.* (i) The standard background color for Do Not Start tags shall be red. (See Fig. J–10.)

(ii) Letters shall be white or grey or etched, provided that a long lasting and sharp contrast results.

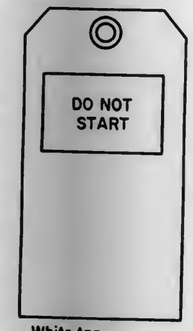
(iii) Do Not Start tags shall be placed in a conspicuous location or shall be placed in such a manner that they effectively block the starting mechanism which would cause hazardous conditions should the equipment be energized.

(4) *Danger tags.* (i) Danger tags should be used only where an immediate hazard exists. There should be no variation in the type of design of tags posted or hung to warn of specific dangers. (See Fig. J–11.)

(ii) All employees should be instructed that Danger tags indicate immediate danger and that special precautions are necessary.

(5) *Caution tags.* (i) Caution tags should be used only to warn against potential hazards or to caution against unsafe practices. (See Fig. J–12.)

(ii) All employees should be instructed that Caution tags indicate a possible hazard against which proper precautions should be taken.



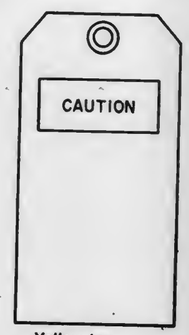
White tag
white letters on
red square

Fig. J-10
Do Not Start Tag



White tag
white letters on
red oval with a
black square

Fig. J-11
Danger Tag



Yellow tag
yellow letters on a
black background

Fig. J-12
Caution Tag

(6) *Out of order tags.* Out of Order tags should be used only for the specific purpose of indicating that a piece of equipment, machinery, etc., is out of order and to attempt to use it might present a hazard. (See Fig. J–13.)

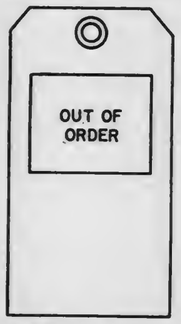
(7) *Radiation tags.* (i) The standard background for Radiation tags shall be yellow; the panel shall be reddish purple. Any letters used against the yellow background shall be black. The colors shall be those of opaque glossy samples as specified in Table 1, Fundamental Specification of Safety Colors for CIE Standard Source "C" American National Standard Safety Color Code for Marking Physical Hazards and the Identification of Certain Equipment, Z53.1–1967.

(ii) The method of dimension, design, and orientation of the standard symbol

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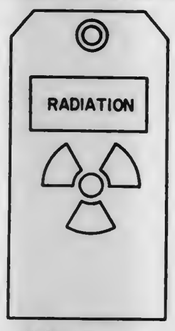
(one blade pointed downward and centered on the vertical axis) shall be executed as illustrated in Figure J–14. The symbol shall be prominently displayed and of a size consistent with the size of the equipment or area in which it is to be used.

(8) *Biological hazard tags.* (i) The standard background color for the Biological Hazard symbol is optional as long as there is sufficient contrast for the symbol to be clearly defined. The symbol design (see Fig. J–15) shall be a fluorescent orange or orange-red color.



White tag
white letters on
black background

Fig. J-13
Out of Order Tag



Yellow tag
yellow letters in
reddish-purple panel
(Added wording in black
on yellow background)

Fig. J-14
Radiation Tag



White tag
black letters on
fluorescent-orange
background and
symbol

Fig. J-15
Biological Hazard Tag

(ii) The biological Hazard tag shall be used to signify the actual or potential presence of a biohazard, to identify equipment, containers, rooms, materials, experimental animals, or combinations thereof, which contain or are contaminated with viable hazardous agents.

(iii) For the purpose of this subparagraph the term "biological hazard" shall include only those infectious agents presenting a risk or potential risk to the well-being of man.

§ 1910.146 [Reserved]

§ 1910.147 Sources of standards.

The standards in this Subpart J are derived from the following sources:

Sec.	Source
1910.141	ANSI Z4.1–1968. Minimum Requirements for Sanitation in Places of Employment.
1910.142	ANSI Z4.4–1968, Minimum Requirements for Sanitation in Temporary Labor Camps.
1910.143	ANSI Z4.3–1970. Minimum requirements for Nonwater Carriage. Disposal Systems.
1910.144	ANSI Z53.1–1967, Safety Color Code for Marking Physical Hazards.
1910.145 (a)–(e)	ANSI Z35.1–1969. Specifications for Accident Prevention Signs, and ANSI B114.1–1971. Slow-Moving Vehicle Identification Emblem.
1910.145(f)	ANSI Z35.2–1968. Specifications for Accident Prevention Tags.

§ 1910.148 Standards organizations.

Standard and specifications of the following organizations have been referenced in this Subpart J:

American National Standards Institute, 1430 Broadway, New York, NY 10018.
National Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, CA 90032.
American Society of Agricultural Engineers, 2950 Niles Road, Post Office Box 229, St. Joseph, MI 49085.

§ 1910.149 Effective dates.

(a) The provisions of this Subpart J shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

§ 1910.142(b)(2), (b)(5), (b)(7), (d)(6), (f), (g), (i)(1) and (2).

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in 50–204.2 (a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart J which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

[36 F.R. 15105, Aug. 13, 1971]

Subpart K—Medical and First Aid

§ 1910.151 Medical services and first aid.

(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of plant health.

(b) In the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, a person or persons shall be adequately trained to render first aid. First aid supplies approved by the consulting physician shall be readily available.

(c) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use.

§ 1910.152 [Reserved]

§ 1910.153 Sources of standards.

The standard in § 1910.151 is derived from 41 CFR 50–204.6.

Subpart L—Fire Protection

§ 1910.156 Definitions applicable to this subpart.

(a) "Class A fires" are fires in ordinary combustible materials, such as wood, cloth, paper, and rubber.

(b) "Class B fires" are fires in flammable liquids, gases, and greases.

(c) "Class C fires" are fires which involve energized electrical equipment where the electrical nonconductivity of the extinguishing media is of importance. (When electrical equipment is deenergized, extinguishers for Class A or B fires may be used safely.)

(d) "Class D fires" are fires in combustible metals, such as magnesium, titanium, zirconium, sodium, and potassium.

(e) Classification of portable fire extinguishers: "Portable fire extinguishers" are classified for use on certain classes of fires and rated for relative extinguishing effectiveness at a temperature of plus 70° F. by nationally recognized testing laboratories. This is based upon the preceding classification of fires and the fire extinguishment potentials as determined by fire tests.

NOTE: The classification and rating system described in this section is that used by Underwriters' Laboratories, Inc. and Underwriters Laboratories of Canada and is based on extinguishing preplanned fires of determined size and description as follows:

(i) Class A rating—Wood and excelsior fires excluding deep-seated conditions.

(ii) Class B rating—Two-inch depth gasoline fires in square pans.

(iii) Class C rating—No fire test. Agent must be a nonconductor of electricity.

(iv) Class D rating—Special tests on specific combustible metal fires.

(f) A "light hazard" is a situation where the amount of combustibles or flammable liquids present is such that fires of small size may be expected. These may include offices, schoolrooms, churches, assembly halls, telephone exchanges, etc.

(g) An "ordinary hazard" is a situation where the amount of combustibles or flammable liquids present is such that fires of moderate size may be expected. These may include mercantile storage and display, auto showrooms, parking garages, light manufacturing, warehouses not classified as extra hazard, school shop areas, etc.

(h) An "extra hazard" is a situation where the amount of combustibles or flammable liquids present is such that fires of severe magnitude may be expected. These may include woodworking, auto repair, aircraft servicing, warehouses with high-piled (14 feet or higher) combustibles, and processes such as flammable liquid handling, painting, dipping, etc.

(i) Sprinkler system: A "sprinkler system," for fire protection purposes, is an integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. The system includes a suitable water supply, such as a gravity tank, fire pump, reservoir, or pressure tank and/or connection by underground piping to a city main. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

NOTE: The design and installation of water supply facilities such as gravity tanks, fire pumps, reservoirs, or pressure tanks, and underground piping are covered by NFPA Standards No. 22–1970, Water Tanks For Private Fire Protection; No. 20–1970, Installation of Centrifugal Fire Pumps and No. 24–1970, Outside Protection.

(j) Sprinkler alarms: A "sprinkler alarm" unit is an assembly of apparatus approved for the service and so constructed and installed that any flow of water from a sprinkler system equal to or greater than that from a single automatic sprinkler will result in an audible alarm signal on the premises.

(k) Class of service—standpipe systems: "Standpipe systems" are grouped into three general classes of service for the intended use in the extinguishment of fire.

(1) Class I: For use by fire departments and those trained in handling heavy fire streams (2½-inch hose).

(2) Class II: For use primarily by the building occupants until the arrival of the fire department (small hose).

(3) Class III: For use by either fire departments and those trained in handling heavy hose streams or by the building occupants.

(l) Class I service: "Class I service" is a standpipe system capable of furnishing the effective fire streams required during the more advanced stages of fire on the inside of buildings or for exposure fire.

(m) Class II service: "Class II service" is a standpipe system which affords a ready means for the control of incipient fires by the occupants of buildings during working hours and by watchmen and those present during the night time and holidays.

(n) Class III service: "Class III service" is a standpipe system capable of furnishing the effective fire streams required during the more advanced stages of fire on the inside of buildings as well as providing a ready means for the control of fires by the occupants of the building.

(o) Standpipe systems: "Standpipe systems" are usually of the following types:

(1) A wet standpipe system having a supply valve open and water pressure maintained at all times.

(2) A standpipe system so arranged through the use of approved devices as to admit water to the system automatically by opening a hose valve.

(3) A standpipe system arranged to admit water to the system through manual operation of approved remote control devices located at each hose station.

(4) Dry standpipe having no permanent water supply.

See also paragraph (k) of this section.

(p) Type I storage: "Type I storage" is that in which combustible commodities or noncombustible commodities involving combustible packaging or storage aids are stored over 15 feet but not more than 21 feet high in solid piles or over 12 feet but not more than 21 feet high in piles that contain horizontal channels. Minor quantities of commodities of hazard greater than ordinary combustibles may be included without affecting this general classification.

(q) Type II storage: "Type II storage" is that in which combustible commodities or noncombustible commodities involving combustible packaging or storage aids are stored not over 15 feet high in solid piles or not over 12 feet high in piles that contain horizontal channels. Minor quantities of commodities of hazard greater than ordinary combustibles may be included without affecting this general classification.

(r) Type III storage: "Type III storage" is that in which the stored commodities, packaging, and storage aids are noncombustible or contain only a small concentration of combustibles which are incapable of producing a fire that would cause appreciable damage to the commodities stored or to noncombustible wall, floor or roof construction. Ordinary combustible commodities in completely sealed noncombustible containers may qualify in this classification. General commodity storage that is subject to frequent changing and storage of combustible packaging and storage aids is excluded from this category.

(s) "Approved": "Approved" means listed or approved by: (1) At least one of the following nationally recognized testing laboratories: Factory Mutual Engineering Corp.; Underwriters' Laboratories, Inc., or (2) Federal agencies such as Bureau of Mines, Department of the Interior: Department of Transportation; or U.S. Coast Guard, which issue approvals for such equipment.

PORTABLE FIRE SUPPRESSION EQUIPMENT

§ 1910.157 Portable fire extinguishers.

(a) *General requirements*—(1) *Operable condition.* Portable extinguishers shall be maintained in a fully charged and operable condition, and kept in their designated places at all times when they are not being used.

(2) *Location.* Extinguishers shall be conspicuously located where they will be readily accessible and immediately available in the event of fire. They shall be located along normal paths of travel.

(3) *Marking of location.* Extinguishers shall not be obstructed or obscured from view. In large rooms, and in certain locations where visual obstruction cannot be completely avoided, means shall be provided to indicate the location and intended use of extinguishers conspicuously.

(4) *Marking of extinguishers.* If extinguishers intended for different classes of fire are grouped, their intended use shall be marked conspicuously to insure choice of the proper extinguisher at the time of a fire.

(5) *Mounting of Extinguishers.* Extinguishers shall be installed on the hangers or in the brackets supplied, mounted in cabinets, or set on shelves unless the extinguishers are of the wheeled type.

(6) *Height of mounting.* Extinguishers having a gross weight not exceeding 40 pounds shall be installed so that the top of the extinguisher is not more than 5 feet above the floor. Extinguishers having a gross weight greater than 40 pounds (except wheeled types) shall be so installed that the top of the extinguisher is not more than 3½ feet above the floor.

(7) *Cabinet mounting.* Extinguisher mounted in cabinets or wall recesses or set on shelves shall be placed in a manner such that the extinguisher operating instructions face outward. The location of such extinguishers shall be marked conspicuously.

(8) *Vibrating locations.* Extinguishers installed under conditions where they are subject to severe vibration shall be installed in brackets specifically designed to cope with this vibration.

(9) *Temperature range.* Extinguishers shall be suitable for use within a temperature range of at least plus 40° to 120° Fahrenheit.

(10) *Extreme temperature exposure.* When extinguishers are installed in locations subjected to temperatures outside the range prescribed in this subparagraph, they shall be of a type approved or listed for the temperature to which they will be exposed, or placed in an enclosure capable of maintaining the temperature within the range prescribed in this subparagraph.

(b) *Selection of extinguishers*—(1) *General.* The selection of extinguishers for a given situation will depend upon the character of the fires anticipated, the

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construction and occupancy of the individual property, the vehicle or hazard to be protected, ambient-temperature conditions, and other factors. The number of extinguishers required shall be determined by reference to paragraph (c) of this section.

(2) *Selection by hazard.* (i) Extinguishers shall be selected for the specific class or classes of hazards to be protected in accordance with the following paragraphs.

(ii) Extinguishers for protecting Class A hazards shall be selected from among the following: foam, loaded stream, multipurpose dry chemical, and water types. Certain smaller extinguishers which are charged with multipurpose dry chemical are rated on Class B and Class C fires, but have insufficient effectiveness to earn the minimum 1-A rating even though they have value in extinguishing smaller Class A fires.

Such smaller extinguishers shall not be used to meet the requirements of paragraph (c)(2)(i) of this section.

(iii) Extinguishers for protection of Class B hazards shall be selected from the following: bromotrifluoromethane, carbon dioxide, dry chemical, foam, loaded stream, and multipurpose dry chemical. Extinguishers with ratings less than 1-B shall not be considered in determining suitability.

(iv) Extinguishers for protection of Class C hazards shall be selected from the following: bromotrifluoromethane, carbon dioxide, dry chemical, and multipurpose dry chemical.

NOTE: Carbon dioxide extinguishers equipped with metal horns are not considered safe for use on fires in energized electrical equipment and, therefore, are not classified for use on Class C hazards.

(v) Extinguishers and extinguishing agents for the protection of Class D hazards shall be of types approved for use on the specific combustible-metal hazard.

(c) *Distribution of portable fire extinguishers*—(1) *General.* (i) The number of fire extinguishers needed to protect a property shall be determined as prescribed herein, considering the area and arrangement of the building or occupancy, the severity of the hazard, the anticipated classes of fires, and the distances to be traveled to reach extinguishers.

(ii) Fire extinguishers shall be provided for the protection of both the building structure, if combustible and the occupancy hazards contained therein.

(iii) Required building protection shall be provided by fire extinguishers suitable for Class A fires.

(iv) Occupancy hazard protection shall be provided by fire extinguishers suitable for such Class A, B, C, or D fire potentials as may be present.

(v) Extinguishers provided for building protection may be considered also for the protection of occupancies having a Class A fire potential.

(vi) Combustible buildings having an occupancy hazard subject to Class B, and/or Class C fires, shall have a standard complement of Class A fire extinguishers as required by Table L-1 for building protection, plus additional Class B and/or Class C extinguishers. Where fire extinguishers have more than one letter classification (such as 2-A: 20-B:C), they may be considered to satisfy the requirements of each letter class.

(vii) Rooms or areas shall be graded generally as light hazard, ordinary hazard, or extra hazard. Limited areas of greater or lesser hazard shall be protected as required.

(2) *Fire extinguisher size and placement for Class A hazards.* (i) Minimal sizes of fire extinguishers for the listed grades of hazard shall be provided on the basis of Table L-1. Extinguishers shall be located so that the maximum travel distances shall not exceed those specified in Table L-1.

TABLE L-1

Basic minimum extinguisher rating for area specified	Maximum travel distances to extinguishers (feet)	Areas to be protected per extinguisher: Light hazard occupancy (square feet)	Ordinary hazard occupancy (square feet)	Extra hazard occupancy (square feet)
1A	75	3,000	Note 1	Note 1
2A	75	6,000	3,000	Note 1
3A	75	9,000	4,500	3,000
4A	75	11,250	6,000	4,000
6A	75	11,250	9,000	6,000

NOTE 1: Not permitted except as specified in subdivision (ii) of this subparagraph.

(ii) The protection requirements specified in Table L-1 may be fulfilled by several extinguishers of lower ratings for ordinary or extrahazard occupancies.

(iii) Where the floor area of a building is less than that specified in Table L-1, at least one extinguisher of the minimum size recommended shall be provided.

(iv) The protection requirements may be fulfilled with extinguishers of higher ratings provided the travel distance to such larger extinguishers shall not exceed 75 feet.

(3) *Fire extinguisher size and placement for Class B fires other than for fires in flammable liquids of appreciable depth.* (i) Minimal sizes of fire extinguishers for the listed grades of hazard shall be provided on the basis of Table L-2. Extinguishers shall be located so that the maximum travel distances shall not exceed those specified in Table L-2.

TABLE L-2

Type of hazard	Basic minimum extinguisher rating	Maximum travel distance to extinguishers (feet)
Light	4B	50
Ordinary	8B	50
Extra	12B	50

NOTE: Where this section calls for minimum extinguisher ratings of 4-B, 8-B, or 12-B, the requirements may be met by existing extinguishers of multiple foam extinguishers as allowed by paragraph (c)(3)(ii) of this section. However, if a single extinguisher must be purchased to fulfill such requirements, the next higher rating shall be used.

(ii) Two or more extinguishers of lower rating, except for foam extinguishers, shall not be used to fulfill the protection requirements of Table L-2. Up to three foam extinguishers may be used to fulfill these requirements.

(iii) The protection requirements may be fulfilled with extinguishers of higher ratings provided the travel distance to such larger extinguishers shall not exceed 50 feet.

(4) *Fire extinguisher size and placement for Class B fires in flammable liquids of appreciable depth.* (i) For flammable liquid hazards of appreciable depth (Class B), such as in dip or quench tanks, Class B fire extinguishers shall be provided on the basis of one numerical unit of Class B extinguishing potential per square foot of flammable liquid surface of the largest tank hazard within the area.

NOTE: Appreciable depth is defined as a depth of a liquid greater than one-quarter inch.

(ii) Two or more extinguishers of lower ratings except for foam extinguishers, shall not be used in lieu of the extinguisher required for the largest tank. Up to three foam extinguishers may be used to fulfill these requirements.

(iii) Scattered or widely separated hazards shall be individually protected if the specified travel distances in subdivisions (i) and (iii) of subparagraph (5) of this paragraph (c) are exceeded. Likewise, extinguishers in the proximity of a hazard shall be carefully located so as to be accessible in the presence of a fire without undue danger to the operator.

(5) *Fire extinguisher size and placement for Class C hazards.* (i) Extinguishers with Class C ratings shall be required where energized electrical equipment may be encountered which would require a nonconducting extinguishing media. This will include fire either directly involving or surrounding electrical equipment. Since the fire itself is a Class A or Class B hazard the extinguishers are sized and located on the basis of the anticipated Class A or B hazard.

(d) *Inspection, maintenance, and hydrostatic tests*—(1) *General.* (i) The employer shall be responsible for such inspection, maintenance, and testing.

(ii) For details of conducting needed inspections, proper maintenance operations, and required tests, see NFPA No. 10A-1970, Maintenance and Use of Portable Fire Extinguishers.

(2) *Inspection.* (i) Extinguishers shall be inspected monthly, or at more frequent intervals when circumstances require, to insure they are in their designated places, to insure they have not been actuated or tampered with, and to detect any obvious physical damage, corrosion, or other impairments.

(ii) Any extinguishers showing defects shall be given a complete maintenance check.

(3) *Maintenance.* (i) At regular intervals, not more than 1 year apart, or when specifically indicated by an inspection, extinguishers shall be thoroughly examined and/or recharged or repaired to insure operability and safety; or replaced as needed.

(ii) Extinguishers removed from the premises to be recharged shall be replaced by spare extinguishers during the period they are gone.

(iii) Pails or drums of powder-extinguishing agents for scoop or shovel application to metal fires shall be kept full at all times.

(iv) Each extinguisher shall have a durable tag securely attached to show the maintenance or recharge date and the initials or signature of the person who performs this service.

(4) *Hydrostatic tests.* (i) If, at any time, an extinguisher shows evidence of corrosion or mechanical injury, it shall be subjected to a hydrostatic pressure test, or replaced.

(ii) For evaluating the condition of extinguisher cylinders made to Department of Transportation specifications (cf. 49 CFR Chapter I), see the Standard for Visual Inspection of Compressed Gas Cylinders (CGA C-6), published by the Compressed Gas Association, 500 Fifth Avenue, New York, NY 10036.

(iii) At intervals not exceeding those specified in Table L-3 and subdivision (iv) of this subparagraph, extinguishers shall be hydrostatically tested. The first hydrostatic retest may be conducted between the fifth and sixth years for those with a designated test interval of 5 years.

TABLE L-3

HYDROSTATIC TEST INTERVAL FOR EXTINGUISHERS

Extinguisher type:	Test interval year
Soda-acid	5
Cartridge-operated water and/or antifreeze	5

TABLE L-3—Continued

HYDROSTATIC TEST INTERVAL FOR EXTINGUISHERS

Extinguisher type:	Test interval year
Storage-pressure water and/or antifreeze	5
Wetting agent	5
Foam	5
Loaded stream	5
Dry chemical extinguishers with stainless steel shells, aluminum shells, or soldered-brass shells	5
Carbon dioxide extinguishers	5
Dry chemical extinguishers with brazed-brass shells, or mild-steel shell	12
Bromotrifluoromethane	12
Dry powder extinguishers for metal fires	12

NOTE: Cylinders under jurisdiction of the U.S. Department of Transportation (formerly Interstate Commerce Commission) may require hydrostatic testing at more frequent periods.

(iv) Nitrogen cylinders (or other cylinders used for inert-gas storage), such as found on wheeled extinguishers, shall be tested at a 5-year interval.

(v) On those extinguishers which are equipped with a shutoff nozzle at the outlet end of the hose, a hydrostatic test shall be performed on the hose with its couplings (but without the discharge nozzle) at the test interval specified for the unit on which the hose is installed.

(vi) The test pressure for dry chemical and dry powder hose assemblies requiring a hydrostatic test shall be at a test pressure of 300 pounds per square inch for a 1-minute period. Carbon dioxide hose assemblies requiring a hydrostatic test shall be at test pressure of 1,250 p.s.i. for a 1-minute period.

(vii) Hydrostatic tests are not required on fire pails, pump-type water and/or antifreeze extinguishers, and factory-sealed disposable (nonrefillable) containers. If such an extinguisher or water pail shows evidence of corrosion or mechanical injury, it may be unsafe or unsuitable for further use and shall be replaced with a new unit.

(viii) The hydrostatic test date shall be recorded on a record tag of metal or equally durable material, or a suitable metallized decal which shall be affixed (by a heatless process) to the shell of an extinguisher which favorably passes the hydrostatic test. The record tag shall contain the following information: Date of test, test pressure, and name or initials of person or agency making the test.

(ix) For extinguishers subjected to an original factory test pressure of 350 p.s.i. or greater, the test pressure shall be 75 percent of the factory test pressure (as noted on the extinguisher nameplate), but in no case less than 300 p.s.i., see Table L-4. For extinguishers subjected to an original factory test pressure of less than 350 p.s.i., the test pressure shall be 75 percent of the factory test pressure; see Table L-4. Pressure shall be applied at a rate of rise to reach the test pressure in approximately 1 minute, and the pressure shall be held for 1 minute, after which it shall be released.

TABLE L-4

HYDROSTATIC TEST PRESSURE REQUIREMENTS—NON-ICC SHELLS. SHELLS NOT SPECIFIED IN U.S. DEPARTMENT OF TRANSPORTATION REGULATIONS, (FORMERLY INTERSTATE COMMERCE COMMISSION)

Extinguisher type	Original factory test pressure	Requires hydrostatic test pressure
All dry chemical and dry powder.	400 p.s.i. or greater.	75% of factory test pressure.
	350-399 p.s.i.	300 p.s.i.
	below 350 p.s.i.	75% of factory test pressure.
Foam—500 p.s.i. factory test.	500	375.
Foam—350 p.s.i. factory test.	350	300.
Soda-acid—500 p.s.i. factory test.	500	375.
Soda-acid—350 p.s.i. factory test.	350	300.
Stored-pressure or cartridge-operated water-type (including antifreeze and loaded-stream).	400 p.s.i. or greater.	75% of factory test pressure.
	350-399 p.s.i.	300 p.s.i.
	below 350.	75% of factory test pressure.

(x) Carbon dioxide extinguishers, nitrogen cylinders, and other cylinders or cartridges used for the storage of inert, compressed gases shall be hydrostatically tested in accordance with the requirements of the U.S. Department of Transportation (formerly Interstate Commerce Commission); see 49 CFR Parts 171-190.

(xi) Extinguisher shells, cartridges, or cylinders which show leakage or permanent distortion in excess of specified limits, or which rupture, shall be removed from service.

§ 1910.158 Standpipe and hose systems.

(a) *General requirements*—(1) *Application.* Where standpipe and hose systems are provided they shall meet the design requirements of the National Fire Protection Association's Standard for the Installation of Standpipe and Hose Systems NFPA 14-1970 and the requirements of this section.

(2) *Closets and cabinets.* Closets and cabinets used to contain fire hose shall be of sufficient size to permit the installation of the necessary equipment at hose stations, and so designed as not to interfere with the prompt handling of the hose and equipment at time of fire. They shall be used for fire equipment only.

(3) *Protection of standpipes.* Standpipes shall be so located that they are protected against mechanical and fire damage.

(b) *Hose outlets*—(1) *Location of hose.* (i) Hose outlets shall be within easy reach of a person standing on the floor and in no case shall be over 6 feet from the floor. Hose stations shall be located conspicuously within the immediate area and where not likely to be obstructed. Hose may be located at one side of the standpipe and supplied by short lateral connections to the standpipe where necessary to avoid obstructions.

(ii) For Class III service, the outlets for large hose shall be located in a stairway enclosure, and for small hose the outlets shall be located in the corridor or space adjacent to the stairway enclosure.

(2) *Hose connections.* (i) Standpipes for Class I service shall be provided with 2½-inch hose connections on each floor.

(ii) Standpipes for Class II service shall be provided with 1½-inch hose connections on each floor.

(iii) Standpipes for Class III service shall be provided with both a 2½-inch and 1½-inch hose connection on each floor. The hose connections may be through one 2½-inch hose valve and an easily removable 2½-inch by 1½-inch adapter.

(3) *Hose.* Each hose outlet provided for the use of building occupants (Class II and III services) shall be equipped with not more than 75 feet and preferably not more than 50 feet of approved small fire hose attached and ready for use.

(4) *Hose racks.* Each station provided with small hose shall be equipped with an approved rack securely fastened in position.

(5) *Hose valves.* (i) An approved hose valve shall be provided at each outlet for attachment of hose.

(ii) Where the static pressure at any standpipe outlet for small hose exceeds 100 pounds per square inch, an approved device shall be installed at the outlet to reduce the pressure so that the nozzle pressure will be approximately 80 pounds per square inch.

NOTE: Pressure reducers are not required on standpipe outlets for 2½-inch hose because it is assumed 2½-inch hose will be attached only when the persons likely to use it are trained in handling large streams.

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(iii) National (American) Standard Fire Hose Coupling Screw Threads shall be used whenever they will fit existing equipment; see Standard for Screw Threads Gaskets for Fire Hose Couplings, NFPA No. 194–1968.

(6) *Nozzles.* Nozzles shall be of an approved type. Size of nozzles for small hose shall be not larger than one-half inch.

(7) *Dry standpipe identification.* Each hose connection on dry standpipes shall be provided with a conspicuous, durable, and permanently legible sign reading "Dry Standpipe for Fire Department Use Only."

(c) *Water supplies*—(1) *Minimum supply for Class I service.* (i) The minimum supply for Class I service shall be sufficient to provide 500 gallons per minute for a period of at least thirty (30) minutes.

(ii) Where more than one standpipe is required, the minimum supply shall be 500 gallons per minute for the first standpipe and 250 gallons per minute for each additional standpipe, the total supply not to exceed 2,500 gallons a minute, for a period of at least thirty (30) minutes.

(iii) The supply shall be sufficient to maintain a residual pressure of 65 pounds per square inch at the topmost outlet of each standpipe (including the roof outlet) with 500 gallons per minute flowing.

(2) *Minimum supply for Class II service.* The minimum supply for Class II service shall be sufficient to provide 100 gallons per minute for a period of at least thirty (30) minutes. The supply shall be sufficient to maintain a residual pressure of 65 pounds per square inch at the topmost outlet of each standpipe (including the roof outlet) with 100 gallons per minute flowing.

(3) *Minimum supply for Class III service.* The minimum supply for Class III service shall be the same as for Class I service.

(4) *Fire department connections.* (i) One or more fire department connections shall be provided for each Class I or Class III standpipe system.

(ii) In high-rise buildings having two or more zones, a fire department connection shall be provided for each zone.

(iii) Fire department connections shall be properly supported.

(iv) There shall be no shutoff valve in the fire department connection.

(v) An approved straightway check valve shall be installed in each fire department connection, located as near as practicable to the point where it joins the system.

(vi) The pipe between the check valve and the outside hose coupling shall be equipped with an approved automatic drip, arranged to discharge to a proper place.

(vii) Hose connections shall be approved type and shall be equipped with standard caps, properly secured and arranged for easy removal by fire departments.

(viii) Hose coupling threads shall conform to those used by the local fire department. (American) National Standard Fire-Hose Coupling Screw Threads shall be used whenever they will fit the local fire department hose threads; see standard for Screw Threads and Gaskets for Fire Hose Couplings, NFPA No. 194–1968.

(ix) Hose connections should be on the street side of buildings and shall be located and arranged so that hose lines can be readily and conveniently attached to the inlets without interference from any nearby objects including buildings, fences, posts, or other fire department connections.

(x) Hose connections shall be designated by a sign having raised letters at least one inch in size cast on a plate or fitting, reading "Standpipe."

(xi) If hose connection does not serve all of the building an appropriate and durable sign shall be attached indicating the portions of the building served.

(d) *Tests and maintenance*— (1) *Tests.* All new systems including yard piping shall be tested hydrostatically at not less than 200 pounds per square inch pressure for 2 hours, or at 50 pounds per square inch in excess of the normal pressure when the normal pressure is in excess of 150 pounds per square inch.

(2) *Periodic inspection.* (i) The tanks shall be kept properly filled, and where pressure tanks are employed, a pressure of at least 75 pounds per square inch shall be maintained at all times.

NOTE: For further details, see Standard for Water Tanks for Private Fire Protection, NFPA No. 22–1970.

(ii) The valves in the main connection to the automatic sources of water supply shall be open at all times. The hose valves should be frequently examined to see that they are tight.

NOTE: For further details, see Care of Fire Hose, NFPA No. 198–1969.

FIXED FIRE SUPPRESSION EQUIPMENT

§ 1910.159 Automatic sprinkler systems.

(a) *General requirements*—(1) *Design.* When automatic sprinkler systems are provided they shall meet design requirements of the National Fire Protection Association's Standard for the Installation of Sprinkler Systems NFPA No. 13–1969 and the requirements of this section.

(2) *Water supply.* Every automatic sprinkler system shall have at least one automatic water supply of adequate pressure, capacity and reliability.

(3) *Fire department connection.* A connection through which a fire department can pump water into the sprinkler system makes a desirable auxiliary supply. For this purpose, one or more fire department connections shall be provided in all cases.

(b) *Fire department connections*—(1) *Size.* Pipe size shall not be less than 4 inches for fire engine connections and not less than 6 inches for fireboat connections, except that 3-inch pipe may be used to connect a single hose connection to a 3-inch or smaller riser.

(2) *Valves.* (i) An approved straightaway check valve shall be installed in each fire department connection, located as near as practicable to the point where it joins the system.

(ii) There shall be no shutoff valve in the fire department connection.

(3) *Support.* Fire department connections shall be properly supported.

(4) *Hose connections.* (i) Hose connections shall be of approved type.

(ii) Hose coupling threads shall conform to those used by the local fire department. National (American) Standard Fire Hose Coupling Screw Threads shall be used whenever they will fit the local fire department hose.

(iii) Hose connections shall be equipped with caps, properly secured and arranged for easy removal by fire departments.

(iv) Hose connections shall be located and arranged so that hose lines can be readily and conveniently attached to the inlets without interference from any nearby objects including buildings, fences, posts, or other fire department connections.

(v) Hose connections shall be designated by a sign having raised letters at least 1 inch in size cast on plate or fitting reading for service designated: Viz—"AUTO-SPKR." or "OPEN SPKR."

(c) *Sprinkler alarms*—(1) *General.* (i) Waterflow alarms shall be provided on all sprinkler installations.

(ii) An alarm unit shall include an approved mechanical alarm, horn, or siren, or an approved weatherproof electric gong, bell, horn, or siren on the outside of the building or approved electric gongs, bells, horns, or sirens inside the building, or a combination of such devices.

(iii) All alarm apparatus shall be so located and installed that all parts are readily accessible for inspection, removal, and repair, and shall be substantially supported. Outdoor mechanical or electrically operated bells shall be of weatherproof and guarded type. On each alarm check valve used under conditions of variable water pressure, a retarding device shall be installed. Suitable valves shall be provided in the connections to retarding chambers, to permit repair or removal without shutting off sprinklers; these valves shall be so arranged that they may be locked or sealed in the open position.

(2) *Waterflow detecting devices.* (i) The alarm apparatus for a wet-pipe system shall consist of an approved alarm check valve or other approved water flow detecting alarm device with the necessary attachments required to give an alarm.

(ii) The alarm apparatus for a dry-pipe system shall consist of approved alarm attachments to the dry-pipe valve. When a dry-pipe valve is located on the system side of an alarm valve, the actuating device of the alarms for the dry-pipe valve may be connected to the alarms on the wet-pipe system.

(iii) The alarm apparatus for preaction and deluge systems shall consist of approved electric alarm attachments, actuated by a thermostatic system independently of flow of water in the system.

(3) *Drains.* Drains from alarm devices shall be so arranged that there will be no danger of freezing, and so that there will be no overflowing at the alarm apparatus, at domestic connections or elsewhere with the sprinkler drains wide open and under pressure.

(d) *Maintenance of sprinkler system.* A sprinkler system installed under this Standard must be properly maintained for efficient service. The employer is responsible for the condition of his sprinkler system and must use due diligence in keeping the system in good operating condition.

(e) *Sprinkler head clearance*—(1) *Type I storage.* Clearance of at least 36 inches shall be maintained between sprinkler deflectors and top of storage to reduce the possibility of obstruction to the distribution of water.

(2) *Type II storage.* Clearance of at least 18 inches shall be maintained between sprinkler deflectors and top of storage to reduce the possibility of obstruction to the distribution of water.

(3) *Type III storage.* In sprinklered buildings, at least 18 inches clearance between sprinkler deflectors and top of storage shall be maintained.

§ 1910.160 Fixed dry chemical extinguishing systems.

(a) *General requirements*—(1) *Design.* When dry chemical extinguishing systems are provided they shall meet the design requirements of the National Fire Protection Association's "Standard for Dry Chemical Extinguishing Systems" NFPA No. 17–1969 and the requirements of this section.

(2) *Safety requirements.* Where there is a possibility that personnel may be exposed to a dry chemical discharge, suitable safeguards shall be provided to insure prompt evacuation of such locations, and also to provide means for prompt rescue of any trapped personnel.

(b) *Alarms and indicators*—(1) *General.* Alarms and/or indicators are used to indicate the operation of the system, hazard to personnel, or failure of any supervised device or equipment. The devices may be audible or visual. The type, number, and location of the devices shall be such that their purpose is satisfactorily accomplished. The extent and type of alarm and/or indicator equipment shall be approved.

(2) *Operation alarm.* (i) An alarm or indicator shall be provided to show that the system has operated, that personnel response may be needed, and that the system should be charged.

(ii) Alarms indicating failure of supervised devices or equipment shall give prompt and positive indication of any failure and shall be distinctive from alarms indicating operation or hazardous conditions.

(c) *Inspection and maintenance*—(1) *Inspection and tests.* (i) At least annually, all dry chemical systems including alarms, shutdowns, and other associated equipment, shall be thoroughly inspected and checked for proper operation by a competent inspector.

(ii) The purpose of the inspection and testing prescribed by paragraph (c) of this section shall be not only to insure that the system is in full operating condition but also to indicate the probable continuance of that condition until the next inspection. Attention at this inspection shall be given to any extension of the hazard protected by the system.

(iii) The inspector's report, with recommendations, if any, shall be filed with the employer or with whomever is designated by the employer.

(iv) Between the regular service contract inspection or tests, the system shall be inspected visually or otherwise by competent personnel, following an approved schedule.

(v) At least semiannually, all expellant gas containers shall be checked by pressure or weight against the required minimums.

(vi) At least semiannually, all stored pressure dry chemical containers shall be checked by pressure and weight against the required minimums.

(vii) Except for stored pressure systems, at least annually the dry chemical in the system storage container shall be sampled from the top center and also near the wall to determine the existence of lumps harder than will be friable when dropped from a height of 4 inches.

(2) *Maintenance.* (i) These fixed dry chemical systems shall be maintained in full operating condition at all times. Use, impairment, and restoration of this protection shall be reported promptly to the employer.

(ii) Any troubles or impairments shall be corrected at once by competent personnel.

§ 1910.161 Carbon dioxide extinguishing systems.

(a) *General requirements*—(1) *Design.* When carbon dioxide extinguishing systems are provided they shall meet the design requirements of the National Fire Protection Association's "Standard on Carbon Dioxide Extinguishing Systems" NFPA No. 12–1968 and the requirements of this section.

(2) *Safety requirements.* In any use of carbon dioxide where there is a possibility that employees may be trapped in, or enter into atmospheres made hazardous by a carbon dioxide discharge, suitable safeguards shall be provided to insure prompt evacuation of and to prevent entry into such atmospheres and also to provide means for prompt rescue of any trapped personnel. Such safety items as personnel training, warning signs, discharge alarms, predischarge alarms, and breathing apparatus shall be considered.

(b) *Inspection and maintenance*—(1) *Inspection and tests.* (i) At least annually, all carbon dioxide systems shall be thoroughly inspected and tested for proper operation by a competent engineer or inspector.

(ii) The goal of this inspection and testing shall be not only to insure that the system is in full operating condition but shall indicate the probable continuance of that condition until the next inspection.

(iii) Suitable discharge tests shall be made when any inspection indicates their advisability.

(iv) Between the regular service contract inspection or tests, the system shall be inspected visually or otherwise by competent personnel, following a schedule.

(v) At least semiannually, all high pressure cylinders shall be weighed. If, at any time, a container shows a loss in net content of more than 10 percent, it shall be refilled or replaced.

(vi) If, at any time, a low pressure container shows a loss of more than 10 percent, it shall be refilled, unless the minimum gas requirements are still provided.

(2) *Maintenance.* (i) These carbon dioxide systems shall be maintained in full operating condition at all times.

(ii) Any troubles or impairments shall be corrected at once by competent personnel.

§ 1910.162 Other special fixed extinguishing systems. [Reserved]

OTHER FIRE PROTECTION SYSTEMS

§ 1910.163 Local fire alarm signaling systems.

(a) *General requirements.* Where local fire alarm signaling systems are provided they shall meet the design requirements of the National Fire Protection Association's "Standard for the Installation, Maintenance, and Use of Local Protective Signaling Systems for Watchman, Fire Alarm and Supervisory Service." NFPA No. 72A–1967 and the requirements of this section.

(b) *Fire alarm boxes*—(1) *General.* Manual fire alarm boxes shall be approved for the particular application and shall be used only for fire protective signaling purposes. Combined fire alarm and watchman's signaling boxes are acceptable.

(2) *Mounting.* Each box shall be securely mounted.

(3) *Distribution.* Manual fire alarm boxes shall be distributed throughout the protected area so that they are unobstructed, readily accessible, and located in the normal path of exit from the area. Additional boxes shall be provided on each floor to obtain a maximum horizontal travel distance of 200 feet to the nearest box.

(c) *Maintenance.* All systems shall be under the supervision of qualified persons. These persons shall cause tests and inspections to be made at weekly intervals, and shall have general charge of all alterations and additions to the systems under their supervision.

§ 1910.164 Fire brigades. [Reserved]

§ 1910.165 Effective dates.

(a) The provisions of this Subpart L shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

§ 1910.157(c).
§ 1910.158 (b) and (c).
§ 1910.159 (a), (b), and (c).
§ 1910.160(a).
§ 1910.161(a).

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation

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shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2(a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart L which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.165a Sources of standards.

Section	Source
1910.156(a)–	
(h)	NFPA No. 10–1970, Standard for the Installation of Portable Fire Extinguishers.
1910.156(i)–	
(j)	NFPA No. 13–1969, Standard for the Installation of Sprinkler Systems.
1910.156(k)–	
(o)	NFPA No. 14–1970, Standard for the Installation of Standpipe and Hose Systems.
1910.156(p)–	
(s)	NFPA No. 231–1970, Standard for Indoor General Storage.
1910.157	NFPA No. 10–1970, Standard for the Installation of Portable Fire Extinguishers.
1910.158	NFPA No. 14–1970, Standard for the Installation of Standpipe and Hose Systems.
1910.159(a)–	
(d)	NFPA No. 13–1969, Standard for the Installation of Sprinkler Systems.
1910.159(e)	NFPA No. 231–1970, Standard for Indoor General Storage.
1910.160	NFPA No. 17–1969, Standard for Dry Chemical Extinguishing Systems.
1910.161	NFPA No. 12–1968, Standard on Carbon Dioxide Extinguishing Systems.
1910.163	NFPA No. 72A–1967, Standard for the Installation, Maintenance, and Use of Local Protective Signalling Systems for Watchman, Fire Alarm and Supervisory Service.

§ 1910.165b Standards organizations.

Compressed Gas Association, Inc., 500 Fifth Avenue, New York, NY 10036.
National Fire Protection Association, 60 Batterymarch Street, Boston MA 02110.
American National Standards Institute, 1430 Broadway, New York NY.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders.

(a) *Definitions.* As used in this section:

(1) High- and low-pressure cylinders: High-pressure cylinders means those cylinders with a marked service pressure of 900 p.s.i. or greater; low-pressure cylinders are those with a marked service pressure less than 900 p.s.i.

(2) Minimum allowable wall thickness: The minimum allowable wall thickness means the minimum wall thickness required by the specification under which the cylinder was manufactured.

(3) Dents: Dents (in cylinders) means deformations caused by the cylinder coming in contact with a blunt object in such a way that the thickness of metal is not materially impaired.

(4) Cuts, gouges, or digs: Cuts, gouges, or digs (in cylinders) means deformations caused by contact with a sharp object in such a way as to cut into or upset the metal of the cylinder, decreasing the wall thickness at that point.

(5) Corrosion or pitting: Means corrosion or pitting in cylinders involving the loss of wall thickness by corrosive media. There are several kinds of pitting or corrosion to be considered.

(6) Isolated pitting: Means isolated pits of small cross-section which do not effectively weaken the cylinder wall but are indicative of possible complete penetration and leakage. Since the pitting is isolated the original wall is essentially intact.

(7) Line corrosion: Means pits which are not isolated but are connected or nearly connected to others in a narrow band or line. This condition is more serious than isolated pitting. Line corrosion frequently occurs in the area of intersection of the footring and bottom of a cylinder. This is sometimes referred to as "crevice corrosion."

(8) General corrosion: Means corrosion which covers considerable surface areas of the cylinder. It reduces the structural strength. It is often difficult to measure or estimate the depth of general corrosion because direct comparison with the original wall cannot always be made. General corrosion is often accompanied by pitting.

(9) "DOT" means the U.S. Department of Transportation.

(b) *General requirements*—(1) *Application.* (i) Each employer shall determine that compressed gas cylinders under his control are in a safe condition to the extent that this can be determined by visual and other inspection required by this subparagraph.

(ii) The requirements contained in this section are not intended to apply to cylinders manufactured under specification DOT (ICC)–3HT (49 CFR Ch. 1). Separate requirements covering service life and standards for visual inspection of these cylinders are contained in Compressed Gas Association Pamphlet C–8, "Standard for Requalification of ICC–3HT Cylinders."

(2) *Quality of inspection.* Experience in the inspection of cylinders is an important factor in determining the acceptability of a given cylinder for continued service. Users lacking this experience and having doubtful cylinders should return them to a manufacturer of the same type of cylinders for reinspection.

(c) *Inspection of low-pressure cylinders exempt from the hydrostatic test including acetylene cylinders.*—(1) *Application.* This section covers cylinders of the type that are exempt from the hydrostatic retest requirements of the DOT by virtue of their exclusive use in certain noncorrosive gas service. They are not subject to internal corrosion and do not require internal shell inspection.

(2) *Preparation for inspection.* Rust, scale, caked paint, etc., shall be removed from the exterior surface so that the surface can be adequately observed. Facilities shall be provided for inverting the cylinder to facilitate inspection of the bottom. This is important because experience has shown this area to be the most susceptible to corrosion.

(3) *Exterior inspection.* Cylinders shall be checked as outlined below for corrosion, general distortion, or any other defect that might indicate a weakness which would render it unfit for service.

(i) To fix corrosion limits for all types, designs, and sizes of cylinders, and include them in this section is not practicable. Cylinders shall meet the requirements of this subdivision. Failure to meet any of the requirements of this subdivision is of itself cause for rejection of a cylinder.

(a) A cylinder shall be rejected when the tare weight is less than 95 percent of the original tare weight marked on the cylinder. When determining tare weight, be sure that the cylinder is empty.

(b) A cylinder shall be rejected when the remaining wall in an area having isolated pitting only is less than one-third of the minimum allowable wall thickness as determined under subdivision (ii), (iii), or (iv) of this subparagraph.

(c) A cylinder shall be rejected when line corrosion on the cylinder is 3 inches in length or over and the remaining wall is less than three-fourths of the minimum allowable wall thickness or when line corrosion is less than 3 inches in length and the remaining wall thickness is less than one-half the minimum allowable wall thickness as determined under subdivision (ii), (iii), or (iv) of this subparagraph.

(d) A cylinder shall be rejected when the remaining wall in an area of general corrosion is less than one-half of the minimum allowable wall thickness as determined under subdivision (ii), (iii), or (iv) of this subparagraph.

(ii) To use the criteria in subdivision (i) of this subparagraph, it is necessary to know the original wall thickness of the cylinder or the minimum allowable wall thickness. Table M–1 lists the minimum allowable wall thickness under DOT specifications (49 CFR Ch. 1) for a number of common size low-pressure cylinders.

TABLE M–1

Cylinder size O.D. x length (inches)	DOT Specification marking	Nominal water capacity (pounds)	Minimum allowable wall thickness (inches)
15 x 46	[1] 4B240	239	0.128
14 15/16 x 47	4E240	239	.140
14 15/16 x 46	4BA240	239	.086
14 15/16 x 28 5/8	4BA240	143	.086
11 29/32 x 32 15/16	4BA240	95	.078
11 29/32 x 18 1/32	4BA240	48	.078

[1] Without longitudinal seam

(iii) When the wall thickness of the cylinder at manufacture is not known, and the actual wall thickness cannot be measured, this cylinder shall be rejected when the inspection reveals that the deepest pit in a general corrosion area exceeds three sixty-fourths inch. This is arrived at by considering that in no case shall the pitting exceed one-half the minimum allowable wall thickness which is 0.064 inch. When a pit measures 0.043 inch (approximately three sixty-fourths inch) in a corrosion area, general corrosion will already have removed 0.021 inch of the original wall and the total pit depth as compared to the initial wall will be 0.064 inch.

(iv) When the original wall thickness at manufacture is known, or the actual wall thickness is measured, this thickness less one and one-half times the maximum measured pit depth shall be 0.064 inch or greater. If it is less, the cylinder shall be rejected.

(v) Dents are of concern where the metal deformation is sharp and confined, or where they are near a weld. Where metal deformation is not sharp, dents of larger magnitude can be tolerated.

(vi) Where denting occurs so that any part of the deformation includes a weld, the maximum allowable dent depth shall be one-fourth inch.

(vii) When denting occurs so that no part of the deformation includes a weld, the cylinder shall be rejected if the depth of the dent is greater than one-tenth of the mean diameter of the dent.

(viii) Cuts, gouges, or digs reduce the wall thickness of the cylinder and in addition are considered to be stress raisers. Depth limits are set in this subparagraph; however, cylinders shall be rejected at one-half of the limit set whenever the length of the defect is 3 inches or more.

(a) When the original wall thickness at manufacture is not known, and the actual wall thickness cannot be measured a cylinder shall be rejected if the cut, gouge, or dig exceeds one-half of the minimum allowable wall thickness as determined under subdivision (ii), (iii), or (iv) of this subparagraph.

(b) When the original wall thickness at manufacture is known, or the actual wall thickness is measured, a cylinder shall be rejected if the original wall thickness minus the depth of the defect is less than one-half of the minimum allowable wall thickness as determined under subdivision (ii), (iii), or (iv) of this subparagraph.

(ix) Leaks can originate from a number of sources, such as defects in a welded or brazed seam, defects at the threaded opening, or from sharp dents, digs, gouges, or pits.

(a) To check for leaks, the cylinder shall be charged and carefully examined. All seams and pressure openings shall be coated with a soap or other suitable solution to detect the escape of gas. Any leakage is cause for rejection.

(b) Safety relief devices as defined in § 1910.167(a)(1) shall be tested for leaks before a charged cylinder is shipped from the cylinder filling plant.

(x) After fire damage, cylinders shall be carefully inspected for evidence of exposure to fire.

(a) Common evidences of exposure to fire are:

(1) Charring or burning of the paint or other protective coat,

(2) Burning or sintering of the metal,

(3) Distortion of the cylinder,

(4) Melted out fuse plugs,

(5) Burning or melting of valve.

(b) The evaluation of fire damage by DOT Regulations state that, "A cylinder which has been subjected to the action of fire must not again be placed in service until it has been properly reconditioned", in accordance with 49 CFR 173.34(f) The general intent of this requirement is to remove from service cylinders which have been subject to the action of fire which has changed the metallurgical structure or the strength properties of the steel, or in the case of acetylene cylinders caused breakdown of porous filler. This is normally determined by visual examination as covered above with particular emphasis to the condition of the protective coating. If the protective coating has been burnt off or if the cylinder body is burnt, warped, or distorted, it is assumed that the cylinder has been overheated and 49 CFR 173.34(f) shall be complied with. If, however, the protective coating is only dirtied from smoke or other debris, and is found by examination to be intact underneath, the cylinder shall not be considered affected within the scope of this requirement.

(xi) Cylinders are manufactured with a reasonably symmetrical shape. Cylinders which have definite visible bulges shall be removed from service and evaluated. Cylinders shall be rejected when a variation of 1 percent or more is found in the measured circumferences or in peripheral distances measured from the valve spud to the center seam (or equivalent fixed point).

(xii) Cylinder necks shall be examined for serious cracks, folds, and flaws. Neck cracks are normally detected by testing the neck during charging operations with a soap solution.

(xiii) Cylinder neck threads shall be examined whenever the valve is removed from the cylinder. Cylinders shall be rejected if the required number of effective threads are materially reduced, or if a gas tight seal cannot be obtained by reasonable valving methods. Gages shall be used to measure the number of effective threads.

(xiv) If the valve is noticeably tilted the cylinder shall be rejected.

(xv) The footring and headring of cylinders may become so distorted through service abuse that they no longer perform their functions:

(a) To cause the cylinder to remain stable and upright,

(b) To protect the valve. Rings shall be examined for distortion; for looseness, and for failure of welds. Appearances may often warrant rejection of the cylinder.

(d) *Low-pressure cylinders subject to hydrostatic testing.*—(1) *Application.* Cylinders covered in this section are low-pressure cylinders other than those covered in paragraph (c) of this section. They differ essentially from such cylinders in that they require a periodic hydrostatic retest which includes an internal and external examination. Defect limits for the external examination are prescribed in paragraph (c) of this section, with exceptions for aluminum cylinders shown in subparagraph (4) of this paragraph.

(2) *Preparation for inspection.* Flammable gas cylinders shall be purged before being examined with a light. Lamps used for flammable gas cylinder inspection shall be explosion proof.

(3) *Internal inspection.* Cylinders shall be inspected internally at least every time the cylinder is periodically retested. The examination shall be made with a light of sufficient intensity to clearly illuminate the interior walls.

(4) *External inspection of aluminum cylinders.* The inspection requirements of paragraph (c) of this section shall be met, except as follows:

(i) Aluminum cylinders shall be rejected when impairment to the surface (corrosion or mechanical defect) exceeds a depth where the remaining wall is less than three-fourths of the minimum allowable wall thickness required by the specification under which the cylinder was manufactured.

(ii) Aluminum cylinders subjected to the action of fire shall be removed from service.

(e) *High-pressure cylinders*—(1) *Application.* High-pressure cylinders are those with a marked service pressure of 900 p.s.i. or higher. They are seamless; no welding is permitted. The great bulk of such cylinders are of the 3A or 3AA types under DOT Specifications (49 CFR Ch. I).

(2) *Preparation for inspection.* (i) Cylinders shall be cleaned for inspection so that the inside and outside surfaces and all conditions can be observed. This shall include removal of scale and caked paint from the exterior and the thorough removal of internal scale. Cylinders with interior coating shall be examined for defects in the coating. If the coating is defective, it shall be removed.

(ii) A good inspection light of sufficient intensity to clearly illuminate the interior wall is mandatory for internal inspection. Flammable gas cylinders shall be purged before being examined with a light. Lamps for flammable gas cylinder inspection shall be explosion proof.

(3) *Exterior inspection.* (i) To fix corrosion limits for all types, designs, and

sizes of cylinders, and include them in this section, is not practicable. Considerable judgment is required in evaluating cylinders fit for service. Experience is a major factor, aside from strength considerations for high pressure cylinders.

(ii) When the original wall thickness of the cylinder is not known, and the actual wall thickness cannot be measured, the cylinder is rejected if corrosion exceeds one thirty-second inch in depth. This is arrived at by subtracting from the minimum allowable wall at manufacture (0.221 inch), the limiting wall in service (0.195 inch), to give the maximum allowable corrosion limit of 0.026 inch, say one thirty-second inch.

(iii) When the wall thickness is known, or the actual wall thickness is measured, the difference between this known wall and the limiting value establishes the maximum corrosion figure. The normal hot forged cylinder of this size will have a measured wall of about 0.250 inch. Comparison of this with the limiting wall thickness shows that defects up to about one-sixteenth inch are allowable provided, of course, that the actual wall is measured or is known.

(iv) Cylinders with general corrosion are evaluated by subjecting them to a hydrostatic test. Thus, a cylinder with an elastic expansion of 227 cc. or greater shall be rejected. If areas of pronounced pitting are included within the general corrosion, the depth of such pitting should also be measured (with the high spots of the actual surface as a reference plane) and the criteria established in the first example apply. Thus, the maximum corrosion limit would be one thirty-second inch when the wall was not known.

(v) Any defect of appreciable depth having a sharp bottom is a stress raiser and even though a cylinder may be acceptable from a stress standpoint, it is common practice to remove such defects. After any such repair operation, verification of the cylinder strength and structure shall be made by a hydrostatic test or other suitable means.

(vi) Dents can be tolerated when the cylinder wall is not deformed excessively or abruptly. Generally speaking, dents are accepted up to a depth of about one-sixteenth inch when the major diameter of the dent is equal to or greater than 32 times the depth of the dent. Sharper dents than this are considered too abrupt and shall require rejection of the cylinder. On small diameter cylinders these general rules may have to be adjusted. Considerations of appearance play a major factor in the evaluation of dents.

(vii) Cylinders with arc or torch burns shall be removed from service. Defects of this nature may be recognized by one of the following conditions:

(*a*) Removal of metal by scarfing or cratering.

(*b*) A sintering or burning of the base metal.

(*c*) A hardened heat affected zone. A simple method for verifying the presence of small arc burns is to file the suspected area. The hardened zone will resist filing as compared to the softer base metal.

(viii) Cylinders are normally produced with a symmetrical shape. Cylinders with distinct visual bulges shall be removed from service until the nature of the defect is determined. Some cylinders may have small discontinuities related to the manufacturing process—mushroomed bottoms, offset shoulders, etc. These usually can be identified and are not normally cause for concern.

(ix) Cylinders shall be carefully inspected for evidences of exposure to fire. See paragraph (c)(3)(x) of this section.

(x) Cylinder necks shall be examined for serious cracks, folds, and flaws. See paragraphs (c)(3)(xii) and (xiii) of this section.

(f) *Internal inspection.* (1) Cylinders shall be inspected internally at least every time the cylinder is periodically retested. This examination shall be made with a light of sufficient intensity to clearly illuminate the interior walls.

(2) A hammer test consists of tapping a cylinder a light blow with a suitably sized hammer. A cylinder, emptied of liquid content, with a clean internal surface, standing free, will have a clear ring. Cylinders with internal corrosion will give a duller ring dependent upon the amount of corrosion and accumulation of foreign material. Such cylinders shall be investigated. The hammer test is very sensitive and is an easy, quick, and convenient test that can be made without removing the valve before each charging. It is an invaluable indicator of internal corrosion.

§ 1910.167 Safety relief devices for compressed gas cylinders.

(a) *Definitions.* As used in this section:

(1) *Safety relief device.* A "safety relief device" is a device intended to prevent rupture of a cylinder under certain conditions of exposures. (The term as used herein shall include the approach channel, the operating parts, and the discharge channel.)

(2) *Approach channel.* An "approach channel" is the passage or passages through which gas must pass from the cylinder to reach the operating parts of the safety relief device.

(3) *Discharge channel.* A "discharge channel" is the passage or passages beyond the operating parts through which gas must pass to reach the atmosphere exclusive of any piping attached to the outlet of the device.

(4) *Safety relief device channel.* A "safety relief device channel" is the channel through which gas released by operation of the device must pass from the cylinder to the atmosphere exclusive of any piping attached to the inlet or outlet of the device.

(5) *Operating part.* The "operating part" of a safety relief device is the part of a safety relief device that normally closes the safety discharge channel but when moved from this position as a result of the action of heat or pressure, or a combination of the two, permits escape of gas from the cylinder.

(6) *Frangible disc.* A "frangible disc" is an operating part in the form of a disc, usually of metal and which is so held as to close the safety relief device channel under normal conditions. The disc is intended to burst at a predetermined pressure to permit the escape of gas.

(7) *Pressure opening.* A "pressure opening" is the orifice against which the frangible disc functions.

(8) *Rated bursting pressure.* A "rated bursting pressure" of a frangible disc is the maximum pressure for which the disc is designed to burst when in contact with the pressure opening for which it was designed when tested.

(9) *Fusible plug.* A "fusible plug" is an operating part in the form of a plug of suitable low melting material, usually a metal alloy, which closes the safety relief device channel under normal conditions and is intended to yield or melt at a predetermined temperature to permit the escape of gas.

(10) *Yield temperature.* The "yield temperature" of a fusible plug is the temperature at which the fusible metal or alloy will yield when tested.

(11) *Reinforced fusible plug.* A "reinforced fusible plug" is a fusible plug consisting of a core of suitable material having a comparatively high yield temperature surrounded by a low-melting point fusible metal of the required yield temperature.

(12) *Combination frangible disc-fusible plug.* A "combination frangible disc-fusible plug" is a frangible disc in combination with a low melting point fusible metal, intended to prevent its bursting at its predetermined bursting pressure unless the temperature also is high enough to cause yielding or melting of the fusible metal.

(13) *Safety relief valve.* A "safety relief valve" is a safety relief device containing an operating part that is held normally in a position closing the safety relief device channel by spring force and is intended to open and to close at predetermined pressures.

(14) *Combination safety relief valve and fusible plug.* A "combination safety relief valve and fusible plug" is a safety relief device utilizing a safety relief valve in combination with a fusible plug. This combination device may be an integral unit or separate units and is intended to open and to close at predetermined pressures or to open at a predetermined temperature.

(15) *Set pressure.* The "set pressure" of a safety relief valve is the pressure marked on the valve and at which it is set to start-to-discharge.

(16) *Start-to-discharge pressure.* The "start-to-discharge pressure" of a safety relief valve is the pressure at which the first bubble appears through a water seal of not over 4 inches on the outlet of the safety relief valve.

(17) *Flow capacity.* The "flow capacity" of a safety relief device is the capacity in cubic feet per minute of free air discharged at the required flow rating pressure.

(18) *Flow rating pressure.* The "flow rating pressure" is the pressure at which a safety relief device is rated for capacity.

(19) *Nonliquefied compressed gas.* A "nonliquefied compressed gas" is a gas, other than a gas in solution which under the charging pressure, is entirely gaseous at a temperature of 70° F.

(20) *Liquefied compressed gas.* A "liquefied compressed gas" is a gas which, under the charging pressure, is partially liquid at a temperature of 70° F. A flammable compressed gas which is normally nonliquefied at 70° F. but which is partially liquid under the charging pressure and temperature, shall follow the requirements for liquefied compressed gases.

(21) *Compressed gas in solution.* A "compressed gas in solution" (Acetylene) is a nonliquefied gas which is dissolved in a solvent.

(22) *Pressurized liquid compressed gas.* A "pressurized liquid compressed gas" is a compressed gas other than a compressed gas in solution, which cannot be liquefied at a temperature of 70° F., and which is maintained in the liquid state at a pressure not less than 40 p.s.i.a. by maintaining the gas at a temperature less than 70° F.

(23) *Test pressure of the cylinder.* The "test pressure of the cylinder" is the minimum pressure at which a cylinder must be tested as prescribed in DOT specifications for compressed gas cylinders 41 CFR Ch. I.

(24) *Free air or free gas.* "Free air" or "free gas" is air or gas measured at a pressure of 14.7 pounds per square inch absolute and a temperature of 60° F.

(25) *DOT regulations.* As used in this section "DOT regulations" refers to the U.S. Department of Transportation Regulations for Transportation of Explosives and Other Dangerous Articles by Land and Water in Rail Freight, Express and Baggage Services and by Motor Vehicle (Highway) and Water, including Specifications for Shipping Containers, Code of Federal Regulations, Title 49, Parts 171 to 178.

(b) *General requirements*—(1) *Application.* Compressed gas cylinder, portable tanks, and cargo tanks shall have pressure relief devices installed and maintained in accordance with Compressed Gas Association Pamphlets S–1.1–1963 and 1965 addenda and S–1.2–1963.

(2) *Types of safety relief devices.* Types of safety relief devices as covered by this section are designated as follows:

(i) Type CG–1: Frangible disc.

(ii) Type CG–2: Fusible plug or reinforced fusible plug utilizing a fusible alloy with yield temperature not over 170° F., nor less than 157° F. (165° F. nominal).

(iii) Type CG–3: Fusible plug or reinforced fusible plug utilizing a fusible alloy with yield temperature not over 220° F., nor less than 208° F. (212° F. nominal).

(iv) Type CG–4: Combination frangible disc-fusible plug, utilizing a fusible alloy with yield temperature not over 170° F., nor less than 157° F. (165° F. nominal).

(v) Type CG–5: Combination frangible disc-fusible plug, utilizing a fusible alloy with yield temperature not over 220° F., nor less than 208° F. (212° F. nominal).

(vi) Type CG–7: Safety relief valve.

(vii) Type CG–8: Combination safety relief valve and fusible plug.

(3) *Specifications and tests.* All safety relief devices covered by this section shall meet the design, construction, marking and test specification of the "Compressed Gas Association Safety Relief Device Standards Part 1—Cylinders for Compressed Gases: S1.1–1963."

(4) *Specific requirements for safety relief devices.* (i) Compressed gas cylinders, which under the Regulations of the Department of Transportation must be equipped with safety relief devices, shall be considered acceptable when equipped with devices of proper construction, location, and discharge capacity under the conditions prescribed in Table 1 of the Compressed Gas Associations Standard S–1.1–1963.

(ii) Only replacement parts or assemblies provided by the manufacturer shall be used unless the advisability of interchange is proved by adequate tests.

(iii) When a frangible disc is used with a compressed gas cylinder, the rated bursting pressure of the disc shall not exceed the minimum required test pressure of the cylinder with which the device is used, except for DOT–3E cylinders (49 CFR Ch. I) the rated bursting pressure of the device shall not exceed 4,500 pounds per square inch gage (p.s.i.g.).

(iv) When a safety relief valve is used on a compressed gas cylinder, the flow rating pressure shall not exceed the minimum required test pressure of the cylinder on which the safety relief valve is installed and the reseating pressure shall not be less than the pressure in a normally charged cylinder at 130° F.

(v) When fittings and piping are used on either the upstream or downstream side or both of a safety relief device or devices, the passages shall be so designed that the flow capacity of the safety relief device will not be reduced below the capacity required for the container on which the safety relief device assembly is installed, nor to the extent that the operation of the device could be impaired. Fittings, piping, and method of attachment shall be designed to withstand normal handling and the pressures developed when the device or devices function.

(vi) No shutoff valve shall be installed between the safety relief devices and the cylinder.

(5) *Maintenance requirements for safety relief devices.* (i) As a precaution to keep cylinder safety relief devices in reliable operating condition, care shall be taken in the handling or storing of compressed gas cylinders to avoid damage. Care shall also be exercised to avoid plugging by paint or other dirt accumulation of safety relief device channels or other parts which could interfere with the functioning of the device. Only qualified personnel shall be allowed to service safety relief devices.

(ii) Each time a compressed gas cylinder is received at a point for refilling, all safety relief devices shall be examined externally for corrosion, damage, plugging of external safety relief device channels, and mechanical defects such as leakage or extrusion of fusible metal. If there is any doubt regarding the suitability of the safety relief device for service the cylinder shall not be filled until it is equipped with a suitable device.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases.

(a) *Definitions applicable to this section*—(1) *Cargo tank.* A "cargo tank" means any container designed to be permanently attached to any motor vehicle or other highway vehicle and in which is to be transported any compressed gas. The term "cargo tank" shall not be construed to include any tank used solely for the purpose of supplying fuel for the propulsion of the vehicle or containers fabricated under specifications for cylinders.

(2) *Portable tank.* A "portable tank" means any container designed primarily to be temporarily attached to a motor vehicle, other vehicle, railroad car other than tank car, or marine vessel, and equipped with skids, mountings, or accessories to facilitate handling of the container by mechanical means, in which is to be transported any compressed gas. The term "portable tank" shall not be construed to include any cargo tank, any tank car tank, or any tank of the DOT–106A and DOT–110A–W type.

(3) *Safety relief device.* A "safety relief device" means a device intended to prevent rupture of a container under certain conditions of exposure.

(4) *Safety relief valve.* A "safety relief valve" means a safety relief device containing an operating part that is held normally in a position closing the safety relief device channel by spring force and is intended to open and to close at predetermined pressures.

(5) *Set pressure.* The "set pressure" of a safety relief valve is the pressure marked on the valve and at which the valve is set to start-to-discharge.

(6) *Start-to-discharge pressure.* The "start-to-discharge pressure" of a safety relief valve is the pressure at which the first bubble appears through a water seal of not over 4 inches on the outlet of the valve.

NOTE: When the nature of the service requires the use of a metal-to-metal seat safety relief valve, with or without secondary sealing means, the start-to-discharge pressure may be considered the pressure at which an audible discharge occurs.

(7) *Reseating pressure.* The "reseating pressure" of a safety relief valve is the pressure at which leakage ceases through a water seal of not over 4 inches on the outlet of the valve.

(8) *Flow capacity.* The "flow capacity" of a safety relief device is the capacity in cubic feet per minute of free air discharged at the required flow rating pressure.

(9) *Flow rating pressure.* The "flow rating pressure" means the pressure at which a safety relief device is rated for capacity.

(10) *Free air or free gas.* "Free air" or "free gas" means air or gas measured at a pressure of 14.7 pounds per square inch absolute and a temperature of 60° F.

(11) *Frangible disc.* A "frangible disc" means a safety relief device in the form of a disc, usually of metal, which is so held as to close the safety relief device channel under normal conditions. The disc is intended to burst at a predetermined pressure to permit the escape of gas.

(12) *Fusible plug.* A "fusible plug" means a safety relief device in the form of a plug of suitable low-melting material, usually a metal alloy, which closes the safety relief device channel under normal conditions and is intended to yield or melt at a predetermined temperature to permit the escape of gas.

(13) *DOT design pressure.* The "DOT design pressure" is identical to the term "maximum allowable working pressure" as used in the "Code" and is the maximum gage pressure at the top of the tank in its operating position. To determine the minimum permissible thickness of physical characteristics of the different parts of the vessel, the static head of the lading shall be added to the DOT design pressure to determine the thickness of any specific part of the vessel. If vacuum insulation is used, the liquid container shall be designed for a pressure of 15 p.s.i. more than DOT design pressure, plus static head of the lading.

EXCEPTION: For containers constructed in accordance with paragraph U–68 or U–69 of section VIII of the ASME Boiler and Pressure Vessel Code, 1949 Edition, the maximum allowable working pressure for the purpose of these standards is considered to be 125 percent of the design pressure as provided in 49 CFR 173.315 of DOT Regulations.

(14) *Code.* "Code" is defined as paragraph U–68, U–69, U–200 or U–201 of section VIII of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, 1949 Edition; or section VIII of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, 1950, 1952, 1956, 1959, and 1962 Editions; or The Code for Unfired Pressure Vessels for Petroleum Liquids and Gases of the American Petroleum Institute and the American Society of Mechanical Engineers (API–ASME), 1951 Edition.

(15) *DOT regulations.* The "DOT regulations" refers to Department of Transportation Regulations for Transportation of Explosives and Other Dangerous Articles by Land and Water in Rail Freight, Express and Baggage Services and by Motor Vehicle (Highway) and Water, including Specifications for Shipping Containers," Code of Federal Regulations, Title 49, Parts 171 to 178.

(b) *General requirements*—(1) *Application.* See § 1910.167(b)(1).

(2) *Specifications and tests.* All safety relief devices covered by this section shall meet the design, construction, marking, and test specifications of the "Compressed Gas Associations Safety Relief Device Standards Part 2—Cargo and Portable Tanks for Compressed Gases: S–1.2–1963."

(3) *Specific requirements for safety relief devices.* (i) Each container shall be provided with one or more safety relief devices which, unless otherwise specified, shall be safety relief valves of the spring-loaded type.

(ii) Safety relief valves shall be set to start-to-discharge at a pressure not in excess of 110 percent of the DOT design pressure of the container nor less than the DOT design pressure of the container except as follows:

(*a*) If an overdesigned container is used, the set pressure of the safety relief valve may be between the minimum required DOT design pressure for the lading and 110 percent of the DOT design pressure of the container used.

(*b*) For sulfur dioxide containers, a minimum set pressure of 120 and 110 p.s.i.g. is permitted for the 150 and 125 p.s.i.g. DOT design pressure containers, respectively.

(*c*) For carbon dioxide (refrigerated), nitrous oxide (refrigerated), and pressurized liquid argon, nitrogen and oxygen, there shall be no minimum set pressure.

(*d*) For butadiene, inhibited, and liquefied petroleum gas containers, a minimum set pressure of 90 percent of the minimum DOT design pressure permitted for these ladings may be used.

(*e*) For containers constructed in accord with paragraph U–68 or U–69 of the Code 1949 Edition, the set pressure marked on the safety relief valve may be 125 percent of the original DOT design pressure of the container.

(iii) Only replacement parts or assemblies provided by the manufacturer of the device shall be used unless the suitability of interchange is proved by adequate tests.

(iv) Safety relief valves shall have direct communication with the vapor space of the container.

(v) Any portion of liquid piping or hose which at any time may be closed at each end must be provided with a safety relief device to prevent excessive pressure.

(vi) The additional restrictions of this subdivision apply to safety relief devices on containers for carbon dioxide or nitrous oxide which are shipped in refrigerated and insulated containers. The maximum operating pressure in the container may be regulated by the use of one or more pressure controlling devices, which devices shall not be in lieu of the safety relief valve required in subdivision (i) of this subparagraph.

(vii) All safety relief devices shall be so installed and located that the cooling effect of the contents will not prevent the effective operation of the device.

(viii) In addition to the safety relief valves required by subdivision (i) of this subparagraph each container for carbon dioxide may be equipped with one or more frangible disc safety relief devices of suitable design set to function at a pressure not exceeding two times the DOT design pressure of the container.

(ix) Subject to conditions of 49 CFR 173.315(a)(1) (DOT Regulations) for methyl chloride and sulfur dioxide optional portable tanks of 225 p.s.i.g. minimum DOT design pressure, one or more fusible plugs approved by the Bureau of Explosives, 63 Vesey Street, New York, NY 10007, may be used in lieu of safety relief valves of the spring-loaded type. If the container is over 30 inches long a safety relief device having the total required flow capacity must be at both ends.

(x) When storage containers for liquefied petroleum gas are permitted to be shipped in accordance with 49 CFR 173.315(j) (DOT Regulations), they must be equipped with safety relief devices in compliance with the requirements for safety relief devices on above-ground containers as specified in the National Fire Protection Association Pamphlet No. 58–1969 "Standard for the Storage and Handling of Liquefied Petroleum Gases."

(xi) When containers are filled by pumping equipment which has a discharge capacity in excess of the capacity of the container safety relief devices, and which is capable of producing pressures in excess of DOT design pressure of the container, precautions should be taken to prevent the development of pressures in the container in excess of 120 percent of its DOT design pressure. This may be done by providing additional capacity of the safety relief valves on the container, by providing a bypass on the pump discharge, or by any other suitable method.

(xii) This additional requirement applies to safety relief devices on containers for liquefied hydrogen and pressurized liquid argon, nitrogen, and oxygen. The liquid container shall be protected by one or more safety relief valves and one or more frangible discs.

(xiii) Safety relief devices shall be arranged to discharge unobstructed to the open air in such a manner as to prevent any impingement of escaping gas upon the container. Safety relief devices shall be arranged to discharge upward except this is not required for carbon dioxide, nitrous oxide and pressurized liquid argon, nitrogen, and oxygen.

(xiv) No shutoff valves shall be installed between the safety relief devices and the container except, in cases where two or more safety relief devices are installed on the same container, a shutoff valve may be used where the arrangement of the shutoff valve or valves is such as always to insure full required capacity flow through at least one safety relief device.

(4) *Maintenance requirements for safety relief devices.* (i) Care shall be exercised to avoid damage to safety relief devices. Care shall also be exercised to avoid plugging by paint or other dirt accumulation of safety relief device channels or other parts which could interfere with the functioning of the device.

(ii) Only qualified personnel shall be allowed to service safety relief devices. Any servicing or repairs which require resetting of safety relief valves shall be done only by or after consultation with the valve manufacturer.

(iii) Safety relief devices periodically shall be examined externally for corrosion, damage, plugging or external safety relief device channels, and mechanical

defects such as leakage or extrusion of fusible metal. Valves equipped with secondary resilient seals shall have the seals inspected periodically. If there is any doubt regarding the suitability of the safety relief device for service the container shall not be filled until it is equipped with a suitable safety relief device.

§ 1910.169 Air receivers.

(a) *General requirements*—(1) *Application.* This section applies to compressed air receivers, and other equipment used in providing and utilizing compressed air for performing operations such as cleaning, drilling, hoisting, and chipping. On the other hand, however, this section does not deal with the special problems created by using compressed air to convey materials nor the problems created when men work in compressed air as in tunnels and caissons. This section is not intended to apply to compressed air machinery and equipment used on transportation vehicles such as steam railroad cars, electric railway cars, and automotive equipment.

(2) *New and existing equipment* (i) All new air receivers installed after the effective date of these regulations shall be constructed in accordance with the 1968 edition of the A.S.M.E. Boiler and Pressure Vessel Code Section VIII.

(ii) All safety valves used shall be constructed, installed, and maintained in accordance with the A.S.M.E. Boiler and Pressure Vessel Code, Section VIII Edition 1968.

(b) *Installation and equipment requirements*—(1) *Installation.* Air receivers shall be so installed that all drains, handholes, and manholes therein are easily accessible. Air receivers should be supported with sufficient clearance to permit a complete external inspection and to avoid corrosion of external surfaces. Under no circumstances shall an air receiver be buried underground or located in an inaccessible place. The receiver should be located as close to the compressor or aftercooler as is possible in order to keep the discharge pipe short.

(2) *Drains and traps.* A drain pipe and valve shall be installed at the lowest point of every air receiver to provide for the removal of accumulated oil and water. Adequate automatic traps may be installed in addition to drain valves. The drain valve on the air receiver shall be opened and the receiver completely drained frequently and at such intervals as to prevent the accumulation of excessive amounts of liquid in the receiver.

(3) *Gages and valves.* (i) Every air receiver shall be equipped with an indicating pressure gage (so located as to be readily visible) and with one or more spring-loaded safety valves. The total relieving capacity of such safety valves shall be such as to prevent pressure in the receiver from exceeding the maximum allowable working pressure of the receiver by more than 10 percent.

(ii) No valve of any type shall be placed between the air receiver and its safety valve or valves.

(iii) Safety appliances, such as safety valves, indicating devices and controlling devices, shall be constructed, located, and installed so that they cannot be readily rendered inoperative by any means, including the elements.

(iv) All safety valves shall be tested frequently and at regular intervals to determine whether they are in good operating condition.

§ 1910.170 Sources of standards.

Sec.	Source
1910.166	41 CFR 50–204.65 referencing CGA C–6–1968, Standards for Visual Inspection of Compressed Gas Cylinders.
1910.167	41 CFR 50–204.71 and CGA Pamphlets S–1.1–1963 and 1965 addenda and S–1.2–1963 and 1965 addenda and S–1.2–1963, Safety Relief Device Standards.
1910.169	ANSI B–19, 1938 Safety Code for Compressed Air Machinery.

§ 1910.171 Standards organizations.

Specific standards of the following organizations have been referenced in this part. Copies of the referenced materials may be obtained from the issuing organizations.

Compressed Gas Association, Inc., 500 Fifth Avenue, New York, NY 10036.
American Society of Mechanical Engineers, Inc., United Engineering Center, 345 East 47th Street, New York, NY 10017.
National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.
American National Standards Institute, 1430 Broadway, New York, NY 10018.

Subpart N—Materials Handling and Storage

§ 1910.176 Handling materials—general.

(a) *Use of mechanical equipment.* Where mechanical handling equipment is used, sufficient safe clearances shall be allowed for aisles, at loading docks, through doorways and wherever turns or passage must be made. Aisles and passageways shall be kept clear and in good repair, with no obstruction across or in aisles that could create a hazard. Permanent aisles and passageways shall be appropriately marked.

(b) *Secure storage.* Storage of material shall not create a hazard. Bags, containers, bundles, etc., stored in tiers shall be stacked, blocked, interlocked and limited in height so that they are stable and secure against sliding or collapse.

(c) *Housekeeping.* Storage areas shall be kept free from accumulation of materials that constitute hazards from tripping, fire, explosion, or pest harborage. Vegetation control will be exercised when necessary.

(d) *Drainage.* Proper drainage shall be provided.

(e) *Clearance limits.* Clearance signs to warn of clearance limits shall be provided.

(f) *Rolling railroad cars.* Derail and/or bumper blocks shall be provided on spur railroad tracks where a rolling car could contact other cars being worked, enter a building, work or traffic area.

(g) *Guarding.* Covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc.

§ 1910.177 Indoor general storage.

(a) *Definitions applicable to this section.* (1) "Available height for storage" means the maximum height at which commodities can be stored above the floor and still maintain adequate clearance from structural members and the required clearance below sprinklers.

(2) "Ordinary combustibles" designates commodities packaging or storage aids which have heats of combustion (British thermal units per pound) similar to wood, cloth, or paper and which produce fires that may normally be extinguished by the quenching and cooling effect of water. This type of fire is defined as a Class A fire in the Standard for the Installation of Portable Fire Extinguishers, NFPA No. 10–1970.

(3) "Exposure" means the exterior presence of combustibles which, if ignited, could cause damage to the storage building or its contents.

(4) A "firewall" is a wall designed to prevent the spread of fire, having a fire resistance rating of not less than 4 hours and having sufficient structural stability under fire conditions to allow collapse of construction on either side without collapse of wall.

(5) "Horizontal channel" means any uninterrupted space in excess of 5 feet in length between horizontal layers of stored commodities. Such channels may be formed by pallets, shelving, racks, or other storage arrangements.

(6) "Noncombustible" designates commodities, packaging, or storage aids which will not ignite, burn or liberate flammable gases when heated to a temperature of 1,380° Fahrenheit for 5 minutes.

(7) "Packaging" designates any commodity wrapping, cushioning, or container.

(8) "Storage aids" means commodity storage devices such as shelves, pallets, dunnage, decks, platforms, trays, bins, separators, and skids.

(9) A "warehouse" is any building or area within a building used principally for the storage of commodities.

(10) "Type I storage" is that in which combustible commodities or noncombustible commodities involving combustible packaging or storage aids are stored over 15 feet but not more than 21 feet high in solid piles or over 12 feet but not more than 21 feet high in piles that contain horizontal channels. Minor quantities of commodities of hazard greater than ordinary combustibles may be included without affecting this general classification.

(11) "Type II storage" is that in which combustible commodities or noncombustible commodities involving combustible packaging or storage aids are stored not over 15 feet high in solid piles or not over 12 feet high in piles that contain horizontal channels. Minor quantities of commodities of hazard greater than ordinary combustibles may be included without affecting this general classification.

(12) "Type III storage" is that in which the stored commodities, packaging and storage aids are noncombustible

or contain only a small concentration of combustibles which are incapable of producing a fire that would cause appreciable damage to the commodities stored or to noncombustible wall, floor or roof construction. Ordinary combustible commodities in completely sealed noncombustible containers may qualify in this classification. General commodity storage that is subject to frequent changing and storage of combustible packaging and storage aids is excluded from this category.

(13) "Approved" means listed or approved by at least one of the following nationally recognized testing laboratories: Underwriters Laboratories, Inc.; Factory Mutual Engineering Corp.

(b) *General requirements*—(1) *Application.* This standard applies to storage, 21 feet or less in height, of commodities which with their packaging and storage aids would classify as ordinary combustibles. This standard also applies to storage of commodities which with their packaging and storage aids would classify as noncombustibles regardless of storage height. This standard does not cover unpackaged bulk storage such as grain, coal, or similar commodities. The provisions contained in this standard apply to new buildings. Certain specific commodities introduce hazards different from those contemplated by this standard. Examples are rubber tires, roll paper, and wax-coated cartons.

(2) *Exemptions.* (i) Ordinary combustibles piled higher than 21 feet introduce serious fire protection problems which are not within the scope of this standard.

(ii) The provisions of this standard do not apply to Refrigerated Warehouses.

(3) *Portable fire extinguishers.* Portable fire extinguishers shall be provided at convenient conspicuously accessible locations. In locations where small hose is provided, portable fire extinguishers for Class A fires may be omitted.

(4) *Alarm service.* Storage facilities shall be provided with alarm service. (It may be in the form of central station supervision of automatic fire detection or sprinkler waterflow alarms or watchman making recorded rounds during unattended periods.)

(c) *Piling procedures and precautions.* (1) All commodities shall be stored, handled and piled with due regard to their fire characteristics.

(2) Significant quantities of commodities with fire hazards greater than ordinary combustible commodities as contemplated by this standard, shall be separated from the main bulk of storage by firewalls.

(3) Any commodities which may be hazardous in combination with each other shall be stored so that they cannot come in contact with each other.

(4) Safe floor loads shall not be exceeded.

(d) *Fire protection requirements*—(1) *Sprinkler systems.* All warehouses having combustible roof or floor construction and all warehouses containing Type I or Type II storage shall be protected with a system of automatic sprinklers designed and installed in accordance with the Standard for the Installation of Sprinkler Systems, NFPA No. 13–1969.

(2) *Hose system water supply.* (i) Water supplies for hose streams shall be provided to supplement that required for automatic sprinklers.

(ii) Where private underground supply mains are necessary, they shall be installed in accordance with Standard for Outside Protection, NFPA No. 24–1970.

(3) *Hose systems.* (i) Small hose (1½ inch) where required by this standard shall be installed in accordance with Standard for the Installation of Sprinkler Systems, NFPA No. 13–1969 and Standard for the Installation of Standpipe and Hose Systems, NFPA No. 14–1970.

(ii) In Type I and Type II storage, sufficient small hose (1½ inch) shall be provided so that one hose stream can reach any portion of the storage area. In buildings three stories or less high, small hose (1½ inch) may be supplied from the sprinkler system in accordance with limitations outlined in Standard for the Installation of Sprinkler Systems, NFPA No. 13–1969.

(iii) Standpipe and hose systems conforming to the requirements of Standard for the Installation of Standpipe and Hose Systems, NFPA No. 14–1970, shall be provided for buildings over three stories in height or having a floor level 75 feet or more above grade. Standpipes shall be fully equipped for fire department operations including fire department connections.

(iv) Large hose (2½ inch) and related equipment shall be provided unless the public fire department will provide such equipment promptly.

(e) *Mechanical handling equipment.* (1) Power-operated industrial trucks shall be of type designated in Standard for the Use, Maintenance and Operation of Powered Industrial Trucks, NFPA No. 505–1969, Part A, in accordance with the hazards of the location in which they are used.

(2) Maintenance and operation of electric, liquid, and gaseous fueled industrial trucks shall be in accordance with Standard for the Use, Maintenance and Operation of Powered Industrial Trucks, NFPA No. 505–1969, Parts B and C.

(f) *Building service equipment.* (1) Heating, lighting, and service equipment shall be of approved types, installed, maintained and operated in accordance with good practice.

(2) Steam lines and other heating equipment and machinery shall be installed or protected so that the stored commodities cannot come in contact with the heating elements.

(3) Electrical equipment shall be installed in accordance with the provisions of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968).

(4) Refrigeration systems, if used, shall conform to the recommendations of Safety Code for Mechanical Refrigeration, American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc. (ASHRE) 15–63, ANSI B9.1–1964.

(5) Stored commodities shall not be located under liquid fuel heating equipment.

(g) *Smoking.* Smoking shall be strictly prohibited, except in locations prominently designated as smoking areas, and "No Smoking" signs shall be posted in prohibited areas.

§ 1910.178 Powered industrial trucks.

(a) *General requirements.* (1) The requirements of this section apply to fire protection for fork trucks, tractors, platform lift trucks, motorized hand trucks and other specialized industrial trucks powered by electric motors or internal combustion engines. These fire protection requirements do not apply to compressed air or nonflammable compressed gas-operated industrial trucks, nor to farm vehicles, nor automotive vehicles for highway use.

(2) All new powered industrial trucks acquired and used by an employer after the effective date specified in paragraph (b) of § 1910.182 shall meet the design and construction requirements for powered industrial trucks established in the "American National Standard for Powered Industrial Trucks, Part II, ANSI B56.1–1969", except for vehicles intended primarily for earth moving or over-the-road hauling.

(3) Approved trucks shall bear a label or some other identifying mark indicating approval by the testing laboratory. See subparagraph (7) of this paragraph and paragraph 405 of "American National Standard for Powered Industrial Trucks, Part II, ANSI B56.1–1969", which is incorporated by reference in subparagraph (2) of this paragraph and which provides that if the powered industrial truck is accepted by a nationally recognized testing laboratory it should be so marked.

(4) Modifications and additions which affect capacity and safe operation shall not be performed by the customer or user without manufacturers prior written approval. Capacity, operation, and maintenance instruction plates, tags, or decals shall be changed accordingly.

(5) If the truck is equipped with front-end attachments other than factory installed attachments, the user shall request that the truck be marked to identify the attachments and show the approximate weight of the truck and attachment combination at maximum elevation with load laterally centered.

(6) The user shall see that all nameplates and markings are in place and are maintained in a legible condition.

(7) Definition: As used in this section, "approved" means labeled by a nationally recognized testing laboratory; i.e., a laboratory qualified and equipped to conduct the necessary tests required under "American National Standard for Powered Industrial Trucks, Part II, ANSI B56.1–1969", in accordance with the requirements of section 405 thereof.

(b) *Designations.* For the purpose of this standard there are eleven different designations of industrial trucks or tractors as follows: D, DS, DY, E, ES, EE, EX, G, GS, LP, and LPS.

(1) The D designated units are units similar to the G units except that they are diesel engine powered instead of gasoline engine powered.

(2) The DS designated units are diesel powered units that are provided with additional safeguards to the exhaust, fuel and electrical systems. They may be used in some locations where a D unit may not be considered suitable.

(3) The DY designated units are diesel powered units that have all the safeguards of the DS units and in addition do not have any electrical equipment including the ignition and are equipped with temperature limitation features.

(4) The E designated units are electrically powered units that have minimum acceptable safeguards against inherent fire hazards.

(5) The ES designated units are electrically powered units that, in addition to all of the requirements for the E units, are provided with additional safeguards to the electrical system to prevent emission of hazardous sparks and to limit surface temperatures. They may be used in some locations where the use of an E unit may not be considered suitable.

(6) The EE designated units are electrically powered units that have, in addition to all of the requirements for the E and ES units, the electric motors and all other electrical equipment completely enclosed. In certain locations the EE unit may be used where the use of an E and ES unit may not be considered suitable.

(7) The EX designated units are electrically powered units that differ from the E, ES, or EE units in that the electrical fittings and equipment are so designed, constructed and assembled that the units may be used in certain atmospheres containing flammable vapors or dusts.

(8) The G designated units are gasoline powered units having minimum acceptable safeguards against inherent fire hazards.

(9) The GS designated units are gasoline powered units that are provided with additional safeguards to the exhaust, fuel, and electrical systems. They may be used in some locations where the use of a G unit may not be considered suitable.

(10) The LP designated unit is similar to the G unit except that liquefied petroleum gas is used for fuel instead of gasoline.

(11) The LPS designated units are liquefied petroleum gas powered units that are provided with additional safeguards to the exhaust, fuel, and electrical systems. They may be used in some locations where the use of an LP unit may not be considered suitable.

(12) The atmosphere or location shall have been classified as to whether it is hazardous or nonhazardous prior to the consideration of industrial trucks being used therein and the type of industrial truck required shall be as provided in paragraph (d) of this section for such location.

(c) *Designated locations.* (1) The industrial trucks specified under subparagraph (2) of this paragraph are the minimum types required but industrial trucks having greater safeguards may be used if desired.

(2) For specific areas of use see Table N–1 which tabulates the information contained in this section. References in parentheses are to the corresponding classification as used in the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968) for the convenience of persons familiar with those classifications.

TABLE N–1

SUMMARY TABLE ON USE OF INDUSTRIAL TRUCKS IN VARIOUS LOCATIONS

Classes	Unclassified	Class I locations							Class II locations						Class III locations	
Description of classes	Locations not possessing atmospheres as described in other columns.	Locations in which flammable gases or vapors are, or may be, present in the air in quantities sufficient to produce explosive or ignitible mixtures.							Locations which are hazardous because of the presence of combustible dust.						Locations where easily ignitible fibers or flyings are present but not likely to be in suspension in quantities sufficient to produce ignitible mixtures.	
Groups in classes	None	A		B	C	D		E	F		G			None		
Examples of locations or atmospheres in classes and groups	Piers and Wharves inside and outside general storage General industrial or commercial properties	Acetylene		Hydrogen	Ethyl ether	Gasoline Naphtha Alcohols Acetone Lacquer solvent Benzene		Metal dust	Carbon black Coal dust Coke dust		Grain dust Flour dust Starch dust Organic dust			Baled waste, cocoa fiber, cotton, excelsior, hemp, istle, jute, kapok, oakum, sisal, Spanish moss, synthetic fibers, tow.		
Divisions (Nature of Hazardous Conditions)	None	1		2		2		1	2		2			1		2
		Above condition exists continuously, intermittently, or periodically under normal operating conditions.		Above condition may occur accidentally as due to a puncture of a storage drum.				Explosive mixture may be present under normal operating conditions, or where failure of equipment may cause the condition to exist simultaneously with arcing or sparking of electrical equipment, or where dusts of an electrically conducting nature may be present.			Explosive mixture not normally present, but where deposits of dust may cause heat rise in electrical equipment, or where such deposits may be ignited by arcs or sparks from electrical equipment.			Locations in which easily ignitible fibers or materials producing combustible flyings are handled, manufactured, or used.		Locations in which easily ignitible fibers are stored or handled (except in the process of manufacture).
		Authorized uses of trucks by types in groups or classes and divisions														
Groups in classes	None	A	B	C	D	A	B	C	D	E	F	G	E	F	G	None	None
Types of trucks authorized:																	
Diesel:																	
Type D	D**																
Type DS									DS						DS		
Type DY									DY						DY	DY	DY
Electric:																	
Type E	E**																E
Type ES									ES						ES		ES
Type EE									EE						EE	EE	EE
Type EX					EX				EX		EX	EX			EX	EX	EX
Gasoline:																	
Type G	G**																
Type GS									GS						GS		GS
LP-Gas:																	
Type LP	LP**																
Type LPS									LPS						LPS		LPS
Paragraph Ref. in No. 505	210.211	201 (a)		203 (a)	209 (a)	204 (a), (b)		202 (a)	205 (a)	209 (a)	206 (a) (b)			207 (a)		208 (a)	

**Trucks conforming to these Types may also be used—see subdivision (c)(2)(x) and (c)(2)(xii) of this section.

References in parentheses are to the corresponding classification as used in the National Electrical Code (NFPA No. 70, ANSI Standard C1–1968) for the convenience of persons familiar with those classifications.

(i) Power-operated industrial trucks shall not be used in atmospheres containing hazardous concentration of acetylene, butadiene, ethylene oxide, hydrogen (or gases or vapors equivalent in hazard to hydrogen, such as manufactured gas), propylene oxide, acetaldehyde, cyclopropane, diethyl ether, ethylene, isoprene, or unsymmetrical dimethyl hydrazine (UDMH).

(ii) (*a*) Power-operated industrial trucks shall not be used in atmospheres containing hazardous concentrations of metal dust, including aluminum, magnesium, and their commercial alloys, other metals of similarly hazardous characteristics, or in atmospheres containing carbon black, coal or coke dust except approved power-operated industrial trucks designated as EX may be used in such atmospheres.

(*b*) In atmospheres where dust of magnesium, aluminum or aluminum bronze may be present, fuses, switches, motor controllers, and circuit breakers of trucks shall have enclosures specifically approved for such locations.

(iii) Only approved power-operated industrial trucks designated as EX may be used in atmospheres containing acetone, acrylonitrile, alcohol, ammonia, benzine, benzol, butane, ethylene dichloride, gasoline, hexane, lacquer solvent vapors, naphtha, natural gas, propane, propylene, styrene, vinyl acetate, vinyl chloride, or xylenes in quantities sufficient to produce explosive or ignitable mixtures and where such concentrations of these gases or vapors exist continuously, intermittently or periodically under normal operating conditions or may exist frequently because of repair, maintenance operations, leakage, breakdown or faulty operation of equipment.

(iv) Power-operated industrial trucks designated as DY, EE, or EX may be used in locations where volatile flammable liquids or flammable gases are handled, processed or used, but in which the hazardous liquids, vapors or gases will normally be confined within closed containers or closed systems from which they can escape only in case of accidental rupture or breakdown of such containers or systems, or in the case of abnormal operation of equipment; also in locations in which hazardous concentrations of gases or vapors are normally prevented by positive mechanical ventilation but which might become hazardous through failure or abnormal operation of the ventilating equipment; or in locations which are adjacent to Class I, Division 1 locations, and to which hazardous concentrations of gases or vapors might occasionally be communicated unless such communication is prevented by adequate positive-pressure ventilation from a source of clear air, and effective safeguards against ventilation failure are provided.

(v) In locations used for the storage of hazardous liquids in sealed containers or liquified or compressed gases in containers, approved power-operated industrial trucks designated as DS, ES, GS, or LPS may be used. This classification includes locations where volatile flammable liquids or flammable gases or vapors are used, but which, would become hazardous only in case of an accident or of some unusual operating condition. The quantity of hazardous material that might escape in case of accident, the adequacy of ventilating equipment, the total area involved, and the record of the industry or business with respect to explosions or fires are all factors that should receive consideration in determining whether or not the DS or DY, ES, EE, GS, LPS designated truck possesses sufficient safeguards for the location. Piping without valves, checks, meters and similar devices would not ordinarily be deemed to introduce a hazardous condition even though used for hazardous liquids or gases. Locations used for the storage of hazardous liquids or of liquified or compressed gases in sealed containers would not normally be considered hazardous unless subject to other hazardous conditions also.

(vi) (*a*) Only approved power-operated industrial trucks designated as EX shall be used in atmospheres in which combustible dust is or may be in suspension continuously, intermittently, or periodically under normal operating conditions, in quantities sufficient to produce explosive or ignitable mixtures, or where mechanical failure or abnormal operation of machinery or equipment might cause such mixtures to be produced.

(*b*) The EX classification usually includes the working areas of grain handling and storage plants, room containing grinders or pulverizers, cleaners, graders, scalpers, open conveyors or spouts, open bins or hoppers, mixers, or blenders, automatic or hopper scales, packing machinery, elevator heads and boots, stock distributors, dust and stock collectors (except all-metal collectors vented to the outside), and all similar dust producing machinery and equipment in grain processing plants, starch plants, sugar pulverizing plants, malting plants, hay grinding plants, and other occupancies of similar nature; coal pulverizing plants (except where the pulverizing equipment is essentially dust tight); all working areas where metal dusts and powders are produced, processed, handled, packed, or stored (except in tight containers); and other similar locations where combustible dust may, under normal operating conditions, be present in the air in quantities sufficient to produce explosive or ignitable mixtures.

(vii) Only approved power-operated industrial trucks designated as DY, EE, or EX shall be used in atmospheres in which combustible dust will not normally be in suspension in the air or will not be likely to be thrown into suspension by the normal operation of equipment or apparatus in quantities sufficient to produce explosive or ignitable mixtures but where deposits or accumulations of such dust may be ignited by arcs or sparks originating in the truck.

(viii) Only approved power-operated industrial trucks designated as DY, EE, or EX shall be used in locations which are hazardous because of the presence of easily ignitible fibers or flyings but in which such fibers or flyings are not likely to be in suspension in the air in quantities sufficient to produce ignitable mixtures.

(ix) Only approved power-operated industrial trucks designated as DS, DY, ES, EE, EX, GS, or LPS shall be used in locations where easily ignitable fibers are stored or handled, including outside storage, but are not being processed or manufactured. Industrial trucks designated as E, which have been previously used in these locations may be continued in use.

(x) On piers and wharves handling general cargo, any approved power-operated industrial truck designated as Type D, E, G, or LP may be used, or trucks which conform to the requirements for these types may be used.

(xi) If storage warehouses and outside storage locations are hazardous only the approved power-operated industrial truck specified for such locations in this paragraph (c)(2) shall be used. If not classified as hazardous, any approved power-operated industrial truck designated as Type D, E, G, or LP may be used, or trucks which conform to the requirements for these types may be used.

(xii) If general industrial or commercial properties are hazardous, only approved power-operated industrial trucks specified for such locations in this paragraph (c)(2) shall be used. If not classified as hazardous, any approved power-operated industrial truck designated as Type D, E, G, or LP may be used, or trucks which conform to the requirements of these types may be used.

(d) *Converted industrial trucks.* Power-operated industrial trucks that have been originally approved for the use of gasoline for fuel, when converted to the use of liquefied petroleum gas fuel in accordance with paragraph (q) of this section, may be used in those locations where G, GS or LP, and LPS designated trucks have been specified in the preceding paragraphs.

(e) *Safety guards.* (1) High Lift Rider trucks shall be fitted with an overhead guard manufactured in accordance with paragraph (a)(2) of this section, unless operating conditions do not permit.

(2) If the type of load presents a hazard, the user shall equip fork trucks with a vertical load backrest extension manufactured in accordance with paragraph (a)(2) of this section.

(f) *Fuel handling and storage.* (1) The storage and handling of liquid fuels such as gasoline and diesel fuel shall be in accordance with NFPA Flammable and Combustible Liquids Code (NFPA No. 30–1969).

(2) The storage and handling of liquefied petroleum gas fuel shall be in accordance with NFPA Storage and Handling of Liquefied Petroleum Gases (NFPA No. 58–1969).

(g) *Changing and charging storage batteries.* (1) Battery charging installations shall be located in areas designated for that purpose.

(2) Facilities shall be provided for flushing and neutralizing spilled electrolyte, for fire protection, for protecting charging apparatus from damage by trucks, and for adequate ventilation for dispersal of fumes from gassing batteries.

(3) When racks are used for support of batteries, they should be made of materials nonconductive to spark generation or be coated or covered to achieve this objective.

(4) A conveyor, overhead hoist, or equivalent material handling equipment shall be provided for handling batteries.

(5) Reinstalled batteries shall be properly positioned and secured in the truck.

(6) A carboy tilter or siphon shall be provided for handling electrolyte.

(7) When charging batteries, acid shall be poured into water; water shall not be poured into acid.

(8) Trucks shall be properly positioned and brake applied before attempting to change or charge batteries.

(9) When charging batteries, the vent caps should be kept in place to avoid electrolyte spray. Care shall be taken to assure that vent caps are functioning. The battery (or compartment) cover(s) shall be open to dissipate heat.

(10) Smoking shall be prohibited in the charging area.

(11) Precautions shall be taken to prevent open flames, sparks, or electric arcs in battery charging areas.

(12) Tools and other metallic objects shall be kept away from the top of uncovered batteries.

(h) *Lighting for operating areas.* (1) Controlled lighting of adequate intensity should be provided in operating areas. (See American National Standard Practice for Industrial Lighting, A11.1–1965 (R1970)).

(2) Where general lighting is less than 2 lumens per square foot, auxiliary directional lighting shall be provided on the truck.

(i) *Control of noxious gases and fumes.* (1) Concentration levels of carbon monoxide gas created by powered industrial truck operations shall not exceed the levels specified in § 1910.93.

(2) Questions concerning degree of concentration and methods of sampling to ascertain the conditions should be referred to a qualified industrial hygienist.

(j) *Dockboards (bridge plates).* See § 1910.30(a).

(k) *Trucks and railroad cars.* (1) The brakes of highway trucks shall be set and wheel chocks placed under the rear wheels to prevent the trucks from rolling while they are boarded with powered industrial trucks.

(2) Wheel stops or other recognized positive protection shall be provided to prevent railroad cars from moving during loading or unloading operations.

(3) Fixed jacks may be necessary to support a semitrailer and prevent upending during the loading or unloading when the trailer is not coupled to a tractor.

(4) Positive protection shall be provided to prevent railroad cars from being moved while dockboards or bridge plates are in position.

(l) *Operator training.* Only trained and authorized operators shall be permitted to operate a powered industrial truck. Methods shall be devised to train operators in the safe operation of powered industrial trucks.

(m) *Truck operations.* (1) Trucks shall not be driven up to anyone standing in front of a bench or other fixed object.

(2) No person shall be allowed to stand or pass under the elevated portion of any truck, whether loaded or empty.

(3) Unauthorized personnel shall not be permitted to ride on powered industrial trucks. A safe place to ride shall be provided where riding of trucks is authorized.

(4) The employer shall prohibit arms or legs from being placed between the uprights of the mast or outside the running lines of the truck.

(5) When leaving a powered industrial truck unattended, load engaging means shall be fully lowered, controls shall be neutralized, power shut off, brakes set, key or connector plug removed. Wheels shall be blocked if the truck is parked on an incline.

(6) A safe distance shall be maintained from the edge of ramps or platforms while on any elevated dock, or platform or freight car. Trucks shall not be used for opening or closing freight doors.

(7) Brakes shall be set and wheel blocks shall be in place to prevent movement of trucks, trailers, or railroad cars while loading or unloading. Fixed jacks may be necessary to support a semitrailer during loading or unloading when the trailer is not coupled to a tractor. The flooring of trucks, trailers, and railroad cars shall be checked for breaks and weakness before they are driven onto.

(8) There shall be sufficient headroom under overhead installations, lights, pipes, sprinkler system, etc.

(9) An overhead guard shall be used as protection against falling objects. It should be noted that an overhead guard is intended to offer protection from the impact of small packages, boxes, bagged material, etc., representative of the job application, but not to withstand the impact of a falling capacity load.

(10) A load backrest extension shall be used whenever necessary to minimize the possibility of the load or part of it from falling rearward.

(11) Only approved industrial trucks shall be used in hazardous locations.

(12) Whenever a truck is equipped with vertical only, or vertical and horizontal controls elevatable with the lifting carriage or forks for lifting personnel, the following additional precautions shall be taken for the protection of personnel being elevated.

(i) Use of a safety platform firmly secured to the lifting carriage and/or forks.

(ii) Means shall be provided whereby personnel on the platform can shut off power to the truck.

(iii) Such protection from falling objects as indicated necessary by the operating conditions shall be provided.

(13) Spinner knobs must not be attached to steering handwheels of trucks not originally equipped with such.

(14) Fire aisles, access to stairways, and fire equipment shall be kept clear.

(n) *Traveling.* (1) All traffic regulations shall be observed, including authorized plant speed limits. A safe distance shall be maintained approximately three truck lengths from the truck ahead, and the truck shall be kept under control at all times.

(2) The right of way shall be yielded to ambulances, fire trucks, or other vehicles in emergency situations.

(3) Other trucks traveling in the same direction at intersections, blind spots, or other dangerous locations shall not be passed.

(4) The driver shall be required to slow down and sound the horn at cross aisles and other locations where vision is obstructed. If the load being carried obstructs forward view, the driver shall be required to travel with the load trailing.

(5) Railroad tracks shall be crossed diagonally wherever possible. Parking closer than 8 feet from the center of railroad tracks is prohibited.

(6) The driver shall be required to look in the direction of, and keep a clear view of the path of travel.

(7) Grades shall be ascended or descended slowly.

(i) When ascending or descending grades in excess of 10 percent, loaded trucks shall be driven with the load upgrade.

(ii) Unloaded trucks should be operated on all grades with the load engaging means downgrade.

(iii) On all grades the load and load engaging means shall be tilted back if applicable, and raised only as far as necessary to clear the road surface.

(8) Under all travel conditions the truck shall be operated at a speed that will permit it to be brought to a stop in a safe manner.

(9) Stunt driving and horseplay shall not be permitted.

(10) The driver shall be required to slow down for wet and slippery floors.

(11) Dockboard or bridgeplates, shall be properly secured before they are driven over. Dockboard or bridgeplates shall be driven over carefully and slowly and their rated capacity never exceeded.

(12) Elevators shall be approached slowly, and then entered squarely after the elevator car is properly leveled. Once on the elevator, the controls shall be neutralized, power shut off, and the brakes set.

(13) Motorized hand trucks must enter elevator or other confined areas with load end forward.

(14) Running over loose objects on the roadway surface shall be avoided.

(15) While negotiating turns, speed shall be reduced to a safe level by means

of turning the hand steering wheel in a smooth, sweeping motion. Except when maneuvering at a very low speed, the hand steering wheel shall be turned at a moderate, even rate.

(o) *Loading.* (1) Only stable or safely arranged loads shall be handled. Caution shall be exercised when handling off-center loads which cannot be centered.

(2) Only loads within the rated capacity of the truck shall be handled.

(3) The long or high (including multiple-tiered) loads which may affect capacity shall be adjusted.

(4) When attachments are used, particular care should be taken in securing, manipulating, positioning, and transporting the load. Trucks equipped with attachments shall be operated as partially loaded trucks when not handling a load.

(5) A load engaging means shall be placed under the load as far as possible; the mast shall be carefully tilted backward to stabilize the load.

(6) Extreme care shall be used when tilting the load forward or backward, particularly when high tiering. Tilting forward with load engaging means elevated shall be prohibited except to pick up a load. An elevated load shall not be tilted forward except when the load is in a deposit position over a rack or stack. When stacking or tiering, only enough backward tilt to stabilize the load shall be used.

(p) *Operation of the truck.* (1) If at any time a powered industrial truck is found to be in need of repair, defective, or in any way unsafe, the truck shall be taken out of service until it has been restored to safe operating condition.

(2) Fuel tanks shall not be filled while the engine is running. Spillage shall be avoided.

(3) Spillage of oil or fuel shall be carefully washed away or completely evaporated and the fuel tank cap replaced before restarting engine.

(4) No truck shall be operated with a leak in the fuel system until the leak has been corrected.

(5) Open flames shall not be used for checking electrolyte level in storage batteries or gasoline level in fuel tanks.

(q) *Maintenance of industrial trucks.* (1) Any power-operated industrial truck not in safe operating condition shall be removed from service. All repairs shall be made by authorized personnel.

(2) No repairs shall be made in Class I, II, and III locations.

(3) Those repairs to the fuel and ignition systems of industrial trucks which involve fire hazards shall be conducted only in locations designated for such repairs.

(4) Trucks in need of repairs to the electrical system shall have the battery disconnected prior to such repairs.

(5) All parts of any such industrial truck requiring replacement shall be replaced only by parts equivalent as to safety with those used in the original design.

(6) Industrial trucks shall not be altered so that the relative positions of the various parts are different from what they were when originally received from the manufacturer, nor shall they be altered either by the addition of extra parts not provided by the manufacturer or by the elimination of any parts, except as provided in subparagraph (12) of this paragraph. Additional counterweighting of fork trucks shall not be done unless approved by the truck manufacturer.

(7) Industrial trucks shall be examined before being placed in service, and shall not be placed in service if the examination shows any condition adversely affecting the safety of the vehicle. Such examination shall be made at least daily.

Where industrial trucks are used on a round-the-clock basis, they shall be examined after each shift. Defects when found shall be immediately reported and corrected.

(8) Water mufflers shall be filled daily or as frequently as is necessary to prevent depletion of the supply of water below 75 percent of the filled capacity. Vehicles with mufflers having screens or other parts that may become clogged shall not be operated while such screens or parts are clogged. Any vehicle that emits hazardous sparks or flames from the exhaust system shall immediately be removed from service, and not returned to service until the cause for the emission of such sparks and flames has been eliminated.

(9) When the temperature of any part of any truck is found to be in excess of its normal operating temperature, thus creating a hazardous condition, the vehicle shall be removed from service and not returned to service until the cause for such overheating has been eliminated.

(10) Industrial trucks shall be kept in a clean condition, free of lint, excess oil, and grease. Noncombustible agents should be used for cleaning trucks. Low flash point (below 100° F.) solvents shall not be used. High flash point (at or above 100° F.) solvents may be used. Precautions regarding toxicity, ventilation, and fire hazard shall be consonant with the agent or solvent used.

(11) Where it is necessary to use antifreeze in the engine cooling system, only those products having a glycol base shall be used.

(12) Industrial trucks originally approved for the use of gasoline for fuel may be converted to liquefied petroleum gas fuel provided the complete conversion results in a truck which embodies the features specified for LP or LPS designated trucks. Such conversion equipment shall be approved. The description of the component parts of this conversion system and the recommended method of installation on specific trucks are contained in the "Listed by Report."

§ 1910.179 Overhead and gantry cranes.

(a) *Definitions applicable to this section.* (1) A "crane" is a machine for lifting and lowering a load and moving it horizontally, with the hoisting mechanism an integral part of the machine. Cranes whether fixed or mobile are driven manually or by power.

(2) An "automatic crane" is a crane which when activated operates through a preset cycle or cycles.

(3) A "cab-operated crane" is a crane controlled by an operator in a cab located on the bridge or trolley.

(4) "Cantilever gantry crane" means a gantry or semigantry crane in which the bridge girders or trusses extend transversely beyond the crane runway on one or both sides.

(5) "Floor-operated crane" means a crane which is pendant or nonconductive rope controlled by an operator on the floor or an independent platform.

(6) "Gantry crane" means a crane similar to an overhead crane except that the bridge for carrying the trolley or trolleys is rigidly supported on two or more legs running on fixed rails or other runway.

(7) "Hot metal handling crane" means an overhead crane used for transporting or pouring molten material.

(8) "Overhead crane" means a crane with a movable bridge carrying a movable or fixed hoisting mechanism and traveling on an overhead fixed runway structure.

(9) "Power-operated crane" means a crane whose mechanism is driven by electric, air, hydraulic, or internal combustion means.

(10) A "pulpit-operated crane" is a crane operated from a fixed operator station not attached to the crane.

(11) A "remote-operated crane" is a crane controlled by an operator not in a pulpit or in the cab attached to the crane, by any method other than pendant or rope control.

(12) A "semigantry crane" is a gantry crane with one end of the bridge rigidly supported on one or more legs that run on a fixed rail or runway, the other end of the bridge being supported by a truck running on an elevated rail or runway.

(13) "Storage bridge crane" means a gantry type crane of long span usually used for bulk storage of material; the bridge girders or trusses are rigidly or nonrigidly supported on one or more legs. It may have one or more fixed or hinged cantilever ends.

(14) "Wall crane" means a crane having a jib with or without trolley and supported from a side wall or line of columns of a building. It is a traveling type and operates on a runway attached to the side wall or columns.

(15) "Appointed" means assigned specific responsibilities by the employer or the employer's representative.

(16) "ANSI" means the American National Standards Institute.

(17) An "auxiliary hoist" is a supplemental hoisting unit of lighter capacity and usually higher speed than provided for the main hoist.

(18) A "brake" is a device used for retarding or stopping motion by friction or power means.

(19) A "drag brake" is a brake which provides retarding force without external control.

(20) A "holding brake" is a brake that automatically prevents motion when power is off.

(21) "Bridge" means that part of a crane consisting of girders, trucks, end ties, footwalks, and drive mechanism which carries the trolley or trolleys.

(22) "Bridge travel" means the crane movement in a direction parallel to the crane runway.

(23) A "bumper" (buffer) is an energy absorbing device for reducing impact when a moving crane or trolley reaches the end of its permitted travel; or when two moving cranes or trolleys come in contact.

(24) The "cab" is the operator's compartment on a crane.

(25) "Clearance" means the distance from any part of the crane to a point of the nearest obstruction.

(26) "Collectors current" are contacting devices for collecting current from runway or bridge conductors.

(27) "Conductors, bridge" are the electrical conductors located along the bridge structure of a crane to provide power to the trolley.

(28) "Conductors, runway" (main) are the electrical conductors located along a crane runway to provide power to the crane.

(29) The "control braking means" is a method of controlling crane motor speed when in an overhauling condition.

(30) "Countertorque" means a method of control by which the power to the motor is reversed to develop torque in the opposite direction.

(31) "Dynamic" means a method of controlling crane motor speeds when in the overhauling condition to provide a retarding force.

(32) "Regenerative" means a form of dynamic braking in which the electrical energy generated is fed back into the power system.

(33) "Mechanical" means a method of control by friction.

(34) "Controller, spring return" means a controller which when released will return automatically to a neutral position.

(35) "Designated" means selected or assigned by the employer or the employer's representative as being qualified to perform specific duties.

(36) A "drift point" means a point on a travel motion controller which releases the brake while the motor is not energized. This allows for coasting before the brake is set.

(37) The "drum" is the cylindrical member around which the ropes are wound for raising or lowering the load.

(38) An "equalizer" is a device which compensates for unequal length or stretch of a rope.

(39) "Exposed" means capable of being contacted inadvertently. Applied to hazardous objects not adequately guarded or isolated.

(40) "Fail-safe" means a provision designed to automatically stop or safely control any motion in which a malfunction occurs.

(41) "Footwalk" means the walkway with handrail, attached to the bridge or trolley for access purposes.

(42) A "hoist" is an apparatus which may be a part of a crane, exerting a force for lifting or lowering.

(43) "Hoist chain" means the load bearing chain in a hoist.

NOTE: Chain properties do not conform to those shown in ANSI B30.9–1971, Safety Code for Slings.

(44) "Hoist motion" means that motion of a crane which raises and lowers a load.

(45) "Load" means the total superimposed weight on the load block or hook.

(46) The "load block" is the assembly of hook or shackle, swivel, bearing, sheaves, pins, and frame suspended by the hoisting rope.

(47) "Magnet" means an electromagnetic device carried on a crane hook to pick up loads magnetically.

(48) "Main hoist" means the hoist mechanism provided for lifting the maximum rated load.

(49) A "man trolley" is a trolley having an operator's cab attached thereto.

(50) "Rated load" means the maximum load for which a crane or individual hoist is designed and built by the manufacturer and shown on the equipment nameplate(s).

(51) "Rope" refers to wire rope, unless otherwise specified.

(52) "Running sheave" means a sheave which rotates as the load block is raised or lowered.

(53) "Runway" means an assembly of rails, beams, girders, brackets, and framework on which the crane or trolley travels.

(54) "Side pull" means that portion of the hoist pull acting horizontally when the hoist lines are not operated vertically.

(55) "Span" means the horizontal distance center to center of runway rails.

(56) "Standby crane" means a crane which is not in regular service but which is used occasionally or intermittently as required.

(57) A "stop" is a device to limit travel of a trolley or crane bridge. This device normally is attached to a fixed structure and normally does not have energy absorbing ability.

(58) A "switch" is a device for making, breaking, or for changing the connections in an electric circuit.

(59) An "emergency stop switch" is a manually or automatically operated electric switch to cut off electric power independently of the regular operating controls.

(60) A "limit switch" is a switch which is operated by some part or motion of a power-driven machine or equipment to alter the electric circuit associated with the machine or equipment.

(61) A "main switch" is a switch controlling the entire power supply to the crane.

(62) A "master switch" is a switch which dominates the operation of contactors, relays, or other remotely operated devices.

(63) The "trolley" is the unit which travels on the bridge rails and carries the hoisting mechanism.

(64) "Trolley travel" means the trolley movement at right angles to the crane runway.

(65) "Truck" means the unit consisting of a frame, wheels, bearings, and axles which supports the bridge girders or trolleys.

(b) *General requirements.*—(1) *Application.* This section applies to overhead and gantry cranes, including semigantry, cantilever gantry, wall cranes, storage bridge cranes, and others having the same fundamental characteristics. These cranes are grouped because they all have trolleys and similar travel characteristics.

(2) *New and existing equipment.* All new overhead and gantry cranes constructed and installed on or after August 31, 1971, shall meet the design specifications of the American National Standard Safety Code for Overhead and Gantry Cranes, ANSI B30.2.0–1967. Overhead and gantry cranes constructed before August 31, 1971, should be modified to conform to those design specifications by February 15, 1972, unless it can be shown that the crane cannot feasibly or economically be altered and that the crane substantially complies with the requirements of this section.

(3) *Modifications.* Cranes may be modified and rerated provided such modifications and the supporting structure are checked thoroughly for the new rated load by a qualified engineer or the equipment manufacturer. The crane shall be tested in accordance with paragraph (k)(2) of this section. New rated load shall be displayed in accordance with subparagraph (5) of this paragraph.

(4) *Wind indicators and rail clamps.* Outdoor storage bridges shall be provided with automatic rail clamps. A wind-indicating device shall be provided which will give a visible or audible alarm to the bridge operator at a predetermined wind velocity. If the clamps act on the rail heads, any beads or weld flash on the rail heads shall be ground off.

(5) *Rated load marking.* The rated load of the crane shall be plainly marked on each side of the crane, and if the crane has more than one hoisting unit, each hoist shall have its rated load marked on it or its load block and this marking shall be clearly legible from the ground or floor.

(6) *Clearance from obstruction.* (i) Minimum clearance of 3 inches overhead and 2 inches laterally shall be provided and maintained between crane and obstructions in conformity with Crane Manufacturers Association of America, Inc., Specification No. 61 (formerly the Electric Overhead Crane Institute, Inc).

(ii) Where passageways or walkways are provided obstructions shall not be placed so that safety of personnel will be jeopardized by movements of the crane.

(7) *Clearance between parallel cranes.* If the runways of two cranes are parallel, and there are no intervening walls or structure, there shall be adequate clearance provided and maintained between the two bridges.

(c) *Cabs.*—(1) *Cab location.* (i) The general arrangement of the cab and the location of control and protective equipment shall be such that all operating handles are within convenient reach of

the operator when facing the area to be served by the load hook, or while facing the direction of travel of the cab. The arrangement shall allow the operator a full view of the load hook in all positions.

(ii) The cab shall be located to afford a minimum of 3 inches clearance from all fixed structures within its area of possible movement.

(iii) The clearance of the cab above the working floor or passageway should be not less than 7 feet.

(2) *Access to crane.* Access to the cab and/or bridge walkway shall be by a conveniently placed fixed ladder, stairs, or platform requiring no step over any gap exceeding 12 inches. Fixed ladders shall be in conformance with the American National Standard Safety Code for Fixed Ladders, ANSI A14.3–1956.

(3) *Fire extinguisher.* A carbon dioxide, dry-chemical, or equivalent hand fire extinguisher should be kept in the cab. Carbon tetrachloride extinguishers shall not be used.

(4) *Lighting.* Light in the cab shall be sufficient to enable the operator to see clearly enough to perform his work.

(d) *Footwalks and ladders*—(1) *Location of footwalks.* (i) If sufficient headroom is available on cab-operated cranes, a footwalk shall be provided on the drive side along the entire length of the bridge of all cranes having the trolley running on the top of the girders. To give sufficient access to the opposite side of the trolley, there should be provided either a footwalk mounted on the trolley, a suitable footwalk or platform in the building, or a footwalk on the opposite side of the crane at least twice the length of the trolley.

(ii) Footwalks should be located to give a headroom not less than 78 inches. In no case shall less than 48 inches be provided. If 48 inches of headroom cannot be provided, footwalks should be omitted from the crane and a stationary platform or landing stage built for workmen making repairs.

(2) *Construction of footwalks.* (i) Footwalks shall be of rigid construction and designed to sustain a distributed load of at least 50 pounds per square foot.

(ii) Footwalks shall have a walking surface of antislip type.

NOTE: Wood will meet this requirement.

(iii) Footwalks should be continuous and permanently secured.

(iv) Footwalks should have a clear passageway at least 18 inches wide except opposite the bridge motor, where they should be not less than 15 inches. The inner edge shall extend at least to the line of the outside edge of the lower cover plate or flange of the girder.

(3) *Toeboards and handrails for footwalks.* Toeboards and handrails shall be in compliance with section 1910.23 of this part.

(4) *Ladders and stairways.* (i) Gantry cranes shall be provided with ladders or stairways extending from the ground to the footwalk or cab platform.

(ii) Stairways shall be equipped with rigid and substantial metal handrails. Walking surfaces shall be of an antislip type.

(iii) Ladders shall be permanently and securely fastened in place and shall be constructed in compliance with § 1910.27.

(e) *Stops, bumpers, rail sweeps, and guards*—(1) *Trolley stops.* (i) Stops shall be provided at the limits of travel of the trolley.

(ii) Stops shall be fastened to resist forces applied when contacted.

(iii) A stop engaging the tread of the wheel shall be of a height at least equal to the radius of the wheel.

(2) *Bridge bumpers.* (i) A crane shall be provided with bumpers capable of stopping the crane (not including the lifted load) at a rate of deceleration not to exceed 3 feet per second per second when traveling in either direction at 20 percent of the rated load speed.

(*a*) The bumper shall have sufficient energy absorbing capacity to stop the crane when traveling at a speed of at least 40 percent of rated load speed.

(*b*) The bumper shall be so mounted that there is no direct shear on bolts.

(ii) Bumpers shall be so designed and installed as to minimize parts falling from the crane in case of breakage.

(3) *Trolley bumpers.* (i) Trolley shall be provided with bumpers capable of stopping the trolley (not including the lifted load) at a rate of deceleration not to exceed 4.7 feet per second per second when traveling in either direction at one-third of the rated load speed.

(ii) When more than one trolley is operated on the same bridge, each shall be equipped with bumpers on adjacent ends.

(iii) Bumpers shall be designed and installed to minimize parts falling from the trolley in case of breakage.

(4) *Rail sweeps.* Bridge trucks shall be equipped with sweeps which extend below the top of the rail and project in front of the truck wheels.

(5) *Guards for hoisting ropes.* (i) If hoisting ropes run near enough to other parts to make fouling or chafing possible, guards shall be installed to prevent this condition.

(ii) A guard shall be provided to prevent contact between bridge conductors and hoisting ropes if they could come into contact.

(6) *Guards for moving parts.* (i) Exposed moving parts such as gears, set screws, projecting keys, chains, chain sprockets, and reciprocating components which might constitute a hazard under normal operating conditions shall be guarded.

(ii) Guards shall be securely fastened.

(iii) Each guard shall be capable of supporting without permanent distortion the weight of a 200-pound person unless the guard is located where it is impossible for a person to step on it.

(f) *Brakes*—(1) *Brakes for hoists.* (i) Each independent hoisting unit of a crane shall be equipped with at least one self-setting brake, hereafter referred to as a holding brake, applied directly to the motor shaft or some part of the gear train.

(ii) Each independent hoisting unit of a crane, except worm-geared hoists, the angle of whose worm is such as to prevent the load from accelerating in the lowering direction shall, in addition to a holding brake, be equipped with control braking means to prevent overspeeding.

(2) *Holding brakes.* (i) Holding brakes for hoist motors shall have not less than the following percentage of the full load hoisting torque at the point where the brake is applied.

(*a*) 125 percent when used with a control braking means other than mechanical.

(*b*) 100 percent when used in conjunction with a mechanical control braking means.

(c) 100 percent each if two holding brakes are provided.

(ii) Holding brakes on hoists shall have ample thermal capacity for the frequency of operation required by the service.

(iii) Holding brakes on hoists shall be applied automatically when power is removed.

(iv) Where necessary holding brakes shall be provided with adjustment means to compensate for wear.

(v) The wearing surface of all holding-brake drums or discs shall be smooth.

(vi) Each independent hoisting unit of a crane handling hot metal and having power control braking means shall be equipped with at least two holding brakes.

(3) *Control braking means.* (i) A power control braking means such as regenerative, dynamic or countertorque braking, or a mechanically controlled braking means shall be capable of maintaining safe lowering speeds of rated loads.

(ii) The control braking means shall have ample thermal capacity for the frequency of operation required by service.

(4) *Brakes for trolleys and bridges.* (i) Foot operated brakes shall not require an applied force of more than 70 pounds to develop manufacturer's rated brake torque.

(ii) Brakes may be applied by mechanical, electrical, pneumatic, hydraulic, or gravity means.

(iii) Where necessary brakes shall be provided with adjustment means to compensate for wear.

(iv) The wearing surface of all brake-drums or discs shall be smooth.

(v) All foot-brake pedals shall be constructed so that the operator's foot will not easily slip off the pedal.

(vi) Foot-operated brakes shall be equipped with automatic means for positive release when pressure is released from the pedal.

(vii) Brakes for stopping the motion of the trolley or bridge shall be of sufficient size to stop the trolley or bridge within a distance in feet equal to 10 percent of full load speed in feet per minute when traveling at full speed with full load.

(viii) If holding brakes are provided on the bridge or trolleys, they shall not prohibit the use of a drift point in the control circuit.

(ix) Brakes on trolleys and bridges shall have ample thermal capacity for the frequency of operation required by

the service to prevent impairment of functions from overheating.

(5) *Application of trolley brakes.* (i) On cab-operated cranes with cab on trolley, a trolley brake shall be required as specified under subparagraph (4) of this paragraph.

(ii) A drag brake may be applied to hold the trolley in a desired position on the bridge and to eliminate creep with the power off.

(6) *Application of bridge brakes.* (i) On cab-operated cranes with cab on bridge, a bridge brake is required as specified under subparagraph (4) of this paragraph.

(ii) On cab-operated cranes with cab on trolley, a bridge brake of the holding type shall be required.

(iii) On all floor, remote and pulpit-operated crane bridge drives, a brake or noncoasting mechanical drive shall be provided.

(g) *Electric equipment*—(1) *General.* (i) Wiring and equipment shall comply with § 1910.309.

(ii) The control circuit voltage shall not exceed 600 volts for a.c. or d.c. current.

(iii) The voltage at pendant push-buttons shall not exceed 150 volts for a.c. and 300 volts for d.c.

(iv) Where multiple conductor cable is used with a suspended pushbutton station, the station must be supported in some satisfactory manner that will protect the electrical conductors against strain.

(v) Pendant control boxes shall be constructed to prevent electrical shock and shall be clearly marked for identification of functions.

(2) *Equipment.* (i) Electrical equipment shall be so located or enclosed that live parts will not be exposed to accidental contact under normal operating conditions.

(ii) Electric equipment shall be protected from dirt, grease, oil, and moisture.

(iii) Guards for live parts shall be substantial and so located that they cannot be accidently deformed so as to make contact with the live parts.

(3) *Controllers.* (i) Cranes not equipped with spring-return controllers or momentary contact pushbuttons shall be provided with a device which will disconnect all motors from the line on failure of power and will not permit any motor to be restarted until the controller handle is brought to the "off" position, or a reset switch or button is operated.

(ii) Lever operated controllers shall be provided with a notch or latch which in the "off" position prevents the handle from being inadvertently moved to the "on" position. An "off" detent or spring return arrangement is acceptable.

(iii) The controller operating handle shall be located within convenient reach of the operator.

(iv) As far as practicable, the movement of each controller handle shall be in the same general directions as the resultant movements of the load.

(v) The control for the bridge and trolley travel shall be so located that the operator can readily face the direction of travel.

(vi) For floor-operated cranes, the controller or controllers if rope operated, shall automatically return to the "off" position when released by the operator.

(vii) Pushbuttons in pendant stations shall return to the "off" position when pressure is related by the crane operator.

(viii) Automatic cranes shall be so designed that all motions shall fail-safe if any malfunction of operation occurs.

(ix) Remote-operated cranes shall function so that if the control signal for any crane motion becomes ineffective the crane motion shall stop.

(4) *Resistors.* (i) Enclosures for resistors shall have openings to provide adequate ventilation, and shall be installed to prevent the accumulation of combustible matter too near to hot parts.

(ii) Resistor units shall be supported so as to be as free as possible from vibration.

(iii) Provision shall be made to prevent broken parts or molten metal falling upon the operator or from the crane.

(5) *Switches.* (i) The power supply to the runway conductors shall be controlled by a switch or circuit breaker located on a fixed structure, accessible from the floor, and arranged to be locked in the open position.

(ii) On cab-operated cranes a switch or circuit breaker of the enclosed type, with provision for locking in the open position, shall be provided in the leads from the runway conductors. A means of opening this switch or circuit breaker shall be located within easy reach of the operator.

(iii) On floor-operated cranes, a switch or circuit breaker of the enclosed type, with provision for locking in the open position, shall be provided in the leads from the runway conductors. This disconnect shall be mounted on the bridge or footwalk near the runway collectors. One of the following types of floor-operated disconnects shall be provided:

(*a*) Nonconductive rope attached to the main disconnect switch.

(*b*) An undervoltage trip for the main circuit breaker operated by an emergency stop button in the pendant pushbutton in the pendant pushbutton station.

(c) A main line contactor operated by a switch or pushbutton in the pendant pushbutton station.

(iv) The hoisting motion of all electric traveling cranes shall be provided with an overtravel limit switch in the hoisting direction.

(v) All cranes using a lifting magnet shall have a magnet circuit switch of the enclosed type with provision for locking in the open position. Means for discharging the inductive load of the magnet shall be provided.

(6) *Runway conductors.* Conductors of the open type mounted on the crane runway beams or overhead shall be so located or so guarded that persons entering or leaving the cab or crane footwalk normally could not come into contact with them.

(7) *Extension lamps.* If a service receptacle is provided in the cab or on the bridge of cab-operated cranes, it shall be a grounded three-prong type permanent receptacle, not exceeding 300 volts.

(h) *Hoisting equipment*—(1) *Sheaves.* (i) Sheave grooves shall be smooth and free from surface defects which could cause rope damage.

(ii) Sheaves carrying ropes which can be momentarily unloaded shall be provided with close-fitting guards or other suitable devices to guide the rope back into the groove when the load is applied again.

(iii) The sheaves in the bottom block shall be equipped with close-fitting guards that will prevent ropes from becoming fouled when the block is lying on the ground with ropes loose.

(iv) Pockets and flanges of sheaves used with hoist chains shall be of such dimensions that the chain does not catch or bind during operation.

(v) All running sheaves shall be equipped with means for lubrication. Permanently lubricated, sealed and/or shielded bearings meet this requirement.

(2) *Ropes.* (i) In using hoisting ropes, the crane manufacturer's recommendation shall be followed. The rated load divided by the number of parts of rope shall not exceed 20 percent of the nominal breaking strength of the rope.

(ii) Socketing shall be done in the manner specified by the manufacturer of the assembly.

(iii) Rope shall be secured to the drum as follows:

(*a*) No less than two wraps of rope shall remain on the drum when the hook is in its extreme low position.

(*b*) Rope end shall be anchored by a clamp securely attached to the drum, or by a socket arrangement approved by the crane or rope manufacturer.

(iv) Eye splices. [Reserved.]

(v) Rope clips attached with U-bolts shall have the U-bolts on the dead or short end of the rope. Spacing and number of all types of clips shall be in accordance with the clip manufacturer's recommendation. Clips shall be drop-forged steel in all sizes manufactured commercially. When a newly installed rope has been in operation for an hour, all nuts on the clip bolts shall be retightened.

(vi) Swaged or compressed fittings shall be applied as recommended by the rope or crane manufacturer.

(vii) Wherever exposed to temperatures, at which fiber cores would be damaged, rope having an independent wire-rope or wire-strand core, or other temperature-damage resistant core shall be used.

(viii) Replacement rope shall be the same size, grade, and construction as the original rope furnished by the crane manufacturer, unless otherwise recommended by a wire rope manufacturer due to actual working condition requirements.

(3) *Equalizers.* If a load is supported by more than one part of rope, the tension in the parts shall be equalized.

(4) *Hooks.* Hooks shall meet the manufacturer's recommendations and shall not be overloaded.

(i) *Warning device.* Except for floor-operated cranes a gong or other effective warning signal shall be provided for each crane equipped with a power traveling mechanism.

(j) *Inspection*—(1) *Inspection classification.* (i) Initial inspection. Prior to initial use all new and altered cranes shall be inspected to insure compliance with the provisions of this section.

(ii) Inspection procedure for cranes in regular service is divided into two general classifications based upon the intervals at which inspection should be performed. The intervals in turn are dependent upon the nature of the critical components of the crane and the degree of their exposure to wear, deterioration, or malfunction. The two general classifications are herein designated as "frequent" and "periodic" with respective intervals between inspections as defined below:

(*a*) Frequent inspection—Daily to monthly intervals.

(*b*) Periodic inspection—1 to 12-month intervals.

(2) *Frequent inspection.* The following items shall be inspected for defects at intervals as defined in subparagraph (1)(ii) of this paragraph or as specifically indicated, including observation during operation for any defects which might appear between regular inspections. All deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) All functional operating mechanisms for maladjustment interfering with proper operation. Daily.

(ii) Deterioration or leakage in lines, tanks, valves, drain pumps, and other parts of air or hydraulic systems. Daily.

(iii) Hooks with deformation or cracks. Visual inspection daily; monthly inspection with signed reports. For hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook refer to paragraph (1)(3)(iii)(*a*) of this section.

(iv) Hoist or load attachment chains, including end connections, for excessive wear, twist, distorted links interfering with proper function, or stretch beyond manufacturer's recommendations. Visual inspection daily; monthly inspection with signed report.

(v) Rope slings, including end connections, for excessive wear, broken wires, stretch, kinking, or twisting. Visual inspection daily; monthly inspection with signed report.

(vi) All functional operating mechanisms for excessive wear of components.

(vii) Rope reeving for noncompliance with manufacturer's recommendations.

(3) *Periodic inspection.* Complete inspections of the crane shall be performed at intervals as generally defined in subparagraph (1)(ii)(*b*) of this paragraph, depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of subparagraph (2) of this paragraph and in addition, the following items. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) Deformed, cracked, or corroded members.

(ii) Loose bolts or rivets.

(iii) Cracked or worn sheaves and drums.

(iv) Worn, cracked or distorted parts such as pins, bearings, shafts, gears, rollers, locking and clamping devices.

(v) Excessive wear on brake system parts, linings, pawls, and ratchets.

(vi) Load, wind, and other indicators over their full range, for any significant inaccuracies.

(vii) Gasoline, diesel, electric, or other powerplants for improper performance or noncompliance with applicable safety requirements.

(viii) Excessive wear of chain drive sprockets and excessive chain stretch.

(ix) Crane hooks. Magnetic particle or other suitable crack detecting inspection should be performed at least once each year.

(x) Electrical apparatus, for signs of pitting or any deterioration of controller contactors, limit switches and pushbutton stations.

(4) *Cranes not in regular use.* (i) A crane which has been idle for a period of 1 month or more, but less than 6 months, shall be given an inspection conforming with requirements of subparagraph (2) of this paragraph and paragraph (m)(2) of this section before placing in service.

(ii) A crane which has been idle for a period of over 6 months shall be given a complete inspection conforming with requirements of subparagraphs (2) and (3) of this paragraph and paragraph (m)(2) of this section before placing in service.

(iii) Standby cranes shall be inspected at least semi-annually in accordance with requirements of subparagraph (2) of this paragraph and paragraph (m)(2) of this section. Standby cranes exposed to adverse environment should be inspected more frequently.

(k) *Testing*—(1) *Operational tests.* (i) Prior to initial use all new and altered cranes shall be tested to insure compliance with this section including the following functions:

(*a*) Hoisting and lowering.

(*b*) Trolley travel.

(*c*) Bridge travel.

(*d*) Limit switches, locking and safety devices.

(ii) The trip setting of hoist limit switches shall be determined by tests with an empty hook traveling in increasing speeds up to the maximum speed. The actuating mechanism of the limit switch shall be located so that it will trip the switch, under all conditions, in sufficient time to prevent contact of the hook or hook block with any part of the trolley.

(2) *Rated load test.* Prior to initial use all new, extensively repaired, and altered cranes should be tested by or under the direction of an appointed or authorized person, confirming the load rating of the crane. The load rating should not be more than 80 percent of the maximum load sustained during the test. Test loads shall not be more than 125 percent of the rated load unless otherwise recommended by the manufacturer. The test reports shall be placed on file where readily available to appointed personnel.

(l) *Maintenance*—(1) *Preventive maintenance.* A preventive maintenance program based on the crane manufacturer's recommendations shall be established.

(2) *Maintenance procedure.* (i) Before adjustments and repairs are started on a crane the following precautions shall be taken:

(*a*) The crane to be repaired shall be run to a location where it will cause the least interference with other cranes and operations in the area.

(*b*) All controllers shall be at the off position.

(*c*) The main or emergency switch shall be open and locked in the open position.

(*d*) Warning or "out of order" signs shall be placed on the crane, also on the floor beneath or on the hook where visible from the floor.

(*e*) Where other cranes are in operation on the same runway, rail stops or other suitable means shall be provided to prevent interference with the idle crane.

(*f*) Where temporary protective rail stops are not available, or practical, a signalman should be placed at a visual vantage point for observing the approach of an active crane and warning its operator when reaching the limit of safe distance from the idle crane.

(ii) After adjustments and repairs have been made the crane shall not be operated until all guards have been reinstalled, safety devices reactivated and maintenance equipment removed.

(3) *Adjustments and repairs.* (i) Any unsafe conditions disclosed by the inspection requirements of paragraph (j) of this section shall be corrected before operation of the crane is resumed. Adjustments and repairs shall be done only by designated personnel.

(ii) Adjustments shall be maintained to assure correct functioning of components. The following are examples:

(*a*) All functional operating mechanisms.

(*b*) Limit switches.

(*c*) Control systems.

(*d*) Brakes.

(*e*) Power plants.

(iii) Repairs or replacements shall be provided promptly as needed for safe operation. The following are examples:

(*a*) Crane hooks showing defects described in paragraph (j)(2)(iii) of this section shall be discarded. Repairs by welding or reshaping are not generally recommended. If such repairs are attempted they shall only be done under competent supervision and the hook shall be tested to the load requirements of paragraph (k)(2) of this section before further use.

(*b*) Load attachment chains and rope slings showing defects described in paragraph (j)(2)(iv) and (v) of this section respectively.

(*c*) All critical parts which are cracked, broken, bent, or excessively worn.

(*d*) Pendant control stations shall be kept clean and function labels kept legible.

(m) *Rope inspection*—(1) *Running ropes.* A thorough inspection of all ropes shall be made at least once a month and a full written, dated, and signed report of rope condition kept on file where readily available to appointed personnel. Any deterioration, resulting in appreciable loss of original strength, such as described below, shall be carefully noted and determination made as to whether further use of the rope would constitute a safety hazard:

(i) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(ii) A number of broken outside wires and the degree of distribution or concentration of such broken wires.

(iii) Worn outside wires.

(iv) Corroded or broken wires at end connections.

(v) Corroded, cracked, bent, worn, or improperly applied end connections.

(vi) Severe kinking, crushing, cutting, or unstranding.

(2) *Other ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given a thorough inspection before it is placed in service. This inspection shall be for all types of deterioration and shall be performed by an appointed person whose approval shall be required for further use of the rope. A written and dated report of the rope condition shall be available for inspection.

(n) *Handling the load*—(1) *Size of load.* The crane shall not be loaded beyond its rated load except for test purposes as provided in paragraph (k) of this section.

(2) *Attaching the load.* (i) The hoist chain or hoist rope shall be free from kinks or twists and shall not be wrapped around the load.

(ii) The load shall be attached to the load block hook by means of slings or other approved devices.

(iii) Care shall be taken to make certain that the sling clears all obstacles.

(3) *Moving the load.* (i) The load shall be well secured and properly balanced in the sling or lifting device before it is lifted more than a few inches.

(ii) Before starting to hoist the following conditions shall be noted:

(*a*) Hoist rope shall not be kinked.

(*b*) Multiple part lines shall not be twisted around each other.

(*c*) The hook shall be brought over the load in such a manner as to prevent swinging.

(iii) During hoisting care shall be taken that:

(*a*) There is no sudden acceleration or deceleration of the moving load.

(*b*) The load does not contact any obstructions.

(iv) Cranes shall not be used for side pulls except when specifically authorized by a responsible person who has determined that the stability of the crane is not thereby endangered and that various parts of the crane will not be overstressed.

(v) While any employee is on the load or hook, there shall be no hoisting, lowering, or traveling.

(vi) The employer shall require that the operator avoid carrying loads over people.

(vii) The operator shall test the brakes each time a load approaching the rated load is handled. The brakes shall be tested by raising the load a few inches and applying the brakes.

(viii) The load shall not be lowered below the point where less than two full wraps of rope remain on the hoisting drum.

(ix) When two or more cranes are used to lift a load one qualified responsible person shall be in charge of the operation. He shall analyze the operation and instruct all personnel involved in the proper positioning, rigging of the load, and the movements to be made.

(x) The employer shall insure that the operator does not leave his position at the controls while the load is suspended.

(xi) When starting the bridge and when the load or hook approaches near or over personnel, the warning signal shall be sounded.

(4) *Hoist limit switch.* (i) At the beginning of each operator's shift, the upper limit switch of each hoist shall be tried out under no load. Extreme care shall be exercised; the block shall be "inched" into the limit or run in at slow speed. If the switch does not operate properly, the appointed person shall be immediately notified.

(ii) The hoist limit switch which controls the upper limit of travel of the load block shall never be used as an operating control.

(o) *Other requirements, general*—(1) *Ladders.* (i) The employer shall insure that hands are free from encumbrances while personnel are using ladders.

(ii) Articles which are too large to be carried in pockets or belts shall be lifted and lowered by hand line.

(2) *Cabs.* (i) Necessary clothing and personal belongings shall be stored in such a manner as not to interfere with access or operation.

(ii) Tools, oil cans, waste, extra fuses, and other necessary articles shall be stored in the tool box, and shall not be permitted to lie loose in or about the cab.

(3) *Fire extinguishers.* The employer shall insure that operators are familiar with the operation and care of fire extinguishers provided.

§ 1910.180 Crawler locomotive and truck cranes.

(a) *Definitions applicable to this section.* (1) A "crawler crane" consists of a rotating superstructure with power plant, operating machinery, and boom, mounted on a base, equipped with crawler treads for travel. Its function is to hoist and swing loads at various radii.

(2) A "locomotive crane" consists of a rotating superstructure with powerplant, operating machinery and boom, mounted on a base or car equipped for travel on railroad track. It may be self-propelled or propelled by an outside source. Its function is to hoist and swing loads at various radii.

(3) A "truck crane" consists of a rotating superstructure with powerplant, operating machinery and boom, mounted on an automotive truck equipped with a powerplant for travel. Its function is to hoist and swing loads at various radii.

(4) A "wheel mounted crane" (wagon crane) consists of a rotating superstructure with powerplant, operating machinery and boom, mounted on a base or platform equipped with axles and rubber-tired wheels for travel. The base is usually propelled by the engine in the superstructure, but it may be equipped with a separate engine controlled from the superstructure. Its function is to hoist and swing loads at various radii.

(5) An "accessory" is a secondary part or assembly of parts which contributes to the overall function and usefulness of a machine.

(6) "Appointed" means assigned specific responsibilities by the employer or the employer's representative.

(7) "ANSI" means the American National Standards Institute.

(8) An "angle indicator" (boom) is an accessory which measures the angle of the boom to the horizontal.

(9) The "axis of rotation" is the vertical axis around which the crane superstructure rotates.

(10) "Axle" means the shaft or spindle with which or about which a wheel rotates. On truck- and wheel-mounted cranes it refers to an automotive type of axle assembly including housings, gearing, differential, bearings, and mounting appurtenances.

(11) "Axle" (bogie) means two or more automotive-type axles mounted in tandem in a frame so as to divide the load between the axles and permit vertical oscillation of the wheels.

(12) The "base" (mounting) is the traveling base or carrier on which the rotating superstructure is mounted such as a car, truck, crawlers, or wheel platform.

(13) The "boom" (crane) is a member hinged to the front of the rotating superstructure with the outer end supported by ropes leading to a gantry or A-frame and used for supporting the hoisting tackle.

(14) The "boom angle" is the angle between the longitudinal centerline of the boom and the horizontal. The boom longitudinal centerline is a straight line between the boom foot pin (heel pin) centerline and boom point sheave pin centerline.

(15) The "boom hoist" is a hoist drum and rope reeving system used to raise and lower the boom. The rope system may be all live reeving or a combination of live reeving and pendants.

(16) The "boom stop" is a device used to limit the angle of the boom at the highest position.

(17) A "brake" is a device used for retarding or stopping motion by friction or power means.

(18) A "cab" is a housing which covers the rotating superstructure machinery and/or operator's station. On truck-crane trucks a separate cab covers the driver's station.

(19) The "clutch" is a friction, electromagnetic, hydraulic, pneumatic, or positive mechanical device for engagement or disengagement of power.

(20) The "counterweight" is a weight used to supplement the weight of the machine in providing stability for lifting working loads.

(21) "Designated" means selected or assigned by the employer or the employer's representative as being qualified to perform specific duties.

(22) The "drum" is the cylindrical members around which ropes are wound for raising and lowering the load or boom.

(23) "Dynamic" (loading) means loads introduced into the machine or its components by forces in motion.

(24) The "gantry" (A-frame) is a structural frame, extending above the superstructure, to which the boom support ropes are reeved.

(25) A "jib" is an extension attached to the boom point to provide added boom length for lifting specified loads. The jib may be in line with the boom or offset to various angles.

(26) "Load" (working) means the external load, in pounds, applied to the crane, including the weight of load-attaching equipment such as load blocks, shackles, and slings.

(27) "Load block" (upper) means the assembly of hook or shackle, swivel, sheaves, pins, and frame suspended from the boom point.

(28) "Load block" (lower) means the assembly of hook or shackle, swivel, sheaves, pins, and frame suspended by the hoisting ropes.

(29) A "load hoist" is a hoist drum and rope reeving system used for hoisting and lowering loads.

(30) "Load ratings" are crane ratings in pounds established by the manufacturer in accordance with paragraph (c) of this section.

(31) "Outriggers" are extendable or fixed metal arms, attached to the mounting base, which rest on supports at the outer ends.

(32) "Rail clamp" means a tong-like metal device, mounted on a locomotive crane car, which can be connected to the track.

(33) "Reeving" means a rope system in which the rope travels around drums and sheaves.

(34) "Rope" refers to a wire rope unless otherwise specified.

(35) "Side loading" means a load applied at an angle to the vertical plane of the boom.

(36) A "standby crane" is a crane which is not in regular service but which is used occasionally or intermittently as required.

(37) A "standing (guy) rope" is a supporting rope which maintains a constant distance between the points of attachment to the two components connected by the rope.

(38) "Structural competence" means the ability of the machine and its components to withstand the stresses imposed by applied loads.

(39) "Superstructure" means the rotating upper frame structure of the machine and the operating machinery mounted thereon.

(40) "Swing" means the rotation of the superstructure for movement of loads in a horizontal direction about the axis of rotation.

(41) "Swing mechanism" means the machinery involved in providing rotation of the superstructure.

(42) "Tackle" is an assembly of ropes and sheaves arranged for hoisting and pulling.

(43) "Transit" means the moving or transporting of a crane from one jobsite to another.

(44) "Travel" means the function of the machine moving from one location to another, on a jobsite.

(45) The "travel mechanism" is the machinery involved in providing travel.

(46) "Wheelbase" means the distance between centers of front and rear axles. For a multiple axle assembly the axle center for wheelbase measurement is taken as the midpoint of the assembly.

(47) The "whipline" (auxiliary hoist) is a separate hoist rope system of lighter load capacity and higher speed than provided by the main hoist.

(48) A "winch head" is a power driven spool for handling of loads by means of friction between fiber or wire rope and spool.

(b) *General requirements*—(1) *Application.* This section applies to crawler cranes, locomotive cranes, wheel mounted cranes of both truck and self-propelled wheel type, and any variations thereof which retain the same fundamental characteristics. This section includes only cranes of the above types, which are basically powered by internal combustion engines or electric motors and which utilize drums and ropes. Cranes designed for railway and automobile wreck clearances are excepted. The requirements of this section are applicable only to machines when used as lifting cranes.

(2) *New and existing equipment.* All new crawler, locomotive, and truck cranes constructed and utilized on or after August 31, 1971, shall meet the design specifications of the American National Standard Safety Code for Crawler, Locomotive, and Truck Cranes, ANSI B30.5–1968. Crawler, locomotive, and truck cranes constructed prior to August 31, 1971, should be modified to conform to those design specifications by February 15, 1972, unless it can be shown that the crane cannot feasibly or economically be altered and that the crane substantially complies with the requirements of this section.

(c) *Load ratings*—(1) *Load ratings—where stability governs lifting performance.* (i) The margin of stability for determination of load ratings, with booms of stipulated lengths at stipulated working radii for the various types of crane mountings, is established by taking a percentage of the loads which will produce a condition of tipping or balance with the boom in the least stable direction, relative to the mounting. The load ratings shall not exceed the following percentages for cranes, with the indicated types of mounting under conditions stipulated in subdivisions (ii) and (iii) of this subparagraph.

Type of crane mounting	Maximum load ratings (percent of tipping loads)
Locomotive, without outriggers:	
Booms 60 feet or less	85
Booms over 60 feet	[1] 85
Locomotive, using outriggers fully extended	80
Crawler, without outriggers	75
Crawler, using outriggers fully extended	85
Truck and wheel mounted without outriggers or using outriggers fully extended	85

[1] Unless this results in less than 30,000 pound-feet net stabilizing moment about the rail, which shall be minimum with such booms.

(ii) The following stipulations shall govern the application of the values in subdivision (i) of this subparagraph for locomotive cranes:

(*a*) Tipping with or without the use of outriggers occurs when half of the wheels farthest from the load leave the rail.

(*b*) The crane shall be standing on track which is level within 1 percent grade.

(*c*) Radius of the load is the horizontal distance from a projection of the axis of rotation to the rail support surface, before loading, to the center of vertical hoist line or tackle with load applied.

(*d*) Tipping loads from which ratings are determined shall be applied under static conditions only, i.e., without dynamic effect of hoisting, lowering, or swinging.

(*e*) The weight of all auxiliary handling devices such as hoist blocks, hooks, and slings shall be considered a part of the load rating.

(iii) Stipulations governing the application of the values in subdivision (i) of this subparagraph for crawler, truck, and wheel-mounted cranes shall be in accordance with Crane Load-Stability Test Code, Society of Automotive Engineers (SAE) J765.

(iv) The effectiveness of these preceding stability factors will be influenced by such additional factors as freely suspended loads, track, wind, or ground conditions, condition and inflation of rubber tires, boom lengths, proper operating speeds for existing conditions, and, in general, careful and competent operation. All of these shall be taken into account by the user.

(2) *Load rating chart.* A substantial and durable rating chart with clearly legible letters and figures shall be provided with each crane and securely fixed to the crane cab in a location easily

visible to the operator while seated at his control station.

(d) *Inspection classification*—(1) *Initial inspection.* Prior to initial use all new and altered cranes shall be inspected to insure compliance with provisions of this section.

(2) *Regular inspection.* Inspection procedure for cranes in regular service is divided into two general classifications based upon the intervals at which inspection should be performed. The intervals in turn are dependent upon the nature of the critical components of the crane and the degree of their exposure to wear, deterioration, or malfunction. The two general classifications are herein designated as "frequent" and "periodic", with respective intervals between inspections as defined below:

(i) Frequent inspection: Daily to monthly intervals.

(ii) Periodic inspection: 1- to 12-month intervals, or as specifically recommended by the manufacturer.

(3) *Frequent inspection.* Items such as the following shall be inspected for defects at intervals as defined in subdivision (2)(i) of this subparagraph or as specifically indicated including observation during operation for any defects which might appear between regular inspections. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) All control mechanisms for maladjustment interfering with proper operation: Daily.

(ii) All control mechanisms for excessive wear of components and contamination by lubricants or other foreign matter.

(iii) All safety devices for malfunction.

(iv) Deterioration or leakage in air or hydraulic systems: Daily.

(v) Crane hooks with deformations or cracks. For hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook.

(vi) Rope reeving for noncompliance with manufacturer's recommendations.

(vii) Electrical apparatus for malfunctioning, signs of excessive deterioration, dirt, and moisture accumulation.

(4) *Periodic inspection.* Complete inspections of the crane shall be performed at intervals as generally defined in subparagraph (2)(ii) of this paragraph depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of subparagraph (3) of this paragraph and in addition, items such as the following. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) Deformed, cracked, or corroded members in the crane structure and boom.

(ii) Loose bolts or rivets.

(iii) Cracked or worn sheaves and drums.

(iv) Worn, cracked, or distorted parts such as pins, bearings, shafts, gears, rollers and locking devices.

(v) Excessive wear on brake and clutch system parts, linings, pawls, and ratchets.

(vi) Load, boom angle, and other indicators over their full range, for any significant inaccuracies.

(vii) Gasoline, diesel, electric, or other power plants for improper performance or noncompliance with safety requirements.

(viii) Excessive wear of chain-drive sprockets and excessive chain stretch.

(ix) Travel steering, braking, and locking devices, for malfunction.

(x) Excessively worn or damaged tires.

(5) *Cranes not in regular use.* (i) A crane which has been idle for a period of one month or more, but less than 6 months, shall be given an inspection conforming with requirements of subparagraph (3) of this paragraph and paragraph (g)(2)(ii) of this section before placing in service.

(ii) A crane which has been idle for a period of six months shall be given a complete inspection conforming with requirements of subparagraphs (3) and (4) of this paragraph and paragraph (g)(2)(ii) of this section before placing in service.

(iii) Standby cranes shall be inspected at least semiannually in accordance with requirements of subparagraph (3) of this paragraph and paragraph (g)(2)(ii) of this section. Such cranes which are exposed to adverse environment should be inspected more frequently.

(6) *Inspection records.* Written, dated, and signed inspection reports and records shall be made monthly on critical items in use such as brakes, crane hooks, and ropes. Records shall be kept readily available.

(e) *Testing*—(1) *Operational tests.* (i) In addition to prototype tests and quality-control measures, each new production crane shall be tested by the manufacturer to the extent necessary to insure compliance with the operational requirements of this paragraph including functions such as the following:

(*a*) Load hoisting and lowering mechanisms

(*b*) Boom hoisting and lower mechanisms

(*c*) Swinging mechanism

(*d*) Travel mechanism

(*e*) Safety devices

(ii) Where the complete production crane is not supplied by one manufacturer such tests shall be conducted at final assembly.

(iii) Certified production-crane test results shall be made available.

(2) *Rated load test.* (i) Written reports shall be available showing test procedures and confirming the adequacy of repairs or alterations.

(ii) Test loads shall not exceed 110 percent of the rated load at any selected working radius.

(iii) Where rerating is necessary:

(*a*) Crawler, truck, and wheel-mounted cranes shall be tested in accordance with SAE Recommended Practice, Crane Load Stability Test Code J765 (April 1961).

(*b*) Locomotive cranes shall be tested in accordance with paragraph (c)(1)(i) and (ii) of this section.

(*c*) Rerating test report shall be readily available.

(iv) No cranes shall be rerated in excess of the original load ratings unless such rating changes are approved by the crane manufacturer or final assembler.

(f) *Maintenance procedure*—(1) *General.* After adjustments and repairs have been made the crane shall not be operated until all guards have been reinstalled, safety devices reactivated, and maintenance equipment removed.

(g) *Rope inspection*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a full written, dated, and signed report of rope condition kept on file where readily available. All inspections shall be performed by an appointed or authorized person. Any deterioration, resulting in appreciable loss of original strength, such as described below, shall be carefully noted and determination made as to whether further use of the rope would constitute a safety hazard:

(i) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(ii) A number of broken outside wires and the degree of distribution of concentration of such broken wires.

(iii) Worn outside wires.

(iv) Corroded or broken wires at end connections.

(v) Corroded, cracked, bent, worn, or improperly applied end connections.

(vi) Severe kinking, crushing, cutting, or unstranding.

(2) *Other ropes.* (i) Heavy wear and/or broken wires may occur in sections in contact with equalizer sheaves or other sheaves where rope travel is limited, or with saddles. Particular care shall be taken to inspect ropes at these locations.

(ii) All rope which has been idle for a period of a month or more due to shut down or storage of a crane on which it is installed shall be given a thorough inspection before it is placed in service. This inspection shall be for all types of deterioration and shall be performed by an appointed or authorized person whose approval shall be required for further use of the rope. A written and dated report of the rope condition shall be available.

(iii) Particular care shall be taken in the inspection of nonrotating rope.

(h) *Handling the load*—(1) *Size of load.* (i) No crane shall be loaded beyond the rated load, except for test purposes as provided in paragraph (e) of this section.

(ii) When loads which are limited by structural competence rather than by stability are to be handled, it shall be ascertained that the weight of the load has been determined within plus or minus 10 percent before it is lifted.

(2) *Attaching the load.* (i) The hoist rope shall not be wrapped around the load.

(ii) The load shall be attached to the hook by means of slings or other approved devices.

(3) *Moving the load* (i) The employer shall assure that:

(*a*) The crane is level and where necessary blocked properly.

(*b*) The load is well secured and properly balanced in the sling or lifting device before it is lifted more than a few inches.

(ii) Before starting to hoist, the following conditions shall be noted:

(*a*) Hoist rope shall not be kinked.

(*b*) Multiple part lines shall not be twisted around each other.

(*c*) The hook shall be brought over the load in such a manner as to prevent swinging.

(*d*) If there is a slack rope condition, it should be determined that the rope is properly seated on the drum and in the sheaves.

(iii) During hoisting care shall be taken that:

(*a*) There is no sudden acceleration or deceleration of the moving load.

(*b*) The load does not contact any obstructions.

(iv) Side loading of booms shall be limited to freely suspended loads. Cranes shall not be used for dragging loads sideways.

(v) No hoisting, lowering, swinging, or traveling shall be done while anyone is on the load or hook.

(vi) The operator should avoid carrying loads over people.

(vii) On truck-mounted cranes, no loads shall be lifted over the front area except as approved by the crane manufacturer.

(viii) The operator shall test the brakes each time a load approaching the rated load is handled by raising it a few inches and applying the brakes.

(ix) Outriggers shall be used when the load to be handled at that particular radius exceeds the rated load without outriggers as given by the manufacturer for that crane. Where floats are used they shall be securely attached to the outriggers. Wood blocks used to support outriggers shall:

(*a*) Be strong enough to prevent crushing.

(*b*) Be free from defects.

(*c*) Be of sufficient width and length to prevent shifting or toppling under load.

(x) Neither the load nor the boom shall be lowered below the point where less than two full wraps of rope remain on their respective drums.

(xi) Before lifting loads with locomotive cranes without using outriggers, means shall be applied to prevent the load from being carried by the truck springs.

(xii) When two or more cranes are used to lift one load, one designated person shall be responsible for the operation. He shall be required to analyze the operation and instruct all personnel involved in the proper positioning, rigging of the load, and the movements to be made.

(xiii) In transit the following additional precautions shall be exercised:

(*a*) The boom shall be carried in line with the direction of motion.

(*b*) The superstructure shall be secured against rotation, except when negotiating turns when there is an operator in the cab or the boom is supported on a dolly.

(*c*) The empty hook shall be lashed or otherwise restrained so that it cannot swing freely.

(xiv) Before traveling a crane with load, a designated person shall be responsible for determining and controlling safety. Decisions such as position of load, boom location, ground support, travel route, and speed of movement shall be in accord with his determinations.

(xv) A crane with or without load shall not be traveled with the boom so high that it may bounce back over the cab.

(xvi) When rotating the crane, sudden starts and stops shall be avoided. Rotational speed shall be such that the load does not swing out beyond the radii at which it can be controlled. A tag or restraint line shall be used when rotation of the load is hazardous.

(xvii) When a crane is to be operated at a fixed radius, the boom-hoist pawl or other positive locking device shall be engaged.

(xviii) Ropes shall not be handled on a winch head without the knowledge of the operator.

(xix) While a winch head is being used, the operator shall be within convenient reach of the power unit control lever.

(4) *Holding the load.* (i) The operator shall not be permitted to leave his position at the controls while the load is suspended.

(ii) No person should be permitted to stand or pass under a load on the hook.

(iii) If the load must remain suspended for any considerable length of time, the operator shall hold the drum from rotating in the lowering direction by activating the positive controllable means of the operator's station.

(i) *Other requirements*—(1) *Rail clamps.* Rail clamps shall not be used as a means of restraining tipping of a locomotive crane.

(2) *Ballast or counterweight.* Cranes shall not be operated without the full amount of any ballast or counterweight in place as specified by the maker, but truck cranes that have dropped the ballast or counterweight may be operated temporarily with special care and only for light loads without full ballast or counterweight in place. The ballast or counterweight in place specified by the manufacturer shall not be exceeded.

(3) *Cabs.* (i) Necessary clothing and personal belongings shall be stored in such a manner as to not interfere with access or operation.

(ii) Tools, oil cans, waste, extra fuses, and other necessary articles shall be stored in the tool box, and shall not be permitted to lie loose in or about the cab.

(4) *Refueling.* (i) Refueling with small portable containers shall be done with Underwriters' Laboratories or Factory Mutual Laboratories approved, or equivalent, safety type can equipped with an automatic closing cap and flame arrester.

(ii) Machines shall not be refueled with the engine running.

(5) *Fire extinguishers.* (i) A carbon dioxide, dry chemical, or equivalent fire extinguisher shall be kept in the cab or vicinity of the crane.

(ii) Operating and maintenance personnel shall be made familiar with the use and care of the fire extinguishers provided.

(6) *Swinging locomotive cranes.* A locomotive crane shall not be swung into a position where railway cars on an adjacent track might strike it, until it has been ascertained that cars are not being moved on the adjacent track and proper flag protection has been established.

(j) *Operating near electric power lines*—(1) *Clearances.* Except where the electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers not a part of or an attachment to the crane have been erected to prevent physical contact with the lines, cranes shall be operated proximate to, under, over, by, or near powerlines only in accordance with the following:

(i) For lines rated 50 kv. or below, minimum clearance between the lines and any part of the crane or load shall be 10 feet.

(ii) For lines rated over 50 kv. minimum, clearance between the lines and any part of the crane or load shall be 10 feet plus 0.4 inch for each 1 kv. over 50 kv., or twice the length of the line insulator but never less than 10 feet.

(iii) In transit with no load and boom lowered the clearance shall be a minimum of 4 feet.

(2) *Boom guards.* Cage-type boom guards, insulating links, or proximity warning devices may be used on cranes, but the use of such devices shall not operate to alter the requirements of subparagraph (1) of this paragraph.

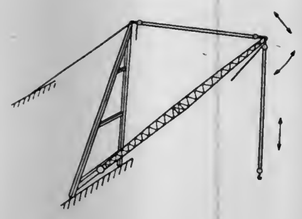
(3) *Notification.* Before the commencement of operations near electrical lines, the owners of the lines or their authorized representative shall be notified and provided with all pertinent information. The cooperation of the owner shall be requested.

(4) *Overhead wires.* Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate that it is not an energized line.

§ 1910.181 Derricks.

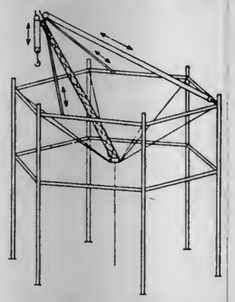
(a) *Definitions applicable to this section.* (1) A "derrick" is an apparatus consisting of a mast or equivalent member held at the head by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes.

(2) "A-frame derrick" means a derrick in which the boom is hinged from a cross member between the bottom ends of two upright members spread apart at the lower ends and joined at the top; the boom point secured to the junction of the side members, and the side members are braced or guyed from this junction point.



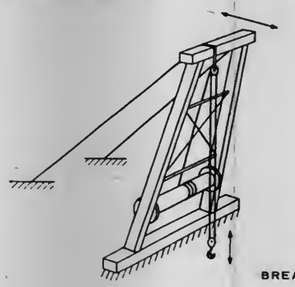
A-FRAME

(3) A "basket derrick" is a derrick without a boom, similar to a gin pole, with its base supported by ropes attached to corner posts or other parts of the structure. The base is at a lower elevation than its supports. The location of the base of a basket derrick can be changed by varying the length of the rope supports. The top of the pole is secured with multiple reeved guys to position the top of the pole to the desired location by varying the length of the upper guy lines. The load is raised and lowered by ropes through a sheave or block secured to the top of the pole.



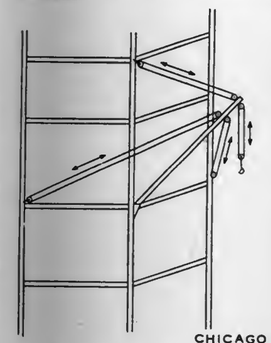
BASKET

(4) "Breast derrick" means a derrick without boom. The mast consists of two side members spread farther apart at the base than at the top and tied together at top and bottom by rigid members. The mast is prevented from tipping forward by guys connected to its top. The load is raised and lowered by ropes through a sheave or block secured to the top crosspiece.



BREAST

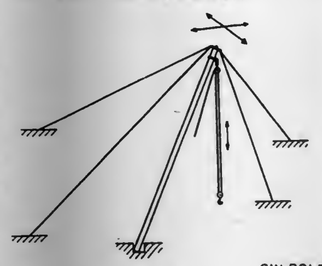
(5) "Chicago boom derrick" means a boom which is attached to a structure, an outside upright member of the structure serving as the mast, and the boom being stepped in a fixed socket clamped to the upright. The derrick is complete with load, boom, and boom point swing line falls.



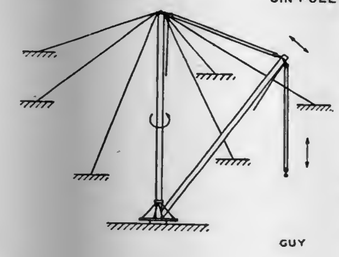
CHICAGO BOOM

(6) A "gin pole derrick" is a derrick without a boom. Its guys are so arranged from its top as to permit leaning the mast in any direction. The load is raised and lowered by ropes reeved through sheaves or blocks at the top of the mast.

(7) "Guy derrick" means a fixed derrick consisting of a mast capable of being rotated, supported in a vertical position by guys, and a boom whose bottom end is hinged or pivoted to move in a vertical plane with a reeved rope between the head of the mast and the boom point for raising and lowering the boom, and a reeved rope from the boom point for raising and lowering the load.



GIN POLE



GUY

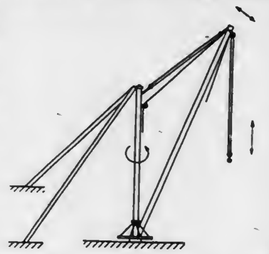
(8) "Shearleg derrick" means a derrick without a boom and similar to a breast derrick. The mast, wide at the bottom and narrow at the top, is hinged at the bottom and has its top secured by a multiple reeved guy to permit handling loads at various radii by means of load tackle suspended from the mast top.

(9) A "stiffleg derrick" is a derrick similar to a guy derrick except that the mast is supported or held in place by two or more stiff members, called stiffleggs, which are capable of resisting either tensile or compressive forces. Sills are generally provided to connect the lower ends of the stiffleggs to the foot of the mast.

(10) "Appointed" means assigned specific responsibilities by the employer or the employer's representative.

(11) "ANSI" means the American National Standards Institute.

(12) A boom is a timber or metal section or strut, pivoted or hinged at the heel (lower end) at a location fixed in height on a frame or mast or vertical member, and with its point (upper end) supported by chains, ropes, or rods to the upper end of the frame, mast, or vertical member. A rope for raising and lowering the load is reeved through sheaves or a



STIFF LEG

block at the boom point. The length of the boom shall be taken as the straight line distance between the axis of the foot pin and the axis of the boom point sheave pin, or where used, the axis of the upper load block attachment pin.

(13) "Boom harness" means the block and sheave arrangement on the boom point to which the topping lift cable is reeved for lowering and raising the boom.

(14) The "boom point" is the outward end of the top section of the boom.

(15) "Derrick bullwheel" means a horizontal ring or wheel, fastened to the foot of a derrick, for the purpose of turning the derrick by means of ropes leading from this wheel to a powered drum.

(16) "Designated" means selected or assigned by the employer or employer's representative as being qualified to perform specific duties.

(17) "Eye" means a loop formed at the end of a rope by securing the dead end to the live end at the base of the loop.

(18) A "fiddle block" is a block consisting of two sheaves in the same plane held in place by the same cheek plates.

(19) The "foot bearing" or "foot block" (sill block) is the lower support on which the mast rotates.

(20) A "gudgeon pin" is a pin connecting the mast cap to the mast allowing rotation of the mast.

(21) A "guy" is a rope used to steady or secure the mast or other member in the desired position.

(22) "Load, working" means the external load, in pounds, applied to the derrick, including the weight of load attaching equipment such as load blocks, shackles, and slings.

(23) "Load block, lower" means the assembly of sheaves, pins, and frame suspended by the hoisting rope.

(24) "Load block, upper" means the assembly of sheaves, pins, and frame suspended from the boom.

(25) "Mast" means the upright member of the derrick.

(26) "Mast cap (spider)" means the fitting at the top of the mast to which the guys are connected.

(27) "Reeving" means a rope system in which the rope travels around drums and sheaves.

(28) "Rope" refers to wire rope unless otherwise specified.

(29) "Safety Hook" means a hook with a latch to prevent slings or load from accidentally slipping off the hook.

(30) "Side loading" is a load applied at an angle to the vertical plane of the boom.

(31) "Strut" is a member connected opposite the bridge motor, where they should be not less than 15 inches. The inner edge shall extend at least to the line of the outside edge of the lower cover plate or flange of the girder.

(3) *Toeboards and handrails for footwalks.* Toeboards and handrails shall be in compliance with section 1910.23 of this part.

(4) *Ladders and stairways.* (i) Gantry cranes shall be provided with ladders or stairways extending from the ground to the footwalk or cab platform.

(ii) Stairways shall be equipped with rigid and substantial metal handrails. Walking surfaces shall be of an antislip type.

(ii) Guards shall be securely fastened.

(iii) Each guard shall be capable of supporting without permanent distortion the weight of a 200-pound person unless the guard is located where it is impossible for a person to step on it.

(f) *Brakes*—(1) *Brakes for hoists.* (i) Each independent hoisting unit of a crane shall be equipped with at least one self-setting brake, hereafter referred to as a holding brake, applied directly to the motor shaft or some part of the gear train.

(ii) Each independent hoisting unit of a crane, except worm-geared hoists, the angle of whose worm is such as to prevent the load from accelerating in the

(vii) Rope reeving; visual inspection for noncompliance with derrick manufacturer's recommendations.

(viii) Hoist brakes, clutches, and operating levers: check daily for proper functioning before beginning operations.

(ix) Electrical apparatus for malfunctioning, signs of excessive deterioration, dirt, and moisture accumulation.

(3) *Periodic inspection.* (i) Complete inspections of the derrick shall be performed at intervals as generally defined in subparagraph (1) (ii) (b) of this paragraph depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of subparagraph (2) of this paragraph and in addition, items such as the following. Deficiencies shall be carefully examined and a determination made as to whether they constitute a safety hazard:

(a) Structural members for deformations, cracks, and corrosion.

(b) Bolts or rivets for tightness.

(c) Parts such as pins, bearings, shafts, gears, sheaves, drums, rollers, locking and clamping devices, for wear, cracks, and distortion.

(d) Gudgeon pin for cracks, wear, and distortion each time the derrick is to be erected.

(e) Powerplants for proper performance and compliance with applicable safety requirements.

(f) Booms should be magnetic parti-

Rock and hairpin anchorages may require special testing.

(f) *Maintenance*—(1) *Preventive maintenance.* A preventive maintenance program based on the derrick manufacturer's recommendations shall be established.

(2) *Maintenance procedure.* (i) Before adjustments and repairs are started on a derrick the following precautions shall be taken:

(a) The derrick to be repaired shall be arranged so it will cause the least interference with other equipment and operations in the area.

(b) All hoist drum dogs shall be engaged.

(c) The main or emergency switch shall be locked in the open position, if an electric hoist is used.

(d) Warning or out of order signs shall be placed on the derrick and hoist.

(e) The repairs of booms of derricks shall either be made when the booms are lowered and adequately supported or safely tied off.

(f) A good communication system shall be set up between the hoist operator and the appointed individual in charge of derrick operations before any work on the equipment is started.

(g) Welding repairs shall be approved by an appointed person.

(ii) After adjustments and repairs have been made the derrick shall not be operated until all guards have been reinstalled, safety devices reactivated and

port, internal or external corrosion, or wear of outside wires.

(ii) A number of broken outside wires and the degree of distribution or concentration of such broken wires.

(iii) Worn outside wires.

(iv) Corroded or broken wires at end connections.

(v) Corroded, cracked, bent, worn, or improperly applied end connections.

(vi) Severe kinking, crushing, cutting, or unstranding.

(2) *Limited travel ropes.* Heavy wear and/or broken wires may occur in sections in contact with equalizer sheaves or other sheaves where rope travel is limited, or with saddles. Particular care shall be taken to inspect ropes at these locations.

(3) *Idle ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a derrick on which it is installed shall be given a thorough inspection before it is placed in service. This inspection shall be for all types of deterioration. A written and dated report of the rope condition shall be available.

(4) *Nonrotating ropes.* Particular care shall be taken in the inspection of nonrotating rope.

(h) *Operations of derricks.* Derrick operations shall be directed only by the individual specifically designated for that purpose.

(i) *Handling the load*—(1) *Size of load.* (i) No derrick shall be loaded [illegible]

tion, or a reset switch or button is operated.

(ii) Lever operated controllers shall be provided with a notch or latch which in the "off" position prevents the handle from being inadvertently moved to the "on" position. An "off" detent or spring return arrangement is acceptable.

(iii) The controller operating handle shall be located within convenient reach of the operator.

(iv) As far as practicable, the movement of each controller handle shall be [illegible] in the same general directions as the resultant movements of the load.

(v) The control for the bridge and trolley travel shall be so located that the

an overtravel limit switch in the hoisting direction.

(v) All cranes using a lifting magnet shall have a magnet circuit switch of the enclosed type with provision for locking in the open position. Means for discharging the inductive load of the magnet shall be provided.

(6) *Runway conductors.* Conductors of the open type mounted on the crane runway beams or overhead shall be so located or so guarded that persons [illegible] walk normally could not come into contact with them.

(7) *Extension lamps.* If a service receptacle is provided in the cab or on the

(v) No hoisting, lowering, or swinging shall be done while anyone is on the load or hook.

(vi) The operator should avoid carrying loads over people.

(vii) The operator shall test the brakes each time a load approaching the rated load is handled by raising it a few inches and applying the brakes.

(viii) Neither the load nor boom shall be lowered below the point where less than two full wraps of rope remain on their respective drums.

(ix) When rotating a derrick, sudden starts and stops shall be avoided. Rotational speed shall be such that the load does not swing out beyond the radius at which it can be controlled.

(x) Boom and hoisting rope systems shall not be twisted.

(4) *Holding the load.* (i) The operator shall not be allowed to leave his position at the controls while the load is suspended.

(ii) People should not be permitted to stand or pass under a load on the hook.

(iii) If the load must remain suspended for any considerable length of time, a dog, or pawl and ratchet, or other equivalent means, rather than the brake alone, shall be used to hold the load.

(5) *Use of winch heads.* (i) Ropes shall not be handled on a winch head without the knowledge of the operator.

(ii) While a winch head is being used the operator shall be within convenient [illegible]

aged, rope having an independent wire-rope or wire-strand core, or other temperature-damage resistant core shall be used.

(viii) Replacement rope shall be the same size, grade, and construction as the original rope furnished by the crane manufacturer, unless otherwise recommended by a wire rope manufacturer due to actual working condition requirements.

(3) *Equalizers.* If a load is supported by more than one part of rope the tension in the parts shall be equalized.

(4) *Hooks.* Hooks shall meet the manufacturer's recommendations and shall not be overloaded.

V 37-202 18 72 XUM

(i) *Warning device.* Except for floor-operated cranes a gong or other effective warning signal shall be provided for each crane equipped with a power traveling mechanism.

(j) *Inspection*—(1) *Inspection classification.* (i) Initial inspection. Prior to initial use all new and altered cranes shall be inspected to insure compliance with the provisions of this section.

(ii) Inspection procedure for cranes in regular service is divided into two general classifications based upon the intervals at which inspection should be performed. The intervals in turn are dependent upon the nature of the critical components of the crane and the degree of their exposure to wear, deterioration, or malfunction. The two general classifications are herein designated as "frequent" and "periodic" with respective intervals between inspections as defined below:

(*a*) Frequent inspection—Daily to monthly intervals.

(*b*) Periodic inspection—1 to 12-month intervals.

(2) *Frequent inspection.* The following items shall be inspected for defects at intervals as defined in subparagraph (1)(ii) of this paragraph or as specifically indicated, including observation during operation for any defects which might appear between regular inspections. All deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) All functional operating mechanisms for maladjustment interfering with proper operation. Daily.

(ii) Deterioration or leakage in lines, tanks, valves, drain pumps, and other parts of air or hydraulic systems. Daily.

(iii) Hooks with deformation or cracks. Visual inspection daily; monthly inspection with signed reports. For hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook refer to paragraph (1)(3)(iii)(*a*) of this section.

(iv) Hoist or load attachment chains, including end connections, for excessive wear, twist, distorted links interfering with proper function, or stretch beyond manufacturer's recommendations. Visual inspection daily; monthly inspection with signed report.

(v) Rope slings, including end connections, for excessive wear, broken wires, stretch, kinking, or twisting. Visual inspection daily; monthly inspection with signed report.

(vi) All functional operating mechanisms for excessive wear of components.

(vii) Rope reeving for noncompliance with manufacturer's recommendations.

(3) *Periodic inspection.* Complete inspections of the crane shall be performed at intervals as generally defined in subparagraph (1)(ii)(*b*) of this paragraph, depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of subparagraph (2) of this paragraph and in addition, the following items. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) Deformed, cracked, or corroded members.

(ii) Loose bolts or rivets.

(iii) Cracked or worn sheaves and drums.

(iv) Worn, cracked or distorted parts such as pins, bearings, shafts, gears, rollers, locking and clamping devices.

(v) Excessive wear on brake system parts, linings, pawls, and ratchets.

(vi) Load, wind, and other indicators over their full range, for any significant inaccuracies.

(vii) Gasoline, diesel, electric, or other powerplants for improper performance or noncompliance with applicable safety requirements.

(viii) Excessive wear of chain drive sprockets and excessive chain stretch.

(ix) Crane hooks. Magnetic particle or other suitable crack detecting inspection should be performed at least once each year.

(x) Electrical apparatus, for signs of pitting or any deterioration of controller contactors, limit switches and pushbutton stations.

(4) *Cranes not in regular use.* (i) A crane which has been idle for a period of 1 month or more, but less than 6 months, shall be given an inspection conforming with requirements of subparagraph (2) of this paragraph and paragraph (m)(2) of this section before placing in service.

(ii) A crane which has been idle for a period of over 6 months shall be given a complete inspection conforming with requirements of subparagraphs (2) and (3) of this paragraph and paragraph (m)(2) of this section before placing in service.

(iii) Standby cranes shall be inspected at least semi-annually in accordance with requirements of subparagraph (2) of this paragraph and paragraph (m)(2) of this section. Standby cranes exposed to adverse environment should be inspected more frequently.

(k) *Testing*—(1) *Operational tests.* (i) Prior to initial use all new and altered cranes shall be tested to insure compliance with this section including the following functions:

(*a*) Hoisting and lowering.

(*b*) Trolley travel.

(*c*) Bridge travel.

(*d*) Limit switches, locking and safety devices.

(ii) The trip setting of hoist limit switches shall be determined by tests with an empty hook traveling in increasing speeds up to the maximum speed. The actuating mechanism of the limit switch shall be located so that it will trip the switch, under all conditions, in sufficient time to prevent contact of the hook or hook block with any part of the trolley.

(2) *Rated load test.* Prior to initial use all new, extensively repaired, and altered cranes should be tested by or under the direction of an appointed or authorized person, confirming the load rating of the crane. The load rating should not be more than 80 percent of the maximum load sustained during the test. Test loads shall not be more than 125 percent of the rated load unless otherwise recommended by the manufacturer. The test reports shall be placed on file where readily available to appointed personnel.

(l) *Maintenance*—(1) *Preventive maintenance.* A preventive maintenance program based on the crane manufacturer's recommendations shall be established.

(2) *Maintenance procedure.* (i) Before adjustments and repairs are started on a crane the following precautions shall be taken:

(*a*) The crane to be repaired shall be run to a location where it will cause the least interference with other cranes and operations in the area.

(*b*) All controllers shall be at the off position.

(*c*) The main or emergency switch shall be open and locked in the open position.

(*d*) Warning or "out of order" signs shall be placed on the crane, also on the floor beneath or on the hook where visible from the floor.

(*e*) Where other cranes are in operation on the same runway, rail stops or other suitable means shall be provided to prevent interference with the idle crane.

(*f*) Where temporary protective rail stops are not available, or practical, a signalman should be placed at a visual vantage point for observing the approach of an active crane and warning its operator when reaching the limit of safe distance from the idle crane.

(ii) After adjustments and repairs have been made the crane shall not be operated until all guards have been reinstalled, safety devices reactivated and maintenance equipment removed.

(3) *Adjustments and repairs.* (i) Any unsafe conditions disclosed by the inspection requirements of paragraph (j) of this section shall be corrected before operation of the crane is resumed. Adjustments and repairs shall be done only by designated personnel.

(ii) Adjustments shall be maintained to assure correct functioning of components. The following are examples:

(*a*) All functional operating mechanisms.

(*b*) Limit switches.

(*c*) Control systems.

(*d*) Brakes.

(*e*) Power plants.

(iii) Repairs or replacements shall be provided promptly as needed for safe operation. The following are examples:

(*a*) Crane hooks showing defects described in paragraph (j)(2)(iii) of this section shall be discarded. Repairs by welding or reshaping are not generally recommended. If such repairs are attempted they shall only be done under competent supervision and the hook shall be tested to the load requirements of paragraph (k)(2) of this section before further use.

(*b*) Load attachment chains and rope slings showing defects described in paragraph (j)(2)(iv) and (v) of this section respectively.

(c) All critical parts which are cracked, broken, bent, or excessively worn.

(*d*) Pendant control stations shall be kept clean and function labels kept legible.

(m) *Rope inspection*—(1) *Running ropes.* A thorough inspection of all ropes shall be made at least once a month and a full written, dated, and signed report of rope condition kept on file where readily available to appointed personnel. Any deterioration, resulting in appreciable loss of original strength, such as described below, shall be carefully noted and determination made as to whether further use of the rope would constitute a safety hazard:

(i) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(ii) A number of broken outside wires and the degree of distribution or concentration of such broken wires.

(iii) Worn outside wires.

(iv) Corroded or broken wires at end connections.

(v) Corroded, cracked, bent, worn, or improperly applied end connections.

(vi) Severe kinking, crushing, cutting, or unstranding.

(2) *Other ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a crane on which it is installed shall be given a thorough inspection before it is placed in service. This inspection shall be for all types of deterioration and shall be performed by an appointed person whose approval shall be required for further use of the rope. A written and dated report of the rope condition shall be available for inspection.

(n) *Handling the load*—(1) *Size of load.* The crane shall not be loaded beyond its rated load except for test purposes as provided in paragraph (k) of this section.

(2) *Attaching the load.* (i) The hoist chain or hoist rope shall be free from kinks or twists and shall not be wrapped around the load.

(ii) The load shall be attached to the load block hook by means of slings or other approved devices.

(iii) Care shall be taken to make certain that the sling clears all obstacles.

(3) *Moving the load.* (i) The load shall be well secured and properly balanced in the sling or lifting device before it is lifted more than a few inches.

(ii) Before starting to hoist the following conditions shall be noted:

(*a*) Hoist rope shall not be kinked.

(*b*) Multiple part lines shall not be twisted around each other.

(*c*) The hook shall be brought over the load in such a manner as to prevent swinging.

(iii) During hoisting care shall be taken that:

(*a*) There is no sudden acceleration or deceleration of the moving load.

(*b*) The load does not contact any obstructions.

(iv) Cranes shall not be used for side pulls except when specifically authorized by a responsible person who has determined that the stability of the crane is not thereby endangered and that various parts of the crane will not be overstressed.

(v) While any employee is on the load or hook, there shall be no hoisting, lowering, or traveling.

(vi) The employer shall require that the operator avoid carrying loads over people.

(vii) The operator shall test the brakes each time a load approaching the rated load is handled. The brakes shall be tested by raising the load a few inches and applying the brakes.

(viii) The load shall not be lowered below the point where less than two full wraps of rope remain on the hoisting drum.

(ix) When two or more cranes are used to lift a load one qualified responsible person shall be in charge of the operation. He shall analyze the operation and instruct all personnel involved in the proper positioning, rigging of the load, and the movements to be made.

(x) The employer shall insure that the operator does not leave his position at the controls while the load is suspended.

(xi) When starting the bridge and when the load or hook approaches near or over personnel, the warning signal shall be sounded.

(4) *Hoist limit switch.* (i) At the beginning of each operator's shift, the upper limit switch of each hoist shall be tried out under no load. Extreme care shall be exercised; the block shall be "inched" into the limit or run in at slow speed. If the switch does not operate properly, the appointed person shall be immediately notified.

(ii) The hoist limit switch which controls the upper limit of travel of the load block shall never be used as an operating control.

(o) *Other requirements, general*—(1) *Ladders.* (i) The employer shall insure that hands are free from encumbrances while personnel are using ladders.

(ii) Articles which are too large to be carried in pockets or belts shall be lifted and lowered by hand line.

(2) *Cabs.* (i) Necessary clothing and personal belongings shall be stored in such a manner as not to interfere with access or operation.

(ii) Tools, oil cans, waste, extra fuses, and other necessary articles shall be stored in the tool box, and shall not be permitted to lie loose in or about the cab.

(3) *Fire extinguishers.* The employer shall insure that operators are familiar with the operation and care of fire extinguishers provided.

§ 1910.180 Crawler locomotive and truck cranes.

(a) *Definitions applicable to this section.* (1) A "crawler crane" consists of a rotating superstructure with power plant, operating machinery, and boom, mounted on a base, equipped with crawler treads for travel. Its function is to hoist and swing loads at various radii.

(2) A "locomotive crane" consists of a rotating superstructure with powerplant, operating machinery and boom, mounted on a base or car equipped for travel on railroad track. It may be self-propelled or propelled by an outside source. Its function is to hoist and swing loads at various radii.

(3) A "truck crane" consists of a rotating superstructure with powerplant, operating machinery and boom, mounted on an automotive truck equipped with a powerplant for travel. Its function is to hoist and swing loads at various radii.

(4) A "wheel mounted crane" (wagon crane) consists of a rotating superstructure with powerplant, operating machinery and boom, mounted on a base or platform equipped with axles and rubber-tired wheels for travel. The base is usually propelled by the engine in the superstructure, but it may be equipped with a separate engine controlled from the superstructure. Its function is to hoist and swing loads at various radii.

(5) An "accessory" is a secondary part or assembly of parts which contributes to the overall function and usefulness of a machine.

(6) "Appointed" means assigned specific responsibilities by the employer or the employer's representative.

(7) "ANSI" means the American National Standards Institute.

(8) An "angle indicator" (boom) is an accessory which measures the angle of the boom to the horizontal.

(9) The "axis of rotation" is the vertical axis around which the crane superstructure rotates.

(10) "Axle" means the shaft or spindle with which or about which a wheel rotates. On truck- and wheel-mounted cranes it refers to an automotive type of axle assembly including housings, gearing, differential, bearings, and mounting appurtenances.

(11) "Axle" (bogie) means two or more automotive-type axles mounted in tandem in a frame so as to divide the load between the axles and permit vertical oscillation of the wheels.

(12) The "base" (mounting) is the traveling base or carrier on which the rotating superstructure is mounted such as a car, truck, crawlers, or wheel platform.

(13) The "boom" (crane) is a member hinged to the front of the rotating superstructure with the outer end supported by ropes leading to a gantry or A-frame and used for supporting the hoisting tackle.

(14) The "boom angle" is the angle between the longitudinal centerline of the boom and the horizontal. The boom longitudinal centerline is a straight line between the boom foot pin (heel pin) centerline and boom point sheave pin centerline.

(15) The "boom hoist" is a hoist drum and rope reeving system used to raise and lower the boom. The rope system may be all live reeving or a combination of live reeving and pendants.

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(16) The "boom stop" is a device used to limit the angle of the boom at the highest position.

(17) A "brake" is a device used for retarding or stopping motion by friction or power means.

(18) A "cab" is a housing which covers the rotating superstructure machinery and/or operator's station. On truck-crane trucks a separate cab covers the driver's station.

(19) The "clutch" is a friction, electromagnetic, hydraulic, pneumatic, or positive mechanical device for engagement or disengagement of power.

(20) The "counterweight" is a weight used to supplement the weight of the machine in providing stability for lifting working loads.

(21) "Designated" means selected or assigned by the employer or the employer's representative as being qualified to perform specific duties.

(22) The "drum" is the cylindrical members around which ropes are wound for raising and lowering the load or boom.

(23) "Dynamic" (loading) means loads introduced into the machine or its components by forces in motion.

(24) The "gantry" (A-frame) is a structural frame, extending above the superstructure, to which the boom support ropes are reeved.

(25) A "jib" is an extension attached to the boom point to provide added boom length for lifting specified loads. The jib may be in line with the boom or offset to various angles.

(26) "Load" (working) means the external load, in pounds, applied to the crane, including the weight of load-attaching equipment such as load blocks, shackles, and slings.

(27) "Load block" (upper) means the assembly of hook or shackle, swivel, sheaves, pins, and frame suspended from the boom point.

(28) "Load block" (lower) means the assembly of hook or shackle, swivel, sheaves, pins, and frame suspended by the hoisting ropes.

(29) A "load hoist" is a hoist drum and rope reeving system used for hoisting and lowering loads.

(30) "Load ratings" are crane ratings in pounds established by the manufacturer in accordance with paragraph (c) of this section.

(31) "Outriggers" are extendable or fixed metal arms, attached to the mounting base, which rest on supports at the outer ends.

(32) "Rail clamp" means a tong-like metal device, mounted on a locomotive crane car, which can be connected to the track.

(33) "Reeving" means a rope system in which the rope travels around drums and sheaves.

(34) "Rope" refers to a wire rope unless otherwise specified.

(35) "Side loading" means a load applied at an angle to the vertical plane of the boom.

(36) A "standby crane" is a crane which is not in regular service but which is used occasionally or intermittently as required.

(37) A "standing (guy) rope" is a supporting rope which maintains a constant distance between the points of attachment to the two components connected by the rope.

(38) "Structural competence" means the ability of the machine and its components to withstand the stresses imposed by applied loads.

(39) "Superstructure" means the rotating upper frame structure of the machine and the operating machinery mounted thereon.

(40) "Swing" means the rotation of the superstructure for movement of loads in a horizontal direction about the axis of rotation.

(41) "Swing mechanism" means the machinery involved in providing rotation of the superstructure.

(42) "Tackle" is an assembly of ropes and sheaves arranged for hoisting and pulling.

(43) "Transit" means the moving or transporting of a crane from one jobsite to another.

(44) "Travel" means the function of the machine moving from one location to another, on a jobsite.

(45) The "travel mechanism" is the machinery involved in providing travel.

(46) "Wheelbase" means the distance between centers of front and rear axles. For a multiple axle assembly the axle center for wheelbase measurement is taken as the midpoint of the assembly.

(47) The "whipline" (auxiliary hoist) is a separate hoist rope system of lighter load capacity and higher speed than provided by the main hoist.

(48) A "winch head" is a power driven spool for handling of loads by means of friction between fiber or wire rope and spool.

(b) *General requirements*—(1) *Application.* This section applies to crawler cranes, locomotive cranes, wheel mounted cranes of both truck and self-propelled wheel type, and any variations thereof which retain the same fundamental characteristics. This section includes only cranes of the above types, which are basically powered by internal combustion engines or electric motors and which utilize drums and ropes. Cranes designed for railway and automobile wreck clearances are excepted. The requirements of this section are applicable only to machines when used as lifting cranes.

(2) *New and existing equipment.* All new crawler, locomotive, and truck cranes constructed and utilized on or after August 31, 1971, shall meet the design specifications of the American National Standard Safety Code for Crawler, Locomotive, and Truck Cranes, ANSI B30.5–1968. Crawler, locomotive, and truck cranes constructed prior to August 31, 1971, should be modified to conform to those design specifications by February 15, 1972, unless it can be shown that the crane cannot feasibly or economically be altered and that the crane substantially complies with the requirements of this section.

(c) *Load ratings*—(1) *Load ratings—where stability governs lifting performance.* (i) The margin of stability for determination of load ratings, with booms of stipulated lengths at stipulated working radii for the various types of crane mountings, is established by taking a percentage of the loads which will produce a condition of tipping or balance with the boom in the least stable direction, relative to the mounting. The load ratings shall not exceed the following percentages for cranes, with the indicated types of mounting under conditions stipulated in subdivisions (ii) and (iii) of this subparagraph.

Type of crane mounting	Maximum load ratings (percent of tipping loads)
Locomotive, without outriggers:	
Booms 60 feet or less	85
Booms over 60 feet	[1] 85
Locomotive, using outriggers fully extended	80
Crawler, without outriggers	75
Crawler, using outriggers fully extended	85
Truck and wheel mounted without outriggers or using outriggers fully extended	85

[1] Unless this results in less than 30,000 pound-feet net stabilizing moment about the rail, which shall be minimum with such booms.

(ii) The following stipulations shall govern the application of the values in subdivision (i) of this subparagraph for locomotive cranes:

(a) Tipping with or without the use of outriggers occurs when half of the wheels farthest from the load leave the rail.

(b) The crane shall be standing on track which is level within 1 percent grade.

(c) Radius of the load is the horizontal distance from a projection of the axis of rotation to the rail support surface, before loading, to the center of vertical hoist line or tackle with load applied.

(d) Tipping loads from which ratings are determined shall be applied under static conditions only, i.e., without dynamic effect of hoisting, lowering, or swinging.

(e) The weight of all auxiliary handling devices such as hoist blocks, hooks, and slings shall be considered a part of the load rating.

(iii) Stipulations governing the application of the values in subdivision (i) of this subparagraph for crawler, truck, and wheel-mounted cranes shall be in accordance with Crane Load-Stability Test Code, Society of Automotive Engineers (SAE) J765.

(iv) The effectiveness of these preceding stability factors will be influenced by such additional factors as freely suspended loads, track, wind, or ground conditions, condition and inflation of rubber tires, boom lengths, proper operating speeds for existing conditions, and, in general, careful and competent operation. All of these shall be taken into account by the user.

(2) *Load rating chart.* A substantial and durable rating chart with clearly legible letters and figures shall be provided with each crane and securely fixed to the crane cab in a location easily visible to the operator while seated at his control station.

(d) *Inspection classification*—(1) *Initial inspection.* Prior to initial use all new and altered cranes shall be inspected to insure compliance with provisions of this section.

(2) *Regular inspection.* Inspection procedure for cranes in regular service is divided into two general classifications based upon the intervals at which inspection should be performed. The intervals in turn are dependent upon the nature of the critical components of the crane and the degree of their exposure to wear, deterioration, or malfunction. The two general classifications are herein designated as "frequent" and "periodic", with respective intervals between inspections as defined below:

(i) Frequent inspection: Daily to monthly intervals.

(ii) Periodic inspection: 1- to 12-month intervals, or as specifically recommended by the manufacturer.

(3) *Frequent inspection.* Items such as the following shall be inspected for defects at intervals as defined in subdivision (2)(i) of this subparagraph or as specifically indicated including observation during operation for any defects which might appear between regular inspections. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) All control mechanisms for maladjustment interfering with proper operation: Daily.

(ii) All control mechanisms for excessive wear of components and contamination by lubricants or other foreign matter.

(iii) All safety devices for malfunction.

(iv) Deterioration or leakage in air or hydraulic systems: Daily.

(v) Crane hooks with deformations or cracks. For hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook.

(vi) Rope reeving for noncompliance with manufacturer's recommendations.

(vii) Electrical apparatus for malfunctioning, signs of excessive deterioration, dirt, and moisture accumulation.

(4) *Periodic inspection.* Complete inspections of the crane shall be performed at intervals as generally defined in subparagraph (2)(ii) of this paragraph depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of subparagraph (3) of this paragraph and in addition, items such as the following. Any deficiencies such as listed shall be carefully examined and determination made as to whether they constitute a safety hazard:

(i) Deformed, cracked, or corroded members in the crane structure and boom.

(ii) Loose bolts or rivets.

(iii) Cracked or worn sheaves and drums.

(iv) Worn, cracked, or distorted parts such as pins, bearings, shafts, gears, rollers and locking devices.

(v) Excessive wear on brake and clutch system parts, linings, pawls, and ratchets.

(vi) Load, boom angle, and other indicators over their full range, for any significant inaccuracies.

(vii) Gasoline, diesel, electric, or other power plants for improper performance or noncompliance with safety requirements.

(viii) Excessive wear of chain-drive sprockets and excessive chain stretch.

(ix) Travel steering, braking, and locking devices, for malfunction.

(x) Excessively worn or damaged tires.

(5) *Cranes not in regular use.* (i) A crane which has been idle for a period of one month or more, but less than 6 months, shall be given an inspection conforming with requirements of subparagraph (3) of this paragraph and paragraph (g)(2)(ii) of this section before placing in service.

(ii) A crane which has been idle for a period of six months shall be given a complete inspection conforming with requirements of subparagraphs (3) and (4) of this paragraph and paragraph (g)(2)(ii) of this section before placing in service.

(iii) Standby cranes shall be inspected at least semiannually in accordance with requirements of subparagraph (3) of this paragraph and paragraph (g)(2)(ii) of this section. Such cranes which are exposed to adverse environment should be inspected more frequently.

(6) *Inspection records.* Written, dated, and signed inspection reports and records shall be made monthly on critical items in use such as brakes, crane hooks, and ropes. Records shall be kept readily available.

(e) *Testing*—(1) *Operational tests.* (i) In addition to prototype tests and quality-control measures, each new production crane shall be tested by the manufacturer to the extent necessary to insure compliance with the operational requirements of this paragraph including functions such as the following:

(a) Load hoisting and lowering mechanisms

(b) Boom hoisting and lower mechanisms

(c) Swinging mechanism

(d) Travel mechanism

(e) Safety devices

(ii) Where the complete production crane is not supplied by one manufacturer such tests shall be conducted at final assembly.

(iii) Certified production-crane test results shall be made available.

(2) *Rated load test.* (i) Written reports shall be available showing test procedures and confirming the adequacy of repairs or alterations.

(ii) Test loads shall not exceed 110 percent of the rated load at any selected working radius.

(iii) Where rerating is necessary:

(a) Crawler, truck, and wheel-mounted cranes shall be tested in accordance with SAE Recommended Practice, Crane Load Stability Test Code J765 (April 1961).

(b) Locomotive cranes shall be tested in accordance with paragraph (c)(1)(i) and (ii) of this section.

(c) Rerating test report shall be readily available.

(iv) No cranes shall be rerated in excess of the original load ratings unless such rating changes are approved by the crane manufacturer or final assembler.

(f) *Maintenance procedure*—(1) *General.* After adjustments and repairs have been made the crane shall not be operated until all guards have been reinstalled, safety devices reactivated, and maintenance equipment removed.

(g) *Rope inspection*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a full written, dated, and signed report of rope condition kept on file where readily available. All inspections shall be performed by an appointed or authorized person. Any deterioration, resulting in appreciable loss of original strength, such as described below, shall be carefully noted and determination made as to whether further use of the rope would constitute a safety hazard:

(i) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(ii) A number of broken outside wires and the degree of distribution of concentration of such broken wires.

(iii) Worn outside wires.

(iv) Corroded or broken wires at end connections.

(v) Corroded, cracked, bent, worn, or improperly applied end connections.

(vi) Severe kinking, crushing, cutting, or unstranding.

(2) *Other ropes.* (i) Heavy wear and/or broken wires may occur in sections in contact with equalizer sheaves or other sheaves where rope travel is limited, or with saddles. Particular care shall be taken to inspect ropes at these locations.

(ii) All rope which has been idle for a period of a month or more due to shut down or storage of a crane on which it is installed shall be given a thorough inspection before it is placed in service. This inspection shall be for all types of deterioration and shall be performed by an appointed or authorized person whose approval shall be required for further use of the rope. A written and dated report of the rope condition shall be available.

(iii) Particular care shall be taken in the inspection of nonrotating rope.

(h) *Handling the load*—(1) *Size of load.* (i) No crane shall be loaded beyond the rated load, except for test purposes as provided in paragraph (e) of this section.

(ii) When loads which are limited by structural competence rather than by stability are to be handled, it shall be ascertained that the weight of the load has been determined within plus or minus 10 percent before it is lifted.

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(2) *Attaching the load.* (i) The hoist rope shall not be wrapped around the load.

(ii) The load shall be attached to the hook by means of slings or other approved devices.

(3) *Moving the load* (i) The employer shall assure that:

(*a*) The crane is level and where necessary blocked properly.

(*b*) The load is well secured and properly balanced in the sling or lifting device before it is lifted more than a few inches.

(ii) Before starting to hoist, the following conditions shall be noted:

(*a*) Hoist rope shall not be kinked.

(*b*) Multiple part lines shall not be twisted around each other.

(*c*) The hook shall be brought over the load in such a manner as to prevent swinging.

(*d*) If there is a slack rope condition, it should be determined that the rope is properly seated on the drum and in the sheaves.

(iii) During hoisting care shall be taken that:

(*a*) There is no sudden acceleration or deceleration of the moving load.

(*b*) The load does not contact any obstructions.

(iv) Side loading of booms shall be limited to freely suspended loads. Cranes shall not be used for dragging loads sideways.

(v) No hoisting, lowering, swinging, or traveling shall be done while anyone is on the load or hook.

(vi) The operator should avoid carrying loads over people.

(vii) On truck-mounted cranes, no loads shall be lifted over the front area except as approved by the crane manufacturer.

(viii) The operator shall test the brakes each time a load approaching the rated load is handled by raising it a few inches and applying the brakes.

(ix) Outriggers shall be used when the load to be handled at that particular radius exceeds the rated load without outriggers as given by the manufacturer for that crane. Where floats are used they shall be securely attached to the outriggers. Wood blocks used to support outriggers shall:

(*a*) Be strong enough to prevent crushing.

(*b*) Be free from defects.

(*c*) Be of sufficient width and length to prevent shifting or toppling under load.

(x) Neither the load nor the boom shall be lowered below the point where less than two full wraps of rope remain on their respective drums.

(xi) Before lifting loads with locomotive cranes without using outriggers, means shall be applied to prevent the load from being carried by the truck springs.

(xii) When two or more cranes are used to lift one load, one designated person shall be responsible for the operation. He shall be required to analyze the operation and instruct all personnel involved in the proper positioning, rigging of the load, and the movements to be made.

(xiii) In transit the following additional precautions shall be exercised:

(*a*) The boom shall be carried in line with the direction of motion.

(*b*) The superstructure shall be secured against rotation, except when negotiating turns when there is an operator in the cab or the boom is supported on a dolly.

(*c*) The empty hook shall be lashed or otherwise restrained so that it cannot swing freely.

(xiv) Before traveling a crane with load, a designated person shall be responsible for determining and controlling safety. Decisions such as position of load, boom location, ground support, travel route, and speed of movement shall be in accord with his determinations.

(xv) A crane with or without load shall not be traveled with the boom so high that it may bounce back over the cab.

(xvi) When rotating the crane, sudden starts and stops shall be avoided. Rotational speed shall be such that the load does not swing out beyond the radii at which it can be controlled. A tag or restraint line shall be used when rotation of the load is hazardous.

(xvii) When a crane is to be operated at a fixed radius, the boom-hoist pawl or other positive locking device shall be engaged.

(xviii) Ropes shall not be handled on a winch head without the knowledge of the operator.

(xix) While a winch head is being used, the operator shall be within convenient reach of the power unit control lever.

(4) *Holding the load.* (i) The operator shall not be permitted to leave his position at the controls while the load is suspended.

(ii) No person should be permitted to stand or pass under a load on the hook.

(iii) If the load must remain suspended for any considerable length of time, the operator shall hold the drum from rotating in the lowering direction by activating the positive controllable means of the operator's station.

(i) *Other requirements*—(1) *Rail clamps.* Rail clamps shall not be used as a means of restraining tipping of a locomotive crane.

(2) *Ballast or counterweight.* Cranes shall not be operated without the full amount of any ballast or counterweight in place as specified by the maker, but truck cranes that have dropped the ballast or counterweight may be operated temporarily with special care and only for light loads without full ballast or counterweight in place. The ballast or counterweight in place specified by the manufacturer shall not be exceeded.

(3) *Cabs.* (i) Necessary clothing and personal belongings shall be stored in such a manner as to not interfere with access or operation.

(ii) Tools, oil cans, waste, extra fuses, and other necessary articles shall be stored in the tool box, and shall not be permitted to lie loose in or about the cab.

(4) *Refueling.* (i) Refueling with small portable containers shall be done with Underwriters' Laboratories or Factory Mutual Laboratories approved, or equivalent, safety type can equipped with an automatic closing cap and flame arrester.

(ii) Machines shall not be refueled with the engine running.

(5) *Fire extinguishers.* (i) A carbon dioxide, dry chemical, or equivalent fire extinguisher shall be kept in the cab or vicinity of the crane.

(ii) Operating and maintenance personnel shall be made familiar with the use and care of the fire extinguishers provided.

(6) *Swinging locomotive cranes.* A locomotive crane shall not be swung into a position where railway cars on an adjacent track might strike it, until it has been ascertained that cars are not being moved on the adjacent track and proper flag protection has been established.

(j) *Operating near electric power lines*—(1) *Clearances.* Except where the electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers not a part of or an attachment to the crane have been erected to prevent physical contact with the lines, cranes shall be operated proximate to, under, over, by, or near powerlines only in accordance with the following:

(i) For lines rated 50 kv. or below, minimum clearance between the lines and any part of the crane or load shall be 10 feet.

(ii) For lines rated over 50 kv. minimum, clearance between the lines and any part of the crane or load shall be 10 feet plus 0.4 inch for each 1 kv. over 50 kv., or twice the length of the line insulator but never less than 10 feet.

(iii) In transit with no load and boom lowered the clearance shall be a minimum of 4 feet.

(2) *Boom guards.* Cage-type boom guards, insulating links, or proximity warning devices may be used on cranes, but the use of such devices shall not operate to alter the requirements of subparagraph (1) of this paragraph.

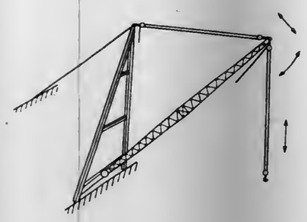
(3) *Notification.* Before the commencement of operations near electrical lines, the owners of the lines or their authorized representative shall be notified and provided with all pertinent information. The cooperation of the owner shall be requested.

(4) *Overhead wires.* Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate that it is not an energized line.

§ 1910.181 Derricks.

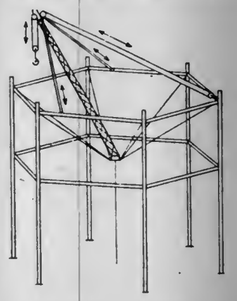
(a) *Definitions applicable to this section.* (1) A "derrick" is an apparatus consisting of a mast or equivalent member held at the head by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes.

(2) "A-frame derrick" means a derrick in which the boom is hinged from a cross member between the bottom ends of two upright members spread apart at the lower ends and joined at the top; the boom point secured to the junction of the side members, and the side members are braced or guyed from this junction point.



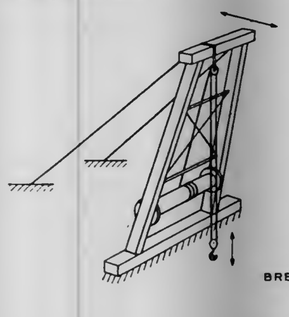
A-FRAME

(3) A "basket derrick" is a derrick without a boom, similar to a gin pole, with its base supported by ropes attached to corner posts or other parts of the structure. The base is at a lower elevation than its supports. The location of the base of a basket derrick can be changed by varying the length of the rope supports. The top of the pole is secured with multiple reeved guys to position the top of the pole to the desired location by varying the length of the upper guy lines. The load is raised and lowered by ropes through a sheave or block secured to the top of the pole.



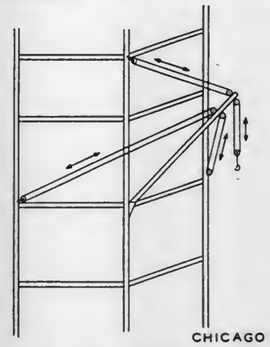
BASKET

(4) "Breast derrick" means a derrick without boom. The mast consists of two side members spread farther apart at the base than at the top and tied together at top and bottom by rigid members. The mast is prevented from tipping forward by guys connected to its top. The load is raised and lowered by ropes through a sheave or block secured to the top crosspiece.



BREAST

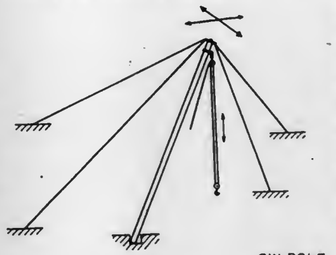
(5) "Chicago boom derrick" means a boom which is attached to a structure, an outside upright member of the structure serving as the mast, and the boom being stepped in a fixed socket clamped to the upright. The derrick is complete with load, boom, and boom point swing line falls.



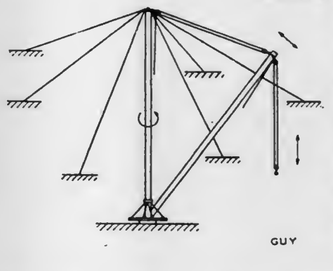
CHICAGO BOOM

(6) A "gin pole derrick" is a derrick without a boom. Its guys are so arranged from its top as to permit leaning the mast in any direction. The load is raised and lowered by ropes reeved through sheaves or blocks at the top of the mast.

(7) "Guy derrick" means a fixed derrick consisting of a mast capable of being rotated, supported in a vertical position by guys, and a boom whose bottom end is hinged or pivoted to move in a vertical plane with a reeved rope between the head of the mast and the boom point for raising and lowering the boom, and a reeved rope from the boom point for raising and lowering the load.



GIN POLE



GUY

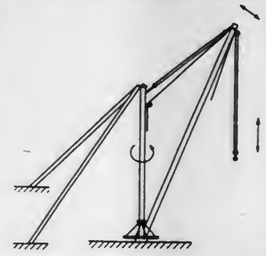
(8) "Shearleg derrick" means a derrick without a boom and similar to a breast derrick. The mast, wide at the bottom and narrow at the top, is hinged at the bottom and has its top secured by a multiple reeved guy to permit handling loads at various radii by means of load tackle suspended from the mast top.

(9) A "stiffleg derrick" is a derrick similar to a guy derrick except that the mast is supported or held in place by two or more stiff members, called stiffiegs, which are capable of resisting either tensile or compressive forces. Sills are generally provided to connect the lower ends of the stiffiegs to the foot of the mast.

(10) "Appointed" means assigned specific responsibilities by the employer or the employer's representative.

(11) "ANSI" means the American National Standards Institute.

(12) A boom is a timber or metal section or strut, pivoted or hinged at the heel (lower end) at a location fixed in height on a frame or mast or vertical member, and with its point (upper end) supported by chains, ropes, or rods to the upper end of the frame, mast, or vertical member. A rope for raising and lowering the load is reeved through sheaves or a



STIFF LEG

block at the boom point. The length of the boom shall be taken as the straight line distance between the axis of the foot pin and the axis of the boom point sheave pin, or where used, the axis of the upper load block attachment pin.

(13) "Boom harness" means the block and sheave arrangement on the boom point to which the topping lift cable is reeved for lowering and raising the boom.

(14) The "boom point" is the outward end of the top section of the boom.

(15) "Derrick bullwheel" means a horizontal ring or wheel, fastened to the foot of a derrick, for the purpose of turning the derrick by means of ropes leading from this wheel to a powered drum.

(16) "Designated" means selected or assigned by the employer or employer's representative as being qualified to perform specific duties.

(17) "Eye" means a loop formed at the end of a rope by securing the dead end to the live end at the base of the loop.

(18) A "fiddle block" is a block consisting of two sheaves in the same plane held in place by the same cheek plates.

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(19) The "foot bearing" or "foot block" (sill block) is the lower support on which the mast rotates.

(20) A "gudgeon pin" is a pin connecting the mast cap to the mast allowing rotation of the mast.

(21) A "guy" is a rope used to steady or secure the mast or other member in the desired position.

(22) "Load, working" means the external load, in pounds, applied to the derrick, including the weight of load attaching equipment such as load blocks, shackles, and slings.

(23) "Load block, lower" means the assembly of sheaves, pins, and frame suspended by the hoisting rope.

(24) "Load block, upper" means the assembly of sheaves, pins, and frame suspended from the boom.

(25) "Mast" means the upright member of the derrick.

(26) "Mast cap (spider)" means the fitting at the top of the mast to which the guys are connected.

(27) "Reeving" means a rope system in which the rope travels around drums and sheaves.

(28) "Rope" refers to wire rope unless otherwise specified.

(29) "Safety Hook" means a hook with a latch to prevent slings or load from accidentally slipping off the hook.

(30) "Side loading" is a load applied at an angle to the vertical plane of the boom.

(31) The "sill" is a member connecting the foot block and stiffleg or a member connecting the lower ends of a double member mast.

(32) A "standby derrick" is a derrick not in regular service which is used occasionally or intermittently as required.

(33) "Stiffleg" means a rigid member supporting the mast at the head.

(34) "Swing" means rotation of the mast and/or boom for movements of loads in a horizontal direction about the axis of rotation.

(b) *General requirements*—(1) *Application.* This section applies to guy, stiffleg, basket, breast, gin pole, Chicago boom and A-frame derricks of the stationary type, capable of handling loads at variable reaches and powered by hoists through systems of rope reeving, used to perform lifting hook work, single or multiple line bucket work, grab, grapple, and magnet work. Derricks may be permanently installed for temporary use as in construction work. The requirements of this section also apply to any modification of these types which retain their fundamental features, except for floating derricks.

(2) *New and existing equipment.* All new derricks constructed and installed on or after August 31, 1971, shall meet the design specifications of the American National Standard Safety Code for Derricks, ANSI B30.6–1969. Derricks constructed prior to August 31, 1971, should be modified to conform to those design specifications by February 15, 1972, unless it can be shown that the derrick cannot feasibly or economically be altered and that the derrick substantially complies with the requirements of this section.

(c) *Load ratings*—(1) *Rated load marking.* For permanently installed derricks with fixed lengths of boom, guy, and mast, a substantial, durable, and clearly legible rating chart shall be provided with each derrick and securely affixed where it is visible to personnel responsible for the safe operation of the equipment. The chart shall include the following data:

(i) Manufacturer's approved load ratings at corresponding ranges of boom angle or operating radii.

(ii) Specific lengths of components on which the load ratings are based.

(iii) Required parts for hoist reeving. Size and construction of rope may be shown either on the rating chart or in the operating manual.

(2) *Nonpermanent installations.* For nonpermanent installations, the manufacturer shall provide sufficient information from which capacity charts can be prepared for the particular installation. The capacity charts shall be located at the derricks or the jobsite office.

(d) *Inspection*—(1) *Inspection classification.* (i) Prior to initial use all new and altered derricks shall be inspected to insure compliance with the provisions of this section.

(ii) Inspection procedure for derricks in regular service is divided into two general classifications based upon the intervals at which inspection should be performed. The intervals in turn are dependent upon the nature of the critical components of the derrick and the degree of their exposure to wear, deterioration, or malfunction. The two general classifications are herein designated as frequent and periodic with respective intervals between inspections as defined below:

(*a*) Frequent inspection—Daily to monthly intervals.

(*b*) Periodic inspection—1- to 12-month intervals, or as specified by the manufacturer.

(2) *Frequent inspection.* Items such as the following shall be inspected for defects at intervals as defined in subparagraph (1)(ii)(*a*) of this paragraph or as specifically indicated, including observation during operation for any defects which might appear between regular inspections. Deficiencies shall be carefully examined for any safety hazard:

(i) All control mechanisms: Inspect daily for adjustment, wear, and lubrication.

(ii) All chords and lacing: Inspect daily, visually.

(iii) Tension in guys: Daily.

(iv) Plumb of the mast.

(v) Deterioration or leakage in air or hydraulic systems: Daily.

(vi) Derrick hooks for deformations or cracks; for hooks with cracks or having more than 15 percent in excess of normal throat opening or more than 10° twist from the plane of the unbent hook, refer to paragraph (e)(3)(iii) of this section.

(vii) Rope reeving; visual inspection for noncompliance with derrick manufacturer's recommendations.

(viii) Hoist brakes, clutches, and operating levers: check daily for proper functioning before beginning operations.

(ix) Electrical apparatus for malfunctioning, signs of excessive deterioration, dirt, and moisture accumulation.

(3) *Periodic inspection.* (i) Complete inspections of the derrick shall be performed at intervals as generally defined in subparagraph (1)(ii)(*b*) of this paragraph depending upon its activity, severity of service, and environment, or as specifically indicated below. These inspections shall include the requirements of subparagraph (2) of this paragraph and in addition, items such as the following. Deficiencies shall be carefully examined and a determination made as to whether they constitute a safety hazard:

(*a*) Structural members for deformations, cracks, and corrosion.

(*b*) Bolts or rivets for tightness.

(*c*) Parts such as pins, bearings, shafts, gears, sheaves, drums, rollers, locking and clamping devices, for wear, cracks, and distortion.

(*d*) Gudgeon pin for cracks, wear, and distortion each time the derrick is to be erected.

(*e*) Powerplants for proper performance and compliance with applicable safety requirements.

(*f*) Hooks: should be magnetic particle or other suitable crack detecting inspection should be performed at least once each year.

(ii) Foundation or supports shall be inspected for continued ability to sustain the imposed loads.

(4) *Derricks not in regular use.* (i) A derrick which has been idle for a period of 1 month or more, but less than 6 months, shall be given an inspection conforming with requirements of subparagraph (2) of this paragraph and paragraph (g)(3) of this section before placing in service.

(ii) A derrick which has been idle for a period of over 6 months shall be given a complete inspection conforming with requirements of subparagraphs (2) and (3) of this paragraph and paragraph (g)(3) of this section before placing in service.

(iii) Standby derricks shall be inspected at least semiannually in accordance with requirements of subparagraph (2) of this paragraph and paragraph (g)(3) of this section. Those exposed to adverse environment should be inspected more frequently.

(e) *Testing*—(1) *Operational tests.* Prior to initial use all new and altered derricks shall be tested to insure compliance with this section including the following functions:

(i) Load hoisting and lowering.

(ii) Boom up and down.

(iii) Swing.

(iv) Operation of clutches and brakes of hoist.

(2) *Anchorages.* All anchorages shall be approved by the appointed person.

Rock and hairpin anchorages may require special testing.

(f) *Maintenance*—(1) *Preventive maintenance.* A preventive maintenance program based on the derrick manufacturer's recommendations shall be established.

(2) *Maintenance procedure.* (i) Before adjustments and repairs are started on a derrick the following precautions shall be taken:

(*a*) The derrick to be repaired shall be arranged so it will cause the least interference with other equipment and operations in the area.

(*b*) All hoist drum dogs shall be engaged.

(*c*) The main or emergency switch shall be locked in the open position, if an electric hoist is used.

(*d*) Warning or out of order signs shall be placed on the derrick and hoist.

(*e*) The repairs of booms of derricks shall either be made when the booms are lowered and adequately supported or safely tied off.

(*f*) A good communication system shall be set up between the hoist operator and the appointed individual in charge of derrick operations before any work on the equipment is started.

(*g*) Welding repairs shall be approved by an appointed person.

(ii) After adjustments and repairs have been made the derrick shall not be operated until all guards have been reinstalled, safety devices reactivated, and maintenance equipment removed.

(3) *Adjustments and repairs.* (i) Any unsafe conditions disclosed by inspection shall be corrected before operation of the derrick is resumed.

(ii) Adjustments shall be maintained to assure correct functioning of components.

(iii) Repairs or replacements shall be provided promptly as needed for safe operation. The following are examples of conditions requiring prompt repair or replacement:

(*a*) Hooks showing defects described in paragraph (d)(2)(vi) of this section shall be discarded.

(*b*) All critical parts which are cracked, broken, bent, or excessively worn.

(*c*) Pitted or burned electrical contacts should be corrected only by replacement and in sets. Controller parts should be lubricated as recommended by the manufacturer.

(*d*) All replacement and repaired parts shall have at least the original safety factor.

(g) *Rope inspection*—(1) *Running ropes.* A thorough inspection of all ropes in use shall be made at least once a month and a full written, dated, and signed report of rope condition kept on file where readily available. Any deterioration, resulting in appreciable loss of original strength, such as described below, shall be carefully noted and determination made as to whether further use of the rope would constitute a safety hazard:

(i) Reduction of rope diameter below nominal diameter due to loss of core support, internal or external corrosion, or wear of outside wires.

(ii) A number of broken outside wires and the degree of distribution or concentration of such broken wires.

(iii) Worn outside wires.

(iv) Corroded or broken wires at end connections.

(v) Corroded, cracked, bent, worn, or improperly applied end connections.

(vi) Severe kinking, crushing, cutting, or unstranding.

(2) *Limited travel ropes.* Heavy wear and/or broken wires may occur in sections in contact with equalizer sheaves or other sheaves where rope travel is limited, or with saddles. Particular care shall be taken to inspect ropes at these locations.

(3) *Idle ropes.* All rope which has been idle for a period of a month or more due to shutdown or storage of a derrick on which it is installed shall be given a thorough inspection before it is placed in service. This inspection shall be for all types of deterioration. A written and dated report of the rope condition shall be available.

(4) *Nonrotating ropes.* Particular care shall be taken in the inspection of nonrotating rope.

(h) *Operations of derricks.* Derrick operations shall be directed only by the individual specifically designated for that purpose.

(i) *Handling the load*—(1) *Size of load.* (i) No derrick shall be loaded beyond the rated load.

(ii) When loads approach the maximum rating of the derrick, it shall be ascertained that the weight of the load has been determined within plus or minus 10 percent before it is lifted.

(2) *Attaching the load.* (i) The hoist rope shall not be wrapped around the load.

(ii) The load shall be attached to the hook by means of slings or other suitable devices.

(3) *Moving the load.* (i) The load shall be well secured and properly balanced in the sling or lifting device before it is lifted more than a few inches.

(ii) Before starting to hoist, the following conditions shall be noted:

(*a*) Hoist rope shall not be kinked.

(*b*) Multiple part lines shall not be twisted around each other.

(*c*) The hook shall be brought over the load in such a manner as to prevent swinging.

(*d*) If there is a slack rope condition, it should be determined that the rope is properly seated on the drum and in the sheaves.

(iii) During hoisting, care shall be taken that:

(*a*) There is no sudden acceleration or deceleration of the moving load.

(*b*) Load does not contact any obstructions.

(iv) A derrick shall not be used for side loading except when specifically authorized by a responsible person who has determined that the various structural components will not be overstressed.

(v) No hoisting, lowering, or swinging shall be done while anyone is on the load or hook.

(vi) The operator should avoid carrying loads over people.

(vii) The operator shall test the brakes each time a load approaching the rated load is handled by raising it a few inches and applying the brakes.

(viii) Neither the load nor boom shall be lowered below the point where less than two full wraps of rope remain on their respective drums.

(ix) When rotating a derrick, sudden starts and stops shall be avoided. Rotational speed shall be such that the load does not swing out beyond the radius at which it can be controlled.

(x) Boom and hoisting rope systems shall not be twisted.

(4) *Holding the load.* (i) The operator shall not be allowed to leave his position at the controls while the load is suspended.

(ii) People should not be permitted to stand or pass under a load on the hook.

(iii) If the load must remain suspended for any considerable length of time, a dog, or pawl and ratchet, or other equivalent means, rather than the brake alone, shall be used to hold the load.

(5) *Use of winch heads.* (i) Ropes shall not be handled on a winch head without the knowledge of the operator.

(ii) While a winch head is being used, the operator shall be within convenient reach of the power unit control lever.

(6) *Securing boom.* Dogs, pawls, or other positive holding mechanism on the hoist shall be engaged. When not in use, the derrick boom shall:

(i) Be laid down;

(ii) Be secured to a stationary member, as nearly under the head as possible, by attachment of a sling to the load block; or

(iii) Be hoisted to a vertical position and secured to the mast.

(j) *Other requirements*—(1) *Guards.* (i) Exposed moving parts, such as gears, ropes, setscrews, projecting keys, chains, chain sprockets, and reciprocating components, which constitute a hazard under normal operating conditions shall be guarded.

(ii) Guards shall be securely fastened.

(iii) Each guard shall be capable of supporting without permanent distortion, the weight of a 200-pound person unless the guard is located where it is impossible for a person to step on it.

(2) *Hooks.* (i) Hooks shall meet the manufacturer's recommendations and shall not be overloaded.

(ii) Safety latch type hooks shall be used wherever possible.

(3) *Fire extinguishers.* (i) A carbon dioxide, dry chemical, or equivalent fire extinguisher shall be kept in the immediate vicinity of the derrick.

(ii) Operating and maintenance personnel shall be familiar with the use and care of the fire extinguishers provided.

(4) *Refueling.* (i) Refueling with portable containers shall be done with Underwriters' Laboratory, Inc. (UL), or Factory Mutual Laboratories approved, or equivalent, safety type containers

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equipped with automatic closing spout and flame arrester.

(ii) Machines shall not be refueled with the engine running.

(5) *Operating near electric powerlines.* (i) Except where the electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers not a part of or an attachment to the derrick have been erected to prevent physical contact with the lines, derricks shall be operated proximate to, under, over, by, or near powerlines only in accordance with the following:

(*a*) For lines rated 50 kv. or below minimum clearance between the lines and any part of the derrick or load shall be 10 feet.

(*b*) For lines rated over 50 kv. minimum clearance between the lines and any part of the derrick or load shall be 10 feet plus 0.4 inch for each 1 kv. over 50 kv., or use twice the length of the line insulator, but never less than 10 feet.

(ii) Cage-type boom guards, insulating links, or proximity warning devices may be used on derricks, but the use of such devices shall not operate to alter the requirements of subdivision (i) of this subparagraph.

(iii) Before the commencement of operations near electrical lines, the owners of the lines or their authorized representatives shall be notified and provided with all pertinent information. The owner's cooperation shall be requested.

(iv) Any overhead wire shall be considered to be an energized line until the owner of the line or their authorized representatives state that it is deenergized.

(6) *Cab or operating enclosure.* (i) Necessary clothing and personnel belongings shall be stored in such a manner as to not interfere with access or operation.

(ii) Tools, oilcans, waste, extra fuses, and other necessary articles shall be stored in the toolbox, and shall not be permitted to lie loose in or about the cab or operating enclosure.

§ 1910.182 Effective dates.

(a) The provisions of this Subpart N shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

§ 1910.177 (d) and (f).
§ 1910.178 (a) (2) and (3), (c), (e), and (m)(11).
§ 1910.179 (b)(6), (c), (d), (e), (f), (g), and (h).
§ 1910.180(c).

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2(a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal Standard in this Subpart N which is derived from 41 CFR Part 50–204 shall also become effective and shall be applicable to such employment and place of employment, on the same date.

§ 1910.183 Sources of standards.

Sec.	Source
1910.176	41 CFR 50–204.3.
1910.177	NFPA No. 231–1970, General Indoor Storage.
1910.178(a)(1)	NFPA No. 505–1969, Powered Industrial Trucks.
1910.178(a)(2)	ANSI B56.1–1969, Standard for Powered Industrial Trucks, Part II.
1910.178(a)(3)	NFPA No. 505–1969, Powered Industrial Trucks.
1910.178(a)(4)–(7)	ANSI B56.1–1969, Standard for Powered Industrial Trucks.
1910.178(b)–(d)	NFPA No. 505–1969, Powered Industrial Trucks.
1910.178(e)–(p)	ANSI B56.1–1969, Powered Industrial Trucks.
1910.178(q)	NFPA No. 505–1969, Powered Industrial Trucks.
1910.179	ANSI B30.2.0–1967, Safety Code for Overhead and Gantry Cranes.
1910.180	ANSI B30.5–1968, Safety Code for Crawler, Locomotive, and Truck Cranes.
1910.181	ANSI B30.6–1969, Safety Code for Derricks.

§ 1910.184 Standards organizations.

Specific standards of the following organizations have been referenced in this part. Copies of the referenced materials may be obtained from the issuing organizations.

American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc., 345 East 47th Street, New York, NY 10017.
Crane Manufacturers Association of America, Inc., 1 Thomas Circle NW., Washington, DC 20005.
American National Standards Institute, 1430 Broadway, New York, NY 10018.
National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.
Society of Automotive Engineers, Inc., 485 Lexington Avenue, New York, NY 10017.

Subpart O—Machinery and Machine Guarding

§ 1910.211 Definitions.

(a) As used in §§ 1910.213 and 1910.214 unless the context clearly requires otherwise, the following woodworking machinery terms shall have the meaning prescribed in this paragraph.

(1) "Point of operations" means that point at which cutting, shaping, boring, or forming is accomplished upon the stock.

(2) "Push stick" means a narrow strip of wood or other soft material with a notch cut into one end and which is used to push short pieces of material through saws.

(3) "Block" means a short block of wood, provided with a handle similar to that of a plane and a shoulder at the rear end, which is used for pushing short stock over revolving cutters.

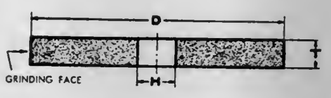
(b) As used in § 1910.215 unless the context clearly requires otherwise, the following abrasive wheel machinery terms shall have the meanings prescribed in this paragraph.

(1) "Type 1 straight wheels" means wheels having diameter, thickness, and hole size dimensions, and they should be used only on the periphery. Type 1 wheels shall be mounted between flanges.

LIMITATION: Hole dimension (H) should not be greater than two-thirds of wheel diameter dimension (D) for precision, cylindrical, centerless, or surface grinding applications. Maximum hole size for all other applications should not exceed one-half wheel diameter.

Figure No. O-1

TYPE 1 STRAIGHT WHEELS



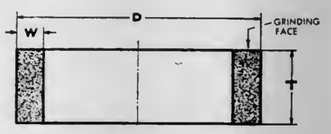
Type 1 — Straight Wheel.
Peripheral grinding wheel having a diameter, thickness and hole.

(2) "Type 2 cylinder wheels" means wheels having diameter, wheel thickness, and rim thickness dimensions. Grinding is performed on the rim face only, dimension W. Cylinder wheels may be plain, plate mounted, inserted nut, or of the projecting stud type.

LIMITATION: Rim height, T dimension, is generally equal to or greater than rim thickness, W dimension.

Figure No. O-2

TYPE 2 CYLINDER WHEELS



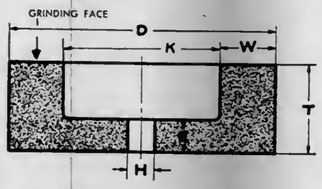
Type 2 — Cylinder Wheel
Side grinding wheel having a diameter, thickness and wall—wheel is mounted on the diameter.

(3) "Type 6 straight cup wheels" means wheels having diameter, thickness, hole size, rim thickness, and back thickness dimensions. Grinding is always performed on rim face, W dimension.

LIMITATION: Minimum back thickness, E dimension, should not be less than one-fourth T dimension. In addition, when unthreaded hole wheels are specified, the inside flat, K dimension, must be large enough to accommodate a suitable flange.

Figure No. O-3

TYPE 6 STRAIGHT CUP WHEELS



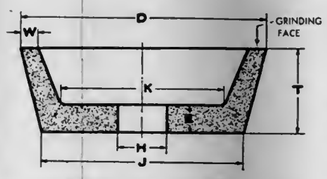
Type 6 — Straight-cup Wheel
Side grinding wheel having a diameter, thickness and hole with one side straight or flat and the opposite side recessed. This type, however, differs from Type 5 in that the grinding is performed on the wall of the abrasive created by the difference between the diameter of the recess and the outside diameter of the wheel. Therefore, the wall dimension "W" takes precedence over the diameter of the recess as an essential intermediate dimension to describe this shape type.

(4) "Type 11 flaring cup wheels" mean wheels having double diameter dimensions D and J, and in addition have thickness, hole size, rim and back thickness dimensions. Grinding is always performed on rim face, W dimension. Type 11 wheels are subject to all limitations of use and mounting listed for type 6 straight sided cup wheels definition.

LIMITATION: Minimum back thickness, E dimension, should not be less than one-fourth T dimension. In addition when unthreaded hole wheels are specified the inside flat, K dimension, shall be large enough to accommodate a suitable flange.

Figure No. O-4

TYPE 11 FLARING CUP WHEELS



Type 11 — Flaring-cup Wheel
Side grinding wheel having a wall flared or tapered outward from the back. Wall thickness at the back is normally greater than at the grinding face (W).

(5) "Modified types 6 and 11 wheels (terrazzo)" mean some type 6 and 11 cup wheels used in the terrazzo trade having tapered K dimensions to match a special tapered flange furnished by the machine builder.

LIMITATION: These wheels shall be mounted only with a special tapered flange.

Figure No. O-5

Type 6& 11 Wheels (Terrazzo)



Typical examples of modified types 6 and 11 wheels (terrazzo) showing tapered K dimensions.

(6) "Types 27 and 28 depressed center wheels" mean wheels having diameter, thickness, and hole size dimensions. Both types are reinforced, organic bonded wheels having offset hubs which permit side and peripheral grinding operations without interference with the mounting. Type 27 wheels are manufactured with flat grinding rims permitting notching and cutting operations. Type 28 wheels have saucer shaped grinding rims.

(i) Limitations: Special supporting, back adapter and inside flange nuts are required for the proper mounting of these types of wheels subject to limitations of § 1910.215(c)(4) (i) and (ii).

(ii) Mounts which are affixed to the wheel by the manufacturer may not require an inside nut and shall not be reused.

(7) "Type 27A depressed center, cutting-off wheels" mean wheels having diameter, thickness, and hole size dimensions. They are reinforced, organic bonded, offset hub type wheels, usually 16 inches diameter and larger, specially designed for use on cutting-off machines where mounting nut or outer flange interference cannot be tolerated.

LIMITATIONS: See § 1910.215(c)(1).

(8) "Surface feet per minute" (s.f.p.m.) means the distance in feet any one abrasive grain on the peripheral surface of a grinding wheel travels in 1 minute.

$$\text{Surface Feet Per Minute} = \frac{3.1416 \times \text{diameter in inches} \times \text{r.p.m.}}{12}$$

or

$$.262 \times \text{diameter in inches} \times \text{r.p.m.}$$

Examples: (a) 24-inch diameter wheel, 1,000 revolutions per minute. Surface Feet per minute $.262 \times 24 \times 1{,}000 = 6{,}288$ s.f.p.m.

(b) 12-inch diameter wheel, 1,000 revolutions per minute. Surface Feet per minute $.262 \times 12 \times 1{,}000 = 3{,}144$ s.f.p.m.

(9) "Flanges" means collars, discs or plates between which wheels are mounted and are referred to as adaptor, sleeve, or back up type. See paragraph (c) of § 1910.215 for full description.

(10) "Snagging" means grinding which removes relatively large amounts of material without regard to close tolerances or surface finish requirements.

(11) "Off-hand grinding" means the grinding of any material or part which is held in the operator's hand.

(12) "Safety guard" means an enclosure designed to restrain the pieces of the grinding wheel and furnish all possible protection in the event that the wheel is broken in operation. See paragraph (b) of § 1910.215.

(13) "Cutting off wheels" mean wheels having diameter thickness and hole size dimensions and are subject to all limitations of mounting and use listed for type 1 wheels, the definition in subparagraph (1) of this paragraph and paragraph (d) of § 1910.215. They may be steel centered, diamond abrasive or organic bonded abrasive of the plain or reinforced type.

(i) Limitation: Cutting off wheels are recommended only for use on specially designed and fully guarded machines and are subject to the following maximum thickness and hole size limitations.

Wheel diameter:	*Max. thickness (inch)*
6 inch and smaller	3/16
Larger than 6 inches to 12 inches	1/4
Larger than 12 inches to 23 inches	3/8
Larger than 23 inches	1/2

(ii) Maximum hole size for cutting-off wheels should not be larger than 1/4-wheel diameter.

(14) "Abrasive wheel" means a cutting tool consisting of abrasive grains held together by organic or inorganic bonds. Diamond and reinforced wheels are included.

(15) "Organic wheels" means wheels which are bonded by means of an organic material such as resin, rubber, shellac, or other similar bonding agent.

(16) "Inorganic wheels" means wheels which are bonded by means of inorganic material such as clay, glass, porcelain, sodium silicate, magnesium oxychloride, or metal. Wheels bonded with clay, glass, porcelain or related ceramic materials are characterized as "vitrified bonded wheels."

(c) As used in 1910.216, unless the context clearly requires otherwise, the following mills and calendars in the rubber and plastic industries terms shall have the meanings prescribed in this paragraph.

(1) "Bite" means the nip point between any two inrunning rolls.

(2) "Calender" means a machine equipped with two or more metal rolls revolving in opposite directions and used for continuously sheeting or plying up rubber and plastics compounds and for frictioning or coating materials with rubber and plastics compounds.

(3) "Mill" means a machine consisting of two adjacent metal rolls, set horizontally, which revolve in opposite directions (i.e., toward each other as viewed from above) used for the mechanical working of rubber and plastics compounds.

(d) As used in § 1910.217, unless the context clearly requires otherwise, the following power press terms shall have the meaning prescribed in this paragraph.

(1) "Antirepeat" means the part of the clutch/brake control system designed to limit the press to a single stroke if the tripping means is held operated. Antirepeat requires release of all tripping mechanisms before another stroke can be initiated. "Antirepeat" is also called single stroke reset or reset circuit.

(2) "Brake" means the mechanism used on a mechanical power press to stop and/or hold the crankshaft, either directly or through a gear train, when the clutch is disengaged.

(3) "Bolster plate" means the plate attached to the top of the bed of the press having drilled holes or T-slots for attaching the lower die or die shoe.

(4) "Clutch" means the coupling mechanism used on a mechanical power press to couple the flywheel to the crankshaft, either directly or through a gear train.

(5) "Full revolution clutch" means a type of clutch that, when tripped, cannot be disengaged until the crankshaft has completed a full revolution and the press slide a full stroke.

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(6) "Part revolution clutch" means a type of clutch that can be disengaged at any point before the crankshaft has completed a full revolution and the press slide a full stroke.

(7) "Direct drive" means the type of driving arrangement wherein no clutch is used; coupling and decoupling of the driving torque is accomplished by energization and deenergization of a motor. Even though not employing a clutch, direct drives match the operational characteristics of "part revolution clutches" because the driving power may be disengaged during the stroke of the press.

(8) "Concurrent" means acting in conjunction, and is used to describe a situation wherein two or more controls exist in an operated condition at the same time.

(9) "Continuous" means uninterrupted multiple strokes of the slide without intervening stops (or other clutch control action) at the end of individual strokes.

(10) "Counterbalance" means the mechanism that is used to balance or support the weight of the connecting rods, slide, and slide attachments.

(11) "Device" means a press control or attachment that:

(i) Restrains the operator from inadvertently reaching into the point of operation, or

(ii) Prevents normal press operation if the operator's hands are inadvertently within the point of operation, or

(iii) Automatically withdraws the operator's hands if the operator's hands are inadvertently within the point of operation as the dies close.

(12) "Presence sensing device" means a device designed, constructed and arranged to create a sensing field or area and to deactivate the clutch control of the press when an operator's hand or any other parts of his body is within such field or area.

(13) "Gate or movable barrier device" means a movable barrier arranged to enclose the point of operation before the press stroke can be started.

(14) "Holdout or restraint device" means a mechanism, including attachments for operator's hands, that when anchored and adjusted prevent the operator's hands from entering the point of operation.

(15) "Pull-out device" means a mechanism attached to the operator's hands and connected to the upper die or slide of the press, that is designed, when properly adjusted, to withdraw the operator's hands as the dies close, if the operator's hands are inadvertently within the point of operation.

(16) "Sweep device" means a single or double arm (rod) attached to the upper die or slide of the press and designed to move the operator's hands to a safe position as the dies close, if the operator's hands are inadvertently within the point of operation.

(17) "Two hand control device" means a two hand trip that further requires concurrent pressure from both hands of the operator during a substantial part of the die-closing portion of the stroke of the press.

(18) "Die" means the tooling used in a press for cutting or forming material. An upper and a lower die make a complete set.

(19) "Die builder" means any person who builds dies for power presses.

(20) "Die set" means a tool holder held in alignment by guide posts and bushings and consisting of a lower shoe, an upper shoe or punch holder, and guide posts and bushings.

(21) "Die setter" means an individual who places or removes dies in or from mechanical power presses, and who, as a part of his duties, makes the necessary adjustments to cause the tooling to function properly and safely.

(22) "Die setting" means the process of placing or removing dies in or from a mechanical power press, and the process of adjusting the dies, other tooling and safeguarding means to cause them to function properly and safely.

(23) "Die shoe" means a plate or block upon which a die holder is mounted. A die shoe functions primarily as a base for the complete die assembly, and, when used, is bolted or clamped to the bolster plate or the face of slide.

(24) "Ejector" means a mechanism for removing work or material from between the dies.

(25) "Face of slide" means the bottom surface of the slide to which the punch or upper die is generally attached.

(26) "Feeding" means the process of placing or removing material within or from the point of operation.

(27) "Automatic feeding" means feeding wherein the material or part being processed is placed within or removed from the point of operation by a method or means not requiring action by an operator on each stroke of the press.

(28) "Semiautomatic feeding" means feeding wherein the material or part being processed is placed within or removed from the point of operation by an auxiliary means controlled by operator on each stroke of the press.

(29) "Manual feeding" means feeding wherein the material or part being processed is handled by the operator on each stroke of the press.

(30) "Foot control" means the foot operated control mechanism designed to be used with a clutch or clutch/brake control system.

(31) "Foot pedal" means the foot operated lever designed to operate the mechanical linkage that trips a full revolution clutch.

(32) "Guard" means a barrier that prevents entry of the operator's hands or fingers into the point of operation.

(33) "Die enclosure guard" means an enclosure attached to the die shoe or stripper, or both, in a fixed position.

(34) "Fixed barrier guard" means a die space barrier attached to the press frame.

(35) "Interlocked press barrier guard" means a barrier attached to the press frame and interlocked so that the press stroke cannot be started normally unless the guard itself, or its hinged or movable sections, enclose the point of operation.

(36) "Adjustable barrier guard" means a barrier requiring adjustment for each job or die setup.

(37) "Guide post" means the pin attached to the upper or lower die shoe, operating within the bushing on the opposing die shoe, to maintain the alignment of the upper and lower dies.

(38) "Hand feeding tool" means any hand held tool designed for placing or removing material or parts to be processed within or from the point of operation.

(39) "Inch" means an intermittent motion imparted to the slide (on machines using part revolution clutches) by momentary operation of the "Inch" operating means. Operation of the "Inch" operating means engages the driving clutch so that a small portion of one stroke or indefinite stroking can occur, depending upon the length of time the "Inch" operating means is held operated. "Inch" is a function used by the die setter for setup of dies and tooling, but is not intended for use during production operations by the operator.

(40) "Jog" means an intermittent motion imparted to the slide by momentary operation of the drive motor, after the clutch is engaged with the flywheel at rest.

(41) "Knockout" means a mechanism for releasing material from either die.

(42) "Liftout" means the mechanism also known as knockout.

(43) "Operator's station" means the complete complement of controls used by or available to an operator on a given operation for stroking the press.

(44) "Pinch point" means any point other than the point of operation at which it is possible for a part of the body to be caught between the moving parts of a press or auxiliary equipment, or between moving and stationary parts of a press or auxiliary equipment or between the material and moving part or parts of the press or auxiliary equipment.

(45) "Point of operation" means the area of the press where material is actually positioned and work is being performed during any process such as shearing, punching, forming, or assembling.

(46) "Press" means a mechanically powered machine that shears, punches, forms or assembles metal or other material by means of cutting, shaping, or combination dies attached to slides. A press consists of a stationary bed or anvil, and a slide (or slides) having a controlled reciprocating motion toward and away from the bed surface, the slide being guided in a definite path by the frame of the press.

(47) "Repeat" means an unintended or unexpected successive stroke of the press resulting from a malfunction.

(48) "Safety block" means a prop that, when inserted between the upper and lower dies or between the bolster plate and the face of the slide, prevents the slide from falling of its own deadweight.

(49) "Single stroke" means one complete stroke of the slide, usually initiated from a full open (or up) position, followed by closing (or down), and then a return to the full open position.

(50) "Single stroke mechanism" means an arrangement used on a full revolution clutch to limit the travel of the slide to one complete stroke at each engagement of the clutch.

(51) "Slide" means the main reciprocating press member. A slide is also called a ram, plunger, or platen.

(52) "Stop control" means an operator control designed to immediately deactivate the clutch control and activate the brake to stop slide motion.

(53) "Stripper" means a mechanism or die part for removing the parts or material from the punch.

(54) "Stroking selector" means the part of the clutch/brake control that determines the type of stroking when the operating means is actuated. The stroking selector generally includes positions for "Off" (Clutch Control), "Inch," "Single Stroke," and "Continuous" (when Continuous is furnished).

(55) "Trip or (tripping)" means activation of the clutch to "run" the press.

(56) "Turnover bar" means a bar used in die setting to manually turn the crankshaft of the press.

(57) "Two-hand trip" means a clutch actuating means requiring the concurrent use of both hands of the operator to trip the press.

(58) "Unitized tooling" means a type of die in which the upper and lower members are incorporated into a selfcontained unit so arranged as to hold the die members in alignment.

(e) As used in § 1910.218, unless the context clearly requires otherwise, the following forging and hot metal terms shall have the meaning prescribed in this paragraph.

(1) "Forging" means the product of work on metal formed to a desired shape by impact or pressure in hammers, forging machines (upsetters), presses, rolls, and related forming equipment. Forging hammers, counterblow equipment and high-energy-rate forging machines impart impact to the workpiece, while most other types of forging equipment impart squeeze pressure in shaping the stock. Some metals can be forged at room temperature, but the majority of metals are made more plastic for forging by heating.

(2) "Open framehammers (or blacksmith hammers)" mean hammers used primarily for the shaping of forgings by means of impact with flat dies. Open frame hammers generally are so constructed that the anvil assembly is separate from the operating mechanism and machine supports; it rests on its own independent foundation. Certain exceptions are forging hammers made with frame mounted on the anvil; e.g., the smaller, single-frame hammers are usually made with the anvil and frame in one piece.

(3) "Steam hammers" mean a type of drop hammer where the ram is raised for each stroke by a double-action steam cylinder and the energy delivered to the workpiece is supplied by the velocity and weight of the ram and attached upper die driven downward by steam pressure. Energy delivered during each stroke may be varied.

(4) "Gravity hammers" mean a class of forging hammer wherein energy for forging is obtained by the mass and velocity of a freely falling ram and the attached upper die. Examples: board hammers and air-lift hammers.

(5) "Forging presses" mean a class of forging equipment wherein the shaping of metal between dies is performed by mechanical or hydraulic pressure, and usually is accomplished with a single workstroke of the press for each die station.

(6) "Trimming presses" mean a class of auxiliary forging equipment which removes flash or excess metal from a forging. This trimming operation can also be done cold, as can coining, a product sizing operation.

(7) "High-energy-rate forging machines" mean a class of forging equipment wherein high ram velocities resulting from the sudden release of a compressed gas against a free piston impart impact to the workpiece.

(8) "Forging rolls" mean a class of auxiliary forging equipment wherein stock is shaped between power driven rolls bearing contoured dies. Usually used for preforming, roll forging is often employed to reduce thickness and increase length of stock.

(9) "Ring rolls" mean a class for forging equipment used for shaping weldless rings from pierced discs or thick-walled, ring-shaped blanks between rolls which control wall thickness, ring diameter, height and contour.

(10) "Bolt-headers" mean the same as an upsetter or forging machine except that the diameter of stock fed into the machine is much smaller, i.e., commonly three-fourths inch or less.

(11) Rivet making machines mean the same as upsetters and boltheaders when producing rivets with stock diameter of 1-inch or more. Rivet making with less than 1-inch diameter is usually a cold forging operation, and therefore not included in this subpart.

(12) Upsetters (or forging machines, or headers) type of forging equipment, related to the mechanical press, in which the main forming energy is applied horizontally to the workpiece which is gripped and held by prior action of the dies.

(f) As used in § 1910.219, unless, the context clearly requires otherwise, the following mechanical power-transmission guarding terms shall have the meaning prescribed in this paragraph.

(1) "Belts" include all power transmission belts, such as flat belts, round belts, V-belts, etc., unless otherwise specified.

(2) "Belt shifter" means a device for mechanically shifting belts from tight to loose pulleys or vice versa, or for shifting belts on cones of speed pulleys.

(3) "Belt pole" (sometimes called a "belt shipper" or "shipper pole,") means a device used in shifting belts on and off fixed pulleys on line or countershaft where there are no loose pulleys.

(4) "Exposed to contact" means that the location of an object is such that a person is likely to come into contact with it and be injured.

(5) "Flywheels" include flywheels, balance wheels, and flywheel pulleys mounted and revolving on crankshaft of engine or other shafting.

(6) "Maintenance runway" means any permanent runway or platform used for oiling, maintenance, running adjustment, or repair work, but not for passageway.

(7) "Nip-point belt and pulley guard" means a device which encloses the pulley and is provided with rounded or rolled edge slots through which the belt passes.

(8) "Point of operation" means that point at which cutting, shaping, or forming is accomplished upon the stock and shall include such other points as may offer a hazard to the operator in inserting or manipulating the stock in the operation of the machine.

(9) "Prime movers" include steam, gas, oil, and air engines, motors, steam and hydraulic turbines, and other equipment used as a source of power.

(10) "Sheaves" mean grooved pulleys, and shall be so classified unless used as flywheels.

§ 1910.212 General requirements for all machines.

(a) *Machine guarding*—(1) *Types of guarding.* One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are—barrier guards, two-hand tripping devices, electronic safety devices, etc.

(2) *General requirements for machine guards.* Guards shall be affixed to the machine where possible and secured elsewhere if for any reason attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself.

(3) *Point of operation guarding.* (i) Point of operation is the area on a machine where work is actually performed upon the material being processed.

(ii) The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be in conformity with any appropriate standards therefor, or, in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle.

(iii) Special handtools for placing and removing material shall be such as to permit easy handling of material without the operator placing a hand in the danger zone. Such tools shall not be in lieu of other guarding required by this section, but can only be used to supplement protection provided.

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(iv) The following are some of the machines which usually require point of operation guarding:

(*a*) Guillotine cutters.
(*b*) Shears.
(*c*) Alligator shears.
(*d*) Power presses.
(*e*) Milling machines.
(*f*) Power saws.
(*g*) Jointers.
(*h*) Portable power tools.
(*i*) Forming rolls and calenders.

(4) *Barrels, containers, and drums.* Revolving drums, barrels, and containers shall be guarded by an enclosure which is interlocked with the drive mechanism, so that the barrel, drum, or container cannot revolve unless the guard enclosure is in place.

(5) *Exposure of blades.* When the periphery of the blades of a fan is less than seven (7) feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one half (½) inch.

(b) *Anchoring fixed machinery.* Machines designed for a fixed location shall be securely anchored to prevent walking or moving.

§ 1910.213 Woodworking machinery requirements.

(a) *Machine construction general.* (1) Each machine shall be so constructed as to be free from sensible vibration when the largest size tool is mounted and run idle at full speed.

(2) Arbors and mandrels shall be constructed so as to have firm and secure bearing and be free from play.

(3) The use of wooden bandsaw wheels other than those of commercial manufacture is prohibited.

(4) Any automatic cutoff saw that strokes continuously without the operator being able to control each stroke shall not be used.

(5) Saw frames or tables shall be constructed with lugs cast on the frame or with an equivalent means to limit the size of the saw blade that can be mounted, so as to avoid overspeed caused by mounting a saw larger than intended.

(6) Circular saw fences shall be so constructed that they can be firmly secured to the table or table assembly without changing their alignment with the saw. For saws with tilting tables or tilting arbors the fence shall be so constructed that it will remain in a line parallel with the saw, regardless of the angle of the saw with the table.

(7) Circular saw gages shall be so constructed as to slide in grooves or tracks that are accurately machined, to insure exact alignment with the saw for all positions of the guide.

(8) Hinged saw tables shall be so constructed that the table can be firmly secured in any position and in true alignment with the saw.

(9) All belts, pulleys, gears, shafts, and moving parts shall be guarded in accordance with the specific requirements of § 1910.219.

(10) It is recommended that each power-driven woodworking machine be provided with a disconnect switch that can be locked in the off position.

(11) The frames and all exposed, non-current-carrying metal parts of portable electric woodworking machinery operated at more than 90 volts to ground shall be grounded and other portable motors driving electric tools which are held in the hand while being operated shall be grounded if they operate at more than 90 volts to ground. The ground shall be provided through use of a separate ground wire and polarized plug and receptacle.

(12) For all circular saws where conditions are such that there is a possibility of contact with the portion of the saw either beneath or behind the table, that portion of the saw shall be covered with an exhaust hood, or, if no exhaust system is required, with a guard that shall be so arranged as to prevent accidental contact with the saw.

(13) Revolving double arbor saws shall be fully guarded in accordance with all the requirements for circular crosscut saws or with all the requirements for circular ripsaws, according to the kind of saws mounted on the arbors.

(14) No saw, cutter head, or tool collar shall be placed or mounted on a machine arbor unless the tool has been accurately machined to size and shape to fit the arbor.

(15) Combs (featherboards) or suitable jigs shall be provided at the workplace for use when a standard guard cannot be used, as in dadoing, grooving, jointing, moulding, and rabbeting.

(b) *Machine controls and equipment.* (1) A mechanical or electrical power control shall be provided on each machine to make it possible for the operator to cut off the power from each machine without leaving his position at the point of operation.

(2) On machines driven by belts and shafting, a locking-type belt shifter or an equivalent positive device shall be used.

(3) On applications where injury to the operator might result if motors were to restart after power failures, provision shall be made to prevent machines from automatically restarting upon restoration of power.

(4) Power controls and operating controls should be located within easy reach of the operator while he is at his regular work location, making it unnecessary for him to reach over the cutter to make adjustments. This does not apply to constant pressure controls used only for setup purposes.

(5) On each machine operated by electric motors, positive means shall be provided for rendering such controls or devices inoperative while repairs or adjustments are being made to the machines they control.

(6) Each operating treadle shall be protected against unexpected or accidental tripping.

(7) Feeder attachments shall have the feed rolls or other moving parts so covered or guarded as to protect the operator from hazardous points.

(c) *Hand-fed ripsaws.* (1) Each circular hand-fed ripsaw shall be guarded by a hood which shall completely enclose that portion of the saw above the table and that portion of the saw above the material being cut. The hood and mounting shall be arranged so that the hood will automatically adjust itself to the thickness of and remain in contact with the material being cut but it shall not offer any considerable resistance to insertion of material to saw or to passage of the material being sawed. The hood shall be made of adequate strength to resist blows and strains incidental to reasonable operation, adjusting, and handling, and shall be so designed as to protect the operator from flying splinters and broken saw teeth. It shall be made of material that is soft enough so that it will be unlikely to cause tooth breakage. The material should not shatter when broken, should be nonexplosive, and should be no more flammable than wood. The hood shall be so mounted as to insure that its operation will be positive, reliable, and in true alignment with the saw; and the mounting shall be adequate in strength to resist any reasonable side thrust or other force tending to throw it out of line.

(2) Each hand-fed circular ripsaw shall be furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator. The spreader shall be made of hard tempered steel, or its equivalent, and shall be thinner than the saw kerf. It shall be of sufficient width to provide adequate stiffness or rigidity to resist any reasonable side thrust or blow tending to bend or throw it out of position. The spreader shall be attached so that it will remain in true alignment with the saw even when either the saw or table is tilted, and should be placed so that there is not more than ½-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine. The provision of a spreader in connection with grooving, dadoing, or rabbeting is not required. On the completion of such operations, the spreader shall be immediately replaced.

(3) Each hand-fed circular ripsaw shall be provided with nonkickback fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be designed to provide adequate holding power for all the thicknesses of materials being cut.

(d) *Hand-fed crosscut table saws.* (1) Each circular crosscut table saw shall be guarded by a hood which shall meet all the requirements of paragraph (c) (1) of this section for hoods for circular ripsaws.

(2) Each circular crosscut saw should also be provided with a spreader which should meet all the requirements of paragraph (c) (2) of this section.

(e) *Circular resaws.* (1) Each circular resaw shall be guarded by a hood or shield of metal above the saw. This hood or shield shall be so designed as to guard

against danger from flying splinters or broken saw teeth.

(2) Each circular resaw (other than self-feed saws with a roller or wheel at back of the saw) shall be provided with a spreader fastened securely behind the saw. The spreader shall be slightly thinner than the saw kerf and slightly thicker than the saw disk.

(f) *Self-feed circular saws.* (1) Feed rolls and saws shall be protected by a hood or guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material, preferably metal, and the bottom of the guard shall come down to within three-eighths inch of the plane formed by the bottom or working surfaces of the feed rolls. This distance (three-eighths inch) may be increased to three-fourths inch, provided the lead edge of the hood is extended to be not less than 5½ inches in front of the nip point between the front roll and the work.

(2) Each self-feed circular ripsaw shall be provided with sectional nonkickback fingers for the full width of the feed rolls. They shall be located in front of the saw and so arranged as to be in continual contact with the wood being fed.

(g) *Swing cutoff saws.* The requirements of this paragraph are also applicable to sliding cutoff saws mounted above the table.

(1) Each swing cutoff saw shall be provided with a hood that will completely enclose the upper half of the saw, the arbor end, and the point of operation at all positions of the saw. The hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters and broken saw teeth. Its hood shall be so designed that it will automatically cover the lower portion of the blade, so that when the saw is returned to the back of the table the hood will rise on top of the fence, and when the saw is moved forward the hood will drop on top of and remain in contact with the table or material being cut.

(2) Each swing cutoff saw shall be provided with an effective device to return the saw automatically to the back of the table when released at any point of its travel. Such a device shall not depend for its proper functioning upon any rope, cord, or spring. If there is a counterweight, the bolts supporting the bar and counterweight shall be provided with cotter pins; and the counterweight shall be prevented from dropping by either a bolt passing through both the bar and counterweight, or a bolt put through the extreme end of the bar, or, where the counterweight does not encircle the bar, a safety chain attached to it.

(3) Limit chains or other equally effective devices shall be provided to prevent the saw from swinging beyond the front or back edges of the table, or beyond a forward position where the gullets of the lowest saw teeth will rise above the table top.

(4) Inverted swing cutoff saws shall be provided with a hood that will cover the part of the saw that protrudes above the top of the table or above the material being cut. It shall automatically adjust itself to the thickness of and remain in contact with the material being cut.

(h) *Radial saws.* (1) The upper hood shall completely enclose the upper portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters, broken saw teeth, etc., and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock being cut to give maximum protection possible for the operation being performed.

(2) Each radial saw used for ripping shall be provided with nonkickback fingers or dogs located on both sides of the saw so as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be designed to provide adequate holding power for all the thicknesses of material being cut.

(3) An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut in repetitive operations.

(4) Installation shall be in such a manner that the front end of the unit will be slightly higher than the rear, so as to cause the cutting head to return gently to the starting position when released by the operator.

(5) Ripping and ploughing shall be against the direction in which the saw turns. The direction of the saw rotation shall be conspicuously marked on the hood. In addition, a permanent label not less than 1½ inches by ¾ inch shall be affixed to the rear of the guard at approximately the level of the arbor, reading as follows: "Danger: Do Not Rip or Plough From This End". Such a label should be colored standard danger red.

(i) *Bandsaws and band resaws.* (1) All portions of the saw blade shall be enclosed or guarded, except for the working portion of the blade between the bottom of the guide rolls and the table. Bandsaw wheels shall be fully encased. The outside periphery of the enclosure shall be solid. The front and back of the band wheels shall be either enclosed by solid material or by wire mesh or perforated metal. Such mesh or perforated metal shall be not less than 0.037 inch (U.S. Gage No. 20), and the openings shall be not greater than three-eighths inch. Solid material used for this purpose shall be of an equivalent strength and firmness. The guard for the portion of the blade between the sliding guide and the upper-saw-wheel guard shall protect the saw blade at the front and outer side. This portion of the guard shall be self-adjusting to raise and lower with the guide. The upper-wheel guard shall be made to conform to the travel of the saw on the wheel, and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal. Effective brakes should be provided to stop the wheel in case of blade breakage.

(2) Each bandsaw machine shall be provided with a tension control device to indicate a proper tension for the standard saws used on the machine, in order to assist in the elimination of saw breakage due to improper tension.

(3) Feed rolls of band resaws shall be protected with a suitable guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material, preferably metal, and the edge of the guard shall come to within three-eighths inch of the plane formed by the inside face of the feed roll in contact with the stock being cut.

(j) *Jointers.* (1) Each hand-fed planer and jointer with horizontal head shall be equipped with a cylindrical cutting head, the knife projection of which shall not exceed one-eighth inch beyond the cylindrical body of the head.

(2) The opening in the table shall be kept as small as possible. The clearance between the edge of the rear table and the cutter head shall be not more than one-eighth inch. The table throat opening shall be not more than 2½ inches when tables are set or aligned with each other for zero cut.

(3) Each hand-fed jointer with a horizontal cutting head shall have an automatic guard which will cover all the section of the head on the working side of the fence or gage. The guard shall effectively keep the operator's hand from coming in contact with the revolving knives. The guard shall automatically adjust itself to cover the unused portion of the head and shall remain in contact with the material at all times.

(4) Each hand-fed jointer with horizontal cutting head shall have a guard which will cover the section of the head back of the gage or fence.

(5) Each wood jointer with vertical head shall have either an exhaust hood or other guard so arranged as to enclose completely the revolving head, except for a slot of such width as may be necessary and convenient for the application of the material to be jointed.

(k) *Tenoning machines.* (1) Feed chains and sprockets of all double end tenoning machines shall be completely enclosed, except for that portion of chain used for conveying the stock.

(2) At the rear ends of frames over which feed conveyors run, sprockets and chains shall be guarded at the sides by plates projecting beyond the periphery of sprockets and the ends of lugs.

(3) Each tenoning machine shall have all cutting heads, and saws if used, covered by metal guards. These guards shall cover at least the unused part of the periphery of the cutting head. If such a guard is constructed of sheet metal, the material used shall be not less than one-sixteenth inch in thickness, and if cast iron is used, it shall be not less than three-sixteenths inch in thickness.

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(4) Where an exhaust system is used, the guard shall form part or all of the exhaust hood and shall be constructed of metal of a thickness not less than that specified in subparagraph (3) of this paragraph.

(l) *Boring and mortising machines.* (1) Safety-bit chucks with no projecting set screws shall be used.

(2) Boring bits should be provided with a guard that will enclose all portions of the bit and chuck above the material being worked.

(3) The top of the cutting chain and driving mechanism shall be enclosed.

(4) If there is a counterweight, one of the following or equivalent means shall be used to prevent its dropping:

(i) It shall be bolted to the bar by means of a bolt passing through both bar and counterweight;

(ii) A bolt shall be put through the extreme end of the bar;

(iii) Where the counterweight does not encircle the bar, a safety chain shall be attached to it;

(iv) Other types of counterweights shall be suspended by chain or wire rope and shall travel in a pipe or other suitable enclosure wherever they might fall and cause injury.

(5) Universal joints on spindles of boring machines shall be completely enclosed in such a way as to prevent accidental contact by the operator.

(6) Each operating treadle shall be covered by an inverted U-shaped metal guard, fastened to the floor, and of adequate size to prevent accidental tripping.

(m) *Wood shapers and similar equipment.* (1) The cutting heads of each wood shaper, hand-fed panel raiser, or other similar machine not automatically fed, shall be enclosed with a cage or adjustable guard so designed as to keep the operator's hand away from the cutting edge. The diameter of circular shaper guards shall be not less than the greatest diameter of the cutter. In no case shall a warning device of leather or other material attached to the spindle be acceptable.

(2) Cylindrical heads should be used whenever the nature of the work will permit. Single cutter knives in shaper heads shall not be used unless properly balanced.

(3) All double-spindle shapers shall be provided with a spindle starting and stopping device for each spindle.

(n) *Planing, molding, sticking, and matching machines.* (1) Each planing, molding, sticking, and matching machine shall have all cutting heads, and saws if used, covered by a metal guard. If such guard is constructed of sheet metal, the material used shall be not less than $\frac{1}{16}$ inch in thickness, and if cast iron is used, it shall be not less than three-sixteenths inch in thickness.

(2) Where an exhaust system is used, the guards shall form part or all of the exhaust hood and shall be constructed of metal of a thickness not less than that specified in subparagraph (1) of this paragraph.

(3) Feed rolls shall be guarded by a hood or suitable guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be fastened to the frame carrying the rolls so as to remain in adjustment for any thickness of stock.

(4) Surfacers or planers used in thicknessing multiple pieces of material simultaneously shall be provided with sectional infeed rolls having sufficient yield in the construction of the sections to provide feeding contact pressure on the stock, over the permissible range of variation in stock thickness specified or for which the machine is designed. In lieu of such yielding sectional rolls, suitable section kickback finger devices shall be provided at the infeed end.

(o) *Profile and swing-head lathes and wood heel turning machine.* (1) Each profile and swing-head lathe shall have all cutting heads covered by a metal guard. If such a guard is constructed of sheet metal, the material used shall be not less than one-sixteenth inch in thickness; and if cast iron is used, it shall not be less than three-sixteenths inch in thickness.

(2) Cutting heads on wood-turning lathes, whether rotating or not, shall be covered as completely as possible by hoods or shields, which should be hinged to the machines so that they can be thrown back for making adjustments.

(3) Shoe last and spoke lathes, doweling machines, wood heel turning machines, and other automatic wood-turning lathes of the rotating knife type shall be equipped with hoods enclosing the cutter blades completely except at the contact points while the stock is being cut.

(4) Lathes used for turning long pieces of wood stock held only between the two centers shall be equipped with long curved guards extending over the tops of the lathes in order to prevent the work pieces from being thrown out of the machines if they should become loose.

(5) Where an exhaust system is used, the guard shall form part or all of the exhaust hood and shall be constructed of metal of a thickness not less than that specified in subparagraph (1) of this paragraph.

(p) *Sanding machines.* (1) Feed rolls of self-feed sanding machines shall be protected with a semicylindrical guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material, preferably metal, and firmly secured to the frame carrying the rolls so as to remain in adjustment for any thickness of stock. The bottom of the guard should come down to within three-eighths inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock.

(2) Each drum sanding machine shall have an exhaust hood, or other guard if no exhaust system is required, so arranged as to enclose the revolving drum, except for that portion of the drum above the table, if a table is used, which may be necessary and convenient for the application of the material to be finished.

(3) Each disk sanding machine shall have the exhaust hood, or other guard if no exhaust system is required, so arranged as to enclose the revolving disk, except for that portion of the disk above the table, if a table is used, which may be necessary for the application of the material to be finished.

(4) Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs on to a pulley. These guards shall effectively prevent the hands or fingers of the operator from coming in contract with the nip points. The unused run of the sanding belt shall be guarded against accidental contact.

(q) *Veneer cutters and wringers.* (1) Veneer slicer knives shall be guarded to prevent accidental contact with knife edge, at both front and rear.

(2) Veneer clippers shall have automatic feed or shall be provided with a guard which will make it impossible to place a finger or fingers under the knife while feeding or removing the stock.

(3) Sprockets on chain or slat-belt conveyors shall be enclosed.

(4) Where practicable, hand and foot-power guillotine veneer cutters shall be provided with rods or plates or other satisfactory means, so arranged on the feeding side that the hands cannot reach the cutting edge of the knife while feeding or holding the stock in place.

(5) Power-driven guillotine veneer cutters, except continuous feed trimmers, shall be equipped with:

(i) Starting devices which require the simultaneous action of both hands to start the cutting motion and of at least one hand on a control during the complete stroke of the knife; or

(ii) An automatic guard which will remove the hands of the operator from the danger zone at every descent of the blade, used in conjunction with one-hand starting devices which require two distinct movements of the device to start the cutting motion, and so designed as to return positively to the nonstarting position after each complete cycle of the knife.

(6) Where two or more workers are employed at the same time on the same power-driven guillotine veneer cutter equipped with two-hand control, the device shall be so arranged that each worker shall be required to use both hands simultaneously on the controls to start the cutting motion, and at least one hand on a control to complete the cut.

(7) Power-driven guillotine veneer cutters, other than continuous trimmers, shall be provided, in addition to the brake or other stopping mechanism, with an emergency device which will prevent the machine from operating in the event of failure of the brake when the starting mechanism is in the nonstarting position.

(r) *Miscellaneous woodworking machines.* (1) The feed rolls of roll type glue spreaders shall be guarded by a semicylindrical guard. The bottom of the guard shall come to within three-eights inch of a plane formed by bottom or

contact face of the feed roll where it touches the stock.

(2) Drag saws shall be so located as to give at least a 4-foot clearance for passage when the saw is at the extreme end of the stroke; or if such clearance is not obtainable, the saw and its driving mechanism shall be provided with a standard enclosure.

(3) For combination or universal woodworking machines each point of operation of any tool shall be guarded as required for such a tool in a separate machine.

(4) The mention of specific machines in paragraphs (a) thru (q) and this paragraph (r) of this section, inclusive, is not intended to exclude other woodworking machines from the requirement that suitable guards and exhaust hoods be provided to reduce to a minimum the hazard due to the point of operation of such machines.

(s) *Inspection and maintenance of woodworking machinery.* (1) Dull, badly set, improperly filed, or improperly tensioned saws shall be immediately removed from service, before they begin to cause the material to stick, jam, or kick back when it is fed to the saw at normal speed. Saws to which gum has adhered on the sides shall be immediately cleaned.

(2) All knives and cutting heads of woodworking machines shall be kept sharp, properly adjusted, and firmly secured. Where two or more knives are used in one head, they shall be properly balanced.

(3) Bearings shall be kept free from lost motion and shall be well lubricated.

(4) Arbors of all circular saws shall be free from play.

(5) Sharpening or tensioning of saw blades or cutters shall be done only by persons of demonstrated skill in this kind of work.

(6) Emphasis is placed upon the importance of maintaining cleanliness around woodworking machinery, particularly as regards the effective functioning of guards and the prevention of fire hazards in switch enclosures, bearings, and motors.

(7) All cracked saws shall be removed from service.

(8) The practice of inserting wedges between the saw disk and the collar to form what is commonly known as a "wobble saw" shall not be permitted.

(9) Push sticks or push blocks shall be provided at the work place in the several sizes and types suitable for the work to be done.

(10) Twists or kinks in bandsaws and band resaws shall be promptly removed with a hammer.

(11) To avoid vibration, brazed joints in bandsaws and band resaws shall be the same thickness as the saw blade.

(12) The knife blade of jointers shall be so installed and adjusted that it does not protrude more than one-eighth inch beyond the cylindrical body of the head. Push sticks or push blocks shall be provided at the work place in the several sizes and types suitable for the work to be done.

(13) Whenever veneer slicers or rotary veneer-cutting machines have been shutdown for the purpose of inserting logs or to make adjustments, operators shall make sure that machine is clear and other workmen are not in a hazardous position before starting the machine.

(14) Operators shall not ride the carriage of a veneer slicer.

§ 1910.214 Cooperage machinery.

(a) *Heading bolt sawing machine.* (1) Each heading saw shall be guarded by a hood curved to the contour of the saw. The hood shall cover the saw at least to the depth of the teeth, except for that portion actually used in making the cut. The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the saw. The hood shall be made of adequate strength to resist strains incidental to reasonable operation.

(2) The balance wheel shall be covered to enclose the rim and outside portion of the wheel. Expanded metal curved to fit the contour of the wheel is recommended.

(3) The swing carriage shall be provided with an effective device that will return the carriage automatically to a position in front of the saw. Such a device shall not depend entirely upon any rope, cord, or spring for its proper functioning. If a counterweight is used, a safety chain shall be attached to it to prevent dropping, should the bar break or the weight become disengaged. All bolts supporting the bar, weight, and chain shall be provided with cotter pins or equally effective devices. A bolt shall be put through the extreme end of the counterweight bar to prevent dropping of the weight.

(4) A limit stop shall be provided to prevent the carriage from swinging too far back and thereby exposing the unguarded portion of the saw to contact.

(b) *Bolt equalizer, stave, and heading saws (tilting table style).* (1) All heading and stave bolt equalizer saws shall be guarded by hoods, curved to the contour of the saws. The hood shall cover the saw at least to the depth of the teeth, except for that portion actually used in making the cut. The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the saws.

(2) Hoods shall be attached to each end of the tilting table and shall extend forward to cover the portion of the saws which cannot be enclosed by a stationary guard.

(3) A limit stop shall be provided to prevent the table from coming too far back and thereby exposing the unguarded portion of the saws to contact.

(c) *Barrel stave saws (cylindrical saws).* (1) Each machine of this type shall have the saw and the revolving part (head) to which the saw blade is bolted enclosed with a hinged guard to prevent accidental contact, except for that part of the saw immediately adjacent to the carriage, which is the point of operation of the saw.

(2) The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the saw. The hood shall be made of adequate strength to resist strains incidental to reasonable operation.

(d) *Hand-fed ripsaws.* (1) Each circular hand-fed ripsaw shall be guarded with a hood. The hood shall be stationary and cover the saw to a distance of approximately three-fourths inch above the stave being ripped. This will prevent the material being cut from being raised by upward centrifugal force of the saw in cases of pinching or binding before the stave reaches the splitter. The hood shall provide inside clearance between the top edge of saw and guard to allow an accidental blow to strike it to the table and not engage the teeth with the guard. The hood shall be constructed of heavy material, preferably metal. That portion of the saw remaining below the table shall be completely enclosed in an exhaust hood.

(2) Spreader requirements for this equipment are contained in § 1910.213 (c)(2).

(e) *Self-feed stave and heading equalizer saws.* (1) Self-feed equalizer saws shall be guarded with a hood guard which will cover the top and sides of the saws. The hood should adjust itself automatically to the thickness of, and remain in contact with, the material being cut.

(2) The portion of the saw blade extending beneath the mandrel shall be enclosed in an exhaust hood and be easily accessible for changing saws.

(f) *Stave and heading planers (single and double heads).* (1) The exhaust hood, or other guards, if no exhaust system is required, shall be so arranged and maintained as to guard effectively all cutting heads and knives of single and double planers.

(2) Feed rolls, except for such portion as may be necessary to admit stock, shall be completely enclosed.

(3) Pressure bars or holddown arrangements shall be properly adjusted to assure correct pressure and clearance at all times.

(g) *Stave jointing machines (wheel).* (1) Stave jointer wheels shall be covered on both sides with a removable metal hood connected to the exhaust system, except for that portion where the stock is applied to the knives.

(2) A limit stop should be installed on the frame to prevent any part of the carriage from coming in contact with any moving part of the wheel.

(3) The equipment described in subparagraphs (1) and (2) of this paragraph include double independent stave jointer wheels, double jointer stave wheels, single jointer stave wheels, and all kinds of keg stave jointer wheels.

(h) *Heading jointer and doweler machine (wheel).* (1) Each heading jointer shall be equipped with a removable guard covering the upper half of the wheel, except for that portion where the stock is applied to the knives.

(2) The lower portion of the wheel shall be guarded with sheet metal or expanded metal to prevent accidental contact with the knives.

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(l) *Heading rounder.* The cutter head shall be enclosed in a hood attached to the exhaust system, arranged and maintained in such a manner as to guard effectively the entire cutting mechanism, except for that portion of the cutting head where the stock is applied.

(j) *Power windlass machine.* Windlass machines having counterweights shall operate with the weights in a stationary casing. On all machines having a friction gear, the gear shall be properly guarded.

(k) *Crozing machine (stationary heads).* Feed chains and sprockets shall be completely enclosed. This includes all types of barrel, keg, bucket, tub, and individual stave crozers, chamfering, crozing, and doweling machines.

(l) *Heading-up machine.* The outside portion and teeth of both drive gears for the racks shall be completely guarded. This includes all types of heading-up machines.

(m) *Head charring machine.* All tripping mechanisms shall be completely guarded.

(n) *Bilge truss hoop ring removing machine.* (1) Both eccentric cams and gear works on horizontal machines shall be guarded.

(2) Combined flywheel and gear shall be completely enclosed by a guard. This includes the horizontal and upright-type machines.

(o) *Hoop elevators and conveyors.* Lower sprockets and chains shall be guarded by complete enclosure to a height of at least 7 feet.

(p) *Barrel sanding machine.* Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs onto a pulley. This guard may be a part of the exhaust system. The unused run of the sanding belt shall be enclosed.

(q) *Hoop drivers and trussers.* (1) All friction pulleys shall be enclosed by a guard. A hinged gate should be provided for that portion of the guard covering adjustments to the friction blocks.

(2) The foregoing recommendation covers drivers for keg hoops, tin barrel hoops, truss hoops, and both screw and rack and pinion-type hoop drivers.

(r) *Head sanding machine.* The exhaust hood of automatic horizontal disk head sanders shall be so arranged as to enclose each disk, except for that portion necessary for the application of the barrel being finished.

(s) *Hand jointer.* All hand-fed jointers shall be guarded in accordance with the provisions of § 1910.213(j).

(t) *Hoop punching and coiling machine.* Miter gears, spur gears, drive pulley, and pulley for coiling attachment shall be guarded. This includes the horizontal hoop punching and coiling machine as well as the upright hoop punching machine.

(u) *Hoop riveting machine.* The balance and drive wheels shall be effectively guarded. This includes automatic, single, and double hoop riveters.

(v) *Hoop flaring and expanding machine.* Gearing shall be completely enclosed.

(w) *Inspection and maintenance of cooperage machinery.* For inspection and maintenance of cooperage machinery see § 1910.213(s).

§ 1910.215 Abrasive wheel machinery.

(a) *General requirements*—(1) *Machine guarding.* Abrasive wheels shall be used only on machines provided with safety guards as defined in the following paragraphs of this section, except:

(i) Wheels used for internal work while within the work being ground;

(ii) Mounted wheels, used in portable operations, 2 inches and smaller in diameter; and

(iii) Types 16, 17, 18, 18R, and 19 cones, plugs, and threaded hole pot balls where the work offers protection.

(2) *Guard design.* The safety guard shall cover the spindle end, nut, and flange projections. The safety guard shall be mounted so as to maintain proper alignment with the wheel, and the strength of the fastenings shall exceed the strength of the guard, except:

(i) Safety guards on all operations where the work provides a suitable measure of protection to the operator, may be so constructed that the spindle end, nut, and outer flange are exposed; and where the nature of the work is such as to entirely cover the side of the wheel, the side covers of the guard may be omitted; and

(ii) The spindle end, nut, and outer flange may be exposed on machines designed as portable saws.

(3) *Flanges.* Grinding machines shall be equipped with flanges in accordance with paragraph (c) of this section.

(4) *Work rests.* On offhand grinding machines, work rests shall be used to support the work. They shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted closely to the wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest, which may cause wheel breakage. The work rest shall be securely clamped after each adjustment. The adjustment shall not be made with the wheel in motion.

(5) *Excluded machinery.* Natural sandstone wheels and metal, wooden, cloth, or paper discs, having a layer of abrasive on the surface are not covered by this section.

(b) *Guarding of abrasive wheel machinery*—(1) *Cup wheels.* Cup wheels (Types 6 and 11) shall be protected by:

(i) Safety guards as specified in subparagraphs (1) through (10) of this paragraph:

(ii) Band type guards as specified in subparagraph (11) of this paragraph; and

(iii) Special "Revolving Cup Guards" which mount behind the wheel and turn with it. They shall be made of steel or other material with adequate strength and shall enclose the wheel sides upward from the back for one-third of the wheel thickness. The mounting features shall conform with all requirements of this section. It is necessary to maintain clearance between the wheel side and the guard. This clearance shall not exceed one-sixteenth inch.

(2) *Guard exposure angles.* The maximum exposure angles specified in subparagraphs (3) through (8) of this paragraph shall not be exceeded. Visors or other accessory equipment shall not be included as a part of the guard when measuring the guard opening, unless such equipment has strength equal to that of the guard.

(3) *Bench and floor stands.* The angular exposure of the grinding wheel periphery and sides for safety guards used on machines known as bench and floor stands should not exceed 90° or one-fourth of the periphery. This exposure shall begin at a point not more than 65° above the horizontal plane of the wheel spindle. (See Figures O–6 and O–7 and subparagraph (9) of this paragraph.)



FIGURE NO. 0-6

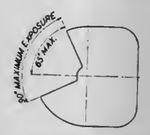


FIGURE NO. 0-7

Wherever the nature of the work requires contact with the wheel below the horizontal plane of the spindle, the exposure shall not exceed 125°. (See Figures O–8 and O–9.)



FIGURE NO. 0-8



FIGURE NO. 0-9

(4) *Cylindrical grinders.* The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on cylindrical grinding machines shall not exceed 180°. This exposure shall begin at a point not more than 65° above the horizontal plane of the wheel spindle. (See Figures O–10 and O–11 and subparagraph (9) of this paragraph.)



FIGURE NO. 0-10



FIGURE NO. 0-11

(5) *Surface grinders and cutting-off machines.* The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on cutting-off machines and on surface grinding machines which employ the wheel periphery shall not exceed 150°. This exposure shall begin at a point not less than 15° below the horizontal plane of the wheel spindle. (See Figures O–12 and O–13)



FIGURE NO. 0-12

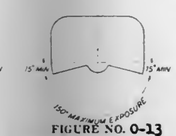


FIGURE NO. 0-13

(6) *Swing frame grinders.* The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on machines known as swing frame grinding machines shall not exceed 180°, and the top half of the wheel shall be enclosed at all times. (See Figure O–14 and O–15.)



FIGURE NO. 0-14



FIGURE NO. 0-15

(7) *Automatic snagging machines.* The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on grinders known as automatic snagging machines shall not exceed 180° and the top half of the wheel shall be enclosed at all times. (See Figures O–14 and O–15.)

(8) *Top grinding.* Where the work is applied to the wheel above the horizontal centerline, the exposure of the grinding wheel periphery shall be as small as possible and shall not exceed 60°. (See Figures O–16 and O–17.)



FIGURE NO. 0-16

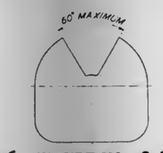


FIGURE NO. 0-17

(9) *Exposure adjustment.* Safety guards of the types described in subparagraphs (3) and (4) of this paragraph, where the operator stands in front of the opening, shall be constructed so that the peripheral protecting member can be adjusted to the constantly decreasing diameter of the wheel. The maximum angular exposure above the horizontal plane of the wheel spindle as specified in subparagraphs (3) and (4) of this paragraph shall never be exceeded, and the distance between the wheel periphery and the adjustable tongue or the end of the peripheral member at the top shall never exceed one-fourth inch. (See Figures O–18, O–19, O–20, O–21, O–22, and O–23.)

(10) *Material requirements and minimum dimensions.* (i) See Figures O–36 and O–37 and Table O–9 for minimum basic thickness of peripheral and side members for various types of safety guards and classes of service.

(ii) If operating speed does not exceed 8,000 surface feet per minute cast iron safety guards, malleable iron guards or other guards as described in subparagraph (10)(iii) of this paragraph shall be used.

(iii) Cast steel, or structural steel, safety guards as specified in Figures O–36 and O–37 and Table O–9 shall be used where operating speeds of wheels are faster than 8,000 surface feet per minute up to a maximum of 16,000 surface feet per minute.

(iv) For cutting-off wheels 16 inches diameter and smaller and where speed does not exceed 16,000 surface feet per minute, cast iron or malleable iron safety guards as specified in Figures O–36 and O–37, and in Table O–9 shall be used.



FIGURE NO. 0-18



FIGURE NO. 0-19

CORRECT

Showing adjustable tongue giving required angular protection for all sizes of wheel used.



FIGURE NO. 0-20



FIGURE NO. 0-21

CORRECT

Showing movable guard with opening small enough to give required protection for smallest size wheel used.



FIGURE NO. 0-22



FIGURE NO. 0-23

INCORRECT

Showing movable guard with size of opening correct for full size wheel but too large for smaller wheels.

(v) For cutting-off wheels larger than 16 inches diameter and where speed does not exceed 14,200 surface feet per minute, safety guards as specified in figures O–27 and O–28, and in Table O–1 shall be used.

(vi) For thread grinding wheels not exceeding 1 inch in thickness cast iron or malleable iron safety guards as specified in Figures O–36 and O–37, and in Table O–9 shall be used.

(11) *Band type guards—general specifications.* Band type guards shall conform to the following general specifications:

(i) The bands shall be of steel plate or other material of equal or greater strength. They shall be continuous, the ends being either riveted, bolted, or welded together in such a manner as to leave the inside free from projections.

(ii) The inside diameter of the band shall not be more than 1 inch larger than the outside diameter of the wheel, and shall be mounted as nearly concentric with the wheel as practicable.

(iii) The band shall be of sufficient width and its position kept so adjusted that at no time will the wheel protrude beyond the edge of the band a distance greater than that indicated in Figure O–29 and in Table O–2 or the wall thickness (W), whichever is smaller.

(12) *Guard design specifications.* Abrasive wheel machinery guards shall meet the design specifications of the American National Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, ANSI B7.1–1970. This requirement shall not apply to natural sandstone wheels or metal, wooden, cloth, or paper discs, having a layer of abrasive on the surface.

(c) *Flanges*—(1) *General requirements.* All abrasive wheels shall be mounted between flanges which shall not be less than one-third the diameter of the wheel.

(i) Exceptions:

(*a*) Mounted wheels.

(*b*) Portable wheels with threaded inserts or projecting studs.

(*c*) Abrasive discs (inserted nut, inserted washer and projecting stud type).

(*d*) Plate mounted wheels.

(*e*) Cylinders, cup, or segmental wheels that are mounted in chucks.

(*f*) Types 27 and 28 wheels.

(*g*) Certain internal wheels.

(*h*) Modified types 6 and 11 wheels (terrazzo).

(*i*) Cutting-off wheels, Types 1 and 27A (see subdivisions (ii) and (iii) of this subparagraph).

(ii) Type 1 cutting-off wheels are to be mounted between properly relieved flanges which have matching bearing surfaces. Such flanges shall be at least one-fourth the wheel diameter.

(iii) Type 27A cutting-off wheels are designed to be mounted by means of flat, not relieved, flanges having matching bearing surfaces and which may be less than one-third but shall not be less than one-fourth the wheel diameter. (See Figure O–24 for one such type of mounting.)

(iv) There are three general types of flanges:

(*a*) straight relieved flanges (see Figure O–32);

(*b*) straight unrelieved flanges (see Figure O–30);

(*c*) adaptor flanges (see Figures O–33 and O–34);

(v) Regardless of flange type used, the wheel shall always be guarded. Blotters shall be used in accordance with subparagraph (6) of this paragraph.

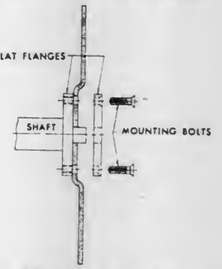


FIGURE NO. 0-24

The Type 27A Wheel is mounted between flat non-relieved flanges of equal bearing surfaces.

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(2) *Design and material.* (i) Flanges shall be of such design as to satisfactorily transmit the driving torque from the spindle to the grinding wheel.

(ii) Flanges may be made of steel, cast iron, or other material of equal or greater strength and rigidity.

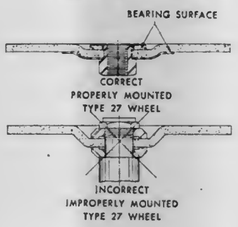
(iii) Flanges shall be designed with respect to rigidity so that when tightened, the radial width of bearing surface of contact on the wheel is maintained. (See Table O–6 and Figure O–32.)

(3) *Finish and balance.* Flanges shall be dimensionally accurate and in good balance. There shall be no rough surfaces or sharp edges.

(4) *Uniformity of diameter.* (i) Both flanges, of any type, between which a wheel is mounted, shall be of the same diameter and have equal bearing surface. Exceptions are set forth in the remaining subdivisions of this subparagraph.

(ii) Type 27 and Type 28 wheels, because of their shape and usage, require specially designed adaptors. The back flange shall extend beyond the central hub or raised portion and contact the wheel to counteract the side pressure on the wheel in use. The adaptor nut which is less than the minimum one-third diameter of wheel fits in the depressed side of wheel to prevent interference in side grinding and serves to drive the wheel by its clamping force against the depressed portion of the back flange The variance in flange diameters, the adaptor nut being less than one-third wheel diameter, and the use of side pressure in wheel operation limits the use to reinforced organic bonded wheels. Mounts which are affixed to the wheel by the manufacturer shall not be reused. Type 27 and Type 28 wheels shall be used only with a safety guard located between wheel and operator during use. (See Figure O–24–A.)

FIGURE NO. O–24–A



Types 27 and 28 wheels, because of their shape, require specially designed adaptors.

(iii) Modified Types 6 and 11 wheels (terrazzo) with tapered K dimension.

(5) *Recess and undercut.* (i) Straight relieved flanges made according to Table O–6 and Figure O–32 shall be recessed at least one-sixteenth inch on the side next to the wheel for a distance as specified in Table O–6.

(ii) Straight flanges of the adaptor or sleeve type (Table O–7 and Figures O–33 and O–34) shall be undercut so that there will be no bearing on the sides of the wheel within one-eighth inch of the arbor hole.

(6) *Blotters.* (i) Blotters (compressible washers) shall always be used between flanges and abrasive wheel surfaces to insure uniform distribution of flange pressure. (See paragraph (d)(5) of this section.)

(ii) Exception:

(*a*) Mounted wheels.

(*b*) Abrasive discs (inserted nut, inserted washer, and projecting stud type).

(*c*) Plate mounted wheels.

(*d*) Cylinders, cups, or segmental wheels that are mounted in chucks.

(*e*) Types 27 and 28 wheels.

(*f*) Certain Type 1 and Type 27A cutting-off wheels.

(*g*) Certain internal wheels.

(*h*) Type 4 tapered wheels.

(*i*) Diamond wheels, except certain vitrified diamond wheels.

(*j*) Modified Types 6 and 11 wheel (terrazzo)—blotters applied flat side of wheel only.

(7) *Driving flange.* The driving flange shall be securely fastened to the spindle and the bearing surface shall run true. When more than one wheel is mounted between a single set of flanges, wheels may be cemented together or separated by specially designed spacers. Spacers shall be equal in diameter to the mounting flanges and have equal bearing surfaces. (See paragraph (d)(6) of this section.)

(8) *Dimensions.* (i) Tables O–4 and O–6 and Figures O–30 and O–32 show minimum dimensions for straight relieved and unrelieved flanges for use with wheels with small holes that fit directly on the machine spindle. Dimensions of such flanges shall never be less than indicated and should be greater where practicable.

(ii) Table O–5, and Table O–7 and Figures O–31, O–33, O–34 show minimum dimensions for straight adaptor flanges for use with wheels having holes larger than the spindle. Dimensions of such adaptor flanges shall never be less than indicated and should be greater where practicable.

(iii) Table O–8 and Figure O–35 show minimum dimensions for straight flanges that are an integral part of wheel sleeves which are frequently used on precision grinding machines. Dimensions of such flanges shall never be less than indicated and should be greater where practicable.

(9) *Repairs and maintenance.* All flanges shall be maintained in good condition. When the bearing surfaces become worn, warped, sprung, or damaged they should be trued or refaced. When refacing or truing, care shall be exercised to make sure that proper relief and rigidity is maintained as specified in subparagraphs (2) and (5) of this paragraph and they shall be replaced when they do not conform to these subparagraphs and Table O–4, Figure O–30, Table O–5, Figure O–31, Table O–6, Figure O–32, and Table O–8, Figure O–35. Failure to observe these rules might cause excessive flange pressure around the hole of the wheel. This is especially true of wheel-sleeve or adaptor flanges.

(d) *Mounting*—(1) *Inspection.* Immediately before mounting, all wheels shall be closely inspected and sounded by the user (ring test) to make sure they have not been damaged in transit, storage, or otherwise. The spindle speed of the machine shall be checked before mounting of the wheel to be certain that it does not exceed the maximum operating speed marked on the wheel. Wheels should be tapped gently with a light nonmetallic implement, such as the handle of a screwdriver for light wheels, or a wooden mallet for heavier wheels. If they sound cracked (dead), they shall not be used. This is known as the "Ring Test".

(i) Wheels must be dry and free from sawdust when applying the ring test, otherwise the sound will be deadened. It should also be noted that organic bonded wheels do not emit the same clear metallic ring as do vitrified and silicate wheels.

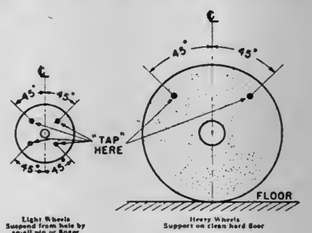


FIGURE NO. O–25

FIGURE NO. O–26

(ii) "Tap" wheels about 45° each side of the vertical centerline and about 1 or 2 inches from the periphery as indicated by the spots in Figure O–25 and Figure O–26. Then rotate the wheel 45° and repeat the test. A sound and undamaged wheel will give a clear metallic tone. If cracked, there will be a dead sound and not a clear "ring."

(2) *Arbor size.* Grinding wheels shall fit freely on the spindle and remain free under all grinding conditions. A controlled clearance between the wheel hole and the machine spindle (or wheel sleeves or adaptors) is essential to avoid excessive pressure from mounting and spindle expansion. To accomplish this, the machine spindle shall be made to nominal (standard) size plus zero minus .002 inch, and the wheel hole shall be made suitably oversize to assure safety clearance under the conditions of operating heat and pressure.

(3) *Surface condition.* All contact surfaces of wheels, blotters and flanges shall be flat and free of foreign matter.

(4) *Bushing.* When a bushing is used in the wheel hole it shall not exceed the width of the wheel and shall not contact the flanges.

(5) *Blotters.* When blotters or flange facings of compressible material are required, they shall cover entire contact area of wheel flanges. Highly compressible material such as blotting paper as normally used should not exceed .025 inch in thickness. If material of lower compressibility is used, greater thickness

may be necessary. Blotters need not be used with the following types of wheels:

(i) Mounted wheels.

(ii) Abrasive discs (inserted nut, inserted washer, and projecting-stud type).

(iii) Plate mounted wheels.

(iv) Cylinders, cups, or segmental wheels that are mounted in chucks.

(v) Types 27 and 28 wheels.

(vi) Certain Type 1 and Type 27A cutting-off wheels.

(vii) Certain internal wheels.

(viii) Type 4 tapered wheels.

(ix) Diamond wheels, except certain vitrified diamond wheels.

(6) *Multiple wheel mounting.* When more than one wheel is mounted between a single set of flanges, wheels may be cemented together or separated by specially designed spacers. Spacers shall be equal in diameter to the mounting flanges and have equal bearing surfaces. When mounting wheels which have not been cemented together, or ones which do not utilize separating spacers, care must be exercised to use wheels specially manufactured for that purpose.

(7) *Replacing safety guard.* After mounting a wheel, care should be taken to see that the safety guard is properly positioned before starting the wheel.

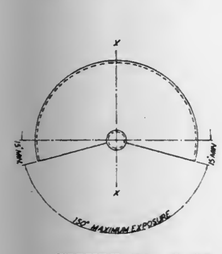
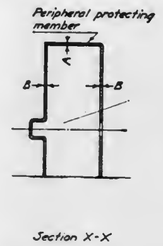


FIGURE NO. O–27



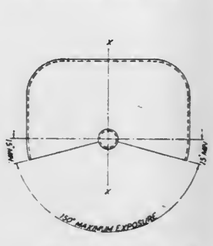


FIGURE NO. O–28

TABLE O–1—MINIMUM BASIC THICKNESS FOR PERIPHERAL AND SIDE MEMBERS FOR SAFETY GUARDS USED WITH CUTTING-OFF WHEELS

Material used in construction of guard	Maximum thickness of cutting off wheel	Speed not to exceed	Cutting off wheel diameters: 6 to 11 inches		Over 11 to 20 inches		Over 20 to 30 inches		Over 30 to 48 inches		Over 48 to 72 inches	
			A	B	A	B	A	B	A	B	A	B
Structural steel (min. tensile strength 60,000 p.s.i.)	½ inch or less	14,200 SFPM	1/16	1/16	3/32	3/32	1/8	1/8	3/16	3/16	1/4	1/4
	½ inch or less	16,000 SFPM	3/32	1/8	1/8	1/8	3/16	1/8	1/4	3/16	3/16	1/4

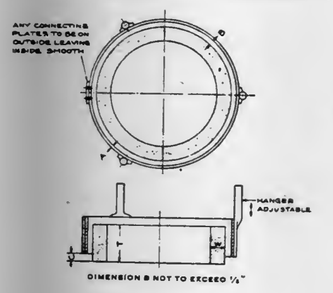


FIGURE NO. O–29

TABLE O–2—EXPOSURE VERSUS WHEEL THICKNESS

Overall thickness of wheel (T) (inches)	*Maximum exposure of wheel (C) (inches)*
½	¼
1	½
2	¾
3	1
4	1½
5 and over	2

TABLE O–3—GUIDE FOR CONSTRUCTION OF BAND TYPE GUARDS

[Maximum Wheel Speed 7,000 SFPM]

Minimum material specifications	Diameter of wheel	Minimum thickness of band A	Minimum diameter of rivets	Maximum distance between centers of rivets
	Inches	*Inches*	*Inches*	*Inches*
Hot rolled steel SAE 1008	Under 8	1/16	3/16	¾
	8 to 24	1/8	¼	1
	Over 24 to 30	3/16	3/8	1¼

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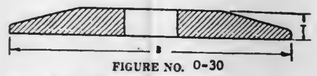


FIGURE NO. 0-30

Driving flange secured to spindle for use only on portable wheels with threaded inserts or projecting studs.

TABLE O-4—MINIMUM DIMENSIONS FOR STRAIGHT UNRELIEVED FLANGES FOR WHEELS WITH THREADED INSERTS OR PROJECTING STUDS

A Diameter of wheel	B [1] Minimum outside diameter of flange	T Minimum thickness of flange
Inches	*Inches*	*Inches*
1	5/8	1/8
2	1	1/8
3	1	3/16
4	1 3/4	3/16
5	1 3/4	1/4
6	2	5/8

[1] NOTE: Must be large enough to extend beyond the bushing. Where prong anchor or cupback bushing are used, this footnote does not apply.

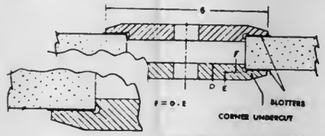


FIGURE NO. 0-31

TABLE O-5—MINIMUM DIMENSIONS FOR STRAIGHT ADAPTOR FLANGE—FOR ORGANIC BONDED WHEELS OVER 1¼ INCHES THICK [1]

Wheel diameter	Wheel hole diameter	B Minimum flange diameter	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of undercut	F [1] (D-E) minimum thickness
Inches	*Inches*	*Inches*	*Inches*	*Inches*	*Inches*
12 to 14	4	6	7/8	3/8	1/2
	5	7	7/8	3/8	1/2
	6	8	7/8	3/8	1/2
Larger than 14 to 18	4	6	7/8	3/8	1/2
	5	7	7/8	3/8	1/2
	6	8	7/8	3/8	1/2
	7	9	7/8	3/8	1/2
	8	10	7/8	3/8	1/2
Larger than 18 to 24	6	8	1	1/2	1/2
	7	9	1	1/2	1/2
	8	10	1	1/2	1/2
	10	12	1	1/2	1/2
	12	14	1	1/2	1/2
Larger than 24 to 30	12	15	1	1/2	1/2
Larger than 30 to 36	12	15	1 3/16	7/8	1/2

[1] For wheels under 1¼ inches thick F dimension shall not exceed 40 percent of wheel thickness.

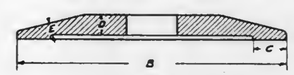


FIGURE NO. 0-32

Driving flange secured to spindle.

TABLE O-6—MINIMUM DIMENSIONS FOR STRAIGHT RELIEVED FLANGES

A [1] Diameter of wheel	B Minimum outside diameter of flanges	C Radial width of bearing surface Minimum	C Maximum	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of recess
Inches	*Inches*	*Inches*	*Inches*	*Inches*	*Inches*
1	3/4	3/16	3/8	3/16	1/16
2	3/4	3/16	3/16	1/8	3/32
3	1	3/16	3/16	3/16	3/32
4	1 3/4	1/8	3/16	3/16	1/8
5	1 3/4	3/16	1/4	1/4	1/8
6	2	1/4	1/2	3/8	3/16
7	2 1/2	1/4	1/2	3/8	3/16
8	3	1/4	1/2	3/8	3/16
10	3 1/2	3/16	3/8	3/8	1/4
12	4	3/16	3/8	1/2	3/16
14	4 1/2	3/8	3/4	1/2	5/16
16	5 1/2	1/2	1	1/2	5/16
18	6	1/2	1	5/8	3/8
20	7	5/8	1 3/4	5/8	3/8
22	7 1/2	5/8	1 3/4	5/8	7/16
24	8	3/4	1 3/4	3/8	7/16
26	8 1/2	3/4	1 3/4	3/8	1/2
28	10	7/8	1 1/2	3/4	1/2
30	10	7/8	1 1/2	3/4	5/8
36	12	1	2	7/8	3/4
42	14	1	2	7/8	3/4
48	16	1 3/4	2	1 1/8	1
60	20	1 3/4	2	1 1/4	1 1/8
72	24	1 1/2	2 1/2	1 3/8	1 1/4

[1] Flanges for wheels under 2 inches diameter may be unrelieved and shall be maintained flat and true.

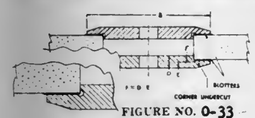


FIGURE NO. 0-33
Central Nut Mounting
Driving flange secured to spindle.

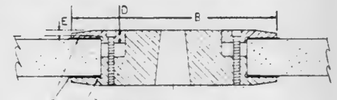


FIGURE NO. 0-34
Multiple Screw Mounting
Driving flange secured to spindle.

TABLE O-7—MINIMUM DIMENSIONS FOR STRAIGHT FLANGES—FOR MECHANICAL GRINDERS 12,500 S.F.P.M. TO 16,500 S.F.P.M.[1]

Wheel diameter	Wheel hole diameter	B Minimum flange diameter	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of undercut	F [2] (D-E) minimum thickness
20	6	8	1	1/2	1/2
20	8	10	1 1/2	3/4	3/4
21	12	15	2	1	1
30	12	15	2	1	1
36	12	15	2	1	1

[1] Flanges shall be of steel, quality SAE 1040 or equivalent, annealed plate, heat treated to R_c 25-30.
[2] For wheels under 1¼ inch thick F dimension shall not exceed 40 percent of wheel thickness.

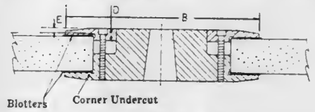


FIGURE NO. 0-35

Driving flange secured to spindle.

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TABLE O-8—MINIMUM DIMENSIONS FOR STRAIGHT FLANGES USED AS WHEEL SLEEVES FOR PRECISION GRINDING ONLY

Wheel diameter	Wheel hole diameter	B Minimum outside diameter of flange	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of undercut
Inches	*Inches*	*Inches*	*Inches*	*Inches*
12 to 14	5	7	1/2	3/16
Larger than 14 to 20	5	7	5/8	5/16
	6	8	5/8	5/16
	8	10	5/8	5/16
	10	11 1/2	5/8	5/16
	12	13 1/2	5/8	5/16
Larger than 20 to 30	8	10	3/4	1/2
	10	11 1/2	3/4	1/2
	12	13 1/2	3/4	1/2
Larger than 30 to 42	12	13 1/2	3/4	1/2
	16	17 1/2	3/4	1/2
	18	19 1/2	3/4	1/2
	20	21 1/2	3/4	1/2
Larger than 42 to 60	16	20	1	3/4
	20	24	1	3/4
	24	29	1 3/8	7/8

NOTE: These flanges may be clamped together by means of a central nut, or by a series of bolts or some other equivalent means of fastening. For hole sizes smaller than shown in this table, use table 12.

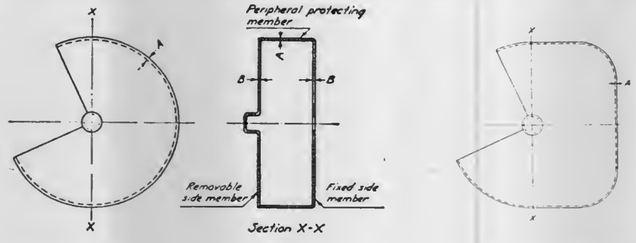


FIGURE NO. O-36 FIGURE NO. O-37

TABLE O-9—MINIMUM BASIC THICKNESSES OF PERIPHERAL AND SIDE MEMBERS FOR SAFETY GUARDS

Material used in construction of guard	Maximum thickness of grinding wheel	Grinding wheel diameters: 3 to 6 inches A	3 to 6 inches B	Over 6 to 12 inches A	Over 6 to 12 inches B	Over 12 to 16 inches A	Over 12 to 16 inches B	Over 16 to 20 inches A	Over 16 to 20 inches B	Over 20 to 24 inches A	Over 20 to 24 inches B	Over 24 to 30 inches A	Over 24 to 30 inches B	Over 30 to 48 inches A	Over 30 to 48 inches B
	Inches	*Inches*		*Inches*		*Inches*		*Inches*		*Inches*		*Inches*		*Inches*	
Material satisfactory [1] for speeds up to 8,000 SFPM. Cast iron (min. tensile strength 20,000 p.s.i.) Class 20.	2	1/4	1/4	3/8	5/16	1/2	3/8	5/8	1/2	7/8	5/8	1	3/4	1 1/4	1
	4	5/16	5/16	3/8	5/16	1/2	3/8	3/4	5/8	1	5/8	1 1/8	3/4	1 3/8	1
	6	3/8	5/16	1/2	7/16	5/8	7/16	1	5/8	1 1/8	3/4	1 1/4	7/8	1 1/2	1 1/4
	8			5/8	9/16	7/8	3/4	1	3/4	1 1/4	7/8	1 3/8	1	1 5/8	1 1/4
	10			3/4	11/16	7/8	3/4	1	3/4	1 1/4	7/8	1 3/8	1	1 5/8	1 1/4
	16					1 1/8	1	1 1/4	1	1 3/8	1	1 7/16	1 1/16	1 3/4	1 3/8
	20							1 3/8	1 1/8	1 3/8	1 1/8	1 1/2	1 1/8	2	1 3/8
Material satisfactory [1] for speeds up to 9,000 SFPM. Malleable iron (min. tensile strength 50,000 p.s.i.) Grade 32510.	2	1/4	1/4	3/8	5/16	1/2	3/8	5/8	1/2	3/4	5/8	7/8	3/4	1	7/8
	4	5/16	5/16	3/8	5/16	1/2	3/8	5/8	1/2	3/4	5/8	7/8	3/4	1 1/8	7/8
	6	3/8	5/16	1/2	7/16	5/8	1/2	3/4	5/8	7/8	5/8	1	3/4	1 1/4	7/8
	8			1/2	7/16	5/8	1/2	3/4	5/8	7/8	5/8	1	3/4	1 1/4	7/8
	10			1/2	7/16	5/8	1/2	3/4	5/8	7/8	5/8	1	3/4	1 1/4	7/8
	16					13/16	11/16	15/16	1	1	3/4	1 3/16	7/8	1 3/8	1
	20							7/8	3/4	1	3/4	1 3/16	7/8	1 3/8	1 1/16
Materials satisfactory [1] for speeds up to 16,000 SFPM. Steel castings (min. tensile strength 60,000 p.s.i.) Grade V60-30.	2	1/4	1/4	5/16	5/16	3/8	3/8	1/2	7/16	5/8	1/2	3/4	5/8	7/8	3/4
	4	1/4	1/4	1/2	1/2	1/2	1/2	9/16	1/2	5/8	1/2	3/4	5/8	1	3/4
	6	3/8	3/4	1/2	1/2	5/8	1/2	3/4	5/8	7/8	5/8	1	3/4	1 1/8	7/8
	8			3/4	5/8	3/4	5/8	3/4	5/8	7/8	5/8	1 1/16	7/8	1 1/4	1
	10			1	7/8	1	7/8	1	7/8	1 1/8	7/8	1 1/16	1	1 3/16	1 1/16
	16					1 1/4	1 1/16	1 1/4	1 1/16	1 1/4	1 1/16	1 1/4	1 1/16	1 5/16	1 3/16
	20							1 3/8	1 1/4	1 3/8	1 1/4	1 7/16	1 5/16	2 5/16	1 13/16
Structural steel (min. tensile strength 60,000 p.s.i.).	2	1/8	1/16	5/16	1/4	5/16	1/4	5/16	1/4	5/16	1/4	3/8	5/16	1/2	3/8
	4	1/8	1/16	3/8	5/16	3/8	5/16	3/8	5/16	3/8	5/16	3/8	5/16	1/2	3/8
	6	3/16	1/16	1/2	3/8	7/16	3/4	7/16	3/8	7/16	3/8	7/16	3/8	5/8	1/2
	8			1/2	3/8	9/16	7/16	9/16	7/16	9/16	7/16	9/16	1/2	3/4	1/2
	10			9/16	7/16	5/8	1/2	5/8	1/2	5/8	1/2	5/8	1/2	7/8	5/8
	16							13/16	11/16	13/16	11/16	7/8	3/4	1 1/16	15/16
	20														

[1] The recommendations listed in the above table are guides for the conditions stated. Other material, designs or dimensions affording equal or superior protection are also acceptable.

§ 1910.216 Mills and calenders in the rubber and plastics industries.

(a) *General requirements*—(1) *New installations.* All new installations on or after August 31, 1971, shall be in conformity with this section.

(2) *Existing installations.* All existing plant installations or equipment contracted for prior to August 31, 1971, shall comply with this section.

(3) *Auxiliary equipment.* Mechanical and electrical equipment and auxiliaries shall be installed in accordance with this section and Subpart S of this part.

(4) *Mill roll heights.* All new mill installations shall be installed so that the top of the operating rolls is not less than 50 inches above the level on which the operator stands, irrespective of the size of the mill. This distance shall apply to the actual working level, whether it be at the general floor level, in a pit, or on a platform.

(b) *Mill safety controls*—(1) *Safety trip control.* A safety trip control shall be provided in front and in back of each mill. It shall be accessible and shall operate readily on contact. The safety trip control shall be one of the following types or a combination thereof:

(i) *Pressure-sensitive body bars.* Installed at front and back of each mill having a 46-inch roll height or over. These bars shall operate readily by pressure of the mill operator's body. Pressure-sensitive body bars should be installed on new equipment.

(ii) *Safety triprod.* Installed in the front and in the back of each mill and located within 2 inches of a vertical plane tangent to the front and rear rolls. The top rods shall be not more than 72 inches above the level on which the operator stands. The triprods shall be accessible and shall operate readily whether the rods are pushed or pulled.

(iii) *Safety tripwire cable or wire center cord.* Installed in the front and in the back of each mill and located within 2 inches of a vertical plane tangent to the front and rear rolls. The cables shall not be more than 72 inches above the level on which the operator stands. The tripwire cable or wire center cord shall operate readily whether cable or cord is pushed or pulled.

(2) *Fixed guards.* A fixed bar across the front and one across the back of the mill approximately 40 inches vertically above the working level and 20 inches horizontally from the crown face of the roll should be used where they are applicable.

(3) *Auxiliary equipment.* All auxiliary equipment such as mill divider, support bars, spray pipes, feed conveyors, strip knives, etc., shall be located in such a manner as to avoid interference with access to and operation of safety devices.

(c) *Calender safety controls*—(1) *Safety trip, face.* A safety triprod, cable, or wire center cord shall be provided across each pair of in-running rolls extending the length of the face of the rolls. It shall be readily accessible and operate whether pushed or pulled. The safety tripping devices shall be located within reach of the operator and the bite.

(2) *Safety trip, side.* On both sides of the face of the roll, there shall be a cable or wire center cord connected to the safety trip. These lines should be not more than 12 inches from the faces of the respective rolls and not less than 2 inches from the calender frame. They should be anchored to the frame not more than 6 inches from the floor or operator's platform. They shall operate readily when pushed or pulled.

(d) *Protection by location*—(1) *Mills.* Where a mill is so installed that persons cannot normally reach through, over, under, or around to come in contact with the roll bite or be caught between a roll and an adjacent object, then, provided such elements are made a fixed part of a mill, safety control devices listed in paragraph (b) of this section shall not apply.

(2) *Calenders.* Where a calender is so installed that persons cannot normally reach through, over, under, or around to come in contact with the roll bite or be caught between a roll and an adjacent object, then, provided such elements are made a fixed part of a calender, safety control devices listed in paragraph (c) of this section shall not apply.

(e) *Trip and emergency switches.* All trip and emergency switches shall not be of the automatically resetting type, but shall require manual resetting.

(f) *Stopping limits*—(1) *Determination of distance of travel.* All measurements on mills and calenders shall be taken with the rolls running empty at maximum operating speed. Stopping distances shall be expressed in inches of surface travel of the roll from the instant the emergency stopping device is actuated.

(2) *Stopping limits for mills.* All mills irrespective of the size of the rolls or their arrangement (individually or group-driven) shall be stopped within a distance, as measured in inches of surface travel, not greater than 1½ percent of the peripheral no-load surface speeds of the respective rolls as determined in feet per minute.

(3) *Stopping limits for calenders.* (i) All calenders, irrespective of size of the rolls or their configuration, shall be stopped within a distance, as measured in inches of surface travel, not greater than 1¾ percent of the peripheral no-load surface speeds of the respective calender rolls as determined in feet per minute.

(ii) Where speeds above 250 feet per minute as measured on the surface of the drive roll are used, stopping distances of more than 1¾ percent are permissible. Such stopping distances shall be subject to engineering determination.

(g) *Alarm.* Where an exposure is created by the operation, and the operators are not within sight or hearing of other employees, a suitable alarm device should be provided so that assistance will be available in case of accidents.

§ 1910.217 Mechanical power presses.

(a) *General requirements*—(1) *New installations.* The requirements of this section pertaining to construction shall apply to all mechanical power presses installed on or after August 31, 1971.

(2) *Former installations.* All mechanical power presses installed prior to August 31, 1971, shall be brought into conformity with the requirements of this section not later than August 31, 1974.

(3) *All installations.* The requirements of this section pertaining to the care and use of mechanical power presses shall apply to all mechanical power press operations as of February 15, 1972.

(4) *Reconstruction and modification.* It shall be the responsibility of any person reconstructing, or modifying a mechanical power press to do so in accordance with paragraph (b) of this section.

(5) *Excluded machines.* Press brakes, hydraulic and pneumatic power presses, bulldozers, hot bending and hot metal presses, forging presses and hammers, riveting machines and similar types of fastener applicators are excluded from the requirements of this section.

(b) *Mechanical power press guarding and construction, general*—(1) *Hazards to personnel associated with broken or falling machine components.* Machine components shall be designed, secured, or covered to minimize hazards caused by breakage, or loosening and falling or release of mechanical energy (i.e. broken springs).

(2) *Brakes.* Friction brakes provided for stopping or holding the slide movement shall be set with compression springs. Brake capacity shall be sufficient to stop the motion of the slide quickly and capable of holding the slide and its attachments at any point in its travel.

(3) *Machines using full revolution positive clutches.* (i) Machines using full revolution clutches shall incorporate a single-stroke mechanism.

(ii) If the single-stroke mechanism is dependent upon spring action, the spring(s) shall be of the compression type, operating on a rod or guided within a hole or tube, and designed to prevent interleaving of the spring coils in event of breakage.

(4) *Foot pedals (treadle).* (i) The pedal mechanism shall be protected to prevent unintended operation from falling or moving objects or by accidental stepping onto the pedal.

(ii) A pad with a nonslip contact area shall be firmly attached to the pedal.

(iii) The pedal return spring(s) shall be of the compression type, operating on a rod or guided within a hole or tube, or designed to prevent interleaving of spring coils in event of breakage.

(iv) If pedal counterweights are provided, the path of the travel of the weight shall be enclosed.

(5) *Hand operated levers.* (i) Hand-lever-operated power presses shall be equipped with a spring latch on the operating lever to prevent premature or accidental tripping.

(ii) The operating levers on hand-tripped presses having more than one operating station shall be interlocked to prevent the tripping of the press except by the "concurrent" use of all levers.

(6) *Two-hand trip.* (i) A two-hand trip shall have the individual operator's hand controls protected against unintentional operation and have the individual operator's hand controls arranged by design and construction and/or separation to require the use of both hands to trip the press and use a control arrangement requiring concurrent operation of the individual operator's hand controls.

(ii) Two-hand trip systems on full revolution clutch machines shall incorporate an antirepeat feature.

(iii) If two-hand trip systems are used on multiple operator presses, each operator shall have a separate set of controls.

(7) *Machines using part revolution clutches.* (i) The clutch shall release and the brake shall be applied when the external clutch engaging means is removed, deactivated, or deenergized.

(ii) A red color stop control shall be provided with the clutch/brake control system. Momentary operation of the stop control shall immediately deactivate the clutch and apply the brake. The stop control shall override any other control, and reactuation of the clutch shall require use of the operating (tripping) means which has been selected.

(iii) A means of selecting Off, "Inch," Single Stroke, and Continuous (when the continuous function is furnished) shall be supplied with the clutch/brake control to select type of operation of the press. Fixing of selection shall be by means capable of supervision by the employer.

(iv) The "Inch" operating means shall be designed to prevent exposure of the workers hands within the point of operation by:

(*a*) Requiring the concurrent use of both hands to actuate the clutch, or

(*b*) Being a single control protected against accidental actuation and so located that the worker cannot reach into the point of operation while operatng the single control.

(v) Two-hand controls for single stroke shall conform to the following requirements:

(*a*) Each hand control shall be protected against unintended operation and arranged by design, construction, and/or separation so that the concurrent use of both hands is required to trip the press.

(*b*) The control system shall be designed to permit an adjustment which will require concurrent pressure from both hands during the die closing portion of the stroke.

(*c*) The control system shall incorporate an antirepeat feature.

(*d*) The control systems shall be designed to require release of all operators' hand controls before an interrupted stroke can be resumed. This requirement pertains only to those single-stroke, two-hand controls manufactured and installed on or after August 31, 1971.

(vi) [Reserved]

(vii) Controls for more than one operating station shall be designed to be activated and deactivated in complete sets of two operator's hand controls per operating station by means capable of being supervised by the employer. The clutch/brake control system shall be designed and constructed to prevent actuation of the clutch if all operating stations are bypassed.

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(vii) Those clutch/brake control systems which contain both single and continuous functions shall be designed so that completion of continuous circuits may be supervised by the employer. The initiation of continuous run shall require a prior action or decision by the operator in addition to the selection of Continuous on the stroking selector, before actuation of the operating means will result in continuous stroking.

(ix) If foot control is provided, the selection method between hand and foot control shall be separate from the stroking selector and shall be designed so that the selection may be supervised by the employer.

(x) Foot operated tripping controls, if used, shall be protected so as to prevent operation from falling or moving objects, or from unintended operation by accidental stepping onto the foot control.

(xi) The control of air-clutch machines shall be designed to prevent a significant increase in the normal stopping time due to a failure within the operating valve mechanism, and to inhibit further operation if such failure does occur. This requirement shall apply only to those clutch/brake air-valve controls manufactured and installed on or after August 31, 1971, but shall not apply to machines intended only for continuous, automatic feeding applications.

(xii) The clutch/brake control shall incorporate an automatic means to prevent initiation or continued activation of the Single Stroke or Continuous functions unless the press drive motor is energized and in the forward direction.

(xiii) The clutch/brake control shall automatically deactivate in event of failure of the power or pressure supply for the clutch engaging means. Reactivation of the clutch shall require restoration of normal supply and the use of the tripping mechanism(s).

(xiv) The clutch/brake control shall automatically deactivate in event of failure of the counterbalance(s) air supply. Reactivation of the clutch shall require restoration of normal air supply and use of the tripping mechanism(s).

(xv) Selection of bar operation shall be by means capable of being supervised by the employer. A separate pushbutton shall be employed to activate the clutch, and the clutch shall be activated only if the driver motor is deenergized.

(8) *Electrical.* (i) A main power disconnect switch capable of being locked only in the Off position shall be provided with every power press control system.

(ii) The motor start button shall be protected against accidental operation.

(iii) All mechanical power press controls shall incorporate a type of drive motor starter that will disconnect the drive motor from the power source in event of control voltage or power source failure, and require operation of the motor start button to restart the motor when voltage conditions are restored to normal.

(iv) All a.c. control circuits and solenoid valve coils shall be powered by not more than a nominal 240-volt d.c. supply obtained from a transformer with an isolated secondary. Higher voltages that may be necessary for operation of machine or control mechanisms shall be isolated from any control mechanism handled by the operator, but motor starters with integral Start-Stop buttons may utilize line voltage control. All d.c. control circuits shall be powered by not more than a nominal 240-volt d.c. supply isolated from any higher voltages.

(v) All clutch/brake control electrical circuits shall be protected against the possibility of an accidental ground in the control circuit causing false operation of the press.

(vi) Electrical clutch/brake control circuits shall incorporate features to minimize the possibility of an unintended stroke in the event of the failure of a control component to function properly, including relays, limit switches, and static output circuits.

(9) *Slide counterbalance systems.* (i) Spring counterbalance systems when used shall incorporate means to retain system parts in event of breakage.

(ii) Spring counterbalances when used shall have the capability to hold the slide and its attachments at midstroke, without brake applied.

(iii) Air counterbalance cylinders shall incorporate means to retain the piston and rod in case of breakage or loosening.

(iv) Air counterbalance cylinders shall have adequate capability to hold the slide and its attachments at any point in stroke, without brake applied.

(v) Air counterbalance cylinders shall incorporate means to prevent failure of capability (sudden loss of pressure) in event of air supply failure.

(10) *Air controlling equipment.* Air controlling equipment shall be protected against foreign material and water entering the pneumatic system of the press. A means of air lubrication shall be provided when needed.

(11) *Hydraulic equipment.* The maximum anticipated working pressures in any hydraulic system on a mechanical power press shall not exceed the safe working pressure rating of any component used in that system.

(12) *Pressure vessels.* All pressure vessels used in conjunction with power presses shall conform to the American Society of Mechanical Engineers Code for Pressure Vessels, 1968 Edition.

(c) *Safeguarding the point of operation*—(1) *General requirements.* (i) It shall be the responsibility of the employer to provide and insure the usage of "point of operation guards" or properly applied and adjusted point of operation devices on every operation performed on a mechanical power press. See Table O–10.

(ii) The requirement of subdivision (i) of this subparagraph shall not apply when the point of operation opening is one-fourth inch or less. See Table O–10.

(2) *Point of operation guards.* (i) Every point of operation guard shall meet the following design, construction, application, and adjustment requirements:

(*a*) It shall prevent entry of hands or fingers into the point of operation by reaching through, over, under or around the guard;

(*b*) It shall conform to the maximum permissible openings of Table O–10;

(*c*) It shall, in itself, create no pinch point between the guard and moving machine parts;

(*d*) It shall utilize fasteners not readily removable by operator, so as to minimize the possibility of misuse or removal of essential parts;

(*e*) It shall facilitate its inspection, and

(*f*) It shall offer maximum visibility of the point of operation consistent with the other requirements.

(ii) A die enclosure guard shall be attached to the die shoe or stripper in a fixed position.

(iii) A fixed barrier guard shall be attached securely to the frame of the press or to the bolster plate.

(iv) An interlocked press barrier guard shall be attached to the press frame or bolster and shall be interlocked with the press clutch control so that the clutch cannot be activated unless the guard itself, or the hinged or movable sections of the guard are in position to conform to the requirements of Table O–10.

(v) With full revolution clutches, an interlocked press barrier guard shall be used only on single stroke.

(vi) The adjustable barrier guard shall be securely attached to the press bed, bolster plate, or die shoe, and shall be adjusted and operated in conformity with Table O–10 and the requirements of this subparagraph. Adjustments shall be made only by authorized personnel whose qualifications include a knowledge of the provisions of Table O–10 and this subparagraph.

(vii) A point of operation enclosure which does not meet the requirements of this subparagraph and Table O–10 shall be used only in conjunction with point of operation devices.

(3) *Point of operation devices.* (i) Point of operation devices shall protect the operator by:

(*a*) Preventing and/or stopping normal stroking of the press if the operator's hands are inadvertently placed in the point of operation; or

(*b*) Preventing the operator from inadvertently reaching into the point of operation or withdrawing his hands if they are inadvertently located in the point of operation, as the dies close; or

(*c*) Preventing the operator from inadvertently reaching into the point of operation at all times; or

(*d*) Requiring application of both of the operator's hands to machine operating controls during the die closing portion of the press stroke; or

(*e*) Locating single cycle operating controls so that the slide completes its downward travel before the operator's hands can inadvertently reach into the point of operation.

(ii) The gate or movable barrier device shall protect the operator in accordance with subdivision (i) (*a*) of this subparagraph, and shall enclose the point of operation before the press clutch can be actuated.

(*a*) When used with a power press having a full revolution clutch the device shall be operated only with a single-stroke mechanism, and shall be so applied as to make impossible any attempt, after tripping the clutch, to open the device and reach into the point of operation prior to die closure.

(*b*) When used with a part revolution clutch the device shall be interlocked into the clutch/brake control system to prevent or stop activation of the clutch unless the device is in its closed (protecting) position.

(iii) The presence sensing point of operation device shall protect the operator as provided in subdivision (i) (*a*) of this subparagraph and shall be interlocked into the clutch/brake control circuit to prevent or stop clutch activation and apply the brake if an operator's hand or other part of his body is detected in the sensing field of the device.

(*a*) The device shall not in itself create any hazard to the operator.

(*b*) The device shall not be used on machines using full revolution clutches.

(*c*) The device shall not be used as a tripping mechanism.

(*d*) The device shall be designed for failsafe.

(iv) The pull-out device shall protect the operator as specified in subdivision (i) (*b*) of this subparagraph, and shall include attachments for each of the operator's hands. Such attachments shall be connected to and operated only by the press slide or upper die, and shall be adjusted to prevent the operator from reaching into the point of operation or to withdraw the operator's hands from the point of operation before the dies close. A separate pull-out device shall be provided for each operator if more than one operator is required on a press.

(v) The sweep device shall protect the operator as specified in subdivision (i) (*b*) of this subparagraph, by moving his hands safely to a safe position if they are inadvertently in the point of operation as the dies close or prior to tripping the clutch. Devices operating in this manner shall have a barrier attached to the sweep arm in such a manner as to prevent the operator from reaching into the point of operation past the trailing edge of the sweep arm on the downward stroke of the press.

(*a*) The sweep device shall be activated by the slide or by motion of a foot pedal triprod.

(*b*) The sweep device shall be designed, installed and operated so as to prevent the operator from reaching into the point of operation before the dies close.

(*c*) The sweep device shall be installed so that it will not itself create an impact or shear hazard between the sweep arm and the press tie rods, dies, or any other part of the press or barrier.

(*d*) Partial enclosures conforming with this subparagraph insofar as the area of entry which they protect shall be provided on both sides of the point of operation to prevent the operator from reaching around or behind the sweep device and into the point of operation after the dies start to close. Side partial enclosures shall not themselves create a pinch point or shear hazard.

(vi) A holdout or a restraint device shall protect the operator as specified in subdivision (i) (*c*) of this subparagraph and shall include attachments for each of the operator's hands. Such attachments shall be securely anchored and adjusted in such a way that the operator is restrained from reaching into the point of operation. A separate set of restraints shall be provided for each operator if more than one operator is required on a press.

(vii) The two-hand control devices shall protect the operator as specified in subdivision (i) (*d*) of this subparagraph. In press operations requiring more than one operator, separate two-hand controls shall be provided for each operator.

(viii) The two-hand trip shall protect the operator as specified in subdivision (i) (*e*) of this subparagraph. When a two-hand trip is used as a point of operation device it shall meet the construction requirements of paragraph (b) (6) of this section.

(ix) Two-hand tripping devices used with full revolution clutches shall be considered as a point of operation device only when installed on presses of high speed, short stroke, or by having these control mechanisms mounted at a distance away from the point of operation so as to insure that the operator cannot inadvertently reach into the point of operation after tripping the clutch and at any time prior to die closure.

(4) *Hand feeding tools.* Hand feeding tools are intended for placing and removing materials in and from the press. Hand feeding tools are not a point of operation guard or protection device and shall not be used in lieu of the "guards" or devices required in this section.

(d) *Design, construction, setting, and feeding of dies*—(1) *General requirements.* It shall be the responsibility of the employer to institute die procurement, construction and modification policies and procedures that will eliminate by August 31, 1974, the need for the operator to place his hands or fingers within the point of operation. Effective August 31, 1974, the employer shall:

(i) Use dies designed and constructed to eliminate hazards to operating personnel.

(ii) Furnish and enforce the use of a handtool specifically designed for the purpose of freeing and/or removing stuck work or scrap pieces from the die to avoid requiring the operator to place his hands or fingers within the point of operation, and

(iii) Furnish and enforce the use of hand feeding tools when necessary with manual feeding methods to avoid requiring the operator to place his hands or fingers within the point of operation.

(2) *Ejecting stock and scrap.* (i) Dies shall be designed to permit use of press knockouts and lower liftouts where the press is so equipped.

(ii) Spring or rubber strippers or an equivalent means shall be provided on punching or piercing dies, to prevent material from riding up with the punch, except where a special mechanism is provided for scrap ejection. Dies should be designed to allow automatic ejection of stock and scrap.

(3) *Scrap handling.* The employer shall provide means for handling scrap from roll feed or random length stock operations. Scrap cutters used in conjunction with scrap handling systems shall be safeguarded in accordance with paragraph (b) of this section and with § 1910.219.

(4) *Guide post hazard.* The hazard created by a guide post (when it is located in the immediate vicinity of the operator) when separated from its bushing by more than one-fourth inch shall be considered as a point of operation hazard and be protected in accordance with paragraph (c) of this section.

(5) *Unitized tooling.* If unitized tooling is used, the opening between the top of the punch holder and the face of the slide, or striking pad, shall be safeguarded in accordance with the requirements of paragraph (b) of this section.

(6) *Tonnage, stroke, and weight designation.* All dies shall be:

(i) Stamped with the tonnage and stroke requirements, or have these characteristics recorded if these records are readily available to the die setter;

(ii) Stamped to indicate upper die weight when necessary for air counterbalance pressure adjustment; and

(iii) Stamped to indicate complete die weight when handling equipment may become overloaded.

(7) *Die fastening.* Provision shall be made in both the upper and lower shoes for securely mounting the die to the bolster and slide. Where clamp caps or setscrews are used in conjunction with punch stems, additional means of securing the upper shoe to the slide shall be used.

(8) *Die handling.* Handling equipment attach points shall be provided on all dies requiring mechanical handling.

(9) *Diesetting.* (i) The employer shall establish a diesetting procedure that will insure compliance with paragraph (b) of this section.

(ii) The employer shall provide spring loaded turnover bars, for presses designed to accept such turnover bars.

(iii) The employer shall provide die stops or other means to prevent losing control of the die while setting or removing dies in presses which are inclined.

(iv) The employer shall provide and enforce the use of safety blocks for use whenever dies are being adjusted or repaired in the press.

(v) The employer shall provide brushes, swabs, lubricating rolls, and automatic or manual pressure guns so that operators and diesetters shall not be required to reach into the point of operation or other hazard areas to lubricate material, punches or dies.

(e) *Inspection, maintenance, and modification of presses*—(1) *Inspection and maintenance records.* It shall be the responsibility of the employer to establish and follow a program of periodic and regular inspections of his power presses to insure that all their parts, auxiliary

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§ 1910.218 **Forging machines.**

(a) *General requirements*—(1) *Use of lead.* The safety requirements of this subparagraph apply to lead casts or other use of lead in the forge shop or die shop.

(i) Thermostatic control of heating elements shall be provided to maintain proper melting temperature and prevent overheating.

(ii) Fixed or permanent lead pot installations shall be exhausted.

(iii) Portable units shall be used only in areas where good, general room ventilation is provided.

(iv) Personal protective equipment (gloves, goggles, aprons, and other items) shall be worn.

(v) A covered container shall be provided to store dross skimmings.

(vi) Equipment shall be kept clean, particularly from accumulations of yellow lead oxide.

(2) *Inspection and maintenance.* It shall be the responsibility of the employer to maintain all forge shop equipment in a condition which will insure continued safe operation. This responsibility includes:

(i) Establishing periodic and regular maintenance safety checks and keeping records of these inspections.

(ii) Scheduling and recording inspection of guards and point of operation protection devices at frequent and regular intervals.

(iii) Training personnel for the proper inspection and maintenance of forging machinery and equipment.

(iv) All overhead parts shall be fastened or protected in such a manner that they will not fly off or fall in event of failure.

(3) *Hammers and presses.* (i) All hammers shall be positioned or installed in such a manner that they remain on or are anchored to foundations sufficient to support them according to applicable engineering standards.

(ii) All presses shall be installed in such a manner that they remain where they are positioned or they are anchored to foundations sufficient to support them according to applicable engineering standards.

(iii) Means shall be provided for disconnecting the power to the machine and for locking out or rendering cycling controls inoperable.

(iv) The ram shall be blocked when dies are being changed or other work is being done on the hammer. Blocks or wedges shall be made of material the strength and construction of which should meet or exceed the specifications and dimensions shown in Table O–11.

TABLE O–11—STRENGTH AND DIMENSIONS FOR WOOD RAM PROPS

Size of timber, inches [1]	Square inches in cross section	Minimum allowable crushing strength parallel to grain, p.s.i.[2]	Maximum static load within short column range [3]	Safety factor	Maximum recommended weight of forging hammer for timber used	Maximum allowable length of timber, inches
4 x 4	16	5,000	80,000	10	8,000	41
6 x 6	36	5,000	180,000	10	18,000	66
8 x 8	64	5,000	320,000	10	32,000	88
10 x 10	100	5,000	500,000	10	50,000	110
12 x 12	144	5,000	720,000	10	72,000	132

[1] Actual dimension.

[2] Adapted from U.S. Department of Agriculture Technical Bulletin 479. Hardwoods recommended are those which develop crushing strength in compression parallel to grain are 5,000 p.s.i. (pounds per square inch) or greater.

[3] Slenderness ratio formula for short columns is $L/d=11$, where L=length of timber in inches and d=least dimension in inches; this ratio should not exceed 11.

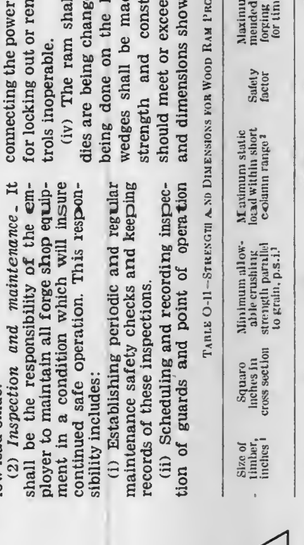
(v) Tongs shall be of sufficient length to clear the body of the worker in case of kickback, and shall not have sharp handle ends. The worker should be instructed in the proper body position when using tongs. Tongs should be checked periodically to see that they remain at the proper hardness level for the job. When rings or equivalent devices for locking tongs are used they should be inspected periodically to insure safe condition.

(vi) Oil swabs, or scale removers, or other devices to remove scale shall be provided. These devices shall be long enough to enable a man to reach the full length of the die without placing his hand or arm between the dies.

(2) *Instruction to operators.* The employer shall train and instruct the operator in the safe method of work before starting work on any operation covered by this section. The employer shall insure by adequate supervision that correct operating procedures are being followed.

(3) *Work area.* The employer shall provide clearance between machines so that movement of one operator will not interfere with the work of another. Ample room for cleaning machines, handling material, work pieces, and scrap shall also be provided. All surrounding floors shall be kept in good condition and free from obstructions, grease, oil, and water.

(4) *Overloading.* The employer shall operate his presses within the tonnage and attachment weight ratings specified by the manufacturer.



Explanation of above diagram:

This diagram shows the accepted safe openings between the bottom edge of a guard and feed table at various distances from the danger line (point of operation).

The *clearance line* marks the distance required to prevent contact between guard and moving parts.

The *minimum guarding line* is the distance between the infeed side of the guard and the danger line which is one-half inch from the danger line.

The various openings are such that for average size hands an operator's fingers won't reach the point of operation.

After installation of point of operation guards and before a job is released for operation a check should be made to verify that the guard will prevent the operator's hands from reaching the point of operation.

TABLE O–10

Distance of opening from point of operation hazard (inches)	*Maximum width of opening (inches)*
½ to 1½	¼
1½ to 2½	⅜
2½ to 3½	½
3½ to 5½	⅝
5½ to 6½	¾
6½ to 7½	⅞
7½ to 12½	1¼
12½ to 15½	1½
15½ to 17½	1⅞
17½ to 31½	2⅜

This table shows the distances that guards shall be positioned from the danger line in accordance with the required openings.

(vii) Material handling equipment shall be of adequate strength, size, and dimension to handle diesetting operations safely.

(viii) A scale guard of substantial construction shall be provided at the back of every hammer, so arranged as to stop flying scale.

(ix) A scale guard of substantial construction shall be provided at the back of every press, so arranged as to stop flying scale.

(b) *Hammers, general*—(1) *Keys.* Die keys and shims shall be made from a grade of material that will not unduly crack or splinter, and should not project more than 2 inches in front and 4 inches in back of ram or die.

(2) *Foot operated devices.* All foot operated devices (i.e., treadles, pedals, bars, valves, and switches) shall be substantially and effectively protected from unintended operation.

(c) *Presses.* All manually operated valves and switches shall be clearly identified and readily accessible.

(d) *Power-driven hammers*—(1) *Safety cylinder head.* Every steam or airhammer shall have a safety cylinder head to act as a cushion if the rod should break or pullout of the ram.

(2) *Shutoff valve.* Steam hammers shall be provided with a quick closing emergency valve in the admission pipeline at a convenient location. This valve shall be closed and locked in the off position while the hammer is being adjusted, repaired, or serviced, or when the dies are being changed.

(3) *Cylinder draining.* Steam hammers shall be provided with a means of cylinder draining, such as a self-draining arrangement or a quick-acting drain cock.

(4) *Pressure pipes.* Steam or air piping shall conform to the specifications of American National Standard ANSI B31.1.0–1967, Power Piping with Addenda issued before April 28, 1971.

(e) *Gravity hammers*—(1) *Air-lift hammers.* (i) Air-lift hammers shall have a safety cylinder head as required in paragraph (d)(1) of this section.

(ii) Air-lift hammers shall have an air shutoff valve as required in paragraph (d)(2) of this section and should be conveniently located and distinctly marked for ease of identification.

(iii) Air-lift hammers shall be provided with two drain cocks: one on main head cylinder, and one on clamp cylinder.

(iv) Air piping shall conform to the specifications of the ANSI B31.1.0–1967, Power Piping with Addenda issued before April 28, 1971.

(2) *Board drophammers.* (i) A suitable enclosure shall be provided to prevent damaged or detached boards from falling. The board enclosure shall be securely fastened to the hammer.

(ii) All major assemblies and fittings which can loosen and fall shall be properly secured in place.

(f) *Forging presses*—(1) *Mechanical forging presses.* When dies are being changed or maintenance is being performed on the press, the following shall be accomplished:

(i) The power to the press shall be locked out.

(ii) The flywheel shall be at rest.

(iii) The ram shall be blocked with a material the strength of which shall meet or exceed the specifications or dimensions shown in Table O–11.

(2) *Hydraulic forging presses.* When dies are being changed or maintenance is being performed on the press, the following shall be accomplished:

(i) The hydraulic pumps and power apparatus shall be locked out.

(ii) The ram shall be blocked with a material the strength of which shall meet or exceed the specifications or dimensions shown in Table O–11.

(g) *Trimming presses*—(1) *Hot trimming presses.* The requirements of paragraph (f)(1) of this section shall also apply to hot trimming presses.

(2) *Cold trimming presses.* Cold trimming presses shall be safeguarded in accordance with § 1910.217(c).

(h) *Upsetters*—(1) *General requirements.* All upsetters shall be installed so that they remain on their supporting foundations.

(2) *Lockouts.* Upsetters shall be provided with a means for locking out the power at its entry point to the machine and rendering its cycling controls inoperable.

(3) *Manually operated controls.* All manually operated valves and switches shall be clearly identified and readily accessible.

(4) *Tongs.* Tongs shall be of sufficient length to clear the body of the worker in case of kickback, and shall not have sharp handle ends. The worker should be instructed in the proper body position when using tongs. Tongs should be checked periodically to see that they remain at the proper hardness level for the job. When rings or equivalent devices for locking tongs are used they should be inspected periodically to ensure safe condition.

(5) *Changing dies.* When dies are being changed, maintenance performed, or any work done on the machine, the power to the upsetter shall be locked out, and the flywheel shall be at rest.

(i) *Other forging equipment*—(1) *Boltheading.* The provisions of paragraph (h) of this section shall apply to boltheading.

(2) *Rivet making.* The provisions of paragraph (h) of this section shall apply to rivet making.

(j) *Other forge facility equipment*—(1) *Billet shears.* A positive-type lockout device for disconnecting the power to the shear shall be provided.

(2) *Saws.* Every saw shall be provided with a guard of not less than one-eighth inch sheet metal positioned to stop flying sparks. Suitable means should be provided to trap sparks below the saw. A tank of water placed below the saw is also desirable.

(3) *Conveyors.* Conveyor power transmission equipment shall be guarded in accordance with ANSI B20.1–1957, Safety Code for Conveyors, Cableways, and Related Equipment.

(4) *Shot blast.* The cleaning chamber shall have doors or guards to protect operators.

(5) *Grinding.* Personal protective equipment shall be used in grinding operations, and equipment shall be used and maintained in accordance with ANSI B7.1–1970, Safety Code for the Use, Care, and Protection of Abrasive Wheels, and with § 1910.215.

§ 1910.219 **Mechanical power-transmission apparatus.**

(a) *General requirements.* (1) This section covers all types and shapes of power-transmission belts, except the following when operating at two hundred and fifty (250) feet per minute or less: (i) Flat belts one (1) inch or less in width, (ii) flat belts two (2) inches or less in width which are free from metal lacings or fasteners, (iii) round belts one-half (½) inch or less in diameter; and (iv) single strand V-belts, the width of which is thirteen thirty-seconds ($^{13}/_{32}$) inch or less.

(2) Vertical and inclined belts (paragraphs (e) (3) and (4) of this section) if not more than two and one-half ($2^1/_2$) inches wide and running at a speed of less than one thousand (1,000) feet per minute, and if free from metal lacings or fastenings may be guarded with a nip-point belt and pulley guard.

(3) For the Textile Industry, because of the presence of excessive deposits of lint, which constitute a serious fire hazard, the sides and face sections only of nip-point belt and pulley guards are required, provided the guard shall extend at least six (6) inches beyond the rim of the pulley on the in-running and off-running sides of the belt and at least two (2) inches away from the rim and face of the pulley in all other directions.

(4) This section covers the principal features with which power transmission safeguards shall comply.

(b) *Prime-mover guards*—(1) *Flywheels.* Flywheels located so that any part is seven (7) feet or less above floor or platform shall be guarded in accordance with the requirements of this subparagraph:

(i) With an enclosure of sheet, perforated, or expanded metal, or woven wire;

(ii) With guard rails placed not less than fifteen (15) inches nor more than twenty (20) inches from rim. When flywheel extends into pit or is within 12 inches of floor, a standard toeboard shall also be provided;

(iii) When the upper rim of flywheel protrudes through a working floor, it shall be entirely enclosed or surrounded by a guardrail and toeboard.

(iv) For flywheels with smooth rims five (5) feet or less in diameter, where the preceding methods cannot be applied, the following may be used: A disk attached to the flywheel in such manner as to cover the spokes of the wheel on the exposed side and present a smooth surface and edge, at the same time providing means for periodic inspection. An open space, not exceeding four (4) inches in width, may be left between the outside edge of the disk and the rim of the wheel if desired, to facilitate turning the wheel over. Where a disk is used, the keys or other dangerous projections not covered

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by disk shall be cut off or covered. This subdivision does not apply to flywheels with solid web centers.

(v) Adjustable guard to be used for starting engine or for running adjustment may be provided at the flywheel of gas or oil engines. A slot opening for jack bar will be permitted.

(vi) Wherever flywheels are above working areas, guards shall be installed having sufficient strength to hold the weight of the flywheel in the event of a shaft or wheel mounting failure.

(2) *Cranks and connecting rods.* Cranks and connecting rods, when exposed to contact, shall be guarded in accordance with paragraphs (m) and (n) of this section, or by a guardrail as described in paragraph (o)(5) of this section.

(3) *Tail rods or extension piston rods.* Tail rods or extension piston rods shall be guarded in accordance with paragraphs (m) and (o) of this section, or by a guardrail on sides and end, with a clearance of not less than fifteen (15) nor more than twenty (20) inches when rod is fully extended.

(4) *Governor balls.* Governor balls six (6) feet or less from the floor or other working level, when exposed to contact, shall be provided with an enclosure extending to the top of the governor balls when at their highest position. The material used in the construction of this enclosure shall conform to paragraphs (m) and (o) of this section.

(c) *Shafting*—(1) *Installation.* (i) Each continuous line of shafting shall be secured in position against excessive endwise movement.

(ii) Inclined and vertical shafts, particularly inclined idler shafts, shall be securely held in position against endwise thrust.

(2) *Guarding horizontal shafting.* (i) All exposed parts of horizontal shafting seven (7) feet or less from floor or working platform, excepting runways used exclusively for oiling, or running adjustments, shall be protected by a stationary casing enclosing shafting completely or by a trough enclosing sides and top or sides and bottom of shafting as location requires.

(ii) Shafting under bench machines shall be enclosed by a stationary casing, or by a trough at sides and top or sides and bottom, as location requires. The sides of the trough shall come within at least six (6) inches of the underside of table, or if shafting is located near floor within six (6) inches of floor. In every case the sides of trough shall extend at least two (2) inches beyond the shafting or protuberance.

(3) *Guarding vertical and inclined shafting.* Vertical and inclined shafting seven (7) feet or less from floor or working platform, excepting maintenance runways, shall be enclosed with a stationary casing in accordance with requirements of paragraphs (m) and (o) of this section.

(4) *Projecting shaft ends.* (i) Projecting shaft ends shall present a smooth edge and end and shall not project more than one-half the diameter of the shaft unless guarded by nonrotating caps or safety sleeves.

(ii) Unused keyways shall be filled up or covered.

(5) *Power-transmission apparatus located in basements.* All mechanical power transmission apparatus located in basements, towers, and rooms used exclusively for power transmission equipment shall be guarded in accordance with this section, except that the requirements for safeguarding belts, pulleys, and shafting need not be complied with when the following requirements are met:

(i) The basement, tower, or room occupied by transmission equipment is locked against unauthorized entrance.

(ii) The vertical clearance in passageways between the floor and power transmission beams, ceiling, or any other objects, is not less than five feet six inches (5 ft. 6 in.).

(iii) The intensity of illumination conforms to the requirements of ANSI A11.1–1965 (R–1970).

(iv) The footing is dry, firm, and level.

(v) The route followed by the oiler is protected in such manner as to prevent accident.

(d) *Pulleys*—(1) *Guarding.* Pulleys, any parts of which are seven (7) feet or less from the floor or working platform, shall be guarded in accordance with the standards specified in paragraphs (m) and (o) of this section. Pulleys serving as balance wheels (e.g., punch presses) on which the point of contact between belt and pulley is more than six feet six inches (6 ft. 6 in.) from the floor or platform may be guarded with a disk covering the spokes.

(2) *Location of pulleys.* (i) Unless the distance to the nearest fixed pulley, clutch, or hanger exceeds the width of the belt used, a guide shall be provided to prevent the belt from leaving the pulley on the side where insufficient clearance exists.

(ii) Where there are overhanging pulleys on line, jack, or countershafts with no bearing between the pulley and the outer end of the shaft, a guide to prevent the belt from running off the pulley should be provided.

(3) *Broken pulleys.* Pulleys with cracks, or pieces broken out of rims, shall not be used.

(4) *Pulley speeds.* Pulleys intended to operate at rim speed in excess of manufacturers normal recommendations shall be specially designed and carefully balanced for the speed at which they are to operate.

(5) *Composition and wood pulleys.* Composition or laminated wood pulleys shall not be installed where they are subjected to influences detrimental to their structural composition.

(e) *Belt, rope, and chain drives*—(1) *Horizontal belts and ropes.* (i) Where both runs of horizontal belts are seven (7) feet or less from the floor level, the guard shall extend to at least fifteen (15) inches above the belt or to a standard height (see Table O–12), except that where both runs of a horizontal belt are 42 inches or less from the floor, the belt shall be fully enclosed in accordance with paragraphs (m) and (o) of this section.

(ii) In powerplants or power-development rooms, a guardrail may be used in lieu of the guard required by subdivision (i) of this subparagraph.

(2) *Overhead horizontal belts.* (i) Overhead horizontal belts, with lower parts seven (7) feet or less from the floor or platform, shall be guarded on sides and bottom in accordance with paragraph (o)(3) of this section.

(ii) Horizontal overhead belts more than seven (7) feet above floor or platform shall be guarded for their entire length under the following conditions:

(*a*) If located over passageways or work places and traveling 1,800 feet or more per minute.

(*b*) If center to center distance between pulleys is ten (10) feet or more.

(*c*) If belt is eight (8) inches or more in width.

(iii) Where the upper and lower runs of horizontal belts are so located that passage of persons between them would be possible, the passage shall be either:

(*a*) Completely barred by a guardrail or other barrier in accordance with paragraphs (m) and (o) of this section; or

(*b*) Where passage is regarded as necessary, there shall be a platform over the lower run guarded on either side by a railing completely filled in with wire mesh or other filler, or by a solid barrier. The upper run shall be so guarded as to prevent contact therewith either by the worker or by objects carried by him. In powerplants only the lower run of the belt need be guarded.

(iv) Overhead chain and link belt drives are governed by the same rules as overhead horizontal belts and shall be guarded in the same manner as belts.

(v) American or Continuous System rope drives so located that the condition of the rope (particularly the splice) cannot be constantly and conveniently observed, shall be equipped with a telltale device (preferably electric-bell type) that will give warning when rope begins to fray.

(3) *Vertical and inclined belts.* (i) Vertical and inclined belts shall be enclosed by a guard conforming to standards in paragraphs (m) and (o) of this section.

(ii) All guards for inclined belts shall be arranged in such a manner that a minimum clearance of seven (7) feet is maintained between belt and floor at any point outside of guard.

(4) *Vertical belts.* Vertical belts running over a lower pulley more than seven (7) feet above floor or platform shall be guarded at the bottom in the same manner as horizontal overhead belts, if conditions are as stated in subparagraphs (2)(ii) (*a*) and (*c*) of this paragraph.

(5) *Cone-pulley belts.* (i) The cone belt and pulley shall be equipped with a belt shifter so constructed as to adequately guard the nip point of the belt and pulley. If the frame of the belt shifter does not adequately guard the nip point of the belt and pulley, the nip point shall be further protected by means of a vertical guard placed in front

of the pulley and extending at least to the top of the largest step of the cone.

(ii) If the belt is of the endless type or laced with rawhide laces, and a belt shifter is not desired, the belt will be considered guarded if the nip point of the belt and pulley is protected by a nip point guard located in front of the cone extending at least to the top of the largest step of the cone, and formed to show the contour of the cone in order to give the nip point of the belt and pulley the maximum protection.

(iii) If the cone is located less than 3 feet from the floor or working platform, the cone pulley and belt shall be guarded to a height of 3 feet regardless of whether the belt is endless or laced with rawhide.

(6) *Belt tighteners.* (i) Suspended counterbalanced tighteners and all parts thereof shall be of substantial construction and securely fastened; the bearings shall be securely capped. Means must be provided to prevent tightener from falling, in case the belt breaks.

(ii) Where suspended counterweights are used and not guarded by location, they shall be so encased as to prevent accident.

(f) *Gears, sprockets, and chains*—(1) *Gears.* Gears shall be guarded in accordance with one of the following methods:

(i) By a complete enclosure; or

(ii) By a standard guard as described in paragraph (o) of this section, at least seven (7) feet high extending six (6) inches above the mesh point of the gears; or

(iii) By a band guard covering the face of gear and having flanges extended inward beyond the root of the teeth on the exposed side or sides. Where any portion of the train of gears guarded by a band guard is less than six (6) feet from the floor a disk guard or a complete enclosure to the height of six (6) feet shall be required.

(2) *Hand-operated gears.* Subparagraph (1) of this paragraph does not apply to hand-operated gears used only to adjust machine parts and which do not continue to move after hand power is removed. However, the guarding of these gears is highly recommended.

(3) *Sprockets and chains.* All sprocket wheels and chains shall be enclosed unless they are more than seven (7) feet above the floor or platform. Where the drive extends over other machine or working areas, protection against falling shall be provided. This subparagraph does not apply to manually operated sprockets.

(4) *Openings for oiling.* When frequent oiling must be done, openings with hinged or sliding self-closing covers shall be provided. All points not readily accessible shall have oil feed tubes if lubricant is to be added while machinery is in motion.

(g) *Guarding friction drives.* The driving point of all friction drives when exposed to contact shall be guarded, all arm or spoke friction drives and all web friction drives with holes in the web shall be entirely enclosed, and all projecting belts on friction drives where exposed to contact shall be guarded.

(h) *Keys, setscrews, and other projections.* (1) All projecting keys, setscrews, and other projections in revolving parts shall be removed or made flush or guarded by metal cover. This subparagraph does not apply to keys or setscrews within gear or sprocket casings or other enclosures, nor to keys, setscrews, or oilcups in hubs of pulleys less than twenty (20) inches in diameter where they are within the plane of the rim of the pulley.

(2) It is recommended, however, that no projecting setscrews or oilcups be used in any revolving pulley or part of machinery.

(i) *Collars and couplings*—(1) *Collars.* All revolving collars, including split collars, shall be cylindrical, and screws or bolts used in collars shall not project beyond the largest periphery of the collar.

(2) *Couplings.* Shaft couplings shall be so constructed as to present no hazard from bolts, nuts, setscrews, or revolving surfaces. Bolts, nuts, and setscrews will, however, be permitted where they are covered with safety sleeves or where they are used parallel with the shafting and are countersunk or else do not extend beyond the flange of the coupling.

(j) *Bearings and facilities for oiling.* Self lubricating bearings are recommended and all drip cups and pans shall be securely fastened.

(k) *Guarding of clutches, cutoff couplings, and clutch pulleys*—(1) *Guards.* Clutches, cutoff couplings, or clutch pulleys having projecting parts, where such clutches are located seven (7) feet or less above the floor or working platform, shall be enclosed by a stationary guard constructed in accordance with this section. A "U" type guard is permissible.

(2) *Engine rooms.* In engine rooms a guardrail, preferably with toeboard, may be used instead of the guard required by subparagraph (1) of this paragraph, provided such a room is occupied only by engine room attendants.

(3) *Bearings.* A bearing support immediately adjacent to a friction clutch or cutoff coupling shall have self-lubricating bearings requiring attention at infrequent intervals.

(l) *Belt shifters, clutches, shippers, poles, perches, and fasteners*—(1) *Belt shifters.* (i) Tight and loose pulleys on all new installations made on or after August 31, 1971, shall be equipped with a permanent belt shifter provided with mechanical means to prevent belt from creeping from loose to tight pulley. It is recommended that old installations be changed to conform to this rule.

(ii) Belt shifter and clutch handles shall be rounded and be located as far as possible from danger of accidental contact, but within easy reach of the operator. Where belt shifters are not directly located over a machine or bench, the handles shall be cut off six feet six inches (6 ft. 6 in.) above floor level.

(iii) All belt and clutch shifters of the same type in each shop should move in the same direction to stop machines, i.e., either all right or all left. This does not apply to friction clutch on countershaft carrying two clutch pulleys with open and crossed belts, respectively. In this case the shifter handle has three positions and the machine is at a standstill when clutch handle is in the neutral or center position.

(2) *Belt shippers and shipper poles.* The use of belt poles as substitutes for mechanical shifters is not recommended. Where necessity compels their use, they shall be of sufficient size to enable workmen to grasp them securely. (A two-inch (2 in.) diameter or 1½ by 2 inches cross-section is suggested.) Poles shall be smooth and preferably of straight grain hardwood, such as ash or hickory. The edges of rectangular poles should be rounded. Poles should extend from the top of the pulley to within about forty (40) inches of floor or working platform.

(3) *Belt perches.* Where loose pulleys or idlers are not practicable, belt perches in form of brackets, rollers, etc., shall be used to keep idle belts away from the shafts. Perches should be substantial and designed for the safe shifting of belts.

(4) *Belt fasteners.* Belts which of necessity must be shifted by hand and belts within seven (7) feet of the floor or working platform which are not guarded in accordance with this section shall not be fastened with metal in any case, nor with any other fastening which by construction or wear will constitute an accident hazard.

(m) *Standard guards—general requirements*—(1) *Materials.* (i) Standard conditions shall be secured by the use of the following materials. Expanded metal, perforated or solid sheet metal, wire mesh on a frame of angle iron, or iron pipe securely fastened to floor or to frame of machine.

(ii) All metal should be free from burrs and sharp edges.

(iii) Wire mesh should be of the type in which the wires are securely fastened at every cross point either by welding, soldering, or galvanizing, except in case of diamond or square wire mesh made of No. 14 gage wire, ¾-inch mesh or heavier

(2) *Methods of manufacture.* (i) Expanded metal, sheet or perforated metal, and wire mesh shall be securely fastened to frame by one of the following methods:

(*a*) With rivets or bolts spaced not more than five (5) inches center to center. In case of expanded metal or wire mesh, metal strips or clips shall be used to form a washer for rivets or bolts.

(*b*) by welding to frame every four (4) inches.

(*c*) By weaving through channel or angle frame, or if No. 14 gage ¾-inch mesh or heavier is used by bending entirely around rod frames.

(*d*) Where openings in pipe railing are to be filled in with expanded metal, wire mesh or sheet metal, the filler material shall be made into panels with rolled edges or bound with "V" or "U" edging of No. 24 gage or heavier sheet metal fastened to the panels with bolts or rivets spaced not more than five (5) inches center to center. The bound panels shall be fastened to the railing by sheet-metal clips spaced not more than five (5) inches center to center.

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(e) Diamond or square mesh made of crimped wire fastened into channels, angle or round-iron frames, may also be used as a filler in guards. Size of mesh shall correspond to Table O–12.

(ii) Where the design of guards requires filler material of greater area than 12 square feet, additional frame members shall be provided to maintain panel area within this limit.

(iii) All joints of framework shall be made equivalent in strength to the material of the frame.

(n) *Disk, shield, and "U" guards*—(1) *Disk guards.* A disk guard shall consist of a sheet-metal disk not less than No. 22 gage fastened by "U" bolts or rivets to spokes of pulleys, flywheels, or gears. Where possibility of contact with sharp edges of the disk exists, the edge shall be rolled or wired. In all cases the nuts shall be provided with locknuts which shall be placed on the unexposed side of the wheel.

(2) *Shield guards.* (i) A shield guard shall consist of a frame filled in with wire mesh, expanded, perforated, or solid sheet metal.

(ii) If area of shield does not exceed six (6) square feet the wire mesh or expanded metal may be fastened in a framework of ⅜-inch solid rod, ¾-inch by ¾-inch by ⅛-inch angle iron or metal construction of equivalent strength. Metal shields may have edges entirely rolled around a ⅜-inch solid iron rod.

(3) *"U" guards.* A "U" guard consisting of a flat surface with edge members shall be designed to cover the under surface and lower edge of a belt, multiple chain, or rope drive. It shall be constructed of materials specified in Table O–12, and shall conform to the requirements of paragraphs (o) (3) and (4) of this section. Edges shall be smooth and, if size of guard requires, these edges shall be reinforced by rolling, wiring, or by binding with angle or flat iron.

(o) *Approved materials*—(1) *Minimum requirements.* The materials and dimensions specified in this paragraph shall apply to all guards, except horizontal overhead belts, rope, cable, or chain guards more than seven (7) feet above floor, or platform. (For the latter, see Table O–13.)

TABLE O–12—TABLE OF STANDARD MATERIALS AND DIMENSIONS

Material	Clearance from moving part at all points	Largest mesh or opening allowable	Minimum gauge (U.S. Standard) or thickness	Minimum height of guard from floor or platform level
	Inches	*Inches*		*Feet*
Woven wire	Under 2	½	No. 16	7
	2–4	½	No. 16	7
	Under 4	½	No. 16	7
	4–15	2	No. 12	7
Expanded metal	Under 4	½	No. 18	7
	4–15	2	No. 13	7
Perforated metal	Under 4	½	No. 20	7
	4–15	2	No. 14	7
Sheet metal	Under 4		No. 22	7
	4–15		No. 22	7
Wood or metal strip crossed	Under 4	¾	Wood ¾ Metal No. 16	7
	4–15	2	Wood ¾ Metal No. 16	7
Wood or metal strip not crossed	Under 4	½ width	Wood ¾ Meatl No. 16	7
	4–15	1 width	Wood ¾ Metal No. 16	7
Standard rail	Min. 15			
	Max. 20			

(1) Minimum dimensions of materials for the framework of all guards, except as noted in subdivision (i) (c) shall be angle iron 1 inch by 1 inch by ⅛ inch, metal pipe of ¾-inch inside diameter or metal construction of equivalent strength.

(a) All guards shall be rigidly braced every three (3) feet or fractional part of their height to some fixed part of machinery or building structure. Where guard is exposed to contact with moving equipment additional strength may be necessary.

(b) The framework for all guards fastened to floor or working platform and without other support or bracing shall consist of 1½-inch by 1½-inch by ⅛-inch angle iron, metal pipe of 1½-inch inside diameter, or metal construction of equivalent strength. All rectangular guards shall have at least four upright frame members each of which shall be carried to the floor and be securely fastened thereto. Cylindrical guards shall have at least three supporting members carried to floor.

(c) Guards thirty (30) inches or less in height and with a total surface area not in excess of ten (10) square feet may have a framework of ⅜-inch solid rod, ¾-inch by ¾-inch by ⅛-inch angle, or metal construction of equivalent strength. The filling material shall correspond to the requirements of Table O–12.

(ii) The specifications given in Table O–12 and subdivision (i) of this subparagraph are minimum requirements; where guards are exposed to unusual wear, deterioration or impact, heavier material and construction should be used to protect amply against the specific hazards involved.

(2) *Wood guards.* (i) Wood guards may be used in the woodworking and chemical industries, in industries where the presence of fumes or where manufacturing conditions would cause the rapid deterioration of metal guards; also in construction work and in locations outdoors where extreme cold or extreme heat make metal guards and railings undesirable. In all other industries, wood guards shall not be used.

(ii) (a) Wood shall be sound, tough, and free from any loose knots.

(b) Guards shall be made of planed lumber not less than one (1) inch rough board measure, and edges and corners rounded off.

(c) Wood guards shall be securely fastened together with wood screws, hardwood dowel pins, bolts, or rivets.

(d) While no definite dimensions are given under this heading for framework or filler materials, wood guards shall be equal in strength and rigidity to metal guards specified in subparagraphs (1) (i) and (ii) of this paragraph and Table O–12.

(e) For construction of standard wood railing, see subpargraph (5) of this paragraph.

(3) *Guards for horizontal overhead belts.* (i) Guards for horizontal overhead belts shall run the entire length of the belt and follow the line of the pulley to the ceiling or be carried to the nearest wall, thus enclosing the belt effectively. Where belts are so located as to make it impracticable to carry the guard to wall or ceiling, construction of guard shall be such as to enclose completely the top and bottom runs of belt and the face of pulleys.

(ii) The guard and all its supporting members shall be securely fastened to wall or ceiling by gimlet-point lag screws or through bolts. In case of masonry construction, expansion bolts shall be used. The use of bolts placed horizontally through floor beams or ceiling rafters is recommended.

(iii) Suitable reinforcement shall be provided for the ceiling rafters or overhead floor beams, where such is necessary, to sustain safely the weight and stress likely to be imposed by the guard. The interior surface of all guards, by which is meant the surface of the guard with which a belt will come in contact, shall be smooth and free from all projections of any character, except where construction demands it; protruding shallow roundhead rivets may be used. Overhead belt guards shall be at least one-quarter wider than belt which they protect, except that this clearance need not in any case exceed six (6) inches on each side. Overhead rope drive and block and roller-chain-drive guards shall be not less than six (6) inches wider than the drive on each side. In overhead silent chain-drive guards where the chain is held from lateral displacement on the sprockets, the side clearances required on drives of twenty (20) inch centers or under shall be not less than one-fourth inch from the nearest moving chain part, and on drives of over twenty (20) inch centers a minimum of one-half inch from the nearest moving chain part.

(iv) Table O–13 gives the sizes of materials to be used and the general construction specifications of guards for belts ten (10) inches or more in width. No material for overhead belt guards should be smaller than that specified in Table O–13 for belts ten (10) to fourteen (14) inches wide, even if the overhead belt is less than ten (10) inches in width. However, No. 20 gage sheet metal may be used as a filler on guards for belts less than ten (10) inches wide. Expanded metal, because of the sharp edges, should not be used as a filler in horizontal belt guards.

(v) For clearance between guards and belts, ropes or chains of various center to center dimensions between the shafts, see bottom of Table O–13.

(4) *Guards for horizontal overhead rope and chain drives.* Overhead-rope and chain-drive guard construction shall conform to the rules for overhead-belt guard construction of similar width, except that the filler material shall be of the solid type as shown in Table O–13, unless the fire hazard demands the use of open construction. A side guard member of the same solid filling material should be carried up in a vertical position two (2) inches above the level of the lower run of the rope or chain drive and two (2) inches within the periphery of the pulleys which the guard encloses thus forming a trough. These side filler members should be reinforced on the edges with 1½-inch by ¼-inch flat steel, riveted to the filling material at not greater than eight (8) inch centers; the reinforcing strip should be fastened or bolted to all guard supporting members with at least one ⅜-inch rivet or bolt at each intersection, and the ends should be secured to the ceiling with lag screws or bolts. The filling material shall be fastened to the framework of the guard and the filler supports by $\frac{3}{16}$-inch rivets spaced on 4-inch centers. The width of the multiple drive shall be determined by measuring the distance from the outside of the first to the outside of the last rope or chain in the group accommodated by the pulley.

(5) *Guardrails and toeboards.* (i) Guardrail shall be forty-two (42) inches in height, with midrail between top rail and floor.

(ii) Posts shall be not more than eight (8) feet apart; they are to be permanent and substantial, smooth, and free from protruding nails, bolts, and splinters. If made of pipe, the post shall be one and one-fourth (1¼) inches inside diameter, or larger. If made of metal shapes or bars, their section shall be equal in strength to that of one and one-half (1½) by one and one-half (1½) by three-sixteenths ($\frac{3}{16}$) inch angle iron. If made of wood, the posts shall be two by four (2 x 4) inches or larger. The upper rail shall be two by four (2 x 4) inches, or two one by four (1 x 4) strips, one at the top and one at the side of posts. The midrail may be one by four (1 x 4) inches or more. The rails (metal shapes, metal bars, or wood), should be on that side of the posts which gives the best protection and support. Where panels are fitted with expanded metal or wire mesh as noted in Table O–12 the middle rails may be omitted. Where guard is exposed to contact with moving equipment, additional strength may be necessary.

(iii) Toeboards shall be four (4) inches or more in height, of wood, metal, or of metal grill not exceeding one (1) inch mesh. Toeboards at flywheel pits should preferably be placed as close to edge of the pit as possible.

(p) *Care of equipment*—(1) *General.* All power-transmission equipment shall be inspected at intervals not exceeding 60 days and be kept in good working condition at all times.

(2) *Shafting.* (i) Shafting shall be kept in alignment, free from rust and excess oil or grease.

(ii) Where explosives, explosive dusts, flammable vapors or flammable liquids exist, the hazard of static sparks from shafting shall be carefully considered.

(3) *Bearings.* Bearings shall be kept in alignment and properly adjusted.

(4) *Hangers.* Hangers shall be inspected to make certain that all supporting bolts and screws are tight and that supports of hanger boxes are adjusted properly.

(5) *Pulleys.* (i) Pulleys shall be kept in proper alignment to prevent belts from running off.

(ii) One or both pulleys carrying a nonshifting belt should have crowned faces.

(iii) Cast-iron pulleys should be tested frequently with a hammer to disclose cracks in rim or spokes. It should be borne in mind that the sound is usually the pulley.

(iv) Split pulleys should be inspected to ascertain if all bolts holding together the sections of the pulley are tight.

(6) *Care of belts.* (i) Quarter-twist belts when installed without an idler can be used on drives running in one direction only. They will run off a pulley when direction of motion is reversed.

(ii) Inspection shall be made of belts, lacings, and fasteners and such equipment kept in good repair.

(iii) Where possible, dressing should not be applied when belt or rope is in motion; but, if this is necessary, it should be applied where belts or rope leave pulley, not where they approach. The same precautions apply to lubricating chains. In the case of V-belts, belt dressing is neither necessary nor advisable.

(7) *Lubrication.* The regular oilers shall wear tight-fitting clothing and should use cans with long spouts to keep their hands out of danger. Machinery shall be oiled when not in motion, wherever possible.

TABLE O–13—HORIZONTAL OVERHEAD BELTS, ROPES, AND CHAINS 7 FEET OR MORE ABOVE FLOOR OR PLATFORM

	Width			
	From 10" to 14" inclusive	Over 14" to 24" inclusive	Over 24"	Material
MEMBERS				
Framework	1½" x 1½" x ¼"	2" x 2" x 3/16"	3" x 3" x 3/16"	Angle iron.
Filler (belt guards)	1½" x 3/16"	2" x 3/16"	2" x 3/16"	Flat iron.
Filler and vertical side member.	No. 20 A. W. G.	No. 18 A. W. G.	No. A. W. G.	Solid sheet metal.
Filler supports	2" x 3/16" flat iron	2" x 3/8" flat iron	2½" x 2½" x ¼" angle	Flat and angle.
Guard supports	2" x 3/16"	2" x 3/8"	2½" x 3/8"	Flat iron.
FASTENINGS				
Filler supports to framework	(2) 5/16"	(2) 3/8"	(3) ½"	Rivets.
Filler flats to supports (belt guards).	(1) 5/16"	(1) 5/16"	(2) 3/8"	Flush rivets.
Filler to frame and supports (chain guards).	3/16" rivets spaced	8" centers on sides and 4" centers on bottom.		
Guard supports to frame work.	(2) 3/8"	(2) 5/16"	(2) 5/8"	Rivets or bolts.
Guard and supports to overhead ceiling.	¼" x 3½" lag screws or ½" bolts.	5/8" x 4" lag screws or 5/8" bolts.	¾" x 6" lag screws or ¾" bolts.	Lag screws or bolts.
DETAILS—SPACING, ETC.				
Width of guards	One-quarter wider than belt, rope, or chain drive.			
Spacing between filler supports.	20" C. to C	16" C. to C	16" C. to C	
Spacing between filler flats (belt guards).	2" apart	2½" apart	3" apart	
Spacing between guard supports	36" C. to C	36" C. to C	36" C. to C	
OTHER BELT GUARD FILLING PERMITTED				
Sheet metal fastened as in chain guards.	No. 20 A. W. G.	No. 18 A. W. G.	No 18 A. W. G.	Solid or perforated.
Woven wire, 2" mesh	No. 12 A. W. G.	No. 10 A. W. G.	No. 8 A. W. G.	

CLEARANCE FROM OUTSIDE OF BELT, ROPE, OR CHAIN DRIVE TO GUARD				
Distance center to center of shafts.	Up to 15' inclusive	Over 15' to 25' inclusive.	Over 25' to 40' inclusive.	Over 40'.
Clearance from belt, or chain to guard.	6"	10"	15"	20".

(8) *Hoists.* (i) Hoists shall be inspected frequently and be kept in safe working condition.

(ii) Hoist chains shall be inspected frequently and be kept free from excessive wear and distortion of links.

(iii) Hoist ropes shall be inspected frequently and be kept free from excessive wear, kinking, and distortion.

(iv) Hoist hooks shall be inspected frequently and be kept free from excessive wear and distortion.

(v) Hoist brakes shall be inspected frequently and be kept in safe working condition.

§ 1910.220 **Effective dates.**

(a) The provisions of this Subpart O shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

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§ 1910.212(a).
§ 1910.213 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r).
§ 1910.214 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), and (v).
§ 1910.215 (a) and (b).
§ 1910.216 (a), (b), (c), and (f).
§ 1910.217 (a), (b), (c), and (d).
§ 1910.218 (a), (b), (d), (e), (g), and (j).
§ 1910.219 (b), (c), (d), (e), (f), (g), (h), (i), and (k).

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a) or (b) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2 (a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart O which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

[36 F.R. 15106, Aug. 13, 1971]

§ 1910.221 Sources of standards.

The standards contained in this Subpart O are derived from the following sources:

Standard	*Source*
§ 1910.212 --	41 CFR 50–204.5.
§ 1910.213 --	AMCI 01.1–1954–(R 1961), Safety Code for Woodworking Machinery.
§ 1910.214 --	ANSI 01.1–1954–(R 1961), Safety Code for Woodworking Machinery.
§ 1910.215 --	ANSI B7.1–1970, Safety Code for Abrasive Wheels.
§ 1910.216 --	ANSI B28.1–1967, Safety Code for Mills Calenders in the Rubber and Plastic Industries.
§ 1910.217 --	ANSI B11.1–1970, Safety Standard for Construction Care and Use of Mechanical Power Presses.
§ 1910.218 --	ANSI B24.1, 1970 Safety Standard for Forging.
§ 1910.219 --	ANSI B15.1–1953–(P 1958) Safety Code for Mechanical Power Transmission Apparatus

§ 1910.222 Standards organizations.

The standards and specifications of the following organizations have been referenced in this Subpart O: Copies of the references materials may be obtained from the issuing organizations

1. American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.
2. American Society of Mechanical Engineers. 345 East 47 Street, New York, NY 10017.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

§ 1910.241 Definitions.

As used in this subpart:

(a) *Explosive-actuated fastening tool terms*—(1) *Hammer-operated piston tool—low-velocity type.* A tool which, by means of a heavy mass hammer supplemented by a load, moves a piston designed to be captive to drive a stud, pin, or fastener into a work surface, always starting the fastener at rest and in contact with the work surface. It shall be so designed that when used with any load that accurately chambers in it and that is commercially available at the time the tool is submitted for approval, it will not cause such stud, pin, or fastener to have a mean velocity in excess of 300 feet per second when measured 6.5 feet from the muzzle end of the barrel.

(2) *High-velocity tool.* A tool or machine which, when used with a load, propels or discharges a stud, pin, or fastener, at velocities in excess of 300 feet per second when measured 6.5 feet from the muzzle end of the barrel, for the purpose of impinging it upon, affixing it to, or penetrating another object or material.

(3) *Low-velocity piston tool.* A tool that utilizes a piston designed to be captive to drive a stud, pin, or fastener into a work surface. It shall be so designed that when used with any load that accurately chambers in it and that is commercially available at the time the tool is submitted for approval, it will not cause such stud, pin, or fastener to have a mean velocity in excess of 300 feet per second when measured 6.5 feet from the muzzle end of the barrel.

(4) *Stud, pin, or fastener.* A fastening device specifically designed and manufactured for use in explosive-actuated fastening tools.

(5) *To chamber.* To fit properly without the use of excess force, the case being duly supported.

(6) *Explosive powerload, also known as load.* Any substance in any form capable of producing a propellant force.

(7) *Tool.* An explosive-actuated fastening tool, unless otherwise indicated, and all accessories pertaining thereto.

(8) *Protective shield or guard.* A device or guard attached to the muzzle end of the tool, which is designed to confine flying particles.

(b) *Abrasive wheel terms*—(1) *Mounted wheels.* Mounted wheels, usually 2-inch diameter or smaller, and of various shapes, may be either organic or inorganic bonded abrasive wheels. They are secured to plain or threaded steel mandrels.

(2) *Tuck pointing.* Removal, by grinding, of cement, mortar, or other nonmetallic jointing material.

(3) *Tuck pointing wheels.* Tuck pointing wheels, usually Type 1, reinforced organic bonded wheels have diameter, thickness and hole size dimension. They are subject to the same limitations of use and mounting as Type 1 wheels defined in subparagraph (10) of this paragraph.

LIMITATION: Wheels used for tuck pointing should be reinforced, organic bonded. (See § 1910.243(c)(1)(ii)(c).)

(4) *Portable grinding.* A grinding operation where the grinding machine is designed to be hand held and may be easily moved from one location to another.

(5) *Organic bonded wheels.* Organic wheels are wheels which are bonded by means of an organic material such as resin, rubber, shellac, or other similar bonding agent.

(6) *Safety guard.* A safety guard is an enclosure designed to restrain the pieces of the grinding wheel and furnish all possible protection in the event that the wheel is broken in operation.

(7) *Reinforced wheels.* The term "reinforced" as applied to grinding wheels shall define a class of organic wheels which contain strengthening fabric or filament. The term "reinforced" does not cover wheels using such mechanical additions as steel rings, steel cup backs or wire or tape winding.

(8) *Type 11 flaring cup wheels.* Type 11 flaring cup wheels have double diameter dimensions D and J, and in addition have thickness, hole size, rim and back

TYPE 11 FLARING CUP WHEELS

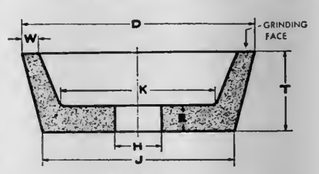


Figure P-1

Type 11 — Flaring-cup Wheel
Side grinding wheel having a wall flared or tapered outward from the back. Wall thickness at the back is normally greater than at the grinding face (W).

thickness dimensions. Grinding is always performed on rim face, W dimension. Type 11 wheels are subject to all limitations of use and mounting listed for Type 6 straight sided cup wheels definition in subparagraph (9) of this paragraph.

LIMITATION: Minimum back thickness, E dimension, should not be less than one-fourth T dimension. In addition when unthreaded hole wheels are specified the inside flat, K dimension, shall be large enough to accommodate a suitable flange.

(9) *Type 6 straight cup wheels.* Type 6 cup wheels have diameter, thickness, hole size, rim thickness, and back thickness dimensions. Grinding is always performed on rim face, W dimension.

LIMITATION: Minimum back thickness, E dimension, should not be less than one-fourth T dimension. In addition, when unthreaded hole wheels are specified, the inside flat, K dimension, must be large enough to accommodate a suitable flange.

TYPE 6 STRAIGHT CUP WHEELS

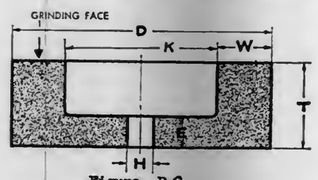


Figure P-2

Type 6 — Straight-cup Wheel
Side grinding wheel having a diameter, thickness and hole with one side straight or flat and the opposite side recessed. This type, however, differs from Type 5 in that the grinding is performed on the wall of the abrasive created by the difference between the diameter of the recess and the outside diameter of the wheel. Therefore, the wall dimension "W" takes precedence over the diameter of the recess as an essential intermediate dimension to describe this shape type.

(10) *Type 1 straight wheels.* Type 1 straight wheels have diameter, thickness, and hole size dimensions and should be used only on the periphery. Type 1 wheels shall be mounted between flanges.

LIMITATION: Hole dimension (H) should not be greater than two-thirds of wheel diameter dimension (D) for precision, cylindrical, centerless, or surface grinding applications. Maximum hole size for all other applications should not exceed one-half wheel diameter.

TYPE 1 STRAIGHT WHEELS



Figure P-3

Type 1 — Straight Wheel
Peripheral grinding wheel having a diameter, thickness and hole.

(c) *Power lawnmower terms*—(1) *Blade tip circle.* The path described by the outermost point of the blade as it is rotated about its shaft axis.

(2) *Guards.* A part or an assembly provided for shielding a hazardous area of a machine.

(3) *Catcher assemblies.* Parts or combinations of parts which provide a means for collecting grass clippings or debris.

(4) *Walk-behind mower.* A mower either pushed or self-propelled and normally guided by the operator walking behind the unit.

(5) *Operator area, walk-behind mowers.* For discharge interference purposes, that area confined within a circle no smaller than 30 inches in diameter, the center of which is located to the rear of the mower on its longitudinal centerline 30 inches behind the nearest blade tip circle.

(6) *Power reel mower.* A lawn-cutting machine utilizing a power source to rotate one or more helically formed blades about a horizontal axis to provide a shearing action with a stationary cutter bar or bed knife.

(7) *Power rotary mower.* A lawn-cutting machine utilizing a power source to rotate one or more cutting blades about a vertical axis.

(8) *Lowest blade position.* The lowest blade position under static conditions.

(9) *Riding mower.* A powered, self-propelled lawn-cutting vehicle on which the operator rides and controls the machine.

(10) *Sulky type mower.* Normally, a walk-behind mower which has been converted to a riding mower by the addition of a sulky.

(11) *Deadman control.* A control designed so that it will automatically interrupt power to a drive when the operator's actuating force is removed.

(d) *Jack terms*—(1) *Jack.* A jack is an appliance for lifting and lowering or moving horizontally a load by application of a pushing force.

NOTE: Jacks may be of the following types: Lever and ratchet, screw and hydraulic.

(2) *Rating.* The rating of a jack is the maximum working load for which it is designed to lift safely that load throughout its specified amount of travel.

NOTE: To raise the rated load of a jack, the point of application of the load, the applied force, and the length of lever arm should be those designated by the manufacturer for the particular jack considered.

§ 1910.242 Hand and portable powered tools and equipment, general.

(a) *General requirements.* Each employer shall be responsible for the safe condition of tools and equipment used by employees, including tools and equipment which may be furnished by employees.

(b) *Compressed air used for cleaning.* Compressed air shall not be used for cleaning purposes except where reduced to less than 30 p.s.i. and then only with effective chip guarding and personal protective equipment.

§ 1910.243 Guarding of portable powered tools.

(a) *Woodworking, portable powered tools*—(1) *Portable circular saws.* All portable, power-driven saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to covering position.

(2) *"Dead man" controls.* Hand-held, power-driven woodworking tools shall be provided with "dead man" control, such as a spring-actuated switch, valve, or equivalent device, so that the power will be automatically shut off whenever the operator releases the control.

(3) *Portable belt sanding machines.* Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs onto a pulley. These guards shall effectively prevent the hands or fingers of the operator from coming in contact with the nip points. The unused run of the sanding belt shall be guarded against accidental contact.

(4) *Cracked saws.* All cracked saws shall be removed from service.

(5) *Grounding.* Electrical grounding requirements for portable woodworking machinery see Subpart O, § 1910.213(a)(11).

(b) *Pneumatic powered tools and hose*—(1) *Portable tools.* (i) The operating trigger on portable hand-operated utilization equipment shall be so located as to minimize the possibility of its accidental operation and shall be arranged to close the air inlet valve automatically when the pressure of the operator's hand is removed.

(ii) A tool retainer shall be installed on each piece of utilization equipment which, without such a retainer, may eject the tool.

(2) *Airhose.* Hose and hose connections used for conducting compressed air to utilization equipment shall be designed for the pressure and service to which they are subjected.

(c) *Portable abrasive wheels*—(1) *General requirements.* (i) All abrasive wheels shall be used only on machines provided with safety guards as defined in the following subparagraphs of this paragraph.

EXCEPTIONS: This requirement shall not apply to the following classes of wheels and conditions.

(*a*) Wheels used for internal work while within the work being ground.

(*b*) Mounted wheels used in portable operations (see definition § 1910.241(b)(1)) 2 inches and smaller in diameter.

(*c*) Types 16, 17, 18, 18R, and 19 cones and plugs and threaded hole pot balls where the work offers protection.

(ii) (*a*) The safety guard shall cover the spindle end, nut, and flange projections. The safety guard shall be mounted so as to maintain proper alignment with the wheel, and the strength of the fastenings shall exceed the strength of the guard.

(*b*) Exception: Safety guards on all operations where the work provides a suitable measure of protection to the operator, may be so constructed that the spindle end, nut, and outer flange are exposed; and where the nature of the work is such as to entirely cover the side of the wheel, the side covers of the guard may be omitted.

(*c*) Exception: The spindle end, nut, and outer flange may be exposed on machines designed as portable saws.

(2) *Cup wheels.* Cup wheels (Types 6 and 11) shall be protected by:

(i) Safety guards as specified in subparagraph (1) of this paragraph; or,

(ii) Special "revolving cup guards" which mount behind the wheel and turn with it. They shall be made of steel or other material with adequate strength and shall enclose the wheel sides upward from the back for one-third of the wheel thickness. The mounting features shall conform with all regulations. (See subparagraph (5) of this paragraph.) It is necessary to maintain clearance between the wheel side and the guard. The clearance shall not exceed one-sixteenth inch; or,

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(iii) Some other form of guard that will insure as good protection as that which would be provided by the guards specified in subdivision (i) or (ii) of this subparagraph.

(3) *Vertical portable grinders.* Safety guards used on machines known as right angle head or vertical portable grinders shall have a maximum exposure angle of 180°, and the guard shall be so located so as to be between the operator and the wheel during use. Adjustment of guard shall be such that pieces of an accidentally broken wheel will be deflected away from the operator. (See Figure P–4.)

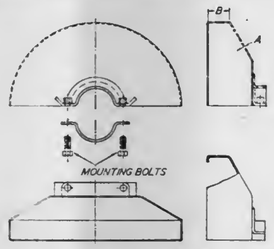


FIGURE NO. P-4

(4) *Other portable grinders.* The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on other portable grinding machines shall not exceed 180° and the top half of the wheel shall be enclosed at all times. (See Figures P–5 and P–6.)



FIGURE NO. P-5

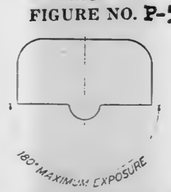


FIGURE NO. P-6

(5) *Mounting and inspection of abrasive wheels.* (i) Immediately before mounting, all wheels shall be closely inspected and sounded by the user (ring test, see Subpart O, § 1910.215(d)(1)) to make sure they have not been damaged in transit, storage, or otherwise. The spindle speed of the machine shall be checked before mounting of the wheel to be certain that it does not exceed the maximum operating speed marked on the wheel.

(ii) Grinding wheels shall fit freely on the spindle and remain free under all grinding conditions. A controlled clearance between the wheel hole and the machine spindle (or wheel sleeves or adaptors) is essential to avoid excessive pressure from mounting and spindle expansion. To accomplish this, the machine spindle shall be made to nominal (standard) size plus zero minus .002 inch, and the wheel hole shall be made suitably oversize to assure safety clearance under the conditions of operating heat and pressure.

(iii) All contact surfaces of wheels, blotters, and flangers shall be flat and free of foreign matter.

(iv) When a bushing is used in the wheel hole it shall not exceed the width of the wheel and shall not contact the flanges.

(v) Requirements for the use of flanges and blotters, see Subpart O, § 1910.215(c).

(d) *Explosive actuated fastening tools*—(1) *General requirements.* (i) Explosive-actuated fastening tools which are actuated by explosives or any similar means and propel a stud, pin, fastener, or other object for the purpose of affixing it by penetration to any other object shall meet the design requirements in "American National Standard Safety Requirements for Explosive-Actuated Fastening Tools," ANSI A10.3–1970. This requirement does not apply to devices designed for attaching objects to soft construction materials, such as wood, plaster, tar, dry wallboard, and the like, or to stud welding equipment.

(ii) Operators and assistants using tools shall be safeguarded by means of eye protection. Head and face protection shall be used, as required by working conditions, as set forth in Subpart I.

(2) *Inspection, maintenance, and tool handling*—(i) *High-velocity tools.* Tools of this type shall have the characteristics outlined in (*a*) through (*h*) of this subdivision and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate.

(*a*) The muzzle end of the tool shall have a protective shield or guard at least 3½ inches in diameter, mounted perpendicular to and concentric with the barrel, and designed to confine any flying fragments or particles that might otherwise create a hazard at the time of firing.

(*b*) Where a standard shield or guard cannot be used, or where it does not cover all apparent avenues through which flying particles might escape, a special shield, guard, fixture, or jig designed and built by the manufacturer of the tool being used, which provides this degree of protection, shall be used as a substitute.

(*c*) The tool shall be so designed that it cannot be fired unless it is equipped with a standard protective shield or guard, or a special shield, guard, fixture, or jig.

(*d*) (*1*) The firing mechanism shall be so designed that the tool cannot fire during loading or preparation to fire, or if the tool should be dropped while loaded.

(*2*) Firing of the tool shall be dependent upon at least two separate and distinct operations of the operator, with the final firing movement being separate from the operation of bringing the tool into the firing position.

(*e*) The tool shall be so designed as not to be operable other than against a work surface, and unless the operator is holding the tool against the work surface with a force at least 5 pounds greater than the total weight of the tool.

(*f*) The tool shall be so designed that it will not operate when equipped with the standard guard indexed to the center position if any bearing surface of the guard is tilted more than 8° from contact with the work surface.

(*g*) The tool shall be so designed that positive means of varying the power are available or can be made available to the operator as part of the tool, or as an auxiliary, in order to make it possible for the operator to select a power level adequate to perform the desired work without excessive force.

(*h*) The tool shall be so designed that all breeching parts will be reasonably visible to allow a check for any foreign matter that may be present.

(ii) Tools of the low-velocity-piston type shall have the characteristics outlined in (*a*) through (*e*) of this subdivision and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate.

(*a*) The muzzle end of the tool shall be designed so that suitable protective shields, guards, jigs, or fixtures, designed and built by the manufacturer of the tool being used, can be mounted perpendicular to the barrel. A standard spall shield shall be supplied with each tool.

(*b*) (*1*) The tool shall be designed so that it shall not in ordinary usage propel or discharge a stud, pin, or fastener while loading or during preparation to fire, or if the tool should be dropped while loaded.

(*2*) Firing of the tool shall be dependent upon at least two separate and distinct operations of the operator, with the final firing movement being separate from the operation of bringing the tool into the firing position.

(*c*) The tool shall be so designed as not to be operable other than against a work surface, and unless the operator is holding the tool against the work surface with a force at least 5 pounds greater than the total weight of the tool.

(*d*) The tool shall be so designed that positive means of varying the power are available or can be made available to the operator as part of the tool, or as an auxiliary, in order to make it possible for the operator to select a power level adequate to perform the desired work without excessive force.

(*e*) The tool shall be so designed that all breeching parts will be reasonably visible to allow a check for any foreign matter that may be present.

(iii) Tools of the hammer-operated piston tools—low-velocity type shall have the characteristics outlined in (*a*) through (*e*) of this subdivision and, at the discretion of the manufacturer, any additional safety features he may wish to incorporate.

(*a*) The muzzle end of the tool shall be so designed that suitable protective shields, guards, jigs, or fixtures, designed and built by the manufacturer of the tool being used, can be mounted perpendicular to the barrel. A standard spall shield shall be supplied with each tool.

(*b*) The tool shall be so designed that it shall not in ordinary usage propel or discharge a stud, pin, or fastener while loading, or during preparation to fire, or if the tool should be dropped while loaded.

(*c*) Firing of the tool shall be dependent upon at least two separate and distinct operations of the operator, with the final firing movement being separate from the operation of bringing the tool into the firing position.

(*d*) The tool shall be so designed that positive means of varying the power are available or can be made available to the operator as part of the tool, or as an auxiliary, in order to make it possible for the operator to select a power level adequate to perform the desired work without excessive force.

(*e*) The tool shall be so designed that all breeching parts will be reasonably visible to allow a check for any foreign matter that may be present.

(*3*) *Requirements for loads and fasteners.* (i) There shall be a standard means of identifying the power levels of loads used in tools. Such means of identification shall be a uniform color and numbering system, as shown in Table P–1. Colors and printed descriptions shall be strikingly printed on the container to provide a visual indication of the power level of the load.

(ii) Caseless loads shall be coded to identify similar powerload levels by color, number, configuration, or other appropriate method.

TABLE P-1—IDENTIFICATION OF CASED LOADS

Power level	Color identification		Nominal velocity (±45 f.p.s)
	Case color	Load color	
1	Brass	Gray	300
2	Brass	Brown	390
3	Brass	Green	480
4	Brass	Yellow	570
5	Brass	Red	660
6	Brass	Purple	750
7	Nickel	Gray	840
8	Nickel	Brown	930
9	Nickel	Green	1,020
10	Nickel	Yellow	1,110
11	Nickel	Red	1,200
12	Nickel	Purple	1,290

NOTE: The nominal velocity applies to ¾-inch diameter 350-grain ballistic slug fired in a test device and has no reference to actual fastener velocity developed in any specific size or type of tool.

(iii) No load (cased or caseless) shall be used if it will accurately chamber in any existing approved commercially available low-velocity piston tool or hammer operated piston tool—low-velocity type and will cause a fastener to have a mean velocity in excess of 300 feet per second when measured 6.5 feet from the muzzle end of the barrel. No individual test firing of a series shall exceed 300 feet per second by more than 8 percent.

(iv) Fasteners used in tools shall be only those specifically manufactured for use in such tools.

(*4*) *Operating requirements.* (i) Before using a tool, the operator shall inspect it to determine to his satisfaction that it is clean, that all moving parts operate freely, and that the barrel is free from obstructions.

(ii) When a tool develops a defect during use, the operator shall immediately cease to use it, until it is properly repaired.

(iii) Tools shall not be loaded until just prior to the intended firing time. Neither loaded nor empty tools are to be pointed at any workmen, and hands should be kept clear of the open barrel end.

(iv) No tools shall be loaded unless being prepared for immediate use, nor shall an unattended tool be left loaded.

(v) In case of a misfire, the operator shall hold the tool in the operating position for at least 30 seconds. He shall then try to operate the tool a second time. He shall wait another 30 seconds, holding the tool in the operating position; then he shall proceed to remove the explosive load in strict accordance with the manufacturer's instructions. Misfired cartridges should be placed carefully in a metal container filled with water, and returned to the supervisor for disposal.

(vi) A tool shall never be left unattended in a place where it would be available to unauthorized persons.

(vii) Fasteners shall not be driven into very hard or brittle materials including, but not limited to, cast iron, glazed tile, surface-hardened steel, glass block, live rock, face brick, or hollow tile.

(viii) Driving into materials easily penetrated shall be avoided unless such materials are backed by a substance that will prevent the pin or fastener from passing completely through and creating a flying-missile hazard on the other side.

(ix) (*a*) Fasteners shall not be driven directly into materials such as brick or concrete closer than 3 inches from the unsupported edge or corner, or into steel surfaces closer than one-half inch from the unsupported edge or corner, unless a special guard, fixture, or jig is used. (Exception: Low-velocity tools may drive no closer than 2 inches from an edge in concrete or one-fourth inch in steel.)

(*b*) When fastening other materials, such as a 2- by 4-inch wood section to a concrete surface, it is permissible to drive a fastener of no greater than 7/32-inch shank diameter not closer than 2 inches from the unsupported edge or corner of the work surface.

(x) Fasteners shall not be driven through existing holes unless a positive guide is used to secure accurate alignment.

(xi) No fastener shall be driven into a spalled area caused by an unsatisfactory fastening.

(xii) Tools shall not be used in an explosive or flammable atmosphere.

(xiii) All tools shall be used with the correct shield, guard, or attachment recommended by the manufacturer.

(xiv) Any tool found not in proper working order shall be immediately removed from service. The tool shall be inspected at regular intervals and shall be repaired in accordance with the manufacturer's specifications.

(e) *Power lawnmowers*—(1) *General requirements.* (i) Power lawnmowers of the walk-behind, riding-rotary, and reel power lawnmowers designed for sale to the general public shall meet the design specifications in "American National Standard Safety Specifications for Power Lawnmowers" ANSI B71.1–1968. These specifications do not apply to sulky-type mowers, flail mowers, sicklebar mowers, or mowers designed for commercial use.

(ii) All power-driven chains, belts, and gears shall be so positioned or otherwise guarded to prevent the operator's accidental contact therewith, during normal starting, mounting, and operation of the machine.

(iii) A shutoff device shall be provided to stop operation of the motor or engine. This device shall require manual and intentional reactivation to restart the motor or engine.

(iv) All positions of the operating controls shall be clearly identified.

(v) The words, "Caution. Be sure the operating control(s) is in neutral before starting the engine," or similar wording shall be clearly visible at an engine starting control point on self-propelled mowers.

(2) *Walk-behind and riding rotary mowers.* (i) The mower blade shall be enclosed except on the bottom and the enclosure shall extend to or below the lowest cutting point of the blade in the lowest blade position.

(ii) Guards which must be removed to install a catcher assembly shall comply with the following:

(*a*) Warning instructions shall be affixed to the mower near the opening stating that the mower shall not be used without either the catcher assembly or the guard in place.

(*b*) The catcher assembly or the guard shall be shipped and sold as part of the mower.

(*c*) The instruction manual shall state that the mower shall not be used without either the catcher assembly or the guard in place.

(*d*) The catcher assembly, when properly and completely installed, shall not create a condition which violates the limits given for the guarded opening.

(iii) Openings in the blade enclosure, intended for the discharge of grass, shall be limited to a maximum vertical angle of the opening of 30°. Measurements shall be taken from the lowest blade position.

(iv) The total effective opening area of the grass discharge opening(s) shall not exceed 1,000 square degrees on units having a width of cut less than 27½ inches, or 2,000 square degrees on units having a width of cut 27½ inches or over.

(v) The word "Caution," or stronger wording, shall be placed on the mower at or near each discharge opening.

(vi) Wheel drive disengaging controls, except dead-man controls, shall move opposite to the direction of vehicle motion in order to disengage the drive. Dead-man controls shall comply with § 1910.241(c)(11), and may operate in any direction to disengage the drive.

(vii) Blade(s) shall stop rotating from the manufacturer's specified maximum speed within 15 seconds after declutching, or shutting off power.

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(viii) In a multipiece blade, the means of fastening the cutting members to the body of the blade or disc shall be so designed that they will not become worn to a hazardous condition before the cutting members themselves are worn beyond use.

(ix) The maximum tip speed of any blade shall be 19,000 feet per minute.

(3) *Walk-behind rotary mowers.* (i) The horizontal angle of the opening(s) in the blade enclosure, intended for the discharge of grass, shall not contact the operator area.

(ii) There shall be one of the following at all openings in the blade enclosure intended for the discharge of grass:

(*a*) A minimum unobstructed horizontal distance of 3 inches from the end of the discharge chute to the blade tip circle.

(*b*) A rigid bar fastened across the discharge opening, secured to prevent removal without the use of tools. The bottom of the bar shall be no higher than the bottom edge of the blade enclosure.

(iii) The highest point(s) on the front of the blade enclosure, except discharge openings, shall be such that any line extending a maximum of 15° downward from the horizontal toward the blade shaft axis (axes) shall not intersect the horizontal plane within the blade tip circle. The highest point(s) on the blade enclosure, front, except discharge openings, shall not exceed 1¼ inches above the lowest blade position. Mowers with a swing-over handle are to be considered as having no front in the blade enclosure and therefore shall comply with subparagraph (2) (i) of this paragraph.

(iv) The mower handle shall be fastened to the mower so as to prevent loss of control by unintentional uncoupling while in operation.

(v) A positive upstop or latch shall be provided for the mower handle in the normal operating position(s). The upstop shall not be subject to unintentional disengagement during normal operation of the mower. The upstop or latch shall not allow the center or the handle grips to come closer than 17 inches horizontally behind the closest path of the mower blade(s) unless manually disengaged.

(vi) A swing-over handle, which complies with the above requirements, will be permitted.

(4) *Riding rotary mowers.* (i) The highest point(s) of all openings in the blade enclosure, front shall be limited by a vertical angle of opening of 15° and a maximum distance of 1¼ inches above the lowest cutting point of the blade in the lowest blade position.

(ii) Opening(s) shall be placed so that grass or debris will not discharge directly toward any part of an operator seated in a normal operator position.

(iii) There shall be one of the following at all openings in the blade enclosure intended for the discharge of grass:

(*a*) A minimum unobstructed horizontal distance of 6 inches from the end of the discharge chute to the blade tip circle.

(*b*) A rigid bar fastened across the discharge opening, secured to prevent removal without the use of tools. The bottom of the bar shall be no higher than the bottom edge of the blade enclosure.

(iv) Mowers shall be provided with stops to prevent jackknifing or locking of the steering mechanism.

(v) Vehicle stopping means shall be provided.

(vi) Hand-operated wheel drive disengaging controls shall move opposite to the direction of vehicle motion in order to disengage the drive. Foot-operated wheel drive disengaging controls shall be depressed to disengage the drive. Dead-man controls, both hand and foot operated, shall comply with § 1910.241 (c) (11) and may operate in any direction to disengage the drive.

§ 1910.244 Other portable tools and equipment.

(a) *Jacks*—(1) *Loading and marking.* (i) The operator shall make sure that the jack used has a rating sufficient to lift and sustain the load.

(ii) The rated load shall be legibly and permanently marked in a prominent location on the jack by casting, stamping, or other suitable means.

(2) *Operation and maintenance.* (i) In the absence of a firm foundation, the base of the jack shall be blocked. If there is a possibility of slippage of the cap, a block shall be placed in between the cap and the load.

(ii) The operator shall watch the stop indicator, which shall be kept clean, in order to determine the limit of travel. The indicated limit shall not be overrun.

(iii) After the load has been raised, it shall be cribbed, blocked, or otherwise secured at once.

(iv) Hydraulic jacks exposed to freezing temperatures shall be supplied with an adequate antifreeze liquid.

(v) All jacks shall be properly lubricated at regular intervals. The lubricating instructions of the manufacturer should be followed, and only lubricants recommended by him should be used.

(vi) Each jack shall be thoroughly inspected at times which depend upon the service conditions. Inspections shall be not less frequent than the following:

(*a*) For constant or intermittent use at one locality, once every 6 months,

(*b*) For jacks sent out of shop for special work, when sent out and when returned,

(c) For a jack subjected to abnormal load or shock, immediately before and immediately thereafter.

(vii) Repair or replacement parts shall be examined for possible defects.

(viii) Jacks which are out of order shall be tagged accordingly, and shall not be used until repairs are made.

(b) *Abrasive blast cleaning nozzles.* The blast cleaning nozzles shall be equipped with an operating valve which must be held open manually. A support shall be provided on which the nozzle may be mounted when it is not in use.

§ 1910.245 Effective dates.

(a) The provisions of this Subpart P shall become effective on August 27, 1971, except as provided in the remaining paragraphs of this section.

(b) The following provisions shall become effective on February 15, 1972:

§ 1910.243 (a) (1), (a) (2), (a) (3), (b) (1), (c) (1), (c) (2), (c) (3), (d) (1), (d) (2), and (e).

(c) Notwithstanding anything in paragraph (a), (b), or (d) of this section, any provision in any other section of this subpart which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(d) Notwithstanding anything in paragraph (a) of this section, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2 (a) (1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this Subpart P which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.246 Sources of standards.

Sec.	Source
1910.241(a)	ANSI A10.3 (1970), Safety Requirements for explosive actuated fastening tools.
1910.241(b)	ANSI B7.1–1970, Safety Code for the use, care, and protection of abrasive wheels.
1910.241(c)	ANSI B71.1–1968, Safety Specifications for power lawn mowers.
1910.241(d)	ANSI B30.1–1943. Safety Code for jacks.
1910.242	41 CFR 50–204.4 and 50–204.8.
1910.243(a)	ANSI O1.1–1954 (R1961), Safety Code for woodworking machines.
1910.243(b)	ANSI B19.1–1938, Compressed Air Machinery and Equipment.
1910.243(c)	ANSI B7.1–1970, Safety Code for Abrasive Materials.
1910.243(d)	ANSI 10.3–1970, Explosive Actuated Fastening Tools.
1910.243(e)	ANSI. BF1–1968, Safety Specifications for Power Lawn Mowers.
1910.244(a)	ANSI B30.1–1943 (R1952), Safety Code for Jacks.
1910.244(b)	ANSI Z9.4–1968, Ventilation and Safe Practices of Abrasive Blasting Operations.

§ 1910.247 Standards organizations.

Specific standards of the following organization have been referenced in this subpart. Copies of the referenced materials may be obtained from the issuing organization.

American National Standards Institute, 1430 Broadway, New York, N.Y. 10018.

Subpart Q—Welding, Cutting, and Brazing

§ 1910.251 Definitions.

As used in this subpart:

(a) "Welder" and "welding operator" mean any operator of electric or gas welding and cutting equipment.

(b) "Approved" means listed or approved by a nationally recognized testing laboratory, such as Factory Mutual Engineering Corp., or Underwriters' Laboratories, Inc.

(c) All other welding terms are used in accordance with American Welding Society—Terms and Definitions—A3.0–1969.

§ 1910.252 Welding, cutting, and brazing.

(a) *Installation and operation of oxygen-fuel gas systems for welding and cutting*—(1) *General requirements.* (i) *Flammable mixture.* Mixtures of fuel gases and air or oxygen may be explosive and shall be guarded against. No device or attachment facilitating or permitting mixtures of air or oxygen with flammable gases prior to consumption, except at the burner or in a standard torch, shall be allowed unless approved for the purpose.

(ii) *Maximum pressure.* Under no condition shall acetylene be generated, piped (except in approved cylinder manifolds) or utilized at a pressure in excess of 15 p.s.i. gage pressure or 30 p.s.i. absolute pressure. (The 30 p.s.i. absolute pressure limit is intended to prevent unsafe use of acetylene in pressurized chambers such as caissons, underground excavations or tunnel construction.) This requirement is not intended to apply to storage of acetylene dissolved in a suitable solvent in cylinders manufactured and maintained according to U.S. Department of Transportation requirements, or to acetylene for chemical use. The use of liquid acetylene shall be prohibited.

(iii) *Apparatus.* Only approved apparatus such as torches, regulators or pressure-reducing valves, acetylene generators, and manifolds shall be used.

(iv) *Personnel.* Workmen in charge of the oxygen or fuel-gas supply equipment, including generators, and oxygen or fuel-gas distribution piping systems shall be instructed and judged competent by their employers for this important work before being left in charge. Rules and instructions covering the operation and maintenance of oxygen or fuel-gas supply equipment including generators, and oxygen or fuel-gas distribution piping systems shall be readily available.

(2) *Cylinders and containers*—(i) *Approval and marking.* (*a*) All portable cylinders used for the storage and shipment of compressed gases shall be constructed and maintained in accordance with the regulations of the U.S. Department of Transportation, 49 CFR Parts 171–179.

(*b*) Compressed gas cylinders shall be legibly marked, for the purpose of identifying the gas content, with either the chemical or the trade name of the gas. Such marking shall be by means of stenciling, stamping, or labeling, and shall not be readily removable. Whenever practical, the marking shall be located on the shoulder of the cylinder. This method conforms to the American National Standard Method for Marking Portable Compressed Gas Containers to Identify the Material Contained, ANSI Z48.1–1954.

(c) Compressed gas cylinders shall be equipped with connections complying with the American National Standard Compressed Gas Cylinder Valve Outlet and Inlet Connections, ANSI B57.1–1965.

(*d*) All cylinders with a water weight capacity of over 30 pounds shall be equipped with means of connecting a valve protection cap or with a collar or recess to protect the valve.

(ii) *Storage of cylinders—general.* (*a*) Cylinders shall be kept away from radiators and other sources of heat.

(*b*) Inside of buildings, cylinders shall be stored in a well-protected, well-ventilated, dry location, at least 20 feet from highly combustible materials such as oil or excelsior. Cylinders should be stored in definitely assigned places away from elevators, stairs, or gangways. Assigned storage spaces shall be located where cylinders will not be knocked over or damaged by passing or falling objects, or subject to tampering by unauthorized persons. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards.

(c) Empty cylinders shall have their valves closed.

(*d*) Valve protection caps, where cylinder is designed to accept a cap, shall always be in place, hand-tight, except when cylinders are in use or connected for use.

(iii) *Fuel-gas cylinder storage.* Inside a building, cylinders, except those in actual use or attached ready for use, shall be limited to a total gas capacity of 2,000 cubic feet or 300 pounds of liquefied petroleum gas.

(*a*) For storage in excess of 2,000 cubic feet total gas capacity of cylinders or 300 pounds of liquefied petroleum gas, a separate room or compartment conforming to the requirements specified in subparagraphs (6) (vi) (*a*) (8) and (9) of this paragraph shall be provided, or cylinders shall be kept outside or in a special building. Special buildings, rooms or compartments shall have no open flame for heating or lighting and shall be well ventilated. They may also be used for storage of calcium carbide in quantities not to exceed 600 pounds, when contained in metal containers complying with subparagraphs (7) (i) (*a*) and (*b*) of this paragraph. Signs should be conspicuously posted in such rooms reading, "Danger—No Smoking, Matches or Open Lights," or other equivalent wording.

(*b*) Acetylene cylinders shall be stored valve end up.

(iv) *Oxygen storage.* (*a*) Oxygen cylinders shall not be stored near highly combustible material, especially oil and grease; or near reserve stocks of carbide and acetylene or other fuel-gas cylinders, or near any other substance likely to cause or accelerate fire; or in an acetylene generator compartment.

(*b*) Oxygen cylinders stored in outside generator houses shall be separated from the generator or carbide storage rooms by a noncombustible partition having a fire-resistance rating of at least 1 hour. This partition shall be without openings and shall be gastight.

(c) Oxygen cylinders in storage shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet or by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(*d*) Where a liquid oxygen system is to be used to supply gaseous oxygen for welding or cutting and the system has a storage capacity of more than 13,000 cubic feet of oxygen (measured at 14.7 p.s.i.a. and 70° F.), connected in service or ready for service, or more than 25,000 cubic feet of oxygen (measured at 14.7 p.s.i.a. and 70° F), including unconnected reserves on hand at the site, it shall comply with the provisions of the Standard for Bulk Oxygen Systems at Consumer Sites, NFPA No. 566–1965.

(v) *Operating procedures.* (*a*) Cylinders, cylinder valves, couplings, regulators, hose, and apparatus shall be kept free from oily or greasy substances. Oxygen cylinders or apparatus shall not be handled with oily hands or gloves. A jet of oxygen must never be permitted to strike an oily surface, greasy clothes, or enter a fuel oil or other storage tank.

(*b*) (*1*) When transporting cylinders by a crane or derrick, a cradle, boat, or suitable platform shall be used. Slings or electric magnets shall not be used for this purpose. Valve-protection caps, where cylinder is designed to accept a cap, shall always be in place.

(*2*) Cylinders shall not be dropped or struck or permitted to strike each other violently.

(*3*) Valve-protection caps shall not be used for lifting cylinders from one vertical position to another. Bars shall not be used under valves or valve-protection caps to pry cylinders loose when frozen to the ground or otherwise fixed; the use of warm (not boiling) water is recommended. Valve-protection caps are designed to protect cylinder valves from damage.

(*4*) Unless cylinders are secured on a special truck, regulators shall be removed and valve-protection caps, when provided for, shall be put in place before cylinders are moved.

(*5*) Cylinders not having fixed hand wheels shall have keys, handles, or nonadjustable wrenches on valve stems while these cylinders are in service. In multiple cylinder installations only one key or handle is required for each manifold.

(*6*) Cylinder valves shall be closed before moving cylinders.

(*7*) Cylinder valves shall be closed when work is finished.

(*8*) Valves of empty cylinders shall be closed.

(*9*) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag, or flame will not reach them, or fire-resistant shields shall be provided.

(*10*) Cylinders shall not be placed where they might become part of an electric circuit. Contacts with third rails, trolley wires, etc., shall be avoided. Cylinders shall be kept away from radiators, piping systems, layout tables, etc., that may be used for grounding electric cir-

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cuits such as for arc welding machines. Any practice such as the tapping of an electrode against a cylinder to strike an arc shall be prohibited.

(11) Cylinders shall never be used as rollers or supports, whether full or empty.

(12) The numbers and markings stamped into cylinders shall not be tampered with.

(13) No person, other than the gas supplier, shall attempt to mix gases in a cylinder. No one, except the owner of the cylinder or person authorized by him, shall refill a cylinder.

(14) No one shall tamper with safety devices in cylinders or valves.

(15) Cylinders shall not be dropped or otherwise roughly handled.

(16) Unless connected to a manifold, oxygen from a cylinder shall not be used without first attaching an oxygen regulator to the cylinder valve. Before connecting the regulator to the cylinder valve, the valve shall be opened slightly for an instant and then closed. Always stand to one side of the outlet when opening the cylinder valve.

(17) A hammer or wrench shall not be used to open cylinder valves. If valves cannot be opened by hand, the supplier shall be notified.

(18) (i) Cylinder valves shall not be tampered with nor should any attempt be made to repair them. If trouble is experienced, the supplier should be sent a report promptly indicating the character of the trouble and the cylinder's serial number. Supplier's instructions as to its disposition shall be followed.

(ii) Complete removal of the stem from a diaphragm-type cylinder valve shall be avoided.

(c) (1) Fuel-gas cylinders shall be placed with valve end up whenever they are in use. Liquefied gases shall be stored and shipped with the valve end up.

(2) Cylinders shall be handled carefully. Rough handling, knocks, or falls are liable to damage the cylinder, valve or safety devices and cause leakage.

(3) Before connecting a regulator to a cylinder valve, the valve shall be opened slightly and closed immediately. The valve shall be opened while standing to one side of the outlet; never in front of it. Never crack a fuel-gas cylinder valve near other welding work or near sparks, flame, or other possible sources of ignition.

(4) Before a regulator is removed from a cylinder valve, the cylinder valve shall be closed and the gas released from the regulator.

(5) Nothing shall be placed on top of an acetylene cylinder when in use which may damage the safety device or interfere with the quick closing of the valve.

(6) If cylinders are found to have leaky valves or fittings which cannot be stopped by closing of the valve, the cylinders shall be taken outdoors away from sources of ignition and slowly emptied.

(7) A warning should be placed near cylinders having leaking fuse plugs or other leaking safety devices not to approach them with a lighted cigarette or other source of ignition. Such cylinders should be plainly tagged; the supplier should be promptly notified and his instructions followed as to their return.

(8) Safety devices shall not be tampered with.

(9) Fuel-gas shall never be used from cylinders through torches or other devices equipped with shutoff valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

(10) The cylinder valve shall always be opened slowly.

(11) An acetylene cylinder valve shall not be opened more than one and one-half turns of the spindle, and preferably no more than three-fourths of a turn.

(12) Where a special wrench is required it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel-gas flow can be quickly turned off in case of emergency. In the case of manifolded or coupled cylinders at least one such wrench shall always be available for immediate use.

(3) *Manifolding of cylinders*—(i) *Fuel-gas manifolds.* (a) Manifolds shall be approved either separately for each component part or as an assembled unit.

(b) Except as provided in subdivision (c) of this subdivision fuel-gas cylinders connected to one manifold inside a building shall be limited to a total capacity not exceeding 300 pounds of liquefied petroleum gas or 3,000 cubic feet of other fuel-gas. More than one such manifold with connected cylinders may be located in the same room provided the manifolds are at least 50 feet apart or separated by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(c) Fuel-gas cylinders connected to one manifold having an aggregate capacity exceeding 300 pounds of liquefied petroleum gas or 3,000 cubic feet of other fuel-gas shall be located outdoors, or in a separate building or room constructed in accordance with subparagraphs (6) (vi) (a) (8) and (9) of this paragraph.

(d) Separate manifold buildings or rooms may also be used for the storage of drums of calcium carbide and cylinders containing fuel gases as provided in subparagraph (2) (iii) of this paragraph. Such buildings or rooms shall have no open flames for heating or lighting and shall be well-ventilated.

(e) High-pressure fuel-gas manifolds shall be provided with approved pressure regulating devices.

(ii) *High-pressure oxygen manifolds (for use with cylinders having a Department of Transportation service pressure above 200 p.s.i.g.).* (a) Manifolds shall be approved either separately for each component part or as an assembled unit.

(b) Oxygen manifolds shall not be located in an acetylene generator room. Oxygen manifolds shall be separated from fuel-gas cylinders or combustible materials (especially oil or grease), a minimum distance of 20 feet or by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(c) Except as provided in subdivision (d) of this subdivision oxygen cylinders connected to one manifold shall be limited to a total gas capacity of 6,000 cubic feet. More than one such manifold with connected cylinders may be located in the same room provided the manifolds are at least 50 feet apart or separated by a noncombustible barrier at least 5 feet high having a fire-resistance rating of at least one-half hour.

(d) An oxygen manifold, to which cylinders having an aggregate capacity of more than 6,000 cubic feet of oxygen are connected, should be located outdoors or in a separate noncombustible building. Such a manifold, if located inside a building having other occupancy, shall be located in a separate room of noncombustible construction having a fire-resistance rating of at least one-half hour or in an area with no combustible material within 20 feet of the manifold.

(e) An oxygen manifold or oxygen bulk supply system which has storage capacity of more than 13,000 cubic feet of oxygen (measured at 14.7 p.s.i.a. and 70° F.), connected in service or ready for service, or more than 25,000 cubic feet of oxygen (measured at 14.7 p.s.i.a. and 70° F.), including unconnected reserves on hand at the site, shall comply with the provisions of the Standard for Bulk Oxygen Systems at Consumer Sites, NFPA No. 566–1965.

(f) High-pressure oxygen manifolds shall be provided with approved pressure-regulating devices.

(iii) *Low-pressure oxygen manifolds (for use with cylinders having a Department of Transportation service pressure not exceeding 200 p.s.i.g.).* (a) Manifolds shall be of substantial construction suitable for use with oxygen at a pressure of 250 p.s.i.g. They shall have a minimum bursting pressure of 1,000 p.s.i.g. and shall be protected by a safety relief device which will relieve at a maximum pressure of 500 p.s.i.g. DOT–4L200 cylinders have safety devices which relieve at a maximum pressure of 250 p.s.i.g. (or 235 p.s.i.g. if vacuum insulation is used).

(b) Hose and hose connections subject to cylinder pressure shall comply with subparagraph (5) (v) of this paragraph. Hose shall have a minimum bursting pressure of 1,000 p.s.i.g.

(c) The assembled manifold including leads shall be tested and proven gastight at a pressure of 300 p.s.i.g. The fluid used for testing oxygen manifolds shall be oil-free and not combustible.

(d) The location of manifolds shall comply with subdivisions (ii) (b), (c), (d), and (e) of this subdivision.

(e) The following sign shall be conspicuously posted at each manifold:

Low-Pressure Manifold
Do Not Connect High-Pressure Cylinders
Maximum Pressure—250 P.S.I.G.

(iv) *Portable outlet headers.* (a) Portable outlet headers shall not be used indoors except for temporary service where the conditions preclude a direct supply from outlets located on the service piping system.

(b) Each outlet on the service piping from which oxygen or fuel-gas is withdrawn to supply a portable outlet header shall be equipped with a readily accessible shutoff valve.

(c) Hose and hose connections used for connecting the portable outlet header to the service piping shall comply with subparagraph (5) (v) of this paragraph.

(d) Master shutoff valves for both oxygen and fuel-gas shall be provided at the entry end of the portable outlet header.

(e) Portable outlet headers for fuel-gas service shall be provided with an approved hydraulic back-pressure valve installed at the inlet and preceding the service outlets, unless an approved pressure-reducing regulator, an approved back-flow check valve, or an approved hydraulic back-pressure valve is installed at each outlet. Outlets provided on headers for oxygen service may be fitted for use with pressure-reducing regulators or for direct hose connection.

(f) Each service outlet on portable outlet headers shall be provided with a valve assembly that includes a detachable outlet seal cap, chained or otherwise attached to the body of the valve.

(g) Materials and fabrication procedures for portable outlet headers shall comply with subparagraphs (4) (i), (ii), and (v) of this paragraph.

(h) Portable outlet headers shall be provided with frames which will support the equipment securely in the correct operating position and protect them from damage during handling and operation.

(v) *Manifold operating procedures.* (a) Cylinder manifolds shall be installed under the supervision of someone familiar with the proper practices with reference to their construction and use.

(b) All component parts used in the methods of manifolding described in subdivision (i) of this subdivision shall be approved as to materials, design and construction either separately or as an assembled unit.

(c) All manifolds and parts used in methods of manifolding shall be used only for the gas or gases for which they are approved.

(d) When acetylene cylinders are coupled, approved flash arresters shall be installed between each cylinder and the coupler block. For outdoor use only, and when the number of cylinders coupled does not exceed three, one flash arrester installed between the coupler block and regulator is acceptable.

(e) Each fuel-gas cylinder lead should be provided with a backflow check valve.

(f) The aggregate capacity of fuel-gas cylinders connected to a portable manifold inside a building shall not exceed 3,000 cubic feet of gas.

(g) Acetylene and liquefied fuel-gas cylinders shall be manifolded in a vertical position.

(h) The pressure in the gas cylinders connected to and discharged simultaneously through a common manifold shall be approximately equal.

(4) *Service piping systems*—(i) *Materials and design.* (a) (1) Piping and fittings shall comply with Section 2, Industrial Gas and Air Piping Systems, of the American National Standard Code for Pressure Piping ANSI B31.1, 1967, insofar as it does not conflict with subdivisions (i) and (ii) of this subdivision:

(i) Pipe shall be at least Schedule 40 and fittings shall be at least standard weight in sizes up to and including 6-inch nominal.

(ii) Copper tubing shall be Types K or L in accordance with the Standard Specification for Seamless Copper Water Tube, ASTM B88–66a.

(2) Piping shall be steel, wrought iron, brass or copper pipe, or seamless copper, brass or stainless steel tubing, except as provided in (b) and (c) of this subdivision.

(b) (1) Oxygen piping and fittings at pressures in excess of 700 p.s.i.g., shall be stainless steel or copper alloys.

(2) Hose connections and hose complying with subparagraph (5) (v) of this paragraph may be used to connect the outlet of a manifold pressure regulator to piping providing the working pressure of the piping is 250 p.s.i.g. or less and the length of the hose does not exceed 5 feet. Hose shall have a minimum bursting pressure of 1,000 p.s.i.g.

(3) When oxygen is supplied to a service piping system from a low-pressure oxygen manifold without an intervening pressure regulating device, the piping system shall have a minimum design pressure of 250 p.s.i.g. A pressure regulating device shall be used at each station outlet when the connected equipment is for use at pressures less than 250 p.s.i.g.

(c) (1) Piping for acetylene or acetylenic compounds shall be steel or wrought iron.

(2) Unalloyed copper shall not be used for acetylene or acetylenic compounds except in listed equipment.

(ii) *Piping joints.* (a) Joints in steel or wrought iron piping shall be welded, threaded or flanged. Fittings, such as ells, tees, couplings, and unions, may be rolled, forged or cast steel, malleable iron or nodular iron. Gray or white cast iron fittings are prohibited.

(b) Joints in brass or copper pipe shall be welded, brazed, threaded, or flanged. If of the socket type, they shall be brazed with silver-brazing alloy or similar high melting point (not less than 800° F.) filler metal.

(c) Joints in seamless copper, brass, or stainless steel tubing shall be approved gas tubing fittings or the joints shall be brazed. If of the socket type, they shall be brazed with silver-brazing alloy or similar high melting point (not less than 800° F.) filler metal.

(iii) *Installation.* (a) Distribution lines shall be installed and maintained in a safe operating condition.

(b) Piping located inside or outside of buildings may be placed above or below ground. All piping shall be run as directly as practicable, protected against physical damage, proper allowance being made for expansion and contraction, jarring and vibration. Pipe laid underground in earth shall be located below the frost line and protected against corrosion. After assembly, piping shall be thoroughly blown out with air, nitrogen, or carbon dioxide to remove foreign materials. For oxygen piping, only oil-free air, oil-free nitrogen, or oil-free carbon dioxide shall be used.

(c) Only piping which has been welded or brazed shall be installed in tunnels, trenches or ducts. Shutoff valves shall be located outside such conduits. Oxygen piping may be placed in the same tunnel, trench or duct with fuel-gas pipelines, provided there is good natural or forced ventilation.

(d) Low points in piping carrying moist gas shall be drained into drip pots constructed so as to permit pumping or draining out the condensate at necessary intervals. Drain valves shall be installed for this purpose having outlets normally closed with screw caps or plugs. No open end valves or petcocks shall be used, except that in drips located out of doors, underground, and not readily accessible, valves may be used at such points if they are equipped with means to secure them in the closed position. Pipes leading to the surface of the ground shall be cased or jacketed where necessary to prevent loosening or breaking.

(e) Gas cocks or valves shall be provided for all buildings at points where they will be readily accessible for shutting off the gas supply to these buildings in any emergency. Underground valve boxes or manholes should be avoided wherever possible. There shall also be provided a shutoff valve in the discharge line from the generator, gas holder, manifold or other source of supply.

(f) Shutoff valves shall not be installed in safety relief lines in such a manner that the safety relief device can be rendered ineffective.

(g) Fittings and lengths of pipe shall be examined internally before assembly and, if necessary, freed from scale or dirt. Oxygen piping and fittings shall be washed out with a suitable solution which will effectively remove grease and dirt but will not react with oxygen. Hot water solutions of caustic soda or trisodium phosphate are effective cleaning agents for this purpose.

(h) Piping shall be thoroughly blown out after assembly to remove foreign materials. For oxygen piping, oil-free air, oil-free nitrogen, or oil-free carbon dioxide shall be used. For other piping, air or inert gas may be used.

(i) When flammable gas lines or other parts of equipment are being purged of air or gas, open lights or other sources of ignition shall not be permitted near uncapped openings.

(j) No welding or cutting shall be performed on an acetylene or oxygen pipeline, including the attachment of hangers or supports, until the line has been purged. Only oil-free air, oil-free nitrogen, or oil-free carbon dioxide shall be used to purge oxygen lines.

(iv) *Painting and signs.* (a) Underground pipe and tubing and outdoor ferrous pipe and tubing shall be covered or painted with a suitable material for protection against corrosion.

(b) Aboveground piping systems shall be marked in accordance with the American National Standard Scheme for the

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Identification of Piping Systems, ANSI A13.1–1956.

(c) Station outlets shall be marked to indicate the name of the gas.

(v) *Testing.* (*a*) Piping systems shall be tested and proved gastight at 1½ times the maximum operating pressure, and shall be thoroughly purged of air before being placed in service. The material used for testing oxygen lines shall be oil free and noncombustible. Flames shall not be used to detect leaks.

(*b*) When flammable gas lines or other parts of equipment are being purged of air or gas, sources of ignition shall not be permitted near uncapped openings.

(5) *Protective equipment, hose, and regulators.*—(i) *General.* Equipment shall be installed and used only in the service for which it is approved and as recommended by the manufacturer.

(ii) *Pressure relief devices.* Service piping systems shall be protected by pressure relief devices set to function at not more than the design pressure of the systems and discharging upwards to a safe location.

(iii) *Piping protective equipment.* (*a*) The fuel-gas and oxygen piping systems, including portable outlet headers shall incorporate the protective equipment shown in Figures Q–1, Q–2, and Q–3.

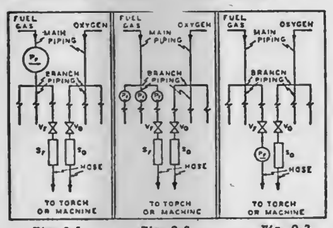


Fig. Q-1 Fig. Q-2 Fig. Q-3

LEGEND
P_F — Protective equipment in fuel gas piping
V_F — Fuel gas station outlet valve
V_O — Oxygen station outlet valve
S_F — Backflow prevention device(s) at fuel gas station outlet
S_O — Backflow prevention device(s) at oxygen station outlet

When only a portion of a fuel-gas system is to be used with oxygen, only that portion need comply with subparagraph (5) (iii) (*a*) of this paragraph.

(*b*) Approved protective equipment (designated P_F in Figs. Q–1, Q–2, and Q–3) shall be installed in fuel-gas piping to prevent:

(*1*) Backflow of oxygen into the fuel-gas supply system;

(2) Passage of a flash back into the fuel-gas supply system; and

(3) Excessive back pressure of oxygen in the fuel-gas supply system. The three functions of the protective equipment may be combined in one device or may be provided by separate devices.

(*i*) The protective equipment shall be located in the main supply line, as in Figure Q–1 or at the head of each branch line, as in Figure Q–2 or at each location where fuel-gas is withdrawn, as in Figure Q–3. Where branch lines are of 2-inch pipe size or larger or of substantial length, protective equipment (designated as P_F) shall be located as shown in either Q–2 and Q–3.

(*ii*) Backflow protection shall be provided by an approved device that will prevent oxygen from flowing into the fuel-gas system or fuel from flowing into the oxygen system (see S_F, Figs. Q–1 and Q–2)

(*iii*) Flash-back protection shall be provided by an approved device that will prevent flame from passing into the fuel-gas system.

(*iv*) Back-pressure protection shall be provided by an approved pressure-relief device set at a pressure not greater than the pressure rating of the backflow or the flashback protection device, whichever is lower. The pressure-relief device shall be located on the downstream side of the backflow and flashback protection devices. The vent from the pressure-relief device shall be at least as large as the relief device inlet and shall be installed without low points that may collect moisture. If low points are unavoidable, drip pots with drains closed with screw plugs or caps shall be installed at the low points. The vent terminus shall not endanger personnel or property through gas discharge; shall be located away from ignition sources; and shall terminate in a hood or bend.

(c) If pipeline protective equipment incorporates a liquid, the liquid level shall be maintained, and a suitable antifreeze may be used to prevent freezing.

(*d*) Fuel gas for use with equipment not requiring oxygen shall be withdrawn upstream of the piping protective devices.

(iv) *Station outlet protective equipment.* (*a*) A check valve, pressure regulator, hydraulic seal, or combination of these devices shall be provided at each station outlet, including those on portable headers, to prevent backflow, as shown in Figures Q–1, Q–2, and Q–3 and designated as S_F and S_O.

(*b*) When approved pipeline protective equipment (designated P_F) is located at the station outlet as in Figure Q–3, no additional check valve, pressure regulator, or hydraulic seal is required.

(*c*) A shutoff valve (designated V_F and V_O) shall be installed at each station outlet and shall be located on the upstream side of other station outlet equipment.

(*d*) If the station outlet is equipped with a detachable regulator, the outlet shall terminate in a union connection that complies with the Regulator Connection Standards, 1958, Compressed Gas Association.

(*e*) If the station outlet is connected directly to a hose, the outlet shall terminate in a union connection complying with the Standard Hose Connection Specifications, 1957, Compressed Gas Association.

(*f*) Station outlets may terminate in pipe threads to which permanent connections are to be made, such as to a machine.

(*g*) Station outlets shall be equipped with a detachable outlet seal cap secured in place. This cap shall be used to seal the outlet except when a hose, a regulator, or piping is attached.

(*h*) Where station outlets are equipped with approved backflow and flashback protective devices, as many as four torches may be supplied from one station outlet through rigid piping, provided each outlet from such piping is equipped with a shutoff valve and provided the fuel-gas capacity of any one torch does not exceed 15 cubic feet per hour.

This subdivision does not apply to machines.

(v) *Hose and hose connections.* (*a*) Hose for oxy-fuel gas service shall comply with the Specification for Rubber Welding Hose, 1958, Compressed Gas Association and Rubber Manufacturers Association.

(*b*) The generally recognized colors are red for acetylene and other fuel-gas hose, green for oxygen hose, and black for inert-gas and air hose.

(c) When parallel lengths of oxygen and acetylene hose are taped together for convenience and to prevent tangling, not more than 4 inches out of 12 inches shall be covered by tape.

(*d*) Hose connections shall comply with the Standard Hose Connection Specifications, 1957, Compressed Gas Association.

(*e*) Hose connections shall be clamped or otherwise securely fastened in a manner that will withstand, without leakage, twice the pressure to which they are normally subjected in service, but in no case less than a pressure of 300 p.s.i. Oil-free air or an oil-free inert gas shall be used for the test.

(*f*) Hose showing leaks, burns, worn places, or other defects rendering it unfit for service shall be repaired or replaced.

(vi) *Pressure-reducing regulators.* (*a*) Pressure-reducing regulators shall be used only for the gas and pressures for which they are intended. The regulator inlet connections shall comply with Regulator Connection Standards, 1958, Compressed Gas Association.

(*b*) When regulators or parts of regulators, including gages, need repair, the work shall be performed by skilled mechanics who have been properly instructed.

(c) Gages on oxygen regulators shall be marked "USE NO OIL."

(*d*) Union nuts and connections on regulators shall be inspected before use to detect faulty seats which may cause leakage of gas when the regulators are attached to the cylinder valves. Damaged nuts or connections shall be destroyed.

(6) *Acetylene generators.*—(i) *Approval and marking.* (*a*) Generators shall be of approved construction and shall be plainly marked with the maximum rate of acetylene in cubic feet per hour for which they are designed; the weight and size of carbide necessary for a single charge; the manufacturer's name and address; and the name or number of the type of generator.

(*b*) Carbide shall be of the size marked on the generator nameplate.

(ii) *Rating and pressure limitations.* (*a*) The total hourly output of a generator shall not exceed the rate for which it is approved and marked. Unless specifically approved for higher ratings, carbide-feed generators shall be rated at 1 cubic foot per hour per pound of carbide required for a single complete charge.

(*b*) Relief valves shall be regularly operated to insure proper functioning. Relief valves for generating chambers shall be set to open at a pressure not in excess of 15 p.s.i.g. Relief valves for hydraulic back pressure valves shall be set to open at a pressure not in excess of 20 p.s.i.g.

(c) Nonautomatic generators shall not be used for generating acetylene at pressures exceeding 1 p.s.i.g., and all water overflows shall be visible.

(iii) *Location.* The space around the generator shall be ample for free, unobstructed operation and maintenance and shall permit ready adjustment and charging.

(iv) *Stationary acetylene generators (automatic and nonautomatic).* (*a*) (*1*) The foundation shall be so arranged that the generator will be level and so that no excessive strain will be placed on the generator or its connections. Acetylene generators shall be grounded.

(2) Generators shall be placed where water will not freeze. The use of common salt (sodium chloride) or other corrosive chemicals for protection against freezing is not permitted. (For heating systems see subdivision (6) (vi) (*c*) of this subparagraph.)

(3) Except when generators are prepared in accordance with subdivision (vii) (*e*) of this subparagraph, sources of ignition shall be prohibited in outside generator houses or inside generator rooms.

(*4*) Water shall not be supplied through a continuous connection to the generator except when the generator is provided with an adequate open overflow or automatic water shutoff which will effectively prevent overfilling of the generator. Where a noncontinuous connection is used, the supply line shall terminate at a point not less than 2 inches above the regularly provided opening for filling so that the water can be observed as it enters the generator.

(*5*) Unless otherwise specifically approved, generators shall not be fitted with continuous drain connections leading to sewers, but shall discharge through an open connection into a suitably vented outdoor receptacle or residue pit which may have such connections. An open connection for the sludge drawoff is desirable to enable the generator operator to observe leakage of generating water from the drain valve or sludge cock.

(*b*) (*1*) Each generator shall be provided with a vent pipe of Schedule 40 galvanized iron or steel, except that outside of buildings, vent pipes larger than 4 inches in diameter may be not less than 14 gage galvanized tubing or sheet steel.

(2) The escape or relief pipe shall be rigidly installed without traps and so that any condensation will drain back to the generator.

(3) The escape or relief pipe shall be carried full size to a suitable point outside the building. It shall terminate in a hood or bend located at least 12 feet above the ground, preferably above the roof, and as far away as practicable from windows or other openings into buildings and as far away as practicable from sources of ignition such as flues or chimneys and tracks used by locomotives. Generating chamber relief pipes shall not be inter-connected but shall be separately led to the outside air. The hood or bend shall be so constructed that it will not be obstructed by rain, snow, ice, insects, or birds. The outlet shall be at least 3 feet from combustible construction.

(c) (*1*) Gas holders shall be constructed on the gasometer principle, the bell being suitably guided. The gas bell shall move freely without tendency to bind and shall have a clearance of at least 2 inches from the shell.

(2) The gas holder may be located in the generator room, in a separate room or out of doors. In order to prevent collapse of the gas bell or infiltration of air due to a vacuum caused by the compressor or booster pump or cooling of the gas, a compressor or booster cutoff shall be provided at a point 12 inches or more above the landing point of the bell. When the gas holder is located indoors, the room shall be ventilated in accordance with subdivision (vi) (*b*) of this subparagraph and heated and lighted in accordance with subdivisions (vi) (*c*) and (*d*) of this subparagraph.

(3) When the gas holder is not located within a heated building, gas holder seals shall be protected against freezing.

(*4*) Means shall be provided to stop the generator-feeding mechanism before the gas holder reaches the upper limit of its travel.

(5) When the gas holder is connected to only one generator, the gas capacity of the holder shall be not less than one-third of the hourly rating of the generator.

(*6*) If acetylene is used from the gas holder without increase in pressure at some points but with increase in pressure by a compressor or booster pump at other points, approved piping protective devices shall be installed in each supply line. The low-pressure protective device shall be located between the gas holder and the shop piping, and the medium-pressure protective device shall be located between the compressor or booster pump and the shop piping (see Figure Q–4). Approved protective equipment (designated P_F) is used to prevent: Backflow of oxygen into the fuel-gas supply system; passage of a flashback into the fuel-gas supply system; and excessive back pressure of oxygen in the fuel-gas supply system. The three functions of the protective equipment may be combined in one device or may be provided by separate devices.

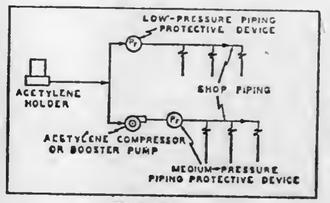


Figure Q-4

(*d*) (*1*) The compressor or booster system shall be of an approved type.

(2) Wiring and electrical equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of section 1910.324 for Class I, Division 2 locations.

(3) Compressors and booster pump equipment shall be located in well-ventilated areas away from open flames, electrical or mechanical sparks, or other ignition sources.

(*4*) Compressor or booster pumps shall be provided with pressure relief valves which will relieve pressure exceeding 15 p.s.i.g. to a safe outdoor location as provided in subdivision (*b*) of this subdivision, or by returning the gas to the inlet side or to the gas supply source.

(5) Compressor or booster pump discharge outlets shall be provided with approved protective equipment. (See subparagraph (5) of this paragraph.)

(v) *Portable acetylene generators.* (*a*) (*1*) All portable generators shall be of a type approved for portable use.

(2) Portable generators shall not be used within 10 feet of combustible material other than the floor.

(3) Portable generators shall not be used in rooms of total volume less than 35 times the total gas-generating capacity per charge of all generators in the room. Generators shall not be used in rooms having a ceiling height of less than 10 feet. (To obtain the gas-generating capacity in cubic feet per charge, multiply the pounds of carbide per charge by 4.5.)

(*4*) Portable generators shall be protected against freezing. The use of salt or other corrosive chemical to prevent freezing is prohibited.

(*b*) (*1*) Portable generators shall be cleaned and recharged and the air mixture blown off outside buildings.

(2) When charged with carbide, portable generators shall not be moved by crane or derrick.

(3) When not in use, portable generators shall not be stored in rooms in which open flames are used unless the generators contain no carbide and have been thoroughly purged of acetylene. Storage rooms shall be well ventilated.

(*4*) When portable acetylene generators are to be transported and operated on vehicles, they shall be securely anchored to the vehicles. If transported by truck, the motor shall be turned off during charging, cleaning, and generating periods.

(5) Portable generators shall be located at a safe distance from the welding position so that they will not be exposed to sparks, slag, or misdirection of the torch flame or overheating from hot materials or processes.

(vi) *Outside generator houses and inside generator rooms for stationary acetylene generators.* (*a*) (*1*) No opening in any outside generator house shall be located within 5 feet of any opening in another building.

(2) Walls, floors, and roofs of outside generator houses shall be of noncombustible construction.

(3) When a part of the generator house is to be used for the storage or

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manifolding of oxygen cylinders, the space to be so occupied shall be separated from the generator or carbide storage section by partition walls continuous from floor to roof or ceiling, of the type of construction stated in subdivision (8) of this subdivision. Such separation walls shall be without openings and shall be joined to the floor, other walls and ceiling or roof in a manner to effect a permanent gas-tight joint.

(4) Exit doors shall be located so as to be readily accessible in case of emergency.

(5) Explosion venting for outside generator houses and inside generator rooms shall be provided in exterior walls or roofs. The venting areas shall be equal to not less than 1 square foot per 50 cubic feet of room volume and may consist of any one or any combination of the following: Walls of light, noncombustible material preferably single-thickness, single-strength glass; lightly fastened hatch covers; lightly fastened swinging doors in exterior walls opening outward; lightly fastened walls or roof designed to relieve at a maximum pressure of 25 pounds per square foot.

(6) The installation of acetylene generators within buildings shall be restricted to buildings not exceeding one story in height; *Provided, however,* That this will not be construed as prohibiting such installations on the roof or top floor of a building exceeding such height.

(7) Generators installed inside buildings shall be enclosed in a separate room of ample size.

(8) The walls, partitions, floors, and ceilings of inside generator rooms shall be of noncombustible construction having a fire-resistance rating of at least 1 hour. The walls or partitions shall be continuous from floor to ceiling and shall be securely anchored. At least one wall of the room shall be an exterior wall.

(9) Openings from an inside generator room to other parts of the building shall be protected by a swinging type, self-closing fire door for a Class B opening and having a rating of at least 1 hour. Windows in partitions shall be wired glass and approved metal frames with fixed sash. Installation shall be in accordance with the Standard for the Installation of Fire Doors and Windows, NFPA 80–1970.

(b) Inside generator rooms or outside generator houses shall be well ventilated with vents located at floor and ceiling levels.

(c) Heating shall be by steam, hot water, enclosed electrically heated elements or other indirect means. Heating by flames or fires shall be prohibited in outside generator houses or inside generator rooms, or in any enclosure communicating with them.

(d) (1) Generator houses or rooms shall have natural light during daylight hours. Where artificial lighting is necessary it shall be restricted to electric lamps installed in a fixed position. Unless specifically approved for use in atmospheres containing acetylene, such lamps shall be provided with enclosures of glass or other noncombustible material so designed and constructed as to prevent gas vapors from reaching the lamp or socket and to resist breakage. Rigid conduit with threaded connections shall be used.

(2) Lamps installed outside of wired-glass panels set in gas-tight frames in the exterior walls or roof of the generator house or room are acceptable.

(e) Electric switches, telephones, and all other electrical apparatus which may cause a spark, unless specifically approved for use inside acetylene generator rooms, shall be located outside the generator house or in a room or space separated from the generator room by a gas-tight partition, except that where the generator system is designed so that no carbide fill opening or other part of the generator is open to the generator house or room during the operation of the generator, and so that residue is carried in closed piping from the residue discharge valve to a point outside the generator house or room, electrical equipment in the generator house or room shall conform to the provisions of Subpart S of this part for Class I, Division 2 locations.

(vii) *Maintenance and operation.* (a) Unauthorized persons shall not be permitted in outside generator houses or inside generator rooms.

(1) Operating instructions shall be posted in a conspicuous place near the generator or kept in a suitable place available for ready reference.

(2) When recharging generators the order of operations specified in the instructions supplied by the manufacturer shall be followed.

(3) In the case of batch-type generators, when the charge of carbide is exhausted and before additional carbide is added, the generating chamber shall always be flushed out with water, renewing the water supply in accordance with the instruction card furnished by the manufacturer.

(4) The water-carbide residue mixture drained from the generator shall not be discharged into sewer pipes or stored in areas near open flames. Clear water from residue settling pits may be discharged into sewer pipes.

(b) The carbide added each time the generator is recharged shall be sufficient to refill the space provided for carbide without ramming the charge. Steel or other ferrous tools shall not be used in distributing the charge.

(c) Generator water chambers shall be kept filled to proper level at all times except while draining during the recharging operation.

(d) Whenever repairs are to be made or the generator is to be charged or carbide is to be removed, the water chamber shall be filled to the proper level.

(e) Previous to making repairs involving welding, soldering, or other hot work or other operations which produce a source of ignition, the carbide charge and feed mechanism shall be completely removed. All acetylene shall be expelled by completely flooding the generator shell with water and the generator shall be disconnected from the piping system. The generator shall be kept filled with water, if possible, or positioned to hold as much water as possible.

(f) Hot repairs shall not be made in a room where there are other generators unless all the generators and piping have been purged of acetylene. Hot repairs should preferably be made out of doors.

(7) *Calcium carbide storage*—(i) *Packaging.* (a) Calcium carbide shall be contained in metal packages of sufficient strength to prevent rupture. The packages shall be provided with a screw top or equivalent. These packages shall be constructed water- and air-tight. Solder shall not be used in such a manner that the package would fail if exposed to fire.

(b) Packages containing calcium carbide shall be conspicuously marked "Calcium Carbide—Dangerous If Not Kept Dry" or with equivalent warning.

(c) Caution: Metal tools, even the so-called spark resistant type may cause ignition of an acetylene and air mixture when opening carbide containers.

(d) Sprinkler systems shall not be installed in carbide storage rooms.

(ii) *Storage indoors.* (a) Calcium carbide in quantities not to exceed 600 pounds may be stored indoors in dry, waterproof, and well-ventilated locations.

(1) Calcium carbide not exceeding 600 pounds may be stored indoors in the same room with fuel-gas cylinders.

(2) Packages of calcium carbide, except for one of each size, shall be kept sealed. The seals shall not be broken when there is carbide in excess of 1 pound in any other unsealed package of the same size of carbide in the room.

(b) Calcium carbide exceeding 600 pounds but not exceeding 5,000 pounds shall be stored:

(1) In accordance with subdivision (c) of this subdivision.

(2) In an inside generator room or outside generator house; or

(3) In a separate room in a one-story building which may contain other occupancies, but without cellar or basement beneath the carbide storage section. Such rooms shall be constructed in accordance with subdivision (vi) (a) (8) and (9) of this subdivision and ventilated in accordance with subdivision (vi) (b) of this subdivision. These rooms shall be used for no other purpose.

(c) Calcium carbide in excess of 5,000 pounds shall be stored in one-story buildings without cellar or basement and used for no other purpose, or in outside generator houses. The location of such storage buildings shall be away from congested mercantile and manufacturing districts. If the storage building is of noncombustible construction, it may adjoin other one-story buildings if separated therefrom by unpierced firewalls; if it is detached less than 10 feet from such building or buildings, there shall be no opening in any of the mutually exposing sides of such buildings within 10 feet. If the storage building is of combustible construction, it shall be at least 20 feet from any other one- or two-story building, and at least 30 feet from any other building exceeding two stories.

(iii) *Storage outdoors.* (a) Calcium carbide in unopened metal containers may be stored outdoors.

(b) Carbide containers to be stored outdoors shall be examined to make sure that they are in good condition. Periodic reexaminations shall be made for rusting or other damage to a container that might affect its water or air tightness.

(c) The bottom tier of each row shall be placed on wooden planking or equivalent, so that the containers will not come in contact with the ground or ground water.

(d) Storage areas shall be at least 10 feet from lines of adjoining property that may be built upon.

(e) Containers of carbide which have been in storage the longest shall be used first.

(8) *Public exhibitions and demonstrations*—(i) *Installation requirements.* Installation and operation of welding, cutting, and related equipment shall be done by, or under the supervision of, a competent operator to insure the personal protection of viewers and demonstrators as well as the protection from fire, of materials in and around the site and the building itself.

(ii) *Procedures.* (a) Cylinders containing compressed gases for use at the site shall not be charged in excess of one-half their maximum permissible content. (Cylinders of nonliquefied gases and acetylene shall be charged to not more than one-half their maximum permissible charged pressure in p.s.i.g. Cylinders of liquefied gases shall be charged to not more than one-half the maximum permissible capacity in pounds.)

(b) Cylinders located at the site shall be connected for use except that enough additional cylinders may be stored at the site to furnish approximately 1 day's consumption of each gas used. Other cylinders shall be stored in an approved storage area preferably outdoors, but this storage area shall not be located near a building exit.

(c) Cylinders in excess of 40 pounds total weight being transported to or from the site shall be carried on a hand or motorized truck.

(d) The site shall be constructed, equipped, and operated in such a manner that the demonstration will be carried out so as to minimize the possibility of injury to viewers.

(e) Sites involving the use of compressed gases shall be located so as not to interfere with the egress of people during an emergency.

(f) The fire department shall be notified in advance of such use of the site.

(g) (1) Each site shall be provided with a portable fire extinguisher of appropriate size and type and with a pail of water.

(2) The public and combustible materials at the site shall be protected from flames, sparks, and molten metal.

(h) Hoses shall be located and protected so that they will not be physically damaged.

(i) (1) Cylinder valves shall be closed when equipment is unattended.

(2) Where caps are provided for valve protection, such caps shall be in place except when the cylinders are in service or connected ready for service.

(3) Cylinders shall be located or secured so that they cannot be knocked over.

(b) *Application, installation, and operation of arc welding and cutting equipment*—(1) *General*—(i) *Equipment selection.* Welding equipment shall be chosen for safe application to the work to be done as specified in subparagraph (2) of this paragraph.

(ii) *Installation.* Welding equipment shall be installed safely as specified by subparagraph (3) of this paragraph.

(iii) *Instruction.* Workmen designated to operate arc welding equipment shall have been properly instructed and qualified to operate such equipment as specified in subparagraph (4) of this paragraph.

(2) *Application of arc welding equipment*—(i) *General.* Assurance of consideration of safety in design is obtainable by choosing apparatus complying with the Requirements for Electric Arc-Welding Apparatus, NEMA EW–1–1962, National Electrical Manufacturers Association or the Safety Standard for Transformer-Type Arc-Welding Machines, ANSI C33.2—1956, Underwriters' Laboratories.

(ii) *Environmental conditions.* (a) Standard machines for arc welding service shall be designed and constructed to carry their rated load with rated temperature rises where the temperature of the cooling air does not exceed 40° C. (104° F.) and where the altitude does not exceed 3,300 feet, and shall be suitable for operation in atmospheres containing gases, dust, and light rays produced by the welding arc.

(b) Unusual service conditions may exist, and in such circumstances machines shall be especially designed to safely meet the requirements of the service. Chief among these conditions are:

(1) Exposure to unusually corrosive fumes.

(2) Exposure to steam or excessive humidity.

(3) Exposure to excessive oil vapor.

(4) Exposure to flammable gases.

(5) Exposure to abnormal vibration or shock.

(6) Exposure to excessive dust.

(7) Exposure to weather.

(8) Exposure to unusual seacoast or shipboard conditions.

(iii) *Voltage.* Open-circuit (No load) voltages of arc welding and cutting machines should be as low as possible consistent with satisfactory welding or cutting being done. The following limits shall not be exceeded:

(a) Alternating-current machines

(1) Manual arc welding and cutting—80 volts.

(2) Automatic (machine or mechanized) arc welding and cutting—100 volts.

(b) Direct-current machines

(1) Manual arc welding and cutting—100 volts.

(2) *Automatic* (machine or mechanized) arc welding and cutting—100 volts.

(c) When special welding and cutting processes require values of open circuit voltages higher than the above, means shall be provided to prevent the operator from making accidental contact with the high voltage by adequate insulation or other means.

(d) For a.c. welding under wet conditions or warm surroundings where perspiration is a factor, the use of reliable automatic controls for reducing no load voltage is recommended to reduce the shock hazard.

(iv) *Design.* (a) A controller integrally mounted in an electric motor driven welder shall have capacity for carrying rated motor current, shall be capable of making and interrupting stalled rotor current of the motor, and may serve as the running overcurrent device if provided with the number of overcurrent units as specified by Subpart S of this part. Starters with magnetic undervoltage release should be used with machines installed more than one to a circuit to prevent circuit overload caused by simultaneously starting of several motors upon return of voltage.

(b) On all types of arc welding machines, control apparatus shall be enclosed except for the operating wheels, levers, or handles. Control handles and wheels should be large enough to be easily grasped by a gloved hand.

(c) Input power terminals, tap change devices and live metal parts connected to input circuits shall be completely enclosed and accessible only by means of tools.

(d) Terminals for welding leads should be protected from accidental electrical contact by personnel or by metal objects i.e., vehicles, crane hooks, etc. Protection may be obtained by use of: dead-front receptacles for plug connections; recessed openings with nonremovable hinged covers; heavy insulating sleeving or taping or other equivalent electrical and mechanical protection. If a welding lead terminal which is intended to be used exclusively for connection to the work is connected to the grounded enclosure, it must be done by a conductor at least two AWG sizes smaller than the grounding conductor and the terminal shall be marked to indicate that it is grounded.

(e) No connections for portable control devices such as push buttons to be carried by the operator shall be connected to an a.c. circuit of higher than 120 volts. Exposed metal parts of portable control devices operating on circuits above 50 volts shall be grounded by a grounding conductor in the control cable.

(f) Auto transformers or a.c. reactors shall not be used to draw welding current directly from any a.c. power source having a voltage exceeding 80 volts.

(3) *Installation of arc welding equipment*—(i) *General.* Installation including power supply shall be in accordance with the requirements of Subpart S of this part.

(ii) *Grounding.* (a) The frame or case of the welding machine (except engine-driven machines shall be grounded under the conditions and according to the

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methods prescribed in Subpart S of this part.

(b) Conduits containing electrical conductors shall not be used for completing a work-lead circuit. Pipelines shall not be used as a permanent part of a work-lead circuit, but may be used during construction, extension or repair providing current is not carried through threaded joints, flanged bolted joints, or caulked joints and that special precautions are used to avoid sparking at connection of the work-lead cable.

(c) Chains, wire ropes, cranes, hoists, and elevators shall not be used to carry welding current.

(d) Where a structure, conveyor, or fixture is regularly employed as a welding current return circuit, joints shall be bonded or provided with adequate current collecting devices and appropriate periodic inspection should be conducted to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use.

(e) All ground connections shall be checked to determine that they are mechanically strong and electrically adequate for the required current.

(iii) *Supply connections and conductors.* (a) A disconnecting switch or controller shall be provided at or near each welding machine which is not equipped with such a switch or controller mounted as an integral part of the machine. The switch shall be in accordance with Subpart S of this part. Overcurrent protection shall be provided as specified in Subpart S of this part. A disconnect switch with overload protection or equivalent disconnect and protection means, permitted by Subpart S of this part, shall be provided for each outlet intended for connection to a portable welding machine.

(b) For individual welding machines, the rated current-carrying capacity of the supply conductors shall be not less than the rated primary current of the welding machines.

(c) For groups of welding machines, the rated current-carrying capacity of conductors may be less than the sum of the rated primary currents of the welding machines supplied. The conductor rating shall be determined in each case according to the machine loading based on the use to be made of each welding machine and the allowance permissible in the event that all the welding machines supplied by the conductors will not be in use at the same time.

(d) In operations involving several welders on one structure, d.c. welding process requirements may require the use of both polarities; or supply circuit limitations for a.c. welding may require distribution of machines among the phases of the supply circuit. In such cases no load voltages between electrode holders will be 2 times normal in d.c. or 1, 1.41, 1.73, or 2 times normal on a.c. machines. Similar voltage differences will exist if both a.c. and d.c. welding are done on the same structure.

(1) All d.c. machines shall be connected with the same polarity.

(2) All a.c. machines shall be connected to the same phase of the supply circuit and with the same instantaneous polarity.

(4) *Operation and maintenance.*—(i) *General.* Workmen assigned to operate or maintain arc welding equipment shall be acquainted with the requirements of subparagraphs (b), (d), (e), and (f) of this section; if doing gas-shielded arc welding, also Recommended Safe Practices for Gas-Shielded Arc Welding, A6.1–1966, American Welding Society.

(ii) *Machine hook up.* Before starting operations all connections to the machine shall be checked to make certain they are properly made. The work lead shall be firmly attached to the work; magnetic work clamps shall be freed from adherent metal particles of spatter on contact surfaces. Coiled welding cable shall be spread out before use to avoid serious overheating and damage to insulation.

(iii) *Grounding.* Grounding of the welding machine frame shall be checked. Special attention shall be given to safety ground connections of portable machines.

(iv) *Leaks.* There shall be no leaks of cooling water, shielding gas or engine fuel.

(v) *Switches.* It shall be determined that proper switching equipment for shutting down the machine is provided.

(vi) *Manufacturers' instructions.* Printed rules and instructions covering operation of equipment supplied by the manufacturers shall be strictly followed.

(vii) *Electrode holders.* Electrode holders when not in use shall be so placed that they cannot make electrical contact with persons, conducting objects, fuel or compressed gas tanks.

(viii) *Electric shock.* Cables with splices within 10 feet of the holder shall not be used. The welder should not coil or loop welding electrode cable around parts of his body.

(ix) *Maintenance.* (a) The operator should report any equipment defect or safety hazard to his supervisor and the use of the equipment shall be discontinued until its safety has been assured. Repairs shall be made only by qualified personnel.

(b) Machines which have become wet shall be thoroughly dried and tested before being used.

(c) Work and electrode lead cables should be frequently inspected for wear and damage. Cables with damaged insulation or exposed bare conductors shall be replaced. Joining lengths of work and electrode cables shall be done by the use of connecting means specifically intended for the purpose. The connecting means shall have insulation adequate for the service conditions.

(c) *Installation and operation of resistance welding equipment*—(1) *General*—(i) *Installation.* All equipment shall be installed by a qualified electrician in conformance with Subpart S of this part. There shall be a safety-type disconnecting switch or a circuit breaker or circuit interrupter to open each power circuit to the machine, conveniently located at or near the machine, so that the power can be shut off when the machine or its controls are to be serviced.

(ii) *Thermal protection.* Ignitron tubes used in resistance welding equipment shall be equipped with a thermal protection switch.

(iii) *Personnel.* Workmen designated to operate resistance welding equipment shall have been properly instructed and judged competent to operate such equipment.

(iv) *Guarding.* Controls of all automatic or air and hydraulic clamps shall be arranged or guarded to prevent the operator from accidentally activating them.

(2) *Spot and seam welding machines (nonportable)*—(i) *Voltage.* All external weld initiating control circuits shall operate on low voltage, not over 120 volts, for the safety of the operators.

(ii) *Capacitor welding.* Stored energy or capacitor discharge type of resistance welding equipment and control panels involving high voltage (over 550 volts) shall be suitably insulated and protected by complete enclosures, all doors of which shall be provided with suitable interlocks and contacts wired into the control circuit (similar to elevator interlocks). Such interlocks or contacts shall be so designed as to effectively interrupt power and short circuit all capacitors when the door or panel is open. A manually operated switch or suitable positive device shall be installed, in addition to the mechanical interlocks or contacts, as an added safety measure assuring absolute discharge of all capacitors.

(iii) *Interlocks.* All doors and access panels of all resistance welding machines and control panels shall be kept locked and interlocked to prevent access, by unauthorized persons, to live portions of the equipment.

(iv) *Guarding.* All press welding machine operations, where there is a possibility of the operator's fingers being under the point of operation, shall be effectively guarded by the use of a device such as an electronic eye safety circuit, two hand controls or protection similar to that prescribed for punch press operation, § 1910.217. All chains, gears, operating bus linkage, and belts shall be protected by adequate guards, in accordance with § 1910.219.

(v) *Shields.* The hazard of flying sparks shall be, wherever practical, eliminated by installing a shield guard of safety glass or suitable fire-resistant plastic at the point of operation. Additional shields or curtains shall be installed as necessary to protect passing persons from flying sparks. (See paragraph (e) (2) (i) (c) of this section.)

(vi) *Foot switches.* All foot switches shall be guarded to prevent accidental operation of the machine.

(vii) *Stop buttons.* Two or more safety emergency stop buttons shall be provided on all special multispot welding machines, including 2-post and 4-post weld presses.

(viii) *Safety pins.* On large machines, four safety pins with plugs and receptacles (one in each corner) shall be provided so that when safety pins are removed and inserted in the ram or platen, the press becomes inoperative.

(ix) *Grounding.* Where technically practical, the secondary of all welding transformers used in multispot, projection and seam welding machines shall be grounded. This may be done by permanently grounding one side of the welding secondary current circuit. Where not technically practical, a center tapped grounding reactor connected across the secondary or the use of a safety disconnect switch in conjunction with the welding control are acceptable alternates. Safety disconnect shall be arranged to open both sides of the line when welding current is not present.

(3) *Portable welding machines*—(i) *Counterbalance.* All portable welding guns shall have suitable counterbalanced devices for supporting the guns, including cables, unless the design of the gun or fixture makes counterbalancing impractical or unnecessary.

(ii) *Safety chains.* All portable welding guns, transformers and related equipment that is suspended from overhead structures, eye beams, trolleys, etc. shall be equipped with safety chains or cables. Safety chains or cables shall be capable of supporting the total shock load in the event of failure of any component of the supporting system.

(iii) *Clevis.* When trolleys are used to support portable welding equipment, with suitable forged steel clevis for the attachment of safety chains. Each clevis shall be capable of supporting the total shock load of the suspended equipment in the event of trolley failure.

(iv) *Switch guards.* All initiating switches, including retraction and dual schedule switches, located on the portable welding gun shall be equipped with suitable guards capable of preventing accidental initiation through contact with fixturing, operator's clothing, etc. Initiating switch voltage shall not exceed 24 volts.

(v) *Moving holder.* The movable holder, where it enters the gun frame, shall have sufficient clearance to prevent the shearing of fingers carelessly placed on the operating movable holder.

(vi) *Grounding.* The secondary and case of all portable welding transformers shall be grounded. Secondary grounding may be by center tapped secondary or by a center tapped grounding reactor connected across the secondary.

(4) *Flash welding equipment.*—(i) *Ventilation and flash guard.* Flash welding machines shall be equipped with a hood to control flying flash. In cases of high production, where materials may contain a film of oil and where toxic elements and metal fumes are given off, ventilation shall be provided in accordance with paragraph (f) of this section.

(ii) *Fire curtains.* For the protection of the operators of nearby equipment, fire-resistant curtains or suitable shields shall be set up around the machine and in such a manner that the operators movements are not hampered.

(5) *Hazards and precautions.* A job hazard analysis shall be made, by qualified personnel, of the operations to be performed on each welding machine to determine the safeguards and personal protective equipment that shall be used for each job.

(6) *Maintenance.* Periodic inspection shall be made by qualified maintenance personnel, and records of the same maintained. The operator shall be instructed to report any equipment defects to his supervisor and the use of the equipment shall be discontinued until safety repairs have been completed.

(d) *Fire prevention and protection*—(1) *Basic precautions.* For elaboration of these basic precautions and of the special precautions of subparagraph (2) of this paragraph as well as a delineation of the fire protection and prevention responsibilities of welders and cutters, their supervisors (including outside contractors) and those in management on whose property cutting and welding is to be performed, see, Standard for Fire Prevention in Use of Cutting and Welding Processes, NFPA Standard 51B, 1962. The basic precautions for fire prevention in welding or cutting work are:

(i) *Fire hazards.* If the object to be welded or cut cannot readily be moved, all movable fire hazards in the vicinity shall be taken to a safe place.

(ii) *Guards.* If the object to be welded or cut cannot be moved and if all the fire hazards cannot be removed, then guards shall be used to confine the heat, sparks, and slag, and to protect the immovable fire hazards.

(iii) *Restrictions.* If the requirements stated in subdivision (i) and (ii) of this subdivision cannot be followed then welding and cutting shall not be performed.

(2) *Special precautions.* When the nature of the work to be performed falls within the scope of subdivision (ii) of this subdivision certain additional precautions may be necessary:

(i) *Combustible material.* Wherever there are floor openings or cracks in the flooring that cannot be closed, precautions shall be taken so that no readily combustible materials on the floor below will be exposed to sparks which might drop through the floor. The same precautions shall be observed with regard to cracks or holes in walls, open doorways and open or broken windows.

(ii) *Fire extinguishers.* Suitable fire extinguishing equipment shall be maintained in a state of readiness for instant use. Such equipment may consist of pails of water, buckets of sand, hose or portable extinguishers depending upon the nature and quantity of the combustible material exposed.

(iii) *Fire watch.* (a) Fire watchers shall be required whenever welding or cutting is performed in locations where other than a minor fire might develop, or any of the following conditions exist:

(1) Appreciable combustible material, in building construction or contents, closer than 35 feet to the point of operation.

(2) Appreciable combustibles are more than 35 feet away but are easily ignited by sparks.

(3) Wall or floor openings within a 35-foot radius expose combustible material in adjacent areas including concealed spaces in walls or floors.

(4) Combustible materials are adjacent to the opposite side of metal partitions, walls, ceilings, or roofs and are likely to be ignited by conduction or radiation.

(b) Fire watchers shall have fire extinguishing equipment readily available and be trained in its use. They shall be familiar with facilities for sounding an alarm in the event of a fire. They shall watch for fires in all exposed areas, try to extinguish them only when obviously within the capacity of the equipment available, or otherwise sound the alarm. A fire watch shall be maintained for at least a half hour after completion of welding or cutting operations to detect and extinguish possible smoldering fires.

(iv) *Authorization.* Before cutting or welding is permitted, the area shall be inspected by the individual responsible for authorizing cutting and welding operations. He shall designate precautions to be followed in granting authorization to proceed preferably in the form of a written permit.

(v) *Floors.* Where combustible materials such as paper clippings, wood shavings, or textile fibers are on the floor, the floor shall be swept clean for a radius of 35 feet. Combustible floors shall be kept wet, covered with damp sand, or protected by fire-resistant shields. Where floors have been wet down, personnel operating arc welding or cutting equipment shall be protected from possible shock.

(vi) *Prohibited areas.* Cutting or welding shall not be permitted in the following situations:

(a) In areas not authorized by management.

(b) In sprinklered buildings while such protection is impaired.

(c) In the presence of explosive atmospheres (mixtures of flammable gases, vapors, liquids, or dusts with air), or explosive atmospheres that may develop inside uncleaned or improperly prepared tanks or equipment which have previously contained such materials, or that may develop in areas with an accumulation of combustible dusts.

(d) In areas near the storage of large quantities of exposed, readily ignitible materials such as bulk sulfur, baled paper, or cotton.

(vii) *Relocation of combustibles.* Where practicable, all combustibles shall be relocated at least 35 feet from the work site. Where relocation is impracticable, combustibles shall be protected with flameproofed covers or otherwise shielded with metal or asbestos guards or curtains. Edges of covers at the floor should be tight to prevent sparks from going under them. This precaution is also important at overlaps where several covers are used to protect a large pile.

(viii) *Ducts.* Ducts and conveyor systems that might carry sparks to distant combustibles shall be suitably protected or shut down.

(ix) *Combustible walls.* Where cutting or welding is done near walls, partitions, ceiling or roof of combustible construction, fire-resistant shields or

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guards shall be provided to prevent ignition.

(x) *Noncombustible walls.* If welding is to be done on a metal wall, partition, ceiling or roof, precautions shall be taken to prevent ignition of combustibles on the other side, due to conduction or radiation, preferably by relocating combustibles. Where combustibles are not relocated, a fire watch on the opposite side from the work shall be provided.

(xi) *Combustible cover.* Welding shall not be attempted on a metal partition, wall, ceiling or roof having a combustible covering nor on walls or partitions of combustible sandwich-type panel construction.

(xii) *Pipes.* Cutting or welding on pipes or other metal in contact with combustible walls, partitions, ceilings or roofs shall not be undertaken if the work is close enough to cause ignition by conduction.

(xiii) *Management.* Management shall recognize its responsibility for the safe usage of cutting and welding equipment on its property and:

(*a*) Based on fire potentials of plant facilities, establish areas for cutting and welding, and establish procedures for cutting and welding, in other areas.

(*b*) Designate an individual responsible for authorizing cutting and welding operations in areas not specifically designed for such processes.

(*c*) Insist that cutters or welders and their supervisors are suitably trained in the safe operation of their equipment and the safe use of the process.

(*d*) Advise all contractors about flammable materials or hazardous conditions of which they may not be aware.

(xiv) *Supervisor.* The Supervisor:

(*a*) Shall be responsible for the safe handling of the cutting or welding equipment and the safe use of the cutting or welding process.

(*b*) Shall determine the combustible materials and hazardous areas present or likely to be present in the work location.

(*c*) Shall protect combustibles from ignition by the following:

(*1*) Have the work moved to a location free from dangerous combustibles.

(2) If the work cannot be moved, have the combustibles moved to a safe distance from the work or have the combustibles properly shielded against ignition.

(3) See that cutting and welding are so scheduled that plant operations that might expose combustibles to ignition are not started during cutting or welding.

(*d*) Shall secure authorization for the cutting or welding operations from the designated management representative.

(*e*) Shall determine that the cutter or welder secures his approval that conditions are safe before going ahead.

(*f*) Shall determine that fire protection and extinguishing equipment are properly located at the site.

(*g*) Where fire watches are required, he shall see that they are available at the site.

(xv) *Fire prevention precautions.* Cutting or welding shall be permitted only in areas that are or have been made fire safe. Within the confines of an operating plant or building, cutting and welding should preferably be done in a specific area designed for such work, such as a maintenance shop or a detached outside location. Such areas should be of noncombustible or fire-resistive construction, essentially free of combustible and flammable contents, and suitably segregated from adjacent areas. When work cannot be moved practically, as in most construction work, the area shall be made safe by removing combustibles or protecting combustibles from ignition sources.

(3) *Welding or cutting containers*—(i) *Used containers.* No welding, cutting, or other hot work shall be performed on used drums, barrels, tanks or other containers until they have been cleaned so thoroughly as to make absolutely certain that there are no flammable materials present or any substances such as greases, tars, acids, or other materials which when subjected to heat, might produce flammable or toxic vapors. Any pipe lines or connections to the drum or vessel shall be disconnected or blanked.

(ii) *Venting and purging.* All hollow spaces, cavities or containers shall be vented to permit the escape of air or gases before preheating, cutting or welding. Purging with inert gas is recommended.

(4) *Confined spaces*—(i) *Accidental contact.* When arc welding is to be suspended for any substantial period of time, such as during lunch or overnight, all electrodes shall be removed from the holders and the holders carefully located so that accidental contact cannot occur and the machine be disconnected from the power source.

(ii) *Torch valve.* In order to eliminate the possibility of gas escaping through leaks or improperly closed valves, when gas welding or cutting, the torch valves shall be closed and the gas supply to the torch positively shutoff at some point outside the confined area whenever the torch is not to be used for a substantial period of time, such as during lunch hour or overnight. Where practicable, the torch and hose shall also be removed from the confined space.

(e) *Protection of personnel*—(1) *General*—(i) *Railing.* A welder or helper working on platforms, scaffolds, or runways shall be protected against falling. This may be accomplished by the use of railings, safety belts, life lines, or some other equally effective safeguards.

(ii) *Welding cable.* Welders shall place welding cable and other equipment so that it is clear of passageways, ladders, and stairways.

(2) *Eye protection*—(i) *Selection.* (*a*) Helmets or hand shields shall be used during all arc welding or arc cutting operations, excluding submerged arc welding. Goggles should also be worn during arc welding or cutting operations to provide protection from injurious rays from adjacent work, and from flying objects. The goggles may have either clear or colored glass, depending upon the amount of exposure to adjacent welding operations. Helpers or attendants shall be provided with proper eye protection.

(*b*) Goggles or other suitable eye protection shall be used during all gas welding or oxygen cutting operations. Spectacles without side shields, with suitable filter lenses are permitted for use during gas welding operations on light work, for torch brazing or for inspection.

(*c*) All operators and attendants of resistance welding or resistance brazing equipment shall use transparent face shields or goggles, depending on the particular job, to protect their faces or eyes, as required.

(*d*) Eye protection in the form of suitable goggles shall be provided where needed for brazing operations not covered in (*a*), (*b*), and (*c*) of this subdivision.

(ii) *Specifications for protectors.* (*a*) Helmets and hand shields shall be made of a material which is an insulator for heat and electricity. Helmets, shields and goggles shall be not readily flammable and shall be capable of withstanding sterilization.

(*b*) Helmets and hand shields shall be arranged to protect the face, neck and ears from direct radiant energy from the arc.

(*c*) Helmets shall be provided with filter plates and cover plates designed for easy removal.

(*d*) All parts shall be constructed of a material which will not readily corrode or discolor the skin.

(*e*) Goggles shall be ventilated to prevent fogging of the lenses as much as practicable.

(*f*) Cover lenses or plates should be provided to protect each helmet, hand shield or goggle filter lens or plate.

(*g*) All glass for lenses shall be tempered, substantially free from striae, air bubbles, waves and other flaws. Except when a lens is ground to provide proper optical correction for defective vision, the front and rear surfaces of lenses and windows shall be smooth and parallel.

(*h*) Lenses shall bear some permanent distinctive marking by which the source and shade may be readily identified.

(*i*) The following is a guide for the selection of the proper shade numbers. These recommendations may be varied to suit the individual's needs.

Welding operation	*Shade No.*
Shielded metal-arc welding—1/16-, 3/32-, 1/8-, 5/32-inch electrodes	10
Gas-shielded arc welding (nonferrous)—1/16-, 3/32-, 1/8-, 5/32-inch electrodes	11
Gas-shielded arc welding (ferrous)—1/16-, 3/32-, 1/8-, 5/32-inch electrodes	12
Shielded metal-arc welding:	
3/16-, 7/32-, 1/4-inch electrodes	12
5/16-, 3/8-inch electrodes	14
Atomic hydrogen welding	10–14
Carbon arc welding	14
Soldering	2
Torch brazing	3 or 4
Light cutting, up to 1 inch	3 or 4
Medium cutting, 1 inch to 6 inches	4 or 5
Heavy cutting, 6 inches and over	5 or 6
Gas welding (light) up to 1/8 inch	4 or 5
Gas welding (medium) 1/8 inch to 1/2 inch	5 or 6
Gas welding (heavy) 1/2 inch and over	6 or 8

NOTE: In gas welding or oxygen cutting where the torch produces a high yellow light, it is desirable to use a filter or lens that absorbs the yellow or sodium line in the visible light of the operation.

(*j*) All filter lenses and plates shall meet the test for transmission of radiant energy prescribed in ANSI Z87.1–1968—American National Standard Practice for Occupational and Educational Eye and Face Protection.

(iii) *Protection from arc welding rays.* Where the work permits, the welder should be enclosed in an individual booth painted with a finish of low reflectivity such as zinc oxide (an important factor for absorbing ultraviolet radiations) and lamp black, or shall be enclosed with noncombustible screens similiarly painted. Booths and screens shall permit circulation of air at floor level. Workers or other persons adjacent to the welding areas shall be protected from the rays by noncombustible or flameproof screens or shields or shall be required to wear appropriate goggles.

(3) *Protective clothing*—(i) *General requirements.* Employees exposed to the hazards created by welding, cutting, or brazing operations shall be protected by personal protective equipment in accordance with the requirements of § 1910.132. Appropriate protective clothing required for any welding operation will vary with the size, nature and location of the work to be performed.

(ii) *Specified protective clothing.* Protective means which may be employed are as follows:

(*a*) Except when engaged in light work, all welders should wear flameproof gauntlet gloves.

(*b*) Flameproof aprons made of leather, asbestos, or other suitable material may also be desirable as protection against radiated heat and sparks.

(*c*) Woolen clothing is preferable to cotton because it is not so readily ignited and helps protect the welder from changes in temperature. Cotton clothing, if used, should be chemically treated to reduce its combustibility. All outer clothing such as jumpers or overalls should be reasonably free from oil or grease.

(*d*) Sparks may lodge in rolled-up sleeves or pockets of clothing, or cuffs of overalls or trousers. It is therefore recommended that sleeves and collars be kept buttoned and pockets be eliminated from the front of overalls and aprons. Trousers or overalls should not be turned up on the outside.

(*e*) For heavy work, fire-resistant leggings, high boots, or other equivalent means should be used.

(*f*) In production work a sheet metal screen in front of the worker's legs can provide further protection against sparks and molten metal in cutting operations.

(*g*) Capes or shoulder covers made of leather or other suitable materials should be worn during overhead welding or cutting operations. Leather skull caps may be worn under helmets to prevent head burns.

(*h*) For overhead welding and cutting, or welding and cutting in extremely confined spaces, ear protection is sometimes desirable.

(*i*) Where there is exposure to sharp or heavy falling objects, or a hazard of bumping in confined spaces, hard hats or head protectors should be used.

(4) *Work in confined spaces*—(i) *General.* As used herein confined space is intended to mean a relatively small or restricted space such as a tank, boiler, pressure vessel, or small compartment of a ship.

(ii) *Ventilation.* Ventilation is a prerequisite to work in confined spaces. For ventilation requirements see paragraph (f) of this section.

(iii) *Securing cylinders and machinery.* When welding or cutting is being performed in any confined spaces the gas cylinders and welding machines shall be left on the outside. Before operations are started, heavy portable equipment mounted on wheels shall be securely blocked to prevent accidental movement.

(iv) *Lifelines.* Where a welder must enter a confined space through a manhole or other small opening, means shall be provided for quickly removing him in case of emergency. When safety belts and lifelines are used for this purpose they shall be so attached to the welder's body that his body cannot be jammed in a small exit opening. An attendant with a preplanned rescue procedure shall be stationed outside to observe the welder at all times and be capable of putting rescue operations into effect.

(v) *Electrode removal.* When arc welding is to be suspended for any substantial period of time, such as during lunch or overnight, all electrodes shall be removed from the holders and the holders carefully located so that accidental contact cannot occur and the machine disconnected from the power source.

(vi) *Gas cylinder shutoff.* In order to to eliminate the possibility of gas escaping through leaks or improperly closed valves, when gas welding or cutting, the torch valves shall be closed and the fuel-gas and oxygen supply to the torch positively shut off at some point outside the confined area whenever the torch is not to be used for a substantial period of time, such as during lunch hour or overnight. Where practicable the torch and hose shall also be removed from the confined space.

(vii) *Warning sign.* After welding operations are completed, the welder shall mark the hot metal or provide some other means of warning other workers.

(f) *Health protection and ventilation*—(1) *General*—(i) *Contamination.* The requirements in this paragraph have been established on the basis of the following three factors in arc and gas welding which govern the amount of contamination to which welders may be exposed:

(*a*) Dimensions of space in which welding is to be done (with special regard to height of ceiling).

(*b*) Number of welders.

(*c*) Possible evolution of hazardous fumes, gases, or dust according to the metals involved.

(ii) *Ventilation.* It is recognized that in individual instances other factors may be involved in which case ventilation or respiratory protective devices should be provided as needed to meet the equivalent requirements of this section. Such factors would include:

(*a*) Atmospheric conditions.

(*b*) Heat generated.

(*c*) Presence of volatile solvents.

(iii) *Screens.* When welding must be performed in a space entirely screened on all sides, the screens shall be so arranged that no serious restriction of ventilation exists. It is desirable to have the screens so mounted that they are about 2 feet above the floor unless the work is performed at so low a level that the screen must be extended nearer to the floor to protect nearby workers from the glare of welding.

(iv) *Maximum allowable concentration.* Local exhaust or general ventilating systems shall be provided and arranged to keep the amount of toxic fumes, gases, or dusts below the maximum allowable concentration as specified in § 1910.93.

(v) *Precautionary labels.* A number of potentially hazardous materials are employed in fluxes, coatings, coverings, and filler metals used in welding and cutting or are released to the atmosphere during welding and cutting. These include but are not limited to the materials itemized in paragraphs (f) (5) through (12) of this section. The suppliers of welding materials shall determine the hazard, if any, associated with the use of their materials in welding, cutting, etc.

(*a*) All filler metals and fusible granular materials shall carry the following notice, as a minimum, on tags, boxes, or other containers:

CAUTION

Welding may produce fumes and gases hazardous to health. Avoid breathing these fumes and gases. Use adequate ventilation. See ANSI Z49.1–1967 Safety in Welding and Cutting published by the American Welding Society.

(*b*) Brazing (welding) filler metals containing cadmium in significant amounts shall carry the following notice on tags, boxes, or other containers:

WARNING

CONTAINS CADMIUM—POISONOUS FUMES MAY BE FORMED ON HEATING

Do not breathe fumes. Use only with adequate ventilation such as fume collectors, exhaust ventilators, or air-supplied respirators. See ANSI Z49.1–1967.

If chest pain, cough, or fever develops after use call physician immediately.

Keep children away when using.

(*c*) Brazing and gas welding fluxes containing fluorine compounds shall have a cautionary wording to indicate that they contain fluorine compounds. One such cautionary wording recommended by the American Welding Society for brazing and gas welding fluxes reads as follows:

CAUTION

CONTAINS FLUORIDES

This flux when heated gives off fumes that may irritate eyes, nose and throat.

1. Avoid fumes—use only in well-ventilated spaces.
2. Avoid contact of flux with eyes or skin.
3. Do not take internally.

(2) *Ventilation for general welding and cutting*—(i) *General.* Mechanical ventilation shall be provided when welding or cutting is done on metals not covered in subparagraphs (5) through (12),

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of this paragraph. (For specific materials, see the ventilation requirements of subparagraphs (5) through (12) of this paragraph.)

(*a*) In a space of less than 10,000 cubic feet per welder.

(*b*) In a room having a ceiling height of less than 16 feet.

(*c*) In confined spaces or where the welding space contains partitions, balconies, or other structural barriers to the extent that they significantly obstruct cross ventilation.

(ii) *Minimum rate.* Such ventilation shall be at the minimum rate of 2,000 cubic feet per minute per welder, except where local exhaust hoods and booths as per subparagraph (3) of this paragraph, or airline respirators approved by the U.S. Bureau of Mines for such purposes are provided. Natural ventilation is considered sufficient for welding or cutting operations where the restrictions in subdivision (i) of this subdivision are not present.

(3) *Local exhaust hoods and booths.* Mechanical local exhaust ventilation may be by means of either of the following:

(i) *Hoods.* Freely movable hoods intended to be placed by the welder as near as practicable to the work being welded and provided with a rate of airflow sufficient to maintain a velocity in the direction of the hood of 100 linear feet per minute in the zone of welding when the hood is at its most remote distance from the point of welding. The rates of ventilation required to accomplish this control velocity using a 3-inch wide flanged suction opening are shown in the following table:

Welding zone	Minimum air flow [1] cubic feet/minutes	Duct diameter, inches [2]
4 to 6 inches from arc or torch	150	3
6 to 8 inches from arc or torch	275	3½
8 to 10 inches from arc or torch	425	4½
10 to 12 inches from arc or torch	600	5½

[1] When brazing with cadmium bearing materials or when cutting on such materials increased rates of ventilation may be required.

[2] Nearest half-inch duct diameter based on 4,000 feet per minute velocity in pipe.

(ii) *Fixed enclosure.* A fixed enclosure with a top and not less than two sides which surround the welding or cutting operations and with a rate of airflow sufficient to maintain a velocity away from the welder of not less than 100 linear feet per minute.

(4) *Ventilation in confined spaces*—(i) *Air replacement.* All welding and cutting operations carried on in confined spaces shall be adequately ventilated to prevent the accumulation of toxic materials or possible oxygen deficiency. This applies not only to the welder but also to helpers and other personnel in the immediate vicinity. All air replacing that withdrawn shall be clean and respirable.

(ii) *Airline respirators.* In such circumstances where it is impossible to provide such ventilation, airline respirators or hose masks approved by the U.S. Bureau of Mines for this purpose shall be used.

(iii) *Self-contained units.* In areas immediately hazardous to life, hose masks with blowers or self-contained breathing equipment shall be used. The breathing equipment shall be approved by the U.S. Bureau of Mines.

(iv) *Outside helper.* Where welding operations are carried on in confined spaces and where welders and helpers are provided with hose masks, hose masks with blowers or self-contained breathing equipment approved by the U.S. Bureau of Mines, a worker shall be stationed on the outside of such confined spaces to insure the safety of those working within.

(v) *Oxygen for ventilation.* Oxygen shall never be used for ventilation.

(5) *Fluorine compounds*—(i) *General.* In confined spaces, welding or cutting involving fluxes, coverings, or other materials which contain fluorine compounds shall be done in accordance with subparagraph (4) of this paragraph. A fluorine compound is one that contains fluorine, as an element in chemical combination, not as a free gas.

(ii) *Maximum allowable concentration.* The need for local exhaust ventilation or airline respirators for welding or cutting in other than confined spaces will depend upon the individual circumstances. However, experience has shown such protection to be desirable for fixed-location production welding and for all production welding on stainless steels. Where air samples taken at the welding location indicate that the fluorides liberated are below the maximum allowable concentration, such protection is not necessary.

(6) *Zinc*—(i) *Confined spaces.* In confined spaces welding or cutting involving zinc-bearing base or filler metals or metals coated with zinc-bearing materials shall be done in accordance with subparagraph (4) of this paragraph.

(ii) *Indoors.* Indoors, welding or cutting involving zinc-bearing base or filler metals coated with zinc-bearing materials shall be done in accordance with subparagraph (3) of this paragraph.

(7) *Lead*—(i) *Confined spaces.* In confined spaces, welding involving lead-base metals (erroneously called lead-burning) shall be done in accordance with subparagraph (4) of this paragraph.

(ii) *Indoors.* Indoors, welding involving lead-base metals shall be done in accordance with subparagraph (3) of this paragraph.

(iii) *Local ventilation.* In confined spaces or indoors, welding or cutting involving metals containing lead, other than as an impurity, or involving metals coated with lead-bearing materials, including paint shall be done using local exhaust ventilation or airline respirators. Outdoors such operations shall be done using respiratory protective equipment approved by the U.S. Bureau of Mines for such purposes. In all cases, workers in the immediate vicinity of the cutting operation shall be protected as necessary by local exhaust ventilation or airline respirators.

(8) *Beryllium.* Welding or cutting indoors, outdoors, or in confined spaces involving beryllium-containing base or filler metals shall be done using local exhaust ventilation and airline respirators unless atmospheric tests under the most adverse conditions have established that the workers' exposure is within the acceptable concentrations defined by § 1910.93. In all cases, workers in the immediate vicinity of the welding or cutting operations shall be protected as necessary by local exhaust ventilation or airline respirators.

(9) *Cadmium.*—(i) *General.* Welding or cutting indoors or in confined spaces involving cadmium-bearing or cadmium-coated base metals shall be done using local exhaust ventilation or airline respirators unless atmospheric tests under the most adverse conditions have established that the workers' exposure is within the acceptable concentrations defined by § 1910.93. Outdoors such operations shall be done using respiratory protective equipment such as fume respirators approved by the U.S. Bureau of Mines for such purposes.

(ii) *Confined space.* Welding (brazing) involving cadmium-bearing filler metals shall be done using ventilation as prescribed in paragraph (3) or (4) of this paragraph if the work is to be done in a confined space.

(10) *Mercury.* Welding or cutting indoors or in a confined space involving metals coated with mercury-bearing materials including paint, shall be done using local exhaust ventilation or airline respirators unless atmospheric tests under the most adverse conditions have established that the workers' exposure is within the acceptable concentrations defined by § 1910.93. Outdoors such operations shall be done using respiratory protective equipment approved by the U.S. Bureau of Mines for such purposes.

(11) *Cleaning compounds*—(i) *Manufacturer's instructions.* In the use of cleaning materials, because of their possible toxicity or flammability, appropriate precautions such as manufacturers instructions shall be followed.

(ii) *Degreasing.* Degreasing or other cleaning operations involving chlorinated hydrocarbons shall be so located that no vapors from these operations will reach or be drawn into the atmosphere surrounding any welding operation. In addition, trichloroethylene and perchloroethylene should be kept out of atmospheres penetrated by the ultraviolet radiation of gas-shielded welding operations.

(12) *Cutting of stainless steels.* Oxygen cutting, using either a chemical flux or iron powder or gas-shielded arc cutting of stainless steel, shall be done using mechanical ventilation adequate to remove the fumes generated.

(13) *First-aid equipment.* First-aid equipment shall be available at all times. On every shift of welding operations there should be present employees trained to render first aid. All injuries shall be reported as soon as possible for medical attention. First aid shall be rendered until medical attention can be provided.

(g) *Industrial applications* — (1) *Transmission pipeline*—(i) *General.* The requirements of paragraphs (b), (e), and (f) of this section shall be observed.

(ii) *Field shop operations.* Where field shop operations are involved for fabrication of fittings, river crossings, road crossings, and pumping and compressor stations the requirements of paragraphs (a), (b), (d), (e), and (f) of this section shall be observed.

(iii) *Electric shock.* When arc welding is performed in wet conditions, or under conditions of high humidity, special protection against electric shock shall be supplied.

(iv) *Pressure testing.* In pressure testing of pipelines, the workers and the public shall be protected against injury by the blowing out of closures or other pressure restraining devices. Also, protection shall be provided against expulsion of loose dirt that may have become trapped in the pipe.

(v) *Construction standards.* The welded construction of transmission pipelines shall be conducted in accordance with the Standard for Welding Pipe Lines and Related Facilities, API Std. 1104–1968.

(vi) *Flammable substance lines.* The connection, by welding, of branches to pipelines carrying flammable substances shall be performed in accordance with Welding or Hot Tapping on Equipment Containing Flammables, API Std. PSD No. 2201–1963.

(vii) *X-ray inspection.* The use of X-rays and radioactive isotopes for the inspection of welded pipeline joints shall be carried out in conformance with the American National Standard Safety Standard for Non-Medical X-ray and Sealed Gamma-Ray Sources, ANSI Z54.1–1963.

(2) *Mechanical piping systems*—(i) *General.* The requirements of paragraphs (a), (b), (d), (e), and (f) of this section shall be observed.

(ii) *X-ray inspection.* The use of X-rays and radioactive isotopes for the inspection of welded piping joints shall be in conformance with the American National Standard Safety Standard for Non-Medical X-ray and Sealed Gamma-Ray Sources. ANSI Z54.1–1963.

§ 1910.253 Sources of standards.

Sec.	Source
1910.251	ANSI Z49.1–1967, Safety in Welding and Cutting.
1910.252	(a) NFPA—51–1969, Welding and Cutting Oxygen Fuel Gas Systems. (b) ANSI Z–49.1 1967, Safety in Welding and Cutting. (c) NFPA 51B 1962, Cutting and Welding Processes. (d) 41 CFR 50–204.7.

§ 1910.254 Standards organizations.

Specific standards of the following organizations have been referenced in this subpart. Copies of the referenced standards may be obtained from the issuing organizations. The names and addresses of the issuing organizations are as follows:

(a) American National Standards Institute (ANSI), 1430 Broadway, New York, NY 10018.

(b) National Fire Protection Association (NFPA), 60 Batterymarch Street, Boston, MA 02110.

(c) Compressed Association, Inc., 500 Fifth Avenue, New York, NY 10036.

(d) American Petroleum Institute, 1801 K Street NW., Washington, DC 20006.

(e) American Welding Society, 444 Madison Avenue, New York, NY 10022.

(f) Rubber Manufacturers Association, 345 East 47th Street, New York, NY 10017.

Subpart R—Special Industries

§ 1910.261 Pulp, paper, and paperboard mills.

(a) *General requirements*—(1) *Application.* This section applies to establishments where pulp, paper, and paperboard are manufactured and converted. This section does not apply to logging and the transportation of logs to pulp, paper, and paperboard mills.

(2) *Standards incorporated by reference.* Standards covering issues of occupational safety and health which have general application without regard to any specific industry are incorporated by reference in paragraphs (b) through (m) of this section and in subparagraphs (3) and (4) of this paragraph and made applicable under this section. Such standards shall be construed according to the rules set forth in § 1910.5.

(3) *General incorporation of standards.* Establishments subject to this section shall comply with the following standards of the American National Standards Institute:

(i) Practice for Industrial Lighting, A11.1—1965 (R–1970).

(ii) Safety Requirements for Floor and Wall Openings, Railings, and Toe Boards, A12.1—1967.

(iii) Scheme for the Identification of Piping Systems, A13.1—1956.

(iv) Safety Code for Portable Wood Ladders, A14.1—1968.

(v) Safety Code for Portable Metal Ladders, A14.2—1956.

(vi) Safety Code for Fixed Ladders, A14.3—1956.

(vii) Safety Code for Elevators, Dumbwaiters, and Moving Walks, A17.1—1965, including Supplements A17.1a—1967, A17.1b—1968, A17.1c—1969, and A17.1d—1970.

(viii) Practice for the Inspection of Elevators (Inspector's Manual), A17.2—1960. including Supplements A17.2a—1965 and A17.2b—1967.

(ix) Safety Code for Mechanical Power-Transmission Apparatus, B15.1—1953 (Reaffirmed 1958).

(x) Safety Code for Conveyors, Cableways, and Related Equipment, B20.1—1957.

(xi) Safety Code for Cranes, Derricks, and Hoists, B30.2—1943 (Reaffirmed 1952 and partially revised by B30.2.0—1967 and B30.5—1968).

(xii) Overhead and Gantry Cranes, B30.2.0—1967 (Partial Revision of B30.2—1943).

(xiii) Crawler, Locomotive, and Truck Cranes, B30.5—1968 (Partial Revision of B30.2—1943).

(xiv) Power Piping, B31.1.0—1967 and addenda B31.10a—1969. Fuel Gas Piping, B31.2—1968.

(xv) Safety Code for Powered Industrial Trucks, B56.1—1969.

(xvi) Identification of Gas-Mask Canisters, K13.1—1967.

(xvii) Safety Code for Woodworking Machinery, O1.1—1954 (Reaffirmed 1961).

(xviii) Requirements for Sanitation in Places of Employment, Z4.1—1968.

(xix) Safety Code for Ventilation and Operation of Open-Surface Tanks, Z9.1—1951.

(xx) Fundamentals Governing the Design and Operation of Local Exhaust Systems, Z9.2—1960.

(xxi) Prevention of Sulfur Fires and Explosions, Z12.12—1968.

(xxii) Method of Measurement of Real-Ear Attenuation of Ear Protectors at Threshold, Z24.22—1957.

(xxiii) Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, Z33.1—1961.

(xxiv) Specifications for Accident Prevention Signs, Z35.1—1968.

(xxv) Practice for Occupational and Educational Eye and Face Protection, Z87.1—1968 (Partial Revision of Z2.1—1959).

(xxvi) Practices for Respiratory Protection, Z88.2—1969.

(xxvii) Safety Requirements for Industrial Head Protection, Z89.1—1969.

(4) *Other standards.* The following standards shall be considered standards under this section:

(i) ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels, including addenda 1969.

(ii) Building Exits Code for Life Safety from Fire, NFPA 101—1970.

(iii) Safety in the Handling and Use of Explosives, IME Pamphlet No. 17, July 1960, Institute of Makers of Explosives.

(b) *Safe practices*—(1) *Guards.* All driving mechanisms, power-transmission apparatus, and prime movers shall be constructed, guarded, and used in conformity with American National Standard B15.1—1963 (Reaffirmed 1958).

(2) *Personal protective clothing and equipment.* Foot protection, shin-guards, hard hats, noise attenuation devices, or other personal protective clothing and equipment shall be worn when the extent of the hazard is such as to warrant their use. Such equipment shall be worn whenever specifically required by other paragraphs of this section. All equipment shall be maintained in accordance with applicable American National Standards. Respirators, goggles, and protective masks, rubber gloves, rubber boots, and other such equipment shall be cleaned and disinfected before being used by another employee. Eye, head, respiratory, and ear protection, where specified, shall conform to American National Standards Z24.22—1957, Z87.1—1968, Z88.2—1969, and Z89.1—1969.

(3) *Floors and platforms.* Floors, platforms, and work surfaces shall be maintained in accordance with American National Standard A12.1—1967.

(4) *Lockouts.* Devices such as padlocks shall be provided for locking out the source of power at the main disconnect switch. Before any maintenance, inspection, cleaning, adjusting, or servicing of equipment (electrical, mechanical, or

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other) that requires entrance into or close contact with the machinery or equipment, the main power disconnect switch or valve, or both, controlling its source of power or flow of material, shall be locked out or blocked off with padlock, blank flange, or similar device.

(5) *Vessel entering.* Lifelines and safety harness shall be worn by anyone entering closed vessels, tanks, chip bins, and similar equipment, and a person shall be stationed outside in a position to handle the line and to summon assistance in case of emergency. The air in the vessels shall be tested for oxygen deficiency and the presence of both toxic and explosive gases and vapors, before entry into closed vessels, tanks, etc., is permitted. Self-contained air- or oxygen-supply masks shall be readily available in case of emergency. Work shall not be done on equipment under conditions where an injury would result if a valve were unexpectedly opened or closed unless the valve has been locked in a safe position.

(6) *Industrial power trucks.* All industrial power truck operations shall conform to American National Standard B56.1–1969. All forklift trucks shall be provided with overhead guards. All guards shall be designed in compliance with American National Standard B56.1—1969. Design requirements shall provide protection for the liquid petroleum tank.

(7) *Emergency lighting.* Emergency lighting shall be provided wherever it is necessary for employees to remain at their machines or stations to shut down equipment in case of power failure. Emergency lighting shall be provided at stairways and passageways or aisleways used by employees for emergency exit in case of power failure. Emergency lighting shall be provided in all plant first aid and medical facilities.

(c) *Handling and storage of pulpwood and pulp chips*—(1) *Handling pulpwood with forklift trucks.* Where large forklift trucks, or lift trucks with clam-jaws, are used in the yard, the operator's enclosed cab shall be provided with an escape hatch, whenever the hydraulic arm blocks escape through the side doors.

(2) *Handling pulpwood with cranes or stackers.* (i) Where locomotive cranes are used for loading or unloading pulpwood, the pulpwood shall be piled so as to allow a clearance of not less than 24 inches between the pile and the end of the cab of any locomotive crane in use, when the cab is turned in any working position.

(ii) The minimum distance of the pulpwood pile from the centerline of a standard-gage track shall be maintained at not less than 8½ feet.

(iii) Logs shall be piled in an orderly and stable manner, with no projection into walkways or roadways.

(iv) Railroad cars shall not be spotted on tracks adjacent to the locomotive cranes unless a 24-inch clearance is maintained, as required in subdivision (i) of this subparagraph.

(v) The handling and storage of other materials shall conform to subdivisions (i) and (ii) of this subparagraph with respect to clearance.

(vi) Equipment and practices shall conform to American National Standards B30.2—1943 (Reaffirmed 1952) and B30.2.0—1967.

(vii) Personal protective equipment for such uses as foot, head, and eye protection shall be required for workers on a job basis.

(viii) No person shall be permitted to walk beneath a suspended load, bucket, or hook.

(3) *Handling pulpwood from ships.* (i) Ladders and gangplanks with railings to boat docks shall meet the requirements of American National Standards A12.1—1967, A14.1—1968, A14.2—1956, and A14.3—1956, and shall be securely fastened in place.

(ii) The hatch tender shall be required to signal the hoisting engineer to move the load only after the men working in the hold are in the clear.

(iii) The air in the ship's hold, tanks, or closed vessels shall be tested for oxygen deficiency and for both toxic and explosive gases and vapors.

(4) *Handling pulpwood from flatcars and all other railway cars.* (i) Railroad flatcars for the conveyance of pulpwood loaded parallel to the length of the car shall be equipped with safety-stake pockets.

(ii) Where pulpwood is loaded crosswise on a flatcar sufficient stakes of sizes not smaller than 4 by 4 inches shall be used to prevent the load from shifting.

(iii) When it is necessary to cut stakes, those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles shall be used. No person shall be permitted along the dumping side of the car after the stakes have been cut.

(iv) When steel straps without stakes are used, the steel straps shall be cut from a safe area to prevent employees from being struck by the falling logs.

(v) Flatcars and all other cars shall be chocked during unloading. Where equipment is not provided with hand brakes, rail clamping chocks shall be used.

(vi) A derail shall be used to prevent movement of other rail equipment into cars where persons are working.

(5) *Handling pulpwood from trucks.* (i) Cutting of stakes and binder wires shall be done in accordance with subparagraph 4(iii) of this paragraph.

(ii) Where binder chain and steel stakes are used, the binder chains shall be released and the stakes tripped from the opposite side of the load spillage.

(iii) Where binder chains and crane slings are used, the crane slings shall be attached and taut before the binder chains are released. The hooker shall see that the helper is clear before signaling for the movement of the load.

(6) *Handling pulp chips from railway cars.* (i) All cars shall be securely fastened in place and all employees in the clear before dumping is started.

(ii) Personal protective equipment for such uses as foot, head, and eye protection shall be provided, and employees shall wear the equipment when working in the woodyard. Ear protection shall be provided when the noise level may be harmful.

(7) *Handling pulp chips from trucks and trailers.* (i) All trucks and trailers shall be securely fastened in place and all employees in the clear before dumping is started.

(ii) Personal protective equipment shall be in accordance with subparagraph (6)(ii) of this paragraph.

(8) *Cranes.* (i) Crane boom and load capacities as specified by the manufacturer shall be posted in the cab of the crane in accordance with American National Standards B30.2—1943 (reaffirmed 1968) and B30.2.0—1967.

(ii) A safety device such as a heavy chain or cable at least equal in strength to the lifting cables shall be fastened to the boom and to the frame of the boom crane (if it is other than locomotive) at the base. Alternatively, a telescoping safety device shall be fastened to the boom and to the cab frame, so as to prevent the boom from snapping back over the cab in the event of lifting cable breakage.

(iii) A crane shall not be operated where any part thereof may come within 10 feet of overhead powerlines (or other overhead obstructions) unless the powerlines have been deenergized. The boom shall be painted bright yellow from and including the head sheave to a point 6 feet down the boom towards the cab.

(iv) Standard signals for the operation of cranes shall be established for all movements of the crane, in accordance with American National Standards B30.2—1943 (reaffirmed 1968) and B30.2.0—1967.

(v) Only one member of the crew shall be authorized to give signals to the crane operator.

(vi) All cranes shall be equipped with a suitable warning device such as a horn or whistle.

(vii) A sheave guard shall be provided beneath the head sheave of the boom.

(9) *Traffic warning signs or signals.* (i) A flagman shall direct the movement of cranes or locomotives being moved across railroad tracks or roads, and at any points where the vision of the operator is restricted. The flagman must always remain in sight of the operator when the crane or locomotive is in motion. The blue flag policy shall be used to mark stationary cars day and night. This policy shall include marking the track in advance of the spotted cars (flag for daytime, light for darkness).

(ii) After cars are spotted for loading or unloading, warning flags or signs shall be placed in the center of the track at least 50 feet away from the cars and a derail set to protect workmen in the car.

(10) *Illumination.* Artificial illumination shall be provided when loading or unloading is performed after dark, in accordance with American National Standard A11.1—1965 (R—1970).

(11) *Bridge or dock plates.* The construction and use of bridge or dock plates shall conform to requirements of American National Standard B56.1—1969.

(12) *Barking devices.* When barking drums are employed in the yard, the requirements of paragraph (e)(12) of this section shall apply.

(13) *Hand tools.* Handles of wood hooks shall be locked to the shank to prevent them from rotating.

(14) *Removal of pulpwood.* (i) The ends of a woodpile shall be properly sloped and cross-tiered into the pile. Upright poles shall not be used at the ends of woodpiles. To knock down wood from the woodpile, mechanical equipment shall be used to permit employees to keep in the clear of loosened wood.

(ii) If dynamite is used to loosen the pile, only authorized personnel shall be permitted to handle and discharge the explosive. An electric detonator is preferable for firing; if a fuse is used, it shall be an approved safety fuse with a burning rate of not less than 120 seconds per yard and a minimum length of 3 feet, in accordance with Safety in the Handling and Use of Explosives, IME Pamphlet No. 17, July 1960.

(15) *Belt conveyors.* (i) The sides of the conveyor shall be constructed so that the wood will not fall off.

(ii) Where conveyors cross passageways or roadways, a horizontal platform shall be provided under the conveyor extending out from the sides of the conveyor a distance equal to 1½ times the length of the wood handled. The platform shall extend the width of the road plus 2 feet on each side and shall be kept free of wood and rubbish. The edges of the platform shall be provided with toeboards or other protection to prevent wood from falling, in accordance with American National Standard A12.1—1967.

(iii) All conveyors for pulpwood shall have the inrunning nips between chain and sprockets guarded; also, turning drums shall be guarded.

(iv) Every belt conveyor shall have an emergency stop cable extending the length of the conveyor so that it may be stopped from any location along the line, or conveniently located stop buttons within 10 feet of each work station, in accordance with American National Standard B20.1—1957.

(16) *Signs.* Where conveyors cross walkways or roadways in the yards, signs reading "Danger—Overhead Conveyor" or an equivalent warning shall be erected, in accordance with American National Standard Z35.1—1968.

(d) *Handling and storage of raw materials other than pulpwood or pulp chips*—(1) *Personal protective equipment.* (i) Whenever possible, all dust, fumes, and gases incident to handling materials shall be controlled at the source, in accordance with American National Standard Z9.2—1960. Where control at the source is not possible, respirators with goggles or protective masks shall be provided, and employees shall wear them when handling alum, clay, soda ash, lime, bleach powder, sulfur, chlorine, and similar materials, and when opening rag bales.

(ii) When handling liquid acid or alkali, workmen shall be provided with approved eye and face protection and protective clothing, in accordance with American National Standard Z87.1—1968.

(2) *Clearance.* (i) When materials are being piled inside a building and upon platforms, an aisle clearance at least 3 feet greater than the widest truck in use shall be provided.

(ii) Baled paper and rags stored inside a building shall not be piled closer than 18 inches to walls, partitions, or sprinkler heads.

(3) *Piling and unpiling pulp.* (i) Piles of wet lap pulp (unless palletized) shall be stepped back one-half the width of the sheet for each 8 feet of pile height. Sheets of pulp shall be interlapped to make the pile secure. Pulp shall not be piled over pipelines to jeopardize pipes, or so as to cause overloading of floors, or to within 18 inches below sprinkler heads.

(ii) Piles of pulp shall not be undermined when being unpiled.

(iii) Floor capacities shall be clearly marked on all floors.

(4) *Chocking rolls.* (i) Where pulp or paper rolls are of uniform size, cribbing should be constructed to keep rolls from moving.

(ii) Where rolls are pyramided two or more high, chocks shall be installed between each roll on the floor and at every row. The face of each chock should be formed on a radius to conform to the average roll size in use. Where pulp and paper rolls are stored on smooth floors in processing areas, rubber chocks with wooden core shall be used.

(iii) When rolls are decked two or more high, the bottom rolls shall be chocked on each side to prevent shifting in either direction.

(iv) A supply of portable roll chocks should be available to be used where there are gaps in the bottom row of rolls. These should be as light as possible while still providing maximum blocking effect.

(e) *Preparing pulpwood*—(1) *Gang and slasher saws.* A guard shall be provided in front of all gang and slasher saws to protect workers from wood thrown by saws. A guard shall be placed over tail sprockets.

(2) *Slasher tables.* Saws shall be stopped and power switches shall be locked out and tagged whenever it is necessary for any person to be on the slasher table.

(3) *Slasher drive belts, pulleys, and shafts.* All belts, pulleys, and shafts shall be guarded in accordance with American National Standard B15.1—1955 (Reaffirmed 1958).

(4) *Runway to the jack ladder.* The runway from the pond or unloading dock to the table shall be protected with standard handrails and toeboards. Inclined portions shall have cleats or equivalent nonslip surfacing, in accordance with American National Standard A12.1—1967. Protective equipment shall be provided for persons working over water.

(5) *Guards below table.* Where not protected by the frame of the machine, the underside of the slasher saws shall be enclosed with guards.

(6) *Conveyors.* The requirements of paragraph (c)(15)(iv) of this section shall apply.

(7) *Circular saws (not slasher saws).* Saws shall be provided with standard guards, in accordance with American National Standard 01.1—1954 (Reaffirmed 1961).

(8) *Barker feed.* Each barker shall be equipped with a feed and turnover device which will make it unnecessary for the operator to hold a bolt or log by hand during the barking operation. Eye, ear, and head protection shall be provided for the operator, in accordance with paragraph (b)(2) of this section.

(9) *Guards.* A guard shall be installed around barkers to confine flying particles, in accordance with American National Standard B15.1—1953 (Reaffirmed 1958).

(10) *Stops.* All control devices shall be locked out and tagged when knives are being changed.

(11) *Speed governor.* Water wheels, when directly connected to marker disks or grinders, shall be provided with speed governors, if operated with gate wide open.

(12) *Continuous barking drums.* (i) When platforms or floors allow access to the sides of the drums, a standard railing shall be constructed around the drums. When two or more drums are arranged side by side, proper walkways with standard handrails shall be provided between each set, in accordance with paragraph (b)(3) of this section.

(ii) Sprockets and chains, gears, and trunnions shall have standard guards, in accordance with paragraph (b)(1) of this section.

(iii) Whenever it becomes necessary for a workman to go within a drum, the driving mechanism shall be locked and tagged, at the main disconnect switch, in accordance with paragraph (b)(4) of this section.

(13) *Intermittent barking drums.* In addition to motor switch, clutch, belt shifter, or other power disconnecting device, intermittent barking drums shall be equipped with a device which may be locked to prevent the drum from moving while it is being emptied or filled.

(14) *Hydraulic barkers.* Hydraulic barkers shall be enclosed with strong baffles at the inlet and the outlet. The operator shall be protected by at least fiveply laminated glass.

(15) *Splitter block.* The block upon or against which the wood is rested shall have a corrugated surface or other means provided that the wood will not slip. Wood to be split, and also the splitting block, shall be free of ice, snow, or chips. The operator shall be provided with eye and foot protection. A clear and unobstructed view shall be maintained between equipment and workers around the block and the workers' help area.

(16) *Power control.* Power for the operation of the splitter shall be controlled by a clutch or equivalent device.

(17) *Knot cleaners.* The operators of knot cleaners of the woodpecker type shall wear eye protection equipment. Knot cleaners of the woodpecker type

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should be enclosed to protect passersby from flying chips.

(18) *Chipper spout.* The feed system to the chipper spout shall be arranged in such a way that the operator does not stand in a direct line with the chipper spout. All chipper spouts shall be enclosed to a height of at least 42 inches from the floor or operator's platform. If practical, a mirror should be installed to enable the chipper feeder to see the chute. When other protection is not sufficient, the operator shall wear a safety belt line. The safety belt line shall be fastened in such a manner as to make it impossible for the operator to fall into the throat of the chipper. Ear protection equipment shall be worn by the operator and others in the immediate area if there is any possibility that the noise level may be harmful (see § 1910.-95).

(19) *Carriers for knives.* Carriers shall be provided and used for transportation of knives.

(f) *Rag and old paper preparation*—(1) *Ripping and trimming tools.* (i) Hand knives and scissors shall have blunt points, shall be fastened to the table with chain or thong, and shall not be carried on the person but placed safely in racks or sheaths when not in use.

(ii) Hand knives and sharpening steels shall be provided with guards at the junction of the handle and the blade.

(2) *Shredders, cutters, and dusters.* (i) Rotating heads or cylinders shall be completely enclosed except for an opening at the feed side sufficient to permit only the entry of stock. The enclosure shall extend over the top of the feed rolls. It shall be constructed either of solid material or with mesh or openings not exceeding one-half inch and substantial enough to contain flying particles and prevent accidental contact with moving parts. The enclosure shall be bolted or locked into place.

(ii) A smooth-pivoted idler roll resting on the stock or feed table shall be provided in front of feed rolls except when arrangements prevent the operator from standing closer than 36 inches to any part of the feed rolls.

(iii) Any manually fed cutter, shredder, or duster shall be provided with an idler roll as per subdivision (ii) of this subparagraph or the operator shall use special hand-feeding tools.

(iv) Hoods of cutters, shredders, and dusters shall have exhaust ventilation, in accordance with American National Standard Z9.2—1960.

(3) *Blowers.* (i) Blowers used for transporting rags shall be provided with feed hoppers having outer edges located not less than 48 inches from the fan.

(ii) The arrangement of the blower discharge outlets and work areas shall be such as to prevent material from falling on workers.

(4) *Conveyors.* Conveyors and conveyor drive belts and pulleys shall be fully enclosed or, if open and within 7 feet of the floor, shall be constructed and guarded in accordance with paragraph (c)(15) of this section and American National Standards B15.1—1953 (Reaffirmed 1958) and B20.1—1957.

(5) *Dust.* Measures for the control of dust shall be provided, in accordance with American National Standards Z33.1—1961, Z87.1—1968, and Z88.2—1969.

(6) *Rag cookers.* (i) When cleaning, inspection, or other work requires that persons enter rag cookers, all steam and water valves, or other control devices, shall be locked and tagged in the closed or "off" position. Blank flanging of pipelines is acceptable in place of closed and locked valves.

(ii) When cleaning, inspection, or other work requires that persons must enter the cooker, one person shall be stationed outside in a position to observe and assist in case of emergency, in accordance with paragraph (b)(5) of this section.

(iii) Supplied air respirators should be worn by persons when spreading material inside cookers.

(iv) Rag cookers shall be provided with safety valves in accordance with the ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels—1968, with Addenda.

(g) *Chemical processes of making pulp*—(1) *Sulfur burners.* (i) Sulfur-burner houses shall be safely and adequately ventilated, and every precaution shall be taken to guard against dust explosion hazards and fires, in accordance with American National Standards Z9.2—1960 and Z12.12—1968.

(ii) Nonsparking tools and equipment shall be used in handling dry sulfur.

(iii) Sulfur storage bins shall be kept free of sulfur dust accumulation, and buildings should be designed with explosion relief, in accordance with American National Standard Z9.2—1960.

(iv) Electrical equipment shall be of the explosion-proof type, in accordance with the requirements of §§ 1910.322 through 1910.328.

(v) Sulfur-melting equipment shall not be located in the burner room.

(2) *Protection for employees (acid plants).* (i) Gas masks, fitted with canisters containing absorbents for the particular acids, gases, or mists involved, shall be provided for employees of the acid department.

(ii) Supplied air respirators shall be strategically located for emergency and rescue use.

(iii) During inspection, repairs, or maintenance of acid towers, the workman shall be provided with eye protection, a supplied air respirator, a safety belt, and an attached lifeline. The line shall be extended to an attendant stationed outside the tower opening.

(3) *Acid tower structure.* Outside elevators shall be inspected daily during winter months when ice materially affects safety. Elevators, runways, stairs, etc., for the acid tower shall be inspected monthly for defects that may occur because of exposure to acid or corrosive gases.

(4) *Tanks (acid).* (i) Tanks shall be free of acid and shall be washed out with water, and fresh air shall be blown into them before allowing men to enter. Men entering the tanks shall be provided with supplied air respirators, lifebelts, and attached lifelines.

(ii) A man shall be stationed outside to summon assistance if necessary. All intake valves to a tank shall be blanked off or disconnected.

(5) *Clothing.* Where lime slaking takes place, employees shall be provided with rubber boots, rubber gloves, protective aprons, and eye protection. A deluge shower and eye fountain shall be provided to flush the skin and eyes to counteract lime or acid burns.

(6) *Lead burning.* When lead burning is being done within tanks, fresh air shall be forced into the tanks so that fresh air will reach the face of the worker first and the direction of the current will never be from the source of the fumes toward the face of the workers. Supplied air respirators (constant-flow type) shall be provided.

(7) *Hoops for acid storage tanks.* Hoops of tanks shall be made of rods rather than flat strips and shall be safely maintained by scheduled inspections.

(8) *Chip and sawdust bins.* Steam or compressed-air lances, or other facilities, shall be used for breaking down the arches caused by jamming in chip lofts. No worker shall be permitted to enter a bin unless provided with a safety belt, with line attached, and an attendant stationed at the bin to summon assistance.

(9) *Exits (digester building).* At least one unobstructed exit at each end of the room shall be provided on each floor of a digester building.

(10) *Gas masks (digester building).* Gas masks shall be available. These masks shall furnish adequate protection against sulfurous acid and chlorine gases, and shall be inspected and tested at frequent intervals, not to exceed 1 month, in accordance with American National Standards Z87.1—1968, and Z88.2—1969.

(11) *Elevators.* (i) Elevators shall be constructed in accordance with American National Standard A17.1–1965.

(ii) Elevators shall be equipped with gas masks for the maximum number of passengers.

(iii) Elevators shall be equipped with an alarm system to advise of failure.

(12) *Blowoff valves and piping.* (i) The blowoff valve of a digester shall be arranged so as to be operated from another room, remote from safety valves.

(ii) Through bolts instead of cap bolts shall be used on all digester pipings.

(iii) Heavy duty pipe, valves, and fittings shall be used between the digester and blow pit. These valves, fittings, and pipes shall be inspected at least semiannually to determine the degree of deterioration and should be replaced when necessary.

(iv) Digester blow valves shall be pinned or locked in closed position throughout the entire cooking period.

(13) *Blow pits and blow tanks.* (i) Blow-pit openings shall be preferably on the side of the pit instead of on top. When located on top, openings shall be as small as possible and shall be provided with railings, in accordance with American National Standard A12.1—1967.

(ii) A specially constructed ladder shall be used for access to blow pits, to be constructed so that the door of the blow pit cannot be closed when the ladder is in place; other means shall be provided to prevent the closing of the pit door when anyone is in the pit.

(iii) A signaling device shall be installed in the digester and blow-pit rooms and chip bins to be operated as a warning before and while digesters are being blown.

(iv) Blow-pit hoops shall be maintained in a safe condition.

(14) *Blowing digester.* (i) Blowoff valves shall be opened slowly.

(ii) After the digester has started to be blown, the blowoff valve shall be left open, and the hand plate shall not be removed until the digester cook signals the blow-pit man that the blow is completed. Whenever it becomes necessary to remove the hand plate to clear stock, operators shall wear eye protection equipment and protective clothing to guard against burns from hot stock.

(iii) Means shall be provided whereby the digester cook shall signal the man in the chip bin before starting to load the digester.

(iv) When a digester is to be blown, or is blowing, red warning lights should be lighted, and these warning lights should be located in such a manner as to alert all personnel to leave whose duties do not require them to be in the vicinity of the digester during this operation.

(15) *Inspecting and repairing digester.* (i) Valves controlling lines leading into a digester shall be locked out and tagged. The keys to the locks shall be in the possession of a person or persons doing the inspecting or making repairs.

(ii) Fresh air shall be blown into the digester constantly while workmen are inside. Supplied air respirators shall be available in the event the fresh air supply fails or is inadequate.

(iii) No inspector shall enter a digester unless a lifeline is securely fastened to his body by means of a safety belt and at least one other experienced employee is stationed outside the digester to handle the line and to summon assistance. All ladders and lifelines shall be inspected before each use.

(iv) The concentration of lead dust in the air shall not exceed the limits specified in § 1910.93.

(v) All employees entering digesters for inspection or repair work shall be provided with protective headgear. Eye protection and dust masks shall be provided to workmen while the old brick lining is being removed, in accordance with American National Standards, Z87.1—1968, Z88.2—1969, and Z89.1—1969.

(vi) Sanitary facilities shall be provided as specified in American National Standard Z4.1—1968.

(16) *Pressure tanks-accumulators (acid).* (i) Safety regulations governing inspection and repairing of pressure tanks-accumulators (acid) shall be the same as those specified in subparagraph (15) of this paragraph.

(ii) The pressure tanks-accumulators shall be inspected twice annually. (See the ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels—1968, with Addenda.)

(17) *Pressure vessels (safety devices).* (i) A safety valve shall be installed in a separate line from each pressure vessel; no hand valve shall be installed between this safety valve and the pressure vessel. Safety valves shall be checked between each cook to be sure they have not become plugged or corroded to the point of being inoperative. (See the ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels—1968, with Addenda.)

(ii) All safety devices shall conform to Paragraph U–2 in the ASME Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels—1968, with Addenda.

(18) *Miscellaneous.* Insofar as the processes of the sulfate and soda operations are similar to those of the sulfite processes, the standard of subparagraphs (1) through (17) of this paragraph shall apply.

(i) Quick operating showers, bubblers, etc., shall be available for emergency use in case of caustic soda burns.

(ii) Rotary tenders, smelter operators, and those cleaning smelt spouts shall be provided with eye protection equipment (fitted with lenses that filter out the harmful rays emanating from the light source) when actively engaged in their duties, in accordance with American National Standard Z87.1—1968.

(iii) Heavy-duty pipe, valves, and fittings shall be used between digester and blow pit. These shall be inspected at least semiannually to determine the degree of deterioration and repaired or replaced when necessary, in accordance with American National Standards B31.1—1955, B31.1a—1963, B31.1.0—1967, and B31.2—1968.

(iv) Smelt-dissolving tanks shall be covered and the cover kept closed, except when samples are being taken.

(v) Smelt tanks shall be provided with vent stacks and explosion doors, in accordance with American National Standard Z9.1—1951.

(19) *Blow lines.* (i) Each digester should have two independent "gas-off" lines and a reducing valve in the high-pressure steam line with a safety valve between the digester and the reducing valve. Two gas-off lines are recommended so that if one plugs with pulp, the other may be used, and the hazard of unplugging with the digester under pressure overcome. With the installation of a reducing valve and a safety valve, it is improbable that pressure will exceed the maximum allowable working pressure of the digester.

(ii) Where the blow-off lines from several digesters lead into one pipe, the handles of all cocks should be set uniformly, or some equivalent arrangement should be provided so that a man can see at a glance whether all cocks are set right or not. If valves instead of cocks are provided, a type with a rising spindle should be used.

(iii) When blow lines from more than one digester lead into one pipe, the cock or valve of the blow line from the tank being inspected or repaired shall be locked or tagged out, or the line shall be disconnected and blocked off.

(20) *Furnace room.* Exhaust ventilation shall be provided where niter cake is fed into a rotary furnace and shall be so designed and maintained as to keep the concentration of hydrogen sulfide gas below the parts per million listed in § 1910.93.

(21) *Inspection and repair of tanks.* All piping leading to tanks shall be blanked off or valved and locked or tagged. Any lines to sewers shall be blanked off to protect workers from air contaminants.

(22) *Welding.* Welding on blow tanks, accumulator tanks, or any other vessels where turpentine vapor or other combustible vapor could gather shall be done only after the vessel has been completely purged of fumes. Fresh air shall be supplied workers inside of vessels.

(23) *Turpentine systems and storage tanks.* Nonsparking tools and ground hose shall be used when pumping out the tank. The tank shall be surrounded by a berm or moat.

(h) *Bleaching*—(1) *Bleaching engines.* Bleaching engines, except the Bellmer type, shall be completely covered on the top, with the exception of one small opening large enough to allow filling but too small to admit a man. This opening should be covered by a door and guarded with standard guardrail and toeboards. Platforms leading from one engine to another shall have standard guardrails, in accordance with American National Standard A12.1—1967.

(2) *Bleach mixing rooms.* (i) The room in which the bleach powder is mixed shall be provided with adequate exhaust ventilation, located at the floor level, in accordance with American National Standard Z9.1—1951.

(ii) Chlorine gas shall be carried away from the work place and breathing area by an exhaust system. The gas shall be rendered neutral or harmless before being discharged into the atmosphere. The requirements of American National Standard Z9.2—1960 shall apply to this subdivision.

(iii) Gas masks shall be provided for emergency use, in accordance with American National Standards K13.1—1967 and Z88.2—1969.

(iv) For emergency and rescue work, independent self-contained oxygen masks or supplied air equipment shall be provided. (See American National Standards Z88.2—1969.)

(3) *Liquid chlorine.* (i) Tanks of liquid chlorine shall be stored in an adequately ventilated unoccupied room, where their possible leakage cannot affect workers.

(ii) Gas masks capable of absorbing chlorine shall be supplied, conveniently placed, and regularly inspected, and workers who may be exposed to chlorine gas shall be instructed in their use.

(iii) For emergency and rescue work, independent self-contained oxygen-type

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masks or supplied air equipment shall be provided.

(iv) At least two exits, remote from each other, shall be provided for all rooms in which chlorine is stored.

(v) Spur tracks upon which tank cars containing chlorine and caustic are spotted and connected to pipelines shall be protected by means of a derail in front of the cars. Blue flag policy should be invoked, in accordance with paragraph (c)(9) of this section.

(vi) All chlorine, caustic, and acid lines shall be marked for positive identification, in accordance with American National Standard A13.1—1967.

(4) *Bagged or drummed chemicals.* Bagged or drummed chemicals require efficient handling to prevent damage and spillage. Certain oxidizing chemicals used in bleaching pulp and also in some sanitizing work require added precautions for safety in storage and handling. In storage, these chemicals must be isolated from combustible materials and other chemicals with which they will react, such as acids. They must also be kept dry, clean and uncontaminated.

(i) *Mechanical pulp process*—(1) *Pulp grinders.* (i) Water wheels directly connected to pulp grinders shall be provided with speed governors limiting the peripheral speed of the grinder to that recommended by the manufacturer.

(ii) Doors of pocket grinders shall be arranged so as to keep them from closing accidentally.

(2) *Butting saws.* Hood guards shall be provided on butting saws, in accordance with American National Standard O1.1—1954 (reaffirmed 1961).

(3) *Floors and platforms.* The requirements of paragraph (b)(3) of this section shall apply.

(4) *Personal protection.* Persons exposed to falling material shall wear eye, head, foot, and shin protection equipment, in accordance with American National Standards Z87.1—1968, Z88.2—1969, Z89.1—1969, and Z41.1—1967.

(j) *Stock preparation* — (1) *Pulp shredders.* (i) Cutting heads shall be completely enclosed except for an opening at the feed side sufficient to permit only entry of stock. The enclosure shall be bolted or locked in place. The enclosure shall be of solid material or with mesh or other openings not exceeding one-half inch.

(ii) Either a slanting feed table with its outer edge not less than 36 inches from the cutting head or an automatic feeding device shall be provided.

(iii) Repairs for cleaning of blockage shall be done only when the shredder is shutdown and control devices locked.

(iv) All power-driven mechanisms shall be guarded in accordance with paragraph (b)(1) of this section.

(2) *Pulp conveyors.* Pulp conveyors and conveyor drive belts and pulleys shall be fully enclosed, or if open and within 7 feet of the floor, shall be constructed and guarded in accordance with American National Standard B20.1—1957.

(3) *Floors, steps, and platforms.* The requirements of paragraph (b)(3) of this section shall apply.

(4) *Beaters.* (i) Beater rolls shall be provided with covers.

(ii) Guard rails 42 inches high shall be provided around beaters where tub tops are less than 42 inches from the floor, in accordance with paragraph (b)(3) of this section and American National Standard A12.1—1967.

(iii) When cleaning, inspecting, or other work requires that persons enter the beaters, all control devices shall be locked or tagged out, in accordance with paragraph (b)(4) of this section.

(iv) When beaters are fed from floor above, the chute opening, if less than 42 inches from the floor, shall be provided with a complete rail or other enclosure. Openings for manual feeding shall be sufficient only for entry of stock and shall be provided with at least two permanently secured crossrails, in accordance American National Standard A12.1—1967.

(v) When beaters are fed manually from the floor above, conveniently located emergency stop devices should be provided at the top level.

(vi) Floors around beaters shall be provided with sufficient drainage to remove wastes.

(5) *Pulpers.* (i) All pulpers having the top or any other opening of vessel less than 42 inches from the floor or work platform shall have such openings guarded by railed or other enclosures. For manual charging, openings shall be sufficient only to permit the entry of stock and shall be provided with at least two permanently secured crossrails, in accordance with American National Standard A12.1—1967.

(ii) When cleaning, inspecting, or other work requires that persons enter the pulpers, they shall be equipped with safety belt and lifeline, and one person shall be stationed outside at a position to observe and assist in case of emergency.

(iii) When cleaning, inspecting, or other work requires that persons enter pulpers, all steam, water, or other control devices shall be locked or tagged out. Blank flanging and tagging of pipe lines is acceptable in place of closed and locked or tagged valves. Blank flanging of steam and water lines shall be acceptable in place of valve locks.

(iv) All power mechanisms shall be guarded in accordance with American National Standard B15.1—1953 (reaffirmed 1958).

(6) *Stock chests.* (i) All control devices shall be locked or tagged out when persons enter stock chests, in accordance with paragraph (b)(4) of this section.

(ii) All power mechanisms shall be guarded in accordance with paragraph (b)(1) of this section.

(iii) When cleaning, inspecting, or other work requires that persons enter stock chests, they shall be provided with a low-voltage extension light.

(k) *Machine room*—(1) *Emergency stops.* Paper machines shall be equipped with devices that will stop the machine quickly in an emergency. The devices shall consist of push buttons for electric motive power (or electrically operated engine stops), pull cords connected directly to the prime mover, control clutches, or other devices, interlocked with adequate braking action. The devices shall be tested periodically by making use of them when stopping the machine and shall be so located that any person working on the machine can quickly disconnect the machine from the source of power in case of emergency.

(2) *Drives.* (i) All drives, pulleys, couplings, and shafts on equipment requiring service while operating shall have standard guards in accordance with paragraph (b)(1) of this section.

(ii) All drives shall be provided with lockout devices at the power switch which interrupts the flow of current to the unit.

(iii) All ends of rotating shafts including dryer drum shafts shall be completely guarded.

(iv) All accessible disengaged doctor blades should be covered.

(v) All exposed shafts shall be guarded. Crossovers shall be provided.

(vi) Oil cups and grease fittings shall be placed in a safe area remote from nip and heat hazards.

(3) *Protective equipment.* Face shields, aprons, and rubber gloves shall be provided for workmen handling acids in accordance with paragraphs (b)(2) and (d)(1) of this section.

(4) *Walkways.* Steps and footwalks along the fourdrinier and press section shall have nonslip surfacing and be complete with standard handrails, when practical, in accordance with paragraph (b)(3) of this section.

(5) *Floor openings.* All flush floor openings in the bottom of the wire pit should be guarded with a barrier-type guard.

(6) *Steps.* Steps of uniform rise and tread with nonslip surfaces shall be provided at each press in accordance with American National Standard A12.1—1967.

(7) *Plank walkways.* A removable plank shall be provided along each press, with standard guardrails installed. The planks shall have nonslip surfaces in accordance with paragraph (b)(3) of this section.

(8) *Dryer lubrication.* If a gear bearing must be oiled while the machine is in operation, an automatic oiling device to protect the oiler shall be provided, or oil cups and grease fittings shall be placed along the walkways out of reach of hot pipes and dryer gears.

(9) *Levers.* All levers carrying weights shall be constructed so that weights will not slip or fall off.

(10) *First dryer.* Either a permanent guardrail or apron guard or both shall be installed in front of the first dryer in each section in accordance with paragraph (b)(1) of this section.

(11) *Steam and hot-water pipes.* All exposed steam and hot-water pipes within 7 feet of the floor or working platform or within 15 inches measured horizontally from stairways, ramps, or fixed ladders shall be covered with an insulating material, or guarded in such manner as to prevent contact.

(12) *Dryer gears.* Dryer gears shall be guarded excepting where the oilers' walkway is removed out of reach of the

gears' nips and spokes and hot pipes in accordance with American National Standard B15.1—1953 (reaffirmed 1958).

(13) *Broke hole.* (i) A guardrail shall be provided at broke holes in accordance with American National Standard A12.1—1967.

(ii) Where pulpers are located directly below the broke hole on a paper machine and where the broke hole opening is large enough to permit a worker to fall through, any employee pushing broke down the hole shall wear a safety belt attached to a safety belt line. The safety belt line shall be fastened in such a manner that it is impossible for the person to fall into the pulper.

(iii) An alarm bell or a flashing light shall be actuated before dropping material through the broke hole.

(14) *Feeder belt.* A feeder belt or other effective device shall be provided for starting paper through the calendar stack.

(15) *Steps.* Steps or ladders of uniform rise and tread with nonslip surfaces shall be provided at each calendar stack. Handrails and hand grips shall be provided at each calendar stack in accordance with American National Standard A12.1—1967.

(16) *Grounding.* All calendar stacks and spreader bars shall be grounded as protection against shock induced by static electricity in accordance with the requirements of § 1910.314.

(17) *Sole plates.* All exposed sole plates between dryers, calenders, reels, and rewinders shall have a nonskid surface.

(18) *Nip points.* The hazard of the nip points on all calender rolls shall be eliminated or minimized by means of an effective barrier device, or by feeding the paper into the rolls by means of a rope carrier, air jets, or hand feeding devices. Nips where paper is not being fed into the calender should be protected by barriers. Adequate nip warning signs should be used at all nip points that cannot be guarded physically.

(19) *Platforms.* (i) A nonslip walkway with standard handrail should be provided on both sides of the stacks, in accordance with the American National Standard A12.1—1967.

(ii) A nonslip platform should also be provided at the top of the calender stack if access to that area is required for changing rolls.

(20) *Scrapers.* Alloy steel scrapers with pullthrough blades approximately 3 by 5 inches in size shall be used to remove "scabs" from calender rolls.

(21) *Illumination.* Permanent lighting shall be installed in all areas where employees are required to make machine adjustments and sheet transfers in accordance with the American National Standard A11.1—1965 (R 1970).

(22) *Control panels.* Floor stand panels should be protected from being hit by moving equipment. All control panel handles and buttons shall be protected from accidental contact.

(23) *Space between reels.* On stack reels, a clearance of at least 8 inches between the reels of paper shall be maintained.

(24) *Lifting reels.* (i) The reels shall stop rotating before being lifted from bearings.

(ii) All lifting equipment (clamps, cables, and slings) shall be maintained in a safe condition and inspected regularly.

(iii) Reel shafts with square block ends shall be guarded.

(25) *Feeder belts.* Feeder belts, carrier ropes, air carriage, or other equally effective means shall be provided for starting paper into the nip or drum-type reels.

(26) *Inrunning nip.* (i) Where the nipping points of all drum winders and rewinders is on the operator's side, it shall be guarded by barrier guards interlocked with the drive mechanism.

(ii) A zero speed switch should be installed to prevent the guard from being raised while the roll is turning.

(27) *Core collars.* Set screws for securing core collars to winding and unwinding shafts shall not protrude above the face of the collar. All edges of the collar with which an operator's hand comes in contact shall be beveled to remove all sharp corners.

(28) *Slitter knives.* Slitter knives shall be guarded so as to prevent accidental contact. Carriers shall be provided and used for transportation of slitter knives.

(29) *Winder shaft.* All shafts should be equipped with a winder collar guide. The winder shall have a guide rail to align the shaft for easy entrance into the opened rewind shaft bearing housings. If the winder is large and the rewind shafts are too heavy for manual insertion, powered rewind shaft injectors should be employed.

(30) *Core shaft.* When the core shaft weighs in excess of the safe standard, a mechanical device such as a dolly shall be provided for carrying all or part of the weight when it is being removed from the set of paper and placed in the dressing brackets on the winder. In the event that the force required to extract the shaft from the cores is excessive, even though the weight of the shaft is being supported, a powered shaft puller should be employed to relieve the operator of physical strain.

(31) *Winder area.* A nonskid surface shall be provided in the front vicinity of the winder to prevent accidental slipping.

(32) *Radiation.* Special standards regarding the use of radiation equipment shall be posted and followed as required by § 1910.96.

(l) *Finishing room*—(1) *Cleaning rolls.* Rolls shall be cleaned only on the outrunning side.

(2) *Emergency stops.* Electrically or manually operated quick power disconnecting devices, interlocked with braking action, shall be provided on all operating sides of the machine within easy reach of all employees. These devices shall be tested by making use of them when stopping the machine.

(3) *Core collars.* The requirements of paragraph (k)(27) of this section and the American National Standard B15.1—1953 (reaffirmed 1958) shall apply.

(4) *Elevators.* These shall be accordance with American National Standard A17.1—1965.

(5) *Control panels.* The requirements of paragraph (k)(22) of this section shall apply.

(6) *Guillotine-type cutters.* (i) Each guillotine-type cutter shall be equipped with a control which requires the operator and his helper, if any, to use both hands to engage the clutch.

(ii) Each guillotine-type cutter shall be equipped with a nonrepeat device.

(iii) Carriers shall be provided and used for transportation of guillotine-type cutter knives.

(7) *Rotary cutter.* (i) On single-knife machines a guard shall be provided at a point of contact to the knife.

(ii) On duplex cutters the protection required for single-knife machines shall be provided for the first knife, and a hood shall be provided for the second knife.

(iii) Safe access shall be provided to the knives of a rotary cutter by means of catwalks with nonslip surfaces, railings, and toeboards in accordance with paragraph (b)(3) of this section.

(iv) A guard shall be provided for the spreader or squeeze roll at the nip side on sheet cutters.

(v) Electrically or manually operated quick power disconnecting devices with adequate braking action shall be provided on all operating sides of the machine within easy reach of all operators.

(vi) The outside slitters shall be guarded.

(8) *Platers.* (i) A guard shall be arranged across the face of the rolls to serve as a warning that the operator's hand is approaching the danger zone.

(ii) A quick power disconnecting device shall be installed on each machine within easy reach of the operator.

(9) *Finishing room rewinders.* (i) The nipping points of all drum winders and rewinders located on the operator's side shall be guarded by either automatic or manually operated barrier guards of sufficient height to protect fully anyone working around them. The barrier guard shall be interlocked with the drive mechanism to prevent operating above jog speed without the guard in place.

A zero speed switch should be installed to prevent the guard from being raised while the roll is turning.

(ii) A nonskid surface shall be provided in front of the rewinder to prevent an employee from slipping in accordance with paragraph (b)(3) of this section.

(iii) Mechanical lifting devices shall be provided for placing and removing rolls from the machine.

(10) *Control panels.* The requirements of paragraph (k)(22) of this section shall apply.

(11) *Roll-type embosser.* The nipping point located on the operator's side shall be guarded by either automatic or manually operated barrier guards interlocked with the drive.

(12) *Sorting and counting tables.* (i) Tables shall be smooth and free from splinters, with edges and corners rounded.

(ii) Paddles shall be smooth and free from splinters.

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(13) *Roll splitters.* The nip point and cutter knife shall be guarded by either automatic or manually operated barrier guards.

(m) *Materials handling*—(1) *Hand trucks.* No person shall be permitted to ride on a powered hand truck unless it is so designed by the manufacturer. A limit switch shall be on operating handle—30 degrees each way from a 45-degree angle up and down.

(2) *Power trucks.* Power trucks shall comply with American National Standard B56.1—1969. Adequate ventilation shall be provided and the trucks properly maintained, so that dangerous concentrations of carbon monoxide cannot be generated, especially in warehouses or other isolated areas of a plant.

(3) *Cartons.* The carton-stitching machine shall be guarded to prevent the operator from coming in contact with the stitching head.

(4) *Banding of skids, cartons, cases, etc.* Banders and helpers shall wear eye protection equipment in accordance with paragraph (b)(2) of this section.

(5) *Unloading cars or trucks.* (i) Where steel bands or wires are used in boxcars or trucks, all loaders and helpers shall wear eye protection in accordance with paragraph (b)(2) of this section.

(ii) The construction and use of bridge or dock plates shall conform to the requirements of American National Standard B56.1—1969.

(iii) Flag signals, derails, or other protective devices shall be used to protect men during switching operations. The blue flag policy shall be invoked according to paragraph (c)(9)(i) of this section.

(n) *Effective dates.* (1) The provisions of this § 1910.261 shall become effective on August 27, 1971, except as provided in the remaining subparagraphs of this paragraph.

(2) The following provisions shall become effective on February 15, 1972:

§ 1910.261 (a)(3), (b)(6), (f)(2)(iv), (f)(5), (g)(1)(iv), (g)(11)(i), (j)(5)(iv), (k)(12), (k)(32), and (m)(2).

(3) Notwithstanding anything in subparagraph (1), (2), or (4) of this paragraph, any provision in any other paragraph of this section which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(4) Notwithstanding subparagraph (1) of this paragraph, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2(a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this § 1910.261 which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.262 Textiles.

(a) *Application requirements*—(1) *Application.* The requirements of this subpart for textile safety apply to the design, installation, processes, operation, and maintenance of textile machinery, equipment, and other plant facilities in all plants engaged in the manufacture and processing of textiles, except those processes used exclusively in the manufacture of synthetic fibers.

(2) *Standards incorporated by reference.* Standards covering issues of occupational safety and health which are of general application without regard to any specific industry are incorporated by reference in paragraphs of this section and made applicable to textiles. All such standards shall be construed according to the rules of construction set out in § 1910.5.

(b) *Definitions applicable to this section*—(1) *Belt shifter.* A "belt shifter" is a device for mechanically shifting a belt from one pulley to another.

(2) *Belt shifter lock.* A "belt shifter lock" is a device for positively locking the belt shifter in position while the machine is stopped and the belt is idling on the loose pulleys.

(3) *Calender.* A "calender" in essence consists of a set of heavy rollers mounted on vertical side frames and arranged to pass cloth between them. Calenders may have two to ten rollers, or bowls, some of which can be heated.

(4) *Embossing calender.* An "embossing calender" is a calender with two or more rolls, one of which is engraved for producing figured effects of various kinds on a fabric.

(5) *Cans (drying).* Drying "cans" are hollow cylindrical drums mounted in a frame so they can rotate. They are heated with steam and are used to dry fabrics or yarn as it passes around the perimeter of the can.

(6) *Carbonizing.* "Carbonizing" means the removing of vegetable matter such as burns, straws, etc., from wool by treatment with acid, followed by heat. The undesired matter is reduced to a carbon-like form which may be removed by dusting or shaking.

(7) *Card.* A "card" machine consists of cylinders of various sizes—and in certain cases flats—covered with card clothing and set in relation to each other so that fibers in staple form may be separated into individual relationship. The speed of the cylinders and their direction of rotation varies. The finished product is delivered as a sliver. Cards of different types are: The revolving flat card, the roller-and-clearer card, etc.

(8) *Card clothing.* "Card clothing" is the material with which many of the surfaces of a card are covered; e.g., the cylinder, doffer, etc. It consists of a thick foundation material, usually made of textile fabrics, through which are pressed many fine, closely spaced, specially bent wires.

(9) *Comber.* A "comber" is a machine for combing fibers of cotton, wool, etc. The essential parts are a device for feeding forward a fringe of fibers at regular intervals and an arrangement of combs or pins which, at the right time, pass through the fringe. All tangled fibers, short fibers, and neps are removed and the long fibers are laid parallel.

(10) *Combing machinery.* "Combing machinery" is a general classification, including combers, sliver lap machines, ribbon lap machines, and gill boxes, but excluding cards.

(11) *Cutter (rotary staple).* A rotary staple "cutter" is a machine consisting of one or more rotary blades used for the purpose of cutting textile fibers into staple lengths.

(12) *Exposed to contact.* "Exposed to contact" shall mean that the location of an object, material, nip point, or point of operation is such that a person is liable to come in contact with it in his normal course of employment.

(13) *Garnett machine.* A "Garnett machine" means any of a number of types of machines for opening hard twisted waste of wool, cotton, silk, etc. Essentially, such machines consist of a lickerin; one or more cylinders, each having a complement worker and stripper rolls; and a fancy roll and doffer. The action of such machines is somewhat like that of a wool card, but it is much more severe in that the various rolls are covered with garnett wire instead of card clothing.

(14) *Gill box.* A "gill box" is a machine used in the worsted system of manufacturing yarns. Its function is to arrange the fibers in parallel order. Essentially, it consists of a pair of feed rolls and a series of followers where the followers move at a faster surface speed and perform a combing action.

(15) *Interlock.* An "interlock" is a device that operates to prevent the operation of machine while the cover or door of the machine is open or unlocked, and which will also hold the cover or door closed and locked while the machine is in motion.

(16) *Jig (dye).* A dye "jig" is a machine for dyeing piece goods. The cloth, at full width, passes from a roller through the dye liquor in an open vat and is then wound on another roller. The operation is repeated until the desired shade is obtained.

(17) *Kier.* A "kier" is a large metal vat, usually a pressure type, in which fabrics may be boiled out, bleached, etc.

(18) *Lapper (ribbon).* A ribbon "lapper" is a machine used to prepare laps for feeding a cotton comb; its purpose is to provide a uniform lap in which the fibers have been straightened as much as possible.

(19) *Lapper (Sliver).* A sliver "lapper" is a machine in which a number of parallel card slivers are drafted slightly, laid side by side in a compact sheet, and wound into a cylindrical package.

(20) *Loom.* A "loom" is a machine for effecting the interlacing of two series of yarns crossing one another at right angles. The warp yarns are wound on a warp beam and pass through heddles and reed. The filling is shot across in a shuttle and settled in place by reed and lay, and the fabric is wound on a cloth beam.

(21) *Mangle (starch).* A "starch mangle" is a mangle that is used specifically for starching cotton goods. It commonly consists of two large rolls and a shallow open vat with several immersion rolls. The vat contains the starch solution.

(22) *Mangle (water).* A "water mangle" is a calendar having two or more rolls used for squeezing water from fabrics before drying. Water mangles also may be used in other ways during the finishing of various fabrics.

(23) *Mule.* A "mule" is a type of spinning frame having a head stock and a carriage as its two main sections. The head stock is stationary. The carriage is movable and it carries the spindles which draft and spin the roving into the yarn. The carriage extends over the whole width of the machine and moves slowly toward and away from the head stock during the spinning operation.

(24) *Nip.* "Nip" shall mean the point of contact between two in-running rolls.

(25) *Openers and pickers.* "Openers and pickers" means a general classification which includes breaker pickers, intermediate pickers, finisher pickers, single process pickers, multiple process pickers, willow machines, card and picker waste cleaners, thread extractors, shredding machines, roving waste openers, shoddy pickers, bale breakers, feeders, vertical openers, lattice cleaners, horizontal cleaners, and any similar machinery equipped with either cylinders, screen section, calender section, rolls, or beaters used for the preparation of stock for further processing.

(26) *Paddler.* A "paddler" consists of a trough for a solution and two or more squeeze rolls between which cloth passes after being passed through a mordant or dye bath.

(27) *Point of operation.* "Point of operation" shall mean that part of the machine where the work of cutting, shearing, squeezing, drawing, or manipulating the stock in any other way is done.

(28) *Printing machine (roller type).* A "roller printing machine" is a machine consisting of a large central cylinder, or pressure bowl, around the lower part of the perimeter of which is placed a series of engraved color rollers (each having a color trough), a furnisher roller, doctor blades, etc. The machine is used for printing fabrics.

(29) *Ranges (bleaching continuous).* "Continuous bleaching ranges" are of several types and may be made for cloth in rope or open-width form. The goods, after wetting out, pass through a squeeze roll into a saturator containing a solution of caustic soda and then to an enclosed J-box. A V-shaped arrangement is attached to the front part of the J-box for uniform and rapid saturation of the cloth with steam before it is packed down in the J-box. The cloth, in a single strand rope form, passes over a guide roll down the first arm of the "V" and up the second. Steam is injected into the "V" at the upper end of the second arm so that the cloth is rapidly saturated with steam at this point. The J-box capacity is such that cloth will remain hot for a sufficient time to complete the scouring action. It then passes a series of washers with a squeeze roll in between. The cloth then passes through a second set of saturator, J-box, and washer, where it is treated with the peroxide solution. By slight modification of the form of the unit, the same process can be applied to open-width cloth.

(30) *Range (mercerizing).* A "mercerizing range" consists generally of a 3-bowl mangle, a tenter frame, and a number of boxes for washing and scouring. The whole setup is in a straight line and all parts operate continuously. The combination is used to saturate the cloth with sodium hydroxide, stretch it while saturated, and washing out most of the caustic before releasing tension.

(31) *Sanforizing machine.* A "sanforizing machine" is a machine consisting of a large steam-heated cylinder, an endless, thick, woolen felt blanket which is in close contact with the cylinder for most of its perimeter, and an electrically heated shoe which presses the cloth against the blanket while the latter is in a stretched condition as it curves around feed-in roll.

(32) *Shearing machine.* A "shearing machine" is a machine used in shearing cloth. Cutting action is provided by a number of steel blades spirally mounted on a roller. The roller rotates in close contact with a fixed ledger blade. There may be from one to six such rollers on a machine.

(33) *Singeing machine.* A "singeing machine" is a machine used particularly with cotton; it comprises of a heated roller, plate, or an open gas flame. The material is rapidly passed over the roller or the plate or through the open gas flame to remove, fuzz or hairiness on yarn or cloth by burning.

(34) *Slasher.* A "slasher" is a machine used for applying a size mixture to warp yarns. Essentially, it consists of a stand for holding section beams, a size box, one or more cylindrical dryers or an enclosed hot air dryer, and a beaming end for finding the yarn on the loom beams.

(35) *Solvent (industrial organic).* "Industrial organic solvent" means any organic volatile liquid or compound, or any combination of these substances which are used to dissolve or suspend a nonvolatile or slightly volatile substance for industrial utilization. It shall also apply to such substances when used as detergents or cleansing agents. It shall not apply to petroleum products when such products are used as fuel.

(36) *Tenter frame.* A "tenter frame" is a machine for drying cloth under tension. It essentially consists of a pair of endless traveling chains fitted with clips of fine pins and carried on tracks. The cloth is firmly held at the selvages by the two chains which diverge as they move forward so that the cloth is brought to the desired width.

(37) *Warper.* A "warper" is any machine for preparing and arranging the yarns intended for the warp of a fabric, specifically, a beam warper.

(c) *General safety requirements*—(1) *Means of stopping machines.* Every textile machine shall be provided with individual mechanical or electrical means for stopping such machines. On machines driven by belts and shafting, a locking-type shifter or an equivalent positive device shall be used. On operations where injury to the operator might result if motors were to restart after power failures, provision shall be made to prevent machines from automatically restarting upon restoration of power.

(2) *Handles.* Stopping and starting handles shall be designed to the proper length to prevent the worker's hand or fingers from striking against any revolving part, gear guard, or any other part of the machine.

(3) *Machine guarding.* Mechanical power-transmission equipment shall be guarded in conformity with § 1910.219.

(4) *Housekeeping.* Aisles and working spaces shall be kept in good order, clean and free of obstructions in accordance with requirements of § 1910.141.

(5) *Inspection and maintenance.* All guards and other safety devices, including starting and stopping devices, shall be properly maintained.

(6) *Lighting.* Lighting shall conform to American National Standard A11.1—1965.

(7) *Identification of piping systems.* Identification of piping systems shall conform to American National Standard A13.1—1956.

(8) *Identification of physical hazards.* Identification of physical hazards shall be in accordance with the requirements of § 1910.144.

(9) *Steam pipes.* All pipes carrying steam or hot water for process or servicing machinery, when exposed to contact and located within seven feet of the floor or working platform shall be covered with a heat-insulating material, or otherwise properly guarded.

(d) *Openers and pickers*—(1) *Beater guards.* When any opening or picker machinery is equipped with a beater, such beater shall be provided with metal covers which will prevent contact with the beater. Such covers shall be provided with an interlock which will prevent the cover from being raised while the machine is in motion and prevent the operation of the machine while the cover is open.

(2) *Cleanout holes.* Cleanout holes within reaching distance of the fan or picker beater shall have their covers securely fastened and they shall not be opened while the machine is in motion.

(3) *Feed rolls.* The feed rolls on all opening and picking machinery shall be covered with a guard designed to prevent the operator from reaching the nip while the machinery is in operation.

(4) *Removal of foreign ferrous material.* All textile opener lines shall be equipped with magnetic separators, tramp iron separators, or other means for the removal of foreign ferrous material.

(e) *Cotton cards*—(1) *Enclosures.* Cylinder and lickerins shall be completely protected and the doffers should be enclosed.

(2) *Enclosure fastenings.* The enclosures or covers shall be kept in place while the machine is in operation, except when stripping or grinding.

(3) *Stripping rolls.* On operations calling for flat strippings which are allowed to fall on the doffer cover, where such strippings are removed by hand, the

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doffer cover shall be kept closed and securely fastened to prevent the opening of the cover while the machine is in operation. When it becomes necessary to clean the cards while they are in motion, a long-handled brush or dust mop shall be used.

(f) *Garnett machines*—(1) *Lickerin.* Garnett lickerins shall be enclosed.

(2) *Fancy rolls.* Garnett fancy rolls shall be enclosed by covers. These shall be installed in a way that keeps worker rolls reasonably accessible for removal or adjustment.

(3) *Underside of machine.* The underside of the garnett shall be guarded by a screen mesh or other form of enclosure to prevent access.

(g) *Spinning mules*—A substantial fender of metal or hardwood shall be installed in front of the carriage wheels, the fender to extend to within one-fourth inch of the rail.

(h) *Slashers*—(1) *Cylinder dryers*—(i) *Reducing valves, safety valves, and pressure gages.* Reducing valves, safety valves, and pressure gages shall conform to the ASME Pressure Vessel Code, Section VIII, Unfired Pressure Vessels, 1968.

(ii) *Vacuum relief valves.* Vacuum relief valves shall conform to the ASME Code for Pressure Vessels, Section VIII, Unfired Pressure Vessels, 1968.

(iii) *Lever control.* When slashers are operated by control levers, these levers shall be connected to a horizontal bar or treadle located not more than 69 inches above the floor to control the operation from any point.

(iv) *Pushbutton control.* Slashers operated by pushbutton control shall have stop and start buttons located at each end of the machine, and additional buttons located on both sides of the machine, at the size box and the delivery end. If calender rolls are used, additional buttons shall be provided at both sides of the machine at points near the nips, except when slashers are equipped with an enclosed dryer.

(v) *Nip guards.* All nip guards shall comply with the requirements of subparagraph (2)(iv) of this paragraph.

(vi) *Cylinder enclosure.* When enclosures or hoods are used over cylinder drying rolls, such enclosures or hoods shall be provided with an exhaust system which will effectively prevent wet air and steam from escaping into the workroom.

(vii) *Expansion chambers.* Slasher kettles and cookers shall be provided with expansion chambers in the covers, or drains, to prevent surging over. Steam-control valves shall be so located that they can be operated without exposing the worker to moving parts, hot surfaces, or steam.

(2) *Enclosed hot air dryer*—(i) *Lever control.* When slashers are operated by control levers, these levers shall be connected to a horizontal bar or treadle located not more than 69 inches above the floor to control the operation from any point.

(ii) *Push-button control.* Slashers operated by push-button control shall have one start button at each end of the machine and stop buttons shall be located on both sides of the machines at intervals spaced not more than 6 feet on centers. Inching buttons should be installed.

(iii) *Dryer enclosure.* The dryer enclosure shall be provided with an exhaust system which will effectively prevent wet air and steam from escaping into the workroom.

(iv) *Nip guards.* All nip guards shall comply with Table R–1.

TABLE R–1

GUARD OPENINGS

Openings in the guard or between the guard and working surface shall not be greater than the following:

Distance of opening from nip point	*Maximum width of opening*
0 to 1½	¼
1½ to 2½	⅜
2½ to 3½	½
3½ to 5½	⅝
5½ to 6½	¾
6½ to 7½	⅞
7½ to 8½	1¼

The measurements in Table R–1 are all in inches.

(v) *Expansion chambers.* Slasher kettles and cookers shall be provided with expansion chambers in the covers, or drains, to prevent surging over. Steam control valves shall be so located that they can be operated without exposing the worker to moving parts, hot surfaces, or steam.

(i) *Warpers*—(1) *Swiveled double-bar gates.* Swiveled double-bar gates shall be installed on all warpers operating in excess of 450 yards per minute. These gates shall be so interlocked that the machine cannot be operated until the gate is in the "closed position," except for the purpose of inching or jogging.

(2) *Closed position.* "Closed position" shall mean that the top bar of the gate shall be at least 42 inches from the floor or working platform; and the lower bar shall be at least 21 inches from the floor or working platform; and the gate shall be located 15 inches from the vertical tangent to the beam head.

(j) *Drawing frames, slubbers, roving parts, cotton combers, ring spinning frames, twisters.* Gear housing covers on all installations of drawing frames, slubbers, roving frames, cotton combers, ring spinning frames, and twisters shall be equipped with interlocks.

(k) *Gill boxes*—(1) *Pin guard.* A guard shall be placed ahead of the feed end and shall be so designed that it will prevent the worker's fingers from being caught in the pins of the intersecting fallers.

(2) *Nip guards.* All nip guards shall comply with the requirements of paragraph (h)(2)(iv) of this section.

(l) *Heavy draw boxes, finishers, and speeders used in worsted drawing*—(1) *Band pulley covers.* Covers for band pulleys shall be closed when the machine is in motion.

(2) *Benches or working platforms.* Branches or working platforms approximately 10 inches in height and 8 inches in width should be installed along the entire running length of the machine for the worker to stand on while creeling the machine. Such benches or platforms shall be covered with an abrasive or nonslip material.

(m) *Silver and ribbon lappers (cotton).* Cover guard. An interlocking cover guard shall be installed over the large calendar drums and the lap spool, designed to prevent the operator from coming in contact with the nip.

(n) *Looms*—(1) *Shuttle guard.* Each loom shall be equipped with a guard designed to minimize the danger of the shuttle flying out of the shed.

(2) *Protection for loom fixer.* Provisions shall be made so that every loom fixer can prevent the loom from being started while he is at work on the loom. This may be accomplished by means of a lock, the key to which is retained in the possession of the loom fixer, or by some other effective means to prevent starting the loom.

(o) *Shearing machines.* All revolving blades on shearing machines shall be guarded so that the opening between the cloth surface and the bottom of the guard will not exceed three-eighths inch.

(p) *Continuous bleach range (cotton and rayon)*—(1) *J-box protection.* Each valve controlling the flow of steam, injurious gases, or liquids into a J-box shall be equipped with a chain, lock, and key, so that any worker who enters the J-box can lock the valve and retain the key in his possession. Any other method which will prevent steam, injurious gases, or liquids from entering the J-box while the worker is in it will be acceptable.

(2) *Open-width bleaching.* The nip of all in-running rolls on open-width bleaching machine rolls shall be protected with a guard to prevent the worker from being caught at the nip. The guard shall extend across the entire length of the nip.

(q) *Kiers*—(1) *Reducing valves, safety valves, and pressure gages.* Reducing valves, safety valves, and pressure gages shall conform to the ASME Code for Unfired Pressure Vessels, Section VIII, Unfired/Pressure Vessels, 1968.

(2) *Kier valve protection.* Each valve controlling the flow of steam, injurious gases, or liquids into a kier shall be equipped with a chain, lock, and key, so that any worker who enters the kier can lock the valve and retain the key in his possession. Any other method which will prevent steam, injurious gases, or liquids from entering the kier while the worker is in it will be acceptable.

(r) *Gray and white bins.* On new installations guard rails conforming to § 1910.23 shall be provided where workers are required to plait by hand from the top of the bin so as to protect the worker from falling to a lower level.

(s) *Mercerizing range (piece goods)*—(1) *Stopping devices.* A stopping device shall be provided at each end of the machine.

(2) *Frame ends.* A guard shall be installed at each end of the frame between the in-running chain and the clip opener, to prevent the worker's fingers from being caught.

(3) *Mangle and washers.* The nip at the in-running rolls shall conform to § 1910.264.

(t) *Tenter frames*—(1) *Stopping devices.* A stopping device shall be provided at each end of the machine.

(2) *Frame ends.* A guard shall be installed at each end of the frame at the in-running chain and clip opener.

(3) *Oil cups.* Oil cups shall be safely located to permit easy access.

(u) *Dyeing jigs*—(1) *Stopping devices.* Each dye jig shall be equipped with individual mechanical or electrical means for stopping the machine.

(2) *Roll arms.* Roll arms on jigs shall be built to allow for extra large batches, and to prevent the center bar from being forced off, causing the batch to fall.

(v) *Padders—Nip guards.* All nip guards shall comply with the requirements of paragraph (h)(2)(iv) of this section.

(w) *Drying cans*—(1) *Pressure reducing valves and pressure gages.* Pressure reducing valves and pressure gages shall conform to the ASME Code for Pressure Vessels, Section VIII, 1968, Unfired Pressure Vessels.

(2) *Vacuum collapse.* If cans are not designed to prevent vacuum collapse, each can shall be equipped with one or more vacuum relief valves with openings of sufficient size to prevent the collapse of the can if vacuum occurs.

(x) *Flat-work ironer*—(1) *Feed rolls.* The feed rolls shall be guarded to conform to § 1910.264.

(2) *Pressure rolls.* Pressure rolls shall be covered or guarded to conform to § 1910.264.

(y) *Extractors*—(1) *Centrifugal extractor*—(i) *Cover.* Each extractor shall be equipped with a metal cover.

(ii) *Interlocking device.* Each extractor shall be equipped with an interlocking device that will prevent the cover from being opened while the basket is in motion, and also prevent the power operation of the basket while the cover is open.

(iii) *Brakes.* Each extractor shall be equipped with a mechanically or electrically operated brake to quickly stop the basket when the power driving the basket is shut off.

(iv) *Maximum allowable speed.* Each centrifugal extractor shall be effectively secured in position on the floor or foundation so as to eliminate unnecessary vibration, and should not be operated at a speed greater than the manufacturer's rating, which shall be stamped where easily visible in letters not less than one-quarter inch in height. The maximum allowable speed shall be given in revolutions per minute (rpm).

(2) *Engine drum extractor—Overspeed governor.* Each engine individually driving an extractor shall be provided with an approved engine stop and speed limit governor.

(3) *Squeezer or wringer extractor—Nip guards.* All nip guards shall comply with the requirements of paragraph (h)(2)(iv) of this section.

(z) *Nip guards.* All nip guards for water mangle, starch mangle, backwasher (worsted yarn) crabbing machines, decating machines, shall comply with the requirements of paragraph (h)(2)(iv).

(aa) *Sanforizing and palmer machine.* A safety trip rod, cable, or wire center cord shall be provided across the front and back of all palmer cylinders extending the length of the face of the cylinder. It shall operate readily whether pushed or pulled. This safety trip shall be not more than 72 inches above the level on which the operator stands and shall be readily accessible.

(bb) *Rope washers*—(1) *Splash guard.* Splash guards shall be installed on all rope washers unless the machine is so designed as to prevent the water or liquid from splashing the operator, the floor, or working surface.

(2) *Safety stop bar.* A safety trip rod, cable or wire center cord shall be provided across the front and back of all rope washers extending the length of the face of the washer. It shall operate readily whether pushed or pulled. This safety trip shall be not more than 72 inches above the level on which the operator stands and shall be readily accessible.

(cc) *Laundry washer tumbler or shaker*—(1) *Interlocking device.* Each drying tumbler, each double cylinder shaker or clothes tumbler, and each washing machine shall be equipped with an interlock device which will prevent the power operation of the inside cylinder when the outer door on the case or shell is open, and which will also prevent the outer door on the case or shell from being opened without shutting off the power. This should not prevent the movement of the inner cylinder by means of a hand operated mechanism or an "inching device."

(2) *Means of holding covers or doors in open position.* Each enclosed barrel shall also be equipped with adequate means for holding open the doors or covers of the inner and outer cylinders or shells while it is being loaded or unloaded.

(dd) *Printing machine (roller type)*—(1) *Nip Guards.* All nip guards shall comply with the requirements of paragraph (h)(2)(iv) of this section.

(2) *Crown wheel and roller gear nip protection.* The engraved roller gears and the large crown wheel shall be provided with a protective disc which will enclose the nips of the in-running gears. Individual discs for each nip will be acceptable.

(ee) *Calenders.* The nip at the in-running side of the rolls shall be provided with a guard extending across the entire length of the nip and arranged to prevent the fingers of the workers from being pulled in between the rolls or between the guard and the rolls, and constructed so that the cloth can be fed into the rolls safely.

(ff) *Rotary staple cutters.* A guard shall be installed completely enclosing the cutters to prevent the hands of the operator from reaching the cutting zone.

(gg) *Clothing folding machine.* The crank arm and blade guide rods on both sides of the cloth-folding machines shall be protected from contact by barrier guards constructed to conform to the requirements of § 1910.219.

(hh) *Hand bailing machine.* An angle-iron-handle stop guard shall be installed at the right angle to the frame of the machine. The stop guard shall be so designed and so located that it will prevent the handle from traveling beyond the vertical position should the handle slip from the operator's hand when the pawl has been released from the teeth of the takeup gear.

(ii) *Roll bench.* Cleats shall be installed on the ends of roll benches.

(jj) *Cuttle or swing folder (overhead type).* The bottom of the overhead folders shall be located not less than 7 feet from the floor or working surface.

(kk) *Color-mixing room.* Floors in color-mixing rooms shall be constructed to drain easily.

(ll) *Open tanks and vats for mixing and storage of hot or corrosive liquids*—(1) *Protection against falls.* Open tanks and vats containing hot or corrosive liquids shall be protected to conform to the requirements of § 1910.23.

(2) *Shutoff valves.* Boiling tanks, caustic tanks, and hot liquid containers, so located that the operator cannot see the contents from the floor or working area, shall have emergency shutoff valves controlled from a point not subject to danger of splash. Valves shall conform to the ASME Pressure Vessel Code, section VIII, Unfired Pressure Vessels, 1968.

(mm) *Dye kettles and vats.*—Pipes or drains of sufficient capacity to carry the contents safely away from the working area shall be installed where there are dye kettles and vats which may at any time contain hot or corrosive liquids. These shall not empty directly onto the floor.

(nn) *Acid carboys.* Carboys shall be provided with inclinators, or the acid shall be withdrawn from the carboys by means of pumping without pressure in the carboy, or by means of hand operated siphons.

(oo) *Handling caustic soda and caustic potash.* Means shall be provided for handling and emptying caustic soda and caustic potash containers to prevent workers from coming in contact with the caustic (see paragraph (qq) of this section).

(pp) *First aid.* Wherever acids or caustics are used, provision shall be made for a copious and flowing supply of fresh, clean water.

(qq) *Personal protective equipment*—(1) *Personal protective equipment.* Workers engaged in handling acids or caustics in bulk, repairing pipe lines containing acids or caustics, etc., shall be provided with protective occupational (safety) equipment to conform to the requirements of § 1910.132, § 1910.133, and § 1910.134.

(2) Respirators, gas masks, and such appliances, for emergency use only, shall be of a type required by § 1910.134.

(rr) *Workroom ventilation.* In all workrooms in which potentially toxic substances are used, the maximum allowable concentrations listed in § 1910.93

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shall be maintained. Open surface tanks shall conform to the requirements of § 1910.94(d).

§ 1910.263 Bakery equipment.

(a) *General requirements*—(1) *Application.* The requirements of this section shall apply to the design, installation, operation and maintenance of machinery and equipment used within a bakery.

(2) *Standards incorporated by reference.* Standards covering issues of occupational safety and health which are of general application without regard to any specific industry are incorporated by reference in paragraphs of this section and made applicable to bakeries. All such standards shall be construed according to the rules of construction set out in § 1910.5.

(b) *Definitions applicable to this section*—(1) *Dumpbin and blender.* The term "dumpbin and blender" applies to those elements of a flour handling system in which flour in bags is first emptied for distribution.

(2) *Flour elevator.* The term "flour elevator" means the conveyor which is used to convey flour in a vertical direction and it includes bucket, spiral screw, or bulkflow conveyors.

(3) *Screw conveyor.* The term "screw conveyor" means the conveyor which is used to convey flour in a horizontal or inclined plane by means of a continuous spiral screw enclosed in a suitable casing which follows the same general contour of the perimeter of the screw.

(4) *Bolting reel.* The term "bolting reel" means a device in which the flour is screened through a rotating drum.

(5) *Sifter.* The term "sifter" means a device in which flour is sifted. It may be of the brush, oscillating, or vibrating type.

(6) *Flour scale.* The term "flour scale" means a scale for weighing flour.

(7) *Flour gate.* The term "flour gate" means the device or devices used to control the delivery of flour.

(8) *Direct fired ovens.* Direct fired ovens are ovens which burn fuel directly inside the baking chamber.

(9) *Direct recirculating ovens.* "Direct recirculating ovens" are ovens which have heating systems consisting of one or more heaters (located inside or outside the baking chamber), each heater being equipped with a burner, the products of combustion of which are mixed with spent gasses returned from the oven. Combustion gases are circulated through the heater and oven chamber by a fan. An overflow or vent removes part of the spent combustion gases to compensate for fresh combustion gases added by the burner.

(10) *Flue-type ovens.* "Flue-type ovens" are ovens which burn fuel in a furnace which is connected through flues which carry the combustion gases to a stack.

(11) *Indirect multiple-burner ovens.* "Indirect multiple-burner ovens" are ovens which are heated by burners (usually gas) which are totally enclosed in such a way that unburned gases or products of combustion cannot enter the baking chamber.

(12) *Steam-tube ovens.* "Steam-tube ovens" are ovens which are heated by a group of tubes which are partially filled with liquid and sealed at both ends. A small part of each tube is exposed to the heat of a furnace and the larger part placed inside the baking chamber. Heat is transmitted by evaporating liquid in the furnace end of the tube. Steam thus formed travels to the other end of the tube, where the steam condenses and returns to the furnace by gravity.

(13) *Indirect recirculating ovens.* "Indirect recirculating ovens" are ovens which are equipped with a gas tight duct system, a furnace, and a circulating fan. Gases of combustion are circulated through this enclosed system and mixed with fresh combustion gases generated by the burner in the combustion chamber. A vent or overflow removes a portion of the gases to compensate for the fresh gases added by the burner. No unburned gases or products of combustion have access to the baking chamber.

(14) *Electric ovens.* "Electric ovens" are ovens which are heated entirely by passing an electric current through resistance elements.

(c) *General machine guarding*—(1) *Electrical grounding.* The frame of each machine which is driven by an electric motor or has any electrical connection shall be effectively grounded.

(2) *Gears.* All gears shall be completely enclosed regardless of location.

(3) *Sprockets and V-belt drives.* Sprockets and V-belt drives located within reach from platforms or passageways or located within 8 feet 6 inches from the floor shall be completely enclosed.

(4) *Rotating parts.* Lubrication fittings on rotating parts shall be recessed or covered with collars so that the rotating surface will be smooth and flush.

(5) *Lubrication.* Where machinery must be lubricated while in motion, stationary lubrication fittings inside a machine shall be provided with extension piping to a point of safety so that the employee will not have to reach into any dangerous part of the machine when lubricating.

(6) *Removable covers or guards.* Any covers or guards which must be removed for cleaning and adjustment shall be made easily removable in order that they may be removed and replaced with the least effort.

(7) *Ventilation through machine guards.* Where it is necessary to guard motors or other equipment which require ventilation, guards should be so designed that they will not restrict the circulation of the air.

(8) *Hot pipes.* Exposed hot water and steam pipes shall be covered with insulating material wherever necessary to protect employee from contact.

(d) *Flour-handling equipment.*—(1) *General requirements for flour handling.* (i) Wherever any of the various pieces of apparatus comprising a flour-handling system are run in electrical unity with one another the following safeguards shall apply:

(a) Each apparatus shall be properly safeguarded by of disconnecting means for the motor circuits as required by §§ 1910.312 and 1910.320.

(b) Wherever a flour-handling system is of such size that the beginning of its operation is far remote from its final delivery end, all electric motors operating each apparatus comprising this system shall be controlled at each of two points, one located at each remote end, either of which will stop all motors.

(c) Motor control switches shall be capable of being locked in the open position.

(d) Control circuits for magnetic controllers shall be so arranged that the opening of any one of several limit switches, which may be on an individual unit, will serve to de-energize all of the motors of that unit.

(ii) Removable covers on all flour-handling equipment shall be so designed that the lifting effort shall not be more than 50 pounds.

(iii) Wherever flour-handling systems are of large construction, suitable walkways or platforms or both shall be constructed around and over bins and apparatus, in accordance with the requirements of §§ 1910.22 and 1910.23.

(a) All walkway surfaces shall be maintained in nonslip condition.

(b) Elevated walkways shall have railings and toeboards.

(c) All ladders leading to upper walkways shall be in accordance with the requirements of § 1910.25, § 1910.26, and § 1910.27.

(d) Wherever walkways are near the ceiling construction of the building, where obstruction to head room is lower than normal standing height, proper methods shall be provided to warn any occupant of the walkway. This should be done by means of "tell tales" or other suitable means located ahead of the obstruction. Suitable signs shall also be placed on walkways warning occupants of possible danger.

(iv) All oscillating and vibrating sifters shall be protected with guard rails of suitable height and design.

(v) All mechanical transmission shafting, gearing, and sprocket drives shall be completely guarded, preferably with dust-tight housing. Lubrication fittings shall extend to the outside of the guard.

(vi) All guards shall be readily removable.

(vii) All flour-handling equipment, each individual unit or the entire system collectively, shall be so constructed that all interior or exterior protruding corners are of a rounded nature.

(viii) When Class II hazardous conditions prevail, electric motors, motor controllers, and switches shall be of the type approved for such locations in accordance with the requirements of § 1910.326.

(2) *Bag chutes and bag lifts (bag-arm elevators).* (i) Bag chutes (gravity chutes for handling flour bags) shall be so designed so as to keep to a minimum the speed of flour bags. If the chute inclines more than 30° from the horizontal, there shall be an upturn at the lower end of the chute to slow down the bags.

(ii) Bag-arm elevators with manual takeoff shall be designed to operate at a capacity not exceeding seven bags per minute. The arms on the conveyor chain shall be so spaced as to obtain the full capacity of the elevator with the lowest possible chain speed. There shall be an electric limit switch at the unloading end of the bag-arm elevator so installed as to automatically stop the conveyor chain if any bag fails to clear the conveyor arms.

(iii) The conveyor chain on bag-arm elevators shall travel in a suitable structure and all drums shall be completely guarded, so that in case of a broken chain link the remainder of the chain will remain within its guides.

(iv) Man lifts shall be prohibited in bakeries. Bag or barrel lifts shall not be used as man lifts.

(3) *Dumpbin and Blender.* (i) The dumpbin or blender shall be constructed of metal or other nonsplintering material.

(ii) Openings shall be protected by means of bars or grids. If grids are made of mesh, the openings shall be not more than 3 inches in either length or width. If parallel bars or rods are used, they shall be spaced not more than 3 inches apart on centers.

(iii) Hinged dumpbin covers shall be provided with locks or latches to hold the covers in the open position, so that they will not accidentally fall down while the dumpbin is in operation.

(iv) Dumpbins and blenders shall be so constructed that no separate pits in floors shall be required at the point which connects the final discharge to the usual elevator.

(v) All dumpbin and blender hoods shall be of sufficient capacity to prevent circulation of flour dust outside the hoods.

(vi) All dumpbins shall be of a suitable height from floor to enable the operator to dump flour from bags, without causing undue strain or fatigue. Where the edge of any bin is more than 24 inches above the floor, a bag rest step shall be provided.

(vii) A control device for stopping the dumpbin and blender shall be provided close to the normal location of the operator.

(viii) A screen shall be provided in the suction nozzle over the bin or blender to prevent sacks that are being cleaned from getting into the rotor of the dust collecting fan.

(4) *Flour elevators.* (i) Flour elevators shall be constructed of metal or other nonsplintering material.

(ii) All removable sections of the elevator casing shall be equipped with suitable stationary clamps for quick removal, or shall be equipped with equivalent locking devices which contain no loose parts which may become detached from either the casing or the cover.

(5) *Bolting reels.* (i) Bolting reels shall be constructed of metal or other nonsplintering material, with the exception of the bolting cloth.

(ii) Refuse tailing spouts shall be readily accessible and shall be located at a safe distance from unguarded moving parts.

(6) *Storage bins.* (i) Storage bins shall be constructed of metal or other nonsplintering material.

(ii) Storage bins shall be provided with gaskets and locks or latches to keep the cover closed, or other equivalent devices in order to insure the dust tightness of the cover. Covers at openings where an employee may enter the bin shall also be provided with a hasp and a lock, so located that the employee may lock the cover in the open position whenever it is necessary to enter the bin.

(iii) Storage bins where the side is more than 5 feet in depth shall be provided with standard stationary safety ladders, both inside and outside, to reach from floor level to top of bin and from top of bin to inside bottom, keeping the ladder end away from the moving screw conveyor.

(iv) Loading distribution conveyors shall be located in top of bin centrally unhoused, and all covers for entrance to the bins shall be located away from the loading distribution conveyor.

(v) An electric limit switch or other suitable protective device shall be provided in the top of the bin centrally over the loading screw conveyor on the opposite end of the flour entrance opening. It shall be so designed as to stop the loading screw if an excessive amount of flour is delivered to the bin.

(vi) The main entrance cover of large storage bins located at the interior exit ladder shall be provided with an electric interlock for motors operating both feed and unloading screw, so that these motors cannot operate while the cover is open.

(7) *Screw conveyors.* (i) Screw conveyors shall be constructed of metal or other nonsplintering material.

(ii) Each dead-end screw conveyer shall be provided with an overflow safety gate which will operate an electric limit switch to shut down the conveyer before dangerous pressure of material is built up at the dead end.

(iii) The covers of all screw conveyors shall be made removable in convenient sections, held on with stationary clamps located at proper intervals keeping all covers dust-tight. Where drop or hinged bottom sections are provided this provision shall not apply.

(8) *Sifters.* (i) Enclosures of all types of flour sifters shall be so constructed that they are dust-tight but readily accessible for interior inspection.

(ii) Oscillating and vibrating sifters shall be so constructed that all moving parts are well within the outer frame of the apparatus.

(iii) Refuse tailing spouts of all types of sifters shall be readily accessible and shall be located at a safe distance from unguarded moving parts.

(9) *Flour scales.* (i) Flour scales shall be constructed of metal or other nonsplintering material.

(ii) Where a transparent covering is provided over dial scales it shall be made of a nonshatterable transparent material.

(iii) Traveling or track-type flour scales shall be equipped with bar handles for moving same. The bar should be at least 1 inch in diameter and well away from trolley track wheels.

(iv) All moving trolley wheels located within 8 feet 6 inches of floors or platforms shall be fully guarded on sides and ahead of rotating motion.

(v) The scale cutoff switch shall be totally enclosed and connected to the scale beam in such a manner as to protect the operator from contact.

(vi) Where two or more scales are used on travelling flour scales, interlocks shall be provided so that the gate will not open unless the hopper is below.

(10) *Automatic flour gates.* Automatic flour-gate equipment shall be constructed of metal or other nonsplintering material.

(e) *Mixers*—(1) *Horizontal dough mixers.* (i) Mixers with external power application shall have all belts, chains, gears, pulleys, sprockets, clutches, and other moving parts completely enclosed.

(ii) Mixers with built-in power units shall have all drive elements enclosed in such a manner as to prevent injury to operators or maintenance personnel performing their normal duties.

(iii) Each mixer shall be equipped with an individual motor and control, and with a conveniently located manual switch to prevent the mixer from being started in the usual manner while the machine is being serviced and cleaned.

(iv) All electrical control stations shall be so located that the operator must be in full view of the bowl in its open position. No duplication of such controls other than a stop switch shall be permitted.

(v) All mixers with power and manual dumping arrangements shall be equipped with safety devices which shall:

(a) Engage both hands of the operator, when the agitator is in motion under power, and while the bowl is opened more than one-fifth of its total opening.

(b) Prevent the agitator from being started, while the bowl is more than one-fifth open, without engaging both hands of the operator;

(c) Permit the operator to have a full view of the bowl opening while he is in the act of maintaining operation of the agitator at any time while the bowl is more than one-fifth open.

(vi) Mixers with power dumping devices shall be arranged so that the bowl opening cannot be closed beyond four-fifths of its total opening unless the operator maintains the control contact which causes the dump motor to complete the bowl closure. Alternatively the control may be so arranged that the operator must keep at least one hand engaged, by holding in a push button, during the entire closure of the mixing bowl.

(vii) Mixers shall be provided with flour-gate operating mechanisms, ingredient openings, and water inlets, which can be conveniently manipulated by the operator from the normal area of activity (either platform or floor) without requiring abnormal reaching, or improvisations which might jeopardize his safety.

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(viii) Every mixer shall be equipped with a full enclosure over the bowl which is closed at all times while the agitator is in motion. Only minor openings in this enclosure, such as ingredient doors, flour inlets, etc., each representing less than 1½ square feet in area, shall be capable of being opened while the mixer is in operation.

(ix) No loose access doors and covers weighing more than 2 pounds shall be used on mixers. Such parts shall be hinged or otherwise held in proximity to the openings that they cover.

(x) Overhead covers or doors which are subject to accidental closure shall be counterbalanced to remain in an open position or provided with means to hold them open until positively released by the operator.

(xi) Provision shall be made to bolt mixers solidly to the floor to prevent dislocation or excessive vibration, and no open space between mixers and platforms shall be permitted which may endanger the operator.

(xii) Mixers shall be installed only on substantial foundations which are capable of safely withstanding the live loads incurred in full-capacity mixing operations.

(xiii) Access for lubrication at all points shall be provided so as to avoid contact between the lubricating device or the operator's hands and any moving parts.

(xiv) Any device or mechanism used to return "sponges" to a mixer shall be so interlocked with the mixer as to prevent injury to the operator.

(xv) No electrical pilot or control circuits shall be employed at a potential in excess of 240 volts.

(xvi) A motor-running overcurrent protective device shall be provided for each motor. Undervoltage protection shall be provided in all magnetic controllers.

(xvii) Positive means shall be provided to prevent application of pressure above the stipulated maximum in all mixer cooling jackets.

(xviii) Valves and controls to regulate the coolant in mixer jackets shall be located so as to permit access by the operator without jeopardizing his safety.

(2) *Vertical Mixers.* (i) Vertical mixers shall comply with subdivisions (i), (ii), (iii), (ix) through (xiii), (xv), (xvi), and (xvii) of subparagraph (1) of this paragraph.

(ii) Positive means shall be provided to prevent injury to the operator during speed-change manipulation.

(iii) Bowl locking devices shall be of a positive type which require the attention of the operator for unlocking.

(iv) Devices shall be made available for moving bowls weighing more than 80 pounds, with contents, into and out of the mixing position on the machine.

(v) Every precaution which does not impair the normal operation of the mixer shall be exercised in providing protection of the operator against injury by the moving agitators.

(f) *Dividers*—(1) *Pinch and shear points.* All pinch points and shear points from reciprocating or rotating parts of the divider shall be enclosed or guarded, to protect the operator's hands and fingers from these hazards.

(2) *Front guards.* Guards at front of a divider shall be so arranged that the weight of dough can be adjusted without removing the guard.

(3) *Rear of divider.* The back of the divider shall have a complete cover to enclose all of the moving parts, or each individual part shall be enclosed or guarded to remove the separate hazards. The rear cover shall be provided with a limit switch in order that the machine cannot operate when this cover is open. The guard on the back shall be hinged so that it cannot be completely removed and if a catch or brace is provided for holding the cover open, it shall be designed so that it will not release due to vibrations or minor bumping whereby the cover may drop on an employee.

(4) *Oil holes in knife.* The oil holes in the knife at the back of the divider shall be of such size that an employee's finger cannot go through the hole.

(5) *Knife actuating arm.* There shall be a saddle guard or other protective device on any elongated hole in the knife actuating arm at the back of the divider.

(6) *Shear pins.* Dividers shall be equipped with mechanical overload release devices such as sheer pins.

(g) *Moulders*—(1) *Hoppers.* Mechanical feed moulders shall be provided with hoppers so designed and connected to the proofer that an employee's hands cannot get into the hopper where they will come in contact with the in-running rolls.

(2) *Hand-fed moulders.* Hand-fed moulders shall be provided with a belt-feed device or the hopper shall be extended high enough so that the hands of the operator cannot get into the feed rolls. The top edge of such a hopper shall be well rounded to prevent injury when it is struck or bumped by the employee's hand.

(3) *Stopping devices.* There shall be a stopping device within easy reach of the operator who feeds the moulder and another stopping device within the reach of the employee taking the dough away from the moulder.

(4) *Cleanout holes.* Machines shall be so designed that there is no shear point in close proximity to the cleanout holes.

(5) *Rear of moulders.* At the rear of moulders all revolving shafts shall have round corners or cylindrical surfaces, and all bolts shall be flush. Tie rods shall be far enough from revolving parts to prevent a shearing or pinching hazard.

(6) *Adjustment crank.* Where a removable crank is used to adjust the moulder for different sizes of loaf, brackets shall be provided on the side of the machine for holding the crank when it is not in use.

(h) *Manually fed dough brakes*—(1) *Top-roll protection.* The top roll shall be protected by a heavy gage metal shield extending over the roll to go within 6 inches of the hopper bottom board. The shield may be perforated to permit observation of the dough entering the rolls.

(2) *Emergency stop bar.* An emergency stop bar shall be provided, so located that the body will press against it if the operator slips and falls toward the rolls, or if the operator gets his hand caught in the rolls, and this pressure shall positively open a circuit which will deenergize the drive motor. In addition a magnetic, spring-set brake shall be deenergized at the same time, causing the rolls to stop instantly. The emergency stop bar shall be checked every 30 days.

(i) *Miscellaneous equipment*—(1) *Proof boxes.* All door locks shall be operable both from within and outside the box. Guide rails shall be installed to center the rack as it enters, passes through, and leaves the proof box.

(2) *Fermentation room.* Fermentation room doors shall have nonshatterable wire glass or plastic panels for vision through doors.

(3) *Troughs.* Troughs shall be mounted on antifriction bearing casters thus making it possible for the operator to move and direct the motion of the trough with a minimum of effort.

(4) *Hand trucks.* (i) Casters shall be set back from corners to be out of the way of toes and heels, but not far enough back to cause the truck to be unstable.

(ii) A lock or other device shall be provided to hold the handle in vertical position when the truck is not in use.

(5) *Lift trucks.* A lock or other device shall be provided to hold the handle in vertical position when the truck is not in use.

(6) *Racks.* (i) Sharp splintered or rough corners and edges shall be eliminated.

(ii) Racks shall be equipped with handles so located with reference to the frame of the rack that no part of the operator's hands extends beyond the outer edge of the frame when holding onto the handles.

(iii) Antifriction bearing casters shall be used to give the operator better control of the rack.

(iv) End guards shall be used at shelf levels on proofing racks.

(7) *Conveyors.* (i) Wherever a conveyor passes over a main aisleway, regularly occupied work area, or passageway, the underside of the conveyor shall be completely enclosed to prevent broken chains or other material from falling in the passageway.

(ii) Stop bumpers shall be installed on all delivery ends of conveyors, wherever manual removal of the product carried is practiced.

(iii) Where hazard of getting caught exists a sufficient number of stop buttons shall be provided to enable quick stopping of the conveyor.

(8) *Overhead rail systems.* (i) Handles for operating devices for trolley switches which hang less than 6 feet 8 inches from the floor shall be of pliable material.

(ii) Floor scales. Nonshatterable transparent material shall be used to cover dials.

(9) *Dough chutes.* The entrance to the chute shall be guarded so as to protect the employee from falling into chute, stepping into chute, or tripping over too low an edge of the chute.

(10) *Skids.* (i) All sharp corners or edges shall be eliminated on all metal skids.

(ii) All edges and corners shall be protected on skids to prevent exposed splinters.

(11) *Ingredient premixers, emulsifiers, etc.* (i) All top openings shall be provided with covers attached to the machines. These covers should be so arranged and interlocked that power will be shutoff whenever the cover is opened to a point where the operator's fingers might come in contact with the beaters.

(ii) Portable electrical agitators for ingredient premixers shall have the attachment cord so wired that the agitator will be grounded whenever it is connected to a source of power.

(12) *Chain tackle.* (i) All chain tackle shall be marked prominently, permanently, and legibly with maximum load capacity.

(ii) All chain tackle shall be marked permanently, and legibly with minimum support specification.

(iii) Safety hooks shall be used.

(13) *Trough hoists, etc.* (i) All hoists shall be marked prominently, permanently, and legibly with maximum load capacity.

(ii) All hoists shall be marked permanently and legibly with minimum support specifications.

(iii) Safety catches shall be provided for the chain so that the chain will hold the load in any position.

(iv) Safety hooks shall be used.

(14) *Air-conditioning units.* (i) All sharp corners and edges shall be eliminated.

(ii) On large units with doors to chambers large enough to be entered, all door locks shall be operable from both inside and outside.

(15) *Pan washing tanks.* (i) Counterbalanced hinged covers, or sliding covers, shall be provided.

(ii) The surface of the floor of the working platform shall be maintained in nonslip condition.

(iii) Working platforms shall be kept at least 32 inches below the top of the tank or guardrail.

(iv) All electrical sockets in pan washing rooms shall be nonmetallic and keyless and other electrical equipment shall be moisture proof.

(v) Power ventilated exhaust hoods shall be provided over the tanks.

(16) *Pan washing machines.* Sharp corners and edges shall be eliminated.

(17) *Cake depositors.* All pinch points shall be eliminated, guarded, or shielded so that hands and arms cannot reach these pinch points while the machine is in operation.

(18) *Icing machines.* All pinch points shall be eliminated, or provided with guards or shields so hands and arms cannot reach these pinch points while the machine is in operation.

(19) *Bread coolers, conveyor type.* (i) All pinch points shall be eliminated or guarded.

(ii) Stop bumpers on all delivery ends of conveyors shall be installed wherever manual removal of the product carried is practiced.

(20) *Bread coolers, rack type.* (i) Guardrails shall be installed to the center rack as it enters and leaves the cooler.

(ii) All door locks shall be operable from both within and outside the cooler.

(21) *Bread and cake boxes, trays, etc.* (i) Sharp corners and edges shall be eliminated on metal parts.

(ii) All wooden corners and edges shall be protected to prevent splinters.

(22) *Doughnut machines.* Separate flues shall be provided, (i) for venting vapors from the frying section, and (ii) for venting products of combustion from the combustion chamber used to heat the fat.

(23) *Open fat kettles.* (i) The floor around kettles shall be maintained in nonslip condition.

(ii) Fire extinguishing devices suitable for Class–B fires shall be provided. See § 1910.157.

(iii) Goggles or face shields shall be provided to prevent injuries from hot fat splashes.

(iv) The top of the kettle shall be not less than 36 inches above floor or working level.

(24) *Steam kettles.* (i) Positive locking devices shall be provided to hold kettles in the desired position.

(ii) Kettles with steam jackets shall be provided with safety valves in accordance with the ASME Pressure Vessel Code, Section VIII, Unfired Pressure Vessels, 1968.

(j) *Slicers and wrappers*—(1) *Slicers.* (i) Sprockets, chains, and V-belt drives on slicers shall be completely enclosed.

(ii) All slicing machines shall be provided with a mechanical device to push the last loaf through the slicer knives.

(iii) The cover over the knife head of reciprocating-blade slicers shall be provided with an interlocking arrangement so that the machine cannot operate unless the cover is in place.

(iv) On slicers with endless band knives, each motor shall be equipped with a magnet brake which operates whenever the motor is not energized. Each door, panel, or other point of access to the cutting blades shall be arranged by means of mechanical or electric interlocks so that the motor will be deenergized if all such access doors, panels, or access points are not closed.

(v) When it is necessary to sharpen slicer blades on the machine, a barrier shall be provided leaving only sufficient opening for the sharpening stone to reach the knife blades.

(vi) Where pusher fingers attached to the feed chain enter the bed plate of the cross feed, the end guard shall be extended to cover the pinch point.

(vii) *Slicer wrapper conditions:* (*a*) Where the flight chain on the slicer turns under the bed plate on the crossfeed to the wrapper, a spring-hinged section of bed plate shall be provided so that there is no shear point between the flight chain and the bed plate.

(*b*) Wrapping and slicing machines obtained from separate manufacturers, shall be installed and connected so that the chains, sprockets, belts, and moving parts are properly guarded. Safe interconnections for the starting and stopping of such devices shall be employed.

(*c*) Mechanical control levers for starting and stopping both slicing machine conveyors and wrapping machines shall be extended or so located that an operator in one location can control both machines. Such levers should be provided wherever necessary, but these should be so arranged that there is only one station capable of starting the wrapping machine and conveyor assembly, and this starting station should be so arranged or guarded as to prevent accidental starting. The electric control station for starting and stopping the electric motor driving the wrapping machine and conveyor should be located near the clutch starting lever.

(*d*) The transfer chain shall be completely covered on all sides, not just on front and top.

(2) *Wrappers.* (i) Any hand wheel which may be provided in order to turn the wrapping machine over by hand and which may run continuously shall be a smooth, solid disk wheel.

(ii) At the discharge end (or drive side) of the crossfeed conveyor there shall be either a one- or two-piece guard in front of the crossfeed chain.

(iii) Electrical heaters on wrappers shall be protected by a cover plate properly separated or insulated from the heaters in order that accidental contact with this cover plate will not cause a burn to the operator.

(iv) Electric wiring for the wrapper heaters shall be so arranged that a minimum number of wires are used to connect the movable heaters assembly to the permanent wiring of the machine. This wiring shall be heat-resisting type in accordance with the requirements of § 1910.320.

(v) Power-driven friction rollers used to feed paper into the wrapping machine shall be provided with a guard over the in-running nip point of the rubber rollers.

(vi) The nip point, between the chain and sprocket of the loose wrap attachment, shall be completely enclosed or guarded on both sides in such a way that employee's fingers cannot get into this nip point.

(vii) Sprocket, chain, and V-belt drives on wrappers shall be completely enclosed.

(k) *Biscuit and cracker equipment*—(1) *Meal, peanut, and fig grinders.* (i) If the hopper is removable it shall be provided with an electric interlock so that the machine cannot be put in operation when the hopper is removed.

(ii) Where grid guards cannot be used, feed conveyors to hoppers, or baffle-type hoppers, shall be provided. Hoppers in such cases shall be enclosed and provided with hinged covers, and equipped with electric interlock to prevent operation of the machine with the cover open.

(2) *Sugar and spice pulverizers.* (i) All drive belts used in connection with sugar and spice pulvizers shall be grounded by means of metal combs or other effective means of removing static electricity. All pulverizing of sugar or spice grinding shall be done in accord-

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ance with NFPA 62—1967 (Standard for Dust Hazards of Sugar and Cocoa), NFPA 656—1959 (Standard for Dust Hazards in Spice Grinding Plants).

(ii) Magnetic separators shall be provided to reduce fire and explosion hazards.

(3) *Cheese, fruit, and food cutters.* These machines shall be protected in accordance with the requirements of subparagraph (1) of this paragraph.

(4) *Jam, icing, and marshmallow beaters of horizontal tub type.* All top openings shall be provided with covers attached to the machines.

(5) *Reversible dough brakes.* Reversible brakes shall be provided with a guard or tripping mechanism on each side of the rolls. These guards shall be so arranged as to stop the machine or reverse the direction of the rolls so that they are outrunning if the guard is moved by contact of the operator.

(6) *Cross-roll brakes.* Cross - roll brakes shall be provided with guards that are similar in number and equal in effectiveness to guards on hand-fed brakes.

(7) *Box- and roll-type dough sheeters.* (i) Sheeting rolls shall be guarded at the point where the dough enters the rolls so that the operator's fingers cannot get into the nip point.

(ii) Hoppers for sheeters shall have an automatic stop bar or automatic stopping device along the back edge of the hopper. If construction does not permit location at the back edge, the automatic stop bar or automatic stopping device shall be located where it will be most effective to accomplish the desired protection.

(8) *Cutting and panning, embossing, peeling, bar, and frutana machines.* (i) Roll stands, other than hand fed, shall be guarded at the point where the dough enters the rolls so that the operator's fingers cannot get into the nip points.

(ii) Guards shall be provided at each side of the cutter to prevent hands from getting under the cutter.

(iii) Reciprocating panner heads shall be guarded to protect the operator from being caught between moving and stationary parts.

(iv) Motor control buttons shall be located within view of the cutting head.

(9) *Rotary, die machines, pretzel rolling, and pretzel-stick extruding machines.* Dough hoppers shall have the entire opening protected with substantial grid-type guards to prevent the employee from getting his hands caught in moving parts, or the hopper shall be extended high enough so that the operator's hands cannot get into moving parts.

(10) *Band ovens.* Band ovens shall be so arranged, or guarded, that the operator cannot get caught at the nip point between the band and the drive pulley or the takeup pulley, or between the oven conveyor and the oven frame.

(11) *Wafer-cutting machines.* These machines shall be so guarded that it will be impossible for employee's fingers or hands to come in contact with the saws or knives while feeding the machine.

(12) *Pan cooling towers.* (i) Where pan cooling towers extend to two or more floors, a lockout switch shall be provided on each floor in order that mechanics working on the tower may positively lock the mechanism against starting. Only one start switch shall be used in the motor control circuit.

(ii) All unused sides of pan cooling tower conveyors shall be enclosed or effectively guarded to a height of 7 feet above each floor.

(iii) Wherever a pan cooling tower conveyor passes through a floor, the opening shall be protected by a standard railing and toe board, or by other equivalent protection.

(iv) Wherever a pan conveyor passes over a main aisleway, regularly occupied work area, or passageway, the underside of the conveyor shall be completely enclosed to prevent pans, broken chains, or other material from falling in the aisleway, work area or passageway.

(v) Sprocket wheels of pan conveyors shall be enclosed so that accidental contact cannot be made at the point where the chain comes in contact with the sprocket.

(vi) Wherever conveyor bars, flights, and attachments pass in opposite directions within 6 inches of each other, a sheet metal partition or screen with openings no larger than one-half inch shall be placed between the conveyor chains which run in opposite directions.

(13) *Chocolate melting, refining, and mixing kettles.* Each kettle shall be provided with a cover to enclose the top of the kettle. The bottom outlet of each kettle shall be of such size and shape that the operator cannot reach in to touch the revolving paddle or come in contact with the shear point between the paddle and the side of the kettle.

(14) *Caddie, cover, and box stitchers (wire stitchers).* A guard shall be mounted on the stitching head to prevent operators from getting fingers caught between the stitching head and the clincher block.

(15) *Carton-wrapping and bundling machines.* The end seal drums on carton and bundling machines shall be provided with guards.

(16) *Carton and lining feeding machines.* Cutting knives shall be provided with a hinged hood to cover the knives. These guards shall be electrically interlocked to stop the machine if they are removed.

(17) *Peanut cooling trucks.* Mechanically operated peanut cooling trucks shall have a grid-type cover over the entire top.

(i) *Ovens*—(1) *General location.* (i) Ovens shall be located with due regard to the possibility of fire resulting from overheating or from the escape of gas or fuel oil and the possibility of injury to persons resulting from explosions.

(ii) Ovens shall be built on noncumbustible foundations; excepting that where unusual circumstances require that an oven be placed on a combustible floor, the sole of the oven itself shall be insulated and shall be separated from the floor by a ventilated air space of at least 3 inches. In no case shall the temperature of a combustible floor beneath an oven be permitted to exceed 160° F.

(iii) Sufficient insulation shall be used in the crown of any oven, and the space above this crown shall be sufficiently ventilated, to prevent the temperature of any combustible ceilings from rising above 200° F.

(iv) Where oven ducts or stacks pass through combustible walls or ceilings, sufficient clearance and insulation shall be provided to keep the temperature of combustible material below 160° F.

(v) Columns or structural members of a building shall not pass through an oven. When such columns or structural members are closer than 6 inches to the inner shell of an oven, fireproof material shall be used and insulated in such a way that the temperature of the column or structural member will be kept below 160° F.

(vi) Ovens shall be located so as to be accessible from all sides and adequately spaced to permit the proper functioning of explosion vents.

(vii) Ovens shall be located so that possible fire or explosion will not expose groups of persons to possible injury. For this reason ovens shall not adjoin lockers, lunch or sales rooms, main passageways, or exits.

(2) *Recommended construction.* (i) structural parts of ovens shall be protected against corrosion or deterioration.

(ii) Roofs and other parts of ovens shall be structurally strong enough to support the weight of men who may be required to climb on top of ovens or inside of them.

(3) *Safeguards of mechanical parts.* (i) Emergency stop buttons shall be provided on mechanical ovens near the point where operators are stationed.

(ii) All piping at ovens shall be tested to be gastight.

(a) Soldered pipe joints shall not be permitted in connection with ovens. Pipe joints may be either screwed, flanged, or welded, in connection with ovens where such pipes carry fuel or steam.

(b) All pipe and fittings used shall be of good material, clear and free from cutter burrs and defects in structure or threading.

(iii) Main shutoff valves, operable separately from any automatic valve, shall be provided to permit turning off the fuel or steam in case of an emergency.

(a) Main shutoff valves shall be located so that explosions, fires, etc. will not prevent access to these valves.

(b) Main shutoff valves shall be locked in the closed position when men must enter the oven or when the oven is not in service.

(4) *Gas-burning systems.* (i) Liquefied petroleum gas shall be stored and distributed in accordance with the requirements of § 1910.110.

(ii) Inspirators on atmospheric (low-pressure) gas-burning systems shall be so constructed and machined as to insure correct alignment of the gas jet with the axis of the inspirator. Air adjustments or shutters on inspirators on atmospheric gasburning systems shall either be permanently fixed or else provided with a locking device to positively prevent accidental change of setting. The shutter shall be so located that adjustments can be made when the oven is in normal operating condition.

(iii) Dampers controlling the draft on ovens equipped with atmospheric gas-burning systems shall be interconnected with the gas supply so that no gas can be admitted to the burners if the damper is closed.

(a) Atmospheric pipe burners extending into the baking chamber of ovens fired with atmospheric gas-burning systems shall have secondary air ducts installed below each burner and extending over its full length. Air inlets for these ducts shall be placed outside the baking chamber.

(b) Stack dampers on ovens equipped with atmospheric gas-burning systems shall have a hole of the following diameter:

Diameter of flue	Diameter of opening
3 to 5	½
6 to 10	1
11 to 15	1½

Dimensions given in inches.

(iv) Nozzle or blast burners on atmospheric gas-burning systems shall be equipped with gas pilots or electric ignition; with the exception that burners operated on a maximum-minimum flame or modulating principle which are equipped with quick acting combustion safeguards actuated by the main burner flame may be equipped with automatic or hand torch ignition to be used for initial lighting only.

(v) Burners of the perforated pipe, ribbon, slot, tip, or similar types, having many individual ports, shall be capable of maintaining a stable flame over the entire length (or surface) of the burner throughout the turndown range and under all draft conditions which may arise in the operation of the oven, unless ignition of gas from every port shall immediately result from the ignition of gas at any single port, when gas is supplied to the burner at the highest and lowest rating of the burners.

(vi) Premixed gas burners shall be so designed that the burner will not backfire or blow off within the operating range of the burner.

(a) Multiple port burners, such as ribbon, strip, or tip burners, when used on premixed gas systems, shall be capable of instant ignition of the burner over its entire length when operated within the proper range of the burner, either in a normal or steam-laden oven atmosphere or under any other oven conditions which might extinguish the flame.

(b) Where a number of premixed gas burners are connected to a single premixing device, each burner shall be equipped with electric or gas ignition.

(vii) High-pressure inspirators (using gas at pressures exceeding 1 p.s.i.) shall be so constructed and machined as to insure perfect alignment of the gas jet with the axis of the inspirator.

(a) No high-pressure inspirator shall be installed with a valve or other obstruction between the inspirator and the burner.

(b) Each high-pressure inspirator shall have a gas adjustment consisting of a fixed replaceable orifice or an adjustable orifice. When an adjustable orifice is used, the adjusting screw shall be protected by a gas-tight plug.

(c) Air adjustments on high-pressure inspirators shall be provided with positive locking means.

(d) High-pressure inspirators shall be so located that air adjustments can be made during the operation of the oven.

(e) High-pressure inspirators shall be mounted in such a position that should a backfire occur, it cannot injure the operator or ignite any combustible material.

(f) High-pressure inspirators used on gas-burning systems, which are supplied under pressure with a partial mixture of air and gas instead of straight gas, shall not be used unless the amount of air mixed with the gas is sufficiently low to keep the mixture rich enough to be above the upper explosive limit.

(g) Low-pressure proportioning inspirating sets (using air at pressures from one-half to 1½ p.s.i. and gas at or about atmospheric pressure) shall be equipped with a positive locking device on the adjustment for setting the gas-air ratio.

(viii) Low-pressure proportioning inspirators equipped with zero governors, which do not compensate for any change in resistance in the mixture pipe, shall be installed so that there is no valve or other obstruction between the inspirators and the burners. Diaphragm air spaces of governors on low-pressure proportioning inspirating sets shall be vented to the outside of the building.

(ix) Two-pipe systems: No valve or other obstruction shall be placed between the mixing valve and the burners on any two-pipe system which uses air and gas under pressure, unless the mixing valve is equipped with a device which automatically will prevent excessive pressure rise in the mixture pressures. Two-pipe systems shall be equipped with means for cleaning the air and gas before they enter the mixing valve.

(5) *Gas mixing machines.* (i) All burners supplied with complete mixture from the machine shall be equipped with flash and flame arrestors equipped with automatic shutoff valves actuated by heat installed as close to the burners as practical and also at the outlet of the premixing machine ahead of the individual burner shutoffs. This is to prevent the flame from reaching the mixture supply pipe.

(a) The main mixture lines and the gas machine proper shall be amply protected against fire or explosion hazard by flashback arrestors and relief vents or softheads located outside the building. Some gas mixing machines are used for partially premixing gas and air and supplying this mixture to high-pressure inspirators where additional air is entrained. If the gas-air ratio is such that the mixture remains so rich as to be above the upper explosive limit over the entire range of the machine, flash arrestors or explosion vents are not required. Positive means shall be provided which will prevent any such gas mixing machine from producing an explosive mixture.

(b) All diaphragm or similar chambers shall be connected to the atmosphere outside of the building.

(c) An automatic safety shutoff valve shall be provided in the gas line leading to the mixing valve which will close the gas supply in case the suction disappears at the compressor inlet or the current to the compressor is shutoff.

(d) Air inlets to gas mixing machines shall be piped to a location outside the building and shall be located at a point protected against dust.

(ii) No valve or obstruction shall be installed between mixing blowers and burners.

(a) Mixing blowers shall be so constructed that they will supply a mixture of air and gas that will not blow off or backfire over the entire range of adjustments.

(b) Mixing blowers shall be provided with a pressure regulator in the gas line at the inlet to the mixing valve (to prevent variations in the air-gas ratio).

(c) Housings of mixing blowers shall be constructed to withstand any possible internal explosion.

(d) Mixing blowers shall be provided with an automatic safety shutoff valve in the gas line leading to the blower, which safety shutoff valve will close in case of failure of either gas pressure or electric current.

(6) *Oil-burning equipment.* (i) The storage and distribution of fuel oil in bakeries shall be arranged according to reference NFPA 31—1968 Standard for Installation of Oil Burning Equipment.

(ii) Oil burners shall be of a type approved by Underwriters Laboratories, Inc.

(a) Each oil burner shall be equipped with an electric ignition or gas pilot.

(b) Oil burners shall be protected against flame failure and overflowing of oil by a quick-acting combustion safeguard operated by the main burner flame. The time interval between flame failure and fuel shutoff shall be short enough to prevent a dangerous accumulation of an explosive mixture or the entry of a dangerous amount of fuel oil into the heating system; with the exception that on ovens requiring 150,000 B.t.u. per hour or less any combustion safeguard listed by the Underwriters Laboratories, Inc., may be used.

(c) The shutting off of the fuel supply shall be accomplished by stopping the individual burner pump equipped with a pressure cutoff valve, or by closing a suitable valve.

(d) Oil-fired ovens shall have dampers so arranged that a small amount of air is passed through the furnace at all times.

(e) Oil burners capable of being withdrawn from the furnace (for adjustment, etc.) shall be provided with an interlock which will prevent the burner from starting when in the withdrawn position.

(f) Preheating of oil, where necessary, shall be done by steam, hot water, or electric heater, and shall be thermostatically controlled. Heaters shall be substantially constructed with all joints made oil tight. Thermometers shall be

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installed at suitable locations to indicate the temperature of the heated oil. Heaters shall be bypassed or provided with suitable means to prevent abnormal pressure.

(g) Oil burners equipped with mechanical means for supplying air shall have an interlock between the air pressure and the oil supply so that the burner cannot operate unless air for proper combustion is available.

(iii) High-pressure atomizing oil burners shall be provided with a pressure cutoff valve between the pump and the nozzle.

(iv) Air atomizing burners equipped with maximum-minimum or modulating controls, and which are arranged to have the ignition turned off after initial lighting has been accomplished, shall be equipped with a quick-acting flame safeguard directly actuated by the main flame of the burner.

(v) Mechanical atomizing burners of the rotary type shall be operated on the on-off principle and shall be equipped with safeguards actuated by the main flame.

(vi) Evaporator-type burners shall be installed in such a way that provision is made to open the draft damper before oil can be admitted to the burners.

(vii) Burners supplied by "vapofiers" shall be equipped with a protected gas or electric pilot. In combination vapofier-gas heating systems, the burner shall be protected in accordance with the requirements of subparagraph (4) of this paragraph.

(7) *Solid-fuel firing equipment.* (i) In solid-fuel firing systems proper draft shall be maintained at the stack as long as there is fuel in the furnace. All breachings and flues shall be kept in a tight and clean condition. Solid-fuel firing systems using forced draft shall have the air supply to the ash pit interconnected with the furnace in such a way that the air pressure is shut off when the furnace door is opened.

(ii) *Mechanical stokers.* (a) Fuel feed and air supply to mechanical stokers shall be interlocked in such a way that fuel cannot be fed without sufficient air being available.

(b) Dampers in mechanical-stoker fired systems shall be interlocked with the stoker in such a way that the stoker cannot be started unless the damper is open.

(8) *Electrical heating equipment.* (i) All electrical equipment shall be built and installed according to Subpart S of this part.

(ii) Open heating elements inside the baking chamber shall be guarded against accidental touching by the product being baked, by the body of the operator, or by current-conducting implements which may be used.

(iii) A main disconnect switch or circuit breaker shall be provided. This switch or circuit breaker shall be so located that it can be reached quickly and safely. The main switch or circuit breaker shall have provisions for locking it in the open position if any work on the electrical equipment or inside the oven must be performed.

(9) *General requirements.* (i) Protecting devices shall be properly maintained and kept in working order.

(ii) All safety devices on ovens shall be inspected at intervals of not less than twice a month by an especially appointed, properly instructed bakery employee, and not less than once a year by representatives of the oven manufacturers.

(iii) (a) Protection of gas pilot lights shall be provided when it is impracticable to protect the main flame of the burner and where the pilot flame cannot contact the flame electrode without being in the path of the main flame of the burner. Failure of any gas pilot shall automatically shut off the fuel supply to the burner.

(b) Ovens with multiple burners shall be equipped with individual atmospheric pilot lights where there is sufficient secondary air in the baking chamber and where gas is available; or else each burner shall be equipped with an electric spark-type ignition device.

(iv) Burners of a capacity exceeding 150,000 B.t.u. per hour equipped with electric ignition shall be protected in addition by quick-acting combustion safeguards.

(a) The high-tension current for any electric spark-type ignition device shall originate in a power supply line which is interlocked with the fuel supply for the oven in such a way that in case of current failure both the source of electricity to the high-tension circuits and the fuel supply shall be turned off simultaneously.

(b) All electric circuits in connection with ignition systems on ovens shall comply with Subpart S of this part.

(c) Combustion safeguards used in connection with electric ignition systems on ovens shall be so designed as to prevent an explosive mixture from accumulating inside the oven before ignition has taken place.

(v) When fuel is supplied and used at line pressure, safety shutoff valves shall be provided in the fuel line leading to the burner.

(a) When fuel is supplied in excess of line pressure, safety shutoff valves shall be provided in the fuel line leading to the burners, unless the fuel supply lines are equipped with other automatic valves which will prevent the flow of fuel when the compressing equipment is stopped.

(b) The safety shutoff valve shall be positively tight and shall be tested at least twice monthly.

(c) Packing glands shall be designed so that the valve will not be made inoperative by excessive tightening of the packing gland.

(d) Electrically operated safety shutoff valves shall be normally closed and not depend on electricity for shutting off the fuel supply.

(e) A safety shutoff valve shall require manual operation for reopening after it has closed, or the electric circuit shall be so arranged that it will require a manual operation for reopening the safety shutoff valve.

(f) Manual reset-type safety shutoff valves shall be so arranged that they cannot be locked in an open position by external means.

(g) Where blowers are used for supplying the air for combustion the safety shutoff valve shall be interlocked so that it will close in case of air failure.

(h) Where gas or electric ignition is used, the safety shutoff valve shall close in case of ignition failure. On burners equipped with combustion safeguards, the valve shall close in case of burner flame failure.

(vi) One main, manually operated, fuel shutoff valve shall be provided on each oven, and shall be located ahead of all other valves in the system.

(vii) All individual gas or oil burners with a heating capacity over 150,000 B.t.u. per hour shall be protected by a safeguard which is actuated by the flame and which will react to flame failure in a time interval not to exceed 2 seconds. All safeguards, once having shut down a gas or oil burner, shall require manual resetting and starting of the burner or burners.

(viii) Any space in an oven (except direct fired ovens) which could be filled with an explosive mixture shall be protected by explosion vents. Explosion vents shall be made of minimum weight consistent with adequate insulation.

(a) Explosion doors which have a substantial weight shall be attached by chains or similar means to prevent flying parts from injuring the personnel in case of an explosion.

(b) Where explosion vents are so located that flying parts or gases might endanger the personnel working on or near the oven, internal or external protecting means shall be provided in the form of heavily constructed shields or deflectors made from noncombustible material.

(c) Specifically exempted from the provisions of subdivision (viii) of this subparagraph are heating systems on ovens in which the fuel is admitted only to enclosed spaces which shall have been tested to prove that their construction will resist repeated explosions without deformation are exempt from the requirements of subdivisions (viii) (a) and (b) of this paragraph.

(ix) *Flues and dampers.* (a) All ovens (except electrically heated) shall be properly and firmly connected to an active chimney or flue of ample size to carry away the flue gases.

(b) The chimney shall be preinspected after installation or repair to determine whether it is in suitable condition.

(c) The flue pipe or breeching shall be properly supported in all cases.

(d) Means shall be employed which will prevent the flue pipe or breeching from entering beyond the inner wall of the chimney flue.

(e) Flue pipe shall be cemented or otherwise sealed to the chimney wall so as to prevent infiltration of air.

(f) A flue damper or other equivalent means for regulating draft shall be installed on each oven, the proper operation of which depends on natural draft.

(g) Dampers, where used, shall be equipped with suitably located minimum and maximum stops. The minimum stop for dampers shall be adjusted to obtain sufficient air for combustion at the minimum oven output. Where stack dampers are used in connection with oil- or gas-fired ovens, they shall be equipped with means to turn the burner off when the damper is closed.

(x) Where the initial pressure of the fuel is lower than the air pressure used for combustion, check valves shall be installed in the fuel line to prevent air from backing up into the fuel lines. For instance, in gas burner apparatus, which uses air at pressures exceeding the gas service pressure, a check valve shall be provided in the gas line next to the mixing device.

(xi) Where the gas supply pressure is substantially higher than that at which the burners of an oven are designed to operate, a gas pressure regulator shall be employed.

(a) Gas pressure regulators, where used, shall maintain the gas pressure to the manifold within 10 percent of the operating pressure from maximum to minimum consumption rates.

(b) Regulators shall be of the spring-loaded, dead-weight, or pressure-balanced type. Spring- or weight-loaded regulators shall have springs or weights covered by suitable housing. Under no circumstances shall a weight and lever type of regulator be used.

(c) A gas pressure regulator, requiring access to atmosphere for successful operation, shall be vented to the outer air.

(d) A relief valve shall be placed on the outlet side of gas pressure regulators where gas is supplied at high pressure. The discharge from this valve shall be piped to the outside of the building.

(xii) All chambers which have to be connected to the atmosphere, but are separated from any gaseous or other volatile fuel by a flexible membrane, as, for instance, a diaphragm, bellows, etc., shall be connected by a pipe of at least one-half inch size to the outside atmosphere. The outside end of this pipe shall be protected against flooding or accidental plugging by ice formation, insects, or other causes, by providing a "tee" with double elbow connections pointing downwards at the top of the pipe, and screened outlets. Where several of such chambers are used in close proximity, a common vent line may be used.

(xiii) Where accumulation of dust in the air supply might affect the proper functioning of mixing devices and burners, the air supply inlet shall be equipped with suitable air filters. A standby filter should be available to permit interchanging filters for cleaning purposes.

(10) *Direct-fired ovens.* (i) Direct-fired ovens shall be safeguarded against failure of fuel, air, or ignition.

(ii) To prevent the possible accumulation of explosive gases from being ignited after a shutdown, all direct-fired ovens with a heating capacity over 150,000 B.t.u. per hour shall be ventilated before the ignition system, combustion air blower, and the fuel can be turned on. The preventilation shall insure at least four complete changes of atmosphere in the baking chamber by discharging the oven atmosphere to the outside of the building and entraining fresh air into it. The preventilation shall be repeated whenever the heating equipment is shut down by a safety device.

(11) *Direct recirculating ovens.* (i) Each circulating fan in direct recirculating ovens shall be interconnected with the burner in such a manner that the fuel is shut off by a safety valve when the fan is not running.

(ii) The flame of the burner or burners in direct recirculating ovens shall be protected by a quick-acting flame-sensitive safeguard which will automatically shut off the fuel supply in case of burner failure.

(iii) Direct recirculating ovens shall be equipped with preventilating devices.

(iv) Fans in direct recirculating ovens shall be constructed of materials suitable for the temperatures at which they will operate and designed with an ample safety factor to prevent rupture of the wheel.

(v) Fan wheel in direct recirculating oven shall be protected against direct impingement of the flame of the burner or burners.

(vi) Direct recirculating ovens, and particularly fans in and on such ovens, shall be protected from overheating by means of a temperature limiting device.

(vii) When the burner or burners on direct recirculating ovens are mounted at elevated positions permanent steps shall be provided for safe and convenient access to the burner or burners.

(12) *Flue-type ovens.* (i) Flue-type ovens shall be operated in such a way that less than atmospheric pressure is maintained in the flues.

(ii) Gas burners in flue-type ovens shall be protected against flame failure.

(iii) Oil burners on flue-type ovens shall be equipped with combustion safeguards as listed by the Underwriters Laboratories, Inc.

(iv) Solid-fuel stoker-fired flue-type ovens shall have the stack damper interlocked with the stoker so that the stoker cannot be operated when the damper is closed.

(13) *Indirect-fired multiple burner ovens.* (i) Indirect-fired multiple-burner ovens shall be equipped with safety shutoff valves which are interlocked with the ignition system, the air pressure and the gas pressure.

(ii) Parts of enclosures reaching through the wall of indirect-fired multiple-burner ovens, and observation windows on such ovens, shall be tested at least once each year with repeated explosions, and afterward inspected for leaks.

(14) *Steam-tube ovens.* Steam-tube ovens shall be protected against overfiring (firing at an excessive rate) and overheating (heating to excessive temperatures) by devices which control the maximum amount of fuel admitted to the furnace and the maximum permissible temperature in the baking chamber.

(15) *Indirect recirculating ovens.* (i) Indirect recirculating ovens shall have all oil and gas burners equipped with quick-acting flame sensitive combustion safeguards.

(ii) Duct systems in indirect-recirculating ovens shall be protected by explosion vents having a minimum total area of 1 square foot of vent to 15 cubic feet of total duct volume. These explosion vents shall be so located that they will not release hot gases or flying parts in the direction of an operator.

(iii) Duct systems (in ovens) operating under pressure shall be tested for tightness in the initial starting of the oven and also at intervals not farther apart than 6 months.

(iv) Fans and other parts in indirect recirculating ovens shall comply with requirements as listed under subparagraph (11) of this paragraph.

(16) *Electric ovens.* Electric ovens shall be installed, operated, and maintained in accordance with Subpart S of this part.

§ 1910.264 Laundry machinery and operations.

(a) *Definitions applicable to this section.* (1) *Laundry.* The term "laundry" shall mean an establishment wherein the washing, ironing, or other finishing of clothes, or any other textiles is done, but excluding printing, bleaching, dry cleaning, or dyeing of clothes or other textiles.

(2) *Marking machine.* The term "marking machine" shall mean a power-driven machine used for marking clothes or other textiles.

(3) *Washing machine.* The term "washing machine" shall mean a power-driven machine used for washing clothes or other textiles. It generally consists of a stationary case or shell inside of which is a revolving perforated cylinder.

(4) *Extractor.* The term "extractor" shall mean a power-driven centrifugal machine used for removing surplus moisture from clothes or other textiles by centrifugal action.

(5) *Wringer.* The term "wringer" shall mean one or more power-driven rolls used for removing surplus moisture from clothes or other textiles.

(6) *Starch mixer.* The term "starch mixer" shall mean a power-driven machine used for mixing or processing starch.

(7) *Starching machine.* The term "starching machine" shall mean a power-driven machine used for the starching of clothes or other textiles.

(8) *Drying tumbler.* The term "drying tumbler" shall mean a machine within which clothes or other textiles are dried by air, and which usually consists of an enclosure inside of which is a revolving cylinder.

(9) *Shaker.* The term "shaker" (clothes tumbler) shall mean a revolving cylinder used for shaking out clothes or other textiles.

(10) *Drying room.* The term "drying room" shall mean an enclosure used for drying clothes or other textiles, and containing any power-driven mechanism.

(11) *Dampening machine.* The term "dampening machine" shall mean a machine used for dampening clothes or other textiles.

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(12) *Ironer.* The term "ironer" shall mean a hand- or power-operated machine, with one or more rolls or heated surfaces in contact, used for ironing or smoothing clothes or other textiles.

(13) *Shaping machine.* The term "shaping machine" shall mean a power-driven machine used to shape, mold, or otherwise finish clothes or other textiles; this term shall also include shaping tables, stands, or shelves upon which the machine may be mounted.

(14) *Sewing machine.* The term "sewing machine" shall mean a machine used for sewing or stitching clothes or other textiles.

(15) *Guarded.* The term "guarded" shall mean covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers or casings, barrier rails, safety bars, or screens, to eliminate the possibility of accidental contact with, or dangerous approach by, persons or objects.

(16) *Enclosed.* The term "enclosed" shall mean that the object or equipment or part thereof is so guarded that accidental contact at the point of danger, during the regular operation of the equipment, is not possible.

(17) *Safety interlock.* The term "safety interlock" shall mean a device that will prevent the operation of the machine while the cover or door is open or unlocked and will hold the cover or door closed and locked while the basket or cylinder is in motion.

(18) *Moving parts.* The term "moving parts" shall mean gears, sprockets, revolving shafts, clutches, belts, pulleys, or other revolving or reciprocating parts that are attached to, or form an integral part of, a machine.

(19) *Power transmission.* The term "power transmission" shall pertain to equipment such as shafting, gears, belts, pulleys, or other parts used for transmitting power to the machine, and shall include prime movers.

(20) *Prime movers.* The term "prime movers," shall include steam, gas, oil, and air engines or motors, and steam and hydraulic turbines.

(21) *Point of operation.* The term "point of operation" shall mean the point or points at which clothes or other textiles are inserted or manipulated in the operation of the machine.

(b) *General requirements.* This section applies to moving parts of equipment used in laundries and to conditions peculiar to this industry, with special reference to the point of operation of laundry machines. This section does not apply to dry-cleaning operations.

(c) *Point-of-operation guards*—(1) *Washroom machines*—(i) *Marking machine.* Each power marking machine shall be equipped with a spring-compression device of such design as to prevent injury to fingers, should they be caught between the marking plunger and platen; or the marking machine shall be equipped with a control mechanism that will require the simultaneous action of both hands to operate the machine; or there shall be a guard that will act as a barrier in front of, and which will prevent the operator's fingers from coming into contact with, the marking plunger.

(ii) *Washing machine.* (*a*) Each washing machine shall be equipped with an interlocking device that will prevent the inside cylinder from moving when the outer door on the case or shell is open, and will also prevent the door from being opened while the inside cylinder is in motion. This device should not prevent the movement of the inner cylinder under the action of a hand-operated mechanism or under the operation of an "inching device."

(*b*) Each washing machine shall be provided with means for holding open the doors or covers of inner and outer cylinders or shells while being loaded or unloaded.

(iii) *Extractor.* (*a*) Each extractor shall be equipped with a metal cover.

(*b*) Each extractor shall be equipped with an interlocking device that will prevent the cover from being opened while the basket is in motion, and will also prevent the power operation of the basket while the cover is not fully closed and secured. This device should not prevent the movement of the basket by hand to ensure an even loading.

(*c*) Each extractor shall also be effectively secured in position on the floor or foundation so as to eliminate unnecessary vibrations, and shall not be operated at a speed greater than that given in the manufacturer's rating, which shall be stamped on the inside of the basket where it is easily visible, in letters not less than one-fourth inch in height. The maximum permissible speed shall be given in revolutions per minute.

(*d*) Each engine individually driving an extractor shall be provided with an engine stop approved by Underwriters Laboratories, Inc., and a speed-limit governor. It is suggested that where an extractor is driven by a direct-current motor a "no field" release be installed to prevent overspeed, which may result from an open or broken field.

(iv) *Power wringer.* Each power wringer shall be equipped with a safety bar or other guard across the entire front of the feed or first pressure rolls, so arranged that the striking of the bar or guard by the hand of the operator or other person will stop the machine.

(2) *Starching and drying machines*—(i) *Starching machine (cylinder or box type).* Each starching machine, cylinder or box type, shall be enclosed or guarded so as to prevent the operator or other person from coming into accidental contact with the cylinder or box while the machine is in motion.

(ii) *Drying-room fan.* Each drying-room fan, any part of which is within 7 feet of the floor or working platform, shall be guarded with wire mesh or screen of not less than No. 16 gage, the openings of which will reject a ball one-half inch in diameter.

(iii) *Drying tumbler.* (*a*) Each drying tumbler shall be equipped with an interlocking device that will prevent the inside cylinder from moving when the outer door on the case or shell is open, and also prevent the door from being opened while the inside cylinder is in motion. This device should not prevent the movement of the inner cylinder under the action of a hand-operated mechanism or under the operation of an inching device.

(*b*) Each drying tumbler shall be provided with means for holding open the doors or covers of inner and outer cylinders or shells while being loaded or unloaded.

(iv) *Shaker (clothes tumbler).* (*a*) (*1*) Each shaker or clothes tumbler of the single-cylinder type shall be equipped with a device that will automatically prevent the tumbler from moving while the door is open.

(*2*) The tumbler shall also be enclosed or guarded so as to prevent accidental contact by the operator or other person while the machine is in motion.

(*b*) (*1*) Each shaker or clothes tumbler of the double-cylinder type shall be equipped with an interlocking device that will prevent the inside cylinder from moving when the outer door on the case or shell is open, and will also prevent the door from being opened while the inside cylinder is in motion. This device should not prevent the movement of the inner cylinder under the action of a hand-operated mechanism or under the operation of an inching device.

(*2*) Each shaker or clothes tumbler of the double-cylinder type shall be provided with means for holding open the doors or covers of inner and outer cylinders or shells while being loaded or unloaded.

(v) *Exception.* Provisions of subdivision (iii), (iv) (*a*) (*1*), and (iv) (*b*) of this subparagraph shall not apply to shakeout or conditioning tumblers where the clothes are loaded into the open end of the revolving cylinder and are automatically discharged out of the opposite end.

(3) *Finishing machines*—(i) *Dampening machine.* Each roll-dampening machine shall be so equipped that the rolls will be entirely enclosed and so arranged as to prevent the fingers of the operator or other person from being caught between the rolls. This may be accomplished by:

(*a*) A slot or hopper;

(*b*) A rod or strip located directly in front of the feed and extending the full length of the rolls.

(ii) *Ironer.* (*a*) Each flat-work or collar ironer shall be equipped with a safety bar or other guard across the entire front of the feed or first pressure rolls, so arranged that the striking of the bar or guard by the hand of the operator or other person will stop the machine. The pressure rolls shall be covered or guarded so that the operator or other person cannot reach into the rolls without removing the guard. This may be either a vertical guard on all sides or a complete cover. If a vertical guard is used, the distance from the floor or working platform to the top of guard shall be not less than 6 feet.

(*b*) Each body-type ironer, roll or shoe type, including sleeve and band ironers, shall be equipped with a safety bar or other guard across the entire length of the feed roll or shoe, so arranged that the striking of the bar or guard by the hand of the operator or other person will stop the machine. The hot roll or shoe shall also be covered in such a way that the operator or other person cannot come into contact with the heated surfaces.

(*c*) Each combined rotary-bosom and coat ironer shall be equipped with a safety bar or other guard across the entire length of the feed roll or shoe, so arranged that the striking of the bar or guard by the hand of the operator or other person will stop the machine. The hot roll or shoe shall also be covered in such a way that the operator or other person cannot come into contact with the heated surfaces.

(*d*) Each ironing press (excluding hand or foot powered ones) shall be equipped with a guard or means that will prevent the fingers of the operator or other person from being caught between the ironing surfaces.

(4) *Miscellaneous machines and equipment*—(i) *Sewing machine.* Each sewing machine shall be equipped with a guard permanently attached to the machine, so that the operator's fingers cannot pass under the needle. It shall be of such form that the needle can be conveniently threaded without removing the guard.

(ii) *Exhaust or ventilating fans.* Each exhaust or ventilating fan within 7 feet of the floor or working platform shall be completely covered with wire mesh of not less than No. 16 gage, and with openings that will reject a ball one-half inch in diameter.

(iii) *Steam pipes.* (*a*) All steam pipes that are within 7 feet of the floor or working platform, and with which the worker may come into contact, shall be insulated or covered with a heat-resistive material or shall be otherwise properly guarded.

(*b*) Where pressure-reducing valves are used, one or more relief or safety valves shall be provided on the low-pressure side of the reducing valve, in case the piping or equipment on the low-pressure side does not meet the requirements for full initial pressure. The relief or safety valve shall be located adjacent to, or as close as possible to, the reducing valve. Proper protection shall be provided to prevent injury or damage caused by fluid escaping from relief or safety valves if vented to the atmosphere. The vents shall be of ample size and as short and direct as possible. The combined discharge capacity of the relief valves shall be such that the pressure rating of the lower-pressure piping and equipment will not be exceeded if the reducing valve sticks or fails to open.

(iv) *Starting and stopping devices.* Each power-driven machine shall be provided with means for disconnecting from the source of power. Starting and stopping devices for machines shall be so located as to be operable from the front of the machine, and so constructed as to allow proper guarding of belts and pulleys.

(d) *Operating rules*—(1) *General*—(i) *Floors.*

(*a*) The floors of every room in a laundry that are used for washing purposes shall be properly constructed of cement, tile, or similar material. The floors shall be watertight, free from projections, crevices, or dangerous gradients. They shall be maintained in good repair and so drained that no water may accumulate.

(*b*) The floors of every room except washrooms shall be constructed of hardwood or any impervious material, free from protruding nails, splinters, or loose boards, and shall be maintained in a safe condition.

(ii) *Table tops, shelves, and machine woodwork.* Table tops, shelves, and machine woodwork shall be constructed of materials properly surfaced, finished free from splinters, and so maintained.

(iii) *Markers.* Markers and others handling soiled clothes shall be warned against touching the eyes, mouth, or any part of the body on which the skin has been broken by a scratch or abrasion; and they shall be cautioned not to touch or eat food until their hands have been thoroughly washed.

(iv) *Ventilation.* Where artificial ventilation is necessary to the maintenance of comfortable working conditions, an adequate ventilating system shall be installed.

(v) *Instruction of employees.* Employees shall be properly instructed as to the hazards of their work and be instructed in safe practices, by bulletins, printed rules, and verbal instructions.

(2) *Mechanical*—(i) *Safety guards.* (*a*) No safeguard, safety appliance, or device attached to, or forming an integral part of any machinery shall be removed or made ineffective except for the purpose of making immediate repairs or adjustments. Any such safeguard, safety appliance, or device removed or made ineffective during the repair or adjustment of such machinery shall be replaced immediately upon the completion of such repairs or adjustments.

(*b*) No machine shall be operated until such repairs and adjustments have been made and the machine is in good working condition.

(ii) *Steam-pressure apparatus.* Steam machines shall not be operated at a pressure above that given by the manufacturer's pressure rating as shown on name plate. If the steam source is at a pressure higher than that given by the manufacturer's rating, a stop valve, reducing valve, pressure gage, and safety valve shall be installed, in the order named, from the source. The safety valve shall be located in a nonhazardous place.

(iii) *Machine adjustments.* No moving parts of any machine shall be oiled, cleaned, adjusted, or repaired while said machine is in operation or in motion except that the rolls of adjusting machines not equipped with hand-power means shall be operated at the slowest speed possible with an operator constantly at the starting mechanism.

(iv) *Extractors.* Each extractor shall be dismantled and inspected at least once a year and, if necessary, repaired. Overdriven extractors, if provided with handholes through which basket and rings can be inspected, need not be dismantled.

(e) *Moving parts*—(1) *Machine guarding (other than point of operation).* Moving parts of machines, such as gears, sprockets, belts, pulleys, and shafts, shall be guarded in accordance with the requirements of § 1910.219.

(2) *Prime-mover guarding.* Moving parts of prime movers, such as flywheels, cranks and connecting rods, tail rods or extension piston rods, and governor balls, shall be guarded in accordance with the requirements of § 1910.219.

(f) *General industrial safety standards*—(1) *General.* The general safety standards adopted by reference in subparagraph (2) of this paragraph, the provisions of which apply to nearly every industrial plant, are now incorporated by reference in this section and are made applicable to laundry operations. The rules of construction set forth in paragraph (3) of § 1910.5 shall apply.

(2) *Additional requirements.* The employer shall comply with the provisions of the standards referenced in this subparagraph. In the event of any conflict between this subparagraph and paragraphs (b) through (e) of this section, the requirements of paragraphs (b) through (e) of this section shall apply.

(i) *Industrial lighting.* American National Standard Practice for Industrial Lighting, ANSI A11.1—1965 (R–1970).

(ii) *Floor and wall openings, railings, and toeboards.* American National Standard Safety Requirements for Floor and Wall Openings, Railings, and Toeboards, ANSI A12.1—1967.

(iii) *Identification of piping systems.* American National Standard Scheme for the Identification of Piping Systems, ANSI A13.1—1956.

(iv) *Mechanical power transmission apparatus.* American National Standard Safety Standard for Mechanical Power Transmission Apparatus, ANSI B15.1—1971.

(v) *Pressure piping—power piping.* American National Standard Code for Pressure Piping—Power Piping, ANSI 31.1.0—1967. Addenda to the American National Standard Code for Pressure Piping—Power Piping, ANSI B31.1.0a—1969.

(vi) *Sanitation.* American National Standard Requirements for Sanitation in Places of Employment, ANSI Z4.1—1968.

(vii) *Local exhaust systems.* American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2—1960.

(viii) *Gas appliances and gas piping.* American National Standard for the Installation of Gas Appliances and Gas Piping, ANSI Z21.30—1964.

§ 1910.265 Sawmills.

(a) *General requirements*—(1) *Application.* This section includes safety requirements for sawmill operations including, but not limited to, log and lumber handling, sawing, trimming, and planing; waste disposal; operation of dry kilns; finishing; shipping; storage; yard and yard equipment; and for power tools and affiliated equipment used in connection with such operations, but excluding the manufacture of plywood, cooperage, and veneer.

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(2) *Incorporation of standards by reference.* Certain of the paragraphs of this section incorporate and apply occupational safety and health standards of general application without regard to any specific industry. Such standards shall apply to sawmill operations in accordance with the rules of construction set forth in § 1910.05.

(b) *Definitions applicable to this section*—(1) *A-frame.* The term "A-frame" means a structure made of two independent columns fastened together at the top and separated at the bottom for stability.

(2) *Annealing.* The term "annealing" means heating then cooling to soften and render less brittle.

(3) *Binder.* The term "binder" means a chain, cable, rope, or other approved material used for binding loads.

(4) *Boom.* The term "boom" means logs or timbers fastened together end to end and used to contain floating logs. The term includes enclosed logs.

(5) *Brow log.* The term "brow log" means a log placed parallel to a roadway at a landing or dump to protect vehicles while loading or unloading.

(6) *Bunk.* The term "bunk" means a cross support for a load.

(7) *Cant.* The term "cant" means a log slabbed on one or more sides.

(8) *Carriage (log carriage).* The term "carriage" means a framework mounted on wheels which runs on tracks or in grooves in a direction parallel to the face of the saw, and which contains apparatus to hold a log securely and advance it towards the saw.

(9) *Carrier.* The term "carrier" means an industrial truck so designed and constructed that it straddles the load to be transported with mechanisms to pick up the load and support it during transportation.

(10) *Chipper.* The term "chipper" means a machine which cuts material into chips.

(11) *Chock (bunk block) (cheese block).* The terms "chock", "bunk block", and "cheese block" mean a wedge that prevents logs or loads from moving.

(12) *Cold deck.* The term "cold deck" means a pile of logs stored for future removal.

(13) *Crotch lines.* The term "crotch lines" means two short lines attached to a hoisting line by a ring or shackle, the lower ends being attached to loading hooks.

(14) *Dog (carriage dog).* The term "dog" means a steel tooth, one or more of which are attached to each carriage knee to hold log firmly in place on carriage.

(15) *Drag saw.* The term "drag saw" means a power-driven, reciprocating crosscut saw mounted on suitable frame and used for bucking logs.

(16) *Head block.* The term "head block" means that part of a carriage which holds the log and upon which it rests. It generally consists of base, knee, taper set, and mechanism.

(17) *Head rig.* The term "head rig" means a combination of head saw and log carriage used for the initial breakdown of logs into timbers, cants, and boards.

(18) *Hog.* The term "hog" means a machine for cutting or grinding slabs and other coarse residue from the mill.

(19) *Husk.* The term "husk" means a head saw framework on a circular mill.

(20) *Industrial truck.* The term "industrial truck" means a mobile power-driven truck or tractor.

(21) *Kiln tender.* The term "kiln tender" means the operator of a kiln.

(22) *Lift truck.* The term "lift truck" means an industrial truck used for lateral transportation and equipped with a power-operated lifting device, usually in the form of forks, for piling or unpiling lumber units or packages.

(23) *Live rolls.* The term "live rolls" means cylinders of wood or metal mounted on horizontal axes and rotated by power, which are used to convey slabs, lumber, and other wood products.

(24) *Loading boom.* The term "loading boom" means any structure projecting from a pivot point to guide a log when lifted.

(25) *Log deck.* The term "log deck" means a platform in the sawmill on which the logs remain until needed for sawing.

(26) *Lumber hauling truck.* The term "lumber hauling truck" means an industrial truck, other than a lift truck or a carrier, used for the transport of lumber.

(27) *Log haul.* The term "log haul" means a conveyor for transferring logs to mill.

(28) *Package.* The term "package" means a unit of lumber.

(29) *Peavy.* The term "peavy" means a stout wooden handle fitted with a spike and hook and used for rolling logs.

(30) *Pike pole.* The term "pike pole" means a long pole whose end is shod with a sharp pointed spike.

(31) *Pitman rod.* The term "pitman rod" means connecting rod.

(32) *Resaw.* The term "resaw" means band, circular, or sash gang saws used to break down slabs, cants, or flitches into lumber.

(33) *Running line.* The term "running line" means any moving rope as distinguished from a stationary rope such as a guyline.

(34) *Safety factor.* The term "safety factor" means a calculated reduction factor which may be applied to laboratory test values to obtain safe working stresses for wooden beams and other mechanical members; ratio of breaking load to safe load.

(35) *Saw guide.* The term "saw guide" mean a device for steadying a circular or bandsaw.

(36) *Setwork.* The term "setwork" means a mechanism on a sawmill carriage which enables an operator to move the log into position for another cut.

(37) *Sorting gaps.* The term "sorting gaps" means the areas on a log pond enclosed by boom sticks into which logs are sorted.

(38) *Spreader wheel.* The term "spreader wheel" means a metal wheel that separates the board from the log in back of circular saws to prevent binding.

(39) *Splitter.* The term "splitter" means a knife-type, nonrotating spreader.

(40) *Sticker.* The term "sticker" means a strip of wood or other material used to separate layers of lumber.

(41) *Stiff boom.* The term "stiff boom" means the anchored, stationary boom sticks which are tied together and on which boom men work.

(42) *Swifter.* The term "swifter" is a means of tying boom sticks together to prevent them from spreading while being towed.

(43) *Telltale.* The term "telltale" means a device used to serve as a warning for overhead objects.

(44) *Top saw.* The term "top saw" means the upper of two circular saws on a head rig, both being on the same husk.

(45) *Tramway* The term "tramway" means a way for trams, usually consisting of parallel tracks laid on wooden beams.

(46) *Trestle.* The term "trestle" means a braced framework of timbers, piles or steelwork for carrying a road or railroad over a depression.

(c) *Building facilities, and isolated equipment*—(1) *Safety factor.* All buildings, docks, tramways, walkways, log dumps, and other structures shall be designed, constructed and maintained so as to support the imposed load in accordance with a safety factor.

(2) *Work areas.* Work areas under mills shall be as evenly surfaced as local conditions permit. They shall be free from unnecessary obstructions and provided with lighting facilities in accordance with American National Standard for Industrial Lighting A11.1—1965.

(3) *Floors.* Flooring in buildings and on ramps and walkways shall be constructed and installed in accordance with established principles of mechanics and sound engineering practices. They shall be of adequate strength to support the estimated or actual dead and live loads acting on them with the resultant stress not exceeding the allowable stress for the material being used.

(i) *Floor and wall openings.* All floor and wall openings shall be protected as prescribed in § 1910.23.

(ii) *Areas beneath floor openings.* Areas under floor openings shall, where practical, be fenced off. When this is not practical, they shall be plainly marked and telltales shall be installed to hang over these areas.

(iii) *Floor maintenance.* The flooring of buildings, docks, and passageways shall be kept in good repair. When a hazardous condition develops that cannot be immediately repaired, the area shall be guarded until adequate repairs are made.

(iv) *Nonslip floors.* Floors, footwalks, and passageways in the work area around machines or other places where a person is required to stand or walk shall be provided with effective means to minimize slipping.

(4) *Walkways, docks, and platforms*—(i) *Width.* Walkways, docks, and platforms shall be of sufficient width to provide adequate passage and working areas.

(ii) *Maintenance.* Walkways shall be evenly floored and kept in good repair.

(iii) *Docks.* Docks and runways used for the operation of lift trucks and other vehicles shall have a substantial guard or shear timber except where loading and unloading are being performed.

(iv) *Elevated walks.* All elevated walks, runways, or platforms, if 4 feet or more from the floor level, shall be provided with a standard railing except on loading or unloading sides of platforms. If height exceeds 6 feet, a standard toe board also shall be provided to prevent material from rolling or falling off.

(v) *Elevated platforms.* Where elevated platforms are used routinely on a daily basis they shall be equipped with stairways or fixed ladders in accordance with § 1910.27.

(vi) *Hazardous locations.* Where required, walkways and stairways with standard handrails shall be provided in elevated and hazardous locations. Where such passageways are over walkways or work areas, standard toe boards shall be provided.

(5) *Stairways* — (i) *Construction.* Stairways shall be constructed in accordance with § 1910.24.

(ii) *Handrails.* Stairways shall be provided with a standard handrail on at least one side or on any open side. Where stairs are more than four feet wide there shall be a standard handrail at each side, and where more than eight feet wide, a third standard handrail shall be erected in the center of the stairway.

(iii) *Lighting.* All stairways shall be adequately lighted as prescribed in Subparagraph (9) of this paragraph.

(6) *Emergency exits including doors and fire escapes*—(i) *Opening.* Doors shall not open directly on or block a flight of stairs, and shall swing in the direction of exit travel.

(ii) *Identification.* Exits shall be located and identified in a manner that affords ready exit from all work areas.

(iii) *Swinging doors.* All swinging doors shall be provided with windows; with one window for each section of double swinging doors. Such windows shall be of shatterproof or safety glass unless otherwise protected against breakage.

(iv) *Sliding doors.* Where sliding doors are used as exits, an inner door shall be cut inside each of the main doors and arranged to open outward.

(v) *Barriers and warning signs.* Where a doorway opens upon a railroad track or upon a tramway or dock over which vehicles travel, a barrier or other warning device shall be placed to prevent workmen from stepping into moving traffic.

(7) *Air requirements.* Ventilation shall be provided to supply adequate fresh healthful air to rooms, buildings, and work areas.

(8) *Vats and tanks.* All open vats and tanks into which workmen could fall shall be guarded.

(9) *Lighting*—(i) *Adequacy.* Illumination shall be provided and designed to supply adequate general and local lighting to rooms, buildings, and work areas during the time of use.

(ii) *Effectiveness.* Factors upon which the adequacy and effectiveness of illumination will be judged, include the following:

(*a*) The quantity of light in footcandle intensity shall be sufficient for the work being done.

(*b*) The quality of the light shall be such that it is free from glare, and has correct direction, diffusion, and distribution.

(*c*) Shadows and extreme contrasts shall be avoided or kept to a minimum.

(10) *Ladders.* Ladders shall be installed and maintained as specified in §§ 1910.25, 1910.26, and 1910.27.

(11) *Hazard marking.* Physical hazard marking shall be as specified in § 1910.144 of this part.

(12) *Electrical wiring and equipment.* (i) All electrical equipment should be installed and maintained in accordance with requirements specified in Subpart S of this part.

(ii) *Repairs.* Electrical repairs shall be made only by authorized and qualified personnel.

(iii) *Identification.* Marks of identification on electriacl equipment shall be clearly visible.

(iv) *Protective equipment.* Rubber protective equipment shall be provided as required by § 1910.137.

(v) *Open switches.* Before working on electrical equipment, switches shall be open and shall be tagged, blocked, or locked out.

(vi) *Concealed conductors.* Where electrical conductors are known to be concealed, no work shall be performed until such conductors are located.

(vii) *Overload relays.* Overload relays shall be reset by authorized qualified personnel only.

(viii) *Passageways to panels.* Passageways to switch centers or panels shall at all times be kept free from obstruction. Not less than 3 feet of clear space shall be maintained in front of switch centers or panels at all times.

(ix) *Bridging fuses.* Doubling or bridging fuses shall be prohibited.

(13) *Hydraulic systems.* Means shall be provided to block, chain, or otherwise secure equipment normally supported by hydraulic pressure so as to provide for safe maintenance.

(14) *Liquefied petroleum gas storage and handling.* Storage and handling of liquified petroleum gas shall be in accordance with the requirements of § 1910.110.

(15) *Gas piping and appliances.* All gas piping and appliances shall be installed in accordance with the American National Standard Requirements for the Installation of Gas Appliances and Gas Piping Z21.30—1964.

(16) *Flammable liquids.* Flammable liquids shall be stored and handled in accordance with § 1910.106.

(17) *Storage, handling, and use of chemicals*—(i) *Threshold limits.* Employees shall not be exposed to airborne concentration of toxic dusts, fumes, vapors, mists or gases that exceed the threshold limit values set forth by § 1910.93.

(ii) *Protective equipment.* The use of chemicals shall be controlled so as to protect employees from harmful exposure to toxic materials. Where necessary, employees shall be provided with and required to wear such protective equipment as will afford adequate protection against harmful exposure as required by Subpart I of this part.

(iii) *Open surface tank operations.* Open surface tank operations shall conform to the requirements of § 1910.94(d).

(18) *Conveyors*—(i) *Standards.* Construction, operation, and maintenance of conveyors shall be in accordance with American National Standard B20.1—1957.

(ii) *Guarding.* Spiked live rolls shall be guarded.

(19) *Stationary tramways and trestles*—(i) *Foundations and walkways.* Tramways and trestles shall have substantial mud sills or foundations which shall be frequently inspected and kept in repair. When vehicles are operated on tramways and trestles which are used for foot passage, traffic shall be controlled or a walkway with standard handrails at the outer edge and shear timber on the inner edge shall be provided. This walkway shall be wide enough to allow adequate clearance to vehicles. When walkways cross over other thoroughfares, they shall be solidly fenced at the outer edge to a height of 42 inches over such thoroughfares.

(ii) *Clearance.* Stationary tramways and trestles shall have a verticle clearance of 22 feet over railroad rails. When constructed over carrier docks or roads, they shall have a clearance of 6 feet above the driver's foot rest on the carrier, and in no event shall this clearance be less than 12 feet from the roadway. In existing operations where it is impractical to obtain such clearance, telltales, electric signals, signs or other precautionary measures shall be installed.

(20) *Blower, collecting, and exhaust systems*—(i) *Design, construction, and maintenance.* Blower collecting, and exhaust systems should be designed, constructed, and maintained in accordance with American National Standards Z33.-1—1961 (For the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying) and Z12.2—1962 (R1969) (Code for the Prevention of Dust Explosion in Woodworking and Wood Flour Manufacturing Plants).

(ii) *Collecting systems.* All mills containing one or more machines that create dust, shavings, chips, or slivers during a period of time equal to or greater than one-fourth of the working day, shall be equipped with a collecting system. It may be either continuous or automatic, and shall be of sufficient strength and capacity to enable it to remove such refuse from points of operation and immediate vicinities of machines and work areas.

(iii) *Exhaust or conveyor systems.* Each woodworking machine that creates

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dust, shavings, chips, or slivers shall be equipped with an exhaust or conveyor system located and adjusted to remove the maximum amount of refuse from the point of operation and immediate vicinity.

(iv) *Exhaust pipes.* Exhaust pipes shall be of such construction and internal dimensions as to minimize the possibility of clogging. They should be accessible for cleaning.

(v) *Dust chambers.* Exhaust pipes shall not discharge into an unconfined outside pile if uncontrolled fire or explosion hazards are created. They may empty into settling or dust chambers, designed to prevent the dust or refuse from entering any work area. Such chambers shall be constructed and operated to minimize the danger of fire or dust explosion.

(vi) *Hand removal of refuse.* Provision for the daily removal of refuse shall be made in all operations not required to have an exhaust system or having refuse too heavy, bulky, or otherwise unsuitable to be handled by the exhaust system.

(21) *Chippers*—(i) *Whole-log chippers.* The feed system to the chipper shall be arranged so the operator does not stand in direct line with the chipper spout (hopper). The chipper spout shall be enclosed to a height of not less than 36 inches from the floor or the operator's platform. A safety belt and lifeline shall be worn by workmen when working at or near the spout unless the spout is guarded. The lifeline shall be short enough to prevent workers from falling into the chipper.

(ii) *Hogs.* (*a*) Hog mills shall be so designed and arranged that from no position on the rim of the chute shall the distance to the cutter knives be less than 40 inches.

(*b*) Hog feed chutes shall be provided with suitable and approved baffles, which shall minimize material from being thrown from the mill.

(*c*) Employees feeding hog mills shall be provided with safety belts and lines unless guarded.

(22) *Mechanical power-transmission apparatus.* The construction, operation, and maintenance of all mechanical power-transmission apparatus shall be in accordance with the requirements of § 1910.219.

(23) *Bins, bunkers, hoppers, and fuel houses*—(i) *Guarding.* Open bins, bunkers, and hoppers whose upper edges extend less than 3 feet above working level shall be equipped with standard handrails and toe boards, or have their tops covered by a substantial grill or grating with openings small enough to prevent a man from falling through.

(ii) *Use of wheeled equipment to load bins.* Where automotive or other wheeled equipment is used to move materials into bins, bunkers, and hoppers, adequate guard rails shall be installed along each side of the runway, and a substantial bumper stop provided when necessary.

(iii) *Exits, lighting, and safety devices.* Fuel houses and bins shall have adequate exits and lighting, and all necessary safety devices shall be provided and shall be used by persons entering these structures.

(iv) *Walkways.* Where needed, fuel houses and bins shall have a standard railed platform or walkway near the top.

(24) *Ropes, cables, slings, and chains*—(i) *Safe Usage.* Ropes, cables, slings, and chains shall be used in accordance with safe use practices recommended by the manufacturer or within safe limits recommended by the equipment manufacturer when used in conjunction with it.

(ii) *Hooks.* No open hook shall be used in rigging to lift any load where there is hazard from relieving the tension on the hook from the load or hook catching or fouling.

(iii) *Work by qualified persons.* Installation, inspection, maintenance, repair, and testing of ropes, cables, slings, and chains shall be done only by persons qualified to do such work.

(iv) *Slings.* (*a*) Slings and their fittings and fastenings, when in use, shall be inspected daily for evidence of overloading, excessive wear, or damage. Slings found to be defective shall be removed from service.

(*b*) Proper storage shall be provided for slings while not in use.

(*c*) Suitable protection shall be provided between the sling and sharp unyielding surfaces of the load to be lifted.

(v) *Ropes or cables.* (*a*) Wire rope or cable shall be inspected when installed and once each week thereafter, when in use. It shall be removed from hoisting or load-carrying service when kinked or when one of the following conditions exists:

(*1*) When three broken wires are found in one lay of 6 by 6 wire rope.

(*2*) When six broken wires are found in one lay of 6 by 19 wire rope.

(*3*) When nine broken wires are found in one lay of 6 by 37 wire rope.

(*4*) When eight broken wires are found in one lay of 8 by 19 wire rope.

(*5*) When marked corrosion appears.

(*6*) Wire rope of a type not described herein shall be removed from service when 4 percent of the total number of wires composing such rope are found to be broken in one lay.

(*b*) Wire rope removed from service due to defects shall be plainly marked or identified as being unfit for further use on cranes, hoists, and other load-carrying devices.

(*c*) The ratio between the rope diameter and the drum, block, sheave, or pulley tread diameter shall be such that the rope will adjust itself to the bend without excessive wear, deformation, or injury. In no case shall the safe value of drums, blocks, sheaves, or pulleys be reduced when replacing such items unless compensating changes are made for rope used and for safe loading limits.

(vi) *Drums, sheaves, and pulleys.* Drums, sheaves, and pulleys shall be smooth and free from surface defects liable to injure rope. Drums, sheaves, or pulleys having eccentric bores or cracked hubs, spokes, or flanges shall be removed from service.

(vii) *Connections.* Connections, fittings, fastenings, and other parts used in connection with ropes and cables shall be of good quality and of proper size and strength, and shall be installed in accordance with the manufacturer's recommendations.

(viii) *Socketing, splicing, and seizing.* (*a*) Socketing, splicing, and seizing of cables shall be performed only by qualified persons.

(*b*) All eye splices shall be made in an approved manner and wire rope thimbles of proper size shall be fitted in the eye, except that in slings the use of thimbles shall be optional.

(*c*) Wire rope clips attached with U-bolts shall have these bolts on the dead or short end of the rope. The U-bolt nuts shall be retightened immediately after initial load carrying use and at frequent intervals thereafter.

(*d*) When a wedge socket-type fastening is used, the dead or short end of the cable shall be clipped with a U-bolt or otherwise made secure against loosening.

(*e*) *Fittings.* Hooks, shackles, rings, pad eyes, and other fittings that show excessive wear or that have been bent, twisted, or otherwise damaged shall be removed from service.

(*f*) *Running lines.* Running lines of hoisting equipment located within 6 feet 6 inches of the ground or working level shall be boxed off or otherwise guarded, or the operating area shall be restricted.

(*g*) *Number of wraps on drum.* There shall be not less than two full wraps of hoisting cable on the drum of cranes and hoists at all times of operation.

(*h*) *Drum flanges.* Drums shall have a flange at each end to prevent the cable from slipping off.

(*i*) *Sheave guards.* Bottom sheaves shall be protected by close fitting guards to prevent cable from jumping the sheave.

(*j*) *Preventing abrasion.* The reeving of a rope shall be so arranged as to minimize chafing or abrading while in use.

(ix) *Chains.* (*a*) Chains used in load carrying service shall be inspected before initial use and weekly thereafter.

(*b*) Chain shall be normalized or annealed periodically as recommended by the manufacturer.

(*c*) If at any time any 3-foot length of chain is found to have stretched one-third the length of a link it shall be discarded.

(*d*) Bolts or nails shall not be placed between two links to shorten or join chains.

(*e*) Broken chains shall not be spliced by inserting a bolt between two links with the head of the bolt and nut sustaining the load, or by passing one link through another and inserting a bolt or nail to hold it.

(x) *Fiber rope.* (*a*) Frozen fiber rope shall not be used in load carrying service.

(*b*) Fiber rope that has been subjected to acid or excessive heat shall not be used for load carrying purposes.

(*c*) Fiber rope shall be protected from abrasion by padding where it is fastened or drawn over square corners or sharp or rough surfaces.

(25) Reserved.

(26) *Mechanical stackers and unstackers*—(i) *Power-transmission apparatus.* Stackers and unstackers, shall have all gears, sprockets, chains, belt drives, and other power transmission apparatus guarded as specified in § 1910.219.

(ii) *Lumber lifting devices.* Lumber lifting devices on all stackers shall be designed and arranged so as to minimize the possibility of lumber falling from such devices.

(iii) *Blocking hoisting platform.* Means shall be provided to positively block the hoisting platform when employees must go beneath the stacker or unstacker hoist.

(iv) *Identifying controls.* Every manually operated control switch shall be properly identified and so located as to be readily accessible to the operator.

(v) *Locking main control switches.* Main control switches shall be so designed that they can be locked in the open position.

(vi) *Guarding side openings.* The hoistway side openings at the top level of the stacker and unstacker shall be protected by enclosures of standard railings.

(vii) *Guarding hoistway openings.* When the hoist platform or top of the load is below the working platform, the hoistway openings shall be guarded.

(viii) *Guarding lower landing area.* The lower landing area of stackers and unstackers shall be guarded by enclosures that prevent entrance to the area or pit below the hoist platform. Entrances should be protected by electrically interlocked gates which, when open, will disconnect the power and set the hoist brakes. When the interlock is not installed, other positive means of protecting the entrance shall be provided.

(ix) *Inspection.* Every stacker and unstacker shall be inspected at frequent intervals and all defective parts shall be immediately repaired or replaced.

(x) *Cleaning pits.* Safe means of entrance and exit shall be provided to permit cleaning of pits.

(xi) *Preventing entry to hazardous area.* Where the return of trucks from unstacker to stacker is by mechanical power or gravity, adequate signs, warning devices, or barriers shall be erected to prevent entry into the hazardous area.

(27) *Lumber piling and storage*—(i) *Pile foundations.* In stacking units of lumber, pile foundations shall be designed and arranged to support maximum loads without sinking, sagging, or permitting the piles to topple. In unit package piles, substantial bolsters or unit separators shall be placed between each package directly over the stickers.

(ii) *Stacking dissimilar unit packages.* Long units of lumber shall not be stacked upon shorter packages except where a stable pile can be made with the use of package separators.

(iii) *Unstable piles.* Piles of lumber which have become unstable shall be immediately made safe, or the area into which they might fall shall be fenced or barricaded and employees prohibited from entering it.

(iv) *Stickers.* Unit packages of lumber shall be provided with stickers as necessary to insure stability under ordinary operating conditions.

(v) *Sticker alignment.* Stickers shall extend the full width of the package, shall be uniformly spaced, and shall be aligned one above the other. Stickers may be lapped with a minimum overlapping of 12 inches. Stickers shall not protrude more than 2 inches beyond the sides of the package.

(vi) *Pile height.* The height of unit package piles shall be dependent on the dimensions of the packages and shall be such as to provide stability under normal operating conditions. Adjacent lumber piles may be tied together with separators to increase stability.

(28) *Lumber loading.* Loads shall be built and secured to insure stability in transit.

(29) *Burners*—(i) *Guying.* If the burner stack is not self-supporting, it shall be guyed or otherwise supported.

(ii) *Runway.* The conveyor runway to the burner shall be equipped with a standard handrail. If the runway crosses a roadway or thoroughfare, standard toe boards shall be provided in addition.

(30) *Vehicles*—(i) *Scope.* Vehicles shall include all mobile equipment normally used in sawmill, planing mill, storage, shipping, and yard operations.

(ii) *Warning signals and spark arrestors.* All vehicles shall be equipped with audible warning signals and where practicable shall have spark arrestors.

(iii) *Lights.* All vehicles operated in the dark or in poorly lighted areas shall be equipped with head and tail lights.

(iv) *Overhead guard.* All vehicles operated in areas where overhead hazards exist shall be equipped with an approved overhead guard. See American National Standard Safety Code for Powered Industrial Trucks, B56.1—1969.

(v) *Platform guard.* Where the operator is exposed to hazard from backing the vehicle into objects, an approved platform guard shall be provided and so arranged as to not impede exit of driver from vehicle.

(vi) *Exposed parts.* Vehicle flywheels, gears, sprockets, chains, shear points, and other exposed parts constituting a hazard to the operator or other persons shall be guarded in accordance with the requirements of § 1910.219.

(vii) *Operation in buildings.* Vehicles powered by internal combustion engines shall not operate in buildings unless the buildings are adequately ventilated.

(viii) *Load limits.* No vehicle shall be operated with loads exceeding its safe load capacity.

(ix) *Brakes.* All vehicles shall be equipped with brakes capable of holding and controlling the vehicle and capacity load upon any incline or grade over which they may be operated.

(x) *Lift trucks.* Lift trucks shall be designed, constructed, maintained, and operated in accordance with the requirements of § 1910.178.

(xi) *Carriers.* (*a*) Carriers shall be so designed and constructed that the operator's field of vision shall not be unnecessarily restricted.

(*b*) Carriers shall be provided with an access ladder or equivalent.

(xii) *Lumber hauling trucks.* (*a*) On trucks where movement of load on stopping would endanger the operator, a substantial bulkhead shall be installed behind the operator's seat. This shall extend to the top of the operator's compartment.

(*b*) Stakes, stake pockets, racks, tighteners, and binders shall provide adequate means to secure the load against any movement during transit.

(*c*) Where rollers are used, at least two shall be equipped with locks which shall be locked when supporting loads during transit.

(31) *Traffic control and flow*—(i) *Hazardous crossings.* Railroad tracks and other hazardous crossings shall be plainly posted and appropriate traffic control devices (American National Standard D8.1—1967 for Railroad-Highway Grade Crossing Protection) should be utilized.

(ii) *Restricted overhead clearance.* All areas of restricted side or overhead clearance shall be plainly marked.

(iii) *Pickup and unloading points.* Pickup and unloading points and paths for lumber packages on conveyors and transfers and other areas where accurate spotting is required, shall be plainly marked and wheel stops provided where necessary.

(iv) *Aisles, passageways, and roadways.* Aisles, passageways, and roadways shall be sufficiently wide to provide safe side clearance. One-way aisles may be used for two-way traffic if suitable turnouts are provided.

(d) *Log handling, sorting, and storage*—(1) *Log unloading methods, equipment, and facilities*—(i) *Unloading methods.* (*a*) Stakes and chocks which trip shall be constructed in such manner that the tripping mechanism that releases the stake or chocks is activated at the opposite side of the load being tripped.

(*b*) Binders on logs shall not be released prior to securing with unloading lines or other unloading device.

(*c*) Binders shall be released only from the side on which the unloader operates, except when released by remote control devices or except when person making release is protected by racks or stanchions or other equivalent means.

(*d*) Loads on which a binder is fouled by the unloading machine shall have an extra binder or metal band of equal strength placed around the load, or the load shall be otherwise secured so the fouled binder can be safely removed.

(ii) *Unloading equipment and facilities.* (*a*) Machines used for hoisting, unloading, or lowering logs shall be equipped with brakes capable of controlling or holding the maximum load in midair.

(*b*) The lifting cylinders of all hydraulically operated log handling machines shall be equipped with a positive device for preventing the uncontrolled lowering of the load or forks in case of a failure in the hydraulic system.

(*c*) A limit switch shall be installed on powered log handling machines to prevent the lift arms from traveling too far

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in the event the control switch is not released in time.

(*d*) When forklift-type machines are used to load trailers, a means of securing the loading attachment to the fork shall be installed and used.

(*e*) A-frames and similar log unloading devices shall have adequate height to provide safe clearance for swinging loads and to provide for adequate crotch lines and spreader bar devices.

(*f*) Log handling machines used to stack logs or lift loads above operator's head shall be equipped with adequate overhead protection.

(*g*) All mobile log handling machines shall be equipped with headlights and backup lights.

(*h*) Unloading devices shall be equipped with a horn or other plainly audible signaling device.

(*i*) Movement of unloading equipment shall be coordinated by audible or hand signals when operator's vision is impaired or operating in the vicinity of other employees.

(*j*) Wood pike poles shall be made of straight-grained, select material. Metal or conductive pike poles shall not be used around exposed energized electrical conductors. Defective, blunt, or dull pike poles shall not be used.

(2) *Log unloading and storage areas*—(i) *General.* (*a*) Log dumps, booms, ponds, or storage areas used at night shall be illuminated in accordance with the requirements of American National Standard A11.1—1965 (R–1970) Standard Practice for Industrial Lighting.

(*b*) Log unloading areas shall be arranged and maintained to provide a safe working area.

(*c*) Where skids are used, space adequate to clear a man's body shall be maintained between the top of the skids and the ground.

(*d*) Signs prohibiting unauthorized foot or vehicle traffic in log unloading and storage areas shall be posted.

(ii) *Water log dumps.* (*a*) Ungrounded electrically powered hoists using handheld remote control in grounded locations, such as log dumps or mill log lifts, shall be actuated by circuits operating at less than 50 volts to ground.

(*b*) Roadbeds at log dumps shall be of sufficient width and evenness to insure safe operation of equipment.

(*c*) An adequate brow log or skid timbers or the equivalent shall be provided where necessary. Railroad-type dumps, when located where logs are dumped directly into water or where entire loads are lifted from vehicle, may be exempted providing such practice does not create a hazardous exposure of personnel or equipment.

(*d*) Unloading lines shall be arranged so that it is not necessary for the employees to attach them from the pond or dump side of the load except when entire loads are lifted from the log-transporting vehicle.

(*e*) Unloading lines, crotch lines, or equally effective means shall be arranged and used in a manner to minimize the possibility of any log from swinging or rolling back.

(*f*) When logs are unloaded with peavys or similar manual methods, means shall be provided and used that will minimize the danger from rolling or swinging logs.

(*g*) Guardrails, walkways, and standard handrails shall be installed

(*h*) Approved life rings (see: 46 CFR 160.099 and 46 CFR 160.050) with line attached and maintained to retain buoyancy shall be provided.

(iii) *Log booms and ponds.* (*a*) Walkways and floats shall be installed and securely anchored to provide adequate passageway for employees.

(*b*) All regular boom sticks and foot logs shall be reasonably straight, with no protruding knots and bark, and shall be capable of supporting, above the water line at either end, the weight of an employee and equipment.

(*c*) Permanent cable swifters shall be so arranged that it will not be necessary to roll boom sticks in order to attach or detach them.

(*d*) Periodic inspection of cable or dogging lines shall be made to determine when repair or removal from service is necessary.

(*e*) The banks of the log pond in the vicinity of the log haul shall be reinforced to prevent caving in.

(*f*) Artificial log ponds shall be drained, cleaned, and refilled when unhealthy stagnation or pollution occurs.

(*g*) Employees whose duties require them to work from boats, floating logs, boom sticks, or walkways along or on water shall be provided with and shall wear appropriate buoyant devices while performing such duties.

(*h*) Stiff booms shall be two float logs wide secured by boom chains or other connecting devices, and of a width adequate for the working needs. Walking surfaces shall be free of loose material and maintained in good repair.

(*i*) Boom sticks shall be fastened together with adequate crossties or couplings.

(*j*) Floating donkeys or other power-driven machinery used on booms shall be placed on a raft or float with enough buoyancy to keep the deck well above water.

(*k*) All sorting gaps shall have a substantial stiff boom on each side.

(iv) *Pond boats and rafts.* The applicable provisions of the Standard for Fire Protection for Motorcraft, NFPA No. 302—1968, shall be complied with.

(*a*) Decks of pond boats shall be covered with nonslip material.

(*b*) Powered pond boats or rafts shall be provided with at least one approved fire extinguisher, and one lifering with line attached.

(*c*) Boat fuel shall be transported and stored in approved safety containers (Underwriters Laboratories, Inc.).

(*d*) Inspection, maintenance, and ventilation of the bilge area shall be provided to prevent accumulation of highly combustible materials.

(*e*) Adequate ventilation shall be provided for the cabin area on enclosed cabin-type boats to prevent accumulation of harmful gases or vapors.

(v) *Dry deck storage.* (*a*) Dry deck storage areas shall be kept orderly and shall be maintained in a condition which is conducive to safe operation of mobile equipment.

(*b*) Logs shall be stored in a safe and orderly manner, and roadways and traffic lanes shall be maintained at a width adequate for safe travel of log handling equipment.

(*c*) Logs shall be arranged to minimize the chance of accidentally rolling from the deck.

(vi) *Log hauls and slips.* (*a*) Walkways along log hauls shall have a standard handrail on the outer edge, and cleats or other means to assure adequate footing and enable employees to walk clear of the log chute.

(*b*) Log haul bull chains or cable shall be designed, installed, and maintained to provide adequate safety for the work need.

(*c*) Log haul gear and bull chain drive mechanism shall be guarded.

(*d*) Substantial troughs for the return strand of log haul chains shall be provided over passageways.

(*e*) Log haul controls shall be located and identified to operate from a position where the operator will, at all times, be in the clear of logs, machinery, lines, and rigging. In operations where control is by lever exposed to incoming logs, the lever shall be arranged to operate the log haul only when moved toward the log slip or toward the log pond.

(*f*) A positive stop shall be installed on all log hauls to prevent logs from traveling too far ahead in the mill.

(*g*) Overhead protection shall be provided for employees working below logs being moved to the log deck.

(*h*) Log wells shall be provided with safeguards to minimize the possibility of logs rolling back into well from log deck.

(3) *Log decks*—(i) *Access.* Safe access to the head rig shall be provided.

(ii) *Stops.* Log decks shall be provided with adequate stops, chains, or other safeguards to prevent logs from rolling down the deck onto the carriage or its runway.

(iii) *Barricade.* A barricade or other positive stop of sufficient strength to stop any log shall be erected between the sawyer's stand and the log deck.

(iv) *Loose chains.* Loose chains from overhead canting devices or other equipment shall not be allowed to hang over the log deck in such manner as to strike employees.

(v) *Swing saws.* Swing saws on log decks shall be equipped with a barricade and stops for protection of employees who may be on the opposite side of the log haul chute.

(vi) *Drag saws.* Where reciprocating log cutoff saws (drag saws) are provided, they shall not project into walkway or aisle.

(vii) *Circular cutoff saws.* Circular log bucking or cutoff saws shall be so located and guarded as to allow safe entrance to and exit from the building.

(viii) *Entrance doorway.* Where the cutoff saw partially blocks the entrance from the log haul runway, the entrance shall be guarded.

(4) *Mechanical barkers*—(i) *Rotary barkers.* Rotary barking devices shall be so guarded as to protect employees from flying chips, bark, or other extraneous material.

(ii) *Elevating ramp.* If an elevating ramp or gate is used, it shall be provided with a safety chain, hook, or other means of suspension while employees are underneath.

(iii) *Area around barkers.* The hazardous area around ring barkers and their conveyors shall be fenced off or posted as a prohibited area for unauthorized persons.

(iv) *Enclosing hydraulic barkers.* Hydraulic barkers shall be enclosed with strong baffles at the inlet and outlet. The operator shall be protected by adequate safety glass or equivalent.

(v) *Holddown rolls.* Holddown rolls shall be installed at the infeed and outfeed sections of mechanical ring barkers to control the movement of logs.

(*e*) *Log breakdown and related machinery and facilities*—(1) *Log carriages and carriage runways*—(i) *Bumpers.* A substantial stop or bumper with adequate shock-absorptive qualities shall be installed at each end of the carriage runway.

(ii) *Footing.* Rider-type carriages shall be floored to provide secure footing and a firm working platform for the block setter.

(iii) *Sheave housing.* Sheaves on rope-driven carriages shall be guarded at floor line with substantial housings.

(iv) *Carriage control.* A positive means shall be provided to prevent unintended movement of the carriage. This may involve a control locking device, a carriage tie-down, or both.

(v) *Barriers and warning signs.* A barrier shall be provided to prevent employees from entering the space necessary for travel of the carriage, with headblocks fully receded, for the full length and extreme ends of carriage runways. Warning signs shall be posted at possible entry points to this area.

(vi) *Overhead clearance.* For a rider-type carriage adequate overhead clear space above the carriage deck shall be provided for the full carriage runway length.

(vii) *Sweeping devices.* Carriage track sweeping devices shall be used to keep track rails clear of debris.

(viii) *Dogs.* Dogging devices shall be adequate to secure logs, cants, or boards, during sawing operations.

(2) *Head saws*—(i) *Band head saws.* (*a*) Band head saws shall not be operated at speeds in excess of those recommended by the manufacturer.

(*b*) Band head saws shall be thoroughly inspected for cracks, splits, broken teeth, and other defects. A bandsaw with a crack greater than one-tenth the width of the saw shall not be placed in service until width of saw is reduced to eliminate crack, until cracked section is removed, or crack development is stopped.

(*c*) Provisions shall be made for alerting and warning employees before starting band head saws, and measures shall be taken to insure that all persons are in the clear.

(ii) *Bandsaw wheels.* (*a*) No bandsaw wheel shall be run at a peripheral speed in excess of that recommended by the manufacturer. The manufacturer's recommended maximum speed shall be stamped in plainly legible figures on some portion of the wheel.

(*b*) Band head saw wheels shall be subjected to monthly inspections. Hubs, spokes, rims, bolts, and rivets shall be thoroughly examined in the course of such inspections. A loose or damaged hub, a rim crack, or loose spokes shall make the wheel unfit for service.

(*c*) Band wheels shall be completely encased or guarded, except for a portion of the upper wheel immediately around the point where the blade leaves the wheel, to permit operator to observe movement of equipment. Necessary ventilating and observation ports may be permitted. Substantial doors or gates are allowed for repair, lubrication, and saw changes; such doors or gates shall be closed securely during operation. Band head rigs shall be equipped with a saw catcher or guard of substantial construction.

(iii) *Single circular head saws.* (*a*) Circular head saws shall not be operated at speeds in excess of those specified by the manufacturer. Maximum speed shall be etched on the saw.

(*b*) Circular head saws shall be equipped with safety guides which can be readily adjusted without use of hand tools.

(*c*) The upper saw of a double circular mill shall be provided with a substantial hood or guard. A screen or other suitable device shall be placed so as to protect the sawyer from flying particles.

(*d*) All circular sawmills where live rolls are not used behind the head saw shall be equipped with a spreader wheel or splitter.

(iv) *Twin circular head saws.* Twin circular head saw rigs such as scrag saws shall meet the specifications for single circular head saws in subdivision (iii) of this subparagraph where applicable.

(v) *Whole-log sash gang saws (Swedish Gangs).* (*a*) Cranks, pitman rods, and other moving parts shall be adequately guarded.

(*b*) Feed rolls shall be enclosed by a cover over the top, front, and open ends except where guarded by location. Drive mechanism to feed rolls shall be enclosed.

(*c*) Carriage cradles of whole-log sash gang saws (Swedish gangs), shall be of adequate height to prevent logs from kicking out while being loaded.

(3) *Resaws*—(i) *Band resaws.* Band resaws shall meet the specifications for band head saws as required by subparagraph (2) (i) of this paragraph.

(ii) *Circular gang resaws.* (*a*) Banks of circular gang resaws shall be guarded by a hood.

(*b*) Circular gang resaws shall be provided with safety fingers or other antikickback devices.

(*c*) Circular gang resaws shall not be operated at speeds exceeding those recommended by the manufacturer.

(*d*) Feed belts and drive pulleys shall be guarded in accordance with the requirements of § 1910.219.

(*e*) Feed rolls shall be guarded.

(*f*) Each circular gang resaw, except self-feed saws with a live roll or wheel at back of saw, shall be provided with spreaders.

(iii) *Sash gang resaws.* Sash gang resaws shall meet the safety specifications of whole-log sash gang saws in accordance with the requirements of subparagraph (2) (v) of this paragraph.

(4) *Trimmer saws*—(i) *Maximum speed.* Trimmer saws shall not be run at peripheral speeds in excess of those recommended by the manufacturer.

(ii) *Guards.* (*a*) Trimmer saws shall be guarded in front by adequate baffles to protect against flying debris and they shall be securely bolted to a substantial frame. These guards for a series of saws shall be set as close to the top of the trimmer table as is practical.

(*b*) The end saws on trimmers shall be guarded.

(*c*) The rear of trimmer saws shall have a guard the full width of the saws and as much wider as practical.

(iii) *Safety stops.* Automatic trimmer saws shall be provided with safety stops or hangers to prevent saws from dropping on table.

(5) *Edgers*—(i) *Location.* (*a*) Where vertical arbor edger saws are located ahead of the main saw, they shall be so guarded that an employee cannot contact any part of the edger saw from his normal position.

(*b*) Edgers shall not be located in the main roll case behind the head saws.

(ii) *Guards.* (*a*) The top and the openings in end and side frames of edgers shall be adequately guarded and gears and chains shall be fully housed. Guards may be hinged or otherwise arranged to permit oiling and the removal of saws.

(*b*) All edgers shall be equipped with pressure feed rolls.

(*c*) Pressure feed rolls on edgers shall be guarded against accidental contact.

(iii) *Antikickback devices.* (*a*) Edgers shall be provided with safety fingers or other approved methods of preventing kickbacks or guarding against them. A barricade in line with the edger, if properly fenced off, may be used if safety fingers are not feasible to install.

(*b*) A controlling device shall be installed and located so that the operator can stop the feed mechanism without releasing the tension of the pressure rolls.

(iv) *Operating speed of live rolls.* Live rolls and tailing devices in back of edger shall operate at a speed not less than the speed of the edger feed rolls.

(6) *Planers*—(i) *Guards.* (*a*) All cutting heads shall be guarded.

(*b*) Side head hoods shall be of sufficient height to safeguard the head setscrew.

(*c*) Pressure feed rolls and "pineapples" shall be guarded.

(*d*) Levers or controls shall be so arranged or guarded as to reduce the possibility of accidental operation.

(*f*) *Dry kilns and facilities*—(1) *Kiln foundations.* Dry kilns shall be con-

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structed upon solid foundations to prevent tracks from sagging.

(2) *Passageways.* A passageway shall be provided to give adequate clearance on at least one side or in the center of end-piled kilns and on two sides of cross-piled kilns.

(3) *Doors*—(i) *Main kiln doors.* (*a*) Main kiln doors shall be provided with a method of holding them open while kiln is being loaded.

(*b*) Counterweights on vertical lift doors shall be boxed or otherwise guarded.

(*c*) Adequate means shall be provided to firmly secure main doors, when they are disengaged from carriers and hangers, to prevent toppling.

(ii) *Escape doors.* (*a*) If operating procedures require access to kilns, kilns shall be provided with escape doors that operate easily from the inside, swing in the direction of exit, and are located in or near the main door at the end of the passageway.

(*b*) Escape doors shall be of adequate height and width to accommodate an average size man.

(4) *Pits.* Pits shall be well ventilated, drained, and lighted, and shall be large enough to safely accommodate the kiln operator together with operating devices such as valves, dampers, damper rods, and traps.

(5) *Steam mains.* All high-pressure steam mains located in or adjacent to an operating pit shall be covered with heat-insulating material.

(6) *Ladders.* A fixed ladder, in accordance with the requirements of § 1910.27 or other adequate means shall be provided to permit access to the roof. Where controls and machinery are mounted on the roof, a permanent stairway with standard handrail shall be installed in accordance with the requirements of § 1910.24.

(7) *Chocks.* A means shall be provided for chocking or blocking cars.

(8) *Kiln tender room.* A warm room shall be provided for kiln employees to stay in during cold weather after leaving a hot kiln.

(9) *Mechanical equipment.* All belts, pulleys, blowers, and other exposed moving equipment used in or about kilns shall be guarded in accordance with the requirements of § 1910.219.

(g) *Personal protective equipment.* The requirements for personal protective equipment specified in subpart I shall be complied with.

(h) *Sanitation requirements.* The requirements of § 1910.141 shall govern sanitation practices.

(i) *Fire protection.* The requirements of Subpart L of this part shall be complied with in providing the necessary fire protection for sawmills.

(j) *Effective dates.* (1) The provisions of this § 1910.265 shall become effective on August 27, 1971, except as provided in the remaining subparagraphs of this paragraph.

(2) The following provisions shall become effective on February 15, 1972:

§ 1910.265 (c)(12), (e)(15), and (c)(30)(iv).

(3) Notwithstanding subparagraph (1), (2), or (4) of this paragraph, any provision in any other paragraph of this section which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(4) Notwithstanding anything in subparagraph (1) of this paragraph, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2 (a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this § 1910.265 which is derived from 41 CFR Part 50–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.266 Pulpwood logging.

(a) *Application*—(1) *General.* This section applies to pulpwood logging operations including but not limited to the operations of felling, limbing, marking, bucking, loading, skidding, prehauling and other operations associated with the preparation and movement of pulpwood timber from the stump to the point of delivery. The provisions of this section do not apply to logging operations relating to sawlogs, veneer bolts, poles, piling and other forest products.

(2) *Standards incorporated by reference.* Standards covering issues of occupational safety and health which are of general application without regard to any specific industry are incorporated by reference in paragraphs of this section and made applicable to pulpwood logging. All such standards shall be construed according to the rules of construction set out in § 1910.05.

(b) *Definitions applicable to this section*—(1) *Arch.* The term "arch" means an extension to rear section of a vehicle used in skidding used to raise the forward part of a load clear of the ground.

(2) *Back cut (felling cut).* The term "back cut" means the final cut in a felling operation made on the opposite side from the undercut.

(3) *Backfill.* The term "backfill" means excavated material used to build up a road higher than the original level.

(4) *Ballistic nylon.* The term "ballistic nylon" means a fabric of high tensile properties designed to provide protection from lacerations.

(5) *Borrow.* The term "borrow" means road construction material which is taken to another location for use. The source area is called "borrow pit."

(6) *Buck.* The term "buck" means the process of severing a tree into sections (logs or bolts).

(7) *Choker.* The term "choker" means a length of wire rope or chain with a loop or noose at one end used to secure trees or sections of trees for skidding.

(8) *Debark.* The term "debark" means the action of removing bark from trees or sections of trees. Debark generally denotes mechanical means as opposed to manual peeling. Synonyms are "bark" and "barking".

(9) *Fairlead.* The term "fairlead" means an arrangement of horizontal, and sometimes vertical, rollers usually mounted at the end of an arch to allow free play of wire rope during winching.

(10) *Fell.* The term "fell" means the process of severing a tree from the stump so that it drops to the ground. Note that "fell" and "feller" are used in this standard. The terms "fall" and "faller" are commonly used in the Western United States and they have the same meaning as "fell" and "feller".

(11) *Grade (see slope).* The term "grade" means the slope of a surface such as a roadway. Also, the elevation of a real or planned surface or structure.

(12) *Guarded.* The term "guarded" means protected by a cover, shield, rail, or other device, or by location, so as to reduce the probability of injury.

(13) *Guyline.* The term "guyline" means a line used to stay or support spar trees, booms, etc.

(14) *Landing.* The term "landing" means any area where wood is concentrated. It is also called "yard," "deck," "brow."

(15) *Lodged tree.* The term "lodged tree" means a tree that has not fallen to the ground after being partly or wholly separated from its stump or otherwise displaced from its natural position.

(16) *Pickaroon.* The term "pickaroon" means a device with a head similar to an axe but with a point rather than a blade mounted on the end of a handle which is used to assist in the lifting and placement of bolts of wood.

(17) *Prehaul.* The term "prehaul" means the hauling of forest products by off-the-road vehicles, nonhighway transport, or other movement prior to highway or rail movement, where the pulpwood travels clear of the ground. The term "forward" has the same meaning.

(18) *Riprap.* The term "riprap" means rock, metal stripping, or wooden timbers used to contain and stabilize earth embankments and fills.

(19) *Root wad.* The term "root wad" means the ball of roots which extends above ground level when a tree is pushed over by wind or other means.

(20) *Skid.* The term "skid" means the movement of bolts, logs, or trees by pulling or towing across the terrain. It may be accomplished by a stationary machine, a moving vehicle, or animal. The term is also called "yarding". The definitive feature is contact between the terrain and the product during movement.

(21) *Slope (see grade).* The term "slope" is a term of measurement in percent and means the increase in height over the distance measured. An increase of 1 foot over a distance of 5 feet is expressed as a 20 percent slope.

(22) *Snag.* The term "snag" means any dead standing tree or portion thereof remaining standing.

(23) *Spring pole.* The term "spring pole" means a section of tree, sapling, limb, etc. which is, by virtue of its arrangement with relation to other materials, under tension.

(24) *Undercut.* The term "undercut" means a notch cut in a tree to guide the tree in felling.

(25) *Widow maker.* The term "widow maker" means an overhanging limb or section of tree which could become dislodged and drop to the ground (see also "lodged tree").

(26) *Wood hook.* The terms "wood hook" and "pulp hook" mean a device to be held in one hand which is fitted with a pointed section. The device is used to assist in the manual piling and handling of bolts of wood (see Pickaroon).

(c) *General requirements*—(1) *Clothing, personal protective devices, and first aid.*

(i) Gloves shall be provided for use when working with wire rope in any form.

(ii) Safety boots or shoes (excluding low cut shoes) shall be provided in accordance with American National Standard for Men's Safety-Toe Footwear, Z41.1—1967.

(iii) Safety helmets of approved design in accordance with American National Standard for Safety Requirements for Industrial Head Protection, Z89.1—1969 shall be provided.

(iv) Eye or face protection in accordance with American National Standard for Practice for Occupational and Educational Eye and Face Protection, Z87.1—1968 shall be provided for use where chips and sawdust or flying particles are present.

(v) Dust masks in accordance with American National Standard Practices for Respiratory Protection Z88.2—1969 shall be provided for use where conditions warrant.

(vi) Protection against the effects of noise exposure shall be provided when the sound levels exceed those shown in Table G–16 of § 1910.95 when measured on the A scale of a standard sound level meter at slow response.

(vii) First aid kits sufficient for the number of employees shall be provided at the work site and on all transport vehicles. In all areas where poisonous snakes may exist, snake bite kits shall be a part of the regular first aid equipment. First aid kits shall be regularly inspected and replenished.

(2) *Handtools.* (i) The employer shall be responsible for the safe condition of tools when furnished by him and user shall inspect tool to assure safe condition.

(ii) Handles shall be sound, straight and tight fitting.

(iii) Driven tools shall be dressed to remove any mushrooming.

(iv) Cutting tools shall be kept sharp and properly shaped.

(v) Wood hooks and pickaroons of good grade steel shall be used.

(vi) Tools shall be used for purposes for which they were designed.

(vii) Hands tools shall be sheathed or boxed if transported in a vehicle with personnel. If not contained in a box, the sheathed tools shall be fastened to the vehicle.

(viii) Proper storage facilities shall be provided for hand tools. Tools shall be stored in the provided location at all times when not in use.

(ix) Periodic inspections shall be made to assure all tools are serviceable and others removed from use.

(3) *Environmental conditions.* (i) All work shall terminate and employees moved to a place of safety during electrical storms and periods of high winds or other unusual weather conditions are dangerous to personnel.

(ii) Dead, broken, or rotted limbs or trees that are a hazard (widow makers) shall be felled or otherwise removed before commencing logging operations, building roads, trails or landing, in their vicinity.

(4) *Work areas.* (i) All persons shall be instructed to work within the vocal range of other workmen unless a procedure has been established for periodically checking their location and welfare.

(ii) All men shall be accounted for at the end of each work day.

(iii) An approved (Underwriters Laboratories or Factory Mutual Engineering Corp.) fire extinguisher shall be provided at locations where machines are operating and/or on each vehicle.

(iv) Fuel shall be stored only in approved (Underwriters Laboratories or Factory Mutual Engineering Corp.) well-marked containers located for safe access for fueling vehicles and equipment and at a safe distance from all fire hazards.

(5) *Chain saw operations.* (i) Chain saw operators shall be instructed to daily inspect the saws daily to assure that all handles and guards are in place and tight, that all controls function properly, and that the muffler is operative.

(ii) Chain saw operators shall be instructed to follow manufacturer's instructions as to operation and adjustment.

(iii) Chain saw operators shall be instructed to fuel the saw only in safe areas and not under conditions conducive to fire such as near men smoking, hot engine, etc.

(iv) Chain saw operators shall be instructed to hold the saw with both hands during operation.

(v) Chain saw operators shall be instructed to start the saw at least 10 feet away from fueling area.

(vi) Chain saw operators shall be instructed to start the saw only on the ground or when otherwise firmly supported.

(vii) Chain saw operators shall be instructed to be certain of footing and to clear away brush which might interfere before starting to cut.

(viii) Chain saw operators shall be instructed not to use engine fuel for starting fires or as a cleaning solvent.

(ix) Chain saw operators shall be instructed to shut off the saw when carrying it for a distance greater than from tree to tree or in hazardous conditions such as slippery surfaces or heavy underbrush. The saw shall be at idle speed when carried short distances.

(x) Chain saw operators shall be instructed to carry the saw in a manner to prevent contact with the chain and muffler.

(xi) Chain saw operators shall be instructed not to use the saw to cut directly overhead or at a distance that would require the operator to relinquish a safe grip on the saw.

(6) *Stationary and mobile equipment operation.* (i) Equipment operators shall be instructed as to the manufacturers recommendations for equipment operation, maintenance, safe practices, and site operating procedures.

(ii) Equipment shall be kept free of flammable material.

(iii) Equipment shall be kept free of any material which might contribute to slipping and falling.

(iv) Engine of equipment shall be shut down during fueling, servicing, and repairs except where operation is required for adjustment.

(v) Equipment shall be inspected for evidence of failure or incipient failure.

(vi) The equipment operator shall be instructed to walk completely around machine and assure that no obstacles or personnel are in the area before startup.

(vii) The equipment operator shall be instructed to start and operate equipment only from the operator's station or from safe area recommended by the manufacturer.

(viii) Seat belt shall be provided on mobile equipment.

(ix) The equipment operator shall be instructed to check all controls for proper function and response before starting working cycle.

(x) The equipment operator shall be instructed to ground or secure all movable elements when not in use.

(xi) The equipment operator shall be advised of the load capacity and operating speed of the equipment.

(xii) The equipment operator shall be advised of the stability limitations of the equipment.

(xiii) The equipment operator shall be instructed to maintain adequate distance from other equipment and personnel.

(xiv) Where signalmen are used, the equipment operator shall be instructed to operate the equipment only on signal from the designated signalman and only when signal is distinct and clearly understood.

(xv) The equipment operator shall be instructed not to operate movable elements (boom, grapple, load, etc.) close to or over personnel.

(xvi) The equipment operator shall be instructed to signal his intention before operation when personnel are in or near the working area.

(xvii) The equipment operator shall be instructed to dismount and stand clear for all loading and unloading of his mobile vehicle by other mobile equipment. The dismounted operator shall be visible to loader operator.

(xviii) The equipment operator shall be instructed to operate equipment in a manner that will not place undue shock loads on wire rope.

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(xix) The equipment operator shall be instructed not to permit riders or observers on the machine unless approved seating and protection is provided.

(xx) The equipment operator shall be instructed to shut down the engine when the equipment is stopped, apply brake locks and ground moving elements before he dismounts.

(xxi) The equipment operator shall be instructed, when any equipment is transported from one job location to another, to transport it on a vehicle of sufficient rated capacity and the equipment shall be properly secured during transit.

(xxii) When any equipment is being moved or operated in the vicinity of an electric distribution line a minimum clearance of ten feet shall be maintained between the electric distribution line and all elements of the machine.

(7) *Explosives.* Only trained and experienced personnel shall handle or use explosives. Usage shall comply with the requirements of § 1910.109.

(d) *Equipment protective devices—stationary and mobile equipment*—(1) *Operator's manual.* There shall be an operator's manual or operating instructions with each machine. It will describe operation, maintenance, and safe practices.

(2) *Protective canopy.* A protective canopy shall be provided for the operator of mobile equipment. It shall be so constructed as to protect the operator from injury due to falling trees or limbs, saplings or branches which might enter the compartment side areas, and snapping winch lines or other objects.

(i) The canopy shall be of adequate size so as not to impair the operator's movements.

(ii) The canopy framework shall consist of at least two arches, either transverse or longitudinal. If transverse, one arch shall be installed behind the operator and one immediately in front of the operator. They shall be joined at the top by at least two longitudinal braces. There shall be two braces which shall act as deflecting guards extending from the leading edge of the forward arch to the front part of the frame of the tractor. If longitudinal arches are used, they shall be extended from behind the operator to the front part of the frame and each arch shall have an intermediate support located immediately ahead of the operator so that ingress or egress is not impeded. Regardless of the type of construction used, the fabrication and method of connecting to the tractor shall be of such design as to develop a strength equivalent to the upright members.

(iii) The overhead covering shall be of solid material and extend the full width of the canopy.

(iv) The lower portion of cab shall be completely enclosed with solid material, except at entrances, to prevent the operator from being injured from obstacles entering the cab.

(v) The upper rear portion of cab shall be fully enclosed with open mesh material with openings of such a size as to reject the entrance of an object larger than 1¾ inch in diameter. It shall provide maximum rearward visibility.

(vi) Open mesh shall be extended forward as far as possible from the rear corners of the cab sides so as to give the maximum protection against obstacles, branches, etc., entering the cab area.

(vii) Deflectors shall also be installed ahead of the operator to deflect whipping saplings and branches. These shall be located so as to not impede ingress or egress from the compartment.

(viii) The entrance opening of the canopy shall be not less than 52 inches in vertical height.

(ix) Where glass is used it shall be safety glass. An approved substitute may be used.

(*a*) An additional metal screen shall be used where glass alone is not adequate operator protection.

(*b*) Provision shall be made to clean glass to assure adequate visibility.

(3) *Guards.* Guards shall be provided for exposed moving elements such as shafts, pulleys, belts, conveyors, and gears in accordance with § 1910.219 and American National Standard Safety Code for Conveyors, Cableways, and Related Equipment, B20.1—1957. Guards shall be in place at all times machine is in operation.

(4) *Mufflers.* Mufflers provided by the manufacturer or their equivalent shall be in place at all times the machine is in operation.

(5) *Guylines.* Guylines shall be arranged in such manner that stresses will be imposed on not less than two guylines. Stumps used for anchoring guylines shall be carefully chosen as to position and strength. They shall be tied back if necessary. Standing trees shall not be used for this purpose.

(6) *Stability and reliability.* Crane and loader stability and boom reliability shall be in accordance with American National Standard Safety Code for Cranes, Derricks and Hoists Overhead and Gantry Cranes, B30.2.0—1967, and American National Standard Safety Code for Cranes, Derricks and Hoists—Crawler, Locomotive, and Truck Cranes, B30.5—1968.

(e) *Pulpwood harvesting*—(1) *Felling, general.* (i) Work areas shall be assigned such that a tree cannot fall into an adjacent work area. The recommended distance between workers is twice the height of trees being felled.

(ii) When trees may fall into public roads a flagman shall be assigned to direct traffic.

(iii) Workers shall be instructed not to approach a feller closer than twice the height of trees being felled until the feller has acknowledged the signal of approach.

(iv) Lodged trees shall be pulled to the ground at first opportunity with mechanical equipment or animal.

(v) Workers shall be instructed not to work under a lodged tree.

(vi) Special precautions shall be taken to prevent felling trees into powerlines.

(vii) If a tree does make contact with a powerline the power company shall be notified immediately and all personnel shall remain clear of the area until power company personnel advises that conditions are safe.

(2) *Manual felling.* (i) The feller shall be instructed to plan retreat path and clear path as necessary before cut is started.

(ii) The feller shall be instructed to appraise situation for dead limbs, the lean of tree to be cut, wind conditions, location of other trees and other hazards and exercise proper precautions before cut is started.

(iii) Undercuts shall be about one-third the diameter of the tree to guide tree and reduce possibility of splitting. (Local practice where small diameter trees are felled without being undercut is acceptable if the direction of fall is controlled by the practice.)

(iv) Back or felling cut shall be parallel to the inner edge of the undercut and approximately two inches higher than the undercut.

(v) The saw shall be shut off before feller starts his retreat.

(vi) On terrain where trees are likely to slide or roll fellers shall be instructed to fell trees from the uphill side and arrange to keep uphill from previously felled trees.

(3) *Bucking.* (i) Bucking on slopes shall be from the uphill side unless the log has been securely blocked to prevent rolling or swinging.

(ii) Spring poles and trees under stress shall be cut so that employee is clear when the tension is released. (This is accomplished by cutting under the bend.)

(iii) Trees piled for bucking shall be piled in an orderly parallel manner that minimizes hazard to employees.

(4) *Limbing.* Spring poles and limbs under stress shall be cut in such a manner that the employee is clear when tension is released.

(5) *Mechanical debarking and delimbing.* Guarding shall be provided so as to protect employees from flying chunks, logs, chips, bark, limbs, and other material and to prevent the worker from contacting moving parts.

(6) *Skidding and prehauling, general*—(i) Only a designated, trained operator shall operate a skid or prehaul machine.

(ii) Choker setters shall work on uphill side of log.

(iii) No passenger personnel shall ride on a prehaul vehicle, logs, pallets, skid pans or other load unless adequate seating and protection is provided except on animal powered wagons.

(iv) Chokers shall be positioned near the end of the log or tree length to allow turning of the prehaul vehicle, to prevent the penetration of the operator station and to reduce possibility of striking the wheel or track.

(v) During winching, the equipment shall be positioned so that the winch line is in alignment with the long axis of the prehaul machine.

(vi) A stuck or inoperative vehicle shall be towed. A loaded pallet shall not be pushed.

(vii) Stakes shall not be added to permit a load beyond the rated capacity of pallets and trailers.

(viii) The operator shall be instructed to be observant and cautious of height of load and vehicle when traveling under trees, limbs, and other overhead obstructions.

(7) *Skidding and prehauling equipment requirements.* (i) Arches, fairleads, drawbars, hitches and bumpers or fenders shall be designed and constructed to allow a minimum radius vehicle turn without the load contacting a rear tire or the rear of a track assembly.

(ii) Towed equipment such as skid pans, pallets and trailers shall be attached in such a manner as to allow a full 90° turn, prevent overrunning of the towed vehicle, and assure control of the towed equipment.

(iii) Animal towed equipment shall be equipped with a hand brake within reach of the driver.

(iv) Prehaulers shall have a means for securely retaining pallets or pulpwood.

(v) Prehaulers shall have a means of securely retaining loader for transport when so equipped.

(vi) Provision shall be made to securely fasten and to protect all tools and material on the carrier.

(8) *Personnel transport.* (i) The driver shall be properly licensed.

(ii) Flammable liquids shall not be transported on personnel carriers unless a safe and adequate compartment is provided.

(iii) Seats shall be securely fastened.

(9) *Off highway truck transport.* Truck drivers shall be instructed to stop their vehicles, dismount, check and tighten loose load binders, either just before or immediately after leaving a private road to enter a public road.

(10) *Manual loading.* (i) The carrier shall be positioned to provide safe working clearance between carrier and pile.

(ii) Proper lifting techniques shall be used, i.e., straight back and bend knees.

(iii) The stick shall be placed in the carrier in such manner that it is or will be properly secured.

(iv) Manual handling shall be limited to a weight consistent with safe practices.

(11) *Machine loading.* (i) Piles shall be located to provide a safe work area.

(ii) Only the machine operator and slingman, where used, shall be in the work area.

(iii) The load shall be positioned for balance and to prevent slippage or loss. Slings shall be placed to secure and balance the load.

(12) *Storage.* Piles shall be located and constructed in a manner to provide safe working area around them.

(13) *Banding and piling bundles.* (i) Steel bands in good condition shall be used.

(ii) Bands shall be placed when bundle is close to ground.

(iii) No part of the body shall be under the bundle at any time. Bundles shall be placed on runners. Bundles may be double stacked with top end bundle one half or more back from the lower rank end bundle.

(14) *Chipping (in-woods locations).* (i) Access covers or doors shall not be opened until the drum or disk is at a complete stop.

(ii) Infeed and discharge ports shall be designed to prevent contact by personnel with disc, knives, or blower blades.

(15) *Roads and trials, general.* (i) Roads shall be maintained and hazardous conditions corrected.

(ii) Where vision is limited warnings shall be posted.

(iii) Curve radii shall be the maximum consistent with terrain.

(iv) When nightwork is necessary adequate lighting shall be provided.

(v) Local road standards and maximum weight of traffic expected shall be used as guides for materials, construction features and drainage.

(16) *Road and trail pioneering and earthwork.* (i) Banks at the borrow area shall be sloped to prevent slides.

(ii) Backfill shall be adequately compacted.

(iii) Roadside banks shall be sloped or stabilized to prevent slides.

(iv) Overhanging banks, large rocks and debris shall be removed or secured.

(v) Where riprap is used the material and design shall assure safe containment of material.

(vi) Trees or snags which may fall into the road shall be felled.

(17) *Road and trail drainage.* (i) Drainage shall be provided to prevent washouts and landslides.

(ii) Culverts shall be of adequate strength and of a size to handle maximum runoff.

(iii) Where necessary, ditches and banks shall be stabilized by vegetation, riprap or other adequate means.

(18) *Road and trail surfacing.* Road surface shall be properly compacted, graded and crowned.

(19) *Bridges.* (i) Construction shall provide for maximum anticipated loads and side thrust with a substantial safety factor.

(ii) Bridges shall be decked and curbed.

(f) *Effective dates.* (1) The provisions of this § 1910.266 shall become effective on August 27, 1971, except as provided in the remaining subparagraphs of this paragraph.

(2) Paragraph (d)(2) of this section shall become effective on February 15, 1972.

(3) Notwithstanding anything in subparagraph (1), (2), or (4) of this paragraph, any provision in any other paragraph of this section which contains in itself a specific effective date or time limitation shall become effective on such date or shall apply in accordance with such limitation.

(4) Notwithstanding anything in subparagraph (1) of this paragraph, if any standard in 41 CFR Part 50–204, other than a national consensus standard incorporated by reference in § 50–204.2 (a)(1), is or becomes applicable at any time to any employment and place of employment, by virtue of the Walsh-Healey Public Contracts Act, or the Service Contract Act of 1965, or the National Foundation on Arts and Humanities Act of 1965, any corresponding established Federal standard in this § 1910.266 which is derived from 41 CFR Part 40–204 shall also become effective, and shall be applicable to such employment and place of employment, on the same date.

§ 1910.267 **Agricultural operations.**

(a)(1) The standards referenced in the remaining subparagraphs of this paragraph apply to the indicated operations, whether or not they include as a part of, agricultural operations.

(2) Sanitation in temporary labor camps—§ 1910.142.

(3) Storage and handling of anhydrous ammonia—§ 1910.111 (a) and (b).

(4) Pulpwood logging—§ 1910.266.

(5) Slow-moving vehicles—§ 1910.145.

(b) Except to the extent specified in paragraph (a) of this section, the standards contained in Subparts B through S of this part do not apply to agricultural operations.

(c) The development of standards having more general application to agricultural operations will be the subject of study under section 6 of the Act.

§ 1910.268 **Sources of standards.**

Sec.		Source
1910.261	---	ANSI P1.1—1969, Safety Standard for Pulp, Paper, and Paperboard Mills.
1910.264	---	ANSI L1.1—1956, Textile Safety Code.
1910.263	---	ANSI Z50.1—1947, Safety Code for Bakery Equipment.
1910.262	---	ANSI Z8.1—1961, Safety Code for Laundry Machinery and Operations.
1910.265	---	ANSI O2.1—1969, Safety Requirements for Sawmills.
1910.266	---	ANSI O3.1—1970, Pulpwood Logging Safety Standards.

§ 1910.269 **Standards organizations.**

Specific standards of the following organizations have been referenced in this subpart. Copies of the referenced standards may be obtained from the issuing organizations. The names and addresses of the issuing organizations are as follows:

American National Standards Institute (ANSI), 1430 Broadway, New York, NY 10018.
National Fire Protection Association (NFPA), 60 Batterymarch Street, Boston, MA 02110.
American Society of Mechanical Engineers, Inc., United Engineering Center, 345 East 47th Street, New York, NY 10017.
Institute of Markers of Explosives, 420 Lexington Avenue, New York, NY 10017.
Underwriters Laboratories, Inc., 207 East Ohio Street, Chicago, IL 60611.

Subpart S—Electrical

§ 1910.308 **Application.**

(a) *General.* Section 1910.309 adopts as a national consensus standard the National Electrical Code NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), which is incorporated by reference in this subpart.

(b) *Purpose of the National Electrical Code.* (1) The purpose of the National Electrical Code is the practical safeguarding of any persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, and for other purposes. The standards contained therein are occupational safety and health standards to the extent that they safeguard any person who is an employee of an employer.

(2) The National Electrical Code con-

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tains basic minimum provisions considered necessary for safety.

(c) *Scope*—(1) *Covered.* The provisions of this Subpart S cover electrical installations and utilization equipment installed or used within or on public and private buildings, structures and other premises including:

(i) Yards,
(ii) Carnivals,
(iii) Parking lots,
(iv) Mobile homes,
(v) Recreational vehicles,
(vi) Conductors that connect an installation to a supply of electricity, and
(vii) Other outside conductors adjacent to the premises.

(2) *Not covered.* The provisions of this subpart do not cover:

(i) Installations in ships, watercraft, railway rolling stock, aircraft or automotive vehicles,

(ii) Installations underground in mines,

(iii) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communication purposes,

(iv) Installations of communication equipment under exclusive control of communication utilities, located outdoors or in building spaces used exclusively for such installation, or

(v) Installations under the exclusive control of electric utilities for the purpose of communication, metering or for the generation, control, transformation, transmission, and distribution of electric energy, located in buildings used exclusively by the utilities for such purposes or located outdoors on property owned or leased by the utilities or on public highways, streets, roads, etc., or outdoors by established rights on private property.

(d) *Definitions applicable to this Subpart S*—(1) *Approved.* Some provisions of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968), which is adopted in this Subpart S, require installations or equipment to be approved. In Article 100 of the Code, "approved" is defined to mean "acceptable to the authority enforcing this Code." The authority enforcing the Code under subpart S is the Assistant Secretary of Labor for Occupational Safety and Health. The definitions in this subsection indicate what is acceptable to the Assistant Secretary of Labor, and therefore approved within the meaning of the Code as incorporated in this subpart S.

(2) *Acceptable.* An installation or equipment is acceptable to the Assistant Secretary of Labor, and approved within the meaning of this Subpart S: (i) If it is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory, such as, but not limited to, Underwriters' Laboratories, Inc. and Factory Mutual Engineering Corp.; or (ii) with respect to an installation or equipment of a kind which no nationally recognized testing laboratory accepts, certifies, lists, labels, or determines to be safe, if it is inspected or tested by another Federal agency, or by a State, municipal, or other local authority responsible for enforcing occupational safety provisions of the National Electrical Code, and found in compliance with the provisions of the National Electrical Code as applied in § 1910.309; or (iii) with respect to custom-made equipment or related installations which are designed, fabricated for, and intended for use by, a particular customer, if it is determined to be safe for its intended use by its manufacturer on the basis of test data which the employer keeps and makes available for inspection to the Assistant Secretary and his authorized representatives.

(3) For purposes of subparagraph (2) of this paragraph:

(i) *Listed.* Equipment is "listed" if it is of a kind mentioned in a list which, (*a*) is published by a nationally recognized laboratory which makes periodic inspection of the production of such equipment, and (*b*) states such equipment meets nationally recognized standards or has been tested and found safe for use in a specified manner;

(ii) *Labeled.* Equipment is "labeled" if there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory which, (*a*) makes periodic inspections of the production of such of equipment, and (*b*) whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner;

(iii) *Accepted.* An installation is "accepted" if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes;

(iv) *Certified.* Equipment is "certified" if it, (*a*) has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner, or (*b*) is of a kind whose production is periodically inspected by a nationally recognized testing laboratory, and (*c*) it bears a label, tag, or other record of certification;

(v) *Utilization equipment.* Utilization equipment means equipment which utilizes electric energy for mechanical, chemical, heating, lighting, or similar useful purpose.

§ 1910.309 National Electrical Code.

(a) The requirements contained in the following articles and sections of the National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968) shall apply to all electrical installations and utilization equipment:

Articles:	
500	Hazardous Locations.
501	Class I Installations (Hazardous Locations).
502	Class II Installations (Hazardous Locations).
503	Class III Installations (Hazardous Locations).
Sections:	
250–58 (a) and (b).	Equipment on Structural Metal.
250–59 (a), (b), and (c).	Portable and/or Cord Connected and Plug Connected Equipment, Grounding Method.
400–3 (a) and (b).	Flexible Cords and Cable, Uses.
400–4	Flexible Cords and Cable Prohibited.
400–5	Flexible Cords and Cables. Splices.
400–9	Overcurrent Protection and Ampacities of Flexible Cords.
400–10	Pull at Joints and Terminals of Flexible Cords and Cables.
422–8	Installation of Appliances with Flexible Cords.
422–9	Installation of Portable Immersion Heaters.
422–10	Installation Appliances Adjacent to Combustible Material.
422–11	Stands for Portable Appliances.
422–12	Signals for Heated Appliances.
422–14	Water Heaters.
422–15 (a), (b), and (c).	Installation of Infrared Lamp and Industrial Heating Appliances.
110–14 (a) and (b).	Electric Connection.
110–17 (a), (b), and (c).	Grounding Live Part.
110–18	Arcing Parts.
110–21	Marking.
110–22	Identification.
240–16 (a), (b), (c), and (d).	Location in Premises for Overcurrent Protection Devices.
240–19 (a) and (b).	Guarding of Arcing or Suddenly Moving Parts of Overcurrent Protection Devices.
250–3 (a) and (b).	D.C. System Grounding.
250–5 (a), (b), and (c).	A.C. Circuits and Systems To Be Grounded.
250–7	Circuits Not To Be Grounded.
250–42 (a), (b), (c), and (d).	Fixed Equipment Grounding, General.
250–43 (a), (b), (c), (d), (e), (f), (g), (h), and (i).	Fixed Equipment Grounding, Specific.
250–44 (a), (b), (c), (d), and (e).	Nonelectrical Equipment, Grounding.
250–45 (a), (b), (c), and (d).	Equipment Connected by Cord and Plug, Grounding.
430–142 (a), (b), (c), and (d).	Stationary Motor, Grounding.
430–143	Portable Motors, Grounding.
250–50 (a) and (b).	Equipment Grounding Connections.
250–51	Effective Grounding.
250–57 (a) and (b).	Fixed Equipment Method of Grounding.
422–16	Appliance Grounding.
422–17	Installation of Wall-mounted Ovens and Counter - mounted Cooking Units.

(b) Every new electrical installation and all new utilization equipment installed after March 15, 1972, and every replacement, modification, or repair or rehabilitation, after March 15, 1972, of any part of any electrical installation or utilization equipment installed before March 15, 1972, shall be installed or made, and maintained, in accordance with the provisions of the 1971 National Electrical Code, NFPA 70–1971; ANSI C1–1971 (Rev. of 1968).

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Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

Notice is hereby given that the U.S. Department of Agriculture is revising the "Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products," Part 58, Subpart A, §§ 58.1 through 58.63, as presented below pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

Statement of consideration. On June 8, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (F.R. Vol. 37, No. 111, 11476) to revise the "Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products," Part 58, Subpart A, §§ 58.1 through 58.63. Comments were requested by July 10, 1972. Requests for additional time were received and the deadline date was extended to September 6, 1972 (F.R., Vol. 37, No. 140, June 20, 1972, 14390).

Comments were received from three parties, all of whom questioned the meaning of the term "deleterious substance" in § 58.22(b) as it related to appeal inspection or grading and reinspection or regrading. This section read in part "* * * when as a result of the original inspection the commodity was found to be contaminated with filth or to contain a deleterious substance." The comments were acknowledged and this section has been revised to read "* * * when as a result of the original inspection the commodity was found to be contaminated with filthy, putrid and decomposed material."

No comments were received on the other eight changes as published in the notice of proposed rule making. The changes included the deletion of the word "Secretary" from § 58.1, addition of the words "inspection of dairy processing plants and the" to § 58.2(a), deletion of the words "by the Secretary" and substitution of the word "countersigned" for "signed" in § 58.33, deletion of the word "Secretary" and modification of the first sentence to eliminate the reference to the Secretary in § 58.34, deletion of Figures 2 and 3 and the addition of new Figures 2 and 3 in § 58.50(b), modification of § 58.51 to abbreviate the wording, modification of § 58.58 to show the rules of practice governing withdrawals of inspection and grading services and the recent name change of the Agency to Agricultural Marketing Service.

Pursuant to the authority of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) the Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products, 7 CFR 58.1 through 58.63 are hereby amended to read as follows:

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58.1 Meaning of words.
58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

ADMINISTRATION

58.3 Authority.

INSPECTION OR GRADING SERVICE

58.4 Basis of service.
58.5 Where service is offered.
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58.10 Filing of application.
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58.12 When application may be rejected.
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58.14 Authority of applicant.
58.15 Accessibility and condition of product.
58.16 Disposition of samples.
58.17 Order of service.
58.18 Inspection of grading certificates, memoranda, or reports.
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58.20 Disposition of inspection or grading certificates or reports.
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APPEAL INSPECTION OR GRADING AND REINSPECTION OR REGRADING

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MARKING, BRANDING, & IDENTIFYING PRODUCT

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58.50 Approval and form of official identification.
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58.57 Product not eligible for packaging with official identification.

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58.58 Debarment of service.

MISCELLANEOUS

58.61 Political activity.
58.62 Report of violations.
58.63 Other applicable regulations.

AUTHORITY: The provisions of this Subpart A issued under Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

DEFINITIONS

§ 58.1 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat 1087, as amended; 7 U.S.C. 1621–1627) or any other act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service or any other officer or employee

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of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Applicant" means any interested party who has applied for inspection or grading service.

"Approved laboratory" means a laboratory in which the facilities and equipment used for official testing have been approved by the Administrator as being adequate to perform the necessary official tests in accordance with this part.

"Approved laboratory" means a laboratory in which the facilities and equiprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with this part.

"Area Supervisor" means any employee of the Branch in charge of dairy inspection or grading service in a designated geographical area.

"Branch" means the Inspection and Grading Branch of the Division.

"Chief" means the Chief of the Branch, or any officer or employee of the Branch to whom authority has been heretofore delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or method of processing.

"Condition of container" means the degree of acceptability of the container with respect to freedom from defects which affect its serviceability, including appearance as well as usability, of the container for its intended purpose.

"Condition of product" or "Condition" is an expression of the extent to which a product is free from defects which affect its usability, including but not limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food.

"Agricultural Marketing Service" or "AMS" means the Agricultural Marketing Service of the Department.

"Continuous resident service" or "resident service" is inspection or grading service performed at a dairy manufacturing plant or grading station by an inspector or grader assigned to the plant or station on a continuous, year-round, resident basis.

"Continuous nonresident service" is inspection or grading service performed by an inspector or grader temporarily assigned to a plant on a continuous, short-term, nonresident basis to perform service such as supervision of packaging or processing products for contract delivery.

"Department" or "USDA" means the U.S. Department of Agriculture.

"Director" means the Director of the Dairy Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Division" means the Dairy Division of the Agricultural Marketing Service.

"Inspection or grading service" or "service" means in accordance with this part, the act of (a) drawing samples of any product; (b) determining the class, grade, quality, composition, size, quantity, or condition of any product by examining each unit or representative samples; (c) determining condition of product containers; (d) identifying any product or packaging material by means of official identification; (e) regrading or appeal grading of a previously graded product; (f) inspecting dairy plant facilities, equipment, and operations; such as, processing, manufacturing, packaging, repackaging, and quality control; (g) supervision of packaging inspected or graded product; (h) reinspection or appeal inspection; and (i) issuing an inspection or grading certificate or sampling, inspection, or other report related to any of the foregoing.

"Inspector or grader" means any Federal or State employee to whom a license has been issued by the Administrator to perform one or more types of inspection or grading services.

"Inspection or grading office" means the office of any inspector or grader.

"Interested party" means any person financially interested in a transaction involving any inspection or grading service.

"Licensed plant employee" means an employee of an approved plant to whom a license is issued by the Administrator to supervise packaging of officially inspected or graded product, perform laboratory tests, or perform other duties as assigned by the Administrator. A licensed plant employee is not authorized to issue any inspection or grading certificate.

"Product" means butter, cheese (whether natural or processed), milk, cream, milk products (whether dried, frozen, evaporated, stabilized, or condensed), ice cream, dry whey, dry buttermilk, and any other food product, which is prepared or manufactured in whole or in part from any of the aforesaid products, as the Administrator may hereafter designate.

"Person" means any individual, partnership, association, business, trust, corporation, or any organized group of persons, whether incorporated or not.

"Plant survey" means an appraisal of the plant to determine extent to which facilities, equipment, method of operation, and raw material being received are in accordance with the provisions of this part. The survey shall be used to determine suitability of the plant for inspection or grading service.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regulations" means the provisions of this subpart.

"Sampling report" means a statement issued by an inspector or grader identifying samples taken by him for inspection or grading service.

"Supervisor of packaging" means an employee of the Department or other person licensed by the Administrator to supervise the packaging and official identification of product or any repackaging of bulk product.

§ 58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed (including that prescribed in § 58.18) used under the regulations in this subpart to certify with respect to the inspection of dairy processing plants and the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products and packaging material with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of inspecting, grading, determining compliance, or sampling pursuant to the regulations in this subpart, any processing or plant-operation report made by an authorized person in connection with inspecting, grading, determining compliance, or sampling under the regulations in this subpart, and any report made by an authorized person of services performed pursuant to the regulations in this subpart.

(c) "Official identification" or "other official marks" means any form of identification or mark (including, but not limited to, those in §§ 58.49 through 58.51) approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product certifying the inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications) or to maintain the identity of the product for which service is provided under the regulations in this subpart.

(d) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purposed of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATION

§ 58.3 Authority.

The Administrator shall perform such duties as may be required in the enforcement and administration of the provisions of the Act and this part.

INSPECTION OR GRADING SERVICE

§ 58.4 Basis of service.

Inspection or grading service shall be performed in accordance with the provisions of this part, the instructions and procedures issued or approved by the Administrator, U.S. standards for grades, Federal specifications, and specifications as defined in a specific purchase contract.

§ 58.5 Where service is offered.

Subject to the provisions of this part, inspection or grading service may be performed when a qualified inspector or grader is available, and when the facilities and conditions are satisfactory for the conduct of the service.

§ 58.6 Supervision of service.

All inspection or grading service shall be subject to supervision by a supervisory inspector or grader, Area Supervisor, or by the Chief, or such other person of the Branch as may be designated by the Chief. Whenever there is evidence that inspection or grading service has been incorrectly performed, a supervisor shall immediately make a reinspection or regrading, and he shall supersede the previous inspection or grading certificate or report with a new certificate or report showing the corrected information.

§ 58.7 Who may obtain service.

An application for inspection or grading service may be made by any interested person, including, but not limited to, the United States, any State, county, municipality, or common carrier, or any authorized agent of the foregoing.

§ 58.8 How to make application.

(a) *On a fee basis.* An application for inspection or grading service may be made in any inspection or grading office or with any inspector or grader. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

(b) *On a continuous basis.* Application for inspection or grading service on a continuous basis as provided in § 58.45 shall be made in writing on application forms as approved by the Administrator and filed with the Administrator.

§ 58.9 Form of application.

Each application for inspection or grading service shall include such information as may be required by the Administrator in regard to the type of service; kind of products and place of manufacture, processing, or packaging; and location where service is desired.

§ 58.10 Filing of application.

An application for inspection or grading service shall be regarded as filed only when made pursuant to this subpart.

§ 58.11 Approval of application.

An application for inspection or grading service may be approved when (a) a qualified inspector or grader is available, (b) facilities and conditions are satisfactory for the conduct of the service, and (c) the product has been manufactured or processed in a plant approved for inspection or grading service in accordance with the provisions of this part and instructions issued thereunder.

§ 58.12 When application may be rejected.

An application for inspection or grading service may be rejected by the Administrator (a) when the applicant fails to meet the requirements of the regulations in this subpart prescribing the conditions under which the service is made available; (b) when the product is owned by, or located on the premises of, a person currently denied the benefits of the Act; (c) when an individual holding office or a responsible position with or having a substantial financial interest or share with the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) when the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection or grading service; (e) when the product was produced from unwholesome raw material or was produced under insanitary or otherwise unsatisfactory conditions; (f) when the product is of illegal composition or is lacking satisfactory keeping quality; (g) when the product has been produced in a plant which has not been surveyed and approved for inspection or grading service; (h) when payment of fees is delinquent over 60 days; or (i) when there is noncompliance with the Act or this part or instructions issued hereunder. When an application is rejected, the applicant shall be notified in writing by the Area Supervisor or his designated representative, the reason or reasons for the rejection.

§ 58.13 When application may be withdrawn.

An application for inspection or grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.14 Authority of applicant.

Proof of the authority of any person applying for any inspection or grading service may be required in the discretion of the Administrator.

§ 58.15 Accessibility and condition of product.

Each lot of product for which inspection or grading service is requested shall be so conditioned and placed as to permit selection of representative samples and proper determination of the class, grade, quality, quantity, or condition of such product. In addition, if sample packages are furnished by the applicant, such samples shall be representative of the lot to be inspected or graded and additional samples shall be made available for verification. The room or area where the service is to be performed shall be clean and sanitary, free from foreign odors, and shall be provided with adequate lighting, ventilation, and temperature control.

§ 58.16 Disposition of samples.

Any sample of product used for inspection or grading may be returned to the applicant at his request and at his expense if such request was made at the time of the application for the service. In the event the aforesaid request was not made at the time of application for the service, the sample of product may be destroyed, disposed of to a charitable organization, or disposed of by any other method prescribed by the Administrator.

§ 58.17 Order of service.

Inspection or grading service shall be performed, insofar as practicable and subject to the availability of qualified inspectors or graders, in the order in which applications are made except that precedence may be given to any application for an appeal inspection or grading.

§ 58.18 Inspection or grading certificates, memoranda, or reports.

Inspection or grading certificates and sampling, plant survey, and other memoranda or reports shall be issued on forms approved by the Administrator.

§ 58.19 Issuance of inspection or grading certificates.

An inspection or grading certificate shall be issued to cover a product inspected or graded in accordance with instructions issued by the Administrator and shall be signed by an inspector or grader. This does not preclude an inspector or grader from granting a power of attorney to another person to sign in his stead, if such grant of power of attorney has been approved by the Administrator: *Provided*, That in all cases any such certificate shall be prepared in accordance with the facts set forth in the official memorandum defined in § 58.2(b): *And provided further*, That whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear under the name of the grader or inspector who personally graded or inspected the product.

§ 58.20 Disposition of inspection or grading certificates or reports.

The original of any inspection or grading certificate or report issued pursuant to § 58.19, and not to exceed four copies thereof, shall immediately upon issuance be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the inspection and grading office serving the area in which the service was performed and all other copies shall be filed in such

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manner as the Administrator may approve. Additional copies of any such certificate or report may be supplied to any interested party as provided in § 58.41.

§ 58.21 Advance information.

Upon request of an applicant, all or part of the contents of any inspection or grading certificate or report issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at applicant's expense.

APPEAL INSPECTION OR GRADING AND REINSPECTION OR REGRADING

§ 58.22 When appeal inspection or grading may be requested.

(a) An application for an appeal inspection or grading may be made by any interested party who is dissatisfied with any determination stated in any inspection or grading certificate or report if the identity of the samples or the product has not been lost; or the conditions under which inspection service was performed have not changed. Such application for appeal inspection or grading shall be made within 2 days following the day on which the service was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

(b) An appeal inspection shall be limited to a review of the sampling procedure and an analysis of the official sample used, when, as a result of the original inspection, the commodity was found to be contaminated with filthy, putrid, and decomposed material. If it is determined that the sampling procedures were improper, a new sample shall be obtained.

§ 58.23 How to obtain appeal inspection or grading.

Appeal inspection or grading may be obtained by filing a request therefore, (a) with the Administrator, (b) with the inspector or grader who issued the inspection or grading certificate or report with respect to which the appeal service is requested, or (c) with the supervisor of such inspector or grader. The application for appeal inspection or grading shall state the reasons therefore, and may be accompanied by a copy of the aforesaid inspection or grading certificate or report or any other information the applicant may have secured regarding the product or the service from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 58.24 Record of filing time.

A record showing the date and hour when each such application for appeal inspection or grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 58.25 When an application for appeal inspection or grading may be refused.

The Administrator may refuse an application for an appeal inspection or grading when (a) the quality or condition of the products has undergone a material change since the time of original service, (b) the identical products inspected or graded cannot be made accessible for reinspection or regrading, (c) the conditions under which inspection service was performed have changed, (d) it appears that the reasons for an appeal inspection or grading are frivolous or not substantial, or (e) the Act or this part have not been complied with. The applicant shall be promptly notified of the reason for such refusal.

§ 58.26 When an application for an appeal inspection or grading may be withdrawn.

An application for appeal inspection or grading may be withdrawn by the applicant at any time before the appeal inspection or grading is made upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.27 Order in which appeal inspections or gradings are performed.

Appeal inspections or gradings shall be performed, insofar as practicable, in the order in which applications therefor are received; and any such application may be given precedence pursuant to § 58.17.

§ 58.28 Who shall make appeal inspections or gradings.

An appeal inspection or grading of any product or service shall be made by any inspector or grader (other than the one from whose service the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal inspection or grading shall be conducted jointly by two such inspectors or graders.

§ 58.29 Appeal inspection or grading certificate or report.

Immediately after an appeal inspection or grading has been completed, an appeal inspection or grading certificate or report shall be issued showing the results of the inspection or grading. Such certificate or report shall thereupon supersede the previous certificate or report and will be effective retroactive to the date of the previous certificate or report. Each appeal certificate or report shall clearly set forth the number and the date of the previous certificate or report which it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to appeal certificates or reports except that copies shall be furnished each interested party of record.

§ 58.30 Application for reinspection or regrading.

An application for the reinspection or regrading of any previously inspected or graded product may be made at any time by any interested party; and such application shall clearly indicate the reasons for requesting the reinspection or regrading. The provisions of the regulations in this subpart relative to inspection or grading service shall apply to reinspection or regrading service.

§ 58.31 Reinspection or regrading certificate or report.

Immediately after a reinspection or regrading has been completed, a reinspection or a regrading certificate or report shall be issued showing the results of such reinspection or regrading; and such certificate or report shall thereupon supersede, as of the time of issuance, the inspection or grading certificate or report previously issued. Each reinspection or regrading certificate or report shall clearly set forth the number and date of the inspection or grading certificate or report that it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to reinspection or regrading certificates or reports except that copies shall be furnished each interested party of record.

§ 58.32 Superseded certificates or reports.

When any inspection or grading certificate or report is superseded in accordance with this part, such certificate or report shall become null and void and, after the effective time of the supersedure, shall no longer represent the class, grade, quality, quantity, or condition described therein. If the original and all copies of such superseded certificate or report are not returned to the inspector or grader issuing the reinspection or regrading or appeal inspection or grading certificate or report, the inspector or grader shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate or report.

LICENSING OF INSPECTORS OR GRADERS

§ 58.33 Who may be licensed.

Any person possessing proper qualifications, as determined by an examination for competency, held at such time and in such manner as may be prescribed by the Administrator, may be licensed to perform specified inspection or grading service. Each license issued shall be signed by the Administrator. Each prospective licensee, other than a Federal or State employee, who is not under immediate supervision of a USDA licensed Federal or State employee located at the same manufacturing plant or grading station, shall, prior to the issuance of the license, procure and deliver to AMS a surety bond, issued by such surety as may be approved by the Administrator, in the amount of $1,000 for the proper performance of the duties of such person as a licensee under the regulations in this subpart.

§ 58.34 Suspension or revocation of license.

For good cause and in instances of willful wrongdoing, the Administrator may suspend any license issued under the regulations in this subpart by giving notice of such suspension to the respective individual involved, accompanied by a statement of reasons therefor. Within 10 days after receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal in writing with the Administrator supported by any argument or evidence that he may

wish to offer as to why his license should not be suspended or revoked. In conjunction therewith, he may request and, in such event, shall be accorded an oral hearing. After consideration of such argument and evidence, the Administrator will take such action as warranted with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license is revoked.

§ 58.35 Surrender of license.

Each license which is suspended or revoked shall be surrendered promptly by the licensee to his supervisor. Upon termination of the services of a licensee, the license shall be surrendered promptly by the licensee to his supervisor.

§ 58.36 Identification.

Each licensee shall have his license card in his possession at all times while performing any function under the regulations in this subpart and shall identify himself by such card upon request.

§ 58.37 Financial interest of licensees.

No licensee shall render service on any product in which he is financially interested.

FEES AND CHARGES

§ 58.38 Payment of fees and charges.

(a) Fees and charges for any inspection or grading service shall be paid by the interested party, making the application for such service, in accordance with the applicable provisions of this section and §§ 58.39 through 58.46 and, if so required by the inspector or grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any inspection or grading service performed by any inspector or grader who is a salaried employee of the Department shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by the interested party making application for such inspection or grading service by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the office indicated on the bill.

(c) Fees and charges for any inspection or grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of the cooperative agreement by the interested party making application for the service.

§ 58.39 Fees for holiday or other nonworktime.

If an applicant requests that inspection or grading service be performed on a holiday, Saturday, or Sunday or in excess of each 8-hour shift Monday through Friday, he shall be charged for such service at a rate of 1½ times the rate which would be applicable for such service if performed during normal working hours.

§ 58.40 Fees for appeal inspection or grading.

The fees to be charged for any appeal inspection or grading shall be double the fees specified on the inspection or grading certificate from which the appeal is taken: *Provided*, That the fee for any appeal grading requested by any agency of the U.S. Government shall be the same as set forth in the certificate from which the appeal is taken. If the result of any appeal inspection or grading discloses that a material error was made in the inspection or grading appealed from, no fee shall be required.

§ 58.41 Fees for additional copies of certificates.

Additional copies of any inspection or grading certificates (including takeoff certificates), other than those provided for in § 58.20, may be supplied to any interested party upon payment of a fee based on time required to prepare such copies at the hourly rate specified in § 58.43 or § 58.44.

§ 58.42 Travel expenses and other charges.

Charges shall be made to cover the cost of travel and other expenses incurred by AMS in connection with the performance of any inspection or grading service. Such charges shall include the costs of travel, per diem, and other expenses, plus a charge of 10 percent of the amount charged for said travel, per diem, and other expenses to cover administrative costs of AMS. When the Administrator determines it feasible, he may set a minimum average charge for specific locations or markets.

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in this section and §§ 58.39, 58.44, 58.45, and 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $10.60 for service performed between 6 a.m. and 6 p.m., and $11.60 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports, and travel of the inspector or grader in connection with the performance of the service. When the Administrator determines it feasible, he may set a minimum charge based on average time for specific types of service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

§ 58.44 Fees for laboratory analysis.

Except as otherwise provided in this section and §§ 58.45 and 58.46, charges shall be made for laboratory analysis at the hourly rate of $11.60 for the time required to perform the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued. The following minimum rates based on average time required to perform the test specified shall apply unless the actual time required to perform the test is greater than the minimum set forth:

(a) Dry milk and related products:

Total fat (ether extractions)	$2.10
Moisture	1.60
Titratable acidity	.80
Solubility index	1.05
Scorched particles	1.05
Bacterial plate count	2.10
Bacterial direct microscopic count	3.15
Flavor	.55
Whey protein nitrogen	5.25
Vitamin A	10.50
Alkalinity of ash	11.60
Dispersibility	5.25
Coliform (solid media)	2.10
Salmonella	8.40
Phosphatase	11.60
Oxygen	6.30
Density	.80

(b) Condensed milk and related products:

Fat (ether extraction)	$3.15
Total solids	2.10
Sugar (sucrose)	11.60
Net weight (per can)	1.30
Flavor, color, body, texture	.80

(c) Cheese and related products:

Moisture	$2.10
Moisture in duplicate	3.15
Total fat (ether extraction)	3.70
Moisture and fat (dry basis) complete	5.80

(d) Butter and related products:

Moisture	$2.10
Fat	4.20
Salt	2.10
Complete Kohman analysis	6.30
Fat and moisture (same sample)	5.25
Flavor, odor, body, texture	1.05
Peroxide value	11.60
Free fatty acid	5.25
Yeast and mold	2.65
Proteolytic count	2.65

(e) Corn soya milk:

Sieve test	$2.10
Density	.80
Bostwick—uncooked	2.65
Bostwick—cooked	5.25
Protein (Kjeldahl)	5.25
Fat (Soxhlet)	3.70
Moisture	1.60
Crude fiber	7.35
Flavor	.55

§ 58.45 Charges for continuous inspection or grading service.

Irrespective of fees and charges provided in §§ 58.38 through 58.44, the Administrator may approve applications for continuous resident or continuous nonresident inspection or grading service. Charges for this service; shall be as provided in the application and shall be on such basis as will reimburse AMS for the cost of performing the respective service.

§ 58.46 Fees for service performed under cooperative agreement.

The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

MARKING, BRANDING, AND IDENTIFYING PRODUCT

§ 58.49 Authority to use official identification.

Whenever the Administrator determines that the granting of authority to any person to package any product, inspected or graded pursuant to this part,

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and to use official identification, pursuant to §§ 58.49 through 58.57, will not be inconsistent with the Act and this part, he may authorize such use of official identification. Any application for such authority shall be submitted to the Administrator in such form as he may require.

§ 58.50 Approval and form of official identification.

(a) Any package label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe, and such official identification shall be of such form and contain such information as the Administrator may require. No label or packaging material bearing official identification shall be used unless finished copies or samples thereof have been approved by the Administrator.

(b) Inspection or grade mark permitted to be used to officially identify packages containing dairy products which are inspected or graded pursuant to this part shall be contained in a shield in the form and design indicated in Figures 1, 2, and 3 of this section or such other form, design, or wording as may be approved by the Administrator.



FIGURE 1



FIGURE 2



FIGURE 3

The official identification illustrated in Figure 1 is designed for use on graded product packed under USDA inspection. Figure 2 is designed for graded product processed and packed under USDA inspection. Figure 3 is designed for inspected product (when U.S. standards for grades are not established) processed and packed under USDA quality control service. The official identification shall be printed on the package label, on the carton or on the wrapper and, preferably, on one of the main panels of the carton or wrapper. The shield identification shall be not less than ¾ inch by ¾ inch in size, and preferably 1 inch by 1 inch on 1-pound cartons or wrappers. Consideration will be given by the Administrator of a smaller shield on special packages where the size of the label does not permit use of the ¾ inch by ¾ inch shield.

(c) Official identification under this subpart shall be limited to U.S. Grade B or higher or to an equivalent standard of quality for U.S. name grades or numerical score grades of a product have not been established.

(d) A sketch, proof, or photocopy of each proposed label or packaging material bearing official identification shall be submitted to the Chief of the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, for review and tentative approval prior to acquisition of a supply of material.

(e) The firm packaging the product shall furnish to the Chief four copies of the printed labels and packaging materials bearing official identification for final approval prior to use.

§ 58.51 Information required on official identification.

Each official identification shall conspicuously indicate the U.S. grade of the product it identifies, if there be a grade, or such other appropriate terminology as may be approved by the Administrator. Also, it shall include the appropriate phrase: "Officially graded," "Officially Inspected," or "Federal-State graded." When required by the Administrator, the package label, carton, or wrapper bearing official identification for dairy products shall be stamped or perforated with the date packed and the certificate number or a code number to indicate lot and date packed. Such coding shall be made available to and approved by the Administrator.

§ 58.52 Time limit for packaging inspected or graded products with official identification.

Any lot of butter which is graded for packaging with official grade identification shall be packaged within 10 days immediately following the date of grading, and any lot of natural cheese or dry milk shall be packaged within 30 days immediately following date of grading provided the product is properly stored during the 10- or 30-day period. Time limit for packaging other inspected or graded products shall be as approved by the Administrator. If inspected or graded product is moved to another location, a reinspection or regrading shall be required.

PREREQUISITES TO PACKAGING PRODUCTS WITH OFFICIAL IDENTIFICATION

§ 58.53 Supervisor of packaging required.

The official identification of any inspected or graded product, as provided in §§ 58.50 through 58.52, this section, and §§ 58.54 through 58.57, shall be done only under the supervision of a supervisor of packaging. The authority to use official identification may be granted by the Administrator only to applicants who utilize the services of a supervisor of packaging in accordance with this subpart. The supervisor of packaging shall have jurisdiction over the use and handling of all packaging material bearing any official identification.

§ 58.54 Packing and packaging room and equipment.

Each applicant who is granted authority to package any product with official identification and who operates, for such purpose, a packaging room shall maintain the room and the equipment therein in accordance with this part.

§ 58.55 Facilities for keeping quality samples.

Each applicant granted authority, as aforesaid, to package product with official identification shall provide and maintain suitable equipment for the purpose of incubating samples of product.

§ 58.56 Incubation of product samples.

(a) Samples of product may be taken from any lot of product which is submitted for inspection or grading and packaging with official identification, or sample may be taken after packaging for the purpose of determining in accordance with provisions of this part if such product possesses satisfactory keeping quality.

(b) Samples of product may be taken for keeping quality tests in accordance with provisions of this part from any lot of product submitted for inspection or grading. Issuance of the inspection or grading certificate may be withheld pending completion of the tests.

§ 58.57 Product not eligible for packaging with official identification.

(a) When a lot of inspected or graded product shows unsatisfactory keeping quality, other lots from the same manufacturing plant shall not be packaged with official identification. Packaging with official identification may be resumed only when it is determined that product from such plant possesses satisfactory keeping quality.

(b) Any manufacturing or processing plant supplying product, directly or indirectly, for packaging with official identification shall be surveyed and approved for inspection or grading service.

VIOLATIONS

§ 58.58 Debarment of service.

(a) The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services set forth in Part 50 of this chapter shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.* Any willful misrepresentation or deceptive or fraudulent practice or act found to be made or committed by any person in connection with:

(i) The making or filing of any application for any inspection or grading service, appeal reinspection, or regrading service;

(ii) The making of the product accessible for inspection or grading service;

(iii) The making, issuing, or using or attempting to issue or use any inspection or grading certificate issued pursuant to the regulations in this subpart or the use of any official stamp, label, or identification;

(iv) The use of the terms, "United States," "U.S.," "Officially graded," "Officially Inspected," "Federal-State graded," or "Government graded," or terms of similar import in the labeling or advertising of any product without stating in conjunction therewith the official U.S. grade of the product; or

(v) The use of any of the aforesaid terms or an official stamp, label, or identification in the labeling or advertising of any product that has not been inspected or graded pursuant to this part.

(2) *Use of facsimile form.* Using or attempting to use a form which simulates in whole or in part any official identification for the purpose of purporting to evidence the U.S. grade of any product; or the unauthorized use of a facsimile form which simulates in whole or in part any official inspection or grading certificate, stamp, label, or other official inspection mark; and

(3) *Mislabeling.* The use of any words, numerals, letters, or facsimile from which simulates in whole or in part any identification purporting to be a grade when such product does not comply with any recognized standards in general use for such grade, and such activity may be deemed sufficient cause for debarring such person from any or all benefits of the Act.

(4) *Willful violation of the regulations in this subpart.* Willful violation of the provisions in this part or the Act, or the instructions or specifications issued thereunder.

(5) *Interfering with an inspector or grader.* Any interference with or obstruction or any attempted interference or obstruction of any inspector or grader in the performance of his duties by intimidation, threat, bribery, assault, or other improper means.

MISCELLANEOUS

§ 58.61 Political activity.

All inspectors or graders are forbidden during the period of their respective appointments or licenses to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 58.62 Report of violations.

Each inspector, grader, and supervisor of packaging shall report, in the manner prescribed by the Administrator, all violations and noncompliances under the Act and this part of which such inspector, grader, or supervisor of packaging has knowledge.

§ 58.63 Other applicable regulations.

Compliance with the provisions in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of October 1972.

E. L. PETERSON,
Administrator.

[FR Doc.72-17718 Filed 10-18-72;8:45 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 414]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.714 Valencia Orange Regulation 414.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section including its effective time, are identical with the aforesaid recommendation of the Committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such Committee meeting was held on October 17, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 20, through October 26, 1972, are hereby fixed as follows:

(i) District 1: 364,000 cartons;

(ii) District 2: 286,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Sat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 18, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18074 Filed 10-18-72;2:58 p.m.]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[AL-118(444)]

PART 1890o—WAIVER OF USE OF COUNTY COMMITTEE IN CONNECTION WITH SECTIONS 502 AND 504, RURAL RENTAL HOUSING (RRH), RURAL COOPERATIVE HOUSING (RCH), LABOR HOUSING (LH), AND RURAL HOUSING SITE (RHS) LOANS

Notice is hereby given that the Farmers Home Administration is amending Subchapter G of Chapter XVIII, Title 7, Code of Federal Regulations. This part authorizes State Directors to waive the use of county committees in those counties in which no special problems exist that warrant the use of county committees to determine eligibility. Inasmuch as the amendment involves rules of agency procedure, organization and practice, public comment is not required.

The new Part 1890o will read as follows:

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Sec.
1890o.1 General.
1890o.2 State requirements.

AUTHORITY: The provisions of this Part 1890o issued under sec. 510, 63 Stat. 437, 42 U.S.C. 1480; Order of Act. Sec. of Agr., 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529.

§ 1890o.1 General.

This part modifies Part 1801 and Subparts A, B, C, D, E, F, and G of Part 1822 of this chapter. State Directors are authorized to waive the use of county committees in those counties in which no special problems exist that warrant the use of county committees to determine the eligibility of applicants for all types of housing loans.

§ 1890o.2 State requirements.

The State Director will issue a State requirement identifying the counties in which the use of county committees will be waived for housing loan applications.

(a) Such a State requirement will specify any types of applications for which county committees will continue to be used such as applicants whose eligibility is questionable, those who are not eligible, or those individuals who want to finance a farm dwelling or farm service building.

(b) The State requirement also will specify changes prescribed in the guidelines available in all FHA offices used to notify an applicant of the action taken on his application.

Dated: October 12, 1972.

DARREL A. DUNN,
Associate Administrator,
Farmers Home Administration.

[FR Doc.72-17862 Filed 10-18-72;8:52 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER B—COOPERATIVE CONTROL AND ERADICATION OF LIVESTOCK OR POULTRY DISEASES

PART 51—CATTLE DESTROYED BECAUSE OF BRUCELLOSIS (BANG'S DISEASE), TUBERCULOSIS, OR PARATUBERCULOSIS

Payment of Indemnities

Pursuant to the provisions of sections 3, 4, 5, 11, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, section 3 of the Act of March 3, 1905, as amended, and section 3 of the Act of July 2, 1962 (21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, and 134b), Part 51, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 51.9, paragraph (n) is deleted.

(Secs. 3, 4, 5, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693, sec. 11, 58 Stat. 734, as amended; sec. 3, 76 Stat. 130; 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 29 F.R. 16210, as amended, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The purpose of this amendment is to provide for the payment of Federal indemnity for exposed calves destroyed because of brucellosis which are under 6 months of age and are the progeny of brucellosis infected dams and are a possible means of disseminating such disease.

Because of the urgency involved in eradicating brucellosis and preventing the dissemination of this disease among livestock of the country, it is essential that the provisions of this amendment be placed in effect without delay.

It is believed the amendment will expedite the eradication of brucellosis and will protect gains made in the State-Federal cooperative brucellosis eradication program and will therefore be of benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-17825 Filed 10-18-72;8:45 am]

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subchapter D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby amended to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

Alabama. The entire State.
Alaska. The entire State.
Arizona. The entire State.
Arkansas. The entire State.
California. The entire State.
Colorado. The entire State.
Connecticut. The entire State.
Delaware. The entire State.
Florida. The entire State.
Georgia. The entire State.
Hawaii. The entire State.
Idaho. The entire State.
Illinois. The entire State.
Indiana. The entire State.
Iowa. The entire State.
Kansas. The entire State.
Kentucky. The entire State.
Louisiana. The entire State.
Maine. The entire State.
Maryland. The entire State.
Massachusetts. The entire State.
Michigan. The entire State.
Minnesota. The entire State.
Mississippi. The entire State.
Missouri. The entire State.
Montana. The entire State.
Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Logan, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Pierce, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York Counties.
Nevada. The entire State.
New Hampshire. The entire State.
New Jersey. The entire State.
New Mexico. The entire State.
New York. The entire State.
North Carolina. The entire State.
North Dakota. The entire State.
Ohio. The entire State.
Oklahoma. The entire State.
Oregon. The entire State.
Pennsylvania. The entire State.
Rhode Island. The entire State.
South Carolina. The entire State.
South Dakota. Aurora, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, and Ziebach Counties; and Crow Creek Indian Reservation.
Tennessee. The entire State.
Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Banders, Bastrop, Baylor, Bee, Bell, Bekar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El Paso, Erath Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadelupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Kleberg, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Regan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties.
Utah. The entire State.
Vermont. The entire State.
Virginia. The entire State.
Washington. The entire State.
West Virginia. The entire State.
Wisconsin. The entire State.
Wyoming. The entire State.
Puerto Rico. The entire area.
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended; secs. 1, 2, 32, Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114a–1, 120, 121, 125; 29 F.R. 16210, as amended, 37 F.R. 6327, 6505, 9 CFR 78.18)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (10–19–72).

The amendment deletes the following areas from the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such areas no longer come within the definition of § 78.1(i): Custer, Holt, Lincoln, Phelps, Platte, and Sheridan Counties in Nebraska; Beadle and Shannon Counties in South Dakota; and Dawson, Knox, and Terry Counties in Texas.

Bailey and Limestone Counties in Texas were deleted from the list of Modified Certified Brucellosis Areas on July 14, 1972. Since said date, it has been determined that these counties again come within the definition of § 78.1(i); and, therefore, they have been redesignated as Modified Certified Brucellosis Areas.

The amendment adds the following additional area to the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such area comes within the definition of § 78.1(i): Willacy County in Texas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 13th day of October 1972.

E. E. SAULMON,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.72-17856 Filed 10-18-72;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72-SW-53, Amdt. 39-1541]

PART 39—AIRWORTHINESS DIRECTIVES

Airplanes Having Wings, Tail, or Control Surfaces Covered With Fiberglass Using "Razorback" Method

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive applicable to airplanes having wings, tail, or control surfaces covered with fiberglass using the "razorback" method was published in 37 F.R. 16106.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Certain detail changes were requested and the intent of these changes have been incorporated.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Applies to airplanes having wings, tail, or control surfaces covered with fiberglass using the "razorback" method, certificated in all categories. This covering process has been approved by numerous Supplemental Type Certificates and FAA Forms 337 as complying with Advisory Circular 20-44, "Glass Fiber Fabric For Aircraft Covering."

Compliance required within the next 50 hours' time in service after the effective date of this airworthiness directive, unless already accomplished.

To determine if the fabric is attached with plastic coated glass rib stitch cord, inspect the interior of the wings, tail, or control surfaces through inspection openings or by cutting small holes in the fabric. The plastic coating on the rib stitch cord is black in color.

a. If the fabric is attached with the plastic coated rib stitch cord, replace the stitching with MIL-C-5649 cord or FAA approved equivalent before 50 hours' time in service from the effective date of this airworthiness directive.

b. If the fabric is attached with MIL-C-5649 cord, or FAA approved equivalent, no further action is required.

c. All work required, including patching holes, may be accomplished in accordance with FAA Advisory Circular 43.13-1. Razorback Fabrics, Inc., Service Bulletin 1-1 dated March 11, 1964, covers the same subject.

NOTE: Copies of Razorback Fabrics, Inc., Service Bulletin 1-1 may be obtained from the company at Manila, Ark. 72442.

This supersedes Amendment 39-1531, 37 F.R. 20673, October 3, 1972.

This amendment becomes effective November 15, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 4, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-17811 Filed 10-18-72;8:45 am]

[Docket No. 72-CE-31-AD; Amdt. 39-1544]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 33, 35, 36, 45, 55, and 95 Series Airplanes

Amendment 39-1501 (AD 72-17-2) published in the FEDERAL REGISTER on August 6, 1972, is an airworthiness directive applicable to Beech Models 33, 35, 36, 45, 55, and 95 series airplanes which requires the installation of hollow zerk-ended mounting bolts on the uplock rollers and repetitive lubrication of the uplock mechanism in accordance with Beechcraft Service Instructions No. 0448-211.

Subsequent to the issuance thereof the manufacturer has advised the FAA that some airplanes affected by the AD are equipped with nongreasible uplock rollers having a solid inner race which renders lubrication of the uplock roller mechanism ineffective. Accordingly, since the condition described herein may exist in other airplanes of the same type design, in the interest of safety, and to provide clarification, an AD is being issued, superseding AD 72-17-2, applicable to Beech Models 33, 35, 36, 45, 55, and 95 series airplanes which in addition to including the present provisions of AD 72-17-2 shall contain an additional requirement that the uplock rollers be of the greasible type.

Since a situation exists which requires immediate adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

V37-1203 OCT 19 72 XUM

BEECH. Applies to the following:

Models	*Serial numbers*
35–33, 35–A33, 35–B33, 35–C33, E33, F33, and G33.	CD–1—CD–1258.
35–C33A, E33A, and F33A	CE–1—CE–349.
E33C and F33C	CJ–1—CJ–30.
35, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35TC, V35A, V35–A–TC, V35B, and V35B–TC.	D–1—D–9287.
36 and A36	E–1—E–283.
A45(T–34A), B45, and D45 (T–34B).	All.
95–55, 95–A55, 95–B55, and 95–B55A.	TC–1—TC–1402.
95–C55, 95–C55A, D55, D55A, E55, and E55A.	TE–1—TE–846.
56TC and A56TC	TG–1—TG–94.
58	TH–1—TH–174.
95, B95, B95A, D95A, and E95.	TD–2—TD–721.

Compliance: Required as indicated, unless already accomplished:

To decrease the possibility of gear-up landings caused by seizure of the uplock rollers, accomplish the following:

(A) Within the next 300 hours' time in service after the effective date of this AD, determine if each uplock roller is of the greasible type (one having a drilled and grooved inner race) and replace any non-greasible uplock roller (one having a solid inner race) with the greasible type prior to further flight.

NOTE: This determination may be made by lubricating the uplock rollers and verifying that grease passes between the inner and outer races.

(B) Within the next 300 hours' time in service after the effective date of this AD, install hollow zerk-ended mounting bolts on the uplock rollers in accordance with Beech Service Instructions No. 0448–211 or any FAA-approved equivalent.

(C) Within the next 300 hours' time in service after the effective date of this AD, and thereafter at 100 hour intervals, lubricate the uplock mechanism in accordance with Beech Service Instruction No. 0448–211.

This AD supersedes AD 72–17–2 (Amendment 39–1501).

This amendment becomes effective October 25, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 10, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72–17807 Filed 10–18–72;8:48 am]

[Airspace Docket No. 72–AL–7]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On June 3, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11185) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Homer, Alaska, control zone and transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

The requirement to establish a 700-foot floor transition area to coincide with the 5-mile radius control zone was inadvertently omitted in the notice of proposed rule making. The 700-foot floor transition area is needed to provide protected airspace for aircraft conducting instrument approaches when the control zone is not effective. Since this alteration to the airspace is minor in nature and no substantive change in the regulation or its effect upon the operation of aircraft is effected, further notice and public procedures thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056) the Homer, Alaska, control zone is amended to read as follows:

HOMER, ALASKA

Within a 5-mile radius of the Homer Airport (latitude 59°38'35'' N., longitude 151°28'52'' W.). This control zone is effective during the specific dates and times established in advance by notice to airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

2. In § 71.181 (37 F.R. 2143) the Homer, Alaska, transition area is amended to read as follows:

HOMER, ALASKA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Homer Airport (latitude 59°38'35'' N., longitude 151°28'52'' W.), and within 2 miles each side of the 234° bearing from the Homer Airport, extending from the 5-mile radius area to 8.5 miles southwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 8.5 miles south and 5.5 miles north of the 265° and 085° bearings from the Homer RR, extending from 17.5 miles west to 7 miles east of the RR; within 7.5 miles northwest and 12 miles southeast of the Homer VORTAC 224° and 044° radials, extending from 22.5 miles southwest to 10 miles northeast of the VORTAC; and within a 55.5-mile radius of the Homer VORTAC extending counterclockwise from the south boundary of V436E west of Homer, to the west boundary of V438W southwest of Homer.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Anchorage, Alaska, on October 5, 1972.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.72–17802 Filed 10–18–72;8:48 am]

[Airspace Docket No. 72–AL–11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On June 3, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11187) stating that the Federal Aviation Administration proposed amendments to Part 71 of the Federal Aviation Regulations that would alter the Kodiak, Alaska, terminal airspace structure.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056) the Kodiak control zone is amended to read:

KODIAK, ALASKA

Within a 5-mile radius of the Kodiak Airport (latitude 57°45'02'' N., longitude 152°29'19'' W.), and within 3 miles north and 3.5 miles south of the Kodiak VORTAC 072° and 252° radials extending from the 5-mile radius zone to 9.5 miles east of the VORTAC.

2. In § 71.181 (37 F.R. 2143) the Kodiak transition area is amended to read:

KODIAK, ALASKA

That airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Kodiak Airport (latitude 57°45'02'' N., longitude 152°29'19'' W.), and within a 35-mile radius of the Kodiak Airport, extending clockwise from the 029° to the 085° bearing from the airport.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Anchorage, Alaska, on October 5, 1972.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.72–17803 Filed 10–18–72;8:48 am]

[Airspace Docket No. 72–AL–14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On June 9, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11590) stating that the Federal Aviation Administration proposed amendments to Part 71 of the Federal Aviation Regulations that would alter the Kenai, Alaska, control zone and transition area.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901, G.m.t., December 7, 1972, as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056) the Kenai control zone is amended to read:

KENAI, ALASKA

Within a 5-mile radius of the Kenai Municipal Airport (latitude 60°34'21'' N., longitude 151°14'44'' W.), and within 2 miles northwest and 2.5 miles southeast of the Kenai VORTAC 031° radial extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC.

2. In § 71–181 (37 F.R. 2143) the Kenai transition area is amended to read:

KENAI, ALASKA

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of the Kenai Municipal Airport (latitude 60°34'21'' N., longitude 115°14'44'' W.), extending clockwise from the 048° to the 290° bearing from the airport.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Anchorage, Alaska, on October 5, 1972.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.72–17804 Filed 10–18–72;8:48 am]

[Airspace Docket No. 72–AL–15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area

On June 9, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 11590) stating that the Federal Aviation Administration proposed amendments to Part 71 of the Federal Aviation Regulations that would alter the Anchorage, Alaska, terminal airspace structure.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056) the Anchorage control zone is amended to read:

ANCHORAGE, ALASKA (ANCHORAGE INTERNATIONAL AIRPORT)

Within a 5-mile radius of the Anchorage International Airport (latitude 61°10'16'' N., longitude 149°58'48'' W.); within 2.5 miles each side of the Anchorage RR southwest course extending from the 5-mile radius zone to 8.5 miles southwest of the RR; within 2 miles each side of the Anchorage VORTAC 079° radial extending from the 5-mile radius zone to the VORTAC; and within 2 miles each side of the Anchorage ILS localizer west course extending from the 5-mile radius zone to the OM; excluding the portion within the Anchorage (Merrill Field/Elmendorf AFB) control zone.

2. § 71.181 (37 F.R. 2143) the Anchorage transition area is amended to read as follows:

ANCHORAGE, ALASKA

That airspace extending upward from 700 feet above the surface within an 18-mile radius of the Anchorage International Airport (latitude 61°10'16'' N., longitude 149°58'48'' W.); that airspace extending upward from 1,200 feet above the surface within an 85-mile radius of the Anchorage VORTAC; and that airspace extending upward from 14,500 feet MSL within a 172-mile radius of the Anchorage VORTAC, excluding the portions within the United States, Federal Airways, Control 1218, Control 1310, the Cordova, Alaska, and Middleton Island, Alaska, control area extensions, the King Salmon, Alaska, transition area, and the Anchorage Oceanic Control Area.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Anchorage, Alaska, on October 5, 1972.

THOMAS J. CRESWELL,
Director, Alaskan Region.

[FR Doc.72–17805 Filed 10–18–72;8:48 am]

[Airspace Docket No. 72–SO–53]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Jackson, Miss., transition area.

The Jackson transition area is described in § 71.181 (37 F.R. 2143). An RNAV Runway 17 Instrument Approach Procedure to Bruce Campbell Field, effective November 2, 1972, requires approximately 2 square miles of additional controlled airspace protection. It is necessary to alter the description by designating an extension 3 miles in width and extending from the 5.5-mile radius area to 5.5 miles north of the end of Runway 17. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 2, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Jackson Miss., transition area is amended as follows: "• • • 5.5-mile radius area to the VORTAC • • •" is deleted and "• • • 5.5-mile radius area to the VORTAC; within 1.5 miles each side of Runway 17 extended centerline, extending from the 5.5-mile radius area to 5.5 miles north of the runway end • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 10, 1972.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.72–17806 Filed 10–18–72;8:48 am]

[Docket No. 12318, Amdt. 834]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, DC 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's effective October 6, 1972:

Grand Rapids, Mich.—Kent County Airport VOR Runway 18, Amdt. 1; Revised.
Grand Rapids, Mich.—Kent County Airport, VOR Runway 36, Amdt. 5; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAP's effective October 10, 1972:

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Tuscaloosa, Ala.—Van De Graaff Airport, VOR Runway 4, Amdt. 2; Revised.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective October 12, 1972:

San Juan, P.R.—Puerto Rico International Airport, VOR-A, Amdt. 14; Revised.

4. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective November 30, 1972:

El Monte, Calif.—El Monte Airport, VOR-A, Amdt. 2; Revised.

5. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective November 2, 1972:

Gulfport, Miss.—Gulfport Municipal Airport, LOC Runway 13, Amdt. 2; Canceled.

6. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's effective November 2, 1972:

Gulfport, Miss.—Gulfport Municipal Airport, NDB Runway 13, Amdt. 1; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's effective November 2, 1972:

Gulfport, Miss.—Gulfport Municipal Airport, ILS Runway 13, Orig.; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 12, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610), approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-17806 Filed 10-18-72;8:48 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

FORMETANATE HYDROCHLORIDE

Correction

In F.R. Doc. 72-17118, appearing on page 21150, in the issue of Friday, October 6, 1972, in the fourth line of § 121.1245, after "methylene]", insert "amino]".

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

POLYPHENYLENE SULFIDE RESINS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2637) filed by Phillips Petroleum Co., 588 Frank Phillips Building, Bartlesville, OK 74003, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of polyphenylene sulfide resins (poly(1,4-phenylene sulfide) resins) as coatings or components of coatings of articles intended to contact food.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2621 Polyphenylene sulfide resins.

Polyphenylene sulfide resins (poly(1,4-phenylene sulfide) resins) may be safely used as coatings or components of coatings of articles intended for repeated use in contact with food, in accordance with the following prescribed conditions.

(a) Polyphenylene sulfide resins consist of basic resins produced by the reaction of equimolar parts of *p*-dichlorobenzene and sodium sulfide, such that the finished resins meet the following specifications as determined by methods available upon request from the Commissioner of Food and Drugs.

(1) Sulfur content: 28.2–29.1 percent by weight of finished resin.

(2) Minimum inherent viscosity: 0.13 deciliters per gram.

(3) Maximum residual *p*-dichlorobenzene: 0.8 ppm.

(b) Subject to any limitations prescribed in this Part 121, the following optional substances may be added to the polyphenylene sulfide basic resins in an amount not to exceed that reasonably required to accomplish the intended physical or technical effect.

(1) Substances generally recognized as safe in food.

(2) Substances used in accordance with prior sanction or approval.

(3) Substances the use of which is permitted in coatings under regulations in this Part 121.

(c) The finished coatings are thermally cured at temperatures of 700° F. and above.

(d) Polyphenylene sulfide resin coatings may be used in contact with food at temperatures not to exceed the boiling point of water; provided that the finished cured coating, when extracted at reflux temperatures for 8 hours separately with distilled water, 50 percent ethanol in water, and 3 percent acetic acid, yields total extractives in each extracting solvent not to exceed 0.02 milligram per square inch of surface and when extracted at reflux temperature for 8 hours with heptane yields total extractives not to exceed 0.1 milligram per square inch of surface.

(e) Polyphenylene sulfide resin coatings containing perfluorocarbon resins complying with § 121.2555 may be used in contact with food at temperatures up to and including normal baking and frying temperatures; provided that the finished cured coating, when extracted at reflux temperatures for 2 hours separately with distilled water, 50 percent ethanol in water, 3 percent acetic acid and heptane, yields total extractives in each extracting solvent not to exceed 0.2 milligram per square inch of surface and when extracted at reflux temperature for 1 hour with diphenyl ether yields total extractives not to exceed 4.5 milligrams per square inch of surface.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–19–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: October 10, 1972.

ROBERT C. BRANDENBURG,
Acting Associate Commissioner for Compliance.

[FR Doc.72-17777 Filed 10-18-72;8:49 am]

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Topical Combination Drug

The Commissioner of Food and Drugs has evaluated a new animal drug application (15–433V) filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of a topical powder containing neomycin sulfate and other drugs for treating certain conditions in animals. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.30 Neomycin sulfate, 9-fluoroprednisolone acetate, tetracaine hydrochloride, and myristyl-gamma-picoliniun chloride, topical powder, veterinary.

(a) *Specifications.* The product contains 5 milligrams of neomycin sulfate, equivalent to 3.5 milligrams of neomycin base, 1 milligram of 9-fluoroprednisolone acetate, 5 milligrams of tetracaine hydrochloride and .2 milligram of myristyl-gamma-picolinium chloride in each gram of the product in a special adherent powder base.

(b) *Sponsor.* See code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in horses, dogs, and cats in the treatment or adjunctive therapy of certain ear and skin conditions when such conditions are caused by or associated with neomycin-susceptible organisms and/or allergy. In addition the product is indicated as superficial dressing applied to minor cuts, wounds, lacerations, abrasions, and for postsurgical application where reduction of pain and inflammatory response is deemed desirable. The product may be used as a dusting powder following amputation of tails, claws, and dewclaws and following ear trimming, castrating, and such surgical procedures as ovariohysterectomies. The product may also be used in the treatment of acute otitis externa in dogs, acute moist dermatitis and interdigital dermatitis in dogs.

(2) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–19–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 11, 1972.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.72-17778 Filed 10-18-72;8:49 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-87a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Blackwater River, Fla.

This amendment changes the regulations for the Florida State Road 10 drawbridge across Blackwater River to provide that the draw open on signal if at least 12 hours notice has been given. This amendment was circulated as a public notice dated 15 May 1972 by the Commander, Eighth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 72-87) on May 10, 1972 (37 F.R. 9404). One comment was received that had no objection to the proposed change.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding subparagraph (6-c) to paragraph (i) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * * * *

(i) * * *

(6-c) Blackwater River, Fla., State Road 10 bridge at Milton. The draw shall open promptly on signal if at least 12 hours notice has been given.

* * * * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on November 20, 1972.

Dated: October 12, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard
Chief, Office of Marine Environment and Systems.

[FR Doc.72-17830 Filed 10-18-72;8:50 am]

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Oklawaha River, Fla.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.169 governing the operation of a lock on the Oklawaha River at Moss Bluff, Fla., is hereby amended with respect to paragraph (a) to change the hours of operation, effective upon publication in the FEDERAL REGISTER (10–19–72), as follows:

§ 207.169 Oklawaha River, navigation lock and dam at Moss Bluff, Fla.; use, administration and navigation.

(a) The owner of or agency controlling the lock shall not be required to operate the navigation lock except from 5:30 a.m. to 8 p.m. daily. During the above hours the lock shall be opened upon demand for the passage of vessels. The hours of operation are based on local time.

* * * * *

[Regs., October 2, 1972, 1522-01 DAEN-CWO-N] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

E. W. GANNON,
Lieutenant Colonel, U.S. Army,
Chief, Plans Office, TAGO.

[FR Doc.72-17773 Filed 10-18-72;8:50 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7209]

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Appreciated Property Used To Redeem Stock; Correction

On October 4, 1972, Treasury Decision 7209 with respect to appreciated property used to redeem stock appeared in the FEDERAL REGISTER (37 F.R. 20799; F.R. Doc. 72-16831 filed October 3, 1972; 8:45 a.m.). The following changes should be made:

1. The word "complex" appearing in the last line of paragraph (a) of § 1.311-1 appearing at 37 F.R. 20801 should be changed to read "complete".

2. The following "[, without regard to section 318 (relating to constructive ownership of stock),]" beginning in the fifth line of subparagraph (2) of paragraph (b) of § 1.311-2 appearing at 37 F.R. 20802, should be deleted.

JAMES F. DRING,
Director, Legislation and Regulations Divisions.

[FR Doc.72-17881 Filed 10-18-72;8:54 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS — UNDERGROUND COAL MINES

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Federal Standards for Qualification of Persons Performing Electrical Work in Coal Mines

Pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 811(a); 83 Stat. 745), there was published in the FEDERAL REGISTER for October 28, 1971 (36 F.R. 20699), proposed revisions of § 75.153 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, and § 77.103 of

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Part 77, Subchapter O, Chapter I, Title 30, Code of Federal Regulations. These proposed revisions prescribed the standards pertaining to underground coal mines, and surface coal mines and surface work areas of underground coal mines respectively, under which persons must be qualified in order to perform electrical work on low-, medium-, or high-voltage distribution circuits or equipment, or to examine, test, and maintain electrical equipment.

Interested persons were afforded a period of 45 days within which to submit written comments, suggestions, or objections to the proposed standards.

In light of the written comments, suggestions, and objections submitted to the Bureau of Mines concerning these proposed revisions, and in view of consultation meetings held, in accordance with section 101(c) of the Federal Coal Mine Health and Safety Act of 1969, since publication of the proposal, several changes have been made in the standards.

The proposed standards would have required all persons eligible for qualification to eventually attain a satisfactory grade on a series of written tests approved by the Secretary and administered by the Bureau prior to obtaining qualification.

Many persons performing electrical work have a great amount of practical experience with only a relatively insignificant amount of formal electrical training, or none whatsoever. The Bureau has conducted oral, written, and open-book examination surveys and has concluded that the examination scores achieved by individuals with little or no formal electrical training, but a great deal of practical experience, do not accurately represent their abilities to properly perform electrical work in coal mines. Therefore, the standards, as set forth below, would permit persons eligible for qualification to become qualified upon satisfactory completion of a coal mine electrical training program approved by the Secretary. The optional use of approved coal mine electrical training programs will enable those individuals with practical experience who perform poorly on formal examinations to become qualified. The approved coal mine electrical training programs will be similar in format to the approved coal mine electrical retraining programs which are required to be taken annually in order to retain qualification. Interested persons are advised that concurrently with the promulgation of these standards, there is published in the notices section of the FEDERAL REGISTER, requirements for approval by the Secretary of coal mine electrical training and retraining programs.

The standards, as set forth below, also permit a person to become qualified for Federal purposes if he has been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by the Secretary. The purpose of this change is to prevent an unnecessary duplication of time, effort, and funds by both the Bureau and persons seeking to obtain qualification in those States having a coal mine electrical qualification program as stringent as, or more stringent than, the Federal requirements. Interested persons are advised that concurrently with the promulgation of these standards, there is published in the notices section of the FEDERAL REGISTER, requirements for approval by the Secretary of State coal mine electrical qualification programs.

The proposed standards would have permitted individuals who had been qualified to perform electrical work prior to the effective date of these revisions to continue to be qualified until December 31, 1972. To remain qualified after this date such individuals would have had to attain a satisfactory grade on the series of written tests approved by the Secretary and administered by the Bureau. The standards, as set forth below, now permit such individuals to remain qualified until June 30, 1973. To remain qualified after this date such persons would either have to: (1) Have been qualified by a State that has a coal mine electrical training program approved by the Secretary; (2) have attained a satisfactory grade on the series of written tests approved by the Secretary; or (3) have satisfactorily completed a coal mine electrical training program approved by the Secretary.

Since the categories of the series of tests approved by the Secretary will require a great deal of study and preparation, it is deemed advisable to eliminate those subjects not directly connected to the performance of electrical work in coal mines. Consequently, the categories of fire protection and mine maps have been deleted. It should be noted, however, that training in fire protection is already required in underground coal mines, and in surface mines and the surface work areas of underground coal mines (30 CFR 75.1107-14, 77.1100).

One of the most common electrical repair tasks occurring in coal mines is the making of temporary and permanent splices in low-voltage trailing cables. It has been determined, partially based on information received during the course of consultation meetings regarding the subject of this notice, that no reduction of safety will occur if separate standards are developed for qualification of persons making such splices. Such standards will be proposed in the future, and it is believed that they will be beneficial because: (1) They will require training to perform such work in training programs approved by the Secretary; and (2) they will permit those individuals qualified to perform electrical work in coal mines to devote more time to the more complex electrical tasks involved in coal mining.

Effective date. These revisions shall become effective on November 1, 1972.

JOHN B. RIGG,
Deputy Assistant Secretary of the Interior.

OCTOBER 12, 1972.

1. Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations is hereby amended by revising § 75.153 as follows:

§ 75.153 Electrical work; qualified person.

(a) Except as provided in paragraph (f) of this section, an individual is a qualified person within the meaning of §§ 75.511 and 75.512 to perform electrical work (other than work on energized surface high-voltage lines) if:

(1) He has been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by the Secretary; or,

(2) He has at least 1 year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program approved by the Secretary; or,

(3) He has at least 1 year of experience, prior to the date of the application required by paragraph (c) of this section, in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of five written tests approved by the Secretary and prescribed in paragraph (b) of this section.

(b) The series of five written tests approved by the Secretary shall include the following categories:

(1) Direct current theory and application;

(2) Alternating current theory and application;

(3) Electric equipment and circuits;

(4) Permissibility of electric equipment; and,

(5) Requirements of Subparts F through K of this Part 75.

(c) In order to take the series of five written tests approved by the Secretary, an individual shall apply to the District Manager of any Coal Mine Health and Safety District and shall certify that he meets the requirements of paragraph (a)(3) of this section. The tests will be administered in the Coal Mine Health and Safety Districts at regular intervals, or as demand requires.

(d) A score of at least 80 percent of each of the five written tests will be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that 1 percentage point shall be added to an individual's score in each test for each additional year of experience beyond the 1 year minimum requirement specified in paragraph (a)(3) of this section; however, in no case shall an individual be given more than 5 percentage points for such practical experience.

(e) An individual may, within 30 days from the date on which he received notification from the Bureau of his test scores, repeat those on which he received an unsatisfactory score. If further retesting is necessary after this initial repetition, a mininum of 30 days from the date of receipt of notification of the initial retest scores shall elapse prior to such further retesting.

(f) An individual who has, prior to November 1, 1972, been qualified to perform electrical work specified in §§ 75.511 and 75.512 (other than work on energized surface high-voltage lines) shall continue to be qualified until June 30, 1973. To remain qualified after June 30, 1973, such individual shall meet the requirements of either subparagraph (1), (2), or (3) of paragraph (a) of this section.

(g) An individual qualified in accordance with this section shall, in order to retain qualification, certify annually to the District Manager of the Coal Mine Health and Safety District wherein he is employed, that he has satisfactorily completed a coal mine electrical retraining program approved by the Secretary.

2. Part 77, Subchapter O, Chapter I, Title 30, Code of Federal Regulations is hereby amended by revising § 77.103 as follows:

§ 77.103 Electrical work; qualified person.

(a) Except as provided in paragraph (f) of this section, an individual is a qualified person within the meaning of Subparts F, G, H, I, and J of this Part 77 to perform electical work (other than work on energized surface high-voltage lines) if:

(1) He has been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by the Secretary; or,

(2) He has at least 1 year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing to perform electrical work (other than industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program approved by the Secretary; or,

(3) He has at least 1 year of experience, prior to the date of the application required by paragraph (c) of this section, in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and he attains a satisfactory grade on each of the series of five written tests approved by the Secretary as prescribed in paragraph (b) of this section.

(b) The series of five written tests approved by the Secretary shall include the following categories:

(1) Direct current theory and application;

(2) Alternating current theory and application;

(3) Electric equipment and circuits;

(4) Permissibility of electric equipment; and,

(5) Requirements of Subparts F through J and S of this Part 77.

(c) In order to take the series of five written tests approved by the Secretary, an individual shall apply to the District Manager of any Coal Mine Health and Safety District and shall certify that he meets the requirements of paragraph (a)(3) of this section. The tests will be administered in the Coal Mine Health and Safety Districts at regular intervals, or as demand requires.

(d) A score of at least 80 percent on each of the five written tests will be deemed to be a satisfactory grade. Recognition shall be given to practical experience in that 1 percentage point shall be added to an individual's score in each test for each additional year of experience beyond the 1 year requirement specified in paragraph (a)(3) of this section; however, in no case shall an individual be given more than 5 percentage points for such practical experience.

(e) An individual may, within 30 days from the date on which he received notification from the Bureau of his test scores, repeat those on which he received an unsatisfactory score. If further retesting is necessary after his initial repetition, a minimum of 30 days from the date of receipt of notification of the initial retest scores shall elapse prior to such further retesting.

(f) An individual who has, prior to November 1, 1972, been qualified to perform electrical work specified in Subparts F, G, H, I, and J of this Part 77 (other than work on energized surface high-voltage lines) shall continue to be qualified until June 30, 1973. To remain qualified after June 30, 1973, such individual shall meet the requirements of either subparagraph (1), (2), or (3) of paragraph (a) of this section.

(g) An individual qualified in accordance with this section shall, in order to retain qualification, certify annually to the District Manager of the Coal Mine Health and Safety District wherein he is employed, that he has satisfactorily completed a coal mine electrical retraining program approved by the Secretary.

(Sec. 101(a), Federal Coal Mine Health and Safety Act of 1969; 30 U.S.C. 811(a); 83 Stat. 745).

[FR Doc.72-17789 Filed 10-18-72;8:46 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. 1-62]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority With Respect to the Retired Serviceman's Survivor Benefit Plan

The purpose of this amendment is to delegate to the Commandant of the Coast Guard authority vested in the Secretary by a recently enacted statute, Public Law 92-425, providing for a Survivor Benefit Plan for retired servicemen, and the related Executive Order 11687.

Since this amendment relates to departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended, effective September 21, 1972, as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

• • • • • •

(p) Carry out the responsibilities and exercise the authority vested in the Secretary by Public Law 92-425 and Executive Order 11687 (37 F.R. 21479), relating to the Retired Serviceman's Survivor Benefit Plan.

This action is taken under the authority of sections 3(e) and 9(e) of the Department of Transportation Act (49 U.S.C. 1652(e) and 1657(e)).

Issued in Washington, D.C., on October 11, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72-17774 Filed 10-18-72;8:50 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Second Rev. S.O. 1105]

PART 1033—CAR SERVICE

Distribution of Boxcars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of October 1972.

It appearing, that an acute shortage of plain boxcars exists on the Maine Central Railroad Co.; that shippers located on lines of this carrier are being deprived of such cars required for loading, resulting in a severe emergency; that present rules, regulations, and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of boxcars owned by this railroad are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1105 Service Order 1105.

(a) *Distribution of Boxcars.* Each common carrier by railroad subject to the Interstate Commerce Act

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shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Return to owner empty, except as otherwise authorized in subparagraphs (4), (5), (6), and (7) of this paragraph, all plain boxcars which are listed in the Official Railway Equipment Register, I.C.C. R.E.R. 384, issued by W. J. Trezise, or reissues thereof, as having mechanical designation XM, bearing reporting marks issued to the Maine Central Railroad Co.

(2) Plain boxcars described in subparagraph (1) of this paragraph include both plain boxcars in general service and plain boxcars assigned to the exclusive use of a specified shipper.

(3) [Deleted]

(4) Boxcars described in paragraph (1) herein, may be loaded only to stations on the lines of the car owner or to any station which is a junction with the car owner. After unloading at a junction with the car owners, such cars shall be delivered to the car owner at that junction, either loaded or empty.

(5) [Deleted]

(6) Boxcars described in paragraph (1) herein shall not be back-hauled empty from a junction with the car owner.

(7) *Exception.* The provisions of this order shall not apply to Maine Central cars in series 30000 to 30249, inclusive.

(8) The return to the owner of a boxcar described in paragraph (1) herein shall be accomplished when it is delivered to the car owner, either empty or loaded.

(9) Junction points with the car owner in its specific registration in the Official Railway Equipment Register, I.C.C., R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, under the heading "Freight Connections and Junction Points."

(10) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded boxcar for movements contrary to the provisions of subparagraph (4) of this paragraph.

(b) Application: The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(c) Effective date: This order shall become effective at 11:59 p.m., October 17, 1972.

(d) Expiration date: This order shall expire at 11:59 p.m., November 30, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101 as amended, 54 Stat. 911; 49 U.S.C. 1 (10–17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17876 Filed 10-18-72;8:54 am]

[No. MC-C-6829 (Sub-No. 1)]

PART 1064—NOTICE OF AND PROCEDURES FOR BAGGAGE EXCESS VALUE DECLARATION

Notice of Conference Regarding Reasonableness of $50 Limitation of Free Baggage Allowance

OCTOBER 13, 1972.

The Commission's new regulations (49 CFR Part 1084) governing the baggage excess valuation procedures of interstate motor common carriers of passengers subject to its jurisdiction, promulgated in Limitation of Free Baggage Allowance—Greyhound, 115 M.C.C. 566 (1972), are now scheduled to become effective on December 20, 1972. Concurrently with the adoption of such regulations, the Commission instituted the instant proceding: (1) To inquire into the adequacy of the present $50 "free" baggage allowance, (2) to investigate the possibility of adopting a regulation requiring a $250 or some other "free" baggage allowance limitation, and (3) to take such other and further action as the facts and circumstances may justify or require. The Bureau of Enforcement was directed to participate in this proceeding and, following publication in the FEDERAL REGISTER on August 31 and September 9, 1972, the parties identified in the appendix to this notice have filed statements of their intention so to participate.

By letter dated October 4, 1972, copies of which were mailed to all such parties, the National Association of Motor Bus Owners and the National Bus Traffic Association have requested the Commission to schedule an informal conference (or if necessary, a prehearing conference) for the purpose of permitting an open discussion of the relationship between the Commission's prescribed regulations and the present proceeding. The Associations express the hope that, in the course of such discussion, various aspects of the adopted regulations might be clarified through the exchange of views between the interested parties and the Commission. They further believe that the nature of the available data relating to the current proceeding can be discussed with a view toward arriving at a mutual understanding among all such parties and the Commission as to the extent of the evidence which should be submitted herein. These Associations take the position that an informal discussion between all interested parties and the Commission will go far toward clarifying the matters to be considered herein and to expedite the proceeding to a final conclusion satisfactory to the parties and the Commission.

It is believed that an informal discussion of the type requested by the Associations may prove beneficial to the efficient and expeditious resolution of this proceeding in the public interest. Such a conference is hereby scheduled to begin at 10 a.m., e.d.t., on Tuesday, October 24, 1972, at the Offices of the Commission at 12th and Constitution Avenue, Washington, D.C. The conference will be conducted by appropriate staff members of the Commission's Office of Proceedings, in a room to be hereafter designated, and the participation of such staff members will be limited to the furtherance of the orderly progress of the informal discussions. The Commission's Bureau of Enforcement will participate as a party to the proceeding. A transcript of the discussions will be made and will be available for public inspection in the public docket in this proceeding as soon as possible after the close of the discussions.

ROBERT L. OSWALD,
Secretary.

LIST OF PARTIES

Mr. P. J. Campbell, Chairman, National Bus Traffic Association, Inc., 506 South Wabash Avenue, Chicago, IL 60605.

Mr. John S. Fessenden, Suite 618 Perpetual Building, 1111 E Street NW., Washington, DC 20004.

Mr. John H. O'Brien, Assistant Director, Bureau of Enforcement, Interstate Commerce Commission, Washington, D.C. 20423.

Mr. W. L. McCracken, Assistant General Council—Transportation, The Greyhound Corp., Greyhound Tower—17th Floor, Phoenix, Ariz. 85077.

Mr. John Mathis, California Public Utilities Commission, 5072 State Building, San Francisco, Calif. 94102.

Dr. Lincoln Smith, New York University, Department of Politics, Government House, New York, N.Y. 10453.

Mr. Charles A. Webb, National Association of Motor Bus Owners, 1025 Connecticut Avenue NW., Washington, DC 20036.

[FR Doc.72-17878 Filed 10-18-72;8:54 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development

SUBCHAPTER A—GENERAL

[Docket No. R-72-215]

PART 200—INTRODUCTION

Subpart D—Delegations of Basic Authority and Functions

DIRECTOR AND DEPUTY DIRECTOR OF THE HONOLULU INSURING OFFICE

Part 200 is being amended to add a new § 200.123 to redelegate to the Director and Deputy Director of the Honolulu Insuring Office the authority to perform the functions and exercise the authorities necessary for the production of low-rent public housing.

Accordingly, Part 200, Subpart D is amended in the table of contents and text by adding a new § 200.123 as follows:

§ 200.123 Director and Deputy Director of the Honolulu Insuring Office.

To the Director of the Honolulu Insuring Office and under his general supervision to the position of Deputy Director of the Honolulu Insuring Office, with respect to the production of low-rent public housing, there is redelegated the authority to perform the functions and exercise the authorities set forth in §§ 200.113, 200.115, and 200.116.

(Secretary's delegation of authority, 36 F.R. 5006, March 16, 1971, as amended 37 F.R. 15444, August 2, 1972)

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER (10-19-72).

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.

[FR Doc.72-17823 Filed 10-18-72;8:46 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Merritt Island National Wildlife Refuge, Florida

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (10–19–72).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

FLORIDA

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Merritt Island National Wildlife Refuge, Fla., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 45,395 acres, are delineated on a map available at the refuge headquarters, Merritt Island National Wildlife Refuge, Fla., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Security requirements deemed necessary by the Director, Kennedy Space Center, may preclude hunting in any of the areas for all or portions of the 1972–73 waterfowl season.

(2) As security requirements allow, hunting will be permitted:

(a) In public hunting Areas Nos. 2, 3, and 4 from one-half hour before sunrise to sunset, on Tuesdays, Thursdays, Saturdays, and Sundays, from November 23, 1972, through January 20, 1973.

(b) In public hunting Area No. 1 from one-half hour before sunrise to 12 o'clock noon on Tuesdays, Thursdays, Saturdays, and Sundays from November 23, 1972, through January 20, 1973.

(3) Hunting from permanent blinds is prohibited in Areas 2, 3, and 4. Hunting in Area No. 1 shall be only from Government-provided blinds.

(4) Air thrust boats are not permitted on the refuge.

(5) Hunters under 16 years of age, must be accompanied by an adult 21 years of age or older.

(6) No shooting is permitted from or across railroad rights-of-way or any paved road.

(7) Vehicular use of the refuge beach will be limited. No vehicles will be allowed on the outer beach above the mean high tide line.

(8) No camping will be allowed.

(9) Shooting from dikes in Area No. 4 is prohibited.

(10) Vehicles will be parked only in designated parking area.

(11) A refuge permit is required of all hunters in all hunt areas on holidays, Saturdays, and Sundays. Applications must be received no later than 2 weeks prior to the hunt date in the office of the Merritt Island National Wildlife Refuge. Details concerning permit applications may be obtained by writing the Refuge Manager, Merritt Island National Wildlife Refuge, Post Office Box 6504, Titusville, FL 32780.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1973.

JACK E. HEMPHILL,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 11, 1972.

[FR Doc.72-17801 Filed 10-18-72;8:48 am]

PART 32—HUNTING

Pocasse National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10–19–72).

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA

POCASSE NATIONAL WILDLIFE REFUGE

Public hunting of big game on the Pocasse National Wildlife Refuge, S. Dak., is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,500 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Firearms season—November 25 through December 3, 1972, both dates inclusive.

(2) All hunters must exhibit their hunting license, deer tag, and vehicle contents to Federal and State officers upon request.

(3) Hunters will not be allowed to drive on refuge maintained trails, but may park their vehicles outside the refuge and hunt on foot.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 3, 1972.

LYLE J. SCHOONOVER,
Refuge Manager,
Sand Lake National Wildlife Refuge.

OCTOBER 10, 1972.

[FR Doc.72-17819 Filed 10-18-72;8:46 am]

PART 32—HUNTING

J. Clark Salyer National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10–19–72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

J. CLARK SALYER NATIONAL WILDLIFE REFUGE

Public hunting of deer on the J. Clark Salyer National Wildlife Refuge, N. Dak., is permitted from 12 noon to sunset November 10, 1972, and from sunrise to sunset November 11, 1972, through November 19, 1972, only on the area designated by signs as open to hunting. This open area, comprising 58,400 acres, is delineated on a map available at the refuge headquarters, Upham, N. Dak., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) All hunters must exhibit their hunting license, deer tag, game and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32,

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and are effective through November 19, 1972.

ROBERT C. FIELDS,
Refuge Manager, J. Clark Salyer N.W. Refuge, Upham, N. Dak. 58789.

OCTOBER 13, 1972.

[FR Doc.72-17817 Filed 10-18-72;8:46 am]

PART 32—HUNTING

J. Clark Salyer National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-19-72).

§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.

NORTH DAKOTA

J. CLARK SALYER NATIONAL WILDLIFE REFUGE

Public hunting of gray partridge, sharptailed grouse and pheasant on the J. Clark Salyer National Wildlife Refuge, N. Dak., is permitted from sunrise to sunset November 20, 1972 through December 10, 1972, only on the area designated by signs as open to hunting. This open area, comprising 58,400 acres of the total refuge area is delineated on a map available at the refuge headquarters, Upham, N. Dak. 58789, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of gray partridge, sharptailed grouse and pheasant subject to the following special condition:

(1) All hunters must exhibit their hunting license, game and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 10, 1972.

ROBERT C. FIELDS,
Refuge Manager, J. Clark Salyer N.W. Refuge, Upham, N. Dak 58789.

OCTOBER 13, 1972.

[FR Doc.72-17818 Filed 10-18-72;8:46 am]

PART 32—HUNTING

Noxubee National Wildlife Refuge, Miss.; Correction

In F.R. Doc. 72-14817, appearing on page 17721 of the issue for Thursday, August 31, 1972, under § 32.32, subparagraphs (1) and (2) under special conditions should read as follows:

(1) Gun and bow hunting for bucks only is permitted November 18–December 1, 1972, excluding Sundays.

(2) Gun and bow hunting for either sex is permitted December 26–30, 1972.

JACK E. HEMPHILL,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 10, 1972.

[FR Doc.72-17776 Filed 10-18-72;8:50 am]

Title 11—FEDERAL ELECTIONS

Chapter I—Comptroller General

SUBCHAPTER A—CAMPAIGN COMMUNICATIONS

PART 4—EXPENDITURE LIMITATIONS FOR USE OF COMMUNICATIONS MEDIA

Expenditures for or on Behalf of a Federal Candidate

Section 4.4 is revised to make it clear that a communications media expenditure by or on behalf of a Federal candidate is covered under title I of the Act only if it is an expenditure for a use which identifies the candidate and advocates or supports the candidate's nomination or election. It is not intended that this section shall apply to funds spent by a broadcasting station or a newspaper or a magazine in reporting the news or in taking editorial positions.

This amendment is effective on the date of its publication in the FEDERAL REGISTER (10-19-72).

Section 4.4 is amended by revising paragraph (a) thereof to read as follows:

§ 4.4 Expenditures for or on behalf of a Federal candidate.

(a) Any expenditure by any person for the use of communications media on behalf of the candidacy of any legally qualified candidate for nomination or election to Federal elective office is deemed, for the purposes of section 104 of the Act and this part, to have been spent by such candidate, whether or not the person making the expenditure is authorized by the candidate to do so. An expenditure for the use of communications media is deemed to be "on behalf of the candidacy" of such Federal candidate if the use identifies the candidate, directly or by implication, and advocates or supports the nomination or election of the candidate. Any such expenditure by or on behalf of any legally qualified candidate for the office of Vice President of the United States is deemed, for the purposes of section 104 of the Act and this part, to have been spent by the candidate for the office of President with whom he or she is running.

* * * * * *

(Sec. 105, 86 Stat. 7, 47 U.S.C. 804. Interpret or apply section 104(a), 86 Stat. 5, 47 U.S.C. 803)

[SEAL] ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.72-18049 Filed 10-18-72;11:52 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 18, 21, 24, 112, 125, 172]

BONDING OF CARRIERS, CARTMEN, AND LICENSING OF LIGHTERMEN, AND CARTAGE AND LIGHTERAGE OF MERCHANDISE

Notice of Proposed Rule Making

Notice is hereby given that pursuant to the authority contained in sections 551, 565, and 624 of the Tariff Act of 1930, as amended (46 Stat. 742, as amended, 747, as amended, 759; 19 U.S.C. 1551, 1565, 1624), it is proposed to revise the Customs Regulations relating to the bonding of carriers and licensing of cartmen and lightermen, and the cartage and lighterage of merchandise.

This revision is part of the general revision of the Customs Regulations and replaces the provisions of § 18.1 and Part 21 with two new parts, Parts 112 and 125. Proposed Part 112, Carriers, Cartmen, and Lightermen, concerns the bonding of cariers and licensing of cartmen and lightermen, the issuance of identification cards to cartmen and lightermen employees and the revocation or suspension of licenses and identification cards. Proposed Part 125, Cartage and Lighterage of Merchandise, sets forth the procedures governing cartage and lighterage, and the duties and liabilities of cartmen and lightermen in the cartage of merchandise.

The principal changes reflected in proposed Parts 112 and 125 from those set forth in § 18.1 and Part 21 are as follows:

1. A list of definitions has been added as § 112.1.

2. Section 112.13 has been added in order to specify the conditions under which applications for designation as bonded carriers and carrier bonds will be approved.

3. Section 112.15 has been added incorporating the current practice of publishing notice of approvals and terminations of carrier bonds in the Customs Bulletin.

4. Section 112.23 has been added to reflect the practice of referring the application for license to the Customs special agent in charge for investigation.

5. In § 112.27(c)(1), concerning the marking of carting vehicles, the word "permanent" has been added requiring that such markings be permanently affixed to the vehicles used for cartage.

6. In § 112.30, concerning the causes for suspension, revocation, and termination of cartman and lighterman licenses, the causes found in §§ 21.1(a) and 21.8(a), have been listed along with those found in § 21.6(b).

7. In § 125.31, the forms and documents used in cartage and lighterage are listed.

8. Section 112.49 has been added incorporating the current practice governing the issuing of temporary identification cards to employees of cartmen and lightermen.

Accordingly, it is proposed to amend the Customs Regulations as follows:

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.1 [Amended]

Section 18.1 is amended by deleting paragraphs (c), (d), (e), and (f).

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 21—CARTAGE AND LIGHTERAGE [DELETED]

Chapter I of Title 19, Code of Federal Regulations, is amended by deleting Part 21—Cartage and Lighterage.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.12 [Amended]

In § 24.12, paragraph (a)(1) is amended by deleting subdivisions (ii) and (iv).

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

Chapter I of Title 19, Code of Federal Regulations, is amended by adding Part 112 entitled "Carriers, Cartment, and Lightermen" to read as follows:

Sec.
112.0 Scope.

Subpart A—General Provisions

112.1 Definitions.
112.2 Bond or license required.

Subpart B—Authorization of Carriers To Carry Bonded Merchandise

112.11 Carriers which may be authorized.
112.12 Application for authorization.
112.13 Approval of applications.
112.14 Discontinuance of carrier bonds.
112.15 Publication of approvals and discontinuance of carrier bonds.

Subpart C—Licensing of Cartmen and Lightermen

112.21 License required.
112.22 Application for license.
112.23 Investigation of applicant.
112.24 Issuance of license.
112.25 Bonded carriers.
112.26 Duration of license.
112.27 Marking of vehicles and vessels.
112.28 Production of license.
112.29 Records.
112.30 Suspension or revocation of license.

Subpart D—Identification Cards

112.41 Identification cards required.
112.42 Application for identification card.
112.43 Form of identification card.
112.44 Changes in information on identification cards.
112.45 Surrender of identification cards.
112.46 Report of loss or theft.
112.47 Wrongful presentation.
112.48 Revocation or suspension of identification cards.
112.49 Temporary identification cards.

AUTHORITY: The provisions of this Part 112 issued under R.S. 251, as amended, secs. 551, 565, 624, 46 Stat. 742, as amended, 747, as amended, 759; 19 U.S.C. 66, 1551, 1565, 1624.

§ 112.0 Scope.

This part sets forth regulations providing for the bonding of carriers which will receive merchandise for transportation in bond, and the licensing of cartmen and lightermen for the cartage of merchandise entered for warehouse, designated for examination, or taken into custody as unclaimed, and the procedures in applying for such bonds or licenses. This part also sets forth the regulations concerning the obtaining of identification cards by cartmen and lightermen, and their employees and the procedures for revoking or suspending licenses and identification cards. Provisions setting forth the duties and responsibilities of cartmen and lightermen are set forth in Part 125 of this chapter.

Subpart A—General Provisions

§ 112.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Carrier.* A "carrier" is one who undertakes to transport goods, merchandise or people.

(b) *Cartman.* A "cartman" is one who undertakes to transport goods or merchandise within the limits of the port.

(c) *Common carrier.* A "common carrier" is a carrier owning or operating a railroad, steamship, or other transportation line or route which undertakes to transport goods or merchandise for all of the general public who choose to employ him.

(d) *Contract carrier.* A "contract carrier" is a carrier which undertakes to transport specific goods or merchandise for a specific person or group of persons,

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and is authorized to operate as such by any agency of the United States.

(e) *Freight forwarder.* A "freight forwarder" is one who engages in the business of dispatching shipments on behalf of other persons, for a consideration, in foreign or domestic commerce between the United States, its territories or possessions, and foreign countries, and of handling the formalities incident to such shipments, and is authorized to operate as such by any agency of the United States.

(f) *Lighterman.* A "lighterman" is one who transports goods or merchandise on a barge, scow, or other small vessel to or from a vessel within the port, or from place to place within a port.

(g) *Private carrier.* A "private carrier" is a carrier of his own goods or merchandise.

§ 112.2 Bond or license required.

(a) *Carriers.* A bond provided for in this part is required to transact business as a carrier receiving merchandise for transportation in bond.

(b) *Cartmen and lightermen.* A bond and license provided for in this part are required to transact business as a cartman or lighterman for the cartage of merchandise entered for warehouse, designated for examination, taken to container stations, or taken into custody as unclaimed.

Subpart B—Authorization of Carriers To Carry Bonded Merchandise

§ 112.11 Carriers which may be authorized.

(a) *From port to port in the United States.* The district director may authorize the following types of carriers to receive merchandise for transportation in bond from one port to another in the United States upon compliance with the provisions of this subpart:

(1) Common carriers.

(2) Contract carriers.

(3) Freight forwarders.

(4) Private carriers, if:

(i) The private carrier is the proprietor of a Customs bonded warehouse;

(ii) The merchandise to be transported is his property, having been imported by him or purchased from another importer; and

(iii) The merchandise is to be transported from the port of importation or port of entry for warehouse to the private carrier's Customs bonded warehouse for physical deposit.

(b) *Between ports in Canada or Mexico through the United States.* Canadian and Mexican motor vehicle common carriers may be authorized to transport merchandise under bond between ports in Canada or Mexico through the United States (see Part 123 of this chapter), upon compliance with the provisions of this subpart.

§ 112.12 Application for authorization.

(a) *General requirements.* All carriers and freight forwarders desiring to be authorized to receive merchandise for transportation in bond shall file with the district director concerned a bond on Customs Form 3587 (except private carriers which file on Customs Form 3588 and airline companies which have the option to file a consolidated aircraft bond, Customs Form 7605 or the Customs Form 3587), in a sum specified by the district director accompanied by a fee of $50. The check or money order shall be made payable to the Bureau of Customs.

(b) *Special requirements.* In addition to the requirements in paragraph (a) of this section, the specified carriers shall also file with the district director the following documents:

(1) *Common carriers other than railroad, steamship, or airline companies.* Common carriers other than railroad, steamship, or airline companies generally known to be engaged in common carriage, shall file a certified extract of its articles of incorporation or charter showing that it is authorized to engage in common carriage, and a statement that it is operating or intends to operate as a common carrier.

(2) *Contract carriers and freight forwarders.* Contract carriers and freight forwarders shall file a certificate from the appropriate agency of the United States showing that the applicant is authorized to operate as a contract carrier or freight forwarder by that agency and a statement showing that the applicant is operating or intends to operate as such.

(3) *Private carriers.* If the private carrier is the proprietor of Customs bonded warehouses in two or more Customs districts to which important merchandise will be transported, he shall file the bond with the district director for one of such districts, accompanied by a statement showing the location of each such warehouse and an additional copy of the bond for each additional district.

(4) *Motor carriers.* All motor carriers shall file:

(i) A detailed description of the terminal facilities employed by the principal at the points of origin and destination on the routes covered; and

(ii) A statement showing that facilities are available for the segregation and safeguarding of the packages designated by the district director for examination from a particular shipment.

§ 112.13 Approval of applications.

The district director shall approve an application for authorization as carriers of bonded merchandise and the bond filed, authorizing the applicant to act as a carrier of bonded merchandise provided he is satisfied that:

(a) The amount of the bond is sufficient.

(b) All documents required by this subpart have been furnished and are in proper form; and

(c) The fee prescribed has been paid.

§ 112.14 Discontinuance of carrier bonds.

Carrier bonds may be discontinued at any time by the Commissioner of Customs or by the district director of the district where the bond is filed. Authorized carriers desiring to terminate such bonds shall make application therefor to such district director.

§ 112.15 Publication of approvals and discontinuances of carrier bonds.

Approvals and discontinuances of carrier's bonds will be published from time to time in the weekly Customs Bulletin.

Subpart C—Licensing of Cartmen and Lightermen

§ 112.21 License required.

A customhouse cartage or lighterage license issued by the district director in accordance with this part or specific authorization of the Commissioner of Customs shall be required to perform Customs cartage or lighterage, except as provided for in §§ 18.3 and 125.12 of this chapter.

§ 112.22 Application for license.

(a) *General requirements.* An applicant for a customhouse cartage or lighterage license shall file with the district director for the district in which he proposes to conduct business the following:

(1) A bond on Customs Form 3855 in a sum specified by the district director.

(2) Payment of a fee of $50. The check or money order shall be made payable to the Bureau of Customs.

(3) If required by the district director, a list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from Customs custody, or a list of all such persons and their addresses.

(b) *Special requirements*—(1) *Cartman licensed by city or State.* Any cartman licensed by city or State authorities shall present to the district director his city or State license, after which such documents shall be returned.

(2) *Lighterman.* A lighterman shall present his vessel's marine documents, if any have been issued, to the district director for examination, after which such documents shall be returned.

§ 112.23 Investigation of applicant.

The district director may refer the application for a cartman's or lighterman's license to the Customs special agent in charge for the district in which the application is filed for investigation and report concerning the character, qualification, and experience of the applicant as well as the nature and fitness of the equipment to be used.

§ 112.24 Issuance of license.

The district director shall issue a customhouse cartage and lighterage license on Customs Form 3857 provided he is satisfied that:

(a) The character, qualifications, and experience of the applicant and fitness of his equipment are satisfactory.

(b) The applicant has complied with all the requirements of § 112.22.

§ 112.25 Bonded carriers.

A carrier or freight forwarder who has filed a carrier's bond, Customs Form 3587, or a carrier who has filed a private carrier's bond, Customs Form 3588, may be appointed or licensed as a Customs cartman or lighterman for a port for which such bond provides coverage, upon compliance with § 112.22. Investigation pursuant to § 112.23 may apply.

§ 112.26 Duration of license.

A license issued in accordance with this subpart shall remain in force and effect as long as the required bond is considered sufficient or until the license is suspended, revoked, or terminated pursuant to § 112.30.

§ 112.27 Marking of vehicles and vessels.

(a) *Marking required.* Every vehicle licensed by Customs for cartage and every barge, scow, or other lighter licensed by Customs for lighterage shall be marked with the legend "Customhouse License No. ----------", and the name of the person or firm to whom the license has been issued. The abbreviated legend "C.H.L. No. ----------" may be used.

(b) *Size of marking.* The marking required by this section shall appear in letters and figures not less than 3 inches high.

(c) *Place of marking*—(1) *Carts, trucks, drays, and other vehicles.* Every cart, truck, dray, or other vehicle used for Customs cartage by a licensed cartman shall be marked with the required legend and name on each side by painting directly onto the vehicle, or by the permanent attachment of signs bearing the required marking. However, if such marking is found by the district director to be impractical, he may designate some other conspicuous place upon the vehicle where the marking shall appear.

(2) *Barges, scows, lighters, and other vessels.* Every barge, scow, lighter, or other vessel used for Customs lighterage by a licensed lighterman shall be conspicuously marked with the required legend and name.

(d) *Removal of marking upon termination of license.* The markings required by this section shall be removed upon termination of the license in accordance with the provisions of the bond, Customs Form 3855, or the cartman or lighterman shall be liable for the payment of liquidated damages as provided in such bond.

§ 112.28 Production of license.

Inspectors or other Customs officers may require any person claiming to be a licensed customhouse cartman or lighterman to produce his license for inspection.

§ 112.29 Records.

(a) *Records of cartage and lighterage.* The district director may require that licensed Customs cartmen and lightermen shall make, keep, and promptly submit for Customs inspection and examination upon request therefor such current written records relating to cartage and lighterage as may be needed for purposes of local Customs administration.

(b) *Current list of officers, members, or employees.* The district director may require a licensee to furnish, at such times and intervals as the district director deems necessary, a current list showing the names and addresses of the managing officer and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from Customs custody, or a list of all such persons and their addresses.

§ 112.30 Suspension or revocation of license.

(a) *Causes for suspension or revocation of licenses.* The district director may revoke or suspend the license of a cartman or lighterman if:

(1) His license is not promptly produced upon demand;

(2) His vehicle or vessel is not properly marked, as required by § 112.27;

(3) The cartman or lighterman refuses or neglects to obey any proper order of a Customs officer of any Customs order, rule, or regulation relative to the cartage or lighterage of merchandise, including the making, keeping, and submitting of current written records relating to cartage and lighterage;

(4) The license was obtained through fraud or the misstatement of a material fact;

(5) The holder of such a license or an officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime;

(6) The holder of such license permits it to be used by any other person;

(7) The holder of such license fails to surrender promptly, or satisfactorily explain the failure to surrender, to the district director, identification cards of persons no longer employed by him where identification cards are required pursuant to § 112.41;

(8) The holder of such license fails to furnish a current list of names and addresses of officers and members or employees when required by the district director pursuant to § 112.29;

(9) The holder is guilty of any negligence, dishonest or deceptive practices or carelessness in the conduct of his business; or

(10) If the district director determines that the bond is not sufficient in amount or lacks sufficient sureties, and a satisfactory new bond with good and sufficient sureties is not furnished within a reasonable time.

(b) *Notice of revocation or suspension.* The district director shall suspend or revoke a license by serving notice of the proposed action in writing upon the holder of the license. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the license and shall be final and conclusive upon the licensee unless he shall file with the district director a written notice of appeal in accordance with paragraph (c) of this section.

(c) *Notice of appeal.* The licensee may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed in duplicate, and shall set forth the response of the licensee to the statement of the district director. The licensee in his notice of appeal may request a hearing.

(d) *Hearing on appeal*—(1) *Notification of and time of hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The licensee shall be notified of the time and place of the hearing at least 5 days prior thereto.

(2) *Conduct of hearing.* The holder of the license may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented with both parties having the right of cross-examination. A stenographic record of the proceedings shall be made and a copy thereof shall be delivered to the licensee. At the conclusion of such proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action.

(3) *Additional arguments.* Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the licensee may submit to the Commissioner of Customs in writing additional views and arguments on the basis of such record.

(4) *Failure to appear.* If neither the licensee nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs.

(e) *Decision on the appeal.* The Commissioner shall render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the licensee.

Subpart D—Identification Cards

§ 112.41 Identification cards required.

A district director may require each licensed cartman or lighterman and each employee thereof who receives, transports, or otherwise handles imported merchandise which has not been released from Customs custody to carry and display upon request of a Customs officer, an identification card issued by the Bureau of Customs. The card shall be in the possession of the person in whose name it is issued at all times when he is engaged in transactions with respect

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to imported merchandise. An identification card shall not be issued to any person whose employment in connection with the transportation of bonded merchandise will, in the judgment of the district director, endanger the revenue.

§ 112.42 Application for identification card.

An application for an identification card required pursuant to § 112.41, shall be filed personally by the applicant with the district director on Customs Form 3078 together with two 1¼" x 1¼" color photographs of himself. The fingerprints of the applicant shall also be required on Standard Form 87 at the time of the filing of the application. The application may be referred to the Customs special agent in charge as provided in § 112.23.

§ 112.43 Form of identification card.

The identification card shall be issued on Customs Form 3873 and shall not be valid unless signed by the employee and a Customs officer and the U.S. Customs seal is impressed thereon. The holder shall encase the card in protective transparent plastic so that both sides are clearly visible.

§ 112.44 Changes in information on identification cards.

Where there has been a change in the name, address, or employer of the holder, the card shall be promptly submitted by the cardholder to the district director, supported by application in proper form indicating the change so that it may be officially changed on the Customs records. New cards shall be issued when necessary.

§ 112.45 Surrender of identification card.

The identification card shall be surrendered by the holder or licensee to the district director when:

(a) The employee holder leaves the employment of the licensed cartman or lighterman;

(b) The cartman or lighterman bond or license is terminated; or

(c) The card is revoked or suspended pursuant to § 112.48.

§ 112.46 Report of loss or theft.

The loss or theft of an identification card shall be promptly reported by the cardholder to the district director.

§ 112.47 Wrongful presentation.

If an identification card is presented by a person other than the one to whom it was issued, such card shall be forthwith confiscated.

§ 112.48 Revocation or suspension of identification cards.

(a) *Causes for revocation or suspension of identification cards.* An identification card issued pursuant to this part may be revoked or suspended by the district director for any of the following causes:

(1) Such card was obtained through fraud or the misstatement of a material fact;

(2) The holder of such card is convicted of a felony, or convicted of a misdemeanor involving theft, smuggling, or any theft-connected crime;

(3) The holder permits the card to be used by any other person, or refuses to produce it upon the proper demand of a Customs officer; or

(4) The holder fails to abide by the rules and regulations prescribed in Part 125 of this chapter.

(b) *Notice of revocation or suspension.* The district director shall suspend or revoke an identification card by serving notice of the proposed action in writing upon the holder of the card. Such notice shall be in the form of a statement specifically setting forth the grounds for revocation or suspension of the card and shall be final and conclusive upon the holder unless he shall file with the district director a written notice of appeal in accordance with paragraph (c) of this section.

(c) *Notice of appeal.* The holder may file a written notice of appeal from the revocation or suspension within 10 days following receipt of the notice of revocation or suspension. The notice of appeal shall be filed, in duplicate, and shall set forth the response of the holder to the statement of the district director. The holder in his notice of appeal may request a hearing.

(d) *Hearing on appeal*—(1) *Notification of and time of hearing.* If a hearing is requested, it shall be held before a hearing officer designated by the Secretary of the Treasury or his designee within 30 days following application therefor. The holder shall be notified of the time and place of hearing at least 5 days prior thereto.

(2) *Conduct of hearing.* The holder of the card may be represented by counsel at the revocation or suspension hearing. All evidence and testimony of witnesses in such proceeding, including substantiation of charges and the answer thereto, shall be presented with both parties having the right of cross-examination. A stenographic record of the proceedings shall be made and a copy thereof shall be delivered to the cardholder. At the conclusion of such proceedings or review of a written appeal, the hearing officer or the district director, as the case may be, shall forthwith transmit all papers and the stenographic record of the hearing, if held, to the Commissioner of Customs, together with his recommendation for final action.

(3) *Additional arguments.* Following a hearing and within 10 calendar days after delivery of a copy of the stenographic record, the holder of the card may submit to the Commissioner of Customs in writing additional views and arguments on the basis of such record.

(4) *Failure to appear.* If neither the cardholder nor his attorney appear for a scheduled hearing, the hearing officer shall conclude the hearing and transmit all papers with his recommendation to the Commissioner of Customs.

(e) *Decision on the appeal.* The Commissioner shall render his decision, in writing, stating his reasons therefor, with respect to the action proposed by the hearing officer or the district director. Such decision shall be transmitted to the district director and served by him on the cardholder.

§ 112.49 Temporary identification cards.

(a) *Issuance.* When an identification card is required by the district director under § 112.41, and the district director determines that the application for the identification card cannot be administratively processed in a reasonable period of time, any licensed cartman or lighterman may upon written request have a temporary identification card issued by the district director to his employee if he can show to the satisfaction of the district director that a hardship to his business would result pending issuance of an identification card.

(b) *Validity and renewal.* The temporary identification card shall be valid for a period of 60 days. The district director may renew the temporary identification card for additional 30-day periods if he feels that the circumstances under which the temporary identification card was originally issued continue to exist. The temporary identification card shall be returned by the holder or licensee to the district director when the identification card is issued or the privileges granted thereby are withdrawn.

(c) *Withdrawal of temporary card.* The temporary identification card may be withdrawn at any time if in the judgment of the district director continuation of the privileges granted thereby would endanger the revenue or if the holder of the temporary identification card refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation.

(d) *Bond.* The licensed cartman or lighterman shall as a condition precedent to the issuance of a temporary identification card to his employee be required to post a bond in a penal sum, the amount to be determined by the district director, to guarantee return of the temporary identification card by the holder upon its withdrawal or upon issuance of a permanent identification card and to cover any loss or damage caused to the United States by the holder of the temporary identification card. The bond shall be in the following format:

District _____
No. _____

BUREAU OF CUSTOMS

BOND OF CUSTOMS CARTMAN FOR ISSUANCE OF TEMPORARY IDENTIFICATION CARD

Know all men by these presents that *_____ _____ of _____, as principal, and *_____, of _____ and _____, of _____ as sureties, are held and firmly bound unto the United States of America in the sum of _____ dollars ($ _____), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Witness our hands and seals this _____ day of _____, 19____

*If the principal or surety is a corporation, the name of the State in which incorporated also shall be shown.

Whereas, the said principal has requested the issuance of a temporary identification card for _____; and
(Name of employee)

Whereas, the said principal has satisfied the district director that a hardship to his business would result from the nonissuance of a temporary identification card for the said employee; and

Whereas, the said temporary identification card may be withdrawn at any time by the district director if he believes the continuation of the privileges granted thereby would endanger the revenue or the holder of the temporary identification card refuses or neglects to obey any proper order of a Customs officer or any Customs order, rule, or regulation; and

Whereas, the said principal has executed this obligation as a condition precedent to the issuance of said temporary identification card;

Now, therefore, the condition of this obligation is such that—

(1) If the above-bounden principal for whose benefit the temporary identification card has been issued, shall return the said card upon notice of demand made by the district director or upon the issuance of a permanent card to the said employee; and

(2) If the said principal shall exonerate and hold harmless the United States and its officers from or on account of any risk, loss, damage, or expense of any kind or description caused by the holder of the temporary identification card; and

(3) If the said principal fails to comply with any of the foregoing conditions, shall pay the amount of this obligation as liquidated damages;

Then this obligation to be void; otherwise to remain in full force and effect.

Signed, sealed, and delivered in the presence of—

(Name)	(Address)	_____ (Seal)
(Name)	(Address)	(Principal)
(Name)	(Address)	_____ (Seal)
(Name)	(Address)	(Surety)
(Name)	(Address)	_____ (Seal)
(Name)	(Address)	(Surety)

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

Chapter I of Title 19, Code of Federal Regulations, is amended by adding Part 125 entitled "Cartage and Lighterage of Merchandise" to read as follows:

Sec.
125.0 Scope.

Subpart A—General Provisions
125.1 Classes of cartage.
125.2 Supervision of cartage and lighterage.
125.3 Contracts for Government cartage.

Subpart B—Cartage of Packages for Examination
125.11 Cartage for examination in public stores.
125.12 Cartage for examination at importers' premises or other place.
125.13 Cartage of merchandise withdrawn from general order for regular entry.
125.14 Cartage of unclaimed merchandise.

Subpart C—Importers' Cartage
125.21 Cartage other than for examination.
125.22 Designation of cartman or lighterman.
125.23 Failure to designate.
125.24 Failure of designated cartman or lighterman to appear.

Subpart D—Delivery and Receipt
125.31 Documents used.
125.32 Merchandise delivered to a bonded store or bonded warehouse.
125.33 Procedure on receiving merchandise.
125.34 Countersigning of documents and notation of bad order or discrepancy.
125.35 Report of loss, detention or accident.
125.36 Inability to deliver merchandise.

Subpart E—Liability
125.41 Liability of cartman or lighterman.
125.42 Cancellation of liability.

AUTHORITY: The provisions of this Part 125 issued under R.S. 251, as amended, secs. 565, 624, 46 Stat. 747, as amended, 759; 19 U.S.C. 66, 1565, 1624.

§ 125.0 Scope.

This part is concerned with cartage and lighterage of merchandise and the duties and liabilities of cartmen and lightermen. Provisions for licensing cartmen and lightermen are in Part 112 of this chapter.

Subpart A—General Provisions

§ 125.1 Classes of cartage.

(a) *Government cartage.* Government cartage must be done by a licensed customhouse cartman under contract or other specific authority for that purpose (except as provided for in § 125.12).

(b) *Importers' cartage.* Importers' cartage may be done by any licensed customhouse cartman.

§ 125.2 Supervision of cartage and lighterage.

All licensed vehicles or lighters shall be subject to the control and direction of the officer having charge of the merchandise being carried.

§ 125.3 Contracts for Government cartage.

Contracts for Government cartage shall be procured by formally advertised solicitation for bids and award of contract or by negotiation in accordance with the appropriate provisions of the Federal Procurement Regulations, as supplemented by the special procurement requirements of the Bureau of Customs.

Subpart B—Cartage of Packages for Examination

§ 125.11 Cartage for examination in public stores.

(a) *Government cartage.* The cartage of merchandise in Customs custody designated for examination at the public stores shall be done by a licensed customhouse cartman under contract or other specific authority for that purpose.

(b) *Where there is no contract for Government cartage.* At ports where there is no contract for Government cartage in effect, the cartage of packages designated for examination at the public stores shall be done by a licensed customhouse cartman designated by the district director for this purpose.

(c) *Payment for Government cartmen.* The cost of the cartage shall be paid from the appropriation "Salaries and Expenses; Bureau of Customs."

§ 125.12 Cartage for examination at importers' premises or other place.

Merchandise designated for examination at an importer's premises or other place not in the charge of a Customs officer may be carted, lightered, or carried to any such place by the importer without a cartman's or lighterman's license, when in the judgment of the district director the revenue will not be endangered. Otherwise, such transfer shall be done by a licensed cartman, who shall be the contract cartman whenever practicable.

§ 125.13 Cartage of merchandise withdrawn from general order for regular entry.

When merchandise withdrawn from general order for regular entry is to be conveyed to a place designated by the district director for examination, the cartage shall be at the expense of the importer and shall be under the cartage arrangements established at the port for hauling examination packages under the provisions of § 125.11 (a) and (b). Reimbursement of the cost of the cartage shall be collected from the importer prior to release of the merchandise from Customs custody.

§ 125.14 Cartage of unclaimed merchandise.

Unclaimed merchandise shall be carted to the public stores or a bonded warehouse designated by the district director under the cartage arrangements established at the port for hauling examination packages under the provisions of § 125.11 (a) and (b). Reimbursement of the cost of the cartage shall be collected from the importer prior to release if entry is made or from the proceeds of sale of the merchandise.

Subpart C—Importers' Cartage

§ 125.21 Cartage other than for examination.

Any licensed customhouse cartman, including an importer licensed to cart his own imported merchandise, at the expense of the importer or other party in interest, may transfer merchandise from the importing vessel or other conveyance to bonded warehouse, from one vessel or conveyance to another, from one bonded warehouse to another, from the public stores to a bonded warehouse, from warehouse for transportation or for exportation, and from an internal revenue warehouse for exportation under the internal revenue laws without payment of tax. Nothing in this section shall apply to the cartage of examination packages to the place of examination.

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§ 125.22 Designation of cartman or lighterman.

Importers and exporters shall designate on the entry and permit of bonded merchandise the bonded cartman or lighterman by whom they wish their merchandise to be conveyed. Approval of such designation shall be indicated on the entry papers by the initials of the appropriate Customs officer placed in close proximity to the designation.

§ 125.23 Failure to designate.

If an importer does not cart his merchandise or designate a licensed customhouse cartman for the purpose, it shall be carted by a public store cartman authorized by contract or designated by the district director for that purpose. The cost of such cartage shall be paid by the importer or owner of the merchandise before its release from Customs custody.

§ 125.24 Failure of designated cartman or lighterman to appear.

The cartman or lighterman designated to convey the merchandise shall be present to take the merchandise when the Customs officer in charge is ready to send it. If the designated vehicle or lighter is not present, after waiting a reasonable time, such officer shall send the merchandise by any licensed cartman or lighterman available.

Subpart D—Delivery and Receipt

§ 125.31 Documents used.

When merchandise is carted or lightered to and received from a bonded store or bonded warehouse, it shall be accompanied by one of the following tickets or documents:

(a) Customs Form 6043—Delivery Ticket.

(b) Customs Form 7502–A—Warehouse or Rewarehouse Entry (Permit).

(c) Customs Form 7505–A—Warehouse Withdrawal for Consumption (Permit).

(d) Customs Form 7505–B—Order to Release Merchandise on Order of the Warehouse Proprietor.

(e) Customs Form 7506—Warehouse Withdrawal Conditionally Free of Duty, and Permit.

(f) Customs Form 7512—Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit.

§ 125.32 Merchandise delivered to a bonded store or bonded warehouse.

When merchandise is carted or lightered to and received in a bonded store or bonded warehouse, the proprietor or his representative shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of warehouse or rewarehouse permit, Customs Form 7502–A, and countersign the document acknowledging receipt of the merchandise as listed thereon.

§ 125.33 Procedure on receiving merchandise.

(a) *From public or bonded store.* A receipt shall be taken from the cartman or lighterman for all goods delivered to him from public store or bonded store. The receipt may be taken on Customs Form 6043, or on the appraising officer's release ticket at the time delivery is made.

(b) *From bonded warehouse.* In case of withdrawals from bonded warehouse for consumption, the merchandise shall be released only to or upon the order of the proprietor of the warehouse, who shall acknowledge such release on Customs Form 7505–A or 7505–B.

(c) *All other cases.* A receipt shall be taken for all goods delivered from Customs custody in any other case where the district director deems such receipt necessary.

§ 125.34 Countersigning of documents and notation of bad order or discrepancy.

When a cartman or lighterman receives merchandise remaining in Customs custody, he shall countersign the appropriate document in the space provided and shall note thereon any bad order or discrepancy. When available, the importing carrier's tally slip for the merchandise shall be attached to the delivery ticket which accompanies the merchandise while it is being carted or lightered in bond, for the use of Customs officers only at destination.

§ 125.35 Report of loss, detention, or accident.

Any loss or detention of bonded merchandise, or any accident happening to a licensed vehicle or lighter while carrying bonded merchandise shall be immediately reported by the cartman or lighterman to the district director.

§ 125.36 Inability to deliver merchandise.

If the warehouse is closed or the warehouseman refuses to receive the merchandise, the cartman shall notify the appropriate Customs inspector. The inspector shall promptly report the facts to the district director or his delegated representative for instructions. The merchandise shall then be returned to the Customs inspector, deposited in the public stores for safekeeping, or handled as ordered by the district director.

Subpart E—Liability

§ 125.41 Liability of cartman or lighterman.

The cartman or lighterman conveying the merchandise, including merchandise covered by a TIR carnet which has not been "taken on charge" (see § 114.22(c)(2) of this chapter), shall be liable under his bond for its prompt delivery in sound condition, or in no worse than the damaged condition noted on the delivery ticket, if damage is so noted.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

§ 125.42 Cancellation of liability.

The district director may cancel liquidated damages not in excess of $20,000 incurred under a cartman's bond or lighterman's bond upon the payment of such lesser amount, or without the payment of any amount, as he may deem appropriate under the circumstances. Application for cancellation if liquidated damages incurred shall be made in accordance with the provisions of Part 172 of this chapter.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

PART 172—LIQUIDATED DAMAGES

§ 172.21 [Amended]

In § 172.21, paragraph (b)(4) is amended by substituting "112.12(a)" for "18.1".

In § 172.21, paragraph (b)(5) is amended by substituting "112.21, 112.22, and 112.25" for "21.1", and "125.42" for "21.8(c)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759: 19 U.S.C. 68, 1624)

For ready comparison there is annexed to this notice a parallel reference table showing the relation of sections in the proposed Parts 112 and 125 to 19 CFR Parts 18, 21, and 24.

Prior to the adoption of the revision, consideration will be given any relevant data, views, or arguments which are submitted in writing to the Comissioner of Customs, Washington, D.C. 20226, and received not later than 60 days from the date of publication of this notice in the FEDERAL REGISTER. Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Bureau of Customs, Division of Regulations, Washington, D.C., during regular business hours.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: October 11, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

ANNEX TO NOTICE OF PROPOSED RULE MAKING

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in proposed Part 112 to 19 CFR Parts 18, 21, 24, and 25)

Proposed Part 112 section	*19 CFR section*
112.0	New
112.1	New
112.2	18.1(c)(1); 21.1(a)
112.11	18.1
112.12	18.1 (a) and (d) 24.12; 25.4(35)
112.13	New
112.14	18.1(f)
112.15	New
112.21	21.1(a)
112.22 (a) and (b)	21.1 (a) and (b)
112.23	New
112.24	New
112.25	21.1(a)
112.26	21.1(a)
112.27	21.1(c)
112.28	21.6
112.29	21.6(a)
112.30(a)(1)–(6)	21.6(b)
112.30(a) (7) and (8)	21.1(a)
112.30(a)(9)	21.8(a)
112.30(a)(10)	21.1; 21.1(a)C.M.
112.30 (b) and (c)	21.6(c)
112.30(d)	21.6(d)
112.41	21.2(a)(d)
112.42	21.2(b)
112.43	21.2 (c) and (d)
112.44	21.2(f)
112.45	21.2(g)
112.46	21.2(h)
112.47	21.2(e)
112.48(a)–(e)	21.2a(a)–(c)
112.49	New

[FR Doc.72–17854 Filed 10–18–72;8:52 am]

(This table shows the relation of sections in proposed Part 125 to 19 CFR Part 21)

Proposed Part 125 section	*19 CFR section*
125.0	New
125.1	21.3
125.2	21.7(a)
125.3	21.4(a)
125.11(a)–(c)	21.4(a)
125.12	21.4(b)
125.13	21.4(c)
125.14	21.4(d)
125.21	21.5 (a) and (b)
125.22	21.5(c)
125.23	21.5(d)
125.24	21.7(b)
125.31	New, 21.9
125.32	21.9(a)
125.33	21.9 (a) and (b)
125.34	21.9 (a) and (b)
125.35	21.9(b)
125.36	21.10
125.41	21.8(a)
125.42	21.8(c)

[FR Doc.72–17855 Filed 10–18–72;8:52 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Expenses of Work Incentive Programs

Correction

In F.R. Doc. 72–16627 appearing on page 20700 of the issue for Tuesday, October 3, 1972, in § 1.50B–3(a)(1), the last line in the third column, reading "expenses allocated to him. If a benefi-", should read, "expenses. The WIN expenses for each".

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 987]

DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Proposed Expenses and Rate of Assessment

Notice is hereby given of a proposal regarding expenses of the California Date Administrative Committee for the 1972–73 crop year and rate of assessment for that crop year. This notice is pursuant to §§ 987.71 and 987.72 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, Calif., and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The California Date Administrative Committee has unanimously recommended for the 1972–73 crop year a budget of administrative expenses in the total amount of $29,899 and an assessment rate of 10 cents per hundredweight on assessable dates. The assessable poundage is estimated by the Committee at 30 million pounds.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 31, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is as follows:

§ 987.317 Expenses of the California Date Administrative Committee and rate of assessment for the 1972–73 crop year.

(a) *Expenses.* Expenses in the amount of $29,899 are reasonable and likely to be incurred by the California Date Administrative Committee during the 1972–73 crop year beginning October 1, 1972, for its maintenance and functioning, and for such other purposes as the Secretary may, pursuant to the applicable provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 987.72, to pay to the California Date Administrative Committee as his pro rata share of the expenses is fixed at 10 cents per hundredweight of all assessable dates. Assessable dates are dates which the handler has certified during the crop year as meeting the requirements for marketable dates, including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f).

Dated: October 16, 1972.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72–17855 Filed 10–18–72;8:52 am]

Commodity Exchange Authority

[17 CFR Part 16]

REPORTS BY CLEARING MEMBERS

Information To Be Furnished; Time and Place of Filing Reports

Notice is hereby given, in accordance with Administrative Procedure Provisions of 5 U.S.C. Section 553, that the Secretary of Agriculture, pursuant to the authority of section 8a(5) of the Commodity Exchange Act (7 U.S.C. 12a(5)), is considering the amendment of §§ 16.00 and 16.01 of Part 16 of the regulations under the Commodity Exchange Act (17 CFR 16.00 and 16.01) to read as follows:

§ 16.00 Information to be furnished by clearing members.

Each clearing member of each contract market shall, on each business day, report the following information, separately for each contract market and for each future of each commodity, on the applicable Series 00 form as specified in § 15.02 of this chapter:

(a) The total of all long-open contracts and the total of all short-open contracts carried by such clearing member at the beginning and at the end of the day covered by the report;

(b) The quantity of such contracts bought and the quantity sold during the day covered by the report;

(c) The quantity of purchase transfer trades and the quantity of sale transfer trades, which are included in the total quantity of contracts bought and sold during the day covered by the report, and the name of the clearing member with whom the transfer was made;

(d) The quantity of purchases of futures for the cash commodity and the quantity of sales of futures for the cash commodity, which are included in the total quantity of contracts bought and sold during the day covered by the report,

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and the name of the clearing member with whom the exchange was made; and

(e) The quantity of the commodity delivered and the quantity received in fulfillment of such contracts during the day covered by the report.

§ 16.01 Time and place of filing reports.

(a) If the clearing member is located in a city where the market involved in the reported transactions is located and where the Commodity Exchange Authority maintains an office, he shall file his reports with such office. Reports shall be filed not later than 30 minutes before the official opening of the market on the following business day, except that reports with respect to cotton shall be filed not later than 30 minutes before the official opening of the market on the following business day or 9:30 a.m., local time, on such following business day, whichever is earlier.

(b) If the clearing member is located elsewhere, he shall mail his reports to the office of the Commodity Exchange Authority in the city in which the market involved in the reported transactions is located. All such reports must be postmarked not later than midnight of the day covered by the report.

(c) If there is no Community Exchange Authority office in a city in which the market involved in the reported transactions is located, the clearing member shall file his reports in accordance with instructions of the Commodity Exchange Authority. All reports transmitted by mail must be postmarked not later than midnight of the day covered by the report.

The purpose in amending § 16.00 is to make minor revisions in the information to be reported by exchange clearing members on Series 00 forms. The changes would (1) remove the requirement for reporting the net open position, long or short, at the end of the day covered by the report, and (2) include the requirement for the separate reporting of transfers and exchanges of futures for the cash commodity, and the name of the clearing member with whom such transfers or exchanges are made. The additional information requested will enable the Commodity Exchange Authority to determine the actual volume of trades executed competitively for regulatory purposes and for release to the public.

The purpose in amending § 16.01 is to clarify the language as to time and place of filing reports.

It is proposed that these amendments, if adopted, be made effective 30 days after publication of a notice of the amendments in the FEDERAL REGISTER.

Any person who wishes to submit written data, views, or arguments on the proposed amendments to the regulations may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, between the hours of 8:30 a.m. and 5 p.m. on any business day.

Issued: October 13, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.72-17859 Filed 10-18-72;8:52 am]

[17 CFR Parts 16, 17, 18]

REPORTS BY CLEARING MEMBERS, FUTURES COMMISSION MERCHANTS, AND TRADERS

Reporting Required Information by Data-Processing Media

Notice is hereby given, in accordance with the Administrative Procedure Provisions of 5 U.S.C. section 553, that the Secretary of Agriculture, pursuant to the authority of section 8a(5) of the Commodity Exchange Act (7 U.S.C. 12a(5)), is considering the following amendment of Parts 16, 17, and 18 of the regulations under the Commodity Exchange Act.

PART 16—REPORTS BY CLEARING MEMBERS

1. The following new § 16.04 is added to Part 16:

§ 16.04 Use of data-processing media.

Any clearing member of a contract market may provide the required series 00 information on compatible data-processing punched cards, magnetic tapes, or magnetic discs, provided that the format and coding structure used thereon have been approved in writing by the Act Administrator.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

2. The following new § 17.03 is added to Part 17:

§ 17.03 Use of data-processing media.

Any futures commission merchant may provide the required series 01 information on compatible data-processing punched cards, magnetic tapes, or magnetic discs, provided that the format and coding structure used thereon have been approved in writing by the Act Administrator.

PART 18—REPORTS BY TRADERS

3. The following new § 18.06 is added to Part 18.

§ 18.06 Use of data-processing media.

Any trader may provide the required series 03 information on compatible data-processing punched cards, magnetic tapes, or magnetic discs, provided that the format and coding structure used thereon have been approved in writing by the Act Administrator.

The purpose of these proposed amendments is to facilitate the submittal of information required on certain CEA reporting forms. Increasing numbers of persons required to file reports with the Commodity Exchange Authority are utilizing data-processing facilities or services in their business operations. It is in the public interest to relieve such persons (exchange clearing members, futures commission merchants, and traders) from preparing and filing actual reports on series 00 forms, series 01 forms, and series 03 forms, if the data-processing media used by those persons provides the information required by CEA regulations in a format that has been approved by the Act Administrator.

It is proposed that these amendments, if adopted, be made effective 30 days after publication of a notice of the amendments in the FEDERAL REGISTER.

Any person who wishes to submit written data, views, or arguments on the proposed amendments to the regulations may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, between the hours of 8:30 a.m. and 5 p.m. on any business day.

Issued: October 13, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.72-17858 Filed 10-18-72;8:52 am]

[17 CFR Part 17]

REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

Information to be Furnished; Special Account Designation and Identification

Notice is hereby given, in accordance with Administrative Procedure Provisions of 5 U.S.C. section 553, that the Secretary of Agriculture, pursuant to the authority of section 8a(5) of the Commodity Exchange Act (7 U.S.C. 12a(5)), is considering the amendment of §§ 17.00 (a)(1), 17.01, and 17.02(b) of Part 17 of the regulations under the Commodity Exchange Act (17 CFR 17.00(a)(1), 17.01, and 17.02(b) to read as follows:

§ 17.00 Information to be furnished by futures commission merchants and foreign brokers.

(a) *Special Accounts—reportable positions.* (1) Each futures commission merchant and each foreign broker, except a foreign broker who carries all accounts on a fully disclosed basis with a registered futures commission merchant, shall submit a report to the Commodity Exchange Authority for each business day with respect to all special accounts, including house accounts, carried by such futures commission merchant or foreign broker. Such report shall be made on the appropriate series 01 form and shall show each reportable position; separately for each contract market and for each future, in such account as of the close of the market on the day covered by the report.

* * * * *

§ 17.01 Special account designation and identification.

(a) *Designation of special account.* For the purpose of reporting, each futures commission merchant and each foreign broker shall assign a number to each special account and shall report such account only by such number. An account number shall not be changed nor assigned to another account without the prior approval of the Act Administrator.

(b) *Identification of special account.* When a special account is reported for the first time, the futures commission merchant or foreign broker shall identify the account to the Commodity Exchange Authority on Form 102, showing the information requested thereon, including:

(1) The name and address of the account and the name of the person responsible for the direction of futures trading of that account;

(2) The number assigned to that account for purposes of reporting the account on series 01 forms;

(3) The commodity in which the account is being reported for the first time;

(4) The business or occupation of the account;

(5) The kind of futures trading account;

(6) The name and address of any other person(s), if any, whose futures trading is controlled by the account; and

(7) The name and address of any other person(s), if any, who has a financial interest in or guarantees this account or controls the trading of this account.

(c) *Transmittal of Form 102.* The report on Form 102 shall be submitted in a separate sealed envelope marked "Confidential" and must accompany the series 01 report on which the account is reported for the first time.

§ 17.02 Place and time of filing reports.

* * * * *

(b) *Foreign brokers.* The reports required to be filed by foreign brokers under §§ 17.00 and 17.01 on series 01 forms shall be prepared for each business day on which there are reportable transactions, and on Form 102 for each new special account, and shall be transmitted at least once each week to the Commodity Exchange Authority office in the city in which the contract market involved in the reported transactions is located. If there is no Commodity Exchange Authority office in such city, the reports shall be transmitted in accordance with instructions from the Commodity Exchange Authority.

The purposes of these amendments is to make clarifications or other changes of a minor nature, as follows:

In § 17.00(a), the words "a futures commission merchant" are deleted from the phrase "except a futures commission merchant or foreign broker who carries all accounts on a fully disclosed basis with a registered futures commission merchant," because, in that exception, the term "a futures commission merchant" is no longer applicable since the revocation of § 1.31a of the regulations.

In § 17.01, separate paragraphs have been designated as (a), (b), and (c) for clarity, and the language has been revised to show the specific information required on Form 102 regarding the identification of each special account.

In § 17.02(b), the place for foreign brokers to file their reports has been changed to the CEA office in the city where the market involved in the reported transactions is located, instead of to specified CEA offices, depending upon the geographical location of the foreign brokers.

It is proposed that these amendments, if adopted, be made effective 30 days after publication of a notice of the amendments in the FEDERAL REGISTER.

Any person who wishes to submit written data, views, or arguments on the proposed amendments to the regulations may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, between the hours of 8:30 a.m. and 5 p.m. on any business day.

Issued: October 13, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.72-17860 Filed 10-18-72;8:52 am]

[17 CFR Part 18]

REPORTS BY TRADERS

Information To Be Furnished; Spreads Between Different Types of Contracts; Statement To Be Filed by Reporting Trader

Notice is hereby given, in accordance with Administrative Procedure Provisions of 5 U.S.C. section 553, that the Secretary of Agriculture, pursuant to the authority of section 8a(5) of the Commodity Exchange Act (7 U.S.C. 12a(5)), is considering the following amendments of the regulations under the Commodity Exchange Act (17 CFR Part 18).

1. Sections 18.00(d) and 18.01(c) are revised to read as follows:

§ 18.00 Information to be furnished by traders.

* * * * *

(d) *Intermarket spreads.* To the extent that any futures position or transaction on any foreign market, in wheat, oats, barley, flaxseed, or cotton, is claimed to represent one leg of an intermarket spread or straddle, or the closing of an intermarket spread or straddle, against any position on a contract market, or against any purchase or sale of futures on a contract market during any one business day, in excess of 2 million bushels of wheat, oats, barley, or flaxseed futures or 30,000 bales of cotton futures (§§ 150.1 and 150.2 of this chapter), such trader shall also show on the report the quantity and future involved in such foreign position or transaction and the name of the foreign market;

* * * * *

§ 18.01 Interest in or control of several accounts.

* * * * *

(c) *Gross positions.* In the following cases, the reporting trader shall report the gross open contracts, i.e., total long open contracts and total short open contracts in each future of such commodity in all such accounts: * * *

(4) Positions which represent spreads between different types of contracts in the same commodity;

* * * * *

2. The heading of § 18.04 is changed and the text of that section is revised to read as follows:

§ 18.04 Statement of reporting trader.

Every trader who holds or controls a reportable position shall furnish to the Commodity Exchange Authority a "Statement of Reporting Trader" on Form CEA-40, including the following information:

(a) The name, address, and telephone number of the reporting trader;

(b) The principal business or occupation of the reporting trader;

(c) The name and address of each person whose commodity futures account is controlled by the reporting trader;

(d) The name and address of each person who controls, or has a financial interest in, or guarantees the account of the reporting trader;

(e) The kind of commodity futures account, i.e., individual, joint, partnership, corporation, or other;

(f) If the reporting trader is an individual or participant in a joint account, the name, address, and type of any organization in which he participates in the management or in which he has a financial interest, if that organization holds another futures trading account;

(g) If the reporting trader is a partnership, the name and address of each partner, and the name of the partner who ordinarily places orders and files the required reports;

(h) If the reporting trader is a corporation, the names and addresses of the

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person or persons who direct trading activities, and the names of all affiliate corporations (parent and subsidiaries) that trade in commodity futures; and

(i) Signature by the trader personally. If the account is in the name of an organization, signature should be that of a partner, officer, or trustee of that organization.

The purpose of these amendments is to make clarifications or other changes of a minor nature as follows:

In § 18.00(d), the amendment deletes the reference to corn. When speculative limits for corn were raised from 2 million bushels to 3 million bushels, the need for identifying the foreign markets involved in intermarket spreading in corn in this section was eliminated.

In § 18.01(c), subparagraph (4) is changed by deleting the phrase "spreads between round lots and job lots" because that situation is no longer applicable to the requirement for reporting of gross positions of multiple accounts.

In § 18.04, the heading is changed to specify the title of the form on which to report the information required upon request; paragraphs (a) through (g) are revised, rearranged, and renumbered as paragraphs (a) through (i) for clarity. The CEA has found it necessary to expand slightly the information required from the trader regarding any other futures trading account in which he may have a financial interest or which he may control, or any other futures trading account which may direct or control the trading of his own account.

It is proposed that these amendments, if adopted, be made effective 30 days after publication of a notice of the amendments in the FEDERAL REGISTER.

Any person who wishes to submit written data, views, or arguments on the proposed amendments to the regulations may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, between the hours of 8:30 a.m. and 5 p.m. on any business day.

Issued: October 13, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.72-17861 Filed 10-18-72;8:52 am]

[17 CFR Part 19]

REPORTS BY MERCHANTS, PROCESSORS, AND DEALERS

Information Required for Cotton and Cotton Products, Eggs and Egg Products, and Potatoes and Potato Products

Notice is hereby given, in accordance with Administrative Procedure Provisions of 5 U.S.C. section 553, that the Secretary of Agriculture, pursuant to the authority of section 8a(5) of the Commodity Exchange Act (7 U.S.C. 12a (5)), is considering the amendment of §§ 19.02, 19.03(a), and 19.04(a) of the regulations under the Commodity Exchange Act (17 CFR 19.02, 19.03(a), and 19.04(a)) to read as follows:

§ 19.02 Merchants, processors, and dealers in cotton and cotton products.

(a) *Details of cotton position.* Merchants, processors, and dealers in cotton and cotton products or byproducts shall include the following information in each report:

(1) The quantity of open fixed-price spot positions (long and short) in cotton and cotton products, including open fixed-price purchase commitments of raw cotton, stocks of raw cotton on hand (owned and at fixed prices), cotton in process of manufacture, and finished products; and unfilled fixed-price sale commitments of raw cotton and of finished products;

(2) The quantity of call cotton bought or sold on which the price has not been fixed, together with the respective futures on which based. As used herein, call cotton refers to spot cotton bought or sold, or contracted for purchase or sale, at a price to be fixed later based upon a specified future; and

(3) The quantity of certificated cotton owned.

(b) *Standards and conversion factors.* Every such merchant, processor, or dealer, in computing his spot position, shall use such standards and conversion factors with respect to cotton products or byproducts as are usual in the cotton trade. If it is the regular business practice of such merchant, processor, or dealer to exclude certain products or byproducts in determining his spot position for hedging (as defined in section 4a of the Act), the same shall be excluded in the report. Such merchant, processor, or dealer shall furnish to the Commodity Exchange Authority upon request detailed information concerning the kind and quantity of each product or byproduct so excluded.

§ 19.03 Merchants, processors, and dealers in eggs and egg products.

(a) *Details of cash egg position.* Merchants, processors, and dealers in eggs and egg products shall show in each report the makeup of the cash egg position, as determined by stocks owned, open fixed-price purchase commitments, and unfilled fixed-price sales commitments with respect to: (1) Shell eggs on farms and in packing plants; (2) shell eggs in all other places; (3) frozen whole eggs; (4) frozen yolks or whites; and (5) other egg products.

§ 19.04 Merchants, processors, and dealers in potatoes and potato products.

(a) *Details of cash (spot) potato position.* Merchants, processors, and dealers in potatoes and potato products shall show in each report the amount of:

(1) Potatoes being raised or expected to be raised by such persons in the ensuing 12 months, including the potato acreage in each State;

(2) Stocks of potatoes owned;

(3) Open fixed-price purchase commitments of potatoes;

(4) Unfilled fixed-price sales commitments of potatoes; and

(5) Stocks of potato products owned or potatoes in process of manufacture, open fixed-price purchase commitments, and unfilled fixed-price sales commitments of potato products, identified as to kind of product.

The purpose of these amendments is as follows:

In § 19.02, paragraph (a), the language is changed to eliminate some of the previously required information for cotton and cotton products and to show the information now required for regulatory purposes. In paragraph (b) the deletion of the words "items," and "item" is editorial. The words are inclusive under the term "product or byproduct".

In § 19.03, paragraph (a), the amendment reflects a change in the required information based on present marketing practices for eggs.

In § 19.04, paragraph (a), the word "open" is substituted for the word "unfilled" with reference to "fixed-price purchase commitments".

It is proposed that these amendments, if adopted, be made effective 30 days after publication of a notice of the amendments in the FEDERAL REGISTER.

Any person who wishes to submit written data, views, or arguments on the proposed amendments to the regulations may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, between the hours of 8:30 a.m. and 5 p.m. on any business day.

Issued: October 13, 1972.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.72-17857 Filed 10-18-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 72-SW-64]

AERO COMMANDER MODELS 500, 500A, 500B, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680FL(P), AND 720 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Aero Commander Models 500, 500A, 500B, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P); 680FL, 680FL(P), and 720 airplanes. There have been instances where fuel siphoned past an improperly installed filler cap on the wing, thereby contributing to fuel exhaustion and resultant stoppage of both engines in flight. Since this condition is likely to exist or develop in other airplanes of the same design, the proposed airworthiness directive would require replacement of fuel tank filler cap assemblies.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Federal Aviation Administration, Regional Counsel, Post Office Box 1689, Fort Worth, TX 76101. All communications received on or before November 13, 1972, will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the office of the Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, TX, for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

AERO COMMANDER: Applies to all Models 500, 500A, 500B, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), 680FL, 680FL(P) and 720 series airplanes certificated in all categories.

Compliance required within the next 200 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent siphoning of fuel from the fuel tanks and thereby contribute to fuel exhaustion with resultant stoppage of both engines, accomplish the following:

a. On Models 520 and 560, serial numbers 1 through 230, replace the standard fuel cap assembles with non-siphoning fuel cap assemblies, Aero Commander Kit No. 87A-1.

b. On the following models, replace the standard fuel cap assemblies with non-siphon fuel cap assemblies, Aero Commander Kit No. 87A-2 (optional fuel caps already installed by use of Aero Commander Kit No. 87 are acceptable):

(1) Models 500, 500A, 500B, 500U, 560A, 560E, 560F, 680, 680E, 680F, 680F(P), 680FL (P) and 720, serial numbers 231 through 1854.

(2) Model 680FL, serial numbers 1261 through 1738.

c. The compliance time for this AD may be adjusted up to a maximum of 50 hours to coincide with the aircraft's annual or 100 hour scheduled inspection.

Aero Commander Custom Kit No. 87A contains the hardware and instructions necessary to accomplish this modification. Equivalent replacement parts approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Fort Worth, Tex., may be used.

Issued in Fort Worth, Tex., on October 6, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-17809 Filed 10-18-72;8:49 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 12]

GRAND JUNCTION REMEDIAL ACTION

Proposed Criteria

Notice is hereby given that the General Manager of the U.S. Atomic Energy Commission (AEC) is proposing to establish criteria for determination by the AEC of the need for, priority of and selection of appropriate remedial action to limit the exposure of individuals in the area of Grand Junction, Colo., to radiation emanating from uranium mill tailings which have been used as a construction-related material. AEC participation in a joint Federal-State of Colorado program to assess and undertake such remedial action was authorized by Public Law 92-314, enacted on June 16, 1972.

Written comments on these criteria will be received by the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, for a period of thirty (30) days after publication of this notice in the FEDERAL REGISTER.

PART 12—GRAND JUNCTION REMEDIAL ACTION CRITERIA

Sec.
12.1 Purpose.
12.2 Scope.
12.3 Definitions.
12.4 Interpretations.
12.5 Communications.
12.6 General radiation exposure level criteria for remedial action.
12.7 Criteria for determination of possible need for remedial action.
12.8 Determination of possible need for remedial action where criteria have not been met.
12.9 Order of priority of remedial action.
12.10 Selection of appropriate remedial action.

AUTHORITY: The provisions of this Part 12 issued under section 203, 86 Stat. 226.

§ 12.1 Purpose.

(a) The regulations in this part establish the criteria for determination by the Commission of the need for, priority of and selection of appropriate remedial action to limit the exposure of individuals in the area of Grand Junction, Colo., to radiation emanating from uranium mill tailings which have been used as a construction-related material.

(b) The regulations in this part are issued pursuant to Public Law 92-314 (86 Stat. 222) of June 16, 1972.

§ 12.2 Scope.

The regulations in this part apply to all structures in the area of Grand Junction, Colo., under or adjacent to which uranium mill tailings have been used as a construction-related material between January 1, 1951, and June 16, 1972, inclusive.

§ 12.3 Definitions.

As used in this part:

(a) "Area of Grand Junction, Colo.," means Mesa County, Colo.

(b) "Background" means radiation arising from cosmic rays and radioactive material other than uranium mill tailings.

(c) "Commission" means the U.S. Atomic Energy Commission or any duly authorized representative thereof.

(d) "Construction-related material" means any material used in the construction of a structure.

(e) "External gamma radiation level" means the average gamma radiation exposure rate for the habitable area of a structure as measured near floor level.

(f) "Indoor radon daughter concentration level" means that concentration of radon daughters determined by (1) averaging the results of six air samples each of at least 100 hours' duration, and taken at a minimum of 4-week intervals throughout the year in a habitable area of a structure or (2) utilizing some other procedure approved by the Commission.

(g) "Milliroentgen" (mR) means a unit equal to one-thousandth (1/1000) of a roentgen which roentgen is defined as an exposure dose of X or gamma radiation such that the associated corpuscular emission per 0.001293 grams of air produces, in air, ions carrying one electrostatic unit of quantity of electricity of either sign.

(h) "Radiation" means the electromagnetic energy (gamma) and the particulate radiation (alpha and beta) which emanate from the radioactive decay of radium and its daughter products.

(i) "Radon daughters" means the consecutive decay products of radon-222. Generally, these include Radium A (polonium-218), Radium B (lead-218), Radium C (bismuth-214), and Radium C' (polonium-214).

(j) "Remedial action" means any action taken with a reasonable expectation of reducing the radiation exposure resulting from uranium mill tailings which have been used as construction-related material in and around structures in the area of Grand Junction, Colo.

(k) "Surgeon General's guidelines" means radiation guidelines related to uranium mill tailings prepared and released by the Office of the U.S. Surgeon General, Department of Health, Education, and Welfare on July 27, 1970.

(l) "Uranium mill tailings" means tailings from a uranium milling operation involved in the Federal uranium procurement program.

(m) "Working Level" (WL) means any combination of short-lived radon daughter products in 1 liter of air that

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will result in the ultimate emission of 1.3×10^5 MeV of potential alpha energy.

§ 12.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 12.5 Communications.

Except where otherwise specified in this part, all communications concerning the regulations in this part should be addressed to the Director, Division of Operational Safety, U.S. Atomic Energy Commission, Washington, D.C. 20545.

§ 12.6 General radiation exposure level criteria for remedial action.

The basis for undertaking remedial action shall be the applicable guidelines published by the Surgeon General of the United States. These guidelines recommend the following graded action levels for remedial action in terms of external gamma radiation level (EGR) and indoor radon daughter concentration level (RDC) above background found within dwellings constructed on or with uranium mill tailings:

EGR	RDC	Recommendation
Greater than 0.1 mR/hr.	Greater than 0.05 WL.	Remedial action indicated.
From 0.05 to 0.1 mR/hr.	From 0.01 to 0.05 WL.	Remedial action may be suggested.
Less than 0.05 mR/hr.	Less than 0.01 WL.	No remedial action indicated.

§ 12.7 Criteria for determination of possible need for remedial action.

Once it is determined that a possible need for remedial action exists, the record owner of a structure shall be notified of that structure's eligibility for an engineering assessment to confirm the need for remedial action and to ascertain the most appropriate remedial measure, if any. A determination of possible need will be made if as a result of the presence of uranium mill tailings under or adjacent to the structure, one of the following criteria is met:

(a) Where Commission approved data on indoor radon daughter concentration levels are available:

(1) For dwellings and school rooms: An indoor radon daughter concentration level of 0.01 WL or greater above background.

(2) For other structures: An indoor radon daughter concentration level of 0.03 WL or greater above background.

(b) Where Commission approved data on indoor radon daughter concentration levels are not available:

(1) For dwellings and school rooms:

(i) An external gamma radiation level of 0.05 mR/hr. or greater above background.

(ii) An indoor radon daughter concentration level of 0.01 WL or greater above background (presumed).

(*a*) It shall be presumed that if the external gamma radiation level is equal to or exceeds 0.02 mR/hr. above background, the indoor radon daughter concentration level equals or exceeds 0.01 WL above background.

(*b*) It shall be presumed that if the external gamma radiation level is less than 0.001 mR/hr. above background, the indoor radon daughter concentration level is less than 0.01 WL above background, and no possible need for remedial action exists.

(c) If the external gamma radiation level is equal to or greater than 0.001 mR/hr. above background but is less than 0.02 mR/hr. above background, measurements will be required to ascertain the indoor radon daughter concentration level.

(2) For other structures:

(i) An external gamma radiation level of 0.15 mR/hr. above background averaged on a room-by-room basis.

(ii) No presumptions shall be made on the external gamma radiation level/indoor radon daughter concentration level relationship. Decisions will be made in individual cases based upon the results of actual measurements.

§ 12.8 Determination of possible need for remedial action where criteria have not been met.

The possible need for remedial action may be determined where the criteria in § 12.7 have not been met if various other factors are present. Such factors include, but are not necessarily limited to, size of the affected area, distribution of radiation levels in the affected area, amount of tailings, and use of the affected area.

§ 12.9 Order of priority of remedial action.

In determining the order of priority for execution of remedial action, consideration shall be given, but not necessarily limited to, the following factors:

(a) *Classification of structure.* Dwellings and schools shall be considered first.

(b) *Availability of data.* Those structures for which data on indoor radon daughter concentration levels and/or external gamma radiation levels are available when the program starts and which meet the criteria in § 12.7 will be considered first.

(c) *Order of application.* Insofar as feasible remedial action will be taken in the order in which the application is received.

(d) *Magnitude of radiation level.* In general, those structures with the highest radiation levels will be given primary consideration.

(e) *Geographical location of structures.* A group of structures located in the same immediate geographical vicinity may be given priority consideration particularly where they involve similar remedial efforts.

(f) *Availability of structures.* An attempt will be made to schedule remedial action during those periods when remedial action can be taken with minimum interference.

(g) *Climatic conditions.* Climatic conditions of other seasonal considerations may affect the scheduling of certain remedial measures.

§ 12.10 Selection of appropriate remedial action.

(a) Tailings will be removed from those structures where the appropriately averaged external gamma radiation level is equal to or greater than 0.05 mR/hr. above background in the case of dwellings and schools and 0.015 mR/hr. above background in the case of other structures.

(b) Where the criterion in paragraph (a) of this section is not met, other remedial action techniques, including but not limited to sealants, ventilation, and shielding may be considered in addition to that of tailings removal. The Commission shall select the remedial action technique, or combination of techniques, which it determines to be the most appropriate under the circumstances.

Dated this 28th day of September 1972.

R. E. HOLLINGSWORTH,
General Manager.

[FR Doc.72-17790 Filed 10-18-72;8:47 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 4213; Project No. 1912]

CALIFORNIA

Order Providing for Opening of Lands

OCTOBER 10, 1972.

Pursuant to the vacating order of the Federal Power Commission partially vacating land withdrawal (37 F.R. 16831, August 19, 1972), and by virtue of the authority contained in section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and in accordance with the authority redelegated to me by the Chief, Division of Technical Services, California State Office, Bureau of Land Management, approved by the California State Director, effective January 12, 1972 (37 F.R. 491), it is ordered as follows:

1. The Commission finds that the withdrawal for Project No. 1912 no longer serves a useful purpose insofar as it pertains to the area described below and should be vacated to that extent. Accordingly, these lands are hereby restored from the withdrawal for Federal Power Project No. 1912, dated February 9, 1944, subject to valid existing rights and the provisions of existing withdrawals:

SIERRA NATIONAL FOREST

MOUNT DIABLO MERIDIAN

T. 11 S., R. 28 E.,
Sec. 19, lots 3 and 4, SE¼SW¼.
The area described aggregates 117.09 acres in Fresno County.

2. At 10 a.m. on November 20, 1972, the land shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the land should be addressed to the Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

ELIZABETH H. MIDTBY,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-17775 Filed 10-18-72;8:50 am]

[Serial No. Idaho 4377]

IDAHO

Order Providing for Opening of Public Lands

1. In eight different exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following lands have been reconveyed to the United States:

BOISE MERIDIAN, IDAHO

T. 11 S., R. 15 E.,
Sec. 4, E½SE¼;
Sec. 9, N½NE¼.
T. 15 S., R. 26 E.,
Sec. 22, SE¼SE¼;
Sec. 23, SW¼SW¼.
T. 16 S., R. 28 E.,
Sec. 10, W½E½, E½W½;
Sec. 11, W½W½;
Sec. 17, NW¼;
Sec. 24, W½NE¼.
T. 13 S., R. 27 E.,
Sec. 17, NE¼NW¼;
Sec. 23, E½NE¼.
T. 15 S., R. 27 E.,
Sec. 25, E½;
Sec. 35, NE¼.
T. 16 S., R. 27 E.,
Sec. 1, SE¼.
T. 15 S., R. 28 E.,
Sec. 30, SW¼NE¼, SE¼NW¼, NE¼SW¼, NW¼SE¼.
T. 10 S., R. 29 E.,
Sec. 33, SE¼SE¼;
Sec. 34, SW¼SW¼.
T. 15 S., R. 31 E.,
Sec. 27, NE¼, N½SE¼, SW¼SE¼;
Sec. 34, NW¼NE¼.

The above tracts aggregate 2,280 acres in Cassia, Twin Falls, and Oneida Counties.

2. These lands are located in southern Idaho. Topography ranges from gently rolling to rough. Soils are generally shallow alluvials over gravel. Vegetation consists principally of sagebrush, shadscale with an understory of grass, annual weeds, halogeton, and some cactus. Access is poor to good. None of the lands have water on them.

3. Subject to valid existing rights, provisions of withdrawals, the provisions of existing classifications and the requirements of applicable law, the above-described lands are hereby restored to public domain status and opened to application, petition, location, and relocation, including location under the U.S. mining laws where applicable.

All valid applications received at or prior to November 20, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. Inquiries concerning these lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Idaho State Office, Bureau of Land Management, Room 398, Federal Building, Post Office Box 042, 550 West Fort Street, Boise, ID 83702.

VINCENT S. STROBEL,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-17786 Filed 10-18-72;8:49 am]

Bureau of Mines

ELECTRICAL WORK IN COAL MINES

Approval of State Coal Mine Electrical Qualification Programs

By separate notice published in the FEDERAL REGISTER this date there have been promulgated revisions of § 75.153, Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, and § 77.103, Part 77, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, establishing mandatory standards for the qualification of persons performing electrical work (other than work on energized surface high-voltage lines) in coal mines. These regulations permit a person to become qualified for Federal purposes if he has been qualified as a coal mine electrician by a State that has a coal mine electrical qualification program approved by the Secretary.

Notice is hereby given that the Bureau of Mines will approve State coal mine electrical qualification programs where such programs require as a prerequisite to qualification at least 1 year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and attainment of a satisfactory grade on a series of written tests including at least the following categories:

(a) Direct current theory and application;

(b) Alternating current theory and application;

(c) Electric equipment and circuits;

(d) Permissibility of electric equipments; and,

(e) Requirements of Subparts F through K of Part 75, Title 30, Code of Federal Regulations (for qualification in underground coal mines) or requirements of Subparts F through J and S of Part 77, Title 30, Code of Federal Regulations (for qualification in surface coal mines and surface work areas of underground coal mines).

The Bureau of Mines will also approve State coal mine electrical qualification programs as stringent as, or more stringent than the above-mentioned minimum requirements.

Approval of programs. Applications for approval of State coal mine electrical qualification programs should be submitted to:

Office of Certification and Qualification, Division of Education and Training, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Such applications shall include the following information:

V37-1203
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(a) The name and address of the State agency responsible for administering the coal mine electrical qualification program;

(b) The name and address of the principal officials of such State agency;

(c) Copies of the written tests on which a satisfactory grade must be attained prior to qualification; and,

(d) A complete description of all other procedures, including the format of coal mine electrical training programs if utilized, serving as the basis for qualification.

The Bureau of Mines shall certify as approved any State coal mine electrical qualification program which meets the requirements set forth in this notice, or which is as stringent as, or more stringent than these minimum requirements. However, the Bureau reserves the right to attend or monitor approved programs for the purpose of observation and evaluation, and certification may be withdrawn where the approved State coal mine electrical qualification program fails to meet the requirements on which such certification is based.

Dated: October 12, 1972.

JOHN B. RIGG,
Deputy Assistant
Secretary of the Interior.

[FR Doc.72-17787 Filed 10-18-72;8:47 am]

ELECTRICAL WORK IN COAL MINES

Approval of Coal Mine Electrical Training and Retraining Programs

In this issue of the FEDERAL REGISTER under rules and regulations are revisions of § 75.153 of Part 75, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, and § 77.103 of Part 77, Subchapter O of Chapter I, Title 30, Code of Federal Regulations, that, in part, permit individuals to become qualified to perform electrical work (other than work on energized surface high-voltage lines) in coal mines, upon satisfactory completion of a coal mine electrical training program approved by the Secretary, provided that such persons also have as a prerequisite to qualification at least 1 year of experience in performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment. The aforementioned sections also require that all qualified persons must, in order to retain qualification, satisfactorily complete an annual coal mine electrical retraining program approved by the Secretary.

Notice is hereby given that the Bureau of Mines will approve coal mine electrical training or retraining programs established and maintained by any operator, coal mine industry group, labor organization representing miners, or any other person where such programs are conducted by persons certified by the Bureau as qualified to conduct coal mine electrical training and retraining programs, and where such programs include a course of instruction in the following subject matter:

(a) Direct current theory and application;

(b) Alternating current theory and application;

(c) Electric equipment and circuits;

(d) Permissibility of electric equipment; and,

(e) Requirements of Subparts F through K of Part 75, Title 30, Code of Federal Regulations (for qualification in underground coal mines) or requirements of Subparts F through J and S of Part 77, Title 30, Code of Federal Regulations (for qualification in surface coal mines and surface work areas of underground coal mines).

Approval of programs. Applications for approval of coal mine electrical training or retraining programs should be submitted to:

Office of Certification and Qualification, Division of Education and Training, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Such applications shall include the following information:

(a) The name, address, and title of the applicant;

(b) The name and address of the instructor;

(c) The address of the facility where the training will be conducted;

(d) The physical capacity of the training facility and the nature of educational aids provided;

(e) The approximate number of persons to be trained;

(f) The format of the training program and the time assigned to each subject;

(g) A general description of the source material to be employed by the instructor and the material to be supplied to each trainee; and,

(h) A general description of practical training to be provided in the performance of electrical work (other than work on energized surface high-voltage lines) in coal mines, including techniques and procedures employed in the examination, testing, and maintenance of electric equipment.

The Bureau of Mines shall certify as approved any coal mine electrical training or retraining program which meets the requirements set forth in this notice. However, the Bureau reserves the right to attend or monitor approved programs for the purpose of observation and evaluation, and certification may be withdrawn where the applicant fails to provide the training set forth in his application for approval.

Instructors. Applications for certification as an instructor in coal mine electrical training and retraining programs should be submitted to:

Office of Certification and Qualification, Division of Education and Training, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Such application shall include the following information:

(a) The name and address of the applicant; and

(b) Information showing that the applicant meets at least one of the following criteria:

(1) He is a graduate electrical engineer with practical experience in the mining industry;

(2) He is a mine electrician with a minimum of 10 years practical experience in the mining industry;

(3) He has acquired by education, training, and experience in the mining industry, a thorough working knowledge of electrical work (other than work on energized surface high-voltage lines) in coal mines, including techniques and procedures employed in the examination, testing, and maintenance of electrical equipment, and has satisfactorily completed educational training courses regarding such electrical work, or has published articles relating to such work which reflect his knowledge of the subject; or,

(4) He has conducted or is currently conducting a course in coal mine electrical work in a recognized institution of higher learning or in an industrial or vocational training program.

Qualified persons. Persons will, as applicable, be qualified by the Bureau as meeting the requirements of 30 CFR §§ 75.153(f) and 77.103(f) upon satisfactory completion of a coal mine electrical training program approved by the Bureau provided that such persons also have as a prerequisite to qualification at least 1 year of experience performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any industry using or manufacturing similar equipment. Applications for such qualification should be submitted to:

Office of Certification and Qualification, Division of Education and Training, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

Such applications shall include the following:

(a) The name and address of the applicant;

(b) Information showing that the applicant has at least 1 year of experience performing electrical work underground in a coal mine, in the surface work areas of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any industry using or manufacturing similar equipment; and,

(c) Information showing the applicant has satisfactorily completed a coal mine electrical training program approved by the Bureau of Mines.

Dated: October 12, 1972.

JOHN B. RIGG,
Deputy Assistant
Secretary of the Interior.

[FR Doc.72-17788 Filed 10-18-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Forest Service

PALZO RESTORATION PROJECT

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Palzo Restoration Project, USDA-FS-FES(Adm) 72-23.

The environmental statement concerns a proposed pilot project to utilize municipal waste in an attempt to reclaim abandoned strip mined land which is presently causing severe water pollution problems.

This final environmental statement was filed with CEQ on October 5, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, WI 53203.

A limited number of single copies are available upon request to Mr. Jay Cravens, Regional Forester, U.S. Forest Service, 633 West Wisconsin Avenue, Milwaukee, WI 53203.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 16, 1972.

[FR Doc.72-17865 Filed 10-18-72;8:53 am]

PROPOSED FISH CREEK WINTER SPORTS SITE, JUNEAU, ALASKA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for a Proposed Fish Creek Winter Sports Site in Juneau, Alaska, USDA-FS-DES(Adm) 73-22.

The environmental statement concerns a proposal to develop the Fish Creek Basin as a recreation and winter sports site.

This draft environmental statement was filed with CEQ on October 5, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.

USDA Forest Service, Alaska Region, Federal Office Building, Juneau, Alaska 99801.

North Tongass National Forest, Federal Office Building, Room 273, Juneau, Alaska 99801.

A limited number of single copies are available upon request to Vincent N. Olson, Forest Supervisor, North Tongass National Forest, Post Office Box 1049, Juneau, AK 99801.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. Vincent N. Olson, Forest Supervisor, North Tongass National Forest, Post Office Box 1049, Juneau, AK 99801. Comments must be received within 30 days of the date of this notice in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 16, 1972.

[FR Doc.72-17864 Filed 10-18-72;8:53 am]

SISKIYOU, SIUSLAW, AND UMPQUA NATIONAL FORESTS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental sattement for CY 1973 Herbicide Use on the Siskiyou, Siuslaw, and Umpqua National Forests in Oregon, USDA-FS-DES(Adm) 73-23.

The environmental statement concerns the use of herbicides to reduce the volume of native vegetation where it hampers forest management activities.

This draft environmental statement was filed with CEQ on October 5, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 14th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, OR 97208.

Umpqua National Forest, Federal Office Building, Roseburg, Oreg. 97470.

Siuslaw National Forest, 545 Southwest Second Avenue, Corvallis, OR 97330.

Siskiyou National Forest, 1504 Northwest Sixth Street, Grants Pass, OR 97526.

A limited number of single copies are available upon request to T. A. Schlapfer, Regional Forester, U.S. Forest Service, 319 Southwest Pine Street, Portland, OR 97208.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Mr. T. A. Schlapfer, Regional Forester, U.S. Forest Service, 319 Southwest Pine Street, Portland, OR 97208. Comments must be received by November 22, 1972, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
Deputy Chief, Forest Service.

OCTOBER 16, 1972.

[FR Doc.72-17863 Filed 10-18-72;8:53 am]

Office of the Secretary

MICHIGAN

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as amended by section 232 of the Disaster Relief Act of 1970 (Public Law 91-606) and section 5 of Public Law 92-385, it has been determined that in the following county in the State of Michigan a natural disaster has caused a general need for agricultural credit:

COUNTY

TUSCOLA

Emergency loans will not be made in the above-named county under this designation pursuant to applications received after June 30, 1973, except subsequent loans to qualified borrowers who received initial loans under this designation.

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The urgency of the need for an emergency loan in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 13th day of October 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-17827 Filed 10-18-72;8:50 am]

MICHIGAN

Designation of Areas for Emergency and Rural Housing Disaster Loans

It has been determined that property loss or damage or injury in one county in Michigan has resulted from natural disasters caused by heavy rains during October and December 1971 and heavy rains, hailstorms, windstorms, tornadoes, and flooding during the period of April to September 1972. The following county of Michigan is affected by such natural disasters:

NEWAYGO

It has further been determined that in the above county of Michigan a general need for credit exists. Therefore, this county is declared eligible for low-interest-rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, the Disaster Relief Act of 1970, title V of the Housing Act of 1949, and Public Law 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 13th day of October 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-17828 Filed 10-18-72;8:50 am]

NEW HAMPSHIRE

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), as amended by section 232 of the Disaster Relief Act of 1970 (Public Law 91-606) and section 5 of Public Law 92-385, it has been determined that in the following counties in the State of New Hampshire natural disasters have caused a general need for agricultural credit:

COUNTIES

Belknap.	Hillsborough.
Carroll.	Merrimack.
Cheshire.	Rockingham.
Coos.	Strafford.
Grafton.	Sullivan.

Emergency loans will not be made in the above-named counties under this designation pursuant to applications received after June 30, 1973, except subsequent loans to qualified borrowers who received initial loans under this designation.

The urgency of the need for emergency loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 13th day of October 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-17829 Filed 10-18-72;8:50 am]

Packers and Stockyards Administration

ARMSTRONG SALES CO. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard and date of posting

IA-110 Armstrong Sales Co., Armstrong, Iowa, May 3, 1959.
IA-131 Iowa Nebraska Sale Yards, Council Bluffs, Iowa, May 22, 1959.
MO-172 Welty Sales Pavilion, Nevada, Mo., May 11, 1959.
MO-183 Potosi Auction Co., Potosi, Mo., May 9, 1959.
OK-147 Maysville Livestock Auction, Maysville, Okla., Feb. 26, 1971.
OR-100 Roth's, Albany, Oreg., Aug. 15, 1961.
SD-140 Presho Livestock Auction Company, Presho, S. Dak., Jan. 30, 1957.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (10-19-72).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.).

Done at Washington, D.C., this 16th day of October 1972.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-17866 Filed 10-18-72;8:53 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

BUREAU OF HEALTH MANPOWER EDUCATION

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of meeting of the following committee and the executive secretary from whom summaries of meetings may be obtained.

Committee, date, time, and location of meeting

Health Manpower Opportunity Advisory Committee, November 8-10, 1972, 9 a.m., Building 31, Conference Room 9, Mr. Albert Barringer, 496-2112.

This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss, and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 10, 1972.

[FR Doc.72-17779 Filed 10-18-72;8:49 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

Public Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the next meeting of the National Advisory Council on Education Professions Development will be held on October 26, 1972, 8:30 a.m. to 5:30 p.m., and October 27, 1972, 8:30 a.m. to 12 noon, local time, at the Skyline Inn, South Capitol and I Streets SW., Washington, DC. The several committees of the Council will meet on October 25 at the Skyline Inn.

The National Advisory Council on Education Professions Development is established under Section 502 of the Education Professions Development Act (Public Law 90-35). The Council is charged with the review of the Education Professions Development Act and of all other Federal programs for the training and development of educational personnel.

The meeting of the Council shall be open to the public. The proposed agenda includes discussion of training of personnel in early childhood and vocational education, and policies concerning evaluation of educational endeavors. Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of Committee Management, located in Room 4158, F.O.B. 6, 400 Maryland Avenue SW., Washington, DC.

Signed at Washington, D.C., on October 13, 1972.

JOSEPH YOUNG,
Executive Director.

[FR Doc.72-17810 Filed 10-18-72;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Management

[Docket No. D-72-207]

DIRECTOR AND DEPUTY DIRECTOR, HONOLULU INSURING OFFICE

Redelegation of Authority with Respect to the Low-Rent Public Housing Program

The Director and Deputy Director, Honolulu Insuring Office, each are authorized to exercise the power and authority of the Secretary of the Department of Housing and Urban Development with respect to the management aspects under the Low-Rent Public Housing Program pursuant to the U.S. Housing Act of 1937 (42 U.S.C. 1401, et seq.), including the power and authority under sections 1(1) and 1(2) of Executive Order 11196, except the authority to:

1. Determine that there is a substantial breach or default and invoke any remedy on behalf of the Federal Government upon default or breach by a local housing authority in respect to the terms, covenants, or conditions of an annual contributions contract.

2. Terminate annual contributions contracts when the decision to terminate is made by the Federal Government.

3. Waive the provisions of annual contributions contracts: *Provided*, That the Director and Deputy Director, Honolulu Insuring Office, are authorized to waive provisions with respect to the following:

a. Employment of a former local housing authority Commissioner.

b. Frequency of examination of tenants to permit a local housing authority to change its established reexamination schedule.

c. Approval of the use of force account for modernization programs.

d. Approval of construction and equipment contracts for modernization exceeding $5,000, but not exceeding $50,000.

4. Establish the rate of interest on Federal loans and advances.

5. Issue notes or other obligations for purchase by the Secretary of the Treasury.

6. Sue and be sued.

7. Issue rules and regulations.

8. Exercise the powers and authorities under section 402(a) and under 402(c)(1-7) of the Housing Act of 1950 (12 U.S.C. 1749(a) and 1749(c)(1)-(7)).

(Secretary's delegation of authority to redelegate, 36 F.R. 5005, Mar. 16, 1971, as amended)

Effective date. This redelegation of authority is effective upon publication in the FEDERAL REGISTER (10-19-72).

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.72-17824 Filed 10-18-72;8:46 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-195N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from August 18, 1972 to August 24, 1972 (List No. 27-72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/100/0, Model 2040 survival capsule launching winch: approved as an alternate to a lifeboat winch for a maximum lowering load of 11,000 pounds on a single fall; identified by assembly drawing 2040-690-370 (Sheet 1 of 3) dated February 11, 1972, and drawing list dated June 28, 1972, approved for use on nonself-propelled drilling rigs, artificial islands, and fixed structures with the Whittaker Survival Capsule, manufactured by Ocean Science and Engineering, Inc., 1601 Water Street, Long Beach, CA 90802, effective August 22, 1972.

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS), FOR MERCHANT VESSELS

Approval No. 160.026/12/4, container for emergency provisions, drawing No. 18135, dated July 18, 1972, and specification 18135, dated July 18, 1972, manufactured by Globe Equipment Corp., 257 Water Street, Brooklyn, NY 11201, effective August 18, 1972. (It supersedes Approval No. 160.026/12/3 dated November 14, 1967, to show change in container and rations.)

LIFEBOATS

Approval No. 160.035/466/1, 30.0' x 10.0' x 4.33' steel, hand-propelled lifeboat, 78-person capacity, identified by general arrangement drawing No. 30-6, Rev. B, dated July 10, 1972, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=5,710 pounds; Condition "B"=19,849 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective August 24, 1972. (It supersedes Approval No. 160.035/466/0 dated February 15, 1972, to show change in construction.)

Approval No. 160.035/467/1, 30.0' x 10.0' x 4.33' steel, motor-propelled lifeboat, without radio or searchlight (Class 1), 74-person capacity, identified by General Arrangement Drawing No. 30-7, Rev. B, dated July 10, 1972, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=6,875 pounds; Condition "B"=20,681 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective August 24, 1972. (It supersedes Approval No. 160.035/467/0 dated February 14, 1972, to show change in construction.)

Approval No. 160.035/468/0, 26.0' x 9.0' x 3.83' fibrous glass reinforced plastic (FRP), motor-propelled lifeboat, Class 1, 48-person capacity, identified by General Arrangement Drawing No. WBA-9001, dated April 12, 1972, 46 CFR 160.035-13(c) Marking, Weights: Condition "A"=4,045 pounds; Condition "B"=13,017 pounds, manufactured by Welin Davit & Boat Division, Lake Shore, Inc., 3614 Kennedy Road, South Plainfield, N.J. 07080, effective August 22, 1972.

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SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Approval No. 160.064/353/0, adult large, Model No. SK 72, vinyl dipped unicellular plastic foam "Water Ski Jacket," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 8, Type III, Device, manufactured by Goodenow Manufacturing Co., 924 West 19th Street, Erie, PA 16502, effective August 22, 1972.

Approval No. 160.064/354/0, adult, Model No. SK 72, vinyl dipped unicellular plastic foam "Water Ski Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 8, Type III Device, manufactured by Goodenow Manufacturing Co., 924 West 19th Street, Erie, PA 16502, effective August 22, 1972.

Approval No. 160.064/355/0, youth, Model No. SK 72, vinyl dipped unicellular plastic foam "Water Ski Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 8, Type III Device, manufactured by Goodenow Manufacturing Co., 924 West 19th Street, Erie, PA 16502, effective August 22, 1972.

Approval No. 160.064/375/0, adult small, Model No. 2001, cloth covered unicellular plastic foam "Flotation Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 169, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for Midwest Outerwear, Inc., Port Washington, Wis. 53074, effective August 22, 1972.

Approval No. 160.064/376/0, adult medium, Model No. 2001, cloth covered unicellular plastic foam "Flotation Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 169, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for Midwest Outerwear, Inc., Port Washington, Wis. 53074, effective August 22, 1972.

Approval No. 160.064/377/0, adult large, Model No. 2001, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 169, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for Midwest Outerwear, Inc., Port Washington, Wis. 53074, effective August 22, 1972.

Approval No. 160.064/378/0, adult X-large, Model No. 2001, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 169, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for Midwest Outerwear, Inc., Port Washington, Wis. 53074, effective August 22, 1972.

CARBON DIOXIDE TYPE FIRE EXTINGUISHING SYSTEMS

Approval No. 162.038/3/0, Cardox Low Pressure Carbon Dioxide Marine Fire Extinguishing System, Schematic drawing Nos. FC–33140, Rev. C, dated May 6, 1954, FC–40424, dated May 17, 1957, FC–40425, dated May 17, 1957, and Drawing List No. FD–32501, Rev. C, dated April 8, 1958, manufactured by Cardox, Division of Chemetron Corp., 111 East Wacker Drive, Chicago, IL 60601, effective August 21, 1972. (It supersedes Approval No. 162.038/3/0 dated April 25, 1972, to show change of address of manufacturer.)

Approval No. 162.038/6/0, Cardox Series 65 marine type high pressure carbon dioxide type fire extinguishing systems; Typical Installation Drawing Nos. FD–46327 (Sheets 1 through 3) Rev. C and D–46687 Rev. B, dated June 23, 1967, Specification Drawing No. FB–49098 Rev. A, dated June 28, 1967, and Equipment List A–46305 (Sheets 1 through 15) Rev. A, dated July 5, 1967, manufactured by Cardox, Division of Chemetron Corp., 111 East Wacker Drive, Chicago, IL 60601, Plant: Monee, Ill., effective August 21, 1972. (It supersedes Approval No. 162.038/6/0 dated December 5, 1967 to show change of address of manufacturer.)

Dated: October 12, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–17836 Filed 10–18–72;8:51 am]

[CGD 72–196N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from August 2, 1972, to August 10, 1972 (List No. 24–72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard, with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

For motorboats of Classes A, 1, or 2 not carrying passengers for hire.

The DRYBAK, Post Office Box 10956, 1348 Manufacturing Street, Dallas, TX 75207, no longer manufactures certain kapok buoyant vests and Approvals Nos. 160.047/610/0, 160.047/611/0, and 160.047/612/0 were therefore terminated effective August 10, 1972.

BUOYANT VESTS, UNICELLULAR PLASTIC FOAM

NOTE: For motorboats of Classes A, 1, or 2 not carrying passengers for hire.

The DRYBAK, Post Office Box 10956, 1348 Manufacturing Street, Dallas, TX 75207, no longer manufactures certain unicellular plastic foam buoyant vests and Approvals Nos. 160.052/378/0, 160.052/379/0, and 160.052/380/0 were therefore terminated effective August 10, 1972.

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

The Crawford Manufacturing Co., Third and Decatur Streets, Richmond, Va. 23212, no longer manufactures certain special purpose water safety buoyant devices and Approvals Nos. 160.064/16/0, 160.064/26/0, 160.064/72/2, 160.064/73/0, and 160.064/125/0 were therefore terminated effective August 4, 1972.

The Cypress Gardens Skis, Inc., Hoover Road, Cypress Gardens, Fla. 33880, no longer manufactures certain special purpose water safety buoyant devices and Approvals Nos. 160.064/74/0, 160.064/77/0, and 160.064/78/0 were therefore terminated effective August 4, 1972.

PRESSURE VACUUM RELIEF VALVES AND SPILL VALVES FOR TANK VESSELS

GPE Controls, Inc., 6511 Oakton Street, Morton Grove, IL 60053, Certificate of Approval No. 162.017/110/0, 6", Model 9403, "Hi Stream" Marine Breather Valve. This approval is being terminated effective August 2, 1972, as the specification was not intended for this type of valve design.

DECK COVERINGS FOR MERCHANT VESSELS

The Kompolite Products Co., Inc., 55 Webster Avenue, New Rochelle, NY 10801, no longer manufactures certain deck coverings and Approval No. 164.006/17/0 was therefore terminated effective August 4, 1972.

BULKHEAD PANELS FOR MERCHANT VESSELS

The Chembest Division of Owens-Corning Fiberglas Corp., 1111 West Perry Street, Bloomington, IL 61701, no longer manufactures certain bulkhead panels and Approval No. 164.008/46/0 was therefore terminated effective August 8, 1972.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

The Johns-Manville Sales Corp., 22 East 40th Street, New York, NY 10016, no longer manufactures certain incombustible materials and Approval No. 164.009/14/0 was therefore terminated effective August 3, 1972.

Dated: October 4, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72–17831 Filed 10–18–72;8:51 am]

[CGD 72–197N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from August 4, 1972, to August 15, 1972 (List No. 25–72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard, with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

LIFE PRESERVERS, KAPOK, ADULT AND CHILD (JACKET TYPE), MODELS 3 AND 5

NOTE: Approved for use on all vessels and motorboats.

Approval No. 160.002/114/0, Model 3, adult kapok life preserver, USCG Specification Subpart 160.002, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, effective August 10, 1972. (It is an extension of Approval No. 160.002/114/0 dated October 12, 1967.)

Approval No. 160.002/115/0, Model 5, child kapok life preserver, USCG Specification Subpart 160.002, manufactured by Ero Manufacturing Co., Hazlehurst, Ga. 31539, effective August 10, 1972. (It is an extension of Approval No. 160.002/115/0 dated October 12, 1967.)

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

Aproval No. 160.011/32/0, SurvivAir No. 9030–00, one-half hour self-contained compressed-air breathing apparatus, at least one extra fully charged cylinder of breathing air to be included as a part of the complete unit, Bureau of Mines Approval No. 13D–12 only for use with BM 13D–12 facepiece and BM 13D–12 pressure regulator and assembly, assembly drawing No. 9030–00, Rev. C, dated July 6, 1962, manufactured by SurvivAir Division of U.S. Divers Co., 3323 West Warner Avenue, Santa Ana, CA 92704, effective August 14, 1972. (It is an extension of Approval No. 160.011/32/0 dated August 15, 1967.)

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/18/0, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, USCG Specification Subpart 160.049, sizes to be as per Table 160.049–4(c)(1), manufactured by Billy Boy Products, Inc., Quincy, Mich. 49082, effective August 10, 1972. (It is an extension of Approval No. 160.049/18/0 dated October 19, 1967.)

HYDRAULIC AND MANUAL RELEASES FOR LIFESAVING EQUIPMENT

Approval No. 160.062/2/0, Model 404 hydraulic and manual release for lifesaving equipment; for buoyant loads of 200 to 3,750 pounds; identified by assembly drawing BH–2–501, revision B dated June 30, 1969, and drawing list dated September 19, 1969, to be used in accordance with installation and pretensioning details shown on tension gripe assembly drawing BH–4–501, revision C dated September 2, 1969, manufactured by Arrow Manufacturing, Inc., 139 Townsend Street, San Francisco, CA 94107, effective August 15, 1972. (It supersedes Approval No. 160.062/2/0 dated September 22, 1969, to show change of address of manufacturer.)

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Approval No. 160.064/23/0, 18-inch, Model No. LR–18, vinyl dipped unicellular plastic foam "Ring Buoy", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 8, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16501, effective August 4, 1972.

Approval No. 160.064/24/0, 18-inch, Model No. CG–18, vinyl dipped unicellular plastic foam "Ring Buoy," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 47, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 4, 1972.

Approval No. 160.064/83/0, adult, Model No. WST, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 8, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, PA 16501, effective August 4, 1972.

Approval No. 160.064/110/0, adult X-small, Style No. 432XS, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 41, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for James Bliss & Co., Inc., Route 128, Dedham, Mass. 02026, effective August 10, 1972.

Approval No. 160.064/111/0, adult small, Style No. 432S, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 41, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for James Bliss & Co., Inc., Route 128, Dedham, Mass. 02026, effective August 10, 1972.

Approval No. 160.064/112/0, adult medium, Style No. 432M, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 41, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for James Bliss & Co., Inc., Route 128, Dedham, Mass. 02026, effective August 10, 1972.

Approval No. 160.064/113/0, adult large, Style No. 432L, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. 41, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for James Bliss & Co., Inc., Route 128, Dedham, Mass. 02026, effective August 10, 1972.

Approval No. 160.064/114/0, adult X-large, Style No. 432XL, cloth covered unicellular plastic foam "Flotation Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. 41, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, for James Bliss & Co., Inc., Route 128, Dedham, Mass. 02026, effective August 10, 1972.

Approval No. 160.064/126/0, child small, Model No. CGJ–100, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 18, manufactured by Cypress Gardens Skis, Inc.,

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Hoover Road, Cypress Gardens, FL 33880, effective August 4, 1972.

Approval No. 160.064/127/0, youth, Model No. CGJ–100 vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. 18, Type III Device, manufactured by Cypress Gardens Skis, Inc., Hoover Road, Cypress Gardens, FL 33880, effective August 4, 1972.

Approval No. 160.064/128/0, adult X-large, Model CGJ–100, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 18, Type III Device, manufactured by Cypress Gardens Skis, Inc., Hoover Road, Cypress Gardens, FL 33880, effective August 4, 1972.

Approval No. 160.064/139/0, child small, Model No. CGAXS, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 53, manufactured by Groendyk Manufacturing Co., Inc., Buchanan, Va. 24066, for Recreonics, Inc., Beverly, Mass. 01915, effective August 10, 1972.

Approval No. 160.064/140/0, child medium, Model No. CGAS, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 53, manufactured by Groendyk Manufacturing Co., Inc., Buchanan, Va. 24066, for Recreonics, Inc., Beverly, Mass. 01915, effective August 10, 1972.

Approval No. 160.064/141/0, adult medium, Model No. CGAM, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 53, manufactured by Groendyk Manufacturing Co., Inc., Buchanan, Va. 24066, for Recreonics, Inc., Beverly, Mass. 01915, effective August 10, 1972.

Approval No. 160.064/142/0, adult large, Model No. CGAL, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 53, manufactured by Groendyk Manufacturing Co., Inc., Buchanan, Va. 24066, for Recreonics, Inc., Beverly, Mass. 01915, effective August 10, 1972.

Approval No. 160.064/147/0, child small, Model No. CGV–XS, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 32, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 8, 1972.

Approval No. 160.064/148/0, child medium, Model No., CGV–S/M, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 32, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 8, 1972.

Approval No. 160.064/149/0, adult large, Model No. CGV–M/L, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Vest", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 32, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 8, 1972.

Approval No. 160.064/150/0, adult X-large, Model No. CGV–L/XL, vinyl dipped unicellular plastic foam "Ski 'N' Sport Safety Jacket", manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 32, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 8, 1972.

Approval No. 160.064/205/0, child small, Model No. CGXS, vinyl dipped unicellular plastic foam "Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 47, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 4, 1972.

Approval No. 160.064/206/0, child small, Model No. CGXS/S, vinyl dipped unicellular plastic foam "Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 47, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 4, 1972.

Approval No. 160.064/207/0, adult, Model No. CGM/M, vinyl dipped unicellular plastic foam "Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 47, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 4, 1972.

Approval No. 160.064/208/0, adult, Model No. CGL/XL, vinyl dipped unicellular plastic foam "Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 47, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, effective August 4, 1972.

Approval No. 160.064/209/0, child small, Model No. CGXS, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/210/0, child small, Model No. CGXS/S, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/211/0, adult, Model No. CGM/L, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 92341, effective August 9, 1972.

Approval No. 160.064/212/0, adult, Model No. CGL/XL, vinyl dipped unicellular plastic foam "Ski & Sport Safety Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/219/0, adult small, Model No. 101V, cloth covered unicellular plastic foam "Yachting Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 69, Type III Device, manufactured by Gaylord Harr, Inc., 1109 South Fremont, Alhambra, CA 91803, effective August 4, 1972.

Approval No. 160.064/220/0, adult large, Model No. 101V, cloth covered unicellular plastic foam "Yachting Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 69, Type III Device, manufactured by Gaylord Harr, Inc., 1109 South Fremont, Alhambra, CA 91803, effective August 4, 1972.

Approval No. 160.064/221/0, adult small, Model No. 1100, cloth covered unicellular plastic foam "Yachting Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 69, Type III Device, manufactured by Gaylord Harr, Inc., 1109 South Fremont, Alhambra, CA 91803, effective August 4, 1972.

Approval No. 160.064/222/0, adult medium, Model No. 1100, cloth covered unicellular plastic foam "Yachting Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 69, Type III Device, manufactured by Gaylord Harr, Inc., 1109 South Fremont, Alhambra, CA 91803, effective August 4, 1972.

Approval No. 160.064/223/0, adult large, Model No. 1100, cloth covered unicellular plastic foam "Yachting Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 69, Type III Device, manufactured by Gaylord Harr, Inc., 1109 South Fremont, Alhambra, CA 91803, effective August 4, 1972.

Approval No. 160.064/224/0, adult X-large, Model No. 1100, cloth covered unicellular plastic foam "Yachting Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 69, Type III Device, manufactured by Gaylord Harr, Inc., 1109 South Fremont, Alhambra, CA 91803, effective August 4, 1972.

Approval No. 160.064/227/0, child medium, Model No. 63215, cloth covered unicellular plastic foam "Yachtsmans Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 38, manufactured by Ero Manufacturing Co., 308 South William Street, Hazlehurst, GA 31539, for Sears, Roebuck & Co., 925 South Homan Avenue, Chicago, IL 60607, effective August 8, 1972.

Approval No. 160.064/233/0, adult, Model No. CGJ–100, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 18, Type III Device, manufactured by Cypress Gardens Skis, Inc., Hoover Road, Cypress Gardens, FL 33880, effective August 4, 1972.

Approval No. 160.064/240/0, child medium, Model No. PS–G, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/241/0, adult, Model No. PM–G, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/242/0, adult, Model No. PL–G, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/243/0, adult, Model No. PXL–G, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, Type III Device, manufactured by Cut 'N' Jump Ski Corp. 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/244/0, adult, Model No. PXXL–G, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/245/0, ladies adult, Model No. LP–G, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 31, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Superior Sports Specialties, San Fernando, Calif. 91341, effective August 9, 1972.

Approval No. 160.064/258/0, child medium, Model No. SR–S, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 110, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Vogue Ski Co., 9416 East Gidley Avenue, Temple City, CA 91780, effective August 8, 1972.

Approval No. 160.064/259/0, adult, Model No. SR–M, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 110, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Vogue Ski Co., 9416 East Gidley Avenue, Temple City, CA 91780, effective August 8, 1972.

Approval No. 160.064/260/0, adult, Model No. SR–L, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 110, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Vogue Ski Co., 9416 East Gidley Avenue, Temple City, CA 91780, effective August 8, 1972.

Approval No. 160.064/261/0, adult, Model No. SR–XL, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 110, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Vogue Ski Co., 9416 East Gidley Avenue, Temple City, CA 91780, effective August 8, 1972.

Approval No. 160.064/262/0, adult, Model No. SR–XXL, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 110, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Vogue Ski Co., 9416 East Gidley Avenue, Temple City, CA 91780, effective August 8, 1972.

Approval No. 160.064/263/0, ladies adult, Model No. SR–W, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL report file No. MQ 110, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Vogue Ski Co., 9416 East Gidley Avenue, Temple City, CA 91780, effective August 8, 1972.

Approval No. 160.064/334/0, child medium, Model No. 911S, cloth covered unicellular plastic foam "Yacht Safety Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 7, Type III Device, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective August 4, 1972.

Approval No. 160.064/335/0, adult, Model No. 912M, cloth covered unicellular plastic foam "Yacht Safety Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 7, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective August 4, 1972.

Approval No. 160.064/336/0, adult, Model No. 913L, cloth covered unicellular plastic foam "Yacht Safety Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 7, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective August 4, 1972.

Approval No. 160.064/362/0, child medium, Model No. 3H34A, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Chrysler Outboard Corp., Hartford, Wis. 53027, effective August 8, 1972.

Approval No. 160.064/363/0, adult, Model No. 3H35A, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Chrysler Outboard Corp., Hartford, Wis. 53027, effective August 8, 1972.

Approval No. 160.064/364/0, adult, Model No. 3H36A, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Chrysler Outboard Corp., Hartford, Wis. 53027, effective August 8, 1972.

Approval No. 160.064/365/0, adult, Model No. 3H37A, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Chrysler Outboard Corp., Hartford, Wis. 53027, effective August 8, 1972.

Approval No. 160.064/366/0, adult ladies, Model No. 3H38A, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with

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USCG Specification Subpart 160.064 and UL/MD report file No. MQ 166, Type III Device, manufactured by Cut 'N' Jump Ski Corp., 11525 Sorrento Valley Road, San Diego, CA 92121, for Chrysler Outboard Corp., Hartford, Wis. 53027, effective August 8, 1972.

RELIEF VALVES (HOT WATER HEATING BOILERS)

Approval No. 162.013/13/1, Type No. 2240, multiple relief valve assembly for hot water heating boilers, two (2) No. 240–¾ inch—30 relief valves mounted on common base, maximum set pressure 30 p.s.i., combined relieving capacity of 1,026,000 B.t.u./hr., base inlet size 2-inch nominal pipe diameter, relief valves were formerly 230–30, manufactured by McDonnell & Miller, Inc., 3500 North Spaulding Avenue, Chicago, IL 60618, effective August 14, 1972. (It supersedes Approval No. 162.013/13/0 dated September 11, 1967.)

Approval No. 162.013/14/1, Type No. 3240, multiple relief valve assembly for hot water heating boilers, three (3) No. 240–¾ inch—30 relief valves mounted on common base, maximum set pressure 30 p.s.i., combined relieving capacity 1,539,000 B.t.u./hr., base inlet size 2-inch nominal pipe diameter, relief valves were formerly 230–30, manufactured by McDonnell & Miller, Inc., 3500 North Spaulding Avenue, Chicago, IL 60618, effective August 14, 1972. (It supersedes Approval No. 162.013/14/0 dated September 11, 1967.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/77/0, "Pabco Precision Molded Super Caltemp Type NA" calcium silicate type, identical to that described in Fibreboard Paper Products Corp. letter dated October 15, 1963, approved in densities from 11.5 to 12.5 pounds per cubic foot, manufactured by Fibreboard Corp., Industrial Products Division, 55 Francisco Street, San Francisco, CA 94133, effective August 14, 1972. (It supersedes Approval No. 164.009/77/0 dated July 20, 1972 to show minor change.)

Dated: October 13, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-17834 Filed 10-18-72;8:51 am]

[CGD 72-198N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from August 11, 1972, to August 24, 1972 (list No. 26–72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard, with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LIFEBOAT WINCHES FOR MERCHANT VESSELS

The Welin Davit Division, Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, NY 11231, no longer manufactures certain lifeboat winches and Approval Nos. 160.015/70/1 and 160.015/85/1 were therefore terminated effective August 15, 1972.

DAVITS FOR MERCHANT VESSELS

The Welin Davit Division, Lane Marine Technology, Inc., 150 Sullivan Street, Brooklyn, NY 11231, no longer manufactures certain lifeboat davits and Approval No. 160.032/153/1 was therefore terminated effective August 15, 1972.

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT, FOR MERCHANT VESSELS

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, no longer manufactures certain mechanical disengaging apparatus and Approval No. 160.033/53/0 was therefore terminated effective August 11, 1972.

LIFEBOATS

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, Approval No. 160.035/204/4 expired and was terminated effective August 11, 1972.

The Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, no longer manufactures certain lifeboats and Approval No. 160.035/327/1 was therefore terminated effective August 11, 1972.

INFLATABLE LIFE RAFTS

The Uniroyal, Inc., Plastic Products Division, Providence, R.I. 02901, Approval Nos. 160.051/23/1, 160.051/29/1, 160.051/30/1, and 160.051/31/1 expired and were terminated effective August 24, 1972.

Dated: October 12, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-17833 Filed 10-18-72;8:51 am]

[CGD 72-199N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from July 28, 1972 to August 2, 1972 (List No. 23–72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

LIFEBOATS

Approval No. 160.035/211/5, 22.0′ x 7.5′ x 3.17′ steel, oar-propelled lifeboat, 30-person capacity, identified by general arrangement dwg. No. 22–2 Rev. D dated May 9, 1972, approved for 31-person capacity as a replacement in kind for an existing lifeboat requiring 31-person capacity, 46 CFR 160.035–13(c) marking, weights: Condition "A"—2,345 pounds; condition "B"—8,060 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective July 31, 1972. (It supersedes Approval No. 160.035/211/4 dated July 31, 1967, to show change in construction and address.)

Approval No. 160.035/214/5, 20.0′ x 6.5′ x 2.67′ aluminum, oar-propelled lifeboat, 18-person capacity identified by construction and arrangement dwg. No. 20–2 Alt. G dated May 12, 1972, approved for 20-person capacity as a replacement in kind for an existing lifeboat requiring 20-person capacity, 46 CFR 160.035–13 (c) marking, weights: Condition "A"—980 pounds; condition "B"—4,542 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, NJ 07727, effective July 28, 1972. (It supersedes Approval No. 160.035/214/4 dated July 28, 1967, to show change in construction, address, and capacity.)

Approval No. 160.035/258/4, 20.0′ x 6.5′ x 2.67′ steel, oar-propelled lifeboat, 18-person[1] capacity, identified by construction and arrangement dwg. No. 20–3, Rev. F dated July 31, 1972, if mechanical disengaging apparatus is fitted, it shall be of an approved type and installed in accordance with drawings approved by the Commandant. Marking, Weights: Condition "A"=1,725 pounds; Condition "B"=5,278 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective July 31, 1972. (It supersedes Approval No. 160.035/258/3 dated January 30, 1967, to show change of address and construction.)

KITS, FIRST AID, FOR MERCHANT VESSELS

Approval No. 160.041/2/1, First Aid Kit, Model No. 73650–01, dwg. No. 73650, Rev. A dated April 26, 1972, manufactured by Scott Aviation Division of A.T.O. Inc., 225 Erie Street, Lancaster, N.Y. 14086, effective August 1, 1972. (It supersedes Approval No. 160.041/2/0 dated July 19, 1972, to show change in construction.)

BUOYANT VESTS, KAPOK, OR FIBROUS GLASS

NOTE: For motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/535/0, Type I, Model AK–1, adult kapok buoyant vest, USCG Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, Va. 23212, and 12th and Graham Streets, Emporia, Kans. 66801, for The Bowman Products Division, Associated Spring Corp., 850 East 72d Street, Cleveland, OH 44103, effective July 31, 1972. (It is an extension of Approval No. 160.047/535/0 dated July 31, 1967.)

Approval No. 160.047/536/0, Type I, Model CKM–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212, and 12th and Graham Streets, Emporia, KS 66801, for The Bowman Products Division, Associated Spring Corp., 850 East 72d Street, Cleveland, OH 44103, effective July 31, 1972. It is an extension of Approval No. 160.047/536/0 dated July 31, 1967.)

Approval No. 160.047/537/0, Type I, Model CKS–1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Crawford Manufacturing Co., Inc., Third and Decatur Streets, Richmond, VA 23212, and 12th and Graham Streets, Emporia, KS 66801, for The Bowman Products Division, Associated Spring Corp., 850 East 72d Street, Cleveland, OH 44103, effective July 31, 1972. (It is an extension of Approval No. 160.047/537/0 dated July 31, 1967.)

KITS, FIRST-AID, FOR INFLATABLE LIFERAFTS

Approval No. 160.054/3/2, Model 70500 first aid kit for inflatable liferafts, dwg. No. 70500, Rev. A dated May 1, 1972, manufactured by Scott Aviation Division of A.T.O. Inc., 225 Erie Street, Lancaster, NY 14086, effective July 31, 1972. (It supersedes Approval No. 160.054/3/1 dated July 19, 1972 to show change in construction.)

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Approval No. 160.064/43/0, 18-inch, Model No. LRB–1, vinyl dipped unicellular plastic foam "ring buoy," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 22, manufactured by Martin Industries, Post Office Box 423, Clayton, AL 36016, effective August 1, 1972.

Approval No. 160.064/71/0, adult, Model No. 1100, vinyl dipped unicellular plastic foam "Water Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 24, manufactured by Quality Built Products Co., 1832 East Commercial Street, Springfield, MO 65803, effective August 1, 1972.

Approval No. 160.064/225/0, child medium, cloth covered unicellular plastic foam "Yachtsmans Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 38, manufactured by Ero Manufacturing Co., 308 South William Street, Hazlehurst, GA 31539, effective August 1, 1972.

Approval No. 160.064/274/0, adult X-small, Model Yachtsmans II, cloth covered unicellular plastic foam "Yachting Jacket," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 38, manufactured by Ero Manufacturing Co., 308 South William Street, Hazlehurst, GA 31539, effective August 1, 1972.

Approval No. 160.064/275/0, adult small, cloth covered unicellular plastic foam "Yachtsman's II," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 38, manufactured by Ero Industries, Inc., 714 West Monroe Street, Chicago, IL 60606, effective August 1, 1972.

Approval No. 160.064/276/0, adult medium, cloth covered unicellular plastic foam "Yachtsman's II," manufacturcd in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 38, manufactured by Ero Industries, Inc., 714 West Monroe Street, Chicago, IL 60606, effective August 1, 1972.

Approval No. 160.064/277/0, adult large, cloth covered unicellular plastic foam "Yachtsman's II," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 38, manufactured by Ero Industries, Inc., 714 West Monroe Street, Chicago, IL 60606, effective August 1, 1972.

Approval No. 160.064/342/0, Model No. 710 E, cloth covered unicellular plastic foam "Horseshoe Buoy," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 7, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, effective August 1, 1972.

Approval No. 160.064/348/0, adult large, Model No. 100L, vinyl dipped unicellular plastic foam "Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 164, Type III Device, manufactured by O'Brien Manufacturing Corp., 14615 Northeast 91st Street, Redmond, WA 98052, effective August 1, 1972.

Approval No. 160.064/390/0, adult small, Model No. 5010, cloth covered unicellular plastic foam "Flotation Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 26, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, effective August 1, 1972.

Approval No. 160.064/391/0, adult medium, Model No. 5010, cloth covered unicellular plastic foam "Flotation Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 26, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, effective August 1, 1972.

Approval No. 160.064/392/0, adult large, Model No. 5010, cloth covered unicellular plastic foam "Flotation Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 26, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, effective August 1, 1972.

Approval No. 160.064/393/0, adult X-large, Model No. 5010, cloth covered unicellular plastic foam "Flotation Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ 26, Type III Device, manufactured by The Empress Corp., 1144 South San Julian Street, Los Angeles, CA 90015, effective August 1, 1972.

PROTECTING COVER FOR LIFEBOATS

Approval No. 160.065/4/2, "Sea-Jay Anti-Exposure lifeboat cover," Type I, protecting cover for the occupants of all types of aluminum, steel, and fibrous glass reinforced plastic (FRP) lifeboats for lengths 22′ through 37′ lifeboats

[1] Approved for 20-person capacity as a replacement in kind for an existing lifeboat requiring 20-person capacity, 46 CFR 160.035–13(c).

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identified by general arrangement dwg. CJH/EC/003, Alt. 1 dated June 1972, modifications to the cover and supports may be necessary in the case of some motor-propelled lifeboats equipped with vertical (dry) exhaust lines, radio cabins and antenna masts, manufactured by C. J. Hendry Co., 139 Townsend Street, San Francisco, CA 94107, effective August 2, 1972. (It supersedes Approval No. 160.065/4/1 dated November 1, 1971 to show change in construction.)

TELEPHONE SYSTEMS, SOUND-POWERED

Approval No. 161.005/51/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, splash-proof, with internal and hand generator bell, Model SW, dwg. No. 50, Alt. 0 dated April 1957, for use in locations not exposed to the weather and where a loud ringing bell is not necessary, manufactured by Hose-McCann Telephone Co., Inc., 524 West 23d Street, New York, NY 10011, effective August 1, 1972. (It is an extension of Approval No. 161.005/51/0 dated August 22, 1967.)

Approval No. 161.005/56/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, bulkhead mounting, with separately mounted 6'' or 8'' bell, Model SWT, dwg. No. 56, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Co., Inc., 524 West 23d Street, New York, NY 10011, effective August 1, 1972. (It is an extension of Approval No. 161.005/56/0 dated August 22, 1967.)

Approval No. 161.005/57/0, sound-powered telephone station, selective ringing, common talking, 19 stations maximum, pedestal mounting, with attached 6'' bell, Model SWTP, dwg. No. 58, Alt. 0 dated May 1957, manufactured by Hose-McCann Telephone Co., Inc., 524 West 23d Street, New York, NY 10011, effective August 1, 1972. (It is an extension of Approval No. 161.005/57/0 dated August 22, 1967.)

STRUCTURAL INSULATIONS FOR MERCHANT VESSELS

Approval No. 164.007/7/1, "#450 Cement," mineral wool cement type structural insulation identical to that described in National Bureau of Standards Test Report No. TG-3619B; FR-1466B dated July 7, 1939, approved for use without other insulating material to meet Class A-60 requirements in a 3½-inch thickness and 30-pound-per-cubic-foot density, formerly J-M #450 Cement, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.007/7/1 dated May 2, 1972, to show change of address of manufacturer.)

Approval No. 164.007/9/1, "Banroc 202AA," mineral wool type structural insulation identical to that described in National Bureau of Standards Test Report No. TG-3619-36; FR-1404 dated May 17, 1939, blankets with asbestos paper facings approved for use without other insulating materials to meet Class A-60 requirements in a 3-inch thickness and 16-pound-per-cubic-foot density, formerly J-M 202AA, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.007/9/1 dated May 2, 1972, to show change of address of manufacturer.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/12/1, Marinite-36, asbestos incombustible binder board type bulkhead panel identical to that described in National Bureau of Standards Test Report No. TG-3619-23; FR-1274 dated March 21, 1939; approved as meeting Class B-15 requirements in a ¾-inch thickness, formerly J-M Marinite, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.008/12/1 dated December 15, 1971, to show change of address of manufacturer.)

Approval No. 164.008/13/1, Marinite-30, asbestos incombustible binder board type bulkhead panel identical to that described in Protexol Testing Laboratory Test Report No. 146 dated November 15, 1946; approved as meeting Class B-15 requirements in a ¾-inch thickness, formerly J-M Light Weight Marinite, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.008/13/1 dated December 15, 1971 to show change of address of manufacturer.)

Approval No. 164.008/14/1, Marinite-65, asbestos incombustible binder board type bulkhead panel identical to that described in Johns-Manville letter of March 6, 1947; approved as meeting Class B-15 requirements in a ¾-inch thickness, formerly J-M Marine Sheathing, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.008/14/1 dated December 15, 1971 to show change of address of manufacturer.)

Approval No. 164.008/15/1, Marine Veneer, an inorganic heavy density panel identical to that described in Johns-Manville letter of March 3, 1947, approved as meeting Class B-15 requirements on an inch for inch basis with a minimum thickness of one-half inch Marinite 23 or 36 core, formerly J-M Marine Veneer, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.008/15/1 dated November 12, 1971 to show change of address of manufacturer.)

Approval No. 164.008/29/1, "Marinite-23", inorganic composition board type bulkhead panel, identical to that described in Protexol Testing Laboratory Report No. 193 dated February 24, 1950, approved as meeting Class B-15 requirements in a ¾-inch thickness, when veneered with combustible material not meeting the requirements of 46 CFR Subpart 164.012 the restrictions of Subpart 72.05-15 apply, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.008/29/1 dated November 12, 1971 to show change of address of manufacturer.)

Approval No. 164.008/54/0, Marinite ABK, asbestos incombustible binder board type bulkhead panel identical to that described in the National Bureau of Standards Test Report No. TG10210-2182:FR3719 dated August 21, 1969, approved as meeting Class B-15 requirements in a 2'' thickness, the board may be only installed in the approved 2'' thickness, for use as a portion of the insulation of an "A" class division as described in NVIC 10-63, the approved board may be considered as having an insulation value equivalent to 1½ P, approved drawings 1-3, 4-4, 5-4, and 6-4 dated April 24, 1970, form a part of this certificate, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, plants located at Manville, N.J., and Billerica, Mass., effective August 2, 1972. (It supersedes Approval No. 164.008/54/0 dated April 28, 1970, to show change of address of manufacturer.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/13/0, "Transite", asbestos cement board type incombustible material identical to that described in National Bureau of Standards Test Report No. TG3610-1495:FP2573 dated November 28, 1947, formerly approved under the name of "J-M TRANSITE", manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.009/13/0 dated December 5, 1967, to show change of address of manufacturer.)

Approval No. 164.009/25/0, "J-M Six-Pound Reinforced Asbestos Paper", asbestos paper type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-1643:FP2833, dated October 13, 1949, approved in a weight of 6-pound-per-100-square-feet, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.009/25/0 dated November 10, 1969, to show change of address of manufacturer.)

Approval No. 164.009/26/0, "J-M 32-lb. Commercial Grade Asbestos Paper", asbestos paper type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-1660:FP2861, dated December 21, 1949, approved in a weight of 32-pound-per-one-hundred-square-feet, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.009/26/0 dated December 3, 1969, to show change of address of manufacturer.)

Approval No. 164.009/31/1, "Johns-Manville Marine Acoustical Unit", incombustible material in accordance with Johns-Manville Sales Corp. letter dated April 5, 1971, in 1 3/16 through 2 3/16-inch thickness, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes

Approval No. 164.009/31/1 dated April 15, 1971, to show change of address of manufacturer.)

Approval No. 164.009/32/0, "Thermo-flex Felt RF 400", mineral wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-1944:FP3305 dated December 13, 1954, approved in a 4-pound-per-cubic-foot density, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.009/32/0 dated January 19, 1970, to show change of address of manufacturer.)

Approval No. 164.009/43/0, "Thermobestos" asbestos-hydrous calcium-silicate type pipe and block insulation identical to that described in Commandant, U.S. Coast Guard letter dated April 9, 1957, file 164.009/43, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.009/43/0 dated December 15, 1971, to show change of address of manufacturer.)

Approval No. 164.009/51/0, "Glasweld" cement-asbestos board type incombustible material as described in National Bureau of Standards Report No. TG10210-2023:FP3450 dated May 20, 1958, formerly known as "Glasal", manufactured by United States Plywood Corp., 777 Third Avenue, New York, NY 10017, effective August 1, 1972. (It supersedes Approval No. 164.009/51/0 dated February 15, 1968 to show change of address of manufacturer.)

Approval No. 164.009/72/3, "Incombustible Microlite" fibrous glass insulating type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-2151:FR3688 dated June 27, 1967 and Johns-Manville letter dated July 20, 1967, approved in densities of 0.6 through 2-pound-per-cubic-foot, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, Plant: Parkersburg, W. Va., effective August 2, 1972. (It supersedes Approval No. 164.009/72/3 dated June 15, 1972 to show change of address of manufacturer.)

Approval No. 164.009/92/0, "Incombustible Hullboard SG" fibrous glass type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-2133:FR 3669 dated May 1, 1966, approved in a nominal density of 3-pound-per-cubic-foot, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, Plant: Johns-Manville Products Corp., 814 Richmond Avenue, Richmond, IN, effective August 2, 1972. (It supersedes Approval No. 164.009/92/0 dated March 2, 1971, to show change of address of manufacturer.)

Approval No. 164.009/98/0, "J-M Foil-Faced Marine Microlite Duct Insulation", aluminum faced fibrous glass insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-2141:FR 3678 dated March 1, 1967, and Commandant (MMT-3) letter dated March 9, 1967, approved in a density of .6 through 2-pound-per-cubic-foot, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, Plant: Defiance, Ohio, effective August 2, 1972. (It supersedes Approval No. 164.009/98/0 dated March 1, 1972, to show change of address of manufacturer.)

Approval No. 164.009/16/0, "J-M Foil-Faced Marine Spin-Glas Duct Insulation", aluminum faced fibrous glass type incombustible material identical to that described in National Bureau of Standards Test Report No. TG-10210-2168: FR 3705 dated September 11, 1968, and Johns-Manville Sales Corp. letters dated July 9, 1968, and July 15, 1968, approved in a density of 3-pound-per-cubic-foot, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, Plant: Richmond, Ind., effective August 2, 1972. (It supersedes Approval No. 164.009/116/0 dated September 16, 1968, to show change of address of manufacturer.)

Approval No. 164.009/141/0, "Incombustible Hullboard SG", aluminum foil faced fibrous glass type, incombustible material identical to that described in National Bureau of Standards Test Report No. TG-10210-2168: FR 3705 dated September 11, 1968, and Johns-Manville Sales Corp. letters dated July 9, 1968 and July 15, 1968, approved in a nominal density of 3-pound-per-cubic-foot, 1'' through 2'' thickness, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1972. (It supersedes Approval No. 164.009/141/0 dated September 16, 1970, to show change of address of manufacturer.)

Dated: October 12, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-17835 Filed 10-18-72;8:51 am]

[CGD 72-200N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used onboard vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from August 28, 1972, to September 6, 1972 (List 28-72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS, FOR MERCHANT VESSELS

Approval No. 160.011/40/1, SurvivAir SVA-Lung, Model 9038-02, one-half hour, self-contained, compressed-air breathing apparatus, at least one fully charged cylinder of breathing air to be included as a part of the complete unit, Bureau of Mines Approval No. 13E-24 demand or pressure demand facepiece and breathing tube assembly and BM-13E-24 harness, regulator, and cylinder assembly, assembly dwg. No. 9038-00 dated August 8, 1969, Face Mask—Sub-Assy dwg. No. 9411-12, and 13 dated May 11, 1970, Audio-Alarm dwg. No. 9602, 05, 06, 07, 08, 44, 45, and 46 dated December 16, 1966, and USCG letter dated October 19, 1967, not approved for use with electrical voice communication equipment, at least one extra fully charged cylinder of breathing air to be included as part of the complete unit, manufactured by SurvivAir, Division of U.S. Divers Company, 3323 West Warner Avenue, Santa Ana, CA 92704, effective September 5, 1972. (It supersedes Approval No. 160.011/40/0 dated October 20, 1967, to show change in design.)

BUOYANT CUSHIONS, UNICELLULAR PLASTIC FOAM

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.049/50/0, group approval for rectangular and trapezoidal unicellular plastic foam buoyant cushions, USCG Specification Subpart 160.049, sizes to be as per Table 160.049-4(c)(1), manufactured by International Cushion Co., 1110 Northeast Eighth Avenue, Fort Lauderdale, FL 33311, effective September 1, 1972. (It is an extension of Approval No. 160.049/50/0 dated November 14, 1967.)

WORK VESTS, UNICELLULAR PLASTIC FOAM

Approval No. 160.053/24/0, Model CG-900, vinyl coated unicellular plastic foam work vest, dwg. Nos. Sheet No. 1, Sheet No. 2, Sheet No. 3, Revision 2 dated November 2, 1967, manufactured by Style Crafters, Inc., Post Office Box 8277, Station A, Greenville, S.C. 29604, effective September 1, 1972. (It is an extension of Approval No. 160.053/24/0 dated November 8, 1967.)

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SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES FOR DESIGNATED USE ON ALL MOTORBOATS AND FOR GENERAL USE ON MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Approval No. 160.064/329/1, adult medium, Model No. VAM, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ-3, Type III Device, manufactured by Texas Recreation Corp., Texas Watercrafters Division, 912 North Beverly Drive, Wichita Falls, TX 76307, effective September 6, 1972. (It supersedes Approval No. 160.064/329/0 dated March 17, 1972, to show major change in sizing.)

Approval No. 160.064/330/1, adult large, Model No. VAL, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ-3, Type III Device, manufactured by Texas Recreation Corp., Texas Watercrafters Division, 912 North Beverly Drive, Wichita Falls, TX 76307, effective September 6, 1972. (It supersedes Approval No. 160.064/330/0 dated March 17, 1972, to show major change in sizing.)

Approval No. 160.064/399/0, adult X-large, Model No. VAXL, vinyl dipped unicellular plastic foam "Sail 'N' Ski Vest," manufactured in accordance with USCG Specification Subpart 160.064 and UL/MD report file No. MQ-3, Type III Device, manufactured by Texas Recreation Corp., Texas Watercrafters Division, 912 North Beverly Drive, Wichita Falls, TX 76307, effective September 6, 1972.

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/156/0, Barbron backfire flame arrester, part No. 3829B, brass element, base, and cover, alternate material for base and cover is anodized aluminum (3829A), opening in base is 1.875 inches in diameter, manufactured by Barbron Corp., 14580 Lesure Avenue, Detroit, MI 48227, effective August 28, 1972. (It supersedes Approval No. 162.-041/156/0 dated July 18, 1972, to show minor change.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/60/0, Dansk Eternit-Fabrik A/S, bulkhead panel "Navilite 36 Type V-22", identical to that described in National Bureau of Standards Test Report No. FR 3811 dated July 25, 1972, and Dansk Eternit-Fabrik A/S letter dated July 7, 1970; approved as meeting Class B-15 requirements in a density of 40.6 lbs. per cubic foot (650 kg./m.^{3}) in a 3/4" (19mm.) thickness, approved drawings form a part of this certificate, manufactured by Dansk Eternit-Fabrik A/S, DK-9100, Aalborg, Denmark, Plant: Aalborg, Denmark, effective September 6, 1972.

Approval No. 164.008/65/0, Dansk Eternit-Fabrik A/S, bulkhead panel "Navilite 36 Type Z-22", identical to that described in National Bureau of Standards Test Report No. FR 3811 dated July 25, 1972, and Dansk Eternit-Fabrik A/S letter dated July 7, 1970; approved as meeting Class B-15 requirements in a density of 43.7 lbs. per cubic foot (700 kg./m.^{3}) in a 3/4" (19mm.) thickness, approved drawings form a part of this certificate, manufactured by Dansk Eternit-Fabrik A/S, DK-9100, Aalborg, Denmark, Plant: Aalborg, Denmark, effective September 6, 1972.

Dated: October 12, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72-17832 Filed 10-18-72;8:51 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-321]

GEORGIA POWER CO.

Notice of Consideration of Issuance of Facility License and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Georgia Power Co. (the Applicant) which would authorize the applicant to possess, use, and operate Edwin I. Hatch Nuclear Plant Unit 1, a boiling water nuclear reactor (the Facility), located on the applicant's site on the south side of the Altamaha River in northwestern Appling County, about 11 miles north of Baxley, Ga., at steady-state power levels not to exceed 2,436 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the Applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the facility was authorized by Construction Permit No. CPPR-65, issued by the Commission on September 30, 1969.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-65. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The Facility is subject to the provision in 10 CFR Part 50, Appendix D, section C.2 for notice of opportunity for filing petitions for leave to intervene and requests for hearing on environmental considerations related to continuation, modification, termination, or conditioning of the construction permit.

Accordingly, notice is hereby given, pursuant to 10 CFR Part 2, rules of practice, and Appendix D of 10 CFR Part 50 Implementation of the National Environmental Policy Act of 1969, that the Commission is providing an opportunity for hearing with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit in the captioned proceeding should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene: (1) With respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit should be continued, modified, terminated, or appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely filed will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating license, dated March 12, 1971, as amended, and the Applicant's environmental report, dated February 1971 and supplement thereto dated November 1971, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license; (2) the Commission's draft detailed statement on environmental considerations purusant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of Items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 6th day of October 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17482 Filed 10-18-72;8:45 am]

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Order Extending Facility Operating License Expiration Date

Consolidated Edison Company of New York, Inc., having filed a request dated September 18, 1972, for extension of the expiration date of Facility Operating License No. DPR-26 which authorizes fuel loading and subcritical testing of the Indian Point Nuclear Generating Unit No. 2, located in the town of Buchanan, Westchester County, N.Y.; and

Good cause having been shown in the application for this extension pursuant to Part 50 of the Commission's regulations in 10 CFR, *It is hereby ordered*, That the expiration date of Facility Operating License No. DPR-26 is extended from October 19, 1972, to March 1, 1973.

Dated at Bethesda, Md., this 13th day of October 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17793 Filed 10-18-72;8:47 am]

[Docket No. 50-363]

JERSEY CENTRAL POWER AND LIGHT CO.

Establishment of Atomic Safety and Licensing Board

On August 16, 1972, the Commission published in the FEDERAL REGISTER (37 F.R. 16561) a notice of hearing to consider the application filed by the Jersey Central Power & Light Co. for a construction permit for the Forked River Nuclear Generating Station, Unit 1. That notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations in Title 10, Code of Federal Regulations, Part 2 (Rules of Practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Mr. Glenn O. Bright, Dr. Paul W. Purdom, and Elizabeth S. Bowers, Esq., chairman, Dr. Emil T. Chanlett has been designated as a technically qualified alternate and Daniel M. Head, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 12th day of October 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-17791 Filed 10-18-72;8:47 am]

[Docket No. 50-277]

PHILADELPHIA ELECTRIC CO., ET AL.

Order Extending Provisional Construction Permit Completion Date

By application dated September 29, 1972, Philadelphia Electric Co., acting on behalf of itself and as representative of the Public Service Electric & Gas Co., Delmarva Power & Light Co., and Atlantic City Electric Co., requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-37. The permit authorizes the construction of a single cycle, forced circulation, boiling water nuclear reactor, known as the Peach Bottom Atomic Power Station Unit No. 2, at Philadelphia Electric Co.'s site in Peach Bottom, York County, Pa.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations, *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-37 is extended from October 1, 1972, to June 1, 1973.

Dated at Bethesda, Md., this 29th day of September 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17792 Filed 10-18-72;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

E. I. DU PONT DE NEMOURS & CO., INC.

Notice of Filing of Petition Regarding Pesticide Chemical

Correction

In F.R. Doc. 72-17183, appearing on page 21363, in the issue of Saturday, October 7, 1972, in the seventh line of the second paragraph, the fourth word reading "protometric", should read "photometric".

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19600; FCC 72-877]

COURT HOUSE BROADCASTING CO. AND CHILLICOTHE TELCOM, INC.

Order Designating Matter for Oral Argument

In regard application of the Court House Broadcasting Co. (Assignor), and

V37-203 OCT 19 72 XUM

Chillicothe Telcom, Inc. (Assignee). Application for voluntary assignment of license for radio Station WCHI–AM Chillicothe, Ohio. Docket No. 19600; File No. BAL–7227.

1. We have before us for consideration the above-captioned application for assignment of the license of radio Station WCHI–AM, Chillicothe, Ohio. Upon complete review of the application and related documents, we find that the assignee is legally, financially, technically, and otherwise qualified, and except for the matters discussed below a grant of the application would serve the public interest, convenience and necessity.

2. Historically, the Commission has been concerned with the possible adverse impact that could occur if a common carrier were permitted to become a program originator. This concern was expressed most recently in the rule making proceeding which resulted in the adoption of the new CATV rules.[1] With the subject application, we are squarely confronted with this policy question and, therefore, cannot make the requisite public interest finding without first determining it.

3. We find that a review of the application raises no substantial or material questions of fact, rather our concern rests with the question of whether a telephone common carrier should be permitted to acquire and operate a broadcast facility. Only where the public interest cannot be determined without a resolution of disputed facts has Congress dictated that we must conduct an evidentiary hearing, Marsh v. FCC, 436 F 2d 132, 135–136 (D.C. Cir. 1970). (See also Chuck Stone v. FCC, No. 71–1166 (D.C. Cir.) (Order June 30, 1972) slip op. p. 8 and Broadcast Enterprises, Inc. v. FCC, 390 F 2d 483, 485 (D.C. Cir. 1968).) Since the only matter requiring resolution is this policy question, about which there is no underlying factual dispute, an evidentiary hearing is unnecessary and in lieu thereof an oral argument will be held before us on the policy question.

4. In order to insure the widest possible participation in determining this policy question, we are inviting other interested parties, as well as the applicants, to make an oral presentation directed to the above mentioned policy consideration. Such a presentation will be made before the Commission en banc. To facilitate the oral presentation, all parties desiring to participate are requested to file written briefs in support of their positions. The applicants may, in their brief and oral presentation, direct specific reference to the subject application and how a grant thereof will serve the public interest. Other participants are requested to direct their attention solely to the policy question of whether the public interest would be served by permitting a telephone common carrier to become a broadcast licensee. Because there is a need to expedite consideration of this matter, no extensions of time for either the filing of briefs or the oral presentation are contemplated.

5. *It is therefore ordered,* That the above captioned assignment application for radio Station WCHI–AM, Chillicothe, Ohio is designated for oral argument before the full Commission upon the following issue: Whether the public interest would be served by permitting a telephone common carrier to acquire and operate a broadcast facility within its exchange area.

It is further ordered, That written briefs will be filed by October 27, 1972, reply comments will be due November 8, 1972, and oral presentation will take place before the full Commission on November 20, 1972, commencing at 9:30 a.m., in Room 856, 1919 M Street NW., Washington, DC.

6. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicant, Chillicothe Telcom, Inc., and other interested parties, including the Broadcast Bureau, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for the oral presentation and present their position on the issue specified in this order.

Adopted: October 5, 1972.

Released: October 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.72–17837 Filed 10–18–72;8:50 am]

[1] Final report and order in Docket No. 18509, 21 FCC 2d 307 (1970); see also Notice of Proposed Rule Making in Docket No. 18397, 15 FCC 2d 417, 421 (1968).

[2] Commissioners Robert E. Lee and Reid absent.

[Docket Nos. 19592, 19593]

FLIGHT OF ST. PETERSBURG, INC. AND BAY AIR SERVICES, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Flight of St. Petersburg, Inc., Docket No. 19592, File No. 108–A–L–82; and Bay Air Services, Inc., Docket No. 19593, File No. 134–A–RL–62; for an aeronautical advisory radio station to serve the Albert Whitted Airport, St. Petersburg, Fla.

1. The Commission's rules (§ 87.251 (a)) provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the same landing area (Albert Whitted Airport, St. Petersburg, Fla.) and are, therefore, mutually exclusive. Accordingly, it is necessary to designate the applications for comparative hearing in order to determine which application should be granted. Except for the issues specified herein, each applicant is otherwise qualified.

2. In view of the foregoing, *it is ordered,* That pursuant to the provisions of section 309(e) of the Communication Act of 1934, as amended, and § 0.331(b)(21) of the Commission rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

a. To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

b. To determine in light of the evidence adduced on the foregoing issues which, if either, or the applications should be granted.

3. *It is further ordered,* That to avail themselves of an opportunity to be heard, Bay Air Service and Flight of St. Petersburg, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

Adapted: October 5, 1972.

Released: October 11, 1972.

[SEAL] JAMES E. BARR, *Chief, Safety and Special. Radio Services Bureau.*

[FR Doc.72–17838 Filed 10–18–72;8:50 am]

FEDERAL POWER COMMISSION

[Project No. 1490]

BRAZOS RIVER AUTHORITY

Notice of Application for Approval of Recreational Use Plan for Project No. 1490

OCTOBER 12, 1972.

Public notice is hereby given that application has been filed under the Regulations of the Federal Power Act (16 U.S.C. 791a–825r) by Brazos River Authority (correspondence to: Colonel Walter J. Wells, General Manager, Brazos River Authority, Post Office Box 7555, Waco TX 76710) for approval of recreational use plan for Project No. 1490 located on the Brazos River.

Existing recreational facilities at the project include 19 public use areas. Applicant provides boat launching lanes, picnic tables, barbecue grills, comfort stations, litter barrels and parking facilities. Concessionaires on project lands provide rental cabins, boat and motor rentals, camping facilities, a swimming beach, boat launching facilities and supply stores. Approximately 1,900 acres have been turned over to the Texas Parks and Wildlife Department for development of a State Park.

Applicant proposes to reserve the following lands to provide for future recreational needs:

(a) Five tracts of land totaling approximately 683 acres that border either the reservoir or existing public use areas which border the reservoir.

(b) An island consisting of approximately 175 acres.

(c) Nine reservoir access sites planned to serve interior cottage site development not adjacent to the reservoir.

(d) Six areas of lakeshore land which will provide approximately 8 miles of shoreline with an average width of 400 feet.

Any person desiring to be heard or to make protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17822 Filed 10–18–72;8:46 am]

[Docket No. R–427; Order 437A–12]

CONNECTICUT LIGHT AND POWER CO.

Order To Amend Statement of Policy and Order

OCTOBER 12, 1972.

In regard Statement of Policy implementing the Economic Stabilization Act of 1970 (Public Law 91–379, 84 Stat. 799, as amended by Public Law 92–15, 85 Stat. 38), and Executive Orders No. 11615 and 11627.

The Commission's Statement of Policy in Order No. 437, issued August 18, 1971, added, among other things, section 2.90(2)(c) to the Commission's general policy and interpretations. This section states that increases resulting from rates containing "automatic or other escalations, including tracking" would be included within "frozen" increases. By subsequent Order No. 437A, issued November 16, 1971, the Commission's general policy and interpretations was amended by adding a new section 2.90a. In paragraph (d) of § 2.90a, the Commission stated as follows:

> For the purposes of the Economic Stabilization Act, as amended, the Commission announces that its actions with respect to increases in rates or charges otherwise effective, but for the policy announced in Order No. 437, where the applicability of Order No. 437 is not reflected in any Commission order, such actions will be reviewed for consistency with the Economic Stabilization Act, as amended, and, after such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

Subsequently, on December 10, 1971, the Commission issued Order No. 437A–5 which provided the procedure by which fuel cost adjustment clauses set forth in rate schedules filed with this Commission by various public utilities within the meaning of the Federal Power Act, could be approved as being consistent with the purposes of the Economic Stabilization Act.

Connecticut Light and Power Co. (CL & P), by letters dated September 23, 1971, March 14, June 23, and August 18, 1972, requested certification of its fuel adjustment clause contained in its FPC rate schedules pursuant to the Commission's Order No. 437A–5.

By letter dated April 12, 1972, the municipal customers of CL & P stated objections to the Commission giving any retroactive effect to the fuel adjustment clause. These customers, in a brief filed on August 8, 1972, amplified their earlier statements with respect to opposition to that retroactive effect. In support for limiting the effectiveness of the fuel adjustment clause to future application the customers rely upon the Price Commission's Regulations, section 300.16, the Federal Power Commission's Order No. 437 and supplements thereto, and further urge that to permit CL & P's fuel adjustment clause to become effective retroactively would in effect be retroactive ratemaking. No brief was filed by CL & P in response to the customers' brief.

Review of CL & P's submittals indicates that its fuel adjustment clause is in conformity with section 35.14 of the regulations under the Federal Power Act. Pursuant to the procedure set forth in Order No. 437A–5, this finding, together with CL & P's certification in accordance with Commission Order No. 437A–5, constitutes the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by Order No. 437A pursuant to § 300.16 of Chapter III, Title VI of the Code of Federal Regulations. In accordance with § 2.90a(d) of our general policy and interpretations, as quoted above CL & P's fuel adjustment clause shall become effective as of 12:01 a.m., November 14, 1971. In our opinion municipal customers, in their briefs, have not set forth sufficient reasons to justify an effective date other than November 14, 1971. This date, however, may be subject to authorization by the Price Commission and we shall so provide.

The Commission finds:

The finding that CL & P's fuel clause is in conformity with section 35.14 of the regulations together with the company's certification in accordance with Commission Order No. 437A–5, constitutes the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by Order No. 437A pursuant to § 300.16 of Chapter III, Title VI of the Code of Federal Regulations.

The Commission orders:

(A) In accordance with the above findings Connecticut Power and Light's Fuel Clause in its FPC Rate Schedules is hereby certified as consistent with the purposes of the Economic Stabilization Act of 1970, as amended, as required by Order No. 437A pursuant to § 300.16 of Chapter III, Title VI of the Code of Federal Regulations.

(B) Connecticut Power and Light Co. is authorized to implement the billing to its affected customers pursuant to its fuel adjustment clause as of November 14, 1971, subject to authorization by the Price Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72–17820 Filed 10–18–72;8:46 am]

[Docket No. CI73–258]

DUER WAGNER & CO. ET AL.

Notice of Application

OCTOBER 16, 1972.

Take notice that on October 11, 1972, Duer Wagner & Co. (Operator) et al. (Applicant), 909 Fort Worth National Bank Building, Fort Worth, Tex. 76102, filed in Docket No. CI73–258 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from West Calallen Field, Nueces County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on September 27, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 30,000 Mcf of gas per month at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to

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prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17887 Filed 10-18-72;8:54 am]

[Project No. 2354]

GEORGIA POWER CO.

Notice of Application for Approval of Exhibit R

OCTOBER 12, 1972.

Public notice is hereby given that application for approval of Exhibit R has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by Georgia Power Co. (Correspondence to: Mr. I. S. Mitchell III, Vice President and Secretary, Georgia Power Co., 270 Peachtree Street, Post Office Box 4545, Atlanta, GA 30302) for North Georgia Project No. 2354 located on the Tallulah and Tugalo Rivers in Rabun, Habersham, and Stephens Counties, Ga., and Oconee County, S.C.

Existing recreational facilities at the six hydroelectric developments comprising the North Georgia Project include: (1) The Babun Beach Recreation Area which provides two boat ramps, a 1-acre swimming beach, 103 campsites, seven picnic tables, and sanitation facilities, (2) the State of Georgia's Moccasin Creek Park which provides 35 campsites and sanitation facilities, (3) the State of Georgia's Fish and Game Hatchery which provides two boat ramps, six picnic tables, and sanitation facilities, (4) two small sites owned by Georgia Power Co. upon which are provided two boat ramps and four picnic tables, and (5) five commercially operated facilities which provide five boat ramps, docking provisions for 318 boats, 21 rental cabins, and sanitation facilities.

Applicant plans to reserve 358 acres of project lands for recreational purposes, improve existing access roads and provide circulation roads. Applicant proposes the following recreational developments: (1) 40 campsites would be provided on 40 acres with 102 acres reserved for development of 102 future campsites, (2) 103 picnic tables would be provided on 53 acres with 104 acres reserved for placement of 208 picnic tables in the future, (3) 8 acres would be reserved for future development of two swimming areas with adjacent parking, (4) 4.5 acres would be reserved for two future boat ramps and (5) Billy Goat Island, comprising 42.5 acres, would be reserved for future development.

The bulk of this planned development would be at a 300-acre site in the Tallulah Falls area.

Any person desiring to be heard or to make protest with reference to said application should on or before November 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17821 Filed 10-18-72;8:46 am]

[Docket No. RP73-4]

GREAT LAKES GAS TRANSMISSION CO.

Order Amending Prior Order

OCTOBER 11, 1972.

In the Commission's order issued September 1, 1972, we accepted for filing and suspended Great Lakes Gas Transmission Co.'s filing tendered on July 20, 1972, as amended on August 14, 1972. Because certain tariff sheets involved in this proceeding were improperly identified in that order, it is necessary to amend the order as hereinafter provided.

The Commission orders:

The order issued September 1, 1972, which appeared in the FEDERAL REGISTER on September 14, 1972 (37 F.R. 18657), is amended as follows:

(A) Change fourth paragraph by inserting a period after July 20, 1972, and deleting the remainder of the sentence.

(B) Delete finding clause (1) and substitute the following:

(1) Great Lakes' Second Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1 and Substitute Eighth Revised Sheet No. 53 to its FPC Gas Tariff, Original Volume No. 2 should be accepted for filing.

(C) Delete finding clause (2) and substitute the following:

(2) Great Lakes' First Revised Sheet No. 53 to its FPC Gas Tariff, First Revised Volume No. 1 and First Revised Sheet No. 53–A to its FPC Gas Tariff, Original Volume No. 2 are deemed withdrawn.

(D) Delete ordering clause (A) and substitute the following:

(A) Great Lakes' Second Revised Sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1 and Substitute Eighth Revised Sheet No. 53 to its FPC Gas Tariff, Original Volume No. 2 are hereby accepted for filing.

(E) Delete ordering clause (B) and substitute the following:

(B) Great Lakes' First Revised Sheet No. 53 to its FPC Gas Tariff, First Revised Volume No. 1 and First Revised Sheet No. 53–A to its FPC Gas Tariff, Original Volume No. 2 are deemed withdrawn.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17841 Filed 10-18-72;8:51 am]

[Project No. 564]

MOUNT DIABLO MERIDIAN, CALIFORNIA

Order Partially Vacating Withdrawal

AUGUST 3, 1972.

In order to effectuate a proposed land exchange the Bureau of Land Management, U.S. Department of the Interior, has requested that the land withdrawal for Project No. 564 be vacated as it pertains to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 26 S., R. 34 E.,
Sec. 29, NW¼NE¼, NW¼.
Approximately 200 acres.

The lands lie near the south shore of the Corps of Engineers' Isabella Reservoir (normal pool elevation 2,605.5 feet above mean sea level), a multiple purpose project on the Kern River, and are withdrawn pursuant to the filing on September 25, 1925, by William C. McCowan, of an application for preliminary permit for Project No. 564 which application was rejected May 7, 1929.

The lands were withdrawn for possible flowage in connection with the Isabella site subsequently developed by the corps.

The minimum elevation of the subject lands is about 2,650 feet and there are no known plans to raise Isabella Reservoir to this elevation.

The Geological Survey has reported that basin planning is sufficiently advanced to predict that any enlargement of Isabella Reservoir would not utilize the subject lands and recommended that the withdrawal for Project No. 564 be vacated insofar as it pertains to these lands.

The Commission finds:

The withdrawal for Project No. 564 insofar as it pertains to the subject lands serves no useful purpose and should be vacated.

The Commission orders:

The withdrawal of the subject lands pursuant to the application for Project No. 564 is hereby vacated.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17842 Filed 10-18-72;8:51 am]

[Docket No. CP73-79]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

OCTOBER 13, 1972.

Take notice that on September 26, 1972, Natural Gas Pipeline Company America (Applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP73-79 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction and installation, during the calendar year 1973, and the operation of certain natural gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various areas located in the vicinity of its system.

The total cost of the facilities proposed herein will not exceed $7 million, with no single onshore project to exceed $1 million and with no single offshore project to exceed $1,750,000. Applicant states that these costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17843 Filed 10-18-72;8:51 am]

[Docket No. E-7777]

PACIFIC GAS AND ELECTRIC CO.

Proposed Changes in Rates and Charges

OCTOBER 16, 1972.

Take notice that Pacific Gas and Electric Co. (Pacific) on September 29, 1972, tendered for filing proposed changes in its FPC Electric Tariff Volumes Nos. 1 and 2. The proposed changes would increase revenues from jurisdictional sales and service by $2,385,361 or 22 percent based on operations for the 12-month period ending December 31, 1971, to become effective November 28, 1972.

Copies of the filing were served on Pacific's jurisdictional customers and the State commissions of California and Nevada.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17850 Filed 10-18-72;8:51 am]

[Docket No. R173-71]

PHILLIPS PETROLEUM CO.

Order Providing for Hearing on Petition for Exception to Base Area Rate

OCTOBER 13, 1972.

Phillips Petroleum Co. (Phillips) has filed a petition for exception to the base area rates prescribed by Commission Opinion No. 586. Phillips seeks permission, pursuant to § 154.106(h) of the regulations, to sell natural gas to Panhandle Eastern Pipe Line Co. (Panhandle) at 30 cents per Mcf from approximately 123,600 acres in the "Deep Hugoton Field" in Texas County, Okla., and Sherman and Hansford Counties, Tex., under a contract dated April 5, 1972. The acreage is currently undeveloped and is dedicated under a September 22, 1959, "Deep Gas Contract" between Phillips and Panhandle on file as Phillips' FPC Gas Rate Schedule No. 353, and an existing certificate issued in Docket No. G–19544.[1] The presently effective rates under said rate schedule are 18.0675 cents for Texas Gas, and 18.2852 cents for Oklahoma gas, subject to downward B.t.u. adjustment.

The April 5, 1972, contract between Panhandle and Phillips supersedes the 1959 contract with respect to the subject 123,600 acres and provides for an initial rate of 30 cents per Mcf.[2] The present base area ceiling rates as prescribed by Opinion No. 586 are 19.7925 cents (Oklahoma, as adjusted for tax increase) and 20 cents (Texas) for gas sold under contracts dated prior to November 1, 1969, and 21.315 cents (Oklahoma) and 21.5 cents (Texas) for gas sold under contracts dated on or after November 1, 1969. Under the new contract, Phillips is to initiate a well-drilling program to explore the Morrow Sand Formation, a deep formation. The Upper Morrow Reservoir has an approximate depth of 6,251 feet and Lower Morrow Reservoir an approximate depth of 6,564 to 6,696 feet. It is estimated that this will result in a volume of 30,000 Mcf of natural gas for the first month.

In support of the petition Phillips alleged that it is unable to explore and develop the subject leases at the prices provided in the 1959 contract. Furthermore, it has not been successful in attempts to cause the acreage to be developed by others at those prices. Phillips contends that the price under the new contract is necessary "because of the cost and risk involved in drilling and developing deep fields * * *."

[1] The "Deep Gas Contract" covers gas produced from depths below the base of the Chase Group of the Permian system.

[2] This contract price is subject to upward and downward B.t.u. adjustment from 1,000 B.t.u. per cubic foot, with ½¢ escalations every year beginning January 1, 1973. The contract also provides for escalations to such higher area rates as may be set by the Federal Power Commission.

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Phillips should be afforded an opportunity to provide evidentiary support for its petition for exception.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change in rate filed by Phillips, and to allow Phillips to present evidence in support of its request for special relief for the subject sales of natural gas.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning this petition for exception to the base area rates.

(B) A prehearing conference including all parties to this proceeding shall be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, commencing November 15, 1972, at 10 a.m., for the purpose of aiding and expediting the orderly conduct and disposition of this proceeding and exploring the possibility of settlement of the issues herein. The administrative law judge may, in his discretion, grant continuance of the prehearing conference or pursuant to § 1.18 of the rules of practice and procedure, convene such other conferences either before or after November 15, 1972, as he may deem useful to expedite the conclusion of the proceeding. If no settlement or stipulation can be reached by the parties hereto after reasonable time and provision has been made for the same, the procedural dates for service of rebuttal testimony and exhibits, if any, and for hearings on the issues herein shall be fixed by the administrative law judge.

(C) Phillips shall serve upon the Federal Power Commission and all parties to this proceeding by October 27, 1972, testimony and exhibits in support of its petition for exception to the base area rate prescribed by Commission Opinion No. 586.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17844 Filed 10-18-72;8:51 am]

[Docket No. CP73-35]

SEA ROBIN PIPELINE CO.

Notice of Application

OCTOBER 13, 1972.

Take notice that on August 7, 1972, Sea Robin Pipeline Co. (Applicant), 1525 Fairfield Avenue, Shreveport, LA, filed in Docket No. CP73-35, an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which it will purchase from producers in the general area of its existing transmission system during the 12-month period beginning September 1, 1972, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of gas in producing areas generally coextensive with its system.

The total cost of such facilities would not exceed $5 million, and the total cost of any single project would not exceed $1,250,000. Applicant requests that the cost limitations in § 157.7(b)(1) of the regulations be waived to permit these expenditures because of the relatively high costs of constructing offshore facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17845 Filed 10-18-72;8:51 am]

[Docket No. RP73-47]

SEA ROBIN PIPELINE CO.

Proposed Changes in Rates and Charges

OCTOBER 13, 1972.

Take notice that Sea Robin Pipeline Co. (Sea Robin) on September 29, 1972, tendered for filing proposed changes in Original Volume No. 1 and Volume No. 2 of Sea Robin's FPC Gas Tariffs with a proposed effective date of November 16, 1972. The proposed changes would appear at Sheet No. 3 or Original Volume No. 1; and Sheets Nos. 406, 20-22, 39, and 64 of Original Volume No. 2. The proposed changes would increase revenues from jurisdictional sales and service by $30,789,109 based on a 12-month period ending June 30, 1972, as adjusted for changes known and measurable through March 15, 1973. The proposed rate change is described in the company's transmittal letter as being necessary to compensate Sea Robin for an alleged jurisdictional revenue deficiency of $30,789,109 under the cost of service for the aforementioned test period. Sea Robin also proposes a composite book depreciation rate of 8.33 percent, an increase of 4.33 percentage points over the present rate being used. Sea Robin proposes a rate of return of 9.75 percent which they maintain is necessary in order to properly provide financing for its pipeline operations.

Sea Robin's transmittal letter avers that the proposed rate increase would offset increased costs which reflect an increased rate base, increased cost of capital, increased cost of operation and maintenance, increased cost of depreciation, and increased taxes.

Copies of this filing have been served on all affected customers and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17846 Filed 10-18-72;8:51 am]

[Docket No. CI73-257]

SKELLY OIL CO.

Notice of Application

OCTOBER 16, 1972.

Take notice that on October 10, 1972, Skelly Oil Co. (Applicant), Post Office Box 1650, Tulsa, OK 74102, filed in Docket No. CI73-257 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. from acreage in Covington County, Miss., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day at 35 cents per Mcf at 15.025 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17888 Filed 10-18-72;8:54 am]

[Docket No. RP73-54]

UNITED GAS PIPE LINE CO.

Proposed Increased Transportation Rate

OCTOBER 13, 1972.

Take notice that on September 26, 1972, United Gas Pipe Line Co. filed in Docket No. RP73-54, Original Sheet No. 289-A to its FPC Gas Tariff, Original Volume No. 2, comprising an amendment to its Rate Schedule X-34. The proposed amendment provides for an increase from 2.49 to 5.41 cents for transportation service rendered Cities Service Oil Co. under Rate Schedule X-34. The increased rate will result in increased annual revenues of approximately $383,077. The proposed effective date is September 1, 1972.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The company's application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-17847 Filed 10-18-72;8:51 am]

[Docket No. G-20138, etc.]

PUBCO PETROLEUM CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service, and Petitions To Amend Certificates [1]

OCTOBER 16, 1972.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 2, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The company's application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-20138 A 6-30-72	Pubco Petroleum Corp., 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.	El Paso Natural Gas Co., Pictured Cliffs Field, San Juan County, N. Mex.	[1] 28.0	15.025
CI69-722 C 6-16-72	Hassle Hunt Trust, 1401 Elm St., Dallas, TX 75202.	Texas Eastern Transmission Corp., Northeast Lisbon (Deep) Field, Claiborne Parish, La.	25.0	15.025
CI73-1 A 7-3-72	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Transwestern Pipeline Co., Lipscomb Field, Lipscomb County, Tex.	[1] 31.0	14.65
CI73-27 A 7-12-72	Texaco, Inc., Post Office Box 60252, New Orleans, LA 70160.	Texas Eastern Transmission Corp., Manila Village Field, Jefferson Parish, La.	[2] 26.0	15.025
CI73-36 B 7-14-72	do	Phillips Petroleum Co., East Panhandle Field, Gray County, Tex.	Depleted	
CI73-37 B 7-14-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Transwestern Pipeline Co., West Rojo Caballos Field, Reeves and Pecos Counties, Tex.	Depleted	
CI73-38 A 7-14-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Michigan Wisconsin Pipe Line Co., Portions of Blocks 247, 248, 265, and 270, Eugene Island Area, Offshore Louisiana.	26.0	15.025
CI73-42 A 7-17-72	Humble Oil & Refining Co., Post Office Box 2180, Houston, TX 77001.	Southern Natural Gas Co., Bayou Postillion Field, Iberia Parish, La.	[2] 27.50	15.025
CI73-44 A 7-18-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, Offshore Louisiana.	26.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

V37-203 OCT 19 72 XUM

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C173-46..... A 7-19-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Blanco Pictured Cliffs and undesignated Fruitland Fields, San Juan County, N. Mex.	[6] 28.0	15.025
C173-47..... A 7-20-72	The Superior Oil Co., Post Office Box 1521, Houston, TX 77001.	Transcontinental Gas Pipe Line Corp., Brazos Area Block A-1, Offshore Matagorda County, Tex.	[1] 32.0	14.65
C173-48..... (G-5711) F 7-20-72	Clinton Oil Co. (successor to Amoco Production Co.) 217 North Water St., Wichita, KS 67202.	Tennessee Gas Pipeline Co., Heyser Field, Victoria County, Tex.	19.0	14.65
C173-49..... (G-4064) A 7-20-72	do	United Gas Pipe Line Co., Blanconia Field, Bee County, Tex.	15.0037	14.65
C173-51..... B 7-20-72	Edwin L. Cox (Operator) et al., 3800 First National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Live Oak Field, Vermilion Parish, La.	Depleted	.....
C173-52..... F 7-21-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Mountain Fuel Supply Co., Ace Unit Area, Moffat County, Colo.	[4] 14.005	15.025
C173-53..... A 7-20-72	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, LA 70112.	Florida Gas Transmission Co., Flomaton Field, Escambia County, Ala.	[6] 32.5	14.65
C173-54..... B 7-20-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Tennessee Gas Pipeline Co., San Salvador Field, Hidalgo County, Tex.	Depleted	.....
C173-55.. A 7-21-72	Texas Pacific Oil Co., Inc., 1700 One Main Pl., Dallas, TX 75250.	Arkansas Louisiana Gas Co., West Wilburton Area, Pittsburg County, Tex.	22.25	14.65
C173-56..... (G-7503) F 7-21-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Riverside Field, Nueces County, Tex.	19.0	14.65
C173-57..... B 7-21-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Diamond Shamrock Corp., Crest Field, Ochiltree County, Tex.	Depleted	.....
C173-58..... F 7-24-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Colorado Interstate Gas Co., Keyes Field, Cimarron County, Okla.	[1] 14.85486	14.65
C173-59..... (G-3209) F 7-24-72	do	Columbia Gas Transmission Corp., Northwest Branch Field, Acadia Parish, La.	[7] 22.375	15.025
C173-62..... A 7-24-72	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Northern Natural Gas Co., Kiowa Creek Field, Lipscomb and Ochiltree Counties, Tex.	[8] 26.5	14.65
C173-60..... A 7-24-72	Kerr-McGee Corp., Kerr-McGee Bldg., Oklahoma City, Okla. 73102.	Transcontinental Gas Pipe Line Corp., Brazos Area, Block A-1, Offshore Texas.	[9] 34.56	14.65
C173-66..... A 7-26-72	do	El Paso Natural Gas Co., Southeast Buffalo Wallow Area, Hemphill and Wheeler Counties, Tex.	[10] 35.0	14.65

[1] Subject to upward and downward B.t.u. adjustment.
[2] Applicant is willing to accept a certificate at an initial rate of 26 cents subject to B.t.u. adjustment; however, the contract price is 28 cents.
[3] Subject to upward and downward B.t.u. adjustment. Applicant is willing to accept a permanent certificate pursuant to Opinion No. 598.
[4] Applicant is willing to accept an initial base price of 24 cents with estimated upward B.t.u. adjustment of 2.8 cents.
[5] Effective subject to refund in RI69-789.
[6] Plus upward B.t.u. adjustment.
[7] Effective subject to refund in RI71-638.
[8] Plus 3.7 cents per Mcf upward B.t.u. adjustment.
[9] Includes 2.56 cents upward B.t.u. adjustment.
[10] Minus 1.19 cents per Mcf B.t.u. adjustment.

[FR Doc.72-17840 Filed 10-18-72;8:50 am]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Grandfather Privileges

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather privileges") with respect to nonbanking activities of a company that, by virtue of the 1970 amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date). However section 4(a)(2) provides that the Board of Governors of the Federal Reserve System may determine whether such grandfather privileges should be terminated and, with respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a 2-year period. The Board has undertaken a review of nonbank activities of each "company covered in 1970" that controls a bank with assets in excess of $60 million.

In exercising its authority under section 4(a)(2), the Board by order, after opportunity for hearing, may terminate the authority granted by said section if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. An examination of the grandfather privileges of the companies listed below is in process in order to determine whether continuation of such grandfather privileges, if any, is consistent with the purposes of the Act. A Board determination not to terminate grandfather privileges would not preclude the Board from making a determination at a later date that grandfathered activities must be terminated.

Bank holding company	*Activities engaged in on, and continuously since, June 30, 1968* [1]
Alaska Bancshares, Inc. Anchorage, Alaska.	Real estate development. Insurance agency operations. Mortgage financing. Commercial real estate business.
World Airways, Inc., Oakland, Calif.	Management consultant and adviser. Investment adviser. Supplemental air carrier.
First Railroad and Banking Company of Georgia, Augusta, Ga.	Lease, purchase, and sale of aircraft. Aircraft fixed base operator.
First National Bank Voting Trust, Hollywood, Fla.	Owner and lessor of railroad property and securities.
Estate of James Millikin, Deceased, Decatur, Ill.	Investments in small business investment company, real estate trust, housing, and real estate. None.
	Administration of the trust of James Millikin, the nonbanking activities of which consist of owning farm and urban property and various securities.

See footnotes at end of table.

Bank holding company	*Activities engaged in on, and continuously since, June 30, 1968* [1]
Amalgamated Associates Co., Chicago, Ill. Amalgamated Investments Co., Chicago, Ill.	Safe deposit business.
First Highland Corp., Highland Park, Ill.	Small business investment company. Data processing services.
Indiana Industries, Inc., Gary, Ind.	None.
Financial Network Corp., Milwaukee, Wis.	Bank premises corporation. Real estate held for expansion of bank.
Keystone Consolidated Industries, Inc., Peoria, Ill.	Manufactures steel and wire products.
Whitney Holding Corp., New Orleans, La.	Maintenance company serving bank only. Real estate holdings.
Zachary Taylor Life Insurance Co., Shreveport, La.	Reinsurance of credit life risk on subsidiary bank loans. Originates, sells and services real estate mortgage loans. Operates parking facilities serving the subsidiary bank.
Charles Stewart, Mott Foundation, Flint, Mich.	Water utilities. Real estate leasing.
Minnesota Small Loan Co., Minneapolis, Minn.	Real estate development. Sugar production and cattle raising. Small loan business.
Delta Loan and Finance Co., St. Louis, Mo.	Consumer lending. Purchasing time sales contracts. Commercial lending. Loan participations. Printing business forms and stationery.
Coronado Financial Corp., Kansas City, Mo. Columbia Union Bancshares, Kansas City, Mo.	None.
Contract Leasing Corp., St. Louis, Mo. Clayton Bankshares, Inc., St. Louis, Mo.	Auditing and messenger services. Automation services for subsidiaries. Bank advisory services. Ownership of bank premises real estate.
South St. Louis Investment Co., St. Louis, Mo. Hampton Bankshares, St. Louis, Mo.	Automation services for subsidiaries. Procures and manages supplies. Makes policy and supervises systems and methods for related banks and corporations. Owns bank premises.
First Union National Bancorporation, Charlotte, N.C.	Mortgage banking. Insurance underwriting. Advertising. Credit card operations. Name billing service. Computer services. Courier service. Financing and leasing equipment. Managing real estate. Financial services and supplies.
C.I.T. Financial Corp., New York, N.Y.	Real estate. Leasing. Insurance. Manufacturing and merchandising. Charitable foundations. Consumer and business finance. Venture capital financing. Data processing services.
Schroders, Ltd., London, England.	Securities broker, dealer and flotation company. Services relating to exchange of securities and commodities. Financial advice and investment services. Real estate agent, broker, and manager. Oil exploration. Subdividing and developing. Data processing services.
Swiss Israel Trade Bank, Geneva, Switzerland. Beaver Securities Co., Inc., New York, N.Y. Exchange Place Corp., New York, N.Y.	Mortgage investing and real estate development.
D. H. Baldwin Co., Cincinnati, Ohio.	Real estate. Manufacture and sale of electronics equipment. Sale of pianos, etc., in U.S. Publication and sale of sheet music. Installment sale of consumer durables, floor planning. Mortgage brokerage. Manufacture and sale of photoelectric and photovoltaic devices. Ownership and leasing of real property, tools, and machines.
Wasatch National, Inc., Ogden, Utah.	Investments of less than 5 percent of the voting shares of each of the following: Uranium mining. Real estate/industrial parks. Concrete pipe manufacturer. Transportation.
Zions Utah Corp., Salt Lake City, Utah.	Real estate activities. Writes credit life and casualty insurance. Equipment leasing.
Patagonia Corp., Tucson, Ariz.	Acting as an insurance agency primarily in connection with loans made by subsidiary bank. Ownership of 20.005 percent interest in savings and loan associations. Fire and casualty insurance.[2] Rental of office equipment to subsidiary bank.[3]
Republic National Bank of Dallas, Dallas, Tex.	Oil and gas mining, exploration and manufacture of related products. Real estate managing, developing, and lending. Financial and management advisory services. Dealing in investment securities. Lending and borrowing money.
First Bancorporation, Reno, Nev.	Holding property occupied, or to be occupied, by banking subsidiary.
Perpetual Corp., Los Angeles, Calif. Pierce National Life Insurance Co., Los Angeles, Calif.	Life insurance underwriting. Operating cemetery and crematorium. Funeral directors.
The Western and Southern Life Insurance Co., Cincinnati, Ohio.	Sells, underwrites, and issues individual and group life, accident and health policies and sells individual annuity contracts. Owns and manages apartment and commercial buildings.

See footnotes at end of table.

Bank holding company	*Activities engaged in on, and continuously since, June 30, 1968* [1]
First Oklahoma Bancorporation, Inc., Oklahoma City, Okla.	Writes credit life and accident insurance. General mortgage company activities. Consulting and financial advisory services to apartment developers, builders, and owners. Building construction. Property consultation. Personal property leasing. Manages bank premises. Investing in debt and/or equity securities.
Memphis Trust Co., Memphis, Tenn.	Providing management services to subsidiaries. Investing in companies that are not subsidiaries. Dealing in commercial paper. Real estate development, investments and leasing.
The Sealy and Smith Foundation, for the John Sealy Hospital, Galveston, Tex.	Investments in stocks, bonds, and real property. Owns a hospital. Owns two parking lots. Owns and sells real estate for oil exploration. Manufactures fiber glass pipe. Manufactures filament winding equipment.
Houston National Co.,[3] Houston, Tex.	Real estate development. Operator or lessor of oil and gas properties. Owns and operates commercial buildings and parking garages. Operative builder of hotel, parking garages, and office buildings. Ownership of company accepting deposits and making loans outside of the United States.
First National Bank in Dallas,[4] Dallas, Tex.	Ownership of small business investment company. Building maintenance. Accounting, auditing, and bookkeeping services. Foreign financial activities.
The Hongkong and Shanghai Banking Corp., Hong Kong.	Owning commercial buildings used as branch offices for subsidiary bank.
Chicago City Bancorporation, Inc., Chicago, Ill.	Insurance agent and broker.

[1] The listed companies may also be engaged in additional activities permissible under other provisions of the Bank Holding Company Act. In addition, authority to engage in some of the activities listed may be contained in other provisions of the Bank Holding Company Act, and such activities would not be subject to divestiture under section 4(a)(2) of the Act.

[2] Patagonia Corp. claims grandfather privileges with respect to fire and casualty insurance business and the rental of office equipment to its subsidiary bank in view of its alleged status as a successor to a company engaged in such activities on June 30, 1968. The Board has not yet made a determination with respect to that claim.

[3] Houston National Co. claims grandfather privileges with respect to the listed activities in view of its alleged status as a "successor" corporation. The Board has not yet made a determination with respect to that claim.

[4] First National Bank in Dallas does not control a bank with assets in excess of $60 million but is itself such a bank.

To aid the Board in making its determinations, interested persons are hereby afforded an opportunity to submit relevant data, views, and arguments relating to the continuation of grandfather privileges, if any, of the subject companies. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 15, 1972. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, September 26, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17851 Filed 10-18-72;8:51 am]

BARNETT BANKS OF FLORIDA, INC.

Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Barnett Bank of West Hollywood, Hollywood, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 8, 1972.

Board of Governors of the Federal Reserve System, October 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17781 Filed 10-18-72;8:49 am]

FIRST STATE BANCSHARES CORP.

Formation of Bank Holding Company

First State Bancshares Corp., Wellston, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of not less than 80 percent of the voting shares of First Northwest Bank, St. Ann, Mo., First North County Bank and Trust Company, Jennings, Mo., and First State Bank & Trust Company, Wellston, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 8, 1972.

Board of Governors of the Federal Reserve System, October 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17782 Filed 10-18-72;8:49 am]

HAMILTON BANCSHARES, INC.

Order Approving Acquisition of Bank

Hamilton Bancshares, Inc., Chattanooga, Tenn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire slightly more than 50 percent of the voting shares of The Farmers National Bank of Winchester, Winchester, Tenn. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization in the State, has 11 subsidiary banks with aggregate deposits of approximately $504 million, representing about 5.8 percent of deposits of commercial banks in Tennessee.[1] Consummation of the transaction herein would increase Applicant's share of deposits by only 0.2 percentage points and would not result in a significant increase in the concentration of banking resources in Tennessee.

Bank (deposits of about $17 million) is the second-largest of seven banking organizations competing in the Winchester-Tullahoma area, and holds 25.4 percent of the total commercial bank deposits therein. Applicant's closest subsidiary to Bank is approximately 35 miles away while Applicant's lead bank located in Chattanooga is about 70 miles east of Bank. Due to the intervening distances and Tennessee's restrictive branching laws, there is no significant existing competition between Applicant's subsidiaries and Bank, nor is there a reasonable probability of future competition developing between the two. The Winchester-Tullahoma area is not an attractive area for de novo entry as measured by personal income per capita and population per banking office ratios, which are both considerably below the statewide averages. The Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are regarded as generally satisfactory and consistent with approval of the application. Considerations relating to convenience and needs of the community to be served are also consistent with approval of the application. While Applicant's proposal contemplates the purchases of only slightly more than 50 percent of the voting shares of Bank and could jeopardize the status of the minority shareholders of Bank, Applicant has committed itself to making a substantially equivalent offer to the minority shareholders of Bank within 6 months after the consummation of the proposal herein. Under these circumstances, the Board does not consider that Applicant's failure to make an equal offer to all shareholders initially requires denial of the application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

[1] All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through August 31, 1972.

By order of the Board of Governors,[1] effective October 10, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17783 Filed 10-18-72;8:49 am]

SOUTHWEST BANCSHARES, INC.

Acquisition of Bank

Southwest Bancshares, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Houston Intercontinental National Bank, Houston, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 9, 1972.

Board of Governors of the Federal Reserve System, October 13, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17784 Filed 10-18-72;8:49 am]

VIRGINIA NATIONAL BANKSHARES, INC.

Order Approving Acquisition of Bank

Virginia National Bankshares, Inc., Norfolk, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire the successor by merger to Jefferson National Bank, Lynchburg, Va. ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of voting shares of Bank. Accordingly, the proposed acquisition is treated herein as a proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank with deposits of approximately $1 billion, representing about 11 percent of deposits of commercial banks in Virginia.[1] Consummation of the proposal herein would increase Applicant's share of deposits by only 0.1 percentage point and would not result in a significant increase in the concentration of banking resources in Virginia.

Bank (deposits of about $7.6 million) opened for business on August 24, 1970. It is estimated that as of December 31, 1971, it had approximately 2.9 percent of deposits in the Lynchburg Standard Metropolitan Statistical Area ("SMSA") and ranked sixth in size among seven banks in that area. Applicant's closest office to Bank is located some 38 miles away, and due to this factor and Virginia's branching laws there is no significant existing competition between Applicant and Bank. Moreover, there does not appear to be a reasonable probability of future competition developing between Applicant and Bank since the Lynchburg SMSA has a lower population per banking office ratio than the statewide average and does not appear attractive for de novo entry. Additionally, Applicant's acquisition of Bank could prove to be procompetitive by enabling Bank to compete more effectively with the larger banks in the area, four of which are affiliated with large bank holding companies. The Board concludes that competitive considerations are consistent with approval of the application.

Applicant became a bank holding company on July 10, 1972, and thus has little operating history. However, the one bank it controls, Virginia National Bank ("Virginia National"), Norfolk, Va., is the largest bank in Virginia and has an impressive operating history so that the future prospects of Applicant, which for the time being depend mainly on its ownership of Virginia National, appear favorable. Bank's financial and managerial resources and future prospects appear satisfactory, particularly in light of Applicant's proposal to provide additional management depth and capital to Bank. Thus, banking considerations lend weight for approval of the application. Considerations relating to the convenience and needs of the community are consistent with approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

[1] Voting for this action: Chairman Burns, Governors Mitchell, Sheehan, and Bucher. Present and abstaining: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

[1] All banking data are as of December 31, 1971.

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On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this Order or (b) later than 3 months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 12, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17785 Filed 10-18-72;8:49 am]

FIRST PENNSYLVANIA CORP.
Proposed Acquisition of American Loan & Finance Corp.

First Pennsylvania Corp., Philadelphia, Pa., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of American Loan & Finance Co., Hamilton, Ohio. Notice of the application was published between September 23 and September 27, 1972, in various newspapers in communities in Ohio, Indiana, and Virginia where various offices of American Loan & Finance Co., are located.

Applicant states that the proposed subsidiary would engage in the following activities: Making, acquiring, and servicing loans or other extensions of credit for personal, family, or household purposes, including the sale of credit insurance (life, accident and health and disability insurance) which is directly related to such consumer loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably" be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, Sheehan and Bucher. Absent and not voting: Chairman Burns.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 30, 1972.

Board of Governors of the Federal Reserve System, October 17, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17972 Filed 10-18-72;8:56 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

APPLICATION FOR RENEWAL PERMIT
Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 has been received as follows:

ICP Docket No. 3020 000, Black Diamond Coal Mining Co., Black Diamond Mine, USBM ID No. 01 00324 0, Birmingham, Jefferson County, Ala., ICP Permit No. 3020 002 (Joy Mfg. Co. Loader, Ser. No. 4301).

In accordance with the provisions of section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, 8th Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

OCTOBER 13, 1972.

[FR Doc.72-17815 Filed 10-18-72;8:45 am]

OFFICE OF EMERGENCY PREPAREDNESS
NEW YORK
Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of New York, dated June 24, 1972, and published June 28, 1972 (37 F.R. 12756); amended June 27, 1972, and published July 1, 1972 (37 F.R. 13136); amended July 3, 1972, and published July 8, 1972 (37 F.R. 13502); amended July 19, 1972, and published July 25, 1972 (37 F.R. 14837); amended July 22, 1972, and published August 4, 1972 (37 F.R. 15764); and amended September 5, 1972, and published September 12, 1972 (37 F.R. 18500), is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 23, 1972:

The County of: Chenango.

Dated: October 13, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-17814 Filed 10-18-72;8:45 am]

VIRGINIA
Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 11575 of December 31, 1970; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on October 10, 1972, the President declared a major disaster as follows:

I have determined that the damages in certain areas of the State of Virginia from severe storms and flooding, beginning about October 5, 1972, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Virginia. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11575 to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Alfred A. Hahn, Assistant Regional Director for Disaster Programs, OEP Region 3, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Virginia to have been adversely affected by this declared major disaster:

THE COUNTIES OF:

Albemarle.	Lunenburg.
Amelia.	Madison.
Amherst.	Mecklenburg.
Appomattox.	Nelson.
Augusta.	Nottoway.
Brunswick.	Orange.
Culpeper.	Page.
Cumberland.	Powhatan.
Dinwiddie.	Rockbridge.
Fluvanna.	Rockingham.
Greene.	Shenandoah.
Louisa.	Warren.

THE CITIES OF:

Emporia.	Richmond.
Petersburg.	

Dated: October 13, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-17813 Filed 10-18-72;8:45 am]

PRICE COMMISSION
PETER F. CARPENTER
Appointment as Hearing Officer

By direction of the Price Commission, Peter F. Carpenter, Deputy Executive Director of the Commission, is hereby designated as Hearing Officer for the purpose of conducting the hearing on lumber and wood products announced by the Commission on September 2, 1972 (37 F.R. 17990), and scheduled to begin at 9:30 a.m., October 19, 1972, at the U.S. Courthouse, Atlanta, Ga.

Issued in Washington, D.C., on October 16, 1972.

BERT LEWIS,
Executive Director, Price Commission.

[FR Doc.72-17852 Filed 10-18-72;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3205]

THE BANK OF NEW YORK, AS TRUSTEE OF CORPORATE LEADERS TRUST FUND
Notice of Application Pursuant to Section 6(c) of the Act for Exemption From the Provisions of Section 19(b) and Rule 19b-1 Thereunder

OCTOBER 13, 1972.

Notice is hereby given that The Bank of New York (Applicant), 48 Wall Street, New York, NY, as Trustee of Corporate Leaders Trust Fund, has applied for an order pursuant to section 6(c) of the Investment Company Act of 1940 (Act) exempting Corporate Leaders Trust Fund (Trust) from the provisions of section 19(b) of the Act and Rule 19b-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Applicant is the Successor Trustee to Empire Trust Co., which became Trustee of the Trust pursuant to the terms of a Trust Indenture, dated November 18, 1935 (Agreement), with Corporate Leaders of America, Inc. The Trust consists of two separate series of certificates, Series A and Series B. Each such series is independent of the other and is separately administered for the benefit of the certificate holders of such series. Each series of the Trust is organized as a unit investment trust under the Act.

Each series consists of a Trust Fund and a Distributive Fund. The Trust Fund of each series consists of Stock Units and such cash as may be available for the purchase of Stock Units of such series. A Stock Unit consists of one share of common stock of each of 28 corporations listed in the Agreement (Constituent Companies). The Distributive Fund of each series is comprised of all cash and noncash distributions received in connection with the stock units of such series.

The terms of the Agreement require that all noncash distributions received from Constituent Companies be sold for cash and the cash proceeds therefrom be held in the Distributive Fund except that in the event of a stock split each series will retain the number of shares of new stock issued in connection with the stock split equal to the number of Stock Units then held by each series and the balance of the new stock will be sold for cash. The sale of such noncash distributions may cause long-term capital gains to be realized by such series. The Agreement provides that the proceeds of the Distributive Fund are required to be distributed to the certificate holders of each series semiannually.

Section 19(b) of the Act provides that it shall be unlawful for any registered investment company to distribute long-term capital gains more often than once every 12 months in contravention of such rules, regulations, or orders as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. Subsection (b) of Rule 19b-1 promulgated thereunder provides that registered investment companies which are not regulated investment companies, as defined in section 851 of the Internal Revenue Code, shall not make more than one distribution of long-term capital gains as defined in the Internal Revenue Code in any 1 taxable year. Applicant asserts that each series issued under the Trust is not a regulated investment company as defined in section 851 of the Internal Revenue Code and is therefore governed by the provisions of subsection (b) of Rule 19b-1. Such provisions would prohibit Applicant from making distributions from the Distributive Fund of each series attributable to long-term capital gains realized from the sale of noncash distributions from Constituent Companies more than once in any 1 taxable year.

Thus, compliance with Rule 19b-1(b) would conflict with that portion of the Agreement which requires semiannual distributions which in part consists of long-term capital gains. Applicant argues that the reasons for the adoption of section 19(b) and Rule 19b-1 thereunder are inapplicable to the series of the Trust. It is submitted that Applicant, unlike investment companies that previously could have, in their discretion, made distributions of long-term capital gains more frequently than yearly, is required to make such distribution semiannually without discretion as to the amount of such distribution. Applicant argues further that the Trust's long-term capital gain distributions which occur at specified times as a result of the required sale of noncash distributions of constituent companies, are not intended to give an investor the impression that such distributions are a part of regular dividends. It states that there can be no artificial manipulation of capital gain distributions because of such Trust requirements. Applicant argues further that even in the absence of such provision of the Agreement, there is no manager or investment adviser of the Trust on whom any pressure could be exerted to force the distribution of capital gains.

Applicant represents that there are no increased administrative costs incurred in making the semiannual distributions of long-term capital gains since the Agreement requires that all cash in the Distributive Fund of each series, including dividends, short-term capital gains and cash representing return of capital be distributed semiannually. Applicant states that any attempt to amend the Trust could adversely affect its tax status under State and Federal law, and argues further that certificate holders, if denied semiannual distributions of long-term capital gains, would be denied use of these proceeds for 6 months without any comparable benefit.

Section 6(c) of the Act, as here pertinent, authorizes the Commission, by order upon application, conditionally or unconditionally to exempt any person or any class or classes of persons from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 6, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice

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as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17799 Filed 10-18-72;8:48 am]

[812-3257]

MUTUAL OF OMAHA GROWTH FUND, INC., MUTUAL OF OMAHA INCOME FUND, INC., AND MUTUAL OF OMAHA FUND MANAGEMENT CO.

Notice of Application Pursuant to Section 6(c) for an Order Exempting Applicants From Section 22(d) of the Act

OCTOBER 13, 1972.

Notice is hereby given that Mutual of Omaha Growth Fund, Inc., and Mutual of Omaha Income Fund, Inc., 3205 Dodge Street, Omaha, NE 68131 (Funds), diversified open-end management investment companies registered under the Investment Company Act of 1940 (the "Act"), and Mutual of Omaha Fund Management Co. (Management), (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from section 22(d) of the Act and Rule 22d-1 thereunder. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The prospectuses of the Funds state that a sales commission is included in the offering price of the shares of such Funds.

Applicants request an exemption from section 22(d) of the Act and Rule 22d-1 thereunder to enable the Funds to sell their shares at the net asset value per share, i.e., without any sales charges, to persons who have caused their shares in any of the Funds to be redeemed within the previous 15 days. Persons who wish to reinvest in a Fund other than the Fund in which they were previously invested will be charged a $5 service fee. Investors will be permitted to reinvest up to the exact amount of their redemption proceeds (or to the nearest full share if fractional shares are not purchased) without any sales charges.

Applicants state that Management will, at its expense, by a statement included with the redemption check, advise eligible shareholders of the right to reinvest the proceeds at net asset value. To be effective, notice from such persons of the exercise of the privilege must be received by Applicants, or be postmarked, within 15 days after the date the request for redemption is received. Applicants also state that the proposed repurchases will be made at the net asset value per share next determined after receipt of the order and that no sales commission will be received by management or any sales representative on such repurchases.

Applicants further state that the privilege of reinvesting the proceeds of a redemption at net asset value will be limited to persons who have not previously exercised such privilege as to any of the Funds, and that because of this limitation, and because wire redemption requests and wire orders will not be permitted, the proposed privilege will not afford an opportunity for speculative short term trading in shares of the Funds.

Applicants contend that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked or of which they may have been unsure at the time they redeemed.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 9, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17798 Filed 10-18-72;8:47 am]

[812-3223]

PIONEER FUND, INC., ET AL.

Notice of Application To Permit Offer of Exchange, and for Exemption

OCTOBER 13, 1972.

Notice is hereby given that Pioneer Fund, Inc., Pioneer Enterprise Fund, Inc., and Pioneer II, Inc. (hereinafter collectively referred to as the "Funds"), all open-end investment companies registered under the Investment Company Act of 1940 (Act), and Pioneer Investment Plans for the Accumulation of Shares of Pioneer Fund, Inc. (Plans), a unit investment trust registered under the Act, together with Pioneer Plans Corp., the sponsor of Plans, and Fund Research and Management, Inc., the Distributor of Plans, 28 State Street, Boston, MA 02109 (hereinafter collectively referred to as "Applicants"), have filed an application for an order of the Commission pursuant to section 11(c) of the Act permitting each of the Funds to offer to its investors the opportunity of exchanging their Fund shares for Single Payment Plans for the Accumulation of Shares of Pioneer Fund Inc. (Single Payment Plan) at the respective net asset values of such Fund shares and of the shares of Pioneer Fund, Inc., underlying such Single Payment Plan, and for an order pursuant to section 6(c) of the Act exempting any sales resulting from such offers from section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

At the present time, shareholders of the Funds have the opportunity to exchange their shares for shares of one or more of the other Funds at net asset value without a sales charge. The requested order would permit such shareholders to exchange their shares for Single Payment Plans without any sales charge.

The application states that the advantage of owning shares of Pioneer Fund, Inc., under a Single Payment Plan, with respect to which there are custodian and other service charges, over owning such shares directly, is that the owner of a Single Payment Plan is permitted to withdraw up to 90 percent of the value of his account and thereafter reinvest the proceeds at net asset value without sales charges. The exercise of this privilege is limited to once in any calendar year, and shares or cash withdrawn may not be reinstated for a period of 90 days after withdrawal. A planholder is also permitted to designate beneficiaries who would be entitled to the Plan certificate or its equivalent thereof in the event of his death, which may under the laws of some States make the Plan investment more readily available to the beneficiary than it might otherwise be under laws relating to the probation or administration of estates. In addition, a planholder may reinvest dividends without any sales charges.

An exchange would be effectuated in the following manner: Shares of the Fund or Funds desired to be exchanged would be liquidated at net asset value, provided that the aggregate net asset value of such shares totalled at least $1,000 or more in multiples of $100. The proceeds of such liquidation would be used to acquire an equivalent dollar value of shares at net asset value of Pioneer Fund, Inc., whose shares are the underlying investment of Single Payment Plans, and a certificate of the Single Payment Plan would be issued to the investor at no additional sales charge. A request, submitted with proper documents in proper order, to liquidate Fund shares and purchase a Single Payment Plan will be executed the same day it is received, and the net asset value of the shares of Pioneer Fund, Inc., underlying the Single Payment Plan which is being purchased will be calculated at the close of business on the same day as is the net asset value of the Fund shares which are being liquidated.

In order to make the exchange, a shareholder of any of the Funds would be required to submit an application indicating that he has received the current prospectuses of the Single Payment Plan and of Pioneer Fund, Inc., and that he understands that the prospectus of the Single Payment Plan sets forth the custodial fees and service charges payable by planholders.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to, and approved by, the Commission. Section 11(c) of the Act, insofar as it is applicable here, provides that irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any offer of exchange of the securities of a registered unit investment trust for the securities of a registered open-end investment company.

Section 22(d) of the Act, insofar as it is applicable here, requires a certificate of the Single Payment Plans to be sold at the public offering price stated in the Single Payment Plan. The public offering price stated in such prospectus includes a sales load. Therefore, an exemption from section 22(d) of the Act is necessary to permit certificates of the Single Payment Plan to be exchanged, without a sales load, for shares of any of the Funds.

Applicants state that since no substantial sales effort would be incurred in an exchange of a certificate of a Single Payment Plan for shares of a Fund, it would be inequitable and inappropriate to impose another layer of sales charges upon an exchange transaction and that, therefore, an order should be granted pursuant to section 6(c) of the Act exempting the proposed transaction from the provisions of section 22(d) of the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 8, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17797 Filed 10-18-72;8:47 am]

[70-4537]

THE ROCKY RIVER REALTY CO. ET AL.

Notice of Post-Effective Amendment Filed by Nonutility Subsidiary of Registered Holding Company

OCTOBER 13, 1972.

Notice is hereby given that Northeast Utilities (Northeast), 174 Brush Hill Avenue, West Springfield, MA 01089, a registered holding company, The Rocky River Realty Co. (Rocky River), its nonutility subsidiary, and the Connecticut Light & Power Co. (CL&P), Post Office Box 2010, Hartford, CT 06101, an electric utility subsidiary company of Northeast and an exempt holding company, have filed with this Commission a third post-effective amendment to their amended joint application-declaration in this matter pursuant to the provisions of the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, 12 (b), (c), and (f), and 13(b) of the Act and Rules 42(b)(2), 45(b)(1), 50(a)(3), 86, 87, and 88 promulgated thereunder, as applicable to the proposed transactions. All interested persons are referred to the said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

Rocky River has been authorized by the Commission (Holding Company Act Release Nos. 15884 and 16941) to engage in the business of acquiring, maintaining, and disposing of real property in connection with the utility and related operations of associate companies in the Northeast holding-company system and to issue and sell to Northeast, and Northeast has been authorized to acquire up to $10 million aggregate principal amount of Rocky River's long-term unsecured notes. In the order of October 24, 1967 (Holding Company Act Release No. 15884), in this proceeding, Rocky River was authorized to pay outstanding notes out of capital and to thereafter issue and sell to Northeast, and for Northeast to acquire, additional notes so as to adjust the outstanding amount of the notes to capital requirements of Rocky River. Applicants-declarants now desire that this authority be extended for 5 years from October 24, 1972, when it would otherwise expire.

The applicants-declarants estimate that the additional expenses incurred, or to be incurred, in connection with the transactions proposed in the said post-effective amendments will total $350. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that interested persons may, not later than October 26, 1972, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended application-declaration which he desires to controvert or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request.

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At any time after said date, the said application-declaration, as filed and amended or as it may be further amended, may be granted and permitted to become effective in the manner provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exception from such rule as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17795 Filed 10-18-72;8:47 am]

[812-3249]

STATE STREET INVESTMENT CORP.

Notice of Filing of Application for Order Exempting a Sale by an Open-End Company of its Securities at Other Than the Public Offering Price

OCTOBER 13, 1972.

Notice is hereby given that State Street Investment Corp. (Applicant), 225 Franklin Street, Boston, MA 02110, a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for exemption from the provisions of section 22(d) of the Act which, in pertinent part, prohibit a registered investment company from selling any redeemable security issued by it to any person except either to or through a principal underwriter for distribution at a current public offering price described in the prospectus. Section 22(d) would prevent Applicant, which does not have a prospectus describing a current offering price, from acquiring the assets of EFG Corp. (EFG) in exchange for the shares of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representation therein, which are summarized below.

Applicant represents that EFG, a Missouri corporation, was incorporated in 1902, as the St. Louis Brass Manufacturing Co., and, until 1971, was primarily engaged in the business of manufacturing lighting fixtures. In 1971, the name of the corporation was changed to EFG Corp., and all of its operating assets were sold for cash. EFG is currently a private investment company, and substantially all of its assets are in the form of investments in marketable securities, cash, certificates of deposit, and claims for refund of Federal income taxes. At the present time EFG has 19 shareholders, is a personal holding company for Federal income tax purposes, and is subject to Federal and Missouri corporate income taxes. Applicant asserts that EFG is excepted from the definition of an investment company by reason of section 3(c)(1) of the Act.

On July 6, 1972, Applicant and EFG entered into an Agreement and Plan of Reorganization (Agreement) whereby substantially all of the assets of EFG are to be transferred to Applicant in exchange for shares of Applicant's common stock. Pursuant to the Agreement, the number of Applicant's shares to be delivered to EFG shall be determined on the closing date, as defined in the Agreement, by dividing the aggregate value of the gross assets of EFG (subject to certain adjustments as set forth in the Agreement) to be transferred to Applicant by the net asset value per share of Applicant.

As of June 30, 1972, the market value of the assets of EFG to be delivered to Applicant was approximately $5,489,000. At the present time, Applicant does not intend to sell any EFG securities immediately after the closing, and in no event intends to immediately sell such securities having a market value in excess of 20 percent of the value of EFG's gross assets at the closing. Assuming that the closing under the Agreement had taken place on June 30, 1972, 106,991 shares of State Street would have been transferred to EFG or approximately 1.2 percent of the number of State Street shares outstanding immediately after such transfer. When the shares of State Street are received by EFG, EFG will distribute such shares to its shareholders in liquidation.

Applicant represents that neither EFG nor any shareholder, director, or officer of EFG is either an "affiliated person" of State Street or an affiliated person of any affiliated person of State Street, and that the Agreement was negotiated at arms length by the principals of EFG and State Street.

Section 22(d) of the Act provides, in pertinent part, that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) of the Act permits the Commission, upon application, to exempt a transaction from the provisions of the Act if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 9, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17800 Filed 10-18-72;8:48 am]

[70-5252]

WISCONSIN GAS CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Trust Department of a Bank

OCTOBER 13, 1972.

Notice is hereby given that Wisconsin Gas Co. (Wisconsin), 626 East Wisconsin Avenue, Milwaukee, WI 53201, a gas utility subsidiary company of American Natural Gas Co., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 of the Act and Rules 42(b)(2), 50(a)(2), and 70(b)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Wisconsin proposes to issue and sell, from time to time commencing November 30, 1972, its unsecured promissory notes to banks maturing on or before November 29, 1973, in varying amounts as funds are required, in an aggregate principal amount not to exceed $22 million at any one time outstanding. Each note will be dated as of the date of issue and will bear interest at the prime rate in effect at the lending bank on the date of each borrowing, which interest rate will be adjusted to reflect any change in the prime rate. Interest shall be payable at the end of each 90-day period subsequent to the date of borrowing and at maturity. There is no commitment fee, and the notes may be prepaid at any time without penalty. In connection with the lines of credit, Wisconsin is required to maintain compensating balances with the banks, the effect of which is to increase the effective interest cost by approximately 1 percent above the prevailing prime rate.

The banks and their commitments are as follows:

First Wisconsin National Bank of Milwaukee, Wis.	$8,000,000
M & I Marshall & Ilsley Bank, Milwaukee, Wis.	5,000,000
First National City Bank, New York, N.Y.	4,000,000
Manufacturers Hanover Trust Co., New York, N.Y.	3,000,000
Marine National Exchange Bank, Milwaukee, Wis.	2,000,000
Total	22,000,000

Wisconsin also proposes that it may, in lieu of the issuance and sale of promissory notes to the above-listed banks, issue and sell its promissory notes, to the extent funds are available, up to a maximum of $5 million outstanding at any one time to the Trust Department of the M & I Marshall & Ilsley Bank, Milwaukee, Wis. (Trust Department). It is stated that the Trust Department has a continuous flow of funds from its internal operations and follows a practice of pooling these funds for loans to various corporations. The interest rate on the proposed notes under this arrangement will be equivalent to the highest rate paid daily by General Telephone & Electronics Corp., on its commercial paper with a maturity of 180 days. Wisconsin will be notified by the Trust Department of any change in the interest rate. The notes issued from January 1 to June 30, will mature July 1 of the same year and those issued July 1 to December 31, will mature January 1 of the following year. The Trust Department will have the right, however, to demand payment at any time of all or any part of the principal of the note or notes outstanding; Wisconsin will have the right to prepay the notes at any time without penalty.

Wisconsin anticipates, under the proposed arrangement with the Trust Department, that it will be able to borrow money at a lower cost than borrowing from banks under lines of credit. It states as an example that on September 29, 1972, the Trust Department's interest rate was 5.26 percent compared with First National City Bank's prime rate of 5.625 percent, and that at all times during 1972, up to September 29, the Trust Department's interest rate was lower than the prime rate.

Wisconsin intends to use the amounts borrowed on the notes to repay notes outstanding on November 30, 1972 (estimated to aggregate $17 million), and to partially finance its 1972 construction program (estimated at $13,361,000). It is anticipated that funds required to retire the notes will be obtained from long-term financing and funds generated internally.

Wisconsin also requests authority to file certificates of notification required by Rule 24 on a quarterly basis with respect to the proposed transactions with the Trust Department.

Fees and expenses incident to the proposed transactions are estimated at $3,850, including counsel fees of $850. The declaration states that no approval or consent of any regulatory body other than this Commission is necessary for the consummation of the proposed transactions.

Notice is further given that any interested person may, not later than November 3, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17796 Filed 10-18-72;8:47 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

Reclassification of Registrants Into Class 1-H

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore, these materials are set forth in full as follows:

[Temporary Instruction 625-1; Corrected]

RECLASSIFICATION OF REGISTRANTS INTO CLASS 1-H

1. After priority is given to the processing of registrants who are or may be vulnerable for induction in the near future, local boards should reopen and consider anew for classification in Class 1-H, in accord with § 625.2, registrants in the following priority:

a. Registrants with RSN 096 or above (except those who were previously in the Extended Priority Selection Group), and who are in Classes 1-S, 2-A, 2-C, 2-D, 2-S, 3-A, 4-B, and 4-D.

b. Present members of the 1972 First Priority Selection Group with RSN 096 or above.

c. Registrants who were born in 1953, and whose RSN's are above 100.

d. Registrants in the second or a lower priority selection group.

e. Registrants, not in one of the above categories, who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide relationship in their homes.

2. Reclassification of registrants into Class 1-H by local boards according to the above priority will be accomplished as time and workload permits, but in any event before December 31, 1972.

3. Temporary Instruction No. 622-2, issued September 11, 1972, is rescinded.

4. This Temporary Instruction terminates on December 30, 1972.

BYRON V. PEPITONE, *Acting Director.*

TABLE 625-I

If a registrant is in—	And his year of birth is—	And his RSN is—	And he entered the deferred class from—	Then he is—
Class: 1-S, 2-A, 2-C, 2-D, 2-S, 3-A, 4-B, 4-D	1952 or earlier	95 or lower	Any priority selection group	Not eligible for 1-H.
		96 or higher	Any priority selection group other than extended priority.	Eligible for 1-H.
		96 or higher	Extended priority	Not eligible for 1-H.
	1953	100 or lower	A nonpriority selection group status.	Not eligible for 1-H.

CHAPTER 660—ALTERNATE SERVICE

SEC. 660.1 *Responsibility for administration.* 1. Conscientious objectors in Class 1-O are liable for 24 months of alternate service contributing to the national health, safety, or interest, in lieu of induction. The State Director, under the supervision of the Director, will assure compliance with the law, the regulations, and selective service policy concerning the program of alternate service.

2. The State Director of the State in which a registrant is registered will have primary responsibility for the initial placement of the registrant in alternate service. That State Director will coordinate job placement activities in any State outside his own with the State Director of the State in which the job is located. In assigning a registrant outside his own State, the assigning State Director must have the approval of the "receiving" State Director or the Director of Selective Service.

3. Alternate Service to be performed outside the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, Guam, the Virgin Islands, and the Canal Zone will be administered by the Director of Selective Service. After the approval of such work has been made by the State Director or the Director, and the local board has issued

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the registrant the Order to Report for Alternate Service (SSS Form 153) and has classified him in Class 1–W, it shall forward his selective service file through the State Director to the Director of Selective Service.

4. The successful operation of the alternate service program is dependent upon placing the registrant promptly in an approved job which is related, insofar as possible, to his training, education, and skills. With this in mind, the registrant should be strongly encouraged by the State Director and local board personnel to propose his own alternate service employment for the State Director's approval.

SEC. 660.2 *Examination of registrants.* A 1–O registrant shall be ordered for an Armed Forces Examination in accordance with the provisions of Chapter 628, Registrants Processing Manual. If he fails to report for or submit to an Armed Forces Examination, he shall be considered as available for selection and processed for alternate service in the same manner as if he had been found acceptable.

SEC. 660.3 *Information concerning alternate service.* 1. Any information which will assist registrants in finding their own jobs should be provided to the local boards by the State Director.

2. A registrant may secure information concerning alternate service processing from any local board or State Director. However, the responsibility for placing the registrant remains with the State Director having jurisdiction over the registrant's local board of record.

SEC. 660.4 *Volunteering for alternate service.* 1. Only registrants classified in Class 1–O may volunteer for alternate service. A registrant's desire to volunteer shall not be used as a reason to classify him in Class 1–O. If the 1–O registrant wishes to volunteer for alternate service he must submit an Application of Volunteer for Alternate Service (SSS Form 151) to his local board. This form may be obtained at any local board. When completed, the registrant may either forward the form to his own local board, or he may request that the form be forwarded to his local board by any other local board. He must submit job offers by furnishing for each proposed job an Employer's Statement of Availability (SSS Form 156), which may be obtained at any local board, or he may submit the information by letter. The registrant's local board must promptly submit every SSS Form 156 or letter proposing employment to the State Director for his consideration. The State Director will approve or disapprove such job offer(s). The local board of jurisdiction will enter on page 8 of the Classification Questionnaire (SSS Form 100) or page 2 of the Registrant File Folder (SSS Form 101), the date of issuance of the SSS Form 151 and SSS Form(s) 156 and the date of receipt of any such forms or letters it may receive for its registrants.

2. If the State Director approves the proposed job, any member or compensated employee of the local board shall: (1) Issue to the registrant an Order To Report For an Armed Forces Examinaiton (SSS Form 223) (unless he has been found acceptable for service, within 1 year) and, if he is found to be acceptable for service, (2) issue to the registrant an Order To Report For Alternate Service (SSS Form 153). If the registrant is found not acceptable, he will not be further processed for alternate service.

3. A copy of the SSS Form 153 shall be placed in the registrant's file folder and an entry showing the date of issuance shall be made on page 8 of the SSS Form 100 or page 2 of the SSS Form 101.

4. If the volunteer for alternate service fails to locate a job which can be approved by the State Director, no action will be taken on his application. An SSS Form 155 will not be issued until it would have been issued had the registrant not volunteered.

Example: John Coogan's RSN of 197 has not been reached. John submits an SSS Form 151 to his local board with a statement from a charitable organization that they accepted him for employment. The State Director determines this to be an appropriate work assignment. Since John was examined and found acceptable within a year, the local board at the request of the State Director issues an SSS Form 153 ordering him to his place of employment. If John had not submitted an appropriate alternate service job for consideration, no action would have been taken, because John's RSN had not been reached.

SEC. 660.5 *Selection of a nonvolunteer for alternate service.* 1. A nonvolunteer shall be selected and ordered for alternate service in lieu of induction when his RSN is reached under a Uniform National Call.

2. A 1–O registrant in a medical specialist category shall be selected and ordered for alternate service at the time he would have been ordered for induction under a special call had he been in Class 1–A or 1–A–O.

3. When the Random Sequence Number of a 1–O registrant is reached, his local board will issue him an SSS Form 155. This issuance of an SSS Form 155 formally begins his processing for alternate service. A copy of the SSS Form 155 will be placed in the registrant's file folder and an entry as to the date of issuance of the form shall be placed on page 2 of the SSS Form 101 or page 8 of the SSS Form 100. Any registrant who is issued an SSS Form 153, and who will attain the 26th anniversary of the date of his birth prior to the date scheduled to report for alternate service, shall have his order canceled.

4. One copy of Conscientious Objector's Skills Questionnaire (SSS Form 152) and three copies of SSS Form 156 will be issued to the registrant along with SSS Form 155 and the date of issuance and return will be entered on page 8 of the SSS Form 100 or page 2 of the SSS Form 101. The registrant is required to return the completed SSS Form 152 to the State Director within 15 days of the date of mailing. If it is not returned within the prescribed time, processing will continue without it. The registrant has 60 days from the date of issuance of the SSS Form 155 in which to locate appropriate alternate service employment. He must submit job proposals to the State Director on an SSS Form 156 or by letter.

5. After the issuance of the SSS Form 155, the registrant's file folder will immediately be forwarded to the State Director. Any SSS Forms 156 or an SSS Form 152 later received by the local board will be forwarded to the State Director for inclusion in the registrant's file folder.

SEC. 660.6 *Eligible employers of registrants performing alternate service.* 1. Appropriate alternate service employment will be limited to the following:

a. Employment by the U.S. Government, or by a State, territory, or possession of the United States or by a political subdivision thereof, or by the District of Columbia.

b. Employment by a nonprofit organization, association, or corporation which is primarily engaged in a charitable activity conducted for the general public or in carrying out a program for the improvement of the public health or welfare, including scientific and educational activities in support thereof, when such activity or program is not principally for the benefit of the members of such organizations, associations or corporations, or for increasing the membership thereof; or

c. Employment in an activity of an organization, association, or corporation which is charitable in nature, performed for the benefit of the public health or welfare, including educational and scientific activities in support thereof, when such activity or program is not for profit.

Example: A profit-making organization operates a free clinic in a ghetto area and takes no profit from its operations. It is open to all persons. A conscientious objector could work in such a clinic.

2. Employers with blanket placement authority:

a. In order to expedite the placement of registrants in alternate service, the Director recognizes eligible and interested organizations and agencies as employers with blanket placement authority. These are organizations and agencies that qualify under paragraph 1 of this section, and have job assignments which qualify under § 660.7. Many of the jobs which they have available have previously been approved by one or more State Directors.

b. This program requires the advance approval by the Director of the activity of the organizations and agencies and the type of jobs to which they indicate 1–O registrants will be assigned.

c. When an organization is approved by the Director as having blanket placement authority, all State Directors will be informed of the approval. The organization will submit SSS Forms 158 only for jobs which have been determined by the Director to be acceptable. Therefore, when any State Director receives an SSS Form 156 from an employer who has blanket placement authority, the job will be approved as acceptable.

The following is a list of organizations which have been approved as employers with blanket placement authority. The name and address of the organization and the name and title of the responsible official are given for your reference and assistance.

American Baptist Home Societies, Valley Forge, Pa. 19481, Mr. Matthew R. Giuffrida, Director, Volunteer Services.

Church of the Brethren, 1451 Dundee Avenue, Elgin, IL, Mr. Charles L. Boyer, Director, Volunteer Services, Ministry to Men Facing the Draft, World Ministries Commission.

Evangelical Covenant Church of America, 5101 North Francisco Avenue, Chicago, IL 60625, Mr. David Noreen, Chairman, Christian Education Department.

Mennonite Central Committee, 21 South 12th Street, Akron, PA 17501, Mr. Walton H. Hackman, Executive Secretary, Peace Section.

Synagogue Council of America, 420 Riverside Drive, New York, NY 10025, Rabbi Isador B. Hoffman, Coordinator, Alternate Service Program.

The Church Army in the U.S.A., 815 Second Avenue, New York, NY 10017, Sister Anne Albert, Coordinator, Volunteer Corps.

d. When a 1–W registrant is employed by an organization or agency with blanket placement authority, the State Director of the State in which the registrant is employed will serve in the same capacity and have the same responsibilities for the administrative control of the registrant as he would have for any other 1–W registrant employed in his State.

e. An organization or agency with blanket placement authority for initial placement will also have the authority to transfer a registrant to another acceptable job within the organization without prior approval from any State Director.

f. The organizations in this program will be responsible for advising the State Director who has custody of the registrant's selective service file, of placements, transfers, terminations, and other pertinent information.

If a job transfer is to another State, the State Director who has the registrant's selective service file will forward it to the State Director where the new employment is located.

g. When an organization or agency ceases to be a participant in the blanket placement program, all State Directors will be informed by the Director.

SEC. 660.7 *Eligible jobs for registrants performing alternate service.* 1. Five elements will be considered as the basis for determining whether a specific job is appropriate for the assignment of conscientious objectors. Elements (1) and (2) are mandatory, and will not be waived. Elements (3), (4), and (5) may be waived by the State Director when such action is deemed to be in the national interest and will speed the placement of the registrant in alternate service.

(1) *National health, safety, or interest.* The job must contribute to the maintenance of the national health, safety, or interest. Types of activities which provide jobs which would meet this requirement are shown in paragraph 1 of § 660.6.

(2) *Noninterference with the competitive labor market.* This means that the registrant cannot be assigned to a job for which there are more qualified applicants not in Class 1–O than job spaces available. This restriction does not prohibit the approval of such programs as the Peace Corps and VISTA.

(3) *Compensation.* The compensation will be adequate to provide a standard of living reasonably comparable to the standard of living the same man would have enjoyed had he entered the Armed Forces of the United States.

(4) *Skill and talent utilization.* The special skills of the registrant may be utilized whenever possible.

(5) *Job location.* A registrant will work outside his community of residence.

2. *Examples.* a. Phil Porter is a lawyer who requests approval to work as a public defender, financed by a nonprofit group and located in a very remote area. There are no present job applicants, even though the pay is much higher than that outlined in sec. 660.7(3). The pay provision can be waived in this instance at the discretion of the State Director. Phil could then be placed.

b. Ed Withers dropped out of college after 3 years. He describes his skill as psychology major. Neither Ed nor the State Director are able to locate a job utilizing this skill. The State Director learns of a need for hospital orderlies at an urban hospital in Ed's community of residence. By waiving both secs. 660.7 (4) and (5) the State Director may assign Ed to that hospital.

SEC. 660.8 *Assigning alternate service.* 1. The instructions accompanying the SSS Form 155 inform the registrant that he should return the SSS Form 152 to the State Director within 15 days of the date of mailing. Processing of the registrant for alternate service will continue even though the registrant does not return the SSS Form 152.

2. When the registrant submits an SSS Form 156 to the State Director of the State in which he is registered, that State Director will determine whether the work is acceptable. Any time the State Director disapproves a job proposed on SSS Form 156, or letter submitted by the employer, he will inform the registrant, in writing, of his decision within 10 days of the date of receipt of the SSS Form 156 or letter. A registrant who prior to the lapse of the 60-day period established in Sec. 660.5(3) of this chapter finds a job(s), but such job(s) are not approved by his State Director, may request, in writing, within 10 days, that the State Director's decision(s) be reviewed by the Director. The SSS Form 153 will be issued and the date of reporting postponed if necessary, until the Director has acted on the registrant's request, and the registrant has been informed by National Headquarters, in writing, of the Director's determination. The registrant's request for review will be considered by the Director on only one occasion prior to his initial assignment to alternate service. However, he may request a review of as many as three such adverse decisions on jobs in this one review.

3. When a proposed job is approved, or when the State Director locates an appropriate job for the registrant to perform, the registrant's file folder will be returned to the local board and the State Director will direct the registrant's file folder and an entry as to Form 153. The date set for the registrant to report to alternate service work assignment shall be at least 10 days from the date of issuance or mailing of his SSS Form 153. A copy of the SSS Form 153 will be placed in the registrant's file folder and an entry as to the date of issuance or mailing of the form shall be placed on page 8 of the SSS Form 100 or page 2 of the SSS Form 101. When the completed SSS Form 153, showing the registrant has entered employment, is received by the local board from the employer, the registrant's classification shall be reopened, and he shall be classified in Class 1–W. After the registrant is classified in Class 1–W and the classification has been entered on page 8 of the SSS Form 100 or page 2 of the SSS Form 101 and on the SSS Form 102, the file will immediately be returned to the State Director having jurisdiction over the registrant's local board.

4. Any reason for granting a postponement of an induction reporting date to a 1–A or 1–A–O registrant is sufficient reason for granting a postponement of the reporting date for alternate service in the event an SSS Form 153 has been issued.

5. In the event the registrant desires to begin employment prior to 60 days from the date his SSS Form 155 was issued to him, or sooner than the date designated in his SSS Form 153, he may do so by filing a waiver in writing with his local board. A sample of the waiver form is shown as Attachment 660–1. The written waiver will be placed in his file folder.

6. A registrant classified in Class 1–O may take a job anticipating that it might later be approved as alternate service. If such job is approved, the registrant will be given credit from the date he actually began working at that job or from the date he was classified in Class 1–O, whichever is later. No more than 24 months alternate service will be required of any registrant. Time spent looking for an initial job will not be credited toward the 24 months of service.

7. In the event the registrant is not issued an SSS Form 153 to report for alternate service with a reporting date prior to 330 days from the date processing formally began by issuance of the SSS Form 155, he will be placed in a lower priority selection group. Delays in processing due to litigation instituted by the registrant, or litigation pending against the registrant will not count toward the 330-day time period.

8. When the registrant is employed in a State other than that in which he is registered, his complete selective service file will be forwarded by the State Director having jurisdiction over his local board to the State Director where he is employed. If the registrant is transferred to a job in another State, the State Director who has the registrant's selective service file will forward it to the State Director of the State where the new employment is located, upon receipt of notification of the transfer.

9. A registrant in Class 1–W, working in an approved job, may make a written request to the State Director of the State in which he is employed to transfer him to a new job. The request must be made while the registrant is working in an approved job, and the registrant must remain on that job until the transfer is accomplished. The registrant must, at the time of the request, offer an alternative job to the State Director of the State in which he is employed for approval as alternate service. If the new job is approved, the State Director shall issue a letter order transferring him to the new job citing authority to place the registrant in appropriate work as provided in section 6(j) of the Military Selective Service Act.

10. If the State Director of the State in which the registrant is employed determines at any time that the registrant's original job ceases to be acceptable alternate service, he may reassign the registrant to an approved alternate service assignment. He should issue a letter order citing authority to reassign as stated in paragraph 9 above.

11. The Director of Selective Service or a State Director will issue travel orders, tickets, or transportation requests and meal and lodging requests to the registrant, or reimburse him, under applicable rules and directives, upon his request, for his travel from the office of the local board, the place of his residence, or his present location (whichever is nearest to his job assignment) to the location of the job assignment within the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, Guam, the Virgin Islands, and the Canal Zone, of the alternate service to which he is ordered. This also applies to his return travel from his place of assignment to the place from which his initial travel was authorized, upon his satisfactory completion of his period of work, and for his travel from one place of employment to another when his employment is transferred under the provisions of sec. 660.8, paragraphs (9) and (10) or sec. 660.10, paragraph (3) of this chapter.

12. When the registrant has completed his period of obligated alternate service, or is sooner released, his complete selective service file will be returned to his local board through the State Director within whose jurisdiction he is registered.

SEC. 660.9 *Performance of alternate service.* Any registrant who knowingly fails or neglects to perform satisfactorily his assigned alternate service, or whose service is unsatisfactory because of his failure to comply with reasonable requirements of an employer, shall be deemed to have knowingly failed or neglected to perform a duty required of him under the Military Selective Service Act. The registrant shall be deemed to have failed to perform satisfactorily if he did not meet the standards of performance, conduct, or appearance demanded by the employer of his other employees in similar jobs.

SEC. 660.10 *Management, control, and supervision of alternate service program.* 1. The selective service files of all registrants ordered to alternate service in lieu of induction shall be forwarded to the State Director. The State Director retains custody of the registrant's file until alternate service is completed except for the brief periods it must be returned to the local board for board action. In case the registrant is assigned to alternate service outside the State, the custody of the registrant's file is transferred to the State Director of the State of employment or to the Director of Selective Service.

2. Immediately upon receiving the file folder of a 1–O registrant ordered to alternate service, the State Director will establish necessary records and controls to provide for the timely placement and supervision of the registrant in alternate service.

3. Since the State Director has been delegated the authority for the placement of registrants in alternate service and for determining the appropriateness of the work to be performed, it is incumbent upon him to develop a sufficient number of jobs in his

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State to take care of the prompt assignment of any registrant who does not locate, on his own, an appropriate job. The success of this program depends on having actual job vacancies to which registrants can be assigned.

4. The State Director must develop a program of job solicitation with eligible employers to provide openings for all registrants presently selected for alternate service and to take care of estimated requirements. In order to facilitate the placement of conscientious objectors, each State Director shall maintain for his own use and for use by the local boards in assisting registrants:

a. A current inventory of actual job openings in appropriate work.

b. An up-to-date inventory of approved employers who have agreed to employ conscientious objectors.

5. A plan should be developed for a continuing program of contacts with eligible employers in order to secure additional job vacancies. Employers who have at one time or another employed conscientious objectors provide a prime source of additional job openings. Many new employers may have to be convinced to participate in the program. Every means of contacting employers should be utilized. If field contacts are necessary, they must be made. Where there have been personal contacts with employers, the results have been successful. State Headquarters staff personnel, State inspectors, and area and group supervisors should be utilized for field contacts when necessary. Reserve and National Guard Officers performing training can be used effectively for making employer contacts.

6. With the training and skills information available for each registrant, from his file and from the SSS Form 152, it will be possible to match as closely as possible a registrant's qualifications with the job descriptions of the actual openings. The State Director should attempt to approve a job which may utilize a registrant's talents and skills, but his assignment to alternate service work should not be delayed because there may not be a job available which will enable him to use his talents and skills.

7. When a registrant submits his own proposed job a decision must be made within 10 days as to whether it is approved. Delay can result in the loss of the job opening. Likewise, when a registrant does not locate an approvable job on his own, he should be assigned immediately after his 60-day search period to one of the existing job vacancies that appears on the current inventory of job openings.

8. Each State Director should establish a program for making periodic on-the-job checks of registrants in alternate service assignments. This can be accomplished in many cases along with the contact with employers to secure new position vacancies. In addition to the State Director and his immediate staff, State inspectors and area and group supervisors as well as Reserve and National Guard Officers should be utilized in making on-the-job checks.

9. When complaints are received from alternate service employers or from employed registrants, immediate steps should be taken to resolve the problem. Complaints should be handled through personal contact by a member of the State Headquarters staff whenever possible.

SEC. 660.11 *Failure to enter upon or complete alternate service.* 1. Whenever a registrant is refused employment by an employer who had previously agreed to hire him, or whenever a registrant's employment is terminated, or whenever he quits his job, the State Director of the State in which the registrant is employed will review the circumstances involved to determine whether the registrant has failed to perform his work satisfactorily or to conduct himself satisfactorily.

2. Whenever the State Director of the State in which the registrant is employed has reason to believe that a registrant refused or constructively refused employment, or was relieved for cause or left his job unjustifiably he will conduct an investigation which will include the following steps: (1) Obtain a statement from the former employer describing the circumstances; (2) forward such statement to the registrant for review; (3) obtain a statement from the registrant in his own defense, if he wishes to make it; and (4) compile any other evidence which he thinks is relevant. He will then determine whether the termination was or was not due to the fault of the registrant. If he determines that it was due to the fault of the registrant, he may report the registrant for prosecution.

3. If the State Director of the State in which the registrant is employed finds that the termination was not due to the fault of the registrant, the State Director, as soon as practicable, will designate a new alternate service assignment, and issue a letter order reassigning the registrant to the new assignment. If the registrant complies with this reassignment, the intervening time between jobs will not constitute a break in the required period of alternate service.

SEC. 660.12 *Release from alternate service.* 1. The State Director of the State in which a registrant is working, or the Director, when the registrant is under his jurisdiction, will release the registrant upon completion of 24 months of satisfactory alternate service.

2. The State Director of the State in which the registrant is working, or the Director, may release a registrant prior to the completion of 24 months of satisfactory alternate service upon a determination of hardship, medical disqualification, or other bona fide basis for such early release. A 1–W registrant may be considered for early release, not to exceed 90 days, if evidence is presented that he is returning to school and that he has been accepted by such school. Further, a 1–W registrant may be considered for early release, not to exceed 90 days, upon submission of evidence that he has been accepted for employment and such employment will not be available if he remains in alternate service for 24 months. If the registrant is working outside the State in which he is registered, the decision as to early release will be made in consultation with the State Director of the State in which the registrant is registered.

3. When the registrant is employed in alternate service outside the State in which he is registered, the State Director of the State in which the registrant is employed, or the Director in the case of registrants employed overseas, will, upon completion of the registrant's term of service or approved early release, forward the registrant's complete selective service file to the State Director of the State wherein the registrant is registered. The file will be accompanied by a letter approving the registrant's release and will cite the reasons for release and the date of such release. When the file and letter approving release are received by the State Director of the State wherein the registrant is registered, he will forward them to the registrant's local board with a letter authorizing the issuance of Certificate of Release from Alternate Service (SSS Form 154) by the local board. A copy of SSS Form 154 will be placed in the registrant's file folder and an entry as to the date of mailing of the form shall be placed on page 8 of the SSS Form 100 or page 2 of the SSS Form 101.

4. When the registrant is employed in alternate service in the State in which he is registered, that State Director will, upon completion of the registrant's term of service or approved early release, forward the registrant's complete selective service file to his local board, together with a letter authorizing his release and citing the reason for release and the date of such release. Upon receipt of this letter of authorization and the file, the local board will issue an SSS Form 154. A copy of the SSS Form 154 will be placed in the registrant's file folder and an entry as to the date of mailing of the form shall be placed on page 8 of the SSS Form 100 or page 2 of the SSS Form 101.

5. If a registrant is released by the Director or State Director prior to the completion of 6 months of alternate service, his classification shall be reopened by his local board, and he shall be classified in the lowest class for which he qualifies.

SEC. 660.13 *Completion of alternate service.* A registrant who completes his 24 months of obligated alternate service in lieu of induction or is sooner released as provided for in sec. 660.12, paragraph 2, by the Director or State Director after 6 months or more of appropriate work, shall be classified in Class 4–W.

LOCAL BOARD STAMPS

STATEMENT OF WAIVER

Date----------

I desire to begin my alternate service work in lieu of induction:
(Check one)
☐ Prior to 60 days from the date Selection for Alternate Service (SSS Form 155) was mailed to me by my local board.
☐ Prior to the reporting date designated on Order to Report for Alternate Service and Statement of Employer (SSS Form 153) issued to me.
I desire to begin work on ---------- or as soon thereafter as possible.

Signed ----------
SS No. ----------
RSN ----------

BYRON V. PEPITONE,
Acting Director.

OCTOBER 16, 1972.

[FR Doc.72-17389 Filed 10-18-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0295]

BT CAPITAL CORP.

Notice of Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1972)) under the name of BT Capital Corp., 600 Third Avenue, New York, NY 10016, for a license to operate in the State of New York as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholders are:

Name	Title	Percent ownership of outstanding stock
William M. Eaton, 17 East 89th St., New York, NY 10028.	President and Director.	5
James G. Hellmuth, 1105 Park Ave., New York, NY 10028.	Vice President and Director.	----------
Charles F. Jennings, 50 Wallbery Ave., Ridgewood, NJ 07450.	Treasurer	----------
Peter H. Bickford, 132 East 35th St., New York, NY 10016.	Secretary	----------
James J. Baechle, 128 Harbor Road, Cold Spring Harbor, NY 11724.	Director	----------
Chester Baylis, Jr., Box 91, Locust, NJ 07760.	do	----------
Robert H. Brome, 175 Beechwood Road, Ridgewood, NJ 07450.	do	----------
Alan V. Iselin, 30 Marion Ave., Albany, NY 12203.	do	----------
Douglas L. King, 242 East 72d St., New York, NY 10021.	do	----------
Burton I. Koffman, 300 Plaza Dr., Binghampton, NY 13903.	do	8.33
Marion J. Lebworth, 784 Park Ave., New York, NY 10021.	do	5
Glenway W. Maxon, Jr., 901 Runnymede Rd., Dayton, OH 45419.	do	----------
Irwin Schloss, 805 Park Ave., New York, NY 10021.	do	----------
Allen D. R. Stern, 280 Park Ave., New York, NY 10017.	do	----------
Bankers Trust New York Corp.		45
Frank B. Hall & Co.		8.33
A. V. Iselin & Co., Inc.		5
Maxon Corp.		5
Mareus Schloss & Co., Inc.		8.33
Baylis & Co.		5
Isador M. Gross		5

The company will begin operations with an initial capital of $600,000. No concentration in any particular industry is planned.

Neither Bankers Trust New York Corp. nor any of its subsidiaries or affiliates has any direct or indirect stock ownership or management contracts in any of the corporations or partnerships which are to become stockholders of BT Capital Corp.

The applicant expects to make loans and equity investments with an emphasis on loans convertible into equity and equity investments with stock options. It intends to finance small business concerns located principally in New York State which have had difficulty obtaining funds to finance their operations and for normal growth expansion. It may expand its future operations into other states, territories and possessions.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed company. Any communication should be addressed to: Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, N.Y.

Dated: October 16, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-17867 Filed 10-18-72;8:53 am]

TARIFF COMMISSION

[TEA-W-158]

MUTER CO.

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Jensen Manufacturing Division, The Muter Co., Chicago, Ill., plant, and its successor Pemcor, Inc., the U.S. Tariff Commission, on October 13, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with loudspeakers (of the type provided for in Item 684.7020 of the Tariff Schedules of the United States Annotated) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: October 16, 1972.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-17868 Filed 10-18-72;8:53 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY TO COMMITTEES OF POLITICAL PARTIES

Notice of Opportunity To Submit Written Comments and To Request Public Hearing

This notice is given in accordance with the announcement made in Internal Revenue Service News Release IR–1257, dated October 3, 1972.

It has come to the attention of the Internal Revenue Service that campaign committees affiliated with both major parties have been accepting contributions of appreciated property. Questions have been raised as to what tax consequences arise where such committee or the party later sells such property.

It has been the position of the Internal Revenue Service that campaign contributions are gifts for gift tax purposes. (However, a recent decision by the Court of Appeals for the Fifth Circuit held to the contrary).

The general rule with respect to gifts is that the donee takes over the contributor's "basis," i.e., his tax cost, for income tax purposes. Thus, if an individual contributes property worth $100, which cost him $10, to another person, the tax cost of the property in the hands of the latter person would be $10. If such latter person then sells the property for $100, he has realized a gain of $90. The same result occurs if the contributor sells the property to the latter person for $10. Applying this general rule in the political area, persons who contribute appreciated property (or who sell it for no more than their cost) realize no gain on the contribution; but, gain would be realized by the recipient when it sells the appreciated property.

It is the published position of the Internal Revenue Service (Rev. Proc. 68–19, C.B. 1968–1, 810) (copy set forth below) that where a political campaign fund maintained by or for an individual candidate realizes income on the fund balance, such income constitutes gross income and may be reported on a fiduciary tax return (Form 1041) with any tax due thereon paid with the filing of the return.

It is a matter of history that the Internal Revenue Service has never required the filing of income tax returns by political parties as such. It appears that this practice had its inception and was continued in the belief that virtually all of the receipts of the parties were from gifts and that the parties would not have taxable income. This practice made it unnecessary to decide finally whether parties were subject to tax. Until recently the Internal Revenue Service was unaware of any extensive practice of political contributions being made in appreciated property.

In view of the apparent and recent common practice of transactions involving appreciated property for political purposes, the Internal Revenue Service must now consider what tax results arise where such property is sold. It must also consider whether and what type of income tax returns are required from political parties, it being recognized that the sale of such property by the parties may produce substantial amounts of realized gain which may go untaxed if the parties file no returns.

Rev. Proc. 68–19 was directed principally at funds maintained for individual candidates and did not provide definitive guidelines with reference to political parties and the many varied political

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committees presently in existence. No definitive guidelines have previously been issued with regard to whether, and to what extent, deductions are allowable against any income reported by a political party, committee, or fund maintained for an individual candidate. Under these circumstances, the Internal Revenue Service believes that persons affected should have the right to present briefs on the issues involved, and that a public hearing should be held in connection with the issues.

Among the issues to be considered is the extent to which the rules to be formulated should be applied without retroactive effect pursuant to section 7805(b) of the Internal Revenue Code of 1954.

Further, consideration will be given to whether there is a need to formulate new, or to amend existing, income tax regulations and also to what extent it may be desirable for the Treasury Department to seek legislation.

Accordingly, notice is hereby given that consideration will be given to any comments or suggestions pertaining to the matters discussed hereinbefore which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 20, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on the matters discussed hereinbefore should submit his request, in writing, to the Commissioner by November 20, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register.

LEE H. HENKEL, JR.,
Chief Counsel.

[Rev. Proc. 68-19]

Factors Considered by the Internal Revenue Service in Determining the Taxability of Political Funds

SECTION 1. *Purpose.* .01 The purpose of this Revenue Procedure is to set forth the factors considered by the Internal Revenue Service in determining the taxability of political funds such as campaign contributions, political gifts, and proceeds derived from fund-raising dinners (sometimes referred to as "testimonial dinners") received and disposed of by or on behalf of political candidates.

.02 For purposes of this Revenue Procedure, the term "political candidates" includes any political figure who receives or has received political funds, whether or not he has announced his candidacy for nomination or election or reelection to any elective public office.

SEC. 2. *Background.* Political funds are not taxable to the political candidate by or for whom they are collected if they are used for expenses of a political campaign or some similar purpose. However, any amount diverted from the channel of campaign activity and used by the political candidate for any personal purpose is income taxable to such candidate for the year in which the funds are so diverted. See I.T. 3276, C.B. 1939-1 (Part 1), 108, and Rev. Rul. 54-80, C.B. 1954-1, 11, cited with approval in William O'Dwyer, et ux. v. Commissioner, 266 F. 2d 575 (4th Cir. 1959), certiorari denied, 361 U.S. 862 (1959), and United States v. Leslie E. Jett, 352 F. 2d 179 (6th Cir. 1965), certiorari deined, 383 U.S.C. 935 (1966).

SEC. 3. *Expenditures of political funds.* .01 Political funds expended by a political candidate, or by a political organization or committee which accepts contributions on behalf of such candidate will be considered to be used for campaign or similar purposes if they are: (1) Utilized for generally recognized campaign expenses (see, for example, Cal. Elections Code, sec. 11504; N.Y. Penal Law sec. 767), regardless of when such expenses were incurred; (2) contributed to the national, State or local committee of the candidate's party; or (3) used to reimburse the political candidate for out-of-pocket campaign expenses paid by him during a current campaign, or, if he is not currently campaigning, during his last previous campaign.

.02 The expenditure of political funds by a political candidate for other than campaign or similar purposes will be considered a diversion of such funds requiring the funds so expended to be included in his income. However, deductions will be allowed for those expenditures which qualify as deductible under the applicable provisions of the Internal Revenue Code of 1954. For example, depending on the facts and circumstances present, an expenditure could qualify as an ordinary and necessary business expense deductible under section 162 of the Code or as a charitable contribution deductible under section 170 of the Code.

.03 Unexpended balances of political funds which are repaid to known contributors are not considered to be either expended or diverted for purposes of this section.

SEC. 4. *Accounting for political funds.* .01 Detailed substantiating records should be kept by the political candidate or other custodian so as to enable the candidate to account accurately for the receipt and disbursement of political funds if he wishes to have political funds treated as such by the Service or to take advantage of allowable deductions. Disbursements will be included in the income of the political candidate in the absence of a showing that the funds were used for campaign or similar purposes or repaid to known contributors. If political funds are commingled with the personal funds of the political candidate so as to render tracing or identification impracticable, the political funds will be presumed to have been diverted to personal use at the time so commingled.

.02 If an unexpended balance of political funds is set aside in a separate bank account, the political candidate, committee, or organization holding such funds may report any income credited to the account on a U.S. Fiduciary Income Tax Return, Form 1041, for the taxable year in which such income is so credited, and pay any tax shown by such return to be payable.

SEC. 5. *Presumption against unrestricted gifts.* The Service will presume in the absence of evidence to the contrary that contributions to a political candidate are political funds which are not intended for the unrestricted personal use of such recipient. If it can be shown that the funds were intended for the unrestricted personal use of the political candidate, then the Service will apply the principles set forth in Commissioner v. Mose Duberstein, et al., 363 U.S. 278 (1960), Ct. D. 1850, C.B. 1960-2, 428, and Max Kralstein, et ux., 38 T.C. 810 (1962), acquiescence, C.B. 1963-2, 4, to determine whether or not the funds may be excluded from his gross income under section 102 of the Code.

[FR Doc.72-18037 Filed 10-18-72;10:17 am]

INTERSTATE COMMERCE COMMISSION

[Sec. 5a Application 83, Amdt. 3]

ALASKA CARRIERS ASSOCIATION, INC.

Approval of Agreement Regarding Application for Relief

Order. At a session of the Interstate Commerce Commission, Review Board No. 4, held at its office in Washington, D.C., on the 4th day of October 1972.

It appearing, that in prior reports in 321 I.C.C. 7, and 322 I.C.C. 697, the Commission, Division 2, considered the agreement, as amended, filed in the above-entitled proceeding under section 5a of the Interstate Commerce Act, and that upon submittal of further amendments to the agreement in conformity with the views and conclusions expressed in the prior reports, an order was entered August 21, 1964, approving the revised agreement; and that proposed amendments filed November 22, 1965, assigned amendment No. 1, were permitted to be voluntarily withdrawn; and that further amendments to the said agreement were approved by order of January 15, 1969;

It further appearing, that the parties to the agreement approved herein filed an application on December 1, 1971, under the provisions of section 5a of the act, seeking approval of further amendments to the agreement as set forth in detail in said application, which would change the agreement so as to (1) authorize standing rate committees to appoint subcommittees within any regional area to initially process proposals and make recommendations to the committee; and (2) modify provisions governing the business affairs of the Association so as to (a) increase the maximum indebtedness or liability of the association to $200,000 in lieu of $20,000; (b) restrict the voting rights of associate members to election of the Chairman, Vice Chairman and Secretary of the Associate Member Conference; (c) permit a mail vote on amendment of bylaws or articles of incorporation in cases of urgency, in lieu of an emergency, (d) increase the number of directors at large, based on the amount of equipment registered with the Association, (e) establish the office of second vice president, and (f) make incidental changes made necessary by the foregoing changes;

And it further appearing, that the applicants have served copies of the said application upon all parties to the proceeding, that public notice of the nature of the amendments was issued and published in the FEDERAL REGISTER, and that no objections thereto have been filed.

Wherefore, and good cause appearing therefor:

We find, that approval of the amendments herein are not prohibited by paragraphs (4), (5), or (6) of section 5a of the Interstate Commerce Act, and that by reason of the furtherance of the national transportation policy, the relief provided in paragraph (9) of section 5a of the act should apply with respect to the making and carrying out of the agreement as so further amended;

We further find, that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969; therefore:

It is ordered, That the amendments to the said agreement as specified in the application filed December 1, 1971, be, and they are hereby, approved; and that this order shall become effective on, and remain in force on and after 35 days from the service date of this order, subject to such terms and conditions or regulations as may hereafter be prescribed.

And it is further ordered, That the applicants hereto, within 3 months from the date of service of this order furnish the Commission with four copies of the revised agreement, including the amendments approved herein, to which is appended a verified current list of the signatory carrier parties to the said agreement, for the purpose of providing the Commission with a single document containing the agreement with all revisions and carrier parties thereto.

By the Commission, Review Board No. 4.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17880 Filed 10-18-72;8:54 am]

[Notice 99]

ASSIGNMENT OF HEARINGS

OCTOBER 16, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 115841 Sub 434, Colonial Refrigerated Transportation, Inc., now assigned November 3, 1972, at Dallas, Tex., is postponed indefinitely.

FD-28588, Detroit and Toledo Shore Line Railroad, petition for joint use of terminal facilities at Trenton, Mich., now assigned October 30, 1972, at Toledo, Ohio, is postponed indefinitely.

MC 119767 Subs 287 and 292, Beaver Transport Co., now assigned November 6, 1972, I & S 8773, transit, vegetable and animal oils, Midwest to West, now assigned November 8, 1972, hearings will be held in Room 705, Customhouse, 610 South Canal Street, Chicago, Ill.

MC-C-7822, Mississippi Chemical Express, Inc., and Stauffer Chemical Co., Inc.—investigation of operations, now assigned November 7, 1972, MC-107002 Sub 416, Miller Transporters, Inc., now assigned November 9, 1972, will be held in Room 1210 (main floor), Federal Building, 701 Loyola Avenue, New Orleans, LA.

MC-115162 Sub 212, Poole Truck Lines, Inc., now assigned November 13, 1972, will be held at Howard Johnson Motel, 3132 Government Boulevard, Junction Highways 90 and I-95, Mobile, Ala.

MC 3700 Sub 66, Manhattan Transit Co., now assigned October 30, 1972, at Newark, N.J., hearing is postponed indefinitely.

MC 116710 Sub 17, Mississippi Chemical Express, Inc., now being assigned hearing November 7, 1972 (2 days), at New Orleans, La., in a hearing room to be later designated.

MC 116165 Sub 5, Murray Hill Limousine Service, Ltd., continued to January 15, 1973 (1 week), at New York, N.Y., and January 22, 1973 (3 days), at Albany, N.Y., in hearing rooms to be later designated.

MC 78400 Sub 27, Beaufort Transfer Co., now assigned December 12, 1972, at Jefferson City, Mo., hearing will be held in the Jefferson State Office Building, 14th Floor, 100 Jefferson Street.

MC-C-7408, Klipsch Hauling Co.—investigation and revocation of certificates—now being assigned hearing December 5, 1972, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 119632 Sub 54, Reed Lines, Inc., now assigned January 8, 1973, MC 29886 Sub 282, Dallas & Mavis Forwarding Co., Inc., now assigned January 9, 1973, MC 105566 Sub 53, Sam Tanksley Trucking, Inc., extension—bananas, now assigned January 10, 1973, MC-C-4201, Midwest Emery Freight System, Inc., investigation and revocation of certificates, now assigned January 15, 1973, MC 114019 Sub 199, Midwest Emery Freight System, Inc., extension—meats, now assigned January 15, 1973, hearings will be held in the Courtroom 4, State Office Building, 65 South Front Street, Columbus, OH.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17873 Filed 10-18-72;8:53 am]

[Notice 143]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73891. By order of October 2, 1972, the Motor Carrier Board approved the transfer to Carter Moving & Storage of New Jersey, Inc., Jersey City, N.J., of the operating rights in Certificate No. MC-21474 issued March 29, 1949, to Theodore Burak, doing business as Strawberry Mansion Storage Co., acquired by James Carter, Jr., Jersey City, N.J., pursuant to approval in No. MC-FC-73504, authorizing the transportation of household goods between Philadelphia, Pa., on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, and the District of Columbia. Maurice M. Green, 1530 Chestnut Street, Philadelphia, PA 19102, attorney for applicants.

No. MC-FC-73897. By order of October 6, 1972, the Motor Carrier Board approved the transfer to F. G. G. Motor Freight, Inc., Wallington, N.J., of the operating rights in certificates Nos. MC-112107 (Sub-No. 1), MC-112107 (Sub-No. 2), MC-112107 (Sub-No. 3), and MC-112107 (Sub-No. 4) issued July 23, 1951, October 22, 1953, February 23, 1956, and May 13, 1968, respectively, to New England Motor Freight, Inc., Paterson, N.J., authorizing the transportation of general commodities, with usual exceptions, (1) over regular routes between Paterson, N.J., and Providence, R.I., serving all intermediate points and various off-route points in New Jersey, Connecticut, Rhode Island, and Massachusetts; between New London, Conn., and Providence, R.I.; between Norwich, Conn., and New London, Conn., and between Danielson, Conn., and Providence, R.I., and (2) over irregular routes, between points within 15 miles of Boston, Mass., including Boston, and between points in Massachusetts within 25 miles of Providence, R.I., and those within 15 miles of Boston, including Boston, on the one hand, and, on the other, points in Massachusetts. Morton E. Kiel, 140 Cedar Street, New York, NY 10006, registered practitioner for applicants.

No. MC-FC-73951. By order of October 2, 1972, the Motor Carrier Board approved the transfer to Paul B. Forsyth, Helen T. Forsyth, and John J. Forsyth, doing business as Forsyth Trucking Co., 39 Center Street, Batavia, NY 14020, of the Certificate and Certificate of Registration in Nos. MC-7690 and MC-7690 (Sub-No. 5), issued September 25, 1962, and July 1, 1964, respectively, to John T. Forsyth, Helen T. Forsyth, and Paul B. Forsyth, a partnership, doing business as Forsyth Trucking Co., Batavia, N.Y., authorizing the transportation of general commodities, with usual exceptions, between Batavia, N.Y., and Akron, N.Y.,

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serving specified intermediate points, and general commodities, household goods, and heavy merchandise as described in certificate of public convenience and necessity No. 1275 dated March 22, 1960, issued by the New York Public Service Commission, between specified points in New York.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17872 Filed 10-18-72;8:53 am]

[Notice 144]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 16, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-74022. By application filed October 13, 1972, SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, Post Office Box 616 Pico Rivera, CA 90660, seeks temporary authority to lease the operating rights of BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, CA 92663, under section 210a(b). The transfer to SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17871 Filed 10-18-72;8:53 am]

[Sec. 5a Application 72, Amdt. 1]

NATIONAL ASSOCIATION OF SPECIALIZED CARRIERS, INC.

Motor Carrier Interrelated Rate Agreement

AUGUST 25, 1972.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed April 10, 1972 by:

National Association of Specialized Carriers, Inc., Post Office Box 331, 74 Moore Avenue NE., Marietta, GA 30060.

Archie B. Culbreth, Attorney for Applicant, Suite 246, 1252 West Peachtree Street NW., Atlanta, GA 30309.

The amendments involve: The addition of certain motor common carrier members of National Association of Specialized Carriers, Inc., as new carrier parties to the approved titled agreement and designating James M. Parrish as their agent and Attorney-in-fact thereunder. Applicants are collectively engaged between and among themselves in the establishment of rates and related matters governing the transportation of commodities which, because of size or weight, require the use of special equipment, pursuant to an agreement approved in section 5a Application No. 87, and seek approval to participate in interrelated matters with other motor carrier member groups presently party to such interrelated agreement.

The application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

By the Commission.

JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.72-17877 Filed 10-18-72;8:54 am]

[Sec. 5a Application 109]

MISTLETOE EXPRESS SERVICE

Motor Express Carriers Bureau—Agreement

OCTOBER 2, 1972.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed September 1, 1972 by:

John F. Fesler, Mistletoe Express Service, 111 East Harrison, Oklahoma City, OK 73104, for and on behalf of Applicants, Max G. Morgan and Robert J. Mildfelt, 600 Leininger Building, Oklahoma City, OK 73112, attorneys for applicants.

Agreement between and among common carriers by motor vehicle governing the organization and procedures for the joint consideration, initiation or establishment of joint rates and rules, regulations and practices applicable thereto, for the transportation of freight in express service, in interstate and foreign commerce, between points in the States of Arkansas, Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, New Mexico, Oklahoma, Oregon, Texas, Utah, and Wyoming.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interests, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters without public hearing.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17879 Filed 10-18-72;8:54 am]

[Sec. 5a Application 6, Amdt. 9]

SOUTHERN FREIGHT ASSOCIATION ET AL.

Approval of Agreement Regarding Application for Relief

Order. At a session of the Interstate Commerce Commission, Review Board Number 4, held at its office in Washington, D.C., on the 4th day of October, 1972.

It appearing, that the Commission, Division 2, in a report of October 18, 1951, 283 ICC 245, approved, subject to terms and conditions, the agreements filed in the above-entitled proceeding under section 5a of the Interstate Commerce Act; that upon submittal of amendments in conformity with the views and conclusions expressed in the said report, an order was entered July 14, 1952, approving the amended agreements; and that further amendments to the said agreements were approved by orders of December 3, 1952, February 24, 1955, November 10, 1955, July 12, 1956, May 1, 1962, February 2, 1968, February 2, 1970, and April 8, 1970;

It further appearing, that carriers parties to the agreement approved herein, filed an application on May 15, 1972, under the provisions of section 5a of the act, seeking approval of further proposed amendments to the said agreement so as to (1) eliminate the requirement of title rankings for eligible members and alternates represented on the Conference Committee and to provide for such committee meetings upon call rather than bimonthly (Article II, section 3), and (2) authorize the Executive Committee to determine the equitable apportionment of ordinary association expenses among members, in lieu of apportionment by annual gross revenues (Article V, paragraph (e));

And it further appearing, that the applicants have served copies of the said application upon all parties to the proceeding, that public notice of the nature of the amendments was issued and published in the FEDERAL REGISTER, and that no objections thereto have been filed.

Wherefore, and good cause appearing therefor:

We find, that approval of the amendments herein are not prohibited by paragraphs (4), (5), or (6) of section 5a of the Interstate Commerce Act, and that by reason of the furtherance of the national transportation policy, the relief provided in paragraph (9) of section 5a of the act should apply with respect to the making and carrying out of the agreement as so further amended; therefore:

We further find, that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered, That the amendments to the said agreement as specified in the application filed May 15, 1972, be, and they are hereby, approved; and that this order shall become effective on, and remain in force on and after 35 days from the service date of this order, subject to such terms and conditions or regulations as may hereafter be prescribed.

And it is further ordered, That the applicants hereto, within 3 months from the date of service of this order furnish the Commission with (4) copies of the revised agreement, including the amendments approved herein, to which is appended a verified current list of the signatory carrier parties to the said agreement, for the purpose of providing the Commission with a single document containing the agreement with all revisions and carrier parties thereto.

By the Commission, Review Board Number 4.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17875 Filed 10-18-72;8:54 am]

[Sec. 5a, Application 64, Amdt. 7]

STEEL CARRIERS' TARIFF ASSOCIATION, INC.

Application for Approval of Amendments to Agreement

OCTOBER 6, 1972.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed Sept. 7, 1972 by:

Warren A. Rawson, Managing Director, Steel Carriers' Tariff Assoc., Inc., 6410 Kenilworth Ave., East Riverdale, MD 20840.

Bryce Rea, Jr., 917 Munsey Building, 1329 E Street NW., Washington, DC 20004.

The amendments involve: (1) Changing the number of trustees of the Association from nine to 13, additional members to be elected at a special election; extending terms of all trustees from 3 to 4 years and number of trustees constituting a quorum from five to seven; and (2) Enlarge the territorial jurisdiction for members collective ratemaking to include the following States: Arkansas, Georgia, Iowa, Kansas, Minnesota, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas, and the portions of Kentucky and Michigan not presently embraced in the Agreement.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17874 Filed 10-18-72;8:53 am]

[Notice 84]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 13, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) That it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 29660 (Sub-No. 19), filed September 5, 1972. Applicant: HERMAN LOZOWICK TRUCKING CO., a corporation, 1551 Park Avenue South, Linden, NJ 07037. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cable and wire*, from Linden and Hillside, N.J., to New York, N.Y., and points in Westchester, Suffolk, and Nassau Counties, N.Y.; and (2) *empty reels, returned, damaged, and salvaged cable or wire, and materials and supplies* used in the manufacture of cable and wire (except in bulk), from New York, N.Y., and points in Westchester, Suffolk, and Nassau Counties, N.Y., to Linden and Hillside, N.J., under contract with Hatfield Wire & Cable Division of Continental Copper & Steel Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 29886 (Sub-No. 286) (Correction), filed September 8, 1972, published in the FEDERAL REGISTER, issue of October 5, 1972, under MC 136990 Sub No. 1, and republished as corrected this issue. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts and attachments therefor*, from Romeo, Mich., to points in that part of Illinois east of U.S. Highway 51 and north of U.S. Highway 50; Indiana, Ohio, that part of Kentucky east of U.S. Highway 127, that part of New York west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Hamburg, N.Y., and thence along U.S. Highway 62 to Niagara, N.Y., that part of Pennsylvania west of U.S. Highway 219, and that part of West Virginia west of U.S. Highway 219. Restriction: The authority sought hereinabove is restricted to the transportation of shipments originating

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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at the plantsite of Ford Motor Co. located at or near Romeo, Mich., and destined to the named destination points above. NOTE: Common control may be involved. The purpose of this correction is to show the correct docket number assigned thereto. Applicant also conducts operations as a passenger carrier under MC 136990. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 30837 (Sub-No. 455), filed September 25, 1972. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, WI 53140. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles and trucks*, in secondary movements, in truckaway service, from points in Multnomah County, Oreg.; Clark, King, and Pierce Counties, Wash., to points in Oregon, Washington, Idaho, Montana, California, and Nevada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg. or Seattle, Wash.

No. MC 35628 (Sub-No. 337), filed September 5, 1972. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville SW., Grand Rapids, MI 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Wilson Certified Foods, Inc., at Marshall, Mo., to points in Colorado, Connecticut, Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Wisconsin, and the District of Columbia, restricted to traffic originating at Marshall, Mo., and destined to points in the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 35628 (Sub-No. 338), filed September 22, 1972. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, 134 Grandville SW., Grand Rapids, MI 49504. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49504. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities, in bulk, and those requiring special equipment, serving the plantsite and facilities of Spicer Axle Division, Dana Corp., at Edgerton, Wis., as an off-route point in connection with operations between Janesville and Madison, Wis. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 35628 (Sub-No. 339), filed September 28, 1972. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville SW., Grand Rapids, MI 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite and facilities of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with operations to and from Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 56679 (Sub-No. 68), filed September 11, 1972. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue, Atlanta, GA 30315. Applicant's representative: B. K. McClain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products*, from Hart, Holland, and Lake Odessa, Mich., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Connecticut, Maine, Massachusetts New Hampshire, Rhode Island, Vermont, and the District of Columbia. Restricted to the transportation of shipments originating at the warehouse facilities of Ore-Ida Foods, Inc. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Grand Rapids, Mich., or Washington, D.C.

No. MC 59531 (Sub-No. 94), filed September 18, 1972. Applicant: ESTATE OF HARRY E. STEWART, PETER P. STEWART, HENRY EXALL, JR., PETER STEWART TRUST A-E, WALDO E. STEWART TRUST 1-5, AND IAN, INC., a partnership, doing business as AUTO CONVOY CO., 3020 South Haskell Avenue, Dallas, TX 75223. Applicant's representative: Walter N. Bieneman, 1 Woodward Avenue, Suite 1700, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and buses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and *parts thereof* moving therewith, in secondary movements, in truckaway and driveaway service, from Houston, Galveston, and Port Arthur, Tex., to points in Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Missouri, and Kansas, restricted to traffic moving in foreign commerce only. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 69371 (Sub-No. 4), filed September 18, 1972. Applicant: NORMAN TRANSPORTATION LINES, INC., 6201 Lee Road, Maple Heights (Cleveland), OH 44137. Applicant's representative: John H. Baker, 435 Delaware Avenue, Buffalo, NY 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, (1) from Buffalo, N.Y., to Youngstown, Ohio and (2) from Cleveland (Maple Heights), Ohio, to Burgettstown (Washington County), Pa., and points in Allegheny, Beaver, and Butler Counties, Pa., under contract with The Great Atlantic & Pacific Tea Co., Inc. NOTE: Applicant states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 72243 (Sub-No. 31), filed September 22, 1972. Applicant: THE AETNA FREIGHT LINES, INC., Post Office Box 350, 2507 Youngstown Road SE., Warren, OH 44482. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products, equipment, materials, and supplies* used in the manufacture and processing of aluminum and aluminum products, between points in Hancock County, Ky., on the one hand, and, on the other, points in Florida, Georgia, Kansas, North Carolina, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 77972 (Sub-No. 20), filed September 25, 1972. Applicant: MERCHANTS TRUCK LINE, INC., Post Office Box 908, New Albany, MS 38652. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Pontotoc and Bruce, Miss., from Pontotoc over

Mississippi Highway 9 to Bruce and return over the same route, serving no intermediate points, including Bruce, but serving the plantsites and/or warehouse facilities of Brookwood Furniture, a division of U.S. Industries, located at or near Bruce, Miss., as off-route points in connection with applicant's presently authorized authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 82063 (Sub-No. 42), filed August 21, 1972. Applicant: KLIPSCH HAULING CO., a corporation, 119 East Loughborough, St. Louis, MO 63111. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid alum*, in bulk, in tank vehicles, from Pine Bluff, Ark., to points in Arkansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, Texas; (2) *Pentachlorophenol*, dry, in bulk, in tank vehicles, from Memphis, Tenn., to points in Arkansas, Alabama, Mississippi, Louisiana, and Tennessee, and (3) *Liquid sweeteners*, in bulk, in tank vehicles, from Pine Bluff, Ark., to points in Arkansas and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 87720 (Sub-No. 133) (amendment), filed September 20, 1972, published in the FEDERAL REGISTER issue of October 5, 1972, and republished as corrected this issue. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collings, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, paint additives, ink and ink additives, plastic materials and products*, from Fords, Garfield, Elizabeth, East Rutherford, Rockaway, Carlstadt, Belleville, Paterson, Moonachie, Piscataway, and Linden, N.J., and New York, N.Y., to points in Indiana, Michigan, Ohio, Illinois, Missouri, Minnesota, Wisconsin, Kentucky, Iowa, and Kansas; and (2) *materials, supplies and equipment*, utilized in the manufacture, sale, and distribution of the commodities described above, from the named destination States to the above-described origins. Restriction: The proposed service to be restricted against the transportation of commodities in bulk, and be performed under contract with Tenneco, Inc. NOTE: Applicant holds common carrier authority under MC 135684 and (Sub-No. 1), therefore common control and dual operations may be involved. The purpose of this republication is to amend the proposed authority by broadening the commodity description and territorial scope. The rest of the application remains the same. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 129), filed September 15, 1972. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, and supplies used in the quarrying, fabricating, manufacturing, and installation of granite, marble, slate, and stone* (except commodities which because of size or weight require the use of special equipment and commodities in bulk), between points in Vermont on the one hand, and, on the other, points in the United States (except Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, Virginia, Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 103993 (Sub-No. 735), filed September 17, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Chippewa County, Minn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 107012 (Sub-No. 162), filed September 21, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New household furnishings and equipment*, crated and uncrated, (1) between points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming and (2) between points in Illinois, Indiana, Michigan, Missouri, Ohio, and Wisconsin, on the one hand, and, on the other, points in the United States (except points in Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, the District of Columbia, Alaska, and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority at Chicago, Ill., Cleveland, Ohio, and specified points in Indiana to provide through service involving Iowa and Kentucky. However applicant indicates it has no present intent to do so. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107818 (Sub-No. 62), filed September 22, 1972. Applicant: GREENSTEIN TRUCKING COMPANY, a corporation, 280 Northwest 12th Avenue, Post Office Box 608, Pompano Beach, FL 33061. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsites and facilities of Lee & Johnson, Inc., at Alma, Ga., to points in Alabama, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at said origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 109462 (Sub-No. 23), filed September 25, 1972. Applicant: LUMBER TRANSPORT, INC., Post Office Box 6181, South Station, Fort Smith, AR 72901. Applicant's representative: Robert G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products* (except commodities in bulk, in tank vehicles) from El Paso, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex., or Albuquerque, N. Mex.

No. MC 110064 (Sub-No. 3), filed September 13, 1972. Applicant: BILL MEEKER, 1733 North Washington (Post Office Box 11184), Wichita, KS 67202. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*,

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by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from St. Louis, Mo., to Arkansas City, Kans., and (2) *empty malt beverage containers*, from Arkansas City, Kans., to St. Louis, Mo., under contract with Ark Valley Distributing Co. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans.

No. MC 110192 (Sub-No. 2), filed September 11, 1972. Applicant: HIRAM LEIGH, doing business as SANDERS & LEIGH, Liberty, Ky. 42539. Applicant's representative: Fred F. Bradley, Post Office Box 773, Courthouse, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Casey County, Ky. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Frankfort, Louisville, or Lexington, Ky.

No. MC 110380 (Sub-No. 8), filed September 25, 1972. Applicant: BERSCHENS OF MADISON, INC., 241 South Segoe Road, Madison, WI 53705. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *plastic pipe and conduit*, (2) *metal culverts*, and (3) *materials, supplies, and tools* used in the installation of plastic pipe and conduit and metal culverts, from Madison, Wis., to points in Minnesota, Wisconsin, Iowa, Illinois, Indiana, Ohio, Michigan, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Chicago, Ill.

No. MC 110563 (Sub-No. 87), filed September 25, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Ohio Building, Post Office Box 747, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from York and Grand Island, Nebr., to points in Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, New Jersey, Maryland, Delaware, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and Rhode Island. NOTE: Applicant states that the requested authority can be tacked with its existing authority at Chicago, Ill., and Cleveland, Ohio, but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Grand Island or Lincoln, Nebr.

No. MC 110563 (Sub-No. 88), filed September 25, 1972. Applicant: COLDWAY FOOD EXPRESS, INC., 113 North Ohio Avenue, Ohio Building, Post Office Box 747, Sidney, OH 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods* and (2) *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides, pelts, and commodities in bulk), from Lyons, Nebr., to points in Pennsylvania, Missouri, Kansas, Colorado, Iowa, South Dakota, and Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 112304 (Sub-No. 60), filed August 29, 1972. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, (1) from Malvern, Pa., to points in Massachusetts, Connecticut, Rhode Island, Delaware, New Jersey, and Nassau and Suffolk Counties, N.Y., and (2) from Claymont, Del., to Malvern, Pa. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114004 (Sub-No. 120), filed September 22, 1972. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers designed to be drawn by passenger automobiles*, in initial movements, and *buildings mounted on wheeled undercarriage equipped with hitch ball connections*, from points of manufacture located in Pickens County, Ala., to points in the United States including Alaska (but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montgomery, Ala.

No. MC 114211 (Sub-No. 175), filed September 26, 1972. Applicant: WARREN TRANSPORT, INC., Post Office Box 420, 324 Manhard Street, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors;* (2) *Equipment* designed for use in conjunction with tractors; (3) *Attachments* for the above-described commodities; (4) *Parts* of the above-described commodities and (5) *Materials, equipment, and supplies* (except commodities in bulk), used in the manufacture, sale and distribution of the commodities described in (1) through (4) above, between Fargo, N. Dak., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but, indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. No duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or Minneapolis, Minn.

No. MC 114211 (Sub-No. 176), filed September 26, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements, loaders, platforms feeders, trailers, wagons, augers, spreaders, buckets, hoists, accessories, attachments and parts*, from the United States (except Alaska and Hawaii), and (2) *Equipment, materials, and supplies*, used in the manufacture or distribution of the above described commodities (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Lester Prairie, Minn. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points on territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 115180 (Sub-No. 86), filed August 22, 1972. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, NY 10011. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor, vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Farmland Foods, Inc., Omaha, Nebr., and Carroll, Iowa, to points in New Mexico, Arizona, Idaho, Nevada, Utah, California, Oregon, Washington, and Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 115654 (Sub-No. 19), filed September 25, 1972. Applicant: TENNESSEE CARTAGE CO., INC., 809 Ewing Avenue, Post Office Box 1193, Nashville, TN 37202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, cooked and/or prepared (except in bulk), in vehicles equipped with mechanical protection from heat and cold, between Cincinnati, Ohio, points in Kentucky, Tennessee, points in Alabama on and north of U.S. Highway 278, and points in Georgia on and north of Interstate Highway 85 from the Georgia-South Carolina State line to Atlanta, and Interstate Highway 20 from Atlanta to the Georgia-Alabama State line. NOTE: Applicant states that tacking will be made at Frankfort, Ind., with its Sub-No. 13, to serve Nashville, Tenn. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 115840 (Sub-No. 79), filed September 28, 1972. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Environmental control and protective systems, equipment, and parts* and (2) *equipment, materials, and supplies* (except in bulk), used in the construction or installation of environmental control or protective systems, between points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the plantsites, warehouses, suppliers, and subcontractors of, or utilized by the Air Systems Division of Zurn Industries, Inc. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala., or Nashville, Tenn.

No. MC 116763 (Sub-No. 228), filed September 25, 1972. Applicant: CARL SUBLER TRUCKING, INC., Route 92, Post Office Box 215, Auburndale, FL 33823. Applicant's representative: H. M. Richters, North West Street, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pet related items*, from the plantsite and warehouse facilities of Lipton Pet Foods, Inc., at or near Woburn, Mass., to points in Alabama, Florida, Georgia, Illinois, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Ohio, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 116763 (Sub-No. 229), filed August 25, 1972. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116816 (Sub-No. 12), filed September 26, 1972. Applicant: MERIT TRUCKING CORP., 849 Harrison Avenue, Kearny, NJ 07032. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Household appliances, air-conditioning equipment, water heaters, central home heating and cooling units, radio, recorder, phonograph and television sets and parts and equipment therefor*, from the site of carrier's warehouse at Kearny, N.J.; to points in Dutchess, Orange, Putnam, Sullivan, and Ulster Counties, N.Y., and Middlesex and New Haven Counties, Conn., and (b) *Returned shipments of the above-specified commodities*, from the above-specified destination points to site of carrier's warehouse at Kearny, N.J., under contract with Philco Distributors, Inc., and Bruno-New York, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 117160 (Sub-No. 3), filed August 28, 1972. Applicant: ROBERTS CARTAGE, INC., Post Office Box 7162, Akron, OH 44306. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk and classes A and B explosives), between Cleveland-Hopkins Airport, Cleveland, Ohio, and Detroit Metropolitan Airport, Detroit, Mich., restricted to shipments having a prior or subsequent movement by air. NOTE: Applicant states that the requested authority can be tacked to a degree with its existing authority, however, applicant has no present intention of tacking and does not identify the points or territories which can be served. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 117883 (Sub-No. 173), filed August 30, 1972. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles, supplies, and materials*, used in the manufacture thereof, from Troy, Ohio, to points in Illinois, Indiana, Iowa, Minnesota, Missouri, Kansas, Wisconsin, and Nebraska, restricted to the transportation of traffic originating at the plantsite and storage facilities utilized by the Laminated and Coated Products Division of St. Regis Paper Co. and destined to the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Chicago, Ill.

No. MC 117940 (Sub-No. 80) (Amendment), filed June 22, 1972, published FEDERAL REGISTER, issue of July 27, 1972, under MC 114789 (Sub-No. 39) and republished as amended this issue. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 1700 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, from points in Georgia, Illinois, Maryland, Massachusetts, New Jersey, New York, North Carolina, South Carolina, and Pennsylvania, to Denver, Colo.; Detroit, Mich.; St. Louis, Mo.; Minneapolis-St. Paul, Minn.; Oklahoma City, Okla.; Dallas and Houston, Tex.; and Milwaukee, Wis. Limited to traffic originating at/or destined to the plantsites and storage facilities of the Dayton-Hudson Corp. and its wholly owned subsidiaries. NOTE: Applicant has contract carrier authority under MC 114789, therefore, dual operations may be involved. The purpose of this republication is to show that application has been amended to seek common carrier authority rather than that as a contract carrier. A new docket number has also been assigned. If a hearing is deemed necessary,

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applicant requests it be held at Minneapolis, Minn.

No. MC 118806 (Sub-No. 26), filed September 28, 1972. Applicant: ARNOLD BROS. TRANSPORT, LTD. 739 Lagimodiere Boulevard, Winnipeg, MB, Canada. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A)(1) *Tractors* (except those with vehicle beds, bed frames and fifth wheels); (2) *equipment* designed for use in conjunction with tractors; (3) *agricultural, industrial, construction and forestry machinery and equipment*; (4) *trailers* designed for the transportation of the above-described commodities (except those trailers designed to be drawn by passenger automobiles); (5) *attachments* for the above-described commodities; (6) *internal combustion engines*; (7) *such merchandise* as is dealt in by lawn care, sports and recreational vehicle dealers (except chemicals and commodities in bulk); which the above, at the time of movement (a) are being transported for the purpose of display, (b) are moving under a bill of lading issued by the Government of Canada, and (c) are moving from or to the sites of displays or shows utilized by the Government of Canada; and (B) *parts* of the above-described commodities, paraphernalia, advertising and displays moving in the same vehicle and at the same time, between points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123282 (Sub-No. 11), filed September 14, 1972. Applicant: McKINLEY TRANSPORT LIMITED, a corporation, Highway 25 at 401, Milton, ON, Canada. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment, between the port of entry on the international boundary line between the United States and Canada located at Sault Ste. Marie, Mich., on the one hand, and, on the other, Detroit, Mich., over the following described route: From the international boundary at Sault Ste. Marie, Mich., over Interstate Highway 75 to Detroit, Mich., and return over the same route, as an alternate route for operating convenience and serving no intermediate points. Restriction: The service herein described shall be restricted to the transportation of foreign commerce only. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 124083 (Sub-No. 44), filed August 30, 1972. Applicant: SKINNER MOTOR EXPRESS, INC., 1035 South Keystone Avenue, Indianapolis, IN 46203. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal and iron*, between points in Indiana, Kentucky, and Michigan. NOTE: Applicant states that tacking will be made at common points with presently held authority in its Sub-No. 9 which authorizes the transportation of scrap metal between points in Illinois, Indiana, Ohio, and parts of Pennsylvania west of U.S. Highway 219. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., Louisville, Ky., or Chicago, Ill.

No. MC 124236 (Sub-No. 46), filed August 28, 1972. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: Wm. E. Livingstone, III, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicate of soda*, in bulk, from Dallas, Tex., to points in Missouri. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Cleveland, Ohio.

No. MC 124679 (Sub-No. 57), filed August 31, 1972. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk), and (2) *advertising, promotional and display materials, stationary, forms and materials supplies, and equipment used or useful in the manufacture and distribution of foodstuffs*, when moving at the same time and in the same vehicle with (1) above, from Suffolk, Va., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. NOTE: Dual operations may be involved in permit No. MC 128813 and subs thereunder. Applicant states that no duplicating authority is sought. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Salt Lake City, Utah.

No. MC 125358 (Sub-No. 7), filed September 8, 1972. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, MB Canada. Applicant's representative: Joseph P. Summers, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment and materials used in the manufacture and assembly of automotive buses*, from Marysville, Ohio, to Pembina, N. Dak., under contract with Motor Coach Industries, Inc. NOTE: Applicant also holds common carrier authority under MC 134638, therefor dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 125358 (Sub-No. 8), filed September 12, 1972. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, MB Canada. Applicant's representative: Joseph P. Summers, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, in bags, from Richmond, Ind., to port of entry on the international boundary line between the United States and Canada located at or near Pembina, N. Dak., under contract with Victor Fox Foods, Ltd. NOTE: Applicant also holds common carrier authority under MC 134638, therefor dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 125918 (Sub-No. 14), filed August 21, 1972. Applicant: JOHN A. DI MEGLIO, INC., White Horse Pike, Ancora, N.J. 08037. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Iona, N.J. (Gloucester County), to points in Pennsylvania, Maryland, Delaware, Virginia, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, under contract with Grays Ferry Brick Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 126514 (Sub-No. 36), filed September 25, 1972. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, AZ 85001. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Envelopes*, (a) from New York, N.Y., to Clinton, Tenn., Anaheim, Calif., and points in Arizona; and (b) from Clinton, Tenn., to Anaheim, Los Angeles, and San Francisco, Calif., and points in Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 129355 (Sub-No. 2), filed September 25, 1972. Applicant: GILMORE ENTERPRISES, INC., Post Office Drawer D, Fort Walton Beach, FL 32548. Applicant's representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Okaloosa, Walton, Holmes, Santa Rosa, and Escambia Counties, Fla., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common control may be involved. Duplicating authority may also be involved in certificate No. MC 129355, authorizing, as pertinent, transportation of used household goods, between points in Okaloosa County, Fla. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pensacola or Tallahassee, Fla.

No. MC 133097 (Sub-No. 8), filed September 25, 1972. Applicant: SYSTEM REEFER SERVICE, INC., 4614 Lincoln Avenue, Cypress, CA 90630. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Welding rods and wire* from Bowling Green, Ky., to points in California, Colorado, Oregon, and Washington, and (2) *Chains, cotter pins, hoists and hoisting equipment, trolleys, screws, washers, and abrasive wheels* from York, Pa., to points in Texas, under contract with American Chain & Cable Co., York, Pa. (Chain Division) and Bowling Green, Ky. (Page Division). NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 133542 (Sub-No. 3), filed September 25, 1972. Applicant: FLOYD WILD, INC., Post Office Box 91, Marshall, MN 56258. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice beverages, imitation maple flavored syrup, pancake mixes*, and *frozen foods*, from Marshall, Minn., to points in Arkansas, Colorado, Kentucky, Montana, Oklahoma, Tennessee, Texas, West Virginia, and Wyoming, under contract with Vita-Sun Distributing Co., of Marshall, Minn., and Schwan's Sales Enterprises, Inc., also of Marshall, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Sioux Falls, S. Dak.

No. MC 133973 (Sub-No. 6), filed September 22, 1972. Applicant: HUNTINGTON MOVING & STORAGE COMPANY, a corporation, 1102 Vernon Street, Huntington, WV 25719. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in West Virginia, points in the Ohio counties of Adams, Allen, Athens, Auglaize, Belmont, Brown, Butler, Carroll, Champaign, Clark, Clermont, Clinton, Coshocton, Defiance, Delaware, Drake, Gallia, Greene, Fairfield, Fayette, Franklin, Fulton, Guernsey, Hamilton, Hancock, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Jackson, Jefferson, Knox, Lawrence, Licking, Logan, Madison, Marion, Meigs, Mercer, Miami, Monroe, Montgomery, Morgan, Morrow, Muskingham, Noble, Paulding, Perry, Pickaway, Pike, Preble, Putnam, Ross, Scioto, Shelby, Tuscarawas, Union, Van Wert, Vinton, Warren, Washington, Williams, and Wyandot; and points in the Kentucky counties of Anderson, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Campbell, Carter, Clark, Clay, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Greenup, Harlan, Harrison, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Mercer, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Scott, Whitley, Wolfe, and Woodford, restricted to the transportation of traffic having a prior or subsequent movement beyond said points in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it holds duplicating authority under its Sub-No. 1. All such duplicating authority shall be eliminated if and when the instant application is granted. If a hearing is deemed necessary, applicant requests it be held at Huntington or Charleston, W. Va.

No. MC 134068 (Sub-No. 14), filed September 22, 1972. Applicant: KODIAK REFRIGERATED LINES, INC., 3336 Fruitland Avenue, Vernon, CA 90058. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, foodstuffs, and those requiring special equipment because of size or weight) from the plantsites and warehouse facilities of Minnesota Mining and Manufacturing Co. located in Alexandria, Cottage Grove, Fairmont, Hutchinson, Lindstrom, New Ulm, Pine City, and St. Paul, Minn.; Cumberland and Prairie du Chien, Wis.; Ames, Iowa; and Springfield, Mo.; and their commercial zones, to points in California, Oregon, and Washington, restricted to the transportation of traffic originating at the said plantsites and warehouse facilities. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 134599 (Sub-No. 55), filed September 5, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Muskegon, Mich., and its commercial zone, to points in Virginia, West Virginia, Massachusetts, Maine, Pennsylvania, Maryland, Washington, D.C., New Jersey, New York, Connecticut, Rhode Island, Vermont, and New Hampshire, under a continuous contract with S. D. Warren Co., a division of Scott Paper Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134599 (Sub-No. 56), filed September 5, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicants' representatives: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501; and Gordon L. Roberts, 520 Kerns Building, Salt Lake City, Utah, 84101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, under a continuing contract or contracts with S. D. Warren Co., a division of Scott Paper Co., from Muskegon, Mich. to points in Idaho, Montana, Oregon, Wyoming, Utah, Arizona, New Mexico, Nevada, South Carolina, and Mississippi. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah or Lincoln, Nebr.

No. MC 135698 (Sub-No. 8), filed September 25, 1972. Applicant: GERALD E. AMUNDSON, doing business as JERRY AMUNDSON TRUCKING, Rural Route 3, New Richmond, Wis. 54017. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone*, from Roberts, Wis., to points in Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135833 (Sub-No. 9), filed September 27, 1972. Applicant: B & C SPECIALIZED CARRIERS, INC., 6524 Brookville Road, Indianapolis, IN 46219. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Indian Oaks, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Ohio,

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Pennsylvania, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Indianapolis, Ind.

No. MC 136429 (Sub-No. 2), filed September 6, 1972. Applicant: FRANK A. HOFFMANN, doing business as FRANK A. HOFFMANN TRUCKING COMPANY, 11 Buckingham Way, Freehold, NJ 07728. Applicant's representative: A. David Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel and plastic strapping, machinery, tools, steel box strap seals, wire, steel accessories and supplies, and pneumatic inflatable dunnage*, from Conshohocken and Fort Washington, Pa., to points in New Jersey and New York, N.Y., under a continuing contract or contracts with Interlake, Inc., of Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136661 (Sub-No. 1), filed September 18, 1972. Applicant: ROBERT J. GRALL, Post Office Box 313, Manitowoc, WI 54220. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum siding* and *accessories*, from Oconomowoc and Watertown, Wis., to points in the United States (except Alabama, Alaska, Arizona, Colorado, Georgia, Hawaii, Idaho, Maine, Mississippi, Montana, Nevada New Hampshire, New Mexico, Utah, Vermont, and Wyoming), under contract with Mirro Aluminum Co. NOTE: Applicant now holds common carrier authority under its No. MC 119406 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 136701 (Sub-No. 2), filed September 12, 1972. Applicant: WALT A. STURMOSKI, Post Office Box 671, Belen, NM 87002. Applicant's representative: W. Farrell Peyton, Suite 1030, National Building, 505 Marquette NW., Albuquerque, NM 87101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquor, wine, beer, and advertising material related thereto*, except commodities in bulk, in tank vehicles, from Phoenix, Ariz.; El Segundo, Lodi, Los Angeles, Ripon, Rutherford, and San Francisco, Calif.; Belleville and Peoria, Ill.; Bardstown, Frankfort, Lawrenceburg, Louisville, and Owensboro, Ky.; Boston, Mass.; Canandaigua and Maspeth, N.Y.; and Houston, Tex., to Albuquerque, N. Mex., under a contract or contracts with United Wholesale Liquor Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex., Phoenix, Ariz., Denver, Colo., or El Paso, Tex.

No. MC 136724 (Sub-No. 1), filed August 23, 1972. Applicant: HUTT TRANSPORTATION CO., a corporation, 5280 West 161st Street, Cleveland, OH 44135. Applicant's representative: Bernard S. Goldfarb, 1825 The Illuminating Building, 55 Public Square, Cleveland, OH 44113. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, and commodities in bulk), having a prior or subsequent movement by air, in express service, between Cleveland Hopkins International Airport, Cleveland, Ohio, on the one hand, and, on the other, Detroit Metropolitan Airport, Wayne County, Mich.; John F. Kennedy International Airport, New York, N.Y.; and O'Hare International Airport, Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 136794 (Sub-No. 2), filed September 8, 1972. Applicant: E. E. McCREARY, Rural Route No. 1, Centerville, Iowa 52544. Applicant's representative: Marvin V. Colton, 421 North 10th, Centerville, IA 52544. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured homes*, from Rothschild, Wis., to points in Iowa and Missouri, under contract with Ozark Homes, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 136998 (Sub-No. 1), filed September 1, 1972. Applicant: KORAL SALES, INC., doing business as KSI, Route 2, Box 659, Kenosha, Wis. 53140. Applicant's representative: Joseph F. Madrigrano, Jr., 6225 22d Avenue, Kenosha, WI 53140. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, lamps and parts for both, wrought iron, plastics, and general surplus commodities*, (1) from Paterson, N.J.; Chicago, Ill.; Kenosha and Milwaukee, Wis.; Los Angeles, San Francisco and San Diego, Calif., to ports of entry on the international boundary line between the United States and Mexico at San Ysidro, Calif., and (2) from the international boundary line between the United States and Mexico at San Ysidro, Calif., to San Diego and Los Angeles, Calif.; Chicago, Ill., Kenosha and Milwaukee, Wis., and Paterson, N.J., under contract with Mex-Am Enterprises, Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kenosha or Milwaukee, Wis., or Chicago, Ill.

No. MC 138001 (Sub-No. 2), filed September 27, 1972. Applicant: WILLIAM SCHMIDT, doing business as A.I.D.S., 95 Schuyler Avenue, North Arlington, NJ 07032. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, NY 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene tape*, from Madison, Conn., to points in Alabama, Arkansas, Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, under contract with Shore Line Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at White Plains, N.Y., or New York, N.Y.

No. MC 138034 (Sub-No. 1), filed September 25, 1972. Applicant: HARRY MAHLANDT, Helena, Mo. 55118. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed and dry animal and poultry feed supplements*, (a) from the plantsite and/or storage facilities of Cargill, Inc.—Nutrena Feed Division at or near Kansas City, Kans., to points in Atchison, Holt, Buchanan, Platte, Nodaway, Andrew, Worth, Gentry, De Kalb, Clinton, Clay, Jackson, Cass, Bates, Vernon, Cedar, St. Clair, Henry, Johnson, Lafayette, Saline, Chariton, Carroll, Ray, Caldwell, Daviess, Livingston, Linn, and Macon Counties, Mo.; (b) from the plantsite and/or storage facilities of Cargill, Inc.—Nutrena Feed Division at or near Kansas City, Kans., to the Armour and Co. hog farm located approximately 4 miles east of Seneca, Mo.; (c) from the plantsite and/or storage facilities of Cargill, Inc.—Nutrena Feed Division at or near Kansas City, Kans., to the Armour & Co. hog farm located approximately 1 mile east of the junction of Missouri Highway 96 and Missouri Highway 171, located north of Webb City, Mo.; and (d) from the plantsite and/or storage facilities of Cargill, Inc.—Nutrena Feed Division at or near Morrill, Kans., to points in Atchison, Holt, Andrew, Buchanan, Clinton, Platte, Clay, Ray, Carroll, Caldwell, Livingston, De Kalb, Daviess, Grundy, Mercer, Harrison, Worth, Nodaway, Gentry, and Jackson Counties, Mo., under contract with Cargill, Inc.—Nutrena Feed Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138064, filed August 25, 1972. Applicant: GARITH J. WHETSTONE, BRUCE WHETSTONE, AND JOSEPH CISEWSKI, doing business as WHETSTONE SALVAGE & TOWING, 273 East Third Street, Winona, MN 55987. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked or disabled motor vehicles*, in towaway service, from points in North Dakota, South Dakota, Nebraska, Iowa, Illinois, Indiana, Ohio, and Wisconsin, to Winona, Minn.; and (2) *used motor vehicles*, in towaway service, on return from Winona, Minn., to points in the above-named origin States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minona, Minneapolis, or St. Paul, Minn.

No. MC 138069, filed September 15, 1972. Applicant: LUCIUS, INC., 9250 North Wadsworth Boulevard, Broomfield, CO 80020. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages, wines, nonalcoholic mixes and prepared alcoholic cocktails and mixes*, from points in Illinois, Indiana, Michigan, Kentucky, Louisiana, and Texas, and Delano, St. Helena, Livermore, Lodi, San Francisco, San Jose, San Martin, and Sonora, Calif., to Denver, Colo., limited to a transportation service to be performed under a continuing contract or contracts with Davis Bros., Inc., and further restricted to the transportation of shipments destined to the facilities of Davis Bros., Inc., at Denver, Colo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 138070, filed August 30, 1972. Applicant: A. T. D. TRUCKING CORP., 142–50 Rockaway Boulevard, Jamaica, Queens, New York, NY 11436. Applicant's representative: Harvey L. Strelzin, 253 Broadway, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* including knit goods, shoes, radios, tape players, electronic tubes, piece goods, and synthetic hair, between New York, N.Y., and Bergen, Middlesex, Hudson, Somerset, Essex, Union, Passaic, and Morris Counties, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130177 (Amendment), filed August 11, 1972, published in the FEDERAL REGISTER issue of September 28, 1972, and republished as amended this issue. Applicant: RONALD T. KING, doing business as THE KING CO., 218 Independence Avenue, Trenton, NJ 08610. For a license (BMC 5) to engage in operations as a broker at Trenton, N.J., in arranging snow ski trips procuring transportation for passengers and their baggage, in round-trip tours in special and charter operations, beginning at points in New Jersey and extending to points in Connecticut, Massachusetts, New Hampshire, New York, Pennsylvania, and Vermont. NOTE: The purpose of this republication is to redescribe the authority sought.

APPLICATION IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 68860 (Sub-No. 16), filed October 6, 1972. Applicant: RUSSELL TRANSFER, INCORPORATED, 444 Glenmore Drive, Salem, VA 24153. Applicant's representative: Robert G. Perry, 1701 Charleston National Plaza, Charleston, WV. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles of iron steel manufacture* as defined by the Commission, between Roanoke and Troutville, Va., on the one hand, and, on the other, points in Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, West Virginia, and the District of Columbia, restricted to tacking with applicant's other existing authority. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17760 Filed 10-18-72;8:45 am]

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federal register

THURSDAY, OCTOBER 19, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 203

PART II

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

Safety and Health Standards for Maritime Employment

Revision

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Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

SAFETY AND HEALTH STANDARDS FOR MARITIME EMPLOYMENTS

Revision

Pursuant to authority in section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended; 33 U.S.C. 941) and in Secretary of Labor's Order No. 12–71 (36 F.R. 8754), Parts 1915, 1916, 1917, 1918, and 1919 of Title 29 of the Code of Federal Regulations are hereby revised to read as set forth below.

The reason for the revision of the maritime standards is to correct typographical errors, and includes amendments published in the FEDERAL REGISTER through September 25, 1972, and to provide immediately indexes to facilitate reference to the provisions of the standards.

Since this revision does not make any substantive changes in the standards, it is not necessary to provide notice of proposed rulemaking, opportunity for public participation therein, nor any delay in effective date. For the same reasons, good cause is found for not following the regular procedure for rulemaking provided in 5 U.S.C. 553, and for making this revision effective immediately.

Signed at Washington, D.C., this 5th day of October, 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

PART 1915—SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

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Subject Index for 29 CFR 1915—Ship Repairing

AUTHORITY: The provisions of this Part 1915, issued under sec. 41, 44 Stat. 1444; sec. 1, 72 Stat. 835; 33 U.S.C. 941.

Subpart A—General Provisions

§ 1915.1 Purpose, scope and responsibility.

(a) The Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424; 33 U.S.C. 901 et seq.) provides compensation for injuries suffered by employees when they are working for private employers within the Federal maritime jurisdiction on the navigable waters of the United States, including drydocks. Public Law 85–742, 72 Stat. 835, approved August 23, 1958, which amends section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (44 Stat. 1444; 33 U.S.C. 941) requires, among other things, that every employer of the aforementioned employees "shall install, furnish, maintain, and use such devices and safeguards with particular reference to equipment used by and working conditions established by such employers as the Secretary may determine by regulation or order to be reasonably necessary to protect the life, health, and safety of such employees, and to render safe such employment and places of employment, and to prevent injury to his employees." It is the purpose of the regulations of this part to carry out the intent of Public Law 85–742.

(b) Pursuant to Public Law 85–742 the regulations of this part do not make determinations with respect to matters under the control of the United States Coast Guard within the scope of Title 52 of the Revised Statutes and Acts supplementary or amendatory thereto (46 U.S.C. 1–1388, passim), including, but not restricted to, the master, ship's officers, crew members, design, construction, and maintenance of the vessel, its gear and equipment; to matters within the regulatory authority of the United States Coast Guard to safeguard vessels, harbors, ports, and waterfront facilities under the provisions of the Espionage Act of June 15, 1917, as amended (40 Stat. 220; 50 U.S.C. 191 et seq.; 22 U.S.C. 401 et seq.); including the provisions of Executive Order 10173, as amended by Executive Orders 10277 and 10352 (3 CFR 1949–1953 Comp., pp. 356, 778, and 873); or to matters within the regulatory authority of the United States Coast Guard with respect to lights, warning devices, safety equipment and other matters relating to the promotion of safety of lives and property under section 4(e) of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1333).

(c) The responsibility for compliance with the regulations of this part is placed upon "employers" as defined in § 1915.2(c).

(d) It is not the intent of the regulations of this part to place additional responsibilities or duties on owners, operators, agents or masters of vessels unless such persons are acting as employers, nor is it the intent of these regulations to relieve such owners, operators, agents or masters of vessels from responsibilities or duties now placed upon them by law, regulation or custom.

(e) The responsibilities placed upon the competent person herein shall be deemed to be the responsibilities of the employer.

§ 1915.2 Definitions.

(a) The term "shall" indicates provisions which are mandatory.

(b) The term "Secretary" means the Secretary of Labor.

(c) The term "employer" means an employer any of whose employees are employed, in whole or in part, in ship repair or related employments as defined in this section on the navigable waters of the United States, including dry docks, graving docks and marine railways.

(d) The term "employee" means any ship repairman or other person engaged in ship repair or related employments on the navigable waters of the United States, including dry docks, graving docks and marine railways, other than the master, ship's officers, crew of the vessel, or any person engaged by the master to repair any vessel under 18 net tons.

(e) The term "gangway" means any ramp-like or stair-like means of access provided to enable personnel to board or leave a vessel including accommodation ladders, gangplanks and brows.

(f) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

(g) For purposes of § 1915.44, the term "barge" means an unpowered, flat bottom, shallow draft vessel including scows, carfloats and lighters. For purposes of this section, the term does not include ship shaped or deep draft barges.

(h) For purposes of § 1915.44, the term "river tow boat" means a shallow draft, low free board, self-propelled vessel designed to tow river barges by pushing ahead. For purposes of this section, the term does not include other towing vessels.

(i) The term "ship repair" means any repair of a vessel including, but not restricted to, alterations, conversions, installations, cleaning, painting, and maintenance work.

(j) The term "related employments" means any employments performed as an incident to or in conjunction with ship repair work, including, but not restricted to, inspection, testing and employment as a watchman.

(k) The term "hazardous substance" means a substance which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritant, or otherwise harmful is likely to cause injury.

(l) The term "competent person" for purposes of this part means a person who is capable of recognizing and evaluating employee exposure to hazardous substances or to other unsafe conditions and is capable of specifying the necessary protection and precautions to be taken to ensure the safety of employees as required by the particular regulation under the condition to which it applies. For the purposes of Subparts B, C, and D, of this part except for §§ 1915.11(a)(1)(iv) and 1915.24(b)(8), to which the above definition applies, the competent person must also meet the additional requirements of § 1915.10.

(m) The term "confined space" means a compartment of small size and limited access such as a double bottom tank, cofferdam, or other space which by its small size and confined nature can readily create or aggravate a hazardous exposure.

(n) The term "enclosed space" means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

(o) The term "hot work" means riveting, welding, burning or other fire or spark producing operations.

(p) The term "cold work" means any work which does not involve riveting, welding, burning or other fire or spark producing operations.

(q) The term "portable unfired pressure vessel" means any pressure container or vessel used aboard ship, other than the ship's equipment, containing liquids or gases under pressure, excepting pressure vessels built to ICC regulations under 49 CFR Part 78, Subparts C and H.

(r) The term "powder actuated fastening tool" means a tool or machine which drives a stud, pin, or fastener by means of an explosive charge.

(s) For purposes of § 1915.57, the term "hazardous material" means a material which has one or more of the following characteristics: (1) Has a flash point below 140° F., closed cup, or is subject to spontaneous heating; (2) has a threshold limit value below 500 p.p.m. in the case of a gas or vapor, below 500 mg./m.³ for fumes, and below 25 m.p.p.c.f. in case of a dust; (3) has a single dose oral LD_{50} below 500 mg./kg.; (4) is subject to polymerization with the release of large amounts of energy; (5) is a strong oxidizing or reducing agent; (6) causes first degree burns to skin in short time exposure, or is systemically toxic by skin contact; or (7) in the course of normal operations, may produce dusts, gases, fumes, vapors, mists, or smokes which have one or more of the above characteristics.

§ 1915.3 Penalty.

(a) As provided in Public Law 85–742, any employer who, willfully, violates or fails or refuses to comply with the provisions of the regulations of this part and any employer or other person who willfully interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of section 41 of the Act by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of the regulations of this part, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than $100 nor more than $3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than $100 nor more than $3,000.

(b) The liability under this provision of Public Law 85–742 shall not affect any other liability of the employer under the Longshoremen's and Harbor Workers' Compensation Act.

§ 1915.4 [Reserved]

§ 1915.5 Reference specifications, standards, and codes.

Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, Subpart B § 1915.13(a).

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill. 60611, Subpart B, §1915.12 (b) and (f); Subpart C, §§ 1915.24(b)(7), 1915.25(a)(4); Subpart H, § 1915.72(a).

United States of America Standard Safety Code for Portable Wood Ladders, A14.1–1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1915.42(a)(6).

United States of America Standard Safety Code for Portable Metal Ladders, A14.2–1956, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1915.42(a)(4).

United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1–1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart I, §§ 1915.81(a)(1), 1915.83(b).

American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017, Subpart K, § 1915.101(a).

Threshold Limit Values, American Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, Ohio 45202, Subpart B, § 1915.11 (a)(3) and (b)(3); Subpart C, § 1915.21(b).

United States of America Standards Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1–1964, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart H, § 1915.74(c).

§ 1915.6 Notification of accidents resulting in fatalities or serious injuries.

Within 48 hours after the occurrence of an accident causing the death of an employee or resulting in an em-

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ployee's admission to a hospital as a bed patient, the employer shall file a copy of Bureau of Employees' Compensation Form BEC—202 (approved by Budget Bureau No. 44–R 887.3) with the Field Safety Consultant of the Occupational Safety and Health Administration serving the area where the accident occurred (in addition to such filing as is required by 20 CFR 31.3) unless prior thereto and as soon after the accident as feasible the employer has given oral or written notice of the accident to the person in charge of such office in sufficient detail to permit the accident to be identified readily. (44 Stat. 1444; 33 U.S.C. 930)

§ 1915.7 Amendment of the regulations of this part.

The Secretary may at any time, upon his own motion or upon written petition of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the provisions of the regulations of this part.

Subpart B—Explosive and Other Dangerous Atmospheres

§ 1915.10 Competent person.

(a) *Designation.* (1) For the purposes of Subparts B, C, D, and H of this part, except for §§ 1915.24(b) (8) and 1915.25 (a) (5), one or more competent persons shall be designated by the employer in accordance with the applicable requirements of this section unless the requirements of Subparts B, C, D, and H of this part are always carried out by a National Fire Protection Association Certified Marine Chemist.

(2) The employer shall indicate on U.S. Department of Labor Form MAR–8, "Designation of Competent Person" either those employees designated as competent persons or that the prescribed functions of such persons are always carried out by a National Fire Protection Association Certified Marine Chemist in addition to his professional duties. When additions or changes are made in the personnel so designated, a new Form MAR–8 shall be executed. A copy of this executed form shall be forwarded to the nearest office of the Occupational Safety and Health Administration.

(b) *Criteria.* The following criteria shall guide the employer in designating employees as competent persons:

(1) Ability to understand the meaning of designations on certificates and of any qualifications relating thereto and to carry out any instructions, either written or oral, left by the National Fire Protection Association Certified Marine Chemist or person authorized by the U.S. Coast Guard referred to in § 1915.13.

(2) Ability to use and interpret the readings of an oxygen indicator and a combustible gas indicator. The ability to use and interpret the readings of a carbon monoxide indicator and a carbon dioxide indicator, if the operations involve such hazardous gases.

(3) Familiarity with and understanding of Subparts B, C, D, and H of this part.

(4) Familiarity with the structure and knowledge of the location and designation of spaces of the types of vessels on which repair work is done.

(5) Capability to perform the tests and inspections required by Subparts B, C, D, and H of this part and to write the required logs.

(c) *Logging of inspections and tests.* (1) When tests and inspections required to be performed by a competent person by any provisions of Subparts B, C, D, and H of this part, except those referred to in §§ 1915.24(b) (8) and 1915.25(a) (5) are made, a record of the locations, operations performed and date, time, and results of the tests and any instructions resulting therefrom shall be recorded on U.S. Department of Labor Form MAR–9, "Log of Inspections and Tests by Competent Person." A separate form shall be used for each vessel on which tests and inspections are made.

(2) This record shall be available for inspection in the immediate vicinity of the affected operations while they are in progress. This record or copy thereof shall be kept on file for a period of at least three months from the date of the completion of the job.

(3) A copy of any certificate issued in accordance with § 1915.13 and of any instructions issued by the National Fire Protection Association Certified Marine Chemist shall be kept on file with the log for a period of at least 3 months from the date of the completion of the job. The certificate and instructions issued by the person doing the fumigation referred to in § 1915.11(b) (1) (ii) shall also be kept on file for a period of at least 3 months from the date of the completion of the job.

(d) *Application.* The provisions of this section are intended to apply in their entirety to employers engaged in general ship repair work. They do not apply to employers whose work involves situations to which Subparts B, C and D of this part are not applicable, such as general cleaning work in which flammable and toxic atmospheres are not involved. Any employer whose work involves only certain portions of Subparts B, C and D of this part, such as work on small craft in boat yards where only combustible gas indicator tests are necessary for fuel tank leaks or when using flammable paints below decks, may designate persons as competent on the basis of the applicable portion of the criteria set forth in paragraph (b) of this section.

§ 1915.11 Precautions before entering.

(a) *Flammable atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) and (ii) of this subparagraph, the atmosphere within the space to be entered shall be tested by a competent person to determine the concentration of flammable vapors or gases within the space.

(i) Cargo spaces or other spaces containing or having last contained combustible or flammable liquids or gases in bulk.

(ii) Spaces immediately adjacent to those described in subdivision (i) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of flammable vapor or gas greater than 10 percent of the lower explosive limit, the space shall be ventilated to reduce the concentration below 10 percent of the lower explosive limit before men are permitted to enter.

(3) If the atmosphere in the space to be entered is found to contain a concentration of flammable vapor or gas below the level immediately dangerous to life as defined in § 1915.82(b) (1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1915.82 (a), and (c), (d), or (e), whichever is applicable.

(b) *Toxic atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i), (ii), and (iii) of this subparagraph, the atmosphere in the space to be entered shall be tested for toxic atmospheric contaminants, and the space inspected for the presence of toxic or corrosive residues by a Marine Chemist, Industrial Hygienist or other person qualified to make these tests and inspections.

(i) Cargo spaces or other spaces containing or having last contained bulk liquids, gases, or solids of a toxic, corrosive, or irritant nature.

(ii) Spaces which have been fumigated.

(iii) Spaces immediately adjacent to those described in subdivisions (i) and (ii) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of toxic contaminants above the level which is immediately dangerous to life, the space shall be ventilated to reduce the concentration below the level immediately dangerous to life as defined in § 1915.82 (b) (1).

(3) If the atmosphere in the space to be entered is found to contain a concentration of toxic contaminants below the level immediately dangerous to life as defined in § 1915.82(b) (1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1915.82 (a), and (c), (d), or (e), whichever is applicable.

(4) The person qualified to make the tests and inspections referred to in subparagraph (1) of this paragraph shall make a record of the tests, inspections and instructions pertaining to subparagraph (3) of paragraph (a) of this section and subparagraphs (2) and (3) of this paragraph on U.S. Department of Labor Form MAR–9, which shall be available for inspection and kept on file in accordance with § 1915.10(c) (2).

(c) *Oxygen deficient atmospheres.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) through (v) of this subparagraph, the atmosphere in the spaces to be entered shall be tested by a competent person with an oxygen indicator or other suitable device to ensure that it contains at least 16.5 percent oxygen.

(i) Spaces in which the tests required by paragraphs (a) and (b) of this section indicate that no flammable or toxic contaminants are present in the atmosphere.

(ii) Compartments which have been sealed.

(iii) Spaces which have been coated and closed up.

(iv) Nonventilated compartments which have been freshly painted.

(v) Cargo spaces containing cargoes or residues of cargoes which absorb oxygen, such as scrap iron, fresh fruit and molasses, and various vegetable drying oils in bulk.

(2) If the tests indicate that the atmosphere in the space to be entered contains less than 16.5 percent oxygen, the space shall be ventilated until tests indicate an oxygen content above this level.

(d) *Exceptions.* In emergencies and in cases of work of brief duration necessary to accomplish the ventilation required or to start operations, work may be performed in atmospheres containing concentrations of flammable contaminants above the upper explosive limit or otherwise immediately dangerous to life, provided employees are protected in accordance with the requirements of § 1915.82 (a) and (b).

§ 1915.12 Cleaning and other cold work.

(a) Employees shall be permitted to perform manual cleaning to remove residue materials, scale, and debris or to perform other cold work in spaces described in § 1915.11 (a) (1) (i) and (ii) and (b) (1) (i) through (iii) before they have been certified as gas free only under the following conditions:

(1) Liquid residues of flammable and toxic materials shall be removed from the spaces as thoroughly as practicable before employees start actual cleaning operations in these spaces. Drippings and spills of these materials on deck or elsewhere alongside the vessel shall be cleaned up as the work progresses. Special care shall be taken to prevent the spilling or the draining of these materials into the water surrounding the vessel.

(2) Continuous natural or mechanical ventilation shall be provided to keep the concentration of flammable vapors below ten (10) percent of the lower explosive limit in all parts of the space, provided that if, because of the high volatility of the residues, a uniform concentration of less than ten (10) percent of the lower explosive limit cannot be achieved, sufficient exhaust ventilation shall be provided to reduce the concentration to or below that level in the major portions of the compartment.

(3) Tests shall be made by a competent person prior to commencement of cold work and with sufficient frequency thereafter, in accordance with temperature, volatility of the residues and other existing conditions in and about the spaces, to ensure that the concentration stated in subparagraph (2) of this paragraph is not exceeded.

(4) Cold work only shall be permitted.

(5) Tests shall be made by a competent person to ensure that the exhaust vapors from these spaces are not accumulating in other areas within or around the vessel, marine railway, dry-dock, graving dock, or under the pier where sources of ignition may be present. Should such accumulations be found, any sources of ignition within the affected area shall be removed or extinguished.

(b) Only approved explosion-proof, self-contained, battery-fed, portable lamps shall be used in spaces described in paragraph (a) of § 1915.13 before the spaces have been certified as "Safe for Men." Battery-fed, portable lamps bearing the approval of the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines, and such lamps listed by the U.S. Coast Guard as approved for such use are deemed to meet the requirements of this paragraph.

(c) Signs shall be posted on the open deck adjacent to the access to spaces described in paragraph (a) of § 1915.13 prohibiting smoking and the use of open flames.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) In spaces described in paragraph (a) of § 1915.13 which have been certified "Safe for Men," either battery lamps or explosion-proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used, provided the lights are mounted to the space openings from the exterior, or suspended within the space with the cables so led as to protect them from injury.

(g) In spaces certified "Safe for Fire" nonexplosion proof lights may be used.

§ 1915.13 Certification before hot work is begun.

(a) Employees shall not be permitted to engage in hot work or the use of powder actuated fastening tools in or on the following spaces, boundaries or pipe lines until a certificate setting forth that the hot work can be done in safety is issued. Such certificate shall be acceptable only if issued by a Marine Chemist certificated by the National Fire Protection Association, except that a certificate issued by another person authorized by the U.S. Coast Guard pursuant to the provisions of 46 CFR 35.01–1(c) (1) for tank vessels, 46 CFR 71.60–1(c) (1) for passenger vessels, and 46 CFR 91.50–1(c) (1) for cargo and miscellaneous vessels is acceptable for a particular inspection:

(1) *On tank vessels.* (i) Within or on the boundaries of cargo tanks which have been used to carry combustible or flammable liquids and gases in bulk, or within spaces adjacent to such cargo tanks.

(ii) Within or on the boundaries of fuel tanks.

(iii) On pipe lines, heating coils, pumps, fittings, or other appurtenances connected to such cargo or fuel tanks.

(2) *On dry cargo, miscellaneous and passenger vessels.* (i) Within or on the boundaries of cargo tanks which have been used to carry combustible or flammable liquids and gases in bulk.

(ii) Within spaces adjacent to cargo tanks which have been used to carry flammable gases, or liquids with a flash point below 150° F., except where the distance between such cargo tanks and the work to be performed is not less than twenty-five (25) feet.

(iii) Within or on the boundaries of fuel tanks.

(iv) On pipe lines, heating coils, pumps, fittings, or other appurtenances connected to such cargo or fuel tanks.

(b) In dry cargo holds for which a Marine Chemist's certificate is not required by paragraph (a) (2) (ii) of this section, hot work may be performed only after a competent person has carefully examined the hold and found it to be free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

(c) Before hot work is performed in engine room and boiler room spaces of any vessel for which a Marine Chemist's certificate is not required by the provision of paragraph (a) of this section or in fuel tank and engine compartments of boats, the bilges shall be inspected and tested by a competent person to ensure that they are free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

§ 1915.14 Maintaining gas free conditions.

The following rules shall apply in maintaining gas free conditions:

(a) Pipe lines which may convey hazardous substances into the spaces certified "Safe For Men—Safe For Fire" shall be disconnected or blanked off, or other positive means shall be used to prevent discharge of hazardous substances from entering the space. Manholes and other closures which were secured when tests were made shall remain secured. If such manholes or other closures are opened or any manipulation of valves takes place which tends to alter existing conditions, work in the affected spaces or areas shall be stopped and not resumed until such time as the area has been retested and again certified "Safe For Men—Safe For Fire" in ac-

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cordance with the requirements of § 1915.13(a).

(b) Before hot work is commenced on the weather deck over spaces which, under these regulations, are not required to be gas freed or inerted, all valves, closures and vents, except those which are vented up masts, connecting with non-gas free tanks or compartments below, shall be closed. Valves, closures and vents shall not be opened until hot work is completed unless the hot work is stopped and the work location posted as unsafe for fire. The latter notice shall not be removed nor hot work resumed until the area is again made safe.

(c) The employer shall inform masters and chief engineers of vessels of the provisions of this section and shall confirm that they are aware of their responsibilities for seeing that their crews understand and obey all warning signs, tags, and the limitations stated on the marine chemist's certificates.

(d) When conditions in a tank are such that there is a possibility of hazardous vapor being released from residues or other sources after a marine chemist's certificate has been issued, a competent person shall make tests to insure that the gas-free condition is maintained irrespective of whether hot work is being performed in the tank. When the competent person finds that atmospheric conditions have altered, work shall be stopped and a new marine chemist's certificate in accordance with the requirements of § 1915.13(a) shall be obtained before work is resumed.

(e) Before hot work is begun on any metal covered with preservative coatings the requirements of § 1915.33 shall be met.

§ 1915.15 Warning signs.

(a) Except as provided in paragraph (c) of this section, all tanks, compartments, or spaces which have been certified "Safe For Men—Not Safe for Fire," or "Not Safe For Men—Not Safe For Fire" shall be plainly and conspicuously marked with paint or signs indicating that no hot work shall be performed on such tanks, compartments, or spaces or in the vicinity thereof.

(b) Except as provided in paragraph (c) of this section, all tanks, compartments or spaces which have been inerted with gas or certified "Not Safe For Men—Safe For Fire" shall be plainly and conspicuously marked with paint or signs indicating that the tank, compartment or space contains a gas which will not support life or is hazardous to employees.

(c) The warning marks or signs required by paragraphs (a) and (b) of this section need not be posted on individual tanks, compartments or spaces if the entire vessel has been certified "Safe For Men—Not Safe For Fire," "Not Safe For Men— Not Safe For Fire," or if the entire vessel has been inerted or certified "Not Safe For Men—Safe For Fire," and if a sign to this effect is conspicuously posted at the gangway and at all other means of access to the vessel.

Subpart C—Surface Preparation and Preservation

§ 1915.21 Toxic cleaning solvents.

(a) When toxic solvents are used, the employer shall employ one or more of the following measures to safeguard the health of employees exposed to these solvents.

(1) The cleaning operation shall be completely enclosed to prevent the escape of vapor into the working space.

(2) Either natural ventilation or mechanical exhaust ventilation shall be used to remove the vapor at the source and to dilute the concentration of vapors in the working space to a concentration which is safe for the entire work period.

(3) Employees shall be protected against toxic vapors by suitable respiratory protective equipment in accordance with the requirements of § 1915.82 (a) and (c), and, where necessary, against exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.

(b) The principles in the threshold limit values to which attention is directed in § 1915.5 will be used by the Department of Labor in enforcement proceedings in defining a safe concentration of air contaminants.

(c) When flammable solvents are used, precautions shall be taken in accordance with the requirements of § 1915.25.

§ 1915.22 Chemical paint and preservative removers.

(a) Employees shall be protected against skin contact during the handling and application of chemical paint and preservative removers and shall be protected against eye injury by goggles or face shields in accordance with the requirements of § 1915.81 (a) and (b).

(b) When using flammable paint and preservative removers, precautions shall be taken in accordance with the requirements of § 1915.25.

(c) When using chemical paint and preservative removers which contain volatile and toxic solvents, such as benzol, acetone and amyl acetate, the provisions of § 1915.21 shall be applicable.

(d) When using paint and rust removers containing strong acids or alkalies, employees shall be protected by suitable face shields to prevent chemical burns on the face and neck.

(e) When steam guns are used, all employees working within range of the blast shall be protected by suitable face shields. Metal parts of the steam gun itself shall be insulated to protect the operator against heat burns.

§ 1915.23 Mechanical paint removers.

(a) *Power tools.* (1) Employees engaged in the removal of paints, preservatives, rusts or other coatings by means of power tools shall be protected against eye injury by goggles or face shields in accordance with the requirements of § 1915.81(a).

(2) All portable rotating tools used for the removal of paints, preservatives, rusts or other coatings shall be adequately guarded to protect both the operator and nearby workers from flying missiles.

(3) Portable electric tools shall be grounded in accordance with the requirements of § 1915.72 (a) and (b).

(4) In a confined space, mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum shall be used, or employees shall be protected by respiratory protective equipment in accordance with the requirements of § 1915.82 (a) and (d).

(b) *Flame removal.* (1) Hardened preservative coatings shall not be removed by flame in enclosed spaces unless the employees exposed to fumes are protected by air line respirators in accordance with the requirements of § 1915.82 (a). Employees performing such an operation in the open air, and those exposed to the resulting fumes, shall be protected by a fume filter type respirator in accordance with requirements of paragraphs (a) and (d)(2)(iv) of § 1915.82.

(2) Flame or heat shall not be used to remove soft and greasy preservative coatings.

(c) *Abrasive blasting*—(1) *Equipment.* Hoses and fittings used for abrasive blasting shall meet the following requirements:

(i) *Hoses.* Hose of a type to prevent shocks from static electricity shall be used.

(ii) *Hose couplings.* Hose lengths shall be joined by metal couplings secured to the outside of the hose to avoid erosion and weakening of the couplings.

(iii) *Nozzles.* Nozzles shall be attached to the hose by fittings that will prevent the nozzle from unintentionally becoming disengaged. Nozzle attachments shall be of metal and shall fit onto the hose externally.

(iv) *Dead man control.* A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cutoff or to signal the pot tender by means of a visual and audible signal to cut off the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

(2) *Replacement.* Hoses and all fittings used for abrasive blasting shall be inspected frequently to insure timely replacement before an unsafe amount of wear has occurred.

(3) *Personal protective equipment.* (i) Abrasive blasters working in enclosed spaces shall be protected by hoods and air fed respirators or by air helmets of a positive pressure type in accordance with the requirements of § 1915.82(a).

(ii) Abrasive blasters working in the open shall be protected as indicated in subdivision (i) of this subparagraph except that when synthetic abrasives containing less than one percent free silica are used filter type respirators approved by the Bureau of Mines for exposure to lead dusts may be used in accordance with § 1915.82 (a) and (d).

(iii) Employees, other than blasters, including machine tenders and abrasive recovery men, working in areas where unsafe concentrations of abrasive materials and dusts are present shall be protected by eye and respiratory protective equipment in accordance with the requirements of §§ 1915.81 (a) and (b) and 1915.82 (a) and (d).

(iv) The blaster shall be protected against injury from exposure to the blast by appropriate protective clothing, including gloves.

(v) Since surges from drops in pressure in the hose line can be of sufficient proportions to throw the blaster off the staging, the blaster shall be protected by a safety belt when blasting is being done from elevations where adequate protection against falling cannot be provided by railings.

§ 1915.24 Painting.

(a) *Paints mixed with toxic vehicles or solvents.* (1) When paints mixed with toxic vehicles or solvents are sprayed, the following conditions shall apply:

(i) In confined spaces, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of § 1915.82(a).

(ii) In tanks or compartments, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of § 1915.82(a). Where mechanical ventilation is provided, employees shall be protected by respirators in accordance with the requirements of § 1915.82 (a) and (e).

(iii) In large and well ventilated areas, employees exposed to such spraying shall be protected by respirators in accordance with the requirements of § 1915.82 (a) and (e).

(2) Where brush application of paints with toxic solvents is done in confined spaces, or other areas where lack of ventilation creates a hazard, employees shall be protected by filter respirators in accordance with the requirements of § 1915.82 (a) and (c).

(3) When flammable paints or vehicles are used, precautions shall be taken in accordance with the requirements of § 1915.25.

(4) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(b) *Paints and tank coatings dissolved in highly volatile, toxic and flammable solvents.* Several organic coatings, adhesives and resins are dissolved in highly toxic, flammable and explosive solvents with flash points below 80° F. Work involving such materials shall be done only when all of the following special precautions have been taken:

(1) Sufficient exhaust ventilation shall be provided to keep the concentration of solvent vapors below ten (10) percent of the lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(2) If the ventilation fails or if the concentration of solvent vapors rises above ten (10) percent of the lower explosive limit, painting shall be stopped and the compartment shall be evacuated until the concentration again falls below ten (10) percent of the lower explosive limit. If the concentration does not fall when painting is stopped, additional ventilation to bring the concentration down to ten (10) percent of the lower explosive limit shall be provided.

(3) Ventilation shall be continued after the completion of painting until the space or compartment is gas free. The final determination as to whether the space or compartment is gas free shall be made after the ventilating equipment has been shut off for at least ten minutes.

(4) Exhaust ducts shall discharge clear of working areas and away from sources of possible ignition. Periodic tests shall be made to ensure that the exhausted vapors are not accumulating in other areas within or around the vessel or dry dock.

(5) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(6) Only non-sparking paint buckets, spray guns and tools shall be used. Metal parts of paint brushes and rollers shall be insulated. Staging shall be erected in a manner which ensures that it is non-sparking.

(7) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used.

(8) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty (50) feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(9) The face, eyes, head, hands and all other exposed parts of the bodies of employees handling such highly volatile paints shall be protected. All footwear shall be non-sparking, such as rubbers, rubber boots or rubber soled shoes without nails. Coveralls or other outer clothing shall be of cotton. Rubber, rather than plastic, gloves shall be used because of the danger of static sparks.

(10) No matches, lighted cigarettes, cigars, or pipes, and no cigarette lighters or ferrous articles shall be taken into the area where work is being done.

(11) All solvent drums taken into the compartment shall be placed on nonferrous surfaces and shall be grounded to the vessel. Metallic contact shall be maintained between containers and drums when materials are being transferred from one to another.

(12) Spray guns, paint pots, and metallic parts of connecting tubing shall be electrically bonded, and the bonded assembly shall be grounded to the vessel.

(13) All employees continuously in a compartment in which such painting is being performed, shall be protected by air line respirators in accordance with the requirements of § 1915.82(a) and by suitable protective clothing. Employees entering such compartments for a limited time shall be protected by filter cartridge type respirators in accordance with the requirements of § 1915.82 (a) and (e).

(14) All employees doing exterior paint spraying with such paints shall be protected by suitable filter cartridge type respirators in accordance with the requirements of § 1915.82 (a) and (e) and by suitable protective clothing.

§ 1915.25 Flammable liquids.

(a) In all cases when liquid solvents, paint and preservative removers, paints or vehicles, other than those covered by § 1915.24(b), are capable of producing a flammable atmosphere under the conditions of use, the following precautions shall be taken:

(1) Smoking, open flames, arcs and spark-producing equipment shall be prohibited in the area.

(2) Ventilation shall be provided in sufficient quantities to keep the concentration of vapors below ten (10) percent of their lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(3) Scrapings and rags soaked with these materials shall be kept in a covered metal container.

(4) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used.

(5) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty (50) feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(6) Suitable fire extinguishing equipment shall be immediately available in the work area and shall be maintained in a state of readiness for instant use.

Subpart D—Welding, Cutting and Heating

§ 1915.31 Ventilation and protection in welding, cutting and heating.

(a) *Mechanical ventilation requirements.* (1) For purposes of this section, mechanical ventilation shall meet the following requirements:

(i) Mechanical ventilation shall consist of either general mechanical ventilation systems or local exhaust systems.

(ii) General mechanical ventilation shall be of sufficient capacity and so arranged as to produce the number of air changes necessary to maintain welding fumes and smoke within safe limits.

(iii) Local exhaust ventilation shall consist of freely movable hoods intended to be placed by the welder or burner as close as practicable to the work. This

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system shall be of sufficient capacity and so arranged as to remove fumes and smoke at the source and keep the concentration of them in the breathing zone within safe limits.

(iv) Contaminated air exhausted from a working space shall be discharged into the open air or otherwise clear of the source of intake air.

(v) All air replacing that withdrawn shall be clean and respirable.

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

(b) *Welding, cutting and heating in confined spaces.* (1) Except as provided in paragraphs (b)(3) and (c)(2) of this section, either general mechanical or local exhaust ventilation meeting the requirements of paragraph (a) of this section shall be provided whenever welding, cutting or heating is performed in a confined space.

(2) The means of access shall be provided to a confined space and ventilation ducts to this space shall be arranged in accordance with § 1915.46(b) (1) and (2).

(3) When sufficient ventilation cannot be obtained without blocking the means of access, employees in the confined space shall be protected by air line respirators in accordance with the requirements of § 1915.82(a), and an employee on the outside of such a confined space shall be assigned to maintain communication with those working within it and to aid them in an emergency.

(c) *Welding, cutting or heating of metals of toxic significance.* (1) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subparagraph shall be performed with either general mechanical or local exhaust ventilation meeting the requirements of paragraph (a) of this section.

(i) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials.

(ii) Lead base metals.

(iii) Cadmium-bearing filler materials.

(iv) Chromium-bearing metals or metals coated with chromium-bearing materials.

(2) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subparagraph shall be performed with local exhaust ventilation in accordance with the requirements of paragraph (a) of this section or employees shall be protected by air line respirators in accordance with the requirements of § 1915.82(a).

(i) Metals containing lead, other than as an impurity, or metals coated with lead-bearing materials.

(ii) Cadmium-bearing or cadmium coated base metals.

(iii) Metals coated with mercury-bearing metals.

(iv) Beryllium-containing base or filler metals. Because of its high toxicity, work involving beryllium shall be done with both local exhaust ventilation and air line respirators.

(3) Employees performing such operations in the open air shall be protected by filter type respirators in accordance with the requirements of paragraphs (a) and (d)(2)(iv) of § 1915.82, except that employees performing such operations on beryllium-containing base or filler metals shall be protected by air line respirators in accordance with the requirements of § 1915.82(a).

(4) Other employees exposed to the same atmosphere as the welders or burners shall be protected in the same manner as the welder or burner.

(d) *Inert-gas metal-arc welding.* (1) Since the inert-gas metal-arc welding process involves the production of ultraviolet radiation of intensities of 5 to 30 times that produced during shielded metal-arc welding, the decomposition of chlorinated solvents by ultraviolet rays, and the liberation of toxic fumes and gases, employees shall not be permitted to engage in, or be exposed to the process until the following special precautions have been taken:

(i) The use of chlorinated solvents shall be kept at least two hundred (200) feet from the exposed arc, and surfaces prepared with chlorinated solvents shall be thoroughly dry before welding is permitted on such surfaces.

(ii) Helpers and other employees in the area not protected from the arc by screening as provided in § 1915.36(e) shall be protected by filter lenses meeting the requirements of § 1915.81(a) and (c). When two or more welders are exposed to each other's arc, filter lens goggles of a suitable type meeting the requirements of § 1915.81 (a) and (c) shall be worn under welding helmets or hand shields to protect the welder against flashes and radiant energy when either the helmet is lifted or the shield is removed.

(iii) Welders and other employees who are exposed to radiation shall be suitably protected so that the skin is covered completely to prevent burns and other damage by ultraviolet rays. Welding helmets and hand shields shall be free of leaks and openings, and free of highly reflective surfaces.

(iv) When inert-gas metal-arc welding is being performed on stainless steel, the requirements of paragraph (c)(2) of this section shall be met to protect against dangerous concentrations of nitrogen dioxide.

(e) *General welding, cutting and heating.* (1) Welding, cutting and heating not involving conditions or materials described in paragraphs (b), (c) or (d) of this section may normally be done without mechanical ventilation or respiratory protective equipment, but where, because of unusual physical or atmospheric conditions, an unsafe accumulation of contaminants exists, suitable mechanical ventilation or respiratory protective equipment shall be provided.

(2) Employees performing any type of welding, cutting or heating shall be protected by suitable eye protective equipment in accordance with the requirements of § 1915.81 (a) and (c).

(f) *Residues and cargos of metallic ores.* (1) Residues and cargos of metallic ores of toxic significance shall be removed from the area or protected from the heat before welding, cutting or heating is begun.

§ 1915.32 Fire prevention.[1]

(a) When practical, objects to be welded, cut or heated shall be moved to a designated safe location or, if the object to be welded, cut or heated cannot be readily moved, all movable fire hazards including residues of combustible bulk cargos in the vicinity shall be taken to a safe place.

(b) If the object to be welded, cut or heated cannot be moved and if all the fire hazards including combustible cargos cannot be removed, positive means shall be taken to confine the heat, sparks, and slag, and to protect the immovable fire hazards from them.

(c) No welding, cutting or heating shall be done where the application of flammable paints or the presence of other flammable compounds or of heavy dust concentrations creates a hazard.

(d) Suitable fire extinguishing equipment shall be immediately available in the work area and shall be maintained in a state of readiness for instant use. In addition, when hot work is being performed aboard a vessel and pressure is not available on the vessel's fire system, an auxiliary supply of water shall be made available where practicable, consistent with avoiding freezing of the lines or hose.

(e) When the welding, cutting, or heating operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire while the actual welding, cutting, or heating operation is being performed and for a sufficient period of time after completion of the work to insure that no possibility of fire exists. Such personnel shall be instructed as to the specific anticipated fire hazards and how the fire fighting equipment provided is to be used.

(f) When welding, cutting or heating is performed on tank shells, decks, overheads and bulkheads, since direct penetration of sparks or heat transfer may introduce a fire hazard to an adjacent compartment, the same precautions shall be taken on the opposite side as are taken on the side on which the welding is being performed.

(g) In order to eliminate the possibility of fire in confined spaces as a result of gas escaping through leaking or improperly closed torch valves, the gas supply to the torch shall be positively shut off at some point outside the confined space whenever the torch is not to be used or whenever the torch is left unattended for a substantial period of time, such as during the lunch hour. Overnight and at the change of shifts the torch and hose shall be removed from the confined space. Open end fuel gas and oxygen hoses shall be immediately removed from confined spaces when they are disconnected from the torch or other gas consuming device.

(h) Vaporizing liquid extinguishers shall not be used in enclosed spaces.

(i) Except when the contents are being removed or transferred, drums, pails, and other containers which contain or have contained flammable liquids shall be kept closed. Empty containers shall be removed to a safe area apart from hot work operations, or open flames.

[1] 46 CFR 146.02-20 contains Coast Guard regulations pertaining to welding and cutting while explosives and dangerous cargoes are being handled.

§ 1915.33 Welding, cutting and heating in way of preservative coatings.

(a) Before welding, cutting or heating is commenced on any surface covered by a preservative coating whose flammability is not known, a test shall be made by a competent person to determine its flammability. Preservative coatings shall be considered to be highly flammable when scrapings burn with extreme rapidity.

(b) Precautions shall be taken to prevent ignition of highly flammable hardened preservative coatings. When coatings are determined to be highly flammable they shall be stripped from the area to be heated to prevent ignition. A 1½-inch or larger fire hose with fog nozzle, which has been uncoiled and placed under pressure, shall be immediately available for instant use in the immediate vicinity, consistent with avoiding freezing of the hose.

(c) *Protection against toxic preservative coatings.* (1) In enclosed spaces all surfaces covered with toxic preservatives shall be stripped of all toxic coatings for a distance of at least 4 inches from the area of heat application or the employees shall be protected by air line respirators meeting the requirements of § 1915.82(a).

(2) In the open air employees shall be protected by a filter type respirator in accordance with requirements of § 1915.82 (a) and (d).

(d) Before welding, cutting or heating is commenced in enclosed spaces on metals covered by soft and greasy preservatives, the following precautions shall be taken:

(1) A competent person shall test the atmosphere in the space to ensure that it does not contain explosive vapors, since there is a possibility that some soft and greasy preservatives may have flash points below temperatures which may be expected to occur naturally. If such vapors are determined to be present, no hot work shall be commenced until such precautions have been taken as will ensure that the welding, cutting or heating can be performed in safety.

(2) The preservative coatings shall be removed for a sufficient distance from the area to be heated to ensure that the temperature of the unstripped metal will not be appreciably raised. Artificial cooling of the metal surrounding the heated area may be used to limit the size of the area required to be cleaned. The prohibition contained in § 1915.23(b)(2) shall apply.

(e) Immediately after welding, cutting or heating is commenced in enclosed spaces on metal covered by soft and greasy preservatives, and at frequent intervals thereafter, a competent person shall make tests to ensure that no flammable vapors are being produced by the coatings. If such vapors are determined to be present, the operation shall be stopped immediately and shall not be resumed until such additional precautions have been taken as are necessary to ensure that the operation can be resumed safely.

§ 1915.34 Welding, cutting and heating of hollow metal containers and structures not covered by § 1915.11.

(a) Drums, containers, or hollow structures which have contained flammable substances shall, before welding, cutting, or heating is undertaken on them, either be filled with water or throughly cleaned of such substances and ventilated and tested.

(b) Before heat is applied to a drum, container, or hollow structure, a vent or opening shall be provided for the release of any built-up pressure during the application of heat.

(c) Before welding, cutting, heating or brazing is begun on structural voids such as skegs, bilge keels, fair waters, masts, booms, support stanchions, pipe stanchions or railings, a competent person shall inspect the object and, if necessary, test it for the presence of flammable liquids or vapors. If flammable liquids or vapors are present, the object shall be made safe.

(d) Objects such as those listed in paragraph (c) of this section shall also be inspected to determine whether water or other non-flammable liquids are present which, when heated, would build up excessive pressure. If such liquids are determined to be present, the object shall be vented, cooled, or otherwise made safe during the application of heat.

(e) Jacketed vessels shall be vented before and during welding, cutting or heating operations in order to release any pressure which may build up during the application of heat.

§ 1915.35 Gas welding and cutting.

(a) *Transporting, moving and storing compressed gas cylinders.* (1) Valve protection caps shall be in place and secure. Oil shall not be used to lubricate protection caps.

(2) When cylinders are hoisted, they shall be secured on a cradle, slingboard or pallet. They shall not be hoisted by means of magnets or choker slings.

(3) Cylinders shall be moved by tilting and rolling them on their bottom edges. They shall not be intentionally dropped, struck, or permitted to strike each other violently.

(4) When cylinders are transported by vehicle, they shall be secured in position.

(5) Valve protection caps shall not be used for lifting cylinders from one vertical position to another. Bars shall not be used under valves or valve protection caps to pry cylinders loose when frozen. Warm, not boiling, water shall be used to thaw cylinders loose.

(6) Unless cylinders are firmly secured on a special carrier intended for this purpose, regulators shall be removed and valve protection caps put in place before cylinders are moved.

(7) A suitable cylinder truck, chain, or other steadying device shall be used to keep cylinders from being knocked over while in use.

(8) When work is finished, when cylinders are empty or when cylinders are moved at any time, the cylinder valves shall be closed.

(9) Acetylene cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(b) *Placing cylinders.* (1) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag or flame will not reach them. When this is impractical, fire resistant shields shall be provided.

(2) Cylinders shall be placed where they cannot become part of an electrical circuit. Electrodes shall not be struck against a cylinder to strike an arc.

(3) Fuel gas cylinders shall be placed with valve end up whenever they are in use. They shall not be placed in a location where they would be subject to open flame, hot metal, or other sources of artificial heat.

(4) Cylinders containing oxygen or acetylene or other fuel gas shall not be taken into confined spaces.

(c) *Treatment of cylinders.* (1) Cylinders, whether full or empty, shall not be used as rollers or supports.

(2) No person other than the gas supplier shall attempt to mix gases in a cylinder. No one except the owner of the cylinder or person authorized by him shall refill a cylinder. No one shall use a cylinder's contents for purposes other than those intended by the supplier. Only cylinders bearing Interstate Commerce Commission identification and inspection markings shall be used.

(3) No damaged or defective cylinder shall be used.

(d) *Use of fuel gas.* The employer shall thoroughly instruct employees in the safe use of fuel gas, as follows:

(1) Before connecting a regulator to a cylinder valve, the valve shall be opened slightly and closed immediately. (This action is generally termed "cracking" and is intended to clear the valve of dust or dirt that might otherwise enter the regulator.) The person cracking the valve shall stand to one side of the outlet, not in front of it. The valve of a fuel gas cylinder shall not be cracked where the gas would reach welding work, sparks, flame or other possible sources of ignition.

(2) The cylinder valve shall always be opened slowly to prevent damage to the regulator. To permit quick closing, valves on fuel gas cylinders shall not be opened more than 1½ turns. When a special wrench is required, it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel gas flow can be shut off quickly in case of an emergency. In the case of manifolded or coupled cylinders, at least one such wrench shall always be available for immediate use. Nothing shall

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be placed on top of a fuel gas cylinder, when in use, which may damage the safety device or interfere with the quick closing of the valve.

(3) Fuel gas shall not be used from cylinders through torches or other devices which are equipped with shut-off valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

(4) Before a regulator is removed from a cylinder valve, the cylinder valve shall always be closed and the gas released from the regulator.

(5) If, when the valve on a fuel gas cylinder is opened, there is found to be a leak around the valve stem, the valve shall be closed and the gland nut tightened. If this action does not stop the leak, the use of the cylinder shall be discontinued, and it shall be properly tagged and removed from the vessel. In the event that fuel gas should leak from the cylinder valve rather than from the valve stem and the gas cannot be shut off, the cylinder shall be properly tagged and removed from the vessel. If a regulator attached to a cylinder valve will effectively stop a leak through the valve seat, the cylinder need not be removed from the vessel.

(6) If a leak should develop at a fuse plug or other safety device, the cylinder shall be removed from the vessel.

(e) *Fuel gas and oxygen manifolds.* (1) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least one (1) inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(2) Fuel gas and oxygen manifolds shall be placed in safe and accessible locations in the open air. They shall not be located within enclosed spaces.

(3) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(4) When not in use, manifold and header hose connections shall be capped.

(5) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(f) *Hose.* (1) Fuel gas hose and oxygen hose shall be easily distinguishable from each other. The contrast may be made by different colors or by surface characteristics readily distinguishable by the sense of touch. Oxygen and fuel gas hoses shall not be interchangeable. A single hose having more than one gas passage, a wall failure of which would permit the flow of one gas into the other gas passage, shall not be used.

(2) When parallel sections of oxygen and fuel gas hose are taped together, not more than 4 inches out of 8 inches shall be covered by tape.

(3) All hose carrying acetylene, oxygen, natural or manufactured fuel gas, or any gas or substance which may ignite or enter into combustion or be in any way harmful to employees, shall be inspected at the beginning of each shift. Defective hose shall be removed from service.

(4) Hose which has been subjected to flashback or which shows evidence of severe wear or damage shall be tested to twice the normal pressure to which it is subject, but in no case less than two hundred (200) psi. Defective hose or hose in doubtful condition shall not be used.

(5) Hose couplings shall be of the type that cannot be unlocked or disconnected by means of a straight pull without rotary motion.

(6) Boxes used for the stowage of gas hose shall be ventilated.

(g) *Torches.* (1) Clogged torch tip openings shall be cleaned with suitable cleaning wires, drills or other devices designed for such purpose.

(2) Torches shall be inspected at the beginning of each shift for leaking shut-off valves, hose couplings, and tip connections. Defective torches shall not be used.

(3) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

(h) *Pressure regulators.* Oxygen and fuel gas pressure regulators including their related gauges shall be in proper working order while in use.

§ 1915.36 Arc welding and cutting.

(a) *Manual electrode holders.* (1) Only manual electrode holders which are specifically designed for arc welding and cutting and are of a capacity capable of safely handling the maximum rated current required by the electrodes shall be used.

(2) Any current carrying parts passing through the portion of the holder which the arc welder or cutter grips in his hand, and the outer surfaces of the jaws of the holder, shall be fully insulated against the maximum voltage encountered to ground.

(b) *Welding cables and connectors.* (1) All arc welding and cutting cables shall be of the completely insulated, flexible type, capable of handling the maximum current requirements of the work in progress, taking into account the duty cycle under which the arc welder or cutter is working.

(2) Only cable free from repair or splices for a minimum distance of ten (10) feet from the cable end to which the electrode holder is connected shall be used, except that cables with standard insulated connectors or with splices whose insulating quality is equal to that of the cable are permitted.

(3) When it becomes necessary to connect or splice lengths of cable one to another, substantial insulated connectors of a capacity at least equivalent to that of the cable shall be used. If connections are effected by means of cable lugs, they shall be securely fastened together to give good electrical contact, and the exposed metal parts of the lugs shall be completely insulated.

(4) Cables in poor repair shall not be used. When a cable, other than the cable lead referred to in subparagraph (2) of this paragraph, becomes worn to the extent of exposing bare conductors, the portion thus exposed shall be protected by means of rubber and friction tapes or other equivalent insulation.

(c) *Ground returns and machine grounding.* (1) A ground return cable shall have a safe current carrying capacity equal to or exceeding the specified maximum output capacity of the arc welding or cutting unit which it services. When a single ground return cable services more than one unit, its safe current carrying capacity shall equal or exceed the total specified maximum output capacities of all the units which it services.

(2) Structures or pipe lines, except pipe lines containing gases or flammable liquids or conduits containing electrical circuits, may be used as part of the ground return circuit, provided that the pipe or structure has a current carrying capacity equal to that required by subparagraph (1) of this paragraph.

(3) When a structure or pipe line is employed as a ground return circuit, it shall be determined that the required electrical contact exists at all joints. The generation of an arc, sparks or heat at any point shall cause rejection of the structure as a ground circuit.

(4) When a structure or pipe line is continuously employed as a ground return circuit, all joints shall be bonded, and periodic inspections shall be conducted to ensure that no condition of electrolysis or fire hazard exists by virtue of such use.

(5) The frames of all arc welding and cutting machines shall be grounded either through a third wire in the cable containing the circuit conductor or through a separate wire which is grounded at the source of the current. Grounding circuits, other than by means of the vessel's structure, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(6) All ground connections shall be inspected to ensure that they are mechanically strong and electrically adequate for the required current.

(d) *Operating instructions.* Employers shall instruct employees in the safe means of arc welding and cutting as follows:

(1) When electrode holders are to be left unattended, the electrodes shall be removed and the holders shall be so placed or protected that they cannot make electrical contact with employees or conducting objects.

(2) Hot electrode holders shall not be dipped in water, since to do so may expose the arc welder or cutter to electric shock.

(3) When the arc welder or cutter has occasion to leave his work or to stop work for any appreciable length of time, or when the arc welding or cutting machine is to be moved, the power supply switch to the equipment shall be opened.

(4) Any faulty or defective equipment shall be reported to the supervisor.

(e) *Shielding.* Whenever practicable, all arc welding and cutting operations shall be shielded by noncombustible or flame-proof screens which will protect employees and other persons working in the vicinity from the direct rays of the arc.

§ 1915.37 Uses of fissionable material in ship repair.

(a) In ship repair and related activities involving the use of and exposure to sources of ionizing radiation not only on conventionally powered but also on nuclear powered vessels, the applicable provisions of the Atomic Energy Commission's Standards for Protection Against Radiation (10 CFR Part 20), relating to protection against occupational radiation exposure, shall apply.

(b) Any activity which involves the use of radioactive material, whether or not under license from the Atomic Energy Commission, shall be performed by competent persons specially trained in the proper and safe operation of such equipment. In the case of materials used under Commission license, only persons actually licensed, or competent persons under direction and supervision of the licensee, shall perform such work.

Subpart E—Scaffolds, Ladders and Other Working Surfaces

§ 1915.41 Scaffolds or staging.

(a) *General requirements.* (1) All scaffolds and their supports whether of lumber, steel or other material, shall be capable of supporting the load they are designed to carry with a safety factor of not less than four (4).

(2) All lumber used in the construction of scaffolds shall be spruce, fir, long leaf yellow pine, Oregon pine or wood of equal strength. The use of hemlock, short leaf yellow pine, or short fiber lumber is prohibited.

(3) Lumber dimensions as given in this subpart are nominal except where given in fractions of an inch.

(4) All lumber used in the construction of scaffolds shall be sound, straight-grained, free from cross grain, shakes and large, loose or dead knots. It shall also be free from dry rot, large checks, worm holes or other defects which impair its strength or durability.

(5) Scaffolds shall be maintained in a safe and secure condition. Any component of the scaffold which is broken, burned or otherwise defective shall be replaced.

(6) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(7) No scaffold shall be erected, moved, dismantled or altered except under the supervision of competent persons.

(8) No welding, burning, riveting or open flame work shall be performed on any staging suspended by means of fiber rope.

(9) Lifting bridles on working platforms suspended from cranes shall consist of four legs so attached that the stability of the platform is assured.

(10) Unless the crane hook has a safety latch or is moused, the lifting bridles on working platforms suspended from cranes shall be attached by shackles to the lower lifting block or other positive means shall be taken to prevent them from becoming accidentally disengaged from the crane hook.

(b) *Independent pole wood scaffolds.* (1) All pole uprights shall be set plumb. Poles shall rest on a foundation of sufficient size and strength to distribute the load and to prevent displacement.

(2) In light-duty scaffolds not more than 24 feet in height, poles may be spliced by overlapping the ends not less than 4 feet and securely nailing them together. A substantial cleat shall be nailed to the lower section to form a support for the upper section except when bolted connections are used.

(3) All other poles to be spliced shall be squared at the ends of each splice, abutted, and rigidly fastened together by not less than two cleats securely nailed or bolted thereto. Each cleat shall overlap each pole end by at least 24 inches and shall have a width equal to the face of the pole to which it is attached. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the pole.

(4) Ledgers shall extend over two consecutive pole spaces and shall overlap the poles at each end by not less than 4 inches. They shall be left in position to brace the poles as the platform is raised with the progress of the work. Ledgers shall be level and shall be securely nailed or bolted to each pole and shall be placed against the inside face of each pole.

(5) All bearers shall be set with their greater dimension vertical and shall extend beyond the ledgers upon which they rest.

(6) Diagonal bracing shall be provided between the parallel poles, and cross bracing shall be provided between the inner and outer poles or from the outer poles to the ground.

(7) Minimum dimensions and spacing of members shall be in accordance with table E–1 in § 1915.68.

(8) Platform planking shall be in accordance with the requirements of paragraph (h) of this section.

(9) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(c) *Independent pole metal scaffolds.* (1) Metal scaffold members shall be maintained in good repair and free of corrosion.

(2) All vertical and horizontal members shall be fastened together with a coupler or locking device which will form a positive connection. The locking device shall be of a type which has no loose parts.

(3) Posts shall be kept plumb during erection and the scaffold shall be subsequently kept plumb and rigid by means of adequate bracing.

(4) Posts shall be fitted with bases supported on a firm foundation to distribute the load. When wooden sills are used, the bases shall be fastened thereto.

(5) Bearers shall be located at each set of posts, at each level, and at each intermediate level where working platforms are installed.

(6) Tubular bracing shall be applied both lengthwise and crosswise as required.

(7) Platform planking shall be in accordance with the requirements of paragraph (h) of this section.

(8) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(d) *Wood trestle and extension trestle ladders.* (1) The use of trestle ladders, or extension sections or base sections of extension trestle ladders longer than 20 feet is prohibited. The total height of base and extension may, however, be more than 20 feet.

(2) The minimum dimensions of the side rails of the trestle ladder, or the base sections of the extension trestle ladder, shall be as follows:

(i) Ladders up to and including those 16 feet long shall have side rails of not less than 1⅝ x 2¾ inch lumber.

(ii) Ladders over 16 feet long and up to and including those 20 feet long shall have side rails of not less than 1⅝ x 3 inch lumber.

(3) The side rails of the extension section of the extension trestle ladder shall be parallel and shall have minimum dimensions as follows:

(i) Ladders up to and including 12 feet long shall have side rails of not less than 1⅝ x 2¼ inch lumber.

(ii) Ladders over 12 feet long and up to and including those 16 feet long shall have side rails of not less than 1⅝ x 2½ inch lumber.

(iii) Ladders over 16 feet long and up to and including those 20 feet long shall have side rails of not less than 1⅝ x 2¾ inch lumber.

(4) Trestle ladders and base sections of extension trestle ladders shall be so spread that when in an open position the spread of the trestle at the bottom, inside to inside, shall be not less than 5½ inches per foot of the length of the ladder.

(5) The width between the side rails at the bottom of the trestle ladder or of the base section of the extension trestle ladder shall be not less than 21 inches for all ladders and sections 6 feet or less in length. For longer lengths of ladder the width shall be increased at least 1 inch for each additional foot of length. The width between the side rails of the extension section of the trestle ladder shall be not less than 12 inches.

(6) In order to limit spreading, the top ends of the side rails of both the trestle ladder and of the base section of the extension trestle ladder shall be beveled, or of equivalent construction, and shall be provided with a metal hinge.

(7) A metal spreader or locking device to hold the front and back sections in an open position, and to hold the extension section securely in the elevated position, shall be a component of each trestle ladder or extension trestle ladder.

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(8) Rungs shall be parallel and level. On the trestle ladder, or on the base section of the extension trestle ladder, rungs shall be spaced not less than 8 inches nor more than 18 inches apart; on the extension section of the extension trestle ladder, rungs shall be spaced not less than 6 inches nor more than 12 inches apart.

(9) Platform planking shall be in accordance with the requirements of paragraph (h) of this section, except that the width of the platform planking shall not exceed the distance between the siderails.

(10) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(e) *Painters' suspended scaffolds.* (1) The supporting hooks of swinging scaffolds shall be constructed to be equivalent in strength to mild steel or wrought iron, shall be forged with care, shall be not less than ⅞ inch in diameter, and shall be secured to a safe anchorage at all times.

(2) The ropes supporting a swinging scaffold shall be equivalent in strength to first-grade ¾ inch diameter manila rope properly rigged into a set of standard 6 inch blocks consisting of at least one double and one single block.

(3) Manila and wire ropes shall be carefully examined before each operation and thereafter as frequently as may be necessary to ensure their safe condition.

(4) Each end of the scaffold platform shall be supported by a wrought iron or mild steel stirrup or hanger, which in turn is supported by the suspension ropes.

(5) Stirrups shall be constructed so as to be equivalent in strength to wrought iron ¾ inch in diameter.

(6) The stirrups shall be formed with a horizontal bottom member to support the platform, shall be provided with means to support the guardrail and midrail and shall have a loop or eye at the top for securing the supporting hook on the block.

(7) Two or more swinging scaffolds shall not at any time be combined into one by bridging the distance between them with planks or any other form of platform.

(8) No more than two men shall be permitted to work at one time on a swinging scaffold built to the minimum specifications contained in this paragraph. Where heavier construction is used, the number of men permitted to work on the scaffold shall be determined by the size and the safe working load of the scaffold.

(9) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(10) The swinging scaffold platform shall be one of the three types described in subparagraphs (11), (12), and (13) of this paragraph.

(11) The ladder-type platform consists of boards upon a horizontal ladder-like structure, referred to herein as the ladder, the side rails of which are parallel. If this type of platform is used the following requirements shall be met:

(i) The width between the side rails shall be no more than 20 inches.

(ii) The side rails of ladders in ladder-type platforms shall be equivalent in strength to a beam of clear straight-grained spruce of the dimensions contained in Table E–2 in § 1915.68.

(iii) The side rails shall be tied together with tie rods. The tie rods shall be not less than 5/16 inch in diameter, located no more than 5 feet apart, pass through the rails, and be riveted up tight against washers at both ends.

(iv) The rungs shall be of straight-grained oak, ash, or hickory, not less than 1⅛ inches diameter, with ⅞ inch tenons mortised into the side rails not less than ⅞ inch and shall be spaced no more than 18 inches on centers.

(v) Flooring strips shall be spaced no more than ⅝ inch apart except at the side rails, where 1 inch spacing is permissible.

(vi) Flooring strips shall be cleated on their undersides.

(12) The plank-type platform consists of planks supported on the stirrups or hangers. If this type of platform is used, the following requirements shall be met:

(i) The planks of plank-type platforms shall be of not less than 2 x 10 inch lumber.

(ii) The platform shall be no more than 24 inches in width.

(iii) The planks shall be tied together by cleats of not less than 1 x 6 inch lumber, nailed on their undersides at intervals of not more than 4 feet.

(iv) The planks shall extend not less than 6 inches nor more than 18 inches beyond the supporting stirrups.

(v) A cleat shall be nailed across the platform on the underside at each end outside the stirrup to prevent the platform from slipping off the stirrup.

(vi) Stirrup supports shall be not more than 10 feet apart.

(13) The beam-type platform consists of longitudinal side stringers with cross beams set on edge and spaced not more than 4 feet apart on which longitudinal platform planks are laid. If this type platform is used the following requirements shall be met:

(i) The side stringers shall be of sound, straight-grained lumber, free from knots, and of not less than 2 x 6 inch lumber, set on edge.

(ii) The stringers shall be supported on the stirrups with a clear span between stirrups of not more than 16 feet.

(iii) The stringers shall be bolted to the stirrups by U-bolts passing around the stirrups and bolted through the stringers with nuts drawn up tight on the inside face.

(iv) The ends of the stringers shall extend beyond the stirrups not less than 6 inches nor more than 12 inches at each end of the platform.

(v) The platform shall be supported on cross beams of 2 x 6 inch lumber between the side stringers securely nailed thereto and spaced not more than 4 feet on centers.

(vi) The platform shall be not more than 24 inches wide.

(vii) The platform shall be formed of boards ⅞ inch in thickness by not less than 6 inches in width, nailed tightly together, and extending to the outside face of the stringers.

(viii) The ends of all platform boards shall rest on the top of the cross beams, shall be securely nailed, and at no intermediate points in the length of the platform shall there be any cantilever ends.

(f) *Horse scaffolds.* (1) The minimum dimensions of lumber used in the construction of horses shall be in accordance with Table E–3 in § 1915.68.

(2) Horses constructed of materials other than lumber shall provide the strength, rigidity and security required of horses constructed of lumber.

(3) The lateral spread of the legs shall be equal to not less than one-third of the height of the horse.

(4) All horses shall be kept in good repair, and shall be properly secured when used in staging or in locations where they may be insecure.

(5) Platform planking shall be in accordance with the requirements of paragraph (h) of this section.

(6) Backrails and toeboards shall be in accordance with paragraph (i) of this section.

(g) *Other types of scaffolds.* (1) Scaffolds of a type for which specifications are not contained in this section shall meet the general requirements of paragraphs (a), (h) and (i) of this section, shall be in accordance with recognized principles of design and shall be constructed in accordance with accepted standards covering such equipment.

(h) *Scaffold or platform planking.* (1) Except as otherwise provided in paragraph (e) (11) and (13) of this section, platform planking shall be of not less than 2 x 10 inch lumber. Platform planking shall be straight-grained and free from large or loose knots and may be either rough or dressed.

(2) Platforms of staging shall be not less than two 10 inch planks in width except in such cases as the structure of the vessel or the width of the trestle ladders make it impossible to provide such a width.

(3) Platform planking shall project beyond the supporting members at either end by at least 6 inches but in no case shall project more than 12 inches unless the planks are fastened to the supporting members.

(4) Table E–4 in § 1915.68 shall be used as a guide in determining safe loads for scaffold planks.

(i) *Backrails and toeboards.* (1) Scaffolding, staging, runways, or working platforms which are supported or suspended more than 5 feet above a solid surface, or at any distance above the water, shall be provided with a railing which has a top rail whose upper surface is from 42 to 45 inches above the upper surface of the staging, platform, or runway and a midrail located halfway between the upper rail and the staging, platform, or runway.

(2) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(3) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted, employees working more than 5 feet above solid surfaces shall be protected by safety belts and life lines meeting the requirements of § 1915.84(b), and employees working over water shall be protected by buoyant work vests meeting the requirements of § 1915.84(a).

(4) Employees working from swinging scaffolds which are triced out of a vertical line below their supports or from scaffolds on paint floats subject to surging, shall be protected against falling toward the vessel by a railing or a safety belt and line attached to the backrail.

(5) When necessary, to prevent tools and materials from falling on men below, toeboards of not less than 1 x 4 inch lumber shall be provided.

(j) *Access to staging.* (1) Access from below to staging more than 5 feet above a floor, deck or the ground shall consist of well secured stairways, cleated ramps, fixed or portable ladders meeting the applicable requirements of § 1915.42 or rigid type non-collapsible trestles with parallel and level rungs.

(2) Ramps and stairways shall be provided with 36-inch handrails with midrails.

(3) Ladders shall be so located or other means shall be taken so that it is not necessary for employees to step more than one foot from the ladder to any intermediate landing or platform.

(4) Ladders forming integral parts of prefabricated staging are deemed to meet the requirements of these regulations.

(5) Access from above to staging more than 3 feet below the point of access shall consist of a straight, portable ladder meeting the applicable requirements of § 1915.42 or a Jacob's ladder properly secured, meeting the requirements of § 1915.44(d).

§ 1915.42 Ladders.

(a) *General requirements.* (1) The use of ladders with broken or missing rungs or steps, broken or split side rails, or other faulty or defective construction is prohibited. When ladders with such defects are discovered, they shall be immediately withdrawn from service. Inspection of metal ladders shall include checking for corrosion of interiors of open end, hollow rungs.

(2) When sections of ladders are spliced, the ends shall be abutted, and not fewer than 2 cleats shall be securely nailed or bolted to each rail. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the side rail. The dimensions of side rails for their total length shall be those specified in paragraphs (b) or (c) of this section.

(3) Portable ladders shall be lashed, blocked or otherwise secured to prevent their being displaced. The side rails of ladders used for access to any level shall extend not less than 36 inches above that level. When this is not practical, grab rails which will provide a secure grip for an employee moving to or from the point of access shall be installed.

(4) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(5) Portable metal ladders shall not be used near electrical conductors nor for electric arc welding operations.

(6) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, A14.1.

(b) *Construction of portable wood cleated ladders up to 30 feet in length.* (1) Wood side rails shall be made from West Coast hemlock, Eastern spruce, Sitka spruce, or wood of equivalent strength. Material shall be seasoned, straight-grained wood, and free from shakes, checks, decay or other defects which will impair its strength. The use of low density woods is prohibited.

(2) Side rails shall be dressed on all sides, and kept free of splinters.

(3) All knots shall be sound and hard. The use of material containing loose knots is prohibited. Knots shall not appear on the narrow face of the rail and, when in the side face, shall be not more than ½ inch in diameter or within ½ inch of the edge of the rail or nearer than 3 inches to a tread or rung.

(4) Pitch pockets not exceeding ⅛ inch in width, 2 inches in length and ½ inch in depth are permissible in wood side rails, provided that not more than one such pocket appears in each 4 feet of length.

(5) The width between side rails at the base shall be not less than 11½ inches for ladders 10 feet or less in length. For longer ladders this width shall be increased at least ¼ inch for each additional 2 feet in length.

(6) Side rails shall be at least 1⅝ x 3⅝ inches in cross section.

(7) Cleats (meaning rungs rectangular in cross section with the wide dimension parallel to the rails) shall be of the material used for side rails, straight-grained and free from knots. Cleats shall be mortised into the edges of the side rails ½ inch, or filler blocks shall be used on the rails between the cleats. The cleats shall be secured to each rail with three 10d common wire nails or fastened with through bolts or other fasteners of equivalent strength. Cleats shall be uniformly spaced not more than 12 inches apart.

(8) Cleats 20 inches or less in length shall be at least 25/32 x 3 inches in cross section. Cleats over 20 inches but not more than 30 inches in length shall be at least 25/32 x 3¾ inches in cross section.

(c) *Construction of portable wood cleated ladders from 30 to 60 feet in length.* (1) Ladders from 30 to 60 feet in length shall be in accordance with the specifications of paragraph (b) of this section with the following exceptions:

(i) Rails shall be of not less than 2 x 6 inch lumber.

(ii) Cleats shall be of not less than 1 x 4 inch lumber.

(iii) Cleats shall be nailed to each rail with five 10d common wire nails or fastened with through bolts or other fastenings of equivalent strength.

§ 1915.43 Guarding of deck openings and edges.

(a) When employees are working in the vicinity of flush manholes and other small openings of comparable size in the deck and other working surfaces, such openings shall be suitably covered or guarded to a height of not less than 30 inches, except where the use of such guards is made impracticable by the work actually in progress.

(b) When employees are working around open hatches not protected by coamings to a height of 24 inches or around other large openings, the edge of the opening shall be guarded in the working area to a height of 36 to 42 inches, except where the use of such guards is made impracticable by the work actually in progress.

(c) When employees are exposed to unguarded edges of decks, platforms, flats, and similar flat surfaces, more than 5 feet above a solid surface, the edges shall be guarded by adequate guardrails meeting the requirements of § 1915.41(i) (1) and (2), unless the nature of the work in progress or the physical conditions prohibit the use or installation of such guardrails.

(d) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by buoyant work vests, meeting the requirements of § 1915.84(a).

(e) Sections of bilges from which floor plates or gratings have been removed shall be guarded by guardrails except where they would interfere with work in progress. If these open sections are in a walkway at least two 10-inch planks placed side by side, or equivalent, shall be laid across the opening to provide a safe walking surface.

(f) Gratings, walkways, and catwalks, from which sections or ladders have been removed, shall be barricaded with adequate guardrails.

§ 1915.44 Access to vessels.

(a) *Access to vessels afloat.* The employer shall not permit employees to board or leave any vessel, except a barge or river towboat, until the following requirements have been met:

(1) Whenever practicable, a gangway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and safely secured shall be used. If a gangway is not practicable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping,

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shall be provided. When conditions are such that neither a gangway nor a straight ladder can be used, a Jacob's ladder meeting the requirements of paragraph (d) (1) and (2) of this section may be used.

(2) Each side of such gangway, and the turn table if used, shall have a railing with a minimum height of approximately 33 inches measured perpendicularly from rail to walking surface at the stanchion, with a mid rail. Rails shall be of wood, pipe, chain, wire or rope and shall be kept taut at all times.

(3) Gangways on vessels inspected and certificated by the U.S. Coast Guard are deemed to meet the foregoing requirements, except in cases where the vessel's regular gangway is not being used.

(4) The gangway shall be kept properly trimmed at all times.

(5) When a fixed tread accommodation ladder is used, and the angle is low enough to require employees to walk on the edge of the treads, cleated duckboards shall be laid over and secured to the ladder.

(6) When the lower end of a gangway overhangs the water between the ship and the dock in such a manner that there is danger of employees falling between the ship and the dock, a net or other suitable protection shall be rigged at the foot of the gangway in such a manner as to prevent employees from falling from the end of the gangway.

(7) If the foot of the gangway is more than one foot away from the edge of the apron, the space between them shall be bridged by a firm walkway equipped with railings, with a minimum height of approximately 33 inches with mid rails on both sides.

(8) Supporting bridles shall be kept clear so as to permit unobstructed passage for employees using the gangway.

(9) When the upper end of the means of access rests on or flush with the top of the bulwark, substantial steps properly secured and equipped with at least one substantial handrail approximately 33 inches in height shall be provided between the top of the bulwark and the deck.

(10) Obstructions shall not be laid on or across the gangway.

(11) The means of access shall be adequately illuminated for its full length.

(12) Unless the construction of the vessel makes it impossible, the means of access shall be so located that drafts of cargo do not pass over it. In any event, loads shall not be passed over the means of access while employees are on it.

(b) *Access to vessels in drydock or between vessels.* Gangways meeting the requirements of paragraph (a) (1), (2), (9), (10), (11) of this section shall be provided for access from wing wall to vessel or, when two or more vessels, other than barges or river towboats, are lying abreast, from one vessel to another.

(c) *Access to barges and river towboats.* (1) Ramps for access of vehicles to or between barges shall be of adequate strength, provided with side boards, well maintained and properly secured.

(2) Unless employees can step safely to or from the wharf, float, barge, or river towboat, either a ramp in accordance with the requirements of subparagraph (1) of this paragraph or a safe walkway in accordance with the requirements of paragraph (a) (7) of this section shall be provided. When a walkway is impracticable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping, shall be provided. When conditions are such that neither a walkway nor a straight ladder can be used, a Jacob's ladder in accordance with the requirements of paragraph (d) of this section may be used.

(3) The means of access shall be in accordance with the requirements of paragraph (a) (9), (10) and (11) of this section.

(d) *Jacob's ladders.* (1) Jacob's ladders shall be of the double rung or flat tread type. They shall be well maintained and properly secured.

(2) A Jacob's ladder shall either hang without slack from its lashings or be pulled up entirely.

§ 1915.45 Access to and guarding of dry docks and marine railways.

(a) A gangway, ramp or permanent stairway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and securely fastened, shall be provided between a floating dry dock and the pier or bulkhead.

(b) Each side of such gangway, ramp or permanent stairway, including those which are used for access to wing walls from dry dock floors, shall have a railing with a mid rail. Such railings on gangways or ramps shall be approximately 42 inches in height; and railings on permanent stairways shall be not less than approximately 30 or more than approximately 34 inches in height. Rails shall be of wood, pipe, chain, wire, or rope, and shall be kept taut at all times.

(c) Railings meeting the requirements of paragraph (b) of this section shall be provided on the means of access to and from the floors of graving docks.

(d) Railings approximately 42 inches in height, with a mid rail, shall be provided on the edges of wing walls of floating dry docks and on the edges of graving docks. Sections of the railings may be temporarily removed where necessary to permit line handling while a vessel is entering or leaving the dock.

(e) When employees are working on the floor of a floating dry dock where they are exposed to the hazard of falling into the water, the end of the dry dock shall be equipped with portable stanchions and 42 inch railings with a mid rail. When such a railing would be impracticable or ineffective, other effective means shall be provided to prevent men from falling into the water.

(f) Access to wingwalls from floors of dry-docks shall be by ramps, permanent stairways or ladders meeting the applicable requirements of § 1915.42.

(g) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of § 1915.41(i) (1) and (2).

§ 1915.46 Access to cargo spaces and confined spaces.

(a) *Cargo spaces.* (1) There shall be at least one safe and accessible ladder in any cargo space which employees must enter.

(2) When any fixed ladder is visibly unsafe, the employer shall prohibit its use by employees.

(3) Straight ladders of adequate strength and suitably secured against shifting or slipping shall be provided as necessary when fixed ladders in cargo spaces do not meet the requirements of subparagraph (1) of this paragraph. When conditions are such that a straight ladder cannot be used, a Jacob's ladder meeting the requirements of § 1915.44(d) may be used.

(4) When cargo is stowed within 4 inches of the back of ladder rungs, the ladder shall be deemed "unsafe" for the purpose of this section.

(5) Fixed ladders or straight ladders provided for access to cargo spaces shall not be used at the same time that cargo drafts or other loads are entering or leaving the hold. Before using these ladders to enter or leave the hold, the employee shall be required to inform the winchman or crane signalman of his intention.

(b) *Confined spaces.* (1) More than one means of access shall be provided to a confined space in which employees are working and in which the work may generate a hazardous atmosphere in the space except where the structure or arrangement of the vessel makes this provision impractical.

(2) When the ventilation ducts required by these regulations must pass through these means of access, the ducts shall be of such a type and so arranged as to permit free passage of an employee through at least two of these means of access.

§ 1915.47 Working surfaces.

(a) When firebox floors present tripping hazards of exposed tubing or of missing or removed refractory, sufficient planking to afford safe footing shall be laid while work is being carried on within the boiler.

(b) When employees are working aloft, or elsewhere at elevations more than 5 feet above a solid surface, either scaffolds or a sloping ladder, meeting the requirements of this subpart, shall be used to afford safe footing, or the employees shall be protected by safety belts and lifelines meeting the requirements of § 1915.84(b). Employees visually restricted by blasting hoods, welding helmets, and burning goggles shall work from scaffolds, not from ladders, except for the initial and final welding or burning operation to start or complete a job, such as the erection and dismantling of hung scaffolding, or other similar, nonrepetitive jobs of brief duration.

(c) For work performed in restricted quarters, such as behind boilers and in between congested machinery units and piping, work platforms at least 20 inches

wide meeting the requirements of § 1915.41(h) (1) shall be used. Backrails may be omitted if bulkheading, boilers, machinery units, or piping afford proper protection against falling.

(d) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by buoyant work vests meeting the requirements of § 1915.84(a).

Subpart F—General Working Conditions

§ 1915.51 Housekeeping.

(a) Good housekeeping conditions shall be maintained at all times. Adequate aisles and passageways shall be maintained in all work areas. All staging platforms, ramps, stairways, walkways, aisles, and passageways on vessels or dry docks shall be kept clear of all tools, materials, and equipment except that which is in use, and all debris such as welding rod tips, bolts, nuts, and similar material. Hose and electric conductors shall be elevated over or placed under the walkway or working surfaces or covered by adequate crossover planks.

(b) All working areas on vessels and dry docks shall be kept reasonably free of debris, and construction material shall be so piled as not to present a hazard to employees.

(c) Slippery conditions on walkways or working surfaces shall be eliminated as they occur.

(d) Free access shall be maintained at all times to all exits and to all fire-alarm boxes or fire-extinguishing equipment.

(e) All oils, paints, thinners, solvents waste, rags, or other flammable substances shall be kept in fire resistant covered containers when not in use.

§ 1915.52 Illumination.

(a) All means of access and walkways leading to working areas as well as the working areas themselves shall be adequately illuminated.

(b) Temporary lights shall meet the following requirements:

(1) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(2) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cable are permitted.

(3) Cords shall be kept clear of working spaces and walkways or other locations in which they are readily exposed to damage.

(c) Exposed non-current-carrying metal parts of temporary lights furnished by the employer shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current. Grounding shall be in accordance with the requirements of § 1915.72(b).

(d) Where temporary lighting from sources outside the vessel is the only means of illumination, portable emergency lighting equipment shall be available to provide illumination for safe movement of empoyees.

(e) Employees shall not be permitted to enter dark spaces without a suitable portable light. The use of matches and open flame lights is prohibited. In nongas free spaces, portable lights shall meet the requirements of § 1915.12(b).

(f) Temporary lighting stringers or streamers shall be so arranged as to avoid overloading of branch circuits. Each branch circuit shall be equipped with overcurrent protection of capacity not exceeding the rated current carrying capacity of the cord used.

§ 1915.53 Utilities.

(a) *Steam supply and hoses.* (1) Prior to supplying a vessel with steam from a source outside the vessel, the employer shall ascertain from responsible vessel's representatives, having knowledge of the condition of the plant, the safe working pressure of the vessel's steam system. The employer shall install a pressure gauge and a relief valve of proper size and capacity at the point where the temporary steam hose joins the vessel's steam piping system or systems. The relief valve shall be set and capable of relieving at a pressure not exceeding the safe working pressure of the vessel's system in its present condition, and there shall be no means of isolating the relief valve from the system which it protects. The pressure gauge and relief valve shall be located so as to be visible and readily accessible.

(2) Steam hose and fittings shall have a safety factor of not less than five (5).

(3) When steam hose is hung in a bight or bights, the weight shall be relieved by appropriate lines. The hose shall be protected against chafing.

(4) Steam hose shall be protected from damage and hose and temporary piping shall be so shielded where passing through normal work areas as to prevent accidental contact by employees.

(b) *Electric power.* (1) When the vessel is supplied with electric power from a source outside the vessel, the following precautions shall be taken prior to energizing the vessel's circuits:

(i) If in dry dock, the vessel shall be adequately grounded.

(ii) The employer shall ascertain from responsible vessel's representatives, having a knowledge of the condition of the vessel's electrical system, that all circuits to be energized are in a safe condition.

(iii) All circuits to be energized shall be equipped with overcurrent protection of capacity not exceeding the rated current carrying capacity of the cord used.

(c) *Infrared electrical heat lamps.* (1) All infrared electrical heat lamps shall be equipped with guards that surround the lamps with the exception of the face, to minimize accidental contact with the lamps.

§ 1915.54 Work in confined or isolated spaces.

When any work is performed in a confined space, except as provided in § 1915.31(b) (3), or when an employee is working alone in an isolated location, frequent checks shall be made to ensure the safety of the employees.

§ 1915.55 Work on or in the vicinity of radar and radio.

(a) No employees other than radar or radio repairmen shall be permitted to work on masts, king posts or other aloft areas unless the radar and radio are secured or otherwise made incapable of radiation. In either event, the radio and radar shall be appropriately tagged.

(b) Testing of radar or radio shall not be done until the employer can schedule such tests at a time when no work is in progress aloft or personnel can be cleared from the danger area according to minimum safe distances established for and based on the type, model, and power of the equipment.

§ 1915.56 Work in or on lifeboats.

(a) Before employees are permitted to work in or on a lifeboat, either stowed or in a suspended position, the employer shall ensure that the boat is secured independently of the releasing gear to prevent the boat from falling due to accidental tripping of the releasing gear and movement of the davits or capsizing of a boat in chocks.

(b) Employees shall not be permitted to remain in boats while the boats are being hoisted into final stowed position.

(c) Employees shall not be permitted to work on the outboard side of lifeboats stowed on their chocks unless the boats are secured by gripes or otherwise secured to prevent them from swinging outboard.

§ 1915.57 Health and sanitation.

(a) No chemical product, such as a solvent or preservative; no structural material, such as cadmium or zinc coated steel, or plastic material; and no process material, such as welding filler metal; which is a hazardous material within the meaning of § 1915.2(s), shall be used until the employer has ascertained the potential fire, toxic, or reactivity hazards which are likely to be encountered in the handling, application, or utilization of such a material.

(b) In order to ascertain the hazards, as required by paragraph (a) of this section, the employer shall obtain the following items of information which are applicable to a specific product or material to be used:

(1) The name, address, and telephone number of the source of the information specified in this paragraph, preferably those of the manufacturer of the product or material.

(2) The trade name and synonyms for a mixture of chemicals, a basic structural material, or for a process material; and the chemical name and synonyms, chemical family, and formula for a single chemical.

(3) Chemical names of hazardous ingredients, including, but not limited to, those in mixtures, such as those in: (i) Paints, preservatives, and solvents; (ii) alloys, metallic coatings, filler metals and their coatings or core fluxes; and (iii)

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other liquids, solids, or gases (e.g., abrasive materials).

(4) An indication of the percentage, by weight or volume, which each ingredient of a mixture bears to the whole mixture, and of the threshold limit value of each ingredient, in appropriate units.

(5) Physical data about a single chemical or a mixture of chemicals, including boiling point, in degrees Fahrenheit; vapor pressure, in millimeters of mercury; vapor density of gas or vapor (air=1); solubility in water, in percent by weight; specific gravity of material (water=1); percentage volatile, by volume, at 70° F.; evaporation rate for liquids (either butyl acetate or ether may be taken as 1); and appearance and odor.

(6) Fire and explosion hazard data about a single chemical or a mixture of chemicals, including flash point, in degrees Fahrenheit; flammable limits, in percent by volume in air; suitable extinguishing media or agents; special fire fighting procedures; and unusual fire and explosion hazard information.

(7) Health hazard data, including threshold limit value, in appropriate units, for a single hazardous chemical or for the individual hazardous ingredients of a mixture, as appropriate; effects of overexposure; and emergency and first aid procedures.

(8) Reactivity data, including stability, incompatibility, hazardous decomposition products, and hazardous polymerization.

(9) Procedures to be followed and precautions to be taken in cleaning up and disposing of materials leaked or spilled.

(10) Special protection information, including use of personal protective equipment, such as respirators, eye protection, and protective clothing, and of ventilation, such as local exhaust, general, special, or other types.

(11) Special precautionary information about handling and storing.

(12) Any other general precautionary information.

(c) The pertinent information required by paragraph (b) of this section shall be recorded either on U.S. Department of Labor Form LSB 00S–4, Material Safety Data Sheet, or on an essentially similar form which has been approved by the Occupational Safety and Health Administration. Copies of Form LSB 00S–4 may be obtained at any of the following regional offices of the Occupational Safety and Health Administration:

(1) North Atlantic Region, 341 North Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont).

(2) Middle Atlantic Region, Penn Square Building, Juniper and Filbert Streets, Philadelphia, Pa. 19107 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia).

(3) South Atlantic Region, 1371 Peachtree Street NE., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee).

(4) Great Lakes Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin).

(5) Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

(6) Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

(7) Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington).

A completed form shall be preserved and available for inspection for a period of 3 months from the date of the completion of the job.

(d) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(e) The employer shall provide all necessary controls, and the employees shall be protected by suitable personal protective equipment against the hazards identified under paragraph (a) of this section and those hazards for which specific precautions are required in Subparts B, C, and D of this part.

(f) The employer shall provide adequate washing facilities for employees engaged in the application of paints or coatings or in other operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employees. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(g) The employer shall not permit eating or smoking in areas undergoing surface preparation or preservation.

(h) The employer shall not permit employees to work in the immediate vicinity of uncovered garbage and shall ensure that employees working beneath or on the outboard side of a vessel are not subject to contamination by drainage or waste from overboard discharges.

§ 1915.58 First aid.

(a) Unless a first aid room and a qualified attendant are close at hand and prepared to render first aid to employees on behalf of the employer, the employer shall furnish a first aid kit for each vessel on which work is being performed, except that when work is being performed on more than one small vessel at one pier, only one kit shall be required. The kit, when required, shall be kept close to the vessel and at least one employee, close at hand, shall be qualified to administer first aid to the injured.

(b) The first aid kit shall consist of a weatherproof container with individual sealed packages for each type of item. The contents of such kit shall contain a sufficient quantity of at least the following types of items:

Gauze roller bandages, 1 inch and 2 inch.
Gauze compress bandages, 4 inch.
Adhesive bandages, 1 inch.
Triangular bandage, 40 inch.
Ammonia inhalants and ampules.
Antiseptic applicators or swabs.
Burn dressing.
Eye dressing.
Wire or thin board splints.
Forceps and tourniquet.

(c) The contents of the first aid kit shall be checked before being sent out on each job and at least weekly on each job to ensure that the expended items are replaced.

(d) There shall be available for each vessel on which ten (10) or more employees are working one Stokes basket stretcher, or equivalent, permanently equipped with bridles for attaching to the hoisting gear, except that no more than two stretchers are required on each job location. A blanket or other liner suitable for transferring the patient to and from the stretcher shall be provided. Stretchers shall be kept close to the vessels. This paragraph does not apply where ambulance services which are available are known to carry such stretchers.

Subpart G—Gear and Equipment for Rigging and Materials Handling

§ 1915.61 Inspection.

(a) All gear and equipment provided by the employer for rigging and materials handling shall be inspected before each shift and, when necessary, at intervals during its use to ensure that it is safe. Defective gear shall be removed and repaired or replaced before further use.

(b) The safe working load of gear as specified in §§ 1915.62 and 1915.63 shall not be exceeded.

§ 1915.62 Ropes, chains and slings.

(a) *Manila rope and manila rope slings.* (1) Table G–1 in § 1915.68 shall be used to determine the safe working load of various sizes of manila rope and manila rope slings at various angles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

(b) *Wire rope and wire rope slings.* (1) Tables G–2 through G–5 in § 1915.68 shall be used to determine the safe working loads of various sizes and classifications of improved plow steel wire rope and wire rope slings with various types of terminals. For sizes, classifications and grades not included in these tables, the safe working load recommended by the manufacturer for specific, identifiable products shall be followed, provided that a safety factor of not less than five (5) is maintained.

(2) Protruding ends of strands in splices on slings and bridles shall be covered or blunted.

(3) Where U-bolt wire rope clips are used to form eyes, Table G–6 in § 1915.68 shall be used to determine the number and spacing of clips. The U-bolt shall be applied so that the "U" section is in contact with the dead end of the rope.

(4) Wire rope shall not be secured by knots.

(c) *Chains and chain slings.* (1) Tables G–7 and G–8 in § 1915.68 shall be used to determine the working load limit of various sizes of wrought iron and alloy steel chains and chain slings, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products.

(2) All sling chains, including end fastenings, shall be given a visual inspection before being used on the job. A thorough inspection of all chains in use shall be made every 3 months. Each chain shall bear an indication of the month in which it was thoroughly inspected. The thorough inspection shall include inspection for wear, defective welds, deformation and increase in length or stretch.

(3) Interlink wear, not accompanied by stretch in excess of 5 percent, shall be noted and the chain removed from service when maximum allowable wear at any point of link, as indicated in Table G–9 in § 1915.68 has been reached.

(4) Chain slings shall be removed from service when, due to stretch, the increase in length of a measured section exceeds five (5) percent; when a link is bent, twisted or otherwise damaged; or when raised scarfs or defective welds appear.

(5) All repairs to chains shall be made under qualified supervision. Links or portions of the chain found to be defective as described in subparagraph (4) of this paragraph shall be replaced by links having proper dimensions and made of material similar to that of the chain. Before repaired chains are returned to service, they shall be proof tested to the proof test load recommended by the manufacturer.

(6) Wrought iron chains in constant use shall be annealed or normalized at intervals not exceeding six months when recommended by the manufacturer. The chain manufacturer shall be consulted for recommended procedures for annealing or normalizing. Alloy chains shall never be annealed.

(7) A load shall not be lifted with a chain having a kink or knot in it. A chain shall not be shortened by bolting, wiring or knotting.

§ 1915.63 Shackles and hooks.

(a) *Shackles.* (1) Table G–10 in § 1915.68 shall be used to determine the safe working loads of various sizes of shackles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than (5) is maintained.

(b) *Hooks.* (1) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain a record of the dates and results of such tests.

(2) Loads shall be applied to the throat of the hook since loading the point overstresses and bends or springs the hook.

(3) Hooks shall be inspected periodically to see that they have not been bent by overloading. Bent or sprung hooks shall not be used.

§ 1915.64 Chain falls and pull-lifts.

(a) Chain falls and pull-lifts shall be clearly marked to show the capacity and the capacity shall not be exceeded.

(b) Chain falls shall be regularly inspected to ensure that they are safe, particular attention being given to the lift chain, pinion, sheaves and hooks for distortion and wear. Pull-lifts shall be regularly inspected to ensure that they are safe, particular attention being given to the ratchet, pawl, chain and hooks for distortion and wear.

(c) Straps, shackles, and the beam or overhead structure to which a chain fall or pull-lift is secured shall be of adequate strength to support the weight of load plus gear. The upper hook shall be moused or otherwise secured against coming free of its support.

(d) Scaffolding shall not be used as a point of attachment for lifting devices such as tackles, chain falls, and pull-lifts unless the scaffolding is specifically designed for that purpose.

§ 1915.65 Hoisting and hauling equipment.

(a) Derrick and crane certification: (1) Derricks and cranes which are part of, or regularly placed aboard barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certificated in accordance with the standards provided in Part 1505 of this chapter by persons accredited for that purpose.

(2) Subparagraph (1) of this paragraph shall take effect 180 days after the effective date of this amendment.

(b) The moving parts of hoisting and hauling equipment shall be guarded.

(c) Mobile crawler or truck cranes used on a vessel: (1) The maximum manufacturer's rated safe working loads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. A radius indicator shall be provided.

(2) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(d) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane either permanently or temporarily mounted, shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(e) Marine railways: (1) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

§ 1915.66 Use of gear.

(a) Loads shall be safely rigged before being hoisted.

(b) Plates shall be handled on and off hulls by means of shackles whenever possible. Clips or pads of ample size shall be welded to the plate to receive the shackle pins when there are no holes in the plate. When it is not possible to make holes in or to weld pads to the plate, alligator tongs, grab hooks, grab clamps or screw clamps may be used. In such cases special precautions shall be taken to keep employees from under such lifts.

(c) Tag lines shall be provided on loads likely to swing or to need guidance.

(d) When slings are secured to eyebolts, the slings shall be so arranged, using spreaders if necessary, that the pull is within 20 degrees of the axis of the bolt.

(e) Slings shall be padded by means of wood blocks or other suitable material where they pass over sharp edges or corners of loads so as to prevent cutting or kinking.

(f) Skips shall be rigged to be handled by not less than 3 legged bridles, and all legs shall always be used. When open end skips are used, means shall be taken to prevent the contents from falling.

(g) Loose ends of idle legs of slings in use shall be hung on the hook.

(h) Employees shall not be permitted to ride the hook or the load.

(i) Loads (tools, equipment or other materials) shall not be swung or suspended over the heads of employees.

(j) Pieces of equipment or structure susceptible to falling or dislodgement shall be secured or removed as early as possible.

(k) An individual who is familiar with the signal code in use shall be assigned to act as a signalman when the hoist operator cannot see the load being handled. Communications shall be made by means of clear and distinct visual or auditory signals except that verbal signals shall not be permitted.

(l) Pallets, when used, shall be of such material and construction and so maintained as to safely support and carry the loads being handled on them.

(m) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from being unshipped so that it cannot be displaced by accident.

(n) Hatches shall not be opened or closed while employees are in the square of the hatch below.

(o) Before loads or empty lifting gear are raised, lowered, or swung, clear and sufficient advance warning shall be given to employees in the vicinity of such operations.

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(p) At no time shall an employee be permitted to place himself in a hazardous position between a swinging load and a fixed object.

§ 1915.67 Qualifications of operators.

(a) When ship's gear is used to hoist materials aboard, a competent person shall determine that the gear is properly rigged, that it is in safe condition, and that it will not be overloaded by the size and weight of the lift.

(b) Only those employees who understand the signs, notices, and operating instructions, and are familiar with the signal code in use, shall be permitted to operate a crane, winch, or other power operated hoisting apparatus.

(c) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailments which may suddenly incapacitate him, shall be permitted to operate a crane, winch or other power operated hoisting apparatus.

(d) No minor under eighteen (18) years of age shall be employed in occupations involving the operation of any power-driven hoisting apparatus or assisting in such operations by work such as hooking on, loading slings, rigging gear, etc.

§ 1915.68 Tables.

TABLE E-1

DIMENSIONS AND SPACING OF WOOD INDEPENDENT-POLE SCAFFOLD MEMBERS

Structural Members	Light duty (Up to 25 pounds per square foot)			Heavy duty (25 to 75 pounds per square foot)		
	Height in feet			Height in feet		
	24 or less	24–40	40–60	24 or less	24–40	40–60
Poles or uprights (in inches)	2 x 4	3 x 4 or 2 x 6	4 x 4	3 x 4	4 x 4	4 x 6
Bearers (in inches)	2 x 6	2 x 6	2 x 6	2 x 8	2 x 8	2 x 10
Ledgers (in inches)	2 x 6	2 x 6	2 x 6	2 x 8	2 x 8	2 x 8
Stringers (not supporting bearers) (in inches)	1 x 6	1 x 6	1 x 6	1 x 6	1 x 6	1 x 6
Braces (in inches)	1 x 4	1 x 6	1 x 6	1 x 6	1 x 6	1 x 6
Pole spacing—longitudinally (in feet)	7½	7½	7½	7	7	7
Pole spacing—transversely (in feet)	6½ min	7½ min	8½ min	6½	10	10
Ledger spacing—vertically (in feet)	7	7	7	4½	4½	4½

TABLE E-2

SPECIFICATIONS FOR SIDE RAILS OF LADDERS

Length (in feet)	Cross section (in inches)	
	At ends	At center
15	1⅛ x 2¾	1⅛ x 3¾
16	1⅛ x 2¾	1⅛ x 3¾
18	1⅛ x 3	1⅛ x 4
20	1⅛ x 3	1⅛ x 4
24	1⅛ x 3	1⅛ x 4½

TABLE E-3

SPECIFICATIONS FOR THE CONSTRUCTION OF HORSES

Structural members	Height in feet		
	Up to 10	10 to 16	16 to 20
	Inches	*Inches*	*Inches*
Legs	2 x 4	3 x 4	4 x 6
Bearers or headers	2 x 6	2 x 8	4 x 6
Crossbraces	2 x 4 or 1 x 8	2 x 4	2 x 6
Longitudinal braces	2 x 4	2 x 6	2 x 6

TABLE E-4

SAFE CENTER LOADS FOR SCAFFOLD PLANK OF 1,100 POUNDS FIBRE STRESS

Span in Feet	Lumber dimensions in inches									
	A	B	A	B	A	B	A	B	A	B
	2 x 10	1⅝ x 9¼	2 x 12	1⅝ x 11¼	3 x 8	2⅝ x 7½	3 x 10	2⅝ x 9¼	3 x 12	2⅝ x 11¼
6	256		309		526		667		807	
8	192		232		395		500		605	
10	153		186		316		400		484	
12	128		155		263		333		404	
14	110		133		225		286		346	
16			116		197		250		303	

(A)—Rough lumber.
(B)—Dressed lumber

TABLE G-1

MANILA ROPE

(In pounds or tons of 2000 pounds)

Circumference	Diameter in Inches	Single Leg	60°	45°	30°
3/4	1/4	120 lbs.	204 lbs.	170 lbs.	120 lbs.
1	5/16	200	346	282	200
1-1/8	3/8	270	467	380	270
1-1/4	7/16	350	605	493	350
1-3/8	15/32	450	775	635	450
1-1/2	1/2	530	915	798	530
1-3/4	9/16	690	1190	973	690
2	5/8	880	1520	1240	880
2-1/4	3/4	1080	1870	1520	1080
2-1/2	13/16	1300	2250	1830	1300
2-3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
3-1/4	1-1/16	1.0 Tons	1.7 Tons	1.4 Tons	1.0 Tons
3-1/2	1-1/8	1.2	2.1	1.7	1.2
3-3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4-1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-5/8	2.25	3.9	3.2	2.25
5-1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6-1/2	2-1/8	3.6	6.2	5.1	3.6

TABLE G-2

RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE AND WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4"	.59	.56	.53	.44	.42	.40
3/8"	1.3	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.6	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11.	10.	9.0	8.5	7.8	6.8
6x37 CLASSIFICATION						
1-1/4"	13.	12.	10.	9.9	9.2	7.9
1-3/8"	16.	15.	13.	12.	11.	9.6
1-1/2"	19.	17.	15.	14.	13.	11.
1-3/4"	26.	24.	20.	19.	18.	15.
2"	33.	30.	26.	25.	23.	20.
2-1/4"	41.	38.	33.	31.	29.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-3

RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4"	1.2	1.1	1.0	1.0	.97	.92	.83	.79	.75	.59	.56	.53
3/8"	2.6	2.5	2.3	2.3	2.1	2.0	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	4.6	4.4	3.9	4.0	3.8	3.4	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	7.2	6.8	6.0	6.2	5.8	5.2	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	10.	9.7	8.4	8.9	8.4	7.3	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	14.	13.	11.	12.	11.	9.6	9.8	9.3	7.8	6.9	6.6	5.5
1"	18.	17.	14.	15.	15.	12.	13.	12.	10.	9.0	8.5	7.2
1-1/8"	23.	21.	18.	19.	18.	16.	16.	15.	13.	11.	10.	9.0
6x37 CLASSIFICATION												
1-1/4"	26.	24.	21.	23.	21.	18.	19.	17.	15.	13.	12.	10.
1-3/8"	32.	29.	25.	28.	25.	22.	22.	21.	18.	16.	15.	13.
1-1/2"	38.	35.	30.	33.	30.	26.	27.	25.	21.	19.	17.	15.
1-3/4"	51.	47.	41.	44.	41.	35.	36.	33.	29.	26.	24.	20.
2"	66.	61.	53.	57.	53.	46.	47.	43.	37.	33.	30.	26.
2-1/4"	83.	76.	66.	72.	66.	57.	58.	54.	47.	41.	38.	33.

(A) - Socket or Swaged Terminal Attachment.
(B) - Mechanical Sleeve Attachment.
(C) - Hand Tucked Splice Attachment.

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TABLE G-4
RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS
(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4	.55	.51	.49	.41	.38	.37
3/8	1.2	1.1	1.1	.91	.85	.80
1/2	2.1	2.0	1.8	1.6	1.5	1.4
5/8	3.3	3.1	2.8	2.5	2.3	2.1
3/4	4.8	4.4	3.9	3.6	3.3	2.9
7/8	6.4	5.9	5.1	4.8	4.5	3.9
1	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8	10.	9.5	8.4	7.9	7.1	6.3
6x37 CLASSIFICATION						
1-1/4	12.	11.	9.8	9.2	8.3	7.4
1-3/8	15.	13.	12.	11.	10.	8.9
1-1/2	17.	16.	14.	13.	12.	10.
1-3/4	24.	21.	19.	18.	16.	14.
2	31.	28.	25.	23.	21.	18.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-5
RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE SLINGS
(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4	1.1	1.0	.99	.95	.88	.85	.77	.72	.70	.55	.51	.49
3/8	2.4	2.2	2.1	2.1	1.9	1.8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	4.3	3.9	3.7	3.7	3.4	3.2	3.0	2.8	2.6	2.1	2.0	1.8
5/8	6.7	6.2	5.8	5.8	5.3	4.8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	9.5	8.8	7.8	8.2	7.6	6.8	6.7	6.2	5.5	4.8	4.4	3.9
7/8	13.	12.	10.	11.	10.	8.9	9.1	8.4	7.3	6.4	5.9	5.1
1	17.	15.	13.	14.	13.	11.	12.	11.	9.4	8.4	7.7	6.7
1-1/8	21.	19.	17.	18.	16.	14.	15.	13.	12.	10.	9.5	8.4
6x37 CLASSIFICATION												
1-1/4	25.	22.	20.	21.	19.	17.	17.	16.	14.	12.	11.	9.8
1-3/8	30.	27.	24.	26.	23.	20.	21.	19.	17.	15.	13.	12.
1-1/2	35.	32.	28.	30.	27.	24.	25.	22.	20.	17.	16.	14.
1-3/4	48.	43.	38.	41.	37.	33.	34.	30.	27.	24.	21.	19.
2	62.	55.	49.	53.	48.	43.	43.	39.	35.	31.	28.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter, inches	Number of clips		Minimum spacing, inches
	Drop forged	Other material	
*	---	---	---
1/2	3	4	3
5/8	3	4	3 3/4
3/4	4	5	4 1/2
7/8	4	5	5 1/4
1	4	6	6
1 1/4	5	6	6 3/4
1 1/2	5	7	7 1/2
1 3/4	6	7	8 1/4
2	6	8	9

* Three clips shall be used on wire size less than 1/2-inch diameter.

TABLE G-7
WROUGHT IRON CHAIN
(In pounds or tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
* 1/4	1060	1835	1500	1060
* 5/16	1655	2865	2340	1655
3/8	2385	2.1	3370	2385
* 7/16	3250	2.8	2.3	3250
1/2	2.1	3.7	3.0	2.1
* 9/16	2.7	4.6	3.8	2.7
5/8	3.3	5.7	4.7	3.3
3/4	4.8	8.3	6.7	4.8
7/8	6.5	11.2	9.2	6.5
1	8.5	14.7	12.0	8.5
1-1/8	10.0	17.3	14.2	10.0
1-1/4	12.4	21.4	17.5	12.4
1-3/8	15.0	25.9	21.1	15.0
1-1/2	17.8	30.8	25.2	17.8
1-5/8	20.9	36.2	29.5	20.9
1-3/4	24.2	42.0	34.3	24.2
1-7/8	27.6	47.9	39.1	27.6
2	31.6	54.8	44.8	31.6

* These sizes of wrought iron chain are no longer manufactured in the United States.

TABLE G-8
ALLOY STEEL CHAIN
(In tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
1/4	1.62	2.82	2.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.5	27.3	19.8
1-1/8	22.2	38.5	31.5	22.2
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
1-3/4	47.0	81.5	62.0	47.0

TABLE G-9
MAXIMUM ALLOWABLE WEAR AT ANY POINT OF LINK

Chain size in inches	Maximum allowable wear in fraction of inches
1/4 (9/32)	3/64
5/16	4/64
3/8	5/64
7/16	6/64
1/2	8/32
5/8	11/64
3/4	13/64
7/8	15/32
1	17/32
1 1/8	19/32
1 1/4	21/32
1 3/8	23/32
1 1/2	25/32
1 3/4	29/32

TABLE G-10
SAFE WORKING LOADS FOR SHACKLES
[In tons of 2000 pounds]

Material size (inches)	Pin diameter (inches)	Safe working load
1/2	5/8	1.4
5/8	3/4	2.2
3/4	7/8	3.2
7/8	1	4.3
1	1 1/8	5.6
1 1/8	1 1/4	6.7
1 1/4	1 3/8	8.2
1 3/8	1 1/2	10.0
1 1/2	1 5/8	11.9
1 3/4	2	16.2
2	2 1/4	21.2

TABLE I-1

FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

Operation	Shade No.
Soldering	2
Torch Brazing	3 or 4
Light cutting, up to 1 inch	3 or 4
Medium cutting, 1-6 inches	4 or 5
Heavy cutting, over 6 inches	5 or 6
Light gas welding, up to ½ inch	4 or 5
Medium gas welding, ½-½ inch	5 or 6
Heavy gas welding, over ½ inch	6 or 8
Shielded Metal-Arc Welding 1/16- to 5/32-inch electrodes.	10
Inert-gas Metal-Arc Welding (Nonferrous) 1/16- to 5/32-inch electrodes.	11
Inert-gas Metal-Arc Welding (Ferrous) 1/16- to 5/32-inch electrodes.	12
Shielded Metal-Arc Welding:	
1/16- to ¼-inch electrodes	12
5/32- and 3/16-inch electrodes	14
Atomic Hydrogen Welding	10 to 14
Carbon Arc Welding	14

Subpart H—Tools and Related Equipment

§ 1915.71 General precautions.

(a) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of hose or electric cords for this purpose is prohibited.

(b) When air tools of the reciprocating type are not in use, the dies and tools shall be removed.

(c) All portable, power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to the covering position.

(d) The moving parts of machinery on dry docks shall be guarded.

(e) Before use, pneumatic tools shall be secured to the extension hose or whip by some positive means to prevent the tool from becoming accidentally disconnected from the whip.

(f) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(g) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifold or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(h) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

§ 1915.72 Portable electric tools.

(a) The frames of portable electric tools and appliances, except double insulated tools approved by Underwriters' Laboratories, shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

(b) Grounding circuits, other than by means of the structure of the vessel on which the tool is being used, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance which is low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(c) Portable electric tools which are held in the hand shall be equipped with switches of a type which must be manually held in the closed position.

(d) Worn or frayed electric cables shall not be used.

(e) The employer shall notify the officer in charge of the vessel before using electric power tools operated with the vessel's current.

§ 1915.73 Hand tools.

(a) Employers shall not issue or permit the use of unsafe hand tools.

(b) Wrenches, including crescent, pipe, end and socket wrenches, shall not be used when jaws are sprung to the point that slippage occurs.

(c) Impact tools, such as drift pins, wedges, and chisels, shall be kept free of mushroomed heads.

(d) The wooden handles of tools shall be kept free of splinters or cracks and shall be kept tight in the tool.

§ 1915.74 Abrasive wheels.

(a) Floor stand and bench mounted abrasive wheels used for external grinding shall be provided with safety guards (protection hoods). The maximum angular exposure of the grinding wheel periphery and sides shall be not more than 90 degrees, except that when work requires contact with the wheel below the horizontal plane of the spindle, the angular exposure shall not exceed 125 degrees. In either case the exposure shall begin not more than 65 degrees above the horizontal plane of the spindle. Safety guards shall be strong enough to withstand the effect of a bursting wheel.

(b) Floor and bench mounted grinders shall be provided with work rests which are rigidly supported and readily adjustable. Such work rests shall be kept a distance not to exceed ⅛ inch from the surface of the wheel.

(c) Cup type wheels use for external grinding shall be protected by either a revolving cup guard or a band type guard in accordance with the provisions of the United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of paragraph (e) of this section, except as follows:

(1) When the work location makes it impossible, in which case a wheel equipped with safety flanges as described in paragraph (f) of this section shall be used.

(2) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(d) Portable abrasive wheels used for internal grinding shall be provided with safety flanges (protection flanges) meeting the requirements of paragraph (f) of this section, except as follows:

(1) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(2) If the wheel is entirely within the work being ground while in use.

(e) When safety guards are required, they shall be so mounted as to maintain proper alignment with the wheel, and the guard and its fastenings shall be of sufficient strength to retain fragments of the wheel in case of accidental breakage. The maximum angular exposure of the grinding wheel periphery and sides shall not exceed 180 degrees.

(f) When safety flanges are required, they shall be used only with wheels designed to fit the flanges. Only safety flanges of a type and design and properly assembled so as to insure that the pieces of the wheel will be retained in case of accidental breakage shall be used.

(g) All abrasive wheels shall be closely inspected and ring tested before mounting to ensure that they are free from cracks or defects.

(h) Grinding wheels shall fit freely on the spindle and shall not be forced on. The spindle nut shall be tightened only enough to hold the wheel in place.

(i) The power supply shall be sufficient to maintain the rated spindle speed under all conditions of normal grinding. The rated maximum speed of the wheel shall not be exceeded.

(j) All employees using abrasive wheels shall be protected by eye protection equipment in accordance with the requirements of § 1915.81 (a) and (b), except when adequate eye protection is afforded by eye shields which are permanently attached to the bench or floor stand.

§ 1915.75 Powder actuated fastening tools.

(a) *General precautions.* (1) Powder actuated fastening tools shall be tested each day before loading to ensure that the safety devices are in proper working condition. Any tool found not to be in proper working order shall be immediately removed from service until repairs are made.

(2) Powder actuated fastening tools shall not be used in an explosive or flammable atmosphere.

(3) All tools shall be used with the type of shield or muzzle guard appropriate for a particular use.

(4) Fasteners shall not be driven into very hard or brittle materials, such as cast iron, glazed tile, surface hardened steel, glass block, live rock, face brick or hollow tile.

(5) Fasteners shall not be driven into soft materials unless such materials are backed by a substance that will prevent the pin or fastener from passing completely through and creating a flying missile hazard on the opposite side.

(6) Unless a special guard, fixture or jig is used, fasteners shall not be driven directly into materials such as brick or concrete within 3 inches of the unsupported edge or corner, or into steel surfaces within ½ inch of the unsupported edge or corner. When fastening other material, such as 2 x 4 inch lumber to a concrete surface, fasteners of greater than 7/32 inch shank diameter shall not be used and fasteners shall not be driven within 2 inches of the unsupported edge or corner of the work surface.

(7) Fasteners shall not be driven through existing holes unless a positive guide is used to secure accurate alignment.

(8) No attempt shall be made to drive a fastener into a spalled area caused by an unsatisfactory fastening.

(9) Employees using powder actuated fastening tools shall be protected by eye protection equipment in accordance with the requirements of § 1915.81 (a) and (b).

(b) *Instruction of operators.* Before employees are permitted to use powder actuated tools, they shall have been thoroughly instructed by a competent person with respect to the requirements of paragraph (a) of this section and the safe use of such tools as follows:

(1) Before using a tool, the operator shall inspect it to determine that it is clean, that all moving parts operate freely and that the barrel is free from obstructions.

(2) When a tool develops a defect during use, the operator shall immediately cease to use it and shall notify his supervisor.

(3) Tools shall not be loaded until just prior to the intended firing time and the tool shall not be left unattended while loaded.

(4) The tool, whether loaded or empty, shall not be pointed at any person, and hands shall be kept clear of the open barrel end.

(5) In case of a misfire, the operator shall hold the tool in the operating position for at least 15 seconds and shall continue to hold the muzzle against the work surface during disassembly or opening of the tool and removal of the powder load.

(6) Neither tools nor powder charges shall be left unattended in places where they would be available to unauthorized persons.

§ 1915.76 Internal combustion engines, other than ship's equipment.

(a) When internal combustion engines furnished by the employer are used in a fixed position below decks, for such purposes as driving pumps, generators, and blowers, the exhaust shall be led to the open air, clear of any ventilation intakes and openings through which it might enter the vessel.

(b) All exhaust line joints and connections shall be checked for tightness immediately upon starting the engine, and any leaks shall be corrected at once.

(c) When internal combustion engines on vehicles, such as forklifts and mobile cranes, or on portable equipment such as fans, generators, and pumps exhaust into the atmosphere below decks, the competent person shall make tests of the carbon monoxide content of the atmosphere as frequently as conditions require to ensure that dangerous concentrations do not develop. Employees shall be removed from the compartment involved when the carbon monoxide concentration exceeds 50 parts per million (0.005%). The employer shall use blowers sufficient in size and number and so arranged as to maintain the concentration below this allowable limit before work is resumed.

Subpart I—Personal Protective Equipment

§ 1915.81 Eye protection.

(a) *General precautions.* (1) All eye protection equipment required by these regulations shall meet the specifications prescribed by the American Standard Safety Code for Head, Eye and Respiratory Protection, Z2.1.

(2) Eye protection equipment shall be maintained in good condition.

(3) Eye protection equipment which has previously been used shall be cleaned and disinfected before it is issued by the employer to another employee.

(4) Employees who wear corrective spectacles while engaged in eye hazardous work shall be protected by eye protection equipment of a type which can be worn over personal spectacles, except that glasses with prescription ground safety lenses may be worn in lieu of cover goggles when such glasses provide suitable protection against the hazard involved.

(b) *Protection against impact.* (1) In any operations such as chipping, caulking, drilling, riveting, grinding, and pouring babbitt metal, in which the eye hazard of flying particles, molten metal, or liquid chemical exists, employees shall be protected by suitable face shields or goggles meeting the requirements of paragraph (a) of this section.

(c) *Protection against radiant energy.* (1) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of paragraphs (a) and (c) (2) of this section.

(2) Filter lenses shall be of a shade number appropriate to the type of work to be performed as indicated in Table I-1 in § 1915.68, except that variations of one or two shade numbers are permissible to suit individual preferences.

(3) If filter lenses are used in the goggles worn under the helmet, the shade number of the lens in the helmet may be reduced so that the sum of the shade numbers of the two lenses will equal the value shown in Table I-1 in § 1915.68.

§ 1915.82 Respiratory protection.

(a) *General.* (1) All respiratory protective equipment required by these regulations shall carry the U.S. Bureau of Mines approval for the use for which it is intended. Respiratory protective equipment shall be used only for the purpose intended and no modifications of the equipment shall be made.

(2) Respiratory protective equipment shall be inspected regularly and maintained in good condition. Gas mask canisters and chemical cartridges shall be replaced as necessary so as to provide complete protection. Mechanical filters shall be cleaned or replaced as necessary so as to avoid undue resistance to breathing.

(3) Respiratory protective equipment which has been previously used shall be cleaned and disinfected before it is issued by the employer to another employee. Emergency rescue equipment shall be cleaned and disinfected immediately after each use.

(4) Employees required to use respiratory protective equipment approved for use in atmospheres immediately dangerous to life shall be thoroughly trained in its use. Employees required to use other types of respiratory protective equipment shall be instructed in the use and limitations of such equipment.

(5) When an air line respirator is used, the air line shall be fitted with a pressure regulating valve and a filter which will remove oil, water, and rust particles. The air intake shall be from a source which is free from all contaminants, such as the exhaust from internal combustion engines.

(6) In all cases when an employee is stationed outside a compartment, tank or space as a tender or safety man for men working inside in an atmosphere immediately dangerous to life, the tender shall have immediately available for emergency use respiratory protective equipment equivalent to that required for the men in the compartment. When a tender is stationed outside a compartment for men working inside in an atmosphere not immediately dangerous to life, the tender shall wear respiratory protective equipment equivalent to that required for the men in the compartment if he is exposed for prolonged periods to the same concentration of atmospheric contaminants.

(b) *Protection in atmospheres immediately dangerous to life.* (1) Atmospheres immediately dangerous to life are those which contain less than 16.5 percent oxygen, or which by reason of the high toxicity of the contaminant, as in fumigation, or high concentration of the contaminant, as with carbon dioxide, would endanger the life of a person breathing them for even a short period of time.

(2) In atmospheres immediately dangerous to life the only approved types of respiratory protective equipment are the following:

(i) Self-contained breathing apparatus, in which the wearer carries with him a supply of oxygen, air, or an oxygen generating material.

(ii) Hose mask with blower, in which a hand or motor operated blower supplies air at high volume and low pressure through a large diameter hose through which the wearer can draw air in case the blower fails.

(iii) If there is known to be more than 16 percent oxygen and less than

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2 percent gas by volume, a gas mask equipped with a canister approved for the particular type gas involved.

NOTE: A gas mask offers absolutely no protection in an atmosphere deficient in oxygen.

(3) Work in atmospheres immediately dangerous to life shall be performed only in an emergency, as when rescuing a man who has been overcome or when shutting off a source of contamination that cannot otherwise be controlled. When an employee enters such an atmosphere he shall be provided with and use an adequate, attended life line.

(4) In the vicinity of each vessel in which there is a danger of employees being exposed to an atmosphere immediately dangerous to life the employer shall have on hand and ready for use respiratory protective equipment approved for such use. When such equipment is required, one or more persons shall be thoroughly trained in the use of the equipment.

(c) *Protection against gaseous contaminants not immediately dangerous to life.* (1) Gaseous contaminants not immediately dangerous to life are gases present in concentrations that could be breathed for a short period without endangering the life of a person breathing them, but which might produce discomfort and possible injury after a prolonged single exposure or repeated short exposures.

(2) When employees are exposed to a gaseous contaminated atmosphere not immediately dangerous to life, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the gaseous contaminant as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator in lower concentrations is permissible.

(ii) In concentrations of ammonia of less than 3 percent, or of other gases less than 2 percent, by volume, a canister type gas mask equipped with the proper type of canister. Different canisters are approved for specific use against the following gases or groups of gases: acid gases, hydrocyanic acid gas, chlorine gas, organic vapors, ammonia gas, carbon monoxide, or combination of the above.

(iii) In low concentrations (less than 0.1 percent by volume), a chemical cartridge respirator equipped with the type of cartridge approved for use against the particular gases or groups of gases listed in subdivision (ii) of this subparagraph.

(d) *Protection against particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to unsafe concentrations of particulate contaminants, such as dusts and fumes, mists and fogs or combinations of solids and liquids, they shall be protected by either air line or filter respirators, except as otherwise provided in the regulations of this part.

(2) Filter respirators shall be equipped with the proper type of filter. Different filters are approved for specific protection against groups of contaminants, as follows:

(i) Pneumoconiosis-producing dust and nuisance dust filters which provide respiratory protection against pneumoconiosis-producing dusts, such as aluminum, cellulose, cement, charcoal, coal, coke, flour, gypsum, iron ore, limestone and wood.

(ii) Toxic dust filters which provide respiratory protection against toxic dusts that are not significantly more toxic than lead, such as arsenic, cadmium, chromium, lead, manganese, selenium, vanadium, and their compounds.

(iii) Mist filters which provide respiratory protection against pneumoconiosis-producing mists, chromic acid mists, and nuisance mists.

(iv) Fume filters which provide respiratory protection against fumes (solid dispersoids or particulate matter formed by the condensation of vapors, such as those from heated metals and other substances).

(v) Filters which provide respiratory protection against combinations of two or more of the contaminants described in subdivisions (i) through (iv) of this subparagraph.

(e) *Protection against combinations of gaseous and particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to combinations of gaseous and particulate contaminants not immediately dangerous to life, as in spray painting, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the contaminants, as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator is permissible in lower concentrations.

(ii) In concentrations of gaseous contaminants of less than 2 percent by volume, a canister type gas mask with a combination canister approved for the particular type of gaseous contaminant as specified in paragraph (c)(2) of this section and a filter for the particular type of particulate contaminant as specified in paragraph (d)(1) of this section.

(iii) In low concentrations of gaseous contaminants (less than 0.1 percent by volume) a respirator equipped with the type of cartridge and filter as specified in subdivision (ii) of this subparagraph.

§ 1915.83 Head, foot and body protection.

(a) When employees are working in areas where there is danger of falling objects they shall be protected by protective hats.

(b) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1. Hats without dielectric strength shall not be used where there is the possibility of contact with electric conductors.

(c) Protective hats which have been previously worn shall be cleaned and disinfected before they are issued by the employer to another employee.

(d) The employer shall arrange through means, such as vendors or local stores, or otherwise, to make safety shoes readily available to all employees, and shall encourage their use. Metal toe caps from which the covering has been worn shall be insulated when employees are working on exposed energized circuits of the vessel's electrical system.

(e) Employees shall not be permitted to wear excessively greasy clothing when performing hot work operations.

(f) Employees shall be protected by suitable gloves when engaged in operations hazardous to their hands.

§ 1915.84 Lifesaving equipment.

(a) *Buoyant work vests.* (1) Buoyant work vests shall not meet the requirements of these regulations unless approved by the U.S. Coast Guard.

(2) Prior to each use, buoyant work vests shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective buoyant work vests shall not be used.

(b) *Safety belts and lifelines.* (1) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(2) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which may affect their strength. Defective belts and lifelines shall not be used.

(3) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to ensure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(c) *Life rings and ladders.* (1) At least three 30 inch Coast Guard approved life rings with lines attached shall be kept in easily visible and readily accessible places aboard each vessel afloat on which work is being performed. Life rings shall be located, one forward, one aft, and one on the gangway, except on vessels under 200 feet in length, in which case one at the gangway will be sufficient.

(2) At least one life ring with a line attached shall be located on each staging float alongside a vessel on which work is being performed.

(3) At least 90 feet of line shall be attached to each life ring. Life rings and lines shall be maintained in good condition.

(4) In the vicinity of each vessel afloat in which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.

Subpart J—Ship's Machinery and Piping Systems

§ 1915.91 Ship's boilers.

(a) Before work is performed in the fire, steam, or water spaces of a boiler

where employees may be subject to injury from the direct escape of a high temperature medium, such as steam, or water, oil, or other medium at a high temperature entering from an interconnecting system, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, blanked, and tagged indicating that employees are working in the boiler. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working in the boiler, or until the work in the boiler is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

(3) A warning sign calling attention to the fact that employees are working in the boilers shall be hung in a conspicuous location in the engine room. This sign shall not be removed until it is determined that the work is completed and all employees are out of the boilers.

§ 1915.92 Ship's piping systems.

(a) Before work is performed on a valve, fitting, or section of piping in a piping system where employees may be subject to injury from the direct escape of steam, or water, oil, or other medium at a high temperature, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, blanked, and tagged indicating that employees are working on the systems. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working on the system, or until the work on the system is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

§ 1915.93 Ship's propulsion machinery.

(a) Before work is performed on the main engine, reduction gear, or connecting accessories, the employer shall ensure that the following steps are taken:

(1) The jacking gear shall be engaged to prevent the main engine from turning over. A sign shall be posted at the throttle indicating that the jacking gear is engaged. This sign shall not be removed until the jacking gear can be safely disengaged.

(2) If the jacking gear is steam driven, the stop valves to the jacking gear shall be secured, locked, and tagged indicating that employees are working on the main engine.

(3) If the jacking gear is electrically driven, the circuit controlling the jacking gear shall be deenergized by tripping the circuit breaker, opening the switch or removing the fuse, whichever is appropriate. The breaker, switch, or fuse location shall be tagged indicating that employees are working on the main engine.

(b) Before the jacking engine is operated, the following precautions shall be taken:

(1) A check shall be made to ensure that all employees, equipment, and tools are clear of the engine, reduction gear, and its connecting accessories.

(2) A check shall be made to ensure that all employees, equipment and tools are free of the propeller.

(c) Before work is started on or in the immediate vicinity of the propeller, a warning sign calling attention to the fact that employees are working in that area shall be hung in a conspicuous location in the engine room. This sign shall not be removed until it is determined that the work is completed and all employees are free of the propeller.

(d) Before the main engine is turned over (e.g., when warming up before departure or testing after an overhaul) a check shall be made to ensure that all employees, equipment, and tools are free of the propeller.

§ 1915.94 Ship's deck machinery.

(a) Before work is performed on the anchor windlass or any of its attached accessories, the employer shall ensure that the following steps are taken:

(1) The devil claws shall be made fast to the anchor chains.

(2) The riding pawls shall be in the engaged position.

(3) In the absence of devil claws and riding pawls, the anchor chains shall be secured to a suitable fixed structure of the vessel.

Subpart K—Portable, Unfired Pressure Vessels, Drums and Containers, Other Than Ship's Equipment

§ 1915.101 Portable air receivers and other unfired pressure vessels.

(a) Portable, unfired pressure vessels, built after the effective date of this regulation, shall be marked and reported indicating that they have been designed and constructed to meet the standards of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section XIII, Rules for Construction of Unfired Pressure Vessels, 1963. They shall be subjected to a hydrostatic pressure test of one and one-half times the working pressure of the vessels.

(b) Portable, unfired pressure vessels, not built to the code requirements of paragraph (a) of this section, and built prior to the effective date of this regulation, shall be examined quarterly by a competent person. They shall be subjected yearly to a hydrostatic pressure test of one and one-half times the working pressure of the vessels.

(c) The relief valves on the portable, unfired pressure vessels in paragraphs (a) and (b) of this section shall be set to the safe working pressure of the vessels, or set to the lowest safe working pressure of the systems, whichever is lower.

(d) A record of such examinations and tests made in compliance with the requirements of paragraphs (a) and (b) of this section shall be maintained.

§ 1915.102 Drums and containers.

(a) Shipping drums and containers shall not be pressurized to remove their contents.

(b) A temporarily assembled pressurized piping system conveying hazardous liquids or gases shall be provided with a relief valve and by-pass to prevent rupture of the system and the escape of such hazardous liquids or gases.

(c) Pressure vessels, drums and containers containing toxic or flammable liquids or gases shall not be stored or used where they are subject to open flame, hot metal, or other sources of artificial heat.

(d) Unless pressure vessels, drums and containers of 30 gallon capacity or over containing flammable or toxic liquids or gases are placed in an out-of-the-way area where they will not be subject to physical injury from an outside source, barriers or guards shall be erected to protect them from such physical injury.

(e) Containers of 55 gallons or more capacity containing flammable or toxic liquid shall be surrounded by dikes or pans which enclose a volume equal to at least 25 percent of the total volume of the containers.

(f) Fire extinguishers adequate in number and suitable for the hazard shall be provided. These extinguishers shall be located in the immediate area where pressure vessels, drums and containers containing flammable liquids or gases are stored or in use. Such extinguishers shall be ready for use at all times.

Subpart L—Electrical Machinery

§ 1915.111 Electrical circuits and distribution boards.

(a) Before an employee is permitted to work on an electrical circuit, except when the circuit must remain energized for testing and adjusting, the circuit shall be deenergized and checked at the point at which the work is to be done to insure that it is actually deenergized. When testing or adjusting an energized circuit a rubber mat, duck board, or other suitable insulation shall be used underfoot where an insulated deck does not exist.

(b) Deenergizing the circuit shall be accomplished by opening the circuit breaker, opening the switch, or removing the fuse, whichever method is appropriate. The circuit breaker, switch, or fuse location shall be tagged to indicate that an employee is working on the circuit. Such tags shall not be removed nor the circuit energized until it is definitely determined that the work on the circuit has been completed.

(c) When work is performed immediately adjacent to an open-front energized board or in back of an energized board, the board shall be covered or some other equally safe means shall be used to prevent contact with any of the energized parts.

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Subpart A—General Provisions

§ 1916.1 Purpose, scope, and responsibility.

(a) Section 41 of the Longshoremen's and Harbor Workers' Compensation Act requires every employer to furnish and maintain employment and places of employment which are reasonably safe for his employees in all employments covered thereby (the Act applies to all injuries sustained by employees on navigable waters of the United States if the employees are employed by an "employer" as defined in section 2(4) of the Act, i.e., "an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any drydock)." Calbeck v. Travelers Insurance Co. and Donovan v. Avondale Shipyards, Inc. (52 S. Ct. 1196 (1962)) and to install, furnish, maintain, and use devices and safeguards (with particular reference to equipment used by such employers and working conditions established by them) determined by the Secretary of Labor to be reasonably necessary to protect the life, health, and safety of such employees, and to render safe such employment and places of employment and to prevent injury to such employees. The purpose of this part is to make determinations under this standard with respect to shipbuilding activity.

(b) This part does not apply to matters under the control of the United States Coast Guard within the scope of Title 52 of the Revised Statutes and acts supplementary or amendatory thereto (46 U.S.C. secs. 1–1388 passim) including, but not restricted to, the master, ship's officer, crew members, design, construction, and maintenance of the vessel, its gear and equipment; to matters within the regulatory authority of the United States Coast Guard to safeguard vessels, harbors, ports, and waterfront facilities under the provisions of the Espionage Act of June 17, 1917, as amended (50 U.S.C. 191 et seq.; 22 U.S.C. 401, et seq.); including the provisions of Executive Order 10173, as amended by Executive Orders 10277 and 10352 (3 CFR 1949–1953 Comp., pp. 356, 778, and 873); or to matters within the regulatory authority of the United States Coast Guard with respect to lights, warning devices, safety equipment and other matters relating to the promotion of safety of lives and property under section 4(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333). Also, this part does not apply to owners, operators, agents, or masters of vessels unless they are acting as "employers". However, this part is not intended to relieve owners, operators, agents, or masters of vessels who are not "employers" from responsibilities or duties now placed upon them by law, regulations, or custom.

(c) The responsibilities placed upon the competent person herein shall be deemed to be the responsibilities of the employer.

§ 1916.2 Definitions.

(a) The term "shall", indicates provisions which are mandatory.

(b) The term "Secretary" means the Secretary of Labor.

(c) The term "employer" means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States, including dry docks, graving docks, and marine railways, and any of whose employees are employed, in whole or in part, in shipbuilding or related employments as defined in paragraphs (i) and (j) of this section, on the navigable waters of the United States, including drydocks, graving docks, and marine railways.

(d) The term "employee" means any person employed in shipbuilding or related employments on the navigable waters of the United States, including dry docks, graving docks and marine railways, by an employer as defined in paragraph (c) of this section.

(e) The term "gangway" means any ramp-like or stair-like means of access provided to enable personnel to board or leave a vessel including accommodation ladders, gangplanks and brows.

(f) The term "vessel" includes every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

(g) For purposes of § 1916.44, the term "barge" means an unpowered, flat bottom, shallow draft vessel including scows, carfloats and lighters. For purposes of this section, the term does not include ship shaped or deep draft barges.

(h) For purposes of § 1916.44, the term "river tow boat" means a shallow draft, low free board, self-propelled vessel designed to tow river barges by pushing ahead. For purposes of this section, the term does not include other towing vessels.

(i) The term "shipbuilding" means the construction of a vessel, including the installation of machinery and equipment.

(j) The term "related employment" means any employments performed as an incident to or in conjunction with shipbuilding work including, but not restricted to inspection, testing trials and employment as a watchman.

(k) The term "hazardous substance" means a substance which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritant, or otherwise harmful is likely to cause injury.

(l) The term "competent person" for purposes of this part means a person who is capable of recognizing and evaluating employee exposure to hazardous substances or to other unsafe conditions and is capable of specifying the necessary protection and precautions to be taken to ensure the safety of employees as required by the particular regulation under the condition to which it applies. For the purposes of Subparts C and D of this part, except for § 1916.24(b)(8), to which the above definition applies, the competent person must also meet the additional requirements of § 1916.10.

(m) The term "confined space" means a compartment of small size and limited access such as a double bottom tank, cofferdam, or other space which by its small size and confined nature can readily create or aggravate a hazardous exposure.

(n) The term "enclosed space" means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters and machinery and boiler spaces.

(o) The term "hot work" means riveting, welding, burning or other fire or spark producing operations.

(p) The term "cold work" means any work which does not involve riveting, welding, burning or other fire or spark producing operations.

(q) The term "portable unfired pressure vessel" means any pressure container or vessel used aboard ship, other than the ship's equipment, containing liquids or gases under pressure, excepting pressure vessels built to ICC regulations under 49 CFR Part 78, Subparts C and H.

(r) The term "powder actuated fastening tool" means a tool or machine which drives a stud, pin or fastener by means of an explosive charge.

(s) For purposes of § 1916.57, the term "hazardous material" means a material which has one or more of the following characteristics: (1) Has a flash point below 140° F., closed cup, or is subject to spontaneous heating; (2) has a threshold limit value below 500 p.p.m. in the case of a gas or vapor, below 500 mg./m.³ for fumes, and below 25 m.p.p.c.f. in case of a dust; (3) has a single dose oral LD_{50} below 500 mg./kg.; (4) is subject to

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polymerization with the release of large amounts of energy; (5) is a strong oxidizing or reducing agent; (6) causes first degree burns to skin in short time exposure, or is systemically toxic by skin contact; or (7) in the course of normal operations, may produce dusts, gases, fumes, vapors, mists, or smokes which have one or more of the above characteristics.

§ 1916.3 Penalty.

(a) As provided in Public Law 85–742, any employer who, willfully, violates or fails or refuses to comply with the provisions of the regulations of this part and any employer or other person who willfully interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of section 41 of the Act by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of the regulations of this part, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than $100 nor more than $3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than $100 nor more than $3,000.

(b) The liability under this provision of Public Law 85–742 shall not affect any other liability of the employer under the Longshoremen's and Harbor Workers' Compensation Act.

§ 1916.4 [Reserved]

§ 1916.5 Reference specifications, standards, and codes.

Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, Subpart B, § 1916.10(a).

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill. 60611, Subpart C §§ 1916.24(b)(7), 1916.25(a)(4); Subpart H, § 1916.72(a).

United States of America Standard Safety Code for Portable Wood Ladders, A14.1–1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1916.42(a)(6).

American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017, Subpart K, § 1916.101(a).

Threshold Limit Values, American Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, Ohio 45202, Subpart C, § 1916.21(b).

United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1–1964, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart H, § 1916.74(c).

§ 1916.6 Notification of accidents resulting in fatalities or serious injuries.

(a) Within 48 hours after the occurrence of an accident causing the death of an employee or resulting in an employee's admission to a hospital as a bed patient, the employer shall file a copy of Bureau of Employees' Compensation Form BEC—202 (approved by Budget Bureau No. 44–R 887.3) with the Field Safety Consultant of the Occupational Safety and Health Administration serving the area where the accident occurred (in addition to such filing as is required by 20 CFR 31.3) unless prior thereto and as soon after the accident as feasible the employer has given oral or written notice of the accident to the person in charge of such office in sufficient detail to permit the accident to be identified readily. (44 Stat. 1444; 33 U.S.C. 930.)

§ 1916.7 Amendment of the regulations of this part.

The Secretary may at any time, upon his own motion or upon written petition of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the provisions of the regulations of this part.

Subpart B—Explosive and Other Dangerous Atmospheres

§ 1916.10 Competent person.

(a) *Designation.* (1) For the purposes of Subparts C, D, and H of this part, except for §§ 1916.24(b)(8) and 1916.25(a)(5), one or more competent persons shall be designated by the employer in accordance with the applicable requirements of this section unless the requirements of Subparts C, D, and H of this part are always carried out by a National Fire Protection Association Certified Marine Chemist.

(2) The employer shall indicate on U.S. Department of Labor Form MAR–8, "Designation of Competent Person" either those employees designated as competent persons or that the prescribed functions of such persons are always carried out by a National Fire Protection Association Certified Marine Chemist in addition to his professional duties. When additions or changes are made in the personnel so designated, a new Form MAR–8 shall be executed. A copy of this executed form shall be forwarded to the nearest office of the Occupational Safety and Health Administration.

(b) *Criteria.* The following criteria shall guide the employer in designating employees as competent persons:

(1) Ability to understand the meaning of designations on certificates and of any qualifications relating thereto and to carry out any instructions, either written or oral, left by the National Fire Protection Association Certified Marine Chemist or issued by a consultant or chemist who may be used by the employer to make the tests and inspections required by Subparts C and D of this part.

(2) Ability to use and interpret the readings of an oxygen indicator and a combustible gas indicator. The ability to use and interpret the readings of a carbon monoxide indicator and a carbon dioxide indicator, if the operations involve such hazardous gases.

(3) Familiarity with and understanding of Subparts C, D, and H of this part.

(4) Familiarity with the structure and knowledge of the location and designation of spaces of the types of vessels on which construction work is done.

(5) Capability to perform the tests and inspections required by Subparts C, D, and H of this part and to write the required logs.

(c) *Logging of inspections and tests.* (1) When tests and inspections required to be performed by a competent person by any provisions of Subparts C, D, and H of this part, except those referred to in §§ 1916.24(b)(8) and 1916.25(a)(5), are made, a record of the locations, operations performed and date, time, and results of the tests and any instructions resulting therefrom shall be recorded on U.S. Department of Labor Form MAR–9, "Log of Inspections and Tests by Competent Person." A separate form shall be used for each vessel on which tests and inspections are made.

(2) This record shall be available for inspection in the immediate vicinity of the affected operations while they are in progress. This record or copy thereof shall be kept on file for a period of at least 3 months from the date of the completion of the job.

(d) *Application.* The provisions of this section are intended to apply in their entirety to employers engaged in general vessel construction. They do not apply in their entirety to employers whose work involves only certain portions of Subparts C and D of this part, such as the building of some wooden vessels, where only knowledge of the precautions to be taken when using flammable paints is necessary. In such cases employers may designate persons who are competent on the basis of the applicable portions of the criteria set forth in paragraph (b) of this section.

Subpart C—Surface Preparation and Preservation

§ 1916.21 Toxic cleaning solvents.

(a) When toxic solvents are used, the employer shall employ one or more of the following measures to safeguard the health of employees exposed to these solvents.

(1) The cleaning operation shall be completely enclosed to prevent the escape of vapor into the working space.

(2) Either natural ventilation or mechanical exhaust ventilation shall be used to remove the vapor at the source and to dilute the concentration of vapors in the working space to a concentration which is safe for the entire work period.

(3) Employees shall be protected against toxic vapors by suitable respiratory protective equipment in accordance with the requirements of § 1916.82 (a) and (c), and, where necessary, against exposure of skin and eyes to contact with toxic solvents and their vapors by suitable clothing and equipment.

(b) The principles in the threshold limit values to which attention is directed in § 1916.5 will be used by the Department of Labor in enforcement proceedings in defining a safe concentration of air contaminants.

(c) When flammable solvents are used, precautions shall be taken in accordance with the requirements of § 1916.25.

§ 1916.22 Chemical paint and preservative removers.

(a) Employees shall be protected against skin contact during the handling and application of chemical paint and preservative removers and shall be protected against eye injury by goggles or face shields in accordance with the requirements of § 1916.81 (a) and (b).

(b) When using flammable paint and preservative removers, precautions shall be taken in accordance with the requirements of § 1916.25.

(c) When using chemical paint and preservative removers which contain volatile and toxic solvents, such as benzol, acetone and amyl acetate, the provisions of § 1916.21 shall be applicable.

(d) When using paint and rust removers containing strong acids or alkalies, employees shall be protected by suitable face shields to prevent chemical burns on the face and neck.

(e) When steam guns are used, all employees working within range of the blast shall be protected by suitable face shields. Metal parts of the steam gun itself shall be insulated to protect the operator against heat burns.

§ 1916.23 Mechanical paint removers.

(a) *Power tools.* (1) Employees engaged in the removal of paints, preservatives, rusts or other coatings by means of power tools shall be protected against eye injury by goggles or face shields in accordance with the requirements of § 1916.81(a).

(2) All portable rotating tools used for the removal of paints, preservatives, rusts or other coatings shall be adequately guarded to protect both the operator and nearby workers from flying missiles.

(3) Portable electric tools shall be grounded in accordance with the requirements of § 1916.72 (a) and (b).

(4) In a confined space, mechanical exhaust ventilation sufficient to keep the dust concentration to a minimum shall be used, or employees shall be protected by respiratory protective equipment in accordance with the requirements of § 1916.82 (a) and (d).

(b) *Flame removal.* (1) Hardened preservative coatings shall not be removed by flame in enclosed spaces unless the employees exposed to fumes are protected by air line respirators in accordance with the requirements of § 1916.82 (a). Employees performing such an operation in the open air, and those exposed to the resulting fumes, shall be protected by a fume filter type respirator in accordance with requirements of paragraphs (a) and (d)(2)(iv) of § 1916.82.

(2) Flame or heat shall not be used to remove soft and greasy preservative coatings.

(c) *Abrasive blasting*—(1) *Equipment.* Hoses and fittings used for abrasive blasting shall meet the following requirements:

(i) *Hoses.* Hose of a type to prevent shocks from static electricity shall be used.

(ii) *Hose couplings.* Hose lengths shall be joined by metal couplings secured to the outside of the hose to avoid erosion and weakening of the couplings.

(iii) *Nozzles.* Nozzles shall be attached to the hose by fittings that will prevent the nozzle from unintentionally becoming disengaged. Nozzle attachments shall be of metal and shall fit onto the hose externally.

(iv) *Dead man control.* A dead man control device shall be provided at the nozzle end of the blasting hose either to provide direct cut off or to signal the pot tender by means of a visual and audible signal to cutoff the flow, in the event the blaster loses control of the hose. The pot tender shall be available at all times to respond immediately to the signal.

(2) *Replacement.* Hoses and all fittings used for abrasive blasting shall be inspected frequently to insure timely replacement before an unsafe amount of wear has occurred.

(3) *Personal protective equipment.* (i) Abrasive blasters working in enclosed spaces shall be protected by hoods and air fed respirators or by air helmets of a positive pressure type in accordance with the requirements of § 1916.82(a).

(ii) Abrasive blasters working in the open shall be protected as indicated in subdivision (i) of this subparagraph except that when synthetic abrasives containing less than one percent free silica are used, filter type respirators approved by the Bureau of Mines for exposure to lead dusts may be used in accordance with § 1916.82 (a) and (d).

(iii) Employees, other than blasters, including machine tenders and abrasive recovery men, working in areas where unsafe concentrations of abrasive materials and dusts are present shall be protected by eye and respiratory protective equipment in accordance with the requirements of §§ 1916.81 (a) and (b) and 1916.82 (a) and (d).

(iv) The blaster shall be protected against injury from exposure to the blast by appropriate protective clothing, including gloves.

(v) Since surges from drops in pressure in the hose line can be of sufficient proportions to throw the blaster off the staging, the blaster shall be protected by a safety belt when blasting is being done from elevations where adequate protection against falling cannot be provided by railings.

§ 1916.24 Painting.

(a) *Paints mixed with toxic vehicles or solvents.* (1) When paints mixed with toxic vehicles or solvents are sprayed, the following conditions shall apply:

(i) In confined spaces, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of § 1916.82(a).

(ii) In tanks or compartments, employees continuously exposed to such spraying shall be protected by air line respirators in accordance with the requirements of § 1916.82(a). Where mechanical ventilation is provided, employees shall be protected by respirators in accordance with the requirements of § 1916.82 (a) and (e).

(iii) In large and well ventilated areas, employees exposed to such spraying shall be protected by respirators in accordance with the requirements of § 1916.82 (a) and (e).

(2) Where brush application of paints with toxic solvents is done in confined spaces, or other areas where lack of ventilation creates a hazard, employees shall be protected by filter respirators in accordance with the requirements of § 1916.82 (a) and (c).

(3) When flammable paints or vehicles are used, precautions shall be taken in accordance with the requirements of § 1915.25.

(4) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(b) *Paints and tank coatings dissolved in highly volatile toxic and flammable solvents.* Several organic coatings, adhesives and resins are dissolved in highly toxic, flammable and explosive solvents with flash points below 80° F. Work involving such materials shall be done only when all of the following special precautions have been taken:

(1) Sufficient exhaust ventilation shall be provided to keep the concentration of solvent vapors below ten (10) percent of the lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(2) If the ventilation fails or if the concentration of solvent vapors rises above ten (10) percent of the lower explosive limit, painting shall be stopped and the compartment shall be evacuated until the concentration again falls below ten (10) percent of the lower explosive limit. If the concentration does not fall

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when painting is stopped, additional ventilation to bring the concentration down to ten (10) percent of the lower explosive limit shall be provided.

(3) Ventilation shall be continued after the completion of painting until the space or compartment is gas free. The final determination as to whether the space or compartment is gas free shall be made after the ventilating equipment has been shut off for at least ten minutes.

(4) Exhaust ducts shall discharge clear of working areas and away from sources of possible ignition. Periodic tests shall be made to ensure that the exhausted vapors are not accumulating in other areas within or around the vessel or dry dock.

(5) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(6) Only non-sparking paint buckets, spray guns and tools shall be used. Metal parts of paint brushes and rollers shall be insulated. Staging shall be erected in a manner which ensures that it is non-sparking.

(7) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used.

(8) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty (50) feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(9) The face, eyes, head, hands and all other exposed parts of the bodies of employees handling such highly volatile paints shall be protected. All footwear shall be non-sparking, such as rubbers, rubber boots or rubber soled shoes without nails. Coveralls or other outer clothing shall be of cotton. Rubber, rather than plastic gloves shall be used because of the danger of static sparks.

(10) No matches, lighted cigarettes, cigars, or pipes, and no cigarette lighters or ferrous articles shall be taken into the area where work is being done.

(11) All solvent drums taken into the compartment shall be placed on nonferrous surfaces and shall be grounded to the vessel. Metallic contact shall be maintained between containers and drums when materials are being transferred from one to another.

(12) Spray guns, paint pots, and metallic parts of connecting tubing shall be electrically bonded, and the bonded assembly shall be grounded to the vessel.

(13) All employees continuously in a compartment in which such painting is being performed, shall be protected by air line respirators in accordance with the requirements of § 1916.82(a) and by suitable protective clothing. Employees entering such compartments for a limited time shall be protected by filter cartridge type respirators in accordance with the requirements of § 1916.82 (a) and (e).

(14) All employees doing exterior paint spraying with such paints shall be protected by suitable filter cartridge type respirators in accordance with the requirements of § 1916.82 (a) and (e) and by suitable protective clothing.

§ 1916.25 Flammable liquids.

(a) In all cases when liquid solvents, paint and preservative removers, paints or vehicles, other than those covered by § 1916.24(b), are capable of producing a flammable atmosphere under the conditions of use, the following precautions shall be taken:

(1) Smoking, open flames, arcs and spark-producing equipment shall be prohibited in the area.

(2) Ventilation shall be provided in sufficient quantities to keep the concentration of vapors below ten (10) percent of their lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(3) Scrapings and rags soaked with these materials shall be kept in a covered metal container.

(4) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard shall be used.

(5) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty (50) feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(6) Suitable fire extinguishing equipment shall be immediately available in the work area and shall be maintained in a state of readiness for instant use.

Subpart D—Welding, Cutting and Heating

§ 1916.31 Ventilation and protection in welding, cutting and heating.

(a) *Mechanical ventilation; requirements.* (1) For purposes of this section, mechanical ventilation shall meet the following requirements:

(i) Mechanical ventilation shall consist of either general mechanical ventilation systems or local exhaust systems.

(ii) General mechanical ventilation shall be of sufficient capacity and so arranged as to produce the number of air changes necessary to maintain welding fumes and smoke within safe limits.

(iii) Local exhaust ventilation shall consist of freely movable hoods intended to be placed by the welder or burner as close as practicable to the work. This system shall be of sufficient capacity and so arranged as to remove fumes and smoke at the source and keep the concentration of them in the breathing zone within safe limits.

(iv) Contaminated air exhausted from a working space shall be discharged into the open air or otherwise clear of the source of intake air.

(v) All air replacing that withdrawn shall be clean and respirable.

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

(b) *Welding, cutting and heating in confined spaces.* (1) Except as provided in paragraphs (b)(3) and (c)(2) of this section, either general mechanical or local exhaust ventilation meeting the requirements of paragraph (a) of this section shall be provided whenever welding, cutting or heating is performed in a confined space.

(2) The means of access shall be provided to a confined space and ventilation ducts to this space shall be arranged in accordance with § 1916.46(b)(1) and (2).

(3) When sufficient ventilation cannot be obtained without blocking the means of access, employees in the confined space shall be protected by air line respirators in accordance with the requirements of § 1916.82(a), and an employee on the outside of such a confined space shall be assigned to maintain communication with those working within it and to aid them in an emergency.

(c) *Welding, cutting or heating of metals of toxic significance.* (1) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subparagraph shall be performed with either general mechanical or local exhaust ventilation meeting the requirements of paragraph (a) of this section.

(i) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials.

(ii) Lead base metals.

(iii) Cadmium-bearing filler materials.

(iv) Chromium-bearing metals or metals coated with chromium-bearing materials.

(2) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subparagraph shall be performed with local exhaust ventilation in accordance with the requirements of paragraph (a) of this section or employees shall be protected by air line respirators in accordance with the requirements of § 1916.82(a).

(i) Metals containing lead, other than as an impurity, or metals coated with lead-bearing materials.

(ii) Cadmium-bearing or cadmium coated base metals.

(iii) Metals coated with mercury-bearing metals.

(iv) Beryllium-containing base or filler metals.

Because of its high toxicity, work involving beryllium shall be done with both local exhaust ventilation and air line respirators.

(3) Employees performing such operations in the open air shall be protected by filter type respirators in accordance with the requirements of paragraphs (a) and (d)(2)(iv) of § 1916.82, except that employees performing such operations on beryllium-containing base or filler metals shall be protected by air line respirators in accordance with the requirements of § 1916.82(a).

(4) Other employees exposed to the same atmosphere as the welders or burners shall be protected in the same manner as the welder or burner.

(d) *Inert-gas metal-arc welding.* (1) Since the inert-gas metal-arc welding process involves the production of ultraviolet radiation of intensities of 5 to 30 times that produced during shielded metal-arc welding, the decomposition of chlorinated solvents by ultraviolet rays, and the liberation of toxic fumes and gases, employees shall not be permitted to engage in, or be exposed to the process until the following special precautions have been taken:

(i) The use of chlorinated solvents shall be kept at least two hundred (200) feet from the exposed arc, and surfaces prepared with chlorinated solvents shall be thoroughly dry before welding is permitted on such surfaces.

(ii) Helpers and other employees in the area not protected from the arc by screening as provided in § 1916.36(e) shall be protected by filter lenses meeting the requirements of § 1916.81 (a) and (c). When two or more welders are exposed to each other's arc, filter lens goggles of a suitable type meeting the requirements of § 1916.81 (a) and (c) shall be worn under welding helmets or hand shields to protect the welder against flashes and radiant energy when either the helmet is lifted or the shield is removed.

(iii) Welders and other employees who are exposed to radiation shall be suitably protected so that the skin is covered completely to prevent burns and other damage by ultraviolet rays. Welding helmets and hand shields shall be free of leaks and openings, and free of highly reflective surfaces.

(iv) When inert-gas metal-arc welding is being performed on stainless steel, the requirements of paragraph (c)(2) of this section shall be met to protect against dangerous concentrations of nitrogen dioxide.

(e) *General welding, cutting and heating.* (1) Welding, cutting and heating not involving conditions or materials described in paragraphs (b), (c) or (d) of this section may normally be done without mechanical ventilation or respiratory protective equipment, but where, because of unusual physical or atmospheric conditions, an unsafe accumulation of contaminants exists, suitable mechanical ventilation or respiratory protective equipment shall be provided.

(2) Employees performing any type of welding, cutting or heating shall be protected by suitable eye protective equipment in accordance with the requirements of § 1916.81 (a) and (c).

§ 1916.32 Fire prevention.[1]

(a) When practical, objects to be welded, cut or heated shall be moved to a designated safe location or, if the object to be welded, cut or heated cannot be readily moved, all movable fire hazards in the vicinity shall be taken to a safe place.

(b) If the object to be welded, cut or heated cannot be moved and if all the fire hazards cannot be removed, positive means shall be taken to confine the heat, sparks, and slag, and to protect the immovable fire hazards from them.

(c) No welding, cutting or heating shall be done where the application of flammable paints or the presence of other flammable compounds or of heavy dust concentrations creates a hazard.

(d) Suitable fire extinguishing equipment shall be immediately available in the work area and shall be maintained in a state of readiness for instant use. In addition, when hot work is being performed aboard a vessel and pressure is not available on the vessel's fire system, an auxiliary supply of water shall be made available where practicable, consistent with avoiding freezing of the lines or hose.

(e) When the welding, cutting, or heating operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire while the actual welding, cutting, or heating operation is being performed and for a sufficient period of time after completion of the work to insure that no possibility of fire exists. Such personnel shall be instructed as to the specific anticipated fire hazards and how the fire fighting equipment provided is to be used.

(f) When welding, cutting or heating is performed on tank shells, decks, overheads and bulkheads, since direct penetration of sparks or heat transfer may introduce a fire hazard to an adjacent compartment, the same precautions shall be taken on the opposite side as are taken on the side on which the welding is being performed.

(g) In order to eliminate the possibility of fire in confined spaces as a result of gas escaping through leaking or improperly closed torch valves, the gas supply to the torch shall be positively shut off at some point outside the confined space whenever the torch is not to be used or whenever the torch is left unattended for a substantial period of time, such as during the lunch hour. Overnight and at the change of shifts, the torch and hose shall be removed from the confined space. Open end fuel gas and oxygen hoses shall be immediately removed from confined spaces when they are disconnected from the torch or other gas consuming device.

(h) Vaporizing liquid extinguishers shall not be used in enclosed spaces.

(i) Except when the contents are being removed or transferred, drums, pails, and other containers which contain or have contained flammable liquids shall be kept closed. Empty containers shall be removed to a safe area apart from hot work operations, or open flames.

§ 1916.33 Welding, cutting and heating in way of preservative coatings.

(a) Before welding, cutting or heating is commenced on any surface covered by a preservative coating whose flammability is not known, a test shall be made by a competent person to determine its flammability. Preservative coatings shall be considered to be highly flammable when scrapings burn with extreme rapidity.

(b) Precautions shall be taken to prevent ignition of highly flammable hardened preservative coatings. When coatings are determined to be highly flammable they shall be stripped from the area to be heated to prevent ignition. A 1½-inch or larger fire hose with fog nozzle, which has been uncoiled and placed under pressure, shall be immediately available for instant use in the immediate vicinity, consistent with avoiding freezing of the hose.

(c) Protection against toxic preservative coatings. (1) In enclosed spaces, all surfaces covered with toxic preservatives shall be stripped of all toxic coatings for a distance of at least 4 inches from the area of heat application, or the employees shall be protected by air line respirators meeting the requirements of § 1916.82(a).

(2) In the open air employees shall be protected by a filter type respirator in accordance with requirements of § 1916.82 (a) and (d).

(d) Before welding, cutting or heating is commenced in enclosed spaces on metals covered by soft and greasy preservatives, the following precautions shall be taken:

(1) A competent person shall test the atmosphere in the space to ensure that it does not contain explosive vapors, since there is a possibility that some soft and greasy preservatives may have flash points below temperatures which may be expected to occur naturally. If such vapors are determined to be present, no hot work shall be commenced until such precautions have been taken as will ensure that the welding, cutting or heating can be performed in safety.

(2) The preservative coatings shall be removed for a sufficient distance from the area to be heated to ensure that the temperature of the unstripped metal will not be appreciably raised. Artificial cooling of the metal surrounding the heated area may be used to limit the size of the area required to be cleaned. The prohibition contained in § 1916.23(b)(2) shall apply.

(e) Immediately after welding, cutting or heating is commenced in enclosed spaces on metal covered by soft and greasy preservatives, and at frequent intervals thereafter, a competent person shall make tests to ensure that no flammable vapors are being produced by the coatings. If such vapors are determined to be present, the operation shall be stopped immediately and shall not be resumed until such additional precautions have been taken as are necessary to ensure that the operation can be resumed safely.

§ 1916.34 Welding, cutting and heating of hollow metal containers and structures.

(a) Drums, containers, or hollow structures which have contained toxic

[1] 46 CFR 146.02-20 contains Coast Guard regulations pertaining to welding and cutting while explosives and dangerous cargoes are being handled.

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or flammable substances shall, before welding, cutting or heating is undertaken on them, either be filled with water or thoroughly cleaned of such substances and ventilated and tested.

(b) Before heat is applied to a drum, container, or hollow structure, a vent or opening shall be provided for the release of any build-up pressure during the application of heat.

(c) Before welding, cutting, heating or brazing is begun on structural voids such as skegs, bilge keels, fair waters, masts, booms, support stanchions, pipe stanchions or railings, a competent person shall inspect the object and, if necessary, test it for the presence of flammable liquids or vapors. If flammable liquids or vapors are present, the object shall be made safe.

(d) Objects such as those listed in paragraph (c) of this section shall also be inspected to determine whether water or other non-flammable liquids are present which, when heated, would build up excessive pressure. If such liquids are determined to be present, the object shall be vented, cooled, or otherwise made safe during the application of heat.

(e) Jacketed vessels shall be vented before and during welding, cutting or heating operations in order to release any pressure which may build up during the application of heat.

§ 1916.35 Gas welding and cutting.

(a) *Transporting, moving and storing compressed gas cylinders.* (1) Valve protection caps shall be in place and secure. Oil shall not be used to lubricate protection caps.

(2) When cylinders are hoisted, they shall be secured on a cradle, slingboard or pallet. They shall not be hoisted by means of magnets or choker slings.

(3) Cylinders shall be moved by tilting and rolling them on their bottom edges. They shall not be intentionally dropped, struck, or permitted to strike each other violently.

(4) When cylinders are transported by vehicle, they shall be secured in position.

(5) Valve protection caps shall not be used for lifting cylinders from one verticle position to another. Bars shall not be used under valves or valve protection caps to pry cylinders loose when frozen. Warm, not boiling, water shall be used to thaw cylinders loose.

(6) Unless cylinders are firmly secured on a special carrier intended for this purpose, regulators shall be removed and valve protection caps put in place before cylinders are moved.

(7) A suitable cylinder truck, chain, or other steadying device shall be used to keep cylinders from being knocked over while in use.

(8) When work is finished, when cylinders are empty or when cylinders are moved at any time, the cylinder valve shall be closed.

(9) Acetylene cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(b) *Placing cylinders.* (1) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag or flame will not reach them. When this is impractical, fire resistant shields shall be provided.

(2) Cylinders shall be placed where they cannot become part of an electrical circuit. Electrodes shall not be struck against a cylinder to strike an arc.

(3) Fuel gas cylinders shall be placed with valve end up whenever they are in use. They shall not be placed in a location where they would be subject to open flame, hot metal, or other sources of artificial heat.

(4) Cylinders containing oxygen or acetylene or other fuel gas shall not be taken into confined spaces.

(c) *Treatment of cylinders.* (1) Cylinders, whether full or empty, shall not be used as rollers or supports.

(2) No person other than the gas supplier shall attempt to mix gases in a cylinder. No one except the owner of the cylinder or person authorized by him shall refill a cylinder. No one shall use a cylinder's contents for purposes other than those intended by the supplier. Only cylinders bearing Interstate Commerce Commission identification and inspection markings shall be used.

(3) No damaged or defective cylinder shall be used.

(d) *Use of fuel gas.* The employer shall thoroughly instruct employees in the safe use of fuel gas, as follows:

(1) Before connecting a regulator to a cylinder valve, the valve shall be opened slightly and closed immediately. (This action is generally termed "cracking" and is intended to clear the valve of dust or dirt that might otherwise enter the regulator). The person cracking the valve shall stand to one side of the outlet, not in front of it. The valve of a fuel gas cylinder shall not be cracked where the gas would reach welding work, sparks, flame or other possible sources of ignition.

(2) The cylinder valve shall always be opened slowly to prevent damage to the regulator. To permit quick closing, valves on fuel gas cylinders shall not be opened more than 1½ turns. When a special wrench is required, it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel gas flow can be shut off quickly in case of an emergency. In the case of manifolded or coupled cylinders, at least one such wrench shall always be available for immediate use. Nothing shall be placed on top of a fuel gas cylinder, when in use, which may damage the safety device or interfere with the quick closing of the valve.

(3) Fuel gas shall not be used from cylinders through torches or other devices which are equipped with shut-off valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

(4) Before a regulator is removed from a cylinder valve, the cylinder valve shall always be closed and the gas released from the regulator.

(5) If, when the valve on a fuel gas cylinder is opened, there is found to be a leak around the valve stem, the valve shall be closed and the gland nut tightened. If this action does not stop the leak, the use of the cylinder shall be discontinued, and it shall be properly tagged and removed from the vessel. In the event that fuel gas should leak from the cylinder valve rather than from the valve stem and the gas cannot be shut off, the cylinder shall be properly tagged and removed from the vessel. If a regulator attached to a cylinder valve will effectively stop a leak through the valve seat, the cylinder need not be removed from the vessel.

(6) If a leak should develop at a fuse plug or other safety device, the cylinder shall be removed from the vessel.

(e) *Fuel gas and oxygen manifolds.* (1) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least one (1) inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(2) Fuel gas and oxygen manifolds shall be placed in safe and accessible locations in the open air. They shall not be located within enclosed spaces.

(3) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(4) When not in use, manifold and header hose connections shall be capped.

(5) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(f) *Hose.* (1) Fuel gas hose and oxygen hose shall be easily distinguishable from each other. The contrast may be made by different colors or by surface characteristics readily distinguishable by the sense of touch. Oxygen and fuel gas hoses shall not be interchangeable. A single hose having more than one gas passage, a wall failure of which would permit the flow of one gas into the other gas passage, shall not be used.

(2) When parallel sections of oxygen and fuel gas hose are taped together, not more than 4 inches out of 8 inches shall be covered by tape.

(3) All hose carrying acetylene, oxygen, natural or manufactured fuel gas, or any gas or substance which may ignite or enter into combustion or be in any way harmful to employees, shall be inspected at the beginning of each shift. Defective hose shall be removed from service.

(4) Hose which has been subjected to flashback or which shows evidence of severe wear or damage shall be tested to twice the normal pressure to which it is subject, but in no case less than two hundred (200) psi. Defective hose or hose in doubtful condition shall not be used.

(5) Hose couplings shall be of the type that cannot be unlocked or disconnected by means of a straight pull without rotary motion.

(6) Boxes used for the stowage of gas hose shall be ventilated.

(g) *Torches.* (1) Clogged torch tip openings shall be cleaned with suitable cleaning wires, drills or other devices designed for such purpose.

(2) Torches shall be inspected at the beginning of each shift for leaking shut-off valves, hose couplings, and tip connections. Defective torches shall not be used.

(3) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

(h) *Pressure regulators.* Oxygen and fuel gas pressure regulators including their related gauges shall be in proper working order while in use.

§ 1916.36 Arc welding and cutting.

(a) *Manual electrode holders.* (1) only manual electrode holders which are specifically designed for arc welding and cutting and are of a capacity capable of safely handling the maximum rated current required by the electrodes shall be used.

(2) Any current carrying parts passing through the portion of the holder which the arc welder or cutter grips in his hand, and the outer surfaces of the jaws of the holder, shall be fully insulated against the maximum voltage encountered to ground.

(b) *Welding cables and connectors.* (1) All arc welding and cutting cables shall be of the completely insulated, flexible type, capable of handling the maximum current requirements of the work in progress, taking into account the duty cycle under which the arc welder or cutter is working.

(2) Only cable free from repair or splices for a minimum distance of ten (10) feet from the cable end to which the electrode holder is connected shall be used, except that cables with standard insulated connectors or with splices whose insulating quality is equal to that of the cable are permitted.

(3) When it becomes necessary to connect or splice lengths of cable one to another, substantial insulated connectors of a capacity at least equivalent to that of the cable shall be used. If connections are effected by means of cable lugs, they shall be securely fastened together to give good electrical contact, and the exposed metal parts of the lugs shall be completely insulated.

(4) Cables in poor repair shall not be used. When a cable, other than the cable lead referred to in subparagraph (2) of this paragraph, becomes worn to the extent of exposing bare conductors, the portion thus exposed shall be protected by means of rubber and friction tapes or other equivalent insulation.

(c) *Ground returns and machine grounding.* (1) A ground return cable shall have a safe current carrying capacity equal to or exceeding the specified maximum output capacity of the arc welding or cutting unit which it services. When a single ground return cable services more than one unit, its safe current carrying capacity shall equal or exceed the total specified maximum output capacities of all the units which it services.

(2) Structures or pipe lines, except pipe lines containing gases or flammable liquids or conduits containing electrical circuits, may be used as part of the ground return circuit, provided that the pipe or structure has a current carrying capacity equal to that required by subparagraph (1) of this paragraph.

(3) When a structure or pipe line is employed as a ground return circuit, it shall be determined that the required electrical contact exists at all joints. The generation of an arc, sparks or heat at any point shall cause rejection of the structure as a ground circuit.

(4) When a structure or pipe line is continuously employed as a ground return circuit, all joints shall be bonded, and periodic inspections shall be conducted to ensure that no condition of electrolysis or fire hazard exists by virtue of such use.

(5) The frames of all arc welding and cutting machines shall be grounded either through a third wire in the cable containing the circuit conductor or through a separate wire which is grounded at the source of the current. Grounding circuits, other than by means of the vessel's structure, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(6) All ground connections shall be inspected to ensure that they are mechanically strong and electrically adequate for the required current.

(d) *Operating instructions.* Employers shall instruct employees in the safe means of arc welding and cutting as follows:

(1) When electrode holders are to be left unattended, the electrodes shall be removed and the holders shall be so placed or protected that they cannot make electrical contact with employees or conducting objects.

(2) Hot electrode holders shall not be dipped in water, since to do so may expose the arc welder or cutter to electric shock.

(3) When the arc welder or cutter has occasion to leave his work or to stop work for any appreciable length of time, or when the arc welding or cutting machine is to be moved, the power supply switch to the equipment shall be opened.

(4) Any faulty or defective equipment shall be reported to the supervisor.

(e) *Shielding.* Whenever practicable, all arc welding and cutting operations shall be shielded by noncombustible or flame-proof screens which will protect employees and other persons working in the vicinity from the direct rays of the arc.

§ 1916.37 Uses of fissionable material in shipbuilding.

(a) In shipbuilding and related activities involving the use of an exposure to sources of ionizing radiation not only on conventionally powered but also on nuclear powered vessels, the applicable provisions of the Atomic Energy Commission's Standards for Protection Against Radiation (10 CFR Part 20), relating to protection against occupational radiation exposure, shall apply.

(b) Any activity which involves the use of radioactive material, whether or not under license from the Atomic Energy Commission, shall be performed by competent persons specially trained in the proper and safe operation of such equipment. In the case of materials used under Commission license, only persons actually licensed, or competent persons under direction and supervision of the licensee, shall perform such work.

Subpart E—Scaffolds, Ladders and Other Working Surfaces

§ 1916.41 Scaffolds or staging.

(a) *General requirements.* (1) All scaffolds and their supports, whether of lumber, steel or other material, shall be capable of supporting the load they are designed to carry with a safety factor of not less than four (4).

(2) All lumber used in the construction of scaffolds shall be spruce, fir, long leaf yellow pine, Oregon pine or wood of equal strength. The use of hemlock, short leaf yellow pine or short fiber lumber is prohibited.

(3) Lumber dimensions as given in this subpart are nominal except where given in fractions of an inch.

(4) All lumber used in the construction of scaffolds shall be sound, straight-grained, free from cross grain, shakes and large, loose or dead knots. It shall also be free from dry rot, large checks, worm holes or other defects which impair its strength or durability.

(5) Scaffolds shall be maintained in a safe and secure condition. Any component of the scaffold which is broken, burned or otherwise defective shall be replaced.

(6) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(7) No scaffolds shall be erected, moved, dismantled or altered except under the supervision of competent persons.

(8) No welding, burning, riveting or open flame work shall be performed on any staging suspended by means of fiber rope.

(9) Lifting bridles on working platforms suspended from cranes shall consist of four legs so attached that the stability of the platform is assured.

(10) Unless the crane hook has a safety latch or is moused, the lifting bridles on working platforms suspended from cranes shall be attached by shackles to the lower lifting block or other positive

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means shall be taken to prevent them from becoming accidentally disengaged from the crane hook.

(b) *Independent pole wood scaffolds.* (1) All pole uprights shall be set plumb. Poles shall rest on a foundation of sufficient size and strength to distribute the load and to prevent displacement.

(2) In light-duty scaffolds not more than 24 feet in height, poles may be spliced by overlapping the ends not less than 4 feet and securely nailing them together. A substantial cleat shall be nailed to the lower section to form a support for the upper section except when bolted connections are used.

(3) All other poles to be spliced shall be squared at the ends of each splice, abutted, and rigidly fastened together by not less than two cleats securely nailed or bolted thereto. Each cleat shall overlap each pole end by at least 24 inches and shall have a width equal to the face of the pole to which it is attached. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the pole.

(4) Ledgers shall extend over two consecutive pole spaces and shall overlap the poles at each end by not less than 4 inches. They shall be left in position to brace the poles as the platform is raised with the progress of the work. Ledgers shall be level and shall be securely nailed or bolted to each pole and shall be placed against the inside face of each pole.

(5) All bearers shall be set with their greater dimension vertical and shall extend beyond the ledgers upon which they rest.

(6) Diagonal bracing shall be provided between the parallel poles, and cross bracing shall be provided between the inner and outer poles or from the outer poles to the ground.

(7) Minimum dimensions and spacing of members shall be in accordance with Table E–1 in § 1916.68.

(8) Platform planking shall be in accordance with the requirements of paragraph (h) of this section.

(9) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(c) *Independent pole metal scaffolds.* (1) Metal scaffold members shall be maintained in good repair and free of corrosion.

(2) All vertical and horizontal members shall be fastened together with a coupler or locking device which will form a positive connection. The locking device shall be of a type which has no loose parts.

(3) Posts shall be kept plumb during erection and the scaffold shall be subsequently kept plumb and rigid by means of adequate bracing.

(4) Posts shall be fitted with bases supported on a firm foundation to distribute the load. When wooden sills are used, the bases shall be fastened thereto.

(5) Bearers shall be located at each set of posts, at each level, and at each intermediate level where working platforms are installed.

(6) Tubular bracing shall be applied both lengthwise and crosswise as required.

(7) Platform planking shall be in accordance with the requirements of paragraph (h) of this section.

(8) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(d) *Wood trestle and extension trestle ladders.* (1) The use of trestle ladders, or extension sections or base sections of extension trestle ladders longer than 20 feet is prohibited. The total height of base and extension may, however, be more than 20 feet.

(2) The minimum dimensions of the side rails of the trestle ladder, or the base sections of the extension trestle ladder, shall be as follows:

(i) Ladders up to and including those 16 feet long shall have side rails of not less than 1⅝ x 2¾ inch lumber.

(ii) Ladders over 16 feet long and up to and including those 20 feet long shall have side rails of not less than 1⅝ x 3 inch lumber.

(3) The side rails of the extension section of the extension trestle ladder shall be parallel and shall have minimum dimensions as follows:

(i) Ladders up to and including 12 feet long shall have side rails of not less than 1⅝ x 2¼ inch lumber.

(ii) Ladders over 12 feet long and up to and including those 16 feet long shall have side rails of not less than 1⅝ x 2½ inch lumber.

(iii) Ladders over 16 feet long and up to and including those 20 feet long shall have side rails of not less than 1⅝ x 2¾ inch lumber.

(4) Trestle ladders and base sections of extension trestle ladders shall be so spread that when in an open position the spread of the trestle at the bottom, inside to inside, shall be not less than 5½ inches per foot of the length of the ladder.

(5) The width between the side rails at the bottom of the trestle ladder or of the base section of the extension trestle ladder shall be not less than 21 inches for all ladders and sections 6 feet or less in length. For longer lengths of ladder the width shall be increased at least 1 inch for each additional foot of length. The width between the side rails of the extension section of the trestle ladder shall be not less than 12 inches.

(6) In order to limit spreading, the top ends of the side rails of both the trestle ladder and of the base section of the extension trestle ladder shall be beveled, or of equivalent construction, and shall be provided with a metal hinge.

(7) A metal spreader or locking device to hold the front and back sections in an open position, and to hold the extension section securely in the elevated position, shall be a component of each trestle ladder or extension trestle ladder.

(8) Rungs shall be parallel and level. On the trestle ladder, or on the base section of the extension trestle ladder, rungs shall be spaced not less than 8 inches nor more than 18 inches apart; on the extension section of the extension trestle ladder, rungs shall be spaced not less than 6 inches nor more than 12 inches apart.

(9) Platform planking shall be in accordance with the requirements of paragraph (h) of this section, except that the width of the platform planking shall not exceed the distance between the siderails.

(10) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(e) *Painters' suspended scaffolds.* (1) The supporting hooks of swinging scaffolds shall be constructed to be equivalent in strength to mild steel or wrought iron, shall be forged with care, shall be not less than ⅞ inch in diameter, and shall be secured to a safe anchorage at all times.

(2) The ropes supporting a swinging scaffold shall be equivalent in strength to first-grade ¾ inch diameter manila rope properly rigged into a set of standard 6 inch blocks consisting of at least one double and one single block.

(3) Manila and wire ropes shall be carefully examined before each operation and thereafter as frequently as may be necessary to ensure their safe condition.

(4) Each end of the scaffold platform shall be supported by a wrought iron or mild steel stirrup or hanger, which in turn is supported by the suspension ropes.

(5) Stirrups shall be constructed so as to be equivalent in strength to wrought iron ¾ inch in diameter.

(6) The stirrups shall be formed with a horizontal bottom member to support the platform, shall be provided with means to support the guardrail and midrail and shall have a loop or eye at the top for securing the supporting hook on the block.

(7) Two or more swinging scaffolds shall not at any time be combined into one by bridging the distance between them with planks or any other form of platform.

(8) No more than two men shall be permitted to work at one time on a swinging scaffold built to the minimum specifications contained in this paragraph. Where heavier construction is used, the number of men permitted to work on the scaffold shall be determined by the size and the safe working load of the scaffold.

(9) Backrails and toeboards shall be in accordance with the requirements of paragraph (i) of this section.

(10) The swinging scaffold platform shall be one of the three types described in subparagraphs (11), (12) and (13) of this paragraph.

(11) The ladder-type platform consists of boards upon a horizontal ladder-like structure, referred to herein as the ladder, the side rails of which are parallel. If this type of platform is used, the following requirements shall be met:

(i) The width between the side rails shall be no more than 20 inches.

(ii) The side rails of ladders in ladder-type platforms shall be equivalent in strength to a beam of clear straight-grained spruce of the dimensions contained in Table E–2 in § 1916.68.

(iii) The side rails shall be tied together with tie rods. The tie rods shall be not less than 5/16 inch in diameter, located no more than 5 feet apart, pass through the rails, and be riveted up tight against washers at both ends.

(iv) The rungs shall be of straight-grained oak, ash, or hickory, not less than 1⅛ inches diameter, with ⅞ inch tenons mortised into the side rails not less than ⅞ inch and shall be spaced no more than 18 inches on centers.

(v) Flooring strips shall be spaced no more than ⅝ inch apart except at the side rails, where 1 inch spacing is permissible.

(vi) Flooring strips shall be cleated on their undersides.

(12) The plank-type platform consists of planks supported on the stirrups or hangers. If this type of platform is used, the following requirements shall be met:

(i) The planks of plank-type platforms shall be of not less than 2 x 10 inch lumber.

(ii) The platform shall be no more than 24 inches in width.

(iii) The planks shall be tied together by cleats of not less than 1 x 6 inch lumber, nailed on their undersides at intervals of not more than 4 feet.

(iv) The planks shall extend not less than 6 inches nor more than 18 inches beyond the supporting stirrups.

(v) A cleat shall be nailed across the platform on the underside at each end outside the stirrup to prevent the platform from slipping off the stirrup.

(vi) Stirrup supports shall be not more than 10 feet apart.

(13) The beam-type platform consists of longitudinal side stringers with cross beams set on edge and spaced not more than 4 feet apart on which longitudinal platform planks are laid. If this type platform is used the following requirements shall be met:

(i) The side stringers shall be of sound, straight-grained lumber, free from knots, and of not less than 2 x 6 inch lumber, set on edge.

(ii) The stringers shall be supported on the stirrups with a clear span between stirrups of not more than 16 feet.

(iii) The stirrups shall be bolted to the stirrups by U-bolts passing around the stirrups and bolted through the stringers with nuts drawn up tight on the inside face.

(iv) The ends of the stringers shall extend beyond the stirrups not less than 6 inches nor more than 12 inches at each end of the platform.

(v) The platform shall be supported on cross beams of 2 x 6 inch lumber between the side stringers securely nailed thereto and spaced not more than 4 feet on centers.

(vi) The platform shall be not more than 24 inches wide.

(vii) The platform shall be formed of boards ⅞ inch in thickness by not less than 6 inches in width, nailed tightly together, and extending to the outside face of the stringers.

(viii) The ends of all platform boards shall rest on the top of the cross beams, shall be securely nailed, and at no intermediate points in the length of the platform shall there be any cantilever ends.

(f) *Horse scaffolds.* (1) The minimum dimensions of lumber used in the construction of horses shall be in accordance with Table E–3 in § 1916.68.

(2) Horses constructed of materials other than lumber shall provide the strength, rigidity and security required of horses constructed of lumber.

(3) The lateral spread of the legs shall be equal to not less than one-third of the height of the horse.

(4) All horses shall be kept in good repair, and shall be properly secured when used in staging or in locations where they may be insecure.

(5) Platform planking shall be in accordance with the requirements of paragraph (h) of this section.

(6) Backrails and toeboards shall be in accordance with paragraph (i) of this section.

(g) *Other types of scaffolds.* (1) Scaffolds of a type for which specifications are not contained in this section shall meet the general requirements of paragraphs (a), (h) and (i) of this section, shall be in accordance with recognized principles of design and shall be constructed in accordance with accepted standards covering such equipment.

(h) *Scaffold or platform planking.* (1) Except as otherwise provided in paragraph (e) (11) and (13) of this section, platform planking shall be of not less than 2 x 10 inch lumber. Platform planking shall be straight-grained and free from large or loose knots and may be either rough or dressed.

(2) Platforms of staging shall be not less than two 10 inch planks in width except in such cases as the structure of the vessel or the width of the trestle ladders make it impossible to provide such a width.

(3) Platform planking shall project beyond the supporting members at either end by at least 6 inches but in no case shall project more than 12 inches unless the planks are fastened to the supporting members.

(4) Table E–4 in § 1916.68 shall be used as a guide in determining safe loads for scaffold planks.

(i) *Backrails and toeboards.* (1) Scaffolding, staging, runways, or working platforms which are supported or suspended more than 5 feet above a solid surface, or at any distance above the water, shall be provided with a railing which has a top rail whose upper surface is from 42 to 45 inches above the upper surface of the staging, platform, or runway and a midrail located halfway between the upper rail and the staging, platform, or runway.

(2) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(3) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted employees working more than 5 feet above solid surfaces shall be protected by safety belts and life lines meeting the requirements of § 1916.84(b), and employees working over water shall be protected by buoyant work vests meeting the requirements of § 1916.84(a).

(4) Employees working from swinging scaffolds which are triced out of a vertical line below their supports or from scaffolds on paint floats subject to surging, shall be protected against falling toward the vessel by a railing or a safety belt and line attached to the backrail.

(5) When necessary, to prevent tools and materials from falling on men below, toeboards of not less than 1 x 4 inch lumber shall be provided.

(j) *Access to staging.* (1) Access from below to staging more than 5 feet above a floor, deck or the ground shall consist of well secured stairways, cleated ramps, fixed or portable ladders meeting the applicable requirements of § 1916.42 or rigid type non-collapsible trestles with parallel and level rungs.

(2) Ramps and stairways shall be provided with 36-inch handrails with midrails.

(3) Ladders shall be so located or other means shall be taken so that it is not necessary for employees to step more than one foot from the ladder to any intermediate landing or platform.

(4) Ladders forming integral parts of prefabricated staging are deemed to meet the requirements of these regulations.

(5) Access from above to staging more than 3 feet below the point of access shall consist of a straight, portable ladder meeting the applicable requirements of § 1916.42 or a Jacob's ladder properly secured, meeting the requirements of § 1916.44(d).

§ 1916.42 Ladders.

(a) *General requirements.* (1) The use of ladders with broken or missing rungs or steps, broken or split side rails, or other faulty or defective construction is prohibited. When ladders with such defects are discovered, they shall be immediately withdrawn from service. Inspection of metal ladders shall include checking for corrosion of interiors of open end, hollow rungs.

(2) When sections of ladders are spliced, the ends shall be abutted, and not fewer than 2 cleats shall be securely nailed or bolted to each rail. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the side rail. The dimensions of side rails for their total length shall be those specified in paragraphs (b) or (c) of this section.

(3) Portable ladders shall be lashed, blocked or otherwise secured to prevent

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their being displaced. The side rails of ladders used for access to any level shall extend not less than 36 inches above that level. When this is not practical, grab rails which will provide a secure grip for an employee moving to or from the point of access shall be installed.

(4) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(5) Portable metal ladders shall not be used near electrical conductors nor for electric arc welding operations.

(6) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, A14.1.

(b) *Construction of portable wood cleated ladders up to 30 feet in length.* (1) Wood side rails shall be made from West Coast hemlock, Eastern spruce, Sitka spruce, or wood of equivalent strength. Material shall be seasoned, straight-grained wood, and free from shakes, checks, decay or other defects which will impair its strength. The use of low density woods is prohibited.

(2) Side rails shall be dressed on all sides, and kept free of splinters.

(3) All knots shall be sound and hard. The use of material containing loose knots is prohibited. Knots shall not appear on the narrow face of the rail and, when in the side face, shall be not more than ½ inch in diameter or within ½ inch of the edge of the rail or nearer than 3 inches to a tread or rung.

(4) Pitch pockets not exceeding ⅛ inch in width, 2 inches in length and ½ inch in depth are permissible in wood side rails, provided that not more than one such pocket appears in each 4 feet of length.

(5) The width between side rails at the base shall be not less than 11½ inches for ladders 10 feet or less in length. For longer ladders this width shall be increased at least ¼ inch for each additional 2 feet of length.

(6) Side rails shall be at least 1⅝ x 3⅝ inches in cross section.

(7) Cleats (meaning rungs rectangular in cross section with the wide dimension parallel to the rails) shall be of the material used for side rails, straight-grained and free from knots. Cleats shall be mortised into the edges of the side rails ½ inch, or filler blocks shall be used on the rails between the cleats. The cleats shall be secured to each rail with three 10d common wire nails or fastened with through bolts or other fasteners of equivalent strength. Cleats shall be uniformly spaced not more than 12 inches apart.

(8) Cleats 20 inches or less in length shall be at least $2\frac{5}{32}$ x 3 inches in cross section. Cleats over 20 inches but not more than 30 inches in length shall be at least $2\frac{5}{32}$ x $3\frac{3}{4}$ inches in cross section.

(c) *Construction of portable wood cleated ladders from 30 to 60 feet in length.* (1) Ladders from 30 to 60 feet in length shall be in accordance with the specifications of paragraph (b) of this section with the following exceptions:

(i) Rails shall be of not less than 2 x 6 inch lumber.

(ii) Cleats shall be of not less than 1 x 4 inch lumber.

(iii) Cleats shall be nailed to each rail with five 10d common wire nails or fastened with through bolts or other fastenings of equivalent strength.

§ 1916.43 Guarding of deck openings and edges.

(a) When employees are working in the vicinity of flush manholes and other small openings of comparable size in the deck and other working surfaces, such openings shall be suitably covered or guarded to a height of not less than 30 inches, except where the use of such guards is made impracticable by the work actually in progress.

(b) When employees are working around open hatches not protected by coamings to a height of 24 inches or around other large openings, the edge of the opening shall be guarded in the working area to a height of 36 to 42 inches, except where the use of such guards is made impracticable by the work actually in progress.

(c) When employees are exposed to unguarded edges of decks, platforms, flats, and similar flat surfaces, more than 5 feet above a solid surface, the edges shall be guarded by adequate guardrails meeting the requirements of § 1916.41(i) (1) and (2), unless the nature of the work in progress or the physical conditions prohibit the use or installation of such guardrails.

(d) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by buoyant work vests, meeting the requirements of § 1916.84(a).

(e) Section of bilges in which floor plates or gratings have not been installed shall be guarded by guardrails except where they would interfere with the work in progress. If these open sections are in a walkway, at least two 10-inch planks placed side by side, or equivalent, shall be laid across the opening to provide a safe walking surface.

(f) Gratings, walkways, and catwalks, in which sections of gratings and ladders have not been installed, shall be barricaded with adequate guardrails.

§ 1916.44 Access to vessels.

(a) *Access to vessels afloat.* The employer shall not permit employees to board or leave any vessel, except a barge or river towboat, until the following requirements have been met:

(1) Whenever practicable, a gangway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and safely secured, shall be used. If a gangway is not practicable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping, shall be provided. When conditions are such that neither a gangway nor a straight ladder can be used, a Jacob's ladder meeting the requirements of paragraph (d) (1) and (2) of this section may be used.

(2) Each side of such gangway, and the turn table if used, shall have a railing with a minimum height of approximately 33 inches measured perpendicularly from rail to walking surface at the stanchion, with mid rail. Rails shall be of wood, pipe, chain, wire, or rope and shall be kept taut at all times.

(3) The gangway shall be kept properly trimmed at all times.

(4) When a fixed tread accommodation ladder is used, and the angle is low enough to require employees to walk on the edge of the treads, cleated duckboards shall be laid over and secured to the ladder.

(5) When the lower end of a gangway overhangs the water between the ship and the dock in such a manner that there is danger of employees falling between the ship and the dock, a net or other suitable protection shall be rigged at the foot of the gangway in such a manner as to prevent employees from falling from the end of the gangway.

(6) If the foot of the gangway is more than one foot away from the edge of the apron, the space between them shall be bridged by a firm walkway equipped with railings, with a minimum height of approximately 33 inches with mid rails on both sides.

(7) Supporting bridles shall be kept clear so as to permit unobstructed passage for employees using the gangway.

(8) When the upper end of the means of access rests on or flush with the top of the bulwark, substantial steps properly secured and equipped with at least one substantial handrail approximately 33 inches in height shall be provided between the top of the bulwark and the deck.

(9) Obstructions shall not be laid on or across the gangway.

(10) The means of access shall be adequately illuminated for its full length.

(11) Loads shall not be passed over the means of access while employees are on it.

(b) *Access to vessels in drydock or between vessels.* Gangways meeting the requirements of paragraph (a) (1), (2), (8), (9) and (10) of this section shall be provided for access from wing wall to vessel or, when two or more vessels, other than barges or river towboats, are lying abreast, from one vessel to another.

(c) *Access to barges and river towboats.* (1) Ramps for access of vehicles to or between barges shall be of adequate strength, provided with side boards, well maintained and properly secured.

(2) Unless employees can step safely to or from the wharf, float, barge, or river towboat, either a ramp in accordance with the requirements of subparagraph (1) of this paragraph or a safe walkway in accordance with the requirements of paragraph (a) (7) of this section shall be provided. When a walkway is impracticable, a substantial ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping shall be provided. When conditions are such that neither a walkway nor a straight ladder can be used, a Jacob's ladder in accordance with the requirements of paragraph (d) of this section may be used.

(3) The means of access shall be in accordance with the requirements of paragraph (a) (8), (9) and (10) of this section.

(d) *Jacob's ladders.* (1) Jacob's ladders shall be of the double rung or flat tread type. They shall be well maintained and properly secured.

(2) A Jacob's ladder shall either hang without slack from its lashings or be pulled up entirely.

§ 1916.45 Access to and guarding of dry docks and marine railways.

(a) A gangway, ramp or permanent stairway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and securely fastened, shall be provided between a floating dry dock and the pier or bulkhead.

(b) Each side of such gangway, ramp or permanent stairway, including those which are used for access to wing walls from dry dock floors, shall have a railing with a mid rail. Such railings on gangways or ramps shall be approximately 42 inches in height; and railings on permanent stairways shall be not less than approximately 30 or more than approximately 34 inches in height. Rails shall be of wood, pipe, chain, wire, or rope and shall be kept taut at all times.

(c) Railings meeting the requirements of paragraph (b) of this section shall be provided on the means of access to and from the floors of graving docks.

(d) Railings approximately 42 inches in height, with a mid rail, shall be provided on the edges of wing walls of floating dry docks and on the edges of graving docks. Sections of the railings may be temporarily removed where necessary to permit line handling while a vessel is entering or leaving the dock.

(e) When employees are working on the floor of a floating dry dock where they are exposed to the hazard of falling into the water, the end of the dry dock shall be equipped with portable stanchions and 42-inch railings with a mid rail. When such a railing would be impracticable or ineffective, other effective means shall be provided to prevent men from falling into the water.

(f) Access to wingwalls from floors of dry docks shall be by ramps, permanent stairways or ladders meeting the applicable requirements of § 1916.42.

(g) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of § 1916.41(i) (1) and (2).

§ 1916.46 Access to cargo spaces and confined spaces.

(a) *Cargo spaces.* (1) There shall be at least one safe and accessible ladder in any cargo space which employees must enter.

(2) When any fixed ladder is visibly unsafe, the employer shall prohibit its use by employees.

(3) Straight ladders of adequate strength and suitably secured against shifting or slipping shall be provided as necessary when fixed ladders in cargo spaces do not meet the requirements of subparagraph (1) of this paragraph. When conditions are such that a straight ladder cannot be used, a Jacob's ladder meeting the requirements of § 1916.44(d) may be used.

(4) Fixed ladders or straight ladders provided for access to cargo spaces shall not be used at the same time that equipment, materials or other loads are entering or leaving the hold. Before using these ladders to enter or leave the hold, the employee shall be required to inform the winchman or the crane signalman of his intention.

(b) *Confined spaces.* (1) More than one means of access shall be provided to a confined space in which employees are working and in which the work may generate a hazardous atmosphere in the space except where the structure or arrangement of the vessel makes this provision impractical.

(2) When the ventilating ducts required by these regulations must pass through these means of access, the ducts shall be of such a type and so arranged as to permit free passage to an employee through at least two of these means of access.

§ 1916.47 Working surfaces.

(a) When firebox floors present tripping hazards of exposed tubing or of missing or removed refractory, sufficient planking to afford safe footing shall be laid while work is being carried on within the boiler.

(b) When employees are working aloft, or elsewhere at elevations more than 5 feet above a solid surface, either scaffolds or a sloping ladder, meeting the requirements of this subpart, shall be used to afford safe footing, or the employees shall be protected by safety belts and lifelines meeting the requirements of § 1916.84(b). Employees visually restricted by blasting hoods, welding helmets, and burning goggles shall work from scaffolds, not from ladders, except for the initial and final welding or burning operation to start or complete a job, such as the erection and dismantling of hung scaffolding, or other similar, nonrepetitive jobs of brief duration.

(c) For work performed in restricted quarters, such as behind boilers and in between congested machinery units and piping, work platforms at least 20 inches wide meeting the requirements of § 1916.41(h)(1) shall be used. Backrails may be omitted if bulkheading, boilers, machinery units, or piping afford proper protection against falling.

(d) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by buoyant work vests meeting the requirements of § 1916.84(a).

Subpart F—General Working Conditions

§ 1916.51 Housekeeping.

(a) Good housekeeping conditions shall be maintained at all times. Adequate aisles and passageways shall be maintained in all work areas. All staging platforms, ramps, stairways, walkways, aisles, and passageways on vessels or drydocks shall be kept clear of all tools, materials, and equipment except that which is in use, and all debris such as welding rod tips, bolts, nuts, and similar material. Hose and electric conductors shall be elevated over or placed under the walkway or working surfaces or covered by adequate crossover planks.

(b) All working areas on vessels and dry docks shall be kept reasonably free of debris, and construction material shall be so piled as not to present a hazard to employees.

(c) Slippery conditions on walkways or working surfaces shall be eliminated as they occur.

(d) Free access shall be maintained at all times to all exits and to all fire-alarm boxes or fire-extinguishing equipment.

(e) All oils, paints, thinners, solvents, waste, rags, or other flammable substances shall be kept in fire resistant covered containers when not in use.

§ 1916.52 Illumination.

(a) All means of access and walkways leading to working areas as well as the working areas themselves shall be adequately illuminated.

(b) Temporary lights shall meet the following requirements:

(1) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(2) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cable are permitted.

(3) Cords shall be kept clear of working spaces and walkways or other locations in which they are readily exposed to damage.

(c) Exposed non-current-carrying metal parts of temporary lights furnished by the employer shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current. Grounding shall be in accordance with the requirements of § 1916.72(b).

(d) Where temporary lighting from sources outside the vessel is the only means of illumination, portable emer-

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gency lighting equipment shall be available to provide illumination for safe movement of employees.

(e) Employees shall not be permitted to enter dark spaces without a suitable portable light. The use of matches and open flame lights is prohibited.

(f) Temporary lighting stringers or streamers shall be so arranged as to avoid overloading of branch circuits. Each branch circuit shall be equipped with overcurrent protection of capacity not exceeding the rated current carrying capacity of the cord used.

§ 1916.53 Utilities.

(a) *Steam supply and hoses.* (1) Prior to supplying a vessel with steam from a source outside the vessel, the employer shall install a pressure gauge and a relief valve of proper size and capacity at the point where the temporary steam hose joins the vessel's steam piping system or systems. The relief valve shall be set and capable of relieving at a pressure not exceeding the safe working pressure of the vessel's system in its present condition, and there shall be no means of isolating the relief valve from the system which it protects. The pressure gauge and relief valve shall be located so as to be visible and readily accessible.

(2) Steam hose and fittings shall have a safety factor of not less than five (5).

(3) When steam hose is hung in a bight or bights, the weight shall be relieved by appropriate lines. The hose shall be protected against chafing.

(4) Steam hose shall be protected from damage and hose and temporary piping shall be so shielded where passing through normal work areas as to prevent accidental contact by employees.

(b) *Electric power.* (1) When the vessel is supplied with electric power from a source outside the vessel, the following precautions shall be taken prior to energizing the vessel's circuits:

(i) If in dry dock, the vessel shall be adequately grounded.

(ii) The employer shall insure that all of the vessel's circuits to be energized are in a safe condition.

(iii) All circuits to be energized shall be equipped with overcurrent protection of capacity not exceeding the rated current carrying capacity of the cord used.

(c) *Infrared electrical heat lamps.* (1) All infrared electrical heat lamps shall be equipped with guards that surround the lamps with the exception of the face, to minimize accidental contact with the lamps.

§ 1916.54 Work in confined or isolated spaces.

When any work is performed in a confined space, except as provided in § 1916.-31(b)(3), or when an employee is working alone in an isolated location, frequent checks shall be made to ensure the safety of the employees.

§ 1916.55 Work on or in the vicinity of radar and radio.

(a) No employees other than radar or radio repairmen shall be permitted to work on masts, king posts or other aloft areas unless the radar and radio are secured or otherwise made incapable of radiation. In either event, the radio and radar shall be appropriately tagged.

(b) Testing of radar or radio shall not be done until the employer can schedule such tests at a time when no work is in progress aloft or personnel can be cleared from the danger area according to minimum safe distances established for and based on the type, model, and power of the equipment.

§ 1916.56 Work in or on lifeboats.

(a) Before employees are permitted to work in or on a lifeboat, either stowed or in a suspended position, the employer shall ensure that the boat is secured independently of the releasing gear to prevent the boat from falling due to accidental tripping of the releasing gear and movements of the davits or capsizing of a boat in chocks.

(b) Employees shall not be permitted to remain in boats while the boats are being hoisted into final stowed position.

(c) Employees shall not be permitted to work on the outboard side of lifeboats stowed on their chocks unless the boats are secured by gripes or otherwise secured to prevent them from swinging outboard.

§ 1916.57 Health and sanitation.

(a) No chemical product, such as a solvent or preservative; no structural material, such as cadmium or zinc coated steel, or plastic material; and no process material, such as welding filler metal; which is a hazardous material within the meaning of § 1916.2(s), shall be used until the employer has ascertained the potential fire, toxic, or reactivity hazards which are likely to be encountered in the handling, application, or utilization of such a material.

(b) In order to ascertain the hazards, as required by paragraph (a) of this section, the employer shall obtain the following items of information which are applicable to a specific product or material to be used:

(1) The name, address, and telephone number of the source of the information specified in this paragraph, preferably those of the manufacturer of the product or material.

(2) The trade name and synonyms for a mixture of chemicals, a basic structural material, or for a process material; and the chemical name and synonyms, chemical family, and formula for a single chemical.

(3) Chemical names of hazardous ingredients, including, but not limited to, those in mixtures, such as those in: (i) Paints, preservatives, and solvents; (ii) alloys, metallic coatings, filler metals and their coatings or core fluxes; and (iii) other liquids, solids, or gases (e.g., abrasive materials).

(4) An indication of the percentage, by weight or volume, which each ingredient of a mixture bears to the whole mixture, and of the threshold limit value of each ingredient, in appropriate units.

(5) Physical data about a single chemical or a mixture of chemicals, including boiling point, in degrees Fahrenheit; vapor pressure, in millimeters of mercury; vapor density of gas or vapor (air=1); solubility in water, in percent by weight; specific gravity of material (water=1); percentage volatile, by volume, at 70° F.; evaporation rate for liquids (either butyl acetate or ether may be taken as 1); and appearance and odor.

(6) Fire and explosion hazard data about a single chemical or a mixture of chemicals, including flash point, in degrees Fahrenheit; flammable limits, in percent by volume in air; suitable extinguishing media or agents; special fire fighting procedures; and unusual fire and explosion hazard information.

(7) Health hazard data, including threshold limit value, in appropriate units, for a single hazardous chemical or for the individual hazardous ingredients of a mixture, as appropriate; effects of overexposure; and emergency and first aid procedures.

(8) Reactivity data, including stability, incompatibility, hazardous decomposition products, and hazardous polymerization.

(9) Procedures to be followed and precautions to be taken in cleaning up and disposing of materials leaked or spilled.

(10) Special protection information, including use of personal protective equipment, such as respirators, eye protection, and protective clothing, and of ventilation, such as local exhaust, general, special, or other types.

(11) Special precautionary information about handling and storing.

(12) Any other general precautionary information.

(c) The pertinent information required by paragraph (b) of this section shall be recorded either on U.S. Department of Labor Form LSB 00S-4, Material Safety Data Sheet, or on an essentially similar form which has been approved by the Occupational Safety and Health Administration. Copies of Form LSB 00S-4 may be obtained at any of the following regional offices of the Occupational Safety and Health Administration:

(1) North Atlantic Region, 341 Ninth Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont).

(2) Middle Atlantic Region, Penn Square Building, Juniper and Filbert Streets, Philadelphia, Pa. 19107 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia).

(3) South Atlantic Region, 1371 Peachtree Street NE., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee).

(4) Great Lakes Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin).

(5) Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

(6) Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

(7) Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington).

A completed form shall be preserved and available for inspection for a period of 3 months from the date of the completion of the job.

(d) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(e) The employer shall provide all necessary controls, and the employees shall be protected by suitable personal protective equipment against the hazards identified under paragraph (a) of this section and those hazards for which specific precautions are required in Subparts C and D of this part.

(f) The employer shall provide adequate washing facilities for employees engaged in the application of paints or coatings or in other operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employees. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(g) The employer shall not permit eating or smoking in areas undergoing surface preparation or preservation.

§ 1916.58 First aid.

(a) Unless a first aid room and a qualified attendant are close at hand and prepared to render first aid to employees on behalf of the employer, the employer shall furnish a first aid kit for each vessel on which work is being performed, except that when work is being performed on more than one small vessel at one pier, only one kit shall be required. The kit, when required, shall be kept close to the vessel and at least one employee, close at hand shall be qualified to administer first aid to the injured.

(b) The first aid kit shall consist of a weatherproof container with individual sealed packages for each type of item. The contents of such kit shall contain a sufficient quantity of at least the following types of items:

Gauze roller bandages, 1 inch and 2 inch.
Gauze compress bandages, 4 inch.
Adhesive bandages, 1 inch.
Triangular bandage, 40 inch.
Ammonia inhalants and ampules.
Antiseptic applicators or swabs.
Burn dressing.
Eye dressing.
Wire or thin board splints.
Forceps and tourniquet.

(c) The contents of the first aid kit shall be checked before being sent out on each job and at least weekly on each job to ensure that the expended items are replaced.

(d) There shall be available for each vessel on which ten (10) or more employees are working one Stokes basket stretcher, or equivalent, permanently equipped with bridles for attaching to the hoisting gear, except that no more than two stretchers are required on each job location. A blanket or other liner suitable for transferring the patient to and from the stretcher shall be provided. Stretchers shall be kept close to the vessels. This paragraph does not apply where ambulance services which are available are known to carry such stretchers.

Subpart G—Gear and Equipment for Rigging and Materials Handling

§ 1916.61 Inspection.

(a) All gear and equipment provided by the employer for rigging and materials handling shall be inspected before each shift and, when necessary, at intervals during its use to ensure that it is safe. Defective gear shall be removed and repaired or replaced before further use.

(b) The safe working load of gear as specified in §§ 1916.62 and 1916.63 shall not be exceeded.

§ 1916.62 Ropes, chains and slings.

(a) *Manila rope and manila rope slings.* (1) Table G-1 in § 1916.68 shall be used to determine the safe working load of various sizes of manila rope and manila rope slings at various angles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

(b) *Wire rope and wire rope slings.* (1) Tables G-2 through G-5 in § 1916.68 shall be used to determine the safe working loads of various sizes and classifications of improved plow steel wire rope and wire rope slings with various types of terminals. For sizes, classifications and grades not included in these tables, the safe working load recommended by the manufacturer for specific, identifiable products shall be followed, provided that a safety factor of not less than five (5) is maintained.

(2) Protruding ends of strands in splices on slings and bridles shall be covered or blunted.

(3) Where U-bolt wire rope clips are used to form eyes, Table G-6 in § 1916.68 shall be used to determine the number and spacing of clips. The U-bolt shall be applied so that the "U" section is in contact with the dead end of the rope.

(4) Wire rope shall not be secured by knots.

(c) *Chains and chain slings.* (1) Tables G-7 and G-8 in § 1916.68 shall be used to determine the working load limit of various sizes of wrought iron and alloy steel chains and chain slings, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products.

(2) All sling chains, including end fastenings, shall be given a visual inspection before being used on the job. A thorough inspection of all chains in use shall be made every 3 months. Each chain shall bear an indication of the month in which it was thoroughly inspected. The thorough inspection shall include inspection for wear, defective welds, deformation and increase in length or stretch.

(3) Interlink wear, not accompanied by stretch in excess of 5 percent, shall be noted and the chain removed from service when maximum allowable wear at any point of link, as indicated in Table G-9 in § 1916.68 has been reached.

(4) Chain slings shall be removed from service when, due to stretch, the increase in length of a measured section exceeds five (5) percent; when a link is bent, twisted or otherwise damaged; or when raised scarfs or defective welds appear.

(5) All repairs to chains shall be made under qualified supervision. Links or portions of the chain found to be defective as described in subparagraph (4) of this paragraph shall be replaced by links having proper dimensions and made of material similar to that of the chain. Before repaired chains are returned to service, they shall be proof tested to the proof test load recommended by the manufacturer.

(6) Wrought iron chains in constant use shall be annealed or normalized at intervals not exceeding six months when recommended by the manufacturer. The chain manufacturer shall be consulted for recommended procedures for annealing or normalizing. Alloy chains shall never be annealed.

(7) A load shall not be lifted with a chain having a kink or knot in it. A chain shall not be shortened by bolting, wiring or knotting.

§ 1916.63 Shackles and hooks.

(a) *Shackles.* (1) Table G-10 in § 1916.68 shall be used to determine the safe working loads of various sizes of shackles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

(b) *Hooks.* (1) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain a record of the dates and results of such tests.

(2) Loads shall be applied to the throat of the hook since loading the point overstresses and bends or springs the hook.

(3) Hooks shall be inspected periodically to see that they have not been bent by overloading. Bent or sprung hooks shall not be used.

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§ 1916.64 Chain falls and pull-lifts.

(a) Chain falls and pull-lifts shall be clearly marked to show the capacity and the capacity shall not be exceeded.

(b) Chain falls shall be regularly inspected to ensure that they are safe, particular attention being given to the lift chain, pinion, sheaves and hooks for distortion and wear. Pull-lifts shall be regularly inspected to ensure that they are safe, particular attention being given to the ratchet, pawl, chain and hooks for distortion and wear.

(c) Straps, shackles, and the beam or overhead structure to which a chain fall or pull-lift is secured shall be of adequate strength to support the weight of load plus gear. The upper hook shall be moused or otherwise secured against coming free of its support.

(d) Scaffolding shall not be used as a point of attachment for lifting devices, such as tackles, chain falls, and pull-lifts unless the scaffolding is specifically designed for that purpose.

§ 1916.65 Hoisting and hauling equipment.

(a) Derrick and crane certification: (1) Derricks and cranes which are part of, or regularly placed aboard, barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certificated in accordance with the standards provided in Part 1919 of this chapter by persons accredited for that purpose.

(2) Subparagraph (1) of this paragraph shall take effect 180 days after the effective date of this amendment.

(b) The moving parts of hoisting and hauling equipment shall be guarded.

(c) Mobile crawler or truck cranes used on a vessel: (1) The maximum manufacturer's rated safe workingloads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. A radius indicator shall be provided.

(2) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(d) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane either permanently or temporarily mounted, shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(e) Marine railways: (1) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

§ 1916.66 Use of gear.

(a) Loads shall be safely rigged before being hoisted.

(b) Plates shall be handled on and off hulls by means of shackles whenever possible. Clips or pads of ample size shall be welded to the plate to receive the shackle pins when there are no holes in the plate. When it is not possible to make holes in or to weld pads to the plate, alligator tongs, grab hooks, grab clamps or screw clamps may be used. In such cases special precautions shall be taken to keep employees from under such lifts.

(c) Tag lines shall be provided on loads likely to swing or to need guidance.

(d) When slings are secured to eyebolts, the slings shall be so arranged, using spreaders if necessary, that the pull is within 20 degrees of the axis of the bolt.

(e) Slings shall be padded by means of wood blocks or other suitable material where they pass over sharp edges or corners of loads so as to prevent cutting or kinking.

(f) Skips shall be rigged to be handled by not less than 3 legged bridles, and all legs shall always be used. When open end skips are used, means shall be taken to prevent the contents from falling.

(g) Loose ends of idle legs of slings in use shall be hung on the hook.

(h) Employees shall not be permitted to ride the hook or the load.

(i) Loads (tools, equipment or other materials) shall not be swung or suspended over the heads of employees.

(j) Pieces of equipment or structure susceptible to falling or dislodgement shall be secured as early as possible.

(k) An individual who is familiar with the signal code in use shall be assigned to act as a signalman when the hoist operator cannot see the load being handled. Communications shall be made by means of clear and distinct visual or auditory signals except that verbal signals shall not be permitted.

(l) Pallets, when used, shall be of such material and construction and so maintained as to safely support and carry the loads being handled on them.

(m) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from being unshipped.

(n) Hatches shall not be opened or closed while employees are in the square of the hatch below.

(o) Before loads or empty lifting gear are raised, lowered, or swung, clear and sufficient advance warning shall be given to employees in the vicinity of such operations.

(p) At no time shall an employee be permitted to place himself in a hazardous position between a swinging load and a fixed object

§ 1916.67 Qualifications of operators.

(a) When ship's gear is used to hoist materials aboard, a competent person shall determine that the gear is properly rigged, that it is in safe condition, and that it will not be overloaded by the size and weight of the lift.

(b) Only those employees who understand the signs, notices, and operating instructions, and are familiar with the signal code in use, shall be permitted to operate a crane, winch, or other power operated hoisting apparatus.

(c) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailments which may suddenly incapacitate him, shall be permitted to operate a crane, winch or other power operated hoisting apparatus.

(d) No minor under eighteen (18) years of age shall be employed in occupations involving the operation of any power-driven hoisting apparatus or assisting in such operations by work such as hooking on, loading slings, rigging gear, etc.

§ 1916.68 Tables.

TABLE E-1

DIMENSIONS AND SPACING OF WOOD INDEPENDENT-POLE SCAFFOLD MEMBERS

Structural Members	Light duty (Up to 25 pounds per square foot)			Heavy duty (25 to 75 pounds per square foot)		
	Height in feet			Height in feet		
	24 or less	24–40	40–60	24 or less	24–40	40–60
Poles or uprights (in inches)	2 x 4	3 x 4 or 2 x 6	4 x 4	3 x 4	4 x 4	4 x 6
Bearers (in inches)	2 x 6	2 x 6	2 x 6	2 x 8	2 x 8	2 x 10
Ledgers (in inches)	2 x 6	2 x 6	2 x 6	2 x 8	2 x 8	2 x 8
Stringers (not supporting bearers) (in inches)	1 x 6	1 x 6	1 x 6	1 x 6	1 x 6	1 x 6
Braces (in inches)	1 x 4	1 x 6	1 x 6	1 x 6	1 x 6	1 x 6
Pole spacing—longitudinally (in feet)	7½	7½	7½	7	7	7
Pole spacing—transversely (in feet)	6½ min	7½ min	8½ min	6½	10	10
Ledger spacing—vertically (in feet)	7	7	7	4½	4½	4½

TABLE E-2

SPECIFICATIONS FOR SIDE RAILS OF LADDERS

Length (in feet)	Cross section (in inches)	
	At ends	At center
16	1⅞ x 2¾	1⅞ x 3¾
16	1⅞ x 2¾	1⅞ x 3¾
18	1⅞ x 3	1⅞ x 4
20	1⅞ x 3	1⅞ x 4
24	1⅞ x 3	1⅞ x 4½

TABLE E-3

SPECIFICATIONS FOR THE CONSTRUCTION OF HORSES

Structural members	Height in feet		
	Up to 10	10 to 16	16 to 20
	Inches	*Inches*	*Inches*
Legs	2 x 4	3 x 4	4 x 6
Bearers or headers	2 x 6	2 x 8	4 x 6
Crossbraces	2 x 4 or 1 x 8	2 x 4	2 x 6
Longitudinal braces	2 x 4	2 x 6	2 x 6

TABLE E-4

SAFE CENTER LOADS FOR SCAFFOLD PLANK OF 1,100 POUNDS FIBRE STRESS

Span in Feet	Lumber dimensions in inches									
	A	B	A	B	A	B	A	B	A	B
	2 x 10	1⅝ x 9½	2 x 12	1⅝ x 11½	3 x 8	2⅝ x 7½	3 x 10	2⅝ x 9½	3 x 12	2⅝ x 11½
6	256	309	384	526	667	807	1,000	1,210	1,500	1,820
8	192	232	288	395	500	605	750	910	1,125	1,365
10	153	186	230	316	400	484	600	726	900	1,092
12	128	155	192	263	333	404	500	605	750	910
14	110	133	165	225	286	346	429	519	643	780
16	.....	116	144	197	250	303	375	454	563	683

(A)—Rough lumber.
(B)—Dressed lumber.

TABLE G-1
MANILA ROPE
(In pounds or tons of 2000 pounds)

Circumference	Diameter in Inches	Single Leg	60°	45°	30°
3/4	1/4	120 lbs.	204 lbs.	170 lbs.	120 lbs.
1	5/16	200	346	282	200
1-1/8	3/8	270	467	380	270
1-1/4	7/16	350	605	493	350
1-3/8	15/32	450	775	635	450
1-1/2	1/2	530	915	798	530
1-3/4	9/16	690	1190	973	690
2	5/8	880	1520	1240	880
2-1/4	3/4	1080	1870	1520	1080
2-1/2	13/16	1300	2250	1830	1300
2-3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
3-1/4	1-1/16	1.0 Tons	1.7 Tons	1.4 Tons	1.0 Tons
3-1/2	1-1/8	1.2	2.1	1.7	1.2
3-3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4-1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-5/8	2.25	3.9	3.2	2.25
5-1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6-1/2	2-1/8	3.6	6.2	5.1	3.6

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TABLE G-2

RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE AND WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4"	.59	.56	.53	.44	.42	.40
3/8"	1.3	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.6	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11.	10.	9.0	8.5	7.8	6.8
6x37 CLASSIFICATION						
1-1/4"	13.	12.	10.	9.9	9.2	7.9
1-3/8"	16.	15.	13.	12.	11.	9.6
1-1/2"	19.	17.	15.	14.	13.	11.
1-3/4"	26.	24.	20.	19.	18.	15.
2"	33.	30.	26.	25.	23.	20.
2-1/4"	41.	38.	33.	31.	29.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-3

RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4"	1.2	1.1	1.0	1.0	.97	.92	.83	.79	.75	.59	.56	.53
3/8"	2.6	2.5	2.3	2.3	2.1	2.0	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	4.6	4.4	3.9	4.0	3.8	3.4	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	7.2	6.8	6.0	6.2	5.8	5.2	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	10.	9.7	8.4	8.9	8.4	7.3	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	14.	13.	11.	12.	11.	9.6	9.8	9.3	7.6	6.9	6.6	5.5
1"	18.	17.	14.	15.	15.	12.	13.	12.	10.	9.0	8.5	7.2
1-1/8"	23.	21.	18.	19.	18.	16.	18.	15.	13.	11.	10.	9.0
6x37 CLASSIFICATION												
1-1/4"	26.	24.	21.	23.	21.	18.	19.	17.	15.	13.	12.	10.
1-3/8"	32.	29.	25.	28.	25.	22.	22.	21.	18.	16.	15.	13.
1-1/2"	38.	35.	30.	33.	30.	26.	27.	25.	21.	19.	17.	15.
1-3/4"	51.	47.	41.	44.	41.	35.	36.	33.	29.	26.	24.	20.
2"	66.	61.	53.	57.	53.	46.	47.	43.	37.	33.	30.	26.
2-1/4"	83.	76.	66.	72.	66.	57.	58.	54.	47.	41.	38.	33.

(A) - Socket or Swaged Terminal Attachment.
(B) - Mechanical Sleeve Attachment.
(C) - Hand Tucked Splice Attachment.

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TABLE G-4

RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4	.55	.51	.49	.41	.38	.37
3/8	1.2	1.1	1.1	.91	.85	.80
1/2	2.1	2.0	1.8	1.6	1.5	1.4
5/8	3.3	3.1	2.8	2.5	2.3	2.1
3/4	4.8	4.4	3.9	3.6	3.3	2.9
7/8	6.4	5.9	5.1	4.8	4.5	3.9
1	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8	10.	9.5	8.4	7.9	7.1	6.3
6x37 CLASSIFICATION						
1-1/4	12.	11.	9.8	9.2	8.3	7.4
1-3/8	15.	13.	12.	11.	10.	8.9
1-1/2	17.	16.	14.	13.	12.	10.
1-3/4	24.	21.	19.	18.	16.	14.
2	31.	28.	25.	23.	21.	18.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-5

RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4	1.1	1.0	.99	.95	.88	.85	.77	.72	.70	.55	.51	.49
3/8	2.4	2.2	2.1	2.1	1.9	1.8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	4.3	3.9	3.7	3.7	3.4	3.2	3.0	2.8	2.8	2.1	2.0	1.8
5/8	6.7	6.2	5.6	5.8	5.3	4.8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	9.5	8.6	7.8	8.2	7.6	6.8	6.7	6.2	5.5	4.8	4.4	3.9
7/8	13.	12.	10.	11.	10.	8.9	9.1	8.4	7.3	6.4	5.9	5.1
1	17.	15.	13.	14.	13.	11.	12.	11.	9.4	8.4	7.7	6.7
1-1/8	21.	19.	17.	18.	16.	14.	15.	13.	12.	10.	9.5	8.4
6x37 CLASSIFICATION												
1-1/4	25.	22.	20.	21.	19.	17.	17.	16.	14.	12.	11.	9.8
1-3/8	30.	27.	24.	26.	23.	20.	21.	19.	17.	15.	13.	12.
1-1/2	35.	32.	28.	30.	27.	24.	25.	22.	20.	17.	16.	14.
1-3/4	48.	43.	38.	41.	37.	33.	34.	30.	27.	24.	21.	19.
2	62.	55.	49.	53.	48.	43.	43.	39.	35.	31.	28.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

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TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter, inches	Number of clips		Minimum spacing, inches
	Drop forged	Other material	
•	---	---	---
1/2	3	4	3
5/8	3	4	3 1/4
3/4	4	5	4 1/2
7/8	4	5	5 1/4
1	4	6	6
1 1/8	5	6	6 3/4
1 1/4	5	7	7 1/2
1 3/8	6	7	8 1/4
1 1/2	6	8	9

• Three clips shall be used on wire size less than 1/2 inch diameter.

TABLE G-7
WROUGHT IRON CHAIN
(In pounds or tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
• 1/4	1060	1835	1500	1060
• 5/16	1655	2865	2340	1655
3/8	2385	2.1	3370	2385
• 7/16	3250	2.8	2.3	3250
1/2	2.1	3.7	3.0	2.1
• 9/16	2.7	4.6	3.8	2.7
5/8	3.3	5.7	4.7	3.3
3/4	4.8	8.3	6.7	4.8
7/8	6.5	11.2	9.2	6.5
1	8.5	14.7	12.0	8.5
1-1/8	10.0	17.3	14.2	10.0
1-1/4	12.4	21.4	17.5	12.4
1-3/8	15.0	25.9	21.1	15.0
1-1/2	17.8	30.8	25.2	17.8
1-5/8	20.9	36.2	29.5	20.9
1-3/4	24.2	42.0	34.3	24.2
1-7/8	27.6	47.9	39.1	27.6
2	31.6	54.8	44.8	31.6

• These sizes of wrought iron chain are no longer manufactured in the United States.

TABLE G-8
ALLOY STEEL CHAIN
(In tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
1/4	1.62	2.82	2.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.5	27.3	19.8
1-1/8	22.2	38.5	31.5	22.2
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
1-3/4	47.0	81.5	62.0	47.0

TABLE G-9
MAXIMUM ALLOWABLE WEAR AT ANY POINT OF LINK

Chain size in inches	Maximum allowable wear in fraction of inches
1/4 (9/32)	3/64
5/16	4/64
3/8	5/64
7/16	6/64
1/2	8/64
5/8	10/64
3/4	12/64
7/8	14/64
1	16/64
1 1/8	18/64
1 1/4	20/64
1 3/8	22/64
1 1/2	24/64

TABLE G-10
SAFE WORKING LOADS FOR SHACKLES
[In tons of 2000 pounds]

Material size (inches)	Pin diameter (inches)	Safe working load
1/2	5/8	1.4
5/8	3/4	2.2
3/4	7/8	3.2
7/8	1	4.3
1	1 1/8	5.6
1 1/8	1 1/4	6.7
1 1/4	1 3/8	8.2
1 3/8	1 1/2	10.0
1 1/2	1 5/8	11.9
1 3/4	2	16.2
2	2 1/4	21.2

TABLE I-1
FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

Operation	Shade No.
Soldering	2
Torch Brazing	3 or 4
Light cutting, up to 1 inch	3 or 4
Medium cutting, 1-6 inches	4 or 5
Heavy cutting, over 6 inches	5 or 6
Light gas welding, up to 1/2 inch	4 or 5
Medium gas welding, 1/4-1/2 inch	5 or 6
Heavy gas welding, over 1/2 inch	6 or 8
Shielded Metal-Arc Welding 1/16- to 5/32-inch electrodes	10
Inert-gas Metal Arc Welding (Nonferrous) 1/16- to 5/32-inch electrodes.	11
Inert-gas Metal-Arc Welding (Ferrous) 1/16- to 5/32-inch electrodes.	12
Shielded Metal-Arc Welding:	
3/16- to 1/4-inch electrodes	12
5/16- and 3/8-inch electrodes	14
Atomic Hydrogen Welding	10 to 14
Carbon Arc Welding	14

Subpart H—Tools and Related Equipment

§ 1916.71 General precautions.

(a) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps, shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of hose or electric cords for this purpose is prohibited.

(b) When air tools of the reciprocating type are not in use, the discs and tools shall be removed.

(c) All portable, power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to the covering position.

(d) The moving parts of machinery on dry docks shall be guarded.

(e) Before use, pneumatic tools shall be secured to the extension hose or whip by some positive means to prevent the tool from becoming accidentally disconnected from the whip.

(f) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(g) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifold or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(h) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

§ 1916.72 Portable electric tools.

(a) The frames of portable electric tools and appliances, except double insulated tools approved by Underwriters' Laboratories, shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

(b) Grounding circuits, other than by means of the structure of the vessel on which the tool is being used, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance which is low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(c) Portable electric tools which are held in the hand shall be equipped with switches of a type which must be manually held in the closed position.

(d) Worn or frayed electric cables shall not be used.

§ 1916.73 Hand tools.

(a) Employers shall not issue or permit the use of unsafe hand tools.

(b) Wrenches, including crescent, pipe, end and socket wrenches, shall not be

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used when jaws are sprung to the point that slippage occurs.

(c) Impact tools, such as drift pins, wedges, and chisels, shall be kept free of mushroomed heads.

(d) The wooden handles of tools shall be kept free of splinters or cracks and shall be kept tight in the tool.

§ 1916.74 Abrasive wheels.

(a) Floor stand and bench mounted abrasive wheels used for external grinding shall be provided with safety guards (protection hoods). The maximum angular exposure of the grinding wheel periphery and sides shall be not more than 90 degrees. except that when work requires contact with the wheel below the horizontal plane of the spindle, the angular exposure shall not exceed 125 degrees. In either case the exposure shall begin not more than 65 degrees above the horizontal plane of the spindle. Safety guards shall be strong enough to withstand the effect of a bursting wheel.

(b) Floor and bench mounted grinders shall be provided with work rests which are rigidly supported and readily adjustable. Such work rests shall be kept a distance not to exceed ⅛ inch from the surface of the wheel.

(c) Cup type wheels used for external grinding shall be protected by either a revolving cup guard or a band type guard in accordance with the provisions of the United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of paragraph (e) of this section, except as follows:

(1) When the work location makes it impossible, in which case a wheel equipped with safety flanges as described in paragraph (f) of this section shall be used.

(2) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(d) Portable abrasive wheels used for internal grinding shall be provided with safety flanges (protection flanges) meeting the requirements of paragraph (f) of this section, except as follows:

(1) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(2) If the wheel is entirely within the work being ground while in use.

(e) When safety guards are required, they shall be so mounted as to maintain proper alignment with the wheel, and the guard and its fastenings shall be of sufficient strength to retain fragments of the wheel in case of accidental breakage. The maximum angular exposure of the grinding wheel periphery and sides shall not exceed 180 degrees.

(f) When safety flanges are required, they shall be used only with wheels designed to fit the flanges. Only safety flanges of a type and design and properly assembled so as to insure that the pieces of the wheel will be retained in case of accidental breakage shall be used.

(g) All abrasive wheels shall be closely inspected and ring tested before mounting to ensure that they are free from cracks or defects.

(h) Grinding wheels shall fit freely on the spindle and shall not be forced on. The spindle nut shall be tightened only enough to hold the wheel in place.

(i) The power supply shall be sufficient to maintain the rated spindle speed under all conditions of normal grinding. The rated maximum speed of the wheel shall not be exceeded.

(j) All employees using abrasive wheels shall be protected by eye protection equipment in accordance with the requirements of § 1916.81 (a) and (b), except when adequate eye protection is afforded by eye shields which are permanently attached to the bench or floor stand.

§ 1916.75 Powder actuated fastening tools.

(a) *General precautions.* (1) Powder actuated fastening tools shall be tested each day before loading to ensure that the safety devices are in proper working condition. Any tool found not to be in proper working order shall be immediately removed from service until repairs are made.

(2) Powder actuated fastening tools shall not be used in an explosive or flammable atmosphere.

(3) All tools shall be used with the type of shield or muzzle guard appropriate for a particular use.

(4) Fasteners shall not be driven into very hard or brittle materials, such as cast iron, glazed tile, surface hardened steel, glass block, live rock, face brick or hollow tile.

(5) Fasteners shall not be driven into soft materials unless such materials are backed by a substance that will prevent the pin or fastener from passing completely through and creating a flying missile hazard on the opposite side.

(6) Unless a special guard, fixture or jig is used, fasteners shall not be driven directly into materials such as brick or concrete within 3 inches of the unsupported edge or corner, or into steel surfaces within ½ inch of the unsupported edge or corner. When fastening other material, such as 2 x 4 inch lumber to a concrete surface, fasteners of greater than 7/32-inch shank diameter shall not be used and fasteners shall not be driven within 2 inches of the unsupported edge or corner of the work surface.

(7) Fasteners shall not be driven through existing holes unless a positive guide is used to secure accurate alignment.

(8) No attempt shall be made to drive a fastener into a spalled area caused by an unsatisfactory fastening.

(9) Employees using powder actuated fastening tools shall be protected by eye protection equipment in accordance with the requirements of § 1916.81 (a) and (b).

(b) *Instruction of operators.* Before employees are permitted to use powder actuated fastening tools, they shall have been thoroughly instructed by a competent person with respect to the requirements of paragraph (a) of this section and the safe use of such tools as follows:

(1) Before using a tool, the operator shall inspect it to determine that it is clean, that all moving parts operate freely and that the barrel is free from obstructions.

(2) When a tool develops a defect during use, the operator shall immediately cease to use it and shall notify his supervisor.

(3) Tools shall not be loaded until just prior to the intended firing time and the tool shall not be left unattended while loaded.

(4) The tool, whether loaded or empty, shall not be pointed at any person, and hands shall be kept clear of the open barrel end.

(5) In case of a misfire, the operator shall hold the tool in the operating position for at least 15 seconds and shall continue to hold the muzzle against the work surface during disassembly or opening of the tool and removal of the powder load.

(6) Neither tools nor powder charges shall be left unattended in places where they would be available to unauthorized persons.

§ 1916.76 Internal combustion engines, other than ship's equipment.

(a) When internal combustion engines, furnished by the employer are used in a fixed position below decks, for such purposes as driving pumps, generators, and blowers, the exhaust shall be led to the open air, clear of any ventilation intakes and openings through which it might enter the vessel.

(b) All exhaust line joints and connections shall be checked for tightness immediately upon starting the engine, and any leaks shall be corrected at once.

(c) When internal combustion engines on vehicles, such as forklifts and mobile cranes, or on portable equipment such as fans, generators, and pumps exhaust into the atmosphere below decks, the competent person shall make tests of the carbon monoxide content of the atmosphere as frequently as conditions require to insure that dangerous concentrations do not develop. Employees shall be removed from the compartment involved when the carbon monoxide concentration exceeds 50 parts per million (0.005%). The employer shall use blowers sufficient in size and number and so arranged as to maintain the concentration below this allowable limit before work is resumed.

Subpart I—Personal Protective Equipment

§ 1916.81 Eye protection.

(a) *General precautions.* (1) All eye protection equipment required by these regulations shall meet the specifications prescribed by the American Standard Safety Code for Head, Eye and Respiratory Protection, Z2.1.

(2) Eye protection equipment shall be maintained in good condition.

(3) Eye protection equipment which has previously been used shall be cleaned and disinfected before it is issued by the employer to another employee.

(4) Employees who wear corrective spectacles while engaged in eye hazardous work shall be protected by eye protection equipment of a type which can be worn over personal spectacles, except that glasses with prescription ground safety lenses may be worn in lieu of cover goggles when such glasses provide suitable protection against the hazard involved.

(b) *Protection against impact.* (1) In any operations such as chipping, caulking, drilling, riveting, grinding, and pouring babbitt metal, in which the eye hazard of flying particles, molten metal, or liquid chemical exists, employees shall be protected by suitable face shields or goggles meeting the requirements of paragraph (a) of this section.

(c) *Protection against radiant energy.* (1) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of paragraphs (a) and (c) (2) of this section.

(2) Filter lenses shall be of a shade number appropriate to the type of work to be performed as indicated in Table I–1 in § 1916.68 except that variations of one or two shade numbers are permissible to suit individual preferences.

(3) If filter lenses are used in the goggles worn under the helmet, the shade number of the lens in the helmet may be reduced so that the sum of the shade numbers of the two lenses will equal the value shown in Table I–1 in § 1916.68.

§ 1916.82 Respiratory protection.

(a) *General.* (1) All respiratory protective equipment required by these regulations shall carry the U.S. Bureau of Mines approval for the use for which it is intended. Respiratory protective equipment shall be used only for the purpose intended and no modifications of the equipment shall be made.

(2) Respiratory protective equipment shall be inspected regularly and maintained in good condition. Gas mask canisters and chemical cartridges shall be replaced as necessary so as to provide complete protection. Mechanical filters shall be cleaned or replaced as necessary so as to avoid undue resistance to breathing.

(3) Respiratory protective equipment which has been previously used shall be cleaned and disinfected before it is issued by the employer to another employee. Emergency rescue equipment shall be cleaned and disinfected immediately after each use.

(4) Employees required to use respiratory protective equipment approved for use in atmospheres immediately dangerous to life shall be thoroughly trained in its use. Employees required to use other types of respiratory protective equipment shall be instructed in the use and limitations of such equipment.

(5) When an air line respirator is used, the air line shall be fitted with a pressure regulating valve and a filter which will remove oil, water, and rust particles. The air intake shall be from a source which is free from all contaminants, such as the exhaust from internal combustion engines.

(6) In all cases, when an employee is stationed outside a compartment, tank or space as a tender or safety man for men working inside in an atmosphere immediately dangerous to life, the tender shall have immediately available for emergency use repiratory protective equipment equivalent to that required for the men in the compartment. When a tender is stationed outside a compartment for men working inside in an atmosphere not immediately dangerous to life, the tender shall wear respiratory protective equipment equivalent to that required for the men in the compartment if he is exposed for prolonged periods to the same concentration of atmospheric contaminants.

(b) *Protection in atmospheres immediately dangerous to life.* (1) Atmospheres immediately dangerous to life are those which contain less than 16.5 percent oxygen, or which by reason of the high toxicity of the contaminant, as in fumigation, or high concentration of the contaminant, as with carbon dioxide, would endanger the life of a person breathing them for even a short period of time.

(2) In atmospheres immediately dangerous to life the only approved types of respiratory protective equipment are the following:

(i) Self-contained breathing apparatus, in which the wearer carries with him a supply of oxygen, air, or an oxygen generating material.

(ii) Hose mask with blower, in which a hand or motor operated blower supplies air at high volume and low pressure through a large diameter hose through which the wearer can draw air in case the blower fails.

(iii) If there is known to be more than 16 percent oxygen and less than 2 percent gas by volume, a gas mask equipped with a canister approved for the particular type gas involved.

NOTE: A gas mask offers absolutely no protection in an atmosphere deficient in oxygen.

(3) Work in atmospheres immediately dangerous to life shall be performed only in an emergency, as when rescuing a man who has been overcome or when shutting off a source of contamination that cannot otherwise be controlled. When an employee enters such an atmosphere he shall be provided with and use an adequate, attended life line.

(4) In the vicinity of each vessel in which there is a danger of employees being exposed to an atmosphere immediately dangerous to life the employer shall have on hand and ready for use respiratory protective equipment approved for such use. When such equipment is required, one or more persons shall be thoroughly trained in the use of the equipment.

(c) *Protection against gaseous contaminants not immediately dangerous to life.* (1) Gaseous contaminants not immediately dangerous to life are gases present in concentrations that could be breathed for a short period without endangering the life of a person breathing them, but which might produce discomfort and possible injury after a prolonged single exposure or repeated short exposures.

(2) When employees are exposed to a gaseous contaminated atmosphere not immediately dangerous to life, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the gaseous contaminant as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator in lower concentrations is permissible.

(ii) In concentration of ammonia of less than 3 percent, or of other gases less than 2 percent, by volume, a canister type gas mask equipped with the proper type of canister. Different canisters are approved for specific use against the following gases or groups of gases: acid gases, hydrocyanic acid gas, chlorine gas, organic vapors, ammonia gas, carbon monoxide, or combination of the above.

(iii) In low concentrations (less than 0.1 percent by volume), a chemical cartridge respirator equipped with the type of cartridge approved for use against the particular gases or groups of gases listed in subdivision (ii) of this subparagraph.

(d) *Protection against particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to unsafe concentrations of particulate contaminants, such as dusts and fumes, mists and fogs or combinations of solids and liquids, they shall be protected by either air line or filter respirators, except as otherwise provided in the regulations of this part.

(2) Filter respirators shall be equipped with the proper type of filter. Different filters are approved for specific protection against groups of contaminants, as follows:

(i) Pneumoconiosis-producing dust and nuisance dust filters which provide respiratory protection against pneumoconiosis-producing dusts, such as aluminum, cellulose, cement, charcoal, coal, coke, flour, gypsum, iron ore, limestone and wood.

(ii) Toxic dust filters which provide respiratory protection against toxic dusts that are not significantly more toxic than lead, such as arsenic, cadmium, chromium, lead, manganese, selenium, vanadium, and their compounds.

(iii) Mist filters which provide respiratory protection against pneumoconiosis-producing mists, chromic acid mists, and nuisance mists.

(iv) Fume filters which provide respiratory protection against fumes (solid dispersoids or particulate matter formed by the condensation of vapors, such as those from heated metals and other substances).

(v) Filters which provide respiratory protection against combinations of two or more of the contaminants described

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in subdivisions (i) through (iv) of this subparagraph.

(e) *Protection against combinations of gaseous and particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to combinations of gaseous and particulate contaminants not immediately dangerous to life, as in spray painting, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the contaminants, as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator is permissible in lower concentrations.

(ii) In concentrations of gaseous contaminants of less than 2 percent by volume, a canister type gas mask with a combination canister approved for the particular type of gaseous contaminant as specified in paragraph (c) (2) of this section and a filter for the particular type of particulate contaminant as specified in paragraph (d) (1) of this section.

(iii) In low concentrations of gaseous contaminants (less than 0.1 percent by volume) a respirator equipped with the type of cartridge and filter as specified in subdivision (ii) of this subparagraph.

§ 1916.83 Head, foot and body protection.

(a) When employees are working in areas where there is danger of falling objects they shall be protected by protective hats.

(b) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1. Hats without dielectric strength shall not be used where there is the possibility of contact with electric conductors.

(c) Protective hats which have been previously worn shall be cleaned and disinfected before they are issued by the employer to another employee.

(d) The employer shall arrange through means, such as vendors or local stores, or otherwise, to make safety shoes readily available to all employees, and shall encourage their use. Metal toe caps from which the covering has been worn shall be insulated when employees are working on exposed energized circuits of the vessel's electrical system.

(e) Employees shall not be permitted to wear excessively greasy clothing when performing hot work operations.

(f) Employees shall be protected by suitable gloves when engaged in operations hazardous to their hands.

§ 1916.84 Life saving equipment.

(a) *Buoyant work vests.* (1) Buoyant work vests shall not meet the requirements of these regulations unless approved by the U.S. Coast Guard.

(2) Prior to each use, buoyant work vests shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective buoyant work vests shall not be used.

(b) *Safety belts and lifelines.* (1) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(2) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which may affect their strength. Defective belts and lifelines shall not be used.

(3) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to insure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(c) *Life rings and ladders.* (1) At least three 30-inch Coast Guard approved life rings with lines attached shall be kept in easily visible and readily accessible places aboard each vessel afloat on which work is being performed. Life rings shall be located, one forward, one aft, and one on the gangway, except on vessels under 200 feet in length, in which case one at the gangway will be sufficient.

(2) At least one life ring with a line attached shall be located on each staging float alongside a vessel on which work is being performed.

(3) At least 90 feet of line shall be attached to each life ring. Life rings and lines shall be maintained in good condition.

(4) In the vicinity of each vessel afloat on which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.

Subpart J—Ship's Machinery and Piping Systems

§ 1916.91 Ship's boilers.

(a) Before work is performed in the fire, steam, or water spaces of a boiler where employees may be subject to injury from the direct escape of a high temperature medium, such as steam, or water, oil, or other medium at a high temperature entering from an interconnecting system, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, blanked, and tagged indicating that employees are working in the boiler. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working in the boiler, or until the work in the boiler is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead boiler with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

(3) A warning sign calling attention to the fact that employees are working in the boilers shall be hung in a conspicuous location in the engine room. This sign shall not be removed until it is determined that the work is completed and all employees are out of the boilers.

§ 1916.92 Ship's piping systems.

(a) Before work is performed on a valve, fitting, or section of piping in a piping system where employees may be subject to injury from the direct escape of steam, or water, oil, or other medium at a high temperature, the employer shall insure that the following steps are taken:

(1) The isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, blanked, and tagged indicating that employees are working on the system. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working on the system, or until the work on the system is completed. Where valves are welded instead of bolted at least two isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, locked, and tagged.

(2) Drain connections to atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

§ 1916.93 Ship's propulsion machinery.

(a) Before work is performed on the main engine, reduction gear, or connecting accessories, the employer shall ensure that the following steps are taken:

(1) The jacking gear shall be engaged to prevent the main engine from turning over. A sign shall be posted at the throttle indicating that the jacking gear is engaged. This sign shall not be removed until the jacking gear can be safely disengaged.

(2) If the jacking gear is steam driven, the stop valves to the jacking gear shall be secured, locked, and tagged indicating that employees are working on the main engine.

(3) If the jacking gear is electrically driven, the circuit controlling the jacking gear shall be deenergized by tripping the circuit breaker, opening the switch or removing the fuse, whichever is appropriate. The breaker, switch, or fuse location shall be tagged indicating that employees are working on the main engine.

(b) Before the jacking engine is operated, the following precautions shall be taken:

(1) A check shall be made to ensure that all employees, equipment, and tools are clear of the engine, reduction gear, and its connecting accessories.

(2) A check shall be made to ensure that all employees, equipment and tools are free of the propeller.

(c) Before work is started on or in the immediate vicinity of the propeller, a warning sign calling attention to the fact that employees are working in that area shall be hung in a conspicuous location in the engine room. This sign shall not be removed until it is determined that the work is completed and all employees are free of the propeller.

(d) Before the main engine is turned over (e.g., when warming up before departure or testing after an overhaul) a check shall be made to ensure that all employees, equipment, and tools are free of the propeller.

§ 1916.94 Ship's deck machinery.

(a) Before work is performed on the anchor windlass or any of its attached accessories, the employer shall ensure that the following steps are taken:

(1) The devil claws shall be made fast to the anchor chains.

(2) The riding pawls shall be in the engaged position.

(3) In the absence of devil claws and riding pawls, the anchor chains shall be secured to a suitable fixed structure of the vessel.

Subpart K—Portable, Unfired Pressure Vessels, Drums, and Containers, Other Than Ship's Equipment

§ 1916.101 Portable air receivers and other unfired pressure vessels.

(a) Portable, unfired pressure vessels, built after the effective date of this regulation, shall be marked and reported indicating that they have been designed and constructed to meet the standards of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, 1963. They shall be subjected to a hydrostatic pressure test of one and one-half times the working pressure of the vessels.

(b) Portable, unfired pressure vessels, not built to the code requirements of paragraph (a) of this section, and built prior to the effective date of this regulation, shall be examined quarterly by a competent person. They shall be subjected yearly to a hydrostatic pressure test of one and one-half times the working pressure of the vessels.

(c) The relief valves on the portable, unfired pressure vessels in paragraphs (a) and (b) of this section shall be set to the safe working pressure of the vessels, or set to the lowest safe working pressure of the systems, whichever is lower.

(d) A record of such examinations and tests made in compliance with the requirements of paragraphs (a) and (b) of this section shall be maintained.

§ 1916.102 Drums and containers.

(a) Shipping drums and containers shall not be pressurized to remove their contents.

(b) A temporarily assembled pressurized piping system conveying hazardous liquids or gases shall be provided with a relief valve and by-pass to prevent rupture of the system and the escape of such hazardous liquids or gases.

(c) Pressure vessels, drums and containers containing toxic or flammable liquids or gases shall not be stored or used where they are subject to open flame, hot metal, or other sources of artificial heat.

(d) Unless pressure vessels, drums and containers of 30-gallon capacity or over containing flammable or toxic liquids or gases are placed in an out-of-the-way area where they will not be subject to physical injury from an outside source, barriers or guards shall be erected to protect them from such physical injury.

(e) Containers of 55 gallons or more capacity containing flammable or toxic liquid shall be surrounded by dikes or pans which enclose a volume equal to at least 25 percent of the total volume of the containers.

(f) Fire extinguishers adequate in number and suitable for the hazard shall be provided. These extinguishers shall be located in the immediate area where pressure vessels, drums, and containers containing flammable liquids or gases are stored or in use. Such extinguishers shall be ready for use at all times.

Subpart L—Electrical Machinery

§ 1916.111 Electrical circuits and distribution boards.

(a) Before an employee is permitted to work on an electrical circuit, except when the circuit must remain energized for testing and adjusting, the circuit shall be deenergized and checked at the point at which the work is to be done to insure that it is actually deenergized. When testing or adjusting an energized circuit, a rubber mat, duck board, or other suitable insulation shall be used underfoot where an insulated deck does not exist.

(b) Deenergizing the circuit shall be accomplished by opening the circuit breaker, opening the switch, or removing the fuse, whichever method is appropriate. The circuit breaker, switch, or fuse location shall be tagged to indicate that an employee is working on the circuit. Such tags shall not be removed nor the circuit energized until it is definitely determined that the work on the circuit has been completed.

(c) When work is performed immediately adjacent to an open-front energized board or in back of an energized board, the board shall be covered or some other equally safe means shall be used to prevent contact with any of the energized parts.

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Subject Index for 29 CFR 1917—Shipbreaking

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Subpart A—General Provisions

§ 1917.1 Purpose, scope and responsibility.

(a) Section 41 of the Longshoremen's and Harbor Workers' Compensation Act requires every employer to furnish and maintain employment and places of employment which are reasonably safe for his employees in all employments covered thereby (the Act applies to all injuries sustained by employees on navigable waters of the United States if the employees are employed by an "employer" as defined in section 2(4) of the Act i.e., "an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any dry dock)." Calbeck v. Travelers Insurance Co. and Donovan v. Avondale Shipyards, Inc. (52 S. Ct. 1196 (1962)) and to install, furnish, maintain and use devices and safeguards (with particular reference to equipment used by such employers and working conditions established by them) determined by the Secretary of Labor to be reasonably necessary to protect the life, health and safety of such employees, and to render safe such employment and places of employment and to prevent injury to such employees. The purpose of this part is to make determinations under this standard with respect to shipbreaking activity.

(b) This part does not apply to matters under the control of the United States Coast Guard within the scope of Title 52 of the Revised Statutes and acts supplementary or amendatory thereto (46 U.S.C. secs. 1–1388 passim) including, but not restricted to, the master, ship's officer, crew members, design, construction and maintenance of the vessel, its gear and equipment; to matters within the regulatory authority of the United States Coast Guard to safeguard vessels, harbors, ports and waterfront facilities under the provisions of the Espionage Act of June 17, 1917, as amended (50 U.S.C. 191 et seq.; 22 U.S.C. 401 et seq.); including the provisions of Executive Order 10173, as amended by Executive Orders 10277 and 10352 (3 CFR 1949–1953 Comp., pp. 356, 778 and 873); or to matters within the regulatory authority of the United States Coast Guard with respect to lights, warning devices, safety equipment and other matters relating to the promotion of safety of lives and property under section 4(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333). Also, this part does not apply to owners, operators, agents or masters of vessels unless they are acting as "employers". However, this part is not intended to relieve owners, operators, agents or masters of vessels who are not "employers" from responsibilities or duties now placed upon them by law, regulations or custom.

(c) The responsibilities placed upon the competent person herein shall be deemed to be the responsibilities of the employer.

§ 1917.2 Definitions.

(a) The term "shall" indicates provisions which are mandatory.

(b) The term "Secretary" means the Secretary of Labor.

(c) The term "employer" means an employer any of whose employees are employed, in whole or in part, in shipbreaking or related employments as defined in paragraphs (i) and (j) of this section on navigable waters of the United States, including dry docks, graving docks and marine railways, and any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States, including dry docks, graving docks and marine railways.

(d) The term "employee" means any person employed in shipbreaking or related employments on the navigable waters of the United States, including dry docks, graving docks and marine railways, by an employer as defined in paragraph (c) of this section.

(e) The term "gangway" means any ramp-like or stair-like means of access provided to enable personnel to board or leave a vessel including accommodation ladders, gangplanks and brows.

(f) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

(g) For purposes of § 1917.44, the term "barge" means an unpowered, flat bottom, shallow draft vessel including scows, carfloats and lighters. For purposes of this section, the term does not include ship shaped or deep draft barges.

(h) For purposes of § 1917.44, the term "river tow boat" means a shallow draft, low free board, self-propelled vessel designed to tow river barges by pushing ahead. For purposes of this section, the term does not include other towing vessels.

(i) The term "shipbreaking" means any breaking down of a vessel's structure for the purpose of scrapping the vessel, including the removal of gear, equipment or any component part of a vessel.

(j) The term "related employments" means any employments performed as an incident to or in conjunction with shipbreaking work, including, but not restricted to, inspection, survey and employment as a watchman.

(k) The term "hazardous substance" means a substance which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritant or otherwise harmful is likely to cause injury.

(l) The term "competent person" for purposes of this part means a person who is capable of recognizing and evaluating employee exposure to hazardous substances or to other unsafe conditions and is capable of specifying the necessary protection and precautions to be taken to ensure the safety of employees as required by the particular regulation under the condition to which it applies. For the purposes of Subparts B and D, the competent person shall be one meeting the requirements of § 1917.10.

(m) The term "confined space" means a compartment of small size and limited access such as a double bottom tank, cofferdam or other space which by its small size and confined nature can readily create or aggravate a hazardous exposure.

(n) The term "enclosed space" means any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters and machinery and boiler spaces.

(o) The term "hot work" means riveting, welding, burning or other fire or spark producing operations.

(p) The term "cold work" means any work which does not involve riveting, welding, burning or other fire or spark producing operations.

(q) The term "powder actuated fastening tool" means a tool or machine which drives a stud, pin or fastener by means of an explosive charge.

(r) For purposes of § 1917.57, the term "hazardous material" means a material which has one or more of the following characteristics: (1) Has a flash point below 140° F., closed cup, or is subject to spontaneous heating; (2) has a threshold limit value below 500 p.p.m. in the case of a gas or vapor, below 500 mg./m.³ for fumes and below 25 m.p.p.c.f. in case of a dust; (3) has a single dose oral LD_{50} below 500 mg./kg.; (4) is subject to polymerization with the release of large amounts of energy; (5) is a strong oxidizing or reducing agent; (6) causes first degree burns to skin in short time exposure, or is systemically toxic by skin contact; or (7) in the course of normal operations, may product dusts, gases, fumes, vapors, mists, or smokes which have one or more of the above characteristics.

§ 1917.3 Penalty.

(a) As provided in Public Law 85–742, any employer who, willfully, violates or fails or refuses to comply with the provisions of the regulations of this part and any employer or other person who willfully interferes with, hinders or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of section 41 of the Act by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of the regulations of this part, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than $100 nor more than $3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than $100 nor more than $3,000.

(b) The liability under this provision of Public Law 85–742 shall not affect any other liability of the employer under the Longshoremen's and Harbor Workers' Compensation Act.

§ 1917.4 [Reserved]

§ 1917.5 Reference specifications, standards, and codes.

Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part. In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part as listed below, to the extent specified in the text, form a part of the regulations of this part:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass. 02110, Subpart B § 1917.13(b).

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill. 60611, Subpart B, § 1917.12(b) and (f); Subpart H, § 1917.72(a).

United States of America Standard Safety Code for Portable Wood Ladders, A14.1–1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart E, § 1917.42(a)(6).

United States of America Standard Safety Code for Portable Metal Ladders, A14.2–1956, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart I, § 1917.42(a)(4).

United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1–1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016, Subpart I, §§ 1917.81(a)(1), 1917.83(b).

Threshold Limit Values, America Conference of Governmental Industrial Hygenists, 1014 Broadway, Cincinnati, Ohio 45202, Subpart B, § 1917.11 (a)(3) and (b)(3).

§ 1917.6 Notification of accidents resulting in fatalities or serious injuries.

(a) Within 48 hours after the occurrence of an accident causing the death of an employee or resulting in an employee's admission to a hospital as a bed patient, the employer shall file a copy of Bureau of Employees' Compensation Form BEC—202 (approved by Budget Bureau No. 44–R887.3) with the Field Safety Consultant of the Occupational Safety and Health Administration serving the area where the accident occurred (in addition to such filing as is required by 20 CFR 31.3) unless prior thereto and as soon after the accident as feasible the employer has given oral or written notice of the accident to the person in charge of such office in sufficient detail to permit the accident to be identified readily. (44 Stat. 1444; 33 U.S.C. 930.)

§ 1917.7 Amendment of the regulations of this part.

The Secretary may at any time, upon his own motion or upon written petition of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the provisions of the regulations of this part.

Subpart B—Explosive and Other Dangerous Atmospheres

§ 1917.10 Competent person.

(a) *Designation.* (1) For the purposes of Subparts B, D, and H of this part one or more competent persons shall be designated by the employer in accordance with the applicable requirements of this section unless the requirements of Subparts B, D, and H of this part are always carried out by a National Fire Protection Association Certified Marine Chemist.

(2) The employer shall indicate on U.S. Department of Labor Form MAR–8, "Designation of Competent Person" either those employees designated as competent persons or that the prescribed functions of such persons are always carried out by a National Fire Protection Association Certified Marine Chemist in addition to his professional duties. When additions or changes are made in the personnel so designated, a new Form MAR–8 shall be executed. A copy of this executed form shall be forwarded to the nearest office of the Occupational Safety and Health Administration.

(b) *Criteria.* The following criteria shall guide the employer in designating employees as competent persons:

(1) Ability to understand the meaning of designations on certificates and of any qualifications relating thereto and to carry out any instructions, either written or oral, left by the National Fire Protection Association Certified Marine Chemist.

(2) Ability to use and interpret the readings of an oxygen indicator and a combustible gas indicator. The ability to use and interpret the readings of a carbon monoxide indicator and a carbon dioxide indicator, if the operations involve such hazardous gases.

(3) Familiarity with and understanding of Subparts B, D, and H of this part.

(4) Familiarity with the structure and knowledge of the location and designation of spaces of the types of vessels on which breaking work is done.

(5) Capability to perform the tests and inspections required by Subparts B, D, and H of this part and to write the required logs.

(c) *Logging of inspections and tests.* (1) When tests and inspections required to be performed by a competent person by any provisions of Subparts B, D, and H of this part are made, a record of the locations, operations performed and date, time, and results of the tests and any instructions resulting therefrom shall be recorded on U.S. Department of Labor Form MAR–9, "Log of Inspections and Tests by Competent Person." A separate form shall be used for each vessel on which tests and inspections are made.

(2) This record shall be available for inspection in the immediate vicinity of the affected operations while they are in progress. This record or copy thereof shall be kept on file for a period of at least 3 months from the date of the completion of the job.

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(3) A copy of any certificate issued in accordance with § 1917.13 and of any instructions issued by the National Fire Protection Association Certified Marine Chemist shall be kept on file with the log for a period of at least 3 months from the date of the completion of the job.

(d) *Application.* The provisions of this section are intended to apply in their entirety to employers engaged in general shipbreaking work where both Subparts B and D of this part are applicable. They do not apply in their entirety to employers whose work involves only certain portions of Subparts B and D of this part, such as the breaking of vessels with no exposure to fuel oil or other flammable hazards. In such cases employers may designate persons who are competent on the basis of the applicable portions of the criteria set forth in paragraph (b) of this section.

§ 1917.11 Precautions before entering.

(a) *Flammable atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) and (ii) of this subparagraph, the atmosphere within the space to be entered shall be tested by a competent person to determine the concentration of flammable vapors or gases within the space.

(i) Cargo spaces or other spaces containing or having last contained combustible or flammable liquids or gases in bulk.

(ii) Spaces immediately adjacent to those described in subdivision (i) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of flammable vapor or gas greater than 10 percent of the lower explosive limit, the space shall be ventilated to reduce the concentration below 10 percent of the lower explosive limit before men are permitted to enter.

(3) If the atmosphere in the space to be entered is found to contain a concentration of flammable vapor or gas below the level immediately dangerous to life as defined in § 1917.82(b)(1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1917.82 (a), and (c), (d), or (e), whichever is applicable.

(b) *Toxic atmospheres and residues.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) and (ii) of this subparagraph, the atmosphere in the space to be entered shall be tested for toxic atmospheric contaminants, and the space inspected for the presence of toxic or corrosive residues by a Marine Chemist, Industrial Hygienist or other person qualified to make these tests and inspections.

(i) Cargo spaces or other spaces containing or having last contained bulk liquids, gases, or solids of a toxic, corrosive or irritant nature.

(ii) Spaces immediately adjacent to those described in subdivision (i) of this subparagraph.

(2) If the tests indicate that the atmosphere in the space to be entered contains a concentration of toxic contaminants above the level which is immediately dangerous to life, the space shall be ventilated to reduce the concentration below the level immediately dangerous to life as defined in § 1917.82 (b)(1).

(3) If the atmosphere in the space to be entered is found to contain a concentration of toxic contaminants below the level immediately dangerous to life as defined in § 1917.82(b)(1), but above the threshold limit value, employees shall be protected in accordance with the requirements of § 1917.82 (a), and (c), (d), or (e), whichever is applicable.

(4) The person qualified to make the tests and inspections referred to in subparagraph (1) of this paragraph shall make a record of the tests, inspections and instructions pertaining to subparagraph (3) of paragraph (a) of this section and subparagraphs (2) and (3) of this paragraph on U.S. Department of Labor Form MAR–9, which shall be available for inspection and kept on file in accordance with § 1917.10(c)(2).

(c) *Oxygen deficient atmospheres.* (1) Before employees are initially permitted to enter any of the ship's spaces designated in subdivisions (i) through (v) of this subparagraph, the atmosphere in the spaces to be entered shall be tested by a competent person with an oxygen indicator or other suitable device to ensure that it contains at least 16.5 percent oxygen.

(i) Spaces in which the tests required by paragraphs (a) and (b) of this section indicate that no flammable or toxic contaminants are present in the atmosphere.

(ii) Compartments which have been sealed.

(iii) Spaces which have been coated and closed up.

(iv) Nonventilated compartments which have been freshly painted.

(v) Cargo spaces containing cargoes or residues of cargoes which absorb oxygen, such as scrap iron, fresh fruit and molasses, and various vegetable drying oils in bulk.

(2) If the tests indicate that the atmosphere in the space to be entered contains less than 16.5 percent oxygen, the space shall be ventilated until tests indicate an oxygen content above this level.

(d) *Exceptions.* In emergencies and in cases of work of brief duration necessary to accomplish the ventilation required or to start operations, work may be performed in atmospheres containing concentrations of flammable contaminants above the upper explosive limit or otherwise immediately dangerous to life, provided employees are protected in accordance with the requirements of § 1917.82 (a) and (b).

§ 1917.12 Cleaning and other cold work.

(a) Employees shall be permitted to remove residue materials or to perform other cold work in spaces described in § 1917.11 (a)(1)(i) and (ii), and (b)(1)(i) and (ii) only under the following conditions:

(1) Liquid residues of flammable and toxic materials shall be removed from the spaces as thoroughly as practicable before employees start actual cleaning operations in these spaces. Drippings and spills of these materials on deck or elsewhere alongside the vessel shall be cleaned up as the work progresses. Special care shall be taken to prevent the spilling or the draining of these materials into the water surrounding the vessel.

(2) Continuous natural or mechanical ventilation shall be provided to keep the concentration of flammable vapors below ten (10) percent of the lower explosive limit in all parts of the space, provided that if, because of the high volatility of the residues, a uniform concentration of less than ten (10) percent of the lower explosive limit cannot be achieved, sufficient exhaust ventilation shall be provided to reduce the concentration to or below that level in the major portions of the compartment.

(3) Tests shall be made by a competent person prior to commencement of cold work and with sufficient frequency thereafter, in accordance with temperature, volatility of the residues and other existing conditions in and about the spaces to ensure that the concentration stated in subparagraph (2) of this paragraph is not exceeded.

(4) Cold work only shall be permitted.

(5) Tests shall be made by a competent person to ensure that the exhaust vapors from these spaces are not accumulating in other areas within or around the vessel, marine railway, dry dock, or under the pier where sources of ignition may be present. Should such accumulations be found, any sources of ignition within the affected area shall be removed or extinguished.

(b) Only approved explosion-proof, self-contained, battery-fed, portable lamps shall be used in spaces described in paragraph (b) of § 1917.13 before the spaces have been certified as "Safe for Men." Battery-fed, portable lamps bearing the approval of the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines, and such lamps listed by the U.S. Coast Guard as approved for such use are deemed to meet the requirements of this paragraph.

(c) Signs shall be posted on the open deck adjacent to the access to spaces described in paragraph (b) of § 1917.13 prohibiting smoking and the use of open flames.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) In spaces described in paragraph (b) of § 1917.13 which have been certified "Safe for Men," either battery lamps or explosion-proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissable by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used, provided the lights are mounted to the space openings from the exterior, or suspended within the space with the cables so led as to protect them from injury.

(g) In spaces certified "Safe for Fire" nonexplosion proof lights may be used.

§ 1917.13 Certification before hot work is begun.

(a) *Hot work in the open.* Before hot work is performed from open decks or in tanks or compartments from which the overhead has been completely removed, on the boundaries of cargo spaces or other spaces containing or having last contained combustible or flammable liquids or gases in bulk, the following steps shall be taken:

(1) Tests shall be made by a competent person to determine the concentration of flammable vapors in these spaces. The permissible level of concentration of flammable vapors shall not exceed ten (10) percent of the lower explosive limit in all parts of the spaces.

(2) When the tests indicate that a space contains a concentration of flammable vapors above the permissible concentration, the space shall be inerted with a nonflammable gas or with water, or sufficient ventilation shall be provided to reduce the concentration below the permissible level.

(3) When the bottom of a space contains flammable residues, it shall be flooded with water to cover all parts of the space to a depth of at least one (1) foot unless the space is inerted.

(b) *Hot work below decks.* Employees shall not be permitted to engage in hot work in or on the following spaces, boundaries or pipelines until a certificate setting forth that the hot work can be done in safety is issued. Such certificate shall be acceptable only if issued by a Marine Chemist certificated by the National Fire Protection Association.

(1) On tank vessels:

(i) Within or on the boundaries of cargo tanks which have been used to carry combustible or flammable liquids and gases in bulk, or within spaces adjacent to such cargo tanks.

(ii) Within or on the boundaries of fuel tanks.

(iii) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to such cargo or fuel tanks.

(2) On dry cargo, miscellaneous, and passenger vessels:

(i) Within or on the boundaries of cargo tanks which have been used to carry combustible or flammable liquids and gases in bulk.

(ii) Within spaces adjacent to cargo tanks which have been used to carry flammable gases, or liquids with a flash point below 150° F., except where the distance between such cargo tanks and the work to be performed is not less than twenty-five (25) feet.

(iii) Within or on the boundaries of fuel tanks.

(iv) On pipelines, heating coils, pumps, fittings, or other appurtenances connected to such cargo or fuel tanks.

(3) In dry cargo holds for which a Marine Chemist's certificate is not required by paragraph (b)(2)(ii) of this section, hot work may be performed only after a competent person has carefully examined the hold and found it to be free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

(4) Before hot work is performed in engine room and boiler room spaces of any vessel for which a Marine Chemist's certificate is not required by the provision of paragraph (b) (1) and (2) of this section or in fuel tank and engine compartments of boats, the bilges shall be inspected and tested by a competent person to ensure that they are free of flammable liquids, gases, and vapors. If flammable liquids, gases, or vapors are found, hot work shall not be performed within the space until the flammable liquids, gases, or vapors have been removed and a test indicates that the space is safe for fire.

§ 1917.14 Maintaining gas free conditions.

(a) *Hot work in the open.* (1) During the performance of hot work from open decks or in tanks or compartments from which the overhead has been completely removed, on the boundaries of spaces described in § 1917.13(a), other than those filled with water, the competent person shall make frequent tests to ensure that the inert atmosphere is being maintained or that the concentration of flammable vapors remains below ten (10) percent of the lower explosive limit.

(b) *Hot work below decks.* (1) When conditions in spaces below decks described in § 1917.13(b) (1) and (2) are such that there is a possibility of hazardous vapors being released from residues or other sources, after a Marine Chemist's certificate has been issued, a competent person shall make tests to ensure that the gas free condition is maintained irrespective of whether hot work is being performed in or on the aforementioned spaces. When the competent person finds that the atmospheric conditions have altered, work shall be stopped and a new Marine Chemist's certificate in accordance with § 1917.13(b) (1) and (2) shall be obtained, before work is resumed.

Subpart C—[Reserved]

Subpart D—Welding, Cutting and Heating

§ 1917.31 Ventilation and protection in welding, cutting and heating.

(a) *Mechanical ventilation; requirements.* (1) For purposes of this section, mechanical ventilation shall meet the following requirements:

(i) Mechanical ventilation shall consist of either general mechanical ventilation systems or local exhaust systems.

(ii) General mechanical ventilation shall be of sufficient capacity and so arranged as to produce the number of air changes necessary to maintain welding fumes and smoke within safe limits.

(iii) Local exhaust ventilation shall consist of freely movable hoods intended to be placed by the welder or burner as close as practicable to the work. This system shall be of sufficient capacity and so arranged as to remove fumes and smoke at the source and keep the concentration of them in the breathing zone within safe limits.

(iv) Contaminated air exhausted from a working space shall be discharged into the open air or otherwise clear of the source of intake air.

(v) All air replacing that withdrawn shall be clean and respirable.

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

(b) *Welding, cutting and heating in confined spaces.* (1) Except as provided in subparagraph (3) of this paragraph and paragraph (c)(2) of this section, either general mechanical or local exhaust ventilation meeting the requirements of paragraph (a) of this section shall be provided whenever welding, cutting or heating is performed in a confined space.

(2) The means of access shall be provided to a confined space in accordance with § 1917.46(b)(1) and (2).

(3) When sufficient ventilation cannot be obtained without blocking the means of access, employees in the confined space shall be protected by air line respirators in accordance with the requirements of § 1917.82(a), and an employee on the outside of such a confined space shall be assigned to maintain communication with those working within it and to aid them in an emergency.

(c) *Welding, cutting or heating of metals of toxic significance.* (1) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subparagraph shall be performed with either general mechanical or local exhaust ventilation meeting the requirements of paragraph (a) of this section.

(i) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials.

(ii) Lead base metals.

(iii) Cadmium-bearing filler materials.

(iv) Chromium-bearing metals or metals coated with chromium-bearing materials.

(2) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subparagraph shall be performed with local exhaust ventilation in accordance with the requirements of paragraph (a) of this section or employees shall be protected by air line respirators in accordance with the requirements of § 1917.82 (a).

(i) Metals containing lead, other than as an impurity, or metals coated with lead-bearing materials.

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(ii) Cadmium-bearing or cadmium coated base metals.

(iii) Metals coated with mercury-bearing metals.

(iv) Beryllium-containing base or filler metals. Because of its high toxicity, work involving beryllium shall be done with both local exhaust ventilation and air line respirators.

(3) Employees performing such operations in the open air shall be protected by filter type respirators in accordance with requirements of paragraphs (a) and (d) (2) (iv) of § 1917.82, except that employees performing such operations on beryllium-containing base or filler metals shall be protected by air line respirators in accordance with the requirements of § 1917.82(a).

(4) Other employees exposed to the same atmosphere as the welders or burners shall be protected in the same manner as the welder or burner.

(d) *General welding, cutting and heating.* (1) Welding, cutting and heating not involving conditions or materials described in paragraph (b) or (c) of this section may normally be done without mechanical ventilation or respiratory protective equipment, but where, because of unusual physical or atmospheric conditions, an unsafe accumulation of contaminants exists, suitable mechanical ventilation or respiratory protective equipment shall be provided.

(2) Employees performing any type of welding, cutting or heating shall be protected by suitable eye protective equipment in accordance with the requirements of § 1503.81 (a) and (c).

§ 1917.32 Fire prevention.

(a) When hot work is performed below decks or in other situations in which accidental fire would jeopardize the safety of employees the following precautions shall be taken:

(1) When practical, objects to be welded, cut or heated shall be moved to a designated safe location or, if the object to be welded, cut or heated cannot be readily moved, all movable fire hazards in the vicinity shall be taken to a safe place.

(2) If the object to be welded, cut or heated cannot be moved and if all the fire hazards cannot be removed, positive means shall be taken to confine the heat, sparks and slag, and to protect the immovable fire hazards from them.

(3) When welding, cutting or heating is performed on tank shells, decks, overheads and bulkheads, since direct penetration of sparks or heat transfer may introduce a fire hazard to an adjacent compartment, the same precautions shall be taken on the opposite side as are taken on the side on which the welding is being performed.

(4) In order to eliminate the possibility of fire in confined spaces as a result of gas escaping through leaking or improperly closed torch valves, the gas supply to the torch shall be positively shut off at some point outside the confined space whenever the torch is not to be used or whenever the torch is left unattended for a substantial period of time, such as during the lunch hour. Overnight and at the change of shifts the torch and hose shall be removed from the confined space. Open end fuel gas and oxygen hoses shall be immediately removed from confined spaces when they are disconnected from the torch or other gas consuming device.

(b) In all cases, suitable fire extinguishing equipment shall be immediately available in the work area and shall be maintained in a state of readiness for instant use. Personnel assigned to contain fires within controllable limits shall be instructed as to the specific anticipated fire hazards and how the fire fighting equipment provided is to be used.

§ 1917.33 Welding, cutting and heating in way of preservative coatings.

(a) Before welding, cutting or heating is commenced on any surface covered by a preservative coating whose flammability is not known, a test shall be made by a competent person to determine its flammability. Preservative coatings shall be considered to be highly flammable when scrapings burn with extreme rapidity.

(b) When coatings are determined to be highly flammable either they shall be stripped from the area to be heated to prevent ignition or they shall be burned away under controlled conditions. A 1½-inch or larger fire hose with fog nozzle, which has been uncoiled and placed under pressure, shall be immediately available for instant use in the immediate vicinity, consistent with avoiding freezing of the hose.

(c) Protection against toxic preservative coatings. (1) In enclosed spaces all surfaces covered with toxic preservatives shall be stripped of all toxic coatings for a distance of at least 4 inches from the area of heat application or the employees shall be protected by air line respirators meeting the requirements of § 1917.82(a).

(2) In the open air, employees shall be protected by a filter type respirator in accordance with requirements of § 1917.82 (a) and (d).

§ 1917.34 Welding, cutting and heating of hollow metal containers and structures not covered by § 1917.11.

(a) Drums, containers or hollow structures which have contained flammable substances shall, before welding, cutting or heating is undertaken on them, either be filled with water or thoroughly cleaned of such substances and ventilated and tested.

(b) Before heat is applied to a drum, container or hollow structure, a vent or opening shall be provided for the release of any built-up pressure during the application of heat.

(c) Before welding, cutting, heating or brazing is begun on structural voids such as skegs, bilge keels, fair waters, masts, booms, support stanchions, pipe stanchions or railings, a competent person shall inspect the object and, if necessary, test it for the presence of flammable liquids or vapors. If flammable liquids or vapors are present, the object shall be made safe.

(d) Objects such as those listed in paragraph (c) of this section shall also be inspected to determine whether water or other nonflammable liquids are present which, when heated, would build up excessive pressure. If such liquids are determined to be present, the object shall be vented, cooled or otherwise made safe during the application of heat.

(e) Jacketed vessels shall be vented before and during welding, cutting or heating operations in order to release any pressure which may build up during the application of heat.

§ 1917.35 Gas welding and cutting.

(a) *Transporting, moving and storing compressed gas cylinders.* (1) Valve protection caps shall be in place and secure. Oil shall not be used to lubricate protection caps.

(2) When cylinders are hoisted, they shall be secured on a cradle, slingboard or pallet. They shall not be hoisted by means of magnets or choker slings.

(3) Cylinders shall be moved by tilting and rolling them on their bottom edges. They shall not be intentionally dropped, struck or permitted to strike each other violently.

(4) When cylinders are transported by vehicle, they shall be secured in position.

(5) Valve protection caps shall not be used for lifting cylinders from one vertical position to another. Bars shall not be used under valves or valve protection caps to pry cylinders loose when frozen. Warm, not boiling, water shall be used to thaw cylinders loose.

(6) Unless cylinders are firmly secured on a special carrier intended for this purpose, regulators shall be removed and valve protection caps put in place before cylinders are moved.

(7) A suitable cylinder truck, chain or other steadying device shall be used to keep cylinders from being knocked over while in use.

(8) When work is finished, when cylinders are empty, or when cylinders are moved at any time, the cylinder valves shall be closed.

(9) Acetylene cylinders shall be secured in an upright position at all times except, if necessary, for short periods of time while cylinders are actually being hoisted or carried.

(b) *Placing cylinders.* (1) Cylinders shall be kept far enough away from the actual welding or cutting operation so that sparks, hot slag or flame will not reach them. When this is impractical, fire resistant shields shall be provided.

(2) Cylinders shall be placed where they cannot become part of an electrical circuit. Electrodes shall not be struck against a cylinder to strike an arc.

(3) Fuel gas cylinders shall be placed with valve end up whenever they are in use. They shall not be placed in a location where they would be subject to open flame, hot metal or other sources of artificial heat.

(4) Cylinders containing oxygen or acetylene or other fuel gas shall not be taken into confined spaces.

(c) *Treatment of cylinders.* (1) Cylinders, whether full or empty, shall not be used as rollers or supports.

(2) No person other than the gas supplier shall attempt to mix gases in a cylinder. No one except the owner of the cylinder or person authorized by him shall refill a cylinder. No one shall use a cylinder's contents for purposes other than those intended by the supplier. Only cylinders bearing Interstate Commerce Commission identification and inspection markings shall be used.

(3) No damaged or defective cylinder shall be used.

(d) *Use of fuel gas.* The employer shall thoroughly instruct employees in the safe use of fuel gas, as follows:

(1) Before connecting a regulator to a cylinder valve, the valve shall be opened slightly and closed immediately. (This action is generally termed "cracking" and is intended to clear the valve of dust or dirt that might otherwise enter the regulator). The person cracking the valve shall stand to one side of the outlet, not in front of it. The valve of a fuel gas cylinder shall not be cracked where the gas would reach welding work, sparks, flame or other possible sources of ignition.

(2) The cylinder valve shall always be opened slowly to prevent damage to the regulator. To permit quick closing, valves on fuel gas cylinders shall not be opened more than 1½ turns. When a special wrench is required, it shall be left in position on the stem of the valve while the cylinder is in use so that the fuel gas flow can be shut off quickly in case of an emergency. In the case of manifolded or coupled cylinders, at least one such wrench shall always be available for immediate use. Nothing shall be placed on top of a fuel gas cylinder, when in use, which may damage the safety device or interfere with the quick closing of the valve.

(3) Fuel gas shall not be used from cylinders through torches or other devices which are equipped with shut-off valves without reducing the pressure through a suitable regulator attached to the cylinder valve or manifold.

(4) Before a regulator is removed from a cylinder valve, the cylinder valve shall always be closed and the gas released from the regulator.

(5) If, when the valve on a fuel gas cylinder is opened, there is found to be a leak around the valve stem, the valve shall be closed and the gland nut tightened. If this action does not stop the leak, the use of the cylinder shall be discontinued, and it shall be properly tagged and removed from the vessel. In the event that fuel gas should leak from the cylinder valve rather than from the valve stem and the gas cannot be shut off, the cylinder shall be properly tagged and removed from the vessel. If a regulator attached to a cylinder valve will effectively stop a leak through the valve seat, the cylinder need not be removed from the vessel.

(6) If a leak should develop at a fuse plug or other safety device, the cylinder shall be removed from the vessel.

(e) *Fuel gas and oxygen manifolds.* (1) Fuel gas and oxygen manifolds shall bear the name of the substance they contain in letters at least one (1) inch high which shall be either painted on the manifold or on a sign permanently attached to it.

(2) Fuel gas and oxygen manifolds shall be placed in safe and accessible locations in the open air. They shall not be located within enclosed spaces.

(3) Manifold hose connections, including both ends of the supply hose that lead to the manifold, shall be such that the hose cannot be interchanged between fuel gas and oxygen manifolds and supply header connections. Adapters shall not be used to permit the interchange of hose. Hose connections shall be kept free of grease and oil.

(4) When not in use, manifold and header hose connections shall be capped.

(5) Nothing shall be placed on top of a manifold, when in use, which will damage the manifold or interfere with the quick closing of the valves.

(f) *Hose.* (1) Fuel gas hose and oxygen hose shall be easily distinguishable from each other. The contrast may be made by different colors or by surface characteristics readily distinguishable by the sense of touch. Oxygen and fuel gas hoses shall not be interchangable. A single hose having more than one gas passage, a wall failure of which would permit the flow of one gas into the other gas passage, shall not be used.

(2) When parallel sections of oxygen and fuel gas hose are taped together, not more than 4 inches out of 8 inches shall be covered by tape.

(3) All hose carrying acetylene, oxygen, natural or manufactured fuel gas, or any gas or substance which may ignite or enter into combustion or be in any way harmful to employees, shall be inspected at the beginning of each shift. Defective hose shall be removed from service.

(4) Hose which has been subjected to flashback or which shows evidence of severe wear or damage shall be tested to twice the normal pressure to which it is subject, but in no case less than two hundred (200) psi. Defective hose or hose in doubtful condition shall not be used.

(5). Hose couplings shall be of the type that cannot be unlocked or disconnected by means of a straight pull without rotary motion.

(6) Boxes used for the stowage of gas hose shall be ventilated.

(g) *Torches.* (1) Clogged torch tip openings shall be cleaned with suitable cleaning wires, drills or other devices designed for such purpose.

(2) Torches shall be inspected at the beginning of each shift for leaking shut-off valves, hose couplings, and tip connections. Defective torches shall not be used.

(3) Torches shall be lighted by friction lighters or other approved devices, and not by matches or from hot work.

(h) *Pressure regulators.* Oxygen and fuel gas regulators including their related gauges shall be in proper working order while in use.

§ 1917.36 Arc welding and cutting.

(a) *Manual electrode holders.* (1) Only manual electrode holders which are specifically designed for arc welding and cutting and are of a capacity capable of safely handling the maximum rated current required by the electrodes shall be used.

(2) Any current carrying parts passing through the portion of the holder which the arc welder or cutter grips in his hand, and the outer surfaces of the jaws of the holder, shall be fully insulated against the maximum voltage encountered to ground.

(b) *Welding cables and connectors.* (1) All arc welding and cutting cables shall be of the completely insulated, flexible type, capable of handling the maximum current requirements of the work in progress, taking into account the duty cycle under which the arc welder or cutter is working.

(2) Only cable free from repair or splices for a minimum distance of ten (10) feet from the cable end to which the electrode holder is connected shall be used, except that cables with standard insulated connectors or with splices whose insulating quality is equal to that of the cable are permitted.

(3) When it becomes necessary to connect or splice lengths of cable one to another, substantial insulated connectors of a capacity at least equivalent to that of the cable shall be used. If connections are effected by means of cable lugs, they shall be securely fastened together to give good electrical contact, and the exposed metal parts of the lugs shall be completely insulated.

(4) Cables in poor repair shall not be used. When a cable, other than the cable lead referred to in subparagraph (2) of this paragraph, becomes worn to the extent of exposing bare conductors, the portion thus exposed shall be protected by means of rubber and friction tapes or other equivalent insulation.

(c) *Ground returns and machine grounding.* (1) A ground return cable shall have a safe current carrying capacity equal to or exceeding the specified maximum output capacity of the arc welding or cutting unit which it services. When a single ground return cable services more than one unit, its safe current carrying capacity shall equal or exceed the total specified maximum output capacities of all the units which it services.

(2) Structures or pipe lines, except pipe lines containing gases or flammable liquids or conduits containing electrical circuits, may be used as part of the ground return circuit, provided that the pipe or structure has a current carrying capacity equal to that required by subparagraph (1) of this paragraph.

(3) When a structure or pipe line is employed as a ground return circuit, it shall be determined that the required electrical contact exists at all joints. The generation of an arc, sparks or heat at any point shall cause rejection of the structure as a ground circuit.

(4) When a structure or pipe line is continuously employed as a ground return circuit, all joints shall be bonded, and periodic inspections shall be con-

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ducted to ensure that no condition of electrolysis or fire hazard exists by virtue of such use.

(5) The frames of all arc welding and cutting machines shall be grounded either through a third wire in the cable containing the circuit conductor or through a separate wire which is grounded at the source of the current. Grounding circuits, other than by means of the vessel's structure, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(6) All ground connections shall be inspected to ensure that they are mechanically strong and electrically adequate for the required current.

(d) *Operating instructions.* Employers shall instruct employees in the safe means of arc welding and cutting as follows:

(1) When electrode holders are to be left unattended, the electrodes shall be removed and the holders shall be so placed or protected that they cannot make electrical contact with employees or conducting objects.

(2) Hot electrode holders shall not be dipped in water, since to do so may expose the arc welder or cutter to electric shock.

(3) When the arc welder or cutter has occasion to leave his work or to stop work for any appreciable length of time, or when the arc welding or cutting machine is to be moved, the power supply switch to the equipment shall be opened.

(4) Any faulty or defective equipment shall be reported to the supervisor.

(e) *Shielding.* Whenever practicable, all arc welding and cutting operations shall be shielded by noncombustible or flame-proof screens which will protect employees and other persons working in the vicinity from the direct rays of the arc.

Subpart E—Scaffolds, Ladders and Other Working Surfaces

§ 1917.41 Scaffolds or staging.

(a) *General requirements.* (1) All scaffolds and their supports, whether of lumber, steel or other material, shall be capable of supporting the load they are designed to carry with a safety factor of not less than four (4).

(2) All lumber used in the construction of scaffolds shall be spruce, fir, long leaf yellow pine, Oregon pine or wood of equal strength. The use of hemlock, short leaf yellow pine or short fiber lumber is prohibited.

(3) Lumber dimensions as given in this subpart are nominal except where given in fractions of an inch.

(4) All lumber used in the construction of scaffolds shall be sound, straight-grained, free from cross grain, shakes and large, loose or dead knots. It shall also be free from dry rot, large checks, worm holes or other defects which impair its strength or durability.

(5) Scaffolds shall be maintained in a safe and secure condition. Any component of the scaffold which is broken, burned or otherwise defective shall be replaced.

(6) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(7) No scaffold shall be erected, moved, dismantled or altered except under the supervision of competent persons.

(b) *Horse scaffolds.* (1) The minimum dimensions of lumber used in the construction of horses shall be in accordance with Table E–1 in § 1917.68.

(2) Horses constructed of materials other than lumber shall provide the strength, rigidity, and security required of horses constructed of lumber.

(3) The lateral spread of the legs shall be equal to not less than one-third of the height of the horse.

(4) All horses shall be kept in good repair, and shall be properly secured when used in staging or in locations where they may be insecure.

(5) Platform planking shall be in accordance with the requirements of paragraph (d) of this section.

(6) Backrails and toeboards shall be in accordance with paragraph (e) of this section.

(c) *Other types of scaffolds.* (1) Scaffolds of a type for which specifications are not contained in this section shall meet the general requirements of paragraphs (a), (d), and (e) of this section, shall be in accordance with recognized principles of design and shall be constructed in accordance with accepted standards covering such equipment.

(d) *Scaffold or platform planking.* (1) Platform planking shall be of not less than 2 x 10 inch lumber. Platform planking shall be straight-grained and free from large or loose knots and may be either rough or dressed.

(2) Platforms of staging shall be not less than two 10 inch planks in width except in such cases as the structure of the vessel or the width of the trestle ladders make it impossible to provide such a width.

(3) Platform planking shall project beyond the supporting members at either end by at least 6 inches but in no case shall project more than 12 inches unless the planks are fastened to the supporting members.

(4) Table E–2 in § 1917.68 shall be used as a guide in determining safe loads for scaffold planks.

(e) *Backrails and toeboards.* (1) Scaffolding, staging, runways, or working platforms which are supported or suspended more than 5 feet above a solid surface, or at any distance above the water, shall be provided with a railing which has a top rail whose upper surface is from 42 to 45 inches above the upper surface of the staging, platform, or runway and a midrail located half-way between the upper rail and the staging, platform, or runway.

(2) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(3) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted employees working more than 5 feet above solid surfaces shall be protected by safety belts and lifelines meeting the requirements of § 1917.84(b), and employees working over water shall be protected by buoyant work vests meeting the requirements of § 1503.84(a).

(4) Employees working from scaffolds on floats subject to surging, shall be protected against falling toward the vessel by a railing or a safety belt and line attached to the backrail.

(5) When necessary, to prevent tools and materials from falling on men below, toeboards of not less than 1 x 4 inch lumber shall be provided.

(f) *Access to staging.* (1) Access to staging more than 5 feet above a floor, deck or the ground shall consist of well secured stairways, cleated ramps, fixed or portable ladders meeting the applicable requirements of § 1917.42 or rigid type non-collapsible trestles with parallel and level rungs.

(2) Ramps and stairways shall be provided with 36-inch handrails with midrails.

(3) Ladders shall be so located or other means shall be taken so that it is not necessary for employees to step more than one foot from the ladder to any intermediate landing or platform.

(4) Ladders forming integral parts of prefabricated staging are deemed to meet the requirements of these regulations.

(5) Access from above to staging more than 3 feet below the point of access shall consist of a straight, portable ladder meeting the applicable requirements of § 1917.42 or a Jacob's ladder properly secured, meeting the requirements of § 1917.44(d).

§ 1917.42 Ladders.

(a) *General requirements.* (1) The use of ladders with broken or missing rungs or steps, broken or split side rails, or other faulty or defective construction is prohibited. When ladders with such defects are discovered, they shall be immediately withdrawn from service. Inspection of metal ladders shall include checking for corrosion of interiors of open end, hollow rungs.

(2) When sections of ladders are spliced, the ends shall be abutted, and not fewer than 2 cleats shall be securely nailed or bolted to each rail. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the side rail. The dimensions of side rails for their total length shall be those specified in paragraph (b) or (c) of this section.

(3) Portable ladders shall be lashed, blocked or otherwise secured to prevent their being displaced. The side rails of ladders used for access to any level shall extend not less than 36 inches above that level. When this is not practical, grab rails which will provide a secure grip for an employee moving to or from the point of access shall be installed.

(4) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(5) Portable metal ladders shall not be used near electrical conductors nor for electric arc welding operations.

(6) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, A14.1.

(b) *Construction of portable wood cleated ladders up to 30 feet in length.* (1) Wood side rails shall be made from West Coast hemlock, Eastern spruce, Sitka spruce, or wood of equivalent strength. Material shall be seasoned, straight-grained wood, and free from shakes, checks, decay or other defects which will impair its strength. The use of low density woods is prohibited.

(2) Side rails shall be dressed on all sides, and kept free of splinters.

(3) All knots shall be sound and hard. The use of material containing loose knots is prohibited. Knots shall not appear on the narrow face of the rail and, when in the side face, shall be not more than ½ inch in diameter or within ½ inch of the edge of the rail or nearer than 3 inches to a tread or rung.

(4) Pitch pockets not exceeding ⅛ inch in width, 2 inches in length and ½ inch in depth are permissible in wood side rails, provided that not more than one such pocket appears in each 4 feet of length.

(5) The width between side rails at the base shall be not less than 11½ inches for ladders 10 feet or less in length. For longer ladders this width shall be increased at least ¼ inch for each additional 2 feet of length.

(6) Side rails shall be at least 1⅝ x 3⅝ inches in cross section.

(7) Cleats (meaning rungs rectangular in cross section with the wide dimension parallel to the rails) shall be of the material used for side rails, straight-grained and free from knots. Cleats shall be mortised into the edges of the side rails ½ inch, or filler blocks shall be used on the rails between the cleats. The cleats shall be secured to each rail with three 10d common wire nails or fastened with through bolts or other fasteners of equivalent strength. Cleats shall be uniformly spaced not more than 12 inches apart.

(8) Cleats 20 inches or less in length shall be at least $2\frac{5}{32}$ x 3 inches in cross section. Cleats over 20 inches but not more than 30 inches in length shall be at least $2\frac{5}{32}$ x 3¾ inches in cross section.

(c) *Construction of portable wood cleated ladders from 30 to 60 feet in length.* (1) Ladders from 30 to 60 feet in length shall be in accordance with the specifications of paragraph (b) of this section with the following exceptions:

(i) Rails shall be of not less than 2 x 6 inch lumber.

(ii) Cleats shall be of not less than 1 x 4 inch lumber.

(iii) Cleats shall be nailed to each rail with five 10d common wire nails or fastened with through bolts or other fastenings of equivalent strength.

§ 1917.43 [Reserved]

§ 1917.44 Access to vessels.

(a) *Access to vessels afloat.* The employer shall not permit employees to board or leave any vessel, except a barge or river towboat, until the following requirements have been met:

(1) Whenever practicable, a gangway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and safely secured, shall be used. If a gangway is not practicable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping, shall be provided. In an emergency, a Jacob's ladder meeting the requirements of paragraph (d) (1) and (2) of this section may be used.

(2) Each side of such gangway, and the turn table if used, shall have a railing with a minimum height of approximately 33 inches measured perpendicularly from rail to walking surface at the stanchion, with a midrail. Rails shall be of wood, pipe, chain, wire, or rope and shall be kept taut at all times.

(3) The gangway shall be kept properly trimmed at all times.

(4) When a fixed tread accommodation ladder is used, and the angle is low enough to require employees to walk on the edge of the treads, cleated duckboards shall be laid over and secured to the ladder.

(5) When the lower end of a gangway overhangs the water between the ship and the dock in such a manner that there is danger of employees falling between the ship and the dock, a net or other suitable protection shall be rigged at the foot of the gangway in such a manner as to prevent employees from falling from the end of the gangway.

(6) If the foot of the gangway is more than one foot away from the edge of the apron, the space between them shall be bridged by a firm walkway equipped with railings, with a minimum height of approximately 33 inches with midrails on both sides.

(7) Supporting bridles shall be kept clear so as to permit unobstructed passage for employees using the gangway.

(8) When the upper end of the means of access rests on or flush with the top of the bulwark, substantial steps properly secured and equipped with at least one substantial handrail approximately 33 inches in height shall be provided between the top of the bulwark and the deck.

(9) Obstructions shall not be laid on or across the gangway.

(10) The means of access shall be adequately illuminated for its full length.

(11) Loads shall not be passed over the means of access while employees are on it.

(b) *Access to vessels in drydock or between vessels.* Gangways meeting the requirements of paragraph (a) (1), (2), (8), (9) and (10) of this section shall be provided for access from wing wall to vessel or, when two or more vessels, other than barges or river towboats, are lying abreast, from one vessel to another.

(c) *Access to barges and river towboats.* (1) Ramps for access of vehicles to or between barges shall be of adequate strength, provided with side boards, well maintained and properly secured.

(2) Unless employees can step safely to or from the wharf, float, barge, or river towboat, either a ramp in accordance with the requirements of subparagraph (1) of this paragraph or a safe walkway in accordance with the requirements of paragraph (a) (6) of this section shall be provided. When a walkway is impracticable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping, shall be provided. In an emergency, a Jacob's ladder in accordance with the requirements of paragraph (d) of this section may be used.

(3) The means of access shall be in accordance with the requirements of paragraph (a) (8), (9) and (10) of this section.

(d) *Jacob's ladders.* (1) Jacob's ladders shall be of the double rung or flat tread type. They shall be well maintained and properly secured.

(2) A Jacob's ladder shall either hang without slack from its lashings or be pulled up entirely.

§ 1917.45 Access to and guarding of drydocks and marine railways.

(a) A gangway, ramp or permanent stairway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and securely fastened, shall be provided between a floating dry dock and the pier or bulkhead.

(b) Each side of such gangway, ramp or permanent stairway, including those which are used for access to wing walls from dry dock floors, shall have a railing with a midrail. Such railings on gangways or ramps shall be approximately 42 inches in height; and railings on permanent stairways shall be not less than approximately 30 or more than approximately 34 inches in height. Rails shall be of wood, pipe, chain, wire, or rope and shall be kept taut at all times.

(c) Railings meeting the requirements of paragraph (b) of this section shall be provided on the means of access to and from the floors of graving docks.

(d) Railings approximately 42 inches in height, with a midrail, shall be provided on the edges of wing walls of floating dry docks and on the edges of graving docks. Sections of the railings may be temporarily removed where necessary to permit line handling while a vessel is entering the dock.

(e) When employees are working on the floor of a floating dry dock where they are exposed to the hazard of falling into the water, the end of the dry dock

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shall be equipped with portable stanchions and 42-inch railings with a mid rail. When such a railing would be impracticable or ineffective, other effective means shall be provided to prevent men from falling into the water.

(f) Access to wingwalls from floors of dry docks shall be by ramps, permanent stairways or ladders meeting the applicable requirements of § 1917.42.

(g) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of § 1917.41(e) (1) and (2).

§ 1917.46 Access to cargo and confined spaces.

(a) *Cargo spaces.* (1) There shall be at least one safe and accessible ladder in any cargo space which employees must enter.

(2) When any fixed ladder is visibly unsafe, the employer shall prohibit its use by employees.

(3) Straight ladders of adequate strength and suitably secured against shifting or slipping shall be provided as necessary when fixed ladders in cargo spaces do not meet the requirements of subparagraph (1) of this paragraph. In an emergency, a Jacob's ladder meeting the requirements of § 1917.44(d) may be used.

(4) Fixed ladders or straight ladders provided for access to cargo spaces shall not be used at the same time that equipment, materials, scrap or other loads are entering or leaving the hold. Before using these ladders to enter or leave the hold, the employee shall be required to inform the winchman or crane signalman of his intention.

(b) *Confined spaces.* (1) More than one means of access shall be provided to a confined space in which employees are working and in which the work may generate a hazardous atmosphere.

(2) When the ventilating ducts required by these regulations must pass through these means of access, an additional means of access shall be provided.

§ 1917.47 Working surfaces.

(a) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by buoyant work vests meeting the requirements of § 1917.84(a).

Subpart F—General Working Conditions

§ 1917.51 Housekeeping.

(a) All working areas on or immediately surrounding the vessel in a dry dock and graving dock or on a marine railway shall be kept in a reasonable state of order. Scrap, equipment and other materials shall be so piled as not to present a hazard to employees.

(b) Adequate aisles and passageways shall be maintained, as far as practicable, in all work areas, except when impossible due to the nature of the work being performed.

(c) Free access shall be maintained at all times to all exits and to fire-extinguishing equipment.

§ 1917.52 Illumination.

(a) All means of access and walkways leading to working areas as well as the working areas themselves shall be adequately illuminated.

(b) Temporary lights shall meet the following requirements:

(1) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(2) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cables are permitted.

(3) Cords shall be kept clear of working spaces and walkways or other locations in which they are readily exposed to damage.

(c) Exposed non-current-carrying metal parts of temporary lights furnished by the employer shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current. Grounding shall be in accordance with the requirements of § 1917.72(b).

(d) Where temporary lighting from sources outside the vessel is the only means of illumination, portable emergency lighting equipment shall be available to provide illumination for safe movement of employees.

(e) Employees shall not be permitted to enter dark spaces without a suitable portable light. The use of matches and open flame lights is prohibited. In nongas free spaces, portable lights shall meet the requirements of § 1917.12(b).

(f) Temporary lighting stringers or streamers shall be so arranged as to avoid overloading of branch circuits. Each branch circuit shall be equipped with overcurrent protection of capacity not exceeding the rated current carrying capacity of the cord used.

§ 1917.53 Utilities.

(a) *Steam supply and hoses.* (1) Prior to supplying a vessel with steam from a source outside the vessel, the employer shall ascertain the safe working pressure of the vessel's steam system. The employer shall install a pressure gauge and a relief valve of proper size and capacity at the point where the temporary steam hose joins the vessel's steam piping system or systems. The relief valve shall be set and capable of relieving at a pressure not exceeding the safe working pressure of the vessel's system in its present condition, and there shall be no means of isolating the relief valve from the system which it protects. The pressure gauge and relief valve shall be located so as to be visible and readily accessible.

(2) Steam hose fittings shall have a safety factor of not less than five (5).

(3) When steam hose is hung in a bight or bights, the weight shall be relieved by appropriate lines. The hose shall be protected against chafing.

(4) Steam hose shall be protected from damage and hose and temporary piping shall be so shielded where passing through normal work areas as to prevent accidental contact by employees.

(b) *Electric power.* (1) When the vessel is supplied with electric power from a source outside the vessel, the following precautions shall be taken prior to energizing the vessel's circuits:

(i) If in dry dock, the vessel shall be adequately grounded.

(ii) The employer shall ensure that all circuits to be energized are in a safe condition.

(iii) All circuits to be energized shall be equipped with overcurrent protection of capacity not exceeding the rated current carrying capacity of the cord used.

§ 1917.54 Work in confined or isolated spaces.

When any work is performed in a confined space, except as provided in § 1917.31(b)(3), or when an employee is working alone in an isolated location, frequent checks shall be made to ensure the safety of the employees.

§ 1917.55 [Reserved]

§ 1917.56 Work in or on lifeboats.

(a) Before employees are permitted to work in or on a lifeboat, either stowed or in a suspended position, the employer shall ensure that the boat is secured independently of the releasing gear to prevent the boat from falling due to accidental tripping of the releasing gear and movement of the davits or capsizing of a boat in chocks.

(b) Employees shall not be permitted to work on the outboard side of lifeboats stowed on their chocks unless the boats are secured by gripes or otherwise secured to prevent them from swinging outboard.

§ 1917.57 Health and sanitation.

(a) No chemical product, such as a solvent or preservative; no structural material, such as cadmium or zinc coated steel, or plastic material; and no process material, such as welding filler metal; which is a hazardous material within the meaning of § 1917.2(r), shall be used until the employer has ascertained the potential fire, toxic, or reactivity hazards which are likely to be encountered in the handling, application, or utilization of such a material.

(b) In order to ascertain the hazards, as required by paragraph (a) of this section, the employer shall obtain the following items of information which are applicable to a specific product or material to be used:

(1) The name, address, and telephone number of the source of the information specified in this paragraph, preferably those of the manufacturer of the product or material.

(2) The trade name and synonyms for a mixture of chemicals, a basic structural material, or for a process material; and the chemical name and synonyms, chemical family, and formula for a single chemical.

(3) Chemical names of hazardous ingredients, including, but not limited to, those in mixtures, such as those in: (i) Paints, preservatives, and solvents; (ii) alloys, metallic coatings, filler metals and their coatings or core fluxes; and (iii) other liquids, solids, or gases (e.g., abrasive materials).

(4) An indication of the percentage, by weight or volume, which each ingredient of a mixture bears to the whole mixture, and of the threshold limit value of each ingredient, in appropriate units.

(5) Physical data about a single chemical or a mixture of chemicals, including boiling point, in degrees Fahrenheit; vapor pressure, in millimeters of mercury; vapor density of gas or vapor (air =1); solubility in water, in percent by weight; specific gravity of material (water=1); percentage volatile, by volume, at 70° F.; evaporation rate for liquids (either butyl acetate or ether may be taken as 1); and appearance and odor.

(6) Fire and explosion hazard data about a single chemical or a mixture of chemicals, including flash point, in degrees Fahrenheit; flammable limits, in percent by volume in air; suitable extinguishing media or agents; special fire fighting procedures; and unusual fire and explosion hazard information.

(7) Health hazard data, including threshold limit value, in appropriate units, for a single hazardous chemical or for the individual hazardous ingredients of a mixture, as appropriate; effects of overexposure, and emergency and first aid procedures.

(8) Reactivity data, including stability, incompatibility, hazardous decomposition products, and hazardous polymerization.

(9) Procedures to be followed and precautions to be taken in cleaning up and disposing of materials leaked or spilled.

(10) Special protection information, including use of personal protective equipment, such as respirators, eye protection, and protective clothing, and of ventilation, such as local exhaust, general, special, or other types.

(11) Special precautionary information about handling and storing.

(12) Any other general precautionary information.

(c) The pertinent information required by paragraph (b) of this section shall be recorded either on U.S. Department of Labor Form LSB 00S–4, Material Safety Data Sheet, or on an essentially similar form which has been approved by the Occupational Safety and Health Administration. Copies of Form LSB 00S–4 may be obtained at any of the following regional offices of the Occupational Safety and Health Administration:

(1) North Atlantic Region, 341 Ninth Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont).

(2) Middle Atlantic Region, Penn Square Building, Juniper and Filbert Streets, Philadelphia, Pa. 19107 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia).

(3) South Atlantic Region, 1371 Peachtree Street NE., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee).

(4) Great Lakes Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin).

(5) Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

(6) Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

(7) Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington).

A completed form shall be preserved and available for inspection for a period of 3 months from the date of the completion of the job.

(d) The employer shall instruct employees who will be exposed to the hazardous materials as to the nature of the hazards and the means of avoiding them.

(e) The employer shall provide all necessary controls, and the employees shall be protected by suitable personal protective equipment against the hazards identified under paragraph (a) of this section and those hazards for which specific precautions are required in Subparts B and D of this part.

(f) The employer shall provide adequate washing facilities for employees engaged in the various shipbreaking operations where contaminants can, by ingestion or absorption, be detrimental to the health of the employees. The employer shall encourage good personal hygiene practices by informing the employees of the need for removing surface contaminants by thorough washing of hands and face prior to eating or smoking.

(g) The employer shall not permit eating or smoking in the immediate areas where shipbreaking operations produce atmospheric contaminants.

(h) No minor under 18 years of age shall be employed in shipbreaking or related employments.

§ 1917.58 First aid.

(a) Unless a first aid room and a qualified attendant are close at hand and prepared to render first aid to employees on behalf of the employer, the employer shall furnish a first aid kit for each vessel on which work is being performed, except that when work is being performed on more than one small vessel at one pier, only one kit shall be required. The kit, when required, shall be kept close to the vessel and at least one employee, close at hand, shall be qualified to administer first aid to the injured.

(b) The first aid kit shall consist of a weatherproof container with individually sealed packages for each type of item. The contents of such kit shall contain a sufficient quantity of at least the following types of items:

Gauze roller bandages, 1 inch and 2 inch.
Gauze compress bandages, 4 inch.
Adhesive bandages, 1 inch.
Triangular bandage, 40 inch.
Ammonia inhalants and ampules.
Antiseptic applicators or swabs.
Burn dressing.
Eye dressing.
Wire or thin board splints.
Forceps and tourniquet.

(c) The contents of the first aid kit shall be checked before being sent out on each job, and at least weekly on each job, to ensure that the expended items are replaced.

(d) There shall be available for each vessel one Stokes basket stretcher, or equivalent, permanently equipped with bridles for attaching to the hoisting gear, except that no more than two stretchers are required on each job location. A blanket or other liner suitable for transferring patients to and from the stretcher shall be provided. Stretchers shall be kept close to the vessels. This paragraph does not apply where ambulance services which are available are known to carry such stretchers.

Subpart G—Gear and Equipment for Rigging and Materials Handling

§ 1917.61 Inspection.

(a) All gear and equipment provided by the employer for rigging and materials handling shall be inspected before each shift and, when necessary, at intervals during its use to ensure that it is safe. Defective gear shall be removed and repaired or replaced before further use.

(b) The safe working load of gear as specified in §§ 1917.62 and 1917.63 shall not be exceeded.

§ 1917.62 Ropes, chains and slings.

(a) *Manila rope and manila rope slings.* Table G–1 in § 1917.68 shall be used to determine the safe working load of various sizes of manila rope and manila rope slings at various angles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

(b) *Wire rope and wire rope slings.* (1) Tables G–2 through G–5 in § 1917.68 shall be used to determine the safe working loads of various sizes and classifications of improved plow steel wire rope and wire rope slings with various types of terminals. For sizes, classifications and grades not included in these tables, the safe working load recommended by the manufacturer for specific, identifiable products shall be followed, provided that a safety factor of not less than five (5) is maintained.

(2) Protruding ends of strands in splices on slings and bridles shall be covered or blunted.

(3) Where U-bolt wire rope clips are used to form eyes, Table G–6 in § 1917.68 shall be used to determine the number and spacing of clips. The U-bolt shall be

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applied so that the "U" section is in contact with the dead end of the rope.

(4) Wire rope shall not be secured by knots.

(c) *Chains and chain slings.* (1) Tables G–7 and G–8 in § 1917.68 shall be used to determine the working load limit of various sizes of wrought iron and alloy steel chains and chain slings, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products.

(2) All sling chains, including end fastenings, shall be given a visual inspection before being used on the job. A thorough inspection of all chains in use shall be made every 3 months. Each chain shall bear an indication of the month in which it was thoroughly inspected. The thorough inspection shall include inspection for wear, defective welds, deformation and increase in length or stretch.

(3) Interlink wear, not accompanied by stretch in excess of 5 percent, shall be noted and the chain removed from service when maximum allowable wear at any point of link, as indicated in Table G–9 in § 1917–68, has been reached.

(4) Chain slings shall be removed from service when, due to stretch, the increase in length of a measured section exceeds five (5) percent; when a link is bent, twisted or otherwise damaged; or when raised scarfs or defective welds appear.

(5) All repairs to chains shall be made under qualified supervision. Links or portions of the chain found to be defective as described in paragraph (d) of this section shall be replaced by links having proper dimensions and made of material similar to that of the chain. Before repaired chains are returned to service, they shall be proof tested to the proof test load recommended by the manufacturer.

(6) Wrought iron chains in constant use shall be annealed or normalized at intervals not exceeding six months when recommended by the manufacturer. The chain manufacturer shall be consulted for recommended procedures for annealing or normalizing. Alloy chains shall never be annealed.

(7) A load shall not be lifted with a chain having a kink or knot in it. A chain shall not be shortened by bolting, wiring or knotting.

§ 1917.63 Shackles and hooks.

(a) *Shackles.* (1) Table G–10 in § 1917.68 shall be used to determine the safe working loads of various sizes of shackles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

(b) *Hooks.* (1) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employer shall maintain a record of the dates and results of such tests.

(2) Loads shall be applied to the throat of the hook since loading the point overstresses and bends or springs the hook.

(3) Hooks shall be inspected periodically to see that they have not been bent by overloading. Bent or sprung hooks shall not be used.

§ 1917.64 Chain falls and pull-lifts.

(a) Chain falls and pull-lifts shall be clearly marked to show the capacity and the capacity shall not be exceeded.

(b) Chain falls shall be regularly inspected to ensure that they are safe, particular attention being given to the lift chain, pinion, sheaves and hooks for distortion and wear. Pull-lifts shall be regularly inspected to ensure that they are safe, particular attention being given to the ratchet, pawl, chain and hooks for distortion and wear.

(c) Straps, shackles, and the beam or overhead structure to which a chain fall or pull-lift is secured shall be of adequate strength to support the weight of load plus gear. The upper hook shall be moused or otherwise secured against coming free of its support.

(d) Scaffolding shall not be used as a point of attachment for lifting devices, such as tackles, chain falls, and pull-lifts unless the scaffolding is specifically designed for that purpose.

§ 1917.65 Hoisting and hauling equipment.

(a) Derrick and crane certification: (1) Derricks and cranes which are part of, or regularly placed aboard, barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certificated in accordance with the standards provided in Part 1919 of this chapter by persons accredited for that purpose.

(2) Subparagraph (1) of this paragraph shall take effect 180 days after the effective date of this amendment.

(b) The moving parts of hoisting and hauling equipment shall be guarded.

(c) Mobile crawler or truck cranes used on a vessel: (1) The maximum manufacturer's rated safe working loads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. A radius indicator shall be provided.

(2) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(d) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane either permanently or temporarily mounted, shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(e) Marine railways:

(1) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

§ 1917.66 Use of gear.

(a) Loads shall be safely rigged before being hoisted.

(b) When slings are secured to eyebolts, the slings shall be so arranged, using spreaders if necessary, that the pull is within 20 degrees of the axis of the bolt.

(c) Slings shall be padded by means of wood blocks or other suitable material where they pass over sharp edges or corners of loads so as to prevent cutting or kinking.

(d) Skips shall be rigged to be handled by not less than 3 legged bridles, and all legs shall always be used. When open end skips are used, means shall be taken to prevent the contents from falling.

(e) Loose ends of idle legs of slings in use shall be hung on the hook.

(f) Employees shall not be permitted to ride the hook or the load.

(g) Loads (tools, equipment or other materials) shall not be swung or suspended over the heads of employees.

(h) Pieces of equipment or structure susceptible to falling or dislodgement shall be secured or removed as early as possible.

(i) An individual who is familiar with the signal code in use shall be assigned to act as a signalman when the hoist operator cannot see the load being handled. Communications shall be made by means of clear and distinct visual or auditory signals except that verbal signals shall not be permitted.

(j) Pallets, when used, shall be of such material and construction and so maintained as to safely support and carry the loads being handled on them.

(k) Before loads or empty lifting gear are raised, lowered, or swung, clear and sufficient advance warning shall be given to employees in the vicinity of such operations.

(l) At no time shall an employee be permitted to place himself in a hazardous position between a swinging load and a fixed object.

(m) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from being unshipped.

(n) Hatches shall not be opened or closed while employees are in the square of the hatch below.

§ 1917.67 Qualifications of operators.

(a) Only those employees who understand the signs, notices, and operating instructions, and are familiar with the signal code in use, shall be permitted to operate a crane, winch, or other power operated hoisting apparatus.

(b) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailment which may suddenly incapacitate him, shall be permitted to operate a crane, winch or other power operated hoisting apparatus.

§ 1917.68 Tables.

TABLE E-1

SPECIFICATIONS FOR THE CONSTRUCTION OF HORSES

Structural members	Height in feet		
	Up to 10	10 to 16	16 to 20
	Inches	*Inches*	*Inches*
Legs	2 x 4	3 x 4	4 x 6
Bearers or headers	2 x 6	2 x 8	4 x 6
Crossbraces	2 x 4 or 1 x 8	2 x 4	2 x 6
Longitudinal braces	2 x 4	2 x 6	2 x 6

TABLE E-2

SAFE CENTER LOADS FOR SCAFFOLD PLANK OF 1,100 POUNDS FIBRE STRESS

Span in feet	Lumber dimensions in inches									
	A	B	A	B	A	B	A	B	A	B
	2 x 10	1¾ x 9¼	2 x 12	1¾ x 11¼	4 x 8	3½ x 7¼	3 x 10	2½ x 9¼	3 x 12	2½ x 11¼
6	256	309	526	667	807					
8	192	232	395	500	605					
10	153	186	316	400	484					
12	128	155	263	333	404					
14	110	133	225	286	346					
16	-------	116	197	250	303					

(A)—Rough lumber.
(B)—Dressed lumber.

TABLE G-1
MANILA ROPE
(In pounds or tons of 2000 pounds)

Circumference	Diameter in Inches	Single Leg	60°	45°	30°
3/4	1/4	120 lbs.	204 lbs.	170 lbs.	120 lbs.
1	5/16	200	346	282	200
1-1/8	3/8	270	467	380	270
1-1/4	7/16	350	605	493	350
1-3/8	15/32	450	775	635	450
1-1/2	1/2	530	915	798	530
1-3/4	9/16	690	1190	973	690
2	5/8	880	1520	1240	880
2-1/4	3/4	1080	1870	1520	1080
2-1/2	13/16	1300	2250	1830	1300
2-3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
3-1/4	1-1/16	1.0 Tons	1.7 Tons	1.4 Tons	1.0 Tons
3-1/2	1-1/8	1.2	2.1	1.7	1.2
3-3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4-1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-5/8	2.25	3.9	3.2	2.25
5-1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6-1/2	2-1/8	3.6	6.2	5.1	3.6

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TABLE G-2

RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE AND WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4"	.59	.56	.53	.44	.42	.40
3/8"	1.3	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.6	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11.	10.	9.0	8.5	7.8	6.8
6x37 CLASSIFICATION						
1-1/4"	13.	12.	10.	9.9	9.2	7.9
1-3/8"	16.	15.	13.	12.	11.	9.6
1-1/2"	19.	17.	15.	14.	13.	11.
1-3/4"	26.	24.	20.	19.	18.	15.
2"	33.	30.	26.	25.	23.	20.
2-1/4"	41.	38.	33.	31.	29.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-3

RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4"	1.2	1.1	1.0	1.0	.97	.92	.83	.79	.75	.59	.56	.53
3/8"	2.6	2.5	2.3	2.3	2.1	2.0	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	4.6	4.4	3.9	4.0	3.8	3.4	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	7.2	6.8	6.0	6.2	5.9	5.2	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	10.	9.7	8.4	8.9	8.4	7.3	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	14.	13.	11.	12.	11.	9.8	9.8	9.3	7.8	6.9	6.6	5.5
1"	18.	17.	14.	15.	15.	12.	13.	12.	10.	9.0	8.5	7.2
1-1/8"	23.	21.	18.	19.	18.	16.	16.	15.	13.	11.	10.	9.0
6x37 CLASSIFICATION												
1-1/4"	26.	24.	21.	23.	21.	18.	19.	17.	15.	13.	12.	10.
1-3/8"	32.	29.	25.	28.	25.	22.	22.	21.	18.	16.	15.	13.
1-1/2"	38.	33.	30.	33.	30.	26.	27.	25.	21.	19.	17.	15.
1-3/4"	51.	47.	41.	44.	41.	35.	36.	33.	29.	26.	24.	20.
2"	66.	61.	53.	57.	53.	46.	47.	43.	37.	33.	30.	26.
2-1/4"	83.	76.	66.	72.	66.	57.	58.	54.	47.	41.	38.	33.

(A) - Socket or Swaged Terminal Attachment.
(B) - Mechanical Sleeve Attachment.
(C) - Hand Tucked Splice Attachment.

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TABLE G-4

RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4	.55	.51	.49	.41	.38	.37
3/8	1.2	1.1	1.1	.91	.85	.80
1/2	2.1	2.0	1.8	1.6	1.5	1.4
5/8	3.3	3.1	2.8	2.5	2.3	2.1
3/4	4.8	4.4	3.9	3.6	3.3	2.9
7/8	6.4	5.9	5.1	4.8	4.5	3.9
1	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8	10.	9.5	8.4	7.9	7.1	6.3
6x37 CLASSIFICATION						
1-1/4	12.	11.	9.8	9.2	8.3	7.4
1-3/8	15.	13.	12.	11.	10.	8.9
1-1/2	17.	16.	14.	13.	12.	10.
1-3/4	24.	21.	19.	18.	16.	14.
2	31.	28.	25.	23.	21.	18.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-5

RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE SLINGS

(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4	1.1	1.0	.99	.95	.88	.85	.77	.73	.70	.55	.51	.49
3/8	2.4	2.2	2.1	2.1	1.9	1.8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	4.3	3.9	3.7	3.7	3.4	3.2	3.0	2.8	2.6	2.1	2.0	1.8
5/8	6.7	6.2	5.6	5.8	5.3	4.8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	9.5	8.6	7.8	8.2	7.6	6.8	6.7	6.2	5.5	4.8	4.4	3.9
7/8	13.	12.	10.	11.	10.	8.9	9.1	8.4	7.3	6.4	5.9	5.1
1	17.	15.	13.	14.	13.	11.	12.	11.	9.4	8.4	7.7	6.7
1-1/8	21.	19.	17.	18.	16.	14.	15.	13.	12.	10.	9.5	8.4
6x37 CLASSIFICATION												
1-1/4	25.	22.	20.	21.	19.	17.	17.	16.	14.	12.	11.	9.8
1-3/8	30.	27.	24.	26.	23.	20.	21.	19.	17.	15.	13.	12.
1-1/2	35.	32.	28.	30.	27.	24.	25.	22.	20.	17.	15.	14.
1-3/4	48.	43.	38.	41.	37.	33.	34.	30.	27.	24.	21.	19.
2	62.	55.	49.	53.	48.	43.	43.	39.	35.	31.	28.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

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TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter, inches	Number of clips		Minimum spacing, inches
	Drop forged	Other material	
*			
1/2	3	4	3
5/8	3	4	3½
3/4	4	5	4½
7/8	4	5	5¼
1	4	6	6
1 1/8	5	6	6¾
1 1/4	5	7	7½
1 3/8	6	7	8¼
1 1/2	6	8	9

*Three clips shall be used on wire size less than 1/2 inch diameter.

TABLE G-7
WROUGHT IRON CHAIN
(In pounds or tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
* 1/4	1060	1835	1500	1060
* 5/16	1655	2865	2340	1655
3/8	2385	2.1	3370	2385
* 7/16	3250	2.8	2.3	3250
1/2	2.1	3.7	3.0	2.1
* 9/16	2.7	4.6	3.8	2.7
5/8	3.3	5.7	4.7	3.3
3/4	4.8	8.3	6.7	4.8
7/8	6.5	11.2	9.2	6.5
1	8.5	14.7	12.0	8.5
1-1/8	10.0	17.3	14.2	10.0
1-1/4	12.4	21.4	17.5	12.4
1-3/8	15.0	25.9	21.1	15.0
1-1/2	17.8	30.8	25.2	17.8
1-5/8	20.9	36.2	29.5	20.9
1-3/4	24.2	42.0	34.3	24.2
1-7/8	27.6	47.9	39.1	27.6
2	31.6	54.8	44.8	31.6

* These sizes of wrought iron chain are no longer manufactured in the United States.

TABLE G-8
ALLOY STEEL CHAIN
(In tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
1/4	1.62	2.82	2.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.5	27.3	19.8
1-1/8	22.2	38.5	31.5	22.2
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
1-3/4	47.0	81.5	62.0	47.0

TABLE G-9
MAXIMUM ALLOWABLE WEAR AT ANY POINT OF LINK

Chain size in inches	Maximum allowable wear in fraction of inches
1/4 (9/32)	3/64
5/16	5/64
1/2	7/64
5/8	9/64
3/4	5/32
7/8	11/64
1	3/16
1 1/8	7/32
1 1/4	1/4
1 3/8	9/32
1 1/2	5/16
1 3/4	11/32

TABLE G-10
SAFE WORKING LOADS FOR SHACKLES
(In tons of 2,000 pounds)

Material size (inches)	Pin diameter (inches)	Safe working load
1/2	5/8	1.4
5/8	3/4	2.2
3/4	7/8	3.2
7/8	1	4.3
1	1 1/8	5.6
1 1/8	1 1/4	6.7
1 1/4	1 3/8	8.2
1 3/8	1 1/2	10.0
1 1/2	1 5/8	11.9
1 3/4	2	16.2
2	2 1/4	21.2

TABLE I-1
FILTER LENSES FOR PROTECTION AGAINST RADIANT ENERGY

Operation	Shade No.
Soldering	2
Torch Brazing	3 or 4
Light cutting, up to 1 inch	3 or 4
Medium cutting, 1–6 inches	4 or 5
Heavy cutting, over 6 inches	5 or 6
Light gas welding, up to 1/2 inch	4 or 5
Medium gas welding, 1/2–1/2 inch	5 or 6
Heavy gas welding, over 1/2 inch	6 or 8
Shielded Metal-Arc Welding 1/16- to 5/32-inch electrodes	10
Inert-gas Metal-Arc Welding (Nonferrous) 1/16- to 5/32-inch electrodes	11
Inert-gas Metal-Arc Welding (Ferrous) 1/16- to 5/32-inch electrodes	12
Shielded Metal-Arc Welding:	
3/16 to 1/4 inch electrodes	12
5/16 and 3/8 inch electrodes	14
Atomic Hydrogen Welding	10 to 14
Carbon Arc Welding	14

Subpart H—Tools and Related Equipment

§ 1917.71 General precautions.

(a) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of hose or electric cords for this purpose is prohibited.

(b) When air tools of the reciprocating type are not in use, the dies and tools shall be removed.

(c) All portable, power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to the covering position.

(d) The moving parts of machinery on dry docks shall be adequately guarded.

(e) Before use, pneumatic tools shall be secured to the extension hose or whip by some positive means to prevent the tool from becoming accidentally disconnected from the whip.

(f) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(g) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifold or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(h) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

§ 1917.72 Portable electric tools.

(a) The frames of portable electric tools and appliances, except double insulated tools approved by Underwriters Laboratories, shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

(b) Grounding circuits, other than by means of the structure of the vessel on which the tool is being used, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance which is low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(c) Portable electric tools which are held in the hand shall be equipped with switches of a type which must be manually held in the closed position.

(d) Worn or frayed electric cables shall not be used.

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§ 1917.73 Hand tools.

(a) Employers shall not issue or permit the use of unsafe hand tools.

(b) Wrenches, including crescent, pipe, end and socket wrenches, shall not be used when jaws are sprung to the point that slippage occurs.

(c) Impact tools, such as drift pins, wedges, and chisels, shall be kept free of mushroomed heads.

(d) The wooden handles of tools shall be kept free of splinters or cracks and shall be kept tight in the tool.

§ 1917.74 Abrasive wheels.

(a) Floor stand and bench mounted abrasive wheels used for external grinding shall be provided with safety guards (protection hoods). The maximum angular exposure of the grinding wheel periphery and sides shall be not more than 90 degrees, except that when work requires contact with the wheel below the horizontal plane of the spindle, the angular exposure shall not exceed 125 degrees. In either case the exposure shall begin not more than 65 degrees above the horizontal plane of the spindle. Safety guards shall be strong enough to withstand the effect of a bursting wheel.

(b) Floor and bench mounted grinders shall be provided with work rests which are rigidly supported and readily adjustable. Such work rests shall be kept a distance not to exceed ⅛ inch from the surface of the wheel.

(c) Cup type wheels used for external grinding shall be protected by either a revolving cup guard or a band type guard in accordance with the provisions of the United States of America Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1. All other portable abrasive wheels used for external grinding shall be provided with safety guards (protection hoods) meeting the requirements of paragraph (e) of this section, except as follows:

(1) When the work location makes it impossible, in which case a wheel equipped with safety flanges as described in paragraph (f) of this section shall be used.

(2) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(d) Portable abrasive wheels used for internal grinding shall be provided with safety flanges (protection flanges) meeting the requirements of paragraph (f) of this section, except as follows:

(1) When wheels 2 inches or less in diameter which are securely mounted on the end of a steel mandrel are used.

(2) If the wheel is entirely within the work being ground while in use.

(e) When safety guards are required, they shall be so mounted as to maintain proper alignment with the wheel, and the guard and its fastenings shall be of sufficient strength to retain fragments of the wheel in case of accidental breakage. The maximum angular exposure of the grinding wheel periphery and sides shall not exceed 180 degrees.

(f) When safety flanges are required they shall be used only with wheels designed to fit the flanges. Only safety flanges of a type and design and properly assembled so as to ensure that the pieces of the wheel will be retained in case of accidental breakage shall be used.

(g) All abrasive wheels shall be closely inspected and ring tested before mounting to ensure that they are free from cracks or defects.

(h) Grinding wheels shall fit freely on the spindle and shall not be forced on. The spindle nut shall be tightened only enough to hold the wheel in place.

(i) The power supply shall be sufficient to maintain the rated spindle speed under all conditions of normal grinding. The rated maximum speed of the wheel shall not be exceeded.

(j) All employees using abrasive wheels shall be protected by eye protection equipment in accordance with the requirements of § 1917.81 (a) and (b), except when adequate eye protection is afforded by eye shields which are permanently attached to the bench or floor stand.

§ 1917.76 Internal combustion engines, other than ship's equipment.

(a) When internal combustion engines, furnished by the employer are used in a fixed position below decks, for such purposes as driving pumps, generators, and blowers, the exhaust shall be led to the open air, clear of any ventilation intakes and openings through which it might enter the vessel.

(b) All exhaust line joints and connections shall be checked for tightness immediately upon starting the engine, and any leaks shall be corrected at once.

(c) When internal combusion engines on vehicles, such as forklifts and mobile cranes, or on portable equipment such as fans, generators, and pumps exhaust into the atmosphere below decks, the competent person shall make tests of the carbon monoxide content of the atmosphere as frequently as conditions require to ensure that dangerous concentrations do not develop. Employees shall be removed from the compartment involved when the carbon monoxide concentration exceeds 50 parts per million (0.005%). The employer shall use blowers sufficient in size and number and so arranged as to maintain the concentration below this allowable limit before work is resumed.

Subpart I—Personal Protective Equipment

§ 1917.81 Eye protection.

(a) *General precautions.* (1) All eye protection equipment required by the regulations in this part shall meet the specifications prescribed by the American Standard Safety Code for Head, Eye and Respiratory Protection, Z2.1.

(2) Eye protection equipment shall be maintained in good condition.

(3) Eye protection equipment which has previously been used shall be cleaned and disinfected before it is issued by the employer to another employee.

(4) Employees who wear corrective spectacles while engaged in eye hazardous work shall be protected by eye protection equipment of a type which can be worn over personal spectacles, except that glasses with prescription ground safety lenses may be worn in lieu of cover goggles when such glasses provide suitable protection against the hazard involved.

(b) *Protection against impact.* (1) In any operations such as chipping, caulking, drilling, riveting, grinding, and pouring babbitt metal, in which the eye hazard of flying particles, molten metal, or liquid chemical exists, employees shall be protected by suitable face shields or goggles meeting the requirements of paragraph (a) of this section.

(c) *Protection against radiant energy.* (1) In any operation in which the eye hazard of injurious light rays or other radiant energy exists, depending upon the intensity of the radiation to which employees are exposed, they shall be protected by spectacles, cup goggles, helmets, hand shields, or face shields equipped with filter lenses meeting the requirements of paragraphs (a) and (c) (2) of this section.

(2) Filter lenses shall be of a shade number appropriate to the type of work to be performed as indicated in Table I–1 in § 1917.68, except that variations of one or two shade numbers are permissible to suit individual preferences.

(3) If filter lenses are used in the goggles worn under the helmet, the shade number of the lens in the helmet may be reduced so that the sum of the shade numbers of the two lenses will equal the value shown in Table I–1 in § 1917.68.

§ 1917.82 Respiratory protection.

(a) *General.* (1) All respiratory protective equipment required by these regulations shall carry the U.S. Bureau of Mines approval for the use for which it is intended. Respiratory protective equipment shall be used only for the purpose intended and no modifications of the equipment shall be made.

(2) Respiratory protective equipment shall be inspected regularly and maintained in good condition. Gas mask canisters and chemical cartridges shall be replaced as necessary so as to provide complete protection. Mechanical filters shall be cleaned or replaced as necessary so as to avoid undue resistance to breathing.

(3) Respiratory protective equipment which has been previously used shall be cleaned and disinfected before it is issued by the employer to another employee. Emergency rescue equipment shall be cleaned and disinfected immediately after each use.

(4) Employees required to use respiratory protective equipment approved for use in atmospheres immediately dangerous to life shall be thoroughly trained in its use. Employees required to use other types of respiratory protective equipment shall be instructed in the use and limitations of such equipment.

(5) When an air line respirator is used, the air line shall be fitted with a pressure regulating valve and a filter which will remove oil, water, and rust particles. The air intake shall be from a source which is free from all contaminants, such as the exhaust from internal combustion engines.

(6) In all cases, when an employee is stationed outside a compartment, tank or space as a tender or safety man for men working inside in an atmosphere immediately dangerous to life, the tender shall have immediately available for emergency use respiratory protective equipment equivalent to that required for the men in the compartment. When a tender is stationed outside a compartment for men working inside in an atmosphere not immediately dangerous to life, the tender shall wear respiratory protective equipment equivalent to that required for the men in the compartment if he is exposed for prolonged periods to the same concentration of atmospheric contaminants.

(b) *Protection in atmospheres immediately dangerous to life.* (1) Atmospheres immediately dangerous to life are those which contain less than 16.5 percent oxygen, or which by reason of the high toxicity of the contaminant, as in fumigation, or high concentration of the contaminant, as with carbon dioxide, would endanger the life of a person breathing them for even a short period of time.

(2) In atmospheres immediately dangerous to life the only approved types of respiratory protective equipment are the following:

(i) Self-contained breathing apparatus, in which the wearer carries with him a supply of oxygen, air, or an oxygen generating material.

(ii) Hose mask with blower, in which a hand or motor operated blower supplies air at high volume and low pressure through a large diameter hose through which the wearer can draw air in case the blower fails.

(iii) If there is known to be more than 16 percent oxygen and less than 2 percent gas by volume, a gas mask equipped with a canister approved for the particular type gas involved.

NOTE: A gas mask offers absolutely no protection in an atmosphere deficient in oxygen.

(3) Work in atmospheres immediately dangerous to life shall be performed only in an emergency, as when rescuing a man who has been overcome or when shutting off a source of contamination that cannot otherwise be controlled. When an employee enters such an atmosphere he shall be provided with and use an adequate, attended life line.

(4) In the vicinity of each vessel in which there is a danger of employees being exposed to an atmosphere immediately dangerous to life the employer shall have on hand and ready for use respiratory protective equipment approved for such use. When such equipment is required, one or more persons shall be thoroughly trained in the use of the equipment.

(c) *Protection against gaseous contaminants not immediately dangerous to life.* (1) Gaseous contaminants not immediately dangerous to life are gases present in concentrations that could be breathed for a short period without endangering the life of a person breathing them, but which might produce discomfort and possible injury after a prolonged single exposure or repeated short exposures.

(2) When employees are exposed to a gaseous contaminated atmosphere not immediately dangerous to life, they shall be protected by respiratory protective equipment approved for use in the type and concentration of the gaseous contaminant as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator in lower concentrations is permissible.

(ii) In concentrations of ammonia of less than 3 percent or of other gases less than 2 percent, by volume, a canister type gas mask equipped with the proper type of canister. Different canisters are approved for specific use against the following cases or groups of gases: acid gases, hydrocyanic acid gas, chlorine gas, organic vapors, ammonia gas, carbon monoxide, or combination of the above.

(iii) In low concentrations (less than 0.1 percent by volume), a chemical cartridge respirator equipped with the type of cartridge approved for use against the particular gases or groups of gases listed in subdivision (ii) of this subparagraph.

(d) *Protection against particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to unsafe concentrations of particulate contaminants, such as dusts and fumes, mists and fogs or combinations of solids and liquids, they shall be protected by either air line or filter respirators, except as otherwise provided in the regulations of this part.

(2) Filter respirators shall be equipped with the proper type of filter. Different filters are approved for specific protection against groups of contaminants, as follows:

(i) Pneumoconiosis-producing dust and nuisance dust filters which provide respiratory protection against pneumoconiosis-producing dusts, such as aluminum, cellulose, cement, charcoal, coal, coke, flour, gypsum, iron ore, limestone and wood.

(ii) Toxic dust filters which provide respiratory protection against toxic dusts that are not significantly more toxic than lead, such as arsenic, cadmium, chromium, lead, manganese, selenium, vanadium, and their compounds.

(iii) Mist filters which provide respiratory protection against pneumoconiosis-producing mists, chromic acid mists and nuisance mists.

(iv) Fume filters which provide respiratory protection against fumes (solid dispersoids or particulate matter formed by the condensation of vapors, such as those from heated metals and other substances.)

(v) Filters which provide respiratory protection against combinations of two or more of the contaminants described in subdivisions (i) through (iv) of this subparagraph.

(e) *Protection against combinations of gaseous and particulate contaminants not immediately dangerous to life.* (1) When employees are exposed to combinations of gaseous and particulate contaminants not immediately dangerous to life, they shall be protected by respiratory protective equipment approved for use in the type and concentrations of the contaminants, as follows:

(i) In high or unknown concentrations, a hose mask or an air line respirator. The use of either a hose mask or an air line respirator is permissible in lower concentrations.

(ii) In concentrations of gaseous contaminants of less than 2 percent by volume, a canister type gas mask with a combination canister approved for the particular type of gaseous contaminant as specified in paragraph (c) (2) of this section and a filter for the particular type of particulate contaminant as specified in paragraph (d) (1) of this section.

(iii) In low concentrations of gaseous contaminants (less than 0.1 percent by volume) a respirator equipped with the type of cartridge and filter as specified in subdivision (ii) of this subparagraph.

§ 1917.83 Head, foot and body protection.

(a) When employees are working in areas where there is danger of falling objects they shall be protected by protective hats.

(b) Protective hats shall meet the specifications contained in the United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1. Hats without dielectric strength shall not be used where there is the possibility of contact with electric conductors.

(c) Protective hats which have been previously worn shall be cleaned and disinfected before they are issued by the employer to another employee.

(d) The employer shall arrange through means, such as vendors or local stores, or otherwise, to make safety shoes readily available to all employees, and shall encourage their use. Metal toe caps from which the covering has been worn shall be insulated when employees are working on exposed ener-

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gized circuits of the vessel's electrical system.

(e) Employees shall not be permitted to wear excessively greasy clothing when performing hot work operations.

(f) Employees shall be protected by suitable gloves when engaged in operations hazardous to their hands.

§ 1917.84 Life saving equipment.

(a) *Buoyant work vests.* (1) Buoyant work vests shall not meet the requirements of these regulations unless approved by the U.S. Coast Guard.

(2) Prior to each use, buoyant work vests shall be inspected for dry rot, chemical damage, or other defects which may affect their strength and buoyancy. Defective buoyant work vests shall not be used.

(b) *Safety belts and lifelines.* (1) Safety belts shall be equipped with lifelines which in use are secured with a minimum of slack to a fixed structure.

(2) Prior to each use, belts and lifelines shall be inspected for dry rot, chemical damage, or other defects which may affect their strength. Defective belts and lifelines shall not be used.

(3) When employees are working in any location requiring a safety belt and a lifeline, care shall be exercised to insure that the lifeline is not cut, pinched, or led over a sharp edge. In hot work operations or those involving the use of acids, solvents, or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the lifeline continuously attached with a minimum of slack to a fixed structure the attachment point of the lifeline shall be appropriately changed as the work progresses.

(4) When employees are working in any location requiring a safety belt and a life line, as required in subparagraph (1) or (2) of this paragraph, care shall be exercised to ensure that the life line is not cut, pinched or led over a sharp edge. In hot work operations or those involving the use of acids or caustics, the line shall be kept clear to avoid its being burned or weakened. In order to keep the life line continuously attached with a minimum of slack to a fixed structure, the attachment point of the life line shall be appropriately changed as the work progresses.

(c) *Life rings and ladders.* (1) At least three 30-inch Coast Guard approved life rings with lines attached shall be kept in easily visible and readily accessible places in the immediate vicinity of each vessel afloat on which work is being performed.

(2) At least one life ring with a line attached shall be located on each staging float alongside a vessel on which work is being performed.

(3) At least 90 feet of line shall be attached to each life ring. Life rings and lines shall be maintained in good condition.

(4) In the vicinity of each vessel afloat in which work is being performed there shall be at least one portable or permanent ladder of sufficient length to assist employees to reach safety in the event that they fall into the water.

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APPENDIX I—CARGO GEAR REGISTER AND CERTIFICATES

Subject Index for 29 CFR 1918—Longshoring.

AUTHORITY: The provisions of this Part 1918 and Appendix I, issued under sec. 41, 44 Stat. 1444, as amended; 33 U.S.C. 941.

Subpart A—General Provisions

§ 1918.1 Purpose and authority.

(a) The Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424; 33 U.S.C. 901 et seq.) provides compensation for injuries suffered by employees when they are working for private employers within the Federal maritime jurisdiction on the navigable waters of the United States, including dry docks. Public Law 85–742, 72 Stat. 835, approved August 23, 1958, which amends section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (44 Stat. 1444; 33 U.S.C. 941) requires, among other things, that every employer of the aforementioned employees "shall install, furnish, maintain, and use such devices and safeguards with particular reference to equipment used by and working conditions established by such employers as the Secretary may determine by regulation or order to be reasonably necessary to protect the life, health, and safety of such employees, and to render safe such employment and places of employment, and to prevent injury to his employees." It is the purpose of the regulations of this part to carry out the intent of Public Law 85–742.

(b) Pursuant to Public Law 85–742 the regulations of this part do not make determinations with respect to matters under the control of the U.S. Coast Guard within the scope of Title 52 of the Revised Statutes and Acts supplementary or amendatory thereto (46 U.S.C. 1–1388, passim), including, but not restricted to, the master, ship's officers, crew members, design, construction and maintenance of the vessel, its gear and equipment; to matters within the regulatory authority of the U.S. Coast Guard to safeguard vessels, harbors, ports, and waterfront facilities under the provisions of the Espionage Act of June 15, 1917, as amended (40 Stat. 220; 50 U.S.C. 191 et seq.; 22 U.S.C. 401 et seq.) or to matters within the regulatory authority of the U.S. Coast Guard with respect to lights, warning devices, safety equipment and other matters relating to the promotion of safety of lives and property under section 4(e) of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1333).

§ 1918.2 Scope and responsibility.

(a) The responsibility for compliance with the regulations of this part is placed upon "employers" as defined in § 1918.3(c).

(b) It is not the intent of the regulations of this part to place additional responsibilities or duties on owners, operators, agents or masters of vessels unless such persons are acting as employers, nor is it the intent of these regulations to relieve such owners, operators, agents or masters of vessels from responsibilities or duties now placed upon them by law, regulation or custom.

§ 1918.3 Definitions.

(a) The term "shall" indicates provisions which are mandatory.

(b) The term "Secretary" means the Secretary of Labor.

(c) The term "employer" means an employer any of whose employees are employed, in whole or in part, in longshoring operations or related employments, as defined herein within the Federal maritime jurisdiction on the navigable waters of the United States.

(d) The term "employee" means any longshoreman, or other person engaged in longshoring operations or related employments, within the Federal maritime jurisdiction on the navigable waters of the United States, other than the master, ship's officers, crew of the vessel, or any person engaged by the master to load or unload any vessel under 18 net tons.

(e) The term "vessel" includes every description of watercraft or other artificial contrivance used or capable of being used as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

(f) The term "public vessel" means a vessel owned and operated by a government and not regularly employed in merchant service.

(g) For the purposes of §§ 1918.11, 1918.23, 1918.35, 1918.37, 1918.43(f)(2), and 1918.106, the term "barge" means an unpowered, flat bottom, shallow draft vessel including river barges, scows, carfloats, and lighters. For the purposes of these sections the term does not include ship shaped or deep draft barges.

(h) For purposes of §§ 1918.11 and 1918.23, the term "river towboat" means a shallow draft, low freeboard, self propelled vessel designed to tow river barges by pushing ahead. For purposes of these sections the term does not include other towing vessels.

(i) The term "longshoring operations" means the loading, unloading, moving, or handling of cargo, ship's stores, gear, etc., into, in, on; or out of

any vessel on the navigable waters of the United States.

(j) The term "related employments" means any employments performed as an incident to or in conjunction with longshoring operations including, but not restricted to, securing cargo, rigging, and employment as a porter, checker, or watchman.

(k) The term "gangway" means any ramp-like or stair-like means of access provided to enable personnel to board or leave a vessel, including accommodation ladders, gangplanks and brows.

(l) The term "bulling" means the horizontal dragging of cargo across a surface with none of the weight of the cargo supported by the fall.

(m) For the purpose of § 1918.12 the term "ship's cargo handling gear" includes that gear which is a permanent part of the vessel's equipment and which is used for the handling of cargo other than bulk liquids, but does not include gear which is used only for handling or holding hoses, handling ship's stores or handling the gangway, or boom conveyor belt systems for the self-unloading of bulk cargo vessels.

(n) For purposes of the regulations in this part the terms "beam" or "strongback" mean a portable transverse or longitudinal beam which is placed across a hatchway and acts as a bearer to support the hatch covers.

(o) For the purposes of §§ 1918.23(b)(2) and 1918.106(b) the term "Mississippi River System" includes the Mississippi River from the head of navigation to its mouth, and navigable tributaries including the Illinois Waterway, Missouri River, Ohio River, Tennessee River, Allegheny River, Cumberland River, Green River, Kanawha River, Monongahela River, and such others to which barge operations extend.

(p) For the purpose of § 1918.106(b) the term "Gulf Intracoastal Waterway" means the system of that name extending from St. Marks, Fla., to Brownsville and Harlingen, Tex., and including the Pearl River, Tombigbee River, Apalachicola River, Flint River, and such other navigable tributaries to which barge operations extend.

(q) The term "small trimming hatch" means a small hatch or opening, pierced in the 'tween-deck or other intermediate deck of a vessel and intended for the trimming of dry bulk cargoes. It does not refer to the large hatchways through which cargo is normally handled.

(r) For the purpose of § 1918.13 only—

(1) The term "crane" means a mechanical device intended for lifting or lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. A crane may be a fixed or mobile machine.

(2) The term "derrick" means a mechanical device intended for lifting, with or without a boom supported at its head by a topping lift from a mast, fixed A frame, or similar structure. The mast or equivalent member may or may not be supported by guys or braces. The boom, where fitted, may or may not be controlled in the horizontal plane by guys (vangs). The term shall include shear legs.

(3) The term "bulk cargo spout" means a spout, which may or may not be telescopic and may or may not have removable sections, but is suspended over the vessel from some overhead structure by wire rope or other means. Such a spout is often used with a thrower or trimming machine. A grain loading spout is an example of spouts covered by this definition.

(4) The term "bulk cargo sucker" means a pneumatic conveyor which utilizes a spout-like device, which may be adjustable vertically and/or laterally, and which is suspended over a vessel from some overhead structure by wire rope or other means. An example of an installation of this nature is the grain sucker used to discharge grain from barges.

(5) Unless otherwise specifically required, the terms defined in this paragraph shall not include, and the provisions of § 1918.13 shall not apply to, the following equipment:

(i) Small industrial crane trucks as described and illustrated in American National Standards Institute, B56.1, 1959, "Safety Code for Powered Industrial Trucks."

(ii) Huletts.

(iii) Bridge cranes including steeple towers and dock-leg elevators.

(iv) Ore and taconite loading facilities of such type that failure could not cause injury to an employee as defined in paragraph (d) of this section.

(v) Bulk coal loading facilities.

(vi) Vertical pocket conveyors such as banana, sugar, or other similar marine legs.

(s) The term "hazardous cargo" includes:

(1) Any packaged commodity in the "List of explosives and other dangerous articles and combustible liquids" of the "dangerous cargoes" regulations of the U.S. Coast Guard (46 CFR 146.04–5) requiring a label, without regard to the exemptions mentioned at the foot of the list;

(2) Any packaged commodity in the list identified in subparagraph (1) of this paragraph, not requiring a label but classed as a combustible liquid;

(3) Any packaged liquid commodity in the list identified in subparagraph (1) of this paragraph not requiring a label but classed as a hazardous article; or

(4) Any article not properly described by a name in that list but which is properly classified under the definition of those categories of dangerous articles given in 46 CFR 146.03–8 and is included in subparagraph (1), (2), or (3) of this paragraph.

§ 1918.4 Penalty.

As provided in Public Law 85–742, any employer who, willfully, violates or fails or refuses to comply with the provisions of the regulations of this part, and any employer or other person who willfully interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his duties under subsection (c) of section 41 of the Act by refusing to admit the Secretary or his authorized representative to any place, or to permit the inspection or examination of any employment or place of employment, or who willfully hinders or delays the Secretary or his authorized representative in the performance of his duties in the enforcement of the regulations of this part, shall be guilty of an offense, and, upon conviction thereof, shall be punished for each offense by a fine of not less than $100 nor more than $3,000; and in any case where such employer is a corporation, the officer who willfully permits any such violation to occur shall be guilty of an offense, and, upon conviction thereof, shall be punished also for each offense by a fine of not less than $100 nor more than $3,000. The liability under this provision of Public Law 85–742 shall not affect any other liability of the employer under the Longshoreman's and Harbor Workers' Compensation Act.

§ 1918.5 [Reserved]

§ 1918.6 Standards incorporated by reference.

(a) The standards listed below are hereby incorporated by reference in this part:

(1) American National Standard (USAS) Practice for Occupational and Educational Eye and Face Protection, Z87.1 (1968), American National Standards Institute, 1430 Broadway, New York, NY 10018. See Subpart J, § 1504.105(a).

(2) American National Standard Safety Requirements for Industrial Head Protection, Z89.1 (1969), American National Standards Institute, 1430 Broadway, New York, NY 10018. See Subpart J, § 1918.105(a).

(b) Standards which are legally incorporated by reference in this part have the same force and effect as other standards in this part. The locations where these standards may be examined are as follows:

(1) Occupational Safety and Health Administration, U.S. Department of Labor, Railway Labor Building, Washington, DC 20210.

(2) The Regional and Field Offices of the Occupational Safety and Health Administration which are listed in the U.S. Government Organizational Manual.

(c) Any changes in the standards which are incorporated by reference in this part and an official historic file of such changes are available at the offices referred to in paragraph (b) of this section. All questions as to the applicability of such changes should also be referred to these offices.

(d) Copies of the standards incorporated by reference in paragraph (a) of this section may be obtained from the American National Standards Institute at the address indicated therein.

§ 1918.7 Notification of accidents resulting in fatalities or serious injuries.

Within 48 hours after the occurrence of an accident causing the death of an employee or resulting in an employee's admission to a hospital as a bed patient, the employer shall file a copy of Bureau

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of Employees' Compensation Form US—202 (approved by Budget Bureau No. 44–R 887.2) with the Field Safety Consultant of the Occupational Safety and Health Administration serving the area where the accident occurred (in addition to such filing as is required by 20 CFR 31.3) unless prior thereto and as soon after the accident as feasible the employer has given oral or written notice of the accident to the person in charge of such office in sufficient detail to permit the accident to be identified readily.

§ 1918.8 Amendment of this part.

The Secretary may at any time upon his own motion or upon written petition of any interested person setting forth reasonable grounds therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the provisions of this part.

Subpart B—Gangways and Gear Certification

§ 1918.11 Gangways.[1]

The employer shall not permit employees to board or leave any vessel, except a barge or river towboat, until the following requirements have been met:

(a) Whenever practicable, a gangway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and safely secured shall be used. If a gangway is not practicable, a substantial straight ladder, extending at least 36 inches above the upper landing surface, and adequately secured against shifting or slipping shall be provided. When conditions are such that neither a gangway nor straight ladder can be used, a Jacob's ladder meeting the requirements of § 1918.22 may be used.

(b) Each side of such gangway, and the turntable, if used, shall have a railing with a minimum height of 33 inches measured perpendicularly from rail to walking surfaces at the stanchion, with a mid-rail. Rails shall be of wood, pipe, chain, wire or rope and shall be kept taut at all times. Portable stanchions supporting railings shall be so supported or secured as to prevent accidental dislodgment.

(c) Gangways on vessels inspected and certificated by the U.S. Coast Guard are deemed to meet the foregoing requirements, except in cases where the vessels' regular gangway is not being used.

§ 1918.12 Gear certification.[2]

(a) The employer shall not use the vessel's cargo handling gear until he has ascertained that the vessel has a current and valid cargo gear register and certificates which in form and content are in substantial accordance with the recommendations of the International Labor Office, as set forth in Appendix I of this part, and as provided by International Labor Organization Convention No. 32, and which indicates that the cargo gear has been tested, examined and heat treated by or under the supervision of persons or organizations defined as competent to make register entries and issue certificates pursuant to paragraphs (c) and (d) of this section.

(b) Public vessels and vessels holding a valid Certificate of Inspection issued by the U.S. Coast Guard are deemed to meet the requirements of paragraph (a) of this section.

(c) With respect to U.S. vessels not holding a valid Certificate of Inspection issued by the U.S. Coast Guard, persons or organizations competent to make entries in the registers and issue the certificates required by paragraph (a) of this section shall be only those persons currently accredited by the Occupational Safety and Health Administration, U.S. Department of Labor, as provided in Part 1919 of this chapter.

(d) With respect to vessels under foreign registry, persons or organizations competent to make entries in the registers and issue the certificates required by paragraph (a) of this section shall be: (1) those acceptable as such to any foreign nation, (2) those acceptable to the Commandant of the U.S. Coast Guard, or (3) those currently accredited by the Occupational Safety and Health Administration, U.S. Department of Labor, as provided in Part 1919 of this chapter.

§ 1918.13 Certification of shore-based material handling devices.

(a) An employer shall not use in vessel-to-shore, shore-to-vessel, or in vessel-to-vessel cargo handling any crane, derrick, bulk cargo spout, or bulk cargo sucker, as defined in § 1918.3(r), which—

(1) Is not part of a vessel's permanent equipment and is either located ashore or placed aboard a vessel only temporarily; and

(2) Is used to transfer cargo or materials other than bulk liquids directly between the shore and a vessel or between vessels; and

(3) Is so located that its failure could cause injury to an employee, as defined in § 1918.3(d);

until he has ascertained that the device has been certificated as evidenced by current and valid documents attesting to compliance with the requirements specified in paragraph (b) of this section.

(b) The certification required by paragraph (a) of this section must have been performed—

(1) In accordance with the standards of Part 1919 of this chapter, by persons then currently accredited by the Occupational Safety and Health Administration as provided in Part 1919 of this chapter; or

(2) In accordance with standards established and enforced by the State in which the device is located, or by a political subdivision thereof, which have been found by the Assistant Secretary of Labor for Occupational Safety and Health Administration, U.S. Department of Labor, to be compatible with the standards of Part 1919 of this chapter, by persons designated as competent to perform such certification by competent state authority and recognized as such by the Assistant Secretary of Labor for Occupational Safety and Health Administration.

(c) Cranes and derricks shall have been tested as a unit, inspected and/or examined, at the intervals required by, and in accordance with applicable requirements set forth in, paragraph (b) of this section. Appropriate documentation, acceptable for the purpose, shall be available for inspection at the worksite.

(d) Bulk cargo spouts and suckers, together with any portable extensions and rigging or outriggers associated therewith which support them vertically, need not be tested, but shall be subject to an annual examination in accordance with applicable requirements as set forth in paragraph (b) of this section. Certificates attesting to the required examination and acceptable for the purpose shall be available for inspection.

(e) Disassembly and reassembly of equipment, which is necessary for movement from job to job, or which becomes necessary during the normal course of operations as a routine matter, does not nullify existing certification nor require additional certification functions to be carried out.

(f) Where equipment which is certificated in accordance with paragraph (b) of this section is transferred for use in another state, the then current and valid certification shall remain valid until the next survey becomes due.

(g) In the case of seasonal operations, initial certification required by this section may be deferred until the end of the current season. Subsequent annual and/or quadrennial requirements will then become applicable during normally idle periods.

(h) Certification procedures shall not be construed as a substitute for, or cause for elimination of, normal operational inspection and maintenance routine throughout the year, which shall be carried out as usual by operating and maintenance personnel.

§ 1918.14 Container cranes.

The provisions of § 1918.13 requiring certification of certain shore-based material handling devices shall apply to any crane utilized to handle containers in containerized operations between the vessel and the shore.

§ 1918.15 Effective date of §§ 1918.13 and 1918.14.

Sections 1918.13 and 1918.14 shall become effective February 1, 1970.

Subpart C—Means of Access

§ 1918.21 Gangways and other means of access.

(a) The gangway shall be kept properly trimmed at all times.

(b) When a fixed tread accommodation ladder is used, and the angle is low enough to require employees to walk on the edge of the treads, cleated duckboards shall be laid over and secured to the ladder.

(c) When the lower end of a gangway overhangs the water between the ship and the dock in such a manner that there is danger of employees falling between the ship and the dock, a net or other suitable protection shall be rigged at the foot of the gangway in such a manner as to prevent employees from falling from the end of the gangway.

(d) If the foot of the gangway is more than one foot away from the edge of the apron, the space between them shall be bridged by a firm walkway equipped with railings with a minimum height of approximately 33 inches with mid-rails on both sides.

(e) Supporting bridles shall be kept clear so as to permit unobstructed passage for employees using the gangway.

(f) When the upper end of the means of access rests on or is flush with the top of the bulwark, substantial steps, properly secured and equipped with at least one substantial hand rail approximately 33 inches in height shall be provided between the top of the bulwark and the deck.

(g) Obstructions shall not be laid on or across the gangway.

(h) The means of access shall be adequately illuminated for its full length.

(i) Unless the construction of the vessel makes it impossible, the means of access shall be so located that drafts of cargo do not pass over it. In any event loads shall not be passed over the means of access while employees are on it.

§ 1918.22 Jacob's ladders.

(a) Jacob's ladders shall be of the double rung or flat tread type. They shall be well maintained and properly secured.

(b) A Jacob's ladder shall either hang without slack from its lashings or be pulled up entirely.

§ 1918.23 Access to barges and river towboats.

(a) Ramps for access of vehicles to or between barges shall be of adequate strength, provided with side boards, well maintained, and properly secured.

(b) Unless employees can step safely to or from the wharf, float, barge, or river towboat, either a ramp meeting the requirements of paragraph (a) of this section or a safe walkway meeting the requirements of § 1918.21(d) shall be provided. When a walkway is impracticable, a substantial straight ladder, extending at least 36 inches above the upper landing surface and adequately secured against shifting or slipping shall be provided. When conditions are such that neither a walkway nor a straight ladder can be used, a Jacob's ladder meeting the requirements of § 1918.22 may be used: *Provided, however,* That when these requirements cannot reasonably be met, by reason of local conditions, in respect to barges operating on the Mississippi River System, other safe means of access shall be provided.

(c) When a barge, raft or log boom is being worked alongside a larger vessel, a Jacob's ladder meeting the requirements of § 1918.22 shall be provided for each gang working alongside unless other safe means of access are provided.

(d) When longshoring operations are in progress on barges, the barges shall be securely made fast to the vessel, wharf, or dolphins.

§ 1918.24 Bridge plates and ramps.

(a) Bridge or car plates used afloat shall be of adequate strength, equipped with side boards along the space bridged, well maintained, and secured against movement.

(b) Ramps for access of vehicles to or between vessels shall be of adequate strength, provided with side boards, well maintained and properly secured.

§ 1918.25 Ladders.

(a) There shall be at least one safe and accessible ladder for each gang working in a hatch. However, no more than two such ladders are required in any hatch. An adequate means of gaining a handhold shall be provided at or near the head of each vertical fixed ladder in cases where any coaming or other structural features are such that they cannot serve this purpose.

(b) When any fixed ladder is visibly unsafe, the employer shall prohibit its use by employees.

(c) Straight ladders of adequate strength, of sufficient length to extend at least 36 inches above the coaming, and suitably secured against shifting or slipping, shall be provided as necessary when fixed hold ladders do not meet the requirements of paragraph (a) of this section, except that when conditions are such that a straight ladder cannot be used, Jacob's ladders meeting the requirements of § 1918.22 may be used.

(d) When 4 inches of clearance does not exist in back of ladder rungs, the ladder shall be deemed "unsafe" for the purpose of this section.

(e) When necessary to obtain access to or from a stowed deckload or other cargo and no other safe means is available, ladders or steps of adequate strength, and positively secured against shifting or slipping, shall be furnished. Where portable straight ladders are used they shall be of sufficient length to extend at least 36 inches above the upper landing surface. Adequate steps formed by the cargo itself are acceptable when the nature of the cargo and the type of stowage permits. This paragraph shall not apply to the circumstances covered by § 1918.54(f).

(f) Portable straight ladders used by employees for any purpose not otherwise specifically covered by this part shall be of adequate strength and lashed, blocked, or otherwise secured against shifting or slipping.

Subpart D—Working Surfaces

§ 1918.31 Hatch coverings.

(a) No cargo, dunnage, or other material shall be loaded or unloaded by means requiring the services of employees at any partially opened intermediate deck unless either the hatch at that deck is sufficiently covered or an adequate landing area suitable for the prevailing conditions exists: *Provided, however,* That in no event shall such work be done unless the working area available for such employees extends for a distance of 10 feet or more fore and aft and athwartships.

(b) Cargo shall not be landed on or handled over a covered hatch or 'tween-deck unless all beams are in place under the hatch covers.

(c) Missing, broken, split, or poorly fitting hatch covers that would jeopardize the safety of employees shall be reported at once to the officers in charge of the vessel. Pending replacement or repairs by the vessel, work shall not be performed in the section containing the unsafe covers or in adjacent sections unless the flooring is made safe.

(d) When the hatch covers and beams are not of uniform size, they shall be placed only in the hatch, deck, and section in which they fit properly.

(e) Small trimming hatches located in intermediate decks shall be adequately covered or guarded while work is proceeding in the hatch in which they are located, unless they are actually in use.

§ 1918.32 Stowed cargo and temporary landing platforms.

(a) Temporary tables on which loads are to be landed shall be of sufficient size and strength to permit the employees thereon to work in safety.

(b) When an edge of a hatch section or of stowed cargo more than 8 feet high is so exposed that it presents a danger of an employee falling, the edge shall be guarded by a safety net of adequate strength to prevent injury to a falling employee, or by other means providing equal protection under the existing circumstances.

(c) When two gangs are working in the same hatch on different levels, a safety net shall be rigged and securely fastened so as to prevent men or cargo from falling.

§ 1918.33 Deck loads.

(a) Employees shall not be permitted to pass fore and aft over or around deck loads unless there is a safe passage.

(b) Signalmen shall not be permitted to walk over deck loads from rail to coaming unless there is a safe passage. If it is necessary to stand at the outboard or inboard edge of the deckload where less than 24 inches of bulwark, rail, coaming, or other protection exists, any signalman shall be provided with a suitable means of protection against falling from the deck load.

§ 1918.34 Skeleton decks.

No cargo shall be worked on a skeleton deck, mechano deck or other superstructure unless temporary flooring is provided, when necessary, to make a safe working surface.

§ 1918.35 Open hatches.

Open weather deck hatches around which longshoremen must work, which are not protected to a height of 24 inches by coamings, shall be guarded by taut lines at a height of 36 to 42 inches above the deck except on the side on which cargo is being worked. Any portable stanchions or uprights used shall be so supported or secured as to prevent accidental dislodgement; *Provided, however,*

[1] See also § 1918.21.
[2] See also § 1918.51.

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That the requirements of this section shall not be deemed to apply to barges or to Great Lakes type bulk carriers.

§ 1918.36 Weather deck rails.

Removable weather deck rails shall be kept in place except when cargo operations require them to be removed, in which case they shall be replaced as soon as such cargo operations are completed.

§ 1918.37 Barges.

(a) Employees shall not be permitted to walk along the sides of covered lighters or of barges with coamings more than 5 feet high unless there is a 3-foot clear walkway or a grab rail or taut handline is provided.

(b) Employees shall not be permitted to walk or work on the decks of barges to be loaded unless and until the walking or working surfaces have been determined by visual inspection to be sound structurally and maintained properly. If in the course of discharging a barge an unsound deck surface is discovered, work shall be discontinued and shall not be resumed until temporary means to ensure a safe work surface, or to avoid the unsound surface, shall have been taken.

§ 1918.38 Freshly oiled decks.

If decks are wet with fresh paint or oil, the employer shall not permit employees to engage in longshoring operations until necessary walking and working areas have been made safe by the use of suitable non-skid materials.

Subpart E—Opening and Closing Hatches

§ 1918.41 Coaming clearances.

(a) Weather deck: If a deck load of lumber or other smooth sided deck cargo over 5 feet high is stowed within 3 feet of the hatch coaming and employees handling beams and hatch covers are not protected by at least a 24-inch height of the coaming, a taut handline shall be provided along the side of the deckload for their protection. The requirements of § 1918.35(a) are not intended to apply in this situation.

(b) Intermediate deck: (1) Before intermediate deck hatch covers and beams are removed or replaced by employees, there shall be a 3-foot working space between the stowed cargo and the coaming at both sides and at one end of the hatches with athwartship beams, and at both ends of those hatches with fore and aft beams, except that a reasonable tolerance will be permitted in circumstances where adherence to a 3-foot working space would create undue hardship.

(2) The 3-foot clearance required by subparagraph (1) of this paragraph is not required on the covered portion of a partially opened hatch, nor is it required when lower decks have been filled to beam height with cargo of such a nature as to provide a safe surface upon which employees may work.

(3) For purposes of subparagraph (1) of this paragraph, banana or other fitted gratings which are in good condition shall be considered a part of the decking when properly placed within the 3-foot area.

(c) Trunk hatches and other permanent or semi-permanent structures and spare parts: When bulkheads, lockers, reefer compartments or large spare parts are within 3 feet of the coaming, grab rails or taut handlines shall be provided for the protection of employees handling beams and hatch covers.

(d) The provisions of this section regarding coaming clearances do not apply to hatches which are opened by hydraulic or other mechanical means, but in all cases in which the 3-foot clearance does not exist, means shall be taken to prevent stowed cargo which is likely to shift from falling into the hold.

§ 1918.42 Beam and pontoon bridles.

Beam and pontoon bridles shall not be used unless they meet the following requirements:

(a) Bridles shall be long enough to easily reach the holes, rings, or other lifting attachments on the beams and pontoons. The bridles shall be of adequate strength and properly maintained, including covering or blunting of protruding ends in wire rope splices.

(b) Bridles for lifting hatch beams shall be equipped with toggles, shackles, or hooks or other devices of such design that they cannot become accidentally dislodged from the beams with which they are used. Hooks other than those herein described may be used only when they are hooked into the standing part of the bridle. Toggles, when used, shall be at least 1 inch longer than twice the longest diameter of the holes into which they are placed.

(c) Bridles used for lifting pontoons and plugs shall have the number of legs required by the design of the pontoon or plug, and all legs shall be used. Where any use of a bridle requires fewer than the number of legs provided, idle legs shall be hung on the hook or ring, or otherwise prevented from swinging free.

(d) At least two legs of all strongback and pontoon bridles shall be equipped with a substantial fiber rope lanyard at least 8 feet long and in good condition. The bridle end of the lanyard may be of chain or wire.

§ 1918.43 Handling beams and covers.

Only paragraphs (f)(2), (h), and (i) of this section apply to folding, sliding, or hinged metal hatch covers or to those hatch covers handled by cranes carried for that purpose.

(a)(1) When hatch covers or pontoons are stowed on the weather deck abreast of hatches they shall be arranged in stable piles not closer than 3 feet from the hatch coaming and, when on the working side of the deck, not higher than the coaming, unless they are spread one high between coaming and rail with no space between them and with not less than a 24-inch height of hatch coaming maintained.

(2) When, in the case of pontoons, the requirements of subparagraph (1) of this paragraph cannot be met due to the narrowness of the available deck area, pontoons may be stowed more than one high against the coaming, provided that not less than a 24-inch height of hatch coaming is maintained on the working side of the vessel. If pontoons must be stowed closer than 3 feet to and higher than the coaming on the idle side, they shall be secured against movement.

(3) When some, but not all, conventional small weather deck hatch boards or similar covers on seagoing vessels are removed from the beams in a section of a partially opened hatch during cargo handling, cleaning or other operations, those removed shall not be stowed on those left in place within that section.

(b) Beams shall be laid on their sides, or stood on edge close together and lashed: *Provided, however,* That this paragraph shall not apply in cases where beams are of such design that (1) the width of the flange is 50 percent or more of the height of the web and (2) that when a beam is stood upright the flange rests flat on the deck.

(c) Strongbacks, hatch covers and pontoons shall be so placed as not to interfere with a safe walkway from rail to hatch coaming or fore and aft, and so secured that they cannot be tipped over or dragged into hatches or overboard by drafts or gear. Dunnage or other suitable material shall be used under and between tiers of strongbacks and pontoons.

(d) Hatch covers unshipped in an intermediate deck shall be placed at least 3 feet from the coaming or they shall be removed to another deck. Strongbacks unshipped in an intermediate deck shall not be placed closer than 6 inches to the coaming, and if placed closer than 3 feet, they shall be so secured that they cannot be tipped or dragged into a lower compartment. If this is not possible they shall be removed to another deck.

(e) Any beam or pontoon left in place adjacent to a section through which cargo, dunnage, equipment, or any other material is being worked, shall be lashed, locked, or otherwise secured so that it cannot be displaced by accident. All portable, manually handled hatch covers, including those bound together to make a larger cover, shall be removed from any working section.

(f) (1) The roller hatch beam at the edge of the open section of the hatch shall be lashed or pinned back so that it cannot be moved toward the open section.

(2) Rolling, sectional or telescopic hatch covers of barges which open in a fore and aft direction shall be secured against unintentional movement while in the open position.

(g) When a hatch is to be covered, hatch covers or night tents shall be used. Any partial hatch covering, such as alternate hatch covers or strips of dunnage, shall not be covered by a tarpaulin.

(h) Hinged or folding hatch covers normally stowed in an approximately vertical position shall be positively secured when in the upright position.

(i) Hatches shall not be opened or closed while employees are in the square of the hatch below.

Subpart F—Ship's Cargo Handling Gear

§ 1918.51 General requirements.[3]

(a) Neither the safe working load as specified in the cargo gear certification papers, nor any safe working load marked on the booms, shall be exceeded. Any limitations imposed by the certificating authority shall be adhered to.

(b) Any component of cargo handling gear, including tent gantlines and other associated rigging, which is visibly unsafe shall not be used until made safe.

(c) The following limitations shall apply to the use of wire rope as a part of the ship's cargo handling gear:

(1) An eye splice made in any wire rope shall have not less than three full tucks. However, this requirement shall not operate to preclude the use of another form of splice or connection which can be shown to be as efficient and which is not otherwise prohibited;

(2) Except for eye splices in the ends of wires, each wire rope used in hoisting or lowering, in guying derricks, or as a topping lift, preventer, segment of a multipart preventer, or pendant, shall consist of one continuous piece without knot or splice; and

(3) Wire rope shall not be used for the ship's cargo gear if, in any length of 8 diameters, the total number of visible broken wires exceeds 10 percent of the total number of wires or if the rope shows other signs of excessive wear, corrosion or defect.

§ 1918.52 Specific requirements.

Gear which does not comply with the following requirements shall not be used:

(a) *Preventers.* (1) When preventers are used they shall be of sufficient strength for the intended purpose and secured to the head of the boom independent of working guys except when, in the case of cast fittings, the strength of the fitting exceeds the total strength of all lines secured to it. Any tails, fittings, or other means of making the preventers fast on deck shall provide strength equal to that of the preventer itself.

(2) Wire rope clips or knots shall not be used to form eyes in, or to join sections of, preventer guys.

(b) *Stoppers.* (1) When used, chain topping lift stoppers shall be in good condition, equipped with manila tails, and of a length to allow not fewer than three half-hitches in the chain.

(2) When used, chain stoppers shall be shackled or otherwise secured in such a manner that their links are not bent by being passed around fittings. The point of attachment shall be of sufficient strength and so located that the stoppers are reasonably in line with the normal topping lift lead at the time the stopper is applied.

(3) When used, patent stoppers of the clamp type shall be suited to the size of the rope used. Clamps shall be in good condition and free of paint and dirt which would prevent their being drawn tight.

(c) *Falls.* (1) The end of the winch fall shall be secured to the drum by clamps, U-bolts, shackles, or some other equally strong method. Fiber rope fastenings shall not be used.

(2) Winch falls shall not be used with fewer than three turns on the winch drum.

(3) Eyes in the ends of wire rope cargo falls shall not be formed by knots and, in single part falls, shall not be formed by wire rope clips.

(4) When the design of the winch permits, the fall shall be so wound on the drum that the control mechanism moves in the same direction as the load.

(d) *Heel blocks.* (1) When employees are required to work in the bight formed by the heel block, a preventer of at least ¾-inch diameter wire rope, rove reasonably snug and adequately secured, shall be rigged, or equally effective means shall be taken to hold the block and fall in the event that the heel block attachments should fail. Where physical limitations prohibit the fitting of a wire rope preventer of the required size or of other equally effective means, the maximum possible protection shall be provided.

(2) If the heel block is not so rigged as to prevent its falling when not under strain, it shall be secured to prevent alternate raising and dropping of the block: *Provided, however,* That this requirement shall not apply when the heel block is so located as to be at least 10 feet above the deck when at its lowest point.

(e) *Coaming rollers.* When used, portable coaming rollers, whether provided by the ship or by the employer, shall be secured by wire preventers in addition to the regular coaming clamps.

(f) *Cargo hooks.* Cargo hooks shall be as close to the junction of the falls as the assembly permits, but in no case farther than two feet from it, except that this provision shall not apply when the construction of the vessel and the operation in progress are such that fall angles in excess of 120 degrees do not normally occur. Overhaul chains shall not be shortened by bolting or knotting.

§ 1918.53 Cargo winches.

(a) *General.* (1) When moving parts of winches or other deck machinery present a hazard, they shall be guarded.

(2) Winches shall not be used if control levers operate with excessive friction or excessive play.

(3) Double gear winches or other winches equipped with a clutch shall not be used unless a positive means of locking the gear shift is provided.

(4) When changing gears on a two gear winch, there shall be no load other than the fall and cargo hook assembly on the winch.

(5) Any defect or malfunction of winches shall be reported immediately to the officer in charge of the vessel.

(6) Temporary seats and shelters for winch drivers which create a hazard to the winchmen or other employees shall not be used.

(7) Except for short handles on wheel type controls, winch drivers shall not be permitted to use winch control extension levers unless they are provided by either the ship or the employer. Such levers shall be of adequate strength and securely fastened with metal connections at the fulcrum and at the permanent control lever.

(b) *Steam winches.* (1) Means shall be taken to prevent escaping steam from obscuring any part of the decks or other work places or from otherwise hindering or injuring any employee.

(2) Access shall be maintained to the steam valve between each winch and the deck steam line. If this valve is not operative with normal hand pressure, the winch shall not be used.

(3) Extension control levers which tend to fall of their own weight shall be counterbalanced.

(4) When winches are left unattended, control levers shall be secured in the neutral position.

(c) *Electrical winches.* (1) When the electromagnetic or other service brake is unable to hold the load, the winch shall not be used.

(2) Winches shall not be used when one or more control points, either hoisting or lowering, is not operating properly. Employees shall not be permitted to tamper with or adjust electric control circuits.

(3) When winches are left unattended, control levers shall be placed in the neutral position and, whenever possible, the power shall be shut off or control levers locked at the winch or the operating controls.

§ 1918.54 Rigging gear.

(a) When alternate positions for securing guys are provided, the guys shall be so placed as to produce a minimum stress without permitting the boom to jackknife.

(b) The head of the midship boom shall be spotted no farther outboard of the coaming than is necessary for control of the load.

(c) Preventers: When preventers are used, the following shall apply:

(1) Preventers shall be properly secured to suitable fittings, other than those to which the guys are secured, and shall be as nearly parallel to the guys as available fittings permit.

(2) Unless the cleat is also a chock and the hauling part is led through the chock opening, the leads of preventers to cleats shall be such that the direction of the line pull of the preventer is as nearly as possible parallel to the plane of the surface on which the cleat is mounted.

(3) Guys and associated preventers shall be adjusted so as to share the load as nearly equally as practicable where cargo operations are being conducted by burtoning; *Provided, however,* That where guys are designed and intended for trimming purposes only and the preventer is intended to perform the function of the guy, the guy shall be left slack.

(d) Cargo falls under load shall not be permitted to chafe on any standing

[3] See also § 1918.12.

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or other running rigging: *Provided, however,* That this shall not be construed to mean hatch coamings or other similar structural parts of the vessel.

(e)(1) Where a bull wire is taken to a gypsy head for the purpose of lowering or topping a boom, the bull wire shall be secured to the gypsy head by shackle or other equally strong method. Securing by fiber rope fastening will not be considered adequate.

(2) When, in lowering or topping a boom, it is not possible to secure the bull wire to the gypsy head, or when the topping lift itself is taken to the gypsy head, sufficient turns, in no case less than five (5), shall be used.

(f) When deck loads extend above the rail and there is less than 8 inches horizontal clearance between the edge of the deck load and the inside of the bulwark or rail, employees shall not be permitted to go overside unless adequate precautions are taken to prevent them from falling.

§ 1918.55 Cranes.

Unless permanently guarded, the accessible areas within the swing radius of the outermost part of the body of a revolving crane shall be temporarily guarded by ropes or other suitable means during cargo operations, so as to prevent an employee being in a position to be caught between the body of the crane and fixed parts of the vessel or of the crane itself.

Subpart G—Cargo Handling Gear and Equipment Other Than Ship's Gear

§ 1918.61 General.

(a) All gear and equipment provided by the employer shall be inspected by the employer or his authorized representative before each use and, when necessary, at intervals during its use, to ensure that it is safe. Any gear which is found upon such inspection to be visibly unsafe shall not be used until it is made safe.

(b) All special stevedoring gear provided by the employer, the strength of which depends upon components other than commonly used stock items such as shackles, ropes or chains, shall be tested as a unit in the following manner before initially being put into use:

(1) Gear intended to handle lifts up to and including 20 short tons (40,000 lbs.) shall be tested to 25 percent in excess of its safe working load.

(2) Gear intended to handle lifts over 20 short tons (40,000 lbs.) but not exceeding 50 short tons (100,000 lbs.) shall be tested to 5 short tons (10,000 lbs.) in excess of its safe working load.

(3) Gear intended to handle lifts over 50 short tons (100,000 lbs.) shall be tested to 10 percent in excess of its safe working load.

(4) The employer shall maintain a record of the dates and results of the tests with each unit of gear concerned clearly identifiable. The records shall be available for examination by representatives of the Occupational Safety and Health Administration.

(c) The safe working load of gear as specified in §§ 1918.61 through 1918.66 shall not be exceeded.

(d) The weight shall be plainly marked on any article of stevedoring gear hoisted by ship's gear and weighing in excess of 2,000 lbs.

§ 1918.62 Fiber rope and fiber rope slings.

(a) Table G-1 shall be used to determine the safe working load of various sizes of manila rope and rope slings at various angles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

(b) Where synthetic fiber ropes are substituted for manila ropes of less than three (3) inches circumference, the substitute shall be of equal size. Where synthetic fiber ropes are substituted for manila ropes of three (3) inches circumference or more, the size of the synthetic rope is to be determined from the formula:

$$C=\sqrt{0.6C_s^2+0.4C_m^2}.$$

Where C = the required circumference of the synthetic rope in inches.

C_s = the circumference to the nearest one-quarter inch of a synthetic rope having a breaking strength not less than the breaking strength of the size manila rope that would be required by paragraph (a) of this section.

C_m = the circumference of manila rope in inches which would be required by paragraph (a) of this section.

TABLE G-1
MANILA ROPE
(In pounds or tons of 2000 pounds)

Circumference	Diameter in Inches	Single Leg	60°	45°	30°
3/4	1/4	120 lbs.	204 lbs.	170 lbs.	120 lbs.
1	5/16	200	346	282	200
1-1/8	3/8	270	467	380	270
1-1/4	7/16	350	605	493	350
1-3/8	15/32	450	775	635	450
1-1/2	1/2	530	915	798	530
1-3/4	9/16	690	1190	973	690
2	5/8	880	1520	1240	880
2-1/4	3/4	1080	1870	1520	1080
2-1/2	13/16	1300	2250	1830	1300
2-3/4	7/8	1540	2660	2170	1540
3	1	1800	3120	2540	1800
3-1/4	1-1/16	1.0 Tons	1.7 Tons	1.4 Tons	1.0 Tons
3-1/2	1-1/8	1.2	2.1	1.7	1.2
3-3/4	1-1/4	1.35	2.3	1.9	1.35
4	1-5/16	1.5	2.6	2.1	1.5
4-1/2	1-1/2	1.8	3.1	2.5	1.8
5	1-5/8	2.25	3.9	3.2	2.25
5-1/2	1-3/4	2.6	4.5	3.7	2.6
6	2	3.1	5.4	4.4	3.1
6-1/2	2-1/8	3.6	6.2	5.1	3.6

In making such a substitution it should be ascertained that the inherent characteristics of the synthetic fiber are suitable for the intended service of the rope.

§ 1918.63 Wire rope and wire rope slings.

(a) Tables G-2 through G-5 shall be used to determine the safe working loads of various sizes and classifications of improved plow steel wire rope and wire rope slings with various types of terminals. For sizes, classifications and grades not included in these tables the safe working load recommended by the manufacturer for specific, identifiable products shall be followed, provided that a safety factor of not less than five (5) is maintained.

TABLE G-2
RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE AND WIRE ROPE SLINGS
(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4"	.59	.56	.53	.44	.42	.40
3/8"	1.3	1.2	1.1	.98	.93	.86
1/2"	2.3	2.2	2.0	1.7	1.6	1.5
5/8"	3.6	3.4	3.0	2.7	2.5	2.2
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11.	10.	9.0	8.5	7.8	6.8
6x37 CLASSIFICATION						
1-1/4"	13.	12.	10.	9.9	9.2	7.9
1-3/8"	16.	15.	13.	12.	11.	9.6
1-1/2"	19.	17.	15.	14.	13.	11.
1-3/4"	26.	24.	20.	19.	18.	15.
2"	33.	30.	26.	25.	23.	20.
2-1/4"	41.	38.	33.	31.	29.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-3.
RATED CAPACITIES FOR IMPROVED PLOW STEEL, INDEPENDENT WIRE ROPE CORE, WIRE ROPE SLINGS
(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4"	1.2	1.1	1.0	1.0	.97	.92	.83	.79	.75	.59	.56	.53
3/8"	2.6	2.5	2.3	2.3	2.1	2.0	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	4.6	4.4	3.9	4.0	3.8	3.4	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	7.2	6.8	6.0	6.2	5.9	5.2	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	10.	9.7	8.4	8.9	8.4	7.3	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	14.	13.	11.	12.	11.	9.6	9.8	9.3	7.8	6.8	6.6	5.5
1"	18.	17.	14.	15.	15.	12.	13.	12.	10.	9.0	8.5	7.2
1-1/8"	23.	21.	18.	19.	18.	16.	16.	15.	13.	11.	10.	9.0
6x37 CLASSIFICATION												
1-1/4"	26.	24.	21.	23.	21.	18.	19.	17.	15.	13.	12.	10.
1-3/8"	32.	29.	25.	28.	25.	22.	22.	21.	18.	16.	16.	12.
1-1/2"	38.	35.	30.	33.	30.	26.	27.	25.	21.	19.	17.	15.
1-3/4"	51.	47.	41.	44.	41.	35.	36.	33.	29.	26.	24.	20.
2"	66.	61.	53.	57.	53.	46.	47.	43.	37.	33.	30.	26.
2-1/4"	83.	76.	66.	72.	66.	57.	58.	54.	47.	41.	38.	33.

(A) - Socket or Swaged Terminal Attachment.
(B) - Mechanical Sleeve Attachment.
(C) - Hand Tucked Splice Attachment.

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TABLE G-4
RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS
(In tons of 2000 pounds)

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
6x19 CLASSIFICATION						
1/4	.55	.51	.49	.41	.38	.37
3/8	1.2	1.1	1.1	.91	.85	.80
1/2	2.1	2.0	1.8	1.6	1.5	1.4
5/8	3.3	3.1	2.8	2.5	2.3	2.1
3/4	4.8	4.4	3.9	3.6	3.3	2.9
7/8	6.4	5.9	5.1	4.8	4.5	3.9
1	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8	10.	9.5	8.4	7.9	7.1	6.3
6x37 CLASSIFICATION						
1-1/4	12.	11.	9.8	9.2	8.3	7.4
1-3/8	15.	13.	12.	11.	10.	8.9
1-1/2	17.	16.	14.	13.	12.	10.
1-3/4	24.	21.	19.	18.	16.	14.
2	31.	28.	25.	23.	21.	18.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

TABLE G-5
RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE SLINGS
(In tons of 2000 pounds)

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH											
	Vertical			60°			45°			30°		
	A	B	C	A	B	C	A	B	C	A	B	C
6x19 CLASSIFICATION												
1/4	1.1	1.0	.99	.95	.88	.85	.77	.72	.70	.55	.51	.49
3/8	2.4	2.2	2.1	2.1	1.9	1.8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	4.3	3.9	3.7	3.7	3.4	3.2	3.0	2.8	2.6	2.1	2.0	1.8
5/8	6.7	6.2	5.6	5.8	5.3	4.8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	9.5	8.8	7.8	8.2	7.6	6.8	6.7	6.2	5.5	4.8	4.4	3.9
7/8	13.	12.	10.	11.	10.	9.0	9.1	8.4	7.3	6.4	5.9	5.1
1	17.	15.	13.	14.	13.	11.	12.	11.	9.4	8.4	7.7	6.7
1-1/8	21.	19.	17.	18.	16.	14.	15.	13.	12.	10.	9.5	8.4
6x37 CLASSIFICATION												
1-1/4	25.	22.	20.	21.	19.	17.	17.	16.	14.	12.	11.	9.8
1-3/8	30.	27.	24.	26.	23.	20.	21.	19.	17.	15.	13.	12.
1-1/2	35.	32.	28.	30.	27.	24.	25.	22.	20.	17.	16.	14.
1-3/4	48.	43.	38.	41.	37.	33.	34.	30.	27.	24.	21.	19.
2	62.	55.	49.	53.	48.	43.	43.	39.	35.	31.	28.	25.

(A) - Socket or Swaged Terminal attachment.
(B) - Mechanical Sleeve attachment.
(C) - Hand Tucked Splice attachment.

(b) Protruding ends of strands in splices on slings and bridles shall be covered or blunted.

(c) Where "U" bolt wire rope clips are used to form eyes, Table G-6 shall be used to determine the number and spacing of clips. The "U" bolt shall be applied so that the "U" section is in contact with the dead end of the rope.

(d) Wire rope shall not be secured by knots, except on haul back lines on scrapers.

(e) The following limitations shall apply to the use of wire rope:

(1) An eye splice made in any wire rope shall have not less than three full tucks. However, this requirement shall not operate to preclude the use of another form of splice or connection which can be shown to be as efficient and which is not otherwise prohibited.

(2) Except for eye splices in the ends of wires and for endless rope slings, each wire rope used in hoisting or lowering, or in bulling cargo, shall consist of one continuous piece without knot or splice.

(3) Eyes in wire rope bridles, slings, or bull wires shall not be formed by wire rope clips or knots.

(4) Wire rope shall not be used as cargo handling gear if, in any length of eight diameters, the total number of visible broken wires exceeds 10 percent of the total number of wires or if the rope shows other signs of excessive wear, corrosion or defect.

TABLE G-6—NUMBER AND SPACING OF U-BOLT WIRE ROPE CLIPS

Improved plow steel, rope diameter inches	Number of clips		Minimum spacing (inches)
	Drop forged	Other material	
1/4	3	4	3
5/16	3	4	3¼
3/8	4	5	4½
7/16	4	5	5¼
1/2	4	6	6
9/16	5	6	6¼
5/8	5	7	7½
3/4	6	7	8¼
1 1/2	6	8	9

§ 1918.64 Chains and chain slings.

(a) Tables G-7 and G-8 shall be used to determine the maximum safe working loads of various sizes of wrought iron and alloy steel chains and chain slings, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products. Proof coil steel chain, also known as common or hardware chain, or other chain not recommended for slinging or hoisting by the manufacturer, shall not be used for hoisting purposes.

TABLE G-7
WROUGHT IRON CHAIN
(In pounds or tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
* 1/4	1060	1835	1500	1060
* 5/16	1655	2865	2340	1655
3/8	2385	2.1	3370	2385
* 7/16	3250	2.8	2.3	3250
1/2	2.1	3.7	3.0	2.1
* 9/16	2.7	4.6	3.8	2.7
5/8	3.3	5.7	4.7	3.3
3/4	4.8	8.3	6.7	4.8
7/8	6.5	11.2	9.2	6.5
1	8.5	14.7	12.0	8.5
1-1/8	10.0	17.3	14.2	10.0
1-1/4	12.4	21.4	17.5	12.4
1-3/8	15.0	25.9	21.1	15.0
1-1/2	17.8	30.8	25.2	17.8
1-5/8	20.9	36.2	29.5	20.9
1-3/4	24.2	42.0	34.3	24.2
1-7/8	27.6	47.9	39.1	27.6
2	31.6	54.8	44.8	31.6

* These sizes of wrought iron chain are no longer manufactured in the United States.

TABLE G-8
ALLOY STEEL CHAIN
(In tons of 2000 pounds)

Nominal Size Chain Stock Inch.	Single Leg	60°	45°	30°
1/4	1.62	2.82	2.27	1.62
3/8	3.30	5.70	4.65	3.30
1/2	5.62	9.75	7.90	5.62
5/8	8.25	14.25	11.65	8.25
3/4	11.5	19.9	16.2	11.5
7/8	14.3	24.9	20.3	14.3
1	19.3	33.5	27.3	19.8
1-1/8	22.2	38.5	31.5	22.2
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
1-3/4	47.9	81.5	82.0	47.0

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(b) All sling chains, including end fastenings, shall be given a visual inspection before being used on the job. A thorough inspection of all chains in use shall be made every 3 months. Each chain shall bear an indication of the month in which it was thoroughly inspected. The thorough inspection shall include inspection for wear, defective welds, deformation and increase in length or stretch.

(c) Interlink wear, not accompanied by stretch in excess of five (5) percent, shall be noted and the chain removed from service when maximum allowable wear at any point of link, as indicated in Table G–9, has been reached.

(d) Chain slings shall be removed from service when, due to stretch, the increase in length of a measured section exceeds five (5) percent; when a link is bent, twisted or otherwise damaged; or when raised scarfs or defective welds appear.

(e) All repairs to chains shall be made under qualified supervision. Links or portions of the chain found to be defective, as described in paragraph (d) of this section, shall be replaced by links having proper dimensions and made of material similar to that of the chain. Before repaired chains are returned to service, they shall be proof tested to the proof test load recommended by the manufacturer.

(f) Wrought iron chains in constant use shall be annealed or normalized at intervals not exceeding 6 months when recommended by the manufacturer. The chain manufacturer shall be consulted for recommended procedures for annealing or normalizing. Alloy chains shall not be annealed.

TABLE G–9

MAXIMUM ALLOWABLE WEAR AT ANY POINT OF LINK

Chain size in inches	*Maximum allowable wear in fraction of inches*
¼ (9/32)	3/64
5/16	5/64
⅜	7/64
½	9/64
9/16	5/32
¾	11/64
⅞	3/16
1	7/32
1⅛	1/4
1¼	9/32
1⅜	5/16
1½	11/32
1¾	3/8

(g) A load shall not be lifted with a chain having a kink or knot in it. A chain shall not be shortened by bolting, wiring or knotting.

§ 1918.65 Shackles.

(a) Table G–10 shall be used to determine the safe working loads of various sizes of shackles, except that higher safe working loads are permissible when recommended by the manufacturer for specific, identifiable products, provided that a safety factor of not less than five (5) is maintained.

TABLE G–10

SAFE WORKING LOADS FOR SHACKLES

[In tons of 2000 pounds]

Material size (inches)	Pin diameter (inches)	Safe working load
½	5/8	1.4
5/8	3/4	2.2
¾	7/8	3.2
⅞	1	4.3
1	1 1/8	5.6
1 1/8	1 1/4	6.7
1 1/4	1 3/8	8.2
1 3/8	1 1/2	10.0
1 1/2	1 5/8	11.9
1 5/8	2	16.2
1 3/4	2 1/4	21.2
2		

(b) Screw pin shackles provided by the employer and used aloft, except in cargo hook assemblies, shall have their pins moused.

§ 1918.66 Hooks other than hand hooks.

(a) The manufacturer's recommendations shall be followed in determining the safe working loads of the various sizes and types of specific and identifiable hooks. All hooks for which no applicable manufacturer's recommendations are available shall be tested to twice the intended safe working load before they are initially put into use. The employers shall maintain a record of the dates and results of such tests.

(b) Loads shall be applied to the throat of the hook since loading the point overstresses and bends or springs the hook.

(c) Hooks shall be inspected periodically to see that they have not been bent by overloading. Bent or sprung hooks shall not be used.

(d) Teeth of case hooks shall be kept in good condition.

(e) Jaws of patent clamp type plate hooks shall be kept in safe condition so that they will grip plates securely.

§ 1918.67 Pallets.

(a) Pallets shall be of such material and construction and so maintained as to safely support and carry loads being handled on them. Fastenings of reusable pallets shall be bolts and nuts, drive screws (helically threaded nails), annular threaded nails or fastenings of equivalent strength.

(b) Wing or lip type pallets hoisted by means of bar bridles shall have an overhanging wing or lip at least 3 inches long.

(c) Loaded pallets which on visual examination do not meet the requirements of this section, shall be placed on pallets meeting the requirements before being hoisted into or out of the vessel.

(d) Bridles used to handle flush end or box type pallets shall be of such a design as to prevent them from becoming disengaged from the pallet under load.

§ 1918.68 Chutes, gravity conveyors and rollers.

(a) Chutes used in the manual handling of cargo shall be of adequate length and strength for the use to which they are put and shall be kept free of splinters and sharp edges.

(b) Chutes shall be equipped with sideboards of sufficient height to prevent cargo from falling off.

(c) Chutes and gravity roller sections shall be firmly placed or secured to prevent displacement.

(d) Gravity rollers shall be of sufficient strength for the weight of material which is placed upon them. Rollers shall be locked in position to prevent them from falling or jumping out of the frame.

(e) Frames shall be kept free of burrs and sharp edges.

(f) When necessary for safe operation, provision shall be made for braking objects at the delivery end of the roller or chute.

§ 1918.69 Powered conveyors.

(a) Readily accessible stop controls shall be provided for use in an emergency. Whenever the operation of any power conveyor requires personnel to work in the immediate vicinity of the conveyor, the conveyor controls shall not be left unattended while the conveyor is in operation.

(b) Electric motors and controls on grain trimmers shall be of the explosion-proof type approved by the Underwriters' Laboratories, Incorporated, for use in hazardous locations, Class II, Group G.

(c) All conveyor and trimmer drives which create a hazard shall be adequately guarded.

(d) Each grain trimmer shall have a control box located on the weather deck in close proximity to the spout feeding the trimmer.

(e) Power cables between the deck control box and the grain trimmer shall be used only in continuous lengths without splice or tap between connections.

§ 1918.70 Portable stowing winches.

(a) Portable stowing winches shall be used only with the knowledge and consent of the officer in charge of the vessel.

(b) Portable stowing winches used in connection with operations shall at all times be properly secured to prevent shifting.

(c) When internal combustion powered stowing winches are located below the weather deck or in other enclosed spaces, the exhaust shall be led topside to open air and away from the hatch opening.

§ 1918.71 Rain tents.

When using rain tents, lanyards shall be secured to padeyes or other fixed structures of the vessel which are strong enough or to objects which are heavy enough to withstand the breaking stress of all lanyards attached.

§ 1918.72 Tools.

(a) *General.* Employers shall not issue or permit the use of visibly unsafe tools.

(b) *Portable electric tools.* (1) Portable electric tools which are held in the hand shall be equipped with switches

of a type which must be manually held in a closed position.

(2) All portable, power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to the covering position.

§ 1918.73 Mechanically-powered vehicles used aboard vessels.

(a) All automotive equipment shall be maintained in good working order and safety devices shall not be removed or made inoperative, except as otherwise provided.

(b) Overhead guards for fork lift trucks:

(1) Except as noted in subparagraph (5) of this paragraph, fork lift trucks shall be equipped with overhead guards securely attached to the machines. The guards shall be of such design and construction as to protect the operator from boxes, cartons, packages, bagged material, and other similar individual items of cargo which may fall from the load being handled or from stowage.

(2) The guard shall be of such construction that it does not interfere with good visibility, but openings in the top of the guard must not exceed six inches in one of the two dimensions, width or length. Larger openings may be permitted provided no opening is larger than the smallest unit of cargo that is likely to fall on the guard.

(3) The guard shall be large enough to extend over the operator in all normal circumstances of truck operation, including forward tilt.

(4) In fork lift trucks equipped with a single tilt cylinder, provision shall be made so that failure of this cylinder or associated parts will not cause the overhead guard to injure the operator.

(5) The overhead guard may be removed only at times when the construction of the truck is such that the presence of such a guard would prevent the truck from entering working spaces, and if the operator cannot be injured by low overhead obstructions.

(c) Guards for bulk cargo-moving vehicles:

(1) Every crawler type, rider operated, bulk cargo-moving vehicle shall be equipped with an operator's guard of such design and construction as to protect the operator, when seated, against injury from contact with a projecting overhead.

(2) Guards and their attachment points shall be so designed as to be able to withstand, without excessive deflection, a load applied horizontally at the operator's shoulder level equal to the drawbar pull of the machine.

(3) Guards shall not be required when the vehicle is used in situations in which the possibility of the seated operator coming in contact with projecting overheads does not exist.

(d) End platform guards:

(1) Every truck operated from an end platform or pedal position shall be equipped with an operator's platform guard of such design that it permits rapid and unobstructed egress.

(2) Guards shall be so designed as to be able to withstand, without excessive deflection, a load equal to the weight of the loaded machine.

(e) Forks, fork extensions or other attachments shall be suitably secured to prevent unintentional disengagement.

(f) Weights and loads:

(1) The vehicle weight, with and without removable counterweights, shall be clearly posted on all mechanically-powered vehicles which are lifted aboard vessels.

(2) The rated capacity of every fork lift truck, with and without removable counterweights, shall be posted on the vehicle in such a manner as to be readily visible to the operator.

(3) Loads in excess of the rated capacity shall not be lifted or carried by lift trucks.

(4) If loads are lifted by two or more trucks working in unison, the total weight shall not exceed the combined safe lifting capacity of all the trucks.

(g)(1) Steering knobs, when furnished on vehicles where the driver is not in a sitting position, shall be of a mushroom type unless the steering mechanism is of a type that prevents road reactions from causing the steering handwheel to spin. The steering knob shall be mounted within the periphery of the wheel.

(2) Steering knobs or similar ancillary devices shall not be used on the steering wheels of trucks in which the driver is in a sitting position.

(h) No load on a fork lift truck or industrial crane truck shall be suspended or swung over any employee.

(i) When mechanically-powered vehicles are used, adequate provisions shall be made to ensure that the working surface can support the vehicle and load, and that hatch covers, truck plates, or other temporary surfaces cannot be dislodged by movement of the vehicle.

(j) When mechanically-powered vehicles are left unattended, the controls shall be neutralized, power shut off, brakes set, and the forks, blade, or scoop shall be placed in the lowered position.

(k) When lift trucks or other mechanically powered vehicles are being operated on open deck type barges, the edges of the barges shall be suitably guarded by railings, sideboards, timbers or other means sufficient to prevent vehicles from rolling overboard. When operated on covered lighters where door openings other than those being used are left open, adequate means shall be taken as necessary to prevent vehicles from rolling overboard through such openings.

§ 1918.74 Cranes and derricks other than vessel's gear.

(a) The following requirements shall be met in the use of cranes, whether hoisted aboard a vessel for use thereon or used to service a vessel from the dock, shore, or another vessel, and in the use of any other crane or derrick not a part of a vessel's permanent equipment, but used in longshoring operations:

(1) The crane weight shall be posted on all mobile cranes hoisted aboard vessels for temporary use thereon.

(2) All types of cranes shall be equipped with a durable rating chart visible to the operator, covering the complete range of the manufacturer's (or design) capacity ratings and for which they are certificated, where required. The rating chart shall include all operating radii for all permissible boom lengths and jib lengths as applicable, with and without outriggers which may be fitted, and alternate ratings with optional equipment affecting such ratings. Necessary precautions or warnings shall be included. Operating controls shall be marked, or an explanation posted, at the operator's position to indicate function.

(3) A boom angle or radius indicator shall be fitted where applicable.

(4) All shore-based derricks shall be clearly marked to indicate all applicable capacity ratings, based on manufacturer's (or design) data for which certificated. Such ratings, and any necessary precautions or warnings shall be visible to the operator. Operating controls shall be marked, or an explanation posted at the operator's position to indicate function.

(5) The rated safe working loads of each crane and derrick, for the conditions of use, shall not be exceeded.

(6) No counterweights in excess of manufacturer's (or design) specifications shall be fitted. All equipment shall be used in accordance with manufacturer's (or design) specifications and recommendations.

(7) Pulling of barges or rail cars, and bulling of cargo in such a way as to exert side loading stresses upon crane booms shall not be permitted.

(8) No crane or derrick shall be used in any case where a visible defect affecting safe use exists.

(9) Unless exempted by the provisions of subdivision (viii) of this subparagraph, every crane used to load or discharge cargo into or out of a vessel shall be fitted with a load indicating device or alternative device in proper working condition which shall meet the following criteria:

(i) The type or model of any load indicating device which is used may be such as to provide (*a*) a direct indication in the cab of actual weight hoisted or a means of determining this by reference to crane ratings posted and visible to the operator, except that the use of a dynamometer or simple scale alone will not meet this requirement; or (*b*) an automatic weight-moment device or computer providing indications in the cab according to the radius and load at the moment; or alternatively (*c*) a device may be used which shall prevent an overloaded condition.

(ii) Accuracy of the load indicating device, weight-moment device, or overload protection device shall be such that any indicated load (or limit), including the sum of actual weight hoisted and ad-

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ditional equipment or "add ons" such as slings, sensors, blocks, etc., is within the range from no less than 95 percent of the actual true total load (5 percent overload) to 110 percent of the actual true total load (10 percent underload). Such accuracy shall be required over the range of the daily operating variables to be expected under the conditions of use.

(iii) The device shall permit the operator to determine before making any lift that the indicating or substitute system is operative. In the alternative, if the device is not so mounted or attached and does not include such means of checking, it shall be certified by the manufacturer to remain operable within the limits stated in subdivision (ii) of this subparagraph for a specific period of time. Checks for accuracy, using known values of load, shall be performed at the time of every certification survey (see § 1918.13) and at such additional times as may be recommended by the manufacturer.

(iv) When the load indicating device or alternative system is so arranged in the supporting system (crane structure) that its failure could cause the load to be dropped, its strength shall not be the limiting factor of the supporting system (crane structure).

(v) Marking shall be conspicuously placed giving (*a*) units of measure in pounds or both pounds and kilograms, (*b*) capacity of the indicating system, (*c*) accuracy of the indicating system, and (*d*) operating instructions and precautions. Data providing (*a*) the means of measurement, (*b*) capacity of the system, (*c*) accuracy of the system; and (*d*) operating instructions and precautions shall similarly be provided in the case of systems utilizing indications other than actual weights. If the system used provides no readout, but is such as to automatically cease crane operation when the rated load limit under any specific condition of use is reached, marking shall be provided giving the make and model of device installed, a description of what it does, how it is operated, and any necessary precautions regarding the system. All weight indications, other types of loading indications, and other data required shall be readily visible to the operator.

(vi) All load indicating devices shall be operative over the full operating radius. Overall accuracy shall be based on actual applied load and not on full scale (full capacity) load. For example, if accuracy of the load indicating device is based on full scale load and the device is arbitrarily set at plus or minus 10 percent, it would accept a reading between 90,000 and 110,000 lbs., at full capacity of a machine with 100,000 lbs., maximum rating, but would also allow a reading between zero and 20,000 lbs., at that outreach (radius) at which the rating would be 10,000 lbs., capacity—an unacceptable figure. If, however, accuracy is based on actual applied load under the same conditions, the acceptable range would remain the same with the 100,000-lb. load but becomes a figure between 9,000 and 11,000 lbs., a much different and acceptable condition, at the 10,000-lb. load.

(vii) When the device uses the radius as a factor in its use or in its operating indications, the indicated radius (which may be in feet and/or meters, or degrees of boom angle, depending on the system used) shall be a figure which is within the range of a figure no greater than 110 percent of the actual radius to a figure which is no less than 97 percent of the actual (true) radius. When radius is presented in degrees, and feet or meters are required for necessary determinations, a conversion chart shall be provided.

(viii) The load indicating device requirements of this subparagraph do not apply to a crane (*a*) of trolley equipped bridge type while handling containers known to be and identified as empty, or loaded, and in either case in compliance with the provisions of § 1918.85(b) of this part; or while hoisting other lifts by means of a lifting beam supplied by the crane manufacturer for the purpose and in all cases within the crane rating; (*b*) while handling bulk commodities or cargoes by means of clamshell bucket or magnet; (*c*) while used to handle or hold hoses in connection with transfer of bulk liquids or other hose handled products; or (*d*) while the crane is used exclusively to handle cargo or equipment the total actual gross weight of which is known by means of marking of the unit or units hoisted, when such total actual gross weight never exceeds 11,200 lbs., and when 11,200 lbs., is less than the rated capacity of the crane at the maximum outreach that is possible under the conditions of use at the time.

(ix) *Effective date of subparagraph (9).* The provisions of this subparagraph (9) shall become effective on May 27, 1972, or at the time of the next regular certification survey subsequent to that date.

(10) Accessible areas within the swing radius of the outermost part of the body of a revolving crane shall be temporarily guarded by ropes or other suitable means during cargo operations, so as to prevent an employee being in a position to be caught between the body of the crane and fixed parts of the vessel or of the crane itself.

(11) During the hours of darkness, illumination provided shall be sufficient under the prevailing circumstances so that an operator can see clearly the work area and any signalmen associated with the operation.

(b) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(c) Accessible areas within the swing radius of the outermost part of the body of a revolving crane shall be temporarily guarded by ropes or other suitable means during cargo operations, so as to prevent an employee being in a position to be caught between the body of the crane and fixed parts of the vessel or of the crane itself.

§ 1918.75 Notifying ship's officers before using certain equipment.

(a) The employer shall notify the officer in charge of the vessel before bringing aboard ship internal combustion or electric powered tools, equipment or vehicles.

(b) The employer shall also notify the officer in charge of the vessel before using the ship's electric power for the operation of any of his electric tools or equipment.

§ 1918.76 Grounding.

(a) The frames of portable electric equipment and tools, except double insulated tools approved by Underwriters' Laboratories, Inc., shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current.

(b) Grounding circuits, other than by means of the structure of the vessel on which the equipment is being used, shall be checked to ensure that the circuit between the ground and the grounded power conductor has resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

Subpart H—Handling Cargo [4]

§ 1918.81 Slinging.

(a) Drafts shall be safely slung before being hoisted. Loose dunnage or debris hanging or protruding from loads shall be removed.

(b) Cargo handling bridles, such as pallet bridles, which are to remain attached to the hoisting gear while hoisting successive drafts, shall be attached by shackles, or other positive means shall be taken to prevent them from becoming accidentally disengaged from the cargo hook.

(c) Drafts of lumber, pipe, dunnage and other pieces, the top layer of which is not bound by the sling, shall be slung in such a manner as to prevent sliders. Double slings shall be used on unstrapped dunnage, except when, due to the size of hatch or deep tank openings, it is impractical to use them.

(d) Case hooks shall not be used for handling cases into or out of the vessel, unless the cases are specifically designed to be handled by this means.

(e) Bales of cotton, wool, cork, wood pulp, gunny bags or other similar articles shall not be hoisted into or out of the vessel by their straps unless the straps are of sufficient strength to support the weight of the bale and two hooks, each in a separate strap, are used.

(f) Loads requiring continuous manual guidance while in motion shall be provided with tag lines.

(g) No draft shall be hoisted unless the winch or crane operator(s) can clearly see the draft itself or see the signals of any signalman associated with the operation.

§ 1918.82 Building drafts.

(a) Drafts shall be so built or such means shall be taken as to prevent cargo from falling from the draft.

[4] 46 CFR Parts 146–147 contains regulations of the U.S. Coast Guard pertaining to the handling of explosives and other dangerous cargo.

(b) Hand loaded buckets or tubs used in handling bulk cargo shall not be loaded above their rims.

§ 1918.83 Stowed cargo, tiering and breaking down.

(a) When necessary, cargo shall be secured or blocked to prevent its shifting or falling.

(b) In breaking down, precautions shall be taken, when necessary, to prevent the remaining cargo from falling.

(c) Employees trimming bulk cargo shall be checked in and out by the foreman. Before securing any reefer compartment, a check shall be made to ensure that no employee remains inside. Frequent checks shall be made to ensure the safety of any employee working alone in a tank or cargo compartment.

§ 1918.84 Bulking cargo.

(a) Bulking cargo shall be done with the bull line led directly from the heel block, except that bulking may be done from the head of the boom when the nature of the cargo and the surface over which it is dragged are such as to avoid stalling the load, or when the winch actually does not have sufficient strength, with the purchase used, to overload the boom.

(b) Snatch blocks shall be used to provide a fair lead for the bull line so as to avoid unnecessary dragging of the bull line against coamings and obstructions.

(c) Falls led from cargo booms of vessels shall not be used to move scows, lighters or railroad cars.

(d) Snatch blocks shall not be used with the point of the hook resting on the flange of a beam, but shall be hung from padeyes, straps or beam clamps. Snatch blocks or straps shall not be made fast to batten cleats or other insecure fittings.

(e) Beam or frame clamps shall be so secured to the beam as to minimize the possibility of their slipping, falling or being pulled from the beam.

§ 1918.85 Containerized cargo.

(a) On every cargo container there shall be permanently marked in pounds (1) the weight of the container when empty, (2) the maximum cargo weight that the container is intended and designed by its manufacturer to carry, and (3) the sum of these two weights.

(b) No container shall be loaded aboard or discharged from any vessel by means of hoisting by ship's cargo handling gear or by shore crane or derrick unless the following conditions have been met:

(1) In the case of an empty container, it shall be ascertained from the carrier that such is the case and the container shall be identified before loading or discharge either by marking, in cargo stowage plans, by both means, or otherwise in such manner that every supervisor and foreman on the site and in charge of loading or discharging, and/or every crane or other hoisting equipment operator, and signalman, if any, shall be enabled to know that such container is empty.

(2) In the case of a loaded container, either the actual gross weight shall be plainly marked so as to be visible to the crane or other hoisting equipment operator or signalman, if any, and/or to every supervisor and foreman on the site and in charge of loading or discharging; or the cargo stowage plan or equivalent permanently recorded display serving the same purpose shall be provided to the crane or other hoisting equipment operator and signalman, if any, and to every supervisor and foreman on the site and in charge of loading or discharging, and contain the actual gross weight, the exact stowage position, and the serial number or other positive identification of that specific container.

(3) Every outbound loaded container received at a marine terminal ready to load aboard a vessel without further consolidation or loading shall be weighed to obtain the actual gross weight, either at the terminal or elsewhere before loading aboard a vessel. The open type vehicle carrying container and those built specifically and used solely for the carriage of compressed gases are excepted from this subparagraph and from subparagraphs (4) and (5) of this paragraph.

(4) When container weighing scales are located at a marine terminal, any outbound container with a load consolidated at that terminal shall be weighed to obtain an actual gross weight before loading aboard a vessel.

(5) When there are no container weighing scales located at a marine terminal at which outbound containers are loaded with cargo, or where container loads are completed or consolidated there or elsewhere, and no weighing facility is available and located in a reasonably accessible location, the actual gross weight may be calculated, providing that accurate weights of all contents are known and a list of same, including the empty container weight, is totaled and posted on the container in a conspicuous place with identification of the source and date of calculation. Such list of contents may refer to cartons, cases, or other means of packaging but need not specifically identify the commodity or commodities involved except as otherwise required by law. Container weights so arrived at shall be subject to random sample weight checks at the nearest weighing facility. In cases where such weight checks or experience otherwise indicate consistently inaccurate weights arrived at by this means, the weight of containers so calculated at the source from which the inaccurate weights originated may no longer be recognized as true gross weights, in which case such containers may not be loaded aboard a vessel unless actual gross weights have been obtained by weighing. This procedure shall be continued until the Administration is satisfied by reasonable experience thereunder that correct weights will be furnished.

(6) In the case of loaded inbound containers from foreign ports, they shall, if they have not been weighed, have the calculated weight posted in the manner prescribed by subparagraph (5) of this paragraph. All loaded inbound containers from foreign ports shall be subject to random sample weight checks at a time satisfactory to the Administration which may be at any time up to unloading the contents of the container at the terminal or until the container is delivered unopened to the land carrier. When such checks indicate a pattern of significant and continuing inaccuracy or when the provisions of subparagraph (7) of this paragraph are not met, such suitable means as are acceptable to the Administration to protect the safety of the workers involved shall be taken during discharge to assure safety and such means shall be continued until the Administration is satisfied by experience thereunder that correct weights will be furnished.

(7) The identification and documentation provisions of subparagraphs (1) and (2) of this paragraph shall apply to containers originating from foreign ports.

(8) Any scale used within the United States to weigh containers for the purpose of the requirements of this section shall meet the accuracy standards of the state or local public authority in which the scale is located.

(c) No container shall be hoisted if its actual gross weight exceeds the weight marked as required in paragraph (a)(3) of this section, or if it exceeds the capacity of the crane or other hoisting device intended for use, under the conditions in which said crane or other hoisting device is used. All hoisting of containers shall be by means which will safely do so without probable damage to the container, and using the lifting fittings provided.

(d) All outbound containers shall be inspected before loading for any visible defects in structural members and fittings, which would render unsafe their handling in loading. To the extent it is practicable, inbound containers shall be similarly inspected before discharge. Any outbound container found to have such a defect shall not be loaded unless the defect is first corrected. Any inbound container found to have such a defect shall either be discharged by such special means as to insure safety or shall be emptied before discharge.

(e) For the purpose of this section, the term "container" means a reusable cargo container of rigid construction and rectangular configuration, intended to contain one or more articles of cargo or bulk commodities for shipment aboard a vessel, and capable of utilization for this purpose by one or more other modes of transport without intermediate reloading. The term includes completely enclosed units, open top units, half or other fractional height units, units incorporating liquid or gas tanks, and any other variations serving the same basic purpose and fitting into the container system, demountable or with attached wheels. The term, however, does not include cylinders, drums, crates, cases, cartons, packages, sacks, unitized loads or any other of the usual forms of packaging.

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§ 1918.86 Hazardous cargo.

(a) Prior to the start of cargo handling operations a responsible representative of the employer shall ascertain from labels on the cargo, from the dangerous cargo manifest, or from other shipping documents, what hazardous cargoes, if any, are to be handled and the general nature of the hazard. He shall inform employees of the general nature of the hazard, the importance to the employees of preventing damage to the cargo, and the special precautions to be taken. The responsible representative of the employer aboard the vessel shall instruct the employees to notify him of any leaks or spills.

(b) Drafts of cargo ascertained by the employer to be hazardous shall be so slung and secured that neither the draft nor individual packages can fall as a result of tipping the draft or slacking the supporting gear.

(c) If a cargo ascertained by the employer to be hazardous is spilled or any of its containers has or develops a serious leak, the employees shall be removed from the hold or compartment until the employer has ascertained the specific hazards, has provided such personal protective equipment and clothing and such ventilation and fire protective equipment as may be necessary to avoid, or protect against, the hazard, and has instructed the employees as to the safe method of cleaning up and disposing of a spill or handling and disposing of the leaking containers. The actual work of clean up or disposal shall be carried out under the personal supervision of a responsible representative of the employer aboard the vessel.

Subpart I—General Working Conditions

§ 1918.91 Housekeeping.

(a) Weather deck walking and working areas shall be kept reasonably clear of lines, bridles, dunnage and all other loose tripping or stumbling hazards.

(b) Gear or equipment, when not in use, shall be removed from the immediate work areas, or shall be so placed as not to present a hazard.

(c) Slippery conditions shall be eliminated as they occur.

(d) Loose paper, dunnage and debris shall be collected as the work progresses and be kept clear of the immediate work area.

(e) Dunnage shall not be placed on deck where it interferes with the free movement of the drafts.

(f) Dunnage racked against sweat battens shall not be used when the levels of such racks are above the safe reach of employees.

(g) Dunnage, hatch beams, tarpaulins or gear not in use shall be stowed no closer than 3 feet to the port and starboard sides of the weather deck hatch coaming, except that a reasonable tolerance shall be permitted where strict adherence is rendered impracticable due to the circumstances.

(h) Nails: (1) Nails which are protruding from shoring or fencing in the immediate work areas shall be bent over or otherwise rendered harmless.

(2) Dunnage, lumber, or shoring material in which there are visibly protruding nails shall be removed from the immediate work area, or, if left in that area, the nails shall be bent over or otherwise rendered harmless.

(i) Employees shall not be exposed to ice which may fall from aloft under conditions where the accumulation of such ice and the circumstances at the time are such as to constitute a hazard.

§ 1918.92 Illumination.

(a) All walking and working areas shall be adequately illuminated.

(b) Portable lights shall meet the following requirements:

(1) Portable lights shall be equipped with substantial reflectors and guards to prevent flammable and other material from coming in contact with the bulb, except that guards are not required where the construction of the reflector is such that the bulb is deeply recessed.

(2) Portable lights shall be equipped with heavy duty electric cords and may be suspended by such cords only when the means of attachment of the cord to the light is such as to prevent the light from being suspended by the electrical connections. All connections and insulation shall be maintained in safe condition.

(3) Lighting wires and fixtures for portable lights shall be so arranged as to be free from contact with drafts, running gear, or other moving equipment.

(4) Portable lights shall be so arranged that they do not shine in the eyes of winchdrivers or hatchtenders.

(5) Portable cargo lights furnished by the employer for use aboard vessels and purchased after September 1, 1966, shall be listed as approved by the U.S. Coast Guard or shall bear the Underwriters Laboratories, Inc., Marine Label.

(c) Employees shall not be permitted to enter dark holds, compartments, decks or other places without a flashlight or other suitable portable light. The use of matches or open flame lights is prohibited.

§ 1918.93 Ventilation and atmospheric conditions.

(a) Ventilation requirements with respect to carbon monoxide:

(1) (i) When internal combustion engines exhaust into a hold, an intermediate deck, or any other compartment, the employer shall see that tests of the carbon monoxide content of the atmosphere are made with such frequency as is found by test to be necessary in the type and location of the operation, and under the conditions existing, to insure that dangerous concentrations do not develop. Such tests shall be made in the area in which employees are working, by persons competent in the use of the test equipment and procedure. Where operations are located in a deep tank or refrigerated compartment, the first test shall be made within one half hour of the time the machine(s) start.

(ii) The carbon monoxide content of the atmosphere shall be maintained at not more than 50 parts per million (0.005%) as a time weighted average, and employees shall be removed from the compartment if the carbon monoxide concentration exceeds 100 parts per million (0.01%). The term "time weighted average" means that for any period of time in which the concentration exceeds 50 parts per million, it shall be maintained at a corresponding amount below 50 parts per million for an equal period of time.

(iii) When neither natural ventilation nor the vessel's ventilating system, where fitted, is adequate to keep the carbon monoxide concentration within the allowable limits set forth in this paragraph, the employer shall use supplementary means of portable ventilation in such size and number and so arranged as to bring such concentration within such limits before work is resumed.

(2) A record of the date, time, location, and results of the tests required by subparagraph (1) of this paragraph shall be maintained for at least 30 days after the work is completed. The record shall be available for examination by representatives of the Occupational Safety and Health Administration.

(3) The intakes of portable blowers and any exposed belt drives shall be guarded adequately by screens.

(4) The frames of portable blowers shall be grounded at the source of the current either through a third wire in the cable containing the circuit conductors or through a separate wire. When the vessel is the source of the current the ground shall be made to the structure of the vessel. Electric cords used shall be free of visible defects.

(5) The employer shall not permit the use of shore electrical circuits unless they have been checked to ensure that the circuit between the ground and the grounded power conductor has resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current. When the vessel is the source of the current, it is required only that a check be made to ensure good electrical contact between the ground wire and the vessel's structure.

(b) (1) Before commencing to load grain which has been fumigated, the employer shall ascertain from the elevator operator that the cargo is free from hazardous concentrations of fumigants.

(2) The employer shall not load tobacco until the carrier has provided written notification as to whether or not the cargo has been fumigated. If the tobacco has been fumigated with any toxic fumigant, the employer shall not commence loading until written warranty has been received from the fumigation facility that the aeration of the cargo has been such as to reduce the concentration of the fumigant to a safe limit. Such notification and warranty shall be maintained for at least 30 days after the loading of the tobacco has been completed, and shall be available for examination by representatives of the Occupational Safety and Health Administration.

(3) Before commencing to load cargo other than cargo mentioned in subparagraph (1) or (2) of this paragraph, which has been fumigated at the loading port, the employer shall ascertain that such cargo does not contain a hazardous concentration of fumigants.

(c) Before employees are permitted to enter or work in any stowage space or tank, the employer shall ascertain from the officer in charge of the vessel, or the vessel's agent or operator, whether explosive, poisonous, noxious, or gaseous cargoes have been carried or are stowed therein, or whether dry ice has been used as a refrigerant therein, or whether such places have been fumigated, or whether there is a possibility of oxygen deficiency. Upon establishing that any of such conditions may exist, the employer shall ascertain from the officer in charge of the vessel, if he is properly equipped and qualified so to evaluate, the condition of the work place with respect to atmospheric contaminants or deficiencies. If the officer in charge of the vessel is not equipped or qualified to carry out such evaluation, this shall be done by another person qualified and equipped to do it.

(d) When it is ascertained as set forth in paragraph (c) of this section that the atmosphere in which employees would be working is immediately dangerous to life, or if the atmosphere becomes immediately dangerous to life during cargo handling operations, no employee shall be permitted to enter or remain in the work place until the atmospheric condition has been made safe. Atmospheres immediately dangerous to life are those which contain less than 16.5 percent oxygen, or which by reason of the high toxicity of the contaminant, as in fumigation, or the high concentration of contaminants, as with carbon dioxide, would endanger the life of a person breathing them for even a short period of time.

(e) When it is ascertained as set forth in paragraph (c) of this section that the atmosphere in which employees would be working contains dangerous gaseous contaminants not immediately dangerous to life, or if the atmosphere becomes so contaminated during cargo handling operations, no employee shall be permitted to enter or remain in the work place until the atmosphere is made safe, or the employees are protected by suitable respiratory protective equipment in accordance with the requirements of § 1918.102 (a) and (b). Dangerous gaseous contaminants not immediately dangerous to life are gases present in concentrations that could be breathed for a short period of time without endangering the life of a person breathing them, but might produce discomfort and injury after a prolonged single exposure or repeated short exposures.

(f) When employees are exposed to heavy concentrations of dusts, as in loading bulk grain, they shall be protected by suitable respiratory protective equipment in accordance with the requirements of § 1918.102 (a) and (c).

§ 1918.94 Sanitation and drinking water.

(a) Longshoring operations shall not be carried on in the immediate vicinity of uncovered garbage or in the way of overboard discharges from sanitary lines unprotected by a baffle or splash boards.

(b) Clean drinking water in clean, covered containers shall be provided. Individual sanitary drinking cups or some other equally sanitary device shall be conveniently available.

§ 1918.95 Longshoring operations in the vicinity of repair and maintenance work.

(a) Longshoring operations shall not be carried on when chipping or scaling of decks, bulkheads or sides of vessels creates excessive noise which interferes with communication of warnings or instructions.

(b) Longshoring operations shall not be carried on in the hold or on deck beneath men working in the rigging overhead when such overhead work creates a hazard of falling objects.

(c) Longshoring operations shall not be carried on where employees are exposed to injurious light rays, hot metal, or sparks, any of which result from welding or cutting.

(d) Longshoring operations shall not be carried on where employees are exposed to unsafe concentrations of dust or vapors from sand blasting or spray painting.

§ 1918.96 First aid and life saving equipment.

(a) Unless a first aid room is close at hand and a qualified attendant is prepared to render first aid to employees on behalf of the employer, the employer shall furnish a first aid kit for each vessel on which work is being performed, except that when work is being performed on more than one small vessel at one pier only one kit shall be required. The kit shall be kept in the immediate vicinity of the vessel and at least one employee holding a currently valid first aid certificate shall be close at hand.

(b) The first aid kit shall consist of a weatherproof container with individual sealed packages for each type of item. The contents of such kit shall include a sufficient quantity of at least the following types of items:

Gauze roller bandages, 1 inch and 2 inch.
Gauze compress bandages, 4 inch.
Adhesive bandages, 1 inch.
Triangular bandage, 40 inch.
Ammonia inhalants and ampules.
Antiseptic applicators or swabs.
Burn dressing.
Eye dressing.
Wire or thin board splints.
Forceps and tourniquet.

(c) The contents of the first aid kit shall be checked before being sent out on each job to ensure that all expended items have been replaced.

(d) There shall be available for each vessel being worked one Stokes basket stretcher, or its equivalent, permanently equipped with bridles for attaching to the hoisting gear, except that there need be no more than two stretchers on each pier. Stretchers shall be kept close to the vessels.

(e) The employer shall ensure that there is in the vicinity of each vessel being worked at least one U.S. Coast Guard approved 30-inch lifering with not less than 90 feet of line attached and at least one portable or permanent ladder which will reach from the top of the apron to the surface of the water. If the above equipment is not available at the pier, the employer shall furnish it during the time that he is working the vessel. When working a barge, scow, raft, lighter, log boom, or carfloat alongside a ship, a U.S. Coast Guard approved 30-inch lifering, with not less than 90 feet of line, shall be provided either on the floating unit itself or aboard the ship in the immediate vicinity of each floating unit being worked.

(f) When employees are working on log booms or cribs, lifelines shall be furnished and hung overside to the water's edge.

§ 1918.97 Qualification of machinery operators.

(a) Only those employees considered by the employer to be competent by reason of training or experience, and who understand the signs, notices, and operating instructions and are familiar with the signal code in use shall be permitted to operate a crane, winch or other power-operated hoisting apparatus, or any power-operated vehicle, or to give signals to the operator of any hoisting apparatus.

(b) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailments which may suddenly incapacitate him shall be permitted to operate a crane, winch or other power-operated hoisting apparatus or a power-operated vehicle.

(c) No minor under 18 years of age shall be employed in occupations involving the operation of any power-operated hoisting apparatus or assisting in such operations by performing work such as hooking on or landing drafts, rigging gear, etc.

§ 1918.98 Grain fitting.

(a) Where employees are engaged in work on longitudinal bulkheads or shifting boards (other than longitudinal bulkheads of feeders) at a distance of eight (8) feet or more above any ceiling, tank top or deck, the following shall apply:

(1) If working off portable straight ladders the provisions of § 1918.25(f) of this Part shall apply.

(2) If working off staging, any lumber used in the construction thereof shall be sound, straight grained, free from cross grain, shakes, and large, loose or dead knots. It shall also be free from dry rot, large checks, worm holes or other defects which impair its strength. Platform planking used as a work surface shall not be less than 2 x 10 lumber and the width of the platform shall not be less than 18 inches.

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(3) If working from other elevated positions, employees shall be protected from falling by safety belt and lifeline or other equivalent protection.

(b) (1) When grain fitting operations are in progress in the square of an intermediate deck, the hatch covering at that deck shall be such as to cover the hatch except for the minimum open spaces necessary to perform the work.

(2) When coverings used to provide a temporary work surface are other than the vessels' hatch covers placed in their normal positions, they shall be of adequate strength and so placed or secured that they cannot be accidentally dislodged.

(c) When the erection of grain fittings requires employees to work on surfaces immediately adjacent to or between open deep tanks, either the deep tank covers shall be put in place, the opening covered by a net, or the opening guarded by a line, railing or net rigged as a railing, or by other suitable means.

(d) When removing hatch coverings from the interiors of feeders at the completion of their construction, or when removing or replacing hatch coverings in the interiors of feeders for any purpose at other times, employees engaged in this work shall be protected from falling by the use of adequate individual lifelines, properly tended, or by nets or other means suitable for the purpose. Except for the minimum open spaces necessary, hatch coverings shall not be removed within feeders under construction until such construction is completed.

(e) When repair or other work is carried out in the interior of an existing feeder and circumstances do not allow the covering of the hatch at that deck, employees shall be protected from falling by the use of adequate individual lifelines, properly secured and if necessary tended, or by nets or other means suitable for the purpose.

(f) Such other sections of this part as are applicable to grain fitting operations shall be adhered to.

Subpart J—Personal Protective Equipment

§ 1918.101 Eye protection.

(a) When, because of the nature of the cargo being handled, an eye hazard from flying particles or heavy dust exists, employees shall be protected by eye protection equipment meeting the specifications prescribed by the American National Standard (ANSI) Practice for Occupational and Educational Eye and Face Protection, Z87.1 (1968).

(b) Eye protection equipment shall be maintained in good condition.

(c) Eye protection equipment which has previously been used shall be cleaned and disinfection before it is issued by the employer to another employee.

(d) Employees who wear corrective spectacles while engaged in eye hazardous work shall be protected by eye protection equipment of a type which can be worn over personal spectacles, except that glasses with prescription ground safety lenses may be worn in lieu of cover goggles when such glasses provide suitable protection against the hazard involved.

§ 1918.102 Respiratory protection.

(a) *General.* (1) Except as provided in subparagraph (c)(3) of this section, respiratory protective equipment required by this part shall carry U.S. Bureau of Mines approval for the use intended. In cases where the U.S. Bureau of Mines does not issue approval against the particular hazard equipment shall be acceptable to the Occupational Safety and Health Administration. Respiratory protective equipment shall be used only for the purpose intended and no modification of the equipment shall be made.

(2) Respiratory protective equipment shall be inspected regularly and maintained in good condition. Gas mask canisters and chemical cartridges shall be replaced as necessary so as to provide complete protection. Mechanical filters shall be cleaned or replaced as necessary so as to avoid undue resistance to breathing.

(3) Respiratory protective equipment which has been previously used shall be cleaned and disinfected before it is issued by the employer to another employee.

(4) Employees required to use respiratory protective equipment shall be instructed in its use.

(b) *Protection against gaseous contaminants not immediately dangerous to life.* (1) In concentrations of ammonia of less than 3 percent, or of other gases less than 2 percent, by volume, a canister type gas mask equipped with the proper type of canister shall be used. Different canisters are approved for use against the following gases and groups of gases: acid gases, hydrocyanic acid gas, chlorine gas, organic vapors, ammonia gas, carbon monoxide or combinations of the above.

(2) In low concentrations (less than 0.1 percent by volume, but above the Threshold Limit Value of the gas), a chemical cartridge respirator equipped with the type of cartridge approved for use against the particular gases or groups of gases listed in subparagraph (1) of this paragraph shall be used.

(c) *Protection against dusts.* (1) For protection against pneumoconiosis producing dusts, a respirator equipped with the type of filter approved for such purpose shall be used.

(2) For protection against toxic dusts, a respirator equipped with the type of filter approved for such purpose shall be used.

(3) For protection against nuisance dusts, a respirator equipped with the type of filter required in subparagraph (1) of this paragraph or a suitable dust mask shall be used.

§ 1918.103 Protective clothing.

(a) When employees are handling cargo which, due to ruptured, leaking or inadequate containers, may cause burns, skin irritation or be otherwise injurious to health, they shall be protected by suitable protective clothing.

(b) Protective clothing which has been previously worn shall be cleaned and disinfected before it is issued by the employer to another employee.

§ 1918.104 Foot protection.

The employer shall arrange through means, such as vendors or local stores, or otherwise, to make safety shoes readily available to all employees, and shall encourage their use.

§ 1918.105 Head protection.

(a) Employees shall be protected by protective hats meeting the specifications contained in the American National Standard Safety Requirements for Industrial Head Protection, Z89.1 (1969).

(b) Protective hats which have been previously worn shall be cleaned and disinfected before they are issued by the employer to another employee.

§ 1918.106 Protection against drowning.

(a) Employees working on log booms shall be protected by U.S. Coast Guard approved buoyant vests or U.S. Coast Guard approved work vests.

(b) Except when engaged in loading or discharging ocean going vessels, employees walking or working on the decks of barges on the Mississippi River System and the Gulf Intracoastal Waterway shall be protected by U.S. Coast Guard approved buoyant vests or U.S. Coast Guard approved work vests.

(c) Buoyant vests and work vests shall be maintained in good condition and shall be considered unserviceable when damaged so as to affect their buoyant properties or capability of being properly fastened.

Appendix I

Cargo Gear Register and Certificates

The cargo gear register, designated Form I by the ILO, is a booklet containing instructions and forms on which the following information is recorded:

Part I. Annual Inspection and Quadrennial Thorough Examination of Derricks and Permanent Attachments (including Bridle Chains) to the Derricks, Masts and Decks.

Part II. Annual Thorough Examination of Cranes, Winches, Hoists, and Accessory Gear other than Derricks and Permanent Attachments Thereto.

Part III. Annual Thorough Examination of Gear which is Exempt from Heat Treatment.

Part IV. Heat Treatment of Chains, Rings, Hooks, Shackles and Swivels which Require such Treatment.

The following are the sample forms of certificates recommended by the ILO.

Test Certificate No. ------ Form No. 2

Certificate of Test and Examination of Winches, Derricks and Their Accessory Gear, Before Being Taken Into Use

(Form prescribed by ----------)

Name of ship on which machinery is fitted----------

(1) Situation and description of machinery and gear, with distinguishing number or mark (if any)	(2) Angle to the horizontal of derrick boom while the load was applied (degrees)	(3) Proof load applied (tons)	(4) Safe working load at the angle shown in column 2 (tons)

(5) Name and address of public service, association, company or firm making the test and examination ----------

(6) Position of signatory in public service, association, company, or firm ----------

I certify that on the ------ day of ----------, 19--, the above machinery, together with its accessory gear, was tested by a competent person in the manner set forth on the reverse side of this certificate; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in column 4.

(Date) ---------- (Signature) ----------

Note: "Competent person" means a person acceptable as such to the competent authority in the country of issue of the certificate.

[Reverse of Form 2]

Instructions

Every winch with the whole of the gear accessory thereto (including derricks, goosenecks, eye plates, eye bolts, or other attachments) shall be tested with a proof load which shall exceed the safe working load as follows:

Safe working load	*Proof load*
Up to 20 tons----------	25 percent in excess.
20–50 tons----------	5 tons in excess.
Over 50 tons----------	10 percent in excess.

The proof load shall be lifted with the ship's normal tackle with the derrick at an angle which should not be more than 15 degrees to the horizontal, or, when this is impracticable, at the lowest practicable angle. The angle at which the test was made should be stated in the certificate of test. After the proof load has been lifted, it should be swung as far as possible in both directions.

As a general rule, all tests should be carried out in this way by dead load, and no exception should be allowed in the case of gear on new ships. In the case of replacements or renewals, however, spring or hydraulic balances may be used where dead loads are not available. Where a spring or hydraulic balance is used it shall be accurate, and the test should not be regarded as satisfactory unless the indicator remains constant for a period of at least five minutes.

After being tested as aforesaid, all lifting machinery, with the whole of the gear accessory thereto shall be examined to see whether any part has been injured or permanently deformed by the test.

The safe working load shown in column 4 is applicable only to a swinging derrick. When using fixed derricks, such as "union purchase" rigs, the safe working load should as a general rule be reduced; in any case, it should be determined with due regard to the actual conditions of use.

In the case of heavy derricks, care should be taken that the appropriate shrouds and stays are rigged.

Note: The expression "ton" means a ton of 1,000 kg or 2,200 lb.

Test Certificate No. ------ Form No. 3

Certificate of Test and Examination of Cranes or Hoists, and Their Accessory Gear Before Being Taken Into Use

(Form prescribed by ----------)

Name of ship on which machinery is fitted ----------

(1) Situation and description of crane or hoist, with distinguishing number or mark (if any)	(2) For jib cranes radius at which the proof load was applied	(3) Proof load applied (tons)	(4) Safe working load (for jib cranes at radius shown in column 2) (tons)

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(5) Name and address of public service, association, company or firm making the test and examination ----------

(6) Position of signatory in public service, association, company or firm ----------

I certify that on the ------ day of ---------- 19--, the above machinery, together with its accessory gear, was tested by a competent person in the manner set forth on the reverse side of this certificate; that a careful examination of the said machinery and gear by a competent person after the test showed that it had withstood the proof load without injury or permanent deformation; and that the safe working load of the said machinery and gear is as shown in column 4.

(Signature) ----------

Date ----------

NOTE: "Competent person" means a person acceptable as such to the competent authority in the country of issue of the certificate.

[Reverse of Form 3]

INSTRUCTIONS

Every crane and other hoisting machine, with its accessory gear, shall be tested with a proof load which shall exceed the safe working load as follows:

Safe working load	*Proof load*
Up to 20 tons	25 percent in excess.
20-50 tons	5 tons in excess.
Over 50 tons	10 percent in excess.

The proof load shall be lifted and swung as far as possible in both directions. If the jib of the crane has a variable radius, it should be tested with a proof load, as defined above, at the maximum and minimum radii of the jib. With hydraulic cranes where, owing to the limitation of pressure, it is impossible to lift a load 25 percent in excess of the safe working load, it will be sufficient to lift the greatest possible load.

After being tested, each crane or hoist, with the whole of the gear accessory thereto, shall be examined to see whether any part has been injured or permanently deformed by the test.

NOTE: The expression "ton" means a ton of 1,000 kg or 2,200 lb.

Form No. 4

Test Certificate No. ------

CERTIFICATE OF TEST AND EXAMINATION OF CHAINS, RINGS, HOOKS, SHACKLES, SWIVELS AND PULLEY BLOCKS

(Form prescribed by ----------)

(1) Distinguishing number or mark (if any)	(2) Description of gear*	(3) Number tested	(4) Date of test	(5) Proof load applied (tons)	(6) Safe working load (tons)

* The dimensions of the gear, the type of material of which it is made and, where applicable, the heat treatment received in manufacture should be stated (unless Form No. 6 is used for the purpose).

(7) Name and address of makers or suppliers ----------

(8) Name and address of public service, association, company or firm making the test and examination ----------

(9) Position of signatory in public service, association, company or firm ----------

I certify that on the ------ day of ---------- 19--, the above gear was tested and examined by a competent person in the manner set forth on the reverse side of this certificate; that the examination showed that the said gear withstood the proof load without injury or deformation; and that the safe working load of the said gear is as shown in Column 6.

(Signature) ----------

(Date) ----------

NOTE: "Competent person" means a person acceptable as such to the competent authority in the country of issue of the certificate.

[Reverse of Form 4]

INSTRUCTIONS

Chains, rings, shackles and other loose gear (whether accessory to a machine or not) shall be tested with a proof load equal to that shown against the article in the following table:

Article of gear	*Proof load*
Chain, ring, hook, shackle or swivel	100 percent in excess of the safe working load.
Pulley blocks:	
Single-sheave block	300 percent in excess of the safe working load.
Multiple-sheave block with safe working load up to and including 20 tons.	100 percent in excess of the safe working load.
Multiple-sheave block with safe working load over 20 tons up to and including 40 tons.	20 tons in excess of the safe working load.
Multiple-sheave block with safe working load over 40 tons.	50 percent in excess of the safe working load.
Pitched chains used with hand-operated pulley blocks and rings, hooks, shackles or swivels permanently attached thereto.	50 percent in excess of the safe working load.
Hand-operated pulley blocks used with pitched chains and rings, hooks, shackles or swivels permanently attached thereto.	50 percent in excess of the safe working load.

After being tested, all the gear shall be examined, the sheaves and the pins of the pulley blocks being removed for the purpose, to see whether any part has been damaged or permanently deformed by the test.

NOTE: The expression "ton" means a ton of 1,000 Kg or 2,200 lb.

Test Certificate No. ------ Form No. 5

CERTIFICATE OF EXAMINATION AND TEST OF WIRE ROPE BEFORE BEING TAKEN INTO USE

(Form prescribed by ----------)

Name and address of maker or supplier of rope ----------

Circumference/diameter* of rope ----------

Number of strands ----------

Number of wires per strand ----------

Lay ----------

Quality of wire ----------

Date of test of sample of rope ----------

Load at which sample broke ----------

Safe working load, subject to any stated qualifying conditions such as minimum pulley diameter, direct tensile load, etc ----------

Name and address of public service, association, company or firm making the examination and test ----------

Position of signatory in public service, association, company or firm making the examination and test ----------

I certify that the above particulars are correct, and that the examination and test were carried out by a competent person.

(Signature) ----------

(Date) ----------

NOTE: "Competent person" means a person acceptable as such to the competent authority in the country of issue of the certificate.

*Delete what does not apply.

[Reverse of Form No. 5]

INSTRUCTIONS

Wire rope shall be tested by sample, a piece being tested to destruction, and the safe working load of running ropes shall not exceed one-fifth of the breaking load of the sample tested.

Certificate No. ------ Form No. 6

CERTIFICATE OF HEAT TREATMENT OF CHAINS, RINGS, HOOKS, SHACKLES AND SWIVELS WHICH REQUIRE SUCH TREATMENT

(Form prescribed by ----------)

(1) Distinguishing number or mark	(2) Description of gear*	(3) Number of certificate of test and examination	(4) Number heat treated	(5) Date of heat treatment	(6) Nature of heat treatment given	(7) Defects found at inspection after heat treatment

*The dimensions of the gear, the type of material of which it is made, and the heat treatment received in manufacture should be stated.

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(8) Name and address of public service, association, company or firm carrying out the heat treatment and inspection ----------

(9) Position of signatory in public service, association, company or firm ----------

I certify that on the date shown in Column 5, the gear referred to in Columns 1 to 4 was heat-treated (indicated in Column 6) under my supervision; that after being so heat-treated every article was carefully inspected, and that no defects affecting its safe working condition were found other than those indicated in Column 7.

(Signature) ----------

(Date) ----------

NOTES: "Competent person" means a person acceptable as such to the competent authority in the country of issue of the certificate.

For requirements as to heat treatment, see reverse side.

[Reverse of Form No. 6]

INSTRUCTIONS

ANNEALING

Chains (other than bridle chains attached to derricks or masts), rings, hooks, shackles and swivels made of wrought iron, used in hoisting or lowering, shall be annealed at the following intervals:

	If used on lifting machinery driven by power	If used solely on lifting machinery worked by hand
Half-inch (12.5 mm) and smaller chains, rings, hooks, shackles and swivels in general use.	6 months	12 months.
All other chains, rings, hooks, shackles and swivels in general use	12 months	2 years.

OTHER HEAT TREATMENT

Chains, rings, hooks, shackles and swivels made of material other than wrought iron shall be heat treated in accordance with procedures approved by the competent authority.

Form No. 7

Certificate No. ------

CERTIFICATE OF ANNUAL THOROUGH EXAMINATION OF GEAR WHICH DOES NOT REQUIRE TO BE PERIODICALLY HEAT TREATED

(Form prescribed by ----------)

(1) Distinguishing number or mark	(2) Description of gear*	(3) Number of certificate of test and examination	(4) Remarks

*The dimensions of the gear, the type of material of which it is made, and the heat treatment received in manufacture should be stated.

(5) Name and address of public service, association, company or firm making the test and examination ----------

(6) Position of signatory in public service, association, company or firm ----------

I certify that on the ------ day of ---------- 19--, the above gear was thoroughly examined by a competent person, and that no defects affecting its safe working condition were found other than those indicated in Column 4.

(Signature) ----------

(Date) ----------

NOTES: This certificate is optional. The above particulars may be entered in Part III of the Register (Form No. 1).

"Competent person" means a person acceptable as such to the competent authority in the country of issue of the certificate.

For list of gear not required to be heat-treated and definition of "thorough examination", see reverse side.

[Reverse of Form No. 7]

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INSTRUCTIONS

Gear not required to be heat treated, but required to be thoroughly examined by a competent person once at least in every twelve months:

Plate-link chains.
Pitched chains.
Rings, hooks, shackles and swivels permanently attached to pitched chains, pulley blocks or weighing machines.
Hooks and swivels having ball bearings or other case-hardened parts.
Bordeaux connections.
Other gear exempted by the competent authority, as follows:

NOTE: "Thorough examination" means a visual examination, supplemented if necessary by other means such as a hammer test, carried out as carefully as conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined; if necessary for the purpose, parts of the machines or gear must be dismantled.

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AUTHORITY: The provisions of this Part 1919 issued under sec. 41, 44 Stat. 1444, as otherwise noted.

Subpart A—General Provisions

§ 1919.1 Purpose and scope.

(a) The regulations in this part implement §§ 1918.12 (c) and (d)(3) and 1918.13 of this chapter. They provide procedures and standards governing accreditation of persons by the Occupational Safety and Health Administration, U.S. Department of Labor, for the purpose of certificating vessels' cargo gear and shore-based material handling devices, and the manner in which such certification shall be performed.

(b) Accreditation is not required, and the regulations of this part are not applicable, under the following circumstances:

(1) When cargo gear certification is performed for vessels inspected and certificated under the authority of the U.S. Coast Guard,[1] or for foreign vessels certificated under the requirements of a foreign nation or by persons acceptable for certification purposes by a foreign nation.

(2) When cargo gear certification is performed for shore-based material handling devices under standards established and enforced by the States wherein the devices are located, or by political subdivisions delegated this responsibility by the States, provided such standards meet the requirements of § 1918.13 (b)(2) of this chapter.

(c) Persons not required to be accredited for gear certification purposes, as set forth in paragraph (b) of this section, may, nevertheless, apply for and receive accreditation by the Administration. The appropriate subparts of this part shall apply to persons accredited pursuant to this paragraph except insofar as exemptions may be granted.

§ 1919.2 Definition of terms.

(a) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special-purpose floating structures not primarily designed for or used as a means of transportation on water.

(b) Except as otherwise noted, "cargo gear", as used in Subparts B through E of this part, includes that gear forming a part of a vessel's equipment which is used for the handling of cargo other than bulk liquids, but does not include gear which is used only for handling or holding hoses, handling ships' stores, or handling the gangway, or boom conveyor belt

(c) With reference to equipment covered by this part—

(1) "Derrick" means:

(i) When applied to vessels' cargo handling gear, a mechanical device for lifting, including a boom which is suspended at its head by a topping lift from a mast, king post, or similar structure, controlled in the horizontal plane by vangs, and used either singly or in pairs with married falls;

(ii) When applied to shore-based material handling devices, a mechanical device intended for lifting, with or without a boom supported at its head by a topping lift from a mast, fixed A frame, or similar structure. The mast or equivalent member may or may not be supported by guys or braces. The boom, where fitted, may or may not be controlled in the horizontal plane by guys (vangs). The term includes shear legs.

(2) "Crane" means a mechanical device, intended for lifting or lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. A crane may be a fixed or mobile machine.

(3) "Bulk cargo spout" means a spout which may or may not be telescopic and may or may not have removable sections, but is suspended over the vessel from some overhead structure by wire rope or other means. Such a spout is often used with a "thrower" or "trimming machine". A grain loading spout is an example of those covered by this definition.

(4) "Bulk cargo sucker" means a pneumatic conveyor which utilizes a spout-like device, which may be adjustable vertically and/or laterally, and which is suspended over a vessel from some overhead structure by wire rope or other means. An example of an installation of this nature is the "grain sucker" used to discharge grain from barges.

(d) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or his authorized representative.

(e) "Administration" means the Occupational Safety and Health Administration, U.S. Department of Labor.

(f) "Person" includes any individual, partnership, corporation, agency, association, or organization.

(g) "Competent person" means:

(1) An individual qualified to perform gear certification functions with respect to vessels' cargo handling gear, as specifically set forth in § 1919.37.

(2) An individual qualified under the provisions of Subparts F and G of this part to perform gear certification functions with respect to shore-based material handling devices.

(h) "Ton" means a ton of 2,240 pounds when applied to vessels' cargo handling gear, and a ton of 2,000 pounds when applied to shore-based material handling devices or to shore-type cranes permanently mounted aboard barges or other vessels employed in domestic trade and designed on the basis of the 2,000-pound ton. Capacity ratings may be stated in pounds.

(i) "Nondestructive examination" means examination of structure or parts by electronic, ultrasonic, or other nondestructive examination suitable for the purpose.

[1] Jurisdiction of the U.S. Coast Guard extends to matters within the scope of title 52 of the Revised Statutes and Acts supplementary or amendatory thereto (46 U.S.C. 1–1388, passim); to matters within the regulatory authority of the U.S. Coast Guard under the provisions of the Espionage Act of June 15, 1917, as amended (40 Stat. 220; 50 U.S.C. 191 et seq.; 22 U.S.C. 401 et seq.) or to matters within the regulatory authority of the U.S. Coast Guard under section 4(e) of the Outer Continental Shelf Lands Act of Aug. 7, 1953 (67 Stat. 462; 43 U.S.C. 1333).

Subpart B—Procedure Governing Accreditation

§ 1919.3 Application for accreditation.

(a) *Application.* Any person seeking accreditation shall file an original and duplicate copy of an application for accreditation with the Assistant Secretary of Labor for Occupational Safety and Health, United States Department of Labor, Washington, D.C. 20210, on a form provided by the Administration for this purpose. Each application shall be signed and certified by the applicant and, if the applicant is an agency or organization, by a responsible officer of such agency or organization.

(b) *Contents of application.* The application form shall include the following information:

(1) A statement detailing the applicable types of work performed by the applicant in the past, noting the amount and extent of such work performed within the previous three years, listing representative vessels involved, and including representative job orders, if available, or equivalent evidence;

(2) Descriptive details concerning any testing instruments and heat treatment furnaces which are to be used in conducting required tests or heat treatments. Test reports indicating that instruments meet the accuracy standards set forth in this part shall be included;

(3) A list setting forth the ports in which applicant currently conducts his business as well as those in which he proposes to conduct gear certification activities;

(4) A list of the applicant's responsible qualified personnel, both supervisory and managerial and including any surveyors, with resumes of their individual experience in the testing, examination, inspection and heat treatment of cargo gear. Such list shall include any branch office personnel or surveyors appointed to act in the applicant's behalf in any of the ports of the United States: *Provided, however,* That where the submission of individual resumes would be unduly burdensome because of the large number of persons engaged in the applicant's behalf, the applicant, after stating this fact, need only submit a list of its personnel together with a detailed statement of the qualifications upon which the appointment of surveyors is based;

(5) A detailed schedule of the fees proposed to be charged for the various gear certification services;

(6) Evidence of financial stability;

(7) Names of at least three business references who will furnish information regarding work performed by applicant;

(8) Any additional information the applicant deems to be pertinent.

§ 1919.4 Action upon application.

(a) Upon receipt of an application for accreditation, the Assistant Secretary shall approve or deny the application. The Assistant Secretary may conduct an investigation, which may include a hearing, prior to approving or denying an application. To the extent he deems appropriate, the Assistant Secretary may provide an opportunity to other interested persons to present data and views on the application prior to approval or denial.

(b) Any application which fails to present the information required by the prescribed form may be returned to the applicant with a notation of deficiencies and without prejudice to submission of a new or revised application.

(c) If the application is approved, notice of approval shall be mailed to the applicant. If the application is denied, notice of such denial shall be mailed to the applicant and such denial shall be without prejudice to any subsequent application except where such action is deemed to be in the public interest. In the event an application is denied with prejudice, the provisions of § 1919.9 shall be applicable.

(d) A copy of the notice of accreditation shall be kept on file by applicant at the applicant's place of business.

§ 1919.5 Duration and renewal of accreditation.

The period of accreditation shall not exceed three years. Applications for renewal of accreditation shall be made on the same form as described in § 1919.3. No accreditation shall expire until action on an application for renewal shall have been finally determined, provided that such application has been properly executed in accordance with § 1919.3 and filed with and received by the Assistant Secretary not less than 15 nor more than 60 days prior to the expiration date. A final determination means either the approval or initial denial of the application for renewal. The procedure specified in § 1919.4 shall be applicable to all applications for renewal.

§ 1919.6 Criteria governing accreditation to certificate vessels' cargo gear.

(a) (1) A person applying for accreditation to issue registers and pertinent certificates, to maintain registers and appropriate records, and to conduct initial, annual and quadrennial surveys shall not be accredited unless he is engaged in one or more of the following activities:

(i) Classification of vessels;

(ii) Certification of vessels' cargo gear;

(iii) Shipbuilding or ship repairing, or both insofar as related to work on vessels' cargo handling gear;

(iv) Unit and loose gear testing of vessels' cargo handling gear.

(2) Applicants for accreditation under paragraph (a)(1) of this section for operations in coastal or Great Lakes ports who come within subdivisions (ii) or (iv) shall not be accredited unless they conduct at least 1,500 hours of cargo gear certification work per year.

(b) A person applying for accreditation to carry out tests of loose gear or wire rope, or both, or to carry out heat treatments, and to issue the related certificates, shall be engaged in one or both of the following activities:

(1) Testing of loose gear or wire rope, or both;

(2) Heat treatment of chains and loose cargo gear.

(c) (1) A person applying for accreditation shall be staffed by individuals technically qualified to conduct the inspections and examinations and to conduct or supervise tests and heat treatments prescribed in this part. Any representatives, agents or surveyors acting on behalf of a person applying for accreditation in ports in which such operations are conducted shall be similarly qualified.

(2) Accreditation to conduct such nondestructive examination as may be a part of any certification activity may be granted to applicants found competent and equipped to carry out this activity.

(d) Except as noted in § 1919.1(c), and unless exemptions are granted under § 1919.10(h), a person applying for ac-

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creditation as specified in paragraph (a) of this section shall be prepared to carry out all of the requirements of Subparts C, D, and E, of this part except that loose gear and wire rope tests and heat treatments may be carried out by the manufacturer of the gear concerned or by another person accredited specifically for this purpose.

(e) A person applying for accreditation shall have a satisfactory record of performance, and shall be in sound financial condition.

§ 1919.7 Voluntary amendment or termination of accreditation.

The accreditation of any person may be voluntarily amended or terminated upon written request filed with the Assistant Secretary.

§ 1919.8 Suspension or revocation of accreditation.

The Assistant Secretary may suspend or revoke the accreditation of any person for cause. Except in cases of willfulness or cases in which the public interest requires otherwise, before any accreditation is suspended or revoked, facts or conduct which may warrant such action shall be called to the attention of the person involved in writing and that person shall be afforded an opportunity to achieve or demonstrate appropriate compliance.

§ 1919.9 Reconsideration and review.

(a) Any person aggrieved by the action of the Assistant Secretary or his authorized representative in denying, granting, suspending or revoking an accreditation under this part may within 15 days after such action, (1) file a written request for reconsideration thereof by the Assistant Secretary or the authorized representative of the Assistant Secretary who made the decision in the first instance, or (2) file a written request for review of the decision by the Assistant Secretary or an authorized representative of the Assistant Secretary, who has taken no part in the action which is the subject for review.

(b) A request for reconsideration shall be granted where the applicant shows that there is additional evidence which may materially affect the decision and that there were reasonable grounds for failure to adduce such evidence in the original proceedings.

(c) Any person aggrieved by the action of the Assistant Secretary or authorized representative of the Assistant Secretary in denying a request for reconsideration may, within 15 days after the denial of such request, file with the Assistant Secretary or his authorized representative a written request for review.

(d) Any person aggrieved by the reconsidered determination of the Assistant Secretary or authorized representative of the Assistant Secretary, may within 15 days after such determination, file with the Assistant Secretary a written request for review.

(e) A request for review shall be granted where reasonable grounds for the review are set forth in the request.

(f) If a request for reconsideration or review is granted, all interested persons shall be afforded an opportunity to present their views.

(g) No cargo gear certification function shall be performed by any person seeking reconsideration or review under this section pending the final decision with respect to such reconsideration or review.

Subpart C—Duties of Persons Accredited to Certificate Vessels' Cargo Gear

§ 1919.10 General duties; exemptions.

(a) Except as noted in § 1919.1 and in paragraph (h) of this section, the requirements set forth in Subparts D and E of this part shall be strictly adhered to in all testing, examinations, inspections, and heat treatments.

(b) Supervision of all testing, examinations, inspections, and heat treatments shall be carried out only by such persons as are listed in the application for accreditation, or subsequent supplements thereto, submitted pursuant to this part.

(c) The certificates issued by an accredited person shall be signed and all register entries made only by an authorized agent of such accredited person. No certification shall be issued until any deficiencies considered by the accredited person to constitute a currently unsatisfactory condition have been corrected. Replacement parts shall be of equal or better quality as original equipment and suitable for the purpose. In the event deficiencies remain uncorrected and no certification may therefore be issued, the accredited person shall inform the nearest District Office of the Administration of the circumstances.

(d) Dynamometers or other recording test equipment owned by an accredited person shall have been tested for accuracy within the six months next preceding application for accreditation or renewal of same. Such test shall be performed with calibrating equipment which has been checked in turn so that indications are traceable to the National Bureau of Standards. A copy of test reports shall accompany the application. Where test equipment is not the property of the accredited person, that person shall not issue any certificate based upon the use of such equipment unless its owner has made available a certificate of accuracy based on the requirements of this paragraph, obtained within 1 year prior to such use and stating the errors of the equipment. Reasonable standards of accuracy shall be met and proof loads adjusted as necessary.

(e) An accredited person shall, upon request, provide the nearest local office of the Administration with advance information as to scheduled testing or of such other functions as are performed and facilitate the Administration's observation of any such activities as it may desire to witness: *Provided, however,* That tests need not be delayed, except when specifically requested by the Administration under unusual circumstances.

(f) All cargo gear registers or certificates issued by an accredited person shall be made on forms prescribed or approved by the Administration.

(g) Unless otherwise instructed by the Assistant Secretary in specific instances, any person accredited under § 1919.6(a) shall accept certificates, relating to loose gear or wire rope tests or to heat treatments which are issued by the manufacturer of the gear concerned, by another person accredited specifically by the Assistant Secretary for this purpose, or by any other person whose certificates are acceptable to the Administration. Such certificates shall either be attached as a part of the vessel's certification or shall be used as the basis for the issuance of the accredited person's own loose gear, wire rope, or heat treatment certificates. In the latter case, the original certificates shall be kept on file by the accredited person as part of the permanent record of the vessel concerned.

(h) In case of practical difficulties or unnecessary hardships, the Assistant Secretary in his discretion may grant exemptions from any provision of Subparts C, D, and E of this part.

§ 1919.11 Recordkeeping and related procedures concerning records in custody of accredited persons.

(a) An accredited person shall maintain records of all work performed under Subparts D and E of this part.

(b) An accredited person shall maintain a continuous record of the status of the certification of each vessel issued a register by such person.

(c) The records required in paragraphs (a) and (b) of this section shall be available for examination by the Assistant Secretary.

(d) When annual or quadrennial tests, inspections, examinations, or heat treatments are performed by an accredited person, other than the person who originally issued the vessel's register, such accredited person shall furnish copies of any certificates issued and information as to register entries to the person originally issuing the register.

(e) An accredited person shall inform the nearest local office of the Administration whenever a vessel is initially certificated under these regulations and a register in the prescribed form has been issued.

(f) A copy of each certificate relating to unit tests or thorough examinations, except those issued by the manufacturer and those issued by accredited persons outside of the United States, shall be sent to the nearest local office of the Administration within 10 days after issuance. Such records shall form a part of the Administration's file on the accredited person.

(g) An accredited person shall promptly notify the nearest local office of the Administration with respect to any changes in technical personnel, in fee schedules in geographical areas in which operations are conducted, or other pertinent substantial changes in its organization or operations.

§ 1919.12 Recordkeeping and related procedures concerning records in custody of the vessel.

(a) A fully completed and up-to-date register shall be kept in the form prescribed or approved by the Administration, giving the particulars required with respect to:

(1) The inspections and thorough examinations required by § 1919.15 (a) and (b).

(2) The thorough examinations required by § 1919.15(c).

(3) The thorough examinations required by § 1919.17.

(4) The heat treatment required by § 1919.16 (a) and (b), and § 1919.19.

(b) Certificates in the form prescribed or approved by the Administration shall be kept up-to-date, be attached to the register, and shall contain the particulars required with respect to:

(1) The testing and examinations required by §§ 1919.14, 1919.15(a), and 1919.19.

(2) The heat treatment required by §§ 1919.16 and 1919.19.

(c) The certificates and entries in the register shall be signed by a person qualified under § 1919.37.

(d) Adequate means shall be provided to enable persons examining the register, or any certificate attached thereto, to identify items of cargo gear referred to therein. Small items of gear, such as shackles, shall bear a mark to indicate that they have been initially tested.

(e) Records shall be kept aboard vessels identifying wire rope or articles of loose gear obtained from time to time and required to be certificated under the regulations of this part.

(f) An accredited person shall instruct the vessel's officers, or the vessel's operator if the vessel is unmanned, that the vessel's register and certificates shall be preserved for at least 4 years after the date of the latest entry except in the case of nonrecurring test certificates concerning gear which is kept in use for a longer period, in which event the pertinent certificates shall be retained so long as that gear is continued in use.

(g) In cases where derricks, spouts, suckers, or cranes are mounted permanently aboard barges which remain in domestic inland waters service, the certification documentation shall comply with the provisions of § 1919.90 of this part.

Subpart D—Certification of Vessels' Cargo Gear

§ 1919.13 General.

(a) Except as noted in § 1919.1 and as provided in exemptions under § 1919.10 (h), certification performed by accredited persons shall conform to the requirements contained in this subpart.

(b) Safe working loads assigned to assembled units of gear, shall be based on applicable design criteria acceptable to the accredited person. Where no design data on which to base a rating is obtainable, the safe working load ratings assigned shall be based on the owner's information and warranty that those so assigned are correct. Unit test certificates shall state the basis for any such safe working load assignment.

§ 1919.14 Initial tests of cargo gear and tests after alterations, renewals or repairs.

(a)(1) Before being taken into use, hoisting machines, fixed gear aboard vessels accessory thereto, and loose gear and wire rope used in connection therewith shall be tested and examined and the safe working load thereof certified in the manner set forth in Subpart E of this part.

(2) Replacement or additional loose gear and wire rope obtained from time to time shall also be tested and examined in the manner set forth in subparagraph (1) of this paragraph. However, the replacement of a component part of an article of loose gear such as a sheave, pin, or bushing does not require a new test certificate as long as the new component at least equals in all particulars the part replaced.

(b) In the case of untested gear which has been in use, an initial test in conformance with paragraph (a)(1) of this section shall be carried out: *Provided, however,* That existing standing rigging and wire rope will not be required to be tested but shall be thoroughly examined to ascertain its fitness for continued use in conformance with the requirements of §§ 1919.24 and 1919.25.

(c) In the case of important alterations or renewals of the machinery and gear and also after repairs due to failure of or damage to other than loose components, a test as required in paragraph (a)(1) of this section shall be carried out.

(d) If the operation in which cargo gear is engaged never utilizes more than a fraction of the safe working load rating, the owner may, at his option, have said gear certificated for, and limited in operation to, a lesser maximum safe working load: *Provided, however,* That the gear concerned is physically capable of operation at the original load rating and the load reduction is not for the purpose of avoiding correction of any deficiency.

(e) In no case shall safe working loads be increased beyond the original design limitations unless such increase is based on engineering calculations by or acceptable to the accredited certification agency, and all necessary structural changes are carried out.

§ 1919.15 Periodic tests, examinations and inspections.

After being taken into use, every hoisting machine, all fixed gear aboard vessels accessory thereto and loose gear used in connection therewith shall be tested, thoroughly examined or inspected as follows:

(a) Derricks with their winches and accessory gear, including the attachments, as a unit; and cranes and other hoisting machines with their accessory gear, as a unit, shall be tested and thoroughly examined every four years in the manner set forth in Subpart E of this part.

(b) Derricks, their permanent attachments and any other fixed gear, the dismantling of which is especially difficult, shall be visually inspected every twelve months. In order to facilitate such inspection, all derricks shall be lowered.

(c) All hoisting machines (e.g., cranes, winches, blocks, shackles, and all other accessory gear) not included in paragraph (b) of this section shall be thoroughly examined every 12 months by means of a visual examination, supplemented as necessary by other means, such as a hammer test or with electronic, ultrasonic, or other nondestructive methods, carried out as carefully as conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined. Particular attention shall be paid to the suitability for continued use of all swivels and the pins and bushings of blocks. If necessary, parts of the machines or gear shall be dismantled. If blocks are disassembled, all shell bolt nuts shall be securely locked upon reassembly.

(d) Where a derrick or crane is mounted on a barge hull, and ballast tanks within the hull are used to facilitate use of the derrick or crane, or uncontrolled free surface may be a factor, each annual inspection or examination, as required, shall include such inspection as is necessary for the purpose of determining the integrity of any internals contributing to stability under conditions of use. The owner shall provide the accredited person with necessary information on any ballasting arrangements required.

(e) Annual inspection or examination, as required, shall include, among other things, examination of the following:

(1) Derrick heel attachment points. Heel pins may, if possible, be examined by nondestructive examination.

(2) Shrouds and stays necessary in the use of the gear, together with attachment points.

(3) Deck fittings for the securing of vangs, topping lifts, and/or preventers.

(4) Means of attachment to the hull of "A" frame or other fixed derrick or crane structure and of mobile types of equipment permanently placed aboard the barge or vessel.

(5) Clamshell buckets or other similar equipment, such as magnets, etc., used in conjunction with a derrick or crane mounted aboard a vessel, with particular attention to closing line wires and sheaves. The accredited person may supplement such examination by requesting any operational tests he may deem appropriate.

(6) Winch and other operating drums for excessive wear or defect.

§ 1919.16 Heat treatment.

(a) All chains (other than bridle chains attached to derricks or masts), rings, hooks, shackles, and swivels made of wrought iron, which are used in hoisting or lowering, shall be annealed in accordance with § 1919.36 at the following intervals:

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(1) Half-inch and smaller chains, rings, hooks, shackles, and swivels in general use, at least once every six months; and

(2) All other chains, rings, hooks, shackles, and swivels in general use, at least once every twelve months.

(3) In the case of gear used solely on lifting machinery worked by hand, twelve months shall be substituted for six months in subparagraph (1) of this paragraph and two years for twelve months in subparagraph (2) of this paragraph.

(4) When used in this paragraph, the term "in general use" means used on fifty-two or more days in a year. In any case, however, the period between annealings shall not exceed two years.

(b) Chains, rings, hooks, shackles, and swivels made of material other than wrought iron or steel shall be heat treated when necessary in accordance with § 1919.36(b).

§ 1919.17 Exemptions from heat treatment.

Gear made of steel, or gear which contains (as in ball bearings swivels), or is permanently attached to (as with blocks) equipment made of materials which cannot be subjected to heat treatment shall be exempt from the requirements of § 1919.16. Such gear, however, shall be thoroughly examined in the manner described in § 1919.15(c).

§ 1919.18 Grace periods.

Grace periods allowed in connection with the requirements of this subpart are as follows:

(a) Annual or six-month requirements—by the end of the voyage during which they become due;

(b) Quadrennial requirements—within six months after the date when due;

(c) Grace periods shall not be deemed to extend subsequent due dates.

§ 1919.19 Gear requiring welding.

Chains or other gear which have been lengthened, altered or repaired by welding shall be properly heat treated where necessary, and, before again being put into use, shall be tested and reexamined in the manner set forth in Subpart E of this part.

§ 1919.20 Damaged components.

(a) Pursuant to § 1919.51(b) of this chapter, any derrick or associated permanent fitting which is deformed in service between surveys shall be subjected to proof test to determine its suitability for continued service. If a proof test indicates that the derrick or associated permanent fitting may be continued in service without repair, a note of the existing deformity shall be made on the test certificate. When, in the opinion of the accredited person, it is unsafe to conduct a proof test with an existing deformity, the derrick or associated permanent fitting shall be replaced or repaired and then subjected to proof test in accordance with Subpart E of this part.

(b) Any loose gear components which are injured or deformed by a proof load shall be replaced before a certificate is issued.

(c) Any derrick, other fixed installation, or associated permanent fitting which is injured or deformed by a proof load shall be replaced or repaired and another proof load test shall be conducted without damage before a certificate is issued.

§ 1919.21 Marking and posting of safe working loads.

(a) The safe working load of the assembled gear and the minimum angle to the horizontal at which this load may be applied shall be plainly marked at the heels of all booms along with the date of the test. Where gear is certificated for use in union purchase, the union purchase safe working load shall also be plainly marked. Any limitations shall be noted in the vessel's papers.

(b) The safe working load shall be marked on all blocks used in hoisting or lowering.

(c) When the capacity of the boom of a crane or derrick has been or will be rated in accordance with the variance of its radius, the maximum safe working loads for the various working angles of the boom and the maximum and minimum radii at which the boom may be safely used shall be conspicuously posted near the controls and visible to the crane operator. Ratings may be stated in pounds. When they are stated in tons of 2,000 pounds, this fact shall be indicated.

§ 1919.22 Requirements governing braking devices and power sources.

All types of winches and cranes shall be provided with means to stop and hold the proof load in any position, and the efficiency of such means shall be demonstrated. Electric winches, electrohydraulic winches fitted with electromagnetic or hydraulic brakes at the winch, or electric cranes shall be equipped so that a failure of the electric power shall stop the motion and set the brakes without any action on the part of the operator. Current for operation of electric winches and cranes during the tests shall be taken from the vessel's circuits. Shore current may be used if it passes through the vessel's main switchboard.

§ 1919.23 Means of derrick attachment.

Appropriate measures shall be taken to prevent the foot of a derrick from being accidently lifted from its socket or support during the test.

§ 1919.24 Limitations on use of wire rope.

(a) An eye splice made in any wire rope shall have at least three tucks with a whole strand of rope and two tucks with one-half of the wires cut out of each strand. However, this requirement shall not operate to preclude the use of another form of splice or connection which can be shown to be as efficient and which is not prohibited by Part 1918 of this chapter.

(b) Except for eye splices in the ends of wires, each wire rope used in hoisting or lowering, in guying derricks, or as a topping lift, preventer or pendant shall consist of one continuous piece without knot or splice.

(c) Eyes in the ends of wire rope cargo falls shall not be formed by knots and, in single part falls, shall not be formed by wire rope clips.

(d) The ends of falls shall be secured to the winch drums by clamps, U-bolts, shackles or some other equally strong method. Fiber rope fastenings shall not be used.

(e) Wire rope shall not be used for the vessel's cargo gear if in any length of eight diameters, the total number of visible broken wires exceeds 10 percent of the total number of wires, or if the rope shows other signs of excessive wear, corrosion, or defect. Particular attention shall be given to the condition of those sections of wire rope adjacent to any terminal connections, those sections exposed to abnormal wear, and those sections not normally exposed for examination.

§ 1919.25 Limitations on use of chains.

Chains forming a part of vessel's cargo gear shall not be used when, due to stretch, the increase of length of a measured section exceeds five percent, when a link is damaged, or when other external defects are evident. Chains shall not be shortened by bolting, wiring, or knotting.

Subpart E—Certification of Vessels: Tests and Proof Loads; Heat Treatment; Competent Persons

§ 1919.26 Visual inspection before tests.

Before any test under this Subpart E is carried out, a visual inspection of the gear involved shall be conducted and any visibly defective gear shall be replaced or repaired. The provisions of § 1919.15(d) shall be adhered to.

§ 1919.27 Unit proof tests—winches, derricks and gear accessory thereto.

(a) Winches, with the whole of the gear accessory thereto (including derricks, goosenecks, eye plates, eye bolts, or other attachments), shall be tested with a proof load which shall exceed the safe working load as follows:

Safe working load:	*Proof load*
Up to 20 tons	25 percent in excess.
20–50 tons	5 tons in excess.
Over 50 tons	10 percent in excess.

(b) The proof load shall be lifted with the vessel's normal tackle with the derrick at an angle not more than 15 degrees to the horizontal, or, at the designed minimum angle when this is greater, or, when this is impracticable, at the lowest practicable angle. The angle at which the test was made shall be stated in the certificate of test. After the proof load has been lifted, it shall be swung as far as possible in both directions. In applying the proof load, the design factors of the gear concerned will determine whether the load is applied with a single part fall or with a purchase and the certificate of test shall state the means used. Where winches are fitted with mechanical brakes for manual operation they shall be demonstrated to be in satisfactory operating condition.

(c) In the case of heavy lift derrick barges, proof loads shall be applied, except as limited by design and stability considerations, at the maximum and minimum radii for which designed, as well as at any intermediate radius which the surveyor may deem necessary, and shall be swung as far as possible in both directions. Data with respect to each proof load applied shall be entered in the test certificate.

(d) No items of cargo gear furnished by outside sources shall be used as a part of the vessel's gear for the purpose of accomplishing the proof test.

(e) All tests prescribed by this section should in general be carried out by dead load, except that in the case of quadrennial tests, replacements, or renewals, spring or hydraulic balances may be used where dead loads are not reasonably available. However, no exception shall be allowed in the case of gear on new vessels.

(f) The test shall not be regarded as satisfactory unless the indicator remains constant under the proof load for a period of at least 5 minutes.

(g) (1) The safe working load, determined pursuant to the requirements of this section, shall be applicable only to a swinging derrick. When using two fixed derricks in "union purchase" rigs, the safe working load should generally be reduced. It is recommended that owners obtain union purchase safe working load certification based upon design study and analysis by, or acceptable to, a qualified technical office of an accredited gear certification agency, with the recognition that such determinations are valid only for the conditions contemplated in the analysis.

(2) Where both guys and preventers are fitted, union purchase certification shall state whether the guy or the preventer is the working strength member, when the guy is for slewing only, and when the guy and preventor should share working loads as far as practicable.

(h) When necessary in the proof testing of heavy derricks, the appropriate shrouds and stays shall be rigged.

§ 1919.28 Unit proof tests—cranes and gear accessory thereto.

(a) Except as noted in paragraph (e) of this section, cranes and other hoisting machines, together with gear accessory thereto, shall be tested with a proof load which shall exceed the safe working load as follows:

Safe working load:	*Proof load*
Up to 20 tons	25 percent in excess.
20–50 tons	5 tons in excess.
Over 50 tons	10 percent in excess.

(b) The proof load shall be lifted and swung as far as possible in both directions. If the jib or boom of the crane has a variable radius, it shall be tested with proof loads, as specified in paragraph (a) of this section, at the maximum and minimum radii. In the case of hydraulic cranes, when due to the limitation of pressure it is impossible to lift a load 25 percent in excess of the safe working load, it will be sufficient to lift the greatest possible load.

(c) Initial proof tests of new cranes shall be made only with a dead load as specified in paragraph (b) of this section.

(d) Initial tests of cranes which have been in service, quadrennial tests, or tests associated with replacements or renewals, may be made with spring or hydraulic balances where dead loads are not reasonably available under the following conditions:

(1) Tests shall be conducted at maximum, minimum, and intermediate radius points, as well as such points in the arc of rotation as meet with the approval of the accredited person.

(2) An additional test shall be conducted with partial load and shall include all functions and movements contemplated in the use of the crane.

(e) In cases where shore-type cranes are mounted permanently aboard barges, the requirements of this Subpart E with respect to unit proof tests and examinations shall not apply and the applicable requirements of Subpart H of this part shall be adhered to with respect to unit proof tests and examinations.

§ 1919.29 Limitations on safe working loads and proof loads.

The proof loads specified by §§ 1919.27 and 1919.28 shall be adjusted as necessary to meet any pertinent limitations based on stability and/or on structural competence at particular radii. Safe working loads shall be reduced accordingly.

§ 1919.30 Examinations subsequent to unit tests.

(a) After satisfactory completion of the unit proof load tests required by §§ 1919.27 and 1919.28, the cargo gear and all component parts thereof shall be given a thorough visual examination, supplemented as necessary by other means, such as a hammer test or with electronic, ultrasonic, or other nondestructive methods, to determine if any of the parts were damaged, deformed, or otherwise rendered unsafe for further use.

(b) When the test of gear referred to in paragraph (a) of this section is being conducted for the first time on a vessel, accessory gear shall be dismantled or disassembled for examination after the test. The sheaves and pins of the blocks included in this test need not be removed unless there is evidence of deformation or failure.

(c) For subsequent tests such parts of the gear shall be dismantled or disassembled after the test as necessary to determine their suitability for continued service.

(d) When blocks are disassembled all shell bolt nuts shall be securely locked upon reassembly.

(e) In carrying out the requirements of this section, replacement shall be required of:

(1) Any swivel found to have excessive tolerance as a result of wear on any bearing surface.

(2) Pins of blocks found to be shouldered, notched, or grooved from wear, in which case, in addition to replacing the pin, sheave bushings shall be examined for suitability for continued use.

§ 1919.31 Proof tests—loose gear.

(a) Chains, rings, shackles and other loose gear (whether accessory to a machine or not) shall be tested with a proof load against the article equal to that shown in the following table:

Article of gear	*Proof load*
Chain, ring, hook, shackle or swivel	100 percent in excess of the safe working load.
Blocks:	
Single sheave block	300 percent in excess of the safe working load.[1]
Multiple sheave block with safe working load up to and including 20 tons.	100 percent in excess of the safe working load.
Multiple sheave block with safe working load over 20 tons up to and including 40 tons.	20 tons in excess of the safe working load.
Multiple sheave block with safe working load over 40 tons.	50 percent in excess of the safe working load.
Pitched chains used with hand-operated blocks and rings, hooks, shackles or swivels permanently attached thereto.	50 percent in excess of the safe working load.
Hand-operated blocks used with pitched chains and rings, hooks, shackles or swivels permanently attached thereto.	50 percent in excess of the safe working load.

[1] The proof load applied to the block is equivalent to twice the maximum resultant load on the eye or pin of the block when lifting the nominal safe working load defined in (i) below. The proof load is, therefore, equal to four times the safe working load as defined in (i) below or twice the safe working load as defined in (ii) below.

(i) The nominal safe working load of a single-sheave block should be the maximum load which can be safely lifted by the block when the load is attached to a rope which passes around the sheave of the block.

(ii) In the case of a single-sheave block where the load is attached directly to the block instead of to a rope passing around the sheave, it is permissible to lift a load equal to twice the nominal safe working load of the block as defined in (i) above.

(iii) In the case of a lead block so situated that an acute angle cannot be formed by the two parts of the rope passing over it (i.e., the angle is always 90° or more), the block need not have a greater nominal safe working load than one-half the maximum resultant load which can be placed upon it.

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(b) In cases where persons accredited to carry out loose gear tests may be retained to conduct tests of special stevedoring gear as described in § 1918.61(b) of this chapter, which does not form part of a vessel's equipment, such tests shall adhere to the requirements set forth in § 1918.61(b) (1), (2), and (3) of this chapter.

(c) After being tested as required by paragraph (a) of this section, and before being taken into use, all chains, rings, hooks, shackles, blocks or other loose geat, except as noted in § 1919.32, shall be thoroughly examined, the sheaves and pins of the blocks being removed for this purpose, to determine whether any part has been injured or permanently deformed by the test. Shell bolt nuts shall be securely locked upon reassembly. Defective loose gear components shall be replaced before the certificate is issued.

(d) Any certificate relating to shackles, swivels or strength members of single-sheave blocks which have been restored to original dimensions by welding shall state this fact.

§ 1919.32 Specially designed blocks and components.

(a) Blocks and connecting components of an unusual nature which are specially designed and constructed as an integral part of a particular lifting unit and are either permanently affixed or of such design that two or more components must be tested together need not be considered as loose gear for purposes of § 1919.31.

(b) In lieu of the loose gear proof test required by § 1919.31(a), design data shall be submitted to an accredited certification agency indicating design and material specifications and analysis whereby the designed strength of such gear may be determined.

(c) Subsequent to the test of the lifting unit as a whole, a thorough visual examination shall be made of disassembled parts and an electronic, ultrasonic, or other equally efficient nondestructive examination shall be made of those parts not dismantled to ensure the safe condition of such parts.

§ 1919.33 Proof tests—wire rope.

Wire rope, except as provided in § 1919.14(b), shall be tested by sample, a piece being tested to destruction, and the safe working load of running ropes, unless otherwise acceptable to the Administration on the basis of design, shall not exceed one-fifth of the breaking load of the sample tested. In the case of running ropes used in gear with a safe working load exceeding 10 tons, the safe working load shall not exceed one-fourth of the breaking load of the sample tested.

§ 1919.34 Proof tests after repairs or alterations.

When proof loads are applied after repairs or alterations, all parts of the assembled gear shall be examined as required in §§ 1919.30, 1919.31(c), or 1919.32(c), whichever is applicable.

§ 1919.35 Order of tests.

When both unit and loose gear proof load tests are required, the loose gear test may be carried out after completion of the unit test.

§ 1919.36 Heat treatment.

(a) The annealing of wrought iron gear required by this part shall be accomplished at a temperature between 1100° and 1200° F. and the exposure shall be of between 30 and 60 minutes duration. After being annealed, the gear shall be allowed to cool slowly and shall then be carefully inspected. All annealing shall be carried out in a closed furnace.

(b) When heat treatment of loose gear made of other than wrought iron or steel is recommended by the manufacturer, it shall be carried out in accordance with the specifications of the manufacturer.

§ 1919.37 Competent persons.

All gear certification functions shall be performed by competent persons as set forth in the following table:

Functions	*Competent person*
Any testing, examination, inspection, or heat treatment required in United States ports.	Responsible individual, surveyor or other authorized agent of a person accredited by the Administration under the regulations contained in this part.
Any testing, examination, inspection, or heat treatment required while the vessel is in other than United States ports.	Responsible individual, surveyor or other authorized agent of persons recognized by the Commandant of the United States Coast Guard or by a foreign nation whose certification is accepted by the Administration as being in substantial accordance with § 1918.12(a) of this chapter.
Testing, examination and inspection of loose gear or wire rope; heat treatment of loose gear.	Employees or authorized agents of persons accredited specifically by the Administration for this purpose under the regulations contained in this part, or the manufacturer of the gear concerned unless disapproved by the Assistant Secretary.

Subpart F—Accreditation To Certificate Shore-Based Equipment

§ 1919.50 Eligibility for accreditation to certificate shore-based material handling devices covered by § 1918.13 of the safety and health regulations for longshoring.

(a) A person applying for accreditation to carry out certification activities and to issue and maintain the requisite records must be:

(1) A manufacturer of cranes or derricks or of specialized equipment of the type for which accreditation application is made, or a person or organization representing such a manufacturer in a technical capacity; or

(2) Technically experienced and qualified to carry out examinations and/or testing, as applicable, of vessels or shore-based equipment or gear of the type for which accreditation application is made.

(b) The owner of shore-based equipment affected may designate a member of his organization to carry out certification functions respecting the owner's equipment, on the following conditions:

(1) The designee is technically experienced and qualified in the inspection and maintenance or design of the type of equipment involved, aside from employment as an operator only.

(2) The designee has applied to an accredited, nationally operating certification agency and has been granted appointment or equivalent recognition by that agency as a surveyor for the purpose intended.

(3) Certification activities carried out by the designee are cleared through the offices, and are subject to the approval, of the accredited certificating agency. When equipment is found satisfactory for use upon any survey, said equipment may be used pending receipt of notification of such approval or any disapproval.

(4) In cases where equipment is certificated by a person designated by the equipment owner, the cognizant accredited certification agency retains the right to inspect such equipment as desired and convenient in order to ascertain the adequacy of the certification activity performed.

(c) Accreditation to conduct such nondestructive examination as may be a part of any certification activity may be granted to applicants found competent and equipped to carry out this activity.

(d) Unless exemptions are granted at the discretion of the Assistant Secretary in cases of practical difficulties or unnecessary hardship, applicants for accreditation as specified in this section shall be prepared to carry out all necessary functions, except that any requisite wire rope tests, nondestructive examinations, and heat treatments may be carried out by the manufacturer of the gear concerned or by another person accredited specifically for these purposes.

(e) A person applying for accreditation shall have a satisfactory record of relevant experience and performance, and shall be in sound financial condition.

§ 1919.51 Provisions respecting application for accreditation, action upon the application, and related matters.

The provisions of §§ 1919.3, 1919.4, 1919.5, 1919.7, 1919.8, and 1919.9 shall govern accreditation to certificate shore-based material handling devices to the extent applicable.

Subpart G—Duties of Persons Accredited to Certificate Shore-Based Material Handling Devices

§ 1919.60 General duties, exemptions.

(a) The requirements of Subpart H of this part shall be strictly observed: *Provided, however,* That in cases of practical difficulties or unnecessary hardship, the Assistant Secretary in his discretion may grant exemptions or variations from any provision in that subpart.

(b) Except as otherwise noted in this part, all functions required by Subpart H of this part shall be carried out by or under the supervision of a person accredited for the purpose or by his authorized representative.

(c) All required unit proof load tests shall be carried out by the use of weights as a dead load. Only where this is not possible may dynamometers or other recording test equipment be used. Any such recording test equipment owned by an accredited person shall have been tested for accuracy within the 6 months next preceding application for accreditation or renewal thereof. Such test shall be performed with calibrating equipment which has been checked in turn so that indications are traceable to the National Bureau of Standards. A copy of test reports shall accompany the accreditation application. Where test equipment is not the property of the accredited person, that person shall not issue any certificate based upon the use of such equipment unless its owner has made available a certificate of accuracy based on the requirements of this paragraph obtained within the year prior to such use, and stating the errors of the equipment. In any event, reasonable standards of accuracy shall be met and proof loads adjusted as necessary.

(d) The qualifications of any person appointed or recognized by any accredited person for the purpose of carrying out certification functions shall meet with the approval of the Assistant Secretary.

(e) Sections 1919.10 (e) and (g) and 1919.11 shall govern, to the extent applicable, persons accredited under Subpart F of this part.

Subpart H—Certification of Shore-Based Material Handling Devices

§ 1919.70 General provisions.

(a) Certification of shore-based material handling devices shall conform to the requirements contained in this subpart, except in cases for which exemptions or variations have been granted by the Assistant Secretary as provided in §§ 1919.50(d) and 1919.60(a).

(b) Any replacements or repairs deemed necessary by the accredited person shall be carried out before application of a proof test.

(c) "Ton" in this subpart means a ton of 2,000 pounds.

(d) When applied to shore-based material handling devices, ratings may be stated in pounds rather than tons. When stated in tons of 2,000 pounds, this fact shall be indicated.

§ 1919.71 Unit proof test and examination of cranes.

(a) Unit proof tests of cranes shall be carried out at the following times:

(1) In the cases of new cranes, before initial use and every 4 years thereafter.

(2) In the cases of uncertificated cranes which have been in use, at the time of initial certification and every 4 years thereafter.

(3) After important alterations and renewals and after repairs due to failure of, or damage to major components.

(b) Unit proof load tests of cranes shall be carried out where applicable with the boom in the least stable direction relative to the mounting, based on the manufacturer's specifications.

(c) Unit proof load tests shall be based on the manufacturer's load ratings for the conditions of use and shall, except in the case of bridge type cranes utilizing a trolley, consist of application of a proof load of 10 percent in excess of the load ratings at maximum and minimum radii, and at such intermediate radii as the certificating authority may deem necessary in the circumstances.[1] Trolley equipped cranes shall be subject to a proof load of 25 percent in excess of the manufacturer's load rating. In cases of foreign manufacture, the manufacturer's specifications shall be subject to approval by the certificating authority as being equivalent to U.S. practice. The weight of all auxiliary handling devices such as, but not limited to, magnets, hooks, slings, and clamshell buckets, shall be considered part of the load.

(d) An examination shall be carried out in conjunction with each unit proof load test. The accredited person, or his authorized representative, shall make a determination as to correction of deficiencies found. The examination shall cover the following points as applicable:

(1) All functional operating mechanisms shall be examined for improper function, maladjustment, and excessive component wear, with particular attention to sheaves, pins, and drums. The examination shall include operation with partial load, in which all functions and movements, including, where applicable, maximum possible rotation in both directions, are performed.

(2) All safety devices shall be examined for malfunction.

(3) Lines, tanks, valves, drains, pumps, and other parts of air or hydraulic systems shall be examined for deterioration or leakage.

(4) Loose gear components, such as hooks, including wire rope and wire rope terminals and connections, shall be checked with particular attention to sections of wire rope exposed to abnormal wear and to sections not normally exposed for examination. The provisions of § 1919.24 shall apply in wire rope examinations. Cracked or deformed hooks shall be discarded and not reused on any equipment subject to the provisions of Part 1918 of this chapter and this Part 1919.

(5) Rope reeving shall comply with manufacturer's recommendations.

(6) Deformed, cracked, or excessively corroded members in crane structure and boom shall be repaired or replaced as necessary.

(7) Loose bolts, rivets, or other connections shall be corrected.

(8) Worn, cracked, or distorted parts affecting safe operation shall be corrected.

(9) Brake and clutch system parts, linings, pawls, and ratchets shall be examined for excessive wear and free operation.

(10) Load, boom angle, or other indicators shall be checked over their full range for any significant inaccuracy. A boom angle or radius indicator shall be fitted.

(11) It shall be ascertained that there is a durable rating chart visible to the operator, covering the complete range of the manufacturer's capacity ratings at all operating radii, for all permissible boom lengths and jib lengths, with alternate ratings for optional equipment affecting such ratings. Necessary precautions or warnings shall be included. Operating controls shall be marked or an explanation of controls shall be posted at the operator's position to indicate function.

(12) Where used, clamshell buckets or other similar equipment such as magnets, etc., shall be carefully examined in all respects, with particular attention to closing line wires and sheaves. The accredited person may supplement such examination by requesting any operational tests as may be appropriate.

(13) Careful examination of the junction areas of removable boom sections, particularly for proper seating, cracks, deformities, or other defects in securing bolts and in the vicinity of such bolts.

(14) It shall be ascertained that no counterweights in excess of the manufacturer's specifications are fitted.

(15) Such other examination or supplemental functional tests shall be made as may be deemed necessary by the accredited person under the circumstances.

§ 1919.72 Annual examination of cranes.

(a) In any year in which no quadrennial unit proof test is required, an examination shall be carried out by an accredited person or his authorized representative. Such examination shall be made not later than the anniversary date of the quadrennial certification and shall conform with the requirements of § 1919.71(d).

§ 1919.73 Unit proof test and examination of derricks.

(a) Unit proof tests of derricks shall be carried out at the same times as are specified in § 1919.71(a) for cranes.

[1] The manufacturer's load ratings are usually based upon percentage of tipping loads under some conditions and upon limitations of structural competence at others, as well as on other criteria such as type of crane mounting, whether or not outriggers are used, etc. Some cranes utilizing a trolley may have only one load rating assigned and applicable at any outreach. It is important that the manufacturer's ratings be used.

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(b) Unit proof load tests and safe working load ratings shall be based on the design load ratings at the ranges of boom angles or operating radii. Unit proof loads shall exceed the safe working load as follows:

Safe working load:	*Proof Load*
Up to 20 tons	25 percent in excess.
20–50 tons	5 tons in excess.
Over 50 tons	10 percent in excess.

Proof loads shall be applied at the designed maximum and minimum boom angles or radii, or, if this is impracticable, as close to these as practicable. The angles or radii of test shall be stated in the certificate of test. Proof loads shall be swung as far as possible in both directions. The weight of all auxiliary handling devices shall be considered a part of the load.

(c) After satisfactory completion of a unit proof load test, the derrick and all component parts thereof shall be carefully examined in accordance with the requirements of § 1919.71(d), as far as applicable.

§ 1919.74 Annual examination of derricks.

(a) In any year in which no quadrennial unit proof test is required, an examination shall be carried out by an accredited person or his authorized representative. Such annual examination shall be made not later than the anniversary date of the quadrennial certification and shall conform in all applicable respects with § 1919.71(d).

§ 1919.75 Determination of crane or derrick safe working loads and limitations in absence of manufacturer's data.

(a) In the event neither manufacturer's data nor design data on safe working loads (including any applicable limitations) are obtainable, the safe working load ratings assigned shall be based on the owner's information and warranty that those so assigned are correct. Unit test certificates shall state the basis for any such safe working load assignment.

§ 1919.76 Safe working load reduction.

(a) If the operation in which equipment is engaged never utilizes more than a fraction of the safe working load rating, the owner of such equipment may, at his option, have the crane or derrick certificated for and operated at a lesser maximum safe working load in keeping with the use and based on radius and other pertinent factors: *Provided, however,* That the equipment concerned is physically capable of operation at the original load rating and the load reduction is not for the purpose of avoiding correction of any deficiency.

§ 1919.77 Safe working load increase.

(a) In no case shall safe working loads be increased beyond the manufacturer's ratings or original design limitations unless such increase meets with the manufacturer's approval. Where the manufacturer's services are not available, or where the equipment is of foreign manufacture, engineering design analysis by, or acceptable to, the accredited certification agency is required. All necessary structural changes shall be carried out.

§ 1919.78 Nondestructive examinations.

(a) Wherever it is considered necessary by the accredited person or his authorized representative and wherever it is practical and advisable to avoid disassembly of equipment, removal of pins, etc., examination of structure or parts by electronic, ultrasonic, or other nondestructive methods may be carried out, provided that the procedure followed is acceptable to the Assistant Secretary and the person carrying out such examination is accredited or acceptable to the Assistant Secretary for the purpose.

§ 1919.79 Wire rope.

(a) Wire rope and replacement wire rope shall be of the same size, same or better grade, and same construction as originally furnished by the equipment manufacturer or contemplated in the design, unless otherwise recommended by the equipment or the wire rope manufacturer due to actual working condition requirements. In the absence of specific requirements as noted, wire rope shall be of a size and construction suitable for the purpose, and a safety factor of 4 shall be adhered to, and verified by wire rope test certificate.

(b) Wire rope in use on equipment previously constructed and prior to initial certification of said equipment shall not be required to be tested, but shall be subject to thorough examination at the time of initial certification of the equipment.

§ 1919.80 Heat treatment.

(a) Wherever heat treatment of any loose gear is recommended by the manufacturer, it shall be carried out in accordance with the specifications of the manufacturer.

§ 1919.81 Examination of bulk cargo loading or discharging spouts or suckers.

(a) Those portions of bulk cargo loading or discharging spouts or suckers which extend over vessels, together with any portable extensions, rigging components, outriggers, and attachment points supporting them or any of their components vertically, shall be examined annually. The examination shall be carried out with particular attention to the condition of wire rope and accessories. The equipment shall not be considered satisfactory unless, in the opinion of the accredited person or his authorized representative, it is deemed fit to serve its intended function.

§ 1919.90 Documentation.

(a) Documents issued respecting a certification function by an accredited person shall be on forms approved for such use by the Assistant Secretary and shall so state.

(b) Such documents shall be issued by the accredited person to the owners of affected equipment, attesting to satisfactory compliance with applicable requirements. The forms used shall contain the following information:

(1) Unit proof tests where required—

(i) Identification of crane or derrick including manufacturer, model number, serial number, and ownership.

(ii) Basis for assignment of safe working load ratings, with the ratings assigned (i.e., whether based on manufacturer's ratings, whether for any specific service, etc.).

(iii) Proof test details noting radii and proof loads, how applied, and, where applicable, direction relative to mounting.

(iv) A statement that the test and associated examination were conducted and all applicable requirements of this subpart are met.

(v) Any necessary remarks or supplementary data, including limitations imposed and the reason thereof.

(vi) Name of accredited person and identification of authorized representative actually conducting test and/or examination.

(vii) Authorized signature of accredited person; date and place of test and/or examination.

(2) Annual examination of cranes or derricks—

(i) Information specified in subparagraph (1) (i), (v), (vi), and (vii) of this paragraph.

(ii) A statement that the required examination has been carried out and that, in the opinion of the accredited person or his authorized representative, the equipment has been found in compliance in all applicable respects with the requirements of this subpart.

(3) Annual examination of bulk cargo loading or discharging spouts or suckers—

(i) Specific identification of equipment.

(ii) A statement that examination has been completed and that, in the opinion of the accredited person or his authorized representative, the equipment meets the criteria of § 1919.81(a).

(iii) Information specified in subparagraph (1) (v), (vi), and (vii) of this paragraph.

(c) Certificates relating to wire rope, whether tested by or under the supervision of the accredited person or by its manufacturer and whether or not issued on the basis of the manufacturer's certificates, shall follow the general format of a wire rope test form approved by the Administration.

(d) Accredited persons shall advise owners of affected equipment of the necessity for maintaining required documentation or acceptable copies thereof available for inspection at or near the worksite of the equipment involved.

(1) Where initial and periodic tests as well as annual examinations are required, documentation available for inspection shall include the latest unit test certificate and any subsequent annual examination certificates, together with wire rope test certificates relating to any wire rope replaced since the last annual examination.

(2) In the event that heat treatment of any loose gear is recommended by its manufacturer, the latest heat treatment certificate, attesting to compliance with the manufacturer's specifications, shall be part of the available documentation.

(e) No certification shall be issued until any deficiencies considered by the accredited person to constitute a current unsatisfactory condition have been corrected. Replacement parts shall be of equal or better quality than original equipment and suitable for the purpose. In the event deficiencies remain uncorrected and no certification therefore is issued, the accredited person shall inform the nearest district office of the Administration of the circumstances.

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Title 3—The President

PROCLAMATION 4169

National Sokol Day

By The President of The United States of America

A Proclamation

Theodore Roosevelt characterized an important quality of life in America when he urged on his countrymen "* * * not the doctrine of ignoble ease, but the doctrine of the strenuous life."

Americans have always prized physical vigor and vitality. Today all of us take pride in our Olympic teams, our great professional stars, and the thousands of fine young athletes in our schools and colleges.

Our high regard for physical fitness and athletic skill is well-founded. Just as these qualities were keys to survival and progress in centuries past, today they are important ingredients of a healthy life. Yet vigor and vitality are no longer natural by-products of our everyday lives. They must be developed through rigorous programs of physical exercise and training.

On October 30, 1892, the first American Slovak Sokol Society was established to help meet this need. In the 80 years since then, the Sokol has grown to include more than 23,000 members, and its gymnasiums have become famous worldwide as training grounds for gymnastics, physical fitness and good sportsmanship.

The Sokols, which trace their beginnings to Czechoslovakia, exemplify much that we identify with the best of America. For this reason, and because they have contributed significantly to the current revival of interest in gymnastics and physical fitness, it is appropriate that we join in recognizing them and the role they play in our society.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in consonance with House Joint Resolution 1263, do hereby proclaim October 30, 1972, as National Sokol Day. I call upon the people of the United States and interested groups and organizations to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord nineteen hundred seventy two, and of the Independence of the United States of America the one hundred ninety-seventh.

Richard Nixon

[FR Doc.72-18125 Filed 10-19-72;12:25 am]

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DETERMINATION OF OCTOBER 18, 1972

Presidential Determination

THE WHITE HOUSE,
Washington, October 18, 1972.

I hereby determine that it is in the national interest for the Export-Import Bank of the United States to guarantee, insure, extend credit and participate in the extension of credit in connection with the purchase or lease of any product or service by, for use in, or for sale or lease to the Union of Soviet Socialist Republics, in accordance with Section 2(b)(2) of the Export-Import Bank Act of 1945, as amended.

Richard Nixon

[FR Doc.72-18100 Filed 10-18-72;5:02 pm]

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Rules and Regulations

Title 12—BANKS AND BANKING

Chapter VI—Farm Credit Administration

PART 615—FUNDING AND FISCAL AFFAIRS

Subpart O—Book Entry Issuance of Farm Credit Securities

In the FEDERAL REGISTER for September 14, 1972, at page 18630, notice was given that the Farm Credit Administration, by its Federal Farm Credit Board, had under consideration a proposed amendment of its regulations to provide for the book-entry issuance of Farm Credit securities. Interested persons were afforded an opportunity to file written comments or suggestions thereon not later than October 14, 1972. None was filed. The Federal Farm Credit Board took final action on the proposed amendment and authorized, effective upon publication in the FEDERAL REGISTER (10–20–72), the following to be issued as regulations of the Farm Credit Administration.

Subpart O—Book-Entry Issuance of Farm Credit Securities

Sec.

615.5450 Definition of terms.
615.5455 Authority of reserve banks.
615.5460 Scope and effect of book-entry procedure.
615.5465 Transfer or pledge.
615.5470 Withdrawal of farm credit securities.
615.5475 Delivery of Farm Credit securities.
615.5480 Servicing book-entry Farm Credit securities; payment of interest, payment at maturity upon call.

AUTHORITY: The provisions of this Subpart O issued under section 5.9, 5.18, 5.26, 85 Stat. 619, 621, 624.

Subpart O—Book-Entry Issuance of Farm Credit Securities

§ 615.5450 Definition of terms.

In this subpart, unless the context otherwise requires or indicates:

(a) "Reserve Bank" means the Federal Reserve Bank of New York and any other Federal Reserve Bank which agrees to issue Farm Credit securities in book-entry form acting as fiscal agent for the banks of the Farm Credit System and, when indicated, acting in its individual capacity.

(b) "Banks of the Farm Credit System" means the 12 Federal Land Banks, the 12 Federal Intermediate Credit Banks, the 13 Banks for Cooperatives, or all of them.

(c) "Farm Credit securities" means consolidated notes, bonds, debentures, or other similar obligations of the 12 Federal Land Banks, the 12 Federal Intermediate Credit Banks, or the 13 Banks for Cooperatives, and systemwide notes, bonds, debentures, or similar obligations of the banks of the Farm Credit System, issued under the Farm Credit Act of 1971, the completion and delivery of which is undertaken by a Reserve Bank as fiscal agent of the banks of the Farm Credit System.

(d) "Definitive Farm Credit security" means a transferable Farm Credit security issued in engraved or printed form by the Federal Reserve Bank of New York as fiscal agent of the banks of the Farm Credit System.

(e) "Book-entry Farm Credit security" means a transferable Farm Credit security issued in the form of an entry made as prescribed in this subpart on the records of a Reserve Bank.

(f) "Pledge" includes a pledge of, or any other security interest in, Farm Credit securities as collateral for loans or advances or to secure deposits of public moneys or the performance of an obligation.

(g) "Date of call" is the date fixed in the authorizing resolution of the Finance Committee of the Farm Credit System on which the obligor will make payment of the security before maturity in accordance with its terms.

(h) "Member bank" means any national bank, State bank, or bank or trust company which is a member of a Reserve Bank.

§ 615.5455 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized in accordance with the provisions of this subpart to: (a) Issue book-entry Farm Credit securities by means of entries on its records which shall include the name of the depositor, the amount, the securities title (or series) and maturity date; (b) effect conversions between book-entry Farm Credit securities and definitive Farm Credit securities; (c) otherwise service and maintain book-entry Farm Credit securities; and (d) issue confirmations of transactions in the form of written advices (serially numbered or otherwise) which specify the amount and description of any such securities (that is, the securities title (or series) and the maturity date), sold or transferred and the date of the transaction.

§ 615.5460 Scope and effect of book-entry procedure.

(a) A Reserve Bank as fiscal agent for the banks of the Farm Credit System may apply the book-entry procedure provided for in this subpart to any Farm Credit securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve Bank will continue to maintain such deposit accounts in its individual capacity notwithstanding application of the book-entry procedure to such securities. This paragraph shall be applicable but not limited to Farm Credit securities deposited: (1) As collateral pledged to a Reserve Bank (in its individual capacity) for advances by it; (2) by a member bank for its sole account; (3) by a member bank held for the account of its customers; (4) in connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions; or (5) in connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts. The application of the book-entry procedure under this paragraph shall not derogate from or adversely affect the relationship that would otherwise exist between a Reserve Bank in its individual capacity and its depositors concerning any deposit under this paragraph. Whenever the book-entry procedure is applied to such Farm Credit securities, the Reserve Bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve Bank in its individual capacity to perform its obligation as depository with respect to such Farm Credit securities.

(b) A Reserve Bank as fiscal agent of the banks of the Farm Credit System may apply the book-entry procedure to Farm Credit securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Farm Credit securities deposited with a Reserve Bank as fiscal agent of the United States.

(c) Any person having an interest in Farm Credit securities which are delivered by or deposited with a Reserve Bank (in either its individual capacity or as fiscal agent for the banks of the Farm Credit System) for any purpose shall be deemed to have consented to their conversion to book-entry Farm Credit securities pursuant to the provisions of this subpart and in the manner and under procedures prescribed by the Reserve Bank.

(d) No deposit shall be accepted under this section on or after the date of maturity or call of the Farm Credit securities.

§ 615.5465 Transfer or pledge.

(a) A transfer or pledge of book-entry Farm Credit securities to a Reserve Bank (in its individual capacity or as fiscal agent for the banks of the Farm Credit System), or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve Bank under this subpart is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve Bank making an appropriate entry in its rec-

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ords of the Security transferred or pledged. The making of such an entry in the records of a Reserve Bank shall: (1) Have the effect of a delivery in bearer form of definitive Farm Credit securities; (2) have the effect of the taking of delivery by the transferee or pledgee; (3) constitute the transferee or pledgee a holder; and (4) if a pledge, effect a perfected security interest therein in favor book-entry Farm Credit securities effected under this paragraph shall have priority over any other transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) A transfer or pledge of transferable Farm Credit securities, or any interest therein, which is maintained by Reserve Bank (in its individual capacity or as fiscal agent for the banks of the Farm Credit System) in a book-entry account under this subpart, including securities in book-entry form under § 615.5460(a)(3), is effected, and pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of Farm Credit securities, or any interest therein, if the securities were maintained by the Reserve Bank in bearer definitive form. For the purpose of transfer or pledge hereunder, book-entry Farm Credit securities maintained by a Reserve Bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve Bank maintaining book-entry Farm Credit securities, either in its individual capacity or as fiscal agent for the banks of the Farm Credit System, is not a bailee for the purposes of notification of pledges of those securities under this paragraph, or a third person in possession for the purposes of acknowledgment of transfers thereof under this paragraph. A Reserve Bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph, and any such notice or advice shall have no effect. A Reserve Bank may continue to deal with its depositors in accordance with the provisions of this subpart, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Farm Credit securities or any interest therein.

(d) A Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Farm Credit securities into definitive Farm Credit securities and deliver them in accordance with such instructions. No such conversion shall affect existing interest in such Farm Credit securities.

(e) A transfer of book-entry Farm Credit securities within a Federal Reserve Bank shall be made in accordance with the procedure established by the Bank not inconsistent with this subpart. The transfer of book-entry Farm Credit securities by a Federal Reserve Bank may be made through a telegraphic transfer procedure.

(f) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the security.

§ 615.5470 Withdrawal of Farm Credit securities.

(a) A depositor of book-entry Farm Credit securities may withdraw them from a Reserve Bank by requesting delivery of like definitive Farm Credit securities to itself or on its order to a transferee.

(b) Farm Credit securities which are actually to be delivered upon withdrawal will be issued in bearer form only.

§ 615.5475 Delivery of Farm Credit securities.

A Reserve Bank which has received Farm Credit securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or takeover action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this subpart by the delivery of Farm Credit securities in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other depositary (other than a Reserve Bank) may obtain Farm Credit securities in definitive form only by causing the depositor of the Reserve Bank to order the withdrawal thereof from the Reserve Bank.

§ 615.5480 Servicing book-entry Farm Credit securities; payment of interest, payment at maturity or upon call.

Interest becoming due on book-entry Farm Credit securities shall be charged to the general account of the Treasurer of the United States on the interest-due date and remitted or credited in accordance with the instructions from the book-entry depositor. Book-entry Farm Credit securities shall be redeemed and charged to the general account of the Treasurer of the United States, and the redemption proceeds, principal, and interest shall be disposed of in accordance with the depositor's instructions.

MILLARD F. DAILEY,
Chairman,
Federal Farm Credit Board.

[FR Doc.72-17973 Filed 10-19-72;8:57 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-GL-33]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On page 15319 of the FEDERAL REGISTER dated July 29, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Hibbing, Minn.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on September 27, 1972.

R. O. ZIEGLER,
Director, Great Lakes Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

HIBBING, MINN.

That airspace extending upward from 700 feet above the surface within an 11½-mile radius of Chisholm-Hibbing Airport (latitude 47°23'10" N., longitude 92°50'19" W.); within 5 miles each side of the Hibbing VORTAC 313° radial, extending from the 11½-mile-radius area to 26 miles northwest of the VORTAC; within an 11-mile radius of Eveleth-Virginia Airport (latitude 47°25'55" N., longitude 92°30'03" W.); and within 9½ miles north and 4½ miles south of the Eveleth VOR 092° radial, extending from the 11-mile-radius area to 18½ miles east of the VOR; and that airspace extending upward from 1,200 feet above the surface within a 27-mile radius of the Hibbing VORTAC, extending from the Hibbing VORTAC 196° radial clockwise to the Hibbing VORTAC 340° radial; within a 13-mile radius of Hibbing VORTAC, extending from the Hibbing VORTAC 095° radial clockwise to the Hibbing VORTAC 196° radial; within 4½ miles northeast and 10 miles southwest of the Hibbing VORTAC 313° radial, extending from the 27-mile-radius area to 33½ miles northwest of the VORTAC, excluding the portion which overlies the Duluth, Minn., transition area.

[FR Doc.72-17883 Filed 10-19-72;8:57 am]

[Airspace Docket No. 72-WE-37]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On September 27, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 20184) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Yuma, Ariz., transition area.

Interested persons were given 15 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted subject to the following change.

In the 16th line of the description of the amendment delete the numeral "7" and substitute "6" therefor.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon is unnecessary.

Effective date. This amendment shall be effective 0901 G.m.t., December 7, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on October 12, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.181 (37 F.R. 2143), the description of the Yuma, Ariz., transition area is amended in part as follows:

Delete all before, "That airspace extending upward from 1,200 feet • • •" and substitute therefor, "That airspace extending upward from 700 feet above the surface, within an 11-mile radius of Yuma MCAS/Yuma International Airport (latitude 32°39'10" N., longitude 114°36'20" W.), within 2 miles each side of the Yuma VORTAC 181° radial, extending from the 11-mile-radius area to 21 miles south of the VORTAC, that airspace within a 13-mile radius of the Yuma VORTAC extending from the 11-mile-radius area bounded on the west by a line 4 miles west of and parallel to the Yuma VORTAC 351° radial and on the east by longitude 114°30'00" W. and within 5 miles north and 6 miles south of the Yuma VORTAC 089° radial, extending from the VORTAC to 20.5 miles east of the VORTAC • • •"

[FR Doc.72-17882 Filed 10-19-72;8:57 am]

[Airspace Docket No. 72-AL-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Jet Route Segment and Reporting Points

On July 14, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 13804) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 75 of the Federal Aviation Regulations that would designate the Porpoise, Alaska, VHF and DME reporting points, and extend Jet Route No. 111 from Middleton Island, Alaska, to the Porpoise Intersection.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

1. In § 71.213 (37 F.R. 2325) the following additional Porpoise Intersections are added:

a. Porpoise INT: INT of Middleton Island, Alaska, 121° and Yakutat, Alaska, 215° radials.

b. Porpoise DME INT: Middleton Island, Alaska, 121° radial, 171 nautical miles from Middleton Island.

2. In § 75.100 (37 F.R. 2382) Jet Route No. 111 is amended to read:

JET ROUTE NO. 111 (NOME, ALASKA, TO PORPOISE INT, ALASKA)

From Nome, Alaska, via Unalakleet, Alaska; McGrath, Alaska; Anchorage, Alaska; Middleton Island, Alaska; to Porpoise INT (Middleton Island 121° and Yakutat, Alaska 215° radials).

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10654, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 12, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-17884 Filed 10-19-72;8:45 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Auto Alarm Tests

Order. In the matter of editorial amendments of Part 83 of the FCC rules and regulations.

1. By this order, it is intended to delete obsolete material from §§ 83.330(b)(4) and 83.456(d) of the rules.

2. Authority for the amendments appears in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules and regulations. Since the amendments are editorial corrections, the prior notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, do not apply.

3. *It is ordered:* That the rule amendments below shall be adopted effective October 25, 1972.

Adopted: October 11, 1972.

Released: October 12, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
Executive Director.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Sections 83.330(b)(4) and 83.456(d) of the rules are amended to read as follows:

§ 83.330 Station logs.

• • • • • •

(b) • • •

(4) On a cargo vessel equipped with an auto alarm, the entry "auto alarm on", and the entry "auto alarm off", respectively, shall be made whenever the operator places the auto alarm in and out of operation. Results of the required auto alarm tests shall be entered daily, including the minimum number of 4-second dashes from the testing device which were necessary to properly operate the alarm.

• • • • • •

§ 83.456 Radiotelegraph auto alarm instructions.

• • • • • •

(d) An explanation of how to test the radiotelegraph auto alarm which shall be summarized upon a card and permanently attached to the front of the radiotelegraph auto alarm in a conspicuous position;

• • • • • •

[FR Doc.72-17971 Filed 10-19-72;8:57 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Salt Plains National Wildlife Refuge, Okla.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-20-72).

§ 28.28 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Retrieving zones of approximately 100 yards in width are established immediately inside the exterior refuge boundary at certain locations as designated by signs. These retrieving zones are delineated on maps available at refuge headquarters, Jet, Okla., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. A hunter may enter these retrieving zones to retrieve dead or crippled waterfowl which he has legally killed or crippled by hunting outside the refuge boundary but which have fallen inside the exterior boundary of the refuge and within the designated retrieving zones. The use of dogs and the possession of firearms or weapons inside the exterior boundary of the refuge and in the authorized retrieving zones is prohibited.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through January 11, 1973.

W. O. NELSON, Jr.,
Regional Director, Bureau of Sport Fisheries and Wildlife, Albuquerque, N. Mex.

OCTOBER 4, 1972

[FR Doc.72-17886 Filed 10-19-72;8:45 am]

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Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

SUBCHAPTER B—INTERNATIONAL MAIL

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Regulations relating to international mail codified under Subchapter B of Title 39, Code of Federal Regulations, are revised to read as set out below. Among other things, this revision reflects provisions of the current Universal Postal Union Convention which were implemented by a Notice document published at 36 F.R. 11505. See also the Notice published in the daily issue of July 1, 1972 (37 F.R. 13148, 13150).

These regulations are general in scope. Detailed information respecting mail service to specific foreign countries, including restrictions imposed on mail matter destined for foreign countries, is contained in Postal Service Publication 42, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

PART 11—POSTAL UNIONS

Sec.

11.1 Universal Postal Union.
11.2 Postal Union of the Americas and Spain.

AUTHORITY: The provisions of this Part 11 issued under 39 U.S.C. 401, 407.

§ 11.1 Universal Postal Union.

The exchange of all mail except parcel post between the United States (see Part 112 of this chapter) and other countries is governed by the provisions of the Convention of the Universal Postal Union of which the United States is a member.

§ 11.2 Postal Union of the Americas and Spain.

The United States and the following countries are also members of the Postal Union of the Americas and Spain (PUAS):

Argentina
Bolivia.
Brazil.
Canada.
Chile.
Colombia.
Costa Rica.
Cuba.
Dominican Republic.
Ecuador.
El Salvador.
Guatemala.
Haiti.
Honduras Republic.
Mexico.
Nicaragua.
Panama.
Paraguay.
Peru.
Spain and Possessions.[1]
Uruguay.
Venezuela.

[1] Spanish possessions include Balearic Islands, Canary Islands, and the Spanish Offices in Northern Africa; also Spanish Sahara.

PART 12—CATEGORIES OF INTERNATIONAL MAIL

Sec.

12.1 Postal union mail.
12.2 Parcel post.

AUTHORITY: The provisions of this Part 12 issued under 39 U.S.C. 401, 407.

§ 12.1 Postal union mail.

Surface and airmail exchanged with other countries under provisions of the Universal Postal Convention and the Convention of the Postal Union of the Americas and Spain is known as "postal union" mail. The weight and size limits and other general provisions (but not postage rates) for the various classifications of mail exchanged under those conventions are the same from and to the United States. Postal union mail is divided into two categories, known as LC mail and AO mail, and is defined as follows:

(a) LC mail (in French "Lettres et Cartes," meaning letters and cards) includes letters and packages paid at the letter rate of postage, post cards and aerogrammes. See §§ 22.1, 22.2, and 41.5 of this chapter.

(b) AO mail (in French "Autres Objets," meaning other articles) includes printed matter of all kinds, matter for the blind and small packets. See §§ 22.3 through 22.5.

§ 12.2 Parcel post.

Parcel post is a separate and distinct category from postal union mail. The exchange of parcel post with other countries is governed by the provisions of individual bilateral agreements with various countries and the Parcel Post Agreement of the Postal Union of the Americas and Spain. Unless otherwise noted under the country items in Postal Service Publication 42, the weight and size limits and other general parcel post provisions (but not postage rates) apply also from those countries to the United States. See Parcel Post.

PART 13—OFFICIAL CORRESPONDENCE

Sec.

13.1 With headquarters.
13.2 With foreign postal authorities.
13.3 With individuals in other countries.

AUTHORITY: The provisions of this Part 13 issued under 39 U.S.C. 401, 407.

§ 13.1 With headquarters.

Correspondence relating to international postal service subjects should be addressed as follows:

Subject	Address to
Policy matters relating to international mail and international postal affairs, negotiation and interpretation of postal agreements, communications of a nonroutine nature from foreign postal administrations, U.S. Postal Service representation at international postal meetings, U.S. Postal Service representation at meetings with other Federal departments and agencies relationg to international mail and international postal affairs, and visits by foreign postal representatives.	Office of International Postal Affairs, U.S. Postal Service, Washington, DC 20260.
Operational matters, including classification, admissibility, addressing, preparation and packaging, size and weight, postage rates and fees, forms used, customs, forwarding, return, recall, undeliverable matter, special services, claims for indemnity, refunds of postage, and international reply coupons.	Office of Rates and Classification, Finance Department, U.S. Postal Service, Washington, DC 20260.
All matters concerning transportation of international civil and military mail by surface and air, including mode of transport, routing, containerization, conveyance rates, documentation, internal, terminal and transit charges, designation of U.S. exchange offices and related forms and reports. Also, matters relating to schedules and performance of U.S. and foreign flag carriers.	Engineering and Logistics Department, U.S. Postal Service, Washington, DC 20260.
Investigations of losses, depredations, and security of international mail.	Chief Postal Inspector, U.S. Postal Service, Washington, DC 20260.
International money order systems including operational procedures, accounting, cashing and issuing.	Money Order Branch, Finance Department, U.S. Postal Service, 1822 General Accounting Office Building, Washington, DC 20260.

§ 13.2 With foreign postal authorities.

Postmasters, regional offices, and other field units of the Postal Service (except exchange offices, postal inspectors in charge, and postmasters acting under instructions in Part 71 of this chapter) shall not correspond directly with postal officials in other countries but shall refer inquiries from these officials to headquarters for attention.

§ 13.3 With individuals in other countries.

Postmasters, regional offices, and other field units of the Postal Service may reply directly to inquiries and engage in other necessary correspondence with individuals and firms in other countries. The addresses of customers may be furnished to inquirers, provided the customers have given their consent. This correspondence is mailable without postage stamps under § 21.2(d)(5) of this chapter.

POSTAL UNION MAIL

PART 21—CONDITIONS APPLICABLE TO ALL CLASSES

Sec.

21.1 Preparing and addressing.
21.2 Postage.
21.3 Prohibitions and restrictions.
21.4 Documentation.

AUTHORITY: The provisions of this Part 21 issued under 39 U.S.C. 401, 407.

§ 21.1 Preparing and addressing.

(a) *Preparing*—(1) *General responsibility.* It is the responsibility of the sender to prepare articles securely and to address them clearly and correctly. Use strong envelopes or other wrappings. Take into consideration the nature of the articles being mailed and the distance they must travel to reach the country of address.

(2) *Envelopes.* Use envelopes of light color (but not brilliant colors) that do not interfere with the legibility of the address and postmark. Envelopes must be rectangular in shape, and must not measure less than 3 inches in width (height) and 4¼ inches in length. (Effective October 1, 1973, envelopes must measure at least 3½ inches in width and 5½ inches in length.) The use of envelopes measuring over 9 inches by 12 inches is not recommended. Window envelopes meeting the conditions in § 141.1(a)(4), with the exception of open-panel envelopes and envelopes with more than one panel, are acceptable in international mail. Open-panel envelopes are accepted only in ordinary (unregistered) mail to Canada.

(3) *Letter mail (LC).* Letters and packages prepaid at the letter rate of postage (letter-packages) may be placed in envelopes or prepared in package form. Sealing of letters and letter-packages is at the option of the sender, except that registered letters and letter-packages must be sealed. See § 42.2(b)(1).

(4) *Other articles (AO).* (i) Printed matter, matter for the blind, and small packets must be prepared in such a way that the contents are protected but so as not to hinder quick and easy inspection of the contents. The articles must be placed either in wrappers, on rollers, between cardboard or in bags, boxes, envelopes, or containers that are unsealed but closed in such a way as to permit easy opening and reclosing. Fasteners that offer no danger may be used or the items may be tied with string or twine in a manner that will permit them to be easily untied. AO mail must not be sealed, even if registered. The manner of preparation must be such that other pieces of mail do not run the risk of being trapped.

(ii) As an exception to subdivision (i) above, articles which would become spoiled if packed according to the general rules, and items in a transparent packing permitting a check of the contents, are admitted in a hermetically sealed packing. The same applies to industrial and vegetable products in packing sealed by the manufacturer or by an examining authority in the country of origin. In such cases the sender or the addressee may be required to assist in a check of the contents, either by opening certain of the items or in some other satisfactory manner.

(iii) Articles mailed under "Other Articles" classifications must be marked to identify the class of mail, as provided in §§ 22.3(e)(2), 22.4(e), and 22.5(e).

(b) *Packing requirements for certain articles*—(1) *Glass.* Articles of glass or other fragile materials must be securely packed in boxes of metal, wood, or strong corrugated fiberboard filled with paper, wood shavings, or other protective material that prevent the articles from moving about or coming in contact with each other or with the sides of the box in course of transmission.

(2) *Liquids, oils, etc.* Liquids, oils, and substances which easily liquefy must be enclosed in hermetically sealed receptacles. Each receptacle must be placed in a separate box of metal, strong wood, or strong corrugated fiberboard containing enough sawdust, cotton, or spongy material to absorb the liquid in the event of breakage of the receptacle. The cover of the box must be fastened in such a way that it cannot become easily detached.

(3) *Fatty substances.* Fatty substances which do not easily liquefy, such as ointments, soft soap, resins, etc., as well as silkworm eggs, must be enclosed in an inside cover (box, bag of cloth, plastic, etc.), which must itself be placed in a second box of wood, metal, or stout, thick material.

(4) *Powders.* Dry powdered dyes such as aniline, etc., are not admitted unless enclosed in stout tin boxes placed, in turn, inside wooden boxes, with sawdust between the two containers. Dry non-coloring powders must be placed in boxes of metal, wood, or cardboard. These boxes themselves must be enclosed in a bag of cloth or strong, thick plastic.

(5) *Live organisms.* Live bees, leeches, silkworm eggs, and parasites and predators of injurious insects intended for the control of such insects and exchanged between officially recognized agencies shall be enclosed in boxes so constructed as to avoid all danger.

(6) *Perishable biological materials.* See § 21.3(b)(5)(iii).

(7) *Radioactive materials.* See § 21.3(b)(6).

(c) *Addressing.* (1) Reserve at least the entire right half of the address side for the address of the addressee, postage stamps or postage-paid impressions, and the service labels and notations (postmarks, etc.).

(2) Address mail legibly using roman letters and arabic figures placed lengthwise on one side of the article only. Write the name and address of the addressee precisely and completely so that employees distributing the mail will be able to route mail to its proper destination without difficulty. Show name of post office and country of destination in capital letters, and include the ZIP Code or postal delivery zone number if known. Give house number and street address or box number when mail is addressed to towns or cities. Addressing mail to "Boxholder" or "Householder" is not permitted.

(3) The address of articles sent to General Delivery (in French, "Poste Restante") must indicate name of the addressee. The use of initials, figures, simple given names, fictitious names, or conventional marks of any kind is not permitted on these articles.

(4) Addresses in Russian, Greek, Arabic, Hebrew, Japanese, or Chinese characters must bear an interline translation of the names of the post office, province, and country of destination in English. If the English forms are not known, show foreign spellings in roman characters, print or script.

(d) *Return address.* The complete address of the sender, including ZIP Code number, must be shown in the upper left corner of the address side, and is to be so placed that it will not affect either the clarity of the address or the application of service labels or notations. See §§ 22.2(c)(2) and 22.3(e)(5). Ordinary (unregistered) articles bearing a return address in another country are accepted only at risk of senders.

§ 21.2 Postage.

(a) *Prepayment.* Postage should be applied on the address side of the articles in the upper right corner. Articles must be fully prepaid to assure dispatch without delay and without penalty against the addressees. If the missing postage cannot be collected from the mailer, the shortpaid articles are either sent to destination and double the shortage collected from the addressees or they are sent to dead letter branches for treatment. See § 23.2.

(b) *How paid*—(1) *Stamps.* Postage and fees for special services may be paid by means of U.S. postage stamps or by meter stamps of a bright red color. Precanceled stamps may be used under the same conditions as in the domestic mail. Airmail stamps may be used on airmail articles only, and special delivery stamps may be used only for payment of special delivery fees. See § 142.7 of this chapter for other stamps not valid as postage.

(2) *Other means.* Postage may be paid by permit imprints, subject to the general conditions stated in Part 145. Permit imprints must show the amount of postage paid on each article and may be of any color. Postage on second-class and controlled circulation matter mailed by publishers or registered news agents may be paid in money under the conditions stated in § 22.3(e)(3) (ii) and (iii) (second-class only).

(c) *Articles mailed aboard ships (Paquebot).* (1) Mail posted aboard commercial vessels on the high seas usually bears postage stamps of the country whose flag the vessel flies. On arrival at a port, an officer of the ship hands the mail into the post office of the port city where the stamps are canceled and the mail is dispatched. If the stamps are foreign, the post office uses a special "Paquebot" postmark or applies the word "Paquebot" to the envelope in ink or with a rubber stamp.

(2) Any mail to be forwarded by air must be accompanied by an AV–2 form, prepared by the ship's officer, showing weight of the articles for each destination, including those for the United States. Postmark the AV–2 form in the section entitled "Timbre du bureau destinataire" (stamp of the receiving office) at upper right. When airmail is presented at a post office that is not an international airmail exchange office, the postmaster must transmit the AV–2 form to the nearest installation listed below:

FAMRU, Airport Mail Facility, Kennedy International Airport, Jamaica, NY 11060.
FAMRU, Airport Mail Facility, International Airport, Miami, FL 33159.
FAMRU, Airport Mail Facility, International Airport, San Francisco, CA 94128.

(3) Mail posted aboard a U.S. ship on the high seas, or aboard any ship while in a U.S. port, must bear U.S. stamps and is not entitled to "Paquebot" cancellation at a U.S. post office.

(d) *Mailings without postage* — (1) *Federal Government official mail.* Official

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mail of the Federal Government is accepted for other countries without postage affixed under the following conditions:

(i) *Postage and fees paid mail.* Official mail of authorized departments and agencies listed in § 137.2(c)(1)(i) of this chapter that bears the indicia prescribed in § 137.2(c)(1)(iii) will be given the postal service indicated on its cover. There is no limitation as to the countries to which this mail may be addressed provided the service desired is available. The mail is subject to the weight and size limits and other conditions prescribed for postal union mail. See § 31.3(e)(3) concerning mailings as parcel post.

(ii) *Penalty and franked mail.* Ordinary (unregistered) surface mail prepared in accordance with the provisions of §§ 137.1 and 137.2(c)(2) of this chapter is accepted when addressed in PUAS countries except Argentina, Brazil, and Spain and Spanish possessions. (See Part 112.) This mail must not exceed the domestic weight limit of 4 pounds, except when it is exempt from that limit by regulation (see § 137.2(e)), in which case the weight limits for postal union mail prescribed in Part 22 apply. The maximum dimensions prescribed in Part 22 apply in all cases. If registration, air, or special delivery service is desired, both the postage and fee must be prepaid.

(2) *General Secretariat of the Organization of American States.* Ordinary (unregistered) surface mail bearing the return address of the General Secretariat and weighing not more than 4 pounds (or 11 pounds for packages identified as containing printed matter) is accepted without postage affixed when addressed to OAS member countries. Airmail and the special services may not be given to OAS General Secretariat official mail without prepayment of air postage or prepayment of the appropriate fee for the special service requested. The following are members of the Organization of American States (OAS):

Argentina.	Honduras.
Barbados.	Jamaica.
Bolivia.	Mexico.
Brazil.	Nicaragua.
Chile.	Panama.
Colombia.	Paraguay.
Costa Rica.	Peru.
Dominican Republic.	Trinidad and Tobago.
Ecuador.	United States.
El Salvador.	Uruguay.
Guatemala.	Venezuela.
Haiti.	

(3) *Pan American Sanitary Bureau Mail.* Ordinary (unregistered) surface mail bearing the return address of the Bureau and weighing not more than 4 pounds is accepted without postage affixed when addressed to OAS countries, including Cuba. Airmail and the special services may not be given to Pan American Sanitary Bureau official mail without prepayment of air postage or prepayment of the appropriate fee for the special service requested.

(4) *Postal Service official mail.* All official mail of the Postal Service may be accepted without postage affixed. Use penalty envelopes or labels for mail addressed (i) to postal administrations or post offices in any country, (ii) to the International Bureau of the Universal Postal Union at Berne, Switzerland, and (iii) to any addressee in the PUAS countries except Argentina, Brazil, and Spain and Spanish possessions. (See Part 112.) In all other cases use penalty envelopes or labels with the addition of the endorsement "Postage and Fees Paid." Larger post offices having sufficient need may requisition a rubber stamp from Headquarters on Form 1567.

(5) *Mail of widows of presidents.* All mail bearing the written or facsimile signature of Mrs. Mamie Doud Eisenhower or of Mrs. Jacqueline Bouvier Kennedy and the words "Postage and Fees Paid" shall be given the service indicated on its cover, subject to the conditions indicated in subparagraph (1)(i), above.

(e) *Reply coupons.* (1) Member countries of the Universal Postal Union purchase international reply coupons from the International Bureau of the Universal Postal Union and sell them at post offices. The selling price in the United States is 22 cents each. One of these coupons is exchangeable in any other member country for a stamp or stamps representing the international postage on a single-rate surface letter. Upon presentation of a sufficient number of coupons, the stamp or stamps received in exchange may be used to prepay an international airmail letter.

(2) International reply coupons (in French, "Coupon-Response International") are printed in blue ink on paper having in the watermark the letters UPU in large characters. Each coupon is imprinted at the time of purchase from the International Bureau with the name of the country, in French and in the native language and the selling price in the country of issue. Coupons printed prior to January 1, 1966, have the circles for the postmarks of the selling and exchanging post offices on the left- and right-hand sides; those printed after January 1, 1966, have both these circles on the right-hand side. The issuing office postmarks the left-hand circle of the old style coupons and the upper circle of the new style coupons. The period of exchange of international reply coupons is unlimited.

(3) U.S. post offices will requisition international reply coupons from the same sources from which they obtain postage stamps. The coupons should be stocked at offices having a demand for them. The selling post office will postmark in the left-hand circle of the old style coupon and in the upper circle of the new style coupon. Unused U.S. coupons may be redeemed by the original purchaser at a discount of 1 cent on the purchase price. The post office redeeming the unused coupons will postmark them in the unpostmarked circle.

(4) Properly postmarked international reply coupons issued in other countries are exchangeable at U.S. post offices for postage stamps, aerogrammes, post cards or envelopes at the rate of 15 cents each. The post office exchanging a foreign coupon postmarks it in the right-hand circle of the old style coupon or the lower circle of the new style coupon. Foreign coupons not properly postmarked by the foreign post office may be exchanged if there is no apparent reason to doubt their authenticity. Post offices must not accept foreign coupons that already bear a U.S. postmark.

(5) Reply coupons formerly issued by the Postal Union of the Americas and Spain are no longer valid. These coupons are printed in green ink and bear the caption "Cupón Respuesta Américo-Español." It is suggested that customers possessing any of these coupons return them to their correspondents in the country of issue for redemption through the selling post office.

(6) Postmasters will dispose of exchanged foreign and redeemed U.S. coupons as prescribed in Fiscal Handbook, Series F-1, Financial and Cost Controls.

(f) *Nonpostage stamps.* Do not place nonpostage stamps, labels resembling postage stamps, or impressions resembling postage-paid impressions on the address side of mail articles.

(g) *Remailed articles.* New postage is required when remailing an article which has been returned from abroad because of insufficient address.

§ 21.3 Prohibitions and restrictions.

(a) *General list of prohibited articles.* The following articles are prohibited transmission in the postal union mail to all countries:

(1) Any article without address or incorrectly, insufficiently, or illegibly addressed so that it cannot be sent to its destination.

(2) Any article addressed to go around the world or with the address side wholly or partly divided into several spaces intended for successive addresses.

(3) Poisons, including narcotics (opium, morphine, cocaine, etc.), explosives and flammable articles (see § 31.2(l)(viii) of this chapter), and all other articles excluded from the domestic mail, which either from their nature or packing are likely to soil or damage the mail or are injurious to health, life, or property. Articles containing gas or liquid under pressure, except that products incorporating compressed gas are acceptable if the mist produced is nonflammable. The quantity of contents are not more than a pint, and not more than one container per package. These restrictions as to quantity do not apply to aerosol containers holding mailable liquid and gas under pressure less than 40 pounds per square inch absolute (25 pounds gage pressure) at 70° F. Liquids with flash point below 150° F. are restricted (see § 31.2(b)(1)). The container must be completely surrounded with sawdust, bran, or other absorbent material sufficient to take up all the liquid contents.

(4) Articles excluded from the domestic mail of the United States. (See Part 123 of this chapter.) Although safety matches are admitted in the domestic mail, they are prohibited in the international mail.

(5) Live or dead animals and insects, except: (i) live bees, leeches, and silk worms; (ii) dead insects or reptiles when thoroughly dried; and (iii) parasites and predators of injurious insects intended for the control of such insects and exchange between officially recognized agencies.

(6) The following are prohibited to all countries unless sent in registered letter mail—coins, banknotes, or paper money; manufactured or unmanufactured platinum, gold, or silver; precious stones, jewelry, or other precious articles. These articles are absolutely prohibited even in registered letter mail to some countries. See heading "Prohibitions" for Postal Union mail in Postal Service Publication 42. The term jewelry is generally understood to denote articles of more than nominal value. Low priced jewelry, such as tie clasps, costume jewelry, and other items containing little or no precious metal, is not considered to be jewelry within the meaning of this section and is accepted under the same conditions as other mailable merchandise to any country. However, it is accepted only at the sender's risk to countries which prohibit jewelry.

(7) Values payable to bearer, unless sent by registered mail. Some countries prohibit such values entirely. The term "values payable to bearer" includes checks, drafts, or securities which can be legally cashed or easily negotiated by anyone who may come into possession of them. A check or draft payable to a specific payee is not regarded as payable to bearer unless the payee has endorsed it in blank. If not endorsed, or if endorsed in favor of another specific payee, it is not regarded as payable to bearer.

(8) Gold coin, gold bullion, or gold dust exceeding $100 in value. (See § 54.4.)

(9) Articles whose acceptance or circulation is prohibited in the country of destination.

(10) Written communications having the character of current correspondence, except in the form of letters or post cards, or under the conditions stated in § 22.3(d)(2)(i); (d)(4)(x); or § 22.4. Sound recorded communications having the character of current correspondence, except as letters, or under the conditions stated in § 22.3(d)(2) or § 22.4. (Note: Recordings of music or other sounds not of the nature of letters are mailable under the classes of postal union mail available for the transmission of merchandise—see §§ 22.1(e) and 22.5, or as parcel post. The same applies to opened correspondence, written or recorded, that has already reached the original addressee and is no longer current.)

(11) Articles may not contain any card or envelope intended for reply purposes with postage denoted by U.S. stamps, business reply, or other indicia.

NOTE: The prohibition against business reply items need not be applied when they are bound or stapled into a magazine or other publication, or form an integral part of the printed page. These may be accepted so long as no objection is raised by the postal administrations of the countries concerned.

See § 22.3(d)(5)(i) regarding restriction on enclosure of cards or envelopes for reply purposes in articles mailed as printed matter.

NOTE: For general parcel post prohibitions, see § 31.2(a).

(b) *Restricted articles*—(1) *Gold and gold certificates.* (See Part 54.)

(2) *Tobacco seed and plants.* (See § 55.2.)

(3) *Plant material generally.* (See § 31.2(b)(5).)

(4) *Flammable liquids.* (See § 31.2(b)(1).)

(5) *Perishable biological materials.* Perishable biological materials, including those of pathogenic nature, when sent in the postal union mail are accepted in airmail "letter packages." The following conditions apply:

(i) *Mailing restrictions.* If a country prohibits perishable biological materials this is shown under "Prohibitions" in the country item in Postal Service Publication 42. The packages must be packed as prescribed in subdivision (iii) below and must bear distinctive violet labels by which they can be readily recognized and receive careful handling and prompt delivery.

(ii) *Qualification of mailers.* (a) Only officially recognized laboratories may send or receive letter packages containing perishable biological materials. Laboratories of the following categories are so designated:

Laboratories of local, State, and Federal government agencies.

Laboratories of federally licensed manufacturers of biologic substances derived from bacteria and viruses.

Laboratories affiliated with or operated by hospitals, universities, research facilities, and other teaching institutions.

Private laboratories licensed, certified, recognized, or approved by a public authority.

(b) A laboratory desiring to mail letter packages containing materials of this kind shall make written application on its letterhead stationery to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, D.C. 20260, explaining its qualifications and those of the prospective addressee to send and receive such materials, and stating how many packages are to be mailed. On approval, the mailer will receive a sufficient number of the violet labels for the contemplated shipments.

(iii) *Packaging.* (a) Perishable biological material not of a pathogenic nature must be packed in a nonporous container surrounded by sufficient absorbent material to take up all the liquid and must be placed in an outer protective container where it should fit tightly to avoid any shifting.

(b) Perishable biological material of a pathogenic nature must be packed in a tightly closed bottle or tube or heavy glass wrapped in thick absorbent material rolled several times around the bottle or tube and tied at the ends, sufficient in quantity to absorb all the liquid; the wrapped container must be placed in a strong well-closed metal box constructed to prevent any contamination outside of it. This metal box must be wrapped in cushioning material and placed in an outer protective box where it should fit tightly to avoid shifting. The outer container must consist of a hollow block of strong wood, metal, or other equally strong material with a tight lid so fitted that it cannot open during transportation.

(c) In addition to the requirements in (a) and (b), packages must comply with the regulations governing the transmission of such materials in the domestic mail.

(d) The mailer must place on each package one of the violet labels mentioned in subdivisions (i) and (ii)(b) of this paragraph.

(6) *Radioactive materials.* Radioactive materials are restricted as provided in § 124.2(e) and must be mailed by air. Senders of mailable radioactive materials must place on the wrapper of the package a white label bearing the French words Matières radioactives. The label must be supplied by the sender and is to be gummed or taped to the address side of the package. The package must also bear a conspicuous request for return to sender in case of nondelivery.

(c) *Individual country prohibitions and restrictions.* See § 31.2(c).

(d) *Foreign customs information.* See § 31.2(d).

§ 21.4 Documentation.

(a) *Green customs label.* A green customs label C 1, Form 2976, must be completed and placed by the sender on the address side of each letter or letter package containing dutiable merchandise, on each package of dutiable prints, and on each small packet. (See §§ 22.1(e), 22.3(e)(6), and 22.5(f).) Only the upper portion of the label need be placed on the package if the sender prefers that the description of the contents not appear, on the outside, and under the conditions stated in § 21.4(b). The lower portion of the label is removed by tearing or cutting along the dotted line. The following facsimile illustrates the type of information the sender must supply when the label is used in its entirety:


CUSTOMS—DOUANE
May be Officially Opened
(Peut être ouvert d'office)

Detach and discard this portion if a separate declaration (Form 2976-A) or an invoice is enclosed in the package.

Contents in detail
Nature de la marchandise
2 cartons (400) Cigarettes

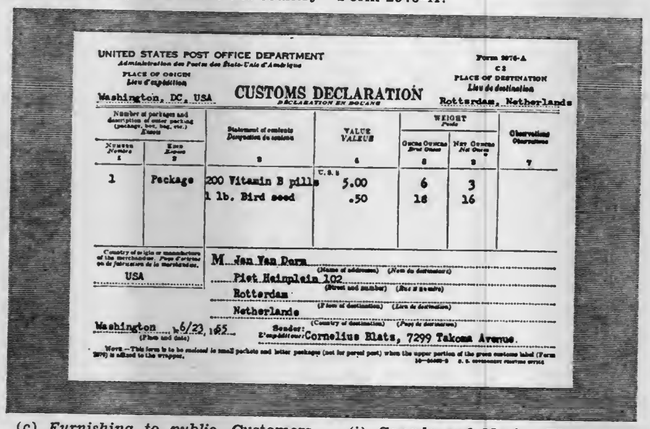
Net weight
Poids net 1 lb. 3 oz.
Value
Valeur $3.30

Form 2976 16—67852-1 GPO

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The label is not, under any circumstances, to be used on parcel post packages, nor are parcel post forms to be used on postal union mail articles.

(b) *Customs declaration.* Customs declaration C 2, Form 2976–A, is used in conjunction with Customs Label 2976. The form must be enclosed in postal union mail packages whose value exceed $100, and in any case where the country concerned specifically requires it. The contents must be described in detail on the form. Descriptions of a general character are not allowed. Form 2976–A is not to be used on parcel post packages, nor are parcel post forms described in § 31.4 to be used on postal union articles. The following facsimile illustrates the type of information required on Form 2976–A:



UNITED STATES POST OFFICE DEPARTMENT — Form 2976-A, C 2

PLACE OF ORIGIN: Washington, DC, USA

CUSTOMS DECLARATION

PLACE OF DESTINATION: Rotterdam, Netherlands

Number of packages	Kind	Statement of contents	Value	Weight (Gross)	Weight (Net)	Charges
1	Package	200 Vitamin B pills 1 lb. Bird seed	U.S.$ 5.00 .50	6 18	3 16	

Country of origin: USA

M. Jan Van Dorn (Name of addressee)
Piet Heinplein 102 (Street and number)
Rotterdam
Netherlands (Country of destination)

Washington, 6/22, 1972 (Place and date)

Sender: Cornelius Hats, 7299 Takoma Avenue.

NOTE.—This form is to be enclosed in small packets and letter packages (not for parcel post) when the upper portion of the green customs label (Form 2976) is affixed to the wrapper.

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(c) *Furnishing to public.* Customers requesting them may be furnished a reasonable supply of Forms 2976 and 2976–A for preparation at their homes or business establishments.

(d) *Nonpostal documentation.* Packages sent in the postal union mail may require one or more of the forms described in Parts 51–57 of this chapter.

PART 22—RATES AND CONDITIONS FOR SPECIFIC CLASSES

Sec.
22.1 Letters and letter packages.
22.2 Post cards.
22.3 Printed matter.
22.4 Matter for the blind.
22.5 Small packets.

AUTHORITY: The provisions of this Part 22 issued under 39 U.S.C. 401, 407.

§ 22.1 Letters and letter packages.

(a) *Postage rates*—(1) *Surface.* The surface rates for letters and letter packages are as follows:

(i) *Canada and Mexico.* Eight cents per ounce up to 12 ounces; eighth zone priority mail rates for weights over 12 ounces.

(ii) *Countries other than Canada and Mexico.*

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	1	$0.15	0	8	$0.76	2	0	$2.40
0	2	.26	1	0	1.44	4	0	3.84
0	4	.34						

(2) *Airmail.* The air rates for letters and letter packages are as follows:

(i) *Canada and Mexico.* Eleven cents per ounce or fraction.

(ii) *Central America, South America, the Caribbean Islands, Bahamas, Bermuda, and St. Pierre and Miquelon.* Seventeen cents per half ounce.

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	½	$0.17	0	7½	$2.55	0	14½	$4.93
0	1	.34	0	8	2.72	0	15	5.10
0	1½	.51	0	8½	2.89	0	15½	5.27
0	2	.68	0	9	3.06	1	0	5.44
0	2½	.85	0	9½	3.23	1	½	5.61
0	3	1.02	0	10	3.40	1	1	5.78
0	3½	1.19	0	10½	3.57	1	1½	5.95
0	4	1.36	0	11	3.74	1	2	6.12
0	4½	1.53	0	11½	3.91	1	2½	6.29
0	5	1.70	0	12	4.08	1	3	6.46
0	5½	1.87	0	12½	4.25	1	3½	6.63
0	6	2.04	0	13	4.42	1	4	6.80
0	6½	2.21	0	13½	4.59			
0	7	2.38	0	14	4.76			

For letters or letter packages over 20 ounces, add 17 cents per half ounce or fraction.

(iii) *All other countries.* Twenty-one cents per half ounce.

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	½	$0.21	0	7½	$3.15	0	14½	$6.09
0	1	.42	0	8	3.36	0	15	6.30
0	1½	.63	0	8½	3.57	0	15½	6.51
0	2	.84	0	9	3.78	1	0	6.72
0	2½	1.05	0	9½	3.99	1	½	6.93
0	3	1.26	0	10	4.20	1	1	7.14
0	3½	1.47	0	10½	4.41	1	1½	7.35
0	4	1.68	0	11	4.62	1	2	7.56
0	4½	1.89	0	11½	4.83	1	2½	7.77
0	5	2.10	0	12	5.04	1	3	7.98
0	5½	2.31	0	12½	5.25	1	3½	8.19
0	6	2.52	0	13	5.46	1	4	8.40
0	6½	2.73	0	13½	5.67			
0	7	2.94	0	14	5.88			

For letters or letter packages over 20 ounces, add 21 cents per half ounce or fraction.

(b) *Weight limits.* The weight limit for letters and letter packages to all countries except Canada is 4 pounds; for Canada, 60 pounds.

(c) *Dimensions*—(1) *Maximum dimensions.* Maximum length is 24 inches. Maximum length, breadth, and thickness combined is 36 inches. When sent in the form of a roll, the length (the maximum of which may not exceed 36 inches) plus twice the diameter may not exceed 42 inches.

(2) *Minimum dimensions.* The address side must measure at least 5½ inches in length and 3½ inches in width. However, envelopes measuring not less than 4¼ by 3 inches will be accepted until October 1, 1973. For articles in the form of a roll, the length may not be less than 4 inches, or the length plus twice the diameter may not be less than 6¾ inches. Articles having lesser dimensions are accepted on condition that a rectangular address tag is attached whose dimensions are not less than 4 by 2¾ inches.

(d) *Restrictions.* Letters and letter packages may not contain current communications exchanged between persons other than the sender and the addressee or person living with them.

(e) *Merchandise in letters*—(1) *Dutiable merchandise.* Letters or letter packages may contain merchandise which is dutiable in the country of destination unless the country is unwilling to accept such mailings. The Postal Service is not able to inform customers whether or not any items are dutiable in other countries. When mailing articles which may be dutiable, senders must comply with the provisions concerning documentation shown in § 21.4.

(2) *Nondutiable merchandise.* Articles which the senders know are not dutiable may be mailed to countries which do not accept dutiable merchandise, but only at the risk of the senders. The U.S. Postal Service assumes no responsibility for the treatment which such articles may be given by the foreign postal or customs authorities. As the presence of the green label (Form 2976) mentioned in § 21.4(a) generally denotes dutiable contents, it should be omitted from letter-mail articles when the sender knows the contents are not dutiable.

(f) *Endorsement.* Senders should add the words "Letter (lettre)" on the address side of letters and letter packages which, because of their size or manner of preparation, may be mistaken for matter of another class.

(g) *Preparation and addressing.* See § 21.1.

§ 22.2 Post cards.

(a) *Rates*—(1) *Surface.* Canada and Mexico, 6 cents each. All other countries, 10 cents each.

(2) *Airmail.* Canada and Mexico, 9 cents each. All other countries, 15 cents each.

(3) *Other rates.* The letter rate (surface or air), or the surface printed matter rate if the card conforms to printed matter requirements, applies to cards exceeding 6 by 4¼ inches that are mailed unenclosed. (Effective October 1, 1973, such cards exceeding 6 by 4¼ inches will not be mailable unless enclosed in envelopes.)

(b) *Dimensions.* Maximum dimensions, 6 by 4¼ inches. Minimum dimensions, 5½ by 3½ inches.

(c) *Requirements*—(1) *Form and marking.* Post cards shall be made of cardboard that meets the material and color specifications in § 131.2(a)(2) or of paper strong enough to withstand handling. Post cards of private manufacture must bear on the front the heading Post Card, although this is not obligatory for picture post cards.

(2) *Preparation, addressing, and mailing.* Post cards shall consist of a single card and are sent unenclosed, without wrapper or envelope. Folded cards must be mailed in envelopes. The right half, at least, of the address side of the card is reserved for the address of the addressee and the notations or labels relating to the service. The sender may use the back and the left half of the address side. Postage must appear on the address side, in the upper right corner of the card; otherwise, the card is treated as unprepaid. Undeliverable post cards are disposed of in the country of address unless they bear the name and address of the sender.

(3) *Attachments.* Do not join or attach samples of merchandise or similar articles to post cards. However, illustrations, photographs, stamps of any kind, labels, and clippings of any kind, of paper or other very thin material, as well as address labels or slips to be folded back, may be glued thereto, on condition that they do not alter the character of the post cards and that they adhere completely to the card. These articles may be glued only on the back or left half of the address side of the card, except address slips, tabs, or labels which may occupy the entire address side. Stamps of any kind, likely to be confused with postage stamps, may be placed only on the back.

(d) *Reply-paid and folded cards.* Reply-paid cards, as well as folded (double) cards are not accepted in international mail.

§ 22.3 Printed matter.

(a) *Postage rates*—(1) *Surface rates.* Separate rates of postage are provided for each of the following types of printed matter:

(i) *Regular printed matter.* Regular printed matter comprises all printed matter other than books, sheet music, publishers' second-class and publishers' controlled circulation publications described in § 22.3(a)(2)(iii) and (d). The surface rates are—

(a) Canada and Mexico:

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.08	0	7	$0.28	0	12	$0.48
0	3	.12	0	8	.32	0	13	.52
0	4	.16	0	9	.36	0	14	.56
0	5	.20	0	10	.40	0	15	.60
0	6	.24	0	11	.44	1	0	.64

Over 1 pound but not over 2 pounds	$0.75
Over 2 pounds but not over 4 pounds	.96
Each additional 2 pounds or fraction	.48

(b) Countries other than Canada and Mexico:

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.08	0	8	$0.26	2	0	$0.75
0	4	.14	1	0	.48	4	0	.96

Each additional 2 pounds or fraction	.48

(ii) *Books and sheet music.* These consist of books having 24 pages or more, at least 22 of which are printed, consisting wholly of reading matter or scholarly bibliography or reading matter with incidental blank spaces for notations and containing no advertising other than incidental announcements of books, and printed sheet music. The surface rates are—

(a) Argentina, Boliva, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Republic of Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela:

Lbs.	Rate	Lbs.	Rate	Lbs.	Rate
½	$0.14	4	$0.36	10	$0.90
1	.17	6	.54	11 [1]	1.08
2	.21	8	.72	12	1.08

Each additional 2 pounds or fraction [2]	.18

[1] Eleven pounds is maximum weight limit to Canada.
[2] Weight limits in § 22.3(b) apply.

(b) All other countries:

Lbs.	Rate	Lbs.	Rate	Lbs.	Rate
½	$0.14	4	$0.48	10 [3]	$1.20
1	.17	6	.72	11	1.44
2	.28	8	.96		

[3] Charge 24¢ for each additional 2 pounds or fraction on packages for Spain and Spanish possessions (see § 11.2) weighing over 10 and up to 22 pounds.

(iii) *Second-class publications.* The rates on publications entered domestically as second class, when mailed by the publishers or by registered news agents, are—

(a) PUAS countries (see § 11.2 of this chapter).

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.03	0	8	$0.08	2	0	$0.21
0	4	.05	1	0	.13	4	0	.36

Each additional 2 pounds or fraction (weights in § 22.3(b) apply)	.18

(b) All other countries:

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.04	0	8	$0.10	2	0	$0.28
0	4	.06	1	0	.17	4	0	.48

(c) No separate rates are provided for nonprofit publications or for classroom publications. These second-class publications are subject to the rates stated in (a) and (b) above. Complete sample copies may also be mailed at those rates, whether or not the number of such sample copies exceeds 10 percent of the subscriber copies. Copies mailed by the public are subject to the regular printed matter rates stated in § 22.3(a)(1)(i).

(iv) *Controlled circulation publications.* The rates on periodicals that are approved domestically as controlled circulation publication, when mailed by the publishers to all countries, are—

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.05	0	8	$0.11	2	0	$0.34
0	4	.07	1	0	.20	4	0	.58

Each additional 2 pounds or fraction (weights in § 22.3(b) apply)	.29

(v) Direct sacks of prints for one addressee. See § 22.3(f)(2) concerning rates of postage to be applied to the contents of direct sacks for one addressee.

(2) *Airmail.* AO (other articles) air rates apply to all types of prints, as follows:

(i) *Mexico, Central America, the Caribbean islands, Bahamas, Bermuda, and St. Pierre and Miquelon.* Forty cents for the first 2 ounces and 10 cents for each additional 2 ounces or fraction.

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.40	3	14	$3.40	7	10	$6.40
0	4	.50	4	0	3.50	7	12	6.50
0	6	.60	4	2	3.60	7	14	6.60
0	8	.70	4	4	3.70	8	0	6.76
0	10	.80	4	6	3.80	8	2	6.80
0	12	.90	4	8	3.90	8	4	6.90
0	14	1.00	4	10	4.00	8	6	7.00
1	0	1.10	4	12	4.10	8	8	7.10
1	2	1.20	4	14	4.20	8	10	7.20
1	4	1.30	5	0	4.30	8	12	7.30
1	6	1.40	5	2	4.40	8	14	7.40
1	8	1.50	5	4	4.50	9	0	7.50
1	10	1.60	5	6	4.60	9	2	7.60
1	12	1.70	5	8	4.70	9	4	7.70
1	14	1.80	5	10	4.80	9	6	7.80
2	0	1.90	5	12	4.90	9	8	7.90
2	2	2.00	5	14	5.00	9	10	8.00
2	4	2.10	6	0	5.10	9	12	8.10
2	6	2.20	6	2	5.20	9	14	8.20
2	8	2.30	6	4	5.30	10	0	8.30
2	10	2.40	6	6	5.40	10	2	8.40
2	12	2.50	6	8	5.50	10	4	8.50
2	14	2.60	6	10	5.60	10	6	8.60
3	0	2.70	6	12	5.70	10	8	8.70
3	2	2.80	6	14	5.80	10	10	8.80
3	4	2.90	7	0	5.90	10	12	8.90
3	6	3.00	7	2	6.00	10	14	9.00
3	8	3.10	7	4	6.10	11	0	9.10
3	10	3.20	7	6	6.20			
3	12	3.30	7	8	6.30			

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To determine the postage for packages over 11 pounds, compute the rate for the pounds alone at 80 cents per pound, and add the rate for the ounces as shown in the table. If there are no ounces, add 30 cents to the rate at 80 cents per pound.

(ii) *South America, Europe (except Estonia, Latvia, Lithuania, and U.S.S.R.) and Mediterranean Africa.* Fifty cents for the first 2 ounces and 20 cents for each additional 2 ounces or fraction.

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.50	3	14	$6.50	7	10	$12.50
0	4	.70	4	0	6.70	7	12	12.70
0	6	.90	4	2	6.90	7	14	12.90
0	8	1.10	4	4	7.10	8	0	13.10
0	10	1.30	4	6	7.30	8	2	13.30
0	12	1.50	4	8	7.50	8	4	13.50
0	14	1.70	4	10	7.70	8	6	13.70
1	0	1.90	4	12	7.90	8	8	13.90
1	2	2.10	4	14	8.10	8	10	14.10
1	4	2.30	5	0	8.30	8	12	14.30
1	6	2.50	5	2	8.50	8	14	14.50
1	8	2.70	5	4	8.70	9	0	14.70
1	10	2.90	5	6	8.90	9	2	14.90
1	12	3.10	5	8	9.10	9	4	15.10
1	14	3.30	5	10	9.30	9	6	15.30
2	0	3.50	5	12	9.50	9	8	15.50
2	2	3.70	5	14	9.70	9	10	15.70
2	4	3.90	6	0	9.90	9	12	15.90
2	6	4.10	6	2	10.10	9	14	16.10
2	8	4.30	6	4	10.30	10	0	16.30
2	10	4.50	6	6	10.50	10	2	16.50
2	12	4.70	6	8	10.70	10	4	16.70
2	14	4.90	6	10	10.90	10	6	16.90
3	0	5.10	6	12	11.10	10	8	17.10
3	2	5.30	6	14	11.30	10	10	17.30
3	4	5.50	7	0	11.50	10	12	17.50
3	6	5.70	7	2	11.70	10	14	17.70
3	8	5.90	7	4	11.90	11	0	17.90
3	10	6.10	7	6	12.10			
3	12	6.30	7	8	12.30			

To determine the postage for packages over 11 pounds, compute the rate for the pounds alone at $1.60 per pound, and add the rate for the ounces as shown in the table. If there are no ounces, add 30 cents to the rate at $1.60 per pound.

(iii) *Estonia, Latvia, Lithuania, U.S.S.R., Asia, the Pacific, and Africa (other than Mediterranean).* Sixty cents for the first 2 ounces and 30 cents for each additional 2 ounces or fraction.

Lbs.	Oz.	Rate	Lbs.	Oz.	Rate	Lbs.	Oz.	Rate
0	2	$0.60	3	14	$9.60	7	10	$18.60
0	4	.90	4	0	9.90	7	12	18.90
0	6	1.20	4	2	10.20	7	14	19.20
0	8	1.50	4	4	10.50	8	0	19.50
0	10	1.80	4	6	10.80	8	2	19.80
0	12	2.10	4	8	11.10	8	4	20.10
0	14	2.40	4	10	11.40	8	6	20.40
1	0	2.70	4	12	11.70	8	8	20.70
1	2	3.00	4	14	12.00	8	10	21.00
1	4	3.30	5	0	12.30	8	12	21.30
1	6	3.60	5	2	12.60	8	14	21.60
1	8	3.90	5	4	12.90	9	0	21.90
1	10	4.20	5	6	13.20	9	2	22.20
1	12	4.50	5	8	13.50	9	4	22.50
1	14	4.80	5	10	13.80	9	6	22.80
2	0	5.10	5	12	14.10	9	8	23.10
2	2	5.40	5	14	14.40	9	10	23.40
2	4	5.70	6	0	14.70	9	12	23.70
2	6	6.00	6	2	15.00	9	14	24.00
2	8	6.30	6	4	15.30	10	0	24.30
2	10	6.60	6	6	15.60	10	2	24.60
2	12	6.90	6	8	15.90	10	4	24.90
2	14	7.20	6	10	16.20	10	6	25.20
3	0	7.50	6	12	16.50	10	8	25.50
3	2	7.80	6	14	16.80	10	10	25.80
3	4	8.10	7	0	17.10	10	12	26.10
3	6	8.40	7	2	17.40	10	14	26.40
3	8	8.70	7	4	17.70	11	0	26.70
3	10	9.00	7	6	18.00			
3	12	9.30	7	8	18.30			

(iv) *Canada.* Letter rate of 11 cents per ounce or fraction applies.

(b) *Weight limits.* (1) The following weight limits apply to individual packages of printed matter:

Countries	Books (See 123.11b)	All other prints
For countries not listed below.	11 pounds...	4 pounds.[1]
Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Republic of Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Spain (including Balearic Islands, Canary Islands, and Spanish Offices in Northern Africa), Spanish Sahara, Uruguay and Venezuela.	22 pounds...	22 pounds.

[1] Packages of catalogs and directories may weigh up to 11 pounds, but are subject to the postage rates for regular prints (§22.3(a)(1)(i)).

(2) Packages or bundles of second-class and controlled circulation publications mailed to Canada by publishers or registered news agents may weigh up to 30 pounds. When mailed by other than publishers or news agents, the weight limit is 4 pounds.

(3) See § 22.3(f) concerning use of direct sacks for mailing large quantities of prints to one addressee.

(c) *Dimensions.* Prints in envelopes or in package form are subject to the same maximum and minimum dimensions that apply to letter mail. See § 22.1 (c). Prints in the form of single cards, if mailed unenclosed, must not measure more than 6 by 4¼ inches nor less than 5½ by 3½ inches. See § 22.3(f)(1)(i) concerning packages of printed matter enclosed in sacks addressed directly to one addressee.

(d) *Description*—(1) *General definition.* The term "printed matter" applies to reproductions on paper, cardboard, or other materials commonly used in printing, produced in several identical copies by means of a mechanical or photographic process involving use of a plate, stencil, or negative. Several copies of printed matter items may be sent together in a single package, but they must not bear names and addresses of different senders or addressees.

(2) *Articles specially admitted.* The following may be mailed as printed matter if they otherwise conform to the prescribed conditions of form and make-up, even though they may be wholly or partly handwritten or typed:

(i) Communications (including those in the form of sound recordings) exchanged between students in schools, provided they are sent through the intermediary of the heads of the schools.

(ii) Original and corrected exercises of students, without any notes not relating directly to the execution of the work.

(iii) Manuscripts of literary works or of newspapers, and musical scores or sheets of music in manuscript.

(3) *Items not admissible.* The following are not admitted as printed matter:

(i) Reproductions obtained by means of a typewriter of any kind.

(ii) Copies obtained by tracing, by handwriting, or by typewriting on any type of machine.

(iii) Copies obtained by means of stamps with or without movable type.

(iv) Stamps or forms of prepayment, canceled or not, including internal revenue strip stamps, and any printed paper representing a monetary value.

(v) Articles of stationery in quantities of more than one article per package. This includes letterheads, billheads, unused cards, diaries, checkbooks, memo pads, and other similar items having some printing on them but on which additional entries are intended to be made.

(vi) Films, negatives or slides.

(vii) Sound recordings.

(viii) Punched paper tapes and ADP cards.

(ix) Framed photographs and certificates.

(x) Playing cards.

(4) *Permitted additions.* The following additions may be made by hand or by any other process on condition that the additions must have a direct bearing on the printed matter on which they are placed and must not give the text the character of personal correspondence:

(i) Name and address of sender and addressee, with or without showing the status, profession, and style.

(ii) Place and date of mailing of the item.

(iii) Serial or registration number referring solely to the item.

(iv) Correction of printing errors.

(v) Deletion, marking, or underlining of certain words or certain parts of the printed text.

(vi) On notices concerning the departure and arrival of ships and planes: the dates and time of such departures and arrivals, as well as the names of the ships, planes, and ports of departure, call, and arrival.

(vii) On travelers' announcements: The name of the traveler, the date, time, and name of the place through which he contemplates passing as well as the place where he is stopping.

(viii) On order, subscription, or offer forms for publications, books, newspapers, engravings, and musical scores: The publications and number of copies ordered or offered, the prices of such publications, as well as notations representing price factors, terms of payment, the edition, the names of the authors or publishers, the catalog number and the words broché (stitched or paperbound), cartonné (boards) or relié (bound).

(ix) On forms used in connection with loans from libraries: The titles of books,

number of copies requested or sent, names of authors or publishers, catalog numbers, number of days permitted for reading, name of person desiring to consult the book, other brief indications relating to the books in question.

(x) On illustrated cards, on printed visiting cards and on printed cards expressing felicitations or condolences: Conventional expressions of courtesy stated in five words or five initials at the most.

(xi) On printing proofs: Such changes and additions as relate to the correction, form and printing, notes such as "Ready for printing," "O.K. for printing," or any similar note relating to the preparation of the work. In case of lack of space, the additions may be made on separate sheets.

(xii) On current price lists, offers for advertisements, market, and stock quotations, commercial circulars and prospectuses: Figures and any other annotations, representing essential price factors.

(xiii) On literary or artistic productions: A dedication consisting of a simple expression of regard.

(xiv) On passages cut from newspapers and periodicals: The name, date, number, and address of the publication from which the article is taken.

(xv) An order or entry number relating exclusively to the articles contained in the package.

(xvi) On notices of change of address: The old and the new address and the date of the change.

(xvii) On photographs: Captions describing them and identifying persons, places and time taken may be added on the photographs or on slips attached.

(5) *Permitted enclosures.* Articles sent as prints may have the following enclosures:

(i) *With all types of prints.* A card, envelope, or wrapper bearing the printed U.S. address of the sendor or his agent. The enclosure may bear appropriate foreign postage to mail it back to the United States. U.S. business reply items may not be enclosed.

(ii) *With all types of prints to the Netherlands.* A card, envelope, or wrapper bearing either the printed United States or Netherlands address of the sender or his agent. The enclosure may bear the appropriate foreign postage to mail it to its destination in either the United States or the Netherlands. U.S. business repiy items may not be enclosed.

(iii) *With all types of prints to Ireland (Eire).* Same conditions as to the Netherlands.

(iv) *With literary or artistic printed works.* A simple invoice relating to the works.

(v) *With fashion publications.* Cut-out patterns that are marked to show they are an integral part of the copy of the publication with which they are mailed.

(e) *Preparation and mailing* — (1) *Wrapping and closing.* Articles mailed at printed matter rates must not be sealed. The general provisions of § 21.1(a)(4) apply, subject to the following exceptional methods of preparation:

(i) Prints of the shape and consistency of a single card may be mailed without wrapper or envelope. These cards must conform to the dimensions of post cards (maximum, 6 by 4¼ inches; minimum, 5½ by 3½ inches). See § 22.2(a)(3) concerning cards that do not conform to the dimensions stated.

(ii) Single copies of second-class or controlled circulation publications mailed by publishers and addressed for delivery in Canada need not be enclosed in envelopes or wrappers when they are included in bundles as provided in § 22.3 (e)(4)(iii). Copies for all other countries, including those for delivery at Canadian overseas military post offices (CFPOs), even when tied in bundles, must be enclosed in envelopes or wrappers.

(iii) Use of steel bands or wire is permitted at the risk of the sender, except to Belgium, Great Britain, and Northern Ireland, Portugal (including Madeira and Azores), and the Union of Soviet Socialist Republics which object to their use.

(iv) Envelopes having the main flap sealed and the side flap closed with a spot of glue (two spots may be used to close the flaps of large envelopes) are accepted at the risk of the sender, except to Switzerland which has objected to the use of this type of envelope.

(v) Padded envelopes closed by means of staples are accepted at the risk of the sender. These may be closed with one, two, or three staples, depending upon the size of the envelopes.

(2) *Marking.* Senders must see that an endorsement appears on the address side of all cards, envelopes, wrappers, or packages to be mailed at printed matter rates, as follows:

(i) Mark "Printed Matter" when postage is paid at regular printed matter rates. (See § 23.3(a)(1)(i).)

(ii) Mark "Printed Matter—Books" or "Printed Matter—Sheet Music" on packages of books or sheet music to be mailed at the rates stated in § 22.3(a)(1)(ii).

(iii) Mark "Printed Matter—Directories" or "Printed Matter—Catalogs" when necessary to identify packages as containing directories or catalogs subject to regular printed matter rates but entitled to the exceptional weight limits prescribed in § 22.3(b).

(iv) Mark "Printed Matter—Second-Class" or "Printed Matter—Controlled Circulation Publication" on the envelopes or wrappers of second-class and controlled circulation publications on which the postage rates stated in § 22.3(a)(1)(iii) or (iv) are paid by stamps affixed. When the postage on second-class and controlled circulation publications is paid in cash or by advance deposit, as permitted in § 22.3(e)(3)(ii), the envelopes or wrappers must bear the imprint "Second-class postage paid at ----------," or "Controlled circulation postage paid at ----------," in the upper right corner. The imprint serves as an indication of postage payment and identifies the publications as second-class or controlled circulation. Use imprints prescribed in §132.2(e)(8) and 133.3(g) for mailings made pursuant to § 22.3(e)(3)(ii). See § 22.3(e)(4)(iii) concerning special provisions applicable to bundled mailings to Canada.

(3) *Payment of postage.* (i) Postage on printed matter, other than second-class and controlled circulation publications mailed by the publisher or by a registered news agent under the conditions stated in § 22.3(e)(3)(ii), must be paid by means of postage stamps, meter stamps, or permit imprints showing the amount of postage paid on each piece.

(ii) Postage on second-class and controlled circulation publications mailed by the publisher or by a registered news agent may be paid by means of postage stamps or meter stamps, or the postage charges may be paid in cash before the mailings are dispatched or from deposits of money made with the postmaster by the publisher or news agent. When the postage is to be paid in cash or from money on deposit with the postmaster, the postage charges are computed on Form 3541. Computation of Second-Class or Controlled Circulation Postage, from reports filed by the publisher or news agent on Form 3542, Statement Showing Number of Copies of Second-Class or Controlled Circulation Publication Mailed.

(iii) Accept deposits of money to cover postage at regular printed matter rates (§ 22.3(a)(1)(i)) on mailings of publications for which application for second-class or controlled circulation privilege is pending. When application is approved, adjust postage charges on reported mailings based on rates stated in § 22.3(a)(1)(iii) and (iv) and according to general procedure in § 132.3(b) and § 133.2(c).

(iv) If a publisher or registered news agent prefers, he may pay postage on individually addressed copies of second-class and controlled circulation publications by reporting them on Form 3542, and pay postage on unaddressed copies to be mailed in bulk packages by affixing the appropriate postage to the wrappers of the packages.

(4) *Mailing.* (i) Printed matter that is fully prepaid with postage or meter stamps and is properly prepared as required in subparagraphs (1) and (2) of this paragraph may be presented for mailing at post office windows or deposited in post office drops or street collection boxes.

(ii) Printed matter on which the postage is paid by permit imprints and all second-class and controlled circulation publications to be mailed at the rates stated in paragraph (a)(1)(iii) and (iv) of this section must be made up in accordance with subdivisions (iii) and (iv) below and taken to the post office or such other places as may be designated by the postmaster.

(iii) Publishers mailing at the rates stated in paragraph (a)(1)(iii) and (iv) of this section having five or more individually addressed copies to subscribers at the same post office must tie them in unwrapped bundles with a conspicuous label attached showing the post office and country of destination. Mail not made up to direct cities must be separated into State (province, county, etc.) bundles. All bundles must be securely tied. When there is a sufficient quantity of copies for one city, one State (province, county, etc.) or for one country to fill approxi-

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mately one-third of a sack the publisher shall insert the prepared bundles in a sack appropriately labeled to identify the destination. Mail for countries that have a postal code sort system may be made into bundles and sacks based on the postal code.

(iv) Canada only: In addition to presorting as covered in subdivision (iii) above, single copies addressed for delivery in Canada that are not enclosed in wrappers or envelopes, as permitted in subparagraph (1) (ii) above, must be included in bundles protected with sections of cardboard, fiberboard, or other protective covering that will prevent the copies from being damaged in transit. The labels on these protected bundles must bear the notation "OPEN AND DISTRIBUTE" and the words "Second-class postage paid at _____ or Controlled circulation postage paid at _____."

(5) *Return request.* Ordinary (unregistered) prints, other than books, are not returned if undeliverable unless return has been requested by the sender. Therefore, senders desiring that undeliverable ordinary prints be returned must place a "Return Requested" notation on the article, preferably immediately below the return address and in a language known in the country of destination. Books and registered prints that are undeliverable must always be returned to origin.

(6) *Dutiable prints.* Prints known to be dutiable in the country to which they are addressed must have a green customs label, Form 2976, fixed to the address side of the article. (See § 21.4(a).)

(f) *Direct sacks to one addressee*—(1) *Requirements.* Ordinary (unregistered) printed matter being mailed in quantity to one addressee may be transmitted in direct sacks (except to Ethiopia) if the sender complies with the following conditions:

(i) The minimum amount that may be mailed in a direct sack (by either surface or air) is 22 pounds; the maximum is 66 pounds (sack and contents). The weight and size limits prescribed in § 22.3 (b) and (c) do not apply to the individual packages included in the sack.

(ii) Obtain sacks from local post office, which will furnish airmail sacks, if available, when material is to be sent by airmail.

(iii) Place printed matter in one or more individual, unsealed packages bearing the name and address of sender and addressee. Mark each package Postage Paid.

(iv) Attach to the neck of the sack a tie-on tag bearing the name and address of sender and addressee. The tag must be of substantial quality, with reinforced eyelets to prevent it from being torn off, and of such size as to permit the stamps in payment of the postage to be placed on it. Use heavy twine to tie on the tag. When sending several sacks for the same addressee, mark tag with an identifying fractional number, for example ½, ⅔, and ¾, if the shipment consists of three sacks.

(2) *Postage.* (i) Postage is calculated only on the weight of the contents of the sack, and is paid by means of postage stamps or meter stamps affixed to the address tag. Calculate airmail postage at the applicable AO air rates shown under individual country items in the appendix. Calculate surface postage, according to the type of printed matter being mailed, as follows:

(*a*) *For regular printed matter.* At 48 cents each 2 pounds or fraction to all countries.

(*b*) *For books, sheet music.* (*1*) At 18 cents each 2 pounds or fraction to PUAS countries (see § 11.2 of this chapter), except to Spain and Spanish possessions.

(*2*) At 24 cents each 2 pounds or fraction to all other countries, including Spain and Spanish possessions.

(*c*) *For publishers' second-class.* (*1*) At 18 cents each 2 pounds or fraction to PUAS countries (see § 11.2 of this chapter).

(*2*) At 24 cents each 2 pounds or fraction to all other countries.

(*d*) *For publishers' controlled circulation publications.* At 29 cents each 2 pounds or fraction to all countries.

(ii) If a publisher or registered news agent prepares a direct sack of second-class or controlled circulation copies for one addressee and desires to pay the postage in cash or from money on deposit with the postmaster, the postage computation will be made on the basis of report on Form 3542. The address tag attached to the neck of the sack must then bear the second-class or controlled circulation imprint instead of stamps.

(3) *Labeling sacks.* The post office will label the sack with the name of the country of destination in large letters and the name of the United States dispatching exchange office in small letters (for example "GREAT BRITAIN—via New York") and send it to the exchange office for dispatch to destination.

§ 22.4 Matter for the blind.

(a) *Rates*—(i) *Surface.* Items mailable internationally as "Matter for the Blind" (see § 22.4(d)(1)) are accepted as surface mail free of postage.

(2) *Airmail.* Items mailable internationally as "Matter for the Blind" (see § 22.4(d)(1)) are accepted at AO (other articles) air rates. The rates are shown in § 22.3(a)(2).

(iii) *Nonconforming matter.* Items not acceptable as Matter for the Blind, pursuant to § 22.4 (b), (c) or (d), are subject to regular international rates of postage.

(b) *Weight limit.* Weight limit is 15 pounds.

(c) *Dimensions.* Maximum and minimum dimensions are the same as for letter mail. See § 22.1(c).

(d) *Description.* (1) The following are acceptable in international mail as Matter for the Blind:

(i) Books, periodicals, and other matter, including unsealed letters, impressed in braille or other special type for the use of the blind.

(ii) Plates for embossing blind literature.

(iii) Discs, tapes, or wires bearing voice recordings and special paper intended solely for the use of the blind, provided they are sent by or addressed to an officially recognized institution for the blind.

(2) Although various additional articles are admitted in domestic mail free of postage, pursuant to Part 138, the only articles admitted in international mail as Matter for the Blind are those indicated in § 22.4(d)(1).

(e) *Preparation and marking.* Articles must be in unsealed envelopes or wrappers prepared so as to permit easy examination. The word "free" must be placed in the upper right corner, immediately above the words "Matter for the Blind," on surface mail accepted free of postage. On airmail accepted at AO air rates the words "Matter for the Blind" must be placed in the upper right corner near the stamps. The name of the officially recognized institution for the blind must appear in the return address or in the address of matter mentioned in §22.2(d)(1)(iii).

§ 22.5 Small packets.

(a) *Description.* Small packets offer a convenient and economical means for sending small quantities of merchandise, commercial samples, or documents not having the character of current and personal correspondence. Gramophone records, tapes and wires (whether or not bearing a sound recording), automatic data processing cards, magnetic tapes, or similar items, as well as QSL cards may also be sent provided they contain no sounds or notations having the character of correspondence.

(b) *Weight limits.* The weight limit is 2 pounds.

(c) *Dimensions.* Maximum and minimum dimensions are the same as for letter mail. See § 22.1(c).

(d) *Postage rates*—(1) *Surface.* Canada and Mexico. Same as for regular printed matter. See § 22.3(a)(1)(i). All other countries—15 cents up to 4 ounces, 29 cents over 4 but not over 8 ounces, 48 cents over 8 ounces but not over 1 pound and 86 cents over 1 but not over 2 pounds.

(2) *Airmail.* AO (other articles) rates apply to all countries except Canada. The rates are shown in § 22.3(a)(2).

(e) *Preparation and marking.* (1) Small packets may not be sealed. They are subject to the provisions of § 21.1 as to preparation and packing.

(2) The sender must mark in bold letters on the address side of the packet the words "Small Packet" or its equivalent in a language known in the country of destination—"petit paquet" (French), "pequeño paquete" (Spanish), "päckchen" (German).

(f) *Documentation.* Small packets, whether or not they are subject to customs inspection, must bear the green (customs) label, Form 2976. See § 21.4(a).

(g) *Enclosures*—(1) *Permitted Enclosures.* A simple invoice and a slip showing the names and addresses of the sender and addressee of the packet may be enclosed. If the small packet contains a commercial sample the sender may show the following on the outside wrapper, on the sample itself, or on a sheet enclosed with the sample: Particulars concerning sender and addressee, the manufacturer's mark or trademark, a reference to correspondence exchanged between sender and addressee, a brief statement referring to the manufacturer and to the person supplying the goods or concerning the person for whom the sample is intended, the serial or order number, price, size, quantity available as well as the weight, volume and such other particulars as are necessary to determine the source and the character of the goods.

(2) *Prohibited enclosures.* Small packets may not contain written or sound recorded communications having the character of current personal correspondence; coins, bank notes, paper money, canceled or uncanceled postage stamps, or values payable to the bearer; manufactured or unmanufactured platinum, gold, or silver; precious stones, jewelry, or other precious articles. The term jewelry is defined in § 21.3(a)(6).

(h) *Countries not accepting.* Small packets are not accepted to the following:

Cuba.	North Vietnam.
North Korea.	People's Republic of China.

PART 23—TREATMENT OF OUTGOING POSTAL UNION MAIL

Sec.
23.1 Postmarking.
23.2 Shortpaid and unpaid.
23.3 Improperly prepared.
23.4 Forwarding.
23.5 Return to the United States.

AUTHORITY: The provisions of this Part 23 issued under 39 U.S.C. 401, 407.

§ 23.1 Postmarking.

The post office of mailing will postmark postal union mail.

§ 23.2 Shortpaid and unpaid.

(a) *At mailing office or sectional center.* Check carefully all locally mailed articles and mail received at sectional centers from associated offices for postage payment before they are dispatched. Return shortpaid or unpaid articles to the sender for deficient postage, using stock rubber stamp R–1300–230. The following exceptions apply:

(1) *Special delivery.* Dispatch to appropriate exchange office, unless deficiency can be obtained without delaying the article.

(2) *Letter mail and post cards with return address at an office other than the mailing office.* Dispatch to appropriate exchange office, unless the articles (i) returned to the office shown in the return address by the next business day; or (ii) are paid at domestic rates; or (iii) are totally unpaid.

(3) *Articles without return address.* Send letter mail and post cards to appropriate exchange office. Send "Other Articles" to proper dead letter branch.

(4) *Mail for Canada.* When quantity mailings of 10 or more pieces from the same sender are received return them for the deficiency or arrange that the postage charges be adjusted before the mail is dispatched. Otherwise, endorse articles to show that postage due charges are to be collected from the addressee, as follows, and dispatch to appropriate exchange office:

(i) Double the amount of the deficient postage on ordinary (unregistered) letter mail and post cards.

(ii) The actual amount of the deficiency on ordinary "Other Articles" and on all registered mail.

(b) *Dispatch to exchange office or dead letter branch.* When shortpaid or unpaid mail is dispatched to exchange offices or to dead letter branches pursuant to § 23.2(a), apply stock rubber stamp R–1300–4, Postage Due _____ Cents, but do not indicate the amount of shortpayment, except as provided in § 23.2(a)(4) for mail addressed to Canada. Dispatch to exchange offices by surface means when surface mail is involved and by air when airmail is involved.

(c) *In transit to dispatching exchange offices.* Except as provided in § 23.2(a), no check shall be made for postage deficiencies, but any articles seen to be paid at domestic postage rates (except special delivery) or to be totally unpaid shall be returned. Endorse "Returned for additional postage" or "Returned for postage." Do not return if the senders are in Alaska, Hawaii, or an overseas territory or possession and the articles are seen after arrival in continental United States, or vice versa: allow them to go forward to the dispatching exchange office for appropriate treatment.

(d) *Credit for postage already affixed.* Credit is allowed for postage already affixed in figuring correct amount on articles returned to senders for deficient postage.

§ 23.3 Improperly prepared.

(a) *Insufficient address.* Post offices will not return articles to senders if they are not addressed as prescribed in § 21.1(c), provided the country of destination is legibly written, but will dispatch them to the exchange office for decision as to the sufficiency of the address. New postage must be paid on articles remailed with corrected addresses after being returned from other countries.

(b) *Cards*—(1) *Oversized cards.* Post offices will return oversized cards (those exceeding 6 x 4¼ inches) to senders, if known, unless they are paid at letter rates. If sender is not known, dispatch oversized cards to the exchange office.

(2) *Foreign reply-paid cards.* Reply-paid cards are not acceptable in international mail. Any reply-paid cards bearing foreign postage found in the mail shall be returned to the sender for proper U.S. postage to be affixed, or sent to the dead letter office if the name and address of the sender are not shown.

(c) *Undersized articles.* Post offices will return to the senders, if known, any articles that are less than the prescribed minimum size and are not prepared as provided under § 22.1(c)(2). If the sender is not known, dispatch the articles to the dead letter office.

(d) *Meter stamps.* The Universal Postal Convention prescribes that meter stamps are to be bright red in color. (See § 21.2(b)(1).) Although the use of red color for meter stamps on international mail should be encouraged, articles bearing those of other colors are to be allowed to go forward.

§ 23.4 Forwarding.

(a) *International.* Articles will generally be forwarded to a new address of the addressee, even in a third country, or back to the United States. The sender may forbid forwarding by a notation on the envelope or wrapper in a language understood in the country to which addressed. See § 24.3 concerning forwarding mail of foreign origin.

(b) *Domestic*—(1) *Addressee moved to another country.* Treat as undeliverable and dispose of as provided in § 159, except that post or postal cards and ordinary letters that do not appear to contain merchandise and do not bear a notice forbidding forwarding may be redirected to the original addressee in another country. Letters and cards are forwarded by surface if surface mail is involved and by air if airmail is involved, without prepayment of additional postage. If the difference between the domestic and international postage is not added at the time of forwarding it will be collected when the letter or card is delivered. Surface letters and cards will be forwarded by air if the difference between the domestic postage and the international airmail rate has been added on the letter or card.

(2) *Bearing foreign return address.* Any domestic letters (except those that appear to contain merchandise), and any domestic post or postal cards bearing the sender's request for return, are returned to the foreign return address. Return is by surface mail only, and without prepayment of additional postage. Indication of a foreign return address on registered or certified letter mail will be deemed to constitute a request on the part of the sender that the letter is to be forwarded to the foreign return address if it is not deliverable at the U.S. address. It further indicates that the sender thereby agrees, in case of loss of a registered letter after dispatch from the United States, to adjustment of indemnity in accordance with the provisions of § 72.2, irrespective of the amount of registry fee paid. Articles or packages containing merchandise are held by the post office of address and a report sent to Headquarters as provided in § 31.7(b). Treat other undeliverable domestic articles with foreign return addresses as dead mail. (See § 159.7.)

(c) *Ship passenger and crew mail*—(1) As an alternative to § 23.4(b) and § 24.3(b), ordinary (unregistered) articles of correspondence (except those which appear to contain merchandise) addressed to crew members or passengers on board a ship may be forwarded in the international mail, by surface or air, in one envelope addressed to a ship or travel agency under the following conditions:

(i) The envelope in which the articles are to be forwarded shall be approximately 9 inches by 6 inches in size, and shall be supplied by the sender. Do not put postage on this envelope but place

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the following endorsement in the upper right corner of the envelope:

This envelope contains prepaid letters forwarded in bulk by authority of Assistant Postmaster General, Finance Department, U.S. Postal Service, any required additional international postage has been affixed to the articles enclosed.

(ii) The envelope must be presented unsealed at the mailing office for check of the contents. Any additional postage required must be paid on each of the articles enclosed, as follows:

(a) *Articles of U.S. origin.* Pay on each article the difference between the postage already paid and the appropriate international rate (surface or air) to the new country of destination.

(b) *Articles originating in other countries.* If envelope is to be forwarded by air, place full air postage from the United States to the new country of destination on each article enclosed. No additional postage is required if the envelope is to be forwarded by surface means.

(iii) If the envelope is intended to be transmitted by air, place label 19 bearing the words "Par Avion", in the upper left corner of the envelope immediately below the return address of the sender.

(iv) The total weight of the forwarding envelope and its contents is limited to 18 ounces.

(2) The accepting employee must check the envelope to see that any necessary additional postage has been paid on each article, cancel any additional postage placed on the articles, and seal the envelope. The accepting employee will apply the office date stamp and his initials immediately below the sender's endorsement prescribed in §23.4(c)(1)(i).

§ 23.5 Return to United States.

(a) Articles will generally be returned to the sender if delivery cannot be made. Ordinary (unregistered) articles of printed matter, other than books, are not returned unless the sender has requested their return as prescribed in § 22.3(e)(5).

(b) The reason for nondelivery of returned articles may be indicated in French or Spanish, the most usual expressions being the following:

Ausente (Sp.)	Gone away.
Décédé (Fr.)	Deceased.
Desconocido (Sp.)	Unknown.
Devuelva a remitente (Sp.)	Return to sender.
Fallecido (Sp.)	Deceased.
Inconnu (Fr.)	Unknown.
Non réclamé (Fr.)	Unclaimed.
No reclamado (Sp.)	Unclaimed.
Parti (Fr.)	Gone away.
Refusé (Fr.)	Refused.
Rehusado (Sp.)	Refused.
Retour à l'expéditeur (Fr.)	Return to sender.

(c) Precanceled stamps on mail returned to the United States must be defaced before delivery to the sender.

PART 24—TREATMENT OF INCOMING POSTAL UNION MAIL

Sec.
24.1 Charges.
24.2 Foreign markings instead of stamps.
24.3 Forwarding.
24.4 Undeliverable articles.

AUTHORITY: The provisions of this Part 24 issued under 39 U.S.C. 401, 407.

§ 24.1 Charges.

(a) *Customs clearance and delivery fees.* (1) Post offices will collect a fee of 35 cents from the addressee of every postal union article, other than a small packet, on which customs duty or internal revenue tax is collected. On every small packet on which duty or revenue tax is collected the fee is 70 cents for each packet. The fees apply also when post office service is rendered for formal entry articles on which importers pay the customs charges directly to the Customs Service. The fees are retained by the Postal Service, and are accounted for by affixing postage due stamps to the articles or packets and canceling. See § 32.1(a) concerning fees on incoming dutiable parcel post, and § 61.5(e) concerning recording and reporting duty collections.

(2) These fees are authorized by international postal convention as reimbursement to the Postal Service for the work it performs in clearing mail articles through customs and for delivery to the addressees.

(3) The appropriate fee is collected on each article on which duty or tax is paid by the addressee, even if several articles are covered by a single mail entry form.

(4) These fees are not refundable by the Postal Service even though the Customs Service may later refund the duty paid by the addressee.

(5) Post offices will not collect the fees in the following cases:

(i) On dutiable matter from the Canal Zone or from overseas U.S. post offices (civil or military).

(ii) On packages assessed with duty which are delivered without collection of duty under § 61.5(d)(6) and (7)(ii)(*d*). If postage due stamps were pasted on the package and canceled at the time the package was assigned for delivery, the delivery employee shall mark the stamps Voided and allow them to remain on the package. See § 61.5(d)(6) concerning crediting employee with the value of the unreturned postage-due stamps.

(b) *Shortpaid mail.* (1) The Postal Service of origin marks shortpaid articles before dispatch. The marking consists of a letter "T" (meaning "Tax") followed by a fractional number. The fractional number consists of a figure representing double the shortpayment, written above the surface letter rate of postage to the United States. The receiving United States Exchange Office multiplies the fraction by the U.S. international surface letter rate of postage for the first weight unit (15¢ except with Mexico 8¢) and applies the product as postage due. The amount is accounted for by affixing and canceling postage-due stamps.

(2) Formula:

$$T\frac{\text{Double Shortpaid amount}}{\text{Surface Letter Rate of Postage to U.S.}} \times \text{U.S. International Surface Letter Rate} = \text{Postage Due}$$

(3) Shortpaid letters from Canada are not marked by the Canadian service with fractional numbers, but with the words "Postage Due" followed by the actual amount in cents to be collected.

(4) If an article bears U.S. Postage the delivering office shall allow credit for its value when postage due is collected.

(c) *Invalid foreign postage.* Foreign mail bearing invalid postage is accompanied by international Form C 10 issued in the country of origin and is rated as unpaid. The addressee is asked to pay the postage due, to disclose the name and address of the sender, and to surrender the envelope. The post office will send the envelope after delivery, or the entire article if the addressee refuses it, with the Form C 10 to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260, with the name and address of the sender if disclosed by the addressee.

(d) *Storage.* The post office will collect storage charges for each day until delivery is made on (a) any printed matter package or small packet exceeding 1 pound in weight, and (b) any dutiable letter package regardless of weight. The charges and other conditions prescribed in § 32.1(c) for incoming parcel post packages apply to the postal union articles mentioned.

(e) *AO mail containing letters.* When a personal communication is found in an AO article, the office discovering it will mark the cover and rate the article for collection of postage due in the same manner as prescribed in § 32.1(d) for letters found in parcels.

(f) *Returned mail.* Post offices will collect charges on returned mail as follows:

(1) On returned second-class publications mailed to Canada by publishers or registered news agents, 6 cents for the first 2 ounces and 2 cents for each additional ounce.

(2) From the sender of any article returned through a dead letter branch, the amount indicated on the dead letter office envelope.

(3) From the sender of an undeliverable insufficiently prepaid article, the deficient postage that should have been collected from the addressee.

(4) Any other charge indicated by the exchange office.

§ 24.2 Foreign markings instead of stamps.

Some articles of foreign origin do not bear postage stamps but are marked "Postage Paid," "Taxe perçue," "Port paye," "TP or PP," with postmark. The marking "On Her Majesty's Service" or "O. H. M. S." is also sometimes used. This mail is treated as prepaid.

§ 24.3 Forwarding.

(a) *Within the United States.* (1) Articles received by surface may be forwarded by surface and articles received by air may be forwarded by air, without an additional postage charge or fee, unless the envelope or wrapper bears a notation forbidding its being forwarded.

(2) Second-class publications from Canada are treated in accordance with §§ 159.2(b)(1) through 159.2(b)(3). A periodical publication from any other country whose delivery requires that it be forwarded to another local address or to another post office shall be forwarded and the addressee shall be requested to notify the publisher of his new address. If the publication is still being received 3 months after change of address occurs, the post office of original address shall dispose of it, and any subsequent copies received, as waste, except that publications bearing request of sender for return shall be endorsed "Moved, not forwardable" and returned to origin.

(b) *To another country.* (1) Articles can be forwarded on condition that the country of destination accepts mail of the classification involved. Articles received by either surface or air, which do not bear instructions forbidding their being forwarded, are forwarded by surface without an additional postage charge or fee. United States postage at the airmail rate to the country concerned must be paid on any article that is forwarded by air. Cross out the Par Avion label or endorsement on an airmail article that is forwarded by surface. See §§ 23.4(b), (c) and 31.7(b) concerning forwarding of domestic mail, and § 61.5(i)(2) concerning disposal of customs mail entry forms relating to dutiable articles.

(2) The provisions of § 24.3(a)(2) apply in the case of periodical publications addressed to persons who have filed change of address to another country.

(c) *Backstamping.* A legible postmark is applied to the back of letters and to the front of postcards when received missent and to all forwarded articles.

§ 24.4 Undeliverable articles.

(a) *Retention period.* Post offices will hold ordinary and registered articles at disposal of addressees for 30 days, except in the following cases:

(1) Articles bearing senders' requests for return within a specified time not exceeding 2 months.

(2) Articles bearing no time limit for their return, when there is good reason to believe they can be delivered to the addressee if held for a period not exceeding 2 months. These articles shall be marked "Specially held for delivery." Hold articles subject to storage charges (see § 24.1(d)) beyond the initial 30-day retention period only if the addressee, or someone acting in his behalf pays the storage charges due at the end of the first 30-day period. Thereafter, collect accumulated storage charges every 10 days.

(3) Articles on which the addressee has protested the rate or amount of duty assessed, pursuant to § 61.5(d)(6)(ii).

(4) Articles positively known to be undeliverable, such as refused, or addressee moved and left no address. These shall be treated as undeliverable unless they bear the sender's request specified in (a) of this section.

(b) *Directory service.* See § 159.5 concerning directory service to be accorded mail of foreign origin.

(c) *Endorsing.* Endorse undeliverable mail as prescribed in § 159.1(a)(2). Apply a legible postmark to the back of letters and to the front of postcards that are returned to origin.

(d) *Disposal.* Dispatch undeliverable mail by surface means (including airmail articles, after crossing out Par Avion label or endorsement) to the appropriate exchange office for return to the country of origin, except the following:

(1) Ordinary (unregistered) prints, other than books, which do not bear the sender's request for return. These are disposed of in accordance with § 159.4(b). Books and registered prints must always be returned to origin.

(2) Postcards which do not bear the address of the sender. These are disposed of in accordance with § 159.4(a).

(3) Canadian second-class publications. These will be treated as prescribed in § 159.2(b)(2)(i) through (iii).

(4) Canadian articles of all classifications not covered by (1) and (2) of this section and not bearing sender's name and address. These will be sent to the dead letter office for disposal pursuant to § 159.7(d)(8).

(e) *Postage-due matter.* Articles bearing postage-due stamps are treated as prescribed in § 146.5 (e) and (f).

(f) *Storage charges.* Storage charges due on postal union articles are canceled if the articles are returned to origin or forwarded to another country. See § 32.5(b)(4) concerning marking of parcel post on which storage charges are due.

(g) *Dutiable mail.* Dispose of customs mail entry forms as prescribed in § 61.5(i).

PART 25—ARTICLES MAILED ABROAD BY OR ON BEHALF OF SENDERS IN THE UNITED STATES

Sec.
25.1 U.S. postage rates required.
25.2 Mailing with U.S. postage paid.
25.3 Mailing with U.S. postage not paid.
25.4 Report of incoming mailings.

AUTHORITY: The provisions of this Part 25 issued under 39 U.S.C. 401, 407.

§ 25.1 U.S. postage rates required.

Pursuant to provisions of the Universal Postal Convention, U.S. postage must be paid to secure delivery of articles in excess of 200 pieces mailed in other countries by or on behalf of persons or firms whose residence or place of business is in the United States when the foreign postage on the articles is lower than comparable U.S. domestic postage. If the comparable rate is the domestic third-class rate, use the single-piece rate to compute postage on the mailing. The articles will be returned to origin unless applicable U.S. postage is paid for the total number of pieces. Even if the foreign postage is not lower, the same conditions apply when more than 5,000 pieces are mailed. These limitations apply to mailings made in such quantities within a 30-day period.

§ 25.2 Mailing with U.S. postage paid.

Senders affected by § 25.1 must submit a sample of the proposed mailing (envelope and contents) to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260, with a statement as to the number of pieces to be mailed, when and where the mailing will take place, and a check to cover the amount of the applicable U.S. postage. Checks will be made payable to the U.S. Postal Service. Notification of postage acceptance and approval of mailing will be given by Headquarters to the sender and to the appropriate U.S. receiving exchange offices which will permit the articles in the mailing to go forward to the addresses without delay when they reach the United States.

§ 25.3 Mailing with U.S. postage not paid.

A mailing subject to § 25.1 received without payment of U.S. domestic postage having been made in advance will be held at the exchange office of receipt, and the U.S. sender will be requested to pay the postage. After payment of the required amount, the mailing will be allowed to go forward; if not paid, it will be returned to the country of origin.

§ 25.4 Report of incoming mailings.

Only U.S. receiving exchange offices will report to Headquarters mailings from other countries that appear to have been made by or on behalf of senders in the United States.

PARCEL POST

PART 31—OUTGOING PARCELS

Sec.
31.1 Availability of service.
31.2 Prohibitions and restrictions.
31.3 Preparation, packing, and mailing.
31.4 Documentation.
31.5 Postmarking.
31.6 Shortpaid.
31.7 Forwarding.

AUTHORITY: The provisions of this Part 31 issued under 39 U.S.C. 401, 407.

§ 31.1 Availability of service.

Parcel post service is available to most countries, and the general conditions shown in this part apply.

§ 31.2 Prohibitions and restrictions.

(a) *General list of prohibited articles.* The following are prohibited by parcel post to all countries:

(1) Articles excluded from the domestic mail of the United States. (See § 12.3.)

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Although safety matches are admitted in the domestic mail, they are prohibited in the international mail.

(2) Written communications of the nature of personal correspondence, or recorded correspondence. (See § 31.3(d).)

(3) Enclosures bearing an address different from that appearing on the parcel itself.

(4) Pistols, revolvers, and other firearms capable of being concealed on the person, with certain exceptions. (See §§ 53.1 and 124.5.)

(5) Live or dead creatures, except live bees, leeches, and silkworms and dead insects or reptiles when thoroughly dried.

(6) Fruits, vegetables, fresh meats, and other articles which easily decompose or which cannot reasonably be expected to reach destination without spoiling; substances which give off a bad odor.

(7) Gold coin, gold bullion, or gold dust exceeding $100 in value. (See § 54.4.)

(8) Articles that may in any way damage or destroy the mail or injure the persons handling them. This includes liquids that may cause injury by contact with the skin or give off irritating vapors; also explosives and flammable liquids having a flash point by the Tagliabue open tester of 80° F. or lower, and flammable solids which are likely, under conditions incident to transportation, to cause fires through friction, through absorption of moisture, or through spontaneous chemical changes.

(9) Articles containing gas or liquid under pressure, except that products incorporating compressed gas are acceptable if the mist produced is nonflammable, the quantity of contents not more than a pint, and not more than one container per package. These restrictions as to quantity do not apply to aerosol containers holding mailable liquid and gas under pressure less than 40 pounds per square inch absolute (25 pounds gauge pressure) at 70° F. Liquids with flash point below 150° F. are restricted as stated in § 31.2(d)(1).

(10) Oxidizing materials such as chlorates, permanganates, peroxides, or nitrates, which yield oxygen readily to stimulate the combustion of organic matter.

NOTE: For general postal union mail prohibitions, see § 21.3.

(b) *Restricted Articles.*—(1) *Flammable liquids.* Liquids having a flash point of 80° F. or lower are nonmailable. Liquids having a flash point above 80° F. to 150° F., inclusive are mailable to foreign countries in quantities up to 1 quart in any one parcel, except that paint, varnish, turpentine, and similar substances may be sent in quantities up to 1 gallon in any one parcel. Liquids having a flash point in excess of 150° F. have no quantity restrictions within allowed weight limits with consideration given to proper packaging. Each container of liquid must be surrounded with sufficient absorbent cushioning material to completely absorb the contents in case of breakage. Containers with only friction top closures are not acceptable. Screw caps, soldering, clips or other means must be employed to effect closure. Each parcel containing a flammable liquid must be marked to indicate that the flash point is above 80° F.

(2) *Gold and gold certificates.* (See § 54.1.)

(3) *Jewelry.* Some countries prohibit the importation of jewelry or other precious articles by parcel post, and others admit them only in registered or insured parcels. The term "jewelry" in this part denotes articles of more than nominal value. Low priced jewelry, such as tie clasps, costume jewelry, and other items containing little or no precious metal, is not considered to be jewelry within the meaning of this section and is accepted under the same conditions as other mailable merchandise to any country. However, its acceptance to countries to which jewelry is prohibited is at the risk of the sender.

(4) *Tobacco seed and plants.* (See § 55.2.)

(5) *Plant material generally.* Plants, seeds, and plant material including fruit and vegetables are subject to the quarantine regulations of the country of destination. Customers can obtain information from the Agricultural Quarantine Inspection Division, Department of Agriculture, Federal Center Building, Hyattsville, MD 20782, or from one of its inspection offices (see § 62.3).

(6) *Radioactive materials.* Radioactive materials are restricted. See §§ 21.3(b)(iii) and 124.2(e).

(c) *Individual country prohibitions and restrictions*—(1) *Information available.* These prohibitions and restrictions are based on information furnished by the countries concerned. Customers may inquire at the post office for information about them, or purchase Postal Service Publication 42 from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

(2) *Mailing of prohibited or restricted articles.* Package known to contain articles prohibited to a country are not accepted for mailing. If a package contains articles whose importation into a country is restricted, the sender's attention is to be called to the restrictions and the articles accepted with the understanding that the addressee will be responsible for complying with the import formalities of the country concerned.

(3) *Mailings liable to return or seizure.* In addition to the published prohibitions and restrictions mentioned in § 31.2(c)(1), any country may return or confiscate articles which are prohibited from circulation within that country, whether or not notice of such prohibition or restriction has been published.

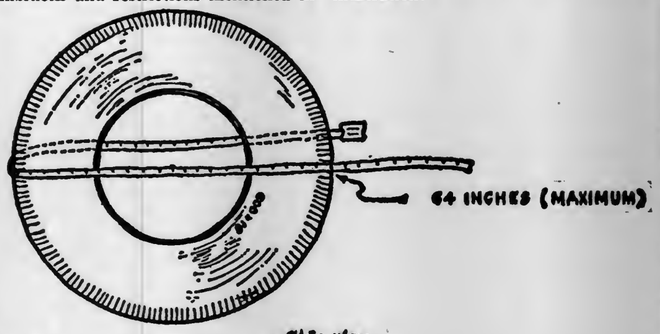
(d) *Foreign customs information.* The assessment of customs duty in other countries is outside the control of the postal service. Postal employees must not attempt to inform customers whether any articles, either gifts or commercial shipments, will be subject to customs duty. It may be suggested to customers that they inform the addressees in advance of the items they intend to mail so the latter may inquire of their local customs authorities whether or not there will be a duty charge.

§ 31.3 Preparation, packing, and mailing.

(a) *Dimensions and weight limits*—(1) *General dimensions.* The address side of a parcel must measure at least 5½ inches in length and 3½ inches in width. Greatest length, 3½ feet; greatest length and girth combined, 6 feet. "Length and girth combined" means the measurement of once the length, plus twice the width, plus twice the depth. See § 135.3(b) for illustration of method of measuring parcels.

(2) *Exceptional dimensions.* To some countries, dimensions other than the general dimensions indicated are applicable. A parcel must not exceed the maximum dimensions allowed to the country to which it is addressed.

(3) *Dimensions of special articles.* The usual method of measuring parcels, as described in § 135.3(b) is not adaptable in the case of tires of all kinds, coils of rope, hose, wire, etc., forming a parcel circular in shape. To determine whether a tire or other object circular in shape (regardless of whether there is an open space in the center) can be accommodated inside the mail sacks used for parcel post to overseas foreign countries, the object as prepared for mailing shall be measured around its entire girth, in the direction of the diameter, as shown in the illustration. This measurement must not exceed 64 inches in order for the tire or other parcel circular in shape to be acceptable for mailing to overseas foreign countries. Measurement shall be taken as shown in the following illustration:



Side view.

(b) *Packing*—(1) *In general.* (i) The responsibility of properly enclosing, packaging, and sealing parcels in the international mail rests with the sender, and the Postal Service will not assume liability for loss, rifling, or damage arising from defects which may not be observed at the time of mailing.

(ii) Every parcel shall be securely and substantially packed, having regard to the nature of the contents and climatic conditions, the length of the journey, and the numerous handlings and risks of concussion to which parcels for foreign destinations are unavoidably subjected en route.

(iii) Packages must be packed in canvas or similar material, doubt-faced corrugated cardboard boxes, solid fiber boxes or cases, thick cardboard boxes, or strong wooden boxes made of lumber at least a half-inch thick or plywood of at least three plies. Ordinary pasteboard containers are wholly inadequate. Although it is permissible to use heavy wrapping paper or waterproof paper as the outside covering of a carton, such paper shall not be used as the only covering of the contents. Boxes with lids screwed or nailed on and bags closed by sewing may be used provided they conform to other conditions prescribed. Heavy objects such as cans of food must be surrounded with other contents or packing material so that they cannot shift within the parcel.

(iv) For illustrations regarding recommended packaging and closures, see § 12.1.

(2) *Specific articles.* (i) Fragile articles for overseas destinations shall be packed in a strong (preferably wooden) box. Strong solid fiberboard or double-faced corrugated fiberboard boxes of not less than 200-pound test if enclosed in strong wooden crates, or 275-pound test if used without crates, are acceptable. A space of at least 2 inches must be left between the articles and the top, bottom, and sides of the box, to be filled with sufficient cushioning material to protect the articles.

(ii) All mailable liquids and substances which easily liquefy must be packed in two receptacles. Between the first (bottle, flask, etc.) and the second (box of metal, strong wood, strong corrugated cardboard, strong fiberboard, or receptacle of equal sternrgth) there shall be left a space to be filled with sawdust, bran, or other absorbent material in sufficient qunatity to absorb all the liquid contents in case of breakage. Excelsior does not possess the necessary absorbent quality to meet this requirement. In the case of Ireland, Leeward Islands, Malaysia, and Windward Islands, the outer receptacle shall be of strong wood or metal. Metal containers closed with a screw-top cover must have sufficient screw threads to require at least one and one-half complete turns before the cover will come off and be provided with a washer so as to prevent possible leakage of the contents. Compression or friction top metal containers must be soldered in four different places, equally spaced.

(iii) Dry noncoloring powders must be enclosed in boxes of metal, wood, or strong corrugated cardboard, placed in turn in a closely woven cloth bag or heavy kraft paper sack. Power dyes must be enclosed in strong metal boxes, securely closed, and placed in turn in another box of wood or strong corrugated cardboard, with sawdust or other absorbent or protective material between the inner and outer containers.

(iv) Eggs addressed for delivery in all countries other than Canada must be placed in a metal egg container, and each egg in the square pockets must be surrounded with paper, excelsior, cotton, straw, or other similar material, while the metal egg container in turn must be enclosed in an outer container of wood with sufficient excelsior, straw, or similar material provided in the space between the inner and outer containers.

(v) Eggs destined for delivery in Canada may be packed either in the manner prescribed above or in wooden, papier-mache, or other box of a rigid material with a well-fitting tightly adjusted lid. Each egg must be wrapped in newspaper or other protecting material and placed on end, the vacant space in the box to be filled with newspaper or other packing material so as to prevent the eggs from striking together or against the sides, top, or bottom of the box.

(c) *Sealing.* Sealing is compulsory for all insured or registered parcel post, and for ordinary (uninsured and unregistered) parcel post for certain countries. Customers must seal their own parcels, using wax, gummed paper tape, nails, screws, sewing, wire or metal bands, or other adequate means which will permit detection of any attempted depredation.

(d) *Enclosure or attachment of communications*—(1) *Prohibited.* Except as provided in § 31.3(d)(2), a communication of personal nature must not be written on, attached to, or enclosed in a parcel. If such a communication is found it will be placed in the mail if separable; if inseparable the entire parcel must be rejected.

(2) *Exceptions.* The following exceptions apply:

(i) In the case of a parcel for Canada, a letter, and for Switzerland, a letter or card, fully prepaid and bearing the same address as that of the parcel, may be tied or otherwise securely attached to the outside of the parcel in a manner that will prevent its becoming separated or interfering with the address of the parcel. Stamps to cover postage on the parcel must be placed on the wrapper. Stamps to pay postage on the letter or card must be placed on the envelope or the card. Parcels with such attachments are treated as parcel post.

(ii) A parcel may contain an open invoice confined to the particulars which constitute an invoice.

(iii) A file or collection of out-of-date correspondence, which has served its original purpose, is acceptable as parcel post.

(e) *Addressing and mailing*—(1) *Addressing.* The name and address of the sender and of the addressee must be legibly and correctly written in every case when possible on the parcel itself or on a label gummed thereto, and must also be written on a separate slip enclosed in the parcel. Parcels will not be accepted when addressed to a "care" in one country and the addressee (or person for whom intended) in another country or when addressed to or sent by initials, unless the initials are the adopted trade name of the senders or addressees. Addresses in ordinary pencil are not allowed, but copying ink or indelible pencil on a surface previously dampened may be used. Sufficient space must be left for the addition of necessary service notations and for stamps or labels.

(2) *Mailing.* Parcels may not be mailed in letterboxes. Patrons must present them at parcel post windows of post offices where the necessary postal forms (see § 31.4) will be furnished without charge.

(3) *Federal Government official parcels.* Official parcels of authorized departments and agencies listed in § 137.2(c)(1)(i) are mailable under "Postage and Fees Paid" indicia and will be given the postal service requested, provided the service is available to the country of address. The parcels are subject to weight, size limits and other mailing conditions in Part 31. This includes the requirement that completed parcel post forms must accompany each parcel. See § 21.2(d)(2)(i) concerning acceptance of articles as postal union mail.

(f) *Rates, computation and postage payment*—(1) *Surface parcels.* Surface parcel post rates are based on an initial weight unit of 2 pounds and succeeding units of 1 pound. They are as follows:

(i) *Canada, Mexico, Central America, the Caribbean islands, Bahamas, Bermuda, and St. Pierre and Miquelon.* $1.20 for first 2 pounds; 35 cents each additional pound.

Lbs:	Rate	Lbs.	Rate	Lbs.	Rate
2	$1.20	17	$6.45	32	$11.70
3	1.55	18	6.80	33	12.05
4	1.90	19	7.15	34	12.40
5	2.25	20	7.50	35	12.75
6	2.60	21	7.85	36	13.10
7	2.95	22	8.20	37	13.45
8	3.30	23	8.55	38	13.80
9	3.65	24	8.90	39	14.15
10	4.00	25	9.25	40	14.50
11	4.35	26	9.60	41	14.85
12	4.70	27	9.95	42	15.20
13	5.05	28	10.30	43	15.55
14	5.40	29	10.65	44	15.90
15	5.75	30	11.00		
16	6.10	31	11.35		

For parcels addressed to Panama weighing over 44 pounds but not over 70 pounds, charge $14.00 for the first 40 pounds plus the rate given above for the remaining pounds.

(ii) *To all other countries.* $1.30 for first 2 pounds; 40 cents each additional pound.

Lbs.	Rate	Lbs.	Rate	Lbs.	Rate
2	$1.30	17	$7.30	32	$13.30
3	1.70	18	7.70	33	13.70
4	2.10	19	8.10	34	14.10
5	2.50	20	8.50	35	14.50
6	2.90	21	8.90	36	14.90
7	3.30	22	9.30	37	15.30
8	3.70	23	9.70	38	15.70
9	4.10	24	10.10	39	16.10
10	4.50	25	10.50	40	16.50
11	4.90	26	10.90	41	16.90
12	5.30	27	11.30	42	17.30
13	5.70	28	11.70	43	17.70
14	6.10	29	12.10	44	18.10
15	6.50	30	12.50		
16	6.90	31	12.90		

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(2) *Air parcels.* Air parcel post rates are based on weight units of 4 ounces.

(3) *Computation of postage.* In computing postage on surface parcels, a fraction of a pound is charged as a full pound. On air parcels, a fraction of 4 ounces is charged as full 4 ounces. The weight of the customs declaration and other postal forms will not be included with that of the parcel in computing the amount of surface or air postage required.

(4) *Placement of stamps.* Place stamps in payment of postage and fees in the upper right corner of the address side of the parcel. If the wrapping is of cloth or other material to which stamps will not adhere, place them on the customs declaration tag in the space below the name and address of the addressee.

§ 31.4 Documentation.

(a) *Customs Declaration, Form 2966.*—(1) *Preparation by accepting clerk.* The accepting clerk will give the sender the number of forms required for the country concerned, and will see that he fills them out in accordance with § 31.4 (a) (2). Request senders to fill out declarations in ink or by typewriter. If packages are presented with declarations completed in ordinary pencil do not reject them for that reason. Enter weight of the parcel and insurance number if insured. Postmark form in the space provided and return it to the sender to be attached to the parcel as described in § 31.4(a) (3).

(2) *Preparation by sender.* Complete declarations in ink or by typewriter. The Postal Service assumes no responsibility for accuracy of the indications shown by the sender. Show on each declaration the following:

(i) Name and address of sender and addressee.

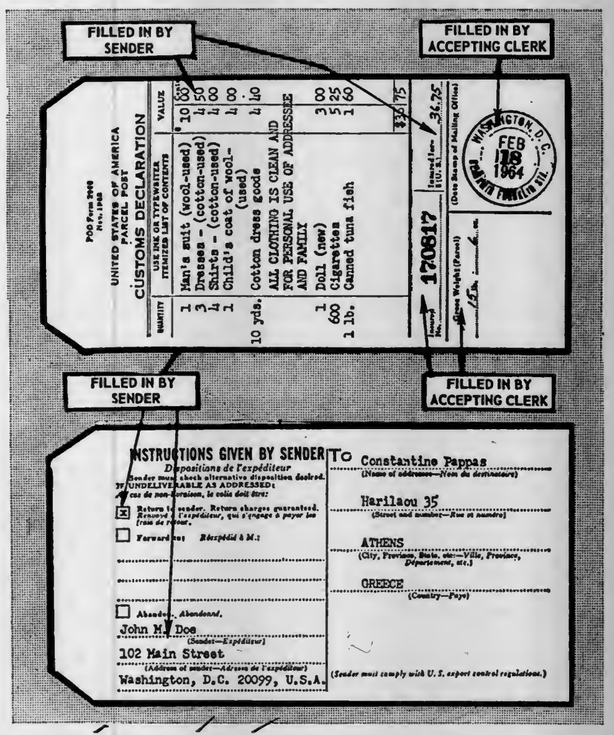
(ii) Disposal to be made of parcel if it proves to be undeliverable as addressed. If an alternate addressee is given, it is recommended that the sender also indicate whether he wishes to have the parcel returned or treated as abandoned if it proves to be undeliverable to both the original and alternate addressees. This is done by checking the ultimate disposal in addition to the one showing the alternate addressee. (See illustration in § 31.4(c) (4).) Senders should give instructions for abandonment of any parcels on which they are not willing to pay the return charges mentioned in § 32.5(a).

(iii) A complete and accurate description of the contents in the English language. An interlineation in another language is permitted, and in some cases is required. For parcels containing more than one article, or articles of different kinds, state the exact quantity and value of each kind or article. A sender is permitted to declare that the contents of a parcel have "No value." Also, it is not sufficient to use simply such words as "coat," or "stockings," instead the materials of which the articles are composed must be shown, as "fur coat, silk stockings." General terms such as "worn clothing, groceries, presents, merchandise, samples," and the like, will not suffice, although in the case of quantity shipments of items such as mechanical or electrical parts, and the like, general descriptions will be accepted. If the customs declaration does not furnish enough space on which to give a complete list of the contents, an additional declaration form may be used, or the list may be placed on the wrapper, making reference to the fact on the declaration itself.

(iv) If the parcel is to be insured, show in the space provided the amount for which it is insured. (See § 43.4 and § 43.5 (a) (2).)

(3) *Affixing by sender.* In addition to being tied by means of a strong cord passed through the eyelets, the tag must be bound to the parcel so that it lies flat and cannot be used as a handle to lift the parcel.

(4) *Facsimile of Form 2966.* The following facsimile illustrates the information and the sender and the accepting clerk will add to complete the form:



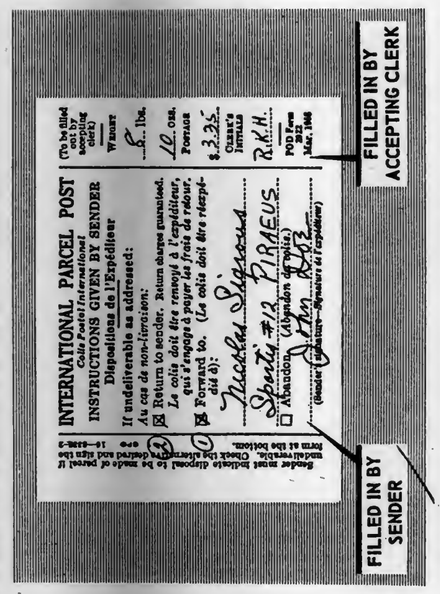
(b) *Dispatch Note, Form 2972.*—(1) *Preparation by accepting clerk.* The accepting clerk will give the sender a dispatch note if required for the country concerned and see that he fills it out in accordance with § 31.4(b)(2). Request senders to fill out the dispatch note in ink or by typewriter. If packages are presented with the forms completed in ordinary pencil do not reject them for that reason. Enter in the appropriate spaces the weight of the parcel, amount of postage paid, number of customs declarations and, if insured, the insurance number and amount of insurance (see § 43.5(b) (1)). For parcels mailed by Government agencies pursuant to § 31.3(e)(3), enter the words "Official Paid" or the abbreviation "Off. Pd." in lieu of the amount of postage. Post mark the form in the space provided and return it to the sender to be attached to the parcel.

(2) *Preparation and affixing by sender.* Complete the dispatch note in ink or on the typewriter. Fill in the name and address of the sender and addressee, and indicate alternate disposition to be made of the parcel. Attach the form to the parcel in the same manner as the customs declaration. (See § 31.4(a) (3).)

(3) *Facsimile.* The following facsimile illustrates the information which the sender must supply and which the accepting clerk will add to complete the form:

this impracticable, the sticker may be affixed to a tag which shall in turn be securely attached to the parcel.

(4) *Facsimile.* The following facsimile illustrates the information which the sender and the accepting clerk will add to complete the form:



(d) *Furnishing to public.* Customers requesting them may be furnished a reasonable supply of Forms 2922, 2966, and 2972 for preparation at their homes or business establishments.

(e) *Airmail label 19.* See § 41.4(b).

(f) *Forms found loose in the mail.* Customs declarations and dispatch notes found loose in the mail and apparently lost from parcels in transit must be sent by airmail to the appropriate exchange office to be again attached if possible to the parcels before dispatch.

(g) *Nonpostal documentation.* Parcel post packages may require one or more of the forms described in Parts 51–57.

§ 31.5 Postmarking.

Post offices will postmark international parcel post.

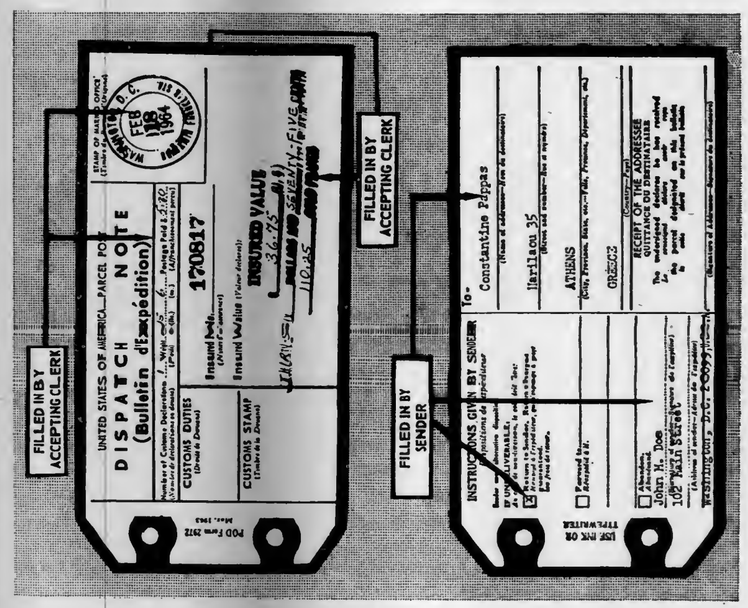
§ 31.6 Shortpaid.

(a) *At mailing office.* Outgoing parcels shall be checked carefully for postage payment before they are dispatched. Shortpaid parcels which bear a return address at the office of mailing shall be either returned to the sender for the deficient postage or held and the sender requested to supply the missing postage. The original postage is still valid when the parcel is remailed. If the return address is not at the mailing office the parcel shall be dispatched to the exchange office, unless the parcel is totally unpaid.

(b) *In transit.* Sectional centers and other intermediate offices rehandling parcels in transit shall not attempt to check the postage paid, but shall return to the senders any parcels observed to be totally unpaid.

§ 31.7 Forwarding.

(a) *International.* Parcels addressed to other countries will generally be forwarded to a new address of the addressee in the country of destination, subject to collection of redirection charges pre-



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(c) *Parcel Post Sticker, Form 2982.*—(1) *Preparation by accepting clerk.* Give the sender a yellow "International parcel-post" sticker and see that he fills it out in accordance with § 31.4(c)(4). Enter in the spaces provided the weight of the parcel and the postage paid (not including insurance or other fees), and initial the form. For parcels mailed by Government agencies pursuant to § 31.3 (e)(3), enter the words "Official Paid" or the abbreviation "Off. Pd." in lieu of the amount of postage. See that the form is securely attached. (See § 31.4(c)(3).)

(2) *Preparation by sender.* Prepare a parcel post sticker for each parcel. Indi-

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scribed by the internal regulations of the country. A parcel may be forwarded to a third country provided it complies with the conditions required for its further conveyance, and provided, as a rule, that the extra postage is paid at the time of redirection or the country concerned is satisfied that it will be able to recover the redirection charges. The sender may forbid forwarding by a notation on the wrapper in a language understood in the country to which the parcel is addressed.

(b) *Domestic.* If the addressee of a domestic parcel has moved to another country do not forward the parcel. Treat it as undeliverable. If the sender of an undeliverable domestic parcel has moved to another country, or if the parcel bears a return address in another country, hold the parcel and request instructions from the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260, indicating the sender's new address, the weight of the parcel, whether ordinary or insured, and, if known, the nature of the contents.

PART 32—INCOMING PARCELS

Sec.
32.1 Charges.
32.2 Stamps not affixed.
32.3 Delivery.
32.4 Forwarding.
32.5 Undeliverable.

AUTHORITY: The provisions of this Part 32 issued under 39 U.S.C. 401, 407.

§ 32.1 Charges.

(a) *Customs clearance and delivery fee.* (1) Post offices will collect a fee of 70 cents from the addressee of every international parcel post package on which customs duty or internal revenue tax is collected. The fee applies also when post office service is rendered for formal entry parcels on which importers pay the customs charges directly to the Customs Service. The fee is retained by the Postal Service, and is accounted for by affixing postage-due stamps to the parcel or to a postage-due bill and canceling.

See § 24.1(a) concerning fees on dutiable postal union mail and § 61.5(e) concerning recording and reporting customs duty collections.

(2) The fee is authorized by international parcel post agreements as reimbursement to the Postal Service for the work it performs in clearing parcels through customs and for delivery to the addressee.

(3) The fee is collected on each parcel on which duty or tax is paid by the addressee, even if several parcels are covered by a single mail entry form.

(4) The fee is not refundable by the Postal Service even though the Customs Service may later refund the duty paid by the addressee.

(5) Post offices will not collect the fee in the following cases:

(i) On dutiable matter from the Canal Zone or form overseas U.S. post offices (civil or military).

(ii) On parcels assessed with duty which are delivered without collection of duty under § 61.5(d)(5) or § 61.5(d)(6)(ii)(d).

(b) *Returned parcels.* Collect the charges referred to in § 32.5(a).

(c) *Storage*—(1) *When to charge.* Storage charges being on the sixth working day after first delivery attempt has been made or first notice of available delivery has been issued to the addressee. The days on which the office is closed for business are not counted in determining the 5-day free storage period. However, after expiration of the free storage period, charges will be collected for each day thereafter that a package is on hand. This includes Saturdays, Sundays, national holidays, and the day on which delivery is effected. Storage charges are applied on packages requiring formal customs entry that are held in post office custody or on post office premises awaiting customs clearance. For formal entry packages, the charges begin on the sixth working day after the date on which notice to file formal entry is mailed to the consignee (addressee), or on the sixth working day after receipt of the parcel at the office where it is to receive formal customs treatment if the customs notice has been issued at another customs port. Cooperation of customs officers should be solicited to enable post offices to collect any storage charges that may accrue on formal entry packages.

(2) *Marking packages.* When a package is returned to the post office after the first delivery attempt, or when a notice that the package is available for delivery is sent to the addressee, mark on the wrapper "Storage charges begin"—and insert the date when the charges will begin to accrue. Rubber stamp item R–1300–296 is available for this purpose to post offices of the first and second classes. See § 32.5(b)(4) regarding marking of undeliverable parcels on which storage charges are due.

(3) *Daily charges.* After expiration of the 5-day free storage period prescribed in § 32.1(c)(1) the following charges apply:

(i) *On parcels under $10,000 value.* 15 cents per day for the first 10 days, and 30 cents per day thereafter.

(ii) *On parcels of $10,000 or more value.*

Number of storage charge days	Rate	Total	Number of storage charge days	Rate	Total
1	$0.15	$0.15	31	$2.30	$28.80
2	.15	.30	32	2.40	31.20
3	.15	.45	33	2.50	33.70
4	.15	.60	34	2.60	36.30
5	.15	.75	35	2.70	39.00
6	.15	.90	36	2.80	41.80
7	.15	1.05	37	2.90	44.70
8	.15	1.20	38	3.00	47.70
9	.15	1.35	39	3.10	50.80
10	.15	1.50	40	3.20	54.00
11	.30	1.80	41	3.30	57.30
12	.40	2.20	42	3.40	60.70
13	.50	2.70	43	3.50	64.20
14	.60	3.30	44	3.60	67.80
15	.70	4.00	45	3.70	71.50
16	.80	4.80	46	3.80	75.30
17	.90	5.70	47	3.90	79.20
18	1.00	6.70	48	4.00	83.20
19	1.10	7.80	49	4.10	87.30
20	1.20	9.00	50	4.20	91.50
21	1.30	10.30	51	4.30	95.80
22	1.40	11.70	52	4.40	100.20
23	1.50	13.20	53	4.50	104.70
24	1.60	14.80	54	4.60	109.30
25	1.70	16.50	55	4.70	114.00
26	1.80	18.30	56	4.80	118.80
27	1.90	20.20	57	4.90	123.70
28	2.00	22.20	58	5.00	128.70
29	2.10	24.20	59	5.10	133.80
30	2.20	26.50	60	5.20	139.00

(4) *Accounting for charges.* The charges are accounted for by affixing postage-due stamps to the parcel or to a postage-due bill and canceling. If there are several parcels for one addressee the charges are applied separately on each parcel.

(5) *Charges waived.* When an addressee protests the rate or amount of duty assessed (see § 61.5(d)(6)), the time required for the addressee to submit his written objection is counted, but the time required for the Customs Service to come to a decision in the matter is not counted.

(6) *Parcels held beyond usual retention period.* See § 32.5(b)(1)(iv) concerning collection of storage charges on parcels held beyond the usual retention period.

(d) *Parcels containing letters.* When a parcel from another country is found to contain a personal communication, the office where it is discovered shall mark the wrapper "Letter enclosed—Collect ------ cents" and send the parcel forward to destination. The amount to be collected will be double the amount of postage (surface or air) applicable to a single-rate letter to the country concerned.

The office endorsing the parcel shall indicate the amount to be collected and the delivering office shall collect the amount from the addressee by means of postage-due stamps. No systematic search for such letters shall be made.

§ 32.2 Stamps not affixed.

Some foreign post offices do not put postage stamps on parcels. All such parcels received must be regarded as prepaid.

§ 32.3 Delivery.

(a) *Parcels addressed through bank or other organization.* If a parcel is addressed to a bank or other organization for delivery to a second addressee, the post office will notify both addressees of the arrival of the parcel and will then deliver it to the first addressee, or hold it if the first addressee so desires. If the parcel is held, the post office will deliver it to the second addressee only with written permission from the first addressee, unless the sender has arranged for change of address as provided in § 46.6(b). After delivery, the post office will keep the written authorization 1 year, for reference in case of inquiry. File the authorizations for insured and registered parcels with the addresses' receipts, and for ordinary (uninsured and unregistered) parcels in any appropriate place. If delivery to the second addressee involves forwarding the parcel to another post office, the parcel will be subject to forwarding postage as provided in § 32.4(a).

(b) *Foreign dispatch notes.* If parcels are received at delivery offices with dispatch notes (*buletin d'expedition*) attached, they are delivered with parcels. These forms have a space provided for the addressee's acknowledgment of receipt, but do not require signature. They must not be confused with foreign return receipts which are designated "*Avis de reception*" and are completed as prescribed in § 42.5(e)(1): If a parcel is returned as undeliverable, the post office will mark the dispatch note as well as the wrapper to show the reason for nondelivery and leave the dispatch note attached to the parcel. Dispatch notes that can not be associated with the relative parcel may be disposed of as waste after 60 days.

§ 32.4 Forwarding.

(a) *Within United States.* A parcel may be forwarded to the original addressee or to an alternate addressee at another post office in the United States by surface transportation, subject to collection on delivery of postage at the U.S. domestic zone rate. Forwarding by air must be prepaid. The post office forwarding an unprepaid parcel by surface in the United States will mark the wrapper "Postage due" giving the amount of domestic postage along with storage charges if any. When delivering an unprepaid forwarded parcel, the post office will collect the necessary amount for domestic transmission in postage-due stamps even if the postage-due marking is omitted. The fee prescribed in § 32.1(a) is also collectible on any forwarded dutiable parcel.

(b) *To country of origin.* If the addressee has moved to the country of parcel's origin and no instructions are given to deliver to a second addressee in the United States, the post office will mark it "Moved," show the forwarding address of the addressee, and send by surface means (including parcels received by air) to the appropriate exchange office for return to the country of origin.

(c) *To third country.* If the addressee has moved to another country (other than the country of parcel's origin), or if the parcel bears instructions to deliver it to an alternate addressee in a third country, the post office will hold the parcel and request instructions from the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260. The request should include the names and addresses of the sender and the addressee, or the alternate addressee, the weight of the parcel, whether ordinary, registered, or insured, and nature and value of the contents as shown on the customs declaration, so that the Office of Mail Classification may communicate with the foreign postal administration to secure forwarding postage. If the sender has indicated that the parcel is to be treated as abandoned if undeliverable as addressed, dispose of it as prescribed in § 32.5(b)(3). See § 31.7(b) concerning domestic third- and fourth-class parcels addressed to persons who have moved to another country.

(d) *Dutiable parcels.* Dispose of customs entry forms accompanying dutiable parcels as prescribed in § 61.5(f).

(e) *Postage-due parcels.* If a parcel to be forwarded bears postage-due stamps, follow the procedure prescribed in § 146.5 (e) and (f).

§ 32.5 Undeliverable.

(a) *U.S. origin.* Returned parcels are subject on delivery to the sender to collection of return postage and any other charges assessed by the foreign postal authorities. The amount of such charges will be indicated by the exchange office. If the sender refuses the parcel, it shall be disposed of as dead parcel post. If the sender has moved to another address in the United States the parcel may be redirected, subject to forwarding postage at the U.S. domestic zone rate. If the sender has moved to another country, the post office will hold the parcel and request instructions from the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260, indicating the new address of the sender, the amount of return charges due on the parcel, weight, whether ordinary, registered, or insured, and the nature of the contents as shown on the customs declaration.

(b) *Foreign origin*—(1) *Retention period.* Parcels will be held at the disposal of the addressee for 30 days, except as follows:

(i) A parcel refused or known to be neither deliverable nor forwardable shall be treated as undeliverable at once. See § 61.5(d)(6) concerning procedure when addressee conditionally refuses a parcel because of the duty assessed and asks to have the matter protested to the customs service. The parcel is held until the customs office renders a decision on the protest, but if no decision is received within 30 days, request the customs office to expedite the decision.

(ii) A parcel bearing the sender's request for delivery to an alternate addressee shall be held 15 days at the disposal of the first addressee and 15 days at the disposal of the second. If the alternate addressee is at another post office, the parcel is forwarded subject to § 32.4(a), and the 15-day period begins from the date of receipt at the second office of address. Under the circumstances given in subdivision (iv) of this subparagraph, the parcel may be held for 30 days at the disposal of each addressee.

(iii) A parcel returned from customs custody with advice that the addressee has not complied with required customs entry procedures shall be treated as undeliverable at once.

(iv) On written request of the addressee or other person acting for the addressee, a parcel which remains undelivered may be held up to 60 days on condition that the storage charges due at the end of the first 30-day retention period are paid at the time of the request and that the storage charges (see § 32.1(c)) which accumulate thereafter are paid every 10 days.

(v) A parcel from Great Britain which bears request to "Return forthwith to sender at sender's expense" shall be returned within 10 days, or immediately if definitely known to be undeliverable.

(2) *Directory service.* See § 159.5 concerning directory service to be accorded parcels of foreign origin.

(3) *Marking and disposal.* At the end of the retention period prescribed in § 32.5(f)(1), mark parcel and the accompanying dispatch note, if any, to show reason for nondelivery (see § 159.1(b)(ii)), and cross out address of the addressee but do not obliterate it entirely. Unless sender has given instructions on the wrapper or dispatch note for abandonment, return the parcel to the sender. Parcels to be returned to senders are dispatched to the appropriate exchange office by surface means, including those originally received by air, the post office of address will cross out the Par Avion label or other airmail marking. A parcel bearing the sender's instruction to abandon shall be marked "Abandoned" and sent to the appropriate dead parcel post branch for disposal, unless it has been assessed with customs duty. In the latter case, send the parcel to the nearest customs port (see § 61.3(e)); detach the customs entry forms and treat as prescribed in § 61.5(f).

(4) *Storage charges.* If a parcel to be returned to origin or forwarded to another country has storage charges due, the wrapper shall be marked with the amount so that appropriate action may be taken at the exchange office.

SPECIAL SERVICES

PART 41—AIR SERVICE

Sec.
41.1 Availability.
41.2 Rates.
41.3 Prepayment.
41.4 Marking.
41.5 Aerogrammes.

AUTHORITY: The provisions of this Part 41 issued under 39 U.S.C. 401, 407.

§ 41.1 Availability.

Postal union mail of any class may be sent by air, including direct sacks of prints described in § 22.3(f). Parcel post may be sent by air to most countries.

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§ 41.2 Rates.

(a) *Postal union mail.* See part 22.

§ 41.3 Prepayment.

(a) *How paid.* See § 136.4. See § 21.2(c) concerning articles intended for air transmission received from foreign flag vessels and prepaid with foreign postage stamps.

(b) *Full payment necessary.* Postage on airmail must be fully paid to assure dispatch without delay. See § 23.2 and § 31.6 for information on treatment of shortpaid and unpaid matter.

§ 41.4 Marking.

(a) *Postal union mail.* Senders should mark airmail articles in the left corner, immediately below the return address, with the words "Par Avion" in blue color. Post offices may furnish sender with Label 19 for the purpose. Articles which the senders have failed to mark "Par Avion" shall not be returned for marking or be marked by postal employees.

(b) *Parcel post.* Accepting clerks will place an airmail Label 19 on the address side of each parcel to be sent by air. Paste the label below and to the right of the name of the country of destination. If a dispatch note, Form 2972, is required, the airmail label shall be placed on that form also.

§ 41.5 Aerogrammes.

(a) *Availability and use.* Aerogrammes (air letter sheets), which can be folded into the form of an envelope and sealed, may be sent by air to all countries. These sheets, bearing imprinted postage, are sold at all post offices at 15 cents each. No enclosures are permitted. The use of tape or stickers to seal aerogrammes is prohibited. Aerogrammes may be sent under registration on payment of the required registry fee in addition to the postage.

(b) *Private manufacture.* Individuals or firms may be authorized by the U.S. Postal Service to manufacture private aerogrammes without imprinted postage for their own use or for sale to the public. To secure authorization the applicant must apply for an aerogramme permit and submit three printed samples of the proposed aerogramme to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260, for approval before engaging in production. A sample format may be obtained from the Mail Classification Division. The samples submitted for approval, and the final printing of the aerogrammes, must be on 18-pound paper (500 sheets, 17 inches by 22 inches) of light blue color as well as texture equivalent to the regular three-flap aerogramme issued by the Postal Service. No artificial slippery finish such as silicon plastic will be permitted. The sheets, when folded, must have size dimensions of 7¼ by 3⅝ inches and have three sealing flaps. The samples submitted for approval need not have the flaps gummed, but the areas to be gummed must be identified. The sheets must bear the same printed endorsements on the address and reverse sides as the regular aerogramme form issued by the Postal Service, as well as the printed return address of the applicant, or lines on which the return address may be written if the sheets are to be produced for sale to the public. In addition, the words "Authorized for mailing as aerogramme—P.S. Permit No. ------" (the number to be filled in when issued) must appear in smaller type so they will be visible on the address side and near the lower edge when the sheet is folded for mailing. The permit number will be issued at the time the aerogramme is approved. Approved private aerogrammes may be paid at the aerogramme rate, except that to Canada and Mexico they may be paid at the regular airmail letter rate.

(c) *Containing enclosures.* Aerogrammes that contain enclosures are treated as regular airmail letters. When required additional postage has not been placed on the articles they are returned to the sender for the deficiency or otherwise handled in accordance with § 23.2.

PART 42—REGISTRATION

Sec.
42.1 What may be registered.
42.2 Preparation by mailer.
42.3 Fees.
42.4 Mailing receipts.
42.5 Return receipts.
42.6 Restricted delivery.
42.7 Post office processing of outgoing mail.
42.8 Post office processing of incoming mail.
42.9 Indemnity.

AUTHORITY: The provisions of this Part 42 issued under 39 U.S.C. 401, 407.

§ 42.1 What may be registered.

(a) *Postal union mail.* Postal union articles of all classes may be registered to most countries. Direct sacks of prints, as described in § 22.3(f) may not be registered.

(b) *Parcel post.* Parcel post packages may be registered only to countries with which there are arrangements for this service. See § 72.2(f).

§ 42.2 Preparation by mailer.

(a) *Addressing.* Mail which bears an address written in pencil or consisting of initials will not be accepted for registration. The address of mail other than that sent in transparent panel (window) envelopes may be written in indelible pencil.

(b) *Sealing.* (1) Senders must securely seal letters or letter packages presented for registration. Wax or paper seals on envelopes must bear a distinctive mark of the sender and shall be affixed in such a way as to allow sufficient space at the intersections of the flaps for postmarking. Self-sealing envelopes and envelopes or packages that appear to have been opened and resealed will not be registered.

(2) Articles under the classifications of "printed matter, matter for the blind" and "small packets," presented for registration, "must not" be sealed.

(3) Parcel post packages presented for registration must be sealed. See § 31.3(c) as to manner of sealing. Parcels that appear to have been opened and resealed will not be registered.

(c) *Declaration of value.* The sender must declare the full value of postal union mail offered for registration to enable the accepting clerk to identify valuable registered mail for recording purposes. (See § 42.7(a)(3).) Senders presenting valuable mail for registration listed on firm mailing sheets must indicate values opposite the respective entries. The declared value must not be regarded as the amount of indemnity payable in case of loss. See § 72.2(a) concerning limits of indemnity for registered postal union mail.

§ 42.3 Fees.

See § 72.2 for indemnity provisions.

§ 42.4 Mailing receipts.

(a) *Issuance.* A receipt is issued to the sender for mail matter accepted for registration to other countries in the same manner as prescribed in § 161.5(a)(3).

(b) *Post office handling.* (1) Endorse receipts and mailing office record "P. P." to distinguish parcel post from postal union mail accepted for registration.

(2) Endorse the receipt and office record "Free" for articles registered free pursuant to § 21.2(d)(1). Endorse "Official Paid" or "Off. Pd." for articles or parcels registered pursuant to § 21.2(d)(2)(i) or §31.3(e)(3).

§ 42.5 Return receipts.

(a) *Requested at time of mailing.* (1) Fee: 20 cents. If the mailer desires that his return receipt be sent back by airmail, the article must be prepaid an additional fee equal to the airmail postage on a post card to the country of destination.

(2) When the mailer desires a return receipt, the post office will proceed as follows:

(i) Endorse the article on the address side "Avis de Reception" (meaning return receipt) or "A.R." Add "Par Avion" to the endorsement if the return receipt is to be returned by air and the additional fee prescribed in § 42.5(a)(1) has been paid.

(ii) Complete international return receipt, Form 2865, and attach to article or parcel. The form is gummed so it can be securely attached, and is perforated to facilitate completion and return.

(iii) When the receipt is to be returned by airmail, mark it on the address side "Renvoi Par Avion" (meaning return by airmail) and attach Label 19 bearing the words "Par Avion."

(iv) Put postage for the return receipt fee, and for the airmail postage if the sender has requested return of the receipt by air, on the registered article, and cancel.

(v) Do not include weight of the return receipt in determining the postage.

(b) *Requested after mailing.* (1) Within a period of 1 year from the day following that on which a registered article or parcel was mailed, the sender, on showing the registry receipt, may request a return receipt. The fee is 40 cents. To have the request for return receipt transmitted by air the sender must pay, in addition to the 40-cent fee, the postage for a one-rate airmail letter to the country of destination. To have the request transmitted by surface and the return receipt returned by air, the sender must pay the same postage, and to have the request and the return receipt transmitted in both directions by air, he must pay double the airmail letter rate.

(2) The post office will deal with such requests as follows:

(i) *Countries other than Canada.* (a) Prepare Form 542 and write at the top "Request for return receipt made after mailing." Prepare Form 2865 and forward, with Form 542, to the postmaster at the appropriate adjusting exchange office shown in § 72.2(f).

(b) Put postage for the return recipt fee, and for the airmail postage if the sender has asked that the request be sent by air, mark Form 542, "A Renvoyer Par Avion."

(c) When the receipt is to be returned by air, mark Form 542, "A Renvoyer Par Avion" and attach Label 19 bearing the words "Par Avion." Mark the return receipt form "Renvoi par avion" and attach the airmail label.

(ii) *Canada.* (a) Prepare Form 1510 at all offices and endorse "Request for return receipt made after mailing." Attach Form 2865 and send under official cover to the Canadian District Director of Postal Service in the province in which the office of address is located, as follows:

Provinces:	*Location of District Directors*
Alberta	Calgary, Alberta, Canada.
British Columbia.	Vancouver, British Columbia, Canada.
Manitoba	Winnipeg, Province of Manitoba, Canada.
New Brunswick	St. John New Brunswick, Canada.
Newfoundland (including Labrador).	St. John's, Newfoundland, Canada.
Northwest Territories.	Edmonton, Alberta, Canada.
Nova Scotia	Halifax, Nova Scotia, Canada.
Ontario	Toronto, Ontario, Canada.
Prince Edward Island.	St. John, New Brunswick, Canada.
Quebec	Montreal, Province of Quebec, Canada.
Saskatchewan	Saskatoon, Saskatchewan, Canada.
Yukon Territory	Vancouver, British Columbia, Canada.

(b) Put postage for the return receipt fee, and for the airmail postage if the sender has asked that the request be sent by air, on Form 1510, and cancel.

(c) When the receipt is to be returned by air, mark Form 1510 as outlined in § 42.5(b)(2)(i)(c).

(c) *Duplicate return receipts.* If the sender has failed to receive a return receipt for which a fee was paid, the post office will follow the instructions prescribed in § 42.5(b)(2), without additional fee, but write "Request for duplicate return receipt" at the top of Forms 2865, 542, and 1510.

(d) *Completion.* Return receipts for registered articles delivered in other countries are completed in accordance with requirements of the country making delivery, which vary according to the country involved. The signature of the addressee is not furnished by some countries, or may be furnished only under specified conditions.

(e) *Issued in other countries.*—(1) *Completion.* Return receipts from other countries bear the word "Avis de reception." Have the addressee or his authorized agent date and sign the receipt with "ink or indelible pencil." When signed by an agent of the addressee, have the agent sign the addressee's name followed by his own signature. Postmark the receipt in the appropriate spaces on both sides. Examine all return receipts to assure proper completion. Return the completed receipt unenclosed in the ordinary (unregistered) surface mail. If it bears the notation "Renvoi par avion" or a "Par Avion" label, or both, return it by airmail.

(2) *Foreign receipt form missing.* When it is apparent at the delivery office that a return receipt is desired by the sender of a registered piece of foreign origin and no return receipt form accompanies the article, complete U.S. international return receipt Form 2865, and treat as prescribed in §42.5(e)(1).

§ 42.6 Restricted delivery.

(a) *Articles mailed in the United States.* (1) The mailer may restrict the delivery of registered postal union articles addressed to the following countries on condition that the articles are accompanied with a return receipt and endorsed in the manner indicated:

Country	*Endorsement required*
Afghanistan	A remettre en main propre.
Albania	A remettre en main propre or Per t'u dorezuar ne doren e vet.
Anguilla (Leeward Is.)	Deliver to addressee in person.
Austria	A remettre en main propre.
Belgium	A remettre en main propre or the equivalent in the Flemish language.
Brazil	A remettre en main propre.
Bulgaria	Liˇno.
Burma	A remettre en main propre.
Cameroon	A remettre en main propre.
Cape Verde Islands	A remettre en main propre.
China (Taiwan only)	A remettre en main propre or the equivalent in a language known at the place of destination.
Congo (Brazzaville)	A remettre en main propre.
Cyprus	A remettre en main propre.
Czechoslovakia	A remettre en main propre.
Denmark	A remettre en main propre.
Dominica (Windward Islands)	To be delivered to the addressee in person.
Dominican Republic	A remettre en main propre.
El Salvador	A remettre en main propre or a entregar en propia mano.
Estonia	A remettre en main propre.
Ethiopia	A remettre en main propre.
Falkland Islands	To be delivered to the addressee in person.
Fiji Islands	Personal delivery.
Finland	A remettre en main propre.
French Terr. of Afars and Issas	A remettre en main propre.
Germany	A remettre en main propre or Eigenhändig.
Greece	A remettre en main propre or ΙΔΙΑΣ ΧΕΙΡΣΙΝ.
Hungary	A remettre en main propre or Saját kézbe kézbesitendő.
Iceland	A remettre en main propre or Afhendist viðtakanda sjálfum.
Iran	A remettre en main propre.
Italy	A remettre en main propre.
Jamaica	To be delivered to the addressee in person.
Jordan	A remettre en main propre.
Laos	A remettre en main propre.
Latvia	propre.
Lebanon	A remettre en main propre.
Leeward Islands (Anguilla, Montserrat, Nevis, and St. Christopher only).	Deliver to addressee in person.
Liberia	A remettre en main propre.
Lithuania	A remettre en main propre.
Luxembourg	A remettre en main propre.
Macao	A remettre en main propre.
Montserrat (Leeward Is.)	Deliver to addressee in person.
Nevis (Leeward Is.)	Deliver to addressee in person.
Philippines	Deliver to addressee only.
Portugal	A remettre en main propre.
Portuguese East Africa	A remettre en main propre.
Portuguese Timor	A remettre en main propre.
Portuguese West Africa	A remettre en main propre.
Rumania	A remettre en main propre.
St. Christopher (Leeward Is.)	Deliver to addressee in person.
St. Lucia (Windward Is.)	Deliver to addressee in person.
Sierra Leone	To be delivered to the addressee in person.
Spain	A remettre en main propre or A entregar en propia mano.
Sweden	A remettre en main propre or Får utlämnas endast till adressaten personligen.
Switzerland	A remettre en main propre.
Tunisia	A remettre en main propre.
Turkey	Alicinin kendine verilecek.

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Country	Endorsement required
Turks Islands	To be delivered to the addressee in person.
Union of Soviet Socialist Republics	A remettre en main propre.
Upper Volta	A remettre en main propre.
Uruguay	A remettre en main propre.
Vatican City State	A remettre en main propre.
Yemen	A remettre en main propre.
Yugoslavia	A remettre en main propre.

(2) The sender must place the required indorsement above and near the address of the addressee. The country of destination will make two attempts to effect delivery, and, if unsuccessful, the article will be returned as undeliverable.

(3) Fee: 50 cents; to be prepaid on the article in addition to oother applicable fees and charges.

(4) Restricted delivery is not available for registered parcel post.

(b) *Articles mailed in other countries.* Registered postal union articles which are accompanied with a return receipt and bear the notation "Deliver to addressee only" are delivered only to the addressee. At least two attempts are made to deliver these articles.

§ 42.7 Post office processing of outgoing mail.

(a) *Mailing offices*—(1) *Endorsing.* Stamp "REGISTERED" in the lower left corner of the address side. On articles too small to accommodate the word "REGISTERED", place the capital letter "R". Place airmail Label 19 or the words "Par Avion" on any article accepted for registration which is prepaid for air service and which the sender has failed to mark properly.

(2) *Numbering.* Write or stamp registration number just below the "REGISTERED" endorsement, or to the right of the letter "R" on small articles.

(3) *Special Marking on valuable mail.* Add the letter "X" after the registry number of all articles with a declared value in excess of $100 (see § 42.2(c)).

(4) *Postmarking.* Postmark letters twice on the back, on the crossing of the upper and lower flaps or, if paste-on return receipts are used, postmark partially on the receipt and partially on the flaps of the letter. Postmark packages sealed with paper strips across opposite edges of the strips. Postal union AO mail (required to be unsealed—see § 42.2 (b)(2)) and letter mail sealed on the address side must be postmarked on the address side.

(b) *All offices*—(1) *Recording and Dispatching.* Record and dispatch as provided in §§ 161.5 (b) and (c), 161.7, 161.8, and 161.9, and Regional International Standpoint Surface Scheme and Regional International Standpoint, all classes, Airmail Scheme.

(2) *Articles found in ordinary mail.* (i) Articles that have obviously been registered by the Postal Service shall be restored to the registered mail.

(ii) Articles endorsed to show registration is desired (as distinguished from an article formally registered) and fully prepaid shall be registered and receipt mailed to the sender stating that mail to be registered must be presented at the post office for that purpose. If not fully prepaid, return article to sender, if known, after indicating thereon that it is shortpaid and must be presented for registration. If article bears no return address, cross out sender's registry endorsement and dispatch as ordinary mail.

§ 42.8 Post office processing of incoming mail.

(a) *Office of address*—(1) *Backstamping.* Backstamp on receipt.

(2) *Delivery.* Record and deliver as provided in § 161.7 so far as applicable. See §§ 24.4(a) and 32.5(b)(1) for retention periods.

(3) *Articles unaccounted for after assignment for delivery.* Make appropriate record of available facts when registered mail assigned for delivery is not properly accounted for and file papers pending receipt of possible inquiry. If inquiry is received from sender, ascertain from addressee whether the article was received in regular course. If article was not received, make full report promptly to the appropriate postal inspector in charge.

(b) *Articles found in ordinary mail.* All offices shall restore to the registered mail articles obviously already registered by the Postal Service. Cross out sender's registry endorsement and dispatch as ordinary any article that is without evidence of formal registration. The following registry indicia appear on incoming registered mail, according to the language of the country of origin, and shall be used as the determining factor as to whether an article found in the ordinary mail is registered:

(1) Certificado.
(2) Einschreiben.
(3) R or Registered.
(4) Raccomandata.
(5) Recommandé.
(6) Registo or Registrado (used occasionally).

NOTE: A number alone on mail is not sufficient evidence of registration.

§ 42.9 Indemnity.

See Part 72.

PART 43—INSURANCE

Sec.
43.1 Availability.
43.2 Preparation.
43.3 [Reserved]
43.4 Limits of insurance.
43.5 Marking.
43.6 Mailing receipts.
43.7 Return receipts.
43.8 Incoming parcels.
43.9 Indemnity.

AUTHORITY: The provisions of this Part 43 issued under 39 U.S.C. 401, 407.

§ 43.1 Availability.

Insurance service is available only for parcel post packages mailed to countries with which insurance agreements are in force. COD service is not available.

§ 43.2 Preparation.

The general provisions for the preparation of ordinary parcels for other countries apply also to insured parcels. (See Part 31 of this chapter.) Sealing of insured parcels is compulsory.

§ 43.3 [Reserved]

§ 43.4 Limits of insurance.

A parcel may not be insured for more than the declared value of the contents or for more than the maximum amount of indemnity payable in connection with insured parcels for the country concerned. However, if desired, a parcel may be insured for a portion of the value of the contents, in which case only the fee covering the amount of insurance desired will be charged.

§ 43.5 Marking.

(a) *By sender*—(1) *Contents.* Parcels containing fragile or perishable articles must be marked "Fragile," "Perishable," "Glass," or "Eggs," as appropriate.

(2) *Insured value.* Indicate in U.S. currency (figures only) in the appropriate space on the customs declaration (Form 2966) the amount for which the parcel is insured. See § 43.4.

(b) *By post office of mailing*—(1) *Endorsements and insurance number.* (i) On each parcel place the word "Insured" on the address side, preferably to the left and directly beside the country of destination.

(ii) Serially number each insured parcel immediately below the "Insured" endorsement. All international insured parcels must be numbered.

(iii) To most countries, the insured value of the parcel must be shown on the wrapper and on the dispatch note (Form 2972). Rubber stamp, item R–1300–284, may be used for this purpose. In some instances the insured value must be shown also in gold francs. Conversion of U.S. currency into gold francs is made on the basis of 33 cents (approximately) equal 1 gold franc. To determine the gold franc equivalent, multiply the amount in U.S. currency by 3. For example, $5.25 is equal to 15.75 gold francs.

(iv) Place the insurance number in the appropriate space on the customs declaration (Form 2966) and on the dispatch note (Form 2972) when the latter form is required.

(2) *Postmarking.* Postmark at the time of acceptance. Postmark at all breaks (cuts or torn edges) of any gummed paper strips used in sealing parcels.

§ 43.6 Mailing receipts.

(a) *Issuance.* The postal clerk will issue a receipt for a parcel accepted for insurance. Each receipt will bear the insurance number. The sender should enter the name and address of the addressee on the receipt and must submit it if a claim or an inquiry concerning the parcel is subsequently made.

(b) *Post Office procedure.* (1) Use Form 3857, assignment of Number Blocks for Registered, Insured, Certified and COD Mail.

(2) Fill out the original receipt only with ink or indelible pencil and issue to the sender.

(3) Indicate applicable fee, according to amount of insurance requested, for parcels presented for insurance by Government agencies pursuant to § 21.2(d)(2)(i).

§ 43.7 Return receipts.

(a) *Issuance.* Return receipts for insured parcels are furnished under the same conditions as apply to registry return receipts, except that no return receipts are furnished for insured parcels to Canada. Post offices will use Form 2865 and follow the procedure prescribed in § 42.5 for return receipts for registered mail.

(b) *Issued in other countries.* Post offices will follow the procedure in § 42.5(e) for return receipts for registered mail.

§ 43.8 Incoming parcels.

(a) *Insurance indicia.* (1) The following insurance indicia appear on the incoming insured parcels, according to the language of the country of origin:

(i) Insured.
(ii) Asegurado or Valor Declarado.
(iii) Assicurato or Valore Dichiarato.
(iv) Valeur Déclarée.
(v) V or V D (meaning valeur déclarée).
(vi) Wertangabe or Wertpaket.

(2) The determining factor as to whether a parcel is insured is not the appearance of a number alone, but the insurance indicium, which appears very near the insurance number. Ordinary parcels from other countries usually bear numbers also.

(b) *Delivery.* Deliver international insured parcels as prescribed in § 162.(b) of this chapter.

§ 43.9 Indemnity.

See Part 72 of this chapter.

PART 44—SPECIAL DELIVERY (EXPRÈS)

Sec.
44.1 Availability.
44.2 Marking.
44.3 Payment.
44.4 Processing.
44.5 Delivery in other countries.

AUTHORITY: The provisions of this Part 44 issued under 39 U.S.C. 401, 407.

§ 44.1 Availability.

The service applies to all postal union articles (ordinary and registered, surface and air) unless otherwise indicated. For example, to Canada it applies only to articles paid at the letter rate. Parcel post cannot be sent special delivery but may be prepaid for special handling. (See Part 45 of this chapter.)

§ 44.2 Marking.

An article intended for special delivery service must have fixed to the cover near the name of the country of destination an "Exprès (Special Delivery)" Label 57, obtainable at the post office, or it may be marked on the cover boldly in red "Exprès (Special Delivery)." A facsimile of the label is shown below:



§ 44.3 Payment.

(a) *Fees.*

Class of mail	Weight: Not more than 2 pounds	Weight: More than 2 but not more than 10 pounds	Weight: More than 10 pounds
Letters, letter packages, post cards, and *airmail* other articles	cents 60	cents 75	$0.90
Surface other articles	80	90	1.05

(b) *How paid.* Senders may prepay the special delivery fee by special delivery stamps, ordinary postage stamps, or meter stamps. Airmail stamps may be used if the article is to be sent by air. Special delivery stamps may be used only for the payment of the special delivery fee. The special delivery fee must be prepaid in addition to the regular postage.

(c) *Shortpayment.* See § 23.2(a)(1) of this chapter.

§ 44.4 Processing.

(a) *Outgoing.* (1) Employees at post office windows are to be supplied with the "Exprès (Special Delivery)" Label 57, which is to be given to customers who desire to use the special delivery service. The labels must be supplied to special delivery dispatching desks also; and when articles placed in post office drops or street boxes are observed to be prepaid for special delivery but do not bear the "Exprès" label or endorsement, the clerks must place labels on the articles.

(2) Special delivery mail is to be dispatched to the appropriate U.S. exchange office in the manner prescribed in Regional International Standpoint Surface Scheme and Regional International Standpoint, all Classes, Airmail Scheme.

(b) *Incoming.* (1) Foreign special delivery articles are to be delivered as prescribed in § 16.6 of this chapter. These articles will bear a label, printed in red or on a red background, containing the word "Exprès" or bear the notation "Exprès" or "Special Delivery" in bold letters.

(2) Articles bearing U.S. special delivery stamps sufficient to cover the domestic special delivery fee are to be delivered as special delivery mail even though the article does not bear the "Expres" label or endorsement.

§ 44.5 Delivery in other countries.

Delivery is made in the various countries according to the special delivery regulations in force in the country of destination.

PART 45—SPECIAL HANDLING

Sec.
45.1 Availability.
45.2 Fees.
45.3 Marking.
45.4 Treatment.

AUTHORITY: The provisions of this Part 45 issued under 39 U.S.C. 401, 407.

§ 45.1 Availability.

The special handling service for domestic third- and fourth-class mail is available also for surface parcel post and postal union AO mail addressed to other countries. The service is optional except in the case of parcels for Canada containing baby (day-old) poultry and honey bees. Special handling service does not apply to airmail articles or parcels.

§ 45.2 Fees.

Weight	Fee (cents)
Not more than 2 pounds	25
More than 2 pounds but not more than 10 pounds	35
More than 10 pounds	50

Special handling fees are in addition to the regular postage rate to the country concerned.

§ 45.3 Marking.

Senders must place the words "Special Handling" above the name of the addressee and below the stamps, as illustrated in § 167.3 of this chapter.

§ 45.4 Treatment.

Special handling packages are given priority in distribution and disposal over other surface AO or parcel post packages from the office of mailing to the point of dispatch from the United States. They are not accorded any preferential dispatch from the United States, and receive no special treatment in the country of designation.

PART 46—RECALL AND CHANGE OF ADDRESS

Sec.
46.1 Conditions and limitations.
46.2 How to apply.
46.3 Services and fees.
46.4 Mailing receipts.
46.5 Countries not permitting.
46.6 Processing.

AUTHORITY: The provisions of this Part 46 issued under 39 U.S.C. 401, 407.

§ 46.1 Conditions and limitations.

The mailer may cause any mail article or parcel addressed for delivery in another country to be withdrawn from the Postal Service, or have its address changed if it can be intercepted in the United States. If the article has been dispatched from the United States, but not delivered to the addressee, withdrawal or change of address may be effected if:

(a) The country of destination of the article is willing to allow the withdrawal or change of address (see § 46.5);

(b) The article has not been confiscated or destroyed by the authorities of the country of destination as being prohibited importation; or

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(c) The article has not been seized under provisions of the domestic legislation of the country of destination.

§ 46.2 How to apply.

If the article was mailed in a post office, station, or branch, make application there. If it was mailed in a street letterbox, apply at the main post office. The mailer must identify himself and submit a written request giving a complete description of the article and the date of mailing. Form 2926, Sender's Request for Recall or Change of Address of International Mail, may be used at first- and second-class post offices. A single request may be used for two or more articles which have been mailed together by the same sender to the same addressee, in which case only one fee is charged. For post office processing of sender's request see § 46.6.

§ 46.3 Services and fees.

(a) *Search at office of mailing.* If the article has not been dispatched from the immediate point of mailing, it may be returned or its address may be changed without charge. Otherwise a search can be made at the main post office or other concentration point, provided the mailer pays a fee of 60 cents in stamps, whether the search is successful or not. The post office will change the address without charge, but if the article is returned to the mailer, domestic postage will be charged except in the case of letters or post cards, which are returned free of postage. If the mailing office is also the dispatching exchange office, the conditions stated in § 46.3(b) will apply.

(b) *Search at exchange office.* The mailer may have a search made for the article at the U.S. dispatching exchange office if he requests it and pays the fee of 60 cents, unless he has already paid it. (See § 46.3(a).) If the mailer desires such search to include opening made-up sacks, he must guarantee payment of the cost of opening, searching, and closing the sacks, whether his article is located or not. If he wishes the request sent to the exchange office by telegraph, the mailer must pay the cost of the telegram. The exchange office will change the address without charge, but if the article is returned, postage will be charged at domestic rates for its transportation to the exchange office and back to the mailer's address, unless it is a letter or post card which is returned free of postage. The post office will inform the customer of the amount of charges due.

(c) *Search in country of destination.* A request will be sent to the postal administration of the country of destination to return an article or change its address if the mailer furnishes a facsimile of the address and pays the 60-cent fee in stamps, unless he has already paid it. (See § 46.3(a) and (b).) If the request is to be transmitted by telegraph or cable, the application must be accompanied with an amount sufficient to pay the telegraph or cable charges. Otherwise the application must be accompanied with additional stamps in the amount of the registry fee to cover transmission of the request by registered mail, and with airmail postage if it is desired that the request be transmitted to the foreign administration by air. The fee and cost of registration is not charged if the request is being made as the result of official notice to the sender in reply to an inquiry (see Part 71 of this chapter) or in the form of advice of nondelivery by the postal service of destination, showing that the article or parcel is undeliverable as addressed. If a request for change of address involves forwarding a parcel post package to another country the sender must furnish a written guarantee to pay the forwarding charges in the event they are not paid by the addressee in the new country. If the mailer wishes to have the foreign administration report by airmail, telegraph, or cable on the result of the action taken, he must furnish the additional return airmail postage or an amount sufficient to cover the cost of a prepaid telegraph or cable reply. Any amount remaining after transmitting a telegram or cablegram will be returned to the mailer. Return postage is charged on parcel post packages but not on other articles returned from other countries. See § 46.5 (c) regarding a statement to be furnished when the article is addressed to a country which does not generally accept requests for recall or change of address.

§ 46.4 Mailing receipts.

If the mailer possesses a mailing receipt covering any article which is withdrawn or on which the address is changed, he must surrender it or submit it so that a suitable notation may be made thereon.

§ 46.5 Countries not permitting.

(a) *For postal union mail.* The legislation of the following countries does not allow senders of postal union articles to withdraw them from the mail or to change their address: Ascension, Australia, Bahamas, Bahrain, Barbados, Bermuda, Bhutan, Botswana, British Honduras, Brunei, Burma, Canada, Cyprus, Gambia, Gibraltar, Great Britain and Northern Ireland, Guyana, Hong Kong, Ireland, Jamaica, Kenya, Kuwait, Leeward Islands, Malawi, Malaysia, Malta, Muscat, Nauru, New Guinea, New Zealand, Nigeria, Papua, Qatar, Rhodesia, St. Helena, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa (Rep. of), Swaziland, Tanzania, Trinidad and Tobago, Trucial States, Uganda, Windward Islands (except Dominica), and Zambia.

(b) *For parcel post.* Under the terms of the parcel post agreements in effect with the following countries, parcels cannot be recalled after they have left this service nor can the address be changed, unless the parcels are undeliverable at the original address: Barbados, British Honduras, Brunei, Burma, Canada, Cyprus, Gambia, Gilbert and Ellice Islands, Great Britain and Northern Ireland, Hong Kong, Ireland, Malawi, Malaysia, Nauru, Nigeria, Rhodesia, Seychelles, Solomon Islands, Swaziland, Tanzania, Trinidad and Tobago, Uganda, Windward Islands, and Zambia.

(c) *Applications accepted.* Applications involving the countries named in § 46.5 (a) and (b) will be received and acted on, subject to the conditions prescribed in § 46.3(c), if the mailer furnishes a written statement giving his reasons for the request. Compliance with the request is discretionary with the postal administration of the country of destination.

§ 46.6 Processing.

(a) *Mail of U.S. origin—(1) Before dispatch from the United States.* The following procedures apply to both postal union mail and parcel post packages:

(i) Before accepting an application for recall or change of address, require the applicant to identify himself as the sender or the sender's authorized representative.

(ii) If the piece is not located at the immediate point of mailing and the applicant desires the search continued, require the sender to submit a written application as prescribed in § 46.2, and collect the fee indicated in § 46.3(a) before conducting further search. If the piece is located and is returned to the sender, charge appropriate domestic postage unless it is a letter or post card. If the piece is not located, explain to the applicant the conditions set forth in § 46.3 (b) and (c).

(iii) It is recommended that requests be made to the postal administration of the country of destination rather than search being made at U.S. dispatching exchange offices. However, if the applicant desires search made at the exchange office and agrees to the conditions, send a request to the exchange office setting forth the details on the application and the particulars of dispatch to the exchange office, if known.

(iv) If the exchange office returns the piece, collect domestic postage for its conveyance to the exchange office and return, unless it is a letter or post card. If the search included the opening of made-up sacks, the exchange office will inform the post office requesting the search as to the cost, which should also be collected on delivery. The exchange office will likewise advise if the search was unsuccessful.

(v) Amounts collected on delivery of returned articles and parcels are accounted for by affixing postage-due stamps to the mail articles and canceling.

(2) *After dispatch from the United States.* If the sender requests that the postal authorities of the country of destination be asked to intercept the piece, collect as prescribed in § 46.3(c) and transmit with the application and facsimile address to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260.

(3) *Sender's mailing receipt.* A mailing receipt relating to an article or parcel returned or redirected at the sender's request is to have the action taken noted thereon.

(b) *Mail of foreign origin.* Post offices may comply with a request for correction of address (without changing the addressee) and may forward an article or parcel to the same addressee at another U.S. post office without previous authorization from the Headquarters. Comply with § 32.4(a) of this chapter in forwarding parcel post packages. If a request is received for redirection of a piece to another country, for return to origin, or for change of addressee, hold the piece and refer the request to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260.

PART 47—CERTIFICATES OF MAILING

Sec.
47.1 Nature and issuance.
47.2 Fees.
47.3 On Treasury Department forms.
47.4 On Agriculture Department forms.
47.5 Preparation and payment of fees.

AUTHORITY: The provisions of this Part 47 issued under 39 U.S.C. 401, 407.

§ 47.1 Nature and issuance.

The sender can obtain a certificate of mailing at the post office where he mails any postal union article or parcel post package. Certificates of mailing issued for ordinary articles or parcels do not give any right to indemnity or proof of delivery. They are issued on the same forms as are used for domestic mail (see § 165.3), as well as Treasury Department forms mentioned in § 47.3, or the Agriculture Department certificates mentioned in § 47.4 and Part 55 of this chapter.

§ 47.2 Fees.

(a) *Individually listed pieces.*

Original certificate for ordinary postal union or parcel post.	5 cents for each piece described.
Each additional copy of original certificate of mailing or original mailing receipt for registered or insured mail.	2 cents for each piece described.

(b) *Identical pieces.* Identical pieces of postal union mail paid with ordinary stamps, precanceled stamps, or meter stamps are subject to the following fees:

Up to 1,000 pieces (1 certificate for total number)	$0.25
For each additional 1,000 pieces, or fraction	.05
Duplicate copy	.05

§ 47.3 On Treasury Department forms.

If requested, the sender may receive a certificate of mailing on Treasury Department (Internal Revenue) Form P. T. 26, P. T. 27–A, or 550, certifying that he has waived the right to withdraw the article or parcel from the mail. Post offices may also certify on Customs Form 4455 to the exportation by mail of articles sent abroad for alteration, repair or replacement, as provided in § 61.5(h)(3), for which a certificate of mailing fee of 5 cents applies to each completed form.

§ 47.4 On Agriculture Department Forms.

See Part 55 of this chapter concerning certificates required in connection with the exportation of dried whole eggs and tobacco seed and plants.

§ 47.5 Preparation and payment of fees.

The mailer must prepare his certificate of mailing and pay the charges in the same manner as prescribed in the domestic service (see §§ 165.3, 165.4, and 165.5 of this chapter), regardless of the form on which the certificate is prepared.

NONPOSTAL EXPORT REGULATIONS

PART 51—SHIPPER'S EXPORT DECLARATION

Sec.
51.1 When required.
51.2 Preparation.
51.3 Information to be furnished.
51.4 How obtained.
51.5 Handling and disposal.

AUTHORITY: The provisions of this Part 51 issued under 39 U.S.C. 401, 407.

§ 51.1 When required.

Business concerns sending merchandise exceeding $250 in value to other business concerns—

(a) From the United States,[1] Puerto Rico, or the Virgin Islands of the United States to any foreign country, to the Canal Zone, and to the Caroline, Mariana, and Marshall Islands.

(b) From the United States[1] to Puerto Rico and the U.S. possessions.[2]

(c) From Puerto Rico to the United States,[1] and to the U.S. possessions,[2] must fill out a shipper's export declaration on Department of Commerce Form 7525–V and present it at the post office at the time of mailing. The shipper's export declaration is required only for goods mailed for commercial purposes and not for goods which involve no commercial consideration. However, Commerce Form 7525–V must also be filed for shipments of all articles covered by a validated export license or a distribution license from the Bureau of International Commerce, Department of Commerce, regardless of value or whether the sender or addressee is a business concern. (See Part 52 of this chapter.) The declaration need not be furnished for catalogs, instruction books, and other advertising matter or for magazines, newspapers, and periodicals. It is also not required for shipments of technical data, regardless of value and whether or not they are covered by export licenses. Shippers who wish to correct a previously filed export declaration must submit such corrections to the post office on Commerce Form FT–7403.

§ 51.2 Preparation.

Only a single copy of the shipper's export declaration is required for mail shipments. A single export declaration may include any number of packages mailed by one sender the same day to one addressee. Export declarations need not be notarized; however, signature in ink is required.

§ 51.3 Information to be furnished.

(a) The following are the only items on the shipper's export declaration (Commerce Form 7525–V) which are required to be filled in by the sender of a postal shipment:

(1) *Item 1.* Name of post office where shipment is being mailed. (Insert in space on the form reading From ---------- (U.S. port of export).)

(2) *Item 3.* Name and address of exporter.

(3) *Item 4.* Name and address of forwarding agent, if any.

(4) *Item 5.* Name and address of ultimate consignee.

(5) *Item 6.* Name and address of intermediate consignee, if any.

(6) *Item 8.* Country of final destination.

(7) *Item 10.* Number of packages being mailed; description of merchandise and export license number and expiration date, or general license symbol.

(8) *Item 13.* Schedule B, commodity number.

(9) *Item 14.* Net quantity of merchandise, in Schedule B units.

(10) *Item 15.* Value of merchandise.

(b) The description of contents and units of quantity must be in the detail required by Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, 1971 edition. The shipper may obtain copies of Schedule B for a nominal charge from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20401; from Collectors of Customs; or from Department of Commerce field offices located in principal cities of the U.S. General descriptions, such as dry goods, groceries, or millinery, are not sufficient. Quantities and values must be given in whole numbers only, omitting fractions of less than one-half and counting one-half and over as a whole.

(c) For validated license shipments and those under general license, GLV, the italicized digit (s) in parentheses following the Export Control Commodity Number (on the commodity control list, Part 399.1 of the Export Control Regulations) shall be added directly below the Schedule B Number.

§ 51.4 How obtained.

Occasional shippers may obtain Form 7525–V free of charge at post offices. Regular exporters may purchase copies of the shipper's export declaration from the Superintendent of Documents, Government Printing Office, Washington DC 20401, from Collectors of Customs, or from Department of Commerce field offices. They may be privately printed, provided the conform to the official form in size, wording, color, quality (weight) of paper stock, and arrangement. Postmasters may obtain supplies, without cost, for limited distribution to occasional shippers from the Foreign

[1] For purposes of this instruction the term "United States" refers to the fifty States and the District of Columbia.

[2] For purposes of this instruction the term "United States Possessions" refers to the Virgin Islands of the United States, Guam, American Samoa, Canton, and Enderbury Islands, Midway, and Wake Islands.

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Trade Division, Bureau of the Census, Washington DC 20233. Copies of the shipper's export declaration correction form for free distribution may also be obtained from the Bureau of the Census, Washington DC 20233, and from a customs office (see § 61.3(d)).

§ 51.5 Handling and disposal.

(a) When a shipper's export declaration or correction form is presented at a post office in accordance with § 51.1, postmark it in the lower left corner and send it to:

Export Document Control, Foreign Trade Statistics Unit, Room 308, Building 66, Bureau of the Census, Jeffersonville, IN 47130.

Send only one copy of each declaration submitted.

PART 52—COMMERCE DEPARTMENT REGULATIONS (COMMODITIES AND TECHNICAL DATA)

Sec.
52.1 Scope and applicability.
52.2 General licenses.
52.3 Validated licenses.
52.4 Distribution licenses.
52.5 Export control inspections.

AUTHORITY: The provisions of this Part 52 issued under 39 U.S.C. 401, 407.

§ 52.1 Scope and applicability.

(a) The Bureau of International Commerce, Department of Commerce, controls all exportations, except for certain commodities and technical data licensed for export by other U.S. Government agencies, to all countries other than Canada (with the exception that validated export licenses are required for a few types of commodities and technical data to Canada). Mailers must inform themselves as to the regulations and comply with them in making any exportations of commodities and technical data as parcel post or postal union mail. A brief summary of the regulations as they apply to mail shipments is given in this part. Additional information is available from a Commerce Department bulletin entitled "Public Notice—Requirements for Exports by Mail" on bulletin boards in first-, second-, and third-class post offices and in classified stations and branches. Mailers desiring further information may make inquiry of the Exporters' Service Branch, Department of Commerce, Washington, DC 20230 or of any field office of that department. A list of field offices is included in the abovementioned public notice.

(b) Postal employees will not advise prospective mailers as to the type of license applicable to any commodities or to any destination, except that licenses are not required for most shipments to Canada. However, before accepting parcels employees should satisfy themselves that the mailers have complied with the regulations so far as they are applicable.

§ 52.2 General licenses.

(a) *Definition and use.* A "general license" established by the Bureau of International Commerce is not a specific document, but is a general authorization covering exportations within its provisions, each general license being designated by symbol, such as G–DEST, GLV, GIFT, GUS, etc. A brief description of the general licenses usually used for mail shipments is given in this section. Further information can be obtained as set forth in § 52.1(a). When a prospective mailer finds that the contents of his package are properly exportable under a general license, unless it contains only printed matter or technical data (see §52.2(e)), he must mark the wrapper with the appropriate symbol and the words "Export license not required" before presenting it at the post office. The postal clerk may accept any package so marked unless the symbol is obviously being misused. The marking constitutes a representation that the mailer has complied with the regulations governing the use of the general license denoted by the symbol. No marking is required on wrappers of packages containing printed matter and technical data mailed under general licenses G–DEST, GTDA, GTDR.

(b) *Restricted destinations.* The Commerce Department imposes particular restrictions on exports to Southern Rhodesia; to Cuba; to North Korea; the Communist-controlled areas of Vietnam; the following Eastern European Communist Countries: Albania, Bulgaria, Czechoslovakia, Estonia, East Germany (Soviet Zone including Soviet Sector of Berlin); Hungary, Latvia, Lithuania, Outer Mongolia, Poland, Romania, the U.S.S.R.; and to the People's Republic of China (including Inner Mongolia and Tibet). Packages for those areas may not bear any general license except as follows:

Destination	General License Symbols Permitted**
†Cuba	GIFT, *G–DEST, GUS, BAGGAGE.
†North Korea and the Communist-controlled areas of Vietnam.	*G–DEST, GUS, BAGGAGE.
Eastern European Communist Countries and People's Republic of China.	GIFT, G–DEST, GUS, BAGGAGE.
Southern Rhodesia.	GIFT, *G–DEST, GUS, BAGGAGE, TOOLS OF TRADE.
Poland	GIFT, G–DEST, GUS, BAGGAGE.
Romania	GLV, GIFT, G–DEST, GUS, BAGGAGE.

*For Cuba, North Korea and the Communist-controlled areas of Vietnam, general license G–DEST may be used only for unclassified printed matter and developed motion picture film. For Southern Rhodesia it may be used only for specified printed matter and silent and sound exposed and developed motion picture film of a news and documentary nature only. All other commodities require a license and it is Commerce's general policy to deny most license requests.

**When in doubt as to whether specific articles are exportable, consult the Department of Commerce's "Public Notice" on post office bulletin boards, or inquire of the Office of Export Control, Department of Commerce, Washington, D.C. 20230, or any Commerce Department Field Office. (This should apply to all general licenses.)

†Parcel post and postal union packages of merchandise not accepted.

General License GTDA may be used for all destinations named above; and GTDR for all destinations except Southern Rhodesia, North Korea, the Communist-controlled areas of Vietnam, and Cuba.

(c) *General license gift.* (1) This license covers gift packages mailed by or on behalf of an individual sender to an individual addressee for the personal use of the latter or his family, or to a religious, charitable, or educational organization. The contents are limited to items normally sent as gifts, such as food, clothing (except military clothing to destinations named in § 52.2(b)), medicinals and drugs.

(2) The value of the contents of a package is limited to $100.

(3) Not more than one gift package may be mailed per week by the same sender to one addressee under this general license.

(d) *General licenses G–DEST and GLV.* General license G–DEST may be used for any shipment, regardless of quantity, unless the Commerce Department's "Commodity Control List" indicates that a validated license is required. General license GLV may be used for certain types of small value shipments to which G–DEST does not apply. Except for Romania to which certain commodities may be shipped up to the dollar value limits specified on the Commodity Control List and in the Export Control Regulations, general license GLV may not be used for destinations named in paragraph (b) of this section.

(e) *Printed matter and technical data.* Miscellaneous printed matter exported under general license G–DEST and technical data under licenses GTDA and GTDR need no general license symbol on the wrapper.

(f) *General license GUS.* This license is used for shipments to U.S. Government agencies and personnel under prescribed conditions.

(g) *General license BAGGAGE.* This license is used to mail unaccompanied baggage of travellers, consisting of personal and household effects not intended for sale, under conditions and limitations established in Commerce Department export control regulations.

§ 52.3 Validated licenses.

(a) *Definition and use.* A "validated license" is a document issued by the Bureau of International Commerce, authorizing a specific exportation. Further information can be obtained as set forth in § 52.1(a). Before mailing a shipment under a validated license, the sender must put the license number on the wrapper.

(b) *Export declaration required.* An export declaration (see Part 51) is required for every shipment covered by a validated license, except technical data.

(c) *Mailing under validated licenses.* In making shipment against a validated license, the mailer must enter the complete validated license number on the address side of the parcel and also on a duly executed Shipper's Export Declaration covering the commodity to be mailed. Except for validated license shipments of technical data, a declaration is required for all validated export license shipments. The validated license document will be retained by the mailer who will record all shipments of commodities or technical data on the reverse side of the license document. When the license has been completely utilized, or when it is otherwise determined that the license will not be further used, the mailer shall forward the license promptly to the Office of Export Control (Attn: 854), U.S. Department of Commerce, Washington, D.C. 20230.

(d) *Processing in post offices.*—If a validated license number is shown on the parcel, or a general license symbol with the notation "Export License Not Required", accept the parcel for mailing. In the case of mailings of printed matter, where no symbol is required on the parcel, and no declaration is required, determine orally from the mailer that the export is properly authorized under general license GTDA, or GTDR. Compare the contents as shown on the customs declaration (or as stated by the mailer in the case of shipments mailed as printed matter) with the commodities stated on the shipper's export declaration when required. If no discrepancy is noted and the package is mailable, accept it and the export declaration (if required) from the mailer. Postmark the export declaration and dispose of it as instructed in § 51.5.

§ 52.4 Export control inspections.

Parcels are subject to inspection by officials of the Postal Service, Bureau of Customs, and the Office of Export Control of the Department of Commerce at dispatching exchange post offices. If violations of export control are detected, the parcels may be returned or seized by the inspecting agency. Postage is not refunded.

PART 53—STATE DEPARTMENT REGULATIONS (ARMS AND TECHNICAL DATA)

Sec.
53.1 Individual licenses.
53.2 Processing licensed mailings.
53.3 Mailings exempt from license.
53.4 Government shipments.

AUTHORITY: The provisions of this Part 53 issued under 39 U.S.C. 401, 407.

§ 53.1 Individual licenses.

Exportation of certain arms or implements of war and related technical data requires individual licenses issued by the Office of Munitions Control, Department of State. Firearms subject to license include nonautomatic and semiautomatic rifles, carbines, revolvers and pistols, except those of .50 caliber or less manufactured prior to 1898; also all machineguns, submachineguns, machine pistols and fully automatic rifles. The mailer can obtain information as to the applicability of the State Department requirements and how to apply for individual licenses from the Office of Munitions Control, Department of State, Washington, DC 20520.

§ 53.2 Processing licensed mailings.

(a) When a mailer presents a State Department license, the accepting clerk will compare the commodities of data indicated on the license with the contents as shown on the customs declaration or as stated by the mailer in the case of technical data mailed as printed matter. If no descrepancy is noted, and the contents are mailable and are not prohibited to the country of destination concerned, the clerk will accept it for mailing. The sender must mark the wrapper "State Department export license No. ——————."

(b) (1) If the mailing represents the entire amount authorized, the clerk will take up the license, mark it "Completed," apply a legible postmark, and forward it to the Office of Munitions Control, Department of State, Washington, DC 20520.

(2) If only a portion of the amount authorized is mailed, the sender must enter on the back of the license the amount being shipped and present it at the post office, where the accepting clerk will postmark it and return it to the mailer.

§ 53.3 Mailings exempt from license.

Technical data that has been published or is otherwise exempt from licensing under 22 CFR 125.30 does not require individual State Department license for exportation. The mailer must mark the wrapper "22 CFR 125.30 * * * applicable," identifying the specific subsection under which the exemption is claimed. Exportations under this exemption may not be made to the Soviet Union, any Soviet bloc country, Communist China, or the Communist controlled area of Vietnam.

§ 53.4 Government shipments.

Shipments mailed by any agency of the U.S. Government require no license from the Department of State, and no endorsement relating to 22 CFR 125.30 is needed on the wrapper.

PART 54—TREASURY DEPARTMENT REGULATIONS (GOLD AND GOLD CERTIFICATES)

Sec.
54.1 License requirements.
54.2 Gold held by nonresidents.
54.3 Fabricated gold.
54.4 Gold coin, bullion, or gold dust.
54.5 Where to obtain licenses.

AUTHORITY: The provisions of this Part 54 issued under 39 U.S.C. 401, 407.

§ 54.1 License requirements.

A license is necessary to mail gold in any form or gold certificates from the continental United States to any destination outside its limits or from any U.S. post office outside the continental limits to another country, except as provided in §§ 54.2 and 54.3. Moreover, before acceptance, the postmaster at the office of mailing must receive instructions from Headquarters, or the Treasury Department, with a copy of the license.

§ 54.2 Gold held by nonresidents.

Gold in any form other than coin is mailable without a license and specific instruction, if it is not held or owned by a person who is a resident of or domiciled in the continental United States. In such a case the mailer must place on the wrapper of the package and on the shipper's export declaration when required (see § 51.1) a statement that the gold contained therein is held or owned by a person who is not a resident of, or who is not domiciled in, the continental United States.

§ 54.3 Fabricated gold.

(a) *Definition.* Fabricated gold is defined by the Treasury Department as processed or manufactured gold in any form (other than gold coin or scrap gold) which has a gold content the value of which does not exceed 90 percent of the total domestic value of the processed or manufactured gold and which has in good faith and not for the purpose of evading or enabling others to evade the provisions of the Gold Reserve Act of 1934, the act of October 6, 1917, as amended, or the regulations of the Treasury Department, been processed or manufactured for some one or more specific and customary industrial, professional, or artistic uses. Fabricated gold is to be distinguished from semiprocessed gold, which may be exported only pursuant to Treasury License, and which is defined to include gold articles of which more than 90 percent of the total domestic value is attributable to the gold content thereof.

(b) *Mailing restricted.* Fabricated gold is acceptable for mailing without being licensed by the Treasury Department and without specific instructions from the U.S. Postal Service. However, the shipper is required to endorse the wrapper of the package with the Bureau of Census Schedule B statistical classification number of each specific commodity contained therein. The shipper's export declaration, when required (see § 51.1) shall contain, in addition to a specific description of the contents of the package, the following notation: "Fabricated gold as defined by § 54.4 of the Gold Regulations, being exported pursuant to the authorization contained in § 54.25(b)(2) of such regulations."

(c) *How to determine.* To determine whether an article is semiprocessed or fabricated gold, the value of the gold content is computed at $35 per fine troy ounce of gold and the total domestic value is determined on the basis of the cost of the article to the owner and not the selling price. In the case of a manufacturer or processor, the allowable elements of such value are the cost of material in the article, labor performed on the article, and processing losses and overhead applicable to the manufacture or processing of such article. In the case of a dealer or other person who holds or disposes of gold without further processing, total domestic value includes only the net purchase price paid by such person and any transportation costs in-

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curred in obtaining delivery of such article to his usual place of business.

(d) *Gold coin made prior to April 5, 1933.* Gold coin made prior to April 5, 1933, is acceptable for mailing without being licensed by the Treasury Department and without specific instructions from the U.S. Postal Service. However, the shipper's export declaration, when required (see § 51.1) shall contain, in addition to a specific description of the package, the following notation: "Rare gold coin as defined by § 54.20 of the Gold Regulations, being exported pursuant to the authorization contained in § 54.25(b)(3) of such regulations."

§ 54.4 Gold coin, bullion, or gold dust.

The acceptance in the postal union mail or parcel post for any country of any consignment of gold coin, gold bullion, or gold dust, having a value in excess of $100 is prohibited, even though a license has been granted to export such gold coin, gold bullion, or gold dust.

§ 54.5 Where to obtain licenses.

The shipper may obtain the forms on which to apply for licenses to export gold from the Bureau of the Mint, Treasury Department, Washington DC 20220.

PART 55—AGRICULTURE DEPARTMENT REGULATIONS

Sec.
55.1 Dried whole eggs.
55.2 Tobacco seed and plants.

AUTHORITY: The provisions of this Part 55 issued under 39 U.S.C. 401, 407.

§ 55.1 Dried whole eggs.

(a) *Endorsements.* When dried whole eggs purchased under a program of the Commodity Credit Corporation, Department of Agriculture, are offered for export by mail, an endorsement must be written or stamped on each package by the sender waiving any right to withdraw it from the mail or have it returned. The endorsement must be properly completed and signed by the exporter or his authorized representative over his title. The parcel post forms accompanying such parcels should be completed by the senders to indicate that the parcels are to be abandoned in case of nondelivery.

(b) *Certificates.* A certificate in the following form, prepared and completed by the sender, must be presented with the shipment:

CERTIFICATE OF MAILING DRIED WHOLE EGGS

I hereby certify that there has (have) been posted at this post office today by (sender), parcels containing a total of (number) pounds of dried whole eggs on which the sender has waived the right to withdraw same from the mails or have same returned.

Parcels addressed to:

(Names and addresses of addressees)

[OFFICE STAMP] ----------
(Postmaster)

By ----------

(Date)

A single certificate may cover any number of parcels mailed by the same sender even though addressed to different countries. A charge of 5 cents will be made for each certificate of mailing issued to the sender, or for each parcel when a single certificate covers more than one parcel. Postage stamps to cover the charge for the certificate of mailing shall be affixed to the certificate and canceled by the postmark of the office of mailing. After postmarking, the certificate will be signed by the postmaster or his authorized representative and returned to the sender.

§ 55.2 Tobacco seed and plants.

(a) *Permit required.* It is unlawful to export any tobacco seed or live tobacco plants except in pursuance of a written permit granted by the Secretary of Agriculture.

(b) *Endorsement of package.* The sender must mark the wrapper of the package "Tobacco seed and plant export permit No. -------."

(c) *Surrender of permit.* The permit is to be presented by mailer at the time of mailing. It will be postmarked and signed by the accepting postal employee. The permit will be retained by the post office and forwarded to the Tobacco Division, Consumer Marketing Service, Department of Agriculture, Washington, DC 20250.

(d) *Charges.* A charge of 5 cents will be made for each permit presented by the sender and for each package or parcel when a single permit covers more than one parcel. Postage stamps to cover the charge shall be affixed to the permit and canceled by the postmark of the office of mailing.

PART 56—CONSULAR AND COMMERCIAL INVOICES

§ 56.1 Consular and commercial invoices.

Many countries require special documents to be prepared by the sender and either presented by the addressee or enclosed within the package. In some cases, certification by a recognized Chamber of Commerce in the United States, or legalization by a Consulate of the country of destination, or both, are required. Such information as has been made available to the Postal Service concerning these requirements appears under the "Observations," "Prohibitions," and "Import Restrictions" headings of the country items listed in Publication 42, International Mail.

(39 U.S.C. 401, 407)

PART 57—DRAWBACK ARRANGEMENT

Sec.
57.1 Description.
57.2 Claiming drawback.
57.3 Obtaining forms.

AUTHORITY: The provisions of this Part 57 issued under 39 U.S.C. 401, 407.

§ 57.1 Description.

Drawback is an arrangement provided for under the U.S. Customs Regulations whereby exporters of certain merchandise are entitled to claim a refund of (a) the duty paid on imported materials used wholly or in part in the manufacture or production of the articles to be exported, or (b) the internal revenue tax paid on domestic material used.

§ 57.2 Claiming drawback.

(a) *Instructions to mailers.* Mailers intending to claim drawback on articles exported by mail must present three completed copies of a "Notice of Exportation" (Customs Form 7511–A or 7511–B) with the package or packages. Each package must also bear on the address side a waiver of the right to withdraw it from the mail. This waiver may be made on customs Form 3413 and pasted on the wrapper, or may be stamped or written in wording similar to the following:

WARNING—EXPORTED IN BOND FOR DRAWBACK UNDER N. E. No. ------

Must not be returned to shipper or delivered in United States before submission to Collector of Customs.

Shipper: ----------

We hereby waive our right to withdraw this package from the mail.

(Shipper's signature)

(b) *Instructions to postmasters—(1) Postmaster's certificate.* Postmark and sign the "Postmaster's Certificate" on the reverse side of Customs Form 7511–A or 7511–B, after verifying the marks and numbers on the form with those on the package and noting the presence of the sender's signed statement waiving the right to withdraw the package from the mail.

(2) *Disposal of forms.* Dispose of completed Forms 7511–A and 7511–B as follows:

(i) Return one copy to the mailer.

(ii) Forward one copy to the customs port where the claim is to be filed (shown on the front of the form).

(iii) Retain one copy as an office record. Dispose of this copy after 3 years.

§ 57.3 Obtaining forms.

Exporters may obtain Customs Forms 3413, 7511–A, and 7511–B from customs ports.

IMPORTATIONS

PART 61—CUSTOMS

Sec.
61.1 What is subject to examination.
61.2 Separate points.
61.3 Examination.
61.4 Repacking.
61.5 Treatment at delivery office.

AUTHORITY: The provisions of this Part 61 issued under 39 U.S.C. 401, 407.

§ 61.1 What is subject to examination.

All mail originating outside the customs territory of the United States is subject to customs examination, except (a) mail addressed to Ambassadors and Ministers (Chiefs of Diplomatic Missions) of foreign countries, (b) letter mail known or believed to contain only correspondence or documents addressed to diplomatic missions or the officers thereof, or international organizations designated by the President as public international organizations pursuant to the International Organizations Immunities Act, and other mail addressed to such international organizations pursuant to instructions issued by the Department of the Treasury, and (c) mail known or believed to contain only official documents addressed to officials of the U.S. Government.

§ 61.2 Separation points.

(a) *Exchange offices.* Mail believed to contain matter liable to customs duty or believed to contain prohibited matter is submitted immediately to local customs officers, except when exchange offices are authorized to redispatch such mail to designated distribution offices for customs treatment thereat. Exchange offices which redispatch matter to be submitted to customs officers will attach Tag 10 (previously Label 81), a reusable pink slotted tag, bearing the words, "This sack contains mail Supposed Liable to Customs Duty," to the label holders or hasps of sacks or pouches.

(b) *Distribution offices.* Distribution offices will submit such mail to customs officers as soon as possible after receipt. The reusable tags, Tag 10, removed from sacks containing this mail will be returned periodically to the postmasters at New York, New Orleans, San Francisco, Seattle, or Miami, as may be appropriate from a geographical standpoint.

(c) *Priority treatment of airmail.* Airmail articles receive preferential customs treatment and are submitted to customs separately from surface mail. Upon return from customs, dispatch will be by air if it will expedite delivery.

§ 61.3 Examination.

(a) *Registered mail.* The postmaster or other designated postal employee must be present when registered articles and registered parcels are opened by customs officers for examination. After customs treatment, the customs officer will repack and reseal the articles and parcels.

(b) *Extraction of samples for advisory information.* Should a customs officer wish to obtain advisory information from a local trade expert or the Customs Information Exchange, U.S. Customshouse, Bowling Green, New York, NY 10004, permit him to extract a sample of the contents. The customs officer will furnish the postal official with two copies of Customs Form 6423, one for enclosure in the importation and the other for the post office files. If the sample is to be forwarded to New York, dispatch it under official registration to the New York postmaster for delivery to the Customs Information Exchange.

(c) *Failure to receive customs treatment.* Should an article known or supposed to be dutiable be observed at or en route to the office of address without having received customs treatment, forward it, labeled "For Customs Inspection," under cover to U.S. Customs Office at the nearest office listed in § 61.3(d), except that if registered matter is involved send to the Postmaster of the city where the customs office is located so the mail may be handled in accordance with § 61.3(a). Packages that have received customs treatment will bear endorsements such as Examined by U.S. Customs at ---------- Duty to be Collected, Duty Paid, or Passed Free of U.S. Customs at ----------.

(d) *Customs ports.* Customs officers at the following places are authorized to give customs treatment to packages which have passed through the port of entry without being examined § 61.3(c), to reprocess dutiable packages which reach the office of address with the customs mail entries missing (§ 61.5(b)), and consider protests by addressees who are dissatisfied with the assessed value, rate, or amount of duty charged (§ 61.5(d)(6)(ii)):

ALABAMA
Birmingham 35203. Mobile 36002.

ALASKA
Anchorage 99502. Juneau 99801.
Fairbanks 99701. Ketchikan 99901.

ARIZONA
Nogales 85621. Phoenix 85026.

ARKANSAS
Little Rock 72201. North Little Rock 72114.

CALIFORNIA
Calexico 92231. Oakland 94615.
Eureka 95501. San Diego 92101.
Los Angeles 90013. San Francisco 94105.

COLORADO
Denver 80202.

CONNECTICUT
Bridgeport 06609. New Haven 06511.
Hartford 06101. New London 06320.

DELAWARE
Wilmington 19801.

DISTRICT OF COLUMBIA
Washington 20007.

FLORIDA
Jacksonville 32201. Port Everglades 33316.
Key West 33041. Tampa 33601.
Miami 33132. West Palm Beach 33404.
Pensacola 32502.

GEORGIA
Atlanta 30308. Savannah 31401.

HAWAII
Honolulu 96806.

ILLINOIS
Chicago 60607. Peoria 61601.

INDIANA
Evansville 47708. Lawrenceburg 47025.
Indianapolis 46204.

KENTUCKY
Louisville 40202.

LOUISIANA
Baton Rouge 70805. Morgan City 70380
Lake Charles 70601. New Orleans 70130.

MAINE
Bangor 04401. Portland 04111.

MARYLAND
Baltimore 21202.

MASSACHUSETTS
Boston 02109. Springfield 01101.
Lawrence 01840. Worcester 01601.

MICHIGAN
Detroit 48226. Sault Ste. Marie 49784.
Port Huron 48060.

MINNESOTA
Duluth 55802. Minneapolis 55401.
International Falls 56668. Noyes 56740.
St. Paul 55101.

MISSISSIPPI
Gulfport 39501.

MISSOURI
Kansas City 64106. St. Louis 63101.

MONTANA
Great Falls 59401.

NEBRASKA
Omaha 68102.

NEW MEXICO
Columbus 88029.

NEW YORK
Albany 12207. Rochester 14614.
Buffalo 14203. Rouses Point 12979.
New York 10014. Syracuse 13201.
Ogdensburg 13669.

NORTH CAROLINA
Beaufort 28516. Reidsville 27320.
Charlotte 28208. Wilmington 28401.
Durham 27701. Winston-Salem 27101.
Elizabeth City 27909.
Morehead 28557.

NORTH DAKOTA
Pembina 58271.

OHIO
Akron 44312. Columbus 43214.
Ashtabula 44004. Dayton 45202.
Cincinnati 45202. Sandusky 44879.
Cleveland 44114. Toledo 43624.

OKLAHOMA
Oklahoma City 73125. Tulsa 74101.

OREGON
Portland 97209.

PENNSYLVANIA
Philadelphia 19106. Pittsburgh 15219.

PUERTO RICO
Mayaguez 00709. San Juan 00903.
Ponce 00731.

RHODE ISLAND
Providence 02903.

SOUTH CAROLINA
Charleston 29401. Spartanburg 29301.
Greenville 29602.

TENNESSEE
Chattanooga 37401. Nashville 37203.
Memphis 38103.

TEXAS
Beaumont 77704. El Paso 79901.
Brownsville 78520. Galveston 77550.
Corpus Christi 78403. Houston 77052.
Laredo 78040.
Dallas 75222. Port Arthur 77640.
Del Rio 78840. San Antonio 78206.
Eagle Pass 78852.

UTAH
Salt Lake City 84101.

VERMONT
Burlington 05402. Newport 05855.
Island Pond 05846. St. Albans 05478.

VIRGINIA
Alexandria 22314. Petersburg 23803.
Norfolk 23510. Richmond 23240.

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VIRGIN ISLANDS

Charlotte Amalie 00802.	Christiansted 00802.
	Frederiksted 00802.

WASHINGTON

Oroville 98844.	Spokane 99201.
Seattle 98104.	Tacoma 98402.

WISCONSIN

Green Bay 54301.	Spokane 99201.
Milwaukee 53202.	

(f) *No examination before payment of duty.* Addressees are not permitted to examine the contents of dutiable articles until the duty is paid.

§ 61.4 Repacking.

(a) *Responsibility of customs and postal employees.* Customs employees have responsibility for resealing or repacking mail of foreign origin following customs examinations. Postal employees accepting mail which has been in customs custody for examination must determine from external inspection whether it can safely bear further handling and transportation. Customs employees are responsible for restoring mail that is not in satisfactory condition. Employees may be held responsible when damage occurs as a result of negligence or improper handling.

(b) *Customs shipments in bad order.* Shipments found to be in bad order in transit or at the delivery office must be reconditioned by postal employees. Note bad order and evidence of rifling or damage on the address side of the wrapper over the signature of the employee.

§ 61.5 Treatment at delivery office.

(a) *Detecting dutiable importations.* Postal employees will promptly examine all incoming mail to detect dutiable importations. These packages will bear the following endorsement, placed near the address and completed by the customs office where the duty was assessed:

Examined By U.S. Customs
Port of _____
Collect Duty and Postal Fees
Mail Entry No. _____

The package will also be accompanied by an original and addressee receipt copy of Customs Form 3419, Mail Entry, enclosed in a Treasury Department envelope securely attached to the package.

(b) *Missing mail entries*—(1) *Post office procedure.* If a package endorsed to show that duty is to be collected reaches the post office of address without the required customs mail entry forms attached, proceed as follows:

(i) Withhold delivery of the package. Try and locate missing entry forms; check to see if forms reached the addressee.

(ii) If entry forms are found, proceed with delivery of package as prescribed in § 61.5(d).

(iii) If entry forms are not found, complete Form 2937, Importer's Objection and/or Lost Mail Entries, in duplicate, addressing it to U.S. Customs Office at the nearest office listed in § 61.3(d). Send the package and the original Form 2937 under cover addressed to the customs office, except that if registered matter is involved send to the postmaster of the city where the customs office is located so the mail may be handled in accordance with § 61.3(a). Retain duplicate Form 2937 as a record.

(iv) The package will be reprocessed at the customs office and returned to the post office of address with a new set of entry forms attached.

(2) *Missing entries received.* If the missing original set of entry forms is received after the package has been sent for reprocessing, hold it with the duplicate Form 2937, and when the new set of entries is received destroy the original set.

(3) *Entries received without parcel.* If a set of entry forms is received not attached to the relative package try and associate the forms with the dutiable package. If unsuccessful, check to see if the package was sent to customs for reprocessing or if delivery was made without collection of duty. If the package was delivered without collecting duty and the addressee is unwilling to pay, report as uncollected in accordance with § 61.5(f).

(c) *Dispatch to delivery units.* Promptly forward dutiable articles to delivery units.

(d) *Delivery of dutiable mail*—(1) *How Made.* Dutiable mail will be delivered by city, village, and rural carriers, and by window delivery units. Form 2921, Held Notice—International Mail, is used to notify addressees of the arrival of dutiable parcels.

(2) *Charging delivery employee.* Charge packages and both copies of the customs mail entry to delivery employee on Form 2944, Receipt for Customs Duty Mail, prepared in duplicate. For control and accounting purposes, enter on Form 2944 the mail entry numbers as shown on the entry forms. Retain both copies of Form 2944 at post office as record of employee's accountability. Supply delivery employee with proper postage due stamps for use in collecting customs clearance and delivery fees prescribed in §§ 24.1(a) and 32.1(a).

(3) *Signing customs entry forms.* When customs charges are collected and delivery is made, delivering employee will obtain addressee's signature and date of delivery on the original Customs Form 3419, as well as on the receipt for registered and insured mail if required. The delivering employee will sign and date the addressee receipt copy of Customs Form 3419 and give it to the addressee as a receipt for the duty. The delivery employee will turn in amounts collected with the signed originals of Customs Form 3419 and any undelivered packages with both copies of the related Customs Form 3419.

(4) *Clearing delivery employee*—(i) *At first-class offices.* At first-class offices carrier's accountability will be cleared by completing the two copies of Form 2944 prepared pursuant to § 61.5(d)(2) give both copies of completed Form 2944 to carrier who will deposit the original in the slotted and locked receptacle provided for that purpose and file the duplicate which he will retain for 3 months after the last day of the month of issue. The Forms 2944 shall be removed from the locked receptacle by an employee or supervisor, other than the clearing clerk, and forwarded daily to the chief accountant or other designated employee. Clearing clerk will send signed originals of Form 3419 to the chief accountant or other designated employee. Employees at delivery windows who have been charged with dutiable packages will be similarly cleared, but will be required to execute a new set of Form 2944 covering all dutiable packages remaining in their custody at the close of business.

(ii) *At other offices.* At other than first-class offices the delivery employees' accountability will be cleared in the same manner as for c.o.d. transactions.

(5) *Authorization not to collect duty.* The Customs Service in certain instances will attach a Customs Form 3342, Authorization to Postmaster to Deliver Mail Importation Conditionally Free of Duty and Declaration for Free Entry of Gifts, to the mail entries, Customs Form 3419, of incoming dutiable packages. Deliver these packages without collection of the duty under the conditions stated on the Form 3342. After delivery, endorse the original Customs Form 3419, Form 3342 executed by addressee, and report the transaction as an uncollected customs duty item in accordance with § 61.5(f)(2). Return of the executed customs form will be authority for the clearing clerk to allow credit for unreturned postage due stamps delivered with the package pursuant to § 24.1(a)(5)(ii).

(6) *Addressee protests.* When an addressee objects to the assessed value, rate, or amount of duty charged, the following alternatives are available.

(i) Addressee may take delivery, pay the duty and postal fees and protest (within 90 days from date duty is paid) directly to the issuing customs port.

(ii) Addressee may conditionally refuse the package pending review of the entry by the customs service. In this case, the procedure is as follows:

(*a*) Delivery employee will advise addressee to submit his objections in writing to the postmaster with any evidence he may have substantiating his claim (invoice, declaration of value, etc.). Encourage addressee to copy customs mail entry number and other particulars that will assist in associating his protest with the package at the post office.

(*b*) Delivery employee will mark package "Addressee protests duty," date and initial, and return the package and related Customs Forms 3419 to the post office to be held awaiting receipt of addressee's written protest. On receipt of addressee's statement, promptly prepare report, in duplicate, on Form 2937, Importers Objections and/or Lost Mail Entries. Forward original Form 2937, with supporting statements and both copies of mail entry, to customs mail division where entry was prepared—unless addressee is located in vicinity of one of the customs ports listed in § 61.3(d), in which case the original of the Form 2937, both copies of the mail entry and other documents may be delivered to the local Customs office for consideration of the protest. Retain the package with the duplicate of Form 2937 awaiting the decision of the Customs office. If Customs requests the package be submitted for inspection, the post office should comply.

(c) If the addressee's written protest is not received within 5 days after package is returned to post office, notify him that package is on hand and will be held for a further 5 days only. Mark package "Notified," and date, and if customer does not furnish the required statement within another week, endorse package "Unclaimed," show date, and treat as prescribed in §§ 61.5 (f) and (i).

(*d*) If an adjustment is made by the customs officer he will endorse the adjustment on the mail entries and return them with the original Form 2937 to the postmaster. When delivery of the package is effected, collect and report the corrected amount of duty and handle as prescribed in § 61.5(e). If the adjusting customs officer waives the duty, report the entry as an uncollected item, as prescribed in § 61.5(f)(2).

(*e*) If no decision on a protest is received from the customs office within 30 days request that matter be expedited. Continue to hold package until a decision is received.

(iii) Addressee may definitely refuse the package if he does not wish to pay the duty or to protest the assessment. In this case the delivery employee shall make it clear to addressee that package will be disposed of immediately as undeliverable. Employee will mark package "Refused," date and initial, and return package and entry forms to post office for disposal. (See § 61.5(f).)

(e) *Recording and reporting collections.* Post offices making delivery-collection of dutiable articles will deposit the customs colections with postal funds. See Handbook F–1 for accounting and control functions, and the preparation of Form 2932, Customs Collections Summary.

(f) *Uncollected items*—(1) *Disposal.* When it is definitely established that a dutiable package is undeliverable, detach the customs mail entry forms and treat the package as prescribed in § 24.4 (for postal union articles) or in § 32.5(b) (for parcel post). Mark the entry forms to show the reason for nondelivery and report as prescribed in § 61.5(f)(2).

(2) *Reporting.* Complete Form 2933, Register of Uncollected Customs Charges, in duplicate, listing uncollected items in numerical order according to the seven-digit serial numbers on the mail entries. Forward the original form 2933, accompanied with both copies of the mail entries and the supporting Customs Forms 3342 or other statements, if any, to the Regional Commissioner of Customs, Attention: Cashier, New York, NY 10004. File duplicate of Form 2933 for reference purposes. Prepare reports as needed, but not less frequently than weekly.

(3) *Past-due entries.* When the customs service fails to receive a remittance of duty or report of disposition made of a dutiable package, postmaster will receive a set of reproduced copies of the mail entry. Search shall be made at the post office of address and a report of the findings made to the Regional Commissioner of Customs, Attention: Cashier, New York, NY 10004.

(g) *Refund of Duty*—(1) *Duty not refundable by postmasters.* Amounts collected on customs mail entry forms are not refundable by postmasters. An addressee who requests a refund of duty shall be advised to make application therefor to the customs office which issued the mail entry within 90 days from date duty is paid. It is suggested, if refund is claimed for damage, the article be forwarded with the application. If the addressee wishes to abandon the article to the Government, he should so state in his application. In case the addressee also intends to file a claim for indemnity with the Postal Service, he shall, before taking the above action, present the contents, container, and complete wrapping to the postmaster for the inspection prescribed by form 2855, claim for indemnity—International Insured Mail.

(2) *By Customs Service.* Refund of duties paid will be considered by the Customs Service if merchandise, covered by a mail entry, representing 5 percent or more of the total value of all of the merchandise of the same class or kind entered in the invoice in which the item appears, is abandoned and delivered to the customs office where the entry was made within 90 days from the date duty was paid.

(3) *On returned merchandise.* Refund of duties paid less 1 percent will also be considered by the Customs Service if merchandise covered by a mail entry and found not to conform to sample or specification or shipped without the consent of the consignee is, within 90 days from the date of delivery, returned to customs custody for exportation, unless the Secretary of the Treasury authorizes in writing a longer time. The postal charges incident to returning the merchandise to the sender must be paid by the addressee.

(4) *As drawback on exported merchandise.* See Part 57 of this chapter.

(5) *No duty refund in certain cases.* When an addressee requests delivery of parcel post packages to be made at his residence or place of business after the customs duty has been paid at the post office, the Treasury Department will not refund the duty when the goods are lost en route. There is no appropriation available from which the Postal Service could make reimbursement for the amount of duty paid.

(h) *Duty*—(1) *Rates.* Customers desiring information concerning rates of duty on articles imported into the United States, or other customs procedure, should communicate with the appropriate customs office, located at various points throughout the country (see § 61.3(d)), or with the Commissioner of Customs, Treasury Department, Washington, DC 20226.

(2) *Prepayment.* No provision is made for the prepayment abroad of customs duty on mail shipments addressed for delivery in the United States.

(3) *On return of exported articles.* (i) Before sending an article abroad for alterations, repairs, use or replacement, the owner should submit it to a customs officer for issuance of a certificate of registration. Otherwise the entire article may be subjected to customs duty when it is returned to the United States.

(ii) Due to the absence of customs officers in many parts of the country, customers often are unable to have articles registered with the Customs Service before sending them abroad or are able to do so only after considerable expense and inconvenience. As a service to postal customers, postmasters or employees they designate may certify to the exportation of articles being mailed abroad for alterration, repairs, use or replacement under the following conditions:

(*a*) The customer must reside in an area which is outside a 20-mile radius of a customs office. In addition to the offices listed in § 61.3(d), customs officers are located at a number of additional points, and if a customer resides within a 20-mile radius of any of those customs offices he must have the article certified by a customs officer.

(*b*) The customer presents the package containing the article to be exported at the post office in an open state, together with a set (original and duplicate) of Customs Form 4455, Certificate of Registration, completed and signed by the owner of the article being exported. Customers may obtain the forms from any customs office. The customer must also present a completed Postal Service customs declaration form (described in §§ 21.4 and 31.4), as may be appropriate for the class of mail to be used, describing the article in the same terms as on the customs form.

(*c*) The postmaster or designated postal employee checks to see that the description of the article to be exported is the same on both the customs and Postal Service forms, and if the description is the same he certifies to the mailing (lading) by signing the "Signature of Customs Officer" space on both copies of the customs form. Certificate of mailing fees of 10 cents shall be charged and accounted for by affixing a 5-cent stamp to each of the two customs forms and canceling with a legible impression of the post office date stamp.

(*d*) Both copies of the customs form are returned to the customer who inserts the original in the package so the foreign shipper can include it in his package and thus facilitate processing when the merchandise is returned. The customer retains the duplicate for possible use in clearing the merchandise on its return.

(*e*) After the customer has inserted the original form he closes the package and the postal employee accepts it in the usual manner.

(4) *In other countries.* See § 31.2(d).

(i) *Forwarding or returning dutiable mail*—(1) *Forwarding within the United States.* Dispatch packages as prescribed in § 24.3(a) (for postal union articles) or § 32.4(a) (for parcel post). Allow the Customs Forms 3419 to remain attached to the redirected package in its original envelope, which is also redirected to the

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new address. Prepare Form 3814, Record of COD Parcels Held for Delivery, in duplicate, showing name and address of addressee, forwarding address, and name of port where the duty was assessed. In Bin No. block on Form 3814, enter the seven-digit serial number from related Customs Form 3419. Mail original Form 3814 to the Regional Commissioner of Customs, Attention: Cashier, New York, NY 10004. File duplicate of Form 3814 for reference in case of later inquiry.

(2) *Forwarding to another country.* See § 24.3(b) concerning forwarding of postal union articles and §§ 32.4 (b) and (c) concerning forwarding of parcel post. When a dutiable package is entitled to be forwarded to another country, detach the Customs Forms 3419, endorse both copies "Addressee moved outside jurisdiction of the United States," and report as an uncollected item (see § 61.5(f)(2)).

(3) *Return to sender.* When a dutiable package is to be returned to the sender, detach the Customs Forms 3419, endorse them "Refused," "Unclaimed," etc., and report as an uncollected item (see § 61.5 (f)(2)).

(4) *By stations and branches.* Postmasters may authorize stations and branches to forward or return packages directly from those, units, without sending the packages to the main office.

PART 62—PLANT QUARANTINE INSPECTION

Sec.
62.1 What is subject to inspection.
62.2 Segregation and handling.
63.3 Inspection stations and offices.

AUTHORITY: The provisions of this Part 62 issued under 39 U.S.C. 401, 407.

§ 62.1 What is subject to inspection.

All packages which contain plants, plant products, soil, plant pests, or plant material used for packing are subject generally to plant quarantine inspection.

§ 62.2 Segregation and handling.

(a) *Packages for inspection.* Dispatch packages bearing green and yellow address labels to the Agriculture Department inspection points shown thereon. After inspection and clearance, mark packages "Release" or "Treated and Released," redirect to the addressees, and return to the mail for delivery.

(b) *Packages exempt from inspection.* Forward packages which bear Agriculture Department labels reading "Importation Authorized," if not damaged, directly for delivery to the addressees. If damaged, divert them for inspection as prescribed in § 62.2(c) after reconditioning if necessary.

(c) *Nonauthorized importations.* Forward packages containing the items mentioned in § 62.1 but not bearing any Agriculture Department labels or inspection stamps under seal to the postmaster at the most accessible place listed in § 62.3 marked "For plant quarantine inspection."

(d) *Prohibited contents.* Packages found on inspection to contain prohibited plant material may be released for delivery after removal of such material and insertion of a notice by the inspector; or the packages may be stamped "Refused entry" or similarly, in which case they shall be returned to origin.

§ 62.3 Inspection stations and offices.

Inspectors of the Plant Quarantine Division, Department of Agriculture, are stationed at the following places:

Agana, GU.
Aguadilla, PR. (Ramey AFB).
Anchorage, AL.
Astoria, OR.
Atlanta, GA.
Baltimore, MD.
Bangor, ME.
Baton Rouge, LA.
Blaine, WA.
Boston, MA.
Brownsville, TX.
Buffalo, NY.
Calexico, CA.
Charleston, SC.
Charlotte Amalie, VI.
Christiansted, VI.
Chicago, IL.
Cleveland, OH.
Corpus Christi, TX.
Dallas, TX.
Del Rio, TX.
Detroit, MI.
Douglas, AZ.
Dover AFB, DE.
Duluth, MN.
Eagle Pass, TX.
El Paso, TX.[1]
Fairfield, CA. (Travis AFB).
Falcon Heights, TX.
Fort Lauderdale, FL.
Galveston, TX.
Hidalgo, TX.
Hilo, HI.
Hoboken, NJ.[1]
Honolulu, HI.[1]
Houston, TX.
Jacksonville, FL.
Jamaica, NY. (J. F. Kennedy Airport).[1]
Key West, FL.
Laredo, TX.[1]
Los Angeles, CA.[1]
Memphis, TN.
Miami, FL.
Milwaukee, WI.
Mobile, AL.
Morehead City, NC.
New Orleans, LA.[1]
Newport News, VA.
New York, NY.
Nogales, AZ.
Norfolk, VA.
Pensacola, FL.
Philadelphia, PA.
Port Arthur, TX.
Portland, ME.
Portland, OR.
Presidio, TX.
Progreso, TX.
Providence, RI.
Roma, TX.
Rouses Point, NY.
St. Paul, MN.
San Antonio, TX.
San Bernardino, CA. (Norton AFB).
San Diego, CA.[1]
San Francisco, CA.[1]
San Juan, PR.[1]
San Luis, AZ.
Savannah, GA.
Seattle, WA.[1]
Tacoma, WA. (McChord AFB).
Tampa, FL.
Toledo, OH.
Trenton, NJ. (McGuire AFB).
Tucson, AZ.
Washington, DC.[1]
West Palm Beach, FL.
Wilmington, DE.
Wilmington, NC.

[1] Inspection stations.

INQUIRIES, INDEMNITIES, AND REFUNDS

PART 71—INQUIRIES AND COMPLAINTS

Sec.
71.1 Inquiries encouraged.
71.2 Nondelivery.
71.3 Return receipts.
71.4 Charges for inquiries.
71.5 Processing.
71.6 Use of Form 673, Report of Rifled Parcel.
71.7 Use of Form 3760, Wrapper Found Without Contents.

AUTHORITY: The provisions of this Part 71 issued under 39 U.S.C. 401, 407.

§ 71.1 Inquiries encouraged.

Customers are urged to report losses, nondelivery, or mistreatment of mail, as these reports may serve to improve the postal service. Inquiries and complaints are to be made at, or addressed to, the local post office. They are accepted within 1 year, counting from the day following the date of mailing.

§ 71.2 Nondelivery.

If an article has failed to reach the addressee within a reasonable time, after it should in regular course have been delivered, the post office will, on request, institute an inquiry with the foreign postal administration. Inquiry may be made even though the article was mailed in another country. If the sender is unable to submit the registry (mailing) receipt for a registered article, he must make complaint at the office of mailing.

§ 71.3 Return receipts.

If the sender receives a return receipt not properly completed (see § 42.5(d)), the receipt with the complaint is transmitted to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260. Follow procedure in § 42.5(c) if customer has failed to receive a return receipt for which a fee was paid.

§ 71.4 Charges for inquiries.

(a) *When applicable.* No charge is made for an inquiry or complaint concerning the nondelivery of a piece of international mail if the sender has failed to receive a return receipt for which the required fee was paid or if he can show that loss or other irregularity has occurred apparently through fault of the Postal Service. Such a showing is satisfied either by exhibiting a letter from the addressee a reasonable time after the article involved would normally have been delivered; or satisfactorily explaining the failure to exhibit such a letter or report. Otherwise, a charge of 30 cents is made, postage stamps to cover the fee being affixed to the inquiry form and canceled. The inquiry or complaint is transmitted by airmail, if practicable.

(b) *When several articles involved.* Only one fee is collected for inquiries or requests for information concerning several articles mailed simultaneously by the same sender to the same addressee.

(c) *Telegraph inquiry.* If the sender desires that the inquiry be sent by telegraph or cable, his request must be accompanied with an amount sufficient to pay the telegraph or cable charges, and if a reply by telegraph or cable is desired, the sender must pay the charges both ways. Such request should be forwarded to the postal inspector in charge of the division in which the office mailing or address is located.

§ 71.5 Processing.

(a) *Mail exchanged with Canada*—(1) *Registered and ordinary*—(i) *Inquiries as to disposition or complaints of loss*—(a) *Mailed in the United States.* Inquiries are reported on Form 1510. Complete part II in duplicate. Destroy part I. Send original of parts II and III to the post office of address in Canada.

(1) If reply indicates no loss, send original of parts II and III with back of part III completed, to sender.

(2) If reply indicates loss:

(i) *Registered mail.* Enter dispatch particulars on reverse side of part II and send both copies to the Postmaster, Registry Section, Chicago, IL 60607, with the result of your findings.

(ii) *Ordinary mail.* Mail part III with reverse side completed to sender, and submit part II in duplicate to Postmaster, Claims and Inquiry Section, Chicago, IL 60607, with the result of your findings.

(b) *Mailed to United States.* Inquiries initiated by the addressees are reported on Form 1510. Complete part II in duplicate. Destroy part I. Send original of parts II and III to the post office of mailing in Canada, with part III appropriately altered. If registered mail is involved and the mailing receipt is not available, ask the complainant to have inquiry made at the office of mailing.

(1) If reply indicates no loss, send original of parts II and III with back of part III completed and appropriately altered, to the addressee.

(2) If reply indicates loss:

(i) *Registered mail.* Send both copies of part II to the Postmaster, Registry Section, Chicago, IL 60607, with the result of your findings. (See § 72.2(e).)

(ii) *Ordinary mail.* Mail part III with reverse side completed and appropriately altered, to the addressee, and submit part II in duplicate to Postmaster, Claims and Inquiry Section, Chicago, IL 60607, with the result of your findings.

(ii) *Complaints of rifling, damage, delay, or wrong delivery of mail originating in the United States or Canada.* Complete and suitably alter Form 1510. Send both copies to the Postmaster, Claims and Inquiry Section, Chicago, IL 60607, with envelope or wrapper, if available. If not available, so state.

(iii) *Inquiries of Canadian origin.* Post offices will return Canadian inquiries, appropriately endorsed with the result of their findings, to the point in Canada from which received. If loss of mail to or from Canada is disclosed, complete Form 1510. In case of mail from Canada, obtain the necessary information from the Canadian inquiry form before it is returned.

(a) If registered mail is involved, submit part II in duplicate to Postmaster, Registry Section, Chicago, IL 60607, with the result of your findings.

(b) If ordinary mail is involved, submit part II in duplicate to Postmaster, Claims and Inquiry Section, Chicago, IL 60607, with the result of your findings.

(2) *Insured parcels*—(i) *Mailed in United States.*—(a) *Inquiries as to disposition.* (Sender has no report of nonreceipt from addressee.) Complete Form 2855 and send to postmaster at the office of address in Canada. If delivery is disclosed, the endorsed form will be returned to the office of mailing so that the sender may be informed accordingly and the case closed. If loss, rifling, or damage is disclosed, Canadian officials will send Form 2855 to the Postmaster, Claims and Inquiry Section, Chicago, IL 60607. Should a form, disclosing loss, rifling, or damage, be sent by mistake to the postmaster at the office of mailing, send it promptly to the postmaster in Chicago (see § 71.4(a)).

(b) *Complaints of loss (Sender has report of nonreceipt from addressee), rifling, damage, delay, or wrong delivery.* Complete Form 2855 and send, with the correspondence received by the sender from the addressee, and wrapper if available, to the Postmaster, Claims and Inquiry Section, Chicago, IL 60607 (see § 72.1(b)).

(c) If application for indemnity is received on Canadian Form 43A, bearing information supplied by the addressee and the Canadian Postal Service for damage or rifling, complete the Form 43A, in lieu of Form 2855, and forward to the Postmaster, Claims and Inquiry Section, Chicago, IL 60607.

(ii) *Mailed to United States.* (a) If a complaint of loss, rifling, damage, delay, or wrong delivery originates in the United States, complete Form 1510 and send parts II and III of the original to the postmaster at the mailing office in Canada with the packing of the parcel if available, If the packing has been destroyed to otherwise disposed of, the complaint shall be endorsed accordingly. If complaint is of loss or rifling, send a copy of part II of Form 1510, endorsed to show disposition of the original, to the postal inspector in charge of the division in which the office of destination is located.

(b) On receipt of a Canadian indemnity form, it shall be properly completed and returned to the Canadian District Director of Postal Service from whom the form was received. If obtainable in cases of rifling or damage, the packing of the parcels shall be transmitted to the Canadian Administration with the indemnity form. If the packing has been destroyed or otherwise disposed of, the form shall be endorsed accordingly.

(b) *Mail exchanged with countries other than Canada*—(1) *Registered mail*—(i) *Mailed in United States.* Inquiries as to disposition or complaints of loss, rifling, damage, delay, or wrong delivery. Report on Form 542. Insert particulars of dispatch from the office of mailing and send form to the postmaster at the appropriate adjusting exchange office shown in § 72.2(f), with the envelope or wrapper, if available (see § 71.4(a)).

(ii) *Mailed to United States.* Inquiries as to disposition or complaints of loss, rifling, damage, delay, or wrong delivery. Report on Form 542 and send, with registry receipt, if available, to the postmaster at the appropriate adjusting exchange office shown in § 72.2(f), with the envelope or wrapper, if available. If the registry receipt is not available, ask the complainant to have inquiry made at the office of mailing.

(2) *Insured parcels*—(i) *Mailed in United States.* (a) Inquiries as to disposition (sender has no report of nonreceipt from addressee) and delay. Report on Form 542. Insert particulars of dispatch from the office of mailing and send form to the postmaster at the office of mailing with the wrapper, if available. (See § 71.4(a).)

(b) Complaints of loss (sender has report of nonreceipt from addressee), rifling, damage, or wrong delivery. Report on Form 2855, and send, with the correspondence received by the sender from the addressee, and wrapper if available, to the postmaster at the appropriate adjusting exchange office shown in § 72.2 (f). (See § 72.1(b).)

(ii) *Mailed to United States.* (a) Inquiries as to disposition and delay. Report on Form 542 and send with the wrapper, if available, to the postmaster at the appropriate adjusting exchange office shown in § 72.2(f).

(b) Complaints of loss, rifling, damage, or wrong delivery. When complaint is made at the office of address, enter mailing particulars on Form 2855, complete declaration of postmaster—office of address portion—and obtain declaration of addressee. Forward form and any related papers, including customs declaration and wrapper, if available, to the postmaster at the appropriate adjusting exchange office shown in § 72.2(f).

(3) *Ordinary mail mailed in or to United States.* Inquiries as to disposition or complaints of loss, rifling, damage, delay, or wrong delivery. Report on Form 542 (parcel post) and on Form 541 (postal union mail). Send forms to the postmaster at the appropriate adjusting exchange office shown in § 72.2(f), with the envelope or wrapper, if available (see § 71.4(a)).

§ 71.6 Use of Form 673, Report of Rifled Parcel.

Report on Form 673, Report of Rifled Parcel.

§ 71.7 Use of Form 3760, Wrapper Found Without Contents.

Use Form 3760 to inform the sender if parcel is of domestic origin; otherwise, send the form appropriately modified to the addressee.

PART 72—INDEMNITY CLAIMS AND PAYMENTS

Sec.
72.1 Initiation and proof of claims.
72.2 Indemnity payments.

AUTHORITY: The provisions of this Part 72 issued under 39 U.S.C. 401, 407.

§ 72.1 Initiation and proof of claims.

(a) *Initiation of claims.* Claims must be initiated as outlined in § 71.5 in applying for the indemnity stipulated in § 72.2.

(b) *Documents to accompany claims.* Claimants must submit the report from the addressee on which the claim is based and any evidence of value or cost of repairs, such as purchase receipts or invoices.

§ 72.2 Indemnity payments.

(a) *Registered postal union articles.* Payment of indemnity is incumbent on the country of origin of the article and is made as follows:

(1) *Canada.* Indemnity may be paid not to exceed $200, based on actual value, for loss (contents and wrapper). When mailed in the United States, payment may also be made up to $200 based on actual value for damage or rifling of contents, if responsibility rests with the

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United States, or it is not possible to determine in which country the damage or rifling occurred.

(2) *Great Britain and Northern Ireland, Israel and Switzerland.* Indemnity may be paid in any amount claimed not exceeding $13.07 for loss (contents and wrapper), regardless of value; and, on the basis of actual value, for rifling or total damage of an article in a registered packet, but not exceeding $13.07. When mailed in the United States, payment may also be made for partial damage, but not exceeding $13.07, if responsibility rests with the United States or it is not possible to determine in which country the damage occurred.

(3) *Australia.* Indemnity may be paid in any amount claimed not exceeding $13.07 for loss (contents and wrapper), regardless of value; and, on the basis of actual value, for rifling of an article in a registered packet, but not exceeding $13.07. When mailed in the United States, payment may also be made for damage, but not exceeding $13.07, if responsibility rests with the United States, orbit is not possible to determine in which country the damage occurred.

(4) *All other countries.* Indemnity may be paid in any amount claimed not exceeding $13.07 for loss (contents and wrapper), regardless of value. When mailed in the United States, payment may also be made up to $13.07 on the basis of actual value for damage or rifling of contents (including instances when money in cash, banknotes, or values payable to bearer are prohibited by international agreements), if responsibility rests with the United States or it is not possible to determine in which country the damage or rifling occurred.

(b) *Registered parcel post*—(1) *Cape Verde Islands and Portuguese West Africa.* Indemnity may be paid up to $16.33, based on actual value, for loss, rifling, or damage.

(2) *Ecuador.* Indemnity may be paid up to $50, based on actual value, for loss, rifling, or damage.

(3) *Other countries.* Although parcels may be registered to Bermuda, British Honduras, Congo (Kinshasa), Jamaica, and Turks Islands, there is no provision for payment of indemnity in case of loss, rifling, or damage of such parcels.

(c) *Insured parcel post*—(1) *General provisions.* Indemnity may be paid for loss, rifling, or damage, based on actual value.

(2) *Forwarded or returned to third country.* The mailer may be paid only such indemnity for loss, rifling, or damage occurring after redispatch by the original country of address to a third country as the country in which the mistreatment occurred is willing or obligated to pay under any agreement between the countries involved.

(3) *Canada.* Indemnity may be specially paid as provided in § 72.2(c)(1) for loss, rifling, or damage of insured parcels addressed to Canada containing articles prohibited insurance.

(d) *Principal exceptions.* Indemnity may not be paid:

(1) In excess of the limit prescribed for the insurance or registry fee paid or greater than that corresponding to the actual amount of loss (except registered postal union), rifling, or damage. Allowance must be made for depreciation or for needed repairs, and, in the absence of purchase receipts or invoices, the contents must be described in sufficient detail.

(2) To anyone in this country other than the sender, for loss of registered postal union mail, except on the consent of both the sender and the country of origin.

(3) For damage or for partial or complete loss or rifling of the contents of postal union registered articles, except as stated in § 72.2(a).

(4) When (i) other countries report delivery of parcels without external trace of rifling or damage and acceptance without reservation concerning the condition of the contents, and (ii) when delivery was made under conditions prescribed by the domestic regulations of the country of destination for mail of the same kind, or, on presentation of a regular postal identity card.

(5) When loss, rifling, or damage has been caused by the fault or negligence of the sender or the addressee or the representative of either, such as failure to endorse the parcel conspicuously to show the nature of the contents or to provide adequate packing for the length of the journey and for the protection of the contents.

(6) When an article or parcel cannot be accounted for in consequence of the destruction of service records through "force majeure."

(7) When the contents are prohibited, except as stated in § 72.2 (a)(4) and (c)(3).

(8) When the claimant, with intent to defraud, shall declare the contents of a parcel to be above their real value.

(9) For an article or parcel seized by the customs.

(10) For parcels that contain matter of no intrinsic value or matter which did not conform to stipulations of the conventions applicable, or were not posted in the manner prescribed. However, in the event of loss, rifling, or damage of mail erroneously accepted for insurance to other countries, limited indemnity may specially be paid as if it had been addressed to a domestic destination, i.e., on the basis of the indemnity limits for domestic insured mail. If erroneously accepted as registered mail limited indemnity may be specially paid under the conditions in § 72.2(a). If postage was erroneously collected at other than parcel post rates, but the parcel was otherwise properly accepted for insurance, indemnity may specially be paid under § 72.2(c).

(11) For indirect loss or loss of profits in the case of parcels.

(12) When no inquiry or application for indemnity has been made by claimant or his representative within a year commencing with the day following the posting of the article or parcel. In the case of insured mail with Canada, however, the time limit may be waived when it is satisfactorily established that the delay was unavoidable and not the fault of the claimant.

(13) For damage which results from the inherent vice or quality of the contents, that is, its inability, due to its nature, to withstand the ordinary incidents of the contemplated carriage.

(14) When full compensation or reimbursement has otherwise been made by the Postal Service or by any outside firm or corporation whatsoever except on a pro rata basis as co-insurer.

(15) For sentimental values arising from association of articles. Also, in the absence of a complete description, the claimant must satisfactorily establish the ordinary market value at the time of mailing, particularly in the case of heirlooms or antiques.

(16) For an amount in excess of the maximum prescribed for the insurance or registry fee paid, unless responsibility rests with the United States and it shall be shown to the satisfaction of the Postmaster General that the mailer was charged a fee less than that required to cover the amount of indemnity desired, through error on the part of the Postal Service. On such a showing, the deficiency in fee may be collected from the mailer and postal indemnity paid, within the limit fixed for the higher fee. If full or partial responsibility rests with the other country and the mailer requested full coverage at the time of mailing, but a deficient and unauthorized insurance fee was collected, he may be paid for full value, less the amount of the deficient fee, but not exceeding the limit fixed for the appropriate insurance fee.

(17) For loss of articles registered free or for official registered mail.

(18) When evidence of insurance coverage has not been presented.

(19) In excess of the limits prescribed in § 72.2(a) for domestic registered letters bearing foreign return addresses which are forwarded pursuant to § 23.4 (b)(2).

(e) *When to be instituted.* Claims for indemnity involving international registered mail, and insured mail for which inquiry concerning disposal has been made, shall be instituted only on instructions from the postmasters at the appropriate adjusting exchange offices shown in § 72.2(f), except as otherwise specifically provided for in § 71.5(a)(2)(i) for insured mail to Canada.

(f) *Adjusting exchange offices.* Indemnity claims relating to international insured or registered mail shall be adjudicated and approved by the adjusting exchange office for the country involved as indicated below.

New York, NY 10001

Europe.	Lebanon.
Africa.	Pakistan.
Afghanistan.	Saudi Arabia
Iran.	Syria.
Iraq.	Turkey.
Israel.	Yemen.
Jordan.	

New Orleans, LA 70113

Central and South America.	Mexico.
	West Indies.

Chicago, IL 60607

Canada.

San Francisco, CA 94101

All other countries (in Pacific area).

PART 73—POSTAGE REFUNDS

Sec.
73.1 Who may apply.
73.2 Processing.

AUTHORITY: The provisions of this Part 73 issued under 39 U.S.C. 401, 407.

§ 73.1 Who may apply.

Senders may file application as outlined in § 147.2(b) of this chapter for refund of postage, fees, or other charges paid on international mail for which full service was not rendered or which was paid in excess of the proper rate.

§ 73.2 Processing.

Post offices will process applications as prescribed in § 147.2(f) when the request relates to mail originating in the United States, unless there is reason to believe that the other country is at fault. Forward application with the wrapper and all supporting papers to the Mail Classification Division, Finance Department, U.S. Postal Service, Washington, DC 20260, when there is reason to believe that the other country is at fault or when the request relates to mail originating in another country.

PART 74—INFORMATION APPLICABLE TO INDIVIDUAL COUNTRIES

§ 74.1 Information applicable to individual countries.

Detailed information respecting mail service to specific foreign countries, including restrictions imposed by foreign governments on mail matter for those countries, is contained in Postal Service Publication 42, International Mail. This publication may be examined at post offices, and can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

LOUIS A. COX,
General Counsel.

OCTOBER 16, 1972.

[FR Doc.72-17816 Filed 10-18-72;8:46 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

PART 2—NONADJUDICATIVE PROCEDURES

Change of Title to "Administrative Law Judge"

By amendment of Subpart B, Part 930, Title 5, Code of Federal Regulations, effective August 17, 1972, the Civil Service Commission has changed the title "Hearing Examiner" to "Administrative Law Judge" (37 F.R. 16787).

In conformity with this change, notice is hereby given that the title "Hearing Examiner" as used in Part 2—Nonadjudicative Procedures, of Chapter I, Subchapter A of Title 16 of the Code of Federal Regulations is hereby changed to "Administrative Law Judge."

Effective upon publication in the FEDERAL REGISTER (10-20-72).

By direction of the Commission, dated October 5, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17962 Filed 10-19-72;8:59 am]

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Change of Title to "Administrative Law Judge"

By amendment of Subpart B, Part 930, Title 5, Code of Federal Regulations, effective August 17, 1972, the Civil Service Commission has changed the title "Hearing Examiner" to "Administrative Law Judge" (37 F.R. 16787).

In conformity with this change, notice is hereby given that the titles "Hearing Examiner" and "Examiner" as used in Part 3—Rules of Practice for Adjudicative Procedings, of Chapter I, Subchapter A of Title 16 of the Code of Federal Regulations are hereby changed to "Administrative Law Judge."

Effective upon publication in the FEDERAL REGISTER (10-20-72).

By direction of the Commission, dated October 5, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17963 Filed 10-19-72;8:59 am]

PART 4—MISCELLANEOUS RULES

Change of Title to "Administrative Law Judge"

By amendment of Subpart B, Part 930, Title 5, Code of Federal Regulations, effective August 17, 1972, the Civil Service Commission has changed the title "Hearing Examiner" to "Administrative Law Judge" (37 F.R. 16787).

In conformity with this change, notice is hereby given that the title "Hearing Examiner" as used in Part 4—Miscellaneous Rules, of Chapter I, Subchapter A of Title 16 of the Code of Federal Regulations is hereby changed to "Administrative Law Judge."

Effective upon publication in the FEDERAL REGISTER (10-20-72).

By direction of the Commission, dated October 5, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-17964 Filed 10-19-72;8:59 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in the Secretary of Agriculture by section 8a(5) of the Commodity Exchange Act, as amended (7 U.S.C. 12a(5)), § 1.3 of Part 1, §§ 15.00, 15.02, and 15.03 of Part 15, and § 18.03 of Part 18 of the regulations under said Act are amended as set forth below.

Sections 1.3, 15.02, 15.03, and 18.03 relate to coconut oil and frozen boneless beef, for which contract markets have been designated for trading under the Commodity Exchange Act. Section 1.3 adds coconut oil and frozen boneless beef to the definition of "commodity"; § 15.02 shows the reporting forms required for those commodities; § 15.03 shows the quantities fixed for reporting for those commodities; and § 18.03 shows the places where traders are to file required reports for those commodities.

Section 15.00 contains a clarifying change to show that the term "reportable position" is based on the size of an open position at the close of the market on any business day.

Section 15.03 contains a language change under the quantities fixed for reporting purposes for wool, wool tops, lard, tallow, cottonseed oil, soybean oil, cottonseed meal, and soybean meal to read "25 contract units". This amendment does not change the physical quantities fixed for reporting purposes for those respective commodities but translates them into terms commonly used by the trade. A further change in § 15.03 raises the quantity fixed for reporting millfeeds from 1,000 tons (approximately 10 contract units) to 25 contract units so that the reporting level for millfeeds is comparable to that for other like commodities.

Accordingly, §§ 1.3, 15.00, 15.02, 15.03, and 18.03 of Chapter I of Title 17 of the Code of Federal Regulations are amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3(e) is revised to read as follows:

§ 1.3 Definitions.

* * * * *

(e) Commodity. This term means and includes wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs (including shell eggs, frozen whole eggs, frozen plain egg whites, and frozen plain egg yolks),

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onions, Irish potatoes, wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, coconut oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock (including live cattle and live hogs), livestock products (including frozen pork bellies, frozen skinned hams, steer carcass beef, frozen boneless beef, and hides), and frozen concentrated orange juice.

* * * * *

PART 15—REPORTS—GENERAL PROVISIONS

2. Section 15.00(b) is revised to read as follows:

§ 15.00 Definitions.

As used in Parts 15–20 of this chapter:

* * * * *

(b) *Reportable position.* This term means any open contract position in any one future of any commodity on any one contract market, which, at the close of the market on any business day, equals or exceeds the quantity fixed in sec. 15.03 for reporting purposes for the particular commodity.

* * * * *

3. Section 15.02 is revised by amending the table of reporting forms to read as follows:

§ 15.02 Reporting forms.

* * * * *

Commodity	Clearing members (series 00 forms)	Futures commission merchants and foreign brokers (series 01 forms)	Traders who hold or control reportable positions (series 03 forms)	Merchants, processors, and dealers (series 04 forms)
Wheat, Corn, Oats, Rye, Barley, Flaxseed, Soybeans, Grain sorghums	200	201	203	204
Cotton	300	301	303	304
Butter	400	401	403	None
Eggs	500	501	503	504
Potatoes	600	601	603	604
Millfeeds	700	701	703	None
Wool, Wool tops	800	801	803	None
Lard, Tallow	900	901	903	None
Cottonseed oil, Soybean oil, Coconut oil	1000	1001	1003	None
Cottonseed meal, Soybean meal	1100	1101	1103	None
Live cattle	1200	1201	1203	None
Frozen boneless beef	1300	1301	1303	None
Live hogs	1400	1401	1403A	None
Frozen pork bellies, Frozen skinned hams	1400	1401	1403B	None
Hides	1500	1501	1503	None
Frozen concentrated orange juice	1600	1601	1603	None

4. Section 15.03 is revised by amending the table showing quantities fixed for reporting to read as follows:

§ 15.03 Quantities fixed for reporting.

* * * * *

Commodity	Quantity
Wheat	bushels 200,000
Corn	do 200,000
Oats	do 200,000
Rye	do 200,000
Barley	do 200,000
Flaxseed	do 200,000
Soybeans	do 200,000
Grain sorghums	pounds 11,200,000
Cotton	bales 5,000
Wool	contract units 25
Wool tops	do 25
Butter	carlots 25
Eggs, shell	do 25
frozen whole	contract units 25
frozen plain whites	do 25
frozen plain yolks	do 25
Potatoes	carlots 25
Lard	contract units 25
Tallow	do 25
Cottonseed oil	do 25
Soybean oil	do 25
Coconut oil	do 25
Cottonseed meal	do 25
Soybean meal	do 25
Millfeeds	do 25
Live cattle	do 25
Frozen boneless beef	do 25
Live hogs	do 25
Frozen pork bellies	do 25
Frozen skinned hams	do 25
Hides	do 25
Frozen concentrated orange juice	do 25

PART 18—REPORTS BY TRADERS

5. Section 18.03 (a) and (b) are revised to read as follows:

§ 18.03 Time and place of filing reports.

* * * * *

(a) Reports with respect to transactions in wheat, corn, oats, rye, barley, flaxseed, soybeans, grain sorghums, butter, eggs, lard, tallow, soybean oil, coconut oil, cottonseed meal, soybean meal, millfeeds, live cattle, live hogs, frozen pork bellies, and frozen skinned hams—to the Commodity Exchange Authority office in Chicago, Ill., unless otherwise specifically instructed by the Commodity Exchange Authority.

(b) Reports with respect to transactions in cotton, wool, wool tops, potatoes, cottonseed oil, hides, frozen boneless beef, and frozen concentrated orange juice—to the Commodity Exchange Authority office in New York, N.Y., unless otherwise specifically instructed by the Commodity Exchange Authority.

Among commodities listed in the Commodity Exchange Act are "all other fats and oils," which includes coconut oil, and "livestock products," which includes frozen boneless beef. It is necessary that all traded commodities, including coconut oil and frozen boneless beef, be specifically identified in the CEA regulations for the purpose of showing the reporting forms, quantities fixed for reporting, and place of filing reports as they apply separately to each of those respective commodities. Recently the Pacific Commodities Exchange, Inc., was designated as a contract market for coconut oil, and trading is scheduled to begin within 30 days. The other revisions made by these amendments are minor or editorial in nature. It does not appear that notice and public procedure would make additional information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure on these amendments is impracticable, unnecessary, and contrary to the public interest.

In order to enforce the reporting requirements covering coconut oil, it is important to make these amendments effective at the earliest possible date.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that publication 30 days in advance of the effective date should be dispensed with.

The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (10–20–72).

(Secs. 4g, 4i, 8a as added and amended, 49 Stat. 1496, 1500; 69 Stat. 535; 82 Stat. 28, 32, 33; 7 U.S.C. 6g, 6i, 12a)

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accord with the Federal Reports Act of 1942 (44 U.S.C. Ch. 12).

Issued: October 13, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-17826 Filed 10-19-72;8:45 am]

Chapter II—Securities and Exchange Commission

[Release No. 34-9823]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Disclosure and Other Requirements When Extending or Arranging Credit in Certain Transactions

The Securities and Exchange Commission today announced that it has amended Rule 15c2-5 [17 CFR 240.15c 2-5] under the Securities Exchange Act of 1934 ("Exchange Act") to provide that the disclosure and suitability determination requirements of paragraph (a) of that rule would apply to credit extended or arranged for by a broker or dealer pursuant to section 4(k) of Regulation T promulgated by the Board of Governors of the Federal Reserve System ("Board of Governors").

On August 10, 1972, in Securities Exchange Act Release No. 9706, and in the FEDERAL REGISTER for August 12, 1972, at 37 F.R. 16409, the Commission published its proposal to amend Rule 15c2-5. It has considered the comments and suggestions received in response to that proposal and now amends the rule as set forth below.

Rule 15c2-5 requires brokers and dealers to make certain written disclosures to customers prior to effecting securities transactions with them which would involve an extension or arrangement of credit other than that governed by Regulation T margin requirements. Among other things, the rule requires the disclosure of exact information as to the nature and extent of customer's obligations, including the specific charges he would incur in each period during which the extension of credit would be continued, the risks and disadvantages which he would incur and the commissions and other remuneration which would be received by the broker or dealer or any other person participating in the transaction. In addition, the rule provides that the broker or dealer must make a determination as to the suitability of the security for the customer and that he deliver to the customer a written statement setting forth the basis upon which the broker or dealer made such determination.

Although the adoption of the rule was prompted by the development of arrangements commonly called "equity funding," "secured funding," or "life funding" programs (hereinafter called insurance premium funding programs), the rule was broadly worded to encompass other types of arrangements which would involve the borrowing of funds by customers in a manner other than by conventional margin securities transactions governed by Regulation T. Accordingly, to eliminate any possible ambiguity on the subject, an exception was included as paragraph (b) of the rule excluding extensions of or arrangements for credit made by brokers or dealers in compliance with the provisions of Regulation T.

Subsequently, on June 2, 1969, the Board of Governors added section 4(k) to Regulation T to include within the margin regulations of Regulation T credit arranged for or extended in connection with the sale of insurance premium funding programs by permitting brokers and dealers who are issuers or subsidiaries or affiliates of issuers of such programs to extend or arrange for the extension of credit in connection with such programs on specified terms. More recently, on July 25, 1972, the Board of Governors further amended the section, effective September 5, 1972, to permit all brokers and dealers to engage in such credit extension and arranging activities with respect to insurance premium funding programs, provided that they do not extend, arrange or maintain any other securities credit except for purchases of mutual fund shares in a special cash account under Regulation T.

In light of these amendments to Regulation T, it is appropriate to clarify the continuing applicability of the salutary provisions of Rule 15c2-5 to the sale of insurance premium funding programs. This has been accomplished by including in paragraph (b) of the rule a proviso modifying the exception contained therein for any extensions of credit or loans arranged by a broker or dealer pursuant to Regulation T by excluding from that exception transactions in special premium funding accounts within the meaning of section 4(k) of Regulation T.

Commission action. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 15(c)(2) and 23(a) thereof, and deeming it in the public interest and for the protection of investors, hereby amends § 240.15c2-5 of Chapter II of Title 17 of the Code of Federal Regulations by amending paragraph (b) of said section as set forth below, effective December 1, 1972.

§ 240.15c2-5 Disclosure and other requirements when extending or arranging credit in certain transactions.

* * * * *

(b) This section shall not apply to any credit extended or any loan arranged by any broker or dealer subject to the provisions of Regulation T (issued by the Board of Governors of the Federal Reserve System) if such credit is extended or such loan is arranged, in compliance with the requirements of such regulation, only for the purpose of purchasing or carrying the security offered or sold: *Provided, however,* That notwithstanding this paragraph, the provisions of paragraph (a) shall apply in full force with respect to any transaction involving the extension of or the arrangement for credit by a broker or dealer in a special insurance premium funding account within the meaning of section 4(k) of Regulation T.

* * * * *

(Secs. 15(c)(2), 23(a), 48 Stat. 895, 901, 49 Stat. 1379, 15 U.S.C. 78o(c)(2), 78w)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

OCTOBER 18, 1972.

[FR Doc.72-17953 Filed 10-19-72;9:01 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-3—PROCUREMENT BY NEGOTIATION

Subpart 3-3.1—Use of Negotiation

On pages 13999 and 14000 of the FEDERAL REGISTER of July 15, 1972, there was published a notice of proposed rule making to issue a regulation establishing policies and procedures for debriefing unsuccessful offerors in competitively negotiated procurements. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received, and the proposed regulations are hereby adopted, subject to the following changes:

1. In paragraph (a)(1) of § 3-3.103-50 the words "Exceptions or deviations from debriefing policy and procedures will be submitted to the Director, Office of Procurement and Materiel Management, OASAM, for approval" are changed to read, "Requests for exceptions or deviations from debriefing policy and procedures shall be submitted to the Director, Office of Procurement and Materiel Management, OASAM, for approval."

2. In paragraph (b)(2) of § 3-3.103-50 the words, "of an award" are changed to read, "for an award."

(5 U.S.C. 301; 40 U.S.C. 486(c))

Effective date. These regulations shall become effective upon publication in the FEDERAL REGISTER (10–20–72).

Dated: October 16, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary for Administration.

1. Table of contents of Part 3-3 is amended to add a Subpart 3-3.1 as follows:

Subpart 3-3.1—Use of Negotiation

Sec.
3-3.103 Dissemination of procurement information.
3-3.103-50 Notifying and debriefing of unsuccessful offerors.

2. Subpart 3-3.1 is added to read as follows:

Subpart 3-3.1—Use of Negotiation

§ 3-3.103 Dissemination of procurement information.

§ 3-3.103-50 Notifying and debriefing of unsuccessful offerors.

(a) *Policy.* (1) The policy of this Department is to provide a debriefing, when requested in writing, to an offeror

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that has unsuccessfully competed for a DHEW procurement. Requests for exceptions or deviations from debriefing policy and procedures shall be submitted to the Director, Office of Procurement and Materiel Management, OASAM, for approval.

(i) Tell an unsuccessful offeror which areas of his proposal were judged to be weak and deficient and whether the weaknesses or deficiencies were factors in his not having been selected;

(ii) Identify the factors which were the basis for selection of the successful contractor. If the quality of the successful offeror's proposal to satisfy the mission requirement was the basis, the unsuccessful offeror should be so informed, and given a general comparison of significant areas, but not a point-by-point comparison of all the elements considered in the evaluation criteria. If the successful offeror was selected on the basis of cost, the unsuccessful offeror should be told that such is the case. If selection was based on other factors, they should be specified.

(3) If an unsuccessful offeror feels that his failure to obtain the award was not justified, he will rely, at least in part, on the information given him in the debriefing to determine whether he should seek recourse. Accordingly, it is essential that a debriefing be conducted in a scrupulously fair, objective, and impartial manner, and that the information given the unsuccessful offeror be absolutely factual and consistent with the findings of the Contracting Officer and the basis on which he made the award.

(4) A debriefing should not reveal:

(i) Confidential or privileged commercial or financial information, trade secrets, techniques, or processes of the other offerors; and

(ii) The relative merits or technical standing of the unsuccessful offerors.

(b) *Procedures.* (1) Once a procurement action has been initiated, through the evaluation process, and even after the selection of a contractor, all queries as to the relative merits of the submitted proposals shall be courteously but firmly directed to the Contracting Officer. All other personnel will avoid exchange of comments with all offerors.

(2) Upon determination that an offeror is eliminated from consideration for an award, formal notification of such fact may be made immediately if the Contracting Officer deems it appropriate. Particular care should be taken to insure that the notification letter advises that offeror that proposed revisions will not be considered. Notification will be made to the remainder of the unsuccessful offerors promptly after the award has been made. The post-award notification shall include the name of the successful offeror, amount of award, and number of proposals received. The above procedure is applicable to procurements over $10,000. Upon request, in accordance with paragraph (a) of this section, unsuccessful offerors shall be furnished the reasons why their proposals were not accepted.

(3) All DHEW employees who receive from an unsuccessful offeror a request, written or oral, for a debriefing shall immediately refer the request to the contracting officer. If the request is made orally the contracting officer shall require that the request be reduced to writing. The contracting officer or his designee shall be present at all debriefings and shall review written debriefings prior to release.

(4) In some cases it may be necessary to arrange informal debriefings for an unsuccessful offeror's personnel by DHEW evaluation participants. This determination will be made by, and meeting arrangements will be the responsibility of, the contracting officer.

(5) It is most important that all DHEW personnel engaged in the evaluation and selection process be aware of the foregoing policies and procedures. Detailed and complete records of the procurement will be maintained by key technical and contracting personnel in a manner which will facilitate either a written or an oral debriefing of any unsuccessful offeror.

(c) *Report.* When a debriefing is held, a brief report, summarizing the results of the debriefing, will be prepared and placed in the contract file.

[FR Doc.72-17965 Filed 10-19-72;8:56 am]

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A of title 41 is amended as follows:

PART 5A-1—GENERAL

The table of contents of Part 5A-1 is amended to delete § 5A-1.305-71 and add the following:

Sec.
5A-1.370 Warranties.
5A-1.370-1 General.
5A-1.370-2 Policy.
5A-1.370-3 Use of a warranty.
5A-1.370-4 Warranty clause for supply contracts.
5A-1.370-5 Warranty statement in purchase orders.

Subpart 5A-1.3—General Policies

§ 5A-1.305-71 [Deleted]

Section 5A-1.305-71 is deleted.

Sections 5A-1.370 through 5A-1.370-5 are added as follows:

§ 5A-1.370 Warranties.

§ 5A-1.370-1 General.

A warranty clause gives the Government a contractual right to assert claims regarding the deficiency of supplies or services furnished, notwithstanding any other contractual provision pertaining to acceptance by the Government. Such a clause allows the Government additional time after acceptance in which to assert a right to correction of the deficiencies or defeats, reperformance, an equitable adjustment in contract price, or other remedies. This additional period of time may begin at the time of delivery or at the occurrence of a specified event and may run for a given number of days or months or until occurrence of another specified event. The value of a warranty clause depends upon the circumstances of the procurement; and its use, terms, and conditions are influenced by many factors (see § 5A-1.370-3(b)). A warranty clause may be tailored to fit the individual procurement or class of procurements and may include special provisions for items shipped to overseas customers.

§ 5A-1.370-2 Policy.

(a) A warranty clause shall be used when it is found to be in the best interests of the Government after an analysis of the factors listed in § 5A-1.370-3(b).

(b) Any warranty clause included in a contract shall not limit any rights afforded to the Government by the provision of the inspection clause relating to latent defects, fraud, and gross mistakes that amount to fraud. Care should be taken to insure that the warranty clause used and any other warranty provision in the contract (e.g., in the specification) are consistent, especially where performance specifications are used.

§ 5A-1.370-3 Use of a warranty.

(a) Except for commercial warranties and warranties contained in Federal or military specifications, the decision to use a warranty clause shall be approved at the branch level in the Procurement Operations Division and at the division level in the Special Programs Division and the regional offices. Except for FSC class 8010 items, the approval of the Assistant Commissioner for Procurement, FSS, shall be obtained prior to using any warranty clause not substantially similar to the warranty clause set forth in § 5A-1.370-4. For FSC class 8010, see § 5A-72.106-7.

(b) In deciding whether to use a warranty clause, the following factors shall be considered:

(1) Nature of the item and its end use;

(2) Cost of the warranty and degree of price competition as it may affect this cost;

(3) Criticality of meeting specifications;

(4) Damages to the Government that might be expected to arise in the event of defective performance;

(5) Cost of correction or replacement, either by the contractor or another source, in the absence of a warranty;

(6) Administrative cost and difficulty of enforcing the warranty;

(7) Ability to take advantage of the warranty, as conditioned by storage time, distance of the using agency from the source, or other factors;

(8) Operation of the warranty as a deterrent against deficiencies;

(9) The extent to which Government acceptance is to be based upon contractor inspection or quality control;

(10) Whether because of the nature of the items the Government inspection system would not be likely to provide adequate protection without a warranty;

(11) Whether the industry's present quality program is reliable enough to provide adequate protection without a warranty, or, if not, whether a warranty would cause the contractor to institute an effective and reliable quality program;

(12) Reliance on "brand-name" integrity;

(13) Whether a warranty is regularly given for a commercial component of the end item being procured;

(14) Criticality of item for protection of personnel or property;

(15) Extent to which specifications safeguard the interest of the Government;

(16) The stage of development of the item and the state of art; and

(17) Customary trade practices.

(c) Scope of warranty clause:

(1) The terms and conditions of a warranty clause vary with the circumstances of the procurement. The clause must state the duration of the warranty. The clause may either provide that the contractor will be liable for defects or nonconformance to contract requirements existing at the time of delivery or provide that the contractor will be liable for such defects or nonconformance which develop prior to the expiration of a specified period of time or before the occurrence of a specified event.

(2) Where the Government specifies the design of the item and its precise measurements, tolerances, materials, tests, or inspection requirements, the contractor's liability for defects or nonconformance should usually be limited to those in existence at the time of delivery.

(3) Where a contract contains performance specifications and design is of minor importance, the contractor's liability may extend to defects or nonconformance to specifications which may arise after delivery of the supplies or acceptance of the services. Normally, the warranty should be limited to defects or nonconformance existing at the time of delivery of the supplies or acceptance of the services.

(4) Ordinarily, the remedy provided under a warranty clause to return nonconforming supplies to the contractor for correction or replacement should satisfy the Government's needs. However, where the supplies are of such nature (e.g., subsistence or drugs) that correction or replacement does not afford adequate remedy to the Government, the clause should provide: (i) That the contracting officer may either return the supplies to the contractor, dispose of them in a reasonable manner, or replace with similar supplies, and (ii) that the contractor shall be liable for any cost occasioned to the Government thereby.

(5) When it can be foreseen that it will not be practical to return an article for correction or replacement because of the nature of its use or the cost of preparation for its return (e.g., where operating equipment installed in a vessel, automobile, or truck needs only a correction or adjustment but to return it would require substantial expense of removal from where it is installed), the clause should provide that the contractor or the Government may: (i) Correct the article in place at its location at the contractor's expense, or (ii) provide that the contractor shall furnish necessary replacement parts.

(6) Where it is determined that a warranty for the entire item is not advisable, a warranty may be required for a particular aspect of the item which may need special protection (e.g., installation, components, accessories, parts, subassemblies and preservation, packaging, and packing, etc.).

(d) Where a warranty clause is used in a supply contract, consideration shall be given to the inclusion of a provision requiring that the warranted items be so marked or that a warranty notice be furnished with the items. The marking or notice need not state the complete warranty; however, a statement noting that a warranty exists, its duration, and whom to notify concerning defects usually will suffice.

§ 5A-1.370-4 Warranty clause for supply contracts.

(a) The following sets forth provisions to be used when developing a warranty clause for a specific commodity. These provisions may be modified to accommodate special requirements (but see § 5A-1.370-3(a)).

WARRANTY OF SUPPLIES

(a) Notwithstanding inspection and acceptance by the Government of supplies furnished under the contract or any provision of this contract concerning the conclusiveness thereof, the Contractor warrants that for (enter specific warranty period (such as "one (1) year after specified date") or other applicable warranty provision) all supplies furnished under this contract will be free from defects in material or workmanship and will conform with the specifications and all other requirements of this contract. Unless otherwise provided, the warranty period shall begin 60 days after date of shipment.

(b) Unless otherwise provided, this warranty is applicable both within and outside the continental limits of the United States.

(c) Within a reasonable time after discovery of any breach of this warranty, the Contracting Officer or other Government representative shall give written notice to the Contractor and either: (i) Require the prompt correction or replacement of any supplies or part thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph (a) of this clause; or (ii) retain such supplies, whereupon the contract price thereof shall be reduced by the Contracting Officer in an amount which is negotiated and agreed upon as being equitable under the circumstances, and the Contractor shall promptly make appropriate repayment.

(d) When return, correction, or replacement is required, the Contracting Officer or other Government representative shall return the supplies or part thereof, where feasible, and transportation charges and responsibility for such supplies while in transit shall be borne by the Contractor. However, the Contractor's liability for such transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the designated destination point under this contract and the Contractor's plant, and return.

(e) If the Contractor fails or refuses to correct or replace the nonconforming supplies within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer or other Government representative specifying such failure or refusal, the Contracting Officer may by contract or otherwise correct or replace them with similar supplies and charge to the Contractor the cost occasioned to the Government thereby. In addition, if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner, in which case the Government is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expenses of the care and disposition of the nonconforming supplies as well as for excess costs incurred or to be incurred.

(f) Any supplies or parts thereof corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the same extent as supplies initially delivered.

(g) Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(h) The word "supplies" as used herein includes related services.

(i) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of the contract.

(j) In addition to other marking requirements of this contract, the container of all warranted items shall be clearly marked by the Contractor by affixing a cloth tag or durable label which must set forth the contract number and state: "This item is warranted for ------ days after--------
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---.,
(Unless otherwise provided, Contractor will enter effective date computed by adding 60 days to the shipping date.)

§ 5A-1.370-5 Warranty statement in purchase orders.

The following statement shall be included in purchase orders for warranted items:

Warranty. This order covers warranted items which must be specially marked—see contract terms.

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULES

The table of contents of Part 5A-72 is amended to delete § 5A-72.204.

Sec.
5A-72.204 [Deleted]

Subpart 5A-72.2—Direct Delivery Purchasing of Other Than Stores Stock Items

§ 5A-72.204 [Deleted]

Section 5A-72.204 is deleted.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

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Effective date. These regulations are effective 30 days after the date shown below, but may be observed earlier.

Dated: October 5, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.72-17936 Filed 10-19-72;8:56 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5265]

[Idaho 3779]

IDAHO

Partial Revocation of Reclamation Project Withdrawals

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. section 416 (1970), it is ordered as follows:

1. The Secretary's orders dated November 5, 1908, January 14, 1919, July 5, 1921, and June 1, 1923, withdrawing lands for the Minidoka Project, are hereby revoked so far as they affect the following described lands:

BOISE MERIDIAN

T. 5 S., R. 31 E.,
Sec. 12, NW¼NE¼;
Sec. 24, lots 1 to 4, inclusive, W½NE¼, SW¼, W½SE¼;
Sec. 25, NW¼NE¼, E½NW¼.

T. 6 S., R. 31 E.,
Sec. 1, lots 1 to 4, inclusive, SE¼NW¼, NE¼SW¼;
Sec. 2, lot 1.

T. 5 S., R. 32 E.,
Sec. 19, lots 1 to 4, inclusive, NE¼NE¼ NW¼.

The areas described aggregate 1,215.61 acres in Bingham County.

2. The lands described above have been classified for disposal pursuant to the Act of June 14, 1926, 44 Stat. 741, as amended, 43 U.S.C. sections 869, 869–4 (1970). These lands, therefore, will not be subject to other disposition in the absence of a modification or revocation of such classification (43 CFR 2440.4). The lands have been and will continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Idaho State Office, Bureau of Land Management, Boise, Idaho.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17893 Filed 10-19-72;8:46 am]

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5266]

[Wyoming 31249]

WYOMING

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 13 of the Act of June 25, 1910, 36 Stat. 858, as amended, 43 U.S.C. § 148 (1970), it is ordered as follows:

The Secretarial order of January 3, 1920, so far as it withdrew the following described lands in the Wind River Indian Reservation (formerly Shoshone Indian Reservation), for reclamation purposes in connection with the Riverton Project, is hereby revoked:

WIND RIVER MERIDIAN

T. 2 N., R. 4 W.,
Sec. 1, lots 5, 6, 7, and 8.

The area described aggregates 159.10 acres in Fremont County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17894 Filed 10-19-72;8:46 am]

[Public Land Order 5267]

[Oregon 8455, 8456]

OREGON

Partial Revocation of Stock Driveway Withdrawal No. 45, Oregon No. 5, and Public Water Reserve No. 61, Oregon No. 3

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865, as amended, 43 U.S.C. § 300 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Secretarial order of October 23, 1918, creating Stock Driveway Withdrawal No. 45 (Oregon No. 5), and the Executive order of February 25, 1919, creating Public Water Reserve No. 61 (Oregon No. 3), are hereby revoked so far as they affect the following described lands:

FREMONT NATIONAL FOREST

WILLAMETTE MERIDIAN

T. 39 S., R. 17 E.,
Sec. 19, SE¼;
Sec. 20, SW¼;
Sec. 30, lot 1, NE¼NW¼, N½NE¼.

The area described aggregates 479.52 acres in Lake County.

2. At 10 a.m. on November 16, 1972, the lands shall be open to such forms of disposition as may by law be made of national forest lands, including location and entry under the U.S. mining laws for nonmetalliferous minerals. The lands have been and continue to be open to applications and offers under the mineral leasing laws, and to location and entry for metalliferous minerals under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17895 Filed 10-19-72;8:46 am]

[Public Land Order 5268]

[Wyoming 27598]

WYOMING

Partial Revocation of Reclamation Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. 416 (1970), it is ordered as follows:

1. The Secretary's order of May 2, 1919, and Public Land Order No. 3064 of May 1, 1963, withdrawing lands for reclamation purposes are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 53 N., R. 93 W.,
Sec. 18, lots 5 and 6;
Sec. 19, lots 2, 3, 4, 7, 8, SE¼NW¼, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 20, lot 7;
Sec. 29, W½NW¼, SW¼, SW¼SE¼;
Sec. 30;
Sec. 31, lots 1, 2, E½NW¼, NE¼;
Sec. 32, N½NW¼.
T. 53 N., R. 94 W.,
Sec. 13, lots 2, 3, E½W½NW¼, SE¼NW¼, E½NW¼SW¼, E½SW¼, SE¼;
Sec. 24, NE¼, N½SE¼, SE¼SE¼.

The areas described aggregate 2,564.74 acres in Big Horn County.

Of the lands described above, lot 7, sec. 20, T. 53 N., R. 93 W., is patented land. The public lands described as lots 2 and 3, E½W½NW¼, SE¼NW¼, SE¼, sec. 13, T. 53 N., R. 94 W., are included either in Powersite Reserve No. 115, or Powersite Classification No. 345, and will remain withdrawn for powersite purposes.

2. At 10 a.m. on November 16, 1972, the public lands shall be open to operation of the public land laws generally, including the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, except that the lands embraced in the powersite withdrawals shall be open to operation of the mining laws and not the public land laws generally. All valid applications received at or prior to 10 a.m. on November 16, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. All of these public lands, including those withdrawn for powersite purposes, have been and continue to be open to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyo. 82001.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17896 Filed 10-19-72;8:46 am]

[Public Land Order 5269]

[Arizona 822, 3753]

ARIZONA

Withdrawal for Proposed Reclamation Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. sec. 416 (1970), it is ordered as follows:

Subject to valid existing rights, and to the provisions of existing withdrawals, the following described public lands which are under the jurisdiction of the Secretary of the Interior are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, and reserved for the proposed Charleston Dam and Reservoir, Central Arizona Project:

GILA AND SALT RIVER MERIDIAN

T. 21 S., R. 21 E.,
Sec. 1, lots 1 to 4, inclusive;
Sec. 12, lots 1, 2, SE¼NW¼, N½SE¼, S½NE¼.
T. 21 S., R. 22 E.,
Sec. 5, lots 1, 2, S½SE¼, NW¼SE¼;
Sec. 6, lots 3 to 9, inclusive, SE¼SW¼, excluding Mineral Patents 8967, 8968, 8969, 14930;
Sec. lots 1, 2, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼;
Sec. 9, S½NW¼;
Sec. 33, lot 1, NE¼, E½NW¼.
T. 22 S., R. 22 E.,
Sec. 4, lot 11, lots 23 to 33, inclusive, lots 36, 39, 40, 45, 46, 50, 57, 59, 62, 63, lots 67 to 70, inclusive, lots 72, 73, 76, 77 lots 82 to 85 inclusive, lots 87 to 90, inclusive, lots 93 to 103, inclusive;
Sec. 9, lots 1 to 4, inclusive, E½NE¼.

The areas described aggregate 1,988.63 acres in Cochise County.

Portions of the lands are affected by Powersite Classification No. 438, as established by the departmental order of November 16, 1956.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17897 Filed 10-19-72;8:46 am]

[Public Land Order 5270]

[Sacramento 1037]

CALIFORNIA

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. section 416 (1970), it is ordered as follows:

Subject to valid existing rights, the following described public land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, and reserved for the Auburn-Folsom South Unit, American River Division, Central Valley Project:

MOUNT DIABLO MERIDIAN

T. 12 N., R. 9 E.,
Sec. 5, unpatented portions of mineral lot 45 in the W½NE¼.

The area described aggregates approximately 2 acres in El Dorado and Placer Counties.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17898 Filed 10-19-72;8:46 am]

[Public Land Order 5271]

[Idaho 4465]

IDAHO

Reservation for Constructed Forest Service Road

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights and to the provisions of existing withdrawals, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, nor the disposal of materials under the Act of July 31, 1947, as amended, 30 U.S.C. sections 601–604 (1970), and reserved for the use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the Act of October 13, 1964, 16 U.S.C. sections 532–533 (1970):

BOISE MERIDIAN

BLACKWELL HUMP ROAD NO. 226

T. 43 N., R. 2 E.,
Sec. 4, NW¼SE¼;
Sec. 12, SW¼SE¼;
Sec. 13, NW¼NE¼.
T. 44 N., R. 2 E.,
Sec. 32, W½NW¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline of Blackwell Hump Road No. 226 over and across the above-described subdivisions, as shown on plats filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho.

CLARKIA-MARBLE CREEK ROAD NO. 321

T. 43 N., R. 2 E.,
Sec. 13, E½NE¼, NW¼NE¼, N½NW¼.
T. 44 N., R. 3 E.,
Sec. 4, SE¼NE¼.
T. 45 N., R. 3 E.,
Sec. 24, NE¼NW¼, NW¼NE¼;
Sec. 26, S½NE¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline of Clarkia-Marble Creek Road No. 321 over and across the above-described subdivisions, as shown on plats filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho.

The areas described aggregate 26.7 acres in Shoshone County.

2. The withdrawal made by this order shall not preclude agricultural entries, sales, exchanges, or leases under applicable public land laws of any legal subdivisions traversed by lands withdrawn by this order: *Provided,* That any such entry, sale, exchange, or lease shall be subject to this order and to any road right-of-way easement over the lands issued by the Department of Agriculture, and subject to the provisions of the withdrawal made by Powersite Reserve No. 410 so far as it affects the lands described as the SE¼NE¼, sec. 4, T. 44 N., R. 3 E., and NW¼NE¼, NE¼NW¼, sec. 24, S½NE¼, sec. 26, T. 45 N., R. 3 E.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17899 Filed 10-19-72;8:46 am]

[Public Land Order 5272]

[New Mexico 11572 and 13101]

NEW MEXICO

Addition to National Forest

By virtue of the authority contained in the Act of July 9, 1962, 43 U.S.C. section 315g–1 (1970), it is ordered as follows:

Subject to valid existing rights, the following described lands acquired in exchanges made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934, as amended, 43 U.S.C. section 315g (1970), are hereby added to and made a part of the Santa Fe National Forest and hereafter shall be subject to all laws and regulations applicable to said national forest:

NEW MEXICO PRINCIPAL MERIDIAN

T. 20 N., R. 2 E.,
Sec. 13, HES 259;
Sec. 24, NE¼NE¼NE¼, W½E½E½, E½E½SW¼NE¼, W½NE¼SE¼NE¼, S½SE¼NE¼SE¼;
Sec. 25, W½NE¼, S½NW¼.
T. 20 N., R. 3 E.,
Sec. 18, HES 259;
Sec. 19, lot 6, S½SW¼SW¼NE¼, W½SE¼SW¼NE¼, NE¼NE¼SW¼, SE¼NW¼NE¼SW¼, SW¼NE¼SW¼, NW¼NW¼NW¼SE¼.

The areas described aggregate 375.24 acres in Sandoval County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17900 Filed 10-19-72;8:47 am]

[Public Land Order 5273]

[Idaho 2164]

IDAHO

Powersite Restoration No. 681; Partial Revocation of Powersite Reserves Nos. 77 and 117

By virtue of the authority contained in section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. § 818 (1970), and pursuant to the determination of the Federal Power Commission in DA–598 and DA–603–Idaho, it is ordered as follows:

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1. The Executive Order of July 2, 1910, creating Powersite No. 77 (as interpreted in Powersite Interpretation No. 18 of May 1, 1922), and Powersite Reserve No. 117, is hereby revoked so far as it affects the following described lands:

BOISE MERIDIAN

POWERSITE RESERVE NO. 77

T. 5 S., R. 5 E.,
Sec. 17, NW¼SW¼;
Sec. 18, lot 1, NE¼SW¼;
Sec. 19, S½NE¼;
Sec. 20, NE½NE¼, NE¼NW¼, SW¼NW¼;
Sec. 21, SE¼NE¼, W½NW¼, NW¼SW¼, SE¼SW¼;
Sec. 23, S½N½;
Sec. 24, S½N½;
Sec. 26, NW¼NW¼;
Sec. 27, lot 2.
T. 5 S., R. 6 E.,
Sec. 19, lot 3, SE¼NW¼, SW¼SE¼.
T. 6 S., R. 6 E.,
Sec. 6, NW¼NE¼, SE¼NE¼.

POWERSITE RESERVE NO. 117

T. 5 S., R. 4 E.,
Sec. 12, NE¼SE¼;
Sec. 13, SW¼NE¼.

The areas described aggregate 1,200.11 acres in Owyhee County.

2. All of the lands described above are public lands except those described as NW¼SW¼, sec. 17, SW¼NE¼, sec. 19, NW¼NW¼, sec. 26, and lot 2, sec. 27, T. 5 S., R. 5 E., and SE¼NE¼, sec. 6, T. 6 S., R. 6 E., which have been patented. The public lands described as the NE¼SE¼, sec. 12, T. 5 S., R. 4 E., lot 1, sec. 18, S½NW¼, sec. 23, and S½N½, sec. 24, T. 5 S., R. 5 E., and lot 3, SE¼NW¼, SW¼SE¼, sec. 19, T. 5 S., R. 6 E., are withdrawn for the Mountain Home Reclamation Project, and will remain so withdrawn.

3. All of the unreserved and unappropriated public lands described above in paragraph 1 of this order shall at 10 a.m. on November 16, 1972, be open to operation of the public land laws generally, subject to valid existing rights, the requirements of applicable law, and the provisions of existing withdrawals. All valid applications received at or prior to 10 a.m. on November 16, 1972, shall be considered in the order of filing. These public lands have been and will continue to be open to location and entry under the U.S. mining laws, and to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Boise, Idaho 83702.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17901 Filed 10-19-72;8:47 am]

[Public Land Order 5274]

[Colorado 13069]

COLORADO

Partial Revocation of Reclamation Project Withdrawal

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. sec. 416 (1970), it is ordered as follows:

1. The Executive orders of July 21, 1915, and August 27, 1915, and Public Land Orders Nos. 3735 and 3736 of July 6, 1965, withdrawing lands for the Juniper Project, Colorado River Storage Project, are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 5 N., R. 92 W.,
Sec. 1, lot 6, that part of lot 10 lying in what would normally be the NE¼SE¼, SW¼NE¼, and SE¼SE¼;
Sec. 7, lot 8;
Sec. 10, N½S½;
Sec. 11, NW¼SW¼;
Sec. 12, E½NE¼; NE¼SE¼;
Sec. 17, E½W½;
Sec. 18, lot 5;
Sec. 20, E½W½.
T. 5 N., R. 93 W.,
Sec. 2, lot 8;
Sec. 3, lot 5;
Sec. 12, E½SE¼;
Sec. 18, lots 7 and 8, SE¼SW¼.
T. 6 N., R. 93 W.,
Sec. 19, SW¼SE¼;
Sec. 22, SW¼SW¼;
Sec. 25, NE¼SW¼;
Sec. 27, W½NW¼, NW¼SW¼;
Sec. 28, NE¼SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, SW¼SW¼.
T. 6 N., R. 94 W.,
Sec. 3, N½SW¼;
Sec. 7, SW¼NE¼;
Sec. 11, N½NE¼.
T. 6 N., R. 95 W.,
Sec. 13, NE¼SE¼.

The areas described aggregate 1,752.05 acres in Moffat County.

The lands are located on the north slopes of Duffy and Iles Mountains. Vegetative cover is pinon-juniper woodlands, brush and native grasses and forbs.

2. At 10 a.m. on November 16, 1972, the lands shall be open to operation of the public land laws generally, including the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 16, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17902 Filed 10-19-72;8:47 am]

[Public Land Order 5275]

[Utah 11462, 084960]

UTAH

Withdrawing Lands for Use of National Science Foundation for Seismological Observatory; Public Land Order No. 2654 Revoked

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Ch. 2, and from leasing under the mineral leasing laws, and reserved for use of the National Science Foundation for the operation of seismic facilities:

SALT LAKE MERIDIAN

T. 6 S., R. 21 E.,
Secs. 4, 5, 8 and 9.

The areas described aggregate 2,312.21 acres in Uintah County.

2. Public Land Order No. 2654 of April 9, 1962, withdrawing the lands described in paragraph 1 above for use by the Department of the Air Force is hereby revoked.

3. The Department of the Interior shall retain jurisdiction of the mineral and vegetative resources in the lands withdrawn by this order. However, the National Science Foundation may issue permits revocable at will for authorized use of the lands included in this order; but authority to change the use specified by this order or to grant rights to others to use the lands, including grants of leases, licenses, easements, and rights-of-way, is reserved to the Secretary of the Interior or his authorized delegate, provided that no grants will be made under this authority without the approval of an authorized officer of the National Science Foundation.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17903 Filed 10-19-72;8:47 am]

[Public Land Order 5276]

[Oregon 6999 (Wash.)]

WASHINGTON

Withdrawal for National Forest Research Natural Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

UMATILLA NATIONAL FOREST

WILLAMETTE MERIDIAN

Rainbow Creek Research Natural Area

T. 7 N., R. 40 E.,
Sec. 14, E½SE¼SW¼NW¼, W½SW¼SE¼NW¼, W½NW¼NE¼SW¼, SW¼NE¼SW¼, S½SE¼NE¼SW¼, E½E½W½SW¼, SE¼SW¼, W½SW¼SE¼, W½SE¼SW¼SE¼;
Sec. 22, SE¼NE¼NE¼, E½SE¼NE¼, NE¼NE¼SE¼;
Sec. 23, NE¼NW¼, S½NW¼, S½NW¼NW¼, E½NE¼NW¼NW¼, SW¼, W½E½, W½, SE¼NE¼, W½W½NE¼SE¼, W½SE¼SE¼,SE¼SE¼SE¼, S½NE¼SE¼SE¼;
Sec. 26, N½N½N½NE¼.

Pataha Bunchgrass Research Natural Area

T. 9 N., R. 42 E.,
Sec. 1, NE¼SE¼NW¼, S½NW¼SE¼NW¼, S½SE¼NW¼, S½NE¼SW¼NW¼, SE¼SW¼NW¼, N½NE¼SW¼, N½S½NE¼SW¼, N½NE¼NW¼SW¼.

The areas described aggregate approximately 790 acres in Columbia and Garfield Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17904 Filed 10-19-72;8:47 am]

[Public Land Order 5277]

[Arizona 6297]

ARIZONA

Modification of Reclamation Withdrawals To Permit Grant of Right-of-Way

By virtue of the authority contained in section 3 of the Act of June 17, 1902, 32 Stat. 388, as amended and supplemented, 43 U.S.C. § 416 (1970), it is ordered as follows:

1. The departmental orders of July 2, 1902, January 31, 1903, September 30, 1904, July 20, 1905, February 19, 1929, and March 14, 1929, withdrawing lands in Arizona for reclamation purposes, are hereby modified to the extent necessary to permit the location of a right-of-way under section 2477, U.S. Revised Statutes, 43 U.S.C. § 932, by Yuma County, Ariz., over the following described lands, as delineated on a map filed by the Yuma County Highway Department with the Bureau of Land Management in Arizona 6297, for the construction of a public road:

GILA AND SALT RIVER MERIDIAN

T. 8 S., R. 21 W.,
Sec. 21, east 33' of E½, north 33' of N½, west 33' of NW¼, south 33' of SE¼;
Sec. 28, east 33' of E½, north 33' of NE¼, north 33' of E½NW¼, south 33' of E½SW¼, south 33' of SE¼.
T. 8 S., R. 22 W.,
Sec. 19, east 33' of SE¼SE¼, south 33' of S½SE¼;
Sec. 30, north 33' of lot 12, west 33' of lot 12 north of Gila River, east 33' of N½NE¼, north 33' of N½NE¼;
Sec. 36, east 33' of S½N½SE¼, south 33' of E½SE¼SW¼, south 33' of S½SE¼, east 33' of S½SE¼.
T. 9 S., R. 22 W.,
Sec. 1, west 33' of SW¼NW¼;
Sec. 5, west 33' of SW¼NW¼, east 33' of SE¼NE¼;
Sec. 6, north 33' of NE¼NW¼, east 33' of E½ north of Southern Pacific Railroad south right-of-way line, north 33' of N½NE¼.
T. 8 S., R. 23 W.,
Sec. 24, south 33' of lot 24;
Sec. 34, east 200' of SE¼NE¼ north of Interstate Highway 8 north right-of-way line, east 168' of SE¼NE¼ south of Interstate Highway 8 south right-of-way line;
Sec. 35, west 67' of NW¼SW¼, that portion of the S½SW¼NW¼SW¼ south of Southern Pacific Railroad south right-of-way line, east 33' of NE¼SE¼.
T. 9 S., R. 23 W.,
Sec. 1, east 33' of E½NE¼ north of Southern Pacific Railroad south right-of-way line, north 33' of the N½.

The areas described aggregate 62.20 acres in Yuma County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17905 Filed 10-19-72;8:47 am]

[Public Land Order 5278]

[Wyoming 33664, 33665]

WYOMING

Partial Revocation of National Forest Administrative and Campground Site Withdrawals

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Secretary's orders of December 4, 1906, and June 17, 1908, and Public Land Order No. 3841 of October 9, 1965, withdrawing national forest lands as administrative and campground sites are hereby revoked so far as they affect the following described lands:

SIXTH PRINCIPAL MERIDIAN

SHOSHONE NATIONAL FOREST

Wyoming 33664

T. 47 N., R. 102 W.,
Sec. 32, SE¼SE¼.

Wyoming 33665

T. 43 N., R. 107 W.,
Sec. 24, SE¼;
Sec. 25, E½NE¼NE¼.

The areas described aggregate 220 acres, in Fremont and Park Counties.

The lands described in T. 43 N., R. 107 W., are withdrawn from location and entry under the U.S. mining laws, in connection with the Horse Creek Ranger Station Administrative Site by Public Land Order No. 2845 of December 7, 1962, and remain so withdrawn.

2. At 10 a.m. on November 16, 1972, the unreserved lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17906 Filed 10-19-72;8:47 am]

[Public Land Order 5279]

[Arizona 5968]

ARIZONA

Withdrawal for National Forest Administrative Site and Wildlife Enclosure

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws in aid of programs of the Department of Agriculture:

TONTO NATIONAL FOREST

GILA AND SALT RIVER MERIDIAN

Cline Cabin Wildlife Enclosure

T. 4 N., R. 9 E. (unsurveyed),
Sec. 3, NW¼NE¼.

Payson Administrative Site

T. 10 N., R. 10 E.,
Sec. 2, lots 2, 3, 4, SW¼NE¼, S½NW¼, N½SW¼, NW¼SE¼.

The areas described aggregate 398.90 acres in Maricopa and Gila Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17907 Filed 10-19-72;8:47 am]

V37-204 OCT 20 72 XUM

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 72-25; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires, Tire Selection, and Rims for Passenger Cars

This amendment adds certain tire size designations to Motor Vehicle Safety Standard No. 109 (49 CFR 571.109) and adds alternative rim sizes and test rims to Motor Vehicle Safety Standard No. 110 (49 CFR 571.110).

On October 5, 1968, guidelines were published in the FEDERAL REGISTER (33 F.R. 14964) by which routine additions could be made to Appendix A, Standard No. 109, and to Appendix A, Standard No. 110. Under these guidelines the additions become effective 30 days from the date of publication in the FEDERAL REGISTER, if no objections are received. If objections are received, rule making pursuant to the procedures for motor vehicle safety standards (49 CFR Part 553) is followed.

Accordingly, Appendix A of Motor Vehicle Safety Standard No. 109 (49 CFR 571.109), and Appendix A of Motor Vehicle Safety Standard No. 110 (49 CFR 571.110), are amended, subject to the 30-day provision indicated above, as specified below.

A. The following changes are to be made to Appendix A of § 571.109 *Standard No. 109; New Pneumatic Tires:*

(Amendments requested by the Rubber Manufacturers Association.)

1. In Table I–R, the following new-tire size designation and corresponding values are added:

TABLE I–R

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60" SERIES RADIAL PLY TIRES

Tire size [1] designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
AR60-13	720	770	810	860	900	940	980	1,020	1,060	1,090	1,130	1,160	1,200	5½	30.00	7.85

2. In Table I–V the following new-tire size designations and corresponding values are added:

TABLE I–V

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "50" SERIES BIAS PLY TIRES

Tire size [1] designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
G50–15	1,100	1,180	1,250	1,310	1,380	1,440	1,500	1,560	1,620	1,680	1,730	1,780	1,830	7	35.38	10.35
H50–15	1,200	1,290	1,360	1,440	1,510	1,580	1,650	1,710	1,770	1,830	1,890	1,950	2,010	8	36.76	11.15
N50–15	1,500	1,600	1,700	1,790	1,880	1,970	2,050	2,150	2,210	2,280	2,360	2,430	2,500	9	39.65	12.65

(Amendments requested by the European Tyre and Rim Technical Organisation.)

3. In Table I–N the following new-tire size designation and corresponding values are added:

TABLE I–N

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "70" SERIES RADIAL PLY TIRES

Tire size [1] designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
165/70R10	585	630	615	630	650	665	680	700	715	730	745	760	780	4½	25.50	6.50

4. In Table I–S, the following new-tire size designation and corresponding values are added:

TABLE I–S

TIRE LOAD RATINGS, TEST RIMS, MINIMUM SIZE FACTORS, AND SECTION WIDTHS FOR "60" SERIES RADIAL PLY TIRES

Tire size [1] designation	Maximum tire loads (pounds) at various cold inflation pressures (p.s.i.)													Test rim width (inches)	Minimum size factor (inches)	Section width [2] (inches)
	16	18	20	22	24	26	28	30	32	34	36	38	40			
205/60R14	810	890	930	980	1,030	1,070	1,110	1,150	1,190	1,230	1,270	1,300		6	31.13	8.13

B. The following changes are to be made to Appendix A of § 571.110 *Standard No. 110; Tire Selection and Rims:*

(Amendments requested by the Rubber Manufacturers Association.)

1. In Table I–G, the 6–JJ alternative rim size is added for the ER70–14 tire size designation and the 6–JJ alternative rim size is added for the HR70–14 tire size designation.

2. In Table I–R, the 5½–JJ test rim is added for the AR60–13 tire size designation.

3. In Table I–V, the 7–JJ test rim is added for the G50–15 tire size designation, the 8–JJ test rim is added for the H50–15 tire size designation and the 9–JJ test rim is added for N50–15 tire size designation.

(Amendments requested by the European Tyre and Rim Technical Organisation.)

4. In Table I–S the 6–JJ test rim and the 7–JJ alternative rim is added for the tire size designation 205/60R14.

5. In Table I–N the 4½–JJ test rim is added for the tire size designation 165/70R10.

(Amendment requested by the Ford Motor Co.)

6. In Table I–H the 5½–JJ alternative rim is added for the 165R13 tire size designation.

Following is a tabulation of the changes made by this amendment:

FMVSS No. 110—APPENDIX A

TABLE I

(Changes made by this amendment only)

Table I–G:	
ER70–14	6–JJ
HR70–14	6–JJ
Table I–H:	
165R13	5½–JJ
Table I–N:	
165/70R10	4½–JJ
Table I–R:	
AR60–13	5½–JJ
Table I–S:	
205/60R14	6–JJ, 7–JJ
Table I–V:	
G50–15	7–JJ
H50–15	8–JJ
N50–15	9–JJ

Italic designations denote test rims.

Where JJ rims are specified in the above tables, J and JK rim contours are permissible.

Table designations refer to tables listed in Appendix A of Standard No. 109 (§ 571.109).

(Secs. 103, 119, 201, 202, National Traffic and Motor Vehicle Safety Act of 1966, 15 USC 1392, 1407, 1421, 1422; Delegation of authority, 49 CFR 1.51, 40 CFR 501.8)

Issued on October 16, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-17870 Filed 10-17-72;9:25 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC–85]

PART 1062—SPECIAL REGULATIONS FOR FOR-HIRE MOTOR CARRIERS ENGAGED IN THE TRANSPORTATION FOR RECYCLING OR REUSE OF "WASTE" PRODUCTS IN FURTHERANCE OF RECOGNIZED POLLUTION CONTROL PROGRAMS

Transportation of "Waste" Products for Reuse and Recycling

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 15th day of February 1972.

Upon consideration of the record in the above-entitled proceedings, and of:

(1) Petition of Institute of Scrap Iron & Steel, Inc., intervener in opposition, filed November 30, 1971, for reconsideration;

(2) Petition (letter) of Louis Padnos Iron & Metal Company, intervener in opposition, filed December 6, 1971, for reconsideration;

(3) Petition of Glass Container Manufacturers Institute, Inc., intervener in support, filed December 13, 1971, for vacation of that portion of the Commission's order in this proceeding of November 30, 1971, which postponed the date that the regulations promulgated in this proceeding would become effective;

(4) Reply to the petition in (3) above by the Western Railroad Traffic Association, interveners in opposition, filed December 20, 1971;

(5) Petition of Southern Freight Association, interveners in opposition, filed December 27, 1971, for reconsideration;

(6) Petition of Western Railroad Traffic Association, filed December 28, 1971, for reconsideration and for reopening for further hearing and oral argument;

(7) Petition of Traffic Executive Association—Eastern Railroads, intervener in opposition, filed December 29, 1971, for reconsideration;

(8) Petition of Chemical Leaman Tank Lines, Inc., intervener in opposition, filed December 29, 1971, for reconsideration;

(9) Petition of National Tank Truck Carriers, Inc., intervenor in opposition, filed December 29, 1971, for reconsideration, or in the alternative, for reopening for receipt of additional evidence and for oral hearing;

(10) Petition of Regular Common Carrier Conference of American Trucking Associations, Inc., intervenor in opposition, filed December 29, 1971, for reconsideration;

(11) Joint petition of Dieckbrader Express, Inc., and Schneider Transport & Storage, Inc., inteveners in opposition, filed December 30, 1971, for reconsideration;

(12) Petition of Johnson Motor Lines, Inc., intervener in opposition, filed December 30, 1971, for reconsideration;

(13) Reply to the petitions in (6), (7), (8), (9), and (10) by the Glass Container Manufacturers Institute, Inc., filed January 14, 1972;

and good cause appearing therefor:

It is ordered, That the petitions in (1), (2), (5), (6), (7), (8), (9), (10), (11), and (12) above be, and they are hereby denied, for the reasons (a) that the findings of the Commission, in its report and order of September 30, 1971, reported at 114 M.C.C. 92, are in accordance with the evidence and the applicable law, (b) that such findings are clear and unambiguous, and (c) that no sufficient or proper cause appears for reopening the proceeding for receipt of additional evidence, for further hearing, for reconsideration, or for granting any of the relief sought.

It is further ordered, That in view of the action taken in the next succeeding paragraph, the petition in (3) above, be, and it is hereby, denied.

It is further ordered, That the effective date of the order of September 30, 1971, in the above-entitled proceeding, be, and it is hereby, fixed as of March 20, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-17982 Filed 10-19-72;9:00 am]

VOL 37 NO 204 OCT 20 72 XUM

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act, Fiscal Year 1973

Pursuant to section 4 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$6,963,685	$6,813,965	$149,720
Alaska	292,508	292,508	
Arizona	1,972,148	1,972,148	
Arkansas	3,868,220	3,796,271	71,949
California	10,584,079	10,584,079	
Colorado	2,466,534	2,363,186	103,348
Connecticut	1,838,687	1,838,687	
Delaware	632,656	632,656	
District of Columbia	544,840	544,840	
Florida	8,432,576	8,432,576	
Georgia	9,419,339	9,419,339	
Guam	172,787	172,787	
Hawaii	1,252,151	1,196,179	55,972
Idaho	995,048	971,962	23,086
Illinois	8,485,536	8,485,536	
Indiana	5,546,875	5,546,875	
Iowa	4,102,184	3,724,783	377,401
Kansas	2,902,382	2,902,382	
Kentucky	6,089,074	6,089,074	
Louisiana	8,091,721	8,091,721	
Maine	1,257,614	1,163,795	93,819
Maryland	2,881,593	2,881,593	
Massachusetts	5,224,937	5,224,937	
Michigan	6,309,945	6,309,945	
Minnesota	5,312,506	5,312,506	
Mississippi	5,519,582	5,519,582	
Missouri	5,289,478	5,289,478	
Montana	703,383	672,293	31,090
Nebraska	1,759,472	1,565,050	194,422
Nevada	232,835	231,717	1,118
New Hampshire	724,400	724,400	
New Jersey	3,363,043	3,112,496	250,547
New Mexico	1,805,289	1,805,289	
New York	13,561,615	13,561,615	
North Carolina	10,138,433	10,138,433	
North Dakota	1,046,653	950,256	96,397
Ohio	8,911,814	8,246,101	665,713
Oklahoma	3,554,296	3,554,296	
Oregon	2,113,242	2,113,242	
Pennsylvania	10,993,285	10,226,885	767,400
Puerto Rico	5,500,168	5,500,168	
Rhode Island	453,548	453,548	
South Carolina	5,759,461	5,708,201	51,260
South Dakota	1,047,872	1,047,872	
Tennessee	6,601,023	6,521,810	79,213
Texas	12,108,595	11,810,723	297,872
Utah	2,097,077	2,097,077	
Vermont	460,863	460,863	
Virginia	6,358,142	6,294,560	63,582
Virgin Islands	173,058	173,058	
Washington	2,729,214	2,688,548	40,666
West Virginia	2,776,575	2,736,037	40,538
Wisconsin	4,171,782	3,538,505	633,277
Wyoming	376,095	376,095	
Samoa, American	126,012	126,012	
Total	225,747,000	221,658,610	4,088,390

(Secs. 2–12, 60 Stat. 230, as amended; 42 U.S.C. 1751–1760)

Dated: October 16, 1972.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.72-17997 Filed 10-19-72;9:03 am]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act, Fiscal Year 1973

Pursuant to section 11 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$8,725,526	$8,672,300	$53,226
Alaska	228,188	228,188	
Arizona	1,882,276	1,882,276	
Arkansas	5,279,643	5,237,934	41,709
California	11,562,472	11,562,472	
Colorado	1,906,971	1,815,246	91,725
Connecticut	1,257,540	1,257,540	
Delaware	407,377	407,377	
District of Columbia	871,870	871,870	
Florida	7,707,327	7,707,327	
Georgia	9,689,969	9,689,969	
Guam	167,449	167,449	
Hawaii	648,418	512,445	135,973
Idaho	819,997	794,331	25,666
Illinois	7,817,695	7,817,695	
Indiana	4,438,562	4,438,562	
Iowa	3,690,259	3,254,808	435,451
Kansas	2,416,830	2,416,830	
Kentucky	7,057,780	7,057,780	
Louisiana	7,961,795	7,961,795	
Maine	1,358,529	1,274,300	84,229
Maryland	3,095,784	3,095,784	
Massachusetts	3,201,304	3,201,304	
Michigan	6,537,828	6,537,828	
Minnesota	4,028,219	4,028,219	
Mississippi	7,771,284	7,771,284	
Missouri	5,834,845	5,834,845	
Montana	817,421	724,235	93,186
Nebraska	2,021,800	1,764,223	257,577
Nevada	192,732	190,400	2,332
New Hampshire	487,394	487,394	
New Jersey	3,577,568	3,383,306	194,262
New Mexico	1,780,668	1,780,668	
New York	12,537,193	12,537,193	
North Carolina	12,451,196	12,451,196	
North Dakota	1,224,522	983,659	240,863
Ohio	8,056,759	7,355,821	700,938
Oklahoma	3,925,046	3,925,046	
Oregon	1,364,989	1,364,989	
Pennsylvania	10,766,251	9,677,783	1,088,468
Puerto Rico	6,801,059	6,801,059	
Rhode Island	778,815	778,815	
South Carolina	7,266,562	7,254,209	12,353
South Dakota	1,358,091	1,358,091	
Tennessee	8,800,809	8,564,686	36,123
Texas	18,058,888	17,699,516	359,372
Utah	746,509	746,509	
Vermont	546,051	546,051	
Virginia	7,369,482	7,342,215	27,267
Virgin Islands	77,556	77,556	
Washington	2,047,301	2,005,946	41,355
West Virginia	3,872,759	3,853,395	19,364
Wisconsin	3,558,139	2,926,925	631,214
Wyoming	330,556	330,556	
Samoa, American	65,347	65,347	
Total	237,047,000	232,474,347	4,572,653

(Secs. 2–12, 60 Stat. 230, as amended; 42 U.S.C. 1751–1760)

Dated: October 16, 1972.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.72-17998 Filed 10-19-72;9:03 am]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Apportionment of School Breakfast Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1973

Pursuant to section 4 of the Child Nutrition Act of 1966, Public Law 89–642, 80 Stat. 886, food assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Initial apportionment	State agency	Withheld for private schools
Alabama	$338,576	$331,127	$7,449
Alaska	62,124	62,124	
Arizona	131,727	131,727	
Arkansas	210,300	206,304	3,996
California	488,607	488,607	
Colorado	152,214	145,821	6,393
Connecticut	126,197	126,197	
Delaware	76,217	76,217	
District of Columbia	72,578	72,578	
Florida	399,448	399,448	
Georgia	440,339	440,339	
Guam	22,160	22,160	
Hawaii	101,889	97,304	4,585
Idaho	91,235	89,137	2,098
Illinois	401,642	401,642	
Indiana	279,864	279,864	
Iowa	219,996	199,756	20,240
Kansas	153,285	153,285	
Kentucky	302,332	302,332	
Louisiana	385,323	385,323	
Maine	102,116	94,457	7,659
Maryland	169,414	169,414	
Massachusetts	266,522	266,522	
Michigan	311,485	311,485	
Minnesota	271,395	271,395	
Mississippi	278,733	278,733	
Montana	79,148	75,665	3,483
Nebraska	269,197	269,197	
Nevada	122,913	109,270	13,643
New Hampshire	59,648	59,350	298
New Jersey	80,019	80,019	
New Mexico	189,365	175,163	14,202
New York	124,812	124,812	
North Carolina	611,995	611,995	
North Dakota	470,139	470,139	
Ohio	93,374	84,781	8,590
Oklahoma	419,307	387,859	31,448
Oregon	197,291	197,291	
Pennsylvania	138,816	138,816	
Puerto Rico	505,605	470,213	35,392
Rhode Island	277,928	277,928	
South Carolina	68,795	68,795	
South Dakota	288,673	286,075	2,598
Tennessee	93,424	93,424	
Texas	393,548	389,665	3,883
Utah	551,783	537,988	13,795
Vermont	136,903	136,903	
Virginia	69,098	69,098	
Virgin Islands	313,483	310,348	3,135
Washington	22,172	22,172	
West Virginia	163,099	160,653	2,446
Wisconsin	165,001	162,585	2,476
Wyoming	222,879	189,004	33,875
Samoa, American	65,585	65,585	
Total	20,222	20,222	
	12,000,000	11,778,313	221,687

(Secs. 2, 4, 6, and 8 through 16, 80 Stat. 885–890; 42 U.S.C. 1771, 1773, 1775, 1777–1785)

Dated: October 16, 1972.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.72-17999 Filed 10-19-72;9:03 am]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1973

Pursuant to section 5 of the Child Nutrition Act of 1966, as amended, Public Law 89–642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$198,970	$183,645	$15,325
Alaska	31,345	31,345	
Arizona	169,110	169,110	
Arkansas	106,982	102,664	4,318
California	1,137,885	1,137,885	
Colorado	139,985	111,078	28,907
Connecticut	310,012	310,012	
Delaware	41,398	41,398	
District of Columbia	23,152	23,152	
Florida	433,861	433,861	
Georgia	302,857	302,857	
Guam	4,467	4,467	
Hawaii	59,111	44,109	15,032
Idaho	51,573	48,204	3,369
Illinois	911,412	911,412	
Indiana	516,784	516,784	
Iowa	182,381	152,075	30,309
Kansas	155,591	155,591	
Kentucky	199,317	199,317	
Louisiana	244,156	244,156	
Maine	84,394	74,561	9,833
Maryland	222,286	222,286	
Massachusetts	768,499	768,499	
Michigan	697,910	697,910	
Minnesota	280,693	280,693	
Mississippi	199,112	199,112	
Missouri	205,580	205,580	
Montana	88,167	78,684	9,483
Nebraska	174,131	156,493	17,638
Nevada	20,359	14,245	6,114
New Hampshire	92,135	92,135	
New Jersey	867,370	662,119	205,251
New Mexico	71,393	71,393	
New York	1,240,412	1,240,412	
North Carolina	321,657	321,657	
North Dakota	43,645	40,480	3,165
Ohio	748,601	579,708	168,893
Oklahoma	118,574	118,574	
Oregon	130,045	130,045	
Pennsylvania	1,031,181	807,236	223,945
Puerto Rico	228,474	228,474	
Rhode Island	107,662	107,662	
South Carolina	182,348	158,143	24,205
South Dakota	46,574	46,574	
Tennessee	204,556	195,166	9,390
Texas	479,933	401,280	78,644
Utah	79,108	79,108	
Vermont	36,205	36,205	
Virginia	241,202	216,990	24,212
Virgin Islands	9,180	9,180	
Washington	176,750	129,049	47,701
West Virginia	100,766	89,266	11,500
Wisconsin	405,510	314,534	90,976
Wyoming	31,841	31,841	
Samoa, American	4,055	4,055	
Total	15,000,000	13,971,790	1,028,210

(Secs. 2, 5, 6, and 8 through 16, 80 Stat. 885–890; U.S.C. 1771, 1774, 1775, 1777–1785)

Pursuant to sections 5(b) and 5(e) of the Child Nutrition Act of 1966, as amended, Public Law 89–642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1973, are apportioned among the States as follows:

SECTION 5(b)

State	Total apportionment	State agency	Withheld for private schools
Alabama	$187,334	$183,310	$4,024
Alaska	10,862	10,862	
Arizona	66,559	66,559	
Arkansas	104,061	102,122	1,939
California	392,923	392,923	
Colorado	88,046	84,355	3,691
Connecticut	68,260	68,260	
Delaware	23,487	23,487	
District of Columbia	20,227	20,227	
Florida	280,863	280,863	
Georgia	296,343	296,343	
Guam	4,112	4,112	
Hawaii	46,485	44,409	2,076
Idaho	30,279	29,576	703
Illinois	315,017	315,017	
Indiana	201,885	201,885	
Iowa	143,670	130,457	13,213
Kansas	90,714	90,714	
Kentucky	176,602	176,602	
Louisiana	234,686	234,686	
Maine	38,269	35,415	2,854
Maryland	106,977	106,977	
Massachusetts	193,971	193,971	
Michigan	234,251	234,251	
Minnesota	190,707	190,707	
Mississippi	134,589	134,589	
Missouri	185,252	185,252	
Montana	22,129	21,152	977
Nebraska	62,807	55,867	6,940
Nevada	8,644	8,603	41
New Hampshire	24,448	24,448	
New Jersey	124,850	115,550	9,300
New Mexico	53,190	53,190	
New York	503,460	503,460	
North Carolina	308,509	308,509	
North Dakota	30,838	27,998	2,840
Ohio	330,843	306,118	24,725
Oklahoma	111,822	111,822	
Oregon	75,062	75,062	
Pennsylvania	408,152	379,651	28,501
Puerto Rico	113,438	113,438	
Rhode Island	16,837	16,837	
South Carolina	159,253	158,113	1,420
South Dakota	31,886	31,886	
Tennessee	191,490	192,150	2,340
Texas	401,358	391,483	9,875
Utah	62,784	62,784	
Vermont	15,008	15,008	
Virginia	218,555	216,363	2,192
Virgin Islands	4,867	4,867	
Washington	101,330	99,805	1,515
West Virginia	78,090	76,953	1,137
Wisconsin	146,107	123,925	22,182
Wyoming	12,693	12,693	
Samoa, American	2,599	2,599	
Total	7,500,000	7,357,515	112,485

(Secs. 2, 5, 6, and 8 through 16, 80 Stat. 885–890; U.S.C. 1771, 1774, 1775, 1777–1785)

SECTION 5(e)

State	Total apportionment	State agency	Withheld for private schools
Alabama	$11,636	$335	$11,301
Alaska	20,483	20,483	
Arizona	102,551	102,551	
Arkansas	2,921	542	2,379
California	744,962	744,962	
Colorado	51,939	26,723	25,216
Connecticut	271,752	271,752	
Delaware	17,911	17,911	
District of Columbia	2,925	2,925	
Florida	143,998	143,998	
Georgia	6,524	6,524	
Guam	355	355	
Hawaii	12,956		12,956
Idaho	21,294	18,628	2,666
Illinois	596,395	596,395	
Indiana	314,899	314,899	
Iowa	38,714	21,618	17,096
Kansas	64,877	64,877	
Kentucky	22,715	22,715	
Louisiana	9,470	9,470	
Maine	46,125	39,146	6,979
Maryland	115,309	115,309	
Massachusetts	574,528	574,528	
Michigan	463,659	463,659	
Minnesota	98,986	98,986	
Mississippi	64,303	64,303	
Missouri	20,328	20,328	
Montana	66,038	57,532	8,506
Nebraska	111,324	100,626	10,698
Nevada	11,715	5,642	6,073
New Hampshire	67,687	67,687	
New Jersey	742,520	546,569	195,951
New Mexico	18,203	18,203	
New York	736,952	736,952	
North Carolina	13,148	13,148	
North Dakota	12,807	12,482	325
Ohio	417,758	273,590	144,168
Oklahoma	6,752	6,752	
Oregon	54,983	54,983	
Pennsylvania	623,029	427,585	195,444
Puerto Rico	115,036	115,036	
Rhode Island	90,825	90,825	
South Carolina	22,785		22,785
South Dakota	14,688	14,688	
Tennessee	10,066	3,016	7,050
Texas	78,575	9,806	68,769
Utah	16,324	16,324	
Vermont	21,197	21,197	
Virginia	22,617	617	22,000
Virgin Islands	4,313	4,313	
Washington	75,430	29,244	46,186
West Virginia	22,676	12,313	10,363
Wisconsin	259,403	190,609	68,794
Wyoming	19,148	19,148	
Samoa, American	1,456	1,456	
Total	7,500,000	6,614,275	885,725

(Secs. 2, 5, 6, and 8 through 16, 80 Stat. 885–890; U.S.C. 1771, 1774, 1775, 1777–1785)

Dated: October 16, 1972.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.72-18000 Filed 10-19-72;9:03 am]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 36]

PART 1036—MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

It is hereby found and determined that for the months of November and December 1972 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1036.41(c)(6)(iv), "and bulk cream;"

2. In § 1036.41(c)(6)(vii), "and bulk cream;" and

3. In § 1036.42(b)(1), "and bulk cream."

Statement of consideration. This suspension will change the amount of allowable Class III shrinkage on bulk

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cream transferred from a pool plant to other plants. It continues the same effect of previous suspension orders effective from May 1971 through October 1972. The present order limits Class III shrinkage, at the transferor-plant, on cream derived from a handler's receipts of producer milk and transferred to other plants to 0.5 percent of the cream. Suspension will increase the allowable Class III shrinkage at the transferor-plant to 2 percent of the cream.

A cooperative association, which handles at its pool balancing plant a substantial proportion of the market's reserve supplies of milk, has requested continued suspension of the provisions set forth hereinbefore. The cooperative receives producer milk, at farms weights and tests, separates it, and transfers the cream to other plants for churning. The activities performed by the cooperative usually result in more than ½-percent loss on the cream transfers involved.

A greater loss (or shrinkage) of product occurs in handling cream than in handling fluid milk. However, the present shrinkage provisions do not distinguish between cream and fluid milk on the amount of Class III shrinkage allowed at the plant separating the cream.

It is hereby found and determined that notice of proposed rule making, public proceedings thereon, and 30 days' notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the present Class III shrinkage allowance does not reflect operating experience in cream handling;

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Producers requested amendment of the order to this effect at a public hearing held on January 25, 1972. A specific proposal to amend the aforesaid provisions was included in the hearing notice (37 F.R. 465) and was adopted in the recommended decision issued July 17, 1972 (37 F.R. 14393). Interim action is necessary during the pendency of amendatory procedures. Therefore, good cause exists for making this order effective on November 1, 1972.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of November and December 1972.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: November 1, 1972.

Signed at Washington, D.C., on October 16, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-17930 Filed 10-19-72;8:56 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Proposed Expenses of Raisin Administrative Committee and Rate of Assessment for 1972–73 Crop Year

Notice is hereby given of a proposal regarding expenses of the Raisin Administrative Committee for the 1972–73 crop year and rate of assessment for that crop year, pursuant to §§ 989.79 and 989.80 of the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 37 F.R. 19621, 20022), regulating the handling of raisins produced from grapes grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Raisin Administrative Committee has unanimously recommended for the crop year beginning September 1, 1972 (1972–73 crop year), a budget of expenses in the total amount of $193,700 and an assessment rate of $1.90 per ton of assessable raisins. Expenses in that amount and the assessment rate are specified in the proposal hereinafter set forth.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 31, 1972. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal follows:

§ 989.323 Expenses of the Raisin Administrative Committee and rate of assessment for the 1972–73 crop year.

(a) *Expenses.* Expenses (other than those specified in § 989.82) in the amount of $193,700 are reasonable and likely to be incurred by the Raisin Administrative Committee during the crop year beginning September 1, 1972, for the maintenance and functioning of the Committee and the Raisin Advisory Board and for such purposes as the Secretary may, in accordance with § 989.79, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 989.80, to pay to the Raisin Administrative Committee as his pro rata share of the expenses is fixed at $1.90 per ton applicable to each of the following:

(1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins pursuant to subparagraph (3) of this paragraph;

(2) Reserve tonnage raisins released or sold to the handler for use as free tonnage, during the crop year; and

(3) Standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

Dated: October 17, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-17995 Filed 10-19-72;8:57 am]

Agricultural Marketing Service

[7 CFR Parts 1007, 1071, 1073, 1090, 1094, 1096, 1097, 1098, 1102, 1103, 1108, 1104, 1106, 1120, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1138, 1060, 1061, 1063, 1064, 1065, 1068, 1069, 1070, 1076, 1078, and 1079]

MILK IN CERTAIN MARKETING AREAS

Notice of Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR part	Market	Docket No.
	GROUP I	
1007	Georgia	AO-366-A8.
1071	Neosho Valley	AO-227-A26.
1073	Wichita, Kansas	AO-173-A26.
1090	Chattanooga, Tennessee	AO-266-A15.
1094	New Orleans, Louisiana	AO-103-A33.
1096	Northern Louisiana	AO-257-A20.
1097	Memphis, Tennessee	AO-219-A25.
1098	Nashville, Tennessee	AO-184-A31.
1102	Fort Smith, Arkansas	AO-237-A20.
1103	Mississippi	AO-346-A14.
1108	Central Arkansas	AO-243-A22.
	GROUP II	
1104	Red River Valley	AO-298-A19.
1106	Oklahoma Metropolitan	AO-210-A31.
1120	Lubbock-Plainview, Texas	AO-328-A13.
1126	North Texas	AO-231-A37.
1127	San Antonio, Texas	AO-232-A23.
1128	Central West Texas	AO-238-A26.
1129	Austin-Waco, Texas	AO-256-A19.
1130	Corpus Christi, Texas	AO-259-A23.
1131	Central Arizona	AO-271-A15.
1132	Texas Panhandle	AO-262-A22.
1138	Rio Grande Valley	AO-335-A18.
	GROUP III	
1060	Minnesota-North Dakota	AO 360-A6.
1061	Southeastern Minnesota-Northern Iowa	AO-367-A5.
1063	Quad Cities-Dubuque	AO-105-A35.
1064	Greater Kansas City	AO-23-A42.
1065	Nebraska-Western Iowa	AO-86-A25.
1068	Minneapolis-St. Paul, Minn.	AO-178-A28.
1069	Duluth-Superior	AO-133-A19.
1070	Cedar Rapids-Iowa City	AO-229-A26.
1076	Eastern South Dakota	AO-260-A17.
1078	North Central Iowa	AO-272-A20.
1079	Des Moines, Iowa	AO-295-A21.

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas, which was issued on August 28, 1972, in the form of three separate documents (37 F.R. 18984, 19210, and 19482), is hereby extended to November 4, 1972.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on October 16, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-17929 Filed 10-19-72;8:56 am]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

RESTRICTION PRACTICE

Notice of Proposed Rule Making

Notice is hereby given that, pursuant to the authority contained in section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), as amended October 5, 1971, Public Law 92–132, 85 Stat. 364, the Patent Office proposes to amend Title 37 of the Code of Federal Regulations by revising §§ 1.141, 1.142, 1.144, 1.145, and 1.146.

All persons are invited to present their views, objections, recommendations or suggestions in connection with the proposed changes to the Commissioner of Patents, Washington, D.C. 20231 on or before December 12, 1972, on which date a hearing will be held at 9:30 a.m. in Room 11 C 24, Building 3, 2021 Jefferson Davis Highway, Arlington, VA. All persons wishing to be heard orally at the

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hearing are requested to notify the Commissioner of Patents of their intended appearance. Any written comments or suggestions may be inspected by any person, upon written request, a reasonable time after the closing date for submitting comments.

The proposed changes have three main purposes, (1) to clarify when a requirement for restriction may properly be made by an examiner, (2) to remove the limitation of five species if there is an allowable generic claim in the case, and (3) to provide a basis in the rules for requiring restriction to a single invention when two or more patentably different inventions are claimed in a single Markush-type claim. See "Ex parte Markush," 1925 C.D. 126 (Comm'r. Pat. 1924).

The expression "patentably different" emphasizes the importance of requiring restriction between two or more inventions only where there are unobvious differences between those inventions and separate patents can properly be granted to each invention. Otherwise, due to the double patenting prohibition of 35 U.S.C. 121, multiple patents would be granted on a single invention. The proposed changes make it clear that a requirement for restriction is proper only when two or more patentably different inventions are claimed in one application.

The practice under present §§ 1.141 and 1.146 of limiting an application to five species, even though a generic claim has been allowed, has caused some problems since 1953 when the present language of section 121 of the patent statute became effective. Section 121 prohibits the use of a patent as a reference in a subsequent divisional application filed as the result of a requirement for restriction in the application on which such a patent is based. Present §§ 1.141 and 1.146 indicate that an application may be limited to five species even though an allowable generic claim appears therein. If an application is so limited to five species, the other species can be specifically protected only if refiled in a divisional application. Such applications may be filed even though the species are not patentably different from each other. Since the first patent cannot be used as a reference against the second application, limiting the number of species in the first patent would result in a second patent issuing on species which are not patentably different from the species in the first patent. The proposed changes would avoid this problem by removing from the rules the language limiting the claims in one application to five species.

The Markush-type claim practice, which allows enumeration in a claim of a plurality of alternatively usable substances or members, has been sanctioned to permit the inclusion of such members in a claim when a generic term covering them is not available. Over the years, this form of claim has been used, for example, in claiming compounds having a large variety of substituent groups, and, as a result, Markush-type claims are presented which are each directed to a plurality of independent and distinct inventions.

More than one invention is present in a Markush-type claim if the alternatively usable members of the Markush group are so unrelated and diverse that a prior art reference which shows one of the members and otherwise anticipates the claim could not ordinarily be used to reject under 35 U.S.C. 103 a claim reciting another of the members. In such circumstances, the claim is considered to be an improper Markush-type claim and not a generic claim. Such a claim imposes an undue burden on the Patent Office, particularly with respect to the search which would have to be made for proper examination.

The proposed changes expressly sanction the withdrawal of improper Markush-type claims. It should be noted that the "withdrawal" of such improper Markush-type claims would provide the applicant with the benefits of the double patenting prohibition of 35 U.S.C. 121. This benefit would not be available if such improper Markush-type claims were rejected.

The proposed changes will permit examiners to expedite prosecution and make more meaningful searches to determine whether the disclosed and claimed inventions are novel and patentable.

The text of the proposed revised rules is as follows:

§ 1.141 Different inventions in one application.

An application claiming two or more independent and distinct, patentably different inventions may be required to be restricted to one of the inventions. Inventions are patentably different when one is not obvious in view of the other, and they may properly appear in separate patents.

§ 1.142 Requirement for restriction between inventions.

(a) If two or more independent and distinct, patentably different inventions are claimed in a single application and the examiner deems that restriction is appropriate, he may require the applicant to elect for prosecution in the application a single invention, to which his claims shall be restricted. Such a requirement may be made at any time before final action in the case, at the discretion of the examiner.

(b) In an application containing a claim which enumerates alternatively usable substances or members which are so unrelated that the claim is, in fact, directed to independent and distinct, patentably different inventions, the examiner may require the applicant to elect the invention to which his claims shall be restricted. After election by applicant, such an improper claim by enumeration may be withdrawn by the examiner from further examination because more than one invention is being claimed (35 U.S.C. 121).

(c) Claims not restricted to the elected invention, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject, however, to reinstatement in the event the requirement for restriction is withdrawn or overruled pursuant to a petition under § 1.144.

§ 1.144 Petition from requirement for restriction.

Within 2 months after the examiner's adverse reply to a request for reconsideration of a requirement for restriction, the applicant may petition the Commissioner to review the requirement. A petition will not be considered if reconsideration of the requirement was not requested. (See § 1.181.)

§ 1.145 Subsequent presentation of claims for different invention.

If, after an examiner's action on an application, the applicant presents a claim or claims therein directed to a patentably different invention, distinct from and independent of the invention previously claimed, the examiner may require the applicant to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144.

§ 1.146 Election of species.

In an application containing a generic claim and claims directed to a plurality of independent and distinct, patentably different species embraced thereby, the examiner may require the applicant to elect that species of his invention to which his claims shall be restricted if no generic claim is finally held allowable. If a generic claim is later found allowable, the application may also contain claims to species in addition to the one elected, provided that such additional species claims are either written to be dependent from a generic claim (§ 1.75 (c)) or to otherwise include all the limitations of the generic claim.

Dated: October 13, 1972.

RICHARD A. WAHL,
Acting Commissioner of Patents.

Approved: October 13, 1972.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.72-17925 Filed 10-19-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

[46 CFR Part 10]

[CGD 72-132PHa]

UNINSPECTED TOWING VESSELS

Licensing of Operators; Extension of Time for Comments

In the August 11, 1972, issue of the FEDERAL REGISTER (37 F.R. 16374), the Coast Guard proposed regulations governing the issuance of licenses for the operation of uninspected towing vessels to implement the Towing Vessel Operator Licensing Act, Public Law 92-339, R.S. 4427, as amended, 46 U.S.C. 405(b) (July 7, 1972).

The Coast Guard has held four public hearings on the proposed regulations: On September 13, 1972, in Seattle, Wash.; on September 20, 1972, in New York, N.Y.; on September 26, 1972, in New Orleans, La.; and on September 27, 1972, in St. Louis, Mo. In addition, interested persons were given until October 17, 1972, to submit comments.

The Coast Guard has received several requests for extension of the comment period from towboat operators whose duties prevented them from participating in any of the public hearings and from meeting the October 17th deadline. The Coast Guard finds that additional time for comment is appropriate, and hereby extends the period for comments to October 31, 1972. All relevant comments received by that date will be considered.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, phone: 202—426-1477. Written comments should include the docket number (CGD 72-132PH), the name and address of the person submitting the comments, and the section of the proposal to which each comment is directed. Copies of comments received will be available for examination in Room 8234, 400 Seventh Street SW., Washington, DC.

Dated: October 17, 1972.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-17974 Filed 10-19-72;8:57 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-RM-20]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the transition area at Bozeman, Mont.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, Post Office Box 7213, Denver, CO 80207. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, CO 80010.

A new ILS runway 12 instrument approach procedure is being developed for the Gallatin Field, Bozeman, Mont. Airport. Accordingly, it is necessary to alter the Bozeman, Mont., transition area to provide controlled airspace protection for aircraft executing this procedure.

In consideration of the foregoing, the FAA proposes the following airspace action:

In § 71.181 (37 F.R. 2143) the description of the Bozeman, Mont., transition area is amended to read:

BOZEMAN, MONT.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Gallatin Field (latitude 45°46'50" N., longitude 111°09'20" W.) and within 5.5 miles northeast and 9.5 miles southwest of the Bozeman ILS northwest localizer course extending from the 11-mile radius area to 28 miles northwest of Gallatin Field.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Aurora, Colo., on October 11, 1972.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.72-17885 Filed 10-19-72;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

XYLENE

Proposed Exemption From Tolerance

The Administrator of the Environmental Protection Agency having evaluated data, and other relevant material, proposes that § 180.1001 *Exemptions from the requirement of a tolerance* of the pesticide regulations be amended in paragraph (c) to provide for the use of xylene as an inert ingredient in pesticide formulations applied to stored grain only. It is concluded that:

1. The pesticide is useful for the purpose for which the exemption is proposed.

2. The proposed exemption will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), it is proposed that § 180.1001 be amended by alphabetically inserting a new item in the table in paragraph (c) as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Xylene meeting the specifications listed in § 121.1182 (b)(4) of Chapter 1, Title 21, Code of Federal Regulations.	In pesticide formulations for grain storage only.	Solvent, cosolvent.
* * *	* * *	* * *

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Environmental Protection Agency, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: September 26, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17935 Filed 10-19-72;8:56 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 19518]

PUBLIC INTEREST GROUP AS CONSULTANT TO BROADCASTER

Proposed Reimbursement for Legitimate and Prudent Expenses; Order Extending Time for Filing Reply Comments

In the matter of reimbursement for legitimate and prudent expenses of a public interest group for a consultancy to a broadcaster in certain instances, Docket No. 19518.

1. The notice of inquiry and proposed rule making in this proceeding was adopted June 1, 1972, and published in the FEDERAL REGISTER June 9, 1972, 37

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F.R. 11592. The dates for comments and reply comments originally were June 14 and 24, 1972, respectively, but these were extended to September 11 and October 1 and later to October 2 and October 13, 1972.

2. Black Efforts for Soul in Television (BEST), by motion filed October 11, 1972, now requests that the date for reply comments be extended to and including October 23, 1972. The principal reason stated is that the comments cover areas not contemplated by the notice and counsel for BEST needs more time to file reply comments than originally allotted in his heavy workload schedule.

3. The reason given appears to warrant an extension as requested: *Accordingly, it is ordered*, That the time for filing reply comments is extended to and including October 24, 1972. BEST has requested two prior extensions of time in this matter both of which have been granted. In granting this third extension we must note that in order to dispose of this proceeding at an early date we will be reluctant to give favorable consideration to any further requests for extensions of time.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 13, 1972.

Released: October , 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-17969 Filed 10-19-72;8:57 am]

[47 CFR Part 43]

[Docket No. 19608; FCC 72-909]

ANNUAL REPORTS FOR TELEPHONE COMPANIES, WIRE-TELEGRAPH AND OCEAN-CABLE CARRIERS, AND RADIOTELEGRAPH CARRIERS

Proposed Reporting Requirements

In the matter of amendment of Annual Reports Form M for Telephone Companies; Form O for Wire-Telegraph and Ocean-Cable Carriers; and Form R for Radiotelegraph Carriers to change certain reporting requirements and to provide additional reporting requirements, Docket No. 19608, RM-2056.

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. In a petition dated August 24, 1971, the American Telephone and Telegraph Co. (A.T. & T.) requested the Commission to raise the annual compensation level from $30,000 to $45,000 for reporting compensation to employees not designated as officers or directors in the Commission's Annual Report Form M for telephone companies. In its request for rule making A.T. & T. stated that should it be too late in the year to amend Annual Report Form M for the year 1971, then the Commission is requested to grant temporary relief to telephone carriers with revenues in excess of $25,000,000 by waiving, for the 1971 report only, the present $30,000 reporting level. The Commission, by its Chief, Common Carrier Bureau, in an order released on September 22, 1971, waived the reporting requirements of Schedule 70B, Compensation of Officers, Directors, Etc., of Annual Report Form M so as to permit telephone carriers with annual revenues of over $25 million to report, in their 1971 reports only, data with respect to individual employees not designated as officers or directors to whom $37,500 or more was paid during the year as compensation for current or past services.

3. The Commission is proposing to amend the reporting requirements of Schedule 70B so as to permit telephone companies with annual operating revenues exceeding $100 million (a change from $25 million presently provided in Schedule 70B) to report therein data with respect to individual employees, other than officers or directors, having an annual salary rate of $40,000 or more at any time during the year or to whom $40,000 or more was paid during the year as compensation for current or past services, rather than $45,000 as proposed by A.T. & T. for companies with annual operating revenues exceeding $25 million. In addition, certain other amendments of Annual Report Form M are being proposed by the Commission, as follows: (a) Addition of a new tax schedule which would analyze data with respect to the accumulated deferred income taxes account (account 176) established in Part 31 of the Rules, effective January 1, 1971; (b) revision of the reporting requirements of the donations-and-payments schedule in order to provide for reporting, by recipient, of the total of all payments made during the year where the aggregate amount paid to a recipient was $10,000 or more; (c) revision of the pension and benefit funds investment schedule so as to provide for the submittal of certain additional data; and (d) revision of certain other schedules in order to delete requirements for reporting certain data no longer considered necessary and to provide information for more effective regulation.

4. Since 1934, telephone companies have been required to report the name and amount of compensation paid to each officer and director in Annual Report Form M. In addition, prior to 1948 the annual compensation of each employee not designated as an officer or director was required to be reported if the amount was $10,000 or more. In 1948 this amount was raised to $15,000 and in 1959 to $20,000. In 1965 the reporting compensation level for those carriers having annual operating revenues exceeding $25 million was raised to $30,000. With its request for rule making, A.T. & T. furnished data to show that with the compensation level of $30,000 the number of persons it reported in Schedule 70B for 1970 totalled 349; however, if the minimum compensation level were $37,500 the number would have been 212; at $40,000 the number would have been 177; and at $45,000 the number would have been 124. In 1934, with a reporting level of $10,000, A.T. & T. reported data for a total of 120 persons. In the past the Commission has raised the compensation level in order to minimize the reporting burden since increasing salary scales have resulted in the reporting of many more names and salaries than it had anticipated when the original requirements were adopted.

5. We are proposing to raise the measure of annual revenues used to distinguish between larger and smaller telephone companies for reporting in Schedule 70B from $25 million to $100 million. Further, in the case of companies with annual operating revenues exceeding $100 million we are proposing, as previously mentioned, to raise the reporting level from $30,000 to $40,000 rather than to $45,000 as proposed by A.T. & T. As noted above, had the reporting level of $40,000 been in effect in 1970, A.T. & T. would have reported a total of 177 persons. Although we are inclined to the view that the $40,000 level will provide adequate relief to these carriers at the present time and will provide a reasonable amount of public reporting of salaries, nevertheless, we invite comments as to the resonableness of the $40,000 level particularly in light of current salary levels, corporate organization structures, staffing patterns, the public interest in data on management compensation and the reporting burden upon the carriers. In addition, it is proposed to amend Schedule 70B in order that the requirement for reporting of compensation to employees, other than officers and directors, will be consistent with the reporting requirement in Schedule 3, General Officers and Executives, of Annual Report Forms O and R by requiring the reporting of information for each person having the specified annual salary rate at any time during the year in addition to those to whom the specified amount of compensation was paid during the year for current or past services.

6. It is proposed to add to Annual Report Form M a new tax schedule entitled Schedule 30B, Accumulated Deferred Income Taxes-Accelerated Tax Depreciation (Account 176), in order to provide for an analysis of the deferred income taxes account. In Docket No. 18828 (35 F.R. 11237) the Commission established in Part 31 account 176, "Accumulated deferred income taxes-Accelerated tax depreciation," which account shall include the balances of all income taxes which have been deferred as a result of the use of accelerated depreciation for income tax purposes. It was also required that account 176 be maintained in a manner to show separately entries with respect to (a) deferred operating income taxes, further subdivided as between Federal income taxes and State and local income taxes, and (b) deferred nonoperating income taxes. Further, the Commission waived its accounting rules in an order released on January 5, 1972, to permit similar accounting for income tax differentials arising from the use of class lives and asset depreciation ranges for income tax purposes. It is believed advisable to show in the report form

opening and closing balances and the activity during the reporting year in account 176 by these three subdivisions. At the same time, it is proposed to redesignate Schedule 30, Other Deferred Credits, of Annual Report Form M as Schedule 30A.

7. It is proposed to revise Schedule 43, Donations or Payments for Services Rendered by Persons Other Than Employees, in Annual Report Form M in order to provide, in the instructions, for the reporting by recipient of the total of all payments made during the year where the aggregate amount of all payments made to a recipient was $10,000 or more. It is believed that the proposed reporting on a total aggregate payment basis rather than the present reporting of the aggregate amount of all individual payments of $5,000 or more would provide more adequate disclosure of significant payments to individual recipients. In a recent proceeding it was developed that an outside consultant to a Bell company was paid almost $150,000 of which only slightly over $20,000 was required to be reported. It is proposed further to provide in the instructions that these payments be listed alphabetically in separate series by purpose of payment, rather than alphabetically in a single list, in order to facilitate use of the responses.

8. It is proposed to revise the title of Schedule 50, Mileage of Outside Plant, of Annual Report Form M to read "Outside Plant Statistics" and to make certain other revisions in the schedule. Since the use of phantom circuits is becoming negligible throughout the industry, it is proposed to delete column (q), "Miles of Phantom Circuit," and to reletter columns (r) through (x) as (q) through (w). It is also proposed to delete from Schedule 50 the line calling for the "Number of portable emergency radiotelephone sets respondent is licensed to operate". It is no longer necessary that these units be licensed separately. This service is performed by carriers operating fixed radiotelephone rural subscriber stations the data for which are reported in Schedule 52, Telephones in Service, of Annual Report Form M. Further, it is proposed to revise the heading of column (n) to read "Number of Poles," a readily available figure, from "Miles of Pole Line," a figure which we understand is estimated by many of the carriers solely for Form M reporting purposes.

9. It is proposed to delete the present Schedule 54, Telegraph Stations, of Annual Report Form M and to add in lieu thereof a new Schedule 54, Telegraph Stations, Data Sets, and Data Access Arrangements. The proposed new schedule reflects the deletion of separate columns for Morse stations and stations in teletypewriter exchange service (TWX). The number of such stations will, however, be required to be reported by those carriers having such stations in the appropriate column designated "Other (specified)." These changes are proposed since only four or five carriers now report Morse stations, and the TWX service in the 48 contiguous States has been sold both by the Bell and independent telephone companies to The Western Union Telegraph Company. However, teleprinter exchange service is being provided by reporting telephone companies in Alaska and Hawaii and may be so provided in the future in Puerto Rico and the Virgin Islands. In the proposed schedule provision is made for the reporting of telegraph station data, data sets, and data access arrangements separately for private line service and exchange service. It is believed that the proposed reporting of the number of data sets and data access arrangements will be more nearly in line with present service offerings and of greater value from a regulatory standpoint. Further, in conjunction with the proposal to delete the separate column for reporting the number of stations in TWX service in Schedule 54, it is proposed to delete Schedule 55, Teletypewriters on Customers' Premises Used in Exchange service, of Annual Report Form M.

10. It is proposed to amend Schedule 60B, Pensions Paid, of Annual Report Form M in order to provide line space for reporting the number of separated employees eligible for deferred service pensions.

11. It is proposed to amend Schedule 60D, Investment of Pension and Benefit Funds, of Annual Report Form M to provide for the reporting therein of data showing the market value of obligations, of information with respect to investments in letter stock and of detailed information on losses realized on a single security or other investment where the amount of the gross loss amounts to $1 million or more in the entire fund of all trustees for a single company. Currently, data on market value are reported only for equity securities. However, in view of the fact that certain institutional investors tend to actively trade bonds, as well as stocks, it appears highly desirable that market value information be included in Schedule 60D with respect to all investments held in the trust funds. In recent years it has come to our attention that limited investments have been made by some of the Bell System pension fund trustees in stock restricted as to disposition such as letter stock. In certain cases the stocks appear to be highly speculative and may result in loss of the total investment made therein. In addition, we propose to require the reporting of the details of gross losses of $1 million or more on single investments in order that we may be aware of relatively large investment losses. The reporting of the additional data being proposed is considered desirable for more effective overall surveillance of pension and benefit funds for regulatory purposes.

12. As a result of the waiver granted telephone carriers relaxing the reporting requirements of Schedule 70B, petitions were filed by The Western Union Telegraph Co. and Western Union International, Inc., requesting that a similar waiver be granted to telegraph and international record carriers with annual operating revenues in excess of $25 million with respect to the reporting of employee compensation in Schedule 3, General Officers and Executives, of Annual Reports Forms O and R. The Commission, by its Chief, Common Carrier Bureau, adopted an order on January 4, 1972, granting the relief requested for the year 1971 only. We are proposing that the reporting requirements of Schedule 3 be amended in order to permit those carriers filing Annual Reports Forms O and R with annual operating revenues exceeding $100 million to report data only with respect to individual employees, not designated as officers or directors, having an annual salary rate of $40,000 or more at any time during the year or to whom $40,000 or more was paid during the year as compensation for current or past services.

13. We believe the requirements for reporting donations and payments for services rendered for all reporting common carriers should be kept uniform. It is proposed, therefore, to amend Schedule 413, Donations and Payments for Services Rendered by Others Than Employees, of Annual Reports Forms O and R in the same manner as proposed for Schedule 43 of Annual Report Form M.

14. If the foregoing proposals are adopted, the table of contents and the index for the Annual Report Form M will be amended accordingly. It is proposed that any amendments made as a result of this proceeding will be made effective in the report forms for the year 1973.

15. In view of the foregoing, it is proposed to amend Annual Reports Form M for Telephone Companies, Form O for Wire-Telegraph and Ocean-Cable Carriers, and Form R for Radiotelegraph Carriers as set forth below.

16. This notice of proposed rule making is issued under authority contained in sections 4(i), 201, 219, and 220 of the Communications Act of 1934, 47 U.S.C. 154(i), 201, 219, and 220.

17. Pursuant to applicable procedures set forth in 47 CFR 1.415, interested persons may file comments on or before November 27, 1972, and reply comments on or before December 8, 1972. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice. Comments in response to this notice will be available for public inspection in the Commission's Broadcast and Dockets Reference Room.

18. In accordance with the provision of 47 CFR 1.419, an original and 14 copies of all statements or briefs shall be furnished to the Commission.

Adopted: October 12, 1972.

Released: October 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Johnson concurring in the result.

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I. Annual Report Form M for Telephone Companies is amended as follows:

1. In Schedule 10, Balance Sheet, in the column for indicating supporting schedules "A" is inserted after "30" on line 39 and "30B" is inserted on line 80.

2. Schedule 11, Income and Retained Earnings Statement, is amended as follows:

a. In the column for indicating supporting schedules "A" is inserted after "30" on line 5, and "30B" inserted on lines 8 and 9.

b. A footnote to the caption "Retained Earnings" is added to read as follows:

*See Schedule 31 for amount in account 180, Retained earnings reserved, at end of the year.

3. Schedule 30 is redesignated as Schedule 30A.

4. A new tax schedule entitled 30B, Accumulated Deferred Income Taxes—Accelerated Tax Depreciation (Account 176), is inserted. The following is a description of the schedule.

a. The instruction reads as follows:

Explain in a note each adjustment amounting to $25,000 or more reported in column (e). When adjustments are applicable to more than 1 year, indicate in the note the amount applicable to each year.

b. The column headings read as follows:

(a) Particulars
(b) Balance at Beginning of Year
(c) Amount Deferred During the Year
(d) Amount Amortized to Current Year's Income
(e) Adjustments Debit or (Credit)
(f) Balance at End of Year

c. The captions in column (a) read as follows:

DEFERRED OPERATING INCOME TAXES

1. 307 Other operating taxes
2. 308 Operating Federal income taxes deferred—accelerated tax depreciation
3. 309 Income credits resulting from prior deferrals of Federal income taxes

DEFERRED NONOPERATING INCOME TAXES

4. 326 Federal income taxes—Nonoperating
5. 327 Other nonoperating taxes
6. Total

5. In Schedule 43, Donations or Payments For Services Rendered by Persons Other Than Employees, instruction 1 is amended to read as follows:

1. Report for each service rendered (including materials furnished incidental to the service which are impracticable of separation) by recipient and in total the aggregate of all payments made during the year where the aggregate of all payments to a recipient was $10,000 or more including fees, retainers, commissions, gifts, contributions, assessments, bonuses, subscriptions, allowances for expenses or any other form of payments for services or as donations (except rents for property, taxes, utility services, traffic settlements, amounts paid for general services and licenses, accruals paid to trustees of pension and other employee benefit funds, and amounts paid for construction or maintenance of plant to persons other than noncarrier affiliates) to any one corporation, institution, association, firm, partnership, committee, or person (not an employee of the respondent). Indicate by an asterisk in column (c) each item that includes payments for materials furnished incidental to the service performed.

6. Schedule 50, Mileage of Outside Plant, is amended to read as follows:

a. The title reads as follows:

50. OUTSIDE PLANT STATISTICS

b. Instruction 3 is amended to read as follows:

3. In columns (u), (v), and (w) report the aggregate number of miles of system or channels, as appropriate, between the individual stations of radio-relay systems.

c. The heading for column (n) is amended to read as follows:

(n) Number of Poles

d. Line 11 and column (q) are deleted and columns (r) through (x) are redesignated as columns (q) through (w) and references to column letters are redesignated accordingly.

7. Schedule 54, Telegraph Stations, is revised to read as follows:

a. The title reads as follows:

54. TELEGRAPH STATIONS, DATA SETS AND DATA ACCESS ARRANGEMENTS

b. The instructions read as follows:

1. Report data relative to all company-owned telegraph stations in service as at December 31, including nonrevenue stations, but excluding stations used for purposes other than message transmission.

2. For the purposes of this schedule the following definitions are applicable:

"Data access arrangement" is a protective connecting arrangement for use with the network control signalling unit and customer-provided data terminal.

"Data set" is a set used to convert the signals of a business machine into tones that are suitable for transmission over communications lines.

"Dataphone service" stations are stations providing service furnished over the switched message network under general exchange, message toll and wide area telephone service tariffs.

"Private line service" stations are stations furnished under contracts providing exclusive service, i.e., service not requiring central office switching operations for communications between specified locations.

c. The column headings read as follows:

(a) State or Territory

Caption overriding columns (b) through (k) reads:

NUMBER OF UNITS IN SERVICE AS AT DECEMBER 31

Subcaption overriding columns (b) through (f) reads:

PRIVATE LINE SERVICE

Subcaption overriding columns (b) and (c) reads:

TELEGRAPH STATIONS

(b) Teletypewriter
(c) Other (specified):

Subcaption overriding columns (d) and (e) reads:

DATA SETS

(d) Dataphone
(e) Other (specified):
(f) Data Access Arrangements

Subcaption overriding columns (g) through (k) reads:

EXCHANGE SERVICE

Subcaption overriding columns (g) and (h) reads:

TELEGRAPH STATIONS

(g) Dataphone Service
(h) Other (specified):

Subcaption overriding columns (i) and (j) reads:

DATA SETS

(i) Dataphone
(j) Other (specified):
(k) Data Access Arrangements

8. Schedule 55, Teletypewriters on Customers' Premises Used in Exchange Service, is deleted.

9. In Schedule 60B, Pensions Paid, a new line 14 is inserted to read as follows:

14. Number of separated employees eligible for deferred service pensions

10. Schedule 60D, Investment of Pension and Benefit Funds, is amended as follows:

a. Two new instructions are added to read as follows:

5. Show in a note the details of losses realized on a single security or other investment where the amount of the gross loss amounts to $1 million or more in the entire fund of all trustees for a single company.

6. In the case of letter stock or other investments restricted as to disposition, state in a note, by issuer and by security, (a) cost of purchases made during the year, (b) cost and net proceeds of sales made during the year, and (c) cost, book value and estimated market value of the holdings of such investments as of December 31.

b. The heading for column (e) is amended to read as follows:

(e) Estimated Market Value

11. Instruction 1 of Schedule 70B, Compensation of Officers, Directors, Etc., is amended to read as follows:

1. Furnish the indicated data with respect to each officer and director, whether or not he received any compensation from the respondent, and also with respect to all other persons having an annual salary rate of $20,000 or more ($40,000 or more if respondent's annual operating revenues exceeded $100 million) at any time during the year or to whom the respondent paid $20,000 or more ($40,000 or more if respondent's annual operating revenues exceeded $100 million) during the year as compensation for current or past services.

II. Annual Report Form O for Wire-Telegraph and Ocean-Cable Carriers and Annual Report Form R for Radiotelegraph Carriers are amended as follows:

1. In Schedule 3, General Officers and Executive, instruction 1 is amended to read as follows:

1. Furnish the indicated data with respect to each officer and director, whether or not he received any compensation from the respondent, and also with respect to all other persons having an annual salary rate of $20,000 or more ($40,000 or more if respondent's annual operating revenues exceeded $100 million) at any time during the year or to whom the respondent paid $20,000 or more ($40,000 or more if respondent's annual operating revenues exceeded $100 million) during the year as compensation for current or past services.

2. Instruction 1 of Schedule 413, Donations and Payments for Services Rendered by Others Than Employees, is amended to read as follows:

1. Report for each service rendered (including materials furnished incidental to the service which are impracticable of separation) by recipient and in total the aggregate of all payments made during the year where the aggregate amount of all payments to a recipient was $10,000 or more including fees, retainers, commissions, gifts, contributions, assessments, bonuses, pensions, subscriptions, allowances for expenses, or any other form of payments for services or as donations (except rents for property, taxes, utility services, traffic settlements, and amounts paid for construction or maintenance of plant to persons other than affiliated noncarriers) to any one corporation, institution, association, firm, partnership, committee, or person (not an employee of the respondent).

[FR Doc.72-17967 Filed 10-19-72;8:57 am]

[47 CFR Part 73]

[Docket No. 19613; FCC 72-920]

FM BROADCAST STATIONS IN CERTAIN CITIES IN GEORGIA, TENNESSEE, AND ILLINOIS

Proposed Table of Assignments

In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations (Chatsworth, Ga., Union City, Tenn., Camden, Tenn., Eldorado, Ill.), Docket No. 19613, RM-1954, RM-2035, RM-2028, RM-2039.

1. Notice of proposed rule making is hereby given concerning the amendment of § 73.202(b) of the rules, the FM Table of Assignments to add first FM channels to the above-listed communities, as has been requested in the rule making petitions. In each of the communities there is one proposal for a Class A assignment. Population figures are from the 1970 U.S. Census reports. All petitions are unopposed. The proposed channels sought by each petitioner are as follows:

RM-1054	Channel 257A to Chatsworth, Ga.
RM-2028	Channel 285A to Union City, Tenn.
RM-2035	Channel 252A to Camden, Tenn.
RM-2039	Channel 272A to Eldorado, Ill.

A brief description of each petition follows:

2. *Chatsworth, Ga.* (*RM-1954*). Earl L. Bradsher, Jr. (petitioner), filed a petition on March 24, 1972, proposing that Channel 257A be assigned to Chatsworth, Ga. Petitioner asserts that Channel 257A could be assigned to Chatsworth in conformity with the Commission's minimum mileage separation rules without affecting any presently assigned channel if the transmitter site is located immediately southeast of Chatsworth. Chatsworth (2,706 population) is the seat of Murray County (12,986) and is located 11 miles west of Dalton, Ga. It has no local broadcast transmission facility. Petitioner notes there is no radio station in the county but there is a UHF television outlet (WCLP-TV) of the Georgia Educational Television Network which presents no local programing; that Chatsworth receives three daytime AM signals from Dalton, Ga., 11 miles to its west; and that Chatsworth hears no local voice, day or night, on FM. He contends that a weekly newspaper is the only local media for information.

3. Petitioner asserts that Chatsworth and Murray County offer splendid summer resort facilities, that in Murray County in 1962 the Georgia Institute of Technology listed 320 employed in manufacturing in talc and soapstone mines, textile and pine timber industries that contribute to a largely agricultural economy; that numerous Chatsworth residents commute to jobs at Dalton which is the carpet capital and is the central city of an economically well-defined region; and that Dalton is a shipping point for the cotton, fruit, grain and cattle of the surrounding region. Petitioner states that fulltime local radio service would be rendered to all of Georgia's isolated, substantially Conasauga-Ostanoula Valley, including small towns. He further notes that there is a particular need for a first local nighttime radio service to 40,000 people. He states that, if permitted to construct the station, he believes he can establish an operation profitable to local backers and to himself as well as of public benefit. For these reasons, we believe consideration of the proposal for the assignment of a first Class A FM channel to Chatsworth, Ga., is warranted.

4. *Union City, Tenn.* (*RM-2028*). Ed Perkins (petitioner), filed a petition on July 27, 1972, proposing the assignment of Channel 285A to Union City, Tenn. Channel 285A could be assigned to Union City without affecting any assignments in the FM Table of Assignments and would meet the Commission's minimum mileage separation rule. Union City (11,925 population) is the seat of Obion County (29,936 population) and is located in the northwestern corner of Tennessee. A Class IV AM station is the only broadcast facility in Union City or Obion County.

5. In support of its request, petitioner states that although official figures are not available, it is estimated by the city manager that local retail sales amounted to $53,757,000 in 1969; that there are approximately 13 manufacturing establishments in Union City; that it operates its own educational system which includes three elementary, one junior high, and one senior high school; and that it has a daily local newspaper with a circulation of 7,000. Petitioner states that the proposed assignment would provide the area with a second aural service and a first local FM service. In view of the foregoing information, we believe consideration of the proposal for the assignment of Channel 285A to Union City, Tenn., is warranted.

6. *Camden, Tenn.* (*RM-2035*). Ray Smith (petitioner), filed a petition August 8, 1972, proposing the assignment of Channel 252A to Camden, Tenn. Channel 252A could be assigned to Camden without affecting the FM Table of Assignments and in full compliance with the Commission's minimum mileage separation rule. Camden (3,052 population) is the seat of Benton County (12,126 population) and is located 50 miles northeast of Jackson, Tenn. It presently has one daytime only AM station and no FM asignments. Petitioner seeks the assignment of this Class A channel so that Camden will be provided with a first local nighttime service and a choice of local broadcast service during daytime hours.

7. In support of its request petitioner states that Camden is near several manmade TVA lakes and provides incomparable recreational opportunities for thousands of tourists who are attracted to the area to take advantage of the fishing and boating opportunities. He notes that the total retail sales increased from $14,996,000 in 1967 to $15,598,000 in 1970. He adds that the Camden educational system consists of one high school, one junior high school, and one elementary school, with a total enrollment of 1,951; three medical clinics; a new 45-bed hospital; and extended care facilities under construction. Petitioner adds that he will immediately apply for Channel 252A if assigned to Camden. In view of the above, we believe consideration of the proposal for the assignment of a first Class A FM channel to Camden, Tenn., is warranted.

8. *Eldorado, Ill.* (*RM-2039*). Elliott O. Partridge, M.D. (petitioner), filed a petition on August 15, 1972, proposing the assignment of Channel 272A to Eldorado, Ill. Channel 272A could be assigned to Eldorado in conformity with the Commission's minimum mileage separation rule and without affecting any presently assigned channel in the FM Table of Assignments. Eldorado (3,876 population) is located in Saline County (25,721 population) 50 miles southwest of Evansville, Ind. It has no local broadcast transmission service. Petitioner states that at present virtually all of Saline County and the adjacent counties of Gallatin, Hardin, and Pope rely on the commonly owned Stations WEBQ AM-FM in Harrisburg, Ill., as sources of news, information, and opinion. He adds that these stations provide only minimal news and public affairs programing which is of direct interest to residents of Eldorado, and further states that the rural population in the Eldorado area does not have available the type of agricultural programing needed to serve this segment of the population.

9. The petitioner states that Eldorado is a thriving community which supports four manufacturing plants, two modern hospitals, four public and parochial schools, and two banks. He adds that the city of Eldorado has more than $4 million in commercial construction either underway or firmly committed, which includes a $1 million multiunit low income high rise building and a subdivision development for new homes. In view of the foregoing information and the fact that there is no local broadcast transmission service in Eldorado, we believe the proposal merits exploration in a rule making proceeding.

10. *Showings required.* Comments are invited on the proposals set forth and discussed above. Proponents will be expected to answer whatever questions, if any, are raised in the notice and other questions that may be presented by the initial comments. The proponents are expected to file comments even if nothing more than to incorporate by reference their petitions, and are expected to state their intentions to apply for their respective channels, if assigned, and if authorized to promptly build the station. Failure to make this showing may result in the denial of the petition.

11. *Cutoff procedure.* As in other recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the

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date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

12. Authority for the action proposed herein is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

13. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before November 27, 1972, and reply comments on or before December 8, 1972. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

14. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, pleadings, briefs, or other documents shall be furnished the Commission.

15. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: October 12, 1972.

Released: October 17, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-17968 Filed 10-19-72;8:57 am]

Notices

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[Docket No. 72-5]

LEONARD S. COHEN

Notice of Hearing

Notice is hereby given that on September 21, 1972, the Bureau of Narcotics and Dangerous Drugs, Department of Justice, issued to Leonard S. Cohen, RD, an Order to Show Cause as to why the Bureau of Narcotics and Dangerous Drugs Registration No. AC2349909 issued to him pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

A written request for a hearing having been filed with the Director of the Bureau of Narcotics and Dangerous Drugs (said request asking for an expedited hearing date), notice is hereby given that a hearing in this matter will be held commencing at 10 a.m., on October 26, 1972, in room 812 of the Bureau of Narcotics and Dangerous Drugs, 1405 Eye Street NW., Washington, DC 20537.

Dated: October 7, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-17937 Filed 10-19-72;8:59 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 7033]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. A-7033, for the withdrawal of lands from location and entry under the general mining laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands described below for preservation and protection of the natural springs against conflicts of interests by the many and various users. The springs are used by the visiting public, prospectors, cattle, and wildlife to obtain water in this arid region. Without future protection these water sources could be disrupted and/or depleted. All of the water source areas are situated in or near the Superstition Wilderness Area within the Tonto National Forest and are in aid of the Department's program.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZ.

SUPERSTITION WILDERNESS WATER SOURCES

T. 1 N., R. 9 E.,
Sec. 14, S½NE¼NE¼ and SE¼NE¼;
Sec. 22, S½NE¼SW¼ and SE¼SW¼.
T. 2 N., R. 9 E. (unsurveyed),
Sec. 22, S½SE¼SE¼;
Sec. 27, NE¼NE¼.
T. 1 N., R. 10 E.,
Sec. 4, S½SW¼SW¼;
Sec. 5, S½NE¼;
Sec. 6, W½ of lot 2, E½ of lot 3, NE¼SE¼ NW¼ and NW¼SW¼NE¼;
Sec. 9, S½NW¼;
Sec. 10, E½SW¼SW¼ and W½SE¼SW¼;
Sec. 14, S½NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, and NW¼SE¼NW¼;
Sec. 15, S½SW¼SE¼ and SW¼SE¼SE¼;
Sec. 16, SW¼;
Sec. 22, NW¼NE¼NE¼ and N½NW¼ NE¼.

The total area described above aggregates approximately 729.61 acres within the Tonto National Forest.

This proposed withdrawal will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral or vegetative resources other than under the mining laws.

Dated: October 12, 1972.

JOE T. FALLINI,
State Director.

[FR Doc.72-17890 Filed 10-19-72;8:46 am]

Fish and Wildlife Service

BIRDS OF PREY

Additions to Conference Between United States and United Mexican States for Protection of Migratory Birds and Game Mammals

Pursuant to Article IV of the Convention Between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals (50 Stat. 1311) (T.S. 912), the President of the United States and the President of the United Mexican States have agreed that 32 families of migratory birds be added to those named in Article IV of the aforesaid Convention. That agreement was formally exchanged by their personal representatives in Mexico City, Mexico, on March 10, 1972. The Migratory Bird Treaty Act (16 U.S.C. 703-711) which implements this Convention makes it unlawful, among other things, for any person to pursue, hunt, take, capture, kill, possess, sell, barter, purchase, ship, transport, export, or import any of these migratory birds except as permitted by the Secretary of the Interior by appropriate regulation.

Included in these 32 families of birds now under Federal protection are the families: (1) *Accipitridae* (eagles and certain hawks), (2) *Falconidae* (falcons and certain hawks), (3) *Strigidae* (owls), and (4) *Tytonidae* (barn owl), commonly referred to as birds of prey. Some species included in the above four families of birds of prey have traditionally been used for falconry which is recognized by this Bureau as a legitimate practice when properly and lawfully engaged in by qualified individuals.

Consultations are currently being held with State wildlife agencies, interested organizations, and individuals in order to develop regulations providing for this utilization as authorized in Article I of the Convention. When developed, these regulations will be published in the FEDERAL REGISTER as a notice of proposed rule making.

Pending the adoption and publication of final regulations concerning falconry, the following shall apply:

Any person may take, capture, possess, sell, barter, purchase, ship and transport but not import or export live migratory birds of the families (1) *Accipitridae* (excluding bald and golden eagles which are also protected under 16 U.S.C. 688-688d), (2) *Falconidae*, (3) *Strigidae*, and (4) *Tytonidae* only in accordance with laws and regulations of the State where such act occurs: *Provided*, That no person may take or capture in any one calendar year more than three birds which belong to these families: *Provided further*, That no person may take or capture any such species on the U.S. List of Endangered Native Fish and Wildlife (50 CFR Part 17 App. D) nor may any State issue a permit which will allow the taking of any such endangered migratory birds without prior approval from the Director, Bureau of Sport Fisheries and Wildlife, 18th and C Streets NW., Washington, D.C. 20240. Taking any of these named birds from the wild is presently prohibited. This notice and order partially relieves this restriction and is effective upon publication in the FEDERAL REGISTER. (10-20-72).

(16 U.S.C. 704)

V37-204 OCT 20 72 XUM

Effective date: Upon publication in the FEDERAL REGISTER.

E. V. SCHMIDT,
Deputy Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 19, 1972.

[FR Doc.72-18126 Filed 10-19-72;12:28 pm]

National Park Service

PICTURED ROCKS NATIONAL LAKESHORE, MICH.

Establishment

The Act of October 15, 1966 (80 Stat. 922; 16 U.S.C. 460s), authorizes establishment by the Secretary of the Interior of the Pictured Rocks National Lakeshore, Mich., to comprise the area designated for such establishment on the map identified as "Proposed Pictured Rocks National Lakeshore, NL-PR-7100A, July 1966." Such establishment is required to be accomplished following acquisition of an acreage within the authorized boundaries which is efficiently administrable for the purposes of the Act.

It has been determined that an acreage has been acquired within the boundaries of the lakeshore which is efficiently administrable for the purposes of the aforesaid Act and, therefore, the Pictured Rocks National Lakeshore is hereby declared established.

Dated: October 6, 1972.

NATHANIEL P. REED,
Assistant Secretary of the Interior.

[FR Doc.72-17889 Filed 10-19-72;8:45 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

BAYLOR COLLEGE OF MEDICINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 72-00585-00-46040. Applicant: Baylor College of Medicine, Division of Experimental Biology, 1200 Moursund Avenue, Houston, TX 77025. Article: Projector tubes with shutters and binocular holder. Manufacturer: Siemens AG, West Germany. Intended use of article: The articles are accessories for an existing electron microscope being used for studies of tissues, cells, and submicroscopic entities including viruses and for training of students in the fundamentals of electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-17984 Filed 10-19-72;9:00 am]

ST. JOSEPH'S HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 72-00602-00-46040. Applicant: St. Joseph's Hospital, Research Laboratory, 3001 West Buffalo Avenue, Tampa, FL 33607. Article: Electrical exposure shutter with equipment for exposure measurement. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing electron microscope which is being used in the study of the ultrastructure of various types of cancer cells and tumor viruses and in the training of medical students in this field of research.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-17985 Filed 10-19-72;9:00 am]

UNIVERSITY OF CHICAGO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00609-00-46040. Applicant: University of Chicago, Department of Biophysics, 1160 East 55th Street, Chicago, IL 60615. Article: 70 mm. roll-film camera. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory to an existing electron microscope which will enable more precise recording of high resolution micrographs of terrestrial and extraterrestrial materials, as well as a wide variety of biological specimens.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-17986 Filed 10-19-72;9:00 am]

YALE UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00437-33-46040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the investigation of cellular and subcellular structure, specifically, the study of ultrathin sections of tissues obtained under a variety of conditions and isolated subcellular fractions and viruses. The article will also be used for training of research trainees (postdoctoral M.D.) preparing for a career of research in pathology and teaching of medical students. Application received by Commissioner of Customs: March 10, 1972. Advice submitted by Department of Health, Education, and Welfare on: September 29, 1972.

Docket No. 72-00438-33-46040. Applicant: W. Alton Jones Cell Science Center, Post Office Box 631, Lake Placid, NY 12946. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments NVD. Intended use of article: The article is intended to be used primarily in the investigation of medical, biological, and tissue culture materials; specifically (1) characterization of natural and artificial mammalian pulmonary surfactant, and (2) characterization of crystallized air pollutants in human lungs. The article will also be used for training in cell, tissue, and organ culture to cell biologists requiring these methods in their research. Application received by Commissioner of Customs: March 10, 1972. Advice submitted by Department of Health, Education, and Welfare on: September 29, 1972.

Docket No. 72-00591-33-46040. Applicant: Veterans Administration Hospital, Leestown Road Division, Lexington, KY 40507. Article: Electron microscope, Model EM 300S. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to study the structure of materials of biological origin in the form of (1) "negatively-stained" components of cells macromolecules and (2) ultrathin sections of experimentally treated tissues. The three-dimensional organization of the myofilaments in vertebrate smooth muscle cells from the gizzards of chickens and taenia coli of guinea pigs will be determined from serially sectioned cells of the principal user. The pattern of organization of the myofilaments will be determined for the relaxed and contracted states of the muscle in order to provide a structural basis for the phenomena of shortening and force-generation in smoothe muscle. These studies will be complemented with various experimental treatments to gain qualitative information about the materials observed with the article. Application received by Commissioner of Customs: May 30, 1972. Advice submitted by Department of Health, Education, and Welfare on: September 29, 1972.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron miscroscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-17987 Filed 10-19-72;9:00 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Epidemiology and Biometry Advisory Committee, October 31, 1972, at 8:30 a.m., National Institutes of Health, Building 31, Conference Room 7. The committee will discuss hypertension programs, training programs, and new initiatives. The meeting will be open to the public from 2 p.m. to 4:30 p.m. The meeting will be closed to the public 8:30 a.m. to 1 p.m., to review, discuss, and evaluate and/or rank contract proposals in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members and/or summary of the meeting may be obtained: Dr. Manning Feinleib, National Institutes of Health Building 31, Room 1C-15.

Dated: October 16, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-17960 Filed 10-19-72;8:59 am]

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), as amended, is hereby amended with regard to section 3-20, *Organization and Functions*, as follows:

The chapter alphabetically coded 3P-00—Community Health Service (3P00)—is being amended to reflect the following changes:

(a) The three divisions currently operating within the Community Health Service are reduced to two. The Division of Health Resources is abolished; however, most of its functions are retained within the remaining two operating Divisions.

(b) The Community Profile Data Center is abolished; however, most of its functions are retained within the Division of Health Care Services.

(c) The Office of Training and Staff Development and the Office of Field Services are abolished.

V37-204 OCT 20 72 XUM

The above changes, together with certain minor changes, require a complete replacement of Chapter 3P00, as follows:

COMMUNITY HEALTH SERVICE (3P00)

Stimulates, conducts, supports, and evaluates programs designed to increase the effectiveness and efficiency of allocating and utilizing health resources for quality preventive and curative health services obtainable and acceptable to the American people. To this end, the Service promotes, develops, and supports: (1) Programs of comprehensive health care focused on the needs and entitlements of individuals and families wherever they live; (2) standards and evaluative activities as a means of increasing the Nation's capacity for delivering quality health services; and (3) activities designed to increase the scope and adequacy of balanced resources for the provision of comprehensive personal health services.

Office of the Director (3P01). (1) Provides leadership and general direction for Service operations, including equal employment opportunity and training and staff development; (2) establishes program objectives and policies; (3) coordinates and evaluates development and progress of the Service's activities; (4) provides technical guidance and coordination to Service activities in the Regional Offices; and (5) provides liaison with other agencies, including the Social Security Administration, the Food and Drug Administration, the Social and Rehabilitation Service, the Department of Housing and Urban Development, the Office of Economic Opportunity, and the Department of Agriculture.

Office of Information (3P17). (1) Develops and conducts an overall Service information program; (2) provides staff advice on information matters; and (3) participates in the planning and development of Service-level policies with special responsibility for their interpretation to the public.

Office of Administrative Management (3P19). (1) Develops and implements management policies, procedures, and systems; (2) plans, directs, and evaluates the administrative management activities of the Service; (3) provides guidance to Service financial management activities, including program policy interpretation in budget formulation and execution, preparation of Program Planning and Budgeting data, and financial management of grants; (4) maintains liaison with officials of the Office of the Administrator and the Office of the Secretary on financial, personnel, organization, supply, contracts, and other management matters; and (5) plans, directs, and evaluates the Service's grants policy and activities.

Office of Program Planning and Evaluation (3P31). (1) Serves as the Service's principal staff arm for program planning, coordination, and evaluation, including the development of program alternatives and policy positions; (2) advises the Director and his immediate staff on program policy and operational implications arising from activities of the Service; (3) provides leadership in development and operation of the Service's long-range and operational planning systems, which include preparation of annual and 5-year plans and establishment of program goals; (4) coordinates the development of the overall evaluation program for the Service; (5) provides the focus for legislative development and analysis in the Service; and (6) coordinates the development of and accomplishes the formal clearance of grant and program policy for the Service.

Division of Medical Care Standards (3P45). (1) Develops, evaluates, and recommends minimum standards for health care provided under Title XVIII (Medicare) of the Social Security Act and other assigned Federal reimbursement and support programs; (2) identifies need for new and revised standards so as to continually upgrade quality of health care; (3) develops, evaluates, and recommends guidelines and procedural manuals for use by State agencies in their licensure and certification performance; (4) conducts training programs and other activities directed to improvement of licensure and certification performance; (5) provides technical consultation to other Federal programs, to Regional Office personnel, and to State and local health officials in the development, interpretation, and application of health standards and policy concerning coverage of health services; and (6) monitors State agency medicare plans and operations.

Division of Health Care Services (3P55). (1) Promotes the utilization of improved methods of health services organization, delivery, and financing at the community level in both urban and rural settings and in long term care facilities and programs; (2) stimulates interest in and knowledge of their health services on the part of members of the community; (3) promotes studies of existing patterns of health services organization in specific communities to identify gaps in services to people; (4) encourages the design of systems of health service delivery to meet the communities' expectations and wishes; (5) promotes the concept of coordinated local programing in order to assure maximum effectiveness from available resources; (6) recommends allocation of funds to Regions for funding of project grants for development and extension of health services; (7) supports the delivery of health services to groups with special needs, such as the rural and urban poor, the residents of sparsely populated areas, the migrant worker and the aged; (8) develops, supports, and evaluates innovative methods for organizing and financing health care services such as prepayment and group practice; and (9) develops program policies for health services development project grants, including family and neighborhood health centers, and migrant health services.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

OCTOBER 13, 1972.

[FR Doc.72-17924 Filed 10-19-72;8:47 am]

Office of the Secretary

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on October 25, 1972. This panel was established by the Assistant Secretary for Health and Scientific Affairs to provide advice on the circumstances surrounding the Tuskegee, Ala., Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health and Scientific Affairs requested the panel to advise him on the following specific aspects of the Tuskegee Syphilis Study:

1. Determine whether the study was justified in 1932, and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the panel will give to the Assistant Secretary for Health and Scientific Affairs on the three charges outlined above with particular attention to the second charge, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Secretary's Notice of Determination of September 27, 1972, this meeting is closed to the public. The meeting will begin at 10 a.m. in Conference Room 8, Building 31 at the National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin (202—962-7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: October 16, 1972.

PAUL COHART,
Acting Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.72-17966 Filed 10-19-72;8:56 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Order Convening Evidentiary Hearing

In the matter of consolidated Edison Company of New York, Inc. (Indian Point Unit 2).

The parties to this proceeding through their attorneys have stipulated to their readiness to proceed to the introduction of further evidence on December 4, 1972.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that an evidentiary hearing in this proceeding shall convene at 1 p.m. on Monday, December 4, 1972, in the All-Purpose Room of the Springvale Inn, 500 Albany Post Road, Croton-on-Hudson, NY.

Issued: October 16, 1972, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.72-17948 Filed 10-19-72;8:57 am]

[Docket No. 50-255]

CONSUMERS POWER CO.

Notice of Issuance of Amendment to Provisional Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Amendment No. 4 to Provisional Operating License No. DPR-20 to Consumers Power Co. (the licensee) which permits operation of the Palisades Plant (the facility) at steady-state reactor core power levels of 2,200 megawatts thermal (100 percent of the rated power level of the facility) in accordance with the Technical Specifications and the Interim Special Technical Specifications. The facility is a pressurized water nuclear reactor, and is located at the licensee's site on the eastern shore of Lake Michigan in Covert Township, Van Buren County, Mich.

On September 1, 1972, pursuant to a Supplemental Initial Decision of the Atomic Safety and Licensing Board presiding in the hearing in this proceeding, Amendment No. 3 to Provisional Operating License No. DPR-20 was issued authorizing operation of the Palisades Plant at 1,320 megawatts thermal, 60 percent of the rated power level of the facility. Notice thereof was published in the FEDERAL REGISTER on September 9, 1972 (37 F.R. 18408). Exceptions to the Supplemental Initial Decision were filed with the Atomic Safety and Licensing Appeal Board.

On September 27, 1972, the Atomic Safety and Licensing Appeal Board rendered its decision which authorized the Director of Regulation to issue a license authorizing operation of the facility at power levels not to exceed 2,200 megawatts thermal, 100 percent of the rated power level of the facility, subject to the Technical Specifications and the Interim Special Technical Specifications previously incorporated in the license.

The Commission's regulatory staff has inspected the facility and has determined that the facility has been constructed in accordance with the application, as amended, the provisions of Provisional Construction Permit No. CPPR-25, the Atomic Energy Act of 1954, as amended, and the Commission's regulations. The licensee has previously submitted proof of financial protection in satisfaction of the requirements of 10 CFR Part 140.

The Director of Regulation has made the findings set forth in the license, and has concluded that the application, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter 1, and that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

The license amendment is effective as of the date of issuance and shall expire on March 1, 1974.

Copies of (1) the Atomic Safety and Licensing Board's Supplementary Initial Decision dated August 17, 1972, (2) this Amendment No. 4 to Interim Provisional Operating License No. DPR-20, with Technical Specifications and Interim Special Technical Specifications, (3) the Final Environmental Statement and (4) the decision of the Atomic Safety and Licensing Appeal Board dated September 27, 1972, and other relevant documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, MI. Copies of the amended license, and the Final Environmental Statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 16th day of October 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-17949 Filed 10-19-72;8:58 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Notice of Prehearing Conference

In the matter of Power Reactor Development Company (Enrico Fermi Atomic Power Plant No. 1).

In a notice of hearing dated August 25, 1972 (37 F.R. 17577), the Commission ordered that a hearing be held before a Commission-designated presiding officer concerning a show cause order entitled "Denial of Application for License Extension and Order Suspending Operations" with respect to the Enrico Fermi Atomic Power Plant No. 1. By notice dated September 27, 1972 (37 F.R. 21199) this Atomic Safety and Licensing Board was designated to conduct the hearing.

Accordingly, it is ordered, That a prehearing conference be held at 10 a.m. on Tuesday, October 31, 1972, in Room 111 of the Lafayette Building, 811 Vermont Avenue NW., Washington, DC. The purpose of the prehearing conference will be to consider those matters set forth in 10 CFR 2.752(a) of the Commission's rules of practice.

For the Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 18th day of October 1972.

CHARLES A. HASKINS,
Chairman.

[FR Doc.72-18076 Filed 10-19-72;9:03 am]

[Dockets Nos. 50-272 and 50-311]

PUBLIC SERVICE ELECTRIC & GAS

Consideration of Issuance of Facility Operating Licenses and Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of facility operating licenses to the Public Service Electric & Gas Co. (the Applicant) which would authorize the Applicant to possess, use, and operate the Salem Nuclear Generating Station, Units 1 and 2, two pressurized water nuclear reactors (the Facilities), located on the Applicant's site in Salem County, N.J. The facilities would operate at steady-state power levels not to exceed 3,350 megawatts thermal for Unit 1 and 3,423 megawatts thermal for Unit 2, in accordance with the provisions of the license and the technical specifications appended thereto. The licenses would be issued upon the receipt of a report on the Applicant's application for facility operating licenses by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the facility licenses, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Chapter 1. Construction of the Facilities was authorized by Construction Permits Nos. CPPR-52 and CPPR-53, issued by the Commission on September 25, 1968. Construction of Unit No. 1 is anticipated to be completed by October 1, 1974, and Unit No. 2 by May 1, 1975.

Prior to issuance of any operating licenses, the Commission will inspect each Facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the above-noted construction permit. In adding, the licenses will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed licenses, and has concluded that the issuance of the licenses will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the licenses, the Applicant will be re-

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quired to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The Salem Nuclear Generating Station, Unit 2, is subject to the provision in 10 CFR Part 50, Appendix D, section C.2 for notice of opportunity for filing petitions for leave to intervene and requests for hearing on environmental considerations related to continuation, modification, termination, or conditioning of the construction permit. The Salem Nuclear Generating Station, Unit 1, is subject to the provision in 10 CFR Part 50, Appendix D, section C.3.

Accordingly, notice is hereby given, pursuant to 10 CFR Part 2, rules of practice, and Appendix D of 10 CFR Part 50. Implementation of the National Environmental Policy Act of 1969, that the Commission is providing an opportunity for hearing with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permits for Unit 2 in the captioned proceeding should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the Applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene: (1) With respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the construction permit for Unit 2 should be continued, modified, terminated, or appropriately conditioned to protect environmental values; and (2) with respect to the issuance of the facility operating licenses for Units 1 and 2. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating licenses dated March 1, 1972, as amended, and the applicant's environmental report dated June 30, 1971, as supplemented, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC., and at the Salem Free Public Library, 112 West Broadway, Salem, NJ. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating licenses; (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental considerations; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating licenses; and (6) the technical specifications, which will be attached to the proposed facilty operating licenses.

Copies of Items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 6th day of October 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-17481 Filed 10-19-72;8:45 am]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Notice of Availability of Applicant's Environmental Report, Supplemental Environmental Reports, and AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report and Supplement 1 and 2 to Environmental Report" (collectively known as the "reports"), submitted by the Sacramento Municipal Utility District, have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in Sacramento City County Library, 828 I Street, Sacramento, CA 95814. The reports are also available at the Lieutenant Governor's Office of Intergovernmental Management, State Capital, Sacramento, Calif. 95814, and Sacramento Regional Area Planning Commission, 926 J Building. Sacramento, Calif. 95814.

Notice of availability of the applicant's environmental report was published in the FEDERAL REGISTER on January 6, 1972 (37 F.R. 152).

The reports have been analyzed by the Commission's Directorate of Licensing, and a draft environmental statement, dated October 1972, related to the proposed continuation of Construction Permit No. CPPR-56 and the proposed issuance of operating licenses for the Rancho Seco Nuclear Generating Station Unit No. 1, located at Sacramento Municipal Utility District site in Sacramento County, has been approved and has been made available for public inspection at the locations designated above. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to Appendix D to CFR Part 50, interested persons may, within forty-five (45) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report and supplements, on the draft environmental statement, and on the proposed actions. Federal and State agencies are being provided with copies of the draft environmental statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Date at Bethesda, Md., this 18th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18075 Filed 10-19-72;9:03 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Issuance of Amendment to Facility Operating License (Temporary Operating License)

Pursuant to a decision of the Atomic Safety and Licensing Appeal Board, dated October 11, 1972, notice is hereby given that the Atomic Energy Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR-28 to Vermont Yankee Nuclear Power Corp. (Vermont Yankee). On September 7, 1972, the Commission issued Amendment No. 2 to DPR-28, a temporary operating license, which permitted operation of the facility at 318.6 megawatts thermal (20 percent of the facility's rated power). Amendment No. 3 amends the temporary operating license to authorize operation of the Vermont Yankee Nuclear Power Station (the facility) at higher thermal power levels not to exceed 1593 megawatts, in accordance with the Technical Specifications (Appendixes "A" and "B") appended thereto. Operation of the facility is restricted to the authorized power level and to the closed-cycle cooling mode and, in accordance with § 50.57(d) of 10 CFR Part 50, Vermont Yankee and its sponsoring utilities are prohibited from retiring, dismantling, or performing any maintenance on any of their existing generating capacity that could reasonably be delayed, on the ground of the availability of the capacity of the Vermont Yankee Nuclear Power Station. The facility is a boiling water nuclear power reactor located at the licensee's site in Windham County, Vt.

The Commission's regulatory staff has inspected the facility and has determined that, for operation as authorized by the amended temporary operating license, the facility has been constructed in accordance with the application, as amended, the provisions of Provisional Construction Permit No. CPPR-36, the Act, and the Commission's regulations. The licensee has submitted proof of financial protection in satisfaction of the requirements of 10 CFR Part 140.

Pursuant to the Appeal Board's decision, dated October 11, 1972, the Commission has concluded that the facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission and will not be inimical to the common defense and security or to the health and safety of the public and that Vermont Yankee is technically and financially qualified to engage in the activities authorized by the amended temporary operating license. The Commission has further concluded that operation of the facility during the period of the amended temporary operating license in accordance with its terms and conditions will provide adequate protection of the environment during the period of the amended temporary operating license, and that operation of the facility in accordance with the terms and conditions of the amended temporary operating license is essential toward insuring that the power generating capacity of the utility system or power pool involved is at, or is restored to, the levels required to assure the adequacy and reliability of the power supply.

The amended temporary operating license is effective as of the date of issuance and will expire (i) on February 28, 1973, or on such later date to which it may be extended or (ii) upon earlier issuance of a full-term operating license. The Commission will vacate the amended temporary operating license if it is found that Vermont Yankee is not prosecuting its application for a full-term operating license with due diligence. Upon expiration of the amended temporary operating license, without issuance of a full-term operating license, the facility license in effect for this facility shall be the facility license as it read prior to Amendment No. 2.

For further details, see (1) the Appeal Board's decision, dated October 11, 1972; (2) Amendment No. 3 to Facility Operating License No. DPR-28; and (3) the Staff's Safety Evaluation and supplements thereto, all of which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT. Copies of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of licensing.

Dated at Bethesda, Md., this 12th day of October 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-17932 Filed 10-19-72;8:56 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 3]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1973, published in 37 F.R. 13352 is amended as follows:

1. The provisions of section 22 entitled "Oats—export sales (bulk)" are deleted.

2. The provisions of section 25 entitled "Rye—export sales (bulk)" are deleted.

3. Section 32 entitled "Peanuts, shelled or farmers stock—restricted use sales" published in 37 F.R. 13354 as amended in 37 F.R. 19389 is revised to read as follows:

When stocks are available in their area of responsibility, the quantity, type, and grade offered are announced in weekly lot lists or invitations to bid issued by the following:

GFA Peanut Association, Camilla, Ga. 31730.

Peanut Growers Cooperative Marketing Association, Franklin, Va. 23851.

Southwestern Peanut Growers' Association, Gorman, Tex. 76454.

Terms and conditions of sale are set forth in Announcement OC-10 (Revision 1), effective October 1, 1972 and the applicable lot list.

1. Shelled peanuts of less than U.S. No. 1 Grade may be purchased for foreign or domestic crushing.

2. Shelled graded peanuts equal to or exceeding requirements of U.S. grades may be purchased for export without limitations on their use.

3. Farmers Stock: Segregation 1 may be purchased and:

A. Milled to produce U.S. No. 1 or better grade shelled peanuts to be exported and the balance either crushed or domestically or fragmented and exported.

B. Milled to remove the hulls and exported after fragmentation.

C. Exported as farmers stock with no warranty after delivery by CCC.

Segregation 2 and 3 peanuts may be purchased for domestic crushing only.

Sales are made on the basis of competitive bids submitted each Wednesday to the Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250.

4. Section 12 entitled "Wheat, bulk—export sales" is revised to read as follows:

CCC will sell limited quantities of Hard Red Winter, Durum and Hard Red Spring wheat at west coast ports at export market price levels for export under Announcement GR-212 (Revision III, November 30, 1970, as amended).

A. Such exports must be made from the west coast to a destination west of the 170th meridian, west longitude, and east of the 60th meridian, east longitude, and to ports on the West Coast of Central and South America and the West Coast of Mexico. Such exports shall not be eligible for financing under title I, Public Law 480 or for application to CCC barter contracts.

5. Section 1(b) entitled "General" is amended by the insertion of a last sentence which reads as follows:

Interest at 6½ percent will be charged for delinquent payments on consignment and track grain sales from the date of sale to the date payment is received.

Effective date: 2:30 p.m., e.d.t., September 29, 1972.

Signed at Washington, D.C., on October 12, 1972.

GLEN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-17931 Filed 10-19-72;8:56 am]

V37-204 OCT 20 72 XUM

Office of the Secretary

SOUTH DAKOTA

Designation of Areas for Emergency and Rural Housing Disaster Loans

It has been determined that property loss or damage or injury in certain counties in South Dakota has resulted from natural disasters caused by heavy rains during October and December 1971 and heavy rains, hailstorms, windstorms, tornadoes, and flooding during the period of April to September 1972. The following counties of South Dakota are affected by such natural disasters:

Beadle.	Hanson.
Brookings.	Kingsbury.
Brown.	Miner.
Clark.	Roberts.
Codington.	Sanborn.
Davison.	Spink.
Day.	Yankton.
Hamlin.	

It has further been determined that in the above counties of South Dakota a general need for credit exists. Therefore, these counties are declared eligible for low interest-rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, the Disaster Relief Act of 1970, Title V of the Housing Act of 1949, and Public Law 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 17th day of October 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-17996 Filed 10-19-72;9:02 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THAILAND

Entry or Withdrawal From Warehouse for Consumption

OCTOBER 17, 1972.

On March 31, 1972, there was published in the FEDERAL REGISTER (37 F.R. 6605), a letter dated March 27, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in Thailand and exported to the United States during the 12-month period beginning April 1, 1972. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 5 of the bilateral cotton textile agreement of March 16, 1972, between the Governments of the United States and Thailand, which provides that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent. Since the applicable group limit would be exceeded by (1) a 5-percent increase in the levels of restraint applicable to Categories 9/10, 15/16, and 22/23, and (2) planned shipments in categories not given specific ceilings, the Government of Thailand has requested that a corresponding decrease be made in the levels of restraint applicable to Categories 26/27 and 54.

Accordingly, at the request of the Government of Thailand and pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of October 17, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to cotton textile products in Categories 9/10, 15/16, 22/23, 26/27, and 54 for the 12-month period which began on April 1, 1972.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

OCTOBER 17, 1972.

DEAR MR. COMMISSIONER: On March 27, 1972, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning April 1, 1972, of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Thailand, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to paragraph 5 of the bilateral cotton textile agreement of March 16, 1972, between the Governments of the United States and Thailand, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the levels of restraint established in the aforesaid directive of March 27, 1972, for cotton textiles and cotton textile products in Categories 9/10, 15/16, 22/23, 26/27, and 54 produced or manufactured in Thailand, as set forth below:

Category		*Amended 12-month level of restraint*
9/10	square yards	1,968,750
15/16	do	752,000
22/23	do	1,181,250
26/27	do	1,403,050
54	dozen	3,209

The actions taken with respect to the Government of Thailand and with respect to imports of cotton textiles and cotton textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-17983 Filed 10-19-72;9:00 am]

[1] The term "adjustment" refers to those provisions of the bilateral cotton textile agreement of Mar. 16, 1972, between the Governments of the United States and Thailand which provide in part that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than five (5) percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

ENVIRONMENTAL PROTECTION AGENCY

CHEVRON CHEMICAL CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3H5022) has been filed by Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94804, proposing establishment of a food additive tolerance (21 CFR Part 121) for negligible residues of diquat (6,7-dihydrodipyrido(1,2-a:2',1'-c)pyrazidilinium) in potable water at 0.01 part per million calculated as the cation and resulting from use of its dibromide salt in the control of aquatic weeds.

Dated: October 10, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17934 Filed 10-19-72;8:56 am]

THOMPSON-HAYWARD CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1315) has been filed by Thompson-Hayward Chemical Co., Post Office Box 2383, Kansas City, KS 66110, proposing establishment of a tolerance (40 CFR Part 180) for negligible residues of the fungicide triphenyltin hydroxide in or on the raw agricultural commodity carrots at 0.1 part per million.

The analytical method proposed in the petition is a colorimetric procedure in which organotin residues are extracted. After wet ashing, inorganic tin in the ashed residue is determined colorimetrically with phenyl fluorone.

Dated: October 10, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-17933 Filed 10-19-72;8:56 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 617]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

OCTOBER 10, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2146-C2-AL-73—Anna H. Smith, consent to involuntary assignment of license from Anna H. Smith, executrix of the estate of Lawrence H. Smith, assignor, to Diane S. Harragan, as successor executrix of the estate of Lawrence H. Smith, deceased, assignee. Station: KEA855, Manorville, N.Y.

2154-C2-P-73—Schaller Telephone Co. (New), for a new two-way station to be located at 1.6 miles southeast of Schaller, Iowa, to operate on 152.510 MHz.

2155-C2-P-73—Webster-Calhoun Cooperative Telephone Association (New), for a new two-way station to be located at 0.35 mile south-southwest of Gowrie, Iowa, to operate on 152.540 MHz.

2156-C2-MP-(4)-73—Mobilfone (KKJ459), change the antenna system for facilities operating on 454.175, 454.225, 454.275, and 454.325 MHz at location No. 3: 2501 Suntide Road, Corpus Christi, TX.

2157-C2-P-73—Miami Valley Radiotelephone (KLF577), for additional facilities to operate on 35.22 MHz located at I-75 and WDAO Tower, Dayton, Ohio.

2159-C2-AL-(3)-73—South Georgia Communications Co., consent to assignment of license from South Georgia Communications Co., assignor, to South Georgia Communications, Inc., assignee. Stations: KIY765 Screvan, KIY503 and KSV909 (one-way), Brunswick, Ga.

2160-C2-P-73—The United Telephone Co. of Pennsylvania (New), for a new one-way station to be located at 1 mile north-west by north of Columbia, Pa., to operate on 43.22 MHz.

2161-C2-P-73—Halstad Telephone Co. (KAI932), for additional facilities to operate on 152.540 MHz, located at Rygland, Minn.

2199-C2-P-C2-P-73—Dome Communications (KLF516), change the antenna system operating on 152.150 MHz located at Little Goose Peak, Wyo.

558-C2-R-73—Michigan Bell Telephone Co. (KQM40), renewal of license for developmental fixed expiring September 28, 1972. Term: September 28, 1972, to September 28, 1973.

2250-C2-P/ML-73—Same as above, for two additional units to operate on 35.50 and 43.50 MHz in any temporary fixed location within the territory of the grantee.

2258-C2-P-73—Airsignal of California, Inc. (KMA219), relocate facilities operating on 152.030 MHz to 2904 Fine Avenue, Modesto, CA.

2259-C2-TC-73—Bair's Communications, Inc., consent to transfer of control from Howard Bair, transferor, to F. Wayne Bair, transferee. Station: KIY520, Belle Glade, Fla.

2260-C2-P-(4)-73—South Central Bell Telephone Co. (KIA648), delete test facilities operating on 157.77, 157.89, and 158.04 MHz; replace base transmitters operating on 152.51, 152.63, and 152.78 MHz; add facilities to operate on 152.75 MHz and change the antenna systems at 521 West Chestnut Street, Louisville, KY.

2265-C2-AL-(22)-73—Mobilfone, consent to assignment of license from The Redco Corp., Roy M. Teel and Lowry McKee, doing business as Mobilfone, assignors, to Mobilfone Service, Inc., assignee. Stations: KFL927, Springdale, Ark.; KKA402 and KLF614 (one-way), Fort Smith, Ark.; KLB779 and KRS660 (one-way), Tulsa, Okla.; KLB511 and KRH632 (one-way), Lawton, Okla.; KKO347, Grove, Okla.; KFQ944, Krebs, Okla.; KLB786, Weatherford, Okla.; KKN287, Perry, Okla.; KLF558, Turner Falls, Okla.; KKJ452, Oklahoma City, Okla.; KWA664, Duncan, Okla.; KRH649, Enid, Okla.; KKA401, Oklahoma City, Okla.; KKA341, Tulsa, Okla.; KKA403 and KQZ792, McAllen, Tex.; KQZ772, Corpus Christi, Tex.; KKM254, Laferia, Tex., and KKJ459, Corpus Christi, Tex.

2279-C2-P-73—Selma Radiotelephone Co. (New), for a new one-way station to be located at 16 Sylvan Street, Selma, AL, to operate on 152.240 MHz.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reason of potential electrical interference.

Virginia

Paging, Inc. (New), 6129-C2-P-72.

Tennessee

Lalle Hampton, doing business as Radio Call Co. (New), 5957-C2-P-72.

RURAL RADIO SERVICE

2159-C1-AL-(7)-73—South Georgia Communications Co., consent to assignment of license from South Georgia Communications Co., assignor, to South Georgia Communications, Inc., assignee. Stations: WCZ26 Little St. Simons Island, KJK60 Temp-Fixed, KYO27, WDE55, WDE56, WDE57, WDE58 Cumberland Island, Ga.

2261-C1-P/ML-73—Mountain States Telephone & Telegraph Co. (KXR73), replace transmitter operating on 157.80 MHz at Great Sale Lake State Park, 10 miles west-southwest of Syracuse, Utah.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

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RURAL RADIO SERVICE—continued

2265-C1-AL-(4)-73—Mobilfone, consent to assignment of license from The Redco Corp., Roy M. Teel & Lowry McKee, doing business as Mobilfone, assignors, to Mobilfone Service, Inc., assignee. Stations: KKW30, KLH31, KLT50 and KRR72 (All Temp-Fixed).

2162-C1-P-73—The Midland Telephone Co. (New), for a new rural subscriber station to be located at Fry Canyon, Utah, to operate on 157.77 MHz.

2276-C1-P/L-73—The Offshore Telephone Co. (New), for a new central office, interoffice fixed station or temporary fixed station to operate on 454.375, 454.400, 454.425, 454.450, 454.475, 454.500, 454.525, and 454.550 MHz with (4 Units) in temporary fixed locations.

2277-C1-P/ML-73—(KKT89), same as above except (100 units) to operate on 459,375, 459,400, 459.425, 459.450, 459.475, 459.500, 459.525, and 459.550 MHz in temporary fixed locations.

POINT-TO-POINT MICROWAVE RADIO SERVICE

743-C1-R-73—American Telephone & Telegraph Co. (KEF72), in any temporary fixed location within the continental United States. Application for renewal of license for radio stations operating on frequencies 3700–4200, 5952–6425, and 10,700–11,700 megacycles.

4147-C1-R-73—The Mountain States Telephone & Telegraph Co. (WJK88), Bill Williams Mountain, 3.5 miles southwest of Williams, Ariz. Latitude 35°12'01" N., longitude 112°-12'16" W. Application for renewal of license from November 1, 1972 to July 11, 1973, on frequency 2170H MHz toward Hualapai Peak, Ariz.

4148-C1-R-72—Same (WJK90), Hualapai Peak, 10.7 miles east-southeast of Kingman, Ariz. Latitude 35°05'40" N., longitude 113°54'18" W. Application for renewal of license from November 1, 1972 to July 11, 1973, on frequency 2120H MHz toward Bill Williams Mountain, Ariz.; frequencies 11,405H, 11,645V MHz toward Kingman, Ariz.

4149-C1-R-73—Same (WJK98), 501 North Third Street, Kingman, Ariz. Latitude 35°11'33" N., longitude 114°03'14" W. Application for renewal of license from November 1, 1972, to July 11, 1973, on frequencies 10,715V, 10,955H MHz toward Hualapai Peak, Ariz.

2149-C1-P-73—American Telephone & Telegraph Co. (KYN90), 9.5 miles north-northeast of Boone, Iowa. Latitude 42°09'55" N., longitude 93°47'37" W. C.P. to add frequency 4030H MHz toward Ames, Iowa.

2150-C1-P-73—Same (KAS42), 6.0 miles southwest of Ames, Iowa. Latitude 41°57'07" N., longitude 93°40'40" W. C.P. to add frequency 4070V MHz toward Des Moines, Iowa.

2151-C1-P-73—The Mountain States Telephone & Telegraph Co. (KPW88), 29 Main Street, St. Anthony, ID. Latitude 43°58'00" N., longitude 111°40'52" W. C.P. to add frequencies 11,155H and 10,915V MHz toward Clementsville, Idaho via passive reflector.

2152-C1-P-73—Same (New), 2.1 miles east-northeast of Clementsville, Idaho. Latitude 43°52'55 N., longitude 111°19'47" W. C.P. for a new station on frequencies 11,605H and 11,365V MHz toward Clementsville, Idaho via passive reflector; frequencies 11,245V and 11,485H MHz toward Clementsville, Idaho via passive reflector.

2153-C1-P-73—Same (New), near corner of Little Avenue and Second Avenue East, Driggs, Idaho. Latitude 43°43'25" N., longitude 111°06'33" W. C.P. for a new station on frequencies 10,795V and 11,035H MHz towards Clementsville, Idaho via passive reflector.

(INFORMATIVE: American Telephone & Telegraph Co. C.P.'s (8) to construct two pairs of Western Electric Co. type TD-2 telephone channels between Berlin and Springfield, Ill., and one telephone channel from Highland to Odell, Ill.

2167-C1-P-73—(KSB74), 2 miles north-northwest of Highland, Ill. Add 4110V MHz toward Hookdale, Ill.

2168-C1-P-73—(KSN70), 6 miles east-northeast of Hookdale, Ill. Add 4150V MHz toward Nokomis, Ill.

2169-C1-P-73—(KSN69), 2.5 miles south-southeast of Nokomis, Ill. Add 4110H MHz toward Macon, Ill.

2170-C1-P-73—(KSN68), 1.5 miles east-southeast of Macon, Ill. Add 4150H MHz toward Cisco, Ill.

2171-C1-P-73—(KSN67), 1.4 miles northwest of Cisco, Ill. Add 4110V MHz toward Saybrook, Ill.

2172-C1-P-72—(KSN66), 3.7 miles north-northwest of Saybrook, Ill. Add 4150 MHz toward Odell, Ill.

2173-C1-P-73—(KSE23), 4.5 miles northwest of Berlin, Ill. Add 3970H and 4050H MHz toward Springfield, Ill.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2174-C1-P-73—(KSA98), 625 South Sixth Street, Springfield, IL. Add 4010H and 4090H MHz toward Berlin, Ill.

2175-C1-P-73—New England Telephone & Telegraph Co. (KCK84), C.P. to replace transmitters and change frequencies 10,755, 10,835, 10,995, and 11,155 MHz to 10,715V, 10,795V, 10,875V, and 11,035V MHz directed toward Hartford, Vt. Location: 7 Currier Street, White River Junction, Vt.

2176-C1-P-73—Same as above (KCK62), on Hurricane Hill, 1 mile southwest of Hartford, Vt. C.P. to replace transmitters and change frequencies 11,285, 11,445, 11,605, and 11,685 MHz to 11,245V, 11,325V, 11,485V, and 11,645V MHz toward White River Junction, Vt. and add 5997.1V and 6056.4V MHz toward Springfield, Vt.

2177-C1-P-73—Same (KTF43), 3.4 miles east-northeast of Springfield, Vt. C.P. to add 6249.1V and 6308.4V MHz toward Hartford, Vt.

(Informative: American Telephone & Telegraph Co. C.P.'s (20) to construct one message pair and one protection pair of Western Electric Type TH-3 radio channels between Shreveport, La. and Jasper, Ala.)

2178-C1-P-73—(KRS91), 3.5 miles southwest of Jasper, Ala. Add 6034.2H and 6152.8H MHz toward Berry, Ala.

2179-C1-P-73—(KRR76), 5 miles east-southeast of Berry, Ala. Add 6286.2H and 6404.8H MHz toward Jasper and Gordo, Ala.

2180-C1-P-73—(KRS90), 13.5 miles north of Gordo, Ala. Add 6034.2V and 6152.8V MHz toward Berry and Carrollton, Ala.

2181-C1-P-73—(KRR77), 4 miles northwest of Carrollton, Ala. Add 6286.2H and 6404.8H MHz toward Gordo, Ala. and Brooksville, Miss.

2182C1-P-73—(KRT24), 8 miles north of Brooksville, Miss. Add 6034.2V and 6152.8V MHz toward Carrollton, Ala. and 6286.2H and 6404.8H MHz toward Mashulaville, Miss.

2183-C1-P-73—(KRT29) 8.1 miles west of Mashulaville, Miss. Add 6034.2V and 6152.8V MHz toward Brooksville and Louisville, Miss.

2184-C1-P-73—(KRT28) 7.5 miles west of Louisville, Miss. Add 6286.2H and 6404.8H MHz toward Mashulaville and 6286.2V and 6404.8V MHz toward Williamsville, Miss.

2185-C1-P-73—(KRT30) 1.6 miles northwest of Williamsville, Miss. Add 6034.2H and 6152.8H MHz toward Louisville and Durant, Miss.

2186-C1-P-73—(KRT27) 1.6 miles northwest of Durant, Miss. Add 6286.2V and 6404.8V MHz toward Williamsville and 6286.2H and 6404.8H MHz toward Pickens, Miss.

2187-C1-P-73—(KLN22) 7.6 miles west of Pickens, Miss. Add 6034.2V and 6152.8V MHz toward Durant and 6034.2H and 6152.8H MHz toward Bentonia, Miss.

2188-C1-P-73—(KLN21) 4.8 miles north of Bentonia, Miss. Add 6286.2V and 6404.8V MHz toward Pickens and Redwood, Miss.

2189-C1-P-73—(KLN20) 6.8 miles east of Redwood, Miss. Add 6034.2H and 6152.8H MHz toward Bentonia, Miss., and 6034.2V and 6152.8V MHz toward Vicksburg, Miss.

2190-C1-P-73—(KKT28), 4.3 miles south-southeast of Vicksburg, Miss. Add 6286.2V and 6404.8V MHz toward Redwood, Miss.; 6286.2V and 6404.8V MHz toward Tendal, La.

2191-C1-P-73—(KKT27), 1.1 miles east of Tendal, La. Add 6034.2H and 6152.8H MHz toward Vicksburg, Miss.; frequencies 6034.2H and 6152.8H MHz toward Oak Ridge, La.

2192-C1-P-73—(KKT26), 2.5 miles east of Oak Ridge, La. Add 6286.2V and 6404.8V MHz toward Tendal, La.; frequencies 6286.2V and 6404.8V MHz toward Monroe, La.

2193-C1-P-73—(KKT25), 1.6 miles west of Monroe, La. Add frequencies 6034.2V and 6152.8V MHz toward Oak Ridge, La.; frequencies 6034.2V and 6152.8V MHz toward Vienna, La.

2194-C1-P-73—(KKT24), 3 miles east-northeast of Vienna, La. Add frequencies 6286.2H and 6404.8H MHz toward Monroe, La.; frequencies 6286.2H and 6404.8H MHz toward Athens, La.

2195-C1-P-73—(KKT23), 2 miles northwest of Athens, La. Add frequencies 6034.2V and 6152.8V MHz toward Vienna, La.; frequencies 6034.2V and 6152.8V MHz toward Haughton, La.

2196-C1-P-73—(KKT22), 2 miles northwest of Haughton, La. Add frequencies 6286.2H and 6404.8H MHz toward Athens, La.; frequencies 6286.2H and 6404.8H MHz toward Shreveport, La.

2197-C1-P-73—(KKO31), 602 Crockett Street, Shreveport, LA. Add frequencies 6034.2V and 6152.8V MHz toward Haughton, La.

2216-C1-P-73—(KPV22), 228 West Adams Street, Phoenix, AZ. Add frequency 6345.5V MHz toward South Phoenix, Ariz.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2217-C1-P-73—American Telephone & Telegraph Co. (WAD46), 6.5 miles southwest of Guadalupe, Ariz. Add frequency 6093.5H MHz toward Phoenix, Ariz.; frequency 6093.5V MHz toward Casa Grande, Ariz.

2218-C1-P-73—Same (WAD44), 4 miles west of Casa Grande, Ariz. Add frequency 6345.5H MHz toward South Phoenix, Ariz.; frequencies 6197.2H and 6375.2H MHz toward Florence, Ariz.; frequencies 6256.5H, 6345.5V, and 6375.2H MHz toward Sacaton, Ariz.

2219-C1-P-73—Same (WDE87), 5 miles southwest of Sacaton, Ariz. Add frequencies 6004.5V, 6093.5H, and 6123.1V MHz toward Casa Grande, Ariz.; frequencies 6004.5H, 6093.5V, and 6123.1H MHz toward Chandler Heights, Ariz.

2220-C1-P-73—Same (WDE88), 2.8 miles northwest of Chandler Heights, Ariz. Add frequencies 6256.5V, 6345.5H, and 6375.2V MHz toward Sacaton, Ariz.; frequencies 6256.5H, 6345.5V, and 6375.2H MHz toward Apache Junction, Ariz.

2221-C1-P-73—Same (KPV21), 7.5 miles northwest of Apache, Ariz. Add frequencies 6004.5V, 6093.5H, and 6123.1V MHz toward Chandler Heights, Ariz.

2222-C1-P-73—Same (WAD43), 6 miles southwest of Florence, Ariz. Add frequencies 5945.2V and 6123.1V MHz toward Casa Grande, Ariz.; frequencies 5945.2H and 6123.1H MHz toward Miama, Ariz.

2224-C1-P-73—Same (WAD42), 7 miles south-southeast of Miama, Ariz. Add frequencies 6197.2V and 6375.2V MHz toward Florence, Ariz.; frequencies 6197.2H and 6375.2H MHz toward Seneca, Ariz.

2225-C1-P-73—Same (WAD41), 7 miles southwest of Seneca, Ariz. Add frequencies 5945.2V and 6123.1V MHz toward Miama, Ariz.; frequencies 5945.2H and 6123.1H MHz toward McNary, Ariz.

2226-C1-P-73—Same (WAD40), 3 miles west-southwest of McNary, Ariz. Add frequencies 6197.2V and 6375.2V MHz toward Seneca, Ariz.; frequencies 6197.2H and 6375.2H MHz toward Greer, Ariz.

2227-C1-P-73—Same (WAD39), 6.2 miles northwest of Greer, Ariz. Add frequencies 5945.2V and 6123.1V MHz toward McNary, Ariz.; frequencies 5945.2H and 6123.1H MHz toward Red Hill, N. Mex.

2228-C1-P-73—Same (WAD45), 6.4 miles southwest of Red Hill, N. Mex. Add frequencies 6197.2V and 6375.2V MHz toward Greer, Ariz.; frequencies 6197.2H and 6375.2H MHz toward Quemado, N. Mex.

2229-C1-P-73—Same (WAD38), 6.7 miles southwest of Quemado, N. Mex. Add frequencies 5945.2V and 6123.1V MHz toward Red Hill, N. Mex.; frequencies 5945.2H and 6123.1H MHz toward Datil, N. Mex.

2230-C1-P-73—Same (WAD37), 917 miles northwest of Datil, N. Mex. Add frequencies 6197.2V and 6375.2V MHz toward Quemado, N. Mex.; frequencies 6197.2H and 6375.2H MHz toward Magdalena, N. Mex.

2231-C1-P-73—Same (WAD36), 12.5 miles southwest of Magdalena, N. Mex. Add frequencies 5945.2V and 6123.1V MHz toward Datil, N. Mex.; frequencies 5945.2H and 6123.1H MHz toward La Joya, N. Mex.

2232-C1-P-73—American Telephone & Telegraph Co. (WAD35), 10.5 miles west-northwest of La Joya, N. Mex. Add frequencies 6197.2V and 6375.2V MHz toward Magdalena, N. Mex.; frequencies 6197.2H and 6375.2H MHz toward Las Nutrias, N. Mex.

2233-C1-P-73—Same (WAD34), 4.2 miles southeast of Las Nutrias, N. Mex. Add frequencies 5945.2V and 6123.1V MHz toward La Joya, N. Mex.; frequencies 5945.2H and 6123.1H MHz toward Los Lunas, N. Mex.

2234-C1-P-73—Same (KKW32), 4.8 miles west of Los Lunas, N. Mex. Add frequencies 6197.2V and 6375.2V MHz toward Las Nutrias, N. Mex.; frequencies 6256.5H and 6375.2H MHz toward Scholle, N. Mex.

2235-C1-P-73—Same (WDE89), 2.2 miles southwest of Scholle, N. Mex. Add frequencies 6004.5V and 6123.1V MHz toward Los Lunas, N. Mex.; frequencies 6004.5H and 6123.1H MHz toward Mountainair, N. Mex.

2236-C1-P-73—Same (WDE90), 2.5 miles east-southeast of Mountainair, N. Mex. Add frequencies 6256.5V and 6375.2V MHz toward Scholle, N. Mex.; frequencies 6256.5H and 6375.2H MHz toward Pedernal, N. Mex.

2237-C1-P-73—Same (WDE91), 4 miles north-northwest of Pedernal, N. Mex. Add frequencies 6004.5V and 6123.1V MHz toward Mountainair, N. Mex.; frequencies 6004.5H and 6123.1H MHz toward Carnere, N. Mex.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2238-C1-P-73—Same (WDE92), 3.3 miles south-southeast of Carnero, N. Mex. Add frequencies 6256.5V and 6375.2V MHz toward Pedernal, N. Mex.; frequencies 6256.5H and 6375.2H MHz toward Cardenas, N. Mex.

2239-C1-P-73—Same (WDE93), 5.5 miles north-northwest of Buchanan, N. Mex. Add frequencies 6004.5V and 6123.1V MHz toward Carnero, N. Mex.; frequencies 6004.5H and 6123.1H MHz toward Taiban, N. Mex.

2240-C1-P-73—Same (WDE94), 3.5 miles north of Taiban, N. Mex. Add frequencies 6256.5V and 6375:2V MHz toward Cardenas, N. Mex.; frequencies 6256.5H and 6375.2H MHz toward Field, N. Mex.

2241-C1-P-73—Same (WDE96), 0.7 mile northeast of Field, N. Mex. Add frequencies 6004.5V and 6123.1V MHz toward Taiban, N. Mex.; frequencies 6004.5H and 6123.1H MHz toward Broadview, N. Mex.

2242-C1-P-73—Same (WDE97), 4.1 miles southeast of Hollene, N. Mex. Add frequencies 6256.5V and 6375.2V MHz toward Field, N. Mex.; frequencies 6256.5H and 6375.2H MHz toward Black, Tex.

2243-C1-P-73—Same (WDE98), 5.7 miles south-southeast of Black, Tex. Add frequencies 6004.5V and 6123.1V MHz toward Broadview, N. Mex.; frequencies 6004.5H and 6123.1H MHz toward Nazareth, Tex.

2244-C1-P-73—Same (WDE95), 10.3 miles north-northeast of Nazareth, Tex. Add frequencies 6256.5V and 6375.2V MHz toward Black, Tex.; frequencies 6256.5H and 6375.2H MHz toward Wayside, Tex.

2245-C1-P-73—American Telephone & Telegraph Co. (KLN81), 2 miles north-northwest of Wayside, Tex. Add frequencies 6004.5V and 6123.1V MHz toward Nazareth, Tex.

2246-C1-P-73—Same (KKP86) 10.4 miles west-southwest of Albuquerque, N. Mex. Add frequency 4130H MHz toward Sandoval, N. Mex.

2247-C1-P-73—Same (KSV59), 13.8 miles west of Sandoval, N. Mex. Add frequency 4170H MHz toward Albuquerque Junction, N. Mex.; frequency 4170V MHz toward Bernalillo, N. Mex.

2248-C1-P-73—Same (KKK82), 3.8 miles northwest of El Llainta, N. Mex. Add frequency 4130V MHz toward Sandoval, N. Mex.

931-C1-R-73—New York Telephone Co. (KEH95). In any temporary fixed location within the territory of the grantee. Application for renewal of license from April 13, 1972 to April 13, 1973.

2266-C1-TC-(8)-73—Video Service Co. Consent to Transfer of Control from Cox Cable Communications, Inc., Transferor to Cox American Cmmunications, Inc., Transferee. Stations: KSO93—Wellsboro, Ind.; KSO94—DeLong, Ind.; KSP63—Loganport, Ind.; KVD52—Peru, Ind.; KSO92—Scircleville, Ind.; KSP64—Monticello, Ind.; KSQ36—Lafayette, Ind., and KSQ37—Attica, Ind.

2267-C1-TC-(13)-73—American Television & Communications Corp. Consent to Transfer of Control from Stockholders of American Television & Communications Corp., Transferors to Cox American Communications, Inc., Transferee. Stations: KCM71—East Rockford, Minn.; KCM73—Little Falls, Minn.; KAY61—Willmar, Minn.; KZS97—Morris, Minn.; KYC43—Brainerd, Minn.; KCM75—Montevideo, Minn.; KOC70—Elbow Lake, Minn.; KYC45—Beauty Lake, Minn.; KYC44—Ben Draper, Minn.; KCM72—Cold Springs, Minn.; KCM74—Benson, Minn.; KJE51—Stuart, Fla.; KJE52—Fort Pierce, Fla.

2481-C1-R-71—Frank K. Spain, doing business as Microwave Service Co. (KPC56), Application for renewal of license from February 1, 1971 to February 1, 1976.

2278-C1-P/ML-73—The Offshore Telephone Co. (KYC56), temporary fixed locations. Modification of license C.P. to add frequencies 2110–2130, and 2160–2180 toward temporary fixed locations within service area.

2280-C1-P-73—TelePrompter Transmission of Kansas, Inc. (KPB51), Mount Royal, 28 miles north-northwest of Chester, Mont.; C.P. to change one (1) transmitter on frequency 6137.9 MHz and to increase output power to 10 watts.

9526-C1-MP-72—Western Tele-Communications, Inc. (WJL71), Telegraph Pass, 16.5 miles east-southeast of Yuma, Ariz.; Modification of C.P. (5309-C1-P-72) to change azimuth to 98°/52' toward Baker Peak (WJL72), Ariz. Frequency 2128.0H MHz (unchanged).

9527-C1-MP-72—Same (WJL72), Baker Peak, 4.30 miles South-southeast of Tacna, Ariz. (Latitude 32°37'34" N., longitude 113°59'14" W.): Modification of C.P. (5310-C1-P-72) to relocate station from Mohawk, Ariz., to aforesaid location—using existing frequency 2165.2V MHz toward Telegraph Pass, Ariz., on new azimuth 279°/03'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—MAJOR AMENDMENT

3055–C1–P–70—Data Transmission Co. (New), station location: One South Pinckney Street, Madison, Wis. Delete point of communication at Blue Mounds and change frequency to 11,385.0V MHz on azimuth 176°02′ towards new point of communication at Brooklyn, Wis.

3056–C1–P–70—Data Transmission Co. (New), station location: 2.1 miles southeast of Brooklyn, Wis. Delete point of communication at Rock Grove, Ill. and add frequency 5945.2H MHz on azimuth 147°08′ toward new point of communication at Newark, Wis. Add frequency 10,775.0V MHz on azimuth 358°03′ toward new point of communication at Madison, Wis.

3057–C1–P–70—Data Transmission Co. (New), change station name and location to Newark, 4.8 miles north-northeast of Newark, Wis., latitude 42°36′10″, longitude 89°09′54″. Change frequency toward Brooklyn to 6197.2H MHz on azimuth 327°16′. Change azimuth towards Rockford to 125°45′.

3058–C1–P–70—Data Transmission Co. (New), change location to 3 miles northeast of Poplar Grove, latitude 42°23′51″, longitude 88°46′53″. Delete point of communication at Rock Grove and add frequency 6123.1V MHz on azimuth 306°00′ towards new point of communication at Newark, Wis. Change frequency towards Como to 6152.8H MHz on azimuth 40°03′.

3059–C1–P–70—Data Transmission Co. (New), change location to 2.2 miles northwest of Como, latitude 42°36′58″, longitude 88°31′56″. Change frequency towards Polar Grove to 6345.5V MHz on azimuth 220°14′. Change frequency towards Big Bend to 6256.5V MHz on azimuth 36°57′.

3060–C1–P–70—Data Transmission Co. (New), station location: 2.2 miles northwest of Big Bend, Wis. Change frequency towards Como to 6152.8V MHz on azimuth 217°09′. Change frequency towards Milwaukee to 6063.8H MHz on azimuth 58°17′.

3067–C1–P–70—Data Transmission Co. (New), station location: Beatrice, 4 miles northwest of Porter Crossroad, Ind. Delete point of communication at Tinley Park and add frequency 10,775.0V MHz on azimuth 255°47′ towards new point of communication at Brunswick, Ill. Change frequency towards Medaryville to 6063.8V MHz on azimuth 152°30′.

3068–C1–P–70—Data Transmission Co. (New), station location: 2.6 miles southwest of Medaryville, Ind. Change frequency towards Beatrice to 6315.9V MHz on azimuth 332°40′. Delete point of communication at Delong and add frequency 6404.8H MHz on azimuth 139°32′ towards new point of communication at Monticello.

3069–C1–P–70—Data Transmission Co. (New), change station name and location to Monticello, 5.7 miles northwest of Idaville, Ind., latitude 40°50′23″, longitude 86°40′37″. Change azimuth towards Medaryville to 319°42′. Delete point of communication at Gilead and add frequency 6152.8H MHz on azimuth 120°07′ towards new point of communication at Logansport.

3070–C1–P–70—Data Transmission Co. (New), change station name and location to Logansport, 3.5 miles south of Logansport, Ind., latitude 40°41′58″, longitude 86°21′37″. Delete point of communication at Delong and add frequency 6404.8H MHz on azimuth 300°20′ towards new point of communication at Monticello. Change frequency towards Wawpecong to 6404.8H MHz on azimuth 115°19′.

3071–C1–P–70—Data Transmission Co. (New), change station location to 1.5 miles northwest of Wawpecong, Ind., latitude 40°35′34″, longitude 86°03′56″. Delete point of communication at Gilead and add frequency 6152.8H MHz on azimuth 295°31′ toward new point of communication at Logansport. Delete point of communication at Tetersburg and add frequency 6093.5V MHz on azimuth 188°15′ toward new point of communication at East Union.

3072–C1–P–70—Data Transmission Co. (New), change station name and location to East Union, 2.3 miles northeast of Ekin, Ind., latitude 40°14′20″, longitude 86°07′57″. Change frequency toward Wawpecong to 6345.5V MHz on azimuth 8°12′. Delete point of communication at Eden and add frequency 6375.2H MHz on azimuth 142°59′ toward new point of communication at Fortville.

3073–C1–P–70—Data Transmission Co. (New), change station name and location to Fortville, 2.5 miles northwest of Fortville, Ind., latitude 39°58′22″, longitude 85°52′19″. Change azimuth toward Greenwood to 195°11′. Delete point of communication at Tetersburg and add frequency 6123.1H on azimuth 323°09′ toward new point of communication at East Union. Delete point of communication at Indianapolis.

POINT-TO-POINT MICROWAVE RADIO SERVICE—MAJOR AMENDMENT—continued

3074–C1–P–70—Data Transmission Co. (New), station location: 1 Indiana Square, Indianapolis, Ind. Delete point of communication at Eden and add frequency 6152.8V MHz on azimuth 142°30′ toward new point of communication at Greenwood.

3075–C1–P–70—Data Transmission Co. (New), change location to 6 miles east of Greenwood, Ind., latitude 39°36′36″, longitude 85°59′57″. Delete point of communication at Eden and add frequency 6375.2H MHz on azimuth 15°06′ towards new point of communication at Fortville. Delete point of communication at Taylor Hill and add frequency 6404.8V MHz on azimuth 184°04′ towards new point of communication at Patterson Hill. Add frequency 6404.8V MHz on azimuth 322°36′ towards new point of communication at Indianapolis.

3076–C1–P–70—Data Transmission Co. (New), change name and location to Patterson Hill, 1.1 miles east of Bethany, Ind., latitude 39°10′07″, longitude 86°02′22″. Change azimuth towards Greenwood to 4°02′. Change azimuth towards New Philadelphia to 175°54′. Change frequency towards Greensburg to 6152.8H MHz on azimuth 86°51′.

3077–C1–P–70—Data Transmission Co. (New), station location: 10 miles south of Greensburg, Ind. Delete point of communication at Taylor Hill and add frequency 6404.8H MHz on azimuth 267°12′ towards new point of communication at Patterson Hill.

3078–C1–P–70—Data Transmission Co. (New), change station location to 1.3 miles southeast of Penntown, latitude 39°15′22″, longitude 85°04′55″. Change frequency to New Baltimore to 6152.8H MHz on azimuth 85°37′.

3079–C1–P–70—Data Transmission Co. (New), change station location to 2.4 miles northeast of New Baltimore, latitude 39°16′56″, longitude 84°37′43″. Change frequency towards Penntown to 6404.8H MHz on azimuth 265°54′. Delete point of communication at Maineville and add frequency 6375.2V MHz on azimuth 18°06′ towards new point of communication at Jacksonberg. Change frequency towards Cincinnati to 11,545.0H MHz on azimuth 153°31′.

3080–C1–P–70—Data Transmission Co. (New), station location: Fifth and Vine Streets, Cincinnati, OH. Change frequency towards New Baltimore to 10,935.0H MHz on azimuth 333°36′.

3085–C1–P–70—Data Transmission Co. (New), station location: New Philadelphia, 2.7 miles northwest of South Boston, Ind. Change frequency towards Lanesville to 6404.8H MHz on azimuth 174°24′. Delete point of communication at Taylor Hill and add frequency 6256.5V MHz on azimuth 355°56′ towards new point of communication at Patterson Hill.

3086–C1–P–70—Data Transmission Co. (New), change station location to 2.5 miles southeast of Lanesville, Ind., latitude 38°13′31″, longitude 85°56′25″. Delete point of communication at Garrett. Change azimuth towards New Philadelphia to 354°26′. Change azimuth towards Louisville to 81°34′.

3087–C1–P–70—Data Transmission Co. (New), station location: Fourth and Broadway, Louisville, Ky. Change azimuth towards Lanesville to 261°41′.

3130–C1–P–70—Data Transmission Co. (New), station location: Kabletown, 4.2 miles northwest of Round Hill, Va. Delete point of communication at Watery Mountain. Delete point of communication at Clear Springs and add frequency 6375.2V MHz on azimuth 352°10′ towards new point of communication at Downsville. Change frequency towards Waterford to 6404.8H MHz on azimuth 86°11′.

3131–C1–P–70—Data Transmission Co. (New), change location to 2.3 miles northeast of Waterford, latitude 39°11′58″, longitude 77°34′19″. Change frequency towards Kabletown to 6152.8H MHz on azimuth 266°20′. Delete point of communication at Darnestown and add frequency 10,935.0H MHz on azimuth 135°08′ towards new point of communication at Dranesville.

3132–C1–P–70—Data Transmission Co. (New), change station name and location to Dranesville, 1.2 miles north of Dranesville, Md., latitude 39°00′32″, longitude 77°19′45″. Change frequency towards Waterford to 11,545.0H MHz on azimuth 315°17′. Delete point of communication at Wheaton and add frequency 6256.5V MHz on azimuth 36°17′ towards new point of communication at Gaithersburg. Add frequency 11,545.0H MHz on azimuth 139°37″ towards new point of communication at Vienna.

2133–C1–P–70—Data Transmission Co. (New), change station name and location to Gaithersburg, 1 mile southwest of Laytonsville, Md., latitude 39°11′54″, longitude 77°09′01″. Delete point of communication at Darnestown and add frequency 6004.5V MHz on zimuth 216°24′

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towards new point of communication at Dranesville. Change frequency towards Oakland Mills to 11,545.0H MHz on azimuth 106°48′.

3134–C1–P–70—Data Transmission Co. (New), change station location to 0.6 mile southwest of Scaggsville, latitude 39°08′29″, longitude 76°54′33″. Delete point of communication at Wheaton and add frequency 10,935.0H MHz on azimuth 286°57′ towards new point of communication at Gaithersburg. Change frequency towards Baltimore to 10,935.0H MHz on azimuth 56°50′.

3135–C1–P–70—Data Transmission Co. (New), station location: Baltimore Street and Hopkins Place, Baltimore, Md. Change frequency towards Oakland Mills to 11,545.0H MHz on azimuth 237°01′.

488–C1–P–71—Data Transmission Co. (New), change station name and location to Downsville, 3.4 miles west of Downsville, Md., latitude 39°33′06″, longitude 77°51′57″. Change frequency toward Kabletown to 6123.1V MHz on azimuth 172°07′. Change frequency toward Front Mountain to 6123.1V MHz on azimuth 5°18′.

3136–C1–P–70—Data Transmission Co. (New), station location: Front Mountain, 2.5 miles northwest of Edenville, Pa. Change frequency toward Overview to 6256.5H MHz on azimuth 62°58′. Delete point of communication at Clear Springs and add frequency 6375.2V MHz on azimuth 185°20′ toward new point of communication at Downsville.

3151–C1–P–70—Data Transmission Co. (New), change station location to 4.5 miles west of Overview, Pa., latitude 40°18′20″, longitude 77°00′32″. Change frequency toward Palmyra to 6152.8V MHz on azimuth 86°01′. Change frequency toward Front Mountain to 6004.5V MHz on azimuth 243°29′.

489–C1–P–71—Data Transmission Co. (New), station location: 1.3 miles northwest of Palmyra, Pa. Change frequency toward Overview to 6375.2V MHz on azimuth 266°16′. Change frequency toward Eagle Peak to 11,665.0H MHz on azimuth 87°45′.

3152–C1–P–70—Data Transmission Co. (New), station location: Eagle Peak, 1 mile south of Womelsdorf, Pa. Delete point of communication at Palmerton. Change frequency toward Palmyra to 10,975.0H MHz on azimuth 268°02′. Change frequency toward Welsh Mountain to 10,855H MHz on azimuth 129°43′.

3153–C1–P–70—Data Transmission Co. (New), change station location to Welsh Mountain, 2.4 miles southwest of Elverson, Pa., latitude 40°08′02″, longitude 75°52′00″. Change frequency toward Eagle Peak to 11,465.0H MHz on azimuth 309°56′. Delete point of communication at Guthriesville and add frequency 6063.8V MHz on azimuth 120°51′ toward new point of communication at Gradyville.

3155–C1–P–70—Data Transmission Co. (New), change station name and location to Gradyville, 0.5 mile north of Gradyville, Pa., latitude 39°57′00″, longitude 75°28′05″. Delete point of communication at Guthriesville and add frequency 6315.0V MHz on azimuth 301°06′ to new point of communication at Welsh Mountain. Change frequency to Philadelphia to 10,815.0H MHz on azimuth 89°04′.

3156–C1–P–70—Data Transmission Co. (New), change station location to 2000 Market Street Building, Philadelphia, Pa., latitude 39°57′12″, longitude 75°10′26″. Delete point of communication at Sugartown and add frequency 11,505.0H MHz on azimuth 269°15′ toward new point of communication at Gradyville.

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2268–C1–P–73—Data Transmission Co. (New), new station located at 8130 Boone Boulevard, Vienna, Va., latitude 38°54′51″, longitude 77°13′34″. Frequency 10,935.0H MHz on azimuth 319°41′ toward Dranesville.

2269–C1–P–73—Data Transmission Co. (New), new station located 1 mile west of Brunswick, Ill., latitude 41°22′41″, longitude 87°31′36″. Frequency 6404.8V MHz on azimuth 338°26′ toward point of communication at Posen. Frequency 11,385.0V MHz on azimuth 75°34′ toward point of communication at Beatrice.

2270–C1–P–73—Data Transmission Co. (New), 0.2 mile northeast of Posen, Ill., latitude 41°38′09″ N., longitude 87°39′45″ W. Frequency 6034.2V MHz on azimuth 323°17′ toward Elmhurst, Ill. Frequency 6152.8V MHz on azimuth 158°21′ toward Brunswick, Ill.

2271–C1–P–73—Same (New), 3.4 miles southwest of Broadview Heights, Ohio, latitude 41°15′47″ N., longitude 81°42′17″ W. Frequency 6152.8V MHz on azimuth 285°44′ toward Amherst, Ohio. Frequency 11,055H MHz on azimuth 1°56′ toward Cleveland, Ohio.

3154–C1–P–70—Same (New), station Guthreisville located 1.2 miles southeast of Guthreisville, Pa., latitude 40°01′42″ N., longitude 75°44′26″ W. Frequency 10,795.0H MHz on

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azimuth 286°09′ going toward Welsh Mountain, Pa. Frequency 10,875.0H MHz toward Sugartown, Pa.

3145–C1–P–70—Data Transmission Co. (New), station location: Terminal Tower, Cleveland, Ohio. Delete point of communication at Shalersville and change frequency to 11,265.0H MHz on azimuth 181°56′ toward new point of communication at Broadview Heights, Ohio. Delete point of communication at Amherst, Ohio.

3146–C1–P–70—Data Transmission Co. (New), change location to 4 miles southwest of Amherst, latitude 41°22′56″ N., longitude 82°18′22″ W. Delete point of communication at Cleveland and change frequency to 6404.8V MHz on azimuth 105°23′ toward new point of communication at Broadview Heights, Ohio. Change frequency toward Castalia to 6404.8H MHz on azimuth 267°31′.

3147–C1–P–70—Data Transmission Co. (New), station location: 2.6 miles southwest of Castalia, Ohio. Change frequency toward Amherst to 6152.8H MHz on azimuth 87°09′. Change frequency toward Williston to 6152.8H MHz on azimuth 300°01′.

3148–C–P–70—Data Transmission Co. (New), station location: 1.3 miles southwest of Williston, Ohio. Change frequency toward Castalia to 6404.8H MHz on azimuth 119°40′. Change frequency toward Oldport to 6404.8V MHz on azimuth 1°35′.

3149–C1–P–70—Data Transmission Co. (New), change station location to 3.1 miles southwest of Oldport, Mich., latitude 41°58′52″ N., longitude 83°20′45″ W. Change frequency toward Williston to 6152.8V MHz on azimuth 181°35′. Change frequency toward Detroit to 6152.8H MHz on azimuth 32°19′.

3150–C1–P–70—Data Transmission Co. (New), station location: Cadillac Square and Bates Street, Detroit, Mich. Change freqeuncy toward Oldport to 6345.5H MHz on azimuth 212°31′.

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3065–C1–P–70—Data Transmission Co. (New), change station name and location to Elmhurst, 1 mile north of Elmhurst, Ill., latitude 41°55′25″ N., longitude 87°57′01″ N. Delete point of communication at Beatrice and add frequency 6286.2V MHz on azimuth 143°05′ toward new point of communication at Posen, Ill. Change frequency toward Chicago to 11,505.0V MHz on azimuth 95°45′. Delete point of communication at Wheaton, Ill.

3066–C1–P–70—Data Transmission Co. (New), station location: 875 John Hancock Building, Chicago, Ill. Delete point of communication at Tinley Park and add frequency 10,815.0V MHz on azimuth 275°58′ toward new point of communication at Elmhurst, Ill.

4596–C1–P–71—MCI Southeast Communications, Inc. (New), Atlanta, Ga. C.P. for a new station at 100 Peach Tree Street, Atlanta, Ga., at latitude 33°45′21″ N., longitude 84°23′19″ W. Frequencies 10,775.0H MHz and 11,095.0H MHz on azimuth 145°12′ toward Stockbridge, Ga.

4597–C1–P–71—Same as above (New), Stockbridge, Ga. C.P. for a new station 0.4 mile northnortheast of Stockbridge, Ga., at latitude 33°33′37″ N., longitude 84°13′35″ W. Correct frequencies and azimuths to 11,585.0V MHz and 11,345.0V MHz on azimuth 325°18′ toward Atlanta, Ga., and 6034.2V MHz on azimuth 117°30′ toward Stewart, Ga. Delete Griffin, Ga., as a point of communication. Delete frequencies 6034.2V MHz and 6152.8V MHz on azimuth 185°18′.

4600–C1–P–71—Same as above (New), Clinton, Ga. Change proposed station location to 6.1 miles southeast of Clinton, Ga., at latitude 32°54′39″ N., longitude 83°31′02″ W. Correct frequencies and azimuths to 6197.2V MHz on azimuth 357°35′ toward Stanfordville, Ga., 10,815.0H MHz and 11,055.0H MHz on azimuth 231°46′ toward Macon, Ga., 11,665.0V MHz and 11,265.0V MHz on azimuth 55°06′ toward Milledgeville, Ga., and 6226.9V MHz on azimuth 172°50′ toward Cochran, Ga. Delete Forsyth, Ga., as a point of communication. Delete frequencies 6226.9V MHz and 6345.5V MHz on azimuth 303°08′, 6226.9H MHz and 6345.5H MHz on azimuth 171°10′, 6197.2H MHz and 6315.9H MHz on azimuth 45°48′ and 10,815.0H MHz and 11,055.0H MHz on azimuth 260°44′.

4601–C1–P–71—Same as above (New), Macon, Ga. C.P. for a new station at 577 Mulberry Street, Macon, GA, at latitude 32°50′16″ N., longitude 83°37′37″ W. Correct frequencies and azimuths to 11,505.0H MHz and 11,265.0H MHz on azimuth 51°42′ toward Clinton, Ga. Delete Gordon, Ga., as a point of communication. Delete frequencies 11,505.0H MHz and 11,265.0H MHz on azimuth 80°40′.

4634–C1–P–71—Same as above (New), Milledgeville, Ga. C.P. for a new station 3.5 miles southwest of Milledgeville, Ga., at latitude 33°02′43″ N., longitude 83°17′17″ N. Correct

frequencies and azimuths to 10,775.0V MHz and 11,175.0V MHz on azimuth 235°13′ toward Clinton, Ga., and 3770.0H MHz on azimuth 65°56′ toward Mitchell, Ga. Delete Gordon, Ga., as a point of communication. Delete frequencies 5960.0V MHz and 6078.6C MHz on azimuth 225°56′ and 5989.7V MHz and 6108.3V MHz on azimuth 65°56′.

4635–C1–P–71—MCI Southeast Communications, Inc. (New), Mitchell, Ga. C.P. for a new station 5 miles west of Mitchell, Ga., at latitude 33°14′08″ N., longitude 82°46′52″ W. Correct frequencies and azimuths to 3730.0H MHz on azimuth 246°13′ toward Milledgeville, Ga., and 3730.0H MHz on azimuth 72°03′ toward Harlem, Ga. Delete frequencies 6271.4H MHz and 6390.0H MHz on azimuth 246°13′ and 6212.0V MHz and 6330.7V MHz on azimuth 72°03′.

4636–C1–P–71—Same as above (New), Harlem, Ga. C.P. for a new station 4.2 miles south of Harlem, Ga., at latitude 33°21′27″ N., longitude 82°19′37″ W. Correct frequencies and azimuths to 4010.0H MHz on azimuth 252°18′ toward Mitchell, Ga., and 3770.0H MHz on azimuth 81°05′ toward New Ellenton, S.C. Delete frequencies 5989.7V MHz and 6108.3V MHz on azimuth 252°18′ and 5989.7V MHz and 6108.3V MHz on azimuth 81°05′.

4637–C1–P–71—Same as above (New), New Ellenton, S.C. C.P. for a new station 7.9 miles west of New Ellenton, S.C., at latitude 33°25′15″ N., longitude 81°50′19″ W. Correct frequencies and azimuths to 3970.0V MHz on azimuth 261°12′ toward Harlem, Ga., 3730.0H MHz on azimuth 52°20′ toward New Holland, S.C., and 11,385.0H MHz and 11,625.0H MHz on azimuth 297°21′ toward Augusta, Ga. Delete frequencies 6241.7V MHz and 6360.3V MHz on azimuth 261°21′ and 6212.0H MHz and 6330.7H MHz on azimuth 52°20′.

4638–C1–P–71—Same as above (New), Augusta, Ga. C.P. for a new station at 699 Broad Street, Augusta, Ga., at latitude 33°28′29″ N., longitude 81°57′47″ W. Frequencies 10,975.0V MHz and 10,735.0V MHz on azimuth 117°17′ toward New Ellenton, S.C.

4639–C1–P–71—Same as above (New), New Holland, S.C. C.P. for a new station 4 miles southwest of New Holland, S.C., at latitude 33°37′55″ N., longitude 81°30′40″ W. Correct frequencies and azimuths to 3770.0H MHz on azimuth 232°31′ toward New Ellenton, S.C., and 4010.0H MHz on azimuth 63°24′ toward Pelion, S.C. Delete frequencies 5989.7H MHz and 6108.3H MHz on azimuth 232°31′ and 5989.7H MHz and 6108.3H MHz on azimuth 63°24′.

4640–C1–P–71—MCI Southeast Communications, Inc. (New), Pelion, S.C. C.P. for a new station 2.4 miles east of Pelion, S.C., at latitude 33°45′40″ N., longitude 81°12′05″ W. Correct frequencies and azimuths to 3970.0H MHz on azimuth 243°34′ toward New Holland, S.C., 3970.0H MHz on azimuth 28°46′ toward Columbia, S.C., and 3730.0H MHz on azimuth 146°19′ toward Orangeburg, S.C. Delete frequencies 6241.7H MHz and 6360.3H MHz on azimuth 243°34′, 6241.7V MHz and 6360.3V MHz on azimuth 28°46′ and 6212.0V MHz and 6330.7V MHz on azimuth 146°19′.

4641–C1–P–71—Same as above (New), Columbia, S.C. C.P. for a new station at 1801 Main Street, Columbia, SC, at latitude 34°00′33″ N., longitude 81°02′16″ W. Correct frequencies and azimuths to 3770.0H MHz on azimuth 208°52′ toward Pelion, S.C. Delete frequencies 5960.0H MHz and 6078.6H MHz on azimuth 208°52′.

4642–C1–P–71—Same as above (New), Orangeburg, S.C. C.P. for a new station 5.7 miles west-southwest of Orangeburg, S.C., at latitude 33°28′12″ N., longitude 80°58′12″ W. Correct frequencies and azimuths to 3770.0V MHz on azimuth 326°26′ toward Pelion, S.C., and 4010.0H MHz on azimuth 123°13′ toward Bowman, S.C. Delete frequencies 5960.0V MHz and 6078.6V MHz on azimuth 326°26′ and 5989.7V MHz and 6108.3V MHz on azimuth 123°13′.

4643–C1–P–71—Same as above (New), Bowman, S.C. C.P. for a new station 3.8 miles southsoutheast of Bowman, S.C., at latitude 33°17′37″ N., longitude 80°39′00″ W. Correct frequencies and azimuths to 3730.0H MHz on azimuth 303°24′ toward Orangeburg, S.C., and 3970.0V MHz on azimuth 116°51′ toward Dorchester, S.C. Delete frequencies 6241.7V MHz and 6360.3V MHz on azimuth 303°24′ and 6241.7V MHz and 6360.3V MHz on azimuth 116°51′.

4644–C1–P–71—Same as above (New), Dorchester, S.C. C.P. for a new station 3 miles northeast of Dorchester, S.C. at latitude 33°09′54″ N., longitude 80°20′56″ W. Correct frequencies and azimuths to 3770.0V MHz on azimuth 297°01′ toward Bowman, S.C., and 4010.0H MHz on azimuth 138°33′ toward Summerville, S.C. Delete frequencies 5989.7V MHz and 6108.3V MHz on azimuth 297°01′ and 5960.0V MHz and 6078.6V MHz on azimuth 138°33′.

4645–C1–P–71—MCI Southeast Communications, Inc. (New), Summerville, S.C. C.P. for a new station 0.9 mile south of Summerville, S.C. at latitude 33°00′01″ N., longitude 80°10′35″ W. Correct frequencies and azimuths to 3730.0V MHz on azimuth 318°39′ toward Dorchester, S.C., and 6004.5V MHz on azimuth 138°43′ toward Charleston, S.C. Delete frequencies 6212.0V MHz and 6330.7V MHz on azimuth 318°39′ and 6241.7V MHz and 6360.3V MHz on azimuth 138°43′.

4646–C1–P–71—Same as above (New), Charleston, S.C. C.P. for a new station at the west end of Broad Street, Charleston, S.C., at latitude 32°46′33″ N., longitude 79°56′36″ W. Correct frequencies and azimuths to 6286.2V MHz on azimuth 318°50′ toward Summerville, S.C. Delete frequencies 5989.7V MHz and 6108.3V MHz on azimuth 318°50′.

4602–C1–P–71—Same as above (New), Cochran, Ga. C.P. for a new station 4 miles west of Cochran, Ga., at latitude 32°23′48″ N., longitude 83°26′28″ W. Correct frequencies and azimuths to 5945.2V MHz on azimuth 352°53′ toward Clinton, Ga., and 6034.2H MHz on azimuth 207°39′ toward Vienna, Ga. Delete Gordon, Ga., as a point of communication. Delete frequencies 5974.8H MHz and 6093.5H MHz on azimuth 351°13′ and 6152.8H MHz on azimuth 207°39′.

4603–C1–P–71—Same as above (New), Vienna, Ga. C.P. for a new station 8 miles southeast of Vienna, Ga., at latitude 32°02′46″ N., longitude 83°39′24″ W. Correct frequencies and azimuths to 6256.5H MHz on azimuth 27°32′ toward Cochran, Ga., and 6286.2H MHz on azimuth 192°25′ toward Ashburn, Ga. Delete frequencies 6256.5H MHz and 6375.2H MHz on azimuth 27°54′ and 6404.8H MHz on azimuth 192°25′.

4604–C1–P–71—Same as above (New), Ashburn, Ga. C.P. for a new station 5 miles north of Ashburn, Ga., at latitude 31°42′38″ N., longitude 83°44′35″ W. Correct frequencies and azimuths to 5974.8V MHz on azimuth 12°22′ toward Vienna, Ga., 3770.0V MHz on azimuth 249°29′ toward Albany, Ga., and 5974.8H MHz on azimuth 134°08′ toward Tifton, Ga. Delete frequencies 6093.5V MHz on azimuth 12°22′, 3930.0V MHz and 3770.0V MHz on azimuth 249°03′ and 5974.8V MHz and 6093.5V MHz on azimuth 134°08′.

4605–C1–P–71—MCI Southeast Communications, Inc. (New), Albany, Ga. C.P. for a new station at 249 Pine Street, Albany, Ga., at latitude 31°34′43″ N., longitude 84°09′11″ W. Correct frequencies and azimuths to 3730.0V MHz on azimuth 69°17′ toward Ashburn, Ga. Delete frequencies 3810.0V MHz and 3970.0V MHz on azimuth 68°50′.

4606–C1–P–71—Same as above (New), Tifton, Ga. C.P. for a new station 3.5 miles east of Tifton, Ga., at latitude 31°27′06″ N., longitude 83°25′56″ W. Correct frequencies and azimuths to 6256.5V MHz on azimuth 314°18′ toward Ashburn, Ga., and 6256.5H MHz on azimuth 131°50′ toward Nashville, Ga. Delete frequencies 6375.2V MHz on azimuth 314°18′ and 6375.2H MHz on azimuth 131°50′.

4607–C1–P–71—Same as above (New), Nashville, Ga. C.P. for a new station 8.5 miles east of Nashville, Ga., at latitude 31°11′30″ N., longitude 83°05′42″ W. Correct frequencies and azimuths to 5960.0V MHz on azimuth 312°01′ toward Tifton, Ga., 3930.0H MHz on azimuth 203°41′ toward Valdosta, Ga., and 5945.2H MHz on azimuth 113°17′ toward Homerville, Ga. Delete frequencies 6078.6V MHz on azimuth 312°01′, 3930.0H MHz and 4090.0H MHz on azimuth 203°37′ and 5945.2H MHz and 6063.8H MHz on azimuth 113°57′.

4647–C1–P–71—Same as above (New), Valdosta, Ga. C.P. for a new station at 111 East Hill Avenue, Valdosta, GA, at latitude 30°49′51″ N., longitude 83°16′42″ W. Correct frequencies and azimuths to 3810.0H MHz on azimuth 23°35′ toward Nashville, Ga., and 6212.0H MHz on azimuth 255°35′ toward Dixie, Ga. Delete frequencies 3810.0H MHz and 3970.0H MHz on azimuth 23°31′ and 6330.7H MHz on azimuth 255°35′.

4648–C1–P–71—Same as above (New), Dixie, Ga. C.P. for a new station 2.6 miles southeast of Dixie, Ga., at latitude 30°44′45″ N., longitude 83°39′31″ W. Correct frequencies and azimuths to 5960.0V MHz on azimuth 75°23′ toward Valdosta, Ga., and 5989.7H MHz on azimuth 248°00′ toward Metcalf, Fla. Delete frequencies 6078.6V MHz on azimuth 75°23′ and 6108.3H MHz on azimuth 248°00′.

4649–C1–P–71—MCI Southeast Communications, Inc. (New), Metcalf, Fla. C.P. for a new station 4.3 miles south of Metcalf, Fla., at latitude 30°37′53″ N., longitude 83°59′06″ W. Correct frequencies and azimuths to 6301.0V MHz on azimuth 67°50′ toward Dixie, Ga., and 3730.0V MHz on azimuth 233°26′ toward Tallahassee, Fla. Delete frequencies 6419.6V MHz on azimuth 67°50′ and 3890.0V MHz on azimuth 233°26′.

4650–C1–P–71—Same as above (New), Tallahassee, Fla. C.P. for a new station at 201 South Monroe Street, Tallahassee, FL, at latitude 30°26′26″ N., longitude 84°16′53″ W. Correct frequencies and azimuths to 3850.0V MHz on azimuth 53°17′ toward Metcalf, Fla. Delete frequency 4010.0V MHz on azimuth 53°17′.

4608–C1–P–71—Same as above (New), Homerville, Ga. C.P. for a new station 1.5 miles northeast of Homerville, Ga., at latitude 31°03′14″ N., longitude 82°43′29″ W. Correct frequencies and azimuths to 6197.2H MHz on azimuth 293°27′ toward Nashville, Ga., 6286.2V MHz on azimuth 162°21′ toward Colon, Ga., and 3730.0V MHz on azimuth 63°26′ toward Waycross, Ga. Delete frequencies 6197.2H MHz and 6315.9H MHz on azimuth 294°08′, 3730.0V MHz and 3890.0V MHz on azimuth 63°11′ and 6226.9H MHz and 6345.5H MHz on azimuth 162°30′.

4651–C1–P–71—Same as above (New), Waycross, Ga. C.P. for a new station at 513 Elizabeth Street, Waycross, Ga., at latitude 31°12′34″ N., longitude 82°21′42″ W. Correct frequencies and azimuths to 3850.0H MHz on azimuth 243°37′ toward Homerville, Ga., and 3750.0V MHz on azimuth 46°55′ toward Offerman, Ga. Delete frequencies 3850.0H MHz and 4010.0H MHz on azimuth 243°22′ and 3910.0V MHz and 4070.0V MHz on azimuth 47°26′.

4652–C1–P–71—Same as above (New), Offerman, Ga. C.P. for a new station 0.5 mile southwest of Offerman, Ga., at latitude 31°24′20″ N., longitude 82°07′01″ W. Correct frequencies and azimuths to 3970.0V MHz on azimuth 227°02′ toward Waycross, Ga., and 6212.0V MHz on azimuth 75°33′ toward Grangerville, Ga. Delete frequencies 3790.0H MHz and 3950.0H MHz on azimuth 227°34′ and 6330.7V MHz on azimuth 75°33′.

4653–C1–P–71—MCI Southeast Communications, Inc. (New), Grangerville, Ga. C.P. for a new station 1 mile northwest of Grangerville, Ga., at latitude 31°29′14″ N., longitude 81°44′41″ W. Correct frequencies and azimuths to 5960.0H MHz on azimuth 255°45′ toward Offerman, Ga., 5960.0V MHz on azimuth 147°15′ toward Brunswick, Ga., and 5989.7H MHz on azimuth 20°29′ toward Walthourville, Ga. Delete frequencies 6078.6H MHz on azimuth 255°45′, 6019.3H MHz and 6137.9H MHz on azimuth 147°15′ and 6108.3H MHz on azimuth 20°29′.

4654–C1–P–71—Same as above (New), Brunswick, Ga. C.P. for a new station at the southeast corner of Anheist and First Avenues, Brunswick, Ga., at latitude 31°08′17″ N., longitude 81°29′02″ W. Correct frequencies and azimuths to 6241.7V MHz on azimuth 327°24′ toward Grangerville, Ga. Delete frequency 6360.3V MHz on azimuth 327°24′.

4655–C1–P–71—Same as above (New), Walthourville, Ga. C.P. for a new station 1.1 miles southeast of Walthourville, Ga., at latitude 31°45′28″ N., longitude 81°37′35″ W. Correct frequencies and azimuths to 6271.4V MHz on azimuth 200°33′ toward Grangerville, Ga., and 3850.0H MHz on azimuth 55°27′ toward Richmond Hill, Ga. Delete frequencies 6390.0V MHz on azimuth 200°33′ and 4010.0H MHz on azimuth 55°27′.

4656–C1–P–71—Same as above (New), Richmond Hill, Ga. C.P. for a new station 3 miles southwest of Richmond Hill, Ga., at latitude 31°55′06″ N., longitude 81°21′09″ W. Correct frequencies and azimuths to 4050.0V MHz on azimuth 235°36′ toward Walthourville, Ga., and 4010.0H MHz on azimuth 54°02′ toward Savannah, Ga. Delete frequencies 3710.0V MHz on azimuth 235°36′ and 3830.0H MHz on azimuth 54°02′.

4657–C1–P–71—Same as above (New), Savannah, Ga. C.P. for a new station at 24 Brayton Street, Savannah, Ga., at latitude 32°04′47″ N., longitude 81°05′27″ W. Correct frequencies and azimuths to 3890.0V MHz on azimuth 234°10′ toward Richmond Hill, Ga. Delete frequencies 3890.0V MHz and 4050.0V MHz on azimuth 234°11′.

4609–C1–P–71—Same as above (New), Colon, Ga. C.P. for a new station 0.3 mile east of Colon, Ga., at latitude 30°45′22″ N., longitude 82°36′54″ W. Correct frequencies and azimuths to 5989.7V MHz on azimuth 342°24′ toward Homerville, Ga., and 6019.3V MHz on azimuth 132°18′ toward Eddy, Fla. Delete frequencies 5989.7V MHz and 6108.3V MHz on azimuth 342°33′ and 6137.9V MHz on azimuth 132°18′.

4610–C1–P–71—MCI Southeast Communications, Inc. (New), Eddy, Fla. C.P. for a new station 0.7 mile northwest of Eddy, Fla., at latitude 30°32′48″ N., longitude 82°20′58″ W. Change frequencies and azimuths to 6271.4V MHz on azimuth 312°26′ toward Colon, Ga., and 6212.0V MHz on azimuth 93°44′ toward Kent, Fla. Delete frequencies 6390.0V MHz on azimuth 312°26′ and 6212.0V MHz and 6330.7V MHz on azimuth 93°43′.

4611–C1–P–71—Same as above (New), Kent, Fla. C.P. for a new station 0.4 mile east of Kent, Fla., at latitude 30°31′26″ N., longitude 81°57′22″ W. Change frequencies and azimuths to 5945.2H MHz on azimuth 273°56′ toward Eddy, Fla., and 5989.7H MHz on azimuth 129°07′ toward Jacksonville, Fla. Delete frequencies 5945.2H MHz and 6063.8H MHz on azimuth 273°55′ and 6108.3H MHz 129°07′.

4612–C1–P–71—Same as above (New), Jacksonville, Fla. C.P. for a new station at 841 Miami Road, Jacksonville, FL, at latitude 30°19′02″ N., longitude 81°39′49″ W. Correct frequencies and azimuth 6241.7H MHz on azimuth 309°16′ toward Kent, Fla., and 6256.5V MHz on azimuth 200°04′ toward Penney Farms, Fla. Delete frequencies 6360.3H MHz on azimuth 309°16′ and 6286.2V MHz and 6404.8V MHz on azimuth 200°04′.

4613–C1–P–71—Same as above (New), Penney Farms, Fla. C.P. for a new station 1.2 miles north-northeast of Penney Farms, Fla., at latitude 30°00′17″ N., longitude 81°47′41″ W. Correct frequencies and azimuth to 6004.5H MHz on azimuth 20°00′ toward Jacksonville, Fla., and 6034.2V MHz on azimuth 266°17′ toward Starke, Fla. Delete frequencies 5989.7H MHz and 6108.3H MHz on azimuth 20°00′ and 6019.3V MHz and 6137.9V MHz on azimuth 266°17′.

4614–C1–P–71—Same as above (New), Starke, Fla. C.P. for a new station 2.9 miles northwest of Starke, Fla., at latitude 29°59′03″ N., longitude 82°09′00″ W. Correct frequencies and azimuths to 6286.2V MHz on azimuth 86°07′ toward Penney Farms, Fla., and 3750.0H MHz on azimuth 218°06′ toward Paradise, Fla. Delete frequencies 6212.0H MHz and 6330.7H MHz on azimuth 86°07′ and 6241.7V MHz and 6360.3V MHz on azimuth 218°06′.

4615–C1–P–71—Same as above (New), Paradise, Fla. C.P. for a new station 2.9 miles westnorthwest of Paradise, Fla., at latitude 29°42′49″ N., longitude 82°23′34″ W. Correct frequencies and azimuths 3710.0H MHz on azimuth 37°58′ toward Starke, Fla., and 3710.0H MHz on azimuth 182°30′ toward East Williston, Fla. Delete Lochloosa, Fla., as a point of communication. Delete frequencies 5960.0V MHz and 6078.6V MHz on azimuth 37°58′ and 3730.0H MHz and 3890.0H MHz on azimuth 119°59′.

4617–C1–P–71—MCI Southeast Communications, Inc. (New), Ocala, Fla. C.P. for a new station at 108 North Magnolia Street, Ocala, FL, at latitude 29°11′15″ N., longitude 82°08′16″ W. Correct frequencies and azimuths to 3710.0H MHz on azimuth 306°15′ toward East Williston, Fla., and 3710.0V MHz on azimuth 171°50′ toward Wildwood, Fla. Delete Lochloosa, Fla., and Umatilla, Fla., as points of communication. Delete frequencies 3970.0H MHz and 4130.0H MHz on azimuth 15°44′ and 3950.0H MHz and 4110.0H MHz on azimuth 120°42′.

4618–C1–P–71—Same as above (New), Umatilla, Fla. C.P. for a new station 4.9 miles northwest of Umatilla, Fla., at latitude 28°58′52″ N., longitude 81°44′37″ W. Correct frequencies and azimuths to 6212.0H MHz on azimuth 246°56′ toward Wildwood, Fla., and 6212.0H MHz on azimuth 88°20′ toward Lake Helen, Fla. Delete Ocala, Fla., and Ferndale, Fla., as points of communication. Delete frequencies 3850.0H MHz and 4010.0H MHz on azimuth 300°54′ and 6330.7H MHz on azimuth 88°20′, and 4010.0H MHz and 4170.0H MHz on azimuth 178°11′.

4658–C1–P–71—Same as above (New), Lake Helen, Fla. C.P. for a new station 3.0 miles northwest of Lake Helen, Fla., at latitude 28°59′34″ N., longitude 81°15′15″ W. Correct frequencies and azimuths to 5960.0V MHz on azimuth 268°34′ toward Umatilla, Fla., and 5989.7V MHz on azimuth 43°01′ toward Daytona Beach, Fla. Delete frequencies 6078.6V MHz on azimuth 268°34′ and 6108.3V MHz on azimuth 43°01′.

4659–C1–P–71.—Same as above (New), Daytona Beach, Fla. C.P. for a new station at 118 Volusia Avenue, Daytona Beach, Fla., at latitude 29°12′43″ N., longitude 81°01′15″ W. Correct frequency and azimuth to 6241.7H MHz on azimuth 223°08′ toward Lake Helen, Fla. Delete frequency 6360.3H MHz on azimuth 223°08′.

4619–C1–P–71—Same as above (New), Ferndale, Fla. C.P. for a new station 2.3 miles northwest of Ferndale, Fla., at latitude 28°38′54″ N., longitude 81°43′54″ W. Correct frequencies and azimuths to 3710.0V MHz on azimuth 303°34′ toward Wildwood, Fla., and 3710.0H MHz on azimuth 196°25′ toward Eva, Fla., and 6049.0H MHz on azimuth 97°59′ toward Lockhart, Fla. Delete Umatilla, Fla., as a point of communication. Delete frequencies 3730.0H MHz and 3890.0H MHz on azimuth 358°12′ and 6019.3V MHz and 6137.9V MHz on azimuth 108°08′ and 3870.0H MHz on azimuth 196°26′.

4660–C1–P–71—MCI Southeast Communications, Inc. (New), Lockhart, Fla. Change proposed station location to 0.8 mile southeast of Lockhart, Fla., at latitude 28°36′41″ N., longitude 81°26′08″ W. Correct frequencies and azimuths to 6301.0H MHz on azimuth 278°07′ toward Ferndale, Fla., and 3870.0V MHz on azimuth 90°06′ toward Bithlo, Fla. Delete frequencies 6301.0H MHz and 6419.6H MHz on azimuth 288°18′ and 3870.0V MHz and 4030.0V MHz on azimuth 77°24′.

4661–C1–P–71—Same as above (New), Bithlo, Fla. Change proposed station location to 4.9 miles northeast of Bithlo, Fla., at latitude 28°36′37″ N., longitude 81°03′31″ W. Correct frequencies and azimuths to 3910.0V MHz on azimuth 270°17′ toward Lockhart,

POINT-TO-POINT MICROWAVE RADIO SERVICE—MAJOR AMENDMENT—continued

quencies and azimuths to 3750.0H MHz on azimuth 353°25' toward Frostproof, Fla. and 3750.0H MHz on azimuth 99°35' toward Cornwell, Fla. Delete frequencies 3770.0H MHz and 3930.0H MHz on azimuth 4°53' and 3850.0V MHz and 4010.0V MHz on azimuth 113°27'.

4628–C1–P–71—Same as above (New), Indiantown, Fla. Change proposed station location to 4.8 miles west of Indiantown, Fla., at latitude 27°00'46" N., longitude 80°32'54" W. Correct frequencies and azimuths to 3710.0V MHz on azimuth 325°24' toward Sherman, Correct frequencies and azimuth 152°26' toward Royal Palm Beach, Fla. Delete Fla., and 3710.0V MHz on azimuth. Delete frequencies 3810.0V MHz and Okeechobee, Fla., as a point of communication. Delete frequencies 6212.0H MHz and 6078.6H MHz on azimuth 162°07', 3970.0V MHz on azimuth 303°16' and 5960.0H MHz and 6030.6H MHz on azimuth 152°37', and 3910.0V

4629–C1–P–71—Same as above (New), Royal Palm Beach, Fla. C.P. for a new station 1.5 miles northwest of Royal Palm Beach, Fla., at latitude 26°42'00" N., longitude 80°22'00" W. Correct frequencies and azimuths to 3750.0V MHz on azimuth 332°31' toward Indiantown, Fla., 3770.0H MHz on azimuth 152°37' toward Boca Raton, Fla., and 3750.0H MHz on azimuth 87°21' to Palm Beach. Fla. Delete frequencies 6212.0H MHz and 6330.7H MHz on azimuth 342°10' and 3830.0V MHz and 3990.0V MHz on azimuth 152°37', and 3910.0V MHz on azimuth 87°21'.

4630–C1–P–71—Same as above (New), Palm Beach, Fla. C.P. for a new station at 224 Datura Street, Palm Beach, FL, at latitude 26°42'46" N., longitude 80°03'07" W. Correct frequency and azimuths to 3970.0V MHz on azimuth 267°29' toward Royal Palm Beach, Fla. Delete frequency 4130.0V MHz on azimuth 267°29'.

4631–C1–P–71—MCI Southeast Communications, Inc. (New), Boca Raton, Fla. C.P. for a new station 8 miles northwest of Boca Raton, Fla., at latitude 26°24'55" N., longitude 80°12'11" W. Correct frequencies and azimuths to 3710.0H MHz on azimuth 332°41' toward Royal Palm Beach, Fla., and 3710.0H MHz on azimuth 163°50' toward Fort Lauderdale, Fla. Delete frequencies 3730.0V MHz and 3890.0V MHz on azimuth 332°41' and 3870.0H MHz and 4030.0H MHz on azimuth 163°50'.

4632–C1–P–71—Same as above (New), Fort Lauderdale, Fla. C.P. for a new station at 2455 Sunrise Boulevard, Fort Lauderdale, Fla., at latitude 26°08'16" N., longitude 80°06'50" W. Correct frequencies and azimuths to 3750.0H MHz on azimuth 343°53' toward Boca Raton. Correct frequencies and azimuths to 3710.0H MHz on azimuth 212°26' toward Carol City, Fla. Delete Miami, Fla., as a point of communication. Delete frequencies 3930.0V MHz and 4090.0V MHz on azimuth 343°53' and 3750.0H MHz and 3910.0H MHz on azimuth 191°21'.

4633–C1–P–71—Same as above (New), Miami, Fla. C.P. for a new station at 141 Northeast 20th Street, Miami, Fla., at latitude 25°50'36" N., longitude 80°14'13" W. Correct frequency and azimuths to 4010.0V MHz on azimuth 355°42' toward Carol City, Fla. Delete Fort Lauderdale, Fla., as a point of communication. Delete frequencies 4030.0H MHz and 3970.0H MHz on azimuth 11°19'.

8299–C1–P–70—Western Tele-Communications, Inc. (New), station at Emerald Street and University Avenue, St. Paul, Minn. Latitude 44°57'46" N. longitude 93°12'26" W. Change application is one of eight proposing specialized common carrier service between Sioux Falls, S. Dak., and St. Paul, Minn., file Nos. 8292 through 8299–C1–P–70. The applications were filed June 12, 1970, and appeared on public notice June 22, 1970. Subsequent amendments appeared on public notice August 2, 1971.

7142–C1–P–72—Pacific Telephone & Telegraph Co. (KMB70), change frequency to 11406H MHz. All other particulars same as in public notice dated April 17, 1972.

2251–C1–P–73—MCI Southeast Communications, Inc. (New), Stewart, Ga. C.P. for a new station 1.5 miles south of Stewart, Ga., at latitude 33°23'56", longitude 83°51'29". Frequencies 6197.2V MHz on azimuth 123°03' toward Stockbridge, Ga., and 6197.2V MHz on azimuth 297°42' toward Stanfordville, Ga.

2252–C1–P–73—Same as above (New), Stanfordville, Ga. C.P. for a new station 1.85 miles west of Stanfordville, Ga., at latitude 33°13'14", longitude 83°31'56". Frequencies 5974.8V MHz on azimuth 303° toward Stewart, Ga., and 5945.2V MHz on azimuth 177°34' toward Clinton, Ga.

2253–C1–P–73—Same as above (New), East Williston, Fla. C.P. for a new station 2.0 miles south of East Williston, Fla., at latitude 29°21'44" N., longitude 82°24'37" W. Frequencies 3750.0H MHz on azimuth 02°29' toward Paradise, Fla., and 3750.0H MHz on azimuth 126°07' toward Ocala, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE—MAJOR AMENDMENT—continued

Fla., and 3850.0V MHz on azimuth 110°25' toward Cocoa Beach, Fla. Delete frequencies 3910.0V MHz and 4070.0V MHz on azimuth 257°38' and 3850.0V MHz and 4010.0V MHz on azimuth 119°52'.

4662–C1–P–71—Same as above (New), Cocoa Beach, Fla. C.P. for a new station 4.3 miles north of Cocoa Beach, Fla., at latitude 28°22'57" N., longitude 80°36'12" W. Correct frequencies and azimuths to 3890.0V MHz on azimuth 299°38' toward Bithlo, Fla. Delete frequencies 3890.0V MHz and 4050.0V MHz on azimuth 300°05'.

4620–C1–P–71—Same as above (New), Eva, Fla. C.P. for a new station 0.3 mile west of Eva, Fla., at latitude 28°10'34" N., longitude 81°50'20" W. Correct frequencies and azimuths to 3770.0V MHz on azimuth 16°21' toward Ferndale, Fla., and 3770.0H MHz on azimuth 200°03' toward Lakeland, Fla. Delete frequencies 3990.0H MHz and 4150.0H MHz on azimuth 200°03'.

4621–C1–P–71—Same as above (New), Lakeland, Fla. C.P. for a new station at 329 East Main Street, Lakeland, FL, at latitude 28°02'40" N., longitude 81°57'17" W. Correct frequencies and azimuths to 3710.0H MHz on azimuth 20°00' toward Eva, Fla., 3730.0V MHz on azimuth 246°38' toward Plant City, Fla., and 3710.0H MHz on azimuth 119°41' toward Alturas, Fla. Delete Winter Haven, Fla., as a point of communication. Delete frequencies 3870.0H MHz and 11,625.0V MHz on azimuth 96°34'.

4663–C1–P–71—MCI Southeast Communications, Inc. (New), Plant City, Fla. C.P. for a new station 4.4 miles south-southwest of Plant City, Fla., at latitude 27°56'01" N., longitude 82°09'23" W. Correct frequencies and azimuths to 3770.0V MHz on azimuth 66°32' toward Lakeland, Fla., and 3770.0V MHz on azimuth 266°49'. Delete frequencies 3990.0H MHz and 4150.0H MHz on azimuth 66°33' and 3990.0H MHz and 4150.0H MHz on azimuth 266°49'.

4664–C1–P–71—Same as above (New), Tampa, Fla. C.P. for a new station at 905 Florida Avenue, Tampa, FL, at latitude 27°57'06" N., longitude 82°27'30" W. Correct frequencies and azimuths to 3730.0V MHz on azimuth 86°40' toward Plant City, Fla., and 3710.0V MHz on azimuth 221°38' toward St. Petersburg, Fla. Delete frequencies 3710.0H MHz and 3870.0H MHz on azimuth 86°40' and 3710.0H MHz and 3870.0H MHz on azimuth 221°38'.

4665–C1–P–71—Same as above (New), St. Petersburg, Fla. C.P. for a new station at Fourth Street and Central Avenue, St. Petersburg, Fla., at latitude 27°46'17" N., longitude 82°38'18" W. Correct frequencies and azimuths to 4010.0V MHz on azimuth 41°33' toward Tampa, Fla., and 3770.0H MHz on azimuth 168°28' toward Bradenton, Fla. Delete frequencies 4170.0V MHz on azimuth 41°33' and 3930.0H MHz on azimuth 168°28'.

4666–C1–P–71—Same as above (New), Bradenton, Fla. C.P. for a new station at the corner of Sixth Avenue and 13th Street West, Bradenton, Fla., at latitude 27°29'36" N., longitude 82°34'29" W. Correct frequencies and azimuths to 3730.0H MHz on azimuth 348°30' toward St. Petersburg, Fla., and 3810.0H MHz on azimuth 170°04' toward Sarasota, Fla. Delete frequencies 3890.0H MHz on azimuth 348°30' and 3970.0H MHz on azimuth 170°04'.

4667–C1–P–71—Same as above (New), Sarasota, Fla. C.P. for a new station at 1330 Main Street, Sarasota, FL, at latitude 27°20'05" N., longitude 82°32'37" W. Correct frequencies and azimuths to 3890.0H MHz on azimuth 350°05' toward Bradenton, Fla. Delete frequency 4150.0H MHz on azimuth 350°05':

4622–C1–P–71—Same as above (New), Alturas, Fla. Change station location to 3 miles southeast of Wahneta, Fla. at latitude 27°55'07" N., longitude 81°42'24" W. Correct frequencies and azimuths to 3750.0H MHz on azimuth 299°48' toward Lakeland, Fla., and 3770.0V MHz on azimuth 131°29' toward Frostproof, Fla. Delete Lake Wales, Fla., as a point of communication. Delete frequencies 10,975.0V MHz and 10,735.0V MHz on azimuth 276°41' and 10,975.0V MHz and 10,735.0V MHz on azimuth 133°36'.

4624–C1–P–71—MCI Southeast Communications, Inc. (New), Frostproof, Fla. C.P. for a new station 5.8 miles east-southeast of Frostproof, Fla., at latitude 27°43'56" N., longitude 81°28'12" W. Correct frequencies and azimuths to 3730.0V MHz on azimuth 311°35' toward Alturas, Fla., and 3710.0V MHz on azimuth 173°24' toward Sebring, Fla. Delete Lake Wales, Fla., as a point of communication. Delete frequencies 10,975.0V MHz and 10,735.0V MHz on azimuth 327°52' and 3970.0H MHz and 4130.0H MHz on azimuth 184°54'.

4625–C1–P–71—Same as above (New), Sebring, Fla. Change proposed station location to 1.7 miles south of Sebring, Fla., at latitude 27°26'30" N., longitude 81°28'12" W. Correct frequencies and azimuths to 3750.0H MHz on azimuth 353°25' toward Frostproof, Fla. and 3750.0H MHz on azimuth 99°35' toward Cornwell, Fla. Delete frequencies 3770.0H MHz and 3930.0H MHz on azimuth 4°53' and 3850.0V MHz and 4010.0V MHz on azimuth 113°27'.

POINT-TO-POINT MICROWAVE RADIO SERVICE—MAJOR AMENDMENT—continued

2254–C1–P–73—Same as above (New), Wildwood, Fla. C.P. for a new station 2.3 miles west of Wildwood, Fla., at latitude 28°51'12" N., longitude 82°05'00" W. Frequencies 3750.0H MHz on azimuth 351°52' toward Ocala, Fla., 5960.0H MHz on azimuth 66°46' toward Umatilla, Fla., and 3750.0V MHz on azimuth 123°24' toward Ferndale, Fla.

2255–C1–P–73—Same as above (New), Carol City, Fla. C.P. for a new station 0.75 mile northwest of Carol City, Fla., at latitude 25°57'00" N., longitude 80°14'45" W. Frequencies 3730.0H MHz on azimuth 32°23' toward Forth Lauderdale, Fla., and 3730.0V MHz on azimuth 175°42' toward Miami, Fla.

2256–C1–P–73—Same as above (New), Cornwell, Fla. C.P. for a new station 3 miles northeast of Cornwell, Fla., at latitude 27°25'09" N., longitude 81°04'10" W. Frequencies 3710.0H MHz on azimuth 279°45' toward Sebring, Fla., and 3710.0H MHz on azimuth 117°55' toward Sherman, Fla.

2257–C1–P–73—Same as above (New), Sherman, Fla. C.P. for a new station 3.8 miles northnortheast of Sherman, Fla., at latitude 27°15'50" N., longitude 80°44'32" W. Frequencies 3750.0H MHz on azimuth 298°04' toward Cornwell, Fla., and 3750.0V MHz on azimuth 145°19' toward Indiantown, Fla.

7431–C1–P–72—New Jersey Bell Telephone Co. (KEK95), change frequency on path toward Pan-Am Building, New York from 5987.5V to 7112.5V. All other particulars the same as reported in public notice, Report No. 593, dated April 24, 1972.

40–C1–P–73—Central Telephone Co., Inc. (WOE41)(Res), change frequencies from 111.750H and 1085.500H to 11,175.0H and 10,855.0H MHz toward Decatur, Tex. All other particulars the same as reported in public notice, Report No. 605, dated July 17, 1972.

364–C1–P–73—The Midland Telephone Co. (New). change frequency on path toward Cedar Mesa, Utah from 2112.0V to 2162.0V MHz.

365–C1–P–73—Same (New), change frequency on path toward Mexican Hat, Utah, from 2162.0V to 2112.0V MHz. All other particulars the same as reported in public notice Report No. 607, dated July 31, 1972.

[FR Doc.72–17735 Filed 10–19–72;8:45 am]

[Docket No. 19599; FCC 72–850]

KERNEL L. HOBGOOD

Order Designating Application for Hearing on Stated Issues

In regard application of Kernel L. Hobgood, 111 Apple Street, West Monroe, LA 71291, for a Class D citizens radio station license, Docket No. 19599.

The Commission has under consideration the above-entitled application for a Class D citizens radio station license, filed by Kernel L. Hobgood on January 19, 1972.

There is a substantial question concerning the qualifications of the applicant to hold said license in view of:

(a) The applicant's engaging in unlicensed operation of radio transmitting apparatus;

(b) What would have been the violations of various sections of Part 95 of the Commission's rules and regulations had he held a Class D citizens radio station license; and

(c) The applicant's having apparently misrepresented to or concealed material facts from the Commission or having lacked in candor in his statements to the Commission.

The Commission is unable to find that a grant of the captioned application would serve the public interest, convenience, and necessity and must, therefore, designate the application for hearing. Except for the issues specified herein, the applicant is otherwise qualified to hold an individual Class D citizens radio station license.

Accordingly, it is ordered, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) of the Commission's rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issues:

(1) To determine whether on January 10, 1972, applicant engaged in the unlicensed operation of radio transmitting apparatus.

(2) To determine whether on January 10, 1972, applicant transmitted to other citizens radio stations on frequencies 27.205 MHz (Channel 20) and 27.215 MHz (Channel 21) which are reserved for communications between units of the same radio station, in what would be a willful violation of § 95.41(d)(2) of the Commission's rules had applicant been licensed.

(3) To determine whether on January 10, 1972, applicant engaged in radio communication as a hobby or diversion, in what would be a violation of § 95.83(a)(1) of the Commission's rules had applicant been licensed.

(4) To determine whether on January 10, 1972, applicant transmitted communications relating to technical performance, capabilities, or testing of radio equipment, in what would be a violation of § 95.83(a)(13) of the Commission's rules had applicant been licensed.

(5) To determine whether on January 10, 1972, applicant communicated with other citizens radio stations for a period exceeding 5 consecutive minutes and/or failing to observe a 5-minute silent period between transmissions, in what would be a violation of § 95.91(b) of the Commission's rules had applicant been licensed.

(6) To determine whether on January 10, 1972, applicant operated his radio station without identifying it by call sign at the beginning and conclusion of each transmission or series of transmissions, and without identifying the stations communicated with by their call signs, in what would be a willful violation of § 95.95(c) of the Commission's rules had applicant been licensed.

(7) To determine whether the applicant has misrepresented or concealed material facts from the Commission, or was lacking in candor in his statements to the Commission in his response dated March 23, 1972.

(8) To determine, in the light of the facts adduced under issues (1) through (7), supra, whether the applicant possesses the requisite qualifications to be a licensee of the Commission.

(9) To determine, in light of the foregoing issues, whether the public interest, convenience, and necessity would be served by a grant of the application of Kernel L. Hobgood for an individual Class D Citizens radio station license.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified in this order.

Adopted: September 27, 1972.

Released: October 5, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–17970 Filed 10–19–72;8:57 am]

FEDERAL MARITIME COMMISSION

AMERICAN PRESIDENT LINES, LTD., AND TRANSAMERICAN TRAILER TRANSPORT, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination

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or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. H. Williams, Assistant to the Vice President, American President Lines, 1625 I Street NW., Washington, DC 20006.

Agreement No. 10017 is a transshipment agreement between American President Lines, Ltd. (APL), and Transamerican Trailer Transport, Inc. (TTT), covering the movement of general cargo on prepaid through bills of lading from loading ports of Puerto Rico to ports of call of APL in South Viet Nam with transshipment at the Port of New York, Baltimore, Norfolk, or Charleston.

Dated: October 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18001 Filed 10-19-72;9:02 am]

R. J. BOLTE, INC. ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

R. J. Bolte, Inc., G. P. Donahue, Inc., and William C. Person.

Notice of agreement filed by:

Mr. G. P. Donahue, President, G. P. Donahue, Inc., 415 Lafayette Building, Philadelphia, Pa. 19106.

Agreement No. FF 72-7, between R. J. Bolte, Inc. (FMC No. 1127), a licensed independent ocean freight forwarder, G. P. Donahue, Inc. (FMC No. 1219), a licensed independent ocean freight forwarder, and William C. Person, a Customhouse broker, provides for the establishment of a new corporation under the name of BDP International, Inc.

The new corporation is to operate as an independent ocean freight forwarder in Philadelphia, Pa., using R. J. Bolte, Inc.'s, existing FMC License No. 1127.

Dated: October 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18002 Filed 10-19-72;9:02 am]

THE "8900" LINES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esq., Bebchick, Sher & Krshnick, 919 18th Street NW, Washington, DC 20006.

Agreement No. 8900-6, among the carriers comprising the membership of The "8900" Lines rate agreement, amends the basic agreement by adding a new paragraph 1(a) providing as follows:

1(a) *Statistics, Recordkeeping, etc.* The parties may discuss, exchange, compile and record information, data and statistics relating to cargo and commodity movements and carryings, load factors, seasonality and other fluctuations of traffic flows as well as the past, present and future level and frequency of common carrier steamship services required by shippers and receivers in the Arabian/Persian Gulf Trade.

Dated: October 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18006 Filed 10-19-72;9:02 am]

MATSON NAVIGATION CO. AND HONOLULU TERMINALS CO., LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.

Agreement No. T-2702, between Matson Navigation Co. (Matson) and Honolulu Terminals Co., Ltd. (Terminals), is a terminal services agreement whereby Terminals will provide comprehensive services incidental to the loading, discharging, receiving, and delivery of breakbulk cargo at the ports of Honolulu and Pearl Harbor, Hawaii. As compensation, Terminals is to receive rates as agreed upon by the parties and filed with the Commission.

Dated: October 17, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18003 Filed 10-19-72;9:02 am]

NEW YORK FREIGHT BUREAU (HONG KONG)

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, DC 20036.

Agreement No. 5700-14 in effect modifies Article 1 of the basic agreement by relinquishing the New York Freight Bureau's jurisdiction over traffic originating in China, south of Foochow and destined to U.S. Atlantic and Gulf ports.

Dated: October 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18004 Filed 10-19-72;9:02 am]

TRANS-PACIFIC FREIGHT CONFERENCE (HONG KONG)

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue NW., Washington, DC 20036.

Agreement No. 14-34 is a modification of Article 16(b)(iii) of the original agreement which proposed that at meetings in Taiwan or elsewhere of the Taiwan section called and presided over by the Chairman/Secretary, the Taiwan section shall have full authority to determine rates, charges, classifications, rules, and/or regulations with respect to the transportation of commodities from Taiwan to all destinations covered by Agreement No. 14 as amended, and to make decisions under this modification upon all matters which exclusively concern the trade from Taiwan to the Pacific Coast of the United States.

Dated: October 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18005 Filed 10-19-72;9:02 am]

UNITED GRAIN CORP., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

United Grain Corp., and Burlington Northern, Inc., and Spokane, Portland and Seattle Railway Co.

Notice of agreement filed by:

Miles Sweeney, Esq., White, Sutherland, Brownstein, & Parks, 1200 Jackson Tower, Portland, OR 97205.

Agreement No. T-497-C-1, between United Grain Corp. (United), Burlington Northern, Inc. (BN), and Spokane, Portland and Seattle Railway Co. (SPSR), modifies the basic agreement between United and SPSR which provides for the 15-year sublease of certain grain elevators and other marine terminal facilities at Vancouver, Wash. The purpose of the modification is to extend the term of the agreement an additional 15 years, commencing March 1, 1972, and provide for a 15-year renewal option at the end of the extended term.

Dated: October 13, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18007 Filed 10-19-72;9:02 am]

V37-204 OCT 20 72 XUM

ZIM ISRAEL NAVIGATION CO., LTD., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Zim Israel Navigation Co., Ltd. (Zim Container Service Division) and Caribbean Trailer Express, Ltd.

Notice of agreement filed by:

A. Birnbaum, Director, Conferences and Tariffs, Zim Container Service, 11 Broadway, New York, NY 10004.

Agreement No. 10018, between Zim Israel Navigation Co., Ltd. (Zim Container Service Division), operating in the trades between ports in the United States and ports in the Far East, Europe, and the Middle East and Caribbean Trailer Express operating in the trade between ports in the United States and ports in the Caribbean Sea and in Central America, establishes an arrangement to provide for the interchange of cargo containers and/or related equipment between said parties as circumstances and conditions in these trades may require and permit, subject to mutually acceptable terms, conditions, practices and charges. The parties may also appoint a mutually acceptable agent to record movement of and to dispatch their containers and/or related equipment.

Dated: October 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18008 Filed 10-19-72;9:03 am]

[Dockets Nos. 69-21, 69-29]

TRANSCONEX, INC., AND CONSOLIDATED EXPRESS, INC.

Reopening of Proceeding and Amended Order of Investigation Regarding General Increase In Rates In U.S. South Atlantic/Puerto Rico-Virgin Islands Trades and U.S. North Atlantic/Puerto Rico Trade

On September 29, 1972, the Court of Appeals for the District of Columbia Circuit entered an opinion and judgment reversing the Commission's orders in the captioned proceedings and remanding them for further action by the Commission. The Commission had found that the respondent carriers' rates had not been shown to be unlawful, basing this conclusion upon its holding that the carriers did not bear the burden of justifying the increased rates under investigation since such rates had not been suspended by the Commission. The Court of Appeals has ruled that in Commission instituted investigations involving the reasonableness of proposed rate increases, carriers must meet the burden of justifying the reasonableness of the proposed increased rates, whether or not such rates have been suspended. Accordingly, we reopen these proceedings for the purpose of allowing for the submission of whatever matter respondent carriers wish to present in justification of their rates here under investigation.

Since substantial increases have been made in the rates of respondents since these proceedings were instituted in the first half of 1969, this investigation will include examination of the lawfulness of such increases as well as the increases which were the subject of the original investigation.

Resolution of these proceedings will, as indicated by the Court of Appeals, also require consideration of the standard to be applied in determining the reasonableness of respondents' rates, and, more particularly, the need under such standard for the specific increases here in issue.

Therefore, it is ordered, That pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, the captioned dockets are reopened for determination, in light of the decision of the U.S. Court of Appeals for the District of Columbia Circuit in The Commonwealth of Puerto Rico v. Federal Maritime Commission, Transconex, Inc. and Consolidated Express, Inc., Intervenors, No. 24,741, of the lawfulness under such statutory provisions of the increased rates and charges, and the governing rules and regulations which were the subject of the original orders of investigation in these proceedings served on April 28 and June 6, 1969, as well as the increased rates and charges and governing rules and regulations contained in Supplement No. 2 to Freight Tariff FMC-F No. 1 of Transconex, Inc., which became effective on April 7, 1972, and the revised pages to Freight Tariff FMC-F No. 3 of Consolidated Express, Inc., which became effective on December 14, 1971. In the event the matter hereby placed under investigation is changed or amended before this investigation has been concluded, such changed or amended matter will be included in these investigations; and

It is further ordered, That these proceedings shall specifically include the issues of: (1) The proper standard to be applied in determining the reasonableness of respondents' rates, with particular reference to the concept of operating ratio; (2) the expenses to be allowed prior to calculation of such ratio; and (3) the existence and degree of need on the part of respondents for additional capital and revenue; and

It is further ordered, That Transconex, Inc. remain a respondent in Docket No. 69-21, that Consolidated Express, Inc. remain a respondent in Docket No. 69-29, and that the Commonwealth of Puerto Rico remain a party in both proceedings; and

It is further ordered, That these proceedings be assigned for public hearing before an administrative law judge of the Commission's Office of Administrative Law Judges; and

It is further ordered, That these proceedings be consolidated for the purpose of the filing of briefs and the issuance of an Initial Decision and for such further purposes as the administrative law judge shall deem appropriate; and

It is further ordered, That: (1) A copy of this order shall forthwith be served on the respondents to these proceedings and the Commonwealth of Puerto Rico and published in the FEDERAL REGISTER; and (2) respondents and the Commonwealth be duly served with notice of the time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in these proceedings and desiring to intervene therein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure [46 CFR 502.72] with a copy to all parties to these proceedings.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18009 Filed 10-19-72;9:03 am]

WILLIAM H. CAMPBELL, ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

William H. Campbell, 911 Western Avenue, Seattle, WA 98104.

Florida Cargo Brokers Inc., 4471 Northwest 36th Street, Miami, FL 33166.
Officers:
Leonides Veitia, Vice President.
Rene Alvarez, Secretary-Treasurer.
Jorge Veitia, President.

Alberto Planas, 317 South Van Ness Avenue, Los Angeles, CA 90020.

Schmidt, Pritchard & Co., Inc., 327 South La Salle Street, Chicago, IL 60604.
Officers:
T. J. Garibaldi, President-Treasurer.
B. J. Garibaldi, Secretary.
E. J. Lucas, Sr., Vice President.
Stephen Barbieri, Vice President.
Wm. R. McLarney, Vice President.

Transport Inter-Modal Corp., 2460 Lemoine Avenue, Fort Lee, NJ 07024.
Officers:
Fred N. Sucher, President.
Fay Sucher, Secretary-Treasurer.

Dated: October 16, 1972.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18010 Filed 10-19-72;9:03 am]

FEDERAL POWER COMMISSION

[Docket No. DA-216; Washington]

WILLAMETTE-MERIDIAN, WASHINGTON

Finding and Order Under Section 24 of the Federal Power Act

OCTOBER 13, 1972.

Lands withdrawn in Powersite Reserves Nos. 67 and 74, Projects Nos. 2112 and 2241.

Applications (BLM serials Nos. OR 7257 (Washington) and OR 7333 (Washington)) have been filed by the State of Washington, through the Bureau of Land Management, for the revocation of the above-designated withdrawals insofar as they pertain to the following described lands, thereby requiring Commission consideration under section 24 of the Federal Power Act:

WILLAMETTE MERIDIAN, WASHINGTON

(1) Lands included in application OR 7257 (Wash.), approximately 80 acres:
T. 6 N., R. 10 E.,
Sec. 3, SE¼SE¼.
T. 5 N., R. 11 E.,
Sec. 18, NE¼SW¼.
(2) Lands included in application OR 7333 (Wash.), approximately 250.80 acres:
T. 7 N., R. 6 E.,
Sec. 23, S½NE¼, NE¼SE¼;
Sec. 24, lot 6;
Sec. 25, lots 1, 2, 3.

The subject lands in Ranges 10 E. and 11 E. lie adjacent to the White Salmon River, a tributary of the Columbia River, and are withdrawn in Powersite Reserve No. 67, dated July 2, 1910. These lands are also affected by the February 24, 1958, filing of an application for preliminary permit for Project No. 2241; however, the lands are not included in the pending application for license for the project which was filed October 2, 1961, and amended April 15, 1963. The power value of these lands lies in their possible use for conduit location in connection with the comprehensive development of the White Salmon River. Such development is not anticipated in the near future and such conduit location would be flexible.

The subject lands in Range 6 E. lie at or near the proposed Muddy Dam site on the Lewis River, a tributary of the Columbia River. These lands are variously withdrawn in Powersite Reserve No. 74, dated July 2, 1910, and pursuant to the filings by the Pacific Power & Light Co., on July 14, 1952, and November 26, 1956, of applications for Project No. 2112 (proposed Muddy Hydroelectric Project). All of the subject lands in Range 6 E. are included in the pending application for license for Project No. 2112.

The Commission finds: It has no objection to the revocation of Powersite Reserve No. 67 insofar as it pertains to the subject lands in Ranges 10 and 11 E.

The Commission orders: (A) The withdrawal for Project No. 2241 insofar as it pertains to the subject lands in Ranges 10 and 11 E. is hereby vacated.

(B) The application for revocation of withdrawals insofar as it pertains to the subject lands in Range 6 E. is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17892 Filed 10-19-72;8:46 am]

[Docket No. CP73-80]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 13, 1972.

Take notice that on September 26, 1972, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP73-80 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by section 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1973, and operation of certain natural gas facilities to enable applicant to attach to its Northwest Division System natural gas which will be purchased from independent producers, and other similar sellers, who have been authorized by the Commission to sell gas to applicant, all as more fully set forth in the application in this proceeding which is on file with the Commission and open to public inspection.

The application shows that the facilities proposed will consist of: (1) Routine field facilities, subject to the jurisdiction of the Commission, necessary to connect applicant's Northwest Division System with the facilities of independent producers or other similar sellers; and (2) field facilities, consisting principally of compressor horsepower, as may be required to compensate for declining reservoir pressures of existing gas resources. The proposed facilities are to be utilized for the attachment of new or expanded supplies of natural gas in various producing areas generally coextensive with applicant's pipeline system as well as for accommodating increased deliverability from existing sources and maintaining production from existing sources of supply at levels which will insure an orderly depletion of reserves.

The application indicates that the total cost of the proposed facilities will not exceed a maximum of $1 million and no single project will exceed a cost of $250,000. Applicant states that said cost will be financed from working funds, supplemented, as necessary, by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17891 Filed 10-19-72;8:46 am]

[Docket No. CP73-81]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 16, 1972.

Take notice that on September 26, 1972, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP73-81 an ap-

V37-204 OCT 20 72 XUM

plication pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction on its Northwest Division System, during the calendar year 1973, and operation of gas sales facilities for the sale and delivery of natural gas for resale and the sale and delivery of natural gas for resale by means of facilities to be constructed during the calendar year 1973 and operated by Pacific Gas Transmission Co., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed facilities are to be utilized for the sale and delivery of natural gas to its existing authorized Northwest Division customers for resale and general distribution in existing market areas in the States of Colorado, Utah, Wyoming, Idaho, Oregon, and Washington. Further, applicant states that such sales and deliveries will not exceed 100,000 Mcf annually and none of the gas sold will be used or resold for boiler fuel purposes.

The application indicates that the maximum facilities to be constructed under the requested authorization will consist of 15 taps, 15 measuring and regulating stations and three lateral or loop pipelines not exceeding a maximum diameter of 8⅝ inches and a maximum length of 7 miles. The application further indicates that the total cost of the proposed facilities will not exceed a maximum of $300,000 and that such cost will be financed from working funds, supplemented, as necessary by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17994 Filed 10-19-72;9:02 am]

[Docket No. E-7776]

IOWA ELECTRIC LIGHT & POWER CO.

Notice of Application

OCTOBER 17, 1972.

Take notice that on September 25, 1972, the Iowa Electric Light & Power Co. (applicant) filed an application pursuant to section 204 of the Federal Power Act with the Federal Power Commission seeking authority to issue and sell at competitive bidding 50,000 shares of cumulative preference stock and 500,000 shares of common stock.

Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado, and Nebraska with its principal business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission, and sale at retail of electric energy in 51 counties in the State of Iowa.

The cumulative preference stock and common stock are to be issued on approximately December 14, 1972. The cumulative preference stock is subject to the prior rights and preferences of the existing outstanding classes of the company's cumulative preferred stock. The rate of dividend on the cumulative preference stock will be determined by competitive bidding and redemption prices and amounts payable in event of voluntary liquidation will be determined by agreement between the company and the person or persons offering the best price for the cumulative preference stock based upon the rate of dividend and the public offering price. The common stock is subject to the prior rights and preferences of the existing outstanding cumulative preference stock and the additional cumulative preference stock now proposed to be issued. The price to the company for the common stock will be determined by competitive bidding on the basis of the person or persons offering the highest price to the company.

According to the applicant, the purposes for which the preference stock and common stock are to be issued include the construction, completion, extension, and improvement of facilities. The estimated construction program for 1972 totals $77,164,000 and includes the expenditure of $61,217,000 for its share of the cost of construction of a 550,000 kw. nuclear generating station being constructed on a site near Palo, Iowa. Two Iowa generating and transmission cooperatives, Central Iowa Power Cooperative and Corn Belt Power Cooperative will have a 20 percent and 10 percent undivided ownership, respectively, in this plant and its generating capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17988 Filed 10-19-72;8:59 am]

[Docket No. E-7468]

ILLINOIS POWER CO.

Notice of Supplemental Application

OCTOBER 17, 1972.

Take notice that on September 22, 1972, Illinois Power Co. (applicant) filed a second supplement to its application in Docket No. E-7468 seeking a supplemental order pursuant to section 204 of the Federal Power Act authorizing an increase in the maximum amount of short-term notes to be outstanding at any one time to an aggregate of $125 million and the extension of the final maturity date on the short-term notes that may be issued by applicant to December 31, 1976, from that authorized by the supplemental order of the Commission issued October 27, 1969, in Docket No. E-7468.

Applicant is incorporated under the laws of the State of Illinois and operates as an electric and gas public utility therein. The notes proposed to be issued pursuant to this application will be unsecured promissory notes with maturity dates not more than 360 days after their respective dates of issue, and in any event will be payable on or before December 31, 1976. The notes will be issued in an aggregate principal amount of not to exceed $125 million at any one time, either to: (1) Commercial banks under the provisions of revolving credit agreements or otherwise; (2) commercial paper dealers; or (3) regular purchasers of commercial paper for their own account. With respect to such of the notes as are issued to commercial banks, the interest rate applicable to the notes will be not higher than the prime commercial rate of the Continental Illinois National Bank & Trust Co. of Chicago in effect on the date of each borrowing, and with respect to such of the notes as are issued to commercial paper dealers or to regular purchasers of commercial paper for their own account, the interest rate applicable to the notes will be the market rate (or discount rate) on the date of issuance for commercial paper of comparable quality and of the particular maturity sold.

The net proceeds from the issuance of the notes will be added to working capital for ultimate application toward the cost of gross additions to utility properties and/or to reimburse applicant's treasury for construction expenditures. Applicant's construction program, as now scheduled, calls for expenditures of approximately $725 million for the 5-year period 1972–76.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-17989 Filed 10-19-72;8:59 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on July 18, 1972: [1]

The information reviewed at this meeting suggests that real output of goods and services increased at a faster rate in the second quarter than in the two preceding quarters. In June the unemployment rate declined, but it was still substantial. Wholesale prices of farm and food products advanced appreciably further in June and the rise in prices of industrial commodities remained substantial. Recent data suggest moderation in the pace of advance in wage rates. In foreign exchange markets, following disturbances leading to a floating of the pound sterling, the dollar has come under pressure and the reserves of European central banks have increased sharply. In May, the excess of merchandise imports over exports remained large, though a little less than in April.

Growth in the narrowly defined money stock was relatively slow in May and June, but preliminary weekly data suggest a pickup in early July. Growth in the broadly defined money stock was more substantial as inflows of consumer-type time and savings deposits to banks remained strong. Expansion in the bank credit proxy slowed sharply in June as U.S. Government deposits declined markedly. In recent weeks, long-term interest rates have changed little; rates in short-term markets have advanced, except for those on shorter-maturity Treasury bills.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking account of the forthcoming Treasury financing, developments in capital markets, and international developments, the Committee seeks to achieve bank reserve and money market conditions that will support moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, October 12, 1972.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.72 17938 Filed 10-19-72;9:01 am]

[1] The Record of Policy Actions of the Committee for the meeting of July 18, 1972, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FIRST AT ORLANDO CORP.

Order Approving Acquisition of Banks

First at Orlando Corp., Orlando, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of First National Bank of Delray Beach (First) and of Second National Bank of Delray Beach (Second) (hereinafter collectively referred to as "Banks"), both of Delray Beach, Fla.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in the State, controls 26 banks with aggregate deposits of approximately $905 million, representing about 5.6 percent of deposits in commercial banks in Florida. (Banking data are as of December 31, 1971, and reflect holding company acquisitions and formations approved by the Board through August 31, 1972.) As a result of consummation of both proposals, applicant's share of deposits would be increased to 6 percent of the total deposits of commercial banks in the State and applicant's position in relation to the State's other banking organizations would remain unchanged.

Banks (aggregate deposits of $57.8 million) constitute the sixth largest of the 30 banking organizations in the Palm Beach banking market, approximated by the County of Palm Beach excluding the city of Boca Raton, and hold 6.8 percent of the total deposits in that market. Consummation of the proposed transactions would not have an adverse effect upon existing competition between applicant and Banks. Applicant's subsidiary bank nearest to Banks is located approximately 55 miles south of Delray Beach and neither it, nor any of applicant's other subsidiaries, compete with Banks to any significant extent. Furthermore, the development of such competition is considered unlikely in view of the distances separating applicant's subsidiaries and Banks, and Florida's restrictive branching laws. Some potential competition between applicant and Banks would be foreclosed since applicant possesses the resources to enter the market de novo. However, in view of the large number of banks in the market, the elimination of such potential competition is not considered significant. Despite the close proximity of Banks to each other (approximately 1.7 miles) and the overlap of their service areas, consummation of the proposed transactions would not lessen existing competition, nor foreclose the development of potential competition between First and Second, since Banks have been closely affiliated through common directors, officers, and shareholders since the formation of Second in 1970 by principals of First, and there is little likelihood that the Banks would become disaffiliated if the subject applications were denied. On the basis of the facts of record, the Board concludes that consummation of applicant's proposal would not eliminate any significant existing competition nor foreclose the development of significant potential competition.

The financial and managerial resources and future prospects of applicant, its subsidiaries, and Banks are generally considered satisfactory particularly in view of applicant's commitment to increase the capital accounts of several of its subsidiary banks (see the Board's order of September 26, 1972, approving applicant's applications to acquire shares of The City Bank and Trust Company of St. Petersburg and The Suncoast City Bank of St. Petersburg). There would be no immediate benefits to the convenience and needs of the communities involved as a result of the consummation of the transaction. However, considerations relating to convenience and needs are consistent with approval of the applications. It is the Board's judgment that consummation of the proposed transactions is in the public interest and that the applications should therefore be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

V37-204 OCT 20 72 XUM

By order of the Board of Governors,[1] effective October 13, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17941 Filed 10-19-72;9:01 am]

FIRST CONNECTICUT BANCORP, INC.

Order Approving Acquisition

First Connecticut Bancorp, Inc., Hartford, Conn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and Regulation Y, to acquire the assets and assume the liabilities of Pioneer Credit Corp. and its wholly owned subsidiary, Pioneer Investment Corp., both of Great Barrington, Mass., and both of which (collectively referred to hereinafter as "Pioneer") engage in the activity of making loans for personal, agricultural, and business purposes. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 16997). The time for filing comments and views has expired, and none have been timely received.

Applicant controls three banks with total deposits of approximately $204 million, representing 3.7 percent of total deposits held by commercial banks in the State, thereby ranking as the ninth largest commercial banking organization in Connecticut. Applicant's three subsidiary banks engage, among other things, in the making of loans for agricultural, personal, and business purposes.

Pioneer, with combined total assets of $6.2 million and total net receivables of $5.4 million, as of September 30, 1971, ranks as the 151st largest finance company in the United States in terms of capital funds. It operates its sole office in Great Barrington, and primarily serves Berkshire County. Although its loans for business purposes are largely made to concerns in Berkshire County, Pioneer specializes in the field of laundry and dry cleaner equipment financing, serving certain distributors in New York City, Cambridge, and Lenox, Mass. Pioneer has recently closed two offices which it had operated outside of Great Barrington and, absent consummation of the proposed transaction, does not appear to have the resources necessary to expand into other areas.

The nearest office of Applicant's subsidiary banks to Pioneer is located in New Hartford, Conn., approximately 45 miles from Great Barrington, Mass. Neither Pioneer, on the one hand, nor any of Applicant's subsidiaries on the other, derive business from the area in which the other operates. It therefore does not appear that any existing competition will be eliminated by consummation of the proposed acquisitions. Nor does it appear that consummation would have any adverse effect on potential competition.

There is no evidence in the record indicating that consummation of the proposed transaction would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects on the public interest. To the contrary, consummation of the proposal would provide Pioneer with greater capital resources and enhance its ability to secure larger lines of credit from nonaffiliated banks in the area. This greater access to funds should, in turn, strengthen Pioneer's competitive viability and possibly may encourage geographic expansion by Pioneer.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective October 13, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17942 Filed 10-19-72;9:01 am]

FIRST FLORIDA BANCORPORATION

Acquisition of Bank

First Florida Bancorporation, Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Ormond Beach First National Bank, Ormond Beach, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 13, 1972.

Board of Governors of the Federal Reserve System, October 16, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17947 Filed 10-19-72;9:01 am]

FIRST MISSOURI BANCORPORATION, INC.

Order Approving Formation of Bank Holding Company

First Missouri Bancorporation, Inc., Columbia, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of its formation of a bank holding company through acquisition of more than 97 percent of the voting shares of First National Bank and Trust Company, Columbia, Missouri (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently organized nonoperating company, with no existing subsidiaries, formed for the purpose of acquiring Bank (about $23 million in deposits). Applicant is controlled by the same individual who presently owns controlling interest in Bank so that acquisition of Bank by Applicant is essentially a change in the form of ownership. Upon acquisition of Bank, Applicant will assume Bank's present position as the third largest of four banking organizations in the Columbia area and hold approximately 17 percent of the deposits therein. Since Applicant has no present operations or subsidiaries, consummation of the transaction would not have any substantial effects on competition in any relevant area.

Since Applicant is a newly organized company, its prospects, at least for the time being, depend solely on those of Bank. The financial and managerial resources and prospects of Bank appear generally satisfactory, particularly in light of the commitment by Bank to obtain additional capital. These considerations are consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served are also consistent with approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

By order of the Board of Governors,[1] effective October 13, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17940 Filed 10-19-72;9:01 am]

MERRILL BANKSHARES CO.

Order Approving Acquisition of Bank

Merrill Bankshares Co., Bangor, Maine, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Houlton Trust Co., Houlton, Maine (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of approximately $167 million, representing about 12 percent of deposits of commercial banks in Maine.[2] Consummation of this proposal would increase applicant's share of deposits by only 0.6 percentage point and would not result in a significant increase in the concentration of banking resources in the State, although applicant's rank as fifth largest banking organization in Maine would change to fourth.

Bank (deposits of $8.4 million) is the second largest of four banks located in the Houlton banking market, approximated by the extreme southern portion of Aroostook County, a small area in northern Penobscot County, and a small area in northern Washington County. Bank holds approximately 20 percent of total deposits held by those four banks. As applicant's banking office nearest bank is located 55 miles from Bank and competes in a different geographic market, there appears to be no significant existing competition between applicant or its subsidiary banks and Bank.

Although two of applicant's banking subsidiaries may, under Maine law, open branch offices in the Houlton banking market, or applicant may be able to directly enter that market de novo through the formation of a new bank, such action is unlikely, in view of the area's declining population and low ratio of population to banking office. The U.S. Department of Labor has designated the Houlton area as an area of substantial unemployment. Under Maine law, Bank may open branch offices in areas served by two of applicant's banking subsidiaries. However, Bank, organized in 1905, has not exercised its branching rights in the 67 years of its existence. That this forebearance is likely to continue is indicated by the limited resources and earnings potential of Bank. It therefore does not appear that consummation of the proposed transaction would have an adverse effect on the development of competition between applicant and Bank. To the contrary, with applicant's support, Bank is likely to become a more viable competitor vis a vis the largest bank in the Houlton banking market which holds approximately 52 percent of the area's deposits and is a subsidiary of the State's largest banking organization.

The financial and managerial resources and future prospects of applicant, its subsidiary banks, and Bank are regarded as generally satisfactory and these considerations are consistent with approval of the application. Applicant proposes to enable Bank to initiate trust services, improve Bank's personal loan department, and, through more readily available automated computer facilities, improve Bank's check processing and payroll services. Although these services are presently available through other sources in the community, the strengthening of Bank as an alternative source of such services lends additional weight toward approval of the application. In sum, it is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 13, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-17943 Filed 10-19-72;9:01 am]

MIDWEST BANK SHARES, INC.

Formation of Bank Holding Company

Midwest Bank Shares, Inc., Moline, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 29.36 percent or more of the voting shares of The De Witt County National Bank of Clinton, Clinton, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 13, 1972.

Board of Governors of the Federal Reserve System, October 16, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17945 Filed 10-19-72;9:01 am]

NORTHEAST BANCORP, INC.

Formation of Bank Holding Company

Northeast Bancorp, Inc., New Haven, Conn., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of not less than 80 percent of the voting shares of Union Trust Co., New Haven, Conn. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Reserve bank to be received not later than November 9, 1972.

Board of Governors of the Federal Reserve System, October 16, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17944 Filed 10-19-72;9:01 am]

STATE NATIONAL CORP.

Formation of Bank Holding Company

State National Corp., Evanston, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank-holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to State National Bank, Evanston, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 13, 1972.

Board of Governors of the Federal Reserve System, October 16, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-17946 Filed 10-19-72;9:01 am]

[2] All banking data are as of Dec. 31, 1971, with the exception of data for the Houlton banking market which are as of June 30, 1970.

[2] Voting for this action: Vice Chairman Roberston and Governors Mitchell, Daane, Brimmer, and Sheehan. Absent and not voting: Chairman Burns and Governor Bucher.

V37-204 OCT 20 72 XUM

FEDERAL TRADE COMMISSION

STATEMENT OF ORGANIZATION

Change of Title to "Administrative Law Judge"

By amendment of Subpart B, Part 930, Title 5, Code of Federal Regulations, effective August 17, 1972, the Civil Service Commission has changed the title "Hearing Examiner" to "Administrative Law Judge" (37 F.R. 16787).

In conformity with this change, notice is hereby given that the title "Hearing Examiner" as used in sections 9 and 14 of the statement of organization, published June 30, 1970 (35 F.R. 10627) is hereby changed to "Administrative Law Judge."

Effective upon publication in the FEDERAL REGISTER (10–20–72).

By direction of the Commission, dated October 5, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72–17961 Filed 10–19–72;8:59 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

OCTOBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Accurate Calculator Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 17, 1972 through October 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17957 Filed 10–19–72;8:58 am]

[File No. 500–1]

FIRST WORLD CORP.

Order Suspending Trading

OCTOBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stocks, $0.15 par value, and all other securities of First World Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 17, 1972 through October 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17955 Filed 10–19–72;8:58 am]

[70–5245]

GRANITE STATE ELECTRIC CO. AND NEW ENGLAND ELECTRIC SYSTEM

Proposed Increase in Authorized Shares and Issue and Sale of Common Stock by Subsidiary Company to Holding Company

OCTOBER 16, 1972.

Notice is hereby given that New England Electric System (NEES), a registered holding company, and its electric utility subsidiary company, Granite State Electric Co. (Granite), 20 Turnpike Road, Westborough, MA 01581, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, and 12 of the Act and Rule 42 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Granite proposes to increase its capital stock by the authorization of 10,000 additional shares of common stock of the aggregate par value of $1 million. Such shares are proposed to be issued and sold at the price of $100 per share as fixed by Granite's Board of Directors. NEES, the sole common stockholder, proposes to acquire such shares for a cash consideration of $1 million. Upon such authorization, issue, and sale, Granite will have outstanding 50,400 shares of common stock of an aggregate par value of $5,040,000.

The proceeds from the issue and sale of the additional common stock will be applied towards the payment of short-term notes. Granite presently has $7,100,000 of short-term notes payable outstanding pursuant to Commission authorization, $6,850,000 payable to banks and $250,000 payable to NEES.

The expenses related to the proposed transactions are estimated at $4,200 of which Granite and NEES will pay $4,000 and $200, respectively. It is stated that the New Hampshire Public Utilities Commission has jurisdiction over the proposed issue and sale of common stock by Granite. It is also stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 3, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17950 Filed 10–19–72;8:58 am]

[70–5249]

JERSEY CENTRAL POWER & LIGHT CO. AND NEW JERSEY POWER & LIGHT CO.

Notice of Proposed Intrasystem Sale of Assets

OCTOBER 16, 1972.

Notice is hereby given that Jersey Central Power & Light Co. (JCP&L) and New Jersey Power & Light Co. (NJP&L), Madison Avenue at Punchbowl Road, Morristown, N.J. 07960, electric utility subsidiary companies of General Public Utilities Corp., a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

NJP&L proposes to sell to JCP&L, for cash, and JCP&L proposes to acquire from NJP&L, certain utility assets now owned by NJP&L consisting primarily of:

(1) Transformers and related equipment and switchgear, circuit breakers, and miscellaneous equipment and; (2) certain land and interests in land consisting of a right-of-way for electric transmission lines and appurtenances of approximately 3 miles located in the Township of Raritan, Hunterdon County, N.J. It is stated that NJP&L desires to sell the aforementioned utility assets since they have ceased to be useful in the operation of its utility business and that JCP&L desires to purchase said assets because they are needed in the operation of its utility business.

The proposed consideration for the assets to be transferred is based upon the original cost thereof, or, in the case of used property other than realty, the original cost thereof depreciated (a) to the date of sale or transfer or (b) if the property is already being used by JCP&L, to the date when such use by JCP&L began. If the sales and transfers had been consummated at June 30, 1972, the total consideration would have been $166,855.12; the actual consideration paid will be somewhat less to reflect additional depreciation accruing after June 30, 1972.

The Board of Public Utility Commissioners of the State of New Jersey has authorized the proposed sales of property by NJP&L. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at $1,800, including legal fees of $1,600.

Notice is further given that any interested person may, not later than November 6, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17959 Filed 10–19–72;8:58 am]

[File No. 500–1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

OCTOBER 12, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian Fast Food Services, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 13, 1972, through October 22, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17951 Filed 10–19–72;8:58 am]

[File No. 500–1]

OCEANOGRAPHY MARICULTURE INDUSTRIES, INC.

Order Suspending Trading

OCTOBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Oceanography Mariculture Industries, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 17, 1972, through October 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17958 Filed 10–19–72;8:58 am]

[File No. 500–1]

POWER CONVERSION, INC.

Order Suspending Trading

OCTOBER 13, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 16, 1972, through October 25, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17952 Filed 10–19–72;8:58 am]

[File No. 500–1]

TOPPER CORP.

Order Suspending Trading

OCTOBER 16, 1972.

The common stock, $1 par value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 16, 1972, through October 25, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72–17956 Filed 10–19–72;8:58 am]

[File No. 500–1]

TRANS-EAST AIR, INC.

Order Suspending Trading

OCTOBER 16, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.50 par value, and all other securities of Trans-East Air, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from

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October 17, 1972, through October 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-17954 Filed 10-19-72;8:58 am]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary's Order 32-72]

ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS

Delegation of Authority and Assignment of Responsibility

1. *Purpose.* This order delegates authority and assigns responsibility for the performance of functions assigned to the Secretary of Labor pursuant to the Farm Labor Contractor Registration Act of 1963 (78 Stat. 920, 7 U.S.C. 2041 et seq.).

2. *Background.* Under the Farm Labor Contractor Registration Act of 1963 programs and operations have been established to provide for the issuance, renewal, and when necessary, the suspension and revocation of certificates of registration to farm labor contractors. The Act authorizes the formulation of agreements with other Federal and State agencies to utilize the facilities and services of these agencies in carrying out the provisions of the Act.

3. *Transfer of functions.* This order transfers and assigns the certification of registration and enforcement responsibilities vested in the Secretary of Labor pursuant to the Farm Labor Contractor Registration Act of 1963, which were heretofore assigned to the Assistant Secretary for Manpower to the Assistant Secretary for Employment Standards.

4. *Delegation of authority and assignment of responsibility.* a. The Assistant Secretary for Employment Standards is hereby delegated authority and assigned responsibility for:

(1) Developing standards and policies for the administration of the Farm Labor Contractor Registration Act of 1963.

(2) Formulating and promulgating rules, regulations, and interpretations required in the administration of the Act on the advice of the Solicitor.

(3) Determining the eligibility of applicants for certificates of registration under the Act.

(4) Providing for the issuance, renewal, suspension, and revocation of certificates of registration as provided in the Act.

(5) Conducting such investigations and inspections as are required to determine the eligibility of a farm labor contractor for a certificate of registration or to determine if any of the provisions of the Act have been violated.

(6) Bringing of legal proceedings under the Act, the determinations in each case whether such proceedings are appropriate to be made by the Solicitor of Labor.

(7) Overall coordination of the Department's functions under the Act.

b. The Assistant Secretary for Manpower is hereby delegated authority and assigned responsibility for:

(1) Providing for the receipt of applications for registration of farm labor contractors pursuant to the Farm Labor Contractor Registration Act of 1963, and the forwarding of those applications to the appropriate Employment Standards Administration Office.

(2) Entering into agreements with Federal or State agencies to utilize the services and facilities of such agencies to assist in the registration of farm labor contractors, and to allocate or transfer funds or otherwise to pay or to reimburse such agencies for expenses in connection therewith.

5. Redelegation: The authority delegated and responsibilities assigned by this order may be further redelegated.

6. Reservation of Authority: Submission of reports and recommendations to the President and the Congress concerning the administration of the Farm Labor Contractor Registration Act shall be reserved to the Secretary.

7. Directive affected: Paragraph 4a(6) of Secretary's Order No. 20-71 is superseded to the extent that it is inconsistent herewith.

8. *Effective date:* This order is effective October 1, 1972.

Signed at Washington, D.C., this 16th day of October 1972.

J. D. HODGSON, *Secretary of Labor.*

[FR Doc.72-17927 Filed 10-19-72;8:47 am]

[Secretary's Order 33-72]

DEPUTY ASSISTANT SECRETARY/ WAGE-HOUR ADMINISTRATOR

Redelegation of Authority and Assignment of Responsibility

1. *Purpose.* This order redelegates authority and reassigns responsibility for the performance of functions assigned to the Assistant Secretary for Employment Standards by Secretary's Order No. 32-72 to the Deputy Assistant Secretary/ Wage-Hour Administrator.

2. *Background.* Secretary's Order No. 32-72 delegated authority and enforcement functions pursuant to the Farm Labor Contractor Registration Act to the Assistant Secretary for Employment Standards. The order further provided that such authority and responsibility may be redelegated.

3. *Redelegation of authority and reassignment of responsibility.* The Deputy Assistant Secretary/Wage-Hour Administrator is hereby redelegated authority and reassigned responsibility for the functions delegated to the Assistant Secretary for Employment Standards in Secretary's Order No. 32-72.

4. *Redelegation.* The Deputy Assistant Secretary/Wage-Hour Administrator may redelegate authority vested in him by this order.

5. *Effective date.* This order is effective October 1, 1972.

Signed at Washington, D.C., this 16th day of October 1972.

R. J. GRUNEWALD, *Assistant Secretary for Employment Standards.*

[FR Doc.72-17926 Filed 10-19-72;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 100]

ASSIGNMENT OF HEARINGS

OCTOBER 17, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-F-11513, West Nebraska Express, Inc.—control—Wilson Brothers Truck Line, Inc., now assigned November 6, 1972, at Kansas City, Mo., will be held in Room 140, New Federal Building, 601 East 12th Street.

MC-C-7835, National Trailer Convoy, Inc.—Investigation and revocation of certificates, now assigned November 9, 1972, MC 106398 Sub 599, National Trailer Convoy, Inc., now assigned November 9, 1972, MC-F-11502, Holmes Freight Lines, Inc.—control—Byers Transportation Co., Inc., and Commercial Freight Lines, Inc., now assigned November 13, 1972, MC 117815 Sub 180, Pulley Freight Lines, Inc., now assigned November 16, 1972, at Kansas City, Mo., will be held in Room 303, Old Federal Building, 911 Walnut Street.

MC-134082 Sub 6, K. H. Transport, Inc., now assigned October 18, 1972, at Washington, D.C., is postponed indefinitely.

FD 26835, Cadillac & Lake City Railway Co. reorganization, now being assigned hearing December 11, 1972, at Cadillac, Mich., in a hearing room to be later designated.

MC-F-10774, K. L. Breeden & Sons, Inc., purchase (portion)—Marks Trucking Co., Inc., now assigned November 13, 1972, will be held in Room 5B-43, 1100 Commerce Street, Dallas, TX.

I & S No. 8773, Transit, vegetable and animal oils, Midwest to West, now assigned November 8, 1972, at Chicago, Ill., postponed to December 6, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 114211 Sub 168, Warren Transport, Inc., MC 118806 Sub 23, Arnold Bros. Transport, Ltd., now assigned November 6, 1972, at St. Paul, Minn., hearing is canceled and transferred to modified procedure.

MC 115116 Sub 25, Suburban Transit Corp., now assigned November 6, 1972, at New York, N.Y., canceled and reassigned to November 6, 1972, at the Nassau Inn, Palmer Square, Princeton, N.J.

MC 94201 Sub 88, Bowman Transportation, Inc., application dismissed.

MC-107515 Sub 759, Refrigerated Transport Co., Inc., MC-113651 Sub 141, Indiana Refrigerator Lines, Inc., now assigned November 6, 1972, will be held in Room 3A-19, 1100 Commerce Street, Dallas, TX.

MC-134243 Sub-2, Moore Bros. Transportation Co., Inc., now being assigned hearing February 1, 1973 (2 days), at Greensboro, N.C., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17978 Filed 10-19-72;9:00 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 13, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42549—*Joint water-rail container rates—American Mail Line, Ltd.* Filed by American Mail Line, Ltd. (No. 2), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Hong Kong, Taiwan, and Korea, on the one hand, and rail stations and water carrier terminals on the U.S. Atlantic and Gulf Seaboard, on the other.

Grounds for relief—Water competition.

Tariffs—American Mail Line, Ltd., Eastbound Intermodal Tariff No. 1, ICC No. 1, F.M.C. No. 22, and Westbound Intermodal Tariff No. 2, ICC No. 2, F.M.C. No. 23. Rates are published to become effective on November 15, 1972.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17975 Filed 10-19-72;8:59 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 16, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42550—*Sodium bichromate from Castle Hayne, N.C.* Filed by M. B. Hart, Jr., agent (No. A6323), for interested rail carriers. Rates on sodium bichromate, in solution, in tank-car loads, as described in the application, from Castle Hayne, N.C., to Appleton, Wis.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 123 to Southern Freight Association, agent, tariff ICC S-838. Rates are published to become effective on November 16, 1972.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17976 Filed 10-19-72;8:59 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 17, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42551—*Chlorine to points in southern territory.* Filed by M. B. Hart, Jr., agent (No. A6322), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Charleston, Tenn., and McIntosh, Ala., to specified points in southern territory.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplements 100, 368, and 193 to Southern Freight Association, agent, tariffs ICC S-938, S-484, and S-800, respectively. Rates are published to become effective on November 23, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17977 Filed 10-19-72;9:00 am]

[Notice No. 138]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 16, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 30844 (Sub-No. 429 TA), filed September 29, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Post Office Box 5000, Waterloo, IA 50702 (50704). Applicant's representative: John P. Rhodes (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Marina and lake resort shelters, piers, wharfs, and flotation systems; barn equipment, and farrowing halls; office partitions; vacation homes; conventional houses; and parts and accessories, incidental thereto*, from Readlyn, Iowa, to points in the continental United States; and (2) *such materials and supplies* as are used in the manufacturing of the products in Part (1) from points in the continental United States to Readlyn, Iowa, for 180 days. Supporting shipper: R-J Industries, Readlyn, Iowa 50668. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 68860 (Sub-No. 15 TA), filed October 2, 1972. Applicant: RUSSELL TRANSFER INCORPORATED, 444 Glenmore Drive, Salem, VA 24153. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles of iron or steel manufacture*, as defined by the Commission, between Roanoke and Troutville, Va., and points in New Jersey, Pennsylvania, Maryland, Virginia, District of Columbia, North Carolina, and South Carolina, for 180 days. Supporting shippers: Roanoke Electric Steel Corp., Post Office Box 1298, Roanoke, VA 24006; Roanoke Iron & Bridge Works, Inc., Post Office Box 1711, Roanoke, VA 24008; Diversified Industries, Inc., Post Office Box 215, Troutville, VA 24175; Steel Service Warehouse, Inc., Post Office Box 1001, Roanoke, VA 24018; Noland Co., Inc., 1226 Center Avenue NW., Roanoke, VA 24017; Blue Ridge Steel Co., 1002 Hollins Road NE., Roanoke, VA 24012; A1-Steel Fabricators, Inc., Post Office Box 4398, Roanoke, VA 24015; Roanoke Scrap Iron & Metal Co., Inc. Post Office Box 611, Roanoke, VA 24004. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 106074 (Sub-No. 16 TA), filed September 25, 1972. Applicant: B AND P

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MOTOR LINES, INC., 101 Main Street, Hazelwood, NC 28738, Mailing: Post Office Box 5118, Biltmore Station, Asheville, NC 28803. Applicant's representative: Bernard Goldstein (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in containers, from points in Hancock County, W. Va., to points in Buncombe County, N.C., for 180 days. Supporting shipper: Allied Oil and Motor Co. Inc., 163 Southside Avenue, Asheville, NC. Send protests to: Frank H. Wait, Jr., Bureau of Operations, Interstate Commerce Commission, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, NC 28202.

No. MC 107515 (Sub-No. 813 TA), filed September 18, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities utilized by Jeno's Inc., at Duluth, Minn., to points in Kentucky, Tennessee, Mississippi, Louisiana, Alabama, Georgia, North Carolina, South Carolina, Florida, Virginia, and West Virginia, for 180 days. Supporting shipper: Jeno's, Inc., 525 Lake Avenue South, Duluth, MN 55801. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Opcrations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 115093 (Sub-No. 8 TA), filed September 29, 1972. Applicant: MERCURY MOTOR EXPRESS, INC., 704 West Kennedy Boulevard, Tampa, FL 33606. Applicant's representative: Clayton R. Byrd (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber byproducts*, from points in Warren County, Ga., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Knox Wood Products, Augusta, Ga. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 115311 (Sub-No. 140 TA), filed September 20, 1972. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Alan E. Serby, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood particle board and composition board*, from the plantsite and warehouse facilities of Champion International at or near Oxford, Miss., and its commercial zone to points in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. Supporting shipper: Champion International Knightsbridge, Hamilton, Ohio 45020. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 115975 (Sub-No. 16 TA), filed September 29, 1972. Applicant: C.B.W. TRANSPORT SERVICE, INC., Post Office Box 48, Wood River, IL 62095. Office: Old Edwardsville Road and Hedge Road, South Roxana, Ill. 62087. Applicant's representative: Ernest A. Brooks II, 1301–02 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating grease*, in bulk, in tube trailers, under contract with Shell Oil Co., from the plantsite of International Lubricant Corp., New Orleans, La., to Gadsden, Ala.; Baltimore (Sparrows Point), Md.; Saginaw, Mich.; Cleveland, Columbus, Delphos, and Fredericktown, Ohio: Allenport and Monessen, Pa., for 180 days. Supporting shipper: D. K. Brannan, Supervisor Oil Analysis and Services, T & S Traffic Operations, EOR, Shell Oil Co., Post Office Box 2099, Houston, TX 77001. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701 .

No. MC 116254 (Sub-No. 131 TA), filed September 29, 1972. Applicant: CHEMHAULERS. INC., Post Office Box 245, 1510 Martin Avenue, Sheffield, AL 35660. Applicant's representative: Douglas O. Logue (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crystal silica sand*, in bulk, in tank vehicles, from Ottawa, Ill., to Huntsville, Ala., for 180 days. Supporting shipper: Chrysler Corp., Huntsville Division, 102 Wynn Drive, Huntsville, AL 35805. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814–2121 Building, Birmingham, Ala. 35203.

No. MC 125254 (Sub-No. 15 TA), filed September 29, 1972. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 East Fifth Street, Post Office Box 714, Muscatine, IA 52761. Applicant's representative: Larry D. Knox, 910 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from La Crosse, Wis., to Muscatine, Iowa, for 180 days. Supporting shipper: Wendell G. White, doing business as White Distributing Co., 1109 East Fifth Street, Muscatine, IA 52761. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 135007 (Sub-No. 16 TA), filed September 28, 1972. Applicant: AMERICAN TRANSPORT, INC., Box 37406, Millard Station, Millard, NE 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products*, from Schuyler, Nebr., and Fremont, Nebr., to points in Alabama, Georgia, and Florida, under contract with Spencer-Foods, Inc., for 180 days. Supporting shipper: Spencer Foods, Inc., Spencer, Iowa. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, 106 South 15th Street, Omaha, NE 68102.

No. MC 135276 (Sub-No. 2 TA), filed October 2, 1972. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, MD 21701. Applicant's representative: Francis J. Ortman, 1100 17th Street, NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, in dump trucks, from Warfordsburg, Pa., to the plantsite of Frederick Asphalt Products Co., at or near Frederick Md., and the plantsite of The Kline Paving Co., near Boonsboro, Md., for 180 days. Supporting shipper: Frederick Asphalt Products, Inc., Post Office Box 665, Frederick MD 21701. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20436.

No. MC 135276 (Sub-No. 3 TA), filed October 2, 1972. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, MD 21701. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone* (other than open hearth limestone) ground or crushed, in bulk, in dump trucks, from Middletown, Va., and points within 6 miles thereof to the plantsite of Alpha Portland Cement Co., at Lime Kiln, Md., for 180 days. Supporting shipper: Alpha Portland Cement Co., Division of Alpha Portland Industries, Inc., Post Office Box D, College Estates Station, Frederick, MD 21701. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 135903 (Sub-No. 3 TA), filed September 29, 1972. Applicant: MID NEBRASKA TRUCKING, INC., Cornlea, Nebr. 68630. Applicant's representative: Robert G. Plananasky, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and machinery and related parts, equipment, materials, and supplies*, from facilities of Mark's Implement, Inc., at Humphrey, Nebr., to points in Idaho, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Ohio, and Alabama, and from points in Texas, New Mexico, Missouri, Iowa, South Dakota, Kansas, Illinois, Wisconsin, Florida, Oklahoma, Idaho, and Louisiana, to facilities of Mark's Implement, Inc., at Humphrey, Nebr., for 150 days. Supporting shipper: Mark Noonan, Mark's Implement, Inc., Cornlea, Nebr. 68630. Send protests to: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 136988 (Sub-No. 2 TA), filed October 2, 1972. Applicant: SCOTT TRUCKING, INC., 4588 State Route 82, Mantua, OH 44255. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Reinforced concrete slabs and walls*, from Aurora, Ohio, to points in Pennsylvania on and west of U.S. Highway 219; points in New York on and west of New York Highway 14, and points in Jackson, Cabell, Kanawha, Marshall, Mason, Pleasants, Tyler, Wayne, Wetzel, Wood, Hancock, Brooke, and Ohio Counties, W. Va.; and (2) *reinforcing wire*, from Aurora, Ohio, on the one hand, and, on the other, Rochester and South Bethlehem, N.Y., for 180 days. Supporting shipper: Spancrete Northeast, Inc., Post Office Box 236, Aurora, OH 44202. Send protests to: Franklin D. Bail, District Supervisor. Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 138074 TA, filed September 28, 1972. Applicant: AIRWAY SALES AND SERVICE LTD., 510 Rye Road, Courtenay, BC Canada. Applicant's representative: J. Jeff Joyce, 1666 Boundary Road, Burnaby, BC Canada. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Mobile homes*, from the ports of entry on the international boundary line between the United States and Canada at or near Blaine, Lynden, Sumas, Port Angeles, and Anacortes, Wash., to points in Washington, Oregon, and California, for 180 days. Supporting shippers: North Bend Mobile Homes Ltd., Lantzville, British Columbia, Canada; Campbell River Trailer & Mobile Homes, 1721 Island Highway, Campbell River, British Columbia; House of Bars, Ltd., 2300 Cliffe Avenue, Courtenay, British Columbia; Totem Mobile Homes Ltd., Box 3194, Courtenay, British Columbia. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17979 Filed 10-19-72;9:00 am]

[Notice 145]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 19, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74025. By application filed October 12, 1972, HOCAN DISTRIBUTORS, INC., 330 Manhattan Avenue, Jersey City, NJ, seeks temporary authority to lease the operating rights of ARBOR MOTOR LINES, INC. (Internal Revenue Services, Successor), 313 State Street, Perth Amboy, NJ 08861, under section 210a(b). The transfer to HOCAN DISTRIBUTORS, INC., of the operating rights of ARBOR MOTOR LINES, INC. (Internal Revenue Services, Successor), is presently pending.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-17980 Filed 10-19-72;9:00 am]

[Ex Parte 241, Rule 19; Rev. Exemption 21]

NORFOLK SOUTHERN RAILWAY CO.

Exemption From Mandatory Car Service Rules

It appearing, that there is a substantial movement of grain and grain products originating at stations on the Norfolk Southern Railway Co.; that major harvests of grain are continuing in the area served by this railroad; that the boxcar supply available to this railroad is inadequate to meet all of the needs of the shippers served by this railroad.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain narrow-door boxcars described in the Official Railway Equipment Register, ICC RER No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 ft. 6 in. or less, owned by carriers having direct connections with the Norfolk Southern Railway Co. or received empty from the Norfolk and Portsmouth Belt Line Railroad Co. are exempt from the provisions of Car Service Rules 1 and 2.

Effective October 15, 1972.

Expires November 15, 1972.

Issued at Washington, D.C., October 12, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.72-17981 Filed 10-19-72;9:00 am]

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FRIDAY, OCTOBER 20, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 204

PART II

COUNCIL ON ENVIRONMENTAL QUALITY

■

Implementation of National Environmental Policy Act

Notice of Opportunity for Public Comment on Procedures

V37-204 OCT 20 72 XUM

COUNCIL ON ENVIRONMENTAL QUALITY

IMPLEMENTATION OF NATIONAL ENVIRONMENTAL POLICY ACT

Revised Cumulative Listing of Agency Procedures

A cumulative listing of agency procedures for implementing section 102(2)(C) of the National Environmental Policy Act was previously published by the Council on Environmental Quality last December (36 F.R. 23666–23712, December 11, 1971). A number of agencies have since issued new or revised procedures. Following is a revised list of current agency NEPA procedures, together with the texts of procedures not previously appearing in the FEDERAL REGISTER.

TIMOTHY ATKESON,
General Counsel.

DEPARTMENT OF AGRICULTURE

Departmental procedures dated November 12, 1971 (36 F.R. 23667–23669, December 11, 1971).
Agricultural Stabilization and Conservation Service procedures dated December 2, 1971 (text follows this notice).
Farmers Home Administration procedures dated August 17, 1972 (37 F.R. 17459–62, August 29, 1972) (final).
Forest Service procedures dated July 13, 1971 (36 F.R. 23669–23672, December 11, 1971).
Rural Electrification Administration procedures dated June 17, 1971 (36 F.R. 23672–23674, December 11, 1971).
Soil Conservation Service procedures dated November 15, 1971 (36 F.R. 23674–23676, December 11, 1971).

APPALACHIAN REGIONAL COMMISSION

Procedures dated June 7, 1971 (36 F.R. 23676, December 11, 1971).

ATOMIC ENERGY COMMISSION

Regulatory activities—procedures dated September 3, 1971 (36 F.R. 18071–18076), September 9, 1971 (interim); amendments dated November 26, 1971 (36 F.R. 22851–22854, December 1, 1971) (proposed), May 8, 1972 (37 F.R. 9619–9620, May 13, 1972), May 15, 1972 (37 F.R. 9779, May 17, 1972), July 21, 1972 (37 F.R. 15127–15143, July 28, 1972), August 4, 1972 (37 F.R. 16035, August 9, 1972).
Nonregulatory activities—procedures dated June 27, 1972 (37 F.R. 13160–13164, July 4, 1972).

CANAL ZONE GOVERNMENT

Procedures dated July 21, 1972 (text follows this notice).

CENTRAL INTELLIGENCE AGENCY

Procedures dated July 19, 1972 (text follows this notice).

CIVIL AERONAUTICS BOARD

Procedures dated June 10, 1971 (36 F.R. 12513–12515, July 1, 1971).

DELAWARE RIVER BASIN COMMISSION

Procedures dated September 30, 1971 (36 F.R. 20381–20382, Oct. 21, 1971).

DEPARTMENT OF COMMERCE

Departmental procedures dated October 23, 1971 (36 F.R. 21368–21370, November 6, 1971).
Economic Development Administration procedures dated March 8, 1972 (text follows this notice).
Maritime Administration procedures dated November 9, 1971 (text follows this notice).
National Oceanographic and Atmospheric Administration (no separate procedures).

DEPARTMENT OF DEFENSE

Departmental procedures dated August 9, 1971 (36 F.R. 15750–15755, August 18, 1971).
Army Corps of Engineers procedures dated January 3, 1972 (37 F.R. 2525–2531, February 2, 1972).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Departmental procedures dated November 23, 1971 (36 F.R. 23676–23679, December 11, 1971).
Food and Drug Administration procedures dated July 3, 1972 (37 F.R. 13636–13640, July 12, 1972) (proposed).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Departmental procedures dated July 16, 1971 (text follows this notice).

DEPARTMENT OF THE INTERIOR

Departmental procedures dated September 27, 1971 (36 F.R. 19343–19347, October 2, 1971).
Alaska Power Administration procedures dated April 1, 1972 (37 F.R. 7008–7009, April 7, 1972).
Bonneville Power Administration procedures dated December 30, 1971 (37 F.R. 815–817, January 19, 1972).
Bureau of Indian Affairs draft procedures dated April 13, 1972 (text follows this notice).
Bureau of Land Management procedures dated June 8, 1972 (37 F.R. 15015–15020, July 27, 1972).
Bureau of Mines procedures undated (37 F.R. 2895–2897, February 9, 1972).
Bureau of Outdoor Recreation procedures dated March 24, 1972 (37 F.R. 6501–6504, March 30, 1972).
Bureau of Reclamation procedures dated January 18, 1972 (37 F.R. 1126–1129, January 25, 1972).
Bureau of Sport Fisheries and Wildlife draft procedures dated December 1971 (text follows this notice).
National Park Service procedures undated (37 F.R. 4373–4374, March 2, 1972).
Office of Coal Research procedures dated January 18, 1972 (37 F.R. 1414, January 28, 1972).
Office of Saline Water procedures dated December 28, 1971 (37 F.R. 545, January 13, 1972).
Southwestern Power Administration procedures dated April 14, 1972 (37 F.R. 9248, May 6, 1972).
U.S. Geological Survey procedures undated (37 F.R. 5263, March 11, 1972).

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration procedures undated (37 F.R. 4418–4422, March 2, 1972).

DEPARTMENT OF STATE

Departmental procedures dated August 31, 1972 (37 F.R. 19167–19168, September 19, 1972) (final).
Agency for International Development special procedures for capital projects dated August 18 and September 20, 1971 (text follows this notice).
International Boundary Water Commission (United States-Mexico) procedures dated November 26, 1971 (text follows this notice).

DEPARTMENT OF TRANSPORTATION

Departmental procedures dated October 4, 1971 (36 F.R. 23679–23682, December 11, 1971).
Coast Guard procedures dated October 13, 1971 (36 F.R. 23682–23686, December 11, 1971).
Federal Aviation Administration, Airport Development Aid Program procedures dated December 7, 1970, amended June 25, 1971 (36 F.R. 23686–23695, December 11, 1971) (interim).
Federal Highway Administration procedures dated August 24, 1971 (36 F.R. 23696–23702, December 11, 1971).
St. Lawrence Seaway Administration procedures dated November 1971 (text follows this notice).
Urban Mass Transportation Administration procedures dated February 1, 1972 (text follows this notice).

ENVIRONMENTAL PROTECTION AGENCY

Procedures dated January 14, 1972 (37 F.R. 879–885, January 20, 1972).

FEDERAL COMMUNICATIONS COMMISSION

Procedures dated July 24, 1972 (37 F.R. 15711–15714, August 4, 1972) (proposed).

FEDERAL MARITIME COMMISSION

Procedures undated (37 F.R. 20184–86, September 27, 1972).

FEDERAL POWER COMMISSION

Procedures dated December 4, 1970 (35 F.R. 18958–18961, December 15, 1970); amendments dated April 13, 1971 (36 F.R. 7232–7233, April 16, 1971) and November 19, 1971 (36 F.R. 22738–22741, November 30, 1971).

FEDERAL TRADE COMMISSION

Procedures dated November 19, 1971 (36 F.R. 22814–22815, December 1, 1971).
Bureaus of Consumer Protection and Competition (no separate procedures).

GENERAL SERVICES ADMINISTRATION

Federal Supply Service procedures dated September 15, 1971 (36 F.R. 23702–23704, December 11, 1971).
Property Management and Disposal Service procedures dated September 15, 1971 (36 F.R. 23704–23706, December 11, 1971).
Public Buildings Service procedures dated December 2, 1971 and November 26, 1971 (36 F.R. 23336–23338, December 8, 1971; 36 F.R. 23652–23654, December 11, 1971).
Transportation and Communications Service procedures dated November 26, 1971 (36 F.R. 23274–23275, December 7, 1971).

INTERSTATE COMMERCE COMMISSION

Procedures dated January 14, 1972 (37 F.R. 6318–6319, March 28, 1972).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Procedures dated October 31, 1971 (36 F.R. 21753–21755).

NATIONAL CAPITAL PLANNING COMMISSION

Procedures dated August 9, 1971 (36 F.R. 23706–23709, December 11, 1971); amendments dated February 7, 1972 (37 F.R. 3010–3011, February 10, 1972), March 2, 1972 (37 F.R. 4936, March 7, 1972), June 1, 1972 (37 F.R. 11198–9, June 3, 1972), June 29, 1972 (37 F.R. 13135, July 1, 1972).

NATIONAL SCIENCE FOUNDATION

Procedures dated November 15, 1971 (36 F.R. 23709–23410, December 11, 1971).

OFFICE OF ECONOMIC OPPORTUNITY

Procedures dated July 1, 1971 (text follows this notice).

OFFICE OF MANAGEMENT AND BUDGET

Procedures dated September 14, 1971 (36 F.R. 23710–23711, December 11, 1971).

SMALL BUSINESS ADMINISTRATION

Procedures dated December 1971 (proposed) (text follows this notice).

TENNESSEE VALLEY AUTHORITY

Procedures dated October 26, 1971 (36 F.R. 21010–21014, November 2, 1971).

DEPARTMENT OF THE TREASURY

Departmental procedures dated July 30, 1971 (36 F.R. 14221–14222, July 31, 1971).
Internal Revenue Service procedures dated August 12, 1971 (36 F.R. 15061–15062, August 12, 1971).

U.S. POSTAL SERVICE

Procedures undated (37 F.R. 13322–13325, July 6, 1972).

VETERANS ADMINISTRATION

Procedures dated April 24, 1972 (37 F.R. 8591–8595, April 29, 1972).

WATER RESOURCES COUNCIL

Procedures dated February 10, 1971 (36 F.R. 23711–23712, December 11, 1971).

DEPARTMENT OF AGRICULTURE

AGRICULTURAL STABILIZATION & CONSERVATION SERVICE

[Notice EQ–7]

GUIDELINES FOR PREPARING ENVIRONMENTAL STATEMENTS

Approved by:
CARROLL G. BRUNTHAVER,
Acting Administrator.

1. CHANGE IN GUIDELINES

The National Environmental Policy Act (Public Law 91–190) requires the submission of an environmental statement with every proposal or favorable report on legislation and other major actions significantly affecting the quality of the human environment. USDA guidelines for filing environmental statements have been revised based on guidelines issued by the Council on Environmental Quality (CEQ). The ASCS guidelines have been revised within the framework of the USDA guidelines.

2. GENERAL GUIDELINES FOR IMPLEMENTING

ASCS is responsible for determining whether the quality of the human environment will be significantly affected in carrying out its assigned programs.

A. The Act indicates that "significant effect" may be either beneficial or adverse, or both. These effects may affect human beings directly or indirectly through the environment.

B. The COC, the STC, and directors of Washington divisions, within their respective areas of responsibility, shall assist the Administrator in determining whether the quality of the human environment will be significantly affected.

C. Any questions which cannot be resolved locally may be referred to the ASCS member of the USDA Environmental Quality Executive Committee (EQEC).

3. ASCS OFFICES TO PREPARE STATEMENTS

A. *Washington (originating or designated program divisions).* For:

1. Legislative proposal.
2. Legislative report, except when a negative report is prepared for nonenvironmental reasons.
3. Major national action.

B. *States and counties.* For major program actions.

C. *CO's DPC's, and MFO.* For any major administrative change or program that will have significant impact on the quality of the environment.

4. TYPES OF STATEMENTS TO BE PREPARED

A. *Draft.* Required on:

1. "Administrative actions" (major actions) when first sent to CEQ, over the signature of the Administrator, and made available to the public. (See exhibit 3.)
2. "Legislative reports" when sent to OMB for executive agency review and clearance. (See exhibits 1 and 2.)

B. *Final.* Required on:

1. "Administrative actions" when draft statement has been modified and expanded, based on full consideration of comments on the draft statement, and sent to CEQ over signature of the Administrator.
2. "Legislation" when forwarded to Congress following clearance by OMB.

5. EVALUATING IMPACT OF PROPOSED MAJOR ACTIONS

As early as possible and prior to the decision concerning major actions that significantly affect the environment, in consultation with appropriate Federal, State, and local agencies, ASCS shall:

A. "Assess the potential environmental impact" in order to determine the possible beneficial and adverse effects.

B. "Explore alternative actions" that will minimize adverse impacts.

C. "Evaluate both the long- and short-range implications" in order to avoid to the fullest extent practicable undesirable consequences for the environment.

D. "Assess the economic factors," such as impact on the public and on the affected areas and industries, including employment, unemployment, and others.

6. DETERMINING WHEN TO PREPARE STATEMENT

Prepare when:

A. There is a potential that the environment may be significantly affected by the action, even though such action may be localized in its impact;

B. It is reasonable to assume a cumulatively significant impact on the environment from successive implementation of several similar actions;

C. The decision is a precedent for action in much larger cases or represents a decision in principle about a future major course of action;

D. A proposed action has an environmental impact which is likely to be highly controversial;

E. Determined to be needed under provisions of paragraph 3 of Exhibit 3.

7. PREPARATION OF STATEMENTS

Follow format in Exhibits 4, 5, 6, and 7.

8. RESPONSIBILITY FOR STATEMENT INVOLVING TWO OR MORE AGENCIES

In some instances, two or more USDA or other Federal agencies are involved in a major action at the local level which requires development of an environmental statement. The agency funding the project is the lead agency in developing the statement. (Example: Special project on streambank stabilization with REAP cost-sharing and SCS technical assistance. ASCS is the lead agency.)

A. Only one statement shall be prepared for a project.

B. The lead agency should call upon other agencies for inputs in preparing the statement.

9. FORWARDING ENVIRONMENTAL STATEMENTS ON MAJOR ACTIONS

A. *When ASCS is the lead agency.* Will be forwarded to CEQ and OMB by the Administrator, through the USDA Coordinator of Environmental Quality Activities.

B. *When developed at the State or county level.* Statements shall be forwarded by the COC and/or STC through channels to the Secretary, ASCS Environmental Quality Committee.

10. AVAILABILITY TO THE PUBLIC

A. Environmental statements shall be made available to the public as described in the exhibits.

B. Where hearings are to be held on proposed major action or legislation, the draft environmental statement shall be made available to the public 15 days prior to the time of the hearings.

11. ASSISTANCE TO OTHER AGENCIES

ASCS shall provide assistance to other USDA agencies in preparing environmental statements and developing responses to statements from agencies within USDA and other departments. These efforts shall be coordinated by the ASCS member of EQEC. A copy of any statement prepared on a matter which may be controversial in nature shall be forwarded to him for approval.

12. STATE OFFICE ACTION

A. Determine whether certain actions are of a nature that a statement(s) should be developed for the entire State or separate statements for a portion of the State.

B. Provide guidance to counties on projects or activities on which a statement should be filed.

13. OBSOLETE MATERIAL

Notices EQ–3 and EQ–6.

14. NOTICE DISPOSAL

When incorporated into planned EQ handbook.

ENVIRONMENTAL CONTROL POLICY FOR CANAL AGENCIES

JULY 21, 1972.

1. *Background.* (a) Congress has declared a national policy which will encourage productive and enjoyable harmony between man and his environment and is promoting efforts to prevent or eliminate environmental damage. To assure that all Federal agencies, departments, and establishments, to the fullest extent possible, "direct their policies, plans, and programs so as to meet national environmental goals," a Council on Environmental Quality (CEQ) has been established in the Executive Office of the President of the United States. In particular, and pursuant to Public Law 91–190, which was enacted on January 1, 1970, and is entitled "National Environmental Policy Act of 1969," all Federal agencies are required to submit to the CEQ detailed draft and final environmental impact statements on all proposed legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) The CEQ has published guidelines (pp. 7724–7729, vol. 36, No. 79, April 23, 1971, FEDERAL REGISTER, copy attached as Annex A)* for use by all Federal agencies in the preparation of environmental impact statements. To implement procedures required by these guidelines, this Environmental Control Policy for Canal Agencies[1] provides local guidelines applicable to the canal agencies.

(c) Proposed Federal legislation or actions requiring the preparation of environmental statements include (1) legislation including that for appropriations; (2) projects and continuing activities supported in whole or

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in part through Federal contracts, grants, or other funding assistance and involving a Federal lease, permit, license, certificate, or other entitlement for use; and (3) policy, regulations, and procedure making. Past, current, continuing, and proposed future actions, including but not limited to the foregoing, may seemingly be localized in their impact but potentially may significantly affect the future environment in any or all parts of the Canal Zone and areas contiguous thereto.

(d) The Governor of the Canal Zone has established an Environmental Quality Committee (EQC)[2] to act on environmental matters affecting the Canal Zone.

(e) The Environmental Quality Committee will be the primary reviewing body for environmental impact statements submitted by the Canal agencies. Specifically, the EQC will (1) determine whether particular proposed legislation and major agency actions require submission of detailed environmental statements; (2) provide appropriate comments or views for inclusion in any required environmental statement; (3) keep on file a copy of any environmental statements for proposed legislation or actions submitted to CEQ from the Canal agencies, as well as copies of other statements relating to the Canal Zone, when available; and (4) maintain contact through diplomatic channels with counterpart officials in the Republic of Panama to seek cooperative action on any problems having a common geographic source.

2. *Canal Zone guidelines.*

(a) Bureaus or independent units initiating or planning legislation or actions which they believe may significantly affect the quality of the human environment should submit six (6) copies of a résumé (format for résumé sheets is shown at Annex B)[6] to the EQC. The EQC will decide whether an environmental impact statement is required and will inform the originating bureau or unit of its decision.

(b) If the EQC determines that a particular piece of proposed legislation or other action will require the submission of an environmental statement, the originating bureau or unit will prepare a draft statement in the format set out in Annex C.[6] Eleven (11) copies of this draft statement together with a summary sheet (the format for which is also set out in Annex C) and a letter of transmittal to the CEQ[3] for signature by the Governor/President will be sent to the EQC through the Chief, Executive Planning Staff. If the proposal is one which requires (as will normally be the case) the comments of the Environmental Protection Agency (EPA)[4] or if the comments of other Federal agencies are desired, appropriate cover letters for signature by the Governor/President also will be submitted.

(c) When comments from the EPA (where required) and other agencies are received, the originating bureau or unit will prepare a final environmental statement, using the same format as for draft statements revising the text thereof, where appropriate, to incorporate the views of commenting agencies. The final statement, together with copies of all comments received, will be forwarded in the same manner as that provided above for draft statements.

(d) In determining at what stage of the planning process the EQC is to be first advised of proposed actions or legislation which may significantly affect the quality of the human environment, the originating bureau or independent unit will take into consideration the following lead times:

(i) Review of draft environmental statements by the EQC will require at least 15 days. This review may result in a recommendation that further study of the proposal is required at the bureau or unit level.

(ii) Draft environmental statements must be furnished to CEQ no later than 90 days before any administrative action by the Canal agencies is taken with regard to the proposal.

(iii) Environmental statements which require comment from EPA will be held by that agency up to 45 days. Comments from other agencies can be expected to take a like time.

(iv) Final environmental statements must be furnished to CEQ no later than 30 days before any administrative action is taken by the Canal agencies with regard to the proposal.

3. *Comments of other agencies.*

(a) As indicated above, certain draft environmental statements must be sent to EPA for comment. Areas in which EPA comments are required are air and water quality, noise abatement and control, pesticide regulation, solid waste disposal, and radiation criteria and standards.[5]

(b) Federal agencies with special expertise to comment on various types of environmental impacts are listed in the CEQ Guidelines.

(c) Local Federal sources of expertise in environmental matters are listed in Annex D[6] of this memorandum.

4. *Summary of agency actions affecting environment.*

(a) In addition to the requirement for detailed environmental impact statements, discussed above, the Office of Management and Budget (OMB) has announced that agency annual budget estimates shall be accompanied by a summary list of those specific actions which, in accordance with agency procedures, require the preparation of such environmental impact statements. (OMB Bulletin No. 72-6, dated September 14, 1971, is attached as Annex E.)[6]

(b) Bureau directors and heads of independent units will thus include such a summary statement with their inputs to the annual budget estimate. It should be noted, however, that only those items which the EQC has determined will require detailed environmental statements should be included in the summary. The form which the summaries are to follow is set out in Exhibit 1 of Annex E.

CENTRAL INTELLIGENCE AGENCY

[Instruction No. LI 45-16]

SEPTEMBER 19, 1972.

PROCEDURES FOR IMPLEMENTING SECTION 102 (2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT

1. *Purpose.* This logistics instruction prescribes procedures for implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190), hereinafter referred to as the Act, with regard to the design, construction, alteration, operation, and use of public buildings and sites, and the lease or purchase of commercial facilities to house Agency activities.

2. *Background.* Section 102(2)(C) of the National Environmental Policy Act directs all Federal agencies to identify and develop methods and procedures which will insure that environmental amenities and values are given appropriate consideration in decisionmaking along with economic and technical considerations, and to prepare a detailed statement on major Federal actions that significantly affect the quality of the human environment. Executive Order 11514 of March 5, 1970, "Protection and Enhancement of Environmental Quality," implements the purpose and policy of this Act, and "Interim Guidelines," implementing its provisions, have been issued by the Council on Environmental Quality (CEQ).

3. *Procedures.* The following procedures are established for complying with the Act:

a. *Officials responsible for the environmental statements.* Statements shall be prepared by the Director of Logistics, who has been designated as the responsible official referred to in section 102(2)(C) of the Act. The Chief, Real Estate and Construction Division, OL, will assist the D/L as required and provide appropriate technical competence to develop statements in a timely manner consistent with the actions identified in subparagraphs 3b, 3c, and 3d of this instruction.

b. *Identifying Agency actions requiring environmental statements.* Environmental statements shall be provided when it is concluded that an Agency action will have a significant (by itself or cumulative) effect on the quality of the human environment. Dollar value alone is not a sufficient indicator; a small repair and improvement project may have significant impact on the environment. Actions requiring environmental statements will include, but not be limited to:

(1) Awards of contracts or other agreements for repair, maintenance, or operation of a facility which may, through the processes involved, the residue caused or collected, and disposal thereof, adversely affect the environment.

(2) Acquisition of real property by lease, assignment, purchase, construction, or otherwise, the operation of which, by the process involved, adversely affect the environment.

(3) Actions involving the moving or displacement of people which would materially affect population density.

c. *Information for environmental statements.* A broad spectrum of pertinent information shall be used in the preparation of the five-point environmental statement required by section 102(2)(C) of the Act. Special attention is to be given to the pro and con presentation of alternatives that relate to the short and long term environmental decisions. As part of these information gathering efforts, approaches being used by other Federal agencies to similar environmental problems will be examined with the view of utilizing a systematic and interdisciplinary approach.

d. *Content of environmental statement.*

(1) The following points are to be covered:

(a) The probable impact of the proposed action on the environment, including impact on ecological systems such as wild life, fish, and other marine life, as well as the impact on historic, archaeological, architectural, and cultural resources. Both primary and secondary significant consequences for the environment should be included in the analysis.

(b) Any probable adverse environmental impact which cannot be avoided (such as water or air pollution, damage to life systems, urban congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of P.L. 91-190).

(c) Alternatives to the proposed action (section 102(2)(D) of the Act) require the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the review process in order not to foreclose prematurely options which might have less detrimental effects.

(d) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity. This requires assessment of the action for cumulative and long term effects from the perspective that each generation is trustee of the environment for succeeding generations.

(e) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This requires identification of the extent to which the action curtails the range of beneficial uses of the environment.

(f) Where appropriate, a discussion of problems and objections raised by other Federal agencies and State and local entities in the review process and the disposition of the issues involved.

(2) Each environmental statement shall be prepared in accordance with the precept in section 102(2)(A) of the Act that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment."

e. *Consulting with Federal, State, and local agencies.* Where appropriate, prior to completing a detailed draft of an environmental statement, adequate consultation shall be made with the regional offices of the Federal agencies and such State and local agencies as have jurisdiction by law or expertise for specific areas of environmental quality.

f. *Existing projects and programs.* The section 102(2)(C) procedure shall be applied to further Agency actions having significant effect on the environment even though they arise from projects or programs initiated prior to enactment of P.L. 91-190.

4. *Preparation and submission of the draft text of environmental statement.*

a. Ten copies of draft environmental statements shall be forwarded to the CEQ by the responsible officer simultaneously with distribution for comment to relevant State and local agencies and the public, as appropriate.

b. A minimum of 30 days is to be allowed for agency comment (45 days for Environmental Protection Agency comment), followed by preparation of a final environmental statement.

5. *Preparation and submission of final text of environmental statement.*

a. Any comments received from Federal, State, regional, or local officials shall be reconciled, where practicable, with the draft environmental statement through coordination with the particular agency concerned. The environmental statement shall be revised to reflect, when appropriate, the additional data and comments obtained from those agencies. In any event, a discussion of problems and objections raised by other Federal agencies and State and local entities in the review process, together with the responsible official's recommended disposition of the issues involved, shall be appended to the final text of the environmental statement.

b. Ten copies of the final environmental statement shall be forwarded to the CEQ and other interested parties as in paragraph 4a, above.

c. To the maximum extent possible, no administrative action will be taken prior to 30 days after the final statement has been presented to the CEQ or sooner than 90 days after the submission of the draft statement as per paragraph 4a, above.

JOHN F. BLAKE,
Director of Logistics.

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION DIRECTIVES SYSTEM

[No. 17.02-2]

EDA PROGRAM IMPLEMENTING SECTION 102(2)(C) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The attached revision to EDA environmental procedures eliminates the use of Form ED-511, "Applicant's Environmental Impact Evaluation," and provides in its stead for a preliminary environmental assessment by the economic development representative. The purpose of the new procedures is to provide for EDA consideration of the environmental impact of the project in the early stages of consideration of project applications. In this way the time element involved in assessing the potential impact and in conforming to NEPA procedures will run concurrently with regional evaluation of project applications.

The revised directive also sets out in detail the functions of the special assistant for the environment and his role under the revised procedures.

Questions on these procedures or interpretations of the guidelines should be referred to the special assistant for the environment.

This revision supersedes Order 17.02-2, dated June 1, 1971, and supplements Department Administrative Order 216-6, "Statements on Proposed Federal Actions Affecting the Environment," dated October 23, 1971.

Effective date: March 8, 1972.

Sec.

2.01 Purpose.
2.02 Functions of the Special Assistant for the Environment.
2.03 Procedures for public works and business loans project processing.
2.04 Procedures for technical assistance projects processing.
2.05 Procedures for planning activities.
2.06 Procedures for processing environmental impact statements received from other governmental agencies for comment.
2.07 Public availability of environmental impact statements developed by EDA.
2.08 Applicability and reporting requirements.
2.09 Effect on other orders.
2.10 Effective date.

17.02-2.01 *Purpose.* The National Environmental Policy Act of 1969, requires that every recommendation or report on proposals for legislation or other major Federal actions significantly affecting the quality of the human environment shall contain a detailed statement concerning the degree of environmental impact anticipated. In subsequent guidelines issued by the Council on Environmental Quality, major Federal actions are partially defined as including projects and continuing activities supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance. It is clear, therefore, that most all of EDA's program activities fall within the purview of the National Environmental Policy Act, and that specific projects funded by EDA will require some measure of environmental impact assessment. (EDA supplemental public works grants to other Federal agencies will not require statements by EDA.) The procedures outlined in this directive are intended to assure that proper assessment takes place.

17.02-2.02 *Functions of the Special Assistant for the Environment.* The general functions of the Special Assistant for Environmental Affairs are to:

(1) Act as principal adviser to the Assistant Secretary on environmental affairs;

(2) Serve as the Agency's responsible official under the National Environmental Policy Act of 1969 (NEPA);

(3) Develop and direct the Agency's procedures for complying with NEPA and other environmental legislation;

(4) Review on a project basis the Agency's program involvements and recommend them to the Assistant Secretary for approval or disapproval based upon the requirements of this directive being fulfilled.

(5) Coordinate the Agency's environmental program with the environmental programs of local, State, and other Federal agencies which become involved with EDA projects;

(6) Represent the Assistant Secretary at conferences and meetings and on interagency committees dealing with environmental matters;

(7) Maintain liaison on environmental matters with interested public groups and local, State, and other Federal agencies;

(8) Review and evaluate legislative and administrative proposals in terms of their environmental impact; and

(9) Perform such other assignments of a policy, administrative or operational nature as requested by the Deputy Assistant Secretary.

17.02-2.03 *Procedures for public works and business loans project processing.* Thoughout the following procedures special attention at the regional and Washington levels is needed to uncover any significant environmental impacts brought about by a proposed project at the earliest possible time, in order that additional information or amendment of the project can be accomplished. Personnel both in the field and in Washington should feel free to request assistance on enviromental matters from the Special Assistant for the Environment, Office of the Deputy Assistant Secretary for Economic Development.

a. *Environmental file.* EDA will initiate an "Environmental File" for each project funded by EDA (excluding EDA projects supplementally funded to other Federal agencies and which will contain the following:

(1) The Economic Development Representative's environmental assessment (Appendix A),[1]

(2) Comments per OMB Circular A-95 from regional and State clearinghouses including any supplemental State comments received,

(3) Comments from other Federal agencies and/or non-Federal or private organizations,

(4) EDA regional office analysis and impact determination,

(5) EDA Washington program office review,

(6) The Special Assistant for the environment's review and certification that the requirements of this directive have been fulfilled, and

(7) Where required, both a draft and final environmental impact statement.

b. *Economic Development Representatives (EDR's).* Economic Development Representatives will instruct potential applicants for

[1] "Canal agencies" means the Panama Canal Company/Canal Zone Government.

[2] The EQC is composed of: Lt. Governor (Chairman); Chief, Executive Planning Staff; Engineering and Construction Director; Health Director; and General Counsel.

[3] Address: General Counsel, Executive Office of the President, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006.

[4] Address: Mr. Charles Fabrikant, Director of Impact Statements Office, 1626 K Street NW., Washington, DC 20006.

[5] A more complete list of areas of interest to EPA is contained in Annex D. Those areas bearing an asterisk will require EPA comments.

[6] Annexes: A. CEQ Revised Guidelines, April 23, 1971, B. Format of Résumé Sheet for EQC, C. Detailed Environmental Statements, D. Local Environmental Expertise, and E. OMB Bulletin 72-6, filed as part of the original document.

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EDA public works or business loans assistance that each project will be reviewed to determine its impact on the environment. The initial step of this review will be the preparation of an environmental assessment by the Economic Development Representative (see Appendix A). As the Economic Development Representative performs this assessment, he will keep in mind the Guidelines for Determining Significant Environmental Effects (Appendix B).[1]

The Economic Development Representative may find it desirable to contact the applicant and others, if necessary, in order to develop basic impressions of the project's environmental impact. Rarely will a project be considered to have "no impact." In all cases explanations in the environmental assessment shall be complete and reflect the best judgment of the Economic Development Representative.

The Economic Development Representative's environmental assessment shall be completed at the time a profile and scope is prepared for a public works project or at the time a preliminary project report is prepared for a business loan.

Also, EDR's will advise such applicants of the names and addresses of State, regional and metropolitan clearinghouses. Applicants shall be informed that all environmental comments received from the clearinghouse shall be forwarded to the regional office.

Economic Development Representatives should make clear to potential applicants the nature of the environmental review within EDA.

c. *Regional/metropolitan and State clearances.* Clearinghouses must review all Federal projects within 30 calendar days with an additional 30-day extension if required, in accordance with A–95 procedures (see EDA Directive 8.01–1) for public works and business loans. Objections raised during the clearance process to environmental aspects of a project are to be resolved where possible, and the EDA regional office must be informed of all objections.

Applicants will send comments and recommendations made by the clearinghouse to the EDA regional office as soon as possible after the preapplication conference but no later than the filing of the application.

Applicants will also state that after following all prescribed notification and review procedures no comments or recommendations have been received, if such is the case.

d. *Regional offices.* The project officer or the member of the regional office staff designated to handle environmental matters will review the EDR's environmental assessment. The purpose of this review is to determine if the information provided by the EDR is adequate to allow the Regional Director to make a determination that further environmental review is or is not necessary. If the information is adequate, the reviewer should so advise the Regional Director. If the information is not adequate, the reviewer should use whatever sources he believes necessary, including further contact with the EDR, to develop the needed information upon which a decision can be made.

In this review, the reviewer will examine the project from the viewpoint of the Guidelines for Determining Significant Environmental Effects (Appendix B). He will also examine alternatives to the project proposal, and develop inputs as they relate to long-term commitments of natural resources and changes in the natural environment which could result from implementation of the project.

The reviewer may desire as part of his analysis the technical advice of other governmental or private agencies concerning aspects of the project within these agencies' expertise. He should communicate with these agencies by the most expeditious means. He may also find it desirable to set forth the problem area in a letter to the agency. All such information shall be requested informally and no forms shall be sent for review.

The regional office shall utilize an interdisciplinary approach in the review of the EDR environment assessment and the regional office analysis. The analysis will enumerate inputs developed by utilizing this interdisciplinary approach.

When developed the regional office analysis shall be made part of the environmental file as an attachment to the EDR assessment. If necessary, the applicant will be advised at the time of the preapplication conference or at any time the project proceeds through the processing stages within the office that environmental problems have been uncovered and will have to be considered prior to the projects being recommended for approval.

The reviewer will recommend to the Regional Director that the project has the potential for significantly affecting the quality of the human environment and, therefore, an environmental impact statement should be prepared, or shall advise the Regional Director that the project does not have significant impact on the quality of the human environment and, therefore, no environmental impact statement is necessary.

The Regional Director shall consider the information prepared by the EDR and regional office review, and accordingly execute the appropriate statement on the EDR assessment.

If the Director finds that a project will have the potential for significantly affecting the quality of the human environment, a preliminary discussion with all supporting information shall be developed by the regional office on the project. The preliminary discussion should be forwarded to the Special Assistant for the Environment as part of the environmental file. (Guidelines for preparing a preliminary discussion are contained in Appendix C.)[1]

If the Director finds that the project will not significantly affect the quality of the human environment, the file will be forwarded to the Special Assistant for the environment.

e. *The Special Assistant for the environment.* (1) Upon receipt of the environmental file, the Special Assistant for the environment shall review the file and notify the regional director and the Washington program office of his concurrence or nonconcurrence.

(2) In the case of a project which has a preliminary discussion, the Special Assistant shall review the discussion and may require additional information or recommend to the regional director that the project may not significantly affect the quality of the human environment.

(3) He may, in the case of a project for which there is no discussion, recommend that the regional office prepare such a discussion. Where the Special Assistant determines that a discussion is necessary, the requirements shall be as described in DAO 216–6.

(4) Projects requiring application of the environmental impact statement procedure, but for special reasons, such as, national disaster or other emergency conditions, shall be called to the attention of the Department of Commerce and the Council on Environmental Quality by the Special Assistant, who shall seek to have the time requirements then in force for processing draft and final statements reduced.

(5) Final environmental impact statements shall be certified by the Special Assistant as being in compliance with appropriate laws and regulations.

(6) A copy of the final environmental impact statement shall be attached to the action memorandum (Form ED–506) which shall accompany the project file being circulated for approval in Washington.

17.02–2.04 *Technical assistance projects.* Each technical assistance project shall be cleared by the Special Assistant for Environmental Affairs. Each technical assistance contract awarded or granted to determine the feasibility of establishing a particular type of industrial site or enterprise must contain a condition indicating that due consideration will be given by the contractor to environmental impact in recommending the design and location of such a facility.

It will be the responsibility of the Special Assistant to monitor this provision on applicable technical assistance contracts, and the Office of Technical Assistance will be responsible for referring all such contracts to the Special Assistant.

17.02–2.05 *Procedures for planning activities.* Planning grants shall be cleared by the Special Assistant for Environmental Affairs.

The Office of Planning and Program Support, with the assistance of the Special Assistant for the environment, will develop and transmit environmental planning guidance to regional offices and to district and area OEDP Committees for incorporating environmental analyses and ecological considerations into the local planning process.

The regional office will instruct applicants submitting district and/or area planning grant applications that their overall economic development program must include environmental considerations, and that their planning grant must provide assurance that such environmental factors will be incorporated into their planning consistent with the purpose of the National Environmental Policy Act of 1969. The applicant will include under Item 5 of the application for planning and administrative grant, Form ED–301, assurance that development planning will interrelate with environmental considerations.

Planning reviews will assure that ecological and other environmental considerations have been incorporated into local plans consistent with the purpose of the National Environmental Policy Act of 1969. These reviews, made in the course of EDA's usual analyses of the district and area OEDP's and other planning documents, must consider the environmental impact of their economic goals and activities. The Special Assistant for the environment will monitor these reviews and work with the appropriate staffs assuring consistency with the Act.

17.02–2.06 *Procedures for processing environmental impact statements received from other governmental agencies for comment.* The purpose of the procedure is to permit EDA regional offices to be responsive to requests for comments on impact statements from other governmental—local, State, and Federal—agencies, and to provide the Department's Environmental Officer, who is the Deputy Assistant Secretary for Environmental Affairs in the Office of Science and Technology, the opportunity to coordinate a response on behalf of the Secretary of Commerce if deemed appropriate.

Upon receipt of a request to provide comments from a governmental agency, the regional office promptly will develop its comments and will forward them along with the impact statement to the Special Assistant for the environment. Then the Special Assistant will review and amend, if appropriate, the regional office comments as the result of

[1] Appendixes A, B, and C, filed as part of the original document.

[1] Appendixes A, B, and C, filed as part of the original document.

inputs from the headquarters level review and forward the package to the Departmental Environmental Officer for formal response to the requesting agency.

17.02–2.07 *Public availability of environmental impact statements developed by EDA.* Draft and final environmental impact statements developed by EDA shall be made available to the public in accordance with procedures established by DAO 216–6, section 5.03. In addition, statements shall be made available to appropriate State, regional, and metropolitan clearinghouses, and other governmental bodies, groups, and individuals.

17.02–2.08 *Applicability and reporting requirements.* The provisions of this directive will be effective for all applications accepted for processing by EDA regional offices on or after the effective date of the directive.

Department Order 216–6, section 9 provides for a monthly report of major actions reviewed and environmental impact statements to be prepared by EDA. So that the Special Assistant for the environment may comply with this requirement, regional directors will submit the information called for by DO 216–6 to the Special Assistant by the fourth working day of each month.

17.02–2.09 *Effect on other orders.* This directive is intended to supplement existing Council on Environmental Quality Guidelines, and Departmental Order 216–6, "Statements on Proposed Federal Actions Affecting the Environment." It also supersedes EDA Directive 17.02–2, dated June 1, 1971, and any other instructions which may be in conflict with its provisions.

17.02–2.10 *Effective date.* The effective date of this directive is upon signing. This directive may be followed for all applications submitted to EDA after February 1, 1972 or for projects in EDA on or after that date.

ROBERT A. PODESTA,
Assistant Secretary for Economic Development.

MARITIME ADMINISTRATION

[Order 217]

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 WITHIN THE MARITIME ADMINISTRATION—PROCEDURES AND RESPONSIBILITIES

SECTION 1. *Purposes.*

1.01 The National Environmental Policy Act of 1969 (Public Law 91–190) requires Federal agencies to make an assessment of the environmental impact for all proposed programs and projects potentially having an impact. The law requires that the proposed program be submitted for review and comment to any Federal agency which has jurisdiction by law or special expertise relative to the program's potential environmental impact.

1.02 Department Administration Order 216–6 establishes policies and procedures to implement the National Environmental Policy Act of 1969 within the Department of Commerce. It is to be considered the basic reference document.

1.03 The purpose of this Administrator's Order is to implement the provisions of the National Environmental Policy Act of 1969 and Department Administrative Order 216–6, and to assign responsibilities within the Maritime Administration for the assessment of programs originated from within, and for the processing of requests for review and comment from other Federal agencies on the potential environmental impact of programs proposed by those agencies.

SEC. 2. *Responsibilities.*

2.01 The "Assistant Administrator for Operations" is designated as Coordinator of Environmental Activities (hereafter referred to as Coordinator) and as such is assigned principal responsibility for coordinating and performing the functions required to implement the provisions of the National Environmental Policy Act in conformity with Department Administrative Order 216–6 in the Maritime Administration, as set forth in this Order. In carrying out these responsibilities, the Coordinator shall submit all environmental discussion papers and other actions for review and clearance by the General Counsel where legal implications may be involved, by the Office of Policy and Plans where policy implications may be involved and by such other offices having expertise in the subject under consideration.

2.02 The "General Counsel" shall have primary responsibility for all legislative matters which involve environmental activities, and shall act directly upon these for the Maritime Administration, with appropriate coordination with other elements, when the subject matter so requires. In addition, the General Counsel shall keep the Coordinator advised of all legislative actions taken which have environmental implications.

2.03 The "Office of Policy and Plans" shall provide necessary guidance to the Coordinator in respect to Maritime Administration plans, programs and policies which could have an effect on a given response to an environmental matter being reviewed, or advise of any significant or new policy which might have either present or potential impact on the Maritime Administration position concerning such environmental activities under review by the Coordinator.

2.04 The "Assistant Administrator for Research and Development" shall have primary responsibility for the budgeting, planning, and conducting of all research and development in the maritime field pertaining to pollution, and environmental policy related thereto, and shall consult with, and keep the Coordinator advised, on all research and development projects dealing with environmental activities.

SEC. 3. *Programs and projects originated within the Maritime Administration.*

3.01 All Maritime Administration personnel engaged in programs and projects that may have an environmental impact shall become thoroughly familiar with the basic reference document, Department Administrative Order 216–6, and shall adhere to the provisions thereof, in participating in the preparation of the required environmental impact statement(s). In this regard, particular attention shall be directed toward references in Department Administrative Order 216–6 and the appended Council on Environmental Quality "Guidelines" as published in Vol. 36, No. 79, of the FEDERAL REGISTER of April 23, 1971.

3.02 The environmental impact shall be given consideration in the early stages of a proposed program or project, including short or long term (5 years or more) program plans. An environmental discussion paper which is initiated by an element of the Maritime Administration, as described herein, shall be forwarded to the Coordinator for his review and subsequent referral to the Deputy Assistant Secretary for Environmental Affairs (hereafter referred to as Department) in accordance with Department Administrative Order 216–6.

SEC. 4. *Requests for comments on other Agency-proposed programs.*

4.01 The Coordinator shall receive from the Department all requests concerning environmental impact statements and comments. These shall be reviewed and evaluated by a designated staff member to screen out incoming environmental matters that are of no concern or interest to the Maritime Administration, thus reducing workload to only pertinent environmental matters, upon which comments are required. The selection of the element within the Maritime Administration, having the expertise to comment on the incoming proposal, will be made by the Coordinator and the document(s) will be forwarded to that element for necessary action. The resultant comments, after appropriate review within the Maritime Administration, shall be forwarded by the Coordinator to the Department for further handling in accordance with Administrative Order 216–6.

4.02 All officials shall cooperate with the Coordinator by giving full and prompt support to requests for review and comments on the environmental impact statements received from other agencies via the Department. It is desirable that a prompt explicit response, either positive or negative (no comment), be made to the Department in order to provide assurance that the Maritime Administration has reviewed such environmental impact statements in terms of the statutory authority functions and expertise of the Maritime Administration.

SEC. 5. *Review of environmental impact statements.*

5.01 The Coordinator is responsible for Maritime Administration clearance of all environmental impact statements which are prepared by the Department and which are submitted to the Maritime Administration for review and evaluation of such statements and reports thereon to the Department.

5.02 After coordination and completion of the comments, the Coordinator shall route these through the Office of the General Counsel, Office of Policy and Plans and other offices having interest in the subject under consideration prior to submission to the Department.

5.03 The Coordinator, at his discretion, may approve and forward directly to the Department comments on impact statements not generated within the Maritime Administration which are of a routine or nonpolicy nature.

Effective date: November 9, 1971.

A. E. GIBSON,
Assistant Secretary for Maritime Affairs.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[1385.1]

DEPARTMENTAL POLICIES, RESPONSIBILITIES AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

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H. CEQ guidelines, April 23, 1971.
I. Executive Order 11593, protection and enhancement of the cultural environment.

1. *Purpose and authority.* The National Environmental Policy Act of 1969 (Public Law 91–190) establishes new national policy, goals, and procedures for protecting and enhancing the environment. This Act governs Federal departments and agencies, and requires systematic attention to the environmental consequences of all Federal activities. The purposes of this circular are to set forth departmental policy and to provide procedural guidance to all headquarters and field offices under this Act. This circular applies to HUD legislative proposals, all HUD central office guidance documents (including guides, regulations, handbooks, circulars, technical standards, etc.), and individual project approval actions on insurance, loans, and grants, subsidies and demonstration projects.

This circular is based on authority provided in:

a. The Department of Housing and Urban Development Act of 1965 (Public Law 89–174) which provides that the Secretary may make rules and regulations as may be necessary to carry out his functions, powers, and duties, and sets forth, as a matter of national purpose, the sound development of the Nation's communities and metropolitan areas;

b. The National Environmental Policy Act of 1969 (Public Law 91–190) which establishes a comprehensive policy for protection and enhancement of environmental quality by the Federal Government, creates the Council on Environmental Quality (CEQ) in the Executive Office of the President and directs Federal agencies to carry out the purposes of this Act;

c. Presidential Executive Order 11514, dated March 5, 1970, which directs heads of agencies to monitor, evaluate, and control their agencies' activities so as to protect and enhance the quality of the environment;

d. The guidelines of the Council on Environmental Quality, dated April 23, 1971, which call for heads of agencies to establish agency procedures for implementing section 102(2)C of Public Law 91–190;

e. Office of Management and Budget (OMB) Bulletin 71–3, August 31, 1970, which requires environmental statements to accompany legislative proposals and provides for materials in support of the appropriations process;

f. OMB Circular A–95, dated February 9, 1971, which provides for inputs to section 102(2)C environmental statements by State and local governmental agencies with environmental quality responsibilities;

g. Presidential Executive Order 11593, dated May 13, 1971, which requires heads of agencies to administer their programs so as to preserve the Nation's cultural environment, particularly sites on the National Register of Historic Places;

h. Section 4(f) of the Department of Transportation Act of 1966 (Public Law 89–670) as amended by Public Law 90–945 which together call for HUD comments on the impact of highways on natural environments, particularly parks and recreation areas;

i. The Housing Act of 1937 (Public Law 75–412) which authorized Federal assistance to low rent public housing and conveys standard setting authority; and

j. The National Housing Act (Public Law 79–479) which created the Federal Housing Administration and encourages improvement in housing standards and conditions.

2. *Definitions.* Appendix A contains decision points by which stage environment clearances must be completed, thresholds which require special clearances, and definitions of key terms used in this circular, including "Environment," "Normal" and "Special" environmental clearances, "Environmental Clearance worksheet," "Negative Statement," "Major HUD actions significantly Affecting the Quality of the Human Environment," "Environmental Statement" (draft and final), "Comment," and others. Clear understanding of these terms is basic to interpretation of policies set forth below.

3. *Policy.* The national goal of "a decent home in a suitable living environment for every American family"—established by the Housing Act of 1949 and subsequently reaffirmed—is central to the mission of the Department of Housing and Urban Development (HUD). Pursuant to Public Law 91–190, HUD must continue to review, update, or establish policies, standards, and procedures for administering HUD programs to promote environmental quality.

a. *Policy on actions initiated by HUD.* Public Law 91–190 and CEQ guidelines require that prior to "major Federal actions significantly affecting the quality of the human environment" an assessment of environmental consequences shall be made in the form of a (draft) environmental statement, which shall be circulated for comment by Federal, State, and local agencies as provided in CEQ guidelines and then revised as needed. A final environmental statement shall accompany the proposed action through HUD's review and decision processes. The following sections establish policy for such major HUD actions and for lesser actions relating to environment.

(1) *Legislation.* HUD legislative proposals may be "major actions." The General Counsel, in consultation with the Deputy Under Secretary, and based on the significance of the expected environmental impact, shall determine which HUD legislative proposals shall be accompanied by an environmental statement.

(2) *New central office guidance documents, including regulations, policy circulars, program handbooks and guides, standards documents, etc.* Promulgation of these guidance documents may be "major actions," and in each case a determination shall be made in consultation with the Deputy Under Secretary as to whether or not there is a significant impact on the human environment. In all cases where there is a significant environmental impact, environmental statement shall be prepared prior to promulgation and cleared concurrently with A–85 review of the basic document whenever possible. Except as noted herein, the promulgation of guidance documents shall be the principal means for administering environmental quality standards within the department.

(3) *Updating existing guidance documents.* In order to assure adequacy of environmental requirements, each Assistant Secretary and the Administrator of the Federal Insurance Administration, prior to June 30, 1972, shall either (a) issue an officewide circular with environmental policies, environmental standards, and environmental clearance procedures which will govern all programs and activities administered by his office, or (b) identify those existing guidance documents which have a significant bearing on the environment, including site characteristics, and update these guidance documents as appropriate. Both options shall incorporate "normal environmental clearance" and "special environmental clearance" procedures into routines for processing applications (see definitions).

(4) *HUD project level actions, including insurance, grants, and loans, debt guarantees, subsidiaries, planning activities, demonstration activities, etc.* HUD processes between 15,000 and 20,000 applications per year at the project level, not including insurance actions on individual houses. Except as provided herein, approvals of these applications are not construed as "major Federal actions."

(a) *"Normal environmental clearance" for projects and for proposed changes or amendatories.* Normal environmenal clearances (see definitions) shall be established to assure a consideration of alternatives and suitable environmental conditions for all project approvals, including major changes or amendatories to an approved project, but excluding insurance on individual houses. These clearances shall assure compliance with central office policies and standards, and shall be completed before the HUD decision points summarized in Appendix A.

(b) *"Special environmental clearances" for selected projects and amendatories.* Special clearances (see definitions) shall be undertaken for those projects whose acceptability cannot be determined in normal clearance and for projects of larger size or special environmental significance above the thresholds in Appendix A. For projects requiring special environmental clearance, a negative statement or a final 102(2)C environmental statement shall be placed in the application file to accompany the application through the HUD review process. The HUD Environmental Clearance Worksheet (see Appendix B) [1] is suggested for carrying out special clearances.

(c) *Detailed environmental statements on unusually large or complex projects and major amendatories.* Final section 102(2)C environmental statements shall be completed for a limited number of projects or amendatories whose environmental issues cannot be satisfactorily resolved in special clearance and for all applications and major amendatories under the following:

(i) New communities activities under Title VII, including debt guarantee, interest loan, grant for waiver of tax exemption, and certification of eligibility, and

(ii) Title X (large scale subdivisions).

(d) *Exceptions.* All disaster aid and emergency activities of the department shall be excepted from the 102(2)C requirement.

(5) *Timing of 102(2)C environmental statements and HUD approval actions.*

(a) Pursuant to section 10(b) of the Guidelines of the Council on Environmental Quality, published April 23, 1971, HUD's 102(2)C environmental statements for "major HUD actions significantly affecting the quality of the human environment" must be filed with the CEQ and made available to appropriate agencies and to the public.

(i) In draft form at least 90 days before HUD approval of, or commitment to, the proposed action, and

(ii) In final form at least 30 days before HUD approval of, or commitment to, the proposed action.

(b) Exceptions in the form of reduced time periods are permitted under sections 10 (b) and (d) of the CEQ guidelines, but are discouraged. They must be approved by the Deputy Under Secretary in consultation with the CEQ on a case by case basis; realistic time periods for comment shall be maintained.

[1] Appendixes B–H, and I and II, filed as part of the original document.

(6) *Public disclosure.* Draft and final section 102(2)C environmental statements and negative statements shall be made available to the public in accordance with the instructions of Executive Order 11514 and the CEQ guidelines "to insure the fullest practical provision of timely public information and understanding of Federal plans and programs."

(a) After environmental statements and proposed distributions are approved by the Deputy Under Secretary, the initiating HUD office shall provide copies to appropriate Federal, State, and local officials and key private groups having an interest in the Federal action in point, and to appropriate HUD information centers for reading by the public.

(b) Based on distribution by the CEQ, retention copies of environmental statements may be purchased for $3.00 by interested members of the public from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

(c) Negative statements and supporting evidence shall be available to the public through the cognizant HUD information offices.

b. *Policy for HUD comments on 102(2)C environmental statement initiated by other Federal agencies.*

(1) All 102(2)C environmental statements on project level actions initiated outside HUD shall be referred to the HUD Regional Administrator in whose jurisdiction the project falls, or to his designee, for "comment" (see definitions).

(a) HUD comment on project actions shall be related to areas of HUD jurisdiction by law or special expertise as defined by Appendix II [1] of the CEQ guidelines of April 23, 1971.

(b) The Regional Administrator (or his designated Environmental Clearance Officer) normally shall speak for HUD in these matters, and develop appropriate comments within 30 days. HUD comments recommending delay or rejection of a major undertaking by another agency, comments may be referred to the Deputy Under Secretary for mailout, including copies to the CEQ. Precedent-making comments of national significance also warrant referral to the Deputy Under Secretary.

(2) All 102(2)C statements from other Federal agencies on legislation and on guidance documents shall be sent to the General Counsel and Deputy Under Secretary, respectively, for comment.

(3) Pursuant to CEQ guidelines, ten (10) HUD copies of HUD comments normally shall be sent by the commenting HUD office directly to the General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006.

4. *Office responsibilities for protection and enhancement of environmental quality.*

a. *Deputy Under Secretary.* The Deputy Under Secretary is assigned the overall departmental responsibility for administering and coordinating policies and procedures set forth in this circular. He shall be assisted as appropriate by all Assistant Secretaries, the General Counsel, the Federal Insurance Administrator, and the HUD Regional Administrators, and he shall have authority to delegate portions of the total responsibility as appropriate. The Deputy Under Secretary shall provide leadership in moving toward a unified departmental set of policies and standards to be applied to all HUD actions. He shall also be HUD's principal point of contact with the Council on Environmental Quality, the Environmental Protection Agency, other Federal agencies and State and local groups.

b. *General Counsel.* Effective immediately, the General Counsel shall:

(1) Designate an "Environmental Clearance Officer" as his principal adviser on environmental matters and establish environmental clearance procedures for his office;

(2) Prepare, in cooperation with program and policy offices, "environmental statements" on all new HUD legislative proposals significantly affecting the environment, and forward same to the Deputy Under Secretary; and

(3) Support the Deputy Under Secretary on matters relating to litigation, interpretation of statutory requirements, and other areas as appropriate.

c. *Assistant Secretaries and Federal Insurance Administrator.* Effective immediately, each Assistant Secretary and the Federal Insurance Administrator shall:

(1) Designate an "Environmental Clearance Officer" (a senior official or staff director) who shall act as "principal advisor" on environmental matters, maintain an "environmental clearance officer's notebook" of Federal guidance documents, oversee the development of environmental policies, standards, and procedures and maintain liaison with the Deputy Under Secretary.

(2) Before June 30, 1972, establish, update, collate, and simplify, in cooperation with the Deputy Under Secretary, the environmental quality policies and standards for programs and activities under his jurisdiction, including the development of procedures and simplified application forms with environmental components, and the identification of decision points and thresholds;

(3) Establish and maintain, in cooperation with the Deputy Under Secretary, orderly procedures for environmental clearances for all activities under his jurisdiction in HUD headquarters and forward copies of these procedures to the Deputy Under Secretary (these shall provide for an environmental statement or negative statement on all proposed regulations and guidance documents: Environmental statements shall be cleared with normal A–85 clearance of the guidance document whenever possible);

(4) Assign adequate personnel to environmental protection and enhancement, provide a formal evaluation of progress each year in cooperation with the Deputy Under Secretary.

(5) The Assistant Secretary for Administration or his designee shall further support the Deputy Under Secretary in budgetary process requirements set forth in OMB Bulletin No. 71–3.

d. *Regional Administrators.* Effective immediately, the Regional Administrators, assisted by Area Office and Insuring Office Directors, shall:

(1) Designate a Regional Environmental Clearance Officer (a senior official or staff director reporting directly to the Regional Administrator or his Deputy) who shall act as principal Adviser to the region on environmental affairs, maintain the official file of Federal regulations and policies on environment, and establish and maintain a system for environmental clearances throughout the region (a copy to Deputy Under Secretary).

(2) Enforce departmental environmental clearance policies and standards, including normal and special environmental clearances, the preparation and forwarding of draft and final environmental statements and proposed distribution lists to the Deputy Under Secretary for approval, appropriate distribution of environmental statements, and guiding the preparation of HUD "comment" on major Federal actions proposed by other agencies; and

(3) Assign adequate personnel for carrying out environmental clearances described herein, provide for formal periodic evaluation of the progress in implementing Public Law 91–190, and bring to the attention of the Deputy Under Secretary significant policy issues regarding which the existing departmental posture appears inadequate.

e. *Area Office and Insuring Office Directors.* Under supervision of the Regional Administrator, the Area and Insuring Office Directors, effectively immediately, shall:

(1) Designate an Environmental Clearance Officer (a senior official or staff director reporting directly to him or his Deputy) who shall act as principal adviser to the Director on environmental affairs, maintain the official file of Federal regulations, policies, and standards on environment, and oversee environmental clearances described in this circular;

(2) Establish, with approval of region, orderly procedures for environmental clearances set forth in this circular for all programs, and enforce departmental environgrams, and enforce departmental environmental policies and standards with respect to all applications processed by the office except insurance on individual houses; and

(3) Assign adequate personnel to environmental clearance functions, provide for periodic evaluation of environmental impact, and bring unresolved policy issues to the attention of the Regional Administrator and the Deputy Under Secretary.

APPENDIX A

PART I: DEFINITIONS

This appendix defines important terms used in the body of this circular and sets forth in Part II on a program-by-program basis the decision points at which stage environmental clearances must be completed for their respective HUD programs. Part II also lists program thresholds above for which a special environmental clearance is required.

1. *Environment.* Environment is not defined in the basic legislation or in the CEQ Guidelines. However, it is clear from section 102 in the Act and elsewhere that it is broadly defined to include physical, social, and aesthetic dimensions, and that interdisciplinary analyses are required well beyond the normal technical and economic considerations. Examples of environmental considerations are: Air and water pollution, erosion control, natural hazards, land use planning, site selection and design, subdivision development, conservation of flora and fauna, urban congestion, overcrowding, displacement and relocation resulting from public or private action or natural disaster, noise pollution, urban blight, code violations and building abandonment, prevention of suburban sprawl, etc.

2. *"Normal Environmental Clearance" for projects and major changes or amendatories.* That HUD assessment of site characteristics, environmental consequences, and alternatives with superior environmental consequences that shall be applied to every application for insurance or assistance (except individual housing insurance actions). This clearance takes place primarily at the area and insuring office level. In addition to such special requirements as Assistant Secretaries and Regional Administrators establish in their respective jurisdictions, the "normal environmental clearance" shall consist of:

a. Consistency check of proposal with HUD central office environmental policies and standards;

b. Opportunity for comments from A–95 agencies for all HUD programs and projects covered by revised OMB Circular A–95, dated February 9, 1971;

c. (Optional) comments as may be appropriate from other State and local offi-

[1] Appendixes B–H, and I and II, filed as part of the original document.

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cials or field offices of Federal agencies with responsibility for environmental standards in areas of special concern on a case by case basis;

d. Checkoff to assure consistency with the policy regarding the National Register of Historic Places and other aspects of Executive Order 11593;

e. Evidence of local approval, e.g., building permit in the case of new housing—this approval affords State and local government opportunity to incorporate requirements for public water supply, sewerage treatment, etc., into the process;

f. Site visits and prudent judgment by HUD field office personnel to assure that there are no significant adverse environmental consequences; and

g. Consultation with the Office of the Deputy Under Secretary for precedent-making or otherwise unusual cases.

3. *"Special Environmental Clearance" for projects and major changes.* That additional review of environmental consequences which shall be applied to larger size projects or projects with greater environmental significance (including all projects above thresholds in Appendix A) and to projects which are controversial with regard to whether or not HUD and other appropriate environmental policies and standards are being met, or precedentmaking in the sense that important environmental circumstances are not treated in HUD's central office guidance documents. For this purpose, the HUD Environmental Clearance Worksheet (see Appendix B)[1] is suggested. All special environmental clearances shall result in either (a) a negative statement signed by the head of the HUD field office (or his designated Environmental Clearance Officer), indicating that approval of the application is consistent with established HUD policy and standards and would have no significant adverse effect on the environment, or (b) if there are still unresolved environmental issues and concerns, the drafting and circulating of a 102(2)C environmental statement. A negative statement or a 102(2)C environmental statement shall become part of the application file and shall accompany the application through the HUD review and decision process.

4. *Threshold.* A threshold is a criterion of size or of environmental impact which requires a special environmental clearance and/or a 102(2)C environmental statement. Thresholds are set forth in Appendix A on a program-by-program basis. The Deputy Under Secretary's office invites field comment on suitability and on additional needs.

5. *HUD environmental clearance worksheet.* A HUD standard form (see Appendix B)[1] for identifying key environmental impacts and for assessing alternatives as required in Public Law 91-190 and CEQ guidelines. Assistant Secretaries are authorized to structure individual components of the form (particularly the impact section) to facilitate checkoff for their program needs. A draft worksheet (Appendix B-1)[1] may be used as part of the program application. A final worksheet (Appendix B-2)[1] is the sole responsibility of the HUD reviewing officials.

6. *Negative statement.* A statement by a HUD official that no environmental statement is required for the proposed HUD action under consideration. In the event that no environmental statement is planned, "negative statements" shall be filed with the Deputy Under Secretary early in the development of new or revised central office guidance documents, and in review of project actions administered by the central office. HUD Regional Administrators shall require either a negative statement signed by the Area or Insuring Office Director (or another designated Environmental Clearance Officer) or an environmental statement for project actions not eliminated by established thresholds for HUD programs. The negative statement shall not be issued for projects which are in violation of central office environmental policies and standards and it shall not be used without a sufficient factual basis as will stand up under careful judicial scrutiny in the event of litigation. A format for a negative statement is set forth in Appendix E.[1]

7. *Major HUD actions significantly affecting the quality of the human environment.* The HUD portion of major Federal actions in the comparable phrase appearing in section 102(2)C of the statute and defined in the CEQ Guidelines, especially paragraph 5 therein. All such actions require the completion of a 102(2)C environmental statement 30 days prior to HUD decision. The definition includes two parts on identification of actions and an assessment of environmental consequences. The identified major actions include legislative proposals, the issuance of central office guidance documents, and a limited number of HUD project actions determined by policy criteria and thresholds set forth in Part II of Appendix A. Assessment of the environmental consequences to be "significant" is a matter of judgment and consensus; at the project level, this judgment shall be governed largely by established environmental policies and standards.

8. *Environmental statement.* That specified one-page summary sheet and the detailed, interdisciplinary analysis of environmental consequences prescribed in section 102(2)C of Public Law 91-190 and in the CEQ Guidelines; the HUD format is set forth in Appendix C.[1] Although inputs can and should be requested from the applicant, the draft and final environmental statements are the sole responsibility of reviewing HUD officials. A "draft environmental statement" is the draft required by the CEQ Guidelines to be circulated by a responsible official of the cognizant Federal agency to Federal, State, and local agencies designated by the CEQ and made available to the public for comment. A "final environmental statement" is the mature revised draft required by statute to incorporate external comment, to be filed with the CEQ, and accompany the proposed action through the department's review and decision processes. It is the clear intent of the legislation that the final environmental statement be completed and filed with the CEQ prior to even tentative HUD commitment or approval so that feedback from the environmental statement can improve the environmental consequences of the proposed action. CEQ Guidelines established a 30-day delay in approval after the final statement is filed.

9. *Comments.* Formal reactions by one Federal agency to the proposed action and the draft environmental statement of another Federal agency; also formal reactions of State and local agencies or of public or private groups to the proposed action. Each Federal agency, including HUD, is obliged to take these comments received on its draft environmental statement into account in the final environmental statement and HUD's approval or disapproval of the proposal. The HUD format for comments is set forth in Appendix D.[1]

10. Areas of jurisdiction by law or special expertise. The areas in which one agency is required to comment on major actions by another agency in accordance with Public Law 91-190 and the CEQ Guidelines. Appendix II[1] to the CEQ Guidelines provides CEQ views on these areas. HUD Regional Administrators are invited to work out more specific definitions within their Regional Council of mechanism and in bilateral arrangements with field offices of other Federal agencies in accordance with special needs of their regions and in the perspective of available staffing.

APPENDIX A

PART II—DECISION POINTS AND THRESHOLDS

The basic policy outlined in this circular is to complete 102(2)C environmental statements prior to decisions on legislation, central office guidance documents and large or otherwise exceptional projects significantly affecting the quality of the human environment. For the more routine projects, it is HUD policy to rely primarily on "normal" or "special" environmental clearances on applications or major amendatories and thus enforce central office policies and standards in careful administrative review of applications.

The table below identifies in HUD's review processes the decision points by which all HUD environmental clearances must be completed. The table also sets forth thresholds above which "special clearance" is required. Special clearance must be followed by a negative statement or a 102(2)C environmental statement. In general, the 102(2)C statement shall be completed for projects which are controversial with regard to whether or not HUD and other environmental policies and standards are being met, or precedent making in the sense that important environmental circumstances relating to the proposal are not treated in central office guidance documents.

Both HUD's General Counsel and the Council on Environmental Quality have earlier opined that it is undesirable and inappropriate to approve projects subject to environmental clearance. It is departmental policy that environmental clearances shall be part of the generic review process and shall not be separated for later approval.

[1] Appendixes B–H, and I and II, filed as part of the original document.

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Decision points for completing environmental clearances on applications	*Thresholds*
New communities activities (note A–95 requirement)	
1. Debt guarantee or certification of eligibility—offer of commitment or major change to approved plan. (Activities are preconditions for public service grants and supplemental grants.)	All projects for actions 1, 2, and 3 require 102(2)C statements.
2. Interest loan—same decision point as No. 1.	
3. Grant for waiver of tax exemption—same decision point as No. 1.	
4. Special planning loan or grant (see threshold).	Planning grants under action 4 will have an environmental assessment in 102(2)C format as a final product.
Open space (note A–95 requirement)	
Approval of application for funds or major amendatory.	1. All sanitary landfill projects, or 2. Projects upon which two or more surface acres of water will be impounded, or 3. Projects in excess of 300 acres.
Water and sewer (note A–95 requirement)	
Approval of application to fund a facility (note: The Environmental Protection Agency funds interceptor sewers and waste treatment plants).	1. Projects requiring new water treatment plants, or 2. Projects resulting in impoundment of water of more than five acres.
Urban renewal (note A–95 requirement)	
(Conventional) approval of plan or fund reservation for Part I (or combined Parts I and II), i.e., approval of either the urban renewal plan or fund reservation to carry the real estate acquisition, public improvements, rehabilitation, clearance or resale aspects of plan to completion.	1. Plans that change concentration in the renewal area approaching or in excess of 50 percent increase in density, or in vehicular traffic, or in demand for energy, or in demand for other public services, or
(Neighborhood development program—a special mechanism for funding annual increments of renewal) approval of fund reservation, i.e., approval of locality's plan and budget for 12 months of activities to implement the plan (see conventional).	2. Conversions of use expected to produce noise, waste products or waste energy which exceed capacity of existing facilities and airsheds to absorb them in manner that meets applicable standards.
Approval of major amendatories that trigger thresholds.	3. Projects involving structures on National Register of Historic Places. 4. Plans involving an increase of 100 or more feet in the height of any structure over any previosuly existing structure.
Public facilities loans (note A–95 requirement)	
Approval of application or major amendatory.	Same as water and sewer and open space.
Model cities (note A–95 requirement)	
Approval of application or major amendatory.	Use urban renewal, open space, and water and sewer thresholds.
Housing assistance or insurance (see also HPMC–FHA 1600.1re: A–95)	
Approval of feasibility letter, or major proposed change in the letter or project, for	1. 50 lot subdivision, or 2. 100 unit multifamily structures or 3. 200 unit college housing structures, or 4. 100 unit mobile home courts (some regional administrators have suggested 50; discretion is granted to use this figure), or
Subdivisions.	
Title X (large scale subdivisions).	
Multifamily mortgage insurance.	
Mobile home courts.	
Nursing homes.	
Letter of notification of site approval or disapproval for public housing projects.	5. 100 bed nursing homes, or
Approval of fund reservation for college housing or major change to a fund reservation.	6. Any proposal involving sites for which compliance with central office environmental policies and standards is in doubt or under challenge.
Stage of HUD commitment for other programs not listed.	
Demonstration projects	
Approval of application or major proposed amendatory or change in the project.	Projects totaling $500,000 or more (from all sources) in new construction.
Flood and disaster insurance (note A–95 requirement)	
Designation by HUD of area having special flood hazard.	After normal administrative review, use negative statement prior to designations, or prepare 102(2)C statement.

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

ENVIRONMENTAL IMPACT STATEMENTS

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ENVIRONMENTAL IMPACT STATEMENTS

.01 *Policy.* Indian lands are essentially private lands, not public lands. The National Environmental Policy Act of 1969 is inapplicable to activities of the Bureau of Indian Affairs in situations in which the Bureau is involved, not as an agency dealing with Federal lands, moneys, or activities, but rather as a trustee of Indian land. In situations in which Federal lands, moneys or activities are involved and the Bureau is acting in its capacity as a Federal agency, and not merely

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as a trustee of Indian land, the Bureau shall provide leadership in preserving and enhancing the environmental qualities found on Indian reservations and Bureau facilities under its administrative supervision. The Bureau shall encourage the tribal organizations to adopt programs, plans, and procedures to protect and enhance the quality of the environment on reservations. The Bureau, to the maximum degree practicable, must see that the potential environmental impact of propcsed and ongoing activities to which NEPA is applicable are fully evaluated.

NOTE: By Public Law 91–275, enacted June 2, 1970, Congress amended section 1 of the Act of August 9, 1955, 69 Stat. 539 (25 U.S.C. section 415), to require the Secretary of the Interior to consider the effect on the environment of the uses to which leased restricted Indian lands, whether tribally or individually owned, are to be subjected. While the procedure to be used may differ somewhat from that under the National Environmental Policy Act of 1969, the goals are clearly identical. The efforts of the Bureau, coupled with those of the Indians themselves, will help us to attain these goals. Environmental impact statements are not required by Public Law 91–275.

The purpose of this manual is to provide, in those situations in which the National Environmental Policy Act is applicable to Bureau activities, direction in (1) the identification of major Bureau actions significantly affecting the quality of the environment, (2) the preparation and review of environmental impact statements, and (3) standardizing the processing of such statements.

.02 *Objectives.*

A. To meet statutory goals and Departmental requirements for the preparation of environmental impact statements.

B. To identify, in all Bureau activities, the procedures required for the preparation of environmental impact statements. To review statements made by others.

.03 *Authority.*

A. *General.*

1. National Environmental Policy Act of 1969, section 102(2)(c) (Public Law 91–190, 83 Stat. 852, January 1, 1970), hereafter referred to as NEPA.

2. Executive Order 11514, Protection and Enhancement of Environmental Quality, section 2(f) (March 5, 1970).

3. Guidelines of the Council on Environmental Quality (36–79 F.R. 7724, April 23, 1971).

4. 516 DM 1–3.

.04 *Responsibilities.*

A. The Commissioner is responsible for Bureau compliance with requirements of the National Environmental Policy Act of 1969 (NEPA) (Public Law 91–190).

B. To fully carry out the Bureau's environmental quality responsibilities, particularly those under NEPA, the Division of Environmental Quality Services, Office of Planning, hereinafter referred to as EQ, shall be responsible for determining that proposed environmental evaluations and analyses are formulated in conformance with approved policies and procedures, and that they represent the full and balanced intereste of the Bureau in its trustee responsibilities for tribal lands and interests.

As the Bureau's contact point for policy and procedure matters concerning the preparation and review of environmental analyses and statements EQ's specific responsibilities include:

1. Screening for adequacy, monitoring and coordinating Bureau preparation and review of environmental statements.

2. Coordinating the preparation and providing leadership in the development of criteria to determine which Bureau actions require statements.

3. Designating, with the advice of appropriate Program Directors, Bureau task forces composed of representatives of appropriate offices which prepare statements in special cases.

4. Designating, with the advice of appropriate Program Directors, lead offices to prepare statements and when feasible providing leadership in the preparation of statements.

5. Overseeing review external to the Bureau and editing, approving and transmitting, Bureau draft and final statements to the Office of Environmental Project Review (PEP).

6. Coordinating and monitoring Bureau review of draft statements prepared by other Federal agencies.

7. Furnishing guidance and approving procedures developed by Directors for analyzing environmental impacts.

8. Assuring that NEPA requirements are met for major Federal actions having a significant effect on the environment which were initiated prior to January 1, 1970.

9. Consulting with the Assistant Secretary—Program Policy, for Departmental guidance and direction.

C. All Directors, within their areas of responsibility:

1. Develop criteria for identifying major actions which require statements.

2. Develop procedures for analyzing environmental impacts, including applications for contracts, loans, leases, rights-of-way, license or permits.

3. Identify actions which require statements and make certain that statements are expeditiously and properly prepared.

4. Review draft statements prepared by other Bureau officials or by other Federal agencies.

5. Are responsible for assuring that professional expertise is maintained for staff involved in environmental analysis.

D. Area Directors and Superintendents using officially approved criteria are responsible within their areas of responsibility for the following:

1. Identification of actions which require statements, and preparation of statements.

2. Reviewing and commenting upon draft statements prepared by other Bureau officials or by other Federal agencies.

Area Directors are responsible for guidance and coordination on all environmental statements prepared and reviewed in their areas. They shall make certain that for actions having an impact on Indian lands or communities review by State and public agencies shall also include review by pertinent Indian tribal governing bodies.

.05 *Definitions.*

A. *Human environment.* The total surroundings in which man conducts his activities. The environment includes both natural and man-made components (the interdependent living and nonliving parts which make up man's ecosystems). The condition and use of resources determines the environment; e.g., in timber management of the condition of the resource base, including soil conditions, topographical characteristics, water and air quality must be protected or improved to maintain continuing resource productivity. The overall environment includes the general conditions provided for man's well-being, for the growth of plant and animal communities, and for maintaining the quality of air, water, land forms, Indian cultural, historical and aesthetic values and socioeconomic factors.

B. *Environmental impact.* The beneficial and harmful effects of man's action upon his surroundings. Identification of environmental impacts requires judgment objectively exercised by the official preparing the statement on the basis of the environmental values he attributes to an area. An action can have short- and long-term effects upon the physical, biological, and social aspects of the environment. For example, the benefits of the introduction of better seed can be wiped out by soil erosion; water resources can disappear by the destruction of the forest watershed. Strip mining may produce income but can destroy the contours of land, the fertility of the soil and its recreational possibilities. Disposal of industrial wastes can destroy fish resources of greater environmental value than the economic value of the industry which is generating the pollution. Economic development may have both desirable and undesirable socioeconomic impacts.

C. *Environmental statement or "statement".* A detailed assessment of the environmental impact of an ongoing or proposed action, as defined in .05B above.

Procedures for preparation and review of statements are indicated in Illustration 1.[1] The content of the statement is described in .21 and .22 below.

D. *Actions.* These are defined by types as follows:

1. *Actions relating to legislation and appropriations.* Congressional authorizations for, or limitations on, BIA programs, which significantly affect the environment.

2. *Projects, continuing activities and related individual actions.* Projects are specified tasks, conducted on either a one-time or continuing basis. Projects may include several related individual actions. Continuing activities are defined as broad Bureau programs conducted under continuing statutory authority, and include several individual related actions, e.g., watershed program.

Related individual actions are those jobs or tasks which are necessary to accomplish projects or continuing activities, e.g., an access road created with Federal funds, an irrigation project, a new school.

3. Those program actions with significant impacts on the environment which are identified in annual budget estimates. For guidance, see 516 DM 2.9E. Preparation of this material is the responsibility of the staff unit responsible for the Bureau's budget. All units of the Bureau will provide such assistance in the preparation of this material as may be requested.

.06 *Coverage.*

A. Actions initiated after January 1, 1970. All activities of the Bureau initiated after the passage of the National Environmental Policy Act which significantly affect the environment are subject to the provisions of this manual section provided that the activity is one to which NEPA applies (see .01).

B. Actions initiated before January 1, 1970. The provisions of this manual section will be applied to continuing major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the National Environmental Policy Act, provided that the activity is one to which NEPA applies (see .01).

While it may sometimes be difficult to redirect basic decisions initiated prior to enactment of the Act, continuing actions which are based on those early decisions should be conditioned by the Act's intent. Ongoing projects or programs authorized before January 1, 1970, shall be reconsidered in the light of the National Environmental Policy Act to assure that, to the maximum extent possible, adverse environmental impacts are avoided.

General criteria for identifying major actions having "significant" effects on the environment are found in .12 below.

If the program or project has significant impact, alternatives will be considered and

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the procedure for preparing an environmental statement followed. The program or project need not be stopped or delayed pending preparation of the statement. However, if an ongoing program entails individual projects not yet authorized or not yet funded, an environmental statement is necessary for each such project found to have significant environmental impact.

.1 *Identification of actions requiring statements.*

.11 *Types of actions.* See .05D. and .06.

NOTE: The types of actions described indicate the range of actions which may require statements, and are not meant to exclude other actions with significant potential environmental impacts. (See applicability of NEPA as defined in .01.)

.12 *General criteria.*

A. *Determination of "major Federal actions." The term "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall cumulative impact of the action proposed, and of further actions contemplated.* Such actions may be localized in their impact, but if the environment or its uniqueness may be significantly affected, a statement is required.

1. The effect of many Bureau decisions about a project or complex of projects can be individually limited but cumulatively considerable. For example, the construction of one road often opens a new area to a wide range of development in the future. Cumulative effects can occur when one or more agencies over a period of years put into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action.

2. Any proposed action that has an environmental impact likely to be highly controversial should be covered.

B. *Bureau determination.* Within each Directorate, analytical procedures will be developed for determining the environmental impact of all types of actions (see .04). It is vital that maximum participation by Indian Tribes and individuals be solicited and encouraged. The results of environmental impact analysis must be documented (See .13B below). Public and tribal participation must play an important role in these procedurea. (See .34A).

C. *General criteria for significant actions.* Specific criteria for determining whether a statement is required will be developed within each Directorate for each type of action. The general list of environmental impacts below cannot be used alone to identify actions requiring statements, but provides guidance to personnel in developing specific criteria for that purpose.

Provokes public controversy, local or national.

Reduces air quality or water quality below existing conditions, or below established Federal or State standards.

Affects the socioeconomic potential of tribal lands.

Alters significantly natural ecosystems.

Takes place on fragile or unstable soils, or on steep slopes.

Involves the consumption of a wasting asset.

Occurs in or adjacent to wild and scenic rivers, cultural or recreation sites, or areas of historic or scenic significance.

Destroys rare or unique wildlife or land features.

Inflicts permanent damage to the visual landscape.

Results in conditions hazardous to public safety or health.

Reduces or eliminates possible future alternative uses of the land.

Introduces a new resource use into a geographic area.

Seriously conflicts with existing use or users.

See 516 DM 2.5.

.13 *Procedures for identifying actions requiring statements.* For each type of action, the procedure shown in Illustration 2[1] will determine whether a statement is required.

A. *Actions requiring statements.*

1. Actions of a type identified as requiring a statement every time.

2. Actions which have been analyzed for environmental impact and meet the criteria for preparation of a statement.

B. *Actions not requiring statements (negative declarations).* Actions which have been analyzed for environmental impact but do not meet the criteria for preparation of a statement will not have statements prepared, but will have an environmental analysis memorandum prepared and made a part of the case file. This will assure that maximum consideration is given to the potential environmental impact of proposed and ongoing activities on Indian lands. These actions will receive periodic review.

.2 *Preparation of draft statements.* (See 516 DM 2.6) ° The draft statement is as complete as possible (normally it is complete) and is circulated to Federal, State, Indian, and local agencies and to other appropriate individuals, groups, or organizations for their review and comments regarding its adequacy. It may be circulated concurrently with the review process, but no final decisions will be made prior to consideration of comments received.

The environmental statement is a complete document capable of standing alone. It should include sufficient information (including technical data, and maps, charts, and other graphics if such would add clarity) to permit a careful assessment of environmental impact by commenting entities.

.21 *Required content and format.*

A. *Content.* The following must be discussed, as briefly as possible but as adequately as necessary, in each statement. Existing management or development plans or documents may be attached to amplify the statement. The (environmental) statement must be sufficiently detailed to allow a responsible executive to arrive at a reasonably accurate decision regarding the environmental benefits and detriments to be expected from program implementation. The statement should contain adequate discussion of alternative proposals to allow for program modification during agency review so that results to be achieved will be in accordance with national environmental goals.

"The probable impacts, both adverse and beneficial of the proposed action on the environment" must be discussed. "Impact" implies a change in condition. The biological, physical, visual, social, Indian cultural pattern, political, and economic impacts of the proposed action are described. Secondary, as well as primary consequences are described; the amount of detail depends on the size or crucial nature of the proposed action. For example, the primary impact may be a change in vegetative species composition, but the secondary consequence may be a significant reduction in a rare or endangered wildlife specie.

Environmental statements must include an adequate description of the proposed action to permit a careful assessment by commenting agencies and affected Indian tribal governing bodies.

Any probable adverse environmental effects which cannot be avoided should the proposal be implemented. These are effects that may occur no matter what action is taken to meet Bureau responsibilities.

The relationship between local short-term uses of man's resources and environment and the maintenance and enhancement of long-term productivity. This requires assessment of the action for cumulative and long-term effects. For example, clear cutting forest land leaves a visible scar at first, but may provide "edge-effect" for wildlife and establish better stands over time. Also, under a rest rotation system, grazing use is temporarily denied but reduced pressure on the vegetation provides a long-range benefit.

Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This requires identification of the extent to which the action curtails the range of beneficial uses of the environment. Removal of nonrenewable resources, such as minerals and archaeological remains, make such resources unavailable or unsuitable for future use.

Alternatives to the proposed action. Section 102(2)(D) of the NEP Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." Alternative actions that might avoid some or all of the adverse environmental effects or increase beneficial effects should be set forth and analyzed, including the alternative of not going forward with the proposal. Where a cost-benefit analysis of the proposed action has been prepared, this analysis should be attached to the statement.

B. *Format of environmental statements.* (As prescribed in 516.2.6 DM.)

Cover Sheet (516.2, illustration C–1, C–2).[1]

Summary Sheet (516.2., illustration D–1, D–2).[1]

Body of Statement.

Sections:

(1) Description of the proposal.

(2) Description of the environment.

(3) Environmental impact of the proposed action.

(4) Mitigating measures included in the proposed action.

(5) Any adverse effects which cannot be avoided should the proposal be implemented.

(6) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(7) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(8) Alternatives to the proposed action.

Consultation and coordination with others.

(1) Consultation and coordination in the development of the proposal and in the preparation of the draft environmental statement.

(2) Coordination in the review of the draft environmental statement.

Attachments:

.22 *Guidelines for preparation.* To provide the reader a clear understanding of the proposed action and its consequences, the official preparing the draft statement:

Describe the proposed action and surrounding conditions thoroughly. Uses an interdisciplinary approach to describe in detail the action's anticipated environmental effect on man, flora, and fauna, and on the quality of water, air, and land.

Describes applicable research, both on and offsite. In terms of that research, explains conclusions reached on impacts of and alter-

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natives to the proposed action. Describes future research to the extent possible.

Identifies areas of doubt associated with the proposed action. In light of these doubts, explains conclusions reached on impacts of and alternatives to the proposed action.

Describes administrative and analytical procedures leading up to the proposed action, especially as they relate to controlling environmental impact.

Describes contingencies or emergency measures developed to meet unforeseen events associated with the proposed action.

Describes interagency cooperation, consultation, and joint research associated with the proposed action.

.23 *Preparation by applicants.* For those situations in which NEPA applies applicants for contracts, loans, leases, rights-of-way, licenses, or permits may be required to prepare draft statement material as a prerequisite to the consideration of the application. (See Department Manual 516.2.9F(2).)

.24 *Timely preparation.* It is important that draft statements be prepared and circulated for comment and furnished to the Council on Environmental Quality early enough in the review process before an action is taken in order to permit meaningful consideration of the environmental issues involved; that is, when the need for a draft statement is recognized and confirmed major effort should be devoted to preparing the statement at the same time, or preferably before, activities associated with the proposed action proceed.

.25 *Number of copies.* At least five reproducible copies of completed draft statements should be submitted to EQ.

A. *Distribution.* See DM 516.2.9F re: processing.

.26 *Consultation.*

A. *Indian participation.* Individual Indians and tribal governing bodies shall be involved in basic planning for and implementation of all Bureau actions. Indian views shall be obtained in assessing environmental impacts on their lands, culture, religion, tradition, artifacts, etc.

B. *Consultation with Government agencies.* The views of other departmental offices and other Federal, State, and local agencies shall be solicited during the drafting stage as much as possible. Comments received during this stage are considered informal and are primarily for the purpose of providing technical assistance to the Bureau. In soliciting comments, the official preparing the draft should carefully consider the jurisdiction or special expertise of each office to be consulted, request the specific information or review most needed for subsequent drafts, and evaluate the information or review received.

C. *Agencies to be consulted.* The officials preparing draft statement may wish to consult with:

1. Agencies with whom the Bureau has national or local interagency agreements.

2. Agencies with special expertise or knowledge concerning the proposed action or its surroundings.

3. For actions affecting the cultural or historical environment, review will also be through procedures set forth by the Advisory Council on Historic Preservation, Interior Building, Washington, D.C. 20240.

a. National historic landmarks, and landmarks of state or local significance listed in the National Register of Historic Places may be involved; they may be on or near Indian lands. Effects, if any, which the proposed project would have on the character of a landmark should be determined and stated in the environmental statement.

b. If a proposed use of or disposal of public land affects a historic landmark, the Bureau consults with the State liaison officer appointed under the National Historic Preservation Act of 1966, and with the Regional Director, National Park Service. If the effect is considered adverse, include in draft statement for review and submission to the Advisory Council on Historic Preservation. If no effect, so state and reference any consultation.

.27 *Coordination.* A register is used by the Area Directors, Superintendent Program Directors to record and coordinate all phases in the preparation of statements under their jurisdiction. (See Illustration 4.)[1]

.3 *Review of draft statements prepared by bureau.*

.31 *Bureau review.* Working level consultation and review will be chiefly effected by those who prepared the draft statement. EQ may supplement the reviewing action and will monitor and approve the circulation within the Bureau to secure an interdisciplinary coordination.

.32 *Transmittal to Department and to Council on Environmental Quality.* (See DM 516.2.9.F.) Following internal Bureau review and intradepartmental consultations (see .26), and appropriate revision, if needed, by the originating office, EQ transmits through official channels 15 copies of the draft statement over the signature of the Commissioner or his designee to the Office of Environmental Project Review for final review by the Department and for transmittal to the Council on Environmental Quality.

.33 *Official comments.* (DM 516.2.7.)

1. Bureau officials who prepared the draft statement will, upon advice from EQ, and after clearance and assignment of a control number by the Office of Environmental Project Review, request official comments from other Bureaus and Offices of the Department and from other Federal agencies which have jurisdiction or special expertise with respect to the action or which are authorized to develop and enforce environmental standards (see DM 516.2.9.F(3)(d)). Federal agencies which may be consulted are listed in CEQ Guidelines (F.R. 36–79, 4/23/71) as amended.

2. The time limit for reply by other Federal agencies is normally 45 days which shall always be allowed the Environmental Protection Agency. (DM 516.2.7B(3).)

3. Bureau procedures must be assured that, to the maximum extent practicable, the minimum 90 day and 30 day periods of public availability for draft and environmental statements on administrative actions are observed. These periods may overlap.

4. A notice of availability shall be prepared by the initiating unit of the Bureau and shall accompany the statement to the Assistant Secretary—Program Policy (for sample formats, see 516 DM 2, Appendix E).[1] The Assistant Secretary—Program Policy shall send the notice to the FEDERAL REGISTER at the same time that he transmits the statement to the Council on Environmental Quality, except for statements dealing with legislative and budgetary matters.

.34 *Review by State and local agencies and the public.* The Area Director coordinates tribal, State, local, and public review of proposed Bureau actions with the requirements of the Department. (See Dept. Man. 516.2.6.)

Bureau procedures must facilitate Indian community and public access to draft and final environmental statements and the comments received.

A. *Public hearings or meetings.* Mechanisms for incorporating participation by the Indian community and the public into the planning procedures of all Bureau activities should be used. Policies and procedures for holding public hearings or meetings not provided for by existing mechanisms must be developed. Approval must be obtained from EQ. Bureau procedures must respond to the requirement that they "insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties." These procedures must include, where appropriate, provision for public hearings and availability of draft environmental impact statements in advance of such hearings.

1. In many cases, public hearings or meetings will be required at two or more stages of the planning process, or for both the general and specific plans for a Bureau program. A hearing or meeting may be held in the course of preparing a draft statement to ascertain reactions and illicit information concerning the proposed action.

2. "Formal" public hearings or meetings on draft statements approved by PEP may be held when public concern over the potential environmental impact of a proposed action is high.

3. Notice of "formal" public hearings on draft statements includes publication in the FEDERAL REGISTER not less than 30 days before the hearing date, and appropriate notice to heads of Government agencies.

B. *Other established review procedures.* When no formal public hearing has been held on a proposed action, and when review of the proposed action by State and local agencies authorized to develop and enforce environmental standards, and by the public, is relevant, such review may be provided through other established review procedures.

1. For State and local review of direct Bureau development projects as required by Office of Management and Budget Circular No. A–95, review shall be through clearinghouses in accordance with Bureau procedures established pursuant to Circular No. A–95 and Departmental Manual 511.5, Intergovernmental Relations.

Direct Bureau development projects may include construction of Federal buildings and installations; other Federal public works, or acquisition, use or disposal of Federal land and real property.

.35 *Coordination of external review.* EQ uses form "Review of Draft Environmental Statement Register" to record and coordinates all phases of formal review of draft environmental statements by other governmental agencies. (See Illustration 3.)[1]

.4 *Final statements.* Based upon analysis of all review comments, a final statement is prepared (usually by those who prepared the draft) and is submitted to EQ who coordinates final review and transmittal through the Department to the Council on Environmental Quality. (See DM 516.2.9.F.)

This statement is the completed document which incorporates review comments and discusses unresolved issues. It is the document which must accompany the proposed action through the Department's final decisionmaking process. The term "final environmental statement" is synonymous with the term "detailed environmental statement" found in the National Environmental Policy Act.

.5 *Availability of statements for public review.*

.51 *Draft statements.* After the Bureau publishes a notice in the FEDERAL REGISTER requesting comments from State and local agencies and the public, the Bureau Office of Communications will fill requests for copies of draft statements and comments of Federal agencies.

.52 *Final statements.* After the Bureau publishes a notice in the FEDERAL REGISTER indicating the availability of a final statement, the Bureau Office of Communications will provide copies upon request.

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.6 *Implementing the proposed action.*

.61 *Function of the environmental statement.* The environmental statement is only one of the components in the decisionmaking process. It should objectively set out all information available on all recognized alternatives. Conclusions reached in the statement should be analytical in nature; they should not represent a decision on or a justification of the proposed action.

.62 *Timing of action following environmental statement preparation.* To the maximum extent practicable: (1) No administrative action will be taken sooner than 90 days after a draft environmental statement has been furnished to the Council on Environmental Quality, circulated for comment, and publicly announced in the FEDERAL REGISTER, whichever is later.

(2) No administrative action will be taken sooner than 30 days after a final environmental statement has been furnished to the Council on Environmental Quality and the public. If a final statement is filed within the 90-day period in (1) above, the two periods may run concurrently to the extent that they overlap.

Exception. Where emergency circumstances, overriding considerations of expense to the Government, or impaired program effectiveness make it necessary to take an action with significant environmental impact without observing the time limitations in (1) and (2) above, the Commissioner or his designee shall consult with the Assistant Secretary—Program Policy who, in turn, is required to consult with the Council on Environmental Quality about alternative arrangements. (See DM 516.2.9.C.)

.7 *Review of statements prepared by other Federal agencies.* (See 516 DM 3.) The Bureau's review will be predicated on the Bureau's responsibility to protect, enrich, enhance, and assist Indians and Indian tribal lands in resource development; socioeconomic living conditions and standards, environment, unique tribal cultures, historical and aesthetic values.

The reviewing process requires from the reviewer the high quality of professional critical analysis, balanced perspective, objectivity and the interdisciplinary approach that is expected in the preparation of Bureau statements.

BUREAU OF SPORT FISHERIES AND WILDLIFE

PROCEDURES FOR PREPARATION OF 102(2)(c) ENVIRONMENTAL IMPACT STATEMENTS

DECEMBER 1971.

1.0 *Bureau role as it relates to the National Environmental Policy Act and Environmental Impact Statements.*

1.1 *Overview.* These procedures are to be used in collaboration with the April 23, 1971, Council on Environmental Quality Guidelines and the September 17, 1971, Department of the Interior Guidelines.

The National Environmental Policy Act of 1969 (Public Law 91–190) and Executive Order 11514 (35 F.R. 4247) of March 4, 1970, have directed that all Federal agencies, to the fullest extent possible, direct their policies, plans, and programs to meet national environmental goals. The objective of section 102(2)(c) of the National Environmental Policy Act is to build an appropriate and careful consideration of the environmental impacts of proposed actions into the agency decisionmaking process.

1.2 *Bureau participation.* Environmental considerations of fish and wildlife require significant involvement by this Bureau in the preparation of impact statements. NEPA clearly sets forth a Bureau responsibility to fully represent both fish and wildlife resources and their wise use in the 102(2)(c) procedures. This responsibility includes full use of existing knowledge on programs and projects considered as significant Federal actions.

As presently drafted by law, certain aspects of the 102(2)(c) statement concept are open to broad latitudes of interpretation. To make the concept an important component of the decisionmaking process, as is the stated intent of Congress, thoroughness of statement preparation is a necessary Bureau objective.

Because of the significant environmental role the Bureau has to play, and the complexity of applying the impact statement concept, the Bureau 102(2)(c) procedures for preparation of Environmental Impact Statements on the Bureau's program will reflect the following two basic precepts: (1) Resource and technical information for impact statements will, to the extent possible, originate from Bureau sources close to the particular program, project, and/or pertinent discipline; and (2) impact statements will conform to Bureau and departmental environmental policy.

It is important that the Bureau's participation in the 102(2)(c) process be carefully developed to insure a high degree of management, protection, and preservation of fish and wildlife and their habitat, in order to fully reflect the importance of these resources to the human environment. Achievement of such a goal requires program development in the following areas: A widespread in-Bureau knowledge of the intent of NEPA; maximized use of the Bureau's environmental capabilities in the impact statement process; a continuing evolution of internally-consistent Bureau philosophy on environmental matters and the impact statement process; coordination arrangements which will most efficiently channel impact statements into and out of the Bureau; establishment of an information clearinghouse on impact statements and their preparation; development of suitable filing systems for impact statements; development of analytical procedures by which to present knowledgeable and competent evaluation on the environmental impact of all types of actions; and a widespread working knowledge on the mechanics of preparation, definition of terms, and meaning of impact statements.

Procedures for preparation, review, and coordination of impact statements are complicated, and there is little reason to expect that this process will become radically simplified. However, an understanding of the Act, impact statement mechanics, and coordination of statement preparation greatly simplifies the process. The following procedures are presented to assist the Bureau worker in achieving the above objectives.

1.3 *Multiagency statement preparation.* When the Bureau is part of a multiagency task force drafting an environmental statement, the procedures may deviate from Bureau procedures in accordance with special instructions from the Department.

The level of effort required to prepare a statement depends upon the scope and complexity of the proposed action and of the resources involved. A statement on a small, single-purpose Bureau project may be prepared by one man, while a more complex action would require assignment of an interdivisional drafting team.

2.0 *Actions requiring impact statements.*

2.1 *Criteria.* Section 2 of the April 23, 1971, CEQ Guidelines directs that impact statements be prepared on proposals for legislation and other major Federal actions which would significantly affect the quality of the human environment. Criteria set forth in section 5 of the CEQ Guidelines, for actions requiring an impact statement, are as follows:

Actions included. The following criteria will be employed by agencies in deciding whether a proposed action requires the preparation of an environmental statement:

(a) "Actions" include but are not limited to:

(i) Recommendations or favorable reports relating to legislation including that for appropriations. The requirement following the section 102(2)(c) procedure as elaborated in these guidelines applies to both (i) agency recommendations on their own proposals for legislation and (ii) agency reports on legislation initiated elsewhere. (In the latter case only the agency which has primary responsibility for the subject matter involved will prepare an environmental statement.) The Office of Management and Budget will supplement these general guidelines with specific instructions relating to the way in which the section 102(2)(c) procedure fits into its legislative clearance process;

(ii) Projects and continuing activities: Directly undertaken by Federal agencies; supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance; involving a Federal lease, permit, license, certificate, or other entitlement for use;

(iii) Policy, regulations, and procedure making: In addition, departmental guidelines indicate the following actions relating to natural or cultural resources may require an environmental statement:

(1) Acquisition or disposal.

(2) Regulation, permission, prohibition, or other institutional control of their use.

(3) Their operational or physical management.

(4) Construction or operation of various structures to manage the resource.

(5) Recommendations of comprehensive, program, or project plans for this management.

2.2 *Actions initiated after January 1, 1970.* All activities of the Bureau initiated after the passage of the Act (January 1, 1970) which significantly affect the environment are subject to 102(2)(c) procedures.

2.3 *Actions initiated before January 1, 1970.* Procedures for 102(2)(c) should be applied to continuing major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the Act. While it may not be practicable to reverse the basic course of action, continuing major actions should be shaped to minimize adverse environmental consequences. It is also important in continuing actions that account be taken of environmental consequences not fully evaluated at the outset of the project or program. Ongoing or uncompleted programs and projects which were authorized prior to January 1, 1970, are to be reconsidered to determine whether they constitute major Federal actions significantly affecting the quality of the human environment.

2.4 *BSFW Program items not requiring EIS's.* Bureau program items for which it is determined that the impact on the human environment is generally not significant enough to require preparation of an EIS.

It should be recognized that while some of these activities (as studies and planning) may ultimately lead to significant actions, the current level of activity may not warrant an EIS. Items such as river basin studies and planning may develop information necessary to the Corps of Engineers, SCS, Bureau of Reclamation, or other project planning agency in development of an EIS on the major project by those agencies. Construction or operation activities associated with fish and wildlife management programs on Federal or Indian lands may require an EIS, but this should be the responsibility of the managing agency.

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(1) Establishment of migratory bird hunting regulations.
(2) Regular law enforcement and import surveillance activities.
(3) Establishment of regulations for fishing or hunting, camping, and other recreational uses and for access to Bureau lands.
(4) Establishment and operation of fishery and wildlife units.
(5) River basin studies.
(6) Fishery Services and Wildlife Services studies and planning on military, Indian, and other Federal and private lands.
(7) Maintenance and repair items.
(8) Conservation and education activities.
(9) Establishment of regional offices.
(10) Establishment of field offices and stations.

2.5 *General statements.* Bureau program items for which it is determined that a single general or blanket statement can usually be used to cover each broad program item.
(1) Fishery research program field or development tests.
(2) Wildlife research program field or development tests.
(3) Waterfowl production areas (lease, easement, fee title, or gift).
(4) Federal aid.
(a) P.R.
(b) D.J.
(c) Anadromous fish.

It is recognized that some elements of the programs conducted by the State Fish and Game Departments with the use of Federal aid funds may have significant effect on the human environment. In those cases, it is expected that EISs will be prepared for those specific projects. The State may be asked to provide all necessary information for preparation of the statement.
(5) Wildlife Services (total program).
(a) Animal damage control.
(6) Fishery Services (total program).
(a) Lamprey control.
(7) Executive Order No. 11507 (pollution abatement at our own existing facilities).
(8) Establishment of Bureau policy on offroad vehicle use, control of camping, picnicking, boating, waterskiing, nonconforming recreational uses, hunting, fishing, access to and across, or other uses of Bureau lands.
(9) Routine operation of all existing refuges.
(10) Routine operation of all fish hatcheries.

2.6 *Specific statements.* Bureau program items for which it is determined that specific EISs should usually be prepared for the individual facilities or actions.

(1) Establishment of a new National Wildlife Refuge, Hatchery, or Research Laboratory. Complete to cover all aspects of the new project from land acquisition to construction, development, and operation at the ultimate planned level (Bureau-owned, leased, withdrawn from public land, received by gift, under cooperative agreement, or any other source—including facilities acquired or developed and turned over to the Bureau by the Corps of Engineers, Bureau of Reclamation, or other Federal or State agency, including those as part of a water development or other project, unless fully covered by the EIS of the other agency.)

(2) Wilderness status proposals for Bureau lands.

(3) When a master plan for an existing refuge is completed or an existing master plan is revised enough to indicate a change in the environmental impact from that expected under the earlier plan.

(4) Whenever portions or all of a refuge are to pass out of Bureau control by abolition of the refuge, termination of lease or easement, land disposition (including by exchange), or by lease to Federal, State, or other agency or party.

(5) Whenever any significant action at that facility, not already covered by an impact statement, is to take place (as land acquisition or disposition, construction program, major change in operation practice or the completion or alteration of the master plan occurs), a full impact statement will be prepared.

(6) All major construction items modifying, adding to, or deleting parts of existing facilities where a significant impact on the human environment may result (unless covered by prior EIS).
(a) Refuges.
(b) Hatcheries.
(c) Research laboratories.

(7) Introductory stocking, or rearing for purpose of introductory stocking, of exotic species of fish, birds, mamals, insects, other animals or their parasites into habitat outside their presently established natural range.

(8) Bureau-conducted programs involving use of major quantities of pesticides, herbicides, or other chemical substances for control of organisms.

(9) Major irreversible actions such as cutting of timber or mining on Bureau lands.

(10) Legislative proposals drafted by or for the Bureau which will be favorably supported by the Department.

(11) Legislative proposals drafted outside the Department which are of major concern to Bureau programs and which are to be supported by the Department.

3.0 *EIS on legislative items and budget items.*

3.1 *Legislative proposals and favorable reports on legislation.*—Environmental statements for legislative proposals and reports will be handled in accordance with page 16, section 3A of OMB Bulletin 72–6 (Appendix B) and section 10(c) of the CEQ Guidelines (Appendix A).

3.1.1 *Administration bills.* On draft legislation prepared in the Department as administration bills, EIS's are to be prepared at the request of the Legislative Council. The statements will be available to transmit in approved "draft" form to OMB when the legislative proposal goes to OMB for review and approval. The EIS should be submitted through AS/FWP and AS/PP when sent to the Office of Legislative Counsel for transmital to OMB for its clearance and transmittal to the other Federal agencies for their comments. This draft statement will generally not be advertised in the FEDERAL REGISTER nor made available to public sources not directly involved in the legislative proposal until after the proposed legislation and EIS are transmitted to the Congress. The official full public release of the draft EIS for public review and comment will be made upon the discretion of the Legislative Counsel.

Preparation of the EIS will generally be the responsibility of the Chief of the Division having primary responsibility for the program item.

3.1.2 *Bills originating outside the U.S. Department of the Interior.*—On legislative items (either numbered bills or unintroduced legislation from other agencies) an EIS will be prepared by the Bureau on instruction from the Legislative Counsel when he determines that the Department may recommend favorably on enactment of the proposal. Because of the time factors involved, the Office of Environmental Quality may, in some cases, take the lead in preparing this statement; however, the concerned Central Office Division will generally have this responsibility.

3.2 *Annual budget estimates.*

3.2.1 Environmental statements for annual Bureau budget estimates and annual authorizing legislation will be handled in accordance with page 18, section 3n of OMB Bulletin 72-6 (Appendix B).

3.2.2 An EIS will be required for all items in the budget for fiscal year 1972 and subsequent years, except those items for which it has been determined that an EIS will not be required or which are already covered by an EIS.

3.3 *Time schedules.*

3.3.1 *Fiscal year 1972 budget items.* An EIS will be prepared at once for each construction item in the fiscal year 1972 budget except where the action has already been treated in a statement, or where a general statemeñt can be used to cover a series of similar items, as waste treatment facilities under Executive Order No. 11507.

An EIS will be prepared at once for each wilderness proposal now under consideration unless such a statement has already been completed.

An EIS will be prepared at once for any Bureau program item considered to require such a statement. A broad general statement may be used for those program items identified in section 2.2.5.

3.3.2 *Fiscal year 1973 budget items.* EISs will be prepared at once for all fiscal year 1973 budget items not already properly covered by an EIS, unless it has been determined that an EIS will not be required for that item.

3.3.3 *Fiscal year 1974 and subsequent year budget items.* For all proposed construction items, land acquisition, and other specific program items requiring EISs and not already properly covered by a statement, the Regional Director will prepare a working draft EIS and submit it to the Director, attention Chief of the concerned Division for further processing by not later than May 1 of the calendar year preceding the beginning of the fiscal year for which budget is under consideration.

All general statements for Bureau programs not previously covered by EISs should be prepared by the Chief of the Division as a completed working draft by June 1 of the calendar year preceding the beginning of the fiscal year for which the budget is under consideration.

All EISs prepared as a result of changes in programs previously covered by EISs should be prepared by concerned Regional Office and Central Office Divisions so as to be available for review by the Office of Environmental Quality in working draft form by June 1 of the calendar year preceding the beginning of the fiscal year for which the budget is under consideration.

The Chief of the concerned Division and the Chief, Office of Environmental Quality, shall review and process the draft EISs and transmit them for approval and release by the AS/PP by not later than September 1 of the calendar year preceding the fiscal year in question.

Release of the final impact statements will not be made until after the President's budget is sent to the Congress but will be made prior to congressional hearings on the budget. Copies of the final statements will be sent to the concerned committees of both houses of the Congress when the final statement is transmitted to the Council on Environmental Quality.

3.3.4 *General budget statements.* A general EIS to cover all items in the annual budget not already covered by an EIS will be prepared by the Division of the budget in consultation with the Office of Environmental Quality, Directorate, etc. The draft statement should be available for transmittal to OMB and for approval by the AS/PP by not later than September 1 of the calendar year preceding the beginning of the fiscal year involved.

3.3.5 *Congressional write-in of budget items.* EISs for all budget write-in items not covered by previous statements are to be prepared as soon as possible after Presidential approval of the appropriations bill.

3.4 *Scheduling of EISs.* All budget items will be reviewed at least once each year by the respective Division Chiefs to determine whether additional or revised EISs should be prepared.

All submissions of budget estimates and proposals by the Regional Directors and by the Division Chiefs shall include a list of pertinent official EISs, showing the related budget item and whether each is a draft or final statement and the date of its approval by the AS/PP.

Budget items not requiring an EIS will be identified. Items lacking an official EIS, and for which a statement is to be prepared, will be marked.

Included with the list of official statements will be a list of the EISs to be prepared before the budget is submitted. This list will give the proposed EIS title, current stage of preparation, date when the working draft will be sent to the Central Office, and whether the proposed EIS will be a general or a specific statement or a revision of an earlier one.

4.0 *Preparation of EIS's.*

4.1 *Definition of statements.* The NEPA provides for preparation and distribution of "draft" statements for the purposes of informing the public of the proposed action and of securing comments upon the adequacy of the evaluations made.

For purposes of reducing the confusion inherent in use of the word "draft" in these instructions, the following definitions should be used for "in-house" designations of statements being prepared within the Bureau:

(a) *Working draft statement.*—All versions of the statement during development at the various levels of the Bureau prior to typing as the finished "draft" proposed to be submitted to the AS/PP for his concurrence and transmittal to CEQ.

(b) *Draft statement.*—This is the "draft" which will be approved by the AS/PP and transmitted to CEQ and others for the formal review and comment. It is the official "draft statement."

(c) *Working final statement.*—This is the revision of the official "draft" statement at all levels in the Bureau during its development to incorporate official comments into the "final" statement. The term "working final" will serve to differentiate the working paper at this stage from the "final" statement.

(d) *Final statement.* The "final" statement is the document after the revision of the draft to reflect comments received. The term "final statement" will apply from the time this document is typed for submission to the AS/PP for his concurrence and transmittal to CEQ as the "final statement." It is the official "final statement."

It should be noted that the expression "preliminary draft" is not used. This is deliberate since it has been widely used in the past, sometimes with meanings not applicable here.

It is suggested that each page of each stage of the EIS under development be marked in the lower left-hand corner with the appropriate phrase of "working draft," "draft," "working final," or "final" in order to reduce confusion in the process of review and revision of the numerous versions of the documents. The date of preparation should also be included in the lower left-hand corner of each page.

4.2 *Responsibility to determine when EIS are required.*

4.2.1 It will be the responsibility of the Chief, Office of Environmental Quality to determine, after proper consultation with the concerned members of the Directorate, Division Chief, Regional Directors, Associate Solicitor, and Director, Office of Environmental Project Review, whether an EIS is needed for a particular item and whether a general EIS may be used for a Bureau program element.

4.2.3 The Chief, Office of Environmental Quality, may, after proper consultation, recommend preparation of an EIS on specific elements of any program, even if already covered by a general EIS, if the matter is, or becomes, controversial, if potential environmental impacts not previously identified are suspected, if the general program element is altered by deletion or addition of any technique, substance or geographic area not previously involved, or by change in use or control of any area or element of the program, or when, in his judgment, it is necessary to do so in order to comply with NEPA or that it would be in the best interest of the public or the United States to do so.

4.2.4 Regional Directors and Division Chiefs may at their own discretion prepare or revise impact statements on any Bureau program or element of such program, whether previously covered by an EIS or not, when in their judgment it is required to comply with NEPA, or it is in the best interest of the public or the United States to do so.

4.2.5 It is anticipated that a program action need be covered but once by an EIS. Therefore, project descriptions in the EI statements should be as complete as possible and should anticipate long-range, future courses of action to the best extent possible. This will not only permit a more complete evaluation of the action and its environmental impacts, but will also minimize the workload in preparing and revising EISs.

4.2.6 EIS's, whether specific to an individual action or of a broad scope covering a generalized program, will be revised and updated whenever there is sufficient change in that program to alter, extend, or reduce the environmental impacts of that program or whenever there are sufficient changes in the physical, biological, social, or legal environment outside the Bureau to cause the unchanged program of the Bureau to have a different environmental impact than that expected when the EIS was written.

4.3 *Content of impact statements.* An environmental impact statement should objectively identify areas of environmental impact which are or may be associated with the proposed action. Conclusions reached in the statement itself should be analytical in nature, and they should not represent a decision on, or a justification of the proposed action. A statement should be comprehensive, concise, well-documented, and cover ancillary developments of the proposed program or action. A narrative form of discussion should be used. When relevant, maps, management plans, or development plans should be attached to substantiate portions of the statement.

4.4 *Impact statement format.* A universal and well-defined format is a basic prerequisite for preparation of environmental impact statements, and this format should be followed throughout the statement. The proper draft statement will have nine sections plus a cover and summary sheet (pursuant to Departmental Manual 516.2.1). Final statements will have an additional section "Substantiating Attachments." Though seemingly repetitious in some respects, each of these sections has a specific meaning and serves a useful purpose in the total statement package. In order to enhance organizational communication and quality of final statements, the format provided by these sections will be rigidly adhered to in the preparation of Bureau statements. A model outline for preparation of Bureau impact statements is provided in Appendix IA.

4.4.1 *Cover sheet.* Every environmental statement will have a cover sheet indicating the type of statement, a brief but descriptive title, the responsible organization, the date, and the signature of the responsible official. The format is provided in Appendix IB.

4.4.2 *Summary sheet.* Each environmental statement will have a one-page summary sheet prepared in accordance with Appendix I of the CEQ Guidelines. Formats are provided in Appendix —.

4.4.3 *Description of the proposed action.* CEQ Guidelines emphasize the need for a description of the proposed project or program adequate to permit a careful assessment of environmental impact by commenting agencies. On some projects it is difficult to summarize details concerning construction and size of operation. However, unless the description is extensive enough to permit appraisal of the potential impacts, the overall environmental impact of the project may not be clear.

Environmental impacts are often the result of identifiable lesser elements of an overall project. Therefore, it is usually necessary to include in the project description a fairly detailed explanation of the project and how it will be accomplished in order to adequately identify the impacts of the project on the human environment.

Where an existing program or project is being added to, the description of the proposed action should describe the existing elements in the best possible detail. It is essential that the description permit easy determination between existing and new items.

The activity description, as when describing a new refuge or other physical installation, should seek to cover all elements of the activity, as land acquisition, construction, development, management, and operation. The ultimate long-range program for the unit should be described insofar as the expected activity can be described.

All statements must include identification of waste discharges to water bodies and fully discuss the type of treatment facility included for each discharge, the level of treatment achieved (as the percentage of B.O.D. removed, etc.), the quality of water discharged, and an assessment of the impact of the discharge on the receiving body of water, including compliance with applicable standards.

Discharges to the atmosphere should be identified and any treatment facilities identified with an assessment of the impact on the environment.

Solid waste disposal plans and any special waste disposal problems, as toxic substances from bioassay work or diseased animals from experiments or autopsy work, should be identified and treatment facility or disposal technique identified together with an assessment of the impact on the environment.

Where relevant, maps should be provided. Management or construction documents should be referenced and in some cases may be appended.

4.4.4. *Description of the environment.* Experience with impact statements in general and environmental evaluation in the past have shown that it is essential to have a thorough description of the physical and biological environment which would be affected by the project or program. Careful and detailed descriptions of the existing human uses must be included as well as the existing fish and wildlife habitat and populations.

While emphasis on fish and wildlife and their habitat is expected to appear here, it is vital to fully treat the human environment. Potential uses and values of importance to quality of the human environment. Potential uses and values of imdependence on the area, since the critical evaluation is directed toward determining change in the quality of the human environment. Evaluations of effects on fish and wildlife and their habitat will be related to the impact on the quality of the human environment.

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This secton may prove one of the more influential in an impact statement in that it provides readers with a perspective of the quality of the specific biota and habitat which would be affected.

Descriptions should recognize all natural resources of unique or great aesthetic value and should describe general topography, vegetative types and land use patterns. Description or enumeration of endangered species or other biota characteristics provide a good baseline for measuring potential impacts which may result from an action or project. A well-prepared statement will summarize nearly all of the available fish and wildlife information, both published and unpublished, about the area of influence pertinent to the proposed action. In cases where background information is voluminous, it would not be feasible to include reference to all background information. However, it is desirable to include enough information to allow thorough documentation of the resources.

Existing facilities should be described where they are important parts of the existing environment.

4.4.5 *Environmental impacts of the proposed action.* This section includes a complete accounting of the expected impacts of the proposed action on the environment. Special emphasis is placed on effects on the quality of the human environment which includes not only human health and wealth but the quality of human life as measured in aesthetic terms.

The section should be comprehensive, detailed, and discuss both tangible and abstract aspects of project impact. It should include all known detrimental or beneficial impacts, including those which could be considered as direct, indirect, potential, secondary, ancillary, and social. When a potential impact might or might not necessarily occur with a project, it is still desirable to discuss it, as its potential nature makes it important. Wherever possible, these impacts will be quantified.

The discussion should include the impact upon the economy and social conditions as well as upon the micro and macro environment, fish and wildlife resources, and other values. Specific mention should also be made of unknown or partially understood impacts, including any associated requirements for research or monitoring. Effects on recreational facilities, including parks, wild rivers, refuges, hatcheries, wilderness areas, etc., will be discussed here. This section is a summary of all impacts and following sections may deal with specific conditions described here.

All waste discharges and their impact on the environment must be discussed here.

No set outline is proposed for this section, since impacts and areas affected will vary from project to project, and development of an outline specific to each different project or program will be necessary. However, Appendix III is presented as a partial list of sample items to consider in preparation of the probable impacts section.

4.4.6 *Mitigating measures included in the proposed action.* A section on mitigating factors may be prepared, where appropriate, and shall include a discussion of measures which are proposed to be taken or which are required to be taken as a part of the proposed action in order to protect or reduce impacts upon the environment. Mitigation measures may include any associated research or monitoring.

(1) With respect to water quality aspects of proposed actions which have been previously certified by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards under the provisions of the Federal Water Pollution Control Act, as amended, discussion shall include reference to that certification and the comments of the Environmental Protection Agency.

(2) With respect to water and air quality aspects of proposed actions which have been found by the Environmental Protection Agency to meet the requirements of section 4(G)(1) of Executive Order No. 11507, Prevention, Control, and Abatement of Air and Water Pollution at Federal facilities, discussion shall include reference to this finding.

(3) All waste treatment facilities being constructed pursuant to Executive Order No. 11507 at existing facilities of the Bureau may be covered in a single general EIS, provided, however, that each different type of treatment device (i.e., settling ponds, recirculating filter system, septic tanks, etc.) must be adequately described and each hatchery, laboratory, or refuge must be described in a separate paragraph or section, which is to include identification of treatment devices at that facility, volume and kind of waste treated and discharged, degree of effectiveness of treatment, the impact of the discharge on quality of the receiving water or atmosphere, and a statement of compliance with applicable water or air quality standards.

4.4.7 *Unavoidable adverse impacts.* This section provides a discussion of those impacts which would occur of the project were implemented, regardless of what human efforts were made to avoid adverse impacts. As with the balance of the impact sections, this section is abstracted from the environmental impacts section. By nature, this section is much shorter than the probable impacts section, and it includes those impacts which cannot be reasonably avoided, regardless of laws, stipulations, treatment facilities, or other techniques for minimizing impacts. The material included should be carefully edited to exclude mention of impacts which could be avoided or mitigated.

4.4.8 *Alternatives to the proposed action.* The agency responsible for preparation of the impact statement is required to study, develop, and describe potential alternatives to the recommended courses of action. The CEQ Guidelines call for rigorous exploration and evaluation of alternatives, which might avoid some or all of the adverse effects. The section should include exploration of alternative actions that will minimize adverse impacts, as well as analyses of costs and impacts that would accompany the alternatives. The area of alternatives is one of the more difficult to deal with since biologists often lack the training needed to evaluate engineering and economic techniques. This section provides the opportunity to air potential ecological alternatives.

4.4.9 *Relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity.* Project or program implementation involves short- and long-term use of the environment. The intent of this section is to compare the relative values of short-term use and the long-term productivity of the habitat (e.g., if the fish and wildlife habitat were left undisturbed instead of being developed for nonfish and wildlife values). A good perspective for preparation of this section is to consider the values of the project site to the human environment over a long term and discuss whether these values exceed those of the short-term use for project implementation.

4.4.10 *Irreversible and irretrievable commitments.* The intent of this section is to pinpoint the extent to which the proposed action would curtail beneficial environmental values. The section will discuss any irrevocable uses of resources, including such things as resource extraction, wilderness destruction, cutting of virgin timber, erosion, destruction of archaeological or historical sites, elimination of endangered species habitat, and significant changes in land use. This section could be viewed as an abstracted version of the unavoidable adverse impacts section, since it also principally deals with factors and impacts which could not be avoided with the project.

4.4.11 *Consultation and coordination with others.*—This section will have two parts.

(a) *Consultation and coordination in the development of the proposal and in the preparation of the draft environmental statement.*—This section will describe the public participation efforts of the bureaus and the consultations with Federal, State, local, and individual interests with jurisdiction or special environmental expertise in the development of the proposal and the preparation of the draft environmental statement, including preliminary statements.

(b) *Coordination in the review of the draft environmental statement.* This section will indicate the procedures used in disseminating the formal draft environmental statement and will list the organizations from which comments have been requested. Upon preparation of the final environmental statement this section will be expanded to summarize public response and to indicate from whom replies were received, their disposition, and any unresolved conflicts.

4.4.12. *Substantiating attachments to final environmental statements.* These will include all responses from other Federal agencies which have jurisdiction by law or special environmental expertise and from Federal, State, and local agencies which are authorized to develop and enforce environmental standards. Comments from responsible private organizations and recognized experts will also be attached.

4.5 *MBCC land acquisition.* All land acquisition items going before the MBCC for approval should be treated in an EIS prior to presentation to the MBCC for approval.

The statement should be at least in a completed draft stage suitable for approval and transmittal to CEQ by the AS/PP.

5.0 *Routing of working draft, draft, and final draft statements.*

(1) Completed working drafts will be routed to the Division Chief responsible for that element of the Bureau program. Those drafts prepared in a region will be sent to the Division Chief by the Regional Director through the Director, BSFW.

(2) The Division Chief, after reviewing the working draft, as to its adequacy, accuracy, and proper reflection of Division responsibility, will forward it through his appropriate Assistant Director, to the Chief, Office of Environmental Quality (OEQ).

(3) The Chief, OEQ, will review the working draft and determine if it is adequate as an EIS, and if it complies with the Guidelines of CEQ, the Department and the Bureau. If the working draft is not acceptable he will return it with his comments to the Division Chief for revision.

If it is acceptable, he will return it to the Division Chief with instructions to type it as a draft impact statement and reproduce a specified number of copies.

(4) The Division will type and reproduce the "draft" statement and forward them to the OEQ.

(5) The Chief, OEQ, will prepare and sign a memorandum (See Appendix) to the ASPP routing it through the appropriate Assistant Director, Director and ASFWP asking the approval of the Director and ASFWP and concurrence of the ASPP.

(6) The Chief, OEQ, will also prepare and attach two letters for the signature of the ASPP. One of these will convey — copies of the "official draft" statement to the Chairman of the CEQ and the other will convey a notice to be published in the FEDERAL REGISTER announcing release of the "draft" and advising the public of where it can be obtained.

(7) Upon notification by the AS/PP of his approval and transmittal of the draft statement, the Chief, OEQ, will promptly transmit to all the parties and agencies designated on the review list, copies of the draft and invite their comments, if any, within 45 days. Circulation to Federal agencies will be through the offices designated in Appendix III of the CEQ Guidelines. Distribution to the State will be through the appropriate State clearinghouse.

(8) If the proposed project concerns an action related to air or water quality, noise abatement and control, pesticide regulation or solid waste disposal, a statement will be sent to the Administrator of the Environmental Protection Agency. His comments will apply to section 309 of the Clean Air Act and section 102(2)(c) of NEPA. A period of 45 days shall be allowed for such review.

(9) All review comments on draft statements are to be sent to Chief, OEQ, by the reviewers. Comments misdirected to other offices, etc. will be forwarded to the Chief, OEQ, promptly.

(10) The Chief, OEQ, will maintain a log regarding the status and disposition of each statement. All comments received from reviewers will be logged and held in OEQ until the review period, including any extensions requested and granted, has ↑r"ed.

(11) At the expiration of the review period, and any extensions thereto, the Chief, OEQ, will send all comments from reviewing entities to the division from which the statement originated. The Chief of the Division will then develop a "working final" statement by revising the "draft" statement to incorporate comments from the reviewing agencies.

(12) The "working final," incorporating comments of reviewing agencies and with comments from reviewing agencies attached, will be sent by the Division Chief to the Chief, OEQ.

(13) The Chief, OEQ, will review the "working final" statement and if it is acceptable will return it to the Division Chief for typing as the "final" statement and for reproduction in the appropriate number of copies.

(14) The Division Chief will then forward the copies of the "final" statement to the Chief, OEQ. The Chief, OEQ, will prepare and sign a memorandum conveying the "final" statement through the appropriate Assistant Director, Director and AS/FWP for their approval, to the AS/PP for his review and concurrence.

(15) With this memorandum will be two letters for signature of the AS/PP, one conveying — copies of the "final" statement to the CEQ and the other conveying a notice for publication in the FEDERAL REGISTER announcing to the public the availability of the "final" statement and locations where it may be obtained.

(16) Upon approval of the "final" statement by the AS/PP it becomes official. When he notifies the Chief, OEQ, of the completion of his actions, the Chief, OEQ, will immediately transmit a copy of the final statement to all the recipients of the original "draft" statement, all those who made written comment on the "draft" and all those who have requested copies of the final statement.

6.0 *Responsibilities.*

6.1 *Assistant Secretary—Program Policy* (pursuant to Departmental Manual 516.2.1).

(1) As he may deem appropriate, shall establish or approve task forces and/or appropriate bureaus and offices to prepare environmental statements in special cases.

(2) Shall designate lead bureaus within the Department and shall consult with CEQ and other Federal agencies in the designation of lead agencies.

(3) Shall review and endorse, prior to transmitting to CEQ, all draft and final environmental impact statements as to their form and content and conformity, in order to determine whether they are formulated in accordance with and represent the full and balanced interests of the Department.

(4) Shall review and approve all Bureau and office procedures for the preparation and utilization of environmental statements.

6.2 *Assistant Secretary for Fish and Wildlife and Parks* (pursuant to Departmental Manual 516.2.1.).

(1) Shall maintain direct and continuing supervision of the bureaus and offices under his jurisdiction in meeting the requirements of section 102(2)(c) of the Act.

(2) Shall review and approve all environmental statements prepared by bureaus and offices under his jurisdiction before forwarding them to the Assistant Secretary—Program Policy.

6.3 *Secretary's Field Representative* (pursuant to Departmental Manual 516.2.1.).

(1) Shall resolve bureau differences that may occur during the preparation of environmental statements.

6.4 *The Solicitor* (pursuant to Departmental Manual 516.2.1.).

(1) Shall assist bureaus and offices in identifying actions requiring environmental statements and in the clarification of legal technicalities.

6.5 *The Legislative Counsel* (pursuant to Departmental Manual 516.2.1).

(1) Shall insure that bureaus and offices prepare environmental statements for legislative proposals of the Department which have significant impact upon the environment.

(2) Shall coordinate or delegate the preparation of environmental statements for favorable reports on bills principally concerning the Department which have significant impact upon the environment.

6.6 *The Director of Communications* (pursuant to Departmental Manual 516.2.1).

(1) Shall maintain a public file or index of draft and final environmental statements which have been transmitted to CEQ and shall arrange for making such statements available for inspection in accordance with the provisions of the Freedom of Information Act.

6.7 *The Directorate.*

(1) The Directorate is responsible for Bureau compliance with the requirements of the National Environmental Policy Act of 1969.

6.8. *Chief, Office of Environmental Quality.*

(1) Has lead role in developing a continuing Bureau-wide impact statement coordination system. Updates Bureau Guidelines, as needed.

(2) Signs for the Director all Bureau draft and final impact statements after determining that these documents conform to Bureau environmental policies.

(3) Provides Bureau-wide assistance resolving 102(2)(c) procedural questions, concerning such things as interpretation of the Act, Bureau Guidelines, environmental information, etc.

(4) To the degree possible foresees departmental impact statement efforts and contacts on an informal basis appropriate Division Chiefs, Regional Directors, and other staff, so that coming efforts can be anticipated and planned for. Coordinates or arranges coordination of intradivisional Bureau involvement for both Bureau and departmental impact statement preparation and reviews.

(5) Maintains a log book and record system of showing the status of all "working draft," "draft," "working final," and "final" stages of all EIS's after the "working draft" statement is first submitted to the Office of Environmental Quality for review. Maintains a list of all official draft and final impact statements released by the Bureau. Maintains a file of all released draft and final EIS released by the Bureau.

(6) Receives, logs, and maintains a file of all comments received from reviewers of draft and final EIS's formally submitted for review until completion of the formal review period and all extensions granted thereto.

(7) Provides administrative information as required on the Bureau's 102(2)(c) involvement.

(8) Provides guidance in final decisions regarding Bureau actions which will require impact statements.

(9) Is responsible for circulating formal draft and final Bureau impact statements according to the procedures set forth by the Department, CEQ, and the Freedom of Information Act, including establishment of length of review period and granting of extensions thereto.

(10) For Bureau impact statements, involving the use of interdivisional expertise, initiates the selection of drafting team members and chairmen and provides available direction and expertise, as needed, to assist the drafting venture.

(11) Upon receipt of a departmental impact statement preparation assignment, assesses the degree of Bureau involvement and relative complexity of the statement, and then formally contacts appropriate Assistant Director(s) and Division Chief(s). Conducts necessary coordination to determine that appropriate expertise and time allotments are available to meet the task. Coordinates selection of a drafting team, including one primary coordinator to direct the drafting venture. Provides the designated statement coordinator with available details, background information, and contacts which will expedite statement preparation.

6.9 *Division Chief.*

(1) Is responsible for preparation of impact statements on programs or projects specific to his (their) Division. Supervises selection of personnel to prepare reports and makes assignments as necessary.

(2) Designates a Divisional Environmental Coordinator who will represent him in 102(2)(c) matters. The coordinator will have the responsibility of developing and maintaining divisional coordination procedures within the framework developed by the Chief, OEQ sufficient to meet impact statement preparation and review requirements.

(3) Reviews and approves draft and final statements prepared under his supervision and routes them to the Chief, OEQ.

(4) Maintains the permanent Central Office file for each EIS prepared, including copies of draft and final statements and any ntermediary stages of these statements required for the records and including the original copies of any written comments received from any agency or person as a result of the formal request for comments on the draft or final statement.

(5) Is responsible for coordination with other Divisions of the Bureau and with the responsible Regional Directors and with other agencies of the Department as may be required during preparation of all stages of the EIS conducted by his Division.

6.10 *Regional, Laboratory, Area Directors.*

(1) Designates a Regional, Laboratory, or Area Environmental Coordinator who will have the responsibility of developing and maintaining coordination procedures within the framework developed by the Chief, OEQ, sufficient to meet impact statement preparation and review.

(2) At the request of the Chief, OEQ, assigns appropriate regional personnel to assist in the preparation of Bureau, departmental, or extra-departmental statements.

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(3) Transmits all working draft EIS's to appropriate Division Chief.

(4) In the event of questions or difficult deadlines, contacts the Chief, OEQ, for resolution or rescheduling.

(5) Determines need for public hearings.

6.11 *Drafters and reviewers.*

(1) Develops an understanding of 102(2)(c) procedures for review and preparation of impact statement material, as set forth in these guidelines.

(2) Upon receipt of assignment, conducts review or drafting effort following Bureau Guidelines. Develops and drafts fish and wildlife material or comments, and surnames resulting draft.

(3) When assigned as primary coordinator of multidiscipline drafting or review effort, conducts necessary coordination to complete the assignment.

(4) Obtains guidance as required from Regional Environmental Coordinator.

AGENCY FOR INTERNATIONAL DEVELOPMENT

[Transmittal Letter 11:64; Circular 1221.2]

CONSIDERATION OF ENVIRONMENTAL ASPECTS OF U.S.-ASSISTED CAPITAL PROJECTS

I. *Purpose.* This manual circular is issued to alert missions to the need to insure that project feasibility studies, in analyzing the development benefits of a proposed project, include the identification and assessment of the economic and social environmental costs of the project.

II. *Policy.* It is the policy of A.I.D. to require, during the planning stages of capital projects, consideration and assessment of the direct or potential effects of environmental aspects of each project.

A. The National Environmental Policy Act of 1969 provides that the United States will "promote efforts which will prevent damage to the environment and biosphere, and stimulate the health and welfare of man." The Act calls upon all agencies of the Federal Government to review programs and procedures with "particular reference to their effect on the environment and on the conservation, development and utilization of natural resources."

B. In this context A.I.D. has an important but most difficult role when analyzing and considering the financing of capital projects. There are vast differences in the stages of development between the developed and the developing countries, in the degree of untapped resources, and in the relative economic benefits from projects in contrast to their environmental effects and costs. There are also significant differences in cultural values and the manner in which the developing countries will weigh the economic development advantages of a project against its economic and environmental costs and the resulting effects on the quality of life in the developing country. However, A.I.D. is to help to determine in the design of projects that there is an identification of the environmental costs—project costs and effects which have become evident in the United States and other more developed societies, which we are now finding most difficult and costly to overcome and which through foresight and adequate planning can be avoided.

C. In varying degree, feasibility studies of A.I.D. projects have taken environmental factors into consideration. For example, watershed protection is considered in hydro projects, erosion protection in highway design, location, and internal project design factors in industrial plants or complexes. It is now the policy of A.I.D. not only to focus more carefully on environmental considerations but to attempt to identify more fully the effects of technological change on the environment and their immediate and longer range costs. It is recognized that some of these factors are difficult to consider in the context of specific projects, since they involve broader questions of land and water use planning and natural resource allocation. Nonetheless, future capital project feasibility studies will include in their scopes of work the requirement for such environmental analyses and the results thereof to be expressed quantitatively where facts, concepts, and/or data permit.

III. *Procedure.* A. Interim—Until more formal concepts and instructions can be developed and issued through appropriate manual orders, it is requested that Missions institute the following in collaboration with the host country:

1. For feasibility studies which do not yet have completely developed and approved scopes of work, the Mission is to consider with the borrower/grantee (B/G) the desirability of including in the scope of work an assessment of environmental factors not already covered. The extent and character of specific elements of such an assessment will be left to the determination of the B/G and the Mission Director whose position will reflect the concepts outlined in this manual circular as well as general policy advisory material which was outlined in AIDTO Circular A-688, dated March 25, 1970.

2. For feasibility studies currently going forward under approved scopes of work and approved contracts, the Mission is to explore the possibility of including appropriate assessments under the contract before the work is completed. If the B/G agrees as to the desirability, discussions can be initiated between the B/G and the contractor to determine the additional amount of work required and the methods to be employed in providing the necessary expertise. Should the B/G not agree to inclusion of such assessment in a particular study, the Mission will make a judgment of the environmental effects of the project and if it concludes that they are of appreciable significance and beyond the capability of the Mission staff to evaluate, it will request A.I.D./W to obtain expert assistance through PASA arrangements with an appropriate U.S. Government agency or through the use of the basic ordering agreements for specialized engineering contract services ("M.O. 1425.1—Specialized engineering contract services"). The Mission is to provide, in case either type of assistance is desired, an appropriate PIO/T.

B. A.I.D./W has embarked on a review and possible revisions of its prescribed planning requirements as issued in "M.O. 1221.2—Feasibility studies, economic and technical soundness analysis, capital projects." Until those new instructions are issued this manual circular will be in effect.

C. Capital assistance papers submitted in the future will include the appropriate consideration of environmental factors as developed in accordance with the above and future instructions.

Effective date: August 18, 1970.

[Transmittal letter 11:72; Circular 1214.1]

PROCEDURE FOR ENVIRONMENTAL REVIEW OF CAPITAL PROJECTS

Effective date: September 20, 1971.

I. *Introduction.* A. To implement A.I.D.'s policy to conform with the intent and objectives of the National Environmental Policy Act of 1969 (NEPA, Public Law 91-190) in respect to capital projects abroad (1) for which U.S. assistance through A.I.D. has been requested and (2) which it is determined may significantly affect the quality of the human environment, the following procedure will be followed to provide the Council on Environmental Quality (CEQ), and such other Federal agencies as A.I.D. may select, an opportunity to be informed about and comment on such projects as part of the A.I.D. project review process. In addition, in accordance with the intent of NEPA and the provisions of the Freedom of Information Act (5 U.S.C. 552), the procedure will make available to the public, at the appropriate time, information on the environmental implications of such projects, and the methods by which the environmental aspects are to be treated in the project.

B. It is recognized that the relationship between A.I.D., as an agency of the U.S. Government, and a prospective foreign borrower/grantee is different in respect to the degree of A.I.D. participation in the decisionmaking process regarding a capital project than is the case with domestic agencies participating in decisionmaking on intra-U.S. governmental projects. The proposed project is not, in the foreign assistance case, a U.S. project and the final decisions concerning that project are not properly the responsibility of the United States, but of the requesting foreign country or agency. The intent is to work with the assisted foreign country or agency to insure that project analysis and design reflect consideration of environmental factors and the alternative means, with associated costs/benefits, of minimizing undesirable environmental side effects while maximizing beneficial environmental results. There is no intent to impose U.S. standards, priorities, or solutions on a foreign government through this procedure. At the same time, A.I.D. on behalf of the United States is involved in reaching a decision of its own, viz. whether to provide assistance to the project. The proposed procedure recognizes the bilateral nature of the decisionmaking process and seeks to fulfill the NEPA objective of thorough environmental review while giving appropriate weight to the judgment of the foreign country involved.

C. For the above purposes, the following procedure will be followed by A.I.D. in considering requests for capital assistance to projects overseas.

II. *Procedure*—A. *Applicability.* 1. The steps outlined below will be followed for all projects for which capital assistance (loan or grant) from A.I.D. is requested, and which have reached the stage at which either (a) a prefeasibility or feasibility study or (b) an intensive review request (IRR), whichever is first, is being considered. It will apply to capital projects being considered for dollar assistance from A.I.D. appropriated funds (all appropriation categories) or from U.S.-owned local currencies in those cases where A.I.D. is responsible for the authorization of the uses of such currencies. It will not apply to projects financed with country-owned local currency, although A.I.D. should encourage assisted countries to identify and evaluate environmental considerations in planning and executing capital projects financed with country-owned local currencies generated by assistance programs. Capital projects for the purpose of the application of the proposed procedure, would be defined as set out in "M.O. 1201.1—Capital Assistance: Introduction and Definitions," and "M.O. 1099.1—A.I.D. Implementation System." Capital Assistance is defined in paragraph II. and Attachment A of "M.O. 1201.1" and in paragraph I.D.2. of "M.O. 1099.1."

2. Sector programs, or sector loans, a category not now separately defined by manual order, will have to be evaluated to determine whether they, in fact, constitute a series of "projects" in a sector, in which case such "projects" will be evaluated to determine whether the procedure applies or not. If the sector loan or grant, upon examination, consists of local cost or foreign exchange financing in respect to or in support of a sector-wide program of diverse policy, institutional or investment actions by the assisted government or agency, the proposed procedure would presumably not apply, although such a presumption should be examined in each case.

B. *Selection.* 1. The first step in the procedure will require a determination; initially made by the A.I.D. organizational unit (in the field or in A.I.D./Washington) responsible for the development of the capital assistance proposal, that a capital project does or does not qualify as a project with a significant environmental impact. This determination will be reviewed and approved by the responsible Regional Bureau or equivalent in A.I.D./Washington.

2. Since, in the broadest sense of the term, all developmental activities have, or should have, environmental impact in the sense that they improve the quality of life, increase production, create jobs, improve standards of living, etc., it is clear that more selective criteria are required. Common sense and the rule of reason are probably the best techniques to apply. When a project will clearly have potential deleterious environmental side effects; e.g., air, water, or thermal pollution; noxious emissions; effects on ecological systems; use of potentially toxic materials; etc., it would be obvious that the environmental impact should be analyzed, alternative methodologies studied, and appropriate safeguards proposed as integral parts of project design and implementation. Projects such as dams, irrigation, roads, industrial plants, malaria or other disease vector control projects, power generating facilities, etc., would, a priori, appear to fall into this category. At least, the questions of whether such projects have a potential for significant adverse environmental effects should be addressed, examined, and answered for such type of activity.

3. At the other end of the scale, projects which provide financing for intermediate credit institutions, development banks, mortgage banks, educational or health services and facilities of a general nature, capital markets, credit unions, savings and loan institutions, etc., when the environmental implications, if any, are the result of second- or third-level actions, removed in time or space from the original project action, and difficult, if not impossible, to predict, the presumption would be that a detailed analysis of the environmental impact of the ultimate subprojects could not be determined and, therefore, would not be required. This presumption should, of course, be addressed and tested in each case. In between, there will undoubtedly arise projects of a type which cannot be categorized in advance; hence judgment and a realistic appraisal will have to be applied.

C. *Action.* 1. When a capital project is determined by the Bureau with initial action responsibility to have significant, potential, adverse environmental implications, this judgment will be recorded at the earliest possible stage in the project development process, the borrower/grantee will be informed, and all subsequent actions will reflect this consideration.

2. Pursuant to "M.C. 1221.2—Consideration of Environmental Aspects of U.S.-Assisted Capital Projects" (TL 11:64), feasibility and nonfeasibility studies for capital projects are required to include in their scopes of work the requirement for environmental analyses. When the feasibility or prefeasibility study has not yet been accomplished or when A.I.D. participation in such studies is not required, the initial identification of environmental problems, the need for analysis, and the proposed methods of dealing with such aspects will be incorporated in the intensive review request. It will be the responsibility of A.I.D. reviewing and approving authorities for feasibility studies or IRR's to insure that environmental considerations have been identified and that means for analyzing and dealing with them are adequately incorporated in the proposal.

3. Review of scopes of work or IRR's for environmental impact purposes will include, but not be limited to, a consideration of:

a. The environmental impact of the proposed action.

b. Any adverse environmental effects which cannot be avoided should the proposal be implemented.

c. Alternatives to the proposed action.

d. The relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.

e. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

4. When the reviewing or approving authority, the Regional Bureau or its equivalent, determines that a project proposal should be made the subject of a prefeasibility or feasibility study, or when it approves and issues an authorization for IR, whichever is first, it will include the necessary instructions for consideration of environmental issues in its approval action. At this time in the process, the approving authority will notify the Office of Development Finance, and provide the relevant information and/or copies of the documents.

5. At periodic intervals (to be determined in light of the workload) AID will send a summary report of such approved feasibility or prefeasibility studies and/or IRR's to the CEQ. This report will identify the project, its general purpose, location, etc., and will, to the extent possible at this stage, enumerate (a) the environmental factors which have been identified, (b) the proposed method for analyzing and evaluating such factors, including a listing of such outside, expert opinion and advice as may be proposed for consultation on such matters.

6. The purpose of this proposed report is to inform the CEQ, at the earliest practicable date, of initiation by AID of serious project development action on proposals with significant environmental implications. It will not be necessary to transmit the full documentation on the project proposal to CEQ at this time, although CEQ would be free to review such documentation in AID, if it wished, or to offer such comment or advice to AID as it might deem appropriate at that stage. No distribution of these reports would be made other than to CEQ unless a request was made to and approved by AID. Such requests would have to be reviewed in the light of the classification or administrative control status of the documentation at that stage.

7. As project development proceeds, the information, technical data, analysis, and proposed solution of environmental problems will be made available to the borrower/grantee and will accompany the project proposal through the review process with the borrower/grantee and within A.I.D. CEQ would be free to participate in the review process in A.I.D./W. Other Federal agencies having expertise in the subject matter will, at the invitation of the reviewing authority in A.I.D. (Regional Bureau or its equivalent), be invited to participate.

8. When, and if, the project proposal reaches the stage where a formal project approval document (loan paper or capital grant approval document) is under preparation for A.I.D. consideration of financial assistance to the project, the results of the analyses outlined in paragraph II.C.3. above, proposed solutions, cost implications, etc., will be included as an annex to that document entitled, "Environmental Analysis." The Environmental Analysis annex should be a balanced, summary presentation of the anticipated environmental benefits of the project, as well as an analysis of the environmental problems involved. The annex should include, but need not be limited to, a discussion of the factors outlined in paragraph II.C.3. above, and should:

a. Describe how and by whom the project analysis, including the environmental protection aspects, was carried out.

b. Describe the environmental problems involved.

c. Describe, when applicable, alternative project designs, techniques, and methodologies examined.

d. Discuss the reasons for the choice of the recommended project design and the environmental protection measures recommended or, when appropriate, why such measures are not recommended.

e. Discuss the effect of any special measures recommended for environmental protection purposes on project costs and on the economic evaluation of the project.

f. Discuss, when appropriate, the environmental aspects of the project in relation to the overall cost/benefit analysis.

9. CEQ will be notified when project documentation, including the annex, reaches the stage where formal A.I.D. authorizing action is under way (Development Loan Staff Committee consideration for loans or equivalent for grant projects). CEQ would be free to be represented and participate as a nonvoting member at DLSC or equivalent meetings when projects subject to this procedure are under final interagency consideration.

10. Following DLSC review, final recommendations to the Administrator or other authorizing officer for formal authorization of the project will reflect the analysis of the environmental aspects of the project, the preparatory work done thereon, any unresolved issues, etc., as is done with economic, technical, and financial aspects. The Environmental Analysis annex will be an integral part of the project documentation (loan or grant paper) on the basis of which the final authorization is recommended.

11. At the time when a capital project is authorized by A.I.D. and when the borrower/grantee is notified of the authorizing action, the environmental analysis annex of the authorizing document will be extracted from the documentation and 10 copies will be transmitted to the CEQ, under cover of a letter of transmittal from the authorizing official. These copies will be distributed by CEQ to:

a. CEQ Council and staff.

b. National Technical Information Service (for public availability).

c. Library of Congress Environmental Section (for congressional availability).

d. Environmental law reporting services.

In addition, CEQ will list the annex in its monthly publication, the "102 Monitor."

12. It is recognized that the project authorization is, in reality, an authorization to enter into negotiations concerning the provision of assistance to the project. No final action, irrevocably committing the U.S. Government, is taken until such negotiations are completed and a formal agreement is drafted and signed by duly authorized representatives of the United States and the recipient foreign entity. During these negotiations, the environmental analysis annex should be made available to the borrower/grantee and, when appropriate, agreement sought on any aspects of the project resulting from this analysis.

13. The final decision authorizing U.S. signature of the project loan or grant agreement will be taken by A.I.D. in light of the overall assessment of U.S. foreign policy considerations, as well as the economic, political, financial, technical, and environmental factors (costs and benefits, advantages and disadvantages, etc.) of the project as negotiated.

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INTERNATIONAL BOUNDRY AND WATER COMMISSION

U.S. SECTION

El Paso, Tex.

PROPOSED OPERATIONAL PROCEDURES FOR IMPLEMENTING SECTION 102(2)(C) OF THE "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969"

NOVEMBER 26, 1971.

Manual

OPERATIONAL PROCEDURES FOR IMPLEMENTING SECTION 102(2)(C) OF THE "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969," NOVEMBER 26, 1971.

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OPERATIONAL PROCEDURES FOR IMPLEMENTING SECTION 102(2)(C) OF THE "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969"

The National Environmental Policy Act of 1969 (NEPA), Executive Order 11514 (E.O. 11514) dated March 5, 1970, and the Guidelines of the Council on Environmental Quality (Council) dated April 23, 1971, provide that environmental considerations are to be given careful attention and appropriate weight in every recommendation or report on proposals for legislation and for other major Federal actions significantly affecting the quality of the human environment.

1. *Purpose and scope.* This manual provides general policies, procedures, and guidance required by section 102(2)(C) of the NEPA (Public Law 91-190) to:

(a) Identify actions requiring environmental impact statements;

(b) Obtain information and internal U.S. section review required for the preparation of environmental statements;

(c) Designate the official(s) who are to be responsible for preparation, review, and approval of the statements;

(d) Consult with and take into account the comments of appropriate Federal, State, and local agencies; and

(e) Meet requirements for providing timely public information on proposals for legislation and for other major actions having a potential significant adverse effect on the human environment.

2. *Applicability.* This manual applies to all elements of this section concerned with the investigation, planning, development, construction, and management of projects (including leasing and licensing of land and issuing of permits in regard thereto) or activities that affect ecological systems and the human environment.

3. *References.*

(a) Environmental Control—Message from the President (H. Doc. No. 91-225); Congressional Record, February 10, 1970, pages H 743-748.

(b) Budget Message of the President, 1971; Congressional Record, February 2, 1970; see pages S 968, S 970, and S 973.

(c) The State of the Union Address by the President (H. Doc. No. 91-226); Congressional Record, January 22, 1970; pages H 186-188.

(d) Executive Order No. 11507; Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities, February 4, 1970; FEDERAL REGISTER, Volume 35, No. 25, February 5, 1970; pages 2573-2576 (supersedes Executive Orders Nos. 11282 and 11288).

(e) National Environmental Policy Act of 1969 (Public Law 91-190).

(f) Water Quality Improvement Act of 1970 (Public Law 91-224).

(g) Guidelines of the Council on Environmental Quality, April 23, 1971; FEDERAL REGISTER, Volume 36, No. 79, April 23, 1971, pages 7724-7729.

(h) Bulletin No. 71-3, August 31, 1970, Executive Office of the President, Office of Management and Budget.

(i) Circular No. A-95, dated June 15, 1970, and all revisions thereto, Executive Office of the President, Office of Management and Budget.

(j) Memo entitled "Federal agencies with jurisdiction by law or special expertise to make comments with respect to various types of environmental impact of proposed actions," dated July 29, 1970, by Timothy Atkeson, General Counsel, Council on Environmental Quality.

(k) Memo entitled "Environmental impact statements prepared by the International Boundary and Water Commission," dated April 21, 1971, by Timothy Atkeson, General Counsel, Council on Environmental Quality.

(l) Corps of Engineers procedure regarding preparation of environmental statements.

4. *Requirements of the National Environmental Policy Act of 1969.*

Section 101 of the National Environmental Policy Act of 1969, hereinafter referred to as the Act or NEPA, establishes a broad Federal policy on environmental quality. Section 102 directs that policies, regulations, and public laws will be interpreted and administered to the fullest extent possible in accordance with the policies of the Act, and imposes upon all Federal agencies the requirement to—

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment (sec. 102(2)(A)).

(b) Identify and develop methods and procedures which will give the environment appropriate consideration in decisionmaking along with economic and technical considerations (sec. 102(2)(B)).

(c) Include in every recommendation a report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed environmental statement (sec. 102(2)(C)).

(d) Study, develop and describe appropriate alternatives (sec. 102(2)(D)).

(e) Recognize the worldwide and long-range character of environmental problems (sec. 102(2)(E)).

(f) Make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment (sec. 102(2)(F)).

(g) Initiate and utilize ecological information in the planning and development of resources-oriented projects (sec. 102(2)(G)).

(h) Assist the Council on Environmental Quality (sec. 102(2)(H)).

Both section 102(2)(C), which requires a detailed five-point statement of environmental impact, and section 102(2)(D), which requires analysis of alternatives where unresolved conflicts occur, are interpreted to be applicable to feasibility reports and to requests for funds to initiate construction of previously authorized projects. Under certain conditions they are also applicable to continuing construction and maintenance projects and to the granting of leases, licenses, and permits.

5. *Policy.* In formulating plans for construction, operation, and maintenance, water resource development or management, impact on the environment will be fully considered from the very initiation of preauthorization planning. Early and continuing search in cooperation with appropriate local, State, and Federal agencies will be undertaken to develop alternatives and measures which will enhance, protect, and restore the quality of the environment, or, at least, minimize and mitigate unavoidable deleterious effects. Preparation of the five-point statement required by the Act will constitute an integral part of the preauthorization feasibility report process. The statement will serve as a summation of evaluations of the effects that alternative actions will have on the environment and as an explanation of finally recommended plan.

6. *Procedure for preparation, planning and coordination of the statements.*

(a) Preparation—Draft and final statements will be prepared by Principal Engineer—Projects, hereinafter referred to as PE/P. PE/P will, after approval by the Commissioner and Department, transmit the statements to the field offices, the contact points listed in the guidelines, those established by Budget Circular No. A-95 (June 15, 1970, or any revisions thereto), and other known interested parties. Exceptions to the procedure are:

(1) Letters of transmittal to Mr. Herter, Special Assistant to the Secretary for environmental Affairs, Bureau of International Scientific and Technological Affairs, Department of State, and Chairman Train, Council on Environmental Quality, will be prepared by PE/P for Commissioner's signature.

(2) An agency or agencies acting as agent for the U.S. section (as distinguished from merely preparing an environmental statement for the section's use) will prepare, distribute, and coordinate the review of the statement according to its established procedures. This includes transmittal to Council on Environmental Quality. However, the agency has the responsibility to confer with the U.S. section and to keep PE/P fully informed.

PE/P is recognized as the responsible Federal official within the meaning of section 102(2)(C), NEPA, except for such changes as reviewing authorities may deem necessary in the original proposal and covering statement, to be consistent with the policies of the U.S. section, and except as hereinafter provided when other agencies are acting as this section's agents in regard to project under the U.S. section's jurisdiction then an officer of those agencies rather than PE/P will be the responsible Federal official. The memorandum of understanding governing the agency relationship shall set forth the responsible Federal official of the agency acting as agent. Engineers in charge of projects, Project Manager(s) and Superintendent(s) will be reporting officers.

If the U.S. section remains uncertain whether filing an environmental impact statement is required, it should consult the Office of Environmental Affairs (SCI/EN—Department of State) and the Assistant Legal Adviser for Environmental Affairs (L/EN—Department of State) for a final determination. In every case where the U.S. section determines that no environmental impact statement is required, it shall inform SCI/EN.

Statements to be meaningful for review and decisionmaking should:

(a) Describe physical and environmental aspects sufficiently to permit evaluation and independent appraisal of the favorable and adverse environmental effects of each proposal. They should be simple and concise, yet should include all pertinent facts. Length would depend upon the particular proposal and the nature of its impacts and the environmental setting.

(b) Be submitted as a separate document, not as an enclosure or appendix to other documents such as preauthorization studies or design memorandums. Such reports and design memorandums must contain adequate background information to support fully the reporting officer's conclusions and recommendations on environmental matters. The statements should not be construed as a further means for assisting or supporting project justification.

(c) Not be limited to ultimate conclusions, but should demonstrate that the U.S. section has adequately considered the potential impact of the proposal upon the environment. The statement should summarize information and cite sources of overall appraisals which are based upon judgments of complex matters (e.g., water quality by Environmental Protection Agency).

(d) In the final statement include and comment on the views of those opposing the proposal for environmental reasons, if any. The summarized views of agencies having environmental responsibilities, and with which the proposals have been coordinated, should be included.

(e) Include a full and objective appraisal of the environmental effects, good and bad, and of available alternatives. In no case will adverse effects, either real or potential, be ignored or slighted in an attempt to justify an action previously recommended. Similarly, care must be taken to avoid overstating favorable effects.

(f) Discuss the proposal's impact on environmental resources of regional significance whenever the impact extends beyond the immediate area.

(g) Discuss the significant relationships between the proposal and other developments (existing and authorized). For example, a statement on a project which would convert a free-flowing section of a stream into a reservoir should contain information on the amount of flowing and flat water available in the area.

(h) Where possible, the statements should show an indication of the magnitude of the effect including short-term changes. This may include changes in flow in c.f.s. for both peak- and low-flow periods or changes in dissolved oxygen or temperature, which are key parameters for measuring water quality, and other factors vital to the ecology of the area.

(i) Include an appropriate summary. Regardless of the type of summary used within the section for review purposes, when the statements (draft and final) are submitted to the Council on Environmental Quality the Council prescribed format for a summary shall be utilized.

(j) During preparation and review of the statements, the services of the Executive Assistant, hereinafter referred to as C/E, are to be utilized to insure that statements are responsive legally to the requirements of the Act.

The environmental statement will cover the following points:

(i) A description of the proposed action, including information and technical data adequate to permit a careful assessment of environmental impact by commenting agencies.

(ii) The probable impact of the proposed action on the environment, including impact on ecological systems such as wildlife, fish, and marine life.

(iii) Any probable adverse environmental effects which cannot be avoided.

(iv) Alternatives to the proposed action.

(v) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(vi) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(vii) Where appropriate, a discussion of problems and objections raised by other Federal, State, and local agencies and by private organizations and individuals in the review process and the disposition of issues involved.

The guidelines dated April 23, 1971, of the Council on Environmental Quality, Appendix A,[1] and the guidance contained in Appendix B[1] will be considered and utilized in preparing environmental statements, using the prescribed format or any revision thereto.

(b) *Planning relationships.*

(1) In the development of new projects or proposals, the rationale of the environmental statement and assessment of environmental considerations will be integrated into the planning process from the beginning. Preliminary identification and assessment of possible environmental impacts and effects will be made and fully discussed at an early milestone in the study. Even where it is clear from the start that a proposed action will not require an environmental impact statement, the investigation into environmental effects will still be made, and, as required by the Act, the results of that investigation will be an integral part of the decisionmaking process. When kept current, such an environmental assessment can provide valuable assistance in the investigation and study process. The first meeting with the public should be scheduled early in the development stages so that the environmental "pulse" may be felt from the beginning.

(2) Beginning with the formulation stage, all anticipated environmental impacts and effects of each solution under consideration will be identified and discussed. This may entail the preparation of an environmental memorandum. After consideration of all the preliminary environmental factors, including those which may have been forthcoming as a result of the first meeting with the public, a second meeting with the public should be scheduled. Any environmental factors known to the U.S. section should be summarized and made available prior to the meeting. This will generate a meaningful and thorough discussion during the meeting. Interested citizens and citizen groups must be informed of the fact a public meeting is scheduled so that their views may be considered.

By the time the late stage in the planning has been reached the U.S. section's environmental position should have been formulated. A third meeting with the public should be scheduled so that the environmental discussions regarding any proposal and alternatives will be specific and thorough insofar as the environmental impacts and effects are concerned.

(3) On projects which were recommended, authorized or under construction prior to the National Environmental Policy Act of 1969, the range of alternatives and the opportunity to study and evaluate them may be more limited. However, to the maximum extent feasible, alternative solutions and opportunities for environmental enhancement, preservation, and mitigation will be investigated prior to preparation of the statement. Regardless of the level at which formal coordination is to take place, reporting officers will carefully examine and evaluate the environmental impact of all reasonable alternatives in coordination with appropriate Federal, State, and local agencies prior to preparing a recommendation or an environmental statement.

(4) As a "follow-up" the public will be informed of the general content of all statements before or at the time that the recommendation or report is furnished to the Council on Environmental Quality by publishing of an appropriate notice in the FEDERAL REGISTER, by public notice to all parties known to be interested, by press release, or by a combination of such means. In addition, prior to formulation of recommendations and preparation of the statement, in all cases where public hearings are held, PE/P will present, in the notice of the hearing and at the hearing, a discussion setting forth the information, as known to him, upon which his statement will be based. The discussion will include a listing of alternatives; the environmental impacts—positive or negative—associated with each fundamental alternative; the nature of environmental trade-off implied by various alternatives, including irretrievable commitments of each alternative; and the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity under the various alternatives. Whenever public announcement of recommendations or reports is made prior to submission of the statement to the Council on Environmental Quality, the announcement will contain an appropriate summary of the proposed statements and comments of other agencies. The draft statement may be provided interested agencies, groups and citizens. In certain cases, where critical and sensitive environmental effects and widespread public concern have been identified, PE/P will request preannouncement clearance to hold a public meeting. Requests will be supported by full recitation of the problems at issue with analysis of the pros and cons of the proposed and alternative courses of action.

(c) *Coordination of statement.* Coordination of the statement with Federal, State, and local agencies, as well as organized citizen groups, will be in accordance with existing policies and the following clarification:

(1) Coordination with responsible agencies will include transmittal of draft environmental statements for their review and comment. Upon receipt, agency comments will be reviewed and summarized in the statement. Copies of the agency comments will be included as an attachment to the statement when forwarded for further action. The agency comments and the views expressed should be no older than 3 calendar years for previously authorized projects. More recent coordination will be required if significant changes in the proposal or in the associated environment have occurred in the meantime. Copies of the statement will be forwarded to the appropriate contact points listed in Appendix II, Council on Environmental Quality Guidelines dated April 23, 1971, as well as to the field offices. The transmittal letter to field offices will advise that a statement has been furnished to the contact

[1] Appendices A through E filed as part of the original document.

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listed in Appendix II. Insofar as distribution of statements within a State is necessary, the clearinghouses established by Budget Circular No. A-95 dated June 15, 1970, or any revisions thereto, will be utilized.

(2) In the event environmental statements are being prepared on two or more units in the same area, the work on preparing statements will be scheduled to result in one transmittal to the Department and Council on Environmental Quality the statements for all units in an area.

7. *Administrative action.* No administrative action—to the maximum extent practicable—is to be taken sooner than ninety (90) days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased cost of procurement to the Government, made available to the public pursuant to the guidelines. Further, no administrative action should be taken sooner than thirty (30) days after the final text of an environmental statement (together with comments) has been made available to the Council and the public. In the event the final text of an environmental statement is filed within ninety (90) days after a draft statement has been circulated for comment, furnished to the Council and made public pursuant to this manual, the thirty (30) day period and ninety (90) day period may run concurrently to the extent that they overlap.

8. *Criteria for determining whether a project or activity has the potential to have a significant adverse effect on the quality of the human environment.* The following criteria will be employed in deciding whether a proposed action requires the preparation of an environmental statement:

(a) "Actions" include but are not limited to:

(1) Projects that are part of treaties and which have a significant impact on the environment.

(2) Recommendations or reports to the Congress on proposals for legislation affecting U.S. section programs, including proposals to authorize projects.

(3) Recommendations or reports on proposals for authorization of projects except for emergency measures.

(4) Initiation of construction or land acquisition on projects which are not yet started for which funds have been appropriated or are provided by the fiscal year 1971 Appropriation Act.

(5) Budget submissions requesting funds for the initiation of construction or real estate acquisition on authorized projects.

(6) Policy and procedure making.

(b) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated). Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed actions (including operations and maintenance activities), the environmental impact of which is likely to be highly controversial or unresolved conflicts concerning alternative use of available resources exist, should be covered in all cases.

Whenever any of the Federal, State, or local agencies which are authorized to develop and enforce environmental standards certify or the U.S. Commissioner determines that the issuance of leases, licenses, or permits for structures, dumping, and other actions in navigable waters of the United States, tributaries thereto, any international dam (storage or diversion) and lands and works under the jurisdiction of the U.S. section which it is proposed to issue and/or to permit would result in significantly and adversely affecting the quality of the human environment, an impact statement must be prepared.

In considering what constitutes major action significantly affecting the environment, bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. The lead agency should prepare an environmental statement if it is reasonable to anticipate a cumulatively significant impact on the environment from the Federal action.

(c) Section 101(B) of the NEPA indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. The NEPA also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment or serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if, on balance, the agency believes that the effect will be beneficial. Significant adverse effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human beings through adverse effects on the environment.

9. *Use of statements in U.S. section's review process; distribution to Council on Environmental Quality.*

(a) The principle to be applied is to obtain views of other agencies at the earliest possible time in the development of a program and project proposals. Care should be exercised so as not to duplicate the clearance process, but when actions being considered differ significantly from those that have already been reviewed an environmental statement should be provided.

(b) Ten (10) copies of draft environmental statements (when prepared), and ten (10) copies of the final text of environmental statements (together with all comments received thereon by the responsible agency from Federal, State, and local agencies and from private organizations and individuals) shall be supplied to the Council on Environmental Quality in the Executive Office of the President. (This will serve as making environmental statements available to the President.) It is important that draft environmental statements be prepared and circulated for comment and furnished to the Council early enough in the agency review process before an action is taken in order to permit meaningful consideration of the environmental issues involved.

10. *Availability of environmental statement and comments to public.* The U.S. section, when it prepares the statement, is responsible for making such statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 USCA 552).

11. *Publication in the* FEDERAL REGISTER. Notices will be placed in the FEDERAL REGISTER when:

(a) The draft statement has been approved by the Commissioner and transmitted to the Council on Environmental Quality.

(b) The final statement has been approved by the Commissioner and transmitted to the Council on Environmental Quality.

(c) Comments are received after the final statement has been approved, transmitted to Council on Environmental Quality, and publication regarding final statement has previously been published.

(d) Public meetings are held if deemed feasible.

The notice will contain sufficient information to inform those reading it of the location and purpose of a project and where copies of the statement may be obtained.

When comments are being sought by a publication, a time limit of not less than thirty (30) days may be established for local, State, and Federal agencies to reply. The U.S. section will, in all cases possible, allow private individuals sixty (60) days in which to comment. In cases where extensions of time are requested in which to comment, an endeavor will be made to comply with requests for extension of time up to fifteen (15) days. If no reply is received within the period allowed for comments, it will be presumed the agency consulted has no comments to make.

The notices will be drafted by PE/P, finalized and signed by C/E and transmitted to the Director of the Office of the Federal Register National Archives Building, Washington, D.C. 20408, by Chief of the Purchasing Section (A/PR).

12. *Budget process.*

(a) The requirement of NEPA, Water Quality Improvement Act, Executive Order 11514 and the guidelines shall be met through the U.S. section's budget process to the maximum extent practicable.

(1) *Proposed project or activity resulting from fiscal (fiscal year) 1971 and prior annual authorizations and appropriations legislation.*

PE/P shall review such portions of the fiscal year 1971 and prior annual authorizations and appropriations legislation for which he has programmatic or budgetary responsibility and identify, after consultation as appropriate with Legal, Chiefs of Construction and Operation and Maintenance, Engineers in Charge, Project Manager, or Project Superintendent, any proposed project or activity not yet undertaken which appears to have the potential to have a significant adverse effect on the quality of the human environment. A draft statement should be prepared for each such project or activity for consideration by the U.S. Commissioner. Preparation of such statement, to the extent practical, shall be in accordance with 9, supra.

(2) *Proposed projects or activities for calendar year 1971 and subsequent fiscal year budgets.*

PE/P shall prepare a draft environmental statement in accordance with the provisions of this manual.

(b) Following the necessary review with respect to projects or activities proposed for inclusion in fiscal year 1972 budgets and subsequent fiscal year budgets, PE/P will forward the draft statements to the Comptroller, hereinafter referred to as A/C, who will incorporate them as part of the information to be considered by the U.S. Commissioner for presentation to the Department of State, Bureau of Budget, and Congress.

(c) *Requirements*—(1) *Legislation.* This section is responsible for identifying those of its legislative proposals, or favorable reports on bills on which it is the principal agency concerned, that would require the preparation of the statements and receipt of the comments required under section 102(2)(C). When there is doubt as to which is the principal agency concerned, C/E shall consult with the Office of Management and Budget's Legislative Reference Division.

The proposed section 102(2)(C) statements and the required comments shall accompany

legislative proposals and reports when these are sent to the Office of Management and Budget for clearance. Copies of this material shall have been previously furnished directly to the Council on Environmental Quality for its information. As part of the normal clearance process, the Office of Management and Budget will circulate the proposed statements along with the proposals or reports to appropriate Federal agencies, and will consult with the Council on Environmental Quality. In certain cases, the clearance process may disclose the need for a section 102(2)(C) statement where none has been prepared; in this event, the Office of Management and Budget staff will request the appropriate agency to develop and submit such a statement.

After differences with other agencies over the legislative proposal or report have been resolved, and after the legislative proposal or report has been cleared by the Office of Management and Budget, the final statement and comments shall accompany the proposal or report to the Congress as supporting material.

(2) *Annual budget estimates.* In the event the U.S. section has major program actions with significant impact on the human environment, annual budget estimates shall be accompanied by a special summary statement (prepared by A/C from information submitted to him by PE/P in a timely manner) explaining generally the environmental impact expected to result from those activities and programs for which it is not possible to make an assessment of the potential impact on specific areas of the environment, special summary statements shall include relevant information about general environmental impact and alternatives, and, to the extent possible, important environmental problems that may be caused by proposed actions but which still must be assessed as plans for programs and activities are further refined. The special summary statement shall also include, in the form illustrated in Appendix C,[1] the following information by appropriation or fund account:

Column A—*Action, project, or activity.* Identify the agency actions and individual projects and activities, and the amounts of funds involved, that are considered subject to section 102(2)(C). Where the action is a part of a larger activity, identify only the project or action subject to section 102(2)(C) and the amount involved.

Column B—*Final statement completed.* Check the appropriate category. If there are significant unresolved issues with other agencies, include a copy of the statement with the submission to the Office of Management and Budget.

Column C—*Statement being prepared.* Give the status (e.g., awaiting signature of the Secretary) and estimated completion date.

Agencies that prepare section 102(2)(C) statements for annual authorizing legislation shall submit the proposed section 102(2)(C) statements in lieu of a special summary statement required by paragraph (2) above, except that the information required for the special summary exhibit shall be submitted along with the proposed section 102(2)(C) statement. Copies of the special summary statement or proposed section 102(2)(C) statement (accompanied by information for the special summary exhibit) shall be furnished directly to the Council on Environmental Quality.

13. *Lease, license, and permit applications.* As required by existing regulations, lease, license, and permit applications will be coordinated with Federal, State, and local agencies which are authorized to develop and enforce environmental standards, unless granting of the permit could not possibly lead to adverse environmental effects. In addition, PE/P will carefully evaluate the impact on the environment of the proposed action. Objections from such agencies or from PE/P will be presented to the applicant who will be given the opportunity to explain, withdraw, or modify his application so as to remove the cause for the objection. If the agency maintains its objection and certifies or if PE/P determines that granting the lease, license or permit would lead to significant environmental degradation, PE/P will prepare the statement required by section 102(2)(C) of NEPA. He may require the applicant to furnish the information required for preparation of the statement in addition to any information the applicant may wish to furnish in order to demonstrate that granting of the lease, license or permit is in the public interest. PE/P will furnish a summary of the information on which his statement is based to the public in the notice of public hearing and at the hearing, if one be held. In addition, he will forward the statement with other pertinent documents when the application is forwarded for review and approval.

Leases, licenses, or permits granted or approved by the U.S. section will contain provisions to assure compliance with applicable air and water quality standards; to conserve and protect the environment; and to avoid, minimize, or correct hazards to the public health and safety. The lessee, licensee, or permittee will be required to provide adequate measures to avoid, control, minimize, or correct erosion, contamination, or other abuses and damages to the environment within or without the premises under lease, license or permit that may result from or have been caused by operations conducted on the premises.

Farming and grazing operations shall be conducted in accordance with recognized principles of good practice, conservation, and prudent management. Land use stipulations or conservation plans to define such use and the measures necessary for the conservation, protection, and control of the environment shall be incorporated in and made a part of the lease, license or permit.

Commercial and industrial developments shall be constructed and operations conducted on the premises under lease, license, or permit to control and minimize environmental pollution and abuses. Leases, licenses, and permits shall contain provisions for the lessee, licensee, or permittee to submit, for advance approval, general and comprehensive plans of any proposed construction or developments for the use and conduct of operations as authorized for the premises prior to commencing any actual construction or development activities. Such plans, including architects' designs, construction specifications, machinery or equipment installation and operation or specifications for other operations or developments, shall provide measures necessary to protect, control, or abate environmental pollution or abuses and avoid, minimize, or correct hazards to the public health and safety. PE/P shall cause a technical examination of the plans to be made, and he may either approve or formulate requirements which must be met prior to approval.

Other uses as authorized by leases, licenses, or permits issued shall conform to the requirements and provisions formulated for each such use as adapted to local conditions and the environmental factors which are in need of protection and control measures.

Due to the nature of this section's leasing, licensing, and permit program, all factors are to be carefully considered before determining what is needed for the protection of the environment, conservation and land use requirements.

Environmental statements involving power transmission lines will be prepared in accordance with Bureau of Land Management, Department of the Interior, regulations as published in Subchapter B, Subpart 2850 of Title 43, CFR 2851.2-1 or any revisions or amendments thereto. (Reference attached Appendix D.[1])

14. *Operations at construction sites.* Some operations that contribute to pollution and noise at construction sites and therefore require close surveillance, are enumerated in the following list:

(a) *Air pollution.*
(1) Burning.
(2) Earthmoving operations (dust).
(3) Sandblasting.
(4) Sprayed-on coatings.
(5) Soil stabilization operations (cement or lime).
(6) Concrete mixing plant (dust).
(7) Batch truck operation (dust).
(8) Winter heating equipment (smoke and fumes).
(9) Gunite operations (rebound).
(10) Asphalt operations (dust—smoke—volatiles).

(b) *Water pollution.*
(1) Solid wastes.
(2) Earthmoving operations (runoff).
(3) Clearing operations (erosion).
(4) Core drilling and grouting operations (waste water).
(5) Wellpoint system runoff (erosion).
(6) Concrete operations:
(a) Aggregate washing.
(b) Spillage.
(c) Water curing.
(d) Washing of mixers and batch trucks.

(c) *Noise.*
(1) Pile driving.
(2) Equipment noise.
(3) Drilling and blasting.
(4) Rock crushing.

The construction engineer should ascertain that the contractor complies with:

(i) The current applicable Federal regulations.

(ii) The current applicable local regulations.

(iii) Methods and restrictions of operations that are contract requirements.

On projects where regulations and contract requirements do not specifically outline procedures, the contractor's cooperation in an effort to run a clean and safe operation should be encouraged.

Appropriate provisions will be included in the contract specifications for the works to be performed requiring compliance with Federal, State and local pollution laws, regulations, and rules. Examples of contract specifications are attached as Appendix E.[1]

15. *Coordination of U.S. section activities.* All actions or activities undertaken pursuant to or in accordance with the provisions of this manual shall be coordinated with C/E.

16. *Exceptions.* The nature of negotiations and relations at the international level may make it necessary to depart in some instances from the procedures in the Guidelines. CEQ foresaw the need for such departures in CEQ Guideline 10(d). Exceptions applicable to the U.S. section are set forth below.

(a) The statements which are written to comply with the Act should not normally include any classified material, nor should they normally include statements with respect to positions other than the optimum position of the United States in any ensuing negotiation or discussion. Although environmental impact statements should whenever possible be unclassified and hence available to the public, there may be situations where such statements cannot adequately discuss environmental effects without disclosure of classified information. In these instances, the statement should be appropriately classified. Whenever possible, the classification should

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terminate on a specified date or upon the happening of a described event. Such statements, so long as they are classified, will not be made available to the public.

(b) Since final statements may not be available until the conclusion of negotiations for an agreement or of a discussion, the 30-day time delay between submission of such a document and final Federal action set out in CEQ Guideline 10(b) will not apply to actions taken in these situations. Every attempt will be made to comply with the 90-day period which Guideline 10(b) requires between submission of the draft statement and final action. Where schedules of international conferences make this impossible, the U.S. section will notify the Council on Environmental Quality as soon as possible of the circumstances, with the purpose of fulfilling the intent of the act insofar as possible.

(c) In certain instances, it may be necessary at times to reduce the 30-day period for agency comments set out in CEQ Guideline No. 7. When this is the case, all agencies to whom the draft statement has been sent will be informed by the U.S. section of the reduced time period. The reduced time period must also be included in the public notice published in the FEDERAL REGISTER.

(d) Section 2(b) of Executive Order 11514 establishes requirements for providing public information on Federal actions and impact statements and envisions extensive use of public hearings. Public hearings will be employed by the U.S. section only upon a determination by the U.S. Commissioner that the requirements of carrying on international relations, including the constraints of time and the posture of the United States in negotiation, allow such hearings to be carried out without prejudice to the national interests.

(e) In those instances where the draft and/or final statement is submitted to the Department (SCI/EN) for concurrence before distribution outside the U.S. section and no notification is received from the Department after the expiration of 7 days from the date of mailing by the U.S. section, the U.S. section will assume the Department has concurred and shall proceed on that basis.

DEPARTMENT OF TRANSPORTATION

URBAN MASS TRANSPORTATION ADMINISTRATION

[UMTA 5610.1]

IMPLEMENTATION OF SECTION 102(2)(c) OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, SECTION 4(f) OF THE DEPARTMENT OF TRANSPORTATION ACT, SECTION 106 OF THE HISTORIC PRESERVATION ACT, AND SECTIONS 3(d) AND 14 OF THE URBAN MASS TRANSPORTATION ACT OF 1964

FEBRUARY 1, 1972.

1. *Purpose.* This order establishes internal procedures and policy for the Urban Mass Transportation Administration (UMTA) regarding the preparation of detailed environmental statements on proposals for major Federal actions significantly affecting the environment, as required by section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190), and procedures for implementation of related requirements.

2. *Background and authority.*

a. "The National Environmental Policy Act of 1969 (NEPA)" establishes a broad national policy to promote efforts to improve the relationship between man and his environment, and provides for the creation of a Council on Environmental Quality (CEQ). The Act sets out certain policies and goals concerning the environment and requires that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with those policies and goals. Certain procedural requirements are established applicable to the project approval process.

b. "Executive Order 11514," dated March 5, 1970, orders all Federal agencies to initiate procedures needed to direct their policies, plans, and programs so as to meet national environmental goals.

c. "Section 4(f) of the DOT Act" directs that "the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, wildlife and waterfowl refuge, and historic site of national, State or local significance as so determined by the Federal, State or local officials having jurisdiction thereof until he has determined (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreation area, wildlife and waterfowl refuge, or historic site resulting from such use."

d. "DOT Order 5610.1A" provides detailed guidelines to DOT operating administrations for implementing the NEPA.

e. "Section 14(c) of the Urban Mass Transportation Act of 1964" as amended requires that specific findings relating to economic, social, and environmental effects be made on projects under section 3 of the Act before any grant or loan may be approved.

f. "Section 3(d) of the Urban Mass Transportation Act of 1964" as amended requires specific certifications by applicants with regard to economic, social, and environmental effects for certain categories of projects.

g. "Revised guidelines" from the President's Council on Environmental Quality, issued April 23, 1971, set forth broad guidelines on implementation of the NEPA.

h. "Section 309 of the Clean Air Act" provides for the Administrator of the Environmental Protection Agency to review and comment on matters relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 102(2)(c) of Public Law 91-190 applies, and (3) proposed regulations published by any department or agency of the Federal government.

i. "Section 106 of the Historic Preservation Act" requires that prior to approval of Federal activities, agencies shall take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register, and give the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such undertaking.

3. *Policy.* It shall be the policy of UMTA to promote efforts to improve the relationship between man and his environment. In carrying out this policy, UMTA officials shall utilize the various mechanisms and procedures prescribed by this order to assure thorough consideration and responsiveness to protecting and enhancing the environment in local planning and decisionmaking leading to application for UMTA assistance, in UMTA project development and review, and in implementing approved plans. Thorough consideration and analysis of potential environmental impacts is necessary at all stages, and no action covered by this order shall be approved or recommended for approval unless the requirements contained herein have been fully complied with.

4. *Scope of coverage.* a. The procedures required by this order shall apply to the following actions:

(1) *Capital assistance.* Recommendation for approval of capital grants and loans (or amendments thereto that significantly alter the environmental impact of the project);

(2) *Other assistance.* Recommendations for approval of research, development, and demonstration grants and contracts (or amendments thereto that significantly alter the environmental impact of the project);

(3) *Legislation.* Legislative proposals originating within DOT and reports on legislative proposals not originating in DOT in which UMTA has primary responsibility or interest;

(4) *Budget proposals.* Program or budget proposals, except for continuation of existing programs within plus or minus 25 percent.

(5) Any other action not listed in (b) below which may have a significant environmental impact.

b. This order will not apply to the actions listed below.

(1) Administrative procurements, contracts for personnel services, and normal personnel actions;

(2) Recommendations for approval of grants or contracts for managerial training and university research and training;

(3) Recommendations for approval of technical studies. However, the work program of a technical study undertaken for the purpose of planning a capital grant project shall include an analysis of the environmental impacts of the project studied, unless such analysis is otherwise provided for;

(4) Recommendations for research, development, and demonstration projects which will result in a research study or report, except where such report is incidental to an activity which could involve an impact on the environment.

5. *Responsibilities.* a. The Assistant Administrator for Program Planning (UPP) shall be responsible for general planning and coordination of UMTA policies and procedures to implement the National Environmental Policy Act and DOT Order 5610.1A and the policy stated above. UPP will (1) serve as the point of contact with TEU and other offices with respect to environmental policy; (2) recommend any internal procedures and guidelines necessary to implement DOT Order 5610.1A; (3) consult with the Office of Chief Counsel (UCC), the Office of Program Operations (UPO), the Office of Research, Development, and Demonstration (URD), and other appropriate offices in the development of materials in (b) below; and (4) coordinate environmental statements from other Federal agencies circulated to UMTA for comment (see paragraph 9).

b. The "responsible official" is the UMTA official who approves or recommends approval by the Secretary or Administrator of an action covered by 4(a) above. For such an action, the responsible official shall insure compliance with the provisions of and policies underlying this order and shall use an interdisciplinary approach to acquire all data or analysis necessary to make or support the findings and statements required by this order, including when UMTA is the "lead agency" (see 10(f)) with regard to the action involved. The responsible official shall insure that applicants are aware of and comply with all applicable environmental requirements and he shall recommend issuance of such instructions as are necessary to accomplish this. He shall also insure that projects are performed in accordance with their environmental statements, and that any modification of a project required by the responsible UMTA or DOT official(s) are implemented. This shall include appropriate compliance review during project performance.

6. *Procedures for consideration of environmental impacts of UMTA actions* (also see Attachment 1 for diagram of required steps).

a. *Applicant's environmental analysis.* All applicants for UMTA capital assistance and applicants for other assistance, if such other assistance is for a project which it appears could have a significant impact on the environment (see 10(a)), shall be required to submit as part of their application an environmental analysis of the project (see 10(b)).

b. *Public hearings.* (1) Any applicant for UMTA assistance for a project in (a) above or another public agency designated by the applicant with the concurrence of UMTA shall hold a public hearing to afford all parties with a significant economic, social or environmental interest in the project an opportunity to express their views on reasonable terms without undue hardship. For direct Federal development projects, the responsible official shall make appropriate arrangements for holding a hearing.

(2) The hearing may be held prior to or following the applicant's circulation of its environmental analysis (see (c) below) to State and local agencies for comment, but it must occur prior to final submission to UMTA of the analysis of environmental effects of the project.

(3) A 30-day notice of hearing shall be published in a newspaper of general circulation in the geographic area to be served and shall specify that the following material is available for inspection on a reasonable basis and will be available at the hearing: Application for proposed project in as complete a form as then possible, including environmental analysis; transit development plan for the area. Where feasible, comments of public agencies should be made available to the public prior to the hearing.

(4) A transcript of the hearing shall be taken and provided to UMTA.

c. *Local review of proposed project through OMB Circular A-95 procedures.*

(1) The applicant shall circulate its preliminary application, including its environmental analysis, to the appropriate A-95 agencies for review and comment, along with such review of the application as is required by section 204 of the Demonstration Cities Act of 1966 and section 401 of the Intergovernmental Cooperation Act of 1968. These various reviews are all interrelated and should be undertaken simultaneously in order to afford proper interdisciplinary consideration of environmental impacts. The responsible official should consider deficient any review which does not substantially conform to this model.

(2) In forwarding the preliminary application, including the environmental analysis, to the A-95 clearinghouse, the applicant shall request that comments be solicited from State and local agencies authorized to develop and enforce environmental standards. All comments received by the clearinghouse shall be forwarded to the applicant and shall be forwarded by the applicant to UMTA.

(3) The environmental analysis should be appropriately revised by the applicant before submission to UMTA to reflect comments received as a result of the A-95 circulation, substantive environmental issues raised at the public hearing, and any other relevant comments.

(4) For UMTA projects not involving an applicant, which the responsible official determines to have a potentially significant impact on the environment, the UMTA Draft Environmental Statement (see (e) below) should be similarly circulated to appropriate State and local agencies for comment.

d. *UMTA evaluation of environmental impact of proposed project.* The responsible official shall evaluate the applicant's environmental analysis, comments obtained thereon, the hearing transcript, and such other information as he deems necessary, and determine whether the proposed action is likely to have a significant impact on the environment. If he determines that the action will not have such an impact, and can substantiate such determination, he shall make a "negative declaration" to that effect, which shall be included in the formal approval memorandum (see 10(g)). If he determines that the action may have a significant impact on the environment, he shall follow the procedure in (e) and (f) below governing the development of an "environmental statement." No action requiring an environmental statement shall be recommended for approval unless such statement is included in the formal approval package.

e. *UMTA Draft Environmental Statement; preparation and circulation for comment.* (1) On the basis of his determination that an action under 4(a) of this order may have significant impact, the responsible official shall prepare an UMTA Draft Environmental Statement (see 10(c)).

(2) UMTA Draft Environmental Statements shall be circulated for comment by the responsible official to: Environmental Protection Agency, regional office (five copies); Department of Housing and Urban Development, regional office; Department of Interior (six copies); Department of Health, Education, and Welfare; Department of Agriculture; the Council on Environmental Quality. Where the proposed action involves an item on the National Register, the Advisory Committee on Historic Preservation shall be invited to comment on the Draft Statement, and shall be consulted pursuant to the published regulations implementing section 106 of the Historic Preservation Act. Other Federal agencies may be invited to comment on the draft as appropriate (see 10(d)). Information copies shall be forwarded concurrently to UPP and TEU. At least 30 days must be allowed for receipt of comments from Federal agencies (45 for EPA comments), with an additional 15 days when requested, if feasible. Two (2) copies of the summary sheet (see 10(c)(1)) shall be forwarded to the Office of Management and Budget (OMB). Draft Statements on legislative proposals will be submitted to OMB, together with the legislative proposals, through the normal DOT legislative process; OMB will coordinate the statement with interested agencies.

(3) The responsible official shall make the Draft Statement available to the public upon written request or application in person to UMTA, and at the clearinghouse(s) to which the applicant circulated its environmental analysis, and shall publish notice of its availability in a newspaper of general circulation in the geographic area which would be affected by the proposed project. Where appropriate, those who request Draft Statements from UMTA should be advised of their availability from the National Technical Information Service.

(4) State and local agency comments, which have been made to the applicant and forwarded to UMTA, shall be forwarded by the responsible official to the CEQ at the time the UMTA Draft Statement is circulated for comment unless there has been a major revision in the applicant's environmental analysis. Where additional comments are invited from an A-95 clearinghouse by UMTA as a result of such major revision, the clearinghouse should forward a copy of any revised comments to CEQ as well as to UMTA within 30 days. If no revised comments or other communication is received within 30 days, the responsible official shall forward all of the original comments received from the clearinghouse to the CEQ.

(5) Project approval shall not take place less than ninety (90) days after the Draft Statement has been made available to appropriate Federal agencies, the CEQ and the public.

f. *UMTA Final Environmental Statement; preparation and distribution.*

(1) On the basis of comments received pursuant to the circulation of the Draft Statement as provided in (e) above, and such other information as he deems necessary, the responsible official shall formulate a Final Environmental Statement (see 10(c)). Comments received from State and local agencies, from Federal agencies outside DOT and from the public shall be evaluated in the text of the statement and appended thereto.

(2) The Final Statement (and required comments), in original and 12 copies shall be forwarded to TEU for concurrence; one copy shall be forwarded concurrently to UPP. Two weeks shall be allowed for TEU to act on the statement and forward the requisite copies of the Final Statement and comments of the CEQ; TEU will provide written notice within 2 weeks if they nonconcur. The Final Environmental Statement and comments thereon shall then be made available to the public pursuant to notice of availability and at clearinghouses as in (e) above. A copy of the Final Statement and comments shall be sent to any agencies or private organizations that commented substantively on the Draft Statement. Two (2) copies of the summary sheet shall be forwarded to OMB as in (e) above.

(3) Project approval cannot take place less than 30 days after the procedures outlined in this subparagraph have been completed. The approved Final Environmental Statement and comments shall be appended to the approval package. No recommendation requiring an Environmental Statement shall be submitted for approval by the Administrator without a Final Statement which has been concurred in by TEU.

7. *UMTA actions involving section 4(f) of the DOT Act.*

a. Any proposal for an action which requires the use of any publicly owned land from a public park, recreation area, wildlife or waterfowl refuge, or any land from an historic site of national, State, or local significance, shall require an Environmental Statement. In addition to the information and analysis required to be included in all environmental analyses (see 10(b)(1)), certain additional information (see 10(b)(2)) must be included by the applicant where the action involves any such land.

b. Proposed Final Environmental Statements for projects covered by this paragraph shall be submitted to TEU accompanied by a brief covering memorandum with signature lines for the concurrence of TEU-1, TGC-1, and S-2, and approval by the Secretary.

c. Any terms or conditions of the Secretary's approval shall be incorporated in the UMTA grant contract. Any proposals to deviate from the terms of the Secretary's approval on a prior action must be cleared with TEU.

6. *Environmental protection findings.*

a. Every recommendation for approval of an application for capital assistance pursuant to section 3 of the Urban Mass Transportation Act of 1964 as amended shall cite the certifications required of an applicant by section 3(d) of the Act and shall include the findings required by section 14(c) of the Act (see 10(e)), supported by appropriate evidence. Where an environmental statement is required under this order, the findings and certifications shall be included in the final statement. Where no environmental statement is required, the findings and certifications shall be made in the formal approval memorandum.

b. When the required findings (e.g., under section 4(f) of DOT Act or section 14(c) of the UMT Act) are to be made by the Secretary, an environmental statement, when one

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is required by this order, shall be the vehicle for obtaining secretarial approval. When the matter in issue would not require an environmental statement under this order, a statement in similar form shall serve as the vehicle for obtaining a secretarial findings. Statements requiring secretarial findings shall include a cover mtemorandum as provided by 7(b) above.

9. *UMTA comments on Environmental Statements circulated by other Federal Agencies.*

a. UPP shall coordinate development of UMTA comments on environmental statements of other Federal agencies which are of potential interest to UMTA and shall also consult with TEU. When a statement of potential interest is forwarded directly to UM TA, the coordinating official (UPP) shall notify TEU of receipt.

b. UMTA comments on environmental statements of Federal agencies outside DOT will be forwarded to TEU for incorporation in a coordinated DOT comment. UMTA comments on environmental statements of other DOT components shall be forwarded directly to that component, with a copy to TEU.

10. *Definitions.*

a. *Major UMTA actions significantly affecting the environment.* "Major." Any Federal action significantly affecting the environment is deemed to be "major" and a statement shall be prepared. Any action whose environmental consequences are uncertain but potentially significant should be considered significant.

(1) *General.* Effects of UMTA actions which ordinarily should be considered as significantly affecting the environment include, but are not limited to:

Actions involving significant taking of land, change in the use of land (particularly if it requires a change in zoning), or major construction.

Material effect on the amount of land required to be devoted to transportation and related purposes in the future.

Significant increase or decrease of traffic or congestion levels on streets and highways.

Division or disruption of an established community; division of an existing use (e.g., cutting off residential areas from recreation areas or shopping areas), or disrupting orderly, planned development.

A substantial aesthetic or visual effect, especially on areas of unique interest or scenic beauty.

Displacement of a substantial number of people or businesses.

A noticeable change in the ambient noise level for a substantial number of people.

Direct or indirect contribution to substantial changes in the level, composition, or distribution of air pollution.

Destruction or derogation of important recreational areas not covered by section 4(f) of the DOT Act.

Disturbance to the ecological balance of animal or natural resources.

Involve a reasonable possibility of substantially altering or contaminating public resources, e.g., public water supply source, treatment facility or distribution system.

Substantial physical disruption during construction.

(2) *Actions always significantly affecting the environment.*

Any action that is likely to be controversial on environmental grounds.

Any action involving the acquisition or use of a public park, recreation area, or wildlife refuge, or any land from an historic site.

Any action falling under section 106 of the Historic Preservation Act.

(3) *Actions which ordinarily will not have a significant affect on the environment.*

UMTA assistance for projects involving purchase of passenger buses or rolling stock as replacement for existing equipment or any equipment for such buses or rolling stock.

b. *Environmental analysis.* Analysis of the environmental impacts of a proposed project.

(1) *All projects.* The analysis should address the following points in separately numbered paragraphs:

A "description" of the proposed action and its purpose, including such maps, diagrams, or photographs as may be helpful in understanding the project in sufficient detail to permit careful analysis of impacts.

The "probable impact of the proposed action on the environment." (See 10(a)(4) for nonexclusive list of probable impacts to be analyzed.)

Any probable adverse environmental effects which cannot be avoided should the proposal be implemented, and a description of the steps that have been taken to minimize these effects. Where a benefit/cost analysis has been prepared, it should be attached to the environmental analysis.

"Identification and analysis of alternatives" to the proposed action or portion thereof having an adverse impact, including the alternative of not going forward with the proposal.

The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This in essence requires an assessment of the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations.

Identification of any irreversible and irretrievable environmental impacts or commitments of resources which would be involved in the proposed action should it be implemented. This requires identification of the extent to which the action curtails the range of beneficial uses of the environment and contemplates identifying the initiation of a course of action or series of actions which could have cumulative effects.

A discussion of all issues, problems, and objections raised in any hearing and in the review process and the disposition of the issues or objections.

(2) *Public parks, recreation areas, etc.* Where the proposed action involves acquisition or use of a "public park, recreation area, wildlife or waterfowl refuge," or "historic site," the analysis should also address the following points in separately numbered paragraphs:

Description of "any publicly owned land from a public park, recreation area or wildlife refuge" or "any land from a historic site" involved in or taken by the project, including its size, available activities, use, patronage, relationship to other similarly used lands in the vicinity of the project, maps, plans, and drawings showing in sufficient scale and detail the project and its impact on park, recreation, wildlife, or historic area, and slides, photographs, etc., as appropriate.

Similar data, as appropriate, for alternative designs and locations, including cost estimates and technical feasibility, and appropriate analysis of the alternatives.

A statement of the "national, State or local significance" of the area. Any finding that such land or site is not of significance must be supported by evidence from the Federal State or local agency having jurisdiction over the area.

Description of all planning undertaken to minimize harm to the protected area and statement of actions taken to implement this planning.

A specific certification that there is no feasible and prudent alternative to the use of such land and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

c. *Environmental Statement.*

(1) The Statement should analyze, as appropriate, the points enumerated in 10(b)(1) above and shall be headed:

Department of Transportation, Urban Mass Transportation Administration [Final or Draft] Environmental Impact Statement, pursuant to section 102(2)(c), Public Law 91-190.

The heading for statements on UMTA capital assistance projects shall include, "* * * and section 14 of the Urban Mass Transportation Act of 1964." Where the statement includes analysis of the points in 10(b)(2), the heading should include "* * * and section 4(f) of the Department of Transportation Act."

Where the proposed action involves a district, site, building, structure, or object that is included in the National Register, the heading should include "* * * and section 106 of the Historic Preservation Act," and the environmental statement should address the following points:

Steps taken to take into account the effect of the proposal on National Register property.

Records of consultations, if any, with the Office of Archeology and Historic Preservation of the National Park Service.

Records of consultation with and action, if any, by the Advisory Council on Historic Preservation (with statement that subsequent Council actions, if any, will be attached).

The Statement shall include a summary sheet in the form of Attachment 2.

(2) A general class of actions may be covered by a single environmental statement when the environmental impact of similar actions is substantially the same and no covered action will involve construction or the taking of land. The responsible official may develop such a statement, obtain approval, and cite the statement for the purpose of making an environmental statement on a particular project if he is satisfied and can substantiate that the action being recommended falls within the class.

d. *Additional Federal agencies which may be invited to comment on UMTA Draft Environmental Statements.* In addition to the Federal agencies required to be invited to comment on Draft Statements (see 6(e)(2) above), others which may be appropriate or required include those listed below. UPP and TEU will assist regarding these or other potential distributees.

Department of Defense, Army Corps of Engineers: Statements involving 4(f), as appropriate.

Department of Commerce, National Bureau of Standards: Noise control and abatement; DOC (Economic Development Administration): Urban planning, economic impact on low-income neighborhood.

Office of Economic Opportunity: Congestion, housing and building displacement, impact in low-income neighborhood.

e. *Findings and certifications.* Section 3(d) of the UMT Act requires all applicants for UMTA capital assistance to certify that they have:

(1) Afforded an adequate opportunity for public hearings pursuant to adequate notice and has held such hearings unless no one with a significant economic, social, or environmental interest in the matter requests a hearing;

(2) Considered the economic and social effects of the project and its impact on the environment; and

(3) Found that the project is consistent with official plans for the comprehensive development of the urban areas.

Based on the applicant's certifications and any other appropriate information, section 14(c) of the UMT Act requires the following findings for all capital assistance projects:

(1) Adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest.

(2) Fair consideration has been given to the preservation and enhancement of the environment and to the interests of the community in which the project is located.

(3) A specific statement that there is no adverse environmental effect of the project or there is no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect.

f. *Lead agency.* "Lead agency" refers to the Federal agency (where more than one agency is involved) which has primary responsibility for committing the Federal Government to a course of action with significant environmental impact. The responsible official should work with other Federal agencies to determine which agency should prepare the statement prior to any action by any of the other Federal agencies.

g. *Negative declaration.* A statement in the approval memorandum that "This project will have no significant impact on the environment," with a short explanation where appropriate. This should be taken to mean no significant negative or positive impact since the presence of either is ground for preparation of an environmental statement.

C. C. VILLARREAL,
Administrator.

DEPARTMENT OF TRANSPORTATION

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[Ref: SLS 2-5610.1A]

DOT ORDER 5610.1A—PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS SLSDC PROCEDURES FOR IMPLEMENTATION

The subject DOT order establishes procedures for preparation of detailed environmental statements, where required, on proposals for legislation or other major Federal actions significantly affecting the quality of the human evironment, as required by section 102(2)(C) of the National Environmental Policy Act of 1969. This section requires that all agencies of the Federal Goverment shall:

"Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) The environmental impact of the proposed action,

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) Alternatives to the proposed action,

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."

John B. Adams, III, Chief Engineer, has been named the point of contact and the responsible official for environmental statements for the St. Lawrence Seaway Development Corp. The attached procedures for implementation of DOT Order 5610.1A should be carefully reviewed and followed by all personnel in planning any program or action which will significantly affect the quality of the human environment.

PROCEDURES FOR IMPLEMENTATION OF DOT ORDER 5610.1A

1. *Scope.* These procedures will provide for implementation, by this corporation, where environmental statements are required, of section 102(2)(C) of the National Environmental Act of 1969 (the NEP Act), section 4(f) of the Department of Transportation Act of 1966 (the DOT Act), section 309 of the Clean Air Act of 1970 (the Clean Air Act), and section 106 of the National Historic Preservation Act of 1966 (the Historical Preservation Act).

2. *Applicability.* The requirements in DOT Order 5610.1A calling for either a negative declaration or a statement pursuant to section 102(2)(C) of the NEP Act apply to, but are not limited to the following: All contracts, purchases, leases, construction, research and development involving construction, rule making and regulatory actions, certifications, licensing, permits, plans, legislative proposals, directives, program or budget proposals or actions (except for continuation of existing programs at approximately current levels, i.e., plus or minus 25 percent, and any renewals or reapprovals of the foregoing. Exceptions to the foregoing are: (1) Administrative procurements (e.g., general supplies) and contracts for personal services; (2) normal personnel actions (promotions and hirings); (3) project amendments (e.g., increases in costs) which do not alter the environmental impact of the action; (4) legislative proposals not originating in DOT and relating to matters not the primary responsibility of DOT and (5) issuance of vessel passage permits as a matter of routine Seaway procedures. (See Definitional Guidelines, Attachment 1, Page 1).[1]

3. *Requirements.*

a. As early as possible and in all cases prior to agency decision concerning major programs and actions such as: Construction, waste disposal, regulations, operation of Federal facilities, etc., "all Office Heads are required to forward such proposed programs to the Chief Engineer for review."

b. All such proposed programs received by the Chief Engineer will be reviewed, and within 5 days, a determination will be made of whether a section 102(2)(C) statement is required, or whether a declaration will be made that the proposed action will not have a significant impact on the environment. When a negative statement is prepared, it need not be coordinated outside this agency.

c. When a determination is made that a section 102(2)(C) statement is required, the Chief Engineer, within fifteen (15) days of such determination, shall prepare a draft statement as shown in Items 4 and 5 below.

4. *Form of 102(2)(C) statement.*

DEPARTMENT OF TRANSPORTATION

ST. LAWRENCE SEAWAY DEVELOPMENT CORP.

(DRAFT ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO SECTION 102(2)(C), PUBLIC LAW 91-190

5. *Content of 102(2)(C) statement.* The following points will be covered in the statement:

a. "A description of the proposed action" and its purpose in sufficient detail to permit commenting agencies to assess environmental impacts with reasonable accuracy. Relevant technical data and maps or sketches should be included.

b. "The probable impact of the proposed action on the environment," including impact on ecological systems such as wildlife, fish, and marine life. Both primary and secondary significant consequences for the environment should be included in the analysis. For example, significant implications, if any, of the action for population distribution or concentration should be estimated and an assessment made of the effect of possible change in population patterns upon the resource base, including land use, water and public services, of the area in question.

c. "Any probable adverse environmental effects which cannot be avoided" should the proposal be implemented, such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of the Act.

d. "Alternatives" to the proposed action. Section 102(2)(D) of the NEP Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." Alternative actions that might avoid some or all of the adverse environmental effects or increase beneficial effects should be set forth and analyzed, including the alternative of not going forward with the proposal. Where a cost-benefit analysis of the proposed action has been prepared, this analysis should be attached to the statement.

e. "The relationship between local short-term uses" of man's environment and the maintenance and "enhancement" of long-term productivity. This in essence requires the agency to assess the action for cumulative and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations.

f. Any irreversible and irretrievable "commitments of resources" which would be involved in the proposed action should it be implemented. This requires the agency to identify the extent to which the action curtails the range of beneficial uses of the environment.

g. *Lead agency.* When working with other Federal Acencies on projects or programs that collectively have a significant impact on the environment, the lead agency, as determined after discussion with other involved agencies, will prepare the environmental statement prior to any action by any of the other Federal agencies.

h. *Interdisciplinary approach.* The resulting environmental impacts of proposed projects will be provided in detail and shall reflect the utilization of a systematic interdisciplinary approach.

i. *Legislative proposals.* Draft environmental statements on legislative proposals will be submitted to the Office of Management and Budget (OMB) together with legislative proposals through the normal DOT legislative process, for coordination by OMB with other interested agencies.

j. (This section will be added at the end of the review process in the final text of the environmental statement.) A discussion of "problems and objections" raised by other Federal agencies, State and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefor.

6. *Content of statements under section 4(f) of the DOT Act.* In addition to the information listed above, the following information will be included:

a. Description of "any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge" or "any land from an historic site" affected or taken by the project, including its size, available activities, use, patronage, relationship to other similarly used lands in the vicinity of the project, maps, plans, and drawings showing in sufficient scale and detail the project and its

[1] Filed as part of the original document.

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impact on park, recreation, wildlife, or historic areas, and slides, photographs, etc., as appropriate.

b. Statement of the "National, State, or local significance" of the area "as determined by the Federal, State or local officials having jurisdiction thereof."

c. Similar data, as appropriate, for alternative designs and locations, including cost estimates and technical feasibility and appropriate analysis of the alternatives.

d. If there is no feasible and prudent alternative, description of all planning undertaken to minimize harm to the protected area and statement of actions taken or to be taken to implement this planning.

e. A specific statement that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

7. Content of statement on projects subject to section 106 of the Historic Preservation Act. In addition to the information listed above, the following information will be included:

a. Steps taken by the agency to take into account the effect of the proposal on National Register property.

b. Records of consultations, if any, with the Office of Archeology and Historic Preservations of the National Park Service.

(c) Records of consultation with and action, if any, by the Advisory Council on Historic Preservation (with statement that subsequent Council actions, if any, will be attached).

8. *Comments of Federal agencies.* The draft 102(2)(C) statement shall be circulated for comment to all Federal agencies which have jurisdiction by law or special expertise with respect to the environmental impact involved (see Attachment 2),[2] allowing 30 days for comment. Ten copies of the draft statement shall also be sent to CEQ and three copies to TEU for review.

For actions within the jurisdiction of the Environmental Protection Agency (air or water quality, solid wastes, pesticides, radiation standards, noise), the proposal shall be referred to EPA with 45 days allowed for review and comment.

For actions which affect any object that is included in the National Register, the proposal will be referred to the Advisory Council on Historic Preservation for comment through the regional office of the National Park Service and the State Liaison Officer for Historic Preservation.

9. *State and local review.* Where review of the proposed action by State and local agencies authorized to develop and enforce environmental standards is relevant, a copy of the draft statement will accompany the proposal per OMB Circular A-95 procedures through the appropriate clearinghouse.

10. *Community involvement.* For any action requiring a public hearing, the draft statement will be made available to the public at least 30 days prior to the hearing. The notice of the hearing will indicate that the statement is available in the Office of the Chief Engineer, St. Lawrence Seaway Development Corporation, Administration Building, Massena, N.Y.

11. *Utilization of comments.* Comments received from Federal, State, and local agencies will accompany the draft statement through the normal internal project or program review process.

12. *Final statements.* Final statements, together with all comments received on the draft from Federal, State, and local agencies will be submitted to TEU for concurrence, together with twelve (12) copies (including ten (10) for forwarding to CEQ).

[2] Filed as part of the original document.

Unless otherwise notified within 2 weeks of submittal, the statement will be considered concurred in by TEU.

13. *Availability of statements.* TEU is responsible for transmitting ten (10) copies of each final statement to the CEQ, which transmittal shall be deemed transmittable to the President.

The final version of the statement and the comments received will be made available to the public at the St. Lawrence Seaway Development Corporation, Seaway Circle, Massena, N.Y., Office of the Chief Engineer, and at the appropriate State and regional clearinghouses. Agencies and organizations providing comments on statements will be notified of availability of final statements and comments from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va., 22151, at a nominal cost.

14. *Timing of agency decision.* No administrative action (i.e., any proposed action to be taken by the agency other than agency proposals for legislation to Congress, budget proposals, or agency reports on legislation) subject to section 102(2)(C) is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, made available to the public pursuant to these guidelines. Neither should such administrative actions be taken sooner than 30 days after the final approved text of a statement (with comments) has been made available to the CEQ and to the public.

D. W. OBERLIN,
Administrator.

OFFICE OF ECONOMIC OPPORTUNITY

EXECUTIVE OFFICE OF THE PRESIDENT

GUIDELINES ON ENVIRONMENTAL STATEMENTS

Applicability: All programs assisted under the Economic Opportunity Act if such assistance is administered by OEO.

1. *Statement of purpose.* This instruction provides guidance with regard to the general policies and procedures required by section 102(2)(C) of Public Law 91-190, the National Environmental Policy Act of 1969 (NEPA); Executive Order 11514; and the Interim Guidelines for Statements on Major Federal Actions Affecting the Environment published by the Council on Environmental Quality (CEQ). This instruction will amplify these documents by (a) identifying actions requiring environmental statements; (b) clarifying procedures for obtaining the information and reviews required for their preparation; (c) designating officials responsible for the preparation, review, and disposition of environmental statements; (d) insuring proper coordination of such actions, including consultation with appropriate Federal, State, and local agencies; and (e) explaining requirements for providing timely public information on proposals for legislation, preparation of regulations, and other major actions significantly affecting the quality of the human environment.

The CEQ has provided interim guidelines, which are attached to this instruction and will be referred to where appropriate. (See Attachment C.[1])

2. *Policy.*

(a) At the inception of a major action, the preparation of recommendations on reports or proposals for legislation of primary concern to the Office of Economic Opportunity, or drafting of regulations, all pertinent offies and regional offices within OEO shall make an assessment of the probable ecological and environmental impacts of that action.

(b) In the continuation of an existing program which was initiated prior to the passage of NEPA, all offices and regional offices will similarly assess the environmental impact of the proposed continuing action.

(c) If these appraisals indicate that (1) a significant effect on the quality of the human environment will result from a proposed action, regulation, or piece of legislation, or (2) a proposed action is likely to be controversial with respect to environmental effects, a five-point draft environmental statement will be prepared in accordance with this instruction.

3. *Actions requiring environmental statements.*

(a) The necessity for submitting an environmental impact statement should be evaluated in accordance with section 5 of the attached CEQ guidelines. If in the best judgment of the office or regional office, the proposed action will cause significant changes in natural surrounding, including effects on man, wildlife, plants, fish, and marine life, or will result in "substantial controversy," submission of an environmental statement is required. To assure that the requirements of the NEPA are met, OEO offices or regional offices will interpret broadly the scope of the term "significant environmental effects."

(b) Activities or actions of the following types, in particular, should be assessed carefully for the necessity of preparing an environmental statement:

(1) Housing construction or rehabilitation programs;

(2) Cooperatives which supply any form of energy (such as electricity, natural gas, etc.);

(3) Animal or plant production programs;

(4) Population control programs; and

(5) Programs which may displace significant numbers of people.

(c) In cases where the office or regional office has any doubt about the necessity of preparing an environmental statement for a particular proposed action, the Office of General Counsel should be consulted.

4. *Preparation of environmental statement.*

(1) *General.* Preparation of environmental statements will be based on considerations discussed in section 6 of the CEQ guidelines.

(2) *Format.* Environmental statements will consist of two parts—a summary sheet and the body of the environmental statement. The summary sheet shall accompany each draft or final environmental statement, consisting of no more than one page, and covering the items contained in Attachment A.[1]

(3) *Content of statement.* The body of the environmental statement will contain the following sections with the length of each being adequate to identify and develop the required information:

(a) *Project description.*

(b) *The environmental impact of the proposed action.*

(c) *Any adverse environmental effects which cannot be avoided should the proposal be implemented.*

(d) *Alternatives to the proposed action.*

(e) *The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity.*

(f) *Any irreversible and irretrievable commitments of resources which would be involved if the proposed action is implemented.*

(g) *Coordination with other agencies.*

[1] Attachments A, B, and C, filed as part of the original document.

(h) *Comments of the Environmental Protection Agency.*

Section 6 of the attached guidelines should be consulted to determine what type of information is required for each section.

5. *Processing environmental statement originated by an OEO office or regional office.*

a. *Submission of draft statement to the Office of General Counsel.* The relevant office or regional office shall prepare a draft environmental statement in accordance with paragraph 4 above and submit three (3) copies to the Office of General Counsel. This submission will be accomplished prior to any formal review outside OEO.

b. *Review of draft statement by Office of General Counsel.* The General Counsel's Office shall review the draft statement and obtain comments from other appropriate elements of OEO. The General Counsel shall then communicate with the originating office or regional office, indicating concurrence or recommending changes.

c. *Submission of draft statement to the CEQ.* Following receipt of the General Counsel's review and concurrence, the originating office or regional office shall submit ten (10) copies of the draft or revised draft statements to the CEQ. A copy of revised draft statements shall be sent to the Office of General Counsel.

d. *Submission of draft statement to EPA.* In compliance with paragraph 8 of the CEQ guidelines, the originating office or regional office shall submit seven (7) copies of the draft environmental statement to the appropriate Environmental Protection Agency contact point (regional or Washington) for their review and comment. (See attachment B.[1])

e. *Review of draft statement by other Federal agencies.* Immediately after submission of the draft statement to the CEQ, the originating office or regional office shall solicit the views of other Federal agencies having jurisdiction by law or special expertise with any of the environmental problems associated with the proposed action, in accordance with paragraph 7 of the attached CEQ guidelines.

f. *Review of draft statement by State and local agencies.* The procedure to be followed for State and local review of draft statements is set out in paragraph 9 of the guidelines.

g. *Submission of the final statement to the CEQ.* After concluding the review process with other Federal, State and local agencies, ten (10) copies of the final environmental statement, including ten (10) copies of all comments received shall be forwarded to the CEQ. When appropriate, a presentation of the problems and objections raised by other agencies in the review process and the disposition of these issues shall be included with the final environmental statement.

Concurrently, a copy of the final submission shall be provided to the Office of General Counsel by the originating office or regional office.

6. *Processing environmental statements originated by other Federal agencies.* OEO has been designated as an agency with jurisdiction by law or expertise in the sphere of environmental effects of low-income neighborhoods, and will thus be asked to comment by other Federal agencies on environmental effects in this area.

a. When a request for review and comment on an environmental statement prepared by another Federal agency is received by the Office of General Counsel, the following procedure shall be followed:

(1) The Office of General Counsel shall determine which OEO office or regional office should review the environmental statement. This determination shall be based upon the nature of the environmental impact involved and OEO expertise available.

(2) The appropriate office or regional office will be requested to review environmental statements and shall provide the Office of General Counsel with comments.

(3) The Office of General Counsel shall prepare a consolidated review report or designate the office or regional office with primary interest to prepare such a report. The consolidated review report shall be forwarded to the requesting Federal agency by the Office of General Counsel.

b. Should a request for review and comment on an environmental statement from another Federal agency be received directly by an Office or Regional Office, the following procedure shall be followed:

(1) If the proposed action has no significant environmental effect on low-income neighborhoods—then the Office or Regional Office shall reply directly to the Federal agency requesting the information and provide the Office of General Counsel with an information copy.

(2) If the proposed action does have a significant environmental effect on low-income neighborhoods—then the Office or Regional Office shall send the proposed comments to the Office of General Counsel.

c. If it is determined that more than one Office or Regional Office has been requested to review and comment on an environmental statement prepared by a Federal agency, the reply shall be forwarded through the Office of General Counsel for preparation of a consolidated response.

7. *Processing of legislative actions.* Pending definitive guidance from the Office of Management and Budget, the present methods of accomplishing coordinating actions on proposed legislation shall be continued. Necessary comments indicating the impact on the environment shall be included in OEO legislative proposals and in comments prepared by OEO Offices or Regional Offices on legislation prepared by other Federal agencies that are of primary concern to OEO.

8. *Availability of environmental impact statements and comments to public.* The OEO Office or Regional Office which has prepared an environmental statement is responsible for making its statement and all comments pertinent to it available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. Section 552).

9. *Implementing actions.* OEO Offices and Regional Offices shall comply with the provisions of this instruction and shall:

a. Designate an individual who will act as liaison with the Office of General Counsel with respect to environmental impact statements.

b. Identify new and continuing actions and advise the Office of General Counsel no later than 60 days from the date of this instruction of all environmental statements pending preparation or submission.

c. Provide the Office of General Counsel with recommended changes in the policies and procedures delineated in this instruction within 90 days of the date of this instruction.

10. *Attachments.*[1]

A. Format for Environmental Statement Summary Sheet.

B. Washington and Regional Offices of EPA.

C. Guidelines prepared by the Council on Environmental Quality, as well as a list of Federal agencies with jurisdiction by law or special expertise to comment on various types of environmental impact.

[1] Attachments A, B, and C, filed as part of the original document.

[1] Attachments A, B, and C, filed as part of the original document.

SMALL BUSINESS ADMINISTRATION

[Amdt. 16]

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The National Environmental Policy Act of 1969 (Act), 83 Stat. 852, 42 U.S.C. 4321, authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment set forth in the Act. It also requires, among other things, that Federal agencies include in recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement on specified environmental considerations.

The Small Business Administration has adopted the statement of general policy, in the form of Appendix A, set forth below, indicating the manner in which the Administration will exercise its responsibilities under the Act.

Because this statement provided for herein is a general statement of policy, notice and public procedure are unnecessary and the statement will be effective upon publication in the FEDERAL REGISTER. Nonetheless, the Administration invites all interested persons who desire to submit written comments or suggestions in connection with the statement to submit two (2) copies of such comments or suggestions to the General Counsel, Small Business Administration, 1441 L Street NW., Washington, DC 20416, no later than sixty (60) days after publication of this statement in the FEDERAL REGISTER. Consideration will be given to such submissions with the view to possible further amendments. Copies of comments or suggestions received may be examined in the Office of Interagency Affairs, Room 706, 1441 L Street NW., Washington, DC 20416.

APPENDIX A—STATEMENT OF GENERAL POLICY IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

1. *Purpose.* This statement of general policy sets forth the manner in which the Administration will implement the requirements of the National Environmental Policy Act of 1969 (Act), 83 Stat. 852, 42 U.S.C. 4321, Executive Order 11514 (35 F.R. 4247) of March 4, 1970, and guidelines issued by the Council on Environmental Quality (CEQ) and prescribes the policies and procedures to be followed throughout the Administration in the preparation of environmental impact statements on proposals for legislation and other major actions significantly affecting the quality of the human environment.

2. *General.* (a) The Act authorizes and directs that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies for the protection of the environment set forth in the Act. It also requires, among other things, that Federal agencies include in recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement on specified environmental considerations.

(b) Executive Order 11514 further directs that Federal agencies direct their policies, plans, and programs so as to meet national environmental goals.

(c) The CEQ has provided guidelines (36 F.R. 7724) to Federal departments, agencies, and establishments for preparing detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the

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human environment as required by section 102(2)(C) of the Act.

3. *Policy.* It is the Administration's policy to implement the spirit as well as the letter of the Act, Executive Order 11514 and the CEQ guidelines to the greatest extent possible consistent with the mission of the Administration. Accordingly, the Administration will exercise its responsibilities in accordance with the following policy and guidelines:

(a) Associate Administrators, Assistant Administrators, and the General Counsel are responsible for identifying individual actions (e.g., a specific loan, grant, or contract) within their respective jurisdictions which require the issuance of environmental impact statements. Environmental impact statements relating to legislation will be the responsibility of the Office of General Counsel.

(b) In determining whether a proposed action requires the preparation and issuance of an environmental impact statement, responsible officials will be governed by the guidelines provided by the CEQ.

(c) Interpretations of the Act, Executive Order 11514, the CEQ guidelines and this statement of general policy or any modifications thereof will be the responsibility of the Office of General Counsel.

(d) Environmental impact statements will also be issued with respect to any existing or currently proposed Administration program (e.g., loan program, lease guarantee program) which has or may be expected to have a significant effect on the environment. Responsibility for the issuance of such program impact statements is hereby placed with the responsible officials designated above.

4. *Procedures.* (a) Responsible officials will insure that procedures set forth in CEQ guidelines are observed whenever it is determined that an environmental impact statement be issued.

(b) Information on Administration actions and programs with significant environmental impact will be provided to the public at the earliest feasible time in the development of program and action proposals.

(c) Consultation with other Federal agencies in connection with preparation of draft or final environmental impact statements as set forth in paragraphs 7 and 8 of the CEQ guidelines will be conducted by the responsible officials through the Office of General Counsel.

(d) Any State and local review of the environmental impact of any proposed action or program which may be required under paragraph 9 of the CEQ guidelines will be conducted by the responsible officials through the Office of General Counsel.

(e) All draft and final environmental impact statements will be submitted by the responsible officials to the Office of General Counsel which will be responsible for the circulation and availability thereof to the public as set forth in paragraph 10 of the CEQ guidelines.

(f) To the maximum extent practicable, no administrative action (i.e., any proposed action other than proposals for legislation or reports on legislation) which constitutes a major action significantly affecting the quality of the human environment will be taken sooner than ninety (90) days after a draft environmental impact statement has been circulated for comment by the Office of General Counsel, furnished to the CEQ and made available to the public pursuant to the CEQ guidelines. Nor should such action be taken sooner than thirty (30) days after the final text of an environmental impact statement has been made available to the CEQ and the public.

(g) As a general rule, draft and final environmental impact statements and comments thereon shall be available to the public in the Office of General Counsel, Washington, D.C., and in the Regional or District Offices within whose jurisdiction the proposed action is to take place.

(h) Whenever emergency circumstances may require an action with significant environmental impact without observing the procedures set forth herein or in the CEQ Guidelines, the responsible official shall immediately notify the Office of General Counsel which will consult with the CEQ about alternative arrangements as required by paragraph 10(d) of the CEQ guidelines.

(i) In the event the responsible official is of the opinion that a public hearing is required with respect to any action or program requiring an environmental impact statement, he shall so notify the Office of General Counsel at the earliest practical time. The Office of General Counsel, after consultation with the CEQ, will determine whether such a hearing will be held. In the event a public hearing is held, the draft environmental impact statement shall be available to the public at least fifteen (15) calendar days prior to the hearing.

5. *Content of environmental statement.* (a) Draft and final environmental impact statements shall contain the information required by paragraph 6 of the CEQ guidelines.

(b) A summary sheet in the form prescribed by Appendix 1 of the CEQ guidelines should accompany each draft and final environmental impact statement.

6. *Environmental effects of current programs.* All Associate and Assistant Administrators and the General Counsel shall, in addition to the requirements of paragraph 3 above, prepare for publication in the FEDERAL REGISTER, as supplements to this statement of general policy, statements identifying for the public the manner in which environmental factors are considered in the day-to-day operations of each Administration program or function under their respective jurisdictions. These statements are intended as an aid to the public in identifying the Administration's environmental procedures and requirements. The statements shall be updated periodically as may be required by internal organizational, functional, or other changes.

7. *Effective date.* These statements shall become effective on publication in the FEDERAL REGISTER (10-18-72).

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-17159 Filed 10-19-72;8:45 am]

federal register

FRIDAY, OCTOBER 20, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 204

PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications and Supersedeas Decisions; Deletion of Expiration Date

Pursuant to the provisions of § 1.7 of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21140), all wage determinations, modifications and supersedeas decisions now in effect and published in prior FEDERAL REGISTERS, whether before or after October 5, 1972, the effective date of the amendment to § 1.7, which contain a 120 day expiration date, are hereby revised to delete the 120 day expiration date so that they shall be effective without limitation as to time, as authorized by said § 1.7(a)(2).

Signed at Washington, D.C. this 13th day of October 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

[FR Doc.72-17753 Filed 10-19-72;8:45 am]

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions, Modifications and Supersedeas Decisions

New determinations. There are set forth below general area wage determination decisions Nos. AP-136 and AP-439 of the Secretary of Labor. These decisions specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein. These decisions are applicable to Federal and federally assisted contruction in the described localities in the States of Georgia, Maryland, North Carolina, South Carolina, Tennessee, and Virginia, and the District of Columbia.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing, statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

These wage determinations are effective without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable determination together with any modifications issued subsequent to this date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and supersedeas decisions to area wage determination decisions. Modifications and/or supersedeas decisions to area wage determination decisions for specified localities in the States of California, Delaware, District of Columbia, Maryland, Massachusetts, Michigan, New York, Pennsylvania, Tennessee, Texas, and Virginia.

Area wage detemination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-1,725; AM-1,727; AM-1,-732; AM-1,733; AM-1,735.	Aug. 11, 1971.
AM-1,854	Aug. 20, 1971.
AM-6,130	Nov. 12, 1971.
AM-9,681	Feb. 25, 1972.
AM-9,323	June 16, 1972.
AM-9,699	June 30, 1972.
AP-100	July 7, 1972.
AP-408	July 28, 1972.
AP-409; AP-410; AP-411	Aug. 4, 1972.
AP-306	Aug. 11, 1972.
AP-312	Aug. 18, 1972.
AP-224; AP-313; AP-314; AP-315.	Aug. 25, 1972.
AP-413; AP-414; AP-415; AP-416; AP-418.	Sept. 1, 1972.
AP-23; AP-342; AP-343; AP-345; AP-349; AP-350.	Sept. 29, 1972.
AP-27	Oct. 6, 1972.

Are hereby modified and/or superseded as set forth below. Supersedeas decision numbers are in parentheses following the number of the decision being superseded.

These modifications and/or supersedeas decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications and/or supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications and/or supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 533 is set forth in the document being modified.

Signed at Washington, D.C. this 13th day of October 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

AP-439 P. 2

NEW DECISION

STATES: Maryland, Georgia, North Carolina, South Carolina, Virginia and Washington, D. C.

DECISION NO.: AP-439

DESCRIPTION OF WORK: All dredging on the Atlantic Coast from the southern border of Maryland to the northern border of Florida, including the Chesapeake Bay but excluding the Chesapeake and Delaware Canal, Baltimore City and Baltimore County, Maryland.

DATE: Date of Publication

DREDGE -2-ATLANTIC-K 1-2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
HYDRAULIC DREDGES 20" AND OVER						
Leverman and engineer	$5.13	.25	.15	a		
Mate	4.51	.25	.15	a		
Welder	4.69	.25	.15	a		
Derrick operator	4.90	.25	.15	a		
Spill barge operator	4.77	.25	.15	a		
Spider barge operator	4.77	.25	.15	a		
Tug master	4.46	.25	.15	a		
Carpenter	4.87	.25	.15	a		
Tug mate	4.20	.25	.15	a		
Electricians	5.00	.25	.15	a		
Mechanist	4.82	.25	.15	a		
Steward	3.75	.25	.15	a		
Oiler and fireman	3.61	.25	.15	a		
Deckhand, tug deckhand	3.29	.25	.15	a		
Cook	3.21	.25	.15	a		
Second cook	3.29	.25	.15	a		
Messman	3.21	.25	.15	a		
HYDRAULIC DREDGES UNDER 20"						
Leverman	4.65	.25	.15	a		
First engineer	4.37	.25	.15	a		
Second engineer	4.25	.25	.15	a		
Third engineer	4.12	.25	.15	a		
Welder	4.46	.25	.15	a		
Mate	3.84	.25	.15	a		
Oiler and firemen	3.55	.25	.15	a		
Deckhand	3.29	.25	.15	a		
Launchman	3.61	.25	.15	a		
Shoreman	3.21	.25	.15	a		
Spill and spider barge operators	3.97	.25	.15	a		
Cook	3.55	.25	.15	a		
Mess cook	3.27	.25	.15	a		
Messman and janitor	3.18	.25	.15	a		
DIPPER AND CLAMSHELL DREDGES						
Operator	5.00	.25	.15	a		
Craneman	4.87	.25	.15	a		
First engineer	4.20	.25	.15	a		
Second engineer	4.09	.25	.15	a		
Third Engineer	3.84	.25	.15	a		
Welder	4.46	.25	.15	a		
Mate	4.15	.25	.15	a		
Fireman	3.60	.25	.15	a		
Deckhand	3.29	.25	.15	a		

AP-439 P. 2

DREDGE -2-ATLANTIC-K 2-2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DIPPER AND CLAMSHELL DREDGES (Cont'd)						
Launchman	$3.61	.25	.15	a		
Scowman	3.37	.25	.15	a		
Tug master	4.37	.25	.15	a		
Mate	4.27	.25	.15	a		
Engineer	4.27	.25	.15	a		
Asst. engineer	4.15	.25	.15	a		
Deckhand	3.24	.25	.15	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays: A through F, plus 5% of straight time pay.

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NEW DECISION

STATE: Tennessee COUNTY: Washington
DECISION NO.: AP-136 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

90-R-Tenn.-A

RESIDENTIAL CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Air condition mechanic	$3.00					
Bricklayers	5.00					
Carpenters	3.50					
Carpenters' helpers	2.00					
Cement masons	2.50					
Drywall finishers	3.00					
Drywall hanger	3.25					
Electricians	3.25					
Electricians' helpers	2.75					
Ironworker, reinforcing	3.50					
Laborers:						
Laborers	2.00					
Mason tenders	2.50					
Mortar mixers	2.00					
Lathers	3.25					
Painters, brush	3.00					
Plasterers	3.00					
Plumbers	3.00					
Plumbers' helpers	2.25					
Roofers	3.00					
Sheet metal workers	3.00					
Soft floor layers	2.75					
Stone masons	4.87					
Tile setters	2.75					
Tile setters' helpers	2.00					
Truck drivers	2.25					
Welders - Rate of Craft.						
Power Equipment Operators:						
Air compressor, large	2.75					
Backhoe	3.25					
Blade grader	3.00					
Bulldozers	3.50					
Front end loader	4.50					
Scraper, pan	3.00					

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-6,130 - Mod. #2 (36 FR 21723 - November 12, 1971) San Diego County, California						
Change:						
Bricklayers	$7.95	.58	.75		.05	
Brick tenders	5.96	.30	.45	.40		
Glaziers	9.05	.35	.30			
Ironworkers:						
Reinforcing	8.34	.58	.625	.70		
Fence erectors	8.24	.58	.625	.70		
Ornamental; Structural	8.38	.58	.625	.70		
Lathers (Northern portion of San Diego County from center of City of Del Mar)	7.67	.30	.75	.50		
Lathers (Remainder of County)	8.03	.30	.50		.02	
Marble setters; Terrazzo workers; Tile setters	6.71	.30	.43	.60		
Plasterers	8.10	.45	.55			
Soft floor layers	7.45	.45	.30	.50	.05	
Laborers:						
Fine grader on highways, streets & airports paving (sewer & drainage lines); Landscape gardener & nursery man	4.93	.30	.45	.40		
Laborer (packing rod steel & pans); Tank scaler & cleaner	4.955	.30	.45	.40		
Powdermen	5.315	.30	.45	.40		
DECISION #AP-224 - Mod. #3 (37 FR 17321 - August 25, 1972) San Diego County, California						
Change:						
Laborers:						
Fine grader on highways, streets & airports paving (sewer & drainage lines); Landscape gardener & nursery man	4.93	.30	.45	.40		
Laborer (packing rod steel & pans); Tank scaler & cleaner	4.955	.30	.45	.40		
Powdermen	5.315	.30	.45	.40		
Lathers (Remainder of County)	8.03	.30	.50		.02	

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-9,699 - Mod. #3 (37 FR 13023 - June 30, 1972) Statewide, Delaware						
Change:						
Glaziers	$8.38	.35	.30		.01	
DECISION #AP-411 - Mod. #4 (37 FR 15799 - August 4, 1972) Washington, D. C.						
Change:						
Bricklayers	$8.70	.37	.33			
Cement Masons:						
Cement masons	7.75	.255	.20		.05	
Grinding machine	8.00	.255	.20		.05	
Plumbers	8.93	.38	.25		.10	
Steamfitters, refrigeration & air conditioning mechanic	9.04	.30	.25		.07	
Soft floor layers	7.77	.25	.29		.07	
DECISION #AP-409 - Mod. #5 (37 FR 15821 - August 4, 1972) Montgomery and Prince Georges Counties, Maryland; City of Alexandria, Virginia; Arlington and Fairfax Counties, Virginia and Dulles International Airport						
Change:						
Bricklayers	$8.70	.37	.33			
Cement Masons:						
Cement masons	7.75	.255	.20		.05	
Grinding machine	8.00	.255	.20		.05	
Plumbers	8.93	.38	.25		.10	
Steamfitters, refrigeration & air conditioning mechanic	9.04	.30	.25		.07	
Soft floor layers	7.77	.25	.29		.07	
DECISION #AP-410 - Mod. #4 (37 FR 15283 - August 4, 1972) Baltimore City and County, Maryland						
Change:						
Plumbers	$8.28	.35	.35		.04	
Steamfitters	7.91	.45	.60		.06	

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-413 - Mod. #3 (37 FR 17912 - September 1, 1972) Barnstable County, Massachusetts						
Change: Building, heavy & highway construction: Carpenters; Soft floor layers	$7.90	..35	.40			
DECISION #AP-414 - Mod. #3 (37 FR 17915 - September 1, 1972) Essex County, Massachusetts						
Change: Building, heavy & highway construction: Electricians: Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley, Salisbury, & West Newbury	8.35	.25	1%+.20		..	
Plumbers; Steamfitters: Andover, Georgetown, Groveland, Lawrence, Methuen, & North Andover	8.49	.30	.25		.05	
DECISION #AP-415 - Mod. #4 (37 FR 17919 - September 1, 1972) Hampden County, Massachusetts						
Change: Building, heavy & highway construction: Carpenters; Soft floor layers: Holyoke	8.33	.35	.30	h	.02	
Remainder of County	8.28	.35	.35	h	.02	
Sheet metal workers	8.38	.40	.65		.02	
Footnote: 1 Paid holiday: Labor Day						

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-416 - Mod. #3 (37 FR 17922 - September 1, 1972) Middlesex County, Massachusetts						
Change: Building, heavy & highway construction: Plumbers: Bedford	8.59	.40	.40		.02	
Steamfitters: Bedford	8.59	.40	.40		.02	
DECISION #AP-418 - Mod. #3 (37 FR 17930 - September 1, 1972) Worcester County, Massachusetts						
Change: Building, heavy & highway construction: Electricians: Fitchburg, Harvard, Lancaster, & Leominster	8.05	.40	1%+.25		.02	
DECISION #AP-23 - Mod. #1 (37 FR 20443 - September 29, 1972 Kent County, Michigan						
Change: Electricians	$7.62	.30	1%		.01	

DECISION #AP-27 - Mod. #1
(37 FR 21252 - October 6, 1972)
Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweena, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason, Mecosta, Menominee, Missaukee, Montmorency, Newago, Oceana, Ogemaw, Ontonagon, Osceola, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft, and Wexford Counties, Michigan

ADD TO COUNTIES:
Alcona and Alger

MODIFICATIONS P. 5

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,725 - Mod. #5 (36 FR 14926 - August 11, 1971) Erie County, New York						
Change: Building Construction: Electricians	$9.71	.25	1%+.50		g	
Footnote: g. Employer contributes $150.00 per year to a joint apprentice training committee.						
Omit: Dredging schedule (See New Decision AM-9,322 published in 37 FR, Page 10693, May 26, 1972						
DECISION #AM-1,727 - Mod. #5 (36 FR 14938 - August 11, 1971) Monroe County, New York						
Change: Building Construction: Bricklayers, plasterers & stone masons	$8.985	.30	.50		.02	
Carpenters, Building	8.57	.35	.30+.30		.005	
Cement masons, Building	8.785	.30	.50		.02	
Electricians	9.70	.25	1%+.25		½ of 1%	
Glaziers	7.87	.58	.20		.02	
Ironworkers: Structural, ornamental & reinforcing	8.51	.50	.40			
Lathers	8.68		.50		.01	
Laborers, Building: Laborers	6.98	.43	.45+.40			
Blaster	8.35	.43	.45+.40			
Air track, wagon drill op., asphalt rakers	7.38	.43	.45+.40			
Jackhammers, mortar mixer, concrete vibrator, pipelayers, burners & cutters for wrecking and demolition	7.28	.43	.45+.40			
Piledrivermen & millwrights: Building	8.81	.30+.30	.30	h		
Plumbers & steamfitters	9.57	.405	.52		.06	
Soft floor layers	7.455	.30	.30	e+f		
Sprinklerfitters	8.75	.30	.50		.05	
Truck drivers, Building	7.67	.30	.25			
Omit: Dredging schedule (See New Decision AM-9,322 published in 37 FR, Page 10693, May 26, 1972)						

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1.732 - Mod. #4 (36 FR 14965 - August 11, 1971) Orange County, New York						
Change: Building Construction: Boilermakers	8.88	5%	5%+10%	7%	.01	
Electricians: Remainder of County	7.95	.33	1%+.44		½ of 1%	
Laborers: (Building) Common Laborers, mason tenders, mortar mixers, hod carriers, scaffold builder, concrete men, vibrator men, poured gypsum roof work, wrecking, walking power buggy men, landscaper and chipping hammer (air or electric 1" or under)	6.30	.50	.50	b + .50		
Asphalt men, pipe layers, air or electric jackhammer, powermen, gunite, sandblasting, barmen, chain saw, riding power buggy, vibro barco, joy tamper, or similar walk behind roller	6.55	.50	.50	b + .50		
Painters: Reaminder of County: Painters	5.83	7%	.38+I			
Spray and sandblasting	6.83	7%	.38+I			
Steel, smoke stack, bridges, towers etc.	6.73	7%	.38+I			
Sprinklerfitters	8.75	.30	.50		.05	
Footnote: I. Employer contributes $.20 per hour to an annuity fund.						

XUM

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,733 - Mod. #5 (36 FR 14972 - August 11, 1971) Rensellaer County, New York						
Change:						
Building Construction:						
Bricklayers	$8.20	.40	.30		.01	
Carpenters, Building:						
Carpenters	7.55	.50	.45		.025	
Millwrights	8.05	.50	.45		.025	
Electricians:						
Remainder of County	9.20	.15	1% + .20	f	j	
Ironworkers:						
Structural, ornamental, reinforcing	7.74	.50	.85		.02	
Painters:						
Brush	7.40	.48	.12			
Structural steel & bridge	8.15	.48	.12			
Spray	8.50	.48	.12			
Plumbers and steamfitters:						
Troy and vicinity	7.27	.45	.85	.50	.04	
Southern part of County	8.10	.35	.62		.04	
Sheet metal workers	8.55	.30	.50		.05	
Truck drivers, Building:						
Straight, winch transit-mix on the site, road oilers, dump, pickups, panel, water trucks and fuel truck on site	7.09	.37	.37	f		
Lowboy or lowboy trailer	7.24	.37	.37	f		
Euclids	7.34	.37	.37	f		
Sprinklerfitters	8.75	.30	.50		.05	

Footnote:
j. Employer contributes $15.00 per year to an apprentice training program.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,735 - Mod. #2 (36 FR 14980 - August 11, 1971) Suffolk County, New York						
Change:						
Building Construction:						
Asbestos workers	$8.30	9%	p	12%		
Boilermakers	8.88	5%	5%+10%	7%	.01	
Carpenters:						
Fishes Island:						
Carpenters & soft floor layers	8.05	.50	.30	.25	.005	
Ironworkers:						
Ornamental	7.50	6%	8%+1.095	9%		
Laborers, Building:						
Laborers	7.15	.50	.70	.51		
Mason tenders	7.15	.50	.70	.51		
Mortar mixers	7.15	.50	.70	.51		
Plasterers' helpers	7.05	1.10		1.15		
Roofers:						
Composition, damp & waterproofing	7.95	.50	1.00+.55	.01		
Omit:						
Dredging schedule (See New Decision AM-3,322 published in 37 FR, Page 10693, May 26, 1972)						

Footnote:
Employer contributes 9% to an annuity fund.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-9,323 - Mod. #3 (37 FR 12023 - June 16, 1972) Philadelphia County, Pennsylvania						
Change:						
Building Construction:						
Glaziers	$8.38	.35	.30		.01	
Glaziers working 38' above ground	8.68	.35	.30		.01	
Sheet metal workers	9.70	.30	.50		.01	
Steamfitters	9.00	.57	.92		.05	
DECISION #AM-9,681 - Mod. #7 (37 FR 4030 - February 25, 1972) Montgomery County, Pennsylvania						
Change:						
Building Construction:						
Remainder of County (Glaziers)	8.38	.35	.30		.01	
Sheet metal workers	9.70	.30	.50		.01	
Steamfitters	9.00	.57	.92		.05	
DECISION #AP-408 - Mod. #2 (37 FR 15275 - July 28, 1972) Delaware County, Pennsylvania						
Change:						
Building Construction:						
Glaziers	8.38	.35	.30		.01	
Glaziers working 30' above ground	8.68	.35	.30		.01	
Sheet metal workers	9.70	.30	.50		.01	
Steamfitters	9.00	.57	.92		.05	
DECISION #AM-1,854 - Mod. #6 (36 FR 16272 - August 20, 1971) Franklin County, Pennsylvania						
Change:						
Building Construction:						
Laborers	$6.28	.30	.30			
Plasters tender	6.18	.30	.30			
Blasters	6.78	.30	.30			

DECISION #AM-1,834 (Cont'd)

HEAVY & HIGHWAY CONSTRUCTION:

TRUCK DRIVERS:

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	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pick-up, and similar equipment, parts man and warehouseman)	$5.70	6%	3.5%			
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	5.85	6%	3.5%			
Tri-axle trucks	5.93	6%	3.5%			
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: athey wagon: pay loader, tournawagons, and similar equipment when not self-loaded rated under forty-five tons)	5.93	6%	3.5%			
Heavy off-the-road equipment (rated at forty-five tons or over)	6.03	6%	3.5%			
Heavy duty trailer, such as low boy, hi-boy, pole trailer, A Frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), fork lift trucks (in storage areas and warehouses)	6.01	6%	3.5%			
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.75	6%	3.5%			
Tandem-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.85	6%	3.5%			
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.93	6%	3.5%			
Ready-mixed Concrete Trucks with towed or built-in attachments (10¢ per hour additional to respective size truck						
Tar and Asphalt Distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	5.85	6%	3.5%			
Tar and Asphalt Trailer Trucks	5.93	6%	3.5%			
Trucks with Dolly or Trailer	5.80	6%	3.5%			
Bottom or Belly-Dump Trucks	6.03	6%	3.5%			

MUX

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-100 - Mod. #2 (37 FR 13419 - July 7, 1972) Washington County, Tennessee						
Change:						
Painters:						
Brush	$3.00					
Power Equipment Operators:						
Bulldozers	3.50					
DECISION #AP-306 - Mod. #4 (37 FR 16365 - August 11, 1972) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant & Wise Cos., Texas						
Change:						
Building Construction:						
Electricians:						
Electricians:						
Grayson County	$7.145		1%		.02	
DECISION #AP-312 - Mod. #5 (37 FR 16716 - August 18, 1972) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas						
Change:						
Building Construction:						
Bricklayers & Stonemasons	6.75					
Carpenters:						
Carpenters:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hartley, Oldham, Potter, Randall, Sherman, Swisher & Wheeler Cos.	6.65					
Millwrights:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hartley, Oldham, Potter, Randall, Sherman, Swisher & Wheeler Cos.	6.90					

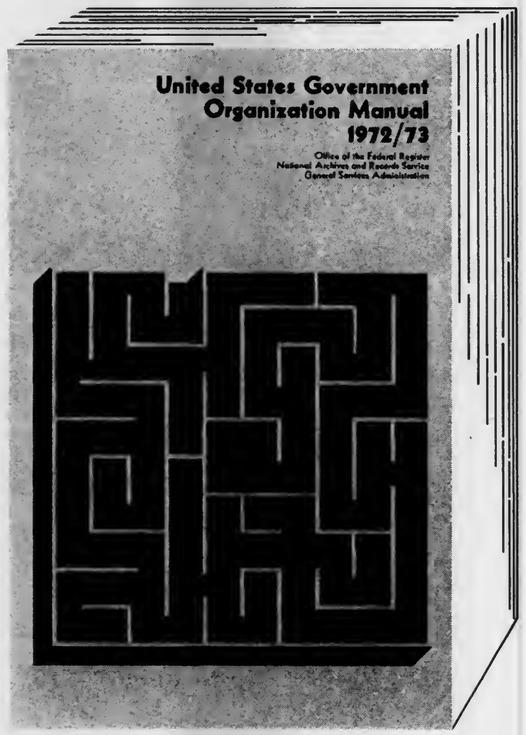
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		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-312 (Cont'd)						
Cement masons:						
Cement masons:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Hartley, Oldham, Potter, Randall, Swisher & Wheeler Cos.	$5.70					
Machine operators:						
Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Hartley, Oldham, Potter, Randall, Swisher & Wheeler Cos.	5.95					
Ironworkers:						
Structural; Ornamental; Reinforcing	6.55	.40	.40		.05	
DECISION #AP-313 - Mod. #5 (37 FR 17361 - August 25, 1972) Lubbock County, Texas						
Change:						
Building Construction:						
Lathers	6.50	.20			.01	
DECISION #AP-314 - Mod. #5 (37 FR 17364 - August 25, 1972) Jefferson & Orange Counties, Texas						
Change:						
Sheet metal workers	7.57		.15		.04	
Add:						
Tile setters	6.855	.275	.30		.04	

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-315 - Mod. #5 (37 FR 17366 - August 25, 1972) Jefferson & Orange Counties, Texas						
Change:						
Sheet metal workers	$7.57		.15		.04	
Add:						
Tile setters	6.855	.275	.30		.04	
DECISION #AP-342 - Mod. #2 (37 FR 20485 - September 29, 1972) Nueces County, Texas						
Change:						
Building Construction:						
Soft floor layers	5.70	.21	.07		.02	
DECISION #AP-34[illegible] - Mod. #2 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change:						
Building Construction:						
Ironworkers:						
Structural; Ornamental; Reinforcing	6.35	.40	.45		.05	
DECISION #AP-345 - Mod. #2 (37 FR 20494 - September 29, 1972) El Paso County, Texas						
Change:						
Building Construction:						
Glaziers	4.67	.24				

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-349 - Mod. #2 (37 FR 20503 - September 29, 1972) Galveston County, Texas						
Change:						
Building Construction:						
Carpenters:						
Carpenters	$6.66	.40	.30		.05	
Millwrights	6.92	.40	.30		.05	
Piledrivermen	6.66	.40	.30			
DECISION #AP-350 - Mod. #2 (37 FR 20506 - September 29, 1972) Harris County, Texas						
Change:						
Building Construction:						
Carpenters:						
Carpenters	6.66	.40	.30		.05	
Millwrights	6.92	.40	.30		.05	
Piledrivermen	6.66	.40	.30			

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federal register

SATURDAY, OCTOBER 21, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 205

Pages 22711–22786

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 550—PAY ADMINISTRATION (GENERALLY)

Subpart E—Pay From More Than One Position

OTHER EXCEPTIONS

Subpart E of Part 550 of the Commission's regulations is revised to delete the list of exceptions to the limitation in 5 U.S.C. section 5533(a) on pay from more than one position. This action does not cancel the exceptions; it reflects a decision that these exceptions are not regulatory in nature. Henceforth, exceptions of general application will be published in the Commission's Federal Personnel Manual.

Effective on publication in the FEDERAL REGISTER (10–21–72), § 550.504 is revised, §§ 550.505 and 550.506 are revoked and § 550.507 is redesignated § 550.505.

§ 550.504 Other exceptions.

(a) The Commission may provide for exceptions to section 5533(a) of title 5, United States Code, when the required personal services cannot be readily obtained otherwise. When a department, agency, or the government of the District of Columbia encounters difficulty in obtaining employees because of section 5533(a) of title 5, United States Code, it may request an exception from that section under the guidelines published by the Commission in the Federal Personnel Manual.

(b) The Commission will publish in the Federal Personnel Manual exceptions of general application.

§§ 550.505, 550.506 [Revoked]

§ 550.505 [Redesignated]

(5 U.S.C. section 5533)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18079 Filed 10–20–72;8:53 am]

PART 713—EQUAL OPPORTUNITY

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

Subpart B of Part 713 Equal Opportunity is revised to implement the Equal Employment Opportunity Act of 1972, 86 Stat. 103, and to strengthen the system of complaint processing. Among others, these changes emphasize the affirmative aspects of agency equal employment opportunity obligations, set out requirements for submission of national and regional plans, extend the time limits for contacting a counselor, provide for the reasonable accommodation to the religious needs of applicants and employees, provide for timely investigation and resolution of complaints including complaints of coercion and reprisal, set out the remedial action available (including back pay), and strengthen the third party complaint system.

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AUTHORITY: The provisions of this Subpart B issued under 5 U.S.C. 1301, 23301, 3302, 7151–7154, 7301; 86 Stat. 111; E.O. 10577; 3 CFR, 1954–58 Comp., p. 218, E.O. 11222, 3 CFR 1964–1965 Comp., p. 306, E.O. 11478, 3 CFR 1969 Comp.

Subpart B—Equal Opportunity Without Regard to Race, Color, Religion, Sex, or National Origin

GENERAL PROVISIONS

§ 713.201 Purpose and applicability.

(a) *Purpose.* This subpart sets forth the regulations under which an agency shall establish a continuing affirmative program for equal opportunity in employment and personnel operations without regard to race, color, religion, sex, or national origin and under which the Commission will review an agency's program and entertain an appeal from a person dissatisfied with an agency's decision or other final action on his complaint of discrimination on grounds of race, color, religion, sex, or national origin.

(b) *Applicability.* (1) This subpart applies: (i) To military department as defined in section 102 of title 5, United States Code, executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, the U.S. Postal Service, and the Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds, and (ii) to those portions of the legislative and judicial branches of the Federal Government and the government of the District of Columbia having positions in the competitive service and to the employees in those positions.

(2) This subpart does not apply to aliens employed outside the limits of the United States.

§ 713.202 General policy.

It is the policy of the Government of the United States and of the government of the District of Columbia to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each agency.

§ 713.203 Agency program.

The head of each agency shall exercise personal leadership in establishing, maintaining, and carrying out a continuing affirmative program designed to promote equal opportunity in every aspect of agency personnel policy and practice in the employment, development, advancement, and treatment of employees. Under the terms of its program, an agency shall:

(a) Provide sufficient resources to administer its equal employment opportunity program in a positive and effective manner and assure that the

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principal and operating officials responsible for carrying out the equal employment opportunity program meet established qualifications requirements;

(b) Conduct a continuing campaign to eradicate every form of prejudice or discrimination based upon race, color, religion, sex, or national origin, from the agency's personnel policies and practices and working conditions, including disciplinary action against employees who engage in discriminatory practices;

(c) Utilize to the fullest extent the present skills of employees by all means, including the redesigning of jobs where feasible so that tasks not requiring the full utilization of skills of incumbents are concentrated in jobs with lower skill requirements;

(d) Provide the maximum feasible opportunity to employees to enhance their skills through on-the-job training, work-study programs, and other training measures so that they may perform at their highest potential and advance in accordance with their abilities;

(e) Communicate the agency's equal employment opportunity policy and program and its employment needs to all sources of job candidates without regard to race, color, religion, sex, or national origin, and solicit their recruitment assistance on a continuing basis;

(f) Participate at the community level with other employers, with schools and universities, and with other public and private groups in cooperative action to improve employment opportunities and community conditions that affect employability;

(g) Review, evaluate, and control managerial and supervisory performance in such a manner as to insure a continuing affirmative application and vigorous enforcement of the policy of equal opportunity, and provide orientation, training, and advice to managers and supervisors to assure their understanding and implementation of the equal employment opportunity policy and program;

(h) Provide recognition to employees, supervisors, managers, and units demonstrating superior accomplishment in equal employment opportunity;

(i) Inform its employees and recognized labor organizations of the affirmative equal employment opportunity policy and program and enlist their cooperation;

(j) Provide for counseling employees and applicants who believe they have been discriminated against because of race, color, religion, sex, or national origin and for resolving informally the matters raised by them;

(k) Provide for the prompt, fair, and impartial consideration and disposition of complaints involving issues of discrimination on grounds of race, color, religion, sex, or national origin; and

(l) Establish a system for periodically evaluating the effectiveness of the agency's overall equal employment opportunity effort.

§ 713.204 Implementation of agency program.

To implement the program established under this subpart, an agency shall:

(a) Develop the plans, procedures, and regulations necessary to carry out its program established under this subpart;

(b) Appraise its personnel operations at regular intervals to assure their conformity with the policy in § 713.202 and its program established in accordance with § 713.203;

(c) Designate a Director of Equal Employment Opportunity and as many Equal Employment Opportunity Officers, Equal Employment Opportunity Counselors, Federal Women's Program Coordinators, and other persons as may be necessary, to assist the head of the agency to carry out the functions described in this subpart in all organizational units and locations of the agency. The functioning and the qualifications of the persons so designated shall be subject to review by the Commission. The Director of Equal Employment Opportunity shall be under the immediate supervision of the head of his agency, and shall be given the authority necessary to enable him to carry out his responsibilities under the regulations in this subpart;

(d) Assign to the Director of Equal Employment Opportunity the functions of:

(1) Advising the head of his agency with respect to the preparation of national and regional equal employment opportunity plans, procedures, regulations, reports, and other matters pertaining to the policy in § 713.202 and the agency program required to be established under § 713.203;

(2) Evaluating from time to time the sufficiency of the total agency program for equal employment opportunity and reporting thereon to the head of the agency with recommendations as to any improvement or correction needed, including remedial or disciplinary action with respect to managerial or supervisory employees who have failed in their responsibilities;

(3) When authorized by the head of the agency, making changes in programs and procedures designed to eliminate discriminatory practices and improve the agency's program for equal employment opportunity;

(4) Providing for counseling by an Equal Employment Opportunity Counselor, of any aggrieved employee or applicant for employment who believes that he has been discriminated against because of race, color, religion, sex, or national origin and for attempting to resolve on an informal basis the matter raised by the employee or applicant before a complaint of discrimination may be filed under § 713.214;

(5) Providing for the receipt and investigation of individual complaints of discrimination in personnel matters within the agency, subject to §§ 713.211 through 713.222;

(6) Providing for the receipt, investigation, and disposition of general allegations by organizations or other third parties of discrimination in personnel matters within the agency subject to § 713.251.

(7) When authorized by the head of the agency, making the decision under § 713.221 for the head of the agency on complaints of discrimination and ordering such corrective measures as he may consider necessary, including the recommendation for such disciplinary action as is warranted by the circumstances when an employee has been found to have engaged in a discriminatory practice; and

(8) When not authorized to make the decision for the head of the agency on complaints of discrimination, reviewing, at his discretion, the record on any complaint before the decision is made under § 713.221 and making such recommendations to the head of the agency or his designee as he considers desirable, including the recommendation for such disciplinary action as is warranted by the circumstances when an employee is found to have engaged in a discriminatory practice;

(e) Insure that equal opportunity for women is an integral part of the agency's overall program by assigning to the Federal Women's Program Coordinators the function of advising the Director of Equal Employment Opportunity on matters affecting the employment and advancement of women;

(f) Publicize to its employees and post permanently on official bulletin boards:

(1) The names and addresses of the Director of Equal Employment Opportunity and the Federal Women's Program Coordinators;

(2) The name and address of the appropriate Equal Employment Opportunity Officer;

(3) The name and address of the Equal Employment Opportunity Counselor and the organizational units he serves; his availability to counsel an employee or applicant for employment who believes that he has been discriminated against because of race, color, religion, sex, or national origin; and the requirement that an employee or applicant for employment must consult the Counselor as provided by § 713.213 about his allegation of discrimination because of race, color, religion, sex, or national origin before a complaint as provided by § 713.214 may be filed; and

(4) Time limits for contacting an Equal Employment Opportunity Counselor.

(g) Make reasonable accommodations to the religious needs of applicants and employees, including the needs of those who observe the Sabbath on other than Sunday, when those accommodations can be made (by substitution of another qualified employee, by a grant of leave, a change of a tour of duty, or other means) without undue hardship on the business of the agency. If an agency cannot accommodate an employee or applicant, it has a duty in a complaint arising under this subpart to demonstrate its inability to do so; and

(h) Make readily available to its employees a copy of its regulations issued to carry out its program of equal employment opportunity.

(i) Submit annually for the review and approval of the Commission written national and regional equal employment opportunity plans of action. Plans shall be submitted in a format prescribed by the Commission and shall include, but not be limited to—

(1) Provision for the establishment of training and education programs designed to provide maximum opportunity for employees to advance so as to perform at their highest potential;

(2) Description of the qualifications, in terms of training and experience relating to equal employment opportunity, of the principal and operating officials concerned with administration of the agency's equal employment opportunity program; and

(3) Description of the allocation of personnel and resources proposed by the agency to carry out its equal employment opportunity program.

§ 713.205 Commission review and evaluation of agency program operations.

The Commission shall review and evaluate agency program operations periodically, obtain such reports as it deems necessary, and report to the President as appropriate on overall progress. When it finds that an agency's program operations are not in conformity with the policy set forth in § 713.202 and the regulations in this subpart, the Commission shall require improvement or corrective action to bring the agency's program operations into conformity with this policy and the regulations in this subpart. The head of each department and agency shall comply with the rules, regulations, orders, and instructions issued by the Commission.

AGENCY REGULATIONS FOR PROCESSING COMPLAINTS OF DISCRIMINATION

§ 713.211 General.

An agency shall insure that its regulations governing the processing of complaints of discrimination on grounds of race, color, religion, sex, or national origin comply with the principles and requirements in §§ 713.212 through 713.222.

§ 713.212 Coverage.

(a) The agency shall provide in its regulations for the acceptance of a complaint from any aggrieved employee or applicant for employment with that agency who believes that he has been discriminated against because of race, color, religion, sex, or national origin. A complaint may also be filed by an organization for the aggrieved person with his consent.

(b) Sections 713.211 through 713.222 do not apply to the consideration by an agency of a general allegation of discrimination by an organization or other third party which is unrelated to an individual complaint of discrimination subject to §§ 713.211 through 713.222. (Section 713.251 applies to general allegations by organizations or other third parties.)

§ 713.213 Precomplaint processing.

(a) An agency shall require that an aggrieved person who believes that he has been discriminated against because of race, color, religion, sex, or national origin consult with an Equal Employment Opportunity Counselor when he wishes to resolve the matter. The agency shall require the Equal Employment Opportunity Counselor to make whatever inquiry he believes necessary into the matter; to seek a solution of the matter on an informal basis; to counsel the aggrieved person concerning the issues in the matter; to keep a record of his counseling activities so as to brief periodically, the Equal Employment Opportunity Officer on those activities; and, when advised that a complaint of discrimination has been accepted from an aggrieved person, to submit a written report to the Equal Employment Opportunity Officer, with a copy to the aggrieved person, summarizing his actions and advice both to the agency and the aggrieved person concerning the issues in the matter. The Equal Employment Opportunity Counselor shall, insofar as is practicable, conduct his final interview with the aggrieved person not later than 21 calendar days after the date on which the matter was called to his attention by the aggrieved person. If the final interview is not concluded within 21 days and the matter has not previously been resolved to the satisfaction of the aggrieved person, shall be informed in writing at that time of his right to file a complaint of discrimination. The notice shall inform the complainant of his right to file a complaint at any time after receipt of the notice up to 15 calendar days after the final interview (which shall be so identified in writing by the Equal Employment Opportunity Counselor) and the appropriate official with whom to file a complaint. The Counselor shall not attempt in any way to restrain the aggrieved person from filing a formal complaint. The Equal Employment Opportunity Counselor shall not reveal the identity of an aggrieved person who has come to him for consultation, except when authorized to do so by the aggrieved person, until the agency has accepted a complaint of discrimination from him.

(b) The agency shall assure that full cooperation is provided by all employees to the Equal Employment Opportunity Counselor in the performance of his duties under this section.

(c) The Equal Employment Opportunity Counselor shall be free from restraint, interference, coercion, discrimination, or reprisal in connection with the performance of his duties under this section.

§ 713.214 Filing and presentation of complaint.

(a) *Time limits.* (1) An agency shall require that a complaint be submitted in writing by the complainant or his representative and be signed by the complainant. The complaint may be delivered in person or submitted by mail. The agency may accept the complaint for processing in accordance with this subpart only if—

(i) The complainant brought to the attention of the Equal Employment Opportunity Counselor the matter causing him to believe he had been discriminated against within 30 calendar days of the date of that matter, or, if a personnel action, within 30 calendar days of its effective date; and

(ii) The complainant or his representative submitted his written complaint to an appropriate official within 15 calendar days of the date of his final interview with the Equal Employment Opportunity Counselor.

(2) The appropriate officials to receive complaints are the head of the agency, the agency's Director of Equal Employment Opportunity, the head of a field installation, an Equal Employment Opportunity Officer, a Federal Women's Program Coordinator, and such other officials as the agency may designate for that purpose. Upon receipt of the complaint, the agency official shall transmit it to the Director of Equal Employment Opportunity or appropriate Equal Employment Opportunity Officer who shall acknowledge its receipt in accordance with subparagraph (3) of this paragraph.

(3) A complaint shall be deemed filed on the date it is received, if delivered to an appropriate official, or on the date postmarked if addressed to an appropriate official designated to receive complaints. The agency shall acknowledge to the complainant or his representative in writing receipt of the complaint and advise the complainant in writing of all his administrative rights and of his right to file a civil action as set forth in § 713.281, including the time limits imposed on the exercise of these rights.

(4) The agency shall extend the time limits in this section: (i) When the complainant shows that he was not notified of the time limits and was not otherwise aware of them, or that he was prevented by circumstances beyond his control from submitting the matter within the time limits; or (ii) for other reasons considered sufficient by the agency.

(b) *Presentation of complaint.* At any stage in the presentation of a complaint, including the counseling stage under § 713.213, the complainant shall have the right to be accompanied, represented, and advised by a representative of his own choosing. If the complainant is an employee of the agency, he shall have a reasonable amount of official time to present his complaint if he is otherwise in an active duty status. If the complainant is an employee of the agency and he designates another employee of the agency as his representative, the representative shall have a reasonable amount of official time, if he is otherwise in an active duty status, to present the complaint.

§ 713.215 Rejection or cancellation of complaint.

The head of the agency or his designee may reject a complaint which was not

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timely filed and shall reject those allegations in a complaint which are not within the purview of § 713.212 or which set forth identical matters as contained in a previous complaint filed by the same complainant which is pending in the agency or has been decided by the agency. He may cancel a complaint because of failure of the complainant to prosecute the complaint. He shall transmit the decision to reject or cancel by letter to the complainant and his representative. The decision letter shall inform the complainant of his right to appeal the decision of the agency to the Commission and of the time limit within which the appeal may be submitted and of his right to file a civil action as described in § 713.281.

§ 713.216 Investigation.

(a) The Equal Employment Opportunity Officer shall advise the Director of Equal Employment Opportunity of the acceptance of a complaint. The Director of Equal Employment Opportunity shall provide for the prompt investigation of the complaint. The person assigned to investigate the complaint shall occupy a position in the agency which is not, directly or indirectly, under the jurisdiction of the head of that part of the agency in which the complaint arose. The agency shall authorize the investigator to administer oaths and require that statements of witnesses shall be under oath or affirmation, without a pledge of confidence. The investigation shall include a thorough review of the circumstances under which the alleged discrimination occurred, the treatment of members of the complainant's group identified by his complaint as compared with the treatment of other employees in the organizational segment in which the alleged discrimination occurred, and any policies and practices related to the work situation which may constitute, or appear to constitute, discrimination even though they have not been expressly cited by the complainant. Information needed for an appraisal of the utilization of members of the complainant's group as compared to the utilization of persons outside the complainant's group shall be recorded in statistical form in the investigative file, but specific information as to a person's membership or nonmembership in the complainant's group needed to facilitate an adjustment of the complaint or to make an informed decision on the complaint shall, if available, be recorded by name in the investigative file. (As used in this subpart, the term "investigative file" shall mean the various documents and information acquired during the investigation under this section—including affidavits of the complainant, of the alleged discriminating official, and of the witnesses and copies of, or extracts from, records, policy statements, or regulations of the agency—organized to show their relevance to the complaint or the general environment out of which the complaint arose.) If necessary, the investigator may obtain information regarding the membership or nonmembership of a person in the complainant's group by asking each person concerned to provide the information voluntarily; he shall not require or coerce an employee to provide this information.

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization: (1) To investigate all aspects of complaints of discrimination, (2) to require all employees of the agency to cooperate with him in the conduct of the investigation, and (3) to require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence.

§ 713.217 Adjustment of complaint and offer of hearing.

(a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant a copy of the investigative file promptly after receiving it from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials. If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and made part of the complaint file, with a copy of the terms of the adjustment provided the complainant. If the agency does not carryout, or rescinds, any action specified by the terms of the adjustment for any reason not attributable to acts or conduct of the complainant, the agency shall, upon the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment.

(b) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing: (1) Of the proposed disposition of complaint, (2) of his right to a hearing and decision by the agency head or his designee if he notifies the agency in writing within 15 calendar days of the receipt of the notice that he desires a hearing, and (3) of his right to a decision by the head of the agency or his designee without a hearing.

(c) If the complainant fails to notify the agency of his wishes within the 15-day period prescribed in paragraph (b) of this section, the appropriate Equal Employment Opportunity Officer may adopt the disposition of the complaint proposed in the notice sent to the complainant under paragraph (b) of this section as the decision of the agency on the complaint when delegated the authority to make a decision for the head of the agency under those circumstances. When this is done, the Equal Employment Opportunity Officer shall transmit the decision by letter to the complainant and his representative which shall inform the complainant of his right of appeal to the Commission and the time limit applicable thereto and of his right to file a civil action as described in § 713.281. If the Equal Employment Opportunity Officer does not issue a decision under this paragraph, the complaint, together with the complaint file, shall be forwarded to the head of the agency, or his designee, for decision under § 713.221.

§ 713.218 Hearing.

(a) *Complaints examiner.* The hearing shall be held by a complaints examiner who must be an employee of another agency except when the agency in which the complaint arose is: (1) The government of the District of Columbia or, (2) an agency which, by reason of law, is prevented from divulging information concerning the matter complained of to a person who has not received the security clearance required by that agency, in which event the agency shall arrange with the Commission for the selection of an impartial employee of the agency to serve as complaints examiner. (For purposes of this paragraph, the Department of Defense is considered to be a single agency.) The agency in which the complaint arose shall request the Commission to supply the name of a complaints examiner who has been certified by the Commission as qualified to conduct a hearing under this section.

(b) *Arrangements for hearing.* The agency in which the complaint arose shall transmit the complaint file containing all the documents described in § 713.222 which have been acquired up to that point in the processing of the complaint, including the original copy of the investigative file (which shall be considered by the complaints examiner in making his recommended decision on the complaint), to the complaints examiner who shall review the complaint file to determine whether further investigation is needed before scheduling the hearing. When the complaints examiner determines that further investigation is needed, he shall remand the complaint to the Director of Equal Employment Opportunity for further investigation or arrange for the appearance of witnesses necessary to supply the needed information at the hearing. The requirements of § 713.216 apply to any further investigation by the agency on the complaint. The complaints examiner shall schedule the hearing for a convenient time and place.

(c) *Conduct of hearing.* (1) Attendance at the hearing is limited to persons determined by the complaints examiner to have a direct connection with the complaint.

(2) The complaints examiner shall conduct the hearing so as to bring out pertinent facts, including the production of pertinent documents. Rules of evidence shall not be applied strictly, but the complaints examiner shall exclude irrelevant or unduly repetitious evidence. Information having a bearing on the complaint or employment policy or practices relevant to the complaint shall be received in evidence. The complainant, his representative, and the representatives of the agency at the hearing shall be given the opportunity to cross-examine witnesses who appear and testify. Testimony shall be under oath or affirmation.

(d) *Powers of complaints examiner.* In addition to the other powers vested in the complaints examiner by the agency in accordance with this subpart, the agency shall authorize the complaints examiner to:

(1) Administer oaths or affirmations;

(2) Regulate the course of the hearing;

(3) Rule on offers of proof;

(4) Limit the number of witnesses whose testimony would be unduly repetitious; and

(5) Exclude any person from the hearing for contumacious conduct or misbehavior that obstructs the hearing.

(e) *Witnesses at hearing.* The complaints examiner shall request any agency subject to this subpart to make available as a witness at the hearing an employee requested by the complainant when he determines that the testimony of the employee is necessary. He may also request the appearance of an employee of any Federal agency whose testimony he determines is necessary to furnish information pertinent to the complaint under consideration. The complaints examiner shall give the complainant his reasons for the denial of a request for the appearance of employees as witnesses and shall insert those reasons in the record of the hearing. An agency to whom a request is made shall make its employees available as witnesses at a hearing on a complaint when requested to do so by the complaints examiner and it is not administratively impracticable to comply with the request. When it is administratively impracticable to comply with the request for a witness, the agency to whom request is made shall provide an explanation to the complaints examiner. If the explanation is inadequate, the complaints examiner shall so advise the agency and request it to make the employee available as a witness at the hearing. If the explanation is adequate, the complaints examiner shall insert it in the record of the hearing, provide a copy to the complainant, and make arrangements to secure testimony from the employee through a written interrogatory. An employee of an agency shall be in a duty status during the time he is made available as a witness.

(f) *Record of hearing.* The hearing shall be recorded and transcribed verbatim. All documents submitted to, and accepted by, the complaints examiner at the hearing shall be made part of the record of the hearing. If the agency submits a document that is accepted, it shall furnish a copy of the document to the complainant. If the complainant submits a document that is accepted, he shall make the document available to the agency representative for reproduction.

(g) *Findings, analysis, and recommendations.* The complaints examiner shall transmit to the head of the agency or his designee: (1) The complaint file (including the record of the hearing), (2) the findings and analysis of the complaints examiner with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose, and (3) the recommended decision of the complaints examiner on the merits of the complaint, including recommended remedial action, where appropriate, with regard to the matter which gave rise to the complaint and the general environment out of which the complaint arose. The complaints examiner shall notify the complainant of the date on which this was done. In addition, the complaints examiner shall transmit, by separate letter to the Director of Equal Employment Opportunity, whatever findings and recommendations he considers appropriate with respect to conditions in the agency which do not bear directly on the matter which gave rise to the complaint or which bear on the general environment out of which the complaint arose.

§ 713.219 Relationship to other agency appellate procedures.

(a) Except as provided in paragraphs (b) and (c) of this section, when an employee makes a written allegation of discrimination on grounds of race, color, religion, sex, or national origin, in connection with an action that would otherwise be processed under a grievance or appeals system of the agency, the agency may process the allegation of discrimination under that system when the system meets the principles and requirements in §§ 713.212 through 713.220 and the head of the agency, or his designee, makes the decision of the agency on the issue of discrimination. That decision on the issue of discrimination shall be incorporated in and become a part of the decision on the grievance or appeal.

(b) An allegation of discrimination made in connection with an appeal under Subpart B of Part 771 of this chapter shall be processed under that subpart.

(c) An allegation of discrimination made in connection with a grievance under Subpart C of Part 771 of this chapter shall be processed under this part.

§ 713.220 Avoidance of delay.

(a) The complaint shall be resolved promptly. To this end, both the complainant and the agency shall proceed with the complaint without undue delay so that the complaint is resolved within 180 calendar days after it was filed, including time spent in the processing of the complaint by the complaints examiner under § 713.218.

(b) The head of the agency or his designee may cancel a complaint if the complainant fails to prosecute the complaint without undue delay. However, instead of canceling for failure to prosecute, the complaint may be adjudicated if sufficient information for that purpose is available.

(c) The agency shall furnish the Commission monthly reports on all complaints pending within the agency in a form specified by the Commission. If an agency has not issued a final decision, and has not requested the Commission to supply a complaints examiner, within 75 calendar days from the date a complaint was filed, the Commission may require the agency to take special measures to insure prompt processing of the complaint or may assume responsibility for processing the complaint, including supplying an investigator to conduct any necessary investigation on behalf of the agency. When the Commission supplies an investigator, the agency shall reimburse the Commission for all expenses incurred in connection with the investigation and shall notify the complainant in writing of the proposed disposition of the complaint no later than 15 calendar days after its receipt of the investigative report.

(d) When the complaints examiner has submitted a recommended decision finding discrimination and the agency has not issued a final decision within 180 calendar days after the date the complaint was filed, the complaints examiner's recommended decision shall become a final decision binding on the agency 30 calendar days after its submission to the agency. In such event, the agency shall so notify the complainant of the decision and furnish to him a copy of the findings, analysis, and recommended decision of the complaints examiner under § 713.218(g) and a copy of the hearing record and also shall notify him in writing of his right of appeal to the Commission and the time limits applicable thereto and of his right to file a civil action as described in § 713.281.

§ 713.221 Decision by head of agency or designee.

(a) The head of the agency, or his designee, shall make the decision of the agency on a complaint based on information in the complaint file. A person designated to make the decision for the head of the agency shall be one who is fair, impartial, and objective.

(b) (1) The decision of the agency shall be in writing and shall be transmitted by letter to the complainant and his representative. When there has been no hearing, the decision shall contain the specific reasons in detail for the agency's action, including any remedial action taken.

(2) When there has been a hearing on the complaint, the decision letter shall transmit a copy of the findings, analysis, and recommended decision of the complaints examiner under section 713.218 (g) and a copy of the hearing record. The decision of the agency shall adopt, reject, or modify the decision recommended by the complaints examiner. If the decision is to reject or modify the recommended decision, the decision letter shall set forth the specific reasons in detail for rejection or modification.

(3) When there has been no hearing and no decision under § 713.217(c), the decision letter shall set forth the findings, analysis, and decision of the head of the agency or his designee.

(c) The decision of the agency shall require any remedial action authorized by law determined to be necessary or desirable to resolve the issues of discrimination and to promote the policy of equal opportunity, whether or not there is a finding of discrimination. When discrimination is found, the agency shall require remedial action to be taken in accordance with § 713.271, shall review the matter giving rise to the complaint to determine whether disciplinary action against alleged discriminatory officials is appro-

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priate, and shall record the basis for its decision to take, or not to take, disciplinary action but this decision shall not be included in the complaint file.

(d) The decision letter shall inform the complainant of his right to appeal the decision of the agency to the Commission of his right to file a civil action in accordance with § 713.281, and of the time limits applicable thereto.

§ 713.222 Complaint file.

The agency shall establish a complaint file. Except as provided in § 713.221(c), this file shall contain all documents pertinent to the complaint. The complaint file shall include copies of: (a) The notice of the Equal Employment Opportunity Counselor to the aggrieved person under § 713.213(a), (b) the written report of the Equal Employment Opportunity Counsel under § 713.213 to the Equal Employment Opportunity Officer on whatever precomplaint counseling efforts were made with regard to the complainant's case, (c) the complaint, (d) the investigative file, (e) if the complaint is withdrawn by the complainant, a written statement of the complainant or his representative to that effect, (f) if adjustment of the complaint is arrived at under § 713.217, the written record of the terms of the adjustment, (g) if no adjustment of the complaint is arrived at under § 713.217, a copy of the letter notifying the complainant of the proposed disposition of the complaint and of his right to a hearing, (h) if decision is made under § 713.217(c), a copy of the letter to the complainant transmitting that decision, (i) if a hearing was held, the record of the hearing, together with the complaints examiner's findings, analysis, and recommended decision on the merits of the complaint, (j) if the Director of Equal Employment Opportunity is not the designee, the recommendations, if any, made by him to the head of the agency or his designee, and (k) if decision is made under § 713.221, a copy of the letter transmitting the decision of the head of the agency or his designee. The complaint file shall not contain any document that has not been made available to the complainant or to his designated physician under § 294.401 of this chapter.

Appeal to the Commission

§ 713.231 Entitlement.

(a) Except as provided by paragraph (b) of this section, a complainant may appeal to the Commission the decision of the head of the agency, or his designee:

(1) To reject his complaint, or a portion thereof, for reasons covered by § 713.215; or

(2) To cancel his complaint because of the complainant's failure to prosecute his complaint; or

(3) On the merits of the complaint, under § 713.217(c) or § 713.221, but the decision does not resolve the complaint to the complainant's satisfaction.

(b) A complainant may not appeal to the Commission under paragraph (a) of this section when the issue of discrimination giving rise to the complaint is being considered, or has been considered, in connection with any other appeal by the complainant to the Commission.

§ 713.232 Where to appeal.

The complainant shall file his appeal in writing, either personally or by mail, with the Board of Appeals and Review, U.S. Civil Service Commission, Washington, D.C. 20415.

§ 713.233 Time limit.

(a) Except as provided in paragraph (b) of this section, a complainant may file an appeal at any time after receipt of his agency's notice of final decision on his complaint but not later than 15 calendar days after receipt of that notice.

(b) The time limit in paragraph (a) of this section may be extended in the discretion of the Board of Appeals and Review, upon a showing by the complainant that he was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.

§ 713.234 Appellate procedures.

The Board of Appeals and Review shall review the complaint file and all relevant written representations made to the board. The board may remand a complaint to the agency for further investigation or a rehearing if it considers that action necessary or have additional investigation conducted by Commission personnel. This subpart applies to any further investigation or rehearing resulting from a remand from the board. There is no right to a hearing before the board. The board shall issue a written decision setting forth its reasons for the decision and shall send copies thereof to the complainant, his designated representative, and the agency. When corrective action is ordered, the agency shall report promptly to the board that the corrective action has been taken. The decision of the board is final, but shall contain a notice of the right to file a civil action in accordance with § 713.282.

§ 713.235 Review by the Commissioners.

The Commissioners may, in their discretion, reopen and reconsider any previous decision when the party requesting reopening submits written argument or evidence which tends to establish that:

(1) New and material evidence is available that was not readily available when the previous decision was issued;

(2) The previous decision involves an erroneous interpretation of law or regulation or a misapplication of established policy; or

(3) The previous decision is of a precedential nature involving a new or unreviewed policy consideration that may have effects beyond the actual case at hand, or is otherwise of such an exceptional nature as to merit the personal attention of the Commissioners.

§ 713.236 Relationship to other appeals.

When the basis of the complaint of discrimination because of race, color, religion, sex, or national origin, involves an action which is otherwise appealable to the Commission and the complainant having been informed by the agency of his right to proceed under this subpart elects to proceed by appeal to the Commission, the case, including the issue of discrimination, will be processed under the regulations appropriate to that appeal when the complainant makes a timely appeal to the Commission in accordance with those regulations.

Reports to the Commission

§ 713.241 Reports to the Commission on complaints.

Each agency shall report to the Commission information concerning precomplaint counseling and the status and disposition of complaints under this subpart at such times and in such manner as the Commission prescribes.

Third Party Allegations

§ 713.251 Third party allegations of discrimination.

(a) *Coverage.* This section applies to general allegations by organizations or other third parties of discrimination in personnel matters within the agency which are unrelated to an individual complaint of discrimination subject to §§ 713.211 through 713.222.

(b) *Agency procedure.* The organization or other third party shall state the allegation with sufficient specificity so that the agency may investigate the allegation. The agency may require additional specificity as necessary to proceed with its investigation. The agency shall establish a file on each general allegation, and this file shall contain copies of all material used in making the decision on the allegation. The agency shall furnish a copy of this file to the party submitting the allegation and shall make it available to the Commission for review on request. The agency shall notify the party submitting the allegation of its decision, including any corrective action taken on the general allegations, and shall furnish to the Commission on request a copy of its decision.

(c) *Commission procedures.* If the third party disagrees with the agency decision, it may, within 30 days after receipt of the decision, request the Commission to review it. The request shall be in writing and shall set forth with particularity the basis for the request. When the Commission receives such a request, it shall make, or require the agency to make, any additional investigations the Commission deems necessary. The Commission shall issue a decision on the allegation ordering such corrective action, with or without back pay, as it deems appropriate.

Freedom From Reprisal or Interferences

§ 713.261 Freedom from reprisal.

(a) Complainants, their representatives, and witnesses shall be free from restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation and processing of a complaint, including the counseling stage under section 713, or any time thereafter.

§ 713.262 Review of allegations of reprisal.

(a) *Choice of review procedures.* A complainant, his representative, or a witness who alleges restraint, interference, coercion, discrimination, or reprisal in connection with the presentation of a complaint under this subpart, may, if an employee or applicant, have the allegation reviewed as an individual complaint of discrimination subject to §§ 713.211 through 713.222 or as a charge subject to paragraph (b) of this section.

(b) *Procedure for review of charges.* (1) An employee or applicant may file a charge of restraint, interference, coercion, discrimination, or reprisal, in connection with the presentation of a complaint with an appropriate agency official as defined in § 713.214(a)(2) within 15 calendar days of the date of the alleged occurrence. The charge shall be in writing and shall contain all pertinent facts. Except as provided in subparagraph (2) of this paragraph, the agency shall undertake an appropriate inquiry into such a charge and shall forward to the Commission within 15 calendar days of the date of its receipt a copy of the charge and report of action taken. The agency shall also provide the charging party with a copy of the report of action taken. When the agency has not completed an appropriate inquiry 15 calendar days after receipt of such a charge, the charging party may submit a written statement with all pertinent facts to the Commission, and the Commission shall require the agency to take whatever action is appropriate.

(c) When a complainant, after completion of the investigation of his complaint under § 713.216, requests a hearing and in connection with that complaint alleges restraint, interference, coercion, discrimination, or reprisal, the complaints examiner assigned to hold the hearing shall consider the allegation as an issue in the complaint at hand or refer the matter to the agency for further processing under the procedure chosen by the complainant pursuant to paragraph (a) of this section.

Remedial Actions

§ 713.271 Remedial actions.

(a) *Remedial action involving an applicant.* (1) When an agency, or the Commission, finds that an applicant for employment has been discriminated against and except for that discrimination would have been hired, the agency shall offer the applicant employment of the type and grade denied him. The offer shall be made in writing. The individual shall have 15 calendar days from receipt of the offer within which to accept or decline the offer. Failure to notify the agency of his decision within the 15-day period will be considered a declination of the offer, unless the individual can show that circumstances beyond his control prevented him from responding within the time limit. If the offer is accepted, appointment shall be retroactive to the date the applicant would have been hired, subject to the limitation in subparagraph (4) of this paragraph. Backpay, computed in the same manner prescribed by § 550.804 of this chapter, shall be awarded from the beginning of the retroactive period, subject to the same limitation, until the date the individual actually enters on duty. The individual shall be deemed to have performed service for the agency during this period of retroactivity for all purposes except for meeting service requirements for completion of a probationary or trial period that is required. If the offer is declined, the agency shall award the individual a sum equal to the backpay he would have received, computed in the same manner prescribed by § 550.804 of this chapter, from the date he would have been appointed until the date the offer was made, subject to the limitation of subparagraph (4) of this paragraph. The agency shall inform the applicant, in its offer, of his right to this award in the event he declines the offer.

(2) When an agency, or the Commission, finds that discrimination existed at the time the applicant was considered for employment but does not find that the individual is the one who would have been hired except for discrimination, the agency shall consider the individual for any existing vacancy of the type and grade for which he had been considered initially and for which he is qualified before consideration is given to other candidates. If the individual is not selected, the agency shall record the reasons for nonselection. If no vacancy exists, the agency shall give him this priority consideration for the next vacancy for which he is qualified. This priority shall take precedence over priorities provided under other regulations in this chapter.

(3) This paragraph shall be cited as the authority under which the above-described appointments or awards of backpay shall be made.

(4) A period of retroactivity or a period for which backpay is awarded under this paragraph may not extend from a date earlier than 2 years prior to the date on which the complaint was initially filed by the applicant. If a finding of discrimination was not based on a complaint, the period of retroactivity or period for which backpay is awarded this paragraph may not extend earlier than 2 years prior to the date the finding of discrimination was recorded.

(b) *Remedial action involving an employee.* When an agency, or the Commission, finds that an employee of the agency was discriminated against and as a result of that discrimination was denied an employment benefit, or an administrative decision adverse to him was made, the agency shall take remedial actions which shall include one or more of the following, but need not be limited to these actions:

(1) Retroactive promotion, with backpay computed in the same manner prescribed by § 550.804 of this chapter, when the record clearly shows that but for the discrimination the employee would have been promoted or would have been employed at a higher grade, except that the backpay liability may not accrue from a date earlier than 2 years prior to the date the discrimination complaint was filed, but, in any event, not to exceed the date he would have been promoted. If a finding of discrimination was not based on a complaint, the backpay liability may not accrue from a date earlier than 2 years prior to the date the finding of discrimination was recorded, but, in any event, not to exceed the date he would have been promoted.

(2) Consideration for promotion to a position for which he is qualified before consideration is given to other candidates when the record shows that discrimination existed at the time selection for promotion was made but it is not clear that except for the discrimination the employee would have been promoted. If the individual is not selected, the agency shall record the reasons for nonselection. This priority consideration shall take precedence over priorities under other regulations in this chapter.

(3) Cancellation of an unwarranted personnel action and restoration of the employee.

(4) Expunction from the agency's records of any reference to or any record of an unwarranted disciplinary action that is not a personnel action.

(5) Full opportunity to participate in the employee benefit denied him (e.g., training, preferential work assignments, overtime scheduling).

Right to File a Civil Action

§ 713.281 Statutory right.

An employee or applicant is authorized by section 717(c) of the Civil Rights Act, as amended, 84 Stat. 112, to file a civil action in an appropriate U.S. District Court within:

(a) Thirty (30) calendar days of his receipt of notice of final action taken by his agency on a complaint,

(b) One hundred-eighty (180) calendar days from the date of filing a complaint with his agency if there has been no decision,

(c) Thirty (30) calendar days of his receipt of notice of final action taken by the Commission on his complaint, or,

(d) One hundred-eighty (180) calendar days from the date of filing an appeal with the Commission if there has been no Commission decision.

§ 713.282 Notice of right.

An agency shall notify an employee or applicant of his right to file a civil action, and of the 30-day time limit for filing, in any final action on a complaint under §§ 713.215 and 713.217, or § 713.221. The Commision shall notify an employee or applicant of his right to file a civil action, and of the 30-day time limit for filing, in any decision under § 713.234.

§ 713.283 Effect on administrative processing.

The filing of a civil action by an employee or applicant does not terminate agency processing of a complaint or

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Commission processing of an appeal under this subpart.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18054 Filed 10-20-72;8:49 am]

Chapter XIV—Federal Labor Relations Council and Federal Service Impasses Panel

SUBCHAPTER B—FEDERAL LABOR RELATIONS COUNCIL

PART 2411—REVIEW FUNCTIONS OF THE COUNCIL

Time Limits; Extension; Correction

In the FEDERAL REGISTER, Volume 37, Number 192, dated Tuesday, October 3, 1972, on page 20670 in § 2411.45(b), the word "intermittent" appearing in the last sentence should be changed to read "intermediate."

For the Council.

W. V. GILL,
Executive Director.

[FR Doc.72-18087 Filed 10-20-72;8:53 am]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Valencia Orange Reg. 413, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.713 (Valencia Orange Regulation 413 37 F.R. 21536) during the period October 12, through October 19, 1972, are hereby amended to read as follows:

§ 908.713 Valencia Orange Regulation 413.

* * * * * *

(b) *Order.* (1) * * *

(i) District 1: 392,000 cartons.

(ii) District 2: 308,000 cartons.

* * * * * *

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 18, 1972.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18089 Filed 10-20-72;8:52 am]

[Lemon Reg. 556]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.856 Lemon Regulation 556.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 17, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 22, through October 28, 1972, is hereby fixed at 175,000 cartons.

(2) As used in this section, "handled," and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 18, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18119 Filed 10-20-72;8:54 am]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order No. 50]

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (37 F.R. 20952) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of October 1972 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1050.14, paragraphs (c) (2) and (3).

STATEMENT OF CONSIDERATION

This suspension will permit unlimited diversion of producer milk under the Central Illinois order for the month of October 1972.

The suspension was requested by Associated Milk Producers, Inc. This action is necessary in order to enable its member producers to maintain producer status under the order for the month of October.

The operator of a large distributing plant, to which a number of the association's member producers ship, ceased all processing operations at the plant on October 4, 1972. The suspension of the diversion limits will afford the cooperative an opportunity to divert the milk of these producers to nonpool plants during October and retain pool status for such producers. As such, they will continue to receive the uniform price while the cooperative seeks other marketing arrangements with respect to the milk of these producers who have supplied the aforementioned pool plant for many years.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that it will provide a method for producers who have lost their pool plant outlet for milk to retain producer status under the order while seeking other marketing arrangements.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. There were no views filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during October 1972.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of October 1972.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: Upon publication in the FEDERAL REGISTER (10–21–72).

Signed at Washington, D.C., on October 18, 1972.

RICHARD E. LYNG,
Acting Secretary.

[FR Doc.72-18090 Filed 10-20-72;8:52 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Paragraph (b) of § 103.7 is amended as follows: In subparagraph (2) the introductory language is amended to clarify that the fee required to accompany each Form N–585 or Form I–550 is for the filing of the application; and the first item listed in subparagraph (2) is amended by deleting the material in parentheses. As amended, § 103.7(b)(2) reads as follows:

§ 103.7 Fees.

* * * * *

(b) *Amounts of fees.* * * *

(2) For the filing of each Form N–585 or Form I–550, and for the services expended in searching for or making available records or copies thereof under 5 U.S.C. 552, the following user charges are deemed fair and equitable and, except as otherwise provided in § 103.10(c)(2) and in paragraph (c) of this section, shall be assessed against the person who requests that records be made available:

Each Form N–585 or Form I–550 shall be accompanied by payment of	$3.00
For each one quarter man-hour or fraction thereof spent in excess of the first quarter hour in searching for or producing a requested record	1.00
For each one quarter hour or fraction thereof spent in monitoring the requester's examination of materials	1.00
For copies of documents:	
Per page	.25
Minimum fee	.50
(Maximum number of copies furnished of any document—10.)	
For each certification of a true copy	1.00
For each attestation under seal	3.00

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

§ 212.7 [Amended]

The first sentence of paragraph (c) *Section 212(e) of § 212.7 Waiver of certain grounds of excludability* is deleted and the following four sentences are inserted in lieu thereof: "An alien who was admitted to the United States as an exchange visitor, or who acquired that status after admission, is subject to the foreign residence requirement of section 212(e) of the Act if his participation in an exchange program was financed in whole or in part, directly or indirectly, by a U.S. Government agency or by the government of the country of his nationality or last residence. An alien is also subject to the foreign residence requirement of section 212(e) of the Act if: (1) At the time of issuance to him of an exchange visitor visa and admission to the United States, or (2) at the time of his admission to the United States as an exchange visitor, if not required to obtain a nonimmigrant visa, or (3) at the time of his acquisition of exchange visitor status after admission, he was a national and resident, or if not a national he was a lawful permanent resident or had a status equivalent to lawful permanent resident, of a country which the Secretary of State had designated, through publication by public notice in the FEDERAL REGISTER, as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was to engage in his exchange visitor program. A spouse or child admitted to the United States or accorded status under section 101(a)(15)(J) of the Act to accompany or follow to join an exchange visitor who is subject to the foreign residence requirement of section 212(e) of the Act shall also be subject to that requirement. An alien who is subject to the foreign residence requirement and who believes that compliance therewith would impose exceptional hardship upon his spouse or child who is a citizen of the United States or a lawful permanent resident alien, or that he cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, shall apply for a waiver on Form I–612."

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

§ 235.11 [Deleted]

Section 235.11 *Bonin Island inhabitants* is deleted because inoperable in view of the expiration of the provisions of the Act of July 10, 1970 (Private Law 91–114).

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the following transportation lines in alphabetical sequence: "Air Pacific, Inc." and "Island Aviation Incorporated."

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PART 299—IMMIGRATION FORMS

The listing of forms in § 299.1 *Prescribed forms* is amended to reflect the current edition date of the following forms:

§ 299.1 Prescribed forms.

Form No.	Title and description
• • •	• • •
I-17 (5-31-72)	Petition for approval of school for attendance by nonimmigrant alien students.
• • •	• • •
I-39 (7-2-72)	Special Inquiry Officer's decision (voluntary departure, alternate deportation).
• • •	• • •
I-13 (3-1-72)	Application for permit to reenter the United States.
I-134 (5-31-72)	Affidavit of support.
• • •	• • •
I-171C (6-1-72)	Notice of approval of Nonimmigrant Visa Petition or of Extension of Stay of H or L Alien.
• • •	• • •
I-351 (4-15-72)	Bond riders.
• • •	• • •
I-413 (4-25-72)	Applicant card.
• • •	• • •
I-485A (7-27-72)	Application by Cuban refugee for permanent residence.

PART 499—NATIONALITY FORMS

The listing of forms in § 499.1 *Prescribed forms* is amended to reflect the current edition date of the following forms:

§ 499.1 Prescribed forms.

Form No.	Title and description
• • •	• • •
N-12 (6-1-72)	Penalty envelope (to be addressed to any office of Service).
• • •	• • •
N-305 (6-1-72)	Form letter notifying alien that Form N-300 has been forwarded to the clerk of the court.
• • •	• • •

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The order shall be effective on the date of its publication in the FEDERAL REGISTER (10-21-72). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendment to § 103.7(b)(2) is clarifying in nature; the amendment to § 212.7 (c) is made to conform to the Department of State regulations published August 29, 1972 (37 F.R. 17470); the amendment to § 235.11 deletes an inoperable procedure; the amendment to § 238.3(b) adds transportation lines to the listing; and the amendments to §§ 299.1 and 499.1 are editorial in nature.

Dated: October 19, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.72-18141 Filed 10-20-72;8:54 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Tewaukon National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (10-21-72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NORTH DAKOTA

TEWAUKON NATIONAL WILDLIFE REFUGE

Public bow hunting of deer on the Tewaukon National Wildlife Refuge, N. Dak., is permitted from noon, November 20, 1972, through December 31, 1972, on the entire refuge as posted. This area, comprising 7,929 acres, is delineated on maps available at refuge headquarters, Cayuga, N. Dak. 58013, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1972.

HERBERT G. TROESTER,
Refuge Manager, Tewaukon National Wildlife Refuge, Cayuga, N. Dak.

OCTOBER 10, 1972.

[FR Doc.72-18038 Filed 10-20-72;8:48 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-566]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(11) relating to the State of Ohio, subdivision (iii) relating to Madison County is amended to read:

(e) • • •

(11) *Ohio.* • • •

(iii) That portion of Madison County bounded by a line beginning at the junction of County Road 109 and the Madison-Clark County line; thence, following County Road 109 in a northeasterly, then southeasterly direction to Township Road 111; thence, following Township Road 111 in a northeasterly direction to County Road 110; thence, following County Road 110 in a southeasterly direction to State Highway 38; thence, following State Highway 38 in a southwesterly direction to Interstate Highway 70, U.S. Highway 40; thence, following Interstate Highway 70, U.S. Highway 40 in a northeasterly direction to County Road 70; thence, following

County Road 70 in a southeasterly direction to State Highway 142; thence, following State Highway 142 in a southwesterly direction to County Road 70; thence, following County Road 70 in a southeasterly, then southwesterly direction to County Road 4; thence, following County Road 4 in a southwesterly direction to Township Road 100; thence, following Township Road 100 in a southeasterly direction to the north bank of the Oak Run Creek; thence, following the north bank of the Oak Run Creek in a northwesterly direction to the junction of the Oak Run Creek and the Walnut Run Creek; thence, crossing the Oak Run Creek to the north bank of the Walnut Run Creek; thence, following the north bank of the Walnut Run Creek in a generally westerly direction to the Union-Paint Township line; thence, following the Union-Paint Township line in a northwesterly direction to the Madison-Clark County line; thence, following the Madison-Clark County line in a northeasterly direction to its junction with County Road 109.

• • • • •

2. In § 76.2, in paragraph (e)(9) relating to the State of Indiana, subdivision (iii) relating to Carroll County is amended to read:

(e) • • •

(9) *Indiana.* • • •

(iii) That portion of *Carroll County* bounded by a line beginning at the junction of the Carroll-Tippecanoe County line and the east bank of the Wabash River; thence, following the east bank of the Wabash River in a generally northeasterly direction to the Carroll-Cass County line; thence, following the Carroll-Cass County line in a southerly, then easterly, then southerly direction to the junction of the Carroll-Cass-Howard County lines; thence, following the Carroll-Howard County line in a southerly direction to Division Road; thence, following Division Road in a westerly direction to State Highway 18; thence, following State Highway 18 in a westerly direction to the Monroe-Carrollton Township line; thence, following the Monroe-Carrollton Township line in a southerly direction to the junction of the Monroe-Carrollton-Burlington Township lines; thence, following the Monroe-Burlington Township line in a southerly direction to the junction of the Monroe-Burlington-Democrat Township lines; thence, following the Democrat-Burlington Township line in a southerly direction to State Highway 600S; thence, following State Highway 600S in a westerly direction to the Democrat-Clay Township line; thence, following the Democrat-Clay Township line in a northerly direction to the junction of the Democrat-Clay-Madison Township lines; thence, following the Clay-Madison Township line in a westerly direction to U.S. Highway 421; thence, following U.S. Highway 421 in a northerly, then northwesterly direction to Division Road; thence, following Division Road in a westerly direction to the Carroll-Tippecanoe County line; thence, following the Carroll-Tippecanoe County line in a northerly direction to its junction with the east bank of the Wabash River.

• • • • •

3. In § 76.2, in paragraph (g) the name of the State of Georgia is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine an additional portion of Madison County in Ohio and an additional portion of Carroll County in Indiana because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments remove the State of Georgia from the list of hog cholera free States appearing in 9 CFR 76.2(g), as amended, because of the secondary spread of the contagion of hog cholera within this State. The special provisions pertaining to the interstate movement of swine and swine products from eradication and free States are no longer applicable to Georgia. However, the general restrictions contained in 9 CFR Part 76, as amended, pertaining to the interstate movement of swine and swine products from nonquarantined areas apply to the State of Georgia. This removal of the State of Georgia from hog cholera free status has the effect of reducing the Federal indemnities payable under other regulations (9 CFR Part 56) for swine slaughtered because of hog cholera in Georgia.

The amendments impose certain further restrictions necessary to prevent the spread of hog cholera, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18042 Filed 10-20-72;8:49 am]

[Docket No. 72-567]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(12) relating to the State of Tennessee, a new subdivision (v) relating to Roane County is added to read:

(e) • • •

(12) *Tennessee.* • • •

(v) That portion of Roane County bounded by a line beginning at the junction of Interstate Highway 40 and the south bank of the Clinch River; thence, following the south bank of the Clinch River in a generally northeasterly direction to the western boundary of the Oak Ridge area; thence, following the western boundary of the Oak Ridge area in a southeasterly, then northeasterly, then southeasterly direction to State Highway 58; thence, following State Highway 58 in a southwesterly direction to Interstate Highway 40; thence, following Interstate Highway 40 in a generally northwesterly direction to its junction with the south bank of the Clinch River.

2. In § 76.2, in paragraph (e)(11) relating to the State of Ohio, subdivision (v) relating to Fayette, Highland, and Clinton Counties is amended to read:

(e) • • •

(11) *Ohio.* • • •

(v) The adjacent portions of Fayette, Highland, and Clinton Counties bounded by a line beginning at the junction of U.S. Highway 22, State Highway 3 and the west bank of the Sugar Creek in Fayette County; thence, following the west bank of the Sugar Creek in a generally northwesterly direction to the junction of the Union-Jasper-Jefferson Township lines; thence, following the Union-Jefferson Township line in a northeasterly direction to the junction of the Union-Jefferson-Paint Township lines; thence, following the Union-Paint Township line in a northeasterly direction to State Highway 238; thence, following State Highway 238 in a southeasterly direction to U.S. Highway 22; thence, following U.S. Highway 22 in a southwesterly direction to County Road 142; thence, following County Road 142 in a generally southwesterly direction to State Highway 753; thence, following State Highway 753 in a southeasterly, then southwesterly direction to Township Road 156; thence, following Township Road 156 in a generally westerly direction to Township Road 163; thence,

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following Township Road 163 in a southerly direction to Township Road 371 in Highland County; thence, following Township Road 371 in a southerly direction to State Highway 28; thence, following State Highway 28 in a westerly direction to State Highway 41; thence, following State Highway 41 in a northwesterly direction to State Highway 729 in Clinton County; thence, following State Highway 729 in a northeasterly, then northwesterly direction to U.S. Highway 22, State Highway 3; thence, following U.S. Highway 22, State Highway 3 in a northeasterly direction to its junction with the west bank of the Sugar Creek in Fayette County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264–1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Roane County in Tennessee and an additional portion of Fayette County in Ohio because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas.

The amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18043 Filed 10-20-72;8:49 am]

[Docket No. 72-568]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, paragraph (e) (14) relating to the State of Kansas is amended to read:

(e) * * *

(14) *Kansas.* That portion of Osborne County bounded by a line beginning at the junction of the Osborne-Smith County line and the dividing line between Range 14 West and Range 13 West; thence, following the dividing line between Range 14 West and Range 13 West in a southerly direction to U.S. Highway 24; thence, following U.S. Highway 24 in a southeasterly, then easterly direction to U.S. Highway 281; thence, following U.S. Highway 281 in a southerly direction to Secondary Road 517; thence, following Secondary Road 517 in an easterly direction to the dividing line between Range 12 West and Range 11 West; thence, following the dividing line between Range 12 West and Range 11 West in a northerly direction to the Osborne-Smith County line; thence, following the Osborne-Smith County line in a westerly direction to its junction with the dividing line between Range 14 West and Range 13 West.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Osborne and Smith Counties in Kansas from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

The amendment relieves restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and it should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Acordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18044 Filed 10-20-72;8:49 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Countries Determined To Be Free of Hog Cholera; Denmark

Pursuant to section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, 134f), Part 94, Title 9, Code of Federal Regulations, is hereby amended as follows:

Sections 94.9(a) and 94.10 are amended by adding thereto the name of the country of Denmark after the reference to "Canada," wherever it appears in these sections.

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132; 21 U.S.C. 111, 134a, 134b, 134c, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments add Denmark to the list of countries determined to be free of hog cholera and from which swine, pork, and pork products may be imported into the United States without complying with § 94.9 or § 94.10 but subject to other applicable restrictions.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 17th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18088 Filed 10-20-72;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-SO-98]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Mobile and Monroeville, Ala., transition areas.

The Mobile and Monroeville transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Mobile and Monroeville transition area descriptions to reflect required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Mobile and Monroeville, Ala., transition areas are amended as follows:

MOBILE, ALA.

"* * * within 3 miles each side of Brookley VORTAC 150° radial, extending from the 8.5-mile-radius area to 8.5 miles * * *" is deleted and "* * * within 3.5 miles each side of Brookley VORTAC 150° radial, extending from the 8.5-mile-radius area to 11 miles * * *" is substituted therefor.

MONROEVILLE, ALA.

"* * * within 4.5 miles each side of Monroeville VORTAC 039° and 201° radials, extending from the VORTAC to 9.5 miles * * *" is deleted and "* * * within 3 miles each side of Monroeville VORTAC 039° and 201° radials, extending from the VORTAC to 9 miles * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 13, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18033 Filed 10-20-72;8:47 am]

[Airspace Docket No. 72-SO-99]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Cross City, Daytona Beach, and Pahokee, Fla., transition areas.

The Cross City, Daytona Beach, and Pahokee transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Cross City, Daytona Beach, and Pahokee transition area descriptions to reflect required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Cross City, Daytona Beach, and Pahokee, Fla., transition areas are amended as follows:

CROSS CITY, FLA.

"* * * within 5 miles each side of Cross City VORTAC 121° radial, extending from the 8-mile-radius area to 8.5 * * *" is deleted and "* * * within 3.5 miles each side of Cross City VORTAC 121° radial, extending from the 8-mile-radius area to 7.5 * * *" is substituted therefor. stituted therefor.

DAYTONA BEACH, FLA.

"* * * long. 81°06'49" W.) * * *" is deleted and "* * * long. 81°06'49" W.); within 3 miles each side of Daytona Beach VORTAC 256° radial, extending from the 6.5-mile-radius area to 8.5 miles west of the VORTAC * * *" is substituted therefor.

PAHOKEE, FLA.

"* * * within 5 miles * * *" is deleted and "* * * within 3 miles * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 13, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18032 Filed 10-20-72;8:47 am]

[Airspace Docket No. 72-SW-59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Texas transition area.

On September 2, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 17979) stating the Federal Aviation Administration proposed to alter the Texas transition area by enlarging the area to the west.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the Texas transition area is amended by deleting "thence along the south boundary of V–198 to and along longitude 101°00'00" W., to and counterclockwise along the arc of a 60-mile-radius circle centered at latitude 29°21'31" N., longitude 100°46'35" W.," and substituting therefor "thence along the south boundary of V–198 to and counterclockwise along the arc of a 105-mile-radius circle centered at latitude 29°21'35" N., longitude 100°46'35" W.,".

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 12, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-18034 Filed 10-20-72;8:48 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2290]

PART 13—PROHIBITED TRADE PRACTICES

Acceptance Finance Co.

Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1905 *Terms and conditions.* Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.1925 *Coupon, certificate, check, credit voucher, etc., deductions in price.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended;

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15 U.S.C. 45) [Cease and desist order, Acceptance Finance Co., Clayton, Mo., Docket No. C-2290, Sept. 27, 1972]

In the Matter of Acceptance Finance Co., a Corporation

Consent order requiring a Clayton, Mo., finance company and its 74 subsidiaries, among other things to cease providing to customers negotiable instruments known as or similar to "Reddy Checks" unless it has received an affirmative, written, signed, and dated authorization from customers. Such authorization shall include a clear explanation of the number of such instruments to be mailed each year; the approximate dates of such mailings; the approximate face amount of such instruments; the period of validity of such instruments; the length of time the consumer's consent to participate will be valid; and certain consequences if such instruments are negotiated.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Acceptance Finance Co., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiaries, division, or other device, in connection with the advertising, solicitation for or the consummation of loans in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Providing in any manner to any consumer negotiable instruments known as or similar to Reddy Checks unless Acceptance Finance Co., or any of its subsidiaries, has received from such recipient an affirmative, written, signed, and dated request for or authorization to provide such negotiable instrument; *Provided, however*, That any consumer who has borrowed money from, or whose sales finance contract has been assigned to, Acceptance Finance Co., or any of its subsidiaries, prior to the effective date of the consent order, may be sent additional Reddy Checks in the manner set forth in paragraph B below. Such request or authorization shall contain language of a clear and conspicuous nature describing the Reddy Check program and the provisions of the consumer's consent to participate in such program and which includes an explanation of:

1. The number of such negotiable instruments intended to be mailed each year;

2. The approximate dates or months for such mailings;

3. The approximate face amount of such negotiable instruments;

4. The period of validity of such negotiable instruments;

5. The length of time the consumer's consent to participate in the program will be valid, i.e., the original duration of the agreement; and

6. Certain consequences if such negotiable instruments are negotiated, including where appropriate the effect on any outstanding balance that may be owed to Acceptance Finance Co., or any of its subsidiaries, and the effect on the duration of the agreement as described in 5 above.

B. With respect to any consumer who has borrowed money from, or whose sales finance contract has been assigned to, Acceptance Finance Co., or any of its subsidiaries, prior to the effective date of this consent order, effective January 1, 1973, Acceptance Finance Co. will discontinue and will not resume the practice of sending negotiable instruments known as or similar to Reddy Checks to any said consumer unless it, or any of its subsidiaries, has received from such recipient an affirmative, written, signed, and dated request or authorization as described in paragraph A above.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent at its general offices in Clayton, Mo., and in each of its subsidiary loan offices who are engaged as head of the particular department in the extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said copy of this order from each such person.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued: September 27, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-18059 Filed 10-20-72;8:50 am]

[Docket No. C-2287]

PART 13—PROHIBITED TRADE PRACTICES

Credit Bureau of Lorain, Inc., and Harry C. Koller

Subpart—Collecting, assembling, furnishing, or utilizing consumer reports: § 13.382 *Collecting, assembling, furnishing, or utilizing consumer reports:* 13.382-1 Confidentiality, accuracy, relevancy, and proper utilization; 13.382-1(a) Fair Credit Reporting Act; 13.382-5 Formal regulatory and/or statutory requirements; 13.382-5(a) Fair Credit Reporting Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147, 84 Stat. 1127-36; 15 U.S.C. 1601, et seq.) [Cease and desist order, Credit Bureau of Lorain, Inc., et al., Lorain, Ohio, Docket No. C-2287, Sept. 19, 1972]

In the Matter of Credit Bureau of Lorain, Inc., a Corporation, and Harry C. Koller, Individually and as an Officer of Said Corporation

Consent order requiring a Lorain, Ohio, credit bureau among other things to cease violating the Fair Credit Reporting Act by failing to require users of consumer reports to identify themselves and certify in writing the purpose for which the information is sought and not used for any other purpose; failing to incorporate in "Membership Contracts" that information will be requested only for the members' exclusive use in connection with the extension of credit, employment, insurance, governmental use, or other legitimate business transaction involving the consumer; failing to require non-consumer credit customers to furnish required information; failing to forbid employees to obtain reports on themselves or associates; and failing to cease doing business with any user of reports who does not follow the procedures specified by this order.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Credit Bureau of Lorain, Inc., a corporation, its successors and assigns, and its officers, and Harry C. Koller, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the collecting, assembling, or furnishing of consumer reports, as "consumer report" is defined in the Fair Credit Reporting Act (15 U.S.C. 1601 et seq.), shall forthwith cease and desist from:

1. Failing to require all prospective users of consumer reports to identify themselves and to certify, in writing, through a "Membership Contract" with the respondents, the purpose for which the information is sought and that the information will be used for no other purpose, in accordance with section 607 of the Fair Credit Reporting Act.

2. Failing to require prespective users of consumer reports, who are not, in the ordinary course of business, regularly extending consumer credit and/or consumer insurance, to identify themselves and to certify, in writing, either at the time the prospective users seek each consumer report, or within ten (10) business days after an oral certification of a request for each consumer report, the purpose for which the information is sought and that the information will be used for no other purpose, in accordance with section 607 of the Fair Credit Reporting Act.

3. Failing to incorporate the following statements on the face of all "Membership Contracts" between the respondents and the prospective users of consumer reports, with such conspicuousness and clarity as is likely to be read and understood by the prospective users of consumer reports:

(1) Information will be requested only for the members' exclusive use, and the member certifies that inquiries will be made only for one or more of the following permissible purposes and no other:

(a) In connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(b) In connection with employment purposes; or

(c) In connection with the underwriting of insurance involving the consumer, or

(d) In connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(e) In connection with a legitimate business need for the information in connection with a business transaction involving the consumer.

(2) Member, who is not, in the ordinary course of business, regularly extending consumer credit and/or consumer insurance, agrees to inform the Credit Bureau of the purpose for which each report is sought, at the time each such report is ordered.

(3) Reports on employees will be requested only by the members' designated representatives. Employees will be forbidden to attempt to obtain reports on themselves, associates, or any other person except in the exercise of their official duties.

(4) It is understood by the member that Public Law 91-508, section 619, states, "Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than $5,000 or imprisoned not more than 1 year, or both."

4. Failing to cease doing business with any prospective user or user of consumer reports who does not follow any of the oral or written procedures as specified by this order.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the assembling or evaluating of information on consumers for the purpose of furnishing to third parties consumer reports and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale, resultant in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained therein.

By the Commission.

Issued: September 19, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-18060 Filed 10-20-72;8:50 am]

[Docket No. C-2291]

PART 13—PROHIBITED TRADE PRACTICES

Eastman Kodak Co.

Subpart—Advertising falsely or misleadingly: § 13.135 *Nature of product or service;* § 13.140 *Old, reclaimed, or reused product being new.* Subpart—Aiding, assisting, and abetting unfair or unlawful act or practice: § 13.290 *Aiding, assisting, and abetting unfair or unlawful act or practice.* Subpart—Furnishing means and instrumentalities of misrepresentation of deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1057 *Packaging deceptively.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1695 *Old, second hand, reclaimed, or reconstructed as new.* Subpart—Neglecting, unfairly, or deceptively, to make material disclosure: § 13.1880 *Old, used, or reclaimed as unused or new.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Eastman Kodak Co., Rochester, N.Y., Docket No. C-2291, Sept. 28, 1972]

In the Matter of Eastman Kodak Co., a Corporation

Consent order requiring a Rochester, N.Y., manufacturer of photographic equipment, among other things to cease misrepresenting used photographic equipment as new and failing to disclose the nature of such products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

In this order, the following definitions shall be applicable:

(i) Photographic equipment: Photographic equipment shall mean, still and motion picture cameras and projectors, including attachments thereto, which are designed for and customarily sold for general amateur photographic purposes.

(ii) Used photographic equipment: Photographic equipment shall be considered used when it has been sold to and delivered to an ultimate consumer unless respondent can establish that the ultimate consumer has not used the product for the purposes for which it was intended or when the photographic equipment has been utilized for general demonstration purposes.

It is ordered, That respondent Eastman Kodak Co., a corporation, and its officers, successors, or assigns and respondent's agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, or distribution of photographic equipment in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing, clearly and conspicuously to disclose, in connection with the sale of used photographic equipment, in all advertising, sales, promotional literature, and invoices concerning such photographic equipment, on the container in which the photographic equipment is packaged and on the photographic equipment with sufficient permanency as likely to remain thereon until sale to the ultimate consumer, the fact that such product has been previously used, as is defined above.

2. Representing, directly or by implication, that used photographic equipment distributed by or on behalf of respondent is new or misrepresenting in any manner the nature, extent, or degree of use of any photographic equipment offered for sale, sold, or distributed by, on or behalf of respondent.

3. Failing to maintain a system for handling used photographic equipment that is returned to the respondent which is so designed that photographic equipment which has been used is sufficiently identified to assure ultimate disposition in accordance with the terms of this order.

4. Supplying new packaging material for photographic equipment manufactured by the respondent to independent warranty shops or other nonaffiliated entities which customarily do repair or service work on photographic equipment manufactured by respondent, except if such repair or service facility states in writing that such packaging material is intended for use with consumer-owned photographic equipment.

5. Supplying new packaging material for photographic equipment manufactured by the respondent to customers who resell such equipment at wholesale and/or retail, except for packaging material customarily shipped for display or replacement purposes, without receiving from the customer a statement in writing indicating that the requested packaging material is not to be utilized with used photographic equipment as that term is herein defined.

It is further ordered, That:

(a) As a condition precedent to repairing, refurbishing, repackaging, or replacing any photographic equipment returned to respondent, respondent shall require any person, firm, or corporation other than an ultimate consumer who returns such product to provide in writing a statement which will indicate

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whether or not the returned photographic equipment is a used product as that term is herein defined;

(b) Respondent shall maintain copies of statements received under the provisions of the immediately preceding subparagraph and paragraphs 4 and 5 for a period of at least three (3) years and respondent shall maintain records sufficient to show compliance with paragraph 3 supra for a period of three (3) years.

(c) Irrespective of the information received pursuant to subparagraph (a) above, if the respondent has reason to believe from a physical inspection of the photographic equipment or from documentation accompanying the returned product that it has been used as that term is herein defined, it shall be treated as used photographic equipment pursuant to paragraphs 1, 3, 4, and 5 above.

It is further ordered, That respondent herein shall notify the Commission at least thirty (30) days prior to any proposed change in the structure of the corporate respondent, such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respective corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

It is further ordered, That respondent shall deliver, by first class mail, postage prepaid, a copy of this order to each of its customers who resell photographic equipment at wholesale and/or retail.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

By the Commission.

Issued: September 28, 1972.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-18058 Filed 10-20-72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-72-217]

PART 35—PROHIBITION OF USE OF LEAD-BASED PAINT AND ELIMINATION OF LEAD-BASED PAINT HAZARD

On August 22, 1972 (37 F.R. 16872), HUD issued 24 CFR Part 35 prohibiting the use of lead-based paint in Federal and federally assisted construction and rehabilitation. In this revision of Part 35, the Department is revising the existing provisions of Part 35 and designating this revision as Subpart A—Prohibition of Lead-Based Paint Usage in New Construction and Rehabilitation, and is adding a new Subpart B—Elimination of Lead-Based Paint Hazard in HUD-Associated Properties. The new subpart reflects the Department's policy of treating and removing existing health hazards caused by existing lead-based paint in HUD-associated properties. There are also being included two new definitions: "Health hazard" and "HUD-associated properties;" the existing definitions of "federally assisted" and "rehabilitation" are being combined in a new definition "federally assisted construction or rehabilitation;" and the definition of "residential structure" is being expanded.

In order to proceed as quickly as possible in eliminating the health hazards described, the Secretary finds that comment and public procedure on this revision are impractical and contrary to the public interest and that good cause exists for making the part, as revised, effective upon publication.

Accordingly, Part 35 is revised as follows:

Subpart A—Prohibition of Lead-Based Paint Usage in New Construction and Rehabilitation

Sec.
35.1 Purpose.
35.3 Definitions.
35.5 Applicability.

Subpart B—Elimination of Lead-Based Paint Hazard in HUD-Associated Properties

35.10 Purpose.
35.12 Definitions.
35.14 Inspection.
35.16 Procedure.
35.18 Treatment.
35.20 Special program considerations.
35.22 Resident involvement.
35.24 Local codes and regulations.

AUTHORITY: The provisions of this Part 35 issued under Public Law 91-695, 84 Stat. 2079, 42 U.S.C. 4801, et seq.; 42 U.S.C. 3535(d).

Subpart A—Prohibition of Lead-Based Paint Usage in New Construction and Rehabilitation

§ 35.1 Purpose.

This Subpart A implements the provisions of 42 CFR Part 90, which are applicable to Federal agencies and which prohibit use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance.

§ 35.3 Definitions.

(a) "Lead-based paint," as defined in section 501(3) of the Lead-Based Paint Poisoning Prevention Act (84 Stat. 2080; 42 U.S.C. 4841(3)), means any paint containing more than 1 percent lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied.

(b) "Applicable surfaces" means all interior surfaces and those exterior surfaces, such as stairs, decks, porches, railings, windows, and doors, which are readily accessible to children under 7 years of age (42 CFR 90.2(g)).

(c) "Residential structure" means any house, apartment, or structure intended for human habitation, including any institutional structure where persons reside, such as an orphanage, boarding school dormitory, day care center or extended care facility (42 CFR 90.2(f)), and including nursing homes, intermediate care facilities, college housing, hospitals, group practice facilities, and community facilities.

(d) "Federally assisted construction or rehabilitation" means work financed with any form of Federal financial assistance, including grants, loans, advances, or proceeds of a HUD-guaranteed loan or a HUD-insured mortgage. For purposes of this part, "rehabilitation" and "rehabilitated" also include routine maintenance work which is financed by any of the foregoing forms of Federal financial assistance.

(e) "Health hazard" means crackling, scaling, peeling, and loose lead-based paint on applicable surfaces.

(f) "HUD-associated properties" means residential structures (as defined above) when they are being constructed, purchased, leased, rehabilitated (as defined above), modernized, or improved, with any form of Federal financial assistance whether grant, loan, advance, or proceeds of a HUD-guaranteed loan or a HUD-insured mortgage.

§ 35.5 Applicability.

(a) No office of the Department of Housing and Urban Development shall, in the construction or rehabilitation of any residential structure, use or permit the use of lead-based paint on applicable surfaces.

(b) The use of lead-based paint on applicable surfaces of any residential structure undergoing federally assisted construction or rehabilitation under any program under the jurisdiction of the Department of Housing and Urban Development is prohibited. Every contract and subcontract including painting, pursuant to which such federally assisted construction or rehabilitation is performed, shall include appropriate provisions prohibiting such use of lead-based paint. Such provisions shall include any provisions necessary for the enforcement of that prohibition.

Subpart B—Elimination of Lead-Based Paint Hazard in HUD-Associated Properties

§ 35.10 Purpose.

This Subpart B implements the policy of the Department that health hazards, as defined herein, shall be treated as provided in these regulations.

§ 35.12 Definitions.

The definitions set forth in § 35.3 apply to this subpart.

§ 35.14 Inspection.

The responsibility for the inspection of HUD-associated properties under the various HUD programs shall be as follows:

(a) HUD-owned properties that are to be sold as is or are to be rehabilitated before the sale shall be inspected by the local HUD staff or, if appropriate, by the management broker as a part of the program for management and disposition of acquired property.

(b) Existing properties proposed for rehabilitation with the assistance of HUD-FHA mortgage insurance shall be inspected by the local HUD staff.

(c) Low-rent public housing shall be inspected by the agency, or agent responsible for the maintenance, management, repair, and operation of the property. See § 35.20 for special instruction for public housing.

(d) Existing properties proposed for HUD-FHA mortgage insurance shall be inspected by the local HUD staff or by fee appraisers where otherwise permitted under existing procedures.

(e) In the rehabilitation of HUD-associated college housing, the architect shall be responsible for inspecting the premises and certifying that the completed project complies with the provisions of this subpart.

(f) In Community Development supported activities affecting HUD-associated properties, the appropriate local public agency, local public body or city demonstration agency shall be responsible for inspecting the premises and certifying that the completed property complies with the provisions of this subpart.

§ 35.16 Procedure.

All defective paint conditions (described in § 35.3(f)) shall be assumed to involve lead-based paint and thus to constitute health hazards that must be corrected, unless testing shows that lead is not present in the paint at a level above 1.0 percent. (Most of the paint used in structures built in 1950 or earlier was lead-based.) This procedure is being adopted because of the expense and difficulty of determining the lead content of dried paint film by presently available methods.

§ 35.18 Treatment.

All applicable surfaces identified in accordance with § 35.16 as health hazards as defined herein shall receive adequate treatment to prevent the ingestion of the contaminated paint. Particular care shall be taken to correct conditions of cracking, scaling, peeling, and loose paint on walls, ceilings, doors, windows, trim, stairs, railings, cabinets, and piping. All such surfaces which require treatment shall be thoroughly washed, sanded, scraped, or wire brushed, so as to remove all cracking, scaling, peeling, and loose paint before repainting. As a minimum, these surfaces must receive two coats of a suitable nonlead-based paint. Where it is infeasible to control or correct the cracking, scaling, peeling, or loosening of the lead-based paint and the film integrity of the treated surfaces cannot be maintained, the paint on these surfaces shall be removed or covered with materials such as hardboard, plywood, drywall, plaster, or other suitable material.

§ 35.20 Special program considerations.

The following special considerations shall be observed:

(a) *Low-rent public housing.* Unless otherwise required by local codes, local housing authorities shall develop a two-phase program. The first phase will consist of an inspection and testing program to: (1) Identify dwelling units that have health hazards as defined herein; (2) prepare estimates of cost for correction; and (3) budget for the funds needed. It is not necessary to test every dwelling unit in a project. A sufficient number of tests in the sample dwelling units shall be made to assure that applicable surfaces in the dwelling units are not covered with lead-based paint as defined herein. The second phase will consist of a program to eliminate the health hazards found in Phase 1. Corrective work shall be accomplished as rapidly as possible.

(b) *Leased housing.* It shall be the responsibility of each local housing authority, before entering into a new lease agreement or renewal, to obtain from the owner either a certification from a local government code inspector or a qualified laboratory that applicable surfaces are free of lead-based paint, or the owner's certification that those surfaces have been adequately treated or covered, as described in § 35.18. Where residences under lease are cited by a responsible local agency for lead-based paint code violations, the local housing authority shall immediately initiate action necessary to terminate the lease if the violation is not corrected within the time period specified in the citation.

§ 35.22 Resident involvement.

It is the intent of the Department to provide every opportunity for resident involvement in the program of eliminating lead-based paint hazards.

§ 35.24 Local codes and regulations.

The provisions of this subpart constitute the policy of this Department. They shall not be construed as relieving the owner of his responsibility for compliance with local ordinances, codes, and regulations pertaining to lead-based paint, nor does the Department assume any responsibility with respect to enforcing, interpreting, or determining compliance with such local requirements.

Effective date. The provisions of this part shall be effective as of October 21, 1972.

RICHARD C. VAN DUSEN,
Under Secretary of Housing and Urban Development.

[FR Doc.72-18146 Filed 10-20-72;8:54 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T.D. ATF-2]

IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER FROM PUERTO RICO AND THE VIRGIN ISLANDS

Issuance of and Accounting for Red Strip Stamps

On July 1, 1972, a notice of proposed rule making to amend 26 CFR Parts 194, 201, 250, and 251 by prescribing new procedures to be followed by importers for strip stamp accounting, records, and reports, and by providing for the approval and issuance of strip stamps by assistant regional commissioners (now Regional Directors, Bureau of Alcohol, Tobacco and Firearms), instead of by District Directors of Internal Revenue with the approval of the Bureau of Customs, was published in the FEDERAL REGISTER (37 F.R. 13100). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. After consideration of all relevant matter presented regarding the proposed amendments, the regulations as so published in the FEDERAL REGISTER are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph A is changed by adding amendments to § 194.11. Section 194.11 is amended by changing the definition of "Assistant regional commissioner" and "Director"; and by adding, in alphabetical order, a definition of "Regional director." As amended and added these definitions read as set forth below.

PAR. 2. Paragraph A is further changed by substituting "Regional director" for "Assistant regional commissioner" wherever it appears in § 194.254.

PAR. 3. Paragraph B1 is changed by deleting the definition for "Director of customs" and adding instead a definition for "District director of customs"; by amending the definition of "Assistant regional commissioner"; and by adding, in alphabetical order, a definition of "Regional director" in § 201.11. As revised and added these definitions read as set forth below.

PAR. 4. Paragraph B2 is changed by substituting "regional director" for "assistant regional commissioner" wherever it appears in § 201.543.

PAR. 5. Paragraph C1 is changed by deleting the definition for "Director of customs" and adding instead a definition for "District director of customs"; by amending the definition of "Assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division"; and by adding, in alphabetical

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order, a definition for "Director, Bureau of Alcohol, Tobacco and Firearms" and "Regional director" in § 250.11. As revised and added, these definitions read as set forth below.

PAR. 6. Paragraph C5 is changed to read as follows: Section 250.75 is amended by deleting the words "Assistant Regional Commissioner, Alcohol and Tobacco Tax" and by inserting instead the words "Regional Director".

PAR. 7. Paragraph C6 is changed by deleting in § 250.138 the words "Director, Alcohol, Tobacco and Firearms Division" wherever they appear and by inserting instead the words "Director, Bureau of Alcohol, Tobacco and Firearms"; and further changed by deleting, in the two sentences immediately preceding the last sentence the words "Internal Revenue" and "Internal revenue" and by inserting instead the words "Alcohol, Tobacco and Firearms" and "Alcohol, tobacco and firearms", respectively.

PAR. 8. Paragraph C9 is changed by deleting in § 250.233 the words "Director, Alcohol, Tobacco and Firearms Division" wherever they appear and by inserting instead the words "Director, Bureau of Alcohol, Tobacco and Firearms" and further changed by deleting, in the two sentences immediately preceding the last sentence, the words "Internal Revenue" and "Internal revenue" and by inserting instead the words "Alcohol, Tobacco and Firearms" and "Alcohol, tobacco and firearms", respectively.

PAR. 9. Paragraphs C10, C12, C13, C28, and C31 are changed by deleting in §§ 250.234, 250.235, 250.237, 250.240, 250.240a, 250.271, and 250.277 the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director".

PAR. 9a. Paragraphs C17 and C22 are changed by deleting in §§ 250.245 and 250.252a the words "director of customs" wherever they appear, and by inserting instead the words "district director of customs".

PAR. 10. Paragraph C19 is changed by deleting, in the first sentence of § 250.249, the word "unexamined" and by inserting instead the words "delivered or released", by inserting the word "district" immediately preceding the words "director of customs", and by inserting in the last sentence immediately after the word "any" the words "irregularities or."

PAR. 11. Paragraph C21 is changed (1) by revising the title of § 250.252 to read "Destruction or transfer of red strip stamps in the Virgin Islands"; (2) by deleting from its text the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director"; and (3) by reducing by one copy the number of copies of the application for destruction of stamps and of Form 1627 that are required to be prepared and distributed. As further changed paragraph C21 reads as set forth below.

PAR. 12. Paragraph C27 is changed by revising the third sentence of § 250.270, which now begins "Each entry showing stamps received" to read "Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number."; and by changing the "(1)" and "(2)" in the last sentence to "(a)" and "(b)", respectively.

PAR. 13. Paragraph C30 is changed by deleting in § 250.275 the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director"; and further changed by deleting, in the next to the last sentence, the words "internal revenue" and inserting instead the words "alcohol, tobacco and firearms".

PAR. 14. Paragraph C32 is changed by deleting in § 250.331 the words "assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division" wherever they appear and by inserting instead the words "regional director" and "Director, Bureau of Alcohol, Tobacco and Firearms", respectively.

PAR. 15. Paragraph D1 is changed by deleting the definition for "Director of customs" and adding instead a definition for "district director of customs"; by amending the definition of "Assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division"; and by adding, in alphabetical order, a definition for "Director, Bureau of Alcohol, Tobacco and Firearms" and "Regional director" in § 251.11. As revised and added these definitions read as set forth below.

PAR. 16. Paragraphs D3, D4, D6, D7, D20, D24, and D27 are changed by deleting in §§ 251.64, 251.64a, 251.66, 251.66a, 251.92, 251.131, and 251.160 the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director".

PAR. 17. Paragraph D10 is changed by deleting in § 251.69 the words "Director, Alcohol, Tobacco and Firearms Division" wherever they appear and by inserting instead the words "Director, Bureau of Alcohol, Tobacco and Firearms"; and further changed by deleting, in the two sentences immediately preceding the last sentence, the words "Internal Revenue" and "Internal revenue" and by inserting instead the words "Alcohol, Tobacco and Firearms" and "Alcohol, tobacco and firearms".

PAR. 17a. Paragraphs D11 and D14 are changed by deleting in §§ 251.72 and 251.85a the words "director of customs" wherever they appear, and by inserting instead the words "district director of customs".

PAR. 18. Paragraph D16 is changed by deleting in the first sentence of § 251.88 the word "unexamined" and by inserting instead the words "delivered or released", by inserting the word "district" immediately preceding the words "director of customs", and by inserting in the last sentence immediately after the word "any" the words "irregularities or".

PAR. 19. Paragraph D18 is changed (1) by revising the title of § 251.89a to read "Destruction or transfer of red strip stamps abroad"; (2) by deleting from its text the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director"; and (3) by reducing by one copy the number of copies of the application for destruction of stamps and of Form 1627 that are required to be prepared and distributed. As further changed Paragraph D18 reads as set forth below.

PAR. 20. Paragraph D23 is changed by revising the third sentence of § 251.130, which now begins "Each entry showing stamps received" to read "Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number"; and by changing the "(1)" and "(2)" in the last sentence to "(a)" and "(b)", respectively.

PAR. 21. Paragraph D26 is changed by deleting in § 251.136 the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director"; and further changed by deleting, in the next to the last sentence, the words "internal revenue" and inserting instead the words "alcohol, tobacco and firearms".

PAR. 22. Paragraph D28 is changed by deleting in § 251.221 the words "assistant regional commissioner" and "Director, Alcohol, Tobacco and Firearms Division" wherever they appear and by inserting instead the words "regional director" and "Director, Bureau of Alcohol, Tobacco and Firearms", respectively.

This Treasury decision shall become effective on December 1, 1972.

(26 U.S.C. 7805, 68A Stat. 917)

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: October 16, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

In order to (1) prescribe new procedures to be followed by importers for strip stamp accounting, records, and reports; (2) provide for the issuance of strip stamps by assistant regional commissioners, alcohol, tobacco and firearms; (3) recognize the change in name of the Alcohol, Tobacco and Firearms function and the change in the organizational structure of the Bureau of Customs; and (4) make miscellaneous conforming and editorial changes, the regulations in 26 CFR Parts 194, 201, 250 and 251 are amended as follows:

PART 194—LIQUOR DEALERS

PARAGRAPH A. 26 CFR Part 194 is amended as follows:

1. Section 194.11 is amended by changing the definition of "Assistant regional commissioner" and "Director"; and by adding, in alphabetical order, a definition of "Regional director". As amended and added these definitions read as follows:

§ 194.11 Meaning of terms.

• • • • •

Assistant regional commissioner. Wherever used in this part shall mean a regional director as defined in this section.

• • • • •

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

• • • • •

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director.

• • • • •

2. Section 194.254 is amended by (1) deleting the word "obtain" from the next to the last sentence; and (2) making an editorial change and changes in nomenclature. As amended, § 194.254 reads as follows:

§ 194.254 Replacement of strip stamps found by dealer to be mutilated or missing.

Containers requiring restamping, as described in § 194.253, shall be set aside by the dealer and application for necessary stamps submitted with Form 428, in duplicate, to the regional director. Copies of Form 428 may be obtained from the regional director. In every case the application shall state the cause of mutilation or absence of stamps and submit evidence that the spirits are eligible for stamping under section 5205(c), I.R.C. Such evidence may consist of invoices covering purchase of the spirits, in addition to other available documents. Such application shall be signed by the dealer or his authorized agent under the penalties of perjury immediately below a declaration, worded as follows:

I declare under the penalties of perjury that I have examined this application and to the best of my knowledge and belief it is true and correct.

If the regional director is satisfied from the evidence submitted that the mutilation or absence of the stamps has been satisfactorily explained, he will approve the requisition for stamps, Form 428, and deliver the stamps to the applicant by mail with instructions in regard to affixing them to the containers, or by a representative of his office. If an overprinted stamp is to be replaced by the dealer, the word "Restamped," the name of the dealer, and the date of restamping shall be imprinted, or written in ink, in lieu of overprinting the replacement stamp.

(72 Stat. 1358; 26 U.S.C. 5205)

PART 201—DISTILLED SPIRITS PLANTS

PAR. B. 26 CFR Part 201 is amended as follows:

1. Section 201.11 is amended by changing the definition of "Director of Customs" to reflect recent changes in the organizational structure of the Bureau of Customs and by changing the definition of "Assistant regional commissioner" and adding a definition for "Regional director" as a result of the establishment of the Bureau of Alcohol, Tobacco and Firearms. As amended, § 201.11 reads as follows:

§ 201.11 Meaning of terms.

• • • • •

Assistant regional commissioner. Wherever used in this part shall mean a regional director as defined in this section.

• • • • •

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

• • • • •

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director, Bureau of Alcohol, Tobacco and Firearms.

• • • • •

2. Section 201.543 is amended to provide for: (1) Strip stamps to be obtained from regional directors instead of from district directors; and (2) strip stamps being delivered by an alternate method to be shipped directly to the proprietor instead of being shipped to the assigned officer. As amended, § 201.543 reads as follows:

§ 201.543 Procurement of strip stamps.

(a) *General.* Strip stamps may be obtained, without charge, by the proprietor, in reasonable anticipation of current needs, from the regional director of the region in which the plant is located, by requisition on Form 428 approved by the assigned officer. Such stamps may not be procured by one proprietor from another or transferred to another plant operated by the same proprietor, except on authorization by the regional director. Requisition shall be for full sheets of such stamps. On receipt of the stamps the proprietor shall verify the quantity received and acknowledge receipt thereof, noting any discrepancies, on both copies of Form 428 returned by the regional director, forward one copy of the Form 428 to the regional director, and retain one copy in his files.

(b) *Alternative method.* When the regional director determines that the interests of the Government will be best served thereby, the stamps may be shipped directly to the proprietor from a location other than the office of the regional director. In such case, the regional director shall notify the proprietor that the strip stamps will be delivered by an alternative method and inform him of the minimum quantity, if any, of each size stamp which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form shall be returned to the proprietor. Upon receipt of the stamps, the proprietor shall (1) indicate the serial numbers (if any) of the stamps received and acknowledge receipt thereof, noting any discrepancies, on both copies of Form 428, and (2) return one copy to the regional director, and retain one copy in his files.

(72 Stat. 1358; 26 U.S.C. 5205)

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

PAR. C. 26 CFR Part 250 is amended as follows:

1. Section 250.11 is amended by changing the definitions of "Assistant regional commissioner," "Director, Alcohol, Tobacco and Firearms Division," and "Director of customs," and by adding definitions of "Director, Bureau of Alcohol, Tobacco and Firearms," and "Regional director." As amended, § 250.11 reads as follows:

§ 250.11 Meaning of terms.

• • • • •

Assistant regional commissioner. Wherever used in this part shall mean a regional director as defined in this section.

• • • • •

Director, Alcohol, Tobacco and Firearms Division. Wherever used in this part shall mean the Director, Bureau of Alcohol, Tobacco and Firearms; as defined in this section.

Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

• • • • •

Regional director. A regional director who is responsible to, and functions under the direction and supervison of, the Director.

• • • • •

2. Section 250.41 is amended by adding a proviso at the end thereof. As amended, § 250.41 reads as follows:

§ 250.41 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed, or obscured or obliterated, before the contents thereof have been removed; but when barrels, casks, or similar containers (except for beer and wine) are emptied, all such marks, brands, and serial numbers shall be effaced and obliterated by the person removing the contents: *Provided*, That, the marks, brands, and serial numbers on such containers emptied on the premises of a distilled spirits plant qualified under the provisions of Part 201 of this chapter need not be effaced or obliterated.

(72 Stat. 1358; 26 U.S.C. 5205)

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3. Section 250.62 is amended by: (1) Making a clarifying change; and (2) deleting obsolete provisions relating to powers of attorney. As amended, § 250.62 reads as follows:

§ 250.62 Corporate surety.

Surety bonds may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary of the Treasury of the United States, as set forth in the current revision of U.S. Treasury Department Circular 570.

(61 Stat. 648; 6 U.S.C. 6, 7)

4. Two new sections, §§ 250.62a and 250.62b, are added to prescribe requirements relating to filing of powers of attorney and execution of powers of attorney, respectively. As added, new §§ 250.62a and 250.62b read as follows:

§ 250.62a Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The Officer-in-Charge who is authorized to approve the bond may, when he deems it necessary, require additional evidence of the authority of the agent or officer to execute the bond or consent.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 250.62b Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 250.75 [Amended]

5. Section 250.75 is amended by deleting the words "Assistant Regional Commissioner, Alcohol and Tobacco Tax," and by inserting instead the words "Regional Director."

6. Section 250.138 is amended to (1) provide that the Director may authorize labels to be affixed so as to partially obscure strip stamps; and (2) make an editorial change and other changes to recognize changes in organizational structure. As amended, § 250.138 reads as follows:

§ 250.138 Affixing strip stamps.

Strip stamps shall be securely affixed to the containers with a strong adhesive, and shall be affixed in such a manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that (a) the Director, Bureau of Alcohol, Tobacco and Firearms, may authorize labels to be affixed so as to partially obscure strip stamps, if he finds that a need therefor exists, and if he finds that the manner of affixing such labels does not obscure essential information on the strip stamps which is not clearly shown on the bottle or on the labels affixed to the bottle, and (b) any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons and wrappings on such cartons must bear the words, "This package may be opened for examination by Alcohol, Tobacco and Firearms Officers." Alcohol, tobacco and firearms and customs officers have the right to open such cartons or wrappings and examine the container. If there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

7. Section 250.163 is amended to provide that persons responsible for release of liquors from customs custody who do not take physical possession of the liquors shall keep commercial records which reflect the release of the liquors. As amended, § 250.163 reads as follows:

§ 250.163 General requirements.

Except as provided in § 250.164, every person, other than a tourist, bringing liquor into the United States from Puerto Rico shall keep records and render reports of the physical receipt and disposition of such liquors in accordance with Part 194 ("Liquor Dealers") of this chapter: *Provided*, That if the person who is responsible for release of the liquors from customs custody does not take physical possession of the liquors, he shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

8. Section 250.207 is amended by adding a proviso at the end thereof. As amended, § 250.207 reads as follows:

§ 250.207 Destruction of marks and brands.

The marks, brands, and serial numbers required by this part to be placed on barrels, casks, or similar containers, or cases, shall not be removed, or obscured or obliterated, before the contents thereof have been removed; but when barrels, casks, or similar containers (except for beer and wine) are emptied, all such marks, brands, and serial numbers shall be effaced and obliterated by the person removing the contents: *Provided*, That, the marks, brands and serial numbers on such containers emptied on the premises of a distilled spirits plant qualified under the provisions of Part 201 of this chapter need not be effaced or obliterated.

(72 Stat. 1358; 26 U.S.C. 5205)

9. Section 250.233 is amended to (1) provide that the Director may authorize labels to be affixed so as to partially obscure strip stamps; and (2) make an editorial change and changes in nomenclature. As amended, § 250.233 reads as follows:

§ 250.233 Affixing strip stamps.

Strip stamps shall be securely affixed to the container with a strong adhesive, and shall be affixed in such manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that (a) the Director, Bureau of Alcohol, Tobacco and Firearms, may authorize labels to be so affixed as to partially obscure strip stamps, if he finds that a need therefor exists, and if he finds that the manner of affixing such labels does not obscure essential information on the strip stamp which is not clearly shown on the bottle or on the labels affixed to the bottle, and (b) any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons and wrappings on such cartons must bear the words, "This package may be opened for examination by Alcohol, Tobacco and Firearms Officers." Alcohol, tobacco and firearms and customs officers have the right to open such cartons or wrappings and examine the container. If there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

10. Sections 250.234, 250.235, 250.236, and 250.237 are amended in their entirety. As amended, §§ 250.234, 250.235, 250.236, and 250.237 read as follows:

§ 250.234 Power of attorney.

If an importer gives power of attorney to another person to sign Form 96 or Form 428, such power of attorney shall be executed on Form 1534 and, in the case of Forms 96, filed with the regional director of the region in which the importer's business is located or, in the case of Forms 428, the regional director with whom the requisition will be filed. When either of the above forms is signed by an agent, the name of the importer shall be given, followed by the signature of the agent and the words "Attorney in Fact".

§ 250.235 Breach of regulations, or failure to properly account for strip stamps.

The regional director shall refuse to approve any further requisitions, Form 428, when he has knowledge that the importer has failed to furnish a satisfactory accounting for strip stamps, as prescribed in this part, or has failed to comply with any of the provisions of this part. The regional director may require of the importer, at a specified time and place, an immediate accounting of all strip stamps outstanding in the name of the importer as a means of determining whether there has been unlawful diversion or use of strip stamps and may also require that all unused strip stamps be recalled and delivered so they may be counted. If the regional director has evidence that any of the provisions of this part have been willfully violated, he shall take appropriate action. He shall also refuse to approve any further requisitions when he has knowledge that the importer has failed to furnish a satisfactory accounting for strip stamps in any other region.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.236 Conditions.

Red strip stamps, requisitioned by, and issued to, an importer or his agent as provided in this subpart, may be sent to a bottler or exporter in the Virgin Islands to be affixed to containers of distilled spirits.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.237 Requisition, Form 428.

Requisition on Form 428 for red strip stamps shall be made by the importer, or by his agent pursuant to filing a Form 1534 as provided in § 250.234, or by the subsequent purchaser of the distilled spirits as provided in § 250.256. The name, address, and permit number of the importer (or subsequent purchaser) shall be shown, and if the requisition is prepared by an agent located at an address other than that of the importer, the address of the agent shall be shown. The requisition shall be serially numbered by the importer, and if one or more agents at locations other than that of the importer also place requisitions, each agent shall maintain a separate series of serial numbers prefixed by a letter designation assigned by the importer, e.g., A–1, A–2. The Form 428 shall be submitted to the regional director of the region in which the place of business of the importer, or of his agent, or of the subsequent purchaser, as the case may be, is located. A certified, photostatic or similar type of reproduced copy of the importer's permit issued pursuant to the Federal Alcohol Administration Act and regulations issued thereunder shall be furnished to the regional director of a region other than the region in which the importer's place of business is located either before or at the time the first requisition is presented for approval. All strip stamps issued on Form 428 shall, for each location at which an accounting of stamps is required by § 250.270, be accounted for on a first-in-first-out basis.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.238 and 250.239 [Revoked]

11. Sections 250.238 and 250.239 are revoked.

12. Section 250.240 and its heading are amended to provide that requisitions for strip stamps will be approved, and the stamps issued, by the regional director. As amended, § 250.240 reads as follows:

§ 250.240 Approval of requisition and issuance of stamps.

The regional director will approve Form 428 and issue the stamps if he—

(a) Is satisfied:

(1) That the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1 and

(2) That the quantity requisitioned is reasonable and necessary; and

(b) Has no information on which a denial of requisition should be made under the provisions of § 250.235.

When satisfied that Form 428 may be approved, the regional director shall enter the serial numbers of the stamps issued and the date of issue and approve all copies of the form. He shall then deliver the stamps to the applicant, and, if the stamps are mailed, or are delivered to anyone other than the applicant, two copies of the Form 428 shall accompany the stamps. Upon receipt of the stamps, the applicant shall acknowledge receipt on both copies of Form 428 and return one copy to the regional director, who issued the stamps and, if an agent, one copy to the importer. In each instance when the regional director approves a requisition which has been submitted by an agent of an importer, the regional director shall immediately forward a copy of Form 428 to the importer, and, if the importer's place of business is located in another region, the regional director shall forward a copy to the regional director of the region in which the importer's place of business is located. If a requisition is disapproved for any reason, the regional director shall return a copy of Form 428 marked "disapproved" to the applicant.

(72 Stat. 1358; 26 U.S.C. 5205)

13. A new section, § 250.240a, is added to prescribe requirements relating to issuance of stamps by an alternative method. As added, new § 250.240a reads as follows:

§ 250.240a Alternative method for issuance of stamps.

(a) *Action by regional director.* When the regional director determines that the interest of the Government will be best served thereby, strip stamps may be shipped directly to the applicant, as shown on Form 428, from a location other than the office of the regional director. In such case, the regional director shall notify the applicant that strip stamps will be delivered by an alternative method and inform him of the minimum quantity, if any, of each size of stamp which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form shall be returned to the applicant, and, if the Form 428 was prepared by an agent of an importer, a copy of the form shall be forwarded to the importer and, if applicable, to the regional director of the region in which the importer's place of business is located.

(b) *Action by applicant.* Upon receipt of the stamps, the applicant shall (1) indicate the serial numbers (if any) of the stamps received and acknowledge receipt of the stamps on both copies of Form 428, and (2) return one copy to the regional director to whom the Form 428 was submitted for approval and, if an agent, one copy to the importer.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.241 [Revoked]

14. Section 250.241 is revoked.

15. Section 250.242 is amended by (1) deleting the requirement that the overprinting of stamps be verified by the director of customs; and (2) making an editorial change. As amended, § 250.242 reads as follows:

§ 250.242 Overprinting of red strip stamps.

The importer, or his agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps indelibly and legibly overprinted, at his own expense, with the permit number of the importer in whose name the stamps were requisitioned: *Provided*, That if the importer is an agency of a State or a political subdivision thereof, or the District of Columbia, the stamps will be overprinted with the name of the State or with "District of Columbia," or with a recognized abbreviation thereof.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.244 [Revoked]

16. Section 250.244 is revoked.

17. Sections 250.245 and 250.246, and their headings, are amended by changing the requirements relating to the taking of credit for red strip stamps used. As amended, §§ 250.245 and 250.246 read as follows:

§ 250.245 Credit for red strip stamps on distilled spirits deposited in a foreign-trade zone.

When red strip stamps are affixed in the Virgin Islands to containers of distilled spirits and, on arrival in the United States, the spirits are deposited in a foreign-trade zone, Form 1627 shall be prepared and distributed in accordance with the instructions on the form, and credit shall be taken for the stamps on the importer's daily record of strip stamps in the manner provided in § 250.246. In addition, and as a condition of obtaining approval from the district director of customs for admission of the

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spirits to the zone, the importer or his agent and the zone grantee shall state on the zone application that if such spirits are subsequently exported from the zone the red strip stamps will be effectively destroyed or voided under customs supervision prior to exportation. The district director of customs will not approve such exportation and will not execute a permit of delivery until the red strip stamps have been effectively destroyed or voided as provided in § 250.252a.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

§ 250.246 Credit for red strip stamps on arrival of distilled spirits.

On arrival of a shipment of spirits, the importer who requisitioned the stamps, the importer filing the customs entry papers, or the agent of either shall prepare Part 1 of Form 1627. Form 1627 shall be furnished to customs officials with the entry papers for execution of Part 11 or 111 by the appropriate customs official. If Form 1627 is prepared by anyone other than the importer who requisitioned the stamps, a copy of the form shall be forwarded to such importer at the time the original and one copy are furnished to customs officials. On receipt of Form 1627 properly executed as to Part 11 or 111, the importer who requisitioned the stamps, or in whose name the stamps were requisitioned, may take credit for the stamps on his daily record of strip stamps.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.247 and 250.248 [Revoked]

18. Sections 250.247 and 250.248 are revoked.

19. Section 250.249 is amended to provide for discrepancies in shipments to be recorded on Form 1627 by the customs officer. As amended, § 250.249 reads as follows:

§ 250.249 Irregularities or discrepancies in shipments.

In case any irregularities or discrepancies are found, the district director of customs at the port of entry will make demand for redelivery of delivered or released packages, and will not release examined or redelivered packages until satisfactory explanation and/or proper corrections have been made. The customs officer will enter any irregularities or discrepancies as to red strip stamps on Form 1627.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.250 and 250.251 [Revoked]

20. Sections 250.250 and 250.251 are revoked.

21. Section 250.252 and its heading are amended to apply only to the destruction or transfer of strip stamps in the Virgin Islands and to change the requirements relative thereto; and to make nomenclature changes. As amended, § 250.252 reads as follows:

§ 250.252 Destruction or transfer of red strip stamps in the Virgin Islands.

When for any reason a Virgin Islands bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for shipment to the United States, and it is impractical to return such stamps to the importer from whom they were received or to transfer them to another bottler or exporter conducting operations for the importer, the regional director of the region in which the importer's place of business is located may, on application, in duplicate, by the importer, authorize the destruction of the stamps in the Virgin Islands. The application shall show the size, quantity, and serial numbers of the stamps, the name and address of the Virgin Islands bottler or exporter who has possession of the stamps, and the reasons why destruction in the Virgin Islands is requested. If the regional director approves the application for destruction he will return the original, marked "approved," to the importer who will forward it, together with Form 1627, with the pertinent entries in Part 1 completed, to the Virgin Islands bottler or exporter. On receipt of the approved application, the stamps may be destroyed provided such destruction is under the supervision of an authorized representative of the Governor of the Virgin Islands (including an officer of the Board of Control of Alcoholic Beverages). Upon destruction of the stamps, the Virgin Islands bottler or exporter and the representative shall complete the applicable portions of Part IV of Form 1627. The completed Form 1627 and the approved application shall be returned to the importer who filed the application. Such importer may then take credit for the stamps on his strip stamp record and on Form 96.

(72 Stat. 1358; 26 U.S.C. 5205)

22. Two new sections, §§ 250.252a and 250.252b, are added to prescribe requirements relating to the destruction of red strip stamps on containers in customs custody which are diverted for exportation or withdrawn free of tax, respectively. As added, new §§ 250.252a and 250.252b, read as follows:

§ 250.252a Destruction of red strip stamps on containers in customs custody.

When containers of distilled spirits to which red strip stamps were affixed prior to arrival in the United States are diverted for exportation, including return to the Virgin Islands bottler or exporter, by the importer, the strip stamps shall be effectively destroyed by the importer or his representative under customs supervision, prior to exportation: *Provided*, That the district director of customs may authorize the importer to void, rather than destroy, such stamps under customs supervision. When voiding of red strip stamps has been authorized, they shall be voided by legibly stamping thereon, with indelible ink and in boldface capital letters no smaller than 10-point type, the word "VOIDED" or the word "CANCELLED".

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.252b Destruction of red strip stamps; spirits withdrawn free of tax.

When distilled spirits imported from the Virgin Islands are to be withdrawn from customs custody free of tax for entry into the United States, the red strip stamps affixed to the containers shall be effectively destroyed by the importer or his representative, under customs supervision, prior to such withdrawal.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 250.253 and 250.254 [Revoked]

23. Sections 250.253 and 250.254 are revoked.

24. Section 250.255 is amended by deleting the requirement that strip stamps be placed in customs custody. As amended, § 250.255 reads as follows:

§ 250.255 Conditions.

Distilled spirits in containers coming into the United States from the Virgin Islands without having red strip stamps attached may not be released from customs custody until a stamp has been affixed to each container, under the supervision of a customs officer.

(72 Stat. 1358; 26 U.S.C. 5205)

25. Section 250.256 is amended by (1) making a conforming change; and (2) including a cross-reference to new § 250.240a. As amended, § 250.256 reads as follows:

§ 250.256 Requisition, Form 428.

Requisition for red strip stamps shall be made by the original importer, or his agent: *Provided*, That if the importer has gone out of business the requisition shall be made by the person having title to the distilled spirits. The requisition shall be submitted in accordance with § 250.237. Approval of the requisition shall be subject to the provisions of § 250.240 or § 250.240a, as the case may be.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 250.257 [Revoked]

26. Section 250.257 is revoked.

27. Section 250.270 is amended to prescribe new requirements relating to the daily record of strip stamps. As amended, § 250.270 reads as follows:

§ 250.270 Daily record of strip stamps.

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed, or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps

shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than ½-pint capacity shall be recorded as one item. Each credit taken on the record shall be supported by Form 1627, which shall be identified on the record by date and serial number as the authority for such credit. The stamp record shall also be supported by customs forms covering spirits which have been diverted for exportation, destroyed while in a foreign-trade zone, or returned to the bottler or exporter in the Virgin Islands. If the importer has more than one place of business from which he requisitions stamps, a daily record shall be maintained on the premises of each place of business. Each daily record of strip stamps shall be supplemented by an accounting of strip stamps showing, for each separate location at which there are stamps for which the importer is accountable, (a) the name and address of the business and (b) the quantity of stamps outstanding at the beginning of the day, the quantities received, used, transferred to other locations, lost, mutilated, destroyed, or otherwise disposed of, and the quantity outstanding at the end of the day.

(72 Stat. 1358; 26 U.S.C. 5205)

28. Section 250.271 is amended to provide that the report of strip stamps shall be filed quarterly, instead of annually, and shall be filed with the regional director. As amended, § 250.271 reads as follows:

§ 250.271 Report of strip stamps, Form 96.

The importer shall prepare on Form 96, in duplicate, a quarterly report for the periods ending March 31, June 30, September 30, and December 31 of each year. The report shall account for all strip stamps procured (including stamps procured by his agents at locations other than that of the business of the importer), used, lost, mutilated, destroyed, or otherwise disposed of during the period, and shall show the number of stamps outstanding at the beginning and end of the period. If the importer has more than one place of business from which he requisitions stamps, he shall prepare a separate report on Form 96 for each such place of business. The regional director may require the importer to supplement each report with such information as he deems necessary. The original of Form 96 shall be submitted to the regional director of the region in which the importer's place of business is located not later than the 10th day of the month next succeeding the period for which rendered. The copy of Form 96 shall be retained by the importer and filed with the records required by § 250.270.

(72 Stat. 1358; 26 U.S.C. 5205)

29. Section 250.272 is amended to provide that persons responsible for release of liquors from customs custody who do not take physical possession of the liquors shall keep commercial records which reflect the release of the liquors. As amended, § 250.272 reads as follows:

§ 250.272 General requirements.

Except as provided in § 250.273, every person, other than a tourist, bringing liquors into the United States from the Virgin Islands shall keep such records and render reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provisions of Part 194 of this chapter. Any importer who is responsible for release of the liquors from customs custody and who does not take physical possession of the liquors shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(72 Stat. 1342, 1345; 26 U.S.C. 5114, 5124)

30. Section 250.275 is amended by (1) deleting the reference to the director of customs; and (2) making conforming changes, and changes in nomenclature. As amended, § 250.275 reads as follows:

§ 250.275 Filing.

If the importer maintains loose-leaf records of receipt or disposition, one legible copy of each such record shall be marked or stamped "Government File Copy", and shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. All records required by this part, and legible copies of all reports required by this part to be submitted to the regional director shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided*, That on application, in duplicate, the regional director may authorize the files, or any individual file, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to alcohol, tobacco and firearms or customs officers desiring to examine such files. Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies thereof, may be filed in accordance with the importer's customary practice.

(72 Stat. 1342, 1391; 26 U.S.C. 5114, 5505)

31. Section 250.277 is amended to (1) provide that unused stamps shall be submitted to the regional director; and (2) make related changes. As amended, § 250.277 reads as follows:

§ 250.277 Procedure.

The importer who discontinues or sells his business shall recall from his agents, and his bottlers or exporters in the Virgin Islands, all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report, in duplicate, of inventory, by size and quantity, to the regional director. The same procedure may be followed by an importer who has unused stamps for which he has no further use for any reason. The regional director shall then destroy the stamps and, after such destruction, note the action taken on both copies of the inventory. He shall retain the original and return the copy of the inventory to the importer. In the case of discontinuance or sale of the business, the importer shall, within 5 days of the receipt of the returned copy of the inventory, note the disposition of the stamps on Form 96, mark the report "Final", and submit it to the regional director.

(72 Stat. 1358; 26 U.S.C. 5205)

32. A new subpart, Subpart Q, is added to provide for the application for and approval of alternate methods and procedures. As added, new Subpart Q reads as follows:

Subpart Q—Miscellaneous Provisions

§ 250.331 Alternate methods or procedures.

(a) *Application.* A person bringing liquors into the United States from Puerto Rico or the Virgin Islands who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part shall file application, in triplicate, with the regional director of the region in which his place of business is located. If such person has several places of business at which he desires to use such alternate method or procedure, a separate application shall be submitted for each. Each application shall:

(1) Specify the name, address, and permit number of the person to which it relates;

(2) State the purpose for which filed; and

(3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval.* When an application for use of an alternate method or procedure is received, the regional director shall determine whether the approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The regional director shall forward two copies of the application to the Director, Bureau of Alcohol, Tobacco and Firearms, together with a report of his findings and his recommendation. The Director, Bureau of Alcohol, Tobacco and Firearms, may approve the alternate method or procedure if he finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the

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specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in any increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure shall be used until approval has been received from the Director, Bureau of Alcohol, Tobacco and Firearms. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the Director, Bureau of Alcohol, Tobacco and Firearms, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

PAR. D. 26 CFR Part 251 is amended as follows:

1. Section 251.11 is amended by (1) changing the definitions of "Assistant regional commissioner", "Director, Alcohol, Tobacco and Firearms Division," and "Director of customs" and (2) adding definitions for "Director, Bureau of Alcohol, Tobacco and Firearms" and "Regional director." As amended, § 251.11 reads as follows:

§ 251.11 Meaning of terms.

* * * * *

Assistant regional commissioner. Wherever used in this part shall mean a regional director as defined in this section.

* * * * *

Director, Alcohol, Tobacco and Firearms Division. Wherever used in this part shall mean the Director, Bureau of Alcohol, Tobacco and Firearms, as defined in this section.

Director, Bureau of Alcohol, Tobacco and Firearms. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

* * * * *

Regional director. A regional director who is responsible to, and functions under the direction and supervision of, the Director.

* * * * *

§ 251.49 [Amended]

2. The statutory citation at the end of § 251.49 is corrected to read "(76 Stat. 72, as amended; 19 U.S.C. 1202)."

3. Section 251.64 is amended to prescribe revised requirements relating to the procurement and issuance of strip stamps. As amended, § 251.64 reads as follows:

§ 251.64 Requisition, Form 428.

Requisition on Form 428 for red strip stamps shall be made by the importer, or by his agent pursuant to filing a Form 1534 as provided in § 251.64a, or by the subsequent purchaser of the distilled spirits as provided in § 251.111. The name, address, and permit number of the importer (or subsequent purchaser) shall be shown, and if the requisition is prepared by an agent located at an address other than that of the importer, the address of the agent shall be shown. The requisition shall be serially numbered by the importer, and if one or more agents at locations other than that of the importer also place requisitions, each agent shall maintain a separate series of serial numbers prefixed by a letter designation assigned by the importer, e.g., A–1, A–2. The Form 428 shall be submitted to the regional director of the region in which the place of business of the importer, or of his agent, or of the subsequent purchaser, as the case may be, is located. A certified, photostatic or similar type of reproduced copy of the importer's permit issued pursuant to the Federal Alcohol Administration Act and regulations issued thereunder shall be furnished to the regional director of a region other than the region in which the importer's place of business is located either before or at the time the first requisition is presented for approval. Notwithstanding the provisions of Part 250 of this chapter, an importer or his agent procuring spirits from abroad and from the Virgin Islands may include stamps for both purposes on one requisition. All strip stamps issued on Form 428 shall, for each location at which an accounting of stamps is required by § 251.130, be accounted for on a first-in first-out basis.

(72 Stat. 1358; 26 U.S.C. 5205)

4. Section 251.64a is amended to: (1) Provide that powers of attorney shall be filed with the regional director; and (2) make a number of related changes. As amended, § 251.64a reads as follows:

§ 251.64a Power of attorney.

If an importer gives power of attorney to another person to sign Form 96 or Form 428, such power of attorney shall be executed on Form 1534 and, in the case of Form 96, filed with the regional director of the region in which the importer's business is located or, in the case of Form 428, the regional director with whom the requisition will be filed. When either of the above forms is signed by an agent, the name of the importer shall be given, followed by the signature of the agent and the words "Attorney in Fact."

§§ 251.65 and 251.65a [Revoked]

5. Sections 251.65 and 251.65a are revoked.

6. Section 251.66 and its heading are amended to provide that requisitions for stamps issued, by the regional director. As amended, § 251.66 reads as follows:

§ 251.66 Approval of requisition and issuance of stamps.

The regional director will approve Form 428 and issue the stamps if he—

(a) Is satisfied:

(1) That the importer is the holder of an importer's permit issued under the Federal Alcohol Administration Act and the regulations in 27 CFR Part 1 and

(2) That the quantity requisitioned is reasonable and necessary; and

(b) Has no information on which a denial of a requisition should be made under the provisions of § 251.92.

When satisfied that Form 428 may be approved, the regional director shall enter the serial numbers of the stamps issued and the date of issue and approve all copies of the form. He shall then deliver the stamps to the applicant, and, if the stamps are mailed, or are delivered to anyone other than the applicant, two copies of the Form 428 shall accompany the stamps. Upon receipt of the stamps, the applicant shall acknowledge receipt on both copies of Form 428 and return one copy to the regional director who issued the stamps and, if an agent, one copy to the importer. In each instance when the regional director approves a requisition which has been submitted by an agent of an importer, the regional director shall immediately forward a copy of Form 428 to the importer, and, if the importer's place of business is located in another region, the regional director shall forward a copy to the regional director of the region in which the importer's place of business is located. If a requisition is disapproved for any reason, the regional director shall return a copy of Form 428 marked "disapproved" to the applicant.

(72 Stat. 1358; 26 U.S.C. 5205)

7. A new section, § 251.66a, is added to prescribe requirements relating to issuance of stamps by an alternative method. As added, new § 251.66a reads as follows:

§ 251.66a Alternative method for issuance of stamps.

(a) *Action by regional director.* When the regional director determines that the interest of the Government will be best served thereby, strip stamps may be shipped directly to the applicant, as shown on Form 428, from a location other than the office of the regional director. In such case, the regional director shall notify the applicant that strip stamps will be delivered by an alternative method and inform him of the minimum quantity, if any, of each size of stamp which may be requisitioned on any particular Form 428. Upon approval of Form 428, two copies of the form shall be returned to the applicant, and, if the Form 428 was prepared by an agent of an importer, a copy of the form shall be forwarded to the importer and, if applicable, to the regional director of the region in which the importer's place of business is located.

(b) *Action by applicant.* Upon receipt of the stamps, the applicant shall (1) indicate the serial numbers (if any) of the stamps received and acknowledge receipt of the stamps on both copies of Form 428, and (2) return one copy to the regional director to whom the Form 428 was submitted for approval and, if an agent, one copy to the importer.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 251.67 [Revoked]

8. Section 251.67 is revoked.

9. Section 251.68 is amended to (1) delete the requirement that the overprinting of stamps be verified by the director of customs; and (2) make an editorial change. As amended, § 251.68 reads as follows:

§ 251.68 Overprinting of red strip stamps.

The importer, or his agent, or the subsequent purchaser of the distilled spirits, as the case may be, shall have the red strip stamps indelibly and legibly overprinted, at his own expense, with the permit number of the importer in whose name the stamps were requisitioned: *Provided,* That if the importer is an agency of a State or a political subdivision thereof, or the District of Columbia, the stamps will be overprinted with the name of the State or with "District of Columbia," or with a recognized abbreviation thereof.

(72 Stat. 1358; 26 U.S.C. 5205)

10. Section 251.69 is amended to (1) provide that the Director may authorize labels to be affixed so as to partially obscure strip stamps; and (2) make an editorial change and changes in nomenclature. As amended, § 251.69 reads as follows:

§ 251.69 Affixing strip stamps.

Strip stamps shall be securely affixed to the container with a strong adhesive, and shall be affixed in such a manner that on opening the container the stamp will be broken and a portion thereof, sufficient to identify the kind of stamp placed thereon, will remain attached to the container or to a cap or seal which is permanently affixed thereto. Strip stamps affixed to containers shall not be concealed or obscured in any manner except that (a) the Director, Bureau of Alcohol, Tobacco and Firearms, may authorize labels to be so affixed as to partially obscure strip stamps, if he finds that a need therefor exists, and if he finds that the manner of affixing such labels does not obscure essential information on the strip stamps which is not clearly shown on the bottle or on the labels affixed to the bottle, and (b) any such stamp may be covered by a cup, cap, seal, carton, wrapping, or other device which can be readily removed without injury to the stamp or which is sufficiently transparent to permit all data on the stamp to be read. If a cup, cap, or seal is placed over a stamp, a portion of the stamp must remain plainly visible. If containers are enclosed in sealed opaque cartons, such cartons or wrappings on such cartons must bear the words, "This package may be opened for examination by Alcohol, Tobacco and Firearms Officers." Alcohol, tobacco and firearms and customs officers have the right to open such cartons or wrappings and examine the container. If there is doubt as to the propriety of the use of any cup, cap, or seal, the closure and container should be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms for approval.

(72 Stat. 1358; 26 U.S.C. 5205)

11. Section 251.72 is amended to make its provisions applicable to spirits which are returned to a foreign bottler or exporter. As amended, § 251.72 reads as follows:

§ 251.72 Exportation of imported distilled spirits; red strip stamps.

When imported distilled spirits to which red strip stamps were affixed prior to arrival in the United States are diverted for exportation purposes, including return to the foreign bottler or exporter, by the importer, the strip stamps shall be effectively destroyed by the importer or his representative under customs supervision, prior to exportation: *Provided,* That the district director of customs may authorize the importer to void, rather than destroy, such strip stamps under customs supervision. When voiding of red strip stamps has been authorized, they shall be voided by legibly stamping thereon, with indelible ink and in boldface capital letters no smaller than 10-point type, the word "VOIDED" or the word "CANCELLED". Red strip stamps affixed to distilled spirits originating in the United States, evidencing the tax or indicating compliance with the provisions of chapter 51, I.R.C., shall not be removed at or prior to the time of exportation.

(72 Stat. 1358; 26 U.S.C. 5205)

12. Section 251.80 is amended to delete the requirement that stamps to be sent to a foreign bottler or exporter be requisitioned specifically for that purpose. As amended, § 251.80 reads as follows:

§ 251.80 Conditions.

Red strip stamps, requisitioned by, and issued to, an importer or his agent as provided in this part, may be sent to a bottler or exporter in a foreign country to be affixed to containers of distilled spirits.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.81, 251.82, 251.83, and 251.85 [Revoked]

13. Sections 251.81, 251.82, 251.83, and 251.85 are revoked.

14. Sections 251.85a and 251.86 and their headings are amended by changing the requirements relating to the taking of credit for red strip stamps used, and § 251.85a is further amended by providing for stamps to be voided. As amended, §§ 251.85a and 251.86 read as follows:

§ 251.85a Credit for red strip stamps on distilled spirits deposited in a foreign-trade zone.

When red strip stamps are affixed abroad to containers of imported distilled spirits and, on arrival in the United States, the spirits are deposited in a foreign-trade zone, Form 1627 shall be prepared and distributed in accordance with the instructions on the form, and credit shall be taken for the stamps on the importer's daily record of strip stamps in the manner provided in § 251.86. In addition, and as a condition of obtaining approval from the district director of customs for admission of the spirits to the zone, the importer or his agent and the zone grantee shall state on the zone application that if such spirits are subsequently exported from the zone the red strip stamps will be effectively destroyed or voided under customs supervision prior to exportation. The district director of customs will not approve such exportation and will not execute a permit of delivery until the red strip stamps have been effectively destroyed or voided as provided in § 251.72.

(48 Stat. 999, as amended, 72 Stat. 1358; 19 U.S.C. 81c, 26 U.S.C. 5205)

§ 251.86 Credit for red strip stamps on arrival of distilled spirits.

On arrival of a shipment of imported spirits, the importer who requisitioned the stamps, the importer filing the customs entry papers, or the agent of either shall prepare Part 1 of Form 1627. Form 1627 shall be furnished to customs officials with the entry papers for execution of Part 11 or 111 by the appropriate customs official. If Form 1627 is prepared by anyone other than the importer who requisitioned the stamps, a copy of the form shall be forwarded to such importer at the time the original and one copy are furnished to customs officials. On receipt of Form 1627 properly executed as to Part 11 or 111, the importer who requisitioned the stamps, or in whose name the stamps were requisitioned, may take credit for the stamps on his daily record of strip stamps.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.87 and 251.87a [Revoked]

15. Sections 251.87 and 251.87a are revoked.

16. Section 251.88 is amended to provide for discrepancies in shipments to be recorded on Form 1627 by the customs officer. As amended, § 251.88 reads as follows:

§ 251.88 Irregularities or discrepancies in shipments.

In case any irregularities or discrepancies are found, the district director of customs at the port of entry will make demand for redelivery of delivered or released packages, and will not release examined or redelivered packages until satisfactory explanation and/or proper corrections have been made. The customs officer will enter any irregularities or discrepancies as to red strip stamps on Form 1627.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.88a and 251.89 [Revoked]

17. Sections 251.88a and 251.89 are revoked.

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18. Section 251.89a is amended to change the requirements relating to the destruction or transfer of stamps abroad, and to make changes in nomenclature. As amended, § 251.89a reads as follows:

§ 251.89a Destruction or transfer of red strip stamps abroad.

When for any reason a foreign bottler or exporter has on hand a quantity of red strip stamps which are not to be affixed to containers for export to the United States, and it is impractical to return such stamps to the importer from whom they were received or to transfer them to another bottler or exporter conducting operations for the importer, the regional director of the region in which the importer's place of business is located, may, on application (in duplicate) by the importer, authorize the destruction of the stamps abroad. The application shall show the size, quantity, and serial numbers of the stamps, the name and address of the foreign bottler or exporter who has possession of the stamps, and the reasons why destruction abroad is requested. If the regional director approves the application for destruction, he will return the original, marked "approved", to the importer who will forward it, together with Form 1627 with pertinent entries in Part 1 completed, to the foreign bottler or exporter abroad. On receipt of the approved application, the stamps may be destroyed provided such destruction is under the supervision of a Foreign Service officer of the United States of America, or of a Treasury Department officer stationed abroad, or of an excise official of the foreign government concerned. Upon destruction of the stamps, the foreign bottler or exporter and the officer or official shall complete the applicable portions of Part IV on Form 1627. The completed Form 1627 and the approved application shall be returned to the importer who filed the application. Such importer may then take credit for the stamps on his strip stamp record and on Form 96.

(72 Stat. 1358; 26 U.S.C. 5205)

§§ 251.90 and 251.91 [Revoked]

19. Sections 251.90 and 251.91 are revoked.

20. Section 251.92 is amended in its entirety. As amended, § 251.92 reads as follows:

§ 251.92 Breach of regulations, or failure to properly account for strip stamps.

The regional director shall refuse to approve any further requisitions, Form 428, when he has knowledge that the importer has failed to furnish a satisfactory accounting for strip stamps, as prescribed in this part, or has failed to comply with any of the provisions of this part. The regional director may require of the importer, at a specified time and place, an immediate accounting of all strip stamps outstanding in the name of the importer as a means of determining whether there has been unlawful diversion or use of strip stamps and may also require that all unused strip stamps be recalled and delivered so they may be counted. If the regional director has evidence that any of the provisions of this part have been willfully violated, he shall take appropriate action. He shall also refuse to approve any further requisitions when he has knowledge that the importer has failed to furnish a satisfactory accounting for strip stamps in any other region.

(72 Stat. 1358; 26 U.S.C. 5205)

21. Section 251.110 is amended by deleting the requirement that strip stamps be placed in customs custody. As amended, § 251.110 reads as follows:

§ 251.110 Conditions.

Distilled spirits in containers imported without having red strip stamps attached may not be released from customs custody until a stamp has been affixed to each container, under the supervision of a customs officer.

(72 Stat. 1358; 26 U.S.C. 5205)

22. Section 251.111 is amended by (1) making a conforming change; (2) deleting the cross-reference to § 251.67; and (3) adding a cross-reference to 251.66a. As amended, § 251.111 reads as follows:

§ 251.111 Requisition, Form 428.

Requisition for red strip stamps shall be made by the original importer or his agent: *Provided*, That if the importer has gone out of business the requisition shall be made by the person having title to the distilled spirits. The requisition shall be submitted in accordance with § 251.64. Subsequent procedure shall conform to applicable provisions of § 251.66 or § 251.66a, and § 251.68

(72 Stat. 1358; 26 U.S.C. 5205)

23. Section 251.130 is amended to prescribe new requirements relating to the daily record of strip stamps. As amended § 251.130 reads as follows:

§ 251.130 Daily record of strip stamps.

For each day during which a transaction in red strip stamps occurs, the importer shall maintain a daily record accounting for all strip stamps procured by him and by his agents. The record shall show by size (small or standard) the number received, used, lost, mutilated, destroyed, or otherwise disposed of, and outstanding at the beginning and end of the day. Stamps shown in the record as received shall be supported by the related Form 428, which shall be identified by date and serial number. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than one-half of a pint capacity shall be recorded as one item. Each credit taken on the record shall be supported by Form 1627, which shall be identified on the record by date and serial number as the authority for such credit. The stamp record shall also be supported by customs forms covering spirits which have been diverted for exportation, destroyed while in a foreign-trade zone, or returned to a foreign bottler or exporter. If the importer has more than one place of business from which he requisitions stamps, a daily record shall be maintained on the premises of each place of business. Each daily record of strip stamps shall be supplemented by an accounting of strip stamps showing, for each location at which there are stamps for which the importer is accountable, (a) the name and address of the business, and (b) the quantity of stamps outstanding at the beginning of the day, the quantities received, used, transferred to other locations, lost, mutilated, destroyed, or otherwise disposed of, and the quantity outstanding at the end of the day.

(72 Stat. 1358; 26 U.S.C. 5205)

24. Section 251.131 is amended to (1) provide that the report of strip stamps shall be filed quarterly, instead of annually, and shall be filed with the regional director, instead of the director of customs; and (2) make it clear that one report may cover both stamps used on imported and Virgin Islands spirits. As amended, § 251.131 reads as follows:

§ 251.131 Report of strip stamps, Form 96.

The importer shall prepare on Form 96, in duplicate, a quarterly report for the periods ending March 31, June 30, September 30, and December 31 of each year. The report shall account for all strip stamps procured (including stamps procured by his agents at locations other than that of the business of the importer), used, lost, mutilated, destroyed, or otherwise disposed of during the period, and shall show the number of stamps outstanding at the beginning and end of the period. If the importer has more than one place of business from which he requisitions stamps, he shall prepare a separate report on Form 96 for each place of business. The regional director may require the importer to supplement each report with such other information as he deems necessary. The original of Form 96 shall be submitted to the regional director of the region in which the importer's place of business is located not later than the 10th day of the month next succeeding the period for which rendered. The copy of Form 96 shall be retained by the importer and filed with the records required by § 251.130. Notwithstanding any provision of this part, an importer who imports spirits into the United States as provided in this part and who also brings spirits into the United States from the Virgin Islands as provided in Part 250 of this chapter shall render only one Form 96 covering stamps used for both purposes during each quarterly period.

(72 Stat. 1358; 26 U.S.C. 5205)

25. Section 251.133 is amended to provide that persons responsible for release of liquors from customs custody who do not take physical possession of the liquors shall keep commercial records which reflect the release of liquors. As amended, § 251.133 reads as follows:

§ 251.133 General requirements.

Except as provided in § 251.134, every importer who imports distilled spirits, wines, or beer shall keep such records and render such reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, as applicable, under the provision of Part 194 of this chapter. Any importer who does not take physical possession of the liquors at the time of, but is responsible for, their release from customs custody shall keep commercial records reflecting such release; such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and the date of release, and shall be filed chronologically by release dates. Records and reports will not be required under this part with respect of liquors while in customs custody.

(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

26. Section 251.136 is amended by (1) deleting the reference to the director of customs; and (2) making conforming changes and changes in nomenclature. As amended, § 251.136 reads as follows:

§ 251.136 Filing.

If the importer maintains looseleaf records of receipt or disposition, one legible copy of each such record shall be marked or stamped "Government File Copy," and shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. All records required by this part, and legible copies of all reports required by this part to be submitted to the regional director shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided*, That on application, in duplicate, the regional director may authorize the files, or any individual file, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to alcohol, tobacco and firearms or customs officers desiring to examine such files. Supporting documents, such as consignors' invoices, delivery receipts, or bills of lading, or exact copies thereof, may be filed in accordance with the importer's customary practice.

(72 Stat. 1342, 1345, 1361, 1395; 26 U.S.C. 5114, 5124, 5207, 5555)

27. Section 251.160 is amended to (1) provide that unused stamps shall be submitted to the regional director instead of the director of customs; and (2) make related changes. As amended, § 251.160 reads as follows:

§ 251.160 Disposition of strip stamps.

The importer who discontinues or sells his business shall recall from his agents, and his foreign bottlers or exporters abroad, all unused stamps in their custody. He shall submit his entire stock of unused stamps, accompanied by a report, in duplicate, of inventory, by size and quantity, to the regional director. The same procedure may be followed by an importer who has unused stamps for which he has no further use for any reason. The regional director shall then destroy the stamps and, after such destruction, note the action taken on both copies of the inventory. He shall retain the original of the inventory and return the copy to the importer. In the case of discontinuance or sale of the business, the importer shall, within 5 days of the receipt of the returned copy of the inventory, note the disposition of the stamps on Form 96, mark the report "Final", and submit it to the regional director.

(72 Stat. 1358; 26 U.S.C. 5205)

28. A new subpart, Subpart O, is added to provide for the application for and approval of alternate methods and procedures. As added, new Subpart O reads as follows:

Subpart O—Miscellaneous Provisions

§ 251.221 Alternate methods or procedures.

(a) *Application.* An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part shall file application, in triplicate, with the regional director of the region in which his place of business is located. If the importer has several places of business at which he desires to use such alternate method or procedure, a separate application shall be submitted for each. Each application shall:

(1) Specify the name, address, and permit number of the importer to which it relates;

(2) State the purpose for which filed; and

(3) Specifically describe the alternate method or procedure and set forth the reasons therefor.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph.

(b) *Approval.* When an application for use of an alternate method or procedure is received, the regional director shall determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue. The regional director shall forward two copies of the application to the Director, Bureau of Alcohol, Tobacco and Firearms, together with a report of his findings and his recommendation. The Director, Bureau of Alcohol, Tobacco and Firearms, may approve the alternate method or procedure if he finds that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure shall be used until approval has been received from the Director, Bureau of Alcohol, Tobacco and Firearms. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the Director, Bureau of Alcohol, Tobacco and Firearms, the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

[FR Doc.72-18048 Filed 10-20-72;8:48 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Correction

In F.R. Doc. 72-17254, appearing at page 22102, of the issue of Wednesday, October 18, 1972, the FEDERAL REGISTER file line was omitted at the end of the document. The file line should read as follows: [FR Doc. 72-17254 Filed 10-17-72;8:45 am].

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5), Amdt. 46]

OIL REG. 1—OIL IMPORT REGULATIONS

Miscellaneous Allocations; Correction

Amendment 46 of Oil Import Regulation 1 (Revision 5), was published in the FEDERAL REGISTER, Thursday, September 21, 1972 (37 F.R. 19612). In the Preamble, reference to section 3 was omitted in two places in the first paragraph.

Section 30, Allocations of No. 2 Fuel Oil—District I (37 F.R. 19614), paragraph (k)(1) should be corrected to read "• • • imports of No. 2 fuel oil • • •" instead of "• • • imports of crude oil and unfinished oils • • •."

JOHN RICCA,
Acting Director,
Office of Oil and Gas.

[FR Doc.72-18145 Filed 10-20-72;8:54 am]

V37-205 OCT 21 72 XUM

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5280]

[Colorado 11776]

COLORADO

Partial Revocation of Temporary Forest Reserve Withdrawal

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The departmental order of October 1, 1903, temporarily withdrawing public domain land for the proposed extension of the San Isabel National Forest, is hereby revoked so far as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 47 N., R. 9 E.,
Sec. 13, NE¼.

The area described aggregates 160 acres in Saguache County.

2. At 10 a.m. on November 16, 1972, the lands shall be open to operation of the public land laws generally, including the U.S. mining laws, and to leasing under the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 16, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, 1600 Broadway, 700 Colorado State Bank Building, Denver, CO 80202.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17908 Filed 10-20-72;8:45 am]

[Public Land Order 5281]

[Nevada 064768]

NEVADA

Partial Revocation of Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 3645 of April 15, 1965, withdrawing land for an administrative site, is hereby revoked so far as it affects the following described land:

MOUNT DIABLO MERIDIAN

T. 34 N., R. 55 E.,
Sec. 2, SE¼NE¼, E½NE¼SE¼.

The area described contains 60 acres in Elko County.

It is immediately northeast of the city of Elko and north of the right-of-way for Interstate Highway 80. The vegetative cover is sparse and consists of sage and annual grasses and forbes.

2. At 10 a.m. on November 16, 1972, the public lands shall be open to operation of the public land laws, including the U.S. mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 16, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing. The lands have been and continue to be open to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to Chief, Division of Technical Services, Bureau of Land Management, 300 Booth Street, Reno, NV 89502.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17909 Filed 10-20-72;8:45 am]

[Public Land Order 5282]

[Arizona 6357]

ARIZONA

Partial Revocation of Public Land Order No. 127, as Amended

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 127 of May 22, 1943, as amended by Public Land Order No. 967 of May 21, 1954, and No. 1747 of October 14, 1958, withdrawing lands for the use by the Department of the Army as a bombing range, is hereby revoked so far as it affects the following described land:

GILA AND SALT RIVER MERIDIAN

T. 15 S., R. 25 E.,
Sec. 3, SE¼.

The area described aggregates 160 acres in Cochise County.

2. The land described in this order has been classified for disposal under the provisions of the Recreation and Public Purposes Act of June 14, 1926, 44 Stat. 741, as amended, 43 U.S.C. sections 869, 869-4 (1970), pursuant to an application filed by the Arizona State Game and Fish Department. The land, therefore, will not be subject to other use or disposition under the public land laws in the absence of a modification or revocation of such classification 43 CFR 2741.2(d).

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17910 Filed 10-20-72;8:45 am]

[Public Land Order 5283]

[Idaho 4458]

IDAHO

Withdrawal for National Forest Administrative Site

By virtue of the authority vested in the President and pursuant to Executive Oder No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

NEZPERCE NATIONAL FOREST

BOISE MERIDIAN

Seven Devils Administrative Site

T. 23 N., R. 1 W., unsurveyed but which probably will be when surveyed:
Sec. 7, S½NW¼NE¼, S½NE¼, SE¼NE¼ NW¼, SE¼NW¼, NE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 8, SW¼SW¼NW¼, W½SE¼SW¼ NW¼, NW¼NW¼SW¼, W½NE¼ NW¼SW¼.

The areas described aggregate 340 acres in Idaho County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the general mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17911 Filed 10-20-72;8:45 am]

[Public Land Order 5284]

[Colorado 11822]

COLORADO

Partial Revocation of Reclamation Withdrawals

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. § 416 (1970), it is ordered as follows:

1. The departmental orders of May 13, 1943, March 15, 1946, and April 12, 1946, and any other order or orders which withdrew lands for reclamation purposes in connection with the Blue River-South Platte Project, Colo., are hereby revoked so far as they affect the following described national forest and public domain lands:

PIKE NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

T. 7 S., R. 73 W.,
Sec. 15, N½SW¼;
Sec. 17, NE¼, E½NW¼;
Sec. 18, SW¼NE¼NW¼SE¼, SE¼NW¼ SE¼, NW¼NW¼NW¼SE¼, S½NW¼ NW¼SE¼, SW¼NW¼SE¼, and SW¼ SE¼;
Sec. 22, NE¼;
Sec. 27, NW¼.

WHITE RIVER NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

T. 4 S., R. 80 W. (protraction survey),
Secs. 5 and 8;
Secs. 6 and 7 (fractional).
T. 4 S., R. 81 W.,
Sec. 1;
Sec. 12, N½, W½SW¼, SE¼SW¼, NE¼SE¼;
Secs. 13 and 14.

The areas of national forest lands described aggregates approximately 5,281.40 acres.

PUBLIC DOMAIN LANDS

SIXTH PRINCIPAL MERIDIAN

T. 1 N., R. 81 W.,
Sec. 13, SW¼SW¼;
Sec. 23, SE¼NW¼, NE¼SW¼, NE¼SE¼;
Sec. 24, S½N½, N½SW¼, SE¼.

The areas of public domain lands described aggregate approximately 560 acres.

The total of the areas described above aggregates approximately 5,841.40 acres in Eagle, Grand, and Park Counties.

2. At 10 a.m. on November 16, 1972, the national forest lands described above shall be open to such forms of disposition as by law may be made of national forest lands, except that the lands described as SW¼NE¼NW¼SE¼, SE¼NW¼SE¼, NW¼NW¼NW¼SE¼, S½NW¼NW¼SE¼, and SW¼NW¼SE¼, sec. 18, T. 7 S., R. 73 W., are subject to Powersite Classification No. 56 of June 30, 1923.

3. At 10 a.m. on November 16, 1972, the public domain lands described above shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, except that any disposal of the lands described as the NE¼SE¼, sec. 23, and the N½SW¼, SE¼, sec. 24, T. 1 N., R. 81 W., which were restored from powersite withdrawal by Public Land Order No. 2946 of February 15, 1963, will be subject to the provisions of section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. § 818 (1970).

4. The above described national forest and public domain lands shall at 10 a.m. on November 16, 1972, be open to location and entry under the U.S. mining laws, subject to valid existing rights, and provisions of existing withdrawals. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17912 Filed 10-20-72;8:45 am]

[Public Land Order 5285]

[Misc-1375265]

WYOMING

Partial Revocation of Executive Order No. 5327 and Public Land Order No. 4522

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive Order No. 5327 of April 15, 1930, temporarily withdrawing oil shale deposits and lands containing such deposits from lease or other disposal under the public land laws, and reserving them for investigation, examination, and classification, is hereby revoked so far as it affects the national forest lands, which have been classified as non-oil shale lands, described as follows:

TETON AND SHOSHONE NATIONAL FORESTS

SIXTH PRINCIPAL MERIDIAN

T. 41 N., R. 110 W.,
Secs. 1 to 4, inclusive;
Secs. 9 to 15, inclusive;
Secs. 23 to 25, inclusive.
T. 42 N., R. 110 W.,
Secs. 1 to 30, inclusive;
Secs. 32 to 36, inclusive.
T. 43 N., R. 110 W.,
Secs. 1 to 36, inclusive.
T. 44 N., R. 110 W. (unsurveyed),
Secs. 20 to 22, inclusive;
Secs. 26 to 36, inclusive.
T. 42 N., R. 111 W.,
Secs. 1, 2, 12, and 13.
T. 43 N., R. 111 W. (unsurveyed),
Secs. 1 and 2;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 35 and 36.

The areas described aggregate approximately 75,239 acres in Teton and Fremont Counties.

2. Public Land Order No. 4522 of September 13, 1968, which withdrew deposits of oil shale and lands containing such deposits from appropriation under the U.S. mining laws relating to metalliferous minerals, and from sodium leasing under the mineral leasing laws, is hereby revoked so far as it affects the lands described above in T. 44 N., R. 110 W. Public Land Order No. 4522 was revoked as to the remaining lands described above by Public Land Order No. 5157 of February 7, 1972, 37 F.R. 3057.

3. At 10 a.m. on November 16, 1972, the lands shall be open to such forms of use or disposition as by law may be made of national forest lands, including location and entry under the mining laws for metalliferous minerals, and leasing under the mineral leasing laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17913 Filed 10-20-72;8:45 am]

[Public Land Order 5286]

[Wyoming 32093]

WYOMING

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902, as amended and supplemented, 43 U.S.C. 416 (1970), it is ordered as follows:

Subject to valid existing rights, the following described public land, which is under the jurisdiction of the Secretary of the Interior, is hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, and reserved for the North Platte Project:

SIXTH PRINCIPAL MERIDIAN

T. 27 N., R. 84 W.,
Sec. 30, NW¼SE¼.
T. 28 N., R. 84 W.,
Sec. 21, NE¼SE¼.

The areas described contain 80 acres in Carbon County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17914 Filed 10-20-72;8:45 am]

[Public Land Order 5287]

[Wyoming 20650]

WYOMING

Partial Revocation of Phosphate Reserve No. 22

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

The Executive order of August 25, 1914, which withdrew public lands for classification and in aid of legislation affecting the use and disposal of phosphate lands belonging to the United States, is hereby revoked so far as it affects the following described land:

WIND RIVER MERIDIAN

T. 6 N., R. 6 E.,
Sec. 5, SE¼NE¼.

The area described aggregates 40 acres in Hot Springs County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17915 Filed 10-20-72;8:45 am]

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[Public Land Order 5288]

[New Mexico 10805]

NEW MEXICO

Powersite Restoration No. 697; Partial Revocation of Powersite Reserve No. 740; Restoration of Lands From Waterpower Designation No. 1, and Power Project Withdrawal No. 1874

By virtue of the authority contained in section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. § 818 (1970), and pursuant to the determination of the Federal Power Commission in DA–80 New Mexico, it is ordered as follows:

1. The Executive order of May 21, 1920, creating Powersite Reserve No. 740, is hereby revoked so far as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 28 N., R. 12 E.,
Sec. 3, lots 5, 7, 8, N½SW¼, SW¼SW¼, NW¼SE¼.
T. 28 N., R. 13 E.,
Sec. 5, lot 6.

The area described aggregates 248.56 acres.

2. In DA–80–New Mexico, the Federal Power Commission vacated the withdrawal created by the filing of an application for a license on April 13, 1942, for Power Project No. 1874, pertaining to the lands described as lots, 5, 7, 8, sec. 3, T. 28 N., R. 12 E. Also, in Powersite Cancellation No. 291, notice of which was published in 36 F.R. 19447 of October 6, 1971, the Geological Survey canceled Waterpower Designation No. 1 of August 7, 1916, as modified and interpreted on March 25, 1922, and January 15, 1952, respectively, so far as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 28 N., R. 12 E.,
Sec. 3, lots 5, 7, 8, N½SW¼, SW¼SW¼, NW¼SE¼.
T. 28 N., R. 13 E.,
Sec. 5, lot 6.
T. 29 N., R. 13 E.,
Sec. 32, lot 10.
T. 29 N., R. 14 E.,
Sec. 32, S½;
Sec. 33.
T. 28 N., R. 15 E.,
All land of the United States which, when surveyed, shall be included in whole or in part within one-half mile of the Rio Colorado (now called Red River).

The total of the areas described in paragraphs 1 and 2 above aggregates approximately 4,225 acres in Taos County.

The State of New Mexico failed to exercise its preference right of application for highway right-of-way or material sites as provided by section 24 of the Federal Power Act of June 10, 1920, supra, when notified of the proposed restoration of the lands from the powersite withdrawals.

3. All of the above-described lands, except the patented lands described as lots 5, 7, 8, N½SW¼, SW¼SW¼, and NW¼SE¼, sec. 3, T. 28 N., R. 12 E., are public lands located within the Carson National Forest. At 10 a.m. on November 16, 1972, the public lands shall be open to such forms of disposition as by law may be made of national forest lands. These public lands have been and continue to be open to location and entry under the U.S. mining laws, and to leasing under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Santa Fe, N. Mex. 87501.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17916 Filed 10-20-72;8:45 am]

[Public Land Order 5289]

[Utah 11851, 12002]

UTAH

Amendment of Public Land Order No. 5040

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Paragraph 1 of Public Land Order No. 5040 of April 7, 1971, partially revoking departmental orders of April 1, 1941, and November 19, 1940, which withdrew certain lands for reclamation purposes, is hereby amended and corrected to include section 10 in the revocation, and to delete therefrom, section 9 under T. 2 N., R. 9 W., Uintah Meridian.

2. The described lands are within the Wasatch National Forest. At 10 a.m. on November 16, 1972, the lands in section 10 shall be open to such forms of disposition as may by law be made of national forest lands, except that the E½ and E½W½ of said section, which are embraced in Powersite Classification No. 128 of February 4, 1926, shall be open only to operation of the U.S. mining laws, and to leasing under the mineral leasing laws. The provisions of Public Land Order No. 5040 did not serve to change the status of the lands in section 9, as these lands were not withdrawn for reclamation purposes, therefore, the status of these lands remains the same.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17917 Filed 10-20-72;8:45 am]

[Public Land Order 5290]

[Idaho 09526]

IDAHO

Withdrawal for National Forest Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

NEZ PERCE NATIONAL FOREST

BOISE MERIDIAN

Seven Devils Recreation Area

T. 23 N., R. 1 W.,
Sec. 7, lot 2.
T. 23 N., R. 2 W. (unsurveyed, but when surveyed probably will be),
Sec. 12, S½SE¼NE¼, NE¼SE¼.

Allison Creek Recreation Area

T. 24 N., R. 2 W.,
Sec. 13, lot 6.

Spring Bar Creek Recreation Area

T. 24 N., R. 2 E.,
Sec. 12, SE¼SW¼SE¼;
Sec. 13, lot 2.

Van Creek Recreation Area

T. 24 N., R. 3 E.,
Sec. 7, S½S½SE¼SW¼;
Sec. 18, lot 2.

Kelly Creek Recreation Area

T. 24 N., R. 3 E.,
Sec. 18, lot 1.

Robbins Creek Recreation Area

T. 24 N., R. 3 E.,
Sec. 13, lot 1.

Pilot Rock Recreation Area

T. 24 N., R. 4 E.,
Sec. 7, S½S½SW¼SE¼, S½S½SE¼SE¼;
Sec. 18, lots 1 and 3.

The areas described aggregate 242.94 acres in Idaho County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17918 Filed 10-20-72;8:46 am]

[Public Land Order 5291]

[Oregon 8762]

OREGON

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest land is hereby withdrawn from appropriation under the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

FREMONT NATIONAL FOREST

WILLAMETTE MERIDIAN

Fishhole Recreation Area

T. 38 S., R. 16 E.,
Sec. 21, SW¼SW¼NE¼, NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, SW¼SW¼NW¼, SE¼SE¼NW¼, N½N½SW¼, SW¼NE¼SW¼, S½SW¼SW¼, NW¼SE¼SW¼, NW¼NW¼SE¼;
Sec. 22, SE¼ of lot 2, E½ of lot 3, E½ of lot 4, SW¼SE¼NW¼, W½NE¼SW¼;
Sec. 27, NE¼NW¼NW¼.

The area described contains 274.36 acres in Lake County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17919 Filed 10-20-72;8:46 am]

[Public Land Order 5292]

[Arizona 6113]

ARIZONA

Partial Revocation of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916, as amended, 43 U.S.C. section 300 (1970), it is ordered as follows:

1. The departmental order of February 10, 1942, creating Stock Driveway Withdrawal No. 56 (Arizona No. 2), is hereby revoked so far as it affects the following described land:

GILA AND SALT RIVER MERIDIAN

T. 8 N., R. 2 E.,
Sec. 10, SW¼NW¼.

The area described aggregates 40 acres in Yavapai County.

The lands have a sandy soil and support a vegetative growth of palo verde, saguaro cactus, mesquite, and other native shrubs and grasses. Topography is level to hilly.

2. At 10 a.m. on November 16, 1972, the lands shall be open to operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 16, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been and continue to be open to the filing of applications and offers under the mineral leasing laws, and to location and entry under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, 3022 Federal Building, Phoenix, Ariz. 85025.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17920 Filed 10-20-72;8:46 am]

[Public Land Order 5293]

[Wyoming 34584]

WYOMING

Withdrawal for National Forest Recreation Sites

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from location and entry under the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

MEDICINE BOW NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Esterbrook Campground

T. 28 N., R. 71 W.,
Sec. 1, NW¼NW¼SW¼, SW¼SW¼NW¼;
Sec. 2, E½NE¼SE¼, SE¼SE¼NE¼.

Woods Creek Campground

T. 13 N., R. 77 W.,
Sec. 19, NW¼ of lot 6, North 10 chains of lot 7.

The areas described aggregate 78.28 acres in Albany County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17921 Filed 10-20-72;8:46 am]

[Public Land Order 5294]

[Wyoming 094183]

WYOMING

Partial Revocation of National Forest Recreation Area Withdrawals

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 3250 of October 16, 1963, withdrawing national forest lands as recreation areas, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

MEDICINE BOW NATIONAL FOREST

Boswell Creek Picnic Ground

T. 12 N., R. 78 W.,
Sec. 23, lot 2.

BIGHORN NATIONAL FOREST

Cross Creek Campground

T. 53 N., R. 86 W.,
Sec. 21, SW¼SW¼SE¼, W½SE¼SW¼-SE¼.

West Goose Campground

T. 54 N., R. 87 W.,
Sec. 25, NW¼NE¼NE¼.

Twin Lake Campground

T. 54 N., R. 87 W.,
Sec. 35, SE¼NE¼NE¼, SE¼SW¼NE¼-NE¼, NE¼NW¼SE¼NE¼, N½NE¼-SE¼NE¼.

The areas described aggregate 96.31 acres in Albany, Johnson, and Sheridan Counties.

The land described as lot 2, sec. 23, T. 12 N., R. 78 W., containing 51.31 acres is privately owned.

2. At 10 a.m. on November 16, 1972, the public lands described above shall be open to such forms of disposition as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 11, 1972.

[FR Doc.72-17922 Filed 10-20-72;8:46 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 116]

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

The following regulations have been adopted by the Maritime Subsidy Board to govern the operating-differential subsidy program with respect to bulk cargo vessels engaged in carrying export bulk raw and processed agricultural commodities from the United States to the Union of Soviet Socialist Republics.

The regulations are issued pursuant to the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294). The Secretary of Commerce is authorized under section 601(a) of the Act,

• • • [T]o consider the application of any citizen of the United States for financial aid in the operation of a vessel or vessels, which are to be used in an essential service

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in the foreign commerce of the United States * * *

The meaning of the term "essential service" is described in section 211 of the Act as including:

> The bulk cargo carrying services that should, for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and for the national defense or other national requirements be provided by U.S.-flag vessels * * *

The operating-differential subsidy provided in these regulations is deemed appropriate in light of the national requirements for participation by U.S. vessels in the carriage of export bulk raw and processed agricultural commodities during the period to July 1, 1973.

The authority for the operating-differential subsidy procedures covered by these regulations is set forth in section 603(b) of the Act which provides:

> * * * [T]he Secretary of Commerce may, with respect to any vessel in an essential bulk cargo carrying service as described in section 211(b), pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country.

Rule making involving the operating-differential subsidy program is exempt from the requirements of section 553 of title 5, United States Code. A new Part 294 is hereby added to Title 46, Chapter II, Code of Federal Regulations, as follows:

Sec.
294.1 Purpose.
294.2 Applications.
294.3 Subsidy contract.
294.4 Voyage approval procedures.
294.5 Definitions.
294.6 Determinations of subsidy.
294.7 Sources of required data.
294.8 Payment of subsidy.

AUTHORITY: The provisions of this Part 294 issued under section 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114).

§ 294.1 Purpose.

The regulations in this part prescribe rules in accordance with title VI of the Merchant Marine Act, 1936, as amended (Act), governing the payment of operating-differential subsidy for U.S.-flag bulk cargo vessels engaged in carrying export bulk raw and processed agricultural commodities from ports in the United States to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge.

§ 294.2 Applications.

Applications for operating-differential subsidy contracts under this part may be obtained from the Secretary, Maritime Subsididdy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20235.

§ 294.3 Subsidy contract.

(a) *Expiration.* Contracts executed in accordance with the rules and regulations of this part shall expire on June 30, 1973, except that subsidized voyages in progress as of midnight of that date may continue to their termination as defined in § 294.5(c)(2) for purposes of the payment of operating-differential subsidy.

(b) *Renegotiation of contracts.* The operating-differential subsidy contract shall provide that amounts otherwise payable thereunder shall be subject to renegotiation if the Maritime Subsidy Board (Board) determines that the operator is earning excessive profits. In the determination of what constitutes excessive profits the Board shall consider the provisions of section 103 of the Renegotiation Act of 1951, as amended (50 U.S.C. App. 1213), and may take into consideration such other matters that the Board deems appropriate, including any other provision of said Renegotiation Act. The elimination of excessive profits shall be accomplished through the renegotiation of operating-differential subsidy contracts including withholding or recovering amounts paid or accrued with respect to any subsidized voyage. Payments received or accrued under other contracts between the operator and the Government shall not be taken into account for purposes of such renegotiation.

(c) *Subsidized voyage approval.* The operating-differential subsidy contract shall provide that each subsidized voyage must have the prior written approval of the Board. In acting upon a request for such approval, the Board will consider all pertinent facts, including the availability of appropriated funds, the most productive utilization of such funds, whether the charter rate is the maximum then obtainable, and the purposes and policies of the Act. The Board shall not approve retroactively the subsidization of a voyage which has already commenced.

§ 294.4 Voyage approval procedures.

(a) *Requests.* (1) All requests for the approval of a subsidized voyage must be in writing. Telegrams are acceptable. The request must contain the following data:
(i) Name of operator;
(ii) Operating-differential subsidy contract number;
(iii) Vessel name;
(iv) Charterer;
(v) Load and discharge ports;
(vi) Lay days;
(vii) Commodities and estimated tonnage;
(viii) Charter rate and terms;
(ix) The operator's certification to the best of his knowledge and belief of: The current charter market rate for third-flag vessels under a charter having the same terms and conditions, or, if he certifies that he knows of no such currently fixed third-flag vessel rates, then his best estimate of the current market charter rate based upon other charter fixtures appropriately adjusted to give effect to differences between such charters and the proposed fixture of the subsidized vessel together with a concise explanation of the basis on which the estimate was made;
(x) Expected date of commencing the voyage;
(xi) Estimated duration of voyage;
(xii) Similar data concerning backhaul cargo if a backhaul carriage is contemplated;
(xiii) Any other data as may be deemed necessary by the Board.

(b) *Finality.* Approvals and denials of requests for subsidized voyages are final and not subject to review or appeal, except that approvals may be cancelled if the operator has knowingly or negligently provided incorrect or misleading data or information to the Board. Commencement of an approved subsidized voyage shall constitute the acceptance by the operator of all terms and conditions expressed in the approval.

§ 294.5 Definitions.

(a) *Bulk cargo vessels.* All vessels meeting the criteria in sections 601 and 610 of the Act, whether dry-bulk, tanker or break-bulk by design, shall be bulk cargo vessels for purposes of this part and, as such, eligible for participation in this operating-differential subsidy program.

(b) *Foreign flag competition.* For purposes of establishing such sums as the Board determines are necessary to make the cost of operating U.S.-flag vessels competitive with the cost of operating similar vessels under the registry of a foreign country, the Board shall select a typical foreign-flag vessel which has actually participated in the carriage of export bulk raw and processed agricultural commodities from the United States to U.S.S.R. In the event that it is not possible to obtain actual cost data for a selected typical vessel which has engaged in that trade the Board will establish such costs based upon the costs of a foreign-flag vessel which, in the opinion of the Board, has equivalent costs of operation.

(c) *Subsidized voyage*—(1) *Commencement.* A subsidized voyage shall commence at 0001 local time in the U.S. port of loading on the day the subsidized bulk cargo vessel:
(i) Is certified by the National Cargo Bureau, Inc., as being clean and ready to commence loading if it is at the port of loading at the time of such certification;
(ii) Arrives at the U.S. port of loading if the vessel has obtained such certification prior to its arrival at the port of loading; or
(iii) Commences loading if certification is subsequently obtained.

(2) *Termination.* A subsidized voyage shall terminate at 2400 local time on the day the subsidized bulk cargo vessel:
(i) Arrives at a U.S. port of call if it returns in ballast: *Provided,* If the vessel returns to a U.S. port of call different from that at which it loaded cargo, the subsidized voyage shall terminate at the time the vessel would normally have returned to the port of loading, if that time is earlier;
(ii) Completes discharge of inbound cargo in a U.S. port if it has engaged in the bulk carriage of U.S. import commerce and has not engaged in foreign-to-foreign commerce; or
(iii) Commences deviation by deviating from the general track of the normal ballast return voyage if it engages in foreign-to-foreign commerce.

(3) *Deviations to engage in U.S. import commerce.* A subsidized bulk cargo vessel shall be allowed only the following time in excess of the normal total steaming time for the ballast return voyage when the vessel engages in the bulk carriage of U.S. import commerce: (i) A maximum of 3½ days steaming time; and (ii) loading and unloading time. For the purpose of determining the permissible deviation under this paragraph, the total steaming time of the inbound voyage shall be compared to the normal steaming time required for the ballast return voyage from the last port of discharge of the U.S. export cargo to the first port of discharge of the U.S. import cargo. This paragraph shall not apply to vessels which engage in foreign-to-foreign commerce during a subsidized voyage.

(4) *Idleness or delay.* The operator shall report promptly to the Board all facts and explanations thereof relating to periods of idleness or delay sustained on a subsidized voyage. The Board shall determine whether such idleness or delay could have been avoided through efficient and economical operation and whether subsidy shall be payable, in whole or in part, for such periods.

(5) *Ineligible voyages.* No voyage shall be eligible for subsidy during which the subsidized bulk cargo vessel carries:
(i) Cargo in the domestic commerce of the United States;
(ii) U.S. preference cargo, including that covered by 10 U.S.C. 2631, 46 U.S.C. 1241 and 15 U.S.C. 616a; or
(iii) Any other commercial cargo simultaneously with the export bulk raw and processed agricultural commodities being carried to the U.S.S.R., except equipment which may be needed to facilitate unloading of such agricultural commodities.

§ 294.6 Determination of subsidy.

(a) In general: For purposes of this part, the amount of operating-differential subsidy, as determined by the Board, shall not exceed the excess costs of U.S. wages of officers and crew; subsistence of officers and crew; maintenance and repairs not compensated by insurance; vessel insurance; stores, supplies and expendable equipment; fuel; and other vessel expenses over the estimated costs of the same items of expense of the typical foreign-flag vessel. An additional operating-differential subsidy amount, as determined by the Board, shall be paid for the fair and reasonable depreciation and interest costs directly attributable to the subsidized vessel, such amount not to exceed the excess of the same cost of operating a similar foreign-flag vessel. The operating-differential subsidy comprised of such excess costs will be determined as a per diem amount and shall be subject to the limitations imposed by §§ 294.3(b) and 294.6(d).

(b) U.S. costs: The following items shall be used to establish operating costs for each subsidized vessel:

(1) *Wages of officers and crew.* Actual wage costs, including voyage and port relief crew payrolls, contributions to pension and welfare plans, social security and other taxes, and other employment costs directly attributable to the subsidized voyage;

(2) *Subsistence of officers and crew.* The net cost of food and other edibles consumed by officers and crew, including port relief crews, during the subsidized voyage, including sales taxes, government inspection fees and shipside delivery and loading costs incurred for the use of other than the crew and relief complements;

(3) *Maintenance and repairs not compensated by insurance.* The fair and reasonable cost of maintenance and repairs attributable to the subsidized voyage as determined on the basis of the average cost per operating day of such expenses for the subsidized vessel, including costs of drydocking and special surveys, but excluding costs compensated by insurance and costs ineligible for subsidy pursuant to Part 272 of this chapter, for the 5-year period preceding the current year (or such lesser period as the vessel has been in operation) adjusted to the current cost level by the application of survey reports of the U.S. Salvage Association, Inc., and the U.S. Monthly Index of Wages (Hourly Earnings in Manufacturing) published by the U.S. Bureau of Labor Statistics;

(4) *Vessel insurance.* Vessel insurance including the following costs:
(i) The net insurance premium costs in effect for the subsidized voyage, after brokerage and owner's adjustments and including foreign stamp taxes;
(ii) The fair and reasonable cost of claims for death, injury, and illness of officers and crews absorbed by the operator under the deductible or franchise provision of protection and indemnity insurance policies attributable to the subsidized voyage as determined on the basis of the average cost per operating day for the subsidized vessel of such expenses for the 3-year period preceding the current year (or such lesser period as the vessel has been in operation), and in the event that the deductible or franchise provision of the protection and indemnity insurance policies in effect during any part of such 3-year (or lesser) period was different from the deductible or franchise provision in effect for the current period, the expense of such prior period shall be adjusted to conform to the deductible or franchise provision of the current policy;

(5) *Stores, supplies, and expendable equipment.* The fair and reasonable cost of stores, supplies, and expendable equipment attributable to the subsidized voyage as determined on the basis of the average cost per operating day of such expenses for the subsidized vessel over the 3-year period preceding the current year (or such lesser period as the vessel has been in operation) adjusted to the current cost level by application of U.S. Wholesale Price Index of Total Manufactures;

(6) *Fuel.* The actual cost of fuel consumed at sea and in port during the subsidized voyage, including taxes and delivery costs, after giving effect to bunkers on board upon commencement and termination of the subsidized voyage;

(7) *Other vessel expenses.* The actual cost of miscellaneous expenses directly attributable to the subsidized voyage and incident to the management and maintenance of the subsidized vessel, as exemplified in the partial list at § 282.764 of this chapter;

(8) *Vessel depreciation.* The depreciation expense of the subsidized vessel for the period of the subsidized voyage shall be the actual unsubsidized construction cost, reconstruction cost or purchase cost of the subsidized vessel depreciated on a straight-line basis over the economic life of the vessel actually used by the operator to depreciate such construction, reconstruction, or purchase cost, after giving effect to the actual residual value of the vessel, used by the operator for financial accounting purposes; and

(9) *Interest expense attributable to vessel indebtedness.* The current interest expense directly attributable to indebtedness incurred in connection with the construction, reconstruction, or purchase of the subsidized vessel for the period of the subsidized voyage determined in part by an analysis of the date and principal amount of the debt, the principal amortization schedule, the interest rate and the scheduled payments of principal and interest during the period of the subsidy contract.

(c) The Board shall review the costs of each voyage for which subsidy is being sought and shall disallow for subsidy any costs resulting from inefficient or uneconomical operation.

(d) Foreign costs: The following items shall be used to establish operating costs of the typical foreign-flag vessel:

(1) *Actual cost items.* The following operating costs of the selected typical vessel shall be taken at current actual figures, and, if such data are not current, then they shall be adjusted to the current cost level by appropriate indices contained in the International Financial Statistics published by the International Monetary Fund or Monthly Bulletin of Statistics published by the United Nations—
(i) Wages of officers and crew;
(ii) Subsistence of officers and crew;
(iii) Maintenance and repairs not compensated by insurance;
(iv) Vessel insurance;
(v) Stores, supplies, and expendable equipment;
(vi) Fuel; and
(vii) Other vessel expenses.

(2) *Vessel depreciation.* Depreciation expense shall be based on the cost of constructing or reconstructing the U.S. subsidized vessel in a representative foreign shipbuilding center or purchasing the vessel at world market price, which cost shall be depreciated on a straight-line basis over the same economic life actually used by the operator for the subsidized vessel in order to determine the foreign depreciation of such construction, reconstruction, or purchase cost, after giving effect to the residual value used by the operator;

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(3) *Interest expense attributable to vessel indebtedness.* Interest expense shall be determined by assuming the same interest rate, repayment term, and method of principal amortization as those that actually exist for the subsidized vessel, and applying those terms to obtain the interest which would be payable had the original principal of the debt been the same percentage of the foreign cost of construction, reconstruction or purchase as the original construction, reconstruction, or purchase debt of the subsidized vessel was of its construction, reconstruction, or purchase cost.

(e) Abatement of subsidy resulting from the rate of carriage:

(1) *In general.* Under the terms of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Certain Maritime Matters signed October 14, 1972, fixtures made prior to July 1, 1973, for shipments of bulk raw and processed agricultural commodities from the United States to the U.S.S.R. will be made on U.S.-flag vessels at the higher of:

(i) A rate for the cargo and route involved based upon the average of market charter rates for the years 1969, 1970, and 1971, as established under that agreement and related letters; or

(ii) The current market charter rate for the cargo and route involved (where such market charter rates do not exist, a rate will be determined by adjusting current market charter rates for the most comparable cargo and route) plus a rate premium of 10 percent of such rate.

(2) *Abatement determination.* The operating-differential subsidy otherwise payable under this part shall be subject to abatement on a voyage basis when fixtures are made and carriage occurs at the rate referred to in subparagraph (1) (ii) of this paragraph. The abatement shall be comprised of two portions, one associated with the 10-percent-rate premium and the second associated with the current market charter rate.

(i) To the extent that the freight rate exceeds the 3-year-average rate for the cargo and route involved as established under that agreement and related letters, the amount of the rate premium abatement shall be equal to 100 percent of the freight revenue per ton attributable to the 10-percent-rate premium. The commission atributable to the amount subject to abatement will be deducted from the abatement. For example, if the current market charter rate is $7.80 per ton, the minimum rate under the Agreement is 110 percent of that amount or $8.58 per ton. The amount subject to abatement in this case would be $0.53 per ton, which is the amount by which the premium causes the freight rate to exceed the 3-year-average rate of $8.05 per ton. The abatement would be reduced by the amount of commission paid by the operator which is attributable to the $0.53 per ton.

(ii) The amount of the current market charter rate abatement per ton shall be determined by multiplying the freight rate increments in the left hand column of the table below by the percentages in the right hand column. The Commission attributable to the amount subject to abatement will be deducted from such abatement.

Freight rate increment	Percentage
For the first $0.95 per ton that the rate in subparagraph (1)(ii), exclusive of the rate premium, exceeds the rate in (1)(i), the percentage is	0
For the amount that such excess is between $0.95 per ton and $1.95 per ton, the percentage is	50
For the amount that such excise is over $0.95 per ton, the percentage is	75

(3) *Example.* The provisions of this paragraph are illustrated by the following example.

A vessel is fixed and carriage of U.S. export grain to the U.S.S.R. occurs at a charter rate of $12.10 per ton, F.I.O.T. consisting of $11 representing the current market charter rate of $11 plus a rate premium of $1.10. The Commission rate per the charter party is 3¾ percent of freight revenue. The average market charter rate for such cargo and route for the years 1969, 1970, and 1971 as established under the agreement and related letters is $8.05 per ton.

Subsidy abatement is determined as follows:

	Per ton f.i.o.t.
Current market charter rate	$11.00
Add 10% premium	1.10
Fixture rate	12.10
Less average of market charter rates for the years 1969, 1970, and 1971	8.05
Difference	4.05
Abatement of subsidiary per ton of cargo carried:	
Abatement attributable to the premium:	
Gross premium	$1.10
Less commissions at 3¾%	.04125
Net revenue	1.05875
Abatement percentage	100
Abatement per ton	$1.05875
Abatement attributable to the excess of the current market charter rate over the average of market charter rates for 1969, 1970, and 1971:	
Excess of $0.95 or less	.95
Less commissions at 3¾%	.035625
Net revenue	.914375
Abatement percentage	0
Abatement per ton	0
Excess between $0.95 and $1.95	$1.00
Less commissions at 3¾%	.0375
Net revenue	.9625
Abatement percentage	50
Abatement per ton	$0.48125
Excess over $1.95	1.00
Less commissions at 3¾%	.0375
Net revenue	.9625
Abatement percentage	75
Abatement per ton	$0.721875
Total abatement of subsidy per ton of cargo carried	$2.261875

§ 294.7 **Sources of required data.**

(a) *U.S. costs.* The operator shall be required to submit statements, payrolls, invoices, and other data, certified as correct by an officer of the operator, with respect to establishing U.S. operating costs of its subsidized vessels.

(b) *Foreign costs.* The Board will establish the operating costs of the typical foreign-flag vessel from data obtained from the Maritime Administration's foreign representatives and any other sources the Board considers appropriate.

§ 294.8 **Payment of subsidy.**

(a) *Tentative per diem subsidy.* A tentative per diem subsidy amount will be incorporated in the operating-differential subsidy contract.

(b) *Partial payment.* Ninety percent of the operating-differential subsidy estimated to have accrued on a subsidized voyage on the basis of the tentative subsidy per diem amount shall be payable upon completion of the voyage. Such subsidy shall be abated by the amounts determined pursuant to § 294.6 (d).

(c) *Final payment.* The Maritime Administration shall verify the voyage expenses and schedules of historical cost data as soon as practicable after the termination of a voyage, and, subject to adjustment resulting from such verification, pay the remaining 10 percent of accrued operating-differential subsidy.

Effective date. These regulations shall be effective on October 21, 1972, and shall terminate on June 30, 1973, except that for subsidized voyages in progress on that date the regulations shall continue in effect until the termination of such voyages.

Dated: October 19,1972.

By order of the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-18107 Filed 10-20-72;8:53 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

[Docket No. AO-320-A2]

ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Notice of Hearing With Respect to Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Hidalgo County Courthouse, Edinburg, Tex., beginning at 9:30 a.m., local time, Wednesday, November 1, 1972, with respect to proposals to amend the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), hereinafter referred to as the "order," regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

The proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the proposed amendments, which are hereinafter set forth, and appropriate modifications thereof.

The following proposals were submitted by Texas Citrus Mutual.

1. In § 906.7 *Handle* delete the words "in the United States, Canada, or Mexico."

ADMINISTRATIVE BODIES

2. Add a new § 906.17 *Shippers Advisory Committee membership* and term of office as follows:

§ 906.17 Shippers Advisory Committee membership.

A Shippers Advisory Committee consisting of six members, each of whom shall have an alternate, all of whom shall be handlers, is hereby established. Three of such members and their alternates shall be officers, directors, or employees, of cooperative marketing organizations, and the remaining three members and their alternates shall be owners, officers, directors, or employees, of a handler other than a cooperative marketing organization. The term of office of members of the Shippers Advisory Committee and their alternates shall begin on the first day of August and continue for 1 year and until their successors are selected and have qualified. The consecutive terms of office of a member shall be limited to three terms: *Provided*, That such limitation shall be effective only to members who serve three consecutive terms expiring on or after July 31, 1973. In order to be eligible to serve on the Shippers Advisory Committee, a handler must have handled a minimum of 5 percent of the previous seasons total fresh fruit shipments as determined by the records of the marketing order. The members, alternate members, and their respective successors shall be nominated by handlers and shall be selected by the Secretary as provided in §§ 906.17a and 906.17b.

3. Add a new § 906.17a *Nomination of members for Shippers Advisory Committee* as follows:

§ 906.17a Nomination of members for Shippers Advisory Committee.

(a) The Secretary shall give public notice of a meeting for bona fide cooperative marketing organizations which are handlers, and a meeting for other handlers, to be held not later than June 15 of each year, for the purpose of making nominations for members and alternate members of the Shippers Advisory Committee. The Secretary shall prescribe rules to govern each such meeting and balloting thereat. The chairman of each such meeting shall publicly announce the results of the voting and the names of the nominees selected. The chairman and the secretary of each such meeting shall transmit to the Secretary their certificates showing the information so announced and such other information as the Secretary may request. All nominations shall be submitted to the Secretary on or before the 1st day of July.

(b) Nominations of three members and three alternate members shall be made by bona fide cooperative marketing organizations which are handlers. Nominations of three members and three alternate members shall be made by handlers other than bona fida cooperative marketing organizations. In voting for nominees, each handler shall be entitled to cast but one vote, which shall be weighted by the volume of fruit shipped by such handler during the then current fiscal period.

4. Add a new § 906.17b *Selection of members of Shippers Advisory Committee* as follows:

§ 906.17b Selection of members of Shippers Advisory Committee.

(a) From the nominations made by bona fide cooperative marketing organizations or from other qualified persons, the Secretary shall select three members and their alternates.

(b) From the nominations made by handlers not affiliated with cooperative marketing organizations, or from other qualified persons, the Secretary shall select three members and their alternates.

5. Add a new § 906.17c *Inability of members to serve* as follows:

§ 906.17c Inability of members to serve.

(a) An alternate for a member of the Shippers Advisory Committee shall act in the place and stead of such member (1) in his absence or (2) in the event of his removal, resignation, disqualification, or death, and until a successor for his unexpired terms has been selected.

(b) In the event of the death, removal, resignation, or disqualification of any person selected by the Secretary as a member or an alternate member of the Shippers Advisory Committee, a successor for the unexpired term of such person shall be selected by the Secretary. Such selection may be made without regard to the provisions of this subpart as to nominations.

6. Add a new § 906.17d *Duties of Shippers Advisory Committee* as follows:

§ 906.17d Duties of Shippers Advisory Committee.

It shall be the duty of the Shippers Advisory Committee:

(a) To select a chairman from its membership, and to select such other officers and adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To keep minutes, books, and records, which will clearly reflect all its acts, which minutes, books, and records, shall at all times be subject to the examination of the Secretary.

(c) To notify the members of the Texas Valley Citrus Committee in the same manner as it notifies its own members of the time at which it will meet to make the recommendations required by § 906.39; and

(d) All recommendations of the Shippers Advisory Committee shall be submitted in writing to the Texas Valley Citrus Committee.

7. Amend § 906.18 *Establishment and membership* to read as follows:

§ 906.18 Establishment and membership.

(a) The Texas Valley Citrus Committee, consisting of 11 members is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Ten members of the committee shall be producers who produce fruit in the district which they represent and

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are residents of the production area. Five of the members shall be producers who market their fruit through cooperative marketing organizations, and five of the members shall be independent producers. Members of the committee shall not have a proprietary interest in or be employees of a handler organization: *Provided*, That members of a cooperative marketing organization shall not be considered as having a proprietary interest in a handler organization because of such membership.

(c) The 11th member of the committee shall be a resident of the production area, shall be neither a producer nor a handler nor shall he have a proprietary interest in, nor be an agent, employee or representative of a producer or handler. Such member and alternate shall be selected in the following manner: A nomination committee of four members shall be appointed, two by the independent producer members of the committee and two by the members of the committee who market their fruit through cooperative marketing organizations. The nominating committee shall, immediately following its appointment, meet, select its chairman by majority vote, nominate a member and alternate by majority vote having the qualifications set forth in this paragraph (c), and submit the names of such recommended member and alternate to the Texas Valley Citrus Committee. The committee shall forward the names of such nominees to the Secretary. From such nomination, or from other qualified persons, the Secretary shall select the 11th member of the committee and his alternate.

(d) Upon nomination by the committee, by a majority vote, and selection by the Secretary, the nonindustry member selected pursuant to paragraph (c) of this section, shall become the chairman of the committee, and the nonindustry alternate member selected as aforesaid, shall become the vice-chairman of the committee, who shall serve in the absence of the chairman and shall have the same rights, powers, and duties as the chairman.

8. Amend paragraph (a) of § 906.19 *Term of office* to read as follows:

§ 906.19 Term of office.

(a) The term of office of the 10 producer members and their alternates shall be 3 years and the term of office of the member and alternate who is neither a producer nor a handler shall be 1 year: *Provided*, That the present producer members shall remain on the committee for the duration of their respective terms and as such terms expire such members and alternates shall be succeeded by members and alternates in accordance with the provisions of § 906.18. No producer member or alternate shall succeed himself, but the member and alternate who are neither a producer or handler may do so.

* * * * *

§ 906.21 [Amended]

9. In § 906.21 *Redistricting*, delete references to handler members.

§ 906.22 [Amended]

10. In § 906.22 *Selection*, paragraph (b), delete references to the selection of handler members and revise paragraph (a) to conform to the membership of the committee as proposed in §§ 906.18 and 906.19.

§ 906.23 [Amended]

11. In § 906.23 *Nominations*, delete references to nomination of handler members and revise the remaining portion of § 906.23 to conform to the membership of the committee as proposed in §§ 906.18 and 906.19.

§ 906.24 [Amended]

12. Amend § 906.24 *Failure to nominate*, to provide that in the event nominations for a member or alternate member of the committee are not made pursuant to the provisions of § 906.17, the Secretary may select such member or alternate member without regard to nominations.

§ 906.25 [Amended]

13. Amend § 906.25 *Acceptance*, to provide that any person selected by the Secretary as a member or alternate member of the Shippers Advisory Committee shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

§ 906.27 [Amended]

14. In § 906.27 *Alternate members*, delete the reference to handler members.

§ 906.28 [Amended]

15. Amend § 906.28 *Procedure*, to provide that six members shall be necessary to constitute a quorum. Six affirmative votes shall be required to pass any motion or approve any committee action. All votes shall be cast in person.

16. Amend paragraph (a) in § 906.31 *Duties* to read as follows:

§ 906.31 Duties.

* * * * *

(a) At the beginning of each term of office, to meet and organize, to select a chairman under the procedure provided in § 906.18 and such other officers as may be necessary, to select subcommittees, and to adopt such rules and regulations for the conduct of its business as it may deem advisable.

* * * * *

17. In § 906.39 *Recommendations for regulations*, designate the present language as paragraph (d), and add the following new paragraphs (a), (b), and (c):

§ 906.39 Recommendations for regulations.

(a) Whenever the Shippers Advisory Committee deems it advisable to make any recommendations, it shall promptly submit its recommendation, with supporting information, to the Texas Valley Citrus Committee. This recommendation and supporting information shall be in writing;

(b) The failure of the Shippers Advisory Committee to make a recommendation after having received notice of the intention of the Texas Valley Citrus Committee to meet for the purpose of receiving such recommendations, shall not preclude such committee from submitting recommendations and supporting information to the Secretary;

(c) The Texas Valley Citrus Committee shall give notice of any meeting to consider the recommendations of the Shippers Advisory Committee by mailing a notice of meeting to each handler who has filed his address with said committee for this purpose. The said committee shall give the same notice of any such recommendation before the time it is recommended that such recommendation become effective.

* * * * *

18. Add the following paragraph (g) to § 906.40 *Issuance of regulations:*

§ 906.40 Issuance of regulations.

* * * * *

(g) Regulate the handling of fruit to be exported outside of the United States differently for different countries, for different varieties, grades, sizes, qualities, or packs of fruit or for different containers.

19. Add the following paragraph (d) to § 906.42 *Shipments for special purposes:*

§ 906.42 Shipments for special purposes.

* * * * *

(d) For export outside of the United States.

The following proposals were submitted by the Texas Valley Citrus Committee, the administrative agency established pursuant to the marketing agreement and order:

1. Amend § 906.7 *Handle* to read as follows:

§ 906.7 Handle.

"Handle" or "ship" means to transport or sell fruit, or in any other way to place fruit, in the current of commerce between the production area and any point outside thereof in the United States, Canada, or Mexico: *Provided*, That the term shall not include the transportation of fruit by a handler, so registered with the committee, from the grove to his packing facilities outside of the production area for the purpose of having such fruit prepared for market.

2. Add a new § 906.16a *Registered handler* as follows:

§ 906.16a Registered handler.

"Registered handler" means any person with adequate facilities within the production area for preparing fruit for market, who customarily does so and who is so recorded by the committee, in accordance with such rules and regulations as the committee may prescribe, with approval of the Secretary.

3. Amend § 906.19 *Term of office* to read as follows:

§ 906.19 Term of office.

(a) The term of office of committee members and their respective alternates shall be for 3 years beginning August 1 and ending July 31. No member or alternate member shall succeed himself.

(b) Members and alternates shall serve in that capacity during the portion of the term of office for which they are selected and have qualified, and until their respective successors are selected and have qualified. Should a producer member or alternate member change his marketing affiliation during his term of office, he will become ineligible and the vacancy will be filled in accordance with § 906.26.

4. In § 906.34 *Assessments*, add the following new paragraph (e):

§ 906.34 Assessments.

* * * * *

(e) Any unpaid obligation of a handler shall be increased by a rate, recommended by the committee and approved by the Secretary, on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter, until such obligation is paid.

5. In § 906.40 *Issuance of regulations*, redesignate paragraphs (d), (e), and (f) as paragraphs (e), (f), and (g) respectively, and add the following new paragraph (d):

§ 906.40 Issuance of regulations.

* * * * *

(d) Limit the handling of particular containers differently for different varieties, for different grades, for different purposes, or any combination of the foregoing, during any period.

* * * * *

§ 906.41 [Amended]

6. In § 906.41 *Gift fruit shipments*, delete "500" and insert "400" in lieu thereof, and delete reference to "§ 906.43" and insert "§ 906.44" in lieu thereof.

7. In § 906.42 *Shipments for special purposes*, designate that portion of the section preceding present paragraph (a) as paragraph (a); redesignate the present paragraphs (a), (b), and (c) as subparagraphs (1), (2), and (4), respectively, insert the following new subparagraph (3) in such paragraph; and add the following new paragraph (b) to such section.

§ 906.42 Shipments for special purposes.

(a) * * *

(3) For quantities in excess of 400 pounds to one person not for resale.

* * * * *

(b) The committee may, with the approval of the Secretary, designate locations outside the production area and prescribe rules and regulations whereby fruit may be shipped to such locations for preparation for market exempt from the provisions of this subpart: *Provided*, That fruit so shipped shall not thereafter be handled contrary to the provisions of this subpart.

* * * * *

The following proposal was submitted by the Valley Citrus Growers Association, Inc.:

That the order be amended to provide for an administrative committee comprised of 15 grower members and their respective alternates. Representation on such committee would be divided between growers who are affiliated with cooperative marketing organizations and growers not so affiliated in proportion to their relative volume of total shipments. In addition, a Shippers Advisory Committee, comprised of six members and their respective alternates, would be established. Representation on such committee would be divided between independent handlers and cooperative handlers in proportion to their relative volume of total shipments.

The following proposal was submitted by the Hidalgo County Farm Bureau:

That the order be amended to provide for a committee comprised of nine grower members and their respective alternates, and five handler members and their respective alternates. The grower members or their alternates would have voting privileges, while shipper members or their alternates would serve in an advisory capacity. Grower members and alternates would serve staggered 3-year terms of office, while the shipper members would serve staggered 2-year terms of office. All members and alternate members would be selected from the production area large.

The Fruit and Vegetable Division, Agricultural Marketing Service, has proposed that consideration be given to making such other changes in the order as may be necessary to make the entire provisions thereof conform with any amendment thereto that may result from this hearing.

Copies of this notice of hearing may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from David B. Fitz, McAllen Marketing Field Offices, Fruit and Vegetable Division, Agricultural Marketing Service, 2217 North 10th Street, Commercial Arts Building, McAllen, TX 78501.

Dated: October 17, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-18040 Filed 10-20-72;8:48 am]

Agricultural Marketing Service

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1127, 1128, 1129, 1130, 1132, 1138]

[Docket No. AO-231-A39, etc.]

MILK IN NORTH TEXAS AND CERTAIN OTHER MARKETING AREAS

Decision on Proposed Amendments to Marketing Agreements and to Orders

Correction

In F.R. Doc. 72-17423 appearing at page 21821 of the issue for Saturday, October 14, 1972, text which was inadvertently omitted should be inserted at the following places:

1. On page 21824, the following two paragraphs should be added immediately before the first full paragraph in the third column:

Exception was taken to the conclusion that, if the program is effectuated on a date that would preclude producers wishing refunds from meeting the request deadline of the 15th day of the month prior to the beginning of the calendar quarter, the refund request for such quarter could be filed at any time during the initial period. It was suggested that this deviation from the regular refund procedure would be confusing and hence detrimental to the success of the program. Exceptor asked that the program be effectuated at the beginning of a regular calendar quarter or, in the alternative, be initiated and operated on a succession of 3-month periods beginning with any calendar month.

In the interest of administrative efficiency, it is desirable that all advertising and promotion programs under the Federal order system be operated on a calendar quarter basis. At this time, it cannot be ascertained specifically when the amending orders in these markets can be effectuated. It is necessary, therefore, that a procedure be provided whereby producers not wishing to participate can be assured of refunds, if requested, for the initial period of operation in the event the program is started on other than a calendar quarter. However, unless there are compelling reasons to the contrary, the program should be initiated on a date which will accommodate to the regular refund procedure.

2. On page 21825, the following should be inserted after the last paragraph in the middle column:

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the aforesaid specified marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing

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agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

August 1972 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the Neosho Valley, Wichita, Memphis, Fort Smith, Oklahoma Metropolitan, Central Arkansas, Lubbock-Plainview, San Antonio, Central West Texas, Austin-Waco, Texas Panhandle, and Rio Grande Valley marketing areas is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the respective marketing areas.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENTS

It is hereby directed that referendums be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the issuance of each of the attached orders as amended and as hereby proposed to be amended, regulating the handling of milk in the Corpus Christi, Red River Valley, and North Texas marketing areas is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the respective marketing areas.

The representative period for the conduct of such referendums is hereby determined to be August 1972.

The agents of the Secretary to conduct such referendums are hereby designated to be Earl C. Born (Corpus Christi), Richard Arnold (Red River Valley), and C. E. Dunham (North Texas).

Signed at Washington, D.C., on October 6, 1972.

RICHARD E. LYNG,
Acting Secretary.

ORDER[1] AMENDING THE ORDERS, REGULATING THE HANDLING OF MILK IN CERTAIN SPECIFIED MARKETING AREAS

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid specified marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-67]

PART-TIME CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate the Corpus Christi, Tex. (NALF Cabaniss Field), part-time control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Corpus Christi, Tex. (NALF Cabaniss Field) is added as follows:

CORPUS CHRISTI, TEX. (NALF CABANISS FIELD)

Within a 5-mile radius of NALF Cabaniss Field (latitude 27°42'06", longitude 97°26'17") excluding that airspace designated as the Corpus Christi (CRP) and Navy Corpus Christi (NGP) control zones. This control zone will be effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

Effective hours, local time, will be: 0600–2200 Monday through Friday.

The designation of a part-time control zone will provide controlled airspace for one IFR approach to the airport and will assure greater safety potential by increasing VFR minima to transiting aircraft.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Forth Worth, Tex., on October 12, 1973.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-18035 Filed 10-20-72;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SW-68]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Wharton, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

WHARTON, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Wharton Municipal Airport (latitude 29°15'15" N., longitude 96°09'15" W.), and within 2.5 miles each side of the Eagle Lake, Tex., VORTAC 162° radial extending from the 5-mile radius to 23.5 miles southeast of the Eagle Lake VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing departure procedures and will assure controlled airspace for aircraft executing the proposed VOR/DME Runway 14 instrument approach procedure.

This notice is being issued in a conjoined action with 72-SW-172-NRA.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of sec. 6(c) if the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on October 12, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-18036 Filed 10-20-72;8:48 am]

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Notices

DEPARTMENT OF DEFENSE

Defense Supply Agency

DEFENSE CONTRACT ADMINISTRATION SERVICES

Notice of Proposed Cancellation of Contracts

The following letter is published in accordance with the requirements of 41 CFR 60–1.26(b)(2)(i) and (ii):

OCTOBER 6, 1972.

DCAS–VO

Mr. JAMES R. SEYFERTH, *President,*
Westran Corp.,
1148 West Western Avenue,
Muskegon, Mich.

DEAR MR. SEYFERTH: On May 3, 1972, an onsite Equal Employment Opportunity (EEO) preaward compliance review was made at Westran Corp., as a subcontractor to Aerojet Ordnance and Manufacturing Co., to determine its compliance posture under provisions of Executive Order (EO) 11246 as amended by EO 11375 and Department of Labor (DoL) Rules and Regulations, 41 Code of Federal Regulations (CFR), Chapter 60.

The review revealed that Westran Corp. was not in compliance with the cited requirements. Goals established in your Affirmative Action Program (AAP), dated September 1, 1971, were not achieved and you have not demonstrated good faith efforts to achieve these goals. Further, the AAP had not been updated to comply with the requirements of Revised Order No. 4, in that:

a. Section IV–A. The AAP included general census statistics which cannot be translated into availability figures by job categories; also, there was no analysis of availability of females. The latter is specifically required by Revised Order No. 4, Subpart B, section 60–2.11.

b. Section IV–B. The analysis of the work force and goals established for categories wherein there was underutilization or overutilization of minorities did not give the rationale for the determination of underutilization or overutilization. The position of overutilization in Module 1 indicated that 15 percent is the availability for foundry classifications, a figure considered too low. In the Management Group it cannot be determined what you consider as the minority availability. There was no projection of anticipated hiring opportunities; therefore, sufficiency of goals could not be evaluated. Again, no provision was made for females.

c. Section VII. Explanation for failure to consider females elsewhere in the plan is not acceptable and gave no indication of the company's compliance with sex discrimination guidelines.

d. Section IX. Comments should have been addressed to future plans. This section is also silent with respect to females. Revised Order No. 4 specifically refers to "Consideration of minorities and females not currently in the work force * * *."

These deficiencies were brought to your attention by letters from the Commander, DCASR, Detroit under dates of May 9, 1972, June 20, 1972, August 2, 1972, and September 15, 1972. They were also presented during meetings with representatives of Westran Corp. on May 25, 1972, and July 19, 1972. Technical assistance in developing an acceptable updated AAP was offered but in each instance was rejected.

On June 15, 1972, an AAP was submitted to the DCASR, Detroit, Contracts Compliance Office as well as were two subsequent revisions thereto. None of these was deemed sufficient to meet the requirements of the cited DoL rules and regulations.

In view of the substantive indication of noncompliance you are hereby notified of proposed cancellation or termination of existing U.S. Government contracts or subcontracts, if any, and debarment from future contracts and subcontracts with the U.S. Government. This action is pursuant to EO 11246 and 41 CFR Part 60–1.

Westran Corp. may, within 14 days after receipt of this notice, request a formal hearing, in accordance with 41 CFR 60–1.26 and the Department of Defense Directive No. 1100.11, copy enclosed, issued pursuant to section 201 of EO 11246.

WALLACE H. ROBINSON, Jr.,
Lieutenant General, U.S.M.C.,
Director.

[FR Doc.72-18160 Filed 10-20-72;9:32 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT DES 72–104]

DE LUZ HEIGHTS MUNICIPAL WATER DISTRICT, CALIF.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a water supply project proposed under the Small Reclamation Projects Act for the purpose of furnishing irrigation water and municipal water supplies to the De Luz Heights Municipal Water District in northern San Diego County, Calif. Written comments are invited within 45 days of this notice. Comments may be directed to the Regional Director, Bureau of Reclamation, at the address listed below.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone 202—343–4991.

Division of Engineering Support, Technical Services Branch, E. & R. Center, Denver Federal Center, Denver, Colo. 80225, telephone 303—234–3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 427, Boulder City, NV 89005, telephone 402—293–8527.

Southern California Planning Office, Post Office Box 1303, 528 Mountain View Avenue, San Bernardino, CA 92402, telephone 714—884–3111.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 16, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary
of the Interior.

[FR Doc.72-18057 Filed 10-20-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

CERTAIN AGRICULTURAL PROBLEMS

Invitation for Research Grant Proposals

The Cooperative State Research Service, U.S. Department of Agriculture invites submission of proposals from State agricultural experiment stations, colleges, universities, and other research institutions and organizations, and Federal and private organizations and individuals (7 U.S.C. 450i) to conduct necessary research directed at solution of problems of particular interest to the Department of Agriculture. Areas of concern and available funds are: (1) Cost cutting research on cotton, $1.9 million; (2) soybean research, $400,000; (3) research on nonchemical methods of pest control, $500,000; (4) research on mechanisms of resistance to leaf blights and other diseases of plants, $500,000; and (5) research in pest management, $900,000. Project grants cannot exceed 5 years. Funding of not more than $100,000 per project is considered consistent with available resources.

Copies of research proposals should be submitted in quadruplicate to the Office of the Administrator, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250. Deadline for receipt of proposals is December 1, 1972. Inquiries may also be directed to the same office.

R. L. LOVVORN,
Administrator.

[FR Doc.72-18041 Filed 10-20-72;8:49 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

GROUNDFISH FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.8(a), Title 50, Code of Federal Regulations, as follows:

On October 16, 1972, the Executive Secretary of the International Commission for the Northwest Atlantic Fisheries notified each contracting government having fishing vessels operating in the regulatory Subarea 5, defined in § 240.1(b)(5) that the accumulative landings and projected incidental catch of haddock have reached 100 percent of a catch limit of 6,000 metric tons as described in § 240.6(a)(3), published in the FEDERAL REGISTER of January 19, 1972, 37 F.R. 786.

I hereby announce that the 1972 season for the taking of haddock without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate at 0001 hours, local time, in the area affected, October 27, 1972.

Issued at Washington, D.C., and dated October 18, 1972.

PHILIP M. ROEDEL,
Director, National Marine
Fisheries Service.

[FR Doc.72-18050 Filed 10-20-72;8:49 am]

GROUNDFISH FISHERIES

Closure of Season

Notice is hereby given pursuant to § 240.8(a), Title 50, Code of Federal Regulations, as follows:

On October 16, 1972, the Executive Secretary of the International Commission for the Northwest Atlantic Fisheries notified each contracting government having fishing vessels operating in the regulatory Subarea 4, Division 4X, defined in § 240.1(b)(4) that the accumulative landings and projected incidental catch of haddock have reached 100 percent of a catch limit of 9,000 metric tons as described in § 240.6(a)(1), published in the FEDERAL REGISTER of January 19, 1972, 37 F.R. 786.

I hereby announce that the 1972 season for the taking of haddock without restriction as to quantity by persons and vessels subject to the jurisdiction of the United States will terminate at 0001 hours, local time, in the area affected, October 27, 1972.

Issued at Washington, D.C., and dated October 18, 1972.

PHILIP M. ROEDEL,
Director, National Marine
Fisheries Service.

[FR Doc.72-18051-Filed 10-20-72;8:49 am]

YELLOWFIN TUNA

Increase in Incidental Catch Rate

Notice of an increase in the incidental catch rate is hereby given pursuant to the proviso to § 280.7(b), Title 50, Code of Federal Regulations as follows:

Upon publication of this notice in the FEDERAL REGISTER, the 50 percent (50 percent) incidental catch rate of yellowfin tuna for all purse seine vessels of 300 short tons carrying capacity or less set forth in Title 50 CFR § 280.7(b)(3) is hereby increased to 65 percent (65 percent). The catch of yellowfin tuna during the closed season by such purse seine vessels has been well below the expected catch rate and the allotment provided in said Title has not been utilized.

Issued at Washington, D.C., and dated October 18, 1972.

PHILIP M. ROEDEL,
Director, National Marine
Fisheries Service.

[FR Doc.72-18052 Filed 10-20-72;8:49 am]

YELLOWFIN TUNA

Increase in Incidental Catch Rate

Notice of an increase in the incidental catch rate is hereby given pursuant to the proviso to § 280.7(b), Title 50, Code of Federal Regulations as follows:

Upon publication of this notice in the FEDERAL REGISTER, the previously reverted 15 percent (15 percent) incidental catch rate of yellowfin tuna for all purse seine vessels of 301–400 short tons carrying capacity (37 F.R. 12513), set forth in Title 50 CFR § 280.7(b)(2) is hereby increased to 25 percent (25 percent). The catch of yellowfin tuna during the closed season by such purse seine vessels has been well below the expected catch rate and the allotment provided in said Title has not been utilized.

Issued at Washington, D.C., and dated October 18, 1972.

PHILIP M. ROEDEL,
Director, National Marine
Fisheries Service.

[FR Doc.72-18053 Filed 10-20-72;8:49 am]

Office of Import Programs

BOSTON UNIVERSITY SCHOOL OF MEDICINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72–00581–33–46040. Applicant: Boston University School of Medicine, Business Office, 80 East Concord Street, Boston, MA 02118. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in determining ultrastructural details of keratohyalin granules, membrane-coating granules (MCG), and the thickened envelope of horny cells of the epidermis by application of electron microscopy techniques. Another research project involves the study of the ultrastructure of pathologic epidermis and sebaceous glands which involves processing of skin biopsies by routine methods used in electron microscopy. The article will also be used in the training program in electron microscopy for students, residents, and other interested people of the university.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing the pole-piece. The most closely comparable domestic instrument is the Model EMU–4C manufactured by the Forgflo Corp. The Model EMU–4C, with its standard pole-piece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification pole-piece should be used. Changing the pole-piece on the Model EMU–4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 29, 1972 that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 550,000 magnifications without changing pole-pieces, while at the same time providing high-quality micrographs at low magnifications, is

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considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72–18068 Filed 10–20–72;8:51 am]

FORSYTH DENTAL INFIRMARY FOR CHILDREN ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under the cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 73–00057–33–46070. Applicant: Forsyth Dental Infirmary for Children, 140 Fenway, Boston, MA 02115. Article: Scanning electron microscope, Model JSM–U3. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in a variety of research projects which include:

(1) Investigation of the mechanical properties of teeth and bones and other hard tissues as a means for characterizing mineralization dynamics and other fundamental information.

(2) Study of the mechanism of formation and prevention of caries and assessment of the effects the acid solutions and abrasive pastes that are frequently employed in dental practice.

(3) Study of the ecology of the microorganisms inhabitating the oral cavity. The article will also be used in the training of graduate students and in providing educational material for the Forsyth School for Dental Hygienists. Application received by Commissioner of Customs: July 25, 1972.

Docket No. 73–00160–88–23600. Applicant: The University of Tennessee, Department of Geology, Knoxville, Tenn. 37916. Article: Winkie portable rock drill, Model GW–15. Manufacturer: J. K. Smit and Sons, International, Canada. Intended use of article: The article is intended to be used in the following experiments:

(1) Field emplacement of BX–FJ casing to bedrock depths of at least 50 feet.

(2) Obtaining of regolith samples for field description, for teaching specimens, and for laboratory analysis.

(3) Obtaining of BX-size cores for field descriptions, teaching specimens, and for laboratory analysis.

(4) Field determination of water table levels and/or bedrock depths.

In addition the article will be used in the courses listed below to provide students with a working knowledge of actual field techniques utilized in exploration methods; to provide students with a field experience in field research that can be coupled to previous and future field observations; and to acquaint students with identification, laboratory analyses, and interpretation of critical mineral and rock samples which are not otherwise obtainable except by drilling.

Principles of Geomorphology.
Field Geology.
Lithology.
Optical Mineralogy.
Economic Geology.
Petrology.
Principles of Geophysics.

Application received by Commissioner of Customs: September 15, 1972.

Docket No. 73–00167–33–46500. Applicant: Chico State College, Department of Biological Sciences, Chico, Calif. 95926. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in studies of biological materials both plant and animal. Experiments to be conducted include:

(1) Study of the role that microtubules play in the morphogenesis of parasitic protozoa, particularly flagellates;

(2) Study of the ultrastructure and development of generative cells in geranium pollen grain and pollen tube; and

(3) Study of the role of generative organelles (amyloplasts and mitochondria) in male transmission of cytoplasmic inherited characters in several plants, and ultrastructure of the walls of pollen grains.

The article will also be used in the course Biology Science 202, Cytology, to present an introduction to the structure and related functions of plant and animal cells and protoplasmic systems. In addition the article will be used to present theory and provide actual experience in preparing biological specimens for electron microscopy. Application received by Commissioner of Customs: September 27, 1972.

Docket No. 73–00168–33–46595. Applicant: University of Pittsburgh, Department of Physiology, School of Medicine, Pittsburgh, Pa. 15213. Article: Pyramitome with target marker. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in the course of an investigation of the glycoalyx in muscle to localize specific cells, selected on the basis of light microscopic examination, for sectioning for electron miscroscopy. Application received by Commissioner of Customs: September 27, 1972.

Docket No. 73–00169–33–46500. Applicant: Howard University, College of Medicine, Department of Pathology, 520 W Street NW. Washington, DC 20001. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of Article: The article is intended to be used in studies of biological tissues, mainly mammalian derived from surgical biopsies of hospital patients and experimental animal tissues, exhibiting both pathological and normal cytology. The objectives to be pursued in the course of these investigations are to reveal at the ultrastructural level the changes that occur in very early stages of disease processes. Application received by Commissioner of Customs: September 27, 1972.

Docket No. 73–00170–33–46500. Applicant: University of Houston, 3801 Cullen Boulevard, Houston, TX 77004. Article: Ultramicrotome, Model LKB 4800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of biological materials, primarily the gametes of mammals in experiments which include effecting capacitation of mammalian sperm in vitro, and examination of gametes so treated, with an electron microscope for evidence of changes in the fine structure of the gametes. In addition the article will be used to acquaint selected advanced students with electron microscope theory and procedures to a sufficient degree for them to apply the procedures to their research. Application received by Commissioner of Customs: September 27, 1972.

Docket No. 73–00172–99–46500. Applicant: Howard University, College of Medicine, Department of Pathology, 520 W Street NW., Washington, DC 20001. Article: Ultramicrotome, Model OM U3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used in a graduate course in ultrastructure to train students in the techniques of electron microscopy including—fixation, embedding, sectioning and the use of the electron microscope. Application received by Commissioner of Customs: September 29, 1972.

Docket No. 73–00173–00–23600. Applicant: The University of Tennessee, Department of Geology, Knoxville, Tenn. 37916. Article: Winkie portable diamond drill auger reduction unit and special water swivel. Manufacturer: J. K. Smit and Sons International Canada. Intended use of article: The articles are accessories for a Winkie portable rock drill being used in the following experiments:

(1) Field emplacement of BX–FJ casing to bedrock depths of at least 50 feet.

(2) Obtaining of regolith samples for field description, for teaching specimens, and for laboratory analysis.

(3) Obtaining of BX-size cores for field descriptions, teaching specimens, and for laboratory analysis.

(4) Field determination of water table levels and/or bedrock depths. In addition the drill will be used in the courses listed below to provide students with a working knowledge of actual field techniques utilized in exploration methods as well as a field experience in field research that can be coupled to previous and future field observations; and to acquaint students with identification, laboratory analyses, and interpretation of critical mineral and rock samples which are not otherwise obtainable except by drilling.

Principles of Geomorphology.
Field Geology.
Lithology.
Optical Mineralogy.
Economic Geology.
Petrology.
Principles of Geophysics.

Application received by Commissioner of Customs: September 28, 1972.

Docket No. 73–00174–89–46070. Applicant: University of Hawaii, Hawaii Institute of Geophysics, 2525 Correa Road, Honolulu, HI 96822. Article: Scanning electron microscope, Model S4–10, Manufacturer: Cambridge Scientific Instrument Co., United Kingdom. Intended use of article: The article is intended to be used in various geological research projects some of which include the following:

(1) Geological oceanography, deep sea sediment organism relationships involving:

a. Quartz sand grain studies.

b. Cathodoluminescense studies of quartz sand grains.

c. Investigations of carbonate sediments.

d. Sheel structure of mollusks, coral and other invertebrates.

e. Studies of Apollo Lunar samples.

(2) Micropaleontology, Biostatigraphy involving the study of benthic and planktonic foraminifera from deep terrace dredgings around the Hawaiian chain and from oceanic cores from the southwestern Pacific and Line Islands area for biostratigraphic and paleoenvironmental interpretation.

(3) Manganese nodules deep-sea sediments.

(4) Geochemistry deep-sea sediments.

(5) Surface phenomena of cells; morphology and taxonomy of marine bacteria and flagellates. Application received by Commissioner of Customs: October 2, 1972.

Docket No. 73–00176–99–72500. Applicant: University of Maryland Hospital, Redwood and Greene Streets, Baltimore, Md. 21201. Article: Engstrom Respirator System ER 300. Manufacturer: LKB Medical AB, Sweden. Intended use of article: The article is intended to be used in training anesthesiology and surgical residents, nurses and inhalation therapists in the functional characteristics and clinical application of mechanical ventilators. Application received by Commissioner of Customs: October 2, 1972.

Docket No. 73–00177–33–46040. Applicant: Leo Goodwin Institute for Cancer Research, 3301 College Avenue, Fort Lauderdale, FL 33124. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in a number of programs concerned with the nature of malignant disease. These include:

(1) Investigations of viral and chemically induced tumors; the immune response in experimental cancers; the search for viruses in human and animal tumors; development of new chemotherapeutic drugs and biochemical changes in malignant transformations.

(2) Studies in the immune response to tumor-bearing animals. In addition, the article will be used in training graduate and postgraduate students in courses in virology, immunology, and molecular biology. Application received by Commissioner of Customs: October 2, 1972.

Docket No. 73–00178–33–46040. Applicant: University of Texas Southwestern, Medical School at Dallas, 5323 Harry Hines Boulevard, Dallas, TX 75235. Article: Electron Microscope, Model EM 201. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for high resolution studies of immunocompetent cells, virus-infected cells, virions, and isolated nucleic acids and proteins. The ultrastructure of the membranes of the immunocompetent cells and virus-infected cells will be studied in thin sections and by negative staining using the goniometer tilting accessory to reveal the three dimensional structure of the specimens. High resolution microscopy will be used to investigate virus-cell interactions such as virus-induced cell fusions, as well as to characterize the structure of isolated and purified proteins and protein subunits. In addition the article will be used for teaching medical students in a microbiology course and for teaching graduate students, medical students, and postdoctoral fellows, in a seminar course on fundamental techniques of high resolution electron microscopy. Application received by Commissioner of Customs: October 2, 1972.

BERNARD BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72–18069 Filed 10–20–72;8:51 am]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72–00117–33–46040. Applicant: Purdue University, West Lafayette, Ind. 47907. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for high magnification, high resolution electron microscopy studies of insect viruses and their ultrastructure, as well as the ultrastructure of viral infected and uninfected tissues of insects. The article will also be used for instruction of graduate students studying insect virology and will be used in the laboratory in Entomology 613, Principles of Insect Pathology. This course involves research methods and consideration of cause, symptomatology of insect diseases, as well as histo- and cytopathology of representative diseases.

Comments: No comments have been received with respect to this application. Decision: Application approved. No domestic manufacturer was both able and willing to manufacture an instrument or appartus of equivalent scientific value to the foreign article for such purposes as the article is intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 701.11(b) of the regulations, at the time the foreign article was ordered (March 25, 1971). Reasons: The applicant required an electron microscope to achieve the purposes described in reply to Question 7. At the time the foreign article was ordered, the only manufacturer of electron microscopes comparable to the foreign article in the United States was Forgflo Corporation (Forgflo). Forgflo was sent an invitation to bid on the applicant's technical requirements and replied in pertinent part, "We do not feel qualified to respond to your bid specifications."

Electron microscopes fall in the category of instruments that are produced on order. As to the domestic availability of such instruments the regulations provide:

> In determining whether a U.S. manufacturer is able and willing to produce a produced on order or custom-made instrument, apparatus, or accessory • • • the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category.

The regulations require that a domestic manufacturer be both "able and willing" to produce an instrument for the purpose of comparison with the foreign article. Where an applicant, as in the case of the captioned application, extends in good faith an offer to bid to a domestic manufacturer and the manufacturer responds as Forgflo did, it is apparent that the domestic manufacturer

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is either not "willing" or not "able" to produce an instrument of equivalent scientific value to the foreign article. Accordingly, the Department of Commerce finds that no domestic manufacturer was both "able and willing" to manufacture a domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the foreign article was ordered.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18062 Filed 10-20-72;8:50 am]

SHADYSIDE HOSPITAL INSTITUTE OF PATHOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00445-33-46040. Applicant: Shadyside Hospital Institute of Pathology, 5230 Centre Avenue, Pittsburgh, PA 15232. Article: Electron microscope, Model EM 201. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used as a significant adjunct in providing information concerning the histogenesis, possible etiolgy (viral), and diagnosis of human tumors. Experimental studies will include: (1) Identification of cell types of lymph nodes which may be concerned with tumor immunity; (2) the effect of cigarette smoking and the components of tobacco on coronary artery function and structure; (3) the effect of embolism, particularly fat embolism, on the function and structure of the pulmonary vasculature; and (4) diagnosis of diabetes mellitus. The article is also intended to be used for training of residents in pathology as well as introductory causes for selected medical students from the University of Pittsburgh School of Medicine.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivaient scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a continuous magnification from 200 to 200,000 magnifications, without changing the pole-piece. The most closely comparable domestic instrument is the Model EMU-4C manufactured by the Forgflo Corp. The Model EMU-4C, with its standard pole-piece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4C that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification pole-piece should be used. Changing the pole-piece on the Model EMU-4C requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 29, 1972, that the applicant requires the capability of low magnifications search and identification followed by high magnification in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 200 to 200,000 magnifications without changing pole-pieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18064 Filed 10-20-72;8:50 am]

UNIVERSITY OF CINCINNATI

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00595-33-81595. Applicant: University of Cincinnati, Department of Environmental Health, Kettering Laboratory, 3223 Eden Avenue, Cincinnati, OH 45219. Article: Two (2) Wright dust feed mechanisms. Manufacturer: L. Adams, Ltd., United Kingdom. Intended use of article: The articles will be used to generate a cloud of very fine particles of coal dust at a constant concentration for six or more continuous hours per day in experiments designed to study the effect and fate of inhaled coal dust in order to establish safe working conditions for coalworkers.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a low feed rate and is capable of continuous feed for many hours. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 29, 1972, that the characteristics of the article described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument which provides the pertinent capabilities of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18065 Filed 10-20-72;8:50 am]

UNIVERSITY OF MINNESOTA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00580-99-46040. Applicant: University of Minnesota, Department of Botany, Minneapolis, Minn. 55455. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for teaching in the course Genetics and Cell Biology 8-990, Electron Microscopy. The students will be taught the basic skills needed for biological electron microscopy including material preparation, electron microscope operation, printing and interpretation of electron micrographs. The article will also be used for graduate student thesis research and will be available for University and government sponsored research of faculty members in the College of Biological Sciences and other university departments.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its memorandum dated September 29, 1972 that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18067 Filed 10-20-72;8:50 am]

UTAH STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat, 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00434-33-46040. Applicant: Utah State University, Logan, Utah 84321. Article: Electron microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the following studies:

a. A combined chemical and ultrastructural study of bovine, human and rabbit liver UDP-glucose pyrophosphorylase;

b. Investigation of the correlation between reovirus infectivity and removal of the outer coat with proteolytic enzymes;

c. Ultrastructural modifications in spermatid differentiation in specific male-sterile mutant stocks;

d. Ultrastructure changes in chromatin during spermatid differentiation; and

e. Ultrastructure of sporozoan parasites of cattle and other domestic animals.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated September 29, 1972 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18066 Filed 10-20-72;8:50 am]

VETERANS ADMINISTRATION HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00431-33-46040. Applicant: Veterans Administration Hospital, 300 East Roosevelt Road, Little Rock, AR 72206. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used in established electron microscopy programs involving the study of biopsy materials or pathologic specimens. The article is also to be used in the study of infectious organisms in tissue; i.e., intestine, lung, nerve, etc., metabolic storage diseases and certain neoplasma. Residents in pathology will be trained in the very special discipline of electron microscopy and its applications.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welware in its memorandum dated September 29, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18063 Filed 10-20-72;8:50 am]

Office of the Secretary

[Dept. Organization Order 35-4B, Amdt. 2]

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

Organizations and Functions

This order effective September 27, 1972, further amends the material appearing at 37 F.R. 3462 of February 16, 1972, and 37 F.R. 15182 of July 28, 1972.

Department Organization Order 35-4B dated January 1, 1972, is hereby further amended as follows:

1. In section 3. *Office of the Administrator,* paragraph .03 is amended to read:

.03 The "Equal Employment Opportunity Officer" designated under the provisions of section 3, Department Organization Order 10-5, "Assistant Secretary for Administration," shall provide guidance and assistance to SESA officials

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in Equal Employment Opportunity matters, shall perform the duties and activities prescribed by subparagraph 2.01e3 of Department Administrative Order 202-713, "Equal Employment Opportunity," and shall participate in the planning and direction of the EEO program.

2. In section 4. *Assistant Administrator for Administration*, new paragraph .06 is added to read:

.06 The "Management Information System Staff" shall develop and implement an information system, provide ongoing information systems maintenance and upgrading, and support management in planning and coordinating its program and projects.

3. In section 7. *Bureau of the Census*,

a. In the first line of subparagraph .03d, delete the word "Division" and replace it with the word "Center."

b. Subparagraph .07a is amended to read:

a. The "Computer Services Division" shall operate and manage the electronic digital computer and mechanical tabulating facilities of the Bureau; and plan and perform associated coordination, scheduling of computer processing, staging, and tape library services.

c. New subparagraph c is added to read:

c. The "Engineering Division" shall plan and perform engineering services, including research, development, equipment requirements and maintenance activities, to provide and support electromechanical and electronic equipment required for data processing.

4. The attached organization chart dated September 27, 1972, supersedes the organization chart dated July 11, 1972. A copy of the organization chart is on file with the original of this document on file in the Office of the Federal Register.

Effective date: September 27, 1972.

GUY W. CHAMBERLAIN, Jr.,
Acting Assistant Secretary for Admniistration.

[FR Doc.72-18039 Filed 10-20-72;8:48 am]

Social and Economic Statistics Administration

ANNUAL SURVEYS IN MANUFACTURING AREA

Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to continue or initiate the annual surveys listed below for the year 1972 and for each year thereafter, under the authority of title 13, United States Code, sections 181, 224, and 225. These surveys, most of which have been conducted for many years, are significant in the manufacturing area and on the basis of information and recommendations received by the Bureau of the Census the data have significant application to the needs of the public and industry and are not available from non-governmental or other governmental sources.

The establishments covered by these surveys directly account for the bulk of all manufacturing employment. The information to be developed from these surveys is necessary to an adequate measurement of total industrial production. Government agencies need data on the output of these industries. Manufacturers in the industries involved, as well as their suppliers and customers and the general public, have all requested such data in the interest of business efficiency and stability.

Such surveys, if conducted, shall begin not earlier than 30 days after publication of this notice in the FEDERAL REGISTER.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys.

The surveys have been arranged under major group headings shown in the Standard Industrial Classification Manual (1967 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Broadwoven goods finished.
Narrow fabrics.
Yarn production.
Rugs, carpets, and carpeting.

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.
Apparel.
Brassieres, corsets, and allied garments.
Sheets, pillowcases, and towels.

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.
Softwood plywood.
Lumber.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.
Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.

MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Plastics products.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware.
Fibrous glass.
Glass containers.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Commercial steel forgings.
Steel mill products.
Insulated wire and cable.
Magnesium mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Steel power boilers.
Heating and cooking equipment.
Closures for containers.
Steel shipping barrels, drums, and pails.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines.
Tractors.
Farm machines and equipment.
Mining machinery and equipment.
Air-conditioning and refrigeration equipment.
Office, computing, and accounting machines.
Pumps and compressors.
Selected air pollution control equipment.
Construction machinery.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Radios, television, and phonographs.
Motors and generators.
Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products.
Electric housewares and fans.
Electric lighting fixtures.
Major household appliances.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft propellers.

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS: PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

Selected instruments and related products.
Atomic energy products and services.

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent survey. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Flour milling products.
Confectionery products.
Margarine manufacturers—packaging operations.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Man-made fiber, silk, woolen, and worsted fabrics.
Finishing plant report—broad woven fabrics.
Piece goods inventories and orders.
Broad woven goods (cotton, wool, silk, and synthetic).
Consumption of wool and other fibers, and production of tops and noils.
Knit cloth.
Rugs, carpets and carpeting.

MAJOR GROUP 25—FURNITURE AND FIXTURES

Mattresses and bedsprings.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Consumers of wood pulp.
Converted flexible packaging products.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Superphosphates.
Paint, varnish, and lacquer.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Plastics bottles.
Rubber.
Thermoplastics pipe, tube, and fittings.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Flat glass.
Glass containers.
Refractories.
Clay construction products.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Nonferrous castings.
Iron and steel foundries.
Steel mill shapes and forms.
Copper-base mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Plumbing fixtures.
Steel shipping barrels, drums, and pails.
Closures for containers.
Metal cans.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Construction machinery.
Typewriter.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Electric lamps.
Fluorescent lamp ballasts.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft engines.
Complete aircraft.
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts.
Truck trailers.

The Annual Survey of Manufactures and those surveys listed above which furnish data substitutable for data usually collected in the Census of Manufactures are additionally considered a part of the 1972 Census of Manufactures as provided for by title 13, United States Code, section 131. The 1972 Census of Manufactures report forms have been modified to recognize these annual reports as the source for these Census data.

A survey of research and development costs will be conducted also. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

In addition, a survey on shipments to, or receipts for work done for, Federal Government agencies and their contractors and suppliers is planned. This survey has been conducted annually since 1966. It is designed to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

Copies of the proposed forms are available on request to the Director, Bureau of Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of these proposed surveys should be submitted in writing to the Director of the Census Bureau within 30 days after the date of this publication and will receive consideration.

Dated: October 17, 1972.

HAROLD C. PASSER,
Assistant Secretary for Economic Affairs.

[FR Doc.72-18070 Filed 10-20-72;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

GRANTS ADMINISTRATION ADVISORY COMMITTEE

Notice of Subcommittee Meeting

A subcommittee of the Grants Administration Advisory Committee, which advises the Secretary on matters relating to administrative and fiscal policies for grants administered by the Department, will meet on October 27, 1972, in Room 3169, Health, Education, and Welfare North Building, 330 Independence Avenue SW., Washington, DC 20201. The session will begin at 9:30 a.m. and is open to the public. The agenda covers discussion of grants and contracts. A roster of committee members may be obtained from Dr. Ernest M. Allen, Deputy Assistant Secretary for Grant Administration Policy, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201.

Dated at Washington, D.C., this 16th day of October 1972.

ERNEST M. ALLEN,
Executive Secretary, Grants Administration Advisory Committee.

[FR Doc.72-18071 Filed 10-20-72;8:51 am]

SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE

Notice of Meeting

The Secretary's Commission on Medical Malpractice, established to advise the Secretary on the entire range of problems surrounding the medical malpractice phenomenon, will meet Friday, October 27, 1972, from 9 a.m. to 5 p.m., in Room 5051 of the Department of Health, Education, and Welfare, North Building, 330 Independence Avenue SW., Washington, DC, and on Saturday and Sunday, October 28 and 29, in the Envoy C Meeting Room, Embassy Row Hotel, 2015 Massachusetts Avenue NW., Washington, DC. The agenda for this 3-day meeting will include: Recommendations relating to physicians' assistants, patient grievance mechanisms, nationwide data gathering capability, legal doctrines, and the general nature of the malpractice problem. The meeting will be open to the public.

Dated: October 17, 1972.

ELI P. BERNZWEIG,
Executive Director.

[FR Doc.72-18073 Filed 10-20-72;8:51 am]

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 6 (Food and Drug Administration) of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare (35 F.R. 3685-92, dated February 25, 1970, as amended) is amended to reflect establishment of a formal organizational structure within the ADP Systems Policy and Operations Center, Office of the Associate Commissioner for Administration.

* * * * * *

Section 6B is amended as follows:

SEC. 6B. Organization * * *

(f-5) *ADP Systems Policy and Operations Center.* Develops data systems policy and procedures necessary to coordinate all FDA scientific and administrative information and data retrieval systems. Directs implementation of automatic data processing (ADP) systems developed by the Department. Designs, develops, and reviews systems for ADP and other forms of data automation.

Provides agencywide programing services and issues FDA policy guidance, standards, and other issuances for ADP activities.

Operates and manages FDA's computer facility.

Provides technical guidance in the acquisition of new ADP techniques and hardware, and reviews all contracts and interagency agreements with ADP implications.

Directs and coordinates the preparation of the annual FDA Automatic Data Processing Plan, which is submitted to the Department; acts as focal point for central administrative review of all agency ADP related activities, such as short- and long-range planning, personnel actions, budget formulation, and equipment procurement, utilization, and maintenance.

Reviews and approves all ADP feasibility studies prior to their design and development.

(i) *Office of the Director.* Plans, evaluates, and provides executive direction to the activities of the center and issues FDA policy guidance, standards, and other communications for ADP activities.

Directs development of the center's ADP programs and policies and provides overall management of the center's computer facility. Establishes and develops cooperative relationships with other governmental agencies, industry, and professional organizations regarding ADP matters.

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Directs the center's personnel and financial management systems and provides other appropriate administrative services.

Reviews and approves all ADP feasibility studies prior to their design and development.

(ii) *Division of User Relations.* Serves as focal point within FDA for advice, operational support, and guidance on the use of automation to implement administrative, management, scientific, and program information data systems.

Designs, develops, and implements agencywide ADP systems, and provides agencywide ADP programing services.

Provides ADP system analysis services to the staff offices of the Commissioner, and, upon request, to other FDA operating units.

Establishes, in cooperation with Division of Personnel Management, the center's ADP training policies and develops and conducts in-house training programs.

Maintains liaison with private and public organizations for the exchange of new ADP concepts and advancements in administrative management information systems and techniques.

Maintains an awareness of new ADP techniques through participation in ADP related conferences, seminars, and meetings.

(iii) *Division of Systems and Technical Planning.* Provides automatic data processing technical planning for all FDA computer hardware and operating systems.

Evaluates existing ADP systems for technical adequacy, compatibility, present and projected needs, and their effectiveness in providing program management and scientific support.

Adapts and maintains programing languages and specialized automated data processing telecommunications systems. Maintains an up-to-date awareness of new developments and changes in the data processing field in order to assure that FDA systems are advanced in design principles and techniques, to assure accuracy and reliability, and to assure that the systems effectively aid in accomplishing the mission of the Food and Drug Administration. Serves as technical consultant regarding the potential use of teleprocessing and data base systems to assure the integrity of the systems.

Provides overall review of current and proposed general and specific purpose information retrieval systems, and evaluates functioning data base systems to assure fulfillment of agencywide requirements.

Adapts and implements the ADP systems developed by the Department and develops agencywide data processing systems.

Monitors the interaction of the FDA hardware/software configuration in the data center to assure effective utilization.

(iv) *Division of ADP Operations.* Operates FDA central computer facility; initiates all procurement requests for FDA central ADP equipment.

Determines the need for data processing services to supplement in-house capabilities; coordinates contracts for supplemental data processing services.

Guides and assists bureaus and field offices in the development of ADP work, scope, agenda, and rationale for inclusion in the memorandum of need.

Reviews and approves hardware and software contracts which originate in the bureaus or field offices which involve data processing specifications.

Reviews and approves all procurement requests for ADP equipment, assuring equipment compatability.

Serves as project director for agencywide automatic data processing contracts and assures that these contracts are responsive to the established FDA goals and priorities; administers major computer maintenance contracts.

Coordinates the development of the annual FDA Automatic Data Processing Plan and budget documents and assures that they are responsive to established FDA goals; monitors the implementation of the Plan.

Dated: October 17, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-18072 Filed 10-20-72;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-72-124; Administrative Division File No. ED 72-1]

DEER HARBOUR, MORRIS MILLWORK CO., ET AL.

Notice of Hearing

Notice is hereby given that:

1. Morris Millwork Co., its officers and agents, hereinafter referred to as "Respondent" being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.), received a Suspension Notice and Opportunity for Hearing dated September 26, 1972, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that the Secretary believes the Respondent's Statement of Record is on its face incomplete or inaccurate in certain material respects.

2. The Respondent filed an answer received October 10, 1972, in answer to the allegations of the Suspension Notice and Opportunity for a Hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the Suspension Notice and Opportunity for a Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1720.155, *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the allegations set forth in the Suspension Notice and Opportunity for Hearing will be held before Judge David Knight in Room 7233, Department of HUD Building, 451 Seventh Street SW., Washington, DC, on October 27, 1972, at 10 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before October 24, 1972.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and the Notice Suspending the Statement of Record, herein identified, shall continue until such time as the Respondent shall furnish information satisfying the allegations that the Statement of Record is incomplete or inaccurate.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.72-18115 Filed 10-20-72;8:54 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR CARRIER DISTRICT OFFICE AT SAN ANTONIO, TEXAS

Notice of Closing

Notice is hereby given that on October 22, 1972, the Air Carrier District Office at San Antonio, Tex., will be closed. Air carrier services formerly provided by this office will be provided by the Air Carrier District Office in Houston, Tex. This information will be reflected in the FAA Organization Statement the next time it is reissued.

(Sec. 313(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on October 13, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-18031 Filed 10-20-72;8:47 am]

ATOMIC ENERGY COMMISSION

FISSION PRODUCT RADIOISOTOPES

Distribution and Pricing Policy

This notice amends a similarly entitled notice published August 9, 1972, 37 F.R. 16034, which set forth for comment proposed actions of the Commission concerning its distribution and pricing policy for the fission product radioisotopes cesium-137, strontium-90, promethium-147 and cerium-144, to provide additional time for evaluation of comments received.

Delete the penultimate sentence of the last paragraph of said notice and substitute in lieu thereof the following: "Unless suspended or rescinded on or before November 30, 1972, as a consequence of any substantive comment received, the actions will become effective December 7, 1972."

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 19th day of October 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-18142 Filed 10-20-72;8:54 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22283, 22284; Order 72-10-63]

FONTANA AVIATION, INC.

Order Regarding Establishment of Service Mail

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1972.

Order 72-7-87, dated July 25, 1972, directed all interested persons and particularly Fontana Aviation Inc. (Fontana), the Postmaster General (PMG), Eastern Air Lines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., and United Air Lines, Inc., to show cause why the Board should not establish the service mail rates proposed therein.[1]

Fontana, by objection filed August 23, 1972, alleges that the current rate of 57 cents per great-circle aircraft mile in each of the subject markets was established by the Board based upon erroneous assumptions presented to the Board by the PMG, and although the air taxi does not oppose the establishment of the proposed rates, requests that they be made retroactive to September 6, 1970.[2] For the reasons set forth herein, this request is denied. However, since review of the history of the current rate has revealed some administrative error in its establishment, we will, by this order, not only institute the proposed rates, but, in addition, correct this error.

By way of background, pursuant to notices of intent filed by the PMG on December 16, 1969, and an order to show cause issued January 6, 1970,[3] our staff, under its delegated authority, established a service mail rate of 49.91 cents per great-circle aircraft mile to be paid to Fontana for the transportation of mail 6 days per week in both the subject markets.[4] Subsequently, on June 17, 1970, the PMG petitioned the Board to establish new service mail rates to be paid to Fontana for the transportation of mail five times per week in the subject markets.[5] Again an order to show cause was issued,[6] and our staff, having received no objection, established pursuant to its delegated authority these new rates for effectiveness June 17, 1970. (Order 70-7-103, dated July 22, 1970.)

The PMG then submitted a new petition on August 19, 1970 requesting the Board to amend Order 70-7-103 to reflect an agreement between the PMG and Fontana that the rate to be paid to the air taxi was to be 57 cents per great-circle aircraft mile in both markets. The PMG stated that through inadvertence incorrect rates were proposed in his previous petitions. Again pursuant to delegated authority, our staff issued Order 70-10-77, dated October 13, 1970, which amended Order 70-7-103 to reflect the rates that the PMG had requested. However, the rates established by the order were inadvertently made retroactive to June 17, 1970, instead of the date of the petition, August 19, 1970.[7]

Finally on March 20, 1972, approximately 17 months after the issuance of Order 70-10-77 and 19 months after the PMG's request of August 19, 1970, Fontana filed a petition challenging the PMG's petition as erroneous and requested retroactive relief. This petition led to the instant procedure.

As we indicated above, we are denying Fontana's request to make the proposed rates retroactive to September 6, 1970. The Board lacks the authority to change a final mail rate, until such time as the rate is opened either by petition of the carrier or the PMG, or by the Board upon its own motion.[8] The PMG's petition of August 19, 1970, had reopened the rate and Fontana had ample opportunity at that time to challenge the rate level proposed by that petition.[9] However, the air taxi did not file an answer to the PMG's petition nor did it petition the Board for review of the order establishing the present rate of 57 cents pursuant to the Board's regulations 14 CFR 385.50.[10] Fontana was paid the current rate for well over a year and apparently was satisfied with it. Therefore, it cannot now be allowed to complain, alleging that the establishment of the current rate was based upon a petition in which the PMG erred and request that the proposed rates be given retroactive effect. However, no objection to the level of the rates proposed by Order 72-7-87 has been filed, and therefore those rates will be established herein from and after March 20, 1972.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and the Board's regulations, 14 CFR Part 302, 14 CFR Part 298:

It is ordered, That:

1. The fair and reasonable final service mail rates on and after March 20, 1972, to be paid to Fontana Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act, for the transportation of mail by aircraft, the facilities used and useful therefor, and the service connected therewith, based on five round trips per week shall be:

(a) 56.93 cents per great-circle aircraft mile between Iron Mountain and Detroit via Lansing, Mich., and, (b) 63.71 cents per great-circle aircraft mile between Iron Mountain, Mich., and Chicago, Ill., via Green Bay and Milwaukee, Wis.

2. Line 1, paragraph 1 of the ordering paragraph of Order 70-10-77 is amended to delete "On and after June 17, 1970 • • •," and to substitute therefor "On and after August 19, 1970 • • •".

3. This order shall be served upon Fontana Aviation, Inc., the Postmaster General, Eastern Air Lines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., and United Air Lines, Inc.

[1] For mail service between (a) Iron Mountain and Detroit via Lansing, Mich. (Detroit segment) a rate of 56.93 cents per great circle aircraft mile; and (b) Iron Mountain, Mich., and Chicago, Ill. via Green Bay and Milwaukee, Wis. (Chicago segment) a rate of 63.71 cents per great-circle aircraft mile.

[2] The date on which a 5 weekly round-trip service in each market, upon which the proposed rates are based, was inaugurated.

[3] Order 70-1-25, dated Jan. 8, 1970.

[4] Order 70-1-113, dated Jan. 23, 1970. This order also established the same service mail rate to be paid Fontana for the transportation of mail in the Ironwood and Iron Mountain via Houghton, Mich. market. However, by a letter dated September 9, 1970, the PMG advised the Board that mail service in this market had been discontinued (see Docket 21709).

[5] The proposed rates were 56.93 cents for the Detroit segment and 63.71 cents for the Chicago segment.

[6] Order 70-7-44, dated July 8, 1970.

[7] We are herein correcting this error by amending Order 70-10-77 to reflect the correct date. In retrospect, this oversight was relatively harmless inasmuch as Fontana did not inaugurate its service of 5 weekly round trips in the subject markets until September 6, 1970, and thus would not have been paid the rates established by Order 70-7-103 prior to the August 19, 1970, date.

[8] Transcontinental & Western Air Lines, Inc. v. CAB, 336 U.S. 601 (1949). See also Order E-25030, dated Apr. 24, 1967, and the cases cited therein.

[9] Fontana alleges that the PMG's request of Aug. 19, 1970, was filed late and thus is invalid. However, a petition to change a service mail rate may be filed at any time, and thus the PMG's petition of Aug. 19, 1970, was neither late nor invalid.

[10] Order 70-10-77, dated Oct. 13, 1970, p. 2.

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This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18084 Filed 10-20-72;8:53 am]

[Docket No. 24425; Order 72-10-52]

DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT AND SEABOARD WORLD AIRLINES, INC.

Order Regarding "Bungalow" Container Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1972.

By a complaint filed April 19, 1972, Seaboard World Airlines, Inc. (Seaboard) filed a complaint requesting suspension of existing tariff provisions of Deutsche Lufthansa Aktiengeselischaft (Lufthansa) which established rates between the United States and Germany for unit-load devices developed for the B-747 aircraft in an all-cargo configuration. The complaint requested suspension of the Lufthansa bungalow tariff pursuant to the recently enacted section 1002 (j)(3) of the Federal Aviation Act of 1958 (Public Law 92-259, effective March 22, 1972). This section empowers the Board to suspend a tariff upon a finding that the authorities of a foreign country have refused to permit the effectiveness of charges contained in a properly filed and published tariff of a U.S. carrier. In its request for suspension, Seaboard alleged that it was advised by the Federal Ministry of Transportation of the Republic of West Germany that its competitive tariff would not be permitted to go into effect.

Upon consideration of the complaint and answer filed by Lufthansa, the Board adopted an order suspending the Lufthansa bungalow tariff.[1] As required by the provisions of section 801(b) of the Federal Aviation Act of 1958, this order was submitted to the President of the United States. Thereafter by letter dated June 26, 1972, the President disapproved the Board's proposed order.[2]

Subsequently, consultations between the Governments of the United States and the Federal Republic of Germany resolved the issues and thus it appears that it is now appropriate to terminate this proceeding as moot.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 102, 204, 801(b), 1002(j), and 1102 thereof: *It is ordered*, That:

The complaint and request for suspension filed by Seaboard World Airlines, Inc. (Seaboard) in Docket 24425, is denied to the extent not heretofore granted and the proceeding herein is dismissed.

[1] A copy of the order of suspension submitted to the President is attached hereto as Appendix A.

[2] The President's letter is attached as Appendix B.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX A

[Docket No. 24425]

DEUTSCHE LUFTHANSA AKTIENGESELLSCHAFT

ORDER OF SUSPENSION REGARDING "BUNGALOW" CONTAINER CARGO RATES BETWEEN EASTERN UNITED STATES POINTS AND GERMANY

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of June 1972.

By tariff bearing the issue date of February 17, 1972, and becoming effective on March 18, 1972, Deutsche Lufthansa Aktiengesellschaft (Lufthansa) established provisions and rates for the movement of air freight in "bungalow" containers between Baltimore/Boston/New York/Philadelphia/Washington, D.C. and points in Germany. "Bungalow" unit-load devices, designated in the Lufthansa tariff as Type II-A, measure 125 inches x 96 inches x 96 inches (length x width x height) and can be accommodated only on B-747F cargo freighter aircraft. Inasmuch as Lufthansa, to date, is the only carrier operating such aircraft, it achieves a rating advantage by undercutting existing rates for the containerization of cargo in other sizes and types of aircraft unit-load devices by 3 to 5 percent per kilogram at the established bungalow pivot (minimum) weight of 3,022 kilograms, and by 2 to 4 percent per kilogram for that part of a bungalow consignment in excess of the pivot weight.

On April 19, 1972, Seaboard World Airlines, Inc. (Seaboard) filed a complaint and request for suspension of the Lufthansa bungalow tariff by the Board pursuant to section 1002(j)(3) of the Federal Aviation Act of 1958.[1] Seaboard states that the Federal Ministry of Transportation of the Republic of West Germany advised it on April 18, 1972, that a competitive tariff of Seaboard would not be permitted to go into effect. Seaboard's tariff was designed to be competitive with the Lufthansa bungalow rate levels insofar as it would permit application of these levels to Seaboard shipments ranging in size between 3,022 and 33,999 kilograms when containerized in unit-load devices capable of being transported in Seaboard's own DC-8-63F aircraft.

Lufthansa, in an answer filed May 3, 1972, opposes the Seaboard request for suspension, principally on the ground that such action is not authorized by law. Lufthansa states that the new provisions of law, under which Seaboard would have the Board take action, also specify that the amendments to the Act shall not be deemed to authorize any actions inconsistent with the provisions of section 1102 of the Act. Section 1102 provides that the Board exercise its powers and duties consistent with obligations of the United States in any treaty, convention, or agreement to which the United States is a party. Lufthansa points to the bilateral air transport agreement between the United States and the Federal Republic of Germany,[2] which, in part, provides that the country objecting to a rate express its dissatisfaction to the other country within 15 days of a tariff filing, and that only where the two countries cannot reach agreement on an appropriate rate prior to the expiration of 30 days after the filing of the opposed rate may the opposing country take such steps as it considers necessary to prevent the inauguration or continuation of service at the rate complained of. In this connection, Lufthansa notes that Seaboard did not object or request the Board to voice a timely objection with the German Government prior to effectiveness of the bungalow rates, nor did it otherwise attempt to have the United States request consultation with the German Government.

Upon consideration of all relevant matters, the Board has concluded to grant the request of Seaboard. We are not persuaded by Lufthansa's arguments regarding procedures set forth in the United States-Germany bilateral air agreement. The bilateral procedures are concerned with the reasonableness of proposed rates, but that is not the question before us. The provisions of section 1002(j)(3) of the Act clearly empower the Board to take retaliatory suspension action with respect to existing (effective) tariffs, and have nothing to do with the reasonableness of rates. The law was enacted to deal with situations precisely like this, where a government has refused to permit the charging of rates contained in a properly filed U.S. carrier tariff and where such refusal would result in a price advantage for the foreign carrier. Lufthansa's answer does not deny the price advantage and cannot nullify Congress' intention to protect U.S. carriers in just such situations as the present one.

Our conclusion to suspend the Lufthansa rates and provisions for the bungalow containers is premised on the fact that Seaboard's proposed rates for shipments of between 3,022 and 33,999 kilograms are, and are intended to be, substantially competitive with Lufthansa's rates. The filing of competitive rates in air transportation is a normal and expected result of a competitive multicarrier system. Arbitrary interference with the ability to compete is, in our view, contrary to the public interest. Clearly in this instance, if Seaboard's rates are not permitted, Lufthansa will continue to enjoy an anticompetitive price advantage in the high-volume shipment market.

Nor are we persuaded by the tenor of Lufthansa's answer to the extent it indicates that the carrier members of the International Air Transport Association (IATA) have already given their blessing to Lufthansa's competitive advantage in the rating of cargo consignments moving in bungalows. Lufthansa refers to the recently filed North Atlantic cargo rate agreement which would carry forward a lower rate level for the bungalow. Whether or not such an agreement will be found consistent with the public interest by this government remains to be determined. In any event, the recent sequence of tariff filings for cargo services to Germany indicates a situation calling for an exercise of our new statutory authority to remedy a clear-cut case of arbitrary and discriminatory treatment, particularly where such filings were made in a climate of "open" rates due to the failure of the IATA carriers to reach agreement and the resulting absence of an agreed rate structure since October 1, 1971.

In the fall of 1971, Seaboard filed a new November-effectiveness tariff establishing lower rates for multicontainer shipments, and the German Government on October 8, 1971, rejected the tariff. On February 17, 1972, Lufthansa filed its B-747 bungalow tariff which the United States permitted to become effective on March 18, 1972. On March 13, 1972, Seaboard again filed the tariff at issue with the German Government, and the German authorities again disapproved, ostensibly because the tariff was inconsistent with the continuing IATA rate structure agreement which had expired. On May 2, 1972, Seaboard refiled its competitive tariff to adjust for the lower 2,856 kilogram pivot weight for bungalows in the pending North Atlantic IATA cargo agreement, and the German authorities again rejected the filing. Against such a background, our course of action is clear.

We are herein providing that the suspension of the Lufthansa bungalow tariff shall take effect 15 days after the effective date of this order and shall remain effective for a period of 365 days or until further order of the Board, whichever is shorter. Section 1002(j)(3) provides also that during the period of suspension the Board may "order the foreign air carrier to charge rates, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country." In this connection, we are herein ordering that, upon effectiveness of the instant suspension, Lufthansa's container charges shall be governed by the competitive tariff provisions now on file with the Board by Seaboard, i.e., a consignment may be split between various unit-load devices, and the aggregate of the minimum weights specified per device utilized shall be rated at the bungalow pivot-weight rate level and the remainder of the shipment rated at the bungalow over-pivot-weight rate. Our intent is to insure that the per-kilogram rate levels currently available only to freight carried in bungalows shall be equally and equitably applicable to all sizes of unit-load devices for containerized freight having a chargeable weight of at least 3,022 kilograms, and, accordingly, we will not bind Lufthansa to the type and sizes of unit-load devices designated in the Seaboard tariff. Moreover, Lufthansa's continued cargo service to the United States is conditioned upon the effectiveness of Seaboard's competitive tariff.

Accordingly, pursuant to the Federal Aviation Act of 1958, particularly sections 204 and 1002 thereof, *It is ordered*, That:

1. The request of Seaboard World Airways, Inc. be and hereby is granted;

2. All rates, charges, and provisions on second, third, and fourth Revised Pages 38-A of Air Tariffs Corporation, Agent's CAB No. 37 are suspended and their use deferred from June 12, 1972, to and including July 11, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. During the period of effectiveness of this order or until further order of the Board, Lufthansa shall apply rate levels contained on fifth Revised Page 49 of Air Tariffs Corporation, Agent's CAB No. 37 with respect to containerized consignments of 3,022 to 33,999 kilograms between points in the United States and Germany: *Provided, however*, That application of the rating methodology stated therein shall not be limited to the unit-load devices specified therein by reference to Page 50;

4. The effective right of Seaboard to provide service between the United States and Germany pursuant to the tariff provisions designated in ordering paragraph 3 above shall be a condition to the continuation of cargo service by Lufthansa in foreign air transportation between the United States and Germany;

5. This order shall be submitted to the President[3] and shall become effective on June 27, 1972; and

6. Copies of this order be filed with the aforesaid tariff and be served upon Lufthansa, Seaboard World Airways, Pan American World Airways, and Trans World Airlines.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX B

THE WHITE HOUSE

JUNE 26, 1972.

DEAR MR. CHAIRMAN: I refer to the Board's order in Docket 24425 directed at Deutsche Lufthansa Aktiengeselischaft.

The order is grounded on the refusal of the Federal Republic of Germany to approve a tariff filed with it by Seaboard World Airlines, Inc. Seaboard's tariff was intended to establish a fare competitive with Lufthansa's so-called "bungalow" tariff; the Lufthansa rate applies to a specially shaped container designed for an aircraft which only Lufthansa operates. The Board correctly concludes that this situation is unfair to Seaboard and should not be permitted to continue.

The effect of the order would be to terminate all Lufthansa's cargo services 15 days after the effective date of the order unless the German Government agrees to approve Seaboard's tariff. Under Public Law 92-259 the Board's order will come into effect not later than 10 days following its submission to the President unless the President finds that disapproval is required for reasons of national defense or foreign policy of the United States. As I have indicated I concur in the objective of the Board's order.

However, the Department of State has received assurance from the Government of the Federal Republic of Germany that during the period of intergovernmental consultations, the United States carrier, Seaboard World Airlines, will not be placed at competitive disadvantage. The Government of the Federal Republic of Germany is requesting Lufthansa not to utilize the so-called bungalow rate effective July 10, 1972.

This suspension would be effective for a period of 4 weeks after the date of consultations which will be held prior to July 10, 1972. Therefore, in view of the potential disruptive effect of the Board's order on United States relations with the Federal Republic of Germany, I find that reasons of foreign policy of the United States require disapproval of the Board's order so that an equitable solution of the problem can be sought.

Should these consultations prove unsuccessful in eliminating the anticompetitive situation to which the Board's proposed order is directed, it would be appropriate for the Board to review the matter with a view to submitting a further order.

For the reasons stated above, I hereby disapprove the Board's proposed order.

Sincerely,

RICHARD NIXON.

[FR Doc.72-18085 Filed 10-20-72;8:53 am]

[Docket No. 23333; Order 72-10-43]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority October 13, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated October 3, 1972, encompasses a new specific commodity description and rate, two additional specific commodity rates, and the cancellation of an existing rate as set forth in the attachment hereto.[1]

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 23323, R-1 through R-4, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications, provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18029 Filed 10-20-72;8:47 am]

[Docket No. 23486; Order 72-10-46]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Proportional Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the

[1] Filed as part of the original document.

[2] Treaties and other International Acts Series 3536 (as amended), signed July 7, 1955.

[3] This order was submitted to the President on June 6, 1972.

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Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted at a special meeting which convened in New York, August 22, 1972. The agreement has been assigned the above-designated CAB agreement number.

The agreement stems from the Board's recent action in Phase 7 of the "Domestic Passenger-Fare Investigation"[1] approving a 2.7-percent increase in U.S. domestic fares, and reflects upward adjustments in proportional fares necessary to avert losses on through fares constructed across the Atlantic and Pacific to/from United States interior points. In general, proportionals presently equal to pre-September 5 local fares would be adjusted to the new local fare level, and arbitraries would be increased by the same dollar amounts as local fares for the same sectors.

National Airlines, Inc. (National, Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA), have submitted statements urging approval of the agreement. The carriers point out that for through trips to U.S. interior points, the international carriers must now pay prorate amounts to U.S. domestic carriers based on increased local fares for transportation on the domestic segments of such trips. Without an attendant adjustment in international fares the international carriers would be forced to absorb the domestic increase.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreement as indicated, to be adverse to the public interest or in violation of the Act:

[1] Order 72-8-50, dated August 10, 1972. Implementing tariffs became effective Sept. 5, 1972.

CAB Agreement 23275	IATA No.	Title	Application
R-1	015	North Atlantic Proportional Fares—North America	1/2; 1/2/3.
R-2	015a	South Pacific Proportional Fares—North America	3/1.
R-3	015b	North and Central Pacific Proportional Fares—North America	3/1.

Accordingly, it is ordered, That:

Agreement CAB 23275, R-1 through R-3, be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-18030 Filed 10-20-72;8:47 am]

[Docket No. 23780; Order 72-10-61]

TRANSPORTES AEREOS NACIONALES, S.A.

Order Regarding Senior Citizen, Youth, and Student Fares in Foreign Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1972.

By tariff revisions filed August 30, 1972, to become effective October 1, 1972, Transportes Aereos Nacionales, S.A. (TAN) proposed reduced senior citizen fares from Miami to points in Honduras and return to be applicable during the months of October and November 1972. Upon consideration of this tariff, the Board by action on September 22, 1972 adopted an order of investigation and suspension pursuant to its powers under section 1002(j) of the Federal Aviation Act of 1958, upon a finding that the fares proposed by TAN may be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful. The investigation therein initiated was consolidated into the proceeding in Docket 23780. This order was submitted to the President, pursuant to the requirements of section 801(b) of the Act. Thereafter on September 27, 1972, TAN filed tariff revisions which canceled its proposed senior citizen fares before they became effective and the board recalled its order of suspension and investigation prior to Presidential action thereon.

In view of the cancellation of the tariff proposal by TAN, the issues involved herein are moot and the Board will by this order withdraw the aforesaid order of investigation and suspension which had been adopted but not published.[1]

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 102, 204, 801 (b), 1002(j), and 1102 thereof:

It is ordered, That:

The Board's order of September 22, 1972, issued but not published in Docket 23780, is hereby withdrawn.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[Docket No. 23780]

TRANSPORTES AEREOS NACIONALES, S.A.

ORDER OF INVESTIGATION AND SUSPENSION REGARDING SENIOR CITIZEN, YOUTH AND STUDENT FARES IN FOREIGN AIR TRANSPORTATION

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of September 1972.

[1] The order of investigation and suspension is attached below.

By tariff revisions filed August 30, 1972, to be effective October 1, 1972, Transportes Aereos Nacionales, S.A. (TAN) proposes to offer reduced fares for travel by senior citizens from Miami, Fla., to points in British Honduras/Honduras and return. The fares will be available to persons 65 years or older and would apply only during the months of October and November 1972. The proposal effects significant discounts from existing normal fares—e.g. from Miami to Belize the fare would be $65, compared with the existing propeller round trip fare of $130, or a 50-percent discount; and from Miami to La Ceiba, San Pedro Sula, and Tegucigalpa the fare would be $65, compared with the existing propeller round trip fare of $158, or a 41-percent discount.

By Order 71-10-71, dated October 18, 1971, the Board instituted an investigation of certain reduced fares proposed for senior citizens in foreign air transportation, on the ground that limitation of special fares to persons within specified age groups is an obvious discrimination against persons not meeting the test, and that the question presented was whether such discrimination is justified. The investigation was consolidated in the previously ordered investigation of youth and student fares in foreign air transportation (Docket 23780) by Order 71-11-30, dated November 5, 1971.[1]

The proposal here before us raises substantially the same question of discrimination as that earlier set for investigation. The tariff would grant significant reductions to passengers over 65 years of age, while denying like and contemporaneous transportation at these fares to persons under 65 years of age. Absent a strong justification, therefore, this proposal appears to contain the elements of unjust discrimination, for no valid distinction between persons under 65 and those 65 and older has been brought to our attention.[2] Moreover, with reference to the reasonableness of the fares, there is no information before us to show that the fares may promote sufficient traffic to offset the effects of the sharp discounts proposed.

The Board therefore finds that the senior-citizens fares proposed by TAN may be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. As we provided in Order 71-11-30, supra, we will consolidate the investigation of senior-citizen fares into the previously ordered investigation of youth and student fares in foreign air transportation in Docket 23780.

The Board further concludes that the TAN proposal should be suspended pending investigation. At the time the Board instituted the investigation of proposed reduced fares for senior citizens by Order 71-10-71 of October 18, 1971, it did not have jurisdiction to suspend such fares in foreign air transportation as has been granted it by Public Law 92-259 effective March 22, 1972. On the other hand, the Board has previously suspended proposals for reduced fares for senior citizens in interstate and overseas air transportation.[3]

We recognize that in certain cases the Board initiated an investigation but did not suspend a senior-citizen tariff proposal where it had jurisdiction to do so, e.g., Order E-17111 adopted July 6, 1961, relating to Mohawk's Golden Age Fares, and Order E-26039 of November 28, 1967, involving Trans Caribbean Senior-Citizen Standby fares.

It is recognized that in the past youth fares (as distinguished from student fares) provide fare reductions based on age and that such fares were generally permitted to become effective. They are now under investigation in Phase 5 of the Domestic Passenger-Fare Investigation. Current youth fares in foreign air transportation were initiated prior to the Board's receiving the power to suspend. In exercising its discretion to suspend, the Board notes that senior-citizen fares are not now generally offered in foreign air transportation and have had but limited application in interstate or overseas air transportation. The Board has before it for decision the whole question of the legality of discount fares which discriminate on the basis of age. In this circumstance, the Board believes it desirable not to permit at this time the initiation of such fares even in the limited areas for which they are proposed.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, 801(b), and 1002(j)(1), thereof: *It is ordered*, That:

1. An investigation be instituted to determine whether the fares and provisions on fourth revised page 14 and third revised page 15 of Transportes Aereos Nacionales, S.A.'s CAB No. 2, and rules, regulations, or practices affecting such fares and provisions are, or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, classifications, regulations, or practices;

2. Pending hearing and decision by the Board, the fourth revised page 14 and third revised page 15 of Transportes Aereos Nacionales, S.A.'s CAB No. 2 are suspended and their use deferred to and including October 1, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. The investigation ordered herein is hereby consolidated into Docket 23780;

4. This order shall be submitted to the President[4] and shall become effective on , 1972; and

5. Copies of this order will be filed with the aforesaid tariff and served upon Transportes Aereos Nacionales, S.A., which is hereby made a party to Docket 23780.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

[SEAL] PHYLLIS T. KAYLOR, *Acting Secretary.*

[FR Doc.72-18086 Filed 10-20-72;8:53 am]

[1] The proposed senior-citizen fares were canceled prior to their effective date, and the investigation of those fares was dismissed by Order 72-5-41, dated May 10, 1972.

[2] Transcontinental Bus Systems, Inc., v. CAB 383 F. 2d 466 (C.A. 5, 1967).

[3] Senior-citizen excursion tariff proposed by Ozark Air Lines, Inc., Order E-21973, dated March 31, 1965, see also Trans Caribbean Individual Senior-Citizen Excursion Fares, Order E-23669, dated May 12, 1966, Vacation Excursion Fares proposed by Continental Air Lines, Inc., Order E-25918, dated November 2, 1967, Senior-Citizen Reservation fares proposed by Texas International Airlines, Inc., Order 70-12-133, dated December 23, 1970, and Florida Promotional fares proposed by Eastern Air Lines, Inc., Order 71-5-100, dated May 21, 1971.

[4] This order was submitted to the President on September 22, 1972.

[5] Member, Minetti, filed a concurrence and dissent, filed as part of the original.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal from Warehouse for Consumption

OCTOBER 18, 1972:

On October 4, 1972, the Governments of the United States and the Republic of China exchanged notes amending the comprehensive bilateral cotton textile agreement of December 30, 1971, concerning exports of cotton textiles and cotton textile products from the Republic of China to the United States. The amendment increases the specific limit on Category 26/27 for the first agreement year which began on January 1, 1972, from 5,032,599 square yards to 5,531,239 square yards.

Accordingly, there is published below a letter of October 18, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, increasing the level of restraint applicable to cotton textile products in Category 26/27, produced or manufactured in the Republic of China, for the 12-month period beginning January 1, 1972, and extending through December 31, 1972.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

OCTOBER 18, 1972.

DEAR MR. COMMISSIONER: This directive amends the directive issued to you on December 30, 1971, by the Chairman, President's Cabinet Textile Advisory Committee, concerning imports into the United States of cotton textiles and cotton textile products in certain categories produced or manufactured in the Republic of China.

Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the level of restraint established in the directive of December 30, 1971, for cotton textile products in Category 26/27, produced or manufactured in the Republic of China, to 5,531,239 square yards.

The actions taken with respect to the Government of the Republic of China, and with respect to imports of cotton textiles and cotton textile products from the Republic of China, have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-18061 Filed 10-20-72;8:51 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY; DISTRIBUTION-TECHNICAL ADVISORY TASK FORCE-GENERAL

Agenda of Meeting

Agenda for meeting to be held in Conference Room 2043 of the Federal Power Commission, 441 G Street NW., Washington, DC, November 14, 1972, 10 a.m., and November 15, 1972, 9:30 a.m.; presiding, Mr. Charles A. Gallagher, FPC Survey Coordinating Representative and Secretary.

1. Call to order and introductory remarks, Mr. Gallagher.
2. Review and discussion on initial draft of Final Report of the Task Force, Mr. Ralbern H. Murray.
3. Other business.
4. Date of next meeting.
5. Adjournment, Mr. Gallagher.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18091 Filed 10-20-72;8:51 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Order Designating Additional Members and Coordinating Representative

OCTOBER 17, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Conservation of Energy.

2. *Membership.* Additional members and an FPC coordinating representative to the Technical Advisory Committee on Conservation of Energy, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

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Andrew E. Gibson, member, Assistant Secretary for Domestic and International Business, Department of Commerce.
Dr. David C. White, member, Ford professor of engineering, Massachusetts Institute of Technology.
Dr. Jack M. Heinemann, FPC coordinating representative, Office of the Advisor on Environmental Quality, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18022 Filed 10-20-72;8:46 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

Order Designating Additional Member and Coordinating Representative

OCTOBER 17, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Finance.

2. *Membership.* An additional member and FPC coordinating representative to the Technical Advisory Committee on Finance, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

Andrew E. Gibson, member, Assistant Secretary for Domestic and International Business, Department of Commerce.
Dr. John W. Wilson, FPC coordinating representative, Office of Economics, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18019 Filed 10-20-72;8:46 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS

Order Designating Additional Member and Coordinating Representatives

OCTOBER 17, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Fuels.

2. *Membership.* An additional member and FPC coordinating representatives to the Technical Advisory Committee on Fuels, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

Stanley Nehmer, member, Deputy Assistant Secretary for Resources, Department of Commerce.
Robert M. Jimeson, FPC coordinating representative, Office of the Advisor on Environmental Quality, Federal Power Commission.
Warren E. Morrison, FPC coordinating representative, Office of Economics, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18018 Filed 10-20-72;8:46 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON POWER SUPPLY

Order Designating an Additional Member

OCTOBER 17, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Power Supply.

2. *Membership.* An additional member to the Technical Advisory Committee on Power Supply, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Stanley Nehmer, member, Deputy Assistant Secretary for Resources, Department of Commerce.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18017 Filed 10-20-72;8:46 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Order Designating Additional Member and Coordinating Representative

OCTOBER 17, 1972.

The Federal Power Commission, by order issued September 28, 1972, established the National Power Survey Technical Advisory Committee on Research and Development.

2. *Membership.* An additional member and FPC coordinating representative to the Technical Advisory Committee on Research and Development, as selected by the Chairman of the Commission, with the approval of the Commission, are as follows:

Richard O. Simpson, member, Acting Assistant Secretary for Science and Technology, Department of Commerce.
Bruce A. Smith, FPC coordinating representative, Office of Economics, Federal Power Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18016 Filed 10-20-72;8:46 am]

[Docket No. CI73-270]

BROWN & McKENZIE, INC.

Notice of Application

OCTOBER 18, 1972.

Take notice that on October 11, 1972, Brown & McKenzie, Inc. (applicant), 1120 Three Greenway Plaza East, Houston, TX 77046, filed in Docket No. CI73-270 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corp. from the Garwood Field Area, Lavaca County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on September 5, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale for 1 year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell 2,000 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18056 Filed 10-20-72;8:49 am]

[Docket No. CP73-86]

CITIES SERVICE GAS CO.

Notice of Application

OCTOBER 17, 1972.

Take notice that on September 29, 1972, Cities Service Gas Co. (Applicant), Post Office Box 25128, Oklahoma City, Okla. 73125, filed in Docket No. CP73-86 a budget-type application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction and installation, during the calendar year 1973, and operation of certain natural gas-purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in producing areas generally co-extensive with its system.

The total cost of the facilities proposed herein shall not exceed $4 million with no single project exceeding $1 million. Applicant proposes to finance all costs from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18020 Filed 10-20-72;8:46 am]

[Docket No. CP73-85]

DELTA GAS, INC., AND PLAQUEMINES OIL AND GAS CO., INC.

Notice of Application

OCTOBER 17, 1972.

Take notice that on September 25, 1972, Delta Gas, Inc. (Delta) and Plaquemines Oil and Gas Co., Inc. (Plaquemines), 861 Carondelet Street, New Orleans, LA 70130, filed in Docket No. CP73-85 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas facilities and service in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to abandon the following services and facilities:

1. Plaquemines' sales of natural gas to Delta and to Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee) from gas, which Plaquemines purchases from Woods Oil and Gas Co. (Woods), Humble Oil & Refining Co. (Humble) and Delta;

2. Delta's transportation of natural gas on its North System, which it purchases from Shell Oil Co., Phillips Petroleum Co. and Plaquemines, and commingles with gas sold by Plaquemines to Tennessee; and

3. Delta's facilities used in the transportation described in (2) above.

Applicants state that natural gas purchased by Plaquemines from Humble in the Potash Field, Plaquemines Parish, La., can only flow intermittently when the pressure on Delta's North System drops to approximately 250 p.s.i.g. and the natural gas purchased from Woods in section 6-18S-27E, Plaquemines Parish, La., has been depleted. Applicants further state that because of the depletion of the Woods and Humble gas, Plaquemines can no longer supply Tennessee with gas acquired solely from Delta, since Delta cannot make up the difference without impairing its deliveries to its retail and industrial customers along its North System. Applicants request authorization for Plaquemines to abandon its sales of this gas to Tennessee and Delta.

Applicants assert that if abandonment of the sales by Plaquemines to Tennessee is permitted and approved, Delta's transportation and facilities on its North System in Louisiana no longer need certification because said system is only jurisdictional since it transports the gas which Plaquemines sells to Tennessee and which becomes commingled with other Tennessee gas, a substantial portion of which is destined for resale in interstate commerce.

Applicants have tendered, along with the application, a proposed notice of cancellation of Plaquemines Oil and Gas Co., Inc., FPC Gas Rate Schedule No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18014 Filed 10-20-72;8:46 am]

[Docket No. CP73-88]

EASCOGAS LNG, INC.

Notice of Application

OCTOBER 18, 1972.

Take notice that on September 29, 1972, Eascogas LNG, Inc. (Applicant), 80 Park Place, Newark, NJ 07101, filed in Docket No. CP73-88 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of imported liquefied natural gas (LNG) to certain pipeline and distribution customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In Docket No. CP73-47 Applicant has proposed to import into the United States over a period of 22 years, annual quantities of LNG ranging from 119,619 million to 238,095,238 million B.t.u.[1]

Applicant proposes to sell the LNG, which it has proposed to import into the United States from Algeria in Docket No. CP73-47, to the various buyers listed below at the following percentages and places:

	Percentage of imported LNG
Staten Island, New York:	
Public Service Electric and Gas Co.	45
Elizabethtown Gas Co	6⅔
New Jersey Natural Gas Co	6⅔
South Jersey Gas Co	6⅔
Providence, Rhode Island:	
Algonquin Gas Transmission Co	28
New England LNG Co., Inc	7

[1] One million B.t.u. are equivalent to 1,000 cubic feet of natural gas with a heat content of 1,000 B.t.u. per cubic foot.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18014 Filed 10-20-72;8:46 am]

[Docket No. CP73-88]

EASCOGAS LNG, INC.

Notice of Application

OCTOBER 18, 1972.

Take notice that on September 29, 1972, Eascogas LNG, Inc. (Applicant), 80 Park Place, Newark, NJ 07101, filed in Docket No. CP73-88 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of imported liquefied natural gas (LNG) to certain pipeline and distribution customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In Docket No. CP73-47 Applicant has proposed to import into the United States over a period of 22 years, annual quantities of LNG ranging from 119,619 million to 238,095,238 million B.t.u.[1]

Applicant proposes to sell the LNG, which it has proposed to import into the United States from Algeria in Docket No. CP73-47, to the various buyers listed below at the following percentages and places:

	Percentage of imported LNG
Staten Island, New York:	
Public Service Electric and Gas Co.	45
Elizabethtown Gas Co	6⅔
New Jersey Natural Gas Co	6⅔
South Jersey Gas Co	6⅔
Providence, Rhode Island:	
Algonquin Gas Transmission Co	28
New England LNG Co., Inc	7

[1] One million B.t.u. are equivalent to 1,000 cubic feet of natural gas with a heat content of 1,000 B.t.u. per cubic foot.

V37-205 OCT 21 72 XUM

Applicant proposes to charge its customers the rate specified in its proposed Rate Schedule ELG–1 in its proposed FPC Gas Tariff Original Volume No. 1. Said rate schedule provides that each buyer shall pay a charge equal to the total expenses of Applicant apportioned to the respective percentage of the importer LNG which each buyer shall purchase, so that Applicant can avoid any losses or net income. Applicant estimates an approximate rate of 89 cents per million B.t.u.'s in the first year of deliveries (estimated to be in 1975–76) and a rate of 91 cents per million B.t.u.'s in the first year of full operation (estimated to be in 1978–79).

Applicant states that deliveries of the LNG for the account of the New Jersey buyers will be made at Staten Island, New York, to Distrigas of New York Corp. and that deliveries of the LNG for the account to Algonquin Gas Transmission Co. and New England LNG, Inc., will be made at Providence, R.I., to Algonquin LNG, Inc. Applicant indicates that Distrigas of New York and Algonquin LNG, Inc., will file applications for certificates of public convenience and necessity to deliver and transport such gas to the respective buyers.

Applicant believes that the proposed sales will assist the buyers in lessening the severe shortages of natural gas on the eastern seaboard, which is resulting in curtailments of firm deliveries of gas to purchasing pipelines and distribution companies.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18093 Filed 10–20–72;8:52 am]

[Docket No. CP73–82]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 17, 1972.

Take notice that on September 26, 1973, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP73–82 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1973 and operation of certain natural gas facilities to enable applicant to attach to its Southern Division System natural gas which will be purchased from independent producers, and other similar sellers, who have been authorized by the Commission to sell gas to applicant, all as more fully set forth in the application in this proceeding which is on file with the Commission and open to public inspection.

The application shows that the facilities proposed will consist of: (1) Routine field facilities, subject to the jurisdiction of the Commission, necessary to connect applicant's Southern Division System with the facilities of independent producers or other similar sellers and (2) field facilities, consisting principally of compressor horsepower, as may be required to compensate for declining reservoir pressures of existing gas resources. The proposed facilities are to be utilized for the attachment of new or expanded supplies of natural gas in various producing areas generally coextensive with applicant's pipeline system as well as for accommodating increased deliverability from existing sources and maintaining production from existing sources of supply at levels which will insure an orderly depletion of reserves.

The application indicates that the total cost of the proposed facilities will not exceed a maximum of $5 million and no single project will exceed a cost of $1 million. Applicant states that said cost will be financed from working funds, supplemented, as necessary, by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18024 Filed 10–20–72;8:47 am]

[Docket No. CP73–90]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 17, 1972.

Take notice that on October 3, 1972, El Paso Natural Gas Co. (Applicant) Post Office Box 1492, El Paso, TX 79978, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing on its Southern Division System the construction during the calendar year 1973 and operation of natural gas facilities or operation of existing natural gas facilities, to be utilized for sales, on a direct basis, of natural gas associated with the production of gas or oil other than such uses permitted under § 157.22(b), of the regulations under the Natural Gas Act (18 CFR 157.22(b)), and the sale, during the calendar year 1973, of natural gas for resale uses associated with the drilling of oil or gas wells, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it anticipates during the calendar year 1973, requests for short-term direct gas service for such purposes as pumping, injection, pressure maintenance, equipment fuel, various lease and camp uses and emergency standby service. Applicant also anticipates, during the calendar year 1973, requests of both direct and resale gas service for uses in drilling oil or gas wells. Applicant states that the time and expense of preparing and filing numerous small certificate applications regarding the facilities herein requested does not justify the filing of separate certificate applications and accordingly herein seeks budget-type authorization.

Total cost of the proposed facilities will not exceed $42,500 with no more than 25 separate sales facilities to be installed. Applicant proposes to finance the facilities through the use of working funds, supplemented, as necessary, by short-term borrowings.

Applicant proposes that all new sales hereunder will be made at a rate identical to that in effect under Rate Schedule X–1 of its Gas Tariff, Original Volume No. 1, plus a $500 connection charge and a $5 daily facility charge for short-term drilling gas sales or other new sales except for certain instances in the San Juan Basin Area where the $500 charge may be waived.

Any person desiring to be heard or to make any protest with reference to said application, should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18012 Filed 10–20–72;8:46 am]

[Docket No. E–7548]

GEORGIA POWER CO.

Notice of Extension of Time

OCTOBER 17, 1972.

On October 13, 1972, Georgia Power Co. filed a motion for an extension of time within which to file briefs opposing exceptions to the Initial Decision issued August 3, 1972, in the above-designated matter. The motion requests that the time be extended to November 6, 1972, and that that be a mailing date. The motion states that counsel for the other parties have been contacted and that they join in the motion. Commission Staff Counsel does not oppose the motion.

Section 1.14 of the Commission's rules of practice and procedure (18 CFR 1.14) requires that filings be made by filing them with the Office of the Secretary of the Commission in Washington, D.C. Any such papers must be received by the Commission in Washington, D.C., within the time limit for such filing.

Upon consideration of the motion and the rules, notice is hereby given that the time is extended to and including November 13, 1972, within which briefs opposing exceptions may be filed by all participants.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18095 Filed 10–20–72;8:51 am]

[Docket No. G–7425, etc.] [1]

G. J. HOLLANDSWORTH ET AL.

Notice of Petition To Amend

OCTOBER 18, 1972.

Take notice that on October 2, 1972, Lone Star Gas Co. (Petitioner), 301 South Harwood Street, Dallas, TX 75201, filed in Docket No. G–7425, etc.,[1] a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said dockets by substituting Petitioner in lieu of Natural Gas Pipeline Company of America (Natural) as purchaser of natural gas from the independent producer certificate holders, all as more fully set forth in the Appendix hereto and in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner has filed the subject petition to amend on behalf of the certificate holders involved and states that said producers propose to continue authorized sales of natural gas in interstate commerce without change except as to purchaser. Petitioner states further that the instant petition to amend has been filed as an incident to the authorizations sought in Docket No. CP71–274 et al., by Lone Star Gathering Co. et al.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[1] The instant petition was filed in Docket No. G–4241 et al. The certificate granted in said docket was terminated by order issued Jan. 17, 1972, in Docket No. CS66–57 et al. The next earliest docket number involved in the instant petition is G–7425.

Producer	Docket No.	FPC Rate Schedule No.	Location
G. J. Hollandsworth	G–7425	1	Carthage Field, Panola County, Tex.
Phillips Petroleum	G–17897	344	Knox and Southeast Knox Fields, Grady and Stephens Counties, Okla.
Amoco Production Co	G–17898	268	Do.
Gulf Oil Corp	G–17965	341	Do.
Marathon Oil Co	G–18003	47	Do.
Gulf Oil Corp	G–18004	177	Do.
Norville Oil Co., Inc	G–18005	1	Do.
Mobil Oil Corp	G–20226	204	Do.
Humble Oil & Refining Co	G–20283	232	Do.
Atlantic Richfield Co	C1 60–112	483	Do.
Do	C1 60–129	432	Do.
Sun Oil Co	C1 60–163	380	Do.
Texaco, Inc	C1 62–335	249	Do.
Texas Pacific Oil Co., Inc	C1 62–852	60	Do.
Covers also:			
Edwin L. Cox			Do.
Ethel A. Hill et al			Do.
N. W. Brillhart et al			Do.
W. R. Hughey Operating Co	C1 64–1198	3	Penn-Griffith Field, Rusk County, Tex.
Jack L. Phillips et al	C1 64–1530	1	Carthage Field, Panola County, Tex.
Sun Oil Co	C1 65–134	423	Penn-Griffith Field, Rusk County, Tex.
Chevron Oil Co	C1 68–962	43	Rush Springs Field, Grady County, Okla.
Sun Oil Co	C1 69–328	408	Do.
Lone Star Producing Co	C1 71–90	92	Buffalo Wallow Field, Hemphill County, Tex.
Do	C1 71–819	----	Fashing Field, Atascosa and Karnes Counties, Tex.
Jake L. Hamon	CS 66–107	----	Rush Springs Field, Grady County, Okla.
Mack Oil Co	CS 71–184	----	Knox and Southeast Knox Fields, Grady and Stephens Counties, Okla.
Singer-Fleischaker Oil Co	CS 71–343	----	Do.
Enson Oil Co	CS 71–631	----	Do.
Alfred C. Glassell	CS 71–708	----	J.G.S. Field, Panola County, Tex.
Geological Exploration Co	CS 71–1110	----	Penn-Griffith Field, Rusk County, Tex.
Rogers Lacy, Inc	CS 72–250	----	Carthage Field, Panola County, Tex.
Beard Oil Co	CS 72–292	----	Knox and Southeast Knox Fields, Grady and Stephens Counties, Okla.
D. W. Hamilton, covers also W. H. Bryant et al.	CS 72–366	----	Penn-Griffith Field, Rusk County, Tex.
G. E. Penn et al	CS 72–505	----	Do.

[FR Doc.72–18094 Filed 10–20–72;8:52 am]

V37-205 OCT 21 72 XUM

[Docket No. CP73-83]

MID LOUISIANA GAS CO. AND MISSISSIPPI RIVER TRANSMISSION CORP.

Notice of Application

OCTOBER 18, 1972.

Take notice that on September 27, 1972, Mid Louisiana Gas Co. (Mid Louisiana), 21st Floor, Lykes Center, 300 Plydras Street, New Orleans, LA 70130, and Mississippi River Transmission Corp. (Mississippi), 9900 Clayton Road, St. Louis, MO 63124, filed in Docket No. CP73-83 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention in place by Mid Louisiana of certain natural gas facilities, constructed pursuant to § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22), the sale for resale of natural gas by Mid Louisiana to Mississippi, and the transportation and exchange of natural gas by applicants, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to § 157.22 of the Commission's regulations, Mid Louisiana constructed certain natural facilities in the Monroe Field, Ouachita Parish, La., in order to receive natural gas from Navarro Gas Producing Co. and Louisiana Gas Producing Co., divisions of Commercial Solvents Corp. (Navarro and Louisiana Gas). By order issued in Docket No. CI72-834, the Commission authorized Navarro and Louisiana Gas to continue the sale of natural gas to Mid Louisiana until December 1, 1972, pursuant to § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Applicants seek authorization for Mid Louisiana to retain in place the facilities constructed in the Monroe Field at a cost of $135,000, consisting of approximately 20,000 feet of 12-inch pipeline, a meter station and appurtenant facilities, and for Mid Louisiana to sell natural gas to Mississippi pursuant to the terms of a service agreement dated June 21, 1972. Under said agreement Mid Louisiana agrees to sell and deliver natural gas to Mississippi on an excess available basis which can be delivered without adversely affecting Mid Louisiana's ability to make deliveries to its customers other than those purchasing under Mid Louisiana's rate schedule E-1. Pursuant to said agreement, Mid Louisiana is to receive the rate contained in its rate schedule E-1 for such gas, which is currently 35.41 cents per Mcf. Applicants state that the Monroe Field facilities heretofore mentioned are necessary in order for Mid Louisiana to make sales of natural gas to Mississippi.

Applicants also seek authorization to exchange natural gas pursuant to the terms of an exchange agreement dated September 22, 1972. Under said agreement either party may deliver or receive natural gas at the point of interconnections of Applicants' facilities in Ouachita Parish, La., when either party requests it.

Any persons desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18096 Filed 10-20-72;8:52 am]

[Docket No. CI73-271]

MITCHELL ENERGY OFFSHORE CORP.

Notice of Application

OCTOBER 18, 1972.

Take notice that on October 13, 1972, Mitchell Energy Offshore Corp. (applicant), 3900 One Shell Plaza, Houston, TX 77002, filed in Docket No. CI73-271 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Natural Gas Pipeline Company of America (Natural) from the Block 176-S Field Area, offshore Galveston County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 360,000 Mcf of gas per month at 35 cents per Mcf at 14.65 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). There is a transportation charge by Natural of 0.02 cent per Mcf per mile for gas lost as a result of processing by applicant and there is a transportation charge by Natural of 20 cents per barrel for liquid hydrocarbons transported by Natural.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18055 Filed 10-20-72;8:49 am]

[Docket No. CP73-37]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 17, 1972.

Take notice that on August 7, 1972, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-37 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon gas measuring station facilities, the Omaha TBS No. 3 in Douglas County, Nebr., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the subject facilities, which are used to deliver natural gas to the Metropolitan Utilities District of Omaha, Nebr. (MUD), for resale and distribution are no longer required since another existing delivery station, Omaha TBS No. 1E, provides adequate deliveries to this portion of MUD's distribution system. Applicant states further that no service would be discontinued as a result of removal of TBS No. 3 and that total consumption based upon MUD's contract demand would not change.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8-1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18023 Filed 10-20-72;8:47 am]

[Docket No. RP72-127]

NORTHERN NATURAL GAS CO.

Notice of Extension of Time and Postponement of Hearing

OCTOBER 17, 1972.

On October 11, 1972, Commission Staff Counsel filed a motion for an extension of time of the procedural dates fixed by Commission order issued June 30, 1972, in the above-designated matter, and for a postponement of the hearing date. On October 16, 1972, Northern Natural Gas Co. filed an answer to the motion, proposing changes in the dates requested by Staff Counsel. The answer states that counsel for other parties and Staff Counsel either concur or have no objections to the dates proposed in the answer.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Staff service date, December 5, 1972.
Intervenors service date, December 29, 1972.
Northern rebuttal service date, January 23, 1973.
Prehearing conference and hearing date, February 6, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18097 Filed 10-20-72;8:51 am]

[Docket No. AR64-1, etc.]

PHILLIPS PETROLEUM CO. ET AL.

Petition for Special Relief from Refund Obligations; Extension of Time

OCTOBER 17, 1972.

Area Rate Proceeding, et al. (Hugoton-Anadarko Area).

On October 12, 1972, and October 16, 1972, Amoco Production Co., and Cities Service Oil Co., respectively, filed motions requesting, among other things, that the time be extended for filing comments concerning the petition for special relief from refund obligations filed by Phillips Petroleum Co., on September 5, 1972. The notice issued September 27, 1972, and published in the FEDERAL REGISTER on October 3, 1972 (37 F.R. 20748), provided for the filing of comments not later than October 17, 1972.

Upon consideration, notice is hereby given that the time is extended to and including October 25, 1972, within which any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, views and comments in writing concerning the petition for special relief from refund obligations.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18092 Filed 10-20-72;8:52 am]

[Docket No. E-7723]

POTOMAC EDISON CO.

Notice of Postponement of Prehearing Conference

OCTOBER 17, 1972.

On August 28, 1972, the Potomac Edison Co. filed a motion for extension of time to file updated cost evidence and exhibits in the above matter as required by the Commission's order issued July 11, 1972. A notice was issued on September 1, 1972, extending all dates except for the prehearing conference.

Upon consideration, notice is hereby given that the prehearing conference scheduled for December 12, 1972, is hereby postponed to February 13, 1973.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18025 Filed 10-20-72;8:47 am]

[Docket No. CP73-87]

SEA ROBIN PIPELINE CO.

Notice of Application

OCTOBER 18, 1972.

Take notice that on September 29, 1972, Sea Robin Pipeline Co. (applicant), Post Office Box 1407, filed in Docket No. CP73-87 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant, in Docket No. CP72-115,[1] has been granted a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, designated as Phase I facilities. The remainder of the facilities requested in Docket No. CP72-115 have been made subject to the proceeding pending in Docket No. CP72-6, et al., Tennessee Gas Pipeline Co., a division of Tenneco Inc., et al.[2] Applicant has filed in Docket No. CP72-115 an amendment deleting from its application pending in said docket its request for a certificate authorizing most of the remaining proposed facilities, referred to as applicant's 1973 program.

Applicant proposes in the instant application a revised 1973 construction program which includes:

1. The construction of 47.1 miles of 26-inch pipeline, looping the existing 24-inch and 26-inch pipelines in sections E and F from Block 205, Eugene Island Area to Block 149, Vermilion Area, offshore Louisiana; and

2. A 14,000 hp. compressor station in Block 149.

Applicant states that the installation of the proposed facilities will provide an ultimate maximum of 917,000 Mcf of natural gas per day to be available for sales to its customers. Applicant also requests authorization to amend its rate schedule Nos. X-1 and X-2 as to provide a contract demand of 485,500 Mcf per day under each rate schedule. Applicant estimates that the facilities, together with additional gas purchase and transportation volumes, will provide an increase in the daily deliverability of natural gas to it of approximately 285,000 Mcf.

Applicant estimates the total cost of the project at $22,935,100, which it plans initially to finance from short term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the

[1] Issued June 9, 1972 (47 FPC ——).
[2] Issued May 30, 1972 (47 FPC ——).

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regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18098 Filed 10-20-72;8:52 am]

[Docket No. CP72-115; Phase II]

SEA ROBIN PIPELINE CO.

Notice of Amendment to Application

OCTOBER 17, 1972.

Take notice that on September 29, 1972, Sea Robin Pipeline Co. (Sea Robin), Post Office Box 1407, Shreveport, LA 71158, filed in Docket No. CP72-115 (Phase II), an amendment to its application in said docket deleting therefrom the request for authorization to construct and operate certain natural gas facilities, all as more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

By order of June 9, 1972 (47 FPC ——) in Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., et al., Docket No. CP72-6, et al., Sea Robin was authorized to construct and operate certain natural gas purchase facilities as proposed in Docket No. CP72-115 (designated as Phase I facilities) within 12 months from the date of the order. Other facilities which Sea Robin had proposed to operate and construct in Docket No. CP72-115 relating to the transportation of volumes of gas for producers (designated as Phase II facilities) were made subject to the order issued May 30, 1972, in Docket No. CP72-6, et al. (47 FPC ——), which provided for a hearing to be held on certain applications.

Petitioner states that as a result of additional information, it has become apparent that the facilities it must construct in 1973, subject to the order issued May 30, 1972, will differ from those originally proposed in Docket No. CP72-115. Accordingly Petitioner is amending its application to delete all facilities, not covered by the Commission's order of June 9, 1972, except for the construction and operation of metering and regulating facilities to be used to redeliver transportation gas for the account of Humble Oil & Refining Co. Applicant has filed a new application covering its revised construction program in Docket No. CP72-87.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18027 Filed 10-20-72;8:47 am]

[Dockets Nos. R172-240, etc.]

SHELL OIL CO. ET AL.

Notice of Filing of Settlement Proposal

OCTOBER 18, 1972.

In regard Dockets Nos. R172-240, R172-251, and R172-263.

Take notice that on September 18, 1972, Shell Oil Co., Tenneco Oil Co., and Continental Oil Co., filed a request for approval of a settlement proposal in the above-entitled proceedings. These producers seek authorization to collect base rates for flowing gas in excess of the Texas Gulf Coast Area ceiling rate.

Copies of the settlement proposal were served on all the parties to the proceeding in Dockets Nos. R172-240, et al. The settlement agreement filed by Shell Oil Co., Tenneco Oil Co., and Continental Oil Co., is on file with the Commission and open to public inspection.

Comments with respect to the settlement proposal may be filed with the Commission on or before November 3, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18099 Filed 10-20-72;8:52 am]

[Docket No. CP67-349]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Filing of Settlement Agreement

OCTOBER 16, 1972.

Pursuant to § 1.36(a) of the Commission's rules of practice and procedure, notice is hereby given that on October 6, 1972, South Texas Natural Gas Gathering Co. (South Texas) filed with the Commission for approval of a settlement agreement in the above-entitled proceeding. South Texas states inter alia, that:

This [settlement] agreement is based on the following conditions and commitments:

(1) South Texas will withdraw its petition to amend its certificate in Docket No. CP67-349 seeking abandonment of the two 1,000 hp. compressors. It will file an application to amend its certificate in Docket No. CP67-349 to permit it to relocate certain 1,000 hp. compression facilities as required by the changed loads on its system.

(2) South Texas will submit an appropriate rate filing, including its amendatory agreement with Transco, supplementing to its FPC Gas Rate Schedule No. 2 and providing for its rate to Transco to be fixed on the basis of its cost of service, including a reasonable rate of return, in lieu of a fixed price producer-type contract heretofore on file. This rate filing will permit South Texas to recover its cost of gathering and its purchased gas cost for sales of gas dedicated to Transco, including increased purchased gas costs from the McAllen Ranch Producers referred to above. As part of this settlement, it is agreed that the gathering charge shall be 6.25 cents per Mcf. * * *

(7) The settlement agreement filed in Docket Nos. RI72-240, et al., providing for the delivery of additional volumes of gas from the McAllen Ranch Field is contingent upon South Texas' flowing through the increased cost of the gas. The obligations of South Texas herein are conditioned upon Commission approval of the settlement proposal in Dockets Nos. RI72-240, et al., including approval of the flow through of the purchased gas costs specified therein as contractually authorized by the South Texas-Transco amendatory agreement.

South Texas states that copies of the settlement agreement have been served on all the parties to the proceeding in Docket No. CP67-349. The settlement agreement filed by South Texas is on file with the Commission and is available for public inspection.

Comments with respect to the settlement agreement may be filed with the Commission on or before November 17, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18015 Filed 10-20-72;8:46 am]

[Docket No. CP73-84]

SOUTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 17, 1972.

Take notice that on September 27, 1972, Southern Natural Gas Co. (Applicant), Post Office Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP73-84 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation and exchange of natural gas with Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a 14-inch connecting line and a measuring station near a point where Michigan Wisconsin's 20-inch transmission line in St. Mary Parish, La., crosses Applicant's Shadyside Compressor Station site in order to exchange natural gas with Michigan Wisconsin. Applicant proposes to exchange natural gas at the aforesaid point pursuant to the terms of an Exchange Agreement dated August 15, 1972, which provides for the following:

1. An exchange of natural gas on a gas-for-gas basis;

2. An exchange of natural gas only when the delivering party in its sole judgment believes it has such gas available for delivery to the requesting party;

3. An exchange of gas to be completed within 30 days from the initial delivery of natural gas to the requesting party; and

4. Redeliveries within 30 days or at other mutually agreeable times.

Said agreement also calls for each party to construct and operate tap connections at its own expense.

Applicant estimates the total cost of the connecting line and measuring station at $78,792, of which Michigan Wisconsin will reimburse Applicant for half. Applicant estimates the cost of its tap connections at $9,000.

Applicant states that the proposed construction and operation of facilities would enable it to receive supplemental supplies of natural gas during emergency and other conditions and would enable it to employ the diversity and flexibility available on the Michigan Wisconsin system.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18013 Filed 10-20-72;8:46 am]

[Docket No. CP72-192]

UNITED GAS PIPE LINE CO.

Notice of Petition To Amend

OCTOBER 17, 1972.

Take notice that on September 22, 1972, United Gas Pipe Line Co. (Petitioner), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP72-192 a petition to amend the order of the Commission issued on April 17, 1972 (47 FPC ——), in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing a new delivery point in Acadia Parish, La., for the delivery of natural gas to Trunkline Gas Co. (Trunkline), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By Commission order of April 17, 1972, Petitioner was authorized to transport natural gas for Trunkline from the East Donner Field, Terrebonne Parish, La., to the tailgate of Humble Oil & Refining Co.'s Garden City Plant in St. Mary Parish, La. Petitioner states that due to certain operational problems, it has been unable to effectuate the transportation of gas as contemplated and has entered into a letter agreement with Trunkline dated June 13, 1972, to provide an additional delivery point where Trunkline can accept such gas at Continental Oil Co.'s Egan Plant in Acadia Parish, La. Petitioner seeks authorization herein to transport and deliver such gas to Continental's Egan Plant for delivery to Trunkline.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18026 Filed 10-20-72;8:47 am]

[Docket No. G-11742 et al.]

MOBIL OIL CORP. ET AL.

Notice of Applications for Certificates, Abandonment of Service, and Petitions To Amend Certificates [1]

OCTOBER 12, 1972.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 6, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

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intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-11742 [1] D 10-2-72	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, TX 77046.	Cities Service Gas Co., Hugoton Field, Grant et al., Counties, Kans.	.....	.....
G-12318 B 9-28-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Cities Service Gas Co., Eureka Area, Grant County, Okla.	Depleted	.....
C161-1405 C 10-2-72	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, TX 77046.	Cities Service Gas Co., Hugoton (Deep) Field, Grant et al., Counties, Kans.	19.513[2][5]	14.65
C166-1131 B 9-28-72	Skelly Oil Co., Post Office Box 1650, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Alte Hunde Field, Zapata County, Tex.	Depleted	.....
C170-66 B 10-2-72	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, LA 70112.	Texas Gas Transmission Corp., Coon Point Field, Ship Shoal Area, La.	(2)	.....
C170-126 C 9-28-72	Columbia Gas Development Corp., Post Office Box 1350, Houston, TX 77001.	Columbia Gas Transmission Corp., Block 255 Field, Vermillion Area, Offshore Louisiana.	35.0	15.025
C173-221 A 9-27-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Bearpaw Field, Hill and Blaine Counties (Montana-Dakota Area), Mont.	[3]24.10	14.65
C173-223 B 9-25-72	General Crude Oil Co., Post Office Box 2252, Houston, TX 77001.	United Gas Pipe Line Co., Coward Gully Field, Beauregard and Calcasieu Parishes, La.	Depleted	.....
C173-224 B 9-22-72	Logue and Patterson, 628 Meadows Bldg., Dallas Tex. 75206.	United Gas Pipe Line Co., Refugio County, Tex.	(4)	.....
C173-225 F 9-25-72	Petro-Lewis Corp. (successor to Monterey Pipeline Co.; Secure Trusts; H. L. Hunt; and Lyda Hunt Trusts, 1600 Broadway, Denver, CO 80202.	Southern Natural Gas Co., Coffee Bay Field, Lafourche Parish, La.	22.375	15.025
C173-227 A 9-25-72	McCulloch Oil Corp. 10880 Wilshire Blvd., Suite 1500, Los Angeles, CA 90024.	El Paso Natural Gas Co., Acreage in Lea County, N. Mex., and Jamison 1-A Well in the W½ of the NW¼ of section 2.	11.0	14.65
C173-228 B 9-27-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., Mocane Gas Area, Beaver County, (Hugoton-Anadarko Area) Okla.	(4)	.....
C173-232 (G-16207) F 10-2-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, KS 67202.	Transcontinental Gas Pipe Line Corp., Cooke Field, La Salle County, Tex.	14.6958	14.65
C173-233 A 10-2-72	Texas Oil & Gas Corp., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Northwest Cedardale, Woodward County, Okla.	[6]21.32	14.65
C173-234 B 10-2-72	Sun Oil Co., Southland Center, Post Office Box 2880, Dallas, TX 75221.	Florida Gas Transmission Co., Edna Field, Jefferson Davis Parish, La.	(7)	.....

[1] Mobil is filing concurrently herewith an application to amend certificate in Docket No. C161-1405 adding thereto the producing zones proposed to be deleted herein.
[2] Expiration of lease due to cessation of production.
[3] Minus 48 cents per Mcf B.t.u. adjustment.
[4] All production ceased.
[5] By letter agreement dated Mar. 20, 1972, between Amoco and Transwestern the well covered by the authorization is no longer capable of producing commercial quantities of gas into purchaser's system.
[6] Applicant is willing to accept a certificate at an initial rate of 21.32 cents per Mcf subject to B.t.u. adjustment; however, the contract price is 35 cents per Mcf.
[7] Expiration of leases and wells on the leases covered by reference contract have been plugged and abandoned.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.72-17992 Filed 10-20-72;8:45 am]

[Docket No. CS73-272 et al.]

TRAVIS OIL CO. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

OCTOBER 16, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and §157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 13, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS73-272	10- 3-72	Travis Oil Co., 941 Westwood Blvd., Los Angeles, CA 90024.
CS73-273	10- 2-72	The Oil Capitol Corp., 30 East 16th St., Tulsa, OK 74119.
CS73-274	10- 2-72	Joseph B. Singer et al., Post Office Box 663, 1301 Classen Blvd., Oklahoma City, OK 73101.
CS73-275	10- 4-72	Usu, Inc., Post Office Box 1972, Corpus Christi, TX 78403.
CS73-276	10- 5-72	American Liberty Oil Co., 4100 First National Bank Bldg., Dallas, Tex. 75202.
CS73-277	10- 5-72	V. B. Bottoms, 1002 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73-278	10- 5-72	Vernon Oil Co., 1002 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS73-279	10- 5-72	Merle S. Burgess, 1002 Guaranty Bank Plaza, Corpus Christi, Tx 78401.
CS73-280	10- 2-72	H. R. Harris and James R. Walton, Post Office Box 763, Hobbs, NM 88240.
CS73-281	10- 2-72	Hobart Key, Jr., 510 North Bolivar St., Marshall, TX 75670.
CS73-282	10- 6-72	Intercontinental Energy Corp., Suite 2300, 299 Park Ave., New York, NY 10017.
CS73-283	10- 6-72	Sam F. Hurt, Jr., Post Office Box 1874, Midland, TX 79701.
CS73-284	10- 6-72	James R. Hurt, Post Office Box 72, Odessa, TX 79760.
CS73-285	10-10-72	Robert Neil Hillin, 1010 American Bank Bldg., Odessa, Tex. 79761.
CS73-286	10-11-72	Vaughey & Vaughey, Post Office Box 4268, Jackson, MS 39216.

[FR Doc.72-17991 Filed 10-20-72;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Committee for Science Education will be held at 9 a.m. on October 26 and 27, 1972, in Room W-651, 5225 Wisconsin Avenue NW., Washington, DC 20550. The purpose of this Committee is to provide advice and recommendations on all National Science Foundation activities relating to science education.

The Director of the National Science Foundation has, pursuant to section 13 (d) of Executive Order 11671 (dated June 5, 1972), determined that this meeting of the Committee shall be exempt from the provisions of subsections 13 (a), (b), and (c) of the order, relating to public participation and recordkeeping, inasmuch as the activities of the Committee for the October 26 and 27, 1972 meeting are matters which fall within policies analogous to those recognized in section 552(b) of Title 5 of the United States Code, and the public interest requires such activities to be withheld from disclosure. At this meeting, the Committee will review and consider program concepts developed for the science education area as part of the NSF fiscal year 1974 budget formulation process. These matters are considered privileged in nature.

In accordance with the determination by the Director of the National Science Foundation, dated October 18, 1972, this meeting will not be open to the public. Further information relative to this Committee may be obtained from Mrs. Frances Watts, Administrative Officer, Office of the Assistant Director for Education, Room W-600, 5225 Wisconsin Avenue NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 18, 1972.

[FR Doc.72-18111 Filed 10-20-72;8:54 am]

ADVISORY PANEL FOR PHYSICS

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Panel for Physics will be held at 9 a.m. on October 26, 27, and 28, 1972, in Room 338, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations: (a) Concerning support for research in physics; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting will include:

OCTOBER 26 SESSION

This session will be devoted to remarks and presentations by NSF officials and staff on the following topics: NSF fiscal year 1973 budget; proposed new program in Physics; Materials Research Laboratories; and a report on the Atomic, Molecular and Plasma Physics Review.

OCTOBER 27 SESSION

1. Nuclear Physics Review; discussion on NSF Programs—NSF program staff.

2. Remainder of this session will be devoted to the review of proposed NSF support of individual nuclear physics projects.

OCTOBER 28 SESSION

This session will be devoted to discussion by the panel and staff on the Physics Survey (Bromley) Committee report; and physics programs.

The period covered by agenda item 2 of the October 27 session will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d). The remainder of this meeting will be open to the public.

Summary minutes relative to this meeting may be obtained by contacting the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 16, 1972.

[FR Doc.72-18110 Filed 10-20-72;8:54 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Notice of Public Meeting

Pursuant to section 13(a)(2) of Executive Order No. 11671 of June 5, 1972, notice is hereby given of a meeting of the ad hoc panel of the Business Advisory Council on Federal Reports to be held in Room 2008, New Executive Office Building, 726 Jackson Place (entrance on 17th Street between Pennsylvania Avenue and H Street NW.), Washington, DC., on Monday, November 6, 1972, at 9:30 a.m.

The Advisory Council assists the Office of Management and Budget in the performance of certain duties imposed by the Federal Reports Act of 1942 (40 U.S.C. 3501–3511).

The names and affiliations of members of the Council are as follows:

Charles W. Stewart, Machinery & Allied Products Institute (Chairman).
Carl A. Beck, Charles Beck Machine Corp.
William F. Betts, Association of American Railroads.
Thomas M. Brennan, Brennan & Vallone.
A. Arthur Charous, Sears, Roebuck & Co.
Walter Couper, Federated Department Stores, Inc.
William E. Dunn, Associated General Contractors of America.
James G. Ellis, Automobile Manufacturers Association.
Edwin W. Gaynor, Chrysler Corp.
James M. Goldberg, American Retail Federation.
Eugene J. Hardy, National Association of Manufacturers.
Eugene H. Hasenberg, Natural Gas Pipeline Company of America.
Benjamin F. Holcomb, United States Steel Corp.
Charles C. Hornbostel, Financial Executives Institute.
Wayne E. Kuhn, Omark Industries, Inc.
John E. Lewis, National Small Business Association.
Herbert Liebenson, National Small Business Association.
Carl H. Madden, Chamber of Commerce of the United States.
David J. Mahrer, Aluminum Co. of America.
G. H. McDaniel, member at large.
Joseph F. Miller, Executives Consultants, Inc.
Robert H. North, International Association of Ice Cream Manufacturers.
Edwin M. Patterson, Pan American Sulphur Co.
Joseph A. Sciarrino, Financial Executives Institute.
William H. Shaw, E. I. du Pont de Nemours & Co., Inc.
Robert H. Stewart, Jr., Gulf Oil Corp.
Vincent T. Wasilewski, National Association of Broadcasters.
Robert O. Welk, Eastman Kodak Co.

The purpose of the meeting is to obtain advice on reporting problems involved in a public use report of the Bureau of Labor Statistics' Office of Occupational Safety and Health Administration entitled "1972 Occupational Injuries and Illnesses Survey," OSHA No. 103, now under review in the Office of Management and Budget. This form is a revision of OMB No. 44–S 1036. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.72-18077 Filed 10-20-72;8:52 am]

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Notice of Public Meeting

Pursuant to section 13(a)(2) of Executive Order No. 11671 of June 5, 1972, notice is hereby given of a meeting of the Chemical Committee of the Business Advisory Council on Federal Reports to be held in Room 10104, New Executive Office Building, 726 Jackson Place (entrance on 17th Street between Pennsylvania Avenue and H Street NW.), Washington, DC, on Wednesday, November 1, 1972, at 10:15 a.m.

The Advisory Council assists the Office of Management and Budget in the performance of certain duties imposed by the Federal Reports Act of 1942 (40 U.S.C. 3501–3511).

The names and affiliations of members of the Committee are as follows:

Dr. S. Graeme Turnbull, Jr., E. I. du Pont de Nemours & Co., Inc. (Chairman).
Ronald B. Adams, Virginia Chemicals, Inc.
Oliver Axtell, Celanese Chemical Co.
Marjorie V. Campbell, Manufacturing Chemists Association.
Dr. Newman H. Giragosian, GAF Corp.
Dr. Charles E. Grabiel, The Dow Chemical Co.
George K. Graeber, Union Carbide Corp.
Howard D. Hensley, Great Lakes Chemical Corp.
George W. Ingle, Monsanto Co.
D. Lynn Johnson, Tennessee Eastman Co.
Thomas Klum, American Cyanamid Co.
Morris L. Neuville, The Ansul Co.
Douglas H. Ross, Allied Chemical Corp.
Malcolm L. Sagenkahn, Shell Chemical Co.
N. R. Wenrich, Merck and Co., Inc.

The purpose of the meeting is to obtain advice on reporting problems involved in a public use report of the Tariff Commission entitled "Selected Synthetic Organic Chemicals." Other matters to be discussed include the Wholesale Price Index, Census of Manufacturers, and the Quarterly Financial Report for Manufacturing Corporations as they relate to chemicals. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.72-18078 Filed 10-20-72;8:53 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

IOWA DEVELOPMENTAL PLAN

Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of Iowa has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Bureau of Labor as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1). Under existing occupational safety and health legislation, effective July 1, 1972, the plan proposes to adopt all occupational safety and health standards and amendments thereto which have been adopted by the Secretary of Labor, except those found in 29 CFR Parts 1915, 1916, 1917, and 1918 (ship repairing, shipbuilding, shipbreaking, and longshoring). The plan sets forth a timetable for this adoption; a description of the enforcement program; and a description of personnel and resources.

Within the terms of 29 CFR 1902.2(b), the plan appears to be developmental in the following general areas: Occupational safety and health standards; compliance program for agriculture, mercantile and service employers; management information system; hiring and training of staff.

Included in the plan is a statement of the Governor's support for the plan and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of Iowa. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 500, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Room 300 Waltower Building, 823 Walnut Street, Kansas City, MO 64106; Iowa Bureau of Labor, State House, East Seventh and Court Avenues, Fourth Floor, Des Moines, Iowa 50319. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given 30 days from the day of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 500, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 17th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-18045 Filed 10-20-72;8:48 am]

UTAH DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Their Enforcement; Notice of Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of Utah has been submitted to the assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Utah State Industrial Commission as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues in accordance with 29 CFR Part 1910, with the exceptions of ship repairing, shipbuilding, shipbreaking, and longshoring.

The plan includes proposed draft legislation to be considered by the Utah Legislature during its 1973 session. Under the legislation the Commission will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of employees of the United States or where there is occupational safety and health protection of employees under other Federal laws such as the Atomic Energy Act of 1954, 42 U.S.C. 2021; the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801; and the Federal Metal and Nonmetallic Mine Safety Act, 30 U.S.C. section 721 et seq.

The plan contains detailed discussion of the following subjects: (1) Enforcement; (2) organization and staff; (3) training and education; (4) reporting systems; (5) a public employee program; (6) target dates; (7) budget; and (8) standards.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 500, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Occupational Safety and Health Administration, Department of Labor, Federal Office Building, Room 15010, 1961 Stout Street, Denver, CO 80202; Utah Industrial Commission, Safety Division, 158 Social Hall Avenue, Salt Lake City, UT 84114. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given 30 days from the day of this publication in which to submit to the Assistant Secretary written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 500, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved. The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 17th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-18046 Filed 10-20-72;8:48 am]

NORTH DAKOTA DEVELOPMENTAL PLAN

State Occupational Safety and Health Standards and Their Enforcement; Notice of Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, Code of Federal Regulations, notice is hereby given that an Occupational Safety and Health Plan for the State of North Dakota has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The Assistant Secretary has preliminarily reviewed the plan, and hereby gives notice that the question of approval of the plan is in issue before him.

The plan identifies the Workmen's Compensation Bureau as the State agency designated by the Governor of the State to administer the plan throughout the State. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in 29 CFR 1902.2(c)(1).

The plan includes proposed draft legislation to be considered by the North Dakota Legislature during its 1973 session. Under the legislation the Workmen's Compensation Bureau will have full authority to enforce and administer laws respecting safety and health of employees in all workplaces of the State with the exception of ship repairing, shipbuilding, shipbreaking, and longshoring.

The legislation further proposes to bring the plan into conformity with the requirements of 29 CFR Part 1902 in areas such as procedures for variances and the protection of employees from hazards, procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; and procedures for prompt restraint, or elimination of imminent danger situations.

The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives an opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; a system of sanctions against employers for violations of standards; employer right of review and employee participation in review proceedings; and coverage of employees of political subdivisions.

Included in the plan is a statement of the Governor's support for the proposed legislation and a statement of legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the Constitution and laws of North Dakota. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 including provision for a merit system for personnel upon enactment of the proposed legislation by the State legislature.

2. *Location of plan for inspection and copying.* A copy of the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, Room 500, Railway Labor Building, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Department of Labor, Room 15010, 1961 Stout Street, Denver, CO 80202; Workmen's Compensation Bureau, Ninth Floor, Room 10, State Capitol, Bismarck, N. Dak. 58501. Copies of the plan may be obtained at the expense of the person(s) requesting the copies.

3. *Public participation.* Interested persons are hereby given 30 days from the day of this publication in which to submit to the Assistant Secreatry written data, views, and arguments concerning the plan. The submissions are to be addressed to the Director, Office of State Programs, OSHA, Railway Labor Building, Room 500, U.S. Department of Labor, Washington, D.C. 20210. The written comments will be available for public inspection and copying, at the expense of the person(s) requesting such copies, at the above address.

Any interested person(s) may request an informal hearing concerning the proposed plan, or any part thereof, whenever particularized written objections thereto are filed within the 30 days specified above. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary of Labor for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the plan.

Signed at Washington, D.C., this 17th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-18047 Filed 10-20-72;8:48 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241; Rule 19, Rev. Exemption 22]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO. ET AL.

Exemption from Mandatory Car Service Rules

It appearing, that there are substantial movements of grain and grain products moving in plain, 40-foot, narrow-door boxcars between points on the following railroads:

The Atchison, Topeka and Santa Fe Railway Co.
Chicago, Milwaukee, St. Paul and Pacific Railroad Co.
Chicago, Rock Island and Pacific Railroad Co.
Missouri Pacific Railroad Co.
St. Louis-San Francisco Railway Co.
Union Pacific Railroad Co.

and that unlimited exchange of such cars among these railroads will increase car utilization by reductions in switching and other movements of empty cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC R.E.R. No. 384, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 feet 6 inches or less and equipped with doors less than 9 feet wide owned by any of the aforementioned railroads and located empty on such lines, may be loaded with grain or grain products, as defined herein, to stations located on any of the aforementioned railroads. When so loaded, such cars shall be exempt from the provisions of Car Service Rules 1 and 2.

The term grain and grain products shall comprise the commodities specifically named in lists 1, 2, 5, 6, 7, and 8 published in Western Trunk Lines Freight Tariff 330-U, ICC A-4797, issued by Fred Ofcky, supplements thereto, or consecutive issues thereof.

Effective October 17, 1972.

Expires October 31, 1972.

Issued at Washington, D.C., October 16, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18080 Filed 10-20-72;8:53 am]

[Rev. S.O. 994; I.C.C. Order 73]

ST. JOHNSBURY AND LAMOILLE COUNTY RAILROAD

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the St. Johnsbury & Lamoille County Railroad is unable to transport traffic over its line between Wolcott, Vt., and St. Johnsbury, Vt., because of track damage.

It is ordered, That:

(a) *Rerouting traffic.* The St. Johnsbury & Lamoille County Railroad, being unable to transport traffic over its line between Wolcott, Vt., and St. Johnsbury, Vt., because of track damage, that carrier and its connections are hereby authorized to reroute or divert such traffic via any available route to expedite the movement. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted

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and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4 p.m., October 16, 1972.

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 16, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18081 Filed 10-20-72;8:53 am]

[Notice No. 101]

ASSIGNMENT OF HEARINGS

OCTOBER 18, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No Amendments will be entertained after the date of this publication.

MC 2890 Sub 43, American Buslines, Inc., Extension—Sterling, Colo., now assigned November 14, 1972, at Sidney, Nebr., hearing will be held in the Basement Meeting Room, Cheyenne County Courthouse, 10th and Jackson.

MC 134040 Sub 3, Acme Transfer, Inc., now assigned November 6, 1972, MC 127172 Sub 4, Francis Margolies, doing business as Marc Baggage Lines, assigned November 7, 1972, MC 51146 Sub 268, Schneider Transport, Inc., assigned November 9, 1972, at Chicago, Ill., will be held in Room 813, Customhouse, 610 South Canal Street.

MC 128273 Sub 107, Midwestern Express, Inc., now assigned continued hearing November 13, 1972, at Columbus, Ohio, will be held 255 Federal Building, 85 Marconi Boulevard.

MC 133633 Sub 8, Highway Express, Inc., now assigned November 13, 1972, at Jackson, Miss., hearing will be held in Room 536, U.S. Post Office and Courthouse Building, East Capital and Southwest Streets.

MC 115841 Sub 407, Colonial Refrigerated Transportation, Inc., now assigned November 8, 1972, at Atlanta, Ga., hearing is canceled and application dismissed.

MC 107295 Sub 593, Pre-Fab Transit Co., assigned November 27, 1972, MC 124211 Sub 210, Hilt Truck Line, Inc., assigned November 28, 1972, MC-F-11423, Tower Lines, Inc.—Control and Merger—All Ohio Trucking Co., and MC 65941 Sub 36, Tower Lines, Inc., assigned November 29, 1972, MC 51146 Sub 273, Schneider Transport, Inc., assigned December 4, 1972, MC-F-11471, Suburban Motor Freight, Inc.—Control and Merger—The Hauselman Transportation Co., MC 44447 Sub 28, Suburban Motor Freight, Inc., and FD 27038, Suburban Motor Freight, Inc., Notes, now assigned December 6, 1972, at Columbus, Ohio, will be held in Room 4, State Office Building, 65 South Front Street.

MC 109397 Sub 274, Tri-State Motor Transit Co., now assigned December 5, 1972, at Columbus, Ohio, will be held in Room 5, State Office Building, 65 South Front Street.

MC 3062 Sub 33, L. A. Tucker Truck Lines, Inc., now assigned December 18, 1972, at Memphis, Tenn., is postponed indefinitely.

MC 136307, Burkewitz Transport, Inc., now assigned November 6, 1972, at Montpelier, Vt., will be held in Room 338, Federal Building, 87 State Street.

MC-F-11442, K. G. Moore, Inc.—Purchase—Fleming's Express, Inc., now assigned November 8, 1972, at Boston, Mass., will be held in Room 2211B, John Fitzgerald Kennedy Building, Government Center.

MC 172 Sub 8, Robert E. Wade, now assigned November 13, 1972, at Albany, N.Y., will be held in Room 434, U.S. Post Office and Courthouse, Broadway.

MC 263 Sub 199, Garrett Freight Line, Inc.—Alternate routes, now assigned October 30, 1972, at Portland, Oreg., hearing is canceled, and transferred to modified procedure.

MC 121658 Sub 2, Steve D. Thompson, now being assigned hearing December 4, 1972 (1 week), in Conference Room, Second Floor, State Office Building, 122 St. John Street, Monroe, LA.

MC 32882 Sub 50, Mitchell Bros. Truck Lines, MC 83539 Sub 282, C & H Transportation Co., Inc., now assigned October 30, 1972, at San Francisco, Calif., hearing room is transferred to Room 13025, Federal Building, 450 Golden Gate Avenue, San Francisco, Calif.

I & S 8789, Passenger Fare Increase, Penn Central, now being assigned hearing December 4, 1972 (3 days), at Providence, R.I., in a hearing room to be later designated.

MC-C-7823, New England-New York Transport, Inc.—Investigation and Revocation of Certificates—now being assigned hearing December 7, 1972 (2 days), at Boston, Mass., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18083 Filed 10-20-72;8:53 am]

[Notice 145]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73392. By order of October 3, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to Harold H. Wolfe, Westfield, N.Y., of Certificate No. MC-62200, issued to Clyde H. Wolfe, doing business as Westfield Moving and Delivery Service, Westfield, N.Y., authorizing the transportation of: Household goods, between Westfield, N.Y., and points in Erie County, Pa., on the one hand, and, on the other, points in Pennsylvania, New York, and Ohio, Arthur S. Tennant, attorney at law, 107 East Main Street, Westfield, NY 14787.

TRANSFER APPLICATION TO BE ASSIGNED FOR ORAL HEARING

No. MC-FC-73661. Authority sought by transferee, BIANCHI TRANSPORTATION COMPANY, INC., Box 241, Birch Street, Old Bridge, NJ 08857, to acquire the operating rights of transferor, BIANCHI TRUCK LINE, INCORPORATED, 79 Paterson Street, New Brunswick, NJ 08901. Applicants' representatives: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817, and Klemmer Kalteissen, 79 Paterson Street, New Brunswick, NJ 08901. Operating rights in No. MC-114132 sought to be transferred authorize the transportation of: Numerous specified commodities, including agricultural commodities, seafood, malt beverages, frozen fruits, canned goods, fertilizer and fertilizer materials, and chemicals, from and to named points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Illinois, Missouri, Iowa, Pennsylvania, Rhode Island, South Carolina, Florida, Georgia, Virginia, and the District of Columbia.

By order of the Commission, Division 3, dated August 11, 1972, the subject application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing on a consolidated record with the petition filed March 30, 1972, in No. MC-114132 on behalf of Churn's Truck Line, Inc., L. S. Parsons, and Anthony T. Georgiana, seeking to have the name of Bianchi Truck Line, Incorporated, changed to Churn's Truck Line, Inc. The attorney for petitioner Churn's Truck Line is: E. Stephen Heisley, Ames, Hill & Ames, 666 11th Street NW., Washington, DC 20001.

The purpose of the hearing, the date and time of which will be fixed at a later date, is to determine ownership of title to the subject operating rights and whether the application satisfies the rules and regulations governing transfers of rights to operate as a motor carrier in interstate or foreign commerce (49 CFR Part 1132). Interested parties have 30 days from the date of this publication in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the requested intervention, the place where the petitioner wishes the hearing to be held, the number of witnesses it expects to present, and the estimated time required for presentation of its evidence.

No. MC-FC-73816. By order entered October 3, 1972, the Motor Carrier Board approved the transfer to Daniels Transportation Co., Inc., Lebanon, N.H., of that portion of the operating rights set forth in Certificate No. MC-65398 (Sub-No. 3), issued May 18, 1967, to Miller Brothers Moving & Storage, Inc., Riverside, N.J., authorizing the transportation of household goods, between Philadelphia, Pa., and points within 25 miles thereof, on the one hand, and, on the other, points in 26 specified States and the District of Columbia. Frederick T. O'Sullivan, 622 Lowell Street, Peabody, MA 01960, attorney for applicants.

No. MC-FC-73949. By order of October 2, 1972, the Motor Carrier Board approved the transfer to Jalt Corp. doing business as United Newspaper Delivery Service, Woodbridge, N.J., of Permit No. MC-123778 (Sub-No. 1) and related subs thereunder, issued to Joseph Baio, doing business as United Newspaper Delivery Service, Woodbridge, N.J., authorizing the transportation of: Magazines, racks, and advertising matter, between specified points and areas in New Jersey, Connecticut, Pennsylvania, New York, Delaware, Maryland, and Washington, D.C. Morton E. Kiel, 140 Cedar Street, New York, NY 10006, attorney for applicants.

No. MC-FC-73958. By order of October 4, 1972, the Motor Carrier Board approved the transfer to Domenico Tours, Inc., Bayonne, N.J., of License No. MC-12850 (Sub-No. 1) and MC-12850 (Sub-No. 2) issued to Vincent Di Domenico, doing business as Domenico Tours, Bayonne, N.J., evidencing a right of the holder thereof to engage in operations as a broker, in arranging for the transportation of: Passengers and their baggage, in special and charter operations, between points in the United States, except Alaska and Hawaii. Charles J. Williams, attorney, 47 Lincoln Park, Newark, NJ 07102.

No. MC-FC-73964. By order entered October 2, 1972, the Motor Carrier Board approved the transfer to L. A. Lewis, Inc., Scranton, Pa., of the operating rights set forth in Certificate No. MC-31765, issued January 13, 1959, to Lewis A. Lewis, Jr., doing business as L. A. Lewis, Scranton, Pa., authorizing the transportation of household goods, between Scranton, Pa., on the one hand, and, on the other, points in New York, New Jersey, Maryland, and Ohio. Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18082 Filed 10-20-72;8:53 am]

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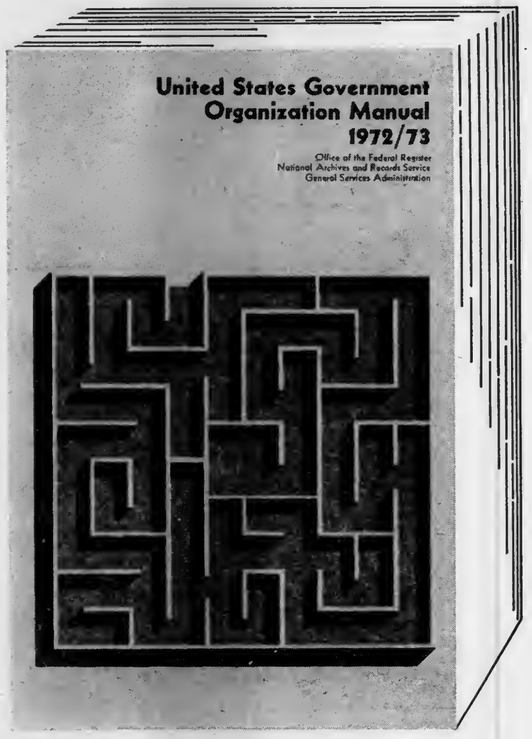
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federal register

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WASHINGTON, D.C.

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Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 56—VOLUNTARY GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

Miscellaneous Amendments

Under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) the U.S. Department of Agriculture hereby amends the regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56).

Statement of considerations. On September 19, 1972, a rule making proposal was published in the FEDERAL REGISTER (37 F.R. 19145) which would establish standards for nest run eggs prior to washing, sizing, and grading. The purpose of the standards is to expedite trading by anticipating the grade yield of such eggs prior to processing.

Five persons commented on the proposal to the Hearing Clerk. All but one favored promulgation of the standards.

Prior to the proposal the Department sent a draft of the nest run standards to 110 people for informal comment. Seventy-nine replies were received, the great majority of which strongly favored promulgation of the standards. Included among those approached for comment were all of the State Commissioners of Agriculture, industry people such as producers and packers, and trade organizations.

In view of the widespread support and desirability of the standards, the Department has decided to promulgate them as proposed with the exception of a minor change in the description of the weight classes suggested in two of the comments to the Hearing Clerk.

The amendments are as follows:

1. Section 56.1 is amended by adding a new definition after the definition of "applicant" to read:

§ 56.1 Meaning of words and terms defined.

* * * * *

"Cage mark" means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

* * * * *

2. Following § 56.228, a new center heading is added to read:

U.S. NEST-RUN GRADE AND WEIGHT CLASSES FOR SHELL EGGS

3. A new § 56.230 is added to read:

§ 56.230 Grade.

"U.S. Nest Run ---- percent AA Quality" shall consist of eggs of current production of which at least 20 percent are AA quality; and the actual percentage of AA quality eggs shall be stated in the grade name. Within the maximum of 15 percent which may be below A quality, not more than 10 percent may be B quality and C quality combined for shell texture, shape, interior quality (including blood and meat spots), or due to rusty or blackish appearing cage marks or bloodstains, not more than 2 percent may have adhering dirt or foreign material on the shell ½ inch or larger in diameter, not more than 6 percent may be checks and not more than 3 percent may be loss. Marks which are slightly gray in appearance and adhering dirt or foreign material on the shell less than ½ inch in diameter are not considered quality factors. The eggs shall be officially graded for all other quality factors.

4. A new § 56.231 is added to read:

§ 56.231 Summary of grade.

A summary of the U.S. Nest-Run Grade for Shell Eggs follows in Table I of this section:

TABLE I—SUMMARY OF U.S. NEST RUN GRADE FOR SHELL EGGS

Nest Run grade description[1]	Minimum percentage of quality required (lot average)[1]		Maximum percentage tolerance permitted (15% lot average)[1]			
	AA Quality[2]	A Quality or better	B and C Quality for shell texture or shape, interior quality (including blood and meat spots), or cage marks[4] and blood stains	Checks	Loss	Adhering dirt or foreign material ½ inch or larger in diameter
U.S. Nest Run ....% AA Quality.[5]	20	85	10	6	3	2

[1] Substitution of eggs of higher qualities for lower specified qualities is permitted.
[2] Stains (other than rusty or blackish appearing cage marks or blood stains), and adhering dirt and foreign material on the shell less than ½ inch in diameter shall not be considered as quality factors in determining the grade designation.
[3] No case may contain less than 10 percent AA quality.
[4] Cage marks which are rusty or blackish in appearance shall be considered as quality factors. Marks which are slightly gray in appearance are not considered as quality factors.
[5] The actual total percentage must be stated in the grade name.

5. A new § 56.232 is added to read:

§ 56.232 Weight classes.

The weight classes for the U.S. Nest-Run Grade for Shell Eggs shall be as indicated in Table I of this section and shall apply to Nest-Run Grade.

TABLE I.—WEIGHT CLASSES FOR U.S. NEST RUN GRADE FOR SHELL EGGS

Weight classes	*Minimum average net weight on lot basis 30-dozen cases (Pounds)*
Class XL	51
Class 1	48
Class 2	45
Class 3	42
Class 4	39

No individual sample case may vary more than 2 pounds (plus or minus) from the lot average.

Since the nest-run standards will expedite trading, it is in the public interest to make them effective as soon as possible. Accordingly, under the administrative procedure provisions in 5 U.S.C., 553, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Issued at Washington, D.C., this 18th day of October 1972, to become effective November 1, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-18121 Filed 10-24-72;8:46 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

PART 2—RULES OF PRACTICE

Delegation of Authority to Atomic Safety and Licensing Appeal Panel; Assignment and Change in Composition of Atomic Safety and Licensing Appeal Boards

Under the Atomic Energy Commission's rules of practice, the Atomic Safety and Licensing Appeal Board has been directed to exercise the authority and perform the review functions which would otherwise have been exercised and performed by the Commission in such licensing proceedings as the Commission may specify, as well as in specified categories of proceedings arising under Parts 115 and 50. Since establishment of the

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Appeal Board, the Commission has delegated its authority to the Appeal Board in every proceeding arising under Part 50. After considering its experience under this system, the Commission has modified its rules to delegate authority to the Appeal Board in all proceedings under Part 50. The Commission will retain the review authority provided in 10 CFR 2.786.

Under the rules of practice, the Appeal Board is currently composed of the Chairman of the Appeal Board, the Vice Chairman of the Appeal Board, and a third member designated by the Commission for each proceeding; except that in proceedings involving antitrust considerations it is composed of the Chairman and two members designated by the Commission possessing qualifications appropriate to the issues to be decided. Heretofore, the Appeal Board in other than antitrust proceedings has included two technical members—the Vice Chairman and a member designated by the Commission.

Because of the increasing caseload of the Appeal Board, and the resulting burden in requiring the Chairman to sit on every case, and the Vice Chairman to sit on all except antitrust cases, the Commission has provided an expanded organizational framework for the Appeal Board, by establishing an Atomic Safety and Licensing Appeal Panel, from which will be selected members to sit on particular cases. The composition of the Appeal Board for a particular proceeding has been modified so that it will include three members possessing qualifications deemed appropriate to the issues to be decided. The Chairman of the Appeal Board for a particular proceeding shall be qualified in the conduct of administrative proceedings.

The activities of the Appeal Panel will be supervised by a permanent Chairman and, in his absence, by a permanent Vice Chairman. Members of the Panel will be designated by the Commission, but the members of the Appeal Board for a particular proceeding will be assigned by the permanent Chairman or, in his absence, by the permanent Vice Chairman.

To reflect the above-mentioned increasing caseload, the Commission has also amended 10 CFR 2.786 to expand the the time within which the Commission may exercise its review authority under that section from 15 days to 20 days.

The amendments incorporate various technical changes to accommodate the above-described organizational changes.

Because the amendments relate to agency management, and are procedural rather than substantive, notice of proposed rule making and public procedure thereon are not required by section 553 of title 5 of the United States Code.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 1 and 2, are published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER (10–25–72).

1. Section 1.21 is amended to read as follows:

§ 1.21 Atomic Safety and Licensing Appeal Panel and Atomic Safety and Licensing Appeal Boards.

An Atomic Safety and Licensing Appeal Board is a three-member tribunal which reviews initial decisions of presiding officers, including atomic safety and licensing boards, and performs other appellate functions in (a) proceedings on applications for licenses under Part 50 of this chapter, (b) proceedings on applications for authorizations under Part 115 of this chapter, and (c) such other licensing proceedings as may be referred to it by the Commission. In addition, the Appeal Board performs such other regulatory functions as may be delegated to it by the Commission. Members of an Appeal Board for a particular proceeding are assigned from the Atomic Safety and Licensing Appeal Panel, the members of which are designated by the Commission. The Appeal Panel's activities are supervised by a permanent Chairman and, in his absence, by a permanent Vice Chairman. Assignment of Panel members to serve in particular proceedings is the responsibility of the permanent Chairman or, in his absence, the permanent Vice Chairman.

2. Section 2.785 (a) and (d) are amended to read as follows:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Boards.

(a) The Commission has authorized Atomic Safety and Licensing Appeal Boards to exercise the authority and perform the review functions which would otherwise have been exercised and performed by the Commission, including, but not limited to, those under §§ 2.760–2.771, 2.912, and 2.913 in (1) proceedings on applications for licenses under Part 50 of this chapter, (2) proceedings on applications for authorizations under Part 115 of this chapter, and (3) such other licensing proceedings under the regulations in this chapter as the Commission may specify.

* * * * *

(d) (1) In the proceedings described in paragraphs (a) (1) and (3) of this section, and except as provided in subparagraph (2) of this paragraph, an Atomic Safety and Licensing Appeal Board may, either in its discretion or on direction of the Commission, certify to the Commission for its determination major or novel questions of policy, law or procedure.

(2) The provisions of subparagraph (1) of this paragraph, and of paragraph (a) of § 2.786, shall not be applicable to proceedings on applications for licenses under Part 50 of this chapter for facilities as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, or has waived charges for use of special nuclear material or source material under section 53c(4) or 63c of the Act.

3. In § 2.786, paragraph (a) is amended to read as follows:

§ 2.786 Review of decisions and actions of an Atomic Safety and Licensing Appeal Board.

(a) Within 20 days after the date of a decision or action by an Atomic Safety and Licensing Appeal Board under § 2.785, or within 20 days after the date of a decision or action pursuant to § 2.787(b), the Commission, in the proceedings described in § 2.785 (a) (1) and (a) (3), and except as provided in § 2.785(d) (2), may on its own motion direct that the record of the proceeding be certified to it for review on the ground that the decision or action of the Atomic Safety and Licensing Appeal Board (1) is, with respect to an important matter, in conflict with statute, regulation, case precedent, or established Commission policy, and (2) (i) could significantly and adversely affect the public health and safety or the common defense and security, or (ii) involves an important question of public policy. The effect of the Atomic Safety and Licensing Appeal Board's decision or action is then stayed until the Commission's review of the proceeding has been completed.

* * * * *

4. Section 2.787 is amended to read as follows:

§ 2.787 Composition of Atomic Safety and Licensing Appeal Boards.

(a) An Atomic Safety and Licensing Appeal Board is composed of three members, possessing qualifications deemed appropriate to the issues to be decided, assigned for each proceeding from the Atomic Safety and Licensing Appeal Panel. Members shall be assigned by the permanent Chairman of the Panel or, in his absence, by the permanent Vice-Chairman. The Chairman of an Appeal Board for a particular proceeding shall be qualified in the conduct of administrative proceedings. An alternate may be assigned to serve as a member of an Atomic Safety and Licensing Appeal Board for a particular proceeding in the event that a member assigned to such proceeding becomes unavailable.

(b) In the absence of a quorum, the following individuals are authorized to act for an Appeal Board on procedural matters, including requests for stays of orders by presiding officers:

(1) The Chairman of the Appeal Board assigned for a particular proceeding;

(2) The permanent Chairman of the Atomic Safety and Licensing Appeal Panel, in the event that the Chairman for a particular proceeding is not available to act upon the matter in question, or has not been assigned;

(3) The permanent Vice-Chairman of the Appeal Panel, in the event that the individuals listed above are not available to act upon the matter in question, or in the event that a Chairman for a particular proceeding has not been assigned, or in the event that the position of permanent Chairman of the Appeal Panel is vacant.

Except with respect to requests for stays of orders of presiding officers, action by a designated individual under the authority of this paragraph shall be reviewable by the Appeal Board for the particular proceeding, upon its own motion or upon a motion filed within three (3) days of the date of the particular action in accordance with § 2.730. Action under this authority with respect to requests for stays of orders of presiding officers shall be reviewable by the Commission, upon its own motion or upon a motion filed within three (3) days of the date of the particular action in accordance with § 2.730.

5. In Appendix A to Part 2, paragraphs (a) and (c) of Part IX are amended to read as follows:

IX. LICENSING PROCEEDINGS SUBJECT TO APPELLATE JURISDICTION OF ATOMIC SAFETY AND LICENSING APPEAL BOARD

(a) An Atomic Safety and Licensing Appeal Board, composed of three members assigned from the Atomic Safety and Licensing Appeal Panel, designated by the Commission, reviews initial decisions of presiding officers in (1) proceedings on applications under Part 50 for facility licenses or construction permits, (2) proceedings on applications for authorizations under Part 115, and (3) such other licensing proceedings as the Commission specifies. In such proceedings, an Atomic Safety and Licensing Appeal Board performs the functions and exercises the authority of the Commission described in sections I(e), V(f)(4), and VI(f), except as their context may require otherwise. The Atomic Safety and Licensing Appeal Board is required to decide each matter before it in accordance with the rules and regulations, case precedent, and established policies of the Commission. It has no responsibility or authority for issuing rules or regulations. The Appeal Board for a particular proceeding is composed of three members assigned from the Atomic Safety and Licensing Appeal Panel and possessing qualifications deemed appropriate to the issues to be decided. The Chairman of the Appeal Board for a particular proceeding shall be qualified in the conduct of administrative proceedings.

* * * * *

(c) Consultation between members of the Atomic Safety and Licensing Appeal Board for a particular proceeding and the staff, in initial licensing proceedings other than contested proceedings, is permitted on the conditions specified for the Commissioners under 10 CFR 2.780. However, members of atomic safety and licensing boards for particular proceedings shall not consult, on any fact in issue in those proceedings—whether contested or uncontested—with members of the Appeal Board Panel.

(Sec. 161, 68 Stat. 948, 42 U.S.C. 2201; sec. 191, 80 Stat. 386, 42 U.S.C. 2241)

Dated at Germantown, Md., this 17th day of October 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-18133 Filed 10-24-72;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9974; Amdt. 93-25]

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

High Density Traffic Airports

The purpose of this amendment to Part 93 of the Federal Aviation Regulations is to extend for one year the special air traffic rule for High Density Traffic Airports which would otherwise expire on October 25, 1972, and to delete the flight plan and transponder provisions of that rule. This amendment was proposed in Notice No. 72–24, issued on September 12, 1972 (37 F.R. 18744).

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented. At the close of the comment period on October 11, 1972, 18 comments had been received in response to the proposals contained in Notice No. 72–24. Five comments were received from trade associations, two from citizens' associations, 10 from individuals and one from the New York Port Authority.

Eight of the comments from individuals indicated that the rule is no longer needed and that it should be terminated. The AOPA and General Aviation Manufacturers Association (GAMA) also opposed continuation of the rule on the basis that the rule erodes flexibility in the use of general aviation aircraft at the affected airports. Their contention appears to be that there have been system improvements and substantially fewer delays since the issuance of the rule and that since delays are now reduced to those attributable to weather, the quota system should be dropped. According to GAMA, the FAA should depend upon flow control to maintain a balance between traffic demand and prevailing weather conditions.

If the quota rule expires, incentives would be created to move a considerable number of schedules back to the primary airports and reschedule many flights into prime time hours. It is argued that if that kind of situation did develop, flow control procedures can be used to preclude a repetition of the massive delays of 1968–1969. The FAA disagrees with this argument. Metering traffic by flow control merely causes delays to occur at some point prior to destination, whereas the quota restrictions have been successful in leveling off peak traffic loads. Although it is a problem for the airlines, they have been successful in managing their collective scheduling to stay within the quotas and they believe, for the present time, the system is necessary and the rule should be extended for another year.

The arguments against further extension of the rule were repetitions of those given in response to previous proposals concerning this rule. To a large degree they did not adequately recognize the pressure for IFR slots at these airports during controlled hours. As stated in the NPRM, there is a strong likelihood that without these restraints the improvements in the delay problem would evaporate.

Operational data show that utilization of air carrier slots is near 100 percent from 7 a.m. to 10 p.m. at both La Guardia and National Airports. The same is true at O'Hare during the controlled hours, 3 p.m. to 8 p.m. In order to stay within the quota limitations the airlines are forced to schedule a great many flights in off-peak hours which were lightly used prior to this rule. They are also scheduling to airports which are second choice, i.e., Newark, Midway, and Dulles.

Continuation of the rule for another year was supported by the Air Transport Association, the National Air Carrier Association, the Airline Pilots Association, and the Port Authority of New York and New Jersey. The Port Authority stated that the conditions which required adoption of the rule and subsequent extensions still exist in such a magnitude, that its continued effectiveness is required. The NACA comment is similar. The ATA noted that increased capacity of airports and total system capacity has not materialized to the degree where current demand can be accommodated without restraint, and that, therefore, unacceptable congestion at the High Density Traffic Airports cannot be avoided unless the limitations and quotas are continued.

The ATA and NACA recommended a change in the JFK quota during the 3-hour period between 5 p.m. and 8 p.m. daily. They proposed that the 80 air carrier operations per hour permitted now between 7 p.m. and 8 p.m. daily be shifted to the 4 p.m. to 5 p.m. time period, and the 70 operations permitted between 4 p.m. and 5 p.m. be shifted to 7 p.m. to 8 p.m. They state that the peak demand for service has shifted during the last 4 years so that the daily peak (at JFK) now should be from 4 p.m. to 7 p.m. rather than from 5 p.m. to 8 p.m. FAA believes that this requested change, if appropriate, should be the subject matter of a separate rule making action.

Two other changes to the rule were proposed in Notice 72–24. The first one would eliminate a duplication in the rules by deleting the transponder requirement which is adequately covered in the Terminal Control Area rules for the airports concerned. The other proposed change would delete the flight plan requirement from the quota rule, since VFR flight plans have been found to be unnecessary and the IFR flight plan requirement is covered elsewhere in the rules. There was no objection to these proposals. This amendment therefore deletes § 93.127 and the flight plan requirement of § 93.125.

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The notice also proposed to delete the provisions for issuance of letters of agreement in § 93.129(c), both because the elimination of § 93.127 removes the need for any relief from transponder requirements within Part 93, and because the letter of agreement provisions are rarely used and could be accomplished by issuance of certificates of waiver under § 91.63 of Part 91 under appropriate conditions. No public comment was received on these proposals. Section 93.129(c) is therefore deleted.

Since the present High Density Traffic Airport rule terminates on October 25, 1972, to provide continued and uninterrupted effectivity good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, Part 93 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER as hereinafter set forth:

1. Section 93.125 is amended to read as follows:

§ 93.125 Arrival or departure reservation.

Except between 12 Midnight and 6 a.m. local time, no person may operate an aircraft to or from an airport designated as a high density traffic airport unless he has received, for that operation, an arrival or departure reservation from ATC.

§ 93.127 [Deleted]

2. Section 93.127 is deleted.

§ 93.129 [Amended]

3. Section 93.129 is amended by deleting paragraph (c) thereof.

4. Section 93.131 is amended to read as follows:

§ 93.131 Termination date.

The provisions of §§ 93.121–93.131 and 93.133 terminate October 25, 1973.

(Secs. 103, 307, 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348, 1354(a) and 1421); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and section 1.4(c) of Part 1 of the Regulations of the Office of the Secretary (49 CFR 1.4(c))

Issued in Washington, D.C., on October 20, 1972.

J. H. SCHAFFER,
Administrator.

[FR Doc.72-18227 Filed 10-24-72;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PART 4–1—GENERAL

Procurement; Correction

These miscellaneous amendments and corrections involve matters relating to agency management which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553 or Secretary's Statement of Policy (36 F.R. 13804).

1. Section 4–1.401(b) is revised to read as follows:

§ 4–1.401 Responsibility of the head of the procuring activity.

* * * * *

(b) *Information Systems.* Under the provision of 1 AR 245, the Director of Information Systems is responsible for the general management and coordination of procurement activities of the several agencies of the Department, subject to the Federal and Agriculture Procurement Regulations, in the areas of automatic data processing and data transmissions. These grants of responsibility shall be construed to include the authority (1) to establish such procurement systems and policies and (2) to delegate such contracting authorities as in the opinion of the Director of Information Systems will facilitate the orderly and economical contracting and procurement of administrative and operating supplies, equipment, and services relating to automatic data processing (ADP) and data transmission needs of the Department in carrying on its programs.

2. Section 4–1.403 is revised to read as follows:

§ 4–1.403 Requirements to be met before entering into contracts.

Procurement contracting shall conform with all laws and regulations applicable to the Department, with the policies and procedures set forth in AGPR and with any applicable policies and procedures otherwise announced or prescribed by either the Director of Plant and Operations, the Director of Information Systems or other responsible official. A continuing review of agency operations hereunder will be made by the respective office.

3. Section 4–1.453 is revised to read as follows:

§ 4–1.453 Delegation of authority for automatic data processing equipment, services, and related supplies.

(a) Those agencies delegated procurement contracting authority by the Office of Plant and Operations under § 4–1.404–1 are hereby delegated procurement contracting authority for procurement of automatic data processing equipment, services, and related supplies in the following circumstances:

(1) ADP equipment (for definition see FPMR 101–32.402–1).

(i) Such card punching, verifying, and manipulating equipment as is described as electronic accounting machines (EAM) or punch card accounting machines (PCAM) where the total dollar cost does not exceed $50,000 for purchase or annual rental.

(ii) Any other items of ADP equipment where the total dollar cost does not exceed $25,000 for purchase or annual rental: *Provided*, That no existing computer system is augmented under this delegation such that the purchase cost (cost to purchase if leased) of all the components of that system are made to exceed $200,000.

(iii) If for renewal of equipment previously authorized or procured by OIS and the terms of the original procurement have not significantly changed and the changes in costs do not exceed 10 percent of those originally approved.

(iv) None of the above-stated circumstances apply to the intergovernmental transfer (IGT) of owned or leased equipment. All IGT of equipment must be approved by OIS prior to acquisition.

(2) ADP equipment maintenance (for definition see FPMR 101–32.402–3).

(i) The services are available from a Federal supply schedule contract under the terms of the contract; or

(ii) The procurement does not exceed $25,000 annually.

(3) ADP Software (for definition see FPMR 101–32.402–2).

(i) The procurement will occur by placing a purchase/delivery order against an applicable Federal supply contract under the terms of the contract; or

(ii) The total procurement for the specific software package does not exceed $7,500 annual lease cost, excluding maintenance, or $10,000 purchase cost.

(4) ADP services obtained from other than Federal agencies (for definition of service see 5 AR 865).

(i) The cost of the ADP services involved does not exceed $25,000.

(5) ADP supplies (for definition see FPMR 101–32.402–4).

(i) The cost of the supplies does not exceed $2,500; or

(ii) The procurement will be made under a specific purchase program established by GSA. These programs include electronic data processing (EDP) tapes, tabulating machine cards, and marginally punched continuous forms. Instructions for acquisition of these supplies are set forth in FPMR 101–26.508, 101–26.509, and 101–26.604, respectively.

(b) All procurements which are not within the authorities set forth in paragraph (a) of this section must be submitted to the Director of Information Systems. The Office of Information Systems will either conduct the procurement or delegate the agency authority to conduct the procurement.

(c) Agencies shall report all ADP services or products acquired within the authorities delegated under paragraphs (a) and (b) of this section. Form AD–566 (2/72), Contracts for ADP Services or Products, shall be completed and submitted to the Office of Information Systems upon the execution of an applicable contract or purchase order. Form AD–566 is available from Central Supply Section, Service Operations Division, Office of Plant and Operations.

(d) Any agreement entered into by any agency, service, or staff office of the U.S. Department of Agriculture with other Government Departments, Agencies, Corporations, or other independent entities or organizations of the Federal Government, State or local governments as well as nonprofit corporations, universities, and other organizations for Automatic Data Processing services, equipment, training, facilities, or other ADP resources or materials directly or indirectly (as a part of an agreement whose primary purpose is other than Automatic Data Processing) must have the written approval of Director of Information Systems of the U.S. Department of Agriculture.

This notice is effective upon publication in the FEDERAL REGISTER (10–25–72).

Done at Washington, D.C., this 18th day of October 1972.

FRANK B. ELLIOTT,
Assistant Secretary for Administration.

[FR Doc.72-18122 Filed 10-24-72;8:46 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101–26.4—Purchase of Items From Federal Supply Schedule Contracts

PURCHASE OF ITEMS FROM MULTIPLE-AWARD SCHEDULES

This amendment exempts purchases not exceeding $250 per line item from the requirement that agencies justify purchases at other than the lowest price available under multiple-award schedules.

Section 101–26.408–2 is revised to read as follows:

§ 101–26.408–2 Procurement at lowest price.

Each purchase of more than $250 per line item made from a multiple-award Schedule by agencies required to use such Schedules shall be made at the lowest delivered price available under the Schedule unless the agency fully justifies the purchase of a higher priced item. Purchases that cost $250 or less per line item should also be made at the lowest delivered price under the Schedule; however, justification for the purchase of higher priced items is not required. Agencies using schedules but which are not required to use such schedules are apprised of the advisability of fully justifying purchases costing more than $250 per line item when such items are not the lowest priced available on the Schedule.

(Sec. 205(c); 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (10–25–72).

Dated: October 17, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-18143 Filed 10-24-72;8:47 am]

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101–35—TELECOMMUNICATIONS

Access to FTS Intercity Voice Network and Use of Agency Identification Symbols

This regulation prescribes the information required by GSA to evaluate agency requests for the provision of Federal Telecommunications System (FTS) intercity telephone service to new locations and specifies the conditions under which such service will be provided. It also codifies the existing requirement for the use of agency identification symbols in placing long-distance calls to and from commercial telephones over the FTS intercity voice network.

The table of contents for Part 101–35 is amended to provide the following new and revised entries:

Sec.

101–35.204	Request for FTS intercity voice network service.
101–35.204–1	General.
101–35.204–2	Information required from agencies.
101–35.205	Agency notification of cost.
101–35.206	[Reserved]
101–35.207	[Reserved]
101–35.208	[Reserved]
101–35.209	[Reserved]
101–35.210	Submission of information.
101–35.309	FTS intercity voice network agency identification symbols.
101–35.309–1	General.
101–35.309–2	Agency responsibility.

Subpart 101–35.2—Major Changes and New Installations

Section 101–35.204 is revised and §§ 101–35.205 through 101–35.210 are added as follows:

§ 101–35.204 Request for FTS intercity voice network service.

§ 101–35.204–1 General.

Intercity telephone service is provided to agencies by GSA through the intercity voice network of the Federal Telecommunications System (FTS). Each subscriber agency is informed in advance of the charges that will be allocated to it for normal FTS intercity telephone service for the ensuing fiscal year. During the course of the fiscal year new locations may be provided access to the network as a result of an agency request. Prior to providing service GSA will make an analysis to determine the method of access and required facilities and evaluate the economic feasibility to the Government. Requests for intercity network service will be considered in relation to current and future requirements for local telephone service. Whenever possible GSA will endeavor to provide both local and intercity telephone service under a single coordinated service arrangement.

§ 101–35.204–2 Information required from agencies.

Requests for FTS intercity voice network service shall include the following information:

(a) Street address or building number where access to the network is required;

(b) Name, address, and telephone number of an agency contact for installation coordination;

(c) Toll bills for three recent consecutive months (If the request is for a new location or is based on an anticipated traffic increase, an estimate of the daily number of intercity calls by destination should be submitted.);

(d) The number and length of calls placed over private line services; e.g., FX, WATS, and private line networks;

(e) Seasonal traffic variations, if any;

(f) A description of present service arrangements, including the number and cost of business lines and extensions, or if for a PBX, the number and cost of main and extension stations, type of equipment, type and quantity of attendant positions, number of central office trunks, FX, WATS, and tielines; and

(g) If a change in present service is contemplated, a description of the proposed service arrangement is required in addition to the information requested in (f), above. This description must include the proposed number and cost of main and extension stations, number and type of attendant positions, quantity of central office trunks or business lines, FX, WATS, and tielines.

§ 101–35.205 Agency notification of cost.

GSA will approve or disapprove the request as promptly as possible and will inform the agency of it determination. For those locations where intercity telephone service is approved, agencies shall assume any additional cost of providing the service beyond that previously provided for the remainder of the current fiscal year and the ensuing fiscal year. For those locations where FTS service is disapproved as not economically feasible on the basis of the information submitted, the agency may formally request that the location be provided service as an essential operational necessity. In such instances all facility cost associated with the installation shall be borne by the requesting agency for the current and subsequent years.

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§§ 101-35.206—101-35.209 [Reserved]

§ 101-35.210 Submission of information.

Requests for changes and the required justifications submitted in accordance with this Subpart 101-35.2 shall be addressed to the General Services Administration (CP), Washington, D.C. 20405.

Subpart 101-35.3—Utilization and Ordering of Telecommunications Services

Subpart 101-35.3 is amended by the addition of a new § 101-35.309 as follows:

§ 101-35.309 FTS intercity voice network identification symbols.

§ 101-35.309-1 General.

Each Federal agency authorized to use the network will be assigned FTS identification symbols by the Automated Data and Telecommunications Service in the GSA Central Office or appropriate regional office. Use of FTS identification symbols enables GSA to obtain traffic information, allows FTS operators to efficiently control network usage, and insures completion of official long-distance telephone calls with minimum delay. At the beginning of each fiscal year GSA will revise these symbols to assist agencies in insuring that only authorized personnel are in possession of them. GSA also will cancel and revise specific agency symbols at other times upon request to avoid possible misuse. No calls to or from commercial telephones will be accepted unless the caller furnishes his name, proper FTS identification symbols, and 10-digit telephone number to the FTS operator. GSA may revise the symbols during the year.

§ 101-35.309-2 Agency responsibility.

(a) Each Federal agency shall determine which of its personnel and personnel of non-Federal activities performing official functions in connection with an agency program are authorized to place long-distance telephone calls.

(b) Each agency shall inform the General Services Administration (CP), Washington, D.C. 20405, of those non-Federal activities authorized to use FTS intercity voice network prior to any assignment of identification symbols.

(c) Each agency shall issue internal instructions requiring authorized callers (including non-Federal personnel) to tell the FTS operator their last name, their identification symbol, and the 10-digit telephone number being called when placing calls. Such instructions should be distributed only to those persons authorized to place long-distance calls. Restricted issuance is essential since use of this symbol is considered certification that such calls are official.

(Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486 (c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (10-25-72).

Dated: October 16, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-18144 Filed 10-24-72;8:47 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5323, 34-9824]

PART 231—INTERPRETATIVE RELEASE RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASE RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Short-Selling Practices

The Commission's staff today made known its concern that certain trading practices surrounding registered offerings of securities in which there is an existing trading market may be in violation of the Federal securities laws, including the antifraud and antimanipulative provisions of the Securities Exchange Act of 1934 and the antifraud and registration provisions of the Securities Act of 1933. The staff believes that it is appropriate to comment on such activity. Although the following fact patterns are by no means exclusive, they are examples of the kinds of practices which may be violative of the Federal securities laws.

It has come to the attention of the staff that, prior to the effective date of a registered offering of securities, certain investors sell short the securities that are the subject of the registered offering and cover their short positions on the effective date of the offering or shortly thereafter with securities obtained in the offering or in the open market. In a number of instances involving registered offerings, it appears that such short selling prior to the offering date has had a substantial adverse impact on the market price of the securities and in some instances has caused the offerings to be postponed temporarily, to be abandoned completely, or to be made at prices lower than originally intended—prices which do not reflect the market value of the securities, undistorted by artificial factors. It is apparent that such a practice is disruptive of fair and orderly markets in such securities.

It has also been brought to the staff's attention that underwriters employ certain distribution techniques (particularly in firm commitment underwritings) [1] when they are confronted with a "sticky" or "cold" issue.[2] It appears that certain investors and broker-dealers have been utilized by underwriters and have acted in concert with the underwriters in an undisclosed manner in an effort to facilitate the distribution. Such investors and broker-dealers, desiring to participate in so-called "hot" issue offerings, agree to accommodate the underwriters and therefore participate in the so-called "cold" issue. Such persons reportedly then attempt to protect themselves against losses by selling the securities short prior to the distribution, intending to cover their short position with the securities being offered. It is the opinion of the staff that the above described activities involve possible violations of the antifraud and antimanipulative provisions of the Federal securities laws, specifically sections 9(a)(2) (or 15(c)(1)) and 10(b) of the Securities Exchange Act and Rule 10b-5 (17 CFR 240.10b-5) thereunder, section 17(a) of the Securities Act and the registration and prospectus delivery requirements of section 5 of the Securities Act.

Frequently, the short selling which occurs prior to the effective date of the offering is done with the intent of depressing the market price of the security so that the short position can be covered at a lower price. Such activity would be violative of sections 9(a)(2) (or 15(c)(1)) and 10(b) of the Exchange Act. The antimanipulative rules are designed to assure investors of a free and open market in which prices are fairly determined by supply and demand, unencumbered by artificial forces.

In addition, when investors and broker-dealers agree to purchase securities from an underwriter in order to facilitate a difficult offering under circumstances where such investors have previously sold the security short, such activity operates as a fraud and deceit in connection with the purchase and sale of such security. Such activity also raises questions as to whether there has been appropriate and adequate disclosure of the method and terms of the distribution and whether there has been full disclosure of the identity of all persons who may be acting in the capacity of an underwriter by their participation in the distribution.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

OCTOBER 16, 1972.

[FR Doc.72-18134 Filed 10-24-72;8:47 am]

[1] A firm commitment underwriting arises when an underwriter purchases offered securities for its own account at a discount from the offering price from an issuer or other seller and attempts to resell them to the public at the offering price. This is to be distinguished from a best efforts underwriting in which the underwriter acts as agent for the seller and is compensated by a commission on each sale.

[2] A "cold" issue is one which the underwriter is having difficulty selling to the public.

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER E—FOREST MANAGEMENT (5000)

[Circular No. 2336]

PART 5400—SALES OF FOREST PRODUCTS; GENERAL

PART 5490—ACTS SPECIFIC TO ALASKA

Sale of Timber on Public Lands

On page 14725 of the FEDERAL REGISTER of July 22, 1972, there was published a notice and text of a proposed amendment to Parts 5400 and 5490 of Title 43, Code of Federal Regulations. The purpose of the amendment is to eliminate those regulations contained in Subpart 5490 which relate only to sales in Alaska and to provide for such sales under Subpart 5400. This will establish uniform policy and procedures for the sale of timber on all public lands.

Interested parties were given until August 25, 1972, within which to submit comments, suggestions, or objections to the proposed amendment. No comments were received.

The proposed amendment is hereby adopted, with editorial changes to conform to the basic structure used in the Code of Federal Regulations, and is set forth below. This amendment shall become effective November 17, 1972.

HARRISON LOESCH,
Assistant Secretary of the Interior.

OCTOBER 17, 1972.

Part 5400 of Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

1. Section 5400.0-3 is revised to read as follows:

§ 5400.0-3 Authority.

(a) The Act of August 28, 1937 (43 U.S.C. 1181a) authorizes the sale of timber from the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands and directs that such lands shall be managed for permanent forest production and the timber thereon sold, cut and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating streamflow and contributing to the economic stability of local communities and industries, and providing recreational facilities.

(b) The Act of July 31, 1947, as amended (30 U.S.C. 601 et seq.) authorizes the disposal of timber and other vegetative resources on public lands of the United States including lands embraced within an unpatented mining claim located after July 23, 1955, if the disposal of such resources is not otherwise expressly authorized by law including, but not limited to, the Act of June 28, 1934, as amended (43 U.S.C. 315-315o-1) and the U.S. mining laws; is not expressly prohibited by laws of the United States; and would not be detrimental to the public interest.

(1) The act also authorizes the United States, its permittees, and licensees to use so much of the surface of any unpatented mining claim located under the mining law of the United States after July 23, 1955, as may be necessary for access to adjacent land for the purposes of such permittees or licensees. Any authorized use of the surface of any such mining claim shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

(2) Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under the regulations in this subpart only with the consent of such other Federal department or agency or of such State, or local governmental unit. The act provides, however, that the Secretary of Agriculture shall dispose of materials if such materials are on lands administered by the Secretary of Agriculture for national forest purposes or for purposes of Title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

(3) The provisions of the act in disposal of vegetative or mineral materials do not apply to lands in any national park, or national monument or to any Indian lands or lands set aside or held for the use or benefit of Indians including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.

(c) The Act of April 12, 1926, as amended (16 U.S.C. 617), limits the amount of unprocessed timber which may be sold for export from the United States from Federal lands located west of the 100th meridian to not more than 350 million board feet for each calendar year 1969 through 1973 inclusive. The act also provides that specific quantities and species of unprocessed timber surplus to the needs of domestic users may be designated as available for export in addition to the quantity stated above after public hearing and a finding to this effect by the appropriate Secretary of the Department administering Federal lands. Authority to issue rules and regulations to carry out the purpose of the act including the prevention of substitution of timber restricted from export for exported non-Federal timber is contained in section 2(c) of the act as amended. Authority to issue rules and regulations providing for the exclusion of the limitations imposed by the act for sales having an appraised value of less than $2,000 is contained in section 2(d) of the act as amended.

(1) The Secretary of the Interior and the Secretary of Agriculture shall determine annually the distribution among the Federal lands of the 350 million board feet of unprocessed timber which may be sold for export from Federal lands west of the 100th meridian.

(2) The rules and regulations issued to carry out the purposes of this act do not apply to Federal timber sold prior to January 1, 1969.

(3) The Director shall coordinate actions by other departmental agencies which are subject to this paragraph.

(d) Authority for small sales of timber for use in Alaska is contained in the Act of May 14, 1898, as amended (16 U.S.C. 615a).

2. Part 5490 is deleted in its entirety.

[FR Doc.72-18102 Filed 10-24-72;8:45 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35613]

PART 1300—FREIGHT SCHEDULES; RAILROADS

PART 1303—PASSENGER SERVICE SCHEDULES; RAIL AND WATER CARRIERS

PART 1304—EXPRESS COMPANIES SCHEDULES AND CLASSIFICATIONS

PART 1306—PASSENGER AND EXPRESS TARIFFS AND SCHEDULES OF MOTOR CARRIERS

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

PART 1308—FREIGHT TARIFFS AND SCHEDULES OF WATER CARRIERS

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

Transmission of Tariffs and Schedules to Subscribers and Other Interested Parties; Stay of Order

OCTOBER 17, 1972.

In regard order of August 28, 1972. The outstanding order in the above-entitled proceeding not yet having become effective, and appropriate petitions for reconsideration of such order having been timely filed, such order is, pursuant to section 17(8) of the Interstate Commerce Act, stayed pending disposition of the petitions. (See pages 18550-18555 of FEDERAL REGISTER dated September 13, 1972, Volume 37, No. 178.)

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18244 Filed 10-24-72;8:49 am]

V37-206 OCT 25 72 XUM

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service
Rural Electrification Administration
[7 CFR Part 909]

GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Limitation of Handling, Expenses and Rate of Assessment and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Administrative Committee, established under marketing Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) Expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1972, through August 31, 1973, will amount to $37,875.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 909.41, be fixed at three-fourths of a cent ($0.0075) per carton, or equivalent quantity of grapefruit; and

(3) That unexpended assessment funds, in excess of expenses incurred during such period, shall be carried over as a reserve in accordance with the applicable provisions of § 909.42.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 19, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18154 Filed 10-24-72;8:45 am]

Rural Electrification Administration
[7 CFR Part 1701]

SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Proposed New REA Specification for Filled Telephone Cables

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to issue REA Bulletin 345–67 to announce a new REA Specification PE–39 for filled telephone cables. On issuance of REA Bulletin 345–67, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the new specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the proposed new REA Specification PE–39 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345–67 announcing the issuance of the proposed new specification is as follows:

REA BULLETIN 345–67

SUBJECT: REA SPECIFICATION FOR FILLED TELEPHONE CABLES

I. *Purpose:* To announce a new REA Specification PE–39 for filled telephone cables.

II. *General:* This specification covers requirements for filled telephone cables intended for direct burial, aerial, and duct applications.

This specification becomes effective May 1, 1973. All filled cable furnished for REA projects bid or on orders placed by REA borrowers after that date shall comply in all respects with the new REA Specification PE–39. This does not preclude the adoption of the revised specification by manufacturers prior to the effective date.

III. *Availability of Specification:* Copies of the new PE–39 will be furnished by REA upon request.

Dated: October 18, 1972.

E. F. RENSHAW,
Assistant Administrator—Telephone.

[FR Doc.72-18155 Filed 10-24-72;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration
[14 CFR Part 91]
[Docket No. 12326; Notice 72-28]

LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES

Charges for Certain Operations

The Federal Aviation Administration is considering amending Subpart D of Part 91 of the Federal Aviation Regulations to clarify and more specifically prescribe those items that may be charged under § 91.181.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue S.W., Washington, DC 20591. All communications received on or before November 26, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket, for examination by interested persons.

Subpart D, Large and Turbine-Powered Multiengine Airplanes, of Part 91 was adopted July 17, 1972 (37 F.R. 14758), and will become effective October 23, 1972, except for §§ 91.213, 91.217, and 91.219, which become effective January 22, 1973. Section 91.181, Applicability, provides, in part, that operations that may be conducted under the rules in Subpart D of Part 91 instead of those in Parts 121, 123, 129, 135, and 137, when common carriage is not involved, include certain operations for which a charge may be made to recover expenses incurred in operating a flight. It was not intended that those operations be conducted for the purpose of making a profit. In issuing the rule, the FAA believed that it was accomplishing this intent by expressly providing therein that no charge may be made in excess of the "normal operating expenses for the flight, including fuel, oil, hangar and landing fees, and salary of the flight crew." However, since the publication of the final rule, the FAA has received many inquiries as to whether certain expense items constitute normal operating expenses within the meaning of the regulation, and how or whether certain yearly or periodic expenses, such as flight crew salaries, maintenance reserves and costs, insurance, and depreciation, could be charged as an expense of a particular flight on a pro rata basis. In this connection both the National Business Aircraft Association (NBAA) and the National Air Transportation Conferences, Inc. (NATC), have advised the FAA that it appears that certain changes in the rule are necessary to clarify what expenses were intended for the flights specified in § 91.181.

After further study of § 91.181 in the light of the inquiries received, the FAA believes that the term "normal operating expenses," as used in those provisions, is so broad as to allow significant abuse of the intent of the rule. It appears that

included in that term, and that this may induce certain persons to conduct operations without an appropriate operating certificate in the hope of concealing a profit under the guise of normal operating expenses.

In order to meet this problem and to more closely conform the rule to the original intent, it is proposed to make the following changes in § 91.181.

1. The term "normal operating expenses" would be deleted wherever it appears.

2. A new paragraph (d) would be added at the end of § 91.181 to list those expenses of a specific flight that may be charged in the operations described in paragraphs (b)(3) and (7) of that section.

3. Paragraph (b)(4) would provide that no charge, assessment, or fee may be made for flights conducted by the operator of an airplane for his personal transportation or the transportation of his guests. The provision in the current rule that allows a charge for the transportation of guests was a change from the notice of proposed rule making that was inadvertently added during the drafting of the rule. The FAA did not intend to change its policy that such "share-the-cost" transportation requires an air travel club operating certificate under Part 123.

4. Paragraphs (b)(5) and (c)(2) would state that for the operations specified in those paragraphs no charge may be made in excess of the cost of owning, operating, and maintaining the airplane. The FAA does not believe that there would be a profit motive in connection with dealings within a corporate family or among parties to an interchange agreement.

5. Paragraph (b)(5) would also be changed to make it clear that a "company" includes a parent or subsidiary of that company and that no charge may be made for the carriage of guests unless it is incidental to the business of the company (other than transportation by air). In addition, the carriage of property would be allowed since the FAA believes that the same rational permitting the carriage of officials, employees, and guests of the company applies to its own property.

6. The phrase "by air" would be added after the phrase "other than transportation" wherever it appears in paragraph (b) to make it clear that the operations specified may be conducted in furtherance of a transportation business that does not involve transportation by air.

7. Paragraph (c)(1) would specify that only those expenses of a specific flight listed in new paragraph (d) may be charged under a time-sharing agreement.

8. Paragraph (c)(3) would put no restriction on the charges that may be made among parties to a joint ownership agreement, other than to provide that they must be specified in the agreement. Here also it appears that there would be no profit motive in connection with those operations.

The list of expense items in proposed § 91.181(d) is limited to expenses that are incurred as a direct result of a flight, i.e., expenses that would not have been incurred if the flight had not been made. There may be other expenses in addition to those listed that should be specifically included, such as the cost of hiring additional crewmembers because of flight time limitations and unscheduled maintenance costs that are incurred during the flight. In addition, certain expenses could be attributable to a flight although they are not incurred as a direct result of the flight in that they are incurred irrespective of whether or not a particular flight is conducted. Among such expenses are: (1) Salaries of flight crews employed by the aircraft operator, (2) aircraft depreciation, (3) insurance premiums (hull and liability), (4) crew training costs, and (5) maintenance costs. It may be that an allowance of some part of these expenses would not result in a profit and should be permitted under the regulations involved. With respect to flight crew salaries, inquiries have been received concerning what flight crew salaries may be charged, what is included in those salaries, and how the amount of the charge for a particular flight is to be determined. For example, should expenses for crewmember services employed by the operator be determined by computing a pro rata share of the yearly salaries of the company's flight crews, or by using the actual flight pay rate for each crewmember for the particular flight. Similar questions have been raised concerning depreciation, maintenance reserves and costs, insurance, and other expenses which might be attributed to a particular flight. The FAA invites specific comments in these areas.

It is clear from the inquiries the FAA has received that except for the items specified in proposed § 91.181(d), determining the amount that may be charged within the intent of the rule is a difficult problem, since it appears that the method used by an operator to compute flight crew salaries, maintenance, depreciation, and other expenses not set forth in proposed § 91.181(d) could result in a profit for the operator. In order to allow for the resolution of this and other problems discussed in this notice, the proposed paragraph (d) provides that other expenses of the flight that are authorized by the Administrator may be charged. Although this is intended to avoid specificity with regard to the computation of expenses such as flight crew salaries, maintenance, and depreciation, interested persons are urged to come forth with their specific recommendations as to formulae for these expenses that they believe will meet the intent of the rule.

Recognizing the difficulty of determining the amount of flight crew salary, maintenance expenses, and depreciation that should be charged for a specific flight, it has been suggested that a charge equal to 100 percent of the cost of the fuel for the flight be allowed instead of a specific computation of those expenses. Based on information available to the FAA it appears that this suggestion may be a reasonable method of approximating those expenses, and provide the additional benefit of relieving the FAA of the administrative burden of verifying in detail the various methods used by operators to compute those expenses, in order to insure that a profit is not being made. Comments are specifically invited on this suggestion.

In consideration of the foregoing, it is proposed to amend § 91.181 of Part 91 of the Federal Aviation Regulations as follows:

1. By amending subparagraphs (3) through (5), and subparagraph (7) of paragraph (b) to read as set forth below.

2. By adding the phrase "by air" after the word "transportation" in paragraph (b)(9).

3. By amending paragraph (c) of § 91.181 to read as set forth below.

4. By adding a new paragraph (d) to § 91.181 to read as set forth below.

§ 91.181 Applicability.

* * * * *

(b) * * *

(3) Flights for the demonstration of an airplane to prospective customers when no charge is made except for those specified in paragraph (d) of this section;

(4) Flights conducted by the operator of an airplane for his personal transportation, or the transportation of his guests when no charge, assessment, or fee is made for the transportation;

(5) The carriage of officials, employees, guests, and property of a company on an airplane operated by that company, or the parent or a subsidiary of that company or a subsidiary of the parent, when the carriage is within the scope of, and incidental to, the business of the company (other than transportation by air) and no charge, assessment, or fee is made for the carriage in excess of the cost of owning, operating, and maintaining the airplane, except that no charge of any kind may be made for the carriage of a guest of a company, when the carriage is not within the scope of, and incidental to, the business of that company.

* * * * *

(7) The carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business or employment (other than transportation by air) when the carriage is within the scope of, and incidental to, that business or employment and no charge, assessment, or fee is made for the carriage other than those specified in paragraph (d) of this section;

* * * * *

(c) As used in this section:

(1) A "time sharing agreement" means an arrangement whereby a person leases his airplane with flight crew to another person, and no charge is made for the flights conducted under that arrangement other than those specified in paragraph (d) of this section;

(2) An "interchange agreement" means an arrangement whereby a person leases his airplane to another per-

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son in exchange for equal time, when needed, on the other person's airplane, except that a charge may be made not to exceed the difference between the cost of owning, operating, and maintaining the two airplanes;

(3) A "joint ownership agreement" means an arrangement whereby one of the joint owners of an airplane employs and furnishes the flight crew for that airplane and each of the joint owners pays a share of the charges specified in the agreement.

(d) The following expenses of a specific flight may be charged for transportation as authorized by paragraphs (b) (3) and (7) and (c) (1) of this section:

(1) Fuel, oil, lubricants, and other additives.

(2) Travel expenses of the crew, including food, lodging, and ground transportation.

(3) Hangar and tie-down costs away from the aircraft's base of operations.

(4) Insurance obtained for the specific flight.

(5) Landing fees, airport taxes, and similar assessments.

(6) Customs, foreign permit, and similar fees directly related to the flight.

(7) In flight food and beverages.

(8) Passenger ground transportation.

(9) Flight planning and weather contract services.

(10) Any other expense of the flight that is authorized by the Administrator.

These amendments are proposed under sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 20, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-18276 Filed 10-24-72;8:49 am]

National Highway Traffic Safety Administration

[49 CFR Parts 567, 568]

[Docket No. 72-27; Notice 1]

CERTIFICATION OF ALTERED VEHICLES

Proposed Labeling Requirements

The purpose of this notice is to propose amendments to the regulations on Certification and Vehicles Manufactured in Two or More Stages (49 CFR Parts 567, 568) that will specify labeling requirements for persons who alter completed, certified vehicles.

The regulations do not presently specify labeling procedures for persons (other than distributors) who alter vehicles that have been certified, but have not been sold to a purchaser for a purpose other than resale. This practice is becoming increasingly popular, occurring primarily in the manufacture of trucks and recreational vehicles. The NHTSA believes these persons should be subject to labeling requirements, as the alterations are part of the manufacturing process, and under the National Traffic and Motor Vehicle Safety Act the vehicle must still conform when the alterations are completed. A person who alters a vehicle may destroy its conformity to the motor vehicle safety standards, and otherwise affect its general performance capability.

The NHTSA has taken the position that a person who alters a certified vehicle in a manner that significantly affects either the vehicle's configuration or purpose is a "manufacturer" under the Act. He is therefore required to independently certify the vehicle as of the date he completes its alteration. The person performing the alteration has been allowed to base his certification, at least with respect to those areas not affected by his alteration, on that of the previous manufacturer.

The NHTSA has tentatively decided to modify this approach because it tends to discriminate against persons making alterations when compared to persons completing incomplete vehicles (final-stage manufacturers). While the manufacturing operations of each are similar, under the present regulations persons completing previously incomplete vehicles may choose any date between the dates of manufacture of the incomplete and complete vehicle in ascertaining conformity to applicable standards, while persons altering vehicles that have already been completed must use the date on which the altered vehicle is newly completed. This distinction may be of crucial importance, for if a standard becomes effective between the date on which the original vehicle is completed, and the date of completion of the altered vehicle, the altered vehicle may no longer conform.

The amendment proposed by this notice would, in effect, place final-stage manufacturers and alterers of completed vehicles on the same basis. It would require persons altering completed vehicles to certify by affixing a new additional label, containing the name of the person performing the alteration, any changes in the vehicle's weight ratings from those provided in the original certification, and the type classification of the vehicle under the safety standards, if that classification differs from that of the original vehicle. The alterer, similar to present final-stage manufacturers, would, in ascertaining conformity, choose a date between the date of manufacture of the original vehicle and the date on which the altered vehicle is completed. "Persons who alter completed vehicles," the category of persons who must affix the label, would include all persons who add, substitute, or remove any component, except those that are readily attachable. It would not include persons whose alterations concern only readily attachable components or who perform minor finishing operations. The criteria are the same as those presently used to identify final-stage manufacturers from other persons who work on incomplete vehicles.

Section 567.6 relates to the statutory requirements (section 114) for certification by distributors. The present regulation states that a distributor who does not alter a vehicle so as to "affect compliance with applicable standards" may fulfill his responsibility by allowing the manufacturer's certification to remain affixed to the vehicle. In the proposed version, this provision would be substantially retained, except that the category of nonalteration would be described as not altering the vehicle "other than by addition, substitution, or removal of readily attachable components * * * or minor finishing operations." Distributors who otherwise alter a vehicle would be treated as "persons who alter," under the requirements of § 567.7.

In light of the above, it is proposed that 49 CFR Part 567, "Certification," and 49 CFR Part 568, "Vehicles Manufactured in Two or More Stages," be amended as follows:

1. Section 567.6 would be amended, and a new § 567.7 would be added, to read:

§ 567.6 Requirements for distributors of motor vehicles.

A distributor of a motor vehicle who does not alter the vehicle other than by addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, shall satisfy the certification requirements of the Act by allowing a manufacturer's label that conforms to the requirements of this part to remain affixed to the vehicle.

§ 567.7 Requirements for persons who alter completed vehicles.

A person who alters a vehicle that has previously been certified in accordance with § 567.4 or § 567.5, other than by addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, before the first purchase of the vehicle in good faith for purposes other than resale, shall allow the original certification label to remain on the vehicle, and shall affix to the vehicle an additional label, of the type and in the manner and form described in § 567.4, containing the following information:

(a) The statement: "This vehicle was altered by (individual or corporate name) in (month and year in which alterations were completed) and as altered it conforms to all applicable Federal Motor Vehicle Safety Standards in effect in (month, year)." The second date shall be no earlier than the manufacturing date of the original vehicle, and no later than the date alterations were completed.

(b) If the gross vehicle weight rating or any of the gross axle weight ratings of the vehicle as altered are different from those shown on the original certification label, the modified values shall be provided in the form specified in § 567.4(g) (3) and (4).

(c) If the vehicle as altered has a different type classification from that shown on the original certification labal, the type as modified shall be provided.

2. A new § 568.8 would be added to read:

§ 568.8 Requirements for persons who alter completed vehicles.

A person who alters a vehicle that has been previously certified in accordance with § 567.4 or § 567.5, other than by addition, substitution, or removal of readily attachable components such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, before the first purchase of the vehicle in good faith for purposes other than resale, shall ascertain that the vehicle as altered conforms to the standards in effect on the original date of manufacture of the vehicle, the date of final completion, or a date between those two dates. That person shall certify that the vehicle conforms to all applicable standards in accordance with § 567.7 of this chapter.

Interested persons are invited to submit comments on the proposed requirements. Comments should identify the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on December 11, 1972, will be considered and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: July 1, 1973.

(Secs. 103, 112, 114, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority 49 CFR 1.51, 49 CFR 501.8)

Issued on October 17, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-18104 Filed 10-24-72;8:45 am]

[49 CFR Part 571]

[Docket No. 69-19; Notice 3]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Proposed Motor Vehicle Safety Standard

The purpose of this notice is to propose an amendment of 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps Reflective Devices, and Associated Equipment*, that would, among other things, establish new requirements for motor vehicle headlighting systems, require separation of stop lamps from other rear lamps and installation of side turn signal lamps, and provide that lighting equipment conform to requirements rather than be "designed to conform."

Docket No. 69-19 was established by an advance notice of proposed rule making published on December 31, 1969 (34 F.R. 20436). Comments were requested in four general areas of motor vehicle lighting systems and equipment: Rear lighting and signaling systems, forward illumination systems, lamp bulbs and lamp assemblies, and marking and identification of lighting equipment. The proposals in this notice do not cover all aspects of lighting performance outlined in the advance notice; for example, the requirements for marking and identification of lighting equipment have been proposed under a separate rule making action (Docket No. 69-19; Notice 2, 37 F.R. 17493). Proposals on dual intensity signals, more restrictive light intensities, effect of voltage changes on light intensity, deceleration coding signals, lamp failure indicators, automatic beam aiming, and certain other items referenced in Notice 1 have been deferred pending further study, to a future rule making action. However, in the judgment of the NHTSA the proposals published in this notice represent the most significant upgrading of the vehicle lighting requirements that can be achieved by the proposed effective dates of September 1, 1974 or September 1, 1977, as specified herein.

I. *Signaling and rear lighting systems.* With a view toward separation of various signaling functions to provide clear and unambiguous signals, the advance notice requested comments on separation of lamp function, including interlamp spacing and location with recommended tolerances for each. Comments from interested persons and the results of research conducted for this agency suggested that to improve detection of signal function, stoplamps on or after September 1, 1977, should be physically separated from turn signal or taillamps (S9.1(b)). For the same reason stoplamps and rear turn signal lamps on or after September 1, 1977, should be at least 5 inches apart, measured from the edge of the illuminated surface of one lamp to the other, and stoplamps should not be mounted outboard of and lower than taillamps and turn signal lamps (S8.10).

Available information also indicates that to provide a more consistent distance estimation cue and to improve the detectability and proper interpretation of signals, the optical centers of taillamps, parking lamps, turn signal lamps, and rear reflex reflectors should be "as close to the edge of the vehicle as practicable" with a minimum lateral spacing distance of 48 inches proposed for September 1, 1977 (S8.2).

In response to the request for comments on color coding, substantial opposition was raised to changing the color of rear lamps because of lack of research on this issue under actual operating conditions. There was general agreement, however, that a single color should be required for rear turn signal lamps. Recommendations were generally divided between domestic vehicle manufacturers who prefer red and those of imported vehicles who prefer yellow (amber). Currently Standard No. 108 permits either. The Administration proposes that only one color be permitted and that this color be red. Comments are also requested on the desirability of requiring yellow only for rear turn signals on motorcycles, if red were adopted for all other motor vehicles.

The requirement of a single color for a single type of lamp would be extended to parking lamps, currently permitted to be either yellow or white. Beginning with the 1963 model year, the parking lamps on most vehicles manufactured in the United States have been yellow, which on a combined parking and turn signal lamp has the safety advantage of providing better conspicuity when its light is contrasted with that emitted by a white headlamp. Accordingly it is proposed that yellow be the sole color for parking lamps.

The adoption of standardized color coordinates for white, red, yellow, green, and blue, and adoption of the international term "yellow" in lieu of "amber" are also proposed (S7.5).

II. *Forward illumination systems.* The advance notice called for comments as to how forward illumination systems might be improved, with specific emphasis on headlamps, photometrics, beam pattern distribution and beam selection control. Many comments concerning photometrics, size, shape, and number of forward lighting devices were received. While there was no unanimity on the point, research conducted for this agency and a number of comments indicate that a three-beam, four-headlamp system is for many cars the best system available for the period under consideration. Such a system is proposed as an option for all motor vehicles equipped with headlamps, except motorcycles. In addition to high and low beams, the proposed forward lighting system would incorporate a middle beam to provide effective illumination on rural and di-

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vided highways. The middle beam would be provided by a single-filament headlamp located to the left of the vehicle centerline, as viewed from the driver's seat. The high beam would be provided by a single-filament headlamp located to the right of the vehicle centerline, while two outboard dual-filament lamps would provide the low beam and part of the high beam. Photometrics for the low beam would be slightly increased over current values, while the middle beam would provide illumination almost equal to the current high beam, with much less glare. The high beam would allow total vehicle photometric values more than twice those of current systems. The improved forward visibility provided by this increased illumination should substantially reduce the safety hazard resulting from speeds that overdrive headlamp ability.

In addition to the three-beam, four-headlamp system, a three-beam, two-lamp system would be allowed, in which the left lamp produces a low or mid beam and the right lamp produces a low or high beam. Finally, an improved two-beam, two-lamp headlamp system would be permitted.

One of the three headlamp options described above would be required on each vehicle manufactured on or after September 1, 1977 (S6.1(a)). Between September 1, 1974 and September 1, 1977, motor vehicle manufacturers could choose from five permissible systems, the three headlamp options described above, and the two systems currently specified by Standard No. 108.

The three-beam headlamp system concept has undergone research to determine the safety improvements that may be obtainable from it, and several actual systems have been tested and evaluated. Each of these systems has certain advantages and disadvantages, and none is clearly superior in its safety benefits. The three-beam proposals of this notice, particularly with respect to the photometric requirements, represent a combination of the more beneficial features of the systems tested or otherwise investigated. The proposed photometrics are based upon analysis of safety problems and data derived from tests.

Specific comments are requested on the production costs associated with the proposed headlamp systems, the adequacy of the third-beam concept, photometric requirements, methods of switching, and system and vehicle tooling costs.

Present information indicates that headlighting for motorcycles is inadequate. Five different motorcycle headlamp systems are proposed, effective September 1, 1974, using one or two headlamps (S6.1(b)). On or after September 1, 1977, the options would be reduced to three systems.

The proposal incorporates some suggested requirements to facilitate mechanical aiming (S6.7, S6.8) that were submitted as comments on physical stability and corrosion resistance of the headlamp housing.

To provide for more meaningful visual cues and mechanical aiming capability, a minimum edge-to-edge distance of 24 inches between high- and middle-beam lamps, and 43 inches between low-beam lamps is proposed, effective September 1, 1977. Low-beam headlamps would be mounted at the same height. This height would be equal to or greater than the height of other headlamps (S8.13, S8.14).

An issue of controversy is whether headlamps should be permitted to flash automatically for signaling purposes. Numerous comments were filed in response to the Administration's request for information on headlamp flashing devices recommending the prohibition of flashing headlamps because of the potential for ambiguity and corresponding degrading of highway safety. It is noted that several States already prohibit flashing headlamps for signaling. Accordingly, this agency is proposing that headlamps be steady burning when in use (S10.9).

Standard No. 108 currently prohibits headlamp covers, headlamp cleaners, grilles, and other styling features over a headlamp in use. The notice proposes performance requirements for headlamp covers and headlamp cleaners if a manufacturer chooses to provide these features (S7.9, S7.10).

III. *Lamp bulbs, lamp assemblies, etc.* The Administration has given advance notice that it is considering requirements which will provide improvements in the safety effectiveness of lamp bulbs, sealed units, lenses, housings, lamp assemblies, reflex reflectors, and flashers and switches associated with lighting equipment. Comments were requested on luminance and life relative to voltage and current limits, degree of performance degradation relative to laboratory life, minimum burn-in or aging period, and limits on the ratio of initial inrush current to rated current. The NHSTA hereby proposes several provisions in these areas.

The proposed standard would eliminate the phrase, "designed to conform", from Standard 108. The "designed to conform" language currently in effect originated as a result of comments on the initial safety proposals for motor vehicle lighting 5 years ago, alleging that at that time 100 percent compliance with the requirements was economically impracticable. This provision is, however, considered to be basically inappropriate for a motor vehicle safety standard. A safety standard, defined in part as a "minimum standard for motor vehicle performance," should be worded so as to leave no doubt as to whether a particular product, when tested, is in conformity. The question whether a particular manufacturer is in violation of the Act, on the other hand, must be considered separately. This agency recognizes that in mass production of small items all of which cannot practically be subjected to individual testing, occasional failures of conformity are sometimes unavoidable. Such failures do not mean that manufacturers have fallen below the statutory standard of due care, where they can show that they have exercised reasonable judgment in their designs and in their testing, quality control and production procedures.

Minimum electrical performance and mechanical requirements are proposed for the headlamp switch and dimmer switch (S6.13).

IV. *Miscellaneous changes.* Additional rulemaking is proposed on lighting matters which have come to the attention of this agency through comments to the docket, through petitions for amendments of the standard, or through research.

Side turn signal lamps would be required on passenger cars, multipurpose passenger vehicles, trucks, and buses, which comply with SAE Recommended Practice J914, "Side Turn Signal Lamps," October 1968. These lamps would be installed at a height no less than 32 inches from the road surface, or atop the vehicle fender if fender height is less than 32 inches (S8.8).

Turn signal lamps would be required to flash from high intensity to "off," even when combined with a normally steady-burning lamp. Turn signal lamps are much more difficult to detect when combined with a normally steady-burning lamp, when the steady-burning lamp is on, and when the ratio of the high intensity to low intensity light is near the current minimum of 5 to 1. Only a minor wiring change may be required to meet the proposal (S10.8).

The use of supplemental headlamps, in conjunction with one of the required headlamp systems, would be permitted (S7.12).

The use of steerable high-beam headlamps would be permitted (S7.11).

Motorcycles would be required to meet the system voltage requirements specified in SAE Recommended Practice J392, "Motorcycle and Motor Driven Cycle Electrical System (Maintenance of Design Voltage)," December 1969 (S7.8).

The proposed minimum spacing between front turn signal lamps and low-beam headlamps would not apply if the minimum candlepower values of the turn signal lamps were 2½ times those specified for yellow turn signal lamps (S8.12).

Modified lighting requirements would apply to trailers that are less than 30 inches in overall width, or less than 6 feet in overall length. In addition, the double-faced clearance lamp presently allowed on boat trailers would be permitted on other trailers that are less than 12 feet in overall length (S5.6, S5.7, S5.8).

Current revisions to certain SAE standards and recommended practices would be incorporated.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended by addition of Standard No. 108 (49 CFR 571.108), as set forth below.

Proposed effective date. September 1, 1974, with additional requirements (as specified in S6, S8, and S9) effective September 1, 1977. Vehicles would be allowed to comply with these and other proposed requirements prior to September 1, 1974, by means of a conforming amendment to Standard No. 108.

Interested persons are invited to submit data, views, and arguments on the proposed amendments. Comments are particularly invited on the leadtime and costs directly related to compliance with the proposed standard. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required that 10 copies be submitted. All comments received before the close of business on April 18, 1973, will be considered, and will be available in the docket for examination both before and after the closing date. To the extent possible, comments filed after the closing date will also be considered. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration will be treated as suggestions for future rule making. Relevant material will continue to be filed as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority of 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 16, 1972.

DOUGLAS W. TOMS,
Administrator.

MOTOR VEHICLE SAFETY STANDARD No. 108

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

S1. *Scope.* This standard specifies requirements for lamps, reflective devices, and associated equipment, for use as original and replacement equipment on motor vehicles.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries involving motor vehicles which may occur as a result of ambiguous signaling, or inadequate illumination during darkness and other conditions of reduced visibility.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (except pole trailers and trailer converter dollies), and motorcycles, and to lamps, reflective devices, and associated equipment manufactured for use on, or replacement of like equipment on, those types of vehicles.

S4. *Definition.* "Flash" means a cycle of activation and deactivation of a lamp by automatic means continuing until stopped either automatically or manually.

S5. *Required lighting equipment—marking and signaling.* Except as provided in S5.1 through S5.13, each vehicle shall be equipped with at least the number of lamps, reflective devices, and associated equipment specified in Schedules I, II, or III, as applicable, and required equipment shall conform to the SAE standards or recommended practices referenced in those schedules. Schedule I applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. Schedule II applies to trailers. Schedule III applies to motorcycles.

S5.1 A truck tractor need not be equipped either with turn signal lamps mounted on the rear or with side turn signal lamps, and a truck need not be equipped with side turn signal lamps, if it is equipped with double-faced turn signal lamps at or near the front that meet the requirements for double-faced turn signal lamps specified in SAE Standard J588e, "Turn Signal Lamps," September 1970.

S5.2 A truck tractor need not be equipped with rear side marker devices, rear clearance lamps, or rear identification lamps.

S5.3 Reflective material conforming to Federal Specification L-S-300A, "Sheeting and Tape, Reflective; Nonexposed Lens, Adhesive Backing," January 7, 1970, may be used for side reflex reflectors if this material, as used on the vehicle, meets the performance standards in Table I of SAE Standard J594e, "Reflex Reflectors," March 1970.

S5.4 Except on motorcycles, and on trucks and buses 80 or more inches in overall width, each turn signal switch shall be both self-canceling by steering wheel rotation and capable of cancellation by a manually operated control.

S5.5 The photometric minimum candlepower requirements for side marker lamps specified in SAE Standard J592d, "Clearance, Side Marker, and Identification Lamps," December 1970, may be met for all inboard test points at a distance of 15 feet from the vehicle on which it is mounted and on a vertical plane perpendicular to the longitudinal axis of the vehicle and located midway between the front and rear side marker lamps.

S5.6 A trailer that is less than 30 inches in overall width may be equipped with only one of each of the following lamps and reflective devices, located at or near its vertical centerline: Tail lamp, stop lamp, and rear reflex reflector.

S5.7 A trailer that is less than 6 feet in overall length, inclusive of the trailer tongue, need not be equipped with front side marker lamps and front side reflex reflectors.

S5.8 A boat trailer, or a trailer less than 12 feet in overall length, inclusive of the trailer tongue, need not be equipped with both front and rear clearance lamps, if a combination yellow (to front) and red (to rear) clearance lamp is mounted at or near its widest point, at the highest point practicable.

S5.9 Multiple license plate lamps and back-up lamps may be used to fulfill the requirements of SAE standards applicable to such lamps, referenced in Schedules I, II, and III.

S5.10 In addition to the equipment required by Schedule I or Schedule III, each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a turn signal flasher and a hazard warning signal flasher, and each motorcycle shall be equipped with a turn signal flasher, that meets the requirements of paragraph S11 of this standard.

S5.11 A taillamp, parking lamp, stop lamp, or turn signal lamp is not required to meet the minimum photometric values at each test point specified in the referenced SAE standards if the sum of the candlepower measured at the test points within the groups listed in Figure 1 is not less than the sum of the candlepower values for such test points specified in the referenced SAE standards.

Groups	Test points degree	Parking lamps	Group Totals, Candlepower: Taillamps 1	Taillamps 2	Taillamps 3	Red stop and turn signal lamps 1	Red stop and turn signal lamps 2	Red stop and turn signal lamps 3	Yellow turn signal lamps 1	Yellow turn signal lamps 2	Yellow turn signal lamps 3
1	20L-5U, 20L-11, 20L-5D, 10L-10U, 10L-10D	2.8	1.6	2.7	3.8	55	66	80	135	165	190
2	10U-V, 5U-10L, 5U-10R	2.4	2.1	3.6	5.5	85	100	115	210	251	290
3	10L-11, 5L-5U, 5L-5D	4.2	3.4	5.3	8.0	140	167	195	350	420	490
4	5U-V, 11-5L, 11-V, 11-5R, 5D-V	16.8	9.6	16.5	24.0	380	449	520	950	1,130	1,295
5	5R-5U, 5R-5D, 10R-11	4.2	3.4	5.3	8.0	140	167	195	350	420	490
6	5D-10L, 5D-10R, 10D-V	2.4	2.1	3.6	5.5	85	100	115	210	251	290
7	10R-10U, 10R-10D, 20R-5U, 20R-11, 20R-5D	2.8	1.6	2.7	3.8	55	66	80	135	165	190
Maximum rear lamps only			15	20	25	300	360	420			

FIGURE 1.—Grouped photometric minimum candlepower requirements for devices using 1, 2, or 3 separately lighted compartments, or for 1, 2, or 3 lamps used in a single design location to perform a single function.

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S5.12 A lamp designed to use either a type of bulb that has not been assigned a mean spherical candlepower rating by its manufacturer and is not listed in SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968, or that is sealed within the lamp, shall meet the applicable requirements of this standard when used with any bulb of that type, with its filament positioned in accordance with S5.13 operated at the bulb's design voltage.

S5.13 A lamp shall meet the applicable requirements of this standard when tested with a bulb whose filament is positioned within 0.010 inch of the nominal design position specified in SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968, or by the bulb manufacturer.

S5.14 [Reserved for deletion of front clearance lamps from trailers with a GVWR greater than 10,000 pounds, Docket No. 72-19; Notice 1]

S5.15 [Reserved for amended mobile home lighting requirements, Docket No. 72-22; Notice 1]

S6. *Required lighting equipment—headlighting.*

S6.1 (a) Each passenger car, multipurpose passenger vehicle, truck, and bus manufactured from September 1, 1974 to September 1, 1977, shall be equipped with a headlamp system comprised of the number and types of headlamps specified in Table I for Headlamp Systems A, B, C, D, or E. Each passenger car, multipurpose passenger vehicle, truck, and bus manufactured on or after September 1, 1977, shall be equipped with Headlamp System C, D, or E.

(b) Each motorcycle manufactured from September 1, 1974 to September 1, 1977, shall be equipped with a headlamp system comprised of the number and types of headlamps specified in Table I for Headlamp Systems F, G, H, I, or J, or a headlamp system that conforms to the requirements for motorcycle headlighting specified in SAE Recommended Practice J584a, "Motorcycle and Motor Driven Cycle Headlamps," May 1970. Each motorcycle manufactured on or after September 1, 1977, shall be equipped with Headlamp System F, H, or J.

TABLE I—HEADLAMP SYSTEMS

REQUIRED TYPES, SIZES, AND NUMBER OF HEADLAMPS

Headlamp systems	Headlamp type									
	1	2	2	3	4	5	6	7	8	9
	Headlamp diameter, inches									
	5¾	5¾	7	5¾	5¾	5¾	7	7	7	4½
A			2							
B	2	2								
C				2	1	1				
D							2			
E								1	1	
F										2
G			1							
H							1			
I				1		1				
J									1	

S6.2 Headlamp systems shall provide the following beam modes using the specified lamps:

(a) Headlamp System A shall provide a low-beam mode and a high-beam mode using two Type 2 headlamps for each beam mode.

(b) Headlamp System B shall provide a low-beam mode using two Type 2 headlamps, and a high-beam mode using two Type 2 headlamps and two Type 1 headlamps.

(c) Headlamp System C shall provide a low-beam mode using two Type 3 headlamps on low beam; a middle-beam mode using two Type 3 headlamps on low beam and a Type 4 headlamp on middle beam; and a high-beam mode using the two Type 3 headlamps and a Type 5 headlamp all on high beam and the Type 4 headlamp on middle beam.

(d) Headlamp System D shall provide a low-beam mode and a high-beam mode using two Type 6 headlamps for each beam mode.

(e) Headlamp System E shall provide a low-beam mode using one Type 7 and one Type 8 headlamp both on low beam; a middle-beam mode using the Type 7 headlamp on middle beam and the Type 8 headlamp on low beam; and a high-beam mode using the Type 7 headlamp on middle beam and the Type 8 headlamp on high beam.

(f) Headlamp Systems F through J shall provide a low-beam mode and a high-beam mode.

S6.2.1 Headlamp Systems A through D shall deactivate all low beams when the system is in high-beam mode. Such deactivation is optional for Headlamp Systems E through J.

S6.3 Each headlamp shall have a nominal rated voltage of 6, 12, or 24 volts. The beams provided by, and maximum wattage at test voltage of, each lamp type shall be as specified in Table II.

TABLE II

Headlamp type	Beam maximum wattage		
	High	Middle	Low
1	40		
2—5¾ inches	40		50
2—7 inches	55		45
3	50		50
4		60	
5	75		
6	65		50
7		60	50
8	80		50
9	30		30

S6.4 Each Type 1 headlamp and each Type 2 headlamp shall conform to SAE Standard J579a, "Sealed Beam Headlamp Units for Motor Vehicles," August 1965, except as specified herein. Each Type 3 through Type 9 headlamp shall conform to the requirements contained herein.

S6.5 The lens of each headlamp shall be embossed with the applicable type designation for the headlamp. The numeral shall be at least three-sixteenths of an inch in height, and shall be located on the vertical centerline of the lens as installed, above the horizontal centerline.

S6.6 To the extent necessary to permit installation, without attachment or removal of headlamp adapters or brackets, in a housing that conforms to S6.7, each headlamp except Type 9 shall conform to the dimensional requirements specified in SAE Standard J571b, "Dimensional Specifications for Sealed Beam Headlamp Units," April 1965, for headlamps with a diameter of 5¾ inches or 7 inches as applicable, except that the angles of the locating lugs shown in Figure 2 shall be those specified in Table III. Each Type 9 headlamp shall meet the dimensional specifications shown in Figure 2 of SAE Recommended Practice J760, "Dimensional Specifications for General Service Sealed Lighting Units," March 1961, except that (a) the angles of the locating lugs shown in Figure 2 of this standard shall be those specified in Table III, and (b) the electrical terminals and the size of the locating lugs shall be those specified for a Type 3 headlamp. The mechanical aiming plane of a Type 9 headlamp shall be capable of use with an adapter-equipped aiming device conforming to SAE Standard J602a, "Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units," July 1970.

FIGURE 2

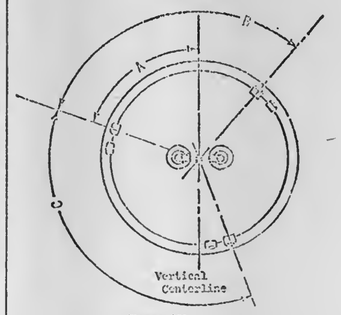


TABLE III

Type of headlamp	Diameter (inches)	Locating lug angles		
		A	B	C
1	5¾	70°±1°	110°±0°30′	130°±0°30′
2	5¾	70°±1°	100°±0°30′	130°±0°30′
2	7	70°±1°	100°±0°30′	130°±0°30′
3	5¾	70°±1°	100°±0°30′	120°±0°30′
4	5¾	70°±1°	120°±0°30′	130°±0°30′
5	5¾	70°±1°	110°±0°30′	110°±0°30′
6	7	70°±1°	110°±0°30′	130°±0°30′
7	7	70°±1°	120°±0°30′	130°±0°30′
8	7	70°±1°	130°±0°30′	130°±0°30′
9	4½	70°±1°	110°±0°30′	130°±0°30′

S6.7 Each headlamp housing shall be capable of:

(a) Retaining, seating, and permitting the aim and electrical connection of only one type of the Type 1 through Type 8 headlamps conforming, except for the angles of the locating lugs, to SAE Standard J571b, "Dimensional Specifications for Sealed Beam Headlamp Units," April 1965, while precluding the installation of any other type;

(b) Providing an independent aim adjustment of not less than ±4° in both the horizontal and vertical directions by a self-locking screw-thread method;

(c) Withstanding, for 30 seconds, a force of 50 pounds applied rearward, perpendicular to the aiming plane of an installed headlamp, through the geometric center of the headlamp, without permanent displacement at the headlamp in excess of 0.020 inch;

(d) Withstanding, for 30 seconds, a force applied vertically downward on an axis perpendicular to the aiming plane and through the geometric center of an installed headlamp that generates a torque of 24 pounds-inches (with respect to the headlamp aiming plane), without temporary or permanent change in the headlamp aim in excess of 0.20°; and

(e) (This requirement does not apply to Headlamp Systems F through J.) Withstanding, for 30 seconds, a force applied laterally inward on an axis perpendicular to the aiming plane and through the geometric center of an installed headlamp that generates a torque of 12 pounds-inches (with respect to the headlamp aiming plane), without temporary or permanent change in the headlamp aim in excess of 0.50°.

S6.8 Each headlamp housing shall conform to section E "Vibration," and section H "Corrosion," of SAE Standard J575e, "Tests for Motor Vehicle Lighting Devices and Components," August 1970 as installed on a vehicle and with a headlamp in place.

S6.9 Each headlamp shall have a mechanical aiming plane. When installed on a vehicle, each headlamp shall be capable of being mechanically aimed using a device conforming to SAE Recommended Practice J602a, "Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units," July 1970, without removal of ornamental trim rings or other parts, except that a headlamp cover or headlamp washer may be removed (see S7.9.1 and S7.10.3).

S6.9.1 An aimable pair of headlamps shall consist of pairs of headlamp types that provide (a) low beams, (b) high beams, or (c) a middle beam and a high beam.

S6.9.2 Each headlamp on a vehicle shall be aimed so that a line perpendicular to the lamp's aiming plane and passing through the geometric center of the lamp intersects a screen 25 feet forward of the aiming plane not more than 4 inches from a horizontal plane through the geometric center of the lamp, and not more than 4 inches from a vertical longitudinal plane through the geometric center of the lamp.

S6.10 Each headlamp shall be hermetically sealed and shall have a glass lens whose area is not less than 18 square inches, except that a Type 9 headlamp shall have a glass lens whose area is not less than 11 square inches.

S6.11 When headlamps are activated, a vehicle shall not have in front of the headlamp lens any glazing, or other material or item of equipment, except a headlamp cover or headlamp cleaning system conforming to S7.9 or S7.10 respectively.

S6.12 When tested according to S6.12.1, each headlamp shall provide, in the color white, the applicable photometric values specified below.

(a) Each Type 1 and Type 2 headlamp shall conform to the photometric values specified in SAE Standard J579a, "Sealed Beam Headlamp Units for Motor Vehicles," August 1965.

(b) Each Type 3, Type 4, and Type 5 headlamp shall provide the photometric values specified in Figures 4 through 11, as appropriate, when a line perpendicular to the lamp aiming plane and passing through the geometric center of the lamp intersects the intersection of the H and V axes on a screen 25 feet forward of the aiming plane.

(c) Each Type 6 through Type 9 headlamp shall provide the percentage of the photometric values specified in Figures 4 and 5 and 8 through 11, as appropriate, referenced in Table IV, when the headlamp is aimed as in (b) above.

TABLE IV

PERCENTAGE OF PHOTOMETRIC VALUES SPECIFIED IN FIGURES 4 AND 5 AND 8 THROUGH 11

Headlamp type	BEAM					
	Low		Middle		High	
	Figures					
	4	5	8	9	10	11
6	100	100			100	115
7	80	100	80	100		
8	100	100			100	100
9	70	100			70	100

S6.12.1 (a) Use the following direct current voltages as test voltages: 6.4 volts when the nominal rated voltage is 6 volts, 12.8 volts when the nominal rated voltage is 12 volts, and 25.6 volts when the nominal rated voltage is 24 volts.

(b) Season the headlamp for 1 hour at test voltage. Then operate the headlamp at test voltage at a distance of 60 feet from the photometer to determine the photometric output. The intersection of the H and V axes shall be on a line perpendicular to the mechanical aiming plane and passing through the geometric center of the lamp. The maximum angle increment between photometric test points for determination of isocandle curves shall be 0.55°.

S6.13 Each vehicle shall be equipped with either a manually operated or a combination manually and automatically operated switch to control the headlamps and all lamps required by S10.1, S10.5 (a), S10.6, and S10.7 to be activated when the headlamps are activated.

S6.13.1 Each such switch shall, when tested under the following conditions, be capable of completing 50,000 cycles, with an electrical load on each circuit that is not less than the total load imposed on the circuit by the headlighting system and other required lighting equipment controlled by the switch. The voltage drop from the switch input terminal of each circuit to the switch output terminal of each circuit shall not exceed 300 millivolts before or after the endurance test.

(a) Ambient temperature is 75° F.

(b) A cycle begins with the switch in an off position, continues through all switch positions except instrument lighting, and ends with the return to the off position. The cycle rate is not less than 12 and not more than 20 cycles per minute with a traveltime from one switch position to the next position of not less than 0.1 second and not more than 0.5 second. The dwell time in each position is not less than 0.4 second and not more than 0.5 second.

(c) The power supply conforms to the requirements of paragraph 5.3 of SAE Recommended Practice J564c, "Headlamp Beam Switching," June 1971.

S6.14 Headlamp beam switches shall meet the following requirements.

S6.14.1 Each beam switch with which the vehicle is provided shall conform to paragraphs 2 through 6 of SAE Recommended Practice J564c, "Headlamp Beam Switching," June 1971.

S6.14.2 Each passenger car, multipurpose passenger vehicle, truck, and bus manufactured between September 1, 1974 and September 1, 1977, that is equipped with Headlamp System C or E shall have either a beam switch that conforms to S6.14.3, or two beam switches that function as follows:

(a) The primary beam switch changes the headlamp beam mode from low to either middle or high, depending on the position of the auxiliary beam switch, and back to low.

(b) The auxiliary beam switch has two positions: "Middle" and "high." When the auxiliary beam switch is in the "middle" position, the primary beam switch changes the beam from low to middle to low, etc. When the auxiliary switch is in the "high" position, the primary beam switch changes the beam from low to high to low, etc.

S6.14.3 Each vehicle, manufactured on or after September 1, 1977, that is equipped with Headlamp System C or Headlamp System E shall have a headlamp beam switch that is manually operable, mounted upon the steering column, and provided with detented positions for activation of the three-beam modes. There shall be no detented positions other than the three-beam modes. The three-beam mode positions shall be low, middle, and high, in that order, as the switch is moved progressively in a single direction either upward, to the right, or toward the driver. If the switch activating the headlamps incorporates the headlamp beam switch, the movement required to deactivate the headlamps shall be in a differnt direction from the movement required to change the headlamp beam mode.

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S6.14.4 If the headlamp beam switch is combined with the turn signal switch, the turn signal shall be operable in the left or right turn mode without causing any change in headlamp beam mode, when a force sufficient to activate the turn signal is applied in a direction that forms a 45° upward or downward angle with the plane of the direction of movement of the turn signal lever 1 inch from the outermost end of the turn signal lever.

S6.15 Each vehicle required to have headlighting shall be equipped with an indicator light, with an illuminated lens area of at least 0.025 square inch, that emits blue light only when the headlamps are in the high-beam mode. Each vehicle equipped with Headlamp System C or E shall also be equipped with an indicator light, with an illuminated lens area of at least 0.025 square inch, that emits yellow light only when the headlamps are in the middle-beam mode. The middle beam indicator light shall be located within 2 inches of or combined with the high beam indicator light. The indicator lights shall be visible to drivers under driving conditions when use of headlamps is required.

S6.16 *Motorcycle headlighting exceptions.* Sections S6.3, S6.5, S6.9, S6.10, and S6.12 do not apply to a headlighting system that conforms to the requirements for motorcycle headlighting specified in SAE Recommended Practice J584a, "Motorcycle and Motor Driven Cycle Headlamps," May 1970.

S7 *General requirements.*

S7.1 (a) Each lamp, reflective device, and item of associated equipment manufactured to replace any lamp, reflective device, and item of associated equipment on any vehicle to which this standard applies shall also conform to this standard.

(b) [Reserved for equipment marking and certification requirements, Docket No. 69–19; Notice 2]

S7.2 Plastic materials used for optical parts such as lenses and reflectors shall meet the requirements of SAE Recommended Practice J576c, "Plastic Materials for Use in Optical Parts, such as Lenses and Reflectors, of Motor Vehicle Lighting Devices," May 1970, except that plastic materials used as inner lenses or those covered by another material and not exposed directly to sunlight need not meet the requirements of paragraphs 3, 4, and 4.2 of SAE J576c.

S7.3 No additional lamp, reflective device, or other motor vehicle equipment shall be installed that impairs the effectiveness of lighting equipment required by this standard.

S7.4 Each school bus shall be equipped with a system of either:

(a) Four red signal lamps conforming to SAE Standard J887, "School Bus Red Signal Lamps," July 1964, and installed in accordance with that standard; or

(b) Four red signal lamps conforming to SAE Standard J887, "School Bus Red Signal Lamps," July 1964, and four yellow signal lamps conforming to that standard, except for their color, and except that their candlepower shall be at least 2½ times that specified for red signal lamps. The system of red and yellow lamps shall be installed in accordance with SAE Standard J887, except that;

(1) Each yellow signal lamp shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus; and

(2) The system shall be wired so that the yellow signal lamps are activated only by manual or foot operation and, if activated, are automatically deactivated and the red signal lamps automatically activated when the bus entrance door is opened.

S7.5 The color of the light emitted by a lamp when operated at test voltage shall lie within the applicable color coordinates below. Colors are expressed in terms of chromaticity coordinates according to the CIE (1931) standard colorimetric system. A tungsten lamp at 2854° Kelvin color temperature is used as standard source A. Color coordinates are as follows:

(a) White—

X 0.310.
X=0.500.
Y=0.150 + 0.640X.
Y=0.440.
Y=0.50+0.750X.
Y 0.382.

(b) Red—

Y 0.335.
Y=0.992 X.

(c) Yellow—

Y=0.400.
X=0.570.
Y=0.990 X.

The term "amber" used in any referenced or subreferenced SAE standard or recommended practice means the color "yellow."

(d) Blue—

Y=0.065+0.805X.
Y=0.400−X.
X=0.133+0.600Y.

(e) Green—

X 0.360−0.080Y
X=0.650Y
Y= 0.390−0.171X

S7.6 SAE standards and recommended practices referred to in the SAE standards and recommended practices that are incorporated as requirements of this standard shall be included in these requirements in the form in which they appear in the 1972 edition of the SAE handbook.

S7.7 Phrases such as "it is recommended that," "recommendations" or "should be," appearing in any SAE standard or recommended practice referenced or subreferenced in this standard shall be read as setting forth mandatory requirements, except that the aiming pads on the lens face and the black area surrounding the signal lamps, recommended in SAE Standard J887, "School Bus Red Signal Lamps," July 1964, are not required.

S7.8 The electrical system on each motorcycle shall provide voltage at the headlamp and taillamp within the limits specified in SAE Recommended Practice J392, "Motorcycle and Motor Driven Cycle Electrical System (Maintenance of Design Voltage)," December 1969, except that on and after September 1, 1977, the headlamp electrical test load shall be a minimum of 60 watts.

S7.9 If a transparent headlamp cover is provided, it shall be manufactured of safety glazing in accordance with specifications AS1 or AS2 of American National Standard Z26.1–1966, with supplement Z26.1a–1969, titled, "Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways," and shall in addition conform to the following requirements:

S7.9.1 The headlamp cover shall, by automatic or manual means not requiring any tools, provide access for application of a mechanical headlamp aimer which is in accordance with SAE Standard J602a, "Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units," July 1970.

S7.9.2 The headlighting system shall conform to all photometric requirements of this standard with the headlamp cover in place.

S7.9.3 Means shall be provided for removal of condensation from the interior surface of the headlamp cover at all points, with respect to the headlamp over which it is installed, for which headlamp photometric requirements are specified by this standard. Such means shall operate with or without activation of the headlamps, and shall be automatic or operate in conjunction with the windshield defrost/defog system.

S7.10 If a headlamp cleaning system is used, it shall as a minimum be installed for each headlamp providing a low beam and shall for each installed headlamp cleaner meet the following requirements.

S7.10.1 The cleaning system shall be operable by a vehicle operator seated in the driver's seat, utilizing a single control.

S7.10.2 The cleaning system shall provide a cleaning function at any vehicle speed between zero and 80 m.p.h. or maximum vehicle speed whichever is less.

S7.10.3 Each headlamp equipped with a cleaning system shall be mechanically aimable with a device conforming to SAE Standard J602a, "Headlamp Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units," July 1970, with displacement or removal of cleaner components without the use of tools.

S7.10.4 Cleaner fluid containers shall have a capacity for not less than 25 cleaning cycles of all cleaner-equipped headlamps.

S7.10.5 When tested according to S7.10.6, the sum of the candlepower at test points H–V, 1½ D–2R, 1½ D–2L, H–5L, and H–5R of a headlamp equipped with a cleaning system shall be not less than:

(a) 95 percent of the sum of the measured candlepower at such test points, when a system is not in operation and when any exterior components of the cleaning system in front of a headlamp lens are placed in a horizontal position. In addition, under this condition the sum of the candlepower at test points H–5L, H–V, and H–5R shall be not less than 40 percent of the sum of the measured candlepower at such test points.

(b) 50 percent of the sum of the measured candlepower at such test points, during operation of the system.

(c) 80 percent of the sum of the measured candlepower at such test points, after operation of the system.

S7.10.6 (a) Measure candlepower at test points H–V, 1½D–2R, 1½D–2L, H–5L, and H–5R. The sum of the candlepower is the reference base of 100 percent from which conformity is judged.

(b) If the cleaning system has exterior components, place them in front of the headlamp as close as possible to a horizontal position, and measure photometric output to determine compliance with S7.10.5(a).

(c) Activate cleaning system and determine compliance with S7.10.5(b).

(d) Formulate a mixture of the following ingredients and proportions: 9 parts silica sand (particle size 0–100 UM), 1 part vegetable carbon dust (particle size 0–100 UM), 0.2 part NACMC (sodium salt of carboxmethyl cellulose with a viscosity of 200 to 300 CP for a 2 percent solution at 20° C. and a degree of substitution of 0.6 to 0.7) and distilled water.

(e) Apply mixture to the headlamp until the sum of the candlepower at test points H–V, 1½D–2R, 1½D–2L, H–5L, and H–5R is 30 percent of the sum of the candlepower originally measured at such test points.

(f) Operate headlamp at test voltage for 1 hour to insure drying the mixture. Then, with the headlamp activated, operate the cleaning system for 30 seconds. If the system is manually operated, operate it 10 times within the 30-second period.

(g) Activate headlamp for 1 hour, then measure candlepower to determine compliance with S7.10.5(c).

(h) Follow the vehicle manufacturer's recommended procedures and recommendations in operating the system throughout the procedure.

S7.11 Headlamps shall be fixed, except for Type 1 and Type 5 headlamps, providing only a high beam, which may be steerable. The operation of steerable headlamps must conform to the following requirements.

(a) The steering angle of the headlamp shall have a ratio to the steering angle of the wheels that is accurate to within ±1.0° in any 5.0° headlamp steering increment.

(b) The maximum vertical deviation of the steerable headlamp beam shall be ±0.5° between maximum vehicle load and a load of only a 150-pound driver, when the headlamp beam is parallel to the longitudinal axis of the vehicle.

(c) Upon failure of any component that acts to steer a headlamp, the headlamp shall automatically move to the straight-ahead position.

(d) For purposes of headlamp aiming, a means shall be provided for positioning the steerable headlamps in a straight-ahead direction, independently of the steering mechanism of the vehicle.

S7.12 Supplemental headlamps used in conjunction with a required headlamp system must conform to the following requirements.

(a) High beam supplemental headlamps shall have a maximum design candlepower output such that, when all supplemental and required headlamps are activated, the sum of their maximum candlepowers shall not exceed 200,000. High beam supplemental headlamps shall be capable of activation only when the required high-beam system is activated.

(b) A vehicle shall not be equipped with supplemental headlamps providing a middle beam.

(c) A vehicle equipped with Headlamp System A, B, or D shall not be equipped with more than one supplemental headlamp providing a low beam. A vehicle equipped with any other headlamp system shall not be equipped with a low beam supplemental headlamp. Each supplemental headlamp providing a low beam shall conform to the requirements of a Type 4 headlamp for photometrics, mounting position, and mechanical aim capability.

S7.13 [Reserved for deletion of warpage test for plastic lenses used on lamps, Docket No. 69–18; Notice 10]

S8 *Location of required equipment.* Except as provided in S8.1 through S8.14, each lamp reflective device, and item of associated equipment shall be securely mounted on a rigid part of the vehicle, other than glazing, that is not designed to be removed except for repair, in accordance with the requirements and location specifications of Schedule I, II, or III as applicable.

S8.1 Each lamp and reflective device shall be located so that it meets the visibility requirements of this standard. Except as provided below, no part of the vehicle shall prevent any lamp or reflective device from meeting the photometric output requirements of this standard at any test point. If work-performing motor vehicle equipment such as a snowplow, wrecker boom, backhoe, or winch prevents any required lamp or reflective device from compliance with this paragraph, an auxiliary lamp or device meeting the requirements of this paragraph shall be provided.

S8.2 On each passenger car, multipurpose passenger vehicle, truck, bus, and trailer with an overall width in excess of 56 inches, manufactured on or after September 1, 1977, the horizontal distance between the optical axes of the outermost parking lamps, taillamps, and turn signal lamps, and the optical centers of rear reflex reflectors, located on the left and right sides of the vehicle respectively, shall be not less than 48 inches.

S8.3 On a truck tractor, the red rear reflex reflectors may be mounted on the back of the cab, but not less than 4 inches above the height of the rear tires.

S8.4 On a truck with a cab, the clearance lamps may be mounted on the cab to indicate the overall width of the cab, rather than located on the body to indicate the overall width of the vehicle.

S8.5 On a trailer, the yellow front side reflex reflectors and yellow front side marker lamps may be located as far forward as practicable exclusive of the trailer tongue.

S8.6 When the rear identification lamps are mounted at the extreme height of a vehicle, rear clearance lamps need not be located as close as practicable to the top of the vehicle.

S8.7 The center of the lens referred to in the installation requirements for backup lamps in SAE Standard J593d, "Backup Lamps," January 1971, is the optical center.

S8.8 On a vehicle with a front fender height less than 32 inches, the side turn signal lamps shall be mounted on the top surface of the fender.

S8.9 On each passenger car, multipurpose passenger vehicle, truck, bus, and trailer manufactured on or after September 1, 1977, a rear turn signal lamp shall be mounted so that its optical axis is on or outboard of a vertical longitudinal plane passing through the optical axis of the taillamp.

S8.10 On each passenger car, multipurpose passenger vehicle, truck, bus, and trailer manufactured on or after September 1, 1977, a stoplamp shall be mounted so that its optical axis is on or inboard of a vertical longitudinal plane passing through the optical axis of the taillamp and so that its optical axis is on or above a horizontal plane passing through the optical axis of either the taillamp or turn signal lamp, whichever is higher. The distance between the edge of the illuminated surface of the stoplamp and that of the turn signal lamp shall be not less than 5 inches, when measured as a projection on a vertical plane perpendicular to the longitudinal axis of the vehicle.

S8.11 Pairs of lamps or reflective devices shall be mounted symmetrically on each side of the vertical centerline of the vehicle.

S8.12 The 4-inch minimum spacing between a front turn signal lamp and the low-beam headlamp specified in SAE Standard J588e, "Turn Signal Lamps," September 1970, shall not apply to a motor vehicle on which the minimum candlepower values of the turn signal lamp are 2½ times those specified for yellow turn signal lamps in Table I of SAE Standard J588e.

S8.13 Headlamps shall be mounted at the front of the vehicle. Each pair of Type 1, 2, 3, and 6 headlamps and each pair combining Type 7 and 8 headlamps shall be mounted at the same height from the road surface. The mounting height of Type 2 or Type 3 headlamps shall not be less than the mounting height of any other headlamps on the vehicle. A Type 4 headlamp shall be mounted at the same height as a Type 5 headlamp.

S8.14 The geometric centers of Type 2 headlamps or Type 3 headlamps shall be vertically in line with or outboard of the geometric centers of any other headlamps. On each vehicle manufactured between September 1, 1974, and September 1, 1977, headlamps mounted in pairs

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shall be mounted with their geometric centers as far apart as practicable. On or after September 1, 1977, Type 3 and Type 6 headlamps, and a combination system of Type 7 and Type 8 headlamps, shall be mounted with their geometric centers not less than 43 inches horizontally apart. Each Type 5 or Type 8 headlamp shall be mounted with its geometric center not less than 12 inches to the right of the vehicle longitudinal centerline, as viewed from the driver's seat. Each Type 4 or Type 7 headlamp shall be mounted the same distance left of the vehicle longitudinal centerline as the Type 5 headlamp is mounted to the right of the vehicle longitudinal centerline. This paragraph does not apply to motorcycles.

S9. *Equipment combinations.*

S9.1 Two or more lamps, reflective devices, or items of associated equipment may be combined if the requirements for each lamp, reflective device, and item of associated equipment are met, except that—

(a) A clearance lamp shall not be optically combined with a taillamp or identification lamp;

(b) A stoplamp shall not be optically combined with another lamp on any vehicle manufactured on or after September 1, 1977; and

(c) Combinations of headlamp types other than specified herein are not permitted.

S10. *Special wiring requirements.*

S10.1 The taillamps on each vehicle shall be activated when the headlamps are activated.

S10.2 The stoplamps on each vehicle shall be activated upon application of the service brakes.

S10.3 The hazard warning signal switch on each vehicle shall operate independently of the ignition or equivalent switch, and when activated, shall cause to flash simultaneously the side turn signal lamps and sufficient front and rear turn signal lamps on each side of the vertical centerline to meet the front and rear turn signal lamp photometric requirements of this standard.

S10.4 Each vehicle equipped with a turn signal switch shall also have an illuminated pilot indicator. Except for trucks, buses, or multipurpose passenger vehicles 80 or more inches in overall width, and for vehicles equipped to tow trailers, failure of one or more front or rear turn signal lamps to operate shall be indicated in accordance with SAE Standard J588e, "Turn Signal Lamps," September 1970.

S10.5 On motorcycles:

(a) When the headlamp is activated, the license plate lamp shall also be activated;

(b) Type 9 headlamp pairs (Headlamp System F) shall activate simultaneously in the same beam modes.

S10.6 On all passenger cars, and on multipurpose passenger vehicles, trucks, and buses less than 80 inches in overall width, when the parking lamps are activated, the taillamps, license plate lamps, and side marker lamps shall also be activated. When the headlamps are activated, all the foregoing lamp systems shall remain activated.

S10.7 On multipurpose passenger vehicles, trucks (except truck-tractors), and buses 80 or more inches in overall width, when the headlamps are activated the license plate lamps and side marker lamps shall also be activated.

S10.8 A steady burning lamp combined with a turn signal lamp shall be deactivated when the turn signal is flashing.

S10.9 When activated, turn signal lamps, hazard warning signal lamps, and schoolbus warning lamps shall flash, and all other lamps shall be steady-burning, except that side marker lamps may flash simultaneously with the turn signal lamps.

S10.10 Headlamp switching shall be so arranged that the sum of the maximum design candlepower of all headlamps, including supplemental headlamps, activated in any beam mode, does not exceed 200,000 candelpower.

S11 *Turn signal flashers; hazard warning signal flashers.* Each turn signal flasher and hazard warning signal flasher shall meet the following performance and durability requirements when tested in accordance with SAE Standard J823b, "Flasher Test Equipment," April 1968. The design load used in testing each flasher used as original motor vehicle equipment shall be the design current of the motor vehicle on which the flasher is installed. The design load used in testing each fixed-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as a single design load. The design load used in testing each variable-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as minimum and maximum design loads. The maximum design load shall be used to determine voltage drop (S11.1.2) and conformance to durability requirements (S11.2). The minimum and maximum design loads shall both be used to determine starting time (S11.1.1) and percent current "on" time (S11.1.3).

S11.1 *Performance requirements.*

S11.1.1 *Starting time.* When tested under the following conditions, the time required for closed contacts to open (on a flasher with normally closed contacts) or for open contacts to close and open again (on a flasher with normally open contacts) shall not exceed 2 seconds for a turn signal flasher, and 3 seconds for a hazard warning signal flasher.

(a) Ambient temperature is 75° F.

(b) Measurement of time starts when the voltage is initially applied.

(c) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(d) The test is run three times, each of which is separated by a cooling interval of 5 minutes, and the results are averaged to determine starting time.

S11.1.2 *Voltage drop.* When tested under the following conditions, the lowest voltage drop across a flasher shall not exceed 0.8 volt.

(a) Ambient temperature is 75° F.

(b) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(c) The voltage drop is measured between the input and the load terminals at the flasher and during the "on" period after the flasher has completed at least five consecutive cycles.

S11.1.3 *Flash rate and percent current "on" time.* The flash rate and the percent current "on" time of normally closed type flashers shall be within the unshaded portion of Figure 3 and those for normally open type flashers shall be within the entire rectangle of Figure 3, including the shaded areas.

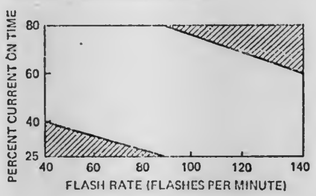


FIGURE 3

Each flasher shall meet these requirements under the following conditions:

(a) The flash rate and percent current "on" time are measured after the flasher has been operating for five consecutive cycles, and is calculated upon an average of not less than three consecutive cycles.

(b) For turn signal flashers, the operating tolerances apply over the combinations of bulb voltages and temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 12.0 or 6.0 volts; 0° F.
(iii) 15.0 or 7.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 14.0 or 7.0 volts; 125° F.

(c) For hazard warning signal flashers, the operating tolerances apply over the combinations of bulb voltages and ambient temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 11.0 or 5.5 volts; 0° F.
(iii) 13.0 or 6.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 13.0 or 6.5 volts; 125° F.

S11.2 *Durability requirements.*

S11.2.1 *Turn signal flashers.* Each turn signal flasher shall operate continuously for not less than 25 hours with the design load connected in the standard test circuit with the power source adjusted to apply 14 volts or 7.0 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S11.1.1, S11.1.2, and S11.1.3 under the conditions of S11.1.3 (a) and (b) (i). The ambient temperature for the durability test is 75° F.

S11.3 *Combination flashers.* Each combination turn signal and hazard warning signal flasher shall meet the requirements of paragraphs S11.1 and S11.2 when tested in the standard test circuit with the following sequence:

(a) For performance as a turn signal flasher pursuant to paragraph S11.1;

(b) For performance as a hazard warning signal flasher pursuant to paragraph S11.1;

(c) For durability as a turn signal flasher pursuant to paragraph S11.2.1; and

(d) For durability as a hazard warning signal flasher pursuant to paragraph S11.2.2.

SCHEDULE I—LIGHTING EQUIPMENT REQUIREMENTS

PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS AND BUSES

Item	Number and color	Applicable SAE standard or recommended practice	Location	Height above road surface [1]
Taillamps	2 red	J585d, August 1970	On the rear, 1 on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable.	Not less than 15 inches, nor more than 72 inches.
Stoplamps	do	J586c, August 1970	do	Do.
License plate lamp	1 white	J587d, March 1969	At rear license plate	No requirement.
Reflex reflectors	4 red; 2 yellow.	J594e, March 1970	On the rear—1 red on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable. On each side—1 red as far to the rear as practicable, and 1 yellow as far to the front as practicable.	Not less than 15 inches, not more than 60 inches.
Backup lamp	1 white	J593d, January 1971	On the rear, 1 on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable.	No requirement.
Turn signal lamps	2 red; 2 yellow.	J588e, September 1970	At or near the front—1 yellow on each side of the vertical centerline at the same height and as close to the edge of the vehicle as practicable. On the rear—1 red on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable.	Not less than 15 inches, nor more than 83 inches.
Side turn signal lamps	2 yellow	J914, October 1968	On each side, within 3 feet of the extreme front edge of the vehicle.	Not less than 15 inches, nor more than 83 inches.
Side marker lamps	2 red; 2 yellow.	J592d, December 1970.	On each side—1 red as far to the rear as practicable, and 1 yellow as far to the front as practicable.	Not less than 15 inches.
Turn signal operating switch [2].	1 Class A	J590b, June 1971		
Vehicular hazard warning signal switch.	1	J910b, June 1971		
Intermediate side marker lamps [3]	2 yellow	J592d, December 1970.	On each side—1 yellow located at or near the midpoint between the front and rear marker lamps.	Do.
Intermediate side reflex reflectors [3]	do	J594e, March 1970	On each side—1 yellow located at or near the midpoint between the front and rear side reflex reflectors.	Not less than 15 inches, nor more than 60 inches.
Parking lamps [4]	do	J222, December 1970.	On the front—1 on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable.	Do.
Identification lamps [5]	3 yellow; 3 red.	J592d, December 1970.	On the front and rear—3 lamps, yellow on the front and red on the rear, at the same height, as close as practicable to the top of the vehicle, at the same height, and as close as practicable to the vertical centerline with lamp centers spaced not less than 6 inches or more than 12 inches apart.	On the front of the lamps or mountings shall extend below the top of the vehicle windshield.

See footnotes at end of table.

SCHEDULE I—LIGHTING EQUIPMENT REQUIREMENTS—Continued

Item	Number and color	Applicable SAE standard or recommended practice	Location	Height above road surface [1]
Clearance lamps [6]	2 yellow; 2 red.	J592d, December 1970.	On the front and rear—2 yellow lamps on front, 2 red lamps on rear, to indicate the overall width of the vehicle, one on each side of the vertical centerline, at the same height, and as near the top thereof as practicable.	No requirement.

[1] Measured from center of item on vehicle at curb weight.
[2] Class B switches may be used on passenger cars, and on multipurpose passenger vehicles, trucks and buses less than 80 inches in overall width.
[3] Required only on vehicles 30 feet or greater in overall length.
[4] Required only on passenger cars, and on multipurpose passenger vehicles, trucks, and buses less than 80 inches in overall width.
[5] Required only on multipurpose passenger vehicles, trucks, and buses 80 or more inches in overall width.

SCHEDULE II—LIGHTING EQUIPMENT REQUIREMENTS

TRAILERS

Item	Number and color	Applicable SAE standard or recommended practice	Location	Height above road surface [1]
Taillamps	2 red	J585d, August 1970	On the rear, 1 on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable.	Not less than 15 inches, nor more than 72 inches.
Stop lamps	do	J586c, August 1970	do	Do.
License plate lamp	1 white	J587d, March 1969	At rear license plate	No requirement.
Turn signal lamps	2 red; 2 yellow.	J588e, September 1970.	On the rear—1 red on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable. On each side—1 red as far to the rear as practicable, and 1 yellow as far to the front as practicable.	Not less than 15 inches, not more than 83 inches.
Side marker lamps	2 red; 2 yellow.	J592d, December 1970.	On each side—1 yellow located at or near the midpoint between the front and rear marker lamps.	Do.
Intermediate side marker lamps [2]	2 yellow	J914e, December 1970.	On each side—1 yellow located at or near the midpoint between the front and rear side marker reflectors.	Not less than 15 inches, nor more than 60 inches.
Identification lamps [3]	3 red	J592d, December 1970.	On each side—1 red as far to the rear as practicable to the top of the vehicle, at the same height, as close as practicable to the vertical centerline, with lamp centers spaced not less than 6 inches nor more than 12 inches apart.	Do.
Clearance lamps [4]	2 yellow; 2 red.	do	On the front and rear—2 yellow lamps on front, 2 red lamps on rear, to indicate the overall width of the vehicle, one on each side of the vertical centerline, at the same height, and as near the top thereof as practicable.	Do.
Reflex reflectors	4 red; 2 yellow.	J594e, March 1970	On the rear—1 red on each side of the vertical centerline, at the same height, and as close to the edge of the vehicle as practicable. On each side—1 red as far to the rear as practicable, and 1 yellow as far to the front as practicable.	Not less than 15 inches, nor more than 60 inches.

[1] Measured from center of item on vehicle at curb weight.
[2] Required only on trailers 30 feet or greater in overall length.
[3] Required only on trailers 80 or more inches in overall width.

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SCHEDULE III—LIGHTING EQUIPMENT REQUIREMENTS

MOTORCYCLES

Item	Number and color	Applicable SAE standard or recommended practice	Location	Height above road surface [1]
Taillamp	1 red	J585d, August 1970.	On the rear—on the vertical centerline except that if 2 are used, they shall be symmetrically disposed about the vertical centerline.	Not less than 15 inches, nor more than 72 inches.
Stoplamp	1 red	J586c, August 1970.	do	Do.
License plate lamp.	1 white	J587d, March 1969.	At rear license plate	No requirement.
Reflex reflectors.	3 red; 2 yellow	J594e, March 1970.	On the rear—1 red on the vertical centerline except that, if 2 are used on the rear, they shall be symmetrically disposed about the vertical centerline. On each side—1 red as far to the rear as practicable, and 1 yellow as far to the front as practicable.	Not less than 15 inches, nor more than 60 inches.
Turn signal lamps.	2 red; 2 yellow Alternate proposal: 4 yellow (if red is adopted as the sole color for rear turn signals on other motor vehicles).	J588e, September 1970.	At or near the front—1 yellow on each side of the vertical centerline at the same height, and having a minimum horizontal separation distance (centerline to centerline of lamps) of 16 inches. Minimum edge to edge separation distance between lamp and headlamps is 4 inches. At or near the rear—1 red on each side of the vertical centerline, at the same height and having a minimum horizontal separation distance (centerline to centerline of lamps) of 9 inches. Minimum edge to edge separation distance between lamp and tail or stop lamp is 4 inches.	Not less than 15 inches, nor more than 83 inches.
Turn signal switch.	1 Class B	J589b, June 1971		

[1] Measured from center of item on vehicle at curb weight.

TYPE 3 HEADLAMP
LOW BEAM
MIN. CANDELA LINES

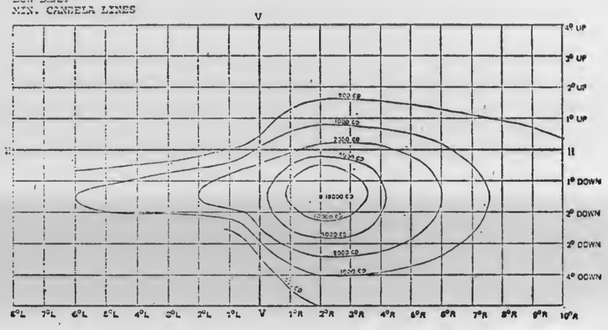


FIGURE 4

TYPE 3 HEADLAMP
LOW BEAM
MAX. CANDELA LINES

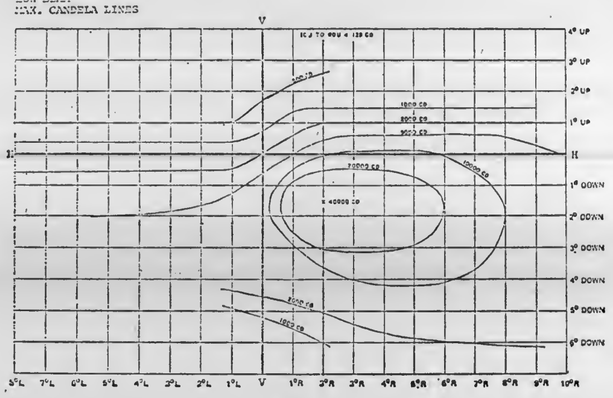


FIGURE 5

TYPE 3 HEADLAMP
HIGH BEAM
MIN. CANDELA LINES

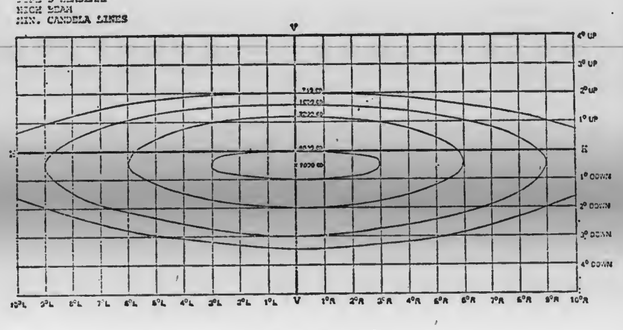


FIGURE 6

TYPE 3 HEADLAMP
HIGH BEAM
MAX. CANDELA LINES

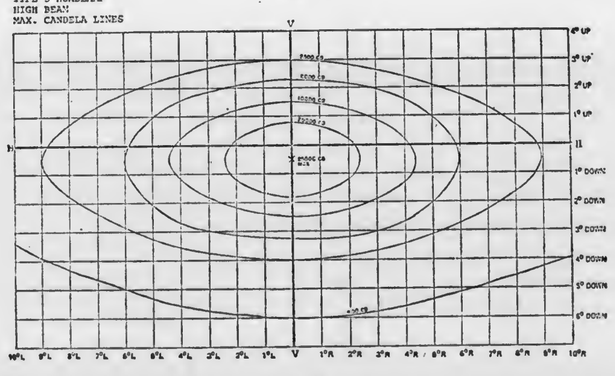


FIGURE 7

TYPE 4 HEADLAMP
MIDDLE BEAM
MIN. CANDELA LINES

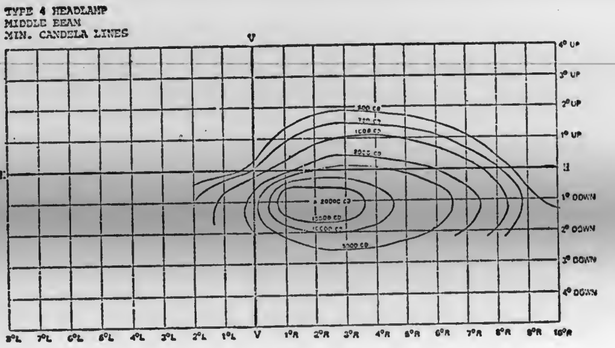


FIGURE 8

TYPE 4 HEADLAMP
MIDDLE BEAM
MAX. CANDELA LINES

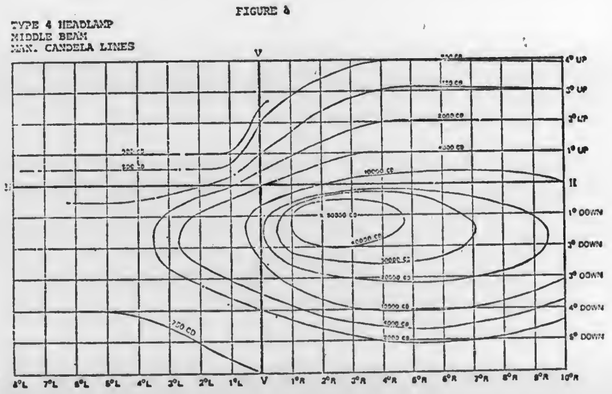


FIGURE 9

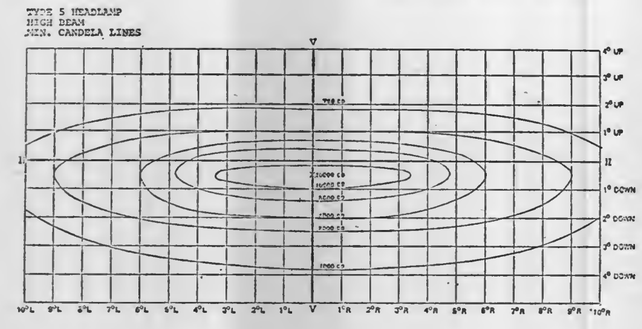


FIGURE 10

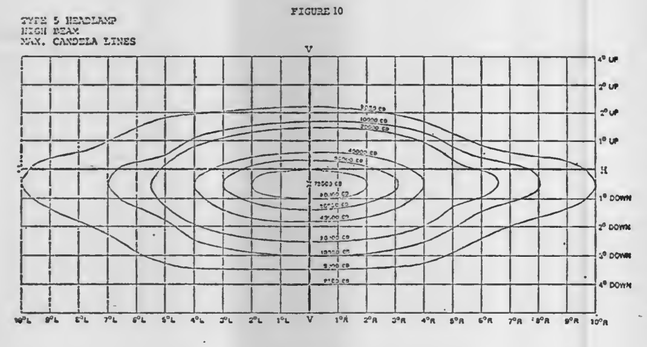


FIGURE 11

[FR Doc.72-18011 Filed 10-18-72;10:13 am]

POSTAL SERVICE

[39 CFR Part 124]

TURTLES AND TURTLE EGGS

Proposed Restrictions on Mailings

Notice is hereby given of proposed rule making consisting of a revision of § 124.3 (c) (2) (i) of Title 39, Code of Federal Regulations. Among other things it is there provided that baby terrapins and baby turtles not exceeding 2½ inches in length constitute mailable matter. It is now proposed to restrict the mailing of turtles (including terrapins and other related animals) as well as viable turtle eggs, to shipments which are certified free from bacteria of the genus *Salmonella* and the genus *Arizona*. This action is proposed in the light of findings by the Department of Health, Education, and Welfare that small pet turtles are a particularly significant source and reservoir of bacteria of the *Salmonella* and *Arizona* genera. (See 37 F.R. 7005.) Under the proposal small turtles and their relatives would be accepted for mailing only in cases where the mailer has obtained a certificate from the State health department of the State of origin certifying that his shipment is free from the stated bacteria.

Accordingly, complying voluntarily with the advance notice requirement of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rule making, the Postal Service proposes that § 124.3(c)(2)(i) be revised to read as hereinafter stated.

Interested persons who desire to do so may submit written data, views, or arguments concerning the proposed regulations to the Director, Mail Classification Division, Finance Department, U.S. Postal Service, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

In § 124.3, subdivision (i) of paragraph (c)(2) is amended to read as follows:

§ 124.3 Perishable matter.

* * * * *

(c) *Live animals.* * * *

(2) *Other animals*—(i) *Mailable.* Small, harmless, coldblooded animals (except snakes) which do not require food or water or attention during handling in the mail and which do not create sanitary problems or obnoxious odors are mailable. For example, the following are mailable: Baby alligators and cayman not exceeding 20 inches in length, bloodworms, earthworms, mealworms, chameleons, frogs, toads, goldfish, hellgrammites, newts, salamanders, leeches, lizards, snails, and tadpoles. Turtles (including terrapins, tortoises, and all other animals of the order *Testudinata*, Class *Reptilia*) with a carapice not exceeding 2½ inches in length, and viable turtle eggs, may be accepted for mailing only when accompanied by a certificate issued by the State health department of the State of origin certifying that such turtles or viable turtle eggs are free from bacteria of the *Salmonella* and *Arizona* genera. The certification shall be based upon results obtained through test procedures specified by the Department of Health, Education, and Welfare. (See proposed test procedures set out at 37 F.R. 7006.) The mailing containers shall be marked in bold block letters: "Turtles or Turtle Eggs—Complies With PSM, 124.3(c)(2)". Animals mailed into the Trust Territory of the Pacific Islands are subject to permit issued by the Director of Agriculture of that territory.

* * * * *

(39 U.S.C. 401, 404(1), and 18 U.S.C. 1716)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 72-18229 Filed 10-24-72;8:49 am]

Notices

DEPARTMENT OF STATE

Agency for International Development

AMERICAN COMMITTEE FOR SHAARE ZEDEK HOSPITAL IN JERUSALEM

Registration as Voluntary Foreign Aid Agency

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (AID Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a certificate of registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency:

American Committee for Shaare Zedek Hospital in Jerusalem, 135 West 41st Street, Suite 714, New York, NY 10036.

Dated: October 12, 1972.

JAROLD A. KIEFFER,
Assistant Administrator, Bureau for Population and Humanitarian Assistance.

[FR Doc.72-18130 Filed 10-24-72;8:46 am]

INTERNATIONAL VOLUNTARY SERVICES, INC.

Registration as Voluntary Foreign Aid Agency

In accordance with the regulations of the Agency for International Development concerning Registration of Agencies for Voluntary Foreign Aid (AID Regulation 3) 22 CFR Part 203, promulgated pursuant to section 621 of the Foreign Assistance Act of 1961, as amended, notice is hereby given that a certificate of registration as a voluntary foreign aid agency has been issued by the Advisory Committee on Voluntary Foreign Aid of the Agency for International Development to the following agency:

International Voluntary Services, 1555 Connecticut Avenue NW., Washington, DC 20036.

Dated: October 12, 1972.

JAROLD A. KIEFFER,
Assistant Administrator, Bureau for Population and Humanitarian Assistance.

[FR Doc.72-18160 Filed 10-24-72;8:48 am]

Office of the Secretary

[Public Notice 370]

LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE; OCEAN DUMPING CONVENTION

Draft Environmental Statements; Public Meeting

Notice is hereby given that a public meeting will be conducted by the Department of State on October 26, 1972, at 10:30 a.m. in Hearing Room C, Office of Hearings and Appeals, U.S. Department of the Interior, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Va. These hearings will consider the draft environmental impact statements issued by the Department of State on:

(a) The proposed ratification of the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund or Compensation for Oil Pollution Damage, and the proposed enactment of the Act to implement these conventions; and

(b) The proposed draft Convention for the Prevention of Marine Pollution by Dumping produced by the Intergovernmental Meeting on Ocean Dumping at Reykjavik, Iceland, from April 10–15, 1972, as amended in certain respects at the Intergovernmental Meeting on Ocean Dumping at London on May 30 and 31, 1972. The proposed Ocean Dumping Convention will be the subject of a plenipotentiary conference to be held in London between October 30 and November 10, 1972.

Notification concerning the availability of these statements has appeared in the FEDERAL REGISTER (37 F.R. 19168, September 19, 1972, and 37 F.R. 21449, October 11, 1972), and persons desiring copies may obtain them from the National Technical Information Service of the Department of Commerce, Springfield, Va. 22151. The identifying NTIS numbers for the statements related to the oil pollution and ocean dumping conventions respectively are EIS–AA–72–5231–D and EIS–AA–72–5377–D.

Persons desiring to submit any comments on the statements at the public meeting are encouraged to do so in writing and are requested to notify the Office of Environmental Affairs (SCI/EN), Department of State, of their plans to attend (telephone 202—632–9169).

For the Secretary of State.

Dated: October 12, 1972.

CHRISTIAN A. HERTER, Jr.,
Special Assistant to the Secretary for Environmental Affairs.

[FR Doc.72-18112 Filed 10-24-72;8:46 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ADMINISTRATIVE OFFICER, CANON CITY, COLO.

Delegation of Authority Regarding Procurement and Contracting

A. Pursuant to delegation of authority contained in Bureau Manual 1510.03B2d, the Chief, Division of Administration/Administrative Officer, Canon City District, Colorado, is authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized and major noncapitalized equipment, not to exceed $500, and

2. To enter into contracts on the open market for supplies and services, excluding capitalized and major noncapitalized equipment, not to exceed $500 per transaction, provided the requirement is not available from established sources.

B. This authority may not be further redelegated.

RICHARD D. MCELDERY,
District Manager.

[FR Doc.72-18131 Filed 10-24-72;8:46 am]

[A-6898]

ARIZONA

Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial Number A-6898, for the withdrawal of lands from location and entry under the general mining laws, but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the lands described under O'Haco Lookout Administrative Site for continued use as a lookout tower. The lands described under the Heber Job Corps Center are needed as they are presently occupied as living quarters and training facilities for 250 young men and necessary staff. Lands described under Bear Canyon Lake Recreation and Chevelon Canyon Lake Recreation Areas are necessary for the expansion of their present recreation facilities to accommodate the growing needs of the public. All sites are situated in the Sitgreaves National Forest and are in aid of the Department's program.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

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If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

O'HACO LOOKOUT ADMINISTRATIVE SITE

T. 12 N., R. 12 E.,
Sec. 10, SE¼SE¼NW¼.

The area described aggregates 10 acres.

BEAR CANYON LAKE RECREATION AREA

T. 12 N., R. 13 E.,
Sec. 20, S½SW¼, SW¼SE¼, and W½SE¼SE¼;
Sec. 29, W½E½E¼, W½NE¼, NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 32, NW¼NE¼, and NE¼NW¼.

The area described aggregates 740 acres.

CHEVELON CANYON LAKE RECREATION AREA

T. 13 N., R. 14 E.,
Sec. 14, W½NW¼SW¼, S½S½, E½NW¼SE¼, and NE¼SE¼;
Sec. 15, E½E½SE¼;
Sec. 23, lots 1 and 2, NE¼, N½NW¼, E½SE¼NW¼, E½NE¼SW¼, W½SE¼ and 14.44 acres of HES 197 in E½E½SE¼;
Sec. 24, lots 1 and 2, S½SW¼NE¼, NW¼, E½SW¼, SW¼SE¼, and 14.91 acres of HES 197 in W½W½SW¼;
Sec. 25, 3.07 acres of HES 197 in NW¼NW¼NW¼;
Sec. 26, E½.

The area described aggregates approximately 1,423.07 acres more or less.

HEBER JOB CORPS CONSERVATION CENTER ADMINISTRATIVE SITE

T. 12 N., R. 16 E.,
Sec. 20, N½SE¼, SW¼SE¼, N½SE¼SE¼, and SW¼SE¼SE¼.

The area described aggregates 150 acres.

The total areas described above aggregate approximately 2,323.07 acres within the Sitgreaves National Forest.

This proposed withdrawal will not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral or vegetative resources other than under the mining laws.

Dated: October 17, 1972.

JOE T. FALLINI,
State Director.

[FR Doc.72-18132 Filed 10-24-72;8:46 am]

Office of Hearings and Appeals

PROPOSED PROTOTYPE OIL SHALE LEASING PROGRAM

Extension of Time for Comments on Draft Environmental Impact Statement

The time within which written comments on the "Draft Environmental Statement for the Proposed Prototype Oil Shale Leasing Program," prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) (1970)), is hereby extended from October 23, 1972, to November 7, 1972.

At the request of interested parties, the time period for submission of comments has been extended to give the general public additional opportunity to review the draft environmental statement. Accordingly, interested parties may submit written comments, suggestions, or objections to the Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, at any time prior to the close of business, November 7, 1972.

Dated: October 20, 1972.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

[FR Doc.72-18222 Filed 10-24-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN INSPECTION

Chicago, Ill. Inspection Point

Statement of considerations. On June 30, 1972, there was published in the FEDERAL REGISTER (37 F.R. 12980) a notice announcing: (1) That effective July 1, 1972, the Illinois Department of Agriculture would no longer provide official grain inspection services under the U.S. Grain Standards Act (7 U.S.C. 71 et seq.) at Chicago, Ill.; (2) that applications had been received for designation to operate the official grain inspection agency at Chicago, Ill., from the Chicago Grain Inspection Bureau, Chicago; the Illinois Grain Inspection Service Corp., Chicago; and the Milwaukee Grain Exchange, Milwaukee, Wis.; and (3) that the Chicago Grain Inspection Bureau was designated by the Department to operate the official grain inspection agency in Chicago, Ill., on an interim basis pending a final determination of the matter.

Inspection organizations, members of the grain trade, and other interested persons were given until July 31, 1972, to make application for designation and to submit written data, views, or arguments with respect to the designation of an official inspection agency at Chicago.

The Illinois Department of Agriculture filed an application for designation as the official inspection agency, and submitted related supporting documents including comments from several individuals who were or are employed by the State department of agriculture. In addition, 24 other comments were received in response to the notice in the FEDERAL REGISTER. Sixteen of the comments recommended that the Chicago Grain Inspection Bureau be designated to operate the official grain inspection agency at Chicago. Eight comments did not specifically recommend any agency. No recommendations were received from the grain trade in support of the Illinois Department of Agriculture, Springfield, Ill.; nor were any recommendations received for the Illinois Grain Inspection Service Corp., Chicago, Ill., or the Milwaukee Grain Exchange, Milwaukee, Wis.

All applicants for designation to operate the official inspection agency at Chicago were found to have met the prerequisites for designation set forth in § 26.96 of the regulations (7 CFR 26.96), and to have filed a proper application for designation as specified in § 26.97 of the regulations (7 CFR 26.97). The Chicago Grain Inspection Bureau was found to be qualified and competent for designation. In addition, its application for designation was supported by the majority of the users of the service who filed comments. Therefore, after due consideration of all submissions made pursuant to the notice of June 30, 1972, and all other relevant matters, and pursuant to the authority contained in sections 3(m) and 7(f) of the U.S. Grain Standards Act (7 U.S.C. 75(m) and 79(f)), the Chicago Grain Inspection Bureau is hereby designated as the official grain inspection agency at Chicago, Ill.

Effective date. This notice shall become effective 30 days after publication in the FEDERAL REGISTER.

Done in Washington, D.C., on October 18, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-18120 Filed 10-24-72;8:46 am]

GRAIN INSPECTION

Guymon, Okla. Inspection Point

Statement of considerations. No person or agency is presently designated under section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75(m)) to operate an official grain inspection agency at Guymon, Okla.

The Guymon Grain Exchange, Inc., Guymon, Okla., has applied for designation (in accordance with section 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act) to operate an official grain inspection agency at Guymon, Okla. This application does not preclude other interested agencies and persons from making similar applications.

Other interested persons are hereby given opportunity to make application for designation to operate an official inspection agency at Guymon, Okla., according to the requirements in section 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act.

NOTE: Section 7(f) of the Act (7 U.S.C. 79(f)) generally provides that not more than one inspection agency shall be operative at any one time for any one city, town, or other area.

Members of the grain industry who wish to submit views and comments are requested to include the name of the Person or agency which they recommend to be designated to operate an official inspection agency at Guymon, Okla.

Opportunity is hereby afforded all interested persons to submit written data, views, or arguments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions shall be in duplicate and shall be mailed to the Hearing Clerk not later than 30 days after this notice is published in the FEDERAL REGISTER. All submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the written data, views, or arguments so filed with the Hearing Clerk and to other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on October 19, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-17939 Filed 10-24-72;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

Adoption of Additional New Standard Part II Form

Notice is hereby given that the Maritime Subsidy Board on this date adopted an additional new form of Standard Part II to the Operating-Differential Subsidy Agreements. Adoption of other new forms of Standard Part II was noticed in the FEDERAL REGISTER on August 3, 1972 (37 F.R. 15528).

The new form is identified as Standard Part II-A(5). Its development was characterized by full disclosure of all drafts to, and full consideration of all comments by, counsel representing the only two existing subsidized operators which were eligible to, and in fact did, elect its use.

Copies of Standard Part II-A(5) are available from the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20235.

Dated: October 18, 1972.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-18108 Filed 10-24-72;8:45 am]

WILMINGTON TRUST CO.

Notice of Approval as Trustee

Notice is hereby given that Wilmington Trust Co., with offices at 10th and Market Streets, Wilmington, Del., has been approved as Trustee pursuant to Public Law 89-346 and 46 CFR 221.21-221.30.

Dated: October 16, 1972.

BURT KYLE,
Chief, Office of Domestic Shipping.

[FR Doc.72-18109 Filed 10-24-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to Executive Order 11671 that the next meeting of the National Advisory Council on Extension and Continuing Education will be held on November 16 and 17, 1972, at 9 a.m., local time, at the Holiday Inn in Williamsburg, Va.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council shall be open to the public. Complete agenda and records shall be kept of all Council proceedings and they will be available for public inspection at the Office of the Council's Executive Director, located in Room 710, 1325 G Street NW., Washington, DC.

EDWARD KIELOCK,
Executive Director.

OCTOBER 11, 1972.

[FR Doc.72-18106 Filed 10-24-72;8:45 am]

VOCATIONAL EDUCATION

Closing Date for Receipt of Applications for Research and Development Programs in Vocational Education, Fiscal 1973 Funds

The Vocational Education Act of 1963, Public Law 88-210, as amended by Public Law 90-576, title I, provides for research in vocational education; training programs designed to familiarize persons involved in vocational education with research findings and successful pilot and demonstration projects in vocational education; experimental, developmental, and pilot projects designed to test the effectiveness of research findings; demonstration and dissemination projects; the development of new vocational education curricula; and projects in the development of new careers and occupations. Section 131(a) of Part C of Public Law 90-576 authorizes the U.S. Commissioner of Education, from 50 percent of the sums available to each State for the purposes of this part, to make grants to or contracts with institutions, State boards, and, with the approval of the appropriate State board, to local educational agencies in that State for the purposes of this part.

Applications by State boards for vocational education may be submitted to the U.S. Commissioner of Education in accordance with applicable rules and regulations contained in FEDERAL REGISTER, vol. 35, No. 143, for grants designed to enable the States to operate development, testing, and demonstration sites for career education programs, to engage in adaptive curriculum development work for incorporating into their sites new techniques and materials emerging from various State and national career education efforts, and/or to undertake the diffusion of career education components to other selected school districts within the State. Eligible applications for fiscal year 1973 must be postmarked no later than November 18, 1972, and will be acted upon in the order of their receipt.

Suggested guidelines and instructions may be obtained from the Bureau of Adult, Vocational, and Technical Education, U.S. Office of Education, Washington, D.C. 20202.

The above is contingent upon funds being appropriated by the Congress to support section 131(a) activities during fiscal year 1973.

Dated: October 17, 1972.

S. P. MARLAND, Jr.,
Commissioner of Education.

[FR Doc.72-18105 Filed 10-24-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

YOUTHS SAFETY ADVISORY COMMITTEE

Notice of Public Meeting

On November 11 and 12, 1972, the Youths Safety Advisory Committee will hold an open meeting at Gallier Hall, New Orleans, La. The Committee is composed of persons appointed by the Secretary of Transportation to advise and consult with the National Highway Traffic Safety Administrator concerning programs and activities to attract and sustain the participation of young people in the national effort to combat highway deaths and injuries.

The meeting will be in session from 9 a.m. to 6 p.m. on November 11 and from 9 a.m. to 12 noon on November 12. The agenda is as follows:

Briefing session on ASAP site.

Consideration of ASAP-related programs.

V37-206 OCT 25 72 XUM

Consideration of public information and education programs.

This notice is given pursuant to section 13 of Executive Order 11671, June 5, 1972.

Issued on October 6, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-18103 Filed 10-24-72;8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-324 and 50-325]

CAROLINA POWER & LIGHT CO.

Notice of Receipt of Application for Facility Operating Licenses

Please take notice that Carolina Power & Light Co., 336 Fayetteville Street, Raleigh, NC 27602, pursuant to section 104b of the Atomic Energy Act of 1954, as amended (the Act) has filed an amended application, for a license to operate two nuclear power reactors on the company's site on the Cape Fear River, near Southport, N.C.

The nuclear power reactors are boiling water reactors, designated by the applicant as the Brunswick Steam Electric Plant Units 1 and 2, each of which is designed for initial operation at approximately 2,436 megawatts thermal with a net electrical output of approximately 821 megawatts.

Pursuant to subsection 105c(3) of the Act, any person who intervened or who sought by timely written notice to the Commission to intervene in the construction permit proceedings for this facility to obtain a determination of antitrust considerations or to advance a jurisdictional basis for such determination has the right to obtain an antitrust review under section 105c of the Act of the application for an operating license for this facility, upon written request to the Commission made within 25 days after the date of publication of this notice, which is published pursuant to subsection 105c(3), of the Atomic Energy Act of 1954, as amended.

(Sec. 105c(3), 84 Stat. 1472; 42 U.S.C. 2135(c)(3))

Dated at Bethesda, Md., this 13th day of October 1972.

For the Atomic Energy Commission.

ROGER S. BOYD,
Assistant Director for Boiling Water Reactors, Directorate of Licensing.

[FR Doc.72-18101 Filed 10-24-72;8:45 am]

[Docket No. 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK

Notice of Consideration of Issuance of Facility License and Notice of Opportunity for Hearing

The Atomic Energy Commission (the Commission) will consider the issuance of a facility operating license to the Consolidated Edison Company of New York (the Applicant) which would authorize the applicant to possess, use, and operate the Indian Point Nuclear Generating Unit No. 3, a pressurized water nuclear reactor (the Facility), located on the Applicant's site on the Hudson River in the village of Buchanan, Westchester County, N.Y., at steady-state power levels not to exceed 3,025 megawatts thermal in accordance with the provisions of the license and the technical specifications appended thereto, upon the receipt of a report on the Applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards, the submission of a favorable safety evaluation on the application by the Commission's Directorate of Licensing, the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D, and a finding by the Commission that the application for the Facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR Ch. 1. Construction of the Facility was authorized by Construction Permit No. CPPR-62, issued by the Commission on August 13, 1969.

Prior to issuance of any operating license, the Commission will inspect the Facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPPR-62. In addition, the license will not be issued until the Commission has made the findings, reflecting its review of the application under the Act which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The Facility is subject to the provisions of 10 CFR Part 50, Appendix D, section C.3, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

Within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene with respect to the issuance of the facility operating license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A petition for leave to intervene which is not timely will not be granted unless the Commission determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Commission has considered those factors specified in 10 CFR 2.714(a).

For further details pertinent to the matters under consideration, see the application for the facility operating license, dated December 4, 1970, as amended, and the Applicant's environmental report, dated June 14, 1971, as supplemented, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC., and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, NY. As they become available, the following documents also will be available at the above locations: (1) The report of the Advisory Committee on Reactor Safeguards on the application for facility operating license (2) the Commission's draft detailed statement on environmental considerations pursuant to 10 CFR Part 50, Appendix D; (3) the Commission's final detailed statement on environmental consideration; (4) the safety evaluation prepared by the Directorate of Licensing; (5) the proposed facility operating license; and (6) the technical specifications, which will be attached to the proposed facility operating license.

Copies of items (1), (3), (4), and (5) may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 25045.

Dated at Bethesda, Md., this 19th day of October 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-18247 Filed 10-24-72;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23486; Order 72-10-46]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Proportional Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted at a special meeting which convened in New York, August 22, 1972. The agreement has been assigned a CAB agreement number (CAB 23275, R-1—R-3).

The agreement stems from the Board's recent action in Phase 7 of the Domestic Passenger-Fare Investigation [1] approving a 2.7-percent increase in U.S. domestic fares, and reflects upward adjustments in proportional fares necessary to avert losses on through fares constructed across the Atlantic and Pacific to/from U.S. interior points. In general, proportionals presently equal to pre-September 5 local fares would be adjusted to the new local fare level, and arbitraries would be increased by the same dollar amounts as local fares for the same sectors.

National Airlines, Inc. (National), Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA) have submitted statements urging approval of the agreement. The carriers point out that for through trips to U.S. interior points, the international carriers must now pay prorate amounts to U.S. domestic carriers based on increased local fares for transportation on the domestic segments of such trips. Without an attendant adjustment in international fares, the international carriers would be forced to absorb the domestic increase.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the following resolutions, incorporated in the agreement as indicated, to be adverse to the public interest or in violation of the Act:

CAB Agreement 23275	IATA Number	Title	Application
R-1	015	North Atlantic Proportional Fares—North American	1/2; 1/2/3.
R-2	015a	South Pacific Proportional Fares—North America	3/1.
R-3	015b	North and Central Pacific Proportional Fares—North America	3/1.

Accordingly, it is ordered, That:

Agreement CAB 23275, R-1 through R-3, be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18152 Filed 10-24-72;8:48 am]

[1] Order 72-8-50, dated Aug. 10, 1972. Implementing tariffs became effective September 5, 1972.

[Docket No. 23190]

SPECIAL SERVICE SCHOOL TEACHERS GROUP, INC. ET AL.

Notice of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act as amended, that hearing in this proceeding, previously set for June 26, 1972 (37 F.R. 10529, May 24, 1972), then postponed indefinitely (37 F.R. 12255, June 21, 1972), will be held on November 16, 1972, at 10 a.m. local time in Room 911, 1825 Connecticut Avenue NW., Washington, DC 20428, before the undersigned and in the context contemplated by Orders 72-9-12 (September 5, 1972) and 72-10-48 (October 16, 1972).

Dated at Washington, D.C., October 18, 1972.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.72-18153 Filed 10-24-72;8:45 am]

TRANSPORTATION ASSOCIATION OF AMERICA

Cancellation of Meeting

Notice is hereby given that the meeting with the above association now scheduled for October 26, 1972 (37 F.R. 21660), is hereby canceled.

Dated at Washington, D.C., October 20, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18265 Filed 10-24-71;8:49 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality, October 9 to October 13, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contract: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388-7803.

FOREST SERVICE

Draft, October 6

Fish Creek Basin, Alaska: The statement refers to the proposed development of a recreation and winter sports site, with ski lifts and a day lodge, parking facilities, etc., with an ultimate capacity of 5,000 skiers. An unspecified amount of land will be committed to the project. (ELR Order No. 05416, 16 pages) (NTIS Order No. EIS-72 5416-D)

Draft, October 12

Trinity Alps Wilderness, Humbolt, Siskiyou, and Trinity Counties, Calif. The statement refers to the proposed legislative action which would establish a Trinity Alps Wilderness as a national forest unit of the National Wilderness Preservation System. Total wilderness acreage would be 238,176. (ELR Order No. 05448, 21 pages) (NTIS Order No. EIS-72 5448-D).

Draft, October 10

Herbicide use in national forests, several counties in California and Oregon. The statement refers to the proposed use of herbicides on the Siuslaw, Umpqua, and Siskiyou National Forests, in order to reduce the volume of native vegetation where it hampers forest management activites. The agents to be used (on approximately 40,000 acres of forest) are 2, 4-D; 2, 4, 5-T; 2, 4, 5-TP; Amitrole-T, Atrozine; Picloram; and Dicamba. The spraying will temporarily reduce forage for big game, subject nectar feeding insects to toxic effects, and eliminate food and cover for those small animals which have limited home ranges. (ELR Order No. 05436, approximately 350 pages) (NTIS Order No. EIS-72 5436-D)

Final, October 6

Palzo Restoration Project, Williamson, Saline, and Gallatin Counties, Ill., The statement refers to the proposed utilization of treated municipal waste in the reclamation of abandoned strip mining land in the Shawnee National Forest. The area presently has severe water pollution problems. Comments made by EPA, State agencies and concerned citizens. (ELR Order No. 05421, 102 pages) (NTIS Order No. EIS-72 5421-F)

RURAL ELECTRIFICATION ADMINISTRATION

Final, October 2

Maysville Generating Station, Mason County, Ky. The proposed action involves loans totaling $37,500,000 from REA to the East Kentucky Rural Electric Cooperative Corp. The funds would be utilized to finance a 300 MW coal-fired steam electric generating station and 110 miles of transmission line. Oxides of sulfur and nitrogen will be emitted; the lines will be intrusions upon the landscape. Comments made by USDA, COE, EPA, FPC, DOI, and DOT. (ELR Order No. 05380, approximately 300 pages) (NTIS Order No. EIS-72 5380-F)

[1] Members Minetti and Murphy submitted a concurring statement, filed as part of the original document.

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Final, October 10

Palo Pinto Generating Station, Unit 3, Palo Pinto County, Tex. The statement refers to the proposed construction of a 200 MW natural gas generating unit as an addition to the 2 unit station. Total capacity of the station will be 366 MW. Cooling water will be discharged to Palo Pinto Lake; oxides of sulfur and nitrogen will be released. Comments made by USDA, EPA, FPC, and DOI. (ELR Order No. 05437, approximately 200 pages) (NTIS Order No. EIS–72 5437–F)

SOIL CONSERVATION SERVICE

Draft, October 2

Upper Mulberry River Watershed, several counties, Georgia. The statement refers to a project which would include land treatment measures, 7 floodwater retarding structures, 2 multipurpose structures for floodwater retardation and municipal and industrial supply, channel works and bank protection. Some fish and wildlife habitat will be lost to the project. (ELR Order No. 05382, 28 pages) (NTIS Order No. EIS–72 5382–D)

Final, October 12

Horse Range Swamp Watershed, Orangeburg County, S.C. The statement refers to the use of land treatment measures on the watershed, and 25 miles of stream channel enlargement. The purposes of the action are the reduction of flooding and the improvement of drainage. Approximately 214 acres will be committed to the project. Comments made by COE, DOC, EPA, HEW, and DOI. (ELR Order No. 05451, 50 pages) (NTIS Order No. EIS–72 5451–F)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Final, October 2

Fall Creek Basin, Marion, Hancock, and Madison Counties, Ind. The statement refers to the proposed construction of a 2,700-foot long, 80-foot high rolled earth dam and its resulting reservoir. The purposes of the action are flood control, water supply, and recreation. Approximately 15,250 acres, will be required by the project, 6,709 of it being inundated; much of the area is agricultural and wooded land. Twenty-one miles of free-flowing stream will be eliminated, being converted to lenitic habitat. The community of Luxhaven, with an unspecified number of residences and businessea, will be obliterated. Comments made by USDA, EPA, HEW, DOI, and DOT. (ELR Order No. 05386, 156 pages) (NTIS Order No. EIS–72 5386–F)

Final, October 12

Camp Ground Lake Project, Washington, Nelson, and Anderson Counties, Ky. The statement refers to the proposed construction of a dam and reservoir on Salt River, 49 miles upstream from Beech Fork. The purposes of the project are flood control, water quality control, fish and wildlife enhancement, and recreation. Approximately 18,550 acres will be required for the project; of those 5,070 acres, along with 50 miles of free-flowing stream, will be inundated. An unspecified number of residences will be displaced. Comments made by USDA, EPA, HEW, ROI, and DOT. (ELR Order No. 05447, 58 pages) (NTIS Order No. EIS–72 5447–F)

Final, October 13

Rouge River Flood Control Project, Wayne County, Mich. The document is a supplement to a final statement which was filed with the Council on June 7, 1972. The NTIS Order No. for the original is EIS–72 4662–F. (ELR Order No. 05462, 36 pages) (NTIS Order No. EIS–72 No. 05462, 36 pages) (NTIS Order No. 5462–F)

Final, October 6

Days Creek Lake, Douglas County, Oreg. The statement refers to the proposed construction of a rockfill dam and a 480,000 acre-feet reservoir, on the South Umpqua River, for flood control and recreational purposes. The project would inundate 4,720 acres of land and 30 miles of free-flowing stream, adversely affecting fish spawning and rearing grounds. An annual timber production of 215,000 board feet would be lost. Displacements would include 24 farmsteads, 80 residences, seven businesses, one church, two schools and supporting utilities. Comments made by USDA, DOC, EPA, FPC, HEW, DOI, and DOT. (ELR Order No. 05486, 250 pages) (NTIS Order No. EIS–72 5486–F)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

BUREAU OF SPORTS FISHERIES AND WILDLIFE

Draft, October 4

Fish Control Laboratory, La Crosse County, Wis. The statement refers to the proposed relocation and expansion of the laboratory on a 61-acre site on French Island. The laboratory will do research on chemical, biological, physical, and integrated controls for fish and sea lamprey. Wastewater from laboratory tests would have adverse effects if the treatment plant failed to function. (ELR Order No. 05403, 246 pages) (NTIS Order No. EIS–72 5403–D)

BUREAU OF LAND MANAGEMENT

Final, October 13

Oil and gas lease sale, Louisiana. The statement refers to the proposed sale of oil and gas leases to 135 tracts (totaling 615,315 acres) of Outer Continental Shelf lands. All tracts offered pose some degree of pollution risk. Each tract offered is subjected to a matrix analytical technique in order to evaluate significant environmental impacts should leasing occur and subsequent oil and gas exploration ensue. The sale is tentatively scheduled to be held in late autumn 1972. Comments made by AEC, DOC, EPA, FPC, OEP, and DOI. (ELR Order No. 05457, approx. 600 pages) (NTIS Order No. EIS–72 5457–F)

BUREAU OF RECLAMATION

Final, October 6

San Luis Unit, several counties, California. The statement refers to a project which is intended to provide irrigation for 600,000 acres of the San Joaquin Valley. Facilities of the project will include one major dam and reservoir, a forebay dam and reservoir, two detention dams and reservoirs, one pumping plant, two pump-generator plants, two major canals, a distribution and drainage collection system, and a major drainage conveyance canal. The total number of acres to be committed to the project is not specified. The habitat of two rare and endangered species (the San Joaquin Kit Fox and the Blunt-nosed Leopard Lizard) will be reduced. Comments made by USDA, EPA, FPC, HEW, DOI, DOT, State and local agencies and concerned citizens. (ELR Order No. 05404, 87 pages) (NTIS Order No. EIS–72 5404–F)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL AVIATION AGENCY

Draft, October 12

Destin-Fort Walton Beach Airport, Okaloosa County, Fla. The statement refers to the proposed development of an existing basic utility airport into a basic transport facility capable of handling turbo-jet powered aircraft of up to 60,000 lbs. Approximately 43 acres of land will be committed to the project; noise and air pollution levels will increase. (ELR Order No. 05452, 23 pages) (NTIS Order No. EIS–72 5452–D)

Hallock Airport, Kittson County, Minn. The statement refers to the proposed construction of a new airport, which would include a 75 foot by 4,000 foot NW/SE runway, aprons, and a taxiway, medium intensity lighting, and related works. An unspecified amount of land will be committed to the project. (ELR Order No. 05453, 16 pages) (NTIS Order No. EIS–72 5453–D)

Piedmont Airport, Wayne County, Mo. The statement refers to the proposed construction of new basic utility airport, with one 3,200 foot by 75 foot runway, a taxiway VASI, and related construction. An unspecified amount of land will be committed to the project; local noise levels will increase due to the action. (ELR Order No. 05454, 11 pages) (NTIS Order No. EIS–72 5454–D)

Final, October 11

Blackwell-Tonkawa Airport, Blackwell County, Okla. The statement is concerned with the proposed acquisition of land and construction of a new airport, with a N/S 60 foot by 350 foot runway, turnarounds, a taxiway and parking apron, and appurtenant facilities. A gas pipe line will be relocated due to the action; 152 acres will be acquired. Comments made by USDA, COE, EPA, HEW, DOI, and DOT. (ELR Order No. 05444, 52 pages) (NTIS Order No. EIS 72–5444–F)

Crosbyton Municipal Airport, Crosby County, Tex. The statement is concerned with the construction of a new airport, capable of handling light, single-engine aircraft. Facilities would include a 60 foot by 3,600 foot paved runway with turnarounds, a taxiway, an apron, an access road, and medium intensity lighting. Approximately 320 acres of agricultural land have been purchased for the project. Comments made by USDA, DOC, EPA, COE, HEW, DOI, and DOT. (ELR Order No. 05445, 15 pages) (NTIS Order No. EIS–72 5445–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 6

State Route 50, Lake County, Fla. The statement refers to the proposed multilaning of a segment of State Road 50 from the intersection of State Road 561 to the intersection of State Road 25. Project length is 7.2 miles. Two families and one business may be displaced. Stormwater runoff may degrade the water quality of the lakes near the project. (ELR Order No. 05406, 126 pages) (NTIS Order No. EIS–72 5406–D)

Draft, October 4

Gun Creek Complex Road, Franklin County, Ill. The proposed action is the construction of 2.94 miles of four-lane highway within the Gun Creek Complex. The project will provide access to a proposed recreation and development site within the Rend Lake area. The entire project will be constructed on 4(f) land controlled by the Rend Lake Conservancy District, The natural habitat of some wildlife, insects, and plants will be disrupted. (ELR Order No. 05395, 112 pages) (NTIS Order No. EIS–72 5395–D)

Draft, October 6

F.A.P. 406, Logan and Tazewell Counties, Ill. The proposed freeway is a four-lane, fully access controlled facility extending from North of Lincoln to Morton. Approximately 750 acres of agricultural land will be committed to the project; several residences will be displaced and some local land access patterns revised. Air, noise, and water pollution will increase. (ELR Order No. 05417, 65 pages) (NTIS Order No. EIS–72 5417–D)

Draft, October 4

Relocated KY 55–KY 155, Jefferson and Spencer Counties, Ky. The proposed action is the relocation of KY 55–KY 155 between Taylorsville and Fisherville. Project length is 13.9 miles. Approximately 400 acres of agricultural land will be committed to the action. A bridge spanning Brashers Creek and 1,000 feet of channel relocation may be required. Seven residences, one business, and one nonprofit organization will be displaced. (ELR Order No. 05402, 32 pages) (NTIS Order No. EIS–72 5402–D)

Draft, October 10

French Island Rest Area 31, LaCrosse County, Wis. The statement refers to the proposed construction of a combined rest area and tourist information center on Interstate Highway 90 near the Wisconsin-Minnesota State line. Construction of the facility will require the acquisition of 9 acres of private land, cutting of trees, and a rise in noise and air pollution. (ELR Order No. 05433, 24 pages) (NTIS Order No. EIS–72 5433–D)

Final, October 6

F.A. Route 64, Champaign County, Ill. The proposed project consists of the reconstruction of two segments of Federal Aid Route 64 (Illinois Route 47). Project length is 13.8 miles. Thirty-four acres are required for the right-of-way. Three families will be displaced; wildlife habitat will be disturbed. Comments made by USDA, EPA, DOI, DOT, COE, HUD, State, and local agencies. (ELR Order No. 05420, 61 pages) (NTIS Order No. EIS–72 5420–F)

Final, October 12

T.H. 61, Goodhue and Dakota Counties, Minn. The statement refers to the proposed relocation of a 16 mile segment of T.H. 61 between Red Wing and a point several miles south of Hastings. Section 4(f) land from the Hay Creek Recreational Trail may be encroached upon. Approximately 360 acres of agricultural land will be committed to right-of-way. Other adverse effects include severance of properties, acquisition of several farm buildings, and some indirection of travel created by limition of access. Comments made by USDA, EPA, HUD, DOI, DOT, DOC, and one State agency. (ELR Order No. 05446, 83 pages) (NTIS Order No. EIS–72 5446–F)

Final, October 6

The Genesee Expressway, Livingston and Monroe Counties, N.Y. The statement refers to the proposed construction of a 43 mile segment of I–390 from Dansville to I–90 at Exit 46 (West Henrietta), including a 6-mile spur connection to Letchworth State Park. Sites of archeologic interest of former Indian villages may be disturbed. Thirty-two families may be displaced. Comments made by USDA, COE, EPA, HEW, HUD, DOI, DOT, State, and regional agencies. (ELR Order No. 05430, 257 pages) (NTIS Order No. EIS–72 5430–F)

Final, October 12

State Highway 20, Codington County, S. Dak. The statement refers to the proposed construction of Highway 20 from 4¾ miles east of Wallace to the U.S. 81—existing State Highway 20 intersection. Project length is approximately 14 miles. A new bridge spanning the Big Sioux River will be constructed. Section 4(f) land from a wildlife refuge may be encroached upon. An unspecified amount of right-of-way will be acquired. Comments made by EPA, HUD, HEW, DOI, and State agencies. (ELR Order No. 05450, 27 pages) (NTIS Order No. EIS–72 5450–F)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–18127 Filed 10–24–72;8:47 am]

FEDERAL MARITIME COMMISSION

GULF-CARIBBEAN NAVIGATION CO., INC., ET AL.

Notice of Intent To Cancel Tariffs

The files of the Federal Maritime Commission contain domestic offshore tariffs filed by the following carriers including their last known addresses:

Gulf-Caribbean Navigation Co., Inc., Gulf-Caribbean Lines, Van Oosten & Co. Shipping, Ltd., Agents, 420 Gravier Building, New Orleans, La. 70130.

Gulf Alaska Shipping Corp., 610 Bank of the Southwest Building, Houston, Tex. 77002.

Smith Lighterage Co., Aleknagik, Alaska 99555.

Herman Herrmann Lighterage & Towing, Post Office Box 104, Naknek, AK 99633.

Eggleston Towing Co., Inc., Post Office Box 546, Bethel, AK 99559.

Atlantic & Caribbean Barge Lines, Inc., Griffiths Shipping Corp., Agents, 2721 South Bayshore Drive, Miami, FL 33133.

These carriers have failed to comply with the provisions of §§ 511.2 and 511.3 of the Commission's General Order 5, as amended, and § 512.3 of its General Order 11, as amended. These provisions provide for the submission of annual financial and operating data of all common carriers by water who operate in the domestic offshore trades of the United States. Authority for these regulations is provided by section 21 of the Shipping Act, 1916, as amended. The pertinent part of which reads as follows:

> That the board may require any common carrier by water, or other person subject to this Act, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report, or any account, record, rate, or change, or any memorandum of any facts and transactions appertaining to the business of such carrier or other person subject to this Act * * *.

Although numerous letters have been dispatched to the carriers under reference, the Commission's staff has been unable to persuade them to file the required financial and operating data that is essential to the Commission's purposes in discharging its regulatory responsibilities. Without annual financial and operating data the Commission is unable to determine whether or not the level of the rates shown in the domestic offshore tariffs of the carriers listed above are reasonable, or provide for an unfairly high rate of return, or are so low as to be detrimental to the commerce of the United States. Accordingly, the Commission proposes to cancel their tariffs in the absence of a showing of good cause as to why they should not be canceled.

Now, therefore it is ordered, That the above carriers advise the Director, Bureau of Compliance at 1405 I Street NW., Washington, DC, 20573, in writing within 30 days after publication of this order in the FEDERAL REGISTER of any reasons why the Commission should not cancel their domestic offshore tariffs;

It is further ordered, That a copy of this order be sent by registered mail to the last known address of the carriers listed herein;

It is further ordered, That this notice be published in the FEDERAL REGISTER and a copy thereof filed with all tariffs that may be canceled pursuant to this notice.

By the Commission, October 16, 1972.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–18151 Filed 10–24–72;8:45 am]

FEDERAL POWER COMMISSION

[Dockets Nos. G–3270, etc.]

ANNCO PETROLEUM CO., INC., ET AL.

Findings and Order After Statutory Hearing

OCTOBER 16, 1972.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, canceling FPC gas rate schedules accepting rate schedules and rate schedule supplements for filing, terminating rate proceedings in part, making successor corespondent, redesignating proceedings, and dismissing application.

Each applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and

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propose to initiate, abandon, add, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

Delta Drilling Co., in Docket No. CI72–776 has filed an application to abandon a sale of natural gas heretofore authorized in Docket No. G–2526 to be made to Southern Natural Gas Co. By Commission order of June 19, 1963, H. L. Hawkins and H. L. Hawkins, Jr. (Operator), et al., were authorized to continue the sale of natural gas as successor in interest to Delta in Docket No. G–2526, and said certificate was redesignated accordingly. Since Delta is no longer the certificate holder in Docket No. G–2526 and sales are presently being made in said docket pursuant to H. L. Hawkins and H. L. Hawkins, Jr. (Operator), et al., FPC Gas Rate Schedule No. 15, the application in Docket No. CI72–776 will be dismissed.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, a petition for leave to intervene was filed by Southern Natural Gas Co., in Docket No. CI72–776. Southern states that it does not concur in this abandonment because it is currently purchasing natural gas under the subject docket from H. L. Hawkins and H. L. Hawkins, Jr. (Operator), et al., however, it believes this application is the result of an error and requests appropriate action be taken to rectify the error. Inasmuch as said application is being dismissed for reasons hereinbefore described, it does not appear that a formal hearing is necessary. No notices of intervention, protests to the granting of the applications, or further petitions to intervene have been filed.

At a hearing held on October 12, 1972, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) The sales of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(9) The application pending in Docket No. CI72–776 is moot.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing or are redesignated as hereinbefore ordered.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that applicant in Docket No. CI72–798 should be made a corespondent in the proceeding pending in Docket No. RI72–70 and that said proceeding should be redesignated accordingly.

(12) Applicant in Docket No. CI72–691 has collected rates in effect subject to refund in Dockets Nos. RI67–273 and RI70–497 under its FPC Gas Rate Schedule No. 275 which are below the applicable area ceiling rate.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in various dockets are amended by adding thereto or deleting therefrom authorization to sell natural gas as more fully described in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) Applicants in the dockets indicated shall charge and collect the following rates, subject to B.t.u. adjustment where applicable:

Docket No.	Rate (cents per Mcf)	Pressure base (p.s.i.a.)
CI71–758	26.0	15.025
CI72–338	21.315	14.65
CI72–508	26.0	15.025
CI72–621	26.0	15.025
CI72–636	26.0	15.025
CI72–664	26.0	15.025

(F) The certificates and certificate authorizations granted herein in Dockets Nos. CI71–758, CI72–338, CI72–508, CI72–621, CI72–636, CI72–664, CI72–740, CI72–747, CI72–798, CI72–810, and CI72–811 are subject to the Commission's findings and order accompanying Opinions Nos. 468, 468–A, 586, 598, 598–A, 607, and 607–A, as applicable.

(G) The certificate authorization granted herein in Docket No. CI72–338 is subject to § 2.71 of the Commission's general policy and interpretations establishing charges for transporting liquids and liquefiable hydrocarbons.

(H) Within 90 days from the date of initial delivery applicants in Dockets Nos. CI71–758 CI72–508, CI72–621, CI72–664, CI72–810, and CI72–811 shall each file three copies of a rate schedule-quality statement in the form prescribed in Opinions Nos. 586 and 598, as applicable. Within 90 days from the date of this order applicant in Docket No. CI72–740 shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 468–A.

(I) The certificates issued in Dockets Nos. G–7637 and CI63–769 are terminated and the related rate schedules are canceled.

(J) The orders issuing certificates of public convenience and necessity in Dockets Nos. G–7526 and G–14693 are amended to reflect the deletion of acreage from which applicant in Docket No. CI72–798 is herein authorized to continue service, and in all other respects said order shall remain in full force and effect.

(K) Applicant in Docket No. CI72–798 is made a corespondent in the proceeding pending in Docket No. RI72–70, and said proceeding is redesignated accordingly. Applicant shall comply with the refunding procedure required by the Natural Gas Act and §154.102 of the regulations thereunder.

(L) The proceedings pending in Dockets Nos. RI67–273 and RI70–497 are terminated insofar as said proceedings pertain to sales under Mobil Oil Corp. (Operator) et al., FPC Gas Rate Schedule No. 275.

(M) The certificates issued herein in Docket No. CI72–664 determines the rate Texas Gas Transmission Corp., may legally pay its affiliate, Texas Gas Exploration Corp., under the subject authorization but is without prejudice to any action which the Commission may take in any rate proceedings involving said companies.

(N) The certificate issued herein in Docket No. CI72–636 determines the rates which Columbia Gas Transmission Corp., may legally pay its affiliate, Columbia Gas Development Corp., under the subject authorization but is without prejudice to any action which the Commission may take in any rate proceedings involving said companies.

(O) The application pending in Docket No. CI72–776 is dismissed.

(P) Permission for and approval of the abandonment of service by applicants, as hereinbefore described and as more fully described in the applications and the tabulation herein, are granted.

(Q) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule[1] Description and date of document	No.	Supp.
G–3270 D 5–22–72	Anneo Petroleum Co., Inc.	United Gas Pipe Line Co., Bancroft Field, Beauregard Parish, La.	Notice of partial cancellation 10–9–70.[2]	1	
G–5720 D [3]	The California Co., a division of Chevron Oil Co.	Texas Eastern Transmission Corp., acreage in Lincoln Parish, La.	Sublease 9–30–71.[4] (Effective date: 9–30–71)	42	26
G–7526 G–14693 D [3]	Amoco Production Co. (operator) et al.	El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo., and Blanco and Flora Vista Fields, San Juan and Rio Arriba Counties, N. Mex.	Assignment 12–31–69.[4]	117	33
G–9272 D [3]	Cities Service Oil Co. (operator) et al.	Texas Eastern Transmission Corp., acreage in Caddo Parish, La.	Sublease 1–14–72.[4] (Effective date: 1–1–72)	366	18
G–10790 D [3]	Amoco Production Co. (operator) et al.	El Paso Natural Gas Co., West Kutz Pictured Cliffs Field, San Juan County, N. Mex.	Assignment 12–31–69.[4]	163	22
G–11060 D [3]	Amoco Production Co.	El Paso Natural Gas Co., South Blanco and Tapacito Pictured Cliffs Fields, Rio Arriba County, N. Mex.	Assignment 12–31–69.[4]	193	13
CI63–1490 D [3]	Atlantic Richfield Co.	Panhandle Eastern Pipe Line Co., acreage in Cimarron County, Okla.	Assignment 4–1–72.[7] (Effective date: 4–4–72)	273	7
CI72–338 C 5–8–72	Midwest Oil Corp.	Cities Service Gas Co., East Tuttle Field, Grady County, Okla.	Agreement 4–25–72.[8] Compliance 6–13–72. (Effective date: Date of initial delivery)	61 61	3 4
CI72–508 A 2–14–72	Humble Oil & Refining Co.	Michigan Wisconsin Pipe Line Co., Marsh Island Block 6 Field, offshore Louisiana.	Contract 1–26–72.[4]	503	
CI72–621 A 3–27–72	George Mitchell & Associates Inc., agent for Mitchell Energy & Development Corp., et al.	Trunkline Gas Co., Lake Creek, North Field, Montgomery County, Tex.	Contract 3–6–72[4]	40	
CI72–636 A 4–3–72 6–1–72	Columbia Gas Development Corp.	Columbia Gas Transmission Corp., Block 292 Field, Eugene Island Area, offshore Louisiana.	Contract 1–12–72.[9] Compliance 5–25–72 (Effective date: Date of initial delivery).	12 12	 1
CI72–664 A 4–17–72	Texas Gas Exploration Corp.	Texas Gas Transmission Corp., Lake Sand Field, Iberia Parish, La.	Contract 3–13–72. (Effective date: Date of initial delivery).	31	
CI72–691 B 4–21–72	Mobil Oil Corp. (operator) et al.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., North Louise Field, Wharton County, Tex.	Notice of Cancellation 4–18–72.[9]	275	10
CI72–740 5–15–72[10]	Texaco, Inc	Northern Natural Gas Co., Ozona Field, Crockett County, Tex.	Contract 10–27–65.	476	
			Supplemental agreement 5–19–66.	476	
			Supplemental agreement 5–30–66.	476	2
			Assignment 6–1–71.[11]	476	3
			Supplemental agreement 3–6–72. (Effective date: 6–1–71)	476	4
CI72–747 A 5–19–72	Stephens Production Co.	Arkansas Louisiana Gas Co., Slaytonville Area, Sebastian County, Ark., and Le Flore County, Okla.	Contract 2–3–72.[4]	9	
CI71–758 C 2–22–72	Humble Oil & Refining Co.	Columbia Gas Transmission Corp., Lake Sand Field, St. Mary and Iberia Parishes, La.	Amendment 2–2–72.[4]	480	2
CI72–777 B 5–30–72[11]	Delta Drilling Co.	Arkansas Louisiana Gas Co., Jefferson Field, Marion County, Tex.	(12)		
CI72–778 B 5–30–72[11]	Delta Drilling Co.	Texas Gas Corp., Big Hill Field, Jefferson County, Tex.	(12)		
CI72–779 B 5–30–72[11]	do	Southern Natural Gas Co., Milldaven Field, Ouachita Parish, La.	(12)		
CI72–780 B 5–30–72[11]	do	Arkansas Louisiana Gas Co., Jefferson Field, Marion County, Tex.	(12)		
CI72–785 B 5–30–72[11]	do	The Manufactures Light & Heat Co., Driftwood Field, Cameron County, Pa.	(12)		
CI72–786 B 5–30–72[11]	do	United Natural Gas Co., Wharton Field, Potter County, Pa.	(12)		
CI72–787 B 5–30–72[11]	do	do	(12)		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

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Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1] Description and date of document	No.	Supp.
C172-788 B 5-30-72 [11]	do	United Gas Pipe Line Co., Carthage Field Panola County, Tex.	(12)		
C172-789 B 5-30-72 [11]	do	United Gas Pipe Line Co., Sibley Field, Webster Parish, La.	(12)		
C172-790 B 5-30-72 [11]	do	Arkansas Louisiana Gas Co., Jefferson Field, Marion County, Tex.	(12)		
C172-791 B 5-30-72 [11]	do	Consolidated Gas Supply Corp., Driftwood Field, Elk County, Pa.	(12)		
C172-792 B 5-30-72 [11]	do	Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish, La.	(12)		
C172-798 F 6-2-72 [10]	Clinton Oil Co	El Paso Natural Gas Co., Blanco Mesa Verde Field, San Juan County, N. Mex.	Contract 4-7-50	80	
			Supplemental agreement 5-15-56.	80	1
			Supplemental agreement 10-11-56.	80	2
			Amendatory agreement 5-13-57.	80	3
			Assignment 3-21-57	80	4
			Supplemental agreement 5-2-58.	80	5
			Letter agreement 7-5-60	80	6
			Supplemental agreement 3-13-62.	80	7
			Supplemental agreement 9-27-62.	80	8
			Supplemental agreement 6-11-63.	80	9
			Letter agreement 5-17-66	80	10
			Supplemental agreement 5-16-67.	80	11
			Letter agreement 5-17-72	80	12
			Supplemental agreement 6-12-69.	80	13
			Assignment 12-31-69 [13] (Effective date: 12-31-69)	80	14
C172-810 A 6-8-72	Amoco Production Co	Northern Natural Gas Co., Kane Field, Seward County, Kans.	Contract 3-23-72 (Effective date: Date of initial delivery).	584	
C172-811 A 6-8-72	do	Arkansas Louisiana Gas Co., Northwest Okeene Field, Blaine County, Okla.	Contract 3-6-72 (Effective date: Date of initial delivery).	583	
C172-847 B 6-19-72 [16]	Scurlock Oil Co	Tennessee Gas Pipeline Co., a division of Tenneco Inc., New Ulm Field, Austin County, Tex.	Notice of cancellation (undated) [17].	2	5

[1] Unless otherwise stated, effective date is the date of this order.
[2] Lease has expired and was not productive.
[3] No certificate filing necessary (18 CFR 2.64).
[4] Conveys interest from applicant to B. C. McKeever, holder of a small producer certificate.
[5] Assigns acreage from applicant to Clinton Oil Co.
[6] Conveys interest from applicant to Jack W. Grigsby, holder of a small producer certificate.
[7] Assigns acreage from applicant to An-Son Corp., holder of a small producer certificate.
[8] Rate schedule filing has heretofore been accepted.
[9] Applicant states that all remaining acreage is nonproductive and the contract has terminated by its own terms. Sale was authorized in Docket No. G-7637.
[10] Applicant proposes to cover its own interest in a sale of natural gas from acreage which it has acquired from Delta Drilling Co., a small producer certificate holder.
[11] Small producer abandonment.
[12] Source of gas is depleted.
[13] Assigns acreage to applicant from Delta Drilling Co.
[14] Applicant proposes to continue in part a sale of natural gas heretofore authorized in Dockets Nos. G-7526 and G-14693 to be made pursuant to Amoco Production Co. (operator) et al. FPC Gas Rate Schedule No. 117.
[15] Assigns acreage to applicant from Amoco Production Co.
[16] Applicant proposes to abandon a sale of natural gas heretofore authorized in Docket No. C163-769.
[17] Applicant states that the gas well completed on the committed properties has been plugged and abandoned, and all productive leases of gas have expired.

[FR Doc.72-17993 Filed 10-24-72;8:45 am]

[Docket No. G-2639 etc.]

J. D. BURKE ET AL.

Findings and Order

OCTOBER 16, 1972.

Finding and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificate, permitting and approving abandonment of service, terminating certificates, canceling FPC gas rate schedules, accepting rate schedules and rate schedule supplements for filing, canceling docket number, terminating rate proceeding in part, making successors corespondent, redesignating proceedings, vacating order in part, and dismissing application.

Each applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commision and propose to initiate, abandon, add, or discontinue in part, natural gas service in interstate commerce as indicated in the tabulation herein.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, a notice of intervention was filed in Docket No. CI72-544 by the Public Service Commission for the State of New York. New York requests a hearing be held on the application in the subject docket except to the extent that the applicant is prepared to accept a certificate at an initial rate no higher than that specified in the outstanding area rate decisions applicable to the particular production area. Inasmuch as the certificate granted herein in Docket No. CI72-544 is conditioned to the applicable area rate ceiling and the applicant is willing to accept a certificate at such a rate, it does not appear that a formal hearing is necessary. No petition to intervene, protest to the granting of the applications, or further notice of intervention has been filed.

At a hearing held on October 12, 1972, the Commission on its own motion, received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein and upon consideration of the record.

The Commission finds:

(1) Each applicant herein as a "natural gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commision; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary, therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) The sales of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated.

(9) The application pending in Docket No. CI71-544 is moot.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing or are redesignated as hereinafter ordered.

(11) Applicant in Docket No. CI71-544 has collected a rate subject refund in Docket No. RI71-925 under applicant's FPC Gas Rate Schedule No. 66 which rate is below the applicable area ceiling rate.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that applicant in Docket No. G-9314 should be made a corespondent in the proceedings pending in Dockets Nos. RI65-334 and RI69-338, that applicant in Docket No. CI65-1213 should be made a corespondent in the proceeding pending in Docket No. RI71-42, and that said proceedings should be redesignated accordingly.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the order canceling Southeastern Public Service Co. (operator) et al. FPC Gas Rate Schedule No. 3 should be vacated insofar as said order pertains to said rate schedule.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates issued in Dockets Nos. G-18643 and CI70-864 should be terminated and the related rate schedules should be canceled.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificate issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificate granted in Docket No. CI72-651 is subject to § 2.71 of the Commission's general policy and interpretations establishing charges for transporting liquids and liquefiable hydrocarbons.

(E) The orders issuing certificates of public convenience and necessity in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein authorizing the continuation of service from the subject acreage, and in all other respects said orders shall remain in full force and effect:

Amend to delete acreage	*New certificates*
G-11744	CI72-643
G-13299	CI72-549
G-17260	CI72-547
CI60-328	CI72-548
CI61-1252	CI72-677

(F) The certificates and certificate authorizations granted in Dockets Nos. G-2639, G-4954, G-7373, CI68-642, CI72-106, CI72-390, CI72-544, CI72-547, CI72-548, CI72-549, CI72-604, CI72-620, CI72-643, CI72-645, CI72-651, CI72-667, CI72-703, CI72-717, and CI72-721 are subject to the Commission's findings and orders accompanying Opinion Nos. 586, 586-A, 595, 595-A, 598, 598-A, 607, and 607-A, as applicable.

(G) Applicants in the dockets indicated shall charge and collect the following rates, subject to B.t.u. adjustment where applicable:

Docket number	Rate (cents per Mcf)	Pressure base (p.s.i.a.)
G-7373	[1] 12.1536	14.65
	[2] 18.2458	
CI72-106	26.0	15.025
CI72-390	19.1	14.65
CI72-544	26.0	15.025
CI72-620	26.0	15.025
CI72-628	[3] 20.3	14.65
	[4] 18.78	
CI72-643	18.295	14.65
CI72-645	[4] 16.2287	14.65
	[4] 19.0	
CI72-651	[5] 20.5	14.65
	[6] 19.0	

[1] From May 2, 1971, until Apr. 3, 1972.
[2] From Apr. 3, 1972.
[3] Gaswell gas.
[4] Casinghead gas.
[5] From May 2, 1971, until May 7, 1972.
[6] From May 7, 1972.

(H) The orders issuing certificates of public convenience and necessity in various dockets are amended by adding thereto or deleting therefrom authorization to sell natural gas or by substituting successors in interest as certificate holders, all as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(I) Docket No. CI72-546 is canceled.

(J) The certificates of public convenience and necessity issued in Dockets Nos. G-11694, G-18643, CI70-864, and CI71-544 are terminated and the related rate schedules are canceled.

(K) The application pending in Docket No. CI71-544 is dismissed.

(L) Applicant in Docket No. CI72-581 is not relieved of any refund obligations in Dockets Nos. RI60-53 and CI60-457 as a result of the abandonment of service permitted and approved herein.

(M) The certificate issued in Docket No. CI72-651 involving a sale of natural gas to Panhandle Eastern Pipe Line Co. by its affiliate, Anadarko Production Co., determines the rate which legally may be paid by the buyer to the seller but is without prejudice to any action which the Commission may take in any rate proceeding involving said companies.

(N) Within 90 days from the date of this order, applicants in Dockets Nos. G-7373, CI72-547, CI72-548, CI72-549, CI72-645, CI72-667, CI72-703, and CI72-721 each shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion Nos. 586 and 595, as applicable.

(O) The proceeding pending in Docket No. RI71-925 is terminated insofar as it pertains to sales under The California Co., a division of Chevron Oil Co., FPC Gas Rate Schedule No. 66.

(P) Applicant in Docket No. G-9314 is made a corespondent in the proceedings pending in Dockets Nos. RI65-334 and RI69-338, and said proceedings are redesignated accordingly. Applicant shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(Q) Applicant in Docket No. CI65-1213 is made a corespondent in the proceeding pending in Docket No. RI71-42,

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and said proceeding is redesignated accordingly. Applicant shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(R) The order of the Commission issued in Docket No. CS69-28 et al., on October 15, 1971, is vacated insofar as it pertains to the cancellation of Southeastern Public Service Co. (operator) et al., FPC Gas Rate Schedule No. 3; and said rate schedule is redesignated as set forth in the tabulation herein under Docket No. C172-645.

(S) Permission for and approval of the abandonment of service by applicants, as hereinbefore described and as more fully described in the applications and the tabulation herein, are granted.

(T) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein.

By the Commission.

KENNETH F. PLUMB, *Secretary.*

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supplement
G-2639 ..... D 3-20-72	J. D. Burke [2]	United Gas Pipe Line Co., Marshall Field, Goliad County, Tex.	Phillips Petroleum Co. FPC gas rate schedule No. 1-A and Supplement.	2	.....
			Nos. 1-14 thereto	2	1-14
			Notice of succession 3-15-72	.....	.....
			Assignment 12-15-71 (Effective date: 12-15-71)	2	15
G-4579 ..... D [3]	Cities Service Oil Co. (operator), et al.	Northern Natural Gas Co., acreage in Texas County, Okla.	Assignment 2-24-72 [4]	169	15
			Assignment 2-24-72 [4]	170	23
			Assignment 2-24-72 [4] (Effective date: 2-24-72)	171	20
G-4654 ..... E 2-22-72	J. D. Burke [5]	United Gas Pipe Line Co., Marshall Field, Goliad County, Tex.	Sun Oil Co. FPC gas rate schedule No. 271 and supplement.	1	.....
			Nos. 1-21 thereto	1	1-21
			Notice of succession 2-18-72	.....	.....
			Assignment 12-15-71 (Effective date: 12-15-71)	1	22
G-7373 ..... 3-3-72 [6 7]	Colorado Oil and Gas Corp.	United Gas Pipe Co., Gottschall Field, Goliad County, Tex.	Goldston Oil Corp. (operator), et al. FPC gas rate schedule No. 1 and supplement.	70	.....
			Nos. 1-8 thereto	70	1-8
			Letter agreement 4-30-72	70	9
			Letter agreement 8-27-69 (Effective date: 5-2-71)	70	10
G-9314 ..... E 5-8-72	Herman Geo. Kaiser (operator), et al. [8]	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Greenwood Field, Morton County, Kans., and Baca County, Colo.	Amerada Hess Corp. FPC gas rate schedule No. 42 and supplement.	13	.....
			Nos. 1-15 thereto	13	1-15
			Notice of succession 5-4-72	.....	.....
			Assignment 10-26-71 [9]	13	16
			Assignment 10-26-71 [9] (Effective date: 11-1-71)	13	17
G-10665 ..... D 6-16-72	Champlin Petroleum Corp. (operator), et al.	Cities Service Gas Co., acreage in Grant County, Okla.	Notice of partial termination (undated) [10]	64	12
G-11171 ..... D [3]	Gulf Oil Corp.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Harper County, Okla.	Assignment 2-20-70 [11] (Effective date: 2-15-72)	98	27

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supp.
G-11995 ..... D 8-10-71	Mobil Oil Corp.	United Gas Pipe Line Co., Cameron Meadows, et al, Field, Cameron Parish, La.	Notice of partial cancellation 8-6-71 [12]	69	32
G-12508 ..... D [3]	Cities Service Oil Co.	Northern Natural Gas Co., acreage in Edwards County, Kans.	Assignment 10-24-71 [13] (Effective date: 10-24-71)	249	8
G-15714 ..... D [3]	Humble Oil & Refining Co. (operator), et al.	Transwestern Pipeline Co., acreage in Lipscomb County, Tex.	Assignment 11-5-71 [14] (Effective date: 10-14-71)	239	45
G-16998 ..... D [3]	Cities Service Oil Co.	Northern Natural Gas Co., acreage in Edwards County, Kans.	Assignment 10-24-71 [13] (Effective date: 10-24-71)	98	9
G-18813 ..... D [3]	Gulf Oil Corp.	Champlin Petroleum Co., Witcher Field, Oklahoma County, Okla.	Assignment 10-31-69 [15] (Effective date: 11-1-69)	166	8
C165-1213 ..... E 5-8-72	Herman Geo. Kaiser (operator), et al. [8]	Baca Gas Gathering System, Inc., Midway Field, Baca County, Colo.	Amerada Hess Corp., FPC gas rate schedule No. 130 and Supplement	14	.....
			Nos. 1-3 thereto	14	1-3
			Notice of succession 5-4-72	.....	.....
			Assignment 10-26-71 [9] (Effective date: 11-1-71)	14	4
C170-80 ..... D [3]	Cities Service Oil Co. (operator), et al.	Northern Natural Gas Co., acreage in Edwards County, Kans.	Assignment 10-24-71 [13] (Effective date: 10-24-71)	316	2
C171-544 ..... B 4-26-72	The California Co., a division of Chevron Oil Co.	Texas Eastern Transmission Corp., Northeast Nada Field, Colorado County, Tex.	Notice of cancellation 4-24-72 [16]	66	3
C172-106 ..... A 8-17-71	Exchange Oil & Gas Corp.	Transcontinental Gas Pipe Line Corp., East Lake Decade Field, Terrebonne Parish, La.	Compliance 3-28-71 [17] (Effective date: date of initial delivery).	19	2
C172-390 ..... A 1-3-72	Getty Oil Co.	United Gas Pipe Line Co., East Texas Field, Gregg County, Tex.	Contract 12-14-71 [17]	197	.....
C172-544 ..... A 3-6-72	Union Oil Company of California.	Southern Natural Gas Co., Main Pass Area, Block 52, Plaquemines Parish, La.	Contract 2-18-72 [17]	210	.....
			Compliance 3-28-72 (Effective date: date of initial delivery).	210	1
C172-547 ..... F 3-6-72 [20]	Cabot Corp.	Michigan Wisconsin Pipe Line Co., Laverne Area, Beaver County, Okla.	Contract 12-3-58	103	.....
			Amendatory agreement 7-1-65	103	1
			Assignment 8-30-71 [18]	103	2
			Assignment 10-26-71 [19] (Effective date: 11-1-70)	103	3
C172-548 ..... F 3-6-72 [21]	do.	El Paso Natural Gas Co., Laverne Area, Beaver County, Okla.	Contract 2-1-60	104	.....
			Amendatory Agreement 10-14-70	104	1
			Assignment 8-25-71 [22]	104	2
			Assignment 10-26-71 [19] (Effective date: 7-1-71)	104	3
C172-549 ..... F 3-6-72 [23]	do.	Michigan Wisconsin Pipe Line Co., Laverne Area, Beaver County, Okla.	Contract 3-9-57	105	.....
			Letter agreement 8-7-59	105	1
			Amendatory agreement 7-1-65	105	2
			Assignment 8-13-71 [24]	105	3
			Assignment 10-26-71 [19] (Effective date: 11-1-70)	105	4
C172-581 ..... B 3-15-72 [25]	Continental Oil Co.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., North Government Wells Field, Duval County, Tex.	Notice of cancellation 3-8-72 [25 26]	142	5
C172-604 ..... 3-15-72 [24]	Petroleum, Inc., et al	Michigan Wisconsin Pipe Line Co., acreage in Harper County, Okla.	Contract 3-9-57	79	.....
			Ratification agreement 3-21-68	79	1
			Contract 8-11-58	80	.....
			Contract 9-29-58	81	.....
			Contract 9-8-58	82	.....
			Contract 3-9-57 [17]	83	.....
		Colorado Interstate Gas Co., acreage in Harper County, Okla.	Contract 8-3-56 [17]	84	.....

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule [1]		
			Description and date of document	No.	Supplement
C172-620 ..... A 3-27-72	The California Co., a division of Chevron Oil Co.	Natural Gas Pipeline Company of America, Block 181 Field, West Cameron Area, offshore Louisiana.	Contract 3-13-72 [17]	73	.....
C172-628 ..... A 3-29-72	Texas Pacific Oil Co., Inc.	Northern Natural Gas Co., Elam Field, Beaver County, Okla.	Contract 3-15-72 [17]	106	.....
			Compliance 6-16-72 (Effective date: Date of initial delivery).	106	1
C172-630 ..... A 3-31-72	J. M. Huber Corp.	Montana-Dakota Utilities Co., Poison Creek Field, Fremont County, Wyo.	Contract 3-1-72 [17]	95	.....
C172-643 ..... F 3-31-72 [24]	Petroleum, Inc.	Northern Natural Gas Co., acreage in Beaver County, Okla.	Contract 11-15-56	85	.....
			Agreement 3-28-60	85	1
			Contract 7-6-60	85	2
			Supplement 10-4-71	85	3
			Agreement 12-22-71	85	4
			Assignment 3-2-72 [27]	85	5
C172-645 ..... 4-6-72 [24]	Colorado Oil & Gas Corp.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., North Louise Field, Wharton County, Tex.	Southeastern Public Service Co. (Operator) et al. FPC Gas Rate Schedule No. 3 and Supplement Nos. 1 11 thereto (Effective date: 5-2-71)	71	1 11
C172-651 ..... A 4-10-72	Anadarko Production Co.	Panhandle Eastern Pipe Line Co., Abraham Granite Wash and North Buffalo Willow Fields, Hemphill County, Tex.	Contract 1-31-72	178	.....
			Letter Agreement 2-29-72 [28]	178	1
C172-667 ..... F 4-12-72 [24]	Texas Oil & Gas Corp.	Michigan Wisconsin Pipe Line Co., Southwest Freedom Field, Woodward County, Okla.	Contract 1 16 61	100	.....
			Letter Agreement 1-16-61	100	1
			Supplement 5-4-72	100	2
			Assignment 11-1-71 [29]	100	3
			Assignment 11-30-71 [24] (Effective date: Date of initial delivery)	100	4
C172-703 ..... A 4-27-72 [24]	Petroleum Inc., et al	Northern Natural Gas Co., Lips Morrow Field, Roberts County, Tex.	Contract 2-21-62 (Effective date: 10-1-70)	86	.....
C172-704 ..... B 4-26-72 [23]	Glasscock Leaseholds, Inc. [30]	Valley Gas Transmission, Inc., El Oro Field, Duval County, Tex.	[31]	.....	.....
C172-717 ..... A 5-8-72	Midwest Oil Corp.	Lone Star Gas Co., Pettigrew Lease, Stephens County Okla.	Contract 3-1-72 [17]	63	.....
C172-721 ..... 5-8-72 [24]	Petroleum, Inc., et al	Northern Natural Gas Co., Moeane-Laverne Gas Area, Beaver County, Okla.	Contract 6-17-69 (Effective date: 10-1-71)	87	.....
C172-741 ..... B 5-15-72 [24 32]	C & K Petroleum, Inc.	Transcontinental Gas Pipe Line Corp., El Campo Field, Wharton County, Tex.	[33]	.....	.....

[1] Unless otherwise stated, effective date is date of this order.
[2] Successor to Phillips Petroleum Co.
[3] No certificate filing necessary (18 CFR 2.60).
[4] Assigns acreage from applicant to Graham-Michaelis Drilling Co., holder of a small producer certificate in Docket No. CS71-178.
[5] Successor to Sun Oil Co.
[6] Docket No. C172-546 erroneously assigned to application.
[7] Applicant proposes to cover its own interests in a sale of natural gas formerly authorized under a certificate granted to Goldston Oil Corp., which operates properties for Iris Goldston et al., holder of a small producer certificate in Docket No. CS70-5.
[8] Successor to Amerada Hess Corp.
[9] Assigns acreage from Amerada Hess Corp. to applicant.
[10] Includes buyer's concurrence. Source of gas depleted.
[11] Assigns acreage from applicant to W. T. Fallet al., holder of a small producer certificate in Docket No. CS71-1076.
[12] Contains assignment dated July 1, 1971, whereby acreage is assigned from applicant to Curt Weaver. Assignee states that the acquired acreage did not include any wells, which are capable of producing gas into an interstate transmission line.
[13] Assigns acreage from applicant to D. R. Lauck Oil Co., Inc., holder of a small producer certificate in Docket No. CS71-169.
[14] Assigns acreage to Texas West Oil & Gas Corp., holder of a small producer certificate in Docket No. CS72-137.
[15] Assigns remaining acreage from applicant to Jack D. Hodgden, holder of a small producer certificate in Docket No. CS71-699.
[16] Basic contract dated August 2, 1971, has heretofore been accepted for filing.
[17] Rate schedule filing or filings have been heretofore accepted.
[18] Assigns acreage from Monsanto Co. to applicant.
[19] Assigns acreage from applicant to Shell Oil Co. and Ashland Oil, Inc.
[20] Applicant proposes to continue in part a sale of natural gas heretofore authorized in Docket No. G-17260 to be made pursuant to Monsanto Company FPC gas rate schedule No. 30.
[21] Applicant proposes to continue in part a sale of natural gas heretofore authorized in Docket No. C160-328 to be made pursuant to The Superior Oil Co. FPC gas rate schedule No. 92.
[22] Assigns acreage to applicant from The Superior Oil Co.
[23] Applicant proposes to continue in part a sale of natural gas heretofore authorized in Docket No. G-13299 to be made pursuant to Atlantic Richfield Co. (operator) et al., FPC gas rate schedule No. 114.
[24] Assigns acreage to applicant from Atlantic Richfield Co.
[25] Includes buyer's concurrence.
[26] Lease has been sold and the basic contract canceled.
[27] Applicant proposes to abandon a sale of natural gas heretofore authorized in Docket No. G-11621.
[28] Applicant proposes to cover its own interest in a sale of natural gas heretofore covered by Morgan Petroleum Co., holder of a small producer certificate in Docket No. CS71-396.
[29] Applicant proposes to continue in part a sale of natural gas heretofore authorized in Docket No. G-11744 to be made pursuant to Atlantic Richfield Co. (operator) et al., FPC gas rate schedule No. 329.
[30] Applicant proposes to cover its own interest in a sale of natural gas formerly covered by Southeastern Public Service Co., holder of a small producer certificate in Docket No. CS71-371. Southeastern's FPC gas rate schedule No. 3 is redesignated and redesignated herein.
[31] Applicant proposes to continue in part a sale of natural gas heretofore authorized in Docket No. C161-1252 to be made pursuant to Union Oil Company of California (operator) et al., FPC gas rate schedule No. 137.
[32] Assigns acreage from Union Oil Company of California to Arthur J. Wessely.
[33] Assigns acreage from Arthur J. Wessely to applicant.
[34] Applicant proposes to cover its own interest in a sale of natural gas formerly covered by Mesa Petroleum Co., holder of a small producer certificate in Docket No. C167-82.
[35] Small Producer abandonment.
[36] Buyer states that it is uneconomical for it to install compression facilities.
[37] Source of gas depleted.
[38] Applicant proposes to cover its own interest in a sale of natural gas formerly covered by Petro Dynamics, Inc., holder of a small producer certificate in Docket No. CS72-302.
[39] Filing submitted by Bell Western Corp., successor to Glasscock Leaseholds, Inc.
[40] Applicant proposes to abandon a sale of natural gas, which was formerly made by Ira T. Havens. The former sale was covered by authorization granted in Docket No. C170-864 to be made pursuant to Ira T. Havens, FPC gas rate schedule No. 1.

[FR Doc.72-17990 Filed 10-24-72;8:45 am]

[Docket No. E-7786]

LONG ISLAND LIGHTING CO.

Proposed Change in Rate and Charge

OCTOBER 20, 1972.

Take notice that on October 10, 1972, Long Island Lighting Co. (Long Island), tendered for filing an instrument entitled Electric Power Contract Between Incorporated Village of Freeport and Long Island Lighting Co., dated September 28, 1972. The contract is for a primary term of 3 years with fixed rate which would increase charges to the Village of Freeport by $9,596 annually on the basis of operations for the 12-month period ending October 31, 1972.

The instrument is proffered to supersede Long Island's FPC Rate Schedule No. 4 which is also contractual in form and provides for termination on October 31, 1972. The company requests waiver of the notice requirements pursuant to § 35.11 of the Commission's regulations under the Federal Power Act to permit the new contract and the increased rates contained therein to become effective on November 1, 1972.

Copies of the filing have been served upon the Village of Freeport.

Any person desiring to be heard or make protest with reference to said application should, on or before October 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appro-

priate action to be taken, but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate in any hearing therein, must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18277 Filed 10-24-72;9:44 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-19]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Notice of Meeting

The NASA Research and Technology Advisory Council will meet on October 26 and 27, 1972, at NASA Headquarters. The meeting will be held in Room 625, Federal Office Building 10B, on October 26, and in Room 7002, Federal Office Building 6, on October 27. The meeting is open to the public with the exception of the closed sessions: (1) October 26, 8:30–10:30 a.m., (2) October 26, 4–5 p.m., and (3) October 27, 8:30–10:30 a.m. The seating capacity of the rooms is about 40 persons, including Council members and other participants.

The NASA Research and Technology Advisory Council was established to advise NASA's senior management in the area of aeronautics and space research and technology. The Council studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives; summarizes the state-of-the-art, assesses on-going work, and makes recommendations to help NASA plan and carry out a program of greatest benefit to the Nation. The current Chairman is Mr. Richard E. Horner. There are 15 members on the Council itself and additional members on eight committees which report to the Council.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact the Executive Secretary, Mr. Fred W. Bowen: Area Code 202, 755-2404.

October 26, 1972, Room 625, Federal Office Building 10B, 600 Independence Avenue SW., Washington, DC.

Time	*Topic*
8:30 a.m.	Progress Report on Office of Aeronautics and Space Technology Activities and Funding Status (Closed Session)—To brief the Council on the status of programs and disciplines within the Office of Aeronautics and Space Technology and to discuss funding status for current and future activities.
10:30 a.m.	Committee Capsule Reports—Brief reports will be made by each Committee Chairman to inform the Council on major accomplishments, problems, and recommendations.
1:30 p.m.	Comments on "Thrusts in Aeronautics for the 1980's"—This report, prepared by the Council, will be discussed in preparation for response by NASA to the information contained therein.
2:30 p.m.	Short Takeoff and Landing/Vertical Takeoff and Landing (STOL/VTOL) Status Update—To inform the Council of the current Office of Aeronautics and Space Technology efforts in technology for Short Takeoff and Landing and Vertical Takeoff and Landing Aircraft.

October 27, 1972, Room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, DC.

Time	*Topic*
8:30 a.m.	Discussion of Committee Reports—To discuss in more detail the reports of the eight committees which were summarized the previous day. (Closed session.)
10:30 a.m.	Low Cost Space Payloads—To inform the Council of NASA's philosophy in reducing the cost of future space payloads.
11:30 a.m.	Space Research and Technology (SPART) Study—To report on the results of the Space Research and Technology Study recently presented to NASA management for consideration.
12 Noon	Solar Power—To discuss NASA's activities in the area of technology for solar power for terrestrial applications.
1:30 p.m.	Wrap-up—To summarize the action items, recommendations, and future plans of the Council.
2 p.m.	Adjourn.

GEORGE M. LOW,
Deputy Administrator.

[FR Doc.72-18228 Filed 10-24-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel Nos. 34-9822, 35-17732, IC-7427]

FEDERAL ELECTION CAMPAIGN ACT

Proposed Disclosure Requirement for Proxy Soliciting Materials or Corporate Annual Reports of Information

The Securities and Exchange Commission is seeking public comment concerning the merits of amending the Commission's rules under section 14(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78n(a) (17 CFR 240.14a-1 et seq.) to require disclosure in proxy soliciting materials or in corporate annual reports of information required to be filed with the Congress or with the Comptroller General under the Federal Election Campaign Act of 1971, P.L. 92-255, 86 Stat. 3, concerning "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation * * *" as permitted by section 205 of that Act. The Commission is not now proposing the adoption of rules to require these disclosures, but it has received a petition that it do so, and this action is being undertaken to assist the Commission in its consideration of whether a rule requiring such disclosures would be necessary or appropriate in the public interest or for the protection of investors. A copy of the petition is available for public inspection in the public reference room of the Commission at the address noted below.

Interested persons are requested to submit their comments in writing to the Office of the Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, DC 20549. All material submitted will be considered a matter of public record.

The Commission requests that all comments be mailed in time to be received no later than December 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

OCTOBER 17, 1972.

[FR Doc.72-18140 Filed 10-24-72;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

OCTOBER 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 par value and all other securities of First Leisure Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 18, 1972, through October 27, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18135 Filed 10-24-72;8:47 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

OCTOBER 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of LDS Dental Supplies, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 18, 1972 through October 27, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18136 Filed 10-24-72;8:47 am]

[File No. 500-1]

MARKETING COMMUNICATIONS, INC.

Order Suspending Trading

OCTOBER 17, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Marketing Communications, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from 11:15 a.m. e.d.t. on October 17, 1972 through October 26, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18137 Filed 10-24-72;8:47 am]

[70-5250]

NEW ENGLAND ELECTRIC SYSTEM AND NEW ENGLAND POWER CO.

Proposed Issue and Sale of Preferred Stock at Competitive Bidding and Common Stock to Holding Company

Notice is hereby given that New England Electric System (NEES), a registered holding company, and its electric utility subsidiary, New England Power Co. (NEPCO), 29 Turnpike Road, Westborough, MA 01581, have filed an application-declaration, and an amendment thereto, with this Commission, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, and 12 of the Act and Rules 42(b)(2) and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the act, 150,000 shares of a new series of its Dividend Series Preferred Stock to be designated Cumulative Preferred Stock —— percent Series (New Preferred Stock). The dividend rate of the New Preferred Stock (which will be a multiple of 0.04 of 1 percent) and the price (which will not be less than $100 nor more than $102.75 per share) will be determined by competitive bidding. The New Preferred Stock will not be redeemable prior to November 1, 1977, in connection with a refunding by the issuance of debt securities or other preferred stock at a lesser effective cost of money.

NEPCO further proposed to increase its capital stock by the authorization and issue of 750,000 shares of its common stock, par value $20 per share. NEES, the sole common stockholder, proposes to acquire such shares for a cash consideration of $40 per share, or an aggregate of $30 million. Upon such issue and sale NEPCO will have outstanding 4,699,896 shares of common stock with an aggregate par value of $93,997,920.

The proceeds (estimated at $45 million) from the issue and sale of the Common Stock and New Preferred Stock will be applied to the reduction of the $69,200,000 short-term promissory notes presently outstanding pursuant to Commission authorization (File No. 70-5125).

The application-declaration states that fees and expenses to be paid in connection with the proposed issue and sale of the New Preferred Stock are estimated at $75,000, including charges of $37,000 for services of the system service company, at cost, and accountant's fees of $5,000. The fees of counsel for the underwriters are to be paid by the successful bidders and the amounts are to be supplied by amendment. The fees and expenses to be paid in connection with the issue and sale of the common stock are estimated at $3,900 for NEPCO and $200 for NEES.

It is stated that the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, and the Vermont Public Service Board have jurisdiction over the proposed issuance and sale of the New Preferred Stock, including the need for a separate order should the dividend rate exceed 9 percent, and of the additional common stock, and the use of the proceeds therefrom. It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 8, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18138 Filed 10-24-72;8:47 am]

V37-206 OCT 25 72 XUM

[812-3273]

STATE STREET INVESTMENT CORP.

Application for Order Exempting Sale by Open-End Company of Securities at Other Than Public Offering Price

OCTOBER 17, 1972.

Notice is hereby given that State Street Investment Corp., 225 Franklin Street, Boston, MA 02110 (Applicant), a Massachusetts corporation registered under the Investment Company Act of 1940 (Act) as a diversified open-end management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for exemption from the provisions of section 22(d) of the Act which, in pertinent part, prohibit a registered investment company from selling any redeemable security issued by it to any person except either to or through a principal underwriter for distribution at a current public offering price described in the prospectus. Section 22(d) would prevent Applicant, which does not have a prospectus describing a current offering price, from acquiring the assets of The Connecticut Public Service Corp. (Connecticut) in exchange for the shares of Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant represents that Connecticut, a Connecticut corporation, was incorporated in 1907 and has since operated as a family private investment company, investing and reinvesting its assets in a diversified portfolio of securities. Substantially all of Connecticut's assets are in the form of investments in marketable securities, cash and cash items. At the present time Connecticut has 7 shareholders, is a personal holding company for Federal income tax purposes, and is subject to Federal and Connecticut corporate income taxes. Applicant asserts that Connecticut is excepted from the definition of an investment company by reason of section 3(c)(1) of the Act.

On September 13, 1972, Applicant and Connecticut entered into an Agreement and Plan of Reorganization ("Agreement") whereby substantially all of the assets of Connecticut are to be transferred to Applicant in exchange for shares of Applicant's common stock. Pursuant to the Agreement, the number of Applicant's shares to be delivered to Connecticut shall be determined on the closing date as defined in the Agreement, by dividing the aggregate value of the gross assets of Connecticut (subject to certain adjustments as set forth in the Agreement) to be transferred to Applicant by the net asset value per share of Applicant. The adjustment provided for in the Agreement requires that in determining the number of shares of Applicant to be delivered to Connecticut, the aggregate value of the gross assets of Connecticut shall be reduced by the greater of (1) 5 percent of the value of the gross assets of Connecticut, or (2) an amount determined by application of a formula designed to adjust for any excess in the proportion of the net asset value of Connecticut represented by realized and unrealized appreciation over the proportion of the net asset value of Applicant represented by realized and unrealized appreciation. The agreement further provides that if application of the formula would operate to reduce the market value of the gross assets of Connecticut by an amount greater than 5 percent thereof, then Connecticut shall have the right, at its option, to terminate the Agreement.

As of June 30, 1972, the market value of the assets of Connecticut to be delivered to Applicant was approximately $2,444,000. Applicant intends to sell, soon after receipt, securities representing approximately 21.8 percent of the market value of such assets, but in no event will the value of such securities, not including securities which may be used to meet redemptions of Applicant's shares, represent more than 25 percent of the market value on the closing date of the assets received. The remainder of the assets will be retained in Applicant's portfolio. When the shares of Applicant are received by Connecticut, Connecticut will distribute such shares to its stockholders upon liquidation of Connecticut. Applicant has been advised that the stockholders of Connecticut have no present intention of redeeming any substantial number, or otherwise transferring any, of Applicant's shares following the proposed transaction.

Assuming that the closing under the Agreement had taken place on June 30, 1972, when the net asset value of a share of State Street stock was $51.31, 46,943 shares of State Street would have been transferred to Connecticut or approximately .55 percent of the number of State Street shares outstanding immediately after such transfer.

Applicant represents that neither Connecticut nor any shareholder, director or officer of Connecticut is either an "affiliated person" of State Street or an "affiliated person" of any "affiliated person" of State Street, and that the Agreement was negotiated at arms length by the principals of Connecticut and State Street.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt a transaction if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 10, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompained by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18139 Filed 10-24-72;8:47 am]

TARIFF COMMISSION

[AA1921-106/108]

PERCHLORETHYLENE FROM ITALY, JAPAN, AND FRANCE

Notice of Investigation and Hearing

Having received advice from the Treasury Department on September 27, and October 12, 1972, that perchlorethylene, including technical grade perchlorethylene and purified perchlorethylene, from Italy, Japan, and France, are being, or are likely to be, sold at less than fair value, the U.S. Tariff Commission has instituted investigations Nos. AA1921-106 (Italy), AA1921-107 (Japan), and AA1921-108 (France), under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigations will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on November 2, 1972. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing,

at its offices in Washington, D.C., not later than noon, Monday, October 30, 1972.

Issued: October 19, 1972.

By order of the Commission:

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-18128 Filed 10-24-72;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TEA-W-149]

ABEX CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of September 11, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-149) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the former workers of the Columbus, Ohio plant of the Denison Division, Abex Corp. In this report, the Commission found that articles like or directly competitive with industrial hydraulic valves manufactured at the Columbus plant of the Denison Division, Abex Corp., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause unemployment or underemployment of a significant number or proportion of the workers of such plant.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 2472, 19405; 29 CFR Part 90). In the recommendation she noted that imports by the company of articles like or directly competitive with the industrial hydraulic valves and valve parts produced at the Columbus plant increased substantially. As a result, the company cut back production of these imported articles and employment levels of workers engaged in producing those articles declined. Unemployment and underemployment directly related to import competition began in July, 1970. After due consideration, I make the following certification:

"The workers of the Columbus, Ohio plant of the Denison Division of Abex Corp. identified below, who became unemployed or underemployed after July 23, 1970, are eligible to apply for adjustment assistance under title III, Chapter 3, of the Trade Expansion Act of 1962.

Name and last known address

M. L. Barksdale, 1122 East 20th Avenue, Columbus, OH 43205.
M. H. Branch, 1114 Hallidon, Columbus, OH 43201.
G. M. Carr, 2930 Wicklow Road, Columbus, 43205.
L. M. Curtis, 3455 First Avenue, Urbancrest, OH 43123.
R. S. Edwards, 2796 Castleton, Grove City, OH 43123.
J. H. Fraley, 841 South Ogden Avenue, Columbus, OH 43204.
J. L. Gibson, 3817 Second Avenue, Urbancrest, OH 43123.
L. M. Haight, 106 South Warren Avenue, Columbus, OH 43204.
A. B. Hasebrook, Jr., 120 Llewllyn Avenue, Westerville, OH 43081.
O. W. Hams, Route No. 1, Shawnee, Ohio 43782.
P. Jaconetti, 1173 Northwest Boulevard, Columbus, OH 43212.
J. M. Linville, 427 South 17th, Columbus, OH 42123.
J. Lowe, 2385 Indiana Avenue, Columbus, OH 43202.
I. E. Nichols, 444 East Woodrow, Columbus, OH 43207.
R. L. Nichols, 421 James Court, Grove City, OH 43123.
M. W. Parks, 264 South 18th Avenue, Apartment 2C, Columbus, OH 43205.
M. F. Pfister, 3069 Gerbert Road, Columbus, OH 43224.
R. A. Rose, 353 Clarendon, Columbus, OH 43223.
B. L. Shepherd, 103 South Princeton, Columbus, OH 43223.
J. R. Shirtzinger, 3281 Darbyshire Drive, Columbus, OH 43205.
H. E. Sieberth, 870 Ross Road, Columbus, OH 43206.
R. L. Stinson, 2432 Argyle Drive, Columbus, OH 43219.
E. F. Strickler, 911 Sullivant Avenue, Columbus, OH 43204.
M. A. Tabor, 69 East Markison, Columbus, OH 43207.
W. M. Walker, Jr., 1202 East 20th Avenue, Columbus, OH 43219.
R. L. Wright, 686 Kelton Avenue, Columbus, OH 43205.

Signed at Washington, D.C. this 18th day of October 1972.

JOEL SEGALL,
Deputy Under Secretary, International Affairs.

[FR Doc.72-18123 Filed 10-24-72;8:48 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF LEARNERS AND STUDENT WORKERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 621 (36 F.R. 12819) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number of proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Angelica Uniform Co., Eminence, Mo.; 8-16-72 to 8-15-73 (women's and men's washable service apparel).

Angelica Uniform Co., Marquand, Mo.; 8-4-72 to 8-3-73 (men's pants).

Angelica Uniform Co., Summersville, Mo.; 8-16-72 to 8-15-73 (women's and men's washable service apparel).

Arizona Slack Corp., Yuma, Ariz.; 9-12-72 to 9-11-73 (men's slacks).

Ashland Crafts, Inc., Ashland, Ky.; 8-8-72 to 8-7-73 (children's dresses).

Bernice Industries, Corp., Bernice, La.; 8-11-72 to 8-10-73 (boys' shirts).

Big River Manufacturing Co., Kittanning, Pa.; 8-31-72 to 8-30-73 (boys' shirts).

Blue Bell, Inc., Hackleburg, Ala.; 8-7-72 to 8-6-73 (men's shirts).

Caledonia Manufacturing Co., Inc., Caledonia, Miss.; 9-11-72 to 9-10-73 (men's pants).

Clayburne Manufacturing Corp., Clayton, Ga.; 8-5-72 to 8-4-73 (men's sport shirts).

Coatesville Garment Co., Coatesville, Pa.; 9-11-72 to 9-10-73; five learners (ladies' dresses and pantsuits).

Detroit Slacks, Inc., Detroit, Ala.; 9-1-72 to 8-31-73 (men's and boys' slacks).

Dotty Dan, Inc., Lamesa, Tex.; 9-16-72 to 9-15-73; (ladies' dresses and blouses, and children's play suits).

Elder Manufacturing Co., Dexter, Mo.; 8-21-72 to 8-20-73 (men's and boys' shirts and boys' slacks).

Excelsior Frocks, Inc., Archbald, Pa.; 8-23-72 to 8-22-73; 10 learners (ladies' dresses).

Fairmont Manufacturing Co., Inc., Fairmont, N.C.; 9-14-72 to 9-13-73; seven learners (women's nightgowns and pajamas).

Fleetline Industries, Inc., Garland, N.C.; 9-1-72 to 8-31-73 (men's shirts).

Forest Hills Sportswear Co., Lawrenceburg, Tenn.; 9-14-72 to 9-13-73 (men's trousers).

Garan, Inc., Clinton, Ky.; 8-16-72 to 8-15-73 (girls' and ladies' blouses and boys' and men's shirts).

Gary Co., Inc., Gallatin, Tenn; 8-14-72 to 8-13-73 (men's shirts).

Glenn's All-American Sportswear, Inc., Amory, Miss.; 8-12-72 to 8-11-73 (men's pants).

Hamburg Shirt Corp., Hamburg, Ariz.; 8-14-72 to 8-13-73 (boys' and men's shirts).

Iva Manufacturing Co., Inc., Iva, S.C.; 8-2-72 to 8-1-73; 10 learners (women's blouses, dresses, culottes, and pantsuits).

F. Jacobson & Sons, Inc., Middlesboro, Ky.; 9-1-72 to 8-31-73 (men's shirts).

Jamestown Manufacturing Corp., Jamestown, Tenn.; 8-6-72 to 8-5-73 (men's, boys', ladies' and girls' pants).

Katz Underwear Co., Honesdale, Pa.; 8-13-72 to 8-12-73 (women's and misses' nightgowns and pajamas).

Kingstree Industries, Inc., Kingstree, S.C.; 8-15-72 to 8-14-73; 10 learners (ladies' slacks and shorts).

Lackawanna Pants Manufacturing Co., Scranton, Pa.; 9-9-72 to 9-8-73 (men's trousers).

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Laurel Industrial Garment Manufacturing Co., Laurel, Miss.; 9–20–72 to 9–19–73 (men's workshirts).

Michael Berkowitz Co., Inc., Uniontown, Pa.; 9–12–72 to 9–11–73 (men's and ladies' pajamas).

Paramount Sportswear Corp., Fall River, Mass.; 8–30–72 to 8–29–73; 10 learners (children's clothing).

Pecos Garment Co., Pecos, Tex.; 8–11–72 to 8–10–73 (men's and boys' dungarees and shorts).

Petersburg Manufacturing Corp., Petersburg, Tenn.; 8–29–72 to 8–28–73 (ladies' and girls' pants).

Piedmont Garment Co., Harmony, N.C.; 9–11–72 to 9–10–73 (misses' and women's blouses).

Plantersville Sportswear, Inc., Plantersville, Miss.; 8–5–72 to 8–4–73 (men's pants).

Probity Enterprise, Inc., Blain, Pa.; 8–4–72 to 8–3–73; five learners (ladies' dresses).

R C M Enterprises, Inc., Baconton, Ga.; 8–19–72 to 8–18–73; 10 learners (ladies' and girls' blouses).

Raycord Co., Inc., Spartanburg, S.C.; 8–22–72 to 8–21–73 (men's shirts).

Salant & Salant, Inc., Marked Tree, Ariz.; 8–11–72 to 8–10–73 (children's pants).

Sally Marks, Ltd., Rienzi, Miss.; 8–11–72 to 8–10–73; eight learners (misses' blouses and dresses).

Sevier Industries, Inc., Sevierville, Tenn.; 8–24–72 to 8–23–73 (men's and boys' pants).

Shawnee Garment Manufacturing Co., Shawnee, Okla.; 8–28–72 to 8–27–73; 10 learners (men's work clothes).

Smith Brothers Manufacturing Co., Oskaloosa, Ia.; 9–20–72 to 9–19–73 (men's and boys' trousers).

Somerset Shirt & Pajama Co., Somerset, Pa.; 8–26–72 to 8–25–73 (boys' nightwear).

Sportswear Unlimited, Iva, S.C.; 8–2–72 to 8–1–73; 10 learners (ladies' blouses, dresses, and pantsuits).

Trace Manufacturing Co., Waynesboro, Tenn.; 8–23–72 to 8–22–73 (work shirts and pants).

Vernon Manufacturing Co., Inc., Vernon, Ala.; 9–1–72 to 8–31–73 (men's and boys' slacks).

Wendell Garment Co., Inc., Wendell, N.C.; 9–5–72 to 9–4–73 (men's sport shirts).

Wildwood Clothing Co., Inc., Wildwood, N.J.; 8–1–72 to 7–31–73; 10 learners (ladies' slacks and men's slacks and walkers).

Williamson-Dickie Manufacturing Co., Bainbridge, Ga.; 9–14–72 to 9–13–73 (men's and boys' work and casual clothes).

Williamson-Dickie Manufacturing Co., McAllen, Tex.; 8–11–72 to 8–10–73 (men's work pants).

Williamson-Dickie Manufacturing Co., Weslaco, Tex.; 8–18–72 to 8–17–73 (men's and boys' pants).

Woodbury Manufacturing Co., Inc., Woodbury, Tenn.; 8–6–72 to 8–5–73 (men's and boys' shirts).

The following plant expansion certificates were issued authorizing the number of learners indicated.

A & F, Inc., South Fork, Pa.; 8–21–72 to 2–20–73; 14 learners (Women's foundation garments).

Clarkrange Industries, Inc., Clarkrange, Tenn.; 8–4–72 to 2–3–73; 35 learners (Ladies' and girls' pants).

Covington Industries, Inc., Samson, Ala.; 9–8–72 to 3–7–73; 10 learners (Men's and women's jeans).

Don Juan Manufacturing Corp., Hertford, N.C.; 8–7–72 to 2–6–73; 30 learners (Men's and boys' shirts).

Eudora Garment Corp., Eudora, Ark.; 8–4–72 to 2–3–73; 100 learners (Washable service apparel and men's work clothes).

Jonbil Manufacturing Co., Inc., Danville, Va.; 8–11–72 to 2–10–73; 25 learners (Men's and boys' jeans).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Co-Op Glove Manufacturing Inc., Shuqualak, Miss.; 8–17–72 to 8–16–73; 10 learners for normal labor turnover purposes (Work gloves).

Co–Op Glove Manufacturing Inc., Shuqualak, Miss.; 8–17–72 to 2–16–73; 30 learners for plant expansion purposes (Work gloves).

Good Luck Glove Co., Vienna, Ill.; 9–1–72 to 8–31–73; 10 learners for normal labor turnover purposes (Work gloves).

Tex-Sun Glove Co., Corsicana, Tex.; 8–19–72 to 8–18–73; 10 learners for normal labor turnover purposes (Work gloves).

Wells Lamont Corp., Oak Grove, La.; 9–6–72 to 9–5–73; 10 learners for normal labor turnover purposes (Work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Fort Payne Dekalb Hosiery Mills, Inc., Fort Payne, Ala.; 8–24–72 to 8–23–73; 5 percent of the total number of factory production workers for normal labor turnover purposes (Infants' and children's seamless hosiery).

V. I. Prewett & Son, Inc., Fort Payne, Ala.; 8–14–72 to 2–13–73; 10 learners for plant expansion purposes (Infants' and children's hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Beauty Maid Mills, Inc., Statesville, N.C.; 9–9–72 to 9–8–73; 5 percent of the total number of factory production workers for normal labor turnover purposes (Ladies' panties and sleepwear).

Glennville Lingerie Corp., Glennville, Ga.; 8–21–72 to 2–2–73; 25 learners for plant expansion purposes (Women's underwear).

Junior Form Lingerie Corp., Boswell, Pa.; 8–15–72 to 8–14–73; 5 percent of the total number of factory production workers for normal labor turnover purposes (Ladies' underwear and sleepwear).

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration date, learner rate, occupation, learning period and the number of learners authorized to be employed, are indicated.

Bayuk Ciales, Inc., Ciales, P.R.; 9–5–72 to 9–4–73; 12 learners for normal labor turnover purposes in the occupation of machine stripping, for a learning period of 160 hours at the rate of $1.38 an hour. (Machine stripping).

The following student-worker certificates were issued pursuant to the regulations applicable to the employment of student-workers (29 CFR 527.1 to 527.9). The effective and expiration dates, occupations, wage rates, number of student-workers, and learning periods for the certificates issued under Part 527 are as indicated below.

Adelphian Academy, Holly, Mich.; 9–1–72 to 8–31–73; authorizing the employment of 60 student-workers in the woodworking industry in the occupations of woodworking machine operator, assembler, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 240 hours at the rates of $1.40 an hour for the first 120 hours and $1.45 an hour for the remaining 120 hours.

Andrews University, Berrien Springs, Mich.; 9–1–72 to 8–31–73; authorizing the employment of: (1) 35 student-workers in the bookbinding industry in the occupations of gluing, backing, stamping, overmaking, and related operations, for a learning period of 600 hours at the rates of $1.45 an hour for the first 300 hours and $1.50 an hour for the remaining 300 hours; (2) 8 student-workers in the printing industry in the occupations of composition, presswork, machine composition, and platemaking, for a learning period of 1,000 hours at the rates of $1.45 an hour for the first 500 hours and $1.50 an hour for the remaining 500 hours; (3) 100 student-workers in the furniture manufacturing industry in the occupations of millwork, assembly, and finishing, for a learning period of 600 hours at the rates of $1.45 an hour for the first 300 hours and $1.50 an hour for the remaining 300 hours; and (4) 12 student-workers in the clerical industry in the occupations of bookkeeping, stenographic, switchboard, and data processing, for a learning period of 480 hours at the rates of $1.45 an hour for the first 240 hours and $1.50 an hour for the remaining 240 hours.

Atlantic Union College, South Lancaster, Mass.; 9–1–72 to 8–31–73; authorizing the employment of: (1) 10 student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 300 hours at the rate of $1.45 an hour; (2) 50 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations for a learning period of 300 hours at the rate of $1.45 an hour; and (3) 10 student-workers in the broom manufacturing industry in the occupations of broommaker, stitcher, sorter, winder, and related skilled and semiskilled occupations, for a learning period of 300 hours at the rate of $1.45 an hour.

Brigham Young University, Provo, Utah; 9–1–72 to 8–31–73; authorizing: (1) A learning period of 1,000 hours at the rates of $1.40 an hour for the first 500 hours and $1.45 an hour for the remaining 500 hours, for 50 student-workers in the university press industry in the occupations of press operating and assembly workers; and (2) a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours, for (a) 50 student-workers in the university press industry in the occupations of press, clerical workers and typists, (b) 15 student-workers in the motion picture production industry in the occupations of technicians, production assistants and clerical workers, (c) 60 student-workers in the educational media service industry, in the occupations of clerical workers, inspection, shipping, and receiving, (d) 30 student-workers in the Division of Continuing Education in the occupations of clerical and stenographic workers, (e) 50 student-workers in the public relations and telephone industry in the occupations of switchboard operators, typists, and clerical workers, and (f) 35 student-workers in the Admissions, Records, and Alumni Division in the occupations of stenographic and clerical workers.

Cedar Lake Academy, Cedar Lake, Mich.; 9–1–72 to 8–31–73; authorizing the employment of 35 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, assembler, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours.

Grand Ledge Academy, Grand Ledge, Mich.; 9–5–72 to 8–31–73; authorizing the employment of: (1) 40 student-workers in the woodworking industry in the occupations of woodworking machine operator, assembler, furniture finisher, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.45 an hour for the first 200 hours and $1.50 an hour for the second 200 hours, and $1.55 an hour for the remaining 200 hours; and (2) 10 student-workers in the cafeteria industry in the occupations of chef and baker trainee for a learning period of 400 hours at the rates of $1.40 an hour for the first 100 hours, $1.45 an hour for the second 100 hours, $1.50 an hour for the third 100 hours, and $1.55 an hour for the remaining 100 hours.

Pacific Union College, Angwin, Calif.; 9–1–72 to 8–31–73; authorizing the employment of 20 student-workers in the bookbindery industry in the occupations of bookbinder, sewer, stamper, trimmer, cutter, backer, caseworker, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 500 hours at the rate of $1.45 an hour.

Sandia View Academy, Corrales, N. Mex.; 9–1–72 to 8–31–73; authorizing the employment of 25 student-workers in the furniture manufacturing industry in the occupations of woodworking machine operator, offbearer, assembler, finisher, and related skilled and semiskilled occupations including incidental clerical work in the shop, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours.

Union College, Lincoln, Nebr.; 9–1–72 to 8–31–73; authorizing the employment of: (1) Eight student-workers in the printing industry in the occupations of compositor, pressman, and related skilled and semiskilled occupations, for a learning period of 1,000 hours at the rates of $1.40 an hour for the first 500 hours and $1.50 an hour for the remaining 500 hours; (2) 15 student-workers in the bookbinding industry in the occupations of bookbinder, bindery worker, and related skilled and semiskilled occupations, for a learning period of 600 hours at the rates of $1.40 an hour for the first 300 hours and $1.45 an hour for the remaining 300 hours; (3) 10 student-workers in the broom manufacturing industry in the occupations of broommaker, mopmaker, stitcher, and related skilled and semiskilled occupations, for a learning period of 360 hours at the rates of $1.40 an hour for the first 180 hours and $1.45 an hour for the remaining 180 hours; and (4) four student-workers in the clerical industry in the occupations of bookkeeper, business machine operator, and related skilled and semiskilled occupations, for a learning period of 500 hours at the rates of $1.40 an hour for the first 250 hours and $1.45 an hour for the remaining 250 hours.

The student-worker certificates were issued upon the applicant's representations and supporting materials fulfilling the statutory requirements for the issuance of such certificates, as interpreted and applied by Part 527.

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR, Part 528.

Signed at Washington, D.C., this 17th day of October 1972.

DONALD T. CRUMBACK,
Authorized Representative of the Administrator.

[FR Doc.72-18124 Filed 10-24-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 102]

ASSIGNMENT OF HEARINGS

OCTOBER 19, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 61592 Sub 269, Jenkins Truck Line, Inc., now assigned November 6, 1972, at Atlanta, Ga., is canceled and application dismissed.

MC 124211 Sub 217, Hilt Truck Line, Inc., now being assigned hearing December 4, 1972 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 133565 Sub 7, True Transport, Inc., now assigned January 8, 1973, at New York, N.Y., is postponed to January 22, 1973, at New York, N.Y., in a hearing room to be later designated.

MC 126373 Sub 3, James A. Bonham, doing business as Bonham's Special Delivery, now assigned November 13, 1972, at Charleston, W. Va., will be held in Room E, Connecting Unit, Second Floor, New State Office Building, 1900 Washington Street, East.

No. 3719, TOFC Freight all kinds in trainloads, between Chicago and Kearny, now being assigned hearing December 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M—26226, Foodstuffs, Southern Ports to Central States, now being assigned hearing December 13, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M–26235, Import or export household goods in containers, now being assigned hearing December 12, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 121060 Sub 17, Arrow Truck Lines, Inc., now assigned November 7, 1972, at Atlanta, Ga., is canceled and transferred to modified procedure.

MC 136163, Jerome Kelly, Jr., doing business as Jerome Kelly & Son, now being assigned hearing November 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136806, Aycock, Inc., now being assigned hearing November 27, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 120646 Sub 9, Bradley Freight Lines, Inc., now being assigned hearing November 30, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115955 Sub 22, Scari's Delivery Service, Inc., now being assigned hearing December 5, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–F–11599, Helms Motor Express, Inc.—purchaser—Fox Transfer Co., now being assigned hearing December 6, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–F–11361, Anderson Motor Lines, Inc.—purchase (portion)—Glosson Motor Lines, Inc., now being assigned continued hearing December 7, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 76472 Sub 21, Material Trucking, Inc., now being assigned hearing December 12, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18150 Filed 10-24-72;8:48 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 19, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42552—*Joint water-rail container rates—Nippon Yusen Kaisha.* Filed by Nippon Yusen Kaisha (No. 2), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, on the one hand, and rail stations on the U.S. Atlantic and Gulf seaboard, on the other.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18148 Filed 10-24-72;8:48 am]

[Notice 146]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

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Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73914. By order of October 5, 1972, the Motor Carrier Board approved the transfer to O'Neill Transfer, Inc., O'Neill, Nebr., of Certificates of Registration No. MC-85479 (Sub-No. 1), (Sub-No. 2), and (Sub-No. 3), issued to John J. Turner, doing business as O'Neill Transfer, O'Neill, Nebr., evidencing a right to engage in interstate or foreign commerce in the transportation of: General commodities, solely within the State of Nebraska. Robert T. Finn, attorney, Harmon Building, Box 59, O'Neill, NE 68763.

No. MC-FC-73948. By order entered October 5, 1972, the Motor Carrier Board approved the transfer to Cohenno, Inc., Stoughton, Mass., of the operating rights set forth in Certificate No. MC-61394 (Sub-No. 2), issued by the Commission July 6, 1972, to Pierce Arrow Trucking Company of Rhode Island, Inc., Cranston, R.I., authorizing the transportation of lumber, lumber products, and trusses, from, to, or between points in Connecticut, Massachusetts, and Rhode Island. Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905, practitioner for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18147 Filed 10-24-72;8:48 am]

[Notice 139]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 18, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 59054 (Sub-No. 4 TA), filed September 19, 1972. Applicant: TRI-STATE CARRIER, INC., 212 Washington Avenue, Carlstadt, NJ 07072. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, solvents, cements, paste, bleaches, varnish, lacquers, inks, compounds, dyes, materials, and supplies*, used in the manufacture and sale of the above-named commodities (except commodities in bulk), from the facilities of Inmont Corp., at Haines-port, N.J., to points in the New York, N.Y., commercial zone, as defined by the Commission, points in Orange, Rockland, Nassau, Suffolk, and Westchester Counties, N.Y., and Fairfield County, Conn., for 180 days. Supporting shipper: Inmont Corp., L-5 Factory Lane, Bound Brook, NJ 08805. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 109677 (Sub-No. 42 TA), filed September 29, 1972. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, NY 12828. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Providence, R.I., to points in Connecticut, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont; and Franklin, East Freetown, Boston, Bellingham, Westboro, Barre, Falls River, Coventry, New Bedford, Brockton, Kingston, Duxbury, Plymouth, Lowell, Haverhill, and Palmer, Mass.; Coventry, Bristol, Kenyon, Westerly, Warren, Wakefield, Peace Dale, and Bradford, R.I.; Meriden, Occum, Canaan, Groton, Waterford, Bantam, Stratford, Wallingford, Winsted, Richfield, Niantic, Middletown, Norwich, Taftville, Plainville, Plainfield, and Putnam, Conn.; Bristol, Guild, Newport, Walpole, Claremont Junction, and Claremont, N.H.; Carmel, N.Y.; and Chelsea and Westminster, Vt., for 180 days. Supporting shipper: Petrolane, Inc., Long Beach, Calif. Send protests to: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18149 Filed 10-24-72;8:48 am]

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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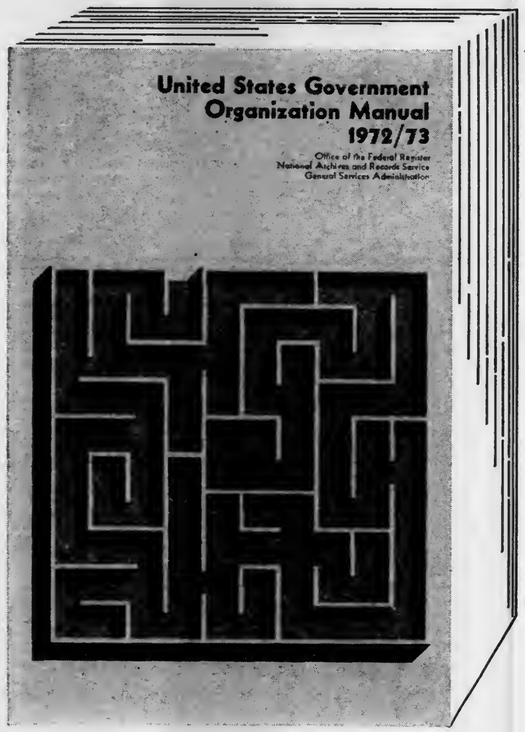
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THURSDAY, OCTOBER 26, 1972

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Volume 37 ■ Number 207

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PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3113 is amended to show that positions of technical leader employed in the training of foreign nationals in the International Agricultural Development Service are no longer excepted under Schedule A.

Effective on publication in the FEDERAL REGISTER (10–26–72), paragraph (i) of § 213.3113 is revoked.

§ 213.3113 Department of Agriculture.

• • • • • •

(i) [Revoked]

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18184 Filed 10–25–72;8:53 am]

PART 213—EXCEPTED SERVICE

Securities and Exchange Commission

Section 213.3130 is amended to show that accountant and auditor positions in GS–13 through 15 are excepted under Schedule A when filled under the SEC professional accounting fellow program. No more than two positions may be filled at any one time under this authority, and no appointment may extend for longer than 2 years.

Effective on publication in the FEDERAL REGISTER (10–26–72), paragraph (c) is added under § 213.3130 as set out below.

§ 213.3130 Securities and Exchange Commission.

• • • • • •

(c) Positions of accountant and auditor, GS–13 thorugh 15, when filled by persons selected under the SEC accounting fellow program. No more than two positions may be filled under this authority at any one time. An employee may not serve under this authority longer than 2 years.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18185 Filed 10–25–72;8:53 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Confidential Assistant to the Under Secretary is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10–26–72), subparagraph (6) of paragraph (a) is amended under § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

• • • • • •

(a) *Office of the Secretary.* • • •

(6) Four Confidential Assistants to the Under Secretary.

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18187 Filed 10–25–72;8:53 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Deputy Assistant Secretary for Community and Field Services is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10–26–72), subparagraph (12) of paragraph (n) of § 213.3316 is revoked.

§ 213.3316 Department of Health, Education, and Welfare.

• • • • • •

(n) *Office of the Assistant Secretary for Community and Field Services.* • • •

(12) [Revoked]

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–1958 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18188 Filed 10–25–72;8:53 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 of Schedule C is amended to reflect the following title change: From Secretary to the Director, Office of Legislation, to Staff Assistant to the Director, Office of Legislation.

Effective on publication in the FEDERAL REGISTER (10–26–72), subparagraph (3) of paragraph (b) is amended and subparagraph (4) of paragraph (b) is revoked under § 213.3318 as set out below.

§ 213.3318 Environmental Protection Agency.

• • • • • •

(b) *Office of Legislation.* • • •

(3) Two Staff Assistants to the Director.

(4) [Revoked]

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18189 Filed 10–25–72;8:54 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 is amended to show that one position of Special Assistant and Director, Office of Equal Employment Opportunity and Compliance, is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10–26–72), paragraph (d) of § 213.3332 is revoked.

§ 213.3332 Small Business Administration.

• • • • • •

(d) [Revoked]

• • • • • •

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72–18186 Filed 10–25–72;8:53 am]

PART 213—EXCEPTED SERVICE

Export-Import Bank of the United States

Section 213.3342 is amended to show that one position of Administrative Assistant to the President and Chairman is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (10–26–72), paragraph (j) is added to § 213.3342 as set out below.

§ 213.3342 Export-Import Bank of the United States.

• • • • • •

(j) One Administrative Assistant to the President and Chairman.

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(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.72-18190 Filed 10-25-72;8:54 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-569]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined and Released

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e) (11) relating to the State of Ohio, subdivision (ii) relating to Van Wert County is deleted, and a new subdivision (ii) relating to Clark County is added to read:

(e) • • •

(11) *Ohio.* • • •

(ii) That portion of Clark County bounded by a line beginning at the junction of County Road 235 and New Carlisle Pike, County Road 314; thence, following New Carlisle Pike, County Road 314 in an easterly, then southeasterly direction to U.S. Highway 40; thence, following U.S. Highway 40 in a generally easterly direction to U.S. Highway 68; thence, following U.S. Highway 68 in a southwesterly direction to the Clark-Greene County line; thence, following the Clark-Greene County line in a westerly, then northerly, then westerly direction to the junction of the Clark-Greene-Montgomery County lines; thence, following the Clark-Montgomery County line in a northerly direction to County Road 235; thence, following County Road 235 in a northerly, then northeasterly direction to its junction with New Carlisle Pike, County Road 314.

• • • • •

2. In § 76.2, paragraph (e) (15) relating to the State of Mississippi is amended to read:

(e) • • •

(15) *Mississippi.* The adjacent portions of Kemper and Lauderdale Counties bounded by a line beginning at the junction of State Highway 16 and State Highway 39 in Kemper County; thence following State Highway 39 in a generally southerly direction to Lizella-Lauderdale Road in Lauderdale County; thence, following Lizelia-Lauderdale Road in a generally easterly direction to U.S. Highway 45; thence, following U.S. Highway 45 in a northeasterly, then northerly direction to State Highway 16 in Kemper County; thence, following State Highway 16 in a southwesterly direction to its junction with State Highway 39 in Kemper County.

3. In § 76.2, in paragraph (e) (7) relating to the State of Kentucky, subdivision (viii) relating to Montgomery, Clark, and Bourbon Counties is deleted.

4. In § 76.2, in paragraph (e) (3) relating to the State of North Carolina, subdivisions (iv) relating to Henderson County and (v) relating to Pitt County are deleted.

5. In § 76.2, paragraph (e) (8) relating to the State of South Carolina is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Clark County in Ohio because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined area.

The amendments exclude a portion of Van Wert County in Ohio, a portion of Lauderdale County in Mississippi, a portion of Anderson County in South Carolina, portions of Pitt and Henderson Counties in North Carolina, and portions of Montgomery, Clark, and Bourbon Counties in Kentucky from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No areas in South Carolina remain under quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as the amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18273 Filed 10-25-72;8:55 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a) (1) relating to the State of California, subdivision (viii) relating to Kern County is deleted, and subdivision (v) relating to Los Angeles County is amended by adding a new subdivision (g) to read:

(a) • • •

(1) *California.* • • •

(v) The following areas in Los Angeles County:

• • • • •

(*g*) The premises of Morris and Rose Engle, 12005 Zelzah Avenue, Grenada Hills, bounded by a line beginning at the junction of Aliso Creek and Sesmon Boulevard; thence, following the west bank of Aliso Creek in a southeasterly direction to Rinalde Street; thence, following Rinalde Street in an easterly direction to Zelzah Avenue; thence, following Zelzah Avenue in a generally northwesterly direction to Bull Canyon Road; thence, following Bull Canyon Road in a northeasterly direction to Sesmon Boulevard; thence, following Sesmon Boulevard in a generally westerly direction to its junction with Aliso Creek.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine a portion of Los Angeles County in California because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, apply to the quarantined area.

The amendments exclude a portion of Kern County in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

The amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18208 Filed 10-25-72;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-EA-103, Amdt. 39-1545]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-24 type airplanes.

During a flight reevaluation of the flutter characteristics of the PA-24 type airplane, a rudder flutter condition was determined to exist below the present Vne speed. Thus, a rule is being issued which will require speed reductions in the Vne and Vno criteria.

Since the foregoing deficiency involves air safety, notice and public procedure hereon are impractical and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 3913 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

PIPER. Applies to PA-24, PA-24-250, and PA-24-260 airplanes certificated in all categories.

To prevent possible adverse airplane vibration effects, accomplish the following:

(1) Within the next 10 hours in service after the effective date of this airworthiness directive, unless already accomplished, attach the following operating limitation placard near the airspeed indicator in full view of the pilot:

(a) For PA-24 type airplanes, "Do not exceed 188 m.p.h. cas (Vne)".

(b) For PA-24-250 and PA-24-260 type airplanes, "Max. structural cruising: 167 m.p.h. cas (Vno). Do not exceed 188 m.p.h. cas (Vne)."

(2) Within three (3) months after the effective date of this airworthiness directive, accomplish either:

(a) An alteration of the red radical Vne line and the cautionary yellow arc of the airspeed indicator to reflect the airspeeds noted in 1 above in accordance with an FAA-approved alteration; or

(b) An alteration of the rudder in accordance with Piper Service Kit No. 760705 or an FAA-approved equivalent alteration and an alteration of the airspeed instrument in accordance with an FAA-approved alteration to reflect the following speed restrictions:

Vne of 202 m.p.h. (cas) for PA-24; of 203 m.p.h. (cas) for PA-24-250 and PA-24-260
Vno of 180 m.p.h. (cas) for PA-24-250 and PA-24-260.

(3) FAA-approved alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective October 31, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on October 16, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-18181 Filed 10-25-72;8:47 am]

[Docket No. 11629, Amdt. 39-1547]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Models 542-4, 542-4K, 542-10, 542-10J, and 542-10K Engines

Amendment 39-1381 (37 F.R. 666), AD 72-2-4, requires overhaul, and rebuilding as necessary, within 3,600 hours' time in service after its effective date, January 20, 1972, of all the subject engines that incorporate Rolls Royce Dart Modification No. 1527. The AD also requires initial and periodic inspections for freedom of engine rotation and for traces of aluminum dust in the engine oil. In addition, the initial inspection includes inspection for security of diffuser bolts for all subject engines and for those with 3,000 or more flights, inspection for aluminum spatter and impact damage. The AD further provides, for engines that had accumulated 3,000 or more flights by its effective date, that if the more extensive initial inspection required on those engines revealed no defects, the periodic inspections would not be required. After issuing Amendment 39-1381, upon further investigation, the FAA has determined that incorporation of Modification 1527 and slackness of diffuser bolts are not related to the condition involved. The FAA has further determined that less frequent, more effective monitoring of the condition involved may be accomplished, and that the inspections required to accomplish the monitoring must be performed periodically until the engine is rebuilt. In addition, the FAA has determined that rebuilding of the engine must be performed in accordance with a revised Service Bulletin, and is required only when evidence of metal spatter or impact damage is found.

Therefore, AD 72-2-4 is being superseded by a new AD, applicable to all the subject engines, that requires modification of the oil drainplug, P/N R[illegible] 35189, in the compressor front flange, and periodic inspection of the modified plug for aluminum particle. The maximum period between these inspections which may be adjusted by an FAA Maintenance Inspector, is 300 flights. The new AD continues the requirement of AD 72-2-4 for periodic inspections for freedom of engine rotation and for aluminum dust in the oil filter, while providing that they be performed at th e same intervals as the oil drainplug inspections or at intervals determined by the operator's continuous airworthiness maintenance program. Further, the new AD continues the requirement for inspection, as necessary, for evidence of metal spatter and foreign object damage, and rebuilding if such evidence is found. The rebuilding must be accomplished in accordance with the revised Service Bulletin DA 72-383, Revision 1, dated November 30, 1971, or an FAA approved equivalent. In addition, the new AD provides that the periodic inspections may be discontinued only upon accomplishment of the specified rebuilding.

Since a situation exists that requires immediate adoption of this rule it is found that notice and public procedure thereon are impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

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ROLLS ROYCE (1971 LTD. Applies to Rolls Royce Dart Models 542-4, -4K, -10, -10J, and -10K engines. These engines are installed on, but not necessarily limited to Convair 340/440 airplanes that have had subject engines installed by modification, and NAMC YS-11 and YS-11A airplanes, all series. (Note: Subject Convair 340/440 airplanes are also known as Convair 600 and 640 airplanes.)

Compliance is required as indicated.

To prevent damage to the rear face of the first stage impeller that could lead to impeller disintegration in service, accomplish the following:

(a) Within the next 300 flights after the effective date of this AD, or before the accumulation of 2,000 flights on the compressor since installed new or since last compressor overhaul, as applicable, whichever occurs later, unless already accomplished, modify the oil drain plug, P/N RK.35189, and refit it to the engine in accordance with Rolls Royce Dart Aero Engine Service Bulletin Number DA 72-383, Revision 1, dated November 30, 1971, or an FAA-approved equivalent. Identify the modified drainplug as P/N RK.46404.

(b) Within the next 300 flights after incorporation of the modification specified by paragraph (a), and thereafter at intervals not to exceed 300 flights from the last inspection visually inspect the surfaces of the drain plug, P/N RK.46404, for the presence of aluminum particles. If aluminum particles are found during an inspection required by this paragraph, before further flight comply with paragraph (e).

NOTE: During inspections required by paragraph (b) particular attention should be directed to the sealing ring recess.

(c) For an engine that is subject to an FAA-approved continuous airworthiness maintenance program that includes periodic inspection for freedom of engine rotation and periodic inspection of the oil filter, comply with the following:

(1) At each inspection for freedom of engine rotation, listen for unusual noises from the compressor area; and

(2) At each inspection of the oil filter, visually inspect the filter for traces of fine aluminum dust in the bottom of the filter cap or in suspension in the residual oil in the filter cap.

(3) If any unusual noise emanates from the compressor area during an inspection required by subparagraph (c)(1) or if any trace of fine aluminum dust is found during an inspection required by subparagraph (c)(2), before further flight comply with paragraph (e).

Changes to an approved program that affect either the interval or performance of inspections required by this AD must be approved by the assigned FAA Maintenance Inspector.

(d) For engines that are not subject to an FAA-approved continuous airworthiness maintenance program that includes periodic inspection for freedom of engine rotation and periodic inspection of the oil filter, comply with the following:

(1) At each inspection required by paragraph (b)—

(i) Inspect the first stage impeller for freedom of rotation by rotating it at least one full turn in each direction, and listen for unusual noises from the compressor area.

(ii) Visually inspect the oil filter for traces of fine aluminum dust in the bottom of the filter cap or in suspension in the residual oil in the filter cap.

(2) If the first stage impeller does not rotate freely in each direction or if any unusual noise emanates from the compressor area during an inspection required by subparagraph (d)(1)(i), or if any trace of fine aluminum dust is found during an inspection required by subparagraph (d)(1)(ii), before further flight comply with paragraph (e).

(e) Remove one combustion chamber and visually inspect the compressor outlet elbow, flame tube, discharge noggle, hp. nozzle guide vanes, and hp. turbine blades for evidence of metal spatter and surface roughness or impact damage due to the passage of a foreign object. If any of these indications are found, before further flight rebuild the engine in accordance with Rolls Roye Dart Aero Engine Service Bulletin Da 72-383, Revision 1, dated November 30, 1971, or an FAA-approved equivalent.

(f) For the purpose of complying with this AD, a flight is an operating sequence consisting of an engine start, takeoff operation, landing, and engine shutdown. The number of flights may be determined by actual count or, subject to accetpance by the assigned FAA Maintenance Inspector, may be calculated by dividing the compressor section's time in service by the operator's fleet average time for airplanes equipped with this subject type engines.

(g) At the request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Aircraft Certification Staff, FAA Europe, Africa, and Middle East Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(h) The repetitive inspections required by this AD may be discontniued on engines that have been rebuilt in accordance with paragraph (e).

This amendment supersedes Amendment 39-1381 (37 F.R. 666), AD 72-2-4.

This amendment becomes effective October 26, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 17, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-18180 Filed 10-25-72;8:47 am]

[Docket No. 12323, Amdt. 39-1548]

PART 39—AIRWORTHINESS DIRECTIVES

Handley Page HP-137 Mark I Airplanes

There have been ruptures of the horizontal firewall under the engine "hot" section due to engine rotor failures or combustor torching flame penetrating the combustor case and firewall, on Handley Page HP-137 Mark I airplanes. This could result in fire entering the area behind the existing vertical firewall and causing structural damage to the aft nacelle, wing, and fuel tank. Since this condition is likely to exist or develop in other aircraft of the same type design, an airworthiness directive is being issued to require the installation, within 50 hours' time in service of its effective date, of additional fire shielding to protect the vulnerable area in case the existing horizontal firewall below the engine is penetrated, on Handley Page HP-137 Mark I airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HANDLEY PAGE (JETSTREAM AIRCRAFT LTD). Applies to Handley Page HP-137 Mark I airplanes.

Compliance is required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent fires, which could result from engine rotor failures and combustion chamber burn through torching flames, in the areas of the nacelle forward of the existing vertical firewall from entering the area aft of the vertical firewall and damaging wing structure or burning into the wing fuel tank in this area, install additional fire shielding to the lower nacelle area down from and aft of the existing vertical firewall in accordance with the following:

(a) Using fireproof materials which comply with FAR 23.1191, extend the existing vertical firewall and provide fireproof shielding for the area aft of the extended vertical firewall in accordance with Jetstream Aircraft Limited Modification No. 5001, Part 1, Issue 1, dated September 1971, and Part 2, Issue 2, dated December 1971, or other equivalent modification approved by the Chief, Engineering and Manufacturing Branch of an FAA Region (or, in the case of the Western Region, the Aircraft Engineering Division).

NOTE: Copies of Jetstream Aircraft Limited Modification No. 5001 may be obtained from the FAA, Engineering and Manufacturing Branch in the FAA Regions (or in the case of the Western Region, the Aircraft Engineering Division).

This amendment becomes effective October 31, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 17, 1972.

C. R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72-18179 Filed 10-25-72;8:47 am]

[Airspace Docket No. 72-AL-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area and Revocation of Control Area Extension

On July 14, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 13804) stating that the Federal Aviation Administration (FAA) was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the controlled airspace in the vicinity of Middleton Island, Alaska.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 71.181 (37 F.R. 2143) the Middleton Island transition area is designated as follows:

That airspace extending upward from 700 feet above the surface within 12 miles northwest and 7.5 miles southeast of the Middleton Island VORTAC 037° and 217° radials, extending from 22.5 miles northeast to 11.5 miles southwest of the VORTAC; and within 9.5 miles west of the Middleton Island RBN 011° bearing, extending from the RBN to 18.5 miles north of the RBN.

2. In § 71.165 (37 F.R. 2055) the Middleton Island control area extension is revoked.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510 Executive Order 10854 (24 F.R. 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 17, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18182 Filed 10-25-72;8:47 am]

[Airspace Docket No. 72-RM-23]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

On September 12, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 18472) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Greenwood Village, Colo. control zone.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Aurora, Colo., on October 16, 1972.

M. M. MARTIN,
Director,
Rocky Mountain Region.

In § 71.171 (37 F.R. 2056) the following control zone is added:

GREENWOOD VILLAGE, COLO.

That airspace within a 5-mile radius of the Arapahoe County Airport (latitude 30°34'28" N., longitude 104°51'02" W.), and within 2.5 miles each side of the 335° bearing from the Englewood RBN extending from the 5-mile radius zone to 5 miles northwest of the RBN, excluding that airspace within the Denver, Colo. control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airmen's Information Manual.

[FR Doc.72-18183 Filed 10-25-72;8:52 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-773; Amdt. 241-2]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Filing Time Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of October 1972.

By notice of proposed rule making EDR-227, dated June 6, 1972,[1] the Board proposed to amend Part 241 of its Economic Regulations (14 CFR Part 241) so as to: (1) Make the timeliness of the filing of all CAB Form 41 schedules turn upon the date of receipt by the Board, rather than the postmark date; (2) prescribe a list of due dates, in place of the present list of time intervals, for such filings; and (3) require that requests for extensions of time for such filings be received not later than 10 days prior to the due date, except in cases of emergency.

Comments in response to the notice were submitted by Aloha Airlines, Inc. (Aloha), Eastern Air Lines, Inc., Frontier Airlines, Inc., Hawaiian Airlines, Inc. (Hawaiian), Kodiak Airways, Inc. (Kodiak), North Central Airlines, Inc. (North Central), Northwest Airlines, Inc., Overseas National Airways, Inc., Ozark Air Lines, Inc. (Ozark), Pan American World Airways, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., and Trans-World Airlines, Inc.[2]

Upon consideration of the comments, the Board has determined to adopt the proposed amendments, except as modified herein.

In EDR-227, the Board observed that, by amending the Part 241 instructions so as to eliminate references to postmarks, and requiring instead that the various schedules be received by the Board on or before a particular date (which, in most cases, would be the same as the presently prescribed postmark dates), the Board would be able to compile and issue the Form 41 data more quickly. We further noted that elimination of the postmark test would also preclude the ground for doubting whether a particular schedule was actually mailed on the date stamped, a suspicion which is made quite plausible by the prevalent use of postage meters.

The comments are virtually unanimous in opposing this portion of the proposal, upon the grounds that: (1) It would leave the timeliness of the filings dependent upon the speed of mail deliveries, and such deliveries are subject to delays, and (2) the time available for carriers to prepare and mail the schedules would be reduced, thus imposing an undue burden upon the carriers. In addition, Aloha, Hawaiian, and Kodiakcontend that adoption of the specific due dates would impose particular hardships on them by virtue of their respective geographic locations.[3]

The Board has not found the arguments in opposition to the proposed specific due dates to be persuasive. Public policy requires that information, in order to serve the purpose for which it is collected and compiled, must be made available to users as soon as practicable after the date or period to which it relates. In this regard, the Office of Management and Budget (OMB) in Circular No. A-91 (revised) dated April 26, 1972, states that the shortest possible interval should exist between the date or period to which data refer and the date when compilation is completed, and that prompt public release of the figures should be made after compilation. In that circular, OMB also states that the prompt release of official statistics on a regular schedule is of vital importance to the proper management of both private and public affairs.

The present irregularity in receipt of Form 41 financial schedules from the carriers causes the Board's staff considerable administrative difficulty both in enforcing timely reporting by the carriers and in scheduling the coding, keypunching, editing, and processing of reported data.

Enforcement of timely reporting is essential because late reports from a few carriers can cause delay and sporadic availability of carrier data for staff analysis and reporting to the Board, evaluations of carrier financial fitness, compilations for Board publications, dissemination to other Government agencies, and for meeting commitments to international air transportation bodies. Under the present postmark due date requirements, the use of postage meters by many carriers has made it impossible to attribute the causes of delays for reports to either the U.S. Postal Service or the carriers. Thus, enforcement of timely reporting has been significantly hampered. The prescription of

[1] Docket 24533, 37 F.R. 11685.

[2] These are 13 of the 49 carriers who would be affected by the proposed rule.

[3] North Central observes that carriers with headquarters in or near Washington, D.C., require shorter mailing times than other carriers.

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specific due dates for receipt of reports would provide the soundest basis for enforcement of the reporting requirements.

Enforcement of timely reporting alone, however, would not completely eliminate the irregularity in receipt of reports by the Board. The contention that carriers cannot guarantee the timeliness of delivery by the U.S. Postal Service is partly what necessitates this amendment. Too often, the Form 41 information disseminated by the Board, for which there is considerable demand, has been delayed by the irregular receipt of carrier reports. Carrier group and industry summaries of information cannot be computed until essentially all data is received by the Board. Thus, a few late reporting carriers can cause considerable delays in scheduling staff activities and the eventual release of data compilations by the Board on a regular basis.

As stated in the notice of proposed rule making, the Board is aware that the time available for the preparation and mailing of the reports will be reduced by a few days. However, it should be noted that this regulation does not purport to, and is not intended to, restrict carriers to a specific means of delivery, such as the U.S. Postal Service. It should also be pointed out that this regulation does not represent a novel approach to the problem of on-time reporting. For example, the due dates for filing Form 41 statistical schedules are already determined by the date of receipt, and it has long been our practice to require that documents presented in proceedings before the Board be actually received on the date set for their filing, without regard to the mode of delivery.[4]

A number of carriers object to the portion of the proposed rule which would require that requests for extensions of time be received by the Board no later than 10 days prior to the due dates of the schedules in question, except in cases of emergency. It is urged that many circumstances which may necessitate such a request do not become manifest as early as 10 days in advance. Upon further consideration, we have determined to modify the proposed rule so as to require that extension requests be received by the Board, in writing, no later than 3 days prior to the due date, except in cases of emergency. This will provide the Board with sufficient time to give each request appropriate consideration while allowing for the submission of requests necessitated by difficulties which occur in close proximity to the due dates.[5]

[4] It has been the Board's experience that Form 41 statistical schedules, for which the due dates turn upon the date of receipt, are filed on a much more timely basis than the financial schedules for which the due dates turn upon the postmark date.

[5] Several carriers disagree with our statement in EDR-227 that employee illness does not necessarily constitute an emergency. Upon consideration, we have determined to adhere to the view that occasional employee illness is statistically foreseeable and as such can be provided for in a going concern.

Finally, Ozark requests clarification of the phrase, "timeliness of filing," and raises the question of whether carriers will be subject to penalty if for some reason the Board does not receive schedules on or before the due date. Pursuant to this regulation, the Board will henceforth regard as timely filings the receipt of Form 41 schedules on or before their due dates. Unless extension has been granted by the Director, Bureau of Accounts and Statistics, schedules received subsequent thereto will be regarded as delinquent. Delinquencies will be noted according to their frequency and degree, and will be referred to the Board's Bureau of Enforcement for appropriate action.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective November 25, 1972, as follows:

1. Amend section 22—General Reporting Instructions, as follows:

A. Revise the text of paragraph (a) to read as follows:

(a) Four copies of each schedule in the CAB Form 41 report shall be filed with the Civil Aeronautics Board and shall be received on or before the due date indicated for each such schedule in the list titled "Due Dates of Schedules in CAB Form 41 Report."

B. Revise the existing list of schedules in paragraph (a) by adding a title and deleting the column "Postmark interval (days)," the list as amended to read as follows:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule title	Filing frequency
• • •	• • •	• • •

C. Add a new list to paragraph (a) to read as follows:

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date [1]	*Schedule No.*
Jan. 30	B-1, P-1(a), T-1, T-2, T-3, T-7, T-41.
Feb. 10 [2]	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-12, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
Feb. 20 [2]	Memorandum subclassifications of selected reported expenses and ground property investment.
Mar. 1	B-1, P-1(a), T-1, T-7.
Mar. 30	B-1, B-9, B-41, B-42, B-43, B-44, B-46, P-1(a), P-41, G-41, G-42, G-43, G-44, T-1, T-7.
Apr. 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
May 10	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a) P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
May 20	Memorandum subclassifications of selected reported expenses and ground property investment.
May 30	B-1, P-1(a), T-1, T-7.
June 30	B-1, P-1(a), T-1, T-7.
July 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
Aug. 10	A, A-1, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
Aug. 20	Memorandum subclassifications of selected reported expenses and ground property investment.
Aug. 30	B-1, P-1(a), T-1, T-7.
Sept. 30	B-1, P-1(a), T-1, T-2, T-3, T-7.
Oct. 30	B-1, P-1(a), T-1, T-7, T-41.
Nov. 10	A, B-2, B-3, B-4, B-5, B-7, B-7(b), B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-2(a), P-3, P-3(a), P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, P-8, P-9.1, P-9.2, P-10, T-6, D-1.
Nov. 20	Memorandum subclassifications of selected reported expenses and ground property investment.
Nov. 30	B-1, P-1(a), T-1, T-7.
Dec. 30	B-1, P-1(a), T-1, T-7.

[1] Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

[2] B, P, and memorandum subclassification reporting dates are extended to Mar. 30, if preliminary schedules are filed at the Board by Feb. 10.

D. Revise paragraph (b) to read as follows:

(b) Each air carrier shall file the schedules of the CAB Form 41 reports with the Civil Aeronautics Board in accordance with the above instructions, except that the time for filing B and P report schedules for the final quarter of each calendar year may be extended to the following March 30, provided that preliminary schedules B-1, P-1.1, or P-1.2, P-3, and P-3(a) are submitted and are received on or before their respective due dates. At the request of an air carrier, and upon a showing by such air carrier that public disclosure of its preliminary yearend report would adversely affect its interests and would not be in the public interest, the Board will withhold such preliminary yearend report from public disclosure until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs.

E. Revise paragraph (c) to read as follows:

(c) If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If a request is denied, the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

2. Amend section 32—General Reporting Instructions, as follows:

A. Revise the text of paragraph (a) to read as follows:

(a) Four copies of each schedule in the CAB Form 41 report shall be filed with the Civil Aeronautics Board and shall be received on or before the due date indicated for each such schedule in the following list titled "Due Dates of Schedules in CAB Form 41 Report."

B. Revise the existing list of schedules in paragraph (a) by adding a title and deleting the column "Postmark interval (days)," the list as amended to read as follows:

LIST OF SCHEDULES IN CAB FORM 41 REPORT

Schedule No.	Schedule title	Filing frequency
• • •	• • •	• • •

C. Add a new list to paragraph (a) to read as follows:

DUE DATES OF SCHEDULES IN CAB FORM 41 REPORT

Due date [1]	*Schedule No.*
Jan. 30	B-11, T-3.1.
Feb. 10 [2]	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Mar. 1	B-11, T-3.1.
Mar. 30	B-11, B-41, B-43, B-44, B-46, G-41, G-42, G-43, G-44, T-3.1.
Apr. 30	B-11, T-3.1.
May 10	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
May 30	B-11, T-3.1.
June 30	B-11, T-3.1.
July 30	B-11, T-3.1.
Aug. 10	A, A-1, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Aug. 30	B-11, T-3.1.
Sept. 30	B-11, T-3.1.
Oct. 30	B-11, T-3.1.
Nov. 10	A, B-1, B-2.1, B-7, B-8, B-10, B-12, B-13, B-14, P-1.1, P-1.2, P-2, P-3.1, P-4, P-5.1, P-5.2, P-5(a), P-6, P-7, T-6.
Nov. 30	B-11, T-3.1.
Dec. 30	B-11, T-3.1.

[1] Due dates falling on a Saturday, Sunday, or national holiday will become effective the first following working day.

[2] B and P schedule reporting dates are extended to Mar. 30 if preliminary schedules are filed at the Board by Feb. 10.

D. Revise paragraph (b) to read as follows:

(b) Each supplemental air carrier shall file the schedules of the CAB Form 41 reports with the Civil Aeronautics Board in accordance with the above instructions, except that the time for filing B and P report schedules for the final quarter of each calendar year may be extended to the following March 30, provided that preliminary schedules B-1, P-1.1, or P-1.2, and P-3.1 are submitted and are received on or before their respective due dates. At the request of a supplemental air carrier, and upon a showing by such air carrier that public disclosure of its preliminary yearend report would adversely affect its interests and would not be in the public interest, the Board will withhold such preliminary yearend report from public disclosure until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs.

E. Revise paragraph (c) to read as follows:

(c) If circumstances prevent the filing of a report on or before the prescribed due date, consideration will be given to the granting of an extension upon receipt of a written request therefor. To provide ample time for consideration and communication to the air carrier of the action taken, such a request must be delivered to the Board in writing at least three (3) days in advance of the due date, setting forth good and sufficient reason to justify the granting of the extension and the date when the report can be filed. Except in cases of emergency, no such request will be entertained which is not in writing and received by the Civil Aeronautics Board at least three (3) days before the prescribed due date. If a request is denied the air carrier remains subject to the filing requirements to the same extent as if no request for extension of time had been made.

(Secs. 204(a), 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18269 Filed 10-25-72;8:55 am]

SUBCHAPTER D—SPECIAL REGULATIONS

[Regs. SPR-63; Amdt. 372-3]

PART 372—OVERSEAS MILITARY PERSONNEL CHARTERS

Modification of Surety Bond Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of October 1972.

In a notice of proposed rule making, SPDR-26,[1] the Board proposed to amend Parts 373 (Study Group Charters by Direct Air Carriers and Study Group Charterers), 378 (Inclusive Tours by Supplemental Air Carriers, Certain Foreign Air Carriers, and Tour Operators) and 378a (Bulk Inclusive Tours by Tour Operators) with respect to the surety bond provisions of the respective parts and certain miscellaneous amendments therein. When the Board promulgated the overseas military personnel charter rule (SPR-54 adopted May 18, 1972, 37 F.R. 11159), the related proposed amendments in SPDR-26 were still pending. In making final the military charter rule the Board stated that the standards for acceptable surety companies with regard to military charters should be consistent with those in the other parts of the Board's regulations at that time. Accordingly, the Board determined not to adopt the proposed new standard (which was proposed in the military charter rule as well as in SPDR-26, supra) at that time for the purpose of the military charter proceeding, but rather to defer the question to the more general rule making proceeding in SPDR-26. Thus, the Board stated, pending final action on SPDR-26, the standard for an acceptable surety company under the new Part 372 was that which was presently contained in Parts 373, 378, and 378a. The Board further indicated that, by the same token, such standards as the Board might ultimately adopt in SPDR-26 for Parts 373, 378, and 378a, would at the same time be adopted for Part 372, by parallel amendment, so as to maintain consistency among all the charter rules on this question.

Contemporaneously with our taking final action on the proposed amendments in SPDR-26, we shall amend the overseas military charter rule so as to make uniform the surety company qualification provision and related surety bond provisions in Parts 372, 373, and 378 to the extent that these are involved in the SPDR-26 rule making proceeding. In other words, proposed amendments in SPDR-26, which are being made final contemporaneously herewith, will be incorporated into the military charter rule to the extent that the military charter rule and Parts 373 and 378 contain parallel provisions.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 372 of its special regulations (14 CFR Part 372), effective November 25, 1972, as follows:

1. Amend paragraphs (c) and (d) of § 372.24 to read as follows:

§ 372.24 Surety bond, depository agreement, escrow agreement.

• • • • • •

(c) Any bond furnished under this section shall insure the financial responsibility of the charter operator and the supplying of the air transportation in accordance with the contract between the charter operator and the charter participants, and shall be in the form set forth as Appendix B attached to Part 372. Such bond shall be issued by a bonding or surety company (1) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in

[1] Issued Oct. 26, 1971, Docket 23940 (36 F.R. 20895).

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Best's Insurance Reports (fire and casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the charter originates or in which the charter operator is incorporated. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The bond shall be specifically identified by the issuing surety with a company bond numbering system so that the Board may identify the bond with the specific charter or charters to which it relates: *Provided, however,* That these data may be set forth in an addendum attached to the bond which addendum must be signed by the charter operator and the surety company. It shall be effective on or before the date the operating authorization becomes effective. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier and the charter operator, by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject charters shall in no event be operated.

(d) Any bond furnished under this section shall provide that unless the charter participant files a claim with the charter operator, or, if he is unavailable, with the surety, within sixty (60) days after termination of the charter, the surety shall be released from all liability under the bond to such charter participant. The contract between the charter operator and the charter participants shall contain notice of this provision.

2. Amend Appendix B to read in part as follows:

APPENDIX B

CHARTER OPERATOR'S SURETY BOND UNDER PART 372 OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD

* * * * * * *

The liability of the Surety shall not be discharged * * *

The bond shall cover the following charters: [2]

Surety company's bond No.	Date of flight departure	Place of flight departure

This bond is effective the __ day of _____, 19__, 12:01 a.m., standard time at the address of the principal as stated herein and shall continue in force until terminated as hereinafter provided. The principal or the Surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The Surety shall not be liable hereunder for the payment of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation made by the principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements for the supplying of transportation made by the principal prior to the date such termination becomes effective. Liability of the Surety under this bond shall in all events be limited only to a charter participant who shall within sixty (60) days after the date scheduled for the furnishing of transportation, give written notice of claim to the charter operator or, if he is unavailable, to the surety, and all liability on this bond shall automatically terminate sixty (60) days after the date scheduled for the furnishing of transportation except for claims filed within the time provided herein.

* * * * * * *

(Secs. 101(3), 204(a), 401, 407, and 416(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, as amended, 743, 754, as amended, 766, as amended, and 771; 49 U.S.C. 1301, 1324, 1371, 1377, and 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-18268 Filed 10-25-72;8:55 am]

[2] These data may be supplied in an addendum attached to the bond. See § 372.24(c).

[Reg. SPR-64; Amdt. 373-4]

PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERERS

Modification of Surety Bond Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of October 1972.

In a notice of proposed rule making, SPDR-26,[1] the Board proposed to amend Parts 373, 378 (Inclusive Tours by Supplemental Air Carriers, Certain Foreign Air Carriers, and Tour Operators), and 378a (Bulk Inclusive Tours by Tour Operators) with respect to the surety bond provisions of the respective parts and certain miscellaneous amendments therein. For the reasons set forth in SPR-26C, issued contemporaneously herewith, the Board has adopted the amendments proposed in SPDR-26, with modifications.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 373 of its Special Regulations (14 CFR Part 373), effective November 25, 1972, as follows:

1. Amend § 373.10 to read in part as follows:

§ 373.10 Study group statement.

* * * * * * *

(c) The statement shall be filed in duplicate and shall include two copies of each of the following: The charter contract, the contract between the study group charterer and the student participants, an original and one copy of the study group charterer's surety bond (and an additional copy of the surety bond shall be furnished the chartering direct air carrier), and where applicable, two copies of the depository agreement with a bank as provided in § 373.15(b)(2). It shall also contain the following information:

(1) The name and * * *

* * * * * * *

2. Amend § 373.15 (c) and (d) to read as follows:

§ 373.15 Surety bond.

* * * * * * *

(c) The bond required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the study group charterer and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the study group charterer and the student participants, and shall be in the form set forth as Appendix A attached to Part 373.[3] Such bond shall be issued by a bonding or surety company: (1) Whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the study group charter originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The bond shall be specifically identified by the issuing surety with a company bond numbering system so that the Board may identify the bond with the specific charter or charters to which it relates: *Provided, however,* That these data may be set forth in an addendum attached to the bond which addendum must be signed by the study group charterer and the surety company. It shall be effective on or before the date the study group statement is filed with the Board. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier and the study group charterer by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject study group charter or study group charters shall in no event be operated.

(d) The bond required by this section shall provide that unless the student participant files a claim with the study group charterer, or, if he is unavailable, with the surety, within sixty (60) days after termination of the study group charter, the surety shall be released from all liability under the bond to such student participant. The contract between the study group charterer and the student participant shall contain notice of this provision: *Provided, however,* That this section shall not apply to study group charters conducted by an "educational institution" as defined herein (§ 373.2).

[1] Issued October 26, 1971, Docket 23940 (36 F.R. 20895).

[3] Filed as part of original issuance (SPR-46).

3. Amend § 373.18 to read in part as follows:

§ 373.18 Contract between the study group charterer and the student participants.

Contracts between study group charterers and student participants shall include provisions specifically stating:

* * * * * * *

(b-1) The right to refunds in the event of the study group charter's cancellation and the procedure for obtaining such refunds;

(c) The right to refunds in the event of the participant's change of plans and the procedure for obtaining such refunds;

(d) The dollar amounts of the carriers' liability limitations for participants' baggage, as set forth in the carriers' tariffs;

* * * * * * *

(f) That the study group charterer is the principal and is responsible to the participants in making the arrangements for all charter services and accommodations offered as constituting the charter: *Provided, however,* That this requirement shall not preclude the study group charterer from expressly providing in such contract that, in the absence of negligence in the part of the study group charterer, he is not responsible for personal injury or property damage arising out of the act or negligence of any direct air carrier, hotel, or other person rendering any of the services or accommodations being offered in such charter;

(g) The right to refunds in the event of change in itinerary or curriculum and the procedure for obtaining such refunds;

(h) That unless the student participant files a claim with the study group charterer, or, if he is unavailable, with the surety, within sixty (60) days after the termination of the charter, the surety shall be released from all liability under the bond to such student participant. (See § 373.15(d).);

(i) The name and address of the surety company issuing the surety bond;

(j) That, when the combined surety bond depository agreement, as provided in § 373.15(b) is used in connection with the charter program, all checks and money orders must be made payable to the escrow account at the depository bank (identify bank). Such a statement must be placed in all solicitation material, reservation coupons, etc.

4. Amend § 373.20 to read as follows:

§ 373.20 Postcharter report.

Within 30 days after the termination of the study group charter or series of study group charters, the direct air carrier and study group charterer shall file with the Board (Supplementary Services Division, Bureau of Operating Rights) a postcharter report. The postcharter report shall indicate whether or not the study group chart as authorized hereunder was, in fact, performed. To the extent that the operations differed from those described in the statement filed under § 373.10, such differences shall be fully detailed including the reasons therefor. However, the making of such explanation shall not operate as authority for or excuse any such deviation: *Provided, however,* That this section shall not apply to study group charters conducted by an "educational institution" as defined herein (§ 373.2). The report shall be in the form attached hereto as Appendix B.

5. Designate the appendix to Part 373 as Appendix A and amend it as follows:

APPENDIX A

STUDY GROUP CHARTERER'S SURETY BOND UNDER PART 373 OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD

* * * * * * *

The liability of the Surety shall not be discharged * * *

The bond shall cover the following charters: [3]

Surety company's bond no.	Place of flight departure	Date of flight departure

This bond is effective the _____ day of _____, 19__, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The Surety shall not be liable hereunder for the payment of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the Principal prior to the date such termination becomes effective. Liability of the Surety under this bond shall in all events be limited only to a student participant or student participants who shall within sixty (60) days after the termination of the particular study group charter described herein give written notice of claim to the study group charterer or, if he is unavailable, to the Surety and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular study group charter covered by this bond shall automatically terminate sixty time provided herein.

* * * * * * *

6. Add Appendix B, Post-Charter Report, to read as follows:

APPENDIX B

POST-CHARTER REPORT

SGC No. _____.

1. No. of charters operated _____.
2. No. of charters not operated _____.
3. Specifically identify those charters not operated.
4. Reason(s) charter(s) not operated.
5. If charter(s) not operated, did prospective student participants receive full refunds?
6. Whether charter(s) actually performed were operated substantially different (e.g., dates, points served, charter price, etc.) from their description in the Study Group Statement and, if so, the reasons therefor.
7. Total number of student participants carried on charter(s) _____.

_____
Signature of direct air carrier

_____
Signature of study group charterer

(Secs. 101(3), 101(33), 204(a), 401, 402, 407, 416(a), Federal Aviation Act of 1958, as amended, 72 Stat. 737 [as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921], 743, 754, 757, 766, 771; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-18270 Filed 10-25-72;8:55 am]

[3] These data may be provided in an addendum attached to the bond. See § 373.15(c), supra.

[Reg. SPR-62; Amdt. 378-5]

PART 378—INCLUSIVE TOURS BY SUPPLEMENTAL AIR CARRIERS, CERTAIN FOREIGN AIR CARRIERS, AND TOUR OPERATORS

Modification of Surety Bond Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of October 1972.

In a notice of proposed rule making, SPDR-26,[1] the Board proposed to amend Parts 373 (Study Group Charters by Direct Air Carriers and Study Group Charterers), 378 and 378a (Bulk Inclusive Tours by Tour Operators)[2] with respect to the surety bond provisions of the respective parts and certain miscellaneous amendments therein. Pursuant to the notice, comments were filed by certain supplemental carriers,[3] the U.S. Government Small Business Administration, and the following tour operators or study group charterers: American Express Company (Amexco); American Institute for Foreign Study, Inc. (AIFS); Foreign Study League (FSL); and Royal Caribbean Tours, Inc. (Royal Tours). These comments in general support the proposed rule but suggest certain modi-

[1] Issued October 26, 1971, Docket 23940 (36 F.R. 20895).

[2] The exemption granted in Part 378a expired by its terms on April 1, 1972. Therefore, the amendments proposed in SPDR-26, supra, insofar as they pertain to Part 378a, are moot. Also, the references in present § 378.2(b)(4) to bulk inclusive tour fares have been deleted.

[3] Capitol International Airways, Inc.; Overseas National Airways, Inc.; Saturn Airways, Inc.; Trans International Airlines, Inc.; Universal Airlines, Inc.; and World Airways, Inc. (NACA carriers).

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fications which will be discussed subsequently.

Upon consideration of the comments, the Board has determined, for the reasons set forth herein, to adopt the rule as proposed, with the following principal modifications: (1) With respect to the standards for an acceptable surety company, we shall require that the company's surety bonds be accepted by the Interstate Commerce Commission or that the company is listed in Best's Insurance Reports with a general policyholders' rating of "A" or better, instead of requiring both standards as proposed; (2) we shall permit the identification of the tour or tours to which the bond applies to be set forth in an addendum attached to the bond rather than on the bond itself, as proposed; (3) the contract between the tour operator and tour participant shall refer to the availability of trip health and accident insurance, rather than describing the details of such insurance, as proposed; (4) the contract between the tour operator and tour participant need not set forth the dollar amount of the bond; (5) the proposed "responsibility clause" in the tour operator-tour participant contract has been modified to permit the tour operator to aver his nonresponsibility for personal injury or property damage arising out of the act or negligence of any airline, hotel or other person rendering any of the services or accommodations being offered, as suggested in several comments; (6) air fare computations in Part 378 may be based on fares of foreign scheduled route carriers, provided that such fares are contained in tariffs on file with the Board; and (7) with respect to proposed air/sea cruise tours (proposed § 378.2(b)(2)), we shall modify the standard from that set forth in SPDR-26, supra, necessitating a new rule making proceeding which is being instituted contemporaneously herewith.[4]

Except as modified herein the tentative findings set forth in the Explanatory Statement of SPDR-26 are incorporated by reference and made final.

1. *Standards for an acceptable surety company.* The principal contention in the comments concerns the appropriate standard for an acceptable surety company. The present rule (§378.16(c)) requires that the surety bonds for inclusive tour charters be issued by a "reputable and financially responsible bonding or surety company * * *;" and that a bonding or surety company is "prima facie" qualified to issue surety bonds if the company's surety bonds are accepted by the Interstate Commerce Commission (ICC) and if the company is listed in Best's Insurance Reports with a policyholders' rating of "A" or better. The proposed rule would impose the following single objective standard for eligibility of a surety company to issue bonds under the rule: that the company's surety bonds are accepted by the ICC and that the company is listed in Best's Insurance Reports with a general policyholders' rating of "A" or better.

[4] SPDR-26 C, dated October 10, 1972.

AIFS and the NACA carriers object to the proposed standard on legal and policy grounds. They assert, inter alia, that the Board is legally bound to accept bonds issued by companies holding Certificates of Authority from the Department of the Treasury under 6 U.S.C. 8 as implemented in 31 CFR 223. It is also asserted that the Board's proposed standard is unlawful for the reason that the Board would be abdicating its discretion in passing upon the qualification of a surety company to issue bonds acceptable under the rule by permitting such qualification to be determined by a private company, namely, Best's.

As indicated, we shall modify the proposed rule by providing for an alternate objective standard. One standard will be ICC acceptance of a surety company's bonds. However, in the event that the particular surety company has not sought ICC acceptance, the bonding company will be acceptable if its rating by Best's is "A" or better.

Contrary to the assertions in some of the comments, the Board is not legally bound to accept bonds issued by companies holding Certificates of Authority from the Department of the Treasury. The Treasury list of acceptable sureties was originally developed in 1895 to prescribe surety companies eligible to issue bonds required by certain federal officials. The current importance of the list lies in its use for announcing acceptable sureties for issuing building construction bonds, bail bonds, etc. Thus, the Treasury regulations are in terms, applicable only to "surety companies doing business with the United States." [4a] Accordingly, whatever may be the requirements where the U.S. Government is the obligee and the direct beneficiary of the bond, the Treasury list is not mandatory in the case of a bond required to be obtained to protect the public.[5]

As indicated above, the Treasury Department is primarily concerned with bail bonds, or building construction bonds where the U.S. Government is the sole beneficiary, whereas the ICC, on the other hand, which makes a thorough investigation of each of these surety companies, is concerned solely with assuring the financial responsibility of common carriers. For this reason its requirements are in fact more stringent than those of the Treasury Department.[6]

[4a] 31 CFR Part 223.

[5] Such is the case with surety bonds required by the ICC to be procured by motor carriers and freight forwarders for coverage on property and cargo damage and bodily injury liability. In these instances, the ICC does not accept sureties merely because they qualify on the U.S. Treasury Department's list, but refuses to accept any bond issued by a company not meeting the ICC's criteria. See 49 CFR 1043.9 for motor carriers and 49 CFR 1084.9 for freight forwarders.

[6] We understand that the ICC refuses to consider a surety company as acceptable unless it has a minimum surplus in excess of $1 million. In addition, the ICC scrutinizes the company's reinsurance treaties, the managerial competence of corporate officers (through formal conferences), and the company's general business policies and overall philosophy.

We also reject the contention that the alternative test of an "A" or better rating by Best's is an unlawful abdication of the Board's authority to determine the qualification of surety companies for Part 378 bond purposes. In the first place, the standard of an "A" rating by Best's is not the sole standard in the rule but merely an alternative one. Moreover, Best's is a generally recognized authority on insurance company qualifications and its ratings have wide acceptance. For example, the Department of Defense in prescribing qualifications for participation in the DOD Personal Property Movement and Storage program, requires that cargo insurance be underwritten by a company with a policyholders' rating of "A" or better in "Best's Insurance Guide." See C3, DOD 4500.34-R dated February 1972, pp. A-4, A-21.

2. *Language of surety bond.* The rule as proposed required that surety bonds be specifically identified by the issuing surety with a company bond numbering system and that the dates of flight departures be set forth on the face of the bond. The NACA carriers, FSL, AIFS, and Royal Tours suggest that the flights covered by the bond be identified in a separate attachment to the bond, rather than on the face thereof, thus avoiding the necessity of issuing a new bond each time a flight departure date is modified. We shall adopt this suggestion provided that the attachment to the bond is signed by the tour operator and the surety company. See § 378.16(c), infra.

3. *Effective date of the bond.* The proposed rule required that the bond be effective on or before the date the tour prospectus is filed with the Board. This is the practice currently required by the Board's staff.[7] Royal Tour, opposing this requirement, points out that a tour operator with a 1-year series of tours (which is permitted under the existing rule) would have to pay bond premiums for 2 years in order to meet the requirement that the bond be in effect when the tour prospectus is filed which is normally about 6 months before the initial flight departure. While this may be so, the tour participants' moneys must be fully protected during the entire period that tours are sold. Accordingly, the proposal will be made final.

4. *Contract between tour operator and tour participant.* a. The proposed rule calls for the contract to set forth the procedure for obtaining trip health and accident insurance and its cost to the individual tour participant. Royal Tours and the NACA carriers ask that the rule require only a notice alerting participants to the availability of trip health and accident insurance and that they should contact the tour operator for further details. We shall make this modification. See § 378.17(a-1), infra.

b. The proposed rule required a provision dealing with the participant's right to a refund under certain circumstances.[8]

[7] The present rule is ambiguous as to when the bond is required to become effective.

[8] In the event of a participant's change of plans or the tour operator's change in itinerary.

A number of the comments requested that the Board make clear that it was not attempting to dictate the carrier's refund policy. We had no such intent in proposing this requirement. Rather, the refund provision on the contract only requires the tour operator to set forth the rules under which refunds will or will not be granted.

c. The rule as proposed would require a "responsibility clause," *i.e.*, that the tour operator is the principal and is responsible to the participants in making the arrangements for all tour services and accommodations offered as constituting the tour. The NACA carriers, Royal Tours, and Amexco, request a modification permitting the tour operator to state that he is not responsible for personal injury or property damage arising out of the act or negligence of any airline, hotel, or other person rendering any of the services or accommodations being offered. We shall make this requested clarification.[8a] See § 378.17(h), infra.

d. The proposed rule required a provision in the contract setting forth the dollar amount of the bond. The NACA carriers, FSL and Royal Tours, object to this because (1) it would mislead participants as to the actual protection available to them; (2) it might give rise to fraudulent and inflated claims; (3) it could lead to unmeritorious claims for alleged damages due to delays, baggage loss, etc., in the mistaken belief that the bond was intended to cover such occurrences; (4) it could lead to mechanical difficulties if the amount of the bond were increased to cover additional groups under a prospectus already on file whereas the contract between the tour operator and tour participant as set forth in the solicitation material would provide for a bond in the lesser amount. In light of the foregoing, we shall make the requested modification.

5. *Air fare computations in Part 378.* The proposed rule required that the prospectus indicate the individually ticketed fare, and the computation as provided in § 378.2(b)(4), and specify each fare used in such computation and each applicable tariff reference. The NACA carriers, objecting to this requirement, suggest that certain unofficial "memorandum tariffs" be permitted to be used. We shall not make the requested change. The regulation is clear that the fares used in the air fare computation must be contained in tariffs on file with the Board. It has been our experience that "memorandum tariffs" frequently contain fares which are not in tariffs on file with the Board. Accordingly, their use will not be permitted under the rule.

The NACA carriers also suggest that § 378.2(b)(4) be amended to allow the use of foreign air carrier fares in the air fare computation. They assert that requiring use of a U.S. air carrier's fare creates problems when a particular routing or fare is available only on a foreign air carrier. In such cases the foreign air carrier would have a monopoly unless a waiver is granted to a tour operator. We see merit in this contention; we shall therefore amend this provision to allow fares of U.S. certificated route carriers and/or foreign scheduled route carriers to be used as base fares for the purpose of inclusive tour charter fare computation. See § 378.2(b)(4), infra.

6. *Air/sea cruise tours.* SPDR-26, supra, proposed to amend Part 378 to grant blanket authorization for air/sea cruise ITC's under conditions specified therein. As set forth in SPDR-26C, issued contemporaneously herewith, the NACA carriers suggested a substitute rule which the Board believes is worthy of consideration but which requires a supplemental notice of rule making. Accordingly, we are withdrawing the proposal for air/sea cruise ITC's in SPDR-26 and substituting a new proposal as set forth in SPDR-26C, supra.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 378 of its special regulations (14 CFR Part 378), effective November 25, 1972, as follows:

1. Amend § 378.2(b)(4) to read as follows:

§ 378.2 Definitions.

* * * * *

(b) * * *

(4) The charge to the passengers for the tour, as set forth in the tour prospectus, shall be not less than 110 percent of any available fare or fares, embodied in a tariff on file with the Board, charged by a route carrier, or combination of such carriers (including charge for stopovers) for individually ticketed service on the circle route beginning at the point of origin, to the various points where stopovers are made, and return to the point of origin: *Provided*, That the tour shall be subject to the terms and conditions which are applicable to such fare or fares, as set forth in the tariff of the route carrier or carriers. For purposes of this provision, (i) the term "route carrier" shall mean a certificated route air carrier or foreign route air carrier authorized under section 401 or 402 of the Federal Aviation Act of 1958, as amended, respectively, to transport persons; and (ii) the term "available fare" includes promotional or discount fares, such as family fares, children's fares, excursion fares, fares applicable to special classes of persons, group fares, etc. Where similar promotional or discount fares are offered on both jet and propeller aircraft, the available fare shall be that charged for jet services. Where no regularly scheduled service is provided between the points involved, the available fare shall be based on the fares to the nearest point served by a route carrier; and

* * * * *

2. Amend § 378.13 to read in part as follows:

§ 378.13 Tour prospectus.

The prospectus shall be filed in duplicate and shall include two copies of the following: The charter contract, the contract between the tour operator or foreign tour operator and tour participants, the tour operator's or foreign tour operator's surety bond (an original bond and a copy thereof), and, where applicable, two copies of the depository agreement with a bank as provided in § 378.16(b)(2). It shall also contain the following information:

(a) Name and address * * *

* * * * *

(h) The individually ticketed air fare, computed as provided in § 378.2(b)(4), specifically identifying each fare used in the computation and each tariff citation.

* * * * *

3. Amend paragraphs (c) and (d) of § 378.16 to read as follows:

§ 378.16 Surety bond.

* * * * *

(c) The bond required under paragraphs (a) and (b) of this section shall insure the financial responsibility of the tour operator or foreign tour operator and the supplying of the transportation and all other accommodations, services, and facilities in accordance with the contract between the tour operator or foreign tour operator and the tour participants, and shall be in the form set forth as Appendix A following § 378.31.[9] Such bond shall be issued by a bonding or surety company (1) whose surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6; or (2) which is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The bonding or surety company shall be one legally authorized to issue bonds of that type in the State in which the tour originates. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The bond shall be specifically identified by the issuing surety with a company bond numbering system so that the Board may identify the bond with the specific tour or tours to which it relates: *Provided, however*, That these data may be set forth in an addendum attached to the bond which addendum must be signed by the tour operator and the surety company. It shall be effective on or before the date the tour prospectus is filed with the Board. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the supplemental air carrier and the tour operator or foreign tour operator, by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected

[8a] The rule as revised does not permit the tour operator to exculpate himself from responsibility for his negligence in performing services to participants or in the selection of others to provide such services.

[9] Filed as part of reissued document (SPDR-40).

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within the time set forth in such notification, the subject tour or tours shall in no event be operated.

(d) The bond required by this section shall provide that unless the tour participant files a claim with the tour operator or foreign tour operator, or, if he is unavailable, with the surety, within sixty (60) days after termination of the tour, the surety shall be released from all liability under the bond to such tour participant. The contract between the tour operator or foreign tour operator and the tour participant shall contain notice of this provision.

4. Amend § 378.17 to read in part as follows:

§ 378.17 Contract between tour operators or foreign tour operators and tour participants.

Where each participant in a tour receives the same accommodations, land tours, etc., the contract between the tour operator or foreign tour operator and the tour participants shall be the same. Contracts between tour operators or foreign tour operators and tour participants shall include provisions specifically stating:

• • • • •

(a–1) That trip health and accident insurance is available and that upon request the tour operator will furnish details thereof;

(b) The right to refunds in the event of the tour's cancellation and the procedure for obtaining such refunds;

(b–1) The right to refunds in the event of the participant's change of plans and the procedure for obtaining such refunds;

(b–2) The right to refunds in the event of change in itinerary and the procedure for obtaining such refunds;

(c) The dollar amounts of the carriers' liability limitations for participants' baggage, as set forth in the carriers' tariffs;

• • • • •

(e) The name and address of the surety company issuing the surety bond;

(f) [Reserved]

(g) [Reserved]

(h) That the tour operator is the principal and is responsible to the participants in making the arrangements for all tour services and accommodations offered as constituting the tour: *Provided, however,* That this requirement shall not preclude the tour operator from expressly providing in such contract that, in the absence of negligence on the part of the tour operator, he is not responsible for personal injury or property damage arising out of the act or negligence of any direct air carrier, hotel or other person rendering any of the services or accommodations being offered in such tour;

(i) That unless the tour participant files a claim with the tour operator or foreign tour operator, or, if he is unavailable, with the surety, within sixty (60) days after termination of the tour, the surety shall be released from all liability under the bond to such participant (see § 378.16(d));

(j) That, when the combined surety bond-depository agreement, as provided in § 378.16(b) is used in connection with the tour program, all checks and money orders must be made payable to the escrow account at the depository bank (identify bank) or, where the tour is sold to the participant by a retail travel agent, checks and money orders may be made payable to the agent, who must in turn make his check payable to the escrow account at the depository bank. Such a statement must be placed in all solicitation material, reservation coupons, etc.

5. Amend § 378.20(a) to read as follows:

§ 378.20 Post-tour reporting.

(a) Within 30 days after termination of a tour or series of tours, the supplemental air carrier and tour operator or foreign tour operator shall jointly file with the Board (Supplementary Services Division, Bureau of Operating Rights) a posttour report: *Provided,* That in the case of a series of tours which exceeds 6 months between commencement of the first tour and departure of the last tour, the supplemental air carrier and tour operator or foreign tour operator shall file a joint interim report within 30 days after the expiration of 6 months from commencement of the first tour, covering tours terminated during such 6 months. The posttour and interim report shall indicate whether or not the tours authorized hereunder were, in fact, performed. To the extent that the operations differed from those described in the prospectus filed under § 378.10, such differences shall be fully detailed including the reasons therefor. However, the making of such an explanation shall not of itself operate as authority for or excuse any such deviation. The report shall be in the form attached hereto as Appendix B.

• • • • •

6. Designate the appendix to Part 378 as Appendix A and amend it as follows:

APPENDIX A

TOUR OPERATOR'S SURETY BOND UNDER PART 378 OF THE SPECIAL REGULATIONS OF THE CIVIL AERONAUTICS BOARD

• • • • •

The liability of the Surety shall not be discharged • • •

The bond shall cover the following tours: [10]

Surety company's bond No.	Date of flight departure	Place of flight departure

This bond is effective the ------ day of ----------, 19--, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Civil Aeronautics Board at its office in Washington, D.C., such termination to become effective thirty (30) days after actual receipt of said notice by the Board. The Surety shall not be liable hereunder for the payment of any of the damages hereinbefore described which arise as the result of any contracts, agreements, undertakings, or arrangements for the supplying of transportation and other services made by the Principal after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such damages arising as the result of contracts, agreements, or arrangements for the supplying of transportation and other services made by the Principal prior to the date such termination becomes effective. Liability of the Surety under this bond shall in all events be limited only to a tour participant or tour participants who shall within sixty (60) days after the termination of the particular tour described herein give written notice of claim to the tour operator or, if he is unavailable, to the Surety, and all liability on this bond shall automatically terminate sixty (60) days after the termination date of the particular tour covered by this bond except for claims filed within the time provided herein.

• • • • •

7. Add Appendix B, Post-Tour Report, to read as follows:

APPENDIX B

POST-TOUR REPORT

It No. ---------.

1. No. of tours operated -------.
2. No. of tours not operated -------.
3. Specifically identify those tours not operated.
4. Reason(s) tour(s) not operated.
5. If tour(s) not operated, did prospective tour participant receive full refunds?
6. Whether tour(s) actually performed were operated substantially different (e.g., dates, points served, tour price, etc.), from their description in the Tour Prospectus and, if so, the reasons therefor.
7. Total number of tour participants carried on tour(s) -------.

Signature of direct air carrier

Signature of tour operator or foreign tour operator

(Secs. 101(3), 101(33), 204(a), 401, 402, 407, 416(a), Federal Aviation Act of 1958, as amended, 72 Stat. 737 [as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921], 743, 754, 757, 766, 771; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18267 Filed 10-25-72;8:55 am]

[10] These data may be supplied in an addendum attached to the bond. See § 378.16, supra.

Chapter V—National Aeronautics and Space Administration

PART 1203—NASA SECURITY CLASSIFICATION PROGRAM

This new Part 1203 codifies NASA regulations governing the classification, declassification, and downgrading of national security information and material under NASA security classification program, and assigns authority and responsibilities for the management and direction of the program. These regulations have been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and the National Security Council Directive issued pursuant thereto, on May 17, 1972.

These regulations are effective as of June 1, 1972.

GEORGE M. LOW,
Deputy Administrator.

Subpart A—Applicability and References

Sec.
1203.100 Applicability.
1203.101 References.

Subpart B—NASA Security Classification Program

1203.200 NASA policy.
1203.201 Security classification objectives.
1203.202 Responsibilities.
1203.203 Degree of protection.

Subpart C—Classification Principles and Considerations

1203.300 General.
1203.301 Reason for classification.
1203.302 Identification of information requiring protection.
1203.303 Combination, interrelation, or compilation.
1203.304 Dissemination considerations.
1203.305 Internal effect.
1203.306 Restricted data.

Subpart D—Classification Guidelines

1203.400 Specific classifying guidelines.
1203.401 Effect of open publication.
1203.402 Classifying material other than documentation.
1203.403 State-of-the-art and intelligence.
1203.404 Handling of unprocessed data.
1203.405 Proprietary information.
1203.406 Additional classification factors.
1203.407 Follow-on actions.
1203.408 Assistance by installation security classification officers.
1203.409 Exceptional cases.

Subpart E—Declassification and Downgrading

1203.500 General.
1203.501 General declassification schedule.
1203.502 Exemptions from general declassification schedule.
1203.503 Mandatory review of exempted material.
1203.504 Previously classified material.
1203.505 Declassification—after 30 years.
1203.506 Restricted data.
1203.507 Request for classification review.
1203.508 Burden of proof.
1203.509 General review requirements.

Subpart F—Delegations of Authority To Make Determinations in Security Classification Matters

1203.600 Delegation.
1203.601 Redelegation.

Subpart G—NASA Security Classification Program

1203.700 Establishment.
1203.701 Responsibilities.
1203.702 Membership.
1203.703 Ad Hoc committees.
1203.704 Meetings.

AUTHORITY: The provisions of this Part 1203 are issued under Executive Order 11652, March 9, 1972 (37 F.R. 5209, March 10, 1972), the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972); and section 304(a), National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2455).

Subpart A—Applicability and References

§ 1203.100 Applicability.

The provisions of this part 1203 are applicable to all NASA installations for purposes of making security classifications, and downgrading and declassifying national security information and material.

§ 1203.101 References.

(a) Executive Order 11652, "Classification and Declassification of National Security Information and Material," dated March 8, 1972.

(b) NASA Handbook, NHB 1640.4B, "NASA Security Classification Program," effective June 1, 1972.

(c) NASA Management Delegation, NMD/A 1640.7A, "Power and Authority—To Make Determinations in Security Classification Matters," effective June 1, 1972.

(d) NASA Management Instruction, NMI 1152.19B, "NASA Security Classification Program Committee," effective June 1, 1972.

(e) NASA Handbook, NHB 1620.3, "NASA Physical Security Handbook."

Subpart B—NASA Security Classification Program

§ 1203.200 NASA policy.

It is NASA policy:

(a) To insure that information is classified and protected only when a sound basis exists for such classification and only for such period as is necessary in the interest of national security; and

(b) To downgrade or declassify information when circumstances necessitate the original classification change or the requirement for such classification no longer exists.

(c) In interpreting and applying the guidance contained in Executive Order 11652, and this part, NASA officials must act in harmony with the work of other agencies in the executive branch of the Government. A positive and continuing obligation exists to insure specifically that any disclosure of information generated by or on behalf of NASA is consonant with the intent of Executive Order 11652.

(d) Certain of NASA's activities may produce scientific, technological, or operational information or material having a direct bearing on national security. Executive Order 11652 establishes a positive responsibility for the timely identification and protection of that NASA information the disclosure of which would be contrary to the best interest of national security. Accordingly, the determination in each case must be based on a judgment as to whether disclosure of the information could reasonably be expected to result in damage to the security interests of the United States.

§ 1203.201 Security classification objectives.

The objectives of the NASA Security Classification Program are to:

(a) Insure that information is classified and protected only when a sound basis exists for such classification and only for such period as is necessary.

(b) Prevent the unwarranted classification and the overclassification of NASA information.

(c) Insure the greatest practicable uniformity within NASA in the classification of information.

(d) Insure effective coordination and reasonable uniformity with other Government departments and agencies, particularly in areas where there is an interchange of information, techniques, or hardware.

(e) Provide an effective means for downgrading or declassifying information when the circumstances necessitating the original classification change or no longer exist.

§ 1203.202 Responsibilities.

(a) The Assistant Administrator for DOD and Interagency Affairs in his capacity as Special Assistant to the Administrator is designated to:

(1) Manage and direct the NASA Security Classification Program in accordance with NASA policies and objectives and applicable laws and regulations, and

(2) Serve as chairman of the NASA Security Classification Program Committee and is responsible for:

(i) Insuring effective compliance with and implementation of Executive Order 11652 and the NSC Directive of May 17, 1972, relating to security classification matters.

(ii) Approving procedures, guidelines, standards, and other documentation necessary for the conduct of the NASA Security Classification Program.

(iii) Reviewing in consultation with the NASA Security Classification Program Committee questions, suggestions, and complaints concerning the NASA Security Classification Program and making determinations concerning them.

(iv) Coordinating NASA security classification matters with NASA installations, the Department of Defense, the Atomic Energy Commission, and other Government agencies.

(v) Issuing Security Classification Guides for NASA programs and projects.

(vi) Reviewing all appeals of requests for records under section 552 of title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification.

(vii) Recommending to the Administrator appropriate administrative action to correct abuse or violations of any provision of this part, including notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal.

(viii) Establishing a data index system in accordance with section VII of the NSC Directive of May 17, 1972.

(b) All NASA officials and employees are responsible for bringing to the attention of the Chairman of the NASA Security Classification Program Committee (see Subpart G of this part) any security classification problems in need

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of resolution, any areas of interest wherein security classification guidance is lacking and is needed, and any other matters of substance likely to impede achievement of the objectives prescribed in this part.

(c) Each NASA official to whom the authority for original classification is delegated shall be accountable for the propriety of the classifications attributed to him (see Subpart F of this part) and is responsible for:

(1) Insuring that his classification determinations are consistent with the policy and objectives prescribed above, and with other applicable guidelines.

(2) Bringing to the attention of the Chairman of the NASA Security Classification Program Committee, for resolution, his disagreement with classification determinations made by other NASA officials.

(3) Insuring that information and material under his cognizance which no longer requires its present level of protection in the interest of national security is promptly downgraded or declassified in accordance with applicable guidelines.

(d) Other Officials-in-Charge of Headquarters Offices are responsible for:

(1) Insuring that information or material prepared within their respective offices is marked in a manner consistent with security classification assignments.

(2) Insuring that material proposed for public release, prepared within their offices or referred to their respective offices for review, is reviewed to eliminate classified information.

(e) Directors of Field Installations and, for Headquarters, the Director of Headquarters Administration, are responsible for:

(1) Initiating proposed Security Classification Guides corresponding to the missions and project assignments of their installations.

(2) Insuring that material prepared in their respective installations is marked in a manner consistent with classification assignments.

(3) Insuring that material prepared within the installations for public release is properly reviewed to eliminate classified information.

(4) Designating Security Classification Officers in their respective installations, to whom the responsibilities listed in subparagraphs (1), (2), and (3) of this paragraph may be reassigned.

(f) The Chief, Security Classification Management and Industrial Security Branch, Security Division, NASA Headquarters, who serves as a member and Executive Secretary of the NASA Security Classification Program Committee is the primary point of contact for the coordination of security classification matters.

(g) The Director of Security is responsible for establishing procedures for the safeguarding classified information or material (e.g., accountability, control, access, storage, transmission, marking, etc.). These procedures are contained in NASA Handbook 1620.3.

§ 1203.203 Degree of protection.

(a) *General.* If it is decided that certain information or material must be classified to protect the national security, then the next step is to determine the degree of protection (security classification) against unauthorized disclosure commensurate with the sensitivity of the information. The lowest category of classification necessary to provide the appropriate degree of protection should be assigned. If the classifier has any substantial doubts as to which security classification category is appropriate, or as to whether the material should be classified at all, he should designate the less restrictive treatment.

(b) *Authorized categories of classification.* The three categories of classification, in descending order of importance, as authorized and defined in Executive Order 11652, are "Top Secret," "Secret," and "Confidential." No other restrictive markings are authorized to be placed on NASA documents or materials except as expressly provided by statute or by NASA Issuances.

Subpart C—Classification Principles and Considerations

§ 1203.300 General.

(a) In general, the types of NASA-generated information and material required to be protected in the interest of national security lie in the areas of applied research and technology and operations. Ordinarily, basic scientific research or the results thereof (i.e., the phenomena of nature) will not be classified.

(b) Information and material generated in the NASA program which requires protection in the interest of national security shall be classified in one of the three categories authorized in § 1203.203(b).

(c) Within the provisions of the category definitions, each security classification decision shall be based primarily on a judgment as to the importance or significance of the item of scientific, technical, or operational information or material to national security interests and the damage to those interests if unauthorized disclosure were to occur.

§ 1203.301 Reason for classification.

Having determined that certain information requires protection, the related document or other material is classified either:

(a) Because of the information which may be acquired by study, analysis, observation, or use of it; or

(b) Because of the information it may reveal when associated with other information, including that which the classifier knows has already been made available to the public.

§ 1203.302 Identification of information requiring protection.

Classification determinations must be preceded by an exact identification of each item of information or material which may require security protection in the interest of national security. This process involves identification of that specific information which, if compromised, could reasonably be expected to cause damage to the national security.

§ 1203.303 Combination, interrelation, or compilation.

An interrelationship of individual items, classified or unclassified, within a program or project or in different programs or projects may result in a combined item requiring a higher classification than that of any of the individual items. Compilations of unclassified information are considered unclassified unless some additional significant factor is added in the process of compilation. For example: (a) The way unclassified information is compiled may be classified; (b) the fact that thei nformation is complete for its intended purpose may be classified; or (c) the fact the compilation represents an official evaluation may be classified. In these cases, of course, the compilations are classified.

§ 1203.304 Dissemination considerations.

(a) The degree of intended or anticipated dissemination, use of the information, and whether the end purpose to be served renders effective security control impractical are factors which must be considered. These factors do not necessarily preclude classification, but they do force consideration of the extent to which classification under such circumstances may degrade the classification system by attempting to impose security controls which are impractical to enforce. Determinations significantly dependent upon these factors shall not be made below the level of authority of the official having original classification authority over the particular plan, program, project, or item.

(b) An intended limited dissemination of the item through administrative procedures, were it to remain unclassified, should not be a factor in the judgment as to whether the item requires classification.

§ 1203.305 Internal effect.

The effect of the degree of protection on the progress and cost of the program involved and on other functional activities of NASA should be considered. Impeditive effects and added costs inherent in a security classification must be assessed in light of the detrimental effects on the national security interests which would result from failure to classify.

§ 1203.306 Restricted data.

Information which meets the definition of restricted data or formerly restricted data is so classified when originated, as required by the Atomic Energy Act of 1954, as amended. Specific guidance for the classification of restricted data is provided in "Classification Guides" published by the Atomic Energy Commission.

Subpart D—Classification Guidelines

§ 1203.400 Specific classifying guidelines.

Technological and operational information and material, and in some exceptional cases scientific information, falling within any one or more of the following categories should be classified if its unauthorized disclosure could reasonably be expected to cause a degree of damage to the national security. In cases where it is believed that a contrary course of action would better serve the interests of national security, the matter should be referred to the chairman of the NASA Security Classification Program Committee for a determination. It is not intended that this list be exclusive; classifiers are responsible for initially classifying any other type of information which, in their judgment, requires protection within the classification categories of Executive Order 11652:

(a) Information which provides the United States, in comparison with other nations, with a significant scientific, engineering, technical, operational, intelligence, strategic, or tactical advantage related to national security.

(b) Information the disclosure of which would significantly diminish the technological lead of the United States in any military system, subsystem, or component thereof.

(c) Scientific or technological information in an area where an advanced military application that would in itself be classified is foreseen during exploratory development.

(d) Information the knowledge of which there is sound reason to believe would:

(1) Provide a foreign nation with an insight into the defense application or the war or defense plans or posture of the United States.

(2) Allow a foreign nation to develop, improve, or refine a similar item of defense application;

(3) Provide a foreign nation with a base upon which to develop effective countermeasures;

(4) Weaken or nullify the effectiveness of a defense or military plan, operation, project, or activity which is vital to the national security.

(e) Information or material which is important to the national security of the United States vis-a-vis other nations when there is sound reason to believe that those nations are unaware that the United States has or is capable of obtaining the information or material.

(f) Information the disclosure of which could be exploited in a manner prejudicial to the national security posture of the United States by discrediting its technological power, capability, or intentions.

(g) Information which reveals an unusually significant scientific or technological "breakthrough" which there is sound reason to believe is not known to or within the state-of-the-art capability of other nations, if the "breakthrough" supplies the United States with an important advantage of a technological nature; classification also would be appropriate if the potential application of the information, although not specifically visualized would afford the United States a significant advantage in terms of technological lead time.

(h) Information of such nature that an unfriendly government in possession of it would be expected to use it for purposes prejudicial to U.S. national security and which, if classified, could not be obtained by an unfriendly power without a considerable expenditure of resources.

(i) Information the disclosure of which to a foreign government would enhance its military research and development programs to the detriment of U.S. counterpart or competitive programs.

(j) Operational information pertaining to the command and control of space vehicles the possession of which would facilitate malicious interference with U.S. space missions, that might result in damage to the national security.

(k) Information and material resulting from a classified project undertaken at the specific request of another government agency; such information and material will be given the same security classification as that assigned to the project by the requesting agency.

(l) Information the disclosure of which could jeopardize the foreign relations of the United States; for example, the premature release of information relating to the subject matter of international negotiations, or information regarding the placement or withdrawal of NASA tracking stations on foreign territory.

§ 1203.401 Effect of open publication.

Public disclosure, regardless of source or form, of information currently classified or being considered for classification does not preclude initial or continued classification. However, such disclosure requires an immediate reevaluation to determine whether the information has been compromised to the extent that downgrading or declassification is indicated. Similar considerations must be given to related items of information in all programs, projects, or items incorporating or pertaining to the compromised items of information. In these cases, if a release were made or authorized by an official government source, classification of clearly identified items may no longer be warranted. Questions as to the propriety of continued classification should be referred to the Chairman, NASA Security Classification Program Committee. Official confirmation of compromised information without a formal declassification by a proper authority is a violation of security.

§ 1203.402 Classifying material other than documentation.

Items of equipment or other physical objects may be classified only where classified information may be derived from them by visual observation of internal or external appearance, structure, operation, test, application, or use The overall classification assigned to equipment or other physical objects shall be at least as high as the highest classification of any of the items of information which may be revealed by the equipment or objects, but may be higher if the classifying authority determines that the sum of classified or unclassified information warrants such higher classification. In every instance where classification of an item of equipment or other physical object is determined to be warranted, such determination must be based on a finding that there is at least one aspect of the item or object which requires protection. If mere knowledge of the existence of the item of equipment or physical object would compromise or nullify the reason or justification for its classification, the fact of its existence should be classified.

§ 1203.403 State-of-the-art and intelligence.

A logical approach to classification requires consideration of the extent to which the same or similar information is known or is available to others. It is also important to consider whether it is known publicly, either domestically or internationally, that the United States has the information or even is interested in the subject matter. The known state-of-the-art in other nations is an additional substantive factor requiring consideration.

§ 1203.404 Handling of unprocessed data.

It is the usual practice to withhold the release of raw scientific data received from spacecraft until it can be calibrated, correlated, and properly interpreted by the experimenter under the monitorship of the cognizant NASA office. During this process, the data are withheld through administrative measures, and it is not necessary to resort to security classification to prevent premature release. However, if at any time during the processing of raw data it becomes apparent that the results require protection under the criteria set forth in this Subpart D, it is the responsibility of the cognizant NASA office to apply the appropriate security classification.

§ 1203.405 Proprietary information.

Proprietary information is protected from unauthorized publication by statute. However, proprietary information made available to NASA is subject to examination for classification purposes under the criteria set forth in this subpart. Where the information is in the form of a proposal and accepted by NASA for support, it should be categorized in accordance with the criteria of § 1203.400. If NASA does not support the proposal but believes that security classification would be appropriate under the criteria of § 1203.400 if it were under Government jurisdiction, the contractor should be advised of the reasons why safeguarding would be appropriate, unless security considerations preclude release of the explanation to the contractor. NASA should identify the Government department, agency, or activity whose national security interests might be compromised. The contractor should be instructed to protect the proposal as though classified pending further advisory classification

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opinion by the Government activity whose interests are involved. If such a Government activity cannot be identified, the contractor should be advised that the proposal is not under NASA jurisdiction for classification purposes, but that, if the information were NASA information, it would be classified at a stated level.

§ 1203.406 Additional classification factors.

In making the determination as to the appropriate classification category, the following additional factors should be taken into account:

(a) *Practicability.* The feasibility of effectively protecting the information in the environment in which it has been or is to be developed and used should be weighed in determining the degree of protection that will be practicable.

(b) *Uniformity within Government activities.* The effect classification will have on technological programs of other Government departments and agencies should be considered. Classification of official information must be reasonably uniform within the Government.

(c) *Applicability of classification directives of other Government agencies.* It is necessary to determine whether authoritative classification guidance exists elsewhere for the information under consideration which would make it necessary to assign a higher classification than that indicated by the applicable NASA guidance. In general, the classification by NASA should not be higher than that of equivalent information in other departments or agencies of the Government.

§ 1203.407 Follow-on actions.

Upon making the determination to classify, the following actions should be taken as practicable:

(a) *Applicability of predetermined downgrading or declassification.* At the time of classification, select and indicate the earliest dates or events when the classified information may be downgraded or declassified.

(b) *Technological lead time.* In cases where information is classified to maintain a technological lead, indicate the earliest time or event in the program when it may be downgraded or declassified.

(c) *Periodical reviews.* Ensure that the information or material classified will be periodically reviewed for downgrading or declassification.

§ 1203.408 Assistance by installation security classification officers.

Installation security classification officers, as the installation point-of-contact, will assist installation personnel in:

(a) Interpreting security classification guides and classification assignments for his installation.

(b) Answering questions and considering suggestions concerning security classification matters.

(c) Ensuring a continuing review of classified information for the purpose of declassifying or downgrading in accordance with Subpart E of this part.

(d) Reviewing and approving, as the representative of the contracting officer, the DD Form 254, Contract Security Classification Specification, issued to contractors by his installation.

§ 1203.409 Exceptional cases.

In those cases where a person not authorized to classify information originates or develops information which is believed to require classification, he should safeguard that material as though it was classified until it has been evaluated and a decision made by an appropriate classifying authority. For NASA employees the classifying authority is normally the installation security classification officer. Persons other than NASA employees should forward material in which NASA has primary interest to the NASA Security Classifiction Program Committee, Code DHZ, Washington, D.C. 20546.

Subpart E—Declassification and Downgrading

§ 1203.500 General.

To ensure that information is protected for only such period as is necessary, Executive Order 11652 provides for the automatic downgrading and declassification of information according to a general declassification schedule.

§ 1203.501 General declassification schedule.

Unless declassified earlier, the following schedule will be followed:

(a) *Top Secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(b) *Secret.* Information or material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(c) *Confidential.* Information or material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

§ 1203.502 Exemptions from general declassification schedule.

(a) Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the general declassification schedule. Officials authorized to originally classify NASA information or material "Top Secret" (see Subpart F of this part) may exempt from the general declassification schedule any level of classified information or material if it falls within one of the categories described in paragraph (b) of this section. Unless exemption guidance is provided in a security classification guide, issued by the chairman of the Security Classification Program Committee, covering a specific mission or project, all requests for the exemption of classified information from the general declassification schedule shall be directed to the chairman for approval.

(b) The authority for an exemption shall be specified in writing on the material, the exemption category being claimed, and unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project, or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

§ 1203.503 Mandatory review of exempted material.

(a) All classified information and material originated by NASA after June 1, 1972, which is exempted from the General Declassification Schedule shall be subject to a classification review at any time after the expiration of 10 years from the date of origin provided:

(1) A Department or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable NASA to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

(b) Information or material which no longer qualifies for exemption shall be declassified. Information or material continuing to qualify for exemption shall be so marked and, unless impossible, a date for automatic declassification shall be set.

§ 1203.504 Previously classified material.

Information or material classified before June 1, 1972, and which is assigned to Group 4 under Executive Order 10501, as amended by Executive Order 10964, shall be subject to the General Declassification Schedule. All other information or material classified before June 1, 1972, whether or not assigned to Groups 1, 2, or 3 of Executive Order 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after June 1, 1972, as set forth in §§ 1203.502 and 1203.503.

§ 1203.505 Declassification—after 30 years.

All classified information or material which is 30 years old or more, whether originating before or after June 1, 1972, shall be declassified under the following conditions:

(a) All information and material classified after June 1, 1972, shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically indentified information or material which the Administrator personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the Administrator shall also specify the period of continued classification.

(b) All information and material classified before June 1, 1972, and more than 30 years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the Administrator in accordance with paragraph (a) of this section. In such case, the Administrator shall also specify the period of continued classification.

§ 1203.506 Restricted data.

Material designated as Restricted Data and Formerly Restricted Data shall be downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

§ 1203.507 Request for classification review.

Request for review of material existing under and in accordance with the conditions described in § 1203.502, § 1203.503, § 1203.504, or § 1203.505 should be addressed to the NASA Security Classification Officer, Code DHZ, Washington, D.C. 20546. The request will be acknowledged in writing and the requestor will be advised of any service fee to charged pursuant to law. Further, the requestor will be advised, within 30 days of the classification determination, including appeal right to the NASA Security Classification Program Committee, if the material must remain classified. If the material no longer warrants classification, it shall be declassified and made proptly available to the requestor, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

§ 1203.508 Burden of proof.

In responding to a request for review, the burden of proof is on NASA to show that continued classification is warranted.

§ 1203.509 General review requirements.

(a) All information and material classified after June 1, 1972, which is determined under applicable records administration standards to be of sufficient historical or other value to warrant preservation as permanent records, shall be systematically reviewed on a timely basis by the appropriate custodian for the purpose of making such information and material publicly available if, after consideration under § 1203.501, § 1203.502, § 1203.503, or § 1203.504, it is declassified.

(b) Whenever possible, without destroying the integrity of the files, such information and material should be set aside for public release on request.

Subpart F—Delegations of Authority To Make Determinations in Security Classification Matters

§ 1203.600 Delegation.

(a) The NASA officials listed in paragraph (c) of this section are authorized to make, modify, or eliminate security classification assignments to information under their jurisdiction for which NASA has original classification authority. Such actions shall be in accordance with applicable criteria, guidelines, laws, and regulations and shall be subject to any contrary determination that has been made by the Chairman of the NASA Security Classification Program Committee or by any other NASA official authorized to make such a determination.

(b) The NASA officials listed in paragraph (c)(1) of this section are authorized to exempt from the General Declassification Schedule any level of classified information eligible under the provisions set forth in § 1203.502.

(c) Designated officials:

(1) *Top Secret classification authority,* (i) Administrator, (ii) Deputy Administrator, (iii) Executive Officer, (iv) Chairman, Security Classification Program Committee.

(2) *Secret and Confidential classification authority.* (i) Officials listed in subparagraph (1) of this paragraph, (ii) Associate Administrator, (iii) Associate Deputy Administrator, (iv) Deputy Associate Administrator, (v) General Counsel. (vi) Associate Administrators for: (*a*) Aeronautics and Space Technology, (*b*) Manned Space Flight, (c) Space Science, (*d*) Applications, (e) Tracking and Data Acquisition, (*f*) Organization and Management. (vii) Assistant Administrators for: (*a*) DOD and Interagency Affairs, (*b*) International Affairs. (viii) Director, Headquarters Administration, (ix) Director, NASA Pasadena Office, (x) Manager, Space Nuclear Systems Office (Germantown, Md.), (xi) Field Installation Directors, (xii) NASA Security Classification Manager, (xiii) Installation Security Classification Officers, (xiv) Director of Security, NASA Headquarters, (xv) Heads of Other Component Installations, (xvi) Such other officials as the Administrator may designate from time to time in writing.

§ 1203.601 Redelegation.

(a) For "Top Secret" and "Secret" security classifications and the authority to "exempt classified information" from the General Declassification Schedule—None Authorized.

(b) Confidential security classification authority may be redelegated by memorandum to a limited number of subordinate officials without the power of further redelegation. A copy of each redelegation shall be furnished to the Executive Secretary, NASA Security Classification Program Committee, NASA Headquarters.

Subpart G—NASA Security Classification Program

§ 1203.700 Establishment.

This subpart continues in existence and reconstitutes the NASA Security Classification Program Committee (hereafter referred to as the Committee) as a part of the permanent administrative structure of NASA. The Chairman of the Committee reports to the Administrator.

§ 1203.701 Responsibilities.

The Committee is responsible for supporting and advising the Chairman in connection with the management and direction of the NASA Security Classification Program as provided for in Subpart B of this part.

§ 1203.702 Membership.

(a) The Committee will be comprised of the Chairman, the Executive Secretary, and one member designated by each of the following officials:

(1) Associate Administrators for:

Manned Space Flight.
Space Science.
Aeronautics and Space Technology.
Tracking and Data Acquisition.
Applications.

(2) Assistant Administrators for:

International Affairs.
Public Affairs.
Industry Affairs and Technology Utilization.

(3) General Counsel.

§ 1203.703 Ad hoc committees.

The Chairman is authorized to establish such ad hoc panels or subcommittees as may be necessary in the conduct of the Committee's work. Such ad hoc committees or subcommittees will be comprised of NASA employees.

§ 1203.704 Meetings.

(a) Meetings will be held at the call of the Chairman.

(b) Records of the meetings will be maintained by the Executive Secretary.

[FR Doc.72-18201 Filed 10-25-72;8:52 am]

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Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter X—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies: (1) The effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Lake	Lakeport	I 06 033 1800 01 through I 06 033 1800 03	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the Director of Public Works, City of Lakeport, City Hall Annex, Lakeport, Calif. 95453.	Aug. 28, 1971. Emergency. Oct. 20, 1972. Regular.
Connecticut	New Haven	Guilford				Oct. 20, 1972. Emergency.
Do	do	North Branford				Do.
Florida	Broward	Unincorporated areas.	I 12 011 0000 02 through I 12 011 0000 04	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Broward County Engineering Department, Room 365, County Courthouse, Fort Lauderdale, Fla. 33301.	Dec. 29, 1970. Emergency. Oct. 20, 1972. Regular.
Do	do	Sea Ranch Lakes Village.				Oct. 20, 1972. Emergency.
Do	Brevard	Satellite Beach				Do.
Illinois	Cook	Hazel Crest Village.				Do.
Minnesota	Anoka	Coon Rapids				Do.
New York	Suffolk	Amityville Village.				Do.
Do	do	Southold				Do.
Do	Westchester	White Plains				Do.
North Carolina	Pender	Topsail Beach				Do.
North Dakota	Hettinger	Mott				Do.
Ohio	Medina and Wayne.	Rittman				Do.
Oregon	Clackamas	West Linn				Do.
Pennsylvania	Cumberland	Camp Hill Borough.				Do.
Do	Perry	Duncannon Borough.				Do.
Do	do	Wheatfield Township.				Nov. 2, 1971. Emergency. Dec. 31, 1971. Suspended. Oct. 13, 1972. Reinstated.
Do	Luzerne	Hanover Township.				Oct. 20, 1972. Emergency.
Do	Schuylkill	Schuylkill Haven Borough.				Do.
Vermont	Washington	Montpelier				Do.
Do	Addison	New Haven				Do.
Wisconsin	Vernon	Stoddard	I 55 123 4650 01	Department of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, WI 53703.	Office of the Village Clerk, Village Office, village of Stoddard, Stoddard, Wis. 54658.	Apr. 27, 1971. Emergency. Oct. 20, 1972. Regular.
Do	Dane	Unincorporated areas.				Oct. 20, 1972. Emergency.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 17, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

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PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Connecticut	Litchfield	Winchester				Oct. 27, 1972. Emergency.
Florida	Broward	Lauderdale-By-The-Sea.	I 12 011 1780 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Town Hall, 4501 Ocean Dr., Lauderdale-By-The-Sea, FL 33308.	Feb. 17, 1971. Emergency. Oct. 27, 1972. Regular.
Do	do	Wilton Manors	I 12 011 3250 01 through I 12 011 3250 03	do	Office of the City Administrator, 524 North 21st Court, Wilton Manors, FL 33305.	Nov. 2, 1971. Emergency. Oct. 27, 1972. Regular.
Do	do	Lauderhill				Oct. 27, 1972. Emergency.
Do	do	Oakland Park				Do.
Do	do	Pembroke Pines				Do.
Illinois	Cook	Mount Prospect Village.				Do.
Massachusetts	Barnstable	Barnstable				Do.
North Carolina	Beaufort	Bellhaven				Do.
Ohio	Clermont	Moscow				Do.
Pennsylvania	Lycoming	Jersey Shore Borough.				Do.
Do	Luzerne	Plymouth Borough.				Do.
Tennessee	Anderson	Oak Ridge	I 47 001 1850 01 through I 47 001 1850 24	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the City Clerk, Municipal Bldg., Post Office Box 1, Oak Ridge, TN 37830.	Dec. 23, 1971. Emergency. Oct. 27, 1972. Regular.
Do	Hamilton	East Ridge	I 47 065 0750 01 through I 47 065 0750 04	do	East Ridge City Hall, 1501 Tombras Ave., East Ridge, TN 37412.	Mar. 3, 1972. Emergency. Oct. 27, 1972. Regular.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 18 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-18116 Filed 10-25-72;8:45 am]

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PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
California	Lake	Lakeport	H 06 033 1800 01 through H 06 033 1800 03	Department of Water Resources, Post Office Box, 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Office of the Director of Public Works, City of Lakeport, City Hall Annex, Lakeport, Calif. 95453.	Aug. 28, 1971.
Connecticut	New Haven	Guilford				Oct. 20, 1972.
Do	do	North Branford				Do.
Florida	Broward	Unincorporated areas.	H 12 011 0000 02 through H 12 011 0000 04	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Broward County Engineering Department, Room 365 County Courthouse, Fort Lauderdale, Fla. 33301.	Dec. 29, 1970.
Do	do	Sea Ranch Lakes Village.				Oct. 20, 1972.
Do	Brevard	Satellite Beach				Do.
Illinois	Cook	Hazel Crest Village.				Do.
Louisiana	Orleans Parish		H 22 071 0000 02 through H 22 071 0000 30	State Department of Public Works, Post Office Box 44155, Capitol Station, Baton Rouge, LA 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, LA 70804.	City Planning Commission, Room 4W04 City Hall, 1300 Perdido St., New Orleans, LA 70112.	July 11, 1970, May 6, 1970, and Oct. 15, 1971.
Minnesota	Anoka	Coon Rapids				Oct. 20, 1972.
New York	Suffolk	Amityville Village.				Do.
Do	do	Southold				Do.
Do	Westchester	White Plains				Do.
North Carolina	Pender	Topsail Beach				Do.
North Dakota	Hettinger	Mott				Do.
Ohio	Medina and Wayne.	Rittman				Do.
Oregon	Clackamas	West Linn				Do.
Pennsylvania	Cumberland	Camp Hill Borough.				Do.
Do	Perry	Duncannon Borough.				Do.
Do	Luzerne	Hanover Township.				Do.
Do	Schuylkill	Schuylkill Haven Borough.				Do.
Vermont	Washington	Montpelier				Do.
Do	Addison	New Haven				Do.
Wisconsin	Vernon	Stoddard	H 55 123 4650 01	Dept. of Natural Resources, Post Office Box 450, Madison, WI 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, WI 53703.	Office of the Village Clerk, Village Office, village of Stoddard, Stoddard, Wis. 54658.	Apr. 27, 1971.
Do	Dane	Unincorporated areas.				Oct. 20, 1972

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: October 17, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

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PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

§ 1915.3 List of communities with special hazard areas.

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
• • •	• • •	• • •	• • •	• • •	• • •	• • •
Connecticut	Litchfield	Winchester				Oct. 27, 1972.
Florida	Broward	Lauderdale-By-The-Sea.	H 12 011 1780 02	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Town Hall, 4501 Ocean Dr., Lauderdale-By-The-Sea, FL 33308.	Feb. 17, 1971.
Do	do	Wilton Manors	H 12 011 3250 01 through H 12 011 3250 03	do	Office of the City Administrator, 524 North 21st Court, Wilton Manors, FL 33305.	Nov. 2, 1971.
Do	do	Lauderhill				Oct. 27, 1972.
Do	do	Oakland Park				Do.
Do	do	Pembroke Pines				Do.
Illinois	Cook	Mount Prospect Village.				Do.
Massachusetts	Barnstable	Barnstable				Do.
North Carolina	Beaufort	Belhaven				Do.
Ohio	Clermont	Moscow				Do.
Pennsylvania	Lycoming	Jersey Shore Borough.				Do.
Do	Luzerne	Plymouth Borough.				Do.
Tennessee	Anderson	Oak Ridge	H 47 001 1850 01 through H 47 001 1850 24	Tennessee State Planning Commission, Room C2-208, Central Services Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Office of the City Clerk, Municipal Bldg., Post Office Box 1, Oak Ridge, TN 37830.	Dec. 23, 1971.
Do	Hamilton	East Ridge	H 47 065 0750 01 through H 47 065 0750 04	do	East Ridge City Hall, 1501 Tombras Ave., East Ridge, TN 37412.	Mar. 3, 1972.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

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GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-18117 Filed 10-25-72;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-262]

PART 11—PACKING AND STAMPING; MARKING; TRADEMARKS AND TRADE NAMES; COPYRIGHTS

Country of Origin Marking

Correction

In F.R. Doc. 72-16629 appearing at page 20318 of the issue for Friday, September 29, 1972, the following changes should be made:

1. The first boldface line reading "§§ 11.12, 11.12a and 11.12b [amended]" should read "§§ 11.8, 11.10, 11.11 [Deleted]".

2. The second boldface line reading "§§ 11.12, 11.12(b) [Amended]" should read "§§ 11.12, 11.12a, 11.12b [Amended]".

3. In the second line in the second amendatory paragraph, the reference to "11.12(b)" should read "11.12b(b)".

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 72-7213]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Bonds and Other Evidences of Indebtedness

Correction

In F.R. Doc. 72-17604 appearing at page 21991 of the issue for Wednesday, October 18, 1972, the following changes should be made:

1. In § 1.1232-3(b)(2)(iii)(b), the material now designated as (3) should be run into the flush paragraph preceding it, and the "(3)" deleted.

2. In § 1.1232-3A(e)(5)(iii), in the table following (ii) of Example (2), the last two figures in the sixth column, now reading "3.1933" and "1.3275", should read "3.1935" and "1.3273", respectively.

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 72-94a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

San Joaquin River, Calif.

This amendment extends the previously authorized period that the draws of the U.S. Navy Highway Bridge No. 10 between Rough and Ready Island and Stockton may remain closed to the passage of vessels. Notice of this action to permit redecking of this bridge was published as CGFR 72-92R in 37 F.R. 10802 of May 31, 1972. This extension is required because of unexpected delays in completing the redecking. The Coast Guard has found that good cause exists for granting this extension without notice of proposed rule making on the basis that it would be contrary to the public interest to delay this work.

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Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding the following revised sentence to paragraph (a) (2) to § 117.714 to read as follows:

§ 117.714 San Joaquin River and its tributaries, California.

(a) * * *

(2) U.S. Navy Highway Bridge No. 10 between Rough and Ready Island and Stockton. The draw shall open on signal if at least 12 hours notice has been given. However, from June 15, 1972, through November 17, 1972, the draw need not open for the passage of vessels.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 4–9, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Effective date. This revision should be effective on June 15, 1972, except the sentence in § 117.714(a)(2) beginning with "However, from" and ending with "vessels." shall be effective June 15, 1972, and terminate November 17, 1972.

J. D. McCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18213 Filed 10-25-72;8:50 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Equitable Relief From Administrative Error

On page 18475 of the FEDERAL REGISTER of September 12, 1972, there was published a notice of proposed regulatory development to revise § 2.7, Title 38, Code of Federal Regulations, to extend equitable relief from administrative error. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

No written objections have been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date. This VA Regulation is effective June 30, 1972.

Approved: October 19, 1972.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

Part 2 of Title 38 is amended by revising § 2.7 to read as follows:

§ 2.7 Delegation of authority to provide relief on account of administrative error.

(a) Section 210(c)(2) of title 38, United States Code, provides that if the Administrator determines that benefits administered by the Veterans Administration have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, he is authorized to provide such relief on account of such error as he determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

(b) Section 210(c)(3) of title 38, United States Code, provides that if the Administrator determines that any veteran, widow, child of a veteran, or other person, has suffered loss, as a consequence of reliance upon a determination by the Veterans Administration of eligibility or entitlement to benefits, without knowledge that it was erroneously made, he is authorized to provide such relief as he determines equitable, including the payment of moneys to any person equitably entitled thereto. The Administrator is also required to submit an annual report to the Congress, containing a brief summary of each recommendation for relief and its disposition. Preparation of the report shall be the responsibility of the General Counsel.

(c) The authority to grant the equitable relief, referred to in paragraphs (a) and (b) of this section, has not been delegated and is reserved to the Administrator. Recommendation for the correction of administrative error and for appropriate equitable relief therefrom will be submitted to the Administrator, through the General Counsel. Such recommendation may be initiated by the head of the department having responsibility for the benefit, or of any concerned staff office, or by the Chairman, Board of Veterans Appeals. When a recommendation for relief under paragraph (a) or (b) of this section is initiated by the head of a staff office, or the Chairman, Board of Veterans Appeals, the views of the head of the department having responsibility for the benefit will be obtained and transmitted with the recommendation of the initiating office.

[FR Doc.72-18226 Filed 10-25-72;8:51 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER G—OCCUPATIONAL SAFETY AND HEALTH RESEARCH AND RELATED ACTIVITIES

PART 87—GRANTS FOR RESEARCH AND DEMONSTRATIONS RELATING TO OCCUPATIONAL SAFETY AND HEALTH

On April 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 7706) to add a new Part 87 to Title 42, Code of Federal Regulations. As proposed, the part set forth the conditions and procedures for awarding grants for research and demonstration projects relating to occupational safety and health pursuant to section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)).

Interested persons were afforded the opportunity to participate in the rule making through the submission of comments and several comments were received from industry, each of which objected to the determination not to make grants to profitmaking organizations. It is the stated policy of the Department that profitmaking organizations are not eligible for grants except in those cases where the statute specifically makes such organizations eligible for funding only through grants (Grants Administration Manual 1–00–10A).

While the Occupational Safety and Health Act would authorize research grants to profitmaking organizations, there is no specific restriction that such organizations be funded for research only through grants; Federal support of research activities by profitmaking organizations may be carried out by contract. Accordingly, the Department policy prohibiting grants to profitmaking organizations would apply to the research and demonstration grants authorized by the Occupational Safety and Health Act. Since the Institute conducts a substantial contract research program, the Government will not be deprived of the benefits to be obtained from the expertise in the profitmaking sector of the economy if grants are limited to public and nonprofit agencies and institutions.

The proposed regulations, as set forth below, are hereby adopted, without change, to be effective on the date of their publication in the FEDERAL REGISTER (10–26–72).

Dated: September 28, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: October 19, 1972.

JOHN G. VENEMAN,
Acting Secretary.

Chapter I of Title 42 is amended by adding a new Part 87, to read as follows:

Subpart A—Applicability and Definitions

Sec.
87.1 Applicability.
87.2 Definitions.

Subpart B—Eligibility, Award, and Termination

87.10 Nature and purpose of grant.
87.11 Eligibility.
87.12 Application for grant.
87.13 Evaluation and disposition of applications.
87.14 Grant awards.
87.15 Termination and withholding of payments.

Subpart C—Grant Conditions—Obligations of Grantee

87.20 Use of funds; changes in project and project period.
87.21 Principal investigators; project directors.
87.22 Inventions or discoveries.
87.23 Publications and copyright.
87.24 Records, reports, inspections.
87.25 Nondiscrimination.
87.26 Other conditions.

Subpart D—Grantee Accountability

Sec.
87.30 Date of final accounting.
87.31 Accounting for grant award payments.
87.32 Accounting for equipment.
87.33 Accounting for grant related income.
87.34 Final settlement.

AUTHORITY: The provisions of this Part 87 issued under sec. 8(g), 84 Stat. 1600; 29 U.S.C. 657(g).

Subpart A—Applicability and Definitions

§ 87.1 Applicability.

The regulations of this part apply to grants awarded pursuant to section 20(a)(1) of the Occupational Safety and Health Act of 1970 for the support of research, experiments, demonstrations, and studies related to occupational safety and health.

§ 87.2 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 and not defined below shall have the meaning given it in the Act. As used in this part—

(a) "Act" means the Occupational Safety and Health Act of 1970.

(b) "Nonprofit agency or institution" means an agency, corporation, or association no part of the net earnings of which inures or may lawfully inure to the benefit of any shareholder or individual.

(c) "Principal investigator" for a research project or the "project director" for a demonstration project means a single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the scientific and technical direction of the project.

(d) "Project period" means the period of time, not exceeding 7 years in the case of a research project, or 5 years in the case of a demonstration project, which the Secretary finds is reasonably required to initiate and conduct a project meriting support by means of one or more grants within the scope of § 87.10, except that such period may be extended by the Secretary beyond 7 or 5 years respectively, solely to permit continuation or completion of the same approved project by use of funds previously awarded but remaining unencumbered by the grantee at the end of such years. The project period may include the time required for initial staffing and acquisition of facilities and for the preparation and publication of the results of the project. The approval and support of a research or demonstration project for the maximum project period shall not preclude additional support of that project beyond such period if such support of the continued project is requested, evaluated and approved on the same basis as a new or initial application in accordance with §§ 87.12 and 87.13.

(e) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

Subpart B—Eligibility, Award, and Termination

§ 87.10 Nature and purpose of grant.

(a) A research project grant is the award by the Secretary of funds to an eligible institution or organization hereinafter called the "grantee," to assist in meeting the costs of conducting an identified activity or program hereinafter termed the "project" that is intended and designed to establish, discover, develop, elucidate, or confirm information or the underlying mechanisms relating to occupational safety or health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety or health problems.

(b) A demonstration project grant is the award by the Secretary of funds to an eligible institution or organization hereinafter called the "grantee," to assist in meeting the costs of conducting an identified activity or program hereinafter termed the "project" that is intended and designed to demonstrate, either on a pilot or full-scale basis, the technical or economic feasibility or application of: (1) A new or improved occupational safety or occupational health procedure, method, technique, or system; or (2) an innovative method, technique, or approach for dealing with occupational safety or health problems.

§ 87.11 Eligibility.

(a) *Eligible applicants.* Any public or nonprofit private agency or institution is eligible to apply for a grant under this part, except Federal agencies or institutions not specifically authorized by law to receive such a grant.

(b) *Projects eligible for research grants.* Any project found by the Secretary to be a research project within the meaning of § 87.10(a) shall be eligible for a grant award. Eligible projects may consist of laboratory, clinical, population, field, statistical, basic, applied, or other types of investigations, studies or experiments, or combinations thereof, and may either be limited to one, or a particular aspect of a, problem or subject, or may consist of two or more related problems or subjects for concurrent or consecutive investigation and involving multiple disciplines, facilities, and resources.

(c) *Projects eligible for demonstration grants.* Any project found by the Secretary to be a demonstration project within the meaning of § 87.10(b) shall be eligible for a grant award. Eligible projects may consist of, but are not limited to, feasibility studies, design, operation, maintenance, evaluations of a new or improved procedure, method, technique, or system, and plans and specifications in connection therewith.

§ 87.12 Application for grant.

(a) An application for a grant under this part shall be submitted to the Secretary at such time and in such form and manner as the Secretary may prescribe.[1] Such application shall set forth the nature, duration, purpose, and plan of the research or demonstration project, the name and qualifications of the principal investigator or project director and the qualifications of the principal staff members to be responsible for the project, the total facilities and resources that will be available, a justification of the amount of grant funds requested, and such other pertinent information as the Secretary may require.

(b) The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

§ 87.13 Evaluation and disposition of applications.

(a) *Evaluation.* All applications filed in accordance with § 87.12 shall be evaluated by the Secretary through such officers and employees and such experts or consultants engaged for this purpose as he determines are specially qualified in the areas of research or demonstration involved in the project. The Secretary's evaluation shall take into account, among other pertinent factors, the scientific merit and significance of the project, the competency of the proposed staff in relation to the type of research or demonstration involved, the feasibility of the project, the likelihood of its producing meaningful results, the proposed project period, the adequacy of the applicant's resources available for the project and the amount of grant funds necessary for completion.

(b) *Disposition.* On the basis of his evaluation of an application pursuant to paragraph (a) of this section the Secretary shall (1) approve, (2) defer because of either lack of funds or a need for further evaluation, or (3) disapprove, support of the proposed project in whole or in part. With respect to approved projects, the Secretary shall determine the project period during which the project may be supported. Any deferral or disapproval of an application shall not preclude its reconsideration or a reapplication.

§ 87.14 Grant awards.

(a) General: Within the limits of funds available for such purpose, the Secretary shall award a grant to those applicants whose approved projects will in his judgment best promote the purposes of § 87.10 on the basis of his evaluation under § 87.13(a). The date specified by the Secretary as the beginning of the project period shall be no later than 9 months following the date of any initial or new award statement unless the

[1] Applications are available upon request to the Office of Extramural Activities, NIOSH Room 8145, Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202.

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Secretary finds that because of the nature of a project or the grantee's particular circumstances earlier assurance of grant support is required to initiate the project. All amounts awarded, whether provisional or otherwise, remain subject to accountability as provided under Subpart D of this part.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary: *Provided, however,* That no grant shall be made for an amount equal to the total cost as found necessary by the Secretary for the carrying out of the project. In determining the grantee's share of the project costs, (i) costs for which Federal grants from other sources have been or may be claimed or received, or (ii) costs used to match other Federal grants (except as may be otherwise provided by law), or (iii) costs to be met from the Federal share of grant related income (except as may be permitted by chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual [2]), may not be included.

(c) Except as may otherwise be provided by the regulations of this part, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in conformance with the applicable principles set forth in chapters 1–76, 2–65, 2–66, and 5–60 of the Department of Health, Education, and Welfare Grants Administration Manual.

(d) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which support is recommended.

(e) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof.

(f) Multiple, concurrent, initial awards: Whenever a project involves a number of different but related problems, activities or disciplines so as to require evaluation by different groups, or whenever support for a project could be more effectively administered by separate handling of separate aspects of the project, the Secretary may evaluate and approve two or more concurrent applications each dealing with one or more specified aspects of the project, and he may make two or more concurrent grant awards with respect to such a project.

(g) Supplemental and continuation awards: The Secretary may from time to time within the project period make additional grant awards with respect to any approved project continued without change except as provided in § 87.20 (b) and (c) where he finds, on the basis of such progress and accounting reports as he may require, either that (1) the amount of any prior award was less than the amount necessary to carry out the approved project within the period used for estimating the amount of such prior award (a supplemental grant), or (2) the progress made within the period with respect to which any prior awards were made justifies support for an additional, specified portion or the remainder of the project period (a continuation grant). The amount of any supplemental or continuation grant shall be determined as provided in paragraph (b) of this section.

(h) Payments: The Secretary shall from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement for expenses to be incurred or incurred in the project period, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project. All such payments shall be recorded by the grantee in accounting records separate from all other fund accounts, including funds derived from other grant awards. Amounts paid shall be available for expenditure by the grantee in accordance with the regulations of this part throughout the project period subject to such limitations as the Secretary may prescribe.

§ 87.15 Termination and withholding of payments.

(a) *Discontinuance by agreement.* Whenever in the judgment of the Secretary and the grantee, continuation of an approved project would produce results of no value in furthering the purposes of § 87.10, grant support shall be terminated.

(b) *Termination by Secretary.* Whenever the Secretary finds that a grantee has failed in a material respect to comply with the regulations of this part or the terms of the grant, he may, after affording the grantee reasonable notice and an opportunity to present its views and evidence, withhold further payments and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the regulations of this part. The views and evidence of the grantee shall be (1) presented in writing unless the Secretary determines that an oral presentation is desirable, and (2) confined to matters relevant to whether the grantee has failed in a material respect to comply with the regulations of this part or the terms of the grant.

(c) *Termination by the grantee.* A grantee may at any time terminate or cancel its conduct of an approved project by notifying the Secretary in writing setting forth the reasons for such termination.

(d) *Accounting.* Upon any termination or transfer of a grant from a grantee under § 87.21, the grantee shall render an accounting pursuant to Subpart D of this part: *Provided, however,* That to the extent the termination is due in the judgment of the Secretary to no fault of the grantee, credit shall be allowed for the amount required to settle at minimum costs any noncancellable obligations properly incurred by the grantee prior to receipt of notice of termination.

Subpart C—Grant Conditions—Obligations of Grantee

§ 87.20 Use of funds; changes in project and project period.

(a) *Use of funds.* Any funds granted pursuant to § 87.14 shall be expended by the grantee solely for carrying out the approved project in accordance with the regulations of this part, and, except as otherwise may be provided in this part, the applicable cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual. The grantee may not in whole or in part delegate or transfer this responsibility for the use of such funds to any other person.

(b) *Changes in project.* The permissible changes by the principal investigator or the project director in the approved project shall be limited to changes in methodology, approach, or other aspects of the project that would expedite achievement of the project's objectives, including changes that grow out of the approved project and serve the best scientific strategy. Whenever the grantee and the principal investigator or project director are uncertain as to whether a change complies with these provisions, the question shall be referred to the Secretary for a final determination. Other changes in the project may be made only with the prior approval of the Secretary.

(c) *Changes in project period.* The project period determined pursuant to § 87.13(b) may be extended by the Secretary, with or without additional grant support, for such an additional period as he determines may be required to complete, or fulfill the purposes of the approved project provided the total period as extended does not exceed 7 years, in the case of a research project or 5 years in the case of a demonstration project, except with respect to the grantee's unencumbered balances as provided in § 87.2(d).

[2] The Department Grants Administration Manual is available for inspection at the Public Information Office of the Several Department Regional Offices and available for purchase at the Government Printing Office, GPO document No. 894–523.

§ 87.21 Principal investigators; project directors.

All grant awards shall be subject to the condition that the principal investigator or project director designated in the application as responsible for the conduct of the approved project shall continue responsible for the duration of the project period. Whenever any such investigator or director shall become unavailable for any reason to discharge this responsibility, the grant shall be terminated unless (a) the grantee replaces such investigator or director with another person found by the Secretary to be qualified to direct and conduct the approved project, or (b) the Secretary, upon application in accordance with the provisions of § 87.12, transfers the grant to any agency or institution eligible under § 87.11 for continuation of the currently supported project provided he finds that the change in the conduct of the project is consonant with the previous evaluation and approval of the project under § 87.13.

§ 87.22 Inventions or discoveries.

Any grant award pursuant to § 87.14 is subject to the regulations of the Department of Health, Education, and Welfare as set forth in 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which grant funds are in fact used whether within the scope of the project as approved or otherwise. Appropriate measures shall be taken by the grantee and by the Secretary to assure that no contracts, assignments, or other arrangements inconsistent with the grant obligation are continued or entered into and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary or those he may designate at such times and in such manner, as he may determine necessary to carry out such Department regulations.

§ 87.23 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a research or demonstration project supported by a grant under this part, subject, however, to a royalty-free, nonexclusive license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 87.24 Records, reports, inspections.

(a) *Records and reports.* Each grant award pursuant to § 87.14 shall be subject to the condition that the grantee shall maintain such progress and fiscal records, and file with the Secretary such progress and fiscal reports relating to the conduct and results of the approved project and the use of grant funds as the Secretary may prescribe. Such records shall be retained, as follows:

(1) Records may be destroyed 3 years after the end of the budget period if the grantee has been notified of the completion of the Federal audit by such time.

(2) If the grantee has not been so notified, such records shall be retained until the grantee is notified of the completion of the Federal audit or until 5 years following the end of the budget period, whichever comes first.

(3) In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant award filed pursuant to § 87.12 shall constitute the consent of the applicant to inspections at reasonable times by persons designated by the Secretary of the facilities, equipment and other resources of the applicant and to interviews with principal staff members to the extent such resources and personnel will be, or are, involved in the project. In addition, the acceptance of any grant award under § 87.14 shall constitute the consent of the grantee to inspections and fiscal audit by such persons of the supported activity and of progress and fiscal records relating to the approved project.

§ 87.25 Nondiscrimination.

Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular section 601 of such act which provides that no person in the United States shall, on account of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Regulations implementing title VI have been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80) and apply with respect to research or demonstration project grants awarded under this part.

§ 87.26 Other conditions.

The Secretary may with respect to any grant award or class of awards impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project or the conservation of grant funds.

Subpart D—Grantee Accountability

§ 87.30 Date of final accounting.

In addition to such other accounting as the Secretary may require, a grantee shall render, with respect to each approved project, a full accounting as provided herein, as of a termination date which shall be either (a) the end of the project period as determined pursuant to § 87.13(b) or its extension as provided in § 87.20 (c), or (b) the date of any termination of grant support as provided in § 87.15, whichever first occurs.

§ 87.31 Accounting for grant award payments.

With respect to each approved project the grantee shall account for the sum total of all amounts paid under § 87.14(h) by presenting or otherwise making available vouchers or any other evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of § 87.14: *Provided, however,* That where the amount awarded for indirect cost was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

§ 87.32 Accounting for Equipment.

As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in chapter 1–410–50 of the Department of Health, Education, and Welfare Grants Administration Manual shall be identified and reported by the grantee in accordance with such procedures, and, accounted for, or accountability waived, by one or a combination of the following methods, as determined by the Secretary:

(a) *Retention of equipment for other occupational safety and health projects.* Equipment may be used, without adjustment of accounts, on other grant supported projects (whether or not federally supported) within the scope of the Act, and no other accounting for such equipment shall be required: *Provided, however,* (1) That during such period of use no charge for depreciation, amortization or for other use of the equipment shall be made against any existing or future Federal grant or contract, and (2) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of the Act, the Federal portion of the fair market value at the time of transfer shall be refunded to the Federal Government.

(b) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of the sale credited to the grant account for project use, or they may be used or disposed or in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(c) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants

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Administration Manual, may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

(d) *Waiver of equipment accountability.* Where the grantee is an organization within the terms of the Act of September 6, 1958 (72 Stat. 1793; Public Law 85–934), the obligation to account for the value of any equipment may be waived by the Secretary as provided by such Act.

§ 87.33 Accounting for grant related income.

(a) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(b) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in paragraph (c) of this section.

(c) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in Chapter 1–420 of the Grants Administration Manual as determined by the Secretary in the grant award.

§ 87.34 Final settlement.

There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(a) Any amount not accounted for pursuant to § 87.31;

(b) Any credits for material on hand as provided in § 87.32;

(c) Any credits for earned interest pursuant to § 87.33(a);

(d) Any other settlements required pursuant to § 87.33 (b) and (c).

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by set off or other action as provided by law.

[FR Doc.72-18200 Filed 10-25-72;8:52 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC–36; Notice No. 72–16]

PART 394—RECORDING AND REPORTING OF ACCIDENTS

Availability of, and Instructions for Completing Accident Report Forms

For the convenience of motor carriers and others concerned with reporting accidents to the Bureau of Motor Carrier Safety, the Director of the Bureau is adding a new § 394.20 to Part 394 of the Motor Carrier Safety Regulations. Part 394, which specifies accident-reporting requirements, was recently completely revised (37 F.R. 18078). The accident-reporting forms have also been changed substantially. On and after the January 1, 1973, effective date of the revisions, motor carriers will be required to use the new forms to report their accidents.

The new § 394.20 contains instructions for completing the revised forms. The instructions are in two parts: One set of instructions deals with completion of Form MCS 50–T, which is filed by carriers of property; the other relates to the completion of Form MCS 50–B, which is filed by carriers of passengers. To facilitate the availability of the instructions and for ease of reference, both sets of instructions are now being made a part of the text of Part 394.

In addition, the Director is amending § 394.9 to refer to the instructions set forth in the new § 394.20 and to inform interested persons about how to obtain a supply of the new accident report forms.

Since these amendments do not affect any substantive right, duty, or privilege, notice and public procedure thereon are unnecessary. They are effective on January 1, 1973.

In consideration of the foregoing, Part 394 of Subchapter B in Chapter III of Title 49, CFR is amended (1) by revising § 394.9 to read as set forth below; and (2) by adding a new § 394.20 at the end thereof, reading as set forth below.

These amendments are issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on October 20, 1972.

KENNETH L. PIERSON,
Acting Director,
Bureau of Motor Carrier Safety.

I. Section 394.9 is revised to read as follows:

§ 394.9 Reporting of accidents.

(a) Within 15 days after a reportable accident occurs, the motor carrier must file the original and two copies of Form MCS 50–T (property) or Form MCS 50–B (passengers), completed as specified in paragraph (b) of this section, with the Director, Regional Motor Carrier Safety Office of the Federal Highway Administration region in which the carrier's principal place of business is located. The addresses and jurisdictions of the Federal Highway Administration regions are specified in § 390.40 of this subchapter.

(b) The motor carrier must fill in the report form in accordance with the instructions in § 394.20, completely and accurately with the most reliable information available to him at the time the report is filed.

(c) Supplies of accident report forms may be purchased from the Superintendent of Documents, Washington, D.C. 20402, at the prevailing price.

II. A new § 394.20 is added at the end of Part 394, reading as follows:

§ 394.20 Instructions for preparing accident reports.

(a) Reports of accidents on Form MCS 50–T shall be prepared in accordance with the following instructions:

General:	Every applicable item must be filled in as fully and as accurately as information accessible to the motor carrier at the time of filing the report will permit. The numbers in parentheses under each item are for use in data processing and are to be ignored by the carrier filing the report. *Circle* or *X* through appropriate boxes.
Item 1:	Enter complete corporate name, partnership name or sole proprietary business name.
Item 2:	Enter the address of your principal place of business.
Item 3:	Authorized common and contract carriers enter Interstate Commerce Commission MC Docket Number. Private or other carriers enter Internal Revenue Service Employer Identification Number.
Item 4:	Mark box A if intercity operation. Mark box B if accident occurred in local or pickup and delivery service.
Item 5:	Enter city or town in or near where the accident occurred and the State.
Item 5A:	Mark one box to indicate the type of district.
Items 6 and 6A:	Under the appropriate item give information fixing the accident location as exactly as possible. This is especially important when highway design or condition, or some other local feature was involved in any way.

Item 14:	Mark appropriate box for fuel type. If vehicle was powered by liquefied natural gas, electricity, etc., mark box D and enter fuel type.
Item 15:	Mark only one box. If your cargo included hazardous materials, specify the classification as described in section 172.5 of the Hazardous Materials Regulations, e.g., F.L.—Flammable Liquids; Expl. A.—Class A Explosives.
Item 16:	Indicate the principal type of cargo in your vehicle at the time of the accident. If the vehicle, or any unit of a combination of vehicles, was itself the cargo being transported, mark "E." If your commodity is not listed, mark "other" and specify, e.g., petroleum products; textile; paper and paper products; leather and rubber products; lumber and wood products; food and beverages; livestock; glass and ceramic products; building materials.
Item 17:	Mark appropriate box.
Item 17A:	Mark appropriate box if driver was not killed. (Bodily injury means receiving medical treatment away from the accident scene).
Item 17B:	Mark appropriate box. If no relief driver, mark box C.
Item 17C:	Mark appropriate box. If your relief driver was killed, or no relief driver, mark box C.
Items 18 and 18A:	Indicate number of other persons in your vehicle killed or injured. If no other persons other than driver on vehicle, enter the figure "0." For definition of authorized persons, see Part 392.
Item 19:	Indicate the total number of all other persons killed or injured in the accident. Do not include those persons listed in previous items.
Item 19A:	Enter the best available estimate of the total amount of damage (in dollars) to all vehicles and property involved in the accident. If there was no property damage, write "0."
Item 20:	Mark either box A or B.
Item 21:	If mechanical defects or failures, were apparent on your vehicle at time of accident, mark the appropriate boxes. Mark each defect known to exist before the accident, brought to light by the accident itself, or discovered by investigation following the accident. Do not show breakage of sound parts which resulted from the accident. Include defects which caused the vehicle to be stopped, if the accident occurred while it was stopped.
Item 22:	Mark either box A or B.
Item 23:	Mark either box A or B.
Items 24A, 24B, 24D, and 24E:	If another vehicle involved in the accident was operated by a motor carrier, regardless of ownership, the name and address of that carrier should be given. If not a motor carrier, write the name and address of the person who was operating the vehicle at the time of the accident.
Items 24C and 24F:	For the type of vehicle enter general terms such as, car, bus, truck or tractor-trailer.
Items 25 and 25A:	Mark appropriate boxes to indicate general prevailing weather conditions and lighting conditions.
Items 26 through 26B:	Mark appropriate boxes to indicate road surface condition, number of lanes, and if the highway was divided by a median or curbing.
Item 26C:	Mark appropriate box.
Item 27:	An account of the accident containing the most reliable information to which the motor carrier has access at the time of reporting, sufficiently detailed and complete to convey an understanding of his version of the accident shall be entered under this item. This account should be continued on an extra sheet of paper if more space is needed.
Item 28:	Print or type name and title of person signing report.
Items 29, 30 and 31:	Complete appropriate entries. In item 30 include area code.

(b) Reports of accidents on Form MCS50–B shall be prepared in accordance with the following instructions:

Item 7:	Mark appropriate box to identify the day of the week on which the accident occurred.
Item 8:	Indicate numerically the date of accident—month/day/year.
Item 9:	Enter the time when the accident occurred using military time to the nearest hour. The comparative times are listed below.

Military Time	*Ordinary Time*	*Military Time*	*Ordinary Time*	*Military Time*
0100	9 a.m.	0900	5 p.m.	1700
0200	10 a.m.	1000	6 p.m.	1800
0300	11 a.m.	1100	7 p.m.	1900
0400	Noon	1200	8 p.m.	2000
0500	1 p.m.	1300	9 p.m.	2100
0600	2 p.m.	1400	10 p.m.	2200
0700	3 p.m.	1500	11 p.m.	2300
0800	4 p.m.	1600	Midnight	2400

Item 10A:	If noncollision accident, mark box A. If accident involved a collision, mark appropriate box B or C. Mark one box only.
Item 10B:	If noncollision, mark box A. If collision occured, mark appropriate box to identify first or primary involved object. Mark one box only.
Item 10C:	If noncollision, mark box ZZZ. Otherwise mark appropriate boxes to identify the primary accident classification for each vehicle. Your vehicle is always identified as vehicle No. 1. Other vehicles identified as vehicles 2 or 3. If more vehicles involved, state total number in item 27.
Item 10D:	If accident involved a collision, mark box A. If noncollision, mark appropriate box to indicate major accident occurrence. Mark one box only.
Item 10E:	Mark appropriate box to indicate secondary occurrence. Mark one box only.
Items 11A through 11H:	All items to be filled in for the driver of any vehicle under your direct control whether owned or leased. Enter name and address of the person at the wheel when the accident occurred, or who last drove the vehicle if it was stopped or parked without a driver at the time of the accident.
Item 11D:	If driver employed less than 1 year, enter the figure 1. If driver working on an occasional, casual or trip lease basis, enter the figure 0. For definition of employed, see Part 391.
Item 11E:	Enter to the nearest hour total hours driving since last 8 consecutive hours off duty until time of accident, excluding on-duty, not-driving time. Mark box "not applicable" when the 8-hour rest period was accumulated in two periods of rest in a sleeper berth.
Item 11F:	Enter to the nearest hour the estimated driving time since last period of 8 consecutive hours off duty to complete the trip, or portion of trip. If accident had not occurred, excluding on-duty, not-driving time. Mark box "not applicable" when the 8-hour rest period was accumulated in two periods of rest in a sleeper berth.
Item 11G:	Mark appropriate box or boxes to indicate condition of driver at time of accident.
Item 11H:	Indicate the month/day/year of the last DOT medical certificate issued to the driver. If driver has not been physically examined within the last 2 years, enter all zeros.
Item 12:	Identify your vehicle(s) involving listing each vehicle in combination. Make no entries for other vehicles involved in the accident.
Item 13:	Enter total length of your vehicle or combination, including load.
Item 13A:	Enter total width of your vehicle, or cargo, at widest point. Exclude mirrors.
Item 13B:	Enter weight of cargo at time of accident. If vehicle was empty, enter 0.
Item 13C:	Enter the total weight of your vehicle and cargo. If vehicle was empty, enter weight of empty vehicle.

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General: Every applicable item must be filled in as fully and as accurately as information accessible to the motor carrier at the time of filing the report will permit. The numbers in parentheses under each item are for use in data processing and are to be ignored by the carrier filing the report. *Circle* or *X* through appropriate boxes.

Item 1: Enter complete corporate name, partnership name or sole proprietary business name.

Item 2: Enter the address of your principal place of business.

Item 3: Authorized common and contract carriers enter Interstate Commerce Commission MC Docket Number. Other carriers specify type of operation.

Item 4: Mark box A if trip was intercity operation. Mark box B if trip was city operation.

Item 4A: Mark appropriate box.

Item 5: Enter city or town in or near where the accident occurred and the State.

Item 6A: Mark one box to indicate the type of district.

Items 6 and 6A: Under the appropriate item give information fixing the accident location as exactly as possible. This is especially important when highway design or condition, or some other local feature was involved in any way.

Item 7: Mark appropriate box to identify the day of the week on which the accident occurred.

Item 8: Indicate numerically the date of accident—month/day/year.

Item 9: Enter the time when the accident occurred at the location of the accident using military time to the nearest hour. The comparative times are listed below.

Ordinary Time	*Military Time*	*Ordinary Time*	*Military Time*
1 a.m.	0100	9 a.m.	0900
2 a.m.	0200	10 a.m.	1000
3 a.m.	0300	11 a.m.	1100
4 a.m.	0400	Noon	1200
5 a.m.	0500	1 p.m.	1300
6 a.m.	0600	2 p.m.	1400
7 a.m.	0700	3 p.m.	1500
8 a.m.	0800	4 p.m.	1600
		5 p.m.	1700
		6 p.m.	1800
		7 p.m.	1900
		8 p.m.	2000
		9 p.m.	2100
		10 p.m.	2200
		11 p.m.	2300
		Midnight	2400

Item 10A: If noncollision accident, mark box A. If accident involved a collision, mark appropriate box B or C. Mark one box only.

Item 10B: If noncollision, mark box A. If collision occurred, mark appropriate box to identify first or primary involved object. Mark one box only.

Item 10C: If noncollision, mark box ZZZ. Otherwise mark appropriate boxes to identify the primary accident classification for each vehicle. Your vehicle is always identified as vehicle No. 1. Other vehicles identified as vehicles 2 or 3. If more vehicles involved, state total number in item 28.

Item 10D: If accident involved a collision, mark box A. If noncollision, mark appropriate box to indicate major accident occurrence. Mark one box only.

Item 10E: Mark appropriate box to indicate secondary occurrence. Mark one box only.

Items 11A through 11H: All items to be filled in for the driver of any vehicle under your direct control whether owned or leased. Enter name and address of the person at the wheel when the accident occurred, or who last drove the vehicle if it was stopped or parked without a driver at the time of the accident.

Item 11D: If driver employed less than 1 year, enter the figure 1. If driver working on an occasional, casual or trip lease basis, enter the figure "0." For definition of employed, see Part 391.

Item 11E: Enter to the nearest hour total hours driving since last period of 8 consecutive hours off duty until time of accident, excluding on-duty, not-driving time.

Item 11F: Enter to the nearest hour the estimated driving time since last period of 8 consecutive hours off duty to complete the trip, or portion of trip, if accident had not occurred, excluding on-duty, not-driving time.

Item 11G: Mark appropriate box or boxes to indicate condition of driver at time of accident.

Item 11H: Indicate the month/day/year of the last DOT medical certificate issued to the driver. If driver has not been physically examined within the last 2 years, enter all zeros.

Item 12: Identify your vehicle involved. Make no entries for other vehicles involved in the accident.

Item 13: Enter total length of your vehicle.

Item 13A: Enter total width of your vehicle. Exclude mirrors.

Item 13B: Enter weight of vehicle.

Item 14: Mark appropriate box for fuel type. If vehicle was powered by fuel other than that listed, mark box D and enter fuel type.

Item 15: Mark box A if only passengers and baggage on vehicle. Mark box B if other cargo included and specify, i.e., mail, parcel post, express, etc. If hazardous materials, specify classification as described in section 172.5 of the Hazardous Materials Regulations, e.g., Fl.—Flammable Liquids; Expl. A.—Class A Explosives, etc.

Item 16: Indicate number of persons on vehicle, including driver.

Item 17: Enter seating capacity of vehicle, including driver's seat.

Item 18: Mark appropriate box.

Item 18A: Mark appropriate box if driver was not killed. (Bodily injury means receiving medical treatment away from the accident scene).

Item 19: Enter number of authorized personnel traveling at the direction of the company.

Item 19A: Indicate number of passengers in your vehicle killed or injured.

Item 20: Indicate the total number of all other persons killed or injured in the accident. Do not include those persons listed in previous items.

Item 21: Enter the best available estimate of the total amount of damage (in dollars) to all vehicles and property involved in the accident. If there was no property damage, write "0."

Item 22: Mark either box A or B:

Item 22A: If mechanical defects or failures were apparent on your vehicle at time of accident, mark the appropriate boxes. Mark each defect known to exist before the accident, brought to light by the accident itself, or discovered by investigation following the accident. Do not show breakage of sound parts which resulted from the accident. Include defects which caused the vehicle to be stopped, if the accident occurred while it was stopped.

Item 23: Mark appropriate boxes.

Item 24: Mark either box A or B:

Items 25A, 25B, 25D, and 25E: If another vehicle involved in the accident was operated by a motor carrier, regardless of ownership, the name and address of the person who was operating the vehicle at the time of the accident.

Items 25C and 25F: For type of vehicle enter general terms such as, car, bus, truck, or tractor-trailer.

Items 26 and 26A: Mark appropriate boxes to indicate general prevailing weather conditions and lighting conditions.

Items 27 through 27B: Mark appropriate boxes to indicate road surface condition, number of lanes, and if the highway was divided by a median or curbing.

Item 27C: Mark appropriate box.

Item 28: An account of the accident containing the most reliable information to which the motor carrier has access at the time of reporting, sufficiently detailed and complete to convey an understanding of his version of the accident shall be entered under this item. This account should be continued on an extra sheet of paper if more space is needed.

Item 29: Print or type name and title of person signing report.

Items 30, 31 and 32: Complete appropriate entries. In item 31 include area code.

[FR Doc.72-19230 Filed 10-25-72;8:51 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 69–7; Notice 23]

PART 571—MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection

The purpose of this notice is to reply to petitions filed pursuant to 49 CFR 553–35 requesting reconsideration of the requirements of Motor Vehicle Safety Standard No. 208 relating to seatbelts in vehicles manufactured after August 15, 1973, as amended by Notices 19 and 20 of Docket 69–7 (37 F.R. 12393; 37 F.R. 13265).

1. *Seatbelts and the injury criteria of S6.* The primary objection raised by petitioners is that Notices 19 and 20 did not altogether revoke the requirement that seatbelts used to meet the 1973 interlock option must be capable of meeting the injury criteria of S6. Although review of the petitions suggests that additional modification of the head injury criterion is advisable, the NHTSA declines to grant petitioners' request for complete relief from the injury criteria.

Review of the petitions for reconsideration of Notice 16 showed that belts would have difficulty meeting the full criteria. Since leadtime was insufficient for major design changes in belts before 1973, it was found necessary either to remove the injury criteria or modify them so that the changes needed to enable belts to conform could be made in 1973.

Upon review, it was concluded that the injury criteria, even in modified form, would have the beneficial effect of regulating the overall protection characteristics of the occupant compartment and belt system. Regulation of the seatbelt as a separate component, as in Standard 209, does not insure that the belt will be installed in a manner calculated to insulate the occupant from injurious contact with the interior of the vehicle. It was therefore decided to retain the injury criteria, with such modifications as seemed necessary to allow manufacturers to conform to S4.1.2.3 by August 15, 1973.

The most significant, though by no means the only, agent of head injury is impact with the vehicle interior. In reviewing the petitions on Notice 16, it was decided that no interim criteria would be acceptable that disregarded any impact-related accelerations. Notice 19 therefore amended the head injury criterion in a manner that was intended to include all impact accelerations and to disregard the effect of nonimpact accelerations. As several petitioners point out, however, the amendment did not fully carry out this intent. S6.2, as amended, would have disregarded only those accelerations occurring before the head impacted the vehicle and would have counted all accelerations after that point. One effect of this formula was that a glancing impact, in itself insignificant, would cause all subsequent nonimpact accelerations to be counted even though such accelerations would not be distinguishable in kind from the preimpact acceleration. To avoid this result, the agency has decided to include in the calculation of the head injury criterion only those accelerations that occur while the head is in contact with the vehicle.

Some petitioners suggested that even while the head is touching the vehicle, a significant part of the head's deceleration is due to the restraining action of the belt and not to the surface the head strikes. Although there is undeniably more than one force that contributes to head deceleration, the force produced by the impacted surface becomes increasingly important as the duration of the impact increases. If the accelerations during an impact are of such an amplitude and duration that a HIC value of 1,000 is approached, the acceleration caused by the belt is generally insignificant. The criterion therefore counts all accelerations during the impact phase.

The chest injury criterion of S6.2 was modified for seatbelts by Notice 20, which substituted a severity index of 1,000 for the 60g 3 millisecond criterion applied to other restraint systems. Although the use of the severity index as an indicator of chest injury has not been common practice, the agency has decided that it provides a reasonable interim measure of the effectiveness of the belt system. The severity index of 1,000 is therefore retained as the criterion for belt systems until August 15, 1975.

2. *Passive belts and injury criteria after August 15, 1975.* Several petitioners stated that any relief granted to seat belts in the period 1973–75 should be extended to passive belt systems in the period beyond 1975. However, the NHTSA adopted the interim criteria out of consideration for leadtime problems, not because it considered them to be fully satisfactory. The agency does not consider any criterion to be acceptable, on a permanent basis, that omits potentially injury-causing accelerations from its computation. Even though impact accelerations may be the major threat to belted occupants, the effects of nonimpact accelerations are not negligible and should not be ignored. It is expected that belts will be able to meet the full injury criteria by 1975. The petitions requesting extension of the modified criteria beyond 1975 are therefore denied.

3. *MPV's and trucks manufactured before August 15, 1977.* The adoption of the interlock option for passenger cars under S4.1.2.3 permitted multipurpose passenger vehicles and trucks of less than 10,000 pounds GVWR to continue to use belt systems (with interlocks) in the period between 1975 and 1977. The agency's intent was to permit these vehicles to have the same interlock system during 1975–77 that is permitted for passenger cars during 1973–75. In response to several petitioners, who pointed out that S6.2 and S6.3 could be understood to require these vehicles to meet the full injury criteria during this period, the sections are hereby amended to extend the injury criteria modifications until August 15, 1977, for MPV's and trucks of less than 10,000 pounds GVWR.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.208, is amended as follows:

1. S6.2 is amended to read:

S6.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{t_2-t_1}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2-t_1)$$

shall not exceed 1,000, where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash. However, in the case of a passenger car manufactured before August 15, 1975, or a truck or multipurpose passenger vehicle with a GVWR of 10,000 pounds or less manufactured before August 15, 1977, when the dummy is restrained by a seatbelt system, t_1 and t_2 are any two points in time during any interval in which the head is in continuous contact with a part of the vehicle other than the belt system.

2. S6.3 is amended to read as follows:

S6.3 The resultant acceleration at the center of gravity of the upper thorax shall not exceed 60g, except for intervals whose cumulative duration is not more than 3 milliseconds. However, in the case of a passenger car manufactured before August 15, 1975, or a truck or multipurpose passenger vehicle with a GVWR of 10,000 pounds or less manufactured before August 15, 1977, when the dummy is restrained by a seatbelt system, the resultant acceleration at the center of gravity of the upper thorax shall not exceed a severity index of 1,000, calculated by the method described in SAE Information Report J885a, October 1966.

Effective date: August 15, 1973.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, delegation of authority at 49 CFR1.51)

Issued on October 18, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc. 72-18271 Filed 10-24-72;9:13 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1110, Amdt. 1]

PART 1033—CAR SERVICE

Penn Central Transportation Co. et al.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of October 1972.

Upon further consideration of Revised Service Order No. 1110, and good cause appearing therefor:

It is ordered, That: § 1033.1110 *Service Order 1110* (Penn Central Transportation Co., George P. Baker, Richard C.

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Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, required to restore service at the Buttonwood (Wilkes-Barre), Pa., Gateway and to reroute traffic originally routed via that gateway) Revised Service Order No. 1110 be, and it is hereby amended by substituting the following paragraphs (a) and (e) for paragraphs (a) and (e) thereof:

(a) The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (Penn Central) be, and it is hereby, ordered to restore service via its Buttonwood (Wilkes-Barre), Pa., gateway on or before November 25, 1972.

(e) *It is further ordered,* That this order shall become effective at 11:59 p.m., September 15, 1972, and, as to paragraph 1033.1110(b), shall expire at 11:59 p.m., November 25, 1972, unless sooner vacated by order of this Commission upon restoration of service through the Buttonwood (Wilkes-Barre) Gateway.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Intercepts or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

ROBERT L. OSWALD,
Secretary.

[SEAL]

[FR Doc. 72-18256 Filed 10-25-72; 8:48 am]

[S.O. 1111, Amdt. 1]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co. Authorized To Operate Over Tracks of Erie Lackawanna Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of October 1972.

Upon further consideration of Service Order No. 1111, and good cause appearing therefor:

It is ordered, That § 1033.1111 *Service Order No. 1111* (Delaware and Hudson Railway Co. authorized to operate over tracks of Erie Lackawanna Railway Co., Thomas F. Patton and Ralph S. Tyler, Jr., trustees). Service Order No. 1111 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 25, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 21, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-18255 Filed 10-25-72;8:48 am]

[S.O. 1113]

PART 1033—CAR SERVICE

Penn Central Transportation Co. Authorized To Operate Over Tracks of the Norfolk and Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of October 1972.

It appearing that the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (PC) is unable to operate over its line between Connersville, Ind., and Brookville, Ind., because of track conditions; that shippers located on the line of the PC at Connersville and stations north thereof are thereby being deprived of service; that the Norfolk and Western Railway Co. (N&W) has consented to use by the PC of its line between Cambridge City, Ind., and Beesons, Ind., a distance of approximately 6.6 miles, thereby enabling the PC to continue serving all shippers on its line between Connersville and Beesons; that operation by the PC over the aforementioned N&W tracks is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1113 Service Order No. 1113.

(a) *Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, authorized to operate over tracks of the Norfolk and Western Railway Co.* The Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (PC) be, and it is hereby, authorized to operate over tracks of the Norfolk and Western Railway Co. (N&W) between Cambridge City, Ind., and Beesons, Ind., a distance of approximately 6.6 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the PC over tracks of the N&W is deemed to be due to carrier's disability, the rates applicable to traffic moved by the PC over these tracks of the N&W shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., October 19, 1972.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18254 Filed 10-25-72;8:48 am]

[S.O. 1114]

PART 1033—CAR SERVICE

Norfolk and Western Railway Co. Authorized To Operate Over Tracks of Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of October 1972.

It appearing, that the Norfolk and Western Railway Co. (N&W) is unable to operate over its line in Streator, Ill., because of the unsafe condition of its bridge over the Vermilion River; that shippers located on the N&W between its Vermilion River Bridge and Streator, Ill., are thereby deprived of railroad service; that these shippers are in need of the railroad services of the N&W; that the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (PC) has consented to use by the N&W of its line between Reddick, Ill., and Streator, Ill., a distance of approximately 31.9 miles; that operation by the N&W over the aforementioned PC tracks is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1114 Service Order No. 1114.

(a) *Norfolk and Western Railway Co., authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees.* The Norfolk and Western Railway Co. (N&W) authorized to operate over tracks of the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees (PC) between Reddick, Ill., and Streator, Ill., a distance of approximately 31.9 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the N&W over tracks of the PC is deemed to be due to carrier's disability, the rates applicable to traffic moved by the N&W over these tracks of the PC shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., October 19, 1972.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18257 Filed 10-25-72;8:48 am]

[S.O. 1115]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of October 1972.

It appearing, that the Chicago, Rock Island and Pacific Railroad Company (RI) is unable to operate over its line serving Postville, Iowa, because of track and bridge conditions; that shippers located on this line are in need of continued railroad service; that the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milw.) has agreed to operate over RI tracks in Postville, Iowa, for the purpose of serving shippers located on such tracks; that the RI has consented to this use of its tracks by the Milw; that operation by the Milw over the aforementioned RI tracks is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1115 Service Order No. 1115.

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Co. authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Co.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milw) be, and it is hereby, authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Co. (RI) at Postville, Iowa.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Milw over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the Milw over these tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as orginally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., October 19, 1972.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

ROBERT L. OSWALD,
Secretary.

[SEAL]

[FR Doc.72-18253 Filed 10-25-72;8:48 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Catahoula National Wildlife Refuge, Louisiana

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (10–26–72).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted within the fenced portion of the Catahoula National Wildlife Refuge only on the area designated by signs as open to hunting. This area, comprising 3,000 acres or 55 percent of the total refuge area, is delineated on a map available at the refuge headquarters or from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Deer hunting will be in accordance with all applicable State and Federal regulations subject to the following special conditions.

(1) Season and hours: January 6–7, 1973, inclusive, one-half hour before sunrise until one-half hour after sunset.

(2) Free and nontransferable permits will be issued each morning.

(3) Entrance and exit will be restricted to headquarters access road.

(4) Still hunting for buck deer only. No dogs allowed.

(5) Hunters may enter area 30 minutes prior to legal shooting hours and must exit 30 minutes after legal hours.

(6) No vehicles may be parked more than 50 yards from existing roads or trails. No ATV vehicles other than jeep type will be allowed.

(7) Persons under 18 years of age must be accompanied by an adult.

(8) Unmarked feral hogs may be taken by deer hunters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas

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generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 7, 1973.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

OCTOBER 17, 1972.

[FR Doc.72-18170 Filed 10-25-72;8:47 am]

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Navel Orange Reg. 272]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.572 Navel Orange Regulation 272.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 24, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period October 27 through November 2, 1972, are hereby fixed as follows:

(i) District 1: 342,224 cartons;
(ii) District 2: Unlimited;
(iii) District 3: Unlimited.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 25, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18424 Filed 10-25-72;12:03 pm]

[Valencia Orange Reg. 415]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.715 Valencia Orange Regulation 415.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 24, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 27 through November 2, 1972, are hereby fixed as follows:

(i) District 1: 303,000 cartons;
(ii) District 2: 247,000 cartons;
(iii) District 3: Unlimited.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 25, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18425 Filed 10-25-72;12:03 pm]

PART 929—CRANBERRIES GROWN IN THE STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Handler Reporting Requirements

Notice was published in the FEDERAL REGISTER on October 4, 1972 (37 F.R. 20867), that the Department was giving consideration to a proposed amendment of § 929.105 *Reporting* (Subpart—Rules and Regulations; 7 CFR 929.100–929.150; 37 F.R. 5600), currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded 10 days for interested persons to submit written data, views, or arguments in connection with said proposal. None were received.

The amendment of said rules and regulations was unanimously recommended by the Cranberry Marketing Committee, established under said amended marketing agreement and order, as the agency to administer the terms and provisions thereof. The amendment would lengthen the period of time during which handlers must submit reports to the committee. The committee reports that the period of time afforded handlers for filing reports with the committee, especially with respect to information on the quantities of cranberries and cranberry products held by the handler on specified, dates has proved to be insufficient.

After consideration of all relevant matters presented, including that in the notice, and other available information, it is hereby found that the amendment, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Notice of proposed rule making concerning this amendment was published in the FEDERAL REGISTER on October 4, 1972 (37 F.R. 20867), and no objection to this amendment was received; (2) this amendment relieves restrictions on handler reporting requirements; and (3) cranberries are in the process of being acquired and handled and to be of maximum benefit the provisions of this amendment should become effective on the date hereinafter specified to contribute to more effective operations under the marketing agreement and order.

Accordingly, the language in paragraph (b) of § 929.105 is amended to read as follows:

§ 929.105 Reporting.

* * * * * *

(b) Certified reports shall be submitted to the committee by each handler not later than the 20th day of November, February, May, and August of each fiscal period showing (1) the total quantity of cranberries the handler acquired and the total quantity of cranberries the handler handled during the 3-month period ending the last day of the month preceding the date the report is due and (2) the respective quantities of cranberries and cranberry products held by the handler on the 1st day of each of the specified months.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 20, 1972, to become effective upon publication in the FEDERAL REGISTER (10–26–72).

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18209 Filed 10-25-72;8:52 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Rev. 3, Amdt. 10]

PART 1475—EMERGENCY FEED PROGRAM

Subpart—Livestock Feed Program

SALES OF GRAIN ADVANCED BY DEALERS

The regulations issued by the Commodity Credit Corporation published by 29 F.R. 13475, 30 F.R. 2854, 6909, 31 F.R. 13532, 32 F.R. 14372, 34 F.R. 14206, 36 F.R. 9497, 37 F.R. 7149, 13635, and 37 F.R. 18181, which contain specific requirements for the Livestock Feed Program are further amended to change § 1475.211(e)(3), the period of days after the effective date of the certificate from 30 days to 90 days. Since this change is urgently needed in emergency areas and since the amendment will extend the time a certificate may be retained by a dealer without a discount penalty, it is hereby determined that compliance with the notice of proposed rule making procedures is impracticable and contrary to the public interest with respect to this amendment.

Accordingly, § 1475.211(e)(3) is amended as follows:

§ 1475.211 Sales of grain advanced by dealers.

* * * * * *

(e) * * *

(3) A Dealer's Certificate will be accepted at face value when presented to the Kansas City Commodity Office or other office designated by that office or DASCO and applied to the purchase of a feed grain. Such acceptance at face value will be made under a contract which specifies a "date of sale" not more than 90 days after the effective date of the certificate. If the specified date of sale is after the 90th day the face value shall be reduced by one twenty-fifth of 1 percent for each day beginning on the 91st day after the effective date of the certificate excluding the date of sale specified in the CCC contract to which it is applied. The certificates may be transferred by endorsement to any other person. CCC reserves the right to determine the time and place of delivery and the class, grade, and quality of feed grain to be delivered in redemption of Dealer's Certificates. Feed grain sold under a Dealer's Certificate shall be sold at the applicable current market price determined by CCC. Overdeliveries of the quantity of grain requested shall be adjusted at the applicable market price.

* * * * * *

(Secs. 1–4 of 73 Stat. 574, as amended; secs. 407 and 421 of 63 Stat. 1055, as amended; secs. 4 and 5 of 62 Stat. 1070, as amended; 7 U.S.C. 1427, 1427 note and 1433; 15 U.S.C. 714 b and c)

Effective date: Upon publication in the FEDERAL REGISTER (10–26–72).

Signed at Washington, D.C., on October 12, 1972.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.72-18274 Filed 10-25-72;8:55 am]

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Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 160]

LIFESAVING EQUIPMENT

Proposed Specifications

Correction

In F.R. Doc. 72-17049 appearing at page 21266 of the issue for Friday, October 6, 1972, the following changes should be made:

1. The lines appearing in §§ 160.002-6 (b), 160.005-6(b), and 160.055-8(b), which read, "Approved for use on all vessels by persons weighing more than 90 pounds or less than 90 pounds.", should read, "Approved for use on all vessels by persons weighing (more than 90 pounds or less than 90 pounds)."

2. The lines appearing in §§ 160.047-6 (a), 160.052-8(a), 160.060-8(a), and 160.064-4(a)(1), which read, "Approved for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire and all recreational boats by persons weighing more than 90 pounds or 50 to 90 pounds or less than 50 pounds.", should read as follows: "Approved for use on uninspected commercial vessels less than 40 feet in length not carrying passengers for hire and all recreational boats by persons weighing (more than 90 pounds or 50 to 90 pounds or less than 50 pounds)."

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-CE-23]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Audubon, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for the Audubon, Iowa, Municipal Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing the new approach procedure by designating a transition area at Audubon, Iowa.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

AUDUBON, IOWA

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Audubon Municipal Airport (latitude 41°42'30" N., longitude 94°55'00" W.); and that airspace extending upward from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the Audubon NDB 149° bearing extending from the airport to 18½ miles southeast of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on September 28, 1972.

JOHN R. WALLS,
Acting Director, Central Region.

[FR Doc.72-18176 Filed 10-25-72;8:46 am]

Highway Safety Program Standards

[23 CFR Part 230]

[Docket No. 72-29]

PROGRAM STANDARDS

Applicability to Federally Administered Areas; Request for Comments

The purpose of this notice is to request public comment on a proposal to apply highway safety program standards published in 23 CFR Chapter II to federally administered areas where a Federal department or agency controls the highways or supervises traffic operation.

A major goal of the Highway Safety Act of 1966 (23 U.S.C. 402 et seq.) was to encourage the development of uniformity in traffic regulation and control, to enhance the safety and efficiency of interstate road travel throughout the Nation. Recognizing the need for a strong leadership effort at the Federal level, and for the development of uniform guidelines for State programs, the Congress also recognized "that death on the highway does not distinguish highway financing or administrative jurisdiction." The standards, therefore, were to apply to all highways, whether on or off the Federal-aid system. Moreover, it was noted during the hearings on the Act that a wide disparity of safety standards existed among lands administered by different Federal agencies.

A number of Federal agencies have had active traffic safety programs in federally administered areas, but others have not. There appears to be no data available on a departmental or Government-wide basis to indicate the involvement of private vehicles in accidents on federally administered areas. There have been complaints that nonuniformity of signs and signals continues to be a chronic problem for many Federal installations. The significant increase in travel through national parks, national forests, et cetera, requires that these roads be subject to the same safety standards as are all other highways. H. Rep. No. 1700, 89th Cong., 2d Sess., p. 23.

A provision was therefore included in section 402(a) of the Act stipulating that:

Such programs as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

To date, only Standard No. 13, Traffic Engineering Services (23 CFR 204.4), has been made applicable to all Federal departments and agencies. A study group composed of representatives of Federal landholding departments and agencies has met with the NHTSA and the FHWA and after reviewing the highway safety problems in their respective areas, recommended that the highway safety program standards be made applicable to all Federal agencies. The Department of Transportation agrees with that recommendation.

The proposed Part 230 would apply the highway safety program standards to all landholding Federal departments and agencies, to the extent that they engage in activities covered by the standards. The agencies would be required to review their activities and the standards, and develop implementation programs appropriate to their own safety problems. Programs and statistical data from Federal departments and agencies would be required by the Department of Transportation for use in developing reports to the President and the Congress pursuant to section 202 of the Highway Safety Act of 1966. NHTSA and FHWA will be available to assist other agencies in developing procedures needed to implement the standards. The review and developmental efforts should also include analysis of budgetary needs of each agency. Funds authorized under the Highway Safety Act are available only to the States.

Actions under the Highway Safety Act of 1966 do not require public notice and comment. This request for comments is issued, however, to afford the public and all Federal departments and agencies the opportunity to comment and to obtain the widest possible range of views on this subject.

Interested persons are invited to submit written data, views, and arguments in response to this request. Comments should refer to the docket number and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on December 29, 1972, will be considered, and will be available at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered. However, action may be taken at any time after that date, and comments filed after the above date and too late for consideration in regard to the action will be treated as suggestions for future action. Relevant material will be filed, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

In consideration of the foregoing, it is proposed that a new Part 230, Highway Safety Program Standards, Applicability to Federally Administered Areas, be added to 23 CFR Chapter II, Subchapter B, as set forth below, effective February 15, 1972. This request for comments is issued under authority of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegations of authority at 49 CFR 1.49 and 1.51.

Issued on October 19, 1972.

JAMES L. FOLEY, Jr.,
Director, Office of Highway Safety, Federal Highway Administration.

JAMES E. WILSON,
Associate Administrator, Traffic Safety Programs, National Highway Traffic Safety Administration.

PART 230—HIGHWAY SAFETY PROGRAM STANDARDS—APPLICABILITY TO FEDERALLY ADMINISTERED AREAS

§ 230.1 Scope.

This part establishes requirements for implementation of highway safety program standards set out in this chapter by Federal departments or agencies where a Federal department or agency controls highways open to public travel or supervises traffic operations in federally administered areas.

§ 230.2 Purpose.

The purpose of this part is to insure that uniform standards established to regulate highway safety activities apply uniformly throughout the United States, including on those highways and for those activities administered by a Federal agency.

§ 230.3 Applicability.

Pursuant to 23 U.S.C. 402, the highway safety program standards set out in 23 CFR Chapter II, are hereby applied to Federal departments and agencies that control highways open to public travel within federally administered areas or supervise traffic operations on such highways, to the extent that they engage in activities covered by the highway safety program standards set out in this chapter.

§ 230.4 Requirements.

Each department or agency shall implement the highway safety program standards, to the extent that they are relevant to the activities of the department or agency. Implementation activities shall include but not be limited to:

(a) Review of the department's or agency's activities to determine which are covered by the highway safety program standards.

(b) Review of the current status of those activities with regard to the relevant requirements of the standards.

(c) Development and periodic updating of a multiyear comprehensive plan for highway safety in accordance with the highway safety program standards.

(d) Preparation of an annual work program which details the work to be done for a given year to implement its comprehensive plan.

§ 230.5 Annual report.

For inclusion in the report to the President for transmittal to the Congress as required by section 202(a) of the Highway Safety Act of 1966 (Public Law 89-564), each department or agency shall submit annually to the Secretary of Transportation a comprehensive report on the administration of its highway safety program for the preceding calendar year. Such report shall include but not be limited to: (a) Thorough statistical data on the accidents and injuries which occurred within its federally administered area during the year; (b) the scope of observance of applicable Federal standards; and (c) the effectiveness of its highway safety programs.

[FR Doc.72-18172 Filed 10-25-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19413]

FM BROADCAST STATIONS IN CERTAIN CITIES IN MISSISSIPPI, WEST VIRGINA AND FLORIDA

Proposed Table of Assignments; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations. (Hattiesburg, Miss., Parkersburg, W. Va., Tallahassee, Fla.), Docket No. 19413. RM-1758, RM-1767, RM-1772.

1. A further notice of proposed rule making in the above captioned proceeding was adopted on August 29, 1972, and published in the FEDERAL REGISTER on September 9, 1972, 37 F.R. 18402. Comment and reply comment dates presently designated are October 17 and October 26, 1972, respectively.

2. On October 10, 1972, the Board of Regents of Florida, acting for and on behalf of Florida State University (Board of Regents), licensee of noncommercial educational FM Station WFSU, Tallahassee, Fla., filed a petition for extension of time in which to file comments to and including November 17, 1972. The Board of Regents states the additional time is necessary because the Station Manager of WFSU-FM is presently ill and will not be able to coordinate with counsel the material required for the comments. It also states that its Consulting Engineer is out of the country for several weeks. Counsel for Station WTAL (proponent in this proceeding), has stated he has no objection to a grant of this request.

3. We are of the view that the requested time is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing comments in the above docket is extended to and including November 17, and for the filing of reply comments to and including November 27, 1972.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and §0.281(d)(8) of the Commission's rules and regulations.

Adopted: October 16, 1972.

Released: October 18, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-18231 Filed 10-25-72;8:51 am]

FEDERAL REGISTER, VOL. 37, NO. 207—THURSDAY, OCTOBER 26, 1972

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-375]

IRISH POTATOES GROWN IN RED RIVER VALLEY OF NORTH DAKOTA AND MINNESOTA

Notice of Hearing on Proposed Marketing Agreement and Order

Notice is hereby given of a public hearing to be held in the Auditorium of the Nodak Rural Electric Cooperative, 1405 First Avenue North, Grand Forks, N.D., beginning at 9:30 a.m. local time, November 29, 1972, with respect to a proposed marketing agreement and order program. The proposal would authorize regulation of the handling of Irish potatoes grown in the Red River Valley of North Dakota and Minnesota production area.

The hearing is called pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

The hearing is for the purpose of receiving evidence with respect to economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and to any appropriate modifications thereof.

The proposed marketing agreement and order program was submitted with a request for a hearing thereon by the Red River Valley Potato Growers Association on behalf of potato producers in the production area. The proposal is as follows:

DEFINITIONS

§ ___.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer, or member of the U.S. Department of Agriculture, who is, or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ ___.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, as amended, 7 U.S.C. 601–674).

§ ___.3 Person.

"Person" means an individual, partnership, corporation, association, or any other business unit.

§ ___.4 Production area.

"Production area" means all territory included within the boundaries of the Counties of Towner, Ramsey, Cavalier, Pembina, Walsh, Grand Forks, Nelson, Steele, Traill, Cass, and Richland of the State of North Dakota, and of Kittson, Marshall, Polk, Pennington, Red Lake, Norman, Mahnomen, Clay, Becker, Wilkin, and Otter Trail of the State of Minnesota.

§ ___.5 Potatoes.

"Potatoes" means all varieties of Irish potatoes grown within the production area.

§ ___.6 Handler.

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes or causes potatoes to be handled.

§ ___.7 Handle.

"Handle" means to pack, sell, ship, transport, or in any other way to place potatoes, or cause potatoes to be placed, in the current of commerce within the production area or between the production area and any point outside thereof; or from any points specified by the Secretary outside the production area to any other point: *Provided*, That, the definition of "handle" shall not include the transportation of ungraded potatoes within the production area for the purpose of having such potatoes prepared for market, or stored, except that the committee may impose safeguards pursuant to § ___.39 with respect to such potatoes.

§ ___.8 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of potatoes for market.

§ ___.9 Fiscal period.

"Fiscal period" means the period beginning on August 1 of each year and ending July 31 of the following year, or such other period as the Secretary may establish pursuant to recommendation of the committee.

§ ___.10 Grading.

"Grading" is synonymous with "preparing for market" which means the sorting or separating of potatoes into grades and sizes for market purposes.

§ ___.11 Grade and size.

"Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes as defined and set forth in:

(a) The U.S. Standards for Potatoes issued by the U.S. Department of Agriculture (§§ 51.1540 to 51.1566 of this title) or amendments thereto or modifications thereof, or variations based thereon;

(b) U.S. Standards for Grades of Peeled Potatoes (§§ 52.2421 to 52.2433 of this title) or amendments thereto or modifications thereof, or variations based thereon;

(c) U.S. Standards for Grades of Seed Potatoes (§§ 51.3000 through 51.3014 of this title), or amendments thereto or modifications thereof, or variations based thereon.

§ ___.12 Maturity.

"Maturity" means the stage of development or condition of the outer skin (epidermis) of the potato determined according to skinning classifications defined by the U.S. Standards for Potatoes (§§ 51.1540 to 51.1566, inclusive of this title).

§ ___.13 Varieties.

"Varieties" means all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the U.S. Department of Agriculture.

§ ___.14 Seed potatoes.

"Seed potatoes" or "seed" means all potatoes officially certified and tagged, marked, or otherwise appropriately identified under the supervision of the official seed potato certifying agency of the State in which the potatoes were grown or other seed certification agencies which the Secretary may recognize.

§ ___.15 Pack.

"Pack" means a quantity of potatoes in any type of container and which falls within specific weight limits or within specific grade and/or size limits or any combination thereof, recommended by the committee and approved by the Secretary.

§ ___.16 Container.

"Container" means a sack, bag, crate, box, basket, barrel, bulk load, or other receptacle used in the packaging, transportation, sale, or other handling of potatoes.

§ ___.17 Committee.

"Committee" means the Red River Valley Potato Committee, established pursuant to § ___.20.

§ ___.18 District.

"District" means each of the geographical divisions of the production area established pursuant to § ___.27.

§ ___.19 Export.

"Export" means shipment of potatoes beyond the boundaries of the continental United States.

COMMITTEE

§ ___.20 Establishment and membership.

(a) The Red River Valley Potato Committee consisting of 14 members, all of whom shall be producers, is hereby established.

(b) Each person selected as a committee member or alternate shall be a producer or an officer or employee of a producer in the district for which selected and each such person shall be a resident of the production area.

(c) For each member of the committee there shall be an alternate who shall have the same qualifications as the member. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member his alternate shall act for him until a successor for such member is selected and has qualified.

§ ___.21 Selection.

(a) Committee members and alternates shall be selected by the Secretary on the basis of districts as established pursuant to § ___.27. Selection of committee members for districts shall be as follows: Two members for each of Districts 1, 2, 3, 4, and 7; and one member for each of Districts 5, 6, 8, and 9.

(b) Any person selected by the Secretary as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within the time he specifies.

§ ___.22 Term of office.

(a) The term of office of committee members and alternates shall be 2 years beginning August 1 and ending July 31, or such other date as the Secretary may approve upon recommendation of the committee, except that of the initial 14 members selected, seven shall serve for a term ending on the second July 31 following their selection and seven shall serve for a term ending on the first July 31 following their selection. Each of the initial 14 alternate members shall be selected to serve for the same term of office as the respective member from each district. No member shall serve for more than three consecutive terms.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the current term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ ___.23 Procedure.

(a) Ten members of the committee shall be necessary to constitute a quorum and 10 concurring votes shall be required to pass any motion or approve any committee action or such other numbers as may be approved by the Secretary pursuant to recommendation of the committee. In assembled meetings, all votes shall be cast in person.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication. Any vote cast at such meeting shall be confirmed promptly in writing.

§ ___.24 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this subpart; and

(d) To recommend to the Secretary amendments to this subpart.

§ ___.25 Duties.

It shall be the duty of the committee:

(a) At the beginning of each fiscal period, to meet and organize, to select from among its members a chairman, and such other officers and subcommittees as may be necessary, and to adopt such rules, regulations and bylaws for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary and to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and to engage in such research and service activities which relate to the handling or marketing of potatoes as may be approved by the Secretary.

(f) To keep minutes, books, and records which clearly reflect all the acts and transactions of the committee; and to furnish the Secretary promptly two copies of the minutes of each committee meeting and two copies of the annual report of the committee's operations.

(g) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(h) At the beginning of each fiscal period, to submit to the Secretary a budget of its expenses for such fiscal period, together with a report thereon;

(i) To prepare periodic statements of the financial operations of the committee and to cause the books of the committee to be audited by a competent public accountant at least once each fiscal period, and at such other times as the committee may deem necessary or as the Secretary may request. These reports shall show the receipt and expenditure of funds collected pursuant to this subpart; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(j) To consult, cooperate, and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives under this subpart.

§ ___.26 Expenses and compensation.

Committee members and their respective alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this subpart. In addition, they may receive reasonable compensation at a rate recommended by the committee and approved by the Secretary.

§ ___.27 Districts.

(a) For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby initially established:

District No.		Number of members
	NORTH DAKOTA COUNTIES	
1	Pembina, Cavalier, Towner, and Ramsey	2
2	Walsh, east of Highway 18	2
3	Walsh, west of Highway 18	2
4	Grand Forks	2
5	Traill, Steele, Richland, Cass, and Nelson	1
	MINNESOTA COUNTIES	
6	Kittson, Marshall, and Pennington	1
7	Red Lake and West Polk	2
8	East Polk, Norman, and Mahnomen	1
9	Clay, Otter Tail, Wilkin, and Becker	1

(b) *Redistricting.* The Secretary, upon recommendation of the committee, may reestablish districts within the production area and may reapportion committee membership among the various districts. In recommending any such changes in districts, the committee shall give consideration to (1) the relative importance of new areas of production, (2) changes in the relative positions of existing districts with respect to production, (3) the geographic location of areas of production as they would affect the efficiency of administering this part, (4) the equitable relationship between the committee membership and districts and (5) other relevant factors: Provided, That there shall be no change in the total number of committee members or in the total number of districts. No change in districting may become effective less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting may be made within less than 6 months prior to such date.

§ ___.28 Nominations.

The Secretary may select the members of the Red River Valley Potato Committee and their respective alternates from nominations which may be made in the following manner, or from other eligible persons:

(a) Nominations for members and alternates of the committee may be submitted by producers, or groups thereof, on an elective basis or otherwise.

(b) In order to provide nominations for committee members and alternates:

(1) The committee shall hold, or cause to be held, nominations by mail or at assembled meetings of producers to fill expiring terms in each district. Such nominations shall be held prior to July 1 of each year, or by such other date as may be approved by the Secretary;

(2) In arranging for such nominations, the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

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(3) At each such meeting at least one nominee shall be designated for each position as member and for each position as alternate member on the committee which is vacant, or which is to become vacant the following July 31;

(4) Nominations for committee members and alternate members shall be supplied to the Secretary, in such manner and form as he may prescribe, not later than July 1 of each year, or such other date as may be approved;

(5) Only producers who reside within the production area may participate in designating nominees for committee members and their alternates;

(6) Regardless of the number of districts in which a person produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates. In the event a person is engaged in producing potatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees. An eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

(c) If nominations are not made within the time and in the manner specified by the Secretary pursuant to paragraph (b) of this section, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation provided for in this part.

§ ___.29 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in § ___.28, or from previously unselected nominees on the current nominee list from the district involved or from other eligible persons. If the names of nominees to fill any vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for in § ___.27.

EXPENSES AND ASSESSMENTS

§ ___.30 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of assessable potatoes handled by him as the first handler thereof during a fiscal period and the total quantity of assessable potatoes so handled by all handlers as first handlers thereof during such fiscal period.

§ ___.31 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ ___.32 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles assessable potatoes shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rate may be established upon the basis of the committee's recommendations and other available information.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all assessable potatoes which were handled by each first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative.

§ ___.33 Accounting.

(a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, and records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds, and property (including but not being limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in his successor, the committee, or person designated by the Secretary, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect, and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

§ ___.33 Excess funds.

At the end of each fiscal period funds arising from the excess of assessments collected over expenses shall be accounted for as follows:

(a) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's budgeted expenses. Such reserve funds may be used to defray any expenses authorized under this part and to cover necessary expenses of liquidation in the event of termination of this part. If upon such termination any funds not required to defray the necessary expenses of liquidation, and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(b) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, it shall be credited or refunded proportionately to the handlers from whom collected.

REGULATION

§ ___.34 Marketing policy.

(a) Prior to each marketing season, the committee shall consider and prepare a policy statement for the marketing of potatoes. In developing its marketing policy, the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations, the committee shall give appropriate considerations to the following:

(1) Market prices of potatoes, including prices by grade, size, quality, and maturity in different packs of fresh potatoes and of the various forms of processed potatoes;

(2) Supplies of potatoes by grade, size, quality, and maturity in the production area and in other production areas, of fresh potatoes, and the supplies of various forms of processed potatoes;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for potatoes;

(5) Orderly marketing of potatoes as will be in the public interest; and

(6) Other relevant factors.

(b) In the event it becomes advisable to change such marketing policy because of changed supply and demand conditions, the committee shall formulate a revised marketing policy statement in accordance with the appropriate considerations in paragraph (a) of this section.

(c) The committee shall submit a report to the Secretary setting forth such marketing policy. Notice of each such marketing policy and any revision thereof shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be available for examination at the committee office to all interested parties.

§ ___.35 Recommendation for regulation.

The committee shall recommend to the Secretary regulations, or amendments, modifications, suspension, or termination thereof, whenever it finds that such regulations as provided in this subpart in accordance with the marketing policy established pursuant to § ___.34 and that such regulations will tend to effectuate the declared policy of the act.

§ ___.36 Issuance of regulations.

(a) The Secretary shall limit the handling of potatoes whenever he finds from the recommendations and information submitted by the committee that it would tend to effectuate the declared policy of the act. Such limitation may:

(1) Regulate in any or all portions of the production area the handling of particular grades, sizes, qualities, or maturities, or any combination thereof, of any or all varieties of potatoes during any period;

(2) Regulate the handling at specified locations outside the production area of particular grades, sizes, qualities, or maturities of production area potatoes which have been shipped from the production area to such specified locations for grading or storage pursuant to § ___.38;

(3) Regulate the handling of particular grades, sizes, qualities or maturities of any or all varieties differently for different portions of the production area, for different uses or outlets, for different packs, or for any combination of the foregoing, during any period;

(4) Regulate the handling of potatoes by establishing in terms of grades, sizes, or both, minimum standards of quality and maturity; and

(5) Require that containers for potatoes handled shall be labeled to show the grade, or size or both, thereon.

(b) No regulation applicable to seed shall modify or impair the official seed certification specification and requirements established by the official seed certification agency of the State in which the potatoes were grown.

(c) The Secretary may amend any regulation issued under this subpart whenever he finds that such amendment would tend to effectuate the declared policy of the act. The Secretary may also terminate or suspend any regulation whenever he finds that such regulation obstructs or no longer tends to effectuate the declared policy of the act.

(d) The Secretary shall notify the committee of any such regulation issued pursuant to this section and the committee shall give reasonable notice thereof to handlers.

§ ___.37 Minimum quantities.

The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to this part.

§ ___.38 Shipments for special purposes.

(a) Whenever the Secretary finds, upon the basis of the recommendations and information submitted by the committee, or from other available information, that it will tend to effectuate the declared policy of the act, he shall modify, suspend, or terminate any or all regulations issued pursuant to this part in order to facilitate shipments of potatoes for:

(1) Livestock feed;
(2) Charity;
(3) Export;
(4) Seed;
(5) Prepeeling;
(6) Canning, freezing, and other processing;
(7) The shipment of fieldrun, unwashed, uninspected potatoes from the production area to specified locations outside the production area for grading, packing, storage, or other handling, provided the receiver of such potatoes agrees to, and complies with, the safeguard provisions of § ___.39; or
(8) Such other purposes as may be specified by the committee with the approval of the Secretary.

(b) The Secretary shall give prompt notice to the committee of any modification, suspension, or termination of regulations pursuant to this section, or of any approval issued by him under the provisions of this section.

§ ___.39 Safeguards.

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § ___.38 from entering channels of trade other than the specific purposes authorized therefor.

(b) Safeguards provided by this section may include, but shall not be limited to, requirements that handlers:

(1) Shall obtain the inspection required by § ___.40, or pay the assessment provided by § ___.32, or both, in connection with the potato shipments affected in accordance with § ___.38, and

(2) Shall, prior to handling, apply for and obtain a special purpose certificate from the committee for shipments of potatoes affected or to be affected under provisions of § ___.38.

(c) The committee, with the approval of the Secretary, shall prescribe rules governing the issuance and the contents of the special purpose certificate.

(d) The committee may rescind, or deny to any handler the special purpose certificate if proof satisfactory to the committee is obtained that potatoes shipped by him for the purpose stated were handled contrary to the provisions of this section.

(e) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications for such certificates, the number of such applications denied, and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested by the Secretary.

INSPECTION

§ ___.40 Inspection and certification.

(a) During any period in which the handling of potatoes is regulated pursuant to § ___.36 no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved from such requirements pursuant to § ___.37 or § ___.38, or both.

(b) Regrading, resorting, or repacking any lot of potatoes shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall handle potatoes after they have been regraded, resorted, repacked, or in any way further prepared for market, unless such potatoes are inspected by an authorized representative of the Federal, or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, or repacked potatoes may be modified, suspended, or terminated upon recommendation by the committee, and approval by the Secretary.

(c) Upon recommendation of the committee, and approval of the Secretary, all potatoes so inspected and certified shall be identified by appropriate seals, stamps, or tags to be affixed to the containers by the handler under the direction and supervision of the Federal, or Federal-State, inspector or the committee. Master containers may bear the identification instead of the individual containers within said master container.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When potatoes are inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of potatoes by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, which certificate shall be surrendered to such authority as may be designated.

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REPORTS

§ ___.41 Reports and records.

(a) Upon the request of the committee, with the approval of the Secretary, every handler shall furnish to the committee in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its duties under this subpart.

(b) Each handler shall establish and maintain for at least 2 succeeding years such records and documents with respect to potatoes received and potatoes disposed of by him as will substantiate the required reports.

(c) For the purpose of assuring compliance with the recordkeeping requirements and certifying reports filed by handlers, the Secretary and the committee through its duly authorized employees, shall have access to such records.

(d) All such reports shall be held under appropriate protective classification and custody by the committee or duly appointed employees thereof, so that the information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed to any person other than the Secretary, or his authorized agents. Compilations of general reports from data and information submitted by handlers is authorized subject to the prohibition of disclosure of individual handlers identities or operations.

§ ___.42 Compliance.

Except as provided in this subpart, no handler shall handle potatoes, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, and no handler shall handle potatoes except in conformity to the provisions of this subpart.

EFFECTIVE TIME AND TERMINATION

§ ___.43 Effective time.

The provisions of this subpart shall become effective at such time as the Secretary may declare above his signature attached to this subpart, and shall continue in force until terminated in one of the ways specified in this subpart.

§ ___.44 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving a least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such period, produced for market more than 50 percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced at least 50 days prior to the end of the then current fiscal period.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ ___.45 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon said trustees.

§ ___.46 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provisions of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

MISCELLANEOUS PROVISIONS

§ ___.47 Right of the Secretary.

The members of the commitee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ ___.48 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except, with respect to acts done under and during the existence of this subpart.

§ ___.49 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government or name any agency or division in the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ ___.50 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ ___.51 Personal liability.

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ ___.52 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remander of this subpart, or the applicability thereof, to any other person, circumstance, or thing, shall not be affected thereby.

§ ___.53 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ ___.54 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ ___.55 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.[1]

§ ___.56 Order with marketing agreement.

Each signatory handler requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of potatoes in the same manner as is provided for in this agreement.[2]

Copies of this notice may be obtained from the Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, or from Robert B. Case, Denver Marketing Field Office, Fruit and Vegetable Division, U.S. Customhouse, Room 365, 721 19th Street, Denver, CO 80202.

Dated: October 19, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc. 72-18210; Filed 10-25-72; 8:52 a.m.]

[1] Applicable only to the proposed marketing agreement.

[2] Applicable only to the proposed marketing agreement.

Commodity Credit Corporation

[7 CFR Part 1464]

FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

Notice of Advanced Grade Rates for Price Support on 1972 Crop

Correction

In F.R. Doc. 72-17535, appearing on page 21956, in the issue of Tuesday, October 17, 1972, in the second table of § 1464.19, the second from the last figure, reading "N2G_____33", should be deleted.

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

Self-Propelled Electric Face Equipment; Notice of Public Hearing

In accordance with the provisions of section 305(r) of the Federal Coal Mine Health and Safety Act of 1969, as amended (83 Stat. 779; 30 U.S.C. 865(r)), and pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Act (83 Stat. 475; 30 U.S.C. 811(a)), there was published, as proposed rule making, in the FEDERAL REGISTER for June 23, 1972 (37 F.R. 12395), §§ 75.523-1 through 75.523-3 of Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, setting forth proposed mandatory standards which would: (1) Establish installation and performance requirements for devices that would deenergize self-propelled electric face equipment in the event of an emergency; and, (2) establish installation and performance requirements for automatic emergency brakes on rubber-tired, self-propelled electric face equipment.

Interested persons were afforded a period of 45 days following publication within which to submit to the Director, Bureau of Mines, written comments, suggestions, or objections to these proposed mandatory safety standards, stating the grounds therefor, and to request a public hearing on such objections.

Written objections were timely filed with the Director, Bureau of Mines, stating the grounds for objections and requesting a public hearing on proposed §§ 75.523-1 through 75.523-3 of Part 75. In accordance with section 101(f) of the Act, a notice of objections filed and hearing requested was published in the FEDERAL REGISTER for October 13, 1972 (37 F.R. 21641).

Pursuant to section 101(g) of the Act, notice is hereby given that a public hearing will be held on November 15, 1972, beginning at 9 a.m., e.s.t., in the House of Delegates Chambers, Main Unit, Building 1, State Capitol Building, 1900 Washington Street East, Charleston, W. Va., for the purpose of receiving relevant evidence on the following issues:

(1) That all self-propelled electric face equipment acquired for use in a coal mine (except for self-propelled electric face equipment that is equipped with a substantially constructed cab which meets the requirements of 30 CFR Part 75) be provided with a device that will quickly deenergize the tramming motors of the equipment in the event of an emergency in accordance with the schedule of time specified in proposed 30 CFR 75.523-1;

(2) That all rubber-tired, self-propelled electric face equipment acquired for use in a coal mine (except for rubber-tired self-propelled electric face equipment that is equipped with a driving mechanism, in accordance with 30 CFR 18.20(f), that precludes movement of the equipment when parked) be provided with an automatic emergency brake in accordance with the schedule of time specified in proposed 30 CFR 75.523-3;

(3) That proposed 30 CFR 75.523-1 through 75.523-3 should not be mandatory safety standards, but rather criteria to be utilized in the discretion of an authorized representative of the Secretary of the Interior;

(4) That deenergization of tramming motors of self-propelled electric face equipment be permitted by means other than interruption of the electrical power source;

(5) That rubber-tired, self-propelled electric face equipment be permitted to have parking brakes separate from the automatic emergency brake; and,

(6) That rubber-tired, self-propelled electric face equipment that is equipped with a substantially constructed cab which meets the requirements of 30 CFR Part 75 need not be required to have the automatic emergency brake specified in proposed 30 CFR 75.523-3.

Donald P. Schlick, Deputy Director—Health and Safety, is designated Chairman of the hearing.

The hearing shall be conducted in an informal, orderly manner and a verbatim transcript will be maintained. All written statements, charts, tabulations, and other data will be received in the record. Within 60 days after completion of the hearing, findings of fact concerning the issues presented at the hearing shall be made public.

Persons who desire to testify at the hearing should notify the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240, not later than November 10, 1972.

JOHN B. RIGG,
Deputy Assistant Secretary
of the Interior.

OCTOBER 20, 1972.

[FR Doc.72-18156 Filed 10-25-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 26]

NUTRITIVE SWEETENERS

Request for Comments on Recommended International Standards and a Petition

Correction

In F.R. Doc. 72-16643, appearing at page 21103, in the issue of Thursday, October 5, 1972, the following changes should be made:

1. In the second column on page 21104, delete the fifth and sixth lines under 7.5 *Determination of arsenic.*

2. On page 21104, in the third column, under 6. *Labeling*, after the third line, insert "CAC/RS 1-1969), the following specific provisions apply:".

3. In the first column on page 21105, in the third line of No. 1 under "Selected Bibliography", the word "Parish", should read "Paris".

4. In the second column of page 21105, in the third line of 7.2 *Determination of reducing sugar content*, the reference in the parenthesis "ICUMBA" should read "ICUMSA".

5. In the first column on page 21106, in the last paragraph 1., delete the second line.

CIVIL AERONAUTICS BOARD

[14 CFR Part 378]

[Docket No. 23940; SPDR-26C]

AIR/SEA CRUISE INCLUSIVE TOURS

Supplemental Notice of Proposed Rule Making

Notice is hereby given that the Civil Aeronautics Board has under consideration modification of Part 378 of the

V37-207 OCT 26 72 XUM

Board's Special Regulations so as to provide for air/sea cruise inclusive tours. The principal features of the proposed rule are set forth in the attached explanatory statement and proposed rule. The amendment is proposed under the authority of sections 101(3), 101(33), 204(a), 401, 402, 407, and 416(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737 (as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921), 743, 754, 757, 766, 771; 49 U.S.C. 1301, 1324, 1371, 1372, 1377, 1386.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before November 25, 1972, will be considered before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

Dated: October 10, 1972.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

By SPDR-26, dated October 26, 1971 (Docket 23940), the Board proposed, inter alia, amendments to Part 378 to provide a blanket exemption for air/sea cruise tours. Section 378.2(b)(2) presently establishes a three-stop requirement for inclusive tour charters (ITC's).[1] The rules also contain delegated authority to the staff to grant waivers to permit, on air/sea inclusive tours, daytime stops by a cruise ship in lieu of overnight stops.[2] In view of the recent surge of activity in this type of tour, it was proposed to grant blanket authority for air/sea cruise ITC's under the following conditions: (1) Where a cruise ship remains in port during the 10 p.m. to 6 a.m. period with tour participants on board, the ship's accommodations should be construed as "overnight" hotel accommodations; (2) a daytime air/sea cruise tour stop should be construed as one of the required three stops: *Provided*, That each such stop is preceded or followed by a night (10 p.m. to 6 a.m.) at sea, and: *Provided further*, That each daytime stop is of at least 12 hours' duration; and (3) the other requirements for the usual air/land ITC also should be complied with—e.g., a minimum of 7 days' duration, and a minimum of three stops no less than 50 air (not sea) miles apart.

The NACA carriers[3] and Royal Caribbean Tours object to the Board's proposal. They maintained, inter alia, that nights aboard ship should invariably be counted as overnight hotel accommodations within the meaning of the rule. They also assert that the rule should relate more closely to the actual operation of the air/sea cruises; that the purpose of the three-stop requirement in the rule is to prevent ITC's from being used as a cloak for point-to-point individually ticketed transportation; and that air/sea ITC's by their very nature are not point-to-point transportation.

Upon review of the whole matter of air/sea ITC's, the Board has decided to withdraw the original proposal (SPDR-26) and substitute therefor a simpler and more liberal rule. Thus, we propose to provide that the requirement for overnight hotel accommodations at a minimum of three places may be satisfied if shipboard accommodations in port or at sea are provided for at least three nights and the ship stops at a minimum of three ports no less than 50 air miles apart.

This proposal would eliminate substantial staff workload[4] and at the same time leave unharmed the ITC concept for air/sea tours. It should give greater freedom to tour operators in selling air/sea ITC's and would not appear to have any material adverse impact on the scheduled air carriers.

It is proposed to amend Part 378 of the Board's Special Regulations (14 CFR Part 378) as follows:

Amend § 378.2(b)(2) to read as follows:

§ 378.2 Definitions.

As used in this part, unless the context otherwise requires—

* * * * *

(b) "Inclusive tour" means * * *

(2) The land portion of the tour must provide overnight hotel accommodations at a minimum of three places other than the point of origin, such places to be no less than 50 air miles from each other: *Provided*, That right accommodations aboard ship, for three or more nights, in or out of port shall satisfy the requirements of this subparagraph, if the ship stops at a minimum of three ports no less than 50 air miles apart.

* * * * *

[FR Doc.72-18266 Filed 10-25-72; 8:55 am]

[1] "The land portion of the tour must provide overnight hotel accommodations at a minimum of three places other than the point of origin * * *."

[2] The staff may grant waivers of § 378.2(b)(2) to permit, on air/sea inclusive tours, daytime stops by a cruise ship in lieu of overnight stops where both of the following conditions prevail: (1) The daytime stop is of at least 12 hours' duration; and (2) the daytime stop is preceded or followed by a night at sea. § 385.13(v)(1).

[3] Capitol International Airways, Inc.; Overseas National Airways, Inc.; Saturn Airways, Inc.; Trans International Airlines, Inc.; Universal Airlines, Inc.; and World Airways, Inc.

[4] 37 requests for waivers to operate air/sea tours with daytime tour stops have been filed with the Board since 1969.

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R-455]

STATEMENTS AND REPORTS (SCHEDULES)

Imputed Rate of Return on Jurisdictional Rate Base; Notice of Extension of Time

OCTOBER 18, 1972.

Revisions to FPC Annual Report Form No. 2 to obtain allocation of costs between jurisdictional and nonjurisdictional pipeline operations to determine the imputed rate of return on jurisdictional rate base, Docket No. R-455.

On October 10, 1972, and October 13, 1972, the American Gas Association and the Independent Natural Gas Association of America, respectively, filed requests for an extension of time within which to file comments concerning the notice of proposed rule making issued on September 21, 1972, in the above-designated matter.[1]

Upon consideration, notice is hereby given that the time is extended to and including January 5, 1973, within which any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, data, views, comments, or suggestions in writing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18163 Filed 10-25-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 289]

REMITTANCE OF DEMURRAGE CHARGES BY COMMON CARRIERS OF PROPERTY BY RAIL

Detained Foreign Cars

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of October 1972.

This proceeding is being initiated to examine and consider the need for requiring all common carriers of property by railroad subject to the jurisdiction of this Commission to remit to the railroad freight car owner all demurrage charges over and above $10 per car per day collected and retained by a railroad on foreign cars being detained on its lines.

Demurrage is a charge imposed on shippers and receivers for the detention of freight cars beyond the allotted free time period for loading and unloading the freight cars. While its primary purpose is to expedite the release of the freight car, it is also a source of revenue to offset the per diem charges paid by the nonowner railroad to the owner of the car.

To discourage the unnecessary detention of freight cars by shippers and receivers, the Commission has recently authorized a substantial increase in the demurrage charges, in Demurrage Rules and Charges, Nationwide, 340 I.C.C. 83 (1971). After the expiration of the free time period, the presently applicable demurrage charges generally apply in increments of $10, $20, and $30 per car per day depending on the extent of the detention period. The first increment, $10, appears to be more than adequate to compensate the railroad on whose lines the foreign freight car is being detained in that it provides sufficient revenues to cover the payment of per diem, to compensate the railroad for the use of the track space on which the car is being detained and to provide an incentive for the prompt loading and unloading of freight cars by shippers and receivers.

However, detention of the foreign car on the lines of the nonowner offers no incentive for the railroad car owner to acquire additional cars in order to earn freight revenues, which is the primary purpose of the acquisition of cars. Therefore, remittance by the nonowner railroad of all demurrage charges in excess of $10 per car per day will accomplish two important purposes. It will create an added incentive for the railroad car owner to acquire additional cars and it will remove any inducement on the part of the nonowner railroad to encourage detention of foreign cars in order to benefit from collection of demurrage charges.

It is for these purposes that the instant rulemaking proceeding is instituted.

It appearing, that the collection and retention of demurrage charges by the nonowning carrier on whose lines the car is being detained in an amount over and above $10 per car per day does not comport with the purposes, goals, and objectives of the Interstate Commerce Act, the rules and regulations promulgated by the Commission thereunder, and the National Transportation Policy in that the railroad owner of the car receives only a small portion of the demurrage charge through the per diem rate; that the nonowning railroad has little incentive to expedite return of the car when it retains demurrage collections exceeding its own per diem expenses on the car; that the owner is deprived of the use of the car to earn revenue, which revenue potential exceeds the per diem rate paid by the nonowning railroad for use of the car; and that, as a result, the owner is discouraged from acquiring additional cars for revenue purposes;

And it further appearing, that this proceeding is not anticipated to have any adverse effects upon the quality of the human environment; and good cause appearing therefor:

It is ordered, That a proceeding be, and it is hereby, instituted under the provisions of Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.), including 1(4), 1(5), 1(6), 1(10), 1(11), 1(13), 1(14), 1(15), 1(17), 1(21), 6(7), 13(4), and 15(1), thereof, the National Transportation Policy (49 U.S.C. preceding section 1), and the Administrative Procedure Act, 5 U.S.C. sections 553 and 559, to determine whether the facts and circumstances require or warrant the adoption of the proposed regulation set forth below, or other regulations of similar purport applicable to common carriers of property by railroad subject to the Interstate Commerce Act, and for the purpose of taking such other and further action as the facts and circumstances may justify and require.

It is further ordered, That all common carriers of property by railroad operating in interstate or foreign commerce within the United States and subject to the Interstate Commerce Act, be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for receiving of testimony in this proceeding unless a need should later appear, but that respondents or any other interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, and arguments on the subject mentioned above, or any other subjects pertaining to this proceeding.

It is further ordered, That any person intending to participate in this proceeding by submitting initial or reply statements, or otherwise, shall notify this Commission, by filing with the Secretary, Interstate Commerce Commission, within 30 days of the service date of this order, the original and one copy of a statement of his intention to participate. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing initial and/or reply statements, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interests being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be issued in this proceeding; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding and upon whom copies of all statements must be filed; and that at the time of service list the Commission will fix the time within which initial statements and replies must be filed.

And it is further ordered, That statutory notice of the institution of this proceeding be given to the general public by mailing a copy of this order to the Governor of every State and to the Public Utilities Commission or Board of each State having jurisdiction over transportation, by depositing a copy of this order in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy thereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[SEAL]

The nonowning railroad, on whose lines a car is being detained under demurrage, shall remit to the railroad car owner all demurrage charges collected in excess of $10 per car per day.

[FR Doc.72-18259 Filed 10-25-72;8:55 am]

[1] Published at 37 F.R. 20260, September 28, 1972, and corrected at 37 F.R. 21544, October 12, 1972.

V37-207 OCT 26 72 XUM

Notices

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 371]

DOME PIPELINE CORP.

Request for Modification of Presidential Permit; Notice of Public Hearing on Draft Environmental Impact Statements

Notice is hereby given that a public hearing will be conducted by the Department of State on November 6, 1972, at 1:30 p.m. in the River Room of the Veterans Memorial Building, 151 West Jefferson Avenue, Detroit, MI. The purpose of the hearing will be to afford any interested members of the public with the opportunity to offer comments on a draft Environmental Impact Statement relating to a request that the Dome Pipeline Corp. has addressed to the Department for an amendment to a Presidential permit which was issued on March 13, 1969. The draft Environmental Impact Statement was issued by the State Department on October 3, 1972, and notice as to its availability to the public appeared in the FEDERAL REGISTER on October 11, 1972 (see 37 F.R. 21450). Persons desiring to obtain copies of the statement are able to do so on payment of $11, by check or money order, to the National Technical Information Service of the Department of Commerce, Springfield, Va. 22151. The statement's identifying NTIS number is EIS–NI–72–5398 D. Copies are also available for reading in the Office of the District Engineer, Corps of Engineers, 150 Michigan Avenue, Detroit, MI 48226 (Attention: Urban Boresch, Telephone 313—226–6800).

The proposed amendment to the Presidential permit would permit the Dome Corp. to transmit hydrocarbons through an existing pipeline segment under the Detroit River between Detroit, Mich. and Windsor, Ontario, Canada. The pipeline segment under the Detroit River will be part of a pipeline that will deliver hydrocarbon liquids from underground storage facilities in Windsor, Ontario, approximately 110 miles to the Columbia natural gas reforming plant now being built at Green Springs, Ohio. The draft Environmental Impact Statement, which was prepared pursuant to section 102(2)(c) of the National Environmental Policy Act, evaluates the environmental impact of the proposed Windsor-Green Springs line including those aspects related to the Detroit area.

Persons desiring to submit any comments on the draft statement are encouraged to do so in writing and are requested to notify either the Office of Environmental Affairs (SCI/EN), Department of State (telephone 202—632–9169) or the Office of the Detroit District Engineer, of their plans to attend the meeting.

Dated: October 19, 1972.

For the Secretary of State.

[SEAL] CHRISTIAN R. HERTER, JR.,
Special Assistant to the Secretary for Environmental Affairs.

[FR Doc.72–18174 Filed 10–25–72;8:53 am]

DEPARTMENT OF DEFENSE

Department of the Army

U.S. ARMY RESEARCH OFFICE—DURHAM, N.C.

Notice of Meeting

In accordance with Executive Order No. 11671, dated June 5, 1972, 37 F.R. 11307, as amended by Executive Order No. 11686, dated October 7, 1972, 37 F.R. 21421, announcement is made of the following Committee meeting:

Name of committee: Junior Science and Humanities Symposia Advisory Committee.

Date, time, and place: October 27, 1972, 0900 hours, Room 100, U.S. Army Research Office, 3045 Columbia Pike, Arlington, VA.

Proposed agenda: Introductory remarks. Introduction of new members: Action on summary of 23d meeting held April 26, 1972, U.S. Army Research Office-Durham, Durham, N.C. JSHS–231.

Material for file: Status of Regional Program and Funding, fiscal year 1973. Mr. Donald C. Rollins, Director, Duke JSHS Office.

Other Army Support of JSHSP, fiscal year 1973.

1973 National JSHS. Mr. Donald C. Rollins, Director, Duke JSHS Office.

Evaluation of JSHS Program. Mr. Franklin Kizer, State Department of Public Instruction, Richmond, Va.

Fiscal year 1974 JSHS Program. Mr. Donald C. Rollins, Director, Duke JSHS Office.

A. Proposed budget fiscal year 1974 JSHS Program.

Other items of business.

Date and place of next meeting.

E. W. GANNON,
Lieutenant Colonel, U.S. Army, Chief, Plans Office, TAGO.

[FR Doc.72–18175 Filed 10–25–72;8:54 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 5812, 6137]

OREGON

Opening of Public Lands

OCTOBER 17, 1972.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1272), as amended June 26, 1936 (49 Stat. 1976; 43 U.S.C. 315g), the following lands have been reconveyed to the United States.

[OR 5812]

WILLAMETTE MERIDIAN

T. 18 S., R. 17 E., Crook County,
Sec. 4, SW¼NW¼ and W½SW¼;
Sec. 9, W½NW¼, NW¼SW¼, and E½SW¼;
Sec. 16, SE¼NW¼ and E½SW¼;
Sec. 27, NW¼SW¼;
Sec. 28, SE¼NE¼ and N½SE¼.
T. 21 S., R. 17 E., Deschutes County,
Sec. 16, S½.
T. 3 S., R. 18 E., Sherman County,
Sec. 16, all.
T. 7 S., R. 18 E., Wasco County,
Sec. 36, N½NE¼, NW¼, and S½SE¼, except Shaniko-Fossil Highway right-of-way conveyed to the State Highway Commission on October 18, 1951, State Record of Deeds, Book 53, page 111, said right-of-way containing 26.2 acres.
T. 18 S., R. 22 E., Crook County,
Sec. 16, all;
Sec. 36, N½.

[OR 6137]

T. 14 S., R. 12 E., Deschutes County,
Sec. 29, SE¼SW¼, and that portion of the SW¼SE¼ lying west of the center line of Buckhorn Road;
Sec. 31, lots 1, 2, and 3, NE¼NE¼, S½NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 32, NW¼SW¼, and that portion of the NE¼SW¼ lying west of the center line of Buckhorn Road.
T. 15 S., R. 11 E., Deschutes County,
Sec. 1, lots 2, 3, and 4, SW¼NW¼, SW¼SW¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission in deed recorded January 16, 1956, in Volume 112 page 330 deed records.
Sec. 2, lots 1 and 2, SE¼NE¼, S½NW¼, S½S½, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission in deed recorded January 16, 1956, in Volume 112 page 330 deed records.
Sec. 3, SW¼NE¼, W½SE¼, S½SE¼SE¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission in deed recorded January 16, 1956, in Volume 112 page 330 deed records.
Sec. 9, E½SE¼;
Sec. 10, E½NE¼, W½E½, NW¼SW¼;
Sec. 11, SE¼NE¼, N½N½, N½SE¼, SW¼SE¼;
Sec. 12, NW¼, N½SW¼, SE¼SW¼;
Sec. 13, N½NE¼, SE¼NE¼, NE¼NW¼, SW¼NW¼, NW¼SW¼;
Sec. 14, SE¼NE¼, W½NE¼, NE¼SE¼;
Sec. 15, S½NW¼, N½SW¼;
Sec. 16, E½, E½SW¼;
Sec. 21, W½, SE¼;
Sec. 25, SW¼SW¼;
Sec. 26, SE¼NE¼, E½SE¼;
Sec. 36, E½, E½NW¼, SW¼NW¼, SW¼.
T. 15 S., R. 12 E., Deschutes County,
Sec. 31, lots 3 and 4, E½SW¼, SE¼;
Sec. 32, NW¼.
T. 16 S., R. 11 E., Deschutes County,
Sec. 1, N½SW¼;
Sec. 2, lots 1, 2, 3, and 4, N½SW¼;
Sec. 3, lot 1, SW¼SE¼, E½SE¼;
Sec. 10, N½NE¼.

T. 17 S., R. 14 E., Deschutes County,
Sec. 4, S½;
Sec. 6, lots 1 and 2, S½NE¼, SE¼;
Sec. 7, E½;
Sec. 9, N½, SE¼;
Sec. 10, W½E½, W½;
Sec. 12, NW¼SW¼;
Sec. 18, E½, E½W½.
T. 19 S., R. 15 E., Deschutes County,
Sec. 18, SE¼NE¼;
Sec. 29, S½S½, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57, page 158 deed records;
Sec. 31, E½, E½W½;
Sec. 32, all, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records;
Sec. 33, N½NW¼, SW¼NW¼, excepting therefrom parcels conveyed to the State of Oregon by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records;
Sec. 34, S½NE¼;
Sec. 36, SW¼, NE¼SE¼, W½SE¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records.
T. 19 S., R. 16 E., Deschutes County,
Sec. 24, W½NE¼, NW¼, N½SW¼, W½SE¼;
Sec. 25, W½NE¼, NW¼SE¼;
Sec. 36, S½NE¼, NE¼SW¼, S½SW¼, SE¼.
T. 20 S., R. 14 E., Deschutes County,
Sec. 13, NE¼, NE¼SW¼, S½SW¼;
Sec. 24, N½NW¼, SW¼NW¼, SW¼, W½SE¼, NE¼SE¼.
T. 20 S., R. 15 E., Deschutes County,
Sec. 5, all (lots 1, 2, 3, and 4, S½N½, S½);
Sec. 6, lots 1, 2, 3, 4, and 5, S½NE¼, SE¼NW¼;
Sec. 7, E½;
Sec. 8, W½, SE¼;
Sec. 13, E½;
Sec. 17, N½;
Sec. 18, all (lots 1, 2, 3, and 4, E½, E½W½);
Sec. 30, lots 1, 2, 3, and 4.
T. 20 S., R. 16 E., Deschutes County,
Sec. 1, N½SW¼SW¼;
Sec. 2, NW¼SW¼SE¼, S½S½SE¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records.
Sec. 3, NW¼NE¼SW¼, S½NE¼SW¼, E½NW¼SE¼, SW¼NW¼SE¼;
Sec. 4, lots 1, 2, 3, and 4, S½NW¼, SW¼, excepting therefrom parcels conveyed to the State of Oregon in deed recorded June 3, 1933 in Volume 52 page 130 deed records, and to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records;
Sec. 5, lots 1 and 2, S½SE¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records;
Sec. 7, lots 1 and 2, NE¼, E½NW¼;
Sec. 8, NE¼, W½;
Sec. 9, NW¼;
Sec. 12, NW¼NW¼NW¼, S½NW¼NW¼;
Sec. 17, NW¼, NE¼SW¼, W½SE¼, SE¼SE¼;
Sec. 18, all (lots 1, 2, 3, and 4, E½, E½W½);
Sec. 19, lots 1 and 2, NE¼, E½NW¼;
Sec. 20, NW¼;
Sec. 36, N½, SE¼.
T. 20 S., R. 17 E., Deschutes County,
Sec. 4, lot 1, SE¼NE¼, E½SE¼;
Sec. 9, E½E½;
Sec. 10, SW¼NE¼, W½;
Sec. 22, S½;
Sec. 24, NE¼, excepting therefrom parcel conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded December 17, 1938 in Volume 57 page 158 deed records;
Sec. 25, N½;
Sec. 26, SW¼, W½SE¼;
Sec. 29, W½;
Sec. 35, SE¼NE¼, W½NE¼, NW¼, N½SW¼, NW¼SE¼.
T. 20 S., R. 19 E., Deschutes County,
Sec. 1, lots 1, 2, 3, and 4;
Sec. 2, all (lots 1, 2, 3, and 4, S½N½, S½);
Sec. 11, all.
T. 21 S., R. 18 E., Deschutes County,
Sec. 27, W½;
Sec. 31, lots 2, 3, and 4, SE¼NW¼, E½SW¼, S½SE¼;
Sec. 33, N½;
Sec. 34, W½;
Sec. 35, E½;
Sec. 36, all.
T. 21 S., R. 19 E., Deschutes County,
Sec. 20, all;
Sec. 29, E½;
Sec. 31, S½SE¼;
Sec. 32, W½;
Sec. 33, W½, SW¼SE¼.
T. 21 S., R. 20 E., Deschutes County,
Sec. 4, N½SW¼;
Sec. 7, lots 3 and 4, E½SW¼, SE¼;
Sec. 9, W½W½;
Sec. 16, NE¼, NE¼NW¼;
Sec. 17, S½;
Sec. 19, lots 1 and 2, NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission in deed recorded October 22, 1938 in Volume 57 page 60 deed records;
Sec. 20, N½, SW¼, N½SE¼, SW¼SE¼, W½SE¼SE¼, excepting therefrom parcel conveyed to the State of Oregon, by and through its Highway Commission, in deed recorded February 19, 1945 in Volume 66 page 254 deed records;
Sec. 22, W½, SW¼SE¼;
Sec. 29, E½NE¼, NW¼NE¼, NE¼NW¼, excepting therefrom parcels conveyed to the State of Oregon, by and through its State Highway Commission, in deed recorded October 22, 1938 in Volume 57 page 60 deed records.
T. 22 S., R. 19 E.,
Sec. 3, all (lots 1, 2, 3, and 4, S½N½, S½);
Sec. 4, lots 1, 2, 3, and 4, S½N½, SW¼, S½SE¼;
Sec. 5, all (lots 1, 2, 3, and 4, S½N½, S½);
Sec. 6, all (lots 1, 2, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼, SW¼).

The areas described above aggregate 33,241.35 acres.

2. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.), and the mineral leasing laws. All valid applications received at or prior to 10 a.m., November 22, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Post Office Box 2965, Portland, OR 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.72–18171 Filed 10–25–72;8:54 am]

National Park Service

OLYMPIC NATIONAL PARK

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Olympic National Park, proposes to extend the concession permit issued to Henry A. Brown authorizing him to provide concession facilities and services for the public at Olympic National Park for a period of one (1) year from December 1, 1972 through November 30, 1973. The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, WA, for information as to the requirements of the proposed permit.

Dated: September 22, 1972.

R. W. ALLIN,
Superintendent, Olympic National Park.

[FR Doc.72–18167 Filed 10–25–72;8:46 am]

Office of the Secretary

[INT FES 72–38]

SHORTCUT PIPELINE MODIFICATION

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on the construction of a 5.1-mile underground pipeline which is a modification of the existing Contra Costa Canal Unit, Central Valley Project, Calif.

Copies are available for inspection at the following locations:

V37-207 OCT 26 72 XUM

Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone 202—343–4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, Telephone 303—234–3007.

Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825, Telephone 916—481–6100.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 16, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72–18169 Filed 10–25–72;8:47 am]

[INT DES 72–105]

TWIN LAKES DAM AND RESERVOIR ENLARGEMENT AND MOUNT ELBERT FOREBAY FRYINGPAN-ARKANSAS PROJECT, COLO.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for construction of Twin Lakes Dam and Reservoir Enlargement and Mount Elbert Forebay, an authorized feature of the Fryingpan-Arkansas Project. The principle function of this feature is to provide an afterbay for the Mount Elbert Pumped-Storage Powerplant. Other functions will include recreation, fish and wildlife enhancement, and regulation for downstream water releases. Written comments are invited within 45 days of this notice. Written comments can be directed to the Regional Director, Denver, Colo. (see complete address below).

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone 202—343–4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, Telephone 303—234–3007.

Office of the Regional Director, Bureau of Reclamation, Building 20, Denver Federal Center, Denver, Colo. 80225, Telephone 303—234–4441.

Project Manager, Fryingpan-Arkansas Project Office, Post Office Box 515, Pueblo, Colo. 81002, Telephone 303—544–5277.

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation and the Regional Director. In addition, copies are available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 16, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72–18168 Filed 10–25–72;8:46 am]

DEPARTMENT OF AGRICULTURE

Office of Information Systems

WASHINGTON DATA PROCESSING CENTER (WDPC)

Redesignation as Washington Computer Center

The Washington Data Processing Center (WDPC), U.S. Department of Agriculture, has been redesignated as the U.S. Department of Agriculture, Washington Computer Center (WCC).

Effective date: October 17, 1972.

Dated: October 19, 1972.

MELVYN R. COPEN,
Director, Office of Information Systems.

[FR Doc.72–18275 Filed 10–25–72;8:55 am]

Soil Conservation Service

TALLULAH CREEK (LONG CREEK PORTION) WATERSHED PROJECT, N.C.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Tallulah Creek (Long Creek Portion) Watershed Project, Graham County, N.C., USDA–SCS–ES–WS–(ADM)–72–17 (F).

The environmental statement concerns a plan for watershed protection, flood prevention, and municipal water supply. The planned works of improvement include conservation land treatment, supplemented by one multiple-purpose reservoir.

The final environmental statement was transmitted to CEQ on October 16, 1972.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, DC 20250.

Soil Conservation Service, USDA, Federal Building, New Bern Avenue, Raleigh, N.C. 27611.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151. Please refer to name and number of statement when ordering. The estimated cost is $3.40.

Tallulah Creek (Long Creek Portion), Watershed Project, N.C. Notice of Availability of Final Environmental Statement.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

EUGENE C. BUIE,
Deputy Administrator for Watersheds, Soil Conservation Service.

OCTOBER 18, 1972.

[FR Doc.72–18207 Filed 10–25–72;8:54 am]

DEPARTMENT OF COMMERCE

Maritime Administration

RECONSTRUCTION TO IMPROVE CONTAINER LIFT CAPACITY

Computation of Foreign Cost; Notice of Intent

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign cost for reconstruction to improve container lift capacity on a vessel (identified as MA Design C6–S–69c), pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, firm, or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by close of business on November 1, 1972, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, DC 20235.

Dated: October 20, 1972.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72–18362 Filed 10–25–72;8:55 am]

Office of Import Programs

STATE UNIVERSITY COLLEGE AT GENESCO, ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72–00456–33–46040. Applicant: State University College at Genesco, Biology Department, Genesco, N.Y. 14454. Article: Electron microscope, Model HS–8–1. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article will be used primarily by students in three courses—Cell Biology (Jr.-Sr. level); microtechnic (Jr.-Sr. first year graduate); cytology (Sr. first year graduate), for training in electron microscopy techniques. Application received by Commissioner of Customs: March 21, 1972. Advice submitted by Department of Health, Education, and Welfare on: August 4, 1972.

Docket No. 72–00610–33–46040. Applicant: University of Florida, College of Medicine, Department of Ophthalmology, Gainesville, Fla. 32601. Article: Electron microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in ultrastructural studies of human cornea to resolve the corneal lamellae and viruses associated with human disease and ultrastructural studies of the Canal of Schlemm and trabecular meshwork in human eyes from both autopsy and biopsy samples to correlate ultrastructure with physiology or diseased states. The article will also be used for training purposes in the courses: Topics in Ophthalmology Research MED 600 series and Special Topics in Pathology MED 646. The students will become familiar with the operation of the instrument along with other techniques and procedures such as tissue culture, microsurgical techniques, immunological techniques, research virology, techniques in genetics, perfusion techniques and general research design. Application received by Commissioner of Customs: June 5, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 6, 1972.

Docket No. 72–00616–33–46040. Applicant: Howard University, 2400 Sixth Street NW., Washington, DC 20001. Article: Electron microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the following current and projected research projects:

Docket No. 72–00474–33–46040. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Electron microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in studies of kidney tissue obtained at autopsy and by biopsy of patients with acute renal failure. The degree of cellular structural alteration will be correlated with the severity and duration of the clinical disease. Kidneys of rats where acute renal failure has been produced by renal ischemia or the administration of a nephrotoxin will be studied at various intervals after the initial injury. The findings will then be correlated with functional data obtained by psysiological experiments carried out in similar animals. The article will also be used to familiarize interns, residents and research trainees in the methods and techniques of electron microscopy as applied to the study of human disease. Application received by Commissioner of Customs: April 3, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 6, 1972.

1. The fine structure of cross section of hair from several different strains of rats. This study will be correlated with surface structures seen with the scanning electron microscope.

2. The ultrastructure of skin from the ear of the newborn rat as compared with that of the footpad.

3. Ultrastructural characteristics of several different protozoa including Spirostomum, Telotrichidium and Vorticella.

4. The fine structure of brine shrimp eggs before and immediately after development begins.

5. The study of stereo electron micrographs of nuclear symbients isolated from protozoa, particularly Spirostomum. The article will also be used in a course entitled Advanced Cytology to train students in the fundaments of electron microscopy from tissue preparation through micrograph interpretation. Application received by Commissioner of Customs: June 12, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 6, 1972.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU–4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

R. BLANKENHEIMER,
Acting Director, Office of Import Programs.

[FR Doc.72–18205 Filed 10–25–72;8:54 am]

UNIVERSITY OF AKRON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 72–00137–36–46040. Applicant: The University of Akron Institute of Polymer Science, 302 East Buchtel Avenue, Akron, OH 44304. Article: Electron microscope, Model JEM–120. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article is intended to be used for high resolution microscopy in research to obtain information about the molecular structure, morphology, phase separation, domain formation, and crystal growth of polymers, glasses, and inorganic polymers.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 4 Angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the National Bureau of Standards in its memorandum dated July 11, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

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The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18202 Filed 10-25-72;8:54 am]

UNIVERSITY OF CHICAGO ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the decisions is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 72-00418-00-46040. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Image Intensifier for Electron Microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing electron microscope being used for comparison of optical size with sedimentation constants of protein macromolecules and enzymes. Application received by Commissioner of Customs: March 1, 1972. Advice submitted by Department of Health, Education, and Welfare on: October 6, 1972.

Docket No. 72-00622-00-11000. Applicant: Department of the Interior, Bureau of Sport Fisheries and Wildlife, Patuxent Wildlife Research Center, Laurel, Md. 20810. Article: LKB Leak Inlet System. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory for the LKB 9000 Gas Chromatograph—Mass Spectrometer which allows rapid introduction of liquids or solids into the mass spectrometer but bypasses the gas chromatographic system. Application received by Commissioner of Customs: June 19, 1972. Advice Submitted by Department of Health, Education, and Welfare on: October 6, 1972.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicants' intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18203 Filed 10-25-72;8:54 am]

UNIVERSITY OF TEXAS MEDICAL BRANCH ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00417-33-46040. Applicant: University of Texas Medical Branch, Office of the Purchasing Agent, Administration Building, UMED, 2-16148, Galveston, Tex. 77550. Article: Electron Microscope, Model EM 300. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used by qualified investigators for research on biogenic amines and synaptic interconnections in the nervous system. Application received by Commissioner of Customs March 1, 1972. Advice submitted by Department of Health, Education, and Welfare on October 6, 1972.

Docket No. 72-00469-33-46040. Applicant: Wills Eye Hospital, 1601 Spring Garden Street, Philadelphia, PA 19130. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used for studies utilizing biologic material of ocular origin, both human and experimented animal tissue. All parts of the eye will be studied including cornea, angle structures, iris, ciliary body, pars plana, choroid retina, and optic nerve. At various times, tissue of the central nervous system and cutaneous tissue may be studied. Application received by Commissioner of Customs March 31, 1972. Advice submitted by Department of Health, Education, and Welfare on October 6, 1972.

Docket No. 72-00492-33-46040. Applicant: Eunice Kennedy Shriver Center for Mental Retardation, Inc., 200 Trapelo Road, Waltham, MA 02154. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instrument, N.V.D., the Netherlands. Intended use of article: The article is intended to be used for electron microscopic studies concerning the normal and abnormal morphogenesis of the brain with the aim of defining the morphological basis of mental retardation and related disorders. Another investigation to be carried out will involve identification of subcellular particles which have been obtained after gradient centrifugation of fragmented material, the study of specific organelles, the evaluation of the structural changes in certain human metabolic diseases. The article will also be used for training in electron microscopy in relation to neuropathology. Application received by Commissioner of Customs April 11, 1972. Advice submitted by Department of Health, Education, and Welfare on October 6, 1972.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 Angstroms. (Resolving capability bears an inverse relationship to its numerical rating in Angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18206 Filed 10-25-72;8:54 am]

UNIVERSITY OF WASHINGTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 73-00101-56-17500. Applicant: University of Washington, Department of Oceanography, WB-10, Seattle, Wash. 98195. Article: Two (2) Recording Current Meters. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The article is intended to be used in detailed studies of the interaction of the deep Arctic basin water with the peripheries, including that portion of the Canadian basin subtending the sector from Amundsen Gulf on the east to Wrangel Island on the west.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 72-00486-81-17500 which was denied without prejudice to resubmission on July 14, 1972 for informational deficiencies. The foreign article is a self-contained instrument which provides capabilities for measuring and recording water current speed, current direction, temperature, and operating periods of 1 year. We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 2, 1972 that the requirement for a self-contained instrument capable of operating for up to 1 year is pertinent to the purposes for which the article is intended to be used. NBS also advises that it knows of no domestically manufactured instrument which is scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

B. BLANKENHEIMER,
Acting Director,
Office of Import Programs.

[FR Doc.72-18204 Filed 10-25-72;8:54 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-516]

DOW CHEMICAL CO.

Certain Products Containing Neomycin and Other Drugs; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of Augst 21, 1970 (35 F.R. 13400, DESI 52NV), and September 5, 1970 (35 F.R. 14168, DESI 12-INV), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on: (1) Neo-Polycin Ophthalmic (DESI 12-INV), (2) Neo-Polycin HC Ophthalmic (DESI 12-INV), (3) Neo-Polycin HC (DESI 52NV) and (4) Neo-Polycin Ophthalmic Solution (DESI 12-INV); marketed by The Dow Chemical Co., Post Office Box 10, Zionsville, Ind. 46077.

Pitman-Moore, Inc., the firm named in said announcements, informed the Commissioner that the named products were retained by The Dow Chemical Co. when Pitman-Moore, Inc., became a subsidiary of Johnson & Johnson. The Dow Chemical Co. notified the Commissioner that these products are not being marketed as veterinary drugs. They further stated that they do not object to the withdrawal of the veterinary applications for these products.

Based on the grounds set forth in said announcements and the firms' statements, the Commissioner concludes that the new animal drug applications for the above named products should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of the new animal drug applications for the above products is hereby withdrawn effective on the date of publication of this document.

Dated: October 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18158 Filed 10-25-72;8:45 am]

[Docket No. FDC-D-454; NADA 10-877V]

BEECHAM-MASSENGILL PHARMACEUTICALS

Daribiotic Injectable; Notice of Opportunity for a Hearing

In an announcement in the FEDERAL REGISTER of August 12, 1970 (35 F.R. 12789, DESI 9928V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Daribiotic Injectable, NADA (new animal drug application) No. 10-877V. The announcement invited the holder of said new animal drug application, Beecham-Massengill Pharmaceuticals, division of Beecham, Inc. (formerly S. E. Massengill Co.), Bristol, Tenn. 37620, and any other interested persons to submit pertinent data on the drug's effectiveness.

Data were not received in response to the announcement and available information fails to provide substantial evidence that this drug will have the effect it purports to have when administered in accordance with the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, notice is given to Beecham-Massengill Pharmaceuticals, and to any other interested persons who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) withdrawing approval of NADA No. 10-877V, including all amendments and supplements thereto.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner hereby gives the applicant and any other interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of NADA No. 10-877V should not be withdrawn. Promulgation of the order will cause any drugs similar in composition to the above-cited drug products and recommended for similar conditions for use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drugs then on the market will be subject to appropriate regulatory action.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a

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trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 17, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18159 Filed 10-25-72;8:45 am]

NATIONAL ADVISORY FOOD COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671, the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 13(a) (1) and (2) of that order:

Committee name, Date/Time/Place, Type of meeting and contact person

National Advisory Food Committee; October 30, 10 a.m., Room 6821, 200 C Street, SW., Washington, DC; open—10 a.m. to 12 m., closed—1 p.m. to 4:30 p.m., Robert A. Littleford, Ph. D., Room 7–67, 5600 Fishers Lane, Rockville, MD 20852, 301–443–4463.

Purpose. Advises the Commissioner of Food and Drugs on policy matters of national significance relating to safety of foods. Reviews and makes recommendations on applications for grants-in-aid. Serves as a forum for exchange of views and recommendations.

Agenda. Review of final order on nutritional labeling. Submission of recommendations.

The afternoon portion of this meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's notice of determination of September 27, 1972, published in the FEDERAL REGISTER of October 5, 1972 (37 F.R. 20995).

A list of committee members and summary minutes of the meeting may be obtained from the contact person for the committee.

Dated: October 25, 1972.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.72-18417 Filed 10-25-72;11:26 am]

National Institutes of Health

PUBLIC HEALTH REVIEW COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of meeting of the following committee and the executive secretary from whom summaries of meetings may be obtained.

Committee, Date, Time, and Location of Meeting

Public Health Review Committee, William J. Holland, Executive Secretary; November 8–10, 1972; 9 a.m.; Building 31, Conference Room 7.

This meeting shall be closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination in order to review, discuss and evaluate and/or rank grant applications.

Dated: October 18, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-18194 Filed 10-25-72;8:52 am]

NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the National Advisory Research Resources Council meeting, November 16 and 17, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9 a.m. to 9:10 a.m. and 1:30 p.m. to 5 p.m. on November 16 to discuss previous meeting minutes, consider future meeting dates, hear reports from the Director and Assistant Director, DRR, and to discuss presentations concerning activities of the Department of Defense in the biomedical area mapping onto DRR programs; highlight data concerning DRR programs; and, an overview of Biotechnology Resources Branch programs with emphasis on resource sharing. The meeting will be closed to the public from 9:10 a.m. to 12:30 pm., November 16 and 9 a.m. to adjournment on November 17, to review, discuss, and evaluate grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's Determination.

The Information Officer who will furnish summaries of the meetings and rosters of Council members is Mr. James Augustine, Division of Research Resources, Building 31, Room 4B03, Bethesda, Md. 20014, 496–5545.

The Executive Secretary from whom substantive information may be obtained is Dr. James F. O'Donnell, Assistant Director, Division of Research Resources, Building 31, Room 5B05, Bethesda, Md. 20014, 496–1817.

Dated: October 18, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-18198 Filed 10-25-72;8:53 am]

NATIONAL CANCER INSTITUTE BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the NCI Board of Scientific Counselors, November 13, 1972, at 9 a.m., National Institutes of Health, Building 31 "C" Wing, Conference Room 8, Bethesda, Md. The subject for discussion at the meeting will be the collaborative program of the Division of Cancer Biology and Diagnosis, NCI. This meeting will be open to the public from 9 a.m. to 5 p.m., November 13, 1972.

Name of the person from whom rosters of NCI Board of Scientific Counselors and/or summary of the meeting may be obtained:

Dr. Nathaniel I. Berlin, National Cancer Institute, Building 31, Room 4B17, Bethesda, Maryland 20014

Dated: October 17, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-18192 Filed 10-25-72;8:52 am]

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES BOARD OF SCIENTIFIC COUNSELORS

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Board of Scientific Counselors, November 20–21, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 2. This meeting will be open to the public from 9 a.m. to 5 p.m., November 20, 1972, to discuss administrative reports and the on-going research of scientists in the Laboratory of Microbiology, and closed to the public from 9 a.m. to 5 p.m., November 21, 1972, to review, discuss and evaluate the individual research projects of members of the Laboratory, in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

1. Mr. Robert L. Schreiber, Information Officer, NIAID, NIH, Building 31, Room 7A32, Bethesda, MD 20014, 496–5717.
2. Dr. John R. Seal, Executive Secretary, NIAID, NIH, Building 31, Room 7A03, Bethesda, MD 20014, 496–6721.

Dated: October 18, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-18195 Filed 10-25-72;8:53 am]

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, November 16–17, 1972, at 9 a.m. National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 9 a.m. to 10 a.m., and from 1:30 p.m. to 5 p.m., on November 16, at which time staff and Council will report on and discuss recent program developments and plans in the Institute's ongoing programs. The meeting will be closed to the public from 10 a.m. to 1:30 p.m., on November 16, and from 9 a.m. to 12 noon on November 17, 1972, to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of the committee members and/or summary of the meeting may be obtained: Mr. Robert L. Schreiber, Information Officer, NIAID, National Institutes of Health, Building 31, Room 7A34, Bethesda, Md. 20014, telephone 496–5717, and Dr. William I. Gay, Associate Director, Extramural Programs, NIAID, National Institutes of Health, Westwood Building, Room 703, Bethesda, MD 20014, telephone 496–7291

Dated: October 18, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-18196 Filed 10-25-72;8:53 am]

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee and the Executive Secretary from whom a summary of the meeting may be obtained.

Study Section/Committee, date, time, and location of meeting

Artificial Kidney-Chronic Uremia Advisory Committee; November 2, 1972; 9 a.m. to 5 p.m.; National Institutes of Health.

The Executive Secretary from whom substantive information may be obtained is: Dr. Robert J. Wineman, NIAMDD, National Institutes of Health, Building 31, Room 9A05, (301) 496–4881.

These meetings shall be closed to the public in accordance with Section 13(d) of Executive Order 11671 and the Secretary's determination, in order to review, discuss and evaluate and/or rank grant applications.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 17, 1972.

[FR Doc. 72-18193 Filed 10-25-72;8:52 am]

NATIONAL ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES ADVISORY COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council from 8 p.m., November 15, 1972, through November 17, 1972, at the National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public from 8 p.m., November 15 to 1 p.m. on November 16, during which time administrative reports will be discussed with the Council. The meeting will be closed to the public from 1:30 p.m. November 16 to 5 p.m. on November 17 in order that the Council may review, discuss and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Dr. R. W. Lamont-Havers, Deputy Director, NIAMDD, National Institutes of Health, Building 31, Room 9A52, Bethesda, Md. (301) 496–1504.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

OCTOBER 17, 1972.

[FR Doc.72-18191 Filed 10-25-72;8:52 am]

NATIONAL ADVISORY ENVIRONMENTAL HEALTH SCIENCES COUNCIL

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, November 16–17, 1972, at 9 a.m., National Environmental Health Sciences Center, Research Triangle Park, N.C., Building 1 Conference Room. This meeting will be open to the public from 9 a.m., November 16, 1972, to report on (1) NIEHS's participation in several international and collaborative programs; (2) progress of the National Center for Toxicological Research at Pine Bluff, Ark.; (3) OST–CEQ Committee on Environmental Health Research; (4) Veterans Administration Activities; (5) NIEHS hycanthone studies; and (6) Phthalate Esters Conference, and closed to the public 1:30 p.m., November 16, 1972, to review, discuss and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

The names, addresses, room numbers, and phone numbers of:

1. The committee management officer who will furnish summaries of the open meeting and rosters of committee members:

Mrs. Leota B. Staff, NIEHS, NIH, Westwood Building, Room 404, Bethesda, Md. 20014. (301) 496–7483

2. The Executive Secretary from whom substantive information may be obtained:

Dr. Otto A. Bessey, Acting Associate Director for Extramural Programs, NIEHS, National Institutes of Health, Bethesda, Md. 20014. (301) 496–7483

Dated: October 18, 1972.

JOHN F. SHERMAN,
Deputy Director, National Institutes of Health.

[FR Doc.72-18197 Filed 10-25-72;8:53 am]

Office of the Secretary

HEALTH MANPOWER TRAINING

Request for Information on Costs of Educating Various Health Professionals

Section 205(a)(1) of the Comprehensive Health Manpower Act of 1971 (85 Stat. 431) provides that "[t]he Secretary of Health, Education, and Welfare * * * shall arrange for the conduct of a study or studies to determine the national average annual per student educational cost of schools of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and nursing in providing education programs which lead respectively to a degree of doctor of medicine, a degree of doctor of osteopathy, a degree of doctor of dentistry * * *, a degree of doctor of optometry * * *, a degree of bachelor of science in pharmacy * * *, a degree of doctor of podiatry * * *, a degree of doctor of veterinary medicine * * *, a certificate or degree or other appropriate evidence of completion of a course of training for physicians assistants or dental therapists, or a certificate or degree certifying completion of nurses training."

As authorized by section 205(b)(1) of the Act these studies are being conducted by the National Academy of Sciences at the request of the Secretary. Several areas of inquiry are being announced in this notice and interested parties are being invited to submit their views.

This notice lists procedures in Part I, general areas of inquiry in Part II and more detailed questions in Part III. The general and more detailed questions reflect preliminary formulation of the issues related to the study and do not preclude either interested parties or the study group from broader, narrower or differing formulations in response to

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submissions or to developments in its own thinking.

Interested parties are invited to submit responses to the general questions in Part II. The questions in Part III are designed to elicit more specific technical information from parties with detailed knowledge of the specific questions.

PART I: PROCEDURES

1. All persons interested in this subject are invited to submit views and information, bearing on the questions listed in this notice. Submissions may be made by professional associations, educational institutions, hospitals, individuals, or other associations (which should state the character of their membership).

2. Interested persons may address themselves to any or all of the questions listed below, to the general questions only, or the general and specific questions, but no one should feel compelled to respond to every question. Many questions can be answered effectively only by organizations and individuals with special knowledge. Nevertheless, the full list is being published in order to inform the public of the issues being canvassed.

3. For ease of comprehension and comparison, all submissions should, insofar as practicable, follow the outline of the general questions listed in Part II. Any economic data and projections should also be fully identified in each instance as to source, date, and methodology of development. It is vital that all data be accompanied by an explicit statement of the methodology by which the underlying statistics were obtained and processed.

4. Persons with common interests are encouraged to make joint submissions to the maximum possible extent and to confine separate submissions to any views or facts peculiar to each. Whenever individual institutional data would disclose confidential cost or other data, such institutions are encouraged to make joint submissions through organizations that can aggregate such data in a meaningful way without disclosure of confidential figures for or to individual institutions.

5. Ten copies of each submission should be delivered to Room 5059 HEW, North Building, 330 Independence Avenue SW., Washington, DC, where they will be transmitted as delivered to the study offices. All submissions to the Study from outside the Federal Government, other than proprietary data, will be made available to the public in the library of the study, Room 328, Joseph Henry Building, located at 21st and Pennsylvania NW., Washington, D.C. Proprietary data, to avoid deposit in the library, must be submitted separately and identified as such. Any departure from this separate submission procedure—e.g., by including nonconfidential material—will be cause for deposit of the entire submission in the library.

6. Submissions should be preceded by a concise summary of not more than five (5) pages in length, followed by a text of not more than 50 pages. With reason, there is no limit on the number of accompanying appendices, charts, or graphs. All pages should be 8½" x 11", with text in black type and double-spaced and must be suitable for reproduction on normal office copying machines. One copy should be in unbound and unstapled form to facilitate copying.

7. Any interested person may read all the submissions in the study library and may, in addition, reproduce one (1) copy of any or all pages on the copying machine the study expects to have available in the library by payment in cash of an appropriate user charge.

8. The study will not accept any submissions in response to the questions listed below after December 1, 1972. This date is firm.

9. The study may, after reviewing the initial submissions, propound additional or repeated questions by publication of a similar notice in the FEDERAL REGISTER or by notice to individuals. Whether or not such additional or repeated questions are propounded, all interested parties are invited to submit additional or more refined data, comments, statements of views, and arguments by way of rebuttal, after their own review of initial submissions no later than January 1, 1973. Interested persons may thereafter read and reproduce these second-round or rebuttal submissions as before.

10. Any interested person considering himself or itself placed under hardship by these procedures should so notify the study in writing on or before November 15, 1972, specifying with particularity the nature of the hardship and the exact procedural change proposed. Any changes considered meritorious by the study will be published promptly in the FEDERAL REGISTER.

PART II. GENERAL QUESTIONS

1. What activities should be included in the "educational cost" (as contrasted with purely instructional costs) of training a health professional?

2. What are the principal causes of cost variations among schools within each of the eight fields—do they and how do they relate to differences in the health professionals which schools in each field produce?

3. What kind of continuing cost finding and cost reporting system would serve best the interests of the health professional schools, Federal Government, and other purchasers of research and patient care and be consonant with general university cost finding efforts?

4. What are the advantages and disadvantages of alternative forms of Federal financial support for health professional education?

PART III. SPECIFIC QUESTIONS

I. *Definition of "educational costs".* 1. What activities in health professional schools, while not contributing directly to instruction of health professionals, must be part of the educational environment in which instruction occurs? How should the educational "share" of the costs of these activities be determined?

2. What activities in each type of health professional school produce instructional services at the same time they produce research and patient care services? What rationale should govern allocation of the cost of these activities among research, patient care, and instruction programs?

3. What are different methods of allocating faculty salary and other costs of programs (e.g., based on absolute hours spent, percent effort, sample vs. complete enumeration, etc. and what are their respective advantages and disadvantages?

4. To what extent and on what basis should the costs of teaching services provided by interns and residents to undergraduate health professionals be included as a cost of undergraduate education?

5. What major cost differences between teaching hospitals and community hospitals (e.g., differences in utilization of dignostic tools, length of stay, patient mix, collection of accounts receivables, etc.) are attributable to the hospital's role as an educational institution, and should they be charged, therefore, to the educational program?

6. On what basis should income be allocated to different major program areas (e.g., education research, patient care, and community services), especially the following types of income?

a. Unspecified endowment or gift income.

b. Third party or other payments for patient care in teaching centers.

c. Sponsored research.

7. What are the advantages and disadvantages of defining educational costs as gross instructional costs and net (of offsetting income) patient care and research costs?

II. *Causes of Variations in Cost.* 8. What differences in career patterns among graduates of initial degree programs can explain variations among schools in the cost of producing these graduates?

9. To what extent do different educational program approaches, e.g., mix of preclinical and clinical programs, faculty/student ratio, course offerings, etc., correlate with differences in the kinds of graduates identified in II.I (above)?

10. How do the following affect patient care costs attributable to education in different schools: (a) Patient mix, (b) use of house staff, (c) faculty time devoted to patient care effort, (d) community related projects, (e) minority group recruitment, (f) faculty salaries, and (g) teaching hospital ownership by the medical school?

11. What extraordinary costs are associated principally with startup operations in new schools, and what is the probable duration of these costs?

12. What trends toward changes in education through curriculum and structural (organizational) reform are most prominent, and how might such changes affect total education costs in the future?

13. What factors account for significant differences in types of income (tuition rates, reimbursement for patient care, sponsored research, etc.) among similarly structured schools in each health professional field?

14. What other factors not mentioned above account for the principal variations in reported costs and income among schools within each field?

III. *Cost finding and reporting.* 15. How should the cost-finding and reporting system to be developed for health professions education be integrated with systems already in use or projected for use by schools and purchasers of research and patient care services?

16. What cost finding systems already exist which produce program oriented costs and which could be expanded to provide data on a national basis?

17. What measures and methods could be used to verify data used to allocate faculty salaries among programs, both on a one-time basis and on a continuing basis?

18. What regular and periodic public reports should a cost finding and reporting system produce, while still protecting the confidentiality of individual schools' data?

IV. *Federal financing and support strategies.* 19. What should be the objectives of Federal financial support for health professional education (e.g., expanded health manpower supply, provide incentives for efficiency in training of health professionals, encourage high quality programs, enhance access to lower income students, stimulate specialization, etc.)?

20. How would Federal capitation grants to schools, or Federal grants or loans directly to students help to meet the objectives listed in IV.19 above? What changes might occur in school program offerings, costs, and enrollment levels under these alternatives?

21. What forms might Federal financial support to health professional schools take either in lieu of, or in consort with, capitation grants, either to students or institutions? (Consider relationships of other Federal financing programs, such as biomedical research, training grants, construction grants, medical library assistance, Medicare and Medicaid third party financing, etc.)

22. What current trends are likely to have a major impact on future educational costs (e.g., price changes, availability of endowment income, availability of volunteers, third party reimbursement policies, changes in educational technology and methodology, changes in health manpower requirements, Federal research expenditures, student attitudes, etc.)? To what extent and in what ways are these trends sensitive to policies for Federal financial support of health professional education?

23. Assuming capitation grants are continued, what criteria should govern setting of capitation rates; e.g., a single rate for each field variable rates, rates covering instruction costs, rates covering instruction costs plus net research and patient care costs, etc.

24. Should Federal funding of health professional education include the imputed full costs of volunteer and part-paid services? What are the long-term resource allocation implications of this decision?

25. Should Federal funding of health professional education include the difference between the costs of patient care service in teaching centers and the average cost of comparable services (e.g., lab tests, patient-bed-day, etc.) in non-teaching centers? What other assumptions might be useful to isolate the educational portion of patient care costs?

26. What would be the advantages and disadvantages of setting Federal education support rates based on net costs (total costs less applicable patient care and research revenue)? Which kinds of schools most likely would be helped and which hurt?

Dated: October 19, 1972.

MERLIN K. DUVAL,
Assistant Secretary for Health and Scientific Affairs.

[FR Doc.72-18199 Filed 10-25-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR CARRIER DISTRICT OFFICE AT KANSAS CITY, MO.

Notice of Relocation

Notice is hereby given that on, or about 6 November 1972, the Air Carrier District Office at the Terminal Building, Kansas City Municipal Airport, Kansas City, Mo. will relocate to 525 Mexico City Avenue, Kansas City International Airport, Kansas City, MO 64153.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72-18177 Filed 10-25-72;8:46 am]

REGIONAL DIRECTORS

Delegation of Authority

Authority to approve and require modifications in security programs submitted by certificate holders, and to amend approved screening systems and security programs, under § 121.538 of the Federal Aviation Regulations (37 F.R. 2500, February 2, 1972; 37 F.R. 4904, March 7, 1972; 37 F.R. 5254, March 11, 1972), is delegated to the FAA Regional Directors respectively charged with the overall inspection of the certificate holders.

The "general provisions" governing delegations, of section 1(b) of Part IV of the FAA Organization Statement (30 F.R. 3395, 3400), as amended (30 F.R. 8728 and 31 F.R. 838), apply to this delegation.

(Sec. 303(d), Federal Aviation Act of 1958; 49 U.S.C. 1344(d); sec. 6(c), Department of Transportation Act; 49 U.S.C. 1655(c); § 1.47 (a) of the Regulations, Office of the Secretary of Transportation; 49 CFR 1.47(a))

Issued in Washington, D.C., on October 19, 1972.

J. H. SHAFFER,
Administrator.

[FR Doc.72-18178 Filed 10-25-72;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-382]

LOUISIANA POWER & LIGHT CO.

Establishment of Atomic Safety and Licensing Board

On August 16, 1972, the Commission published in the FEDERAL REGISTER, 37 F.R. 16562, a notice of hearing to consider the application filed by the Louisiana Power & Light Co. for a construction permit for the Waterford Steam Electric Station, Unit 3. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2 (Rules of Practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Dr. Emmeth A. Luebke, Dr. Gerald A. Rohlich, and Mr. Sidney G. Kingsley, Esq., Chairman. Dr. J. V. Leeds, Jr., has been designated as a technically qualified alternate and Mr. Thomas W. Reilly, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

the Board members are as follows:

1. Mr. Sidney G. Kingsley, Chairman, an attorney with the U.S. Atomic Energy Commission detailed to the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

2. Dr. Emmeth A. Luebke, a physicist and member, Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

3. Dr. Gerard A. Rohlich, Department of Civil Engineering, University of Texas, Austin, Tex. 78712.

4. Mr. Thomas W. Reilly, Alternate Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

5. Dr. J. V. Leeds, Jr., Technical Alternate, associate professor, Environmental and Electrical Engineering, Rice University, mailing address—Post Office Box 941, Houston, TX 77001.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

V37-207 OCT 26 72 XUM

Dated at Washington, D.C. this 24th day of October 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-18363 Filed 10-25-72;8:55 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19609; FCC 72-912]

AMERICAN TELEVISION RELAY, INC. (ATR)

Memorandum Opinion and Order Instituting Investigation and Hearing

In the matter of American Television Relay, Inc. (ATR), revised rates for Microwave Service; Tariff F.C.C. No. 8, Transmittal No. 50, Docket No. 19609.

1. The Commission has before it (a) Transmittal Letter No. 50 of American Television Relay, Inc. (ATR) and the accompanying revised tariffs filed August 15, 1972, to become effective October 15, 1972; (b) Petitions by Cable Information Services, Inc., Cruces Cable Co., Inc., Cablecom-General, Inc., Columbia Cable Systems, Inc., LVO Cable, Inc., and Teleprompter Corp., customers of ATR, for rejection or suspension of the revised tariffs; and (c) ATR's opposition to the petitions.

2. These revised tariffs constitute a major revision in the carrier's rate structure applicable to the delivery of the signals of four Los Angeles, Calif. independent television stations to CATV customers in the States of California, Arizona, New Mexico, and Texas. Although there are some reductions in charges to three of the geographical points served by ATR (Gallup, N. Mex.; Prescott, Ariz.; and Flagstaff, Ariz.), the revisions increase the charges to 16 of the remaining points served. These increases vary in amounts ranging up to about 80 percent in the case of service to Roswell, N. Mex. where the increase is from $2,800 to $5,145 a month. The overall effect of the tariff submission is to increase total charges from $49,923 to $63,443 a month or about 27 percent.

3. ATR has submitted cost and other supporting data in response to the requirements of § 61.38 of our rules, including a statement describing ATR's decision to make a reevaluation of its services and pricing policies in the light of current and future expected market conditions. Among other things, ATR has decided to divide its service points into two geographical zones and to vary the charges not only according to distance but also, in part, by the "basic population" of the areas being served. The revised tariffs reflect the results of ATR's new pricing policies. According to ATR's data, its net income for calendar year 1971 from the service in question was a negative figure of $53,857 and its projected net income for 1972 of $120,702 on a net investment of $2.5 million will yield a return of 4.748 percent for this service assuming that the rate increases go into effect on October 15, 1972. ATR further projects its return on this service at 9 percent for 1973, 13.7 percent for 1974, and 17.7 percent for 1975.

4. Petitioners raise a number of objections to the revised rate structure and to the supporting data and information. They claim, inter alia, that ATR's material falls short in that it fails to provide any discussion as to the carrier's cost of capital and fair rate of return; its explanation of the basis of rate making employed is unsatisfactory; and it improperly computes the rates and revenues applicable under its own rate making theory. In its reply, ATR states, among other things, that: The increased rates "are not predicated upon a reasonable rate of return at this time"; that petitioners have misunderstood ATR's explanations of the supporting material; and that any errors in rate calculation which were made will be corrected by appropriate tariff revisions.

5. We are of the opinion that substantial questions are raised concerning the lawfulness of the revised tariffs and that we should designate the revisions for hearing. The increases involved are substantial both collectively and individually; they will contribute to projected returns in the future that, according to ATR will range from 9 percent in 1973 to 17.7 percent in 1975; and they are based in part upon novel ratemaking theories that appear to depart from cost of service including the imposition of charges based upon "potential market penetration" but without regard to the "actual market development by any particular cable system." We believe that these questions and those raised by petitioners should be resolved on the basis of an evidentiary hearing record and that we should suspend the effectiveness of the tariff revision for the maximum period specified by section 204 of the Act and provide for accounting and possible refund to customers affected by the increased charges. Insofar as petitioners request summary rejection of the tariff revisions without hearing, we shall deny that request. Although ATR's supporting data may not supply fully all of the information contemplated by § 61.38, we believe that the carrier's submission is in substantial compliance with § 61.38 and that a sufficient showing has been made to warrant our exercising our discretion not to reject but to suspend and order a hearing. ATR will have the burden of proof on the hearing record to justify the increases and petitioners will have reasonable opportunity at hearing to pursue in an appropriate manner their objections to the carriers proposed rate increases.

6. Accordingly, in view of the foregoing considerations: *It is ordered*, That, pursuant to the provisions of sections 4(i), 4(j), 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of rates contained in American Television Relay, Inc.'s Tariff F.C.C. No. 8, 20th revised page 14, including cancellations, amendments, or reissues thereof;

7. *It is further ordered*, That, pursuant to the provisions of section 204 of the Communications Act, said 20th revised page 14 is hereby suspended until January 11, 1973, and American Television Relay, Inc. shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increase specifying by whom and in whose behalf such amounts were paid; and shall make no changes in said schedules of charges during the pendency of this investigation without prior approval by the Commission;

8. *It is further ordered*, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the act;

(3) If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission should prescribe charges, classifications, practices, and regulations for the service governed by the tariffs, and if so, what should be prescribed.

9. *It is further ordered*, That, a hearing be held in this proceeding at the Commission's offices in Washington, D.C., at a time to be specified; and that the Administrative Law Judge to be designated to preside at the hearing shall certify the record, without preparation of an initial or recommended decision, and the Chief of the Common Carrier Bureau shall thereafter issue a recommended decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282; and

10. *It is further ordered*, That, American Television Relay, Inc. is made a party respondent and Cablecom-General Inc., Cable Information Services, Inc., Cruces Cable Co., Inc., Columbia Cable Systems, Inc., LVO Cable, Inc., and Teleprompter Corp. are granted leave to intervene upon filing a notice of intention to appear and participate within 20 days of the release date of this order.

11. *It is further ordered*, That, the aforementioned petitions are granted to the extent indicated above and are otherwise denied.

Adopted: October 12, 1972.

Released: October 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18236 Filed 10-25-72;8:51 am]

[Docket Nos. 19614-19615; FCC 72-928]

EASTERN BROADCASTING CO., AND RADIO HARLAN, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard applications of Eastern Broadcasting Co., Harlan, Ky., Requests: 1470 kHz, 1 kw., Day, Docket No. 19614, File No. BP-17817, for construction permit; Radio Harlan, Inc. (WHLN), Harlan, Ky., Has: 1410 kHz, 5 kw., Day, Docket No. 19615, File No. BR-1129, for renewal of license.

1. The Commission has before it for consideration (i) the application of Eastern Broadcasting Co., for a construction permit; (ii) the application of Radio Harlan, Inc., for renewal of license; (iii) a petition to deny the application of Eastern Broadcasting Co. filed by Radio Harlan, Inc., licensee of station WHLN, Harlan, Ky.; (iv) pleadings in opposition, reply, and supplement thereto; (v) a petition to deny the renewal of Radio Harlan, Inc., and other further relief filed by Eastern Broadcasting Co.; and (vi) pleadings in opposition and reply thereto.

2. Radio Harlan, licensee of station WHLN, Harlan, Ky., has filed a petition to deny the application of Eastern Broadcasting Corp. raising a "Carroll"[1] issue, questioning the applicant's character, and alleging deficiencies in the applicant's financial plan and community survey. The petitioner claims standing as a party in interest on the grounds that as a licensee of Harlan's only existing station, it would suffer substantial economic injury should the applicant's proposal be granted. The Commission finds the petitioner does have standing within the meaning of section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. "FCC v. Sanders Brothers Radio Station," 309 U.S. 470, 9 RR 2008 (1940).

3. In its petition to deny, WHLN contends that a grant of Eastern's application would result in a substantial loss of revenue which would necessitate severe curtailment in its public affairs programing and reductions in its staff. In seeking to raise a "Carroll" issue, WHLN provides a substantial amount of information and economic data in its attempt to meet the pleading requirements set out in "Folkways Broadcasting Company, Inc. v. FCC," 126 U.S. App. D.C. 123, 275 F. 2d 299 (1967), and "WLVA, Incorporated v. FCC," —— U.S. App. D.C. ——, 23 RR 2d 2081 (January 4, 1972).

4. WHLN characterizes the Harlan area as a "thin market" with a declining population and a faltering economy. It attributes much of this decline to the continual ebb of Harlan County's chief employer, the coal industry.[2] The 1970 census tabulation shows that since 1960, the populations of Harlan County and Harlan have decreased from 51,107 to 37,510 persons (26.9 percent drop) and 4,177 to 3,318 persons (20.6 percent drop), respectively. WHLN also points out that unemployment is high (9.4 percent), and the average family income low.[3] Moreover, the Harlan area has an "unusually" high number of families substantially dependent upon financial assistance from governmental agencies. For example, as of December 31, 1971, there were 9,082 social security beneficiaries, and during March 1972, there were 11,318 recipients of food stamps living in Harlan County. WHLN also predicts further decline in the coal industry which will result in further population and economic decline.[4]

5. WHLN also proffers a substantial amount of information in support of its allegation that a grant of the Eastern application would cause economic injury and a net decrease in the amount of public service broadcasting. It estimates the area's total theoretical advertising revenue for all communication media to be $845,000 (2 percent of the total retail sales in Harlan County), which is actively solicited by the "Harlan Daily Enterprise," station WCPM, Cumberland (Harlan County), Ky., the weekly paper in Cumberland, other radio stations[5] located outside the county, and itself.[6] Moreover, the petitioner estimates there are 157 businesses in Harlan County that can reasonably be considered potential advertisers for a radio station. Of these businesses, 56 are regular advertisers on WHLN, 61 are part-time advertisers, and 40 do not advertise despite the station's efforts to solicit their business. It also points out that since 1967, 16 regular and seasonal or parttime advertisers have gone out of business. During the same period only five new accounts have been established with new area businesses. In order to gage the effect a second station would have on its annual revenues, it surveyed 49 of the station's accounts. It reports that 42 advertisers indicated they would divide their advertising budgets between WHLN and a new station. This splitting, concludes the petitioner, would reduce its annual revenues by $50,000. Moreover, it estimates a "substantial portion" of its regional and national accounts ($20,000 per year) would be lost.

6. This substantial reduction in revenue, argues WHLN, would necessitate severe curtailments in its public affairs programing and its staff's involvement in community affairs. Specifically, WHLN claims it would be required to dismiss one part-time and three full-time employees.[7] Those remaining staff members would then be required to devote most of their time to selling and announcing, thus affording less time for the production of local public affairs programing. Accordingly, WHLN projects that public service announcements would be cut in half,[8] editorials would be reduced in frequency,[9] public affairs programs would be either eliminated or reduced in scope,[10] telephone lines to five local churches for live Sunday broadcasts would be discontinued, and its five remote pickup units would not be fully utilized. Moreover, it asserts that the decrease in public service broadcasting now provided by WHLN will not be matched by the proposed station. It points out that WHLN is presently delivering 7.83 percent of weekly air time for public affairs, 9.40 percent of news programing, and 50 public service announcements per day. On the other hand, Eastern proposes only 2 percent public service broadcasting and 125 public service announcements per week.

[1] Carroll Broadcasting Company v. FCC, 103 U.S. App. D.C. 346, 258 F. 2d 440, 17 RR 2066 (1958).

[2] In September 1971, there were 2,554 workers in mining and quarrying out of 5,606 industrial workers covered by the Kentucky Unemployment Insurance Law.

[3] The average family income for Harlan County in 1969 was only $4,682, as compared with $7,441 per family for the entire State of Kentucky.

[4] It proffers a letter from Cloyd D. McDowell, President of the Harlan County Coal Operators' Association, that concludes, • • • unless there is a drastic change in some of the above mentioned adverse conditions that coal mining in this area will be reduced both in manpower and production by as much as 50 per cent (sic) within the next 2 years."

[5] WANO, Pineville, Ky.; WSWV, Pennington Gap, Va.; WMIK, Middlesboro, Ky.

[6] WHLN submitted its broadcast revenues for the years 1968 to 1971. It notes, however, the increase in revenues for 1971 was due largely to $4,000 in political advertising:

	1968	1969
Broadcast revenues	$133,999.75	$135,814
Broadcast expenses	$128,537.64	$129,595
Broadcast income	$5,462.71	$6,219
Employees fulltime	8	9
Employees parttime	2	1
	1970	**1971**
Broadcast revenues	$140,120	$150,501
Broadcast expenses	$133,101	$140,744
Broadcast income	$6,929	$9,757
Employees fulltime	8	8
Employees parttime	2	2

[7] The positions eliminated would be one full-time engineer ($8,400 per year), one salesman-announcer-news gatherer ($7,200 per year), one clerical assistant ($5,000 per year), and one part-time announcer.

[8] During April 1972, WHLN broadcast a daily average of 55.3 public service announcements.

[9] The petitioner broadcast 81 editorials in April 1972.

[10] The petitioner specifically cites two programs, "Pulse" and "Point of View." In both cases, the petitioner argues it is doubtful the remaining staff would have enough time to produce these shows.

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Thus, it concludes, the reduction in revenue will cause a net degradation in public service broadcasting.

7. Eastern opposes WHLN's petition to deny raising a "Carroll" issue, and generally argues that the petitioner's description of Harlan's economic condition is outdated and overly dismal in outlook. It reports that current economic indicators show an improved Harlan economy, and, as a result, concludes Harlan is capable of supporting a second radio station. This is documented by three newspaper articles,[11] statements of the condition of the Harlan National Bank,[12] a coal industry analysis,[13] and an affidavit by Harold P. Parsons, Eastern's president. Eastern also points out that WHLN's survey inquiring into the effect of a second radio station in Harlan does not take into consideration the possibility that advertisers may increase their budgets in order to obtain adequate coverage on both stations. Finally, the applicant emphasizes the admission made by WHLN that the station has operated at a profit for the past 4 years and its advertising revenues have increased annually. In addition, it argues, the Commission should take note that Mary Fox (owner) and James T. Morgan (president and general manager) draw $23,928 and $15,744 per year, respectively, and that other "expenses" exist such as paid up term life insurance and maximum hospitalization coverage for all employees, and expenses for civic clubs. If WHLN were to provide the principals with "a little less from the operation" and the employees with fewer benefits, concludes Eastern, there would be no need for WHLN to discontinue any of its public service programing. In any event, Eastern feels its proposed operation would more than compensate for any decrease in WHLN's public broadcasting, if it should occur.

8. In its reply, WHLN takes issue with several allegations made by the applicant. It requests the Commission to take note that The Harlan Daily Enterprise articles dated April 30, 1972, were part of a special "Progress" edition published as a public relations vehicle for the various businesses and civic organizations located in the Harlan County area;[14] that the President of the Harlan County Coal Operators' Association has stated opinions directly contrary to that submitted by the applicant concerning the status and prospects of Harlan County's coal industry; that James T. Morgan and WHLN's two salesmen personally interviewed the 49 advertisers selected to ascertain the effect a second station would have on the station's revenues; and that although the governmental financial assistance is increasing, the population is decreasing. Finally, WHLN defends the annual salary paid James T. Morgan, and the "reasonable fringe benefits" provided for all its employees.

9. It is apparent from the various statistics and information before us, the two stations would be competing in a thin market. The populations in Harlan and Harlan County have steadily decreased since 1950,[15] and there appears considerable doubt whether this trend will be reversed. Moreover, WHLN has submitted specific factual data and information indicating it would lose a substantial amount of revenue in the event the Eastern application were granted. Although Eastern questions the extent of the potential losses in revenue and the necessity of some program curtailments indicated by petitioner, we note that the court in "Folkways Broadcasting Company," 375 F.2d 299 (1967), decreed that:

> • • • At times there might be a knowledge of specific financial loss and its detrimental consequence on programming, but we think a Carroll hearing may not be limited to a case in which preknowledge of the exact economics of the situation is necessarily available. Requiring such precision would eliminate the doctrine as a practical matter.

On the basis of the foregoing, we conclude the petitioner has pleaded sufficient data to raise substantial and material questions of fact concerning the ability of the Harlan area to support another broadcast station without a net degradation of public service broadcasting. "WLVA, Incorporated v. FCC,"—U.S. App. D.C.—, 23 RR 2d 2081 (January 4, 1972). Accordingly, we will include a "Carroll" issue in the hearing hereinafter ordered.

10. WHLN also questions Eastern's financial qualifications. In response to the deficiencies raised, Eastern amended its financial section several times. In its most recent showing, Eastern estimates $64,845, will be required to construct and operate for one year without revenue, itemized as follows: Downpayment on equipment, $4,775; first-year payments on equipment with interest, $5,600; land and building; $4,000; miscellaneous, $1,650; loan repayment with interest, $8,820; and first-year's working capital, $40,000. It proposes to meet these expenses with cash on hand of $20,700, a loan apparently from the Bank of Harlan for $50,000, and deferred credit from the equipment supplier. The balance sheets and bank loan are more than a year old, however, and thus a financial issue will be included to determine whether these funds are still available.

11. Finally, WHLN questions the applicant's ascertainment of community needs and problems. In this regard, it also requests the addition of a misrepresentation issue based upon what it considers Eastern's failure to contact the leaders of some of the organizations listed in its initial community survey. Eastern responded to this allegation by pointing out it did not state that any particular individual was contacted, and submitted affidavits attesting to the fact that some members of the listed organizations were interviewed. After examining all the available information, we conclude the explanation provided by Eastern obviates any question of misrepresentation. However, our examination of Eastern's community survey in light of the "Primer" [16] reveals that several deficiencies exist and, thus, a "Suburban" [17] issue will be included. Specifically, the applicant has not described the methods it employed in contacting the community leaders and members of the general public. It also has not described with sufficient clarity the position and organization of those individuals interviewed as community leaders. As a result of these two deficiencies, we cannot make a final determination that Eastern has sought out and established a dialogue with the leaders of all significant groups and organizations existing within the Harlan area.

12. In its petition to deny, Eastern requests the Commission to deny the WHLN application for renewal of its license, or, in the alternative, hold it in abeyance until the applications can be designated for hearing in a consolidated proceeding, citing "K-Six Television, Inc.," 2 F.C.C. 2d 1021, 7 RR 2d 128 (1966). WHLN opposes the request and asks the Commission to modify its procedure whereby a "Carroll" petitioner's renewal application is consolidated in hearing with the new proposal. It has not, however, put forth sufficient reasons, if true, for changing Commission procedure. As a result, we affirm the procedure adopted in "K-Six." In "K-Six," we held, where an existing licensee raises a "Carroll" issue while an application for renewal of the existing station's license is pending, the public interest requires that the renewal application be designated for hearing in a consolidated proceeding. This procedure is necessary because if it should be found the area cannot support another broadcast station without a net loss of service to the public, the Commission must determine that the limited broadcasting facilities will be operated by the party who will better serve the public interest. If it develops that a comparison is necessary between the renewal application and the new proposal, consolidation of the two applications for hearing at the outset makes possible an earlier determination of which applicant would better serve the public interest. Accordingly, the applications will be consolidated and a contingent comparative issue included.

13. In view of the foregoing, the Commission is unable to make the statutory finding that a grant of either or both of the above-captioned applications would serve the public interest, convenience, and necessity, and is of the opinion that the applications must be designated for hearing in a consolidated proceeding, on the issues set forth below.

14. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application of Eastern Broadcasting Co., for a construction permit and the application of Radio Harlan, Inc., for renewal of its license for station WHLN, are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Eastern Broadcasting Co.:

(a) Whether the commitment by the Bank of Harlan for a $50,000 loan is still available to the applicant;

(b) Whether the applicant corporation and its shareholders, Donald G. Parsons and Harold Parsons, possess adequate current assets to finance the proposed station; and

(c) Whether in light of the evidence adduced pursuant to (a) and (b), above, the applicant is financially qualified.

2. To determine the efforts made by Eastern Broadcasting Co. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

3. To determine whether there are adequate revenues available to support an additional standard broadcast station in the area proposed to be served by Eastern Broadcasting Co. without a net loss or degradation of broadcast service to such area.

4. To determine in the event that issue 3, above, is resolved in the negative, whether a grant of the above-captioned application of Eastern Broadcasting Co., or a grant of the above-captioned application of Radio Harlan, Inc., would, on a comparative basis, better serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

15. *It is further ordered,* That, the burden of proceeding with the introduction of evidence and the burden of proof with respect to issue 3, above, are hereby placed upon Radio Harlan, Inc.

16. *It is further ordered,* That, the petition of Radio Harlan, Inc., is granted to the extent indicated above, and is denied in all other respects.

17. *It is further ordered,* That, the petition of Eastern Broadcasting Co. is granted to the extent indicated above, and is denied in all other respects.

18. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

19. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 12, 1972.

Released: October 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE,
Secretary.

[FR Doc.72-18232 Filed 10-25-72;8:51 am]

[Docket Nos. 19601-19604; FCC 72-879]

GUY S. ERWAY ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of: Guy S. Erway, West Palm Beach, Florida, Requests: 92.1 MHz, #221; 3 kW; 300 feet, Docket No. 19601, File No. BPH-7137; Sandpiper Broadcasting Co., Inc., West Palm Beach, Florida, Requests: 92.1 MHz, #221; 3 kW(H & V); 300 feet, Docket No. 19602, File No. BPH-7533; Sun Sand and Sea, Inc., West Palm Beach, Florida, Requests: 92.1 MHz, #221; 3 kW(H & V); 300 feet, Docket No. 19603, File No. BPH-7809; Marshall W. Rowland, West Palm Beach, Florida, Requests: 92.1 MHz, #221; 3 kW(H & V); 300 feet, Docket No. 19604, File No. BPH-7843; for construction permits.

1. The Commission has before it: (a) The captioned applications, which are mutually exclusive and thus must be designated for a comparative hearing; (b) a petition to deny the application of Guy S. Erway filed on July 6, 1970, by Daytona Broadcasting, Inc., licensee of standard broadcast station WJNO, West Palm Beach, Fla.; and (c) related pleadings in opposition and reply.

2. In its petition to deny, Daytona Broadcasting, Inc. (Daytona) alleged that Mr. Erway's application was realistically a proposal for Riviera Beach rather than for West Palm Beach, since Mr. Erway proposed to locate his main studio and transmitter in Riviera Beach, and since the proposed 3.16 mV/m contour of his station would not completely encompass the West Palm Beach community, as required by § 73.315 of our rules. Daytona asserted that, in light of these facts, Mr. Erway should not be granted a waiver of § 73.315 of our rules, and that he should apply for the available class A FM broadcast channel in Riviera Beach. Daytona also emphasized the fact that Mr. Erway could not use the West Palm Beach channel for a Riviera Beach station because § 73.203 (b) of our rules provides that an FM channel allocated to one community cannot be used in another community which has an FM channel allocated to it. Mr. Erway subsequently amended his application to specify that both the studio and transmitter sites of his proposed station will be in West Palm Beach, and supplied additional data to show that his proposed 3.16 mV/m contour will completely encompass that community. Thus, Mr. Erway's application, as amended, fulfills our engineering and studio site requirements and is clearly a proposal for West Palm Beach rather than for Riviera Beach.

3. Daytona also questioned Mr. Erway's financial qualifications, the adequacy of his proposed staff, the availability of studio space, the completeness of his ascertainment of community problems and the sufficiency of the programming proposed as being responsive to those problems. All of these questions have been answered in a satisfactory manner by the applicant and are now moot. Thus, no substantial or material questions of fact remain which would warrant the specification of issues with respect to these matters. In regard to Mr. Erway's financial qualifications, Daytona maintained that the estimated costs of operating his station were clearly inadequate and that the letter expressing the willingness of the Atlantic National Bank of West Palm Beach to loan Mr. Erway $30,000 was too vague and did not fulfill the requirements of paragraph 4(e), section III, FCC Form 301. In a subsequent amendment to his application, Mr. Erway filed a bank letter which complies with our standards and which shows the willingness of the Lauderdale Beach Bank, Fort Lauderdale, Florida, to loan him $31,000. In addition, Mr. Erway has submitted a detailed breakdown of his first-year costs which appear to be reasonable and to include all of the usual expenses incurred by a radio broadcast station during the first year of operation. Moreover, Mr. Erway has shown the availability of $60,170 to meet first-year

[11] Eastern included two articles published on Apr. 30, 1972, pages 16-b and 16-c, and an article published on July 12, 1972, in The Harlan Daily Enterprise supporting its claim that the coal mining industry is viable and growing.

[12] It submitted the bank's statements of condition for 1967, 1969, and 1971, which show its total assets increased from $8,617,822.86 to $15,266,139.69.

[13] Bulletin No. 9530, File 155, Mar. 27, 1972, Harlan County Coal Operators' Association.

[14] It submitted a form letter sent by Clyde C. Lemar, Jr., President and Publisher of The Harlan Daily Enterprise, to the businesses of Harlan County, requesting the letter's recipient to "consider your advertising and news message" (emphasis added) for this edition.

[15] See the following table.

HARLAN

Year	Population	Percent change
1940	5,122	18.4
1950	4,795	−6.6
1960	4,177	−12.7
1970	3,318	−20.6

HARLAN COUNTY

Year	Population	Percent change
1940	75,275	16.6
1950	71,751	−4.7
1960	51,107	−28.8
1970	37,510	−26.9

[16] Primer on Ascertainment of Community Problems by Broadcast Applicants, 36 F.R. 4092, 27 FCC 2d 650 (1970).

[17] Suburban Broadcasters, 20 RR 951 (1961).

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costs of $48,045.[1] Thus, it is clear that he will have more than $12,000 in excess of his estimated expenses which can be used to meet any unforeseen contingencies.

4. Daytona's contention concerning the adequacy of Mr. Erway's staffing proposal is conclusory and lacks the specificity which would require further exploration in the hearing process. The applicant has explained that his station will be operated by four full-time staffers, including himself and his wife. Mr. Erway indicates that he is a licensed first-class radio operator and that his wife is a licensed third-class operator with past broadcast experience. Two additional full-time employees will be hired. Thus, it would appear that the applicant has proposed a sufficient staff for the operation of the proposed station. In the event that additional employees should be needed, Mr. Erway has established the availability of $12,000 in excess of his first-year expenses, which can be used to defray such unforeseen costs. As to the availability of studio space, Daytona has not alleged any facts which show that studio space will not be available, while Mr. Erway has amended his application to indicate that he has an agreement to lease studio facilities at a particular site and has allocated funds to pay the anticipated rent. If additional rent should be required, Mr. Erway can draw on the excess $12,000 previously mentioned.

5. Finally, Daytona claimed that Mr. Erway had not undertaken an adequate ascertainment of community problems and that the programming proposed did not relate to those problems. Mr. Erway has amended his ascertainment of community problems several times and his total effort fully complies with the standards set forth in our "Primer on Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1509 (1971). Accordingly, we find that Mr. Erway has undertaken an adequate ascertainment of the problems and needs of West Palm Beach, and has proposed programming which appears to be responsive to those problems and needs. Thus, no programming issue is required.

6. Sandpiper Broadcasting Co., Inc. (Sandpiper), Sun Sand and Sea, Inc. (Sun Sand and Sea), and Marshall W. Rowland, will not provide a 3.16 mV/m signal over the entire city of West Palm Beach, as required by § 73.315(a) of our rules. Sandpiper and Mr. Rowland will cover all of West Palm Beach, except for some 790 feet at the southeast corner, with their 3.16 mV/m contour, while Sun Sand and Sea's 3.16 mV/m contour will fall about 1,600 feet short of covering the southern end of the community. Sun Sand and Sea states that 97 percent of the city is included within its 3.16 mV/m contour. In view of the facts that spacing requirements with co-channel station WHMS place limitations on the choice of transmitter sites, that each of the above applicants is in substantial compliance with § 73.315(a) of our rules, and that the general coverage of the city in each instance will be satisfactory, we find that a waiver of this provision of our rules would be appropriate in each instance. Accordingly, if the application of Sandpiper, Sun Sand and Sea, or Marshall W. Rowland is granted, § 73.315(a) of our rules will be waived.

7. Both Sandpiper and Mr. Rowland propose to locate their transmitter and studio sites at 301 Broadway, Riviera Beach, Fla. By letter of May 17, 1972, Sandpiper stated that Oceanography Properties, Inc., (Oceanography) had agreed to lease property at that address to Sandpiper, but subsequently reneged and refused to rent it the property. Sandpiper has instituted legal proceedings against Oceanography for specific performance of the alleged contract. Sandpiper has not submitted any convincing documentary evidence to support its contention that it has reason to believe that it has an enforceable agreement with Oceanography. In these circumstances, Sandpiper has not offered sufficient evidence to show that it has reasonable assurance that its transmitter-studio site will be available, as required by well established Commission policy. "Lorenzo W. Milam and Jeremy D. Lansman," 4 FCC 2d 610, 7 RR 2d 765 (1966). Moreover, in light of these circumstances, it cannot be assumed that Mr. Rowland has reasonable assurance that a transmitter-studio site at 301 Broadway, Riviera Beach, will be available for his use in the event his application is granted. Therefore, issues in this regard will be specified against both the applications of Sandpiper and Mr. Rowland.

8. Section 73.210 of our rules requires that the main studio of a commercial FM broadcast station either be located in the city of license or that good cause be shown for locating the main studio outside the community. Although Mr. Rowland and Sandpiper have proposed studios which will be located outside West Palm Beach, no showing of good cause has been submitted by either applicant. Thus, in the event that their proposed site at 301 Broadway, Riviera Beach, Fla., is shown to be available for their use, or if any other site outside of West Palm Beach should be proposed, they will be required to show good cause for placing their main studio at such location.

9. Based on cost estimates contained in his application, Marshall W. Rowland will have first-year expenses of $78,500.[2] To meet these expenses, he relies on a $75,000 loan from the St. Johns River Bank, Jacksonville, Fla., and $5,050 in cash. However, Mr. Rowland has not submitted a balance sheet which shows sufficient current and liquid assets in excess of current liabilities to provide any funds for his proposed FM station. Moreover, when a lender conditions a loan upon the receipt of special endorsements or guarantees, entities requested to make such endorsements or guarantees are required to submit statements which express their willingness to meet those conditions. Although the bank loan in this instance is conditioned upon the receipt of a promissory note from the Rowland Broadcasting Co., Inc.,[3] and the endorsement of that note by Mr. and Mrs. Rowland, such parties have not stated their willingness to comply with the loan conditions. In view of the foregoing, appropriate financial issues will be specified against Mr. Rowland.

10. An examination of Mr. Rowland's ascertainment of community problems, needs, and interests reveals that he has not complied with the standards set forth in our Primer on that subject (27 FCC 2d 650, 21 RR 2d 1509 (1971)). Specifically, he has not provided a description of the composition of the community of West Palm Beach so as to apprise himself of all of the significant groups in the community. As questions and answers 9 and 10 of the Primer state, an applicant must determine not only the minority, racial, or ethnic breakdown of the community, but also the economic and governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive. Moreover, it is unclear whether all of the interviews with community leaders were conducted by Mr. Rowland or prospective management-level employees (question and answer 11(a) of the Primer). In addition, it is noted that Mr. Rowland did not specify the time segments for the programs which he has proposed as being responsive to the problems of his proposed community of license (question and answer 29 of the Primer). It would also appear that Mr. Rowland neglected to consult a random selection of members of the general public, as required by question and answer 13(b) of the Primer. Thus, a programing issue will be specified against him.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

12. *Accordingly, it is ordered,* That the applications are designated for hearing in a consolidated proceeding, pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent order, on the following issues:

1. To determine with respect to the application of Marshall W. Rowland:

(a) Whether Marshall W. Rowland has net liquid assets of $5,050 available for his proposed FM station;

(b) Whether the Rowland Broadcasting Co., Inc., is willing to execute a promissory note on a $75,000 loan from St. Johns River Bank, Jacksonville, Fla., to Marshall W. Rowland, for the purpose of building and operating the proposed FM broadcast station, and whether Mr. and Mrs. Marshall W. Rowland are willing to endorse this promissory note; and

(c) Whether, in light of the evidence adduced under the above issues, the applicant is financially qualified.

2. To determine the efforts made by Marshall W. Rowland to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

3. To determine whether Marshall W. Rowland has reasonable assurance that his proposed transmitter-studio site is available.

4. To determine, in the event that Marshall W. Rowland has available a studio site outside the city of West Palm Beach, whether good cause exists for locating the main studio outside the city of West Palm Beach, and, if so, whether the main studio location would be consistent with the operation of the station in the public interest.

5. To determine whether Sandpiper Broadcasting Co., Inc., has reasonable assurance that its proposed transmitter-studio site is available.

6. To determine, in the event that Sandpiper Broadcasting Co., Inc., has available a studio site outside the city of West Palm Beach, whether good cause exists for locating its main studio site outside the city of West Palm Beach, and, if so, whether the main studio location would be consistent with the operation of the station in the public interest.

7. To determine which of the proposals would, on a comparative basis, best serve the public interest.

8. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permits should be granted.

13. *It is further ordered,* That the petition to deny the application of Guy S. Erway, filed by Daytona Broadcasting, Inc., licensee of station WJNO, West Palm Beach, Fla., is denied.

14. *It is further ordered,* That if the application of Sandpiper Broadcasting Co., Inc., or the application of Sun Sand and Sea, Inc., or the application of Marshall W. Rowland is granted, the construction permit shall specify that the provisions of § 73.315(a) of our rules are waived to permit a signal level of less than 3.16 mV/m over the entire city of West Palm Beach, Florida.

15. *It is further ordered,* That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of our rules.

16. *It is further ordered,* That the applicants shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: October 5, 1972.

Released: October 13, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18234 Filed 10-25-72;8:51 am]

[Docket No. 19313; FCC 72-917]

NORTHWESTERN COLLEGE (KFNW)

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Northwestern College (KFNW), Fargo N. Dak., Has: 900 kHz, 1 kw., Day, Requests: 1170 kHz, 1 kw., Day, Docket No. 19313, File No. BP-18271, for construction permit.

1. The Commission has before it for consideration the above-captioned application requesting a change in frequency.

2. On September 8, 1971, this application was designated for hearing because the proposed service area would encompass 8,235 less square miles and 59,316 fewer persons than KFNW's present operation. While in hearing, KFNW petitioned for leave to amend its application to demonstrate that the loss in service was not as great as originally indicated in the application. The applicant's request was granted, the amendment accepted, and the application returned to the processing line.

3. Examination of the engineering data, as amended, indicates that a grant would eliminate interference with station KTIS, Minneapolis, Minn. (under common ownership with KFNW), in an area containing an estimated population of 17,818 people. On the other hand, however, the applicant's data also indicate that the proposed service area encompasses 3,061 less square miles and 25,922 fewer persons than the station's present operation. Inasmuch as station KFNW is the only specialized religious broadcast service in the Fargo area, a grant of the application would deprive a significant portion of the present service area of KFNW of its only specialized religious broadcast service. On the other hand, there are several specialized religious broadcast services in the Minneapolis area, including station KTIS, and elimination of the interference with KTIS would enable KTIS to provide simply another such service to the area and population it will gain in that area. Since there already appears to be a multiplicity of radio services in both the Minneapolis and Fargo areas, a substantial question obtains, due to the loss of specialized religious broadcast service in the Fargo area, as indicated above, as to whether the public interest would be served by a grant of this application.

4. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. In view of the foregoing, however, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

5. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of station KFNW and the availability of other primary aural (1 mV/m or greater in the case of FM) service to such areas and populations.

2. To determine whether the loss of religious broadcast service to the Fargo, N. Dak., area and the gain of such service to the Minneapolis, Minn., area are in the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

6. *It is further ordered,* That, to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

7. *It is further ordered,* That the applicant shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 12, 1972.

Released: October 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18235 Filed 10-25-72;8:51 am]

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[1] Mr. Erway's first-year costs consist of: 15 months' payments on equipment, $10,350; lease payments on land and buildings, $3,340; payments on loan, including interest, $9,855; miscellaneous expenses, $4,500; and working capital, $20,000. To meet these expenses, he has shown the availability of a $31,000 bank loan and $29,170 in cash and liquid assets in excess of current liabilities.

[2] Mr. Rowland's first-year expenses are itemized as follows: lease payments on equipment, $1,500; land and building expenses, $5,000; miscellaneous expenses, $2,500; loan payments, including interest, $15,000; and working capital, $54,500.

[3] Mr. and Mrs. Rowland own the Rowland Broadcasting Co., Inc., which is the licensee of stations WQIK and WQIK-FM, Jacksonville, Fla.

[4] Commissioners Robert E. Lee and Reid absent; Commissioner Johnson concurring in part and dissenting in part.

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FEDERAL MARITIME COMMISSION

ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violaton of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

E. Adema, Secretary, The Association of West Coast Steamship Companies, Post Office Box 5097, Cristobal, CZ.

Agreement No. 3302–10, among the member lines of The Association of West Coast Steamship Companies, is a complete restatement of the basic agreement of that Association, which also (1) amends the Preamble to limit the jurisdiction of the member lines to the establishment and maintenance of rates in the trade from Pacific ports of Colombia or Ecuador to (a) ports on the Atlantic, Pacific, and gulf coasts of the United States, its island territories or possessions, by direct call or transshipment at Cristobal or Balboa, and (b) any port of destination on the North American Continent; (2) substitutes the words "governmental agency charged with the administration of the Shipping Act, 1916", for the words "U.S. Maritime Commission" in the last sentence of the second paragraph of Article 7; (3) clarifies Article 7 by deleting the last paragraph thereof which is in conflict with the third paragraph of said article with respect to notice of expulsion; and (4) for the purpose of continuity, changes the designation of Articles 28, 29, 30, and 31 to Articles 26, 27, 28, and 29, respectively.

Dated: October 19, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–18063 Filed 10–25–72;8:48 am]

CITY OF LONG BEACH AND NATIONAL MOLASSES CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Leonard Putnam, City Attorney, City of Long Beach, Suite 600 City Hall, Long Beach, CA 90802.

Agreement No. T–2153–3, between the City of Long Beach (City) and National Molasses Company (NMC), modifies the basic agreement which grants NMC the right to use certain premises as a bulk liquid terminal, including the preferential assignment of wharf space. The purpose of the modification is to decrease the area of Parcel III of the premises and decrease NMC's monthly compensation to the City by $46.76.

Dated: October 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–18262 Filed 10–25–72;8:48 am]

CRESCENT WHARF AND WAREHOUSE CO. AND HOWARD TERMINAL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Harmon K. Howard, Vice President, Howard Terminal, 95 Market Street, Oakland, CA 94604.

Agreement No. T–2705, between Crescent Wharf and Warehouse Company (Crescent) and Howard Terminal (Howard), is a management agreement whereby Crescent will assume the management, operation, and control of the Outer Harbor facilities leased to Howard by the Port of Oakland pursuant to Federal Maritime Commission Agreement No. T–1909. As compensation, Crescent shall receive all revenue from the terminal and stevedoring business conducted on the premises plus 17.5 percent of all revenue collected by Howard from dockage, wharfage, wharf demurrage, storage, and freight transfer charges earned upon the premises excepting military cargo for which Crescent shall receive 5 percent. The agreement further provides that Howard shall pay the City of Oakland 65 percent of the total above charges which is to be applied to its minimum rental provisions under Federal Maritime Commission Agreement No. T–1909.

Dated: October 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–18261 Filed 10–25–72;8:47 am]

MATSON NAVIGATION CO. AND McCABE, HAMILTON, AND RENNY CO., LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.

Agreement No. T–2701, between Matson Navigation Co. (Matson) and McCabe, Hamilton & Renny Co., Ltd. (McCabe), is a cargo services agreement whereby McCabe will furnish Matson comprehensive terminal stevedore and container freight station services as required by Matson at the ports of Hilo, Kahului, Nawiliwili, and Port Allen, Hawaii. As compensation, McCabe is to receive rates as agreed upon by the parties and filed with the Commission.

Dated: October 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–18260 Filed 10–25–72;8:47 am]

[Docket No. 72–48]

PACIFIC MARITIME ASSOCIATION

First Supplemental Order Severing Jurisdictional Issues Regarding Cooperative Working Arrangements

This proceeding was instituted by Order of Investigation served September 6, 1972, to determine whether a master collective bargaining contract and a Supplemental Memorandum of Understanding No. 4 (Contracts) entered into by the Pacific Maritime Association (PMA) and the International Longshoremen's and Warehousemen's Union (ILWU) embody any agreements between and among the members of PMA, which agreements are subject to the requirements of section 15 of the Shipping Act, 1916; whether the implementation of these Contracts by PMA and the ILWU will result in any practices which are violative of sections 16 and 17 of that Act and, finally, whether there are any labor policy considerations which would operate to exempt such agreements or practices from any provision of the aforementioned sections of the Shipping Act, 1916.

The Commission's investigation was initiated at the request of several Northwest ports [1] who maintain that the Contracts, providing for the employment of longshore labor, are "agreements" within the meaning of section 15 of the Act which should have been filed for Commission approval pursuant to that section.

PMA has now submitted the PMA–ILWU Supplemental Memorandum of Understanding No. 4 for a determination of its subjectivity to section 15 and, should it be found subject to that section, for its approval. By virtue of the aforementioned filing of the agreement and in view of "the identity of issues in this investigation and in any consideration of approvability", PMA has concurrently filed therewith a petition requesting that the Commission amend its Order of Investigation in this proceeding to include as an issue for determination the approvability of the PMA–ILWU Supplemental Memorandum and any underlying agreements embodied therein.

In reply to this petition, Hearing Counsel have suggested that the question of Commission jurisdiction over the subject agreements be severed from this investigative proceeding for an expeditious determination. This petition is well taken. The issues relating to possible prejudicial, discriminatory, or detrimental effects resulting from implementation of the subject agreements by their nature require resolution on the basis of a fully developed evidentiary record. However, the purely legal question regarding jurisdiction of the Commission over such agreements pursuant to section 15 may not involve genuine issues of material fact and, consequently, may be determinable on the basis of affidavits of fact and memoranda of law. Should it appear from the affidavits and memoranda that genuine issues of material fact do exist, these can be resolved by an administrative law judge together with the other factual issues set forth in the Commission's order of September 6, 1972. However, an expeditious decision on the purely legal issue of jurisdiction might result in avoidance of needless litigation. Accordingly, the Commission desires to afford the parties the opportunity of obtaining expeditious determination of the critical threshold issue. In addition, the Commission wishes to consider the question of the subjectivity of the master collective bargaining contract itself, as well as the Supplemental Memorandum and the underlying agreements embodied in both.

Therefore, it is ordered, That the first ordering paragraph of the Commission's order of September 6, 1972, be amended as follows:

1. Whether the master collective bargaining contract and the Supplemental Memorandum of Understanding No. 4 entered into by PMA and the ILWU embody any agreements between and among the members of PMA, which agreements are subject to the requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) and should be filed for approval under that section, or whether such agreements otherwise exist; and whether the master collective bargaining contract and the Supplemental Memorandum of Understanding No. 4 are themselves agreements subject to the requirements of section 15 and should be filed for approval;

• • • • •

4. Whether any labor policy considerations would operate to exempt these agreements from the provisions of section 15 of the Shipping Act, 1916;

5. Whether any labor policy considerations would operate to exempt the practices resulting from these agreements from the provisions of sections 16 and 17 of the Shipping Act, 1916;

6. Whether the master collective bargaining contract and Supplemental Memorandum of Understanding No. 4 entered into by PMA and the ILWU and any agreements between and among the members of PMA embodied therein should, if found subject to the requirements of section 15 of the Shipping Act, 1916, and found not within any labor exemptions, be approved, disapproved, or modified pursuant to that section; and

It is further ordered, That pursuant to section 22 of the Shipping Act, 1916, 46 U.S.C. 821, the first and fourth issues set forth in the first ordering paragraph of the amended order of September 6, 1972, relating to application of section 15 to the subject agreements and operation of labor policy exemptions, be severed from the proceeding for expeditious determination by the Commission; and

It is further ordered, That there appearing to be no material issues of fact in dispute with regard to the purely jurisdictional issues arising under section 15, this phase of the proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this phase of the proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 3, 1972. Simultaneous affidavits of fact and memoranda of law shall be filed by all parties no later than the close of business November 3, 1972. Reply affidavits and memoranda shall be

[1] The Ports of Anacortes, Bellingham, Everett, Grays Harbor, Olympia, Port Angeles, Portland, and Tacoma.

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filed by all parties no later than the close of business November 13, 1972. An original and 15 copies of affidavits of fact, memoranda, and replies are required to be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Copies of any papers filed with the Secretary should also be served upon all parties hereto. Time and date of oral argument if requested and/or deemed necessary by the Commission will be announced at a later date; and

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon Petitioners and both the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union, individually, and on behalf of their respective members; and

It is further ordered, That notice of this order and notice of hearing be mailed directly to the Department of Justice, the Department of Labor and the National Labor Relations Board; and

It is further ordered, That all future notices issued by or on behalf of the Commission with regard to this phase of the proceeding shall be mailed to Petitioners, the Pacific Maritime Association and the International Longshoremen's and Warehousemen's Union, individually, and on behalf of their members, and any other person made a party of record to this proceeding; and

It is further ordered, That any person other than those who are parties to Docket No. 72-48 who desires to become a party to this proceeding and participate herein, shall file a petition to intervene in accordance with Rule 5(1), 46 CFR 502.72, of the Commission's rules of practice and procedure; and

It is further ordered, That the proceedings before the presiding administrative law judge be stayed pending determination of the severed issues by the Commission.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18264 Filed 10-25-72;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CI73-230]

ATLANTIC RICHFIELD CO.

Notice of Application

OCTOBER 18, 1972.

Take notice that on September 28, 1972, Atlantic Richfield Co. (applicant), Post Office Box 2819, Dallas, TX 75221, filed in Docket No. CI73-230 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Gas Transmission Corp., from the Walker Creek Field, Columbia County, Ark., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to sell gas until such time that the gas will be required for a cycling project in the Walker Creek Field and requests that the certificate be limited to such term. The contract for the subject sale provides for a rate an initial rate of 26 cents per Mcf at 15.025 p.s.i.a.; however, in its certificate application applicant expresses its willingness to accept a certificate conditioned to an initial rate of 23.08 cents per Mcf at 15.025 p.s.i.a., subject to quality adjustment as provided by Commission Opinion No. 607.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18166 Filed 10-25-72;8:46 am]

[Project 1185]

BAHOVEC POWER PROJECT

Notice of Issuance of Annual License

OCTOBER 19, 1972.

The Licensee for Project No. 1185, the Bahovec Power Project located on the Baranof River at Warm Springs Bay on Baranof Island, Alaska, is Fred Bahovec.

The license for Project No. 1185 was issued effective August 23, 1962, for a period ending August 22, 1972. In order to authorize the continued operation of the project pursuant to Section 15 of the Federal Power Act, pending completion of Licensee's application and Commission's action thereon, it is appropriate and in the public interest to issue an annual license to Fred Bahovec for the continued operation and maintenance of Project No. 1185.

Take notice that an annual license is issued to Fred Bahovec (Licensee) of Sitka, Alaska, under section 15 of the Federal Power Act for the period August 23, 1972, to August 22, 1973, or until the issuance of a new license for the project, for the continued operation and maintenance of Project No. 1185, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18239 Filed 10-25-72;8:50 am]

[Project 2232]

DUKE POWER CO.

Notice of Application for Approval of Revised Exhibits K and L and Permission To Withdraw Reservoir Water

OCTOBER 19, 1972.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by the Duke Power Co. (correspondence to: Mr. W. H. Owen, vice president—Design Engineering, Duke Power Co., Power Building, Box 2178, Charlotte, NC 28201), for Commission approval of revised exhibits K and L showing construction of the upper level intake structure and cooling water discharge facilities, raising of a portion of the existing earth embankment of the Cowans Ford Dam 5 feet, and modification of project boundary. The application also seeks permission for the use of 4,500 c.f.s. of water from the Cowans Ford Reservoir (Lake Norman). Applicant states that these changes in Project No. 2232 are necessary to allow construction of the proposed McGuire Nuclear Station having an installed capacity of 2,300. The nuclear plant would be located adjacent to Lake Norman near the Cowans Ford Dam.

The Commission in an order issued October 2, 1961, authorized Duke Power Co., to construct a lower level cooling water intake structure in the Cowans Ford Dam and permitted the use of 2,200 c.f.s. of water from Lake Norman for condenser cooling purposes for a future steam electric plant. In the subject application the applicant requests approval to use an additional 2,300 c.f.s. of water from Lake Norman for condenser purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 4, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18240 Filed 10-25-72;8:49 am]

[Docket No. CP73-89]

EASTERN SHORE NATURAL GAS CO.

Notice of Application

OCTOBER 19, 1972.

Take notice that on September 29, 1972, Eastern Shore Natural Gas Co. (applicant), 114 East Main Street, Salisbury, MD 21801, filed in Docket No. CP73-89 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and sale of additional volumes of natural gas to certain of its existing customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to render additional long-term storage service under its GSS-1 Rate Schedule in accordance with the following table:

Customer:	*Additional contract demand-Mcf Long-term service*
Cambridge Gas Co.	35
Chesapeake Utilities Corp.:	
Citizens Gas Division	80
Dover Gas Light Division	165
Sussex Gas Division	25
Total	305

Applicant states that this additional service will supplement the GSS-1 service presently supplied to these customers, and that no new facilities will be required. Applicant further states that this application is dependent upon the grant of certificate authorization as requested by Transcontinental Gas Pipe Line Corp., in Docket No. CP72-44.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene of a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18241 Filed 10-25-72;8:50 am]

[Project No. 1196]

ESTES BROTHERS INC.

Notice of Issuance of Annual License

OCTOBER 19, 1972.

The Licensees for minor Project No. 1196, located on an unnamed creek, which is a tributary of Upper Trail Lake, Seward Recording District, Third Judicial Division, Alaska, are Robert R. Estes and Edward R. Estes, operating the project as Estes Brothers, Inc.

The license for Project No. 1196 was issued effective October 13, 1932, for a period ending October 12, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Federal Power Act, pending completion of Commission action thereon, it is appropriate and in the public interest to issue an annual license to Estes Brothers, Inc. for the continued operation and maintenance of Project No. 1196.

Take notice that an annual license is issued to Estes Brothers, Inc. for the period October 13, 1972, to October 12, 1973, or until Federal takeover or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 1196, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18242 Filed 10-25-72;8:50 am]

[Docket No. CP73-97]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 18, 1972.

Take notice that on October 10, 1972, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-97 a budget-type application pursuant to sectons 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon during the calendar year 1973, certain small compressor gathering facilities and for a certificate of public convenience and necessity authorizing the relocation of these small compressor gathering facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this application is to augment its ability to take into its pipeline system natural gas purchased from producers by use of small field compressor gathering facilities in order to meet changing pressure conditions in the producing fields attached to its system. The instant application is filed within the contemplation of proposed § 157.7(f) of the regulations under the Natural Gas Act (18 CFR 157.7 (f)).

The total cost of the proposed facilities will not exceed $1 million, which applicant plans to finance from cash on hand and from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18161 Filed 10-25-72;8:45 am]

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[Project No. 719]

JESSIE I. SMITH

Notice of Issuance of Annual License

OCTOBER 19, 1972.

On June 30, 1972, Jessie I. Smith, Licensee for Trinity Power Project No. 719, located in Wenatchee National Forest, Chelan County, on the James and Phelps Creeks, tributaries of the Chiwawa River in Washington, filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6).

The license for Project No. 719 was issued effective November 1, 1952, for a period ending October 31, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Jessie I. Smith for the continued operation and maintenance of Project No. 719.

Take notice that an annual license is issued to Jessie I. Smith (Licensee) under section 15 of the Federal Power Act for the period November 1, 1972, to October 31, 1973, or until Federal takeover or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 719, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18243 Filed 10-25-72;8:50 am]

[Dockets Nos. CP68-247, CP70-308]

SOUTH GEORGIA NATURAL GAS CO. AND CITY OF FITZGERALD, GA., WATER, LIGHT & BOND COMMISSION

Notice of Petition To Vacate Orders

OCTOBER 18, 1972.

Take notice on September 5, 1972, South Georgia Natural Gas Co., (petitioner), Post Office Box 1279, Thomasville, GA 31792, filed a petition to vacate in part the order of the Commission issued in Docket No. CP68-247 on July 12, 1968 (40 FPC 73), pursuant to section 7(c) of the Natural Gas Act and to vacate in toto the order of the Commission issued in Docket No. CP70-308 on August 31, 1970 (44 FPC 667), pursuant to section 7(a) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

By Commission order in Docket No. CP68-247 a certificate of public convenience and necessity was issued authorizing Petitioner to construct and operate certain natural gas facilities and to provide natural gas service to eight proposed municipal customers in Georgia, all within 3 years from the date of the order. Ordering paragraph (E) of said order provided that before commencement of construction Petitioner should submit to the Commission evidence that each municipality had been authorized to issue revenue bonds, that it had a firm commitment covering the sale of such bonds, and that its project was economically feasible. Petitioner states that only one of the eight municipalities, Doerun, Ga., which it presently is serving, has actually performed the acts specified in paragraph (E) of such order and that the remaining seven municipalities have not requested it to obtain an extension of time in which to render service. Petitioner requests that the order in Docket No. CP68-247 be vacated except with respect to service to Doerun, Ga.

By Commission order in Docket No. CP70-308, petitioner was directed to construct and operate a second physical connection of its transportation system with the proposed facilities of the city of Fitzgerald, Ga., Water, Light, and Bond Commission (Fitzgerald). Applicant states that service has not commenced and that it has been advised by Fitzgerald in letter dated April 3, 1972, that Fitzgerald no longer requires the authorized facilities in Docket No. CP70-308. Accordingly, petitioner requests that the order issuing a certificate in Docket No. CP70-308 be vacated.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18164 Filed 10-25-72;8:46 am]

[Docket No. RP72-64]

TEXAS GAS TRANSMISSION CORP.

Notice of Motion for Approval of Second Stipulation and Interim Agreement

OCTOBER 18, 1972.

Take notice that Texas Gas Transmission Corp. (Texas Gas), on October 5, 1972, filed a motion for approval of a Second Stipulation and Interim Agreement, together with certain implementing tariff sheets attached as exhibit A which Texas Gas proposes to file to be effective May 1, 1973.

The essential terms and conditions of the Second Stipulation and Interim Agreement are identical to those contained in the Stipulation and Interim Agreement approved by the Commission's order issued herein on June 26, 1972, except that the expiration dates are extended for 1 additional year. Thus under the proposed Second Stipulation and Interim Agreement, the presently effective seasonal volumetric limitations (Quantity Entitlements) set forth in Texas Gas' FPC Gas Tariff, Third Revised Volume No. 1, would remain in effect until April 30, 1975, and the method of curtailment would continue in effect until April 30, 1974. The small volume distributors (SG customers) would remain bound by the Quantity Entitlements though exempt from curtailment below those levels.

Texas Gas states in its filing that unless there is an unusual change in its gas supply, it does not now contemplate any seasonal curtailment below currently effective Quantity Entitlements during the year ending April 30, 1974. Texas Gas further states that in its view approval of the Second Stipulation and Interim Agreement will be in the public interest because it will settle Texas Gas' curtailment program on an interim basis, thereby providing more time in which the parties can proceed in an orderly fashion toward the objective of settling the terms and conditions of a permanent curtailment program.

Any person desiring to be heard or to make any protest with reference to said filing should on or before November 2, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.18 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18165 Filed 10-25-72;8:46 am]

[Docket No. CP72-145]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

OCTOBER 18, 1972.

Take notice that on October 10, 1972, Transcontinental Gas Pipe Line Corp. (Petitioner), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP72-145 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by deleting therefrom the limitation on the volume of natural gas which may be stored in the authorized facilities during the initial storage cycle, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued in the subject docket on April 7, 1972 (47 FPC ——), Petitioner is authorized to construct and operate facilities to enlarge its eminence storage field in Covington County, Miss., by developing two additional bottle-shaped underground storage caverns in the same salt dome formation comprising the existing eminence storage field. Said order limits the volume of natural gas which may be stored in each of the caverns to 2,698,000 Mcf at 3,500 p.s.i.g.

Petitioner states that it anticipates that the ultimate capacity of the caverns authorized in the subject docket will be less than the limitation imposed by the subject order; however, during the initial storage cycle each of the two new caverns will be capable of storing up to approximately 3,340,000 Mcf at 3,500 p.s.i.g. The reasons that initial capacity will exceed ultimate capacity are attributed by Petitioner to—

(1) Cavern closure, which is experienced primarily during the first year after development and results in a decrease of storage space, making it necessary to develop the initial capacity of a cavern in excess of the ultimate design capacity in order to offset the anticipated loss of space; and

(2) The leaching process employed in the development of the cavern, which involves the injection of cold water and causes the gas temperature during the initial storage cycle to be lower than that ultimately experienced and thereby increases the effective storage capacity.

Petitioner states that the combined effect of the aforementioned circumstances will make available approximately 1,280,000 Mcf of capacity in the new caverns during the 1972-73 winter season in excess of the limitation imposed in the certificate.

Petitioner indicates that the temporarily increased capacity will be able to offset for the coming winter season the decrease in experienced capacity of the previously authorized caverns resulting from cavern closure and thus will provide Petitioner and its customers with greater reliability of service than would otherwise be available. Petitioner indicates further that such system flexibility is critically needed during the coming winter season to minimize curtailments and to protect the firm markets of Petitioner's customers. Petitioner states that no additional facilities need be constructed or expenditures made in order to utilize the additional storage capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18162 Filed 10-25-72;8:46 am]

[Docket No. G-4904, etc]

AMOCO PRODUCTION CO. ET AL.

Findings and Order After Statutory Hearing

OCTOBER 17, 1972.

Findings and order after Statutory Hearing issuing certificates of Public Convenience and Necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, canceling FPC gas rate schedules, accepting rate schedules and rate schedule supplements for filing, making successor respondent and redesignating proceedings.

Each applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and propose to initiate, abandon, add, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the applications has been filed.

At a hearing held on October 12, 1972, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7, of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) The sales of natural gas proposed to be abandoned, as hereinbefore described and as more fully described in the applications and in the tabulation herein, are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that applicant in Docket No. CI71-300 should be substituted as respondent in the proceeding pending in Docket No. RI71-621 insofar as it pertains to sales under Amoco Production Co. (Operator) et al., FPC Gas Rate Schedule No. 553, and that said proceeding should be redesignated accordingly.

(10) It is necessary and appropriate in carrying out the provision of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing or redesignated as hereinafter ordered.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction

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of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in various dockets are amended by deleting therefrom authorization to sell natural gas or by substituting successors in interest as certificate holders, as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) Applicants in the dockets indicated shall charge and collect the following rates, subject to B.t.u. adjustment where applicable:

Docket No.	Rate (cents per Mcf)	Pressure Base (p.s.i.a.)
CI72-575	26.0	15.025
CI72-692	26.0	15.025
CI72-693	26.0	15.025
CI72-694	26.0	15.025
CI72-733	21.5	14.65
CI72-734	21.315	14.65
CI72-735	21.5	14.65

(F) The certificates and certificate authorizations granted in Dockets Nos. G-4904, CI68-462, CI68-1247, CI68-1269, CI72-575, CI72-692, CI72-693, CI72-694, CI72-733, CI72-734, and CI72-735 are subject to the Commission's findings and orders accompanying Opinions Nos. 468, 468-A, 586, 598, and 598-A, as applicable.

(G) Within 90 days from the date of initial delivery, applicants in Dockets Nos. CI72-575, CI72-692, CI72-693, and CI72-694 shall each file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 598. Within 90 days from the date of this order, applicant in Docket No. G-4904 shall file three copies of a rate schedule-quality statement in the form prescribed in Opinion No. 586.

(H) The orders issuing certificates of public convenience and necessity in Dockets Nos. G-4904 and G-11832 are amended by adding thereto authorization to sell natural gas which was originally covered under another's authorization, as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(I) The certificates issued in Dockets Nos. CI67-1624 and CI69-780 are terminated and the related rate schedules are canceled.

(J) Applicant in Docket No. CI71-300 is substituted as respondent in the proceeding pending in Docket No. RI71-621 only insofar as it pertains to sales under Amoco Production Co. (Operator) et al., FPC Gas Rate Schedule No. 553, and said proceeding is redesignated accordingly. Applicant shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(K) The certificates issued herein in Dockets Nos. CI72-692, CI72-693, CI72-694, CI72-733, and CI72-734 determine the rates which the respective buyers may legally pay their affiliates, the respective sellers, under the subject authorizations, and are without prejudice to any action which the Commission may take in any rate proceeding involving said buyers and sellers.

(L) Permission for and approval of the abandonments of service by applicants, as hereinbefore described and as more fully described in the application and tabulations, are granted.

(M) The rate schedule and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

Docket No. and date filed	Applicant	Purchaser and location	FPC Gas Rate Schedule [1] Description and date of document	No.	Supp.
G-4904	Amoco Production Co. (Operator), et al.	Cities Service Gas Co., Hugoton Field, Kans.	Assignment 2-9-65 [6]	84	133
5-17-72 [2]	do	do	Assignment 4-28-64 [7]	84	134
5-17-72 [3]	do	do	Assignment 4-6-64 [8]	84	135
5-17-72 [2]	do	do	Assignment 12-28-67 [9]	84	136
5-17-72 [2]	do	do	Assignment 3-10-69 [9]	84	138
6-16-72 [4]	do	do	Assignment 12-6-65 [10]	84	139
6-16-72 [4]	do	do	Assignment 12-6-65 [11]	84	140
6-19-72 [4]	do	do	Assignment 6-16 61	192	22
G-11832 5-25-72 [12]	do	Northern Natural Gas Co., South Bernstein Field, Hansford County, Tex.			
G-14637 E 6-7-72	Kansas Gas Purchasing [13]	Northern Natural Gas Co., Hockett Field, Meade County, Kans.	Northern Natural Gas Producing Co., FPC Gas Rate Schedule No. 14 and Supplements Nos. 1-3 thereto	1 / 1	1-3
			Notice of Succession 6-6-72		
			Assignment 5-9-72 (Effective date: 5-1-72)	1	4
G-15387 D [14]	Amoco Production Co.	El Paso Natural Gas Co., East La Barge Field, Lincoln and Sublette Counties, Wyo.	Assignment 12-31-69	236	6
C161-419 D [14]	do	El Paso Natural Gas Co., Chimney Butte Unit, Sublette County, Wyo.	do	289	8
C161-1128 D [14]	do	El Paso Natural Gas Co., Big Piney Field, Sublette County, Wyo.	do	307	35
C164-964 D [14]	do	El Paso Natural Gas Co., Bita Peak Field Apache County, Ariz.	do	389	2
C164-1506 D [14]	do	El Paso Natural Gas Co., Gallup Field, San Juan and Rio Arriba Counties, N. Mex.	do	397	7
C166-884 D [14]	Austral Oil Co., Inc. (Operator) et al.	Trunkline Gas Co., East Bancroft Field Area, Beauregard Parish, La.	Assignment 1-16-70 [15]	29	5
C166-1259 D [14]	Atlantic Richfield Co.	do	do [15]	302	7
C166-1292 D [14]	do	do	do [15]	572	6
C168-642 E 5-11-72	Clinton Oil Co. [16]	Dorchester Gas Producing Co., Big Lake Field, Reagan County, Tex.	Amoco Producing Co. FPC Gas Rate Schedule No. 506 and Supplements Nos. 1-2 thereto.	85 / 85	1-2
			Notice of succession 5-5-72		
			Assignment 12-31-69 [17]	85	3
			Effective date: 12-31-69		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] Reeve Unit; effective date: Mar. 18, 1971.
[2] Grosman Unit; effective date: May 2, 1971.
[3] Weber Unit A; effective date: May 2, 1971.
[4] Wheatley and Dannie Gas Units; effective date: May 2, 1971.
[5] Applicant proposes to convey its entire interest in a sale of natural gas heretofore covered by Allied Minerals Corp.; now holder of a small producer certificate.
[6] Successor to Northern Natural Gas Producing Co.
[7] No certificate filing necessary (18 CFR 2.56).
[8] Assigns acreage from Applicant to Gulf Minerals Inc., a small producer certificate holder.
[9] Assigns acreage to Amoco Production Co.
[10] Assigns acreage from Applicant to Amoco Production Co.
[11] Successor to Sun Oil Co.
[12] (Operator) et al.
[13] Rate schedule filing has heretofore been accepted.
[14] Application to amend certificate to delete the name of Mobil Oil Corp. is being construed as an application to abandon a sale of natural gas heretofore authorized in Docket No. CI67-1624.
[15] Contains assignments dated July 1, 1971, which Amoco Production Co. assigned from Applicant to Curt Weaver, Assignee states that the acquired acreage does not include any wells capable of producing gas into an interstate gas transmission line.
[16] Small producer abandonment.
[17] Source of gas is depleted.
[18] Applicant proposes to abandon a sale of natural gas heretofore authorized in Docket No. CI69-780.
[19] Effective Date: Date of initial delivery.

Docket No. and date filed	Applicant	Purchaser and location	FPC Gas Rate Schedule [1] Description and date of document	No.	Supp.
C168-1247 E 5-30-72	Harold D. Courson [18]	Diamond Shamrock Corp., Chest Field, Ochiltree County, Tex.	Sun Oil Co. FPC Gas Rate Schedule No. 280 and Supplement No. 1 thereto.	5 / 6	1
			Notice of succession 5-18-72		
			Assignment 11-10-71	5	2
			Effective date: 1-1-72		
C168-1269 E 5-12-72	Clinton Oil Co. [18]	Cities Service Gas Co., Northeast Waynoka Field, Woodward County, Okla.	Amoco Production Co. FPC Gas Rate Schedule No. 510 and Supplements Nos. 1-2 thereto.	86	1-2
			Notice of succession 5-9-72		
			Assignment 12-31-69 [11]	86	3
			Effective date: 12-31-69		
CI71-300 E 5-12-72	Clinton Oil Co. (Operator), et al. [18]	Southern Union Gathering Co., Fuller-Kurz Unit, Basin Dakota Field, San Juan County, N. Mex.	Amoco Production Co. [11] FPC Gas Rate Schedule No. 553 and Supplements Nos. 1-2 thereto.	87	1-2
			Notice of succession 5-9-72		
			Assignment 12-31-69 [11]	87	3
			Effective date: 12-31-69		
CI72-575 A 3-13-72	Southwest Gas Producing Co., Inc.	Transcontinental Gas Pipeline Corp., Leleux Field, Vermilion Parish, La.	Contract 4-20-72 [20]	1	
CI72-692 A 4-25-72	Pennzoil Offshore Gas Operators, Inc.	Sea Robin Pipeline Co., Block 238, Eugene Island Area, offshore Louisiana.	Contract 4-20-72 [20]	1	
CI72-693 A 4-25-72	do	Sea Robin Pipeline Co., Block 238, Eugene Island Area, offshore Louisiana.	do [20]	2	
CI72-694 A 4-25-72	do	Sea Robin Pipeline Co., Block 270, East Cameron Area, offshore Louisiana.	do [20]	3	
CI72-733 A 5-15-72	American Natural Gas Production Co.	Michigan Wisconsin Pipe Line Co., Clee Flowers Field, Roberts County, Tex.	Compliance 6-13-72 [20]	4	1
CI72-734 A 5-15-72	do	Michigan Wisconsin Pipe Line Co., Southwest Camrick Field, Beaver and Major Counties, Okla.	do [20]	5	1
CI72-735 A 5-15-72	Texaco, Inc.	Panhandle Eastern Pipe Line Co., Farwell (Marrow) Field, Deaf Smith County, Tex.	Compliance 6-21-72 [20]	473	1
CI72-804 B 8-10-72 [21]	Mobile Oil Corp.	Columbia Gas Transmission Corp., East Cameron Meadows Field, Cameron Parish, La.	Notice of cancellation 8-10-71 [22]	403	2
CI72-863 B 8-10-72 [23]	Inexco Oil Co.	Transcontinental Gas Pipe Line Corp., Van Meter Field, Hardin County, Tex.	(24)		
CI72-866 B 8-27-72 [25]	Warren B. Pinney, Jr.	Tennessee Gas Pipeline Co. a Div. of Tenneco Inc., Kohler Field, Duval County, Tex.	Notice of cancellation 6-9-72 [22]	1	3

[1] Unless otherwise stated, effective date is date of this order.
[2] Applicant proposes to cover its own interest in a sale of natural gas heretofore covered by W. E. Bakke, now holder of a small producer certificate.
[3] Applicant proposes to cover its own interest in a sale of natural gas heretofore covered by Northern Pump Co., now holder of a small producer certificate.
[4] Applicant proposes to cover its own interest in a sale of natural gas heretofore covered by Graham-Michaelis Drilling Co., now holder of a small producer certificate.
[5] Drussell Unit; effective date: May 2, 1971.
[6] Murphy Unit; effective date: Mar. 18, 1971.
[7] Does not consolidate for hearing or dispose of the several matters herein.

[Docket No. RI73-72, etc.]

WARREN PETROLEUM CO. ET AL.
Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 13, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below. The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

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APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
R173-72	Warren Petroleum Co., a division of Gulf Oil Corp.	61	2	El Paso Natural Gas Co. (Tatum Gas Processing Plant, Lea County, N. Mex., Permian Basin).	$328	9-15-72		3-16-73	[1] 27.3240	[4] 30.3600	
	do	62	1	El Paso Natural Gas Co. (Caliche Gas Processing Plant, Lea County, N. Mex., Permian Basin).	(3)	9-15-72		3-16-73	[2] 29.9430	[4] 33.2700	
	do	63	1	El Paso Natural Gas Co. (Monument Gas Processing Plant, Lea County, N. Mex., Permian Basin).	(3)	9-15-72		3-16-73	[1] 27.4590	[4] 30.5100	
	do	64	2	El Paso Natural Gas Co. (Saunders Gas Processing Plant, Lea County, N. Mex., Permian Basin).	3,789	9-15-72		3-16-73	[1] 28.0260	[4] 31.1400	
	do	65	2	El Paso Natural Gas Co. (Eunice Gas Processing Plant, Lea County, N. Mex., Permian Basin).	2,571	9-15-72		3-16-73	[1] 28.5660	[4] 31.7400	
	do	66	2	El Paso Natural Gas Co. (Waddell Gas Processing Plant, Crane co, Tex., Permian Basin).	25,827	9-15-72		3-16-73	[1] 28.9710	[4] 32.5285	
R173-73	Aztec Oil & Gas Co.	25	9	Southern Union Gathering Co. (Mesa Verde Formation, San Juan County, N. Mex., San Juan Basin).	7,083	9-15-72		3-16-73	[1] 15.0636	[4] 29.23	R169-378.
	do	27	9	do	9,916	9-15-72		3-16-73	[1] 15.0636	[4] 29.23	R169-378.
	do	479	17	do	113,150	9-13-72		12-2-72	[1] 17.00	[4] 18.00	
R173-74	Phillips Petroleum Co.			Panhandle Eastern Pipeline Co., (Powder River Basin Area, Converse and Campbell Counties, Wyo).		9-15-72	10-16-72	[5] Accepted			
R173-75	Pennzoil Co.	13	10	Northern Natural Gas Co. (Coyanesa Field, Pecos County, Tex.) (Permian Basin).	60,362	9-15-72		3-16-73	17.0638	23.10	R171-819.
	do		10	do							

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Initial rate prescribed by temporary certificate issued July 10, 1972.
[2] 27-cent base rate plus B.t.u. adjustment.
[3] No residue available for sale at the present time.
[4] 30-cent base rate plus B.t.u. adjustment.
[5] The pressure base is 15.025 p.s.i.a.
[6] Applicable only to that portion of residue gas delivered from Douglas Plant that is attributable to raw gas purchased by Phillips under contracts dated prior to June 17, 1970.
[7] Contract amendment.
[8] Accepted, for filing to be effective on the date shown in the "Effective Date" column.

The proposed increase of Phillips Petroleum Co. under Supp. No. 7 to its FPC Gas Rate Schedule No. 479, does not exceed the corresponding rate filing limitation imposed in southern Louisiana and therefore is suspended for 1 day from the expiration of the 60-day notice period.

The other proposed increases exceed the rate limit for a 1-day suspension and therefore are suspended for 5 months.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15 U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinions Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-18021 Filed 10-25-72;8:45 am]

FEDERAL RESERVE SYSTEM

FIDELITY AMERICAN BANKSHARES, INC.

Order Approving Acquisition of Bank

Fidelity American Bankshares, Inc., Lynchburg, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Peoples Corp., Virginia Beach, Va., a one-bank holding company which owns 100 percent of the voting shares (less directors' qualifying shares) of People's Bank of Virginia Beach, Virginia Beach, Va. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 10 banks with deposits of $403.8 million representing approximately 4.4 percent of total deposits of commercial banks in Virginia, and is the eighth largest banking organization in the State.[1] Acquisition of Bank (deposits of $19.2 million) would increase Applicant's share of deposits in the State by 0.2 percentage points and would not alter its State ranking nor result in a significant increase in the concentration of banking resources in Virginia.

[1] Banking data are as of Dec. 31, 1971, unless otherwise noted, and reflect holding company formations and acquisitions approved by the Board through Aug. 31, 1972. Data also reflect the Board's approval of this date of Applicant's application to acquire Citizens Bank of Herndon, Herndon, Va., and Fairfield National Bank of Highland Springs, Highland Springs, Va.

Bank operates its main office and four branch offices in the 312-square-mile community of Virginia Beach. Bank is one of seven banking organizations serving Virginia Beach and as of June 30, 1970, ranked as the 10th largest of 11 banking organizations in the Norfolk SMSA (which approximates the relevant banking market with 1.4 percent of commercial bank deposits in the market. Based on its ownership of a bank in Portsmouth, Applicant held 5.6 percent of market deposits as of June 30, 1970, and ranked as sixth largest banking organization in the market. The closest offices of Applicant's Portsmouth subsidiary and Bank are 12 miles apart, and consummation of the proposal would not eliminate any significant existing competition between them since their respective service areas are separated by the city of Norfolk and parts of the city of Chesapeake. There does not appear to be any significant competition between Bank and any of Applicant's banking subsidiaries. Further, it appears unlikely that significant future competition between Bank and any of Applicant's subsidiaries would develop because of Virginia's restrictive banking laws and other facts of record. Affiliation with Applicant may stimulate competition by making it easier for Bank to expand the range of its services. Thus, competitive considerations appear to be consistent with approval of the application.

The financial and managerial resources of Applicant, its subsidiary banks and Bank are regarded as generally satisfactory.[2] Although new services would not be introduced into the relevant areas, Applicant's assistance to Bank in making available services the Bank does not presently offer, such as mortgage loans and trust services, would provide an alternative source of such services to area residents. Accordingly, considerations related to the convenience and needs of the communities to be served are consistent with and lend some support to approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

[2] See order of this date approving applications to acquire Citizens National Bank of Herndon, and Fairfield National Bank of Highland Springs, Highland Springs, both in Virginia.

By order of the Board of Governors,[3] effective October 18, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18221 Filed 10-25-72;8:49 am]

FIDELITY AMERICAN BANKSHARES, INC.

Order Approving Acquisition of Banks

Fidelity American Bankshares, Inc., Lynchburg, Va., a bank holding company within the meaning of the Bank Holding Company Act, has separately applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of (1) Citizens National Bank of Herndon, Herndon, Va. (Citizens Bank), and (2) Fairfield National Bank of Highland Springs, Highland Springs, Va. (Fairfield Bank).

Notice of the applications affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in Virginia, controls eight banks with aggregate deposits of $383.1 million, representing 4.2 percent of deposits of commercial banks in the State. (Banking data are as of December 31, 1971, unless otherwise noted, and reflect holding company formations and acquisitions approved through August 31, 1972). Consummation of the proposals herein would increase Applicant's share of deposits by 0.2 percentage points and would not change its statewide ranking nor result in a significant increase in the concentration of banking resources in Virginia.

The service area of Citizens Bank is located in the western part of Fairfax County which is a small segment of the Washington, D.C., banking market. Citizens Bank (deposits of $13.7 million) is the 13th largest of 21 banking organizations in the Virginia portion of the banking market and the fifth largest of the 13 banks not affiliated with holding companies, three of which have opened since 1970, in the Virginia portion of the market. Applicant's closest banking subsidiary to the area served by Citizens Bank is approximately 50 miles southwest. It appears that no significant competition exists between Citizens Bank and any of Applicant's subsidiaries. Further, it appears unlikely that significant future competition between Bank and Applicant's present subsidiaries would be eliminated by consummation of the proposal in light of the distances separating Applicant's subsidiaries and Bank, and Virginia's restrictive branching law. While Applicant could enter the market by the establishment of a de novo bank or the acquisition of a smaller bank, Citizens Bank's size, and the relatively large number of remaining "foothold" entries as well as the large number of alternative sources of banking services make it unlikely that the acquisition would have any significant anticompetitive effects. Moreover, affiliation with Applicant, with its greater financial resources, may enhance Citizens Bank's ability to be a full service competitor.

Fairfield Bank (deposits of $7 million) is the 12th largest of 13 banks operating in the Richmond banking market and had less than 0.5 percent of market deposits as of June 30, 1970. Applicant's subsidiary banking office located nearest to Fairfield Bank is approximately 40 miles southeast of Fairfield Bank. It appears that no meaningful competition exists between Fairfield Bank and any of Applicant's subsidiary banks. Further, it seems unlikely that consummation of the proposed acquisition would foreclose any significant future competition between Fairfield Bank and Applicant's subsidiary banks in the light of the facts presented, including the distances separating these banks, Virginia's restrictive branching law, and the relatively small size of Fairfield Bank. Moreover, because of Applicant's greater resources, affiliation of Fairfield Bank with Applicant may enhance Fairfield Bank's ability to compete with the much larger banks in the market. Thus, competitive considerations appear to be consistent with approval of both applications.

The capital positions of three of Applicant's banking subsidiaries are deemed to be somewhat low; however, Applicant has made a commitment to increase the equity capital of the subsidiaries before or during 1973, and after the proposed increases, each of the banks involved would appear to have an adequate capital base. Accordingly, the financial and managerial resources of Applicant and its subsidiary banks are regarded as generally satisfactory. The financial and managerial resources of Citizens Bank are also regarded as generally satisfactory. Applicant has indicated that it will provide additional capital to Citizens Bank to increase the bank's lending limit and to support anticipated growth. Affiliation with Applicant would provide needed strength to Fairfield Bank's capital and management. The banking factors strongly support approval of the acquisition of Fairfield Bank and lend

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

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some support to approval of the acquisition of Citizens Bank.

Although neither of the proposed affiliations would introduce new services into the relevant markets, affiliation with Applicant would better enable each bank to provide additional banking services to the communities they serve. Applicant states its proposed affiliation would enable Fairfield Bank to begin offering residential mortgage loans and facilitate the offering of trust and investment advice as well as other services not currently provided by Fairfield Bank. Applicant also states that its proposed affiliation would enable Citizens Bank to offer trust services by drawing upon Applicant's expertise; Applicant would also assist Citizens Bank in such areas as system and management training. Accordingly, considerations related to the convenience and needs of the communities to be served are consistent with and lend some support to approval of the applications. It is the Board's judgment that the proposed transactions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 18, 1972.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.72-18220 Filed 10-25-72;8:49 am]

FIRST ALABAMA BANCSHARES, INC.

Order Approving Acquisition of Bank

First Alabama Bancshares, Inc., Birmingham, Ala., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent of the voting shares of Dothan Bank and Trust Company, Dothan, Alabama ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks with aggregate deposits of about $494 million, representing about 8.6 percent of total commercial bank deposits in the State, and is the third largest banking organization and bank holding company in Alabama. (All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Acquisition of Bank would increase Applicant's share of Statewide deposits by only 0.7 percent and Applicant would become the second largest banking organization and bank holding company in Alabama.

Bank ($38.3 million in deposits), the second largest bank in the Dothan banking market (approximated by the city of Dothan) controls 32.8 percent of market deposits. Due to Alabama's branching laws and the distance between Applicant's nearest subsidiary and Bank (over 100 miles), there is no substantial existing competition between Applicant and Bank.

The Department of Justice filed comments with regard to the subject application. In the Department's view, there are only a small number of banking organizations in Alabama, including Applicant, that are significant potential entrants into all the important markets in the State in which they are not now represented. The Department of Justice found the Dothan market to be highly concentrated and felt that approval of this application, along with approval of an earlier application of The Alabama Financial Group, Inc., to acquire The First National Bank of Dothan (1972 Federal Reserve Bulletin 822) would "significantly lessen the possibility of de novo or foothold entry into Dothan and tend to entrench the existing concentrated market structure." For these reasons, the Department concluded that the acquisition of Bank would have a significantly adverse effect on competition.

Applicant replied to the Department's comments by stating that the Dothan market was not attractive for de novo entry from either an economic or regulatory standpoint (and seriously doubts the permissibility of de novo entry by an existing holding company pursuant to Alabama law). Furthermore, since the only possible "foothold" bank is already a member of a one-bank holding company and is affiliated with several other Alabama banks through common stock ownership, there was no other means available for Applicant to enter this market. In Applicant's view, approval of this application would have a procompetitive effect, enabling Bank to compete more effectively with its much larger local competitor, The First National Bank of Dothan.

The record indicates that the Dothan market is not attractive or de novo entry. Population per banking office is considerably less than the State average, while deposits per banking office are also less than the State figure. Moreover, the Dothan market had only moderate population growth during the 1960's. The Board, therefore, concludes that Applicant is not a likely de novo entrant into this market. It further appears that there is no likelihood that Applicant could enter the city of Dothan other than through the acquisition of Bank.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as satisfactory. Applicant has committed itself to inject into Bank an additional $750,000 in equity capital and will provide Bank needed management depth; accordingly, banking factors lend weight for approval. Applicant would assist Bank in accommodating larger credit requests, expanding its trust services and data processing services. Considerations relating to the convenience and needs of the communities are consistent with approval. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above.[1] The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2]

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.72-18215 Filed 10-25-72;8:48 am]

FIRST FINANCIAL CORP.

Order Approving Acquisition of Bank

First Financial Corp., Tampa, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent of the voting shares of Lake Region Bank of Commerce, Winter Haven, Fla. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 10 banks with aggregate deposits of about $555 million, representing 3.4 percent of the total commercial bank deposits in Florida, and is effective October 18, 1972.

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[1] Dissenting Statement of Governors Robertson and Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

[2] Voting for this action: Governors Daane, Sheehan and Bucher. Voting against this action: Vice Chairman Robertson and Governor Brimmer. Absent and not voting: Chairman Burns and Governor Mitchell.

the sixth largest banking organization and bank holding company in the State. (All banking data are as of December 31, 1971, and reflect bank holding company formations and acquisitions approved by the Board through September 30, 1972.) Acquisition of Bank ($15.3 million in deposits) would increase Applicant's share of deposits in the State by only 0.1 percentage point and would not alter its ranking.

Bank is the 12th largest of 22 banks in the Polk County banking market and is the third largest of the eight banks operating in the city of Winter Haven. This proposal represents Applicant's initial entry into the city of Winter Haven and, inasmuch as Applicant's subsidiary located closest to Bank is about 18 miles west, would not result in the elimination of any significant existing competition. Nor is it likely that consummation of the proposal would have any significant effects on potential competition between Applicant's present subsidiaries and Bank due, among other factors of record, to the large number of banks in the area and the restrictive branching law of Florida. On the other hand, Bank's competitive position in relation to the larger banking organizations already represented in Winter Haven should be enhanced as six of the banks in Winter Haven control 80.5 percent of area deposits and are members of multibank holding companies. It does not appear, therefore, that significant competition would be eliminated or significant potential competition foreclosed by consummation of Applicant's proposal, or that there would be undue adverse effects on any bank in the area involved.

The financial and managerial resources and prospects of Applicant and its subsidiary banks are regarded as satisfactory and consistent with approval. Applicant proposes to strengthen Bank's management and render it more aggressive in line with Bank's favorable future prospects. The banking needs of the area are being met; however, Applicant proposes that affiliation would enable Bank to become a full service bank able to offer such additional services as larger credit lines, trust services, and a full line of data processing services. Furthermore, Applicant proposes to increase Bank's loan-to-deposit ratio which is the market's lowest. Considerations relating to the convenience and needs of the communities to be served lend weight for approval. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 18, 1972.

[SEAL] TYNAN SMITH, *Secretary of the Board.*

[FR Doc.72-18216 Filed 10-25-72;8:49 am]

RIDGE BANCORPORATION OF WISCONSIN

Order Approving Formation of Bank Holding Company

Ridge Bancorporation of Wisconsin, Greendale, Wis. (Applicant), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Northridge Bank, Milwaukee, Wis. (Northridge Bank), and 100 percent of the voting shares (less directors' qualifying shares) of Southridge Bank of Greendale, Greendale, Wis. (Southridge Bank), a proposed new bank organized solely for the purpose of acquiring the assets and assuming the liabilities of Southridge National Bank of Greendale, Greendale, Wis. (Southridge National).

The bank which will acquire the assets and assume the liabilities of Southridge National has no significance except as a means of acquiring the voting shares of Southridge National. Accordingly, the proposed acquisition of the successor organization is treated as the proposed acquisition of the shares of Southridge National.

Notice of the subject application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a newly organized corporation formed for the purpose of becoming a bank holding company and it has no present operations or subsidiaries. Upon approval of the transaction herein, Applicant would control approximately 0.2 percent of the total commercial bank deposits in the Milwaukee area.[2]

Northridge Bank, a new bank, commenced business in May 1972 and is located approximately 12 miles northwest of downtown Milwaukee. Northridge Bank projects that based upon the end of first year operations, it will have $2.7 million in deposits or 14.6 percent of the total commercial bank deposits in its immediate service area, defined as that area within a 3.25-mile radius of Northridge Bank. It competes with two other banks, one which controls 72.9 percent of deposits, and the other which is affiliated with the largest banking organization in Wisconsin.

Southridge National ($8.9 million in deposits) began operation in September 1970 and is located on the southwest corner of the city of Milwaukee. Southridge National ranks fifth among six banks in its immediate service area (3-mile radius of Southridge National) and controls approximately 0.4 percent of total commercial bank deposits in that area. It competes with five other banks, two of which are branches of organizations which rank as the first and second largest banking organizations in Wisconsin, respectively, and two of which are banks with deposits of over $20 million.

The record indicates that Northridge Bank and Southridge National do not compete with each other. Southridge National is approximately 15 miles directly south of Northridge Bank, the intervening area being the city of Milwaukee. In light of this distance and the high degree of common ownership between Northridge Bank and Southridge National, there appears to be little prospect for the development of such competition in the future. Further, it appears that affiliation of the two banks with Applicant would not have any adverse effects on any other bank but rather should enable Northridge Bank and Southridge National to compete more effectively with the larger banks in their respective areas. On the basis of the record before it, the Board concludes that consummation of the proposal would not result in any significant increase in concentration of banking resources in Wisconsin, nor have any adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, which are largely dependent upon those of its proposed subsidiary banks, appear generally satisfactory. It appears, then, that Applicant would begin operations in generally satisfactory condition and with competent management.

Upon consummation, the successor organization to Southridge National will have increased aggregate capital stock and surplus accounts and greater lending power. Considerations relative to the convenience and needs of the communities to be served lend some weight toward approval. It is the Board's judgment that the proposed transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after that date, and (c) Southridge Bank of Greendale, Greendale, Wis., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[2] Unless otherwise indicated, all banking data are as of December 31, 1971.

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cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 18, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18217 Filed 10-25-72;8:49 am]

SOUTHRIDGE BANK OF GREENDALE

Order Approving Acquisition of Assets and Assumption of Liabilities Under Bank Merger Act

Southridge Bank of Greendale, Greendale, Wis. (Applicant), a proposed State member bank of the Federal Reserve System, has applied pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) for the Board's prior approval to acquire the assets and assume the liabilities of Southridge National Bank of Greendale, Greendale, Wis., under the name and charter of Applicant.

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published and the Board has requested reports on competitive factors from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered all relevant material contained in the record in the light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Board's order of this date relating to the application of Ridge Bancorporation of Wisconsin, Greendale, Wis., and Southridge Bank of Greendale, through acquisition of 100 percent of the voting shares (less directors' qualifying Wis., to become a bank holding company shares) of Northridge Bank, Milwaukee, Greendale, Wis., a proposed new bank. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, and (c) Southridge Bank of Greendale, Greendale, Wis., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 18, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18218 Filed 10-25-72;8:49 am]

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

UNITED VIRGINIA BANKSHARES INC.

Order Approving Acquisition of Crompton-Richmond Co., Inc., Factors

United Virginia Bankshares Inc., Richmond, Va., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire certain of the assets subject to certain of the liabilities of Crompton-Richmond Co., Inc., Factors, New York, N.Y. (Company), a company that engages in the activities of full notification and nonnotification factoring of accounts receivable and in extending secured and unsecured commercial financing without restriction as to the nature of security taken including, but not limited to providing guarantees of letters of credit and issuing letters of guaranty of any kind. Applicant has also applied to engage de novo in commercial financing activities in New York, N.Y. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(1)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 F.R. 16700). The time for filing comments and views has expired, and none has been timely received.

Applicant, the largest banking organization in Virginia, controls 12 banks with aggregate deposits of approximately $1.3 billion, representing 14.2 percent of the total deposits in commercial banks in Virginia.[1] Applicant's nonbanking subsidiaries include a service corporation, an insurance agency, a leasing company, and United Virginia Mortgage Corp.

Applicant proposes to acquire certain of the assets, subject to certain of the liabilities, of Company and transfer the assets to a corporation to be formed. In addition, Applicant proposes to engage de novo in commercial financing activities.

Company is engaged in both notification and nonnotification commercial factoring, as well as commercial financing.[2] Company conducts all business from its main office in New York, N.Y., and has service offices in Los Angeles, Calif., and Atlanta, Ga. Company engages in nationwide commercial factoring and during 1970 had annual factored volume of $463 million, representing approximately 4 percent of total commercial factored accounts outstanding.

Neither Applicant nor any of its subsidiaries are presently engaged in factoring. Accordingly, no existing competition would be eliminated upon consummation of the proposed transaction. Furthermore, because of the specialized skills required and the barriers to entry, it is unlikely that Applicant or any of its subsidiaries would engage in commercial factoring de novo. Accordingly, no potential competition would be foreclosed upon approval of this application.

There is no evidence in the record to indicate that the proposed retention would lead to an undue concentration of resources, conflicts of interests, or unsound banking practices. Applicant's acquisition of Company should result in benefits to the public by providing another source of factoring services in Virginia, where Company does not presently have any accounts. Applicant's de novo commercial financing operations will also introduce an alternative source of such services in its market areas.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective October 18, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18214 Filed 10-25-72;8:48 am]

[1] Banking data are as of December 31, 1971.

[2] Company is in the process of terminating its commercial financing operations and Applicant would not acquire any of Company's commercial financing business.

VALLEY AGENCY CO.

Order Denying Formation of Bank Holding Company and Continuation of Insurance Agency Activities

Valley Agency Co., Valley, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 79 percent of the voting shares of Bank of Valley, Valley, Nebr. (Valley Bank).

At the same time, applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y to continue to engage in insurance agency activities in a community with a population of less than 5,000 persons.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

Notice of these applications was published in the FEDERAL REGISTER on August 15, 1972 (37 F.R. 16521) and the time for filing comments and views has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Valley Bank (deposits of $4.3 million as of December 31, 1971) is the only bank in Valley, a community of 1,600 persons located in east central Nebraska, 18 miles west of Omaha. Agency conducts a general insurance business from the premises of Valley Bank. Approval of these proposals, which essentially involve a reorganization of the principal shareholder's ownership interest, would have no effect upon either existing or potential competition. Factors relating to the convenience and needs of the communities involved are consistent with, but do not provide support for approval of the applications.

As it has indicated on previous occasions, the Board believes that a holding company should be a source of financial and managerial strength for the bank or banks in its system and, further, that every proposed acquisition or formation should be closely examined to determine whether it serves certain private interests to the undue disadvantage of the bank or its minority shareholders (applications of First Southwest Bancorporation, Inc., Waco, Tex., to acquire four banks, 1972 Federal Reserve Bulletin 301, application of Seilon, Inc., Toledo, Ohio, to acquire shares of First Bancorporation, 1972 Federal Reserve Bulletin 729, and application of The Trust Company of New Jersey, Jersey City, N.J. for merger with a nonoperating bank, 1972 Federal Reserve Bulletin 717). In this regard, the Board considers relevant the management policies of Valley Bank and of other banks controlled directly or indirectly by applicant's principal shareholder.

Applicant's principal shareholder acquired control of Valley Bank early in 1971 and although he is neither an officer or director of Valley Bank, he influences all major policies of Valley Bank. Valley Bank now has outstanding a significant amount of loans to affiliates of its principal shareholder and other banks controlled by applicant's principal shareholder have made similar loans. Valley Bank has greatly expanded its out of territory loans by participating with and/or purchasing outstanding loans from banks in which applicant's principal shareholder and other business associates have an interest. In view of the obvious conflicts of interests presented, great care must be exercised in circumstances of this nature to avoid possible implications of self-serving transactions. The Board is unable to conclude that such care has been exercised by management in all instances.

Further, applicant plans to charge Valley Bank a management fee of $12,000 per year. It is noted that applicant has no separate staff to service Valley Bank and that the majority of services proposed to be rendered appear to be no different in type or amount than services that would generally be provided by a bank's officers and directors. A similar pattern of charges can be observed in five other banks in which applicant's principal shareholder has an interest. In the Board's judgment, the proposed management fee appears to be excessive in comparison to the services to be rendered. To the extent that such fees are excessive, their imposition would operate to the detriment of Valley Bank's minority shareholders and possibly to the bank itself.

On the basis of the record, the Board is unable to conclude that considerations relating to the management factor are consistent with approval of applicant's section 3 application may not immediately affect existing relationships, approval would make these relationships more permanent and would represent Board sanction of management practices that it finds inconsistent with the public interest.

In the light of the above, it is the Board's judgment that approval of section 3 application would not be in the public interest and is hereby denied.[1]

By order of the Board of Governors,[2] effective October 18, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18219 Filed 10-25-72;8:49 am]

[1] Denial of applicant's 3(a)(1) application makes moot Board action on attendant 4(c)(8) proposal.

[2] Voting for this action: Governors Mitchell, Brimmer, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governors Robertson and Daane.

NATIONAL SCIENCE FOUNDATION

NIMITZ MARINE FACILITY

Summary Statement of Proposed Federal Action Affecting the Environment

This summary statement is published pursuant to section 102 of the National Environmental Policy Act (Public Law 91-190) and the Guidelines of the Council on Environmental Quality (36 F.R. 7724-7729, April 23, 1971). The proposed Federal activity is described as follows:

The Nimitz Marine Facility, located on the Point Loma shoreline in San Diego Bay, is the shore facility established in 1964 to provide support for oceanographic research vessels operated by the Scripps Institution of Oceanography, University of California, San Diego, Calif.

The proposed project involves the construction of a reinforced concrete pier 365 feet by 50 feet, extension of the existing marginal wharf by 62 feet to the north rock revetment associated with the marginal wharf extension, and tying the pier structure to the marginal wharf. Electrical, telephone, water, compressed air, and sewer connections would be provided on the pier and wharf, and dredging done to accommodate full use of the berths and to provide safe deep water access to the Shelter Island navigational channel. The dredge spoil would be sand of quality acceptable for use in beach restoration on (1) a badly eroded beach immediately north of the facility, and (2) on the beach at the tip of Shelter Island, extending slightly around the end on the bay side. The proposed permanent reinforced concrete pier would replace two barges now used as a temporary floating pier. A primary requirement for the project is the installation of a sewer system to meet water quality standards for San Diego Bay which forbid direct discharge of vessel wastes to the bay.

Protective features of the proposed project include the prevention of vessel waste discharge to the waters of the bay, the probable improvement of surface water circulation resulting from the replacement of the deepdraft barges by the piling used as pier supports, and the replenishment of presently eroded beaches. There are no long term adverse effects anticipated.

Copies of the draft Environmental Impact Statement are available from the Deputy Assistant Director for National and International Programs, National Science Foundation, Washington, D.C. 20550. Comments from appropriate State and local agencies, addressed as above, should be submitted within 30 days following the publication of this summary statement.

Dated: October 19, 1972.

H. GUYFORD STEVER,
Director.

[FR Doc.72-18211 Filed 10-25-72;8:52 am]

OFFICE OF EMERGENCY PREPAREDNESS

VIRGINIA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Virginia, dated October 13, 1972, and published October 19, 1972 (37 F.R. 22418) is hereby amended to include the following counties among those counties and cities determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 10, 1972:

THE COUNTIES OF

Bedford. Chesterfield.
Buckingham. Sussex.

Dated: October 20, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-18237 Filed 10-25-72;8:47 am]

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WISCONSIN

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Wisconsin, dated September 14, 1972, and published September 20, 1972 (37 F.R. 19404), is hereby amended. Notice is hereby given that on October 18, 1972, the President amended his declaration of a major disaster of September 10, 1972, for Wisconsin as follows:

I have determined that the damages in certain areas of the State of Wisconsin from heavy rains and flooding, subsequent to August 21, 1972, are of sufficient severity and magnitude to warrant amendment of my declaration of September 10, 1972.

In order to provide Federal assistance, you are hereby authorized to extend the incidence period to September 21, 1972, as requested by Governor Lucey, and to allocate, from the funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

The notice is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 10, 1972:

THE COUNTY OF
Douglas.

Dated: October 20, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-18238 Filed 10-25-72;8:47 am]

SECURITIES EXCHANGES COMMISSION

[Files Nos. 7-4281—7-4289]

BOWMAR INSTRUMENT CORP. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 18, 1972.

In the matter of applications of the Philadelphia-Baltimore-Washington Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Bowmar Instrument Corp	7-4281
Cordon International Corp. (Delaware)	7-4282
Pioneer Plastics Corp	7-4283
Rexham Corp	7-4284
Security Mortgage Investors	7-4285
Sonderling Broadcasting Corp. (Delaware)	7-4286
Trans-Lux Corp	7-4287
Unitrode Corp	7-4288
Vecco Instruments, Inc	7-4289

Upon receipt of a request, on or before November 3, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18225 Filed 10-25-72;8:51 am]

[812-3213]

ENTERPRISE FUND, INC., ET AL.

Notice of Application for an Order Exempting Applicants

OCTOBER 18, 1972.

Notice is hereby given that Enterprise Fund, Inc., Comstock Fund, Inc., Legal List Investments, Inc., Fletcher Fund, Inc., Harbor Fund, Inc., and Pace Fund, Inc. (Funds), care of Alfred Weeks, Jr., Esq., Shareholders Management Co., 1888 Century Park East, Suite 700, Los Angeles, CA 90067, all of which are open-end diversified management investment companies registered under the Investment Company Act of 1940 (the "Act"), and Shareholders Management Co. (SMC), a California corporation and principal underwriter of each of the Funds (hereinafter collectively called "Applicants") have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus.

Applicants propose to offer to persons who redeem shares of any of the Funds a one-time privilege to: (a) Reinstate their accounts by repurchasing shares at net asset value without a sales charge up to the amount redeemed; or (b) purchase under the exchange privileges available generally to shareholders of the Funds, shares of any other of the Funds at net asset value without a sales charge up to the amount redeemed. Notice of this proposed privilege will be given to eligible persons in writing or by telephone as part of the processing of their redemption request. To be effective, notice from such eligible persons of the exercise of the privilege must be received or postmarked within 15 days after the redemption request is received. The reinstatement will be made at the net asset value next determined after receipt of the order to reinstate the account.

The application states that no compensation of any kind will be paid to any dealer or salesman in connection with the purchase or exchange of shares pursuant to exercise of the privelege. Any cost involved will be borne by SMC, the underwriter of the Fund's shares, except that the $5 service fee payable by all shareholders exercising the exchange privilege will be charged where appropriate.

Applicants represent that in order to defeat the possibility of abuse, the privilege will be offered to shareholders who have requested redemption on a one-time basis. Once a person has exercised the privilege as to his holdings in any of the Funds, the privilege will not thereafter be available to him upon redemption of shares in that or any other of the Funds.

Applicants contend that the proposed privilege will enable investors to be reminded of features of their investment which they may have overlooked or of which they may have been unaware at the time they redeemed. In addition, Applicants assert that the privilege does not operate to the prejudice of the Funds or their shareholders, and that the one-time feature will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 10, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy

of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18224 Filed 10-25-72;8:51 am]

[811-1754]

FINEVEST FUND, INC.

Notice of Filing of Application for Order Declaring Company Has Ceased To Be an Investment Company

Notice is hereby given that Finevest Fund, Inc. (Applicant), 1345 Avenue of the Americas, New York, NY 10019, a Maryland corporation registered as a diversified open-end management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Maryland corporation on August 21, 1968, and registered under the Act as a diversified open-end management investment company by filing a Notification of Registration on Form N-8A on November 4, 1968.

Applicant represents, among other things, that as of August 7, 1972, it had total net assets of $17,388; that on such date all 1,500 shares of its outstanding stock were held by a single shareholder, which shares were acquired by the holder thereof under circumstances not requiring registration under the Securities Act of 1933; that the management has abandoned all plans to make a public offering; and it is anticipated that Applicant will be continued as a personal holding company for its single shareholder.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 10, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interests, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18223 Filed 10-25-72;8:50 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the letter statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Aland's, Inc., apparel store; 7732 Eastwood Mall, Birmingham, AL; 7-31-73.

Basco, Inc., restaurant; 3515 50th Street, Lubbock, TX; 6-30-73.

A. J. Bayless Markets, Inc., foodstore; No. 60, Flagstaff, Ariz.; 8-15-72 to 7-31-73.

Big Apple Supermarket, foodstores, 9-2-73: Nos. 2 and 3, Reidsville, N.C.

Big John Store, foodstore; No. 8, Carmi, Ill.; 7-26-72 to 4-24-73.

Birmac Planting Co., agriculture; Route 1, Altheimer, Ark.; 7-31-73.

Black Angus Restaurant, restaurant; Poteau, Okla.; 7-31-73.

Bonfiglio Pharmacy Co., Inc., drugstore; 530 South Broadway, Greenville, OH; 7-30-73.

Braselton Bros., Inc., variety-department store; Braselton, Ga.; 8-8-73.

Braselton Improvement Co., hardware store; Braselton, Ga.; 7-31-73.

Bud's Foodland, foodstore; Arnolds Park, Iowa; 8-14-73.

Channelview Food Market, Inc., foodstore; 777 Sheldon Road, Channelview, TX; 7-20-73.

Clarys 5 & 10, variety-department store; 127-133 Front Street, Sylvester, GA; 8-12-73.

Columbia Crest 5-10-25c Stores Co., variety-department store; 519 12th Street, West Columbia, SC; 7-31-73.

Crest 5-10-25c Stores Co., variety-department stores, 7-13-73: Smith Crossroads Shopping Center, Lenoir, N.C.; Town & Country Shopping Center, Lincolnton, N.C.

Dickson Furniture & Appliance Co., furniture store; 101 West Ellison Street, Burleson, TX; 6-29-73.

Don's Rexall Pharmacy, drugstore; 127 North Main Street, Monticello, IN; 7-18-73.

Draper & Darwin Store, variety-department store; 334 Main Street, Franklin, TN; 7-28-73.

Duckwall Stores Co., variety-department store; No. 29, Lyons, Kans.; 8-14-73.

Eagle Stores Co., Inc., variety-department stores: No. 13, Asheboro, N.C., 9-14-73; No. 114, Gastonia N.C., 8-9-73; No. 3, Lincolnton, N.C., 9-9-73.

Edward's Inc., variety-department storea: University Ridge, Greenville, S.C.; 8-11-73; Highway 17 South at 10th Street, Myrtle Beach, S.C.; 8-12-73.

Ferguson Free Car Wash, service station; 7901 Beechmont Avenue, Cincinnati, OH; 8-14-73.

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Feudo Foodtown, foodstores; No. 1, Corpus Christi, Tex., 7–10–73; No. 2, Corpus Christi, Tex., 7–7–73.

Fisers Thriftway Supermarket, foodstore; Main and Pine Streets, Sheridan, Ark.; 8–5–73.

Food Giant Super Market, foodstore; No. 11, Tucson, Ariz.; 7–31–73.

Glendive Community Hospital, hospital; Prospect and Ames, Glendive, Mont.; 8–9–72 to 8–5–73.

W. T. Grant Co., variety-department stores, 9–2–73, except as otherwise indicated: No. 647, Jacksonville, Fla. (9–11–73); No. 849, Jacksonville, Fla.; No. 70, Atlanta, Ga.; No. 853, Middlesex, N.J. (8–31–73); No. 724, Parsippany, N.J. (8–31–73); No. 393, Roselle, N.J. (8–31–73); No. 675, Asheville, N.C.

Hi Nabor Super Market, Inc., foodstore; 7201 Winbourne Avenue, Baton Rouge, LA; 8–13–73.

Home Town Super Market, foodstore; 6850 West Bank Expressway, Marrero, LA; 8–15–73.

Jim's Super Valu, foodstore; Rockwell City, Iowa; 7–20–73.

John D. Archbold Memorial Hospital, hospital; Thomasville, Ga.; 9–6–73.

Jr.'s J & J Cash Market, foodstore; Circle Drive, McKenzie, Tenn.; 8–5–73.

Kiefer's Pharmacy, Inc., drugstore; 201 South Seventh Street, Dade City, FL; 7–26–73.

S. S. Kresge Co., variety-department stores, 9–2–73, except as otherwise indicated: No. 4086, Birmingham, Ala. (7–26–73); No. 4184, Mobile, Ala. (7–26–73); No. 4046, Hot Springs, Ark. (8–2–73); No. 4127, Little Rock, Ark. (8–18–73); No. 728, Bradenton, Fla.; No. 763, Daytona Beach, Fla.; No. 4286, Jacksonville, Fla. (7–30–73); No. 742, St. Petersburg, Fla.; No. 4049, Macon, Ga. (9–16–73); No. 4586, Alton, Ill. (7–24–73); No. 4561, Chicago, Ill. (7–20–73); No. 4100, Lombard, Ill. (8–6–73); No. 4077, Lexington, Ky. (7–26–73); No. 235, Louisville, Ky. (8–3–73); No. 4128, Lake Charles, La. (8–3–73); No. 582, Detroit, Mich. (8–12–73); No. 659, Detroit, Mich. (7–23–73); No. 4192, Southfield, Mich. (8–13–73); No. 4393, Taylor, Mich. (7–31–73); No. 4204, Warren, Mich. (7–27–73); No. 578, Hazelwood, Mo. (7–27–73); No. 72, St. Louis, Mo. (8–1–73); No. 4280, Springfield, Mo. (7–20–73); No. 4619, Springfield, Mo. (7–31–73); No. 4053, Charlotte, N.C.; No. 4182, Greensboro, N.C. (8–5–73); No. 199, Dayton, Ohio (8–18–73); No. 4244, Knoxville, Tenn. (8–1–73); No. 4103, Nashville, Tenn. (7–23–73); No. 4133, Irving, Tex. (8–18–73).

Landry Stores, Inc., variety-department store; Corner Main and Pere Megret Street, Abbeville, La.; 8–7–73.

La Parisienne, Inc., apparel store; 810 Jefferson Street, Lafayette, LA; 8–2–72 to 7–31–73.

Lerner Shops, apparel stores: No. 490, Aurora, Colo., 8–14–73; No. 337, Burlington, N.C., 9–14–73; No. 295, Fairmont, W. Va., 8–3–73.

Lo Mark, Inc., foodstore; 600 West Raleigh Street, Siler City, NC; 8–23–73.

Luke's Foodliner, foodstore; 1 Ardmore Mall, Ardmore, Okla.; 7–14–73.

Magic Mart-Jefferson, Inc., variety-department store; 1605 East Harding, Pine Bluff, AR; 8–13–73.

H. B. Magruder Memorial Hospital, hospital; Fulton Street, Port Clinton, Ohio; 8–6–73.

The Mart, Inc., apparel store; 180 Main Street, Paterson, NJ; 8–31–73.

McCrory-McLellan-Green Stores, variety-department stores, 8–2–73, except as otherwise indicated: No. 444, Bessemer, Ala. (8–13–73); No. 1106, Birmingham, Ala.; No. 1128, Birmingham, Ala.; No. 7503, Decatur, Ala. (8–3–73); No. 442, Gadsden, Ala. (8–9–73); No. 1109, Montgomery, Ala.; No. 3501, Northport, Ala. (8–19–73); No. 205, Waterbury, Conn. (7–31–73); No. 256, Clearwater, Fla. (8–6–73); No. 371, Fort Lauderdale, Fla.; No. 172, Fort Walton Beach, Fla.; No. 318, Hialeah, Fla. (8–16–73); No. 361, New Smyrna Beach, Fla.; No. 7501, Orlando, Fla. (8–7–73 to 8–2–73); No. 98, St. Augustine, Fla. (8–27–73); No. 232, Wauchin, Fla. (7–31–73); No. 423, Dublin, Ga. (8–31–73); No. 315, Baton Rouge, La.; No. 298, Lafayette, La. (8–13–73); No. 299, New Orleans, La. (8–6–73); No. 1125, Shreveport, La.; No. 208, Columbia, Md. (7–31–73); No. 252, Brookline, Mass. (6–30–73); No. 231, Lansing, Mich. (8–9–73); No. 616, Columbia, Miss. (8–10–73); No. 575, Columbus, Miss. (8–4–72 to 8–2–73); No. 302, Gulfport, Miss. (8–3–73); No. 275, McComb, Miss. (8–6–73); No. 156, Tupelo, Miss. (7–31–73); No. 247, Omaha, Nebr. (7–31–73); No. 91, Burlington, N.J. (8–1–72 to 7–30–73); No. 7506, Jersey City, N.J. (7–29–73); No. 240, Orange, N.J. (7–29–73); No. 1006, Plainfield, N.J. (8–27–73); No. 301, Union, N.J. (7–29–73); No. 404, Salisbury, N.C.; No. 37, Bradford, Pa. (7–21–73); No. 1022, Easton, Pa. (7–26–73); No. 1, Scottdale, Pa. (8–4–73); No. 134, Rock Hill, S.C.; No. 215, Norfolk, Va. (7–23–73).

McDonald's Hamburgers, restaurant; 5347 Independence Avenue, Kansas City, MO; 8–14–73.

McKinley's Food Market, Inc., foodstore; Main Street, Hancock, Md.; 8–9–73.

Michael's, Inc., restaurant; I–80 and Highway 283, Lexington, Nebr.; 8–7–73.

Morgan & Lindsey, Inc., variety-department stores, 8–2–73, except as otherwise indicated: No. 3046, Alexandria, La. (8–16–73); No. 3090, Arabi, La.; No. 3030, Many, La. (8–11–73); No. 3083, Morgan City, La.; No. 3068, New Orleans, La. (8–13–73); No. 3086, Sulphur, La.; No. 3040, Indianola, Miss. (7–31–73); No. 3051, Jackson, Miss. (8–13–73).

Morgan Floral Co., agriculture; 624 Platte Avenue, Fort Morgan, CO; 7–26–72 to 7–20–73.

G. C. Murphy Co., variety-department stores, 9–2–73, except as otherwise indicated: No. 259, North Palm Beach, Fla. (8–31–73); No. 335, Pensacola, Fla. (8–31–73); No. 250, Rome, Ga.; No. 102, Tifton, Ga.; No. 422, Peru, Ind.; No. 305, Landover, Md. (8–6–73); No. 310, Jackson, Ohio (8–5–73); No. 429, Wapakoneta, Ohio (7–31–73); No. 34, Blairsville, Pa. (7–28–73); No. 307, Greensburg, Pa. (8–11–73); No. 51, McKees Rocks, Pa. (8–7–73); No. 56, Pittsburgh, Pa. (8–4–73).

The Name Dropper, apparel store; 122 Normandale Arcade, Montgomery, AL 8–4–73.

Nelsner Bros., Inc., variety-department stores, 9–2–73: No. 192, Avon Park, Fla.; No. 188, Brandon, Fla.; No. 183, Dade City, Fla.; No. 99, Gainesville, Fla.; No. 175, Key West, Fla.; No. 21, Miami, Fla.; No. 187, New Port Richey, Fla.; No. 184, Palmetto, Fla.; No. 40, Pompano Beach, Fla.; No. 127, East Paterson, N.J.; No. 149, Middletown, N.J.; No. 142, Trenton, N.J.

Northwood Deaconess Hospital and Home Association, hospital; Northwood, N. Dak.; 8–9–72 to 8–6–73.

One Stop Pharmacy, Inc., drugstores, 7–29–73; 3824 Auburn, Rockford, IL; 517 Marchesano Drive, Rockford, IL.

Pattibone Ranch, agriculture; Bismarck, N. Dak.; 8–9–72 to 6–30–73.

Piggly Wiggly, foodstores, 9–2–73, except as otherwise indicated: 2–6 Cooper Street, Evergreen, AL (8–9–73); No. 1, Panama City, Fla.; Nos. 1 and 2, Columbus, Ga.; Highway 6 and Eureka Street, Batesville, Miss. (7–27–73); No. 66, Great Falls, S.C. (8–24–73); No. 45, Hampton, S.C. (8–11–73).

Post Gardens, Inc., agriculture; 3055 West Michigan, Battle Creek, MI; 7–16–73.

Public Drug Store, drugstore; Tusca Shopping Plaza, Beaver, Pa.; 8–4–73.

Raylass Department Store, variety-department store; 101 Franklin Shopping Center, Franklin, Va.; 7–31–73.

Reed Drug Co., drugstores, 7–20–73: 7810 Olson Highway, Minneapolis, MN; 201 South Main Street, Stillwater, MN; 505 South Lake Avenue, White Bear Lake, MN.

Reppert Pharmacy, drugstore; 3501 Ingersoll Avenue, Des Moines, IA; 7–30–73.

Ridgewood Variety, Inc., variety-department store; 623 42d Avenue, East Moline, IL; 7–31–72 to 5–13–73.

Rodenberg's, foodstores, 8–23–73: No. 1, Charleston, S.C.; No. 5, Mount Pleasant, S.C.

Rose's Stores, Inc., variety-department stores: No. 203, Meridian, Miss., 7–31–73; No. 8, Lenoir, N.C., 9–2–73; No. 184, Lexington, N.C., 7–13–73; No. 10, Rockingham, N.C., 8–18–73; No. 27, Warrenton, N.C., 7–7–73; No. 97, Lebanon, Tenn., 8–14–73.

W. A. Rowe Floral Co., agriculture; Kirwood, Mo.; 7–26–73.

Rozier Mercantile Co., variety-department store; No. 2, Perryville, Mo.; 8–15–73.

St. Joseph Mercy Hospital, hospital; 235 Eighth Avenue West, Cresco, IA; 8–7–73.

Schensul's Cafeteria, restaurants: West Main Street, Kalamazoo, Mich., 8–17–73; 5606 West Saginaw Street, Lansing, MI, 7–9–73.

Schnaible Drug Co., drugstore; 117 North Fourth Street, Lafayette, IN; 8–16–73.

Seeley, Inc., apparel store; 617 St. Joseph Street, Rapid City, SD; 7–23–73.

Smith's Food King, foodstores, 8–17–72 to 8–6–73, except as otherwise indicated: No. 12, Bountiful, Utah; Nos. 1 and 7, Brigham City, Utah; No. 25, Granger, Utah; No. 6, Layton, Utah; No. 88, Logan, Utah; No. 15, Murray, Utah; No. 3, Ogden, Utah (8–9–72 to 8–6–73); Nos. 4 and 19, Ogden, Utah; No. 5, Roy, Utah; Nos. 14 and 77, Salt Lake City, Utah.

Smith's Quality Super Market, Inc., foodstore; 141 Manchester Street, Glen Rock, PA; 8–7–73.

Sovine's Super Market, Inc., foodstore; Scott Depot, W. Va.; 8–6–73.

Spies Super Valu, foodstore; 910 East Sioux, Pierre, SD; 8–18–73.

Spurgeon's, variety-department store; 130 North Main Street, Paris, IL; 7–31–73.

Sterling Ranch, agriculture; Bismarck, N. Dak.; 8–9–72 to 6–30–73.

Sterling Stores Co., variety-department stores, 8–2–73, except as otherwise indicated: Capitol Avenue and Center Street, Little Rock, Ark.; 208–212 Main Street, Russellville, AR; 519 Waldron Street, Corinth, MS; 8–5–73.

The Stern and Mann Co., apparel stores, 8–19–73: 3040 Cromer Northwest, Canton, OH; 301 Tuscarawas Street West, Canton, OH.

Steve's Shoes, Inc., shoestores, 7–31–73, except as otherwise indicated: 7636 State Avenue, Kansas City, KS; 6949 Tomahawk, Prairie Village, KS; 345 Blue Ridge Center, Kansas City, KS (7–28–73).

Swiss Village, Inc., nursing home; Berne, Ind.; 8–19–73.

T. G. & Y. Stores Co., variety-department stores, 8–31–73, except as otherwise indicated; No. 1405, Lawrence, Kans. (7–31–73); No. 478, Liberty, Mo. (7–31–73); No. 13, Anadarko, Okla. (9–2–73); No. 31, Bartlesville, Okla. (9–2–73); No. 43, Cushing, Okla. (8–23–73); No. 30, Midwest City, Okla. (9–2–73); No. 1009, Tulsa, Okla. (8–13–73); No. 843, League City, Tex. (8–13–73); No. 804, Odessa, Tex. (8–13–73); No. 824, Pearland, Tex.

Town and Country Market, Inc., foodstore; 27th and Avenue B, Scottsbluff, Nebr.; 8–14–73.

Tradewell Super Market, foodstore; Sixth Avenue at Fifth Street West, Huntington, W. Va.; 8–19–73.

Trojan Seed Co., agriculture; Olivia, Minn.; 6–20–73.

Tuten's Red and White Food Store, Inc., foodstore, No. 532, Estill, S.C.; 8–11–73.

Tyler Bros., variety-department store; Wagener, S.C.; 8–8–73.

Variety Food Store, Inc., foodstore; 3226 Wrightsboro Road, Augusta, GA; 8–21–73.

Walker Shoe Store, shoestores, 7–21–73: 608 Walnut, Des Moines, IA; 756 Main, Dubuque, IA; 516 Fourth Street, Sioux City, IA; 112–116 East Fourth Street, Waterloo, IA.

Way-Fair Restorium, Inc., nursing home; Fairfield Memorial Hospital, Fairfield, Ill.; 8–16–73.

William Look & Sons, Inc., auto dealer; 200 Newman Street, East Tawas, MI; 7–12–73.

Wing Ranch, agriculture; Bismarck, N.C.; 8–9–72 to 6–30–73.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishments or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Big K Discount Department Store, variety-department store; 1927 East Maple Avenue, Campbellsville, KY; stock clerk, salesclerk, office clerk; 11 to 59 percent; 8–31–73.

Dillon Companies, Inc., foodstore; No. 11, Fayetteville, Ark.; cashier, checker, carryout, clerk, wrapper, maintenance; 11 to 32 percent; 8–14–73.

Feudo Foodtown, foodstore; No. 3, Portland, Tex.; stock clerk, bottle clerk, cleanup, carryout; 11 to 14 percent; 8–31–73.

Gerald Strickland, agriculture; Route 2, Claxton, Ga.; general farmworker; 0 to 20 percent; 8–31–73.

H. E. B. Food Store, foodstores, for the occupation of bottle clerk, package clerk, sacker, 10 percent, 8–14–73: No. 128, Copperas Cove, Tex.; No. 129, Ennis, Tex.; No. 131 San Antonio, Tex.

Harwell Farms & Investment Co., Inc., agriculture; Florence, S.C.; general farmworker; 0 to 55 percent; 8–15–72 to 7–19–73.

Jack & Jill Store, foodstore; Hankinson, N. Dak.; salesclerk; 20 to 40 percent; 8–31–73.

S. S. Kresge, Co., variety-department stores, for the occupations of saleeclerk, stock clerk, office clerk, checker-cashier, 13 to 22 percent, 8–31–73, except as otherwise indicated: No. 4465, Sioux City, Iowa (8 to 15 percent); No. 4430, Livonia, Mich. (maintenance, stock clerk, office clerk, salesclerk, food preparation, 10 percent); No. 3042, Columbia Heights, Minn.; No. 3034, White Bear Lake, Minn.; No. 3039, Milwaukee, Wis. (11 to 29 percent).

Leisure Hills, variety-department store; 605 East Church Street, Kewanee, IL; nurse's aide, kitchen aide, maintenance; 1 to 2 percent; 8–31–73.

Quik, Inc., restaurant; Greenwood, S.C.; general restaurant worker; 8–14–73.

Rose's Store, variety-department store; No. 226, Lancaster, S.C.; salesclerk, checker; 11 to 27 percent; 8–31–73.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 22 to 30 percent, 8–31–73, except as otherwise indicated: No. 786, Orlando, Fla. (9–17–73); No. 1315, Orlando, Fla. (7 to 24 percent); No. 481 Grandview, Mo. (8–14–73); No. 1017, Oklahoma City, Okla.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 18th day of October 1972.

DONALD T. CRUMBACK,
Authorized Representative of the Administrator.

[FR Doc.72-18272 Filed 10-25-72;8:55 am]

INTERSTATE COMMERCE COMMISSION

[Notice 103]

ASSIGNMENT OF HEARINGS

OCTOBER 20, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 116710 Sub 17, Mississippi Chemical Express, Inc., now assigned November 7, 1972, at New Orleans, La., hearing will be held in Room 1210 Main Floor, Federal Building, 701 Loyola Avenue.

MC–108313 Sub 12, Caledonia Lines, Inc., is continued to December 6, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB–5 Sub 10, George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirz, Trustees of The Property of the Penn Central Transportation Company, Debtor Abandonment Catskill Mountain Branch, Between Kingston and Bloomville in Delaware, Schoharie and Ulster Counties, in New York, now being assigned hearing December 11, 1972 (2 days) at Stamford, New York, in a hearing room to be later designated.

MC–F–11530 John R. Remis, Bernard Sacharoff, John Roncoroni, Louis Gelk, Henry Bono, Nicholas Accaridi, New Deal Delivery Service Inc., Eastern Transportation Co., Inc., and Airfreight Transportation Corporation of New Jersey—Investigation of Control, MC–FC–71876, Resil Trucking Corp., Transferee, and Eastern Transportation Company, Inc., Transferor, now being assigned hearing December 13, 1972 (3 days), at New York, N.Y., in a hearing room to be later designated.

MC 114211 Sub 169, Warren Transport, Inc., and MC 123048 Sub 215, Diamond Transportation System, Inc., now assigned November 14, 1972, at Washington, D.C., is postponed indefinitely.

MS 117610 Sub 8, Derrico Trucking Corp., assigned November 6, 1972, MC 136741, Quick Service Drivers Exchange, Inc., assigned November 7, 1972, MC 136430, American Trials, Inc., assigned November 8, 1972, at New York, N.Y., will be held in Tax Court Room 206, 26 Federal Plaza, New York, N.Y.

I&S M 25955, Classification Ratings on Candy or Confectionery, hearing continued to November 2, 1972, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC–F–11545, Miller Transfer and Rigging Co.—Purchase—Engel Trucking Inc., et al., now assigned November 1, 1972, at Washington, D.C., is postponed to December 11, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 9269 Sub 15, Bestway Motorfreight, Inc., now being assigned hearing January 8, 1973 (1 week), at Olympia, Wash., in a hearing room to be later designated.

MC 69635 Sub 4, The Fortune Corporation, now being assigned hearing January 16, 1973 (3 days), at Olympia, Wash., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18253 Filed 10-25-72;8:50 am]

[Notice 27]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 20, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of

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Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC–29623 (Deviation No. 5), SOUTHEASTERN STAGES, INC., 226 Alexander Street NW., Atlanta, GA 30313, filed October 12, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 278 and Georgia Highway 83, near Madison, Ga., over Georgia Highway 83 (an access road) to junction Interstate Highway 20, thence over Interstate Highway 20 to junction U.S. Highway 78, thence over U.S. Highway 78 (an access road) to junction U.S. Highway 278, near Thomson, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service as follows: From Atlanta, Ga., over U.S. Highway 278 to Augusta, Ga., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18248 Filed 10-25-72;8:49 am]

[Notice 32]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 20, 1972.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-29910 (Deviation No. 18), ARKANSAS-BEST FREIGHT SYSTEM, INC., Post Office Box 48, Fort Smith, AR 72901, filed October 12, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Erie, Pa., over Interstate Highway 79 to junction U.S. Highway 6–N, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Mansfield, Ohio, over U.S. Highway 42 to Cleveland, Ohio, thence over Ohio Highway 84 to Ashtabula, Ohio, thence over U.S. Highway 20 via West Springfield, Pa., and Silver Creek, N.Y., to junction New York Highway 78, thence over New York Highway 78 to junction New York Highway 5, thence over New York Highway 5 via Syracuse, N.Y., to Albany, N.Y., and (2) from West Springfield, Pa., over U.S. Highway 6–N to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Pennsylvania Highway 92, near Tunkahannock, Pa., thence over Pennsylvania Highway 92 to junction Pennsylvania Highway 307 via Mill City, Pa., to junction U.S. Highway 6, thence over U.S. Highway 6 to Scranton, Pa., and return over the same routes.

No. MC–41432 (Deviation No. 20), EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207, filed October 3, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From San Bernardino, Calif., over Interstate Highway 15 to junction U.S. Highway 395, thence over U.S. Highway 395 to junction California Highway 58, thence over California Highway 58 to Bakersfield, Calif., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service route as follows: from San Bernardino, Calif., over Interstate Highway 10 to junction U.S. Highway 66, thence over U.S. Highway 66 to Los Angeles, Calif., thence over California Highway 99 (formerly U.S. Highway 99) to Bakersfield, Calif., and return over the same route.

No. MC–52110 (Deviation No. 12), BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, IA 50312, filed October 12, 1972. Carrier's representative: Jerome F. Marks (same address as applicant). Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Pittsburgh, Pa., over Pennsylvania Highway 8 (an access road) to junction Interstate Highway 80–S, thence over Interstate Highway 80–S to junction Interstate Highway 71, thence over Interstate Highway 71 to junction Interstate Highway 270, thence over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to St. Louis, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Pittsburgh, Pa., over U.S. Highway 30 to Mansfield, Ohio, thence over U.S. Highway 30–N to Delphos, Ohio, thence over Alternate U.S. Highway 30 to Dyer, Ind., thence over Alternate U.S. Highway 30 to Chicago, Ill., and (2) from St. Louis, Mo., over U.S. Highway 66 to Chicago, Ill., and return over the same routes.

No. MC–52110 (Deviation No. 13), BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, IA 50312, filed October 12, 1972. Carrier's representative: Jerome F. Marks (same address as applicant). Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Jersey City, N.J., over U.S. Highway 1 (an access road) to junction Interstate Highway 80 at or near Fort Lee, N.J., thence over Interstate Highway 80 to junction Interstate Highway 80–S, thence over Interstate Highway 80–S to junction Interstate Highway 71, thence over Interstate Highway 71 to junction Interstate Highway 270, thence over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to St. Louis, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From New York, N.Y., over U.S. Highway 1 to Newark, N.J., thence over U.S. Highway 22 to Pittsburgh, Pa., (2) from Pittsburgh, Pa., over U.S. Highway 30 to Mansfield, Ohio, thence over U.S. Highway 30–N to Delphos, Ohio, thence over U.S. Highway 30 to Dyer, Ind., thence over Alternate U.S. Highway 30 to Chicago, Ill., and (3) from St. Louis, Mo., over U.S. Highway 66 to Chicago, Ill., and return over the same routes.

No. MC–59488 (Deviation No. 14), SOUTHWESTERN TRANSPORTATION COMPANY, 1517 West Front Street, Tyler, TX 75701, filed October 3, 1972. Carrier's representative: Lloyd M. Roach, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Pine Bluff, Ark., over U.S. Highway 270 to Malvern, Ark., thence over Interstate Highway 30 to Texarkana, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Memphis, Tenn., over U.S. Highway 70 to junction Arkansas Highway 17, thence over Arkansas Highway 17 to junction U.S. Highway 79, thence over U.S. Highway 79 to Magnolia, Ark., thence over U.S. Highway 82 to Texarkana, Tex., and return over the same route.

No. MC–75320 (Deviation No. 37), CAMPBELL SIXTY-SIX EXPRESS, INC., Post Office Box 807, Springfield, MO 65801, filed October 2, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 44 and U.S. Highway 66, near Chandler, Okla., over Interstate Highway 44 (Turner Turnpike) to Oklahoma City, Okla., thence over Interstate Highway 35 to junction U.S. Highway 70, thence over U.S. Highway 70 to Ardmore, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Ardmore, Okla., over U.S. Highway 70 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction Interstate Highway 44 (Turner Turnpike), thence over Interstate Highway 44 to Tulsa, Okla., and return over the same route.

No. MC–103435 (Deviation No. 22), UNITED-BUCKINGHAM FREIGHT LINES, INC., Post Office Box 192, Littleton, CO 80120, filed October 12, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Minneapolis, Minn., over U.S. Highway 12 to junction U.S. Highway 10 (Interstate Highway 94), near Forsyth, Mont., thence over U.S. Highway 10 (Interstate Highway 94) to Billings, Mont., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From St. Paul, Minn., over city streets to Minneapolis, Minn., thence over U.S. Highway 212 to Redfield, S. Dak., thence over U.S. Highway 281 to junction South Dakota Highway 26, thence over South Dakota Highway 26 to junction South Dakota Highway 45, thence over South Dakota Highway 45 to Miller, S. Dak., (2) from Montevideo, Minn., over Minnesota Highway 7 to Minneapolis, Minn., (3) from Miller, S. Dak., over U.S. Highway 14 to junction South Dakota Highway 73, thence over South Dakota Highway 73 to Philip Junction, S. Dak., thence over unnumbered highway at or near Cottonwood, S. Dak., to junction U.S. Highway 14, thence over U.S. Highway 13 to Sturgis, S. Dak., (4) from Redfield, S. Dak., over U.S. Highway 212 to junction South Dakota Highway 79, (5) from Rapid City, S. Dak., over South Dakota Highway 79 to junction South Dakota Highway 36, thence over South Dakota Highway 36 to junction Alternate U.S. Highway 16, thence over Alternate U.S. Highway 16 to Custer, S. Dak., thence over U.S. Highway 385 to Hot Springs, S. Dak.

(6) from Sturgis, S. Dak., over Alternate U.S. Highway 14 to Deadwood, S. Dak., thence over U.S. Highway 85 to Belle Fourche, S. Dak., (7) from junction South Dakota Highway 45 and U.S. Highway 212 over South Dakota Highway 45 to junction South Dakota Highway 26, (8) from Rapid City, S. Dak., over South Dakota Highway 79 to junction South Dakota Highway 36, thence over South Dakota Highway 36 to junction Alternate U.S. Highway 16, thence over Alternate U.S. Highway 16 to Custer, S. Dak., (9) from Custer, S. Dak., over U.S. Highway 16 to Newcastle, Wyo., (10) from Newcastle, Wyo., over U.S. Highway 16 to Ucross, Wyo., thence over U.S. Highway 14 to Sheridan, Wyo., (11) from Sturgis, S. Dak., over South Dakota Highway 34 to junction South Dakota Highway 79, thence over South Dakota Highway 79 to junction U.S. Highway 212, thence over U.S. Highway 212 to Belle Fourche, S. Dak., (12) from Sturgis, S. Dak., over South Dakota Highway 34 to junction U.S. Highway 85, thence over U.S. Highway 85 to Deadwood, S. Dak., (13) from Moorcroft, Wyo., over U.S. Highway 14 to Spearfish, S. Dak., (14) from Broadus, Mont., over U.S. Highway 212 to junction unnumbered highway, thence over unnumbered highway via Biddle, Mont., to junction U.S. Highway 16, thence over U.S. Highway 16 to Gillette, Wyo., (15) from Broadus, Mont., over U.S. Highway 212 to junction Montana Highway 8, thence over Montana Highway 8 to Crow Agency, Mont., thence over U.S. Highway 87 to Billings, Mont., (16) from Broadus, Mont., over U.S. Highway 212 to junction Montana Highway 8, thence over Montana Highway 8 to junction U.S. Highway 87, thence over U.S. Highway 87 to Billings, Mont., (17) from Sheridan, Wyo., over U.S. Highway 87 to Acme, Wyo., thence over unnumbered highways to the Wyoming-Montana State line, thence over unnumbered highways via Decker, Mont., to Birney, Mont., and (18) from Sheridan, Wyo., over U.S. Highway 87 to junction Montana Highway 8 near Crow Agency, Mont., and return over the same routes.

No. MC–116004 (Deviation No. 10), TEXAS-OKLAHOMA EXPRESS, INC., 2515 Irving Boulevard, Dallas, TX 75221, filed October 6, 1972. Carrier's representative: Clayte Binion, 1108 Continental Life Building, Forth Worth, Tex. 76102. Carrier proposes to operate as a *common carrier*, by motor vehicle of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Kans.-Mo., over Interstate Highway 70 to Topeka, Kans., thence over U.S. Highway 75 to Tulsa, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Kansas City, Kans.-Mo., over U.S. Highway 69 to Crestline, Kans., thence over Kansas Highway 26 to Riverton, Kans., thence over U.S. Highway 66 to Tulsa, Okla., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18250 Filed 10-25-72;8:50 am]

[Notice 86]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 20, 1972.

The following publications[1] are governed by the new Special Rule 1100.247 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. W 381 (Sub-No. 17) (Republication), filed May 11, 1972, published in the FEDERAL REGISTER issue of June 2, 1972, and republished this issue. Applicant: FEDERAL BARGE LINES, INC., 611 East Marceau Street, St. Louis, MO 6311. Applicant's representative: Thomas A. Phemister, 425 13th Street NW., Washington, DC 20004. An order of the Commission, Operating Rights Board, dated September 25, 1972, and served October 16, 1972, finds that applicant is entitled to an amended certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a *common carrier* by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of *general commodities*, and by towing vessels in the performance of general towage, between port and points along the Alabama River from its confluence with the Mobile River up to and including Montgomery, Ala.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, a notice of the authority actually granted will be published in the FEDERAL REGISTER and the issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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No. MC 25798 (Sub-No. 230) (Republication), filed February 25, 1972, published in the FEDERAL REGISTER issue of March 23, 1972, and republished this issue. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). An order of the Commission, Operating Rights Board, dated September 25, 1972, and served October 17, 1972, finds that operation by applicant in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Certified Foods, Inc., at Marshall, Mo., to points in Florida, Georgia, North Carolina, and South Carolina; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 13267 (Sub-No. 277) (Republication), filed February 28, 1972, published in the FEDERAL REGISTER issue of March 30, 1972, and republished this issue. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). An Order of the Commission, Operating Rights Board, dated September 25, 1972, and served October 17, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle over irregular routes, transporting *meats, meat products, meat by-products, dairy products*, and *articles distributed by meat packinghouses* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Wilson Certified Foods, Inc., at Marshall, Mo., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, North Carolina, South Carolina, and Tennessee, and restricted to the transportation of traffic originating at Marshall, Mo., and destined to the named States; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority actually granted will be published in the FEDERAL REGISTER and the issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136426 (Republication) filed February 17, 1972, published in the FEDERAL REGISTER issue of March 16, 1972, and republished this issue. Applicant: LESCO, INC., 3900 Dahlman Avenue, Omaha, NE 68107. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. An order of the Commission, Operating Rights Board, dated September 25, 1972, and served October 16, 1972, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *unprocessed edible fats*, in containers, from Kansas City, Kans., and points in Iowa and Missouri to Waterloo, Nebr., (2) *food processing machinery*, from Omaha, Nebr., to points in the United States (except Alaska and Hawaii), and *materials, supplies and* equipment (except commodities in bulk) used in the manufacture and distribution of food processing machinery, on return, (3) *fabricated iron and steel*, from Omaha, Nebr., to Kansas City, Mo., and (4) *galvanized iron and steel*, from Kansas City, Mo., to Omaha, Nebr., under contract with Midwest Animal By-Products, of Omaha, Nebr., in (1) above, and with Omaha Manufacturing and Engineering Co., of Omaha, Nebr., in (2), (3), and (4) above, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, a notice of the authority actually granted will be published in the FEDERAL REGISTER and the issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interst may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES FOR FILING OF PETITIONS

No. MC 59206 (Notice of Filing of Petition for Removal of Operating Restriction), filed October 6, 1972. Petitioner: HOLLAND MOTOR EXPRESS, INC., 750 East 40th Street, Holland, MI 49423. Petitioner's representative: Robert G. Bouwman (same address as applicant). Petitioner presently holds a certificate in No. MC 59206, authorizing, as pertinent, operation as a common carrier by motor vehicle, over regular routes of: General commodities with the usual exceptions, (1) between Richmond, Ind., and Cincinnati, Ohio as an alternate route for operating convenience only, serving no intermediate points or Richmond, Ind., from Richmond over U.S. Highway 35 to Eaton, Ohio, and thence over U.S. Highway 127 to Cincinnati, and return over the same routes, (2) between Fort Wayne, Ind., and Cincinnati, Ohio, serving no intermediate points, from Fort Wayne over U.S. Highway 27 to Cincinnati and return over the same route, (3) between Muncie, Ind., and Richmond, Ind., serving no intermediate points or Richmond, from Muncie over U.S. Highway 35 to Richmond and return over the same route, and (4) between Muncie, Ind., and Portland, Ind., serving no intermediate points or Portland, from Muncie over Indiana Highway 67 to Portland, and return over the same route. Restriction: No operation is authorized over these routes in the transportation of shipments moving between points in Indiana and points in the States west thereof, on the one hand, and, on the other, points in Ohio and points in States east thereof. By the instant petition, petitioner seeks to remove the above "Restriction" thus allowing a free flow of traffic between Cincinnati, Ohio on the one hand, and, on the other, Fort Wayne and Muncie, Ind., without taking a circuitous route via Anderson and Shelbyville, Ind. Any interested person desiring to participate may file an orginal and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 4484 and 4484 (Sub-No. 19) (Notice of Filing of Petition for Reconsideration, and for Modification of Certificates), filed October 2, 1972. Petitioner: MOORE-FLESHER HAULING COMPANY, INC., 100 Hafner Avenue, Pittsburgh, PA 15223. Petitioner's representatives: Paul F. Sullivan and David C. Venable, 711 Washington Building, Washington, D.C. 20005. Petition presently holds certificates in Nos. MC 4484 and 4484 (Sub-No. 19), issued December 15, 1941, and February 8, 1949, respectively. The former authorizes operation as a common carrier by motor vehicle, over irregular routes, of *heavy machinery and construction materials and supplies*, between points and places in that part of Pennsylvania south of U.S. Highway 422, west of U.S. Highway

119 and north of U.S. Highway 40, including points and places on the indicated portions of the highways specified, on the one hand, and, on the other, points and places in Ohio, West Virginia, and that part of New York on and west of New York Highway 34, restricted so that iron and steel products shall not be transported (1) between points in Ohio and West Virginia, or (2) between Pittsburgh, Vandergrift, Ambridge, Aliquippa, Carnegie, Crafton, Ingram, McKees Rocks, Bellevue, Millvale, Etna, Sharpsburg, Aspinall, and Wilkinsburg, Pa., and points and places in Pennsylvania on the Monongahela River between Pittsburgh and Clairton, Pa., including Clairton on the one hand, and, on the other, points and places in Ohio east of U.S. Highway 21 and south of U.S. Highway 422, those in West Virginia north of U.S. Highway 50, and those in New York west of New York Highway 60, including points and places on the indicated portions of the highways specified; the latter authorizes operation as a common carrier by motor vehicle, over irregular routes, of *machinery and construction equipment and materials*, the transportation of which, because of their size or weight, requires the use of special equipment, and *related machinery parts*, and *related construction equipment, materials, and supplies* when the transportation thereof is incidental to the transportation by said carrier of machinery and construction equipment and materials which by reason of size or weight require special equipment,

(a) Between points and places in that part of Pennsylvania on and west of U.S. Highway 15, on the one hand, and, on the other, points and places in Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Kentucky, Illinois, Indiana, and Michigan, (b) between points and places in that part of Pennsylvania on and west of U.S. Highway 15, Ohio, New York, and West Virginia, (c) from points and places in Pennsylvania on and west of U.S. Highway 15 to points and places in Virginia and Maryland with no transportation for compensation on return except as otherwise authorized, (d) from points and places in West Virginia to points and places in Maryland except those in Garrett, Allegheny, and Washington Counties, with no transportation for compensation on return except as otherwise authorized, and with authority to traverse Vermont and the District of Columbia for operating convenience only, and restricted to the same restrictions as those above-listed for the former certificate. By the instant petition, petitioner seeks modification of its certificates to have the commodity description in its lead certificate modified so as to read as follows: "Commodities, the transportation of which because of their size or weight, requires special handling or special equipment, self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts, and supplies moving in connection therewith, and construction materials and supplies"; and to have the commodity description in its Sub-19 certificate modified so as to read as follows: "Commodities, the transportation of which because of their size or weight, requires special handling or special equipment, self-propelled articles, each weighing 15,000 pounds or more and related machinery, tools, parts and supplies moving in connection therewith, and related machinery parts, and related construction equipment, materials, and supplies when the transportation thereof is incidental to transportation by said carrier of commodities which because of size or weight requires special handling or special equipment". Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support or on against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

N. MC 76467 (Notice of filing of petition for clarification and modification of certificate), filed September 28, 1972. Petitioner: SHARKIE'S TRUCKING SERVICE, INC., 829 Newark Avenue, Elizabeth, NJ 07208. Petitioner's representative: Joseph A. Milner, 15 Alden Street, Suite 10, Cranford, NJ 07016. Petitioner presently holds a certificate in No. MC 76467 issued November 2, 1951, authorizing, as pertinent, operation as a common carrier by motor vehicle, over irregular routes, of *general commodities* with exceptions, between New York, N.Y. and points in New Jersey counties. By the instant petition, petitioner seeks modification of its certificate to authorize operation between points in the New York, N.Y. Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points and places in Essex, Hudson, Passaic, Union, Mercer, Middlesex, Morris, and Bergen Counties within 60 miles of the City Hall, New York, N.Y. Any interested person desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE.

No. MC 18121 (Sub-No. 15), filed September 28, 1972. Applicant: ADVANCE TRANSPORTATION COMPANY, a corporation, 2115 South First Street, Milwaukee, WI 53207. Applicant's representative: Eugene L. Cohn, One North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. (1) Within an area in Illinois bounded by a line commencing at the junction of Interstate Highway 80 and Illinois Highway 82; thence south along Illinois Highway 82 to junction Illinois Highway 17; thence west along Illinois Highway 17 to junction U.S. Highway 74; thence south along U.S. Highway 74 to Galesburg; thence west along U.S. Highway 34 to junction U.S. Highway 67; thence south along U.S. Highway 67 to Macomb; thence east along U.S. Highway 136 to Havana; thence south along Illinois Highway 97 to Menard-Sangamon County line; thence east along the Menard and Logan County lines to the Macon County line; thence north along the Macon County line to junction Illinois Highway 121; thence southeast along Illinois Highway 121 to Decatur; thence north along U.S. Highway 51 to Bloomington; thence northeast along U.S. Highway 66 to Illinois Highway 116; thence east along U.S. Highway 116 to Pontiac; thence west along Illinois Highway 116 to junction Illinois Highway 23; thence north along Illinois Highway 23 to junction Interstate Highway 80; thence west along Interstate Highway 80 to junction Illinois Highway 82, the point of beginning, including all points on the aforesaid highways. (2) Between points described in (1) above on the one hand, and, on the other, points in Illinois, restricted to traffic originating at or destined to points described in (1) above. NOTE: Applicant states that joinder with presently certificated routes in MC 18121 is proposed through points in the Chicago, Ill., commercial zone. Common control and dual operations may be involved. This application is a matter directly related to MC-F-11645 published in the FEDERAL REGISTER issue of September 7, 1972. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 69512 (Sub-No. 9), filed September 28, 1972. Applicant: THUNDERBIRD FREIGHT LINES, INC., 1515 South 22d Avenue, Phoenix, AZ 85009. Applicant's representative: Russell R. Sage, Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular and regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) Irregular routes: (1) Between points in Bernalillo, McKinley, Valencia, Socorro, Guadalupe, San Miguel, Santa Fe, Taos, Rio Arriba, Los Alamos, Sandoval, and Torrance Counties, N. Mex.; (2) between points in San Juan, Colfax, Mora, Quay, Curry, Union, DeBaca, Harding, and Roosevelt Counties, N. Mex.; and (3) between points in Bernalillo, McKinley, Valencia, Socorro, Guadalupe, San Miguel, Santa Fe, Taos, Rio Arriba, Los Alamos, Sandoval, and Torrance Counties, N. Mex., on the one hand, and, on the other, points in San Juan, Colfax, Mora, Quay, Curry, Union, DeBaca, Harding, and Roosevelt Counties, N. Mex. Restriction: The above irregular authority is restricted: (a) Against service between Albuquerque and Belen, N. Mex.,

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and (b) to the transportation of packages or articles weighing 500 pounds or less.

(B) Regular routes: (1) Between Gallup, N. Mex., and Albuquerque, N. Mex., serving no intermediate points: From Gallup over Interstate Highway 40 to Albuquerque, and return over the same route; (2) between Albuquerque, N. Mex., and Santa Fe, N. Mex., serving no intermediate points: From Albuquerque over Interstate Highway 25 and U.S. Highway 85 to Santa Fe, and return over the same route; and (3) between Albuquerque, N. Mex., and Clovis, N. Mex., serving no intermediate points: From Albuquerque over Interstate Highway 40 to the junction of U.S. Highway 84, thence over U.S. Highway 84 to Clovis, and return over the same route. Restriction: The above regular-route authority is restricted to the transportation of packages or articles weighing 500 pounds or less. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at Gallup, N. Mex., between points applicant is authorized to serve in Arizona and California and points in New Mexico covered by the instant application. The instant application seeks to convert the certificates of registration of Oakley Transfer and Storage Co., Inc., to Certificates of Public Convenience. This application is directly related to MC–F 11675, published in the FEDERAL REGISTER of October 12, 1972. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex., or Phoenix, Ariz.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11675. (Correction) (THUNDERBIRD FREIGHT LINES, INC.—CONTROL AND MERGER—OAKLEY TRANSFER & STORAGE COMPANY), published in the October 12, 1972 issue of the FEDERAL REGISTER on page 21571. Prior notice should be modified to read. Applicants' attorneys: Donald E. Fernaays, Suite 312, 4040 East McDowell Road, Phoenix AZ 85008, and Jack A. Smith, 715 Simms Building, Albuquerque, N. Mex. Notice should also include MC–69512 (Sub-No. 9), is a matter directly related.

No. MC–F–11684. Authority sought for control and merger by TOWNE SERVICES HOUSEHOLD GOODS TRANSPORTATION CO., INC., Post Office Box 16091, San Antonio, TX 78246, of the operating rights and property of EMPIRE MOVING & STORAGE, INC., and for acquisition by Roy M. McNair, all of San Antonio, Tex. 78246, of control of such rights and property through the transaction. Applicants' attorney: Herbert Burstein, One World Trade Center, New York, N.Y. 10048. Operating rights sought to be controlled and merged: *Household goods*, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, as a *common carrier* over irregular routes, between points and places in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, traversing Tennessee for operating convenience only. Towne Services Household Goods Transportation Co., Inc., is authorized to operate as a *common carrier* in Texas, Illinois, Louisiana, Missouri, New Mexico, Oklahoma, Kansas, Colorado, Wyoming, Arkansas, Mississippi, Alabama, Florida, and Georgia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11685. Authority sought for purchase by DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46627, of the operating rights and property of ROBERTSON TRUCK-A-WAYS, INC., 7101 East Slauson Avenue, Los Angeles, CA 90022; Paul A. Mavis, also of South Bend, IN 46627, purchase a portion of the operating rights and property of DALLAS & MAVIS FORWARDING CO., INC., and for acquisition by Paul A. Mavis, of control of such rights and property through the purchase. Applicants' attorney: Charles Pieroni, 4000 West Sample Street, South Bend, IN 46627. Operating rights sought to be transferred: *New automobiles*, in initial movements, as a *common carrier* over irregular routes, from Long Beach, Calif., to points and places in Arizona, New Mexico, Nevada, Oregon, and Utah; *new automobiles and new trucks*, in initial movement, from Maywood, Calif., and points and places within 1 mile thereof, to points and places in Arizona, Nevada, and Oregon; *new automobiles*, in secondary movements, from points and places in California, on San Francisco Bay, to points and places in California, except Long Beach, San Pedro, and Wilmington: *new automobiles and new trucks*, in secondary movements, from Phoenix, Ariz., to Los Angeles, Calif.; *new automobiles, new trucks, and new chassis*, in initial movements, in truckaway service, from San Leandor, Calif., and all points and places within 1 mile of San Leandro except points and places in Oakland, Calif., to points and places in California, Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; *new trucks and new chassis*, in initial movements, in driveaway service, from the above-specified origin points and places to the destination points and places described immediately above,

New trucks, in secondary movements, in driveaway and truckaway service, from San Leandro, Calif., and points and places within 20 miles thereof, to points and places in the States named above; *new automobiles, new trucks, and new chassis*, in secondary movements, in truckaway service, from Salt Lake City, Utah, to San Leandro, Calif., and points and places within 20 miles thereof; *automobiles*, in initial movements, in truckaway service, from the site of the plant of the Chrysler Corp. located adjacent to Maywood, Calif., to points in the Los Angeles harbor commercial zone, as defined by the Commission, and points in Idaho and Washington; *automobiles*, in secondary movements, in truckaway service, from points in the Los Angeles harbor commercial zone, as defined by the Commission, to points in Los Angeles County, Calif.; *new automobiles*, in secondary movements, by the truckaway method, from Phoenix, Ariz., to a defined area in California; *automobiles, trucks, and buses* (except those which have been repossessed, embezzled, stolen, or wrecked, and except trailers), in secondary movements, in truckaway service, from points in Nebraska to points in New Mexico, Arizona, and California, between points in New Mexico, Arizona, and that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, Calif.; *automobiles* (except used automobiles, and except repossessed, embezzled, stolen, or wrecked automobiles), in secondary movements, in truckaway services, from Sacramento, Calif., to points in Arizona and New Mexico, with restriction;

New and used motor vehicles (except trailers), in secondary movements, in truckaway service, between points in Arizona, New Mexico, Nevada, and Utah (except shipments from Phoenix, Ariz.), with restriction, from Phoenix, Ariz., to points in Arizona, New Mexico, Nevada, and Utah; *automobiles and trucks*, in initial movements, in truckaway service, from the plantsite of Chrysler Corp., in Maywood, Calif., to Farwell, Tex., and points in New Mexico, from Maywood, Calif., to points in Montana; *motor vehicles* (except trailers, trucks, imported motor vehicles, and used motor vehicles which have been repossessed, embezzled, stolen, or damaged) in secondary movements, in truckaway service, between points in Nevada and points in that part of California south of the northern boundaries San Luis Obispo, Kern, and San Bernardino Counties, Calif., with restriction. Vendee is authorized to operate as a common carrier in all of the States in the United States and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11686. Authority sought for purchase by GRIM BROS., TRUCKING CO., 997 Loucks Mill Road, York, PA 17402, of a portion of the operating rights of ROY A. LEIPHART TRUCKING, INC., 1298 Toronita Street, York, PA 17405 and for acquisition by JOHN V. GRIM, RICHARD R. GRIM, and E. GLENN GRIM, all of 997 Loucks Mill Rd., York, PA 17402, of control of such rights through the purchase. Applicants' attorney: Chester A. Zyblut, 1522 K Street. NW., Washington, DC 20005. Operating rights sought to be transferred: *Clay products*, as a *common carrier* over irregular routes, from York, Pa., to Amagansett, Chester, Franklin Square, Monticello, Great Neck, Manhasset, Riverhead, and New York, N.Y., Trenton, Mountain Lakes, and New Brunswick, N.J., Newark, Wilmington, Smyra, and Dover, Del., Washington, D.C., Alexandria, Va., Baltimore, Md., and points in Anne Arundel, Carroll, Cecil, Harford, Montgomery, Talbot, and Baltimore Counties, Md. Vendee is authorized to operate as a *common carrier* in Maryland, Delaware, New Jersey, New York, Pennsylvania, Virginia, Ohio, Michigan, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11689. Authority sought for purchase by JACKSON AND JOHNSON, INC., West Church Street, Box 7, Savannah, NY 13146, of the operating rights of KENNETH E. FIDLER, doing business as K. E. FIDLER (Internal Revenue Service-Successor-In-Interest), 340 West Division Street, Syracuse, NY 13204, and for acquisition by JOHN W. JACKSON, and LEWIS G. JOHNSON, both of Savannah, NY 13146, of control of such rights through the purchase. Applicants' attorney: Raymond A. Richards, 44 North Avenue, Webster, NY 14580. Operating rights sought to be transferred: *Coal and coke*, as a *common carrier*, over irregular routes, from Syracuse, N.Y., to points in Onandaga, Cayuga, Madison, and Oswego Counties, N.Y.; *salt*, from the facilities of the Morton Salt Company, Division of Morton International, Inc., at Milo, N.Y., to points in Connecticut, Massachusetts, Pennsylvania, and Vermont. Vendee is authorized to operate as a *common carrier* in New York, Connecticut, Massachusetts, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

NOTE: Petition for Subpoena filed simultaneously herewith.

No. MC–F–11690. Authority sought for purchase by PINTER BROS., INC., Carll's Path and Lake Avenue, Deer Park, NY 11729, the operating rights of ARBOR MOTOR LINES, INC. (Internal Revenue Service-Successor-In-Interest), 313 State Street, Perth Amboy, NJ 08861, and for acquisition by JOSEPH A. PINTER, 271 Plymouth Avenue, Brightwaters, NY 11718, of control of such rights through the purchase. Applicants' attorney: John P. Tynan, 65–12 69th Place, Middle Village, NY 11379. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, Newark, Elizabeth, and New Brunswick, N.J. Vendee is authorized to operate as a *common carrier* in Connecticut, New Jersey, and New York. Application has been filed for temporary authority under section 210a(b).

No. MC–11691. Authority sought for control by WILLIAM M. WALSH, 140 Epping Road, Exeter, NH 03833, of DEARBORN'S MOVING & STORAGE COMPANY, INCORPORATED, 69 Main Street, Exeter, NH 03833. Applicants' attorneys: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155, and Robert E. Dastin, 1000 Elm Street, Manchester, NH 03101. Operating rights sought to be controlled: *Household goods*, as a *common carrier*, over irregular routes, between points in Rockingham and Strafford Counties, N.H., on the one hand, and, on the other, points in Maine, Vermont, Massachusetts, Rhode Island, Connecticut, New York, and New Jersey. WILLIAM M. WALSH holds no authority from this Commission. However, he is affiliated with DEARBORN'S MOTOR EXPRESS, INC., Post Office Box D., 140 Epping Road, Exeter, NH 03833, which is authorized to operate as a *common carrier* in Massachusetts, Maine, and New Hampshire. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11692. Authority sought for purchase by SIOUX TRANSPORTATION COMPANY, INC., 1230 Steuben Street, Sioux City, IA 51102, of the operating rights of H & S MOTOR SERVICE, INC., 32 East Lake Street, Northlake, IL 60164, and for acquisition by PAUL BECK and HELENA BECK, both of 4411 Morningside Avenue, Sioux City, IA 51102, and ROBERT BECK, 3515 Orleans Avenue, Sioux City, IA 51102, of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–120940 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Illinois, Iowa, Indiana, and Nebraska. Application has been filed for temporary authority under section 210a(b).

NOTE: MC–22301 (Sub-No. 13) is a matter directly related.

No. MC–F–11693. Authority sought for purchase by AERO TRUCKING, INC., Post Office Box 308, Monroeville, PA 15146, of the operating rights of B. B. MOTOR EXPRESS, INCORPORATED, 76 Roberts Street, Plainville, CT 06062, and for acquisition by EDWARD J. CONTO, also of Monroeville, Pa. 15146, of control of such rights through the purchase. Applicants' attorneys: John E. Fay, 342 North Main Street, West Hartford, CT 06117, and A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–120109 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a *common carrier* in Ohio, Pennsylvania, West Virginia, Kentucky, Illinois, Michigan, New York, Indiana, Wisconsin, Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island, Virginia, Tennessee, Alabama, Mississippi, Maine, New Hampshire, Vermont, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Texas, and the District of Columbia. Application has been filed for temporary authority under seaction 210a(b).

NOTE: MC–60014 (Sub-No. 32), is a matter directly related.

No. MC–F–11694. Authority sought for purchase by ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Sioux Falls, SD 57101, of a portion of the operating rights of HENNIS FREIGHT LINES, INC. OF NEBRASKA, Post Office Box 612, Winston-Salem, NC 27102, and for acquisition by BUFFALO EXPRESS, INC., and in turn by H. LAUREN LEWIS, both of 1500 Industrial Avenue, Sioux Falls, SD 57101, of control of such rights through the purchase. Applicants' attorneys: Edward G. Bazelon., 39 South La Salle Street, Chicago, IL 60603, and James E. Wilson, 1032 Pennsylvania Building, Washington, D.C. 20004. Operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes, between Omaha and Lincoln, Nebr., between Lincoln and Union, Nebr., between Nebraska City, Nebr., and Sidney, Iowa, between Lincoln, Nebr., and junction Nebraska Highway 4 and U.S. Highway 73, between Hiawatha, Kans., and St. Joseph, Mo., between Fairmont, and Grand Island, Nebr., between Lincoln, and Henderson, Nebr., serving all intermediate points, between Sioux City, Iowa, and Omaha, Nebr., serving all intermediate points; and the off-route points of Little Sioux, Modale, and Turin, Iowa, between Sioux City, Iowa, and Bancroft, Nebr., serving all intermediate points; and the off-route points of Homer, Thurston, and Rosalie, Nebr., between McCook and Grand Island, Nebr., serving all intermediate points, between McCook and Grand Island, Nebr., serving all intermediate points; and the off-route points of Kenesaw and Juniata, Nebr., between Holdrege and Maywood, Nebr., serving all intermediate points; and the off-route points of Orafino and Ingham, Nebr., between Omaha, Nebr., and Denver, Colo., serving various intermediate and off-route points, between McCook, Nebr., and Denver, Colo., serving no intermediate points, with restriction, over two alternate routes generally between Bancroft and Lincoln, Nebr., and Missouri Valley, Iowa, and Fremont, Nebr.; *building material, animal poultry feed, tires, lubricating oil and grease* in containers, *farm machinery and parts thereof*, from Sioux City, Iowa, to Wakefield, Nebr., serving all intermediate and and off-route points within 20 miles of Wakefield, Nebr.;

Livestock, dairy products, grain, hay, and *household goods* as defined by the

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Commission, over irregular routes, between Sioux City, Iowa, on the one hand, and, on the other, Randolph, Nebr., and points in Nebraska within 45 miles of Sioux City, Iowa; *livestock* and *agricultural commodities*, between Wakefield, Nebr., and points within 20 miles thereof, on the one hand, and, on the other, points in that part of Iowa north of U.S. Highway 30 and west of U.S. Highway 71, including points on the indicated portions of the highways specified, from Emerson, Nebr., and points within 15 miles thereof, to Sioux City, Iowa; *coal, cement, commercial feeds, building materials, hardware, farm machinery, furniture*, and *oil and grease*, in containers from Sioux City, Iowa, to Emerson, Nebr., and points within 15 miles of Emerson; *grain*, from points in that part of Iowa west of U.S. Highway 69, to Emerson, Nebr., and points within 15 miles of Emerson; *eggs, hides*, and *pelts*, from Lincoln and Fremont, Nebr., to Omaha, Nebr.; *poultry and eggs*, from Randolph, Nebr., and points in Nebraska within 45 miles of Sioux City, Iowa, to Sioux City, Iowa; *cream station supplies, poultry coops, feed, salt*, and *farm machinery* and *farm machinery parts*, from Sioux City, Iowa, to Randolph, Nebr., and points in Nebraska within 45 miles of Sioux City, Iowa. Vendee is authorized to operate as a *common carrier* in Iowa, Minnesota, South Dakota, Nebraska, Illinois, Indiana, North Dakota, Wisconsin, Kentucky, Michigan, Ohio, Kansas, and Missouri. Application has been filed for temporary authority under section 210a(b).

NOTICE

Notice is hereby give pursuant to 49 CFR 1111.4(d) of the filing by Weyerhaeuser Co. of an application to acquire control of Mississippi and Skuna Valley Railroad Co. through ownership of the majority of its stock, in Finance Docket No. 27195.

(1) Applicant is Weyerhaeuser Co., Tacoma Building, Tacoma, Wash. 98401. Applicant's attorneys are: Daniel C. Smith, Vice President and General Counsel, Weyerhaeuser Co., Tacoma, Wash. 98401. Charles J. McCarthy, 1750 Pennsylvania Avenue NW., Washington, DC 20006.

(2) The proposed transaction is the acquisition of control of Mississippi and Skuna Valley Railroad Co., a carrier subject to Part I, through acquisition of 1,890½ shares of the 1,925½ shares of its common stock.

(3)(a) Mississippi and Skuna Valley Railroad Co. will continue to operate its line of railroad from Bruce, Miss., to Bruce Junction, Miss.

(b) Weyerhaeuser serves ports in Washington, California, Oregon, Rhode Island, New York, New Jersey, and Maryland as a common carrier by self-propelled and non-self-propelled vessels. It also owns all the capital stock of the Columbia & Cowlitz Railway Co. which operates in Washington, the De Queen and Eastern Railroad Co. which operates in Arkansas and the Texas, Oklahoma, and Eastern Railroad Co. which operates in Oklahoma.

(c) The Commission action requested in this application will have no effect on the quality of the human environment, in the opinion of the applicant.

4. The Mississippi and Skuna Valley Railroad is located in Calhoun and Yalobusha Counties, Miss. It extends 22.04 miles from Bruce, Miss., to a junction with the Illinois Central at Bruce Junction, Miss.

The proceeding will be handled without public hearing unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER.

NOTICE

The Atchison, Topeka & Santa Fe Railway Co. and the Denver & Rio Grande Railroad Co. hereby give notice that on the 11th day of September 1972, they filed with the Interstate Commerce Commission at Washington, D.C., an application for a certificate of public convenience and necessity permitting the applicants to operate their trains, including Colorado & Southern Railway Co. trains operated by the A.T. & S.F. Railway Co., over a single track railroad between Mile Post 686.24 at Palmer Lake and Mile Post 654.31 at Crews, all in El Paso County, Colo., via portions of Applicant's existing tracks and to approve an agreement dated June 9, 1972, to accomplish the single track operation. This application has been assigned Finance Docket No. 27185. The proceedings will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protest submitted shall be filed with the Commission no later than 30 days from the date of first publication in the FEDERAL REGISTER. Any person opposed to this application should advise the Interstate Commerce Commission at Washington, D.C. 20433, by an original and six copies of any such protest, and send a copy of the protest to Thomas J. Barnett, 80 East Jackson Boulevard, Chicago, IL 60604, and John S. Walker, 1531 Stout Street, Denver, CO 80217. In the opinion of the applicants the authority sought by this application will not significantly affect the quality of the human environment.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18245 Filed 10-25-72;8:49 am]

[Notice 147]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73972. By order entered October 10, 1972, the Motor Carrier Board approved the transfer to Sims Transfer Co., Inc., Spartanburg, S.C., of the operating rights set forth in Certificate No. MC-125895, issued February 25, 1965, to N. A. Sims, doing business as Sims Transfer Co., Spartanburg, S.C., authorizing the transportation of textile waste materials and used bagging, and textile waste materials and cotton which are within the exemption of section 203(b)(6) of the Interstate Commerce Act, when transported in the same vehicle with the commodities specified immediately above, between points in North Carolina, South Carolina, Alabama, Georgia, and Tennessee; and those in Permits Nos. MC-112977 and MC-112977 (Sub-No. 2), issued February 21, 1952, and March 13, 1958, to N. A. Sims, authorizing the transportation of lumber, brick, concrete blocks, construction machinery, and concrete pipe, from, to, or between specified points and places in South Carolina, North Carolina, and Georgia. Dual operations authorized. Nathan A. Sims, 145 Alice Street, Post Office Box 941, Spartanburg, SC 29301, representative for applicants.

No. MC-FC-73505. By order of October 19, 1972, the Motor Carrier Board approved the transfer to Harold C. Earnhardt, doing business as Earnhardt Trucking Co., Rockwell, N.C., of that portion of the operating rights in Certificate No. MC-30655 issued November 8, 1971, to Jones Transfer, Inc., Fairmont, N.C., authorizing the transportation of general commodities, with usual exceptions, between Fairmont, N.C., and points in North Carolina within 50 miles thereof, on the one hand, and, on the other, Wilmington, N.C., partially restricted as to the transportation of leaf tobacco and fertilizer and fertilizer materials, and veneer and plywood, from Fairmont, N.C., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, South Carolina, Virginia, and the District of Columbia. Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201, attorney for applicants.

No. MC-FC-73980. By order entered October 11, 1972, the Motor Carrier Board approved the transfer to Wilkerson Trucking Co., Inc., Lenoir City, Tenn., of the operating rights set forth in Certificates Nos. MC-124632, MC-124632 (Sub-No. 2), MC-124632 (Sub-No. 4), MC-124632 (Sub-No. 6), MC-124632 (Sub-No. 8), MC-124632 (Sub-No. 11), and MC-124632 (Sub-No. 12), issued by the Commission January 15, 1963, June 13, 1963, November 13, 1963, August 23, 1963, January 22, 1964, August 3, 1967, and August 12, 1968, respectively, and those in Permit No. MC-128985 (Sub-No. 1), issued December 9, 1969, to M. L. Wilkerson, doing business as Wilkerson Trucking Co., Lenoir City, Tenn., authorizing the transportation of calcium chloride, and dry calcium chloride in bags, dry ammonium nitrate fertilizer, ammonium nitrate fertilizer in bags, dry fertilizer and fertilizer material, petroleum and petroleum products, except in bulk, and petroleum products, in containers, from, to, or between points in Ohio, Tennessee, Kentucky, West Virginia, North Carolina, and Pennsylvania, as to the certificates, and as to the permit certain specified commodities, from, to, or between points in Tennessee, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Mississippi, Michigan, Indiana, Kentucky, Tennessee, Alabama, Ohio, Pennsylvania, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Maine, New Hampshire, Vermont, New York, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the District of Columbia. Dual operations authorized. Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219, attorney for applicants.

No. MC-FC-73991. By order entered October 10, 1972, the Motor Carrier Board approved the transfer to Yarbrough Transfer Co., Winston-Salem N.C., of the operating rights set forth in Certificates Nos. MC-37828 and MC-37828 (Sub-No. 2), issued September 17, 1971, and July 28, 1972, respectively, to Coburn Moving and Storage Co., Inc., Roanoke, Va., authorizing the transportation of scrap iron, coal, household goods, building materials and lumber, farm produce, livestock, and machinery, from, to, or between points and places in Virginia, West Virginia, and North Carolina. Wesley D. Bailey, 1918 Wachovia Building, Winston-Salem, NC 27107, attorney for applicants.

No. MC-FC-35446. By order of October 6, 1972, the Motor Carrier Board approved the lease to Moore Transportation Co., Inc., Fort Worth, Tex., of the Certificate in No. MC-106676 and the Certificate of Registration in No. MC-106676 (Sub-No. 2) both issued September 18, 1970, to Orval Hall Trucking Co., a corporation, Fort Worth, Tex., and acquired by Don Moore, doing business as Moore Transportation Co., Fort Worth, Tex., pursuant to order in MC-FC-73577, the former authorizing the transportation of machinery, materials, supplies, and equipment, incidental to, or used in the gas and petroleum industry, between and over specified routes to Uvalde, Houston, and Freeport, Tex., including points on the indicated portions of the highways specified, and the latter evidencing a right of the holder to engage in transportation in interstate or foreign commerce as described in Certificate No. 5051, dated November 18, 1954, transferred and reissued April 9, 1970, by the Railroad Commission of Texas. Dan Felts, Post Office Box 2207, Austin, TX 78767, attorneys for applicants.

No. MC-FC-73577. By order of October 6, 1972, the Motor Carrier Board approved the transfer to Don Moore, doing business as Moore Transportation Co., Fort Worth, Tex., of the certificate in No. MC-106676 and the certificate of registration in No. MC-106676 (Sub-No. 2) both issued September 18, 1970, to Orval Hall Trucking Co., a corporation, Fort Worth, Tex., the former authorizing the transportation of machinery, materials, supplies, and equipment, incidental to, or used in the gas and petroleum industry, between and over specified routes to Uvalde, Houston, and Freeport, Tex., and including points on the indicated portions of the highways specified, and the latter evidencing a right of the holder to engage in transportation in interstate or foreign commerce as described in Certificate No. 5051, dated November 18, 1954, transferred and reissued April 9, 1970, by the Railroad Commission of Texas. Dan Felts, Post Office Box 2307, Austin, TX 78767, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18249 Filed 10-25-72;8:50 am]

PORT ROYAL MARINE CORP.

Notice of Filing of Petition for Declaratory Order

OCTOBER 20, 1972.

No. W-C-22, Port Royal Marine Corp.—Declaratory Order—"LASH" Towage Operations.

Petitioner: Port Rayol Marine Corp., 310 East Bay Street, Savannah, GA. Petitioner's representatives: Jacob P. Billig and Terence D. Jones, 1108 16th Street NW., Washington, DC 20036.

Petitioner is a Georgia corporation engaged in the business of providing a substitute means of propulsion for vessels used in lighter-aboard-ship (LASH) services operated in foreign commerce by ocean carriers of all flags. The lighters propelled by petitioner are comparatively small vessels loaded with cargo at ports in the United States and destined to points in foreign countries or loaded at ports in foreign countries and destined for ports in the United States. The LASH vessel itself does not move under its own propulsion. It must be either carried by a LASH mother vessel, usually with other LASH lighters, or placed in the water and pushed or towed by tugboats or pushboats. The lighters, which are owned by the ocean carrier who owns the mother vessel or by LASH ocean carrier, are in themselves documented and registered United States or foreign flag vessels, carrying their registry papers on board.

LASH mother vessels anchor or moor at or near Savannah, or other major ports, where the LASH mother vessel discharges into the water LASH lighters loaded with cargo of all types destined to other ports up and down the South Atlantic coast. The mother vessel will also receive at Savannah lighter vessels from other South Atlantic ports, which lighters are destined to points in foreign countries. Petitioner provides tugboats and pushboats to transport loaded and empty LASH lighters between the LASH mother vessel anchored or moored near Savannah or other major United States ports, on the one hand, and, on the other, the South Atlantic ports at which the lighters originate or to which they are destined. In the exchange of the fully loaded LASH lighters between the mother vessel and petitioner's boats, petitioner states that no transfer of cargo occurs.

In all cases, the origin and destination points named in the port to port ocean bill of lading, which is solely utilized in the subject movements, will be a point in a foreign country and a United States South Atlantic port. U.S. customs jurisdiction is said to attach to this cargo at the port of ultimate origin or destination, not at the port where the lighter is transferred to or from the mother vessel. All of the involved cargo is solicited by the LASH ocean carrier or its agents and moves under through rates on a through bill of lading issued by the ocean carrier. Petitioner does not advertise or offer any services to the public at large, but only to ocean common carriers by water subject to the jurisdiction of the Federal Maritime Commission (FMC). In each instance the ocean carrier appears to assume complete responsibility for the transportation of all property, and for any loss and damage to the cargo or the lighter between the points designated on the bill of lading. The ocean carrier receives all revenues derived from the movement, paying petitioner an agreed-upon fee for its propelling services.

It is the position of petitioner that the services it provides for LASH lighters are not subject to the jurisdiction of this Commission because (1) there is no transfer of lading among vessels, and thus no transshipment, (2) the services are performed by it solely as the agent of the LASH ocean carrier in connection with a foreign port-to-port movement wholly by water undertaken entirely by that ocean carrier, and (3) to the extent that the service involves the movements of lighters between the mother vessel anchored at or near a major port, and that port, such service constitutes "transportation by water solely within the limits of a single harbor or between places in contiguous harbors

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• • •" and is thus exempt from regulation under section 303(g)(1) of the act, 49 U.S.C. 903(g)(1).

On May 12, 1972, this Commission and the Federal Maritime Commission issued a joint jurisdictional statement concerning LASH operations, wherein it was stated, in essence, that the LASH lighters are not subject to Commission jurisdiction. The final sentence of that joint statement reads as follows:

> However, the towage of barges between the United States ports, when undertaken by other than the ocean carrier, is subject to the jurisdiction of the Interstate Commerce Commission.

Notwithstanding this statement, petitioner believes that this Commission is without jurisdiction in the matter. It argues that if the cargo itself is not the subject of a transshipment when being transferred in the lighter between the mother vessel and the water, then neither is petitioner's operation in which it merely acts as a vehicle of propulsion for the same lighters. Petitioner also believes that its activities are to be distinguished from those recently found to be subject to Commission jurisdiction in Sacramento-Yolo Port District, Petition, 341 I.C.C. 105 (1972), because in the cited case a transfer of lading was found to occur.

Any interested person (including petitioner) desiring to participate may file with this Commission an original and (6) six copies of his written representations, views, or argument in support of, or against, the petition within 30 days from the date of publication of this notice in the FEDERAL REGISTER. A copy of each such document should be served upon petitioner's representatives.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18251 Filed 10-25-72;8:50 am]

[Ex Parte 267]

SUN OIL COMPANY OF PENNSYLVANIA

Increased Freight Rates, 1971

Order. In the matter of waiver of Rule 22 of the General Rules of Practice.

Upon consideration of the record in the above-captioned proceeding, including: the report and order, 339 I.C.C. 125 (1971); and the petition filed on July 10, 1972, by Sun Oil Company of Pennsylvania requesting the Commission to enter a declaratory order finding that the increase on commodity rates for all export traffic (or, in the alternative, on refined petroleum, petroleum products, and naphthalene) authorized in the report and order was and is limited to 12 percent, regardless of the foreign destination of the traffic, and for certain affirmative action by the Commission in connection with the requested finding; and

It appearing, that Sun Oil Company's petititon does not comply with Rule 22 of the Commission's General Rule of Practice, 49 CFR 1100.22, requiring service of every pleading upon all parties to proceedings;

It further appearing, that the Commission's staff informed petitioner that the petition would not be processed until compliance had been effected with Rule 22;

It further appearing, that by letter dated September 1, 1972, petititoner stated that compliance with Rule 22 would be unduly burdensome because most of the parties to this proceeding would not have an interest in or be affected by the relief sought;

It further appearing, that the interests of justice will be best served by treating petitioner's letter of September 1, 1972, as a petition for waiver of Rule 22;

And it further appearing, that authorizing a waiver of Rule 22, as conditioned below, is appropriate in this instance;

Wherefore, and for good cause:

It is ordered, That the requirement of the said Rule 22 requiring service of every pleading upon all parties to proceedings be, and it is hereby, waived in this proceeding solely to permit the filing of the instant petition and replies thereto, provided that the petitioner herein furnish a copy of its petition to any party of record in this proceeding requesting such service. Requests for service should be addressed to Mr. Lee A. Christiansen, Director of Traffic, Sun Oil Co., 1608 Walnut Street, Philadelphia, PA 19103.

It is further ordered, That petitioner herein be, and it is hereby, required to submit a revised certificate of service, as it has agreed to do in its letter of September 1, 1972, showing service upon all parties to this proceeding known to have an interest in the rates on refined petroleum petroleum products, and naphthalene and upon each of the Commission's regional offices.

It is further ordered, That any party wishing to participate in the determination of this matter, should the Commission exercise its discretion in entertaining this petition for a declaratory order shall notify the Commission's Office of Proceedings to that effect within 30 days from that date of publication of this order in the FEDERAL REGISTER; that a service list for use in connection with this petition only shall thereafter be served upon the petitioner and all replicants; and that service of pleadings may be limited to those parties.

And it is further ordered, That notice of this action be given to the public by depositing a copy of this order in the Office of the Secretary of the Commission and by publication in the FEDERAL REGISTER, and that notice of the filing of the petition and of this action be further made by service of this order on all parties to this proceeding.

Dated at Washington, D.C., this 11th day of October 1972.

By the Commission, Commissioner Bush.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18252 Filed 10-25-72;8:50 am]

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THURSDAY, OCTOBER 26, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 207

PART II

FEDERAL TRADE COMMISSION

■

COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

TRADE REGULATIONS RULE AND STATEMENT OF BASIS AND PURPOSE

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Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER D—TRADE REGULATION RULES

PART 429—COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

Promulgation of Trade Regulation Rule and Statement of Its Basis and Purpose

Introduction. The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Subpart B, Part 1 of the Commission's procedures and rules of practice, 16 CFR 1.11 et seq., has conducted a proceeding for the promulgation of a Trade Regulation Rule pertaining to a cooling-off period for door-to-door sales. Notice of this proceeding, including a proposed rule, was published in the FEDERAL REGISTER on September 29, 1970 (35 F.R. 15164). Interested parties were thereafter afforded opportunity to participate in the proceeding through the submission of written data, views, and arguments, and to appear and express their views orally and to suggest amendments, revisions, and additions to the proposed rule.

After it had considered the suggestions, criticisms, objections, and other pertinent information in the record, the Commission on February 17, 1972, published a revised proposed rule in a notice in the FEDERAL REGISTER (37 F.R. 3551) extending an opportunity to interested parties to submit data, views, or arguments regarding the revised proposed rule. A period of 30 days was allowed for the submission of written statements.

The Commission has now considered all matters of fact, law, policy, and discretion, including the data, views, and arguments presented on the record by interested parties in response to the notices, as prescribed by law, and has determined that the adoption of the Trade Regulation Rule and its Statement of Basis and Purpose set forth herein is in the public interest.

§ 429.1 **The Rule.**

In connection with any door-to-door sale, it constitutes an unfair and deceptive act or practice for any seller to:

(a) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right."

(b) Fail to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in 10-point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION

(enter date of transaction)

(date)

You may cancel this transaction, without any penalty or obligation, within 3 business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do not agree to return the goods to the seller or if the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to _____

(name of seller)

at _____

(address of seller's place of business)

not later than midnight of _____

(date)

I hereby cancel this transaction.

_____

(date)

_____

(buyer's signature)

(c) Fail, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

(d) Include in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this section including specifically his right to cancel the sale in accordance with the provisions of this section.

(e) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

(f) Misrepresent in any manner the buyer's right to cancel.

(g) Fail or refuse to honor any valid notice of cancellation by a buyer and within 10 business days after the receipt of such notice, to: (i) Refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

(h) Negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

(i) Fail, within 10 business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

NOTE 1: *Definitions.* For the purposes of this section the following definitions shall apply:

(a) *Door-to-Door Sale*—A sale, lease, or rental of consumer goods or services with a purchase price of $25 or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. The term "door-to-door sale" does not include a transaction:

(1) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or

(2) In which the consumer is accorded the right of recision by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or regulations issued pursuant thereto; or

(3) In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within 3 business days; or

(4) Conducted and consummated entirely by mail or telephone; and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services; or

(5) In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or

(6) Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission.

(b) *Consumer Goods or Services*—Goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.

(c) *Seller*—Any person, partnership, corporation, or association engaged in the door-to-door sale of consumer goods or services.

(d) *Place of Business*—The main or permanent branch office or local address of a seller.

(e) *Purchase Price*—The total price paid or to be paid for the consumer goods or services, including all interest and service charges.

(f) *Business Day*—Any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

NOTE 2: *Effect on State Laws and Municipal Ordinances.*

(a) The Commission is cognizant of the significant burden imposed upon door-to-door sellers by the various and often inconsistent State laws which provide the buyer with the right to cancel door-to-door sales transactions. However, it does not believe that this constitutes sufficient justification for preempting all of the provisions of such laws or of the ordinances of the political subdivisions of the various States. The Record in the proceedings supports the view that the joint and coordinated efforts of both the Commission and State and local officials are required to insure that a consumer who has purchased from a door-to-door seller something he does not want, does not need, or cannot afford, is accorded a unilateral right to rescind, without penalty, his agreement to purchase the goods or services.

(b) This section will not be construed to annual, or exempt any seller from complying with the laws of any State, or with the ordinances of political subdivisions thereof, regulating door-to-door sales, except to the extent that such laws or ordinances, if they permit door-to-door selling, are directly inconsistent with the provisions of this section. Such laws or ordinances which do not accord the buyer, with respect to the particular transaction, a right to cancel a door-to-door sale which is substantially the same or greater than that provided in this section, or which permit the imposition of any fee or penalty on the buyer for the exercise of such right, or which do not provide for giving the buyer notice of his right to cancel the transaction in substantially the same form and manner provided for in this section, are among those which will be considered directly inconsistent.

AUTHORITY: The provisions of this Part 429 issued under 38 Stat. 717, as amended; 15 U.S.C. 41–58.

Effective: To be announced.

Promulgated: October 18, 1972.

By the Commission.

CHARLES A. TOBIN,
Secretary.

STATEMENT OF BASIS AND PURPOSE

CHAPTER I. HISTORY OF THE PROCEEDING

The Commission announced on September 29, 1970, the initiation of a proceeding for the promulgation of a trade regulation rule requiring a cooling-off period for door-to-door sales.[1] All interested persons were invited to file written data, views, or arguments concerning the proposed rule or to present such information orally at public hearings in Washington, D.C., and Chicago.[2]

When the hearings were convened in March 1971, Mr. William D. Dixon, Assistant Director for Industry Guidance, Bureau of Consumer Protection, presided.[3] Every person who had expressed a desire to present his views orally at these hearings was accorded the opportunity of doing so. The 485-page transcript of the Washington hearings and the 416-page transcript of the Chicago hearings have been included in the public record of the proceeding, which also contains 2,477 pages of written comments and a separate volume of documentary exhibits.[4] References to the transcript of the public hearings are preceded by the prefix "Tr." and references to the written comments are preceded by the prefix "R."

CHAPTER II. BACKGROUND

The concept of recognizing the consumer's right to rescind or cancel contracts or purchases made in the home originated in 1962 with a committee appointed by the President of the British Board of Trade.[5] The ensuing years have seen the adoption of so-called cooling-off legislation by a number of jurisdictions of the British Commonwealth, 33 of our States, the District of Columbia and at least seven cities.[6]

The National Conference of Commissioners on Uniform State Laws released its revised final draft of the Uniform Consumer Credit Code in February 1969. It includes a cooling-off provision whereby the consumer has a right to cancel a home solicitation sale until midnight of the third-business day after the day on which the buyer signs the agreement or offer to purchase.[7] To date only Colorado, Idaho, Indiana, Oklahoma, Utah, and Wyoming have adopted the code.[8]

In 1967 Senator Magnuson introduced a bill to provide for a cooling-off period in door-to-door sales.[9] Although hearings on the bill were held in 1968 and it was favorably reported,[10] it was not acted upon by the Senate. In the course of the hearings, statements in support of the objectives of the bill were made by the Federal Trade Commission and other Federal agencies.[11] The report of the Senate hearings contains a complete recitation of the views of those who support as well as those who oppose the cooling-off concept, and it also is a valuable source of information as to the practices and problems of door-to-door sellers generally.

The interest in the concept of providing the consumer with a nonjudicial weapon to use against the door-to-door seller is also reflected in the publication of several studies which commented favorably on the proposal.[12] In addition, in September 1969, the UCLA Law Review published the report of its survey of the direct selling industry.[13] This comprehensive report covered sales practice problems, debt collection problems, preventive remedies, and after-sale remedies. It concluded that the cooling-off concept should be encouraged, although it recognized that it would not provide a complete remedy for all of the consumer problems arising out of door-to-door sales.[14]

On August 6, 1969, the Commission included for the first time in an order to cease and desist a provision requiring a respondent to allow a 3-day period of grace during which all contracts negotiated in the consumer's home may be rescinded by the consumer.[15] In ordering this relief, the Commission said:

This will serve as a cooling-off period during which any consumer, who may be subjected to the unfair pressures resulting from the deceptions we have discussed or similar deceits, may reevaluate and cancel her purchase.[16]

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[1] 35 F.R. 15164.

[2] The public hearings were originally scheduled to begin on Jan. 19, 1971. At the request of industry members, these proceedings were stayed for 45 days. 36 F.R. 945; 36 F.R. 1211. The hearings were held in Washington from Mar. 8 through Mar. 11, 1971, and in Chicago from Mar. 22 to Mar. 24, 1971.

[3] Pursuant to Commission directive, 35 F.R. 15164.

[4] File No. 215–28.

[5] Committee on Consumer Protection, Final Report, Cmnd. No. 1781 (1962).

[6] The United Kingdom, the Australian States of Victoria and Western Australia, the Canadian Provinces of Saskatchewan, Manitoba, Alberta, Ontario, Newfoundland, and British Columbia, and the States of Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming, the Ohio cities of Akron, Columbus, Grandview, Moraine, Westerville and Whitehall, and Joplin, Mo.

[7] Uniform Consumer Credit Code, Article 2, Part 5, 2.501–2.505.

[8] Colorado, Laws 1971, H. 1076; Idaho, Laws 1971, Ch. 299; Indiana, IC 1971, T. 24, Art. 4.5, Secs. 1.101–6.202; Oklahoma, 14 A.O.S. 1969 Supp., Secs. 1.101–9.103; Utah, Anno. Code Secs. 70B–1.101–70B–9.103; Wyoming, Laws 1971, Ch. 191.

[9] S. 1599, 90th Congress, 1st Sess.

[10] S. Rept. No. 1417, 90th Congress, 2d Sess.

[11] Hearings on S. 1599 before the Consumer Subcommittee of the Senate Committee on Commerce, 90th Cong., 2d Sess., Ser. 90–63 (1968).

[12] Sher, The "Cooling-Off" Period in Door-to-Door Sales, 15 UCLA Law Review, 717 (1968); Meserve, The Proposed Federal Door-to-Door Sales Act—An Examination of Its Effectiveness as a Consumer Remedy and the Constitutional Validity of Its Enforcement Provisions, 37 The Geo. Wash. Law Review, 1171 (1969).

[13] The Direct Selling Industry: An Empirical Study, 16 UCLA Law Review 890 (1969).

[14] Id., p. 1016.

[15] In the Matter of Household Sewing Machine Co., Inc., et al., Docket No. 8761, CCH Trade Reg. Rep. Transfer Binder 1967–70, par. 18,882.

[16] *Ibid*, page 21,216.

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Since the Household Sewing case the Commission has included similar provisions in orders against other members of the direct selling industry.[17]

By way of summary, in recent years cooling-off laws and regulations have been widely supported by State legislatures, government agencies, and others who have studied the problems associated with door-to-door sales. We turn next to the characteristics of door-to-door sales which have led to the search for and adoption of this remedy.

CHAPTER III. NATURE OF DOOR-TO-DOOR SALES

Industry members prefer to characterize the type of sale which was the subject of this proceeding as a "home solicitation sale" because they claim that the term "door-to-door sale" is too narrow and obsolete.[18] However, it is generally agreed that both terms encompass, essentially, the selling of products on a person-to-person basis in the home, and that a company which distributes its products in this manner is a member of the direct selling industry.[19]

This method of distribution is defended by many. Thomas B. Curtis, vice president and general counsel of Encyclopedia Britannica, Inc., said:

> * * * home selling has been a traditional method of distributing goods since the earliest history of this country when the periodic visits of the spice merchant or tinker would be anticipated with delight in the settler's household. It continues to be an important factor in American retailing. Billions of dollars worth of goods are sold in the home each year and home selling provides jobs for millions of people * * *.[20]

Personal contact between the salesman and the customer in the home of the buyer is the dominant characteristic of the door-to-door sale.[21] Whether the sale results from a contact initiated by the salesman or from the salesman's response to an unsolicited call from the consumer the dominant characteristic—personal contact in a nonbusiness setting—is present in both situations.[22]

Direct sellers include route salesmen such as those who take orders for home delivery of milk, laundry, and drycleaning. Another type of direct seller is the local businessman engaged in the repair and sale of such home appliances as furnaces, air conditioners, and hot water heaters. In many cases such repairs or replacements are needed to meet an emergency and the contact with the seller is initiated on a spontaneous basis by the consumer.[23]

The record reflects that retailers of furniture, draperies, and carpets, while conducting most of their business in their stores, often send "decorator salesmen" to the home, generally in response to an invitation, for the purpose of permitting the consumer to choose their products where they will be used.[24]

Still another type of direct seller is the producer or distributor of such products as encyclopedias, pots and pans, baby furniture, vacuum cleaners, magazines, Bibles, and portrait plans, who sells either exclusively or primarily by the use of door-to-door salesmen.[25]

The ghetto peddler is the most distinctive of all direct sellers. He sells a variety of wares in the inner-city areas, on a repetitive basis and almost on a fixed schedule.[26] The ghetto peddler visits his customers frequently to collect payments and make repeat sales. He may provide a check cashing service for public assistance checks, and will often quote the prices of his merchandise in terms of weekly payments. He endeavors to become a family friend and counselor and to become a significant part of the social circles in which his customers move.[27] Peddlers, however, are not the only form of door-to-door salesmen operating in the ghetto. The record is replete with examples of many forms of door-to-door sales to the poor who live in these areas.[28]

The foregoing indicates the breadth and variety of the direct selling industry.[29] We turn next to an examination of the problems associated with door-to-door selling, and whether those problems

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[17] *Owen W. Lofthus*, t/a Metro Distributors, Docket C–1793, Sept. 15, 1970; Universal Chemicals, Inc., et al., Docket No. 9752, May 13, 1970; Windsor Distributing Co., et al., Docket No. 8773, Mar. 6, 1970; aff'd in Windsor Distributing Co., et al. v. FTC, 437 F. 2d 443 (3d Cir. 1971).

[18] The definition of "door-to-door sale" contained in the proposed rule was the subject of considerable comment. The ad hoc industry committee which formulated the alternative rule which is discussed at length in the text herein, suggested that the term "home solicitation sale" be used instead of "door-to-door sale" because the former term is used by 12 States and appears in the Uniform Consumer Credit Code UCCC, sec. 2.301. Neither the term "door-to-door sale" nor "home solicitation sale" is completely descriptive of the scope of the rule. Since the Commission's actions respecting the term "door-to-door sale" have been widely publicized, the adoption of a different title at this time would unnecessarily confuse the picture.

[19] J. Robert Brouse, president, Direct Selling Association (R. 924).

[20] Tr. 47.

[21] Jolson, Consumer Attitudes Toward Direct-To-Home Marketing Systems, 1 (New York, 1970). This view was supported by a statement in the record by the National Consumer Law Center: "It is a well known fact that your chances of selling a product are immeasurably increased if you can get the warm body of a buyer into the presence of a skilled salesman. Personal contact is still the key to closing a sale with the consumer * * * this fact is understood all too well by the door-to-door selling industry. * * *" (R. 842).

[22] Statement, Richard A. Givens, attorney in charge, New York Field Office, Federal Trade Commission (Tr. 98).

[23] Deception and other unfair practices are, of course, widely used in these areas. See for example, Holland Furnace Co. v. F.T.C., 295 F. 2d 302 (1961); D. 8690, Royal Construction Co., et al.; D. 8738, All-State Industries of North Carolina, Inc., et al.; 1967–70 CCH Trade Reg. Transfer Binder, para. 18740 (1967). The necessity for emergency repairs is recognized in section 226.9(e) of Federal Reserve Regulation Z and in sec. 2.503(1) of the Uniform Consumer Credit Code.

[24] Statement of the National Retail Furniture Association (R. 402–403). While direct selling usually by-passes both the retailer and the wholesaler to reach to consumer, direct selling methods are used by many other merchants who maintain retail or wholesale businesses. For example, the National Association of Music Merchants, Inc., which represents music retailers reports that many of its members consummate many sales in the home even though the majority of their sales are made in stores (R. 700). Other direct sellers operating out of local business establishments include vendors of vacuum cleaners (Kirby Co. of New Mexico, R. 576), cosmetics, toiletries, and home-care products (Douglas R. White, Holiday Magic Distributor, R. 528), storm windows and doors (Rusco Combination Window Distributors, R. 523), and water conditioning equipment (Statement, Water Conditioning Foundation, R. 1403).

[25] G. Fred Davis, National Photographers Album Co. (R. 166); Dortch Oldham, president, The Southwestern Co. (R. 234–235); L. M. Shwiller, assistant vice president, Atlantic Portrait Plan (R. 339); Thomas B. Curtis, vice president-general counsel, Encyclopedia Britannica, Inc. (R. 778); Brouse, supra, note 19 at R. 1001–1008.

[26] Theresa H. Clark, Chief of Program Coordination, United Planning Organization, said, "Experience has taught us that communities where the poor live are green pastures for door-to-door salesmen with their arms stuffed full of blankets, clocks, pictures, magazines, books, and bedspreads. There is no end to what they sell. Not only that, but if, by chance, the residents should mention something that a given salesman does not have ready, give him 3 minutes on the telephone and he can get it * * *" (Tr. 347). Mr. Edwards Sard, National Association of Installment Cos., in describing the peddler said, "* * * in a number of cases, where it is a question of opening a new account, many will use the procedure of taking * * * an inexpensive item * * * and * * * go up and down the street and make sales without verifying credit at all * * * if she makes her payments * * *. She has established her credit relationship with the installment firm. Then, when the appropriate time comes, they will try to make the add-on sale. In other words, they are looking for repeat business, not for the initial sale." (Tr. 232–233.)

[27] Hearings on S. 1599, supra note 11, at pages 30–41.

[28] "The salesman in the low-income neighborhood employs high pressure tactics. The salesman is concerned only with the signed order * * *. The use of psychologically coercive tactics can, therefore, result in the consumer purchasing an item that he neither wants or needs * * *. Finally, once the contract is signed, the merchant's attention is shifted from consumer satisfaction to enforcement of payment." (Statement of the Legal Assistance Foundation of Champaign County, Inc., R. 1918–19.) "Ghetto dwellers have been conned by door-to-door salesmen pretending to have inside information on their children's achievements in school. 'You have been selected to purchase an encyclopedia because your son Johnny is at the top of his second grade class goes one spiel. 'He needs this encyclopedia to stay on top'." (Betty Furness, Chairman, New York State Consumer Protection Board, Tr. 78.)

[29] According to the 1971 membership roster of the Direct Selling Association, its 91 active members sell some 63 commodity classifications (R. 990–1008).

are of such a magnitude as to justify special treatment by the Commission.[30]

CHAPTER IV. PROBLEMS ASSOCIATED WITH DOOR-TO-DOOR SALES

From the record in these proceedings, it is clear that the frequency and number of complaints arising out of door-to-door sales is substantial.[31] Those involved in legal aid programs and consumer protection activities were particularly vociferous in their condemnation of the practices of some door-to-door sellers.[32]

The complaints of consumers regarding door-to-door salesmen fall within five basic headings. These are: (1) Deception by salesmen in getting inside the door; (2) high pressure sales tactics; (3) misrepresentation as to the quality, price, or characteristics of the product; (4) high prices for low-quality merchandise; and (5) the nuisance created by the visit to the home by the uninvited salesmen.[33]

A. *Deceptive door openers*

The record contains evidence of widespread use of deception to obtain the person-to-person contact between the salesman and the consumer which is essential to the door-to-door salesman.[34]

The various schemes and devices used to open the door for the salesman are almost limitless in number. All of these devices are designed to convey to the consumer, at least initially, that the visitor is not going to attempt to sell him anything. Thus, the salesman may say that he is conducting a survey, is engaged in a brand identification program, or is connected with an advertising or other promotional program.[35] Some companies seek to pave the way for the salesman's admission into the home by advertising free gifts or a free demonstration,[36] always without obligation, provided the consumer answers an advertisement or responds favorably to a telephone offer of information.[37] Others use the cold canvass method wherein the salesman makes the initial contact on the doorstep. By its terms, most "door openers" must be misleading to a degree, or the salesman will simply not get into the home.[38]

Once the salesman has made the person-to-person contact with the consumer the stage is set for the use of high-pressure sales tactics and the other practices which the purchasers in the homes have found to be so objectionable.

B. *High-pressure sales tactics*

High-pressure sales tactics are the leading cause for consumer complaints about door-to-door selling. The use of such tactics is of course present to a degree in all forms of selling. The door-to-door sale, however, seems to be particularly susceptible to the use of these tactics. While various forms of misrepresentation may be utilized in the door-to-door sale, high-pressure sale techniques are almost always used. This explains the high degree of success of the glib, fast-talking, and persistent door-to-door salesman in selling a product which the

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[30] Victor P. Buell, a marketing expert who appeared at the hearings on behalf of the direct selling industry said:

"Before one can take an intelligent stand on whether a proposed trade regulation * * * is sound he must determine at least two things: (1) Whether there is indeed a problem; and (2) if there is a problem, whether the proposed remedy is a sound approach to controlling the problem? On the first question it seems to me that there is. A review of testimony before legislative bodies and agencies, statements by local enforcement officials, statements by Better Business Association officials, and personal experiences as a consumer convinces me that there are in the direct selling field * * * some individuals who use deception and high pressure tactics to make sales." (Tr. 832.)

[31] For various 12-month periods the following complaints were reported by various official and nonofficial consumer protection agencies. Mrs. Jane Byrne, Commissioner, Department of Consumer Sales, Weights, and Measures of the city of Chicago, reported the receipt of 74 complaints (Tr. 498); the Wisconsin Attorney General's office received a total of 3,000 consumer complaints of which 670 arose out of home solicitation sales (Tr. 504); the Legal Service of Greater Miami, Inc., said that 15–20 percent of its complaints concerned door-to-door sales (Tr. 558); 68½ percent of the complaints processed by the Michigan Consumers Council related to problems involving door-to-door sales (Tr. 613); other States reporting a substantial number of such complaints include California (R. 274), Kentucky (R. 304), Ohio (Tr. 863), Oklahoma (R. 727–728), New York (Tr. 56), and Pennsylvania (Tr. 441).

[32] "* * * Without equivocation we can state that one of the most chronic and pernicous problems presented to the poverty lawyer is the resolution of issues created by high pressure, basically dishonest, selling practices of a far-too-large segment of the door-to-door sales industry. A tremendous amount of the time of the hard pressed and frequently over-burdened poverty lawyer is spent in attempting to extricate an unfortunate low-income purchaser from the economic and legal consequences of a home solicitation which was steeped in unfairness and deception." (National Consumer Law Center, R. 841.) "Last year, as editor of the Action Line column in Chicago Today newspaper, I handled 3,000–5,000 complaints dealing with door-to-door salesmen and their firms." (Kenan Heise, Tr. 737.) "* * * we have found one of the principal areas of abuse of high pressure sales tactics and consumer fraud is in the home solicitation sale. Many of our clients have been saddled with serious financial burdens simply because an aggressive salesman spent 3 or 4 hours with them late at night making numerous oral promises, wearing down their resistance and even intimidating them." (Legal Aid Service, Multnomah Bar Association, R. 684.) The Consumer Center of the Legal Aid Society of Metropolitan Denver wrote: "It has been our experience that the type of selling most subject to every variety of abusive practice is door-to-door selling * * *." (R. 540). "As an attorney at the Lega. Aid Bureau, handling hundreds of complaints and defending in court hundreds of defendants every year, I have been appalled at the great number and variety of unconscionable selling practices that seem to go hand-in-glove with door-to-door selling." (Ron Fritsch, attorney, Legal Aid Bureau, United Charities of Chicago, Tr. 515.)

[33] The Direct Selling Industry, supra, note 13, at 895.

[34] "The first step in door-to-door selling, the initial contact, is often where the deception starts. We have received many complaints that door-to-door salesmen pose as building inspectors, survey takers, or company representatives distributing 'free' products in order to gain entry to a house * * *" (Hon. Frank E. Moss, U.S. Senator from Utah, Tr. 37). Mr. Elasko Thigpen, director of the Greater Peoria Legal Aid Society said: "* * * One tactic that is used down our way is the salesman will come in with a check. They offer them $5. It is yours. You don't have to do anything. Just let me come in. He has the $5 check ready. He sits and sells them a vacuum cleaner * * *" (Tr. 899). "He said I'm not selling anything * * *." (D. 7751, Crowell-Collier Publishing Co., Trade Reg. Rep. Transfer Binder 1965–67, page 23069.) "I received a card in the mail which—informed me that I could win a $500 educational award plus I had a free gift coming. I was to phone and * * * and ask for Mr. Cunningham * * *" (Statement of David Hoel, R. 1489).

[35] D. 7751, supra, note 34 at pages 23067–23069, Docket C–1507, Hemphill Enterprises, Inc., et al., Trade Reg. Rep. Transfer Binder 1967–70, page 20,878. The Child's World, Inc., et al. Docket C–1452, Id. at page 20,892.

[36] One consumer reported responding to an advertisement of a school which offered a free aptitude test without obligation. Before he had returned the test he was visited by a salesman representing the school who sold him a course costing $35.59 a month for 24 months (R. 389). Another reported the receipt of a telephone call informing her that she had won several free magazine subscriptions. After she agreed to accept this gift a saleswoman called who sold her magazine subscriptions costing $133.50. Her bonus was Parents magazine although she had no children (R. 340). An uninvited salesman called at a home and sold the owner a water softener and conditioner costing $745.30. Although the owner did not know what was being offered for sale until after the salesman appeared, a long demonstration and sales pitch lasting until the wee hours of the morning resulted in the agreement to purchase (R. 100, 101).

[37] Frederick R. Sherwood, Chairman of the Ad Hoc Inter-Industry Committee, in describing his experiences as a door-to-door salesman said: "For instance the company that I represented prepared certain types of cards and mailing pieces, one, for instance, which offered a free map in connection with a preview or a brief demonstration of the product that I was representing" (Tr. 429).

[38] In reporting the results of the inquiry into the methods used to sell magazine subscriptions, Congressman Fred B. Rooney, testified at the hearings, "For example, almost all PDS magazine subscription sales—some of them involving contracts for $400 to $500 worth of magazines, books, and merchandise—begin with a telephone call to the prospective subscriber. Often, he is told he has been selected or designated to receive some form of free merchandise." (Tr. 13.) "It would be a tremendous handicap. I would say an impossible one for me to have to go to every door and say I am here to sell you a product." (Sherwood, note 37, supra, at Tr. 437.) "That this fact is understood all too well by the door-to-door selling industry is attested to by the gimmicks, and lies employed to gain entrance * * *" (Statement, National Consumer Law Center, R. 842).

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customer often does not want, or does not need, or cannot afford.[39]

The high-pressure tactics used are not restricted to persistence and argumentativeness. Often subtle psychological techniques are used to instill in the consumer a desire for the product and to persuade him to purchase it.[40] Moreover, the circumstances under which a door-to-door sale is made is another reason for the success of high-pressure tactics and accounts for the frequency of their use.[41] Although he may not have previously considered the need for the merchandise or service, the consumer by admitting the salesman into his home has placed himself in a position of consenting to listen to a practiced, skilled, and almost hypnotic sales pitch which has been scientifically designed to create his desire for something he may not need, or cannot afford.[42]

C. *Misrepresentation of price and quality*

Misrepresentation on the part of salesmen regarding the quality, price, or characteristics of a product is the next source of consumer complaints regarding door-to-door sales. The quality and durability of products and services sold in the home frequently do not live up to the representations of the salesman.[43] Aside from instances in which a customer does not actually see the goods before the purchase is made, or have an opportunity to test the operation of a machine or device, the purchaser in the home is deprived of the opportunity to shop and compare values. He is thus forced to rely

[39] One consumer wrote, "• • • after working 8 hours • • • I'm much too weary to defend myself against this type of selling • • • I also live alone, and many times I'll sign anything out of fear and frustration • • •" (R. 71). "People who write to our column display a fantastic sense of confusion as to why they made the deal. It is very common for us to hear, 'I was frightened of the man. I didn't know how to get rid of him.' • • • 'I was lonely and he was somebody to talk to.'" (Heise, supra, note 32, Tr. 738–739.) "The experience of the Bureau of Consumer Protection • • • is that the door-to-door selling industry frequently, and I would say mostly, utilizes the sales practices of a highly motivated nature which many consumers are unable to withstand. Frequently the persistence of the sales person in the home • • • makes it difficult for the consumer to withstand the highly motivated sales promotion." (Bette Clemens, director, Bureau of Consumer Protection, State of Pennsylvania, Tr. 439.) "Many more horror stories have been related to us • • • functional illiterates pressured into purchasing encyclopedias, homemakers without carpets • • • buying carpet sweepers • • •" (Memorandum, Ohio State Legal Services Association, R. 378). A housewife reported, "• • • We were once a victim of one of those selling baby furniture • • • we were amazed that we had agreed to buy this expensive outfit that we didn't really need." (R. 423.) One woman described the purchase of $300 worth of baby furniture. She said she was 60 years old and didn't have a grandchild (Tr. 442). According to Lee Ellis, the village manager of Winnetka, Ill., an 80-year-old woman was sold $232.50 worth of magazine subscriptions (Tr. 658). A consumer said that she and her husband were sold an encyclopedia accompanied by a set of the Harvard Classics and a group of children's books all for $500 before the birth of their first child (R. 80). One couple expressed their chagrin about their purchase of an encyclopedia: "Recently we were approached about an encyclopedia (which we had no intention of buying for several more years) by a young man who came at 8:30 one evening. We are now sure that the trick is not to let them in the door • • •. After a 3-hour discussion we agreed to buy this set of books. Unfortunately we were tired by that time (11:30 p.m.) and our judgment was anything but good • • • in the morning we chastised ourselves for signing up for a $500 investment we did not even need at this time." (R. 88.)

[40] "The high pressure tactics of the skilled and often unscrupulous salesman breaks down the householder's resistance to his sales pitch. He is often selling a story not describing a product. The householder's conscience, shame, sympathy, pride, ignorance, or language difficulties are exploited. Equally capitalized upon is what we must honestly recognize as the householder's reluctance to throw the scoundrel out. In all honesty don't we all share the experience of at one time having tried to persuade an uninvited salesman to leave? One thing we should recognize about such an experience is that we found it very difficult to concentrate on the realities of the potential sales transaction. One wonders how many sales have been made just to be rid of the salesman. How many home solicitation contracts have been signed where the nature of the product and the legal consequences were unclear because of the buyers distraction or preoccupation with obtaining relief from the presence of the salesman." (Statement, National Consumer Law Center, R. 843.) "The poor and uneducated are particularly susceptible to the high pressure sales tactics employed • • • many of our clients have found themselves obligated to pay for items which they do not need and cannot afford as a result of the insidious psychological ploys employed by a door-to-dor salesman • • •" (Consumer Center, Legal Aid Society of Metropolitan Denver, R. 540).

[41] "• • • The consumer cannot end the discussion by leaving. On the contrary, if the salesman chooses to continue the conversation, the customer must somehow get the salesman to leave or agree to the transaction. The customer is vulnerable to the assertion that since the salesman has taken the trouble to come, the transaction should be completed without further deliberation or consultation by the buyer; to buttress this the salesman can plausibly say that he cannot give a promised 'discount' if he has to come back, or indeed cannot come back at all." (Givens, supra note 22 at Tr. 89.) "The Committee believes that the problem of the door-to-door salesman is based on the high-pressure sales pitch, which is caused by a number of factors. First, the salesman is working on a commission basis. He earns only if he sells. The contacts of the sale are made in the living room where the consumer has no opportunity to do comparative shopping. The Southern California consumer is shy, conscientious, and wants to play the role of a good host. It is difficult for the consumer to throw the salesman out of the door even after he realizes that the sales pitch is fraudulent. The consumer-salesman relationship in the living room is a one shot deal. The salesman knows that he can use a high-pressure sales pitch because he will never see the consumer again; the salesman has no reputation to maintain. Finally, another cause, the high-pressure sales pitch is due to the ineffective ways and means various companies use to control their salesmen. No company knows exactly what the door-to-door salesman is going to say once he enters the privacy of a living room." (Mayor's Consumer Protection Committee of Los Angeles, Calif., R. 599.) "Although high pressure tactics are not limited to peddlers, they are especially effective against a lone housewife trapped in her own home. It is far easier to walk out of a store when faced by an over-zealous salesman than to talk an obstinate peddler into leaving • • •." (Memorandum Brief of State Department of Justice of Wisconsin, R. 650.) "• • • we submit that the door-to-door sales transaction • • • especially in the homes of our clients—is totally different from sales in a store. • • • while both types can appeal to impulse buying, at least when the consumer goes to the store he has made a conscious decision to go shopping. The salesman at his door appeals strictly to the pressures of time and impulse—when the consumer goes to the store, it is at his convenience; the door-to-door salesman often is an intruder into the privacy of the home when he is not wanted. The door-to-door salesman often relies on the one-shot approach." (Benny L. Kass on behalf of the National Legal Aid and Defender Association, Tr. 137–138.)

[42] "A good salesman is highly trained in how to 'make the kill'. He may deliver his sales pitch a hundred times a week; so he knows all the angles.

"The consumer, of course, is a novice and is certainly not on an equal bargaining ground with the experienced salesman. There is an inherent unconscionability about such sales • • •. A consumer • • • told us of his experience with another type of high-pressure tactic, the scare tactic. Frightened by the salesman's story and pictures of small children burning to death in their beds, the consumer purchased an expensive home fire alarm system • • •." (Diane McKaig, Michigan Consumers Council, Tr. 615.)

[43] As to inferior merchandise, remember that merchandise sold door-to-door is very often purchased sight unseen. When the goods are ultimately delivered, it is not uncommon for them to be much less than anticipated—of inferior quality, sometimes even defective.

"A consumer • • • purchased a sewing machine from a door-to-door salesman. Shortly after delivery the machine stopped working. The consumer was unable to obtain the promised warranty service • • •. Because it was an off-brand machine, she had a difficult time finding anyone who would service it.

"Generally speaking, we have found that high quality brand name merchandise is seldom peddled door-to-door, and that the warranty • • • is usually meaningless." (Id. Tr. 617.) "A consumer • • • was told that she was purchasing a well-known brand of cookware. It actually turned out to be a different, lesser-known brand." (Id. Tr. 616.) A consumer wrote, "We have just had a bad experience with the Scholastics Systems, Inc. from whom we purchased a $400 reading program. Now we find it is unsatisfactory and faulty • • • they used deceptive measures in selling the equipment." (R. 343.) Elizabeth McCarthy, a social worker described the sale of a $600 course in motel management to a client living on social security and veterans benefits. The woman had no previous experience and had a severe speech impediment, but signed the contract because of the salesman's assurances of a guaranteed job. (Tr. 675; R. 1650.)

exclusively on the representations of the salesman.[44]

Door-to-door salesmen have often deceived their customers as to the actual cost of the goods or services being sold or the comparative value of these products.[45] Magazine subscription salesmen have been particularly adept at minimizing the cost of their services.[46] The record also shows that salesmen of various types of portrait plans have been successful in misleading consumers as to the actual cost of the plan.[47] Sellers of freezer food plans have been extremely active in door-to-door selling and have been the subject of numerous Commission orders. These reflect the use of misrepresentations of the quality of the food products sold and of the cost of the plan. In the typical case the freezer and food supplies together are represented to cost less than the food products alone, thereby affording substantial savings to those who are fortunate enough to participate in the plan.[48]

Excessive prices for products sold in the home are commonplace, and again it would appear that such pricing practices are facilitated by the nature of the door-to-door sale. Since the sale is being made in the home, the consumer is unable to ascertain the price of similar or substitute products as he could do if he visited several retail establishments.[49]

D. *Other aspects of door-to-door sales*

The nuisance occasioned by the unannounced and uninvited call of a door-to-door salesman has long been recognized and regulated by local authorities.[50] Municipal authorities from several communities reported the annoying tactics of door-to-door salesmen which were strongly objected to in their communities.[51] The chief of police of one com-

[44] "The door to door selling technique strips from the consumer one of the fundamentals in his role as an informed purchaser, the decision as to when, where, and how he will present himself to the marketplace • • •. In the case of solicitation away from the regular place of business of the seller, that critical element in the consumers arsenal, time is now gone. Gone with it is the chance to reflect, compare, decide, walk away" (Statement, National Consumer Law Center, R. 842). "The salesman is not subject to supervision to the extent that is usual in stores, and, if the sales are on a commission basis, is more likely to make extravagant representations which he, himself, can later deny or which his employer may later dismiss as unauthorized" (Givens, supra Note 22 at Tr. 89).

[45] According to Mrs. Doris E. Behre, Virginia Citizens Consumer Council, Inc., "• • • For instance, many salesmen of cheap, poor quality encyclopedias have various tricks to deceive a customer into believing he is getting a free encyclopedia and that his only cost is a yearbook every year for 10 years. In many instances these • • • end up costing • • • as much as a reputable encycopedia" (Tr. 194). "Ask any housewife if she wants to spend $450 for pots and pans and she'll ask you back whether you are out of your head. But twist it into an or[illegible]anization that allows her to buy everything from diapers to cars wholesale, wear her resistance down and pressure her to the point where she will be relieved to get rid of you and you have a sale" (Heise, supra note 32 at Tr. 737). Robert J. Funk, a consumer wrote, "We had an experience with a young man who claimed to be hunting homes where he could place a 'free' encyclopedia set • • •. All you had to do was buy 10 years of yearbooks • • • at $6.95 per year and (a supplementary service) for 10 years which was worth more than the $350 we were asked to pay. The gist of the argument were as above with us gladly accepting the set and various extras under the pretext that this was truly a special bargain • • •" (R. 561). "• • • An example of an installment sale is the case • • • involving a contract for $1,800 worth of glassware signed by a 17-year-old girl. She never would have considered assuming such a debt had it not been for the high-pressure tactics of the door-to-door salesman who assured her that the cost of her purchase was only a few pennies a month." (Furness, supra note 28 at Tr. 78.) "• • • we bought a sewing machine from a door-to-door salesman. The next day I looked at another advertisement for the same machine that I had filed away and I discovered that we had payed exactly twice what I could have gotten it for from this other company • • •" (Rev. George W. Gerber, R. 546).

[46] "• • • A fast talking salesman can quote figures which will make it sound as if someone is really getting something for nothing. But it sometimes happens that these low, low figures are actually higher than regular subscription rates • • •" (Behre, supra note 45 at Tr. 194). Examples given by consumers included the following: "• • • After the salesgirl had left • • • he realized that $19.50 was too much money for two magazines which he did not want in the first place • • •" (R. 345). "My wife • • • was talked into a contract by a glib salesman into purchasing $127 worth of subscriptions which she could have bought on her own for about $34 • • •" (R. 84).

[47] "My wife signed a contract for some photographs. I • • • found the saleman had not gone over all the details with my wife clearly he failed to mention service charges, interest, etc., however it was written down on the contract" (R. 106–107). Another wrote, "Your salesman represented that each color enlargement of a snapshot would cost $1.88. He did not state that there was a $0.75 mailing and handling charge (a charge which would increase the cost to $2.63 each if submitted separately) • • •" (R. 1824).

[48] Typical Commission cases are: G&M Home Freezer Service, Inc., et al., Docket C–760, 65 F.T.C. 1031 (1964); American Foods, Inc., et al., Docket C–745, 65 F.T.C. 643 (1964). The authorities of the State of Wisconsin became so concerned with respect to the activities of the sellers of these plans that the Department of Agriculture adopted a regulation establishing a 3-day cooling-off period (Tr. 711). See also the Memorandum Brief of State Department of Justice Regarding Cancellation of Freezer Meat and Food Service Plan Contracts (R. 1340–1359). In summarizing the nature of complaints received, it was said that persons gave three reasons: (1) After comparative shopping they realized that the alleged savings under the freezer plan were false or inaccurate; (2) after recovering from the high-pressure sales pitch, often made late in the evening to a captive audience, they realized that the alleged virtues of the plan were unrealistic or misleading • • •; (3) after delivery of part of the merchandise promised under the plan they realized it was defective or misrepresented • • • (R. 1348).

[49] "One woman paid $600 for a new roof which she could have purchased for only $250 from a reputable local contractor (R. 573). One consumer in describing the prices charged by door-to-door sellers said, "• • • The bedspreads downtown are $8.95 or $10.95, theirs starting at $29.95 and up. I have a neighbor who bought a set of aluminum ware from a door-to-door salesman. This aluminum ware at the stores downtown was $29.95 • • • she paid $60 • • •" (Tr. 311). A real estate assessor described the prices paid in one area for improvements as "unbelievable" (R. 704). "• • • the objective in an unlawful door-to-door selling scheme, is to extract an overcharge from the consumer. The consumer pays a higher price for the article or service than he would have in a freely functioning marketplace. It is simply a transfer of money from one person to another without any corresponding exchange of value." (Statement, National Consumer Law Center, R. 843.) The Legal Aid Society of Metropolitan Denver reported, "Typically, the item purchased from a door-to-door saleman could be purchased at a considerably lower price in a retail store, while the salesman represents that the opposite is true • • • A few examples • • •: A 'religious organization' sent salesmen into low income areas of Denver to sell sets of Bible story books and religious magazines for prices ranging between $50 and $200 • • • Another • • • sells furniture through a catalog. He represents the furniture to be of the highest quality and durability • • • yet when it is finally delivered it turns out to be of a very low quality, both in appearance and in durability. Typically, the consumer has paid this door-to-door salesman much more for the furniture than he might have paid in a retail establishment for identical or better furniture • • •" (R. 540–541). An investigator in the office of the district attorney of Oregon City, Oreg. wrote, "Invariably the merchandise or service is priced far above competitive market prices and frequently is of inferior quality • • •" (R. 545). Bess Myerson, Commissioner, Department of Consumer Affairs, New York City said, "The Department recently instituted suit against Compact Electra, a company which sells vacuum cleaners costing over $400 door-to-door • • •; No vacuum cleaner sold by any leading department store in New York City costs as much. We have found this frequently to be the case—the goods and services sold door-to-door far exceed in cost similar merchandise available at retail establishments." (R. 1829.)

[50] The business of peddling has been regulated since 1784. Sayerborough v. Phillips, 148 Pa. St. 428 (1892). "From early times, hawkers, peddlers, and petty chapmen, who ply their trade by going from house to house, have been considered as a class for the purpose of legislative control and restriction. Canvassers and solicitors are frequently included in the same class, and no objection to this can be found, where the object of the law is to prevent disturbance or annoyance." Town of Green River v. Burger, 50 Wyo. 52, 58 P2d 456 (1936), Appeal dismissed, 300 U.S. 638 (1937). In Breard v. City of Alexandria, 341 U.S. 622 (1951), the Supreme Court upheld the constitutionality of such an ordinance.

[51] "• • • we are • • • plagued by • • • hit and run mass solicitations. • • • They will obtain a group of 20 or 30 young people and • • • besiege a community en masse for a 2- to 3-day period. (At a hearing I conducted) • • • we introduced into evidence the fact that we had rejected (for licenses) over 16 persons with known criminal records. Some of the crimes were deviant sexual conduct, indecent liberties, confidence games, contributing to the delinquency of minors, burglary, fraud, larceny, pimping, breaking and entering. One salesman had 32 convictions of various offenses • • •. The local school superintendent • • • (found it neces-

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munity described numerous complaints from consumers regarding the activities of door-to-door salesmen.[48] In his testimony at the hearing Congressman Fred B. Rooney described the results and information he gained during a 2-year investigation into magazine subscription sales and confirmed the potential danger to the householder in dealing with a door-to-door salesman.[49]

The foregoing testimony as well as other information in the record attests to the fact that the high and middle income consumer is also a prime target for the door-to-door salesman.[50] In recognition of the opportunities offered by the more affluent group, one firm is now marketing a portable charge card imprinter which the salesman can use in the home to charge the purchase price to an existing account.[51]

CHAPTER V. THE PROPOSED RULE

The original proposed Trade Regulation Rule read as follows:

For purposes of this proceeding, the following definitions shall apply:

Door-to-door sale—A sale of consumer goods or services with a purchase price of $10 or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. The term "door-to-door sale" shall not include any sale made in the presence of the buyer's attorney.

Consumer goods and services—Goods or services purchased primarily for personal, family, or household use, and not for resale or for use or consumption in a trade or business.

Seller—Any person engaged in the door-to-door sale of consumer goods or services.

Place of business—The main or permanent branch office or local address of a seller.

Purchase price—The total price paid or to be paid for the consumer goods or services, including all interest and service charges.

Business day—Any day other than a Saturday, Sunday, or holiday.

Accordingly, the Commission proposes the following Trade Regulation Rule:

In connection with any door-to-door sale, it constitutes an unfair and deceptive act or practice for any seller to:

(a) Fail to furnish each buyer at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller a form, entitled "Notice of Cancellation" and designed to be used by the buyer if he elects to cancel the contract or sale, which shall be attached to any contract or other instrument executed by the buyer and easily detachable, and which shall contain in 10 point bold face type of a conspicuous color other than that used for the rest of the contract or other instrument:

(1) The following statement:

Notice to buyer: You may cancel this contract or sale for any reason at any time during the period beginning when you sign the contract or purchase the goods or services and ending three business days thereafter.

If you choose to cancel this contract or sale, you may do so by notifying the seller of your intent to cancel at the seller's business address or telephone number shown on this form any time before 5 p.m. of the third business day following the day you signed the contract or purchased the goods and services. If you choose to notify the seller by mail, the envelope should be postmarked any time before midnight of the third business day following the day you signed the contract or purchased the goods and services.

While any reasonable method of notification which informs the seller of your intent to cancel is permitted, you may wish to notify the seller by one of the following methods:

1. Sign and mail this Notice of Cancellation form, or any other written cancellation notice, to the seller's address shown on this form. If you choose this method of cancellation, it is recommended, but not required, that you send the cancellation notice by certified mail, return receipt requested.

2. Sign and deliver this Notice of Cancellation form, or any other written cancellation notice, to the seller's address shown on this form.

3. Orally inform the seller, in person or by telephone, of your intent to cancel.

If you choose to cancel this contract or sale, you must make available to the seller at the place of delivery any merchandise, in its original condition, delivered to you under this contract or sale, and

(2) A statement that the buyer, if he chooses to cancel, has a right, within 10 business days to a return: (i) Of any payments he made under the contract or sale; (ii) of any goods traded in, in substantially as good condition as when received by the seller; and (iii) of any notes or other evidence of indebtedness given by the buyer under the contract or sale; and that he also has the right to keep any goods or merchandise delivered by the seller under the contract or sale unless picked up at the place of delivery by the seller, at the seller's expense, within 20 business days after cancellation; and

(3) The date the buyer signed the contract or purchased the goods or services; and

(4) The name, address, and telephone number of the seller where he can be notified in the event the buyer chooses to cancel; and

(5) A space for the buyer to sign indicating his election to cancel the contract or sale.

(b) Fail to include in each door-to-door sales contract directly above the space reserved in the contract for the signature of the buyer and in bold face type twice as large as the other type in the contract and of a conspicuous color other than that used for the rest of the contract, the following statement:

You, the buyer, may cancel this sale or contract for any reason at any time up until 3 business days after you signed the contract or purchased the merchandise or services. See the attached notice of cancellation form for details of your cancellation rights and for methods of canceling.

(c) Fail to include in each door-to-door sales contract a clear and conspicuous statement that the seller agrees to arbitrate any dispute arising under the contract at the buyer's option and agrees further to submit to the jurisdiction of the buyer's place of residence.

(d) Include in any door-to-door sales contract any confessions of judgment or waivers of any of the rights to which a buyer is entitled, including specifically his right to cancel a door-to-door sale.

(e) Fail to orally inform each buyer, at the time he signs the door-to-door sales contract or purchases the goods or services, of his right to cancel.

(f) Misrepresent, in any manner, the buyer's right to cancel.

(g) Fail to clearly, affirmatively and expressly reveal, at the time the seller initially contacts the buyer or prospective buyer, and before making any other statement or asking the buyer any question, that the purpose of the contract is to effect a sale, stating the goods or services which the seller has to offer.

(h) Fail or refuse to honor any valid notice of cancellation by any buyer and upon such cancellation:

(1) Fail, within 10 business days to return: (i) All payments made under the contract or sale by the canceling buyer prior to his cancellation; (ii) any goods or other property traded in, in substantially as good condition as when received by the seller; and (iii) any note or other evidence of indebtedness given by the buyer in connection with the contract or sale; and

(2) Fail, within 20 business days, to pick up, at the place of delivery and at the seller's expense, any goods or merchandise delivered under the contract or sale.

(i) Negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services purchased."

CHAPTER VI. SUPPORT FOR THE RULE

A. *Consumer and government support.* The favorable response of consumers to the proposed rule is demonstrated by the inclusion in the record of many statements urging that the Commission adopt it.[56] Support for the rule also came from government agencies throughout the country as well as from nonofficial consumer groups.[57]

B. *Industry support.* A substantial segment of the direct selling industry supported the proposed rule. Among the members who announced their unqualified support were Encyclopedia Britannica, Inc.[58] Various other industry members endorsed the principle of the rule subject to certain suggested changes.[59] The various changes and amendments they suggested are discussed in subsequent chapters of this statement.

CHAPTER VII. PAST HISTORY OF EFFECTIVENESS OF COOLING-OFF RULES

Inherent in the comments of those who expressed support for the rule was the belief that the rule would be effective, at least to some extent, in alleviating the problems the consumer has had with door-to-door sales. These problems have been grouped for purposes of discussion into five categories: High-pressure sales tactics; misrepresentation as to the quality, price, or characteristics of the product; high prices for low quality merchandise; and the nuisance created by the visit to the home of the uninvited salesman; and the use of deceptive door openers.[60] An examination of the effectiveness of a cooling-off rule with respect to each of these problems should demonstrate whether the proposed remedy is a sound approach to a solution of a substantial number of those problems and whether its adoption by the Commission is justified.

Documentation of the effectiveness of the cooling-off remedy as a solution to many of the problems arising out of door-to-door sales was provided by State officials and others concerned with consumer protection who reported an almost immediate and dramatic drop in the number of consumer complaints following the enactment of cooling-off laws in the various States.[61] These reports prove that the remedy is effective.

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sary) to write a letter • • • advising parents of the school children in our community that no survey was in fact being taken and that the school district had not approved these particular encyclopedia." (Paul Hamer, village attorney, Wheeling, Ill., Tr. 630–631.) "The village of Wheeling was plagued by a series of vacuum cleaner salesmen prior to this encyclopedia incident. In that particular case this was the referral sales gimmick by which if you purchased a central vacuum cleaner system • • • I think the product was around—cost $900. You paid the $900 and then you gave them a list of some 25 persons. Then, if one of those persons purchased the central vacuum cleaner system you got $25 back on your purchase price • • •. The actual same product could be bought in a retail store for $195." (Id. at Tr. 633.) The village manager of Winnetka, Ill. said, "Our concern in terms of the experience we have relates principally to the magazine salesmen • • • here is the case of a salesman convincing a 12-year-old girl to forge her mother's signature to a check for $101.10 for the purchase of magazines • • • in a case of outright theft • • • the salesman while the housewife had gone to get her checkbook, stole credit cards from the household." (Tr. 658–659.)

[50] "It is not uncommon for us to have a crew of magazine solicitors in the California licensed vehicle with people from • • • numerous States • • •. I have a crew in my community today • • • a solicitor representing himself as a Job Corp worker • • • as being from the Office of Economic Opportunity or that they were from Poverty Appeals Programs • • • people were asked to sign contracts just to prove to the crew managers • • • that the man had • • • called • • • and unknown to the people they were filled out at a later time with high dollar value of purchases • • •. I think the highest was for some $256 • • •. We have had problems with the solicitors having consumed alcohol and becoming rather belligerent • • •" (George P. Graves, Western Springs, Ill., Tr. 662–663). Substantiating documents of these and other incidents are included in the record (R. 1696–1752).

[51] "All too often a knock on the American householder's door is the consumer's introduction to the business world's lowest form of practitioner—the petty thief, the forger, the shyster, the professional con artist, and worse. A survey made by Col. William Durrer, Chief of Police in Fairfax County, Virginia some time ago found that 35 percent of all door-to-door salesmen who worked the county during a 1-year period had police records and that some of these records were three pages long." (Tr. 11.) The Congressman submitted a random sampling of these records which is included in the public record. (R. 758.)

[52] Prof. Egon Guttman of the Washington College of Law, American University said, "• • • there is a need to protect most people in the United States from such predators, be they the wife of a commissioner in one of the U.S. Government agencies buying magazines for her husband • • • or the working man buying his clothes or other necessities from a door-to-door salesman." (Tr. 454.)

[53] Tr. 687.

[54] See for example R. 40–47. A logical explanation for this widespread general support may be found in Jolson's study (Note 21, supra), wherein he reports the data he collected showed that 60 percent of all items purchased would not have been purchased in the near future if the salesman had not called and only 13.2 percent of the transactions had been initiated by a consumer responding to a lead in some form (page 108). Fifteen percent of the consumer sample recommended that direct selling be abolished (page 111); "Forty-two percent objected to making a decision on the salesman's first call. Fifty-three percent feel that an unsolicited contact by a direct seller, either by phone or in person, is an invasion of privacy and should be against the law. Seventy-three percent feel that direct selling upsets the consumer's rational purchase-planning process • • • Approximately 60 percent of all consumers have regretted their purchase of a directly sold item and met with substantial resistance in attempting an order cancellation" (page 119). Typical consumer comments were, "Let's quit playing games and realize that much, if not most door-to-door selling is exceedingly deceptive and high pressure from beginning to end. A gimmick is used to get into the house and then a gimmick is used to sell. The seller is the expert and the consumer is the novice and the FTC should assume a greater responsibility for defending the novice (R. 61). "I'm writing in support of the proposal • • • I feel • • • that the presently practiced method of these sales • • • is very unfair to the individual • • •" (R. 586). "Having been victimized on several occasions by high-pressure salesmen, I should like very much to see a trade regulation rule in effect." (R. 71.)

[55] Department of Consumer Affairs of the city of New York (R. 1827); the Consumer Federation of America, whose spokesman said: "• • • CFA wholeheartedly applauds and approves the promulgation of regulations that consciously seek, as do the Commission's • • • to provide an effective, inexpensive remedy to consumers who have been enticed or baited into, or who out of impulse agreed to unneeded purchases from a door-to-door salesman. We believe that the concept of a 'cooling-off period' • • • provides such a remedy." (R. 912–913.) Public Interest Research Group, "• • • the need for regulation along the lines proposed by the Commission is painfully obvious • • •" (Tr. 316); Administrator, Department of Consumer Affairs, State of Oklahoma (R. 712); Executive Director of Consumer Assembly of Greater New York (Tr. 58); Betty Furness, Chairman, New York State Consumer Protection Board who said "• • • The proposed • • • regulations creating a 3-day cooling-off period are essential to protect consumers from the unscrupulous practices of a growing army of unethical door-to-door salesmen" (Tr. 76); National Legal Aid and Defender Association (Tr. 132); the National Consumer Law Center (R. 844); Legal Aid Society of San Joaquin County, Calif. (R. 9); New York State Bar Association (R. 424); Congressman Abner J. Mikva (R. 467); the Legal Aid Bureau of the United Charities of Chicago and the Consumer Protection Committee of the Chicago Council of Lawyers (Tr. 514); Consumers Union (R. 1572); Legal Services Organization of Indianapolis, Inc. (R. 613); Onondaga Neighborhood Legal Services, Inc. (R. 1100); Nassau County Law Services Committee (R. 1783); Eugene Oregon Area Chamber of Commerce (R. 328–329); Better Business Bureau of Greater New Haven, Inc. (R. 334); Chairman, Wayne County Legal Aid Association (R. 236); Department of Weights and Measures, Ventura County, Calif. (R. 1753); Deputy City Attorney, Stockton, Calif. (R. 207); District Attorney, Oregon City, Oreg. (R. 545); Prof. William F. Lemke, Loyola University School of Law (Tr. 646); Ohio State Legal Services Association (R. 376); Phyllis R. Snow, Dean, College of Family Life, Utah State University, Logan, Utah (R. 686); Village Attorney, Glenview, Ill. (R. 687); Mrs. Martha Pettus, Shaw Area Welfare Committee and Consumer Unit (Tr. 335); Judge Arthur Dunne, of Illinois (Tr. 596); John B. Martin, Special Assistant to the President for the Aging and Commissioner on Aging, Social Rehabilitation Service, of the Department of Health, Education, and Welfare (R. 1093); John B. Breckinridge, Attorney General, State of Kentucky (R. 304); Urban Law Institute (R. 741); William J. Scott, Attorney General, State of Illinois (Tr. 883); and many others.

[56] "• • • Encyclopedia Britannica has endorsed the Commission's cooling-off proposal • • • (and) • • • is implementing the FTC rule that has been promulgated • • •" (Curtis, supra note 25, at Tr. 48).

[57] Robert W. Frase, vice president, Association of American Publishers, Inc. (Tr. 272); Edward Sard, National Association of Installment Cos., Inc. (Tr. 222–223); Grolier, Inc. (Tr. 398); Council of Better Business Bureaus (Tr. 418); George P. Britt, vice-president and secretary, Health-Mor, Inc. (Tr. 895); Field Enterprises Educational Corp. (Tr. 868).

[58] See notes 34–37, supra.

[59] Walter W. Falck, president of the Maryland Consumers Association, in speaking of the Maryland cooling-off law said, "• • • Since the law became effective • • • on July 1, 1970 (we) have not received a single complaint in regard to the home solicitation sales problem • • • the law has been particularly effective in cases involving the sale of magazines, encyclopedias, fire alarm systems, water softeners, and various home improvements • • •" (R. 624–625). Mrs. Bette Clemens, supra note 39, testified, "• • • our law has been a godsend to Pennsylvania consumers • • • the 2-day cooling-off period has been a most important and useful tool in the protection of the consumer." (Tr. 440.) Mrs. Camille Haney, coordinator for Consumer Affairs, Department of Justice, State of Wisconsin, "• • • we have a 3-day cooling-off period in the area of freezer meat and food service plans. Problems in the food industry have just about been eliminated since it went into effect • • •" (Tr. 506–507). With respect to the effect of Utah's

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The effectiveness of the remedy against high-pressure sales tactics is fully supported in the record by statements from both consumers and consumer representatives.[58] Many said that it was the only feasible remedy, as other efforts had been demonstrably unsuccessful.[63]

Those who gave the strongest support for the effectiveness of the remedy clearly recognized that it would not be a panacea for all of the problems associated with door-to-door selling.[64] However, they correctly pointed out that it would be of material assistance in alleviating some of the problems associated with door-to-door selling.

The 3-day cooling-off period will provide the consumer with an opportunity to discuss his purchase with others, to reflect upon the provisions of the contract, and perhaps to do a little comparative shopping. This will give him some opportunity to discover misrepresentations made by the salesman, or to realize either that he is paying too high a price for the product or that he simply didn't know when he agreed to buy what he was being asked to pay.[65]

adoption of the Uniform Commercial Code cooling-off provision, Mrs. Richard P. Barnes, chairman, Council of Advisors on Consumer Credit said. "• • • it has been my privilege to observe first hand the effects • • •. Many unreputable dealers have left our State, some have gone out of business, others have improved their methods and our consumers are receiving more fair treatment • • •" (R. 573). Mr. Donald Elberson, executive director, Consumer Assembly of Greater New York, reported his investigations had shown a dramatic drop in the number of complaints arising out of door-to-door sales. (Tr. 56.) In speaking favorably of the results of cooling-off legislation, Attorney General William J. Scott, of Illinois expressed the need to improve the Illinois law on the subject (Tr. 889). Senator Moss testified, "In those jurisdictions where door-to-door sales are presently being regulated, abusive practices have been minimized. It is now time that the benefits available to some consumers through such regulation be made available to all • • •" (Tr. 35, 36). An attorney with the Legal Service of Greater Miami, Inc., said that the Florida law was certainly an improvement because it added an additional remedy. (Tr. 542.)

[62] "I would like to be counted as one citizen and consumer who is entirely behind your proposed regulation • • •. By increasing the time available for the consumer to reflect on the product and on the instrument he has signed, many injustices can be prevented." (R. 2.) "The proposed period of time would allow the consumer to think over the purchase and discover any hidden details that the salesman had glossed over. The consumer would also be able to decide for himself if he really wanted the goods or services." (R. 547.) The Legal Assistance Foundation of Champaign County wrote, "The cooling-off period is a proper response to the problem. It is a distinct disadvantage for the consumer to deal with the high pressure after the sale. This is because there is no judicial remedy for the high-pressure sale. The proposed regulation would neutralize the door-to-door salesman's advantage." (R. 1922.) "There is sucker born every minute and he is the one who needs protection from themselves and as well as crooked salesman." (R. 10.) "• • • If this proposal/rule would go through and be approved it would certainly help a lot of people of all walks of life, especially the senior citizen • • •" (R. 35). The Legal Aid Office, Multnomah Bar Association wrote, "Often when a consumer is prodded into buying something he does not want or need in his own home, he comes to his senses within a very short period of time. A 3-day cancellation period would be most helpful to thousands of low-income Oregonians who are pressured into unwise transactions." (R. 684.) "The marketplace is a meeting ground of professional sellers and amateur buyers. It is essential that a more equitable balance be established between the professional and the amateur. The adoption of this rule would be a small step, but at least a step in the right direction in bringing about a little more fairness between buyer and seller in the marketplace. Just recently three coeds came to see me about how cleverly they had been led to sign contracts for over $300 worth of merchandise under a type of door-to-door selling • • • I think it is essential that this rule be made effective." (Stewart Lee, chairman, Department of Economics and Business Administration, Geneva College, R. 605.) In commenting on the rule a management consultant wrote, "I feel that the proposed • • • rule is specifically designed to correct a specific problem • • • that of high pressure salesman obtaining signatures on contracts to purchase • • •" (Robert A. Belden, R. 419). In commenting upon the effectiveness of the proposed rule a consumer said, "I suspect such a move would make high-pressure sales tactics sufficiently uneconomical as to encourage a more responsible 'soft sell' by merchants." (R. 50.)

[63] Congressman Mikva said, "It has become increasingly clear that self-regulation within the direct selling industry is inadequate to eliminate misleading and deceptive sales techniques • • • It is equally clear that existing Federal laws fail to provide adequate, easily accessible, and inexpensive remedies to consumers." (R. 468.) Congressman Rooney testified, "Adequate control of consumer abuses cannot result from crackdowns on individual industries in which abuses are rampant. Under pressure, the perpetrators of those abuses merely switch their sales talents to some other product or service. Thus the only answer is to set down some basic regulations for the conduct of all sales in the direct selling field. And the first line of consumer defense is to have the right during a specified period of time to cancel a contract without obligation. The cooling off period proposed by the Commission is a positive response to that need. It allows the consumer to revoke decisions made in haste, often because of pressure, or cajoling, or even intimidation during a confrontation with a salesman." (Tr. 12.) Mr. Alvin Friedman, a banker said, "A distinct advantage of the proposed rule is that the remedy is self-executing. It is readily available to all buyers, regardless of their socio-economic status or level of education. Experience has taught us, especially in the consumer field, the remedies are illusory unless it is automatic." (Tr. 772.) The Legal Aid Service Agency of Columbia, S.C. wrote: "It has not been unusual for our office to be frustrated in remeding the consumer in a door-to-door sale. The immediate finalization of a binding contractual obligation is the problem. The door-to-door salesmen's adept psychological manipulation of the buyer frequently wears off within a short period of time. Complaints • • • result in classification by the seller of the buyer's condition as 'simple buyers remorse'. The new regulation would also give the consumer an opportunity both to prevent deceptive practices that the Commission does not have the manpower to control and to provide an immediate remedy for well recognized abuses of interstate commerce." (R. 416.) The Secretary for the Mayor's Committee on Consumer Protection for the city of Los Angeles said that the following preventive remedies had been tried in the past and proved to be unsuccessful: Better control and training of salesmen; regulation by national associations of direct selling companies; local licensing laws; various consumer education programs (R. 600). The Honorable Daniel T. Prettyman, Associate Judge, the First Judicial Circuit of Maryland wrote, "From over 9 years experience as a County Prosecuting Attorney and for nearly 7 years as a Circuit Court Judge, I can think of no action by the Federal Trade Commission that would be of more effective and substantial benefit to the public than that now proposed for door-to-door salesmen • • •" (R. 240).

[64] Senator Moss pointed out that one of the problem areas not affected by the proposed rule is the situation in which the merchandise is delivered or the service performed after the cooling-off period has lapsed. (Tr. 41.) This was also recognized by the Legal Aid Society of Metropolitan Denver (R. 542). See also Statement by Senator Moss (Tr. 37).

[65] The Legal Assistance Foundation of Champaign County said, "The cooling off period will have a number of effects on the direct selling industry. The right to cancel will encourage comparative shopping. The right to cancel will force the salesman to shift his attention from pressuring the consumer to reach a decision to creating a sale based on quality merchandise at reasonable prices. The • • • period will allow the consumer to reevaluate purchases and prevent financial budgetary problems." (R. 1922.) In its brief, the Wisconsin Department of Justice said, "• • • a cooling off period • • • would alleviate these • • • complaints in several ways. First it would provide a 'decompression' period, which would permit the consumer • • • to recover from the high pressure • • • (it) would also serve to discourage high pressure sales pitches. This would result from the fact that a great number of sales • • • would be canceled • • • In addition, a cooling-off period • • • is consistent with the principle of comparative shopping and provides the buyer with a chance to carefully consider the documents he is required to sign • • • One further reason for supporting the need for a cooling-off period concerns the individual who is intimidated by the salesman. This is the person who is afraid to say no and who purchases the product in order to get the intruder out of his house • • •" (R. 644–645). After pointing out that sometimes consumers agree to a purchase simply because they feel helpless to resist, Mr. M. Paul Smith, president of the District of Columbia City Wide Consumer Council said, "There are also consumers who need assistance from someone other than a salesman to help him to understand the terms of the contract • • •. Your proposal would allow this consumer to consult with someone who could explain to him the details of the contract. Then he could decide whether or not he would like to proceed with the purchase • • •" (Tr. 340). The fear on the part of industry members that the rule would lead to comparative shopping is illustrated by the statement of one who said, "To allow 3 days really gives the consumer a situation whereby he then uses the original salesman, not because he has been misled, but to pressure other Sales Representatives to give him a better deal so that he can thereafter cancel the contract." (Alsar Manufacturers, Inc., R. 1773.)

On the other hand, in the absence of a successful and continuing consumer education program, the effectiveness of the rule upon the operations of the ghetto peddler would be problematical.[66]

Although the rule is envisioned by some as a method of reducing the number of door-to-door salesmen who annoy the householder by discouraging persons from seeking careers as direct salesmen, it is not designed or intended to have that effect even though it might curb some of the more objectionable and perhaps effective sales practices of individual salesmen.[67]

Standing alone, a unilateral right on the part of a consumer to cancel a door-to-door sale probably would not halt the use of deceptive door openers. However, it would be an indirect restraint because industry members would realize that the consumer will have time to reflect upon the means used to gain entrance to his home, and if that means outrages his sensibilities, he will cancel the sale.[68]

CHAPTER VIII. OPPOSITION TO THE RULE

A. *Consumer opposition.* There was little consumer opposition to the proposed rule. Several printed form petitions signed by individuals were submitted for inclusion in the record.[69] Some consumers objected to the rule on the grounds that it represented an unwarranted intrusion of government into the conduct of their business affairs.[70] Some individuals criticized the proposed rule saying that it would deprive them of a necessary and convenient service.[72] A few statements opposing adoption of the proposed rule without specifying the reasons were also received.[73] Several consumers also voiced one of the primary industry objections to the proposed rule, i.e., that it was discriminatory.[74]

One consumer representative questioned the effectiveness of the proposed rule on the grounds that many poor people would be unaware of their cancellation rights or would not become dissatisfied with the transaction until after the cooling-off period had expired.[74]

B. *Industry opposition.*

The most commonly expressed industry objection to the proposed rule was that it discriminated against sales in the home and left untouched other methods of retailing such as sales in stores and mail orders.[75] Several direct sellers objected to the proposed rule on the grounds that it was unfair to the salesman, cast unjust aspersions on the industry, and was based on the false premise that the consumer is susceptible, weak-kneed, ignorant, and incapable of making a rational decision.[76]

Others complained that the repetitive requirements for advising the consumer of his right to cancel was simply an invitation and encouragement for him to do so.[77] Some said that the consumer would use the rule as an escape hatch to cancel contracts because of changed circumstances and not because he had been high-pressured into buying something he did not want or could not afford.[78] One businessman wrote that the rule would have the effect of destroying the direct sales industry and that the rule was a classic example of over-kill.[79] Another wrote that there were already a sufficient number of laws and regulations on the books to control the activities of the bad merchants and that further controls were not needed.[80] Salesmen, for the most part, based their opposition to the rule on the theory of discrimination.[81]

A substantial number of direct sellers reported that they had already adopted a policy of permitting the consumer to cancel a sale within a stated period of time and that either the rule was unnecessary and should not be adopted or that they should be exempted from its requirements.[82] Some of the larger companies reported that they had used the cooling-off provisions either voluntarily or because of State requirements without any particularly adverse effects.[83]

[66] The necessity for a consumer education program to support the rule was pointed out by a number of those who testified at the hearing (Tr. 361, 555, 889).

[67] See Note 51, supra.

[68] The fact that the cooling-off right would probably not have too much effect on the use of deceptive door openers is illustrated by the acceptance of the cooling-off principle by many industry members who at the same time objected to a provision in the proposed rule which would require the salesman to state immediately and forthrightly the purpose of the call (see Tr. 158, 159, 167, 188, 227, 228, 434).

[69] R. 114, 209, 258, 1639. These petitions stated in part: "• • • We firmly believe that such a restriction would permanently discourage any further direct selling and deprive us of the convenience we now enjoy in having salesmen come to the house where we can examine and select merchandise in the privacy of our homes, receive the personal attention you can no longer get in a store, and save us the time of a shopping trip. We are adults, quite capable of making a decision as to what we want to buy, and we don't need 3 days to make up our minds, especially at the cost of cutting off the kind of service you cannot get today from a harried salesgirl in a retail store."

[70] One individual wrote: "Government is already too complicated and too costly and already controls too much of the people's lives. Any additional controls can only be a further step toward eliminating the freedom that distinguishes this great society from the many oppressive societies that infest the world today."

• • • • • •

"I believe that the average customer is capable of deciding for himself at the time of purchase whether he needs or wants the merchandise offered and, further, that he is capable of judging the quality. It is an insult to his intelligence to think otherwise." (R. 349.)

[71] R. 201, 679, 685.

[72] R. 202, 239, 391, 455, 636.

[73] "Some of the finest products I have purchased have been in my home • • • Deceptive contracts can be written in stores as well as the home and I feel any regulation imposed should apply to store sales as well as home sales." (R. 399–401.)

"In my opinion this rule is unfair and discriminatory and ridiculous unless it is also made to apply to every other person who sells merchandise • • •" (R. 635.) See also R. 685, 688.

[74] Richard F. Halliburton, Legal Aid and Defender Society of Greater Kansas City, Inc. (Tr. 559–560). Fears that a lack of knowledge on the part of consumers would frustrate the effectiveness of the rule were also expressed by Diane McKaig, supra note 42, at Tr. 619–620.

[75] Charles Betz, speaking on behalf of the Water Conditioning Foundation said, "We cannot accept the basic premise that in-home selling is guilty and in-store selling is not."

"We cannot accept the proposition that home solicitation sales should be regulated whereas sales from a business establishment should not be regulated to the same extent." (Tr. 757.) David Yoho, president, Surfa-Shield Institute testified, "The fact is this is class legislation and if, in fact, the recision of a contract represents a better way to do business for the consumer, then I believe the same rule should apply for every product and every service, whether it is sold at the seller's place of business or at the buyer's residence." (Tr. 122.)

"We feel that the imposition of a cooling-off period for door-to-door home solicitation sales is discriminatory and that the proposed rule of the Commission may exceed the authority it has received under the Act simply because the rule does not regulate, but legislates • • •"

• • • • • •

"The cooling-off period that the Commission now wishes to prescribe is a further impediment to a traditional sales method of our industry. It hinders the seller and creates no benefit to the purchaser." (Statement, The National Remodelers Association, Inc., R. 1433.)

[76] See letter from the Southwestern Co. (R. 279). Other industry comments to this same effect appear at R. 524, 621, 682. Two local Better Business Bureaus wrote "• • • the rule • • • would • • • unfairly handicap legitimate business; encourage unfair competitive business practices; tend to undermine the fundamental basis of contract between buyer and seller; increase the cost of merchandise and services to the consumer." (R. 186 and 330.)

[77] "Why not give the buyer the right to cancel any purchase within 3 days? What about high pressure automobile, appliance, real estate salesmen and so on? • • • to advertise a 3-day period of cancellability is to immediately invite those who otherwise would not have signed a contract to sign anyway." (Charles Bedinghaus, Continental Associates, Inc., R. 30.)

[78] One merchant said, "• • • I used to operate a direct sales franchise and I would estimate that 97 percent of my customers were satisfied, I would also say that about 60 percent of them would have cancelled because of 'buyers remorse' before they realized the true worth of the product • • •" (Terrance J. Mitchell, R. 48).

[79] P. J. Schick, R. 192.

[80] Letter, Belvedere Furniture Co., R. 233.

[81] See for example letter, Thomas J. Saigh (R. 239); and letter, William E. Huff (R. 244).

[82] R. 257, 332.

[83] Encyclopedia Brittanica said that it was using and would continue to use a 4-day cooling-off period (Tr. 864–865). Mr. Robert Frase, said that he had the impression that compliance with the cooling-off laws of the various States had not had an adverse effect on the business of the members (Tr. 278). Other industry members said that their money-back guarantee was a far more effective and simple remedy. For an exposition of this view see the statement of Avon Products, Inc., R. 849.

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The argument that reputable companies permit cancellations within reasonable time limits was also offered to show that these companies would be most adversely affected by the rule since they would comply with it while the more disreputable members of the industry would continue to use the deceptive and unfair practices which was the basis of the rule.[84] While it is true that a substantial amount of door-to-door selling is characterized by high-pressure salesmanship and there seems little likelihood that such tactics will be completely abandoned, it should be emphasized that the principal virtue of the rule is that it gives the consumer an effective weapon of self-help with which to combat those tactics.[85] Moreover, even industry members recognize that compliance with the rule will not unduly curtail the reputable salesman in his business activities.[86]

As for the discrimination argument, it cannot be denied that many retailers use high pressure to make sales in their respective establishments. However, even if it were conceded that retailers generally were guilty of the practices of door-to-door sellers this fact would not justify a failure to act against the latter.[87]

Industry representatives also argue that the effect of the rule will be to increase costs and hinder the recruitment of a sales force.[88] These arguments overlook the fact that in those states which have adopted similar rules there has been no diminution in legitimate selling activity or increased costs resulting from the difficulty of recruiting a sales force.

CHAPTER IX. AUTHORITY OF THE COMMISSION TO PROMULGATE THIS RULE

The argument was made during the course of this proceeding, as has been done in other Trade Regulation Rule proceedings, that the Commission does not have the authority to promulgate Trade Regulation Rules.[89]

In the Statement of Basis and Purpose accompanying the Cigarette Rule, the Commission's trade regulation rulemaking authority was thoroughly discussed; and it was concluded that Trade Regulation Rules are "• • • within the scope of the general grant of rulemaking authority in section 6(g) (of the Federal Trade Commission Act), and authority to promulgate (them) is, in any event, implicit in section 5(a)(6) (of the Act) and in the purpose and design of the Trade Commission Act as a whole." (See Trade Regulation Rule for the Prevention of Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking and Accompanying Statement of Basis and Purpose of Rule, pp. 127–150 and 150.) Nothing developed during the course of this proceeding warrants a change in the view that the Commission has the authority to issue Trade Regulation Rules.

Industry members also questioned the authority of the Commission to issue this specific rule because the remedy exceeds what the Commission may do to eliminate whatever abuses may exist in the direct selling field.[90] However, it is well established that the Commission has wide discretion both in determining what practices are unfair or deceptive[91] as well as in fashioning appropriate ways to eliminate such practices.[92] Moreover, the specific authority of the Commission to require business firms to include a cooling-off provision in their sales contracts has been confirmed as within the scope of the Commission's discretion.[93]

In extending the cooling-off rule to practically all direct sellers, the Commission is persuaded by the record proof that inherent in this method of selling is a potential for high-pressure sales tactics, misrepresentations as to the quality of the goods and services offered, misrepresentations as to the price or characteristics of the products sold, high prices for low quality, and other abuses which often result from the visit of a salesman to a consumer's home. Indeed, the use of such methods is facilitated by the circumstances of in-home sales. The salesman works on a straight commission basis, often unsupervised by his employer while he make the sales presentations; he also has a carefully and scientifically designed sales pitch and the status of quasi-guest in the home. With the exception of the ghetto peddler, it is unlikely that the door-to-door salesman of high ticket merchandise or services will have any further contact with the buyer. This makes the use of high pressure and misrepresentation much less repugnant to him.

As a remedy for the poor bargain, for high-pressure, and for misrepresentations which are promptly discovered, the unilateral right of the buyer to rescind has proven to be a highly effective weapon in those States and municipalities which have adopted a cooling-off statute. The enactment of such laws has been followed by a dramatic reduction in consumer complaints respecting door-to-door sales transactions.

Consumers and consumer representatives, i.e., those who participate in the activities of private organizations aimed at improving consumer protection, as well as State and local officials, approved adoption of the rule. In addition, the

[84] The fact that high-pressure sales tactics and the other practices against which the rule is directed is employed by many reputable companies is thoroughly documented in the record. Congressman Rooney said, "• • • Permit me to remind you the PDS segment of the magazine sales industry was neither a small minority nor a fly-by-night operation. It is represented by some of the largest and most prominent publishing houses in the entire country • • •" (Tr. 10–11). Two salesmen for Brittanica pasted "Special Delivery" stickers over the cooling-off provision in the contract (R. 1496). The fact that this was directly contrary to the company's policy (R. 1888–1889) simply illustrates the difficulty that a direct sales company has in controlling its outside salesmen.

[85] Frederick R. Sherwood said, "• • • we back this treatment • • • it is a low-cost method of consumer protection because it is very much self-administered • • •" (supra note 37 at Tr. 36).

[86] George P. Britt, Health-Mor, Inc. (Tr. 893–895). The view was also expressed that the existence of the remedy would do much to restore the image of the direct selling industry (Professor Buell, supra note 30 at Tr. 835).

[87] In its statement the National Consumer Law Center said concerning the discrimination argument, "To those in the door-to-door selling industry who will say that such a rule is onerous or unfair, we say that they will have no more or less disadvantages than others who compete in the marketplace. That they have been able to sell in their desired manner this long is no justification for allowing them to perpetuate the system.

"The elimination of the unfair advantage of the door-to-door salesman is an idea whose time has come. These salesmen are to learn that the consuming public does not share their philosophy that the art of selling is limited to deceiving or pressuring the buyer into signing a piece of paper. As the consumer becomes more aware of the nature of the competitive process, the less he will tolerate deviation from its standards." (R. 845.) In Railway Express Agency, Inc. v. New York, 336 U.S. 106 (1949) Justice Douglas said, "• • • equal protection (does not require) that all evils of the same genus be eradicated or none at all" (110).

[88] Professor Buell points out, *supra note* 24, at Tr. 834: "• • • Cancellation raises costs of distribution; there is a loss of invested sales time as well as costs to companies, and, in many cases to sales people, in processing canceled orders, returning downpayments, retrieving delivered goods, and returning traded-in merchandise • • •." See also The Direct Selling Industry, supra, note 13, at pages 733–735.

[89] See Statement of the American Retail Federation (R. 609–613); Brief on Behalf of the Direct Selling Association (R. 929–971); Statement of the Water Conditioning Foundation (R. 1404–1426); Views and Arguments of Crowell, Collier, and Macmillan, Inc. (R. 1843–1852) for very thorough presentations of the view that the Commission does not have the authority to promulgate trade regulation rules.

[90] Id.

[91] Federal Trade Commission v. R. F. Keppel & Bros., Inc., 291 U.S. 304 (1934); Max H. Goldberg v. Federal Trade Commission, 283 F. 2d 299 (7th Cir. 1960); Lichtenstein v. Federal Trade Commission, 194 F. 2d 607 (9th Cir. 1952); Cert. den., 344 U.S. 819 (1952); National Trade Publications Service, Inc. v. Federal Trade Commission, 300 F. 2d 790 (8th Cir., 1962); Federal Trade Commission v. Consumer Home Equipment Company, 164 F. 2d 972 (6th Cir. 1947), Cert. den., 331 U.S. 860 (1947); Dorfman v. Federal Trade Commission, 144 F. 2d 737, 739–740 (8th Cir. 1944); Federal Trade Commission v. Holland Furnace Co., 295 F. 2d 302 (7th Cir. 1961).

[92] Jacob Siegel Co. v. Federal Trade Commission, 327 U.S. 608 (1946), 1946–47 Trade Cases Section 57,451. Federal Trade Commission v. Ruberoid Co., 343 U.S. 470 (1952), 1952 Trade Cases Section 67,629. Federal Trade Commission v. National Lead, 352 U.S. 419 (1957), 1957 Trade Cases Section 68,629.

[93] Windsor Distributing Co. v. Federal Trade Commission, 437 F. 2d 443 (3d Cir. 1971).

record indicates that the majority of the direct selling industry has accepted the cooling-off concept. Finally, the record shows that use of a cooling-off provision in door-to-door sales contracts has not been harmful to the members of the industry which have already adopted it whether such action was taken voluntarily or to satisfy the requirements of applicable laws.

In sum, the record in these proceedings provides a firm basis for the conclusion that a trade regulation rule providing for a cooling-off period in door-to-door sales is justified and would be in the public interest as a means of enabling consumers to protect themselves from the tactics widely used by door-to-door salesmen.

CHAPTER X. THE SCOPE OF THE RULE

The record contains many comments about specific provisions of both the proposed rule and the revised proposed rule. Individual consumers and consumer groups suggested adoption of modifications which they believe will make the rule stronger and more effective. Industry members, who accept the cooling-off principle, have recommended changes which they believe will be more equitable from their standpoint and which will lessen the administrative burdens which they foresee would result if the rule were adopted as proposed. These alternatives and proposed modifications will be discussed below.

Following the release of the proposed rule for the receipt of comment, an ad hoc interindustry committee of direct selling companies and interested associations was formed. The principal task of this committee, under the chairmanship of Frederick R. Sherwood, was to formulate an alternative rule which would in their words reflect accurately and responsibly the realities of the direct selling business in order to provide maximum consumer protection with the lowest possible hardship to industry members.[94] The alternative rule was submitted and placed on the public record by Mr. Sherwood together with some explanatory memoranda.[95] The alternative rule will be commented upon later in this Chapter X and in Chapter XI.

A. *Leases and other special transactions.* Several representatives of consumer groups expressed the view that the definition of "door-to-door sale," as well as the definition of "consumer goods and services," be expanded to include leases and rentals.[96] They said that in some States door-to-door sellers were beginning to lease their goods instead of selling them in order to escape the provisions of the State cooling-off legislation.[97] This recommended change has been made in the final rule.

In addition, the word "use" was deleted and the word "purposes" has been inserted in its place in the final rule in order to avoid any connotation that the rule does not apply to goods which are not used or consumed.[98]

The phrase "including courses of instruction or training regardless of the purpose for which they are taken" was also added to this definition in the revised proposed rule and final rule. This addition was made since it is considered essential that there be no question that the rule applies to door-to-door sales of both home study and vocational school training.[99]

B. *Exclusions of sales under $25.* The definition of "door-to-door sale" released with the original proposed rule included sales of consumer goods or services with a purchase price of $10 or more, whether under single or multiple contracts. The phrase "whether under single or multiple contracts" was included in the original rule and in the final rule in order to insure that the rule would apply to transactions in which the seller writes up a number of invoices or contracts none of which show a price of $10 or more, but when taken together the total price exceeds that amount. In other words if the seller sells more than one bill of goods or services to a consumer at substantially the same time, the total price for all will be used to determine the applicability of the rule, even though the seller may prepare separate invoices or contracts for one or more of the goods or services sold.

In the revised proposed rule and in the final rule the exclusionary limit was established at $25. The principal purpose of this limit is to exclude sales by milkmen, laundrymen, and other route salesmen who customarily make sales which would otherwise fall within the scope of the rule.

The difficulty of establishing the exclusionary limit is illustrated by the striking differences among State laws. In three of the cooling-off States, the rule applies only to sales of $25 or more; in one State to sales of $50 or more; and in another to sales of $150 or more.[100]

The Uniform Consumer Credit Code provides only for coverage of "consumer credit sales."[101] The overwhelming majority of the State laws apply only to "installment sales," and some consumer representatives recommended that the proposed rule be amended to conform to such laws.[102]

Congressman Rooney said that the rule should apply to all door-to-door sales regardless of the amount involved, since he had discovered that some 56 percent of magazine subscription sales were valued between $10 and $25, with another 24 percent at less than $10.[103] A majority of industry members advocated exemption of transactions of less than $25.[104] Consumer representatives were not in agreement as to the amount of an exemption. Some said all door-to-door sales should be subject to the rule regardless of the amount;[105] others said the $10 limitation in the proposed rule should be retained.[106] Those who were familiar with the operation of State statutes having a $25 limitation, said that figure had been satisfactory.[107]

[94] R. 789–794.

[95] Tr. 62–73; R. 787–788; a chart containing a comparison of the provisions of the alternative rule with those of the proposed rule was presented by Mr. Sherwood and is included in the record (R. 795–800).

[96] Benny Kass, Esq., on behalf of the National Legal Aid and Defender Association said, "• • • leasing has become a popular alternative to credit sales as a means of distributing goods to consumers, and certainly merits inclusion in the coverage of this Trade Rule." (Tr. 139.) David Cashdan, Consumer Federation of America. (R. 377.)

[97] Memorandum Submitted by Ohio State Legal Services Association (R. 379).

[98] This suggestion was made by a number of consumer representatives: Christian S. White, Public Interest Research Group, at Tr. 322, Fritsch, supra note 32 at Tr. 526, and Lemke, supra note 57 at Tr. 649.

[99] The United Business Schools Association stated that its members would not be subject to the rule since the courses offered were for the purpose of giving vocational training for use in business (R. 1591–1592). The need for this amendment was also expressed by a consumer representative (Ron Fritsch, supra note 32 at Tr. 525).

[100] R. 1791; S. 1599 applied only to transactions of $60 or more, Note 10, supra, page 4.

[101] The term "consumer credit sale" is defined in section 2.104 of the Code. Subsection (d) provides: "Either the debt is payable in installments or a credit service charge is made • • •."

[102] R. 1791; Mr. Donald Elberson said, "I think the major thrust should be, as far as we have been able to determine in New York, an installment sales contract. I think this is the major source of difficulty at the present time." (Tr. 60.) Miss Betty Furness concurred in this view (Tr. 78–79). Mr. Richard Givens said, "The unfair practices • • • have been concentrated exclusively in credit transactions obtained by solicitors. Cash sales by home solicitors, whether by Girl Scouts canvassing with cookies, or by such firms as Avon which do not use credit contracts or seek to enforce collection from customers, have not generated abuses • • •."

"If the Commission were to restrict the application of the proposed Trade Regulation Rule to credit sales • • • and cash sales of over $100, it would appear that much inconvenience which might be claimed to flow from the Rule as originally proposed could be obviated." (Tr. 97–98.) See also Tr. 176

[103] Tr. 13–14.

[104] Tr. 66. However, those who anticipated that a few and perhaps a minority of their sales might be subject to the rule because of such a low exemption price advocated that it be increased. Although the average Avon sale was said to be under $10 the company recommended that the exemption be increased to $60 (Tr. 242, 249); Watkins Products said $50–$75 would be more realistic (R. 674); The Southwestern Co., $50 (R. 413); the National Institute of Drycleaning and the American Institute of Laundering, $100 (R. 706).

[105] Behre, supra note 45 at Tr. 166; National Consumers League statement (R. 1065). National Consumer Law Center (R. 2403–2404).

[106] Richard X. Connors, testifying on behalf of the National Consumer Law Center (Tr. 216); Byrne, supra note 31 at Tr. 503.

[107] Mrs. Bette Clemens of Pennsylvania, who said, "It has been our experience • • • that the contracts • • • for magazine sales • • • are over $100 • • • (Tr. 444). Miss Sally Weintraub of Florida said that the $25 limitation had covered most of the sales which had caused them difficulty and added that they were generally concerned with sales in the $150 to $200 range (Tr. 554).

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The argument in favor of a $25 or higher limitation is that it would reduce the inconvenience to the seller while still enabling consumers to enjoy the benefits of the cooling-off provision if it is really needed—in cases where they have overextended themselves financially.[109] Support for a $10 or lower exemption is based on the assumption that the poor are particularly in need of protection, and that a $10 sale is just as important to them as a much larger sale is to the more affluent."[110]

In deciding that the $10 exclusion in the proposed rule should be increased to $25, the Commission was persuaded by the fact that a door-to-door salesman could not long survive if his livelihood depended upon the expenditure of very much time and effort to make a sale of under $25. Sales for less than that amount simply would not justify the use of a lengthy high-pressure sales pitch which has been identified as the most prevalent source of complaints regarding door-to-door sales. Virtually all of the examples of the sort of sales which outraged consumers were for amounts substantially in excess of $25.[110]

C. *"In-home" sales by retailers.* The revised proposed rule specifically excluded from the definition of door-to-door sales certain types of transactions. There was no substantial objection to these exclusions although they were the snbject of some comment.

In commenting upon the original proposed rule, industry members suggested an exemption for in-home sales by salesmen from established stores in the community who are invited to visit the home by the consumer as a result of an unsolicited telephone call or an unsolicited written request.[111]

The hazards of such a blanket exemption are illustrated by a description in the record wherein the consumer invited a home-improvement-type salesman to her home after seeing an advertisement for a patio roof at what seemed to be a bargain price, only to learn that it was a bait advertisement.[112] Such an exemption would also exclude the party plan sales, wherein the hostess invited the salesman to a party of her acquaintances.[113] It would open the door for salesmen using all sorts of spuriously obtained invitations.[114] Rather than grant such an exemption, the Commission believes it should be made clear that the rule applies to an ordinary transaction in which the buyer invites a salesman to the home. Therefore, in the revised proposed rule and in the final rule, the words, "whether in response to or following an invitation by the buyer" were added to the definition of "door-to-door sale," following the phrase, "in which the seller or his representative personally solicits the sale."

One exception to the scope of the proposed rule which appears to be worthy of adoption is the one which would exempt sales made in the home pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment, having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis. This exception which was included in the revised proposed and final rules would apply if the buyer visited a furniture or carpet store, for example, and after discussing certain merchandise, asked that a salesman be sent to the home to measure or show samples.

While such sales are actually consummated in the home, the attributes of the typical door-to-door sale are not present—the consumer has not been duped or otherwise deceived as to the purpose of the sales call. If such sales are not excluded, it would be necessary for retail stores who do most of their selling on their business premises to devise separate contracts or forms for use on home calls, or alternatively, to require the customer to return to the store to sign the contract.[115]

D. *Overlap with Regulation Z.* In addition to those dealing with sales resulting from previous negotiations in a retail establishment and emergency situations, a provision that the rule will not apply to transactions in which the consumer is accorded the right of recission pursuant to Regulation Z was added in the revised proposed rule. This is to avoid any conflict regarding the form of notice or to impose duplicitous requirements on the seller,[116] and has been retained in the final rule.

E. *Emergency Repairs.* Another exception to the consumer's right of cancellation appears to be necessary where the consumer is in need of emergency repairs, replacement, or service.[117] Some consumer witnesses expressed the fear that such a provision might be improperly used by unscrupulous sellers to avoid the effect of the rule,[118] while others stated that such an exception, if properly restricted, would be appropriate and not inconsistent with the purpose of the rule.[119]

The alternative rule proposed by the ad hoc industry committee contained an emergency exception provision patterned after the one used in Regulation Z.[120] However, as it appeared to the Commission that additional safeguards were required, the revised proposed rule limited the exception to instances in which: (1) The buyer has initiated the contact; and (2) the seller is furnished with a statement in the buyer's handwriting describing the situation requiring an immediate remedy and expressly acknowledging and waiving the right to cancel the sale within 3 business days.

[109] "I find the $10 limit, in my view, is perhaps too low rather than too high. I am concerned in this respect that the Commission may find a great deal of trivia involved * * *." (Prof. William F. Lemke of the Loyola Law School (Tr. 649).) Mr. Richard Givens testified to much the same effect (Tr. 98).

[110] R. 1065.

[111] See Notes 39, 49 supra.

[111] Miller Stormguard Corp. (R. 15); National Association of Music Merchants (R. 701). "Another less frequent transaction is a sale in the customer's home following a request by the customer to have a salesman bring to the customer's premises samples for demonstration purposes or descriptive literature for information purposes about products, such as washers, dryers, refrigerators, vacuum cleaners, sewing machines, hearing aids, or farm or garden equipment, such as tractors. These transactions also result from the customer's initial contact of the store and request for such a home demonstration or presentation. These demonstrations or presentations are made at the customer's home for the customer's convenience or accommodation, as when a customer is not physically able to visit a store because of age or other infirmity. Again, the transaction may be consummated at the customer's home after the demonstration or presentation without the customer ever visiting a store. As with the installation or custom-fitting transactions, these home demonstration or presentation transactions would be included by the proposed rule.

"The addition of the following new subsection to Note 1(a) is suggested to exclude the above described transactions by established retail store organizations:

"Made pursuant to prior contact initiated by the buyer in a telephone or mail communication in which the buyer requested the seller, who maintains a retail business establishment having a fixed location where the goods are exhibited or the services offered for sale on a continuing basis, to provide an estimate, demonstration, presentation or fitting in the buyer's residence or place of business as an accommodation or convenience to the buyer." (Sears, Roebuck & Co., R. 2127–2128.)

[112] Tr. 99.

[113] Tr. 186.

[114] Mr. Ron Fritsch said, "The most abusive of the door-to-door sales arise in connection with the companies who advertise in the newspapers and over the radio and television for free, no obligation home estimates for such items as draperies, reupholstery, carpeting, slip covers and home repair and remodeling * * *. Any worthwhile door-to-door sales law must apply to these cases. Time after time my clients tell me they sign contracts in their homes only to get rid of the salesman who has become too persistent and overbearing." (Tr. 517.)

[115] This exception is in the Uniform Consumer Credit Code (sec. 2.501) and its inclusion in the rule was strongly recommended by the National Association of Music Merchants (R. 700–701) and the National Retail Furniture Association (R. 402–403).

[116] Givens, supra Note 22 at Tr. 109.

[117] The necessity for exceptions to the cooling-off provisions in such circumstances is recognized in sec. 226.9(e) of Federal Reserve Regulation Z and in sec. 2.503(1) of the Uniform Consumer Credit Code. The executive secretary of the National Pest Control Association said that a major portion of the exterminating business results from calls for assistance and service from consumers (Tr. 255). An emergency may arise when the consumer discovers the sudden appearance of insects—she would obviously not want to wait 3 days to obtain service (Tr. 263).

[118] Tr. 343; Tr. 531.

[119] Tr. 108; Tr. 500; Consumers Union also recommended the inclusion of such an exception (R. 1577).

[120] R. 793.

Industry members objected to the requirement that the waiver be in the buyer's handwriting and said that the arrangement was too cumbersome and time consuming and was an unnecessary appendage to a routine transaction.[121] They also correctly pointed out that if the buyer exercised his right of cancellation after the work had been performed the seller would not have any means of recovering the costs entailed in making the repairs or performing the service. Equally compelling were statements to the effect that the repair of a television set or the provision of laundry and drycleaning service would hardly be classed as an emergency, yet the buyer would not want to wait 3 days to have such services performed. Sellers, of course, would be reluctant to commence performance unless the cooling-off period had expired.[122] The record does not disclose whether a substantial number of the mentioned service industry members are in commerce and thus subject to the Commission's jurisdiction. However, it would appear that in many areas such businesses would be subjected to the rule. The Commission does not believe, as recommended by some, that the rule should not apply to services at all but only to the sale of goods.[123] Such a limitation would create a wide escape hatch which would no doubt be used by many undeserving industry members to avoid the effect of the rule. Nevertheless, the Commission is of the opinion, as in the case of the legitimate route seller of goods, that the typical service company should be granted the relief it requests. Accordingly, the Commission has formulated the following exclusion to the definition of a door-to-door sale:

"* * * The term 'door-to-door sale' does not include a transaction:

* * * * * *

(5) In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's *personal* property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion. [Italic supplied.]

The exclusion does not permit the seller to replace a furnace or appliance or to sell the buyer other personal property such as furniture, draperies, or fixtures; without complying with the rule, nor would it apply, for example, to the sale of an annual maintenance or service contract for appliances. The term "personal property" is used in its legal sense to limit application of the exception to property that is not real property, i.e. land, buildings, and the like. Thus this exception may not be used in transactions such as the sale of driveway resurfacing, aluminum siding, roofing materials or treatment, landscaping, repairs to the home, or to other real property.

F. *Telephone transactions.* An exemption of transactions conducted and consummated entirely by mail or by telephone was also in the revised proposed rule and has been retained in the final rule. This exemption is premised on the theory that mail order and telephone sales do not have the attributes of the door-to-door sale and that a consumer should be able to order goods or services by mail or telephone and the seller to deliver or perform the services so ordered without satisfying the notice and other requirements of the rule.[124]

G. *Cancellation after performance.* Concern was expressed about the possibility of cancellation by the buyer after services had been performed or expensive goods delivered. While some suggested, in keeping with the laws of several States, that the buyer should be required to pay a penalty, or pay on the basis of quantum meruit for services already performed,[125] the Commission believes that in nonemergency situations the seller should properly bear the risk of cancellation if he elects to perform before expiration of the cooling-off period.

H. *Sales in places other than the home.* The provision in the definition to the effect that the rule applies to sales made at a place other than the place of business of the seller was the subject of favorable comment by Miss Betty Furness, the Chairman of the New York State Consumer Protection Board, who said that a limitation in the New York statute restricted its applicability to sales in the home and that this had resulted in the invasion by salesmen of factories, shops, and other places.[126]

I. *Sales in the presence of an attorney.* The definition of "door-to-door sale" in the proposed rule also excluded sales made in the presence of the buyer's attorney. This provision was the subject of comment at the hearings with one interested party inquiring why his wife should be denied the benefits of the rule merely because he happened to be a lawyer.[127] This exclusion was found to be unnecessary and has been deleted.

J. *Special orders.* The Direct Selling Association joined several industry members in proposing that sales in which the seller offered the purchaser an unlimited satisfaction or money-back guarantee be excluded.[128] Industry members pointed out that such guarantees provide the consumer with greater protection than the cooling-off rule because they are generally unlimited as to time and the purchase price is refunded even though the product may have been used or consumed.[129]

[121] "The emergency relief granted under Note 1(a)(3) is not practical in that it presents an almost impossible requirement to get 'a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days.' To explain such a requirement to the average customer with a pest problem and guide them through the writing of such a document would increase the cost of the service beyond reason. The response of our industry to this as relief has been to forget it as having any practical application. A preprinted form to be completed by the serviceman as to the nature and necessity of the emergency service could be used practically." (Letter, National Pest Control Association, R. 2283–2284.)

[122] "Should it be determined that this Regulation applies to the television service industry, and necessary changes to make it workable are not made, the net effect upon both the public and the industry would be most costly, as to protect themselves those engaged in the industry would be forced to bring all non-functioning television sets to their shops and do nothing to the sets until the 'Cooling-Off Period' had passed. This, of course, would result in delays, inconvenience and a much greater labor expense to an already overburdened consumer." (Letter, Martin J. Leavitt, R. 2128–2129, 2223.)

[123] "All references to services in the proposed rule should be eliminated. The proposed rule appears to be primarily directed to the sale of goods rather than continuing local oriented service industries such as ours. It is no secret that a poor service businessman is his own worst enemy. His life blood depends on the satisfaction of his customers on a continuing basis. It is for this reason, that examples of consumer abuse (of the kind intended to be eliminated by the proposed rule) are, for all practical purposes, nonexistent in the dry cleaning and laundry industries. It is conceivable that the proposed rule to include service industries would deprive the American consumer of delivery services by the milkman, the bakeryman, the cleaner, the launderer, and even the newspaper boy." (Letter on behalf of the American Institute of Laundering and the National Institute of Drycleaning, Inc., R. 2218.)

[124] The need for this provision was described by Mr. S. Arnold Zimmerman (Tr. 247–248). If this exception were not in the rule the placement of mail or telephone orders would be unduly complicated.

[125] David Cashdan, Consumer Federation of America (Tr. 381).

[126] Tr. 79, R. 345. The need for such a provision is fairly obvious as restriction of the effect of the rule to contracts signed in the home would lead to all sorts of subterfuges to get the consumer out of his home to sign.

[127] Kass, *supra* note 41 at Tr. 140. Suggestions that the provision is unnecessary also appear at Tr. 650, 715, 814; R. 1366.

[128] The Association said: "The Commission should also consider exempting sales that offer a satisfaction or money-back guarantee in a clear and obvious manner. The satisfaction or money-back guarantee is the ultimate in consumer protection and a step beyond the cooling-off rule which should be encouraged by the Commission. One way to accomplish this would be for the Commission to establish wording that would allow a seller to be exempt from the burdens of the cooling-off rule by providing the consumer with a satisfaction or money-back guarantee agreement that met the Commission's specifications." (R. 2228.) For supporting comments see letters from Sears, Roebuck & Co. (R. 2130); Mary Kay Cosmetics, Inc. (R. 2210); Avon Products, Inc. (R. 2212).

[129] "* * * we question the appropriateness of providing the consumer with a remedy which LIMITS his already existing remedy. We refer to those instances where companies are already providing the consumer greater

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Adoption of a provision which would exclude from applicability of the rule sellers who provide a money-back guarantee would increase the enforcement problems associated with the rule to a point that the rule would be almost ineffectual. Every direct seller who desired such an exclusion would claim he offered such guarantee. Then the Commission would be confronted with a never-ending problem of determining whether the seller in fact gave such a guarantee and whether he performed his obligations under it. One of the principal advantages of the cooling-off rule is that it is self-enforcing. The consumer is given the unilateral right to cancel the sale. Its effectiveness does not depend upon whether a branch representative or subordinate manager understands the meaning and effect of a guarantee, or even upon his willingness to honor such a guarantee. The record does not contain any information which would indicate that it is impractical for a seller to use a money-back guarantee in addition to the cancellation right afforded by the rule, although two industry members attempted to illustrate the impracticality of such an arrangement.[129] In denying the request for this additional exclusion of certain sellers from the scope of the rule, the Commission recognizes that with respect to some sales an industry member will no longer be able to use the simple sales tickets which now evidence certain transactions and that compliance with the rule will entail some additional expense and inconvenience.[131] Nevertheless, for the reasons stated above the Commission is not persuaded that such an exclusion would be in the public interest or that the record would support it.

K. *Real property, insurance, and securities.* Recommendations were also received that the rule should contain provisions which clearly state that it is not applicable to transactions pertaining to the sale of real property, insurance, and securities. These will be considered in the order presented.

Insofar as the sale of real estate itself is concerned, neither the Commission nor members of the real estate sales industry believe that such sales would be subject to the rule as land would not fall within the scope of the definition of consumer goods or services. However, transactions in which a consumer engaged a real estate broker to sell his home or to rent and manage his residence during a temporary period of absence may fall within the class of transactions to which the rule would apply.[132]

The Investment Company Institute, the National Association of the Mutual Fund Industry, the Association of Mutual Fund Plan Sponsors, Inc., whose members sell contractual or periodic payment plans, the New York Stock Exchange, Inc., and the Securities Industry Association, all expressed a belief that the rule might be interpreted to apply to the sale of securities.[133] They pointed to a provision included in the Consumer Credit Protection Act which exempts "Transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission",[134] and recommended that a similar provision be included in the rule.[135]

The National Association of Insurance Agents, Inc., on behalf of independent casualty insurance agents asked that sales of insurance agents be exempted from the requirements of the rule.[136] In taking this action they duplicated previous requests made by the American Life Convention, the Life Insurance Association of America, the Health Insurance Association of America,[137] and the National Association of Life Underwriters.[138]

The Louisiana Consumers League recommended that the definition of door-to-door sale be expanded to include "financial services such as insurance or investments less than $10,000."[139] The National Consumer Law Center also said that the definition of consumer goods and services should be amended to include expressly the sale of insurance.[140] Neither group gave its reasons for the respective requests.

It is the view of the Commission that the final rule would not apply either to the sale of securities or to insurance. Moreover, the record does not reflect that the sales of these intangibles have been accompanied by the objectionable practices which have characterized the sales in the home of consumer goods and services generally. Nevertheless the record does reflect concern on the part of both consumers and members of the affected industries as to whether the rule applies to these transactions. In order to resolve this uncertainty, the following provision has been added to the definition of "door-to-door sale":

"• • • The term 'door-to-door sale' does not include a transaction:

• • • • • •

(6) pertaining to the sale or rental of real property, to the sale of insurance, or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission.

With regard to the real property provision, it is emphasized that it is not intended to apply to the sale of goods or services such as siding, home improvements, and driveway and roof repairs. The Commission stands ready to reconsider the exemptions respecting the sale of insurance and certain types of real property, e.g., recreational land, should the receipt of additional information or evidence indicate that such action is appropriate.

CHAPTER XI. THE MECHANICS OF THE RULE

A. *Form of notice.* Paragraph (a) of the proposed rule would have required the seller to furnish the buyer with a separate lengthy "Notice of Cancellation" printed in 10 point bold face type in a conspicuous color other than that used for the rest of the contract which described the various rights and obligations of the buyer relative to canceling the contract. Three alternative methods of cancellation were spelled out in this notice.

This provision was widely criticized by industry and consumer representatives because of the length and complexity of the notice and because of the expense entailed in multicolored printing.[141] There was also disagreement as to the placement of the notice. The ad hoc industry committee recommended that it be placed in the contract.[142] Others said that it should be placed on a separate form which would facilitate its use for notice of cancellation.[143]

A separate form for cancellation is provided by New York,[144] and both the notice and form for cancellation are placed on a separate document in transactions falling within the scope of Regulation Z.[145] While some advantage may accrue to the seller if he is permitted to place the notice and information as to the buyer's right to cancel in the contract and it is certain that the buyer would have this information in his possession if he is given a copy of the contract, this alternative has serious disadvantages. First, the longer the contract, the less is the likelihood that the consumer will read and comprehend its provisions. Second, if the consumer uses his copy of the contract to cancel the sale, in the manner suggested by industry members, he would be left without any record of the transaction.[146] Placement of the notice and explanation on a separate form is perhaps more expensive for the seller, and the buyer may not see it or may not even be given a copy of it. However, the latter contingency, if made a practice by a particular seller, would probably be brought to the attention of the Commission and appropriate action could be taken. In short, while an argument can be made on both sides, the record supports the view that use of a separate concise notice, which fully explains the rights of the consumer and tells him specifically how to cancel the contract is preferable and the rule so provides.

The proposed rule did not require the seller to furnish the buyer with a copy of any receipt or contract pertaining to the sale. This was considered to be a serious defect by both consumer and industry representatives.[147] It was also said that it was particularly important that the contract be in the same language as that used in the oral presentation.[148]

B. *Summary notice in the contract.* Paragraph (b) of the proposed rule required the inclusion in a door-to-door sales contract, directly above the place reserved for the buyer's signature and in bold face type, twice as large as the other type in the contract, and in a conspicuous and different color than that used for the rest of the contract, an additional notice in summary form of the buyer's right to cancel within 3 days. This requirement was also strongly criticized on the basis of cost.[149] However, as a safeguard against possible nondelivery of the separate cancellation form, the contract should contain this information.[150]

The provisions respecting conspicuousness and type size might, with respect to some contracts, be inconsistent with the provisions of section 226.6(a) of Regulation Z, which requires conspicuous disclosure of the finance charge and annual percentage rate and the printing of numerical amounts and percentages in figures in not less than the equivalent of 10 point type.[151]

The requirements of Regulation Z and this rule, if applicable to the same contract, might require the summary notice to be printed in 20 point type.[152] Requirements regarding placement of this notice also differ among the State laws.[153]

In view of the foregoing, the revised proposed rule provided that the buyer must be furnished with a fully executed receipt or copy of the contract, which is in the same language as that principally used in the oral sales presentation and that the contract must contain the summary notice printed in bold face type of a minimum size of 10 points and in immediate proximity to the space reserved in the contract for the buyer's signature. If a receipt rather than contract is used, the summary notice must be placed on the front page. If both a contract and receipt are used the summary notice should be placed on the contract. These provisions appear in paragraph (a) of the final rule.

Minor changes have been made in the summary notice in the interest of brevity. In addition, the words "for any reason" have been deleted in order to avoid giving the buyer any indication that he

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protection than that afforded by the 3-day cancellation privilege.

"Mary Kay Cosmetics offers its customers the following unconditional guarantee: 'If for any reason you are not completely satisfied with any product, it will be cheerfully exchanged or the full purchase price will be immediately refunded on its return to your Mary Kay beauty consultant or to the company.'

"This guarantee is brought to the attention of the customer by: (1) The beauty consultant reads it to the customers during her beauty show presentation directly from a 'flip-chart' telling the Mary Kay Story; (2) The guarantee is contained on product brochures and literature; (3) The guarantee is printed on the customer's receipt copy, also containing the beauty consultant's name, address, and telephone number, along with addresses of Mary Kay's corporate offices to which products may be returned.

"Please note that this product return privilege is given whether or not the products have been used and without limit as to time; therefore, it gives the consumer much broader protection than that afforded by the proposed rule. The guarantee is always scrupulously honored even though we sometimes received returned containers from unscrupulous consumers who have used all or almost all of the contents before returning the products for refund.

"In light of the proposed rule's applicability to companies which already provide this broader protection, we pose the very practical question—how does such a company comply with this rule in actual practice?" (Mary Kay Cosmetics, Inc., R. 2209.)

[130] "Imagine, if you will, a Mary Kay beauty show at which a lady beauty consultant is saying to the ladies present • • •

'Let's see, your purchase amounts to $22—you're alright. Mrs. Smith, yours is $30.50• (•the cost of the Mary Kay Complete Set, including Glamour Items is $30.50; the Basic Set cost is $18.50)—so, the Federal Trade Commission requires that I give you this notice of cancellation form which you have to return to me within 3 days, but don't pay any attention to that because Mary Kay allows you to return anything you don't like, whether you've used it or not without any time limit—no, you don't have to return it to me in 3 days if you don't like the night cream—I know it says that, and I have to give this form to you, but our company takes it back anytime. Now, Mrs. Jones, your purchase is $26, so I have to give you this Federal Trade Commission thing—but, Mrs. Doe, you can go, since you only bought $10, etc., etc., etc.'" (Mary Kay Cosmetics, Inc., R. 2210; Sears, Roebuck & Co., R. 2129.)

[131] A sample of one of these sales tickets appears at R. 855.

[132] See letter, National Association of Real Estate Boards (R. 2323–2324).

[133] R. 2325–2327, 2332–2334, 2340–2342.

[134] Section 104(2), Consumer Credit Protection Act.

[135] "We believe that as proposed the rule could be interpreted to apply to 'door-to-door sales' (as defined in the proposed rule) of securities by broker-dealers registered with the U.S. Securities and Exchange Commission (whether the securities are listed on a national securities exchange, traded over-the-counter or mutual fund shares). Such a result would not lead to increased consumer protection since securities transactions are already subject to a comprehensive system of Federal regulation. The U.S. Securities and Exchange Commission, the National Association for Securities Dealers, Inc. and the Federal Reserve Board regulate such matters as selling practices, qualification of salesmen, and extension of credit in connection with securities transactions.

"Furthermore, the proposed rule would be inappropriate in the securities area • • •. • • • Thus, a three business day rescission period would in effect give a customer a free 'put' and guarantee him against any loss for that period. Investors would be in a position to speculate free from risk for the period—if at the end of this time the securities increased in value the customer could keep it. But if it declined he could rescind the transaction and receive back his original investment.

"For these reasons, we believe that the rule as finally adopted should contain an exemption for securities transactions similar to that which Congress has included in recent consumer legislation. For example, 15 U.S.C. § 1603 exempts from the provisions of the Consumer Credit Protection Act 'Transactions in securities or commodities accounts by a broker-dealer registered with the Securities and Exchange Commission.' We respectfully suggest that the rule as finally adopted should contain a similar exemption." (Letter, Investment Company Institute, R. 2325–2327.)

[136] R. 2452–2453.

[137] R. 359.

[138] R. 386–388, 1090.

[139] R. 2390.

[140] R. 2405.

[141] "• • • the very people most easily defrauded are those who either cannot or will not read pages of complicated legal material • • •. With this in mind, I must point out that the FTC notice seems somewhat cumbersome" (Furness, supra note 28 at Tr. 81); "Larger type, and rainbow hues will make a more colorful instrument to be sure—at an exorbitant and unnecessary cost. An easily read, succinct notice would seem to be the answer" (Stephen Sheridan, vice president, Electrolux Division, Consolidated Foods Corp., Tr. 157); "• • • the very length of the proposed notice nullifies whatever good would come from separating it from the receipt or the contract" (Brouse, supra note 19 at Tr. 389); "• • • I think that you have done a good job in laying out the things a buyer can do, but it seems to me it is a little too long and would tend to be confusing • • •." (Dan Milan, Director, Bureau of Consumer Protection, Wisconsin Department of Agriculture, Tr. 716.)

[142] R. 790, Tr. 67.

[143] Regarding the form of notice one consumer representative said, "The Notice to the Buyer set forth in the alternative is not a separate or easily detachable document • • • I think this • • • is the most important element of the • • • proposed rule." "• • • these retail installment sales contracts • • • are called bed sheets because the Truth in Lending Act and the Illinois Home Solicitation Law caused so much to be put into them it is unlikely at all that any consumer is going to read • • • the whole contract. Therefore, it is very important, it is essential that the Federal Trade Commission keep its proposed regulation as to the document being separate and easily detachable document." (Fritsch, supra note 32 at Tr. 520–521.)

[144] Tr. 225.

[145] Sec. 226.9(a).

[146] "• • • the copy of the contract or receipt which the buyer receives can itself be used as a cancellation form simply by writing 'I hereby cancel,' signing it and returning it • • •." (Sherwood, supra note 37 at Tr. 67.)

[147] Kass, supra note 41 at (Tr. 143); "Frequently, low-income and unsophisticated consumers have been signing contracts in blank • • • the buyer should be given his copy at the time of the offer and acceptance." (Behre, supra note 45 at Tr. 166.) Mr. Sherwood in speaking of the industry proposed alternative rule said, "One very important improvement in our proposal is the assurance of receiving a written contract or receipt from the seller • • • we specify that the buyer must receive a written statement, a written contract or receipt." (Tr. 71.) This provision is set forth at R. 790.

[148] This requirement was incorporated in the alternative rule (R. 791); "• • • the New York statute provides for notice in Spanish and English in cities with a population over one million. On a national basis • • • FTC regulations should provide for a dual language provision wherever needed." (Furness, supra note 28 at Tr. 81.) "We have many clientele in the legal service program who don't speak English • • •." (Connors, supra note 106 at Tr. 204.) This requirement was also supported by the Cameron County Legal Aid Society which reported the inadvertent purchase of a set of encyclopedias by a Spanish-speaking couple who were told they were signing a cancellation form. (R. 1569–1570.)

[149] Richard F. Goodman, C. H. Stuart & Co., Tr. 184; Ralph Heal, executive secretary, National Pest Control Association, Inc., Tr. 257; Brief, National Association of Trade and Technical Schools, R. 1198.

[150] Fritsch, supra, note 32, at Tr. 522.

[151] R. 404.

[152] R. 180.

[153] Tr. 286–287. A summary description of the requirements of the various States appears in the record at R. 1797–1800.

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must have a reason as a prerequisite to the exercise of this right.[154] As for the summary notice it does not appear necessary to prescribe its precise text; thus, the final rule provides that the statement need only be in substantially the prescribed form. Given this degree of flexibility, the seller will be allowed to phrase the summary notice so as to satisfy the specific language requirements of applicable State laws which are intended to provide the buyer with much the same information. Where the language requirements of the State statute contain a statement of the buyer's rights which is inconsistent with this rule (for example, "If you cancel, the seller may keep all or part of your cash down payment"), the seller would, of course, not be able to use the State notice unless the inconsistent language is stricken in sales to which this rule applies.

C. *Method of exercising the cancellation right.* Several paragraphs in the "Notice to Buyer" in the proposed rule contained detailed instructions regarding cancellation procedures and the various methods that the buyer could use. The notice authorized the use of any reasonable method of notification and specifically suggested the use of three—i.e., mailing the notice of cancellation form with the additional suggestion that it be sent by certified mail; delivery of the notice or any other written notice of cancellation to the seller; and oral cancellation by telephone or in person.

Most of the comment received was directed to the provisions concerning oral cancellation. Few of the persons who appeared at the hearings favored this method of cancellation.[155] Both industry and consumer representatives opposed it, primarily because of the obvious difficulty of resolving disputes as to whether the buyer had actually exercised his right of cancellation.[156] Consumer representatives said that the salesmen who frequent the poor neighborhoods would simply disregard oral cancellations and that the method would not be of any real assistance to the poor who were expected to benefit from it.[157] One law enforcement official said that disputes as to whether a sale had in fact been cancelled would pose serious problems for him and further that it would be extremely difficult for a consumer to catch up with a fast-moving sales team in order to effect an oral cancellation.[158] Other comment and testimony in opposition to this provision of the proposed rule emphasized the problems of proof which would arise and that it was not unreasonable to expect a consumer to mail a printed notice, preferably by certified or registered mail.[159]

Based on the information in the record, the objections to permitting oral cancellation are well-founded and the possibility of confusion and uncertainty is sufficiently great to warrant the conclusion that oral cancellation should not be permitted.

The language "any reasonable method of notification" is subject to all of the objections raised above with respect to oral cancellation, with the increased likelihood that even those sellers who desire to comply with both the letter and spirit of the proposed rule may not be informed or may be misled as to the buyer's intention to cancel. Accordingly, this phrase has not been included in the final rule.

Mail, and preferably certified mail, appears to be the best method for the buyer to use in canceling the sale or contract.[160] Regulation Z equates a telegram to mail as a means of giving notice. That is, a telegram filed prior to midnight of the third business day will be effective to cancel the contract in the same manner as a letter mailed at that time. Physical delivery of the written notice by the buyer to the seller's place of business would not seem to be practical in many situations, but there is no objection to authorizing its use.

D. *Identifying the Third "Business Day."* In the revised proposed rule the definition of "business day" was changed in that it listed specifically the nine legal holidays excluded. It also excluded Saturday and Sunday as did the original proposed rule.

Saturday is considered a "business day" in Regulation Z.[161] The majority of the State statutes consider Saturday a business day. Upon reconsideration and in the interests of uniformity, the Commission now believes that Saturday should be considered a business day for the purposes of this rule and the definition has been changed in the final rule to include Saturday as a business day."

The form of notice prescribed in the proposed rule did not require a specific identification of the third "business day." It was suggested that the notice be revised to require the seller to indicate therein the date and day of the week of the third business day. This would enable the consumer to determine easily the termination of the cooling-off period.[162] There is no reason why the seller should not do this in the same manner as he is required to do under section 226.9(b) of Regulation Z.

Accordingly, the form of notice in the revised proposed rule and in the final rule was changed to show both the date of the transaction and the date of termination of the cooling-off period. Moreover, the seller is also required to furnish the buyer with two copies of the notice in order that he may use one to cancel the sale and retain one for his records. A new provision (c) of the revised proposed rule required the seller to complete fully both copies of the notice before giving them to the buyer. This requirement is also in conformity with the aforementioned section of Regulation Z. Despite industry objections to this change [163] the Commission is of the opinion that the seller should bear this burden.

E. *Buyer's obligation to return goods.* The proposed rule provided that the buyer was obligated to make available to the seller at the place of delivery any merchandise "• • • in its *original* condition." (Italic added.) This provision was criticized as being unfair because in the next paragraph of the notice the seller was to be required only to return any goods traded in "• • • in *substantially as good* condition as when received by the seller." (Italic added.)[164]

The ad hoc industry committee would also adopt for both the seller and the buyer the "substantially as good condition" standard.[165] However, it suggested other changes in this portion of the notice. First, it said that the seller should have the option of returning any goods traded in or their value as stated in the agreement.[166] This suggestion was strongly opposed by consumer representatives who said that the goods traded in might be so undervalued in the contract that the purchaser would decide not to cancel for that reason alone, or that the buyer might not be able to pay the price for a replacement.[167]

The ad hoc committee also suggested that if the goods had already been shipped or delivered at the time the cancellation notice is received, the downpayment need not be returned until the goods were picked up or returned (by the buyer) in good condition pursuant to instructions of the seller.[168] This recommendation is objectionable, on two counts: First, because it may encourage the seller to ship or deliver the goods prior to expiration of the cooling-off period; and second, because it imposes upon the buyer the duty of returning the goods. The latter requirement is objectionable because the seller may give him unreasonable instructions regarding the return of the goods or imply that the buyer may have to bear a portion or all of the cost of doing so.[169] If the seller does not desire to run the risk of losing his goods or incur the expense necessary to pick them up, the obvious remedy would be to defer shipment or delivery.

We can conceive of circumstances when the seller may be reluctant to refund the downpayment until the goods are returned because the buyer has made it difficult or impossible for him to repossess the goods or because the goods may have been damaged or used.[170] The rule states it is the obligation of the buyer to make the goods available at the place of delivery in their original condition but provides no remedy to the seller for the buyer's failure to do so. While the rule is silent as to the seller's obligation in such circumstances, clearly the seller would not be charged with a violation of the rule if the buyer does not fulfill his obligations and as a result the seller refuses to cancel the contract.

The possibility of damage or failure on the part of the buyer to make the goods available was recognized by consumer representatives. One proposed remedy was to prohibit the delivery of goods costing over a certain amount until after expiration of the cooling-off period and after time has lapsed for the receipt of a cancellation notice by the seller.[171] Others pointed out that efforts must be made to lessen the period unwanted goods are left in the buyer's possession, and thus reduce the risk of damage or use. They expressed concern about allowing the seller 20 days to pick up the goods because of the "peanut butter and jelly syndrome." If the product is left in the home, the children, by using and looking through the encyclopedia, will, in effect, vitiate the right to cancel because they will soil the goods.[172]

A compromise solution regarding return of the goods was incorporated in the revised proposed rule by the addition of the following provision after the statement of the obligation of the buyer to make the goods available at the place of delivery:

Or, you may if you wish comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

Of course, the seller can avoid this problem entirely by deferring delivery of the goods. In any event the additional option was thought to be advantageous to the seller since it will facilitate recovery of the goods, and it helps the buyer by allowing him to return the goods at the earliest practicable time and thus avoid accidental damage.

Industry strongly objected to this provision; first because it did not instruct the buyer exactly what he had to do to make the goods available and second because the option provision would make it possible for the buyer to mislead the seller as to his willingness to comply with instructions regarding return of the goods until the 20-day period for pickup had expired and the goods became the property of the buyer.[173]

Field Enterprises Educational Corp. said: "Although the Revised Proposed Rule appears to contemplate the kind of practice now utilized by FEEC as mentioned above, i.e., relying on the buyer's reasonable cooperation, the language of the Notice in fact informs the buyer that he need not comply with those requests, however reasonable, makes no mention whatsoever of the fact that the seller

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[154] This possibility was pointed out by Professor Lemke, supra note 108, who said, "I am wondering whether some buyers may feel they must come up with a good reason for cancelling a contract and thereby through their own inhibitions tend not to cancel or perhaps through the persuasion of an artful seller • • • ." (Tr. 650.)

[155] Their support was based on the supposition that the poor and ignorant would rely primarily on this method. "I think it is clear that especially when we are dealing with less sophisticated and more impoverished consumers it is utterly hopeless to suppose that very many of them are going to exercise their right to cancel by • • • putting it in writing and sending it by mail." (Fritsch, supra note 32 at Tr. 519.) Several other consumer representatives who testified to the same effect, included Elizabeth McCarthy a social worker employed by the Hull House Association (Tr. 679); Mrs. Edie Rosenfels of "Call for Action," Radio Station WIND, Chicago (Tr. 811); and Lewis Rosenberg, staff attorney, Legal Services Organization of Indianapolis, Inc. (Tr. 818).

[156] Harold M. Ross, Assistant Secretary of Field Enterprises Educational Corp., inquired, "Does the buyer have a telephone? If he calls the local sales representative who has no responsibility for processing orders, would that be effective? If the fact of his call is unrecorded or denied, does he have a witness?" (Tr. 870.) "A buyer might claim, weeks after the purchase, that he telephoned and canceled the order 2 days after the purchase. Maybe he did—but maybe he did not. Even if he did, there might be no such record with the seller. This could be inadvertent. It could be deliberate. In any event, it is always a problem." (Brief, National Association of Trade and Technical Schools, R. 1200.)

[157] "By far the poorest and least dependable suggested method of cancellation is by telephone • • •." (Clark, supra note 26 at Tr. 349.)

[158] Graves, supra note 52 at Tr. 667–668; Milan, supra, note 141 at Tr. 713–714.

[159] "There is a question as to whether verbal cancellation is really a good idea because it so often is difficult to prove. We have had a number of complaints from people who have tried to cancel contracts directly after purchase and whose cancellations have been ignored • • •." (Furness, supra note 28 at Tr. 79–80.) "• • • to allow an oral cancellation • • • compounds the vulnerability of buyer and seller alike." (Sheridan, supra note 141 at Tr. 157.) "• • • it would be my thought perhaps an oral notice would be more conducive to controversy and have more difficulty of proof than the desirability of including • • • it • • •." (Lemke, supra note 108 at Tr. 651.) See also Tr. 824, 897, and R. 232 wherein similar views were expressed.

[160] Clark, supra note 26 at Tr. 349.

[161] Section 226.9(a).

[162] "• • • we are troubled by section 1(a) • • • which leaves to the consumer the burden of computing 'any time before 5 p.m. of the third business day • • •.' • • • Our suggestion is that the designations for when the period lapses, the time and the date, should be filled in by the salesman." (Cashdan, supra note 96 at Tr. 372.) "• • • I think the potential for disputes concerning the timeliness of notices would be minimized by requiring the seller to fill in a blank in the form, giving the date and day of the week of the third business day following the day of sale." (Christian S. White, Public Interest Research Group, Tr. 323.)

[163] "• • • we agree with the ad hoc Industry Committee that there is no reason why, if the notice explains the meaning of 'business day' to sales representatives and customers alike, any blanks on the notice of cancellation should be filled in by the sales representative except for the company name and place of business which can be printed in advance. Writing in the transaction date (which the buyer already has on his copy of the contract) and the expiration date of the cancellation period become appropriate and necessary only if and when a subsequent decision to cancel is made, a decision not to be assumed in advance. The company would have no record of what was filled in, and its sales representatives should be neither tempted to alter the cooling-off period nor burdened with an additional liability." (Statement of Field Enterprises Educational Corp., R. 2240.)

[164] This objection was made by several consumer representatives: Jerome Shuman, Professor of Law, Georgetown University, Tr. 171; and White, supra note 162 at Tr. 324.

[165] R. 792.

[166] R. 790. This is in accord with section 2.504(2) of the UCC which provides in pertinent part: "• • • if the seller fails to tender the goods as provided in this section, the buyer may elect to recover an amount equal to the trade-in allowance stated in the agreement."

[167] Fritsch, supra note 32 at Tr. 522; Scott, supra note 61 at Tr. 887. It should be noted that consumer testimony on this provision was limited since the proposed rule did not give the seller the option of returning the value of any goods traded in.

[168] R. 792.

[169] "I have never seen such a one-sided provision attempting to be put into a regulation of law. If you could conceive the instructions being reasonable in all cases, then of course, that could do no harm. But of course, we are talking about unscrupulous sellers whose instructions may provide most anything • • •. I think many of these sellers would try to make the buyer think it would have to be at his expense." (Fritsch, supra note 32 at Tr. 521–522.)

[170] Concern about the possibility of unfair conduct on the part of the buyer was expressed by the industry ad hoc committee "• • • unrealistic to expect all buyers to turn over merchandise or cooperate in its return after downpayment refunded • • •" (R. 797), and by Professor Lemke, "I think there is some possibility of buyer fraud involved in a situation like this • • •." (Tr. 652.)

[171] Cashdan, supra note 96 at Tr. 374, R. 915–916; "I would urge or suggest that perhaps some requirement should be made that the buyer at least make the merchandise • • • reasonably available to the seller for pickup purposes." (Lemke, supra note 108 at Tr. 651–652.)

[172] This thought was best expressed by Mr. Kass who said, "We are concerned that this will place too great a temptation on consumers—especially low-income ones—to use product, thus jeopardizing their right to cancel" (Tr. 141); For statements to the same effect, see Tr. 352, 374, 457.

[173] Encyclopedia Britannica wrote: "There are a number of major difficulties with this statement of the obligations of the parties in the event of cancellation. First, requiring the purchaser to make goods available at the 'place of delivery' could place an unreasonable burden upon him were a seller to make shipments F.O.B. at his warehouse (which would then become the 'place of delivery' as far as the purchaser is concerned). Second, there is no hint of what the purchaser must do to 'make (goods) available' for return. A much more definite statement of the purchaser's obligation is necessary. The only feasible way to deal with this problem is to require the purchaser to comply with the reasonable instructions of the seller as to the return of goods, all at the seller's sole risk and expense. This would also eliminate the option given the purchaser under the present formulation to comply with the seller's instructions concerning return of goods ('if you wish'). The purchaser has signed the contract which he is now permitted to rescind, and he should have a continuing duty to cooperate in returning to the status quo ante.

"The formulation of the fourth paragraph of the Notice also presents particular problems. First, it begins by stating to the purchaser that 'if you do not return the goods to the seller', or they are not picked up within a specified period, he may retain or dispose of them without further obligation. Although certainly not intended, this would appear to give the purchaser the absolute right to retain goods even though he may have failed to comply with the seller's timely instructions for return. Indeed, under the present formulation, since the purchaser has an option to comply with the seller's instructions for return of goods, without being under duty to inform the seller that he will not comply, operation of paragraph four could lead to substantial abuse and loss of valuable goods by a seller without any fault on his part. It must be kept in mind that while the purchaser will be granted a new right under this rule, its purpose is not punitive, and is not intended to require companies to forfeit their goods." (R. 2255–2256.)

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will be giving notice of intent to repossess or abandon, and gives the buyer an unlimited right to retain or resell the goods if the seller does not actually physically 'pick them up' in 20 days, a right that appears to exist regardless of what seller and buyer may have said to each other by the end of that period. Thus, FEEC's timely request to a canceling buyer that he return by mail at our expense the cartons he received by mail could under this Proposed Rule be ignored, and the goods resold shortly thereafter before we had any way of knowing whether the customer intended to cooperate; or our request could be answered by the buyer falsely signifying his intention to mail the books back at our expense and then selling them when we did not 'pick them up.'" (R. 2243.)

On this point the ad hoc committee said: "In the Rule as presently worded, the Notice tells the buyer: 'You may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods.' If the buyer decides not to comply, the goods become his if the seller has not picked them up within 20 days of the date of the buyer's notice of cancellation. The 20 days may expire before the goods arrive, so they cannot be picked up within 20 days. Under such circumstances, according to the Rule, they will belong to the buyer without obligation. The seller has 10 business days from receipt of the cancellation notice to tell the buyer that he wants the goods back. The 20 days can easily expire before the buyer even hears from the seller as to whether he would like the buyer to comply with instructions as to return." (R. 2269–2270.)

Under some circumstances it may be unreasonable to allow the seller 20 business days to pick up the goods; on the other hand, if the seller does not have any agents in the locality, such a period of time is not unreasonable. However, under the proposed rule, the buyer would not know until the expiration of 20 days whether the seller desired to have the goods returned. Accordingly, paragraph (i) was added to the final rule to require the seller to notify the buyer within 10 days of receipt of the notice of cancellation if he intends to reclaim the goods or abandon them. In addition this change makes it clear that a failure to pickup the goods is not an unfair trade practice.[174] This has been carried forward in the final rule.

Industry also did not believe that it should be required to refund the downpayment until after it had recaptured the goods[175] and said that withholding the refund was its only weapon available against the unscrupulous buyer.[176] One industry member said that the 10-day refund provision was unreasonable because its experience under its own cooling-off provision had demonstrated that the canceling buyer also stopped payment on any checks given as a downpayment, and that the seller would not ascertain that the check would not be honored before it was required to mail its own refund check.[177] This line of reasoning is apparently based on the assumption that the check will not be put in channels for collection until it is received at a distant main office, and that the cancellation notice will be received immediately after this has occurred. In such circumstances, it would indeed be difficult for the industry member to comply with the rule, unless it established the practice of holding the check sufficiently long to insure that a cancellation notice would not be received. However, it is equally likely that the cancellation notice would be received several days after the check had been placed in channels for collection. In this situation the 10 additional days should be sufficient for the seller to ascertain whether it was safe to make the refund. The record reflects that many transactions do not follow either of these courses for the salesman may cash the check immediately after he gets it. Here again, the seller would have sufficient time to ascertain whether the check was good.[178]

The Commission believes that the rule properly places the burden on industry to adopt procedures which will enable it to make a timely refund in the event it chooses to accept a downpayment. Nothing presented in the record justifies a change in this belief.

In order to put these industry complaints in the proper perspective it should be noted that those members who have operated under cooling-off provisions estimate that the cancellation rate will work out to something on the order of 3 to 5 percent.[179]

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[174] "Since, in effect, the seller must pick up the goods within 20 days or donate them to the buyer, why should failure to pickup the goods be an unfair trade practice?" (Letter, Henry L. Young, Esq., R. 4.)

[175] "A further inequity is caused by the fact that the seller must return any down payment within 10 business days whether or not he gets his goods back from the buyer. This is not fair. In our Alternative Rule submitted March 4, 1971, we included a proviso that where a seller has shipped or delivered goods prior to receipt of a notice of cancellation, or is unable reasonably to stop shipment or delivery upon receipt of a notice of cancellation, and where the seller seeks return of the goods, the seller may defer refund of any down payment until such goods have been picked up or returned. Under such circumstances the seller, according to our Alternative Rule, would have to refund the down payment within 10 business days after the pick-up or return of the goods. We recommend again, in an effort to preserve the equities, the incorporation of this concept to the Notice of Cancellation. Paragraphs 2, 3 and 4 should be re-worded as follows:

"If you cancel, any property traded in and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled. Any payments made by you under the contract or sale will be refunded within that time or, if any goods have already been shipped or delivered to you, within 10 business days after they have been returned, in substantially as good condition as when received, pursuant to any reasonable instructions from the seller regarding their return at the seller's expense and risk. If you have not received, within 20 business days of the date of your notice of cancellation, notification by the seller whether he intends within the following 20 business days to repossess and by what method, you may retain or dispose of the goods without any further obligation.

The above change would also require the addition of the following to sec. (g):

"*Provided*, that where a seller has shipped or delivered goods prior to receipt of a notice of cancellation, or is unable reasonably to stop shipment or delivery upon receipt of a notice of cancellation, and where the seller seeks return of the goods, the seller may defer refund of any down payment until such goods have been returned. In such a circumstance, the seller shall refund the down payment within 10 business days after the return of the goods." (Ad Hoc Committee, R. 2270–2271.)

[176] "There is, unfortunately, a small minority of greedy and unprincipled consumers just as there is a small minority of greedy and unprincipled businessmen, but the latter are subject to FTC orders and penalties while the former are not.

"With these two facts in mind, we believe it would be a mistake to notify every prospective buyer who has received delivery, as the Rule now proposes, that he need not return the goods in order to recover his down payment and can in fact sell or retain them if the seller has not picked them up within a short period after the buyer sends off his notice of cancellation, even if the seller has in the meantime asked the buyer to return the goods at the seller's expense. We urge instead the practice long followed at FEEC with the consistent support, cooperation and compliance of our customers—namely, prompt notification to the buyer, after our receipt of his cancellation notice, of our intention to repossess the goods with his reasonable cooperation (mailing them back at our expense), and then prompt repayment to him of his down payment once the goods have been returned." (Statement of Field Enterprises Educational Corp., R. 2241–2242.)

[177] Comments on behalf of Crowell, Collier and Macmillan, Inc., R. 2414.

[178] The 10-day provision was originally suggested by the ad hoc committee, which evidently believed that, except in those instances in which the seller had delivered or shipped goods, such a period of time would be proper (see R. 790).

[179] Publishers Productions, Inc., wrote: "Expensive. Current contracts require an original and a copy of a sales contract. Your proposed procedure requires twice as much paper on every order, which is ultimately paid for by the consumer. 95% who don't cancel paying, of course, for the 5% who are presumably aided." (R. 2316.)

"For these reasons, FEEC (and no doubt all similarly situated sellers of items too costly to forfeit) are required by experience to make a basic choice on all orders received: either (a) delay the shipment of goods to that 97% of our customers who do not cancel for a period long enough to receive the notices of that 3% who do cancel, regardless of where in the country they live; or (b) ship promptly to all customers when orders accompanied by downpayments are received, stopping shipments where possible when a cancellation notice arrives, and notifying those to whom shipment went forward that their downpayments will be returned as soon as our cartons are returned, by their either simply refusing delivery or mailing them back at our expense. In view of its own oft-expressed concern over slow delivery, the FTC should not require us—as the Proposed Rule would—to impose the first route of delay upon the 97% who do not cancel.

"Thus the amendments contained in the new Sherwood submission on behalf of the Ad Hoc Industry Committee are required in the interest of that 97%. These amendments fully protect the buyer against the wrongful retention of his downpayment and against any prolonged uncertainty over how long he must hold on to the goods, but they accomplish this without requiring direct sales companies to hold up shipments in order to protect themselves against fraud." (Statement, Field Enterprises Educational Corp., R. 2244–2245.)

While industry members say that the complexities of the rule impose hardship on the overwhelming majority of their customers who do not cancel to provide protection to the small minority who do exercise the right, they overlook the fact that of this small minority who do cancel, it is probable that an even smaller number would take advantage of the rule to deprive the seller of its goods. It appears to the Commission that industry has overstated its objections and is simply seeking the requested protection in order to permit it to continue to deliver, or to place the goods in channels for delivery before the expiration of the cooling-off period without risk in the hope and belief that the buyer will not be so likely to cancel once he has received the goods.

It was for this reason that the Commission believes that the rule should be worded so as to discourage prompt delivery of the goods even though this might result in some inconvenience to buyers who would not want to cancel and to industry members as well. This same approach was taken by Congress in the District of Columbia Consumer Protection Act.[180] Accordingly, it does not appear that the rule should be changed in the manner suggested by industry members, even though they may encounter some difficulty in regaining possession of the goods within the allotted time. It appears to the staff that the industry member who desires to deliver goods at the risk of the contract being canceled can institute procedures for recovery which are sophisticated enough to avoid the difficulties it foresees. After all, the seller was able to sell the goods in points far removed from its headquarters. There seems to be no reason why it could not arrange to collect the goods through the same agents.

In recognition of the possibility that an unscrupulous consumer might attempt to mislead a seller as to his intention to return the goods until after expiration of the 20-day period allowed for recapture, a minor change has been made in the fourth paragraph of the notice by inserting the words "agree to" in the first line so in the final rule it reads as follows:

> If you do not *agree* to return the goods to the seller or if the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. (Italics supplied.)

The possibility expressed by Encyclopaedia Britannica that the place of delivery of f.o.b. shipments to the buyer might be considered to the shipping point rather than the buyer's home[181] was dealt with in the District of Columbia Consumer Protection Act by a provision to the effect that the buyer was not obligated to tender the goods at any place other than his residence.[182] E. B. also stated a similar provision could be incorporated in the third paragraph of the proposed "Notice of Cancellation" by deleting the words "the place of delivery" in the phrase, "if you cancel, you must make available to the seller at the place of delivery" and substituting therefor, "your residence." This suggested change has been incorporated in the rule.

F. *Effect of rule on notes of indebtedness.* The proposed rule contained two provisions respecting notes or other evidence of indebtedness given by the buyer in connection with the contract or sale. One of these provisions required the seller to return such documents to the buyer within 10 business days, paragraph (h)(1), and the other, paragraph (i), prohibited the negotiation or other assignment of the financial paper to a third party prior to midnight of the fifth business day following the date of the sale.

Both provisions were the subject of objections by industry members who said that it would require them to increase their capitalization because they could do nothing with the note during the cooling-off period.[183] As a means of avoiding some of the undesirable effects of the provision prohibiting the transfer of paper within 5 days, the ad hoc committee recommended the addition of the phrase, "unless the seller shall have arranged to relieve the buyer of all liability on such note or evidence of indebtedness in the event of timely exercise of the cancellation rights granted under the contract."[184] Another suggestion made was that the seller be allowed to transfer the paper if he refunded the amount necessary to redeem it to the buyer.[185] To impose, as these recommendations suggest, the burden of redeeming the note on the buyer is not justified. The seller should know that if he chooses to negotiate the paper redemption might become necessary and the responsibility should not be shifted to the consumer. Even if the seller has made arrangements to relieve the buyer of any obligation the seller should still answer the responsibility of reacquiring the note if he had negotiated or otherwise assigned the note to a third party.

Consumer representatives urged the addition of language providing that the holder of the note takes it subject to all defenses of any party which would be available in an action under a simple contract. This in effect would abolish the holder-in-due course status of anyone to whom the paper was subsequently sold or assigned.[186]

This suggestion that the seller be required to place an endorsement or other notice on the note preserving the maker's defenses goes beyond the scope of the rule. Such a provision applicable to consumer sales generally is presently under consideration in the form of the proposed trade regulation rule concerning the Preservation of Buyers' Claims and Defenses in Consumer Installment Sales.

To insure protection for the buyer in case the seller had taken a security interest in property other than that being sold, it was recommended that the seller be required to cancel any security interest arising out of the transaction.[187] This recommendation has been adopted.

G. *Confession of judgment provision.* The prohibition against the inclusion in a door-to-door sales contract of a confession of judgment or waiver of any of the buyer's rights was endorsed by consumer representatives.[188] It was said that this provision was essential in those States which still permitted the use of cognovit notes.[189] The ad hoc industry committee also approved of this provision.[190] Some industry members said that the phrase, "waivers of any of the rights to which a buyer is entitled" was vague and might be construed to prohibit the use in the contract of any provisions aimed at protecting the seller. They suggested the addition to the phrase of the words, "under this Rule".[191] This suggestion is valid and the recommended words have been added to the rule. In addition, the words "or receipt" have been added after the word "contract" in recognition of the fact that there may not be a written contract.

H. *Provision prohibiting misrepresentation.* The prohibition in paragraph (f)

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[180] Sec. 3811(1)(3) of Title 28, District of Columbia Code (Supp. V, 1972) provides: "If the seller has performed any services pursuant to a home solicitation sale prior to its cancellation, the seller is entitled to no compensation."

[181] See Note 173, supra, R. 2255.

[182] District of Columbia Code, supra, § 28–3812(1)(1).

[183] Brief, National Association of Trade and Technical Schools, R. 1202; Comment, United Business Schools Association, R. 1600.

[184] Sherwood, supra note 37 at Tr. 69. See also the committee report which stated in pertinent part, "No change in protection afforded buyer: automatic 5-day freeze would harm companies too small to be their own bankers." (R. 797.)

[185] Brief, National Association of Trade and Technical Schools, R. 1203.

[186] Kass, supra note 41 at Tr. 142; Fritsch, supra note 32, R. 1369.

[187] Young, supra note 58 at R. 3. Section 226.9(d) of Regulation Z contains such a provision.

[188] Kass, supra note 41 at Tr. 142; Jerome Shuman, supra note 164 at Tr. 172; Richard F. Halliburton, Attorney, Legal Aid and Defender Society of Greater Kansas City, Inc., Tr. 564. The need for this provision is obvious, as the inclusion of such provisions would frustrate the cancellation privilege given to the buyer.

[189] "While cognovit notes are not being used as extensively as they were before the Wisconsin Legislature made them unavailable for use in garnishment actions, cognovit notes are still used in limited circumstances in Wisconsin." (Joseph F. Prelozniк, Director, Wisconsin Judicare Program, Tr. 699.) "Ohio is one of the few States that allows almost unrestricted use of confessions of judgment. This regulation will at least mitigate the use in some door-to-door sales." (Memorandum, Ohio State Legal Services Association, R. 379.)

[190] R. 795.

[191] "Unless this modification is made, however, this section will be susceptible to subjective interpretations which could classify any contract term seeking to protect the seller, regardless of its reasonableness, as a waiver of the buyer's rights." (Comments of the General Electric Corp., R. 367.) See also R. 329.

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against misrepresentation of the buyer's right to cancel was generally conceded to be necessary by both industry and consumer representatives.

I. *"Initial contact" provision.* The provision of the proposed rule which attracted the most unfavorable comment from industry representatives and the most favorable comment from consumer representatives was paragraph (g). This required the seller at the time of the initial contact with the buyer and before saying anything else, to inform the buyer that the purpose of the contact was to effect a sale and to identify the goods and services he had to offer. Its purpose was to curb the use of deceptive door openers.

This provision was almost uniformly condemned by industry representatives on the grounds that it placed the salesman in a strait jacket by forcing him to use canned language rather than a normal introduction followed by a disclosure of his identity and the purpose of his call. This group evinced no objection to a requirement that the salesman promptly introduce himself and state his purpose; they said their objection was to the specific language requirement and the abrupt and precipitant nature of the disclosure.[103] Other representatives said that the requirement was neither fair nor practical and would be impossible to enforce.[103]

As a substitute for paragraph (g), the industry ad hoc committee recommended a provision which would prohibit the use of any plan, scheme, or ruse which misrepresents the true status or mission of the salesman in order to gain admission to a home, office, or other establishment for the purpose of making a sale.[104]

Consumer representatives gave strong support for inclusion of this provision in the final rule and said that they considered it to be a necessary and desirable provision.[105]

At the time it released the revised proposed rule for comment, the Commission announced that the door opener provision had been eliminated and that it had taken this action pending development of more information about "door opener" provisions.[106] Insofar as consumers were concerned, this was the feature of the revised proposed rule which attracted the most comment.

The objections of consumers and consumer representatives to the elimination of the door opener can be placed in two broad categories. First are those who object on the grounds that the failure of the salesman to disclose his identity and purpose at the door constitutes a nuisance and wastes the time of the consumer who is not interested in buying anything, much less the merchandise or services which the particular salesman has to offer.[107] Second are those objections that the door opener provision would substantially increase the effectiveness and impact of the rule by lessening the likelihood that the consumer would subject himself to the practiced sales pitch which might result in his making a purchase which was unwanted or unwise.[108]

[103] "As a matter of fact, some form of identification and statement of purpose • • • is necessary. I just object to setting yourself up within the framework of reference which 4(g) has, before you can open your mouth to say, 'Boy, it is cold.'" (Sheridan, supra note 141 at Tr. 158.) "I object to giving him specific words. As long as he uses no deception, no gimmicks, that would be the way I would treat it. But trying to give him specific words, and then if he misstates one word he is breaking the law • • •." (Richard F. Goodman, supra note 149 at Tr. 187–188.)

[104] See for example, the testimony of Sard, supra note 26 at Tr. 227, 228, 230, Heal, supra note 149 at Tr. 258, 259; and Frase, supra note 59 at Tr. 281, 282. One industry representative said that in many cases such a statement would be untrue because the salesman really didn't know whether he would attempt to sell the prospect anything until he had qualified him as a probable purchaser of the goods or services offered. (Sherwood, supra note 37 at Tr. 434.) This same representative went on to say:

"In my experience as a sales representative, I would say that this would have imposed an impossible handicap on me in going to these homes. I could not have gone to those doors and said I am here to sell you something when I had not the slightest idea whether this was a family of two elderly people, a family with no children, a family that had just bought my product the day before or had bought a competitor's product of perhaps similar quality and size • • •. It would be a tremendous handicap. I would say an impossible one • • •." (Id. at Tr. 437.)

Another representative emphasized the importance of establishing some rapport with the prospect,

"• • • if you tell the person that you are there to sell them a product that they have no reason to think at that time they want, the obvious result is going to be a door close."

In referring to a rather innocuous door opener he said, "• • • I don't call that concealing. That is the first stage of a salesman's approach, he must convince the person that this is something he can use, something that is legitimately valuable in his home. Then he can say—and let's make it clear, I think within a very short time it is obvious why he is there after he gets into the home—but at least it is a method by which the customer can be educated into the use of the product before he says hello, I am here to sell you (an encyclopedia)." (Peter Ward, Esq. on behalf of Grolier, Inc., Tr. 410.)

Harold M. Ross of Field Enterprises Educational Corp. contended that this requirement for an affirmative disclosure would tempt some salesmen to obscure the meaning of those statements by adding others which would be more likely to confuse the prospective buyer than to help him understand the purpose of his visit. (Tr. 873, 874.)

[105] R. 793.

[106] Mrs. Theresa H. Clark of the United Planning Organization in Washington, D.C., after praising the inclusion of paragraph (g) in the proposed rule, said that the prospective buyer who knows the man on the doorstep is a salesman is in a much better position to deal with him (Tr. 351). Other expressions of the need for this provision were made by Givens, supra note 22 at Tr. 100; Kass, supra note 41 at Tr. 146; White, supra note 162 at Tr. 326; Haney, supra note 61 at Tr. 511; McKaig, supra note 42 at Tr. 624; Milan, supra note 141 at Tr. 717; Rosenberg, supra note 155 at Tr. 815; Wilbur C. Leatherberry, Legal Aid Society of Cleveland, Ohio, Tr. 852; and Scott, supra note 61 at Tr. 890.

[108] Federal Trade Commission News Release, Feb. 17, 1972.

[107] Typical of the comments of individual consumers were the following: "I strongly support the current efforts to persuade the FTC to make a ruling requiring door-to-door salesmen to state frankly and openly that their purpose is to sell merchandise or services. The endless parade of peddlers with 'gimmick' lines and 'door openers' constitute a tiresome nuisance that I feel most people would like eliminated. The primary objection most people have to such techniques is that they waste the prospective customer's time. It is very maddening to have from 5 to 30 minutes of one's time taken up by some disguised salesman before one is even given the opportunity to say no • • •. These salesmen certainly have a right to sell their products, but they do not have a right to take up inordinate portions of my time with their devious antics." (R. 1980.)

"I wish to strenuously object to the deletion of the requirement of the so-called door opener provision.

"As a consumer, and a fairly frequent target of door-to-door salesmen, I can think of nothing more annoying, and misleading to the unwary, than the almost universal technique of the salesman representing himself as anything but a salesman. He comes to one's door as a government official, a survey taker, a friendly neighbor, a community representative to 'welcome' one to the community—his (and her) guises are both legion and obnoxious.

"I can see no reason to eliminate this provision • • •." (R. 2026.)

"If you really knew how severely aggravating it is to have to listen to a heart warming story of public service poll taking • • • only to be blasted with the fast curve when the sales pitch gets thrown, you would not have relaxed this rule—you would have tightened it • • •. As a taxpayer I demand that you make them declare their sales intent • • • right from the beginning." (R. 2423.)

[108] In its statement the National Consumer Law Center said:

"We strongly object to the omission of the 'door-opener' provision which was included in the original proposed rule. This provision made it an unfair and deceptive act or practice to fail to '• • • expressly reveal, at the time the seller initially contacts the buyer or prospective buyer and before making any other statement or asking the buyer any question, that the purpose of the contract is to effect a sale, stating the goods or services which the seller has to offer.'

"Omission of this provision will substantially weaken the impact of this rule. Important as the right of cancellation is, it is far better to avoid an unwanted sale in the first instance. A standard sales practice among many door-to-door businesses is to gain entrance to the buyer's home through deception. Typically, the salesman falsely represents that the consumer has won a prize or that he is taking a survey or giving away free merchandise. Once he is inside the door, the customer is at the mercy of the salesman's high pressure tactics. The consumer often agrees to sign the contract primarily because it is the only available means of getting the salesman out of the house.

"The FTC has recognized the abuses rampant in sales of this kind by proposing a cooling-off period. However, even if persons would take the initiative necessary to cancel under the proposed rule, they still will have suffered the aggravation, inconvenience and invasion of privacy which results when the salesman enters the house under false pretenses. By reinstating the 'door-opener' provision, the Commission will be merely requiring the salesman to be honest. In addition, the salesman's posture will be more equivalent to that of the salesman in a store. The benefit to the buyer will be the opportunity to tell the salesman before he gets into the house: 'I don't want any.'" (R. 2401–2402.)

Donna L. Deaner, Director, Allegheny County Bureau of Consumer Protection stated in her letter: "We question the deletion of the 'door-opener' provision to require salesmen to identify themselves and their product immediately. Typical comments filed here are:

"'I thought he was from the Veterans Administration. An hour later I found out that he was selling cemetery lots.'

"'The young man said he was taking a survey. He said he wasn't selling anything, but he finally tried to sell me subscriptions.'

"'He said he was from the gas company to inspect my furnace. Then he tried to sell me a new one.'

"Without the 'door-opener' provision, a commonly used deceptive practice is left unregulated. Consumers shopping for goods and services in the marketplace know that they are in a position to be sold. In dealing with salesmen at the door, a consumer has the right to also know his position. Since door-to-door sales transactions are usually riskier ventures than other methods of buying, the consumer needs more protection and information to make rational economic choices in this situation." (R. 2426–2427.)

Mr. Robert Porterfield, Coordinator, Consumer Protection Office in the Seattle mayor's office reported that a recent study of door-to-door magazine solicitors had disclosed the use of a number of deceptive door openers including: "• • • the standard line of earning points for competition in anything ranging from trips to Europe to college scholarships." (R. 2432.)

The attorney general of Wisconsin wrote: "We simply want to take this opportunity to express our displeasure with the elimination of the 'door-opener' provision. It is our feeling that such a provision would be of great value in equalizing to some extent the relative positions of the salesman and the consumer during the bargaining process. It is simply one step toward disclosing to the consumer all of the information which should be available to him when he is contemplating an investment. Although it is true that this provision places an affirmative burden upon the seller, it is our position that the burden is a small one compared to the possible benefits." (R. 2435.)

Similar objections were voiced by the Chicago Area Consumer Advisory Board to the Federal Trade Commission (R. 2465), and by Martha L. Dinerstein of the New York State Consumer Protection Board (R. 2429).

The Opinion Research Corp. objected to elimination of the door-opener provision on other grounds. They said this action would once again open the way for salesmen to represent themselves at the door as being engaged in survey research rather than in the sale of products or services. It added that this was not only unfair and deceptive but also caused considerable difficulty to those actually engaged in legitimate survey work.[109]

The Direct Selling Association also expressed the need for a general door-opener provision in the rule which would prohibit deception at the door. It rejected as inadequate a narrow requirement for the mechanical recitation of specific words in the manner provided in the proposed rule,[200] and reiterated the alternative proposed by the ad hoc committee that the Commission include in the rule a prohibition of the use of any plan or ruse to gain admission to a prospective buyer's home or to disguise the purpose of any call at the door.[201]

Despite the record support for the establishment of a requirement for salesmen to disclose their identity and purpose when they first appear on the doorstep, and while there is certainly no reason to condone the employment of the described ruses and various forms of deceit used by door-to-door salesmen to gain entrance into the home, the Commission views the cooling-off rule as intended to give the consumer a self-executing defense against high-pressure salesmanship by enabling him to cancel a purchase which, upon reflection, he believes to be unwise. In keeping with this premise it is believed that the rule should contain only those provisions which are necessary to make it effective. It should not be treated or used as a piecemeal effort to correct a few of the more flagrantly objectionable practices of direct sellers. If additional regulation of this industry is necessary, the Commission will address itself to the problem of identifying the commonly used illegal practices and devise measures necessary to eliminate them. Such practices might include, in addition to deception at the door, misrepresentations as to the quality and nature of the consumer goods and services sold, deceptive pricing, and misuse of the word "free".

Although the Commission has determined that a door-opener provision should not be included in the rule, direct sellers should note that door-opener provisions are appearing with increasing frequency in proposed orders against door-to-door sellers, and that these may be more stringent than the provisions included in the proposed rule.[202]

J. *Arbitration clause.* In paragraph (c) of the proposed rule, the seller is required to include in every door-to-door sales contract a provision whereby he agrees to arbitrate any dispute arising under the contract at the buyer's option and also to submit to the jurisdiction of the buyer's place of resident. This proposal that the seller agree to submit to arbitration at the option of the buyer was enthusiastically received by some consumer representatives who said that it would provide the consumer with a means of avoiding the large costs inherent in legal proceedings.[203]

Mr. Robert Coulson, executive vice-president of the American Arbitration Association, said that the arbitration provision in the proposed rule was incomplete since it did not require the seller to include an enforceable arbitration provision in the contract. An agreement to arbitrate, standing alone, forces the moving party into court to obtain an order directing arbitration. He suggested, therefore, that the rule be amended to require the designation of an impartial agency, such as the American Arbitration Assoication as arbitrator. This would require the dissatisfied buyer only to file with the local regional office "an intention to arbitrate." He expected that the minimum filing fee of $50 could be drastically reduced if an appreciable number of cases involving small amounts of money were filed.[204]

[109] R. 2413.

[200] R. 2227.

[201] R. 793.

[202] See for example, *Time Inc., et al.*, Docket C–1919; *Subscription Bureau Ltd., et al.*, Docket C–2150.

[203] Kass, supra note 41 at Tr. 143; White, supra note 162, at Tr. 325, 334, 335.

[204] Tr. 784–785.

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Mr. Coulson advised that the procedure might also be used to resolve disputes which arise out of a cancellation by the buyer, such as the condition of the goods returned and whether he had made them available for pickup by the seller.[205] Mr. Coulson believed the Association could find and make available arbitrators who would be able to understand the legal nuances of the door-to-door sales transaction. He cited the fact that the Association's initial efforts in bringing arbitration to the consumer had been successful. By way of illustration he pointed to the widespread use of arbitration in automobile accident cases involving uninsured motorist coverage, domestic relations cases, rug cleaning contracts in New York City, and various disputes in the black communities of Philadelphia and Washington.[206] Mr. Coulson also said that while attorneys were used in 95 percent of the commercial arbitration cases where the issues were relatively complex, he saw no need for the use of attorneys on the part of consumers who were capable of representing themselves adequately.[207] In response to a question as to how long it would take to establish procedures necessary to provide arbitration in door-to-door sales transactions, Mr. Coulson said the Association could go to work immediately.[208]

Contrary to the picture painted by Mr. Coulson, the record reflects some misunderstanding of the nature of arbitration,[209] and doubt as to whether the consumer would understand it and be able to make effective use of the procedure particularly if he sought to do so without an attorney.[210] In addition, there is the problem of costs. The Chairman of the Advisory Council for Chicago of the American Arbitration Association said it would be impossible for the Association to handle and provide arbitrators for a substantial number of cases without receiving some sort of minimum charge.[211]

[205] Tr. 786.
[206] Tr. 789–791.
[207] Tr. 793.
[208] Tr. 794.
[209] Some consumer representatives thought that it was a completely informal procedure: "• • • the attorney • • • arbitrated both between my client and the seller for what seemed to be reasonable settlement." (McCarthy, supra note 155 at Tr. 680.) "As to the paragraph on arbitration I would have this question: Does this preclude the buyer from bringing a law suit for damages. In other words, is this an estoppel so to speak?" (Milan, supra note 141 at Tr. 718.)
[210] "I think that maybe more protection can be accorded to unsophisticated buyers and low-income consumers if this paragraph were left out, because I think that the arbitration in this context can put the unsophisticated consumer in an environment where he may feel intimidated." (Shuman, supra note 164 at Tr. 171–172.) "The consumer who can afford no lawyer or supporting witness will still feel at a disadvantage in an arbitration proceeding against a company which has both." (Ross, supra note 156 at Tr. 880.) Mr. Kass, supra note 41 at Tr. 150 and Mr. Halliburton supra note 188 at Tr. 566 also expressed doubt as to the practicability of the provision.
[211] Harry D. Green, Tr. 596.

The Chairman of the Committee on Arbitration of the Federal Bar Association, while praising the provision for arbitration in the proposed rule, also indicated that it would be unfair to expect a permanent arrangement whereby individual arbitrators would serve without fee. He thought that arrangements could be made to minimize these costs if a central place and scheduled times could be made available for this purpose.[213] It was also suggested that if the seller were required to pay the costs of arbitration regardless of the outcome he could spread these costs among all consumers by raising the price of his product or services.[213]

The record in the proceeding has established that consumers are frequently misled by door-to-door salesmen with respect to the nature of the goods and services being sold and as to the terms of the sale. Granting them the right to seek arbitration as a means of redress might in many instances be of benefit to them. Resort to arbitration, however, would not be a panacea; it would still require some initiative on the part of the buyer to invoke this process and competent presentation of the buyer's case if a favorable decision is to be expected. The record does not indicate that a buyer would be more likely to resort to the arbitration process than he would to small claims courts, or that he would be more successful in the former forum than in the latter.

The possibility of using arbitration to resolve issues between consumers and those from whom they buy is worthy of serious exploration and study. However, an attempt to adopt such a procedure before the plans for its use have been formulated, the necessary administrative support provided, and the costs ascertained is certain to fail. In view of these considerations the rule does not contain the arbitration provision.

The second requirement in this paragraph that the seller submit to the jurisdiction of the buyer's place of residence was not the subject of very much comment. Perhaps this was because under normal circumstances the long-arm statutes of most States would result in the seller being subject to the jurisdiction of the courts of the State in which the contract or the sale was made.[214] Although this provision of the proposed rule was approved by consumer representatives,[215] it was not the subject of comprehensive comment in which the various procedural complexities which might arise were considered or addressed. Suffice it to say, in those States which do not have long-arm statutes, procedural devices to make the provision effective would have to be included in the rule.[216] It should also be remembered that as was the case with respect to arbitration, a lack of data and more specific information would make the inclusion of such a provision in the final rule premature at this time. For these reasons this provision was omitted from both the revised proposed rule and the final rule.

K. *Lengthening the cooling-off period.* There were many suggestions that the length of the cooling-off period established in the proposed rule was too short. The most common suggestion was that the cancellation period be extended to 5 days, in order to permit the consumer more time to gather information respecting the wisdom of the purchase, to allow for the possible absence of the husband on a business trip, or for consultation with a more knowledgeable member of the family or friend who did not live in the home.[217] It is undeniable that a longer cooling-off period would be of benefit to the buyer. However, sellers must be able to operate their businesses with some degree of certainty; and in the light of the adoption of the 3-day period by 19 of the States and in the Uniform Consumer Credit Code, the record does not justify the extension of the period.

Another suggestion was that the period should not begin to run until after the goods or a substantial part of them had been delivered or the services performed.[218] This would permit the consumer to determine whether there had been any misrepresentation with respect to the nature, quality, or other characteristics of the goods or services. While misrepresentation of the characteristics of the merchandise or service can be detected only after delivery or performance, an extension of the cooling-off period to insure detection of misrepresentation by the buyer would introduce an intolerable degree of uncertainty into the finality of

[212] David Shipman, Tr. 734.
[213] Joan E. Gestrin, a student at the Northwestern University School of Law, Tr. 577.
[214] "The proposed requirement that the seller must submit to the buyer's jurisdiction is in most States a foregone conclusion under normal circumstances • • • because of the • • • long-arm statutes. We believe it is unwise to attempt to codify in Federal agency regulatory proceedings • • • State law, or court interpretations thereof • • •." (Letter, National Retail Merchants Association, R. 1331.)
[215] Shuman, supra note 164 at Tr. 172.
[216] "• • • neither the fact of that inchoate jurisdiction nor the provision of a contract can make an absent party subject to the personal jurisdiction of a court without implementing procedural devices • • •." (Views and Argument of Crowell, Collier and Macmillan, Inc., R. 1861.)
[217] In urging the adoption of a 5-day cooling-off period Senator Moss said, "But, it seems to me there are three interests which have to be balanced • • • one is the buyer's interest in rescinding undesirable purchases and, second, the legitimate businessman's interest in finalizing a financed sale and the buyer's interest in receiving goods which he still wants and which he ordered." (Tr. 32.) Donald Elberson, executive director Consumer Assembly of Greater New York agreed, "We are also concerned wtih the 3-day period thinking it too short for the consumer to gather information for real decisionmaking" (Tr. 58); as did Mrs. Theresa Clark, a spokesman for the United Planning Organization, "A 5-day cooling-off period would be more desirable." (Tr. 348.) See also Tr. 635–638.
[218] "In many cases he doesn't know what a rotten deal he has got until he actually receives the goods and sees exactly what it is he has purchased. This is especially true in the case of services where the services are never rendered or rendered in a very very slipshod manner." (Fritsch, supra note 32 at Tr. 526.) Senator Moss said, "Finally, let me touch on a problem area that is not at all affected by the current proposal. It is the door-to-door sales order where the contract is signed, but the merchandise delivered at a later date. By then the cooling-off period may have run out. If the merchandise is defective, if it doesn't measure up to the salesman's claims, or if it is unsatisfactory in any other way, the consumer is no longer protected. If the debt has been assigned to a finance company, the holder in due course doctrine will prevent the customer from any effective remedy. Fortunately, the Commission has recognized this latter problem and proposed a regulation governing holder in due course • • •." (Tr. 41.)
[219] The National Consumer Law Center is the national backup center for OEO's Legal Service Projects in the area of consumer protection. See R. 841, 844.
[220] Tr. 203, 211.

the transaction. It can be argued, of course, that any cooling-off period which delays the finality of a door-to-door sale presents bookkeeping problems for sellers. If the goods are delivered a day or two after the contract is signed, the extension of the cooling-off period would not appear to be a significant added burden. However, there may be direct sellers who, by the nature of their business, may not be able to deliver goods sold door-to-door for a month or more and indeed some contracts may envision partial deliveries, or the performance of services over an extended period of time. A provision extending the cooling-off period until after delivery of the goods may have a severe impact on them. In short, while such a provision would be of obvious benefit to consumers in some transactions involving unscrupulous sellers, the probability and degree of disruption of industry transactions, and the legal complexities which might arise, appear to be of such a magnitude that adoption of the provision is not warranted.

L. *The proposal for affirmative approval.* A spokesman for the National Consumer Law Center of Boston College Law School recommended the proposed rule be changed to provide that a door-to-door sale would not be final and binding upon the buyer until he had affirmed his desire to purchase by mailing a notice to that effect to the seller.[219] He pointed out that in many transactions in which the buyer signifies his acceptance by signing a contract, the contract is not legally binding because the seller has executed it subject to approval in order to give him time to make a credit check on the buyer. He said that because of this, as well as because the buyer in the home is at such an obvious disadvantage that his ability to make a knowing and conscious choice is seriously impaired, no violence would be done to the accepted principles of contract law.[220] This proposal was supported by a number of consumer representatives.[221]

The requirement for affirmative approval rather than affirmative cancellation would lessen the likelihood of the consumers making an unwise purchase from a door-to-door salesman. On the other hand industry representatives said that such a provision would inject a large element of uncertainty, delay, and confusion into the transaction.[222] Until it is proven that the more moderate relief of a cooling-off period is ineffective, we have concluded that this extension of the proposed rule is not justified.

M. *Proposal for penalizing seller for noncompliance.* In its comments on the revised proposed rule, the National Consumer Law Center recommended an amendment to the rule which would provide that the cooling-off period would not commence until the consumer had been given the required notice.[223]

While this proposal has merit, it should be remembered that this is a trade regulation rule and not a statute. The failure to deliver the required notices at the specified time would constitute a violation of the rule. The incorporation of a remedy or punishment in the rule for a prospective violation does not appear either appropriate or necessary. To make the requested amendment would have the effect of telling the seller that if you don't comply with the rule now you may have to do so at a later time and under more onerous circumstances. This could lead logically to not one but two violations of the rule, i.e., one for failing to give the notice at the proper time, and two for failing to accord the right of cancellation for 3 days following the actual giving of the notice. In any event enforcement of the rule would depend upon the corrective processes available to the Commission and the fashioning of an appropriate order to insure that future violations did not occur. It would appear that an extension of the cooling-off period in the manner suggested might well be placed in the order against one who had violated the rule. The necessity for including such an anticipatory remedial provision in the rule is not established in the record.

N. *Preemption of State law.* In support of its view that the rule promulgated by the Commission should occupy the field and make it unnecessary for the direct seller to comply with State laws, the industry ad hoc committee proposed in paragraph 4 of its alternative rule the following provision:

4. Preemption:
This Trade Regulation Rule shall supersede any provision of law, regulation, or ordinance of the States and political subdivisions thereof which differs from the provisions hereof.[224]

The reasons for the very serious concern of industry members about the preemptive effect of the trade regulation rule were set forth by Ira Millstein, Esq., who spoke on behalf of the Association of American Publishers, Inc.[225] This concern is based upon the difficulty of complying with the differing provisions of State cooling-off laws and of the expected problems of determining whether compliance with the rule in transactions to which it is thought applicable would make it unnecessary to comply with a conflicting or different State law.[226]

In a separate memorandum submitted on behalf of the Association of American Publishers,[227] a comparison of the 25 State statutes regulating door-to-door or home solicitation sales is set forth. It was accompanied by an outline showing the provisions of State laws with respect to:

1. Time within which the buyer may cancel.
2. The type of sales covered.
3. The notice of rights and format.
4. Method of cancellation.
5. Return of payment provisions.
6. Penalty or service charge for cancellation.
7. Procedure for the return of the seller's goods.
8. Cost of returning sellers' goods.
9. Sellers' obligations respecting traded-in goods.
10. Forfeiture of sellers' goods.
11. Exempted transactions.

The memorandum and outline show striking differences and inconsistencies in the State laws, ranging from the length of cooling-off periods to the types of sales covered and methods of cancellation. The differences are so great that it is doubtful, except perhaps in the States which have adopted the Uniform Consumer Credit Code, whether a contract or procedure used in one State could be used in another. Additionally,

[221] Elberson, supra note 61 at Tr. 58; Halliburton, supra note 188 at Tr. 561–562; McKaig, supra note 42 at Tr. 621; Preloznik, supra note 189 at Tr. 698–699.
[222] Ross, supra note 156 at Tr. 872.
[223] "A final suggested revision of the provisions relating to cancellation concerns the running of the 3-day period. The proposed rule should adopt the procedure used in the cancellation provisions of Truth-in-Lending. Under that statute, the 3-day period does not start to run until the consumer has received all of the material disclosures required by the Act (15 U.S.C. 1635)." (R. 2403.)
[224] R. 794.
[225] Tr. 284–303; R. 858–877.
[226] "To say that chaos and hopeless confusion will exist is to understate the results. No one really knows • • • whether the rule rescinds the State laws or whether the State laws are superior to the rule • • •. Since the conflicting terms of the State statute make it impossible for an interstate seller to comply with both the statute and the rule, he is forced to operate at his peril no matter which he chooses to follow • • •." (Views and Argument of Crowell Collier and Macmillan, Inc., R. 1855.)
[227] R. 1789–1811.

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it is unlikely that compliance with the proposed rule would result in the seller being fully in compliance with the law of the State in which the sale was made.

Certain industry spokesmen say that the advantages of uniform Federal regulation in this area are clear and cite the following as the most significant:

1. The consumer would be aware of his rights on a national basis; if he moved from one State to another, his rights of cancellation would not be changed.

2. Members of the industry could devise a contract and cancellation procedure which would be applicable throughout the country and hereby avoid a considerable expense.

3. A uniform rule would make it much easier to train and to retain salesmen.

4. Internal administrative controls necessary to insure compliance with the cooling-off procedure would be greatly simplified.

5. The reduced cost of compliance could be expected to encourage industry members to comply fully with the law and at the same time lessen the distribution costs which are ultimately passed along to the consumer.[228]

Despite their doubts as to the authority of the Commission to promulgate this rule, industry representatives are most insistent that if it is promulgated, the Commission must include a specific provision as to the preemptive effect of the rule. They go on to say that harmonization of requirements is one of the principal responsibilities of the Commission and that if such a provision is not included, it will pose extreme difficulties for the industry, particularly with respect to the smaller companies operating in more than one State. In accomplishing this preemption industry wants the Commission to state clearly and specifically that it intends to occupy the field and thus leave no room for State regulation.[229] As a precedent for this approach industry cites the action of the Federal Reserve Board in promulgating Regulation Z under the Consumer Credit Protection Act, 15 U.S.C. section 1601, wherein it provided in section 226.6(b) of that regulation, among other things that State law will be inconsistent to the extent that it requires disclosures "different from" the requirements of Regulation Z with respect to form, content, terminology, or time of delivery.[230]

Industry urges that if the Commission does not believe that it has the authority to occupy the field, and prescribe uniform cooling-off procedures of nationwide applicability that it should so inform Congress and recommend that appropriate legislation be enacted for this purpose, including language such as that used in S. 1599 of the 90th Congress.[231]

In this connection it should be noted that section 7 of the bill stated:

> This Act shall not be construed to annul, or exempt any seller from complying with, the laws of any State or municipality regulating door-to-door selling, except to the extent that such laws, if they permit such selling, are directly inconsistent with the provisions of this Act.

The foregoing provision would indicate that in the opinion of its drafters the bill pertained to matters which were subject to both Federal and State regulation. In this area the decisions preclude State legislation only where there is a direct and positive conflict between the statutes to the extent that they cannot be reconciled and stand together, or where there is thought to be a congressional intent to occupy the field to the exclusion of State law on the same subject matter.[232]

It has also been held that the laws of a State must yield if they are incompatible with Federal legislation or with rules and regulations issued pursuant to authority delegated by Congress.[233] However, the mere grant of authority to a Federal agency of power with respect to a certain subject matter does not, in itself, supersede State law or prevent a State from making and enforcing regulations on the same subject matter.[234] It is only after the agency has acted and issued regulations which conflict with State law that the latter would be superseded, and then only to the extent that they conflict.[235]

It is apparently in recognition of these principles that the industry is so insistent upon a clear expression of an intent by the Commission to occupy the field. Thus the question becomes not so much whether the Commission has the power to supersede State laws and regulations, but whether it should.

In the past the Commission has recommended and encouraged the enactment of State and local laws, patterned after the Federal Trade Commission Act, in order to enlist the resources of the States in the constant battle to protect the consumer from unfair and deceptive trade practices. This policy was premised on the hope that the States would have the weapons they needed to combat business practices which were beyond the reach of Commission jurisdiction, and perhaps to exercise greater powers with respect to businesses which might be subject to the jurisdiction of both the Commission and the States. However, apparent inconsistency between State and Federal regulation does not always result in the former being struck down. Thus in Swift & Co. v. Wickham, 364 F. 2d 241 (2d Cir. 1966), the court held that a Federal poultry labeling regulation did not preempt a more detailed and stringent New York State regulation prescribing the manner in which poultry products in that State should be weighed, measured, and labeled.

It would seem that the Commission should not abandon its policy of cooperative and complimentary actions with the States in the matters covered by this rule in the absence of cogent and compelling reasons for doing so. If the State cooling-off laws give the consumer greater benefit and protection in regard to notice, time for election of the cancellation remedy, or in transactions exempted from this rule, there seems to be no reason to deprive the affected consumers of these additional benefits. On the other hand in those States which do not have cooling-off laws, or which have laws which do not accord the consumer protection and benefits provided in this rule, the rule would supply the needed protection or be construed to supersede the weak statute to the extent necessary to give the consumer the desired protection.

It would also seem that a relatively clear expression of the Commission's intent with respect to preemption would be helpful and better define the issues for judicial review should this be forthcoming.

Accordingly, note 2 to the revised proposed rule contained a statement expressing the Commission's view of the effect of the rule upon State statutes. Simply stated, note 2 provided that, with respect to transactions subject to the rule, the seller should accord the consumer the greater of the benefits provided by the rule or by the law of a State or political subdivision thereof which may also be applicable to that particular transaction.

The additional comments submitted on the revised proposed rule again reflected the serious concern of industry members as to the effect of the rule in the light of State statutes and municipal ordinances which contain cooling-off provisions. The most recent compilation of the Direct Selling Association shows that 31 States, the District of Columbia, and nine cities have such legislation.[236]

Industry members did not believe that the statements in note 2 provided solutions to the problems they anticipated would arise under State laws which imposed different requirements from those set forth in the rule.[237] One suggested solution was for the Commission to make the rule applicable only in those States which did not have a cooling-off law.[238] Another was that the Commission follow the procedure of Regulation Z and permit those States which had requirements substantially the same as those embodied in the rule to apply for exemption.[239]

Again, industry urged that it was the duty of the Commission to prempt State laws and municipal ordinances in order to achieve uniformity.[240] The proposal most strongly supported by industry members was that the Commission should, in the Notes accompanying rule, state clearly and explicitly that it intended the rule to preempt as to the form of the notice to be given the consumer and as to the method and manner of the exercise of the cancellation right.[241]

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[228] Tr. 290–291.

[229] Id. at 286,297, citing Pennsylvania v. Nelson, 359 U.S. 497 (1956).

[230] Tr. 299.

[231] Tr. 302.

[232] Southern Pacific Co. v. Arizona, 325 U.S. 761, 766 (1945; Head v. New Mexico Board, 374 U.S. 424, 431 (1963).

[233] Free v. Bland, 369 U.S. 663, 668 (1962).

[234] Southern Pacific Co. v. Arizona, supra, note 232 at 765; Florida Lime & Avocado Growers, Inc. v. Paul, 373 U.S. 132, 141, 143–144 (1963).

[235] Sperry v. Florida, 373, U.S. 379, 385 (1963); Free v. Bland, supra, note 233 at 668.

[236] R. 2229–2237.

[237] "There is one final area of concern to Sears and other large companies which do business in interstate commerce. That concern is the problem of complying with a Federal regulation of door-to-door sales as well as with 22 different State requirements and numerous other local ordinances on this same subject. As presently drafted note 2 of the rule would not alleviate this problem, but rather would add to the burden. Note 2(b) states that the Commission's rule will not preempt State and local requirements unless 'directly inconsistent' with the Commission's rule. This subsection then lists three types of provisions which would be considered 'directly inconsistent,' i.e., not providing a 'substantially the same or greater' right to cancel than provided in the rule; permitting a cancellation fee or penalty, and not requiring a notice to the buyer 'in substantially the same form and manner' as required in the rule. As a result it would appear that only State or local provisions which require less than 3 days 'cooling off' or permit a cancellation fee would be preempted." (Letter, Sears, Roebuck & Co., R. 2130.)

"We very much regret the Commission's decision (to) issue a rule which does not preempt the field of regulation of door-to-door sales. If the Commission's rule is adequate protection in States with no regulation of such sales, the rule is also adequate protection in States with stricter regulation. The addition of an FTC rule to the plethora of existing State regulations will merely confuse both buyers and sellers, and increases the cost of doing business without providing buyers with any additional important protection." (Statement on behalf of the Water Conditioning Foundation, R. 2287.)

"Another area of great concern is the extensive, wordy, involved and confusing clauses where it would appear necessary to have precise wording as required by the Federal Trade Regulation Rule and an almost exactly similar meaning but differently worded State requirement, as per the enclosed California clause. This State requirement, being not inconsistent with the T.R.R. requirement only different in the precise wording required. We will end up with a contract so long and involved that the customer probably won't read any of it. We urge strongly that compliance with the T.R.R. provide exemption from the need for duplicate clauses meaning the same thing. Where State requirements exceed the T.R.R. then require the additional wording only covering the excess point(s)." (Letter, Publishers Productions, Inc., R. 2317–2319.)

"We are very disappointed to find that the revised proposed rule does not seem to preempt State and municipal cooling-off requirements. If the Federal cooling-off requirement does not supercede those established at other levels of government, and sellers must simultaneously comply with several such similar but differing requirements, great confusion, and many complications will result. We strongly recommend that the proposed cooling-off trade rule provide for the preemption of all State and municipal cooling-off requirements." (Letter, National Institute of Locker & Freezer Provisioners, R. 2279.)

"Note 2 of the proposed rule discusses the problem of preemption, but does nothing to solve the problem. The rule should contain an affirmative statement that compliance with this rule will exempt any seller from complying with the laws of any State or any political subdivision which legislates in the same area." (Letter, National Association of Installment Cos., Inc., R. 2336.)

"We are not at all certain of the exact meaning of the two 'preemption' paragraphs which appear on page 5 of the proposed rule. In paragraph (a) the Commission states that it is aware of the burden imposed by inconsistent statutes but that it believes that this disadvantage is outweighed by the need to have 'joint and coordinated efforts of both the Commission and State and local officials.' Then, in paragraph (b), the Commission purports to 'annul' laws or ordinances which 'are directly inconsistent with the provisions of this rule.' The paragraph then goes on to describe several ways in which a State statute will be considered inconsistent." (Letter on Behalf of Crowell Collier and Macmillan, Inc., R. 2417–2418.)

[238] If the Federal Trade Commission believes it is not justified in preempting this field of regulation (which action would simplify matters for sellers) then we suggest that, to avoid the confusion of duplicate and different NOTICES, the Federal Trade Commission modify the applicability of its proposed Rule, so that the Rule applies only in those States (as determined by the Commission) whose own regulations on the subject are less stringent than the proposed Rule, or nonexistent." (Letter, International Telephone & Telegraph Corp., R. 2345.)

[239] Letter, American Credit Corp., R. 2343–2344.

[240] "Dart Industries has gone on public record in support of the Commission's proposed trade regulation rules on cooling-off and franchising because we believe both the consumer and business benefit from clearly defined rules of fair methods of competition which are applicable to all businesses in an industry. We are deeply disappointed, therefore, to learn that the Commission will refuse to preempt conflicting State and local news.

"The principal justification for the Commission to have rulemaking authority is to provide certainty and uniformity in the application of its policies. But without preemption, trade regulation rules have neither certainty nor uniformity. We believe both the consumer and business deserve a Commission willing to exercise the full limit of its authority—in preemption of conflicting laws, as well as in rule-making." (Letter, Dart Industries, Inc., R. 2135.) See also, letter, Miller Stormguard Corp., R. 2168.

In its statement Field Enterprises Educational Corp. said: "We strongly urge the Commission not to abandon its Federal responsibility in the area of form, even if it is intent upon permitting continued State and local regulation on all matters of substance. We urgently request deletion of the word 'substantially' from Note.2, Paragraph (b) if that is necessary to avoid this confusion, and the deletion of the word 'substantially' from the Revised Proposed TRR's opening paragraph (a) as well if that will further this objective." (R. 2247.)

[241] "We are specifically troubled by the statement with respect to the form of notice to the buyer of his rights. To the best of our knowledge there is not one form required in any of the 22 States which now have door-to-door sale laws which could be classified 'substantially the same.' The practical effect of such a provision is that interstate businesses will have to provide two forms of notice in these 22 States, and in some municipalities in those States the buyer will be given three forms of notice. This is obviously inimical to the concept of providing consumers with useful information as to their rights. This can only lead to confusion.

"We suggest, therefore, that either the Commission preempt all State and local door-to-door sale requirements except those which provide greater protection, such as requiring more than 3 days 'cooling off' or applying the requirement to sales amounting to less than $25, or, at the least, amend the phrase in Note 2(b) dealing with the form of notice to the buyer to read:

> • • • or which do not provide for giving the buyer notice of his right to cancel the transaction in exactly the same form and manner provided for in this section • • •

"The effect of such an amendment with respect to the form of notice would be to assure that only one form of notice will be given to consumers. This will not only reduce administrative problems and expense on the part of door-to-door sellers, but will reduce confusion on the part of consumers and thus make this rule a much more valuable consumer protection regulation." (Letter, Sears, Roebuck and Co., R. 2130–2131.)

Field Enterprises Educational Corp., concurred in this recommendation: "FEEC's other major concern relates to the question of preemption. We recognize that the Commission has decided against total preemption of all State and local action in this area, however logical and desirable the resulting economies and ease of enforcement might be from the consumer point of view. Thus State and local governments will still be free to license or ban door-to-door salesmen, to regulate their statements at the door, to impose a cooling-off period of more than 3 days, to apply the right of cancellation to sales under $25, and to promulgate other substantive regulations in this area. But nothing can be accomplished except needless expense and confusion by the Commission's failing to preempt as to form.

"Whatever the Commission finally decides on the questions raised earlier in this statement, it should promulgate the best possible requirements as to form that give the consumer all possible protection. Once that is done, what is to be gained by requiring a seller to print another separate notice for Hawaii stating that cancellation must be by certified mail, return receipt requested, another one for Indiana which words the caption differently, still another for New Hampshire, which requires 12 point type, and another for Arizona, if it passes the pending bill requiring a different colored notice, and another for New York, where the notice must be on a perforated card, and still another for Connecticut, with its far wordier notice, and another for Columbus, Ohio, where goods must be picked up 10

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The Commission remains of the view that it is essential to have State cooperation and assistance in insuring that consumers were provided with a cooling-off period in door-to-door sales by State legislation and enforcement and that the preemptive effect of the rule should be limited to the provisions of State laws which do not accord the consumer protection and benefits equal to or greater than those provided in the rule. Critical industry examination of this concept shows that it may well result in almost every case in the consumer being furnished with duplicate notices of his right to cancel the sale—one in compliance with the applicable State law, the other meeting the criteria expressed in the rule.[242]

While this may be considered unwise by some, outright preemption of State laws, assuming for the moment that the Commission has the authority to do so, would in effect take the States out of the business of enforcing cooling-off provisions except in those transactions not subject to the Commission's jurisdiction. This solution would not be satisfactory.

The suggestion that the Commission exempt from the requirements of the rule transactions in those States which have laws substantially the same as the rule, would on its face appear to provide some relief. However, it is doubtful whether any State could satisfy this criterion.

The suggestion that the Commission preempt as to the form of notice to be given the consumer and as to the method and manner of the exercise of the cancellation right is equally unacceptable. Its adoption would in fact result in a preemption of virtually all of the provisions of State laws as these laws largely require that the sales contracts include specific language designed to inform the consumer of his rights and obligations under the applicable State law. Without such provisions the State laws would become hollow shells and virtually ineffective.

At the time this proceeding was initiated only 14 States had enacted cooling-off laws. Now, as pointed out above, over two-thirds of the States have such laws. Based on their experiences under their respective laws, State legislatures have shown little hesitation in adopting amendments for the purpose of refining the initial enactments to provide the consumer with greater protection.[243] While a number of these statutes do not afford the consumer the same degree of protection as the rule, they are consistent in that they accord the consumer the unilateral right to cancel the transaction—which is the principal purpose of the rule. While the mechanics of the rule, i.e., those provisions which are designed to insure that the consumer is informed of the cancellation right, told how to exercise it, and advised of the rights and obligations of the parties following cancellation are not of paramount importance, it is in this area that the dual compliance with the requirements with the rule and the various State statutes becomes most difficult. For example, there would be little difficulty in harmonizing the varying lengths of the cooling-off period provided by State laws with that of the rule. If the State law authorized a 5-day cooling-off period, sellers would be required to comply. If the State law offered only 2 days, sellers would be required to comply with the 3-day period provided by the rule. However, conforming the mechanics of the rule with the mechanics of the numerous State statutes, which authorize the imposition of a fee or penalty upon the consumer who cancels, and which provide for such things as different forms of notices, different methods of cancellation, and different procedures for the recapture of delivered goods, would require the use of so many variables that consistency would become an almost unattainable objective.

It should be recognized that the essential provisions of a cooling-off rule or statute are those which give the consumer a unilateral right to cancel a sale within 3 days, without penalty or fee, and which require that he be informed of this right both orally and in writing. All of the other provisions are ancillary, and it is in this area that the most troublesome differences occur. In the interest of both the consumer and industry it appears that the Commission should seek uniformity in cooling-off procedures at the Federal and State level and encourage the various States to eliminate or change those requirements of their respective laws which are inconsistent with this rule. Accordingly, specific actions designed to promote and foster uniformity will be advised and implemented by the Federal-State Cooperation Unit in the Office of the Director of the Bureau of Consumer Protection.

CHAPTER XII. EFFECTIVE DATE OF THE RULE

Industry representatives originally stated they would need 9 months following promulgation of the rule to change contracts, train sales personnel, adjust computers, and take the other actions necessary to implement the rule following its promulgation.[244]

In the notice which included the revised proposed rule when it was released for comment, industry members and other knowledgeable persons were specifically invited to provide information relative to the length of time industry members would need to make the necessary arrangements to comply with the rule following its promulgation in final form. Industry recommendations on this point ranged from a low of 60 days to a high of 2 years, with perhaps the majority agreeing that 6 months should be sufficient.[245]

Among the factors which it was said should be considered were time to design and print the revised contract forms and notices, distribution of these to the various offices in the field, training of sales personnel in the use of the new forms, and finally a reasonable period to permit exhaustion of the existing stocks on hand.[246]

Encyclopaedia Britannica recommended that the rule be made effective upon promulgation with the understanding that companies who are unable to comply with its provisions be granted a 6- to 9-month grace period.[247]

The view of the Commission which is shared by at least one consumer group [248] is that the rule should become effective as soon as possible but that the practical obstacles to prompt action on the part of most industry members should be recognized by allowing them a maximum of 6 months to comply with the rule.

The Commission has carefully considered whether it would be best to issue the rule in the form of a policy statement or guide, or to issue it in its present form and to defer its effective date. The affirmative requirements of this rule do not lend themselves to either a guide or a policy statement format. Moreover publication of either a guide or a policy statement would not reduce the enforcement problems or enhance the possibility of industry compliance in the interim period. Accordingly, the Commission has decided to promulgate the rule.

In view of pending litigation regarding the Commission's rulemaking authority, the Commission has decided to defer the announcement of an effective date for this rule. It should be noted, however, that this rule constitutes an expression of the Commission's view of what should be the application of section 5 of the Federal Trade Commission Act to door-to-door transactions. The Commission will encourage all States and localities with cooling-off legislation to begin immediately to remove inconsistencies between their cooling-off requirements and the provisions of this rule, in order to remove the burden of compliance with differing requirements at the State and Federal level.

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days after their return is tendered, and so on and on and on?

"No single form could possibly harmonize all of these conflicting requirements. Thus a multiplicity of forms will be required, most likely a separate one for every State and locale with a cooling-off statute. In many instances the State or local form may not be capable of even substantial harmonization with the Federal form, and the prudent seller will feel compelled to give the buyer to conflicting forms." (R. 2245–2246.)

Encyclopaedia Britannica concurred and said: "Indeed, as to matters of form, EB believes that there is an affirmative constitutional mandate that there must be preemption in this case. It has long been a settled principle of constitutional law that there are certain areas of commerce which demand uniformity of regulation and that the lack of uniformity which would result from efforts by local bodies to regulate such areas, even without specific preemptive action at the Federal level, would impose an undue burden on interstate commerce. *E.g.*, Southern Pacific Co. v. Arizona, 325 U.S. 761 (1945); Bibb v. Navajo Freight Lines, 359 U.S. 520 (1959). The decision whether to permit local regulation in such cases is to be resolved by weighing and balancing the competing Federal interest in the unimpeded flow of commerce with the local interests in the subject of regulation (325 U.S. at 770–71). Here it cannot be disputed that the need to comply with a host of conflicting regulations as to the form in which the consumer is advised of his right to rescind a contract in light of the host of actual and potential local cooling-off laws would substantially impede the operation in commerce of the companies who would be subject to the proposed Trade Regulation Rule * * *." (R. 2252–2253.)

[242] Ibid. See also statement submitted on behalf of Crowell, Collier and Macmillan, Inc., wherein it is stated: "We assume that the Commission has adopted this strange position in the belief that by so doing it will gain the enforcement muscle of the State and local authorities. This seems unlikely. Local prosecutors certainly do not have the power to prosecute violators of Federal statutes or even trade regulations rules promulgated by the Federal Trade Commission. If the inconsistent State statute has been 'annulled' (a consequence we seriously doubt), there is nothing left for the local officials to enforce against an interstate seller.

"What happens in the States in which only part of the State statute is inconsistent with the Commission rule? For example, the State of Hawaii permits a cancellation fee. Is the entire State statute annulled or only the cancellation fee? What happens if a State requires notice of cancellation by certified mail, return receipt requested? Is such a statute entirely annulled simply because of this provision?

"The legal problems created by this Commission approach stagger the imagination. The Commission should either 'bite the bullet' and preempt all State legislation or make its rule operative in only those States which do not have cancellation statutes. National sellers are able to cope with a multiplicity of State statutes, but they cannot operate when the Federal and State requirements overlap and no one is certain as to which must be followed. The very least the Commission can do is to analyze all State statutes and local ordinances and publicly announce which are annulled and which remain in full force. The public interest requires no less.

"In closing on this point, we believe that the Commission's fears that complete preemption of all State statutes by the rule would create an enforcement hiatus are unfounded. All sellers big enough to conduct a substantial interstate business will make the required changes in their contracts and procedures. After all, enforcement of this type of rule is inexpensive and uncomplicated. Moreover, this approach has the advantage of leaving the State statutes in full force and effect with respect to intrastate sellers. The jurisdictional lines between State and Federal authorities are preserved, and the entire legal picture is much clearer." (R. 2418.)

[243] Hawaii, Massachusetts, Illinois, and the city of New York are among the jurisdictions which have revised previous enactments.

[244] Tr. 881, R. 794.

[245] Airline Schools Pacific of Van Nuys (R. 2182); National Pest Control Association, Inc. (R. 2284); Direct Selling Association (R. 2225); Ad Hoc Committee (R. 2263); Crowell, Collier and Macmillan, Inc. (R. 2419).

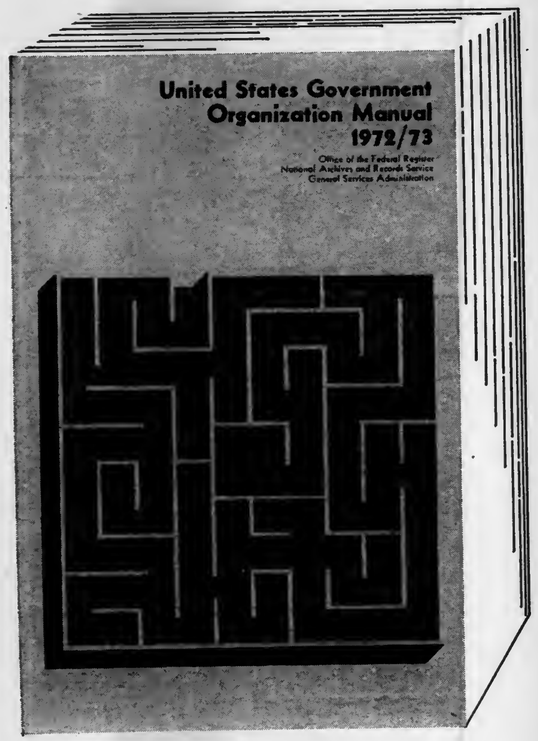
[246] "An effective date, 6 months after promulgation of the Rule, would allow sufficient time to prepare new contract forms, have them printed, and distributed to all sales representatives. It would also enable most companies effectively to reach and train all sales and administrative personnel in the mechanics of operation, as well as the imperative for compliance with the spirit as well as the letter of the Rule." (Stephen Sheridan, vice-president, Electrolux, R. 2180.)

[247] R. 2254.

[248] Virginia Citizens Consumer Council, Inc. (R. 2406).

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FRIDAY, OCTOBER 27, 1972

WASHINGTON, D.C.

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Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Expenses and Rate of Assessment for Fiscal 1972–73

Notice was published in the October 11, 1972, issue of the FEDERAL REGISTER (37 F.R. 21442) regarding proposed expenses of the Filbert Control Board for the 1972–73 fiscal year and rate of assessment for that fiscal year, pursuant to §§ 982.60 and 982.61 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982; 37 F.R. 588), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that the expenses of the Filbert Control Board and rate of assessment for the fiscal year beginning August 1, 1972, shall be as follows:

§ 982.317 Expenses of the Filbert Control Board and rate of assessment for the 1972–73 fiscal year.

(a) *Expenses.* Expenses in the amount of $34,459 are reasonable and likely to be incurred by the Filbert Control Board during the fiscal year beginning August 1, 1972, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said fiscal year, payable by each handler in accordance with § 982.61, is fixed at 0.20 cents per pound of filberts.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal year shall be applicable to all assessable filberts from the beginning of such year; and (2) the current fiscal year began on August 1, 1972, and the rate of assessment herein fixed will automatically apply to all such assessable filberts beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 20, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18329 Filed 10-26-72;8:50 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

[Docket No. 72-570]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f) Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e) (9) relating to the State of Indiana, subdivision (iv) relating to Dubois and Pike Counties is deleted.

2. In § 76.2, in paragraph (e) (3) relating to the State of North Carolina, subdivision (ii) relating to Columbus County is deleted.

3. In § 76.2, in paragraph (e) (11) relating to the State of Ohio, subdivisions (i) relating to Darke County and (iv) relating to Auglaize County are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265 as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f, 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments exclude portions of Dubois and Pike Counties in Indiana, a portion of Columbus County in North Carolina, and portions of Darke and Auglaize Counties in Ohio from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas.

The amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and they should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of October 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18330 Filed 10-26-72;8:50 am]

Title 12—BANKS AND BANKING

Chapter IV—Export-Import Bank of the United States

PART 403—CLASSIFICATION, DOWNGRADING, DECLASSIFICATION, AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION

SEPTEMBER 12, 1972.

A new Part 403 is added to Title 12, Chapter IV of the Code of Federal Regulations to implement Executive Order 11652 (37 F.R. 5209, March 10, 1972) and the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972) pertaining to classification, downgrading, declassification, and safeguarding of national security information and material.

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These regulations have been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and the National Security Council Directive of May 17, 1972. These regulations, as set forth below are effective June 1, 1972.

[SEAL] HENRY KEARNS,
President and Chairman.

Sec.
403.1 Purpose.
403.2 Classification.
403.3 Information or material furnished by a foreign government or international organization.
403.4 Security classification categories.
403.5 Declassification and downgrading.
403.6 Review of classified material for declassification purposes.
403.7 Access and accountability.
403.8 Implementation.

AUTHORITY: The provisions of this Part 403 issued pursuant to Executive Order 11652 (37 F.R. 5209, March 10, 1972), and the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972).

§ 403.1 Purpose.

This part contains regulations for the classification, downgrading, declassification, and safeguarding of national security information and material of the United States.

§ 403.2 Classification.

Official information may be classified only if its unauthorized disclosure could reasonably be expected to result in some degree of damage to the national security (national defense or foreign relations). Each document or item of material to be classified shall be assigned the lowest classification consistent with the proper protection of the information contained therein. If there is any doubt as to which security classification is appropriate, or as to whether the material should be classified at all, designate the less restrictive treatment. Overclassification, the classification of documents on grounds other than national security and the unwarranted exemption of documents from the general declassification schedule, may be the basis for administrative action.

§ 403.3 Information or material furnished by a foreign government or international organization.

Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a U.S. classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

§ 403.4 Security classification categories.

Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(a) *Top Secret.* "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(b) *Secret.* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(c) *Confidential.* "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

§ 403.5 Declassification and downgrading.

Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following rules:

(a) *General Declassification Schedule*—(1) *Top Secret.* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(2) *Secret.* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) *Confidential.* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(b) *Exemptions from general declassification schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case, such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project, or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(c) *Mandatory review of exempted material.* All classified information and material originated after the effective date of Executive Order 11652 which is exempted under paragraph (b) of this section from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of 10 years from the date of origin provided:

(1) A Department or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable the Department to identify it; and,

(3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under paragraph (b) of this section shall be declassified. Information or material continuing to qualify under paragraph (b) of this section shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(d) *Applicability of the general declassification schedule to previously classified material.* Information or material classified before the effective date of Executive Order 11652 and which is assigned to Group 4 under Executive Order 10501, as amended by Executive Order 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of Executive Order 11652, whether or not assigned to Groups 1, 2, or 3 of Executive Order 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin, it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of Executive Order 11652 as set forth in paragraphs (b) and (c) of this section.

(e) *Declassification of classified information or material after thirty years.* All classified information or material which is 30 years old or more, whether originating before or after the effective date of Executive Order 11652, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of Executive Order 11652 shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material which the President and Chairman of the Bank personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the President and Chairman of the Bank shall also specify the period of continued classification.

(2) All information and material classified before the effective date of Executive Order 11652 and more than 30 years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the President and Chairman of the Bank in accordance with subparagraph (1) of this paragraph. In such case, the President and Chairman of the Bank shall also specify the period of continued classification.

(f) *Extracts and compilations.* When classified information or material from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded or declassified in accordance with the provisions of the order and directives thereunder applicable to the information requiring the greatest protection.

(g) *Notification of expedited downgrading or declassification.* When classified information or material is downgraded or declassified in a manner other than originally specified, whether scheduled or exempted, the classifier shall, to the extent practicable, promptly notify all addressees to whom the information or material was originally officially transmitted. In turn, the addressees shall notify any other known recipient of the classified information or material.

§ 403.6 Review of classified material for declassification purposes.

(a) *Systematic reviews.* All information and material classified after the effective date of Executive Order 11652 and determined in accordance with chapter 21, 44 U.S.C. (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by the Bank for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier under section 5 of the order. During each calendar year, the Bank shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year, the Bank, or the Archives of the United States, if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(b) *Review for declassification of classified material over 10 years old.* The Executive Vice President, as Chairman of the Security Committee, has been designated as the office to which members of the public or Departments may direct requests for mandatory review for declassification under section 5 (D) and (E) of the order. Requests for review should be directed to the:

Executive Vice President, Export-Import Bank of the United States, 811 Vermont Avenue NW., Washington, DC 20571.

This office shall, in turn, assign the request to the appropriate office for action. In addition, this office or the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5 of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a, the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Security Committee for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in section 5(B) of the order continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Security Committee and the notice of determination shall advise him of this right.

(c) *Security Committee review for declassification.* The Security Committee shall establish procedures for review and act within 30 days upon all applications and appeals regarding requests for declassification. The President and Chairman, acting through the Security Committee, shall be authorized to overrule previous determinations in whole or in part when, in his judgment, continued protection is no longer required. If the Security Committee determines that continued classification is required under the criteria of section 5(B) of the order, it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(d) *Review of classified material over 30 years old.* A request by a member of the public or by a Department under section 5(C) or 5(D) of the order to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification in accordance with Part II D of the National Security Council directive. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the President and Chairman, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the President and Chairman makes at that time the personal determination required by section 5(E)(1) of the order. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(e) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraphs (b), (c), and (d) of this section, the burden of proof is on the originating Department to show that continued classification is warranted within the terms of Executive Order 11652.

(f) *Availability of declassified material.* Upon a determination under paragraphs (b), (c), and (d) of this section that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

(g) *Classification review requests.* As required by section 5(C) of the order, a request for classification review must describe the document with sufficient particularity to enable the Department to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the

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record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the grounds that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If, nonetheless, the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

(h) *Requests for review.* All requests for review of classified material for declassification purposes should be directed to the:

Executive Vice President, Export-Import Bank of the United States, 811 Vermont Avenue NW., Washington, DC 20571.

§ 403.7 Access and accountability.

(a) *General access requirements.* Except as provided in paragraphs (b) and (c) of this section, access to classified information shall be granted in accordance with the following:

(1) *Determination of trustworthiness.* No person shall be given access to classified information or material unless a favorable determination has been made as to his trustworthiness. The determination of eligibility, referred to as a security clearance, shall be based on such investigations as the Bank may require in accordance with the standards and criteria of Executive Order 10450 and Executive Order 10865 as appropriate.

(2) *Determination of need-to-know.* In addition to a security clearance, a person must have a need for access to the particular classified information or material sought in connection with the performance of his official duties or contractual obligations. The determination of that need shall be made by officials having responsibility for the classified information or material.

(3) *Administrative withdrawal of security clearance.* The Bank shall make provision for administratively withdrawing the security clearance of any person who no longer requires access to classified information or material in connection with the performance of his official duties or contractual obligations. Likewise, when a person no longer needs access to a particular security classification category, the security clearance shall be adjusted to the classification category still required for the performance of his duties and obligations. In both instances, such action shall be without prejudice to the person's eligibility for a security clearance should the need again arise.

(b) *Access by historical researchers.* Persons outside the executive branch engaged in historical research projects may be authorized access to classified information or material provided that the President and Chairman of the Bank determines that:

(1) The project and access sought conform to the requirements of section 12 of the order.

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The historical researcher agrees to safeguard the information or material in a manner consistent with the order and directives thereunder.

(4) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(5) An authorization for access shall be valid for the period required but no longer than 2 years from the date of issuance unless renewed under regulations of the originating department.

§ 403.8 Implementation.

All suggestions and complaints, including those regarding overclassification, failure to declassify, or delay in declassifying not otherwise resolved, shall be referred to the Committee for resolution. In addition, the Security Committee shall review all appeals of requests for records under section 552 of title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under the order.

[FR Doc.72-18381 Filed 10-26-72;8:55 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-CE-32-AD; Amdt. 39-1546]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 60 Series Airplanes

There has been a report that a moisture barrier installed at fuselage station 306.421 on a Beech Model 60 airplane which protects the avionics compartment from water, became loose in such a way that it restricted elevator travel. Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being issued, applicable to Beech Model 60 series airplanes which have the moisture barrier installed, requiring modification of the moisture barrier so as to prevent elevator restriction in the event the moisture barrier comes loose.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Beech Models 60 series (Serial Nos. P-1 thru P-200 and P-210) airplanes which have a moisture barrier at fuselage station 306.421.

Compliance: Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible interference with elevator movement, accomplish the following:

(A) Starting at the cutout for the elevator bell crank, slit the moisture barrier vertically upward utilizing a knife, razor blade or other similar tool. Extend this cut through the Velcro strip which attaches the moisture barrier to the front spar of the horizontal stabilizer.

NOTE: In making the slit do not damage the spar.

(B) Any equivalent method of compliance with this AD must be submitted and approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective October 31, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 17, 1972.

JOHN R. WALLS,
Acting Director, Central Region.

[FR Doc.72-18289 Filed 10-26-72;8:46 am]

[Airspace Docket No. 72-SW-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway

On August 8, 1972, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (37 F.R. 15938) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an east alternate to VOR Federal airway No. 71 between Monroe, La., and Natchez, Miss., via the Alto Intersection.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable. However, the Air Transport Association, Southwest Regional Operations Office, suggested establishing the east alternate on the 327° M radial of the Natchez VOR rather than the 329° M radial as proposed.

Since the difference in distance involved is only 1 mile and since, in utilizing the 327° M radial, the Alto Intersection would be relocated nearer to the existing Rayville Intersection resulting in reduced holding pattern separation, the FAA has determined that use of the Natchez 329° M radial as proposed is preferable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 4, 1973, as hereinafter set forth.

In § 71.123 (37 F.R. 2009) V-71 text is amended by deleting all before "El Dorado, Ark.;" and substituting "From Baton Rouge, La., Natchtez, Miss., including an E alternate via INT Baton Rouge 026° and Natchez 156° radials; Monroe, La., including an E alternate from Natchez to Monroe via INT Natchez 335° and Monroe 103° radials;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 19, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18293 Filed 10-26-72;8:46 am]

[Airspace Docket No. 72-SO-101]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones and Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Bowling Green and Covington, Ky., control zones and the Bowling Green, Ky., and Cincinnati, Ohio, transition areas.

The Bowling Green and Covington control zones are described in § 71.171 (37 F.R. 2056) and the Bowling Green and Cincinnati transition areas are described in § 71.181 (37 F.R. 2143).

United States Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Bowling Green and Covington control zones and the Bowling Green and Cincinnati transition areas to reflect the required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Bowling Green and Covington, Ky., control zones are amended as follows:

BOWLING GREEN, KY.

All after "long. 86°25'07" W.);" is deleted and "within 4.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 5-mile radius zone to 10 miles southwest of the VORTAC." is substituted therefor.

COVINGTON, KY.

"• • • within 3 miles each side of Cincinnati VORTAC 223° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC • • •" is deleted and "• • • within 4.5 miles each side of Cincinnati VORTAC 223° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC • • •" is substituted therefor.

In § 71.181 (37 F.R. 2143), the Bowling Green, Ky., and Cincinnati, Ohio, transition areas are amended as follows:

BOWLING GREEN, KY.

All after "long. 88°25'07" W.);" is deleted and "within 4.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 11-mile radius area to 11 miles southwest of the VORTAC." is substituted therefor.

CINCINNATI, OHIO

"• • • Burlington RBN; • • •" is deleted and "• • • Burlington RBN; within 5 miles each side of Cincinnati VORTAC 223° radial, extending from the 11.5-mile radius area to 11.5 miles southwest of the VORTAC; • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 16, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18291 Filed 10-26-72;8:46 am]

[Airspace Docket No. 72-SO-100]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Gulfport, Miss., control zone and the Gulfport, Meridian (Key Field), and Picayune, Miss., transition areas.

The Gulfport control zone is described in § 71.171 (37 F.R. 2056 and 11858). The Gulfport transition area is described in § 71.181 (37 F.R. 2143 and 13467) and the Meridian (Key Field) and Picayune transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standard for Terminal Instrument Procedures (TERP'S), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Gulfport control zone and the Gulfport, Meridian (Key Field), and Picayune transition areas to reflect the required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Gulfport, Miss., control zone (37 F.R. 11858) is amended as follows:

All between "long. 89°04'05" W.);" "excluding that portion within the Biloxi, Miss., control zone." is deleted and "within 3.5 miles each side of Gulfport VORTAC 050°, 129°, 213°, and 319° radials, extending from the 5-mile radius zone to 9.5 miles northeast, southeast, southwest and northwest of the VOR TAC; • • •" is substituted therefor.

In § 71.181 (37 F.R. 2143), the Gulfport, Miss., transition area (37 F.R. 13467), the Meridian, Miss. (Key Field), and the Picayune, Miss., transition areas are amended as follows:

GULFPORT, MISS.

"• • • within 4.5 miles each side of Gulfport VORTAC • • •" is deleted and • • • within 3.5 miles each side of Gulfport VORTAC • • •" is substituted therefor.

MERIDIAN, MISS. (KEY FIELD)

"• • • within 9.5 miles southwest and 4.5 miles northeast of Meridian VORTAC 315° radial, extending from the VORTAC to 18.5 miles northwest of the VORTAC • • •" is deleted and "• • • within 5 miles each side of Meridian VORTAC 315° radial, extending from the 11-mile radius area to 11.5 miles northwest of the VORTAC • • •" is substituted therefor.

PICAYUNE, MISS.

All after "long. 89°42'25"W.);" is deleted and " • • • within 3.5 miles each side of Picayune VORTAC 334° radial, extending from the 5-mile radius area to 8 miles northwest of the VORTAC." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 16, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18290 Filed 10-26-72;8:46 am]

[Airspace Docket No. 72-SO-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition and Control Areas

On August 8, 1972, a notice of proposed rule making was published in the

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FEDERAL REGISTER (37 F.R. 15937) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Florida transition area and Control 1216. Three related nonregulatory actions were also included in the material published.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 7, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143, 9461 and 36 F.R. 23796) the Florida Transition Area is amended as follows:

Delete that paragraph beginning with "Including the airspace south of Pensacola, Fla.," and ending with "excluding the portion that coincides with the 1,200 foot transition area."

In § 71.163 (37 F.R. 2048 and 36 F.R. 23795) Control 1216 is amended to read as follows:

That airspace extending upward from 2,000 feet MSL bounded by a line beginning at lat. 28°59'00" N., long. 90°15'00" W., thence northeast and east along the Louisiana, Mississippi, Alabama, and Florida transition areas to the north boundary of Control 1226, thence west along north boundary of Control 1226 to long. 84°39'00" W.; to lat. 28°-41'30" N., long. 86°48'00" W.; to lat. 28°55'-00" N., long. 88°00'00" W.; thence south along long. 88°00'00" W.; to and west along the north boundary of the Houston Oceanic Control area; to and north along long. 90°15'00" W.; to point of beginning, excluding Control 1226.

Associated non-rule-making actions are taken as hereinafter set forth and are effective 0901 G.m.t., December 7, 1972.

1. W-470: Add "Controlling Agency: FAA, Jacksonville ARTC Center."

2. W-151: Add "Controlling Agency: FAA, Jacksonville ARTC Center."

3. W-453: Add "Controlling Agency: FAA, Houston ARTC Center."

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 18, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18294 Filed 10-26-72;8:47 am]

[Airspace Docket No. 72-SO-65]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Area High Routes

On August 16, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 16552) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would realign area high routes J811R, J874R and J934R via the Rome, Ga., VOR.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amenedd, effective 0901 GMT, January 4, 1973, as hereinafter set forth.

Section 75.400 (37 F.R. 2400, 9022 and 15293) is amended as follows:

a. In J811R "Rockmart, Ga. 34°16'05" N/85°05'51"W Birmingham, Ala." is deleted and "Rome, Ga. 34°09'45"N/85°07'-10"W Birmingham, Ala." is substituted therefor.

b. In J874R "Rockmart, Ga. 34°16'03" N/85°05'51" W Birmingham, Ala." is deleted and "Rome, Ga. 34°09'45"N/85°07'-10"W Birmingham, Ala." is substituted therefor.

c. In J934B "Bremen, Ga. 33°39' N./85°12'55" W. Montgomery, Ala." is deleted and "Rome, Ga. 34°09'45" N./85°-07'10" W. Birmingham, Ala." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on October 19, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-18292 Filed 10-26-72;8:46 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER A—GENERAL REGULATIONS

PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

On June 10, 1972, a notice of proposed rule making on maintaining and submitting records regarding weather modification activities was published in the FEDERAL REGISTER (37 F.R. 11679). Interested persons were given until September 11, 1972, to submit written views, objections, recommendations, or suggestions in connection with the proposed rules. The comments received in response to the notice have been considered and revisions have been made in the rules for clarity, simplicity, and utility.

The purpose of these rules is to provide for the reporting to the Secretary of Commerce of weather modification activities taking place within the United States. The Secretary is charged under law to assemble and retain records of such weather modification activities, to make these records publicly available to the fullest extent practicable, and to publish summaries thereof from time to time. By so doing, among other things, expertise in the field of weather modification will be increased, and scientists and other concerned persons will have access to information about past and ongoing efforts at weather modification, can determine whether their activities will be necessary or duplicative, can check both desirable and undesirable atmospheric changes against records of weather modification, and can be alert to possible territorial overlappings of weather modification operations.

Therefore, pursuant to the authority contained in Public Law 92-205, 85 Stat. 735, December 18, 1971, the National Oceanic and Atmospheric Administration (NOAA) amends Title 15, Code of Federal Regulations, by the addition of Part 908, adopting the rules set forth below. These rules will be administered by the Administrator, National Oceanic and Atmospheric Administration, on behalf of the Secretary of Commerce, pursuant to the Secretary's delegation of authority in section 3, subparagraph .01t of the Department of Commerce Organization Order 25-5A.

HOWARD W. POLLOCK,
Acting Administrator.

OCTOBER 18, 1972.

The rules are as follows:

Sec.
908.1 Definitions.
908.2 Persons subject to reporting.
908.3 Activities subject to reporting.
908.4 Initial report.
908.5 Interim reports.
908.6 Final report.
908.7 Supplemental reports.
908.8 Maintenance of records.
908.9 Retention of records.
908.10 Penalties.
908.11 Maintenance of records of related activities.
908.12 Public disclosure of information.
908.13 Address of letters.
908.14 Business to be transacted in writing.
908.15 Times for taking action: expiration on Saturday, Sunday, or holiday.
908.16 Signature.
908.17 Suspension or waiver of rules.
908.18 Matters not specifically provided for in rules.
908.19 Publication of notice of proposed amendments.
908.20 Effective date.
908.21 Report form.

AUTHORITY: The provisions of this Part 908 issued pursuant to the authority contained in Public Law 92-205, 85 Stat. 735, December 18, 1971.

§ 908.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Administrator.* The Administrator of the National Oceanic and Atmospheric Administration.

(b) *Person.* Any individual, corporation, company, association, firm, partnership, society, joint stock company, any State or local government or any agency thereof, or any other organization, whether commercial or nonprofit, except where acting solely as an employee, agent, or independent contractor of the Federal Government.

(c) *Weather modification activity.* Any activity performed with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere.

(d) *United States.* The several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or insular possession of the United States.

(e) *Persons whose activities relate to weather modification.* Persons engaged in weather modification activities or engaged in the distribution or sale of weather modification apparatus or materials known by them to be destined for use in weather modification activities.

(f) *Project.* A related series of weather modification activities having a common objective.

(g) *Modification mission.* One or more airborne weather modification activities intended to affect the same target area, or one or more weather modification activities carried out by items of ground-based weather modification apparatus intended to affect the same target area. For purposes of these rules, activities that extend beyond 1 calendar day shall constitute a separate mission for each day that they continue.

(h) *Target area.* The ground area within which the effects of the weather modification activity are expected to be found.

(i) *Control area.* A preselected, untreated ground area used for comparison with a target area.

(j) *Weather modification apparatus.* Any apparatus used with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere. For example: Seeding generators, propane devices, flares, rockets, artillery projectiles, jet engines, etc.

§ 908.2 Persons subject to reporting.

Any person engaged or intending to engage in any weather modification activity in the United States shall be subject to the reporting provisions of this part.

§ 908.3 Activities subject to reporting.

(a) The following, when conducted as weather modification activities, shall be subject to reporting:

(1) Seeding or dispersing of any substance into clouds or fog, to alter drop size distribution, produce ice crystals or coagulation of droplets, alter the development of hail or lightning, or influence in any way the natural development cycle of clouds or their environment;

(2) Using fires or heat sources to influence convective circulation or to evaporate fog;

(3) Modifying the solar radiation exchange of the earth or clouds, through the release of gases, dusts, liquids, or aerosols into the atmosphere;

(4) Modifying the characteristics of land or water surfaces by dusting or treating with powders, liquid sprays, dyes, or other materials;

(5) Releasing electrically charged or radioactive particles, or ions, into the atmosphere;

(6) Applying shock waves, sonic energy sources, or other explosive or acoustic sources to the atmosphere;

(7) Using aircraft propeller downwash, jet wash, or other sources of artificial wind generation; or

(8) Using lasers or other sources of electromagnetic radiation.

(b) In addition to the activities listed above, other similar activities falling within the definition of weather modification as set forth in § 908.1 are also subject to reporting.

(c) The requirement for reporting shall not apply to activities of a purely local nature that can reasonably be expected not to modify the weather outside of the area of operation. This exception is presently restricted to the use of lightning deflection or static discharge devices in aircraft, boats, or buildings, and to the use of small heat sources, fans, fogging devices, aircraft downwash, or sprays to prevent the occurrence of frost in tracts or fields planted with crops susceptible to frost or freeze damage. Other exceptions may be made in the future by rule of the Administrator.

§ 908.4 Initial report.

(a) Any person intending to engage in any weather modification project or activity in the United States shall provide a report of his intention, to be received by the Administrator at least 10 days before the commencement of such project or activity. This report shall contain at least the following:

(1) The designation, if any, used by the operator for the project or activity;

(2) The following dates for weather modification activities:

(i) The date the first actual weather modification activity is to be undertaken;

(ii) The date on which the final modification activity is expected to occur;

(3) The name and address of the person for whom the project or activity is to be performed;

(4) The purpose of the project or activity;

(5) A map showing the approximate size and location of the target and control areas, and the location of each item of ground-based weather modification apparatus, precipitation measuring device, and, for airborne operations, the airport;

(6) A description of the weather modification apparatus, modification agents, and the techniques to be employed;

(7) The name and address of the responsible individual from whom log books or other records of the project or activity may be obtained; and

(8) Optional remarks, to include any additional items which the person deems significant or of interest and such other information as the Administrator may request the person to submit.

(b) If circumstances prevent the signing of a contract or agreement to perform, or receipt of an authorization to proceed with, a weather modification activity at a date early enough to comply with paragraph (a) of this section, the initial report shall be provided so as to be received by the Administrator within 10 days of the date of signing of the contract or agreement, or receipt of authorization to proceed. In such cases, the report shall be accompanied by an explanation as to why it was not submitted at least 10 days prior to the commencement of the activity.

(c) In the event that circumstances beyond the control of the person liable to report under these regulations prevent the submission of the initial report in a timely manner as described above, the report shall be forwarded as early as possible, accompanied by an explanation as to why a timely report has not been provided. If such explanation is deemed adequate, the Administrator will consider the notice as timely filed.

§ 908.5 Interim reports.

(a) Any person engaged in a weather modification project or activity in the United States on October 1 in any year shall submit to the Administrator, not later than 90 days thereafter, an interim report setting forth as of such date the information required below with respect to any such continuing project or activity not previously furnished to the Administrator in a prior interim report; provided that the October 1 date shall not apply if other arrangements have previously been made with the written approval of the Administrator.

(b) The interim report shall include the file number assigned by the Administrator and shall provide a summary of the project or activity containing at least the following information for each month:

(1) Number of days on which actual modification activities took place;

(2) Number of days on which weather modification activities were conducted, segregated by each of the predominant types of weather phenomena;

(3) Number of modification missions that were carried out;

(4) Total number of hours of operation of each type of weather modification apparatus (i.e., net hours of agent release);

(5) Total amount of agent used. If more than one agent was used, each should be totaled separately (e.g., carbon dioxide, sodium chloride, urea, silver iodide).

(c) The totals for the items in paragraph (b) of this section shall be provided for the period covered by the interim report.

§ 908.6 Final report.

Upon completion of a weather modification project or activity the person who performed the same shall submit a report to the Administrator not later than 90 days after completion of the project or activity. The report shall include the file number assigned by the Administrator and the following items:

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(a) Information required for the interim reports (to the extent not previously reported).

(b) The total number of days on which actual modification activities took place during the project or activity.

(c) The total number of days during the project or activity on which weather modification activities were conducted, segregated by each of the predominant types of weather phenomena.

(d) The total number of modification missions that were carried out under the project or activity.

(e) The total number of hours of operation of each type of weather modification apparatus during the project or activity (i.e., net hours of agent release).

(f) The total amount of modification agent(s) dispensed during the project or activity. If more than one agent was used, each should be totaled separately (e.g., carbon dioxide, sodium chloride, urea, silver iodide).

(g) The date on which the final weather modification activity occurred.

§ 908.7 Supplemental reports.

Notwithstanding other regulations, a supplemental report in letter form referring to the appropriate NOAA file number, if assigned, must be made to the Administrator immediately if any report of weather modification activities submitted under § 908.4, § 908.5, or § 908.6 is found to contain any material inaccuracies, misstatements, and omissions. A supplemental report must also be made if there are changes in plans for the project or activity.

§ 908.8 Maintenance of records.

(a) Any person engaging in a weather modification activity in the United States shall maintain a record of such activity. This record shall contain at least the following, when applicable:

(1) A chronological record of activities carried on, preferably in the form of a daily log, which shall include the NOAA file number assigned to the project, the designation of each unit of weather modification apparatus, and at least the following information for each unit:

(i) Date of the weather modification activity.

(ii) Position of each aircraft or location of each item of weather modification apparatus during each modification mission. Maps may be used.

(iii) Time when weather modification activity began and ended.

(iv) Total duration of operation of each unit of weather modification apparatus (i.e., net hours of agent release).

(v) Type of each modification agent used.

(vi) Rate of dispersal of each agent during the period of actual operation of weather modification apparatus.

(vii) Total amount of agent used. If more than one agent was used, report total for each type separately.

(viii) Number of days on which weather modification activities were conducted, segregated by the predominant types of weather phenomena.

(2) The monthly totals of hours of modification activity, the amount of modification agent used, and the number of days on which weather modification activities were conducted, segregated by each of the predominant types of weather phenomena, shall be shown on the daily log sheet for the last day of each month.[1]

(b) When the activity involves ground-based weather modification apparatus, records of the following shall also be maintained, when applicable, but need not be made part of the daily log:

(1) The location of each item of weather modification apparatus in use and its identification such as type and manufacturer's model number. If the apparatus is not commercially available, a brief description of the apparatus and the method of operation should be recorded.

(2) The name and address of the person responsible for operating each weather modification apparatus;

(3) The altitude and type of weather phenomenon subjected to weather modification activity during each operational period (e.g., cumulus clouds between 10,000 and 30,000 feet m.s.l.; ground fog).

(c) When the activity involves airborne weather modification apparatus, records of the following shall also be maintained, when applicable, but need not be made a part of the daily log:

For each airborne weather modification apparatus run: altitude, air speed; release points of modification agents, method of modification and characteristics of flares, rockets, or other delivery systems employed; temperature at release altitude; and, for aircraft: the type of aircraft, its identification number, the airport or airports used, and the names and addresses of crew members and the person responsible for operating the weather modification apparatus; and the altitude and type of weather phenomenon subjected to weather modification activity during each operational period (e.g., cumulus clouds between 10,000 and 30,000 feet m.s.l.; ground fog).

(d) The following records shall also be maintained, whenever applicable, but need not be made a part of the daily log. Only data specifically collected for the reported activity need be retained; data available from other sources need not be included.

(1) Any descriptions that were recorded of meteorological conditions in target and control areas during the periods of operation; for example: percent of cloud cover, temperature, humidity, the presence of lightning, hail, funnel clouds, heavy rain or snow, and unusual radar patterns.

(2) All measurements made of precipitation in target and control areas.

(3) Any unusual results.

§ 908.9 Retention of records.

Records required under § 908.8 shall be retained and available for inspection by the Administrator or his designated representatives for 5 years after completion of the activity to which they relate. Such records shall be required to be produced for inspection only at the place where normally kept. The Administrator shall have the right to make copies of such records, if he deems necessary.

§ 908.10 Penalties.

Knowing and willful violation of any rule adopted under the authority of section 2 of Public Law 92–205 shall subject the person violating such rule to a fine of not more than $10,000, upon conviction thereof.

§ 908.11 Maintenance of records of related activities.

(a) Persons whose activities relate to weather modification activities, other than persons engaged in weather modification activities, shall maintain records concerning the identities of purchasers or users of weather modification apparatus or materials, the quantities or numbers of items purchased, and the times of such purchases. Such information shall be retained for at least 5 years.

(b) In addition, persons whose activities relate to weather modification shall be required, under the authority of section 4 of Public Law 92–205, to provide the Administrator, on his request, with information he deems necessary to carry out the purposes of this act.

§ 908.12 Public disclosure of information.

(a) Any records or other information obtained by the Administrator under these rules or otherwise under the authority of Public Law 92–205 shall be made publicly available to the fullest practicable extent. Such records or information may be inspected on written request to the Administrator. However, the Administrator will not disclose any information referred to in section 1905 of title 18, United States Code, and that is otherwise unavailable to the public, except that such information shall be disclosed—

(1) To other Federal Government departments, agencies, and officials for official use upon request;

(2) In any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding; and

(3) To the public, if necessary to protect their health and safety.

(b) Certified copies of such reports and information, to the extent publicly disclosable, may be obtained from the Administrator at cost in accordance with the Department of Commerce implementation of the Freedom of Information Act.

(c) Persons reporting on weather modification projects or related activities shall specifically identify all information that they consider not to be subject to public disclosure under the terms of Public Law 92–205 and provide reasons in support thereof. A determination as to whether or not reported information is subject to public dissemination shall be made by the Administrator.

[1] Filed as part of the original document.

§ 908.13 Address of letters.

Letters and other communications intended for the Administrator, in connection with weather modification reporting or activities, shall be addressed to: The Administrator, National Oceanic and Atmospheric Administration, Office of Environmental Modification, Rockville, Md. 20852.

§ 908.14 Business to be transacted in writing.

All business transacted with the National Oceanic and Atmospheric Administration with regard to reports of weather modification activities should be transacted in writing. Actions of the National Oceanic and Atmospheric Administration will be based exclusively on the written record.

§ 908.15 Times for taking action; expiration on Saturday, Sunday, or holiday.

Whenever periods of time are specified in these rules in days, calendar days are intended. When the day, or the last day, fixed under these rules for taking any action falls on a Saturday, Sunday, or on a Federal holiday, the action may be taken on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.

§ 908.16 Signature.

All reports filed with the National Oceanic and Atmospheric Administration must be dated and signed by or on behalf of the person conducting or intending to conduct the weather modification activities referred to therein by such person, individually or, in the case of a person other than an individual, by a partner, officer, or other person having corresponding functions and authority. For this purpose "officer" means a president, vice president, treasurer, secretary, or comptroller. Notwithstanding the foregoing, such reports may also be signed by the duly authorized agent or attorney of the person whose activities are being reported. Proof of such authorization shall be furnished to the Administrator when filing a report, unless previously furnished.

§ 908.17 Suspension or waiver of rules.

In an extraordinary situation, any requirement of these rules may be suspended or waived by the Administrator on request of the interested party, to the extent such waiver is consistent with the provisions of Public Law 92–205 and subject to such other requirements as may be imposed.

§ 908.18 Matters not specifically provided for in rules.

All matters not specifically provided for or situations not specifically addressed in these rules will be decided in accordance with the merits of each case by or under the authority of the Administrator, and such decision will be communicated in writing to all parties involved in the case.

§ 908.19 Publication of notice of proposed amendments.

Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the FEDERAL REGISTER. If not published with the notice, copies of the text of proposed amendments will be furnished to any person requesting the same. All comments, suggestions, and briefs received within the time specified in the notice will be considered before adoption of the proposed amendments, which may be modified in the light thereof. Informal hearings may be held at the discretion of the Administrator.

§ 908.20 Effective date.

These rules are effective November 1, 1972.

(a) Any person engaged in a weather modification activity on the effective date shall furnish the initial report required under § 908.4 within 30 days from the effective date, appropriately modified as circumstances may require.

(b) Any person intending to engage in a weather modification activity scheduled to commence less than 40 days from the effective date of these rules may furnish the required report under § 908.4 as late as 30 days following such effective date.

(c) The explanatory statement required by § 908.4(c), pertaining to late reports, need not be submitted with the initial reports in the above cases.

§ 908.21 Report form.

Public Law 92–205 and these rules should be studied carefully prior to reporting. Reports required by these rules shall be submitted on forms obtainable on request from the Administrator, or on an equivalent format.[2] In special situations, such alterations to the forms as the circumstances thereto may render necessary may be made, provided they do not depart from the requirements of these rules or of Public Law 92–205.

[FR Doc.72-18279 Filed 10-26-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8818–o]

PART 13—PROHIBITED TRADE PRACTICES

Firestone Tire & Rubber Co.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections;* 13.15–250 Qualifications and abilities; § 13.135 *Nature of product or service;* § 13.175 *Quality of product or service;* § 13.195 *Safety;* 13.195–60 *Product.* Subpart—Misrepresenting oneself and goods: § 13.1535 *Qualifications;* § 13.1710 *Qualities or properties.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, The Firestone Tire & Rubber Co., Akron, Ohio, Docket No. 8818–o, Sept. 22, 1972]

In the Matter of The Firestone Tire & Rubber Co., a Corporation

Order requiring an Akron, Ohio, manufacturer of tires to cease misrepresenting the effectiveness of respondent's quality control or inspection procedures; using the words "The safe tire," without disclosing in close conjunction that the safety of any tire is affected by conditions of use such as inflation pressure, vehicle weight, etc.; representing that any of respondent's automobile tires have any safety or performance characteristics or are superior in quality or performance without substantiated, competent, scientific tests. The order dismisses the charges in the complaint relating to the advertising of prices.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered: (1) That the initial decision of the Commission to the extent consistent with, and rejected to the extent inconsistent with, the accompanying opinion;

(2) That the following order be, and it hereby is, substituted for the order contained in the initial decision.

It is ordered, That respondent The Firestone Tire & Rubber Co., a corporation, its successors, assigns, officers, representatives, and employees directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of automobile tires or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that every purchaser of tires bearing the brand name "Firestone," or any other brand name, is assured of receiving tires free from defects in materials or workmanship or other manufacturing defects.

2. Misrepresenting, in any manner, the effectiveness of respondent's quality control or inspection procedures.

3. Using the words, "The safe tire," or any other word or phrase of similar import or meaning to describe or designate respondent's tires or otherwise representing, directly or by implication, that respondent's tires will be safe under all conditions of use.

4. Making any representation, directly or by implication, regarding the safety of respondent's tires without disclosing clearly and conspicuously and in close conjunction with such representation that the safety of any tire is affected by conditions of use, such as inflation pres-

[2] Filed as part of the original document.

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sure, vehicle weight, wear, and other operating conditions.

5. Representing, directly, or by implication, that any of respondent's automobile tires have any safety or performance characteristic or are superior in quality or performance to other products unless each such characteristic was fully and completely substantiated by competent scientific tests, with the results of the test, the original test data collected in the course of the test, and a detailed description of how the test was performed available in written form for inspection for at least 3 years following the final use of the representation.

It is further ordered, That the charges in the complaint relating to the advertising of prices be, and they hereby are, dismissed.

It is further ordered, That respondent deliver a copy of this order to each of its operating departments, divisions, and subsidiaries engaged in the advertising, offering for sale, sale, or distribution to the public at retail of automobile tires or other merchandise and to the manager of each present and every future retail outlet owned and operated by respondent.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation that may affect the compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

By the Commission, with Commissioners Kirkpatrick, Dixon, MacIntyre, Jones, and Dennison concurring in part and not concurring in part, as set forth in their separate statements.[1]

Issued: September 22, 1972.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-18346 Filed 10-26-72;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGE

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5229, 34-9465, 35-17435, IA-306, IC-6959]

PART 230—GENERAL RULES AND REGULATIONS UNDER SECURITIES ACT OF 1933

Adoption of Fee Schedule for Certain Filings and Services; Correction

In the FEDERAL REGISTER for January 29, 1972, on page 1471 (37 F.R. 1471) the reference in the middle of the second column reading:

II. Paragraph (a) of § 230.236 of this chapter is hereby amended as follows:

§ 230.236 Exemption of shares offered in connection with certain transactions.

* * * * *

(a) * * * At the time of filing this information, the applicant shall pay to the Commission a fee of $100, no part of which shall be refunded.

Should read as follows:

* * * * *

II. Paragraph (c) of § 230.236 of this chapter is hereby amended as follows:

§ 230.236 Exemption of shares offered in connection with certain transactions.

* * * * *

(c) * * * At the time of filing this information, the applicant shall pay to the Commission a fee of $100, no part of which shall be refunded.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 19, 1972.

[FR Doc.72-18332 Filed 10-26-72;8:49 am]

[Release No. 34-9660]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES AND EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Application of Reporting Provisions to Issuers Which Have Ceased or Severely Curtailed Their Operations

The Securities and Exchange Commission (Commission), in the interest for a better understanding of certain of its procedures, has issued the following statement concerning the application of the reporting provisions of the Securities Exchange Act of 1934 (Exchange Act) to issuers which have ceased or severely curtailed their operations and, thus, would find it extremely difficult to comply fully with those provisions.

Issuers which have securities listed on a national stock exchange or have registered securities pursuant to section 12(g) of the Exchange Act or have registered securities under the Securities Act of 1933 are required to file current and periodic reports with the Commission pursuant to section 13(a) or 15(d) of the Exchange Act. These are among the more important requirements adopted by the Congress "to insure the maintenance of fair and honest markets in securities transactions * * *."[1]

As the Commission has stated:

"The disclosure in reports filed with the Commission are essential to the preservation of free, fair and informed securities markets."[2]

The importance of these provisions has been aptly summarized by the House Committee which considered the Exchange Act as follows:

No investor, no speculator, can safely buy and sell securities upon the exchanges without having an intelligent basis for forming his judgement as to the value of the securities he buys and sells. The idea of a free and open market place is built on the theory that competing judgments of buyers and sellers as to the fair price of a security brings about a situation where the market price reflects as nearly as possible a just price * * *. The hiding and secreting of important information obstructs the operation of the markets as indices of real value * * *. The disclosure of information materially important to investors may not instantaneously be reflected in market value, but despite the intricacies of security values truth does find relatively quick acceptance on the market * * *. Delayed, inaccurate, and misleading reports are the tools of the unconscionable market operator and the recreant corporate official who speculates on inside information * * *.

The reporting provisions of the Securities Exchange Act are a very modest beginning to afford * * * long denied aid * * * in the way of securing proper information for the investor.[3]

The Commission, however, when not inconsistent with the protection of investors, would modify the reporting requirements as they apply to particular issuers.[4] For example, where an issuer is subject to proceedings under Chapter X of the Bankruptcy Act and a court appointed trustee has possession of the issuer's books and records, or where a receiver or other judicially appointed officer has possession of such books and records, the Commission generally would accept reports prepared under the supervision of the trustee or other judicially appointed officer which differ in form or content from reports required to be filed under the Exchange Act. In addition, where a company has been adjudicated bankrupt or the Commission is notified that it is defunct, a notification to that effect generally would be placed in the public files relating to the issuer together with any related judicial orders.

[1] Filed as part of the original document.

[1] Exchange Act, section 2.

[2] Rule 12b-25 (17 CFR 240.12b-25) under the Exchange Act, introductory note.

[3] H.R. Report No. 1383, 73d Cong., 2d Sess., 13 (1934).

[4] It is not the purpose of this release to discuss the applicability of the provisions of section 12(h) of the Exchange Act which authorizes the Commission to exempt issuers which meet the standards of that section from the reporting provision in whole or in part. It is sufficient to note that these provisions can be interpreted to relate to circumstances with respect to an issuer's business of a more permanent nature than a temporary cessation or curtailment of operations. For example, a partial exemption from the reporting provisions of the Exchange Act has been granted to a savings and loan association subject to regulatory controls by another governmental agency. Security Savings and Loan Association, Securities Exchange Act Release No. 9313 (August 25, 1971).

Also, there are various provisions in the rules, regulations, and forms adopted by the Commission to implement the reporting provisions of the Exchange Act which provide limited relief from those provisions under certain circumstances. Rule 12b-21 (17 CFR 12b-21) under the Exchange Act provides that, if any required information is unknown or not reasonably available to the issuer because it would be unreasonably expensive or would take an unreasonable effort to obtain or because it is peculiarly within the knowledge of a person not affiliated with the issuer, such information may be omitted from reports required to be filed under the Exchange Act. However, the rule requires the issuer to provide as much of the information as is possible without unreasonable effort or expense and to demonstrate that to provide additional information would entail unreasonable effort or expense. Although Rule 12b-21 does not contain standards as to what would constitute unreasonable effort or expenses, in general, an unreasonable effort or expense would result if the benefits which might be derived by the shareholders of the issuer from the filing of the information are outweighed significantly by the cost to the issuer of obtaining the information. For example, where a company has ceased, or severely curtailed its operations it might be unreasonable to require it to undergo the expense of obtaining the opinion of an independent auditor on its financial statement.[5] However, the Commission's rules and forms provide for the filing of appropriate financial statements of a comparable character in substitution for the required statements in the circumstances under discussion.[6] This generally would require the filing of unaudited statements which would otherwise comply with the requirements of the applicable form. In addition, in determining whether to permit omission of required financial statements the Commission weighs heavily the efforts of the issuer to advise its shareholders and the investing public or its financial condition and its inability to provide the required financial information. At a minimum this might entail the issuer mailing copies of unaudited financial statements to shareholders together with a written explanation of the circumstances resulting in the lack of certification, issuing a press release containing substantially the same information and undertaking to provide such financial statements to brokers and dealers on request. Similar considerations apply where a request is made for an extension of time to file a required report which cannot be filed on time because of the unreasonable effort or expense involved.[7]

While the Commission does on occasion permit the filing of unaudited financial statements, it would be only in the most unusual circumstances where it would consider permitting the use of unaudited financial statements which otherwise do not meet the requirements of the reporting forms or the omission of nonfinancial information required to be included in reports on these forms. As discussed above, if a company is presently subject to proceedings under the Federal Bankruptcy Act, or has virtually ceased doing business, some modification of the filing requirements might be in order. However, generally speaking, as soon as such conditions cease the full requirements of the Act again would apply.

In determining whether the modification of the reporting requirements with respect to a particular issuer would be consistent with the protection of investors the Commission will consider the nature and extent of the trading in the securities of the issuer. In this connection, dealers who recommend securities of an issuer which is unable to comply fully with the reporting requirements should carefully consider the information available and their obligations to make suitable recommendations to their customers. Attention is also called to the requirements of Rule 15c2-11 under the Exchange Act (17 CFR 240.15c2-11) requiring a dealer to have certain information concerning an issuer before its securities may be quoted by that dealer.

The foregoing discussion should not be taken as an invitation for evasion of the reporting requirements. Issuers will be required to demonstrate that relieving them of the necessity for complying with certain reporting requirements would be consistent with the protection of investors. This includes advising the Commission of the difficulties which serve as a basis for such relief.

In supporting a request for limited relief from reporting requirements issuers should supply adequate written statements of the reasons for their inability to comply including financial information where appropriate. In addition, where such inability relates to action it is necessary for a person other than the issuer to take, such as a certification of financial statements by an independent accountant, a written statement from such person may be necessary to support the issuer's request for relief.

If issuers do not advise the Commission concerning their inability to comply with reporting requirements, or if they resist the attempts of the Commission's staff to obtain information concerning the issuers financial difficulties, it may result in enforcement action by the Commission in a situation where such action might have been avoided. The Commission notes that in the past year it has commenced more than 20 civil injunctive actions seeking to compel the filing of delinquent reports by the defendants.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JUNE 30, 1972.

[FR Doc.72-18323 Filed 10-26-72;8:49 am]

[5] In this connection the instructions to the financial statement requirements in Form 10 (17 CFR 249.210), the general form for registration of securities under the Exchange Act, and in Form 10-K (17 CFR 249.310), the general form for annual reports under the Act, provide that the Commission, at the request of an issuer, my permit omission of required financial statements where consistent with the protection of investors. See Form 10, Instructions as to Financial Statements, 15; and Form 10-K, Instructions as to Financial Statements, 9. The instructions in Form 8-K (17 CFR 249.308), the form for current reports of material events, relating to financial statements of business acquired by an issuer contain similar provisions, as do the general instructions to Form 10-Q (17 CFR 249.308a), the general form for quarterly reports. Form 8-K, Financial Statements of Businesses Acquired, 4; and Form 10-Q rules as to use of Form 10-Q, I.

[6] *Ibid.*

[7] Exchange Act, Rule 12b-25(a). That rule requires a showing that the extension requested is consistent with the public interest and the protection of investors.

[Release Nos. 33-5307, 34-9786]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Resale of Certain Securities; Correction

In the FEDERAL REGISTER for September 30, 1972, on page 20558 (37 F.R. 20558) the reference on the bottom of the third column reading:

§§ 239.308a, 239.310 [Amended]

Form 10-Q (17 CFR 239.308a) and 10-K (17 CFR 239.310) should read as follows:

§§ 249.308a, 249.310 [Amended]

Forms 10-Q (17 CFR 239.308a) and 10-K (17 CFR 249.310).

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

OCTOBER 19, 1972.

[FR Doc.72-18324 Filed 10-26-72;8:49 am]

Title 20—EMPLOYEES' BENEFITS

Chapter I—Bureau of Employees' Compensation, Department of Labor

SUBCHAPTER A—ORGANIZATION AND PROCEDURES

REASSIGNMENT OF BUREAU FUNCTIONS AND REVISION OF SUBCHAPTER A

Subchapter A of Chapter I, Title 20, Code of Federal Regulations, is hereby revised as set forth below. This action is necessitated by organizational changes

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and reassignment of functions in the Department of Labor which are to be given effect in the application of the regulations in this chapter.

These revisions include an amendment to the title of Subchapter A to read "Organization and Procedures"; the addition of a new Part 01 entitled "Performance of Functions Under This Chapter"; the redesignation of Part 01 as Part 02; the redesignation of Part 02 as Part 03; and the making of appropriate editorial changes. In Part 02 of the revised subchapter, those sections of Part 01 of the present subchapter dealing with the Longshoremen's and Harbor Workers' Compensation Act and its extensions have been deleted, and those dealing with the Federal Employees' Compensation Act, the War Hazards Compensation Act, and the War Claims Act have been renumbered.

The provisions of 5 U.S.C. 553 which require notice of proposed rule making, opportunity for public participation, and delay in effective date are not applicable because these rules relate exclusively to internal agency organization and procedure.

Accordingly, these amendments shall become effective immediately.

1. The title of Subchapter A of Chapter I, Title 20, Code of Federal Regulations, is amended to read as set forth above.

2. Such Subchapter A is revised to read as follows:

PART 01—PERFORMANCE OF FUNCTIONS UNDER THIS CHAPTER

Sec.
01.1 Establishment of Office of Federal Employees' Compensation (OFEC).
01.2 Transfer of functions to Office of Federal Employees' Compensation (OFEC).
01.3 Functions of Office of Workmen's Compensation Programs (OWCP).

AUTHORITY: The provisions of this Part 01 issued under 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 F.R. 3174, 64 Stat. 1263; 5 U.S.C. 8145, 8149, 8193; 42 U.S.C. 1706(a); 50 U.S.C. App. 2003; Secretary of Labor's Order No. 13-71, 36 F.R. 8755.

§ 01.1 Establishment of Office of Federal Employees' Compensation (OFEC).

The Assistant Secretary of Labor for Employment Standards, by authority vested in him by the Secretary of Labor in Secretary's Order No. 13-71, 36 F.R. 8755, has established in the Employment Standards Administration (ESA) an Office of Federal Employees' Compensation (OFEC). The Assistant Secretary has further designated as the head thereof a Director who, under the general supervision of the Deputy Assistant Secretary for Employment Standards/Wage-Hour Administrator and the Deputy Administrator, shall administer the programs assigned to that Office by the Assistant Secretary.

§ 01.2 Transfer of functions to Office of Federal Employees' Compensation (OFEC).

Pursuant to the authority vested in him by the Secretary of Labor, the Assistant Secretary for Employment Standards has transferred from the Bureau of Employees' Compensation to the Office of Federal Employees' Compensation all functions of the Department of Labor with respect to the administration of benefits programs under the following statutes:

(a) The Federal Employees' Compensation Act, as amended and extended, 5 U.S.C. 8101–8150, 8191–8193;

(b) The War Hazards Compensation Act, 42 U.S.C. 1701 et seq.;

(c) The War Claims Act of 1948, 50 U.S.C. App., 2001 et seq.

Accordingly, all functions of the Bureau of Employees' Compensation under Subchapters B, F, and G of this chapter, are now functions of the Office of Federal Employees' Compensation (OFEC) and references to the Bureau contained in the regulations therein should be read as referring to the Office of Federal Employees' Compensation, until such regulations are revised.

§ 01.3 Functions of Office of Workmen's Compensation Programs (OWCP).

The Office of Workmen's Compensation Programs (OWCP) has been established in the Employment Standards Administration of the Department of Labor, to which functions of the Bureau of Employees' Compensation other than those described in § 01.2 have been transferred as set forth in Part 701 of Chapter VI of this title (37 F.R. 20533). All functions of the Bureau of Employees' Compensation under Subchapters C, D, E, H, and I of this chapter, are now functions of the Office of Workmen's Compensation Programs and references to the Bureau contained in the regulations therein should, pending revision and recodification, be read as referring to the Office of Workmen's Compensation Programs.

PART 02—PROCEDURES

FEDERAL EMPLOYEES' COMPENSATION ACT

Sec.
02.1 Processing of claims.
02.2 Review by OFEC.
02.3 Review by Employees' Compensation Appeals Board.
02.4 Request for a hearing.
02.5 Time and place of hearing; prehearing conference.
02.6 Conduct of hearing.
02.7 Termination of hearing; decision; review of decision.
02.8 Withdrawal of request for hearing; abandonment.

WAR HAZARDS COMPENSATION ACT

02.31 General procedures.
02.32 Forms.
02.33 Reimbursable insurance claims.

WAR CLAIMS ACT

02.51 General procedure.
02.52 Forms.

AUTHORITY: The provisions of this Part 02 issued under 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 F.R. 3174, 64 Stat. 1263; 5 U.S.C. 8145, 8149, 8193; 42 U.S.C. 1706(a); 50 U.S.C. App. 2003; Secretary of Labor's Order No. 13-71, 36 F.R. 8755.

FEDERAL EMPLOYEES' COMPENATION ACT

§ 02.1 Processing of claims.

(a) Claims for compensation for disability and death are processed by claims examiners of the Office of Federal Employee's Compensation, U.S. Department of Labor, whose duty it is to apply the law to the facts as reported, received, or obtained upon investigation. The Federal Employee's Compensation Act, as amended, requires determination of a claim, with findings of fact and a decision for or against the payment of compensation, upon consideration of the claim presented by the claimant, the report by his immediate superior, and the completion of such investigation as the Office may deem necessary. There is no required procedure for the production of evidence, and evidence in written form is accepted. The final authority in the Office in the determination of a claim is vested in the Director or Acting Director of the Office. The decision shall contain findings of fact and a statement of reasons. A copy of the decision, together with information as to the right to a hearing, to a review, and to an appeal to the Employee's Compensation Appeals Board, shall be mailed to the claimant at his last known address.

(b) For the purposes of this Chapter I, the "Federal Employees' Compensation Act" includes all laws providing or extending the protection of the Federal Employees' Compensation Act, 5 U.S.C. 8101 et seq. See also § 1.1(c) of this chapter.

§ 02.2 Review by OFEC.

An award for or against the payment of compensation may be reviewed by the Office under 5 U.S.C. 8128(a) at any time, on its own motion or on application of the claimant. No formal application for review is required, but a written request for review, stating reasons why the decision should be changed and accompanied by evidence not previously submitted to the Office, is necessary to invoke action. Such request shall be made to the Director, Office of Federal Employees' Compensation, U.S. Department of Labor, Washington, D.C. 20211.

§ 02.3 Review by Employees' Compensation Appeals Board.

Final decisions of the Office are subject to review by the Employees' Compensation Appeals Board (ECAB), U.S. Department of Labor, under the rules of procedure set forth in Part 501 of this title.

§ 02.4 Request for a hearing.

Prior to any review under § 02.2, any claimant for compensation not satisfied with a decision of the Office shall, upon written request made within 30 days after the date of issuance of such decision, be afforded an opportunity for a hearing before an Office representative designated by the Director or Acting Director. The request for hearing shall be made to the Director, Office of Federal Employees' Compensation, U.S. Department of Labor, Washington, D.C. 20211. At such hearing, the claimant shall be afforded an opportunity to present evidence in further support of his claim. The Office representative may question the claimant and witnesses and may introduce exhibits and documents into the record. The Office representative may limit the number of witnesses to be heard at the hearing if he finds that the testimony is cumulative.

§ 02.5 Time and place of hearing; prehearing conference.

The Office representative shall set the time and place of the hearing, and shall mail written notice thereof to the claimant at least 10 days prior to the hearing. The hearing will, when practicable, be set at a time and place convenient for the claimant. The Office representative may, and when so requested by the claimant shall, afford the claimant a prehearing conference to clarify the issues in his claim and, when necessary, shall postpone the hearing for this purpose. Request for such conference may be made to the Office representative orally or in writing.

§ 02.6 Conduct of hearing.

In conducting the hearing, the Office representative shall not be bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 5 of the Administrative Procedure Act, but may conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose he shall receive such relevant evidence as may be adduced by the claimant and shall, in addition, receive such other evidence as he may determine to be necessary or useful in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits. The hearing shall be recorded, and the original of the complete transcript shall be made a part of the claims record.

§ 02.7 Termination of hearing; decision; review of decision.

The Office representative shall fix the time within which he will receive evidence, and shall terminate the hearing by mailing a copy of his tentative decision, setting forth the basis therefor, to the claimant at his last known address. Such tentative decision shall become the final decision unless revised within 30 days. A copy of any revision of the tentative decision, setting forth the basis therefor, shall be mailed to the claimant at his last known address within such 30-day period. The provisions for review in §§ 02.2 and 02.3 are applicable to such final decision.

§ 02.8 Withdrawal of request for hearing; abandonment.

A claimant may withdraw his request for a hearing at any time prior to the mailing of the decision, by written notice to the Office representative so stating, or by orally so stating at the hearing. A claimant shall be deemed to have abandoned his request for a hearing if he fails to appear at the time and place set for the hearing and does not, within 10 days after the time set for the hearing, show good cause for such failure to appear.

WAR HAZARDS COMPENSATION ACT

§ 02.31 General procedures.

The procedure in respect to the benefit provisions, insofar as administration of the War Hazards Compensation Act (56 Stat. 1028, as amended, 42 U.S.C. 1701 et seq.) is concerned, is stated in detail by the regulations in Subchapter F of this chapter. Under such regulations claims may be filed directly with the Office or with a person designated by the Office and may be processed completely by the Office or completely or partially by the authorized OFEC field officers. The final authority in the approval of claims is the Director or Acting Director, Office of Federal Employees' Compensation. Review of claims is the same as in cases under the Federal Employees' Compensation Act (see §§ 02.2, 02.3, 02.4).

§ 02.32 Forms.

The Director or Acting Director, OFEC, may from time to time issue and require the use of forms which, in his opinion, will facilitate the processing of any claim filed under the War Hazards Compensation Act.

§ 02.33 Reimbursable insurance claims.

Reimbursement of employers, insurance carriers, and compensation funds, for losses resulting from hazards of the war, is provided for in the War Hazards Compensation Act. The procedure in respect to reimbursement and the prerequisites of claims are set forth in detail by the regulations in Subchapter F of this chapter. Under such regulations claims may be filed directly with the Office. They are examined by the Office officials after verification by the Solicitor's Office, U.S. Department of Labor. The final authority in the Office in the approval of such claims is the Director or Acting Director thereof.

WAR CLAIMS ACT

§ 02.51 General procedures.

The procedure in respect to the administration of functions of the Secretary of Labor under the benefit provisions of the War Claims Act of 1948 (62 Stat. 1240, 50 U.S.C. App. 2003) is set forth in detail by regulations in Subchapter G of this chapter and, by reference therein, to pertinent regulations in Subchapter F of this chapter. Under such regulations claims must be filed with the Office or with a person designated by the Office for such purpose. The final authority in the Office in the approval or rejection of claims is the Director or Acting Director thereof. Review of claims is as in cases under the Federal Employees' Compensation Act (see §§ 02.2, 02.3, 02.4).

§ 02.52 Forms.

The Director or Acting Director, OFEC, may from time to time issue and require the use of forms which, in his opinion, will facilitate the processing of any claim filed under the War Claims Act of 1948.

PART 03—STATEMENT RELATIVE TO SUBSTANTIVE RULES

§ 03.1 Statement relative to substantive rules.

(a) The principal function of the OFEC and its subordinate parts is that of adjudicating claims for workmen's compensation. This function is quasi-judicial in character and involves the application of statutes and principles of law to resolve factual situations. This field of activity is within the specialized branch of the law generally referred to as "workmen's compensation," and has its own particularized principles which have general applicability to workmen's compensation statutes (State and Federal), as such statutes have certain common or underlying similarity in respect to the meaning of terms and phrases, and in respect to scope, jurisdiction, and general basic concepts of employer liability.

(b) In the administration of the several workmen's compensation laws within its jurisdiction, the Office has one general policy, which is to follow and to adhere to the principles of workmen's compensation law as stated in the opinions of the Supreme Court, the Federal Circuit Courts of Appeal, and the District Courts of the United States, as they may appropriately be applied or have been determined by the Employees' Compensation Appeals Board (ECAB) to apply in like situations arising under the laws administered by the OFEC. In addition, decisions and opinions of the judicial tribunals of the several States furnish principles of law of general applicability in the specialized field of workmen's compensation, which form parts of the foundation of general principles relied upon in the application and interpretation of the several acts administered by the Office. The Office applies the statute, applicable in respect to a particular case or situation, to the extent that the statute can readily be applied without extrinsic aid, but where such aid is necessary the source thereof is the body of principles embodied in authoritative decisions of the courts and the ECAB within such well-recognized branch of the law.

(c) Certain statutes administered by the Office (relating to military or quasi-military establishments) contain as the fundamental prerequisite to compensation that injury or death shall have occurred in the "line of duty"—a phrase not having a counterpart in workmen's compensation statutes. The policy of the Office in respect to such phrase is to follow the principles and interpretations in respect thereto as may be applied by the particular service in which the disabled or deceased individual served.

(d) To the extent that any rule of substantive nature may appear in the published regulations of the OFEC, such regulations are made part of this section.

(5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 F.R. 3174, 64 Stat. 1263; 5 U.S.C. 8145, 8149, 8193; 42 U.S.C. 1706(a); 50 U.S.C. App. 2003; Secretary of Labor's Order No. 13-71, 36 F.R. 8755)

Signed at Washington, D.C., this 24th day of October 1972.

RICHARD J. GRUNEWALD,
Assistant Secretary for Employment Standards.

[FR Doc.72-18375 Filed 10-26-72;8:54 am]

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Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7207]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Charitable Contributions Deduction; Correction

On October 4, 1972, Treasury Decision 7207 with respect to charitable contributions deduction appeared in the FEDERAL REGISTER (37 F.R. 20767; F.R. Doc. 72-16703 filed 10/3/72; 8:45 a.m.). The following change should be made:

The figure of "($90,000–$1,000)" appearing in the first line of the third column at 37 F.R. 20778 should be changed to read "($90,000–$10,000)".

JAMES F. DRING,
Director, Legislation and Regulations Division.

[FR Doc.72-18352 Filed 10-26-72;8:52 am]

[T.D. 7207]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 30, 1953

Charitable Contributions Deduction

Correction

In F.R. Doc. 72-16703 appearing at page 20767 of the issue for Wednesday, October 4, 1972, the following changes should be made:

1. In § 1.170A-4(d):

a. In Example (7), the reference in the fifth line to "$2,000 ($8,000 [$10,000—$4,000", should read, "$2,000 ($8,000—[$10,000—$4,000"; and the reference in the 11th line to "$8,000 [$4,000 adjusted basis X $8,000", should read "($8,000—[$4,000 adjusted basis X $8,000",

b. The reference in the 25th line of Example (8) to "$1,000 ($6,000 [$4,000", should read "$1,000 ($6,000—[$4,000".

2. In § 1.170A-6(c)(4), the words "by the donor, such value", in the 9th line from the bottom should be deleted and replaced with "was determined pursuant".

3. In § 1.170A-7:

a. In paragraph (b)(1)(i) the word "individual" in the 12th line from the end of the subdivision should read "undivided".

b. In paragraph (c) the words "the fair market value of the remainder unitrust" in the 23d and 24th lines should be deleted.

4. In § 1.170A-8(e):

a. In paragraph (c) of Example (3) the word "this" in the third line from the bottom should read "his."

b. In Example (8), the reference to "—$4,000" in the 13th line of paragraph (c) should read, "—[$4,000".

5. In the examples tables in § 1.170A-10(c)(2):

a. The year "1972" referred to in heading over the third column of the table marked "1971" should refer to "1971".

b. In the table marked "1974," in item (3)(ii) the figure "$7,100" in the third line should appear in parentheses.

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dialifor

A petition (PP 1F1032) was filed by Hercules Inc., Wilmington, Del. 19899, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for combined residues of the insecticide dialifor (*S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorodithioate) and its oxygen analog in or on the raw agricultural commodities citrus fruits at 1.5 parts per million and in meat and milk at 0.005 part per million (negligible residue).

Subsequently, the petitioner amended the petition by increasing the proposed tolerance for residues in or on citrus fruits to 3 parts per million and by changing the proposed tolerance on meat and milk to 0.06 part per million in meat, fat, and meat byproducts of cattle and fat of milk. (For a related document, see this issue of the FEDERAL REGISTER, page 22987.)

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. The proposed tolerances on meat and milk are adequate to cover residues resulting from the proposed use, and § 180.6(a)(2) applies. No poultry feed items are involved.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended as follows:

1. In § 180.3(e)(5), by alphabetically inserting in the list of cholinesterase-inhibiting pesticides two new items as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * * * *

(e) * * *

(5) * * *

Dialifor (*S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorodithioate).

Dialifor oxygen analog (*S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorothioate).

* * * * * * *

2. In Subpart C, by adding a new section as follows:

§ 180.326 Dialifor; tolerances for residues.

Tolerances are established for combined residues of the insecticide dialifor (*S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorodithioate) and its oxygen analog *S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorothioate in or on raw agricultural commodities as follows:

3 parts per million in or on citrus fruits.

0.06 part per million in meat, fat, and meat byproducts of cattle.

0.06 part per million in milk fat (reflecting negligible residues in whole milk).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18301 Filed 10-26-72;8:47 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Inorganic Bromides

A petition (PP 0F1004) was filed by the Dow Chemical Co., Midland, Mich. 48640 and the Shell Chemical Co., Suite 1103, 1700 K Street NW., Washington, DC 20006, in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) proposing the establishment of tolerances for residues of inorganic bromides (calculated as Br) in or on the raw agricultural commodities soybeans at 125 parts per million and lima beans at 50 parts per million from soil application of the nematocide 1,2-dibromo-3-chloropropane.

Subsequently the petitioners amended the petition by requesting a higher tolerance (75 parts per million) for residues in or on lima beans.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purposes for which tolerances are being established, and the Fish and Wildlife Service of the Department of the Interior advised that it has no objection to these tolerances.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The proposed usage is not expected to add significantly to the background levels of inorganic bromides in meat, milk, poultry, and eggs.

2. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.197 is amended by alphabetically inserting soybeans in the paragraph which begins "125 parts per million" and lima beans in the paragraph which begins "75 parts per million", as follows:

§ 180.197 Inorganic bromides resulting from soil treatment with 1,2-dibromo-3-chloropropane; tolerances for residues.

* * * * * * *

125 parts per million in or on bananas (of which residue not more than 75 parts per million shall be in the pulp after the peel is removed and discarded), and soybeans.

* * * * * * *

75 parts per million in or on almond hulls, carrots, celery, figs, lima beans, okra, parsnips, radishes, snap beans, and turnips.

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-18300 Filed 10-26-72;8:47 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Paraquat

A petition (PP 0F0986) was filed by Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94804, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the herbicide paraquat derived from application of either the dichloride or the bis(methyl sulfate) salt in or on the raw agricultural commodities alfalfa, birdsfoot trefoil, clover, pasture grass, and range grass at 50 parts per million; and in the meat, fat, and meat byproducts of cattle, goats, and sheep and in milk at 0.05 part per million (negligible residue).

Subsequently, the petitioner amended the petition by reducing the proposed tolerances on alfalfa, birdsfoot trefoil, clover, pasture grass, and range grass from 50 parts per million to 5 parts per million and on the meat of cattle, goats, and sheep and in milk from 0.05 part per million to 0.01 part per million (negligible residues) and by proposing a tolerance of 0.01 part per million (negligible residue) for meat, fat, and meat byproducts of horses.

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide is useful for the purpose for which tolerances are being established and the Fish and Wildlife Service, U.S.D.I., stated that it had no objections to the proposed tolerances.

Based on consideration given the data submitted and other relevant material, it is concluded that:

1. There is no reasonable expectation of residues in eggs or poultry, and § 180.6(a)(3) applies.

2. The proposed tolerances on meat, fat, and meat byproducts of cattle, goats, horses, and sheep and in milk are adequate for residues from the proposed use, and § 180.6(a)(2) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.205 is amended by inserting a new paragraph "5 parts per million * * *" before the paragraph "0.5 part per million * * *" and by inserting two new paragraphs "0.01 part per million (negligible residue) in meat * * *" and "0.01 part per million (negligible residue) in milk", respectively, after the paragraph "0.05 part per million * * *", as follows:

§ 180.205 Paraquat; tolerances for residues.

* * * * * * *

5 parts per million or on alfalfa, birdsfoot trefoil, clover, pasture grass, and range grass.

* * * * * * *

0.01 part per million (negligible residue) in meat, fat, and meat byproducts of cattle, goats, horses, and sheep.

0.01 part per million (negligible residue) in milk.

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–18303 Filed 10–26–72;8:47 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Methomyl

A petition (PP 2F1246) was filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the insecticide methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in or on the raw agricultural commodities nectarines and peaches at 5 parts per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.253 is amended by revising the paragraph "5 parts per million • • •", as follows:

§ 180.253 Methomyl; tolerances for residues.

• • • • •

5 parts per million in or on cabbage, endive (escarole), lettuce, nectarines, peaches, and peas.

• • • • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–18302 Filed 10–26–72;8:47 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

2-*tert*-Butylamino-4-Ethylamino-6-Methylthio-s-Triazine

Two petitions (PPs 1F1048 and 1F1152) were filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for negligible residues of the herbicide 2-*tert*-butylamino-4-ethylamino-6-methylthio-*s*-triazine in or on the raw agricultural commodities barley (grain, green fodder, and straw) and sorghum grain and fodder and forage at 0.1 part per million.

Subsequently, the petitioner withdrew the proposed tolerances on sorghum fodder and forage.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.265 is revised to read as follows:

§ 180.265 2-*tert*-Butylamino-4-ethylamino-6-methylthio-s-triazine; tolerances for residues.

Tolerances are established for negligible residues of the herbicide 2-*tert*-butylamino-4-ethylamino-6-methylthio-*s*-triazine in or on the raw agricultural commodities barley (grain, green fodder, and straw), sorghum grain, and wheat (grain, green fodder, and straw) at 0.1 part per million:

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.72–18304 Filed 10–26–72;8:47 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Subpart D—Exemptions From Tolerances

FURFURAL BYPRODUCT

A notice (PP 2E1232) was published by the Environmental Protection Agency in the FEDERAL REGISTER of August 30, 1972 (37 F.R. 17570), proposing establishment of an exemption from the requirement of a tolerance for residues of furfural byproduct (a granular, steam-acid sterilized, lignocellulosic residuum in the extraction of furfural from corn cobs, sugarcane bagasse, cottonseed hulls, oat hulls and rice hulls) when the byproduct is used as an inert diluent or carrier in pesticide formulations applied to growing crops. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.1001 is amended by alphabetically inserting a new item in the table in paragraph (d), as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

(d) • • •

Inert ingredients	Limits	Uses
• • •	• • •	• • •
Furfural byproduct (a granular steam-acid sterilized, lignocellulosic residuum in the extraction of furfural from corn cobs, sugarcane bagasse, cottonseed hulls, oat hulls, and rice hulls).	.....	Solid diluent, carrier.
• • •	• • •	• • •

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Enivronmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)).

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–18299 Filed 10–26–72;8:47 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Federal Financial Participation in Payments for Skilled Nursing Home Services

Current regulations provide that Federal financial participation is available in payments made by a State under its medical assistance program under title XIX of the Social Security Act for skilled nursing home services only if such services are furnished by a facility which meets the conditions specified in § 249.10(b)(4)(i) of this part. One of these conditions (§ 249.10(b)(4)(i)(*h*)) is that the facility be determined by the title XIX agency to meet all of the standards established under section 1902(a)(28) of the Act as evidenced by an agreement between the title XIX agency and the facility (see § 249.33(a)(2) of this part).

It has been determined that, in the case of a skilled nursing home whose provider agreement has expired or otherwise been terminated, a temporary period of continued Federal financial participation would be in the best interests of individuals eligible for medical assistance for whom arrangements need to be made to facilitate their orderly transfer from such a home to another appropriate facility. The amendment set forth below provides that a State may continue to claim Federal financial participation in payments for skilled nursing home services furnshed by a facility, which no longer has a valid provider agreement, during a period not to exceed 30 days following expiration or termination of such agreement.

Notice of proposed rule-making procedure has been dispensed with for good cause, since delay would be contrary to the interest of beneficiaries of the program, the States, and the public. However, interested persons may submit comments, suggestions, or objections in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from date of publication of this regulation in the FEDERAL REGISTER. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (202—963–7361). Material submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until it is revised, however, it shall remain effective, thus permitting the public business to proceed expeditiously.

Section 249.10(b)(4)(i)(*h*) of Chapter II, Title 45, Code of Federal Regulations, is revised to read as follows:

§ 249.10 Amount, duration, and scope of medical assistance.

• • • • •

(b) *Federal financial participation.* • • •

(4)(i) • • •

(*h*) The facility has been determined by the single State agency to meet all of the standards established under section 1902(a)(28) of the Act, as evidenced by an agreement between the single State agency and the facility for the provision of skilled nursing home care and the making of payments under the plan; except that, effective July 1, 1972, with respect to skilled nursing home services furnished on or after such date by a skilled nursing home whose provider agreement expired or was otherwise terminated on or after such date, the State agency may continue to claim Federal financial participation in payments on behalf of eligible individuals for such services furnished by such home during a period not to exceed 30 days starting with the date of expiration or other termination of its provider agreement, but only if such individuals were admitted to the home before the date of expiration or other termination of its provider agreement, and if the State agency makes a showing satisfactory to the Secretary that it has made reasonable efforts to facilitate the orderly transfer of such individuals from such home to another appropriate facility.

• • • • • •

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. This revision shall be effective July 1, 1972.

Dated: August 29, 1972.

PHILIP J. RUTLEDGE,
Acting Administrator, Social and Rehabilitation Service.

Approved: October 19, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.72–18353 Filed 10–26–72;8:52 am]

Chapter X—Office of Economic Opportunity

PART 1076—ECONOMIC DEVELOPMENT PROGRAMS

Subpart—Waiver of Non-Federal Share of Program Costs for Certain Title I–D Programs (OEO Instruction 7641)

Chapter X of Title 45 of the Code of Federal Regulations is amended by adding a new Part 1076, which includes a new subpart, reading as follows:

Sec.
1076.1–1 Purpose.
1076.1–2 Applicability of this subpart.
1076.1–3 Background.
1076.1–4 Policy.
1076.1–5 Valuation of non-Federal share.

AUTHORITY: The provisions of this subpart issued under sec. 155, 81 Stat. 690; 42 U.S.C. 2768.

§ 1076.1–1 Purpose.

The purpose of this subpart is to set forth the criteria for waiving the requirement of non-Federal share of program costs for programs carried out with financial assistance pursuant to title I–D of the Economic Opportunity Act of 1964, as amended (EOA).

§ 1076.1–2 Applicability of this subpart.

This subpart is applicable to all grantees which have been awarded financial assistance under title I–D of the EOA.

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§ 1076.1–3 Background.

(a) Section 155 of the EOA prescribes two types of non-Federal share requirements. The first requirement relates to the cost of the program including costs of administration. Section 155 permits the Director of OEO to issue regulations establishing objective criteria under which more than 90 percent of the cost of a title I–D program may be supported by Federal assistance. This subpart sets forth those criteria and is limited to the program costs non-Federal share requirements.

(b) The second non-Federal share requirement in section 155 states that where capital investment is required under a contract with a private organization (other than a nonprofit organization) the Federal share of such capital investment shall not exceed 90 percent. That requirement is not affected by this subpart.

§ 1076.1–4 Policy.

(a) *General.* Each recipient of financial assistance under title I–D is ordinarily required to provide from non-Federal sources 10 percent of the cost of operating its program. However, under certain circumstances this requirement may be waived. A request for waiver shall be submitted by the applicant or recipient's Chairman of the Board or comparable official to the Associate Director for Economic Development or other officer having authority to make the grant or otherwise furnish the financial assistance in question (hereinafter referred to as the responsible officer) and a determination shall be made by such officer.

(b) *Operating programs.* The requirement for a non-Federal share of program costs shall be waived in whole or in part where it is shown to the satisfaction of the responsible officer that:

(1) The applicant for financial assistance or recipient of financial assistance has made a vigorous effort to raise the non-Federal share but has not been and will not be able to do so (in whole or in part), and

(2) (i) The per capita income in the community served by the program is less than one-half the per capita income in the United States as a whole. (On the basis of the 1970 census, one-half the per capita income was $1,570 and in February 1972, one-half the estimated per capita income in the United States as a whole was approximately $1,800). For programs operating in Alaska, the figure representing the per capita income for the United States as a whole shall be adjusted upward by 25 percent and in Hawaii by 15 percent to allow for the substantially higher cost of living in those States.

(ii) If the per capita income figures submitted in support of the request for waiver are other than direct U.S. census data, the data source and satisfactory reasons for not using U.S. census data shall be shown. The officer determining the request for a waiver may request a full description of the procedures used in developing such data.

(c) *Support programs.* The requirement of non-Federal share of program costs shall also be waived in whole or in part for programs funded to conduct evaluations or research or to furnish support services to other title I–D programs or to OEO, the Department of Commerce, the Department of Labor or the Department of Agriculture, provided that the applicant for financial assistance has made a vigorous effort to raise the non-Federal share but has not been and will not be able to do so (in whole or in part).

(d) *Procurement contracts.* No non-Federal share is required for procurement contracts. Accordingly no waiver is needed.

§ 1076.1–5 Valuation of non-Federal share.

Non-Federal contributions may be in cash or in-kind, fairly evaluated, including but not limited to plant, equipment, and services. See generally OEO Instructions 6802–1 and 6802–08.

WESLEY L. HJORNEVIK,
Deputy Director.

[FR Doc.72–18343 Filed 10–26–72;8:51 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 116]

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Abatement Determination; Correction

In F.R. Doc. 72–18107, appearing in the FEDERAL REGISTER issue of October 21, 1972 (37 F.R. 22747), and more specifically page 22750 thereof, paragraph (e) (2) (ii) of § 294.6 respecting "Abatement determination" set forth a table following the statement, "The commission attributable to the amount subject to abatement will be deducted from such abatement," which should have been correctly stated as follows:

Freight rate increment	Percentage
For the first $0.95 per ton that the rate in subparagraph (1) (ii), exclusive of the rate premium, exceeds the rate in (1) (i), the percentage is	0
For the amount that such excess is between $0.95 per ton and $1.95 per ton, the percentage is	50
For the amount that such excess is over $1.95 per ton, the percentage is	75

By order of the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board.

Dated: October 24, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72–18423 Filed 10–26–72;8:56 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. 1104, Amdt. 1]

PART 1033—CAR SERVICE

Penn Central Transportation Co. Authorized To Operate Over Tracks of Erie Lackawanna Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 20th day of October 1972.

Upon further consideration of Service Order No. 1104 (37 FR 15307), and good cause appearing therefor:

It is ordered, That: § 1033.1104 *Service Order No. 1104* (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, authorized to operate over tracks of the Erie Lackawanna Railway Co.) Service Order No. 1104 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 21, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–18394 Filed 10–26–72;8:56 am]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 33—SPORT FISHING

Upper Souris National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGSTER (10–27–72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Upper Souris National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas comprise 7,000 acres and are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111. Sport fishing shall be in accordance with all applicable State laws and regulations subject to the following special conditions:

(1) Refuge areas shall be open to the taking of fish from January 1 through March 25, 1973. Closed to all fishing from March 26, 1973, through May 4, 1973. The refuge shall then be open to the taking of fish from May 5, 1973, through March 24, 1974. Boat fishing shall be permitted only from May 5, 1973, through September 30, 1973.

(2) The use of once frozen smelt, perch eyes, and commercially pickled minnows is permitted.

(3) One outboard motor of not more than 10 horsepower may be attached to any boat or floating craft and is to be used for fishing purposes only. Speed limit on the Souris River above the Mouse River Park not to exceed 5 miles per hour.

(4) Legal hook and line equipment for each fisherman while fishing from shoreline and road crossings of Lake Darling and banks of the Mouse (Souris) River, shall consist of one pole equipped with one line to which is attached one hook or lure.

(5) Fish houses and vehicles will not be permitted on river areas below the Lake Darling dam.

(6) Operation of snowmobiles within the refuge boundaries is prohibited.

(7) Refuge is open to public use between the hours of 5 a.m. to 10 p.m. daily.

(8) All owners of watercraft stored on refuge public use areas must secure a special use permit for this purpose. Special use permits are available at the refuge headquarters office. All watercraft must be removed from refuge areas within 3 days after the close of the boating season on September 30.

(9) Fish houses must be removed from the ice no later than February 28 and refuge lands by no later than March 3.

The provisions of this special regulation supplement the regulations which govern fishing on Wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through March 24, 1974.

DON R. PERKUCHIN,
Refuge Manager, Upper Souris National Wildlife Refuge, Foxholm, N. Dak.

OCTOBER 19, 1972.

[FR Doc.72–18283 Filed 10–26–72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

DIALIFOR

A petition (FAP 1H2589) was filed by Hercules Inc., Wilmington, Del. 19899, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) proposing establishment of a food additive tolerance (21 CFR Part 121) for combined residues of the insecticide dialifor (*S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorodithioate) and its oxygen analog in dried citrus pulp at 10 parts per million from carryover and concentration after application of the insecticide to the growing raw agricultural commodities citrus fruits.

Subsequently, the petitioner amended the petition by increasing the proposed tolerance for residues of the insecticide to 15 parts per million. (For a related document, see this issue of the FEDERAL REGISTER, page 22982.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the act (sec. 409(c) (1) and (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1) and (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 F.R. 9038), Part 121 is amended by adding the following new section to Subpart C:

§ 121.342 Dialifor.

A tolerance of 15 parts per million is established for combined residues of the insecticide dialifor (*S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorodithioate) and its oxygen analog *S*-(2-chloro-1-phthalimidoethyl) *O,O*-diethyl phosphorothioate in dried citrus pulp when present therein as a result of the application of the insecticide to growing citrus fruits.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10–27–72).

(Sec. 409(c) (1) and (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1) and (4))

Dated: October 16, 1972.

EDWIN L. JOHNSON,
Acting Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–18308 Filed 10–26–72;8:48 am]

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Child Protection Packaging Standards; Extension of Effective Dates

In the FEDERAL REGSTER of February 16, 1972 (37 F.R. 3427), March 25, 1972 (37 F.R. 6184), and April 27, 1972 (37 F.R. 8433), respectively, the Commissioner of Food and Drugs promulgated regulations establishing child protection packaging standards for preparations containing aspirin (21 CFR 295.2(a) (1), effective August 14, 1972), liquid preparations containing methyl salicylate (21 CFR 295.2(a) (3), effective Septem-

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ber 21, 1972), and preparations subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 CFR 295.2(a)(4), effective October 24, 1972).

On the basis of a reported survey of retail pharmacists by the editor of "Pharmacy Times," of reports received from members of the Technical Advisory Committee established pursuant to section 6 of the Poison Prevention Packaging Act of 1970, of a report from the National Association of Chain Drug Stores, and of investigations by the Food and Drug Administration, the Commissioner finds that stocks of special packaging for prescription dispensing have not become sufficiently available for retail pharmacists to comply with the above-cited regulations and effective dates. The Commissioner concludes that each said effective date should be extended.

Therefore, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474) and under authority delegated to the Commissioner (21 CFR 2.120), the effective dates of subparagraphs (1), (3), and (4) of § 295.2(a) are extended to January 22, 1973, only insofar as those subparagraphs apply to drugs dispensed by retail pharmacists pursuant to an order of a licensed medical practitioner authorized to prescribe, provided that such pharmacists have records showing that they ordered adequate quantities of special packaging well in advance of the effective dates of the three regulations involved and that they immediately begin to use special packaging in accordance with those regulations when it is delivered to them.

Dated: October 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18483 Filed 10-26-72;10:07 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[7 CFR Part 1890u]

[AL–111(444)]

RURAL HOUSING LOANS

Proposed Leasehold Interests in Nonfarm Tracts

Notice is hereby given that the Farmers Home Administration is considering a proposed amendment to Subchapter G, Miscellaneous Regulations by the addition of Part 1890u, "Sections 502 and 504 Rural Housing Loans on Leasehold Interests in Nonfarm Tracts." This part authorizes the making of section 502 leasehold interest loans to applicants who own or will own a leasehold interest in a nonfarm tract after the loan is closed, and also permits section 504 loans to be made to applicants who are owner-occupants of a dwelling located on a site held through a leasehold interest. The authority for making section 502 RH leasehold interest loans was formerly in Part 1890s of this chapter and will be removed from this Chapter upon the adoption of this Part 1890u.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, DC 20250, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Deputy Administrator Comptroller, during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, the new Part 1890u will read as follows:

PART 1890u—SECTIONS 502 AND 504 RURAL HOUSING LOANS ON LEASEHOLD INTERESTS IN NONFARM TRACTS

Sec.
1890u.1 General.
1890u.2 Definitions.
1890u.3 Policy.
1890u.4 Use of loan funds.
1890u.5 Lease form.
1890u.6 Appraisal of leasehold.
1890u.7 Maximum RH loan and rental charges.
1890u.8 Title clearance and loan closing.
1890u.9 Interest credits.

AUTHORITY: The provisions of this Part 1890u issued under section 510, 63 Stat. 437, 42 U.S.C. 1480; Order of Act. Sec. of Agr., 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 86 FR. 21529.

§ 1890u.1 General.

This part modifies Subparts A and B of Part 1822 of this chapter. This part authorizes the making of sections 502 and 504 Rural Housing (RH) loans to applicants who hold or will hold leases on nonfarm tracts under conditions specified in this part. Section 502 loans will be made on nonfarm tracts in accordance with Subpart A of Part 1822 of this chapter, as modified by this part. Section 504 loans may be made to the holder of a lease on a nonfarm tract in accordance with Subpart B of Part 1822 of this chapter, as modified by this part.

§ 1890u.2 Definitions.

As used in this part the following definitions will apply: (a) *Applicant.* A person who applies for a section 502 or section 504 RH loan on a nonfarm tract on which he holds or will hold a lease.

(b) *Leasehold.* The rights and interests a person has in the nonfarm building site on which he has a lease.

(c) *Lessor.* The owner of the building site.

(d) *Acquisition cost.* The cost of acquiring the leasehold interest exclusive of any monthly or annual rental charges.

(e) *Office of the General Counsel (OGC).* The Regional Attorney or Attorney in Charge whose service area includes the particular State.

§ 1890u.3 Policy.

The following policies will apply to loans under this part: (a) Loans may be made on leaseholds on land owned by a State, political subdivision, public body, or public agency, on Indian Tribal lands which are not available for purchase, or on land where the State Director determines that long-term leasing of homesites by nonpublic bodies is a well-established practice and such leaseholds are freely marketable in the area.

(b) A loan may be made on a leasehold only when the applicant is unable to obtain fee title to the property.

(c) The applicant should have the right to any extent feasible to acquire the fee title to the property sometime during the life of the loan.

(d) The lease for section 502 loans must have an unexpired term of at least 50 years from the date of the loan closing. The unexpired term of the lease must be not less than 15 years for section 504 loans.

(e) The lease must meet the requirements of § 1822.7(j)(1) of this chapter.

(f) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be required unless the loan is secured by other than real estate in accordance with Subparts A and B of this chapter.

§ 1890u.4 Use of loan funds.

(a) Section 502 RH loans may include funds for: (1) Reasonable acquisition cost of the leasehold interest at the time of making the initial RH loan in areas where acquisition charges are customary.

(2) The purchase of the fee title on which a leasehold exists, by means of a subsequent loan provided that all other requirements are met.

(3) Purposes authorized in § 1822.6 of this chapter for nonfarm tracts except for the payment of real estate taxes.

(b) Section 504 RH loan funds will not be used to pay the lease acquisition cost of the leasehold interest in the property or for purposes other than those authorized in § 1822.25 of this chapter. The limitations described in § 1822.27 of this chapter are applicable.

§ 1890u.5 Lease form.

The lease forms used by the Federal Housing Administration and the Veterans Administration in the area, the Bureau of Indian Affairs lease form, No. 5–184, "Lease," and the lease forms used in cases of RH loans on farm leaseholds, should be used by the State Director as guides in developing a lease form or forms for his State. The services of OGC are available for this purpose. In any case in which the lessor wants the option of paying the RH debt in case the borrower defaults, the lease may include such a provision.

§ 1890u.6 Appraisal of leasehold.

When it appears that an RH loan can be made on a leasehold interest, an appraisal of the leasehold will be made in accordance with the procedure applicable to the type of loan being made. In areas where RH loans are likely to be made on leaseholds, sales data on leaseholds should be accumulated for appraisal purposes. When making appraisals on leaseholds, the following guides will be used in determining the value of the leasehold interest:

(a) With OGC assistance where appropriate, study the provisions of the lease to determine what rights and obligations the applicant will have under the lease and whether the lease complies with the policies of this part.

(b) Determine the market value of the property as improved (land and buildings) as though the property were owned under a good and marketable fee title.

(c) Determine the market value of the land on an "as is" basis before any improvements to be financed by the applicant are placed on the property.

(d) Determine the amount of rent that customarily is paid in the area for similar sites leased under similar terms.

(e) Where a lease acquisition cost is involved, determine the market value of the applicant's leasehold by using the market value of comparable leaseholds in the area. The value assigned to a particular leasehold must be reasonable. In making this determination, the appraiser will consider the amount of annual rent

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to be paid under the lease plus the annual loan payment required on the portion of the RH loan used to acquire the leasehold. The sum of these should not exceed the amount an applicant would need to pay if he were to obtain a loan to buy a similar site.

(f) The maximum security value for RH loan purposes will be the market value of the improved property less the "as is" value of the nonfarm tract plus any market value of the applicant's leasehold. For example:

Market value of improved property	$15,000
Market value of site "as is"	2,000
Market value of improvements	13,000
Market value of leasehold interest in site, if applicable	800
Market value of property subject to leasehold interest in site	13,800

(g) Form FHA 422-8, "Appraisal Report (Nonfarm Tracts and Small Farms)," will be completed with a full explanation as to how the values were determined. Parts 1 through 5 of this form will be completed to show the factors considered in determining recommended market value of the property as if it were owned in fee simple. Part 6 of the Appraisal Report will contain an explanation of the factors considered in determining the maximum security value for a loan being made on the leasehold.

§ 1890u.7 Maximum RH loan and rental charges.

(a) The amount of the RH loan plus any prior liens against the property will not exceed the maximum security value determined in accordance with § 1890u.6 (f).

(b) The rental must not exceed the rate being paid for similar sites in the area under similar leases.

§ 1890u.8 Title clearance and loan closing.

The services of the OGC will be used in cases involving a mortgage on a leasehold and § 1822.15(b)(1) (iii) and (iv) of this chapter will apply. Whenever a loan on a leasehold is made subject to an agreement with other agencies, the title clearance and loan closing will be handled in accordance with any special conditions in the agreement and Part 1807 of this chapter.

§ 1890u.9 Interest credits.

Interest credits may be granted to section 502 RH borrowers who hold leaseholds. The amount of interest credit will be determined on the same basis as though the borrower owned the property except that the annual rental charges will be included in the interest credit determination block which contains loan payment, taxes, and insurance costs on Form FHA 444-6, "Interest Credit Agreement (Section 502 RH Loans)." Insert the following in the blank space below the entry indicating Annual Real Estate Taxes:

Annual rental charges $----------

Dated: October 20, 1972.

ARTHUR C. HARMAN, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-18386 Filed 10-26-72;8:55 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-65]

ALTERNATE AIRWAY

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would establish a north alternate VOR Federal airway No. 76 from Llano, Tex., to Austin, Tex.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

V-76N would be used for Austin westbound departures and for westbound flights overflying Austin. The alignment would be from Llano via INT of Llano 096° T (087° M) and Austin 314° T (305° M) radials to Austin. Radials are based on relocation of Austin VORTAC to the Robert Mueller Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C. on October 19, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc.73-18295 Filed 10-26-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-WE-43]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would establish a new transition area at University Airport, Davis, Calif.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, CA 90045.

A new VOR/DME instrument approach procedure is being developed for University Airport. The initial approach fix will be established at the Sacramento VOR TAC 280° radial 18 NM DME fix, the final approach radial would also be the Sacramento VORTAC 280° M radial. Additional 700 foot transition area will be required to provide controlled airspace protection for aircraft executing the prescribed procedure while operating between 1,500 and 700 feet above the surface.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (37 F.R. 2143) the following transition area is added:

DAVIS, CALIF.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of University Airport (latitude 38°31'55" N., longitude 121°47'10" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on October 16, 1972.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc. 72-18298 Filed 10-26-72;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 72-28; Notice 1]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

License Plate Lamp Placement

The purpose of this notice is to propose an amendment to 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, that would amend the license plate lamp location requirement.

Standard No. 108, by incorporating SAE Standard J587d, *License Plate Lamps*, March 1969, requires the license plate lamp to illuminate the plate "from the top or sides." The intent of this requirement is to preclude illumination of the plate by a lamp mounted in such a manner that its output is easily obscured by accumulation of dirt or snow. But by its general wording, the requirement also precludes the use of bottom-mount designs that do not present this problem. American Motors Corp. has petitioned for an amendment of Standard No. 108 that would make the standard less design restrictive. The NHTSA has determined that the petition has merit, and is issuing this notice in response thereto.

The basic problem is not the position of the lamp with respect to the plate, but the possible obscuring of the lens by dirt or snow either because it faces horizontally upward, or because of a vehicle surface near the lens upon which an accumulation could intercept the light path. There appears to be a need, therefore, for a requirement that (1) meets the substantive problem to a reasonable degree, (2) is not overly broad or design restrictive, and (3) is stated in quantitative terms that clearly delineate what is prohibited.

Under the proposal, the license plate lamp would no longer be required to illuminate the plate "from the top or sides." Instead, any mounting location would be permissible as long as no part of the vehicle to the rear of the license plate's design position were within a defined volume of "unobstructed space." As proposed, the space is bounded by six planes: (1) The plane of the plate, (2) a plane through the top edge of the plate and the point on the lamp lens closest to the center of the plate (the lens center), (3) and (4) two planes, through the left and right edges of the plate and the corresponding points at the lateral extremes of the exposed lamp lens surface, (5) a plane through the bottom edge of the plate and the point 2 inches below the lens center, and (6) a plane through the lens center, perpendicular to the vertical plane through the line from the lens center to the center of the plate, and at an angle of 30 degrees forward of the vertical below the lens center. Comments are particularly invited on the dimensions of the unobstructed space, as related to considerations of cost, benefit, and vehicle design.

Paragraph S4.1.1.14, allowing a bottom mounted lamp until January 1, 1973, would be superseded by the new requirement, which would be added as a paragraph under S4.3, *Location of required equipment.*

In consideration of the foregoing it is proposed that 49 CFR 571.108 be revised by adding a new paragraph S4.3.1. ------ and Figure ------ as follows:

S4.3.1. ------ With reference to each license plate lamp, no part of the vehicle to the rear of the license plate's design position (hereafter referred to as "plate") shall be within the "unobstructed space" shown in Figure ------. The unobstructed space is bounded by the following planes:

(a) The plane of the plate.

(b) A plane passing through the top edge of the plate and the point on the lamp lens closest to the center of the plate (hereafter referred to as lens center).

(c) Two planes, passing through the left and right edges of the plate respectively, and through corresponding points at the lateral extremes of the exposed lamp lens surface.

(d) A plane through the bottom edge of the plate and the point 2 inches directly below the lens center.

(e) A plane passing through the lens center, perpendicular to the vertical plane through the line from the lens center to the center of the plate, and at an angle of 30 degrees forward of the vertical below the lens center.

Proposed effective date: January 1, 1973.

Comments should refer to the docket and notice number and be submitted to the Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on December 19, 1972, will be considered, and will be available in the docket at the above address for examination before and after the closing date. To the extent possible, comments filed after the above date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. Relevant material will continue to be filed, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 18, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

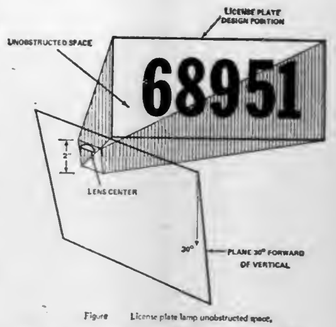


Figure License plate lamp unobstructed space.

[FR Doc.72-18173 Filed 10-26-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19617; FCC 72-945]

TELEVISION BROADCAST STATIONS IN NASHVILLE, TENN.

Proposed Table of Assignments

In the matter of amendment of § 73.606(b), *Table of assignments*, Television Broadcast Stations. (Nashville, Tenn.), Docket No. 19617, RM-1944.

1. On March 22, 1972, General Electric Broadcasting Co., Inc. as licensee of commercial television Station WSIX-TV Channel 8 at Nashville, Tenn. (GE) and the Metropolitan Board of Education as licensee of educational television Station WDCN-TV Channel *2 at Nashville, Tenn. (Educators or Board), filed a joint petition with this Commission requesting that the reservation for noncommercial educational use presently attached to Channel *2 in Nashville be deleted from that channel and affixed to Channel 8 in Nashville. In addition, it is requested that the Commission issue appropriate orders looking toward the modification of GE's license for Channel 8 to be modified to specify operation on the proposed nonreserved Channel 2 and for the Educators' license for Channel *2 to be modified to specify operation on the proposed reserved Channel *8. No oppositions were received with respect to the subject petition.

2. Davidson County, Tenn., includes in its entirety the city of Nashville, the population of each being the same, 447,877.[1] Nashville has seven television channels assigned: *2, WDCN-TV, licensed to the Metropolitan Board of Education; 4, WSM-TV (a NBC affiliate), licensed to WSM, Inc.; 5, WLAC-TV (a CBS affiliate), licensed to WLAC-TV, Inc.; 8, WSIX-TV (an ABC affiliate), licensed to General Electric

[1] Population figures cited are from the 1970 U.S. Census unless otherwise specified.

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Broadcasting Co., Inc.; 17, WMCV, licensed to Music City Video Corp. (presently not operating, with Commission permission originally issued on March 14, 1971), and 30 and *42 both of which have no applications pending for their use.

THE PROPOSAL

3. In brief, the joint petitioners, GE and the Educators, wish to exchange channels (*2 and 8) for their respective operations. As an inducement for the exchange of channels, GE is willing to provide the proposed educational operation on Channel 8 with the following equipment, services and/or funds as set out in their contract dated February 25, 1972:

* * * (A) The present transmitter utilized by General Electric in the operation of WSIX–TV on Channel 8 along with auxiliary equipment such as demodulators, frequency monitors, diplexers and other equipment required for transmission on Channel 8 * * * all installed by, and at the expense of, General Electric;

(B) A two-bay General Electric type TY98A antenna with a single 6⅛-inch rigid transmission line for operation on Channel 8 (or equivalent approved by Board), and intalled by, and at the expense of, General Electric, on a new heavy duty tower to be erected by General Electric at the present transmitter site of WSIX–TV * * * or, at the sole option of Board, cash in the amount of $107,000;

(C) A General Electric type 4PY33A7 slot diplexer for Channel 8 operation (or equivalent approved by Board), installed by, and at the expense of, General Electric or, at the sole option of Board, cash in the amount of $18,000;

(D) A dual microwave link (Microwave Associates MA–2B or equivalent approved by Board), for transmission of video and audio from the present main studio of WDCN–TV to the transmitter site of WSIX–TV, installed by, and at the expense of, General Electric, or, at the sole option of Board, cash in the amount of $25,000;

(E) Necessary additional transmitter terminal equipment not now available to WDCN–TV installed by, and at General Electric's expense, or, at the sole option of Board, cash in the amount of $15,000; and

(F) Two GE PE–400 Color Cameras, one GE PE–240 Color Film Chain with one RCA TP–7 projector and one Eastman Model 2 Optical Multiplexer, one Ampex VR 1200 Hi-Band Color Video Tape Recorder, and terminal equipment necessary for color installation or, at the sole option of Board, cash in the amount of $410,000.

In addition, GE agrees to assume the following obligations:

* * * (A) General Electric will construct, own, and maintain at its expense, a heavy-duty tower, capable of supporting at least the antennas of Channels 2 and 8, at the present site of WSIX–TV and will execute a 99-year lease, in form satisfactory to counsel for Board, which shall lease to Board, for a consideration of $1 per year, sufficient space on said tower to accommodate Board's Channel 8 antenna, transmission line, and studio-transmitter microwave receiving equipment and such other minor equipment as the parties may agree upon, and sufficient space in General Electric's transmitter building to accommodate Board's Channel 8 transmitter and associated equipment, including an auxiliary transmitter and associated equipment * * *. The lease shall also provide for termination, at the option of General Electric, at any time earlier than 99 years, upon the event that Board, its lawful successors or assigns, ceases to operate Channel 8 as a non-commercial-educational television station as said type of station is defined in Commission § 73.621.

(B) General Electric shall also execute an agreement in form satisfactory to counsel for Board, to operate and maintain, for a period of 99 years, Board's Channel 8 transmitter, antenna system, terminal equipment, and microwave receiver equipment * * *. This Agreement shall also provide for termination, at the option of General Electric, at any time earlier than 99 years, upon the event that Board, its lawful successors or assigns, ceases to operate Channel 8 as a non-commercial-educational television station as said type of station is defined in Commission § 73.621.

(C) General Electric will also execute an Agreement to assign to Board, at any time specified by Board, within 5 years from the date of the Commission's final orders * * * free and clear of all liens and encumbrances, a new transmitter, installed at the expense of General Electric, for operation on Channel 8 or, at Board's sole option, General Electric shall pay to Board cash in the amount of $180,000 * * *.[2]

4. GE views the present operation of Educators on Channel *2 as not using, from a technical view, the full potential of that channel. According to the pleadings the present service areas and populations served by Educators on Channel *2 are:

Square miles served	Population served
Grade A, 2,855	638,103
Grade B, 11,852	1,111,795

Apparently the Board does not have adequate funds to develop the full potential of Channel *2 and therefore it has agreed with GE to use Channel 8 in place of Channel *2 for its educational service in that all of the additional equipment and services described in paragraph 3 supra will make Educators' proposed service on Channel 8 superior, from a technical view, to the Board's present operation on Channel *2. Its proposed service areas and populations for Channel 8, with the equipment and services GE has contracted to provide the Board are:

Square miles served	Population served
Grade A, 7,716	880,391
Grade B, 14,726	1,233,190

The present commercial operation of GE on Channel 8 has the following service areas and population coverage:

Square miles served	Population served
Grade A, 7,988	901,380
Grade B, 15,295	1,256,101

Apparently GE is convinced that these figures result from a maximum operation (for practical purposes) of Channel 8 and believes that Channel *2 can be (because of its lower frequency) much more effective both with respect to extending GE's Grade B coverage and solving the problem of filling in shadow areas within its service area. The topography of the area is one of rough or steeply rolling terrain. The proposed operation of GE on Channel *2 is expected to serve the following areas and populations with a minimum of shadow effect:

Square miles served	Population served
Grade A, 5,300	754,735
Grade B, 17,497	1,343,588

5. In sum, we are confronted in this matter with a situation where an educational service will be improved significantly, from a technical view, by shifting its operation from Channel *2 to Channel 8. Its improvement is made possible only because of the receipt of outside funds, i.e., GE's contributions. It appears that there will be no such improvement of the educational service if the above setout proposal is not adopted since the Board seems to have little or no financial ability to improve its operation, from a technical view, on Channel *2. GE observes that the exchange of channels is, in its view, in the public interest not only because of the above, but in addition, because its commercial operation on Channel *2 (as an ABC affiliate) will make its service more competitive and comparable to the two other commercial network affiliated VHF stations (on Channels 4 and 5) in Nashville. It is maintained that such competitive comparability will strengthen a system of three-network service to the Nashville market thereby providing for a continuation of a provision of a variety of programing and views. In conclusion, GE maintains that the proposed service of the Board on Channel 8, although being technically inferior to the proposed operation of GE on Channel *2, is sufficient for the purposes of an educational service in that the educational service in Nashville does not have the requirement of competing financially with two competitors such as WSM–TV, Channel 4, an NBC affiliate, and WLAC–TV, Channel 5, a CBS affiliate.

6. In view of the foregoing, we consider it in the public interest to explore the proposal of petitioners to delete the reservation for noncommercial educational use from Channel *2 and affix it to Channel 8, both at Nashville, Tenn. Therefore, we proposed the following revision in our Television Table of Assignments (§ 73.606(b) of the Commission's rules and regulations) with respect to the city listed below:

City	Channel No.	
	Present	Proposed
Nashville, Tenn.	*2–, 4+, 5, 8+, 17, 30, *42	2–, 4+, 5, *8+, 17, 30, *42

In addition to this proposal, petitioners are both hereby advised that if it is determined to be in the public interest to make the above revision in our Television Table of Assignments in this rule making proceeding, a show cause order or other appropriate order will be issued looking toward the requested modification of licenses as part of any final decision in this matter.

7. Authority for the actions proposed herein is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before December 1, 1972, and reply comments on or before December 18, 1972. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

10. All filings made in this proceeding will be avaiable for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: October 18, 1972.

Released: October 24, 1972.

FEDERAL COMMUNICTIONS COMMISSION,[3]
BEN F. WAPLE,
Secretary.

[FR Doc.72–18355 Filed 10–26–72;8:52 am]

[2] The Board makes the following statement with respect to the cash options which appear in its agreement with GE:

"* * * The Metropolitan Board of Education, of Nashville, Tenn., wishes to assure the Commission that in the event it exercises its option under its agreement with General Electric Broadcasting Co., Inc., to take cash instead of equipment, it would devote that cash exclusively to improvement of the physical facilities of the proposed Channel 8 * * *."

[3] Commissioner Johnson dissenting; Commissioner H. Rex Lee concurring and issuing a statement, which is filed as part of the original document.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 544]

[No. 72–1211]

FEDERAL SAVINGS AND LOAN SYSTEM

Age Limitation on Directors and Officers of Federal Savings and Loan Associations

OCTOBER 12, 1972.

Paragraphs (h) and (i) of § 544.6 of the rules and regulations for the Federal Savings and Loan System (12 CFR 544.6 (h), 544.6(i)) are optional bylaw provisions, regarding the maximum age for directors and officers of Federal savings and loan associations. These bylaw provisions have been approved by the Federal Home Loan Bank Board for adoption by any Federal association. Pursuant to such bylaw provisions, directors or officers with "grandfather" rights may be reelected as directors or officers for one additional term after attaining the maximum age specified in the applicable bylaw provision, unless otherwise provided by an association's board of directors by resolution.

The Board now considers it advisable to propose regulations which substitute new optional bylaw provisions for the present optional bylaw provisions. In substance, such new optional bylaw provisions would prohibit the reelection as a director or appointment as an officer of anyone who has attained the maximum age specified in a particular association's bylaws, but would permit such person to serve out the unexpired portion of the term being served on the date such optional bylaw provision becomes effective as to the particular association. Federal associations which have heretofore adopted the present optional bylaw provisions would be permitted to retain their present bylaw provisions. Other Federal associations would have a choice of either applying to the Board for approval of a special bylaw provision, adopting the new optional bylaw provisions or having no bylaw provisions regarding an age limitation for its directors and officers. Accordingly, it is hereby proposed to amend said § 544.6 by revising paragraphs (h) and (i) thereof to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by November 27, 1972, as to whether this proposal should be adopted, rejected or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 544.6 *Amendment to bylaws.*

This section constitutes approval by the Board of any one or more of the following amendments to the bylaws of any Federal association, or of an amendment repealing any provision of such association's bylaws providing for a bonus other than a bonus under the provisions of § 545.3 of this chapter, upon the valid adoption of any such amendment by such association's directors or members as provided in its bylaws, effective when so adopted: *Provided,* That the approval given by this section to the bylaw amendment set forth in paragraph (e) of this section shall be applicable only to a Federal association which has a charter in a form which is not inconsistent with the provisions of § 545.3 of this chapter and which, at the time such bylaw amendment becomes effective, does not have in its bylaws any other provision providing for the payment of a bonus on savings accounts of such association:

* * * * * *

(h) *Age limitation on directors.* No person shall be eligible for election, reelection, appointment, or reappointment to the board of directors of the association who is then more than (fill in any age from 65 to 70) years of age. No director shall serve beyond the annual meeting of the association immediately following his attainment of (fill in the same age from 65 to 70 as used above) years of age; except that any such director serving on (fill in date of adoption of bylaw) may complete the unexpired portion of his term being served on such date.

(i) *Age limitation on officers.* No person shall be eligible for election, reelection, appointment, or reappointment as an officer of the association who is then more than (fill in any age from 65 to 70) years of age. No officer shall serve beyond the annual meeting of the association immediately following his attainment of (fill in the same age from 65 to 70 as used above) years of age; except that any such officer serving on (fill in date of adoption of bylaw) may complete the unexpired portion of his term being served on such date.

* * * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.72–18334 Filed 10–26–72;8:50 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1102, 1104, 1105, 1303, 1306]

[Ex Parte No. 286]

GENERAL INCREASES IN FREIGHT RATES AND PASSENGER FARES

Adequate Notice and Furnishing of Data to Public

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of September 1972.

Among the responses received to the Commission's original order dated December 11, 1970, instituting the proceeding in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure (preliminary report entered on November 5, 1971, not printed), were those suggesting broader and more effective notice to the public of the nature of and effective dates of proposed general increases in freight rates and charges. In addition, it has recently been suggested by affected persons that more appropriate notice of proposed passenger fare increases be required, and that the proponent carriers should be required to make available complete financial information in a timely manner.

For clarity the issues relating to freight rates and charges and passenger fares will be considered separately.

V37N208 OCT 27 72 XUM

General freight rate increases, rail and motor. In the recent past, the Commission has promulgated procedures in connection with both railroad and motor carrier freight rate increases designed (as stated in the rail carrier procedures) to "aid in the elimination of uncertainty among users of the service as to future transportation costs." The rail procedures were prescribed by order dated August 13, 1970, entitled "Procedures Governing Rail Carrier General Increase Proceedings," and are codified in part 1102 of Title 49 of the Code of Federal Regulations. The motor procedures are codified as part 1104 thereof, and were prescribed in Ex Parte No. MC–82, New Procedures in Motor Carrier Rev. Proc., 339 I.C.C. 324 and 340 I.C.C. 1 (modifications on reconsideration). As pertinent here, in both of those instances we required the carriers, as a condition to obtaining special permission to depart from the tariff circular rules to publish proposed increases in freight rates, to file the schedules not less than 45 days prior to the effective dates. In addition, they are required to submit to the Commission their entire evidentiary case at the time of initiating the proposal, whether by petition, tariff schedules or otherwise, and at the same time to serve a copy thereof upon each party of record in the last corresponding general revenue proceeding.

Subsequent to approval of the most recent general increases in rail rates, we have authorized the increase to be made effective upon not less than 15 days' notice to the public. Our previous policy had been to allow the carriers to institute the new level of rates on not less than 1 day's notice. It had become evident that shippers needed more time to arrange their business in an orderly fashion to meet the changes in rates.

Thus, we have extended the time and scope of the notice required and the dissemination of the basis for proposed general increases in freight rates, as well as providing the public with reasonable notice before the effective date of the action taken. However, because the measures which we have thus far required do not meet the most recent suggestions with respect to even further extension of the scope of notice to the general public, and because we believe also that the public should be notified in understandable terms of changes in rates, we conclude that these matters should be inquired into.

1. Regarding the suggestion that proposed general increases should be made more understandable, it is proposed that the carriers be required to submit a summary thereof in sufficient detail to apprise the public in general of the effect of their proposal. Since they are presently required to file their entire evidentiary case when the proposal is initiated, the submission of such a summary at the same time should not constitute an undue burden.

2. With respect to wider dissemination of notice of proposed general increases, it is proposed, first, to require the carriers to file with the Governor of each State served by the carriers and affected by the proposal, and with each regional and district office of this Commission in each State served by the carrier and affected by the proposal, a copy of the original proposal, whether initiated by petition, by the filing of tariff schedules, or otherwise; a copy of the entire evidentiary case relied upon in support of the proposal; and a copy of the summary referred to above. Certification of such service would be required. If adopted, it is to be hoped that the States would undertake to further publicize the information regarding the proposal. To require any additional service by the carriers would, we believe, impose upon them an unjustifiable burden.

Secondly, it is proposed that the carriers be required to publish notice of the general increase and its essential details in the principal newspaper of general circulation in the capital and the major cities of each State affected by the proposal.

General increases in passenger fares, rail, and motor. We turn now to the matter of additional time and scope of notice and availability of carrier financial data in connection with proposed increases in fares.

First, regarding additional time between the filing and proposed effective date of such increases, the statute permits carriers to publish proposed rate and fare changes of any kind on not less than 30 days' notice. We have no authority, except where the carriers request special permission to depart from tariff circular rules promulgated by the Commission, to alter the 30-day notice provided by statute. As previously indicated in relation to proposed increases in freight rates and charges, we have extended the period of notice required as a condition to the granting of special permission. However, in publishing fare increases the carriers normally comply with the tariff circular rules and, absent any request for special permission, no alteration may be made in the 30-day period of notice by us.

With respect to extending the scope of notice, the present regulations regarding notice in Part 1306.6 of Title 49 of the Code of Federal Regulations require the posting and content of notices of motor carrier fare increases for suburban service as follows:

(e) *Notice of proposed increases in fares for suburban service.* (1) Each carrier of passengers whose passenger operations over regular routes are confined solely to suburban service also shall notify the public of any proposal to increase its local regular-route fares by means of a notice posted in a conspicuous place in each station, agency, or office where tickets are sold and tariffs containing the proposed increased fares are required to be posted, and in a conspicuous place in each vehicle engaged in suburban service; and each other carrier of passengers likewise shall notify the public of any proposal to increase commutation fares for suburban service by means of a notice posted in a conspicuous place in each station, agency, or office where commutation tickets for which an increase is proposed are sold and tariffs containing the proposed increased fares are required to be posted, and in a conspicuous place in each vehicle engaged in the suburban service for which the increase is proposed.

(2) The notice required by subparagraph (1) of this paragraph shall be not less than 120 square inches in size, printed in type sufficiently large to permit of its being read under ordinary conditions by passengers seated in the conveyance, and * * * shall contain substantially the following legend:

Notice of Increased Fares

(Name of carrier)

This carrier has filed with the Interstate Commerce Commission, tariffs proposing increases in fares, effective ---------- (Date)

for ----------

(Here describe briefly and generally the kind of transportation, points, or localities affected, and the increases proposed)

Further information as to the proposed increases may be obtained from any of this carrier's offices where such transportation is sold or at its general office----------

---

(Here give street address, city, and telephone number)

Under the law, any interested person may protest to the Commission and request suspension of the increased fares. The Commission's rules require that seven (7) copies of the protest shall be filed at its office in Washington, D.C., at least twelve* (12) days before the effective date of the increased fares and should indicate in what respect fares are considered to be unlawful. The rules also require that a copy of the protest be simultaneously mailed to----------

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(Here name the carrier proposing the increased fares)

Part 1303.34 paragraph (j) contains corresponding provisions with respect to rail suburban service.

Although we believe that compliance with those regulations results in some cases in adequate dissemination of notice of increases to the individual passengers, nevertheless we believe that some changes are warranted to expand public notice and to facilitate participation by the public with regard to suburban service. It is proposed that subparagraphs (1) above be amended to require the posting of notices in at least two conspicuous places, one in the forward and one in the rear section of each vehicle engaged in the service; and that subparagraphs (2) be amended to require that each notice shall be not less than 240 square inches in size. Also, it is proposed to require that "further information" as used in subparagraphs (2) shall include the statement of justification, hereinafter referred to, and shall be made available at all points referred to above. Furthermore, it is proposed to omit the requirements that "seven (7) copies of" the protest be filed. In the same paragraphs, it is proposed to change the word "unlawful" to objectionable.

*In the event the increased fares are published on less than thirty (30) days' notice, the words "at least twelve (12) days" should read "as promptly as possible." [Emphasis added.]

To assure that the communities served by the carrier and affected by the proposal are promptly notified, we propose to require the carriers to serve directly on the principal government official of each such community, and to serve each regional and district office of this Commission in each State served by the carrier and affected by the proposal, a copy of the notice otherwise posted, with certification of such service by the carriers, and to transmit a copy thereof to each daily or weekly newspaper published in the communities affected by the proposal.

While the notice regulations quoted above provide that information regarding proposed increases may be obtained from the carrier, it does not contemplate the furnishing of the complete financial data relied upon by the carriers to support proposed fare increases. See that the information and data thus relied upon by the carriers may be more readily available to interested persons who otherwise would have no access thereto, we propose to require the filing by the carrier, simultaneously with the filing at the Commission, of a copy of its complete statement of justification for the proposed increases with the principal official of the governments of the communities served by the carrier and affected by the proposal, with certification of such service by the carrier.

In addition, we propose to apply the same posting regulations, set forth above, to motor and rail (outside Amtrak operations) intercity and other long-haul service. In consideration of the above matters, and good cause appearing therefor:

It is ordered, That a proceeding be, and it is hereby instituted under authority of sections 6, 13, 204(c), 216(e), and 217 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Administrative Procedure Act, with the view to adopting the following additions to or modifications of present regulations:

1. Part 1102, sections 1, 2, and 3, Part 1104, sections 1 and 7, of Title 49, Code of Federal Regulations, shall be modified to include requirements of (1) filing and service of a summary of the proposed general increase in freight rates and charges as therein prescribed, (2) filing and service of the original proposal, whether initiated by petition, tariff schedules, or otherwise, a copy of the summary referred to above, and a copy of the carrier's entire evidentiary case upon the Governor of each State served by the carrier and affected by the proposal, with certification of such service by the carrier, and (3) publication of notice of the general increase and its essential details in the newspaper of the capital and major cities of each State affected by the proposal.

2. Amend Part 1303, section 34, paragraph (j), and Part 1306, section 6, paragraph (e), as follows:

In subparagraphs (1) thereof, change the wording to require the posting of notices in at least two conspicuous places, one in the forward and one in the rear section of each vehicle engaged in the service.

In subparagraph (2) thereof, (a) change the wording to require that each notice shall be not less than 240 square inches in size, (b) to require that the "further information" therein referred to shall include the statement of justification to be furnished by the carrier at the time of filing the schedules, and shall be made available at the carrier's offices where such transportation is sold and at its general office; (c) eliminate the wording "seven (7) copies of" (the protests); and (d) change the word "unlawful" to objectionable.

3. To Part 1303, section 34, paragraph (j), add a new subparagraph (5), and to Part 1306, section 6, paragraph (e), add a new subparagraph (5) to provide for service of the notices therein required directly upon the principal government official of each community served by the carrier and affected by the proposal, with certification of such service by the carrier. Add a new subparagraph (6) to each section to provide for the transmission of a copy of the notice thereof to each daily or weekly newspaper published in the communities affected by the proposal.

4. To Part 1303, section 34, add a new paragraph (k), and to Part 1306, section 6, add a new paragraph (f), to require the same posting of the same size notices as in the case of suburban service with respect to increased fares for motor and rail (outside of Amtrak operations) intercity and other long-haul passenger services.

5. Add a new Part 1105, "Procedures to be Followed in Rail and Motor Communication or Suburban Passenger Fare Increases" to require the filing by the carrier, simultaneously with the filing at the Commission, of a copy of its complete statement in justification for the proposed increases with the principal official of the governments of the communities served by carrier and affected by the proposal, with certification of such service by the carriers.

It is further ordered, That all railroads and motor common carriers subject to the jurisdiction of this Commission be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of verified facts, views, and arguments on the proposals set forth above.

It is further ordered, That any person intending to participate in this proceeding by submitting initial or reply statements, or otherwise, shall notify the Commission by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before November 24, 1972, the original and one copy of a statement of such intention.

Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing initial and/or reply statements, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interests being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be issued in this proceeding; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding and upon whom copies of all statements must be filed; and that at the time of service of this service list the Commission will fix the time within which initial statements and replies must be filed.

And it is further ordered, That a copy of this order be served on each party to the proceeding in Ex Parte No. MC–82, on each party to the proceeding in Ex Parte No. 270, and on all known consumer interests, that a copy be deposited in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that statutory notice of the institution of the proceeding be given to the general public by delivering a copy thereof to the Director, Office of the Federal Register, for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18392 Filed 10-26-72;8:56 am]

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Notices

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

STATE PLANNING AGENCY GRANTS

Availability of Manual

Notice is hereby given that on August 22, 1972, the Law Enforcement Assistance Administration issued the manual "State Planning Agency Grants." These are the guidelines for Program 16.500 Law Enforcement Assistance—Comprehensive Planning Grants. The objective of this program is to provide matching grants to States for the operation of State Law Enforcement Planning Agencies which develop and administer comprehensive statewide law enforcement improvement plans. Copies of this manual are available and may be obtained from the regional office in any of the following cities:

LEAA—U.S. Department of Justice, 917 John W. McCormack Post Office and Courthouse, Boston, Mass. 02109.
LEAA—U.S. Department of Justice, 26 Federal Plaza, Room 1351, Federal Office Building, New York, N.Y. 10007.
LEAA—U.S. Department of Justice, 928 Market Street, Second Floor, Philadelphia, PA 19107.
LEAA—U.S. Department of Justice, 730 Peachtree Street NE., Room 985, Atlanta, GA 30308.
LEAA—U.S. Department of Justice, O'Hare Office Center, Room 121, 3166 Des Plaines Avenue, Des Plaines, IL 60018.
LEAA—U.S. Department of Justice, 500 South Ervay Street, Suite 313–C, Dallas, TX 75201.
LEAA—U.S. Department of Justice, 436 State Avenue, Kansas City, KS 66101.
LEAA—U.S. Department of Justice, Federal Building, Room 6519, Denver, Colo. 80202.
LEAA—U.S. Department of Justice, 1860 El Camino Real, Fourth Floor, Burlingame, CA 94010.
LEAA—U.S. Department of Justice, 130 Andover Building, Seattle, Wash. 98188.

JERRIS LEONARD,
Administrator.

OCTOBER 24, 1972.

[FR Doc.72–18372 Filed 10–26–72;8:53 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., December 1, 1972.

SEWARD MERIDIAN, ALASKA

T. 16 N., R. 4 E.,
Sec. 19, lots 1 to 6 inclusive, E½SW¼, S½NE¼SE¼, NW¼SE¼, S½SE¼;
Sec. 20, lots 1, 2, and 3, SW¼SW¼;
Sec. 29, lots 1 to 5 inclusive, NW¼NW¼, S½NW¼, SW¼, SW¼SE¼;
Sec. 30, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 31, lots 1, 2, 3, and 4, E½, E½W½;
Sec. 32, all.
Containing 2,727.12 acres.

2. The lands are bordered on the north by the Knik River, flowing northwest, and by the Chugach Mountains to the south. The soil is thin sandy loam and gravel bars.

The timber is cottonwood, birch, and spruce. The undergrowth is devil's club, rose brier, willow, and alder brush.

Access to the township is an improved dirt road, that enters the township in section 30.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

CLARK R. NOBLE,
Land Office Manager.

[FR Doc. 72–18280 Filed 10–26–72;8:45 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m., December 1, 1972.

SEWARD MERIDIAN, ALASKA

T. 19 N., R. 9 E.,
Sec. 2, lots 1, 2, and 3, E½NE¼; NW¼SW¼NE¼, S½SW¼NE¼, NW¼, S½;
Sec. 3, lot 1, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 4, lots 1, 2, 3, 4, 5, and 6, N½, SW¼, N½SE¼.
Containing 1,881.70 acres.

2. The soil is of a consistency. The land varies from level to steep mountainous with elevation ranging from 1,500 to 2,300 feet.

There is one large glacial fed stream that originates at the face of the Matanuska Glacier; its course is northwesterly crossing the north boundary in the NE¼ of section 2. A considerable portion of the NE¼ of section 2 is covered with the Matanuska Glacier ice. There is one meanderable lake, a portion of which lies in the SE¼ of section 4.

Timber for the most part is small spruce, cottonwood, and birch, with alder and willow undergrowth.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

CLARK R. NOBLE,
Land Office Manager.

[FR Doc.72–18281 Filed 10–26–72;8:45 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective 10 a.m., December 1, 1972.

SEWARD MERIDIAN, ALASKA

T. 20 N., R. 9 E.,
Sec. 16, all;
Sec. 26, lots 8 to 12 inclusive, S½SW¼, SW¼SE¼;
Sec. 27, lots 11 to 19 inclusive;
Sec. 28, lots 5 to 11 inclusive;
Sec. 33, all;
Sec. 34, lots 1 to 9 inclusive, NW¼NW¼, S½NW¼, SW¼;
Sec. 35, lots 1 to 12 inclusive, NE¼, NE¼NW¼, E½SE¼.
Containing 2,843.50 acres.

2. The elevation ranges from 1,500 feet in section 28 to 3,200 feet above mean sea level in section 16. A large portion of the E½ of section 35 is covered with the ice flow of the Matanuska Glacier.

There are two large rivers and one large creek in the township, all three of which were meandered. The Matanuska River, the Matanuska Glacier outlet and Glacier Creek are all glacier silt-laden streams and all are subject to rise and fall due to temperature as all three streams are fed by the melting of ice fields and glaciers in the mountains.

Soil for the most part is thin and rocky. Timber is mostly small spruce and cottonwood with some birch. The flood plain of the Matanuska Glacier outlet and Glacier Creek ranges up to 60 chains wide and the high waters have cut numerous channels.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

CLARK R. NOBLE,
Land Office Manager.

[FR Doc.72–18282 Filed 10–26–72;8:45 am]

CHIEF, BRANCH OF REALTY SERVICES, DIVISION OF TECHNICAL SERVICES UTAH STATE OFFICE

Redelegation of Authority

1. Pursuant to the authority contained in Part I, sec. 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate to the Chief, Branch of Realty Services, authority to take action on the matters listed in Part II–A.

2. The Chief, Branch of Realty Services, may by written order, designate any qualified employee of the Branch to perform the functions of his position, in an acting capacity, in his absence. Such order will be approved by the Chief, Division of Technical Services.

3. *Effective date.* This redelegation will become effective upon publication in the FEDERAL REGISTER (10–27–72).

ROBERT D. NIELSON,
Associate Director.

Approved: October 20, 1972.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.72–18341 Filed 10–26–72;8:51 am]

[Montana 23321]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 18, 1972.

The Department of Transportation, on behalf of the Montana Highway Commission, has filed application, M 23321, for the withdrawal of the lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for proposed highway construction.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

T. 2 N., R. 4 W.,
Sec. 18, lot 3.
T. 3 N., R. 4 W.,
Sec. 32, W½E½ and SE¼SW¼.
T. 4 N., R. 4 W.,
Sec. 4, lots 3 and 4, and S½NW¼; and
Sec. 28, E½.
T. 5 N., R. 4 W.,
Sec. 6, S½SE¼ and SE¼SW¼;
Sec. 8, SW¼, S½NW¼SE¼, and SW¼SE¼;
Sec. 16, W½E½ and E½W½;
Sec. 18, lots 1 and 2, N½NE¼, and NE¼NW¼;
Sec. 21, W½E½ and E½W½;
Sec. 28, E½NW¼ and SW¼; and
Sec. 33, W½.
T. 6 N., R. 4 W.,
Sec. 32, NE¼SW¼.
T. 2 N., R. 5 W.,
Sec. 24, NW¼.
T. 4 N., R. 5 W.,
Sec. 6, lots 1, 2, 4, 5, 6, 7, 8, and 9.
T. 5 N., R. 5 W.,
Sec. 13, lots 2 and 3, W½SE¼, and SW¼;
Sec. 14, SE¼SE¼;
Sec. 23, lots 1, 2, 3, and 6, N½NE¼, and NE¼NW¼;
Sec. 22, lots 1 and 2, NW¼SE¼, and SE¼SW¼;
Sec. 27, lots 3, 4, and 5;
Sec. 28, lots 7, 8, 10, 11, 12, 13, 15, 16, and 17;
Sec. 32, lots 1, 6, 7, 8, 9, 10, and 11; and
Sec. 33, lot 1.

The areas described aggregate 3,924.95 acres in Jefferson County, Mont.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72–18369 Filed 10–26–72;8:54 am]

[Montana 23322]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 19, 1972.

The Department of Transportation, on behalf of the Montana Highway Commission, has filed application, M 23322, for the withdrawal of lands described below, from location and entry under the mining laws, subject to existing valid claims.

The applicant desires the land for proposed highway construction.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

LOLO NATIONAL FOREST

T. 15 N., R. 24 W.,
Sec. 34, SE¼SE¼ and NW¼SW¼.
T. 15 N., R. 25 W.,
Sec. 35, NE¼SE¼.
T. 18 N., R. 29 W.,
Sec. 10, lots 1, 2, 3, 5, 7, 8, and 9;
Sec. 11, SW¼SE¼;
Sec. 13, NW¼SW¼;
Sec. 14, lots 5, 11, 12, 16, and 17; and
Sec. 24, lots 13, 15, and 17.

The areas described aggregate 601.78 acres in Mineral County, Mont.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72–18370 Filed 10–26–72;8:54 am]

[OR 5205]

OREGON

Opening of Lands

OCTOBER 19, 1972.

1. On September 26, 1972, the Geological Survey issued Cancellation 295 which canceled Power Site Classification

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No. 276 of September 5, 1933, in its entirety, on the following described lands:

WILLAMETTE MERIDIAN

T. 1 N., R. 9 E.,
Sec. 1, lot 7;
Sec. 11, SE¼NE¼.
T. 1 N., R. 10 E.,
Sec. 18, SW¼SE¼.

The area described aggregates approximately 123.5 acres.

2. The land in T. 1 N., R. 9 E., sec. 11, SE¼NE¼ is in the Mount Hood National Forest. The other lands have been patented. All of the lands are located in Hood River County.

3. The State of Oregon has been notified by the Geological Survey of its right of selection in accordance with the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818) as amended, and the effective date of the cancellation was set accordingly as January 26, 1973.

4. Beginning at 10 a.m. on January 26, 1973, the national forest land shall be open to such form of disposition as may by law be made of such lands.

5. Inquires concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Post Office Box 2965, Portland, OR 97208.

IRVING W. ANDERSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-18371 Filed 10-26-72;8:55 am]

Geological Survey

EARTH RESOURCES SURVEY PROGRAM DATA

Notice of Availability

Notice is hereby given that, pursuant to the authority contained in 5 U.S.C. 552, Freedom of Information Act, and in accordance with agreements reached with the National Aeronautics and Space Administration, the Department of the Interior will provide the principal public access for land-oriented users to the data from NASA's ERTS (Earth Resources Technology Satellite) and supporting aircraft programs from its EROS (Earth Resources Observation Systems) Data Center facility in Sioux Falls, S. Dak. All the NASA data are in the public domain upon receipt at the EROS Data Center and copies can be purchased by anyone. The Departments of Commerce and Agriculture will service users in their respective fields of interest (see FEDERAL REGISTER, September 6, 1972, page 18045).

The NASA ERTS programs are experiments in the use of space and remote sensing technology to manage more efficiently Earth's resources and to aid in assessing and understanding changes in our environment. The data being provided will be of interest to researchers and managers in the fields of geography, geology, hydrology, urban planning, land use and natural resources studies to name a few.

EROS DATA CENTER

The EROS Data Center in Sioux Falls, S. Dak., is operated for the Earth Resources Observation Systems program of the Department of the Interior by the Geological Survey to provide access to Earth Resources Technology Satellite (ERTS) imagery, USGS aerial photography, and NASA aircraft data for the general public, domestic government agencies at all levels, and foreign governments. Facilities are available for data storage, retrieval, reproduction, and dissemination.

All products of the EROS Data Center are for sale. Price lists are available on request.

ERTS imagery. ERTS imagery is originally processed at the Goddard Space Flight Center, NASA Data Processing Facility (NDPF). Each scene, covering 10,000 square nautical miles, is imaged multispectrally: three images from the Return Beam Vidicon (RBV) and/or four images from the Multispectral Scanner (MSS). The raw data are System Corrected Images (SYCI) and provided to the Data Center in the form of 70 mm. film. Copies of System Corrected (bulk) individual images are available at contact scale of 1:3, 390,000 or enlarged to scales of 1:1,000,000; 1:500,000; or 1:250,000. System Corrected color composites, derived by processing the three RBV or three of the four MSS images together, are available for selected scenes at scales of 1:1,000,000· 1:500,000; and 1:250,000.

Selected images are further processed by the NDPF into Scene Corrected (precision) images. These images have been rectified to truly orthographic photographs and have been overprinted with the UTM grid. Reproductions of the Scene Corrected images are available at scales of 1: 1,000,000; 1: 500,000; and 1: 250,000. Color composites of some of the Scene Corrected images are available at the same scales.

Catalog and browse microfilms are available for purchase from the Data Center. A single 16 mm. microfilm contains a catalog listing plus one RBV and one MSS image per scene for an 18-day acquisition cycle by the satellite.

NASA aircraft imagery. Imagery and photography obtained by NASA, as part of its Aircraft Program in support of the development of Earth Resources Surveys by aircraft and spacecraft, are processed at the Manned Spacecraft Center and at the Ames Research Center. The data were acquired for specific purposes and to varied specifications as to time, aerial coverage, and sensors, and are primarily of test sites within the continental United States. The Data Center has catalogs and microfilm browse files of this NASA imagery available for inspection. Copies of these images and photographs may be purchased at contact scales, enlargements, or reductions, in color or black-and-white, on film or on paper, in rolls or cut.

NASA Apollo and Gemini photos. The Data Center also will furnish copies of the Apollo and Gemini earth-oriented photographs from those manned spacecraft missions.

USGS aerial photography. Copies of aerial photographs taken by the U.S. Geological Survey primarily for purposes of topographic and geologic mapping, are available from the Data Center. These photographs are at various scales from 1: 12,000 to 1: 60,000, reflecting the specifications of the particular project. A computerized index to the USGS held photographs (available only at the center) and a microfilm browse file (also a sale item) for evaluation of coverage are available at the Data Center.

Magnetic tapes. Computer-compatible magnetic tapes of both ERTS data and NASA Aircraft Program data are available for reproduction through the Data Center. Of the total ERTS data, about 5 percent of the System Corrected MSS and RBV data, and 100 percent of the Scene Corrected data are available in this form. Tapes of data from aircraft program investigations as with NASA aircraft imagery, cover a variety of sites and situations, but all that have been produced are available.

How to place an order. To request data by telephone—from 7 a.m. to 7 p.m., central time:

Call: 605—339-2270 commercial, 605—336-2381 for FTS users.

By letter, write: EROS Data Center, Data Management Branch, Sioux Falls, S. Dak. 57198.

By personal visit, visit: EROS Data Center, 10th and Dakota Avenue, Sioux Falls, S. Dak.

PUBLIC INSPECTION LOCATIONS

The Department of the Interior will maintain several locations throughout the United States and the Canal Zone where interested users can inspect the 16 mm. microfilm browse files of the NASA ERTS coverage. Data abstracts and coverage catalogs will also be available. Order forms, procedures, and price lists will be posted at each site. Generally, the hours for inspection will be Monday through Friday, 9 a.m. to 3 p.m., except on legal holidays.

Locations of browse files:

Eros Data Center, U.S. Geological Survey, 10th and Dakota Avenue, Sioux Falls, S. Dak. 57198, Phone 605-339-2270.[1]

Map Information Office, U.S. Geological Survey, Room B-310 GSA Building, 18th and F Streets NW., Washington, DC 20242, Phone 202—343-2611.

Susan Moorlag, CARETS Information Center, 1717 H Street NW., Room 837, Washington, DC 20242, Phone 202—343-5985.

Dr. Janice Whipple, Water Resources Division, U.S. Geological Survey, Room 343, Post Office and Court House Building, Post Office Box 948, Albany, NY 12201, Phone 518—472-3107.

Mr. Lincoln Page, U.S. Geological Survey, Fifth Floor, 80 Broad Street, Boston, MA 02110, Phone 617—223-7202.

Mr. Gary North, EROS Program Assistance Office, Room B-210, Building 1100, USGS/Mississippi Test Facility, Bay St. Louis, Miss. 39520, Phone 601—688-3541.

Mr. A. E. Letey, Region Engineer, Topographic Division, U.S. Geological Survey, Room 2404, Building 25, Denver Federal Center, Denver, Colo. 80225, Phone 303—234-2351.

Mr. Herbert H. Schumann, Water Resources Division, U.S. Geological Survey, Room 5107, Federal Building, Phoenix, Ariz. 85025, Phone 602—261-3188.

Miss Lucy E. Birdsall, Public Inquiries Office, U.S. Geological Survey, Room 7638, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012, Phone 213—688-2850.

Mrs. Eva M. Raymond, Public Inquiries Office, U.S. Geological Survey, Room 678, U.S. Court House Building, West 920 Riverside Avenue, Spokane, WA 99201, Phone 509—456-2524.

Miss Margaret L. Erwin, Public Inquiries Office, U.S. Geological Survey, 108 Skyline Building, 508 Second Avenue, Anchorage, AK 99501, Phone 907—277-0577.

Mr. Roy R. Mullen, Region Engineer, Topographic Division, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, CA 94025, Phone 415—323-8111.

HQ Inter-American Geodetic Survey, Drawer 934, Fort Clayton, Canal Zone, Phone 117-1201, Panama Routine 833-227.

Mr. A. C. McCutchen, Region Engineer, Topographic Division, U.S. Geological Survey, 961 Pine Street, Rolla, MO 65401, Phone 314—364-3680.

Mr. Jon S. Beazley, State Topographic Engineer, Florida Department of Transportation, State Topographic Office, Tallahassee, Fla. 32304, Phone 904—599-6212.

U.S. Bureau of Land Management, Director, Portland Service Center, Post Office Box 3681, Portland, OR 97208, Phone 503—234-4001.

EROS Program Library, U.S. Geological Survey, Washington, D.C. 20242, Phone 202—343-7500.

William S. Massa, Chief, Maps and Surveys Branch, Tennessee Valley Authority, 200 Haney Building, 311 Broad Street, Chattanooga, TN 37401, Phone 615—755-2133.

U.S. Geological Survey Library, 601 East Cedar Avenue, Flagstaff, AZ 86001, Phone 602—774-1330.

V. E. MCKELVEY,
Director.

OCTOBER 18, 1972.

[FR Doc.72-18347 Filed 10-26-72;8:52 am]

[1] Also complete reproduction facility for all Earth Resources Survey data.

Office of the Secretary

[DES 72-106]

PROPOSED CUYAHOGA RIVER VALLEY ACQUISITION

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Cuyahoga River Valley Acquisition Project and invites written comments within forty-five (45) days of this notice.

The environmental statement considers the acquisition of approximately 14,500 acres of land in the Cuyahoga River Valley in Summit and Cuyahoga Counties, Ohio. Acquisition will be by the Ohio Department of Natural Resources and will help maintain the open space character of the valley. Also, the acquisition will be used by the general public for picnicking, hiking, field sports, and other outdoor recreation activities. The project site lies between Cleveland and Akron.

Copies are available for inspection at the following locations:

Bureau of Outdoor Recreation, Lake Central Regional Office, 3853 Research Park Drive, Ann Arbor, MI 48104.
Bureau of Outdoor Recreation, Division of State Programs, Department of the Interior, Washington, D.C. 20240.
Ohio Planning and Development Clearinghouse, Office of the Governor, Box 1001, Columbus, OH 43215.
Northeast Ohio Areawide Coordinating Agency, 387 The Arcade, Cleveland, OH 44114.

Copies may be obtained by writing the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: October 17, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72-18342 Filed 10-26-72;8:51 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

RHODE ISLAND

Designation of Areas for Emergency Loans

It has been determined that property loss or damage or injury in certain counties in Rhode Island has resulted from natural disasters caused by excessive rainfall in the spring and prior to Hurricane Agnes and additional excessive rainfall caused by Hurricane Agnes. The following counties of Rhode Island are affected by such natural disasters:

Bristol. Providence.
Kent. Washington.
Newport.

It has further been determined that in the above counties of Rhode Island a general need for credit exists. Therefore, these counties are declared eligible for low-interest rate disaster loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Laws 91-606 and 92-385. Applications for such loans must be received by this Department prior to July 1, 1973, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of October, 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-18387 Filed 10-26-72;8:55 am]

Packers and Stockyards Administration

EAST ALABAMA LIVESTOCK SALE ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AL-154 East Alabama Livestock Sale, Oxford, Ala.
GA-175 Bleckley County Feeder Pig Sale, Cochran, Ga.
IA-243 Farmers Livestock Auction Co., Inc., Oelwein, Iowa.
MO-230 Southwest Missouri Livestock Assn., Sarcoxie, Mo.
MO-229 West Plains Livestock Auction, West Plains, Mo.
SD-160 Presho Livestock Auction Company, Presho, S. Dak.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 20th day of October 1972.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch Livestock Marketing Division.

[FR Doc.72-18332 Filed 10-26-72;8:50 am]

Soil Conservation Service

WATERSHED PLANNING

Notice of Authorization

This provides a notice of the authorization dated October 20, 1972, to concerned State conservationists of the Soil Conservation Service for providing planning assistance to specified local organizations on the indicated watersheds. The State conservationist now may proceed with the investigations and surveys, as may be necessary, to develop watershed work plans under authority of the Watershed Protection and Flood Prevention Act (Public Law 83-566).

Environmental statements will be prepared, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, concurrently with the preparation of the proposed watershed work plans. Environmental statements will be made available to the general public, filed with the Council on Environmental Quality, and the notice of availability published in the FEDERAL REGISTER.

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Persons interested in any of these projects may contact the local organizations or the concerned State conservationist as indicated below:

Georgia: Riverbend-Baconton Watershed; 119,709 acres; Colquitt, Dougherty, Mitchell, and Worth Counties; sponsors—Middle South Georgia Soil and Water Conservation District, Dougherty County Board of Commissioners, Worth County Commissioners of Roads and Revenues, Colquitt County Board of Commissioners, Mitchell County Board of Commissioners, and Flint River Soil and Water Conservation District; Mr. Charles W. Bartlett, State Conservationist, Soil Conservation Service, Heritage Building, 468 North Milledge Avenue, Post Office Box 832, Athens, GA 30601.

Indiana: Goose Creek Watershed; 2,574 acres; Cass County; sponsors—Cass County Soil and Water Conservation District, Cass County Drainage Board, Cass County Park and Recreation Board, and the city of Logansport; Mr. Thomas B. Evans, State Conservationist, Soil Conservation Service, Atkinson Square West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, IN 46224.

Maryland: Piscataway Creek Watershed; 42,000 acres; Prince George's County; sponsors—Maryland National Capital Park and Planning Commission, Prince George's County, and Prince George's Soil Conservation District; Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Hartwick Building, Room 522, 4321 Hartwick Road, College Park, MD 20740.

New York: Deposit Watershed; 67,221 acres; Broome, Chenango, and Delaware Counties; sponsors—Broome County Soil and Water Conservation District, County of Broome, Delaware County Soil and Water Conservation District, and Delaware County Board of Supervisors; Mr. Albert C. Addison, State Conservationist, Soil Conservation Service, Midtown Plaza, Room 400, 700 East Water Street, Syracuse, NY 13210.

North Dakota: Upper Maple River Watershed (amendment); 232,192 acres; Barnes, Cass, and Steele Counties; sponsors—Barnes County Soil Conservation District, Steele County Soil Conservation District, and West Cass Soil Conservation District; Mr. Charles A. Evans, State Conservationist, Soil Conservation Service, Federal Building, Post Office Box 1458, Bismarck, ND 58501.

Dated: October 20, 1972.

KENNETH E. GRANT,
Administrator,
Soil Conservation Service.

[FR Doc.72-18331 Filed 10-26-72;8:50 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

RECOMMENDED STANDARD

Notice of Circulation

The National Bureau of Standards is giving public notice and circulating for public comment the following recommended standard (TS) for a determination of its acceptance to manufacturers, distributors, and users: TS 213, "Cellulosic Fiber Insulating Board."

This circulation is being made in accordance with the provisions of § 10.5 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR Part 10, as amended; 35 F.R. 8349 dated May 28, 1970).

Copies of this recommended standard may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standard should be addressed to the Office of Engineering Standards Services within 45 days following publication of this notice.

Dated: October 20, 1972.

LAWRENCE M. KUSHNER,
Acting Director.

[FR Doc.72-18333 Filed 10-26-72;8:50 am]

National Oceanic and Atmospheric Administration

[Docket No. C-371]

PHILLIP L. GLENN

Notice of Loan Application

OCTOBER 18, 1972.

Phillip L. Glenn, Post Office Box 174, Sausalito, CA 94965, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel about 60 feet in length, to engage in the fishery for salmon, albacore, bottom fish, Dungeness crab and shrimp off the coasts of California, Oregon, and Washington.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-18278 Filed 10-26-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notice of Meetings

Pursuant to Executive Order 11671, the Food and Drug Administration announces the following public advisory committee meetings and other required information for the month of November 1972 in accordance with provisions set forth in section 13(a) (1) and (2) of that order:

Committee Name, Date, Time, Place and Type of Meeting and Contact Person

1. Pulmonary-Allergy and Clinical Immunology Advisory Committee; November 1, 9 a.m. to 10 a.m., Closed—10 a.m. to closing; L, 5600 Fishers Lane, Rockville, MD; Open—9 a.m. to 10 a.m.; Closed—10 a.m. to closing; David Lidd, M.D., Room 10B-05, 5600 Fishers Lane, Rockville, MD 20852, 301—443-3830.

Purpose. Advises regarding safety and efficacy of drugs employed in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda. Evaluation of significance of safety problems and adequacy of efficacy data in connection with NDA's on Intal and Aarane.

2. Surgical Drugs Advisory Committee; November 6, 9 a.m., Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, MD; Open—9 a.m. to 10 a.m., Closed—10 a.m., to closing; Samuel Sunnenblick, M.D., Room 12B-25, 5600 Fishers Lane, Rockville, MD 20852, 301—443-3560.

Purpose. Advises regarding safety and efficacy of drugs employed in surgery.

Agenda. Orientation of members and discussion of hyperalimentation-reported complications, guidelines for clinical investigation of large volume parenterals, and polyglycolic acid sutures.

3. Panel on Review of Cough, Cold, Allergy, Bronchodilator, and Antiasthmatic Agents; November 6, 9 a.m., Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Open—9 a.m. to 11 a.m., Closed—11 a.m., to closing; Thomas DeCillis, Room 10B-06, 5600 Fishers Lane, Rockville, MD 20852, 301—443-3504.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed drug products containing these agents.

Agenda. Orientation of members and review of material to be evaluated.

4. Neuropharmacology Advisory Committee; November 13 and 14, 9 a.m., Parklawn Building, Conference Room M, 5600 Fishers Lane, Rockville, MD; Closed; Barrett Scoville, M.D., Room 10B-45, 5600 Fishers Lane, Rockville, MD 20852, 301—443-4020.

Purpose. Advises regarding safety and efficacy of drugs employed in neuropharmacology.

Agenda. Reports of work groups on tardive dyskinesia, generic equivalence of psychotropic drugs, guideline on testing of antidepressant and anti-anxiety agents, and geriatric guidelines.

5. Diagnostic Products Advisory Committee; November 16 and 17, 9 a.m., Parklawn Building, Conference Room K, 5600 Fishers Lane, Rockville, MD; Open—except 9 a.m. to 12 a.m., November 17; Thomas Hayes, M.D., Room 8-71, 5600 Fishers Lane, Rockville, MD 20852, 301—443-1190.

Purpose. Reviews and evaluates information pertaining to performance standards for selected diagnostic products, evaluates and recommends appropriate reference methodologies and standards of precision and accuracy for measuring such products.

Agenda. Orientation of members and review of the Federal Food, Drug, and Cosmetic Act and related regulations, proposed regulations and summary of comments received.

6. Panel of Review of Sedative, Tranquillizer, and Sleep Aid Agents; November 17, 9 a.m., Parklawn Building, Conference Room M, 5600 Fishers Lane, Rockville, MD; Open—9 a.m. to 11 a.m., Closed—11 a.m., to closing; Michael Kennedy, Room 10B-06, 5600 Fishers Lane, Rockville, MD 20852, 301—443-3504.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed drug products containing these agents.

Agenda. Orientation of members and review of material to be evaluated.

7. Panel on Review of Antimicrobial Agents; November 19, 20, and 21, 9 a.m., Parklawn Building, Conference Room A, 5600 Fishers Lane, Rockville, MD; Closed; Michael Kennedy, Room 10B-06, 5600 Fishers Lane, Rockville, MD 20852, 301—443-3504.

Purpose. Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed drug products containing antimicrobial agents.

Agenda. Continuing review of over-the-counter antimicrobial agents under investigation.

8. Radiation Bio-Effects and Epidemiology Advisory Committee; November 28 and 29, 9 a.m., Room 400, 12720 Twinbrook Parkway, Rockville, MD; Open—except closed afternoon of November 29; Dr. Richard Fred, Room 2, 12720 Twinbrook Parkway, Rockville, MD 20852, 301—443-2358.

Purpose. Advises on total research program of laboratory and epidemiology studies of the biological effects and health implications of exposure to radiation.

Agenda. Orientation of members and discussion of intramural and extramural research activities of the Bureau of Radiological Health.

9. National Advisory Drug Committee; November 30 and December 1, 9 a.m., Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, MD; Open; Albert Esch, M.D., Room 7-75, 5600 Fishers Lane, Rockville, MD 20852, 301—443-4500.

Purpose. Advises the Commissioner of Food and Drugs on policy matters of national significance relating to safety and effectiveness of drugs and serves as a forum for exchange of views and recommendations.

Agenda. Review of new drug development and evaluation in the United States. Participation of speakers from industry, Congress, and consumer groups.

A list of committee members and summary minutes of the meetings may be obtained from the contact person for the committee, both for meetings open to public participation and those meetings closed to the public in accordance with section 13(d) of Executive Order 11671 and the Secretary's notice of determination of September 27, 1972, published in the FEDERAL REGISTER of October 5, 1972 (37 F.R. 20995).

Dated: October 25, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18418 Filed 10-26-72;8:56 am]

National Institutes of Health

NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Thrombosis Advisory Committee, November 10, 1972, at 10 a.m., National Institutes of Health, Building 31, Conference Room 2. The agenda will include the role of antiplatelet aggregating drugs in prevention of myocardial infarction, clinical trial in venous thrombosis and programs for the Specialized Centers of Research in Thrombosis. The meeting will be open to the public from 10 a.m. to 5 p.m.

Name of the person from whom rosters of committee members and/or summary of the meeting may be obtained: Dr. James M. Stengle, National Institutes of Health Building 31, Room 4AO3.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

OCTOBER 20, 1972.

[FR Doc.72-18286 Filed 10-26-72;8:46 am]

NATIONAL HEART AND LUNG INSTITUTE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Heart and Lung Institute Board of Scientific Counselors, November 3 and 4, 1972, National Institutes of Health, Building 10, Room 7N214. The agenda includes presentations of current research by scientific staff; a tour of the Cardiology Branch facilities; and a presentation reviewing recent changes in the organization of the Institute, by Dr. Cooper, NHLI Director. The meeting will be open to the public from 9 a.m. to 5 p.m., November 3, and from 9 a.m. to 12:30 p.m. on November 4.

Name of the person from whom rosters of Board members and/or summary of the meeting may be obtained: Dr. Donald S. Frederickson, National Institutes of Health, Building 10, Room 7N214.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

OCTOBER 20, 1972.

[FR Doc.72-18288 Filed 10-26-72;8:46 am]

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Research Career Program Committee, October 31-November 1, 1972, at 9 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9 a.m. to 10 a.m. on October 31 to discuss administrative reports, and closed to the public from 10 a.m. on October 31 to 3 p.m. on November 1, to review, discuss, and evaluate and/or rank grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md., (301) 496-3583.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

OCTOBER 20, 1972.

[FR Doc.72-18285 Filed 10-26-72;8:46 am]

NATIONAL INSTITUTE OF DENTAL RESEARCH

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the National Advisory Dental Research Council, November 27 and 28, 1972, National Institutes of Health, Building 31-C, Conference Room 8. This meeting will be open to the public from 9:30 a.m. to approximately 12:30 p.m. on November 27. At that time items of interest will be reviewed by the Director, National Institute of Dental Health. The intramural research activities will be reported on by Dr. Richard Greulich, and Dr. Harold Margolies, Director of Health Services and Mental Health Administration Regional Medical Programs Service, will present a summary of this program for informational purposes only.

This meeting will be closed to the public from 1:30 p.m., November 27 to adjournment on November 28, 1972, to review, discuss and evaluate grant applications in accordance with section 13(d) of Executive Order 11671 and the Secretary's determination.

The Executive Secretary from whom substantive information may be obtained is:

Dr. Clair L. Gardner, Deputy Director and Associate Director of Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Md. 20014.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

October 20, 1972.

[FR Doc.72-18287 Filed 10-26-72;8:46 am]

NATIONAL LIBRARY OF MEDICINE

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given of the meeting of the Board of Regents, November 20-21, 1972, at 9 a.m., in the Library's Board Room. This meeting will be open to the public from 9 a.m. to 12 noon, November 20, 1972, to discuss administrative matters and to hear a report on developments in the Reference Services Division. It will be closed to the public from 12 noon to adjournment on November 20 and all day November 21, to review, discuss, and evaluate and/or rank grant applications in accordance with section

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13(d) of Executive Order 11671 and the Secretary's determination.

The Information Officer, who will furnish summaries of both the open and closed meeting portions and a roster of board members, is:

Mr. Robert B. Mehnert, Special Assistant to the Director for Communications Media, National Library of Medicine, Room M-122, 8600 Rockville Pike, Bethesda, MD 20014, Telephone 496-6308.

The Executive Secretary from whom substantive information may be obtained is:

Dr. Martin M. Cummings, Director, National Library of Medicine, Room M-142, 8600 Rockville Pike, Bethesda, MD 20014, Telephone 496-6221.

October 19, 1972.

JOHN F. SHERMAN,
Deputy Director,
National Institutes of Health.

[FR Doc.72-18284 Filed 10-26-72;8:46 am]

Office of Education

AUDIT HEARING PROCESS

Establishment of Title I Audit Hearing Board

Pursuant to the authority contained in sections 201 and 204 of Reorganization Plan No. 1 of 1939 (4 F.R. 2728, 53 Stat. 1424), as amended by section 5 of Reorganization Plan No. 1 of 1953 (18 F.R. 2053, 67 Stat. 631), 20 U.S.C. 2; title I of the Elementary and Secondary Education Act, 20 U.S.C. 241a; and section 434 of the General Education Provisions Act, formerly section 424 of the General Education Provisions Act, 20 U.S.C. 1232c as redesignated by section 301(a) of the Education Amendments of 1972, there is hereby established within the Office of Education a title I Audit Hearing Board as set forth below from which Audit Hearing Panels will be selected for the purpose of reviewing and providing hearings upon final audit determination made in the administration of title I of the Elementary and Secondary Education Act programs by the Office of Education.

The Department of Health, Education, and Welfare is currently studying the establishment of a Department-wide mechanism for consideration of grantee appeals from audit and other administrative determinations which may be applicable to audit determinations under title I. In view of the current pendency of a substantial number of audit reports and determinations (some involving relatively large amounts of funds) under title I, it is necessary and appropriate that a procedure for finally resolving these pending audit matters be established at this time.

OFFICE OF EDUCATION TITLE I AUDIT HEARING BOARD

Sec.
1. Scope.
2. Definitions.
3. Audit Hearing Board; Audit Hearing Panel.
4. Determinations subject to the jurisdiction of the Board.
5. Submission.
6. Effect of submission.
7. Substantive and procedural rules.
8. Hearing before panel or a hearing officer.
9. Initial decision; final decision.
10. Separation of functions.

SECTION 1—*Scope.* This notice applies to final audit determinations made by the Office of Education after June 30, 1971, with respect to programs funded under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241e). For the purpose of this notice, an audit determination by the Office of Education shall be considered final only after the grantee has been provided an opportunity to comment on a preliminary audit determination and has been notified in writing that a final audit determination has been made with respect to the matters included in such preliminary determination.

(20 U.S.C. 241a, 1232c)

SEC. 2—*Definitions.* For purposes of this notice—

(a) "Board" means the Office of Education Title I Audit Hearing Board, as described in paragraph (a) of section 3.

(b) "Board Chairman" means the Board member designated by the Commissioner to serve as Chairman of the Board.

(c) "Panel" means an Audit Hearing Panel, as described in paragraph (b) of section 3.

(d) "Panel Chairman" means a member of an Audit Hearing Panel who has been designated as Chairman of such Panel by the Board Chairman.

(e) The terms "Department" and "Departmental" refer to the Department of Health, Education, and Welfare.

(f) "Commissioner" means the U.S. Commissioner of Education.

(g) "Grantee" means a State educational agency to which payments have been made under section 143 of the Elementary and Secondary Education Act.

(h) "Title I" means Title I of the Elementary and Secondary Education Act (20 U.S.C. 241a).

(20 U.S.C. 241a, 1232c)

SEC. 3—*Audit Hearing Board; Audit Hearing Panel.* (a) There is established, within the Office of the Commissioner, an Office of Education Title I Audit Hearing Board the members of which shall be designated by the Commissioner to perform the functions described in this notice. Subject to the limitations set forth in section 10 of this notice, persons who are officers or employees of the Department or of its constituent agencies as well as other Federal officers or employees may serve on the Board. Persons who are not otherwise full-time employees of the Federal Government may, in accordance with appropriate arrangements, also be asked to serve on the Board. Service on the Board may be on a regluar or an intermittent basis.

(b) The Commissioner shall designate one of the members of the Board to be Chairman. The Board Chairman shall designate Audit Hearing Panels for the consideration of one or more cases submitted to the Board. Each such Panel shall consist of not less than three members of the Board. The Board Chairman may, at his discretion, constitute the entire Board to sit as a Panel for any case or class of cases. The Board Chairman shall designate himself or any other member of a Panel to serve as Chairman.

(20 U.S.C. 241a, 1232c)

SEC. 4—*Determinations subject to the jurisdiction of the Board.* (a) Subject to section 5 and paragraph (b) of this section, the Board shall have jurisdiction in those cases in which a grantee under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241e et seq.) has been notified in writing that a final determination has been made by the Office of Education that an expenditure not allowable under the grant has been made by the grantee (or by a subgrantee to which it has made a payment under Title I) or that the grantee (or such subgrantee) has otherwise failed to discharge its obligation to account for grant funds.

(b) A determination described in paragraph (a) may not be considered by the Board unless the Deputy Commissioner for School Systems of the Office of Education has notified the grantee in writing of such determination. A notification described in the preceding sentence shall set forth the reasons for the determination in sufficient detail to enable the grantee to respond and shall inform the grantee of his opportunity for review under this notice. In the case of final audit determinations made prior to the effective date of this notice, the Deputy Commissioner for School Systems may designate those notifications which have previously been made to grantees and which he deems to comply with this paragraph. Upon receipt of notice of such a designation, the grantee shall be deemed to have received a notification for purposes of this paragraph.

(20 U.S.C. 241a, 1232c)

SEC. 5—*Submission*—(a) *Application for review.* (1) A grantee with respect to whom a determination described in section 4 has been made and who desires review may file with the Board an application for review of such determination. The grantee's application for review must be postmarked no later than 30 days after the postmark date of notification provided pursuant to section 4(b) except when the Board Chairman grants an extension of time for good cause shown.

(2) Although the application for review need not follow any prescribed form, it shall clearly identify the question or questions in dispute and contain a full statement of the grantee's position with respect to such question or questions, and the pertinent facts and reasons in support of such position. The grantee shall attach to his submission a copy of the agency notification described in section 4(b).

(b) *Action by Board on application for review.* (1) The Board Chairman shall promptly send a copy of the grantee's application to the Deputy Commissioner for School Systems.

(2) If the Board Chairman determines, after receipt of an application for review, that the requirements of section 4 have been satisfied, he shall promptly refer the application to an Audit Hearing Panel designated pursuant to section 3(b) for further proceedings under this part. If he determines that such requirements have not been met, the Board Chairman shall return the application to the grantee with reasons for its rejection.

(20 U.S.C. 241a, 1232c)

SEC. 6—*Effect of submission.* When an application has been filed with the Board with respect to a determination, no action will be taken by the Office of Education with respect to the collection of the amount determined to be owing pursuant to such determination until such application has been disposed of. The filing of the application shall not affect the authority which the Office of Education may have to initiate proceedings under section 146 of Title I.

(20 U.S.C. 241a, 1232c)

SEC. 7—*Substantive and procedural rules*—(a) *Substantive rules.* The Panel shall be bound by all applicable laws and regulations.

(b) *Procedural rules.* (1) With respect to cases involving, in the opinion of the Panel, no dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford to each party to the proceeding an opportunity for presenting his case at the option of the Panel (i) in whole or in part in writing or (ii) in an informal conference before the Panel which shall include provisions designed to assure to each party: (*a*) sufficient notice of the issues to be considered (where such notice has not previously been afforded) and (*b*) an opportunity to be represented by counsel.

(2) With respect to cases involving a dispute as to a material fact the resolution of which would be materially assisted by oral testimony, the Panel shall take appropriate steps to afford to each party an opportunity for a hearing, which shall include, in addition to provisions required by paragraph (b)(1)(ii), provisions designed to assure to each party the following:

(i) A transcript of the proceedings;

(ii) An opportunity to present witnesses on his behalf; and

(iii) An opportunity to cross-examine other witnesses either orally or through written interrogatories.

(c) *Intervention by third parties.* (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervenor has information relative to the specific issues raised by the final audit determination, and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

(20 U.S.C. 241a, 1232c)

SEC. 8—*Hearing before Panel or a hearing officer.* A hearing pursuant to section 7(b)(2) shall be conducted, as determined by the Panel Chairman, either before the Panel or a hearing officer. The hearing officer may be (a) one of the members of the Panel or (b) a nonmember who is appointed as a hearing examiner under 5 U.S.C. 3105.

(20 U.S.C. 241a, 1232c)

SEC. 9—*Initial decision; final decision.* (a) The Panel shall prepare an initial written decision, which shall include findings of fact and conclusions based thereon, for submission to the Commissioner. When a hearing is conducted before a hearing officer alone, the hearing officer shall separately find and state the facts and conclusions upon which such decision is based and these findings and conclusions shall be incorporated in the initial decision.

(b) Copies of the initial decision shall be mailed promptly by the Panel to each party and intervenor, or his counsel, with a notice affording such party an opportunity to submit written comments thereon to the Commissioner within a specified reasonable time.

(c) The initial decision of the Panel shall be transmitted to the Commissioner and shall become the final decision of the Commissioner, unless, within 25 days after the expiration of the time for receipt of written comments, the Commissioner signifies his determination to review such decision.

(d) In any case in which the Commissioner modifies or reverses the initial decision of the Panel, he shall accompany such action by written statement of the grounds for such modification or reversal, which shall promptly be filed with the Board. Such decision shall not become final until it is served upon the grantee involved or his attorney.

(e) The authority to review initial decisions shall not be delegated. Review of any initial decision by the Commissioner shall be at his discretion and shall be based upon such decision, the written record, if any, of the Panel's proceedings, and written comments or oral arguments by the parties to the proceeding, or by their counsel.

(20 U.S.C. 241a, 1232c)

SEC. 10—*Separation of functions.* No person who participated in prior administrative consideration, or in the preparation or presentation of, a case submitted to the Board shall advise or consult with, and no person having an interest in such case shall make or cause to be made an ex parte communication to, the Panel, Board, or the Commissioner with respect to such case, unless (1) all parties to the case are given timely and adequate notice of such advice, consultation, or communication, and (2) reasonable opportunity to respond is given all parties.

(20 U.S.C. 241a, 1232c)

Effective date. This notice shall become effective 30 days after the date of its publication in the FEDERAL REGISTER.

Dated: September 27, 1972.

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

[FR Doc.72-18345 Filed 10-26-72;8:51 am]

FEDERAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN CRITICAL SUBJECTS

Allotment Ratios

Allotment ratios under title III, National Defense Education Act of 1958, for financial assistance for strengthening instruction in science, mathematics, modern foreign languages, and other critical subjects.

Pursuant to section 302 of the National Defense Education Act (U.S.C. 442), the following allotment ratios for the several States of the Union and the District of Columbia, as computed on the basis of the income per child of school age in each of the States of the Union and the District of Columbia in relation to the whole of the United States for the calendar years 1969, 1970, and 1971, being the three most recent consecutive years for which satisfactory data were available as of August 9, 1972, for the Department of Commerce, are hereby promulgated for each of the 2 fiscal years in the period beginning July 1, 1973, and ending June 30, 1975.

Alabama	.6343	Minnesota	.5134
Alaska	.4200	Mississippi	.6713
Arizona	.5401	Missouri	.5282
Arkansas	.6372	Montana	.5659
California	.4363	Nebraska	.5161
Colorado	.5125	Nevada	.4219
Connecticut	.3889	New Hampshire	.5408
Delaware	.4392	New Jersey	.4203
Florida	.5342	New Mexico	.6057
Georgia	.5716	New York	.3980
Hawaii	.4323	North Carolina	.5918
Idaho	.5884	North Dakota	.5926
Illinois	.4261	Ohio	.4922
Indiana	.5113	Oklahoma	.5788
Iowa	.5270	Oregon	.5251
Kansas	.5020	Pennsylvania	.5008
Kentucky	.6064	Rhode Island	.5020
Louisiana	.6113		
Maine	.5919		
Maryland	.4574		
Massachusetts	.4505		
Michigan	.4643		

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South Carolina	.6273	Virginia	.5380
South Dakota	.5935	Washington	.4897
Tennessee	.6076	West Virginia	.6165
Texas	.5498	Wisconsin	.5287
Utah	.5914	Wyoming	.5345
Vermont	.5614	District of Columbia	.3114

Ratios in effect for each of the 2 fiscal years in the period beginning July 1, 1971, and ending June 30, 1973, were computed on the basis of data from the Department of Commerce for the calendar years 1966, 1967, and 1968.

Alabama	.6667	Nebraska	.5223
Alaska	.4957	Nevada	.4209
Arizona	.5963	New Hampshire	.5105
Arkansas	.6576	New Jersey	.3848
California	.4053	New Mexico	.6667
Colorado	.5335	New York	.3416
Connecticut	.3463	North Carolina	.6228
Delaware	.4588	North Dakota	.6303
Florida	.5206	Ohio	.5031
Georgia	.6109	Oklahoma	.5633
Hawaii	.5282	Oregon	.5033
Idaho	.6333	Pennsylvania	.4719
Illinois	.4010	Rhode Island	.4311
Indiana	.5076	South Carolina	.6667
Iowa	.5123	South Dakota	.6150
Kansas	.5242	Tennessee	.6197
Kentucky	.6209	Texas	.5846
Louisiana	.6497	Utah	.6481
Maine	.5838	Vermont	.5581
Maryland	.4661	Virginia	.5575
Massachusetts	.4057	Washington	.4624
Michigan	.4925	West Virginia	.6319
Minnesota	.5408	Wisconsin	.5231
Mississippi	.6667	Wyoming	.5704
Missouri	.5078	District of Columbia	.3333
Montana	.5968		

Dated: October 19, 1972.

SIDNEY P. MARLAND, JR.,
Commissioner of Education.

[FR Doc.72-18344 Filed 10-26-72;8:51 am]

Office of the Secretary

SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE CONSUMER ISSUES ADVISORY PANEL

Notice of Public Meeting

The Secretary's Commission on Medical Malpractice Consumer Issues Advisory Panel created to provide technical assistance to the Commission on medical malpractice consumer issues will meet Monday, October 30, 1972, at 8:30 a.m., in the New York Room at the Statler-Hilton Hotel located at 16th and K Streets NW., Washington, D.C. The panel will discuss the following matters from the viewpoint of the consumer: Satisfaction with current system of compensation for injuries caused by medical care; limitations on current compensation system; alternative systems of compensation; continuing medical education; communication between patient and health care provider; "crisis" allegations about medical malpractice; availability of health care as related to medical malpractice; patient's right to medical records; and all aspects of the "patient's bill of rights" concept. The meeting will be open to the public.

Dated: October 19, 1972.

ELI P. BERNSWEIG,
Executive Director.

[FR Doc.72-18354 Filed 10-26-72;8:52 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Draft Environmental Statement by the Directorate of Licensing, U.S. Atomic Energy Commission, related to the Arkansas Nuclear 1, Unit 1, Arkansas Power & Light Co., Docket No. 50-313," is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the Arkansas River Valley Regional Library, Dardanelle, Ark. 72834. The report is also being made available at the Arkansas Planning Commission, Room 502, Capitol Hill Building, Little Rock, Ark. 72201, and at the West Central Arkansas Planning and Development District, Municipal Building, Box 773, Hot Springs, Ark. 71901. Copies of the Commission's draft environmental statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

An environmental report and supplements thereto are also available for public inspection at the above-named locations. The notice of availability of applicant's environmental report and supplemental environmental report was published in the FEDERAL REGISTER on December 22, 1971 (36 F.R. 24235).

Pursuant to Appendix D to 10 CFR 50, interested persons may, within thirty (30) days from date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the proposed actions, applicant's environmental report and supplements thereto, and the draft environmental statement. Federal and State agencies are being provided with copies of these reports and the draft environmental statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 24th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18364 Filed 10-26-72;8:53 am]

[Dockets Nos. 50-295, 50-304]

COMMONWEALTH EDISON CO.

Notice and Order for Special Prehearing Conference

In the matter of Commonwealth Edison Co. (Zion Station, Units 1 and 2.)

Take notice, that pursuant to the Atomic Energy Commission's "Notice of Hearing on a Facility Operating License," dated September 29, 1972, and in accordance with § 2.751a of said Commission's restructured rules of practice, a special prehearing conference will be held in the subject proceeding on November 17, 1972, at 10 a.m., local time, in the Circuit Courthouse, 2828 Sheridan Road, Zion, IL.

The special prehearing conference will deal with the following matters:

1. Identification and simplification of the issues;
2. Outstanding petitions for intervention;
3. Establishment of schedules for further action;
4. Need for discovery, and the time required for such discovery;
5. Motions to be addressed to the Atomic Safety and Licensing Board (Board);
6. Procedures, including rules of evidence, to be followed in the presentation of evidence at the actual evidentiary hearings; and
7. Such other matters as may aid in the orderly disposition of the instant proceeding.

The attorneys for the respective parties are hereby directed to confer in advance of the special prehearing conference and report to the Board at the time of said conference on the prospects of:

1. Settlement;
2. A stipulation of the matters in controversy; and
3. A stipulation or statement of the uncontested facts.

At the special prehearing conference, the Board will hear oral argument on the outstanding petitions to intervene. The petitioners, as well as the parties, will be permitted to be heard in this regard. The Board will also hear argument pertaining to the contentions filed by the joint intervenors (Businessmen for the Public Interest, Inc., et al.).

In addition, the Board will hear oral argument by the parties regarding the following issues:

1. Identity and addresses of individual members of the Sierra Club who desire to be represented by the Sierra Club in this proceeding. Discussed at said prehearing conference will be the particular interests of the named individuals in this action.
2. The legal authority of the Metropolitan Sanitary District of Greater Chicago to be a party in this proceeding.
3. The scope of the National Environmental Policy Act review to be made by the Board in light of the Commission's notice of hearing and the recently enacted Federal Water Pollution Control Act Amendments of 1972. As part of this discussion, the Board will require data as to any enacted Illinois water quality standards or effluent limitations which have been federally approved, and which might be applicable to the two Zion units.

Issued at Washington, D.C., this 19th day of October 1972.

By order of the Atomic Safety and Licensing Board.

JEROME GARFINKEL, Esq.,
Chairman.

[FR Doc.72-18298 Filed 10-26-72;8:47 am]

[Dockets Nos. 50-369 and 50-370]

DUKE POWER CO.

Availability of AEC's Final Environmental Statement for William B. McGuire Nuclear Station

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the "Final Environmental Statement related to the proposed William B. McGuire Nuclear Station, Units 1 and 2, Duke Power Co., Dockets Nos. 50-369 and 50-370," prepared by the Directorate of Licensing, U.S. Atomic Energy Commission, is being placed in the following locations where it will be available for inspection by members of the public: the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in the Public Library of Charlotte and Mecklenburg County, 310 North Tryon Street, Charlotte, NC 28208. The report is also being made available at the Clearinghouse and Information Center, Post Office Box 1351, Raleigh, NC 27602, and at the Central Piedmont Regional Council of Local Governments, 509 Cecil Street, Suite 302, Charlotte, NC 28204.

The notice of availability of the draft environmental statement for the William B. McGuire Nuclear Station, Units 1 and 2 and requests for comments from interested persons was published in the FEDERAL REGISTER on July 27, 1972 (37 F.R. 15045). The comments received from Federal, State, and local officials and interested members of the public have been included as appendices to the final environmental statement.

Single copies of the final environmental statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 20th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18365 Filed 10-26-72;8:53 am]

CIVIL AERONAUTICS BOARD

AMERICAN STATISTICAL ASSOCIATION ADVISORY COMMITTEE FOR STATISTICAL RESEARCH

Notice of Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the American Statistical Association Advisory Committee for Statistical Research to the Civil Aeronautics Board will convene on December 1, 1972 at 9 a.m. local time. The Committee will meet in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

The Committee was established in 1966 to provide the Civil Aeronautics Board with advice and assistance in the planning of its research programs. It consists of 10 members from academic institutions, designated by the President of the American Statistical Association.

The agenda is: (1) Review of current research projects and (2) plans for projects for the next year.

A limited number of seats—about 10—will be available to the public.

Minutes will be available for public inspection 30 days after the meeting in Room 921, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 24, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-18382 Filed 10-26-72;8:55 am]

DELAWARE RIVER BASIN COMMISSION

WATER QUALITY STANDARDS AND COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, November 8, 1972, in the South Auditorium of the ASTM Building, 1916 Race Street in Philadelphia, beginning at 2 p.m. The subjects of the hearing will be as follows:

I. A proposal to amend the Commission's water quality standards and basin regulations by the addition to Part II thereof of the following all new policy relating to the protection of ground water quality:

ARTICLE 2-4

GROUND WATER—BASINWIDE

SECTION 2-4.1 *Application.* This article shall apply to the ground water of the Delaware River Basin.

SEC. 2-4.2 *Description.* Ground water shall include all water beneath the surface of the ground.

SEC. 2-4.3 *Water uses.* The quality of ground water shall be maintained in a safe and satisfactory condition for use as domestic, agricultural, industrial, and public water supplies, except where such uses are precluded by natural quality. Other uses may be designated by the Commission.

SEC. 2-4.4 *Ground water quality objectives*—(1) *Nondegradation of ground waters.* It is the policy of the Commission to prevent degradation of ground water quality. In implementing this policy, the Commission will require the best water management determined to be practicable. No quality change will be considered which, in the judgment of the Commission, may be injurious to any designated present or future use.

(2) *Limits.* The ground waters of the basin shall not contain substances or properties attributable to the activities of man in concentrations or amounts sufficient to endanger or preclude the water uses to be protected. Within this requirement, the ground waters shall be free from substances or properties in concentrations or combinations which are toxic or harmful to human, animal, plant, or aquatic life, or that produce color, taste, or odor of the waters. Concentrations at any point shall not exceed values specified by current U.S. Public Health Service Drinking Water Standards.

SEC. 2-4.5 *Ground water quality control*—(1) *Controls.* The processing, handling, transportation, disposal, storage, excavation, or removal of any solid, liquid, or gaseous material on or beneath the ground surface of the basin shall be conducted in such manner and with such facilities, in accordance with such regulations and requirements as the Commission may prescribe, as to prevent any of the criteria or requirements of this article from being violated.

(2) *Limitations.* a. No substances or properties which are toxic or that produce color, taste, or odor of the water shall be permitted or induced by the activities of man to become ground water.

b. Heat discharges which may adversely affect ground water shall be regulated by the Commission.

c. Notwithstanding any other criteria or requirements of this article, the Commission may prescribe regulations establishing requirements, conditions, or prohibitions which, in its judgment, are necessary to protect ground water quality.

d. Certain activities otherwise prohibited by paragraph (1) of this section, such as approved solid or liquid waste

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disposal systems or fertilizer applications for farming practices, may be permitted subject to such requirements as may be prescribed by Commission regulations.

(3) *Abatement.* It is the policy of the Commission to require abatement of unsatisfactory ground water quality due to the activities of man to the levels of the criteria and requirements of this article. In implementing this policy, the Commission will require the parties responsible for such abatement to undertake the appropriate and timely programs necessary.

II. A proposal to amend the Commission's water quality standards and basin regulations by the addition to Article 3–2 thereof of the following all new stream quality objective involving the measurement of total dissolved solids:

Total dissolved solids. Stream concentration of dissolved solids shall not be increased by industrial wastes more than one-third above background levels of 1971. Background means the stream condition as measured or estimated from available data for appropriate stream reaches. Criteria for waters affected by ocean salinity or mine drainage may be determined separately for a stream reach so affected.

III. A proposal to amend the Commission's water quality standards and basin regulations by the following changes in section 3–3.8 thereof relating to effluent quality requirements.

(NOTE: Deletions shown in brackets [ ] and new language shown in UPPER CASE.)

SEC. 3–3.8 *Other Substances in Effluents*—(1) *Color.* For municipal, industrial, or sanitary wastes, the effluent shall not impart objectionable color to the receiving waters, nor exhibit a true color of more than 100 units on the platinum-cobalt scale or the natural color of the receiving waters, whichever is greater. (Requirements for industrial wastes, containing color will be determined by the Commission.)

(2) *Dissolved substances.* Dissolved and colloidal substances, including nutrients, discharged in waste effluents shall be limited where necessary to prevent deposition of sediments, formation of flocculent materials, or excessive aquatic growth, that impair protected uses, violate water quality criteria, or generate additional oxygen demands upon the receiving waters.

(3) *pH.* Between 6 and 9. Where streams have high acidity levels a discharge with a pH greater than 9 may be permitted.

(4) *Ammonia.* In nontidal waters not to exceed a 30-day average of 20 mg./l. as nitrogen. In tital waters not to exceed a 30-day average of 35 mg./l. measured as nitrogen.

(5) *Phosphates.* Not to exceed a 30-day average of 10 mg./l. measured as phosphorus. Not to exceed a 30-day average of 1 mg./l. measured as phosphorus in discharges directly into lakes or reservoir impoundments included in the comprehensive plan, or in such drainage areas thereof as may be delineated by the Commission.

(6) *Total dissolved solids.* Not to exceed 1,000 mg./l. A greater concentration may be permitted provided that stream background will not be increased by more than 1.6 percent. Requirements for discharges to waters affected by ocean salinity or mine drainage will be modified as reasonably related to such stream conditions.

IV. A proposal to amend the Comprehensive Plan so as to include therein the following water resources projects:

1. *Gerald J. Martin.* A sewage treatment plant to provide service in the Pratts Dam housing development in West Brandywine Township, Chester County, Pa. The new facility would handle a sewage flow of 150,000 gallons per day and would achieve a 98 percent reduction of BOD_5. Treated effluent would discharge to the West Branch Brandywine Creek.

2. *City of Bridgeton.* A well water supply project to augment public water supplies in the city of Bridgeton, Cumberland County, N.J. The new facilities are designated as Wells Nos. 13 and 14. Withdrawal from the proposed wells will be limited to 40 million gallons monthly, subject to a combined maximum of 264 million gallons monthly from all wells in the city's system.

3. *Southwest Delaware County Municipal Authority.* Modification of the Authority's existing sewage treatment plant located in Aston Township, Delaware County, Pa. Capacity of the treatment plant will be increased to handle a sewage flow of 2.5 million gallons per day and provide removal of 85 percent of BOD_5. Treated effluent will discharge to Baldwin Run, a tributary of Chester Creek.

4. *Lake Wynonah Municipal Authority.* A sewage treatment plant to serve the Lake Wynonah recreational community in South Manheim Township, Schuylkill County, Pa. Sewage will be trucked from holding tanks to the treatment plant which is designed to accommodate a sewage flow of 32,500 gallons per day. About 95 percent of BOD_5 will be removed prior to discharge of effluent into Plum Creek, a tributary of the Schuylkill River.

5. *East Norriton-Plymouth Joint Sewer Authority.* Upgrading of the Authority's existing sewage treatment plant in Plymouth Township, Montgomery County, Pa. Capacity will be increased to 5.6 million gallons per day and removal of 90 percent of BOD_5 will be provided. Treated effluent will discharge to the Schuylkill River.

6. *North Penn Water Authority.* A well water supply project to augment public water supplies in Lower Salford Township and several adjacent boroughs and townships in Montgomery County, Pa. Designated as Well No. 20, the new facility is expected to yield 360,000 gallons per day.

7. *Tamaqua Borough Authority.* Modification of the Authority's existing primary sewage treatment plant in Walker Township, Schuylkill County, Pa. The treatment facility will be improved to provide 90 percent reduction of BOD_5 for a sewage flow of 1,750,000 gallons per day. Treated effluent will discharge to the Little Schuylkill River.

8. *Jim Thorpe Municipal Authority.* Modification of the Authority's existing sewage treatment plant in the Borough of Jim Thorpe, Carbon County, Pa. Treatment levels will be increased to remove about 92 percent of BOD_5 for a sewage flow of 650,000 gallons per day. Treated effluent will discharge to the Lehigh River.

9. *Exton Square, Inc.* A sewage treatment plant to serve the Exton Mall shopping area in West Whiteland Township, Chester County, Pa. About 96 percent of BOD_5 will be removed from a sewage flow of 60,000 gallons per day prior to discharge into Valley Creek, a tributary of East Branch Brandywine Creek. The treatment plant will be abandoned when a service connection to the Downingtown regional sewerage system becomes available.

10. *Village of Stamford.* A sewage treatment project serving the Village of Stamford, Delaware County, N.Y. About 91 percent of BOD_5 will be removed from a sewage flow of 400,000 gallons per day. Treated effluent will discharge to the West Branch Delaware River.

11. *Coastal Land Development Corp.* A sewage treatment plant to serve the East Vincent apartments complex in East Vincent Township, Chester County, Pa. About 98 percent of BOD_5 will be removed from a sewage flow of 67,000 gallons per day. Treated effluent will discharge to Yost Creek, a tributary of the Schuylkill River.

12. *Hamburg Municipal Authority.* Modification of the Authority's existing primary sewage treatment plant in the Borough of Hamburg, Berks County, Pa. The treatment level will be increased to provide removal of 90 percent of BOD_5 from a sewage flow of 1 million gallons per day. Treated effluent will discharge to the Schuylkill River.

13. *City of Philadelphia Department of Commerce.* Construction of a marine terminal upstream from the foot of Hartel Street in Philadelphia. The project will involve use of an adjacent wharf or construction of a new wharf at the project site.

V. A proposal to approve the following water pollution abatement schedules as submitted in accordance with section 3–4.2(2) of the Basin Regulations-Water Quality:

1. *Department of the Army, Frankford Arsenal (A–72–7).* A violation of the effluent requirements of the Commission's Basin Regulations was determined for this facility located in Philadelphia, Pa., and discharging into Zone 3 of the Delaware Estuary. The proposed schedule requires that facilities to accomplish compliance shall go into operation no later than December 31, 1972.

2. *New Castle County Department of Public Works—Delaware City Treatment Plant (A–72–8).* An allocation of 36 pounds per day of carbonaceous (first stage) oxygen demand has been made for this facility located in Delaware City, Del., and discharging into Zone 5 of the Delaware Estuary. The proposed schedule requires a minimum waste reduction of 87.5 percent and that treatment facilities to accomplish this reduction shall go into operation no later than May 31, 1974.

3. *Air Products & Chemicals, Inc. (formerly Houdry Process & Chemical Co.) (A–71–16 Rev.).* An allocation of 65 pounds per day of carbonaceous (first stage) oxygen demand has been made for this facility located in Paulsboro, N.J., and discharging into Zone 4 of the Delaware Estuary. An abatement schedule for this facility was approved on May 27, 1971, that permitted participation in the Deepwater Preliminary Engineering and Pilot Plant Studies Program. Upon determination that the facility would not be included in a Deepwater Regional System, the company submitted the proposed revision of its Alternate II which sets the date for full compliance at March 1974.

4. *City of Wilmington (A–69–2 third Revision).* An allocation of 13,400 pounds per day of carbonaceous (first stage) oxygen demand has been made for this waste treatment facility located in Wilmington, Del., and discharging into Zone 5 of the Delaware Estuary. An abatement schedule for this facility was approved on January 15, 1969. The schedule was revised on September 29, 1970, and again on February 23, 1972. The revision now proposed requires a minimum waste reduction of 87.5 percent and that treatment facilities to accomplish this reduction shall go into operation no later than August 1974. Due to land acquisition problems, the completion date would be extended from December 1973 to August 1974.

5. *Diamond Shamrock Chemical Co. (A–72–9).* An allocation of 35 pounds per day of carbonaceous (first stage) oxygen demand has been made for this facility located in Delaware City, Del., and discharging into Zone 5 of the Delaware Estuary. The proposed schedule requires a minimum waste reduction of 87.5 percent and that treatment facilities to accomplish this reduction shall go into operation no later than August 31, 1974.

6. *National Sugar Refining Co. (A–69–35 Revision).* An allocation of 1,800 pounds per day of carbonaceous (first stage) oxygen demand has been made for this facility located in Philadelphia, Pa., and discharging into Zone 3 of the Delaware Estuary. An abatement schedule for this facility was approved on December 11, 1969. The proposed revision requires that construction of treatment facilities to meet all requirements be completed no later than June 30, 1973. The proposed revision changes the interim dates of the abatement schedule but the completion date of the original schedule remains unchanged.

Documents relating to the items on the hearing notice may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

OCTOBER 20, 1972.

[FR Doc.72–18366 Filed 10–26–72;8:54 am]

ENVIRONMENTAL PROTECTION AGENCY

PRESIDENT'S WATER POLLUTION CONTROL ADVISORY BOARD AND THE PRESIDENT'S AIR QUALITY ADVISORY BOARD

Rescinded Notice of Determination

The Administrator's notice of determination to close certain meetings of the President's Water Pollution Control Advisory Board and the President's Air Quality Advisory Board published in the FEDERAL REGISTER (September 23, 1972, Vol. 37, No. 186, pg. 20054) is hereby rescinded.

Dated: October 24, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72–18383 Filed 10–26–72;8:55 am]

ALLIED CHEMICAL CORP.

Notice of Petition for Reconsideration of Final Determination and Order

Notice is hereby given that the Environmental Protection Agency has received from Allied Chemical Corp. a "Petition for Reconsideration of Final Determination and Order of the Administrator Insofar As It Would Prevent Aerial Application of Mirex Bait in Hawaii."

The petition seeks reconsideration of the order dated May 3, 1972 (issued in accordance with the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq.), F.R., Volume 37, No. 10987, June 1, 1972. Allied Chemical Corp. requests that the provision of the order banning aerial application of Mirex bait in coastal counties be amended to allow aerial application of Mirex in the pineapple-growing areas of Hawaii.

All persons who wish to submit comments concerning this petition should do so within 30 days. Comments should be submitted to, and may be viewed at the Office of the Hearing Clerk, Environmental Protection Agency, Room 3902A, Waterside Mall, 401 M Street SW., Washington, DC 20460.

Dated: October 24, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72–18384 Filed 10–26–72;8:55 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 618]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 16, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, and application, in order to be considered with any domestic public radio services application appearing on the attached list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth below alternative—applications will be entitled to consideration with those listed if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other rquirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

1980–C2–P–(2)–73—New England Telephone & Telegraph Co. (KCA670), replace transmitter operating on 152.57 MHz, add base frequency 152.66 MHz and change the antenna system at Mt. Tom, 2 miles southeast of Easthampton, Holyoke, Mass.

2342–C2–P–73—Public Service Associates, Inc. (KRS679), change the antenna system operating on 152.24 MHz at Baldy Hill, ⅞ mile north-northwest of Felts Field, Spokane Municipal Airport, Spokane, Wash.

2343–C2–P–73—Same (New), for a new 2-way station to be located on Baldy Hill, ⅞ mile north-northwest of Felts Field, Spokane Municipal Airport, Spokane, Wash., to operate on 152.120 MHz.

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DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

2344–C2–P–73—Granbury Communications Co. (New), for a new 2-way station to be located at the east side of Courthouse Square, Granbury, Tex., to operate on 152.090 MHz.

2345–C2–P–(2)–73—General Telephone Co. of the Northwest, Inc. (KEK281), for additional facilities to operate on 152.750 MHz and change the antenna system operating on 152.690 MHz at 3.4 miles south of Junction U.S. Highway No. 2 and Spokane Street in Post Falls, Blossom Mountain, Idaho.

2429–C2–P–73—Continental Telephone Co. of California (KMM670), increase antenna height on 152.72 MHz at Pratt Mountain, 6 miles northeast of Garberville, Calif.

2430–C2–P–73—An-A-Phone Communications, Inc. (KIY774), for additional facilities to operate on 152.12 MHz at 101 North Elm Street, Greensboro, N.C.

2431–C2–MP–73—Mobilfone (KKA341), change the antenna system operating on 454.175, 454.225, 454.275, and 454.350 MHz at 4111 Darlington, Tulsa, OK.

2432–C2–P–73—Airsignal of California, Inc. (KMA267), reduce the standby transmitter power at Location No. 2: 238 North Fresno Street, Fresno, CA., operating on frequency 152.06 MHz.

2433–C2–P–73—Same (KFL648), same as above except frequency 158.70 MHz.

Renewal of (Developmental) license expiring October 31, 1972. Term: October 31, 1972 to October 31, 1973. The Bell Telephone Co. of Pennsylvania (KGI268); The C. & P. Telephone Co. of Maryland (KGI270, KGI271, KGI272, and KGI273); The Diamond State Telephone Co. (KGI269); New Jersey Bell Telephone Co. (KEK270, KEK271, and KEK272).

POINT-TO-POINT MICROWAVE RADIO SERVICE

2394–C1–P–73—Southern Bell Telephone & Telegraph Co. (KIY68), 36 Northeast Second Street, Miami, FL. Latitude 25°46'32" N., longitude 80°11'36" W. C.P. to add frequency 2165.05V MHz toward Miller Drive, Fla.

2395–C1–P–73—Same (KZ154), Miller Drive, approximately 1,000 feet west of 127th Avenue SW., Miller Drive, FL. Latitude 25°42'49" N., longitude 80°24'08" W. C.P. to add frequency 2115.05H MHz toward Homestead, Fla.; frequency 2115.05H MHz toward Miami, Fla.

2396–C1–P–73—Same (KJG68), 75 Northeast Civic Court, Homestead, FL. Latitude 25°-28'22" N., longitude 80°28'30" W. C.P. to add frequency 2165.05V MHz toward Miller Drive, Fla.

2382–C1–P–73—The Pacific Telephone & Telegraph Co. (KKU53), 3175 Spring Street, Redwood City, CA. Latitude 37°28'50" N., longitude 122°11'57" W. C.P. to change antenna system and points of communication on frequencies 10855V and 11015V MHz toward San Jose, Calif.

2383–C1–P–73—Same (KMN91), within San Jose, Calif. Latitude 37°17'07" N., longitude 121°51'24" W. C.P. to change antenna location and points of communication on frequencies 11305H and 11545H MHz toward Redwood City, Calif.

2384–C1–P–73—American Telephone & Telegraph Co. (KLC43), 2 miles north-northeast of Katy, Tex. Latitude 29°48'43" N., longitude 95°48'37" W. C.P. to add frequency 3990H MHz toward Spring, Tex.

2385–C1–P–73—Same (KGP77), 2.2 miles south-southwest of Spring, Tex. Latitude 30°02'54" N., longitude 95°25'54" W. C.P. to add frequency 3950H MHz toward Katy, Tex.; frequency 3890H MHz toward Dayton, Tex.

2386–C1–P–73—Same (KLV72), 5.9 miles west-southwest of Dayton, Tex. Latitude 30°01'55" N., longitude 94°59'37" W. C.P. to add frequency 4090H MHz toward Spring, Tex.

2387–C1–P–73—United Telephone Co. of Florida (KIQ75), 113 East Ventura Avenue, Clewiston, FL. Latitude 26°45'00" N., longitude 80°56'03" W. C.P. to add frequency 6034.2H MHz toward Hendry, Fla.

2388–C1–P–73—Same (KGG30), State Road 80, 15 miles west of Clewiston, Hendry, Fla. Latitude 26°46'09" N., longitude 81°10'30" W. C.P. to add frequency 6375.2H MHz toward La Belle, Fla.; frequency 6286.2H MHz toward Clewiston, Fla.

2389–C1–P–73—Same (KIQ72), Fort Thompson Street, La Belle, Fla. Latitude 26°45'58" N., longitude 81°26'18" W. C.P. to add frequency 6123.1V MHz toward Lehigh Acres, Fla.; frequency 6123.1H MHz toward Hendry, Fla.

2390–C1–P–73—Same (KJC83), 539 Colorado Road, Lehigh Acres, FL. Latitude 26°36'23" N., longitude 81°38'26" W. C.P. to add frequency 6375.2V MHz toward La Belle, Fla.

2391–C1–MP–73—American Telephone & Telegraph Co. (WLJ71), 3.5 miles north of Plano, Ill. Latitude 41°42'20" N., longitude 88°30'27" W. Modification C.P. for a new station on frequencies 3770V, 3850V, 3930V, and 4010V MHz toward Cloverdale, Ill.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2392–C1–P–73—Same (KSA47), 4 miles north of Wheaton, Ill. Latitude 41°56'05" N., longitude 88°05'57" W. C.P. to add frequencies 3730V, 3810V, 3890V, and 3970V MHz toward Cloverdale, Ill.

2393–C1–MP–73—Same (WJL25), 2305 Sanders Road, Northbrook, IL. Latitude 42°06'44" N., longitude 87°52'16" W. Modification C.P. for a new station on frequencies 3770V, 3850V, 3930V, and 4010V MHz toward Cloverdale, Ill.; frequencies 10795V and 11035V MHz toward Morton Grove, Ill.

2397–C1–P–73—Same (KYZ91), 4.9 miles northwest of Roanoke, Tex. Latitude 33°01'41" N., longitude 97°18'05" W. C.P. to add frequency 3770H MHz toward Grapevine, Tex.

2398–C1–P–73—Same (KKK92), 4.8 miles east-southeast of Grapevine, Tex. Latitude 32°-54'43" N., longitude 97°00'27" W. C.P. to add frequency 3730H MHz toward Roanoke, Tex.

2399–C1–MP–73—Indiana Bell Telephone Co. (KSP57), 133 Northwest Fifth Street, Evansville, IN. Latitude 37°58'26" N., longitude 87°34'16" W. Modification C.P. to change polarization from H to V on frequencies 6197.2V, 6315.9V, and 6256.5V MHz toward Elberfeld, Ind.

2400–C1–MP–73—Same (WHT91), 2.3 miles northwest of Elberfeld, Ind. Latitude 38°10'51" N., longitude 87°29'13" W. Modification C.P. to change polarization from H to V on frequencies 5945.2V, 6063.8V, and 6004.5V MHz; from V to H on frequency 11155H MHz toward Arthur, Ind.; from V to H on frequency 11115H MHz toward Evansville, Ind.

2401–C1–MP–73—Same (KTQ49), 1.35 miles west-northwest of Arthur, Ind. Latitude 38°-20'47" N., longitude 87°16'06" W. Modification C.P. to change polarization from H to V on frequencies 6197.2V and 6315.9V MHz toward Monroe City, Ind.

2402–C1–MP–73—Same (KTQ47), 0.6 mile west of Monroe City, Ind. Latitude 38°36'57" N., longitude 87°22'06" W. Modification C.P. to change polarization from H to V on frequencies 5945.2V and 6063.8V MHz toward Westphalia, Ind.

2403–C1–MP–73—Same (KTQ46), northeast edge of town of Westphalia, Ind. Latitude 38°51'53" N., longitude 87°13'25" W. Modification C.P. to change polarization from H to V on frequencies 6197.2V and 6315.9V MHz toward Bloomfield, Ind.

2404–C1–MP–73—Same (KSL97), southeast corner of Jefferson and Indiana Streets, Bloomfield, Ind. Latitude 39°01'39" N., longitude 86°56'21" W. Modification C.P. to change polarization from H to V on frequencies 5945.2V, 6063.8V, and 6004.5V MHz toward Kirksville, Ind.

2405–C1–MP–73—Indiana Bell Telephone Co. (KSL96), 1.5 miles southeast of Kirksville, Ind. Latitude 39°01'19" N., longitude 86°36'02" W. Modification C.P. to change antenna system on frequencies 6197.2H, 6315.9H, and 6256.5H MHz toward Bloomington, Ind.; frequencies 6226.9V, 6345.5V, and 6286.2V MHz toward Bloomfield, Ind.

2406–C1–MP–73—Same (KSL95), 119 East Seventh Street, Bloomington, IN. Latitude 39°10'07" N., longitude 86°31'58" W. Modification C.P. to change antenna system and add a second tower on frequencies 5974.8H and 6093.5H MHz toward New Unionville, Ind.; frequencies 5974.8V, 6034.2V, and 6093.5V MHz toward Kirksville, Ind.

2407–C1–P–73—American Telephone & Telegraph Co. (KKH66), 3.5 miles northeast of Frisco, Tex. Latitude 33°10'31" N., longitude 96°46'18" W. C.P. to add frequencies 3790V and 3670V MHz toward Denton, Tex.

2408–C1–P–73—Same (KLS67), 3.5 miles south-southeast of Denton, Tex. Latitude 33°10'02" N., longitude 97°06'42" W. C.P. to add frequencies 3830V and 3910V MHz toward Adams, Tex.

2409–C1–P–73—Same (KIT28), 1.8 miles east of Villa Rica, Ga. Latitude 33°43'43" N., longitude 84°53'09" W. C.P. to add frequencies 3730H and 4150V MHz toward Mableton, Ga.

2410–C1–P–73—Same (WGI23), 3 miles north of Mableton, Ga. Latitude 33°51'54" N., longitude 84°35'37" W. C.P. to add frequencies 3770H and 4110V MHz toward Villa Rica, Ga.; frequencies 3770H and 4110V MHz toward Atlanta 03 (Smyrna), Ga.

2411–C1–P–73—Same (WGI24), 3.3 miles east of Smyrna, Ga. Latitude 33°52'47" N., longitude 84°27'25" W. C.P. to add frequency 3730H 4150V MHz toward Mableton, Ga.; frequency 3730V MHz toward Tucker, Ga.

2412–C1–P–73—Same (WGI25), 2 miles southeast of Tucker, Ga. Latitude 33°49'54" N., longitude 84°11'23" W. C.P. to add frequency 3770V MHz toward Atlanta 03 (Smyrna), Ga.; frequency 3770H MHz toward Jersey, Ga.

2413–C1–P–73—Same (KRS98), 2.2 miles northeast of Jersey, Ga. Latitude 33°43'51" N., longitude 83°46'00" W. C.P. to add frequency 3730H MHz toward Tucker, Ga.; frequency 3730H MHz toward Monticello, Ga.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2414–C1–P–73—Same (WGI26), 5 miles northwest of Monticello, Ga. Latitude 33°20'16" N., longitude 83°45'59" W. C.P. to add frequency 3770H MHz toward Jersey, Ga.

2415–C1–P–73—Same (KQH35), 4 miles southeast of Saranac, Mich. Latitude 42°53'08" N., longitude 85°09'12" W. C.P. to add frequency 3790H MHz toward Ada, Mich.

2416–C1–P–73—Same (WHT48), 3.2 miles north-northeast of Ada, Mich. Latitude 43°00'06" N., longitude 85°27'34" W. C.P. to add frequency 3830V MHz toward Saranac, Mich.; frequency 3830H MHz toward Grand Rapids, Mich.

2417–C1–P–73—American Telephone & Telegraph Co. (KQH36), 114 North Division Street, Grand Rapids, MI. Latitude 42°57'57" N., longitude 85°40'03" W. C.P. to add frequency 3790V MHz toward Ada, Mich.

2418–C1–P–73—Same (KQE91), 4.5 miles southwest of Milford, Mich. Latitude 42°33'25" N., longitude 83°41'38" W. C.P. to add frequency 3950H MHz toward Plymouth Junction, Mich.

2419–C1–P–73—Same (KVU74), 4 miles west of Plymouth Junction, Mich. Latitude 42°21'52" N., longitude 83°32'50" W. C.P. to add frequency 3990H MHz toward Milford, Mich.; frequency 3850V MHz toward Southfield, Mich.

2420–C1–P–73—Same (KQG23), 2 miles north of city limits of Detroit, Mich. Latitude 42°28'24" N., longitude 83°15'40" W. C.P. to add frequency 3810V MHz toward Plymouth Junction, Mich.; frequency 3810V MHz toward Detroit, Mich.

2421–C1–P–73—Same (KQA83), 1365 Cass Avenue, Detroit, Mich. Latitude 42°19'57" N., longitude 83°03'14" W. C.P. to add frequency 3850V MHz toward Southfield, Mich.

2422–C1–P–73—Washington Telephone Co. (new), State Highway 20 one-fourth mile east of Ranger Station Road, Marblemount, Wash. Latitude 48°31'38" N., longitude 121°26'30" W. C.P. for a new station on frequency 2128.0V MHz toward Newhalem, Wash., via Passive Reflector.

2423–C1–P–73—Same (new), Gorge Switching Station, Newhalem, Wash. Latitude 48°40'29" N., longitude 121°14'29" W. C.P. for a new station on frequency 2178.0V MHz toward Marblemount, Wash., via Passive Reflector.

2424–C1–P–73—The Mountain States Telephone & Telegraph Co. (WGI51) 52d Avenue and Zuni Street, Denver, Colo. Latitude 39°47'31" N., longitude 105°01'00" W. C.P. to add frequency 3750H MHz toward Arapahoe Springs, Colo.

2425–C1–P–73—Same (WGI52), 3.5 miles south of Idaho Springs, Colo. Latitude 39°41'27" N., longitude 105°30'15" W. C.P. to add frequency 5960.0H 10955V, and 3710H MHz toward Denver (Zuni) Colo.; frequencies 6049.0H and 10775V MHz toward Idaho Springs, Colo., via Passive Reflector; frequency 3710H MHz toward Berthoud Pass, Colo.

2426–C1–P–73—Same (new), 4.6 miles west-northwest of Empire, Colo. Latitude 39°47'38" N., longitude 105°45'48" W. C.P. for a new station on frequency 3750H MHz toward Arapahoe Springs, Colo.; frequency 3750H MHz toward Grouse Mountain, Colo.

2427–C1–P–73—Same (new), 5.5 miles northwest of Hot Sulphur Springs, Colo. Latitude 40°08'02" N., longitude 106°10'25" W. C.P. for a new station on frequency 3710V MHz toward Granby, Colo., via Passive Reflector; frequency 3710H MHz toward Berthoud Pass, Colo.

2428–C1–P–73—The Mountain States Telephone & Telegraph Co. (new), Second and Jasper Avenue, Granby, Colo. Latitude 40°05'12" N., longitude 105°56'18" W. C.P. for a new station on frequency 3570V MHz toward Grouse Mountain, Colo., via Passive Reflector.

2446–C1–ML–73—American Telephone & Telegraph Co. (KAK48), 2 miles northeast of Wyoming, Minn. Latitude 45°21'54" N., longitude 92°59'26" W. Modification of license to change polarization from V to H on frequencies 3770H and 3850H MHz toward Hudson, Wis.

2450–C1–P–73—Western Tele-Communications, Inc. (KPJ36), 5 miles northeast of Whitehall, Mont. Latitude 45°55'20" N., longitude 112°01'24" W.: C.P. to add frequency 6182.4V MHz toward Baldy Mountain, Mont., on azimuth 43°47'.

2451–C1–P–73—Same (KPY90), 15 miles west of White Sulphur Springs, Mont. Latitude 46°28'35" N., longitude 111°15'04" W.: C.P. to add frequency 6137.9V MHz toward Helena and Garden Knoll, Mont., on azimuths 284°20' and 281°59', respectively.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2453–C1–P–73—Same (KSQ40), Garnet Knoll, 22 miles north-northwest of Deer Lodge, Mont. Latitude 46°42'10" N., longitude 112°52'53" W.: C.P. to add frequency 6301.0V MHz toward Deer Lodge, Mont., on azimuth 159°55'. INFORMATIVE: WTCI proposes to provide the signal of KWGN–TV of Denver, Colo., to CATV systems in Helena and Deer Lodge, Mont. A waiver of section 21.701(1) of FCC rules is requested by WTCI.

2453–C1–P–73—Same (KPJ35), 5 miles southwest of Armstead, Mont. Latitude 44°54'26" N., longitude 112°54'50" W.: C.P. to add frequency 5960.0H MHz toward Dillon, Mont., on azimuth 29°21'. INFORMATIVE: WTCI proposes to provide the signal of KWGN–TV of Denver, Colo., to Dillon Cable TV in Dillon, Mont.

2454–C1–P–73—Same (KSP68), XL Heights, 3 miles east of Butte, Mont. Latitude 46°00'27" N., longitude 112°26'30" W.: C.P. to add frequency 6108.3V MHz toward Anaconda, Mont., on azimuth 289°13'. INFORMATIVE: WTCI proposes to provide the signal of KWGN–TV of Denver, Colo., to Western Television in Anaconda. A waiver of section 21.701(1) of FCC rules is requested by WTCI.

9528–C1–P–72—Mountain Microwave Corp. (KBI23), Eads, 12 miles west-southwest of Eads, Colo. Latitude 38°24'29" N., longitude 102°58'29" W.: C.P. to change existing frequency 6315.9 MHz to 6404.8H MHz toward Syracuse, Kans. (KZI38), on azimuth 122°06'.

Major Amendment

6957–C1–P–71—Mountain Microwave Corp. (new), 2 miles east of Larned, Kans. Latitude 38°10'57" N., longitude 99°04'09" W.: Application amended to change azimuth to 231°50' toward Kinsley, Kans.

6958–C1–P–71—Same (new), 3 miles northwest of Dodge City, Kans. Latitude 37°46'40" N., longitude 100°03'41" W.: Application amended to change azimuth to 70°02' toward Kinsley, Kans.

6959–C1–P–71—Same (new), 2.2 miles northwest of Kinsley, Kans. Latitude 37°57'29" N., longitude 99°25'44" W.: Application amended (a) to relocate station to foregoing coordinates and (b) to change frequency 10675 MHz to 10815V MHz toward Pratt, Kans., on azimuth 120°52'.

6168–C1–P–72—American Television and Communications Corp. (new), 4 miles west of Kissimmee, Fla. Latitude 28°17'27" N., longitude 81°28'05" W.: Application amended to add frequencies 5974.8H MHz and 6034.2H MHz toward new point of communication at Orlando, Fla. Latitude 28°36'25" N., longitude 81°19'35" W. on azimuth22°31'. INFORMATIVE: ATC proposes to provide the signals of WCIX–TV and WLTV, Miami, Fla., to Orange Cablevision, Inc., in the Orlando area.

Corrections

1386–C1–P–73—Continental Telephone of California (KV137), correct to read: correct azimuth on frequencies 6271.3V and 6390.0V MHz toward Ridgecrest, Calif., to 85°44'.

1905–C1–P–73—Ohio Bell Telephone Co. (KQN48), correct to read: 2.5 miles south-southeast of Hopedale, Ohio. Latitude 40°17'25" N., longitude 80°53'17" W. C.P. to add frequency 11525H MHz toward Cadiz, Ohio.

INFORMATIVE: In the Point-to-Point Microwave Radio Service questions frequently arise as to when a new application must be filed in lieu of an amendment in regard to relocating a proposed station site. To further simplify making the necessary determination, any site relocation resulting in a 20 mile or less change from the original site, will be considered an amendment: *Provided*, That the relocated station would essentially serve the same purpose in the system as originally proposed. Otherwise, such change must be accomplished by filing a new application.

[FR Doc.72–18233 Filed 10–26–72;8:45 am]

[Docket No. 18295; FCC 72R-300]

ORANGE COUNTY BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard application of Orange County Broadcasting, Inc., doing business as Orange County Broadcasting Co., Anaheim, Calif., Docket No. 18295, File No. BPCT-4018, 18297, 18298, 18300, for construction permit for new television broadcast station.

1. The Review Board has before it a petition to enlarge issues in the above captioned proceeding, filed by Golden Orange Broadcasting Co., Inc. (Golden Orange) on April 21, 1972.[1] In its petition, Golden Orange requests the addition of issues concerning abuse of process, § 1.65, lack of candor, and character qualifications against Orange Empire. Both the Bureau and Orange Empire oppose the addition of the requested issues.

2. To assist in understanding the instant petition, a chronology of events leading up to its filing would be helpful. This proceeding was designated for hearing by Commission Order, FCC 68-856, released August 30, 1968, 32 F.R. 12591, published September 5, 1968. In its order, the Commission specified an issue to determine whether Orange Empire would have available a bank loan in the amount of $1,700,000. Orange Empire had attempted to establish its financial qualifications by submitting a letter from Inland Bank of Pomona, Calif. That letter, dated April 2, 1968, and signed by William H. Asdel, president of the bank, purported to commit the bank to lend Orange Empire $1,700,000. However, Mr. Asdel, in the letter, noted that the amount of the proposed loan was in excess of the bank's legal lending limit but urged that the bank could obtain participation by a corresponding bank with no difficulty when the money was needed. It was this clause which led to the specification of the issue.

3. At a hearing session held on March 5, 1970, Mr. Asdel testified that his bank was prepared to provide the $1,700,000 to Orange Empire. The applicant introduced a letter of commitment identified as Orange Empire's exhibit 1, dated April 2, 1968, and a letter dated February 19, 1970, which purported to give more details as to the repayment schedule and rate of interest to be charged. On July 26, 1971, Mr. Asdel, president of Inland Bank, directed a letter to Orange Empire in which he advised that company that Inland Bank would in August be merged with the Bank of California. With respect to Inland's commitments to Orange Empire, Asdel stated:

> I will be a vice president of the Bank of California. More importantly, I should advise you that the lending limit of the Bank of California is many times the amount of your loan requirements of $1,700,000. In consequence of this fact, all previous references to the lending limit of Inland Bank may be disregarded as applicable.

At a further hearing session held on November 23, 1971, counsel for Orange Empire indicated that counsel for the Broadcast Bureau had suggested to him that in view of the Inland Bank merger with the Bank of California the availability of Orange Empire's loan commitment from Inland Bank should be clarified. Counsel further stated that Mr. Asdel, former president of Inland and now a vice president of the Bank of California, had agreed to supply such a letter. At a further hearing session a letter dated December 15, 1971, and signed by John E. Hayes, vice president and manager of the Bank of California which purported to commit the Bank of California to lend $1,700,000 to Orange Empire was marked for identification as Orange Empire exhibit 17. The exhibit was not, however, offered in evidence since Mr. Hayes was not available to sponsor the exhibit and for cross examination. Counsel for Orange Empire instead requested an extension of time to permit him to produce a new letter which would be properly sponsored by an official of the Bank of California. Counsel for Golden Orange objected to the extension, noting that as early as December 20, he had offered to take the testimony of Hayes by deposition so that the witness would not be required to travel to Washington. This Orange Empire had declined to do. The Presiding Judge denied Golden Orange's objection, and scheduled a further hearing session for February 3, 1972. This session was canceled by the judge and further hearing was conducted on March 1, 1972. Prior to that date, counsel for Orange Empire had distributed to counsel for all other parties a letter signed by Mr. Paul Revelle, a vice president of the Bank of California. That letter was identical in every respect, including the date, to the letter formerly offered for identification as exhibit 17, signed by Hayes.

4. On the afternoon of February 29, 1972, counsel for Orange Empire called the Presiding Judge to advise him that Revelle had no real personal knowledge concerning the loan commitment and that he was therefore unable to offer a witness on March 1. At the March 1 hearing, counsel for Orange Empire stated that he had discussed the problem under consideration with Mr. Revelle and had determined that Revelle could only testify of his own personal knowledge that he had been directed by the president of the Bank of California to prepare and sign the letter that bore his signature, and that of his own knowledge the loan commitment had not been considered by the credit committee. In these circumstances, counsel stated, he had concluded that no useful purpose would be served offering Mr. Revelle as a witness and therefore requested another continuance to permit him to come forward with a suitable witness to establish the financial qualifications of Orange Empire. The Presiding Judge, despite the vociferous objections of counsel for Golden Orange, further continued the proceeding until April 4, admonishing counsel for Orange Empire that in the absence of very unusual circumstances he would be afforded no further extension of time. On April 4, counsel for Orange Empire again appeared before the Presiding Judge and stated that his client had, in view of certain problems with the Bank of California, concluded that its interest would be better served by seeking a loan commitment from another lending agency, that it had undertaken to obtain a new loan commitment, and that it had been assured by high officials of another bank that a letter of commitment would be forthcoming; however, on the preceding Thursday the bank reneged and declined to make the needed commitment. Thus, counsel explained, Orange Empire was without a letter of commitment or a witness; Orange Empire therefore concluded that it would rely on the earlier commitment made by the Bank of California and had requested that Mr. Revelle be available for the April 4 hearing. Counsel stated that he was then advised that because of long standing previous commitments Revelle could not come to Washington during the week of April 3. To support this position, counsel relied upon a telegram from Revelle dated March 30, 1972, to the Presiding Judge wherein Revelle stated that prior commitments precluded his appearance during the week of April 3, and that his present calendar would permit no appearances on or after April 26. Counsel then stated that there:

> were some questions which persisted. For example, as to whether and to what extent the Bank of California inherited the prior commitment of Inland Bank to Orange Empire Broadcasting Co.
>
> Also, the Bank of California's loan committee never passed upon the Orange Empire application for loan itself, so in order to remove any of these questions, it was decided late last week that the best route to follow would be to resubmit a broad new loan application to the Bank of California, which is in the process of being done, so that neither the Bank of California nor the applicant will rely in any respect upon the previous commitment from Inland Bank . . .
>
> The applicant at this point has no way of knowing whether the Bank of California will, in fact, grant the loan application, so in order to avoid another problem, in the event they deny the application for a loan, Orange Empire is pursuing three other alternative courses with three other banks.

5. In view of these circumstances, Orange Empire again requested a further hearing to enable it to introduce a suitable loan commitment and an appropriate sponsoring witness. All counsel, except counsel for Golden Orange, who again vociferously opposed the further extension, expressed reluctant consent to the further delay. Despite Golden Orange's objections, the Presiding Judge granted Orange Empire an extension until April 25, 1972. At the April 25 hearing session, Orange Empire offered as its exhibit 18 a letter of commitment from the Wells Fargo Bank purporting to commit that institution to lend $1,700,000 to Orange Empire on the terms and conditions stated in that letter. The exhibit was sponsored by Mr. Walter J. Winrow, vice president and manager of the Santa Ana office of Wells Fargo Bank. After extensive cross-examination of Mr. Winrow, that exhibit was received in evidence.

6. Orange Empire contends that this sequence of events establishes misrepresentation, failure to report pertinent facts as required by § 1.65 of the Commission's rules and a general lack of candor which warrants an issue concerning the character qualifications of Orange Empire to be a licensee of this Commission. In support of this contention, petitioner urges that neither the Presiding Judge nor the parties to this proceeding were aware that there was any question concerning the commitment of the Bank of California to lend $1,700,000 to Orange Empire prior to the hearing session held on April 4. Moreover, Golden Orange argues that had Orange Empire been required to go to hearing on March 1, 1972, it would have been established that the credit committee of the Bank of California had never passed on Orange Empire's application for a loan and that there was a question as to whether or not the Bank of California was obliged to honor Inland Bank's prior commitment. Moreover, petitioner argues, had Orange Empire been required to proceed to hearing on April 4, 1972, or had Mr. Hayes' deposition been taken in February, the same factual information would have been elicited. It further argues that there is nothing in the record to establish that Orange Empire had proceeded in good faith and thus we must conclude that Orange Empire's failure to provide a witness at the time specified constitutes an abuse of commission process.

7. The Review Board agrees with the Broadcast Bureau and with Orange Empire to the extent that this sequence of events, standing alone, does not provide an adequate basis for adding the issues requested by Golden Orange. At each step of this proceeding counsel for Orange Empire appeared to be forthright and presented his arguments to the Presiding Judge who was persuaded of their validity and granted the several continuances requested. Certainly this is not grounds for issues which raise questions as to the integrity of the applicant. However, neither the Presiding Judge, Golden Orange nor the Broadcast Bureau were aware of all of the facts. In its opposition, Orange Empire referred to a letter from Mr. Robert A. Lewis, executive vice president of Orange Empire, under date of December 15, 1971; this letter, addressed to Mr. John E. Hayes, alluded to a conference concerning the matter of the Bank of California's loan commitment to Orange Empire, and reads in pertinent part as follows:

> We, of course, recognize that whatever commitment you thereby inherited is entirely a derivative one and limited to Inland Bank's legal loan limit.
>
> Our pressing problem is that if we do not have by today a bank letter indicating the availability of $1,700,000 in loans to us, we shall no longer remain qualified to pursue our application before the FCC. Recognizing as we do both the inadequacy for credit evaluation purposes of the somewhat outdated paperwork delivered to you last Friday and the virtual impossibility of your making any meaningful assessment of our credit worthiness between then and now even assuming that our projections and financial statements and those of the prospective guarantors were current, we wish to make the following proposal.
>
> If you will provide us with a letter along the lines of the Union Bank letter of April 11, 1968 addressed to Golden Orange Broadcasting Co., Inc., copy of which was forwarded to you by our counsel's December 13, letter to you, we will release and indemnify you from any and all claims for damages which may hereafter be made against you should we be granted the FCC permit as successful applicant and should a thorough credit evaluation of our current prospects at that time cause you to elect not to make any loan to us. Your acceptance of this proposal shall be evidenced by your delivery to us of the requested letter which, as above indicated, we must have today to remain a qualified applicant.

Mr. Hayes' letter of December 15 (par. 4 supra) was apparently in response to the letter from Mr. Lewis quoted above. This correspondence casts the foregoing series of events in a different light. We cannot, at this time, accept the view of Mr. Bruington, local counsel for Orange Empire, as set forth in his letter of May 9, 1972, that the Lewis' letter does no more than restate the California law. The last paragraph of Mr. Lewis' letter appears to request a letter of commitment from the Bank of California with the understanding that if such letter is forthcoming and the bank subsequently decides not to make the loan, Orange Empire will forego any legal redress which might otherwise be available to it. This in turn raises a question as to whether Orange Empire may have undertaken to submit what purported to be a bonafide loan commitment but which was in fact no commitment on the part of the Bank of California. While a legally binding commitment is, of course, unnecessary to establish the availability of a proposed loan, the wording of Mr. Lewis' letter reflects that the applicant may have been attempting to merely obtain evidence of a commitment to satisfy the Commission without any regard for the efficacy of that commitment. To obtain and rely on such a commitment letter would clearly reflect on an applicant's candor and integrity. We accept counsel for Orange Empire's statement that he was not aware of the Lewis letter before April 24, 1972. Nevertheless, Mr. Lewis, executive vice president of Orange Empire, and Mr. Bruington, Orange Empire's California counsel, must be presumed to have acted for the corporation. In these circumstances, an issue inquiring into the circumstances surrounding the December 15, 1971, letter sent from the Bank of California, signed by John E. Hayes, vice president, and the effect of the facts so adduced on the qualifications on Orange Empire is appropriate.

8. *Accordingly, it is ordered*, That the petition to enlarge issues, filed on April 21, 1972, by Golden Orange Broadcasting Co., Inc. is granted to the extent indicated below, and is denied in all other respects, and that the issues in this proceeding are enlarged to include the following issues:

> To determine all of the facts and circumstances surrounding the letter from the Bank of California, dated December 15, 1971, and signed by John E. Hayes, vice president and manager, and offered by Orange Empire as its exhibit 16 and the affects of these facts on the basis or comparative qualifications of Orange Empire Broadcasting Co.

9. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issue being added herein shall be on Golden Orange Broadcasting Co., Inc. and the burden of proof shall be on Orange Empire Broadcasting Co.

Adopted: October 17, 1972.

Released: October 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18360 Filed 10-26-72;8:53 am]

[Dockets No. 19468 etc.; FCC 72R-298]

WIOO, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of WIOO, INC., Carlisle, Pa., Docket No. 19468, File No. BPH-6572; Howard J. Hilton, John E. McGowan, and John E. Hilton, doing business as Hilton, McGowan & Hilton, Carlisle, Pa., Docket No. 19469, File No. BPH-6631; Alexander Contract and Sylvia Contract, doing business as Cumberland Broadcasting Company, Carlisle, Pa., Docket No. 19471, File No. BPH-7404; for construction permits.

1. This proceeding involves the mutually exclusive applications of WIOO, Inc. (WIOO), Hilton, McGowan & Hilton (Hilton) and Cumberland Broadcasting Co. (Cumberland), for a new FM broadcast station at Carlisle, Pa. The Commission, by order, FCC 72-233, 37 F.R. 6519, published March 30, 1972, designated these applications for consolidated hearing on various issues. Presently before the Review Board is a petition to enlarge issues, filed July 26, 1972, by Cumberland which requests issues to determine whether Harold Swidler, a WIOO principal, is guilty of criminal fraud in connection with documents presented to the Commission purporting to be affidavits and related misrepresen-

[1] There is also before the Board for consideration an opposition to the petition to enlarge issues, filed by Orange Empire Broadcasting Co. (Orange Empire) on May 30, 1972; comments, filed by the Broadcast Bureau on May 4, 1972; and a reply, filed June 23, 1972, by Golden Orange.

[2] Board Member Pincock absent. Board Member Nelson dissenting on the merits and because of the existing financial issue.

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tation, abuse of process and lack of candor issues.[1]

2. A brief statement of relevant portions of the recent history of this proceeding will facilitate an understanding of the basis for the presently requested issues. On July 14, 1972, WIOO filed a supplement to petition to enlarge issues against Cumberland[2] which contained, inter alia, letters from three local area real estate brokers and a letter from an assessor of the Cumberland County Board of Assessment and Revision of Taxes, Carlisle, Pa. All five letters were notarized. Subsequently, by affidavit dated July 21, 1972, the notary public withdrew her notarization of the letters after learning that the county assessor had not authorized notarization of his letter.[3] WIOO subsequently submitted new notarizations of the local area realtors' appraisals and, because of their pertinency to the serious questions then before the Board, the Board considered the substance of those appraisals. Cumberland's present request for enlargement of the issues followed.

3. In support of its petition, Cumberland submits, in addition to the above described July 21, 1972, affidavit of the notary public withdrawing her notarizations, an affidavit of the county assessor, in which he states that he "did not have the said letter notarized nor did I authorize him [Mr. Harold Swidler] or anyone else to have the letter notarized." Petitioner contends that the actions of Harold Swidler in this matter require not only misrepresentation, abuse of process and lack of candor issues but also an issue "to determine whether Harold Swidler is guilty of violation of 18 U.S.C. section 1001 (1970)."[4][5]

4. WIOO opposes all the requested issues on the grounds that each of the letters in question were in fact properly signed and no question has been raised as to the genuineness of any of the statements contained therein. Furthermore, argues WIOO, an "irregularity" in the notarization of letters that were actually signed in good faith, which is all that occurred here, is substantially different from submitting false statements to the Commission. The former is merely a matter of form, argues WIOO, rather than substance, and need not require enlargement. WIOO also opposes the requested issue concerning criminal fraud on the grounds that the Commission is not the appropriate forum for deciding whether a crime has been committed. Finally, WIOO submits the affidavit of Harold Swidler in which he states that he "had no idea there was anything wrong" with asking the Notary to notarize the letters "even though they are not signed in the presence of the Notary" and that "the statements made (in the letter) were those of the individuals concerned" and they "personally signed the documents in my presence." The Broadcast Bureau, in its comments, agrees with WIOO to the extent that the criminal fraud issue is inappropriate because jurisdiction to determine criminal guilt or innocence does not lie with the Commission. The Bureau urges, however, that an issue should be designated to determine whether there was an abuse of process and/or misrepresentation on the part of Mr. Swidler.

5. In reply, petitioner attacks Mr. Swidler's affidavit disavowing knowledge of wrongdoing by contending that even if it is to be believed it is an "admission of misrepresentation." As to the requested issue concerning criminal fraud, Cumberland argues that the crime occurred within the Commission, that the Commission was the "direct victim" of criminal activity, and that, therefore, the Commission ought to be able to determine administratively the facts and circumstances surrounding the crime.

6. The Review Board will add the requested misrepresentation and abuse of process issue. Commission § 1.229(c) requires that all motions to enlarge, change or delete issues be supported by affidavits of persons having personal knowledge of the alleged facts. It appears that Mr. Swidler has procured and submitted to this Commission documents which he knew were not affidavits as represented by him, and that the purpose of the conduct was to persuade the Commission into believing that such documents were properly sworn. Inquiry into all the facts and circumstances surrounding both the procurement and submission of such documents is necessary and, therefore, an issue inquiring into the matter will be added. The Board does not believe, however, that the requested issue inquiring into violation of Federal law is either proper or necessary. Such a determination more appropriately rests with the Federal courts, and, as previously stated, the U.S. Attorney has indicated that he does not intend to prosecute. In any event, the significance of this matter relates primarily to the underlying conduct, and its effect, if any, on WIOO's qualifications to be a licensee, not whether Swidler did or did not technically violate the statute, and the conduct involved can be fully explored under the issues being specified herein.

7. *Accordingly, it is ordered,* That the petition to enlarge issues, filed July 26, 1972, by Cumberland Broadcasting Co. is granted to the extent indicated below, and is denied in all other respects; and

8. *It is further ordered,* That the issues in this proceeding are enlarged to include the following issues:

1. To determine whether Mr. Harold Swidler and/or WIOO, Inc. has made misrepresentations or abused Commission processes or been lacking in candor with respect to documents submitted to this Commission purporting to be affidavits;

2. To determine, in light of the evidence adduced pursuant to the above issue, whether Harold Swidler and/or WIOO, Inc., possesses the basic or comparative qualifications to be a Commission license.

9. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Cumberland Broadcasting Co. and the burden of proof under these issues shall be on WIOO, Inc.

Adopted: October 16, 1972.

Released: October 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18361 Filed 10-26-72;8:53 am]

FEDERAL-STATE/LOCAL ADVISORY COMMITTEE, SUBCOMMITTEE D

Notice of Meeting

OCTOBER 20, 1972.

Subcommittee D, the Post Award Regulatory Phase Subcommittee, of the Cable Television Federal-State/Local Advisory Committee will hold an open meeting on November 8, 1972, at 10 a.m. The meeting will be held in the State Office Building, Saltonstall Building, Room 1319, 100 Cambridge Street, Boston, MA.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18359 Filed 10-26-72;8:53 am]

TECHNICAL ADVISORY COMMITTEE, PANEL CHAIRMEN

Notice of Meeting

OCTOBER 20, 1972.

A meeting of the Panel Chairmen of the Cable Television Technical Standards Advisory Committee will be held on November 13, 1972, in Room 847S of the FCC building, 1919 M Street NW., Washington, DC. The meeting will begin at 10 a.m.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18357 Filed 10-26-72;8:53 am]

TECHNICAL ADVISORY COMMITTEE, PANEL 3 (RECEIVERS)

Notice of Meeting

OCTOBER 20, 1972.

Panel 3 (Receivers) of the Cable Television Technical Advisory Committee will hold an open meeting on November 9, 1972, at 10 a.m. The meeting will be held at the Marriott Motor Hotel, 8535 West Higgins Road, Chicago, IL, 312—693-4444 (Room number to be posted).

The following matters will be on the agenda:

(1) Discussion of Panel 3 function.

(2) Proposed work areas.

(3) Identification of specialists for each area.

(4) Proposed work objectives and schedules for each area.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18358 Filed 10-26-72;8:53 am]

TELEVISION PROGRAM TRANSMISSION SERVICES

Notice of Application

OCTOBER 19, 1972.

On October 15, 1972, the American Telephone & Telegraph Co., filed its Tariff Application No. 903 in which it requests special permission to file tariffs that would propose revisions in A.T. & T.'s television program transmission rates to become effective 60 days after the filing of such tariffs. Special permission to file such tariffs is required under paragraph 11 of an order adopted by the Commission on February 3, 1972 and reaffirmed July 17, 1972, in Dockets 18128 and 18684. (33 FCC 2d at 524; FCC 72-619.)

The proposed tariff filing, if the application is granted, would contain both increases and decreases in charges. An attachment to this notice, prepared by A.T. & T., compares the presently effective and proposed rates. Under § 61.58 of the rules of this Commission, actual notice of any increases to users would be made by the carriers at the time of filing the tariffs, if the application is granted. Furthermore, in the event of a grant, A.T. & T. will be required to submit cost and other supporting data upon filing the tariffs. (§ 61.38 of the rules.)

Action on the application is expected within 30 days from the filing of the application. Accordingly, any interested persons may file whatever comments they may have on this application with the Commission no later than November 1, 1972. It should be noted that a grant of this application would not constitute approval or disapproval of the proposed tariffs; that if such a grant is made, interested persons would have the opportunity, under our rules, to submit petitions for suspension, rejection, or other relief, prior to the effective date of the tariffs; and that these proposed rates, if they should become effective, would be subject in any event to such final determinations as the Commission shall make in pending Docket 18128 concerning the principles that should govern in the assignment of the Bell System's revenue requirements among its principal classes of interstate and foreign services.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

TELEVISION SERVICE RATE COMPARISON

	Present rates	Proposed rates
Monthly:		
Interexchange channel—per mile:		
24 hours		$55.00
First hour	$12.10	
Cons. hours—per hour	4.40	
Non-Cons. hours—per hour	6.60	
Station connection—per connection:		
24 hours		1,500.00
First hour	580.00	
Cons. hours—per hour	147.00	
Non-Cons. hours—per hour	236.00	
Local and studio-to-transmitter channels—per channel:		
Month		1,000.00
First month	1,225.00	
Cons. months—per month	725.00	
Occasional:		
Interexchange channel—per mile:		
Per hour		1.00
7 a.m. to 1 a.m.	.55	
1 a.m. to 7 a.m.	.28	
Station connection—per connection:		
Per hour		80.00
7 a.m. to 1 a.m.	26.25	
1 a.m. to 7 a.m.	13.15	
Local channel—per channel:		
Per day		500.00
First day	410.00	
Cons. day—per day	110.00	
30-day maximum	1,225.00	1,000.00
Monitoring:		
30 minutes or less	8.00	8.00
Exceeding 30 minutes—per hour	15.00	15.00
Switches:		
Per switch	9.00	9.00
One-half switch	4.50	4.50

[FR Doc.72-18356 Filed 10-26-72;8:52 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE—SYNTHETIC GAS-COAL

Agenda for Meeting

Supply-Technical Advisory Task Force—Synthetic Gas-Coal, Conference Room 2043 of the Federal Power Commission, 441 G Street NW., Washington, DC, November 9 and 10, 1972, 10 a.m.; presiding: Dr. Paul J. Root, FPC Survey Coordinating Representative and Secretary.

1. Call to order and introductory remarks—Dr. Root.
2. Review of developments since the meeting of June 13, 1972—Mr. James R. Garvey, Director—Supply-Technical Advisory Task Force—Synthetic Gas-Coal.
3. Review of individual assignments for drafting sections of the final report—Mr. Garvey.
4. Status of assigned work programs and estimated date for completion—Mr. Garvey.
5. Other business.
6. Adjournment—Dr. Root.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18340 Filed 10-26-72;8:51 am]

[Docket No. E-7775]

APPALACHIAN POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Increases and Permitting Interventions

OCTOBER 20, 1972.

Appalachian Power Co. (APCO) a public utility subject to the jurisdiction of the Commission, filed on September 21, 1972, proposed changes in its FPC Rate Schedule Nos. 26, 27, 30-38, 40-44, 46-51 and 54 to become effective on October 21, 1972. APCO avers that the increased rates are necessary to meet increased costs of providing electricity, and increased costs of capital. The proposed charges would increase revenues from jurisdictional sales and services by approximately $1,918,718 based on a 12-month period ending December 31, 1971.

APCO also requests waiver of the Commission's 60-day filing requirement as set out in § 35.13(b) (4) (i) and (5) (i). In support of this request, APCO points out that complete cost of service data, virtually identical to that filed in this proceeding, were filed with the Commission on July 26, 1972, in Docket No. E-7416, and therefore the Commission staff has had reasonable time in which to study these data.

The notice of proposed increases, issued October 2, 1972, provided that the closing date for petitions to intervene, protests, and comment was October 16, 1972. Timely petitions to intervene and/or reject were filed by the following parties: Virginia Polytechnic Institute and State University (VPI), city of Danville, city of Martinsville, city of Salem, city of Bedford, and city of Radford. City of Richland filed only a petition to intervene.

In addition, seven motions to enlarge the time within which interventions and/or protests may be filed were filed by: War Light & Power Co., Union Power Co., United Light & Power Co., Kimball Light & Water Co., Elkhorn Public Service Co., Elk Power Co., and Black Diamond Power Co. In view of the fact that we are suspending the proposed rate increases for 5 months, these motions are denied. This denial is without prejudice to such action(s) we may take on petitions to intervene received after the final date for receipt of such petition(s).

[1] Also before the Review Board are the following related pleadings: (a) Opposition, filed August 7, 1972, by WIOO; (b) Broadcast Bureau's comments, filed August 8, 1972; and (c) reply, filed August 17, 1972, by Cumberland.

[2] This supplement was filed in connection with a series of pleadings initially filed on Apr. 14, Apr. 19, and Apr. 26, 1972—all of which were dealt with by Review Board Memorandum Opinion and Order, FCC 72R-255, released Sept. 20, 1972, —— FCC 2d —— (1972). See specifically footnote 7 thereof.

[3] By her July 21 affidavit, the Notary stated that, her action was taken because "none of these gentlemen (the local area realtors) appeared before me or contacted me in connection with the notarizations" and because she believed that she "can no longer rely on Mr. Swidler."

[4] 18 U.S.C. section 1001 (1970) reads as follows: Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly or willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000.00 or imprisoned not more than 5 years, or both.

[5] By letter of Aug. 25, 1972, attorneys for Cumberland notified the Review Board that they had received a letter, dated Aug. 18, 1972, from the U.S. Attorney's office, District of Columbia, which states that that office would decline criminal prosecution.

[6] Board member Pincock absent.

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Notice of Intervention has been filed by the Public Service Commission of West Virginia.

Each of the motions to reject refer to the fact that the movants' contracts[1] with Apco do not permit unilateral rate schedule changes and, therefore, fall within the Mobile-Sierra doctrine. On October 19, 1972, Apco filed with this Commission a request to defer action on the motions to reject. Apco indicated it could expect to file a complete answer to the motion to reject within the 15 day period provided by §§ 1.8(e) and 1.13(g) of the Commission's rules. We shall defer ruling upon such motions to reject pending receipt of Apco's answer. However, we intend to act expeditiously thereafter in order to assure the issuance of any ruling on the subject motion prior to the expiration of the 5-month suspension period.

The Commission finds:

(1) Participation by the petitioners for intervention in this proceeding may be in the public interest.

(2) The proposed increased rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under section 205 of the Federal Power Act and accordingly shall be suspended as hereinafter ordered.

(3) APCO's request for waiver of the 60-day filing requirement under § 35.13 (b) (4) (i) and (5) (i) is reasonable and proper.

(4) APCO's filing should be accepted as validly initiating a proceeding under section 205 of the Federal Power Act.

The Commission orders:

(A) APCO's filing is accepted as validly initiating a proceeding under section 205 of the Federal Power Act. Pending a hearing and decision thereon, this portion of the filing is hereby suspended for 5 months and the use thereof deferred until March 22, 1973. Increased rates and charges collected after March 22, 1973, and found by the Commission in this proceeding to be unjustified shall be refunded according to the Commission's regulations.

(B) The petitioners for intervention are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of the intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: And *Provided, further,* That admission of the intervenors shall not be construed as recognition by the Commission that the intervenors may be aggrieved by any order entered in the proceeding.

(C) Pending a hearing and decision thereon the subject increased rates and charges collected after March 22, 1973, found by the Commission in this proceeding to be unjustified, shall be refunded according to the Commission's regulations.

(D) Pursuant to the authority of the Federal Power Act, particularly section 205(d) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held, commencing with a prehearing conference on February 20, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the lawfulness of the rates, charges, classifications and services contained in APCO's rate increase filing.

(E) At the prehearing conference on February 20, 1973, APCO's prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of §§ 1.18 and 2.59 of the Commission's rules of practice.

(F) On or before January 23, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any or all intervenors shall be served on or before February 13, 1973. Any rebuttal evidence by APCO shall be served on or before February 27, 1973. Cross-examination of the evidence filed will commence March 13, 1973.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in section 2.59 of the Commission's rules of practice and procedure.

(H) Pending hearing and a final decision in the proceeding, APCO's rate filing tendered on September 21, 1972, is suspended and the use thereof deferred until March 22, 1973.

(I) APCO's petition for waiver of the 60-day filing requirements of § 35.13(b) (4) (i) and (5) (i) is hereby granted.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18377 Filed 10-26-72;8:54 am]

[Docket No. CP73-45, etc.]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Order Denying and Dismissing Applications

OCTOBER 19, 1972.

On September 29, 1972, Southern Natural Gas Co. (Southern Natural) and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) filed in Dockets Nos. CP73-45 and CP73-49 an application to continue deliveries, commenced under color of § 157.22 of the regulations, beyond the 60-day limit set forth in the regulations.[1] The reasons therefore, state Southern Natural and Michigan Wisconsin, are that "Michigan Wisconsin needs the deliveries from Southern Natural to replace throughput of gas while facilities are out of service during construction." The Commission also is referred to the emergency notifications and the applications in Dockets Nos. CP73-45 and CP73-49.

Michigan Wisconsin, by telegram received July 31, 1972, informed the Commission that it had commenced an emergency receipt of gas from Southern Natural pursuant to § 157.22 of the Commission's regulations. By telegram received August 2, 1972, Southern Natural informed the Commission that it had commenced, pursuant to § 157.22 of the regulations, emergency deliveries of gas to Michigan Wisconsin. The stated emergency, according to both parties, was a "curtailment of supply" for Michigan Wisconsin, due to "installation of facilities authorized by the Commission requir[ing] Michigan Wisconsin to take existing facilities out of service."

Michigan Wisconsin, by letter received August 7, 1972, and Southern Natural, by letter received August 14, 1972, filed statements in compliance with § 157.22(c) of the Commission's regulations. These letters contain no new information concerning the nature of the alleged emergency.

On August 14, 1972, Michigan Wisconsin in Docket No. CP73-45 and Southern Natural in Docket No. CP73-49, filed applications pursuant to section 7(c) of the Natural Gas Act seeking to authorize the deferred exchange of natural gas between Michigan Wisconsin and Southern Natural, which had already commenced under color of § 157.22 of the Commission's regulations, as set forth above. Notice of the applications in Dockets Nos. CP73-45 and CP73-49 was issued on August 30, 1972, and published in the FEDERAL REGISTER on September 7, 1972 (37 F.R. 18118).

The applications reflect that Southern Natural would deliver gas to Michigan Wisconsin on a best-efforts basis during the period July 1, 1972, to December 1, 1972. Michigan Wisconsin, in turn, would redeliver to Southern Natural one-quarter of the total volume during the period December 1, 1973, through March 31, 1974, and the balance during the period December 1, 1974, through March 31, 1975.

The applications contain the exchange agreement between Michigan Wisconsin and Southern Natural. The maximum daily delivery would be 200,000 Mcf. The maximum total delivery would be 3,600,000 Mcf.

[1] FPC Rate Schedule Nos. 26-27, 30, 48, 50-51.

[1] Southern Natural and Michigan Wisconsin styled their pleading a "Motion to waive limitation on deliveries under § 157.22 until order on application."

[2] The facilities referred to were authorized in Dockets Nos. CP72-87 and CP72-125.

On August 18, 1972, Atlanta Gas Light Co. (Atlanta) requested the Commission to issue an order pursuant to 1.6(d) of the Commission's rules of practice and procedure requiring Southern Natural to show cause within 5 days of such order why it should not be required to immediately cease and desist delivering all quantities of gas to Michigan Wisconsin under an exchange agreement dated July 1, 1972.

Atlanta contends that Michigan Wisconsin and Southern Natural have failed to make an adequate showing of the existence of an emergency, which is a necessary prerequisite for invoking § 157.22 of the regulations. Atlanta argues that the letters of notification failed to adequately describe the "emergency" operations. Atlanta further urges that any interruption from Michigan Wisconsin's traditional gas supply due to the installation of facilities authorized was foreseeable and should have been dealt with as part of the proceedings to authorize those facilities. Atlanta also argues that the deliveries of gas are anticipated to continue up to December 1, 1972, for a period well in excess of the 60-days contemplated by § 157.22 of the regulations. Atlanta complains, finally, that the notification did not include the exchange agreement dated July 1, 1972.[3]

Atlanta contends that Southern Natural's deliveries to Michigan Wisconsin are inconsistent with Southern Natural's allegations of shortages in its gas supply.[4] Atlanta states that as a result of curtailments by Southern Natural for the alleged purpose of filling the Mouldon storage facility, Atlanta suffered severe curtailment resulting in reductions of 20.1 percent deliveries to Atlanta for April, May, and June of 1972 as compared to the same deliveries in 1971. Atlanta states unless Southern Natural is ordered to immediately cease and desist delivering volumes of gas to Michigan Wisconsin, it may well continue to "unlawfully curtail Atlanta for the purpose of making such deliveries." Atlanta argues that the emergency provisions under § 157.22 of the regulations were not intended to permit the delaying of notice of an exchange such as the one entered into.

On September 11, 1972, Southern Natural filed an answer to Atlanta's application for the order to show cause. Southern Natural argues that an order to show cause is improper and unnecessary because: (a) The volume of gas and period of time concerned "are relatively minor," (b) there will be a benefit to Southern Natural in obtaining free storage service from Michigan Wisconsin, (c) the exchange agreement will enable Michigan Wisconsin to fill its storage at a time when part of its gas supply system is out of service, and (d) Atlanta has a full opportunity to intervene in the certificate proceeding in Docket No. CP73-49.

Section 157.22(a) of the regulations provides:

> Public interest does not require the issuance of a certificate for the construction and operation of facilities or the sale of natural gas necessary to assure maintenance of adequate natural gas service where interruption or serious curtailment of service exists or is threatened because of failure of facilities or failure or curtailment of supply or unusual and unexpected demand on such facilities or supply, and where such acts and operations are limited to a single period of not more than 60 days;

It is our conclusion that neither the telegrams nor the letters from Michigan Wisconsin and Southern Natural state reasons sufficient to justify an emergency exchange pursuant to § 157.22 of the regulations.[5] A fortiori, Southern Natural and Michigan Wisconsin should not be permitted to continue deliveries beyond the 60-day period set forth in the regulations under this exchange without certificate authorization.

We find no merit in Southern Natural's arguments. In the first place, the quantities of gas involved are not determinative as to whether a hearing is required. Second, the stated benefits to Southern Natural and Michigan Wisconsin—although they might justify the issuance of a permanent certificate of public convenience and necessity after a statutory hearing—do not justify emergency action. Finally, the mere fact that Atlanta has an opportunity to intervene in a permanent certificate proceeding does not excuse an exchange pursuant to § 157.22 of the regulations where there is no apparent emergency.

Accordingly, we will deny the application of Southern Natural and Michigan Wisconsin to continue deliveries beyond the 60-day limit set forth in § 157.22 of the regulations. In light of this, it is appropriate to terminate Atlanta's application for an order to show cause in Docket No. CP73-51.

The further exchange of gas between Michigan Wisconsin and Southern Natural can be considered as part of the applications in Dockets Nos. CP73-45 and CP73-49. If any party to those proceedings so desires, it may petition for expedited consideration.

The Commission finds:

A review of the filings before us fails to disclose an emergency sufficient to justify the requested waiver of the time limitation in § 157.22 of the regulations. Consequently, the application to continue deliveries beyond the 60-day limit should be denied.

The Commission orders:

(A) The application to continue deliveries beyond the 60-day limit is denied.

(B) Atlanta's application for an order to show cause is dismissed as moot.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18378 Filed 10-26-72;8:54 am]

[3] As noted above, however, Michigan Wisconsin and Southern Natural's applications both contained this agreement.

[4] See generally: Southern Natural Gas Co., Curtailment Proceeding, Docket No. RP72-74. Atlanta states that Southern represented to the Commission that a summer curtailment program was required in order to fill its Mouldon storage facilities and that little or no excess gas above contract demand obligations would be available during the 1972 storage injection season.

[5] We note that Michigan Wisconsin has not curtailed its service, whereas Southern Natural has. In fact, we recently found that Michigan Wisconsin was in a relatively strong gas supply situation. See: Finding and order waiving intermediate decision and granting certificate of public convenience and necessity after statutory hearing, issued July 20, 1972, Michigan Wisconsin Pipe Line Co., Docket No. CP72-175.

[Docket No. E-7788]

MINNESOTA POWER & LIGHT CO.

Notice of Application

OCTOBER 24, 1972.

Take notice that on October 13, 1972, Minnesota Power & Light Co. (Applicant) filed an application with the Federal Power Commission seeking an order pursuant to section 204 of the Federal Power Act authorizing the company to enter into a guaranty agreement with the Trustee of Pollution Control Revenue Bonds to be issued by the village of Cohasset, Minn., in the amount of $15 million which bonds will be sold by the village as soon as possible after obtaining approval of this guaranty.

Applicant is incorporated under the laws of the State of Minnesota, with its principal place of business at Duluth, Minn., and is engaged in the electric utility business within the State of Minnesota.

The bonds of the village will be sold to purchase pollution abatement equipment at Minnesota Power & Light Co.'s Clay Boswell Steam Electric Generating Station adjacent to Cohasset, Minn., which installation is expected to be completed in 1973. Said equipment will be leased by the village to the Applicant and payments under said lease will be sufficient to pay principal, premium if any, and interest due on said bonds. The bonds will not be issued by the Applicant. The rate of interest will be negotiated at a private sale of the bonds between the village and the underwriters.

The authorization sought is for Applicant to issue an independent guaranty to the trustee for the benefit of the holders of the bonds of payment of principal, premium if any, and interest on said bonds. No payments will be required under the guaranty if all payments are made pursuant to the lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 3, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to

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the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18376 Filed 10-26-72;8:54 am]

[Dockets Nos. CI72-834, CP72-274]

NAVARRO GAS PRODUCTION CO. ET AL.

Order Consolidating Proceedings, Granting Interventions, Providing for Hearing, and Establishing Procedures

OCTOBER 20, 1972.

By order issued August 10, 1972, in Docket No. CI72-834, we issued a limited-term certificate of public convenience and necessity to Navarro Gas Production Co. and Louisiana Gas Production Co., Division of Commercial Solvents Corp. (Navarro) authorizing them to sell natural gas in interstate commerce to Mid Louisiana Gas Co. (Mid Louisiana) and for the construction and operation of any jurisdictional facilities necessary therefor. The certificate expires December 1, 1972.

Petitions to intervene were timely filed by Mid Louisiana and Mississippi River Transmission Co. (Mississippi). Each petitioner requested the Commission to act favorably on the application filed by Navarro.

On June 2, 1972, Georgia-Pacific Corp. (GP) filed an application for a certificate of public convenience and necessity requesting authorization to construct and operate facilities required to attach additional supplies of natural gas in the Monroe Field in Louisiana to its certificated pipeline system. GP is a direct interruptible customer of Mississippi and proposes to use the additional supplies of gas in its Crossett, Ark., paper products plants in the event of total curtailment by Mississippi.

By letter dated October 2, 1972, Mid Louisiana filed a statement of position in Docket No. CP72-274 stating that the application filed by GP requests authorization to purchase the same or similar quantities of gas from Navarro as is presently being purchased by Mid Louisiana under Docket No. CI72-834 authorization. Mid Louisiana states that it is interested in continuing its purchase from the producers and has offered them terms that it believes are at least equal to the offers received from others including GP. By telegram filed October 5, 1972, GP responded to Mid Louisiana's letter stating that the gas will not be limited to plant fuel as contended by Mid Louisiana, but will also be used for plant purposes. Further, GP referred to the telegram filed by Navarro on September 7, 1972, wherein they advised that, at the conclusion of the emergency sale to Mid Louisiana, the gas will then be sold to GP or else used by Navarro in their plant operations. They state that the gas will not be sold in interstate commerce under any circumstance.

The proceedings in Dockets Nos. CI72-834 and CP72-274 contain common questions of fact and law and, consequently, should be consolidated for purposes of hearing and decision. Further, an evidentiary record should be made to develop the public interest issues involved in issuing a certificate of public convenience and necessity to GP including the proposed end-use.

The Commission finds:

(1) Good cause exists to consolidate the proceedings in Dockets Nos. CI72-834 and CP72-274 for purposes of hearing and decision, to set the consolidated proceeding for formal hearing, and to establish procedures for that hearing.

(2) The participation of Mid Louisiana and Mississippi in this proceeding may be in the public interest.

The Commission orders:

(A) The proceedings in Dockets Nos. CI72-834 and CP72-274 are hereby consolidated for purposes of hearing and decision.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on November 14, 1972, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, concerning the public interest issues involved in this consolidated proceeding.

(C) On or before October 30, 1972, Navarro, GP, and those in support shall serve with the Commission and upon all parties including staff their prepared testimony and exhibits in support of their position.

(D) On or before November 10, 1972, all other parties desiring to present their views shall serve with the Commission and upon all other parties to the proceeding their testimony and exhibits in support of their position.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in this consolidated proceeding and shall prescribe relevant procedural matters not herein provided.

(F) Mid Louisiana and Mississippi are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18379 Filed 10-26-72;8:54 am]

[Docket No. RP72-103]

UNION TEXAS PETROLEUM ET AL.

Order Granting Relief and Terminating Proceeding

SEPTEMBER 25, 1972.

On January 28, 1972, Union Texas Petroleum, a division of Allied Chemical Corp. (Complainant), filed a complaint against Stephens & Cass, a partnership, and El Paso Natural Gas Co. (El Paso) alleging that Stephens & Cass has acquired an interest in oil lands in Reagan County, Tex., designated as the Boyd lease, Tracts 52 and 54 of the Spraberry Aldwell Unit; is producing casinghead gas from such properties; and is selling said casinghead gas to El Paso in dereliction of a preexisting contract for sale of gas to Complainant which was made between the previous interest holder in Stephens & Cass' oil leasehold, Oil and Gas, Inc., and Complainant. Complainant requests that Stephens & Cass be directed to discontinue its sales of natural gas from the above-described leasehold to El Paso and to resume such sales to Complainant.

Stephens & Cass' answer, filed in the form of a letter received February 10, 1972, states that it is unable to afford the costs of litigating before the FPC and further asserts that the contract cited by Complainant is void and has expired.

El Paso's answer, filed on March 8, 1972, states that El Paso contracted to receive the gas in question upon the assurances by Stephens & Cass that it was empowered to deliver the gas. Subsequent examination has convinced El Paso that Complainant has a contractual right to receive the gas. El Paso submits that it is willing to discontinue receipt of the gas upon an order of the Commission affirming the legitimacy of Complainant's claim to a right of delivery.

The complaint and answer raise no factual issues that require an evidentiary hearing. El Paso concedes that Complainant is contractually entitled to receive the gas in issue. Stephens & Cass inferentially agree that the terms of the contract, if valid, could require delivery of the gas to Complainant. However, they place in issue the validity of the contract, which issue properly should be tried in a State court having jurisdiction over the subject matter. Accordingly, we will require the contract between Complainant and Stephens & Cass to be enforced until a proper authority rules otherwise.

The Commission finds:

(1) Union Texas Petroleum and El Paso Natural Gas Co. are both "natural gas companies" within the meaning of the Natural Gas Act.

(2) Good cause exists to grant Complainant the relief requested.

(3) Good cause exists for terminating this proceeding as hereinafter ordered.

The Commission orders:

(A) Stephens & Cass is hereby directed to terminate deliveries of the gas in question to El Paso and to begin or resume such deliveries to Complainant.

(B) The proceeding in Docket No. RP 72-103 shall be deemed terminated upon publication of this order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18380 Filed 10-26-72;8:54 am]

[Dockets Nos. RI71-691, RI73-70]

AMOCO PRODUCTION CO.

Notice of Postponement of Prehearing Conference

OCTOBER 18, 1972.

On October 13, 1972, Amoco Production Co., filed a telegram requesting that the prehearing conference fixed for November 7, 1972, by order issued October 6, 1972, be postponed to December 12, 1972. On October 16, 1972, Phillips Petroleum Co., filed a telegram supporting a postponement of the conference.

Upon consideration, notice is hereby given that the prehearing conference in the above-designated matter is postponed to December 12, 1972, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, at 10 a.m., e.s.t.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18335 Filed 10-26-72;8:50 am]

[Docket No. CP73-78]

DISTRIGAS CORP.

Notice of Application

OCTOBER 20, 1972.

Take notice that on September 21, 1972, Distrigas Corp. (applicant), 125 High Street, Boston, MA 02110, filed in Docket No. CP73-78 an application pursuant to section 3 of the Natural Gas Act requesting authorization to import by ship into the United States from Algeria up to 2,570,000 cubic meters (approximately 59 trillion B.t.u.) of liquified natural gas (LNG) from July 1, 1973, to July 1, 1975, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to import up to 2,570,000 cubic meters of LNG by cryogenic tanker from Algeria to the deep-water terminals located at Staten Island, N.Y., and at Everett, Mass., owned by applicant's affiliates, Distrigas of New York Corp., and Distrigas of Massachusetts Corp., respectively. Pursuant to the provisions of agreement dated May 30, 1972, applicant is to receive 170,000 cubic meters of LNG between July 1 and November 15, 1973, and the remaining 2,400,000 cubic meters from November 15, 1973, to July 1, 1975, from Alocean, Ltd., a Bermuda corporation organized by Gaxocean International, S.A., and Sonatrach. Applicant states that the LNG is to be delivered from surplus LNG, which is expected to be available from the gas liquefication plant at Skida, Algeria, in excess of the quantities necessary to carry out the obligations previously agreed upon in the contract between Sonatrach and Gaz de France dated February 3, 1971, and between Sonatrach and Alocean, Ltd., dated September 10, 1970, which is an underlying LNG supply agreement for applicant's importation project in Docket No. CP70-196. The natural gas will be produced from the Hassi R'Mel Field in Algeria.

Pursuant to the May 30, 1972, agreement, applicant will purchase LNG from Alocean, Ltd., for a price of 40 cents per million B.t.u., increasing 0.5 cent on July 1, 1973, and July 1, 1974, and a transportation charge as follows:

60 cents per million B.t.u. for the first 20 trillion B.t.u.,
42 cents per million B.t.u. for the next 20 trillion B.t.u., and
30 cents per million B.t.u. for the quantities in excess of 40 trillion B.t.u.

Applicant expects that transportation to the United States of the LNG will be made on several ships including the Descartes and the Benjamin Franklin, a ship now under construction, both owned by Gazocean.

Applicant states that the proposed importation is necessary in order to meet fuel requirements for essential uses during the 1973-74 and 1974-75 heating seasons.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18305 Filed 10-26-72;8:48 am]

[Docket No. E-6577]

FALCON DAM PROJECT

Notice of Request for Approval of Rate Schedule

OCTOBER 20, 1972.

Notice is hereby given that the Secretary of the Interior, acting on behalf of the Bureau of Reclamation (Bureau) and pursuant to the provisions of Public Law 406, 83d Congress, approved June 18, 1954 (68 Stat. 255), as amended, has filed with the Federal Power Commission a request in Docket No. E-6577 for confirmation and approval of a proposed rate schedule for wholesale electric power service from the United States share of power from the Falcon Dam Project to Central Power & Light Co. (Central), Corpus Christi, Tex. Approval of the proposed rate schedule is requested for a 5-year period beginning January 1, 1973. The present rate schedule was approved by Commission order issued December 7, 1967, Docket No. E-6577 (38 FPC 1133), for the period which expires December 31, 1972.

The International Falcon Dam is located on the Rio Grande astride the boundary between the United States and Mexico. It was constructed by the International Boundary and Water Commission, United States and Mexico (IBWC), as a multipurpose project. Since its completion in 1954, the electric power plant has been operated by the U.S. section of IBWC. Pursuant to treaty arrangements, the electric energy generated at the project is equally divided between the United States and Mexico. The U.S. share of this energy is marketed by the Bureau.

The proposed rate schedule provides for Central to pay the Bureau for the electric service furnished at 4 mills per kilowatt-hour for energy delivered between the hours of 8 a.m. and 10 p.m. (Saturdays and Sundays excepted) and 1.75 mills per kilowatt-hour for energy delivered at any other time.

The proposed rate schedule is the same as the present rate schedule except that the provisions limiting revenues to $300,000 for the first 100 million kilowatt-hours delivered during any calendar year and to a 1-mill-per-kilowatt-hour charge for all energy delivered in excess of 100 million kilowatt-hours per year have been eliminated. Such changes will increase revenues for those years when sales exceed 100 million kilowatt-hours.

Contractual arrangements between the Bureau and Central provide that at times when electric power and energy is not available from the Falcon Dam Project for operations of project facilities, Central shall deliver to the Bureau for the operation of the project facilities such energy as may be required for that purpose. The energy shall be returned by the Bureau to Central kilowatt-hour for kilowatt-hour at times and rates of delivery to be mutually agreed upon. Furthermore, Central, under its contract with the Bureau, may demand and receive

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payment from the Bureau adequate to balance the interchange energy account under any or all of the following conditions: (1) Upon termination of the contract, which expires December 31, 1977, (2) by mutual agreement between the Bureau and Central at any time during the term of the contract, or (3) when the account remains unbalanced for a period of 1 year. Settlement of the interchange energy account by payment shall be at a net value of 3 mills per kilowatt-hour for all energy which may remain as a credit to Central in the account.

The proposed rate schedule is on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to said rate schedule should submit the same in writing on or before November 10, 1972, to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18307 Filed 10-26-72;8:48 am]

[Docket No. CP73-93]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 18, 1972.

Take notice that on October 5, 1972, Northern Natural Gas Co. (applicant) 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-93 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and the operation of certain natural gas purchase facilities including horsepower and pipeline additions to its present gathering systems, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system, supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million with no single project to exceed $1 million. Applicant plans to finance these costs from cash on hand and from funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18336 Filed 10-26-72;8:51 am]

[Project No. 309]

PENNSYLVANIA ELECTRIC CO.

Notice of Issuance of Annual License

OCTOBER 19, 1972.

On March 2, 1970, Pennsylvania Electric Co., Licensee for Piney Development Project No. 309 located on the Clarion River, Clarion County, Pa., filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6).

The license for Project No. 309 was issued effective October 13, 1922, for a period ending October 12, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Pennsylvania Electric Co., for continued operation and maintenance of Project No. 309.

Take notice that an annual license is issued to Pennsylvania Electric Co. (Licensee) under section 15 of the Federal Power Act for the period October 13, 1972, to October 12, 1973, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Piney Development Project No. 309, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18337 Filed 10-26-72;8:51 am]

[Docket No. E-7783]

PENNSYLVANIA POWER & LIGHT CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 19, 1972.

Take notice that on October 6, 1972, Pennsylvania Power & Light Co., tendered for filing proposed changes in its FPC Rate Schedules Nos. 12, 26, 27, 28, 29, 30, 32, 34, 36, 42, 45, 47, 50, 51, and 52, to become effective on December 5, 1972. The filing purports to show that approximately $664,696 additional revenues based on the 12 months ended December 31, 1971, as adjusted, will result from the proposed increased rates.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 13, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18338 Filed 10-26-72;8:51 am]

[Docket No. CI72-674 etc.]

TEXAS GAS EXPLORATION CORP. ET AL.

Order Consolidating Proceedings and Granting Interventions

OCTOBER 20, 1972.

Texas Gas Exploration Corp. (Texas Gas),[1] Gulf Oil Corp. (Gulf),[2] and Southern Natural Gas Co. (Southern Natural),[3] have filed applications for certificates for sale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) from the Garden City Field Area, St. Mary Parish, La. In each of the above applications, applicant's interest in the Garden City Field acreage was previously sold to United pursuant to operating agreements with the "Cullen Family." The various members of the "Cullen Family" were issued small producer certificates effective May 2, 1971, covering their sales to United.

Columbia Gas Transmission Corp. (Columbia) has, at this time, filed petitions for intervention in and opposes two of the above three applications, those of Texas Gas and Gulf. Columbia maintains that the proposed sales will adversely affect its contractual rights in the Garden City field and states that applicants' interests in the subject gas are previously dedicated under a contract dated June 15, 1958, as amended by Agreement dated June 18, 1963, between the "Cullen Family" and Humble Oil & Refining Co. as sellers, and United as purchaser. By order issued September 18, 1972, in Docket No. CI72-674, the Commission set Texas Gas' application for hearing, scheduled a prehearing conference for October 3, 1972, and permitted Columbia's intervention. The scheduled conference was convened and immediately adjourned until October 24, 1972, for purposes of settlement.

The Commission notes that there exists an interrelationship involving similar issues between the applications of Texas Gas, Gulf, and Southern Natural, and concludes that their ultimate disposition would best be accomplished in a consolidated proceeding. The Commission therefore shall consolidate Docket No. CI72-674, Docket No. CI62-965, and Docket No. CP73-72. The Commission also notes that interventions of Columbia and United should be permitted in the consolidated proceedings.[4]

The Commission finds:

(1) It is necessary and appropriate that the proceedings in the above-named applications be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in these consolidated proceedings in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) Dockets Nos. CI72-674, CI62-965, and CP73-72 are consolidated for purposes of hearing and disposition.

(B) The above-named petitioners are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions to interevene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or either of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18306 Filed 10-26-72;8:48 am]

[1] In Docket No. CI72-674 on Apr. 18, 1972.
[2] In Docket No. CI62-965 on Mar. 9, 1972.
[3] In Docket No. CP73-72 on Sept. 13, 1972.
[4] United filed petition to intervene in Dockets Nos. CI72-674 and CI62-965, on June 28, 1972. Columbia filed petition to intervene in Dockets Nos. CI72-674 and CI62-965, on May 30, 1972.

[Dockets Nos. RP73-52, RP73-53]

VALLEY GAS TRANSMISSION, INC.

Notice of Proposed Changes in Rates and Charges

OCTOBER 19, 1972.

Take notice that on October 3, 1972, Valley Gas Transmission, Inc. (Valley Gas) tendered for filing Second Revised Sheet Nos. 107-A and 138-A to its FPC gas tariff, Original Volume No. 1, proposed to be effective as of September 1, 1972. The tender proposes to increase jurisdictional revenues by approximately $26,400 per year based on sales for the 12-month period ended June 30, 1972.

Valley Gas states that the revised tariff sheets are designed to permit it to recover a portion of the Louisiana severance tax under gas sold to Iroquois Gas Corp. under Rate Schedule Nos. 5 and 8. The company further states that the reimbursement is provided for in the contracts on file as the above designated rate schedules and that the tender is made pursuant to Commission Order No. 456-B, issued on September 15, 1972. The company requests such waiver of the Commission's regulations under the Natural Gas Act as may be necessary to permit the revised rates to be effective as requested.

Any person desiring to be heard or to protest said application should file a protest, or a petition to intervene with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 31, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18339 Filed 10-26-72;8:51 am]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Acquisition of Bank

BancOhio Corp., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Western Security Bank, Sandusky, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 15, 1972.

Board of Governors of the Federal Reserve System, October 19, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18310 Filed 10-26-72;8:48 am]

COMMERCE BANCSHARES, INC.

Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire more than 80 percent of the voting shares of Lexington Bank & Trust Co., Lexington, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18309 Filed 10-26-72;8:48 am]

COMMERCE BANCSHARES, INC.

Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire more than 80 percent of the voting shares of Citizens Bank of Festus, Festus, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18311 Filed 10-26-72;8:48 am]

V37-1208 OCT 27 72 XUM

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Tex., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all the voting shares (except for directors' qualifying shares) of the successor by merger to First National Bank in Orange, Orange, Tex. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of all the voting shares of Bank. Accordingly, the proposed acquisition is treated herein as the proposed acquisition of voting shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 10 banks with total deposits of approximately $1.6 billion, representing about 5.2 percent of deposits of commercial banks in Texas and is the third largest banking organization in the State.[1] (All banking data are as of December 31, 1971, and represent bank holding company formations and acquisitions approved by the Board through September 15, 1972.) Acquisition of Bank (deposits of about $28 million) would increase applicant's share of statewide deposits by less than 0.1 of 1 percentage point and would not result in a significant increase in the concentration of banking resources in Texas.

Bank is the fifth largest bank in the Beaumont-Port Arthur-Orange area with approximately 4.5 percent of the total commercial bank deposits therein. There is no substantial existing competition between applicant's banking subsidiaries and Bank due to the intervening distances (applicant's closest banking subsidiary to Bank is some 95 miles from Orange). Moreover, there does not seem to be a reasonable probability of such competition developing in the future in view of Texas laws limiting branching and since the Beaumont-Port Arthur-Orange area does not appear particularly attractive for de novo entry as measured by the rate of population growth and the per capita bank deposits. In fact, applicant's acquisition of Bank could promote competition in the Beaumont-Port Arthur-Orange area by making Bank a more viable competitor to the larger banking organizations located there. On the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

[1] Applicant also has interests in 15 other Texas banks ranging from 0.02 to 14.3 percent of the voting shares of such banks.

The financial and managerial resources and prospects of applicant, its subsidiaries and Bank are regarded as generally satisfactory, particularly in view of the commitment of applicant to provide additional capital for its lead bank. Considerations relating to the convenience and needs of the community to be served lend some support to approval of the application since applicant proposes to assist Bank in providing a broader range of lending services. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 18, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18312 Filed 10-26-72;8:48 am]

FIRST CONTINENTAL CORP.

Formation of Bank Holding Company

First Continental Corp., Boulder, Colo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Brush, Brush, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18313 Filed 10-26-72;8:48 am]

FORT WORTH NATIONAL CORP.

Acquisition of Bank

Fort Worth National Corp., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire directly one voting share and indirectly (through its subsidiary The Fort Worth National Bank, Fort Worth, Tex.), 13 voting shares of Bank of Fort Worth (formerly West Side State Bank), Fort Worth, Tex., through a rights offering. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 15, 1972.

Board of Governors of the Federal Reserve System, October 19, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18314 Filed 10-26-72;8:48 am]

FROST REALTY CO.

Acquisition of Bank

Frost Realty Co., San Antonio, Tex., has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Frost National Bank of San Antonio, to be named Frost Bank, N.A., San Antonio, Tex. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Frost Realty Co. is also engaged in the following nonbank activities: Real estate management and investment and providing data processing services. In addition, Frost National Bank of San Antonio owns D. Ansley Co., a mortgage banking company. In addition to the factors considered under Section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in Section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18315 Filed 10-26-72;8:49 am]

FROST REALTY CO.

Acquisition of Bank

Frost Realty Co., San Antonio, Tex., has applied for the Board's approval under Section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by merger to Citizens National Bank of San Antonio, to be named Citizens Bank, N.A., San Antonio, Tex. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Frost Realty Co. is also engaged in the following nonbank activities: Real estate management and investment and providing data processing services. In addition to the factors considered under Section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in Section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18316 Filed 10-26-72;8:49 am]

KEMMERER CORP.

Acquisition of Bank

The Kemmerer Corp., New York, N.Y., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 50 percent or more of the voting shares of First Wyoming Bancorporation, Kemmerer, Wyo., and thereby to acquire control of 50 percent or more of the voting shares of The First National Bank of Kemmerer, Kemmerer, Wyo. Notice of receipt of the application of First Wyoming Bancorporation to become a bank holding company through acquisition of 80 percent of the voting shares of the First National Bank of Kemmerer, Kemmerer, Wyo., was published in the FEDERAL REGISTER on August 17, 1972 (37 F.R. 16634). The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 15, 1972.

Board of Governors of the Federal Reserve System, October 19, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18317 Filed 10-26-72;8:49 am]

MANUFACTURERS HANOVER CORP.

Acquisition of Bank

Manufacturers Hanover Corp., Dover, Del., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Fidelity Bank of Colonie, Latham, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18318 Filed 10-26-72;8:49 am]

SECURITY NATIONAL CORP.

Acquisition of Bank

Security National Corp., Sioux City, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Northwestern State Bank of Orange City, Orange City, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18319 Filed 10-26-72;8:49 am]

SECURITY NATIONAL CORP.

Proposed Acquisitions of Central Leasing Corp. and Siouxland Credit Corp.

Security National Corp., Sioux City, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Boards' Regulation Y, for permission to acquire voting shares of Central Leasing Corp., Sioux City, Iowa, and Siouxland Credit Corp., Sioux City, Iowa. Notice of the applications was published on August 28, 1972, in the Sioux City Journal, a newspaper circulated in Sioux City, Iowa.

Applicant states that the proposed subsidiaries would engage in the following activities: The Central Leasing Corp. would engage in the business of leasing personal property and equipment, and Siouxland Credit Corp. and its subsidiaries would engage in the business of sales financing, cash loans, and insurance related to the extension of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of these proposals can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why these matters should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 14, 1972.

Board of Governors of the Federal Reserve System, October 18, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18320 Filed 10-26-72;8:49 am]

UNITED BANKS OF COLORADO, INC.

Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of National Bank of Delta, Delta, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 15, 1972.

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Brimmer, Sheehan, and Bucher.

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Board of Governors of the Federal Reserve System, October 19, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18321 Filed 10-26-72;8:49 am]

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Notice of Meeting

Notice is hereby given that the Archives Advisory Council shown below will meet at the time and place indicated. Anyone who is interested in attending, or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL

REGION 1

Meeting date, Nov. 14, 1972. Time, 10 a.m.–4 p.m. Place, Reservoir Control Center, Corps of Army Engineers, 424 Trapelo Road. Waltham, MA 02154.

For further information contact: Lawrence A. Carnevale, NARS Regional Commissioner, 26 Federal Plaza, New York, NY 10007, 212—264–3514.

The purpose of this meeting is to obtain support and guidance for new and on-going programs of the National Archives and Records Service, General Services Administration.

Issued in Washington, D.C., on October 19, 1972.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.72-18368 Filed 10-26-72;8:54 am]

[Federal Property Management Reg.; Temporary Reg. F-158]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric and gas service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Colorado Public Utilities Commission in a proceeding (I and S No. 746) involving the application of the city of Colorado Springs for increased rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

OCTOBER 19, 1972.

[FR Doc.72-18367 Filed 10-26-72;8:53 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE FOR COMPUTING ACTIVITIES

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Committee for Computing Activities will be held at 9 a.m. on November 2, 1972, and at 9:30 a.m. on November 3, 1972, in Room 540, 1800 G Street NW., Washington, DC 20550. The purpose of this committee is to advise, counsel, and furnish critical review with respect to exploring and developing the uses of computers in education and research and society.

The agenda for this meeting will include:

NOVEMBER 2 SESSION

1. Remarks by the Chairman of the committee; by the Assistant Director for National and International Programs; and by the Office Head, Office of Computing Activities.
2. Status report on Computer Science and Engineering and discussion of program emphasis and opportunities.
3. Status report on Computer Applications in Research, and discussion on software improvement program and possible new initiatives.
4. Remarks by the Acting Office Head, Office of Science Information Service.
5. Status report on Computer Impact on Society, and discussion on Computer Impact on Society objectives, mechanism, and role.

NOVEMBER 3 SESSION

1. Remarks by the Director of the National Science Foundation.
2. Discussion of Network Initiatives.
3. Discussion of Computer Science and Engineering and its role in the total Federal picture.
4. Organization of the Annual Report.

The meeting will be open to the public and persons who desire to attend should notify the Office of Computing Activities by telephone (202—632–5960) or by mail (Room 648; 1800 G Street NW., Washington, DC 20550) prior to the meeting.

For further information respecting the committee, contact Dr. John R. Pasta, Office Head, Office of Computing Activities; Room 648, 1800 G Street NW., Washington, DC 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 19, 1972.

[FR Doc.72-18349 Filed, 10-26-72;8:52 am]

ADVISORY PANEL FOR THE INTERNATIONAL DECADE OF OCEAN EXPLORATION

Notice of Public Meeting

Pursuant to Executive Order 11671, notice is hereby given that a meeting of the Advisory Panel for the International Decade of Ocean Exploration (IDOE) will be held at 9:30 a.m. on November 14, 1972, in Room 642, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide guidance in shaping the policies of the IDOE program and to insure that areas of scientific research important to man's relationship to the oceans is not overlooked.

The agenda for this meeting will include:

1. Introduction by the Office Head, Office for the International Decade of Ocean Exploration (IDOE); and discussion of IDOE program progress.
2. Discussion of the Seabed Assessment Program.
3. Discussion of the Environmental Quality Program.
4. Discussion of the Environmental Forecasting Program.
5. Discussion of the Living Resources Program.
6. General discussion.

The meeting will be open to the public and persons who desire to attend should notify the Office for the International Decade of Ocean Exploration by telephone, 202—632–7356 or by mail, Room 710, 1800 G Street NW., Washington, DC 20550, prior to the meeting.

For further information respecting this panel, contact Mr. Feenan D. Jennings, Office Head, Office for the International Decade of Ocean Exploration, Room 701, 1800 G Street NW., Washington, DC 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room 245, 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 19, 1972.

[FR Doc.72-18350 Filed 10-26-72;8:52 am]

CERTAIN ADVISORY PANELS

Notice of Meetings

Pursuant to Executive Order 11671, notice is hereby given of meetings of the following committees, including the individuals to contact for further information respecting each committee. The purpose of each of these advisory bodies is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

ADVISORY PANEL FOR DEVELOPMENTAL BIOLOGY

Date and time of meeting: 9 a.m. on November 2 and 3, 1972.

Location of meeting: Room 321, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Mrs. Ann Schauer, Assistant Program Director, Developmental Biology Program, Room 326, 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR ENVIRONMENTAL BIOLOGY

Date and time of meeting: 9 a.m. on November 3 and 4, 1972.

Location of meeting: Room 338, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals assigned to the General Ecology and Ecosystem Analysis Programs.

For further information, contact: Dr. John L. Brooks, Program Director, General Ecology Program, Room 330, 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR NEUROBIOLOGY

Date and time of meeting: 9 a.m. on November 9 and 10, 1972.

Location of meeting: Room 642, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. James H. Brown, Program Director, Neurobiology Program, Room 333, 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR METABOLIC BIOLOGY

Date and time of meeting: 9 a.m. on November 16 and 17, 1972.

Location of meeting: Room 321, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Elijah B. Romanoff, Program Director, Metabolic Biology Program, Room 323, 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR EARTH SCIENCES

Date and time of meeting: 9 a.m. on November 16 and 17, 1972.

Location of meeting: Rooms 642 and 650, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of proposals and projects.

For further committee information, contact: Dr. William E. Benson, Section Head, Earth Sciences Section, Room 310, 1800 G Street NW., Washington, DC 20550.

These meetings will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 19, 1972.

[FR Doc.72-18348 Filed 10-26-72; 8:52 am]

OFFICE OF EMERGENCY PREPAREDNESS

MINNESOTA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Minnesota, dated August 30, 1972, and published September 2, 1972 (37 F.R. 17990), and amended September 29, 1972 (37 F.R. 21019), is hereby further amended. Notice is hereby given that on September 23, 1972, the President amended his declaration of a major disaster of August 25, 1972, for Minnesota as follows:

I have determined that the damages in certain areas of the State of Minnesota from severe storms and flooding, subsequent to August 21, 1972, are of sufficient severity and magnitude to warrant amendment of my declaration of August 25, 1972.

In order to provide Federal assistance, you are hereby authorized to extend the incidence period to September 20, 1972, as requested by Governor Anderson, and to allocate, from the funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

Dated: October 21, 1972.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.72-18351 Filed 10-26-72;8:52 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

CLINTON OIL CO.

Order Suspending Trading

OCTOBER 18, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 19, 1972, through October 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–18326 Filed 10–26–72;8:50 am]

[File No. 500–1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

OCTOBER 18, 1972.

The common stock, 2 cents par value, of Ecological Science Corp., being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Ecological Science Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 20, 1972, through October 29, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–18325 Filed 10–26–72;8:50 am]

[File No. 500–1]

ROOSEVELT MARINA, INC.

Order Suspending Trading

OCTOBER 19, 1972.

It appearing to the the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Roosevelt Marina, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 3 p.m., e.d.t., on October 19, 1972, through October 28, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72–18327 Filed 10–26–72;8:50 am]

SMALL BUSINESS ADMINISTRATION

[MESBIC License Application No. 05/07–5088]

ASCENDING CITIZEN'S INVESTMENT CO.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by

V37-1208 OCT 27 72 XUM

Ascending Citizen's Investment Co. (Applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)).

The officers and directors of the applicant are as follows:

Harvey C. Jackson, Jr., President, Director, 4800 State Street, East St. Louis, IL 62205.
Ernest L. Wheeler, Vice President, Director, 4649 Shirley Place, St. Louis, MO 63115.
Leonard Johnson, Treasurer, Director, 791 North 41st Street, East St. Louis, IL 62205.
John L. Tweed, Manager, Secretary, Director, 5923 Plat Place, Centreville, IL 62206.
Janfrey D. Preston, Director, 2914 Jefferson Street, East St. Louis, IL 62205.
Clarence J. Rogers, Director, 102 Country Club Place, Belleville, IL 62223.
Ronald R. Steele, Director, 1716 North Park Drive, East St. Louis, IL 62204.

The applicant, an Illinois corporation, with its principal place of business located at 2000 State Street, East St. Louis, IL 62205, will begin operations with $150,000 of paid-in capital, consisting of 150,000 shares of common stock. All of the issued and outstanding stock will be owned by East St. Louis Ascending Citizen's Development Co., a nonprofit corporation located at the same address as the applicant and funded principally by the East St. Louis City Demonstration Agency.

According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under that management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit written comments to SBA on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in East St. Louis, Ill.

Dated: October 18, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-18328 Filed 10-26-72;8:50 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON CONSUMER AND WHOLESALE PRICES

Notice of Meeting

The BRAC Committee on Consumer and Wholesale Prices will meet at 9:30 a.m., November 17, 1972, in Room 2106, General Accounting Office Building, 441 G Street NW., Washington, DC. The agenda for the meeting is as follows:

I. CPI—Status report on CPI Revision to include progress on quarterly Consumer Expenditure Survey, Diary, Rent Sample and Point-of-Purchase Survey.

II. WPI—Report of progress in obtaining transactions prices, expanding pricing to new sectors and developing the General Price Index.

III. Selected papers including one on the proposed treatment of owner-occupied housing costs in the revised CPI.

Signed at Washington, D.C., this 20th day of October 1972.

GEOFFREY H. MOORE,
Commissioner of Labor Statistics.

[FR Doc.72-18388 Filed 10-26-72;8:55 am]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON FOREIGN LABOR AND TRADE

Notice of Meeting

The BRAC Committee on Foreign Labor and Trade will meet at 10 a.m., November 2, 1972, in Room 4454, General Acounting Office Building, 441 G Street NW., Washington, DC. The agenda for the meeting is as follows:

1. Wage Information, United States and Other Countries—A discussion of the problems of comparing wage levels, the variety of user needs, and the type of study which might be developed from existing data.

2. Status of Work on Productivity and Unit Labor Cost Comparisons—Updating of manufacturing trend series, and initiation of another industry study—the footwear industry.

3. Status of Work on International Price Competitiveness—A summary of the work to date and a discussion of the BRAC recommendations.

4. Task Force Report on BLS/AID Foreign Training—Summary and discussion of task force report.

Signed at Washington, D.C. this 20th day of October, 1972.

GEOFFREY H. MOORE,
Commission of Labor Statistics.

[FR Doc.72-18389 Filed 10-26-72;8:55 am]

Occupational Safety and Health Administration

[S-72-7]

UNITED STATES STEEL CORP.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that United States Steel Corp., Pittsburg Works, Loveridge Road, Pittsburg, Calif. 94565, has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596, 29 USC 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the requirement of 29 CFR 1910.27(c)(2), that a clear width of at least 15 inches be provided each way from the centerline of a fixed ladder, except when cages or wells are necessary.

Applicant certifies that the employees who will be affected by the variance have been notified of the application by delivery of a copy to the president of Local 14, United Steel Workers of America, by posting a copy of the application where notices to employees are normally posted, and by discussion at a meeting of the Pittsburg Works Joint Union-Management Safety and Health Committee. Employees have received notice, through the above means, of their right to petition for a hearing.

Applicant's operations involve the use of 278 fixed ladders of the type subject to the 15-inch clearance requirement of 29 CFR 1910.27(c)(2). Applicant states that the ladders are used by hookers to gain access to pipe stored in racks, and are immediately bounded by protruding pipes on either side so as not to comply with the 15-inch clearance requirement. Applicant argues that its present system is substantially safer than that required by the regulation. Meeting the requirement would mean that, rather than stepping directly onto the pipes, a hooker would have to step across a gap, which would substantially increase any risk of a fall. Applicant argues that the closer a ladder is to the pipes, the greater is the safety of the hooker's activity.

For further information, interested persons are referred to copies of the application which will be made available for inspection and copying, upon request, at the Office of Standards, Room 500, 400 First Street NW., Washington, DC 20210, and at Occupational Safety and Health Administration, U.S. Department of Labor, 100 McAllister Street, Room 1706, San Francisco, CA 94102.

All interested persons, including employers and employees who believe they will be affected by the grant or denial of the application for a variance, are invited to submit written data, views, and arguments regarding the application within 30 days following the publication of this notice in the FEDERAL REGISTER. In addition, employers and employees who believe they would be affected by the grant or denial of the variance may request a hearing on the application within 30 days after the publication of this notice in the FEDERAL REGISTER, in conformity with the requirements of 29 CFR 1905.15. Submissions of written comments and requests for a hearing should be in quadruplicate and shall be addressed to the Office of Standards, Room 500, 400 First Street NW., Washington, DC 20210.

II. *Interim order.* It appears from the application for a variance and interim order, and supporting data, filed by United States Steel Corp., that the fixed-ladder arrangement presently in use at its Pittsburg Works, Loveridge Road, Pittsburg, Calif. provides employment and places of employment as safe and healthful as those which would prevail if the applicant were to make the changes necessary in order to comply with 29 CFR 1910.27(c)(2). It further appears that an interim order is necessary to prevent hardship to, and interruption of operations of, the applicant. *Therefore, it is ordered,* Pursuant to authority in section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c), that United States Steel Corp. be, and it is hereby, authorized to continue to use the fixed-ladder arrangement, as described above, at their Pittsburg Works, in lieu of complying with 29 CFR 1910.27(c)(2).

Applicant shall give notice to affected employees of the terms of this interim order by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of October 27, 1972, and shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 20th day of October 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-18373 Filed 10-26-72;8:53 am]

Office of the Secretary

IDAHO ET AL.

Determination of "Temporary Off" Indicator and Ending of Temporary Compensation Period

Pursuant to the provisions of section 202 of the Emergency Unemployment Compensation Act of 1971 (Public Law 92-224, Title II), hereinafter referred to as the Act, and 20 CFR 617.13(a), I hereby give notice of my determination that there is a "temporary off" indicator for the week ending September 16, 1972, in the States of Idaho, Maine, and Minnesota.

As provided in section 202(c)(3)(A)(i)(II) of the Act and 20 CFR 617.5 (b) and (c), the temporary compensation period in these States shall end on October 7, 1972, the last day of the third week following the week for which there is a "temporary off" indicator in that State. Under the Act, temporary compensation is not payable in the States of Idaho, Maine, and Minnesota for any week of unemployment which begins after October 7, 1972.

Signed at Washington, D.C. this 20th day of October 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-18374 Filed 10-26-72;8:54 am]

INTERSTATE COMMERCE COMMISSION

[Notice 104]

ASSIGNMENT OF HEARINGS

OCTOBER 24, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 136679, Edwin J. Becker, doing business as Becker Transfer Co., now being assigned hearing January 29, 1973 (1 week), at Olympia, Wash., in a hearing room to be later designated.

MC 136358, John S. Badger, Common Carrier Application, MC 136362, Bob R. Thrush, Common Carrier Application, now being assigned hearing January 9, 1973 (1 day), at Denver, Colo., in a hearing room to be later designated.

MC 133748 Sub 3, Lile Moving & Storage Co., now being assigned hearing February 12, 1973 (1 week), at Olympia, Wash., in a hearing room to be later designated.

MC-C-7777, Allied Van Lines, Inc., investigation and revocation of certificates now assigned November 13, 1972, at Miami, Fla., will be held in Florida Public Service Commission Hearing Room, 5720 Southwest 17th Street, Miami, FL.

MC 98945 Sub 8, Thomas Cartage, Inc., now being assigned hearing January 15, 1973 (1 week), at Raton, N. Mex., in a hearing room to be later designated.

MC 69833 Sub 77, Associated Truck Lines, Inc., now being assigned January 15, 1973, at Indianapolis, Ind., in a hearing room to be later designated.

MC 133316 Sub 7, Frank R. Givigliano, doing business as Givigliano Transport, now being assigned hearing January 22, 1973 (1 week), at Denver, Colo., in a hearing room to be later designated.

MC 129984 Sub 2, Glenn Peterson, doing business as Peterson Transit, now being assigned January 16, 1973 (2 days), at Madison, Wis., in a hearing room to be later designated.

MC 95540 Sub 844, Watkins Motor Lines, now assigned November 6, 1972, at Washington, D.C., is canceled and the application is dismissed.

MC-F-11502, Holmes Freight Lines, Inc.—control—Byers Transportation Co., Inc., and Commercial Freight Lines, Inc., now assigned November 13, 1972, at Kansas City, Mo., is postponed indefinitely.

MC 117940 Sub 54, Nationwide Carriers, Inc., now assigned November 8, 1972, at New York, N.Y., will be held in Court Room No. 4, U.S. Custom Court, 1 Federal Plaza, New York, NY.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18390 Filed 10-26-72;8:56 am]

Office of Proceedings

[Notice 87]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

OCTOBER 20, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representa-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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tive, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing: (1) That it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 1334 (Sub-No. 14), filed August 28, 1972. Applicant: RITEWAY TRANSPORT, INC., Post Office Box 20433, Phoenix, AZ 85036. Applicant's representative: J. Bruce Eastlake (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in the Navajo and Hopi Indian Reservations as off-route points in connection with authorized regular operations in Arizona held by applicant. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 2202 (Sub-No. 415), filed September 29, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, OH 44309. Applicant's representative: James W. Conner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's present authority between Omaha, Nebr., and Chicago, Ill. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 2202 (Sub-No. 417), filed September 11, 1972. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron OH 44309. Applicant's representative: James W. Conner, Post Office Box 471, Akron, OH 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon black*, except in bulk, from points in Louisiana to points in the United States, located on and east of U.S. Highway 61. NOTE: Applicant states that the requested authority will be tacked wherever possible to provide service to all authorized areas. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Akron or Cleveland, Ohio, or Washington, D.C.

No. MC 3255 (Sub-No. 11), filed October 3, 1972. Applicant: PEP TRUCKING CO., INC., 386 Henderson Street, Jersey City, NJ 07302. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in pneumatic type equipment, from Clifton, N.J., and Brooklyn Eastern District Terminal, Brooklyn, N.Y., to Elmont, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 8535 (Sub-No. 42), filed September 28, 1972. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, Interstate 83 at Route 439, Post Office Box 500, Baltimore, MD 21120. Applicant's representative: John Guandolo, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe; fittings, plastic or iron; couplings, plastic or iron; connections, plastic or other than plastic; valves, other than plastic; hydrants, other than plastic; and materials and supplies necessary for the installation thereof*, from the plantsite and warehouse facilities of the Clow Corp., located at or near Buckhannon, W. Va., to points in Delaware, Indiana, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 9268 (Sub-No. 14), filed August 24, 1972. Applicant: ALBERT FILLMORE doing business as FILLMORE TRANSPORTATION, 132 West Dudleytown Road, Bloomfield, CT 06002. Applicant's representative: Hugh M. Joseloff, 410 Asylum Street, Hartford, CT 06103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meat*, on hangers and in cartons, in refrigerated equipment, from Kearney, Linden, and Newark, N.J., to East Hartford, Conn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 13250 (Sub-No. 118), filed September 22, 1972. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, Suite 401, First National Life Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Construction, agricultural, maintenance, road building, logging, earth moving, excavating, mining, industrial and material handling machinery and equipment*, and (2) *parts, attachments, and accessories* for the items in (1) above, between the facilities of Tool Crib Co. of Seattle, Inc., at or near Seattle, Kent, and Lynnwood, Wash., on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Montana, Nevada, and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 19311 (Sub-No. 24), filed August 31, 1972. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Calcium chloride* (except in bulk), from Ludington and Midland, Mich., to points in Illinois, Indiana, Kentucky, Ohio, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.

No. MC 20824 (Sub-No. 31), filed October 2, 1972. Applicant: COMMERCIAL MOTOR FREIGHT, INC., 2141 South High School Road, Indianapolis, IN 46241. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Crawfordsville, Ind., as an off-route point in connection with applicant's authorized regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 28951 (Sub-No. 21), filed September 29, 1972. Applicant: ROSS TRANSFER, INC., Post Office Box 271, Chadron, NE 69337. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's regular route operations via Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 28961 (Sub-No. 26), filed September 27, 1972. Applicant: McDUFFEE MOTOR FREIGHT, INC., 3047 Lonyo Road, Detroit, MI 48209. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (A) Between Cincinnati, Ohio, and the plantsite of the Eaton Corp., at or near Cynthiana, Ky., from Cincinnati, Ohio, over U.S. Highway 27 to the plantsite of the Eaton Corp., at or near Cynthiana, Ky., and return over the same route, and (B) between Lexington, Ky., and the plantsite of the Eaton Corp., at or near Cynthiana, Ky., from Lexington, Ky., over U.S. Highway 25 to the junction of U.S. Highway 62, thence over U.S. Highway 62 to the plantsite of the Eaton Corp., at or near Cynthiana, Ky., and return over the same route, from Lexington, Ky., over U.S. Highway 27 to the plantsite of the Eaton Corp., at or near Cynthiana, Ky., and return over the same route. Restriction: Service under parts (A) and (B) above is restricted to traffic originating at or destined to the plantsite of the Eaton Corp., at or near Cynthiana, Ky. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 29120 (Sub-No. 144), filed October 2, 1972. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Sioux Falls, SD 57104. Applicant's representatives: Axelrod, Goodman, Steiner, and Bazelon, 39 South La Salle Street, Chicago, IL 60603 and H. Lauren Lewis, Post Office Box 769, Sioux Falls, SD 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's operations via Omaha, Nebr. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 30844 (Sub-No. 430), filed October 2, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50702. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unpackaged and packaged acquariums and pet supplies*, from Benicia, Calif., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 31462 (Sub-No. 18) (Amendment), filed August 3, 1972, published in the FEDERAL REGISTER issue of August 31, 1972, and republished in part as amended this issue. Applicant: PARAMOUNT MOVERS, INC., 231 North Lancaster Street, Dallas, TX 75203. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. NOTE: The sole purpose of this partial republication is to include the District of Columbia, which was erroneously omitted in the previous publication. The rest of the application remains as previously published.

No. MC 41951 (Sub-No. 15) (Correction), filed May 22, 1972, published in the FEDERAL REGISTER issue of August 31, 1972, and republished as corrected this issue. Applicant: WHEATLEY TRUCKING, INCORPORATED, 125 Brohawn Avenue, Post Office Box 458, Cambridge, MD 21613. Applicant's representative: M. Bruce Morgan, Post Office Box 786, Azar Building, Glen Burnie, MD 21061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* except frozen or cold pack, from Cambridge, Md., to South Bend, Ind. NOTE: Applicant states that the existing authority cannot be tacked with its existing authority. The purpose of this republication is to more clearly set forth the origin and destination. If a hearing is deemed necessary, applicant requests it be held at Baltimore, Md., or Philadelphia, Pa.

No. MC 44639 (Sub-No. 60), filed September 27, 1972. Applicant: L. & M. EXPRESS CO. INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk) between Franklin, Va., on the one hand, and, on the other, Crewe and Emporia, Va. and points in the New York, N.Y., commercial zone. NOTE: Applicant states that the requested authority can be tacked at Crewe and Emporia, Va., and New York, N.Y., with all authorized operations under MC 44639. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52579 (Sub-No. 133), filed September 11, 1972. Applicant: GILBERT CARRIER CORP., 1 Gilbert Drive, Secaucus, NJ 07094. Applicant's representative: W. Abel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, loose, on hangers: (a) From Little Rock, Ark., Greenfield, Dresden, Rutherford, and Trenton, Tenn., Brownsville and Morgantown, Ky., to Newport, Del.; (b) from Rutherford and Trenton, Tenn., and Brownsville and Morgantown, Ky., to Philadelphia, Pa.; and (c) from Brownsville and Morgantown, Ky., to North Bergen, N.J. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 52704 (Sub-No. 94), filed September 21, 1972. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer H, Lafayette, AL 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, prepared or canned, other than frozen and other than fresh or cured meats (except in bulk), from St. Martinville, La., to points in Alabama, Florida, Georgia, Maryland, Missouri, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 58973 (Sub-No. 6), filed September 29, 1972. Applicant: ABLER TRANSFER, INC., 1006 South Eighth Street, Norfolk, NE 68701. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with

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applicant's presently authorized operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 59367 (Sub-No. 82), filed September 29, 1972. Applicant: DECKER TRUCK LINE, INC., Post Office Box 915, Fort Dodge, IA 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles manufactured and/or dealt in by wholesale and retail grocery houses*, from the facilities of United Facilities, Inc., at Galesburg, Ill., to points in Iowa, Minnesota, Nebraska, and Wisconsin, restricted to traffic originating at the named origin and destined to points in the named destination States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 59396 (Sub-No. 21), filed September 28, 1972. Applicant: BUILDERS EXPRESS, INC., Limecrest Road, Rural Delivery, Lafayette, NJ 07848. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules*, in bulk, in hard top closed dump and pneumatic trailers, from Belle Mead and Bound Brook, N.J., to Baltimore, Md., York, Philadelphia, and Harrisburg, Pa., Walpole and Millis, Mass., and Stratford, Conn. NOTE: Applicant states that duplicating authority may be involved. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 60470 (Sub-No. 21), filed September 6, 1972. Applicant: MOTOR CAR TRANSPORT COMPANY, a corporation, 1280 Joslyn Avenue, Pontiac, MI 48055. Applicant's representative: Eugene C. Ewald, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles, new trucks, and new buses*, in initial and secondary movements, in truckaway service, from the plantsite of the General Motors Corp., at Lordstown, Ohio to points in Indiana, Illinois, Michigan, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 61592 (Sub-No. 282), filed September 25, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meat*, in vehicles equipped with mechanical refrigeration, from the plantsites of Duffy Boneless Beef Co., and Duffy Sausage Co., Inc., located at Carrollton, Ga., to points in Florida, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, New Jersey, New York, Tennessee, Kentucky, Ohio, Michigan, Minnesota, Wisconsin, Iowa, Illinois, Indiana, Missouri, Arkansas, Alabama, Mississippi, Louisiana, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 61592 (Sub-No. 283), filed September 25, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, advertising, display, promotional and packaging materials* when shipped with malt beverages, from Milwaukee, Wis., and St. Paul, Minn., to Quincy, Ill., and Burlington, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61592 (Sub-No. 284), filed September 25, 1972. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel*, from Chicago, Ill., to points in Washington, Idaho, Oregon, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 62690 (Sub-No. 3), filed September 20, 1972. Applicant: CAREY F. WEATHERS TRANSFER & STORAGE CO., a corporation, 1268 Druid Park Avenue, Augusta, GA 30904. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467: (1) Between points in Georgia and South Carolina, on the one hand, and, on the other, points in Florida, New Jersey, Virginia, Alabama, and Mississippi; and (2) between points in Georgia, North Carolina, South Carolina, Tennessee, and the District of Columbia. NOTE: Applicant states that the purpose of instant applicant is to seek to reinstate the authority it formerly held in No. MC 62690 (Sub-No. 1). If a hearing is deemed necessary, applicant requests it be held at Augusta, or Atlanta, Ga., or Washington, D.C.

No. MC 63417 (Sub-No. 45), filed September 27, 1972. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., 1814 Hollins Road NE., Post Office Box 2888, Roanoke, VA 24001. Applicant's representative: Nancy Pyeatt, 420 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Flora, Miss., to Sumter, S.C. NOTE: Applicant states that the requested authority can be tacked with its certificates in MC 63417 (Subs 18 and 30) to provide through service from Flora, Miss., to points in Alabama, Florida, Georgia, Virginia, West Virginia, Maryland, Pennsylvania, Ohio, New York, Delaware, New Jersey, Kentucky, Illinois, Indiana, and Michigan. If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 63417 (Sub-No. 46), filed September 29, 1972. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., 1814 Hollins Road NE., (Post Office Box 2888), Roanoke, VA 24001. Applicant's representative: Nancy Pyeatt, 420 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Mullins, S.C., to Sumter, S.C. NOTE: Applicant states that the requested authority can be tacked with its existing authority in No. MC 63417 (Sub-No. 30) at Sumter, S.C. to serve points in Alabama, Florida, and Georgia. If a hearing is deemed necessary, applicant requests it be held at Sumter, S.C. or Roanoke, Va.

No. MC 64112 (Sub-No. 51), filed September 27, 1972. Applicant: NORTH-EASTERN TRUCKING COMPANY, a corporation, 2508 Starita Road, Post Office Box 26276, Charlotte, NC 28213. Applicant's representative: John M. Dunn, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products*, from Scotland Neck, N.C., to points in Connecticut, Delaware, Maryland, New Jersey, Virginia, and the District of Columbia, those points in New York on and south of Interstate Highway 90, and those points in Pennsylvania on and east of U.S. Highway 15. NOTE: Applicant states that the requested authority could be joined with its existing authority at Scotland Neck, N.C., to provide for through service from all points in North Carolina, and all points in South Carolina, however, no tacking is anticipated. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C., or Washington, D.C.

No. MC 69281 (Sub-No. 42), filed September 29, 1972. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a corporation, Towson Plaza, Post Office Box 58, Baltimore, MD 21203. Applicant's representative: John S. Fessenden, 618 Perpetual Building, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Motor vehicle parts and accessories, related printed matter and packaging materials and supplies*, having prior movement by truck or air, from Baltimore, Md., to Frederick, Md., over U.S. Highway No. 40. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 69901 (Sub-No. 27), filed September 29, 1972. Applicant: COURIER-NEWSOM EXPRESS, INC., Post Office Box 270, Columbus, IN 47201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the plantsite of the Northern Indiana Public Service Co., at or near Wheatfield, Ind., as an off-route point in connection with applicant's route authority. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 72997 (Sub-No. 21), filed September 26, 1972. Applicant: LIBERTY TRUCKING COMPANY, a corporation, 1401 West Fulton Street, Chicago, IL 60607. Applicant's representative: Michael J. Wyngaard, 125 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Transformers, parts and accessories* thereof, from Elgin, Ill., to points in Wisconsin; and (2) *materials, equipment, and supplies* which are used or useful in the manufacture, sale, production, or distribution of the commodities named in (1) above, and returned, refused, rejected, or damaged shipments of the commodities named in (1) above, from points in Wisconsin to Elgin, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Madison, Wis.

No. MC 78687 (Sub-No. 36), filed September 13, 1972. Applicant: LOTT MOTOR LINES, INC., 118 Moneli Street, Penn Yan, NY 14527. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scraps and hides and skins*, from Wyalusing Township, Bradford County, Pa., to points in Massachusetts, New York, New Jersey, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 2505, therefore, common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82492 (Sub-No. 70), filed September 20, 1972. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., Post Office Box 2853, 2109 Olmstead Road, Kalamazoo, MI 49003. Applicant's representative: William C. Harris (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from Carroll, Denison, and Iowa Falls, Iowa, to Covington and Louisville, Ky., and points in Indiana, Michigan, and Ohio, restricted to traffic originating at the plantsites and warehouse facilities utilized by Farmland Foods, Inc., at the above-named origins and destined to the above-named destinations. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 83539 (Sub-No. 350), filed September 25, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo containers and cargo vans, and/or empty cargo containers and cargo vans, between Galveston, Tex., on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 83539 (Sub-No. 351), filed October 2, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit and pipe, tubing and fittings therefor* (except oilfield and pipeline commodities as defined by the Commission in *Mercer Extension—Oil Field Commodities*, 74 M.C.C.), from Gilmer, Tex., to points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 83539 (Sub-No. 352), filed October 2, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Laurinburg and Clinton, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 83539 (Sub-No. 353), filed October 2, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical, hydraulic mechanical, and combustible antipollution systems and parts thereof*, from points in Connecticut to points in the United States (including Alaska, but excluding Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 85718 (Sub-No. 5), filed October 2, 1972. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, Post Office Box 126, Seward, NE 68434. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*,

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by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except commodities of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring the use of special equipment). Regular route operations: (A) Route No. 1—between Gresham and Omaha, Nebr., over Nebraska Highway 76 to junction with Nebraska Highway 92 (formerly U.S. Highway 30A) to Omaha, serving all intermediate points and the off-route points of Bruno, Brainard, Ulysses, Bee, Dwight, Loma, Surprise, Prague, Abie, Octavia, Weston, and Linwood; Route No. 2—between the junction of Nebraska Highway 92 (formerly U.S. Highway 30A) and Nebraska Highway 79 and Lincoln, Nebr., over Nebraska Highway 79 to its junction with U.S. Highway 34 to Lincoln, serving all intermediate points; (a) between Wahoo and Lincoln over U.S. Highway 77, serving all intermediate points; Route No. 3—between Gresham and Lincoln, Nebr., over Nebraska Highway 76 to its junction with U.S. Highway 34; thence over U.S. Highway 34 to Tamora, thence south over county highway to Goehner; thence from Goehner over county highway to U.S. Highway 6; thence over U.S. Highway 6 to Lincoln, serving all intermediate points and the off-route point of Thayer; and (b) between Lincoln and Tamora, Nebr., over U.S. Highway 34. (B) Irregular route operations: (a) Between points within Seward, Polk, Butler, Colfax, Platte, Saunders, Lancaster, and Dodge County, Nebr., and between points within the named counties on the one hand, and, on the other, points in Nebraska on and east of U.S. Highway 183. NOTE: Applicant states that the sole purpose of instant application is to convert the Certificate of Registration issued to Fred J. Jakub doing business as Brainard-Bruno Transfer in No. MC 121050 (Sub-No. 1) into a Certificate of Public Convenience and Necessity. Applicant further states that it proposes to tack the authority sought in Parts A and B above with authority which it holds in No. MC 85718 (Sub-No. 3). If a hearing is deemed necessary, applicant requests it be held at Lincoln, or Omaha, Nebr.

No. MC 87720 (Sub-No. 134), filed September 28, 1972. Applicant: BASS TRANSPORTATION CO., INC., Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals, paints and varnish driers* (except in bulk), (a) between Bishop, Dallas, and Houston, Tex., and points in Orange and Los Angeles Counties, Calif., (b) from points in Los Angeles, and Orange Counties, Calif., to points in Arizona, Montana, Washington, Oregon, Idaho, and California, and (2) *materials, supplies and equipment* (except in bulk), between, from and to, the points and territories as stated above under (1), (a) and (b), on return, under contract with Teneco, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 89684 (Sub-No. 81), filed September 28, 1972. Applicant: WYCOFF COMPANY, INC., 560 South Second West, Salt Lake City, UT 84110. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, poisons, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment or handling), restricted to 150 pounds per piece and in the aggregate of 1,000 pounds from one consignor to one consignee in 1 day, between points on the routes described in (1) through (7) as follows, (1) from Denver, Colo., over Interstate Highway 25 to Fort Collins, Colo., thence over U.S. Highway 287 to Laramie, Wyo., thence over Interstate Highway 80 to junction U.S. Highway 30N, thence over U.S. Highway 30N to junction U.S. Highway 89, thence over U.S. Highway 89 to Alpine, Wyo., serving all intermediate points between Geneva, Idaho, and Alpine, Wyo., and the off-route points of Fairview, Auburn, and Freedom, Wyo., and return over the same route;

(2) From Boise, Idaho, over U.S. Highway 30N and Interstate Highway 80 to Burley, Idaho, thence over U.S. Highway 30N and Interstate Highway 15W to Pocatello, Idaho, thence over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, Idaho, and return over the same route serving all intermediate points between Alpine, Wyo., and Geneva, Idaho, and the off-route points of Freedom, Auburn, and Fairview, Wyo.; (3) from Twin Falls, Idaho, over Interstate Highway 80N to Burley, Idaho, thence over U.S. Highway 30N and Interstate 15W to Pocatello, Idaho, thence over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, Idaho, and return over the same route, serving all intermediate points between Alpine, Wyo., and Geneva, Idaho, and the off-route points of Fairview, Auburn, and Freedom, Wyo.; (4) from Pocatello and Blackfoot, Idaho, over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, Idaho, and return over the same route, serving all intermediate points between Alpine, Wyo., and Geneva, Idaho, and the off-route points of Fairview, Auburn, and Freedom, Wyo.;

(5) From Provo, Utah, over Interstate Highway 15 to Salt Lake City, Utah, thence over U.S. Highway 189 to Kemmerer, Wyo., thence over U.S. Highway 30N to junction U.S. Highways 30N and 89, thence over U.S. Highway 89 to Alpine, Wyo., and return over the same route, serving all intermediate points between Geneva, Idaho, and Alpine, Wyo., and the off-route points of Fairview, Auburn, and Freedom, Wyo.; (6) from Ogden, Utah, over Interstate Highways 80N and 80 to junction U.S. Highway 189, thence over U.S. Highway 189 to Kemmerer, Wyo., thence over U.S. Highway 30N to junction U.S. Highway 89, thence over U.S. Highway 89 to Alpine, Wyo., and return over the same route, serving all intermediate points, between Geneva, Idaho, and Alpine, Wyo., and the off-route points of Fairview, Auburn, and Freedom, Wyo.; and (7) from Salt Lake City, Utah, over Interstate Highway 80 to junction U.S. Highway 189, thence over U.S. Highway 189 to Kemmerer, Wyo., thence over U.S. Highway 30N to junction U.S. Highway 89, thence over U.S. Highway 89 to Alpine, Wyo., and return over the same route, serving all intermediate points, between Geneva, Idaho, and Alpine, Wyo., and the off-route points of Fairview, Auburn, and Freedom, Wyo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 94350 (Sub-No. 319), filed September 29, 1972. Applicant: TRANSIT HOMES, INC., Post Office Box 1628, Haywood Road, Greenville, SC 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial movements, from points in Huron County, Ohio, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 95540 (Sub-No. 859), filed September 29, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, potato products and frozen vegetables*, from Hart, Holland, and Lake Odessa, Mich., to points in Connecticut, Maryland, Massachusetts, New York, Pennsylvania, Virginia, North Carolina, South Carolina, Alabama, Florida, Georgia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Chicago, Ill.

No. MC 95540 (Sub-No. 860), filed September 29, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from

ports of entry on the international boundary line between the United States and Canada, at or near Bridgewater and Houlton, Maine, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 95540 (Sub-No. 861), filed August 28, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Laurinburg and Clinton, N.C., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 99427 (Sub-No. 17), filed September 28, 1972. Applicant: ARIZONA TANK LINES, INC., Post Office Box 6910, Phoenix, AZ 85005. Applicant's representative: William J. Lippman, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Albuquerque, N. Mex., to points in Arizona, Colorado, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Albuquerque, N. Mex.

No. MC 102567 (Sub-No. 154), filed August 21, 1972. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, Post Office Drawer 5357, Bossier City, LA 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Baton Rouge, and Chalmette, La., to points in Alabama, Florida, Georgia, Illinois, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 103373 (Sub-No. 5), filed October 2, 1972. Applicant: HOWARD MARTIN, INC., 425 West 152d Street, East Chicago, IN. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, contractors' outfits and tanks*, knocked down, from the plantsite of Chicago Bridge & Iron Co., at or near Indian Oaks, Ill., to points in Indiana, Michigan, and Ohio, and (2) *Materials, equipment and supplies* used by manufacturers and distributors of the above-named commodities from points in Indiana, Michigan, and Ohio to the plantsite of Chicago Bridge & Iron Co., at or near Indian Oaks, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 103993 (Sub-No. 734), filed September 15, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Chatham County, N.C., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that duplicating authority may be involved in No. MC 103993 (Sub-No. 689). Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Raleigh or Durham, N.C.

No. MC 105045 (Sub-No. 37), filed October 2, 1972. Applicant: R. L. JEFFRIES TRUCKING CO., INC., Post Office Box 3277, Evansville, IN 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass and glass glazing units*, from Clinton and Laurinburg, N.C., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 105566 (Sub-No. 72), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, (a) from Dwight, Ill., and Glasgow, Ky., to points in Colorado, Idaho, Montana, New Mexico, and Wyoming; and (b) from Mattoon, Ill., to points in Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 105566 (Sub-No. 74), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter*, from Lousville, Ky., to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Nevada, Oregon, Washington, and California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 105566 (Sub-No. 78), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Gilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* from Dayton, Ohio, to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Nevada, Utah, Arizona, California, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dayton, Ohio or Washington, D.C.

No. MC 105566 (Sub-No. 79), filed October 3, 1972. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Post Office Box 624, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prepared foods, foodstuffs, and prepared mixes* from Steelville, and Chester, Ill., and Perryville, Mo., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and ingredients* used in the manufacture and production of prepared foods, foodstuffs and prepared mixes, from points in the United States (except Alaska and Hawaii) to Steelville, and Chester, Ill., and Perryville, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo. or Washington, D.C.

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No. MC 106400 (Sub-No. 92), filed September 28, 1972. Applicant: KAW TRANSPORT COMPANY, a corporation, Post Office Box 12628, North Kansas City, MO 64116. Applicant's representative: Robert L. Hawkins, Jr., Post Office Box 456, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, laundry supplies, and products of chemical processes*, in bulk, in tank or hopper-type vehicles, from Kansas City, Kans., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 107012 (Sub-No. 163), filed August 25, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, Post Office Box 988, Fort Wayne, IN 46801. Applicant's representative: Donald C. Lewis, Post Office Box 988, Fort Wayne, IN 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, from Mexia, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107107 (Sub-No. 424), filed September 21, 1972. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42d Avenue, Le Jeune Road, Opa Locka, FL 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, foodstuffs, and meats, meat products, and meat byproducts* as defined by the Commission, in vehicles equipped with mechanical refrigeration, from Goshen, Ind., to points in Alabama, Georgia, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108649 (Sub-No. 6), filed September 27, 1972. Applicant: STURM FREIGHTWAYS, INC., 2022 South Griswold Street, Peoria, IL 61605. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), serving the site of the Western Electric Co., at or near Underwood, Iowa, as an off-route point in connection with applicant's regular-route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 110140 (Sub-No. 9), filed September 18, 1972. Applicant: MAYO ROBINSON, doing business as LUMBER TRUCKING SERVICE, 943 South Nebraska, Seattle, WA 98108. Applicant's representative: Richard A. Derham, 4200 Seattle First National Bank Building, Seattle, Wash. 98154. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points on the Olympic Peninsula, Wash., to the port of entry on the international boundary line between the United States and Canada located at or near Blaine and/or Lynden, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle or Tacoma, Wash.

No. MC 111424 (Sub-No. 4) (Correction), filed July 5, 1972, published in the FEDERAL REGISTER issues of August 3, 1972, and August 31, 1972, and republished in part as corrected this issue. Applicant: SHIPPERS TRUCK SERVICE, INC., 1 Scout Avenue, South Kearny, NJ 07032. Applicant's representative: Frank B. Hand, Jr., 740 15th Street NW., Washington, DC 20005. NOTE: The sole purpose of this partial republication is to redescribe the territorial description as follows: "Between New York, N.Y., and point in Nassau, Suffolk, and Westchester Counties, N.Y., and points in Sussex, Bergen, Morris, Somerset, Essex, Hudson, Passaic, Middlesex, Monmouth, Mercer, Hunterdon, and Union Counties, N.J., on the one hand, and, on the other, points in the United States on and east of a line extending from Lake Superior along the western boundary of Wisconsin to the Mississippi River and thence along the east bank of the Mississippi River to the Gulf of Mexico." The rest of the application remains as previously published.

No. MC 111545 (Sub-No. 174), filed October 2, 1972. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., Marietta, GA 30062. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers designed to be drawn by passenger automobiles* in initial movements, and *buildings, in sections, moving on undercarriages*, from points in Henderson County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., Indianapolis, Ind., or Chicago, Ill.

No. MC 112801 (Sub-No. 137), filed October 2, 1972. Applicant: TRANSPORT SERVICE CO., Post Office Box 50272, Chicago, IL 60650. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean solubles*, liquid, in bulk, from Remington, Ind., to points in Illinois, Wisconsin, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113267 (Sub-No. 289), filed September 15, 1972. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and drugs*, from Evansville, Ind., to points in North Carolina, South Carolina, Georgia, Florida, and Alabama. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Louisville, Ky.

No. MC 113267 (Sub-No. 290), filed September 15, 1972. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C, Appendix I to the report in Descriptions in Motor Carrier certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Columbus Junction and Waterloo, Iowa, to points in Louisiana, Arkansas, and Mississippi, restricted to traffic originating at the named origins. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its Sub-No. 121 at Shreveport, La., to serve points in Texas. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 113362 (Sub-No. 246), filed September 15, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, yogurt and prepared desserts*, in vehicles equipped with mechanical refrigeration, from Walton, N.Y.; Elizabeth, N.J.; and Hagerstown, Md., to points in Texas. NOTE: Applicant

states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 113678 (Sub-No. 467), filed September 5, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, yogurt, and prepared desserts*, in vehicles equipped with mechanical refrigeration, from Walton, N.Y., Elizabeth, N.J., and Hagerstown, Md., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Washington, D.C., or Denver, Colo.

No. MC 114004 (Sub-No. 121), filed September 28, 1972. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, AR 72209. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Tennessee (except Crossville, Tenn., and points within 15 miles thereof), the plantsite of Atlantic Homes Division of Champion Home Builders Co., in Henry County, Tenn., and Selmar, Tenn., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Knoxville, Tenn.

No. MC 115162 (Sub-No. 257), filed September 29, 1972. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cereal and grain products* (except in bulk), from points in Missouri to points in Texas, Louisiana, Mississippi, Arkansas, Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Mobile, Ala.

No. MC 116073 (Sub-No. 247), filed September 28, 1972. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building*, complete or in sections, from points in Brown County, Minn., to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 116544 (Sub-No. 133) (Amendment), filed August 28, 1972, published in the FEDERAL REGISTER issue of October 12, 1972, and republished as amended this issue. Applicant: WILSON BROTHERS TRUCK LINE, INC., 700 East Fairview Avenue, Post Office Box 636, Carthage, MO 64836. Applicant's representative: C. H. Fliesbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* that are dealt in by the R. T. French Co., and *foodstuffs*, from Springfield, Mo., to points in Kansas, Nebraska, Iowa, Minnesota, Illinois, Wisconsin, Florida, Louisiana, Texas, Mississippi, Alabama, Oklahoma, Colorado, Arkansas, and New Mexico. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. The purpose of this republication is to reflect the new tacking information. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 116763 (Sub-No. 231), filed September 29, 1972. Applicant: CARL SUBLER TRUCKING, INC., Route 92, Post Office Box 215, Auburndale, FL 33823. Applicant's representative: H. M. Richters, North West Street, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen and commodities in bulk), from points in Maine to points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought in past 2 years. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 119234 (Sub-No. 3), filed September 25, 1972. Applicant: MERCER MARINE TRANSIT CORP., Hargrove Road, Route 2, Smyrna, Ga. 30080. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats and boating equipment, marine vessels, parts, and supplies* (except commodities in bulk), from points in California, Oregon, and Washington to points in the United States on and east of U.S. Highway 85. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 119539 (Sub-No. 22) (Correction), filed July 31, 1972, and published in the FEDERAL REGISTER issue of August 31, 1972, republished in part, as corrected, this issue. Applicant: BEVERAGE TRANSPORT, INC., Post Office Box 88, East Bloomfield, NY 14443. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. NOTE: The purpose of this partial republication is to indicate the correct origin point as Union, N.J., in lieu of Union, N.Y., which was erroneously published. The rest of the application remains as previously published.

No. MC 119539 (Sub-No. 23), filed September 19, 1972. Applicant: BEVERAGE TRANSPORT, INC., Post Office Box 88, East Bloomfield, NY 14443. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk), from Cranston, R.I., to points in New York and Pennsylvania; and *returned empty containers*, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 119656 (Sub-No. 7), filed September 18, 1972. Applicant: NORTH EXPRESS, INC., 219 East Main Street, Winamac, IN 46995. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and contractor's machinery, equipment, materials and supplies* (except in bulk), between Indian Oaks, Ill., and points in Indiana, Michigan, Ohio, Wisconsin, Kentucky, Illinois, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 119774 (Sub-No. 55), filed September 25, 1972. Applicant: EAGLE TRUCKING COMPANY, a corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, including *particle board*, from Durango, Colo.; Alamogordo, Navajo, and Albuquerque, N. Mex.; Snowflake, Fort Apache, White River, and Cutter, Ariz.; and El Paso,

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Tex., to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla. or Oklahoma City, Okla. or Phoenix, Ariz.

No. MC 119793 (Sub-No. 7), filed September 28, 1972. Applicant: DEWEY L. WILFONG, doing business as D & W TRUCK LINES, Post Office Box 427, Parsons, WV 26287. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wax pregnated sawdust logs*, from the plantsite and facilities of Kingsford Co., at or near Parsons, W. Va., to points in Maryland, Pennsylvania, Virginia, District of Columbia, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Kentucky, Ohio, Indiana, and Michigan; (2) (a) *charcoal*, in bags, or boxes, (b) *wax pregnated sawdust logs and* (c) *wood chips, lighter fluid, and barbecue based materials* in mixed loads with charcoal and/or wax pregnated sawdust logs, from the plantsite of and facilities of Kingsford Co. at or near Parsons, W. Va., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, Louisiana, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Texas, and Oklahoma; and (3) (a) *charcoal*, in bags or boxes, (b) *wax pregnated sawdust logs*, and (c) *wood chips, lighter fluid, and barbecue base materials*, in mixed loads with charcoal and/or wax pregnated sawdust logs, from the plantside and facilities utilized by Kingsford Co. at or near Ridgely, Md., to points in Maryland, West Virginia, Virginia, District of Columbia, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Oklahoma, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio. Restriction: The above sought authority to traffic moving under a continuing contract or contracts with Kingsford Co. of Louisville, Ky. NOTE: The purpose of instant application is to allow applicant to expand the service it is presently authorized to provide for Kingsford Co., both as to commodities and territory from Parsons, W. Va., and to allow it to serve the new facilities of Kingsford at or near Ridgely, Md. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Charleston, W. Va.

No. MC 120098 (Sub-No. 21), filed September 18, 1972. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: William S. Richards, 900 Walker Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite*, from points in Lander and Eureka Counties, Nev., and Salt Lake City, Utah, to points in Duchesne and Uintah Counties, Utah and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 120398 (Sub-No. 11), filed August 25, 1972. Applicant: VALLEY EXPRESS, INC., Post Office Box 158, Schofield, WI 54476. Applicant's representative: Earle H. Haupt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (a) Between Crandon, Wis., and Rhinelander, Wis.: from Crandon over U.S. Highway 8 to Rhinelander and return over the same route, serving all intermediate points; and (b) between Monico, Wis., and Milwaukee, Wis.; from Monico over U.S. Highway 45 to its junction with U.S. Highway 41 north of Oshkosh, thence over U.S. Highway 41 to Milwaukee and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 121306 (Sub-No. 4), filed September 29, 1972. Applicant: SUPERIOR MOTOR EXPRESS, INC., Post Office Box 98, Gold Hill, NC 28071. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel bars*, from Newark, N.J., to points in North Carolina and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 121306 (Sub-No. 5), filed September 29, 1972. Applicant SUPERIOR MOTOR EXPRESS, INC., Post Office Box 98, Gold Hill, NC 28071. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, from Ambridge and Franklin, Pa., to points in North Carolina and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 123048 (Sub-No. 225) (Correction), filed August 7, 1972, published in the FEDERAL REGISTER issue of August 31, 1972, and republished as corrected this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain dryers, prefabricated grain bins and tanks, fans, heaters and accessories* when moving at the same time and in the same vehicle, from the plantsite of Chicago Eastern Corp., at Marengo, Ill., to points in the United States (except Hawaii, Vermont, New Hampshire, Connecticut, Maine, Rhode Island, Massachusetts, Arizona, Utah, Nevada, New Mexico, and Wyoming, restricted to traffic originating at said plantsite and destined to the States specified above. The purpose of this republication is to include the word "bins" to the commodity description. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123048 (Sub-No. 232), filed September 25, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *tractor parts* and *attachments* thereof, from Highland Park and Romeo, Mich., to points in that part of Illinois east of U.S. Highway 51 and north of U.S. Highway 50; Indiana, Ohio, that part of Kentucky east of U.S. Highway 127, that part of New York west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Hamburg, N.Y., and thence along U.S. Highway 62 to Niagara, N.Y., that part of Pennsylvania west of U.S. Highway 219, and that part of West Virginia west of U.S. Highway 219. Restriction: The authority granted hereinabove is restricted to the transportation of shipments originating at the plant and warehouse sites of Ford Motor Co. at Highland Park and Romeo, Mich., and destined to the named destination points above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123407 (Sub-No. 180), filed August 23, 1972. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation, roof slabs, roof sections, building sections, siding, bathroom assembled units, building and roofing materials, and products of assembled building materials*, between Miami County, Ind. on the one hand, and, on the other, points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Common

control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Indianapolis, Ind.

No. MC 124373 (Sub-No. 12), filed October 3, 1972. Applicant: NELMAR TRUCKING CO., a corporation, Route 1 and Duncan Avenue, Jersey City, N.J. 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, materials, equipment, and supplies* as are dealt in, used by or sold in wholesale and retail chain store supermarkets and warehouses (except commodities in bulk), between Carlstadt, N.J., on the one hand, and, on the other, points in Maryland, Virginia, and the District of Columbia, under contract with Greenbelt Consumer Services, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 124813 (Sub-No. 99), filed September 27, 1972. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson, Eagle Grove, IA 50523. Applicant's representative: J. Max Harding, 6–5 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, adhesives, building materials, and materials, supplies, and equipment* used in the manufacture, sale, distribution, and installation of such commodities, between points in Cook County, Ill., and Lake County, Ind., on the one hand, and, on the other, points in Montana, Wyoming, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, and the Upper Peninsula of Michigan, restricted to traffic originating or terminating at the plantsite and warehouse facilities utilized by United States Gypsum Co., its divisions and affiliates. NOTE: Applicant holds contract carrier authority under MC 118468 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124830 (Sub-No. 1), filed October 2, 1972. Applicant: HOLMES FREIGHT LINES, INC., 7878 I Street, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Co., Inc., located at or near Underwood, Iowa, as an off-route point in connection with applicant's presently authorized regular route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 125521 (Sub-No. 20), filed August 28, 1972. Applicant: FUNK MOTOR TRANSPORTATION, INC., Box 75, Bridge Street, Grand Rapids, OH 43522. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, and on return trips *empty containers or other such incidental facilities used in transporting such commodities*, from Milwaukee, Wis., Bensenville, Ill., and South Bend, Ind., to Clinton, Ohio, under a continuing contract or contracts with Heineman Beverages, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Lansing or Detroit, Mich.

No. MC 125521 (Sub-No. 21), filed August 28, 1972. Applicant: FUNK MOTOR TRANSPORTATION, INC., Box 75, Bridge Street, Grand Rapids, OH 43522. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and on return trips empty containers or other incidental facilities* used in transporting such commodities, from Bensenville, Ill., to Bowling Green, Ohio, and points within 3 miles thereof, under contract with Bowling Green Beverage, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio; Lansing or Detroit, Mich.

No. MC 128007 (Sub-No. 45), filed September 5, 1972. Applicant: HOFER, INC., Post Office Box 583, Pittsburg, KS 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and feed ingredients*, from Van Buren, Ark., to points in Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128075 (Sub-No. 22), filed October 2, 1972. Applicant: LEON JOHNSRUD, 757 Second Street West, Post Office Box 447, Cresco, IA 52136. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and agricultural commodities* which are otherwise exempt under section 203(b)(6) of the Interstate Commerce Act, when transported with cheese, (a) from plantsites, warehouses, and storage and production facilities of Associated Milk Producers, Inc., located at points in Minnesota, South Dakota, Iowa, and Wisconsin, to points in Arizona, California, Idaho, Nevada, Oregon, and Washington; and (b) from Rochester, Minn.; Parkston, S. Dak.; and Blair, Portage, and Madison, Wis., to Mason City, Iowa; and (2) *dairy products and argicultural commodities* which are otherwise exempt under section 203(b)(6) of the Interstate Commerce Act, when transported with cheese, from plantsites, warehouses, and storage, and production facilities of Associated Milk Producers, Inc., located at points in Minnesota and Iowa, to points in Pennsylvania, New York, Massachusetts, Connecticut, New Jersey, Rhode Island, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 128771 (Sub-No. 3), filed October 2, 1972. Applicant: MOTLEY TRANSFER, INC., 205 North Green Street, Glasgow, KY 42141. Applicant's representative: Robert H. Kinker, Box 464, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Barren County, Ky., on the one hand, and, on the other, points in Adair and Hardin Counties, Ky., restricted to the transportation of traffic having an immediately prior or subsequent movement by rail. NOTE: Applicant states that tacking possibilities exist at Glasgow, Ky., with its Sub-Nos. 1 and 2 authority, although tacking is not contemplated. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 129068 (Sub-No. 19), filed September 13, 1972. Applicant: GRIFFIN TRANSPORTATION INC., 3002 South Douglas Boulevard, Oklahoma City, OK 73150. Applicant's representative: I. E. Chenoweth, 3010 South Braden, Tulsa, OK 74114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements and pickup camper shells, from points in Noble County, Okla., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tulsa or Oklahoma City, Okla.

No. MC 129631 (Sub-No. 30), filed August 21, 1972. Applicant: PACK TRANSPORT, INC., 3975 South Second West Street, Salt Lake City, UT 84107. Authority sought to operate as a *common*

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carrier, by motor vehicle, over regular routes, transporting: *Building materials* and *machinery*, serving points in Oneida County, Idaho, and Box Elder, Cache, Davis, Morgan, Rich, Summit, Salt Lake, and Weber Counties, Utah, as off-route points in connection with applicant's regular route operations under its base certificate No. MC 129631. NOTE: Applicant now holds contract carrier authority under its No. MC 101741, therefore dual operations may be involved. If a hearing is deemed necesary, applicant requests it be held at Salt Lake City, Utah.

No. MC 129631 (Sub-No. 31), filed August 24, 1972. Applicant: PACK TRANSPORT, INC., 3975 South Second West Street, Salt Lake City, UT 84107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, (1) from points in Washington, to points in Oneida, Franklin, Caribou, and Bear Lake Counties, Idaho; (2) from points in Wyoming to points in Arizona; (3) from points in Lincoln County, Wyo., to points in Utah and Idaho; (4) from points in Oregon, to points in Oneida, Franklin, Caribou, and Bear Lake Counties, Idaho; and (5) from points in Utah on and south of U.S. Highway 40 to points in Arizona and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 101741, therefore dual operations may be involved. If a hearing is deemed necesary, applicant requests it be held at Salt Lake City, Utah.

No. MC 133221 (Sub-No. 15), filed September 27, 1972. Applicant: OVERLAND CO., INC., Highway 20, Route 1, Lawrenceville, Ga. 30245. Applicant's representative: Bruce E. Mitchell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (a) *Plastic and plastic products* (except in bulk), from the plantsite and warehouse facility of Dow Chemical, U.S.A., at Gales Ferry, Conn., to points in the United States on and east of U.S. Highway 85; (b) *Plastic foam products* (except in bulk), from the plantsite and warehouse facilities of Dow Chemical, U.S.A., located at Magnolia, Ark., Midland, Mich., Pevely, Mo., and Royersford, Pa., to points in the United States on and east of U.S. Highway 85 (except Alabama, Georgia, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia), and (c) *Magnesium photo engravers plates*, from the plantsite and warehouse facility of Dow Chemical, U.S.A., at or near Findlay, Ohio, to points in the United States on and east of U.S. Highway 85. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 133713 (Sub-No. 6), filed September 28, 1972. Applicant: UELAND TRUCKING, INC., Route 1, Box 25 B, Shakopee, MN 55379. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonium nitrate*, from Pine Bend, Minn., to points in the Upper Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 133741 (Sub-No. 15), filed September 11, 1972. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, WY 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Evanston, Wyo., to points in Colorado and those in Nebraska located on and west of U.S. Highway 83, under contract with Cougar Sawmills, Inc. NOTE: Applicant now holds common carrier authority under its No. MC 134370 and Subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., Salt Lake City, Utah, or Cheyenne, Wyo.

No. MC 133741 (Sub-No. 16), filed September 1, 1972. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, WY 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points north of and including Idaho County, Idaho, points on and west of U.S. Highway 97 in the State of Oregon, and points in Washington on and west of the Cascade Mountain Range to points in Colorado, under contract with Potlatch Forests, Inc. NOTE: Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.; Salt Lake City, Utah; or Cheyenne, Wyo.

No. MC 134323 (Sub-No. 31), filed October 2, 1972. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, TX 79105. Applicant's representative: Gailyn Larson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances, furnaces, air cleaners and conditioners, humidifiers, dehumidifiers and related items* except those items which, because of size or weight require the use of special equipment, between the plantsite and warehouse facilities of Fedders Corp., at Buffalo, N.Y., and points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, under contract with Fedders Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Omaha, Nebr.

No. MC 134388 (Sub-No. 5), filed September 13, 1972. Applicant: HOME RUN, INC., 3 East Washington Street, Jamestown, OH 45335. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Buildings* (except buildings, in sections, mounted on wheeled undercarriages), and *component parts, materials, supplies, and fixtures used in the erection or assembly of buildings*, (1) from Victor, N.Y., to points in Ohio and Pennsylvania, (2) from Eighty Four, Pa., to points in Maryland, Virginia, Ohio, and the District of Columbia, (3) from Fredericksburg, Va., and Jamestown, Ohio, to points in Georgia, and (4) between Victor, N.Y., Fredericksburg, Va., Eighty Four, Wampum, and Coraopolis, Pa., Chardon and Jamestown, Ohio, under contract with Ryar Homes, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Pittsburgh, Pa.

No. MC 134599 (Sub-No. 57), filed October 2, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, materials and supplies* used in the manufacture and production of rubber products, except commodities in bulk and except commodities which, because of size or weight require special handling or special equipment, from Stoughton and Eau Claire, Wis., Chicago, Ill., and Washington, Mishawaka, Warsaw, and Indianapolis, Ind., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under contract with Uniroyal, Inc. NOTE: Applicant states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134599 (Sub-No. 58), filed October 2, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, materials and supplies used in the manufacture and production of rubber products* (except commodities in bulk and commodities which because of size or weight require special handling or special equipment),

from Opelika, Ala., and Dalton, Dublin, Thomson, Hogansville, and Conyers, Ga., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana, under a continuing contract or contracts with Uniroyal, Inc. NOTE: Duplicating authority may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 134734 (Sub-No. 6), filed August 28, 1972, Applicant: NATIONAL TRANSPORTATION, INC., Box 31, Norfolk, NE 68701. Applicant's representative: Lanny N. Fauss, Box 37096, Millard, NE 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and related items dealt in and used by a meat processor*, between Lincoln, Nebr., on the one hand, and, on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, Wisconsin, Oklahoma, South Dakota, North Dakota, and Wyoming, under contract with National Foods, Inc., Prairie Maid Meat Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 134755 (Sub-No. 33), filed October 2, 1972. Applicant: CHARTER EXPRESS, INC., 1959 East Turner Street, Box 3772, Springfield, MO 65804. Applicant's representative: Le Roy Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles* manufactured and/or dealt in by wholesale and retail grocery houses, from the facilities of United Facilities, Inc., located at or near Galesburg, Ill., to points in Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 135874 (Sub-No. 13), filed August 28, 1972. Applicant: LTL PERISHABLES, INC., Post Office Box 37468 Millard Station, Omaha, NE 68137. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from St. James and Madelia, Minn., to points in Iowa, South Dakota, Nebraska, Illinois, Missouri, and Kansas. Restriction: Restricted to traffic originating at named origins and destined to named States. (2) *Foodstuffs and paper articles and aluminum trays*, when moving in mixed shipments with foodstuffs, from Omaha, Nebr., to points in North Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 135884 (Sub-No. 3), filed September 5, 1972. Applicant: STEVE CALDWELL, Route 1, Box 36, Adams, OR 97810. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, OR 97210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Furniture, furniture parts and furniture hardware*, between Lincoln, Nebr., on the one hand, and, on the other, points in California, Oregon, and Washington, under contract with Harris Pine Mills. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 134884 (Sub-No. 4), filed September 17, 1972. Applicant: FARWEST FURNITURE TRANSPORT, INC., 6840 112th Avenue SE., Renton, WA 98055. Applicant's representative: Bruce E. Mitchell, 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and fixtures*, between points in Utah, on the one hand, and, on the other, points in Oregon, Idaho, Washington, and California. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Salt Lake City, Utah.

No. MC 135326 (Sub-No. 5), filed September 28, 1972. Applicant: BILLY R. ALMAND, doing business as ALMAND TRUCKING COMPANY, Route 2, Box 50, Keithville, LA 71107. Applicant's representative: Paul Caplinger, Post Office Box 7114, Shreveport, LA 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing granules and stone dust*, dry, in bulk, from the plantsite of Bird & Son, Inc., at or near Glenwood, Ark., to Shreveport, La. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Shreveport, La., or Dallas, Tex.

No. MC 135813 (Sub-No. 1), filed October 2, 1972. Applicant: PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Post Office Box 1308, Owensboro, KY 42301. Applicant's representative: George M. Carlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten aluminum alloy*, from the plantsite of National Southwire Aluminum Co., in Hancock County, Ky., to Bedford, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Pittsburgh, Pa.

No. MC 136367 (Sub-No. 2), filed August 25, 1972. Applicant: GOESON MOVING & STORAGE, INC., 2004 Sixth Avenue S., Grand Forks, ND 58201. Applicant's representative: Robert O. Wefald, 212½ North Fourth Street, Bismarck, ND 58501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, unaccompanied baggage and personal effects and to provide drayage* service for the same prior to and subsequent to movement in interstate and foreign commerce, between points in Pembina, Cavalier, Ramsey, Walsh, Nelson, Grand Forks, Eddy, Foster, Steele, Traill, and Griggs Counties, N. Dak., and Kittson, Roseau, Marshall, Pennington, Polk, Red Lake, and Clearwater Counties, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Fargo, N. Dak.

No. MC 136437 (Sub-No. 2), filed August 24, 1972. Applicant: P. KRIMBEL, doing business as KRIMBEL TRUCKING CO., 607 Hill Road, Aberdeen, WA 98520. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer, wine, printing paper* other than news, and *corrugated paper and vacuum formed plastic trays*, between points in California, on the one hand, and, on the other, points in Oregon and Washington west of the Cascade Mountain Range. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 136530 (Sub-No. 1), filed September 27, 1972. Applicant: NORBET TRUCKING CORP., 100 Nassau Terminal Road, New Hyde Park, NY 11040. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, coated and uncoated, and *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture, distribution, and production of iron and steel articles, between Kearny, N.J., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, Ohio, New York, New Jersey, Pennsylvania, Delaware, Maryalnd, Virginia, West Virginia, and the District of Columbia. Restrictions: (1) The above authority is restricted to traffic originating at or destined to the facilities of American Strip Steel Inc., at Kearny, N.J.; and (2) the above authority is restricted to the transportation of traffic moving under a continuing contract or contracts with American Strip Steel Inc., New Hyde Park, N.Y. NOTE: The applicant states that the applicant is commonly controlled with the shipper. The applicant merely here seeks to add the additional facility of Kearny, N.J., to the already existing contract carrier authority which it is obtaining to perform the same service to and from New Hyde Park, N.Y. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136542 (Sub-No. 1), filed August 28, 1972. Applicant: CHARLES C.

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REINHART and CHARLES B. REINHART, a partnership, doing business as REINHART & SONS MOVING & STORAGS, 1145 Elk Street, Post Office Box 1623, Rock Springs, WY 82901. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, and unaccompanied baggage and personal effects*, (1) between points in Wyoming; and (2) between points in Wyoming, on the one hand, and, on the other, points in Moffat County, Colo., and points in Daggett, Summit, Duchesne, and Uintah Counties, Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Cheyenne, Wyo.

No. MC 136594 (Sub-No. 1), filed July 12, 1972. Applicant: MAR-VAN, INC., Avenue B, Post Office Box 169, Watervliet, NY 12189. Applicant's representative: Julius Braun, Albany Port Administration Building, Room 21, Albany, N.Y. 12202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Safes, vaults, and other security devices, and equipment, tools and supplies* necessary for the installation thereof, from Albany, N.Y., to points in New York, on and east of Interstate Highway 81 (except points in Nassau and Suffolk Counties, and New York City, N.Y.), under contract with Diebold, Inc., and Mosler Safe Co., restricted to traffic having a prior out of State movement. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albany or New York, N.Y.

No. MC 136625 (Sub-No. 2), filed August 28, 1972. Applicant: WHITE CLOUD CO., INC., 3200 Pan American Freeway NE., Albuquerque, NM 87107. Applicant's representative: Orville C. McCallister, 500 Oak Street NE., Albuquerque, NM 87106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel buildings* from Houston, Tex., to points in New Mexico, under contract with Dura Bilt Products, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex.

No. MC 136649 (Sub-No. 2), filed August 18, 1972. Applicant: MEX-AM CARGO CARRIERS, INC., 7917 Harry Hines Boulevard, Dallas, TX 75235. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas* and exempt commodities when moving in mixed shipments with bananas, from points in Texas on the United States-Mexican border to points in the United States (except Alaska and Hawaii) and (2) *Polypropylene bags and plastic bags, cardboard and fiberboard boxes, advertising matter, displays, and packaging, materials* used in the distribution and sale of bananas and exempt commodities when moving with the above-named commodities, from points in the United States to Hidalgo, Eagle Pass, El Paso, and McAllen, Tex. Restricted to import and export traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., Washington, D.C., or Dallas, Tex.

No. MC 136720 (Sub-No. 2), filed August 30, 1972. Applicant: APEX BULK COMMODITIES, 11902 East Washington Boulevard, Whittier, CA 90670. Applicant's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat meal and blood meal*, from Tolleson, Ariz., to Anaheim and Fontana, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Los Angeles, Calif.

No. MC 136768 (Sub-No. 1), filed September 27, 1972. Applicant: WALTER G. ECTON, doing business as ECTON MOVERS, 29 Depot Street, Winchester, KY 40391. Applicant's representative: Walter G. Ecton (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, and material and supplies*, including tools, used in the construction and maintenance of telephone systems and communications, between points in Bath, Bourbon, Breathitt, Bracken, Clark, Clay, Estill, Fayette, Fleming, Grant, Harrison, Jessamine, Lee, Leslie, Madison, Mason, Menifee, Montgomery, Nichols, Owsley, Pendleton, Perry, Powell, Robertson, Rowan, Scott, Woodford, and Wolfe Counties, Ky., under a contract or contracts with Western Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lexington or Frankfort, Ky.

No. MC 136781 (Sub-No. 1), filed September 5, 1972. Applicant: SMITH HAULING & RIGGING CO., INC., 130 South Floyd Street, Louisville, KY 40202. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies*, including tools used in the construction and maintenance of telephone systems and communication, between Louisville, Ky., and points in the counties of Anderson, Bullitt, Carroll, Franklin, Gallatin, Hardin, Henry, Jefferson, Larue, Meade, Nelson, Oldham, Owen, Shelby, Spencer, and Trimble, Ky., under contract with Western Electric Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 136882 (Sub-No. 2), filed September 21, 1972. Applicant: BTA TRUCKING CO., INC., 502 Lester Street, Woodbury, TN 37190. Applicant's representative: Bill T. Alexander (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum storm doors and windows*, from Woodbury, Tenn., to Selingsgrove, Pa., Elkhart, Ind., Charlotte, N.C., Kilgore, Tex., Haleyville, Ala., Americus, Ga., Marshfield, Wis., and Owensboro, Ky.; (2) *aluminum extrusions*, from Rome, Ga., to Woodbury, Tenn., and (3) *tempered door glass*, from Vincennes, Ind., to Woodbury, Tenn., under a contract or contracts with V. E. Anderson Manufacturing Co., of Woodbury, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 136905, filed June 26, 1972. Applicant: HOLLIS WILLIAMS doing business as HOLLIS WILLIAMS TRUCKING, 314 Oak Avenue, Sulphur Springs, TX 75482. Applicant's representative: Raymond R. Johnson, Post Office Box 522, 208 Church Street, Sulphur Springs, TX 75482. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Valves, valve blanks, valve components, valve materials, and machinery parts* used in the manufacturing and servicing of valves, provided that transportation equipment shall be limited to one ¾-ton pickup and no single load shall exceed 3,500 pounds, from the manufacturing facilities of Rockwell Manufacturing Co. at Sulphur Springs in Hopkins County, Tex., to points in Texas, Louisiana, and Mississippi, and return, under contract with Rockwell Manufacturing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tyler, or Texarkana, Tex.

No. MC 136967, filed August 2, 1972. Applicant: HENRY R. MILLER and RAYMOND A. MILLER, doing business as MILLER BROS. TRUCKING, Post Office Box 787, Paso Robles, CA 93446. Applicant's representative: Henry R. Miller (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cattle feed supplement*, in tank vehicles, from San Jose, Calif., to Gardnerville, Wells, Elko, Winnemucca, Tonopah, Ely, Fallon, Nev.; Klamath Falls, Lakeview, Paisley, Burns, Madras, Roseburg, and Bend, Oreg. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 136987 (Sub-No. 2), filed August 23, 1972. Applicant: REMINGTON FREIGHT LINES, INC., 604 North Main Street, Remington, IN. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds, toilet preparations, and deodorants*, granulated or powdered, in corrigated containers, from plantsite located in Chicago, Ill., to points in Rhode Island, Connecticut, New Hampshire, Massachusetts, New York, New Jersey, Maryland, Pennsylvania, Ohio, Michigan, Wisconsin, Iowa, Minnesota, Missouri, Indiana, Nebraska, and the District of Columbia, under contract with Babbitt Products. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 138068, filed September 25, 1972. Applicant: WAREHOUSE TRANSPORTATION COMPANY, a corporation, 1038 Cortlandt Street, Post Office Box 14072, Cincinnati, OH 45214. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning, buffing, and polishing compounds; hand sprayers; brooms; mops and mop parts; plastic cooking bags; scouring pads; filters; carpet sweepers; nutritional foods and related articles; and materials, supplies, and equipment, used in the manufacture, distribution, or sale of the aforementioned commodities* (except in bulk), between the plantsites and warehouses of the Drackett Products Co., at Urbana, Ohio, on the one hand, and, on the other, Bedford Park and Peoria, Ill., East Stroudsburg, Pa., and Memphis, Tenn.; (2) *iron and steel cans*, from Cincinnati, Ohio, to Franklin, Ky.; and (3) *cleaning, buffing, and polishing compounds; starches; air fresheners; and disinfectants and related articles; and materials, supplies, and equipment, used in the manufacture, distribution, or sale of the aforementioned commodities* (except in bulk), between the plantsites and warehouses, of the Drackett Products Co., at Franklin, Ky., on the one hand, and, on the other, Bedford Park and Peoria, Ill., and Urbana, Ohio. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 138084, filed October 2, 1972. Applicant: JOSEPH PIRRI, JR., 549 Maple Street, Barrington, RI 02806. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mill cinder or mill scale (mill scarfings), iron or steel*, in bulk, in dump vehicles, from Worcester, Mass., and East Providence, R.I., to Rockland, Maine, under contract with Paul Blum Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 138051 (Sub-No. 1), filed October 2, 1972. Applicant: TAMELING SOIL BUILDERS, INC., 5300 West 39th Street, Chicago, IL 60650. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compost*, that is a mixture of manure, hay, water, and fertilizer, used in the growth medium, from points in Allegan County, Mich., and Lagrange County, Ind., to West Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138091 (Sub-No. 1), filed October 10, 1972. Applicant: L. HODGINS, doing business as L. HODGINS TRUCKMAN, 1325 Adams Street, Hoboken, NJ 07030. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Burlap*, for account of New Yorker-Peters Corp., from piers in New York Harbor, N.Y., to Elizabeth and Lyndhurst, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Newark, N.J.

No. MC 138092, filed August 29, 1972. Applicant: WILLIAMSON MOVING & STORAGE COMPANY, INC., Post Office Box 752, San Marcos, TX 78666. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, subject to the "Kingpak" restrictions, between points in Bastrop, Bexar, Blanco, Burnet, Caldwell, Comal, Gillespie, Gonzales, Guadalupe, Hays, Kendall, Llano, Travis, and Williamson Counties, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Antonio or Austin, Tex.

No. MC 138093, filed September 20, 1972. Applicant: JAMES W. ANDERSON AND ELAINE ANDERSON, a partnership, doing business as ANDERSON DELIVERY SERVICE, Greenwood Road, Harrison, Tenn. 37341. Applicant's representative: Robert L. Baker, 300 James Robertson Parkway, Nashville, TN 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by home products distributors*, between points in Bledsoe, Bradley, Coffee, Franklin, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea, Sequatchie, Van Buren, and Warren Counties, Tenn., under contract with Amway Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

MOTOR CARRIERS OF PASSENGERS

No. MC 129644 (Sub-No. 5), filed October 2, 1972. Applicant: C & J TRAVEL, INC., 163 Central Avenue, Dover, NH 03820. Applicant's representative: Mary K. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage in special operations;* and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), restricted to packages or articles weighing not more than 200 pounds in the aggregate from one consignor at one location to one consignee at one location during a single day, between Logan International Airport at Boston, Mass., on the one hand, and, on the other, points in York and Cumberland Counties, Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Portsmouth, N.H. SPECIAL NOTE: This application has been assigned applicant's passenger docket series. Applicant also holds authority to operate as a motor common carrier of property under No. MC 134133 Sub 1. If and when the above authority is granted, said certificate will also carry No. MC 134133 (property number).

APPLICATION FOR FREIGHT FORWARDER

No. FF-426 (EXPRESS FORWARDING & STORAGE CO., INC., Freight Forwarder Application), filed October 13, 1972. Applicant: EXPRESS FORWARDING & STORAGE CO., INC., 19 Rector Street, New York, NY 10006. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit authorizing applicant to continue operations as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by motor vehicle in the transportation of: (a) *Used household goods and unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (including Hawaii, but excluding Alaska), restricted in (b) to the transportation of import-export traffic.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 53321 (Sub-No. 8), filed September 5, 1972. Applicant: RAU CARTAGE INC., 1107 East Noble Street, Box 403, Monroe, MI 48161. Applicant's representative: Marion M. Emery, 6055 Flanders Road, Sylvania, OH 43560. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer compounds, agricultural insecticides, herbicides, fungicides, and weed killing compounds* (except in bulk), from Columbus, Ohio, to points in Michigan on and south of Michigan Highway 55, under contract with Elanco Products, Division Eli Lilly & Co., Indianapolis, Ind.

No. MC 136657 (Sub-No. 1), filed September 26, 1972. Applicant: I. FRED ROGERS, doing business as ROGERS TRUCKING COMPANY, 5520 Stoneleigh Drive, NW., Knoxville, TN 37912. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete blocks, cinder blocks, and brick*, from Knoxville, Tenn., to points in Kentucky and North Carolina, under contract with General Shale Products Corp. NOTE: The purpose of the instant application is to convert applicant's common carrier authority under MC 116737 to contract authority.

No. MC 136895 (Sub-No. 2), filed September 26, 1972. Applicant: WHITE LINES, INC., 118 East High Street, Oxford, OH 45056. Applicant's represent-

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ative: David P. White (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter coach service, from points in Butler, Greene, Clark, and Montgomery Counties, Ohio to points in the United States including Alaska, Canada, and Mexico (but excluding Hawaii) and return. NOTE: Common control may be involved.

No. MC 138094, filed September 18, 1972. Applicant: EDWIN L. RUDOLPH, doing business as JACOBSON TRANSFER AND STORAGE, 6954 Reflection Drive, Redding, CA 96001. Applicant's representative: W. S. Pilling, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, (a) between points in Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Butte, and Glen Counties, Calif., and (b) between San Francisco and Oakland, Calif., on the one hand, and, on the other, points in Siskiyou, Modoc, Trinity, Shasta, Lessen, Tehama, Plumas, Butte, and Glen Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18246 Filed 10-26-72;8:45 am]

[Notice 140]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 20, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2368 (Sub-No. 36 TA), filed October 10, 1972. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Richmond, VA 23204. Applicant's representative: Ward Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, from Hopewell, Va., to Chestertown, Md., for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2365R, Morristown, NJ 07960. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 3018 (Sub-No. 26 TA), filed October 5, 1972. Applicant: McKEOWN TRANSPORTATION COMPANY, 10448 South Western Avenue, Chicago, IL 60643. Applicant's representative McCarthy, Scheurich, Duffy & McCarthy, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Compressed and liquified hydrogen* in shipper-owned container, from McCook, Ill., to points in New York, Massachusetts, Connecticut, New Jersey, Maryland, Delaware, Virginia, North Carolina, South Carolina, New Hampshire, Vermont, Maine, Rhode Island, Arkansas, Louisiana, Mississippi, and Georgia, for 180 days. Supporting shipper: Union Carbide Corp., 270 Park Avenue, New York, NY. Send protests to: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 26396 (Sub-No. 62 TA), October 3, 1972. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, Post Office Box 990, 201 West Park, Livingston, MT 59047. Applicant's representative: Wayne Waggoner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board*, from points in Montana to points in Illinois, California, Nevada, Oregon, Washington, Wyoming, Wisconsin, Utah, North Dakota, South Dakota, Nebraska, Colorado, Iowa, Minnesota, and Idaho, for 180 days. Supporting shipper: Evans Products Co., Particle Board Division, Post Office Drawer No. 12, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 61502 (Sub-No. 6 TA), filed October 2, 1972. Applicant: WM. McCULLOUGH TRANSPORTATION CO., INC., 1130 U.S. Highway 1, Elizabeth, NJ 07201. Applicant's representative: Bowes & Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, such as *plastic powder, flakes, granules, lumps, pellets, or solid mass*, in bulk, in plastic liners, called sea bulk containers, provided such transportation has a prior or subsequent movement by water, from Selkirk, N.Y., to New York-New Jersey Port Authority terminals in Port Elizabeth and Port Newark, N.J., for 180 days. Supporting shipper: General Electric Co., Long Lane, Selkirk, N.Y. 12158. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 70083 (Sub-No. 25 TA), filed October 6, 1972. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034. Applicant's representative: Bernard L. Rabbito (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in by retail department stores, from the plantsite of B. Altman Co., St. Davids, Radnor Township, Pa., to retail customers in New Jersey and Delaware, restricted to exclude articles weighing 50 pounds or less and having dimensions of 108 inches in length and girth combined, unless such packages or articles are part of a shipment to the same consignee which contains packages or articles weighing more than 50 pounds and having dimensions of more than 108 inches in length and girth combined. Returned transportation over the same routes transporting *returned, refused or rejected shipments*, for 180 days. Supporting shipper: B. Altman Co., St. Davids, Pa. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 88368 (Sub-No. 26 TA), filed September 19, 1972. Applicant: CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, MO 64030. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore, Kansas City, MO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Earp, Calif., and points within 50 miles thereof, on the one hand, and, on the other, points in California, for 150 days. NOTE: Applicant states that its does intend to tack with the authority in MC-88368 (Sub-No. 14). Supported by: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 102616 (Sub-No. 874 TA), filed October 2, 1972. Applicant: COASTAL TANK LINES, INC., 215 East Waterloo Road, Akron, OH 44319. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline, distillate fuel oil, and kerosene*, in bulk, in tank vehicles, from Montvale, Va., to Barboursville, Huntington, Hurrican, and Milton, W. Va., for 180 days. Supporting shipper: American Oil Co., 500 North Michigan Avenue, Chicago, IL 60611. Send protests to: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 103494 (Sub-No. 247 TA), filed October 4, 1972. Applicant: EASLEY HAULING SERVICE, INC., Post Office Box 1261, Gun Club Road, Yakima, WA 98907. Applicant's representative: Douglas A. Wilson, 303 East D Street, Yakima, WA 98901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shipping containers*, from Longview, Wash., to points in Waco and Hood River Counties, Oreg., and to Ontario, Oreg., and from Longview and Yakima, Wash., to Medford, Oreg., for 90 days. Supporting shipper: Longview Fibre Co., Post Office Box 639, Longview, WA 98632. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 107002 (Sub-No. 424 TA), filed October 3, 1972. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry pentachlorophenol*, in bulk, in tank vehicles, from Memphis, Tenn., to DeQueen, Ark., and Wiggins, Miss., for 90 days. Supporting shipper: Dow Chemical, 800 Pierre Laclede Center, 7733 Forsyth Boulevard, St. Louis, MO 63105. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 108207 (Sub-No. 359 TA), filed October 2, 1972. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, 75207, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Hamm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from St. Louis, Mo., to Davenport, Iowa, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Meyer's Horseradish Co., 2718 North 13th Street, St. Louis, MO 63106. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 111729 (Sub-No. 361 TA), filed October 5, 1972. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Emergency parts* for earth-moving equipment used in construction, road building and mining operations, restricted to articles or packages weighing in the aggregate less than 75 pounds, from one consignor to one consignee on any one day, between Palatine, Ill., on the one hand, and, on the other, Attica, Bedford, Bloomington, Covington, Crawfordsville, Evansville, Fort Wayne, Indianapolis, Kokomo, Lafayette, Logansport, Muncie, Napoleon, Portland, Rochester, St. Paul, and South Bend, Ind.; Cincinnati, Cleveland, Columbus, Dayton, Franklin, Greenville, Maumee, Piqua, Sandusky, and Springfield, Ohio; Ashland, Bowling Green, Hopkinsville, Lexington, Louisville, and Owensboro, Ky.; Farmington, Fredericktown, Hannibal, Hermann, Montgomery City, St. Louis, Sullivan, and Vandalia, Mo.; Eau Claire, Elroy, Fond du Lac, Green Bay, Janesville, Madison, Mayville, Menasha, Milwaukee, Oshkosh, Plain, Racine, Sussex, and Wausau, Wis.; Detroit, Livonia, Monroe, and Ottawa Lake, Mich.; Ames, Cedar Falls, Cedar Rapids, Clinton, Davenport, Des Moines, Fort Dodge, Mason City, Ottumwa, and Sioux City, Iowa, for 90 days. Supporting shipper: Euclid, Inc. (Euclid Parts Sales Co.), 619 Vermont Street, Palatine, IL 60067. Send protests to: Thomas W. Hopp, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY.

No. MC 112520 (Sub-No. 264 TA), filed October 2, 1972. Applicant: McKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H. Proctor, 2501 Golf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay*, in bulk, in tank vehicles, from points in Marion County, Fla., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and West Virginia, for 180 days. Supporting shipper: Mid-Florida Mining Co., Post Office Box 68, Lowell, FL 32663. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 112822 (Sub-No. 247 TA), filed September 29, 1972. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 74023. Applicant's representative: Joe W. Ballard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the manufacture of such products as are manufactured or distributed by manufacturers of cheese and cheese products, from points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, Wyoming, and Memphis, Tenn., to Marshfield, Wis., for 180 days. Supporting shipper: James E. Coleman, Traffic Manager, Figi's Inc., Marshfield, Wis. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rocm 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 112963 (Sub-No. 30 TA), filed October 3, 1972. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from Everett, Mass., to points in Connecticut, Maine, New York, Vermont, Ohio, and Pennsylvania, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, JFK Federal Building, Government Center, Boston, Mass. 02203.

No. MC 113388 (Sub-No. 100 TA), filed October 6, 1972. Applicant: LESTER C. NEWTON TRUCKING CO., Post Office Box 618, Seaford, DE 19973. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid similac and infant feeding devices*, in vehicles equipped with mechanical refrigeration from the plantsite of Ross Laboratories at or near Altavista, Va., to points in Maryland, Pennsylvania, New Jersey, New York, Connecticut, and Massachusetts, for 180 days. Supporting shipper: Donald L. Finke, Traffic Manager, Ross Laboratories, 625 Cleveland Avenue, Columbus, OH 43216. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 113908 (Sub-No. 239 TA), filed October 5, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180, Glenstone Station, Springfield, MO 65804. Applicant's representative B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid soap*, in bulk, in tank vehicles, from Denver, Colo., to

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

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Metaire-New Orleans, La., for 180 days. Supporting shipper: Foresight, Inc., 1645 Court Place, Denver, CO 80202. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 115036 (Sub-No. 22 TA), filed October 6, 1972. Applicant: VAN TASSEL, INCORPORATED, Fifth and Grand, Pittsburg, Kans. 66762. Applicant's representative: Dykeman, Williamson & Williamson, Suite 280, National Foundation Life Center, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toulene diisocyannate*, in drums or packages, from Moundsville and Institute, W. Va., to Pittsburg, Kans., for 180 days. Supporting shipper: Dickey Clay Manufacturing Co., Post Office Box 6, Pittsburg, KS 66762. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 116763 (Sub-No. 230 TA), filed September 22, 1972. Applicant: CARL SUBLER TRUCKING, INC., Route 92, Post Office Box 215, Auburndale, FL 33823. Applicant's representative: H. M. Richters, North West Street, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from the facilities of Big Stone Canning Co., at Arlington and Ortonville, Minn., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, for 180 days. Supporting shipper: Big Stone Canning Co., Post Office Box 86, Chaska, MN 55318. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 117160 (Sub-No. 4 TA), filed October 2, 1972. Applicant: ROBERTS CARTAGE, INC., 2088 South Arlington Street, Post Office Box 1252, Akron, OH 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except explosives classes A and B, moving on an air carrier through bill of lading in service substituted for air service, between Hopkins Airport, Cleveland, Ohio, on the one hand, and John F. Kennedy Airport, and La Guardia Airport, New York, N.Y., and Newark Airport, Newark, N.J., on the other, for 180 days. Supporting shippers: The Flying Tiger Line, Inc., 7401 World Way West, International Airport, Los Angeles, CA 90009; Emery Air Freight Corp., 415 Madison Avenue, New York, NY 10017. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 119315 (Sub-No. 16 TA), filed September 9, 1972. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Road, Toledo, OH 43612. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Plastic film or sheeting*, from Linden, N.J., Akron, Ohio, and Jeanette, Pa., to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va.; (b) *sizing, emulsified petroleum* (except commodities in bulk), from Brooklyn, N.Y., to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va.; (c) *machinery or machinery parts*, from Defiance and Montpelier, Ohio, to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va.; (d) *building, roofing, or sheathing paper*, from Kaukauna, Wis., to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va.; (e) *liquid latex* (except commodities in bulk), from Milwaukee, Wis., to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va.; (f) *cloth, cotton, or synthetic fiber*, from New Milford, Conn., to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va.; and (g) *paper bags*, from Shelbyville, Ind., and Chicago, Ill. to the plantsite of Johns-Manville Fiber Glass, Inc., at Vienna, W. Va., for 180 days. Supporting shipper: Johns-Manville Fiber Glass Division, Post Office Box 5128, 2905 Third Avenue, Vienna, WV 26101. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 534 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 119543 (Sub-No. 8 TA), filed October 4, 1972. Applicant: HENRY M. LANCIANI, Leominster Road, Sterling, Mass. 01564, Mailing: R.F.D. Leominster, Mass. 01453. Applicant's representative: Arthur A. Wentzell, Post Office Box 764, Worcester. MA 01613. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump semitrailers, from port of entry at Highgate Springs, Vt., on the international boundary line between the United States and Canada, to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, for 180 days. Supporting shipper: Hickman, William & Co., Merlin Tower, 1518 Walnut Street, Philadelphia, PA 19102. Send protests to: District Supervisor Joseph W. Balin, Interstate Commerce Commission, Bureau of Operations, 338 Federal Building and U.S. Courthouse, 436 Dwight Street, Springfield, MA 01103.

No. MC 120098 (Sub-No. 22 TA), filed September 29, 1972. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: Richards & Richards, 900 Walker Bank Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Barite*, from points in Lander and Eureka Counties, Nev., and from Salt Lake City, Utah, to points in Wyoming, for 180 days. Supporting shipper: Imco Services, a Division of Halliburton Co., Post Office Box 22605, Houston, TX 77027 (G. Tilton, Director of Purchasing and Transportation). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 123048 (Sub-No. 232 TA), filed October 3, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Post Office Box A (53401), Racine, WI 53403. Applicant's representative: Carl S. Pope (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Attachments, parts and castings* for tractors and agricultural implements and farm machinery, from Charles City, Iowa, to ports of entry on the United States-Canada boundary line at or near Detroit and Port Huron, Mich., for 180 days. Supporting shipper: White-Cockshutt Farm Equipment, Division, of White Motor Corp. of Canada, Ltd., 148 Mohawk Street, Brantford, ON, Canada (Douglas W. Haney, Traffic and Customs Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 123255 (Sub-No. 29 TA), filed October 3, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 East Everett Avenue, Newark, OH 43055. Applicant's representative: G. F. Schnee, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass and fiberglass products*, from Shelbyville, Ind., to Nashville, Tenn., for 180 days. Supporting shipper: PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operation, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 124309 (Sub-No. 6 TA), filed October 3, 1972. Applicant: ALPHIE J. BOUSLEY, Route 3, Box 61A, Armstrong Creek, WI 54103. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring systems, hardwood flooring, lumber and lumber products, synthetic plastic composition, facing or floor covering, and materials, accessories and supplies* used in the installation thereof; and *materials and supplies* used in the manufacture and distribution of the commodities named above (except commodities in bulk), between White Lake, Wis., and Ishpeming, Mich., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Utah, Alaska, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Texas, Kansas, and Oklahoma, for 180 days. Supporting shipper: Robbins Flooring Co., Division of Cook Industries, Inc., Post Office Box 16902, 2221 Democrat Road, Memphis, TN 38116 (Earl H. Koen, Jr., Traffic Manager). Send protests to: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 124373 (Sub-No. 11 TA), filed October 2, 1972. Applicant: NELMAR TRUCKING CO., Foot of Duncan Avenue and Highway 440, Jersey City, N.J. 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities, materials, equipment and supplies* dealt in, used by or sold in wholesale and retail chain store supermarkets and warehouses (except commodities in bulk), between Carlstadt, N.J., on the one hand, and, on the other, points in Maryland, Virginia, and the District of Columbia, under contract with Greenbelt Consumer Services, Inc., for 180 days. Supporting shipper: Consumers Supermarkets Division of Greenbelt Consumer Services, Inc., 8547 Piney Branch Road, Silver Springs, MD 20901. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 126844 (Sub-No. 17 TA) (Correction), filed September 25, 1972, published in the FEDERAL REGISTER issue of October 12, 1972, corrected and republished in part as corrected this issue. Applicant: R. D. S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Applicant's representative: Terrence D. Jones, 1108 16th Street NW., Suite 400, Washington, DC 20036. NOTE: The purpose of this partial republication is to include the State of New York as a destination point. The rest of the notice remains the same.

No. MC 135220 (Sub-No. 3 TA), filed October 5, 1972. Applicant: MORRIS MILLER, 288 Maple Avenue, Cassadaga, NY 14718. Applicant's representative: William J. Hirsch, 35 Court Street, Suite 444, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Empty beverage containers;* and (2) *malt beverages*, (1) from Buffalo, N.Y., to Columbus, Ohio; and (2) from Columbus, Ohio, to Buffalo, N.Y., for 90 days. Supporting shipper: August Wagner Breweries, Inc., 605–31 South Front Street, Columbus, OH 43216. Send protests to: District Supervisor George M. Parker, Interstate Commerce Commission, Bureau of Operations, 612 Federal Office Bldg., 111 West Huron Street, Buffalo, NY 14202.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18391 Filed 10-26-72;8:56 am]

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21143–21270	6	21895–21980	17	22837–22961	26
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FRIDAY, OCTOBER 27, 1972
WASHINGTON, D.C.

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PART II

DEPARTMENT OF LABOR

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions and Modifications

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DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decision and Modifications to Area Wage Determination Decisions

New determination. There is set forth below general Area Wage Determination Decision No. AP–137 of the Secretary of Labor. This decision specifies, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the locality specified therein. This decision is applicable to Federal and federally assisted construction in the described locality in the State of Tennessee.

The determinations in this decision of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in this decision shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of this determination as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

This wage determination is effective without limitation as to time and is to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, this determination together with any modifications issued subsequent to this date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications to Area Wage Determination Decisions

Modifications to area wage determination decisions for specified localities in the States of Alabama, Georgia, Idaho, Indiana, Kansas, Kentucky, Maryland, Missouri, New Mexico, New York, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, and Washington.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM–1,722; AM–1,727; AM–1,733; AM–1,734.	Aug. 11, 1971.
AM–1,859; AM–1,863; AM–1,864.	Aug. 20, 1971.
AM–5,972	Dec. 17, 1971.
AM–6,705	Mar. 10, 1972.
AM–6,724	Apr. 28, 1972.
AM–11,418	May 5, 1972.
AM–6,728; AM–8,611	May 19, 1972.
AM–8,623	June 16, 1972.
AP–107	July 21, 1972.
AP–209; AP–409; AP–410	Aug. 4, 1972.
AP–306; AP–308	Aug. 11, 1972.
AP–120; AP–312	Aug. 18, 1972.
AP–227; AP–313; AP–314; AP–315; AP–316.	Aug. 25, 1972.
AP–322; AP–323	Sept. 15, 1972.
AP–17; AP–18; AP–19; AP–21; AP–22; AP–342; AP–343; AP–344; AP–345; AP–349; AP–350; AP–421.	Sept. 29, 1972.
AP–132; AP–133; AP–134; AP–508.	Oct. 13, 1972.

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 F.R. 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER (10–27–72) and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

Signed at Washington, D.C., this 20th day of October 1972.

HORACE E. MENASCO,
Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Tennessee
DECISION NO.: AP–137
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: Sullivan
DATE: Date of Publication

82-R-Tenn.-A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.	Others 1/
RESIDENTIAL CONSTRUCTION						
Air condition mechanics	$4.08					
Bricklayers	5.25					
Carpenters	3.50					
Carpenters' helpers	2.25					
Cement masons	3.25					
Drywall finishers	3.50					
Drywall hangers	3.25					
Electricians	3.87					
Electricians' helpers	2.50					
Ironworkers, reinforcing	2.25					
Laborers:						
Laborers	2.04					
Mason tenders	2.25					
Mortar mixers	2.50					
Painters, brush	3.25					
Plumbers	4.50					
Plumbers' helpers	3.00					
Power Equipment Operators:						
Bulldozers	3.50					
Front end loaders	3.50					
Trenching machine	3.00					
Shovels	3.00					
Roofers	3.00					
Sheet metal workers	3.25					
Sheet metal workers' helpers	2.65					
Soft floor layers	3.29					
Stonemasons	5.25					
Tile setters	3.00					
Tile setters' helpers	2.50					
Truck drivers	3.00					
Welders - Rate for Craft.						

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DECISION #AP-120 - Mod. #3
(37 FR 16734 - August 18, 1972)
Jefferson County, Alabama

Change:

37 - ALA - LAB - 1 - B

BUILDING CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP A:					
Air or electric tool operators	$4.60	.15	.20		
GROUP B:					
Vibrators operators, chain saw ops., of mechanical equipment which replaces wheelbarrows or buggies, power mowers, mortar mixers, pipe layers, conc. & clay	4.55	.15	.20		
GROUP C:					
Plasterers' tenders & hod carriers	4.50	.15	.20		
GROUP D:					
Asphalt rakers	4.60	.15	.20		
GROUP E:					
Mason tenders & building laborers	4.45	.15	.20		
GROUP F:					
Burners on demolition, wagon drill operators	4.85	.15	.20		
GROUP G:					
Powderman	5.275	.15	.20		
GROUP H:					
Caisson-driller	5.20	.15	.20		
GROUP I:					
Mucker	4.55	.15	.20		
GROUP J:					
Tunnel miner	5.25	.15	.20		
GROUP K:					
Pneumatic concrete gun operator and nozzleman	5.15	.15	.20		
GROUP L:					
Chuck tender	5.00	.15	.20		
GROUP M:					
Tunnel laborer	4.85	.15	.20		

DECISION #AP-107 - Mod. #4
(37 FR 14675 - July 21, 1972)
Chatham County, Georgia

Change:

Ga. - 2 - PEO - 1 - K

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP A:					
Air compressors, batchplant, bull-dozers, fork tractors, mixers, end-loader, scrapers, patrol and tuggers	$6.25	.30	.30		.01
GROUP B:					
Crane, derrick, draglines, sidebooms, cherry pickers, mechanics, pile-drivers, backhoes, concrete pump	6.85	.30	.30		.01
GROUP C:					
Distributors, finishing machines, rollers, plain tractors, firemen	6.00	.30	.30		.01
GROUP D:					
Master mechanic	7.35	.30	.30		.01
GROUP E:					
Pump operators	5.90	.30	.30		.01
GROUP F:					
Trenching machine, small backhoe	6.45	.30	.30		.01

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-227 - Mod. #3 (37 FR 17332 - August 25, 1972) Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Cos., Idaho						
Change:						
Carpenters (Remainder of Counties and that portion of Idaho County north of the 46th parallel)						
Carpenters	6.84	.45	.40	-	.025	
Piledriver; Floor Layers; Floor Finishers; Floor Sanders; Saw Filers; Stationary Power Woodworking Tool Operator	6.99	.45	.40	-	.025	
Shingler (wood or composition)	7.04	.45	.40	-	.025	
Millwrights; Boom Men; Machine Erectors; Carpenters (creosoted material)	7.24	.45	.40	-	.025	

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-17-Mod. #1 (37 FR 20415-September 29, 1972) Adams, Allen, Dekalb, Elkhart, Huntingdon, Kosciusko, Lagrange, Marshall, Noble, Starke, Steuben, Wells & Whitley Counties, Indiana						
Change:						
Linemen:						
North Indiana Exclusive of Calumet Area	$7.07	.25	1%		.25%	
Calumet Area	7.36	.25	1%		.25%	
Power Equipment Operators: (Elkhart, Kosciusko, Lagrange, Marshall, Noble & Stark Cos.)						
Group I	7.10	.40	.30		.05	
Group II	6.72	.40	.30		.05	
Group III	6.34	.40	.30		.05	
Group IV	5.64	.40	.30		.05	
Power Equipment Operators: (Remainder of Counties)						
Group I	7.20	.25	.20		.05	
Group II	6.82	.25	.20		.05	
Group III	6.44	.25	.20		.05	
Group IV	5.74	.25	.20		.05	
DECISION #AP-18-Mod. #1 (37 FR P. 20420 September 29, 1972) Benton, Carrol, Cass, Clinton, Fulton, Howard, Jasper, Miami, Newton, Pulaski, Tippecanoe, Tipton, Wabash & White Counties, Indiana						
Change:						
Linemen:						
Benton, Fulton, Jasper, Newton, Pulaski & White Counties						
North Indiana Exclusive of Calumet Area	$7.07	.25	1%		.25%	
Calumet Area	7.36	.25	1%		.25%	
Power Equipment Operators: (Fulton, Jasper, Newton & Pulaski Counties)						
Group I	7.10	.40	.30		.05	
Group II	6.72	.40	.30		.05	
Group III	6.34	.40	.30		.05	
Group IV	5.64	.40	.30		.05	
Power Equipment Operators: (Remainder of Counties)						
Group I	7.20	.25	.20		.05	

DECISION #AP-18 (cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Group II	6.82	.25	.20		.05	
Group III	6.44	.25	.20		.05	
Group IV	5.74	.25	.20		.05	
DECISION #AP-19-Mod. #1 (37 FR 20424 September 29, 1972) Blackford, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Jay, Johnson, Madison, Marion, Randolph, Rush, Shelby, Union & Wayne Counties, Indiana						
Change:						
Power Equipment Operators:						
Group I	$7.20	.25	.20		.05	
Group II	6.82	.25	.20		.05	
Group III	6.44	.25	.20		.05	
Group IV	5.74	.25	.20		.05	
DECISION #AP-21-Mod. #1 (37 FR 20433 September 29, 1972) Bartholomew, Brown, Clark, Dearborn, Decatur, Floyd, Franklin, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Monroe, Ohio, Orange, Ripley, Scott, Switzerland & Washington Counties, Indiana						
Change:						
Power Equipment Operators: (Remainder of Counties)						
Group I	7.15	.25	.25		.05	
Group II	6.77	.25	.25		.05	
Group III	6.39	.25	.25		.05	
Group IV	5.69	.25	.25		.05	
DECISION #AP-22-Mod. #1 (37 FR 20437 September 29,1972) Crawford, Dubois, Gibson, Perry, Pike, Posey, Spencer, Vanderburgh & Warrick Counties, Indiana						
Change:						
Power Equipment Operators:						
Group I	7.15	.25	.25		.05	

MODIFICATIONS P. 5

DECISION #AP-22 (cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
Group II	6.77	.25	.25		.05	
Group III	6.39	.25	.25		.05	
Group IV	5.69	.25	.25		.05	

MODIFICATIONS P. 6

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-132 - Mod. #1 (37 FR 21763 - October 13, 1972) Jefferson County, Kentucky						
Change:						
Building Construction:						
Marble, tile and terrazzo workers	$7.60	.25	.40			
Sheet Metal Workers	8.55	.60	.60			
Truck Drivers:						
3 tons and under	4.52	a	a	b		
Over 3 tons	4.63	a	a	b		
Semi-trailer, tandem axle or pole trailers and dumps	4.63	a	a	b		
Euclid and other heavy earth moving equipment and lowboy	4.80	a	a	b		
Winch truck and A-Frame and monirail truck when used to transport building materials	4.80	a	a	b		
Fork lift truck when used to transport building materials	4.80	a	a	b		
Mechanic	4.70	a	a	b		
Mechanic helpers, greasers and tire changers	4.52	a	a	b		
Helpers	4.40	a	a	b		
Concrete mixers (all types), hauling only on job site	4.70	a	a	b		

Footnotes:

a. $17.50 contribution (Health, Welfare, & Pension combined) per week for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period.

b. Employees who have been regularly employed on a project by an employer for one year and who have worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-133 - Mod. #1 (37 FR 21766 - October 13, 1972) Warren County, Kentucky						
Change:						
Building Construction:						
Truck Drivers:						
3 tons and under	$4.52	a	a	b		
Over 3 tons	4.63	a	a	b		
Semi-trailer, tandem axle or pole trailers and dumps	4.63	a	a	b		
Euclid and other heavy earth moving equipment and lowboy	4.80	a	a	b		
Winch truck and A-Frame and monirail truck when used to transport building materials	4.80	a	a	b		
Fork lift truck when used to transport building materials	4.80	a	a	b		
Mechanic	4.70	a	a	b		
Mechanic helpers, greasers and tire changers	4.52	a	a	b		
Helpers	4.40	a	a	b		
Concrete mixers (all types), hauling only on job site	4.70	a	a	b		

Footnotes:

a. $17.50 contribution (Health, Welfare, & Pension combined) per week for each employee whose name appears on the payroll that week who has been employed a minimum of 20 work days within any 90 consecutive day period.

b. Employees who have been regularly employed on a project by an employer for one year and who have worked a minimum of 1200 hours during the year receive a vacation and pay for 40 hours. Employees who have been regularly employed on a project by an employer for one year, and who have worked a minimum of 650 hours during the year receive a vacation and pay for 20 hours. Employees who have worked 1200 hours since their 2nd year of employment and have completed three years receive an additional week vacation (40 hours).

DECISION #AP-134 - Mod. #1 (37 FR 21769 - October 13, 1972) McCracken County, Kentucky						
Change:						
Building Construction:						
Cement Masons	$5.35	.40	.20		.03	
Cement Masons working on swinging scaffold up to 50'	5.60	.40	.20		.03	

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AP-409 - Mod. #6 (37 FR 15821 - August 4, 1972) Montgomery and Prince Georges Counties, Maryland; City of Alexandria, Virginia; Arlington and Fairfax Counties, Virginia and Dulles International Airport						
Change:						
Modification #3 - 37 FR 21696 - October 13, 1972 to read: Modification #4						
DECISION #AP-410 - Mod. #5 (37 FR 15283 - August 4, 1972) Baltimore City and County, Maryland						
Change:						
Laborers:						
Laborers	$5.40	.20	.225		.025	
Hod carriers	5.50	.20	.225		.025	
Plasterers' laborers	5.55	.20	.225		.025	
Power tool operator	5.50	.20	.225		.025	
Pipelayers (concrete & clay)	5.60	.20	.225		.025	
Wagon drill operator	5.65	.20	.225		.025	

MODIFICATIONS P. 9

DECISION #AM-6,724 - Mod. #5
(37 FR 8642 - April 28, 1972)
Cass, Clay, Jackson, Platte, & Ray Counties, Missouri and Johnson & Wyandotte Counties, Kansas

Change:
Building Construction
"Cass, Clay, Jackson, Platte, & Ray Counties, Missouri"
Soft floor layers(not incl. Cass County, Missouri)
"Johnson & Wyandotte Counties, Kansas"
Soft floor layers

Omit:
Line Construction schedula (Cass, Clay, Jackson, Platte, & Ray Cos., Missouri)
Line Constraction schedula (Johnson, & Wyandotte Cos., Kansas)

Add:
Line Construction schedula (Cass, Clay, Jackson, Platte, & Ray Cos., Missouri)
Line Construction schedula (Johnson, & Wyandotte Cos., Kansas

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Soft floor layers(not incl. Cass County, Missouri)	$7.09	.35	.25	7%	.05	
"Johnson & Wyandotte Counties, Kansas" Soft floor layers	7.09	.35	.25	7%	.05	

Line Construction - 1 - c

"JACKSON, PLATTE, RAY, CLAY, & CASS COUNTIES, MISSOURI"

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINEMAN	$7.95	.15	1%+.15		½%	
LINEMAN OPERATOR	7.50	.15	1%+.15		½%	
LINEMAN MECHANIC	6.37	.15	1%+.15		½%	
GROUNDMAN POWDERMAN	5.47	.15	1%+.15		½%	
GROUNDMAN	5.19	.15	1%+.15		½%	
GROUNDMAN (1st year)	4.79	.15	1%+.15		½%	

Line Construction - 2 - c

Johnson & Wyandotte Counties, Kansas

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Oth
LINEMAN	$7.60	.15	1%+.15		½%	
LINEMAN OPERATOR	7.60	.15	1%+.15		½%	
LINEMAN MECHANIC	6.01	.15	1%+.15		½%	
GROUNDMAN POWDERMAN	5.21	.15	1%+.15		½%	
GROUNDMAN	4.83	.15	1%+.15		½%	
GROUNDMAN (1st year)	3.95	.15	1%+.15		½%	

MODIFICATIONS P. 10

DECISION #AM-6,728 - Mod. #5
(37 FR 10253 - May 19, 1972)
Cass, Clay, Jackson, Platte, & Ray Counties, Missouri and Johnson & Wyandotte Counties, Kansas

Change:
Building Construction
Cass, Clay, Jackson, Platte, & Ray Counties, Missouri
Soft floor layers(not incl. Cass County, Missouri)
"Johnson & Wyandotte Counties, Kansas"
Soft floor layers

Omit:
Line Construction schedule (Jackson, Platte, Ray, Clay, & Cass Counties, Missouri)

Add:
Line Construction schedule (Jackson, Platte, Ray, Clay, & Cass Counties, Missouri)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Soft floor layers(not incl. Cass County, Missouri)	$7.09	.35	.25	7%	.05	
"Johnson & Wyandotte Counties, Kansas" Soft floor layers	7.09	.35	.25	7%	.05	

Line Construction - 1-c

"JACKSON, PLATTE, RAY, CLAY, & CASS COUNTIES, MISSOURI"

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINEMAN	$7.95	.15	1%+.15		½%	
LINEMAN OPERATOR	7.50	.15	1%+.15		½%	
LINEMAN MECHANIC	6.37	.15	1%+.15		½%	
GROUNDMAN POWDERMAN	5.47	.15	1%+.15		½%	
GROUNDMAN	5.19	.15	1%+.15		½%	
GROUNDMAN (1st year)	4.79	.15	1%+.15		½%	

MODIFICATIONS P. 11

DECISION #AP-508 - Mod. #1
(37 FR 7432 - October 13, 1972)
Linn and Pettis Counties, Missouri

Omit:
Line Construction schedula(Linn County)
Line Construction schedula(Pettis County)

Add:
Line Construction schedula (Linn County)
Line Construction schedula (Pettis County)

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others

Line Construction - 1-c

Pettis County

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINEMAN	$7.95	.15	1%+.15		½%	
LINEMAN OPERATOR	7.50	.15	1%+.15		½%	
LINEMAN MECHANIC	6.37	.15	1%+.15		½%	
GROUNDMAN POWDERMAN	5.47	.15	1%+.15		½%	
GROUNDMAN	5.19	.15	1%+.15		½%	
GROUNDMAN (1st year)	4.79	.15	1%+.15		½%	

Line Construction -2-c

Linn County

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LINEMAN	$7.60	.15	1%+.15		½%	
LINEMAN OPERATOR	7.60	.15	1%+.15		½%	
LINEMAN MECHANIC	6.01	.15	1%+.15		½%	
GROUNDMAN POWDERMAN	5.21	.15	1%+.15		½%	
GROUNDMAN	4.83	.15	1%+.15		½%	
GROUNDMAN (1st year)	3.95	.15	1%+.15		½%	

MODIFICATIONS P. 12

DECISION #AP-322 - Mod. #1
(37 FR 18876 - September 15, 1972)
Los Alamos County, New Mexico

Change:
General Building and Heavy Engineering Construction:
Marble, terrazzo, tile workers
Marble, terrazzo, tile workers helper
Sprinkler fitters

DECISION #AP-323 - Mod. #1
(37 FR 18879 - September 15, 1972)
Bernalillo County, New Mexico

Change:
General Building and Heavy Engineering Construction:
Tile, Marble and Terrazzo workers
Tile, Marble and Terrazzo workers helper
Sprinkler fitters

Add:
General Building and Heavy Engineering Construction:
Sound installers

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
Marble, terrazzo, tile workers	$6.90	.25				
Marble, terrazzo, tile workers helper	5.425	.25				
Sprinkler fitters	8.35	.30	.50		.05	
Tile, Marble and Terrazzo workers	5.775	.25				
Tile, Marble and Terrazzo workers helper	4.30	.25				
Sprinkler fitters	8.35	.30	.50		.05	
Sound installers	6.35	.25	1%		1/7%	

DECISION #AM-1.722 - Mod. #7
(36 FR 14912 - August 11, 1971)
Albany County, New York

MODIFICATIONS P. 13

Change:
Laborers Schedule
(Heavy & Highway)

Power Equipment Operators' Schedule
(Heavy & Highway)

NY-1-LAB-2-3-G

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Laborers and driller helpers	$5.78	.50	.65	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	5.98	.50	.65	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.18	.50	.65	a		
Blasters, form setters, stone or granite curb setters	6.38	.50	.65	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

DECISION #AM-1,722 (cont'd)

MODIFICATIONS P. 14

N.Y. 23-PEO-2-3-G 1 of 2

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$7.75	.65	.25	a	.10	
Backhoe (tractor mounted, rubber-tired) bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants, cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Kolman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.45	.65	.25	a	.10	
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M. compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

MODIFICATIONS P. 15

DECISION #AM-1,722 (cont'd)

N.Y. 23-PEO-2-3-G 2 of 2

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS: H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (cont'd) (4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift gunnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	$7.00	.65	.25	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, firemen, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.35	.65	.25	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; providing employee works the working day before and the working day after the holiday.

MODIFICATIONS P. 16

DECISION #AM-1,727 - Mod. #6
(36 FR 14938 - August 11, 1971)
Monroe County, New York

Change:
Laborers Schedule
(Heavy & Highway)

Power Equipment Operators Schedule
(Heavy & Highway)

NY-5-LAB-2-3-G

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Laborers and driller helpers	$5.65	.83	.45	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	5.85	.83	.45	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.03	.83	.45	a		
Blasters, form setters, stone or granite curb setters	6.25	.83	.45	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

DECISION #AM-1,727 (cont'd)

HEAVY AND HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H&W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$7.75	.65	.25	a	.10	
Backhoe (tractor mounted, rubber-tired) bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Kolman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.45	.65	.25	a	.10	
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M. compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

DECISION #AM-1,727 (cont'd)

HEAVY AND HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H&W	PENSIONS	VACATION	APP. TR.	OTHER
POWER EQUIPMENT OPERATORS: (cont'd) (4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift junnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	$7.00	.65	.25	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, firemen, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.35	.65	.25	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; providing employee works the working day before and the working day after the holiday.

MODIFICATIONS P. 19

DECISION #AM-1,733 - Mod. #6
(36 FR 14972 - August 11, 1971)
Rensellaer County, New York

Change:
Laborers Schedule
(Heavy & Highway)

Power Equipment Operators Schedule
(Heavy & Highway)

NY-27-LAB-2-3-E

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
LABORERS:						
Laborers and driller helpers	$5.78	.50	.65	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete bootmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	5.98	.50	.65	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.18	.50	.65	a		
Blasters, form setters, stone or granite curb setters	6.38	.50	.65	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

MODIFICATIONS P. 20
N.Y. 23-PEO-2-3-G 1of2

DECISION #AM-1,733 (cont'd)

HEAVY AND HIGHWAY CONSTRUCTION

	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$7.75	.65	.25	a	.10	
Backhoe (tractor mounted, rubber-tired) bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Kolman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.45	.65	.25	a	.10	
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M. compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

DECISION #AM-1,733 (cont'd)

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (cont'd) (4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift gunnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	$7.00	.65	.25	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, firemen, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.35	.65	.25	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; providing employee works the working day before and the working day after the holiday.

DECISION #AM-1,734 - Mod. #5
(36 FR 14976 - August 11, 1971)
Schenectady Co., New York

MODIFICATIONS P. 22

Change:
Laborers Schedule
(Heavy & Highway)

Power Equipment Operators Schedule
(Heavy & Highway)

MY-29-LAB-2-3-E

HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
LABORERS:						
Laborers and driller helpers	$5.78	.50	.65	a		
Concrete aggregate bin, mortar mixer, hand or machine vibrator gin buggy, mason tenders, concrete footmen, chain saw, jackhammer, pavement breaker and all other gas, electric oil and air-tool operators, bull float tamper, pipelayers	5.98	.50	.65	a		
Drillers, asphalt rakers, stone or granite curb setters and acetylene torch operator	6.18	.50	.65	a		
Blasters, form setters, stone or granite curb setters	6.38	.50	.65	a		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Holidays A through F, providing the employee works the day before and after the holiday.

DECISION #AM-1,734 (cont'd)

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTH
POWER EQUIPMENT OPERATORS:						
Automatic fine grader, backhoe (except tractor mounted, rubber-tired), blacktop, plant (automated), cableway, caisson auger, central mix concrete plant (automated), Cherry picker-over 5 tons capacity, crane, cranes & derricks (steel erection), dragline, dual drum paver, excavator-all purpose-hydraulically operated, front end loader (4 C.Y. & over), hoist, two or three drums pile-driver, power grader with elevating loader attachment, Quarry master (or equivalent), shovel, slip form paver (if a second man is needed, he shall be an oiler), tractor drawn belt-type loader, truck crane, tunnel shovel	$7.75	.65	.25	a	.10	
Backhoe (tractor mounted, rubber-tired) bituminous spreader & mixer, blacktop plant (non-automated), boring machine cage hoist, central mix plant (non-automated) & all concrete batching plants. Cherry picker-5 tons & under, compressors (4 or less) exceeding 2,000 C.F.M. combined capacity, concrete paver (over 16-S), concrete pump, crusher, drill rigs, tractor mounted, front end loader (under 4 c.y.), hi-pressure boiler (15 lbs., & over), hoist, one drum, Kolman plant loader & similar type loaders (if employer requires another man to clean screen or to maintain the equipment he shall be an oiler), maintenance engineer, mixer for stabilized base, self, propelled, monorail machine plant engineer, power grader, pump crete, ready-mix concrete plant, maintenance grease man, road widener, roller (all above subgrade), side boom, tractor scraper, tractor with dozer &/or pusher, winch	7.45	.65	.25	a	.10	
Compressors (4 not to exceed 2,000 C.F.M. combined capacity; or 3 or less with more than 1,200 C.F.M., but not to exceed 2,000 C.F.M. compressors (any size but subject to other provision for compressors), dust collectors, generators, pumps, welding machines						

DECISION #AM-1,734 (cont'd)

HEAVY AND HIGHWAY CONSTRUCTION	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS				
		H & W	PENSIONS	VACATION	APP. TR.	OTHERS
POWER EQUIPMENT OPERATORS: (cont'd) (4 of any type or combination), concrete pavement spreaders & finishers conveyor, drill core & well, electric pump used in conjunction with well point system, farm tractor with accessories, fine grade machine, fork lift gunnite machine, hammers, hydraulic self-propelled, locomotive, post hole digger & post driver, roller (grader & fill), tractor with towed accessories, vibratory compactor, vibro, tamp, well point	$7.00	.65	.25	a	.10	
Aggregate plant, boiler (used in conjunction with production), cement bin operator, compressors; 3 or less not to exceed 1,200 c.f.m. combined capacity, compressors (any size, but subject to other provisions, for compressors), dust collectors, generators, pumps, welding machines (3 or less of any type or combination), concrete mixer (16-S and under), concrete saw-self-propelled, firemen, form tamper, mulching machine, oiler, power broom power heaterman, revinius widener, steam cleaner, tractor	6.35	.65	.25	a	.10	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; providing employee works the working day before and the working day after the holiday.

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-1,859 - Mod. #7 (36 FR 16299 - August 20, 1971) Mercer County, Pennsylvania						
Change:						
Heavy and Highway Construction:						
Carpenters	$7.11	6%	3%			
Piledrivermen	7.96	5%	6%			
Truck Drivers Schedule**						
**See Modifications P. 26						
DECISION #AP-308 - Mod. #6 (37 FR 16354 - August 11, 1972) Oklahoma County, Oklahoma						
Change:						
Sprinkler fitters	8.35	.30	.50		.05	
DECISION #AP-316 - Mod. #3 (37 FR 17356 - August 25, 1972) Tulsa County, Oklahoma						
Change:						
Sprinkler fitters	8.35	.30	.50		.05	

DECISION #AM-1,859 (cont'd.)

Change:

Heavy & Highway Construction:

Truck Drivers:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pick-up, and similar equipment, parts man and warehouseman)	$5.70	6%	3.5%		
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	5.85	6%	3.5%		
Tri-axle trucks	5.93	6%	3.5%		
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: athey wagon: pay loader, tournawagons, and similar equipment when not self-loaded rated under forty-five tons)	5.93	6%	3.5%		
Heavy off-the-road equipment (rated at forty-five tons or over)	6.03	6%	3.5%		
Heavy duty trailer, such as low boy, hi-boy, pole trailer, A-Frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), fork lift trucks (in storage areas and warehouses)	6.01	6%	3.5%		
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.75	6%	3.5%		
Tandem-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.85	6%	3.5%		
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.93	6%	3.5%		
Ready-mixed Concrete Trucks with towed or built-in attachments (10¢ per hour additional to respective size truck					
Tar and Asphalt Distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	5.85	6%	3.5%		
Tar and Asphalt Trailer Trucks	5.93	6%	3.5%		
Trucks with Belly or Trailer	5.80	6%	3.5%		
Petter or Belly-Dump Trucks	6.03	6%	3.5%		

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,863 - Mod. #5 (36 FR 16319 - August 20, 1971) Washington County, Pennsylvania						
Change:						
Building Construction:						
Line Construction:						
Lineman	$10.02	.15	.10		.095	
Winch truck operator	7.01	.15	.10		.095	
Groundman	6.01	.15	.10		.095	
Heavy and Highway:						
Carpenters	7.46	6%	3%			
Piledrivermen	7.96	5%	6%			
DECISION #AM-1,864 - Mod. #6 (36 FR 16326 - August 20, 1971) Westmoreland County, Pennsylvania						
Change:						
Building Construction:						
Line Construction:						
Lineman	$10.02	.15	.10		.095	
Winch truck operator	7.01	.15	.10		.095	
Groundman	6.01	.15	.10		.095	
Heavy and Highway:						
Carpenters	7.46	6%	3%			
Piledrivermen	7.96	5%	6%			
DECISION #AM-5,972 - Mod. #5 (36 FR 24031 - December 17, 1971) Beaver County, Pennsylvania						
Change:						
Carpenters	7.46	6%	3%			
DECISION #AP-421 - Mod. #2 (37 FR 20447 - September 29, 1972) Allegheny County, Pennsylvania						
Change:						
Building Construction:						
Laborers:						
Blaster and wagon drill operator	$7.20	.30	.30			
Carpenters, heavy and highway	7.46	6%	3%			

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8,611 - Mod. #3 (37 FR 10324 - May 19, 1972) Hamilton County, Tennessee						
Change:						
Building and Heavy Construction:						
Power Equipment Operators:						
Group-A	$5.65	.20	.20			
Group-B	4.85	.20	.20			
Group-C	4.25	.20	.20			
Group-D	3.95	.20	.20			
DECISION #AM-8,623 - Mod. #1 (37 FR 12013 - June 16, 1972) Sullivan County, Tennessee						
Change:						
Painters, Brush	$3.25					
Soft floor layers	3.29					
Omit:						
Painters, Spray	3.13					

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
: #AP-313 - Mod. #6 : 17421 - August 25, 1972) :n County, Texas						
: :ting Construction: :inkler fitters	$8.35	.30	.50		.05	
: #AP-314 - Mod. #6 R 17364 - August 25, 1972) :reen & Orange Counties, Texas						
: :inkler fitters	8.35	.30	.50		.05	
: #AP-315 - Mod. #6 R 17364 - August 25, 1972) :reen & Orange Counties, Texas						
: :inkler fitters	8.35	.30	.50		.05	
: #AP-342 - Mod. #3 R 20485 - September 29, 1972) :n County, Texas						
: :ding Construction: :ble setters :inkler fitters :rasse workers :e setters	5.60 8.35 5.60 5.60	.30	.50		.02 .05 .02 .02	
: #AP-343 - Mod. #3 R 20488 - September 29, 1972) : County, Texas						
: :tion Construction: :inkler fitters	8.35	.30	.50		.05	

DAY OCTOBER 27, 1972

MODIFICATIONS P. 32

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Equipment Operators (Cont'd): Compressors, Power Plants, e & welding machines (an rating engineer will not be uired for air compressor er 315 c.f.m., a pump under ee inches or a light plant erating fifteen kilowatts less, or one welding mach- , If and when there is an- er operating engineer loyed on the job who ser- es the units); Concrete ers, under 1 yard, & Con- e batch plants, under 1 d, gunnite & pumpcrete chines, mechanical bull ats, spreading & finishing chines. Screening Plants. ling machines, Diamond, ary, core & cable drilling; under 6 inches. Hoists, gmobiles, A Frame Air ler; building hoist, 1 Hydrolift, Hydrocranes, truck. Loaders: Elevat- Belt type loader, front loader (under 2 yards) & Head loaders; forklift & er stacker on construction site. Grease truck opera- (Head Miller). Motorman & otorial Locomotive. Tractors r 35 h.p. with attachments; ire type tractors with bark, shovel type attachments	55.04	.20	.10		.03	
ir Equipment: Athey & Bar- Crane Loader, Bulldozer, , 977B, 977L, Hough, ating grader; Euclid, loader, Scraper, Trasco- r, Turnapull, Turnarocker tractors 35 H.p. and up	5.18	.20	.10		.03	

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Other
DECISION #AM-1,859 - Mod. #7 (36 FR 16299 - August 20, 1971) Mercer County, Pennsylvania						
Change:						
Heavy and Highway Construction:						
Carpenters	$7.11	6%	3%			
Piledrivermen	7.96	5%	6%			
Truck Drivers Schedule**						
**See Modifications P. 26						
DECISION #AP-308 - Mod. #6 (37 FR 16354 - August 11, 1972) Oklahoma County, Oklahoma						
Change:						
Sprinkler fitters	8.35	.30	.50		.05	
DECISION #AP-316 - Mod. #3 (37 FR 17356 - August 25, 1972) Tulsa County, Oklahoma						
Change:						
Sprinkler fitters	8.35	.30	.50		.05	

DECISION #AM-1,859 (cont'd.)

Change:
Heavy & Highway Construction:
Truck Drivers:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.
Trucks under 33,000 lbs. gross load category (including all types of trucks such as fuel, dump, flat bottom, pick-up, and similar equipment, parts man and warehousemen)	$5.70	6%	3.5%		
Trucks over 33,000 lbs. gross load category (including all types of trucks such as fuel, dump (tandem), flat bottom, scissors, and combination fuel and grease)	5.65	6%	3.5%		
Tri-axle trucks	5.93	6%	3.5%		
Heavy equipment whose capacity exceeds that for which state licenses are issued - specifically refers to units in excess of 8 ft. width (such as euclids: end or belly dump, single twin-engined or tandem: athey wagon: pay loader, tournawagons, and similar equipment when not self-loaded rated under forty-five tons)	5.93	6%	3.5%		
Heavy off-the-road equipment (rated at forty-five tons or over)	6.03	6%	3.5%		
Heavy duty trailer, such as low boy, hi-boy, pole trailer. A-Frames (when used for transporting materials), dumpsters, ross carriers, form trucks, dual-purpose trucks (when load has been loaded or unloaded with truck winch, loading, hauling and unloading), mechanical tailgate trucks, bucket self-loading trucks, farm tractors (when pulling and hauling), fork lift trucks (in storage areas and warehouses)	6.01	6%	3.5%		
Single-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.75	6%	3.5%		
Tandem-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.85	6%	3.5%		
Tri-axle Ready-Mixed Concrete Trucks (such as agitators, barrel, redi-mix concrete trucks, etc.)	5.93	6%	3.5%		
Ready-mixed Concrete Trucks with towed or built-in attachments (10¢ per hour additional to respective size truck					
Tar and Asphalt Distributing trucks (all liquid tank trucks, straight and semi, including water, sprinkler, oil trucks, etc.)	5.85	6%	3.5%		
Tar and Asphalt Trailer Trucks	5.93	6%	3.5%		
Trucks with Dolly or Trailer	5.80	6%	3.5%		
Bottom or Belly-Dump Trucks	6.03	6%	3.5%		

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-1,863 - Mod. #5 (36 FR 16319 - August 20, 1971) Washington County, Pennsylvania						
Change:						
Building Construction:						
Line Construction:						
Lineman	$10.02	.15	.10		.095	
Winch truck operator	7.01	.15	.10		.095	
Groundman	6.01	.15	.10		.095	
Heavy and Highway:						
Carpenters	7.46	6%	3%			
Piledrivermen	7.96	5%	6%			
DECISION #AM-1,864 - Mod. #6 (36 FR 16326 - August 20, 1971) Westmoreland County, Pennsylvania						
Change:						
Building Construction:						
Line Construction:						
Lineman	$10.02	.15	.10		.095	
Winch truck operator	7.01	.15	.10		.095	
Groundman	6.01	.15	.10		.095	
Heavy and Highway:						
Carpenters	7.46	6%	3%			
Piledrivermen	7.96	5%	6%			
DECISION #AM-5,972 - Mod. #5 (36 FR 24031 - December 17, 1971) Beaver County, Pennsylvania						
Change:						
Carpenters	7.46	6%	3%			
DECISION #AP-421 - Mod. #2 (37 FR 20447 - September 29, 1972) Allegheny County, Pennsylvania						
Change:						
Building Construction:						
Laborers:						
Blaster and wagon drill operator	$7.20	.30	.30			
Carpenters, heavy and highway	7.46	6%	3%			

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AM-8,611 - Mod. #3 (37 FR 10324 - May 19, 1972) Hamilton County, Tennessee						
Change:						
Building and Heavy Construction:						
Power Equipment Operators:						
Group-A	$5.65	.20	.20			
Group-B	4.85	.20	.20			
Group-C	4.25	.20	.20			
Group-D	3.95	.20	.20			
DECISION #AM-8,623 - Mod. #1 (37 FR 12013 - June 16, 1972) Sullivan County, Tennessee						
Change:						
Painters, Brush	$3.25					
Soft floor layers	3.29					
Omit:						
Painters, Spray	3.13					

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others/
DECISION #AN-11,418 - Mod. #6 (37 FR 9163 - May 5, 1972) Cameron, Hidalgo, Starr & Willacy Counties, Texas						
Change:						
Building Construction:						
Sprinkler fitters	$8.35	.30	.50		.05	
Omit:						
Building Construction:						
Electricians:						
Cable splicers	5.50		1%		1%	
Electricians	5.25		1%		1%	
Add:						
Building Construction:						
Electricians	5.76		1%		1%	
DECISION #AP-30[illegible] - Mod. #5 (37 FR 16365 - August 11, 1972) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant & Wise Counties, Texas						
Change:						
Building Construction:						
Sprinkler fitters	8.35	.30	.50		.05	
DECISION #AP-312 - Mod. #6 (37 FR 16716 - August 18, 1972) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas						
Change:						
Building Construction:						
Sprinkler fitters	8.35	.30	.50		.05	

MODIFICATIONS P. 30

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-313 - Mod. #6 (37 FR 17351 - August 25, 1972) Lubbock County, Texas						
Change:						
Building Construction:						
Sprinkler fitters	$8.35	.30	.50		.05	
DECISION #AP-314 - Mod. #6 (37 FR 17364 - August 25, 1972) Jefferson & Orange Counties, Texas						
Change:						
Sprinkler fitters	8.35	.30	.50		.05	
DECISION #AP-315 - Mod. #6 (37 FR 17366 - August 25, 1972) Jefferson & Orange Counties, Texas						
Change:						
Sprinkler fitters	8.35	.30	.50		.05	
DECISION #AP-342 - Mod. #3 (37 FR 20485 - September 29, 1972) Nueces County, Texas						
Change:						
Building Construction:						
Marble setters	5.60				.02	
Sprinkler fitters	8.35	.30	.50		.05	
Terrazzo workers	5.60				.02	
Tile setters	5.60				.02	
DECISION #AP-343 - Mod. #3 (37 FR 20488 - September 29, 1972) Bexar County, Texas						
Change:						
Building Construction:						
Sprinkler fitters	8.35	.30	.50		.05	

MODIFICATIONS P. 31

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-344 - Mod. #2 (37 FR 20491 - September 29, 1972) Travis County, Texas						
Change:						
Building Construction:						
Sprinkler fitters	$8.35	.30	.50		.05	
DECISION #AP-345 - Mod. #3 (37 FR 20494 - September 29, 1972) El Paso County, Texas						
Change:						
Building Construction:						
Sprinkler fitters	8.35	.30	.50		.05	
Power Equipment Operators: Fireman, Oiler; Mechanic, Grease Truck & Welder's Helper; Screedman, Pneumatic roller towed by farm type tractor or truck; Scale Operator & such as bin-a-batch; Rubber-tired farm type tractors & tractors under 35 h.p. without attachments	4.46	.20	.10		.03	
Concrete mixers 1 yard & over & batch plants 1 yard & over, single drum paving machines. Crushing plants. Drilling Machines, 6 inches & over. Front end loaders, 2 yards & over; Paving: Asphalt plants, boiler or retort heater, distributor, lay down machine, pug mill, breakdown & tandem rollers; Steam Engineer, Trenching Machines. Patrol, rough, not required to blue top or finish	5.13	.20	.10		.03	

MODIFICATIONS P. 32

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-345 (CONT'D)						
Power Equipment Operators (Cont'd): Air Compressors, Power Plants, pumps & welding machines (an operating engineer will not be required for an air compressor under 315 c.f.m., a pump under three inches or a light plant generating fifteen kilowatts or less, or one welding machine, if and when there is another operating engineer employed on the job who services the units); Concrete mixers, under 1 yard, & Concrete batch plants, under 1 yard, gunnite & pumpcrete machines, mechanical bull floats, spreading & finishing machines. Screening Plants. Drilling machines, Diamond, rotary, core & cable drilling; well under 6 inches. Hoists, scoopmobiles, A frame Air tugger; building hoist, 1 drum hydrolift, Hydrocranes, winch truck. Loaders; Elevating, belt type loader, front end loader (under 2 yards) & over head loaders; forklift & lumber stacker on construction job site. Grease truck operator, (Head Oiler). Motorman & Industrial Locomotive. Tractors under 35 h.p. with attachments; & farm type tractors with back, or shovel type attachments	$5.04	.20	.10		.03	
Tractor Equipment: Athey & Barber Green Loader, Bulldozer, TW10, TW20, TW21, Damor, Elevating grader; Euclid, Highlander, Scraper, Traxcavator, Turnapull, Turnarocker & Tractors 35 h.p. and up	5.18	.20	.10		.03	

MODIFICATIONS P. 33

DECISION #AP-345 (CONT'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
Power Equipment Operators (Cont'd): Concrete Paving machines, double drum. Catcranes, Hysters, Cherry Picker, Attachment cranes, side & swing boom tractors, Building hoist, 2 drum and up. Mechanic. Welder. Patrol, finish	$5.26	.20	.10		.03	
Shovel, Backhoe, clam & dragline 3/4 yards & under; Cranes 25 tons & under	5.50	.20	.10		.03	
Guy & stiff leg derrick, Piledrivers; Crawler or skid rig. Shovel, Backhoe, clam & dragline over 3/4 yards; Cranes over 25 tons	5.66	.20	.10		.03	
Shaft and Tunnel Operations: Refrigeration, slusher, Jumbo form operators	5.13	.20	.10		.03	
Mucking machines	5.36	.20	.10		.03	
Mine Hoists	5.66	.20	.10		.03	
DECISION #AP-349 - Mod. #3 (37 FR 20503 - September 29, 1972) Galveston County, Texas						
Change: Building Construction: Sprinkler fitters	8.35	.30	.50		.05	
DECISION #AP-350 - Mod. #3 (37 FR 20506 - September 29, 1972) Harris County, Texas						
Change: Building Construction: Sprinkler fitters	8.35	.30	.50		.05	

MODIFICATIONS P. 34

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
DECISION #AP-209 - Mod. #2 (37 FR 15834 - August 4, 1972) Statewide, Utah						
Change: Ironworkers: Ornamental (including fence erection); Reinforcing and Structural	$7.08	.40	.65		.05	
Laborers Schedule(within 45 road miles of the county seats) - See Modifications Ps. 35 & 36.						
Laborers Schedule(beyond 45 road miles of the county seats) - See Modifications Ps. 37 & 38.						
Power Equipment Operators: Steel Erection Schedule - See Modifications P. 39.						
Piledriving Schedule - See Modifications P. 40.						
Area 1 Schedule - See Modifications Ps. 41 - 44.						
Area 2 Schedule - See Modifications Ps. 45 - 48.						
Truck Drivers: Area 1 Schedule - See Modifications Ps. 49 & 50.						
Area 2 Schedule - See Modifications Ps. 51 & 52.						
DECISION #AM-6,705 - Mod #2 (37 FR 5188 - March 10, 1972) Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties, Washington						
Change: Carpenters: Carpenters	6.84	.45	.40		.025	
Piledriver; Floor Layers; Floor Finishers; Floor Sanders; Saw Filers; Stationary Power Woodworking Tool Operator	6.99	.45	.40		.025	
Shingler (wood or composition)	7.04	.45	.40		.025	
Millwrights; Boom Men; Machine Erector; Carpenters (creosoted material)	7.09	.45	.40		.025	
Piledriver (creosoted material)	7.24	.45	.40		.025	

MODIFICATIONS P. 35

DECISION #AP-209 (cont'd.) UTAH-1-LAB-1-2-3-f (1-2)

[illegible]	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
[illegible] -5 road miles of the county seats excluding Project Corridor					
GROUP I					
BOOKMAN; Carpenter Tender; Cement Finisher Helper; Chat Bowman; Choker Setter; Clearing & Grading; Cleaning of Equipment & Parts in connection with concrete; Concrete Crew; Dockhand & Cleaning Men; Fence Erector & Installer (includes installation & Erection of Fences, Guard Rails, Median Rails, Reference Post, Guide Post, & Right-of-Way Markers); Flagman; Form Stripper; Gardener Helper; General Laborer; Grizzley Operator (whether by power or hand); Group Pump Operator; Heater Tender; Helpers (all not herein separately classified) House Movers; Landscaping Helper; Laborers on Wrecking & Demolition; Nurseryman Helper; Prewaterman; Riprep man (hand placed); Sloper, Spreader & Weighman; Stake Jumper; Stripping & Cleaning of Steel & Pans; Tool Dispatcher & Checker (full time); Unloading & packing of reinforcing steel rods & mesh	$5.055	.25	.25	.15	.04
GROUP II					
AIR TRACK HELPER; Asphalt rakers & Ironers; Bumpman; Gunnite Reboundman; Metal Form Setter (airport paving & highway); Pipe Wrapper; Pot Tender & Joint Maker; Rollers; Screen & Clean-up Man; Signal & Dumpman on Concrete Construction; Tunnel & Belt Man	5.18	.25	.25	.15	.04
GROUP III					
BARKO VIBRATORY ROLLER & similar type, Compacting Machines; Concrete Cutting Torch; Hand & Chain Saw Operator (Bucking & Falling Timbers); High Pressure Water Nozzleman; J Tampers & similar type tampers; Jackhammer & Pavement Breaker; Mortar & Grout Mixer; Multi-plate Installer; Operators of pneumatic & electric tools & compressors & Concrete Saw; Operators of Power-Type Form Cleaner & Oiling Machine; Pipelayer; Powderman Helper;					

MODIFICATIONS P. 36

DECISION #AP-209 (cont'd) UTAH-1-LAB-1-2-3-f (2-2)

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.	Others
LABORERS (cont'd)						
Power Type Buggies; Pumpcrete Operators; Refinery Tank & Vessel Cleaners; Sand Blasters; Semebleaser Pot Tender; Vibrator Operator; Work of all type using Cutting Torches & Tools needed in wrecking	5.305	.25	.25	.15	.04	
GROUP IV						
AIR TRACK & CORE DIAMOND DRILLERS: Drill Mechanic (on job site); High Scaler operating Jackhammer or Breaker; Main Vibrators & Similar Types - 70 lbs; Multiple Side Boom Driller; Wagon Driller	5.43	.25	.25	.15	.04	
GROUP V						
GUNNITE GROUNDMAN; Gunnite Nozzleman; Gunnite Rodman; Powderman	5.78	.25	.25	.15	.04	
TUNNEL AND SHAFT WORK:						
GROUP I						
Underground Laborers	5.18	.25	.25	.15	.04	
GROUP II						
Brakeman; Chucktender: Dumpman; Powderman Helper; Puddler	5.28	.25	.25	.15	.04	
GROUP III						
Nipper; Screedman; Vibrator; Tapman	5.38	.25	.25	.15	.04	
GROUP IV						
Cutting Machine Operator; Drill Doctor; Finisher; Gunnite Gunman; Miners; Powder Make-up Man; Spader & Tuggers; Steelman; Timberman	5.48	.25	.25	.15	.04	
GROUP V						
Gunnite Groundman; Gunnite Nozzleman; Gunnite Rodman	5.78	.25	.25	.15	.04	

DECISION #AP-209 (cont'd) MODIFICATIONS P. 37

UTAH-2-LAB-1-2-3-h (1-2)

	Basic Hourly Rates	Fringe Benefits Payments: H.&W.	Pensions	Vacation	Apprentice Tr.
That area in the State of Utah beyond 45 road miles of the county seats and all of Daggett County:					
GROUP I					
BOXMAN; Carpenter Tender; Cement Finisher Helper; Chat Boxman; Choker Setter; Clearing & Grading; Cleaning of Equipment & Parts in connection with concrete; Concrete Crew; Dockhand & Cleaning Man; Fence Erector & Installer (includes installation & Erection of Fences, Guard Rails, Median Rails, Reference Post, Guide Post, & Right-of-Way Markers); Flagman; Form Stripper; Gardener Helper; General Laborer; Grizzley Operator (whether by power or hand); Group Pump Operator; Heater Tender; Helpers (all not herein separately classified); House Movers; Landscaping Helper; Laborers on Wrecking & Demolition; Nurseryman Helper; Pre-waterman; Riprap man (hand placed); Sloper, Spreader & Weighman; Stake Jumper; Stripping & Cleaning of Steel & Pans; Tool Dispatcher & Checker (full time); Unloading & packing of reinforcing steel rods & mesh	$5.805	.25	.25	.15	.04
GROUP II					
AIR TRACK HELPER; Asphalt rakers & Ironers; Dumpman; Gunnite Reboundman; Metal Form Setter (airport paving & highway); Pipe Wrapper; Pot Tender & Joint Maker; Rollers; Screen & Clean-up Man; Signal & Dumpman on Concrete Construction; Tunnel & Belt Man	5.93	.25	.25	.15	.04
GROUP III					
BARKO VIBRATORY ROLLER & similar type, Compacting Machines; Concrete Cutting Torch; Hand & Chain Saw Operator (Bucking & Falling Timbers); High Pressure Water Nozzleman; J Tampers & similar type tampers; Jackhammer & Pavement Breaker; Mortar & Grout Mixer; Multi-plate Installer; Operators of pneumatic & electric tools & compressors & Concrete Saw; Operators of Power-Type Form Cleaner & Oiling Machine; Pipelayer; Powderman Helper;					

DECISION #AP-209 (cont'd). MODIFICATIONS P. 38

UTAH-2-LAB-1-2-3-h (2-2)

	Basic Hourly Rates	Fringe Benefits Payments: H.&W.	Pensions	Vacation	Apprentice Tr.
LABORERS (Cont'd) That area in the State of Utah beyond 45 road miles of the county seats and all of Daggett County:					
Power Type Buggies; Pumpcrete Operators; Refinery Tank & Vessel Cleaners; Sandblasters; Sandblaster Pot Tender; Vibrator Operator; Work of all type using Cutting Torches & Tools needed in wrecking	$6.055	.25	.25	.15	.04
GROUP IV					
AIR TRACK & CORE DIAMOND DRILLERS; Drill Mechanic (on job site); High Scaler operating Jackhammer or Breaker; Mailn Vibrators & Similar Types - 70 lbs; Multiple Side Boom Driller; Wagon Driller	6.18	.25	.25	.15	.04
GROUP V					
GUNNITE GROUNDMAN; Gunnite Nozzleman; Gunnite Rodman; Powderman	6.53	.25	.25	.15	.04
TUNNEL AND SHAFT WORK:					
GROUP I					
Underground Laborers	5.98	.25	.25	.15	.04
GROUP II					
Brakeman; Chucktender; Dumpman; Powderman Helper; Puddler	6.03	.25	.25	.15	.04
GROUP III					
Nipper; Screedman; Vibrator; Tapman	6.13	.25	.25	.15	.04
GROUP IV					
Cutting Machine Operator; Drill Doctor Finisher; Gunnite Gunman; Miners; Powder Make-up Man; Spader & Tuggers; Steelman; Timberman	6.23	.25	.25	.15	.04
GROUP V					
Gunnite Groundman; Gunnite Nozzleman; Gunnite Rodman	6.53	.25	.25	.15	.04

DECISION #AP-209 (cont'd) MODIFICATIONS P. 39

	Basic Hourly Rates	Fringe Benefits Payments: H.&W.	Pensions	Vacation	Apprentice Tr.
SHOP CRAFTS:					
GROUP 1 Assistant to Engineer (Oiler)	$ 7.05	.57	.725	.30	.10
GROUP 2 Assistant to Engineer (Truck Crane Oiler); Compressor; Generator, gasoline or diesel driven (100 KW)	7.36	.57	.725	.30	.10
GROUP 3 Compressors, Generators &/or Welding Machines or Combination (2 to 6); Deck Engineer; Instrument Man; Signalman (using mechenical equipment); Fork Lift	8.17	.57	.725	.30	.10
GROUP 4 Heavy Duty Repairman; Tractor Op.	8.29	.57	.725	.30	.10
GROUP 4-A Combination Heavy Duty Repairman; Welder	8.52	.57	.725	.30	.10
GROUP 5 "A" Frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes & Truck Cranes (15 tons m.r.c. or less) Self-propelled Boom Type lifting Device; Single Drum Hoist; Tugger Hoist; Chief of Party	8.91	.57	.725	.30	.10
GROUP 6 Crawler Cranes & Truck Cranes (over 15 tons m.r.c.); Derricks (2 ops. required when swing engine remote from hoist); Highline Cableway (Signalmen required); Tower Cranes Mobile; Universal Liebher & Tower Cranes (& similar types) (In the erection, dismantling & moving of equipment, there shall be an additional Operating Engineer); Two or more Drum Hoist	9.24	.57	.725	.30	.10
GROUP 7 Operator of Helicopter	10.49	.57	.725	.30	.10

DECISION #AP-209 (cont'd) MODIFICATIONS P. 40

	Basic Hourly Rates	Fringe Benefits Payments: H.&W.	Pensions	Vacation	Apprentice Tr.
PILEDRIVING					
GROUP 1 (a) Assistant to Engineer (Fireman, Oiler, Deckhand	6.69	.57	.725	.30	.10
(b) Compressor Operator (Electrically, gas or diesel powered, etc.)	6.96	.57	.725	.30	.10
(c) Truck Crane Oiler	7.08	.57	.725	.30	.10
GROUP 2 (a) Operator of Tugger Hoist (Hoisting materials only)	7.59	.57	.725	.30	.10
(b) Compressor Operator (2 to 6) (Electrically, gas or diesel powered); Generator Op. (electrically, gas or diesel driven, 100 K.W.); Pump Op. (2 to 6); Welding Machine Op. (2 to 6) (Gas or diesel powered)	7.76	.57	.725	.30	.10
GROUP 3 "A" Frames; Deck Engineer; Fork Lift Operator; Self propelled Boom Type Lifting Device	8.00	.57	.725	.30	.10
GROUP 3-A Heavy Duty Repairman and/or Welder	8.31	.57	.725	.30	.10
GROUP 4 Operating Engineer in lieu of assistant to engineer tending boiler or compressor attached to crane piledriver; Operator of Piledriving Rigs, Skid or Floating & Derrick Barges; Operator of Diesel or gasoline powered Crane Piledriver (w/o boiler) up to & incl. 1 cu. yd. rating; Truck Crane Op. (up to & incl. 25 tons) (hoisting material only) (Assistant to engineer required)(not driving piles)	8.76	.57	.725	.30	.10
GROUP 5 Operator of diesel or gasoline powered Crane Piledriver (w/o boiler) over 1 cu. yd. rating; Operator of Crane (w/ steam, flash boiler, pump or compressor attached); Op. of steam powered crawler or Universal Type Driver (Raymond or similar type); Truck Crane Op. (over 25 tons (Hoisting material or performing piledriving work)	8.88	.57	.725	.30	.10

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DECISION #AP-209 (cont'd)

MODIFICATIONS P. 41

UTA-1-PEO-1-2-3- (1-4)

GROUP I						
CHAINMAN; Rodman	$ 6.01	.57	.725	.30	.10	
GROUP II						
ASPHALT PLANT FIREMAN; Brakeman-Locomotive; Elevator Operator; Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - Field; Grade Setter - Repairman Helper - Field	6.26	.57	.725	.30	.10	
GROUP III						
AIR COMPRESSOR OPERATOR: Concrete Mixer Operator (skip type); Concrete Pump or Pumperete Gun Operator; Engineer, Dinkey Operator; Generator (100 KW or over); Mixer Box Operator (Concrete or Asphalt Plant) (continuous mix or similar); Pump Operator; Self-propelled, Automatically applied concrete curing machine (on streets, highways, airports and canals); Screedman; Truck Crane Oiler	6.58	.57	.725	.30	.10	
GROUP IV						
BALLAST JACK TAMPER; Ballast Regulator Ballast Tamper-Multiple Purpose; Front End Loader up to and including 1 c.y. Struck MRC; Hoist Operator 1 Drum; Line Master; Lubrication & Service Engineer (Mobile & Grease Rack); Slip Form Pumps	6.74	.57	.725	.30	.10	
GROUP V						
AIR COMPRESSOR OPERATOR (two or more Compressors); Batch Operator (Asphalt Plant); Boterman; Pavement Breaker Operator (Jack Hammer or similar type); Signalman; Shuttlecar; Small Rubber Tired Tractors; Small Self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)	6.84	.57	.725	.30	.10	

DECISION #AP-209 (cont'd)

MODIFICATIONS P. 42

UTA-1-PEO-1-2-3- (2-4)

POWER EQUIPMENT OPERATORS (cont'd)						
[illegible] (Power Mover; Concrete Saw (Self [illegible] on streets, highways, airports and canals); Spreader, Concrete; Fork Lift (construction job site); Koiman Loader (and similar); Manipate Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Road Mixing Machine Operator; Ross Carrier, or similar type; Small Rubber Tired Tractor (with attachments, including backhoe); Small Tractor with Boom; Surface Heater (self-propelled); Loader Operator (over 1 c.y. up to and including 2 c.y. struck MRC); Power Jumbo Operator (setting slip forms, etc. in tunnels); Small Rubber Tired Trenching Machine	$ 7.25	.57	.725	.30	.10	
GROUP VII						
BRIDGE CRANE; Chip Box Spreader (flaherty type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineers (Marine); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Opr.; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as quarry master, joy drills or equal; Hoist Operator - 2 drums; Instrument Man; Mechanical Finisher Operator (Asphalt or concrete); Mine or Shaft Hoist; Pavement Breaker (Pavement Breaker with compressor combination); Pavement Breaker, Truck mounted, compressor combination; Refrigeration Plant; Self-Propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Tractor-Compressor Drill Combination; No-Joint Pipe Laying Machine; Lull High-Lift (40 ft. or similar); Roller Operator on self-propelled compacter	7.38	.57	.725	.30	.10	

DECISION #AP-209 (cont'd)

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UTAH-1-PEO-1-2-3- (3-4)

POWER EQUIPMENT OPERATORS (Cont'd)						
[illegible] CRANE OPERATOR; Asphalt Plant Engineer; Engineer Concrete Plant; Tractor Operator (Bulldozer, Scraper or drag-type shovel or boom attachment) (up to and including D-7 or similar)	$ 7.48	.57	.725	.30	.10	
GROUP VIII						
DO-MOR LOADER and Adams Elegrader; Euclid Loader and similar types; Chicago Boom (Including Stiff Leg and Sheer Pole); Chief of Party; Combination Slusher and Motor Operator; Concrete Batch Plant (Multiple unit); Koehring Skooper (or similar, up to 5 c.y. Struck MRC); Loader Operator over 2 c.y. up to and including 5 c.y. Struck MRC; Mucking Machine Operator; Saurman Type Dragline (under 5 c.y. Struck MRC); Self-Propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Subgrader (automatic subgrader - fine - grader); Self-Propelled Boom Type lifting device; Mechanical Trench Shield; Rubber Tired Scraper (under 35 c.y. Struck MRC); Tri-Batch Paver; Tunnel (Hole or similar)	7.75	.57	.725	.30	.10	
GROUP VIII-A						
HEAVY DUTY REPAIRMAN or Welder; Tractor Operator Bulldozer, Scraper or Drag Type Shovel or Boom Attachment Larger than D-7 or similar	7.80	.57	.725	.30	.10	
GROUP IX						
COMBINATION MIXER & Compressor (Gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity) (in the erection, dismantling & moving of equipment there shall be additional Operator Engineer)	7.85	.57	.725	.30	.10	

DECISION #AP-209 (cont'd)

MODIFICATIONS P. 44

UTA-1-PEO-1-2-3- (4-4)

POWER EQUIPMENT OPERATORS (cont'd)						
HIGH CABLEWAY OPERATOR (Signalman required); Lift Slab Machine (Vagtborg & similar types); Locomotive (over 100 tons) (single or multiple units); Pre-Stress Wire Wrapping Machine; Saurman type dragline (5 c.y. Struck MRC and over; Tractor Tandem Scrapers; DW 10,20 etc. (Tandem Scraper); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell crane, gradall, etc. (up to and including 5 c.y.) Struck MRC; Loader (over 5 c.y. up to and including 12 c.y. Struck MRC)	$ 8.00	.57	.725	.30	.10	
GROUP XI						
AUTOMATIC CONCRETE SLIP FORM PAVER (Gradesatter, Screedman); Koehring Skooper (or similar) (5 cu. yds. & over Struck MRC); Multiple Propulsion Power Unit Earth Movers (up to and including 75 c.y. Struck MRC); Remote Controlled Cranes and Derricks; Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. Struck MRC; Rubber Tired Scraper (35 cu. yds. and over Struck MRC); Self-Propelled Compactor (with multiple propulsion power units); Slip Form Paver (Concrete or asphalt) (1 operator and 2 screedman when required); Tandem Tractors; Tower Cranes Mobile	8.39	.57	.725	.30	.10	
GROUP XI-A						
MULTI-PURPOSE EARTH MOVING MACHINES: (Two (2) or more scrapers (over 75 c.y. Struck MRC); Power Shovels & Draglines (over 7 c.y. Struck MRC; Loader over 12 c.y. Struck MRC)	9.25	.57	.725	.30	.10	
GROUP XI-B						
OPERATOR OF HELICOPTER (when used in erection work)	9.65	.57	.725	.30	.10	

XUM

DECISION #AP-209 (cont'd) MODIFICATIONS P. 45

UTAH-2-PEO-1-2-3-g (3-)

POWER EQUIPMENT OPERATORS (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H&W	[illegible]	VACATION	[illegible]
Area 2**					
[illegible]					
[illegible]	7.01	.57	.725	.30	.10
[illegible]					
ASPHALT PLANT FIREMAN; Bridgeman-Locomotive Elevator Operator; Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - Field; Grade Setter - Repairman Helper - Field	7.26	.57	.725	.30	.10
GROUP III					
AIR COMPRESSOR OPERATOR: Concrete Mixer Operator (skip type); Concrete Pump or Pumperete Gun Operator; Engineer, Dinkey Operator; Generator (100 KW or over); Mixer Box Operator (Concrete or Asphalt Plant) (continuous mix or similar); Pump Operator; Self-propelled, Automatically applied concrete c[illegible]ing machine (on streets, highways, airports and canals); Screedman; Truck Crane Oiler	7.58	.57	.725	.30	.10
GROUP IV					
BALLAST JACK TAMPER; Ballast Regulator Ballast Tamper-Multiple Purpose; Front End Loader up to and including 1 c.y. Struck MRC; Hoist Operator 1 Drum; Line Master; Lubrication & Service Engineer (Mobile & Grease Rack); Slip Form Pumps	7.74	.57	.725	.30	.10
GROUP V					
AIR COMPRESSOR OPERATOR (two or more Compressors); Batch Operator (Asphalt Plant); Motorman; Pavement Breaker Operator (Tesco & similar type); Signalman; Shuttlecar; Small Rubber Tired Tractors; Small Self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)	7.84	.57	.725	.30	.10

DECISION #AP-209 (cont'd) MODIFICATIONS P. 46

UTAH-2-PEO-1-2-3-g (4-)

POWER EQUIPMENT OPERATORS (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H&W	[illegible]	VACATION	[illegible]
[illegible] streets, highways, airports and canals); [illegible]; Fork lift (construction job site); Koman Loader (and similar); Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Road Mixing Machine Operator; Ross Carrier, or similar type; Small Rubber Tired Tractor (with attachments, including backhoe); Small Tractor with Boom; Surface Heater (self-propelled); Loader Operator (over 1 c.y. up to and including 2 c.y. struck MRC); Power Jumbo Operator (setting slip forms, etc. in tunnels); Small Rubber Tired Trenching Machine	$ 8.25	.57	.725	.30	.10
GROUP VII					
BRIDGE CRANE; Chip Box Spreader (Blaherty type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineers (Marine); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Opr.; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as quarry master, joy drills or equal; Hoist Operator - 2 drums; Instrument Man; Mechanical Finisher Operator (Asphalt or concrete); Mine or Shaft Hoist; Pavement Breaker (Pavement Breaker with compressor combination); Pavement Breaker, Truck mounted, compressor combination; Refrigeration Plant; Self-Propelled Pipeline, Wrapping Machine (Perault, CRC, or similar types); Slusher Operator; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Tractor-Compressor Drill Combination; No-Joint Pipe Laying Machine; Lull High-Lift (40 ft. or similar); Roller Operator or self-propelled compactor	8.38	.57	.725	.30	.10

DECISION #AP-209 (cont'd) MODIFICATIONS P. 47

UTAH-2-PEO-1-2-3-g (3-)

POWER EQUIPMENT OPERATORS (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H&W	[illegible]	VACATION	[illegible]
GROUP VIII					
[illegible] Asphalt Plant Engineer; Engineer Crushing Plant; Tractor Operator (Bulldozer, Scraper or drag-type shovel or boom attachment) (up to and including D-7 or similar)	$ 8.48	.57	.725	.30	.10
GROUP VIII					
DO-MOR LOADER and Adams Elegrader; Euclid Loader and similar types; Chicago Boom (Including Stiff Leg and Sheer Pole); Chief of Party; Combination Slusher and Motor Operator; Concrete Batch Plant (Multiple unit); Koehring Skooper (or similar, up to 5 c.y. Struck MRC); Loader Operator over 2 c.y. up to and including 5 c.y. Struck MRC; Mucking Machine Operator; Saurman Type Dragline (under 5 c.y. Struck MRC); Self-Propelled Elevating Grade Plane, Soil Stabilizer (P & H or equal); Subgrader (automatic subgrader - fine - grader); Self-Propelled Boom Type lifting device; Mechanical Trench Shield; Rubber Tired Scraper (under 35 c.y. Struck MRC); Tri-Batch Paver; Tunnel (Mole or similar)	8.75	.57	.725	.30	.10
GROUP VIII-A					
HEAVY DUTY REPAIRMAN or Welder; Tractor Operator Bulldozer, Scraper or Drag Type Shovel or Boom Attachment Larger than D-7 or similar	8.80	.57	.725	.30	.10
GROUP IX					
COMBINATION MIXER & Compressor (Gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity) (in the erection, dismantling & moving of equipment there shall be additional Operator Engineer)	8.85	.57	.725	.30	.10

DECISION #AP-209 (cont'd) MODIFICATIONS P. 48

UTAH-2-PEO-1-2-3-g (4-)

POWER EQUIPMENT OPERATORS (Cont'd)	BASIC HOURLY RATES	FRINGE BENEFITS PAYMENTS			
		H&W	[illegible]	VACATION	[illegible]
GROUP X					
HIGH CABLEWAY OPERATOR (Signalman required); Lift Slab Machine (Vagtborg & similar types); Locomotive (over 100 tons) (single or multiple units); Pre-Stress wire Wrapping Machine; Saurman type draglines (5 c.y. Struck MRC and over; Tractor Tandem Scrapers DW 10,20 etc. (Tandem Scraper); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell crane, gradall, etc. (up to and including 5 c.y.) Struck MRC; Loader (over 5 c.y. up to and including 12 c.y. Struck MRC)	$ 9.00	.57	.725	.30	.10
GROUP XI					
AUTOMATIC CONCRETE SLIP FORM PAVER (Gradesetter, Screedman); Koehring Skooper (or similar) (5 cu. yds. & over Struck MRC); Multiple Propulsion Power Unit Earth Movers (up to and including 75 c.y. Struck MRC); Remote Controlled Cranes and Derricks; Power Equipment with shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. Struck MRC; Rubber Tired Scraper (35 cu. yds. and over Struck MRC); Self-Propelled Compactor (with multiple propulsion power units); Slip Form Paver (Concrete or asphalt) (1 operator and 2 screedman when required); Tandem Tractors; Tower Cranes Mobile	9.39	.57	.725	.30	.10
GROUP XI-A					
MULTI-PURPOSE EARTH MOVING MACHINES: (Two (2) or more scrapers (over 75 c.y. Struck MRC); Power Shovels & Draglines (over 7 c.y. Struck MRC; Loader over 12 c.y. Struck MRC)	10.25	.57	.725	.30	.10
GROUP XI-B					
OPERATOR OF HELICOPTER (when used in erection work)	10.65	.57	.725	.30	.10

MAX

DECISION #AP-209 (cont'd) MODIFICATIONS P. 49

UTAH-1-TD-1-2-3-h (1-2)

(Including Dump Trucks, Tandem Trucks, Transit Mix, Turnarounds & Compercrete)					
Less than 8 yards	$6.50	.40	.30	.30	
8 yards & less than 14 yards	6.65	.40	.30	.30	
14 yards & less than 35 yards	6.80	.40	.30	.30	
35 yards & less than 55 yards	7.00	.40	.30	.30	
55 yards & less than 75 yards	7.20	.40	.30	.30	
75 yards & less than 95 yards	7.40	.40	.30	.30	
95 yards & less than 105 yards	7.60	.40	.30	.30	
Over 105 yards	7.72	.40	.30	.30	

Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.

When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.

Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.

FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity):					
Pickup	6.225	.40	.30	.30	
Less than 10 tons	6.40	.40	.30	.30	
10 tons & less than 15 tons	6.55	.40	.30	.30	
15 tons & less than 20 tons	6.65	.40	.30	.30	
20 tons & over	6.80	.40	.30	.30	

Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use.

When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked.

MODIFICATIONS P. 50

DECISION #AP-209 (cont'd)

UTAH-1-TD-1-2-3-h (2-2)

TRUCK DRIVERS (cont'd)					
4 1/2 yards capacity & less	$6.52	.40	.30	.30	
Over 4 1/2 yards capacity to & including 6 1/2 yards	6.625	.40	.30	.30	
Over 6 1/2 yards	6.725	.40	.30	.30	
Concrete pumping trucks	6.725	.40	.30	.30	
WATER, FUEL & OIL TANK TRUCKS:					
0 to 1200 gallons	6.375	.40	.30	.30	
1200 to 2500 gallons	6.50	.40	.30	.30	
2500 to 4000 gallons	6.65	.40	.30	.30	
4000 to 6000 gallons	6.95	.40	.30	.30	
6000 gallons to less than 10,000	7.20	.40	.30	.30	
10,000 gallons to less than 15,000 gallons	7.45	.40	.30	.30	
15,000 gallons to less than 20,000 gallons	7.70	.40	.30	.30	
20,000 gallons to less than 25,000 gallons	7.95	.40	.30	.30	
Over 25,000 gallons	8.20	.40	.30	.30	

Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates.

Oil Spreader Operator (on single man operation where boot man is not required)	7.20	.40	.30	.30	
CONSTRUCTION JOB SERVICEMEN:					
Telescopic Manlift Truck	6.70	.40	.30	.30	
Fork Lift (under 6 tons) & Straddle Truck	6.70	.40	.30	.30	
Truck Driver Helper	6.275	.40	.30	.30	
Chauffeurs	6.275	.40	.30	.30	
Bunker & Truck Loaders	6.40	.40	.30	.30	
Warehousemen (Counter Clerk)	6.45	.40	.30	.30	
Warehousemen	6.32	.40	.30	.30	
Mechers, Greasers & Firemen	6.475	.40	.30	.30	
Gas Station Attendants	6.275	.40	.30	.30	
Fork Lift (Over 6 tons)	6.80	.40	.30	.30	
Material Engineer	6.62	.40	.30	.30	
Teamster Mechanic	7.51	.40	.30	.30	
Teamster Mechanic Helper	7.26	.40	.30	.30	
Teamster Welder	7.51	.40	.30	.30	
Teamster Driving Two Horses	7.275	.40	.30	.30	
Teamster Driving Three or More Horses	7.375	.40	.30	.30	

MODIFICATIONS P. 51

DECISION #AP-209 (cont'd)

UTAH-2-TD-1-2-3-h (1-2)

TRUCK DRIVERS AREA #2					
(Including Dump Trucks, Tandem and or rear (trailers) Transit Mixer, Turnarounds, Compercrete)					
Less than 8 yards	$7.50	.40	.30	.30	
8 yards & less than 14 yards	7.65	.40	.30	.30	
14 yards & less than 35 yards	7.80	.40	.30	.30	
35 yards & less than 55 yards	8.00	.40	.30	.30	
55 yards & less than 75 yards	8.20	.40	.30	.30	
75 yards & less than 95 yards	7.40	.40	.30	.30	
95 yards & less than 105 yards	8.60	.40	.30	.30	
Over 105 yards	8.72	.40	.30	.30	

Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.

When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.

Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.

FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity):					
Pickup	7.375	.40	.30	.30	
Less than 10 tons	7.40	.40	.30	.30	
10 tons & less than 15 tons	7.55	.40	.30	.30	
15 tons & less than 20 tons	7.65	.40	.30	.30	
20 tons & over	7.80	.40	.30	.30	

Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use.

When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked.

MODIFICATIONS P. 52

DECISION #AP-209 (cont'd)

UTAH-2-TD-1-2-3-h (2-2)

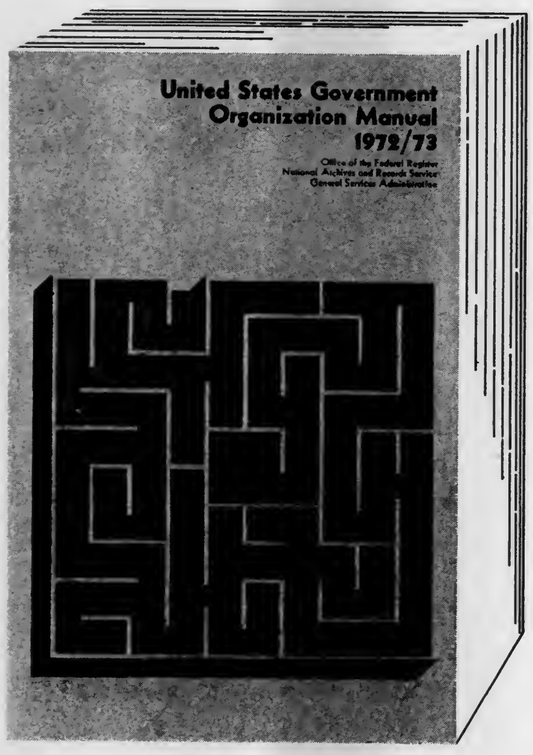
TRUCK DRIVERS (Cont'd)					
4 1/2 yards capacity & less	$7.525	.40	.30	.30	
Over 4 1/2 yards capacity to & including 6 1/2 yards	7.625	.40	.30	.30	
Over 6 1/2 yards	7.725	.40	.30	.30	
Concrete pumping trucks	7.725	.40	.30	.30	
WATER, FUEL & OIL TANK TRUCKS:					
0 to 1200 gallons	7.375	.40	.30	.30	
1200 to 2500 gallons	7.50	.40	.30	.30	
2500 to 4000 gallons	7.65	.40	.30	.30	
4000 to 6000 gallons	7.95	.40	.30	.30	
6000 gallons to less than 10,000	8.20	.40	.30	.30	
10,000 gallons to less than 15,000 gallons	8.45	.40	.30	.30	
15,000 gallons to less than 20,000 gallons	8.70	.40	.30	.30	
20,000 gallons to less than 25,000 gallons	8.95	.40	.30	.30	
Over 25,000 gallons	9.20	.40	.30	.30	

Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates.

Oil Spreader Operator (on single man operation where boot man is not required)	8.20	.40	.30	.30	
CONSTRUCTION JOB SERVICEMEN:					
Telescopic Manlift Truck	7.70	.40	.30	.30	
Fork Lift (under 6 tons) & Straddle Truck	7.70	.40	.30	.30	
Truck Driver Helper	7.275	.40	.30	.30	
Chauffeurs	7.275	.40	.30	.30	
Bunker & Truck Loaders	7.40	.40	.30	.30	
Warehousemen (Counter Clerk)	7.45	.40	.30	.30	
Warehousemen	7.375	.49	.30	.30	
Mechers, Greasers & Firemen	7.475	.40	.30	.30	
Gas Station Attendants	7.275	.40	.30	.30	
Fork Lift (Over 6 tons)	7.80	.40	.30	.30	
Material Engineer	7.62	.40	.30	.30	
Teamster Mechanic	8.51	.40	.30	.30	
Teamster Mechanic Helper	8.26	.40	.30	.30	
Teamster Welder	8.51	.40	.30	.30	
Teamster Driving Two Horses	8.275	.40	.30	.30	
Teamster Driving Three or More Horses	8.375	.40	.30	.30	
Scraper or vaccum truck	7.65	.40	.30	.30	

[FR Doc.72-18212 Filed 10-26-72;8:45 am]

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DECISION NO. 209 (cont'd) MODIFICATION

Less than 8 yards	$6.
8 yards & less than 14 yards	6.
14 yards & less than 25 yards	6.
35 yards & less than 55 yards	7.
[illegible]	7.
75 yards & less than 95 yards	7.
95 yards & less than 105 yards	7.
Over 105 yards	7.

Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.

When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.

Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.

FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity):

Pickup	6.2
Less than 10 tons	6.4
10 tons & less than 15 tons	6.5
15 tons & less than 20 tons	6.6
20 tons & over	6.8

Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachment or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use.

When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked.

MODIFICATIONS P. 51 UTA

8 yards & less than 14 yards	$7.50
14 yards & less than 25 yards	7.65
35 yards & less than 55 yards	7.80
55 yards & less than 75 yards	8.00
75 yards & less than 95 yards	8.20
95 yards & less than 105 yards	7.40
Over 105 yards	8.60
	8.72

Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour.

When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit.

Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment.

[illegible] Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity):

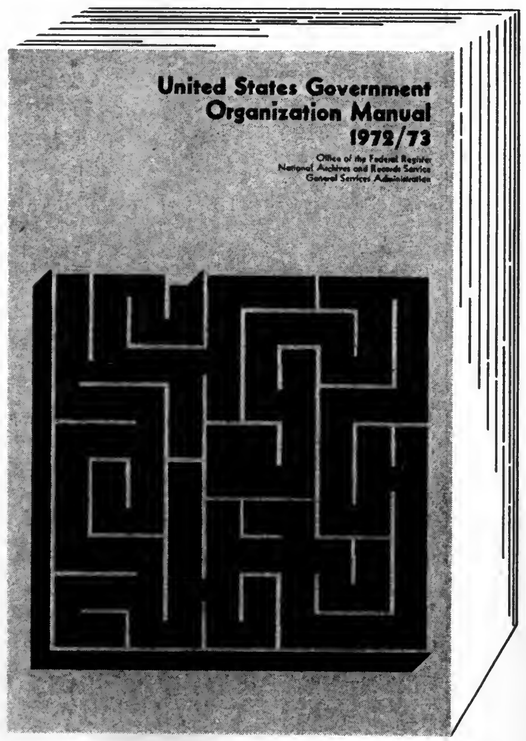
Pickup	7.27
Less than 10 tons	7.40
10 tons & less than 15 tons	7.55
15 tons & less than 20 tons	7.65
[illegible]	7.80

Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachment or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use.

When drivers load and unload sack [illegible] for railroad [illegible] and actual hours worked.

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SATURDAY OCTOBER 28, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 209

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PART I

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HIGHLIGHTS OF THIS ISSUE

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Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

National Ambient Air Quality Standards

On May 31, 1972 (37 F.R. 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards. Since that date, the Administrator and many of the States have acted to correct the plan deficiencies identified in that publication and to clarify and revise the information presented there.

On June 14, 1972 (37 F.R. 11826), the Administrator proposed regulations to correct deficiencies in the regulatory provisions of the plans for 25 States. On July 27, 1972 (37 F.R. 15080), and September 22, 1972 (37 F.R. 19806), the Administrator took final action on 12 of those States. This publication sets forth final rule making on 12 of the remaining 13 States; the remaining State (Oklahoma) will be dealt with in a future publication. Four of these 12 States submitted supplemental information which demonstrated that all deficiencies in regulatory provisions had been corrected; therefore, no further rule making action will be taken with respect to the regulations proposed for Maine, South Carolina, Tennessee, and Washington. These four States bring to 24 the number of States whose plans contain completely approved regulatory provisions. Regulations are promulgated below for five States (Louisiana, Michigan, Missouri, New Jersey, and the Virgin Islands). As discussed below, regulations are not promulgated at this time to correct deficiencies in control strategies for nitrogen oxides in the following States: Massachusetts, Maryland, Michigan, Missouri, New Jersey, and Texas.

Regulations for the control of nitrogen oxides emissions were proposed for the above six States on June 14, 1972 (37 F.R. 11826). The preamble to those proposed regulations indicated that the air quality data for nitrogen dioxide which was used to classify air quality control regions may be in error, and the Administrator would reassess the classifications and, where appropriate, revise them. After considering the numerous comments on the proposed nitrogen oxides regulations, the Administrator has decided to postpone the promulgation of any such regulations until after the regional classification reassessment. It is the Administrator's determination that this postponement will not substantially delay the control of nitrogen oxides emissions where such control is required.

It is the Administrator's intention to complete the regional classification reassessment and to promulgate nitrogen oxides emissions regulations for stationary sources in the appropriate regions by April 2, 1973. Compliance schedules from sources covered by such regulations will be required by July 1, 1973, which is consistent with the commitments made by the Administrator in proposing the regulations. No change will be made at this time in the Administrator's May 31, 1972, disapprovals of nitrogen oxides control strategies unless supplemental information was submitted by the involved States to correct the deficiencies.

Section 110(a)(2)(F)(iv) of the Clean Air Act and 40 CFR 51.10(e) require that State implementation plans include procedures for making emission data, as correlated with applicable emission limitations, available to the public. The regulations promulgated below for the State of Missouri provide for the Administrator's carrying out this program. This is necessary because Missouri does not have the necessary legal authority to assure that such procedures will be carried out.

Section 110(a)(2)(F)(v) of the Clean Air Act and 40 CFR 51.16 require that State implementation plans include adequate contingency plans to deal with air pollution emergency episodes. The regulations promulgated below include provisions requiring owners or operators of large particulate matter sources in the city of Springfield, Mo., to submit emission control action programs for reducing or eliminating particulate matter emissions during episode situations. These programs will provide a basis for the Administrator to carry out emergency abatement actions in an informed, expeditious manner. This promulgation is necessary because the Springfield Department of Health does not have adequate legal authority to abate emissions on an emergency basis.

Section 110(a)(2)(B) of the Clean Air Act and 40 CFR 51.15 require that State implementation plans contain legally enforceable compliance schedules and that any such compliance schedule that extends beyond January 31, 1974, shall contain periodic increments of progress toward compliance. The regulations promulgated below provide the Administrator with a means of obtaining the necessary compliance schedules from sources in the State of Michigan which are subject to the State's fuel sulfur limitations and a means of obtaining the periodic increments of progress from certain sources in the State of New Jersey. This promulgation for Michigan is necessary because Rule 336.49 (fuel sulfur limitations) of the Michigan Air Pollution Commission does not require individually negotiated compliance schedules to be submitted until January 1, 1974, thus precluding submission of all schedules to EPA by February 15, 1973, as required in 40 CFR 51.15(a)(2). For New Jersey, promulgation is necessary because the plan does not specify compliance dates for sources subject to Chapter 7 of the State's Air Pollution Control Code. Regulations promulgated below for Louisiana require sources to submit schedules for compliance with the hydrocarbon emission limitations being promulgated by EPA for the State of Louisiana, since the State could not prescribe compliance schedules for such sources.

Section 110(a)(2) of the Clean Air Act and 40 CFR 51.18 require that State implementation plans provide for legally enforceable procedures that will enable the States to prevent construction of new sources or modification of existing sources if such construction or modification: (1) Will result in violation of the applicable portion of the State's control strategy or (2) will interfere with attainment or maintenance of a national ambient air quality standard. The regulations promulgated below provide the Administrator with such procedures for action under (2) above with respect to stationary sources in Michigan and the Virgin Islands and certain sources in New Jersey (those subject to Chapter 9 of the New Jersey Air Pollution Code). The regulations also provide procedures for preventing construction of new or modified sources in New Jersey using liquid or gaseous fuel and of any stationary source in Louisiana if any such source would violate any portion of the applicable control strategy or would interfere with the attainment or maintenance of a national standard. The plans for these three States did not provide adequate procedures to prevent construction or modification of sources in the circumstances noted.

Because Louisiana's measures for controlling hydrocarbon emissions in the Southern Louisiana-Southeast Texas Interstate Region were not enforceable, the Administrator proposed on June 14, 1972 (37 F.R. 11826), hydrocarbon controls in Louisiana's portion of the region. On July 17, 1972, the Governor of Louisiana submitted to the Administrator revised rules and regulations for control of hydrocarbon emissions in the region. These regulations require reasonably available control technology, except that only ethylene producers are covered by the State's waste gas disposal provision.

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The unregulated hydrocarbon emissions from other waste gas disposal sources are 45,000 tons/year, which is sufficient to prevent the national standard for photochemical oxidants from being attained; therefore, the necessary substitute regulation is promulgated below. The Administrator also has provided a 2-year extension of the 1975 attainment date for the photochemical oxidants national standard in this region. This extension is provided since it is deemed that the additional technology, including transportation controls, needed to attain the national standard will not be available by 1975 and that the needed reductions can be obtained by 1977 through the effects of the Federal Motor Vehicle Emission Control Program (40 CFR Part 85). The requirements of 40 CFR 51.30 and the Act for providing a 2-year extension are satisfied as discussed below:

(1) Attainment of the national standards for photochemical oxidants in the region will require approximately a 40-percent reduction in reactive hydrocarbon emissions, based on air quality and emissions data from the Metropolitan New Orleans area which is determined to have the highest level of hydrocarbon emissions in the region from stationary sources and motor vehicles combined.

(2) Regulations adopted by the State and those promulgated below by the Administrator require the application of reasonably available hydrocarbon emission control technology as defined in Appendix B to 40 CFR Part 51. Compliance schedules will be negotiated with the stationary sources covered by the provisions of the State's and EPA's regulations, to provide for their compliance as expeditiously as practicable, but not later than July 1975. The Agency has determined that application of the required controls will achieve hydrocarbon emission reductions of approximately 35 percent by that date.

(3) An investigation was made to identify any technology or other control alternatives which could provide the necessary additional control of approximately 5 percent. The Agency has determined that no additional control technology applicable to stationary sources of hydrocarbon emissions is reasonably available, and that any further control would have to be applied to motor vehicles. Further, the Agency has determined that hydrocarbon emissions to be achieved by the Federal Motor Vehicle Emission Control Program, especially under the very stringent emission standards which take effect in model year 1975, will allow attainment of the national standards for photochemical oxidants in all portions of the region by July 1977.

(4) The Agency has considered whether the imposition of transportation control measures in the Metropolitan New Orleans area is a feasible approach to achieve the 5-percent reduction noted above prior to July 1977. It has been determined that, because of the lead time necessary for their development, adoption, and implementation, transportation control measures do not constitute technology or alternatives which will be available soon enough to permit compliance with the July 1975 deadline, nor do they constitute reasonable interim control measures pending accomplishment of the necessary reductions by the Federal Motor Vehicle Emission Control Program.

The table specifying the latest dates for attainment of the national standard for photochemical oxidants is amended to reflect this extension.

Public hearings on the proposed regulations were held by the Environmental Protection Agency in most affected States. Interested parties presented their comments at these hearings and through the mail. Consideration of this information and further review of the proposed regulations led to only minor revisions:

(1) The Administrator will specify at least one location in each of the affected States where he will make emission data obtained by the Agency available to the public. It should be noted that these data will not be generally available before March 1, 1973, because the Administrator must notify sources of their reporting requirements, insure that valid data are collected, and correlate reported emissions with allowed emissions.

(2) The date for submission of compliance schedules to EPA has been changed from December 31, 1972, to "120 days from the effective date of the compliance schedule regulation." Since it has not been possible to promulgate regulations for correcting plan deficiencies for all States at once, this change allows all sources subject to Federal regulations for compliance schedules an equal amount of time to submit such schedules to the Administrator.

(3) The proposed regulations for compliance schedule "increments of progress" was modified to clarify the definition of "increments of progress".

In this publication, the Administrator prescribes the latest dates by which certain of the national ambient air quality standards are to be attained in Louisiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, South Carolina, Tennessee, and Texas. The dates are those proposed by the Administrator on June 14, 1972 (37 F.R. 11826), for these States because their plans failed to specify dates by which national ambient air quality standards would be attained, as required by the Act and 40 CFR Part 51.10.

The regulations described above, with the exception of regulations providing for the review of new sources and modifications, are effective on the date of their publication in the FEDERAL REGISTER. The Agency finds that good cause exists for making such regulations effective upon publication, for the following reasons:

(1) The regulations do not require persons affected to take immediate action, and

(2) Section 110 of the Clean Air Act calls for promulgation of such regulations by the Administrator no later than July 31, 1972.

The regulations providing for review of new sources and modifications (§§ 52.976(b), 52.1176(b) and 52.1578 (c) and (d)) are effective 30 days after the date of their publication in the FEDERAL REGISTER.

This publication also contains amendments to the Administrator's approval/disapprovals pertinent to 12 States. For Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, Tennessee, Texas, South Carolina, Washington, and the Virgin Islands, certain previous disapprovals are revoked because the States submitted supplemental information which corrected some or all plan deficiencies. For Connecticut and Washington, the table specifying latest dates for attainment of national ambient air quality standards is amended to reflect supplemental information submitted by the States.

These amendments are effective on the date of their publication in the FEDERAL REGISTER (10-28-72). The Agency finds that good cause exists for not publishing these amendments as a notice of proposed rule making and for making them effective immediately upon publication, for the following reasons:

(1) The implementation plans were prepared, adopted, and submitted by the States, and reviewed and evaluated by the Administrator pursuant to 40 CFR Part 51, which, prior to promulgation, had been published as a notice of proposed rule making for comment by interested persons,

(2) The approved implementation plan provisions were adopted in accordance with procedural requirements of State and Federal law, which provided for adequate public participation through notice, public hearings, and time for comments, and consequently further public participation is unnecessary, and

(3) The Administrator is required by law to promulgate substitute provisions for any regulatory portion of a plan for which no approval is in effect, and a deferred effective date would necessitate promulgation of Federal regulations for State regulations already judged approvable

(42 U.S.C. 1857c- 5 and 9).

Dated: October 24, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In Subparts V, W, X, AA, FF, PP, RR, and SS, the note beneath the tables setting forth dates of attainment of national standards is amended by replacing the word "proposed" with the word "prescribed". As amended, the note reads:

NOTE: Dates or footnotes which are underlined are prescribed by the Administrator because the plan did not provide a specific date or the date provided was not acceptable.

Subpart H—Connecticut

2. In § 52.370 paragraph (c) is revised to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) Supplemental information was submitted on March 21, April 6, and August 2, 1972, by the Connecticut Department of Environmental Protection.

3. Section 52.374 is revised to read as follows:

§ 52.374 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Connecticut's plan.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
	Primary	Secondary	Primary	Secondary			
New Jersey-New York-Connecticut Interstate.	June 1975....	(a).....	June 1975....	June 1975....	June 1975....	June 1975....	June 1975.
Hartford-New Haven-Springfield Interstate.	June 1975....	(a).....	June 1975....	June 1975....	June 1975....	June 1975....	June 1975.
Northwestern Intrastate.	(a).....	(a).....	(a).....	(a).....	(a).....	(a).....	(a).
Eastern Intrastate..	(b).....	June 1975....	(a).....	(a).....	(a).....	(a).....	(a).

a 18 month extension granted.
b Air quality levels below primary standards.
a Air quality levels below secondary standards.

Subpart T—Louisiana

4. In § 52.970, paragraph (c) is revised to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 28, and May 8, 1972, by the Louisiana Air Control Commission, and

(2) July 17, 1972.

5. In § 52.973, paragraph (a) is revised and paragraph (b) is added. As amended, § 52.973 reads as follows:

§ 52.973 Control strategy and regulations: Photochemical oxidants (hydrocarbons).

(a) The requirements of § 51.14 of this chapter are not met, since the plan does not provide for the degree of control necessary to meet the national standard for photochemical oxidants (hydrocarbons) in Louisiana's portion of the Southern Louisiana-Southeast Texas Interstate Region.

(b) Regulation for control of hydrocarbon emissions:

(1) The requirements of this paragraph are applicable in the Louisiana portion of the Southern Louisiana-Southeast Texas Interstate Region (§ 81.52 of this chapter).

(2) No person shall discharge or cause the discharge of organic compounds into the atmosphere in excess of 15 lbs. (6.8 kg.) per day (24 hours) from a waste gas disposal system unless the waste gas stream is incinerated by a smokeless flare or other device approved by the Administrator.

(3) For the purpose of this regulation, "organic compound" means any compound containing carbon and hydrogen.

(4) Compliance with this paragraph shall be in accordance with the provisions of § 52.980(a).

§§ 52.974 and 52.975 [Revoked]

6. Sections 52.974 and 52.975 are revoked.

7. In § 52.976, paragraph (a) is revised and paragraph (b) is added. As amended, § 52.976 reads as follows:

§ 52.976 Review of new sources and modifications.

(a) The requirements of § 51.18 of this chapter are not met since Louisiana's Regulation 6.0 does not provide procedures to prevent construction or modification of a source which would violate applicable portions of the control strategy or would interfere with attainment or maintenance of the national standards. Regulation 6.0 does not provide that approval of any construction or modification does not affect the owner's responsibility to comply with applicable portions of the control strategy.

(b) Regulation for review of new sources and modifications:

(1) This requirement is applicable to any stationary source in the State of Louisiana, the construction or modification of which is commenced after the effective date of this paragraph.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this paragraph without first obtaining approval from the Administrator of the location and design of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of emissions, and the manner in which it will be operated and controlled.

(v) Any additional information, plans, specifications, evidence or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that:

(i) The source will operate without causing a violation of any local, State, or Federal regulation which is part of the applicable plan; and

(ii) The source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, conditional approval, or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may impose any reasonable conditions upon an approval, including conditions requiring the source to be provided with:

(i) Sampling ports of a size, number, and location as the Administrator may require,

(ii) Safe access to each port,

(iii) Instrumentation to monitor and record emission data, and

(iv) Any other sampling and testing facilities.

(6) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(7) Any owner or operator subject to the provisions of this paragraph shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial startup of the source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial startup of a source within 15 days after such date.

(8) Within 60 days after achieving the maximum production rate at which the source will be operated, but not later than 180 days after initial startup of such source, the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of a source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(9) Approval to construct shall not be required for:

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(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generator, which uses gas as a fuel for space heating, air conditioning, or heating water, is used in a private dwelling; or has a heat input of not more than 350,000 B.t.u. per hour (88.2 million gm-cal/hr.).

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(10) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

8. Section 52.979 is revised to read as follows:

§ 52.979 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information in Louisiana's plan, except where noted.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
	Primary	Secondary	Primary	Secondary			
Southern Louisiana Southeast Texas Interstate.	(a)	(a)	(a)	(a)	(b)	(b)	July, 1977.
Shreveport-Texarkana-Tyler Interstate.	(a)	(a)	(b)	(b)	(b)	(b)	(b).
Monroe-El Dorado Interstate.	(a)	(a)	(b)	(b)	(b)	(b)	(b).

NOTE: Footnotes which are underlined are prescribed by the Administrator because the plan did not provide a specific date.

[a] 3 years from plan approval.

[b] Air quality levels presently below secondary standards.

§ 52.977 [Revoked]

9. Section 52.977 is revoked.

10. Subpart T is amended by adding § 52.980 as follows:

§ 52.980 Compliance schedules.

(a) *Federal compliance schedule.* (1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of any stationary source subject to § 52.973(b) shall comply with such regulation on or before December 31, 1973.

(i) Any owner or operator in compliance with § 52.973(b) on the effective date of this paragraph shall certify such compliance to the Administrator no later than December 31, 1972.

(ii) Any owner or operator who achieves compliance with § 52.973(b) after the effective date of this paragraph shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) Any owner or operator of a stationary source subject to subparagraph (1) of this paragraph may, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with § 52.973(b) as expeditiously as practicable but no later than July 31, 1975. The compliance schedule shall provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process change, or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process change; completion of onsite construction or installation of emission control equipment or process modification; and final compliance.

(3) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved schedule has been met.

11. Subpart T is amended by adding § 52.981 as follows:

§ 52.981 Extensions.

The Administrator hereby extends for 2 years the attainment date for the national standard for photochemical oxidants in the Louisiana portion of the Southern Louisiana-Southeast Texas Interstate Region.

Subpart U—Maine

12. In § 52.1020, paragraph (c) is added as follows:

§ 52.1020 Identification of plan.

• • • • •

(c) Supplemental information was submitted on July 28, 1972, by the Environmental Improvement Commission, State of Maine.

13. Section 52.1022 is revised to read as follows:

§ 52.1022 Approval status.

The Administrator approves Maine's plan for the attainment and maintenance of the national standards.

§ 52.1023 [Revoked]

14. Section 52.1023 is revoked.

Subpart V—Maryland

15. In § 52.1070, paragraph (c) is revised to read as follows:

§ 52.1070 Identification of plan.

• • • • •

(c) Supplemental information was submitted on:

(1) February 25, March 3 and 7, April 4 and 28, and May 8, 1972, by the Maryland Bureau of Air Quality Control, and

(2) July 27, 1972, by the Maryland Department of Natural Resources.

§ 52.1074 [Revoked]

16. Section 52.1074 is revoked.

17. Section 52.1075 is revised to read as follows:

§ 52.1075 Control strategy: Nitrogen dioxide.

(a) The requirements of § 51.14(c)(3) of this chapter are not met since the plan does not provide for the degree of nitrogen oxides emission reduction attainable through the application of reasonably available control technology in the Metropolitan Baltimore Intrastate Region.

(b) Section 04G2 of Maryland's "Regulations Governing the Control of Air Pollution in Area III" (regulation 10.-03.38 for the Metropolitan Baltimore Intrastate Region), which is part of the nitrogen dioxide control strategy, is disapproved.

§ 52.1076 [Revoked]

18. Section 52.1076 is revoked.

Subpart W—Massachusetts

19. In § 52.1120, paragraph (c) is revised to read as follows:

§ 52.1120 Identification of plan.

• • • • •

(c) Supplemental information was submitted on:

(1) February 22 and May 5, 1972, by the Bureau of Air Quality Control, Massachusetts Department of Public Health,

(2) April 27, 1972, by the Division of Environmental Health, Massachusetts Department of Public Health, and

(3) August 28, 1972.

§ 52.1125 [Amended]

20. In § 52.1125, paragraph (a) is revoked.

§ 52.1126 [Revoked]

21. Section 52.1126 is revoked.

Subpart X—Michigan

22. In § 52.1170, paragraph (c) is revised to read as follows:

§ 52.1170 Identification of plan.

• • • • •

(c) Supplemental information was submitted on:

(1) March 3 and July 24, 1972, by the Department of Public Health, Air Pollution Control Division,

(2) May 4, 1972, by the Department of Environmental Protection, city of Grand Rapids, and

(3) March 30 and July 12, 1972.

§ 52.1173 [Revoked]

23. Section 52.1173 is revoked.

24. Section 52.1174 is revised to read as follows:

§ 52.1174 Control strategy: Nitrogen dioxide.

(a) The requirements of § 51.14(c)(3) of this chapter are not met since the plan does not provide for the degree of nitrogen oxides emission reduction attainable through the application of reasonably available control technology in the Metropolitan Detroit-Port Huron Intrastate Region.

25. Section 52.1175 is amended by adding paragraph (b), as follows:

§ 52.1175 Compliance schedules.

• • • • •

(b) *Federal compliance schedule.* (1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of a stationary source subject to R 336.49 of the general rules of the Air Pollution Control Commission, Michigan Department of Public Health shall comply with such regulation on, or before, December 31, 1973. This paragraph shall apply in Macomb, Oakland, and St. Clair Counties of the Metropolitan Detroit-Port Huron Intrastate Region (§ 81.37 of this chapter), the Michigan portion of the Metropolitan Toledo Interstate Region (§ 81.43 of this chapter) and the South Central Michigan Intrastate Region (§ 81.196 of this chapter).

(i) Any owner or operator in compliance with R 336.49 of the general rules of the Air Pollution Control Commission, Michigan Department of Public Health on the effective date of this paragraph shall certify such compliance to the Administrator no later than December 31, 1972.

(ii) Any owner or operator in compliance with R 336.49 of the general rules of the Air Pollution Control Commission, Michigan Department of Public Health after the effective date of this paragraph shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(2) Any owner or operator of a stationary source subject to subparagraph (1) of this paragraph may, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with R 336.49 as expeditiously as practicable but no later than the dates specified in R 336.49(7).

(i) If the owner or operator chooses to comply with the provisions of R 336.-49(7), Table 3, the compliance schedule shall contain dates by which contracts will be awarded to obtain the appropriate fuel and dates by which this fuel will be burned exclusively.

(ii) If the owner or operator chooses to comply with the provisions of R 336.49(7), Table 4, the compliance schedule shall provide for periodic increments of progress toward compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process change, or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of on-site construction or installation of emission control equipment or process change; completion of on-site construction or installation of emission control equipment or process modification, and final compliance.

(3) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

(4) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

26. Section 52.1176 is amended by adding paragraph (b), as follows:

§ 52.1176 Review of new sources and modifications.

• • • • •

(b) *Regulation for review of new sources and modifications.* (1) This requirement is applicable to any stationary source in the State of Michigan, the construction or modification of which is commenced after the effective date of this regulation.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Administrator of the location of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be sufficient to enable the Administrator to make any determination pursuant to subparagraph (3) of this paragraph.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that the new source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, conditional approval, or denial. The Administrator will set forth his reasons for any denial.

(5) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(6) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generators, which use gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 350,000 B.t.u. per hour (88.2 million gm-cal/hr.).

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(7) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

Subpart AA—Missouri

27. In § 52.1320, paragraph (c) is revised to read as follows:

§ 52.1320 Identification of plan.

• • • • •

(c) Supplemental information was submitted on:

(1) February 28, March 27, May 2 and 11, and July 12, 1972, by the Missouri Air Conservation Commission and,

(2) August 8, 1972.

28. In § 52.1324 paragraph (a) is revised and paragraph (b) is added. As amended, § 52.1324 reads as follows:

§ 52.1324 General requirements.

(a) The requirements of § 51.10(c) of this chapter are not met since the State does not have adequate legal authority to make all emissions data, as correlated with applicable emission limitations, available to the public. None of the local agencies have adequate procedures to make emission data available to the public.

(b) Regulation for public availability of emission data:

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(1) The owner or operator of any stationary source in the State of Missouri shall, upon notification from the Administrator, maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures.

(2) The information recorded shall be summarized and reported to the Administrator, on forms furnished by the Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1–June 30 and July 1–December 31, except that the initial reporting period shall commence on the date the Administrator issues notification of the recordkeeping requirements.

(3) Information recorded by the owner or operator and copies of the summarizing reports submitted to the Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures. The Administrator will designate one or more places in Missouri where such emission data and correlations will be available for public inspection.

29. Section 52.1325 is revised to read as follows:

§ 52.1325 Legal authority.

(a) The requirements of § 51.11(a)(6) of this chapter are not met since the authority is inadequate to make emission data, as correlated with applicable emission limitations, available to the public. Section 203.050.4 of the Missouri Air Conservation Law requires confidential treatment of data related to secret processes or methods of manufacture or production.

(b) The requirements of § 51.11(f) of this chapter are not met since the following deficiencies exist in local legal authority.

(1) St. Louis County Division of Air Pollution Control:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(ii) Authority to make emission data available to the public is inadequate because section 612.350, St. Louis County Air Pollution Control Code, requires confidential treatment in certain circumstances if the data concern secret processes (§ 51.11(a)(6) of this chapter).

(2) St. Louis City Division of Air Pollution Control:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(ii) Authority to require reports on the nature and amounts of emissions from stationary sources is lacking (§ 51.11(a)(5) of this chapter).

(iii) Authority to require installation, maintenance, and use of emission monitoring devices is lacking. Authority to make emission data available to the public is inadequate because Section 39 of Ordinance 54699 requires confidential treatment in certain circumstances if the data relate to production or sales figures or to processes or production unique to the owner or operator or would tend to affect adversely the competitive position of the owner or operator (§ 51.11(a)(6) of this chapter).

(3) Kansas City Health Department:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(4) Independence Health Department:

(i) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(ii) Authority to make emission data available to the public is lacking since section 11.161 of the code of the city of Independence requires confidential treatment in certain circumstances if the data relate to secret processes or trade secrets affecting methods or results of manufacture (§ 51.11(a)(6) of this chapter).

(5) Springfield Department of Health:

(i) Authority to abate emissions on an emergency basis is lacking (§ 51.11(a)(3) of this chapter).

(ii) Authority to require recordkeeping is lacking (§ 51.11(a)(5) of this chapter).

(iii) Authority to make emission data available to the public is inadequate because section 2A–42 of the Springfield City Code requires confidential treatment of such data in certain circumstances (§ 51.11(a)(6) of this chapter).

30. Section 52.1327 is amended by adding paragraph (b), as follows:

§ 52.1327 Prevention of air pollution emergency episodes.

* * * * *

(b) *Regulation for emission control action program (city of Springfield).* (1) The owner or operator of any stationary source in the city of Springfield which emits 100 tons (90.7 metric tons) or more per year of particulate matter shall prepare and submit to the Administrator a standby plan for reducing or eliminating emissions of particulate matter during periods of Yellow Alert, Red Alert, or Emergency Alert, as defined in the Air Pollution Control Regulations of the Springfield-Greene County area.

(i) Each such plan shall be submitted within 90 days of the effective date of this regulation and shall be subject to review and approval by the Administrator. Any such plan will be approved unless the Administrator notifies the owner or operator within 60 days that such plan has been disapproved. The Administrator will set forth his reasons for any disapproval.

(ii) Each such plan shall identify the specific facility from which particulate matter is emitted, the manner in which reduction of emissions will be achieved during a Yellow Alert, Red Alert, or Emergency Alert, and the approximate reduction in emissions to be achieved by each reduction measure.

(iii) During a Yellow Alert, Red Alert, or Emergency Alert, a copy of such plan shall be made available on the source premises for inspection by the Administrator.

(2) Upon notification by the Administrator or appropriate city official that a Yellow Alert, Red Alert, or Emergency Alert has been declared, the owner or operator of each source which has a standby plan approved by the Administrator shall implement the emission reduction measures specified in such plan.

(3) Any owner or operator of a stationary source in the city of Springfield not subject to the requirements of subparagraph (1) of this paragraph shall, when requested by the Administrator in writing, prepare and submit a standby plan in accordance with this paragraph.

§§ 52.1328, 52.1329, and 52.1330 [Revoked]

31. Sections 52.1328, 52.1329, and 52.1330 are revoked.

Subpart FF—New Jersey

32. In § 52.1570, paragraph (c) is revised to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 17, May 15, and July 6, 1972, by the New Jersey Department of Environmental Protection, and

(2) June 23, 1972, by the New Jersey Department of Law and Public Safety.

§§ 52.1574 and 52.1575 [Revoked]

33. Sections 52.1574 and 52.1575 are revoked.

34. Section 52.1577 is amended by revoking paragraph (a) and adding paragraph (d). As amended, § 52.1577 reads as follows:

§ 52.1577 Compliance schedules.

(a) [Revoked]

* * * * *

(d) *Regulation for increments of progress.* (1) Except as provided in subparagraph (2) of this paragraph, the owner or operator of any stationary source in the State of New Jersey to which an exception extending beyond December 31, 1973, is applicable under Chapter 7, section 7.1(c) of the New Jersey Air Pollution Control Code shall, no later than 120 days following the effective date of this paragraph, submit to the Administrator for approval, a proposed compliance schedule that demonstrates compliance with the emission limitations prescribed by Chapter 7 of the New Jersey Air Pollution Control Code as expeditiously as practicable but no later than July 31, 1975. The compliance schedule shall provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include, but not be limited to: Submittal of the final control plan to the Administrator; letting of necessary contracts for construction or process changes or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process change; completion of onsite construction or installation of emission control equipment or process modification; and final compliance.

(2) Where any such owner or operator demonstrates to the satisfaction of the Administrator that compliance with the applicable regulations will be achieved on or before December 31, 1973, no compliance schedule shall be required.

(3) Any owner or operator required to submit a compliance schedule pursuant to this paragraph shall within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

(4) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

35. Section 52.1578 is amended by adding paragraph (c) and (d), as follows:

§ 52.1578 Review of new sources and modifications.

* * * * *

(c) *Regulation for review of new sources and modifications—stationary sources using liquid or gaseous fuel.* (1) This requirement is applicable to any stationary source in the State of New Jersey using liquid or gaseous fuel, the construction or modification of which is commenced after the effective date of this regulation.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Administrator of the location and design of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the source, the nature and amount of emissions, and the manner in which it will be operated and controlled.

(v) Any addiitonal information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that:

(i) The source will operate without causing a violation of any applicable local, State, or Federal regulation which is part of the applicable plan.

(ii) The source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing on his approval, conditional approval, or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may impose any reasonable conditions upon an approval, including conditions requiring the source to be provided with:

(i) Sampling ports of a size, number, and location as the Administrator may require.

(ii) Safe access to each port.

(iii) Instrumentation to monitor and record emission data, and

(iv) Any other sampling and testing facilities.

(6) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(7) Any owner or operator subject to the provisions of this regulation shall furnish the Administrator written notification as follows:

(i) A notification of the anticipated date of initial startup of the source not more than 60 days or less than 30 days prior to such date.

(ii) A notification of the actual date of initial startup of the source within 15 days after such date.

(8) Within 60 days after achieving the maximum production rate at which the source will be operated but not later than 180 days after initial startup of such source the owner or operator of such source shall conduct a performance test(s) in accordance with methods and under operating conditions approved by the Administrator and furnish the Administrator a written report of the results of such performance test.

(i) Such test shall be at the expense of the owner or operator.

(ii) The Administrator may monitor such test and may also conduct performance tests.

(iii) The owner or operator of the source shall provide the Administrator 15 days prior notice of the performance test to afford the Administrator the opportunity to have an observer present.

(9) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Fuel burning equipment which uses gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 1,000,000 B.t.u. per hour (252 million gm-cal/hr.).

(iii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iv) Other sources of minor significance specified by the Administrator.

(10) Approval to construct or modify a source shall not relieve any owner or operator of the responsibility to comply with any local, State, or Federal regulation which is part of the applicable plan.

(d) *Regulation for review of new sources and modifications—stationary sources subject to Chapter 9 of the New Jersey Air Pollution Control Code.* (1) This requirement is applicable to any stationary source in the State of New Jersey which is subject to review under Chapter 9 of the New Jersey Air Pollution Control Code, the construction or modification of which is commenced after the effective date of this regulation.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective date of this regulation without first obtaining approval from the Administrator of the location of the source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be sufficient to enable the Administrator to make any determination pursuant to subparagraph (3) of this paragraph.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that the source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval, or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction work is suspended for 1 year.

(6) Approval to construct or modify a source shall not relieve any person of the responsibility to comply with any local, State, or Federal regulation which is part of the applicable plan.

Subpart PP—South Carolina

36. In § 52.2120, paragraph (c) is revised to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) May 4, 1972, by the South Carolina Pollution Control Authority, and

(2) July 21 and August 23, 1972.

§ 52.2123 [Revoked]

37. Section 52.2123 is revoked.

38. Section 52.2124 is amended by adding paragraph (c), as follows:

§ 52.2124 Legal authority.

* * * * *

(c) *Delegation of authority.* Pursuant to section 114 of the Act, South Carolina requested a delegation of authority to enable it to obtain information necessary to determine whether air pollution

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sources are in compliance with applicable laws, regulations, and standards, including the authority to require recordkeeping and reporting; and to require owners or operators of stationary sources to install, maintain, and use emission monitoring devices; also the authority for the State to make emission data available to the public as reported and as correlated with any applicable emissions standards or limitations. The Administrator has determined that South Carolina is qualified to receive a delegation of the authority it requested. Accordingly, the Administrator delegates authority in section 114(a)(1) (A), (B), and (C) and section 114(c) of the Act to the State of South Carolina.

§§ 52.2125, 52.2126, 52.2127 [Revoked]

39. Sections 52.2125, 52.2126, and 52.2127 are revoked.

Subpart RR—Tennessee

40. In § 52.2220, paragraph (c) is revised to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 27, 1972, from the Memphis and Shelby County Health Department,

(2) February 3 and 10, April 13, and May 3, 8, and 12, 1972, from the Division of Air Pollution Control of the Tennessee Department of Public Health, and

(3) August 17, 1972.

§ 52.2223 [Revoked]

41. Section 52.2223 is revoked.

§ 52.2224 [Amended]

42. In § 52.2224, paragraph (b) is revoked.

§§ 52.2225, 52.2226, 52.2228, and 52.2229 [Revoked]

43. Sections 52.2225, 52.2226, 52.2228, and 52.2229 are revoked.

Subpart SS—Texas

44. In § 52.2270, paragraph (c) is revised to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) February 25, May 2 and 3, 1972, by the Texas Air Control Board, and

(2) July 31, 1972.

§§ 52.2274, 52.2275, and 52.2277 [Revoked]

45. Sections 52.2274, 52.2275, and 52.2277 are revoked.

46. In § 52.2280, paragraph (a) is revised to read as follows:

§ 52.2280 Transportation and land-use controls.

(a) To complete the requirements of § 51.11(b) and § 51.14 of this chapter, the Governor of Texas must submit to the Administrator:

(1) No later than February 15, 1973, the selection of the appropriate transportation control alternative and a demonstration that said alternative, along with Texas' stationary source emission limitations for hydrocarbons and the Federal Motor Vehicle Control Program, will attain and maintain the national standards for photochemical oxidants (hydrocarbons) in the Austin-Waco, Metropolitan Dallas-Fort Worth, Metropolitan San Antonio, and El Paso-Las Cruces-Alamogordo Regions by 1975, and in the Corpus Christi-Victoria and Metropolitan Houston-Galveston Regions by 1977. By this date (February 15, 1973), the State must also include a detailed timetable for implementing the legislative authority, regulations, and administrative policies required for carrying out the selected transportation control alternatives.

(2) No later than July 30, 1973, the legislative authority that is needed for carrying out the required transportation control alternative.

(3) No later than December 31, 1973, the necessary adopted regulations and administrative policies needed to implement the required transportation control alternative.

Subpart WW—Washington

47. In § 52.2470, paragraph (c) is revised to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) January 28, May 5, and September 11, 1972, and

(2) July 19, 1972, by the State of Washington Department of Ecology.

48. Section 52.2473 is revised to read as follows:

§ 52.2473 Approval status.

The Administrator approves Washington's plan for the attainment and maintenance of the national standards.

§§ 52.2474, 52.2475, 52.2476, 52.2477 [Revoked]

49. Sections 52.2474, 52.2475, 52.2476, and 52.2477 are revoked.

50. Section 52.2478 is revised to read as follows:

§ 52.2478 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Washington's plan.

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
	Primary	Secondary	Primary	Secondary			
Eastern Washington-Northern Idaho Interstate.	July 1975	July 1975	(b)	(b)	(b)	June 1977.*	(b).
Northern Washington Intrastate.	(a)	July 1975	(b)	(b)	(b)	(b)	(b).
Olympic-Northwest Washington Intrastate.	July 1975	July 1975	(a)	July 1975	(b)	(b)	(b).
Portland Interstate.	July 1975	July 1975	July 1975	July 1975	(b)	(b)	(b).
Puget Sound Intrastate.	Dec. 1973	July 1975	Jan. 1975	Jan. 1975	July 1975	June 1977	June 1977.*
South Central Washington Intrastate.	July 1975	July 1975	(b)	(b)	(b)	(b)	(b).

* Air quality levels presently below primary standards.
b Air quality levels presently below secondary standards.
* Transportation and/or land use control strategies are to be submitted no later than Feb. 15, 1973, with the first semiannual report.

Subpart CCC—U.S. Virgin Islands

51. In § 52.2770, paragraph (c) is revised to read as follows:

§ 52.2770 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) April 26, 1972, by the Division of Environmental Health, United States Virgin Islands Department of Health, and

(2) August 17, 1972.

§§ 52.2773, 52.2774 [Revoked]

52. Sections 52.2773 and 52.2774 are revoked.

53. Section 52.2775 is amended by adding paragraph (b), as follows:

§ 52.2775 Review of new sources and modifications.

* * * * *

(b) *Regulation for review of new sources and modifications.* (1) This requirement is applicable to any stationary source subject to review under section 206–20, chapter 9, title 12, Virgin Islands Code, the construction or modification of which is commenced after the effective date of this paragraph.

(2) No owner or operator shall commence construction or modification of any stationary source after the effective

date of this regulation without first obtaining approval from the Administrator of the location of such source.

(i) Application for approval to construct or modify shall be made on forms furnished by the Administrator, or by other means prescribed by the Administrator.

(ii) A separate application is required for each source.

(iii) Each application shall be signed by the applicant.

(iv) Each application shall be accompanied by site information, stack data, and the nature and amount of emissions. Such information shall be sufficient to enable the Administrator to make any determination pursuant to subparagraph (3) of this paragraph.

(v) Any additional information, plans, specifications, evidence, or documentation that the Administrator may require shall be furnished upon request.

(3) No approval to construct or modify will be granted unless the applicant shows to the satisfaction of the Administrator that the source will not prevent or interfere with attainment or maintenance of any national standard.

(4) The Administrator will act within 60 days on an application and will notify the applicant in writing of his approval or denial of the application. The Administrator will set forth his reasons for any denial.

(5) The Administrator may cancel an approval if the construction is not begun within 2 years from the date of issuance, or if during the construction, work is suspended for 1 year.

(6) Approval to construct or modify shall not be required for:

(i) The installation or alteration of an air pollutant detector, air pollutants recorder, combustion controller, or combustion shutoff.

(ii) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment.

(iii) Fuel burning equipment, other than smokehouse generators, which use gas as a fuel for space heating, air conditioning, or heating water; is used in a private dwelling; or has a heat input of not more than 350,000 B.t.u. per hour (88.2 million gm-cal/hr.).

(iv) Mobile internal combustion engines.

(v) Laboratory equipment used exclusively for chemical or physical analyses.

(vi) Other sources of minor significance specified by the Administrator.

(7) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, and Federal regulations which are part of the applicable plan.

[FR Doc.72-18385 Filed 10-27-72;8:45 am]

Title 6—ECONOMIC STABILIZATION

Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972-262]

INSTITUTIONAL PROVIDER OF HEALTH SERVICES; NET REVENUE PERCENTAGE

Price Commission Ruling

Facts. H is an institutional provider of health services. H is a non-profit organization. H has reached final settlement with the Medicare intermediary for the fiscal years ending June 30, 1969, through 1971. The net effect of the final adjustments is that H will receive $106,000 for the 3 years from 1969–71.

Issue. Whether H must adjust its base period net revenues percentage?

Ruling. No. H should not adjust its base period net revenue percentage.

Section 300.18(b)(1) provides that the price increases of an institutional provider that is a non-profit organization, may not result in an increase in the provider's net revenues (after deducting operating expenses and depreciation) as a percentage of total operating revenues over that prevailing during the base period. Economic Stabilization Regulations, 6 CFR 300.18(b)(1) (1972). "Base period" means any two, at the option of the person concerned, of that person's last 3 fiscal years ending before August 15, 1971. Economic Stabilization Regulations, 6 CFR 300.5 (1972). In other words, the base period net revenue percentage of any institutional provider of health services is the net revenue percentage actually prevailing during the base period. Consequently, a subsequent adjustment of revenues with a medicare intermediary is not grounds for adjustment of the base period figures. The adjusted revenues should be picked up in the year of the final settlement as operating revenues.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 20, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18411 Filed 10-27-72;8:47 am]

[Price Commission Ruling 1972-263]

INSTITUTIONAL PROVIDERS; PRICE INCREASES

Price Commission Ruling

Facts. Hospital H, expects to incur an increase in allowable costs for furnishing the service performed in Department A of the hospital. H plans to raise the price for the service performed in Department B of the hospital on the basis of the increase in allowable costs in A.

Issue. Whether the price of the service performed in B may be increased to reflect the increase in allowable costs in A under the provisions of the Economic Stabilization Regulations pertaining to health?

Ruling. Yes. An institutional provider of health services may apply an increase in allowable costs in one department to increase the price charged in another department.

Section 300.18(b) provides in part that an institutional provider of health services may charge a price in excess of the base price with respect to the furnishing of a service to reflect net increases in allowable costs since the end of the last fiscal year, which the institutional provider will incur during the current fiscal year. Economic Stabilization Regulations, § 300.18(b), 37 F.R. 18548 (1972). In other words, a price in excess of the base price may be charged for a service if the hospital will incur a net increase in allowable costs in the current year over cost incurred in the former year. The present language of § 300.18(b) does not limit the price increase to the service in which the increase in allowable costs will be incurred. Consequently, H may increase the price for the Department B service to reflect the increase in allowable costs which it will incur in Department A.

This ruling does not apply in the period prior to September 12, 1972.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 24, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18412 Filed 10-27-72;8:47 am]

[Price Commission Ruling 1972-264]

RESTAURANT PRICING; PRICE INCREASE JUSTIFICATION

Price Commission Ruling

Facts. X restaurant has experienced a cost increase in the potatoes it purchases. A also has incurred increased wage costs. X wants to raise the price of a cup of coffee to reflect all of the above increased costs even though the price of coffee has remained constant. This is a historical pricing practice of X. In the past, X has increased prices on items that have great demand where costs on slower moving items have increased.

Issue. Can X increase the price of coffee to reflect cost increases in wages and potatoes?

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Ruling. X can increase the price of coffee to reflect cost increases in wages and potatoes. A restaurant is considered to be a service organization. Price Commission Ruling 1972–7, 37 F.R. 762 (1972). Economic Stabilization Regulation, § 300.14(b), 37 F.R. 18082 (1972), provides, "a service organization may charge a price in excess of the base price only to reflect increases in allowable costs that it incurred since the last price increase, or that it incurred after January 1, 1971, whichever was later, with respect to the service concerned * * *"

In this case, "service concerned" means the entire service provided by X in serving prepared foods to X's customers. X is not restricted to increasing the price of coffee only if the price he pays for ground coffee increases. In accordance with his customary pricing practices, X may increase the prices of one or more items on his menu to reflect increased costs he incurs in providing his food service to customers even though the increased costs are not directly related to the menu item or items he chooses to increase.

This ruling supersedes Price Commission Ruling 1972–187, 37 F.R. 11981 (1972). Ruling 1972–187 is effective until September 7, 1972, when Regulation § 300.14 was amended. Prior to its amendment Regulation § 300.14 referred to cost increases in the "item concerned" rather than the "service concerned."

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 24, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18413 Filed 10-27-72;8:47 am]

[Price Commission Ruling 1972-265]

REPRICING MANUFACTURERS' INVENTORIES

Price Commission Ruling; Correction

Ruling. Price Commission Ruling 1972–138, 37 F.R. 7998 (1972) is corrected by changing the final paragraph to state as follows: "This ruling supersedes the holding in Price Commission Ruling 1972–20, 37 F.R. 767 (1972) that a firm may increase the price of items it is holding in its own inventory as of the effective date of the price increase approved by the Price Commission but that in no case may the increased price be applied to merchandise in the possession of a potential purchaser. That part of a ruling which is superseded remains in effect until the effective date of the new ruling that restates the substance of the prior ruling. In this case the superseded portion of Price Commission Ruling 1972–20 remains in effect until April 17, 1972."

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 25, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 25, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18414 Filed 10-27-72;8:47 am]

[Price Commission Ruling 1972-266]

EFFECTIVE DATE OF PRICE INCREASE APPROVAL

Price Commission Ruling; Correction

Ruling. Price Commission Ruling 1972–213, 37 F.R. 13651 (1972) is corrected by changing the final paragraph to state as follows: "This ruling is intended to clarify Price Commission Ruling 1972–138, 37 F.R. 767 (1972) by stating additional facts which the Commission may take into account and how those facts affect its determination of the effective date of any price increase. Price Commission Ruling 1972–138 remains in effect from April 18, 1972."

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 24, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

Approved: October 24, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18415 Filed 10-27-72;8:47 am]

[Price Commission Ruling 1972-267]

BASE PRICE—INSTITUTIONAL HEALTH PROVIDERS—COST REIMBURSEMENTS

Price Commission Ruling

Facts. H is an institutional provider of health services. H provides health services to welfare patients under a contract with the State Department of Social Services, S. The contract specifies the services which H will perform and that He will be reimbursed for its cost in providing those services. H maintains its books on a calendar year basis. At the beginning of the calendar year H and S estimate the cost of providing the services. Each month S reimburses H at this "interim rate." At the conclusion of the calendar year, S and H determine the cost of the services and adjust the amount of reimbursement. The overpayment or underpayment is adjusted at the end of the year. For 1971, the agreed "interim rate" for service X was $25, whereas the adjusted, yearend rate for X was $33.

Issue. What is the base price for the service X, which is provided by H to the welfare patients?

Ruling. The base price for service X for H's welfare class of purchasers is $33.

Section 300.405(a) provides in part that the base price with respect to a sale of a unit of services to a specific class of purchasers is the highest price, at or above which, at least 10 percent of those units were priced by the seller in transactions with that class of purchasers during the freeze base period. Economic Stabilization Regulations, § 300.405(a), 37 F.R. 11472 (1972). A transaction is considered to occur at the time a binding contract is entered into by the parties. Economic Stabilization Regulation, 6 CFR 300.5 (1972). In other words, the amount at which the health provider priced its services in its freeze base period contracts is the base price for its services.

In the present case, the amount at which H priced its services was not set at the time the contract was entered into by H and S.

The understanding was that the final price would be determined after the year in which the services were performed. Consequently, the adjusted yearend price may be considered to be the price at which the health provider priced its service in its freeze base period transactions. In the present case the base price for the service X which is provided by H to welfare patients is $33.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: October 20, 1972.

LEE H. HENKEL, Jr.,
Chief Counsel,
Internal Revenue Service.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-18416 Filed 10-27-72;8:47 am]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH-306]

PART 863—WAGES; SUGARCANE; FLORIDA

Fair and Reasonable Wage Rates

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearing held in Belle Glade, Fla., on June 16, 1972, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Wage Rates; Sugarcane; Florida" remain in full force and effect as to the crops to which they were applicable.

Sec.
863.28 Requirements.
863.29 Applicability of wage requirements.
863.30 Payment of wages.
863.31 Evidence of compliance.
863.32 Subterfuge.
863.33 Claim for unpaid wages.
863.34 Failure to pay all wages in full.
863.35 Checking compliance.

AUTHORITY: The provisions of these §§ 863.28 to 863.35 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 863.28 Requirements.

A producer of sugarcane in Florida shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in production, cultivation, or harvesting work, as provided in § 863.29, shall have been paid in accordance with the following:

(a) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, whichever is higher (except as provided in subparagraph (5) of this paragraph), but not less than the following, which shall become effective on October 30, 1972, and shall remain in effect until amended, superseded, or terminated:

(1) *Work performed on a time basis.*

Class of worker	Rate per hour
(i) Tractor drivers and principal operators of mechanical harvesting and loading equipment	$2.30
(ii) All other workers, including those employed to assist in the operation of mechanical harvesting and loading equipment such as harvester cutter blade operators	2.00

(2) *Workers 14 and 15 years of age and full-time students when employed on a time basis.* For workers 14 and 15 years of age and, where the Secretary of Labor has by certificate or order provided for the employment of full-time students 14 years of age or older on a part-time basis (not to exceed 20 hours in any workweek during the time school is in session) or on a part-time or full-time basis during school vacations, the rate shall be not less than 85 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph. (The act provides that the employment of workers under 14 years of age, or the employment of workers 14 and 15 years of age for more than 8 hours per day, will result in a deduction from Sugar Act payments to the producer.)

(3) *Apprentice operators of tractors and mechanical harvesting and loading equipment when employed on a time basis.* The hourly wage rate for a learner or apprentice, who is being trained as a tractor driver or the principal operator of mechanical harvesting or loading equipment, shall be not less than $2. The training period for such workers shall not exceed 6 workweeks.

(4) *Handicapped workers when employed on a time basis.* The wage rate for workers certified by the Regional Director, Wage and Hour Division, U.S. Department of Labor, 1371 Peachtree Street NE., Atlanta, GA 30309, to be handicapped because of age or physical or mental deficiency or injury, and whose productive capacity is thereby impaired, shall be not less than 75 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph.

(5) *Work performed on a piecework basis.* The piecework rate for the cutting of sugarcane for processing into raw sugar shall be as established by a producer prior to the commencement of work, and the piecework rate for any operation other than the cutting of sugarcane shall be as agreed upon between the producer and the worker: *Provided,* That the hourly rate of earnings of each worker employed on piecework during each pay period (not to be in excess of 2 weeks) shall average for the time worked at piecework rates during such pay period not less than the applicable hourly rate for the class of worker prescribed in subparagraphs (1), (2), (3), or (4) of this paragraph: *Provided further,* That, if the piecework rates established by a producer for the cutting of sugarcane for processing into raw sugar do not yield for the entire harvest season an average hourly rate of earnings to all such workers (such average to be calculated only with respect to those workers completing the full term of employment) as a group employed by the producer of $0.20 more than the applicable hourly rate when employed on a time basis, the producer shall proportionately increase the total earnings of each worker who completes his full term of employment so that the average hourly rate of earnings for all workers as a group reaches that level.

(b) *Compensable working time.* For work performed under paragraph (a) of this section, compensable working time commences at the time the worker is required to start work and ends upon completion of work in the field, except time taken out for meals during the working day. If the producer requires the operator of mechanical equipment, driver of animals, or any other class of worker to report to a place other than the field, such as an assembly point or tractor shed located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Time spent in performing work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(c) *Equipment necessary to perform work assignment.* The producer shall furnish without cost to the worker any equipment required in the performance of any work assignment. The worker may be charged for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Equipment includes, but is not limited to, hand and mechanical tools and special wearing apparel, such as boots and raincoats, required to discharge the work assignment.

§ 863.29 Applicability of wage requirements.

The wage requirements of this part apply to all persons who are employed or who work on the farm in operations directly connected with the production, cultivation, or harvesting of sugarcane on any acreage from which sugarcane is marketed or processed for the production of sugar, harvested for seed, or any acreage which qualifies as bona fide abandoned. Such persons include field overseers or supervisors while directing other workers, and those workers employed by an independent contractor who perform services on the farm. The wage requirements are not applicable to persons who voluntarily perform work without pay on the farm for a religious or charitable institution or organization; inmates of a prison who work on a farm operated by the prison; truckdrivers employed by a contractor engaged only in hauling sugarcane; members of a cooperative arrangement among producers for the exchange of labor to be performed by themselves or members of their families; persons who have an agreement with the producer to perform all work on a specified acreage in return for a share of the crop or crop proceeds if such share, including the share of any Sugar Act payments, results in earnings at least as much as would otherwise be received in accordance with the requirements of this part for the work performed; custom operators or independent contractors and members of their immediate families; or workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugarcane, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

§ 863.30 Payment of wages.

Workers shall be paid by check or in currency for all work performed, except to the extent that the cash payment is reduced by the following deductions: cash advances made to the worker by the producer; the market value or the amount agreed upon for supplies furnished by the producer at the request of the worker; meals, lodging, and transportation expense which the producer agreed to furnish for a stated amount; and mandatory deductions such as taxes and social security contributions. In addition, a producer may deduct the

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amounts he has paid to a third party on behalf of the worker in connection with his employment as a farmworker which are acknowledged in writing signed by the worker or his agent or substantiated by other evidence acceptable to the county ASC committee to be an indebtedness of the worker, and which cover the expense of services and benefits furnished the worker by the third party, and which the worker or his agent has agreed may be deducted from his wages, such as public utilities, medical services, group hospitalization or other insurance for the benefit of the worker. As evidence of payments to a third party for which a deduction is made from the earnings of a worker, the producer shall maintain for a period of 3 years, for the inspection of the worker and the local county ASCS office, receipted bills or other written satisfactory evidence that support such deductions. Payments made to a labor contractor, supervisor, or labor trainer, or the cost of meals, lodging, transportation, and insurance covering injury or illness resulting from employment, any or all of which the producer agreed to furnish the worker free of charge, shall not be deducted from cash wages due the worker. When any deductions are made, the producer shall furnish to the worker, at time of settlement, a statement showing the gross amount of wages due for work performed and the amount of each deduction properly identified.

§ 863.31 Evidence of compliance.

Each producer subject to the provisions of this part shall keep and preserve, for a period of 3 years following the date on which his application for a Sugar Act payment is filed, such wage records as will demonstrate that each worker has been paid in full in accordance with the requirements of this part. Wage records should set forth dates work was performed, the class of work performed, units of work (piecework or hours), agreed upon rates per unit of work, total earnings and any permissible deductions, and the amount paid each worker. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records or other evidence as may satisfy such committee that the requirements of this part have been met.

§ 863.32 Subterfuge.

The producer shall not reduce the wage rates to workers below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

§ 863.33 Claim for unpaid wages.

Any person who believes he has not been paid in accordance with this part may file a wage claim with the local Agricultural Stabilization and Conservation County Committee against the producer on whose farm the work was performed. Such claim must be filed on Form SU–191, entitled "Claim Against Producer for Unpaid Wages," within 2 years from the date the work with respect to which the claim is made was performed. Detailed instructions and Forms SU–191 are available at the local county ASCS office. Upon receipt of a wage claim the county office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the Florida State Agricultural Stabilization and Conservation Committee, 401 Southeast First Avenue, Gainesville, FL 32601, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC Committee is not acceptable, either party may file an appeal with the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All such appeals shall be filed within 15 days after the date the written notice of the recommended settlement is mailed by the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, State and County Operations, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780 of this title (7 CFR Part 780).

§ 863.34 Failure to pay all wages in full.

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment, representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer has made a full disclosure to the county committee or its representative of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer; or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this paragraph, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid wages.

(b) Except as provided in paragraph (a) of this section, if upon investigation the county committee determines that the producer failed to pay all workers on the farm the required wages, the entire Sugar Act payment with respect to such farm shall be pithheld from the producer until such time as evidence is presented to the county committee which will satisfy the county committee that all workers have been paid in full the wages earned by them; or if unpaid workers cannot be located and the county committee determines that the producer used reasonable diligence to locate such workers, the amounts of unpaid wages shall be deducted from the Sugar Act payment computed for the farm and the balance released to the producer after the expiration of 1 year from the date payment would otherwise be made. If payment has been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the claims control record for the total payment until the county committee determines that all workers on the farm have been paid in full; the producer refunds the entire amount of debt, or a setoff in the amount of the debt is made from a program payment otherwise due the producer, or the county committee after determining that the producer used reasonable diligence to locate such workers has recovered from such producer the amount of unpaid wages computed for the farm.

§ 863.35 Checking compliance.

The procedures to be followed by county ASCS offices in checking compliance with the wage requirements of this part are set forth under the heading "Wage Rate Determinations" in Handbook 3–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 3–SU may be inspected at local county ASCS offices, and copies may be obtained from the Florida State ASCS Office, 401 Southeast First Avenue, Gainesville, FL 32601.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in production, cultivation, or harvesting of sugarcane in Florida as one of the conditions with which producers must comply to be eligible for payments under the act.

Requirements of the act and standards employed. Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing, and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and byproducts, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

Wage determination. This determination differs from the prior determination in the following respects: (1) For work performed on a time basis, the minimum wage rate for tractor drivers and principal operators of mechanical harvesting and loading equipment is increased 20 cents to $2.30 per hour, and the minimum rate for all other workers is increased 15 cents to $2 per hour; and (2) for work performed on a piecework basis, the producer is permitted to establish piecework rates for the cutting of sugarcane for processing into raw sugar provided each individual worker earns on average during each pay period the applicable hourly wage rate, and provided all workers as a group employed by a producer earn on average during the entire harvest season at least 20 cents more than such applicable hourly wage rate. Other provisions of the prior determination continue unchanged.

A public hearing was held in Belle Glade, Fla., on June 16, 1972, at which interested persons were afforded the opportunity to testify on whether the wage rates established for Florida sugarcane fieldworkers in the wage determination which became effective on January 10, 1972, continue to be fair and reasonable under the circumstances, or whether such determination should be amended. Testimony was presented by a representative of sugarcane producers and a union representative.

The representative of producers recommended that wage rates be increased by 5.5 percent, and that there be no change in the worker classifications or in the wage differentials. He testified that the canecutters employed by one large producer earned an average of $2.305 per hour for the 1971–72 crop or 68.49 percent more than for the 1964–65 crop; that this increase compares to an increase of 33.33 percent in the price of sugar during the same period, while the average productivity per worker remained at 1.45 tons per hour; and that the system of piecework rates used by producers has consistently produced average hourly earnings in excess of the minimum rate established in the wage determinations.

The witness also recommended that the provision relating to work performed on a piecework basis be amended to permit producers to establish, prior to the commencement of work, piecework rates for the cutting of cane for processing into raw sugar during all or any part of the 1972–73 harvesting season, provided all workers as a group employed by a producer earn for the entire season an average of $0.20 more than the applicable hourly rate established. He stated that such an amendment would mean all workers, instead of only the poor worker, would share on an equal basis any supplemental payments; that such rates would be equitable to both employee and employer; and that the entire selection of cutters working for a single producer would be guaranteed an average of $0.20 above the minimum rate established. He also stated that the producers would accept a minimum guarantee for each worker if required, but any necessary buildup in wages to poor workers to bring them up to a minimum would again result in a reward to the poor worker for nonproductive work, with the better worker not being able to share equally in the additional amount the producer may be required to pay; that this proposal would not require any change in the method of establishing row rates; and that the proposed amendment would be applicable only to the cutting of cane for processing into raw sugar.

A union representative from the International Association of Machinists testified that a new collective-bargaining agreement has been initiated between his organization and one of the principal sugarcane growers and processors in the Glades area. He stated that the contract covers certain employees who are mechanical operators and those engaged in support thereof; and that his union hopes to move forward in the area of collective bargaining.

Consideration has been given to the recommendations and testimony presented at the public hearing; to the returns, costs, and profits of producing sugarcane obtained by field survey for recent crops and recast in terms of conditions likely to prevail for the 1972 crop; and to other standards generally considered in wage determinations, including the cost of living and the producers' ability to pay. Analysis of these and other relevant factors indicates that the minimum rates established in this determination are fair and reasonable and within producers' ability to pay.

Information available to the Department indicates that unskilled workers employed in Florida on a piecework basis as cane cutters earned an average in excess of $2.20 per hour during the 1971–72 harvest, as compared to the minimum hourly rates of $1.75 (effective from the beginning of harvest through January 9, 1972) and $1.85 (effective beginning January 10). The hourly rates for tractor drivers and principal operators of mechanical harvesting and loading equipment generally ranged from $2.10 to slightly more than $2.30 during most of the 1971–72 harvest season. In view of the fact that the differential in earnings between the different classes of workers has decreased in recent years, the increases in wage rates established in this determination of 15 cents per hour for unskilled workers and 20 cents per hour for skilled workers are believed to be equitable to both producers and workers.

The recommendation relating to the establishment by the producer of piecework rates for the cutting of sugarcane for processing into raw sugar has been adopted, but with the added requirement that each cane cutter employed on piecework receive average hourly earnings during each pay period of not less than the minimum time rate established in this determination. Such a requirement has been contained in prior determinations when the piecework rates for all operations were as agreed upon between the producer and the worker. The piecework rates for operations other than the cutting of cane for sugar continue to be as agreed upon with each worker being guaranteed the minimum hourly rate.

The revised provision for work performed on a piecework basis will require the producer each pay period to build up the wages of any worker employed in the cutting of sugarcane for processing into raw sugar who does not earn the minimum hourly wage rate. If at the end of the harvest season all such workers as a group employed by a producer do not average at least 20 cents per hour more than the minimum hourly rate, the producer will then be required to make supplemental wage payments to each worker of the group based on the number of hours the worker was employed. The requirement that all workers as a group earn at least 20 cents above the minimum hourly rate is applicable only to those cane cutters who complete their full term of employment during the harvest season. Consequently, the revised provision on piecework guarantees each cane cutter average earnings equal to the minimum hourly wage rate, and all workers who remain the entire harvest season average earnings as a group of at least 20 cents above the minimum.

This determination is issued on a continuing basis and will remain in effect until amended or terminated. However, the Department will keep the wage situation under review and will conduct investigations and hold hearings annually.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective on October 30, 1972.

V37-209 OCT 28 72 XUM

Signed at Washington, D.C., on October 20, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-18427 Filed 10-27-72;8:46 am]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 24]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Limitation of Shipments

Correction

In F.R. Doc. 72-17655, appearing on page 21801, in the issue of Saturday, October 14, 1972, in the fifth line of § 906.350(a)(1), the figure "90" should read "60".

[Valencia Orange Reg. 414, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended,* The provisions in paragraph (b)(1) (i) and (ii) of § 908.714 (Valencia Orange Regulation 414, 37 F.R. 22369) during the period October 20 through October 26, 1972, are hereby amended to read as follows:

§ 908.714 Valencia Orange Regulation 414.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 420,000 cartons.

(ii) District 2: 330,000 cartons.

* * * * *

(Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 25, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18454 Filed 10-27-72;8:50 am]

[Lemon Reg. 557]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.857 Lemon Regulation 557.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 24, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 29 through November 4, 1972, is hereby fixed at 185,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 25, 1972.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-18465 Filed 10-27-72;8:51 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS ORNITHOSIS IN POULTRY

Areas Released From Quarantine

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, the reference to Florida in the introductory portion of paragraph (a) and subparagraph (a)(2) relating to the State of Florida is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment excludes portions of Dade and Broward Counties in Florida from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas. No areas in Florida remain under quarantine.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 24th day of October 1972.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-18455 Filed 10-27-72;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12322, Amdt. 835]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Form 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 7, 1972.

Cleburne, Tex.—Cleburne Municipal Airport; VOR/DME-A, Original; Established.
Columbia, Mo.—E. W. Cotton Woods Memorial Airport; VOR-A, Original; Established.
East St. Louis, Ill.—Bi-State Parks Airport; VOR/DME-A, Original; Established.
Fort Pierce, Fla.—St. Lucie County Airport; VOR/DME Runway 14, Amdt. 3; Revised.
Gulfport, Miss.—Gulfport Municipal Airport; VOR Runway 31, Amdt. 11; Revised.
Jasper, Ala.—Walker County Airport; VOR/DME Runway 29, Original; Established.
Kirksville, Mo.—Clarence Cannon Memorial Airport; VOR-A, Amdt. 8; Revised.
Kirksville, Mo.—Clarence Cannon Memorial Airport; VOR/DME-A, Original; Established.
Lewisburg, W. Va.—Greenbrier Valley Airport; VOR-A, Amdt. 4; Revised.
London, Ky.—Corbin-London War Memorial Airport; VOR Runway 5, Amdt. 8; Revised.
Mena, Ark.—Mena Municipal Airport; VOR/DME-A, Original; Established.
Monroe, Wis.—Monroe Municipal Airport; VOR/DME Runway 29, Original; Established.
New York, N.Y.—John F. Kennedy International Airport; VOR Runway 13L/R, Amdt. 10; Revised.
Ocala, Fla.—Ocala Municipal (Jim Taylor Field) Airport; VOR Runway 36, Amdt. 7; Revised.
Rocksprings, Tex.—Edwards County Airport; VOR Runway 14, Original; Established.
Sevierville, Tenn.—Sevier-Gatlinburg Airport; VOR/DME Runway 10, Original; Established.
Swainsboro, Ga.—Emanuel County Airport; VOR-A, Original; Established.
Talkeetna, Alaska—Talkeetna Airport; VOR-A, Amdt. 6; Revised.
Williston, N. Dak.—Sloulin International Airport; VOR Runway 11, Amdt. 6; Revised.
Yuma, Ariz.—Yuma MCAS/Yuma International Airport; VOR Runway 17, Amdt. 1; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective October 17, 1972.

Eau Claire, Wis.—Eau Claire Municipal Airport; VOR-A, Amdt. 16; Revised.
Miami, Fla.—Opa Locka Airport; VOR Runway 9L, Amdt. 9; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective December 7, 1972.

Aberdeen, S. Dak.—Aberdeen Municipal Airport; LOC (BC)/DME Runway 12, Original; Established.
Kansas City, Mo.—Kansas City International Airport; LOC (BC) Runway 19, Amdt. 1; Revised.
Kansas City, Mo.—Kansas City International Airport; LOC (BC) Runway 27, Amdt. 2; Revised.

4. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective December 7, 1972.

Clarksdale, Miss.—Fletcher Field; NDB Runway 18, Amdt. 1; Revised.
Clarksdale, Miss.—Fletcher Field; NDB Runway 36, Amdt. 1; Revised.
East St. Louis, Ill.—Bi-State Parks Airport; NDB Runway 30, Amdt. 4; Revised.
Frederick, Okla.—Frederick Municipal Airport; NDB Runway 17, Original; Established.
Grand Junction, Colo.—Walker Field; NDB Runway 11, Amdt. 10; Revised.
Kansas City, Mo.—Kansas City International Airport; NDB Runway 1, Amdt. 8; Revised.
Kansas City Mo.—Kansas City International Airport; NDB Runway 9, Amdt. 2; Revised.
Oelwein, Iowa—Oelwein Municipal Airport; NDB Runway 13, Original; Established.
Talkeetna, Alaska—Talkeetna Airport; NDB-A, Amdt. 12; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective October 17, 1972.

6. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective October 4, 1972.

Flint, Mich.—Bishop Airport; NDB Runway 9R, Amdt. 14; Revised.
Brookings, S. Dak.—Brookings Municipal Airport; NDB Runway 12, Amdt. 5; Canceled.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 7, 1972.

Arcata-Eureka, Calif.—Arcata Airport; ILS Runway 31, Amdt. 18; Revised.
Grand Junction, Colo.—Walker Field; ILS Runway 11, Amdt. 4; Revised.
Kansas City, Mo.—Kansas City International Airport; ILS Runway 1, Amdt. 1; Revised.
Kansas City, Mo.—Kansas City International Airport; ILS Runway 9, Amdt. 3; Revised.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 25L/R, Amdt. 4; Revised.

8. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 19, 1972.

Pontiac, Mich.—Oakland-Pontiac Airport; ILS Runway 9, Original; Canceled.

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9. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 17, 1972.

San Juan, P.R.—Puerto Rico International Airport; ILS Runway 7, Amdt. 5; Revised.

10. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective October 16, 1972.

Flint, Mich.—Bishop Airport; ILS Runway 9R, Amdt. 7; Revised.

11. Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAP's, effective December 7, 1972.

Wilkes-Barre-Scranton, Pa.—Wilkes-Barre-Scranton Airport; Radar-1, Amdt. 7; Revised.

12. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective December 7, 1972.

Kansas City, Mo.—Kansas City International Airport; RNAV Runway 1, Original; Established.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 19, 1972.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-18297 Filed 10-27-72;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-299]

PART 111—CUSTOMHOUSE BROKERS

Retention of Records of Brokers and Use of Microfilm

On July 13, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 13717), which proposed to allow customhouse brokers to microfilm their records at any time after the entry to which the documents pertain has been liquidated and to set standards for such microfilming. It also proposed that hard-copy reproductions of any or all microfilmed records be made available, when required, at the expense of the customhouse brokers.

No comments were filed in response to the notice of proposed rule making.

A technical change has been made in paragraph (b)(5) of §111.23, changing "director, field audit" to "regional director, security and audit" to reflect a reorganization within the Bureau of Customs.

Accordingly, the amendment to § 111.23 of the Customs regulations is hereby adopted as set forth below.

Effective date. This amendment shall become effective 30 days after publication in the FEDERAL REGISTER.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: October 18, 1972.

EUGENE T. ROSSIDES
Assistant Secretary
of the Treasury.

Section 111.23 is amended by revising paragraph (b) and adding a new paragraph (c), to read as follows:

§ 111.23 Retention of books and papers.

* * * * *

(b) *Microfilming of books and papers.* A broker, with the approval of the district director for the district in which he is licensed, may record on microfilm any books and papers, other than books of account or powers of attorney, required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these books and papers pertain has been liquidated, upon the following conditions:

(1) *Approval of microfilming.* The broker shall submit to the district director for the district in which he is licensed a request for approval to microfilm records containing the following certification:

This certifies that the records for which this approval is requested shall be microfilmed in accordance with the standards set forth in § 111.23(c) of the Customs Regulations (19 CFR 111.23(c)).

(2) *Retention of microfilm records.* The broker shall retain and keep available an original and one reproduction of each microfilm for the period specified by paragraph (a) of this section.

(3) *Use of microfilm records.* The reproduction copy of the original negative microfilm of books and papers may be used for reference purposes. However, the original negative microfilm shall not be used for reference purposes, and adequate measures shall be taken to keep the original negative clean and free from scratches.

(4) *Hard-copy reproductions.* Brokers microfilming their records shall use microfilm equipment having the capability of making direct hard-copy reproductions of the microfilmed records.

(5) *Expense of reproductions.* Brokers shall bear the expense of making hard-copy reproductions of any or all microfilmed records required by the regional director, security and audit, the special agent in charge, or other proper official of the Bureau of Customs for the audit or inspection of books and records.

(c) *Standards required for microfilming.* Brokers microfilming their records shall maintain the integrity of the original records by insuring that the microfilm copies are true reproductions of the original records and serve the purpose for which such records were created. The following shall be observed in any microfilming:

(1) Copies shall contain all significant record detail shown on the original.

(2) Copies of the records, on either roll microfilm or unit microfilm systems, shall be so arranged, identified, and indexed that any individual document or component of the records can be located with reasonable facility.

(3) Any indexes, registers or other finding aids shall be microfilmed at the beginning of the records to which they relate.

(R.S. 251, as amended; secs. 624, 641, 46 Stat. 759, as amended; 19 U.S.C. 66, 1624, 1641)

[FR Doc.72-18435 Filed 10-27-72;8:49 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter I—Monetary Offices, Department of the Treasury

PART 51—FISCAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Pursuant to the authority vested in the Secretary of the Treasury by the State and Local Fiscal Assistance Act of 1972 (Title I, Public Law 92-512), approved October 20, 1972, the Department of the Treasury hereby adopts the following interim regulations in order to disburse entitlements to the States and units of local government for the entitlement period beginning January 1, 1972, and ending June 30, 1972. A new Part 51 is hereby established under Chapter I of Subtitle B in Title 31 of the Code of Federal Regulations.

Because the purpose of these regulations is to provide immediate guidance to the States and units of local government in order that the requirements of the Act be complied with, it is hereby found impracticable to issue such regulations with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

These regulations shall become effective when filed with the Office of the Federal Register. However, it is expected that permanent regulations will be issued in the near future, and for this reason written comments are solicited for consideration by the Department. Such comments may be submitted within 30 days after date of publication to the Honorable Samuel R. Pierce, Jr., General Counsel, Department of the Treasury, Washington, D.C. 20220.

In accordance with 31 CFR 1.4(h), comments submitted in response to this solicitation are available to the public upon request therefor, unless confidential status of the submission has been requested and approved.

GEORGE P. SHULTZ,
Secretary of the Treasury.

Subpart A—General Information

Sec.
51.1 Scope and application of regulations.
51.2 Definitions.
51.3 Procedure for effecting compliance.

Subpart B—Written Communications

51.10 Reports to the Secretary; publication and publicity.
51.11 Reports to the Bureau of the Census.

Subpart C—Computation and Adjustment of Entitlement

51.20 Data.
51.21 Adjusted taxes.
51.22 Date for determination of allocation.
51.23 Boundary changes, governmental reorganization, etc.
51.24 Waiver of entitlement; nondelivery of checks; insufficient data.
51.25 Reservation of funds and adjustment.

Subpart D—Prohibition and Restrictions on Use of Funds

51.30 Matching funds.
51.31 Permissible expenditures.
51.32 Discrimination.
51.33 Wage rates and labor standards.
51.34 Restriction on expenditures by Indian tribes and Alaskan native villages.

Subpart E—Fiscal Procedures and Auditing

51.40 Procedures applicable to use of funds.
51.41 Auditing and evaluation.

AUTHORITY: The provisions of this Part 51 are issued under the State and Local Fiscal Assistance Act of 1972 (Title I, Public Law 92-512); and 5 U.S.C. 301.

Subpart A—General Information

§ 51.1 Scope and application of regulations.

The rules and regulations in this part are prescribed for carrying into effect the State and Local Fiscal Assistance Act of 1972 (Title I, Public Law 92-512), approved October 20, 1972, as applicable to the first entitlement period from January 1, 1972, through June 30, 1972.

§ 51.2 Definitions.

As used in this part (except where the context clearly indicates otherwise, or where the term is defined elsewhere in this part) the following definitions shall apply:

(a) "Act" means the State and Local Fiscal Assistance Act of 1972, Title I of Public Law 92-512, approved October 20, 1972.

(b) "Chief executive officer" of a unit of local government means the elected official who has the primary responsibility for the conduct of that unit's governmental affairs. Examples of the "chief executive officer" of a unit of local government may be: The elected mayor of a municipality, the elected county executive of a county, or the chairman of a county commission or board in a county that has no elected county executive.

(c) "Entitlement" means the amount of payment to which a State government or unit of local government is entitled as determined by the Secretary pursuant to an allocation formula contained in the Act or established by regulation under this part.

(d) "Entitlement funds" means the amount of funds paid or payable to a State government or unit of local government for the entitlement period.

(e) "Entitlement period" means the calendar period beginning January 1, 1972, and ending June 30, 1972, unless another calendar period is designated.

(f) "Governor" means the Governor of any of the 50 States or the Commissioner of the District of Columbia.

(g) "Independent public accountants" means independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(h) "Indian tribes and Alaskan native villages" means those Indian tribes and Alaskan native villages which have a recognized governing body and which perform substantial governmental functions.

(i) "Recipient government" means a State government or unit of local government as defined in this section.

(j) "Secretary" means the Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

(k) "State government" means the government of any of the 50 States or the District of Columbia.

(l) "Unit of local government" means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government and which shall be determined on the basis of the same principles as used by the Bureau of the Census for general statistical purposes. The term "unit of local government" shall also include the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions. The District of Columbia, in addition to being treated as a State, shall also be treated as a county area which has no units of local government (other than itself) within its geographic area.

§ 51.3 Procedure for effecting compliance.

If the Secretary determines that a recipient government has failed to comply substantially with any provision of this part, after giving reasonable notice and opportunity for a hearing to the Governor of the State or the chief executive officer of the unit of local government, he shall notify the recipient government that if it fails to take corrective action within 60 days from the date of receipt of such notification further payments to it will be withheld for any subsequent entitlement period until such time as the Secretary is satisfied that appropriate corrective action has been taken and that there will no longer be any failure to comply. Until he is satisfied, the Secretary shall make no further payments of such amounts. The procedure prescribed in this section shall not be used if another procedure is specified in another section of this part.

Subpart B—Written Communications

§ 51.10 Reports to the Secretary; publication and publicity.

(a) *Reports for review and evaluation.* The Secretary may require each recipient government receiving entitlement funds to submit such annual and interim reports (other than those required by paragraph (b) of this section) as may be necessary to provide a basis for evaluation and review of compliance with and effectiveness of the provisions of the Act and regulations of this part.

(b) *Report on use of funds.* Each recipient government which receives funds pursuant to the Act for the entitlement period beginning January 1, 1972, and ending June 30, 1972, shall submit to the Secretary a report, on a form to be provided, of the amounts and purposes for which such funds have been spent, obligated, or appropriated. Such report shall be filed with the Secretary before March 1, 1974, and shall contain a certification by the Governor, or chief executive officer of the unit of local government, that no entitlement funds have been used in violation of the prohibition contained in § 51.30 against the use of entitlement funds for the purpose of obtaining matching Federal funds. If the report is made by a unit of local government it shall also contain a certification by the chief executive officer of the unit of local government that entitlement funds received by it have been used only for priority expenditures as prescribed by § 51.31.

(c) *Publication and publicity of reports.* Each recipient government shall before March 1, 1974, have published a copy of the report submitted by it under paragraph (b) of this section. Such publication shall be made in a newspaper which is published within the State and has general circulation within the geographic area of the recipient government involved. Each recipient government shall advise the news media of the publication of its report made pursuant to paragraph (b) of this section.

§ 51.11 Reports to the Bureau of the Census.

It shall be the obligation of each recipient government to comply promptly with requests by the Bureau of the Census (or by the Secretary) for data and information relevant to the determination of entitlement allocations. Failure of any recipient government to so comply may place in jeopardy the prompt receipt by it of entitlement funds.

Subpart C—Computation and Adjustment of Entitlement

§ 51.20 Data.

(a) *In general.* The data used in determination of allocations and adjustments thereto payable under this part will be the latest and most complete data supplied by the Bureau of the Census or

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such other sources of data as in the judgment of the Secretary will provide for equitable allocations.

(b) *Computation and payment of entitlements for the entitlement period January 1, 1972, through June 30, 1972.* (1) Allocations will not be made to any unit of local government if the available data is so inadequate as to frustrate the purpose of the Act. Such units of local government will receive an entitlement and payment when current and sufficient data become available as necessary to permit an equitable allocation.

(2) Payment to units of local government for which the Secretary has not received an address confirmation will be delayed until proper information is available to the Secretary.

(3) The factor "adjusted taxes" used in initial allocations for this entitlement period will be based on the statistical data contained in the 1967 Census of Government Reports conducted by the Bureau of the Census. The factor "adjusted taxes" shall be updated by the Special Revenue Sharing Survey conducted by the Bureau of the Census in 1972 and the entitlement for each unit of local government will be adjusted accordingly when such data becomes available to the Secretary.

(4) Where the Secretary determines that the data provided by the Bureau of the Census or the Department of Commerce are not current enough, or are not comprehensive enough, or are otherwise inadequate to provide for equitable allocations for the first entitlement period he may use other data, including estimates, in addition to those listed in subparagraph (3) of this paragraph. The Secretary's determination shall be final and such other additional data and estimates as are used, including the sources, shall be publicized by notice in the FEDERAL REGISTER.

§ 51.21 Adjusted taxes.

The "adjusted taxes," derived from the Special Revenue Sharing Survey conducted by the Bureau of the Census in 1972, for any unit of local government are the compulsory contributions exacted by such unit of government for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined by the Bureau of the Census for general statistical purposes, adjusted by excluding an amount equal to that portion of such compulsory contributions which is properly allocable to school facilities, debt service on school debt and other educational purposes.

§ 51.22 Date for determination of allocation.

(a) *In general.* Except as provided for in § 51.23, and subject to the provisions of § 51.20 (a) and (b) (3) and (4), the determination of the allocation and entitlement for the entitlement period shall be made as of December 31, 1971. The final date upon which determinations of allocations and entitlements, including adjustments thereto, may be made for the entitlement period shall be determined by the Secretary as soon as practicable after December 31, 1973, and shall be publicized by notice in the FEDERAL REGISTER.

(b) *Time limitation and minimum adjustment.* If prior to the date determined by the Secretary pursuant to subsection (a) of this section, it is established to the satisfaction of the Secretary by factual evidence and documentation that the data used in the computation of an allocation is erroneous and, if corrected, would result in an increase or decrease of an entitlement of $200 or more of entitlement funds, an adjustment will be made.

§ 51.23 Boundary changes, governmental reorganization, etc.

(a) *In general.* Boundary changes, governmental reorganizations, or changes in State statutes or constitutions occurring prior to or during the first entitlement period January 1, 1972, through June 30, 1972, which were not taken into account during the initial allocation shall, if not within the scope of paragraph (d) of this section, affect such allocation or payments in a manner consistent with the following provisions:

(1) A boundary change, governmental reorganization, or change in State statutes or constitution relevant to the computation of entitlement of a unit of local government under the Act, occurring prior to January 1, 1972, shall, if brought to the attention of the Bureau of the Census before June 30, 1973, result in an alteration to the entitlement of that unit.

(2) A boundary change, governmental reorganization, or change in State statutes or constitution relevant to the computation of entitlement of a unit of local government under the Act, occurring during the entitlement period January 1, 1972, through June 30, 1972, shall not result in a change to the entitlement of that unit until the next entitlement period beginning July 1, 1972. However, payment tendered to such unit for the entitlement period may be redistributed pursuant to the provisions of paragraphs (b) and (c) of this section.

(b) *New units of local government.* A unit of local government which came into existence during the entitlement period shall first be eligible for an entitlement allocation for the entitlement period beginning July 1, 1972. However, if such unit is a successor government, it shall be eligible to receive the entitlement payment of the unit or units of local government to which it succeeded in accordance with the conditions of the succession.

(c) *Dissolution of units of local government.* A unit of local government which dissolved, was absorbed, or ceased to exist as such during the first entitlement period is eligible to receive an entitlement payment prorated over the number of days in the first entitlement period for which it was in existence and eligible to receive such payment: *Provided*, That such unit is in the process of winding up its governmental affairs or otherwise has legal capacity to accept and use entitlement funds. Entitlement payments or portions thereof which are returned to the Secretary because of the cessation of existence of a unit of local government shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as they can be redistributed according to the conditions under which the unit of local government ceased to exist.

(d) *Limitations on adjustment for annexations.* (1) Annexations by units of local government having a population of less than 5,000 prior to such annexation shall not affect the entitlement of any unit of local government for this entitlement period unless the Secretary determines that adjustments pursuant to such annexations would be equitable and would not be unnecessarily burdensome, expensive, or otherwise impracticable.

(2) Annexations of areas with a population of less than 250, or less than 5 percent of the population of the gaining government, shall not affect the entitlement of any unit of local government for this entitlement period.

(e) *Certification.* Units of local government affected by a boundary change, governmental reorganization, or change in State statutes or constitution shall, before receiving an entitlement adjustment or payment redistribution pursuant to this section, obtain State certification that such change was accomplished in accordance with State law. The certifying official shall be designated by the Governor, and such certification shall be submitted to the Bureau of the Census.

§ 51.24 Waiver of entitlement; nondelivery of check; insufficient data.

(a) *Waiver.* Any unit of local government below the level of county government may waive its entitlement for the first entitlement period: *Provided*, The chief executive officer of such unit notifies the Secretary that the entitlement payment is being waived, and returns the entitlement payment to the Secretary prior to January 1, 1973. The amount of entitlement waived shall be added to, and shall become a part of, the entitlement for the first entitlement period of the county government of the county area in which the unit waiving entitlement is located. A waiver of entitlement by such unit of local government shall be deemed an irrevocable waiver for the first entitlement period.

(b) *Nondelivery.* Entitlement funds for the first entitlement period which are returned by the U.S. Postal Service to the Department of the Treasury as being nondeliverable because of incorrect address information, or which are unclaimed for any reason, shall be placed in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

(c) *Insufficient data.* Entitlement funds for the first entitlement period which are withheld from payment because of insufficient data upon which to compute the entitlement or for which payment cannot be made for any other reason, shall remain in the State and Local Government Fiscal Assistance Trust Fund until such time as payment can be made.

§ 51.25 Reservation of funds and adjustment.

(a) *Reservation of entitlement funds.* In order to make subsequent adjustments to the initial entitlement payment under this part which may be necessitated because of insufficient or erroneous data, or for any other reason, the Secretary shall reserve in the State and Local Government Fiscal Assistance Trust Fund such percentage of the total entitlement funds for the first entitlement period as in his judgment shall be necessary to insure that there will be sufficient funds available so that all recipient governments will receive their full entitlements. Those reserve funds will be distributed during subsequent entitlement periods to recipient governments with the final distribution occurring as promptly as possible after the close of the time for adjustments pursuant to § 51.22.

(b) *Adjustment to future entitlement payments.* Adjustment to the initial entitlement of a recipient government will ordinarily be effected through alteration to entitlement payments for future entitlement periods unless there is a downward adjustment which is so substantial as to make future payment alterations impracticable or impossible. In such case the Secretary may demand that the funds in excess of the initial entitlement included in the initial entitlement payment be repaid to the Secretary, and such funds shall be promptly repaid on demand.

Subpart D—Prohibition and Restrictions on Use of Funds

§ 51.30 Matching funds.

(a) *In general.* No recipient government may use any part of its entitlement funds as a contribution in order to obtain any matching Federal funds under any Federal program. This prohibition on use of entitlement funds as matching funds applies to Federal programs where Federal funds are required to be matched by non-Federal funds and to Federal programs which allows matching from either Federal or non-Federal funds.

(b) *Determination by Secretary of the Treasury.* If the Secretary has reason to believe that a recipient government has used entitlement funds to match Federal funds in violation of the Act, the Secretary shall give such government notice and opportunity for hearing. If the Secretary determines that such government has, in fact, used funds in violation of the Act, he shall notify such government of his determination and shall request repayment to the United States of an amount equal to the funds so used. To the extent that such government fails to repay such amount, the Secretary shall withhold from subsequent entitlement payments to that government an amount of entitlement funds equal to the amount of funds that were disbursed in violation of the prohibition against the use of matching funds.

(c) *Increased State or local government revenues.* No recipient government shall be determined to have used entitlement funds in violation of paragraph (a) of this section with respect to any funds received for the first entitlement period January 1, 1972, through June 30, 1972, to the extent that the net revenues received by it from its own resources during such period exceed one-half the net revenues received by it from its sources during the 1-year period beginning July 1, 1971.

(d) *Use of entitlement funds to supplement Federal grant funds.* The prohibition on use of entitlement funds contained in paragraph (a) of this section does not prevent the use of entitlement funds to supplement other Federal grant funds. For example, if expenditures for a project exceed the amount available from non-Federal funds plus matched Federal funds, the recipient government may use entitlement funds to defray the excess costs: *Provided, however*, That the entitlement funds are not used to match other Federal funds; and: *Provided further*, That in the case of a unit of local government, the use of entitlement funds to supplement Federal grants is restricted to the category of priority expenditures as set forth in § 51.31.

§ 51.31 Permissible expenditures.

(a) *In general.* Entitlement funds received by units of local government may be used only for priority expenditures. As used in this part, the term "priority expenditures" means:

(1) Ordinary and necessary maintenance and operating expenses for—

(i) Public safety (including law enforcement, fire protection, and building code enforcement);

(ii) Environmental protection (including sewage disposal, sanitation, and pollution abatement);

(iii) Public transportation (including transit systems and streets and roads);

(iv) Health;

(v) Recreation;

(vi) Libraries;

(vii) Social services for the poor or aged; and

(viii) Financial administration, and

(2) Ordinary and necessary capital expenditures authorized by law.

No unit of local government may use entitlement funds for nonpriority expenditures which are defined as any expenditures other than those included in subparagraphs (1) and (2) of this paragraph. Pursuant to § 51.10(b), the chief executive officer of each unit of local government must certify to the Secretary that entitlement funds received by it have been used only for priority expenditures as required by the Act.

(b) *Effect of noncompliance.* In the case of a unit of local government which uses an amount of entitlement funds for other than priority expenditures as defined in paragraph (a) of this section, it will pay over to the Secretary (for deposit in the general fund of the Treasury) an amount equal to 110 percent of any amount expended in violation of paragraph (a) of this section, unless such amount of entitlement funds is promptly repaid to the trust fund of the local government after notice by the Secretary and opportunity for corrective action.

§ 51.32 Discrimination.

(a) *Discrimination prohibited.* No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with entitlement funds made available pursuant to subtitle A of Title I of the Act.

(b) *Procedure for effecting compliance.* (1) Whenever the Secretary determines that a recipient government has failed to comply with this section, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the noncompliance and shall request the Governor to secure compliance. If within a reasonable time the Governor fails, or refuses to secure compliance, the Secretary is authorized (i) to refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (ii) to exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (iii) to take such other action as may be authorized by law.

(2) An order pursuant to Title VI of the Civil Rights Act of 1964 terminating or refusing to grant or continue entitlement payments shall become effective only after the procedures in subparagraph (1) of this paragraph have been complied with and:

(i) The Secretary has advised the recipient government of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(ii) There has been an express finding on the record, after opportunity for hearing, of a failure by the recipient government to comply with a requirement imposed by or under this part;

(iii) The action has been approved by the Secretary; and

(iv) The expiration of 30 days after the Secretary has filed with the Commitee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full written report of the circumstances and the grounds for such action; and

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(v) The termination or refusal to grant or continue the payment of entitlement funds shall be limited to the particular recipient government as to whom a finding of noncompliance with this section has been made and shall be limited in its effect to the particular program or part thereof in which such noncompliance has been so found.

(3) No action to effect compliance with this section by any other means authorized by law shall be taken by the Department until:

(i) The Secretary has determined that compliance cannot be secured by voluntary means, and the recipient government has been notified of such determination; and

(ii) The expiration of at least 10 days from the mailing of such notice to the recipient government. During this period of at least 10 days, additional efforts may be made to persuade the recipient government to comply with this regulation and to take such corrective action as may be appropriate.

§ 51.33 Wage rates and labor standards.

(a) *Construction laborers and mechanics.* A recipient government which receives entitlement funds under the Act shall require that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project, 25 percent or more of the costs of which project are paid out of its entitlement funds: (1) Will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act as amended (40 U.S.C. 276a—276a–7); and, (2) will be covered by labor standards specified by the Secretary of Labor pursuant to 29 Code of Federal Regulations Subtitle A, Parts 1, 3, 5, and 7.

(b) *Government employees.* A recipient government which employs individuals whose wages are paid in whole or in part from entitlement funds must pay wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer. However, this subsection shall apply with respect to employees in any category only if 25 percent or more of the wages of all employees of the recipient government in such category are paid from the trust fund established by it under § 51.40(a).

§ 51.34 Restriction on expenditures by Indian tribes and Alaskan native villages.

Indian tribes and Alaskan native villages as defined in § 51.2 are required to expend entitlement funds only for the benefit of members of the tribe or village residing in the county area from which the allocation of entitlement funds was originally made.

Subpart E—Fiscal Procedures and Auditing

§ 51.40 Procedures applicable to the use of funds.

A recipient government which receives entitlement funds under the Act shall:

(a) Establish a trust fund and deposit all entitlement funds received in that trust fund. The trust fund may be established on the books and records as a separate set of accounts and shall be accounted for in a manner customarily followed in accounting for trust or other segregated funds, or a separate bank account may be established.

(b) Use or appropriate such funds (including any interest earned thereon while in such trust fund) within 24 months from date of the check, unless permission is obtained from the Secretary for a longer period within which the funds may be utilized. Permission for an extension of time in which to utilize the funds must be obtained by application to the Secretary. Such application will set forth the facts and circumstances supporting the need for more time and the amount of additional time requested. The Secretary may grant such extensions of time as in his judgment appear necessary or appropriate.

(c) Provide for the expenditure of entitlement funds in accordance with the laws and procedures applicable to the expenditure of its own revenues.

(d) Use the fiscal, accounting, and reporting procedures relative to entitlement funds as are used with respect to expenditures made from revenues derived from its own sources. The fiscal accounts shall be maintained in such manner as to permit the reports required by the Secretary to be prepared therefrom.

(e) Provide to the Secretary and to the Comptroller General of the United States, on reasonable notice, access to and the right to examine such books, documents, papers, or records as the Secretary may reasonably require for the purpose of reviewing compliance with the Act and the regulations of this part or, in the case of the Comptroller General, as the Comptroller General may reasonably require for the purpose of reviewing compliance and operations under the Act.

§ 51.41 Auditing and evaluation.

(a) *Scope of audit.* The Secretary shall provide for such auditing, examination, evaluation, and review as may be necessary to insure that expenditures of entitlement funds by units of government comply with the requirements of the Act and regulations of this part. The scope of such review or examination shall include a review of the recipient government's accounting for entitlement funds with appropriate attention paid to verifying compliance with the requirements of the Act and regulations of this part.

(b) *Reliance on State, county, or municipal auditors.* The Secretary may rely on audits of entitlement funds by State, county, and municipal auditors and examiners, and independent public accountants when in his judgment this may reasonably be done consistent with the provisions of the Act and regulations of this part. Such audits shall be performed in accordance with generally accepted auditing standards. Audit workpapers will be retained for 3 years after the close of the first entitlement period unless released earlier by the Secretary. Audit workpapers will be made available to the Secretary and to the Comptroller General or to their representatives. Audit reports will be submitted to the Secretary by the Governor or chief executive officer when an audit report indicates a possible failure to comply substantially with any requirements of the Act or regulations of this part.

[FR Doc.72-18428 Filed 10-25-72;1:57 pm]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-943]

PART 76—CABLE TELEVISION SERVICES

Procedures for Filing of Applications

Order. In the matter of amendment of Part 76, Subpart B, of the Commission's rules and regulations concerning procedures in the Cable Television Service.

1. In paragraph 117, "Reconsideration of Cable Television Report and Order." FCC–72–530, 36 FCC 2d 326, 366, we stated that when there is a dispute as to whether the appropriate franchising authority is on the State or local level notice of filing of an application for a certificate of compliance should be served on all authorities that are claiming jurisdiction. In addition, in several States a State regulatory body has jurisdiction to confirm or deny franchises granted by local authorities, or otherwise regulate cable television. In either case, both the local and State authorities should be served with copies of the application for certificate of compliance. We have examined the Cable Television Rules and have concluded that certain editorial revisions are necessary to emphasize this procedural point.

2. First, we are amending the first part of § 76.13 (a)(7), (b)(7), and (c)(5), of the Commission's rules to insure that in cases where there are State and local authorities asserting jurisdiction over cable television, even where such jurisdiction is pendente lite, both are served with copies of the application for certificate of compliance.

3. Second, we are amending the second part of § 76.13 (a)(7), (b)(7), and (c)(5) of the Commission's rules to make it clear that, unless either the State or local body makes a copy of the application for certificate of compliance available for public inspection in the community of the system, the applicant will provide for public inspection of the application in said community.

4. Since these amendments are interpretive or relate to Commission procedure, the prior notice provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. section 653, do not apply.

Authority for the rule amendments adopted herein is contained in sections 2, 3, 4 (i), and (j) of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That effective October 31, 1972, Part 76 of the Commission's rules and regulations is amended as set forth below.

(Secs. 2, 3, 4, 48 Stat., as amended, 1064, 1065, 1066; 47 U.S.C. 152, 153, 154)

Adopted: October 18, 1972.

Released: October 24, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 76.13, paragraphs (a)(7), (b)(7), and (c)(5) are revised as follows:

§ 76.13 Filing of applications.

* * * * * * *

(a) * * *

(7) A statement that a copy of the completed application has been served on any local or State agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television, and that if such application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

* * * * * * *

(b) * * *

(7) A statement that a copy of the completed application has been served on any local or State agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television, and that if such application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

* * * * * * *

(c) * * *

(5) A statement that a copy of the completed application has been served on any local or State agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television, and that if such application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place (such as a public library, public registry for documents, or an attorney's office) in the community of the system at any time during regular business hours;

* * * * * * *

[FR Doc.72-18436 Filed 10-27-72;8:49 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. 1098; Amdt. 1]

PART 1033—CAR SERVICE

Chicago and North Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 17th day of October 1972.

Upon further consideration of Service Order No. 1098 (37 F.R. 9633), and good cause appearing therefor:

It is ordered, That § 1033.1098 *Service Order No. 1098* (Chicago and North Western Railway Co. authorized to operate over tracks abandoned by the Chicago, Rock Island and Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 31, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-18452 Filed 10-27-72;8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

OPHTHALMIC PREPARATIONS

Ophthalmic Ointments; Sterility Requirements

A notice was published in the FEDERAL REGISTER of December 8, 1971 (36 F.R. 23307), regarding a proposal to require sterility of all ophthalmic preparations.

The notice afforded interested persons an opportunity to submit written comments on the proposal. Nine comments were received. Seven of those responding were in favor of extending the sterility requirement to ophthalmic ointments. The other two respondents, representing veterinary drug interests, objected to the proposal.

One comment from a manufacturer of veterinary products objected on the grounds that, while high quality veterinary ophthamlic products are desirable, it would be financially impractical to install the necessary equipment to produce a sterile ointment, especially for the smaller manufacturer. The second objection was on procedural grounds; stating that the veterinary ophthalmic industry had not been adequately surveyed or informed regarding the sterility requirement for all ophthalmics.

The Commissioner of Food and Drugs believes that nonsterile ophthalmic preparations are a potentially serious health hazard and that these preparations, including those intended for use in the eyes of animals, should be sterile. The Commissioner finds that the intent of the proposal is clearly to include veterinary ophthalmics and therefore this order properly reflects the policy of the agency for both human and veterinary ophthalmic preparations.

A comment from the United States Pharmacopeia offered strong support for sterility of ophthalmics but indicated concern regarding the legal implications of requiring sterility of all ophthalmic ointment preparations since this was not a requirement for U.S.P. preparations. Since the proposal was published, representatives of the U.S.P. and the Food and Drug Administration have met and discussed the need for and the ways to achieve uniformity in sterility requirements. The U.S.P. has concluded that official U.S.P. ophthalmic ointment preparations can meet sterility requirements at this time. The Third Interim Revision Announcement has already been issued by the U.S.P. These revisions, which will

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become effective June 1, 1973, require sterility for official U.S.C. ophthalmic ointment preparations and provide official test procedures.

The National Formulary commented that they had already taken steps to require sterility of official N.F. ophthalmic preparations. Supplements to the National Formulary XIII are now in effect which require sterility and provide testing procedures for all but two of official N.F. ophthalmic ointments. The National Formulary has advised the FDA that they anticipate sterility requirements and testing procedures for all official N.F. ophthalmic preparations before the effective date of this order. To preclude the possibility of conflicting effective dates, the order is revised to provide that non-antibiotic ophthalmic ointment preparations subject to an official compendium, shall become effective on the date specified by such compendium for adoption of sterility requirements for each official ophthalmic ointment preparation. Antibiotic ophthalmic ointments recognized in an official compendium are subject to the provisions of Federal regulations and the effective date for sterility requirements shall be the same as specified in this order.

Several comments requested additional time in order to make the changes necessary to produce sterile ophthalmic preparations. The Commissioner has considered these requests carefully and finds that such requests are reasonable in view of the complex nature of sterile production. Therefore, the order has been revised with an effective date 12 months after publication in the FEDERAL REGISTER except for compendium products, as described above. However, the Commissioner finds that a delayed effective date for the amendment to § 141.2 *Sterility test methods and procedures* (21 CFR 141.2) is not necessary since that section merely finalizes testing procedures already in use for certain antibiotics. Therefore, this order, as it pertains to § 141.2 shall be effective on date of publication in the FEDERAL REGISTER.

In order to assure sterility of antibiotics, the present antibiotic regulations (21 CFR 148.2(a)) require that containers be so sealed that the contents cannot be used without destroying the seal. The U.S.P. Third Interim Revision Announcement also provides that for ophthalmic ointments the immediate containers are sealed and tamper-proof so that sterility is assured at time of first use. Since it is a common practice of the trade to provide such seals for many articles which may otherwise be accidently broken or opened before use and since seals are a desirable feature from the standpoint of assuring sterility of the product, the requirement for a seal is being added to the order. Until such time as there exists technical capabilities and the widespread availability of tamper-proof seals that offer maximum protection, sealing may be accomplished by providing a seal over the individual container carton or by other suitable means.

Since the publication of the proposal, three antibiotic ointment preparations have been restricted to topical use. In the FEDERAL REGISTER of July 6, 1972 (37 F.R. 13253), the Commissioner announced his conclusions regarding bacitracin-neomycin ointment, zinc bacitracin-neomycin ointment and neomycin sulfate-gramicidin ointment after findings pursuant to the evaluation of reports from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (DESI 50417). Revisions included in this order reflect these findings.

After consideration of the comments, the Commissioner concludes that it is in the interest of public health to extend the sterility requirement to all human and veterinary ophthalmic ointments.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 501 (b) and (c), 502, 507, 512, 701(a), 52 Stat. 1050–1051 as amended, 1055, 59 Stat. 463 as amended, 82 Stat. 350–51; 21 U.S.C. 351 (b) and (c), 352, 357, 360b, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Parts 3, 141, 141a, 141c, 141d, 141e, 146a, 146c, 146d, 146e, 148e, 148i, 148n, and 148q are amended as follows:

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

1. Part 3 is amended in § 3.28 by revising the section heading and paragraph (a) to read as follows:

§ 3.28 Ophthalmic preparations and dispensers.

(a)(1) Informed medical opinion is in agreement that all preparations offered or intended for ophthalmic use, including contact lens solutions and preparations for cleansing the eyes, should be sterile. It is further evident that such preparations purport to be of such purity and quality as to be suitable for safe use in the eye.

(2) The Food and Drug Administration concludes that all such preparations, if they are not sterile, fall below their professed standard of purity or quality and may be unsafe. In a statement of policy issued on September 1, 1964, the Food and Drug Administration ruled that liquid preparations offered or intended for ophthalmic use that are not sterile may be regarded as adulterated within the meaning of section 501(c) of the Federal Food, Drug, and Cosmetic Act, and, further, may be deemed misbranded within the meaning of section 502(j) of the act. This ruling is extended to affect all preparations for ophthalmic use.

(3) The containers of ophthalmic preparations shall be sterile at the time of filling and closing, and the container or individual carton shall be so sealed that the contents cannot be used without destroying the seal. To provide time for validation of sterility tests and changes to sterile production procedures, this ruling will be effective for non-antitbiotic ophthalmic ointment preparations recognized in the official compendia (U.S.P. and N.F.) on the dates specified in such official compendia. For all other ophthalmic ointments, this ruling will be effective 12 months after the date of publication in the FEDERAL REGISTER (10–28–72).

* * * * *

PART 141—TEST AND METHODS OF ASSAY OF ANTIBIOTIC-CONTAINING DRUGS

2. Part 141 is amended in § 141.2 *Sterility test methods and procedures* by redesignating paragraph (d) as paragraph (b) and revising it; redesignating paragraph (b) as paragraph (c) and adding five new subparagraphs; redesignating paragraph (c) as paragraph (d), revising the existing subparagraphs, and adding a new subparagraph (5); and paragraph (e) is amended by adding a new subparagraph (3) to read as follows:

§ 141.2 Sterility test methods and procedures.

* * * * *

(b) *Equipment and reagents*—(1) *Bacterial membrane filter.* The filter has a nominal porosity of 0.45 micron±0.02 micron, a diameter of approximately 47 millimeters, and a flowrate of 55 milliliters to 75 milliliters of distilled water passing each square centimeter of filter area per minute with a differential pressure of 70 centimeters of mercury at 25° C.

(2) *Penicillinase solutions.* When the amount of penicillinase to be used is specified in terms of Levy units, use a penicillinase solution standardized in terms of Levy units. One Levy unit of penicillinase inactivates 59.3 units of penicillin G in 1 hour at 25° C. and at a pH of 7.0 in a phosphate buffered solution of a pure alkali salt of penicillin G when the substrate is in sufficient concentration to maintain a zero order reaction.

(c) *Culture media.* * * *

(9) *Medium I.* To each liter of Medium A add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol.

(10) *Medium J.* To each liter of Medium E add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol.

(11) *Medium K.* (*Rinse medium*). Prepare as follows:

Peptic digest of animal tissue: 5.0 gm.
Beef extract: 3.0 gm.
p-tert-octylphenoxy polyethoxyethanol: 10.0 ml.
Distilled water, q.s.: 1,000.0 ml.
pH 6.9±0.2 after sterilization.

(12) *Medium L.* To each liter of Medium A add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol and approximately 10,000 Levy units of penicillinase.

(13) *Medium M.* To each liter of Medium E add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol and approximately 10,000 Levy units of penicillinase.

(d) *Diluting fluids*—(1) *Diluting fluid A.* Dissolve 1 gram of U.S.P. peptic digest of animal tissue or equivalent in sufficient distilled water to make 1,000 milliliters. Dispense in flasks and sterilize as described in paragraph (c) of this section. Final pH=7.1±0.1.

(2) *Diluting fluid B.* To each liter of diluting fluid A add 5.0 milliliters of polysorbate 80 before sterilization.

(3) *Diluting fluid C.* To each liter of diluting fluid A add 0.5 gram of sodium thioglycollate, and adjust with NaOH so that after sterilization the final pH will be pH 6.6±0.6. Dispense in flasks and sterilize as described in paragraph (c) of this section.

(4) *Diluting fluid D.* To each liter of diluting fluid A add 1 milliliter of *p-tert*-octylphenoxy polyethoxyethanol. Dispense in flasks and sterilize as described in paragraph (c) of this section. Final pH=7.1±0.1.

(5) *Diluting fluid E.* Dispense 100-milliliter portions of isopropyl myristate into 250-milliliter flasks and sterilize by filtration through a 0.22 micron membrane filter and aseptically dispense into sterile 250-milliliter flasks.

(e) * * *

(3) *Bacterial membrane filter method for ophthalmic ointments*—(i) *Ointments that do not contain penicillin.* From each of 10 immediate containers aseptically transfer 0.1 gram of the product into a sterile 250-milliliter flask containing 100 milliliters of diluting fluid E which has previously been heated to a temperature of 47° C. Repeat the process, using 10 additional containers. Swirl both of the flasks to dissolve the ointment. Immediately aseptically filter each solution through a separate bacteriological membrane filter previously moistened with approximately 0.2 milliliter of medium K. Filter all air entering the system through air filters capable of removing microorganisms. Remove any residual antibiotic from the membranes by rinsing each filter five times with 100 milliliters of medium K. The membranes should be covered with fluid throughout each step of the filtration procedure until the end of the last filtering step. By means of a sterile circular blade, paper punch, or other suitable sterile device, cut a circular portion (approximately 17.5 millimeters in diameter) from the center of the filtering area of each membrane. Transfer the center portion of the filtering area of each filter to a sterile test tube 38 millimeters x 200 millimeters (outside dimensions) containing 90 milliliters±10 milliliters of sterile medium I. Incubate the tube for 7 days at 30° C. to 32° C. Using sterile forceps transfer the outer portion of each filter to a similar test tube containing 90 milliliters±10 milliliters of sterile medium J. Incubate this tube for 7 days at 22° C. to 25° C.

(ii) *Ointments containing penicillin.* Proceed as directed in subdivision (i) of this subparagraph, except in lieu of sterile medium I use sterile medium L for the center portion of the filtering area of each filter and in lieu of sterile medium J use sterile medium M for the remaining outer portion of each filter.

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

3. Part 141a is amended in § 141a.8 by adding a new paragraph (c) to read as follows:

§ 141a.8 Penicillin ointment, veterinary.

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE-(OR TETRACYCLINE-)CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

4. Part 141c is amended in § 141c.202 by adding a new paragraph (c) to read as follows:

§ 141c.202 Chlortetracycline hydrochloride ointment, chlortetracycline calcium ointment, chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream).

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

PART 141d—CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

5. Part 141d is amended:

A. By revising § 141d.303 to read as follows:

§ 141d.303 Chloramphenicol ointment.

(a) *Potency.* Proceed as directed in § 141d.301(a), excluding § 141d.301(a) (9) and (10), and in lieu of the directions in § 141d.301(a)(4) prepare the sample by one of the following methods:

(1) Place an accurately weighed representative sample (usually 1.0 gram of the ointment) in a blending jar containing 1 milliliter of a 10 percent aqueous solution of polysorbate 80 and sufficient 1-percent phosphate buffer at pH 6.0 to make 100 milliliters. Using a high-speed blender, blend the mixture for 2 minutes and make the proper estimated dilutions in 1 percent phosphate buffer at pH 6.0.

(2) Place a representative sample (0.5 gram) in a separatory funnel containing 10 milliliters of petroleum ether. Shake the separatory funnel vigorously to bring about complete mixing of the ointment and ether. Shake with a 15-milliliter portion of 1 percent phosphate buffer at pH 6.0. Remove the buffer layer and repeat the extraction with two additional 15-milliliter portions of buffer. Combine the extractives and dilute to 50 milliliters with 1 percent phosphate buffer. Make the proper estimated dilutions in 1 percent phosphate buffer at pH 6.0.

The potency of chloramphenicol ointment is satisfactory if it contains not less than 85 percent of the number of milligrams per gram that it is represented to contain.

(b) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.

B. By revising § 141d.313 to read as follows:

§ 141d.313 Chloramphenicol-polymyxin ointment.

(a) *Potency*—(1) *Chloramphenicol content.* Proceed as directed in § 141d.303. Its chloramphenicol content is satisfactory if it contains not less than 85 percent of the number of milligrams per gram that it is represented to contain.

(2) *Polymyxin content.* Proceed as directed in § 141b.112(b)(1) of this chapter, except in lieu of the directions in § 141b.112(b)(1)(vii) of this chapter for the preparation of the sample, prepare the sample as follows: Place an accurately weighed sample (usually approximately 1.0 gram) in a separatory funnel containing approximately 50 milliliters of peroxide-free ether, and shake the sample and ether until homogeneous. Add 25 milliliters of 10-percent potassium phosphate buffer, pH 6.0 and shake. Remove the buffer layer and repeat the extraction with three additional 25-milliliter portions of buffer. Combine the extractives and make the proper estimated dilutions, using the buffer solution, except that, if the sample contains a water-soluble base, place an accurately weighed representative sample in a blending jar containing 1.0 milliliter of polysorbate 80 and sufficient 10 percent potassium phosphate buffer, pH 6.0, to give a final volume of 200 milliliters. Using a high-speed blender, blend the mixture for 2 minutes to 3 minutes and then make the proper estimated dilutions with 10 percent phosphate buffer pH 6.0. Its content of polymyxin is satisfactory if it contains not less than 85 percent of the number of units per gram that it is represented to contain.

(b) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.

PART 141e—BACITRACIN AND BACITRACIN CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

6. Part 141e is amended:

A. In § 141e.402 by adding a new paragraph (c) to read as follows:

§ 141e.402 Bacitracin ointment; zinc bacitracin ointment.

* * * * *

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as

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directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

B. In § 141e.409 by adding a new paragraph (c) to read as follows:

§ 141e.409 Bacitracin-polymyxin ointment; zinc bacitracin-polymyxin ointment.

• • • • •

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

C. In § 141e.422 by adding a new paragraph (c) to read as follows:

§ 141e.422 Bacitracin-polymyxin-neomycin ointment.

• • • • •

(c) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

D. In § 141e.433 by revising paragraph (b) to read as follows:

§ 141e.433 Sterile bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; sterile bacitracin-neomycin sulfate-polymyxin B sulfate-hydrocortisone acetate ophthalmic ointment.

• • • • •

(b) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

• • • • •

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

7. Part 146a is amended in § 146a.26 by revising paragraphs (a) and (d) to read as follows:

§ 146a.26 Penicillin ointment, veterinary.

(a) *Standards of identity, strength, quality, and purity.* Penicillin ointment, veterinary, is calcium penicillin, crystalline penicillin, procaine penicillin, or *l*-ephenemine penicillin G in a suitable and harmless ointment base, with or without a suitable anesthetic. If it is intended solely for topical veterinary use and not for udder instillation in dairy animals and is conspicuously so labeled, it may contain nitrofurazone. If it is intended for ophthalmic use, it contains crystalline penicillin G and it is sterile. Its moisture content is not more than 1.0 percent. Its potency is not less than 250 units per gram. The calcium penicillin or crystalline penicillin used conforms to the requirements of § 146a.24(a) except the limitation on penicillin K content and except § 146a.24 (a) (1), (2), (3), and (4), but its potency is not less than 300 units per milligram. The crystalline penicillin G used in making penicillin ophthalmic ointment conforms to the requirements of § 146a.24(a) except the limitation on penicillin K content and except § 146a.24(a)(4). The procaine penicillin used conforms to the requirements of § 146a.44(a) except § 146a.44(a) (2), (3), and (4). The *l*-ephenamine penicillin G used conforms to the requirements of § 146a.64(a) except § 146a.64(a) (2), (3), and (4). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

• • • • •

(d) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(1) Results of tests and assays on:

(i) The penicillin used in making the batch for potency, moisture, pH, for crystallinity if it is a crystalline salt of penicillin, for heat stability if it is crystalline penicillin or *l*-ephenamine penicillin G, for the penicillin G content if it is penicillin G, for the specific rotation if it is *l*-ephenamine penicillin G, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and moisture and for sterility if the ointment is intended for ophthalmic use.

(2) Samples required:

(i) The penicillin used in making the batch: Five packages, or in the case of crystalline penicillin, 10 packages, each containing approximately 60 milligrams if it is not procaine penicillin, and approximately 300 milligrams if it is procaine penicillin, packaged in accordance with the requirements of § 146a.24(b) or § 146a.44(b).

(ii) The batch:

(*a*) For all tests except sterility: A minimum of five immediate containers.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

8. Part 146c is amended in § 146c.202 by revising paragraphs (a) and (d) to read as follows:

§ 146c.202 Chlortetracycline hydrochloride ointment; chlortetracycline calcium ointment; chlortetracycline calcium cream; tetracycline hydrochloride ointment (tetracycline hydrochloride in oil suspension); tetracycline ointment (tetracycline cream).

(a) *Standards of identity, strength, quality, and purity.* Chlortetracycline hydrochloride ointment, tetracycline hydrochloride ointment, and tetracycline ointment are crystalline chlortetracycline hydrochloride, chlortetracycline calcium, tetracycline hydrochloride, or tetracycline, in a suitable and harmless ointment base. It may contain a suitable local anesthetic, cortisone, hydrocortisone, or a suitable ester of cortisone or hydrocortisone, and one or more suitable and harmless preservatives and stabilizing agents. If it is intended for ophthalmic use, it contains chlortetracycline hydrochloride or tetracycline hydrochloride and it is sterile. Its moisture content is not more than 1 percent if it is chlortetracycline hydrochloride or tetracycline hydrochloride ointment. Its potency is not less than 1 milligram per gram. The chlortetracycline hydrochloride used in making the chlortetracycline hydrochloride ointment and in preparing the chlortetracycline calcium used in making the chlortetracycline calcium ointment conforms to the requirements of § 146c.201(a) except § 146c.201(a) (1), (2), (3), (4), and (5) but its potency is not less than 750 micrograms per milligram. The chlortetracycline hydrochloride used in making the chlortetracycline hydrochloride ophthalmic ointment conforms to the requirements of § 146c.201 (a) except § 146c.201(a) (4) and (5). The tetracycline hydrochloride used conforms to the requirements of § 146c.218 (a) except § 146c.218(a) (2), (3), (4), and (5). The tetracycline hydrochloride used in making the tetracycline hydrochloride ophthalmic ointment conforms to the requirements of § 146c.218(a) except § 146c.218(a) (4) and (5). The tetracycline used conforms to the requirements of § 146c.220(a). Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

• • • • •

(d) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(1) Results of tests and assays on:

(i) The chlortetracycline hydrochloride or tetracycline hydrochloride or tetracycline used in making the batch for potency, moisture, pH, and crystallinity, and for absorptivity if it is tetracycline hydrochloride or tetracycline, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and moisture and for sterility if it is intended for ophthalmic use.

(2) Samples required:

(i) The chlortetracycline or tetracycline hydrochloride or tetracycline used in making the batch: 10 packages, each containing approximately 60 milligrams, packaged in accordance with the requirements of § 146c.201(b).

(ii) The batch:

(*a*) For all tests except sterility: A minimum of 5 immediate containers.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

9. Part 146d is amended in § 146d.303 by revising paragraphs (a) and (d) to read as follows:

§ 146d.303 Chloramphenicol ointment (chloramphenicol cream).

(a) *Standards of identity, strength, quality, and purity.* Chloramphenicol ointment is chloramphenicol in a suitable and harmless ointment base, with or without suitable and harmless buffer substances, dispersing and suspending agents. It may contain cortisone or a suitable derivative of cortisone. If such base is water-miscible, it shall contain a suitable and harmless preservative. Its potency is not less than 1.0 milligram per gram. If it is intended for ophthalmic use, it is sterile. The chloramphenicol used conforms to the requirements of § 146d.301(a) except § 146d.301(a) (2), (3), (4), and (5) of that paragraph. The chloramphenicol used in making the chloramphenicol ophthalmic ointment conforms to the requirements of § 146d.301(a) except § 146d.301(a) (4) and (5). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

• • • • •

(d) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(1) Results of tests and assays on:

(i) The chloramphenicol used in making the batch for potency, pH, specific rotation, melting point, and absorptivity, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and for sterility if the ointment is intended for ophthalmic use.

(2) Samples required:

(i) The chloramphenicol used in making the batch: 10 packages, each containing approximately 300 milligrams, packaged in accordance with the requirements of § 146d.301(b).

(ii) The batch:

(*a*) For all tests except sterility: A minimum of 5 immediate containers if it is packaged in immediate containers of tin or glass; a minimum of 20 immediate containers if it is packaged in immediate containers other than tin or glass.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

10. Part 146e is amended in § 146e.402 by revising paragraphs (a) and (d) to read as follows:

§ 146e.402 Bacitracin ointment; zinc bacitracin ointment.

(a) *Standards of identity, strength, quality, and purity.* Bacitracin ointment and zinc bacitracin ointment are composed of bacitracin or zinc bacitracin in a suitable and harmless ointment base, or they are a powder composed of bacitracin or zinc bacitracin and one or more suitable and harmless diluents, dispersing agents, and preservatives which upon the addition of the quantity of water recommended in its labeling, produces an ointment. It may contain a suitable local anesthetic, cortisone, or a suitable derivative of cortisone, one or more suitable sulfonamides, one or more suitable proteolytic enzymes, and, if it is intended solely for veterinary use and is conspicuously so labeled, one or more suitable antifungal agents or rotenone. Its potency is not less than 500 units per gram. If it is intended for ophthalmic use, it is sterile. Its moisture content is not more than 1 percent, except if it is a powder its moisture content is not more than 5 percent. The zinc bacitracin used conforms to the standards prescribed therefor by § 146e.418(a) except § 146e.401(a) (2). The bacitracin used conforms to the standards prescribed therefor by § 146e.401(a) except § 146e.401(a) (2), (3), (4), and (8). The bacitracin used in making the bacitracin ophthalmic ointment conforms to the requirements of § 146e.401 (a) except § 146e.401(a) (4) and (8). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

• • • • •

(d) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(1) Results of tests and assays on:

(i) The bacitracin or zinc bacitracin used in making the batch for potency, moisture, and pH, and for ash content if it is bacitracin or for zinc content if it is zinc bacitracin, and for toxicity if the ointment is intended for ophthalmic use.

(ii) The batch for potency and moisture and for sterility if it is intended for ophthalmic use.

(2) Samples required:

(i) The bacitracin used in making the batch: Six packages, each containing approximately 500 milligrams, packaged in accordance with the requirements of § 146e.401(b).

(ii) The zinc bacitracin used in making the batch: Five packages, each containing approximately 1 gram, packaged in accordance with the requirements of § 146e.408(b).

(iii) The batch:

(*a*) For all tests except sterility: A minimum of five immediate containers.

(*b*) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

PART 148e—ERYTHROMYCIN

11. Part 148e is amended:

§ 148e.16 [Reserved]

A. By revoking § 148e.16 *Erythromycin-polymyxin B sulfate ophthalmic ointment* and reserving it for future use.

B. In § 148e.31 *Erythromycin ophthalmic ointment:*

a. By inserting the following new sentence between the third and fourth sentences in paragraph (a)(1): "It is sterile."

b. By revising paragraphs (a) (3) (i) (*b*) and (ii) (*b*); and by redesignating paragraph (b) (2) as (3) and inserting a new subparagraph (2) as follows:

§ 148e.31 Erythromycin ophthalmic ointment.

(a) • • •

(3) • • •

(i) • • •

(*b*) The batch for potency, sterility, and moisture.

(ii) • • •

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

(b) • • •

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e) (3) of that section.

(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

PART 148i—NEOMYCIN SULFATE

12. Part 148i is amended:

A. In § 148i.3 *Neomycin sulfate ointment; neomycin sulfate-_____ ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section):*

a. By inserting the sentence, "If it is intended for ophthalmic use, it is sterile." in the closing text in paragraph (a)(1) immediately after the sentence which reads, "If it is an oleaginous base, its moisture content is not more than 1 percent."

b. By revising paragraph (a) (3) (i) (*b*) and (ii) (*b*); and in paragraph (b) by redesignating subparagraph (2) as (3) and inserting a new subparagraph (2) as follows:

§ 148i.3 Neomycin sulfate ointment; neomycin sulfate-_____ ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) • • •

(3) • • •

(i) • • •

(*b*) The batch for potency and for moisture if the ointment base is oleaginous and for sterility if the ointment is intended for ophthalmic use.

(ii) • • •

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of five immediate containers.

(2) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.

(b) • • •

(2) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method as described in paragraph (e) (3) of that section.

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(3) *Moisture.* If the ointment has an oleaginous base, proceed as directed in § 141.502 of this chapter.

B. In § 148i.26 *Neomycin sulfate-gramicidin topical ointment; neomycin sulfate-gramicidin-triamcinolone acetonide ointment; neomycin sulfate-gramicidin-fludrocortisone acetate ointment:*

a. By inserting the following sentence between the third and fourth sentences in paragraph (a)(1): "If it is intended for ophthalmic use, it is sterile."

b. By revising paragraph (a)(3)(i)(c) and (ii)(c); and in paragraph (b) by redesignating subparagraph (2) as (3) and inserting a new subparagraph (2) to read as follows:

§ 148i.26 Neomycin sulfate-gramicidin topical ointment; neomycin sulfate-gramicidin-triamcinolone acetonide ointment; neomycin sulfate-gramicidin-fludrocortisone acetate ointment.

(a) • • •
(3) • • •
(i) • • •
(c) The batch for neomycin content, gramicidin content, and moisture, and for sterility if it is intended for ophthalmic use.
(ii) • • •
(c) The batch:
(*1*) For all tests except sterility: A minimum of six immediate containers.
(2) For sterility testing: Twenty immediate containers, collected at regular intervals throughout each filling operation.
(b) • • •
(2) *Sterility.* If the ointment is intended for ophthalmic use, proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section. However, if the ointment is not soluble in isopropyl myristate proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(2) of that section, except use 100 milligrams in lieu of 300 milligrams of solids.
(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

PART 148n—OXYTETRACYCLINE

13. Part 148n is amended:

A. In § 148n.18 *Oxytetracycline hydrochloride ophthalmic ointment:*

a. By inserting the following sentence between the second and third sentences in paragraph (a)(1): "It is sterile."

b. By revising paragraphs (a)(3)(i)(*b*) and (ii)(*b*); and in paragraph (b) by redesignating subparagraph (2) as (3) and by inserting a new subparagraph (2) to read as follows:

§ 148n.18 Oxytetracycline hydrochloride ophthalmic ointment.

(a) • • •
(3) • • •
(i) • • •
(*b*) The batch for potency, sterility, and moisture.
(ii) • • •
(*b*) The batch:
(*1*) For all tests except sterility: A minimum of five immediate containers.
(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.
(b) • • •
(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.
(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

B. In § 148n.21 *Oxytetracycline hydrochloride-polymyxin B sulfate eye and ear ointment:*

a. By inserting the following new sentence between the second and third sentences: "It is sterile."

b. By revising paragraph (a)(3)(i)(c) and (ii)(c); and in paragraph (b) by redesignating subparagraph (2) as (3) and inserting a new subparagraph (2) to read as follows:

§ 148n.21 Oxytetracycline hydrochloride-polymyxin B sulfate eye and ear ointment.

(a) • • •
(3) • • •
(i) • • •
(c) The batch for oxytetracycline content, polymyxin B content, sterility, and moisture.
(ii) • • •
(c) The batch:
(*1*) For all tests except sterility: A minimum of six immediate containers.
(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.
(b) • • •
(1) • • •
(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.
(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.

PART 148q—GENTAMICIN

14. Part 148q is amended in § 148q.6 *Gentamicin sulfate ophthalmic ointment:*

A. By inserting the following sentence between the second and third sentences in paragraph (a)(1): "It is sterile."

B. By revising paragraph (a)(3)(i)(*b*) and (ii)(*b*); and in paragraph (b) by redesignating subparagraph (2) as (3), subparagraph (3) as (4), and inserting a new subparagraph (2) to read as follows:

§ 148q.6 Gentamicin sulfate ophthalmic ointment.

(a) • • •
(3) • • •
(i) • • •
(*b*) The batch for gentamicin potency, sterility, moisture, and particulate contamination.
(ii) • • •
(*b*) The batch:
(*1*) For all tests except sterility: A minimum of 15 immediate containers.
(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.
(b) • • •
(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(3) of that section.
(3) *Moisture.* Proceed as directed in § 141.502 of this chapter.
(4) *Particulate contamination.* Proceed as directed in § 141.508 of this chapter.

Effective date. This order as it applies to 21 CFR 141.1 *Sterility test methods and procedures,* shall become effective upon publication in the FEDERAL REGISTER (10–28–72). For those nonantibiotic ophthalmic ointment preparations subject to an official compendium, this order shall become effective on the date specified in such official compendium for adoption of sterility requirements. For all other nonantibiotic and antibiotic ophthalmic ointment preparations, this order shall become effective 12 months after its date of publication in the FEDERAL REGISTER.

(Secs. 501 (b) and (c), 502, 507, 512, 701(a), 52 Stat. 1050–1051 as amended, 1055, 59 Stat. 463 as amended, 82 Stat. 350–351; 21 U.S.C. 351 (b) and (c), 352, 357, 360b, 371(a))

Dated: October 24, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18420 Filed 10-27-72;8:47 am]

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Neomycin Sulfate, Prednisolone Acetate, Tetracaine Hydrochloride Eardrops, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (11–703V) filed by the Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of eardrops containing neomycin sulfate and other drugs for the treatment of dogs and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.32 Neomycin sulfate, prednisolone acetate, tetracaine hydrochloride eardrops, veterinary.

(a) *Specifications.* The product contains 5 milligrams of neomycin sulfate, equivalent to 3.5 milligrams of neomycin base, 2.5 milligrams of prednisolone acetate, and 5 milligrams of tetracaine hydrochloride in each milliliter of sterile suspension.

(b) *Sponsor.* See code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is useful in treating such conditions as acute otitis externa and, to a lesser degree, chronic otitis externa in dogs and cats. It is indicated as treatment or adjunctive therapy of certain ear conditions in dogs and cats caused by or associated with neomycin-susceptible organisms and/or allergy. In otitis externa, 2 to 6 drops may be placed in the external ear canal two or three times daily.

(2) Incomplete response or exacerbation of corticosteroid responsive lesions may be due to the presence of nonsusceptible organisms or to prolonged use of antibiotic-containing preparations resulting in overgrowth of nonsusceptible organisms, particularly Monilia. Thus, if improvement is not noted within 2 or 3 days, or if redness, irritation, or swelling persists or increases, the diagnosis should be redetermined and appropriate therapeutic measures initiated. Tetracaine and neomycin have the potential to sensitize. Care should be taken to observe animals being treated for evidence of hypersensitivity or allergy. If such signs are noted, therapy should be stopped.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–28–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 13, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-18419 Filed 10-27-72;8:47 am]

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Topical Ointment

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (30–025V) filed by the Upjohn Co., Kalamazoo, Mich. 49001, proposing revised labeling for the safe and effective use of a topical ointment containing neomycin sulfate and other drugs for use in the treatment of dogs, cats, and horses. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.34 Neomycin sulfate, 9-fluoroprednisolone acetate, tetracaine hydrochloride ointment, veterinary.

(a) *Specifications.* The drug contains 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams of neomycin base), 1 milligram of 9-fluoroprednisolone acetate, and 5 milligrams of tetracaine hydrochloride in each gram of ointment.

(b) *Sponsor.* See code No. 037 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in treating such conditions as acute otitis externa in dogs and to a lesser degree, chronic otitis externa in dogs. It also is effective in treating anal gland infections and moist dermatitis in the dog and is a useful dressing for minor cuts, lacerations, abrasions, and post-surgical therapy in the horse, cat, and dog. It may also be used following amputation of dewclaws, tails and claws, following ear trimming and castrating operations.

(2) In treatment of otitis externa and other inflammatory conditions of the external ear canal, a quantity of ointment sufficient to fill the external ear canal may be applied one to three times daily. When used on the skin or mucous membranes, the affected area should be cleansed, and a small amount of the ointment applied and spread or rubbed in gently. The involved area may be treated one to three times a day and these daily applications continued in accordance with the clinical response.

(3) Tetracaine and neomycin have the potential to sensitize. Care should be taken to observe animals being treated for evidence of hypersensitivity or allergy to the drug. If such signs are noted, therapy with the drug should be stopped. Treatment should be limited to the period when local anesthesia is essential to control self-inflicted trauma.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–28–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: October 18, 1972.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.72-18393 Filed 10-27-72;8:46 am]

PART 273—BIOLOGICAL PRODUCTS

Neurovirulence Safety Tests for Live Measles, Mumps, and Rubella Vaccines

A notice of proposed rule making regarding amendments to the regulations was published in the FEDERAL REGISTER of February 24, 1972 (37 F.R. 3916–3918), by the Director, National Institutes of Health as proposed amendments to Part 73 of the Public Health Service regulations (42 CFR Part 73). On July 1, 1972, the Division of Biologics Standards, National Institutes of Health, which had been charged with administering and enforcing section 351 of the Public Health Service Act and Part 73 of the Public Health Service regulations, was transferred to the Food and Drug Administration and is now redesignated as the Bureau of Biologics (FEDERAL REGISTER of June 29, 1972, and July 13, 1972; 37 F.R. 12865 and 37 F.R. 13724). On August 9, 1972, a notice appeared in the FEDERAL REGISTER (37 F.R. 15993) transferring Part 73 of the Public Health Service regulations (42 CFR Part 73) to a newly established Part 273 of the Food and Drug regulations (21 CFR Part 273). The codification of these regulations therefore reflect this transfer to Title 21 of the Code of Federal Regulations.

Interested persons were invited to submit comments on the proposal within 30 days. Comments from three different firms, namely Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486, Eli Lilly and Co., Greenfield Laboratories, Box 708, Greenfield, IN 46140, and Lederle Laboratories, Division of American Cyanamid Co., Pearl River, N.Y. 10965, were received.

While one comment indicated that the proposed regulations represented an improvement over the present regulations the other comments were related to specific provisions of the proposal.

1. A comment was received indicating concern as to the interpretation of the phrase "without significant weight loss" which appears in §§ 73.1060(c)(1)(v), 73.1100(c)(1)(iv), and 73.1120(e)(1)(iv). To avoid possible confusion this phrase has been changed to read "without losing more than 25 percent of their weight". Another comment indicating uncertainty with respect to interpretation of § 73.1060(c)(1)(v) was received, on the basis of which it was concluded that each of the sections (§§ 73.1060(c)(1)(v), 73.1100(c)(1)(iv), and 73.1120(e)(1)(iv)) should be clarified to reflect that the 80 percent of animals required to show the inoculation trauma should be those animals that have survived the first 48 hours of the test period and the replacements added at the 48-hour interval but not those monkeys that do not survive the first 48 hours after injection. It was not the intent to require that the animals dying within 48 hours be examined for inoculation trauma and appropriate changes have been made to clearly indicate that only 80 percent of the injected animals surviving beyond the first 48 hours must show the inoculation trauma.

2. A comment was received suggesting the use of the word "nerve" rather than "nervous" in the expression "recovering from the nervous tissues previously removed from the animal" appearing in §§ 73.1060(c)(1)(vii)(b), 73.1100(c)(1)(vi)(b), and 73.1120(e)(1)(vi)(b). The use of the word "nervous" is correct since "nerve" would imply the nerve tissue outside the central nervous system. To help clarify this phrase it has been changed to read "nervous system tissues".

3. A comment was received regarding § 73.1060(c)(3)(i), asking if 80 percent of the monkeys should show measles antibody titers of 1:4 or greater as an initial or a final dilution. To avoid confusion this requirement has been changed to reflect that the serum as obtained from the monkey must show a titer of 1:4 or greater. Furthermore, another comment was received concerning the significance of serological antibody conversion in monkeys which have been cortisone treated and have also received such a large dose of antigen. Since the cortisone dose is relatively small no interference with serologic conversion is to be expected.

4. A comment was received suggesting that the word "fail" in the last sentence of §§ 73.1100(c)(1)(iv) and 73.1120(e)

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(1)(iv) be deleted so that the sentence would then read like the similar paragraph in the standards for Measles Virus Vaccine. Such a suggestion was adopted since the intent of these three sections is the same.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262), and under authority delegated to the Commissioner (21 CFR 2.120), 21 CFR Part 273, formerly 42 CFR Part 73, is amended as follows:

1. Section 273.1060 is amended by revising paragraph (c) to read as follows:

§ 273.1060 The product.

* * * * *

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated measles virus used in manufacture of measles virus vaccine. For this purpose, vaccine from each of the five-consecutive lots (§ 273.1065) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in the following manner:

(i) Samples of each of the five lots of vaccine shall be tested in measles susceptible monkeys. Immediately prior to initiation of a test each monkey shall have been shown to be serologically negative for neutralizing antibodies by means of a tissue culture neutralization test with undiluted serum from each monkey tested at approximately 100 $TCID_{50}$ of Edmonston strain measles virus, or negative for measles virus antibodies as demonstrated by tests of equal sensitivity.

(ii) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(iii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Bureau of Biologics, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumber spinal cord enlargement.

(iv) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(v) At least 90 percent of the test animals must survive the test period without losing more than 25 percent of their weight except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iv) of this subparagraph. At least 80 percent of the injected animals surviving beyond the first 48 hours must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(vi) At the end of the observation period, each surviving monkey shall (*a*) be bled and the serum tested for evidence of serum antibody conversion to measles virus and (*b*) be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vii) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vii) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous systems tissues previously removed from the animal.

(viii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Wild virus controls.* As a check against the inadvertent introduction of wild measles virus, at least four uninoculated measles susceptible control monkeys shall be maintained as either cage mates to, or within the same immediate area of, the 20 inoculated test animals for each lot of vaccine for the entire period of observation (17–21 days) and an additional 10 days. Serum samples from these control contact monkeys drawn at the time of seed virus inoculation of the test animals, and again after completion of the test, shall be shown to be free of measles neutralizing antibodies.

(3) *Test results.* (i) For each lot of vaccine under test, at least 80 percent of the monkeys must show measles antibody serological conversion (1:4 or greater) when the serum as obtained from the monkey is tested and the control contact monkeys must demonstrate no immunological response indicative of measles virus infection.

(ii) The measles virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots (*a*) 90 percent of the monkeys survive the observation period, (*b*) the histological and other studies produce no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus, and (*c*) there is no evidence of the presence of extraneous neurotropic agents.

(4) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 273.1061 (a), (b), and (c).

§ 273.1062 [Amended]

2. Section 273.1062 is amended by deleting paragraph (d).

3. Section 273.1100 is amended by revising paragraph (c) to read as follows:

§ 273.1100 The product.

* * * * *

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated mumps virus used in the manufacture of mumps vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 273.1105) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in monkeys shown to be serologically negative for mumps virus antibodies in the following manner:

(i) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(ii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Bureau of Biologics, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iii) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(iv) At least 90 percent of the test animals must survive the test period without losing more than 25 percent of their weight except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iii) of this subparagraph. At least 80 percent of the injected animals surviving beyond the first 48 hours must show gross or microscopic evidence of

inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(v) At the end of the observation period, each surviving animal shall be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vi) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vi) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous system tissues previously removed from the animals.

(vii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Test results.* The mumps virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots (i) 90 percent of the monkeys survive the observation period, (ii) the histological and other studies produce no evidence of changes in the central nervous system attributable to unusual neurotropism or replication of the seed virus and (iii) there is no evidence of the presence of extraneous neurotropic agents.

(3) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 273.1101(a).

§ 273.1102 [Amended]

4. Section 273.1102 is amended by deleting paragraph (c).

5. Section 273.1120 is amended by revising paragraph (e) to read as follows:

§ 273.1120 The product.

* * * * *

(e) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated rubella virus used in the manufacture of rubella vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 273.1125) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in monkeys shown to be serologically negative for rubella virus antibodies in the following manner:

(i) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(ii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Bureau of Biologics, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iii) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(iv) At least 90 percent of the test animals must survive the test period without losing more than 25 percent of their weight except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iii) of this subparagraph. At least 80 percent of the injected animals surviving beyond the first 48 hours must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(v) At the end of the observation period, each surviving animal shall be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vi) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vi) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous system tissues previously removed from the animal.

(vii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to the presence of unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Test results.* The rubella virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots: (i) 90 percent of the monkeys survive the observation period, (ii) the histological and other studies produce no evidence of changes in the central nervous system attributable to the presence of unusual neurotropism or replication of the seed virus and (iii) there is no evidence of the presence of extraneous neurotropic agents.

(3) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 273.1121(a), (b), (c), and (c–1).

§ 273.1122 [Amended]

6. Section 273.1122 is amended by deleting paragraph (d).

(Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

Effective date. These standards shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: October 19, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-18421 Filed 10-27-72;8:47 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Monetary Offices

[31 CFR Part 103]

CURRENCY AND FOREIGN TRANSACTIONS

Financial Recordkeeping and Reporting

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the authority vested in the Secretary of the Treasury by titles I and II of Public Law 91-508 (84 Stat. 1114 et seq.), the Secretary is considering the following amendments to 31 CFR Part 103, 37 F.R. 6912 (1972), set forth in tentative form below. Any person who wishes to submit views or objections pertaining to the proposed amendments may do so in writing within 30 days following publication of this notice in the FEDERAL REGISTER. All comments submitted pursuant to this notice will be open to public inspection unless otherwise requested. Comments should be submitted in duplicate and should be addressed to the Honorable Samuel R. Pierce, Jr., General Counsel, Treasury Department, Washington, D.C. 20220.

[SEAL] SAMUEL R. PIERCE, JR.,
General Counsel.

EUGENE T. ROSSIDES,
Assistant Secretary.

Part 103 of Title 31 of the Code of Federal Regulations is amended as follows:

Subpart A is amended by deleting from § 103.11 subparagraph (5) of the definition of a financial institution, renumbering the following subparagraph so that the definition of financial institutions will read as follows:

§ 103.11 Meaning of terms.

* * * * *

Financial institution. Each agency, branch, or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A bank;

(2) A broker or dealer in securities;

(3) A person who engages as a business in dealing in or exchanging currency as, for example, a dealer in foreign exchange or a person engaged primarily in the cashing of checks;

(4) A person who engages as a business in the issuing, selling, or redeeming of travelers' checks, money orders, or similar instruments, except one who does so as a selling agent exclusively or as an incidental part of another business;

(5) A licensed transmitter of funds, or other person engaged in the business of transmitting funds abroad for others.

* * * * *

Subpart C is amended by amending § 103.34 to read as follows:

§ 103.34 Additional records to be made and retained by banks.

(a) With respect to each deposit or share account opened with a bank after June 30, 1972, by a person residing or doing business in the United States or a citizen of the United States, such bank shall secure and maintain a record of the taxpayer identification number of the person maintaining the account; or in the case of an account of one or more individuals, such bank shall secure and maintain a record of the social security number of an individual having a financial interest in that account.

(b) Each bank shall, in addition, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Each document granting signature authority over each deposit or share account;

(2) Each statement, ledger card, or other record on each deposit or share account, showing each transaction in, or with respect to, that account;

(3) Each check, clean draft, or money order drawn on the bank or issued and payable by it, except those drawn for $100 or less or those drawn on accounts which can be expected to have drawn on them an average of at least 100 checks per month over the calendar year or on each occasion on which such checks are issued, and which are (i) dividend checks, (ii) payroll checks, (iii) employee benefit checks, (iv) insurance claim checks, (v) medical benefit checks, (vi) checks drawn on governmental agency accounts, (vii) checks drawn by brokers or dealers in securities, (viii) checks drawn on fiduciary accounts, (ix) checks drawn on other financial institutions, or (x) pension or annuity checks;

(4) Each item in excess of $100 (other than bank charges or periodic charges made pursuant to agreement with the customer), comprising a debit to a customer's deposit or share account, not required to be kept, and not specifically exempted, under paragraph (b)(3) of this section;

(5) Each item, including checks, drafts, or transfers of credit, of more than $10,000 remitted or transferred to a person, account or place outside the United States;

(6) A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than $10,000 to a person, account, or place outside the United States;

(7) Each check or draft in an amount in excess of $10,000 drawn on or issued by a foreign bank, purchased, received for credit or collection, or otherwise acquired by the bank;

(8) Each item, including checks, drafts, or transfers of credit, of more than $10,000 received directly and not through a domestic financial institution, by letter, cable, or any other means, from a person, account, or place outside the United States;

(9) A record of each receipt of currency, other monetary instruments, checks, or investment securities, and of each transfer of funds or credit, of more than $10,000 received on any one occasion directly and not through a domestic financial institution, from a person, account, or place outside the United States; and

(10) Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a demand deposit account and to trace a check in excess of $100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of $100. This subparagraph shall be applicable only with respect to demand deposits.

Subpart D is amended by amending § 103.43 to read as follows:

§ 103.43 Availability of information.

The Secretary may make any information set forth in any reports received pursuant to this part available to any other department or agency of the United States upon the request of the head of such department or agency, made in writing and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought and the official need therefor. Any information made available under this section to other departments or agencies of the United States shall be received by them in confidence, and shall not be disclosed to any person except for official purposes relating to the investigation or proceeding in connection with which the information is sought.

Subpart D is further amended by amending § 103.45 to read as follows:

§ 103.45 Exceptions, exemptions, modifications, and reports.

(a) The Secretary, in his sole discretion, may by written order or authorization make exceptions to, grant exemptions from, or otherwise modify, the requirements of this part. Such exceptions, exemptions, or modifications may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to particular transactions or classes of transactions. They shall, however, be applicable only as expressly stated in the order or authorization, and they shall be revocable in the sole discretion of the Secretary.

(b) The Secretary shall have authority to further define all terms used herein.

Subpart D is further amended by adding a new § 103.51 as follows:

§ 103.51 Access to records.

This part does not authorize the Secretary or any other person to inspect or review the records required to be maintained by Subpart C of this part. Inspection or review or other access to such records is governed by other applicable Federal or State law.

[FR Doc.72-18434 Filed 10-27-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 69-7; Notice 24]

OCCUPANT CRASH PROTECTION

Femur and Chest Injury Criteria

The purpose of this notice is to propose amendments to the injury criteria for the femur and the chest in Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, 49 CFR 571.208.

The NHTSA hereby proposes that the injury criteria of Standard No. 208 be amended, by raising the maximum permissible load on the femur from 1,400 to 1,700 pounds, and by substituting a severity index of 1,000 for the present 60 g., 3-millisecond limit as the chest injury criterion applicable to vehicles manufactured before August 15, 1975. The proposal is in response to a petition for rule making submitted by General Motors, but it also reflects analysis of data received by this agency since the existing injury criteria were promulgated.

Accident data and cadaver studies both indicate that the 1,400-pound femur load limit is a conservative one, with only a small percentage of fractures occurring at that level. Considerable difficulty is evidently caused in the design of passive protection systems by that limit, since good system design appears to dictate that the femur of a 50th-percentile male be loaded to more than 1,000 pounds in order to keep the occupant on the seat, and the normal variation in crash test results causes an occasional sample to rise close to or over the limit imposed by the standard. Furthermore, the imposition of a smaller load on the femur during a 30-m.p.h. barrier crash is likely to result in inadequate protection to occupants at higher barrier crash equivalent speeds. The NHTSA has therefore tentatively determined that raising the limit from 1,400 to 1,700 pounds is in the interest of safety.

Similarly, the chest injury criterion of 60 g. (except for a cumulative 3-millisecond interval) causes occasional compliance failures of restraint systems whose overall protective capabilities are judged to be good. It appears likely that such failures are part of a transient phase in the production of these systems. In the face of similar problems with seat belt systems, the agency previously substituted a severity index of 1,000 as the criterion applicable to belt systems in vehicles manufactured before August 15, 1975 (37 F.R. 13265, July 6, 1972). The considerations which made the severity index acceptable as an interim measure for seat belts now appear also to be applicable to other restraint systems. In particular, the index operates as a check on the high amplitude, long duration spikes that present the greatest hazard to vehicle occupants. It is therefore proposed that the severity index of 1,000 be used as the chest injury criterion for vehicles manufactured before August 15, 1975, regardless of the type of restraint system.

General Motors, which to the knowledge of this agency is the only manufacturer currently producing vehicles to meet the first option of Standard No. 208 (completely passive protection), represents that these proposed amendments are of an urgent nature, since a decision to continue production of vehicles designed for important field testing depends on their adoption. This agency agrees, and is therefore issuing this proposal with a relatively short comment period, and with the proposed effective date the date of publication of the final rule.

It is therefore proposed that S6.3 and S6.4 in Motor Vehicle Safety Standard No. 208 be amended to read as follows:

S6.3 The resultant acceleration at the center of gravity of the upper thorax shall not exceed 60 g., except for intervals whose cumulative duration is not more than 3 milliseconds. However, in the case of a vehicle manufactured before August 15, 1975, the resultant acceleration at the center of gravity of the upper thorax shall be such that the severity index calculated by the method described in SAE Information Report J885a, October 1966, does not exceed 1,000.

S6.4 The force transmitted axially through each upper leg shall not exceed 1,700 pounds.

The proposed effective date is the date of publication of the rule in the FEDERAL REGISTER.

Interested persons are invited to submit comments on the proposed amendments. Comments should identify the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on November 16, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on October 26, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-18532 Filed 10-26-72;3:01 pm]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 25]

[Docket No. 16495; FCC 72-903]

ESTABLISHMENT OF DOMESTIC COMMUNICATIONS-SATELLITE FACILITIES BY NONGOVERNMENTAL ENTITIES

Extension of Time for Filing Comments and Reply Comments

Order. In the matter of establishment of domestic communications-satellite facilities by non-Governmental entities, Docket No. 16495.

1. On September 8, 1972, the Communications Satellite Corp. (Comsat) and MCI Lockheed Satellite Corp. (MCIL) filed a Memorandum of Understanding in this proceeding. By order released on September 13, 1972, the time for filing replies to responses to petitions for reconsideration of the "Second Report and Order" herein (FCC 72-531) and comments on the Comsat-MCIL Memorandum of Understanding was extended to September 25, 1972. On October 3, 1972, Comsat supplemented the Memorandum of Understanding by filing copies of an agreement that has been negotiated by Comsat, Lockheed Aircraft Corp., MCI Communications Corp., MCI Satellite, Inc. and MCIL, with Annexes A, B, and C.

2. *It is ordered,* On the Commission's own motion pursuant to section 403 of the Communications Act, that interested parties may file comments on the agreement supplementing the Comsat-MCIL Memorandum of Understanding on or

V37-209 OCT 28 72 XUM

before October 30, 1972, and reply comments on or before November 10, 1972.

Adopted: October 10, 1972.

Released: October 11, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18437 Filed 10-27-72;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 230]

[Release No. 33-5324]

DEFINITION OF "BROKERS' TRANSACTIONS"

Extension of Time for Submitting Comments

On September 26, 1972, the Securities and Exchange Commission announced the adoption of certain actions and invited public comments on a proposal to amend paragraph (g)(2) of Rule 144 under the Securities Act of 1933 (17 CFR 230.144) relating to the definition of the term "brokers' transactions" for the purposes of that rule and under section 4(4) of that Act (Securities Act Release No. 5307 [September 26, 1972]) (37 F.R. 20576). That release also stated that comments on the proposed amendment should be submitted in writing (three copies) to Alan B. Levenson, Director, Division of Corporation Finance on or before October 15, 1972, referring to File No. S7-454. Due to delays in printing the release, copies were not mailed to the public until October 12, 1972. Accordingly, the time for submitting such comments has been extended to November 13, 1972. All such comments will be considered available for public inspection.

(Secs. 2(11), 4(1), 4(2), 4(4), 19(a), 48 Stat. 74, 77, 85, sec. 209, 48 Stat. 908, secs. 1-4, 88 Stat. 683, sec. 12, 78 Stat. 508, 15 U.S.C. 77(b)(11), 77(d)(1), 77(d)(2), 77(d)(4), 77s(a))

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

OCTOBER 19, 1972.

[FR Doc.72-18399 Filed 10-27-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED SWEET CORN

Proposed Amendment to Standards of Identity, Quality, and Fill of Container

Correction

In F.R. Doc. 72-16644, appearing at page 21112, in the issue of Thursday, October 5, 1972, make the following changes:

1. The headings should read as set forth above.

2. Directly above the heading "Recommended International Standard for Canned Sweet Corn", on page 21112, insert:

[CAC/RS 18-1969]

3. In the third column of page 21112, in the second line of 3.1.1 and the third line of 3.1.4, the symbol "mm", should read "m/m".

4. In the first table on page 21113, in the third line of the first heading, after the figure "400", insert "g", so that the figure will read "400 g".

5. On page 21117, beginning with the word "*Codex*" delete everything through the line ending "optional ingredient". Insert in lieu thereof the following:

FOOTNOTES

FDA	Codex
[1] Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such words shall immediately and conspicuously precede or follow such name, without intervening written, printed or graphic matter, except that the varietal name of the corn used may so intervene. (21 CFR 51.20(f)(1))	Provided for under the "Recommended International General Standard for the Labeling of Prepackaged Foods."
No change. This is a specific requirement on labeling that does not appear elsewhere in this standard.	
[2] Such words or statements in addition to salt and monosodium glutamate but excluding sugar shall be set forth on the label with such prominence and conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase. If two or more such optional ingredients are present, such statements as are required may be combined; for example, "With added salt, spice, flavoring, and monosodium glutamate." (21 CFR 51.20(f)(2))	Requires a complete listing of ingredients on the label in descending order of proportion.

Delete this paragraph (footnote 2) as item 7(1) provides requirement regarding the listing of each optional ingredient.

6. In § 51.21(d)(1), "subdivision (viii)" should be designated "subdivision (vii)".

SELECTIVE SERVICE SYSTEM

[32 CFR Parts 1608, 1612, 1613, 1617]

REGISTRATION AND PUBLIC INFORMATION

Notice of Proposed Rule Making

Pursuant to the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.), and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 United States Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC, 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1608—PUBLIC INFORMATION

Section 1608.12(e) is amended to read as follows:

§ 1608.12 Available information.

• • • • •

(e) Each local board maintains a Classification Record (SSS Form 102) which contains the name, selective service number, and the current and past classifications for each person registered with that board. Information in this record will be supplied upon request.

• • • • •

PART 1612—REGISTRATION DUTIES

§ 1612.25 [Revoked]

Section 1612.25 *Care and custody of registration cards and registration certificates*, is revoked.

PART 1613—REGISTRATION PROCEDURES

Section 1613.2 *Local board of jurisdiction*, is amended to read as follows:

§ 1613.2 Local board of jurisdiction.

The local board having jurisdiction over the place of residence entered in Item 2 of the Registration Card (SSS Form 1) at the time of initial registration shall always have jurisdiction over the registrant, unless otherwise directed by the Director of Selective Service.

Sections 1613.3 and 1613.4 are added to read as follows:

§ 1613.3 Evidence of registration.

The local board shall issue to each registrant written evidence of his registration in the manner prescribed by the Director of Selective Service.

§ 1613.4 Issuing duplicate evidence of registration.

Duplicate evidence of registration will be issued to a registrant by the local board with which he is registered upon its receipt of his written request therefor.

PART 1617—REGISTRATION CARD

The title of Part 1617 is amended to read as set forth above.

§ 1617.11 [Revoked]

Section 1617.11 *Issuing duplicate Registration Certificate*, is revoked.

BYRON V. PEPITONE,
Acting Director.

OCTOBER 25, 1972.

[FR Doc.72-18430 Filed 10-27-72;8:47 am]

[32 CFR Parts 1621, 1623, 1624, 1626, 1627, 1641, 1655]

CLASSIFICATION OF REGISTRANTS

Proposed Procedures

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order No. 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act; as amended (50 U.S. Code App., sections 451 et seq.).

All persons who desire to submit views to the Director on the proposals should prepare them in writing and mail them to the General Counsel, National Headquarters, Selective Service System, 1724 F Street NW., Washington, DC 20435, within 30 days following the publication of this notice in the FEDERAL REGISTER.

The proposed amendments follow:

PART 1621—PREPARATION FOR CLASSIFICATION

§§ 1621.9 and 1621.10 [Revoked]

Section 1621.9 *Furnishing registration questionnaire (SSS Form 100)*, is revoked.

Section 1621.10 *Time allowed to return questionnaire*, is revoked.

Section 1621.11 *Special form for conscientious objector*, is amended to read as follows:

§ 1621.11 Special form for conscientious objector.

A registrant who claims to be a conscientious objector shall be given the opportunity to offer information in substantiation of his claim on a Special Form for Conscientious Objector (SSS Form 150). The local board, upon request, shall furnish to any registrant a copy of Special Form for Conscientious Objector (SSS Form 150).

Section 1621.12 *Claims for or information relating to deferment or exemption*, is amended to read as follows:

§ 1621.12 Claims for or information relating to deferment or exemption.

The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the local board in determining his proper classification. Such information should be included in or attached to a Current Information Questionnaire (SSS Form 127) and may include any document, affidavits and depositions. The affidavits and depositions shall be as concise and brief as possible.

§ 1621.13 [Revoked]

Section 1621.13 *Inadequate questionnaire*, is revoked.

PART 1623—CLASSIFICATION PROCEDURE

Section 1623.7 is amended to read as follows:

§ 1623.7 Issuing a duplicate notice of classification.

A duplicate notice of classification will be issued to a registrant by the local board which mailed the original notice of classification to him upon his written request therefor.

Paragraphs (a) and (b) of § 1623.9 *Registrants transferred for classification*, are amended to read as follows:

§ 1623.9 Registrants transferred for classification.

(a) Before the local board of origin has undertaken the classification of a registrant after his administrative classification into Class 1-H, he may be transferred to another local board for classification under procedures prescribed by the Director if he is so far from his local board as to make complying with notices an extreme hardship.

(b) A registrant may be transferred to another local board for classification at any time under procedures prescribed by the Director (1) when the local board cannot act on his case because of disqualification under provisions of section 1604.55 of this chapter, or (2) when a majority of the members of the local board, or a majority of the members of every panel thereof if the board has separate panels, withdraw from consideration of the registrant's classification because of any conflicting interest, bias, or other reason.

• • • • •

PART 1624—PERSONAL APPEARANCE BEFORE LOCAL BOARD

Section 1624.2 *Request for personal appearance*, is amended to read as follows:

§ 1624.2 Request for personal appearance.

A registrant, other than one who has filed a request in accord with § 1624.1(b), who desires a personal appearance before his local board, must file a written request therefor within 15 days after the local board has mailed a notice of classification to him. Such 15-day period may be extended by the local board when it is satisfied that the registrant's failure to request a personal appearance within such period was due to some cause beyond his control.

Section 1624.5 *Procedure when registrant fails to appear*, is amended to read as follows:

§ 1624.5 Procedure when registrant fails to appear.

Whenever the registrant for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the local board shall consider any explanation of such failure that has been filed within 5 days (or extension thereof granted by the local board) after such failure in accordance with § 1624.3. Should the local board determine that the registrant's failure to appear for his personal appearance was without good cause, or if within 5 days (or extension thereof granted by the local board) after such failure to appear the registrant offers no explanation of such failure, the registrant will be deemed to have had his personal appearance and the local board (a) will take such action with respect to the classification of a registrant who has requested a personal appearance following his classification as is appropriate in light of the provisions concerning reopening of classification in § 1625.2 of this chapter, or (b) if such registrant requested a personal appearance in advance of his classification in accordance with § 1624.1(b), the local board shall classify the registrant. The local board will notify the registrant in writing of the action taken.

Section 1624.6 *Procedure of local board following personal appearance*, is amended to read as follows:

§ 1624.6 Procedure of local board following personal appearance.

After the registrant has appeared before the local board, it shall again classify the registrant and, in the event that the local board classifies the registrant in a class other than that which he request, it shall record its reasons therefor in his file. Only those members of the local board before whom the registrant appeared shall classify him. The local board shall mail to the registrant notice of his classification together with the reasons the local board classified him in a class other than that which he requested.

[1] Commissioner Reid absent.

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PART 1626—APPEAL TO APPEAL BOARD

Section 1626.2 *Time limit within which registrant may appeal,* is amended to read as follows:

§ 1626.2 Time limit within which registrant may appeal.

The registrant must file his appeal and his request for a personal appearance before the appeal board, if such personal appearance is desired, within 15 days after the date the local board mails to the registrant notice of his classification or notice pursuant to § 1624.5 of this chapter. At any time prior to the date the local board mails to the registrant an order to report for induction or for alternate service, the local board will permit him to appeal even though the period for taking an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to some cause beyond his control. If the local board grants an extension of time to appeal to the registrant, he may within such extended period also request a personal appearance before the appeal board.

Paragraph (i) of § 1626.4 *Review by appeal board* is amended to read as follows:

§ 1626.4 Review by appeal board.

* * * * *

(i) In the event that the appeal board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

Section 1626.5 *Procedure of local board when advised of decision of appeal boárd,* is amended to read as follows:

§ 1626.5 Procedures of local board when advised of decision or appeal board.

When the local board receives notice of the decision of a case by the appeal board, it shall mail a notice of classification to the registrant and inform him in writing of the vote of the appeal board and the reasons the appeal board classified him in a class other than that which he requested.

PART 1627—APPEAL TO THE PRESIDENT

Section 1627.1 *Persons who may appeal to the President,* is amended to read as follows:

§ 1627.1 Persons who may appeal to the President.

(a) The Director of Selective Service or the State Director of Selective Service of the State in which the local board or appeal board which classified the registrant is located may appeal to the President from any determination of an appeal board at any time prior to the induction of the registrant or his reporting for alternate service in lieu of induction.

(b) When a registrant has been classified by the appeal board and one or more members of the appeal board dissented from that classification, he may appeal to the President within 15 days after the local board has mailed a notice thereof to him. The local board may permit any registrant who is entitled to appeal to the President under this section to do so at any time prior to the date the local board issues to him an order to report for induction or for alternate service, even though the period of taking such an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to some cause beyond his control.

Paragraph (h) of § 1627.4 *Procedures of the National Selective Service Appeal Board,* is amended to read as follows:

§ 1627.4 Procedures of the National Selective Service Appeal Board.

* * * * *

(h) In the event that the National Board classifies the registrant in a class other than that which he requested it shall record its reasons therefor in his file.

Section 1627.6 *Procedure of local board after file is returned,* is amended to read as follows:

§ 1627.6 Procedure of local board after file is returned.

When the file of the registrant is received by the local board it shall notify the registrant in writing of the classification given him by the President. Upon the receipt by the local board of a written request by the registrant mailed within 30 days after the mailing of such notice it shall furnish to such registrant a copy of the reasons the National Board classified him in a class other than that which he requested.

PART 1641—DUTY OF REGISTRANTS

Section 1641.6 is amended to read as follows:

§ 1641.6 Duty to have unaltered documents in personal possession.

It is the duty of every registrant until his liability for training and service has terminated to have in his personal possession except while he is on active duty (other than active duty for training or for the sole purpose of undergoing a physical examination) in the Armed Forces (1) his Registration Certificate (SSS Form 2) and Notice of Classification (SSS Form 110) showing his current classification or (2) his Status Card (SSS Form 7) most recently issued by the local board.

(b) The failure of any person to have his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7) in his personal possession as required in paragraph (a) of this section shall be prima facie evidence of his failure to register.

(c) When a registrant is inducted into the Armed Forces, or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his documents listed in paragraph (a) of this section to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the documents to the local board that issued them.

Section 1641.7 *Duty of registrant separated from active duty in Armed Forces,* is amended to read as follows:

§ 1641.7 Duty of registrant separated from active duty in Armed Forces.

Every registrant who is separated from active duty in the Armed Forces prior to the 26th anniversary of the date of his birth, who has not discharged his current military obligation under the Military Selective Service Act, and who does not have a Registration Certificate (SSS Form 2) or Status Card (SSS Form 7) shall, within 10 days after the date of his separation, request in writing his local board to return his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7), if available, or to issue to him a duplicate thereof.

§ 1641.9 [Revoked]

Section 1641.9 *Duty to have Notice of Classification (SSS Form 110) in personal possession,* is revoked.

PART 1655—REGISTRATION OF U.S. CITIZENS OUTSIDE OF THE UNITED STATES AND CLASSIFICATION OF SUCH REGISTRANTS

Paragraph (b) of § 1655.5 *District of Columbia Local Board No. 100 (Foreign),* is amended to read as follows:

§ 1655.5 District of Columbia Local Board No. 100 (Foreign).

* * * * *

(b) District of Columbia Local Board No. 100 (Foreign) shall have jurisdiction for all purposes under selective service law over any person who at the time of his registration under the provisions of the regulations in this part does not designate for entry in Item 2 of his Registration Card (SSS Form 1) an address of a place within the continental United States, the State of Alaska, the State of Hawaii, Puerto Rico, the Virgin Islands, Guam, or the Canal Zone.

BYRON V. PEPITONE,
Acting Director.

OCTOBER 25, 1972.

[FR Doc.72-18429 Filed 10-27-72;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

[No. 40]

ASSISTANT DIRECTOR, REGULATORY ENFORCEMENT

Delegation of Authority Regarding Offers in Compromise

1. Pursuant to the authority vested in the Director, Bureau of Alcohol, Tobacco, and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, there is hereby delegated to the Assistant Director, Regulatory Enforcement, the authority to accept or reject offers in compromise submitted pursuant to the provisions of the Federal Alcoholic Administration Act (27 U.S.C. 207).

2. This authority may not be redelegated.

Date of issue: October 10, 1972.

Effective date: October 10, 1972.

[SEAL] REX D. DAVIS,
Director.

[FR Doc.72-18422 Filed 10-27-72;8:46 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 9327]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 20, 1972.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 9327, for the withdrawal of public lands described below. Said lands are to be withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, nor the disposal of materials under the act of July 31, 1947, and reserved for use of the Department of Agriculture for the granting of easements for road rights-of-way as authorized by section 2 of the act of October 13, 1964.

This proposal for the Barnes Valley Road No. 375 will provide a means by which the Secretary of Agriculture can grant easements for road rights-of-way to private parties.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 2965 (729 Northeast Oregon Street), Portland, OR 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

WILLAMETTE MERIDIAN

BARNES VALLEY ROAD NO. 375

T. 37 S., R. 14 E.,
Sec. 10, W½NE¼, NE¼NW¼, W½SE¼, and SE¼SE¼.
T. 39 S., R. 14 E.,
Sec. 12, NW¼NW¼;
Sec. 13, SW¼NE¼, NW¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 24, NE¼NE¼.
T. 39 S., R. 15 E., W.M.,
Sec. 29, SW¼NW¼;
Sec. 30, E½NE¼.

A strip of land 66 feet in width, being 33 feet in width on both sides of the centerline of the Barnes Valley Road No. 375.

The areas described aggregate 23 acres.

IRVING W. ANDERSON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.72-18396 Filed 10-27-72;8:46 am]

Office of Hearings and Appeals

[Docket No. M 73-6]

EASTERN ASSOCIATED COAL CORP.

Petition for Modification of a Mandatory Safety Standard

In the matter of Eastern Associated Coal Corp. (30 U.S.C. 868(b)); 30 CFR 75.802.

Notice is hereby given that, pursuant to section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. § 801, et seq.) (Act), Eastern Associated Coal Corp., whose address is 1728 Koppers Building, Pittsburgh, Pa. 15219 (Petitioner) has filed a petition to modify the application to it of the safety standard set out in section 308(b) of the Act and 75.802 of the implementing standards (30 CFR 75.802).

Said section 308(b) and 75.802 set forth the safety standard as follows:

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within 100 feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

Petitioner requests that the application to it of said section be modified to allow the use at its Kopperston No. 1 Mine "of a neutral at the neutral deriving or Zig-Zag transformer, which is the source of the neutral in a derived AC system"; and petitioner "respectfully submits that the neutral grounding system it is using at its Kopperston No. 1 Mine will at all times guarantee no less than the same measure of protection afforded the miners at the mine. On the other hand, following [the standard] will result in a diminution of safety because the addition of another wire on the power poles raises the likelihood of shorting and breakage in remote and almost inaccessible areas."

Any party interested in this petition shall file his answer or comments, with request for a hearing if desired, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington,

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VA 22203. Copies of the petition are available for inspection at that address. See FEDERAL REGISTER, Vol. 37, No. 190—Friday, September 29, 1972.

JAMES M. DAY,
Director,
Office of Hearings and Appeals.

OCTOBER 19, 1972.

[FR Doc.72-18459 Filed 10-27-72;9:56 am]

Office of the Secretary

CENTRAL AND FIELD ORGANIZATION

Statement of Organization; Correction

The organization statement for the Department of the Interior published at 37 F.R. 17431 is revised to make two corrections as shown below.

111.13 *Office of Hearings and Appeals.* In the final paragraph of the statement for the Office of Hearings and Appeals (37 F.R. 17435), reference to "* * * eight field offices * * *" for Indian probate hearing examiners is changed to "* * * seven field offices * * *".

145.1 *National Park Service.* In the listing of Regional Offices—National Park Service (37 F.R. 17438), the address for the Southeast Region should read as follows: 3401 Whipple Avenue, Atlanta, GA 30344.

CHARLES G. EMLEY,
Deputy Assistant Secretary
of the Interior.

OCTOBER 20, 1972.

[FR Doc.72-18398 Filed 10-27-72;8:45 am]

[DES 72-107]

COLUMBIAN WHITE-TAILED DEER NATIONAL WILDLIFE REFUGE, CLATSOP COUNTY, OREG., AND WAHKIAKUM COUNTY, WASH.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the Department of the Interior has prepared a draft environmental statement for proposed land acquisition in Clatsop and Wahkiakum Counties to complete the Columbian White-Tailed Deer National Wildlife Refuge, and invites written comments within forty-five (45) days of this notice. The statement also discusses the environmental impacts involved in the operation of the installation.

Copies are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife, 1500 Plaza Building, Room 288, 1500 Northeast Irving Street, Post Office Box 3737, Portland, OR 97208.

Bureau of Sport Fisheries and Wildlife, Office of Environmental Quality, Department of the Interior, Room 2246, 18th and C Streets, NW., Washington, DC 20240.

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, DC 20240. Please refer to the statement number above.

W. W. LYONS,
Deputy Assistant Secretary
of the Interior.

OCTOBER 20, 1972.

[FR Doc.72-18397 Filed 10-27-72;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

CONSERVATION OF MARINE LIFE

Use of Liberty Ships by States as Offshore Artificial Reefs

The subject legislation approved August 22, 1972, authorizes the Secretary of Commerce to transfer Liberty ships (otherwise designated for scrapping) from the National Defense Reserve Fleet to States requesting them, if the States intend to sink such ships for use as offshore artificial reefs for the conservation of marine life.

Public Law 92-402 requires that copies of any applications received by the Secretary of Commerce must be forwarded for coment to the Secretaries of Interior and Defense and to all other appropriate Federal officers.

The Secretary of Commerce, as represented by the Assistant Secretary of Commerce for Maritime Affairs, is now in the process of drafting a uniform application form.

Accordingly, all interested Federal officers are invited (a) to identify themselves as officers to whom applications should be sent for comment (including name and telephone number of the individual with whom direct liaison may be maintained), and (b) to identify the type of information which they wish to be elicited in the applications. All communications should be addressed to the Chief, Division of Reserve Fleet, Maritime Administration, Department of Commerce, Marad Code 743, Washington, D.C. 20235.

Dated: October 25, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-18554 Filed 10-27-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3B2843]

HENKEL, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2843) has been filed by Henkel, Inc., 480 Alfred Avenue, Teaneck, NJ 07666, proposing the issuance of a regulation to provide for the safe use of mono and diglycerides of hydrogenated castor oil fatty acids, tridecyl stearate, distearyl phthalate, pentaerytheritol adipate-stearate, and pentaerytheritol adipate-oleate as processing aid lubricants in the manufacture of polyvinyl chloride resins intended for use as articles or components of articles that contact nonalcoholic foods.

Dated: October 17, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18409 Filed 10-27-72;8:46 am]

[FAP 2H2805]

MALLINCKRODT CHEMICAL WORKS

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2H2805) has been filed by Mallinckrodt Chemical Works, Washine Division, Lodi, N.J. 07644, proposing that § 121.1186 *n*-heptyl *p*-hydroxybenzoate (21 CFR 121.1186) be amended to provide for the safe use of *n*-heptyl *p*-hydroxybenzoate in nonstandardized soft drinks and fruit-based beverages.

Dated: October 17, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-18410 Filed 10-27-72;8:46 am]

Health Service and Mental Health Administration

NATIONAL ADVISORY COMMITTEE

Announcement of Meetings

Pursuant to Executive Order 11671, the Administrator, Health Services and Mental Health Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of November 1972, in accordance with provisions set forth in section 13(a) (1) and (2) of that Executive order:

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

Tuberculosis Control Advisory Committee; November 2, 8:30 a.m., Room SB-7, Building B, Center for Disease Control, Atlanta, Ga. 30333; Open; Contact Mary L. Atkinson, Center for Disease Control, Atlanta, Ga. 30333, Code 404—633-3706.

Purpose. Consults with and advises on policies and programs in tuberculosis control.

Agenda. Agenda items will include weekly reporting of tuberculosis, tuberculosis surveillance of hospital employees, program evaluation to measure impact of services, nurse directed clinics, and task oriented training.

Committee Name, Date, Time, Place, and Type of Meeting and/or Contract Person

Research Scientist Development Review Committee; November 2-3, 9 a.m., Plaza Room, Dupont Plaza Hotel, Washington, D.C.; Closed; Contact Dr. Mary R. Haworth, Room 12-94, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-4347.

Purpose. Reviews applications for the Research Scientist Development Awards for support of additional training or experience of behavioral scientists to develop their full capacities for careers devoted to research, and the Research Scientist Awards for support of established research scientists qualified to pursue independent research in areas relevant to mental health. Makes recommendations on these programs to the Division of Manpower and Training Programs, National Institute of Mental Health and the National Advisory Mental Health Council.

Agenda. The Committee will be performing review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, section 13(d).

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

Medical Laboratory Services Advisory Committee; November 3, 9 a.m., Room 207, Building 1, Center for Disease Control, Atlanta, Ga.; Open; Contact Dr. Roslyn Robinson, Center for Disease Control, Atlanta, Ga. Code 404—633-3262.

Purpose. To develop a classification of clinical laboratory diagnostic products which will permit application of common measurements for determining identity, purity, specificity, sensitivity, and other factors in evaluating the adequacy of such products for use in the Nation's clinical laboratories.

Agenda. Agenda items will provide for a review of analyses determined in clinical laboratories in the disciplines of chemistry, microbiology, and immunology; available diagnostic products used in such determinations; and factors which can be used to judge the quality of such products. Discussion will provide a basis for classification of products, each group of which can be evaluated by a specific set of criteria.

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

National Advisory Health Services Council; November 14, 1 p.m., Conference Room G-H, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Closed; Contact Russell Z. Seidel, Room 15-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-2940.

Purpose. The Council is charged with advising on policies, needs, and requirements for research and development designed to increase the effectiveness and efficiency of medical care and health services. Council is also charged with the final review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research and Development.

Agenda. The Council will review grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential, and will be closed to the public in accordance with the determination made by the Secretary of Health, Education, and Welfare pursuant to the provisions of Executive Order 11671, section 13(d).

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

Joint meeting of the National Advisory Health Services Council and Federal Hospital Council; November 15, 9 a.m., Conference Room G-H, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Open; Contact Russell Z. Seidel, Room 15-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-2940.

Purpose. The Councils are charged with advising on policies and regulations under title III and title VI of the Public Health Service Act.

Agenda. The Councils will be receiving reports from the Director and Staff members of the National Center for Health Services Research and Development relative to the current programs and plans for fiscal year 1973.

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

Federal Hospital Council; November 16, 9 a.m., Conference Room G-H, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Closed—9-10:30 a.m., Open—10:30 a.m.-4:30 p.m.; Contact Russell Z. Seidel, Room 15-35, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-2940.

Purpose. The Council is charged with advising on policies and regulations under title VI of the Public Health Service Act and to provide final review of grant applications for Federal assistance in the program area administered by the National Center for Health Services Research and Development.

Agenda. The Council will review grant applications which contain trade secrets, commercial or financial information obtained from a person and privileged or confidential, and will be closed to the public for that portion of the meeting in accordance with the determination made by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d). The meeting will be open to the public for that portion when the Director, Health Care Facilities Service submits his report.

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

Mental Health Small Grant Committee; November 16-18, 2 p.m., District Room and Room 334, Washington Hotel, Washington, D.C.; Closed; Contact Stephanie B. Stolz, Room 10C-14, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-4337.

Purpose. The Committee is charged with the initial review of small grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health.

Agenda. The Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d).

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

National Advisory Council on Alcohol Abuse and Alcoholism; November 20-21, 9:30 a.m,. Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Open—November 20, Closed—November 21; Contact Judith Katz, Room 16-105, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-4377.

Purpose. The Council advises the Secretary, Department of Health, Education, and Welfare, regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. It reviews all grant applications submitted to the National Institute on Alcohol Abuse and Alcoholism and evaluates these in terms of scientific merit and coherence with Department policies.

Agenda. November 20 will be devoted to a discussion on policy issues. It will include a briefing on administrative and legislative developments by the Director, a report by the Alcoholism Treatment Center Program Development Task Force, and discussions with the Director, National Institute of Mental Health and the Administrator, Health Services and Mental Health Administration.

On November 21, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d).

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

National Advisory Council for Disease Control; November 30-December 1, 9:30 a.m., Center for Disease control, San Juan Tropical Diseases Laboratories, San Juan, P.R.; Closed—November 30 from 2 p.m.-4:30 p.m., Open—rest of meeting; Contact Dr. Myron J. Willis, Center for Disease Control, Atlanta, Ga. 30333, Code 404—633-X7751.

Purpose. Advises and consults with the Administrator, Health Services and Mental Health Administration, on matters relating to the prevention and control of communicable diseases. Provides advice on national policies and programs with regard to broad major problems and responsibilities. Reviews grant applications for research grants concerned with disease control and related areas.

Agenda. Agenda items will include a program review of the Center for Disease Control's San Juan Tropical Disease Laboratories; reports from Center for Disease Control staff members assigned to the Departments of Public Health in Puerto Rico and the Virgin Islands; and the review of research grant applications concerned with disease control and related areas.

Committee Name, Date, Time, Place, and Type of Meeting and/or Contact Person

Maternal and Child Health Service Research; November 30-December 1, 9 a.m., Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, MD; Closed; Contact Gloria Wackernah, Room 12A-11, Parklawn Building, 5600 Fishers Lane, Rockville, MD, Code 301—443-2190.

Purpose. The Committee is charged with the review of all research grant applications in the program areas administered by the Maternal and Child Health Service.

Agenda. The Committee will be performing review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Secretary of Health, Education, and Welfare, pursuant to the provisions of Executive Order 11671, section 13(d).

Item for discussion are subject to change due to the priorities as directed by the President of the United States, or the Secretary of Health, Education, and Welfare.

A roster of members may be obtained from the contact person listed above.

Dated: October 26, 1972.

ANDREW J. CARDINAL,
Acting Associate Administrator for Management, Health Services and Mental Health Administration.

[FR Doc.72-18560 Filed 10-27-72;8:51 am]

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ATOMIC ENERGY COMMISSION

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice and Order for Prehearing Conference

In the matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1).

Take notice, that pursuant to the Atomic Energy Commission's "Memorandum and Order" and "Notice of Hearing on a Facility Operating License," both dated September 15, 1972, a prehearing conference will be held in the subject proceeding on November 9, 1972, at 10 a.m., local time, at the Federal Office Building, 106 South 15th Street, Room 807, Omaha, NE 68102.

A. This prehearing conference will deal with:

1. Motions to be addressed to the Atomic Safety and Licensing Board (Board);
2. Prospect of settlement;
3. Simplification of issues;
4. The status of discovery;
5. The identification of known witnesses, including expert witnesses;
6. Procedures, including rules of evidence, to be followed in the presentation of evidence at the evidentiary hearing;
7. Estimated time to be required by the parties for the actual presentation of their case; and
8. Such other matters as may aid in the orderly disposition of the instant proceeding, including any objections the parties may have to this notice and order.

B. At an informal conference of counsel on October 24, 1972, the following was considered:

1. Letter, dated October 19, 1972, to the Chairman from H. H. Voigt, summarizing discussions held among the attorneys for the parties, and the five "issues" stated therein;
2. A proposed schedule;
3. Status of discovery; and
4. Federal Water Pollution Control Act Amendments of 1972.

C. Pursuant to agreement reached at the informal conference, the following schedule will be adhered to by the parties:

1. The proposed schedule set forth on page 3 of said October 19 letter, except that November "6" is rescheduled to November 8. No testimony offered by any party will be received in evidence unless the testimony is first reduced to writing and submitted to every other party to the proceeding in conformance with this schedule;
2. The Intervenor will identify and particularize his contentions within the parameters of the statement of issues set forth in said October 19 letter, primarily paragraphs 3 and 5, therein. This statement of contentions shall be submitted to the Board and parties on or before November 3, 1972;
3. The Applicant will prepare a comprehensive legal memorandum outlining his position with respect to the applicability of the Federal Water Pollution Control Act Amendments of 1972 to intervenors' contentions and submit it to the Board and parties on or before November 3, 1972; and
4. Replies to the actions of the intervenor and applicant, C-2 and C-3, respectively, above, shall be submitted to the Board and parties on or before the commencement of the prehearing conference on November 9, 1972.

D. The attorneys for the respective parties are hereby directed to confer in advance of the prehearing conference and to report at the time of the conference on the prospects of:

1. Settlement, and
2. Stipulation of the matters in controversy.

Issued at Washington, D.C., this 25th day of October 1972.

By order of the Atomic Safety and Licensing Board.

JOHN B. FARMAKIDES,
Chairman.

[FR Doc.72-18488 Filed 10-27-72;8:51 am]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP. ET AL.

Notice and Order for Prehearing Conference

In the matter of Wisconsin Public Service Corp., Wisconsin Power & Light Co., and Madison Gas & Electric Co. (Kewaunee Nuclear Powerplant).

Take notice, that in accordance with the Atomic Energy Commission's "Memorandum and Order" and "Notice of Hearing on a Facility Operating License," both dated September 29, 1972, and pursuant to the Commission's rules of practice, a special prehearing conference will be held in the subject proceeding on November 15, 1972, at 10 a.m., local time, in Room 2008; FOB No. 7; 726 Jackson Place NW. (entrance on Seventeenth Street); Washington, DC.

This special prehearing conference will deal with the following matters:

1. Identification and simplification of the issues.
2. Motions to be addressed to the Atomic Safety and Licensing Board (Board).
3. Need and status of discovery.
4. Establishment of schedule for further action.
5. Procedures to be followed in the presentation of evidence at the actual evidentiary hearings.
6. Such other matters as may aid in the orderly disposition of this proceeding.

The attorneys for the respective parties are encouraged to continue their informal conferences and to report at the special prehearing conference on the prospects for a joint statement or a stipulation of the matters in controversy.

Issued at Washington, D.C., this 26th day of October 1972.

By order of the Atomic Safety and Licensing Board.

JOHN B. FARMAKIDES,
Chairman.

[FR Doc.72-18489 Filed 10-27-72;8:51 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 72-10-64]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, October 17, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unprotested notices to the carriers.

Specific commodity item No.	*Description and rate*
1100----------	Furs, hides, pelts, and skins, 280 cents per kg., minimum weight 100 kgs., from Dacca to New York City.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Agreement CAB 23332 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-18443 Filed 10-27-72;8:49 am]

[Docket No. 24809]

TACA INTERNATIONAL AIRLINES, S.A.

Foreign Air Carrier Permit Renewal; Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 21, 1972, at 10 a.m., local time, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge William H. Dapper.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 14, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18448 Filed 10-27-72;8:50 am]

[Docket No. 24801]

NORDAIR LTEE. AND NORDAIR, LTD.

Notice of Prehearing Conference and Hearing Regarding Renewal and Amendment of Foreign Air Carrier Permit

Renewal and amendment of foreign air carrier permit. Charter flights between Canada and United States and between the United States and any point in a country other than Canada.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 20, 1972, at 10 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Harry H. Schneider.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 13, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18444 Filed 10-27-72;8:50 am]

[Docket No. 24808]

PACIFIC WESTERN AIRLINES, LTD.

Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit Renewal and Amendment

Foreign air carrier permit renewal and amendment.

Charter Flights between United States and Canada and between United States and any Country other than Canada.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on November 21, 1972, at 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Arthur S. Present.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 13, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18445 Filed 10-27-72;8:50 am]

[Docket No. 24739]

SCHENKER & CO. G.m.b.H. (GERMANY) AND SCHENKERS INTERNATIONAL FORWARDERS, INC.

Notice of Prehearing Conference and Hearing

Indirect foreign air transportation of Property between the United States and any Points outside thereof.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 6, 1972, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before November 29, 1972.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18446 Filed 10-27-72;8:50 am]

[Docket No. 23131]

SHULMAN, INC., AND SHULMAN AIR FREIGHT

Notice of Hearing Regarding Enforcement Proceeding

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 30, 1972, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Administrative Law Judge James S. Keith.

Dated at Washington, D.C., October 24, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18447 Filed 10-27-72;8:50 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council from October 16 through October 20, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, 202—388-7803.

FOREST SERVICE

Draft, October 17

Monarch Wilderness, Fresno County, Calif. The statement refers to proposed legislation which would establish 36,021 acres (of the Sierra and Sequoia National Forests) as a unit of the National Wilderness Preservation System. Adverse effects of the action would include the reduction of renewable resource goods and services available to the economy and the reduction of opportunities for outdoor recreation activities. (19 pages) (ELR Order No. 05476) (NTIS Order No. EIS-72 5476-D)

SOIL CONSERVATION SERVICE

Draft, October 12

Upper Castleton River Watershed, Rutland County, Vt. The statement refers to a flood control and fish and wildlife development project on the 20,500-acre watershed. Features of the project are a multipurpose dam, channel modification, and associated work. There will be temporary increases in sedimentation, and a loss of 3,200 feet of natural stream fisheries at Whipple Hollow. (15 pages) (ELR Order No. 05461) (NTIS Order No. EIS-72 5461-D)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202—973-5391.

For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, Washington, D.C. 20545, 202—973-7373.

Draft, October 18

Forked River Nuclear Station, Ocean County, N.J. The statement refers to the proposed issuance of a construction permit to the Jersey Central Power & Light Co., for a 3,410 MWT, 1,093 MWE, pressurized water reactor near Forked River. Cooling water would be obtained from Barnegat Bay through a canal, and circulated through a counter-flow natural draft cooling tower. Aquatic organisms will be adversely affected by thermal, chemical, and mechanical shock. (The interaction of the Forked River Station with the nearby Oyster Creek Station was considered in the statement's evaluation of environmental impact.) (182 pages) (ELR Order No. 05484) (NTIS Order No. EIS-72 5484-D)

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Draft, October 17
Peach Bottom Power Station, York County, Pa. The statement refers to the proposed continuation of construction permits and the issuance of an operating license to the Philadelphia Electric Power Co., for units 2 and 3 of the station. The two units will employ identical boiling water reactors to produce a total of 6,586 MWT and 2,130 MWE, with "stretch" capacities of 6,880 MWT and 2,226 MWE. Exhaust steam will be cooled by a once through flow from the Susquehanna, and by forced draft towers when needed. The AEC staff believes that thermal effects are understated by the applicant and that there is significant potential for extensive thermal damage to the biological community within Conowingo Pond. (370 pages) (ELR Order No. 05481) (NTIS Order No. EIS–72 5481–D)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attention: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, 202—693–7168.

Draft, October 11
John Hollis Bankhead Lock and Dam, Ala. The statement refers to the proposed construction of a replacement lock at the dam. Approximately 5.5 million cubic yards of material will be dredged and disposed of, and 189 acres of land will be required for the project. Adverse effects will result to local flora and fauna. (20 pages) (ELR Order No. 05443) (NTIS Order No. EIS–72 5443–D)

Draft, October 19
Richmond Inner Harbor, Contra Costa County, Calif. The statement refers to the proposed maintenance dredging of the harbor, with 150,000 cubic yards of spoil to be dumped at Alcatraz. Marine life will be adversely affected. (25 pages) (ELR Order No. 05499) (NTIS Order No. EIS–72 5499–D)

Draft, October 17
Lake Barkley, Lyon County, Ky. The proposed action is the sale of 124 acres of federally owned land to the Lyon County Port Authority, for use in developing a public port and industrial facilities. The sale would result in restricted land use and the possibility of industrial waste pollution of the lake. (10 pages) (ELR Order No. 05474) (NTIS Order No. EIS–72 5474–D)

Draft, October 6
Hurricane protection, New Orleans to Venice, La. The statement refers to the proposed enlargement of 36 miles of levee from city Price to Venice, and the construction of 16 miles of new levee from Phoenix to Bohemia, in order to provide protection from hurricane-induced flooding. Approximately 8,500 acres will be used for temporary ponding and 1,200 acres will be required for right-of-way; much of this land is estuarine marsh. (35 pages) (ELR Order No. 05425) (NTIS Order No. EIS–72 5425–D)

Draft, October 13
Calcasieu River, Coon Island, Calcasieu Parish, La. The statement refers to the proposed construction of a 40-foot by 200-foot ship channel and a 750-foot by 1,000-foot turning basin in order to allow more efficient use of the channel by larger and deeper-draft vessels. Approximately 3,252,000 acres of dredged spoil will be deposited at diked sites. The project will stimulate industrial growth. There will be adverse impacts upon fish, wildlife, water, and recreational resources in the project area. (53 pages) (ELR Order No. 05467) (NTIS Order No. EIS–72 5467–D)

Draft, October 12
Days High Landing, Cass and Itasca Counties, Minn. The statement refers to a legislative proposal which would allow the construction of a log-stop dam across the Mississippi River, in order to mitigate conservation losses caused by past actions. Approximately 4,600 acres of land and 8 miles of free-flowing river would be inundated. (46 pages) (ELR Order No. 05449) (NTIS Order No. EIS–72 5449–D)

Draft, October 6
Pattonsburg Lake Project, Daviess County, Mo. The statement refers to the proposed construction of a dam and reservoir on the Grand River for the purposes of flood control, hydroelectric power, recreation, and water supply. Approximately 43,000 acres of land and 42 miles of free-flowing river would be inundated, with adverse effects upon fish and wildlife habitat and the agricultural economy of the Pattonsburg area. Parts of three towns, along with their supporting utilities, would be displaced. Archeologic sites would be inundated. (Approximately 350 pages) (ELR Order No. 05411) (NTIS Order No. EIS–72 5411–D)

Draft, October 17
Guadalupe River, Victoria, Calhoun, and Refugio Counties, Tex. The statement refers to the proposed removal of four major log jams on the river, in order to prevent flooding and improve navigation. Shelter for acquatic species will be eliminated and wildlife habitat on 15 acres of right-of-way will be disturbed. The burning of the logs will create air pollution. (20 pages) (ELR Order No. 05473) (NTIS Order No. EIS–72 (5473–D)

Draft, October 10
Willamette and Columbia Rivers, Wash. and Oreg. The statement refers to the proposed construction of a 40-foot deep navigation channel (1,600 feet wide), at Slaughters Bar; and a 40 foot by 1,200 turning basin at Longview Bridge. Dredged spoil will be deposited at Lord Island, Slaughters Bar, and Howard Island (at 3.1 million cubic yards initially and 450,000 cubic yards annually thereafter). Approximately 509 acres of wildlife habitat will be lost to the project. (35 pages) (ELR Order No. 05435) (NTIS Order No. EIS–72 5435–D)

FEDERAL POWER COMMISSION

Contact: Mr. Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, 202—386–6084.

Draft, October 20
Kern Canyon Project No. 178, Kern County, Calif. The statement refers to the proposed approval of an application by the Pacific Gas & Electric Co. for the constructed station. The project consists of a hydroelectric powerplant of 8,480 kw., a dam and reservoir, and appurtenant facilities. (45 pages) (ELR Order No. 05500) (NTIS Order No. EIS–72 5500–D)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Environmental and Land Use, Planning Division, Washington, D.C. 20410, 202—755–6186.

Draft, October 19
Proposed subdivisions, Tucson, Pima County, Ariz. The statement refers to the proposed granting of HUD mortgage insurance under section 203–D of the Housing Act for four subdivisions in Tucson. The sites are situated immediately west of Tucson International Airport and adjoin its northwest approach zone; residents would be subjected to aircraft noise. (18 pages) (ELR Order No. 05492) (NTIS Order No. EIS–72 5492–D)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202—343–3891.

Draft, October 13
Bonneville Power Administration, Washington, Oregon, and Idaho. The statement refers to legislation for BPA's proposed program for fiscal year 1974. The program will involve the construction of additions to the transmission system, substations, structures, and access roads in Washington, Oregon, Idaho, Wyoming, and Montana. Adverse environmental impacts will include the disturbance of topsoil, water erosion, stream siltation, and the reduction of scenic qualities. The use of herbicides will affect wildlife habitat. (Approximate 450 pages) (ELR Order No. 05458) (NTIS Order No. EIS–72 5458–D)

BUREAU OF RECLAMATION

Draft, October 19
Contra Costa Canal Unit, Calif. The proposed project involves the construction of a 5.1-mile-long underground conduit in order to supplement the canal system and supply water to Martinez. A small vineyard will be adversely affected. (24 pages) (ELR Order No. 05493) (NTIS Order No. EIS–72 5493–D)

Draft, October 20
De Luz Heights, San Diego County, Calif. The statement refers to the proposed construction of a pipe distribution system to convey water from San Diego Aqueduct for the irrigation of 1,700 acres of potential avocado lands. Approximately 14 acres will be committed to the project; 1,700 acres of presently undeveloped land will be used for agricultural purposes, disturbing existing wildlife habitat and stimulating rural development. (23 pages) (ELR Order No. 05501) (NTIS Order No. EIS–72 5501–D)

Draft, October 19
Twin Lakes and Mount Elbert, Lake County, Colo. The statement refers to the proposed construction of a dam and reservoir, for the purposes of irrigation, water supply, and power production. Approximately 8,000 acres would be acquired for the project; of this 971 acres would be inundated. Approximately 25 permanent residences, 50 summer homes, and related facilities will be displaced. (The dam is part of the Fryingpan-Arkansas Project.) (143 pages) (ELR Order No. 05495) (NTIS Order No. EIS–72 5495–D)

NATIONAL SCIENCE FOUNDATION

Contact: Dr. Thomas O. Jones, Deputy Assistant to the Director, National and International Programs, Room 703, Washington, D.C. 20550, 202—632–4180.

Draft, October 20
Replacement pier, San Diego County, Calif. The proposed project is the construction of a replacement pier and wharf at the Nimitz Marine Facility, University of California. Dredging operations will temporarily affect marine biota. (19 pages) (ELR Order No. 05504) (NTIS Order No. EIS–72 5504–D)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 Seventh Street SW., Washington, DC 20590, 202—426–4355.

FEDERAL HIGHWAY ADMINISTRATION

Draft, October 10
I–95. Two additional alignments are anCounties, Fla. The purpose of this statement is to supplement a final environmental impact statement (filed October 22, 1971, NTIS Order No. PB–203–624–F), for construction of a 45-mile segment of I–95. Two additional alinements are analyzed. (123 pages) (ELR Order No. 05438) (NTIS Order No. EIS–72 5438–D)

Draft, October 6
I–95 relocated/Revere Beach connector, Massachusetts. The statement considers alternative locations for construction of a segment of Route I–95 from Cutter Circle in Revere to the Revere/East Boston city boundary, and for the Revere Beach connector with routes traversing Revere and Chelsea. As an alternative to the proposed facility, selected arterial streets and intersections in Revere would be upgraded. (256 pages) (ELR Order No. 05405) (NTIS Order No. EIS–72 5405–D)

Draft, October 10
Southwest Expressway (I–95), Massachusetts. The statement refers to a corridor study for construction of the Southwest Expressway from the present terminus of I–95 in Canton to connections with the Central East Expressway in Boston, with routes traversing Canton, Dedham, Milton, and Boston. Alternatives under consideration consist of interstate expressway (Route I–95) and nonexpressways (arterial facilities with a shared transit right-of-way). A 4(f) review for possible infringement on public land is included. (645 pages) (ELR Order No. 05441) (NTIS Order No. EIS–72 5441–D)

Draft, October 12
Third Harbor Crossing, Massachusetts. The statement considers alternatives for the construction of a segment of Route I–95 in the city of Boston from the Revere/Boston city boundary to connections with the Massachusetts Turnpike and the Southeast Expressway, including a Third Harbor Crossing and as alternatives to the above facilities, a set of transportation facilities, and programs designed to reduce the demand for automobile travel in that corridor. A 4(f) determination for possible encroachment on public lands is included. (341 pages) (ELR Order No. 05456) (NTIS Order No. EIS–72 5456–D)

Draft, October 10
Clarks Fork Canyon Road, Park County, Wyo. The statement refers to the proposed reconstruction of the Clarks Fork Canyon Road between Wyoming Highway 120 and U.S. 212. Project length will be between 22.8 and 37.7 miles, depending upon the route selected. Environmental impacts include disruption of wildlife habitat, land stability, and visual values and construction in undisturbed areas. (126 pages) (ELR Order No. 05440) (NTIS Order No. EIS–72 5440–D)

Final, October 17
Supplemental Freeway 411, Williamson and Saline Counties, Ill. The proposed supplemental freeway will involve the construction of approximately 16 miles of new Interstate type highway between the communities of Marion and Harrisbury. Approximately 924 acres of land are required for right-of-way. Eighteen residences and one business will be displaced. Areas of coal reserves which are scheduled to either be strip- or deep-mined in the immediate future will be crossed. (38 pages) Comments made by USDA, EPA, DOI, DOT, State, and local agencies. (ELR Order No. 05470) (NTIS Order No. EIS–72 5470–F)

Trunk Highway 52, Olmsted County, Minn. The statement refers to the proposed new routing of Trunk Highway 52 to bypass an urban section of Rochester. The segment considered in this report provides for four and a half miles of four-lane divided freeway and completes the relocation of Trunk Highway 52. Thirteen farmsteads will be severed and 131 acres of agricultural land committed to right-of-way. Four streams will be crossed and drainage canals will be relocated. Comments made by USDA, COE, EPA, HUD, DOI, OEO, DOT, and State agencies. (44 pages) (ELR Order No. 05469) (NTIS Order No. EIS 72 5469–P)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72–18432 Filed 10–27–72;8:49 am]

ENVIRONMENTAL PROTECTION AGENCY

PROPOSED IMPLEMENTATION PLAN REGULATIONS

Notice of Public Hearings

On September 22, 1972 (F.R. 19829), the Administrator proposed regulations to correct certain deficiencies in plans for implementation of the national ambient air quality standards for California, New York, and the District of Columbia. In the notice of proposed rule making, the Administrator signified his intention of holding public hearings on such proposed regulations and indicated that such public hearings would be held no earlier than 30 days following publication of the notice of proposed rule making. The purpose of this notice is to specify the dates, times, and places at which the public hearings for New York and California are to be held. This information is set forth below:

NEW YORK

October 26 at 10:30 a.m., Governor Clinton Hotel, 1 Albany Avenue, Kingston, NY. Hearing officer: Meyer Scolnick.

October 27 at 10 a.m., Federal Office Building, Room 3105, 26 Federal Plaza, New York, NY. Hearing officer: Meyer Scolnick.

October 30 at 10:30 a.m., Buffalo and Erie County Public Library, Lafayette Square, Buffalo, NY. Hearing officer: Peter Devine.

October 30 at 8 p.m., Red Coach Inn, Route 17J, Lakewood, NY. Hearing officer: Peter Devine.

October 31 at 1:30 p.m., Flagship-Rochester Hotel, 70 State Street, Rochester, NY. Hearing officer: Peter Devine.

November 1 at 10 a.m., Dinkler Motor Inn, 1100 James Street, Syracuse, NY. Hearing officer: Peter Devine.

CALIFORNIA

November 2 at 9 a.m., Resources Building, Main Auditorium, 1416 Ninth Street, Sacramento, CA. Hearing officer: Cassandra Dunn.

November 9 at 9 a.m., State Auditorium, Room 1138, State Office Building, 107 South Broadway, Los Angeles, CA. Hearing officer: Cassandra Dunn.

Persons wishing to participate in the public hearings should specify their intentions by notifying the appropriate Regional Administrator and supplying five copies of their statements 5 days in advance of the hearing date. Notifications and copies of such statements should be directed to the attention of the appropriate hearing officer, as identified above.

Copies of the proposed regulations which will be considered at the public hearings are available from Regional Offices at the following addresses:

Federal Office Building, 26 Federal Plaza, New York, NY 10007; 100 California Street, San Francisco, CA 94111.

Dated: October 25, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72–18453 Filed 10–27–72;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

CABLE TELEVISION PERFORMANCE TESTS

Compliance Date; Filing of Comments

OCTOBER, 16, 1972.

On February 2, 1972, the Commission adopted wide-ranging rules for the regulation of cable television systems. Section 76.601 of the rules requires all cable television systems to make annual performance tests at least once each calendar year. This requirement became effective March 31, 1972, and therefore the first annual performance tests are due to be conducted by December 31, 1972.

It has recently been brought to our attention by various cable system operators and engineering consultant firms that because of a present scarcity of experienced engineering personnel and a general unfamiliarity with reasonably economical methods of conducting the performance tests, it will be impossible for many systems to have the tests performed by December 31, 1972. The National Cable Television Association (NCTA) has suggested that the Commission extend the compliance date to December 31, 1973. Other informal suggestions have been to extend the date to at least March 31, 1973, thus allowing systems the full calendar year contemplated in the rules.

Any interested party wishing to comment on this matter may do so within 20 days from the date of this notice (Docket 18894).

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–18441 Filed 10–27–72;8:49 am]

DIALER DEVICES ADVISORY SUBCOMMITTEE

Notice of Meeting

OCTOBER 24, 1972.

In accordance with Executive Order No. 11671, dated June 7, 1972, announcement is made of a public meeting of the

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Dialer Devices Subcommittee, to be held Wednesday, October 25, 1972, and continuing through Thursday, October 26, 1972. The subcommittee will meet at the Barrett Motor Lodge in San Francisco, Calif., at 9 a.m.

1. *Purposes.* The purpose of this subcommittee is to prepare recommended standards and procedures to permit the interconnection of customer provided and maintained dialer equipment to the public switched network.

2. *Membership.* The subcommittee is chaired by Jack Dempsey and is composed of the following: John Albus, D. L. Byers, Donald Briggs, Bryan McNeil, Arnold Dorfman, Robert Webb, Albert Hardy, J. W. Kissel, James McNabb, Donald Moehlenkamp, Richard Reichter, Robin Mosley, Fhereric Hildebrandt, Stephen Speltz, Ludwig Walch, Thomas Warner, M. S. Adler, William Wertz, Ronald Binks, Jurgen Kok, H. Marcheschi, Ken Rosenburg, John P. Lekas, William Lindgren, Brendan McShane, John Rison, Amos Jackson and John E. Mineo.

3. *Activities.* As at prior meetings, subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered with respect to the interconnection of dialer devices to the public telephone network. Subcommittee members include representatives of the Federal Government, State regulatory bodies, manufacturers, carriers, and users.

4. *Agenda.* The agenda for the October 25 and 26 meeting will be a review of proposed technical standards and procedures.

It is suggested that those desiring more specific information about the meeting call the Domestic Rates Division at 202—632-6457.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18440 Filed 10-27-72;8:49 am]

[Docket No. 19544]

PUBLIC COAST RADIOTELEGRAPH STATIONS

Notice of Inquiry; Extension of Time

In the matter of inquiry into problems of public coast radiotelegraph stations (37 F.R. 15197).

1. By letter dated October 11, 1972, RCA Global Communications, Inc. (RCA Globcom) requests an extension of time until December 1, 1972, in which to file comments in the above captioned inquiry. RCA Globcom alleges that its request is necessary because, in view of the extent and depth of the information and projections requested by the Notice of Inquiry, assembling and checking the information requested has proved more time consuming than was originally anticipated.

2. We find that RCA Globcom has shown good cause for the requested extension of time.

3. *Accordingly, it is ordered,* Pursuant to §§ 0.303(c) and 0.331(b)(4) of the Commission's rules pertaining to delegations of authority, that the request of RCA Global Communications, Inc., is granted, and:

(A) The time in which to file comments in Docket 19544 is extended until December 1, 1972; and

(B) The time in which to file reply comments is extended until January 15, 1973;

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] ASHER H. ENDE,
Acting Chief,
Common Carrier Bureau.

JAMES E. BARR,
Chief, Safety and
Special Radio Services Bureau.

[FR Doc.72-18442 Filed 10-27-72;8:49 am]

[Docket No. 19610; FCC 72-915]

NEW BROADCASTING CORP.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of New Broadcasting Corp., Charlevoix, Mich., requests: 1270 kHz, 5 kW, day, Docket No. 19610, File No. BP-17835, for construction permit.

1. The Commission has for consideration the above-captioned and described application; a "Petition to Deny or, Alternatively, Statement of Objections to Grant"; two supplements thereto filed by the Harrington Broadcasting Corp. (WJML), licensee of stations WJML (AM) and WJML-FM, Petoskey, Mich.; the applicant's oppositions; and WJML's replies.

2. WJML states that its petition is filed pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, and § 1.580(i) of the Commission's rules. WJML recognizes that § 1.580(i) provides, in part, that when the Commission issues a public notice pursuant to § 1.571(c) of the rules listing standard broadcast applications as available and ready for processing, no petition to deny any such application will be accepted after the cutoff date specified in the public notice. WJML argues that, although its petition was filed on April 2, 1969, over a year after the date specified in the public notice listing the New Broadcasting Corp. application (February 6, 1968), the petition should nevertheless be deemed timely since it was filed within 30 days of the filing of an amendment which changed the percentages of corporate stock to be acquired by the original principals. WJML points out that it made known its objections to the establishment of a station in Charlevoix even before the New Broadcasting Corp. application was filed. By letter of March 13, 1967, WJML objected to the then pending application of the Charlevoix County Broadcasting Co. (File No. BP-17553). New Broadcasting filed its conflicting application thereafter on July 26, 1967. WJML claims that it had no reason to pursue the matter following the filing of the New Broadcasting application since it appeared that all public interest questions, including newspaper interests held by the New Broadcasting principals, would be explored in a comparative hearing.

3. The first formal action taken on the Charlevoix application was the Commission's approval of an agreement under which Charlevoix County Broadcasting Co. would accept reimbursement of its expenses and dismiss its application. Upon such dismissal, the New Broadcasting application was granted.

4. Subsequently, the Commission reconsidered its action on its own motion, and rescinded the grant to permit a further consideration of the impact of the operation of the proposed station on the concentration of control of the media of mass communications in the northwestern area of the Lower Peninsula of Michigan. This question arose because of the newspaper interests of W. Albert Schaller, a former majority stockholder (60 percent), who is the controlling stockholder of Northern Michigan Review, Inc., publisher of the Petoskey "New-Review Daily." Through subsidaries. Northern Michigan also publishes the Charlevoix "Courier" in Charlevoix, and the Otsego County "Herald Times" in Gaylord, Mich. W. Kirk Schaller, Albert Schaller's son and a minority stockholder in Northern Michigan Review, Inc., an officer and director of that corporation, originally was to acquire a 20-percent interest in New Broadcasting, and Thomas R. McDaniels, general manager of the Charlevoix newspaper, was also to acquire a 20-percent interest in the applicant.

5. Following the rescission of the action in granting the application, the Commission, by letter of January 8, 1969, noted the interest of W. Albert Schaller in the Schaller newspapers, and afforded the applicant an opportunity to amend the application to include data which might demonstrate that a hearing on the concentration question would not be necessary.[1]

6. In response to the Commission's letter, the applicant amended to reduce the interest of Albert Schaller to 40 percent and to increase the interest of Kirk Schaller and McDaniels to 30 percent each. In addition, the applicant supplied data concerning other broadcast services and various publications circulating in the area.

7. It was following the filing of the above amendment that WJML filed its petition. WJML submits that, under the unusual circumstances of this case, its petition should be considered timely. WJML requests that, if its statement is not to be treated as a petition to deny the application, it should be treated as an informal objection under § 1.587 of the Commission's rules.

8. The Commission is not persuaded that the circumstances are such that

[1] 15 FCC 2nd 1030.

WJML's statement can be considered a timely petition. Although WJML was not aware that New Broadcasting and the competing applicant had requested approval of a dismissal agreement until the action approving the agreement had been publicly announced, the Commission does not regard the sequence of events as a justification for WJML's unseasonable action in tendering its petition when it did. Section 1.580(i) of the rules does contemplate the acceptance of a petition to deny an application following a significant amendment, but WJML argues that the amendment preceding the filing of its statement made no significant difference in the concentration question. The Commission will, however, consider the petition to deny as an informal objection under § 1.587 of the rules in accordance with our normal practice in such situations.

9. WJML's central contention is directed to the concentration issue. WJML claims that not only was the concentration question presented at the time the application was filed but also remains after several amendments filed in the applicant's obvious effort to meet WJML's objections. Following the first amendment described above, and after further objections by WJML, the applicant filed an amendment reflecting the complete withdrawal of Albert Schaller and the reduction of Kirk Schaller's interest to 20 percent. A new principal, Terry L. Edger, was brought in as a 50-percent stockholder and president of the corporation. Subsequently, Mr. Edger's interest was reduced to 16.7 percent, and two additional principals, N. Elmo Franklin, Jr., and Timothy Ives, are to have interests of 16.65 percent each. In the meantime, Mr. McDaniels, still a proposed 30-percent stockholder, has severed his connections with the Charlevoix "Courier."

10. The applicant represents that the proposed station will operate independently of the Schaller newspapers, that the only remaining stockholder with newspaper ties is Kirk Schaller who is to be a minority stockholder and will not participate in the day-to-day operation of the station. The applicant also represents that the proposed station will compete vigorously with the Schaller newspapers, and, as previously indicated, has argued that other broadcast services and other periodicals circulating in the area assures that no undue concentration will result from the authorization of the proposed station.

11. The Commission does not share WJML's view that Albert Schaller's role in New Broadcasting must be inquired into in a hearing or that there is any question of his continuing as the dominant figure in the applicant. The application has been amended to show his withdrawal in a manner not unlike the withdrawal of other principals in similar situations.[2] Likewise, the Commission does not find it useful to determine whether Kirk Schaller occupies the position of publisher of the Charlevoix "Courier," as he allegedly has publicly announced. Kirk Schaller is a 20-percent stockholder, a member of the board of directors and secretary of the applicant, and he is president and a director of the Charlevoix Courier Corp., which publishes the Charlevoix "Courier"; secretary, a director, and 13.5 percent stockholder of Northern Michigan Review, Inc., which publishes the "News-Review Daily", in Petoskey, and wholly owns the Charlevoix Courier Corp.; and is president, a director, and 10-percent stockholder of the Otsego County Herald Times, Inc., which publishes the weekly newspaper in Gaylord. Therefore, there is a clear, continuing, and substantial connection between the Schaller newspapers and the applicant, and the Commission is not persuaded that the reduction in the extent of such common interest has eliminated the Commission's concern over the media concentration issue. Accordingly, the applicant will be given an opportunity at a hearing to meet the concentration issue which will be specified. "Cf. Laurence N. Polk, Jr. et al.," FCC 72R-201, released August 2, 1972.

12. While the Commission is concerned over possible concentration of media in the Charlevoix area, it does not agree with WJML that other media interests of Timothy Ives in the State of Illinois has any relevance to the present considerations. Ives, a minority stockholder in the applicant, has connections with stations WROK(AM) and WROK-FM, in Rockford, Ill., and with WJBC(AM) and WBNQ(FM) in Bloomington, Ill. In addition, he is a stockholder, officer, and director of a publishing firm which publishes a daily newspaper in Bloomington. None of the Rockford and Bloomington stations serve Charlevoix, and no part of the service areas of the Bloomington and Rockford stations will be served by the proposed Charlevoix stations. There is no allegation that the Bloomington newspaper circulates in Charlevoix or that the Charlevoix "Courier" circulates in either Rockford or Bloomington. The separation between Charlevoix and Rockford is just short of 300 miles, and the separation between Charlevoix and Bloomington is almost 400 miles. The Commission fails to see the relevance of Ives' interests in Illinois to the question of concentration in Michigan.

13. WJML is highly critical of the applicant's financial plan which has been amended on several occasions. Indeed, WJML's criticisms go into minute detail. For example, WJML suggests some impropriety on the part of some of the principals in listing the surrender value of insurance as an asset without indicating a willingness to surrender the insurance. WJML goes to great lengths in an effort to demonstrate the inadequacy of the applicant's construction and operating cost estimates, and there are numerous other allegations purporting to support WJML's view that the applicant is not financially qualified.

14. It is true that the applicant's estimates do not equal the amounts that WJML insists are necessary, but the applicant's estimates are equal to or greater than estimates by other applicants proposing similar operations which have been found in the past to be adequate. As for the supposed unwillingness on the part of some of the principals to surrender their insurance, it is not material since surrender of an insurance policy is not necessary in order to obtain cash value of a policy as a loan. The Commission has considered all of WJML's allegations going to the financial qualifications of the applicant and its principals and finds them without merit.

15. Nevertheless, the Commission finds that it would not be appropriate to determine the applicant's financial qualifications on the basis of the financial information which is not now current. Therefore, a financial issue will be specified to permit a determination of the applicant's financial qualifications on the basis of current data.

16. A further contention of WJML is that the applicant has not adequately ascertained the community problems in the area. The Commission has examined the applicant's exhibits supporting its statement of program service and finds that there have been discussions with community leaders and members of the general public which appear to constitute a reasonable cross section of the prospective listeners. We note that the projected time segments for all the programs proposed in response to the ascertained problems have not been clearly identified. The applicant has informed the Commission, however, that its major public interest broadcasting program, "The Morning Show," will be aired from "sign-on" to 8:30 a.m., Monday through Friday. Its other proposed programs can be best characterized as public service announcements, and hence the specification of an exact time segment is not required. Accordingly, the Commission finds the applicant's showing is in substantial compliance with the requirements of the Commission's "Primer on Ascertainment of Community Problems

[2] WJML makes much over a dispute concerning an alleged conversation between Albert Schaller and John Harrington, WJML's president, during which Schaller is said to have expressed an interest in acquiring an interest in WJML and allegedly indicated that he would apply to a station in Charlevoix if he could not acquire an interest in WJML. WJML argues that the matter should be considered in hearing. The Commission fails to see what purpose might be served in resolving a possible dispute between WJML's president and a former New Broadcasting principal.

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by Broadcast Applicants," 36 F.R. 4092, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

17. The Commission has examined WJML's other contentions and finds that they too are without merit.

18. Although the Commission is not treating WJML's objection and supplements as a petition to deny the application, WJML nevertheless is an interested party and does have standing to intervene in the proceeding on the New Broadcasting application. WJML will therefore be named a party to the proceeding. The issues to be tried in the hearing are such that it is appropriate to place the burden of proceeding with the introduction of the evidence and the burden of proof upon the applicant.

19. Except as indicated by the issues specified below, the applicant is qualified to construct and operate the proposed station. In view of the matters discussed above, however, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

20. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine, in light of the newspaper interests of principals of the New Broadcasting Corp., whether a grant of the application would result in an undue concentration of control of the media of mass communications in Charlevoix, Mich., and vicinity.

2. To determine whether the applicant is financially qualified to construct and operate its proposed station.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

21. *It is further ordered,* That the Harrington Broadcasting Co., licensee of stations WJML(AM) and WJML–FM, Petoskey, Mich., is made a party to the proceeding.

22. *It is further ordered,* That the burden of proceeding with the introduction of the evidence and the burden of proof with respect to the issues herein shall be upon the applicant.

23. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicant and party respondent, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

24. *It is further ordered,* That the applicant shall, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 12, 1972.

Released: October 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–18438 Filed 10–27–72;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. CI73–273]

FOREST OIL CORP.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 12, 1972, Forest Oil Corp. (Applicant), 1300 National Bank of Commerce Building, San Antonio, Tex. 78205, filed in Docket No. CI73–273 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Columbia Gas Transmission Corp. (Columbia) from Block 287, Eugene Island Area, South Addition, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell Columbia approximately 900,000 Mcf of natural gas per month at 35.0 cents per Mcf at 15.025 p.s.i.a. for a 1 year period from the date of initial delivery within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–18511 Filed 10–27–72;8:51 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. A–8; Supp. 3]

GOVERNMENT EMPLOYEES

Travel and Transportation and Allowances for Relocation

To Heads of Federal agencies.

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation A–8 (including supplement 1 thereto) and changes the criteria for authorizing an extension of the time within which an employee must complete a residence transaction in order to receive an allowance under the provisions of Office of Management and Budget (OMB) Circular No. A–56, Employee Relocation Allowance Regulations, adopted by the General Services Administration through FPMR Temporary Regulation A–8.

2. *Effective date.* This supplement is effective upon publication in the FEDERAL REGISTER (10–28–72).

3. *Expiration date.* FPMR Temporary Regulation A–8 and supplements 1 and 3 thereto will expire April 30, 1973, unless sooner superseded or canceled.

4. *Background.* The pertinent regulations in OMB Circular No. A–56 originally permitted an exception to the time limitation of 1 year for completion of the sale or purchase of a residence only when settlement was delayed because of litigation. In 1969 the regulations were amended to permit an extension of time for reasons other than litigation when a valid contract of sale/purchase had been executed within the initial 1-year period from the time an employee reported to his new duty station. Experience has shown that there are instances in which employees, acting in good faith, do not possess valid contracts of sale/purchase at the expiration of the initial 1-year period due to reasons beyond their control. Therefore, the regulations are being amended to authorize heads of agencies or their designees to grant extensions of the 1-year period when they are justified.

5. *Nature of change.* Section 4.1e of OMB Circular No. A–56 is amended to read as follows:

e. *Time limitation.* The settlement dates for the sale and purchase or lease termination transactions for which reimbursement is requested are not later than 1 (initial) year after the date on which the employee reported for duty at the new official station. Upon an employee's written request this time limit for completion of the sale and purchase or lease termination transaction may be extended by the head of the agency or his designee for an additional period of time, not to exceed 1 year, regardless of the reasons therefor so long as it is determined that the particular residence transaction is reasonably related to the transfer of official station.

6. *Cancellation.* Supplement 2 to FPMR Temporary Regulation A–8 is canceled.

Dated: October 26, 1972.

LARRY F. ROUSH,
Acting Administrator of General Services.

[FR Doc.72–18565 Filed 10–27–72;10:06 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5251]

APPALACHIAN POWER CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

OCTOBER 20, 1972.

Notice is hereby given that Appalachian Power Co. (Appalachian), 40 Franklin Road, Roanoke, VA 24009, an electric utility subsidiary company of American Electric Power Co., Inc. (AEP), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6 (b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $70 million aggregate principal amount of its first mortgage bonds in one or more new series maturing in not less than five and not more than 30 years. The number of new series of bonds and the maturity of the bonds will be determined not less than 72 hours prior to the opening of the bids. The interest rate on the bonds (which shall be a multiple of one-eighth of 1 percent) and the price to be paid to Appalachian (which shall not be less than 99 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under and pursuant to the provisions of the mortgage and deed of trust dated as of December 1, 1940, made by Appalachian to Bankers Trust Co. and G. E. Maier, as trustees, as heretofore supplemented and amended and as to be further supplemented and amended by a supplemental indenture to be dated as of December 1, 1972, which precludes Appalachian from redeeming any such bonds prior to December 1, 1977, if such redemption is for the purpose of refunding such bonds through the use, directly or indirectly, of borrowed funds at an effective interest cost below that of the bonds.

Appalachian will apply the proceeds from the sale of the bonds, together with other funds which may become available, to prepay or to pay at maturity unsecured short-term indebtedness of Appalachian then outstanding, to pay expenditures in connection with Appalachian's construction program, for working capital and to reimburse the corporate treasury. As of August 31, 1972, Appalachian had $42,400,000 of short-term debt, all commercial paper, outstanding, and at the time of issuance of the bonds, it expects an aggregate amount of commercial paper and bank notes outstanding of not more than $55 million.

The application indicates that the State Corporation Commission of Virginia, the State in which Appalachian is organized and doing business, and the Tennessee Public Service Commission, in which State Appalachian is qualified to do business, have jurisdiction over the issue and sale of the bonds. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fees and expenses to be incurred by Appalachian in connection with the proposed issue and sale of bonds will be supplied by amendment.

Notice is further given that any interested person may, not later than November 15, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc. 72–18400 Filed 10–27–72;8:45 am]

[812–3222]

BRF RESOURCES, INC.

Notice of Filing of Application for an Order Declaring Company not To Be an Investment Company

OCTOBER 20, 1972.

Notice is hereby given that BRF Resources, Inc. (BRF), 3412 Republic National Bank Building, Dallas, Tex. 75201, a Delaware corporation, has filed an application pursuant to section 3(b)(2) of the Investment Company Act of 1940 (Act), for an order of the Commission declaring BRF to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

BRF was incorporated in Delaware in 1969 for the purpose of acquiring 1 million shares of the common stock of National Petroleum Limited (National), a Canadian corporation. This acquisition of approximately 20 percent of the outstanding stock of National was completed in March of 1969 and made BRF both the largest shareholder of National and the controlling shareholder of National.

National is primarily engaged in the business of acquiring and developing oil and gas properties. National is also the owner of approximately 53 percent of the outstanding common stock of Permeator Corp. (Permeator) a Delaware corporation, which is primarily engaged in the business of developing methods for increasing production from oil and gas wells.

In addition to its interests in National, BRF also owns 2,288 shares of Permeator, and interests in three oil and gas producing properties. As of June 30, 1972, BRF's investments in National and Permeator, which had market values of $1,614,586 and $33,901, respectively, represented together 98 percent of the assets of BRF, exclusive of cash items. At the date of its most recent balance sheet, November 30, 1971, BRF's assets included $28,803 in cash, accounts receivable, and prepaid expense.

BRF, therefore, owns investment securities having a value exceeding 40 percent of its total assets (exclusive of Government securities and cash items) on an unconsolidated basis and might,

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therefore, be deemed to be an investment company within the meaning of section 3(a)(3) of the Act.

Section 3(b)(2) of the Act provides that notwithstanding section 3(a)(3) of the Act, a company is not an investment company within the meaning of the Act if the Commission finds and by order declares the company to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or (A) through majority owned subsidiaries or (B) through controlled companies conducting similar types of businesses.

BRF claims that it is primarily engaged in the business of exploring and finding oil and gas and in securing and operating existing oil and gas properties both directly and through its controlled company, National, and its subsidiary, Permeator.

Four members of the board of directors of BRF are also members of the boards of directors of National and Permeator and constitute a majority of the members of all three boards. As such, they actively participate in the management of National. The president of BRF is the vice president of National and Permeator, and actively participates in the management and operation of the latter two companies. The president of National and Permeator, who was a founder of BRF, and until 1972 an officer and director of BRF, continues to own 2.6 percent of the common stock of BRF.

The National and Permeator securities, which are presently pledged to secure loans to BRF, are the sole investment securities ever owned or presently proposed to be owned by BRF.

No dividends have been paid on National or Permeator stock and such dividends are not expected. Whatever revenues BRF has received to date have been derived from its interests in producing wells and leases, and it is expected that this will continue to be the case.

Notice is further given that any interested person may, not later than November 14, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18401 Filed 10-27-72;8:45 am]

[812-3245]

BULLOCK FUND, LTD., ET AL.

Notice of Application for an Order Exempting Applicants

OCTOBER 20, 1972.

Bullock Fund, Ltd., Canadian Fund, Inc., Dividend Shares, Inc., Nation-Wide Securities Co., Inc., and New York Venture Fund, Inc. (Funds), all of which are open end diversified management investment companies registered under the Investment Company Act of 1940 (the Act) and Calvin Bullock, Ltd. (Bullock), Funds' principal underwriter (hereinafter collectively called Applicants), 1 Wall Street, New York, NY 10005, have filed an application pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of section 22(d) of the Act. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations made therein, which are summarized below.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus.

Applicants propose to offer to persons who redeem shares of any of the Funds a one-time privilege to: (a) Reinstate their accounts by repurchasing shares at net asset value without a sales charge up to the amount redeemed; or (b) purchase under the exchange privilege available generally to shareholders of the Funds, shares of any other of the Funds at net asset value without a sales charge up to the amount redeemed. Notice of this proposed privilege will be given to eligible persons in writing or by telephone together with their check for the amount of their redemption payment. To be effective, a written order from such eligible persons of the exercise of the privilege must be received or postmarked within 15 days after the date the request for redemption was received. The exercise of the privilege shall be accomplished by transmitting to the Fund, the transfer agent, or the underwriter the notice of exercise (a form of which will be sent with the redemption check) accompanied by the appropriate funds for the repurchase. The reinstatement will be made at the net asset value per share next determined after receipt of the order.

Applicants assert that in order to further defeat the possibility of abuse, the privilege will be offered to shareholders who have requested redemption on a one-time basis. Once a person has exercised the privilege as to his holdings in any of the Funds, the privilege will not thereafter be available to him upon redemption of shares in that or any other of the Funds.

Applicants further state that no compensation of any kind will be paid to any dealer or salesman in connection with the purchase or exchange of shares pursuant to exercise of the privilege. Any cost involved will be borne by Bullock, except that the $5 service fee payable by all shareholders exercising the exchange privilege will be charged where appropriate.

Applicants contend that the proposed privilege will enable investors who may have overlooked or may have been unaware of features of their investment at the time they redeemed, and investors who have mistakenly redeemed their shares, to reinstate their investment without the necessity of paying a sales load. Such a privilege will not operate to the prejudice of the Funds or their shareholders and the one-time feature of the offer will prevent any speculation or trading against the Funds.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 16, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18404 Filed 10-27-72;8:45 am]

[File No. 7-4289]

BURNDY CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 20, 1972.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Burndy Corp., Filed No. 7-4289.

Upon receipt of a request, on or before November 5, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18402 Filed 10-27-72;8:45 am]

[812-3283]

GREATER WASHINGTON INVESTORS, INC., ET AL.

Notice of Filing of Application

OCTOBER 20, 1972.

Notice is hereby given that Greater Washington Investors, Inc. (GWII), 1015 18th Street NW., Washington, DC 20036, a closed end, nondiversified management investment company registered under the Investment Company Act of 1940 (Act), Solid State Scientific, Inc., Montgomeryville Industrial Center, Montgomeryville, Pa. 18936 (the Company), a Delaware corporation, and Henry I. Boreen (Boreen), 1310 Rydal Road, Rydal, PA 19046, Chief Executive Officer and Chairman of the Board of Directors of the Company (hereinafter jointly referred to as Applicants), have filed an application pursuant to section 17(d) of the Act and Rule 17d-1 thereunder requesting an order of the Commission authorizing an agreement among the Applicants and other selling shareholders pursuant to which certain common stock of the Company would be sold in a proposed public offering of the Company's securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On August 30, 1972, the Company filed a registration statement with the Commission (File No. 2-45556) covering a proposed public offering of 350,000 shares of its common stock and other securities; 100,000 of those shares are to be sold by certain selling shareholders including GWII, which proposes to sell 13,400 of such shares, and Boreen, who proposes to sell 36,000 of such shares. All of the shares covered by the registration statement are to be publicly offered and sold by a group of underwriters headed by R. W. Pressprich & Co. Incorporated (Pressprich); the underwriters will be committed to take and pay for all of the shares if any are taken. In order to cover over-allotments, the selling shareholders, or certain of them, will grant to the underwriters an option to purchase from them up to 35,000 additional shares for a period of 30 days commencing with the effective date of the registration statement. The selling shareholders will agree not to sell or otherwise dispose of any additional shares for 90 days after the effective date of the registration statement without the prior written consent of Pressprich.

The public offering price will be determined by the Company and Pressprich based on the market price for the Company's shares in the over-the-counter market immediately prior to the effective date of the registration statement. The proceeds from the sale of these shares, less expenses of the offering, will be used to retire certain indebtedness (not including any indebtedness to GWII), to purchase certain test and production equipment and for additional working capital.

The Company will not receive any part of the proceeds from the sale of shares by the selling shareholders. The Company does nevertheless bear all expenses in connection with the offering other than legal fees and related expenses which any of the Applicants may incur in connection with the offering or with this application; the undertaking to bear these expenses was made at the time the selling shareholders originally acquired their securities from the Company or the companies with which it merged.

The Company and the underwriters have determined that in order to provide funds to the Company in a timely manner and in order to take advantage of current market conditions, which are deemed favorable to the Company, the offering should be promptly made, assuming the registration statement has become effective.

Until October 2, 1972, an officer of GWII had served on the Company's board of directors of the Company since 1966. No GWII officer or employee or other representative presently serves as a director of the Company.

GWII owns 129,928 shares of the Company's common stock, or approximately 14 percent of the outstanding voting securities. Boreen owns 199,000 shares, or approximately 21 percent of its outstanding voting securities. As a result of such stock ownership, GWII and the Company are affiliated persons of each other; Boreen is an affiliate of the Company and an affiliate of an affiliated person of GWII.

Rule 17d-1 adopted under section 17(d) of the Act provides, as here pertinent, that no affiliated person of any registered investment company, or any affiliated person of such a person shall, acting as principal, participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by order, and that in passing upon such application the Commission will consider whether the participation of the registered company in the joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

GWII represents that other than the securities of the Company owned by GWII, no person affiliated with GWII, and no officer, director or employee of GWII or its affiliates owns any of the Company's securities or is in any way affiliated with the Company, and neither GWII, nor any person affiliated with GWII, nor any officer, director, or employee of GWII, intends to purchase any of the Company's securities to be offered pursuant to the proposed public offering.

Applicants further represent that the proposed public stock offering of the Company is important to the financial health of the Company in which GWII remains a substantial shareholder, and hence is in the interest of GWII and its shareholders and is consistent with the purposes and policies of the Act.

Notice is further given that any interested person may, not later than November 3, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied by a statement as to the nature of his interest, the reason for such request, and the

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issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18405 Filed 10-27-72;8:46 am]

[70-5253]

NEW ENGLAND ELECTRIC SYSTEM

Notice of Proposed Issue and Sale of Short-Term Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding Requirements

OCTOBER 20, 7972.

Notice is hereby given that New England Electric System (NEES), a registered holding company, 20 Turnpike Road, Westborough, MA 01581, has filed an application-declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

NEES proposes to issue and sell, from time to time prior to December 31, 1973, short-term notes in the form of commercial paper and notes to banks, in an aggregate amount not exceeding $30 million at any one time outstanding. NEES intends to add the proceeds from the sales of the notes and commercial paper to its general funds to be thereupon made available to its subsidiary companies through the purchase of additional shares of their capital stocks, capital contributions, or loans, in furtherance of their construction programs or to provide for other capital expenditures. The notes will be repaid by NEES prior to December 31, 1973, through the sale of NEES' gas subsidiary companies, the issue and sale of common stock available, treasury funds, or a combination thereof.

The proposed banknotes will mature not more than 1 year after the date of issue, and, in any event on or before December 31, 1973, and will provide for payment in whole or in part prior to maturity without premium or penalty. The notes will bear interest at not more than the prime commercial rate then in effect for unsecured loans at the bank to which the note is issued. NEES expects to borrow from the six New York City banks listed below in the amounts shown.

Name of bank	*Amount to be borrowed*
Chase Manhattan Bank, N.A.	$5,000,000
Chemical Bank	5,000,000
First National City Bank	5,000,000
Irving Trust Co.	5,000,000
Manufacturers Hanover Co.	5,000,000
Morgan Guaranty Trust Company of New York	5,000,000

The anticipated borrowings from any particular bank may be increased or decreased during the period before December 31, 1973, and the total amount of the borrowings from said banks will be decreased by the amount of commercial paper sold by NEES during said period. NEES and its subsidiary companies presently maintain operating balances with each of the lending banks, which, together with an additional balance of a maximum of 10 percent of the amounts to be borrowed, are sufficient to satisfy any compensating balance requirements. However, if such balances were maintained solely to fulfill the prevailing compensating balance requirements of 15 percent, the effective interest cost to NEES would be 6.75 percent per annum, assuming a current prime rate of 5.75 percent per annum.

The proposed commercial paper will be in the form of promissory notes with varying maturities not to exceed 270 days, will be issued in denominations of not less than $50,000 and not more than $1 million, and will not be prepayable prior to maturity. The commercial paper; will be sold by NEES directly to two dealers in commercial paper; however, no commercial paper will be issued having a maturity of more than 90 days at an effective interest cost at which NEES could borrow from banks. No commission or fee will be payable in connection with the issue and sale of commercial paper. The dealers will reoffer and sell the commercial paper at a discount rate of one-eighth of 1 percent per annum less than the prevailing discount rate of NEES to not more than 100 customers of each dealer identified and designated in a list (nonpublic) prepared in advance by each dealer. No additions will be made to such list of customers. No sale will be made to any purchasers unless and until such purchasers have received a current report of the financial condition of NEES. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, the dealer will repurchase the paper for resale to others on said list of customers.

NEES requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. NEES states that the proposed commercial paper notes will have a maturity of 9 months or less, that current rates for commercial paper for such prime borrowers as NEES are published daily in financial publications and that generally the effective interest cost thereon will not exceed the effective interest for borrowing from commercial banks. NEES also requests authority to file certificates under Rule 24 on a quarterly basis with respect to the issue and sale of notes hereafter consummated pursuant to this proceeding.

The expenses (including legal fees) to be incurred are estimated not to exceed $3,000, which represents the actual cost of services to be performed by New England Power Service Co., the system service company. No State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 13, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18406 Filed 10-21-72;8:46 am]

[70-5254]

POTOMAC EDISON CO.

Notice of Proposed Issue and Sale of $12 Million Principal Amount of First Mortgage Bonds at Competitive Bidding

OCTOBER 20, 1972.

Notice is hereby given that the Potomac Edison Co. (Potomac), Downsville Pike, Hagerstown, Md. 21740, a registered holding company and an electric utility subsidiary company of Allegheny Power System, Inc., also a registered holding company, has filed an application-declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 thereof and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Potomac proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $12 million principal amount of its First Mortgage and Collateral Trust Bonds —— percent Series due 2002. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Potomac (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under an indenture dated as of October 1, 1944, between Potomac and Chemical Bank (successor by merger to Chemical Bank New York Trust Co., formerly Chemical Bank & Trust Co.), as trustee, as supplemented and as to be supplemented by a supplemental indenture to be dated as of December 1, 1972, which precludes Potomac from redeeming any such bonds prior to December 1, 1977, if such redemption is for the purpose of refunding such bonds through the use, directly or indirectly, of borrowed funds at an effective interest cost below that of the bonds.

The net proceeds from the sale of the bonds, together with other funds, will be used to prepay Potomac's short-term bank notes to the extent desirable, to pay at maturity any commercial paper outstanding at the time of the sale of the bonds, to reimburse Potomac's treasury for moneys actually expended for its construction program and working capital, and for other lawful corporate purposes.

The issue and sale of the bonds by Potomac require prior authorization of the Maryland Public Service Commission. The application-declaration states that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is further stated that the fees and expenses to be incurred by Potomac in connection with the proposed issue and sale of its bonds are estimated at an aggregate of $80,000, including $13,500 in Maryland taxes and fees, $18,000 in accountant's fees, and $12,000 in legal fees.

Notice is further given that any interested person may, not later than November 13, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18408 Filed 10-27-72;8:46 am]

[File No. 7-4279]

TRANS WORLD AIRLINES, INC.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

OCTOBER 20, 1972.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in certain securities.

The above named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company which security is listed and registered on one or more other national securities exchanges:

Trans World Airlines, Inc., File No. 7-4279.

Upon receipt of the request, on or before November 5, 1972, for any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation (pursuant to delegated authority).

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18403 Filed 10-27-72;8:45 am]

[File No. 7-4290]

UNIVERSITY COMPUTING CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

University Computing Co. (Delaware), File No. 7-4290.

Upon receipt of a request, on or before November 5, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washintgon, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

V37-1209 OCT 28 72 XUM

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18407 Filed 10-27-72;8:46 am]

TARIFF COMMISSION

[TEA-W-159]

RINDGE INDUSTRIES, INC.

Notice of Investigation, Workers' Petition for a Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Gonic plant, Rochester, N.H., of Rindge Industries, Inc., Ware, Mass., the U.S. Tariff Commission on October 24, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with woven fabrics of wool, and fabrics, including laminated fabrics, of wool and of man-made fibers (of the types provided for in items 336.60, 359.30, and 359.50 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing: *Provided,* Such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: October 25, 1972.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-18433 Filed 10-27-72;8:49 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 105]

ASSIGNMENT OF HEARINGS

OCTOBER 25, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearing as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 76429 Sub 5, William A. Stewart, doing business as Stewart Truck Line, now assigned November 7, 1972, at Lexington, Ky., is canceled and reassigned to November 8, 1972, at the Capital Plaza, Frankfort, Ky.

MC 135509 Sub 2, William R. Wade Common Carrier Application, now assigned November 27, 1972, at Kansas City, Mo., is postponed to January 22, 1973 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

MC-121495 Sub 5, Englewood Transit Co., now being assigned hearing January 31, 1973 (3 days), at Denver, Colo., in a hearing room to be later designated.

No. 35366, The Atchison, Topeka & Santa Fe Railway Co. et al. Colorado & Wyoming Railway Co., now being assigned for prehearing conference on December 13, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117565 Sub 30, Motor Service Co., Inc., now being assigned hearing December 6, 1972 (3 days), at Louisville, Ky., in a hearing room to be later designated.

MC 9194 Sub 2, AAA Transfer, Inc., now assigned November 6, 1972, at Seattle, Wash., hearing will be held in the Olympia Hotel, Fourth and Seneca.

MC 127172 Sub 4, Francis Margolies, doing business as Marc Baggage Lines, now assigned November 7, 1972, at Chicago, Ill., is cancelled and application dismissed.

MC 127834 Sub 64, Cherokee Hauling & Rigging, Inc., now assigned December 6, 1972, at Louisville, Ky., is cancelled and the application is dismissed.

No. 35655, Clougherty Packing Co. vs. Burlington Northern, Inc. et al., now being assigned hearing January 31, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35660, The Kroger Co. vs. The Atchison, Topeka & Santa Fe Railway Co., et al., now being assigned hearing January 9, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-42092 Sub-2, Acme Cartage Co., continued hearing November 6, 1972, at Seattle, Wash., is postponed to November 20, 1972, will be held at the Washington Utilities & Transportation Commission, 1231 Andover Park East, Seattle, Wash.

MC-107295 Sub-612, Pre-Fab Transit Co., a corporation, now assigned October 25, 1972, at Washington, D.C., is cancelled and application dismissed.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18449 Filed 10-27-72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 25, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42553—*Iron and steel articles between points in official territory.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3024), for interested rail carriers. Rates on iron and steel articles, in carloads, as described in the application, from and to points in official (including Illinois) territory, (excluding points in Extended Zone "C", northern Illinois and southern Wisconsin).

Grounds for relief—Motor competition.

Tariffs—Supplement 260 to Baltimore & Ohio Railroad Co. tariff ICC 24808, and other schedules named in the application. Rates are published to become effective on November 25, 1972.

FSA No. 42554—*Oats to Sioux City, Iowa.* Filed by Soo Line Railroad Co. (No. 96), for interested rail carriers. Rates on oats, in carloads, as described in the application, from specified points in North Dakota, to Sioux City, Iowa.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 8 to Soo Line Railroad Co. tariff ICC 7772. Rates are published to become effective on November 30, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18450 Filed 10-27-72;8:50 am]

[Notice No. 148]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73908. By supplemental order of October 13, 1972, the Motor Carrier Board approved the transfer to Home Run, Inc., Jamestown, Ohio, of the operating rights in permit No. MC-134388 (Sub-No. 4) issued September 14, 1972, to Henry G. Harlow, Jamestown, Ohio, authorizing the transportation of buildings (except buildings in sections) and components, parts, materials, supplies, and fixtures used in the erection or assembly of buildings, from Fredericksburg, Va., to points in Maryland, that part of Pennsylvania on and east of Interstate Highway 81, Virginia, and the District of Columbia. James W. Muldoon, 50 West Broad Street, Columbus, OH 43215, attorney for applicants.

No. MC-FC-73944. By order of October 11, 1972, the Motor Carrier Board approved the transfer to Terry's Express, Inc., Kokomo, Ind., of a portion of the operating rights in certificate No. MC-22484 issued to Brown from Wabash, Inc., Wabash, Ind., authorizing the transportation of: Insulating material and mineral wool, between specified points in Indiana, Illinois, Michigan, Ohio, and Kentucky, Warren C. Moberly, attorney, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204.

No. MC-FC-73952. By order entered October 12, 1972, the Motor Carrier Board approved the transfer to Brown's Limousine Service, Inc., Jamaica, N.Y., of the operating rights set forth in certificate No. MC-126916, issued November 3, 1971, to Wilder Connecticut Airport Coach, Inc., Port Chester, N.Y., authorizing the transportation of passengers and their baggage, in the same vehicle with passengers, between New Haven, Conn., and the John F. Kennedy International Airport, New York, N.Y., serving the intermediate points of Stratford, Bridgeport, Milford, Fairfield, Westport, Norwalk, Darien, Stamford, and Greenwich, Conn., and La Guardia Airport, Flushing (Main Street), and Jamaica (Sutphin Boulevard) Stations of the Long Island Rail Road Co., New York, N.Y., over specified routes, with certain restrictions. Samuel B. Zinder, 98 Cutter Mill Road, Great Neck, NY 11021, attorney for applicants.

No. MC-FC-73988. By order entered October 12, 1972, the Motor Carrier Board approved the transfer to Clarence Overton Thomas, doing business as C. O. Thomas Trucking, New Canton, Va., of the operating rights set forth in permits Nos. MC-114949, MC-114949 (Sub-No. 1), and MC-114949 (Sub-No. 4), issued by the Commission November 1, 1967, June 24, 1969, and March 24, 1970, respectively, to Appomattox Trucking Co., Inc., Appomattox, Va., authorizing the transportation of lumber and pallets, from Drakes Branch, Va., to points in West Virginia, Ohio, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Kentucky, Illinois, Indiana, Michigan, Tennessee, and the District of Columbia. William S. Kerr, Post Office Box 706, Appomattox, VA 24522, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-18451 Filed 10-27-72;8:50 am]

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PART II

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Agricultural Marketing Service

■

PLANT VARIETY PROTECTION

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Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspection, Marketing Practices), Department of Agriculture

SUBCHAPTER H—PLANT VARIETY PROTECTION

PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

Statement of considerations. Proposed regulations and rules of practice under the Plant Variety Protection Act were published in the FEDERAL REGISTER on April 18, 1972 (37 F.R. 7672). Sixty days were allowed for comments.

Comments were received from nine sources. The comments, in general, supported the proposed regulations and rules of practice.

Eight of the comments contained suggested changes which were referred to the Plant Variety Protection Board for its recommendations. After considering the Board's recommendations and other information available in the Department, it is concluded that the suggested changes should be adopted, or rejected, as follows:

1. *Section 180.1(b)(9).* Insert after "variety" the words ", which standards have been" and delete all the wording after "Secretary." Adopted, as this change will (1) make it clearer that it is the standards, not the variety, which are approved by the Secretary and (2) remove the labeling requirement from the definition as it is only one of many standards which would be approved by the Secretary.

2. *Section 180.1(b) (6) and (19).* Clarify the definitions for "assignee" and "owner." Not adopted, as no suggestions were made as to how the definitions were not clear or how they could be improved.

3. *Section 180.1(b)(11).* Allow persons other than the "Administrator" to issue findings of fact. Changed to refer to the Secretary, as authority to perform the functions involved will be provided in general delegations of authority within the Department of Agriculture.

4. *Section 180.1(b)(23).* a. Change "and" to "or" in the second line. Not adopted, as the change would not be consistent with the generally accepted legal definition of a sale wherein title must be transferred.

b. Add the words "without authority of the owner" at the end of the section. Not adopted, as this change in wording would have the effect of changing the entire definition, which apparently was not the intention of the suggestor.

5. *Section 180.1(b)(16).* Restrict the definition for the term "hybrid" in accordance with certain State seed laws. Not adopted. The definition is only for the purpose of establishing which products of plant breeding cannot be protected under the Act. The present broader definition is most practical for this purpose.

6. *Section 180.2(a).* a. Insert after "farmer representation" the words "including farmers who are primarily seed users,". Not adopted, as the wording of section 7 (7 U.S.C. 2327) does not authorize such a restrictive requirement.

b. Insert after "Board" in the third sentence the word "which"; delete "and" following the phrase "which shall include farmer representation." Adopted, for clarification.

c. Delete the word "approximately" in the third sentence. Not adopted, as the present wording is the wording used in the Act.

d. Define the words "Government," "public," "Federal," and "State." Not adopted, as it is considered clear that "public" representatives include employees of public institutions and that "private" or "seed industry" representatives include employees or owners of farms, seed companies, or other privately operated business entities that makes them farmers or a part of the seed industry.

7. *Section 180.5.* Add a new paragraph (d) to read as set forth below. Adopted, as this requirement will serve as public notice to applicants and their agents or attorneys and help protect the Plant Variety Protection Office from a deliberate concealment of material facts.

8. *Section 180.7(a)(7).* a. Change the term "4 years" to "1 year," restrict the extension to those cases where the extension is reasonable, and provide for a commensurate reduction in the term of protection. Adopted.

b. This change will provide a maximum of an additional 3 years for filing in the United States after filing in a foreign country where official grow-out tests are required. The additional time will be determined by the time required to obtain rights in the foreign country. This change will also provide for a commensurate reduction of the term of protection in this country by an amount equal to the length of time, in years, that the period for filing was extended.

9. *Section 180.14(d).* a. Add wording to provide protection for a joint owner who does not desire to join in applying for protection or to have the variety protected. Not adopted, as this property right question, if it arises, will have to be resolved by the courts.

b. Delete from line two the word "corrected" and change "a" to "an." Adopted, as the section applies to any application.

c. Replace the words "one of two or more" in line 20 with the words "less than all of the." Adopted, as two of three joint owners could be involved. Also add the words "to said owners" after "privileges" in line 22 for clarification.

d. Delete the words "the original" in the last two lines before "application" and insert "an." Adopted, as the section applies to any application.

10. *Section 180.16.* Insert in line 10 after the word "specified" the words "or if previously declined" and change the word "such" in line 11 to "an affirmative." Adopted, as these changes make it clear that the election specifying that a protected variety is to be sold by variety name only as a class of certified seed can be made whether the application previously specified a negative election or did not specify an election.

11. *Section 180.18(a) and 180.132(b).* Add to the end of § 180.18(a) and after the first and second sentences in § 180.132(b) the words, "or to carry out the provisions of any Act of Congress." Adopted, as this change will permit a disclosure of confidentiality where necessary to carry out any Act of Congress.

12. *Section 180.19.* Delete the paragraph designations (d), (e), and (f), and insert in line 18 after "published" the word "only." Adopted, for clarification.

13. *Section 180.100.* Designate the present wording as paragraph (b) and insert a new paragraph (a) at the beginning of the section, worded as set forth below.

14. *Section 180.104(c).* Add a new sentence at the end of the section worded as follows: "For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned." Adopted, as this change will provide needed flexibility in unusual circumstances.

15. *Section 180.105(a).* Delete the words "as claimed." Adopted, for clarification.

16. *Section 180.121.* Insert in the second line after "mistake" the words "or description of the variety" and insert in the same line after the word "applicant" the words "such as the use of a misleading variety name or a name assigned to a different variety of the same species." Adopted, with modifications. Changes would be allowed in cases where a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of a minor character, or in the description of the variety. These changes will also provide for correcting a certificate as to variety name when it is found that the name assigned is misleading, or is a name previously assigned to another variety, where such mistake has occurred in good faith.

17. *Sections 180.120 and 180.121.* Provide for election of the "certified seed only" specification after a certificate is issued. Such an election would not be a corrected certificate due to either an office mistake or an applicant's mistake. Accordingly, the suggestion is adopted by adding a new heading "Reissuance of certificate" and a new § 180.122 *Certified seed only election* to read as set forth below.

18. *Section 180.130(a).* In line 5 change the words "an exclusive" to "any." Adopted, so that limited rights as well as exclusive rights may be recorded.

19. *Sections 180.140 through 180.144.* Establish marking and labeling requirements for seed of protected varieties when used in seed mixtures. Not adopted, as labeling is authorized but not mandatory under the Act. Since various kinds of mixtures may be involved, labeling guidelines will be provided by the Commissioner as the need arises.

20. *Sections 180.140, 180.141, 180.142, 180.143(a), and 180.143(b).* Change the word "may" to "shall" in each section to require suggested labeling. Not adopted, as the Act authorizes but does not require labeling.

21. *Section 180.151.* Permit an agent or attorney to act for the owner based solely on the claim of the agent or attorney that he is authorized. Not adopted, as this could result in an unwarranted disclosure by the office of the confidentiality of a pending application.

22. *Section 180.157.* Reference the Code of Professional Responsibility of the American Bar Association. Not adopted, as it was determined that it was not necessary at this time.

23. *Section 180.175.* Lower the fees. Not adopted. The legislative history of the Act indicates that it was the intent of Congress that the Act will be substantially self-supporting. Fees will be adjusted periodically based on work experience.

Section 180.175. Insert in line (g) after the word "correcting," the words "or reissuance of a." Adopted, to provide an appropriate fee for services provided under new § 180.122.

24. Propose regulation or rules of practice to interpret section 113 (7 U.S.C. 2543) of the Act. Not adopted, as the Plant Variety Protection Office has no enforcement responsibilities under this section. Other changes are made in §§ 180.1, 180.6, 180.7, 180.14, 180.17, 180.18, 180.101, 180.103, 180.104, 180.106, 180.132, 180.153, 180.155, 180.157, 180.175, 180.204, 180.209, 180.216, 180.220, 180.400, 180.401, 180.402, 180.403, 180.500, and 180.800 for purposes of clarification or greater conformity with applicable provisions of the Act.

Pursuant to the Plant Variety Protection Act, the regulations and rules of practice are adopted as set forth below:

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180.2 Plant Variety Protection Board.

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PUBLICATION

180.800 Publication of public variety descriptions.

AUTHORITY: The provisions of this Part 180 issued pursuant secs. 6, 22, 23, 26, 31, 42(b), 43, 56, 57, 91(c), 84 Stat. 1542; 7 U.S.C. 2326, 2352, 2353, 2356, 2371, 2402(b), 2403, 2426, 2427, 2501(c); 29 F.R. 16210, as amended, 37 F.R. 6327, 6505.

DEFINITIONS

§ 180.1 Meaning of words.

(a) *Construction of words.* Words used in the singular form in this part shall be deemed to import the plural, and vice versa, as the case may be.

(b) *Definitions.* The definitions of terms contained in the Act shall apply to such terms when used in this part. In addition, for the purposes of this part, the following terms shall be construed, respectively, to have the following meanings:

(1) "Abandoned application" means an application which has not been pursued to completion within the time allowed by the Office or has been voluntarily abandoned.

(2) "Act" means the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(3) "Administrator" means the Administrator of the Agricultural Marketing Service of the U.S. Department of Agriculture or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(4) "Applicant" means the person who applied for a certificate of plant variety protection.

(5) "Application" means an application for plant variety protection under the Act.

(6) "Assignee" means a person to whom an owner assigns his rights in whole or in part.

(7) "Board" means the Plant Variety Protection Board appointed by the Secretary.

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(8) "Certificate" means a certificate of plant variety protection issued under the Act by the Office.

(9) "Certified seed" means seed which has been determined by an official seed certifying agency to conform to standards of genetic purity and identity as to variety, which standards have been approved by the Secretary.

(10) "Commissioner" means the Examiner in Chief of the Office.

(11) "Decision and order" includes the Secretary's findings of fact; conclusions with respect to all material issues of fact and law as well as the reasons or basis therefor; and order.

(12) "Examiner" means an employee of the Plant Variety Protection Office who determines whether a certificate is entitled to be issued. The term shall, in all cases, include the Commissioner.

(13) "Foreign application" means an application for plant variety protection filed in a foreign country.

(14) "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.

(15) "Hearing Officer" means an Administrative Law Judge, U.S. Department of Agriculture, or other officer or employee of the Department of Agriculture, duly assigned to preside at a hearing held pursuant to the rules of this part.

(16) "Hybrid" shall be defined as set forth in the regulations under the Federal Seed Act (§ 201.2(y) of this chapter).

(17) "Office" or "Plant Variety Protection Office" means the Plant Variety Protection Office, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture.

(18) "Official Journal" means the "Official Journal of the Plant Variety Protection Office."

(19) "Owner" means a breeder who developed or discovered a variety for which plant variety protection may be applied for under the Act or a person to whom the rights to such variety have been assigned or transferred.

(20) "Person" means an individual, partnership, corporation, association, Government agency, or other business or governmental entity.

(21) "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated or to whom authority may hereafter be delegated to act in his stead.

(22) "Seed certifying agency" shall be defined as set forth in the Federal Seed Act (53 Stat. 1275).

(23) "Sale for other than seed purposes" means the transfer of title to and possession of the seed by the owner thereof to a grower or other person for reproduction for the owner, for testing, or for experimental use, and not for commercial sale of the seed or the reproduced seed for planting purposes.

ADMINISTRATION

§ 180.2 Plant Variety Protection Board.

(a) The Plant Variety Protection Board shall consist of 14 members appointed for a 2-year term. The Board shall be constituted every 2 years and shall consist of individuals who are experts in various areas of varietal development. The membership of the Board, which shall include farmer representation, shall be drawn approximately equally from the private or seed industry sector and from the sector of Government or the public. No member shall be eligible to act on any matter involving any appeal or questions under section 44 of the Act in which he or his employer has a direct financial interest.

(b) The functions of the Board are to: (1) Advise the Secretary concerning adoption of rules and regulations to facilitate the proper administration of the Act, (2) make advisory decisions on all appeals from the examiner or Commissioner, (3) advise the Secretary on the declaration of a protected variety open to use in the public interest, and (4) advise the Secretary on any other matters under the regulations in this part.

(c) The proceedings of the Board shall be conducted in accordance with Executive Order No. 11007 dated February 26, 1962, Administrative Regulations of the U.S. Department of Agriculture, Agricultural Marketing Service Instruction No. 109–1, and such additional operating procedures as are adopted by the members of the Board.

THE APPLICATION

§ 180.5 General requirements.

(a) Protection under this Act shall be limited to nationals of the United States, except where this limitation would violate a treaty, and except that nationals of a foreign State shall be entitled to so much of the protection afforded under this Act as is afforded by said foreign State to nationals of the United States for the same genus and species.

(b) Applications for certificates shall be made to the Plant Variety Protection Office. An application shall consist of:

(1) A completed application form, except that the section specifying that seed of the variety shall be sold by variety name only as a class of certified seed need not be completed at the time of application.

(2) A completed set of the exhibits as specified in the application form, unless the examiner waives submission of certain exhibits as unnecessary based on other claims and evidence presented in connection with the application.

(3) Language and legibility:

(i) Applications and exhibits must be in the English language and legibly written, typed, or printed.

(ii) Any interlineation, erasure, cancellation, or other alteration must be made in permanent ink before the application is signed and shall be clearly initialed and dated by the applicant to indicate knowledge of such fact at the time of signing.

(c) Application and exhibit forms shall be issued by the Commissioner after consultation with the Board. (Copies of the forms may be obtained from the Plant Variety Protection Office, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, MD 20782.)

(d) Effective as of the effective date of these regulations and rules of practice, the signature of the applicant or his agent or attorney on any affidavit or other statement filed pursuant to these regulations and rules constitutes a certification by him that no information is known to him which is inconsistent with that relied on in the affidavit or statement, which would tend to give an impression different from that conveyed by the affidavit or statement, or the failure to disclose which makes that or any affidavit or statement already filed in the course of the proceeding misleading when considered as a whole.

§ 180.6 Application for certificate.

(a) An application for a plant variety protection certificate shall be signed by or on behalf of the applicant.

(b) The application shall state the full name, including the full first name and the middle initial or name, if any, and the capacity of the person executing it.

§ 180.7 Statement of applicant.

(a) The applicant, by signing a completed application, states in accordance with section 42 of the Plant Variety Protection Act that (1) he believes himself, or his privies, to be the original and first breeder or discoverer of the variety for which he solicits a certificate; (2) he, or his privies, has sexually reproduced the variety; (3) he does not know and does not believe that the variety was ever a public variety before his, or his privies, date of determination; (4) he is a sole or joint owner of the variety; (5) the variety was not a public variety more than 1 year prior to the effective filing date of the application; (6) before the date of determination of the variety by the owner, or his privies, or more than 1 year before the effective filing date of the application, the variety was not effectively available to workers in this country and adequately described by a publication reasonably deemed a part of the public technical knowledge in this country, which description must include a disclosure of the principal characteristics by which the variety is distinguished; (7) he or his privies have not filed an application for the protection of the variety in a foreign country more than 1 year prior to the effective filing date of the application filed in the United States, except that this 1-year may be extended by the Commissioner for an additional period equal to the time interval between the date an application for rights on the same variety was first filed in a foreign country and the date rights were first granted on the variety in the foreign country because of official grow-out tests required by such foreign country: *Provided, however,* That the total period allowed does not exceed 4 years. The term of protection in such case shall be reduced to the nearest full year by an amount equal to the additional time that the 1-year period for filing is extended.

(b) If any application for protection on the same variety has been filed or granted in a foreign country, either by the applicant or his privies, the applicant shall state the names of the countries in which such application(s) were filed or protection granted and shall give the day, month, and year of filing and day, month, and year protection was granted, if any.

(c) When an applicant files an application, cross-references to other related applications may be made, when appropriate.

§ 180.8 Specimen requirements.

(a) The applicant may be required by the examiner to furnish representative specimens of the variety, or its flower, fruit, or seeds, in a quantity and at a specified stage of growth, as may be necessary to verify the statements in the application. Such specimens shall be packed and forwarded in conformity with instructions furnished by the examiner. If the applicant requests the examiner to inspect plants in the field before a final decision is made, all such inspection costs shall be borne by the applicant by payment of fees sufficient to reimburse the Office for all costs, including travel, per diem or subsistence, and salary.

(b) Plant specimens submitted in support of an application shall not be removed from the Office except by an employee of the Office or other person authorized by the Secretary.

(c) Plant specimens submitted to the Office shall, except as provided below, and upon request, be returned to the applicant at his expense after the specimens have served their intended purpose. The Commissioner, upon a finding of good cause, may require that certain specimens be retained in the Office for indefinite periods of time. Specimens which are not returned or not retained as provided above shall be destroyed.

§ 180.9 Drawings and photographs.

(a) Drawings or photographs submitted with an application shall disclose the distinctive characteristics of the variety.

(b) Drawings or photographs shall be in color when color is a distinguishing characteristic of the variety and the color shall be described by use of Nickerson's or other recognized color chart.

(c) Drawings should be sent flat, or may be sent in a suitable mailing tube in accordance with instructions furnished by the Commissioner.

(d) Drawings or photographs submitted with an application shall be retained by the Office as part of the application file.

§ 180.10 Parts of application to be filed together.

All parts of an application, including exhibits, should be submitted to the Office together; otherwise, each part shall be accurately and clearly referenced to the application.

§ 180.11 Application accepted and filed when received.

(a) An application if materially complete when initially submitted shall be accepted and filed to await examination.

(b) If any part of an application is so incomplete, or so defective that it cannot be handled as a completed application for examination, as determined by the Commissioner, the applicant will be notified before the Office requests an examination fee. The application will be held a maximum of 6 months for completion. Applications not completed at the end of the prescribed period will be considered abandoned. The application fee in such cases will not be refunded.

§ 180.12 Number and filing date of application.

(a) Applications shall be numbered and dated in sequence in the order received in the Office. Applicants will be informed in writing as soon as practicable of the number and effective filing date of the application.

(b) An applicant may claim the benefit of the filing date of a prior foreign application in accordance with section 55 of the Act. A certified copy of the foreign application shall be filed upon request made by the examiner. If a foreign application is not in the English language, an English translation certified as accurate by a sworn or official translator shall be submitted with the application.

§ 180.13 When the owner is deceased or legally incapacitated.

In case of the death of the owner or if the owner is legally incapacitated, the legal representative (executor, administrator, or guardian) or heir or assignee of the deceased owner may sign as the applicant. If an applicant dies between the filing of his application and the granting of a certificate thereon, the certificate may be issued to the legal representative, heir, or assignee, upon proper intervention by him.

§ 180.14 Joint applicants.

(a) Joint owners shall file a joint application by signing as joint applicants.

(b) If an application for certificate is made by two or more persons as joint owners when they were not in fact joint owners, the application shall be amended prior to issuance of a certificate by filing a corrected application together with a written explanation signed by the original applicants. Such statement shall also be signed by the assignee, if any.

(c) If an application has been made by less than all the actual joint owners, the application shall be amended by filing a corrected application together with a written explanation signed by all of the joint owners. Such statement shall also be signed by the assignee, if any.

(d) If a joint owner refuses to join in an application or cannot be found after diligent effort, the remaining owner may file an application on behalf of himself and the missing owner. Such application shall be accompanied by a written explanation and shall state the last known address of the missing owner. Notice of the filing of the application shall be forwarded by the Office to the missing owner at his last known address. If such notice is returned to the Office undelivered, or if the address of the missing owner is unknown, notice of the filing of the application shall be published once in the Official Journal. Prior to the issuance of the certificate, a missing owner may join in an application by filing a written explanation. A certificate obtained by less than all of the joint owners under this paragraph conveys the same rights and privileges to said owners as though all of the original owners had joined in an application.

§ 180.15 Assigned novel varieties and certificates.

In case the whole or a part interest in a variety is assigned, the application shall be made by the owner or one of the persons identified in § 180.13. However, the certificate may be issued to the assignee or jointly to the owner and the assignee when a part interest in a variety is assigned.

§ 180.16 Amendment by applicant.

An application may be amended before or after the first examination and action by the Office, after the second or subsequent examination or reconsideration as specified in § 180.107, or when and as specifically required by the examiner. Such amendment may include a specification that seed of the variety be sold by variety name only as a class of certified seed, if not previously specified or if previously declined. Once an affirmative specification is made, no amendment to reverse such a specification will be permitted unless the variety has not been sold and labeled or publication made in any manner that the variety is to be sold by variety name only as a class of certified seed.

§ 180.17 Papers of completed application to be retained.

The papers submitted with a completed application shall be retained by the Office except as provided in § 180.23(c). After issuance of a certificate of protection the Office will furnish copies of the application and related papers to any person upon payment of the specified fee.

§ 180.18 Applications handled in confidence.

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application, nor will access be given to, or copies furnished of, any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent. Exceptions to the above

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may be made by the Commissioner in accordance with 5 U.S.C. 552 and § 1.4 of this title and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress or as provided in section 57 of the Act and § 180.19.

(b) Abandoned applications shall not be open to public inspection, except that if an abandoned application is directly referred to in an issued certificate, and is available, it may be inspected or copies obtained by any person on written request, and with written authority received from the applicant. Abandoned applications shall not be returned.

(c) Decisions of the Commissioner on abandoned applications not otherwise open to public inspection (see paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion. When it is proposed to release such a decision, the applicant shall be notified directly or through the attorney or agent of record and a time not less than 30 days shall be set for presenting objections.

§ 180.19 Publication of pending applications.

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show the (a) application number and date of filing, (b) the name of the variety or temporary designation, (c) the name of the kind of seed. Additional information, such as (d) the name and address of the applicant, (e) a brief description of the novel features of the variety, and (f) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations, may be published only upon request or approval received from the applicant at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

§ 180.20 Abandonment for failure to respond within time limit.

(a) Except as otherwise provided in § 180.104, if an applicant fails to advance actively his application within 6 months after the date when the last request for action was mailed to him by the Office, or within such longer time as may be fixed by the Commissioner, the application shall be deemed abandoned.

(b) The submission of an amendment to the application, not responsive to the last request by the Office for action, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When the applicant makes a bona fide attempt to advance his application, and is in substantial compliance with the request for action, but has inadvertently failed to comply with some procedural requirement, opportunity to comply with the procedural requirement shall be given to the applicant before the application shall be deemed abandoned. The Commissioner may set a shortened period, not less than 30 days, to correct any deficiency in the application.

§ 180.21 Extension of time for reply.

The time for reply by an applicant to a request by the Office for certain action, shall be extended by the Commissioner only for good and sufficient cause, and for a specified reasonable time. A request for extension shall be filed on or before the specified time for reply. In no case shall the mere filing of a request for extension require the granting of an extension or stay the time for reply.

§ 180.22 Revival of application abandoned for failure to reply.

An application abandoned for failure on the part of the applicant to advance actively his application to its completion, in accordance with the regulations in this part, may be revived as a pending application upon a finding by the Commissioner that the failure was inadvertent or unavoidable and without fraudulent intent. A request to revive an abandoned application shall be accompanied by a written statement showing the cause of the failure to respond, a response to the last request for action, and by the specified fee.

§ 180.23 Voluntary withdrawal and abandonment of application.

(a) An application may be voluntarily withdrawn or abandoned by submitting to the Office a written request for withdrawal or abandonment signed by the applicant or his attorney or agent of record, if any, or the assignee of record, if any.

(b) An application which has been voluntarily abandoned may be revived within 3 months of such abandonment by the payment of the prescribed fee and a showing that the abandonment occurred without fraudulent intent.

(c) An original application which has been voluntarily withdrawn shall be returned to the applicant and may be reconsidered only by refiling and payment of a new application fee.

§ 180.24 Assignee.

The assignee of record of the entire interest in an application is entitled to advance actively or abandon the application to the exclusion of the applicant.

EXAMINATIONS, ALLOWANCES, AND DENIALS

§ 180.100 Examination of applications.

(a) Applicants shall be notified by the Office when the Office can proceed with the examination and that the examination fee is due and payable before proceeding.

(b) Examinations of applications shall include a review of all available documents, publications, or other material relating to varieties of the species involved in the application, except that if there are fundamental defects in the application, as determined by the examiner, the examination may be limited to an identification of such defects and notification to the applicant of needed corrective action. However, matters of form or procedure need not, but may, be raised by an examiner until a variety is found to be novel and entitled to protection.

§ 180.101 Notice of allowance.

(a) If, on examination, it shall appear that the applicant is entitled to a certificate, a notice of allowance shall be sent to him or his attorney or his agent of record, if any, calling for the payment of the prescribed fee, which fee shall be paid within 1 month from the date of the notice of allowance. Thereafter, a fee for delayed payment shall be made as required under § 180.175.

(b) Upon request by the Office, the applicant shall submit a reasonable quantity of the viable basic seed required to reproduce the novel variety, as determined by the Commissioner. Failure to deposit viable basic seed within 3 months of the date of request shall result in the application being considered abandoned.

§ 180.102 Amendments after allowance.

Amendments to the application after the notice of allowance is issued may be made, if the certificate has not been issued.

§ 180.103 Issuance of certificate.

(a) After the notice of allowance has been issued, the prescribed fee and sample of viable basic seed received by the Office, and the applicant has clearly specified whether or not the variety shall be sold by variety name only as a class of certified seed, the certificate shall be promptly issued. Once an election is made and a certificate issued specifying that seed of the variety shall be sold by variety name only as a class of certified seed, no waiver of such rights shall be permitted by amendment of the certificate.

(b) The certificate shall be delivered or mailed to the owner.

§ 180.104 Application or certificate abandoned.

(a) Except as provided in paragraph (c) of this section, if the fee specified in the notice of allowance is not paid within 1 month from the date of the notice, the application shall be considered abandoned.

(b) Upon request by the Office, the owner shall replenish the viable basic seed sample of the novel variety. Upon request, the sample of seed which has been replaced shall be returned to the owner, otherwise it shall be destroyed. Failure to replenish viable basic seed within 3 months from the date of request shall result in the certificate being regarded as abandoned. No sooner than 1 year after the date of such request, notices of abandoned certificates shall be published in the Official Journal indicating that the variety has become open for use by the public and, if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

(c) If the allowance fee, the viable basic seed sample or the fee, if any, for delayed payment are submitted within 9 months of the final due date, it may be accepted by the Commissioner as though no abandonment had occurred. For good cause, the Commissioner may extend for a reasonable time the period for submitting a viable basic seed sample before declaring the certificate abandoned.

(d) A certificate may be voluntarily abandoned by the applicant or his attorney or agent of record, if any, or the assignee of record, if any, by notifying the Commissioner in writing. Upon receipt of such notice, the Commissioner shall publish a notice in the Official Journal that the variety has become open for use by the public, and if previously specified to be sold by variety name as "certified seed only," that such restriction no longer applies.

§ 180.105 Denial of application.

(a) If the variety is found by the examiner to be not novel the application shall be denied.

(b) In denying an application for want of novelty, the examiner shall cite the reasons the application was denied. When a reason involves the citation of certain material which is complex, the particular part of the material relied on shall be designated as nearly as practicable. The pertinence of each reason, if not obvious, shall be clearly explained.

(c) If prior domestic certificates are cited as a reason for denial, their numbers and dates and the names of the owners shall be stated. If prior foreign certificates or rights are cited, as a reason for denial, their nationality or country, numbers and dates, and the names of the owners shall be stated, and such other data shall be furnished as may be necessary to enable the applicant to identify the cited certificates or rights.

(d) If printed publications are cited as a reason for denial, the author (if any), title, date, pages or plates, and places of publication, or place where a copy can be found shall be given.

(e) When a denial is based on facts known to the examiner, and upon request by the applicant, the denial shall be supported by the affidavit of the examiner. Such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

(f) Abandoned applications may not be cited as reasons for denial.

§ 180.106 Reply by applicant; request for reconsideration.

(a) After an adverse action by the examiner, the applicant may respond to the denial and may request a reconsideration, with or without amendment of his application. Any amendment shall be responsive to the reason or reasons for denial specified by the examiner.

(b) To obtain a reconsideration, the applicant shall submit a request for reconsideration in writing and shall specifically point out the alleged errors in the examiner's action. The applicant shall respond to each reason cited by the examiner as the basis for the adverse action. A request for reconsideration of a denial based on a faulty form or procedure may be held in abeyance by the Commissioner until the question of novelty is settled.

(c) An applicant's request for reconsideration must be a bona fide attempt to advance the case to final action. A general allegation by the applicant that certain language which he cites in his application or amendment thereto establishes novelty without specifically explaining how the language distinguishes the alleged novel variety from the material cited by the examiner shall not be grounds for a reconsideration.

§ 180.107 Reconsideration and final action.

If, upon reconsideration, the application is denied by the Commissioner, the applicant shall be notified by the Commissioner of the reason or reasons for denial in the same manner as after the first examination. Any such denial shall be final unless appealed by the applicant to the Secretary within 60 days from the date of denial in accordance with §§ 180.300–180.303. If the denial is sustained by the Secretary on appeal, the denial shall be final subject to appeal to the courts as provided in § 180.500.

§ 180.108 Amendments after final action.

(a) After a final denial by the Commissioner, amendments to the application may be made to overcome the reason or reasons for denial. The acceptance or refusal of any such amendment by the Office and any proceedings relative thereto, shall not relieve the applicant from the time limit set for an appeal or an abandonment for failure to reply.

(b) No amendment of the application can be made in an appeal proceeding. After decision on appeal, amendments can only be made to carry into effect a recommendation under § 180.302(b).

CORRECTION OF ERRORS IN CERTIFICATE

§ 180.120 Corrected certificate—Office mistake.

When a certificate is incorrect because of a mistake in the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be issued to the owner and recorded in the records of the Office, or the Commissioner may issue a corrected certificate without charge in lieu of and with like effect as a certificate of correction, in accordance with section 84 of the Act.

§ 180.121 Corrected certificate—applicant's mistake.

When a certificate is incorrect because of a mistake by the applicant of a clerical or typographical nature, or of minor character, or in the description of the variety (including, but not limited to, the use of a misleading variety name or a name assigned to a different variety of the same species), and the mistake is found by the Commissioner to have occurred in good faith and does not require a further examination, the Commissioner may, upon payment of the required fee, correct the certificate by issuing a certificate of correction stating the fact and nature of such mistake, under seal, to be issued to the owner and recorded in the records of the Office, in accordance with section 85 of the Act. If the mistake requires a reexamination, a correction of the certificate shall be dependent on the results of the reexamination.

REISSUANCE OF CERTIFICATE

§ 180.122 Certified seed only election.

When an owner elects after a certificate is issued to sell the protected variety by variety name only as a class of certified seed, a new certificate may be issued upon return of the original certificate to the Office and payment of the appropriate fee.

ASSIGNMENTS AND RECORDING

§ 180.130 Recording of assignments.

(a) Any assignment of an application for a certificate, or of a certificate of plant variety protection, or of any interest in a variety, or any license or grant and conveyance of any right to use of the variety, may be submitted for recording in the Office in accordance with section 101 of the Act (7 U.S.C. 2531).

(b) No instrument shall be recorded which is not in the English language or which does not identify the certificate or application to which it relates.

(c) An instrument relating to title of a certificate shall identify the certificate by number and date, the name of the owner, and the name of the novel variety as stated in the certificate. An instrument relating to title of an application shall identify an application by number and date of filing, the name of the owner, and the name of the novel variety as stated in the application.

(d) If an assignment is executed concurrently with or subsequent to the filing of an application but before its number and filing date are ascertained, the assignment shall identify the application by the date of the application, the name of the owner, and the name of the novel variety.

§ 180.131 Conditional assignments.

Assignments recorded in the Office are regarded as absolute assignments for Office purposes until canceled in writing by both parties to the assignment or by a decree of a court of competent jurisdiction. The Office shall not determine whether conditions precedent to the assignment, such as the payment of money, have been fulfilled.

§ 180.132 Assignment records open to public inspection.

(a) Assignment records relating to original or amended certificates shall be open to public inspection and copies of any recorded document may be obtained upon payment of the prescribed fee.

(b) Assignment records relating to any pending or abandoned application shall not be available for inspection except to the extent that pending applica-

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tions are published as provided in section 57 of the Act and § 180.19, or where necessary to carry out the provisions of any Act of Congress. Copies of assignment records and information on pending or abandoned applications shall be obtainable only upon written authority of the applicant or his assignee, or attorney or agent of record, or where necessary to carry out the provisions of any Act of Congress. An order for a copy of an assignment shall give the proper identification of the assignment.

MARKING OR LABELING PROVISIONS

§ 180.140 After filing.

Upon filing an application for protection of a novel variety and payment of the prescribed fee, the owner, or his designee, may label the variety or containers of the seed of the variety or plants produced from such seed, substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Variety Protection Applied For."

§ 180.141 After issuance.

Upon issuance of a certificate, the owner of the novel variety or his designee may label the variety or containers of the seed of the variety or plants produced from such seed substantially as follows: "Unauthorized Propagation Prohibited—(Unauthorized Seed Multiplication Prohibited)—U.S. Protected Variety."

§ 180.142 For testing or increase.

An owner who contemplates filing an application and releases for testing or increase, seed of the variety or other sexually reproducible plant material produced from seed of the variety, may label such plant material or containers of the seed or plants substantially as follows: "Unauthorized Propagation Prohibited—For Testing (or Increase) Only."

§ 180.143 Certified seed only.

(a) Upon filing an application, or amendment thereto, specifying seed of the variety is to be sold by variety name only as a class of certified seed, the owner, or his designee, may label containers of seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—U.S. Variety Protection Applied for Specifying That Seed of This Variety Is To Be Sold By Variety Name Only as a Class of Certified Seed."

(b) An owner who has received a certificate specifying that a variety is to be sold by variety name only as a class of certified seed may label containers of the seed of the variety substantially as follows: "Unauthorized Propagation Prohibited—To Be Sold By Variety Name Only as a Class of Certified Seed—U.S. Protected Variety."

§ 180.144 Additional marking or labeling.

Additional clarifying information that is not false or misleading may be used by the owner in addition to the above markings or labeling.

ATTORNEYS AND AGENTS

§ 180.150 Right to be represented.

An applicant may actively advance an application or he may be represented by any attorney or agent authorized in writing by him.

§ 180.151 Authorization.

Only attorneys or agents specified by the applicant shall be allowed to inspect papers or take action of any kind on behalf of the applicant in any pending application or proceedings.

§ 180.152 Revocation of authorization; withdrawal.

An authorization of an attorney or agent may be revoked by an applicant at any time, and an attorney or agent may withdraw, upon application to the Commissioner. When the authorization is so revoked, or the attorney or agent has so withdrawn, the Office shall inform the interested parties and shall thereafter communicate directly with the applicant, or with such other attorney or agent as the applicant may appoint. An assignment will not of itself operate as a revocation of authorization previously given, but the assignee of the entire interest may revoke previous authorizations and be represented by an attorney or agent of his own selection.

§ 180.153 Persons recognized.

Unless specifically authorized as provided in § 180.151, no person shall be permitted to file or advance applications before the Office on behalf of another person.

§ 180.154 Government employees.

Officers and employees of the United States who are disqualified by statute (18 U.S.C. 203 and 205) from practicing as attorneys or agents in proceedings or other matters before Government departments or agencies, shall not be eligible to represent applicants, except officers and employees whose official duties require the preparation and prosecution of applications for certificates of variety protection.

§ 180.155 Signatures.

Every document filed by an attorney or agent representing an applicant or party to a proceeding in the Office shall bear the signature of such attorney or agent, except documents which are required to be signed by the applicant or party.

§ 180.156 Addresses.

Attorneys and agents practicing before the Plant Variety Protection Office shall notify the Office in writing of any change of address. The Office shall address letters to any such person at the last address received.

§ 180.157 Professional conduct.

Attorneys and agents appearing before the Office shall conform to the standards of ethical and professional conduct generally applicable to attorneys appearing before the courts of the United States.

§ 180.158 Advertising.

(a) The use of advertising, circulars, letters, cards, and similar material to solicit plant variety protection business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Office or may be suspended, excluded, or disbarred from further practice before the Office.

(b) The use of simple professional letterheads, calling cards, or office signs, simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends and insertion of listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories shall not be considered a violation of this section.

FEES AND CHARGES

§ 180.175 Fee and charges.

The following fees and charges apply to the services and actions specified below:

(a) Filing application	$250
(b) Search or examination	250
(c) Allowance and issuance of certificates	250
(d) To revive an abandoned application	50
(e) Reproductions of records, drawings, certificates, exhibits, or printed material (copy per page of material)	1
(f) Authentication (each document)	1
(g) Correcting or reissuance of a certificate	10
(h) Recording assignments	5
(i) Copies of 8 x 10 photographs in color	12
(j) Additional fee for reconsideration	25
(k) Additional fee for late payment	25
(l) Additional fee for late replenishment of seed	25
(m) Appeal to Secretary	50

(n) Field inspections by a representative of the Plant Variety Protection Office made at the request of the applicant shall be reimbursable in full (including travel, per diem or subsistence, and salary) in accordance with Standardized Government Travel Regulations.

(o) Any other services not covered above will be charged for at rates prescribed by the Commissioner, but in no event shall they exceed $20 per man-hour.

§ 180.176 Fees payable in advance.

Fees and charges shall be paid at the time of making application or at the time of submitting a request for any action by the Office for which a fee or charge is payable and established in this part.

§ 180.177 Method of payment.

Checks or money orders shall be made payable to the Treasurer of the United States. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the prescribed fee. Money sent by mail to the Office shall be sent at the risk of the sender.

§ 180.178 Refunds.

Money paid by mistake or excess payments shall be refunded, but a mere change of plans after the payment of money, as when a party decides to withdraw an application or to withdraw an appeal, shall not entitle a party to a refund. Amounts of $1 or less shall not be refunded unless specifically demanded.

§ 180.179 Copies and certified copies.

(a) Upon request, copies of applications, certificates, or of any records, books, papers, drawings, or photographs in the custody of the Office and which are open to the public, will be furnished to persons entitled thereto, upon payment of the prescribed fee.

(b) Upon request, copies will be authenticated by imprint of the seal of the Office and certified by the official authorized by the Commissioner upon payment of the prescribed fee.

AVAILABILITY OF OFFICE RECORDS

§ 180.190 When open records are available.

Copies of records which are open to the public and in the custody of the Office may be examined in the Office during regular business hours upon approval by the Commissioner.

PROTEST PROCEEDINGS

§ 180.200 Protests to the grant of a certificate.

Opposition on the part of any person to the grant of a certificate shall be permitted while an application is pending and for a period not to exceed 5 years following the issuance of a certificate.

§ 180.201 Protest proceedings.

(a) Opposition shall be made by submitting in writing a petition for protest proceedings, which petition shall be supported by affidavits and shall show the reason or reasons for opposing the application or certificate. The petition and accompanying papers shall be filed in duplicate. If it appears to an examiner that a variety involved in a pending application or covered by a certificate may not be or may not have been entitled to protection under the Act, a protest proceeding may be permitted by the Commissioner.

(b) One copy of the petition and accompanying papers shall be served by the Office upon the applicant or owner, or his attorney or agent of record.

(c) An answer, by the applicant or owner of the certificate or his assignee, in response to the petition may be filed with the Commissioner within 60 days after service of the petition upon such person. If no answer is filed within said period, the Commissioner shall decide the matter on the basis of the allegations set forth in the petition.

(d) If the petition and answer raise any issue of fact needing proof, the Commissioner shall afford each of the parties a period of 60 days in which to file sworn statements or affidavits in support of their respective positions.

(e) As soon as practicable after the petition or the petition and answer are filed or after the expiration of any period for filing sworn statements or affidavits, the Commissioner shall issue his decision as to whether the protests are upheld or denied. The Commissioner may, following the protest proceeding, cancel any certificate issued and may grant another certificate for the same novel variety to a person who proves to the satisfaction of the Commissioner, that he is the breeder or discoverer. The decision shall be served upon the parties in the manner provided in § 180.403.

PRIORITY CONTEST

§ 180.205 Definition; when declared.

A priority contest may be instituted by the Secretary, on his own motion, or upon the request of any person who has applied for protection on the same variety for which an adverse certificate has been issued, for the purpose of determining the question of priority between two or more parties claiming development or discovery of the same novel variety: *Provided, however,* That any person shall have forfeited his right to assert priority when an adverse certificate has been issued if he fails to make a request for the institution of a priority contest within 1 year of the publication in the Official Journal of issuance of the adverse certificate by the Secretary or if he fails to make the request within the period for taking action after refusal of his application on the basis of the adverse certificate.

§ 180.206 Preparation for priority contest between applicants.

(a) Before a priority contest will be handled by the Office, an examiner must determine that the same novel variety is involved in separate applications filed by two or more parties and apparently certifiable to each of the parties, subject to the determination of the question of priority.

(b) The fact that a certificate has been issued will not prevent a priority contest.

§ 180.207 Preparation of priority papers and declaration of priority contest.

(a) When a priority question is found to exist, the examiner shall forward the pertinent files to the Commissioner together with a written statement showing the reason for the contest.

(b) The Commissioner shall institute and declare the priority contest by forwarding a notice to each of the applicants involved. Each notice shall include the name and residence of each of the other applicants or those of his attorney or agent, if any, and of any assignee, and will identify the application of each opposing party by number and filing date, or in the case of a certificate, by the number and date of the certificate. The notice shall specify the basis of the priority contest. The notice shall specify a time, not to exceed 2 months, for filing preliminary statements.

(c) When a notice is returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, notice may be given by publication once in the Official Journal.

§ 180.208 Burden of proof.

The parties to a priority contest will be presumed to have developed their varieties in the chronological order of the filing dates of their applications for certificates involved in the priority contest, and the burden of proof will rest upon the party who last filed an application.

§ 180.209 Preliminary statement on novel variety developed in the United States.

(a) Each party to the priority contest is required to file on or before a date fixed by the Office, a concise preliminary statement giving the facts and dates relating to the development of his alleged novel variety. The preliminary statement must be signed by the owner: *Provided, however,* That in appropriate circumstances, as when the owner is dead or legally incapacitated or a showing is made of inability to obtain a statement from the owner, the preliminary statement may be made by the assignee or by someone authorized or entitled to make the statement and having knowledge of the facts.

(b) Preliminary statements shall be filed with the Office in duplicate. A copy shall be forwarded to each opposing party by the Office as soon as practicable after both parties have filed their statements within the requisite period.

(c) In filing a preliminary statement each party must show the following information:

(1) The date upon which the first determination of the novel variety was made.

(2) The date upon which the first written description of the novel variety was made. If a written description of the novel variety has not been made prior to the filing date of the application, it must be so stated.

(3) The date of the first act or acts susceptible of proof (other than making a written description or disclosing the novel variety to another person), which, if proven, would establish determination of the novel variety, and a brief description of such act or acts. If there have been no such acts, it must be so stated.

(4) The date of the actual production of the novel variety. If the novel variety had not been actually produced before the filing date of the application, it must be so stated.

(d) When an allegation as to the first written description (paragraph (c)(2) of this section) is made, a copy of such written description shall be attached to the statement.

(e) If a party intends to rely on a prior application, domestic or foreign, the preliminary statement shall clearly identify such prior application. Copies of the cited application and related documents will be served by the Office upon

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all interested parties to the contest. In the case of an application filed in a foreign country, English translations shall be served upon all interested parties by the party relying on the application filed in the foreign country.

§ 180.210 Preliminary statement on novel variety developed in a foreign country.

When the novel variety was developed in a foreign country, the preliminary statement must show (a) the information specified in § 180.209(c) through (e) and (b) whether, and if so, when and under what circumstances the novel variety was introduced into the United States by or on behalf of the party.

§ 180.211 Statements sealed before filing.

The preliminary statement shall be submitted in a sealed envelope bearing the name of the party filing it and the number and title of the priority contest as shown on the notice issued by the Office. The envelope should be enclosed in an outer mailing envelope marked "To Be Opened by the Commissioner."

§ 180.212 Correction of statement on motion.

In case of material error arising through inadvertence or mistake, a preliminary statement may be corrected upon a satisfactory showing to the Commissioner that the correction is of material significance. Correction of the statement must be made as soon as practicable after the discovery of the error.

§ 180.213 Failure to file statements.

If any party to a priority contest fails to file a preliminary statement, he shall be restricted to his earliest effective filing date.

§ 180.214 Access to preliminary statements.

The preliminary statements shall be open to the inspection of any party after the date set for the filing of preliminary statements (§ 180.207(b)), but shall not be open to inspection prior to that time.

§ 180.215 Dissolution at the request of commissioner.

If during a priority contest, information is submitted or found which, in the opinion of the Commissioner, may render the variety ineligible for a certificate, the priority contest may be suspended by the Commissioner and referred to an examiner for consideration of the matter and the parties will be notified of the reason for the suspension. Arguments of the parties regarding the suspension will be considered if filed within 60 days of the notification. The suspension will then be continued, modified, or dismissed in accordance with the determination by the Commissioner.

§ 180.216 Concession; abandonment.

(a) An applicant or a certificate holder involved in a priority contest may, at any time, file a written concession of priority, or abandonment of the certificate, signed by him. Upon the filing of such an instrument by any party, the decision shall be rendered against him by the Commissioner.

(b) A concession of priority may not be made by an assignee of a part interest.

§ 180.217 Affidavits and exhibits.

Affidavits and exhibits, including official records and any special matter contained in a printed publication, pertinent to the issue involved in the contest, may be introduced in evidence in a priority contest by any party to the contest. In the case of official records and printed publications, the party introducing the evidence shall specify the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and submit to the Commissioner the record or authenticated copy, or the printed publication or a copy. Copies of affidavits and exhibits, including any record or publication, shall be served by the Commissioner on each of the other interested parties.

§ 180.218 Matters considered in determining priority.

In determining priority, the Commissioner will consider only priority of development based on the evidence submitted. Questions of novelty generally will not be considered in the decision on priority. If he desires, the Commissioner may refer his proposed findings of fact, conclusions, and notice of priority to the Board for an advisory decision.

§ 180.219 Recommendation by Commissioner.

The Commissioner may, either before or concurrently with his decision on the question of priority, but independently of such decision, direct the attention of the examiner to any matter not relating to priority which may come to the Commissioner's attention, and which in his opinion establishes the fact that there has been irregularity which amounts to a bar to the grant of a certificate to either of the parties. The Commissioner may suspend the priority contest and remand the case to the examiner for further consideration of the matters to which attention has been directed.

§ 180.220 Decision by Commissioner.

(a) When a priority contest is concluded on the basis of preliminary statements, or otherwise, proposed findings of fact, conclusions, and notice of priority shall be issued by the Commissioner to the interested parties, giving them a specified period, not less than 30 days, to show cause why such proposed findings of fact, conclusions, and notice of priority should not be made final. Any response made during the specified period will be considered by the Commissioner. Additional affidavits or exhibits will not be considered unless accompanied by a showing of good cause acceptable to the Commissioner. Thereafter, final findings of fact, conclusions, and notice of priority shall be issued by the Commissioner.

(b) The decision shall be entered by the Commissioner against a party whose preliminary statement alleges a date of determination later than the filing date of the other party's application.

§ 180.221 Status of claims of defeated applicant.

Whenever a final notice of priority has been issued by the Commissioner in a priority proceeding and the time limit for an appeal from such decision has expired, the claim or claims constituting the issue of the priority stand finally disposed of without further action by the Commissioner.

§ 180.222 Second priority contest.

A second priority contest between the same parties shall not be entertained by the Commissioner for the same novel variety.

Appeal to the Secretary

§ 180.300 Petition to the Secretary.

(a) Petition may be made to the Secretary from any final action of the Commissioner denying an application or refusing to allow a certificate to be issued or from any adverse decision of the Commissioner made under §§ 180.18(c), 180.107, 180.201(e), and 180.220.

(b) Any such petition shall contain a statement of the facts involved and the point or points to be reviewed and the actions requested.

(c) A petition to the Secretary shall be filed in duplicate and accompanied by the prescribed fee (see § 180.175).

(d) Upon request, an opportunity to present data, views, and arguments orally, in an informal manner or in a formal hearing, shall be given to interested persons. If a formal hearing is requested, the proceeding shall be conducted in accordance with §§ 50.28 and 50.30–50.33 (§§ 50.28, 50.30–50.33 of this chapter) of the rules of practice under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621, et seq.).

(e) Except as otherwise provided in the rules in this part, any such petition not filed within 60 days from the action complained of, shall be dismissed as untimely.

§ 180.301 Commissioner's answer.

(a) The Commissioner may, within such time as may be directed by the Secretary, furnish a written statement to the Secretary in answer to the appellant's petition, including such explanation of the reasons for his action as may be necessary and supplying a copy to the appellant.

(b) Within 20 days from the date of such answer, the appellant may file a reply statement directed only to such new points of argument as may be raised in the Commissioner's answer.

§ 180.302 Decision by the Secretary.

(a) The Secretary, after receiving the advice of the Board, may affirm or reverse the decision of the Commissioner in whole or in part.

(b) Should the decision of the Secretary include an explicit statement that a certificate be allowed based on an amended application, the applicant shall have the right to amend his application in conformity with such statement and such decision shall be binding on the Commissioner.

§ 180.303 Action following decision.

(a) Copies of the decision of the Secretary shall be served upon the appellant and the Commissioner in the manner provided in § 180.403.

(b) When an appeal petition is dismissed, or when the time for appeal to the courts pursuant to the Act has expired and no such appeal or civil action has been filed, proceedings in the appeal shall be considered terminated as of the dismissal or expiration date except in those cases in which the nature of the decision requires further action by the Commissioner. If the decision of the Secretary is appealed or a civil action has been filed pursuant to sections 71, 72, or 73 of the Act, the decision of the Secretary will be stayed pending the outcome of the court appeal or civil action.

General Procedures in Priority Protest, or Appeal Proceedings

§ 180.400 Extensions of time.

Upon a showing of good cause, extensions of time not otherwise provided for may be granted by the Commissioner or, if an appeal has been filed, by the Secretary for taking any action required in any priority protest, or appeal proceeding.

§ 180.401 Miscellaneous provisions.

(a) Petitions for reconsideration or modification of the decision of the Commissioner in priority or protest proceedings shall be filed within 20 days after the date of the decision.

(b) The Commissioner may consider on petition any matter involving abuse of discretion in the exercise of an examiner's authority, or such other matters as he may deem proper to consider. Any such petition, if not filed within 20 days from the decision complained of, may be dismissed as untimely.

§ 180.402 Service of papers.

(a) Every paper required to be served on opposing parties and filed in the Office in any priority, protest, or appeal proceeding must be served by the Secretary in the manner provided in § 180.403.

(b) The requirement in certain sections that a specified paper shall be served includes a requirement that all related supporting papers shall also be served. Proof of such service upon other parties to the proceeding must be made before the supporting papers will be considered by the Commissioner or Secretary.

§ 180.403 Manner of service.

Service of any paper under this part must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in any of the following ways:

(a) By mailing a copy of the paper to the person served by certified mail; the date of the return receipt will be regarded as the date of service.

(b) By leaving a copy at the usual place of business of the person served with someone in his employment;

(c) When the person served has no usual place of business, by leaving a copy at his home with a member of his family over 14 years of age and of discretion;

(d) Whenever it shall be found by the Commissioner or Secretary that none of the above modes of serving the paper is practicable, service may be by notice published once in the Office Journal.

Review of Decisions by Court

§ 180.500 Appeal to U.S. courts.

Any applicant dissatisfied with the decision of the Secretary on appeal may appeal to the U.S. Court of Customs and Patent Appeals or the U.S. Courts of Appeals, or institute a civil action in the U.S. District Court as set forth in sections 71, 72, and 73 of the Act. In such cases, the appellant or plaintiff shall give notice to the Secretary, state the reasons for appeal or civil action and obtain a certified copy of the record. The certified copy of the record shall be forwarded to the Court by the Plant Variety Protection Office on order of and at the expense of the appellant or plaintiff.

Cease and Desist Proceedings

§ 180.600 Rules of practice.

Any proceedings instituted under section 128 of the Act for false marking shall be conducted in accordance with §§ 202.10 through 202.29 of this chapter (rules of practice under the Federal Seed Act) (7 U.S.C. 1551 et seq.), except that all references in those rules and regulations to "Examiner" shall be construed to be an Administrative Law Judge, U.S. Department of Agriculture, and not an "Examined" as defined in the regulations under the Plant Variety Protection Act.

Public Use Declaration

§ 180.700 Public interest in wide usage.

(a) If the Secretary has reason to believe that a protected variety should be declared open to use by the public in accordance with section 44 of the Act, the Secretary shall give the owner of the variety appropriate notice and an opportunity to present his views orally or in writing, with regard to the necessity for such action to be taken in the public interest.

(b) Upon the expiration of the period for the presentation of views by the owner, as provided in paragraph (a) of this section, the Secretary shall refer the matter to the Plant Variety Protection Board for its advice, including advice on any limitations or rate of remuneration.

(c) Upon receiving the advice of the Plant Variety Protection Board, the Secretary shall advise the owner of the variety, the members of the Plant Variety Protection Board, and the public, by issuance of a press release, of any decision based on the provisions of section 44 of the Act to declare a variety open to use by the public. Any decision not to declare a variety open to use by the public will be transmitted only to the owner of the variety and the members of the Plant Variety Protection Board.

Publication

§ 180.800 Publication of public variety descriptions.

Voluntary submissions of varietal descriptions of "public varieties" on forms obtainable from the Office will be accepted for publication in the Office Journal. Such publication shall not constitute recognition that the variety is, in fact, novel.

It does not appear that further public participation in rule making proceedings with respect to these regulations and rules of practice would make additional information available to the Department of Agriculture; therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further notice and other public rule making procedure on the regulations and rules are unnecessary.

These regulations and rules of practice shall become effective 30 days after publication of this notice in the FEDERAL REGISTER.

The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., on October 24, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-18426 Filed 10-27-72;8:51 am]

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SATURDAY OCTOBER 28, 1972
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PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

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GUARANTEED STUDENT LOAN PROGRAM

APPLICATION FOR FEDERAL INTEREST BENEFITS AND STUDENT AFFIDAVIT

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 177]

GUARANTEED STUDENT LOAN PROGRAM

Application for Federal Interest Benefits and Student Affidavit

Pursuant to the authority contained in Part B, title IV (20 U.S.C. 1071–87) and section 498 (20 U.S.C. 1088g, added by section 139C of Public Law 92–318) of the Higher Education Act of 1965 as amended, notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 177 of Title 45 of the Code of Federal Regulations as indicated below to reflect certain provisions of the Education Amendments of 1972, Public Law 92–318.

1. Under revised § 177.2 a lender would set the amount of a loan as to which Federal interest benefits were applied for with the guidance of a recommendation of the educational institution to be attended by the student borrower. The recommendation of the educational institution is to be determined in accordance with a statutorily specified formula which takes into account the student's educational costs, expected family contribution, and other sources of financial aid. The section would define "expected family contribution" and specify the distinction to be applied between borrowers with adjusted family incomes of less than $15,000 and those with adjusted family incomes equal to or in excess of $15,000. Nothing in the revisions of § 177.2 would impose any new restrictions on the making of loans as to which no application is made for the payment of Federal interest benefits.

2. New § 177.10 would set forth the rules applicable to the filing of the statutorily required affidavit that the student will use his loan proceeds solely for educational purposes.

The appendix to this notice, which will not be a part of the regulations, is the revised OE Form 1260, Student Loan Application Supplement, which is intended to be used in implementing the proposed regulations. The concepts embodied in this supplemental form will be incorporated as soon as possible into OE Form 1154, Student Application for Federally Insured Loan, and OE Form 1070, Lender's Report of Guaranteed Student Loan. The latter forms are used, respectively, for loans insured by the Commissioner under the program of Federal loan insurance and for loans insured by a State or private nonprofit agency or made under a direct State student loan program. Until such time as the combined forms are available, the OE Form 1260 will be provided for use with the OE Forms 1154 and 1070.

Interested persons are invited to submit written comments, suggestions, or objections regarding the amendments to the Director, Division of Insured Loans, Bureau of Higher Education, U.S. Office of Education, Room 4051, Regional Office Building 3, Seventh and D Streets, SW., Washington, DC 20202. Such responses to this notice will be available for public inspection at the above office on Mondays through Fridays betwen 8 a.m. and 4:30 p.m. All relevant material received not later than 30 days after the publication of this notice in the FEDERAL REGISTER will be considered.

Dated: October 20, 1972.

S. P. MARLAND, Jr.,
U.S. Commissioner of Education.

Approved: October 26, 1972.

JOHN G. VENEMAN,
Acting Secretary,
Department of Health, Education, and Welfare.

§ 177.2 Student eligibility for interest benefits.

(a) A student (1) who has received a loan from an eligible lender under (i) a student loan insurance program meeting the requirements of § 177.12 or § 177.13, (ii) a program meeting the requirements of § 177.14, or (iii) the program of Federal loan insurance provided for in Subpart E of this part, (2) who is enrolled or has been accepted for enrollment as at least a half-time student in an eligible institution, (3) who has had made on his behalf the determination and statement (and, as applicable, the consultation) provided for in paragraph (b) of this section, and (4) who is a national of the United States or is in the United States for other than a temporary purpose and intends to become a permanent resident thereof, or is a permanent resident of the Trust Territory of the Pacific Islands, is eligible for payment on his behalf of a portion of the interest as determined under § 177.4.

(b) In order for a student to be eligible for payment on his behalf by the Commissioner of a portion of the interest on a loan as determined under § 177.4, (1) the eligible institution at which the student has been accepted for enrollment or which he is attending (and in good standing as determined by the institution) must, prior to the making of such loan, (i) determine, pursuant to paragraph (c) of this section, the loan amount needed by the student, if any, and (ii) recommend that the lender make a loan in the amount so determined, and (2) the loan must not exceed the eligible institution's recommendation unless the basis for the lender's making a larger loan has been reduced to writing and made a part of the lender's records. In addition, in the case of a student with an adjusted family income equal to or greater than $15,000, if the loan exceeds the eligible institution's recommendation, a portion of the interest on such loan will be paid pursuant to § 177.4 only if prior to making the loan the lender consults with the eligible institution with respect to the latter's recommendation. The lender must keep a record of such consultation.

(c)(1) The determination referred to in paragraph (b) of this section is to be made by a responsible officer of the eligible institution concerned by subtracting from the amount estimated by such institution to be the cost of attendance at such institution for the period for which the loan is to be made, the expected family contribution with respect to such student plus any other resources or student aid that such institution determines to be reasonably available to the student during such period.

(2) For the purpose of this paragraph the "expected family contribution" shall mean the amount which a student, his parents, and his spouse may be realistically expected to contribute toward his postsecondary education for the academic period to be covered by the loan. The determination of the expected family contribution must be made by an eligible institution through the use of a method, embodying uniformly applicable standards and criteria, which takes into account the income, assets, and resources of the student and, except where the conditions set forth in § 177.3(c) are met, the income, assets, and resources of the student's parents and spouse. Any method used under an agreement between the eligible institution and the Commissioner in connection with the administration of any other program of Federal financial assistance, or the Alternate Income system, the American College Testing Program system, the College Scholarship Service system, or the Income Tax system, will meet the requirements of this paragraph. Other methods may meet the requirements of this paragraph but only if they produce results which are, on the whole, not dissimilar from those which would be produced under any of the methods refered to in this paragraph. The eligible institution should make appropriate adjustments to the results reached under any of the approved methods so as to consider more meaningfully the individual circumstances of the student involved and, where applicable, his parents or spouse. Information about the generally recognized methods of needs analysis may be obtained from State or private non-profit-loan guarantee agencies, the Regional Offices of the U.S. Office of Education, and the Division of Insured Loans, Bureau of Higher Education, U.S. Office of Education, Washington, D.C. 20202.

(d) To have interest payments made on his behalf, a student shall submit to the lender a statement in such form as the Commissioner may prescribe, which shall include:

(1) A certification by an eligible institution that he is enrolled at the institution or has been accepted for enrollment;

(2) Information necessary to determine, pursuant to § 177.3, whether his adjusted family income is less than $15,000;

(3) A statement from the eligible institution containing the determination and the recommendation provided for in paragraph (b) of this section; and

(4) Information concerning other loans to him which have been made under programs covered by this part or Part 178.

(e) The lender, acting in good faith, may in the absence of information to the contrary rely upon statements submitted by the borrower, his family, or an eligible institution pursuant to paragraph (d) of this section.

(f) This section shall apply to a loan if application for an insurance commitment with respect to such loan is received after February 28, 1973, by a State or private nonprofit agency under a student loan insurance program or the appropriate Regional Office of the U.S. Office of Education under the program of Federal loan insurance, or if a note or written evidence of a loan commitment is executed after February 28, 1973, under a direct State student loan program.

(g) Nothing in this section requires determination of need for a loan or of an expected family contribution or of adjusted family income with respect to the making or insuring of any loan covered by this part as to which no application for Federal interest benefits is made.

(20 U.S.C. 1078)

§ 177.10 Affidavit.

(a) No loan or loan guarantee may be made under this part unless the student to whom it is made has filed with the lender an affidavit, on a form provided or approved by the Commissioner, stating that the money attributable to such loan or loan guarantee will be used solely for expenses related to attendance at the eligible institution which the student intends to attend or is attending.

(b) The student must sign the affidavit in the presence of a notary or other person who is legally authorized to administer oaths or affirmations and who does not take part in the recruiting of students for enrollment at the eligible institution which the student intends to attend or is attending. The notary or other person must enter his signature and, as applicable, his seal or stamp on the affidavit form.

(c) The affidavit must be filed with the lender before the lender may apply for Federal insurance or a guarantee from a State or private nonprofit guarantee agency or, where the lender operates a direct State student loan program, before the loan for which the student is applying may be made. The lender must retain a copy of the affidavit in accordance with § 177.8(e). A copy of the affidavit or a statement that the affidavit has been filed must accompany the lender's application for Federal insurance or for a guarantee from a State or private nonprofit guarantee agency.

(20 U.S.C. 1082, 1088g)

Effective date. The amended § 177.2 shall become effective as of March 1, 1973. That part of new § 177.10 which does not merely restate or interpret the law shall become effective 30 days after publication in the FEDERAL REGISTER.

APPENDIX

STUDENT LOAN APPLICATION SUPPLEMENT

WARNING: Any person who knowingly makes a false statement or a misrepresentation on this form shall be subject to a fine of not more than $10,000 or to imprisonment of not more than 5 years, or both, under provisions of the United States Criminal Code.

PART A (to be completed by the student) — READ INSTRUCTIONS ON REVERSE SIDE

Name (Last, First, Middle) PLEASE PRINT

Subscribed and sworn before me this ____ day of _____, 19__

I affirm that any loan proceeds obtained as a result of this application will be used solely for expenses related to attendance at the educational institution named on the attached application.

SEAL

Signature

(Signature of Notary Public)

Social Security Number ___-___-___ | Date

(Notary's Address) | My Commission Expires

ADJUSTED FAMILY INCOME — To be entered by the student from line 24G of the OE-1154 or 21G of the OE-1070. Income(s) Included; Student ☐ Spouse ☐ Parent(s) ☐ $

Student's Telephone Number

PART B (to be completed by the educational institution) — READ INSTRUCTIONS ON REVERSE SIDE

Educational Institution | Code Number

Address of Institution | Telephone Number | Period of Loan: From To

Section I - Estimated Cost of Education — $

Section II - Financial aid awarded (grants, scholarships, etc.) and other resources — $

Section III - Support from Family

A. Based on a uniformly applied determination of need, what is the computed amount of support from the family? $ _____ Method Used _____

B. In the best judgment of the financial aid officer, taking into account all factors, what can the family realistically contribute? $ _____ Reasons _____ (see codes on reverse)

Section IV - School recommendation for guaranteed loan.

Section I less Sections II and III B $

I HEREBY CERTIFY THAT THE ABOVE NAMED STUDENT IS ENROLLED AND IN GOOD STANDING OR HAS BEEN ACCEPTED FOR ENROLLMENT AND THAT THE INFORMATION GIVEN ABOVE IS COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signature of School Official | Title | Date

PART C (to be completed by the lending institution) — READ INSTRUCTIONS ON REVERSE SIDE

Lending Institution | Code Number

Address | Telephone Number

Amount School Recommends $

Amount Lender Approves: Eligible for Federal interest benefits $ _____ Not Eligible for Federal interest benefits $ _____

Signature

Title | Date

Original: Lender
1st Copy: Guarantor
2nd Copy: School

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INSTRUCTIONS

PART A (TO BE COMPLETED BY STUDENT BORROWER)

Affidavit: All students are required to complete this section, whether or not they qualify for Federal interest benefits. The student should read carefully and understand the significance of the affidavit he must sign. A notary or other person legally authorized to administer oaths or affirmations must also sign.
Adjusted Family Income: If the student is applying for Federal interest benefits, this information must be completed. The adjusted family income is found on line 24G of the Student Application for Federally Insured Loan (OE 1154) or on line 21G of the Lenders Report of Guaranteed Student Loan (OE-1070) which is used under State or private guarantee agency programs. The student must indicate by checking the appropriate boxes whose income was required to be reported in the determination of the Adjusted Family Income.
Not applying for Federal interest benefits: If the student does not wish to apply for Federal interest benefits, or if family income information is not available, the educational institution does not need to complete Part B of this form. In such cases, the student should type or print "Not applying for Federal interest benefits" where the name of the educational institution would normally be placed and submit this form to the lending institution.

IMPORTANT INFORMATION FOR BOTH SCHOOLS AND LENDERS

Who must complete: All students must complete the affidavit in Part A, whether or not they apply for Federal interest benefits. A notary or other person legally authorized to administer oaths or affirmations must also sign. If a student is applying for Federal interest benefits, the entire form must be fully completed. Otherwise, only the affidavit is required.
Determining eligibility for Federal interest benefits: 1. Unless Parts B and C are fully completed by the school and lender, the loan is not eligible for Federal interest benefits. Students who do not qualify for a subsidized loan may apply for a non-subsidized loan up to the maximum amount authorized. However, in no case may a loan, subsidized or non-subsidized, exceed the total cost of education less other financial aid received (exclusive of family support).
2. In Section IV of Part B, the educational institution provides lenders with a school recommendation that is based on realistic educational costs, other aid and resources awarded to the student, and, in the professional judgment of the financial aid officer, the amount the family can realistically provide towards meeting these costs. In all cases, lenders are expected to give careful consideration to this amount.

a. Adjusted Family Income less than $15,000: Financial need is presumed for all students whose adjusted family income is less than $15,000. If the lender does not consider the school recommendation realistic, he is encouraged to communicate with the educational institution to resolve differences. After careful consideration of the school recommendation, the lender will determine the amount of the loan. This amount will be eligible for Federal interest benefits if the lender records in his files the basis of making a loan in an amount in excess of the school recommendation.
b. Adjusted Family Income $15,000 or greater: Normally, a subsidized loan may not exceed the amount recommended by the school in Section IV of Part B. If the lender, in his judgment, believes a larger loan is justified, the lender must communicate with the educational institution. After considering the school's point of view, the lender will determine the amount of the loan. This amount will qualify for Federal interest benefits if the lender records in his files both a record of his contact with the school as well as the basis for making the larger loan amount.

PART B (TO BE COMPLETED BY THE EDUCATIONAL INSTITUTION IF THE STUDENT IS APPLYING FOR FEDERAL INTEREST BENEFITS)

Three copies of the Student Loan Application Supplement should be prepared by the educational institution. One copy should be retained by the school and the other two given to the student to forward to the lender. This section must be completed in order for the student to qualify for Federal interest benefits. If the student does not wish to apply for these benefits or if financial data is not available for the computation of the Expected Family Contribution, the data in Part B is not required. In such cases, type or print "Not Applying for Federal Interest Benefits" where the name of the educational institution would normally be placed.

Identification data: Complete the name, address, telephone number and 6 digit code number for the educational institution and indicate the period of the loan for the student borrower. The period of the loan may not exceed one academic year (normally 9 months). Dollar amounts indicated in Sections I through IV should relate to this period.

SECTION I - Estimated Cost of Education: Indicate the total educational costs to be incurred by the student during the period of the loan. For most students, this would include tuition and fees, room and board, books and supplies, personal expenses and transportation costs.

SECTION II - Financial Aid Awarded and other resources: List only financial aid and other resources that are firm commitments and which apply to the period of the loan. Do not include assistance which may have been applied for, but not yet approved. Included should be all grants, scholarships, educational loans, and school-awarded jobs, including all federally sponsored programs of student financial aid. Do NOT include resources that have been considered in the determination of support from the family.

SECTION III - Support from Family - Subpart A: The same persons whose income was utilized in the determination of the Adjusted Family Income must be considered in the determination of the amount of family support available to help pay educational costs. This information may be obtained from Part A of this form. Indicate both the amount of the computed support from the family as well as the method used in making this determination. This amount should relate to the period of the loan. Methods approved by the Commissioner of Education for other federally supported financial aid programs are acceptable as well as the Alternate Income System, the American College Testing Program, the College Scholarship Service, the Income Tax Method or any other method if it produces results similar to those methods listed above.

SECTION III - Support from Family - Subpart B: The amount listed in Section IIIA is more meaningful when adjustments for the individual circumstances of the student are considered. The Financial Aid Officer is expected to exercise his professional judgment in each case and indicate the amount that can be realistically expected to be contributed for educational costs over the period of the loan. It should take into account geographic differences in cost of living, actual summer earnings, family circumstances, and other factors not always equitably treated in a nation-wide standardized computation. Indicate in the space provided the following code(s) for the reasons used in reducing the amount of the computed family support: (1) Reduction in income, (2) death or disability of wage earner, (3) loss of job, (4) unanticipated medical or other extraordinary expenses, (5) non-liquid assets (e.g. home equity) (6) cannot meet expected contribution from income, (7) other.

SECTION IV - School Recommendation: Enter the amount in Section IV according to the instructions stated. In other words, subtract available resources (Section II and III) from the Costs of Education (Section I). If a negative figure results, enter "0".

PART C (TO BE COMPLETED BY THE LENDING INSTITUTION IF THE STUDENT IS APPLYING FOR FEDERAL INTEREST BENEFITS)

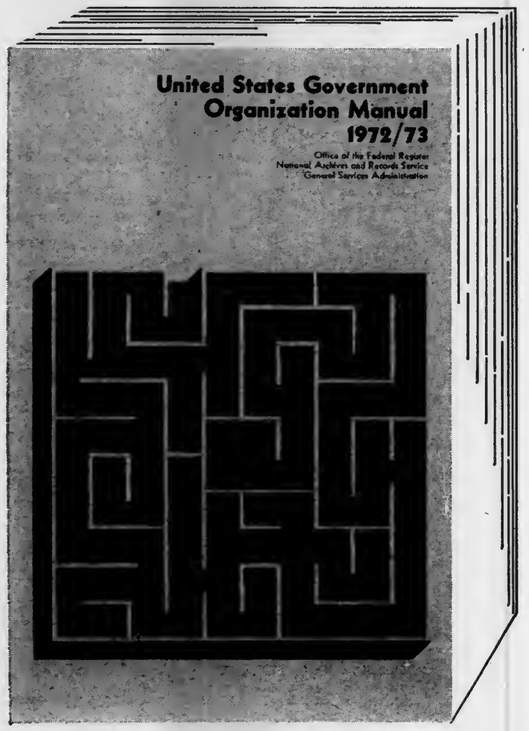
The lender must complete all items in Part C. Lenders making federally insured loans should receive two copies of this form from the borrower. The lender must retain the original copy. The other copy should be attached to the yellow copy of the OE 1154 and mailed to the regional office of the Office of Education for the insurance commitment. Lenders making loans under State or private guarantee agency programs should follow procedures provided by the agency.

In all cases, the lender should indicate the amount the school recommends, the amount the lender approves and (according to the standards set forth above) if the loan qualifies for Federal interest benefits. The lender must also sign, indicate his title, telephone number and date the form in the spaces provided. If there is no school recommendation, Parts B and C need not be completed as the student cannot qualify for Federal interest benefits.

[FR Doc.72-18497 Filed 10-27-72;8:51 am]

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federal register

TUESDAY, OCTOBER 31, 1972

WASHINGTON, D.C.

Volume 37 ■ Number 210

Pages 23155–23234

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Rules and Regulations

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration), Department of Housing and Urban Development

[Docket No. R-72-201]

PART 221—LOW AND MODERATE INCOME MORTGAGE INSURANCE

Mortgagor's Minimum Investment

A proposal was published on July 11, 1972 (37 F.R. 13557), to amend Title 24 of the Code of Federal Regulations concerning the required minimum investment by an applicant for mortgage insurance under section 221.

The amended requirement is designed to prevent investors from taking advantage of the low downpayment provisions under § 221 to purchase two-, three-, and four-family dwellings for use as rental properties. The downpayment requirements for single-family dwellings and for mortgagors qualifying as displaced families are not affected by the change.

Interested persons were given the opportunity to participate in the rule making through the submission of comments. No comments were received concerning the proposed amendment.

In view of the foregoing, the Department is adopting the amendment as proposed.

Accordingly, § 221.50 is amended to read as follows:

§ 221.50 Mortgagor's minimum investment.

(a) At the time the mortgage on a single-family dwelling is insured, a mortgagor other than a mortgagor qualifying as a displaced family shall have paid in cash or its equivalent at least 3 percent of the Commissioner's estimate of the acquisition cost of the property.

(b) At the time the mortgage on a two-, three-, or four-family dwelling is insured, a mortgagor other than a mortgagor qualifying as a displaced family shall have paid in cash or its equivalent at least the minimum amount required pursuant to the loan-to-value limitations as set forth below.

(1) *Loan-to-value limitation—approval prior to construction.* If the mortgage covers a dwelling approved for mortgage insurance prior to the beginning of construction, or if the mortgage covers a dwelling which was completed more than 1 year preceding the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's appraised value of the property as of the date the mortgage is accepted for insurance constitutes the maximum loan-to-value ratio:

(i) Ninety-seven percent of the first $15,000 of such value.

(ii) Ninety percent of such value in excess of $15,000, but not in excess of $25,000.

(iii) Eighty percent of such value in excess of $25,000.

(2) *Loan to value limitation—no prior approval.* A loan-to-value limitation of 90 percent of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and 80 percent of such value in excess of $25,000 is required if the dwelling does not meet the requirements contained in subparagraph (1) of this paragraph.

(c) A mortgagor qualifying as a displaced family shall have paid in cash or its equivalent on account of the property, at the time the mortgage is insured, not less than:

(1) Two hundred dollars for a one-family dwelling;

(2) Four hundred dollars for a two-family dwelling;

(3) Six hundred dollars for a three-family dwelling;

(4) Eight hundred dollars for a four-family dwelling.

(Sec. 221, National Housing Act, 12 U.S.C. 1715b, 17151)

Effective date. This amendment is effective as of November 24, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

[FR Doc.72-18494 Filed 10-30-72;8:48 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7208]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Partnership Elections and Returns

Correction

In F.R. Doc. 72-16828 appearing at page 20686 of the issue of Tuesday, October 3, 1972, the following dates should be inserted in § 1.761-2(b)(3)(ii):

1. In the final paragraph on page 20687 the designation reading "[the last day of the first calendar month which begins after the date of the publication of the Treasury decision in the FEDERAL REGISTER]" should be deleted and "November 30, 1972" substituted therefor; and

2. The designation beginning on the first line of page 20688 reading "[the 90th day after the date of the publication of the Treasury decision in the FEDERAL REGISTER]" should be deleted and "January 2, 1973" substituted therefor.

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7215]

PART 53—FOUNDATION EXCISE TAXES

Taxes on Taxable Expenditures

On March 20, 1971, notice of proposed rule making was published[1] with respect to promulgation of regulations under section 4945 of the Internal Revenue Code of 1954, as enacted by section 101 (b) of the Tax Reform Act of 1969 (83 Stat. 512), relating to taxes on taxable expenditures. A public hearing with respect to these proposed regulations was held on August 3, 1971. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the Foundation Excise Tax Regulations (26 CFR Parts 53 and 143) are amended as follows: Temporary Treasury Regulations § 143.1 (35 F.R. 763) (1970), and (insofar as related to section 4945) § 143.8 (35 F.R. 7727) (1970), are superseded. Except where otherwise specifically provided, the following regulations, a new Part 53, consisting at this time of Subpart F, take effect on January 1, 1970.

Subpart F—Taxes on Taxable Expenditures

Sec.
53.4945 Statutory provisions; imposition of excise taxes on taxable expenditures.
53.4945-1 Taxes on taxable expenditures.
53.4945-2 Propaganda influencing legislation.
53.4945-3 Influencing elections and carrying voter registration drives.
53.4945-4 Grants to individuals.
53.4945-5 Grants to organizations.
53.4945-6 Expenditures for noncharitable purposes.

AUTHORITY: The provisions of this Part 53 issued under sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Subpart F—Taxes on Taxable Expenditures

§ 53.4945 Statutory provisions; imposition of excise taxes on taxable expenditures.

SEC. 4945. *Taxes on taxable expenditures.*

(a) *Initial taxes.*

[1] 36 F.R. 5357.

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(1) *On the foundation.* There is hereby imposed on each taxable expenditure (as defined in subsection (d)) a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* There is hereby imposed on the agreement of any foundation manager to the making of an expenditure, knowing that it is a taxable expenditure, a tax equal to 2½ percent of the amount thereof, unless such agreement is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who agreed to the making of the expenditure.

(b) *Additional taxes.*

(1) *On the foundation.* In any case in which an initial tax is imposed by subsection (a)(1) on a taxable expenditure and such expenditure is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount of the expenditure. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable expenditure. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the correction.

(c) *Special rules.* For purposes of subsections (a) and (b)—

(1) *Joint and several liability.* If more than one person is liable under subsection (a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such persons shall be jointly and severally liable under such paragraph with respect to such expenditure.

(2) *Limit for management.* With respect to any one taxable expenditure, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

(d) *Taxable expenditure.* For purposes of this section, the term "taxable expenditure" means any amount paid or incurred by a private foundation—

(1) To carry on propaganda, or otherwise to attempt, to influence legislation, within the meaning of subsection (e),

(2) Except as provided in subsection (f), to influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive,

(3) As a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g),

(4) As a grant to an organization (other than an organization described in paragraph (1), (2), or (3) of section 509 (a)), unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h), or

(5) For any purpose other than one specified in section 170(c)(2)(B).

(e) *Activities within subsection (d)(1).* For purposes of subsection (d)(1), the term "taxable expenditure" means any amount paid or incurred by a private foundation for—

(1) Any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

(2) Any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be),

other than through making available the results of nonpartisan analysis, study, or research. Paragraph (2) of this subsection shall not apply to any amount paid or incurred in connection with an appearance before, or communication to, any legislative body with respect to a possible decision of such body which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

(f) *Nonpartisan activities carried on by certain organizations.* Subsection (d)(2) shall not apply to any amount paid or incurred by an organization—

(1) Which is described in section 501 (c)(3) and exempt from taxation under section 501(a),

(2) The activities of which are nonpartisan, are not confined to one specific election period, and are carried on in 5 or more States,

(3) Substantially all of the income of which is expended directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated,

(4) Substantially all of the support (other than gross investment income as defined in section 509(e)) of which is received from exempt organizations, the general public, governmental units described in section 170(c)(1), or any combination of the foregoing; not more than 25 percent of such support is received from any one exempt organization (for this purpose treating private foundations which are described in section 4946(a)(1)(H) with respect to each other as one exempt organization); and not more than half of the support of which is received from gross investment income, and

(5) Contributions to which for voter registration drives are not subject to conditions that they may be used only in specified States, possessions of the United States, or political subdivisions or other areas of any of the foregoing, or the District of Columbia, or that they may be used in only one specific election period.

In determining whether the organization meets the requirements of paragraph (4) for any taxable year of such organization, there shall be taken into account the support received by such organization during such taxable year and during the immediately preceding 4 taxable years of such organization (excluding therefrom any preceding taxable year which begins before January 1, 1970). Subsection (d)(4) shall not apply to any grant to an organization which meets the requirements of this subsection.

(g) *Individual grants.* Subsection (d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary or his delegate, if it is demonstrated to the satisfaction of the Secretary or his delegate that—

(1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 151(e)(4),

(2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or

(3) The purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

(h) *Expenditure responsibility.* The expenditure responsibility referred to in subsection (d)(4) means that the private foundation is responsible to exert all reasonable efforts and to establish adequate procedures—

(1) To see that the grant is spent solely for the purpose for which made,

(2) To obtain full and complete reports from the grantee on how the funds are spent, and

(3) To make full and detailed reports with respect to such expenditures to the Secretary or his delegate.

(i) *Other definitions.* For purposes of this section—

(1) *Correction.* The terms "correction" and "correct" mean, with respect to any taxable expenditure, (A) recovering part or all of the expenditure to the extent recovery is possible, and where full recovery is not possible such additional corrective action as is prescribed by the Secretary or his delegate by regulations, or (B) in the case of a failure to comply with subsection (h)(2) or (h)(3), obtaining or making the report in question.

(2) *Correction period.* The term "correction period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about correction of the taxable expenditure (except that such determination shall not be made with respect to any taxable expenditure within the meaning of paragraph (1), (2), (3), or (4) of subsection (d) because of any action by an appropriate State officer as defined in section 6104(c)(2)).

[Sec. 4945 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 512)]

§ 53.4945–1 Taxes on taxable expenditures.

(a) *Imposition of initial taxes*—(1) *Tax on private foundation.* Section 4945(a)(1) of the Code imposes an excise tax on each taxable expenditure (as defined in section 4945(d)) of a private foundation. This tax is to be paid by the private foundation and is at the rate of 10 percent of the amount of each taxable expenditure.

(2) *Tax on foundation manager*—(i) *In general.* Section 4945(a)(2) of the Code imposes, under certain circumstances, an excise tax on the agreement of any foundation manager to the making of a taxable expenditure by a private foundation. This tax is imposed only in cases in which the following circumstances are present:

(*a*) A tax is imposed by section 4945(a)(1);

(*b*) Such foundation manager knows that the expenditure to which he agrees is a taxable expenditure, and

(*c*) Such agreement is willful and is not due to reasonable cause.

However, the tax with respect to any particular expenditure applies only to the agreement of those foundation managers who are authorized to approve, or to exercise discretion in recommending approval of, the making of the expenditure by the foundation and to those foundation managers who are members of a group (such as the foundation's board of directors or trustees) which is so authorized. For the definition of the term "foundation manager," see section 4946(b) and the regulations thereunder.

(ii) *Agreement.* The agreement of any foundation manager to the making of a taxable expenditure shall consist of any manifestation of approval of the expenditure which is sufficient to constitute an exercise of the foundation manager's authority to approve, or to exercise discretion in recommending approval of, the making of the expenditure by the foundation, whether or not such manifestation of approval is the final or decisive approval on behalf of the foundation.

(iii) *Knowing.* For purposes of section 4945, a foundation manager shall be considered to have agreed to an expenditure "knowing" that it is a taxable expenditure only if he has knowledge that it is a taxable expenditure. Knowledge will ordinarily exist if a foundation manager has actual knowledge of sufficient facts so that, based solely upon such facts, such transaction would be a taxable expenditure, and the foundation manager is generally aware that such an expenditure under these circumstances might be inconsistent with the law governing foundations. For purposes of this part and chapter 42 the term "knowledge" does not mean "have reason to know." However, evidence tending to show that a foundation manager has reason to know that a transaction involves such a taxable expenditure ordinarily is relevant in determining whether he has actual knowledge regarding such a transaction.

(iv) *Willful.* A foundation manager's agreement to a taxable expenditure is willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make an agreement willful. However, a foundation manager's agreement to a taxable expenditure is not willful if he does not know that it is a taxable expenditure.

(v) *Due to reasonable cause.* A foundation manager's actions are due to reasonable cause if he has exercised his responsibility on behalf of the foundation with ordinary business care and prudence.

(vi) *Advice of counsel.* If a foundation manager, after full disclosure of the factual situation to legal counsel (including house counsel), relies on the advice of such counsel expressed in a reasoned written legal opinion that an expenditure is not a taxable expenditure under section 4945 (or that expenditures conforming to certain guidelines are not taxable expenditures), although such expenditure is subsequently held to be a taxable expenditure (or that certain proposed reporting procedures with respect to an expenditure will satisfy the tests of section 4945(h), although such procedures are subsequently held not to satisfy such section), the foundation manager's agreement to such expenditure (or to grants made with provision for such reporting procedures which are taxable solely because of such inadequate reporting procedures) will ordinarily not be considered "knowing" or "willful" and will ordinarily be considered "due to reasonable cause" within the meaning of section 4945(a)(2). For purposes of the subdivision, a written legal opinion will be considered "reasoned" even if it reaches a conclusion which is subsequently determined to be incorrect so long as such opinion addresses itself to the facts and applicable law. However, a written legal opinion will not be considered "reasoned" if it does nothing more than recite the facts and express a conclusion. However, the absence of advice of counsel with respect to an expenditure shall not, by itself, give rise to any inference that a foundation manager agreed to the making of the expenditure knowingly, willfully, or without reasonable cause.

(vii) *Rate and incidence of tax.* The tax imposed under section 4945(a)(2) is at the rate of 2½ percent of the amount of each taxable expenditure to which the foundation manager has agreed. This tax shall be paid by the foundation manager.

(viii) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager has knowingly agreed to the making of a taxable expenditure, see section 7454(b).

(b) *Imposition of additional taxes*—(1) *Tax on private foundation.* Section 4945(b)(1) of the Code imposes an excise tax in any case in which an initial tax is imposed under section 4945(a)(1) on a taxable expenditure of a private foundation and the expenditure is not corrected within the correction period (as defined in section 4945(i)(2)). The tax imposed under section 4945(b)(1) is to be paid by the private foundation and is at the rate of 100 percent of the amount of each taxable expenditure.

(2) *Tax on foundation manager.* Section 4945(b)(2) of the Code imposes an excise tax in any case in which a tax is imposed under section 4945(b)(1) and a foundation manager has refused to agree to part or all of the correction of the taxable expenditure. The tax imposed under section 4945(b)(2) is at the rate of 50 percent of the amount of the taxable expenditure. This tax is to be paid by any foundation manager who has refused to agree to part or all of the correction of the taxable expenditure.

(c) *Special rules*—(1) *Joint and several liability.* In any case where more than one foundation manager is liable for tax imposed under section 4945(a)(2) or (b)(2) with respect to the making of a taxable expenditure, all such foundation managers shall be jointly severally liable for the tax imposed under such paragraph with respect to such taxable expenditure.

(2) *Limits on liability for management.* The maximum aggregate amount of tax collectible under section 4945(a)(2) from all foundation managers with respect to any one taxable expenditure shall be $5,000, and the maximum aggregate amount of tax collectible under section 4945(b)(2) from all foundation managers with respect to any one taxable expenditure shall be $10,000.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). A, B, and C comprise the board of directors of Foundation M. They vote unanimously in favor of a grant of $100,000 to D, a business associate of each of the directors. Each director knows that D was selected as the recipient of the grant solely because of his friendship with the directors and is generally aware that a grant made under such circumstances is inconsistent with the law governing foundations. Initial taxes are imposed under paragraphs (1) and (2) of section 4945(a). The tax to be paid by the foundation is $10,000 (10 percent of $100,000). The tax to be paid by the board of directors is $2,500 (2½ percent of $100,000). A, B, and C are jointly and severally liable for this $2,500, and this sum may be collected by the Service from any one of them.

Example (2). Assume the same facts as in Example (1). Further assume that within the correction period A makes a motion to correct the taxable expenditure at a meeting of the board of directors. The motion is defeated by a two-to-one vote, A voting for the motion and B and C voting against it. In these circumstances an additional tax would be paid by the private foundation in the amount of $100,000 (100 percent of $100,000). The additional tax to be paid by B and C is $10,000 (50 percent of $100,000, subject to a maximum of $10,000). B and C are jointly and severally liable for the $10,000, and this sum may be collected by the Service from either of them.

(d) *Correction*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, correction of a taxable expenditure shall be accomplished by recovering part or all of the expenditure to the extent recovery is possible, and, where full recovery cannot be accomplished, by any additional corrective action which the Commissioner may prescribe. Such additional corrective action is to be determined by the circumstances of each particular case and may include the following:

(i) Requiring that any unpaid funds due the grantee be withheld;

(ii) Requiring that no further grants be made to the particular grantee;

(iii) In addition to other reports that are required, requiring periodic (e.g., quarterly) reports from the foundation with respect to all expenditures of the foundation (such reports shall be equivalent in detail to the reports required by section 4945(h)(3) and § 53.4945–5(d));

(iv) Requiring improved methods of exercising expenditure responsibility;

(v) Requiring improved methods of selecting recipients of individual grants; and

(vi) Requiring such other measures as the Commissioner may prescribe in a particular case.

The foundation making the expenditure shall not be under any obligation to attempt to recover the expenditure by legal

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action if such action would in all probability not result in the satisfaction of execution on a judgment.

(2) *Correction for inadequate reporting.* If the expenditure is taxable only because of a failure to obtain a full and complete report as required by section 4945(h)(2) or because of a failure to make a full and detailed report as required by section 4945(h)(3), correction may be accomplished by obtaining or making the report in question. In addition, if the expenditure is taxable only because of a failure to obtain a full and complete report as required by section 4945(h)(2) and an investigation indicates that no grant funds have been diverted to any use not in furtherance of a purpose specified in the grant, correction may be accomplished by exerting all reasonable efforts to obtain the report in question and reporting the failure to the Internal Revenue Service, even though the report is not finally obtained.

(e) *Correction period*—(1) *In general.* For purposes of section 4945, the correction period shall begin with the date on which the taxable expenditure occurs and ends 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed under section 4945(b)(1).

(2) *Extensions of correction period.* (i) The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period referred to in subparagraph (1) of this paragraph shall be extended in accordance with subdivisions (ii), (iii), and (iv) of the subparagraph, except that such subdivision (iii) or (iv) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(ii) The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to bring about correction of the taxable expenditure. The Commissioner ordinarily will not extend the correction period pursuant to this subdivision unless the following factors are present:

(*a*) The foundation (or, with respect to any taxable expenditure within the meaning of section 4945(d)(5), an appropriate State officer as defined in section 6104(c)(2)) is actively in good faith seeking to correct the taxable expenditure;

(*b*) Adequate corrective action cannot reasonably be expected to result during the unextended correction period; and

(c) The taxable expenditure appears to have been an isolated occurrence and it appears unlikely that the foundation will pay or incur similar taxable expenditures in the future.

The Commissioner shall not make a determination extending the correction period with respect to any taxable expenditure within the meaning of section 4945(d)(1), (2), (3), or (4) because of any action by an appropriate State officer (as defined in section 6104(c)(2)), unless the expenditure is also taxable by reason of section 4945(d)(5).

(iii) If, within the unextended correction period, the tax imposed by section 4945(a)(1) is paid, then the Commissioner shall extend the correction period to the later of—

(*a*) A period of 90 days after the payment of such tax, or

(*b*) The correction period determined without regard to this subdivision.

(iv) If prior to the expiration of the correction period (including extensions) a claim for refund with respect to a tax imposed by section 4945(a)(1) is filed, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within such time, a suit or proceeding referred to in section 7422(g) with respect to such claim is filed, the Commissioner shall extend the correction period during the pendency of such suit or proceeding. See § 301.7422–1 of this chapter (regulations on procedure and administration) for rules relating to pendency of such suit or proceeding.

§ 53.4945–2 Propaganda influencing legislation.

(a) *Propaganda influencing legislation, etc.*—(1) *In general.* Under section 4945(d)(1) the term "taxable expenditure" includes any amount paid or incurred by a private foundation to carry on propaganda, or otherwise to attempt, to influence legislation. Attempts to influence legislation may include communications with a member or employee of a legislative body or with an official of the executive department of a government or efforts to affect the opinion of the general public with respect to legislation being considered by, or to be submitted imminently to, a legislative body. For purposes of this section, a proposed treaty required to be submitted by the President to the Senate for its advice and consent shall be considered "legislation being considered by, or to be submitted imminently to, a legislative body" at the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty. See, however, paragraph (d) of this section for exceptions to the general rule.

(2) *Legislation defined.* For purposes of this section, the term "legislation" includes action by the Congress, by any State legislature, by any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. Such term does not include actions by executive, judicial, or administrative bodies. For purposes of the preceding sentence, school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive, shall be considered administrative bodies. The word "action" includes the introduction, enactment, defeat, or repeal of legislation. Thus, for example, for purposes of section 4945, the term "any attempt to influence legislation" does not include attempts by a private foundation to persuade an executive body or department to form, support the formation of, expand or support the expansion of, or to acquire property to be used for the formation or expansion of, a public park or equivalent preserves (such as public recreation areas, game, or forest preserves, and soil demonstration areas) established or to be established by act of Congress, by executive action in accordance with an act of Congress, or by State, municipality or other governmental unit described in section 170(c)(1), as compared with attempts to persuade a legislative body, a member thereof, or other governmental official or employee, to promote the appropriation of funds for such an acquisition or other legislative authorization of such an acquisition. Therefore, a private foundation could under this subdivision, for example, propose to a park authority that it purchase a particular tract of land for a new park, even though such an attempt would necessarily require the park authority eventually to seek appropriations to support a new park. However, in such a case, the foundation could not provide the park authority with a proposed budget to be submitted to a legislative body, unless such submission could qualify under paragraph (d) of this section.

(3) *Jointly funded projects.* A private foundation will not be treated as having paid or incurred any amount to attempt to influence legislation merely because it makes a grant to another organization upon the condition that the recipient obtain a matching support appropriation from a governmental body. In addition, a private foundation will not be treated as having made taxable expenditures of amounts paid or incurred in carrying on discussions with officials of governmental bodies provided that:

(i) The subject of such discussions is a program which is jointly funded by the foundation and the Government or is a new program which may be jointly funded by the foundation and the Government,

(ii) The discussions are undertaken for the purpose of exchanging data and information on the subject matter of the programs, and

(iii) Such discussions are not undertaken by foundation managers in order to make any direct attempt to persuade governmental officials or employees to take particular positions on specific legislative issues other than such program.

(4) *Certain expenditures by recipients of program-related investments.* Any amount paid or incurred by a recipient of a program-related investment (as defined in § 53.4944–3) in connection with an appearance before, or communication with, any legislative body with respect to legislation or proposed legislation of direct interest to such recipient shall not be attributed to the investing foundation, if—

(i) The foundation does not earmark its funds to be used for any activities described in section 4945(d)(1) and

(ii) A deduction under section 162 is allowable to the recipient for such amount.

(5) *Grants to public organizations*—(i) *In general.* A grant by a private foundation to an organization described in section 509(a)(1), (2), or (3) does not constitute a taxable expenditure by such foundation under section 4945(d) if the grant by the private foundation is not earmarked to be used for any activity described in section 4945(d)(1), (2), or (5), is not earmarked to be used in a manner which would violate section 4945(d)(3) or (4), and there does not exist an agreement, oral or written, whereby such grantor foundation may cause the grantee to engage in any such prohibited activity or to select the recipient to which the grant is to be devoted. For purposes of this subdivision, a grant by a private foundation is earmarked if such grant is given pursuant to an agreement, oral or written, that the grant will be used for specific purposes. For the expenditure responsibility requirements with respect to organizations other than those described in section 509(a)(1), (2), or (3), see § 53.4945–5.

(ii) *Certain "public" organizations.* For purposes of this section, an organization shall be considered a section 509(a)(1) organization if it is treated as such under subparagraph (4) of § 53.4945–5(a).

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples.

Example (1). M, a private foundation, makes a general purpose grant to Z, an organization described in section 509(a)(1). As an insubstantial portion of its activities, Z makes some attempts to influence the State legislature with regard to changes in the mental health laws. The use of the grant is not earmarked by M to be used in a manner which would violate section 4945(d). In addition, there is no oral or written agreement whereby M may influence the choice by Z of the activity or recipient to which the grant is to be devoted. Even if the grant is subsequently devoted by Z to its legislative activities, the grant by M is not a taxable expenditure under section 4945(d).

Example (2). X, a private foundation, makes a grant to Y University for the purpose of conducting research on the potential environmental effects of certain pesticides. X does not earmark the grant for any purpose which would violate section 4945(d) and there is no oral or written agreement whereby X may cause Y to engage in any activity described in section 4945(d)(1), (2), or (5), or to select any recipient to which the grant may be devoted. Y uses most of the funds for the research project; however, on its own volition, Y expends a portion of the grant funds to send a representative to testify at congressional hearings on a specific bill proposing certain pesticide control measures. The portion of the grant funds expended with respect to the congressional hearings is not treated as a taxable expenditure by X under section 4945(d).

(b) *Attempts to affect the opinion of the general public.* Except as provided in paragraph (d)(1) (relating to the making available of nonpartisan analysis, study, or research) and (4) (relating to examination and discussion of broad social, economic, and similar problems) of this section, any expenditure paid or incurred by a private foundation in an attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof is a taxable expenditure.

(c) *Lobbying activities.* Except as provided in paragraph (d) of this section, any expenditure for the purpose of influencing legislation through communication with any member or employee of a legislative body, or with any Government official or employee who may participate in the formulation of the legislation, is a taxable expenditure.

(d) *Exceptions*—(1) *Nonpartisan analysis, study, or research*—(i) *In general.* Engaging in nonpartisan analysis, study, or research and making available to the general public or a segment or members thereof or to governmental bodies, officials, or employees the results of such work do not constitute carrying on propaganda, or otherwise attempting, to influence legislation.

(ii) *Nonpartisan analysis, study or research.* For purposes of section 4945(e), "nonpartisan analysis, study, or research" means an independent and objective exposition of a particular subject matter, including any activity which is "educational" within the meaning of § 1.501(c)(3)–1(d)(3) of this chapter. Thus, "nonpartisan analysis, study, or research" may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. On the other hand, the mere presentation of unsupported opinion does not qualify as "nonpartisan analysis, study, or research." Activities of a noncommercial educational broadcasting station or network (television or radio) constitute "nonpartisan analysis, study, or research" if the station or network adheres to the Federal Communications Commission regulations and its "fairness doctrine" (requiring balanced, fair, and objective presentation of issues). Ordinarily, if no determination has been made by the Federal Communications Commission that the "fairness doctrine" (as stated above) has been violated, the activities of the station or network will be treated as "nonpartisan analysis, study, or research."

(iii) *Presentation as part of a series.* Normally, whether a publication or broadcast qualifies as "nonpartisan analysis, study, or research" will be determined on a presentation-by-presentation basis. However, if a publication or broadcast is one of a series prepared or supported by a private foundation and the series as a whole meets the standards of subdivision (ii) of this subparagraph, then any individual publication or broadcast within the series will not result in a taxable expenditure even though such individual broadcast or publication does not, by itself, meet the standards of subdivision (ii) of this subparagraph. Whether a broadcast or publication is considered part of a series will ordinarily depend on all the facts and circumstances of each particular situation. However, with respect to broadcast activities, all broadcasts within any period of 6 consecutive months will ordinarily be eligible to be considered as part of a series. If a private foundation times or channels a part of a series which is described in this subdivision in a manner designed to influence the general public or the action of a legislative body with respect to a specific legislative proposal in violation of section 4945(d)(1), the expenses of preparing and distributing such part of the analysis, study, or research will be a taxable expenditure under this section.

(iv) *Making available results of analysis, study, or research.* A private foundation may choose any suitable means, including oral or written presentations, to distribute the results of its nonpartisan analysis, study, or research, with or without charge. Such means include distribution of reprints of speeches, articles, and reports (including the report required under section 6056); presentation of information through conferences, meetings, and discussions; and dissemination to the news media, including radio, television, and newspapers, and to other public forums. For purposes of this subparagraph, such presentations may not be limited to or directed toward persons who are interested solely in one side of a particular issue.

(v) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M, a private foundation, establishes a research project to collect information for the purpose of showing the dangers of the use of pesticides in raising crops. The information collected includes data with respect to proposed legislation, pending before several State legislatures, which would ban the use of pesticides. The project takes favorable positions on such legislation without producing a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion on the pros and cons of the use of pesticides. This project is not within the exception for nonpartisan analysis, study, or research because it is designed to present information merely on one side of the legislative controversy.

Example (2). N, a private foundation, establishes a research project to collect information concerning the dangers of the use of pesticides in raising crops for the ostensible purpose of examining and reporting information as to the pros and cons of the use of pesticides in raising crops. The information is collected and distributed in the form of a published report which analyzes the effects and costs of the use and nonuse of various pesticides under various conditions on humans, animals, and crops. The report also presents the advantages, disadvantages, and economic cost of allowing the continued use of pesticides unabated, of controlling the use of pesticides, and of developing alternatives to pesticides. Even if the report sets forth conclusions that the disadvantages as a result of using pesticides are greater than the advantages of using pesticides and that prompt legislative regulation of the use of pesticides is needed, the project is within the exception for nonpartisan analysis, study or research since it is designed to present in-

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formation on both sides of the legislative controversy and presents a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion.

Example (3). O, a private foundation, establishes a research project to collect information on the presence or absence of disease in humans from eating food grown with pesticides and the presence or absence of disease in humans from eating food not grown with pesticides. As part of the research project, O hires a consultant who prepares a "fact sheet" which calls for the curtailment of the use of pesticides and which addresses itself to the merits of several specific legislative proposals to curtail the use of pesticides in raising crops which are currently pending before State legislatures. The "fact sheet" presents reports of experimental evidence tending to support its conclusions but omits any reference to reports of experimental evidence tending to dispute its conclusions. O distributes 10,000 copies to citizens' groups. Expenditures by O in connection with this work of the consultant are not within the exception for nonpartisan analysis, study, or research.

Example (4). P, a private foundation, publishes a bimonthly newsletter to collect and report all published materials, ongoing research, and new developments with regard to the use of pesticides in raising crops. The newsletter also includes notices of proposed pesticide legislation with impartial summaries of the provisions of and debates on such legislation. The newsletter is designed to present information on both sides of the legislative controversy and does present such information fully and fairly. It is within the exception for nonpartisan analysis, study, or research.

Example (5). X, a private foundation, is satisfied that A, a member of the faculty of Y university, is exceptionally well qualified to undertake a project involving a comprehensive study of the effect of pesticides on crop yields. Consequently, X makes a grant to A to underwrite the cost of the study and of the preparation of a book on the effect of pesticides on crop yields. X does not take any position on the issues or control the content of A's output. A produces a book which concludes that the use of pesticides often has a favorable effect on crop yields, and on that basis argues against pending bills which would ban the use of pesticides. A's book contains a sufficiently full and fair exposition of the pertinent facts, including known or potential disadvantages of the use of pesticides, to enable the public or an individual to form an independent opinion or conclusion as to whether pesticides should be banned as provided in the pending bills. Consequently, the book is within the exception for nonpartisan analysis, study, or research.

Example (6). Assume the same facts as Example (2), except that, instead of issuing a report, X presents within a period of 6 consecutive months a two-program television series relating to the pesticide issue. The first program contains information, arguments, and conclusions favoring legislation to restrict the use of pesticides. The second program contains information, arguments, and conclusions opposing legislation to restrict the use of pesticides. The programs are broadcast within 6 months of each other during commensurate periods of prime time. X's programs are within the exception for nonpartisan analysis, study, or research. Although neither program individually could be regarded as nonpartisan, the series of two programs constitutes a balanced presentation.

Example (7). Assume the same facts as Example (6), except that X arranged for televising the program favoring legislation to restrict the use of pesticides at 8 p.m. on a Thursday evening and for televising the program opposing such legislation at 7 a.m. on a Sunday morning. X's presentation is not within the exception for nonpartisan analysis, study, or research, since X disseminated its information in a manner prejudicial to one side of the legislative controversy.

(2) *Technical advice or assistance*—(i) *In general.* Amounts paid or incurred in connection with providing technical advice or assistance to a governmental body, a governmental committee, or a subdivision of either of the foregoing, in response to a written request by such body, committee, or subdivision do not constitute taxable expenditures for purposes of this section. Under this exception, the request for assistance or advice must be made in the name of the requesting governmental body, committee or subdivision rather than an individual member thereof. Similarly, the response to such request must be available to every member of the requesting body, committee or subdivision. For example, in the case of a written response to a request for technical advice or assistance from a congressional committee, the response will be considered available to every member of the requesting committee if the response is submitted to the person making such request in the name of the committee and it is made clear that the response is for the use of all the members of the committee.

(ii) *Nature of technical advice or assistance.* "Technical advice or assistance" may be given as a result of knowledge or skill in a given area. Because such assistance or advice may be given only at the express request of a governmental body, committee or subdivision, the oral or written presentation of such assistance or advice need not qualify as nonpartisan analysis, study or research. The offering of opinions or recommendations will ordinarily qualify under this exception only if such opinions or recommendations are specifically requested by the governmental body, committee or subdivision or are directly related to the materials so requested.

(iii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A congressional committee is studying the feasibility of legislation to provide funds for scholarships to U.S. students attending schools abroad. X, a private foundation which has engaged in a private scholarship program of this type, is asked, in writing, by the committee to describe the manner in which it selects candidates for its program. X's response disclosing its methods of selection constitutes technical advice or assistance.

Example (2). Assume the same facts as Example (1), except that X's response not only includes a description of its own grant-making procedures, but also its views regarding the wisdom of adopting such a program. Since such views are directly related to the subject matter of the request for technical advice or assistance, expenditures paid or incurred with respect to the presentation of such views would not constitute taxable expenditures. However, expenditures paid or incurred with respect to a response which is not directly related to the subject matter of the request for technical advice or assistance would constitute taxable expenditures unless the presentation can qualify as the making available of nonpartisan analysis, study or research.

Example (3). Assume the same facts as Example (1), except that X is requested, in addition, to give any views it considers relevant. A response to this request giving opinions which are relevant to the committee's consideration of the scholarship program but which are not necessarily directly related to X's scholarship program, programs and their relative merits, would qualify as "technical advice or assistance", and expenditures paid or incurred with respect to such response would not constitute taxable expenditures.

Example (4). A, an official of the State Department, makes a written request in his official capacity for information from foundation Y relating to the economic development of country M and for the opinions of Y as to the proper position of the United States in pending negotiations with M concerning a proposed treaty involving a program of economic and technical aid to M. Y's furnishing of such information and opinions constitutes technical advice or assistance.

(3) *Decisions affecting the powers, duties, etc., of a private foundation*—(i) *In general.* Paragraph (c) of this section does not apply to any amount paid or incurred in connection with an appearance before, or communication with, any legislative body with respect to a possible decision of such body which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deductibility of contributions to such foundation. Under this exception, a foundation may communicate with the entire legislative body, committees or subcommittees of such legislative body, individual congressmen or legislators, members of their staffs, or representatives of the executive branch, who are involved in the legislative process, if such communication is limited to the prescribed subjects. Similarly, the foundation may make expenditures in order to initiate legislation if such legislation concerns only matters which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deductibility of contributions to such foundation.

(ii) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A bill is being considered by Congress which would, if enacted, restrict the power of a private foundation to engage in transactions with certain related persons. Under the proposed bill a private foundation would lose its exemption from taxation if it engages in such transactions. W, a private foundation, writes to the congressional committee considering the bill, arguing that the enactment of such a bill would not be advisable, and subsequently appears before such committee to make its arguments. In addition, W requests that the congressional committee consider modification of the 2 percent de minimis rule of section 4943(c)(2)(C). Expenditures paid or incurred with respect to such submissions do not constitute taxable expenditures since they are made with respect to a possible decision of Congress which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

Example (2). A bill being considered in a State legislature is designed to implement the requirements of section 508(e) of the Internal Revenue Code of 1954. Under such section, a private foundation is required to make certain amendments to its governing instrument. X, a private foundation, makes a submission to the legislature which proposes alternative measures which might be taken in lieu of the proposed bill. X also arranges to have its president contact certain State legislators with regard to this bill. Expenditures paid or incurred in making such submission and in contacting the State legislators do not constitute taxable expenditures since they are made with respect to a possible decision of such State legislature which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation.

Example (3). A bill is being considered by a State legislature under which the State would assume certain responsibilities for nursing care of the aged. Y, a private foundation which hitherto has engaged in such activities, appears before the State legislature and contends that such activities can be better performed by privately supported organizations. Expenditures paid or incurred with respect to such appearance are not made with respect to possible decisions of the State legislature which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation, but rather merely affect the scope of the private foundation's future activities.

Example (4). A State legislature is considering the annual appropriations bill. Z, a private foundation which had hitherto performed contract research for the State, appears before the appropriations committee in order to attempt to persuade the committee of the advisability of continuing the program. Expenditures paid or incurred with respect to such appearance are not made with respect to possible decisions of the State legislature which might affect the existence of the private foundation, its powers and duties, its tax-exempt status, or the deduction of contributions to such foundation, but rather merely affect the scope of the private foundation's future activities.

(4) *Examinations and discussions of broad social, economic, and similar problems.* Expenditures for examinations and discussions of broad social, economic, and similar problems are not taxable even if the problems are of the type with which government would be expected to deal ultimately. Thus, the term "any attempt to influence any legislation" does not include public discussion, or communications with members of legislative bodies or governmental employees, the general subject of which is also the subject of legislation before a legislative body, so long as such discussion does not address itself to the merits of a specific legislative proposal. For example, a private foundation may, without incurring tax under section 4945, present discussions of problems such as environmental pollution or population growth which are being considered by Congress and various State legislatures, but only if the discussions are not directly addressed to specific legislation being considered.

§ 53.4945–3 Influencing elections and carrying on voter registration drives.

(a) *Expenditures to influence elections or carry on voter registration drives*—(1) *In general.* Under section 4945(d)(2), the term "taxable expenditure" includes any amount paid or incurred by a private foundation to influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive, unless such amount is paid or incurred by an organization described in section 4945(f). However, for treatment of nonearmarked grants to public organizations, see § 53.4945–2(a)(5) and for treatment of certain earmarked grants to organizations described in section 4945(f), see paragraph (b)(2) of this section.

(2) *Influencing the outcome of a specific public election.* For purposes of this section, an organization shall be considered to be influencing the outcome of any specific public election if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to:

(i) Publishing or distributing written or printed statements or making oral statements on behalf of or in opposition to such a candidate;

(ii) Paying salaries or expenses of campaign workers; and

(iii) Conducting or paying the expenses of conducting a voter-registration drive limited to the geographic area covered by the campaign.

(b) *Nonpartisan activities carried on by certain organizations*—(1) *In general.* If an organization meets the requirements described in section 4945(f), an amount paid or incurred by such organization shall not be considered a taxable expenditure even though the use of such amount is otherwise described in section 4945(d)(2). Such requirements are:

(i) The organization is described in section 501(c)(3) and exempt from taxation under section 501(a);

(ii) The activities of the organization are nonpartisan, are not confined to one specific election period, and are carried on in five or more States;

(iii) The organization expends at least 85 percent of its income directly for the active conduct (within the meaning of section 4942(j)(3) and the regulations thereunder) of the activities constituting the purpose or function for which it is organized and operated;

(iv) The organization receives at least 85 percent of its support (other than gross investment income as defined in section 509(e)) from exempt organizations, the general public, governmental units described in section 170(c)(1), or any combination of the foregoing; the organization does not receive more than 25 percent of its support (other than gross investment income) from any one exempt organization (for this purpose treating private foundations which are described in section 4946(a)(1)(H) with respect to each other as one exempt organization); and not more than half of the support of the organization is received from gross investment income; and

(v) Contributions to the organization for voter registration drives are not subject to conditions that they may be used only in specified States, possessions of the United States, or political subdivisions or other areas of any of the foregoing, or the District of Columbia, or that they may be used in only one specific election period.

(2) *Grants to section 4945(f) organizations.* If a private foundation makes a grant to an organization described in section 4945(f) (whether or not such grantee is a private foundation as defined in section 509(a)), such grant will not be treated as a taxable expenditure under section 4945(d)(2) or (4). Even if a grant to such an organization is earmarked for voter registration purposes generally, such a grant will not be treated as a taxable expenditure under section 4945(d)(2) or (4) as long as such earmarking does not violate section 4945(f)(5).

(3) *Period for determining support*—(i) *In general.* The determination whether an organization meets the support test in section 4945(f)(4) for any taxable year is to be made by aggregating all amounts of support received by the organization during the taxable year and the immediately preceding received in any taxable year which begins before January 1, 1970, shall be excluded.

(ii) *New organizations and organizations with no preceding taxable years beginning after December 31, 1969.* Except as provided in subparagraph (4) of this paragraph, in the case of a new organization or an organization with no taxable years that begin after December 31, 1969, and immediately precede the taxable year in question, the requirements of the support test in section 4945(f)(4) will be considered as met for the taxable year if such requirements are met by the end of the taxable year.

(iii) *Organization with three or fewer preceding taxable years.* In the case of an organization which has been in existence for at least 1 but fewer than 4 preceding taxable years beginning after December 31, 1969, the determination whether such organization meets the requirements of the support test in section 4945(f)(4) for the taxable year is to be made by taking into account all the support received by such organization during the taxable year and during each

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preceding taxable year beginning after December 31, 1969.

(4) *Advance rulings.* An organization will be given an advance ruling that it is an organization described in section 4945(f) for its first taxable year of operation beginning after October 30, 1972, or for its first taxable year of operation beginning after December 31, 1969, if it submits evidence establishing that it can reasonably be expected to meet the tests under section 4945(f) for such taxable year. An organization which, pursuant to this subparagraph, has been treated as an organization described in section 4945(f) for a taxable year (without withdrawal of such treatment by notification from the Internal Revenue Service during such year), but which actually fails to meet the requirements of section 4945(f) for such taxable year, will not be treated as an organization described in section 4945(f) as of the first day of its next taxable year (for purposes of making any determination under the internal revenue laws with respect to such organization) and until such time as the organization does meet the requirements of section 4945(f). For purposes of section 4945, the status of grants or contributions with respect to grantors or contributors to such organization will not be affected until notice of change of status of such organization is made to the public (such as by publication in the Internal Revenue Bulletin). The preceding sentence shall not apply, however, if the grantor or contributor was responsible for, or was aware of, the fact that the organization did not satisfy section 4945(f) at the end of the taxable year with respect to which the organization had obtained an advance ruling or a determination letter that it was a section 4945(f) organization, or acquired knowledge that the Internal Revenue Service had given notice to such organization that it would be deleted from classification as a section 4945(f) organization.

§ 53.4945–4 Grants to individuals.

(a) *Grants to individuals*—(1) *In general.* Under section 4945(d)(3) the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual unless the grant satisfies the requirements of section 4945(g). Grants to individuals which are not taxable expenditures because made in accordance with the requirements of section 4945(g) may result in the imposition of excise taxes under other provisions of chapter 42.

(2) *"Grants" defined.* For purposes of section 4945, the term "grants" shall include, but is not limited to, such expenditures as scholarships, fellowships, internships, prizes, and awards. Grants shall also include loans for purposes described in section 170(c)(2)(B) and "program related investments" (such as investments in small businesses in central cities or in businesses which assist in neighborhood renovation). Similarly, "grants" include such expenditures as payments to exempt organizations to be used in furtherance of such recipient organizations' exempt purposes whether or not such payments are solicited by such recipient organizations. Conversely, "grants" do not ordinarily include salaries or other compensation to employees. For example, "grants" do not ordinarily include educational payments to employees which are includible in the employees' incomes pursuant to section 61. In addition, "grants" do not ordinarily include payments (including salaries, consultants' fees and reimbursement for travel expenses such as transportation, board, and lodging) to persons (regardless of whether such persons are individuals) for personal services in assisting a foundation in planning, evaluating or developing projects or areas of program activity by consulting, advising, or participating in conferences organized by the foundation.

(3) *Requirements for individual grants*—(i) *Grants for other than section 4945(d)(3) purposes.* A grant to an individual for purposes other than those described in section 4945(d)(3) is not a taxable expenditure within the meaning of section 4945(d)(3). For example, if a foundation makes grants to indigent individuals to enable them to purchase furniture, such grants are not taxable expenditures within the meaning of section 4945(d)(3) even if the requirements of section 4945(g) are not met.

(ii) *Grants for section 4945(d)(3) purposes.* Under section 4945(g), a grant to an individual for travel, study, or other similar purposes is not a "taxable expenditure" only if:

(*a*) The grant is awarded on an objective and nondiscriminatory basis (within the meaning of paragraph (b) of this section);

(*b*) The grant is made pursuant to a procedure approved in advance by the Commissioner; and

(*c*) It is demonstrated to the satisfaction of the Commissioner that:

(*1*) The grant constitutes a scholarship or fellowship grant which is excluded from gross income under section 117(a) and is to be utilized for study at an educational institution described in section 151(e)(4);

(*2*) The grant constitutes a prize or award which is excluded from gross income under section 74(b), and the recipient of such prize or award is selected from the general public (within the meaning of section 4941(d)(2)(G)(i) and the regulations thereunder); or

(*3*) The purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

If a grant is made to an individual for a purpose described in section 4945(g)(3) and such grant otherwise meets the requirements of section 4945(g), such grant shall not be treated as a taxable expenditure even if it is a scholarship or a fellowship grant which is not excludable from income under section 117 or if it is a prize or award which is includible in income under section 74.

(iii) *Renewals.* A renewal of a grant which satisfied the requirements of subdivision (ii) of this subparagraph shall not be treated as a grant to an individual which is subject to the requirements of this section, if—

(*a*) The grantor has no information indicating that the original grant is being used for any purpose other than that for which it was made,

(*b*) Any reports due at the time of the renewal decision pursuant to the terms of the original grant have been furnished, and

(*c*) Any additional criteria and procedures for renewal are objective and nondiscriminatory.

For purposes of this section, an extension of the period over which a grant is to be paid shall not itself be regarded as a grant or a renewal of a grant.

(4) *Certain designated grants*—(i) *In general.* A grant by a private foundation to another organization, which the grantee organization uses to make payments to an individual for purposes described in section 4945(d)(3), shall not be regarded as a grant by the private foundation to the individual grantee if the foundation does not earmark the use of the grant for any named individual and there does not exist an agreement, oral or written, whereby such grantor foundation may cause the selection of the individual grantee by the grantee organization. For purposes of this subparagraph, a grant described herein shall not be regarded as a grant by the foundation to an individual grantee even though such foundation has reason to believe that certain individuals would derive benefits from such grant so long as the grantee organization exercises control, in fact, over the selection process and actually makes the selection completely independently of the private foundation.

(ii) *Certain grants to "public charities".* A grant by a private foundation to an organization described in section 509(a)(1), (2), or (3), which the grantee organization uses to make payments to an individual for purposes described in section 4945(d)(3), shall not be regarded as a grant by the private foundation to the individual grantee (regardless of the application of subdivision (i) of this subparagraph) if the grant is made for a project which is to be undertaken under the supervision of the section 509(a)(1), (2), or (3) organization and such grantee organization controls the selection of the individual grantee. This subdivision shall apply regardless of whether the name of the individual grantee was first proposed by the private foundation, but only if there is an objective manifestation of the section 509(a), (1), (2), or (3) organization's control over the selection process, although the selection need not be made completely independently of the private foundation. For purposes of this subdivision, an organization shall be considered a section 509(a)(1) organization if it is treated as such under subparagraph (4) of § 53.4945–5(a).

(iii) *Grants to governmental agencies.* If a private foundation makes a grant to an organization described in section 170(c)(1) (regardless of whether it is described in section 501(c)(3)) and such grant is earmarked for use by an individual for purposes described in section 4945(d)(3), such grant is not subject to the requirements of section 4945(d)(3) and (g) and this section (regardless of the application of subdivision (i) of this subparagraph) if the section 170(c)(1) organization satisfies the Commissioner in advance that its grant-making program:

(*a*) Is in furtherance of a purpose described in section 170(c)(2)(B),

(*b*) Requires that the individual grantee submit reports to it which would satisfy paragraph (c)(3) of this section, and

(*c*) Requires that the organization investigate jeopardized grants in a manner substantially similar to that described in paragraph (c)(4) of this section.

(iv) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). M, a university described in section 170(b)(1)(A)(ii), requests that P, a private foundation, grant it $100,000 to enable M to obtain the services of a particular scientist for a research project in a special field of biochemistry in which he has exceptional qualifications and competence. P, after determining that the project deserves support, makes the grant to M to enable it to obtain the services of this scientist. M is authorized to keep the funds even if it is unsuccessful in attempting to employ the scientist. Under these circumstances P will not be treated as having made a grant to the individual scientist for purposes of section 4945(d)(3) and (g), since the requirements of subdivision (i) of this subparagraph have been satisfied. Even if M were not authorized to keep the funds if it is unsuccessful in attempting to employ the scientist, P would not be treated as having made a grant to the individual scientist for purposes of section 4945(d)(3) and (g), since it is clear from the facts and circumstances that the selection of the particular scientist was made by M and thus the requirements of subdivision (ii) of this subparagraph would have been satisfied.

Example (2). Assume the same facts as Example (1), except that there are a number of scientists who are qualified to administer the research project, P suggests the name of the particular scientist to be employed by M, and M is not authorized to keep the funds if it is unsuccessful in attempting to employ the particular scientist. For purposes of section 4945(d)(3) and (g), P will be treated as having made a grant to the individual scientist whose name it suggested, since it is clear from the facts and circumstances that selection of the particular scientist was made by P.

Example (3). X, a private foundation, is aware of the exceptional research facilities at Y University, an organization described in section 170(b)(1)(A)(ii). Officials of X approach officials of Y with an offer to give Y a grant of $100,000 if Y will engage an adequately qualified physicist to conduct a specific research project. Y's officials accept this proposal, and it is agreed that Y will administer the funds. After examining the qualifications of several research physicists, the officials of Y agree that A, whose name was first suggested by officials of X and who first suggested the specific research project to X, is uniquely qualified to conduct the project. X's grant letter provides that X has the right to renegotiate the terms of the grant if there is a substantial deviation from such terms, such as breakdown of Y's research facilities or termination of the conduct of the project by an adequately qualified physicist. Under these circumstances, X will not be treated as having made a grant to A for purposes of section 4945(d)(3) and (g), since the requirements of subdivision (ii) of this subparagraph have been satisfied.

Example (4). Professor A, a scholar employed by University Y, an organization described in section 170(b)(1)(A)(ii), approaches Foundation X to determine the availability of grant funds for a particular research project supervised or conducted by Professor A relevant to the program interests of Foundation X. After learning that Foundation X would be willing to consider the project if University Y were to submit the project to X, Professor A submits his proposal to the appropriate administrator of University Y. After making a determination that it should assume responsibility for the project, that Professor A is qualified to conduct the project, and that his participation would be consistent with his other faculty duties, University Y formally adopts the grant proposal and submits it to Foundation X. The grant is made to University Y which, under the terms of the grant, is responsible for the expenditure of the grant funds and the grant project. In such a case, and even if Foundation X retains the right to renegotiate the terms of the grant if the project ceases to be conducted by Professor A, the grant shall not be regarded as a grant by Foundation X to Professor A since University Y has retained control over the selection process within the meaning of subdivision (ii) of this subparagraph.

(5) *Earmarked grants to individuals.* A grant by a private foundation to an individual, which meets the requirements of section 4945(d)(3) and (g), is a taxable expenditure by such foundation under section 4945(d) only if—

(i) The grant is earmarked to be used for any activity described in section 4945(d)(1), (2), or (5), or is earmarked to be used in a manner which would violate section 4945(d)(3) or (4),

(ii) There is an agreement, oral or written, whereby such grantor foundation may cause the grantee to engage in any such prohibited activity and such grant is in fact used in a manner which violates section 4945(d), or

(iii) The grant is made for a purpose other than a purpose described in section 170(c)(2)(B).

For purposes of this subparagraph, a grant by a private foundation is earmarked if such grant is given pursuant to an agreement, oral or written, that the grant will be used for specific purposes.

(b) *Selection of grantees on "an objective and nondiscriminatory basis"*—(1) *In general.* For purposes of this section, in order for a foundation to establish that its grants to individuals are made on an objective and nondiscriminatory basis, the grants must be awarded in accordance with a program which, if it were a substantial part of the foundation's activities, would be consistent with:

(i) The existence of the foundation's exempt status under section 501(c)(3);

(ii) The allowance of deductions to individuals under section 170 for contributions to the granting foundation; and

(iii) The requirements of subparagraphs (2), (3), and (4) of this paragraph.

(2) *Candidates for grants.* Ordinarily, selection of grantees on an objective and nondiscriminatory basis requires that the group from which grantees are selected be chosen on the basis of criteria reasonably related to the purposes of the grant. Furthermore, the group must be sufficiently broad so that the giving of grants to members of such group would be considered to fulfill a purpose described in section 170(c)(2)(B). Thus, ordinarily the group must be sufficiently large to constitute a charitable class. However, selection from a group is not necessary where taking into account the purposes of the grant, one or several persons are selected because they are exceptionally qualified to carry out these purposes or it is otherwise evident that the selection is particularly calculated to effectuate the charitable purpose of the grant rather than to benefit particular persons or a particular class of persons. Therefore, consistent with the requirements of this subparagraph, the foundation may impose reasonable restrictions on the group of potential grantees. For example, selection of a qualified research scientist to work on a particular project does not violate the requirements of section 4945(d)(3) merely because the foundation selects him from a group of three scientists who are experts in that field.

(3) *Selection from within group of potential grantees.* The criteria used in selecting grant recipients from the potential grantees should be related to the purpose of the grant. Thus, for example, proper criteria for selecting scholarship recipients might include (but are not limited to) the following: Prior academic performance; performance on tests designed to measure ability and aptitude for college work; recommendations from instructors; financial need; and the conclusions which the selection committee might draw from a personal interview as to the individual's motivation, character, ability, and potential.

(4) *Persons making selections.* The person or group of persons who select recipients of grants should not be in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). X company employs 100,000 people of whom 1,000 are classified by the company as executives. The company has organized the X company foundation which, as its sole activity, provides 100 4-year college scholarships per year for children of the company's employees. Children of all employees (other than disqualified persons with respect to the foundation) who have worked for the X company for at least 2 years are eligible to apply for these scholarships. In

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previous years, the number of children eligible to apply for such scholarships has averaged 2,000 per year. Selection of scholarship recipients from among the applicants is made by three prominent educators, who have no connection (other than as members of the selection committee) with the company, the foundation or any of the employees of the company. The selections are made on the basis of the applicants' prior academic performance, performance on certain tests designed to measure ability and aptitude for college work, and financial need. No disproportionate number of scholarships has been granted to relatives of executives of X company. Under these circumstances, the operation of the scholarship program by the X company foundation: (1) Is consistent with the existence of the foundation's exempt status under section 501(c)(3) and with the allowance of deductions under section 170 for contributions to the foundation; (2) utilizes objective and nondiscriminatory criteria in selecting scholarship recipients from among the applicants; and (3) utilizes a selection committee which appears likely to make objective and nondiscriminatory selections of grant recipients.

Example (2). Assume the same facts as Example (1), except that the foundation establishes a program to provide 20 college scholarships per year for members of a certain ethnic minority. All members of this minority group (other than disqualified persons with respect to the foundation) living in State Z are eligible to apply for these scholarships. It is estimated that at least 400 persons will be eligible to apply for these scholarships each year. Under these circumstances, the operation of this scholarship program by the foundation: (1) Is consistent with the existence of the foundation's exempt status under section 501(c)(3) and with the allowance of deductions under section 170 for contributions to the foundation; (2) utilizes objective and nondiscriminatory criteria in selecting scholarship recipients from among the applicants; and (3) utilizes a selection committee which appears likely to make objective and nondiscriminatory selections of grant recipients.

(c) *Requirements of a proper procedure*—(1) *In general.* Section 4945(g) requires that grants to individuals must be made pursuant to a procedure approved in advance. To secure such approval, a private foundation must demonstrate to the satisfaction of the Commissioner that—

(i) Its grant procedure includes an objective and nondiscriminatory selection process (as described in paragraph (b) of this section);

(ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and

(iii) The foundation plans to obtain reports to determine whether the grantees have performed the activities that the grants are intended to finance.

No single procedure or set of procedures is required. Procedures may vary depending upon such factors as the size of the foundation, the amount and purpose of the grants and whether one or more recipients are involved.

(2) *Supervision of scholarship and fellowship grants.* Except as provided in subparagraph (5) of this paragraph, with respect to any scholarship or fellowship grants, a private foundation must make arrangements to receive a report of the grantee's courses taken (if any) and grades received (if any) in each academic period. Such a report must be verified by the educational institution attended by the grantee and must be obtained at least once a year. In cases of grantees whose study at an educational institution does not involve the taking of courses but only the preparation of research papers or projects, such as the writing of a doctoral thesis, the foundation must receive a brief report on the progress of the paper or project at least once a year. Such a report must be approved by the faculty member supervising the grantee or by another appropriate university official. Upon completion of a grantee's study at an educational institution, a final report must also be obtained.

(3) *Grants described in section 4945(g)(3).* With respect to a grant made under section 4945(g)(3), the private foundation shall require reports on the use of the funds and the progress made by the grantee toward achieving the purposes for which the grant was made. Such reports must be made at least once a year. Upon completion of the undertaking for which the grant was made, a final report must be made describing the grantee's accomplishments with respect to the grant and accounting for the funds received under such grant.

(4) *Investigation of jeopardized grants.* (i) Where the reports submitted under this paragraph or other information (including the failure to submit such reports) indicates that all or any part of a grant is not being used in furtherance of the purposes of such grant, the foundation is under a duty to investigate. While conducting its investigation, the foundation must withhold further payments to the extent possible until any delinquent reports required by this paragraph have been submitted and where required by subdivision (ii) or (iii) of this subparagraph.

(ii) In cases in which the grantor foundation determines that any part of a grant has been used for improper purposes and the grantee has not previously diverted grant funds to any use not in furtherance of a purpose specified in the grant, the foundation will not be treated as having made a taxable expenditure solely because of the diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps either to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (*b*) (*1*) and (2) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, and

(*b*) Withholds any further payments to the grantee after the grantor becomes aware that a diversion may have taken place (hereinafter referred to as "further payments") until it has—

(*1*) Received the grantee's assurances that future diversions will not occur, and

(2) Required the grantee to take extraordinary precaution to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision the amount of the taxable expenditure shall be the amount of the diversion plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision but not the requirements of (*b*) of this subdivision, the amount of the taxable expenditure shall be the amount of such further payments.

(iii) In cases where a grantee has previously diverted funds received from a grantor foundation, and the grantor foundation determines that any part of a grant has again been used for improper purposes, the foundation will not be treated as having made a taxable expenditure solely by reason of such diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps to recover the grant funds or to insure the restoration of the funds and the dedication (consistent with the requirements of (*b*) (2) and (3) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, and

(*b*) Withholds further payments until—

(*1*) Such funds are in fact so recovered or restored,

(2) It has received the grantee's assurances that future diversions will not occur, and

(3) It requires the grantee to take extraordinary precautions to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision, the amount of the taxable expenditure shall be the amount of the diversion plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision, but fails to withhold further payments until the requirements of (*b*) of this subdivision are met, the amount of the taxable expenditure shall be the amount of such further payments.

(iv) The phrase "all reasonable and appropriate steps" in subdivisions (ii) and (iii) of this subparagraph includes legal action where appropriate but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

(5) *Supervision of certain scholarship and fellowship grants.* Subparagraphs (2) and (4) of this paragraph shall be considered satisfied with respect to

scholarship or fellowship grants under the following circumstances:

(i) The scholarship or fellowship grants are described in section 4945(g)(1);

(ii) The grantor foundation pays the scholarship or fellowship grants to an educational institution described in section 151(e)(4); and

(iii) Such educational institution agrees to use the grant funds to defray the recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his standing at such educational institution is consistent with the purposes and conditions of the grant.

(6) *Retention of records.* A private foundation shall retain records pertaining to all grants to individuals for purposes described in section 4945(d)(3). Such records shall include:

(i) All information the foundation secures to evaluate the qualification of potential grantees;

(ii) Identification of grantees (including any relationship of any grantee to the foundation sufficient to make such grantee a disqualified person of the private foundation within the meaning of section 4946(a)(1));

(iii) Specification of the amount and purpose of each grant; and

(iv) The follow-up information which the foundation obtains in complying with subparagraphs (2), (3), and (4) of this paragraph.

(7) *Example.* The provisions of paragraphs (b) and (c) of this section may be illustrated by the following example:

Example. The X foundation grants 10 scholarships each year to graduates of high schools in its area to permit the recipients to attend college. It makes the availability of its scholarships known by oral or written communications each year to the principals of three major high schools in the area. The foundation obtains information from each high school on the academic qualifications, background, and financial need of applicants. It requires that each applicant be recommended by two of his teachers or by the principal of his high school. All application forms are reviewed by the foundation officer responsible for making the awards and scholarships are granted on the basis of the academic qualifications and financial need of the grantees. The foundation obtains annual reports on the academic performance of the scholarship recipient from the college or university which he attends. It maintains a file on each scholarship awarded, including the original application, recommendations, a record of the action taken on the application, and the reports on the recipient from the institution which he attends. The described procedures of the X foundation for the making of grants to individuals qualify for Internal Revenue Service approval under section 4945(g). Furthermore, if the X foundation's scholarship program meets the requirements of subparagraph (5) of this paragraph, X foundation will not have to obtain reports on the academic performance of the scholarship recipients.

(d) *Submission of grant procedure*—(1) *Contents of request for approval of grant procedures.* A request for advance approval of a foundation's grant procedures must fully describe the foundation's procedures for awarding grants and for ascertaining that such grants are used for the proper purposes. The approval procedure does not contemplate specific approval of particular grant programs but instead one-time approval of a system of standards, procedures, and follow-up designed to result in grants which meet the requirements of section 4945(g). Thus, such approval shall apply to a subsequent grant program as long as the procedures under which it is conducted do not differ materially from those described in the request to the Commissioner. The request must contain the following items:

(i) A statement describing the selection process. Such statement shall be sufficiently detailed for the Commissioner to determine whether the grants are made on an objective and nondiscriminatory basis under paragraph (b) of this section.

(ii) A description of the terms and conditions under which the foundation ordinarily makes such grants, which is sufficient to enable the Commissioner to determine whether the grants awarded under such procedures would meet the requirements of paragraph (1), (2), or (3) of section 4945(g).

(iii) A detailed description of the private foundation's procedure for exercising supervision over grants, as described in paragraph (c)(2) and (3) of this section.

(iv) A description of the foundation's procedures for review of grantee reports, for investigation where diversion of grant funds from their proper purposes is indicated, and for recovery of diverted grant funds, as described in paragraph (c)(4) of this section.

(2) *Place of submission.* Request for approval of grant procedures shall be submitted to the District Director.

(3) *Internal Revenue Service action on request for approval of grant procedures.* If, by the 45th day after a request for approval of grant procedures has been properly submitted to the Internal Revenue Service, the organization has not been notified that such procedures are not acceptable, such procedures shall be considered as approved from the date of submission until receipt of actual notice from the Internal Revenue Service that such procedures do not meet the requirements of this section. If a grant to an individual for a purpose described in section 4945(d)(3) is made after notification to the organization by the Internal Revenue Service that the procedures under which the grant is made are not acceptable, such grant is a taxable expenditure under this section.

(e) *Effective dates*—(1) *In general.* This section shall apply to all grants to individuals for travel, study, or other similar purposes which are made by private foundations more than 90 days after October 30, 1972.

(2) *Transitional rules*—(i) *Grants committed prior to January 1, 1970.* Section 4945(d)(3) and (g) and this section shall not apply to a grant for section 170(c)(2)(B) purposes made on or after January 1, 1970, if the grant was made pursuant to a commitment entered into prior to such date, but only if such commitment was made in accordance with the foundation's usual practices and is reasonable in amount in light of the purposes of the grant. For purposes of this subdivision, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(ii) *Grants awarded on or after January 1, 1970.* In the case of a grant awarded on or after January 1, 1970, but prior to the expiration of 90 days after October 30, 1972, and paid within 48 months after the award of such grant, the requirements of section 4945(g) that an individual grant be awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Commissioner will be deemed satisfied if the grantor utilizes any procedure in good faith in awarding a grant to an individual which, in fact, is reasonably calculated to provide objectivity and nondiscrimination in the awarding of such grant and to result in a grant which complies with the conditions of section 4945(g)(1), (2), or (3).

§ 53.4945–5 Grants to organizations.

(a) *Grants to nonpublic organizations*—(1) *In general.* Under section 4945(d)(4) the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an organization (other than an organization described in section 509(a)(1), (2) or (3)), unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with section 4945(h). However, the granting foundation does not have to exercise expenditure responsibility with respect to amounts granted to organizations described in section 4945(f).

(2) *"Grants" described.* For a description of the term "grants", see § 53.4945–4(a)(2).

(3) *Section 509(a)(1), (2), and (3) organizations.* See section 508(b) and the regulations thereunder for rules relating to when a grantor may rely on a potential grantee's characterization of its status as set forth in the notice described in section 508(b).

(4) *Certain "public" organizations.* For purposes of this section, an organization will be treated as a section 509(a)(1) organization if:

(i) It qualifies as such under paragraph (a) of § 1.509(a)–2 of this chapter;

(ii) It is an organization described in section 170(c)(1) or 511(a)(2)(B), even if it is not described in section 501(c)(3); or

(iii) It is a foreign government, or any agency or instrumentality thereof, or an international organization desig-

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nated as such by Executive order under 22 U.S.C. 288, even if it is not described in section 501(c)(3).

However, any grant to an organization referred to in this subparagraph must be made exclusively for charitable purposes as described in section 170(c)(2)(B).

(5) *Certain foreign organizations.* If a private foundation makes a grant to a foreign organization which does not have a ruling or determination letter that it is an organization described in section 509(a)(1), (2), or (3), such grant will not be treated as a grant made to an organization other than an organization described in section 509(a)(1), (2), or (3) if the grantor private foundation has made a good faith determination that the grantee organization is an organization described in section 509(a)(1), (2), or (3). Such a "good faith determination" ordinarily will be considered as made where the determination is based on an affidavit of the grantee organization or an opinion of counsel (of the grantor or the grantee) that the grantee is an organization described in section 509(a)(1), (2), or (3). Such an affidavit or opinion must set forth sufficient facts concerning the operations and support of the grantee for the Internal Revenue Service to determine that the grantee would be likely to qualify as an organization described in section 509(a)(1), (2), or (3). See paragraphs (b)(5) and (b)(6) of this section for other special rules relating to foreign organizations.

(6) *Certain earmarked grants*—(i) *In general.* A grant by a private foundation to a grantee organization which the grantee organization uses to make payments to another organization (the secondary grantee) shall not be regarded as a grant by the private foundation to the secondary grantee if the foundation does not earmark the use of the grant for any named secondary grantee and there does not exist an agreement, oral or written, whereby such grantor foundation may cause the selection of the secondary grantee by the organization to which it has given the grant. For purposes of this subdivision, a grant described herein shall not be regarded as a grant by the foundation to the secondary grantee even though such foundation has reason to believe that certain organizations would derive benefits from such grant so long as the original grantee organization exercises control, in fact, over the selection process and actually makes the selection completely independently of the private foundation.

(ii) *To governmental agencies.* If a private foundation makes a grant to an organization described in section 170(c)(1) and such grant is earmarked for use by another organization, the granting foundation need not exercise expenditure responsibility with respect to such grant if the section 170(c)(1) organization satisfies the Commissioner in advance that:

(*a*) Its grant-making program is in furtherance of a purpose described in section 170(c)(2)(B), and

(*b*) The section 170(c)(1) organization exercises "expenditure responsibility" in a manner that would satisfy this section if it applied to such section 170(c)(1) organization.

However, with respect to such grant, the granting foundation must make the reports required by section 4945(h)(3) and paragraph (d) of this section, unless such grant is earmarked for use by an organization described in section 509(a)(1), (2), or (3).

(b) *Expenditure responsibility*—(1) *In general.* A private foundation is not an insurer of the activity of the organization to which it makes a grant. Thus, satisfaction of the requirements of sections 4945(d)(4) and (h) and of subparagraph (3) or (4) of this paragraph, will ordinarily mean that the grantor foundation will not have violated section 4945(d)(1) or (2). A private foundation will be considered to be exercising "expenditure responsibility" under section 4945(h) as long as it exerts all reasonable efforts and establishes adequate procedures—

(i) To see that the grant is spent solely for the purpose for which made,

(ii) To obtain full and complete reports from the grantee on how the funds are spent, and

(iii) To make full and detailed reports with respect to such expenditures to the Commissioner.

In cases in which pursuant to paragraph (a)(6) of this section a grant is considered made to a secondary grantee rather than the primary grantee, the grantor foundation's obligation to obtain reports from the grantee pursuant to section 4945(h)(2) and this section will be satisfied if appropriate reports are obtained from the secondary grantee. For rules relating to expenditure responsibility with respect to transfers of assets described in section 507(b)(2), see section 507(b)(2) and the regulations thereunder.

(2) *Pregrant inquiry*—(i) Before making a grant to an organization with respect to which expenditure responsibility must be exercised under this section, a private foundation should conduct a limited inquiry concerning the potential grantee. Such inquiry should be complete enough to give a reasonable man assurance that the grantee will use the grant for the proper purposes. The inquiry should concern itself with matters such as: (*a*) The identity, prior history and experience (if any) of the grantee organization and its managers; and (*b*) any knowledge which the private foundation has (based on prior experience or otherwise) of, or other information which is readily available concerning, the management, activities, and practices of the grantee organization. The scope of the inquiry might be expected to vary from case to case depending upon the size and purpose of the grant, the period over which it is to be paid, and the prior experience which the grantor has had with respect to the capacity of the grantee to use the grant for the proper purposes. For example, if the grantee has made proper use of all prior grants to it by the grantor and filed the required reports substantiating such use, no further pregrant inquiry will ordinarily be necessary. Similarly, in the case of an organization, such as a trust described in section 4947(a)(2), which is required by the terms of its governing instrument to make payments to a specified organization exempt from taxation under section 501(a), a less extensive pregrant inquiry is required than in the case of a private foundation possessing discretion with respect to the distribution of funds.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). Officials of M, a newly established organization which is described in section 501(c)(4), request a grant from X foundation to be used for a proposed program to combat drug abuse by establishing neighborhood clinics in certain ghetto areas of a city. Before making a grant to M, X makes an inquiry concerning the identity, prior history and experience of the officials of M. X obtains information pertaining to the officials of M from references supplied by these officials. Since one of the references indicated that A, an official of M, has an arrest record, police records are also checked and A's probation officer is interviewed.

The inquiry also shows M has no previous history of administering grants and that the officials of M have had no experience in administering programs of this nature. However, in the opinion of X's managers, M's officials (including A who appears to be fully rehabilitated after having been convicted of a narcotics violation several years ago) are well qualified to conduct this program since they are members of the communities in which the clinics are to be established and are more likely to be trusted by drug users in these communities than are outsiders. Under these circumstances X has complied with the requirements of this subparagraph and a grant to M for its proposed program will not be treated as a taxable expenditure solely because of the operation of this subparagraph.

Example (2). Foundation Y wishes to make a grant to foundation R for use in R's scholarship program. Y has made similar grants to R annually for the last several years and knows that R's managers have observed the terms of the previous grants and have made all requested reports with respect to such grants. No changes in R's management have occurred during the past several years. Under these circumstances, Y has enough information to have such assurance as a reasonable man would require that the grant to R will be used for proper purposes. Consequently, Y is under no obligation to make any further pregrant inquiry pursuant to this subparagraph.

Example (3). S foundation requests a grant from Z foundation for use in S's program of providing medical research fellowships. S has been engaged in this program for several years and has received large numbers of grants from other foundations. Z's managers know that the reputations of S and of S's officials are good. Z's managers also have been advised by managers of W foundation that W had recently made a grant to S and that W's managers were satisfied that such grant has been used for the purposes for which it was made. Under these circumstances Z has enough information to have such assurance as a reasonable man would require that the grant to S will be used for proper purposes. Consequently, Z is under no obligation to make any further pregrant inquiry pursuant to this subparagraph.

(3) *Terms of grants.* Except as provided in subparagraph (4) of this paragraph, in order to meet the expenditure responsibility requirements of section 4945(h), a private foundation must require that each grant to an organization, with respect to which expenditure responsibility must be exercised under this section, be made subject to a written commitment signed by an appropriate officer, director, or trustee of the grantee organization. Such commitment must include an agreement by the grantee—

(i) To repay any portion of the amount granted which is not used for the purposes of the grant,

(ii) To submit full and complete annual reports on the manner in which the funds are spent and the progress made in accomplishing the purposes of the grant, except as provided in paragraph (c)(2) of this section,

(iii) To maintain records of receipts and expenditures and to make its books and records available to the grantor at reasonable times, and

(iv) Not to use any of the funds—

(*a*) To carry on propaganda, or otherwise to attempt, to influence legislation (within the meaning of section 4945(d)(1)),

(*b*) To influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive (within the meaning of section 4945(d)(2)),

(*c*) To make any grant which does not comply with the requirements of section 4945(d)(3) or (4), or

(*d*) To undertake any activity for any purpose other than one specified in section 170(c)(2)(B).

The agreement must also clearly specify the purposes of the grant. Such purposes may include contributing for capital endowment, for the purchase of capital equipment, or for general support provided that neither the grants nor the income therefrom may be used for purposes other than those described in section 170(c)(2)(B).

(4) *Terms of program-related investments.* In order to meet the expenditure responsibility requirements of section 4945(h), with regard to the making of a program-related investment (as defined in section 4944 and the regulations thereunder), a private foundation must require that each such investment with respect to which expenditure responsibility must be exercised under section 4945(d)(4) and (h) and this section be made subject to a written commitment signed by an appropriate officer, director, or trustee of the recipient organization. Such commitment must specify the purpose of the investment and must include an agreement by the organization—

(i) To use all the funds received from the private foundation (as determined under paragraph (c)(3) of this section) only for the purposes of the investment and to repay any portion not used for such purposes, provided that, with respect to equity investments, such repayment shall be made only to the extent permitted by applicable law concerning distributions to holders of equity interests,

(ii) At least once a year during the existence of the program-related investment, to submit full and complete financial reports of the type ordinarily required by commercial investors under similar circumstances and a statement that it has complied with the terms of the investment,

(iii) To maintain books and records adequate to provide information ordinarily required by commercial investors under similar circumstances and to make such books and records available to the private foundation at reasonable times, and

(iv) Not to use any of the funds—

(*a*) To carry on propaganda, or otherwise to attempt, to influence legislation (within the meaning of section 4945(d)(1)),

(*b*) To influence the outcome of any specific public election, or to carry on, directly or indirectly, and voter registration drive (within the meaning of section 4945(d)(2)), or

(*c*) With respect to any recipient which is a private foundation (as defined in section 509(a)), to make any grant which does not comply with the requirements of section 4945(d)(3) or (4).

(5) *Certain grants to foreign organizations.* With respect to a grant to a foreign organization (other than an organization described in section 509(a)(1), (2), or (3) or treated as so described pursuant to paragraph (a)(4) or (a)(5) of this section), subparagraph (3)(iv) or (4)(iv) of this paragraph shall be deemed satisfied if the agreement referred to in subparagraph (3) or (4) of this paragraph imposes restrictions on the use of the grant substantially equivalent to the limitations imposed on a domestic private foundation under section 4945(d). Such restrictions may be phrased in appropriate terms under foreign law or custom and ordinarily will be considered sufficient if an affidavit or opinion of counsel (of the grantor or grantee) is obtained stating that, under foreign law or custom, the agreement imposes restrictions on the use of the grant substantially equivalent to the restrictions imposed on a domestic private foundation under subparagraph (3) or (4) of this paragraph.

(6) *Special rules for grants by foreign private foundations.* With respect to activities in jurisdictions other than those described in section 170(c)(2)(A), the failure of a foreign private foundation which is described in section 4948(b) to comply with subparagraph (3) or (4) of this paragraph with respect to a grant to an organization shall not constitute an act or failure to act which is a prohibited transaction (within the meaning of section 4948(c)(2)).

(7) *Expenditure responsibility with respect to certain transfers described in section 507.* [Reserved]

(8) *Restrictions on grants (other than program related investments) to organizations not described in section 501(c)(3).* [Reserved]

(c) *Reports from grantees*—(1) *In general.* In the case of grants described in section 4945(d)(4), except as provided in subparagraph (2) of this paragraph, the granting private foundation shall require reports on the use of the funds, compliance with the terms of the grant, and the progress made by the grantee toward achieving the purposes for which the grant was made. The grantee shall make such reports as of the end of its annual accounting period within which the grant or any portion thereof is received and all such subsequent periods until the grant funds are expended in full or the grant is otherwise terminated. Such reports shall be furnished to the grantor within a reasonable period of time after the close of the annual accounting period of the grantee for which such reports are made. Within a reasonable period of time after the close of its annual accounting period during which the use of the grant funds is completed, the grantee must make a final report with respect to all expenditures made from such funds (including salaries, travel, and supplies), and indicating the progress made toward the goals of the grant. The grantor need not conduct any independent verification of such reports unless it has reason to doubt their accuracy or reliability.

(2) *Capital endowment grants to exempt private foundations.* If a private foundation makes a grant described in section 4945(d)(4) to a private foundation which is exempt from taxation under section 501(a) for endowment, for the purchase of capital equipment, or for other capital purposes, the grantor foundation shall require reports from the grantee on the use of the principal and the income (if any) from the grant funds. The grantee shall make such reports annually for its taxable year in which the grant was made and the immediately succeeding 2 taxable years. Only if it is reasonably apparent to the grantor that, before the end of such second succeeding taxable year, neither the principal, the income from the grant funds, nor the equipment purchased with the grant funds has been used for any purpose which would result in liability for tax under section 4945(d), the grantor may then allow such reports to be discontinued.

(3) *Grantees' accounting and recordkeeping procedures.* (i) A private foundation grantee exempt from taxation under section 501(a) (or the recipient of a program-related investment) need not segregate grant funds physically nor separately account for such funds on its books unless the grantor requires such treatment of the grant funds. If such a grantee neither physically segregates grant funds nor establishes separate accounts on its books, grants received within a given taxable year beginning after December 31, 1969, shall be deemed, for purposes of section 4945, to be ex-

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pended before grants received in a succeeding taxable year. In such case expenditures of grants received within any such taxable year shall be prorated among all such grants.

In accounting for grant expenditures, private foundations may make the necessary computations on a cumulative annual basis (or, where appropriate, as of the date for which the computations are made). The rules set forth in the preceding three sentences shall apply to the extent they are consistent with the available records of the grantee and with the grantee's treatment of qualifying distributions under section 4942(h) and the regulations thereunder. The records of expenditures, as well as copies of the reports submitted to the grantor, must be kept for at least 4 years after completion of the use of the grant funds.

(ii) For rules relating to accounting and recordkeeping requirements for grantees other than those described in subdivision (i) of this subparagraph, see §§ 53.4945–5(b)(8) and 53.4945–6(c).

(4) *Reliance on information supplied by grantee.* A private foundation exercising expenditure responsibility with respect to its grants may rely on adequate records or other sufficient evidence supplied by the grantee organization (such as a statement by an appropriate officer, director or trustee of such grantee organization) showing, to the extent applicable, the information which the grantor must report to the Internal Revenue Service in accordance with paragraph (d)(2) of this section.

(d) *Reporting to Internal Revenue Service by grantor.*—(1) *In general.* To satisfy the reportmaking requirements of section 4945(h)(3), a granting foundation must provide the required information on its annual information return, required to be filed by section 6033, for each taxable year with respect to each grant made during the taxable year which is subject to the expenditure responsibility requirements of section 4945(h). Such information must also be provided on such return with respect to each grant subject to such requirements upon which any amount or any report is outstanding at any time during the taxable year. However, with respect to any grant made for endowment or other capital purposes, the grantor must provide the required information only for any taxable year for which the grantor must require a report from the grantee under paragraph (c)(2) of this section. The requirements of this subparagraph with respect to any grant may be satisfied by submission with the foundation's information return of a report received from the grantee, if the information required by subparagraph (2) of this paragraph is contained in such report.

(2) *Contents of report.* The report required by this paragraph shall include the following information:

(i) The name and address of the grantee.

(ii) The date and amount of the grant.

(iii) The purpose of the grant.

(iv) The amounts expended by the grantee (based upon the most recent report received from the grantee).

(v) Whether the grantee has diverted any portion of the funds (or the income therefrom in the case of an endowment grant) from the purpose of the grant (to the knowledge of the grantor).

(vi) The dates of any reports received from the grantee.

(vii) The date and results of any verification of the grantee's reports undertaken pursuant to and to the extent required under paragraph (c)(1) of this section by the grantor or by others at the direction of the grantor.

(3) *Record-keeping requirements.* In addition to the information included on the information return, a granting foundation shall make available to the Internal Revenue Service at the foundation's principal office each of the following items:

(i) A copy of the agreement covering each "expenditure responsibility" grant made during the taxable year.

(ii) A copy of each report received during the taxable year from each grantee on any "expenditure responsibility" grant.

(iii) A copy of each report made by the grantor's personnel or independent auditors of any audits or other investigations made during the taxable year with respect to any "expenditure responsibility" grant.

(4) *Reports received after the close of grantor's accounting year.* Data contained in reports required by this paragraph which reports are received by a private foundation after the close of its accounting year but before the due date of its information return (Form 990) for that year need not be reported on such return, but may be reported on the grantor's information return for the year in which such reports are received from the grantee.

(e) *Violations of expenditure responsibility requirements.*—(1) *Diversions by grantee.* (i) Any diversion of grant funds (including the income therefrom in the case of an endowment grant) by the grantee to any use not in furtherance of a purpose specified in the grant may result in the diverted portion of such grant being treated as a taxable expenditure of the grantor under section 4945(d)(4). However, for purposes of this section, the fact that a grantee does not use any portion of the grant funds as indicated in the original budget projection shall not be treated as a diversion if the use to which the funds are committed is consistent with the purpose of the grant as stated in the grant agreement and does not result in a violation of the terms of such agreement required to be included by paragraph (b)(3) or (b)(4) of this section.

(ii) In any event, a grantor will not be treated as having made a taxable expenditure under section 4945(d)(4) solely by reason of a diversion by the grantee, if the grantor has complied with subdivision (iii) (*a*) and (*b*) or (iv) (*a*) and (*b*) of this subparagraph, whichever is applicable.

(iii) In cases in which the grantor foundation determines that any part of a grant has been used for improper purposes and the grantee has not previously diverted grant funds, the foundation will not be treated as having made a taxable expenditure solely by reason of the diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps either to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (*b*)(*1*) and (*2*) of this subdivision) of the other grant funds held by the grantee to the purposes being financed by the grant, and

(*b*) Withholds any further payments to the grantee after the grantor becomes aware that a diversion may have taken place (hereinafter referred to as "further payments") until it has—

(*1*) Received the grantee's assurances that future diversions will not occur, and

(*2*) Required the grantee to take extraordinary precautions to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision the amount of the taxable expenditure shall be the amount of the diversion (for example, the income diverted in the case of an endowment grant, or the rental value of capital equipment for the period of time for which diverted) plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision but not the requirements of (*b*) of this subdivision, the amount of the taxable expenditure shall be the amount of such further payments.

(iv) In cases where a grantee has previously diverted funds received from a grantor foundation, and grant has again been used for improper purposes, the foundation will not be treated as having made a taxable expenditure solely by reason of such diversion so long as the foundation—

(*a*) Is taking all reasonable and appropriate steps to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (*b*)(2) and (3) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, except that if, in fact, some or all of the diverted funds are not so restored or recovered, then the foundation must take all reasonable and appropriate steps to recover all of the grant funds, and

(*b*) Withholds further payments until—

(*1*) Such funds are in fact so recovered or restored,

(2) It has received the grantee's assurances that future diversions will not occur, and

(3) It requires the grantee to take extraordinary precautions to prevent future diversions from occurring.

If a foundation is treated as having made a taxable expenditure under this subparagraph in a case to which this subdivision applies, then unless the foundation meets the requirements of (*a*) of this subdivision, the amount of the taxable expenditure shall be the amount of the diversion plus the amount of any further payments to the same grantee. However, if the foundation complies with the requirements of (*a*) of this subdivision, but fails to withhold further payments until the requirements of (*b*) of this subdivision are met, the amount of the taxable expenditure shall be the amount of such further payments.

(v) The phrase "all reasonable and appropriate steps" (as used in subdivisions (iii) and (iv) of this subparagraph) includes legal action where appropriate but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

(2) *Grantee's failure to make reports.* A failure by the grantee to make the reports required by paragraph (c) of this section (or the making of inadequate reports) shall result in the grant's being treated as a taxable expenditure by the grantor unless the grantor:

(i) Has made the grant in accordance with paragraph (b) of this section,

(ii) Has complied with the reporting requirements contained in paragraph (d) of this section,

(iii) Makes a reasonable effort to obtain the required report, and

(iv) Withholds all future payments on this grant and on any other grant to the same grantee until such report is furnished.

(3) *Violations by the grantor.* In addition to the situations described in subparagraphs (1) and (2) of this paragraph, a grant which is subject to the expenditure responsibility requirements of section 4945(h) will be considered a taxable expenditure of the granting foundation if the grantor—

(i) Fails to make a pregrant inquiry as described in paragraph (b)(2) of this section,

(ii) Fails to make the grant in accordance with a procedure consistent with the requirements of paragraph (b)(3) or (4) of this section, or

(iii) Fails to report to the Internal Revenue Service as provided in paragraph (d) of this section.

(f) *Effective dates.*—(1) *In general.* This section shall apply to all grants which are subject to the expenditure responsibility requirements of section 4945(d)(4) and (h) and which are made by private foundations more than 90 days after October 30, 1972.

(2) *Transitional rules.*—(i) *Certain grants awarded prior to May 27, 1969.* Section 4945(d)(4) and (h) and this section shall not apply to a grant to a private foundation which is not controlled, directly or indirectly, by the grantor foundation or one or more disqualified persons (as defined in section 4946) with respect to the grantor foundation, provided that such grant—

(*a*) Is made pursuant to a written commitment which was binding on May 26, 1969, and at all times thereafter,

(*b*) Is made for one or more of the purposes described in section 170(c)(2)(B), and

(c) Is to be paid out to such grantee foundation on or before December 31, 1974.

(ii) *Grants or expenditures committed prior to January 1, 1970.* Except as provided in paragraph (e)(2)(i) of § 53.4945–4, section 4945 shall not apply to a grant or an expenditure for section 170(c)(2)(B) purposes made on or after January 1, 1970, if the grant or expenditure was made pursuant to a commitment entered into prior to such date, but only if (in the case of a grant or an expenditure other than an unlimited general-purpose grant to an organization) such commitment is reasonable in amount in light of the purposes of the grant. For purposes of this subdivision, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee were entered on the records of the payor, or were otherwise adequately evidenced, or the notice of the payment to be received was communicated to the payee in writing.

(iii) *Grants awarded on or after January 1, 1970.* Paragraphs (b), (c), and (d) of this section shall not apply to grants awarded on or after January 1, 1970, but prior to the expiration of 90 days after October 30, 1972, if the grantor has made reasonable efforts, and has established adequate procedures such as a prudent man would adopt in managing his own property, to see that the grant is spent solely for the purpose for which made, to obtain full and complete reports from the grantee on how the funds are spent, and to make full and detailed reports with respect to such grant to the Commissioner. With respect to any return filed with the Internal Revenue Service before the expiration of 90 days after October 30, 1972, the grantor may treat reports which satisfy the requirements of the statement to be attached to Form 4720 for the year 1970 under "Specific Instructions—Question B" (items (1) through (5)) as satisfying the grantor reporting requirements with respect to "expenditure responsibility" grants. In the case of a private foundation required to file an annual return for a taxable year ending after January 1, 1970, and before December 31, 1970, the reporting requirements imposed by section 4945(h)(3) for such period shall be regarded as satisfied if such reports are made on the annual return for its first taxable year beginning after December 31, 1969.

§ 53.4945–6 **Expenditures for noncharitable purposes.**

(a) *In general.* Under section 4945(d)(5) the term "taxable expenditure" includes any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B). Thus, ordinarily only an expenditure for an activity which, if it were a substantial part of the organization's total activities, would cause loss of tax exemption is a taxable expenditure under section 4945(d)(5). For purposes of this section and §§ 53.4945–1 through 53.4945–5, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(2)(B) whether or not carried out by an organization described in section 170(c).

(b) *Particular expenditures.* (1) The following types of expenditures ordinarily will not be treated as taxable expenditures under section 4945(d)(5):

(i) Expenditures to acquire investments entered into for the purpose of obtaining income or funds to be used in furtherance of purposes described in section 170(c)(2)(B),

(ii) Reasonable expenses with respect to investments described in subdivision (i) of this subparagraph,

(iii) Payment of taxes,

(iv) Any expenses which qualify as deductions in the computation of unrelated business income tax under section 511,

(v) Any payment which constitutes a qualifying distribution under section 4942(g) or an allowable deduction under section 4940,

(vi) Reasonable expenditures to evaluate, acquire, modify, and dispose of program-related investments, or

(vii) Business expenditures by the recipient of a program-related investment.

(2) Conversely, any expenditures for unreasonable administrative expenses, including compensation, consultant fees, and other fees for services rendered, will ordinarily be taxable expenditures under section 4945(d)(5) unless the foundation can demonstrate that such expenses were paid or incurred in the good faith belief that they were reasonable and that the payment or incurrence of such expenses in such amounts was consistent with ordinary business care and prudence. The determination whether an expenditure is unreasonable shall depend upon the facts and circumstances of the particular case.

(c) *Grants to "noncharitable" organizations.* [Reserved]

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 26, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-18555 Filed 10-30-72;8:49 am]

V37-210-OCT31-72 XUM

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7214]

PART 301—PROCEDURE AND ADMINISTRATION

Receipts Issued for Cash Payment of Taxes Received by Mail

In order to revise the regulations on Procedure and Administration (26 CFR Part 301) under section 6314 of the Internal Revenue Code of 1954, relating to receipts for taxes and to conform such regulations to section 6091 of the Code, relating to the place for filing returns, such regulations are amended as follows:

SEPTEMBER 28, 1972.

PARAGRAPH 1. Section 301.6314–1 is amended to read as set forth below.

Because this Treasury decision revises departmental policy and procedure, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 533(b) of title 5 of the United States Code, or subject to the effective date of limitations of subsection (d) of such section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: October 25, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 301.6314–1 Receipt for taxes.

(a) *In general.* The district director or the director of a service center shall upon request, issue a receipt for each tax payment made (other than a payment for stamps sold and delivered). In addition, the district director or the director of a service center shall issue a receipt for each payment of 1 dollar or more made in cash, whether or not requested. In the case of payments made by check, the canceled check is usually a sufficient receipt. No receipt shall be issued in lieu of a stamp representing a tax, whether the payment is in cash or otherwise.

(b) *Duplicate receipt for payment of estate taxes.* Upon request, the district director or the director of a service center will issue duplicate receipts to the person paying the estate tax, either of which will be sufficient evidence of such payment and entitle the executor to be credited with the amount by any court having jurisdiction to audit or settle his accounts. For definition of the term "executor", see section 2203.

[FR Doc.72-18484 Filed 10-30-72;8:47 am]

Title 7—AGRICULTURE

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 106; Docket No. AO 210–A34]

PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

Order Amending Order

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Oklahoma metropolitan marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more then 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Oklahoma metropolitan marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

Section 1106.53 is revised as follows:

§ 1106.53 Location adjustment to handlers.

(a) At a plant in the State of Oklahoma, north of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the Class I price for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the Class I price for milk received from producers shall be the price applicable at Tulsa or Ponca City, Okla., pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and cooperative associations pursuant to § 1106.11(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1106.81 [Amended]

2. In § 1106.81, replace the three references therein to "§ 1106.53(a)" with "§ 1106.53."

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: December 1, 1972.

Signed at Washington, D.C., on October 27, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-18599 Filed 10-30-72;8:54 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72–SO–102]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Raleigh, N.C., control zone and the Greensboro and Kinston, N.C., transition areas.

The Raleigh control zone is described in § 71.171 (37 F.R. 2056) and the Greensboro and Kinston transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Raleigh control zone and the Greensboro and Kinston transition areas to reflect the required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Raleigh, N.C., control zone is amended as follows:

All after "78°47'02" W.);" is deleted and "within 3.5 miles each side of Raleigh VOR TAC 034° and 231° radials, extending from the 5-mile radius zone to 10.5 miles northeast and southwest of the VORTAC." is substituted therefor.

In § 71.181 (37 F.R. 2143), the Greensboro and Kinston, N.C., transition areas are amended as follows:

GREENSBORO, N.C.

All between "79°56'34" W.);" and "within 9.5 miles southwest" is deleted and "within 5 miles each side of Greensboro VORTAC 035° radial, extending from the 8.5-mile radius area to 17.5 miles northeast of the VORTAC; within 4 miles each side of Greensboro VORTAC 207° radial, extending from the 8.5-mile radius area to 8.5 miles southwest of the VORTAC." is substituted therefor.

KINSTON, N.C.

All after "77°36'55" W.);" is deleted and "within 4.5 miles each side of the Kinston VORTAC 048° radial, extending from the 8.5-mile radius area to 10.5 miles northeast of the VORTAC." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 17, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18500 Filed 10-30-72;8:51 am]

[Airspace Docket No. 72–SO–103]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zones and Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Charleston and Florence, S.C., control zones and the Charleston, Florence, and Spartanburg, S.C., transition areas.

The Charleston and Florence control zones are described in § 71.171 (37 F.R. 2056). The Charleston transition area is described in § 71.181 (37 F.R. 2143 and 7689) and the Florence and Spartanburg transition areas are described in § 71.181 (37 F.R. 2143).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Charleston and Florence control zones and the Charleston, Florence, and Spartanburg transition areas to reflect the required extension designations.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Charleston, S.C., control zone is amended to read:

CHARLESTON, S.C.

Within a 5-mile radius of Charleston AFB/Municipal Airport (lat. 32°53'55" N., long. 80°02'20" W.); within 3.5 miles each side of Charleston VORTAC 018° and 332° radials, extending from the 5-mile radius zone to 10 miles north and northwest of the VORTAC; within 2.5 miles each side of Charleston VORTAC 135° radial, extending from the 5-mile radius zone to 5.5 miles southeast of the VORTAC; within 3.5 miles each side of Charleston VORTAC 211° radial, extending from the 5-mile radius zone to 10.5 miles southwest of the VORTAC.

In § 71.171 (37 F.R. 2056), the Florence, S.C., control zone is amended as follows:

All after "79°43'28" W.);" is deleted and "within 3.5 miles each side of Florence VORTAC 049° and 229° radials, extending from the 5-mile radius zone to 8 miles northeast of the VORTAC." is substituted therefor.

In § 71.181 (37 F.R. 2143), the Charleston, S.C., transition area (37 F.R. 7689) and the Florence and Spartanburg, S.C., transition areas are amended as follows:

CHARLESTON, S.C.

All between "80°02'20" W.);" and "within a 6.5-mile radius of Johns Island Airport" is deleted and "within 3.5 miles each side of Charleston VORTAC 018°, 211°, and 332° radials, extending from the 9-mile radius area to 11.5 miles north, southwest and northwest of the VORTAC; within 3.5 miles each side of Charleston VORTAC 135° radial, extending from the 9-mile radius area to 10.5 miles southeast of the VORTAC;" is substituted therefor.

FLORENCE, S.C.

• • • 79°43'28" W.); • • •" is deleted and "• • • 79°43'28" W.); within 4 miles each side of Florence VORTAC 049° radial, extending from the 8.5-mile radius area to 9 miles northeast of the VORTAC." is substituted therefor.

SPARTANBURG, S.C.

• • • within 3 miles each side of Spartanburg VORTAC 016° and 196° radials, extending from 8.5 miles north of the VORTAC to 22 miles south of the VORTAC; • • •" is deleted and "• • • 3.5 miles each side of Spartanburg VORTAC 016° radial, extending from the 6.5-mile radius area to 9 miles north of the VORTAC; within 3.5 miles each side of Spartanburg VORTAC 191° radial, extending from the 6.5-mile radius area to 16.5 miles south of the VORTAC; • • •" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a), of sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 17, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18501 Filed 10-30-72;8:52 am]

[Airspace Docket No. 72–SO–104]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations

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is to alter the Nashville, Tenn., control zone.

The Nashville control zone is described in § 71.171 (37 F.R. 2056).

U.S. Standards for Terminal Instrument Procedures (TERP's), issued after extensive consideration and discussion with government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERP's and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the Nashville control zone to reflect the required extension designations.

In consideration of the foregoing, notice and procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (37 F.R. 2056), the Nashville, Tenn., control zone is amended as follows:

• • • within 3 miles each side of Nashville VORTAC 109° radial, extending from the 5-mile radius zone to 8.5 miles east of the VORTAC • • • is deleted and • • • within 3.5 miles each side of Nashville VORTAC 109° radial, extending from the 5-mile radius zone to 10 miles east of the VORTAC • • • is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a), sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 17, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-18502 Filed 10-30-72;8:52 am]

[Airspace Docket No. 72-CE-17]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On pages 14318 and 14319 of the FEDERAL REGISTER dated July 19, 1972, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Marshalltown, Iowa.

Interested persons were given 45 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 4, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 5, 1973.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

MARSHALLTOWN, IOWA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Marshalltown Municipal Airport (latitude 42°06'45" N., longitude 92°54'50" W.); and within 2 miles each side of the 321° bearing from Marshalltown Municipal Airport, extending from the 6-mile-radius area to 8 miles northwest of the airport and within 3.5 miles each side of the 135° radial of the Marshalltown VOR, extending from the 6-mile radius to 11.5 miles southeast of the airport, and that airspace extending upward from 1,200 feet above the surface within 5 miles northeast and 8 miles southwest of the 321° bearing from Marshalltown Municipal Airport, extending from the airport to 12 miles northwest of the airport, excluding the airspace within the Waterloo, Iowa transition area.

In § 71.181 (37 F.R. 2143), the Muskogee, Okla., transition area is amended to read:

MUSKOGEE, OKLA.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Davis Field, Muskogee, Okla. (latitude 35°39'25" N., longitude 95°21'40" W.), and within 10 miles southwest and 5 miles northeast of the Muskogee VOR 137° T. (130° M.) radial extending from the VOR to 20 miles southeast.

[FR Doc.72-18499 Filed 10-30-72;8:51 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 34-9784, 35-17701, IC-7375]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Solicitations of Proxies

The Securities and Exchange Commission has adopted certain amendments to Rules 14a-5 (17 CFR 240.14a-5) and 14a-8 (17 CFR 240.14a-8) of the Commission's proxy rules pursuant to sections 14(a) and 23(a) of the Securities Exchange Act of 1934. These rules are also applicable to the solicitation of proxies under the Public Utility Holding Company Act of 1935 and the Investment Company Act of 1940 by virtue of the authority provided in sections 12(e) and 20(a) of the 1935 Act and sections 20(a) and 38(a) of the 1940 Act. Notice of the proposed amendments was published December 22, 1971, in Securities Exchange Act Release No. 9432 (36 F.R. 25432). A number of helpful comments were received and were given careful consideration in connection with the preparation of the final revisions. A brief description of the changes is set forth below.

Paragraph (b) of Rule 14a-8 has provided that if the management opposes a security holder's proposal, it shall, if requested by the security holder, include in its proxy statement a statement of the security holder not exceeding 100 words in support of the proposal. This provision has been amended to increase the 100-word limit to 200 words so that a security holder may more fully present the reasons for submitting his proposal to security holders. In connection with the increase in the word limitation supporting statements, the Commission has further amended paragraph (b) to provide that any statements in the text of a proposal, such as a preamble or "whereas" clause, which are in effect arguments in support of the proposal, shall be considered part of the supporting statement and subject to the 200-word limitation thereon. Although this amendment was previously noticed for adoption in the form of a note to paragraph (b), the Commission determined to incorporate it into the text of the paragraph itself since it pertains directly to the requirement contained therein that a security holder's supporting statement be limited to 200 words. The purpose of the change is to curtail the growing tendency of security holders to evade the word limitation on supporting statements by submitting lengthy proposals which contain supporting argumentation within the text of the proposals themselves.

In Securities Exchange Act Release No. 9432 the Commission pointed out that it regards as an abuse of Rule 14a-8 the practice whereby a security holder submits a number of identical proposals to a number of companies and thereafter fails to appear at the meetings of the companies involved to present the proposals for action. When a security holder submits proposals and then, without good cause, does not appear at the meetings of the respective companies, all security holders have been put to considerable expense to no purpose. Accordingly, the Commission reiterates that in submitting a proposal, a security holder must in good faith make the statement required by Rule 14a-8(a) that he intends to present his proposal for action at the meeting.

Paragraph (c)(2) of the rule has been revised to replace the subjective terms of the provision with objective standards to the extent feasible and thereby create greater certainty in the application of the rule. The paragraph as amended provides for the omission of proposals which either are not significantly related to the business of the issuer or not within its control. Proposals not within an issuer's control are those which are beyond its power to effectuate, and henceforth they may be omitted under this provision. The revised paragraph will apply to all proposals and will not be limited to those which involve general economic, political, racial, religious, social, or similar causes. Also, the provision is not intended to serve as a basis for the omission of traditional shareholder proposals dealing with stockholder relationships with the management, such as cumulative voting, annual meetings, and ratification of auditors, since all these matters can be considered significantly related to the issuer's business or within its control.

Paragraph (c)(2) has been further amended to permit the omission of all proposals which relate to the enforcement of a personal claim or the redress of a personal grievance against any person. Formerly, the rule allowed the omission of such proposals only when the personal claim or grievance was against the issuer or its management. The Commission, however, believes that any proposal which relates to such matters is inappropriate for shareholder consideration.

The Commission has amended paragraph (d) of the rule to provide that whenever the management asserts that any security holder's proposal may properly be omitted from its proxy statement and form of proxy, it shall furnish the materials specified in that paragraph to the Commission 30 days prior to the filing of the management's preliminary proxy material. Formerly, the rule required that the materials be filed 20 days in advance of the preliminary proxy material, but experience has shown that this did not allow sufficient time for the Commission's staff to give due consideration to what action, if any, might be appropriate with respect to a management's refusal to include a proposal in its proxy materials. The Commission believes that the revision will also be beneficial to both managements and shareholders. Heretofore, managements have occasionally had to disrupt the printing schedules for their proxy material in those instances in which the staff was unable to expedite its letter on the matter due to its workload. Shareholders who submit proposals will also benefit from the revision because they will have more time, if they so elect, to enforce their rights in court in the event managements decide to omit their proposals.

In connection with the foregoing, the Commission also has determined to amend paragraph (a) of the rule so that a proposal by a security holder must now be received by the management at the issuer's principal executive office not less than 70 days (rather than 60 days, as formerly required), prior to a date corresponding to the date set forth on the management's proxy statement for the previous year's annual meeting. The comments indicated that since the time period for filing materials under paragraph (d) was being advanced by 10 days, a corresponding change was needed in paragraph (a) in order to provide a management with an amount of time comparable to the former rule for reviewing and evaluating a proposal and, if necessary, to prepare the documents required to be filed with the Commission under Rule 14a-8(d). In view of the fact that this change is technical in nature, the Commission finds that notice and procedure pursuant to the Administrative Procedure Act with respect to it is not necessary in the public interest or for the protection of investors.

The Commission also has added a note to paragraph (a) suggesting that security holders submit their proposals by certified mail—return receipt requested. It is believed that the submission of proposals in such a manner will curtail controversies with respect to the date that a security holder's proposal was received by the management.

Rule 14a-5 has been amended to require that the first page of the proxy statement be dated and include the address of the principal executive offices of the issuer. This amendment will furnish a definite date which the security holder may use in computing the date prior to which his proposal must be received by the management and will give the address where the proposal must be received.

The foregoing amendments shall apply to all proxy solicitations commenced on or after January 1, 1973.

Commission action. Pursuant to authority set forth in sections 14(a) and 23(a) of the Securities Exchange Act of 1934, as amended, sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and sections 20(a) and 38(a) of the Investment Company Act of 1940, the Securities and Exchange Commission hereby adds new paragraph (e) to § 240.14a-5 and amends § 240.14a-8, in Chapter II of Title 17 of the Code of Federal Regulations to read as set forth below:

§ 240.14a-5 Presentation of information in proxy statement.

• • • • •

(e) All proxy statements shall disclose on the first page thereof the complete mailing address, including ZIP code, of the principal executive offices of the issuer and the approximate date on which the proxy statement and form of proxy are first sent or given to security holders.

§ 240.14a-8 Proposals of security holders.

(a) If any security holder entitled to vote at a meeting of security holders of the issuer shall submit to the management of the issuer, within the time hereinafter specified, a proposal which is accompanied by notice of his intention to present the proposal for action at the meeting, the management shall set forth the proposal in its proxy statement and shall identify it in its form of proxy and provide means by which security holders can make the specification provided for by § 240.14a-4(b). The management of the issuer shall not be required by this section to include the proposal in its proxy statement or form of proxy for an annual meeting unless the proposal is received by the management at the issuer's principal executive offices not less than 70 days in advance of a date corresponding to the date set forth on the management's proxy statement released to security holders in connection with the last annual meeting of security holders, except that if the date of the annual meeting has been changed as a result of a change in the fiscal year, a proposal shall be received by the management a reasonable time before the solicitation is made. A proposal to be presented at any other meeting shall be received by the management of the issuer a reasonable time before the solicitation is made. This section does not apply, however, to elections to office or to counter proposals to matters to be submitted by the management.

NOTE. In order to curtail controversy as to the date that a security holder's proposal was received by the management, it is suggested that security holders submit their proposals by certified mail—return receipt requested.

(b) If the management opposes any proposal received from a security holder, it shall also, at the request of the security holder, include in its proxy statement a statement of the security holder, in not more than 200 words, in support of the proposal, which statement shall not include the name and address of the security holder. Any statements in the text of a proposal, such as a preamble or "whereas" clauses, which are in effect arguments in support of the proposal, shall be deemed part of the supporting statement and subject to the 200-word limitation thereon. The proxy statement shall also include either the name and address of the security holder or a statement that such information will be furnished by the issuer or by the Commission to any person, orally or in writing as requested, promptly upon the receipt of any oral or written request therefor. If the name and address of the security holder is omitted from the proxy statement, it shall be furnished to the Commission at the time of filing the management's preliminary proxy material pursuant to § 240.14a-6(a). The statement and request of the security holder shall be furnished to the management at the time that the proposal is furnished. Neither the management nor the issuer shall be responsible for such statement.

(c) Notwithstanding the foregoing, the management may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(1) If the proposal as submitted is, under the laws of the issuer's domicile, not a proper subject for action by security holders; or

(2) If the proposal:

(i) Relates to the enforcement of a personal claim or the redress of a personal grievance against the issuer, its management, or any other person; or

(ii) Consists of a recommendation, request, or mandate that action be taken with respect to any matter, including a general economic, political, racial, religious, social, or similar cause, that is not significantly related to the business of the issuer or is not within the control of the issuer; or

(3) If the management has at the security holder's request included a pro-

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posal in its proxy statement and form of proxy relating to either of the last two annual meetings of security holders or any special meeting held subsequent to the earlier of such two annual meetings and such security holder has failed without good cause to present the proposal, in person or by proxy, for action at the meeting; or

(4) If substantially the same proposal has previously been submitted to security holders in the management's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding 5 calendar years, it may be omitted from the management's proxy material relating to any meeting of security holders held within the 3 calendar years after the latest such previous submission: *Provided*, That—

(i) If the proposal was submitted at only one meeting during such preceding period, it received less than 3 percent of the total number of votes cast in in regard thereto; or

(ii) If the proposal was submitted at only two meetings during such preceding period, it received at the time of its second submission less than 6 percent of the total number of votes cast in regard thereto; or

(iii) If the proposal was submitted at three or more meetings during such preceding period, it received at the time of its latest submission less than 10 percent of the total number of votes cast in regard thereto; or

(5) If the proposal consists of a recommendation or request that the management take action with respect to a matter relating to the conduct of the ordinary business operations of the issuer.

NOTE. Proposals not within issuer's control are those which are beyond its power to effectuate.

(d) Whenever the management asserts that a proposal and any statement in support thereof received from a security holder may properly be omitted from its proxy statement and form of proxy, it shall file with the Commission, not later than 30 days prior to the date the preliminary copies of the proxy statement and form of proxy are filed pursuant to § 240.14a–6(a) or such shorter period prior to such date as the Commission may permit, a copy of the proposal and any statement in support thereof as received from the security holder, together with a statement of the reasons why the management deems such omission to be proper in the particular case, and where such reasons are based on matters of law, a supporting opinion of counsel. The management shall at the same time, if it has not already done so, notify the security holder submitting the proposal of its intention to omit the proposal from its proxy statement and form of proxy and shall forward to him a copy of the statement of reasons why the management deems the omission of the proposal to be proper and a copy of such supporting opinion of counsel.

(Secs. 14(a), 23(a), 48 Stat. 895, 901, sec. 5, 78 Stat. 569, 570, secs. 203(a), 8, 49 Stat. 704, 1379, 15 U.S.C. 78n(a), 78w(a); secs. 12(e), 29(a), 49 Stat. 823, 833, 15 U.S.C. 79*l*(e), 79t (a); secs. 20(a), 38(a), 54 Stat. 822, 841, 15 U.S.C. 80a–20(a), 80a–37(a))

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

SEPTEMBER 22, 1972.

[FR Doc.72–18467 Filed 10–30–72;8:46 am]

[Release No. 33–5306]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Corporation Finance Division; Interpretations of Rules

Since Rule 144 (17 CFR 230.144), which defines the term distribution for purposes of determining who is an underwriter under sections 4(1) and 2(11) of the Securities Act of 1933 (Act), was adopted on January 11, 1972 (37 F.R. 591), the Commission's Division of Corporation Finance has received a number of requests for interpretations of various provisions of the rule. Therefore, the Commission is releasing today certain of the Division's interpretations of the rule in the interest of assisting holders of restricted securities, controlling persons, brokers and others in complying with the rule's provisions. Experience in administering the rule and observing its operations has led to several modifications of interpretations previously expressed by the staff orally or in writing. The interpretations herein are deemed controlling at this time.

Since the Commission considers that Rule 144 is in the nature of an experiment, it intends to continue to monitor the rule's operation for the protection of investors and the public interest. As a result of this monitoring additional interpretations may be released from time to time. Also, the Commission has adopted today an amendment to paragraph (h) of Rule 144 and clarifying amendments to certain provisions of Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) which relate to Rule 144. In addition the Commission published for comment a proposed amendment to paragraph (g) of Rule 144. (Release No. 33–5307) (37 F.R. 20576).

Set forth below is a series of illustrations of certain interpretations of the Division in question and answer form.

All interested persons are invited to submit their views and comments on improving the operation of Rule 144 to Alan B. Levenson, Director, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

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N.B. The following interpretations assume that all the other conditions of Rule 144 can and will be met.

I—AVAILABILITY OF RULE 144 AT VARIOUS STAGES OF THE REGISTRATION PROCESS

Illustration 1—Facts. X, pursuant to so-called "piggy back" provisions, has the contractual right to include his restricted securities in a future registration statement filed by the issuer, or has the contractual right to compel the issuer to file a registration statement covering his restricted securities. No such statement has been filed with the Commission to date.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X.

Illustration 2—Facts. The facts are the same as in Illustration 1 except there have been or are discussions between X and the issuer about registration.

Question. Is rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X.

Illustration 3—Facts. The issuer has filed a registration statement covering the restricted securities owned by X. The registration statement is pending but has not been ordered effective.

Question A. Can the issuer withdraw X's securities from registration by a pre-effective amendment?

Interpretative response. Yes.

Question B. If such securities are in fact withdrawn from registration, will Rule 144 be available to X for sale of these restricted securities?

Interpretative response. Yes, Rule 144 is available to X. The underlying policies and purposes of the Act are best served by encouraging registration of securities. The holder of restricted securities should not have to be concerned that he will be "locked in" if the registration statement does not become effective. X, in selling pursuant to Rule 144, should note especially the representation he must make in executing Form 144 that he does not know any material adverse information in regard to the current and prospective operations of the issuer which has not been publicly disclosed.

Illustration 4. Facts. A registration statement covering restricted securities owned by X has been ordered effective and is current under the requirements of the Act.

Question. If the issuer deregisters X's securities, will Rule 144 be available to X for sale of his restricted securities?

Interpretative response. No. Rule 144 will not be available to X. He has a means of selling his restricted securities pursuant to the "live" registration statement. To permit use of Rule 144 under such circumstances would be inconsistent with the broad remedial purposes of the Act and with public policy which strongly supports registration. The contention that Rule 144 should be available to X so that he may avoid possible section 11 liability under the Act and the requirements of Rule 10b–6 under the Securities Exchange Act of 1934 (Exchange Act) is contrary to those policies and purposes.

Illustration 5—Facts. The registration statement covering restricted securities owned by X has become effective, but due to the lapse of time or material changes in the affairs of the issuer is not current under the requirements of the Act.

Question. If the issuer deregisters X's securities by a post-effective amendment, will Rule 144 be available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 will be available to X. To provide otherwise would discourage persons from using the registration process for fear of becoming "locked in."

II—SECURITIES ACQUIRED BY FINDERS AND UNDERWRITERS IN CONNECTION WITH A PUBLIC OFFERING

Illustration 1—Facts. An underwriter acquires securities in connection with a registered public offering.

Question. Is Rule 144 available for sale of the securities acquired by the underwriter?

Interpretative response. No, Rule 144 is not available. The securities acquired by the underwriter are not restricted securities as defined in paragraph (a)(3) of the rule since they were not acquired by the underwriter "in a transaction or a chain of transactions not involving any public offering." Guide 10 of the Guides for the Preparation and Filing of Registration Statements (Securities Act Release No. 4936, December 9, 1968) (33 F.R. 18617) provides that transferrable options, warrants or rights and the stock to be issued upon the exercise thereof, as well as stock, or securities convertible into another security, which are issued or sold to the underwriter in connection with a registered public offering are to be considered part of such public offering. Accordingly, as Guide 10 states, such securities must be registered along with the securities offered to the public, notwithstanding that it is represented that such securities have been acquired for investment and not with a view to distribution thereof.

Illustration 2—Facts. A finder receives securities in connection with a public offering as consideration for his services.

Question. Can the finder sell such securities pursuant to Rule 144?

Interpretative response. No, Rule 144 is not available. Securities received by the finder do not fall within the definition of restricted securities set forth in paragraph (a)(3) of the rule since they were not acquired by the finder "in a transaction or chain of transactions not involving any public offering." Guide 11 of the guides for the preparation of filing registration statements states that if a finder receives securities for his services, such securities should be registered.

III—SALES OF SECURITIES BY AN AFFILIATE

Illustration—Facts. X is an affiliate of the issuer and wants to sell some securities of the issuer.

Question. How can X sell his securities?

Interpretative response. If X's securities are restricted, all the provisions of Rule 144 must be complied with. If X's securities are not restricted, all the provisions of Rule 144 must be complied with except for the holding period provision. Note, however, the short-swing profit recovery provisions of section 16(b) under the Exchange Act. X also might sell his securities pursuant to a registration statement or a Regulation A offering circular or in some other exempt transaction, such as a private placement. This interpretation is applicable to securities acquired by an affiliate both before and after April 15, 1972.

IV—SALES BY A SUBSIDIARY OF ITS PARENT'S SECURITIES

Illustration—Facts. A subsidiary of the issuer owns restricted or other securities of that issuer.

Question. Is Rule 144 available for sales of such securities by this subsidiary?

Interpretative response. No, Rule 144 is not available. The parent-issuer could not directly sell its own securities pursuant to the rule. The rule is not available to permit the parent-issuer to do indirectly through a subsidiary what it could not do directly. From the standpoint of substance over form, the subsidiary and parent must be deemed to be the same entity.

V—DEFINITION OF THE TERM "PERSON": RULE 144(a)(2)(B)

Illustration—Facts. A foundation, organized as a corporation under a State nonprofit corporation law, owns securities of Y company. X, a director of the foundation, is a large security holder of Y.

Question. Is a director of a foundation deemed to act in a capacity similar to that of an executor or trustee within the meaning of paragraph (a)(2)(B) of Rule 144 so that sales of Y's securities by X would be aggregated with those of the foundation?

Interpretative response. No, such a director is not deemed by analogy to serve as a trustee, executor, or in any similar capacity within the meaning of paragraph (a)(2)(B) of Rule 144. Accordingly, sales of restricted securities by the foundation and X will not be aggregated. However, if the foundation and X agree to act in concert in connection with the sale of restricted securities of Y, such sales will be aggregated under paragraph (e)(3)(F) of the rule.

VI—CURRENT PUBLIC INFORMATION: RULE 144(c)

A. FILING OF REPORTS: RULE 144(c)(1)

Illustration 1—Facts. Y, a nonpublic company, goes public through a 1933 Act registration statement on July 1, 1972. X owns restricted securities of Y which he wants to sell on July 5, 1972.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available because, to satisfy paragraph (c)(1) of the rule, Y must have been subject to the reporting requirements of section 13 or 15(d) of the Exchange Act for a period of at least 90 days immediately preceding the sale of the securities and must have filed all reports required by those sections. Thus, Rule 144 will not be available to X until at least 90 days after the effective date of Y's 1933 Act registration statement.

Illustration 2—Facts. Y, a nonpublic company, goes public through a 1933 Act registration statement on June 1, 1971. Y's fiscal year ends on December 31. X owns restricted securities of Y and he wants to sell such securities in November 1971.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X if Y has filed the reports required to be filed under section 13 or 15(d) of the Exchange Act. In November 1971, Y would not have been required to file its annual report on Form 10–K (17 CFR 249.310) since its fiscal year ends on December 31. Such report would be required to be filed by March 30, 1972.

Illustration 3—Facts. Y, a company subject to the reporting requirements of the Exchange Act, has failed to file its last three quarterly reports on Form 10–Q (17 CFR 249.308a). The only report under the Exchange Act required to be filed by Y within the last 90 days was a current report on Form 8–K (17 CFR 249.308), which Y filed. X owns restricted securities of Y and wants to sell such securities.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. Y has not filed all the reports required under the Exchange Act, namely, its last three quarterly reports on Form 10–Q. In order to satisfy the requirements of paragraph (c)(1) of the rule, the issuer must have filed all the required reports under the Exchange Act and must have been subject to the reporting requirements of that Act for a period of at least 90 days immediately prior to the proposed sale.

Illustration 4—Facts. Y company has been subject to the reporting requirements of the Exchange Act for at least 90 days and its annual report on Form 10–K was due to be filed on March 30, 1972. Y was delinquent in filing such report but files a late report on July 1, 1972, at which time Y has filed all reports required to be filed under the Exchange Act. X owns restricted securities of Y and wants to sell such securities on July 15, 1972.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. Yes, Rule 144 is available to X. On July 15, 1972, Y had filed all required reports under the Exchange Act and had been subject to the reporting requirements under that Act for at least 90 days immediately prior thereto.

Illustration 5—Facts. Y company has securities registered pursuant to section 12 of the Exchange Act but has not filed the reports required to be filed by section 13 of that Act. X owns restricted securities of Y and wants to sell such securities.

Question. In determining whether Rule 144 is available to X, can paragraph (c) of the Rule be met by satisfying the provisions of paragraph (c)(2) of the rule?

Interpretative response. No, Rule 144 is not available because paragraph (c)(2) is only applicable if the issuer is not subject to section 13 or 15(d) of the Exchange Act. In this situation, Y is subject to section 13 of the Exchange Act.

Illustration 6—Facts. On June 1, 1972, Y company files a registration statement on Form 10 (17 CFR 249.210) under the Exchange Act. X owns restricted securities of Y and wants to sell such securities on July 1, 1972.

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Question. Is Rule 144 available to X for the sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. Y's securities do not become registered under the Exchange Act until its Form 10 registration becomes effective on July 31, 1972, 60 days after it was filed.

Illustration 7—Facts. The facts are the same as in Illustration 6, but X wants to sell his restricted securities on August 15, 1972.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. On August 15, 1972, the 90-day requirement contained in paragraph (c)(1) of the rule would not have been satisfied. This period starts on the effective date of the Form 10 registration statement—July 31, 1972—and will not be met until on or after October 29, 1972.

B. OTHER PUBLIC INFORMATION: RULE 144(C)(2)

Illustration 1—Facts. Y company is not subject to section 13 or 15(d) of the Exchange Act. Y has issued reports to its security holders containing the information specified in clauses (1) to (14) and (16) of paragraph (a)(4) of Rule 15c2–11 (17 CFR 240.15c2–11) under the Exchange Act. Y has also distributed such information to certain brokers and market makers. Financial information about Y is published by a recognized financial service. X owns restricted securities of Y and wants to sell such securities.

Question. Is Rule 144 available to X for sale of his restricted securities? Has the "other public information" condition contained in paragraph (c)(2) of the rule been met?

Interpretative response. Yes, Rule 144 is available to X in such situation and paragraph (c)(2) has been met.

Illustration 2—Facts. Y company is not subject to section 13 or 15(d) of the Exchange Act. X owns restricted securities of Y and wants to sell such securities. Y has furnished the information specified in Rule 15c2–11 under the Exchange Act to the broker for X.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X. Furnishing the specified information solely to the broker through whom X proposes to sell his restricted securities does not make such information publicly available.

VII—HOLDING PERIOD FOR RESTRICTED SECURITIES: RULE 144(d)

A. DISTRIBUTIONS BY A PARTNERSHIP TO THE PARTNERS: RULE 144(d)(1)

Illustration—Facts. Y is a private limited partnership which was formed to make venture capital and other investments. On April 15, 1970, Y acquired 200,000 shares of restricted common stock of Z company. On April 15, 1972, Y distributed to its limited partners on a pro-rata basis its 200,000 shares of restricted common stock of Z. X, a limited partner in Y, wants to sell his restricted common stock of Z on August 1, 1972.

Question. In computing the 2-year holding period under Rule 144, can X tack to his holding period that period during which Y held the restricted securities?

Interpretative response. Yes, but X can tack to his holding period that of Y in computing the 2-year holding period requirement under paragraph (d)(1) of Rule 144. But, the restricted common stock of Z publicly sold by Y and by all the other limited partners of Y, including X, must be aggregated for 2 years for the purpose of determining the amount of securities which X, any of the other limited partners, or Y, may sell under the rule.

B. IDENTIFICATION OF SECURITIES SOLD

Illustration—Facts. On July 1, 1970, X acquired 5,000 shares of restricted securities of Y company. On December 1, 1970, X acquired an additional 5,000 shares of restricted securities of Y. X wants to sell 4,000 shares of his restricted securities on August 1, 1972.

Question. Is Rule 144 available to X for the sale of 4,000 shares of restricted securities of Y?

Interpretative response. Yes, Rule 144 is available to X, but X must sell the particular restricted securities acquired on July 1, 1970, in order to meet the 2-year holding period requirement. Thus, X must be able to trace the specific securities.

C. PROMISSORY NOTES, OTHER OBLIGATIONS OR INSTALLMENT CONTRACTS: RULE 144(d)(2)

Illustration 1—Facts. X purchases 100,000 shares of restricted securities of Y company and gives the person from whom he purchases such securities a promissory note for the purchase price. The note is secured by collateral in the form of the restricted securities of Y that X purchased having a fair market value at least equal to the purchase price. The note is a non-recourse note. Two years later X wants to sell these restricted securities. The note has not been paid.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X for the reason that he does not satisfy the conditions of paragraph (d)(1) of the rule. The full payment requirement has not been satisfied in that the note did not provide for full recourse against X, the purchaser, as required by paragraph (d)(2)(A) of the rule. Even if the note did provide for full recourse against X, the requirement would not be satisfied because the note, in order to satisfy the conditions of paragraph (d)(2)(B), must be secured by collateral, other than the securities purchased, having a fair market value at least equal to the purchase price of the securities purchased. The holding period requirement is tolled during the period that the conditions of paragraph (d)(2)(A) or (d)(2)(B) are not met. Assuming that it was a full recourse note and there was collateral meeting the conditions set forth in paragraph (d)(2)(B) of the rule, the requirement would only be satisfied if X discharged his obligation under the note by payment in full prior to the sale of his restricted securities as specified in paragraph (d)(2)(C) of the rule.

Illustration 2—Facts. X purchases 100,000 shares of restricted securities of X company and gives the person from whom the securities were purchased a promissory note for the purchase price. The note provides for full recourse against X. The note is secured by collateral, other than the securities purchased, having a fair market value at the time of purchase at least equal to the purchase price of the securities. Two months after X purchases the securities, the fair market value of the collateral increases to $50,000 in excess of the outstanding obligation on the note. The purchase agreement permits the withdrawal of collateral.

Question. Can X withdraw the excess collateral without affecting the holding period under paragraph (d) of Rule 144?

Interpretative response. Yes.

Illustration 3—Facts. The facts are the same as in Illustration 2, except that after 2 months the fair market value of the collateral decreases to $50,000 less than the outstanding obligation on the note. X does not deposit additional collateral.

Question. Is the holding period in paragraph (d) of Rule 144 tolled in this situation?

Interpretative response. Yes, the fair market value of the collateral for the note for the purchase price must at all times be equal to the outstanding obligation. If the fair market value of the collateral falls below the amount of the outstanding obligation, the holding period in paragraph (d) of Rule 144 will be tolled until the fair market value of the collateral is at least equal to the amount of the outstanding obligation.

D. SHORT SALES, PUTS OR OTHER OPTIONS TO SELL SECURITIES: RULE (144)(d)(3)

Illustration 1—Facts. On April 15, 1970, X acquired 10,000 shares of restricted common stock of Y company. On January 1, 1972, X acquired 2,000 shares of common stock of Y in the open market. On February 1, 1972, X sold short "against the box" 2,000 shares of common stock of Y. On July 1, 1972, X covered his short with the securities that he purchased in the open market.

Question. Is the holding period in paragraph (d) of Rule 144 affected by X having sold short common stock of Y and then having covered the short with the securities purchased in the open market?

Interpretative response. Yes, X's short sale does affect the 2-year holding period requirement of paragraph (d) of Rule 144 even though X's short sale was "against the box" and he covered his short with securities purchased in the open market. The 5 months during which X had a short position in Y's common stock would be excluded from the computation of the 2-year holding period, pursuant to paragraph (d)(3)(A) of the rule.

Illustration 2—Facts. X acquired 10,000 shares of restricted common stock of Y company on August 2, 1969. In connection with such acquisition, X obtained an option to sell 5,000 shares back to the seller. On August 2, 1972, X wants to sell his restricted securities under Rule 144.

Question. Is Rule 144 available to X for sale of his restricted securities?

Interpretative response. No, Rule 144 is not available to X because he does not meet the 2-year holding period requirement. Such holding period is tolled during the time X holds the option, pursuant to paragraph (d)(3)(A) of the rule.

Illustration 3—Facts. X acquired 10,000 shares of restricted common stock of Y company on August 2, 1970. On July 1, 1972, X purchased 2,000 shares of common stock of Y in the open market. X sells short 1,500 shares of common stock of Y on August 5, 1972.

Question. Do the provisions of paragraph (d)(3) of Rule 144 affect the computation of X's required holding period under the rule?

Interpretative response. No, X had satisfied the holding period for his restricted securities of Y on August 2, 1972. A short sale after that date does not affect the holding period of X's 10,000 shares of restricted common stock.

E. CHANGE OF STATE OF INCORPORATION: RULE 144(d)

Illustration—Facts. Y company, incorporated in State A, changes its domicile to State B by organizing company Z for this purpose. The percentage of ownership of stock of Z is identical to that of Y. There is no change in the nature of the business or control of the management of Y. X owned 10,000 shares of restricted securities of Y and now owns 10,000 shares of restricted securities of Z.

Question. Can X in computing the holding period for his restricted securities of Z tack to such period the time he held his restricted securities of Y?

Interpretative response. Yes, tacking is permitted when there is solely a change of State of incorporation.

F. CHANGE IN PAR VALUE: RULE 144(d)(4)(A)

Illustration—Facts. X owns 10,000 shares of restricted common stock of Y company which he acquired on July 1, 1970. On August 1, 1971, there is a recapitalization of Y to change the par value of the common stock. X wants to sell his restricted securities on July 5, 1972.

Question. Does the recapitalization affect X's holding period under Rule 144?

Interpretative response. No, X's holding period is not affected by a recapitalization to change the par value of the common stock, under paragraph (d)(4)(A) of the rule. The security that X acquired as a result of the recapitalization is deemed to have been acquired by X at the time—July 1, 1970—he acquired the 10,000 shares of restricted securities of Y. Tacking of holding period also will be permitted if there were a recapitalization that changed par value to no par or vice-versa.

G. CONVERSIONS: RULE 144(d)(4)(B)

Illustration—Facts. On July 1, 1970, X acquires restricted notes and restricted warrants. On July 2, 1972, X exercises his warrants for the underlying common stock and surrenders a partial amount of his notes in payment. On July 10, 1972, X wants to sell the restricted common stock which he acquired upon the exercise of his restricted warrants.

Question. Is Rule 144 available to X for sale of his restricted common stock?

Interpretative response. No, Rule 144 is not available to X because he has not satisfied the 2-year holding period requirement of Rule 144. The exercise by X of his warrants for common stock constituted the acquisition by X of a new restricted security and tacking of the time period during which he held the warrants is not permitted. Paragraph (d)(4)(B) of the rule pertains only to a convertible security and not to a warrant.

VIII—LIMITATION ON AMOUNT OF SECURITIES SOLD: RULE 144(e)

A. SALES OF LISTED SECURITIES RULE 144(e)(1)(A) AND (e)(2)

Illustration—Facts. On June 30, 1972, X files Form 144 relating to the sale of his restricted common stock of Y company. The common stock of Y is listed on a national securities exchange. The average weekly reported volume of trading in the common stock of Y on all securities exchanges was 20,000 shares during the 4 calendar weeks preceding the filing of the form. By July 30, 1972, 10,000 shares of X's restricted common stock have been sold. The trading volume in Y's common stock during the month of July increased over that in June. X wants to sell additional restricted shares of common stock of Y on August 1, 1972.

Question. In computing the limitation on amount of securities sold, is such number fixed as of the date X filed his Form 144?

Interpretative response. No, but. In determining the limitation on amount of securities sold as specified in paragraphs (e)(1)(A) and (e)(2) of Rule 144, X, on August 1, 1972, is not limited to the average weekly reported volume of trading during the 4 calendar weeks which immediately preceded the filing of his Form 144 on June 30, 1972. X may recompute such average on August 1, but, in determining the new limitation on amount, X must exclude from the computation that amount of securities which he sold during the new period. In addition, X must file an amended Form 144 indicating the amount of additional securities he wants to sell. In no event may X sell during any 6-month period an amount of securities in excess of 1 percent of the shares of common stock of Y outstanding.

B. 6-MONTH PERIOD: RULE 144(e)(1) AND (e)(2)

Illustration—Facts. X owns restricted common stock of Y company. The common stock of Y is not listed on any national securities exchange. On May 1, 1972, X files Form 144 covering 1 percent of the outstanding common stock of Y and on June 1, 1972, such stock is sold.

Question. Can X sell additional shares of restricted common stock of Y on November 1, 1972, pursuant to Rule 144?

Interpretative response. No, Rule 144 would not be available to X. In computing the 6-month period in paragraphs (e)(1) and (e)(2) of Rule 144, all sales by X in the 6-month period preceding November 1, 1972, must be included. The date of the sale, i.e., June 1, 1972, and not the date of filing Form 144, i.e., May 1, 1972, is determinative in this regard. Thus, Rule 144 would only be available to X for additional sales on or after December 1, 1972.

C. DETERMINATION OF AMOUNT: RULE 144(e)(3)(A)

Illustration—Facts. X acquired restricted convertible debentures of Y company. The debentures and common stock of Y are listed for trading on a national securities exchange. In computing the amount of the securities that can be sold pursuant to Rule 144, X realizes that if the quantity limitations of paragraph (e)(3)(A) of the rule were to apply he would be able to sell a greater quantity of debentures than if the limitations of paragraph (e)(1)(A) of the rule applied. Accordingly, X devises a plan to convert one of his debentures and sell a few shares of the underlying common at the same time that he sells his debentures.

Question. In determining the amount of debentures that X can sell, is the limitation of paragraph (e)(3)(A) or (e)(1)(A) of Rule 144 applicable?

Interpretative response. The quantity limitation as provided in paragraph (e)(1)(A) of Rule 144 would be applicable. X's device to convert a debenture and sell a few of the underlying common shares concurrently with the debentures is a plan to circumvent the quantity limitations provided for in paragraph (e)(1)(A) of Rule 144 and is not permissible under the rule.

D. CONCURRENT SALES OF REGISTERED AND UNREGISTERED SECURITIES: RULE (e)(3)(G)

Illustration—Facts. X proposes to sell 10,000 shares of restricted common stock pursuant to Rule 144 and at the same time sell 10,000 shares of restricted common stock pursuant to a registration statement under the Act.

Question. Is Rule 144 available to X for the sale of these restricted securities?

Interpretative response. Yes, Rule 144 is available to X. Paragraph (e)(3)(G) of the rule provides that securities sold pursuant to an effective registration statement need not be included in determining the amount of securities which may be sold under the rule. This provision does not preclude the simultaneous sale of securities under a registration statement and the sale of restricted securities under Rule 144.

IX—BROKERS' TRANSACTIONS: RULE 144(g)

A. BROKER'S COMMISSION: RULE 144(g)(1)

Illustration 1—Facts. X acts as broker for both the seller of restricted securities and the buyer and charges each side no more than the usual and customary commission for the transaction.

Question. Is Rule 144 available for the sale of the restricted securities?

Interpretative response. Yes, Rule 144 is available. Paragraph (g)(1) of Rule 144, requiring that the broker "receives no more than the usual and customary broker's commission," does not preclude the receipt of a commission by the broker from both the buyer and seller in a cross transaction when the commissions received in such transaction are usual and customary.

Illustration 2—Facts. X owns restricted common stock of Z company. Z's common stock is listed on a national securities exchange. X wants to sell his restricted common stock of Z and negotiates a portion of the Commission with the broker in accordance with the rules of the securities exchange.

Question. Is Rule 144 available for sale of X's restricted securities?

Interpretative response. Yes, Rule 144 is available. Paragraph (g)(1) of the rule does not preclude the receipt of negotiated commissions if such commissions are negotiated in the usual and customary manner.

B. SOLICITATION OF CUSTOMER'S ORDERS: RULE 144(g)(2)

Illustration—Facts. X, a broker, receives an order from a person who wishes to sell restricted securities. X telephones his customer, Y, who had previously indicated an unsolicited interest in that security.

Question. Is Rule 144 available for the sale of restricted securities to Y?

Interpretative response. Yes, if Rule 144 is available if the prior indication of interest by Y was received in the last 10 business days, was unsolicited, was bona fide, and was not part of plan to evade the provisions of paragraph (g)(2) of Rule 144. X, the broker, should maintain written records of such prior indications of interest to establish the bona fide nature of the indication. Paragraph (g)(2) of Rule 144, which requires that X "neither solicits nor arranges for the solicitation of customers' orders to buy the securities in anticipation of or in connection with the transaction," does not preclude inquiries by X of customers who in the prior 10 business days have indicated without any solicitation a bona fide interest in the securities.

X—NOTICE OF PROPOSED SALE: RULE 144(h) AND FORM 144

Illustration 1—Facts. X sells 600 shares of restricted common stock at $1 per share.

Question. Must X file Form 144?

Interpretative response. Yes, paragraph (h) of Rule 144 requires that Form 144 "need not be filed if the amount of securities to be sold during any period of 6 months does not exceed 500 shares or other units, *and* the aggregate sale price thereof does not exceed $10,000." (emphasis added) Since the number of shares exceeds 500, the form must be filed.

Illustration 2—Facts. X pledges restricted securities as collateral for a loan. The pledgor defaults and the pledgee proposes to sell the restricted securities pursuant to Rule 144 to satisfy the debt.

Question. Can Form 144 be signed by the pledgee?

Interpretative response. Yes, the pledgee can sign Form 144. To require that the pledgor sign the form would create practical difficulties since the pledgor is in default and may be uncooperative. Therefore, the pledgee can sign and file the form subject to the other provisions of the rule, keeping in mind that sales by the pledgor and pledgee will be aggregated for purposes of determining the amount of securities which may be sold.

Illustration 3—Facts. X sells some of the restricted securities covered by a notice on Form 144 that identifies A and B as brokers. X wants to place his order for the sale of the remaining restricted securities covered by the form with a different broker, C.

Question. Can X use a broker other than A or B for sale of his remaining restricted securities?

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Interpretative response. Yes. But X is not limited to brokers A and B and may use the services of broker C, but X must file an amendment to his Form 144 identifying broker C.

XI—MISCELLANEOUS

Illustration—Facts. X acquired 10,000 shares of restricted common stock of Y company on July 1, 1970. On January 1, 1972, X acquired an additional 10,000 shares of restricted common stock of Y. On August 1, 1972, X wants to sell short 10,000 shares of Y for tax reasons and wants to cover the short with the restricted securities he acquired on July 1, 1970. The broker for X wants the flexibility to cover the short with any available common stock of Y.

Question. Is Rule 144 available to X for such purpose?

Interpretative response. Yes. But Rule 144 would be available to X for this purpose, but only if X delivers to the broker the specific securities he had acquired on July 1, 1970, and those specific securities are eventually used by the broker to cover the short.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

SEPTEMBER 26, 1972.

[FR Doc.72-18562 Filed 10-30-72;8:54 am]

Title 32—NATIONAL DEFENSE

Chapter XVI—Selective Service System

PART 1604—SELECTIVE SERVICE OFFICERS

Oath of Witnesses; Revocation

Whereas, on September 21, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations 37 F.R. 19652 of September 21, 1972; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on October 31, 1972, as follows: § 1604.57 *Oath of witnesses,* is revoked.

BYRON V. PEPITONE, *Acting Director.*

OCTOBER 24, 1972.

[FR Doc.72-18504 Filed 10-30-72;8:51 am]

PART 1631—ALLOCATIONS OF INDUCTIONS

Action of Local Board Upon Receipt of Allocations

Whereas, on September 21, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 37 F.R. 19652 of September 21, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on October 31, 1972, as follows:

The first sentences of paragraph (b) and paragraph (d)(5) of § 1631.6 are amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated: *Provided,* That a registrant who has been identified, in accord with procedures prescribed by the Director of Selective Service, as one who will become a member of category (2) or (3) on the next January 1 may, prior to December 31, be selected and ordered to report for induction in January, and such order to report for induction shall be canceled if such registrant does not become a member of either category on January 1:

* * * * *

(d) * * *

(5) Any registrant who for 90 consecutive days remains a member of the Extended Priority Selection Group, fully available for induction or alternate service, and whose RSN is not reached in the Extended Priority Selection Group during those 90 days, shall be assigned to the Second Priority Selection Group. A registrant will be deemed to be fully available for induction or alternate service on any day in calendar year 1972 that he is a member of the Extended Priority Selection Group.

* * * * *

BYRON V. PEPITONE, *Acting Director.*

OCTOBER 24, 1972.

[FR Doc.72-18505 Filed 10-30-72;8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

SUBCHAPTER B—LAND RESOURCE MANAGEMENT (2000)

[Circular No. 2337]

PART 2530—INDIAN ALLOTMENTS

Subpart 2530—Indian Allotments: General

On page 16198 of the FEDERAL REGISTER of August 11, 1972, there was published a notice and text of a proposed amendment to subpart 2530 of Title 43, Code of Federal Regulations. The purpose of the amendment is to clarify the regulations concerning Indian allotments.

Interested persons were given until September 11, 1972, to submit comments, suggestions, or objections to the proposed amendment. No comments were received.

The proposed amendment is hereby adopted without change, and is set forth below. This amendment shall become effective October 31, 1972.

HARRISON LOESCH, *Assistant Secretary of the Interior.*

OCTOBER 24, 1972.

Part 2530 of Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

1. The second paragraph of paragraph (b) of § 2530.0-3 is designated as paragraph (c) and revised to read as follows:

§ 2530.0-3 Authority.

* * * * *

(c) *Executive Orders 6910 and 6964, Taylor Grazing Act of June 28, 1934.* Public land withdrawn by Executive Orders 6910 and 6964 of November 26, 1934, and February 5, 1935, respectively, and land within grazing districts established under section 1 of the Taylor Grazing Act of June 28, 1934 (43 U.S.C. 315), is not subject to settlement under Section 4 of the General Allotment Act of February 8, 1887, as amended, until such settlement has been authorized by classification. See Parts 2410, 2420, and 2430 of this chapter.

§§ 2531.1 and 2531.2 [Amended]

2. Subpart 2531 is corrected as follows: In § 2531.1(d) the words "entitled upon application to have" are changed to read "eligible upon application for." In lines 2 and 7 of § 2531.1(b), lines 17 and 18 of § 2531.1(d), line 4 of § 2531.1(e)(2) and line 12 of § 2531.2(a) the words "entitled to" are changed to read "eligible for." In line 12 of § 2531.1(d) and line 9 of § 2531.1(e)(2) the word "entitled" is changed to read "eligible."

3. In § 2531.1(e)(1) the words "white man or other person not entitled to an allotment" are changed to read "non-Indian not eligible for an allotment."

4. In § 2531.2 the words "manager of the land office for the district in which the land is situated" are changed to read "authorized officer."

5. Section 2531.3 is revised to read as follows:

§ 2531.3 Effect of application.

(a) Where an allotment application under the fourth section of the Act of February 8, 1887, as amended, 25 U.S.C. 334 (is not accompanied by the requisite certification from the Bureau of Indian Affairs showing the applicant to be eligible for an allotment, and the applicant is given time to furnish such certificate, the application does not segregate the land, and other applications therefor may be received and held to await final action on the allotment application.

(b) Where an allotment application is approved by the authorized officer, it operates as a segregation of the land, and subsequent application for the same land will be rejected.

[FR Doc.72-18458 Filed 10-30-72;8:45 am]

Title 45—PUBLIC WELFARE

Chapter VII—Commission on Civil Rights

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Miscellaneous Amendments

Section 701.1 of Part 701 is amended by deleting the word "and" following immediately after "(1967)" and substituting therefor a comma; the section is also amended by deleting the period following immediately after "(1970)" and substituting therefor the following: "and by 86 Stat. 813 (1972)."

Subparagraphs (1) and (4) of paragraph (a) of § 701.2 of Part 701 are each amended by inserting immediately after "religion," the following: "sex,".

Paragraph (b) of § 701.2 of Part 701 is amended by deleting "January 31, 1973" and substituting therefor the following: "the last day of fiscal year 1978".

Section 702.15 of Part 702 is amended by deleting the following:

Pursuant to section 102(j) of the Act: A witness attending any session of the Commission shall receive $6 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 10 cents per mile for going from and returning to his place of residence; witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $10 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance; and,

and by substituting the following:

Pursuant to section 102(j) of the Act: A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

The section is amended further by capitalizing the word "Mileage".

Paragraph (a) of § 703.2 of Part 703 is amended by inserting immediately after "religion," the following: "sex,".

These amendments shall become effective on the date of their publication in the FEDERAL REGISTER.

THEODORE M. HESBURGH, *Chairman.*

[FR Doc.72-18550 Filed 10-30-72;8:48 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Docket No. 35613]

PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS

Transmission of Tariffs and Schedules to Subscribers and Other Interested Parties

Correction

In F.R. Doc. 72-15672 appearing at page 18550 of the issue for Wednesday, September 13, 1972, in § 1309.5(a)(1), the following material should be inserted after the word "Service," in the penultimate line of the certification: "etc. If the U.S. Postal Service,".

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Subpart A—Procedural and Interpretive Regulations

APPLICABILITY OF DESI NOTICES AND NOTICES OF OPPORTUNITY FOR HEARING TO IDENTICAL, RELATED, AND SIMILAR DRUG PRODUCTS

In the FEDERAL REGISTER of February 10, 1972 (37 F.R. 2969), a notice was published proposing to delineate the applicability of Drug Efficacy Study Implementation Notices and Notices of Opportunity for Hearing to identical, related, and similar drug products. Interested persons were invited to submit comments on the proposal within 60 days. Comments were received from seven pharmaceutical manufacturers, three associations of pharmaceutical manufacturers, and one individual. The principal comments were as follows:

1. The most frequently occurring comment was that the definition of identical, related, or similar drugs is so broad that it is meaningless, and could result in drugs being subject to regulatory actions because of some vague unrecognized similarity to reviewed drugs. A further comment noted that the definition of identical, related, or similar drugs is essentially the same as that which appears in 21 CFR 130.1(k) of the New Drug Regulations, and that this definition deals only with side effects and contraindications, and not with a relationship with respect to effectiveness. The Commissioner of Food and Drugs finds that it is in the public interest for conclusions of the Drug Efficacy Study to apply to all identical drug products, and to reasonably related and similar drug products. It is necessary that the definition be broad so that manufacturers are alerted to the possibility of their products being affected. The drug efficacy findings are clearly applicable to other brands of an identical drug. Other examples are equally clear, such as different salts of the same active moiety, or use of the same ingredient in a different combination. There will be, however, areas where the judgment of experts must determine the applicability of the efficacy findings. The determination will be based on the chemical structure of the drug, recommended use, route of administration, its pharmacological properties and any other information available on the action or properties of the drug.

The Commissioner recognizes that apparent slight differences in drugs such as a salt, an ester, an isomer, and others, may produce very different effects. This regulation is not intended to impute properties or lack of properties to a similar or related drug when there is evidence of different effects. The policy makes it incumbent on the sponsor of the drug to have data showing that his similar or related drug does in fact have different actions or effects. In the absence of such data it is reasonable to conclude that the drug efficacy conclusions are applicable. It is also clear that there will be instances in which the effectiveness evaluations on an oral dosage form will in no way apply to any other dosage form of the same drug. The Commissioner concludes that the principles involved in applying efficacy evaluations and adverse effect information to identical, similar, or related drug products are essentially the same, and it is therefore appropriate for the definition in this section to be essentially the same as that in § 130.1(k).

2. Several comments asked how a manufacturer could determine whether or not his drug product was related to a primary drug with a new drug application (NDA) approval that had become the subject of a drug efficacy notice. The Food and Drug Administration is actively engaged in attempting to identify all related drug products for which drug efficacy notices apply. If a manufacturer is not certain whether his product is covered by the new drug application subject to the notice he should request an opinion from the Bureau of Drugs of the FDA. The regulation has been clarified in this respect.

3. Several comments stated that the proposal ignored the basic distinction between old and new drugs and the protection of the grandfather clause. The Commissioner concludes that this view is without merit. Information as to a

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drug's safety and effectiveness is applicable no matter what the status of the product is under the law. If a drug is found to lack substantial evidence of effectiveness for any of its claims and the manufacturer can establish that his product is exempted from the efficacy provisions by the grandfather provisions in the act, it is required that action be taken against that product through the misbranding procedures rather than under the new drug provisions. The FDA is still obligated to proceed against the product. The final order has been clarified to reflect this.

4. There was a comment that it was contrary to the Food and Drug Administration's recent policy statement on combination drug products to apply to such products containing an identical, related, or similar drug products, a notice relating to a single-drug product. The FDA believes that this policy is in full agreement with the combination policy. It is true that, in evaluating a combination preparation, the interaction or combined effect of two or more drugs must be taken into account. However, when an individual drug has been evaluated as less than effective, the inclusion of that drug, or a related or similar drug, in a combination preparation for the same indications for which it has been evaluated as less than effective, causes the drug efficacy evaluation to be applicable to the combination product. It cannot be presumed, in the absence of any conclusive data, that the interaction or combined effect of the two or more drugs will alter the less than effective evaluation of the individual drug.

5. One comment noted that the proposal does not exempt OTC preparations, and that they should be exempted since they are subject to a separate study. The FDA published as a proposal a clarification of the status of over-the-counter preparations reviewed in the Drug Efficacy Study in the FEDERAL REGISTER on April 20, 1972 (37 F.R. 7807). That proposal informed manufacturers that deferral for review by the OTC panels was not appropriate for OTC products for which evaluations were published and finalized, classifying these drugs as lacking either substantial evidence of effectiveness or as not shown to be safe. Other OTC products for which deferral of implementation was not considered appropriate were also listed in the same publication. Other than these specific OTC products, OTC products will not be the subject of drug efficacy implementation notices unless the FDA notifies manufacturers by public notice or letter. The FEDERAL REGISTER proposal of April 20, 1972, received no adverse comment and will be promulgated shortly. The OTC drug monographs published pursuant to the OTC panel reviews will indicate their applicability to similar or related drug products (see FEDERAL REGISTER order published May 11, 1972 (37 F.R. 9464)). A new paragraph (f) has been added to § 130.40 to clarify the effect of this order on OTC preparations.

6. Several comments objected to the burden the proposal would place on purchasing agents when applying the same purchasing policy to identical, related, or similar drug products as to those named in the drug efficacy notices. This proposal does not place a significant burden on purchasing agents. In many instances a determination can readily be made by an individual who is familiar with drugs and their indications for use. Where the relationships are more subtle and not readily recognized except by experts, the purchasing agent may request an opinion from the FDA. The FDA maintains close liaison with purchasing agents of Federal agencies with major drug purchasing programs. To assure a clear procedure for obtaining an opinion by a purchasing agent, the final order is revised to include instructions on how to obtain such opinions.

7. Comments were received on paragraph (d) of the proposal, objecting to what was described as the FDA's encouraging of informers, and transferring its responsibilities to others. FDA presently has no means by which to readily determine what products are on the market that may be identical, related or similar to drugs subject to drug efficacy notices. In the interest of equitable application of the drug efficacy notices to all applicable products, the regulation provides a means for interested persons to bring to the FDA's attention related products. The FDA will then arrive at a decision based on scientific judgment as to the applicability of the drug efficacy notices to such products. This does not in any way transfer the FDA's responsibility to any other person.

8. Other comments argued that if less than effective drug efficacy notice conclusions apply to related products, then effective ratings should also apply. The Commissioner agrees that efficacy notices may be applied to a similar or related drug product provided that experts would conclude that the drug in question is sufficiently similar to the drug subject to the drug efficacy notices to justify a reasonable application of the efficacy conclusions. Present drug efficacy notices reflect this by requiring only abbreviated NDA's in many instances. It is possible that, with limited confirmatory testing, a related drug product may also be evaluated as safe and effective for its indications. Efficacy ratings do apply to identical drugs manufactured by a different firm; except that where questions of bioavailability between different formulations are present, evidence to establish bioavailability may be necessary. Until the safety and effectiveness of a drug become sufficiently recognized to justify an abbreviated NDA or no NDA, however, the law requires complete testing for each new drug.

9. There was comment that there is nothing in the act to authorize the FDA to extrapolate the findings of the Drug Efficacy Study to related products nor was such the intent of Congress. It is the opinion of the FDA that it was not the intent of Congress to restrict the Drug Efficacy Study to a study of drugs by "brand name" rather than by generic drug. There is nothing in the statute indicating that identical, related or similar products should be handled differently depending upon who holds an NDA. Such an interpretation is contrary to the public interest and inconsistent with the concepts of justice and fair competition. It would result in a severe penalty to those products that had complied with the law and were cleared through the established new drug procedures, and would reward those products which were marketed without clearance.

10. One comment stated that "the Commissioner has no jurisdiction to adjudicate the effectiveness of a drug not covered by an NDA." The comment further stated that drug efficacy notices are proceedings under section 505(e) of the Food, Drug, and Cosmetic Act, and the effect of such withdrawal of approval extends only to the NDA under review, and is not binding on a product not subject to an NDA. The FDA's position is that an identical, similar, or related drug product is covered by the NDA for the basic product and thus is directly affected by a drug efficacy notice. Any required changes specified in the notice, therefore, apply to the identical, related, or similar drug product as appropriate; for example, requests for new drug applications, abbreviated new drug applications, bioavailability data, or labeling changes.

11. A comment stated that the ex post facto decision to apply the drug efficacy conclusions to "similar drugs" deprives the industry of due process of law, in that there was no duty imposed on industry to offer information on related drugs to the review panel, and no opportunity was afforded industry to do so. The comment further stated that the proponents of "similar drugs" were not parties to the regulatory hearings withdrawing approval of NDAs. The Commissioner concludes that the FDA has given manufacturers and distributors of identical, similar, or related drug products ample opportunity to submit data and be heard. The responsibility for determining whether a product is legally marketed rests with the sponsor. The FDA continues to take measures to notify drug manufacturers and distributors of drugs that may be affected by a Notice of Opportunity for Hearing. In the FEDERAL REGISTER notices announcing the results of the NAS–NRC and FDA evaluations of the drugs, the FDA has uniformly requested information from all manufacturers. The regulation has been revised to make this clear. In the case of drugs lacking substantial evidence of effectiveness past notices have stated that sponsors or any interested person who might be adversely affected by the removal of the drug from the market could submit data bearing on the proposal. No one in the regulated industry can now claim surprise on this matter.

12. There was comment that the FDA should list all products that it considers subject to a particular drug efficacy notice by name, dosage form, and strength, so that every manufacturer/distributor would know what products the FDA has concluded that the announcement covers. As was stated in the proposal, this is not feasible at this time. In the absence of a requirement in the past that all marketed drugs be listed with the FDA, the FDA does not have knowledge of every product that is on the market. Any list that could be compiled would be incomplete. The FDA does try to identify and notify those manufacturers or distributors of drugs found lacking substantial evidence of effectiveness, giving them the opportunity for voluntary compliance prior to initiating any legal action.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1051 as amended, 1052–1053 as amended, 1055; 21 U.S.C. 352, 355, 371(a)) and the Administrative Procedure Act (5 U.S.C. 554) and under authority delegated to the Commissioner (21 CFR 2.120), Part 130 is amended by adding the following new section:

§ 130.40 Applicability of Drug Efficacy Study Implementation Notices and Notices of Opportunity for Hearing to identical, related, and similar drug products.

(a) The Food and Drug Administration's conclusions on the effectiveness of drugs are currently being published in the FEDERAL REGISTER as Drug Efficacy Study Implementation (DESI) Notices and as Notices of Opportunity for Hearing. The specific products listed in these notices include only those that were introduced into the market through the new-drug procedures from 1938–62 and were submitted for review by the National Academy of Sciences-National Research Council (NAS–NRC), Drug Efficacy Study Group. Many products which are identical to, related to, or similar to the products listed in these notices have been marketed under different names or by different firms during this same period or since 1962 without going through the new-drug procedures or the Academy review. Even though these products are not listed in the notices, they are covered by the new drug applications reviewed and thus are subject to these notices. All persons with an interest in a product that is identical, related, or similar to a drug listed in a drug efficacy notice or a notice of opportunity for a hearing will be given the same opportunity as the applicant to submit data and information, to request a hearing, and to participate in any hearing. It is not feasible for the Food and Drug Administration to list all products which are covered by an NDA and thus subject to each notice. However, it is essential that the efficacy conclusions be applied to all identical, related, and similar drug products to which those conclusions are reasonably applicable. Any product not in compliance with an applicable drug efficacy notice is in violation of section 505 (new drugs) and/or section 502 (misbranding) of the act.

(b) An identical, related, or similar drug includes other brands, potencies, dosage forms, salts, and esters of the same drug moiety as well as of any drug moiety related in chemical structure or known pharmacological properties. Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice. A combination drug product containing an identical, related, or similar drug is also subject to the conclusions contained in the notice. Any person may request an opinion on the applicability of such a notice to a specific product by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(c) Manufacturers and distributors of drugs should review their products as drug efficacy notices are published and assure that identical, related, or similar products comply with all the provisions of the notices.

(d) The published notices and summary lists of the conclusions are of particular interest to drug purchasing agents. These agents should take particular care to assure that the same purchasing policy applies to drug products that are identical, related, or similar to those named in the drug efficacy notices. The Food and Drug Administration applies the same regulatory policy to all such products. In many instances a determination can readily be made as to the applicability of a drug efficacy notice by an individual who is knowledgeable about drugs and their indications for use. Where the relationships are more subtle and not readily recognized, the purchasing agent may request an opinion by writing to the Food and Drug Administration at the address shown in paragraph (e) of this section.

(e) Interested parties may submit to the Food and Drug Administration, Bureau of Drugs, Office of Compliance, BD–300, 5600 Fishers Lane, Rockville, MD 20852, the names of drug products, and of their manufacturers or distributors, that should be the subject of the same purchasing and regulatory policies as those reviewed by the Drug Efficacy Study Group. Appropriate action, including referral to purchasing officials of various government agencies, will be taken.

(f) This regulation does not apply to OTC drugs identical, similar, or related to a drug in the Drug Efficacy Study unless there has been or is notification in the FEDERAL REGISTER that a drug will not be subject to an OTC panel review pursuant to § 130.301.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10–31–72).

(Secs. 502, 505, 701(a), 52 Stat. 1050–1051, as amended, 1052–1053, as amended, 1055, 21 U.S.C. 352, 355, 371(a); 5 U.S.C. 554)

Dated: October 27, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-18654 Filed 10-30-72;10:03 am]

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Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 8, 19]

DISTILLED SPIRITS

Proposed Procedures for Entry Into Customs Bonded Warehouse for Withdrawal by Diplomatic Personnel, Foreign Military Personnel, and Others

Notice is hereby given that under the authority of 5 U.S.C. 301, Revised Statute 251, as amended (19 U.S.C. 66), and sections 311, 557, and 624 of the Tariff Act of 1930, as amended (19 U.S.C. 1311, 1557, 1624), it is proposed to amend Parts 8 and 19 of the Customs regulations to provide for the entry into and the withdrawal from Customs bonded warehouses of distilled spirits in accordance with section 3 of Public Law 91-659 (26 U.S.C. 5066), enacted on January 8, 1971.

Section 5066 of the Internal Revenue Code, provides in paragraph (a) for the entry into Customs bonded warehouse of distilled spirits bottled in bond for export under section 5233 of the Internal Revenue Code and of distilled spirits stamped, or restamped and marked, especially for export under the provisions of section 5062(b) of the Internal Revenue Code. Subsection (b) of this section provides that distilled spirits entered into Customs bonded warehouses under subsection (a), and domestic distilled spirits transferred to such warehouses from Customs bonded manufacturing warehouses, Class 6, may be withdrawn for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported distilled spirits from such warehouses free of tax. Subsection (c) would permit distilled spirits entered into Customs bonded warehouses in accordance with subsection (a), if they are withdrawn for domestic consumption, to be treated as American goods exported and returned under item 804.20, Tariff Schedules of the United States, and therefore subject to duty. However, domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse to a Customs bonded warehouse could not be withdrawn for domestic consumption.

The proposed regulations in tentative form are set forth below:

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

Section 8.30 is amended by adding new paragraphs (g) and (h) to read as follows:

§ 8.30 Form and contents; articles entitled to entry.

* * * * *

(g) Except as otherwise provided herein, distilled spirits entered into Customs bonded warehouse in accordance with section 5066(a), Internal Revenue Code, as amended (26 U.S.C. 5066(a)), shall be treated in the same manner as any other merchandise entered for warehouse. Distilled spirits so entered may be withdrawn from warehouse for domestic consumption under section 5066(c) of the Internal Revenue Code, as amended, in which event they will be subject to duty as American goods exported and returned under item 804.20, Tariff Schedules of the United States. The recital clause of the warehouse entry bond, Customs Form 7555, shall be modified to show that the distilled spirits were entered in accordance with section 5066(a), Internal Revenue Code, as amended. The following new condition shall be added to the bond, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be withdrawn in accordance with the provisions of section 5066 (b) or (c) of the Internal Revenue Code, as amended, or in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so withdrawn, plus the amount of any internal revenue tax assessable thereon."

(h) Domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, may not be withdrawn under section 5066(c) of the Internal Revenue Code, as amended, for domestic consumption. For procedure concerning the transfer of such distilled spirits from Customs bonded manufacturing warehouse, Class 6, to Customs bonded storage warehouse, see § 19.15(g)(2) of this chapter.

(R.S. 251, as amended, secs. 557, 624, 46 Stat. 744, as amended, 759; 19 U.S.C. 66, 1557, 1624)

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

In § 19.15, paragraph (g) is amended to read as follows:

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts of consumption.

* * * * *

(g)(1) Articles may be withdrawn for transportation and delivery to a bonded storage warehouse at an exterior port under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), for the sole purpose of immediate export or may be withdrawn pursuant to section 309(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1309(a)). Such withdrawal shall be effected on Customs Form 7512, as provided for in § 18.16 of this chapter. A rewarehouse entry shall be made at the exterior port in accordance with § 8.33 of this chapter, supported by a bond on Customs Form 7555 in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duties on the merchandise (including any taxes imposed thereon which are required by law to be treated as duty imposed by the Tariff Act of 1930), plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director of Customs. The recital clause of such bond shall be modified to show that the merchandise is the product of a bonded manufacturing warehouse, Class 6, and that it has been rewarehoused at the exterior port for the sole purpose of immediate export or withdrawal pursuant to section 309(a) of the Tariff Act of 1930, as amended. The following new condition shall be added to the warehouse entry bond on Customs Form 7555, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be exported or withdrawn in accordance with the provisions of section 311 or 309(a), Tariff Act of 1930, as amended, in the manner prescribed by the regulations; or, in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been so exported or withdrawn, plus the amount of any internal revenue tax assessable thereon."

(2) Domestic distilled spirits transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, Class 2 or 3, in accordance with section 5521 of the Internal Revenue Code, as amended, and section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), shall be rewarehoused in accordance with the procedure for withdrawal and rewarehousing set forth in subparagraph (1) of this section. The recital clause of the warehouse entry bond, Customs Form 7555, shall be amended to show the circumstances of such entry. The following condition shall be added to the warehouse entry bond, Customs Form 7555, or to the general term bond, Customs Form 7595, prior to its approval: "And if said articles shall be withdrawn in accordance with section 5066(b), Internal Revenue Code, as amended; or, in default thereof, if the obligors shall pay to the district director as liquidated damages an amount equal to the aggregate sum of double the duties assessable on such part of the shipment as shall not have been withdrawn plus the amount of any internal revenue tax assessable thereon." For regulations concerning the limitation on the withdrawal of such merchandise from a Customs bonded storage warehouse for consumption, see § 8.30(h) of this chapter.

* * * * *

(R.S. 251, as amended, secs. 311, 624, 46 Stat. 691, as amended, 759; 19 U.S.C. 66, 1311, 1624)

Consideration will be given to relevant data, views, or arguments pertaining to the proposed amendments which are submitted to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Division of Regulations, Bureau of Customs, Washington, D.C., during regular business hours.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: October 18, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-18537 Filed 10-30-72;8:51 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Basis of Property Received on Liquidation of Subsidiary

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably six copies, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 30, 1972. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by November 30, 1972. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to certain provisions of section 202 of the Act of November 13, 1966 (Public Law 89-809, 80 Stat. 1576), relating to basis of property received on liquidation of subsidiary, such regulations are amended as follows:

PARAGRAPH 1. Secton 1.334 is amended by revising section 334(b)(2)(B), by adding a new sentence at the end of section 334(b)(3), and by adding a historical note, to read as follows:

§ 1.334 Statutory provisions; basis of property received in liquidations.

SEC. 334. *Basic of property received in liquidations.* * * *

(b) *Liquidation of subsidiary.* * * *

(2) *Exception.* * * *

(B) Stock of the distributing corporation possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote, and at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends), was acquired by the distributee by purchase (as defined in paragraph (3)) during a 12-month period beginning with the earlier of—

(i) The date of the first acquisition by purchase of such stock, or

(ii) If any of such stock was acquired in an acquisition which is a purchase within the meaning of the second sentence of paragraph (3), the date on which the distributee is first considered under section 318(a) as owning stock owned by the corporation from which such acquisition was made.

* * * * *

(3) *Purchase defined.* * * * Notwithstanding subparagraph (C) of this paragraph, for purposes of paragraph (2)(B), the term "purchase" also means an acquisition of stock from a corporation when ownership of such stock would be attributed under section 318(a) to the person acquiring such stock, if the stock of such corporation by reason of which such ownership would be attributed was acquired by purchase (within the meaning of the preceding sentence).

* * * * * *

(Sec. 334 as amended by sec. 202(a) and (b), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1576))

PAR. 2. Paragraph (c) of § 1.334-1 is amended by revising so much of subparagraph (6) as precedes subdivision (i) thereof, by redesignating subparagraph (7) as subparagraph (8), and by inserting a new subparagraph (7). These revised and added provisions read as follows:

§ 1.334-1 Basis of property received in liquidations.

* * * * *

(c) *Application of stock basis to property.* * * *

(6) Except as provided in subparagraph (7) of this paragraph, for purposes of section 334(b)(2) the term "purchase" means any acquisition of stock, but only if—

* * * * * *

(7)(i) Notwithstanding subdivision (iii) of subparagraph (6) of this paragraph, the term "purchase" includes an acquisition of stock after December 31, 1965, from a related corporation if at least 50 percent in value of the stock of such related corporation was acquired after December 31, 1965, by purchase (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph). For purposes of this subparagraph, a corporation is a related corporation if stock owned by the corporation would be considered as owned by the distributee under section 318(a).

(ii) If subdivision (i) of this subparagraph applies and if all distributions by the distributing corporation under section 332 are made after November 13, 1966, then the amount of stock required by section 334(b)(2)(B) must be acquired during a 12-month period beginning with the earlier of—

(a) The date of the first acquisition by purchase (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph) of any of such stock, or

(b) The date on which the distributee first would be considered under section 318(a) as owning any of such stock owned by the related corporation, taking into account in applying section 318(a) only stock of the related corporation purchased after December 31, 1965 (within the meaning of subparagraph (6) of this paragraph without regard to this subparagraph).

(iii) Since a purchase of stock within the meaning of subdivision (i) of this subparagraph necessarily involves a transaction between two related corporations, the purchase price will be subjected to close scrutiny to ascertain whether the price reflects the fair market value of the stock. If it is determined that the price paid exceeds the fair market value of the stock purchased, then for purposes of section 334(b)(2) the cost of such stock for purposes of computing its adjusted basis shall be its fair market value.

(iv) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). (a) On January 1, 1967, in an exchange to which section 351 applies, corporation R acquires 40 percent of the stock of corporation S, which owns 100 percent of the stock of corporation T. On July 1, 1967, R acquires 10 percent of the stock of S for cash. On December 31, 1967, R causes S to sell to it the 100 percent of T stock which S owns.

(b) Since R owns at least 50 percent of the stock of S at the time it acquires the T stock from S, the acquisition will qualify as a purchase only if the requirements of this subparagraph are met. The acquisition of the T stock does not qualify under this subparagraph as a purchase because R has acquired only 10 percent of the stock of S by purchase (within the meaning of subparagraph (6) without regard to this subparagraph).

Example (2). (a) Assume the same facts as in example (1), plus the further fact that on November 1, 1967, R acquires an additional 45 percent of the stock of S for cash.

(b) The acquisition by R of the 100 percent of T stock does qualify as a purchase under this subparagraph because R has acquired 55 percent (at least 50 percent) of

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the stock of S by purchase (within the meaning of subparagraph (6) without regard to this subparagraph).

(c) During a 12-month period beginning on November 1, 1967 (the date on which R first would be considered under section 318(a) as owning any stock owned by S, taking into account only stock of S that R has purchased within the meaning of subparagraph (6) without regard to this subparagraph), R has acquired by purchase the amount of stock required by section 334(b)(2)(B).

Example (3). (a) On January 1, 1968, corporation X acquires for cash 10 percent of the stock of corporation Z. On February 1, 1968, X acquires for cash at least 50 percent of the stock of corporation Y, which owns 45 percent of the stock of Z. On March 1, 1968, X causes corporation Y to sell to it the 45 percent of Z stock which Y owns. On April 1, 1968, corporation X acquires for cash 25 percent of the stock of Z.

(b) Since X owns at least 50 percent of the stock of Y at the time of its acquisition of the 45 percent of Z stock from Y, the acquisition will qualify as a purchase only if the requirements of this subparagraph are met. The acquisition of the Z stock does qualify as a purchase under this subparagraph because X acquired at least 50 percent of the stock of Y by purchase (within the meaning of subparagraph (6) without regard to this subparagraph). Therefore, X has acquired by purchase the amount of stock required by section 334(b)(2)(B) during a 12-month period beginning on January 1, 1968, the date of the first acquisition by purchase (within the meaning of subparagraph (6) without regard to this subparagraph) of any of such stock.

(c) The result would be the same if X purchased at least 80 percent of the Y stock on February 1, 1968, and caused Y to be completely liquidated on March 1, 1968, receiving the 45 percent interest in Z in the liquidation.

(8) Section 334(b) does not apply to minority shareholders. The basis of property, other than cash, received by such shareholders shall be determined under section 334(a), section 334(c), or section 358.

[FR Doc.72-18485 Filed 10-30-72;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[24 CFR Part 201]

[Docket No. R-72-195]

PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Manufacturer's Warranty

On June 8, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 2248) proposing an amendment to the Property Improvement and Mobile Home Loan Regulations. The proposed amendment would require that a manufacturer's warranty be furnished to the purchaser of a mobile home that is purchased with an FHA insured loan. Comments on the proposed regulation questioned the failure to publish a proposed warranty form. Other comments proposed material that the commentators felt should be included or excluded in the proposed warranty. In view of the comments requesting that a proposed warranty be published, the proposed regulation is being republished together with a proposed warranty form.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before November 30, 1972, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Part 201 is proposed to be amended as follows:

1. Section 201.520(c) is redesignated as paragraph (d) and a new paragraph (c) is added to read:

§ 201.520 Structural design and standards.

* * * * *

(c) *Manufacturer's warranty.* When a new mobile home purchased with financing insured under 12 U.S.C. 1703 is delivered to the purchaser, the purchaser shall be supplied a written warranty by the manufacturer on a form prescribed by the Commissioner. Such warranty shall be in addition to, and not in derogation of all other rights and privileges which the purchaser may have under any law or instrument and the warranty instrument shall so provide. A copy of the warranty instrument shall be retained in the loan file.

* * * * *

Issued at Washington, D.C., October 26, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL HOUSING ADMINISTRATION

MOBILE HOME WARRANTY

Mobile home description

Model Number Date of purchase

Name and address of dealer/seller

Purchaser(s):

For good and valuable consideration, and to induce purchase of the above identified mobile home by the above named Purchaser(s) and to further induce the Secretary of Housing and Urban Development to insure a loan to such Purchaser(s) under The National Housing Act, the undersigned manufacturer of the aforesaid mobile home does hereby warrant to the Purchaser(s) and to his (their) transferee(s), that:

Construction of the mobile home identified above complies with the mobile home standards prescribed by the Secretary of Housing and Urban Development and in effect at the time the mobile home is manufactured, and is free from defects in material or workmanship under normal use with normal maintenance service. This warranty shall obligate the manufacturer to take appropriate corrective action in instances of nonconformity to such standards and/or instances of defects in materials or workmanship which became evident within 1 year from the date of purchase of the mobile home and as to which the Purchaser(s), or his (their) transferee(s), give written notice to the manufacturer not later than 1 year and 10 days after the date of purchase set forth above. Such written notice shall be delivered to the manufacturer/warrantor at the address set forth herein.

* The term "Mobile Home" as used herein shall be deemed to include the mobile home structure including the plumbing, heating, and electrical systems and all appliances installed or included therein by the manufacturer.

This warranty shall be in addition to, and not in derogation of, all other rights and privileges which such Purchaser(s) may have under any other law or instrument and the manufacturer agrees that the buyer will not be required to execute a waiver of any warranty rights under the laws of the state of the purchaser's residence.

In testimony whereof, the manufacturer has signed and sealed this warranty this ------ day of ----------, 197----.

---------- By----------
(Signature and title of authorized official)

(Name and address of manufacturer/warrantor)

WARNING

Section 1010 of title 18, U.S.C., "Department of Housing and Urban Development, Federal Housing Administration transactions," provides: "Whoever, for the purpose of—influencing in any way the action of such Department—makes, passes, utters, or publishes any statement, knowing the same to be false—shall be fined not more than $5,000 or imprisoned not more than 2 years, or both."

Notice to Purchaser: Any notice of nonconformity must be delivered to the warrantor not later than 1 year and 10 days from the date of purchase.

Receipt of this warranty is acknowledged this ------ day of ---------- 197----.

[FR Doc.72-18493 Filed 10-30-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72-211P]

BARNEGAT BAY, N.J.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations applicable to the Route 37 bridge across Barnegat Bay in Dover Township, N.J., to allow the draw to open only on the hour and half hour from 10 a.m. to 2 p.m. on weekends and holidays from Memorial Day through Labor Day. The draw is presently required to open on signal. The purpose of this proposal is to relieve the traffic congestion caused by the frequent openings of the draw during these periods.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before December 5, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding paragraph (p) to § 117.220 to read as follows:

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

* * * * *

(p) Barnegat Bay, New Jersey Route 37 highway bridge between Bay Shore and Seaside Heights.

(i) The draw shall open on signal except that from Memorial Day through Labor Day from 10 a.m. to 2 p.m. on Saturdays, Sundays, and Independence Day, the draw need open only on the hour and half hour.

(ii) The draw shall open at any time on signal for the passage of vessels with tows.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: October 24, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18508 Filed 10-30-72;8:52 am]

[33 CFR Part 117]

[CGD 72-212P]

MIDDLE BRANCH, PATAPSCO RIVER, MD.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Western Maryland Railroad Co.'s drawbridge across the Middle Branch (Spring Garden Channel), Patapsco River, to require at least 6 hours notice on legal holidays when they occur Monday through Friday. Present regulations require that the draw open on signal from 7 a.m. to 12 noon and 1 p.m. to 4 p.m. Monday through Friday and at all other times if 6 hours advance notice has been given. This change is being considered because of minimum boating activity during this period.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Fifth Coast Guard District.

The Commander, Fifth Coast Guard District, will forward any comments received before December 5, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising § 117.245(f)(5-b) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) * * *

(5-b) Middle Branch, Patapsco River (Spring Garden Channel) Baltimore, Md., Western Maryland Railway bridge. The draw shall open promptly on signal from 7 a.m. to 12 noon and 1 p.m. to 4 p.m. Monday through Friday, except on legal holidays. At all other times including legal holidays at least 6 hours notice is required except for marine fire-fighting equipment which shall be passed as soon as possible but in no event more than 15 minutes after notification that such an opening is required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Dated: October 24, 1972.

J. D. MCCANN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-18507 Filed 10-30-72;8:52 am]

[46 CFR Parts 70, 80]

[CGD 72-187P]

SAFETY STANDARDS

Proposed Disclosure

The Coast Guard is considering amending the safety standard regulations to conform with the Act of December 24, 1969 (83 Stat. 427, 46 U.S.C. 362).

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Coast Guard (CMC), Room 8234, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Each person submitting comments should identify the notice number, CGD 72-187P, any specific wording recommended, reasons for any recommended change, and the name, address, and organization, if any, of the commenter. Comments received on or before December 4, 1972, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8234, Department of Transportation, 400 Seventh Street SW., Washington, DC, both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received.

Public Law 89-777 (80 Stat. 1356) approved November 6, 1966, added subsections (b) and (c) to R.S. 4400, as amended (46 U.S.C. 362). Subsection (b) of the Act requires the owner, operator, agent, or any person selling passage on a foreign or domestic passenger vessel of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports for a coastwise or an international voyage to be notified of the safety standards with which the vessel complies. It also requires the inclusion of this information in all promotional literature or advertising, in or over any medium of communication within the

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United States, soliciting passengers for ocean voyages anywhere in the world. In addition, the law provides that certain vessels may not depart a U.S. port with passengers who are U.S. nationals if the vessels are found not to comply with the standards set forth in the International Convention for the Safety of Life at Sea, 1960 (June 17, 1960, 16 UST 185, TIAS 5780), as modified by the 1966 fire safety standards.

Public Law 91-154 (83 Stat. 427) approved December 24, 1969, made two amendments to subsection (b) of R.S. 4400, as amended. The first amendment adds the requirement that all promotional literature or advertising in or over any medium of communication in the United States offering passage or soliciting passengers for ocean voyages anywhere in the world shall specify the registry of any vessel named. The second amendment makes the passenger notification of safety standards and the similar information required to be included in all mediums of communication, except the country of registry, not applicable if the named vessel meets the standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by the 1966 safety standards amendments.

This document proposes to implement the Act of December 24, 1969, by revising Part 80. The proposed revision of Part 80 would eliminate the present sections that are no longer applicable and assimilate the present interpretative rulings of Subpart 80.15 into appropriate sections. In accordance with the Act of December 24, 1969, it would provide exceptions to the requirements for notification to prospective passengers of safety standards and the inclusion of similar information in advertising and promotional literature information for named vessels meeting the international safety standards. It would also revise the format for printed safety information and country of registry. In addition, it is proposed to revise §§ 70.05-1(b) and 70.05-3(d) to reflect the proposed revision of Part 80.

In consideration of the foregoing, it is proposed to amend Subchapter H of Title 46, Code of Federal Regulations, as follows:

PART 70—GENERAL PROVISIONS

1. By revising § 70.05-1(b) to read as follows:

§ 70.05-1 U.S.-flag vessels.

* * * * *

(b) The requirements for notification of safety standards and for safety information in promotional literature or advertising of a domestic passenger vessel of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers are contained in Part 80 of this chapter.

2. By amending § 70.05-3 by revising paragraph (d) to read as follows:

§ 70.05-3 Foreign vessels.

* * * * *

(d) The requirements for notification of safety standards and for safety information in promotional literature or advertising of a foreign passenger vessel of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers are contained in part 80 of this chapter.

* * * * *

PART 80—DISCLOSURE OF SAFETY STANDARDS

3. By revising Part 80 to read as follows:

Sec.

80.01 Purpose.
80.10 Applicability.
80.15 Persons subject to regulations.
80.20 Exception to requirements.
80.25 Notification of safety standards.
80.30 Promotional literature or advertising.
80.40 Civil penalty.

AUTHORITY: The provisions of this Part 80 issued under R.S. 4400, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 362, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

§ 80.01 Purpose.

The purpose of the regulations in this part is to implement subsection (b) of R.S. 4400, as amended (46 U.S.C. 362(b)).

§ 80.10 Applicability.

This part applies to—

(a) Except as exempted in § 80.20, domestic or foreign passenger vessels of 100 gross tons or over, having berth or stateroom accommodations for 50 or more passengers, on ocean and United States coastwise voyages; and

(b) All promotional literature or advertising in or over any medium of communication within the United States offering passage or soliciting passengers for ocean voyages anywhere in the world.

§ 80.15 Persons subject to regulations.

Each owner, operator, agent, or person who sells passage on a foreign or a domestic vessel specified in § 80.10 is subject to the provisions of this part.

§ 80.20 Exception to requirements.

(a) This part does not apply to vessels that comply with the safety standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by the amendments adopted by the Assembly of the Intergovernmental Maritime Consultative Organization contained in Annexes I through IV of a resolution dated November 30, 1966 A/ES.III/RES. 108 except that the inclusion of the country of registry of the vessel must be specified as required in paragraph (b) of this section.

(b) If the exception in paragraph (a) of this section applies, the country of registry must appear in a type that is the same size as the text in the printed promotional literature or advertising.

§ 80.25 Notification of safety standards.

(a) A person specified in § 80.15 shall give to a prospective passenger, in writing, at the time or before passage is booked, separately from any promotional literature or advertising used, a document containing the following information for each vessel concerned—

(1) The name of the vessel;

(2) The country of registry;

(3) One of the following statements as appropriate:

(i) This vessel complies with all Coast Guard and international safety standards.

(ii) This vessel complies with international safety standards, except the 1966 fire safety standards.

(iii) This vessel complies with international safety standards developed prior to 1960.

There is (or, is not) an automatic sprinkler system fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (or, are not) composed of combustible materials.

(iv) This vessel does not comply with any international safety standard. There is (or, is not) an automatic sprinkler fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (or, are not) composed of combustible materials.

(b) The information required in paragraph (a) of this section must be printed in a type no smaller than six points, American point system.

(c) The information required in paragraph (a) of this section must be headed—

(1) "SAFETY INFORMATION";

(2) With each letter in the heading capitalized; and

(3) In boldfaced type of a size equal to the size of the text required in paragraph (a) of this section.

§ 80.30 Promotional literature or advertising.

(a) Except as provided in paragraph (f) of this section, all promotional literature or advertising in or over any medium of communication within the United States that offers passage or solicits passengers for ocean voyages anywhere in the world must contain the safety information statement prescribed in paragraph (b) of this section if—

(1) A vessel is named; or

(2) A voyage is described by—

(i) A stated port or area of departure;

(ii) A stated port or area of destination; or

(iii) A schedule of days of departure or arrival.

(b) The safety information statement required in paragraph (a) of this section must include—

(1) The name of the vessel;

(2) The country of registry; and

(3) One of the following statements, as appropriate:

(i) This vessel complies with all Coast Guard and international safety standards.

(ii) This vessel complies with international safety standards, except the 1966 fire safety standards.

(iii) This vessel complies with international safety standards developed prior to 1960. There is (or, is not) an automatic sprinkler fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (or, are not) composed of combustible materials.

(iv) This vessel does not comply with any international safety standard. There is (or, is not) an automatic sprinkler fitted in the passenger living and public spaces. The hull, decks, deckhouses, structural bulkheads, and internal partitions are (or, are not) composed of combustible materials.

(c) The safety information statement prescribed in paragraph (b) of this section must be—

(1) Printed in a type no smaller than 6 points, American point system, that is the same size as any other textual matter of the promotional literature or advertising, including any headings;

(2) Headed "SAFETY INFORMATION" in the same size type that is used in the safety information statement; and

(3) Separated from other portions of the text by double spacing or box ruling.

(d) If the promotional literature or advertising lists two or more passenger vessels, the owner or operator shall clearly indicate the safety information prescribed in paragraph (b) of this section for each vessel, but unnecessary repetition is not required.

(e) Each brochure, pamphlet, schedule, and similar publication required in paragraph (a) of this section to contain safety information must—

(1) State the safety information prescribed in paragraph (b) of this section at least once for each vessel named; and

(2) Include a reference in the index of contents or the cover regarding the page number where the safety information for each vessel is located.

(f) The section does not apply to—

(1) An advertising sign that is towed, displayed, or written by aircraft;

(2) An advertisement in a trade publication that is directed to the professional counselors in the travel industry and not intended or used for general distribution to the public for solicitation of passage on a vessel; or

(3) An advertisement within a magazine, newspaper, periodical, or similar publication that is—

(i) Produced outside of the United States;

(ii) Not an American edition; and

(iii) Primarily distributed in the country in which it is produced.

§ 80.40 Civil penalty.

For each violation of the regulations in this part, the owner, operator, agent, or other person involved is subject to the penalties prescribed in 46 U.S.C. 362(b).

(R.S. 4400, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 362(b), 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: October 25, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-18509 Filed 10-30-72;8:52 am]

[46 CFR Part 151]

[CGD 72-130PH]

UNMANNED BARGES

Hull Construction; Proposed Clarification of Transverse Stability Requirements

The Coast Guard is considering amendments to hull construction regulations for dangerous cargo barges. The amendments concern a formula in § 151.10-5(a)(2) which provides owners with an easy mathematical method to determine the minimum metacentric height necessary to meet transverse stability requirements. The Coast Guard has always assumed that the application of the formula would be limited to barges with conventional hull configurations; that is those whose vertical center of gravity for cargo is below the deck at side. It now proposes to write this restriction into the regulations.

The Coast Guard also proposes to correct an oversight within the formula's calculations for freeboard augmentation, which is an allowance made for barges with watertight trunks on deck. The freeboard augmentation anticipates the tendency of the trunks to reduce falloff in righting energy of the barge when the deck edge is immersed due to heel.

The formula's calculations for freeboard augmentation were derived from a survey of typical barges whose trunks were set in from the sides and ends. The survey did not include barges with trunk walls placed very close to the deck edge at side and at the ends. Consequently, no consideration was given to the possibility that the freeboard augmentation might exceed that of the trunk wall. In an extreme case, such an unsafe condition would threaten the transverse stability of the barge. In recognition of this, the Coast Guard proposes to insert into the formula a provision limiting freeboard augmentation to less than or equal to the trunk height.

The Coast Guard invites public participation in this proposed rule-making proceeding. Interested persons may submit written comments to the U.S. Coast Guard (GCMC/82), Room 8234, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Written comments should include the docket number of this notice, the name and address of the person submitting comments, and the specific section of the proposal to which each comment is addressed.

The Coast Guard will hold a Public Hearing at 9:30 a.m. on December 19, 1972, in Room 8334 at the Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., to receive written or oral comments from interested persons. The hearing will be conducted by a member or representative of the Marine Safety Council, who may apportion time for presentation. Each person desiring to speak at this hearing is requested to notify the Executive Secretary of the time needed for his presentation and is encouraged to submit a written copy or summary of his oral presentation after the hearing.

All relevant communications received on or before December 29, 1972, will be fully considered before final action is taken on this proposal. This proposal may be changed in the light of comments received; however, acknowledgment of individual comments will not be made. Copies of comments received and a tape recording of the public hearing will be available in Room 8234. Copies of comments will be furnished to interested persons upon request to the Coast Guard (GCMC/82) and payment of the fees prescribed in 49 CFR 7.81.

The Coast Guard proposes to amend Part 151 of Title 46 of the Code of Federal Regulations as follows:

1. By revising § 151.10-5 to read as follows:

§ 151.10-5 Intact transverse stability.

(a) Except as provided in paragraph (b) of this section, the intact transverse stability for each barge up to the angle of maximum righting arm or angle of downflooding, whichever is less, must be at least—

(1) Five-foot degrees for rivers;

(2) Ten-foot degrees for lakes, bays, sounds, and the Great Lakes—summer (April 16–September 30); and

(3) Fifteen-foot degrees for oceans and the Great Lakes—winter (October 1–April 15).

(b) Unless otherwise required by the Commandant, for a barge whose vertical center of gravity for cargo is below the deck at side, the required transverse stability may be determined in terms of metacentric height in feet. The vessel must have at least the minimum metacentric height (GM) as determined at any particular draft by the following formula:

$$GM = \frac{kB}{fe}$$

k = 0.3 for rivers.
= 0.4 for lakes, bays, sounds, and the Great Lakes—summer.
= 0.5 for oceans and the Great Lakes—winter.

B = beam (feet)

fe = Effective freeboard ($f + fa$) in feet. This is freeboard to the deck at side (f) plus a freeboard augmentation (fa) for those barges with a watertight (structural) trunk. When draft (d) is less than fe, it is used in lieu of fe. The freeboard augmentation (fa) may be calculated by the following formula:

$$fa = [(1.25)\left(\frac{l}{L}\right)\left(\frac{2b}{B} - 1\right)$$

(h)] or h, whichever is less where:

l = trunk length (feet).
L = overall length (feet).
b = trunk breadth (feet).
h = trunk height at side (feet).

2. By adding § 151.10-6 to follow § 151.10-5 to read as follows:

§ 151.10-6 Intact longitudinal stability.

The longitudinal stability of each barge must be determined in terms of the minimum longitudinal metacentric height (*GMl*) in feet. The vessel must have at least the minimum longitudinal

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metacentric height ($GM1$) as determined at any particular draft by the following formula:

$$GM1=\frac{0.02L^3}{d}$$

where
L=overall length (feet).
d=draft (feet).

(R.S. 4472, as amended, R.S. 4417a, as amended by Public Law 92-340, 86 Stat. 424, 427 (July 10, 1972); sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: October 25, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.72-18510 Filed 10-30-72;8:51 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SW-70]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Victoria, Tex., terminal area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

1. In § 71.171 (37 F.R. 2056), the Victoria, Tex., control zone is amended to read:

VICTORIA, TEX.

Within a 5-mile radius of the Victoria County-Foster Airport (latitude 28°51'10" N., longitude 96°55'20" W.) and within 3 miles each side of the Victoria, Tex., VOR 313° radial extending from the 5-mile radius zone to 10.5 miles northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. In § 71.181 (37 F.R. 2143), the Victoria, Tex., transition area is amended to read:

VICTORIA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Victoria County-Foster Airport (latitude 28°51'10" N., longitude 96°55'20" W.) and within 3.5 miles each side of the ILS localizer 131° course extending from the 5-mile-radius area to 14.5 miles southeast of the outer marker.

Amendments to controlled airspace will provide the necessary additional controlled airspace for aircraft executing the proposed ILS RWY 12L, LOC(BC) RWY 30R and revised VOR RWY 12L approaches. It eliminates controlled airspace provided for an NDB approach procedure that has been deleted.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on October 19, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-18503 Filed 10-30-72;8:51 am]

National Highway Traffic Safety Administration

[23 CFR Ch. II]

[Dockets Nos. 72-9 through 72-17]

HIGHWAY SAFETY PROGRAM STANDARDS

Extension of Time for Comments

The purpose of this notice is to extend the closing date for comments on the proposed revision of highway safety program standards. A notice of request for comments was published on August 3, 1972[1] with a comment period through November 3, 1972.

In view of the complexity of the document NHTSA has determined to extend the closing date to February 1, 1973, to permit State agencies and other interested parties and organizations an additional 90 days to submit comments.

This notice is issued under authority of section 402 of the Highway Safety Act of 1966, 23 U.S.C. 402, and the delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on: October 26, 1972.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.72-18603 Filed 10-30-72;8:54 am]

[1] 37 F.R. 15602.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 906]

[Docket No. 320-A2]

ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Proposed Further Amendment of Marketing Agreement and Order; Postponement of Hearing

On October 17, 1972, the Deputy Administrator, Regulatory Programs, Agricultural Marketing Service, issued a notice of hearing containing proposals to further amend the marketing agreement and order regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.[2] These proposals were submitted by Texas Citrus Mutual, Edinburg, Tex., the Texas Valley Citrus Committee, Pharr, Tex., Valley Citrus Growers Association, Inc., Alamo, Tex., the Hidalgo County Farm Bureau, Pharr, Tex., and by the Fruit and Vegetable Division, AMS.

On October 26, 1972, the Board of Directors of Texas Citrus Mutual unanimously recommended that the hearing not be held on November 1, 1972, as stated in said notice of hearing, because the industry needs additional time to study the proposals.

In view of the request for postponement, the hearing scheduled to begin on November 1, 1972, is hereby postponed. A new hearing date will be announced later.

Dated: October 27, 1972.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.72-18638 Filed 10-30-72;8:55 am]

[2] Published at 37 F.R. 22751, Oct. 21, 1972.

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circular Public Debt Series 11-72]

6¼ PERCENT TREASURY NOTES OF SERIES D-1976

Offering of Notes

OCTOBER 26, 1972.

I. Offering of notes. 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 99.01 percent of their face value for $3 billion, or thereabouts, of notes of the United States, designated 6¼ percent Treasury notes of Series D-1976. An additional amount of the notes will be allotted by the Secretary of the Treasury to Government accounts and Federal Reserve Banks at the average price of accepted tenders in exchange for 6 percent Treasury notes of Series F-1972, maturing November 15, 1972. Tenders will be received up to 1:30 p.m., e.s.t., Wednesday, November 1, 1972, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 6 percent Treasury notes of Series F-1972, maturing November 15, 1972, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. Description of notes. 1. The notes now offered will be identical in all respects with the 6¼ percent Treasury notes of Series D-1976 issued pursuant to Department Circular, Public Debt Series—No. 9-71, dated August 26, 1971, and supplement dated August 27, 1971, specifying an interest rate of 6¼ percent per annum, except that interest will accrue from November 15, 1972. With this exception the notes are described in the following quotation from Department Circular No. 9-71:

1. The notes will be dated September 8, 1971, and will bear interest from that date, payable on a semiannual basis on May 15 and November 15, 1972, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1976, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1 million. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. Tenders and allotments. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., eastern standard time, Wednesday, November 1, 1972. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 99.01 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $400,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes", which will be supplied by Federal Reserve Banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally insured savings and loan associations, States, political subdivisions, or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign states, dealers who make primary markets in government securities and report daily to the Federal Reserve Bank of New York their positions with respect to foreign securities and borrowings thereon, and government accounts. Tenders from others must be accompanied by payment (in cash or the 6 percent Treasury notes of Series F-1972, which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $400,000 or less without stated price from any one bidder will be accepted in full at the average price[1] (in two decimals) of accepted competitive tenders.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., eastern standard time, Wednesday, November 1, 1972.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. Payment. 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before November 15, 1972, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash, 6 percent Treasury Notes of Series F-1972 (interest coupons dated November 15, 1972, should be detached), or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make settlement by credit in its Treasury Tax and Loan Account for not more than 75 percent of the amount of notes allotted to it for itself and its customers. When payment is made with securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of se-

[1] Average price may be at, or more or less than $100.00.

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curities submitted and the amount payable on the notes allotted.

V. Assignment of registered securities. 1. Registered securities tendered as deposits and in payment for notes allotted hereunder should be assigned by the registered payees or assignees thereof, in accordance with the general regulations of the Department of the Treasury, in one of the forms hereafter set forth. Securities tendered in payment should be surrendered at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220. The securities must be delivered at the expense and risk of the holder. If the notes are desired registered in the same name as the securities surrendered, the assignment should be to: "The Secretary of the Treasury for 6¼ percent Treasury Notes of Series D–1976"; if the notes are desired registered in another name, the assignment should be to: "The Secretary of the Treasury for 6¼ percent Treasury Notes of Series D–1976 in the name of ----------"; if notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 6¼ percent Treasury Notes of Series D–1976 in coupon form to be delivered to ----------".

VI. General provisions. 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] CHARLS E. WALKER,
Acting Secretary of the Treasury.

[FR Doc.72-18551 Filed 10-30-72;8:49 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

COMMANDER, SAMTEC, VANDENBERG AIR FORCE BASE, CALIF.

Delegation of Authority To Issue Restricted/Security Area Regulations for Certain of Phoenix Islands and Surrounding Waters

Authority to prescribe regulations under 10 U.S.C. 8012 and Sections 1–4 of the Act of July 9, 1918, chapter 143 (33 U.S.C. 3) with respect to Canton, Enderbury, Birnie, and Hull Islands, and within the adjacent territorial waters surrounding each of those islands is delegated, with power of redelegation, to the Commander, Space and Missile Test Center (SAMTEC), Air Force Systems Command, Vandenberg Air Force Base, Calif., for the purpose of prohibiting:

(1) The stoping or loitering of vessels, without the prior approval of the Commander, SAMTEC, or his designee, but not the innocent passage of vessels through the territorial waters of the aforementioned islands;

(2) Use by aircraft of the airstrip on Canton Island, or landing on the territorial waters by seaplanes, without the prior approval of the Commander, SAM TEC, or his designee, except as provided in the 1939 agreement between United States and the United Kingdom on the joint administration of Canton and Enderbury Islands; and

(3) Visits, other than official visits, to the aforementioned islands, except as authorized by the Commander, SAMTEC, or his designee.

Dated: October 18, 1972.

JOHN M. MCLUCAS,
Under Secretary,
United States Air Force.

[FR Doc.72-18498 Filed 10-30-72;8:52 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

DECLARATION OF TRUST

Sale of Direct Notes on Insured Basis

Pursuant to the delegation of authority in the orders of the Acting Secretary of Agriculture, 36 F.R. 21529 and 37 F.R. 22008, and order of the Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529, notice is hereby given of the execution of the following declaration of trust by the Administrator of the Farmers Home Administration:

This Trust Indenture, executed this 20th day of October 1972, by the United States of America, acting through the Farmers Home Administration, U.S. Department of Agriculture, herein called the "Government," pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.);

WITNESSES

Whereas, as a result of the enactment of subsection 115(b) of the Rural Development Act of 1972 (Public Law 92–419), approved August 30, 1972, all direct loans made under section 338(c) of the Consolidated Farm and Rural Development Act, herein called "Act," have become assets of the Agricultural Credit Insurance Fund, herein called the "Fund," and are subject to the provisions of section 309 of the Act; and

Whereas, as a result of the enactment of section 117 of the Rural Development Act of 1972 (Public Law 92–419) all loans made under the Watershed Protection and Flood Prevention Act of title III of the Bankhead-Jones Farm Tenant Act may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309 (Agriculture Credit Insurance Fund), the last sentence of section 306(a)(1), and the last sentence of section 307 of the Act; and

Whereas, all such loans made prior to September 1, 1972, herein called the "loans," are secured by real estate mortgages, deeds of trust, security agreements, chattel mortgages, bond ordinances or resolutions, and like security instruments, herein called "security instruments," made in favor of the Government and securing payment of the promissory notes, assumption agreements or bonds described therein, herein called "the notes"; and

Whereas, the loans may be sold by the Government out of the Fund as insured loans under the provisions of said section 309, and in such event legal title to the security instruments would ordinarily pass to the purchasers of the insured notes; and

Whereas, in administering its insured loan programs, the Government acts as collection and servicing agent for the insured noteholder, and for the purpose of retaining legal title to the security instruments so as to enable it to service them after the sale of any of the related loans, the Government, as owner of the security instruments, desires to declare itself as trustee thereof for the benefit of the insured noteholders;

Now therefore, it is hereby declared and convenanted that in the event of any future sale of any of the loans, the Government shall hold the security instruments related to each loan so sold, together with all rights, titles, interests, liens, powers, and options of the mortgagee, grantee, secured party, or beneficiary in, to, and under the security instruments and in, to, and upon the property described therein, in trust for the use and benefit of the holder of the note(s) described therein. The Government shall have full power to manage the trust property covered by this declaration and shall have, use, and enforce all rights, powers, and authority of the mortgagee, grantee, secured party, or beneficiary under such security instruments, including but not limited to the subordination, assignment, release, satisfaction, or other security servicing action may be executed by the Government in its own name, without reference to its capacity as trustee: *Provided further,* That the trust hereby declared shall not be revocable by any holder of such note(s) and shall be subject to the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, et seq.), as now or hereafter amended or supplemented: *And provided further,* That no holder of any note(s) described in such security instruments shall be liable for compensation to the Government for the exercise by the Government of any rights, power, or authority hereunder or for any expenses incurred in connection herewith.

The declaration of trust shall take effect as to any security instruments covered hereby upon the sale of any note(s) secured thereby, and shall remain effective while any party other than the Government owns such note(s).

In witness whereof, the United States of America has caused this trust indenture to be executed as of the day and year first above written pursuant to delegated authority published in 36 F.R. 21529 and 37 F.R. 22008.

UNITED STATES OF AMERICA

ARTHUR C. HARMAN, JR.,
Acting Administrator, Farmers Home Administration, United States Department of Agriculture.

Signed in the presence of:
GEORGE C. KNAPP
L. A. ISENBERG

ACKNOWLEDGMENT

CITY OF WASHINGTON, DISTRICT OF COLUMBIA } ss:

I, the undersigned notary public in and for the city of Washington, District of Columbia, do hereby certify that on this 20th day of October, 1972, before me personally appeared Arthur C. Harman, Jr., personally known to me and to me personally known to be the person and officer of the Farmers Home Administration, U.S. Department of Agriculture, described in and who executed and delivered the foregoing instrument, and being by me duly sworn (or affirmed), and being informed of the contents of said instrument, he acknowledged to me that as his free act and deed he executed said instrument, in the capacity therein stated and for the purposes and consideration therein contained.

In witness whereof, I hereunto set my hand and official seal.

[NOTARIAL SEAL] BESSIE H. GARLICH,
Notary Public.

My commission expires March 14, 1973.

Dated: October 25, 1972.

DARREL A. DUNN,
Acting Administrator,
Farmers Home Administration.

[FR Doc.72-18496 Filed 10-30-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Receipt of Applications; Notice of Cutoff Date, Fiscal Year 1973

Pursuant to the authority vested in me by section 3 of Public Law 81–815 (20 U.S.C. 633) and 45 CFR 114.2, notice is hereby given of the cutoff date:

For the purpose of sections 3 and 14 of Public Law 81–815, February 14, 1973, is hereby set as the first cutoff date during fiscal year 1973 on or before which complete applications for payments to which an applicant may be entitled under the Act from such funds as may be available for such purposes shall be filed.

Dated: October 24, 1972.

S. P. MARLAND, JR.,
Commissioner of Education.

[FR Doc.72-18556 Filed 10-30-72;8:49 am]

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15963, October 30, 1968), as amended, is hereby amended with regard to section 3–30, *delegations of authority,* as follows:

After subparagraph numbered (16) of the paragraph entitled "Specific delegations," add one new subpararaph reading:

(17) Pursuant to Public Law 92–318, Education Amendments of 1972, signed by the President on June 23, 1972, the authority to perform the functions under title VI, Investigation of Youth Camp Safety.

Dated: October 24, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-18531 Filed 10-30-72;8:53 am]

CHILD DEVELOPMENT NATIONAL ADVISORY COMMITTEE

Notice of Meeting

There will be a meeting of the Child Development National Advisory Committee on November 1 and 2, 1972, in Conference Room No. 5051, Department of Health, Education, and Welfare, 330 Independence Avenue, Washington, DC. The meeting is scheduled for 1:30 p.m. to 5 p.m. on November 1, and from 9 a.m. to 3 p.m. on November 2. The meeting will be open to the public.

The purpose of the Child Development National Advisory Committee is to consult and advise the Secretary of the Department of Health, Education, and Welfare or his designee, the Director of the Office of Child Development, on national policy concerning children and administration of child development programs for which the Office of Child Development has operating and coordinating responsibility. This will be the first meeting of the committee and will focus on introductory presentations by the Office of Child Development and discussions of topics of current national interest in the field of child development.

Dated: October 25, 1972.

JOHN BUSA,
Executive Secretary.

[FR Doc.72-18671 Filed 10-30-72;10:36 am]

TUSKEGEE SYPHILIS STUDY AD HOC ADVISORY PANEL

Notice of Meeting

A meeting of the Tuskegee Syphilis Study Ad Hoc Advisory Panel is to be held on November 2, 1972. This panel was established by the Assistant Secretary for Health and Scientific Affairs to provide advice on the circumstances surrounding the Tuskegee, Ala., Study of Untreated Syphilis in the Male Negro initiated by the U.S. Public Health Service in 1932. The Assistant Secretary for Health and Scientific Affairs requested the panel to advise him on the following specific aspects of the Tuskegee Syphilis Study:

1. Determine whether the study was justified in 1932 and whether it should have been continued when penicillin became generally available.

2. Recommend whether the study should be continued at this point in time, and if not, how it should be terminated in a way consistent with the rights and health needs of its remaining participants.

3. Determine whether existing policies to protect the rights of patients participating in health research conducted or supported by the Department of Health, Education, and Welfare are adequate and effective and to recommend improvements in these policies, if needed.

This meeting is for the sole purpose of considering and formulating the advice which the panel will give to the Assistant Secretary for Health and Scientific Affairs on the three charges outlined above, and will involve exclusively the internal expression of views and judgments of its members. Accordingly, under the authority of the Secretary's notice of determination of September 27, 1972, this meeting is closed to the public. The meeting will begin at 9 a.m. in Conference Room 8, Building 31 at the National Institutes of Health, Bethesda, Md. A summary of the meeting and a roster of panel members may be obtained from Mr. John Blamphin (202—962–7906), Room 5614, HEW North Building, 330 Independence Avenue SW., Washington, DC 20201.

Dated: October 16, 1972.

PAUL COHART,
Acting Executive Secretary, Tuskegee Syphilis Study Ad Hoc Advisory Panel.

[FR Doc.72-18670 Filed 10-30-72;10:36 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA–Pet–No. 63]

MASSENA TERMINAL RAILROAD CO.

Petition for Exemption From Hours of Service Act

OCTOBER 24, 1972.

The Massena Terminal Railroad Co. has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. sections 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA–Pet–No. 63, 400 Seventh Street, SW., Washington, DC 20590. Communications received before November 28, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, JR.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72-18486 Filed 10-30-72;8:48 am]

V37-210 OCT 31 72 XUM

[FRA-Pet-No. 64]

TENNESSEE RAILROAD CO.

Petition for Exemption From Hours of Service Act

OCTOBER 26, 1972.

The Tennessee Railroad Co., has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. sections 61, 62, 63, and 64.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the docket number and should be submitted in triplicate to Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: Docket FRA-Pet-No. 64, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 1, 1972, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5428, Nassif Building, 400 Seventh Street SW., Washington, DC.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel for Safety Regulation.

[FR Doc.72-18487 Filed 10-30-72;8:48 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-321, 50-366]

GEORGIA POWER CO.

Availability of Final Environmental Statement for Edwin I. Hatch Nuclear Plant, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the "Final Environmental Statement Related to Edwin I. Hatch Nuclear Plant, Units 1 and 2, Georgia Power Co., Dockets Nos. 50-321 and 50-366," prepared by the Directorate of Licensing, U.S. Atomic Energy Commission, is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the Appling County Public Library, Parker Street, Baxley, Ga. 31513. The report is also being made available at the Bureau of State Planning and Community Affairs, Room 611, 270 Washington Street SW., Atlanta, GA 30303, and at the Altamaha Area Planning and Development Commission (APDC), Post Office Box 328, Baxley, GA 31513.

The notice of availability of the Draft Environmental Statement for the Edwin I. Hatch Nuclear Plant, Units 1 and 2 facility, and requests for comments from interested persons was published in the FEDERAL REGISTER on June 20, 1972 (37 F.R. 12173). The comments received from Federal, State, local officials and interested members of the public have been included as appendixes to the final statement.

Single copies of the final statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 25th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18431 Filed 10-30-72;8:45 am]

[Docket No. 50-382]

LOUISIANA POWER & LIGHT CO.

Availability of Environmental Reports, and AEC Draft Environmental Statement for Waterford Steam Electric Generating Station Unit No. 3

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations set forth in Appendix D to 10 CFR Part 50, notice is hereby given that documents entitled "Applicant's Environmental Report and Supplements 1 and 2 to Environmental Report" (collectively known as the "reports"), submitted by the Louisiana Power & Light Co. have been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, and in St. Charles Parish Library, Hahnville, La. 70057. The reports are also available at the Commission on Intergovernmental Relations, Post Office Box 44316, Baton Rouge, LA 70804, and at the Secretary of the Teche District Clearinghouse, County Agent, Convent Courthouse, Convent, La. 70723.

Notice of availability of the applicant's revised environmental report was published in the FEDERAL REGISTER on July 26, 1972 (37 F.R. 14901).

The reports have been analyzed by the Commission's Directorate of Licensing, and a draft environmental statement, dated October 1972, related to the proposed issuance of a construction license for the Waterford Steam Electric Generating Station Unit No. 3, located on the company site on the west bank of the Mississippi River near the town of Taft in St. Charles Parish, about 20 miles west of New Orleans, La., has been prepared and is available for public inspection at the locations designated above. Copies of the Commission's Draft Environmental Statement may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within forty-five (45) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report and supplements, on the draft environmental statement, and on the proposed action. Federal and State agencies are being provided with copies of the draft environmental statement (local agencies may obtain this document on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above designated locations. Comments on the draft-environmental statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 25th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18490 Filed 10-30-72;8:48 am]

[Docket No. 50-16]

POWER REACTOR DEVELOPMENT CO.

Postponement of Prehearing Conference

In the matter of Power Reactor Development Co. (Enrice Fermi Atomic Powerplant No. 1).

By notice dated October 18, 1972 (37 F.R. 22637), this Board set a prehearing conference in the instant proceeding for October 31, 1972.

By motion dated October 21, 1972, Power Reactor Development Co. moved to disqualify one of the members of this Atomic Safety and Licensing Board.

Pending the resolution of this matter, *It is ordered*, That the earlier noticed prehearing conference in this proceeding be, and it hereby is, postponed until further notice.

For the Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 27th day of October 1972.

CHARLES A. HASKINS,
Chairman.

[FR Doc.72-18635 Filed 10-30-72;8:55 am]

[Dockets Nos. 50-272, 50-311]

PUBLIC SERVICE ELECTRIC & GAS CO.

Notice of Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969, and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a document entitled "Draft Environmental Statement by the Directorate of Licensing, U.S. Atomic Energy Commission, Related to the Salem Nuclear Generating Station Units 1 and 2, Public Service Electric & Gas Co., Dockets Nos. 50-272 and 50-311," is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room at 1717 H Street NW., Washington, DC 20545, and at the Salem Free Public Library, 112 West Broadway, Salem, NJ 08079. The report is also being made available at the Division of State and Regional Planning, Department of Community Affairs, Post Office Box 1978, Trenton, NJ 08625, and at the Wilmington Metropolitan Area Planning and Coordinating Council, 4613 Robert Kirkwood Highway, Wilmington, DE 19808. Copies of the Commission's Draft Environmental Statement may be obtained upon request from the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Applicant's Environmental Report, Supplemental Environmental Report, and amendments thereto are also available for public inspection at the above-named locations. The notice of availability of the Environmental Report and Supplemental Environmental Report was published in the FEDERAL REGISTER on December 28, 1971 (36 F.R. 25057).

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the proposed actions, Applicant's Environmental Report, Supplemental Environmental Report, and amendments thereto, and the Draft Environmental Statement. Federal and State agencies are being provided with copies of these reports and the Draft Environmental Statement (local agencies may obtain these documents upon request) and, when any comments thereon by Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 25th day of October 1972.

For the Atomic Energy Commission.

DANIEL R. MULLER,
Assistant Director for Environmental Projects, Directorate of Licensing.

[FR Doc.72-18536 Filed 10-30-72;8:52 am]

[Dockets Nos. 50-390 and 50-391]

TENNESSEE VALLEY AUTHORITY

Establishment of Atomic Safety and Licensing Board

On September 27, 1972, the Commission published in the FEDERAL REGISTER (37 F.R. 20191), a notice of hearing to consider the applications filed by the Tennessee Valley Authority for construction permits for the Watts Bar Nuclear Plant, Units 1 and 2. The notice indicated that the Safety and Licensing Board for this proceeding would be designated at a later date, and that notice of its membership would be published in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the regulations of Title 10, Code of Federal Regulations, Part 2 (rules of practice) and the notice of hearing referred to above, notice is hereby given that the Safety and Licensing Board in this proceeding will consist of Mr. Lester Kornblith, Jr., Dr. Gerard A. Rohlich, and Elizabeth S. Bowers, Esq., Chairman. Dr. Frederick P. Cowan has been designated as a technically qualified alternate and Thomas W. Reilly, Esq., has been designated as an alternate qualified in the conduct of administrative proceedings.

The positions and mailing addresses of the Board members are as follows:

1. Elizabeth S. Bowers, Esq., Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

2. Mr. Lester Kornblith, Jr., a technical member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

3. Dr. Gerald A. Rohlich, Professor of Environmental Engineering, Department of Civil Engineering, University of Texas, Austin, Tex. 78712.

4. Thomas W. Reilly, Esq., Alternate Chairman, an attorney member of the Atomic Safety and Licensing Board Panel, U.S. Atomic Energy Commission, Washington, D.C. 20545.

5. Dr. Frederick P. Cowan, technical alternate, retired, formerly head of the Health Physics Division, Brookhaven National Laboratory. present mailing address—22 Livingston Road, Bellport, NY 11713.

As provided in the notice of hearing, the date and place of a prehearing conference and of a hearing will be scheduled by the Board and will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 27th day of October 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-18636 Filed 10-30-72;8:55 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23140]

DOMESTIC TRUNKLINE AND LOCAL SERVICE CARRIERS

Notice of Oral Argument Regarding Reasonableness of Fares

Reasonableness of passenger fares charged by domestic trunkline and local service carriers from October 1, 1969, through October 14, 1970.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on November 15, 1972, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 25, 1972.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.72-18548 Filed 10-30-72;8:48 am]

[Docket No. 21950; Order 72-10-85]

UNITED AIR LINES, INC.

Order Authorizing Air Carrier Discussions Concerning Chicago Midway Airport

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of October 1972.

By petition filed September 22, 1972, United Air Lines, Inc. (United) seeks the issuance of a Board order authorizing the reopening of discussions previously held regarding expansion of service to Chicago Midway Airport among air carriers presently serving Midway and Chicago-O'Hare International Airport. Answers in support of this petition have been received from American Airlines, Inc. (American), Frontier Airlines, Inc. (Frontier), Eastern Air Lines, Inc. (Eastern), and Southern Airways, Inc. (Southern).

Discussions on this topic were begun 2 years ago pursuant to Order 70-4-40, April 8, 1970. That order authorized discussions on Midway service expansion, but limited active participation in them to those carriers then serving Chicago through O'Hare (although carriers serving Midway but not O'Hare were permitted to be observers at the discussions), and limited the discussions to flights then serving O'Hare which were to be transferred to Midway. The Board stated then that the transfer of a significant number of flights from O'Hare to Midway appeared to be in the public interest, in that it would increase the convenience of a significant portion of the air traveling public in Chicago, and it might also alleviate the overcrowding at O'Hare. Since it seemed that these goals would not be accomplished absent concerted carrier action, discussions towards establishment of a minimum level of service at Midway were permitted, with normal competitive factors expected to impel further increases beyond this minimum level. These earlier talks resulted in an agreement whereby the O'Hare carriers shifted enough of their flights to Midway to bring the number of daily departures there from 38 to 83 in September 1970.[1]

United notes, however, that the Board, while approving this agreement, did not view this level of service as a satisfactory resolution of the problem, and consequently twice extended the authority for discussions.[2] However, no further agreement was filed with the Board.

[1] Agreement CAB 21839.
[2] Order 70-7-123, July 7, 1970; Order 70-10-94, October 20, 1970.

V37-210 OCT 31 72 XUM

United now states that as a minimum level of connecting flight schedules was not achieved, and because of adverse economic conditions in the industry during the interval, the level of service at Midway today is lower than that agreed upon 2 years ago. It contends that a reopening of intercarrier discussions is needed if Midway is to become economically viable. The city of Chicago needs adequate air travel facilities, and with O'Hare congested and plans for a third airport in Chicago dormant, Midway's potential should be developed. Carrier representatives and the mayor of Chicago agreed on this goal at meetings this summer, and supported the premise that it would not be achieved through unilateral carrier action, and that reopening of discussions among the carriers serving Chicago might be productive and yield an increase in flights serving Midway. Most carriers recognize that a new Chicago airport is years away and are willing to consider expanded service at Midway. Also, economic conditions now are more favorable than when the previous discussions were held.

For these reasons, United petitions the Board for authority to reopen discussions regarding an industry approach to service expansion at Midway.

In addition to the authority granted in Order 70-4-40, United asks that all Chicago carriers, including those serving only through Midway, be allowed to participate, and that all carriers serving Midway be allowed to disclose detailed traffic information regarding Midway so that carriers can make valid judgments regarding connecting schedule construction to meet the public convenience and the economic needs of the carriers. The petition asks that this expanded authority include discussions that can produce a workable interconnecting flight system for Midway, and not be confined to the transfer of present O'Hare flights.

American emphasizes that if service to Midway is to be extended, it is necessary for the carriers to exchange traffic information and to plan sensible service patterns.

Frontier believes that all carriers should be allowed to serve both of Chicago's airports because three small carriers now bear a disproportionate share of the schedules necessary to revitalize Midway. Since lack of adequate schedules at Midway is the principal reason for Frontier's suspension of one of its operations, and since the three carriers serving Chicago only through Midway have the greatest stake in seeing that airport achieve a competitive status by increased schedules and consequent passenger acceptance, Frontier feels that it, Southern, and Piedmont Aviation, Inc. should be active participants in Midway service expansion discussions.

Eastern states that Chicago's problems dictate joint carrier solution, with maximum freedom to discuss all relevant matters. Specifically, it requests that the carriers be permitted to disclose traffic data at both Midway and O'Hare, including connecting passenger information, and to discuss other services at Midway besides the transfer of flights from O'Hare, since such services may be able to contribute to the attainment of the overall goal.

Southern favors an increase in other carriers' flights to Midway as this will improve service to the public by increasing interline connecting possibilities with Southern's Midway flights.

We shall grant the petition.

The situation which occasioned our previous decision to allow discussions concerning Midway would appear still to obtain. O'Hare faces overcrowding while Midway is woefully underutilized. The number of daily departures from Midway so far this year is smaller than last year, and has declined in recent months to a lower level—56—than any time since the previous discussions were held. At the same time, the level of daily departures from O'Hare this year exceeds last year's, and has shown no decline corresponding with that at Midway. It would thus appear that if the level of service at Midway is left to individual carrier action there may not be any increase in the level of Midway service, a situation which is unacceptable.

In our view, the goal of increased Midway service is dependent upon a larger number and more systematic pattern of connecting flights available there, and in the absence of such a pattern we conclude that joint carrier action is necessary to produce one. Once established, we would expect normal competitive factors to impel voluntary additions of service beyond the minimum level established through the discussions approved herein.

Because the problem of desultory service at Midway persists, and indeed may have grown more acute, we shall allow the discussions to take on greater depth than previously. Thus, while in Order 70-4-40 we limited the subject matter to the transfer of flights from O'Hare to Midway, the inadequacy of the resulting pattern at Midway speaks for a more effective approach. Essentially, the goal is not necessarily to trade an increase in Midway service for a corresponding decrease in O'Hare service. The primary goal is to have a self-sustaining comprehensive pattern of service through Midway which of its own force may relieve the pressure on O'Hare. In short, while we anticipate that in plotting out a workable pattern for Midway the carriers may find it economically feasible to shift O'Hare flights to Midway, we shall not limit their consideration of Midway's needs to just such transfers. Rather, we will allow the discussions to contemplate a "cleanslate" construction of a Midway pattern, for which the carriers are permitted to disclose traffic data regarding operations at both Midway and O'Hare including connecting passenger information. This will assist in the fashioning of a comprehensive service pattern at Midway, and in so doing, will assist in determining to what extent traffic involving O'Hare can be directed to Midway. Correspondingly, participation in the discussions will be open to every certificated scheduled air carrier authorized by certificate or exemption to serve Chicago.

On the other hand, since scheduling practices are an important competitive factor in the air-carrier industry, and since the extraordinary need which justifies depature from the normal requirement of individual carrier action is only to establish a minimum level of service at Midway, we will not authorize discussions of, nor would we approve, any agreement or understanding which would preclude or limit service at Midway, or any other airport at Chicago or elsewhere.

Accordingly, it is ordered, That:

1. The petition of United Air Lines, Inc. for authority to reopen discussions in Docket 21950 is granted, subject to the following conditions:

(a) Participation in the discussions shall be open to all scheduled air carriers authorized to serve Chicago;

(b) Grant of the petition shall not be construed as authorizing discussions of rates, fares, charges, or of inflight and other services offered in connection with air transportation: *Provided,* That the discussions may extend to matters specifically authorized in the body of this order, supra;

(c) Grant of the petition shall not be construed as authorizing discussion of any limitation upon services which may be offered at Midway or any other airport at Chicago or elsewhere;

(d) The Civil Aeronautics Board, the mayor of the city of Chicago, representatives of the Department of Aviation of the city of Chicago and the Chicago Association of Commerce and Industry, and representatives of any other Government agency or person expressing an interest, shall be invited to attend the discussions as observers;[1]

(e) Discussions shall be held in Washington, D.C., or Chicago, Ill., and a notice of each meeting shall be served on all parties eligible to participate therein, and on those persons named in (d) above, at least 7 calendar days prior to such meeting;

(f) The air carriers participating in the discussions shall file with the Board a transcript thereof within 14 days after the close of each meeting; copies of such transcript shall be made available promptly for purchase by the parties to the discussions and those persons named in (d) above;

(g) Any agreement reached as a result of the discussions authorized herein shall be filed with the Board for approval under section 412 of the Federal Aviation Act, and a copy thereof shall be served on the parties to the discussions and on those persons named in (d) above;

(h) The relief granted herein shall expire 180 days after the date of this order;

[1] It is contemplated that John W. Dregge shall be the Board's representative to the discussions as an observer.

2. Copies of this order shall be served on all air carriers authorized to serve the city of Chicago, the mayor of the city of Chicago, the United States Departments of Transportation and Justice, the Federal Aviation Administration, the U.S. Postal Service, and the Bureau of Customs;

3. The authority granted herein may be revoked or modified at any time by the Board, without notice or hearing; and

4. To the extent not granted herein, all outstanding requests for relief in this Docket be and they hereby are dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.72-18549 Filed 10-30-72;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19515, etc.; FCC 72-916]

CALIFORNIA STEREO, INC., ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of California Stereo, Inc., Sacramento, Calif., Docket No. 19515, File No. BPH-7668, requests Channel 293, 50 kW (H and V), 420 feet; Intercast, Inc., Sacramento, Calif., Docket No. 19516, File No. BPH-7669, requests Channel 293, 50 kW. (H & V), 420 feet; Edward Royce Stolz, II, trading as Royce International Broadcasting, Sacramento, Calif., Docket No. 19611, File No. BPH-7924, requests Channel 293, 50 kW. (H & V), 120 feet; for construction permits.

1. Now under consideration are the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. By order adopted May 31, 1972, the Chief, Broadcast Bureau, acting pursuant to delegated authority, designated for comparative hearing the applications of California Stereo, Inc., and Intercast, Inc. Both applicants were found qualified to construct and operate as proposed, and only a standard comparative issue was specified. The application of Mr. Stolz was tendered for filing on May 30, 1972, the day preceding the date on which the prior applications were designated for hearing.

3. The aforementioned order stated that Intercast, Inc., proposes a "black-oriented programing format" for its service area. Both California Stereo, Inc., and Mr. Stolz are proposing predominantly general market programing. Inasmuch as a comparison of programing proposals is warranted when one applicant proposes predominantly specialized programing and other applicants propose general market programing, this aspect of the applicants' programing proposals will be considered under the standard comparative issue. "Ward L. Jones," 6 FCC 2d 906; FCC 67-82 (1967); "Policy Statement on Comparative Broadcast Hearings," FCC 2d 393, footnote 9, at 397 (1965).

4. Intercast, Inc., and California Stereo, Inc., are proposing to operate with the same facilities (50 kw. (H & V); 420 feet) and from the same transmitter site. Mr. Stolz proposes to operate from a different transmitter site and with his antenna at a lesser height above average terrain (50 kw. (H & V); 120 feet). Data submitted by the applicants indicate that there would be a significant disparity between the Stolz proposal and that of the other applicants in the size of the areas and populations which would receive service. Mr. Stolz indicates that he proposes to serve a considerably smaller area than the other applicants, but that the population contained therein is greater. Thus, for the purpose of comparison, the areas and populations which would receive FM service of 1 mv/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue.

5. In our Primer on the ascertainment of community problems by broadcast applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971), we indicated that applicants are required to determine the composition of the city of license so as to apprise the Commission and the applicant of the significant groups found there. See Questions and Answers 4 and 9 of the Primer. In order to determine whether the applicant has met this requirement, a showing must be submitted that contains "* * * such data as is necessary to indicate the minority, racial or ethnic breakdown of the community, its economic activities, governmental activities, public service organizations, and any other factors or activities that make the particular community distinctive." (Answer 9.) Mr. Stolz has not submitted such a showing. In addition, it is not clear whether Mr. Stolz or proposed management-level employees consulted with community leaders (Question and Answer 11(a)), whether direct, personal consultations were held in all instances (Question and Answer 17) and whether the consultations were designed to elicit comments on community problems, rather than programing needs (Question and Answer 19). In addition, the positions of individuals consulted who are associated with certain organizations and groups are not shown (Question and Answer 20). It further appears that only 15 members of the general public were contacted, and it cannot be determined from the information provided whether a random sample was selected (Answer 11(b); Question and Answer 13(b); Question and Answer 14). Finally, an applicant is expected to indicate what broadcast matter is being proposed to meet community problems. The showing should include "* * * the description, and anticipated time segment, duration and frequency of broadcast of the program or program series, and the community problem or problems which are to be treated by it." Answer 29 of the Primer. Mr. Stolz has not submitted sufficient information to meet this requirement. Accordingly, a programing issue will be specified.

6. California Stereo, Inc., and Intercast, Inc., are qualified to construct, own, and operate the proposed new FM facility and, except as indicated by the issue set forth below, Mr. Stolz is qualified to construct, own, and operate the proposed new FM facility. The applications are, however, mutually exclusive and the Commission is thus unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity. Accordingly, they must be designated for hearing in a consolidated proceeding on the issues set forth below.

7. *It is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing in a consolidated proceeding in Docket Nos. 19515 and 19516, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine with respect to the application of Edward Royce Stolz, II, trading as Royce International Broadcasting, the efforts made by the applicant to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

8. *It is further ordered,* That, the specification of issues herein shall supersede the specification of issues in the order by the Chief, Broadcast Bureau, adopted May 31, 1972, in this proceeding.

9. *It is further ordered,* That, Edward Royce Stolz, II, trading as Royce International Broadcasting shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of the rules.

10. *It is further ordered,* That, Edward Royce Stolz, II, trading as Royce International Broadcasting shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: October 12, 1972.

Released: October 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-18534 Filed 10-30-72;8:52 am]

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[Report No. 619]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 24, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2542–C2–P–73—Colgan Communications, Inc. (KLF585), for additional facilities to operate on 152.150 MHz at a new site described as location No. 2: Copicut Hill, Fall River, Mass.

2543–C2–P–73—Bruce Graham (KLB689), for additional facilities to operate on 152.180 MHz at a new site described as location No. 2: 6 miles south of Canadian, Tex.

2544–C2–P–73—Owen W. Hand (New), for a new two-way station to be located at Avalon Boulevard, Swainton, NJ, to operate on 152.180 MHz.

2545–C2–P–73—Mobilfone (KRS660), for additional facilities to operate on 158.700 MHz at a new site described as location No. 2: 901 North Elgin, Tulsa, OK.

2546–C2–P–(4)–73—New Orleans Mobilfone (KLB759), for additional facilities to operate on 152.030, 152.090, 152.150, and 152.210 MHz at location No. 2: 109 West Cazezu Land, Bureas, LA.

2548–C2–P–73—LaVergne's Telephone Answering Service (KFL865), for additional facilities to operate on 152.210 MHz at 4.5 miles northeast of Alexandria, La.

2549–C2–P–73—Electrocom Corp. (KCB891), for additional facilities to operate on 35.58 MHz at a new site described as location No. 2: Asnebumskit Hill, Paxton, Mass.

2605–C2–TC–73—Clifton Telephone Co., Inc. Consent to transfer of control from J. W. Blewett, Jr., Transferor, to: Mid-Texas Communications Systems, Inc., Transferee. Station: KLB579 Clifton, Tex.

2606–C2–P–73—Pacific Telephone & Telegraph Co. (KMB302), replace transmitter operating on 152.630 MHz on 763 State Street, El Centro, Calif.

2607–C2–P–73—Peninsula Radio Secretarial Service, Inc. (KMA608), for additional facilities to operate on 454.225 MHz at location No. 2: Near the intersection of Lincoln and Newlands Avenue, San Mateo, Calif.

2608–C2–P–(3)–73—Worland Services (KOP254), relocate control facilities operating on 158.550 MHz at location No. 3 to: 112 North Eighth Street, Thermopolis, Wyo.; replace transmitter operating on 459.050 MHz (repeater) at location No. 4: 20 miles northeast of Greybull, Medicine Mountain, Wyo., and replace the control transmitter operating on 454.050 MHz at location No. 5: Billings Municipal Airport Hanger 13 and 14, Billings, Mont.

2615–C2–P–73—Illinois Bell Telephone Co. (KSJ772), correct the geographic coordinates to read: Latitude 40°46'03" N., longitude 87°48'22" W., at 3 miles west of Watseka, Ill. Base frequency: 152.630 MHz.

2616–C2–P–73—Cahill Answering Services, Inc. (KQK731), replace the transmitter operating on 152.180 MHz at 203 South Capitol Avenue, Lansing, MI.

2617–C2–P–73—Imperial Communications Corp. (KLF644), change the antenna system operating on 152.240 MHz at Mount Woodson, Calif., location No. 3.

2619–C2–P–73—Telepage Corp. (New), for a new two-way station to be located at 980 Wilmington Pike, Dayton, OH to operate on 454.300 MHz.

2628–C2–AP–73—Telephone Answering Service of Hyannis, consent to assignment of construction permit from Gene and Eleanor Brown, doing business as Telephone Answering Service of Hyannis, individually as a partner in the permittee and as Executrix of the Estate of Eugene Brown, Assignor, to Colgan Communications, Inc. Station: KRS669 Yarmouth, Mass.

2643–C2–P–(2)–73—Maureen L. Smith (New), for a new two-way station to be located at 606 West Wisconsin Avenue, Milwaukee, WI, to operate on 454.150 and 454.350 MHz.

2644–C2–P–73—Radio Telephone of Mississippi, Inc. (New), for a new two-way station to be located at 740 East Edwards Avenue, Tunica, MS, to operate on 152.060 MHz.

2662–C2–TC–(18)–73—Airsignal International, Inc., consent to transfer of control from Western Union International, Inc., Transferor, to: WUI, Inc., Transferee. Stations: KIE953, KIF650, KRS687, KFL895, KIF651, KKG411, KKG561, KKE964, KAF245, KIF653, KAH661, KAA285, KSV991, KOA796, KIJ358, KIQ511, and KGC591 located in various States.

2663–C2–TC–(6)–73—Airsignal of California, Inc., same as above except, Stations: KMA267, KLF648, KMA219, KMA742, KMA261, and KQZ798 located in California.

2664–C2–TC–73—Airsignal International of Pittsburgh, Pa., same except, Station: KGA805 Pittsburgh, Pa.

2665–C2–TC–(2)–73—Mobile Radio Telephone Service, Inc., same except, Stations: KAA276 and KAQ606, Denver, Colo.

2666–C2–TC–(7)–73—National Communications System, Inc., same except, Stations: KMM703, KMM706, KMM704, KRM981, KMM705, KRM982, and KJU808 all located in California.

RURAL RADIO SERVICE

1509–C1–P–73—RCA Alaska Communications, Inc. (New), for a new central office fixed station to be located at White Alice Station, 340 miles west-southwest of Kodiak, Port Moller WACS, Alaska, to operate on 152.570 MHz.

1510–C1–P–73—Same as above except for a rural subscriber station to be located at Nelson Lagoon Village, 355 miles west-southwest of Kodiak, Alaska, to operate on 157.83 MHz.

2645–C1–P/L–73—Uintah Basin Telephone Assoc. (New), for temp-fixed facilities to operate on 158.070 and 157.920 MHz with (20) units in any temp-fixed location within the territory of the grantee.

2646–C1–P–73—RCA Alaska Communications, Inc. (New), for a new rural subscriber station to be located at English Bay Village, 23 miles south-southwest of Homer, Alaska, to operate on 157.83 and 157.92 MHz.

2649–C1–P–73—Same (WGF41), change frequency to 157.77 MHz, replace transmitter for same and change the antenna system at Point Hope, Alaska.

2650–C1–P–73—Same (WGF72), same as above except change frequency to 152.51 MHz at Cape Lisbourne, Alaska.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

2567–C1–P–73—Same (WJL30), 0.5 mile southeast of Cambridge, Minn. Latitude 45°33'31" N., longitude 93°12'34" W. C.P. to add frequency 3730V MHz toward Zimmerman, Minn.; frequency 3730V MHz toward Wyoming, Minn.

2568–C1–P–73—Same (KAK48), 2 miles northeast of Wyoming, Minn. Latitude 45°21'54" N., longitude 92°59'26" W. C.P. to add frequency 3770V MHz toward Cambridge, Minn.; frequency 3930H MHz toward Hudson, Wis.

2569–C1–P–73—Same (KSI28), 5.5 miles southeast of Hudson, Wis. Latitude 44°58'29" N., longitude 92°39'33" W. C.P. to add frequency 3890H MHz toward Wyoming, Minn.; frequency 3910H MHz toward Red Wing, Minn.

2570–C1–P–73—Same (KAH87), 3.5 miles south of Red Wing, Minn. Latitude 44°30'46" N., longitude 92°31'11" W. C.P. to add frequency 3870H MHz toward Hudson, Wis.

2571–C1–P–73—Same (KLN72), 7 miles northeast of Forrest City, Ark. Latitude 35°05'34" N., longitude 90°43'06" W. C.P. to add frequencies 3770H, 4030V, and 4110V MHz toward Brickeys, Ark.

2572–C1–P–73—Same (WAY57), 5.2 miles southeast of Brickeys, Ark. Latitude 34°47'32" N., longitude 90°32'54" W. C.P. to add frequencies 3990V, 4070V, and 4150V MHz toward Forest City, Ark.; frequencies 3730V, 4070H, and 4150H MHz toward Arkabutla, Miss.

2573–C1–P–73—Same (KTG40), 1 mile southwest of Arkabutla, Miss. Latitude 34°41'08" N., longitude 90°08'18" W. C.P. to add frequencies 3950H, 4030H, and 4110H MHz toward Brickeys, Ark.

2574–C1–P–73—American Telephone & Telegraph Co. (WAD59), 819 Southwest Oak Street, Portland, OR. Latitude 45°31'22" N., longitude 122°40'42" W. C.P. to add frequency 3770H MHz toward Boring, Oreg.

2575–C1–P–73—Same (WAD58), 1.6 miles north-northwest of Boring, Oreg. Latitude 45°-27'01" N., longitude 122°23'39" W. C.P. to add frequency 3730H MHz toward Portland, Oreg.; frequency 3730H MHz toward Mt. Hood, Oreg.

2576–C1–P–73—Same (WAD57), 3 miles northeast of Government Camp, Oreg. Latitude 45°-19'59" N., longitude 121°42'44" W. C.P. to add frequency 3770H MHz toward Boring, Oreg.; frequency 3770H MHz toward Pine Grove, Oreg.

2577–C1–P–73—Same (WAD56), 7 miles west-southwest of Waplnitia, Oreg. Latitude 45°-05'14" N., longitude 121°23'57" W. C.P. to add frequency 3730H MHz toward Mt. Hood, Oreg.; frequency 3730H MHz toward Maupin, Oreg.

2578–C1–P–73—Same (WAD54), 9.7 miles south-southeast of Maupin, Oreg. Latitude 45°-02'54" N., longitude 121°00'22" W. C.P. to add frequency 3770H MHz toward Pine Grove, Oreg.

2579–C1–P–73—Same (KPE97), 619 Bannock Street, Boise, ID. Latitude 43°36'57" N., longitude 116°11'59" W. C.P. to add frequency 3710H MHz toward Boise Junction, Idaho.

2580–C1–P–73—Same (KPE98), 9 miles southeast of Boise, Idaho. Latitude 43°29'20" N., longitude 116°01'36" W. C.P. to add frequency 3750H MHz toward Boise, Idaho.

2581–C1–P–73—Same (KOV44), 6.5 miles southeast of Billings, Mont. Latitude 45°43'44" N., longitude 108°23'43" W. C.P. to add frequency 3790H MHz toward Pompey's Pillar, Mont.

2582–C1–P–73—Same (KOY60), 3 miles north of Pompey's Pillar, Mont. Latitude 46°01'57" N., longitude 107°58'20" W. C.P. to add frequency 3830H MHz toward Billings Junction, Mont.; frequency 3830H MHz toward Bighorn, Mont.

2583–C1–P–73—Same (KOY59), 6 miles northeast of Bighorn, Mont. Latitude 46°11'58" N., longitude 107°20'05" W. C.P. to add frequency 3790H MHz toward Pompey's Pillar, Mont.; frequency 3790H MHz toward Forsyth, Mont.

2584–C1–P–73—Same (KOY58), 5.5 miles north of Forsyth, Mont. Latitude 46°20'24" N., longitude 106°41'50" W. C.P. to add frequency 3830H MHz toward Bighorn, Mont.; frequency 3830H MHz toward Hathaway, Mont.

2585–C1–P–73—Same (KOY57), 2 miles east-northeast of Hathaway, Mont. Latitude 46°16'54" N., longitude 106°08'38" W. C.P. to add frequency 3790H MHz toward Forsyth, Mont.; frequency 3790H MHz toward Miles City, Mont.

2586–C1–P–73—Same (KOY56), 10 miles northeast of Miles City, Mont. Latitude 46°29'26" N., longitude 105°38'47" W. C.P. to add frequency 3830H MHz toward Hathaway, Mont.; frequency 3830H MHz toward Fallon, Mont.

RURAL RADIO SERVICE—continued

2662–C1–TC–73—Airsignal International, Inc., consent to transfer of control from Western Union International, Inc., transferor, to: WUI, Inc., transferee. Station: KJA96 temporarily fixed.

POINT-TO-POINT MICROWAVE RADIO SERVICE

2550–C1–P–73—American Telephone & Telegraph Co. (KSB74), 2 miles north-northwest of Highland, Ill. Latitude 38°45'45" N., longitude 89°41'30" W. C.P. to add frequencies 6226.9H, 6286.2H, and 6404.8H MHz toward Collinsville, Ill.

2551–C1–P–73—Same (New), 203 Goethe Avenue, Collinsville, Ill. Latitude 38°40'11" N., longitude 89°59'27" W. C.P. for a new station on frequencies 5974.8H, 6034.2H, and 6152.8H MHz toward Highland, Ill.

2552–C1–MP–73—The Pacific Telephone & Telegraph Co. (KMQ36), 1587 Franklin Street, Oakland, CA. Latitude 37°48'22" N., longitude 122°16'05" W. Modification of C.P. to change type of transmitter and associated emission designator on frequency 6226.0H MHz toward San Francisco, Calif.

2553–C1–MP–73—Same (KNB53), 99 Moultrie Street, San Francisco, CA. Latitude 37°44'36" N., longitude 122°24'51" W. Modification of C.P. to change type of transmitter and associated emission designator on frequency 5974.8V MHz toward Oakland, Calif.

2554–C1–P–73—American Telephone & Telegraph Co. (KRR69), 70 South State Street, Salt Lake City, UT. Latitude 40°46'09" N., longitude 111°53'16" W. C.P. to add frequency 11505H MHz toward Salt Lake City Junction, Utah.

2555–C1–P–73—Same (KOD26), 3100 Kennedy Drive, Salt Lake City Junction, UT. Latitude 40°45'00" N., longitude 111°48'03" W. C.P. to add frequency 11095H MHz toward Salt Lake City, Utah.

2556–C1–P–73—Same (KAC61), 8 miles west of Bellvue, Colo. Latitude 40°37'04" N., longitude 105°19'42" W. C.P. to add frequency 3850H MHz toward Greeley, Colo.

2557–C1–P–73—Same (KAM69), 9 miles southeast of Greeley, Colo. Latitude 40°18'21" N., longitude 104°35'52" W. C.P. to add frequency 3810H MHz toward Buckhorn Mountain, Colo.; frequency 3810V MHz toward Prospect Valley, Colo.

2558–C1–P–73—Same (KAB26), 6.5 miles east of Prospect Valley, Colo. Latitude 40°04'31" N., longitude 104°17'23" W. C.P. to add frequency 3850V MHz toward Greeley, Colo.

2559–C1–P–73—The Mountain States Telephone & Telegraph Co. (KKK22), 3 miles northwest of Santa Fe, Tano, N. Mex. Latitude 35°43'20" N., longitude 105°57'36" W. C.P. to increase capacity on frequencies 6108.3H and 11325H MHz toward La Cienega, N. Mex.

2560–C1–P–73—Same (KKA72), 3.5 miles south-southwest of La Cienega, N. Mex. Latitude 35°30'51" N., longitude 106°08'30" W. C.P. to increase capacity on frequencies 6360.3V and 11155V MHz toward Bernalillo, N. Mex.; frequencies 6390.0H and 10875H MHz toward Tano, N. Mex.

2561–C1–P–73—Same (KKA65), 5.3 miles north-northwest of Bernalillo, N. Mex. Latitude 35°22'22" N., longitude 106°34'15" W. C.P. to increase capacity on frequencies 6108.3H and 11325V MHz toward Albuquerque, N. Mex.; frequencies 6137.9V and 11605V MHz toward La Cienega, N. Mex.

2562–C1–P–73—The Mountain States Telephone & Telegraph Co. (KLC49), 120 Fourth Street NW., Albuquerque, N. Mex. Latitude 35°05'06" N., longitude 106°39'08" W. C.P. to increase capacity on frequencies 6390.0H and 10875V MHz toward Bernalillo, N. Mex.

2563–C1–P–73—American Telephone & Telegraph Co. (KZA49), 2.75 miles west of Attica, N.Y. Latitude 42°51'42" N., longitude 78°20'19" W. C.P. to add frequencies 3710H and 3790H MHz toward Middleport, N.Y.

2564–C1–P–73—Same (New), 1.6 miles southwest of Middleport, N.Y. Latitude 43°11'37" N., longitude 78°30'03" W. C.P. for a new station on frequencies 4070H and 4150H MHz toward Attica, N.Y.; frequencies 3750H and 3830H MHz toward Olcott, N.Y.

2565–C1–P–73—Same (New), 1.9 miles southwest of Olcott, N.Y. Latitude 43°19'45" N., longitude 78°40'45" W. C.P. for a new station on frequencies 4030H and 4110H MHz toward Middleport, N.Y.; frequencies 3710H and 3790H MHz toward Toronto, Ontario, Canada.

2566–C1–P–73—Same (KAK78), 3 miles southeast of Zimmerman, Minn. Latitude 45°24'59" N., longitude 93°32'42" W. C.P. to add frequency 3770V MHz toward Cambridge, Minn.

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POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—Continued

2666–CI–P–73—MCI Pacific Coast, Inc. (New), Long Beach, Calif. C.P. for a new station. 110 Pine Avenue, Long Beach, CA, at latitude 33°46′06″ N., longitude 118°11′28″ W. Frequencies 11.245H and 11.645H MHz on azimuth 15°27′ toward Downey, Calif.

2639–CI–P–73—American Telephone & Telegraph Co. (New), 0.5 mile south-southeast of Palmer, Ind. Latitude 41°23′04″ N., longitude 87°14′07″ W. C.P. to add frequencies 4198H, 6034.2Y, and 6182.8Y MHz toward Pinhook, Ind.

2640–CI–P–73—Same (New). 1.4 miles east-northeast of Pinhook, Ind. Latitude 41°31′49″ N., longitude 66°49′49″ W. C.P. for a new station on frequencies 4190H, 6286.2V, and 6404.8Y MHz toward Palmer, Ind.; frequencies 4190V, 6286.2H, and 6404.8Y MHz toward Milch.

2641–CI–P–73—Same (New), 2.3 miles southeast of Galien, Mich. Latitude 41°47′05″ N., longitude 86°27′29″ W. C.P. for a new station on frequencies 4198V, 6034.2H, and 6182.8H MHz toward Pinhook, Ind.; frequencies 4198V, 6034.2H, and 6182.8H MHz toward South Bend, Ind.

2642–CI–P–73—Same (KSI52), 222 South Scott Street, South Bend, IN. Latitude 41°40′27″ N., longitude 86°16′31″ W. C.P. to add frequencies 4190V, 6286.2V, and 6404.8Y MHz toward Galien, Mich.

Major Amendments

847–CI–P–71—Western Tele-Communications, Inc. (New), station location: Mount Vaca, 8 miles northwest of Vacaville, Calif. Change radio path azimuth and point of communication to 65°39′, and Bald Mountain, respectively.

848–CI–P–71—Same (New), change station location to Bald Mountain, 3.5 miles southeast of Bladerson, Calif., at latitude 38°54′15″ N., longitude 120°42′14″ W. Correct radio path azimuth toward Mount Vaca and Ward Peak to 246°32′ and 55°3′, respectively.

849–CI–P–71—Same (New), change station location to 0.5 mile west-northwest of Sunnyside, Calif., at latitude 39°09′06″ N., longitude 120°14′51″ W. Change radio path azimuth and point of communication to 235°20′ and Bald Mountain, respectively.

853–CI–P–71—Same (New), station location: Lodon Peak, 14 miles southwest of Lonelock, Nev. Change radio path azimuth and point of communication to 85°15′ and Mount Moses, respectively.

854–CI–P–71—Same (New), change station location to Mount Moses, 20 miles southwest of Battle Mountain, Nev., at latitude 40°11′40″ N., longitude 117°24′40″ W. Change frequency to 6256.5V MHz on azimuth 266°6′ toward Lodon Peak and change radio path azimuth to 40°29′ toward Stony Point.

855–CI–P–71—Same (New), station location: 7.5 miles northeast of Battle Mountain, Nev. Change radio path azimuth and point of communication to 220°52′ and Mount Moses, respectively.

861–CI–P–71—Same (New), station location: Nelson Peak, 18 miles southwest of Salt Lake City, Utah. Change radio path azimuth toward Provo to 137°37′.

868–CI–P–71—Same (New), station location: Monarch Pass, 17 miles west of Salida, Colo. Change radio path azimuth toward Almagre Mountain to 74°38′.

870–CI–P–71—Same (New), station location: 0.85 mile southwest of Provo, Utah. Change radio path azimuth toward Nelson Peak to 317°55′.

All other particulars same as reported on public notices dated August 17, 1970, and August 26, 1970.

2445–CI–P–70—MCI Pacific Coast, Inc. (New), San Diego, Calif. Change proposed station location to 4077 Fifth Avenue, San Diego, CA, at latitude 32°45′05″, longitude 117°09′37″. Correct frequencies and azimuths to 10.775V MHz and 11.175V MHz on azimuth 364°18′ toward Del Mar, Calif. Delete Jamul, Calif., as a point of communication. Delete frequencies 6256.5H MHz and 6375.2H MHz on azimuth 96°09′.

2449–CI–P–70—Same as above (New), Sierra Peak, Calif. Change proposed station location to 4 miles west-southwest of Corona, Calif., at latitude 33°50′44″, longitude 117°38′43″. Correct frequencies and azimuths to 10.625H MHz and 11.305H MHz on azimuth 244°39′ toward Orange, Calif., and 5945.2V MHz on azimuth 68°17′ toward Edgemont. Calif. Delete Santiago Peak, west California as a point of communication. Delete frequencies 11.625V MHz and 11.305V MHz on azimuth 187°42′ and 10.895.0V MHz and 11.135.0V MHz on azimuth 60°53′.

2603–CI–P–73—Contihental Telephone Co. of California (KNZ59), 14 miles north-northeast of Barstow, Calif., latitude to replace transmitter on frequency 6330.7H MHz toward Barstow, Calif., from MW–108C to MW–108D.

2604–C1–P/ML–73—Michigan Bell Telephone Co. (KKUT3), C.P. and modification of license for term: from November 13, 1972, to November 13, 1973.

1926–CI–R–73—Michigan Bell Telephone Co. (KKUT3), application for renewal of license for transmitters 2110–2130, 2160–2180, 5925–6425, and 10700–11700.

2618–CI–ML–73—Indiana Bell Telephone Co. (KSV80), 1,100 feet west of South 23d and Mahle Streets, Anderson, Ind. Modification of license to change polarization from V to H on frequency 11.285H MHz toward Muncie, Ind.

2624–CI–P–73—MCI–New York West, Inc. (New), 2 miles south-southwest of Hershey, Pa. Latitude 40°15′05″ N., longitude 76°39′45″ W. C.P. for a new station on frequency 6974.8H MHz toward Hellam, Pa.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

2587–CI–P–73—American Telephone & Telegraph Co. (KOY55), 7.5 miles north-northwest of Fallon, Nevt. Latitude 40°55′48″ N., longitude 105°09′56″ W. C.P. to add frequency 3790H MHz toward Miles City, Mont.; frequency 3790H MHz toward Glendive Junction, Mont.

2588–CI–P–73—Same (New), 11 miles east of Glendive, Mont. Latitude 47°07′05″ N., longitude 104°28′35″ W. C.P. to add frequency 3830H MHz toward Fallon, Mont.; frequency 3830H MHz toward Sentinel Butte, N. Dak.

2589–CI–P–73—Same (KAR57), 3.5 miles south of Sentinel Butte, N. Dak. Latitude 46°52′11″ N., longitude 103°49′25″ W. C.P. to add frequency 3790H MHz toward Glendive Junction, Mont.; frequency 3790V MHz toward Fryburg, N. Dak.

2590–CI–P–73—Same (KAR58), 1.5 miles northwest of Fryburg, N. Dak. Latitude 46°53′19″ N., longitude 103°19′37″ W. C.P. to add frequency 3830V MHz toward Sentinel Butte, N. Dak.; frequency 3830V MHz toward Dickinson, N. Dak.

2591–CI–P–73—Same (KAR55), 0 miles east of Dickinson, N. Dak. Latitude 46°53′22″ N., longitude 102°39′56″ W. C.P. to add frequency 3790V MHz toward Fryburg, N. Dak.

2592–CI–P–73—Same (KSQ43), 2.7 miles west-southwest of Cassetton, N. Dak. Latitude 46°52′42″ N., longitude 97°15′26″ W. C.P. to add frequency 3830V MHz toward Walcott, N. Dak.

2593–CI–P–73—Same (KSQ42), 3.7 miles north of Walcott, N. Dak. Latitude 46°36′06″ N., longitude 96°55′42″ W. C.P. to add frequency 3170V MHz toward Casselton, N. Dak.; frequency 3790V MHz toward Rollag, Minn.

2594–CI–P–73—Same (KAK49), 3 miles southeast of Rollag, Minn. Latitude 46°42′03″ N., longitude 96°13′10″ W. C.P. to add frequency 3350V MHz toward Walcott, N. Dak.; frequency 3830H MHz toward Luce, Minn.

2595–CI–P–73—Same (KAK73), 1.5 miles southwest of Luce, Minn. Latitude 46°38′22″ N., longitude 96°40′20″ W. C.P. to add frequency 3710H MHz toward Rollag, Minn.; frequency 3790H MHz toward Sebeka, Minn.

2596–CI–P–73—Same (KAK74), 4 miles south-southwest of Sebeka, Minn. Latitude 46°34′10″ N., longitude 95°07′05″ W. C.P. to add frequency 3750H MHz toward Luce, Minn.; frequency 3830H MHz toward Motley, Minn.

2597–CI–P–73—Same (KAK75), 1 mile south of Lincoln, Minn. Latitude 46°11′37″ N., longitude 94°38′37″ W. C.P. to add frequency 3710H MHz toward Sebeka, Minn.; frequency 3790H MHz toward Little Falls, Minn.

2598–CI–P–73—Same (KAK76), 2.5 miles southwest of Little Falls, Minn. Latitude 45°56′38″ N., longitude 94°24′03″ W. C.P. to add frequency 3750H MHz toward Motley, Minn.; frequency 3830H MHz toward Gilman, Minn.

2599–CI–P–73—American Telephone & Telegraph Co. (KAK77), 3 miles northeast of Gilman, Minn. Latitude 45°46′48″ N., longitude 93°56′12″ W. C.P. to add frequency 3710H MHz toward Little Falls, Minn.; frequency 3790H MHz toward Zimmerman, Minn.

2600–CI–P–73—Same (KAK78), 3 miles southeast of Zimmerman, Minn. Latitude 45°24′69″ N., longitude 93°32′42″ W. C.P. to add frequency 3750H MHz toward Gilman, Minn.

2601–CI–P–73—Pacific Northwest Bell Telephone Co. (KYS68), Saddle Mountain, 9.5 miles northwest of Cherry Grove, Oreg. Latitude 45°32′43″ N., longitude 123°22′49″ W. C.P. to add frequency 4198V MHz toward Amity, Oreg.

2602–CI–P–73—Same (KYS70), 4.5 miles northeast of Amity, Oreg. Latitude 45°08′37″ N., longitude 123°07′44″ W. C.P. to add frequency 4190V MHz toward Saddle Mountain, Oreg.

2603–CI–P–73—Contihental Telephone Co. of California (KNZ59), 14 miles north-northeast of Barstow, Calif., latitude to replace transmitter on frequency 6330.7H MHz toward Barstow, Calif., from MW–108C to MW–108D.

2604–C1–P/ML–73—Michigan Bell Telephone Co. (KKUT3), C.P. and modification of license for term: from November 13, 1972, to November 13, 1973.

1926–CI–R–73—Michigan Bell Telephone Co. (KKUT3), application for renewal of license to add transmitters 2110–2130, 2160–2180, 5925–6425, and 10700–11700.

2618–CI–ML–73—Indiana Bell Telephone Co. (KSV80), 1,100 feet west of South 23d and Mahle Streets, Anderson, Ind. Modification of license to change polarization from V to H on frequency 11.285H MHz toward Muncie, Ind.

2624–CI–P–73—MCI–New York West, Inc. (New), 2 miles south-southwest of Hershey, Pa. Latitude 40°15′05″ N., longitude 76°39′45″ W. C.P. for a new station on frequency 6974.8H MHz toward Hellam, Pa.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

2637–CI–P–73—Southern Bell Telephone & Telegraph Co. (KJG88), 75 Northeast Civic Court, Homestead, FL. Latitude 25°28′22″ N., longitude 80°28′30″ W. C.P. to change antenna system, replace transmitter and correct longitude and azimuth on frequency 6390.0Y MHz toward North Key Largo, Fla.

2638–CI–P–73—Same (KVH52), on North Key Largo, approximately 15.1 miles southeast of Florida City, Fla. Latitude 25°18′43″ N., longitude 80°17′05″ W. C.P. to change frequency from 5952.6V MHz to 6131.9V MHz toward Homestead, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE: (TELEPHONE CARRIERS)

Information: Applicant, MCI Pacific Coast, Inc., has filed two new applications for La Crescenta, and Idria, Calif. Frequencies and points of communication have been deleted from applications, File Nos. 2458–CI–P–70 and 6741–CI–P–72 for these same two stations.

Application 2458–CI–P–70 was filed on November 3, 1969, and appeared on Public Notice November 10, 1969, FCC Report No. 465. Subsequent amendments appeared on Public Notice February 16, 1971, and April 3, 1972, FCC Report Nos. 531 and 590 respectively.

Application 6741–CI–P–72 was filed on March 15, 1972, and appeared on Public Notice April 3, 1972, FCC Report No. 590.

In addition to the above, MCI Pacific Coast, Inc., has filed four new applications in the State of California. These applications are to compliance with the new engineering standards set forth in the Commission's First Report and Order in Docket No. 18920, effective July 16, 1971, and Informative guidelines published regarding Frequency Coordination Report No. 562, Common Carrier Services Information released September 20, 1971.

2651–CI–P–73—MCI Pacific Coast, Inc. (New), La Crescenta, Calif. C.P. for a new station 5.3 miles north to La Crescenta, Calif., at latitude 34°16′08″, longitude 118°14′11″, Frequencies 10,975.0H and 11,055.0H MHz on azimuth 264°22′ toward Sepulveda, Calif.

2652–CI–P–73—Same as above (New), Idria, Calif. C.P. for a new station 3.8 miles southsoutheast of Idria, Calif., at latitude 36°22′04″, longitude 120°38′31″. Frequency 3710.0H MHz on azimuth 30°02′ toward Mendota, Calif.

2653–CI–P–73—Same as above (New), Tait, Calif. C.P. for a new station 5.0 miles southwest of Tait, Calif., at latitude 35°05′08″, longitude 119°32′08″. Frequencies 3770.0H MHz on azimuth 69°02′ toward Conner, Calif., and 4010.0H MHz on azimuth 277°14′ toward Oakland, Calif.

2654–CI–P–73—Same as above (New), Cuyama, Calif. C.P. for a new station 15.2 miles northwest of Cuyama, Calif., at latitude 35°07′10″, longitude 119°51′54″. Frequencies 3970.0H MHz on azimuth 97°02′ toward Tait, Calif., and 3730.0H MHz on azimuth 341°23′ toward Cedar Canyon Park, Calif.

2655–CI–P–73—Same as above (New), Sunol, Calif. C.P. for a new station 2.9 miles northeast of Fremont, Calif., at 37°37′12″, longitude 121°55′16″. Frequencies 6226.9V MHz on azimuth 78°01′ toward Midway, Calif., and 6228.9H MHz on azimuth 307°10′ toward Oakland, Calif.

2657–CI–P–73—MCI Pacific Coast, Inc. (New), Del Mar, Calif. C.P. for a new station at 9888 Genesee Avenue, La Jolla, CA, at latitude 32°56′30″, longitude 117°10′53″. Frequencies 11,665.0V MHz and 11,265.0V MHz on azimuth 174°18′ toward San Diego, Calif., and 6226.9V MHz on azimuth 337°34′ toward Carlsbad, Calif.

2658–CI–P–73—Same as above (New), Carlsbad, Calif. C.P. for a new station 2 miles northeast of Carlsbad, Calif., at latitude 33°10′19″, longitude 117°17′40″. Frequencies 6034.2Y MHz on azimuth 342°55′ toward De Luz, Calif., and 5974.8Y MHz on azimuth 157°30′ toward Del Mar, Calif.

2659–CI–P–73—Same as above (New), De Luz, Calif. C.P. for a new station 4.2 miles west of De Luz, Calif., at latitude 33°26′17″, longitude 117°23′31″. Frequencies 6226.9V MHz on azimuth 295°4′ toward Newport, Calif., and 6226.9V MHz on azimuth 162°52′ toward Carlsbad, Calif.

2660–CI–P–73—Same as above (New), Newport, Calif. C.P. for a new station 5 miles east of Newport Beach, Calif., at latitude 33°36′19″, longitude 117°48′33″. Frequencies 5974.8Y MHz on azimuth 115°27′ toward De Luz, Calif., and 11,625.0H MHz and 11,305.0H MHz on azimuth 32°04′ toward Orange, Calif.

2661–CI–P–73—Same as above (New), Orange, Calif. C.P. for a new station at 2700 North Main Street, Santa Ana, Calif., at latitude 33°45′26″, longitude 117°52′05″. Frequencies 6226.9V MHz on azimuth 310°00′ toward Downey, Calif., 10,815.0V MHz and 11,135.0V MHz on azimuth 162°02′ toward Newport, Calif., and 10,735.0H MHz and 11,135.0H MHz on azimuth 64°32′ toward Sierra Peak, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

2650–CI–P–70—Same as above (New), Edgemont, Calif. C.P. for a new station 2.8 miles north of Edgemont, Calif., at latitude 33°57′05″, longitude 117°16′59″. Correct frequencies and azimuths to 6197.2Y MHz on azimuth 248°29′ toward Sierra Peak, Calif., and 11,225.0V MHz and 11,305.0V MHz on azimuth 357°09′ toward San Bernardino, Calif. Delete Home Gardens, Calif., as a point of communication. Delete frequencies 11,585.0V MHz and 11,345.0V MHz on azimuth 241°01′ and 11,305.0V MHz and 11,545.0V MHz on azimuth 356°23′.

2651–CI–P–70—Same as above (New), San Bernardino, Calif. Change proposed station location to D Street, San Bernardino, Calif., at latitude 34°06′16″, longitude 117°17′29″. Correct frequencies and azimuths to 11.175.0V MHz and 11.095.0V MHz on azimuth 177°08′ toward Edgemont, Calif. Delete frequencies 11.175.0V MHz and 10.935.0V MHz on azimuth 176°23′.

2652–CI–P–70—Same as above (New), Downey, Calif. Change proposed station location to 8141 East Second Street, Downey, CA, at latitude 33°56′33″, longitude 118°08′00″. Correct frequencies and azimuth to 6946.2H MHz on azimuth 345°19′ toward La Crescenta, Calif., 6974.8Y MHz on azimuth 129°61′ toward Orange, Calif., and 10,755.0V MHz and 11,135.0V MHz on azimuth 195°29′ toward Long Beach, Calif. Delete Hollywood, Calif., as a point of communication. Delete frequencies 10,895.0H MHz and 11,135.0H MHz on azimuth 137°31′ and 11,095.0H MHz and 10,855.0H MHz on azimuth 45°39′.

INFORMATIVE: Applicant, MCI Pacific Coast, Inc., is amending 20 of its previously filed Applications for authority to construct a new specialized common carrier system between San Diego, Calif., and Everett, Wash.

2459–CI–P–70—MCI Pacific Coast, Inc. (New), Sepulveda, Calif. Change proposed station location at 8155 Van Nuys Boulevard, Sepulveda, Calif., to latitude 34°13′10″, longitude 118°26′64″. Correct frequencies and azimuth to 11345.0H and 11425.0H MHz on azimuth 74°16′ toward La Cresenta, Calif. Delete frequencies 6241.7 and 6360.3 MHz on azimuth 74°12′.

6732–CI–P–72—Same as above (New), Vincent, Calif. C.P. for a new station 1.5 miles east of Vincent, Calif., at latitude 34°29′64″, longitude 118°04′58″. Correct frequencies and azimuths to 6363.5V MHz on azimuth 240°26′ toward Magic Mountain, Calif., and 9730.0V MHz on azimuth 315°07′ toward Quartz Hill, Calif. Delete frequencies 6345.5V MHz on azimuth 240°23′, and 3750.0V MHz on azimuth 318°28′.

6733–CI–P–72—Same as above (New), Quartz Hill, Calif. Change proposed station location to 3.9 miles south-southeast of Quartz Hill, Calif., at latitude 34°29′24″, longitude 118°12′48″. Correct frequencies and azimuths to 3710.0V MHz on azimuth 135°03′ toward Vincent, Calif., and 3110.0V MHz on azimuth 308°19′ toward Antelope Hill. Delete frequencies 3710.0V MHz on azimuth 138°23′ and 3710.0V MHz on azimuth 309°04′.

6734–CI–P–72—Same as above (New), Antelope Hill, Calif. Change proposed station location to 12 miles northeast of Gorman, Calif., at latitude 34°64′12″, longitude 118°40′13″. Correct frequencies and azimuths to 3750.0V MHz on azimuth 128°04′ toward Quartz Hill, Calif., and 3880.0H MHz on azimuth 314°21′ toward Conner, Calif. Delete Brush Mountain, Calif., as a point of communication. Delete frequencies 3750.0V MHz on azimuth 128°50′, 3850.0H MHz on azimuth 305°18′, and 3750.0V MHz on azimuth 266°48′.

6735–CI–P–72—Same as above (New), Conner, Calif. Change proposed station location to 3.9 miles southeast of Old River, Calif., at latitude 35°13′44″, longitude 119°04′37″. Correct frequencies and azimuths to 3810.0H MHz on azimuth 134°07′ toward Antelope Hill, Calif.; 3730.0H MHz on azimuth 249°18′ toward Tait, Calif.; and 11,225.0V and 11,625.0V MHz on azimuth 17°29′ toward Bakersfield, Calif. Delete frequencies 6034.2Y MHz on azimuth 125°02′ and 11,225.0V and 11,625.0V MHz on azimuth 265°48′.

2462–CI–P–70—MCI Pacific Coast, Inc. (New), Bakersfield, Calif. Change proposed station location at 1813 K Street, Bakersfield, CA, to latitude 35°22′32″, longitude 119°01′14″. Correct frequencies and azimuths to 10735.0V and 11135.0V MHz on azimuth 197°31′ toward Conner, Calif. Delete frequencies 10735.0V and 11135.0V MHz on azimuth 201°01′.

6739–CI–P–72—Same as above (New), Cedar Canyon Peak, Calif. C.P. for a new station 12.2 miles southwest of Blackwells Corner, Calif., at latitude 35°29′16″, longitude 120°01′00″. Correct frequencies and azimuths to 3770.0H MHz on azimuth 161°18′ toward Cuyama, Calif., and 3130.0H MHz on azimuth 338°16′ toward Table Mountain, Calif. Delete Flowshare Peak, Calif., as a point of communication. Delete frequencies 3850.0H MHz on azimuth 182°42′ and 3750.0V MHz on azimuth 326°30′.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)—continued

6740-C1-P-72—Same as above (New), Table Mountain, Calif. Change proposed station location to 3 miles northeast of Parkfield, Calif., at latitude 35°55'40", longitude 120°22'42". Correct frequencies and azimuths to 3770.0H MHz on azimuth 146°03' toward Cedar Canyon Peak, Calif., and 3770.0H MHz on azimuth 334°10' toward Idria, Calif. Delete frequencies 3710.0V MHz on azimuth 146°17' and 3850.0V MHz on azimuth 334°10'.

6741-C1-P-72—Same as above (New), Idria, Calif. Change proposed station location to 3.8 miles south-southeast of Idria, Calif., at latitude 36°22'04", longitude 120°38'31". Correct frequencies and azimuths to 3710.0H MHz on azimuth 154°00' toward Table Mountain, Calif., and 3810.0H MHz on azimuth 305°36' toward Llamada, Calif. Delete Mendota, Calif., as a point of communication. Delete frequencies 3810.0V MHz on azimuth 154°01', 3850.0V MHz on azimuth 305°15', and 3710.0H MHz on azimuth 29°53'.

6742-C1-P-72—Same as above (New), Mendota, Calif. C.P. for a new station 8.5 miles south-southwest of Mendota, Calif., at latitude 36°38'51", longitude 120°26'28". Correct frequencies and azimuths to 3750.0H MHz on azimuth 210°09' toward Idria, Calif., and 3930.0H MHz on azimuth 86°41' toward Kerman, Calif. Delete frequencies 3750.0H MHz on azimuth 210°00' and 3850.0H MHz on azimuth 86°41'.

6745-C1-P-72—Same as above (New), Llamada, Calif., C.P. for a new station 8 miles west of Llamada, Calif., at latitude 36°36'46", longitude 121°04'04". Correct frequencies and azimuths to 3850.0H MHz on azimuth 125°21' toward Idria, Calif., and 3750.0H MHz on azimuth 337°25' toward Hollister, Calif. Delete frequencies 3810.0V MHz on azimuth 125°00' and 3710.0H MHz on azimuth 337°25'.

6746-C1-P-72—MCI Pacific Coast, Inc. (New), Hollister, Calif. C.P. for a new station 9.7 miles northeast of Hollister, Calif., at latitude 36°54'33", longitude 121°13'17". Correct frequencies and azimuths to 3710.0H MHz on azimuth 157°19' toward Llamada, Calif., and 3750.0V MHz on azimuth 350°40' toward Patterson, Calif. Delete frequencies 3750.0H MHz on azimuth 157°19' and 3750.0V MHz on azimuth 350°39'.

6747-C1-P-72—Same as above (New), Patterson, Calif. Change proposed station location to 12.3 miles southwest of Patterson, Calif., at latitude 37°21'36", longitude 121°18'51". Correct frequencies and azimuths to 3710.0V MHz on azimuth 170°37' toward Hollister, Calif., and 3710.0H MHz on azimuth 18°52' toward Ripon, Calif. Delete frequencies 3710.0V MHz on azimuth 170°36' and 3710.0H MHz on azimuth 18°27'.

6748-C1-P-72—Same as above (New), Ripon, Calif. Change proposed station location to 1.1 miles northwest of Ripon, Calif., at latitude 37°45'01", longitude 121°08'46". Correct frequencies and azimuths to 3750.0H MHz on azimuth 198°58' toward Patterson, Calif., 3750.0H MHz on azimuth 355°34' toward Stockton, Calif., and 6226.9V MHz on azimuth 258°10' toward Midway, Calif. Delete frequencies 3750.0H MHz on azimuth 198°33', 3750.0H MHz on azimuth 356°27', and 6063.8V MHz on azimuth 253°08'.

6749-C1-P-72—Same as above (New), Midway, Calif. Change proposed station location to 6.5 miles east of Livermore, Calif., at latitude 37°40'18", longitude 121°36'45". Correct frequencies and azimuths to 5974.8V MHz on azimuth 77°53' toward Ripon, Calif., and 5974.8H MHz on azimuth 258°12' toward Sunol, Calif. Delete Danville, Calif., as a point of communication. Delete frequencies 6256.5V MHz on azimuth 72°51' and 6345.5H MHz on azimuth 295°03'.

2475-C1-P-70—Same as above (New), Oakland, Calif. C.P. for a new station at 3505 Broadway, Oakland, CA, at latitude 37°49'22", longitude 122°15'33". Correct frequency and azimuth to 5974.8H MHz on azimuth 126°57' toward Sunol, Calif. Delete Redwood Peak, Calif., as a point of communication. Delete frequency 6034.2V MHz on azimuth 100°17'. All other particulars remain as reported in Public Notice No. 590, dated April 3, 1972.

6752-C1-P-72—Same as above (New), Stockton, Calif. C.P. for a new station 2.5 miles east of Stockton, Calif., at latitude 37°57'36", longitude 121°10'00". Correct frequencies and azimuths to 3710.0H MHz on azimuth 175°33' toward Ripon, Calif., and 3730.0V MHz on azimuth 49°35' toward Burson, Calif. Delete frequencies 3710.0H MHz on azimuth 176°26' and 3710.0V MHz on azimuth 46°09'.

6753-C1-P-72—MCI Pacific Coast, Inc. (New), Burson, Calif. Change proposed station location to 3.2 miles northwest of Jenny Lind, Calif., at latitude 38°07'49", longitude 120°54'47". Correct frequencies and azimuths to 3770.0V MHz on azimuth 229°45' toward Stockton East, Calif., and 3850.0V MHz on azimuth 319°15' toward Clay, Calif. Delete Pine Grove, Calif., as a point of communication. Delete frequencies 3750.0V MHz on azimuth 226°17', 3750.0V MHz on azimuth 41°30', and 3850.0V MHz on azimuth 328°44'.

6754-C1-P-72—Same as above (New), Clay, Calif. Change proposed station location to 1 mile east-northeast of Clay, Calif., at latitude 38°20'17", longitude 121°08'26". Correct frequencies and azimuths to 3810.0V MHz on azimuth 139°07' toward Burson, Calif., and 3810.0V MHz on azimuth 295°27' toward Florin, Calif. Delete frequencies 3810.0V MHz on azimuth 148°39' and 3810.0V MHz on azimuth 296°21'.

6755-C1-P-72—Same as above (New), Florin, Calif. C.P. for a new station, 3.5 miles south of Florin, Calif., at latitude 38°26'15", longitude 121°24'25". Correct frequency and azimuth to 3850.0V MHz on azimuth 115°18' toward Clay, Calif. Delete frequency 3850.0V MHz on azimuth 116°09'. All other particulars remain as reported in Public Notice No. 590, dated April 3, 1972.

258-C1-P-70—MCI Pacific Coast, Inc. (New), La Crescenta, Calif. C.P. for a new station, 5.3 miles north of La Crescenta, Calif., at latitude 34°16'08" N., longitude 118°14'11" W. Add frequency 6315.9H MHz on azimuth 165°15' toward Downey, Calif.

Corrections

3154-C1-P-70—Data Transmission Co. (New), Guthreisville, Pa. Delete complete entry. (See Report No. 617-A, dated October 10, 1972.)

1762-C1-P-73—Michigan Bell Telephone Co. (KZI65), 514 East Mitchell, Petoskey, Mich. Correct to read: To change azimuth of radio path azimuth from 336°15' to 336°13'. (See Report No. 615, dated September 25, 1972.)

1768-C1-P-73—Same (KQA79), correct address to read: 5770 Napier Road, Plymouth, Mich. (See Report No. 615, dated September 25, 1972.)

[FR Doc. 72-18439 Filed 10-30-72;8:45 am]

SERVICE ELECTRIC CABLE TV, INC.

[Docket No. 19321; FCC 72-907]

Memorandum Opinion and Order Remanding Proceeding for Further Hearing

In regard cease and desist order to be directed against Service Electric Cable TV, Inc., Allentown and Bethlehem, Pa., File Nos. SR-97014, SR-8701.

1. Before the Commission for consideration is an application for review of a Review Board Memorandum Opinion and Order, FCC 72R-221, released August 11, 1972, filed by Service Electric Cable TV, Inc., on August 17, 1972. Responsive comments were filed on August 29, 1972, by the Commission's Cable Television Bureau, and an opposition to the application was filed on August 29, 1972, by WBRE-TV, Inc., licensee of Station WBRE-TV on Channel 28 at Wilkes-Barre, Pa. Additional pleadings were filed on September 11, 1972, by WBRE-TV and Service Electric. In the order under review, the Review Board directed Service Electric and WBRE-TV to take complete joint field intensity measurements to locate the television station's contours and other disputed contours. Service Electric seeks a reversal of that order and a remand of this case to the Examiner for determination on the basis of the evidence of record. We believe that important questions are presented which merit our consideration, particularly in light of the history of this proceeding, but we affirm the Review Board's decision.

2. This proceeding was initiated by an order directing Service Electric to show cause why it should not be ordered to cease and desist from further violation of § 74.1103 (a) and (e) of the Commission's former rules[1] by its refusal to carry and accord program exclusivity to Station WBRE-TV, affiliated with NBC, on its CATV systems at Allentown and Bethlehem, Pa. At the hearing, the parties stipulated that, when contours are calculated by the prediction method, WBRE-TV places a principal community contour over the CATV communities whereas KYW-TV, the NBC outlet on Channel 3 at Philadelphia which presently is being carried on the CATV systems, places a contour which is less than principal community grade over each community. Thus a prima facie presumption was created as to the location of the pertinent contours and, in the absence of countervailing evidence, would establish that WBRE-TV has priority over KYW-TV. "Bluefield Television Cable," 10 FCC 2d 731, 732 (1967). Service Electric asserts, however, that the actual, as distinguished from the predicted, contours of the two television stations are such that both stations are of equal priority. In support of this contention, Service Electric introduced measurement data which indicated that the Grade A contour of both stations penetrates Allentown, and that both place a Grade B contour over Bethlehem. This engineering statement and the supporting data

[1] The pertinent provisions of the current rules are §§ 76.57(a), 76.91, and 76.93(a).

were accepted into evidence. In rebuttal WBRE-TV attempted to introduce other measurement data tending to show that WBRE-TV places a higher priority signal in Allentown and Bethlehem than does KYW-TV, but the evidence was rejected on the objections of Service Electric and the Cable Television Bureau that the measurements were incomplete and did not demonstrate the location of the actual contours of either WBRE-TV or KYW-TV.[2] In view of the rejection of its evidence, WBRE-TV requested time to take complete measurements and have them introduced into evidence, but this request was denied by the Examiner.

3. WBRE-TV appealed the Examiner's rulings to the Review Board, contending that its proffered exhibits were admissible as rebuttal evidence to show both that Service Electric's exhibits do not accurately reflect the location of the signal contours of WBRE-TV and that at least portions of Allentown and Bethlehem fall within the principal community contour of that station (Tr. 167). It was WBRE-TV's contention that additional measurements would serve no useful purpose since they would not have resulted in any more information going to the dispositive question of whether portions of Allentown and Bethlehem are within WBRE-TV's principal community contour;[3] and that additional measurements or data are "mathematically irrelevant" to the resolution of the dispositive issue in the case. While the matter was pending before the Review Board, WBRE-TV prepared another engineering study which it submitted by letter to the Board. According to WBRE-TV, the new data constitutes a complete set of measurements with plotted contours which demonstrate not only that the principal community contour of WBRE-TV encompasses all of Allentown and a major portion of Bethlehem, but also that additional measurements were irrelevant and immaterial to the factual issue presented herein as it had contended before the presiding Administrative Law Judge. It therefore renewed its request that the exhibits proffered at the hearing be admitted into evidence. In the alternative WBRE-TV requested that the Board permit the introduction of the new engineering study at the hearing.

4. The Review Board affirmed the Examiner's rejection of WBRE-TV's exhibits on the ground that the limited data contained therein may only reflect signal strength resulting from local conditions and, for the purposes of determining priority, sufficient data must be submitted to establish the location of the contours. The Board further held, however, that steps must be taken to adduce the best evidence obtainable for the purpose of providing a proper basis for making the public interest determination required in this case, and to eliminate further delay in this expedited proceeding due to disagreements among the parties. It therefore directed WBRE-TV and Service Electric to make complete joint field intensity measurements within 60 days to locate the pertinent contours necessary for a final determination on the merits. With respect to the engineering evidence submitted by letter during the pendency of the appeal, the Board held that acceptance thereof would be contrary to good hearing procedure and would service no useful purpose in view of its disposition of the appeal.

5. While WBRE-TV has reserved the right in the event of an adverse initial decision[4] to challenge the Review Board's affirmance of the Examiner's ruling which excluded its exhibits, it has not sought review of the Board's decision and has expressed its willingness to participate in the taking of joint measurements. Service Electric, however, has applied for review of that portion of the Review Board's order which directed the taking of joint measurements. The applicant contends that this case should be decided on the basis of the evidence presently of record, that it has expended substantial sums in making its measurements; that WBRE-TV had adequate opportunity to prepare its case and should not be allowed "two bites at the same apple"; and that the Review Board's order is contrary to the rule of administrative finality. At a minimum, Service Electric urges, the order for joint measurements should be conditioned on WBRE-TV's paying all expenses in connection therewith. Service Electric therefore requests the Commission to sustain the Review Board's ruling that the Examiner properly excluded WBRE-TV's exhibits but reverse that portion of the Board's order which directs the taking of joint measurements. It also requests that the Commission strike the letters and attachments submitted by WBRE-TV to the Review Board. The Cable Television Bureau supports the application for review. In addition to the doctrine of administrative finality it advances the argument that there will be no "continuing engineering 'disagreement' that the Review Board fears" if Service Electric's engineering study is the only probative engineering evidence in the proceeding, and that Service Electric should not be deprived of the "decisive evidentiary advantage of successfully offering, at the proper time, legally uncontroverted engineering evidence * * *."

6. In assessing the weight to be accorded Service Electric's "two bites" argument we deem it appropriate to take into account Service Electric's own conduct in connection with the matters under consideration. By a pleading filed on September 14, 1970, Service Electric requested a waiver of the rules pertaining to carriage and nonduplication protection for WBRE-TV's signals and advanced as one of the arguments in support thereof that the station's actual Grade B contour falls short of the Allentown-Bethlehem area. The Commission found that the engineering study submitted in support of this contention was unacceptable for the purpose of determining the applicability of § 74.1103 and that no sufficient grounds had been advanced to justify a waiver. The Commission therefore denied the waiver request and directed Service Electric to carry and provide program exclusivity to WBRE-TV within 30 days. See "Service Electric Cable TV, Inc.", 28 FCC 2d 77, released March 16, 1971. No effort was made at that time by Service Electric to obtain adequate measurement data concerning the location of WBRE-TV's contours or to challenge the validity of the Commission's determination either by a petition for reconsideration or by judicial review. Instead the cable operator requested and received, with the consent of WBRE-TV, an extension of time for the purpose of obtaining "the equipment needed to enable it to comply with § 74.1103 * * *." In a pleading filed June 28, 1971, Service Electric requested a further extension because of nondelivery of certain equipment and represented that "if the equipment should be delivered and installed prior to the estimated date of delivery the carriage and nonduplication protection would commence immediately." The application was opposed by WBRE-TV which renewed its request for a show cause order and this proceeding was initiated. Only after the release of our Order to Show Cause on September 29, 1971, did Service Electric undertake to obtain engineering evidence concerning the location of the WBRE-TV contours. In these circumstances, it ill behooves Service Electric to complain about a "second bite" for WBRE-TV. Had Service Electric produced adequate engineering evidence in support of its waiver request or within a reasonable time thereafter instead of promising carriage and nonduplication protection, this case would long since have been completed.

7. An even more significant reason for affirming the Review Board's decision is the fact, as WBRE-TV points out, that we are not concerned here solely with a dispute between private parties but with matters pertaining to the public interest. Although the carriage and nonduplication provisions of the rules benefit the television station licensee, they were promulgated because of the very important public interest considerations relating to the maintenance of local outlets of expression and for the other reasons set forth in the rulemaking proceeding. If the provisions of the rules are applicable and no sufficient grounds exist which justify a waiver, Service Electric must be required to comply therewith. Additionally, we note that under the express provisions of section 312(b)-(d) of

[2] WBRE-TV took no measurements of KYW-TV's signals since it accepted Service Electric's showing as to that station.

[3] The exhibits indicated that at some locations within or beyond the city limits of each city, the signal levels of WBRE-TV exceeded Grade A service.

[4] Under § 1.115(e)(2) of the rules the "failure to file an application for review of an interlocutory ruling—" of the Review Board does not "preclude any party entitled to file exceptions to the initial decision from requesting review of the ruling at the time when exceptions are filed."

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the Communications Act, which governs cease and desist proceedings, "both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission." While WBRE–TV is expected to share in the task of introducing evidence in view of its substantial interest in the outcome of this proceeding, the Commission has an affirmative statutory obligation which it must meet.

8. In our view the dispositive issue with respect to the argument of administrative finality is not, as Service Electric and the Cable Television Bureau contend, whether WBRE–TV should be given a "second bite" but whether the Commission is required to undertake the resolution of important public interest questions on the basis of an incomplete or inadequate record in a case in which it has the ultimate burden of proof and where additional material and relevant evidence may be available. We do not believe that we are so required or that, under the circumstances of this case, a determination on the basis of the evidence presently of record would comport with our statutory responsibility to protect and promote the public interest. See "Citizens TV Protest Committee v. Federal Communications Commission", 121 U.S. App. D.C. 50, 348 F. 2d 56 (1965); "Clarksburg Publishing Co. v. Federal Communications Commission", 96 U.S. App. D.C. 211, 225 F. 2d 511 (1955). The Commission cannot undertake to make field intensity measurements in order to locate actual contours and our decision herein should not be construed as holding that we propose to do so. We do hold, however, that where a substantial claim is advanced by a respondent in a show cause proceeding that the actual contours of a television station are other than as indicated by the prediction method of calculating contours, every effort must be made to adduce at the hearing all relevant and reasonably available evidence necessary to enable the Commission to make a determination on the basis of a complete record. In this connection, we agree with WBRE–TV that if the failure to take joint measurements was improper, the fault was not solely that of the television station licensee. Nothing before us indicates that any suggestion by the Cable Television Bureau, which is charged with the responsibility for carrying the Commission's burden in this type of proceeding (§§ 0.85(c) and 1.21(b) of the rules) or by Service Electric that joint measurements be taken would have been rejected by WBRE–TV or that the licensee would have been uncooperative. For the foregoing reasons, we conclude that application of the doctrine of administrative finality to preclude the further hearing ordered by the Review Board would be inappropriate in this case.

9. The further contention of the Cable Television Bureau that by reason of the Review Board's affirmance of the Examiner's ruling which excluded WBRE–TV's engineering exhibits, there would be no engineering "disagreement" if Service Electric's engineering study remains as the only engineering evidence in this proceeding, must be rejected. On the basis of the predicted contours WBRE–TV is entitled to priority over KYW–TV, and the critical question to be resolved at the hearing is whether the actual contours of either or both television stations lie elsewhere. However, the mere fact that Service Electric's engineering exhibit was admitted into evidence does not conclusively establish the location of the contours or necessarily overcome the prima facie showing based on predicted contours. "Jones v. N. V. Nederlandsch Amerikaansche Stoomvaart M," 374 F. 2d 189 (3d Cir., 1966) cert. denied 388 U.S. 911. The weight and sufficiency of Service Electric's evidence is a matter to be determined by the trier of the facts and must be evaluated in light of the cross-examination of the cable operator's expert witness, qualifying statements by him, and any other relevant evidence of record. "30 AM Jur 2d, Evidence" sections 1083, 1102, 1104–1106, 1112, 1144; "Koshland's Estate v. Commissioner of Internal Revenue," 177 F. 2d 851 (9th Cir., 1949). See also: "Dicker v. United States," 122 U.S. App. D.C. 158, 352 F. 2d 455 (1965) cert. denied 383 U.S. 936; "Carter Products v. Federal Trade Commission," 201 F. 2d 446, 452 (9th Cir., 1953) modified on other grounds, 346 U.S. 327.

10. As we and the Review Board have had occasion to point out, the location of actual contours is an extremely difficult undertaking by reason of the effect of weather conditions, season, terrain and other factors on signal intensity.[5] An additional complication is the fact that the place where a particular measurement is taken is a matter of judgment by the engineer on the scene where rugged terrain or obstacles along the path requires a departure from strict adherence to a specified procedure; and how that judgment is exercised may affect the ultimate conclusion reached as to contours.[6] Whether the judgment exercised by Service Electric's engineer is subject to challenge or whether there are deficiencies or weaknesses which detract from the reliability of its engineering evidence or the validity of the conclusions reached therein, we express no opinion. Those are matters for initial determination by the presiding officer who saw and heard the witnesses and who will have the benefit of the parties' views as expressed in their proposed findings and briefs. Nevertheless, a dispute agreement may, and apparently does, exist as to the weight which should be accorded Service Electric's engineering evidence and whether it is sufficient to overcome the showing based on predicted contours[7] even though WBRE–TV's rebuttal evidence is not a part of the record.[8]

11. Other arguments advanced by Service Electric and the Cable Television Bureau in their pleadings, as well as the requests for affirmative relief contained therein, have been considered but we conclude that they are without merit. The Review Board neither abused its discretion nor committed any prejudicial error which would justify our disturbing its decision and we shall not do so.[9]

12. *Accordingly, it is ordered,* That the application for review of the Review Board's Memorandum Opinion and Order, FCC 72R–221, released August 11, 1972, filed by Service Electric Cable TV, Inc., on August 17, 1972 is granted to the limited extent set forth herein, but in all other respects is denied; and

13. *It is further ordered,* That the aforesaid Memorandum Opinion and Order of the Review Board is affirmed; and

14. *It is further ordered,* That the joint field intensity measurements ordered by the Review Board be made within sixty (60) days after the release date of our Memorandum Opinion and Order herein; and

15. *It is further ordered,* That the hearing in this proceeding be remanded to the presiding administrative law judge for further hearing and that every effort be made consistent with the requirements of due process to expedite the disposition of this case.

Adopted: October 12, 1972.

Released: October 16, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–18533 Filed 10–30–72;8:52 am]

[5] CATV, 6 FCC 2d 309 at 313, fn. 6 (1967); Mission Cable TV, Inc. et al., 4 FCC 2d 236, 239–240 (1966); Potomac Valley Telecasting Corporation, et al., 21 FCC 2d 851, 853–856 (1970) review denied, FCC 70–530, released May 26, 1970.

[6] Service Electric's engineer, Mr. Kennedy, conceded at the hearing that the engineer making the measurements frequently must exercise his judgment as to measuring locations (Tr. 132–134).

[7] WBRE–TV advanced the contention that Service Electric Exhibit No. 1 does not accurately reflect signal strength at certain points along the radials. In its decision, the Review Board noted the "wide discrepancies in the different fields measured by the two engineering firms involved in this proceeding—" (par. 10), and Service Electric objects that in making this observation the Review Board improperly considered the letters and attachments thereto which had been submitted by WBRE–TV (par. 3, supra). We disagree. In fashioning an order which would best serve the public interest, the Review Board was entitled to examine all of the submissions of the parties.

[8] In 29 Am Jur. 2d, Evidence section 254 (p. 306) the following is stated as to rebuttal evidence:

"Evidence not in and of itself admissible may become admissible, by reason of evidence introduced by an adversary, either in rebuttal of testimony which has been given or by way of explanation thereof."

See also Id. at section 269 (p. 318). Whether the exhibits proffered by WBRE–TV were admissible for this limited purpose is neither before us nor necessary to the disposition of this application for review and we express no opinion with respect thereto.

[9] It is not believed necessary to issue instructions concerning the resolution of possible engineering disagreements as suggested by the Cable Television Bureau. Any such disagreements may readily be resolved by the parties through consultation with the Commission's engineers in the Broadcast Bureau or the Cable Television Bureau.

[Docket No. 19612; FCC 72–919]

TEX-ARK TV CO., INC. (KTXK–TV)

Order Designating Matter for Oral Argument

In regard application of Tex-Ark TV Co., Inc. (KTXK–TV), Texarkana, Tex., Docket No. 19612, File No. BMPCT–7416, for extension of construction permit.

1. The Commission has before it for consideration the request of Tex-Ark TV Co., Inc., for reinstatement of the construction permit, call sign and application (BMPCT–7416) for an extension of time within which to complete construction of television broadcast station KTXK, channel 17, Texarkana, Tex.

2. Tex-Ark TV Co., Inc., was granted a construction permit for channel 17, Texarkana, Tex., on February 10, 1971, with completion of construction required as of August 10, 1972. Subsequently, on July 19, 1972, the permittee filed the above-captioned application (BMPCT–7416) for an extension of time within which to complete construction of station KTXK. The permittee stated that it had been unable to secure suitable programing for the station and that it was continuing its efforts to obtain programing. In addition, the permittee indicated that it was reconsidering the feasibility of constructing the station in view of the recent establishment of a CATV system in the Texarkana area. The permittee requested a 1 year extension of time in order to assess the possible impact of the CATV system on construction of station KTXK. Since grant of Tex-Ark TV Co., Inc.'s construction permit in February 1971, construction of the station has not commenced and equipment has not been ordered.

3. After the lapse of approximately 18 months from the date the Commission issued a construction permit for channel 17, the permittee had failed to demonstrate that it had exercised due diligence in the prosecution of construction or that construction had been prevented by causes not under its control within the meaning of section 319(b) of the Communications Act of 1934, as amended. Accordingly, the Chief, Broadcast Bureau acting pursuant to delegated authority[1] dismissed the above-captioned extension application, canceled the construction permit and deleted the call sign. However, in accordance with the provisions of the delegation, the permittee was advised that it could request reinstatement of its authorization within 30 days and thereby obtain a hearing on the question of its dismissal. Subsequently, on August 21, 1972, the permittee requested reinstatement of its authorization and a grant of its extension application. Since we are unable to find that grant of the extension application, without a hearing, would be in the public interest, we are designating the application for oral argument before the Review Board.

4. *It is ordered,* That the construction permit, call sign and extension application of television broadcast station KTXK, channel 17, Texarkana, Tex., are reinstated.

5. *It is further ordered,* That the above-captioned application for an extension of time within which to complete construction of station KTXK, channel 17, Texarkana, Tex., is designated for oral argument before the Review Board in Washington, D.C., at a time and place to be specified in a subsequent order, upon the following issue:

To determine whether the reasons advanced by the permittee in support of its request for an extension of its completion date, constitute a showing that failure to complete construction was due to causes not under the control of the permittee, or constitute a showing of other matters sufficient to warrant a further extension of time within the meaning of section 319(b) of the Communications Act of 1934 and § 1.534(a) of the Commission's rules.

6. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant, in person, or by attorney, shall, within ten (10) days of the mailing of this order, file with the Commission an original and 12 copies of a written appearance stating an intention to appear on the date fixed for the oral argument and present arguments on the issue specified, and shall have until October 25, 1972, to file a brief or memorandum of law.

Adopted: October 12, 1972.

Released: October 18, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–18535 Filed 10–30–72;8:53 am]

[1] Section 0.281(z) of the Commission's rules.

FEDERAL HOME LOAN BANK BOARD

[H. C. 138]

FIDELITY FINANCIAL CORP. AND FIDELITY SAVINGS AND LOAN ASSOCIATION

Receipt of Application for Approval of Acquisition of Control of Six Rivers Savings and Loan Association

OCTOBER 26, 1972.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Fidelity Financial Corp., San Francisco, Calif., a savings and loan holding company, and Fidelity Savings and Loan Association, Oakland, Calif., for approval of acquisition of control of the Six Rivers Savings and Loan Association, Eureka, Calif., an insured institution under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by the purchase for cash of the guarantee stock of Six Rivers Savings and Loan Association and, in addition, the payment to Mr. John R. Rigdon of stock in Fidelity Financial Corp. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.72–18553 Filed 10–30–72;8:49 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1239]

A.O.K. SHIPPING SERVICE, INC.

Order of Revocation

By letter dated September 20, 1972, A.O.K. Shipping Service, Inc., Post Office Box 2498, Miami, FL 33101 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1239 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 17, 1972.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

A.O.K. Shipping Service, Inc., has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated May 1, 1972);

It is ordered, That the Independent Ocean Freight Forwarder License of A.O.K. Shipping Service, Inc., be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of A.O.K. Shipping Service, Inc. be and is hereby revoked effective October 17, 1972.

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It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon A.O.K. Shipping Service, Inc.

AARON W. REESE,
Managing Director.

[FR Doc. 72-18543 Filed 10-30-72;8:50 am]

[Independent Ocean Freight Forwarder License No. 1281]

AMERICAN LAMPRECHT TRANSPORT, INC.

Order of Revocation

By letter dated September 5, 1972, American Lamprecht Transport, Inc., 160-23 Rockaway Boulevard, Jamaica, NY 11430 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1281 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 1, 1972.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

American Lamprecht Transport, Inc. has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated May 1, 1972);

It is ordered, That the Independent Ocean Freight Forwarder License of American Lamprecht Transport, Inc. be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of American Lamprecht Transport, Inc. be and is hereby revoked effective October 1, 1972.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon American Lamprecht Transport, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.72-18544 Filed 10-30-72;8:50 am]

AUSTRALIA/U.S. ATLANTIC AND GULF CONFERENCE

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015 or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of Proposed Modification of an Approved Dual Rate Agreement filed by:

Baldvin Einarson, Esq., Kirlin, Campbell & Keating, 120 Broadway, New York, NY 10005.

Agreement No. 9450 DR-5 in effect modifies the Australia/U.S. Atlantic and Gulf Conference's basic dual rate agreement by deleting Article 14 which required that the shipment of chilled and frozen meat in containers be excluded from the ambit of the agreement.

By order of the Federal Maritime Commission.

Dated: October 25, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18545 Filed 10-30-72;8:50 am]

CEYLON/U.S.A. CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

William L. Hamm, Secretary, New York Committee, Ceylon/U.S.A. Conference, 25 Broadway, New York, NY 10004.

Agreement No. 8050-9, among the member lines of the Ceylon/U.S.A. Conference, modifies Article 4 of the basic agreement of the conference to provide that conference meetings may be held elsewhere than at Colombo, Ceylon, as determined by a majority of three-fourths of the member lines.

By order of the Federal Maritime Commission.

Dated: October 26, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18546 Filed 10-30-72;8:50 am]

HAPAG-LLOYD AKTIENGESELLSCHAFT AND CARIBBEAN SEA ROAD SERVICE, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

Paul W. Simpson, President, Caribbean Sea-Road Service, Inc., Avenida Ponce de Leon 306, San Juan, PR.

Agreement No. 10019 is a transshipment agreement between Hapag-Lloyd Aktiengesellschaft and Caribbean Sea-Road Service, Inc., covering the transportation of general cargo under through bills of lading between ports of call of Hapag-Lloyd throughout the world and ports of call of Caribbean Sea-Road Service in the Virgin Island with transshipment at San Juan, Puerto Rico.

By order of the Federal Maritime Commission.

Dated: October 24, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18541 Filed 10-30-72;8:50 am]

PORT OF OAKLAND AND HOWARD TERMINAL

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

J. Kerwin Rooney, Esq., Port of Oakland, 66 Jack London Square, Post Office Box 2064, Oakland, CA 94607.

Agreement No. T-1909-2, between the Port of Oakland (Port) and Howard Terminal (Howard), modifies the basic agreement which provides for the lease to Howard of certain facilities at the Outer Harbor Terminal Area at the Port of Oakland, Calif. The purpose of the modification is to eliminate a provision contained in the basic agreement which combined the rental due under Agreement No. T-1909 and the rental due under Agreement No. 8305 (which covers the Grove Street Terminal) into a single guaranteed minimum annual rental payment.

By order of the Federal Maritime Commission.

Dated: October 24, 1972.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-18542 Filed 10-30-72;8:50 am]

[Docket No. 72-58]

UNITED STATES/EAST AFRICA CONFERENCE AND SOUTH EAST AFRICA AGREEMENT

Discriminatory Port Detention Surcharge in the U.S. Atlantic and Gulf/South and East African Trade; Order To Show Cause

The United States/South and East Africa Conference (the outbound Conference) is an association of common carriers by water operating in the export trade from U.S. Atlantic and Gulf ports to ports in South and East Africa and various neighboring islands pursuant to Agreement No. 9502 approved by the Federal Maritime Commission under section 15 of the Shipping Act, 1916. The South and East Africa Rate Agreement (the inbound Conference) is an association of carriers operating in the opposite direction of this trade area pursuant to Agreement No. 8054 approved by the Commission under section 15 of the Act. All of the carriers who are parties to Agreement No. 9502 are also parties to Agreement No. 8054.

On May 7, 1971, the Commission was advised by the outbound Conference that the Conference intended to implement a 25 percent port detention surcharge on all rates and charges applicable to cargoes destined to Mombasa, Kenya, in its Southbound Freight Tariff No. 1, FMC-2, effective on all rates and charges applicable to all cargoes as of date of delivery to ocean carrier on dock or alongside on lighter destined to Mombasa from U.S. Atlantic and Gulf ports on and after June 6, 1971.

The Commission's staff was advised that the underlying reason for the implementation of the surcharge related to conditions of congestion existing at the port of Mombasa which caused abnormal delays to vessels calling at that port.

Following inquiries from the Commission's staff with regard to the fact that of the two Conferences serving the subject trade in both directions, only the outbound Conference operating in the export trade decided to assess a surcharge at Mombasa despite the fact that for the most part the same carriers are members of the two conferences, the inbound Conference notified the Commission that it intended to assess a port detention surcharge in the amount of 15 percent effective July 16, 1971. This surcharge remained in effect until October 28, 1971 when it was "deferred". By subsequent tariff filings, the inbound Conference has extended this deferment continually on a month-to-month basis. The result is that except for the limited period between July 16, 1971 and October 28, 1971, a surcharge has been levied against the American export trade but not the reciprocal import trade purportedly on account of local conditions at the common port of Mombasa and furthermore, such surcharge has been levied in unequal amounts, again with greater magnitude against the export trade.

Even if abnormal conditions have prevailed at the port of Mombasa, the Commission has been advised that congestion has not always remained at the same level of severity. Even assuming that the abnormal conditions which prevailed throughout the period have not abated since June 6, 1971, the Commission is aware of no transportation circumstances or conditions which would justify the assessment and maintenance of surcharges applicable in only one direction of the subject trade area or in disparate amounts in which the magnitude of the surcharges is greater in one direction, again in the export trade. The concern of the Commission, furthermore, is emphasized because of the fact that essentially the same carriers are members of both Conferences, the purported underlying cause is apparently common to both directions, and the Conferences would either assess American exporters but not their foreign counterparts or would assess the American exporters in greater amounts even when both the American exporters and their foreign counterparts were assessed.

Despite continual inquiries by the Commission's staff, the outbound Conference has not furnished adequate information which would justify the continued existence of a surcharge applicable in one direction only, and effective without provision for termination in the event of conditions improving at Mombasa.

We are mindful that the carriers who are assessing the surcharges operate concertedly in ratemaking matters under authority of the Commission pursuant to section 15 of the Shipping Act, 1916, 46 U.S.C. 814. That law states that:

The Commission shall by order, after notice and hearing, disapprove, cancel, or modify any agreement • • • whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports • • • or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest, or to be in violation of this Act • • •

Section 17 of the Shipping Act, 1916, 46 U.S.C. 816, provides in pertinent part that:

• • • no common carrier by water in foreign commerce shall demand, charge, or collect

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any rate, fare, or charge which is unjustly discriminatory between shippers * * * Whenever the Board finds that any such rate, fare, or charge, is demanded, charged, or collected it may alter the same to the extent necessary to correct such unjust discrimination * * * and shall make an order that the carrier shall discontinue demanding, charging or collecting any such injustly discriminatory * * * rate, fare, or charge.

The Commission is of the opinion that unless the Conferences and their member lines can offer valid reasons which would justify the existence of a surcharge assessed only against the export trade of the United States or at a level higher than that assessed in the reciprocal direction of the same trade without provision for termination in the event of elimination or abatement of the underlying causative conditions, such surcharge must be found to be unjustly discriminatory or unfair between shippers, exporters, or importers and contrary to the public interest within the meaning of section 15 of the Act, and furthermore, to be unjustly discriminatory between shippers in violation of section 17 of the Act.

Now, therefore, *It is ordered*, That pursuant to sections 22, 15, and 17 of the Shipping Act, 1916 (46 U.S.C. 821, 814, 816) the Conferences and carriers named in the Appendix attached be named respondents in this proceeding and that they be ordered to show cause why the assessment of disparate port detention surcharges in the manner described above should not be found to be unfair or unjustly discriminatory and contrary to the public interest in violation of section 15 of the Act or unjustly discriminatory between shippers in violation of secton 17 of the Act and accordingly why the Commission should not disapprove, cancel, or modify the Conference agreements pursuant to section 15 of the Act or alter the subject surcharges to the extent necessary to correct the unjust discrimination.

It is further ordered, That this proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 14, 1972. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business November 14, 1972. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business November 27, 1972. Time and date of oral argument if requested and/or deemed necessary by the Commission will be announced at a later date.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than close of business November 6, 1972.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

SOUTH AND EAST AFRICA RATE AGREEMENT No. 8054, WILLIAM L. HAMM, SECRETARY, 25 BROADWAY, NEW YORK, NY 10004

MEMBER LINES

Barber Lines A/S, 17 Battery Place, New York, NY 10004.
Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.
Hellenic Lines Ltd., 39 Broadway, New York, NY 10006.
Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York, NY 10004.
Moore-McCormack Lines, Inc., 2 Broadway, New York, NY 10004.
South African Marine Corp. (N.Y.), 17 Battery Place, New York, NY 10004.
Springbok Line Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
Springbok Shipping Co., Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
UNITED STATES/SOUTH & EAST AFRICA CONFERENCE, WILLIAM L. HAMM, SECRETARY, 25 BROADWAY, NEW YORK, NY 10004

MEMBER LINES

Farrell Lines, Inc., 1 Whitehall Street, New York, NY 10004.
Hellenic Lines Ltd., 39 Broadway, New York, NY 10006.
Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York, NY 10004.
Moore-McCormack Lines, Inc., 2 Broadway, New York, NY 10004.
South African Marine Corp., Ltd., 17 Battery Place, New York, NY 10004.
Springbok Line Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
Springbok Shipping Co., Ltd., South African Marine Corp. (as agents), 17 Battery Place, New York, NY 10004.
States Marine Lines: States Marine International, Inc.; Global Bulk Transport Inc.; Isthmian Lines, Inc. (as one member only), High Ridge Park, Post Office Box 40, Stamford, CT.
States Marine Lines: States Marine International, Inc.; Global Bulk Transport Inc.; Isthmian Lines, Inc. (As one member only), High Ridge Park, Post Office Box 40, Stamford, CT.
The Shipping Corp. of India, Ltd.—S.C.I. Line Norton, Lilly and Co., Inc. (as agents), 90 West Street, New York, NY 10006.
Cunard-Brocklebank Ltd., Texas Transport and Terminal Co., Inc., 25 Broadway, New York, NY 10006.

[FR Doc.72-18540 Filed 10-30-72;8:50 am]

[Commission Order No. 1 (Revised)]

SETTLEMENT OFFICERS FOR ADMINISTRATIVE LAW JUDGES

Organization and Functions; Delegation of Authority

The Federal Maritime Commission published in the FEDERAL REGISTER on July 26, 1972, 37 F.R. 14877, a rule making whereby "settlement officers" designated by the Commission would be substituted for administrative law judges for purposes of resolving disputes under the informal small claims procedure of Subpart S of the Commission's rules of practice and procedure, 46 CFR 502.301, et seq.

Notice is hereby given that the Secretary, Federal Maritime Commission, has been authorized by the Commission to assign the informal small claims dockets to those designated settlement officers, and section 8 of Commission Order No. 1 is revised accordingly by adding a new § 8.03 as follows:

8.03 Authority to assign informal small claims dockets under Subpart S of the Commission's rules of practice and procedure (46 CFR 502.301, et seq.) to those Commission employees designated as "settlement officers".

Since this change is merely procedural, it shall be effective immediately.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-18547 Filed 10-30-72;8:50 am]

LATIN AMERICA/PACIFIC COAST STEAMSHIP CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularly the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. P. Blok, chairman, Latin America/Pacific Coast Steamship Conference, 417 Montgomery Street, San Francisco, CA 94104.

Agreement No. 8660-6, among the member lines of the Latin America/Pacific Coast Steamship Conference, will modify the basic agreement by amending (1) Article 13, entitled "Notice of Meetings" by deleting therefrom a parenthetical phrase pertaining to the giving of notice to the membership when a change or changes in the Conference agreement is proposed and provides for ten (10) days advance notice when a meeting is to be held instead of the present five (5) days advance notice; and (2) Article 15, by adding a new paragraph (a) which reads as follows:

15. Voting: Decisions. (a) Unless otherwise agreed upon with respect to individual subject matters, "open" votes, determined by roll call, shall be cast and recorded at all meetings, provided, however, that voting by "secret" ballot shall be permitted on any matter if requested by any member present. At duly called meetings, no abstentions or reserved votes shall be permitted with respect to any subject as to which the advance notice specified in Article 13 has been given. With respect to telephone polls, reserved votes shall be permitted for a period not exceeding ten (10) calendar days, during which period such reserved votes must be declared, failing which such votes shall be recorded as being cast with the majority.

Dated: October 24, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, *Secretary.*

[FR Doc. 72-18539 Filed 10-30-72;8:50 am]

[Docket No. 72-51]

NEW YORK SHIPPING ASSOCIATION

Further Enlargement of Time To File Replies

New York Shipping Association—NYSA-ILA Man-hour/Tonnage method of assessment; possible violation of sections 15, 16, and 17, Shipping Act, 1916.

Upon request of counsel for Daniels & Kennedy, Inc., and the Madden Corp., time within which reply affidavits and memoranda may be filed in this proceeding is enlarged to and including November 10, 1972.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc. 72-18538 Filed 10-30-72;8:50 am]

FEDERAL POWER COMMISSION

NATIONAL GAS SURVEY SUPPLY-TECHNICAL ADVISORY TASK FORCE-NATURAL GAS TECHNOLOGY

Order Designating a Member

OCTOBER 26, 1972.

The Federal Power Commission by order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. Membership. Dr. Elmer H. Baltz has resigned his membership in the Supply-Technical Advisory Task Force-Natural Gas Technology. A new member to, the Supply-Technical Advisory Task Force, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Dr. Larry A. Franks, scientist, Environmental Protection Agency.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18520 Filed 10-30-72;8:53 am]

NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Additional Member

OCTOBER 26, 1972.

The Federal Power Commission, by order issued August 11, 1972, established the Executive Advisory Committee of the National Power Survey.

2. *Membership.* An additional member of the Executive Advisory Committee, as selected by the Chairman of the Commission, with the approval of the Commission, is as follows:

Arthur F. Sampson, member, Acting Administrator, General Services Administration.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-18521 Filed 10-30-72;8:53 am]

[Docket No. CP73-94]

CITIES SERVICE GAS CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 6, 1972, Cities Service Gas Co. (Applicant), Post Office Box 25128, Oklahoma City, OK 73125, filed in Docket No. CP73-94 a budget-type application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as implemented by §§ 157.7(c) and 157.7(e) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction during the calendar year 1973 and operation of gas sales and transportation facilities and for permission and approval to abandon during the calendar year 1973, certain direct natural gas service and facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states the purpose of this application is to enable it to act with reasonable dispatch during the calendar year 1973 in establishing new delivery points for direct sales of natural gas, in making miscellaneous rearrangements on its system and in abandoning service and direct sales measuring, regulating and related minor facilities no longer required for deliveries to its customers, without the delay incident to the filing and processing of numerous individual certificate applications.

The total cost of the proposed transportation and gas sales facilities will not exceed $300,000, which Applicant plans to finance from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-18523 Filed 10-30-72;8:53 am]

[Docket No. CP73-67]

COASTAL STATES ENERGY

Notice of Petition and Application

OCTOBER 25, 1972.

Take notice that on August 30, 1972, Coastal States Energy Co. (Coastal), Petroleum Tower, Corpus Christi, Tex. 78403, filed in Docket No. CP73-67 a petition for disclaimer of jurisdiction over its proposed construction and operation of a gas synthesis plant near Corpus Christi, Tex., and sales of synthetic gas (SPG) from said plant, and in the alternative, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the limited-term sale for resale and delivery of SPG to Trunkline Gas Co. (Trunkline) from the aforesaid plant with pregranted abandonment authorization, all as more fully set forth in the petition and application which is on file with the Commission and open to public inspection.

Coastal contends that the manufacture and sale of SPG, together with the facilities and feedstock supplies necessary to produce SPG, are nonjurisdictional. Coastal states that the arguments expressed by Coastal States Gas Producing Co. in the pending proceeding in Dockets Nos. CP72-35, et al., Algonquin SNG, Inc., et al., fully explain its position that this matter is nonjurisdictional.

In the alternative, Coastal requests authorization to sell and deliver to Trunkline for a term of 10 years a daily quantity of 125,000 Mcf of SPG and an annual quantity of 45,600,000 Mcf of SPG from its proposed gas synthesis plant near Corpus Christi, Nueces County, Tex.

Coastal proposes to charge Trunkline a rate of $1.10 per million B.t.u.'s, subject to upward and downward adjustment by 0.025 cent for each one cent per barrel change in the wholesale price of crude petroleum, east of California, as published monthly in the Petroleum Price Data of the IPAA Statistical and Economic Report of the Independent Petroleum Association of America. Coastal states that it is required to reimburse Trunkline for one-half of any savings accruing to Coastal from the use of imported feedstocks.

Coastal indicates that the proposed gas synthesis plant will be constructed adjacent to its affiliates' existing refinery and gasoline plant operations in Nueces County, at an estimated cost of $33 million. Coastal states that the $33 million and an estimated $5 million of necessary working capital will be financed from funds advanced by its corporate parent, Coastal Gas Producing Co., from funds on hand, and from a presently available commercial bank line of credit.

Coastal also requests a waiver of the requirement to file revenue, expense, and income statements (Exhibit N to the application) since it believes this matter is nonjurisdictional; however, it states that it is willing to supply this information at any hearing in this matter.

Any person desiring to be heard or to make any protest with reference to said petition and application should on or before November 14, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this petition and application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18516 Filed 10-30-72;8:54 am]

[Docket No. CP73-100]

COLORADO INTERSTATE GAS CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 11, 1972, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Applicant), filed in Docket No. CP73-100 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas storage facilities in Colorado, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install and operate a 1,100-horsepower compressor unit at the Fort Morgan storage field in Morgan County, Colo. Applicant states that this unit is required to provide additional storage injection capacity as a result of increased heating season withdrawals. Applicant further states that the addition of this new unit is consistent with its plans for the ultimate development of the Fort Morgan storage field to a net annual withdrawal capacity of approximately 8 million Mcf of natural gas.

Applicant estimates the cost of the proposed project at $493,396.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18527 Filed 10-30-72;8:53 am]

[Docket No. CP73-104]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 16, 1972, Columbia Gulf Transmission Co. (Applicant), Post Office Box 683, Houston, TX 77001, filed in Docket No. CP73-104 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the period from January 6, 1973, to January 6, 1974, and operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system, supplies of natural gas in various producing areas generally coextensive with its system.

The total cost of the proposed facilities is not to exceed $7 million with no single onshore project to exceed $1 million and no single offshore project to exceed $1,750,000. Applicant plans to finance these costs from current working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18513 Filed 10-30-72;8:54 am]

[Docket No. E-7790]

IOWA POWER AND LIGHT CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 16, 1972, Iowa Power and Light Co. (Applicant) of Des Moines, Iowa, filed an application seeking authority pursuant to section 204 of the Federal Power Act to enter into a guaranty agreement with the trustee of pollution control revenue bonds to be issued by the town of Pleasant Hill, Iowa, in the amount of $5 million, which bonds will be sold by the town as soon as possible after obtaining the approval of this guaranty.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

The bonds of the town will be sold to purchase air pollution abatement equipment at Iowa Power and Light Co.'s Des Moines electric generating station at Pleasant Hill, Iowa, which installation is expected to be completed in the fall of 1974. Said equipment will be leased by the town to the Applicant and payments under said lease will be sufficient to pay principal, premium, if any, and interest due on said bonds. The bonds will not be issued by the Applicant. The rate of interest will be negotiated at a private sale of the bonds between the town and the underwriters.

The authorization sought is for Applicant to issue independent guaranty to the trustee and holders of the bonds of payment of principal, premium, if any, and interest on said bonds. No payments will be required under the guaranty if all payments are made pursuant to the lease.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18525 Filed 10-30-72;8:53 am]

[Docket No. CP73-92]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 5, 1972, Michigan Wisconsin Pipe Line Co. (Michigan), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP73-92 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the establishment of an emergency pipeline intereconnection with Southern Natural Gas Co. (Southern) and the transportation and exchange of natural gas with Southern, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an August 15, 1972, exchange agreement with Southern, Applicant proposes to tap its 20-inch transmission pipeline which traverses the site of Southern's Shadyside compressor station in St. Mary Parish, La., so as to permit the interconnection of Applicant's pipeline with a proposed 14-inch pipeline to be constructed by Southern. Said agreement provides that Southern will construct and operate measuring facilities and a 14-inch pipeline within the compressor station site, interconnecting Applicant's 20-inch pipeline with the discharge of the Shadyside compressor station. Said agreement also provides that Applicant shall reimburse Southern for one-half of the total cost of the interconnecting line and measuring facilities, which will be jointly owned by Applicant and Southern. Southern has filed for authorization to effectuate its part of the agreement in Docket No. CP73-84.

Applicant proposes to deliver natural gas to Southern pursuant to the aforesaid exchange agreement which calls for the following:

1. An exchange of natural gas on a gas-for-gas basis;

2. An exchange of natural gas only when the delivering party in its sole judgement believes it has such gas available for delivery to the requesting party; and

3. Redeliveries within 30 days or at other mutually agreeable times.

Applicant states that at the present time it is not contemplating any such exchanges of gas.

Applicant estimates its cost of the facilities which Southern will construct, at $39,396, and the cost to tap its 20-inch transmission line at $6,638.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 14, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with

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the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18517 Filed 10-30-72;8:54 am]

[Docket No. G-13324, etc.]

MOBIL OIL CORP. ET AL.

Notice of Applications for "Small Producer" Certificates [1]

OCTOBER 26, 1972.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-13324..... D 10-6-72	Mobile Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	Assigned	
C161-1281..... D 10-5-72	Mobile Oil Corp. (Operator), et al., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Michigan Wisconsin Pipe Line Co., Cedardale Field, Major and Dewey Counties, Okla.	do.....	
C164-804..... E 10-10-72	Sanford P. Fagadau (successor to Lone Star Producing Co., 1200 One Main Place, Dallas, Tex. 75250.	Lone Star Gas Co., Blue Grove Field Area in Clay County, Tex.	14.525	14.65
C170-355..... C 10-4-72	High Crest Oils, Inc., 2100 First City National Bank Bldg., Houston, Tex. 77002.	Northern Natural Gas Co., Tiger Ridge Field, Blaine and Hill Counties, Mont.	[2] 23.5	15.025
C172-25..... C 7-3-72	Humble Oil & Refining Co.,[3] c/o J. P. Miller, president, Brewton, Ala. 36426.	Florida Gas Transmission Co., Flomaton Field, Escambia County, Ala.	32.5	14.65
C173-17..... (G-17379) B 6-23-72	Glen E. Jeffrey,[3] Post Office Box 52332, Houston, Tex. 77052.	Transwestern Pipeline Co., Harper Field, Clark County, Kans.	Uneconomical	
C173-237..... B 9-28-72	Graham, Forester & Harper, Post Office Box 6121, Corpus Christi, Tex. 78411.	Cities Service Oil Co., Agua Dulce Field, Nueces County, Tex.	do.....	
C173-238..... B 9-28-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., South Tangier Field, Woodward County (Hugoton-Anadarko Area), Okla.	(4)	
C173-241..... B 10-5-72	Mobile Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., Bethany Field, Panola County, Tex.	Depleted	
C173-242..... B 10-4-72	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	Florida Gas Transmission Co., Krotz Springs Field, St. Landry Parish, La.	(5)	
C173-243..... A 9-28-72	General American Oil Company of Texas, 1500 First National Bank Bldg., Dallas, Tex. 75206.	Texas Gas Transmission Corp., Cotton Valley Field, Webster Parish, La.	19.25	15.025
C173-244..... B 9-28-72	Schimmel Oil Co. (Operator) et al., D-304 Petroleum Center, San Antonio, Tex. 78209.	Tennessee Gas Pipeline Co., Alto Hunde Field, Zapata County, Tex.	Depleted	
C173-245..... F 9-29-72	Graham-Michaelis Corp. (successor to Skelly Oil Co.), Post Office Box 247, Wichita, Kans. 67201.	Northern Natural Gas Co., Pleasant Valley Field, Ford County, Kans.	17.5	14.65
C173-246..... (C161-74) F 10-6-72	Clifton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	Mountain Fuel Supply Co., Pioneer Unit Field, Sweetwater County, Wyo.	[6] 14.07	15.025
C173-247..... (G-12273) F 9-28-72	Continental Oil Cl. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex.	[6] 21.33	15.025
C173-250..... (G-18435) F 10-6-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	19.9346	14.65
C173-251..... (G-15380) F 10-6-72	do.....	West Lake Natural Gasoline Co. & Atlantic Richfield Co., Lake Trammell, South (Canyon) Field, Nolan County, Tex.	[7] 9.5	14.65
C173-252..... A 10-6-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	Northern Natural Gas Co., Flying "W" (Ellenburger) Field, Winkler County, Tex.	[8] 38.70	14.65
C173-254..... F 10-10-72	Clinton Oil Co. (successor to Amoco Production Co.), 217 North Water St., Wichita, Kans. 67202.	Northern Natural Gas Co., South Bechthold Field, Lipscomb County, Tex.	18.0675	14.65
C173-259..... A 10-10-72	Texas Gas Exploration Corp., 1111 First City National Bank Bldg., Houston, Tex. 77052.	Texas Gas Transmission Corp., Acreage in Vermilion Area, Offshore Louisiana.	[9] 26.0	15.025
C173-260..... A 10-10-72	do.....	Texas Gas Transmission Corp., N/2 of Block 314, Eugene Island Area, Offshore Louisiana.	[9] 26.0	15.025
C173-261..... F 10-10-72	Investors Royalty Co., Inc. (successor to Anadarko Production Co.), 1309 Thompson Bldg., Tulsa, Okla. 74103.	Cities Service Gas Co., Northeast and Northwest Avard Field, Woods County, Okla.	18.037	14.65
C173-263..... F 10-10-72	do.....	Panhandle Eastern Pipe Line Co., Avard Field, Woods County, Okla.	18.308	14.65
C173-264..... (C167-374) F 10-10-72	Dawson Operating Co., Inc. (successor to Gulf Oil Corp.), 1010 Bank of the Southwest Bldg., Amarillo, Tex. 79109.	Panhandle Eastern Pipe Line Co., Southeast Gage Field, Ellis County, Okla.	[10] 20.2764	14.65
C173-265..... (C161-1099) F 10-10-72	Getty Oil Co. (successor to John Franks), Post Office Box 1404, Houston, Tex. 77001.	Texas Gas Transmission Corp., Calhoun Field, Ouachita, Lincoln and Jackson Parishes, La.	[11] 21.125	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[FR Doc.72-18529 Filed 10-30-72;8:54 am]

[Docket No. CP73-96]

NORTHERN NATURAL GAS CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 10, 1972, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP73-96 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention and operation of its temporary Glenwood, Iowa, Compressor Station on a continuous basis, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to § 157.22 of the Commission's regulations, exemption of temporary acts and operations, applicant is presently operating at its Glenwood, Iowa, Midpoint Station, a 5,300 horsepower portable compressor unit which was relocated from its Owatonna, Minn., Station in order to accommodate the injection of gas volumes into storage for the coming winter season.

Applicant states that this 5,300 horsepower unit is no longer required for service at the Owatonna, Minn., Station

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C173-266..... (C168-1352) F 10-10-72	The California Co., a Division of Chevron Oil Co. (successor to Atlantic Richfield Co.), 1111 Tulane Ave., New Orleans, La. 70112.	Transcontinental Gas Pipe Line Corp., Ship Shoal Block 99 Area (107 Field), Offshore Louisiana.	19.0	15.025
C173-267..... (G-18236) F 10-10-72	Amoco Production Co. (successor to Cities Service Oil Co.), Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., South Goodwin Field, Ellis County, Okla.	[12] 18.775	14.65
C173-268..... (G-17951) F 10-10-72	Amoco Production Co. (successor to Getty Oil Co.), Security Life Bldg., Denver, Colo. 80202.	do.....	[12] 18.77	14.65
C173-269..... (G-18726) F 10-10-72	Amoco Production Co. (successor to Mobil Oil Corp.), Security Life Bldg., Denver, Colo. 80202.	do.....	[13] 18.5	14.65
C173-272..... B 10-13-72	Cities Service Oil Co., Post Office Box 300, Tulsa, Okla. 74102.	Texas Eastern Transmission Corp., Midway Field, San Patricio County, Tex.	(4)	
C173-274[14]..... F 9-1-72	W. E. Bakke d.b.a. W. E. Bakke Oil Co. (successor to Sun Oil Co.), Post Office Box 6568, San Antonio, Tex. 78209.	Colorado Interstate Gas Co., Kearney County, Hugoton Field, Kans.	14.5	14.65
C173-275..... B 10-16-72	General American Oil Company of Texas, 1800 First National Bank Bldg., Dallas, Tex. 75202.	United Gas Pipe Line Co., South Cabeza Creek Field, Goliad County, Tex.	[15]	
C173-276..... A 10-16-72	Ashland Oil, Inc., Post Office Box 1503, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., North Chester Field, Major County, Okla.	[16] 38.316	14.650
C173-277..... B 10-10-72	Exchange Oil & Gas Corp., 1200 Oil and Gas Bldg., New Orleans, La. 70113.	Texas Gas Transmission Corp., Chalkley Field, Cameron Parish, La.	Depleted	
C173-278..... B 10-10-72	do.....	do.....	do.....	
C173-279..... F 10-16-72	Amoco Production Co. (successor to Sun Oil Co.) Security Life Bldg., Denver, Colo. 80202.	Transwestern Pipeline Co., South Goodwin Field, Ellis County, Okla.	[17] 18.778	14.65
C173-280..... (C167-884) F 10-16-72	Amoco Production Co. (successor to Reading and Bates, Inc.), Security Life Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Mocane-Laverne Gas Area, Beaver County, Okla.	[18] 18.647	14.65
C173-281..... B 10-16-72	Texas Oil & Gas Corp., 2700 Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Natural Gas Pipeline Company of America, Claybrook #1, Camrick Field, Beaver County, Okla.	(4)	
C173-282..... A 10-16-72	Phillips Petroleum Co., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., NW James Ranch Prospect, Permian Basin Area, Eddy County, N. Mex.	[1] 35.0	14.65

[1] Subject to upward and downward B.t.u. adjustments.
[2] Application previously noticed Sept. 19, 1972 in G-2629, et al. as add acreage; however, application should be noticed to cover interest of coowners.
[3] Applicant acquired interests of Texaco Inc. in Docket No. G-17379.
[4] Expiration of leases.
[5] Rate in effect subject to refund in R160-374 and R170-171.
[6] Rate in effect subject to refund in R173-170.
[7] Rate in effect subject to refund in R170-90.
[8] Includes 8.70 cents per Mcf upward B.t.u. adjustment.
[9] Applicant is willing to accept a certificate at an initial rate of 26.0 cents; however, the contract price is 45.0 cents.
[10] Includes tax reimbursement of .3144 and 1.9620 cents per Mcf upward B.t.u. adjustment.
[11] Includes all adjustments and tax reimbursement.
[12] Applicant is willing to accept a certificate at an initial rate of 18.775 cents; however, the contract price is 26.0 cents plus tax reimbursement.
[13] Applicant is willing to accept a certificate at an initial rate of 18.77 cents; however, the contract price is 26.0 cents plus tax reimbursement.
[14] Applicant is willing to accept a certificate at an initial rate of 18.5 cents; however, the contract price is 26.0 cents plus tax reimbursement.
[15] Application previously noticed Sept. 27, 1972 as a succession in Docket No. G-4421; however, application should be noticed as a partial succession in Docket No. C173-274.
[16] The only presently producing gas well is located on acreage that has been assigned to H. A. Stuart effective April 1, 1972.
[17] Applicant is willing to accept a certificate at an initial rate of 18.778 cents; however, the contract price is 26.0 cents.
[18] Includes base price of 17.0 cents, B.t.u. adjustment of 1.632 cents and .015 cents tax reimbursement.

[FR Doc.72-18519 Filed 10-30-72;8:51 am]

[Docket No. CP71-50]

NATURAL GAS PIPELINE CO. OF AMERICA

Notice of Petition to Amend

OCTOBER 25, 1972.

Take notice that on September 27, 1972, Natural Gas Pipeline Company of America (petitioner), 122 South Michigan Avenue, Chicago, IL 60603, filed in Docket No. CP71-50 a petition to amend the order issued in said docket on December 7, 1970 (44 FPC 1541), pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of certain additional natural gas facilities and the transportation and exchange of additional natural gas with Phillips Petroleum Co. (Phillips), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By Commission order in Docket No. CP71-50, inter alia, petitioner was authorized to exchange certain natural gas, which it had available from the Quinduno Field, Roberts County, Tex., with Phillips. Petitioner requests authorization to increase the volume of natural gas which is exchanged with Phillips from the Quinduno Field, and to construct and operate certain additional facilities in order to provide a new delivery point in Roberts County, Tex., and a new redelivery point in Woodward County, Okla., for the new exchange volume.

Applicant states that additional quantities of natural gas have become available in the Quinduno Field as a result of increases in oil allowables, gas-oil ratios, and gas cap production, and that it has entered into an amendment to Gas Exchange Agreement with Phillips providing for an additional delivery point and redelivery point and for exchange of up to 25,000 Mcf per day at such point. In order to effectuate such exchange, petitioner states that it will be necessary to construct and operate at 3,000 additional horsepower at its Quinduno Field compressor station, approximately 2.5 miles of 10-inch pipeline from petitioner's existing Quinduno line to an existing pipeline of Phillips, measuring facilities, side taps, and miscellaneous appurtenant facilities. Petitioner estimates the cost of the proposed facilities at $1,241,400, which it plans to finance from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10), and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

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as the compression requirements of its system in its northern market area have been reduced, and requests herein authorization to retain the subject compressor unit at the Glenwood, Iowa, location on a permanent basis. Applicant further states that by retaining the unit at Glenwood, it can avoid the expenditure of approximately $100,000 per year required to move the unit to Owatonna for the winter and then return it to Glenwood for the summer injection season.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18526 Filed 10-30-72;8:53 am]

[Docket No. E-7785]

PACIFIC POWER & LIGHT CO.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 10, 1972, Pacific Power & Light Co. (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana, and Idaho with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not exceeding $105 million in principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to a credit agreement with certain banks ($45 million), (2) pursuant to a Line of Credit ($20 million), and (3) in the form of Commercial Paper ($40 million).

(1) Unsecured promissory notes in the sum of not exceeding $45 million in aggregate principal amount at any one time outstanding would be issued under a credit agreement dated as of January 1, 1973 (1973 Credit Agreement), between Applicant and the 14-banks listed in section 1 thereof. Under such credit agreement Applicant would have the right to make borrowings and reborrowings from each bank, and each bank would be obligated to make loans to Applicant from time to time during the period from January 1, 1973, to June 30, 1974. Each note so issued would be dated the day of the borrowing evidenced thereby, would mature 11 months after its date or on June 30, 1974, whichever is earlier, and would bear interest at a rate per annum equivalent to the prime commercial rate of interest charged by the respective banks from time to time. In consideration of the commitments of the several banks to make loans, Applicant would pay to each bank on the last day of each quarter beginning with March 31, 1973, and ending with June 30, 1974, an amount computed at the rate of ½ of 1 percent per annum on the daily average unused amount which such bank was obligated to lend during the calendar quarter then ended. Applicant shall have the right to surrender all or part of the credit extended by the banks under the credit agreement and to prepay, without penalty, the whole or any part of notes outstanding thereunder, any partial prepayments to be in an aggregate amount of not less than $1 million.

(2) Unsecured promissory notes in an aggregate principal amount of not exceeding $20 million at any one time outstanding would be issued by Applicant to evidence borrowings under a line of credit extended by the 14 banks named in section 1 of the credit agreement. Each note so issued would be dated the day of issuance and would have a maturity of not more than 90 days from the date thereof. All notes issued pursuant to the line of credit would mature not later than January 1, 1974.

(3) Unsecured promissory notes in an aggregate principal amount of not exceeding $40 million at any one time outstanding would be issued and sold by Applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the day of issuance, would have a maturity of not more than 270 days from the date thereof, and would be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowings to be made under the credit agreement, the line of credit and in the form of commercial paper would be used (1), in part, to temporarily finance Applicant's construction expenditures for 1973, presently estimated at $138,108,000, and (2) to pay installments of $5 million each on term loans due June 30, 1973, and December 31, 1973, under Applicant's $35 million term credit agreement dated April 1, 1968. The balance of funds expected to come, in part, from further permanent financing which Applicant proposes to undertake late in 1973, the amounts, types, of securities and exact timing of issuance of which have not yet been determined.

Any person desiring to be heard or to make any protest with reference to this application should, on or before November 10, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18530 Filed 10-30-72;8:54 am]

[Docket No. RI73-71]

PHILLIPS PETROLEUM CO.

Notice of Extension of Time

OCTOBER 25, 1972.

On October 24, 1972, Phillips Petroleum Co. filed a motion for extension of time for filing testimony and exhibits in the above matter as required by order issued October 13, 1972.

Upon consideration, notice is hereby given that the time is extended to and including November 3, 1972, for the filing by Phillips of evidence and exhibits. The date of the prehearing conference, November 15, 1972, is not changed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18514 Filed 10-30-72;8:54 am]

[Docket No. E-7742]

PUBLIC SERVICE CO. OF NEW HAMPSHIRE

Postponement of Prehearing Conference and Cross-Examination

OCTOBER 25, 1972.

The Commission order issued August 14, 1972, in the above-designated matter provided for the cross-examination to commence March 1, 1973. The Chief Administrative Law Judge's order issued September 14, 1972, postponed the commencement of the cross-examination to March 6, 1973, at 10 a.m. e.s.t., and fixed February 27, 1973, for the convening of a prehearing conference. On September 20, 1972, counsel for the New Hampshire Electric Cooperative, Inc., filed a letter stating that he, staff counsel, and counsel for Public Service Co. of New Hampshire agree to a postponement of the prehearing conference to March 6, 1973, and a postponement of cross-examination to March 16, 1973. On September 27, 1972, Commission staff counsel filed a letter stating that the letter filed September 20, 1972, accurately represents staff counsel's acquiescence in the proposed dates.

Upon consideration, notice is hereby given that the prehearing conference is postponed to March 6, 1973, at 10 a.m. e.s.t.; the cross-examination is postponed to March 16, 1973, at 10 a.m.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18512 Filed 10-30-72;8:54 am]

[Docket No. RP73-57]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Notice of Proposed Changes in Rates and Charges

OCTOBER 26, 1972.

Take notice that South Texas Natural Gas Gathering Co. (South Texas) on October 17, 1972, tendered for filing proposed changes in its rate for sale of gas to Transcontinental Gas Pipe Line Corp. (Transco). The proposed rate change is described in the company's transmittal letter as follows:

The change in rate proposed herein is required, among other reasons, to permit the flow through of South Texas' increased purchased gas cost which will result from the settlement submitted to the Commission by the McAllen Ranch Producers in Docket Nos. RI72-240, et al. on September 14, 1972. The settlement in that docket is conditioned upon such a flow through. Accordingly it is requested that the Commission, pursuant to § 154.51 of its regulations, waive notice requirements to permit the tendered increase to become effective coincidentally with the increase of the McAllen Ranch Producers or November 15, 1972, whichever is earlier.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 8, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18522 Filed 10-30-72;8:53 am]

[Docket No. CS73-287, etc.]

C. C. STEPHENSON, JR., ET AL.

Applications for "Small Producer" Certificates [1]

OCTOBER 25, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS73-287	10-12-72	C. C. Stephenson, Jr., 1209 Mid-Continent Bldg., Tulsa, Okla. 74103.
CS73-288	10-12-72	R. W. Stough, Box 555, Carthage, TX 75633.
CS73-289	10-16-72	Helen Loraine Harvey, Post Office Box 177, Wichita Falls, TX 76307.
CS73-290	10-16-72	R. J. Schumacher, 1329 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.
CS73-291	10-16-72	Harry J. Owens, 1111 Judson Rd., Longview, TX 75601.
CS73-292	10-16-72	R. L. Burns Corp., 334 West Third St., San Bernardino, CA 92401.
CS73-293	10-16-72	Productive Exploration Co., 1122 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-294	10-18-72	Cecil Stein, 2112 Alabama, Houston, TX 77004.
CS73-295	10-17-72	Wm. J. O'Connor, 1122 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-296	10-17-72	Energy Development Corp., 80 Park Place, Newark, NJ 07101.
CS73-300	10-16-72	Yegua Stillwell Gas Corp., Post Office Box 145, Alice, TX 78332.
CS73-301	10-13-72	Dan Schusterman d.b.a. Schusterman Development Co., 1201 Mid-Continent Bldg., Tulsa, Okla. 74103.
CS73-302	10-16-72	Ray H. Eubank, 2310 Republic National Bank Tower, Dallas, Tex. 75201.
CS73-303	10-16-72	H. H. Fullilove, et al., Post Office Box 1334, Houston, TX 77019.
CS73-304	10-16-72	Magic Circle Oil Co., 1122 United Founders Tower, Oklahoma City, Okla. 73112.
CS73-305	10-13-72	Robert P. Lammerts, 950 National Foundation Life Bldg., Oklahoma City, Okla. 73112.
CS73-306	10-16-72	Wilco Properties, Inc., 2310 Republic Bank Tower, Dallas, Tex. 75201.
CS73-307	10-13-72	American Natural Gas Exploration, Inc., 3801 Kirby, Suite 714, Houston, TX 77006.

[FR Doc.72-18518 Filed 10-30-72;8:51 am]

[Docket No. CP73-101]

TENNESSEE GAS PIPELINE CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 12, 1972, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), filed in Docket No. CP73-101 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for a limited term ending October 31, 1973, for the Greenwich Gas Co. (Greenwich), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Greenwich and The Southern Connecticut Gas Co. (Southern) presently purchase natural gas from Applicant under Applicant's Rate Schedule No. G-6. Applicant states that Greenwich has made arrangements with Southern to store and vaporize a maximum daily volume of 3,000 Mcf and a maximum winter volume of 25,000 Mcf of liquefiable natural gas (LNG) at Southern's Bridgeport Service

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Area, which Greenwich plans to purchase from New England LNG Co., Inc., and to have delivered to the Bridgeport Service Area. Applicant further states that Southern has agreed to inject such vaporized LNG into its distribution system and to make available to Applicant for transportation to Greenwich an equivalent daily volume of natural gas by reducing its natural gas takes from Applicant.

Applicant seeks authorization pursuant to a precedent agreement dated October 10, 1972, with Greenwich to transport and deliver to Greenwich at Applicant's existing Greenwich Sales Meter Station in Fairfield County, Conn., the daily transportation volumes of natural gas made available by Southern up to a total maximum daily quantity of 3,000 Mcf of natural gas per day for the term ending October 31, 1973.

Applicant proposes to charge Greenwich a monthly transportation charge comprised of a demand charge of 29.41 cents per Mcf and a volume charge of 4.90 cents per Mcf, subject to certain minimum bill provisions.

Applicant states that it can render this proposed transportation service for the limited term through its existing facilities without affecting its ability to render its presently authorized firm service to any other existing customers.

Applicant indicates that Greenwich will utilize the natural gas received under this transportation arrangement for peak shaving purposes during the 1972–73 winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18515 Filed 10-30-72;8:54 am]

[Docket No. CP73-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 26, 1972.

Take notice that on October 11, 1972, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP73-99 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the following facilities:

1. Approximately 800 feet of 4-inch transmission line and one meter and regulator station and related facilities, known as Lyons-Johnson Bayou purchase facilities, in Cameron Parish, La.;

2. Approximately 2,261 feet of 8-inch transmission purchase line and one meter and regulator station and related facilities, known as Tennessee Gas No. 3 Block 77 purchase facilities, and one meter and regulator station and related facilities, known as Tennessee Gas No. 1 Block 77 purchase facilities, in Vermilion Area, offshore Louisiana; and

3. Approximately 1,209 feet of 4-inch transmission line, one meter and regulator station and related facilities known as the Inexco-Van Meter purchase facilities, in Hardin County, Tex.

Applicant states that these facilities which were originally used for the purchase of natural gas are no longer needed due to the exhaustion of natural gas reserves in the fields served by these facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18524 Filed 10-30-72;8:53 am]

[Docket No. CP73-103]

UNITED GAS PIPE LINE CO.

Notice of Application

OCTOBER 25, 1972.

Take notice that on October 16, 1972, United Gas Pipe Line Co. (Applicant), 1500 Southwest Tower, Houston, TX 77002, filed in Docket No. CP73-103 a budget-type application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under the Act, for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1973, and the operation of certain natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in producing areas generally coextensive with its system.

The total cost of the proposed facilities is not to exceed $7 million with no single onshore project to exceed $1 million and no single offshore project to exceed $1,750,000. Applicant proposes to finance these costs through funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 20, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18528 Filed 10-30-72;8:54 am]

[Docket Nos. RI70-830, et al.]

ATLANTIC RICHFIELD CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 25, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI70-830	Atlantic Richfield Co	476	1-2	Kansas Nebraska Gas Co., Inc. (Castle Garden Field, Fremont County, Wyo.).	$(86)	9-28-72		5- 1-72	[2] 16.24	[2] 16.12	RI70-830.
RI70-829	do	291	1-2	Montana-Dakota Utilities Co. (Elk Basin Field, Park County, Wyo.).	(1)	9-28-72		9- 1-72	13.13	[3] 13.065	RI70-829.
RI73-76	Cities Service Oil Co	382	[4] 4	El Paso Natural Gas Co. (Washing Ranch Field, Eddy County N. Mex., Permian Basin).	18,180	9-25-72		3-26-73	[5] [12] 27.27	[6] [12] 30.30	
RI73-77	Cabot Corp. (SW)	44	[6] 8	Transwestern Pipe Line Co. (Estes Gasoline Plant, Winkler County, Tex.) (Permian Basin).		5-26-72	10-27-72	[11] Accepted			
	do		[6] 9	do	7,800	9-26-72		3-27-73	[12] 27.2	[12] 35.0	RI71-334.
	do	49	[6] 6	Transwestern Pipe Line Co. (Walton Gasoline Plant, Winkler County, Tex.) (Permian Basin).		9-26-72	10-27-72	[11] Accepted			
	do		[7] 7	do	24,000	9-26-72		3-27-73	[12] 27.2	[12] 35.0	RI71-334.
RI70-469	Humble Oil & Refining Co	218	1-5	Mountain Fuel Supply Co. (Dry Piney Unit, Sublette County, Wyo.).	(574)	10- 3-72		10- 3-72	17.17	[13] 17.085	RI70-469.
RI70-469	do	226	1-3	Montana Dakota Utilities Co. (Elk Basin Field, Park County, Wyo.).	(268)	10- 3-72		10- 3-72	13.13	13.065	RI70-469.
RI73-78	Continental Oil Co	298	5	Montana-Dakota Utilities Co. (Riverton East Field, Fremont County, Wyo.).		10- 2-72	11- 2-72	[10] Accepted			
	do		6	do	11,560	10- 2-72		12- 3-72	16.4667	16.9697	RI71-22.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Rate reduction. Applicant has collected a double amount of tax reimbursement in order to recoup such reimbursement on production back to January 1, 1968, and now proposes only to collect the contractually due tax reimbursement.
[2] Corrected by filing of September 29, 1972.
[3] Applicable only to acreage added by Supplement No. 3.
[4] Initial rate prescribed by temporary certificate issued September 15, 1972.
[5] Includes B.t.u. adjustment.
[6] Contract amendment.
[7] Applicable only to new gas as defined in Supplement No. 8.
[8] Applicable only to new gas as defined in Supplement No. 6.
[9] Contract amendment.
[10] Accepted to be effective on the date shown in the "Effective Date" column.
[11] Accepted to be effective on the date shown in the "Effective Date" column on the condition that such acceptance does not constitute Commission approval of the provisions therein and in particular the definition of "new gas" as stated therein.
[12] The pressure base is 14.65 p.s.i.a.

The proposed decreases of Atlantic Richfield Co. and Humble Oil & Refining Co. reflect a decrease in reimbursement of the Wyoming production tax. Atlantic and Humble have been collecting a double amount of the contractually due tax reimbursement so as to recoup taxes on past sales of gas. Since the back taxes have been recovered, Atlantic and Humble now propose to collect only the contractual tax reimbursement for current sales of gas. The proposed decreases are suspended in the existing rate proceedings to be effective subject to refund as of the proposed effective dates.

The increase proposed by Continental Oil Co. under its FPC Gas Rate Schedule No. 298 does not exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore is suspended for 1 day from the expiration of the 60-day notice period.

The proposed increases of Cabot Corp. (SW) are for sales of "new gas" from the Permian Basin Area of Texas as defined in the contract amendment. The amendment defines "new gas" as residue gas derived from casinghead gas or gas-well gas covered by "producer to plant" contracts, contract renewals or extensions of existing contracts entered into on or after October 1, 1968, for gas supplied to the plant. For such "new gas," the amendment provides for 35 cents per Mcf effective January 1, 1972, and for a 1 cent per Mcf periodic increase each year thereafter or for such higher just and reasonable rate that may be established by the

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Commission. The contract amendments are accepted for filing 30 days after filing with the stipulation that acceptance of the agreements does not constitute Commission approval of the provisions therein and in particular the definition of "new gas" as stated therein. Cabot's proposed rates exceed the corresponding rate filing limitation imposed in Southern Louisiana and are therefore suspended for 5 months.

The other proposed increased rates involved here exceed the corresponding rate filing limitations imposed in Southern Louisiana and therefore are suspended for 5 months.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, Chapter I, Part 2, § 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc. 72-18575 Filed 10-30-72;8:45 am]

[Docket No. G-13324, etc.]

MOBIL OIL CORP. ET AL.

Notice of Applications for "Small Producer" Certificates; Correction [1]

OCTOBER 26, 1972.

Change heading of F.R. Doc. 72-18519 appearing at page — of this issue to read: Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates.[1]

Change text of first paragraph to read:

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-18682 Filed 10-30-72;11:23 am]

FEDERAL RESERVE SYSTEM

AMERICAN CAPITAL CORP.

Formation of Bank Holding Company

American Capital Corp., Houston, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of: (1) The successor by merger to the First National Bank of Raymondville, Raymondville, and the successors by reorganization to (2) First State Bank of Alamo, Alamo, (3) First State Bank of Willis, Willis, and (4) Union State Bank, Carrizo Springs, all in Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 20, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18471 Filed 10-30-72;8:46 am]

BRONKEN AGENCY, INC.

Order Approving Acquisition of Bank

Bronken Agency, Inc., Barron, Wis., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 40.8 percent of the voting shares of Bank of Barron, Barron, Wis. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant's only banking subsidiary is Bank (deposits of about $11 million) of which it presently owns approximately 39.2 percent of the voting shares.[1] Bank is the third largest of 11 banks located in Barron County and controls about 13 percent of total commercial bank deposits in the area. The additional shares Applicant seeks to acquire are substantially those that are presently owned by the three principal officers of Applicant. Since the consummation of this transaction would result only in a change of ownership from individual holdings to corporate form, there appears to be no effect on existing or potential competition in any relevant area.

Considerations relating to the managerial and financial prospects of Applicant and Bank appear generally satisfactory and are consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served also are consistent with approval of the application. It is the Board's judgment that the proposed transaction is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18472 Filed 10-30-72;8:46 am]

C-M CO., INC.

Formation of Bank Holding Company

The C-M Co., Inc., Medicine Lodge, Kans., has filed an amended application for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a registered bank holding company through retention of 90 percent or more of the voting shares of Isabel State Bank, Isabel, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Notice of the original application was published on February 5, 1972 (37 F.R. 2807).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views

[1] All banking data are as of Dec. 31, 1971.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Brimmer.

in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18479 Filed 10-30-72;8:47 am]

THE C-M CO., INC.

Proposed Acquisition of The Clyde S. Boots Insurance Agency

The C-M Co., Inc., Medicine Lodge, Kans., has filed an amended application pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of the Clyde S. Boots Insurance Agency, Isabel, Kans. Notice of the application was published on January 6, 1972, in the Barber County Index, a newspaper circulated in Barber County, Kans. Notice of the original application was published on February 5, 1972 (37 F.R. 2807).

Applicant states that the proposed subsidiary would engage in the activities of a general fire and casualty insurance agency in Isabel, Kans., a community with less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18475 Filed 10-30-72;8:47 am]

CENTENNIAL BANK CORP.

Formation of One-Bank Holding Company

Centennial Bank Corp., Englewood, Colo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Centennial State Bank, Englewood, Colo., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18470 Filed 10-30-72;8:46 am]

CENTURY BANCORP, INC.

Acquisition of Bank

Century Bancorp, Inc., Somerville, Mass., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent or more of the voting shares of North Shore Bank & Banking Co., Lynn, Mass. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18477 Filed 10-30-72;8:47 am]

FIRST NATIONAL STATE BANCORPORATION

Acquisition of Bank

First National State Bancorporation, Newark, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the successor by merger to Somerset Hills and County National Bank, Basking Ridge, N.J. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18481 Filed 10-30-72;8:47 am]

FORT WORTH NATIONAL CORP.

Acquisition of Bank

The Fort Worth National Corp., Fort Worth, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Exchange Bank & Trust Co., Dallas, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Fort Worth National Corp., is also engaged in the following nonbank activities: Mortgage banking, ranch management, land development, acting as agent for credit life, accident, and health insurance that is directly related to any extension of credit, and operating a savings and loan association. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18476 Filed 10-30-72;8:47 am]

K.B.J. ENTERPRISES, INC.

Formation of Bank Holding Company

K.B.J. Enterprises, Inc., Sibley, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 58.6 percent or more of the voting shares of Sibley State Bank, Sibley, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

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The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18480 Filed 10-30-72;8:47 am]

MANUFACTURERS HANOVER CORP.

Acquisition of Bank

Manufacturers Hanover Corp., Dover, Del., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Citizens Bank of Monroe, Monroe, N.Y. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 20, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18469 Filed 10-30-72;8:46 am]

NATIONAL DETROIT CORP.

Formation of One-Bank Holding Company

National Detroit Corp., Detroit, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to National Bank of Detroit, Detroit, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than November 13, 1972.

Board of Governors of the Federal Reserve System, October 24, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18468 Filed 10-30-72;8:46 am]

SOUTHEAST BANKING CORP.

Acquisition of Bank

Southeast Banking Corp., Miami, Fla., has applied in two separate applications as set forth below for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)):

(1) To acquire 80 percent or more of the voting shares of Bankers Bank of Florida, Fort Lauderdale, Fla.; and

(2) To acquire 80 percent or more of the voting shares of Bank of Florida at Fort Lauderdale, Fort Lauderdale, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18478 Filed 10-30-72;8:47 am]

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank

Southeast Banking Corp., Miami, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Bank of Orange Park, Orange Park, Fla. (Orange Park Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 17 banks with aggregate deposits of $1.24 billion, representing 7.7 percent of the total commercial bank deposits held by Florida banks, and is the largest banking organization in the State. (All banking data are as of December 31, 1971, and reflect holding company formations and acquisitions approved through September 30, 1972.) The acquisition of Orange Park Bank ($12.1 million deposits) would increase Applicant's share of Florida deposits by 0.07 percentage points. Consummation of the acquisition would not result in a significant increase in the concentration of banking resources on a local or a statewide basis.

Orange Park Bank is located in the Jacksonville banking market where it controls 0.85 percent of total deposits as the 21st largest of 31 banks. Applicant's present two subsidiaries in this market control 3.36 percent of total deposits, whereas three of the six multibank holding companies represented therein control 71.73 percent. Upon consummation of this proposed acquisition Applicant would control 4.21 percent of total market deposits.

Applicant's present subsidiaries in the Jacksonville market are located approximately 12 and 20 miles, respectively, from Orange Park Bank. The St. Johns River acts as a natural barrier to present or potential competition between these banking offices. Competitive considerations are consistent with approval of the application. In addition, it appears that the proposed affiliation would enable Orange Park Bank to compete more effectively with the larger area banks.

The financial condition of Applicant and its subsidiary banks is considered to be generally satisfactory in view of Applicant's commitment to increase equity capital in its subsidiaries by the end of the year. Management is deemed capable and prospects for the group are favorable. The financial condition of Orange Park Bank is considered to be satisfactory; it has capable management; its earnings have been satisfactory; and its prospects appear favorable. Banking factors are consistent with approval of the application.

The prime banking needs of the area are satisfactorily served at the present time. Although no new services are proposed for Orange Park Bank, Applicant plans to expand and improve its present services; to enable it to meet the credit needs of the expanding area where residential construction is a prime economic activity; and to provide the bank with capital as needed. Considerations relating to the convenience and needs of the communities to be served are consistent with and lend some support toward approval of the application. It is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective October 20, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-18473 Filed 10-30-72;8:46 am]

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Sheehan, and Bucher. Absent and not voting: Chairman Burns and Governor Brimmer.

SURVCO BANCORP, INC.

Formation of Bank Holding Company and Proposed Acquisition of Surco Co.

Survco Bancorp, Inc., Sugar Creek, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 94.4 percent of the voting shares of Sugar Creek National Bank, Sugar Creek, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Survco Bancorp, Inc., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of Surco Co., a partnership, of Sugar Creek, Mo., Notice of the application was published on August 31, 1972, in the Kansas City Star, a newspaper circulated in Kansas City, Mo.

Applicant states that the proposed subsidiary would engage in the activities of acting as agent for sale of credit life, accident and health insurance, on borrowers who have been extended credit by Sugar Creek National Bank or bank-related firms. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal under section 4(c)(8) can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 16, 1972.

Board of Governors of the Federal Reserve System, October 20, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary of the Board.

[FR Doc.72-18474 Filed 10-30-72;8:47 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 72-20]

GRAPH-DATA DIGITIZING, LOS ANGELES, CALIF.

Notice of Intent To Grant Exclusive Patent License

Notice is hereby given of intent to grant to Graph-Data Digitizing, Los Angeles, Calif., a limited exclusive license to practice the invention described in U.S. Patent No. 3,346,724 for "Random Function Tracer" issued October 10, 1967, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The proposed license will be exclusive, revocable, and royalty-free for a term of 6 years in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.2, as revised April 1, 1972. NASA will grant the exclusive license unless, within 30 days of this notice, the Chairman, Inventions and Contributions Board, NASA, Washington, D.C. 20546, receives in writing any of the following, together with supporting documentation: (i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b), in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the notice and then recommend to the Administrator whether to grant the exclusive license.

JAMES C. FLETCHER,
Administrator.

[FR Doc.72-18483 Filed 10-30-72;8:47 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ATMOSPHERIC SCIENCES

Notice of Meeting

Pursuant to Executive Order 11671, notice is hereby given that the Advisory Panel for Atmospheric Sciences will meet at 9:30 a.m. on November 9, 1972, and at 9 a.m. on November 10, 1972, in Room 321, 1800 G Street NW., Washington, DC 20550. The purpose of this panel is to provide advice and recommendations (a) concerning support for research in Atmospheric Sciences; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting will include:

OCTOBER 9 SESSION

1. Introductory remarks and committee operational guidelines, by the section head, Atmospheric Science Section.
2. Divisional highlights, presented by the Division Director, Division of Environmental Sciences.
3. Review of NSF Atmospheric Sciences activities, by the section head, Atmospheric Sciences Section.
4. Examination of ways for NSF to stretch present support of atmospheric sciences.
5. NSF support for incoherent scatter radar—

Jicamarca,

Chatanika,

Upper Atmosphere Observatory.

6. Role of NSF in the international magnetospheric survey.
7. 1973 solar eclipse.
8. Review of recent global atmospheric research program (GARP) activities.
9. Weather modification objectives and national hail research experiment (NHRE) review.
10. St. Louis air pollution study.
11. High altitude aircraft sampling.
12. Review and evaluation of selected research proposals.

OCTOBER 10 SESSION

1. National Science Computer Network.
2. National Center for Atmospheric Research (NCAR) computer plans.
3. Other NCAR/NSF activities.
4. Discussion of "Needs of the Atmospheric Sciences" and panel deliberation.
5. Panel discussion with the participation of the Assistant Director for Research; the Deputy Assistant Director for Research; and the Division Director, Division of Environmental Sciences.

The meeting will be open to the public except that portion represented by agenda item 12 of the November 9 session which will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d). Persons who desire to attend should notify the Atmospheric Science Section, Division of Environmental Sciences by telephone (202—632-4198), or by mail (Room 312, 1800 G Street NW., Washington, DC 20550), prior to the meeting.

For further information relative to this panel, contact Dr. Fred D. White, section head, Atmospheric Sciences Section, Division of Environmental Sciences, Room 312, 1800 G Street NW., Washington, DC 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room 245; 1800 G Street NW., Washington, DC 20550.

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 25, 1972.

[FR Doc.72-18492 Filed 10-30-72;8:48 am]

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ADVISORY PANELS FOR BIOPHYSICS AND BIOCHEMISTRY

Notice of Meetings

Pursuant to Executive Order 11671, notice is hereby given of meetings of the following committees, including the individuals to contact for further information respecting each committee. The purpose of each of these advisory bodies is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

ADVISORY PANEL FOR BIOPHYSICS

Date and time of meeting: 9 a.m., November 10 and 11, 1972.

Location of meeting: Room 338, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Eloise E. Clark, section head, Molecular Biology Section, Division of Biological and Medical Sciences, Room 329, 1800 G Street NW., Washington, DC 20550.

ADVISORY PANEL FOR BIOCHEMISTRY

Date and time of meeting: 9 a.m., November 10 and 11, 1972.

Location of meeting: Room 338, 1800 G Street NW., Washington, DC 20550.

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For further committee information, contact: Dr. Roy Kisliuk, program director, Biochemistry Program, Division of Biological and Medical Sciences; Room 329, 1800 G Street NW., Washington, DC 20550.

These meetings will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated August 23, 1972, pursuant to the provisions of Executive Order 11671, section 13(d).

T. E. JENKINS,
Assistant Director for Administration.

OCTOBER 25, 1972.

[FR Doc.72-18491 Filed 10-30-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-2138, 812-3247]

ATLANTA/LASALLE CORP. AND ATLANTA/LASALLE CAPITAL CORP.

Notice of Application for Order Declaring That Company Has Ceased Being an Investment Company and Exempting Its Subsidiary From All Provisions

OCTOBER 25, 1972.

Notice is hereby given that Atlanta/LaSalle Corp. (Applicant), a Delaware corporation registered as a closed-end, nondiversified management investment company under the Investment Company Act of 1940 (Act) has filed an application on its own behalf for an order pursuant to section 8(f) declaring that it has ceased to be an investment company and on behalf of its wholly owned subsidiary Atlanta/LaSalle Capital Corp. (formerly LaSalle Street Capital Corp.) (SBIC subsidiary), 150 South Wacker Street, Chicago, IL, also registered as a closed-end, nondiversified management investment company for an order pursuant to section 6(c) of the Act exempting SBIC subsidiary from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

I. Applicant was originally incorporated in Illinois in 1962 under the name Milwaukee Braves Baseball Club, Inc. In 1966 its name was changed to Atlanta Braves Baseball Club, Inc., and in 1970 to BBR Corp. In 1970 applicant was reincorporated in Delaware under the name Atlanta/LaSalle Corp. Applicant's principal asset at that time was ownership of approximately 86 percent of the outstanding common stock of Atlanta Braves, Inc., (Braves) the owner and operator of the Atlanta Braves National League baseball franchise.

Applicant states that it registered under the Act in November 1970, because it believed that following a then proposed merger with LaSalle Street Capital Corp. (Old SBIC), Applicant would own investment securities exceeding 40 percent of the value of its total assets on an unconsolidated basis and consequently would be deemed to be an investment company as defined in the Act. Old SBIC which had previously been registered under the Act and which was licensed as a small business investment company under the Small Business Investment Company Act of 1958 as amended, filed an application pursuant to section 6(c) and 17(b) of the Act for an order of the Commission to permit its merger into Applicant. Following a hearing on the matter the Commission issued an order exempting Old SBIC from various provisions of the Act subject to certain conditions. (See I.C. Rel. No. 6693). Old SBIC was subsequently merged into Applicant on November 1, 1971. As a part of such merger its small business activities including SBIC license and the name LaSalle Street Capital Corp. (SBIC subsidiary) were transferred to a newly created, wholly owned subsidiary called LSC Corp. which was also registered as an investment company under the Act. As a further part of the merger, certain of Old SBIC's assets and liabilities which were not transferred to LSC were transferred to Applicant.

Section 3(a)(1), defines the term "investment company" as any issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities.

Section 3(a)(3) defines the term "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of the issuers total assets (exclusive of Government securities and cash items) on an unconsolidated basis.

Applicant represents that it has never operated, and does not presently intend to operate in such a manner as to bring it within the definition of an investment company. Applicant states that it directs the overall management of its four majority-owned subsidiaries, three of which are operating companies and one of which, SBIC subsidiary, is a small business investment company.

Applicant states further that with respect to its employees and those of its subsidiaries, 274 are employed in operating matters and three are engaged in investment matters and with respect to Applicant's officers, approximately 72 percent of their time is spent on operating matters and approximately 28 percent on investment matters on an average basis.

Table I shows the assets of Applicant at cost and at value as of April 30, 1972, excluding $978,000 of cash and cash items.

ATLANTA LASALLE CORPORATION ASSETS AT COST AND AT VALUE APRIL 30, 1972, ADJUSTED [1]

TABLE I

Assets	Cost	Directors' valuation as of April 30, 1972
Majority and wholly-owned investments, other than securities of small business investment company:		
Atlanta Braves, Inc., 265,371 shares common stock	$2,282,754	$11,167,000
A/L Sports, Inc., 1,000 shares common stock	971,000	971,000
Becknell and Grace Coal Co., 15,000 shares common stock	66,000	1
Subtotal	3,319,754	12,138,001
Investment Securities:		
A. E. Staley Manufacturing Co., 87,503 shares common	65,810	1,737,000
Belscot Retailers, Inc., 45,554 shares common stock	40,538	192,000
LaSalle Street Capital Corp., 1,000 shares common stock	2,280,788	2,492,000
Subtotal	2,387,136	4,421,000
Total assets	5,706,890	16,559,001
Percent Investment Securities to value of total assets, less cash		26.69%

[1] Applicant's assets, at cost and at value Apr. 30, 1072, adjusted to give effect to acquisition in July 1972 of securities of AL Sports Inc. (100 percent owned) which in turn acquired securities of Pete Bulkley Company of Atlanta and Bil&B Manufacturing Co., both 100 percent owned.

If allocated as shown in Table 1, approximately 73.31 percent of Applicant's assets will be related to noninvestment company activity.

Table II shows respectively the Gross Income, Pretax Net Income (loss) and net cash flow from Applicant's subsidiary operations.

TABLE II

Name of company	Most recent fiscal period [2]	
	Operating	Investment
Gross income:		
Braves	$6,061,000	
A/L Sports, Inc.	1,764,000	
SBIC Subsidiary		$368,000
Total	7,825,000	368,000
Pretax Net Income (loss):		
Braves	(58,000)	
A/L Sports, Inc.	360,000	
SBIC Subsidiary		(751,000)
Total	302,000	(751,000)
Net Cash Flow:		
Braves	652,000	
A/L Sports, Inc.	190,000	
SBIC Subsidiary		(751,000)
Total	842,000	(751,000)

[2] Braves—12 months ended Oct. 31, 1971; Sports—11 months ended June 30, 1972; SBIC Subsidiary—7 months ended Oct. 31, 1971.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

II. Applicant also seeks an order pursuant to section 6(c) exempting SBIC subsidiary from all provisions of the Act. SBIC subsidiary is a wholly owned subsidiary of Applicant, a company represented not to be an investment company. Because of the nature of its business, the active continuation of the former SBIC business of LaSalle Street Capital Corp. as described above, SBIC subsidiary is an investment company.

Applicant represents that but for the outstanding debts of SBIC subsidiary to the SBA it would not be an investment company within the meaning of the Act by reason of the provisions of section 3(b)(3). That section excepts from the definition of "investment company" any issuer all of the outstanding securities of which (other than short-term paper and directors qualifying shares) are directly or indirectly owned by a company excepted from the definition of investment company by paragraph (1) or (2) of this subsection.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision of the Act, if and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant represents that under all the circumstances it would appear appropriate and consistent with the protection of investors as well as the purposes intended by the Act, to exempt SBIC subsidiary from all provisions of the Act. Applicant states that SBIC subsidiary's operations will be subject to extensive regulation by the SBA, including regulation of its relations with "associates," including applicant.

Applicant has consented that any order exempting SBIC subsidiary from the provisions of the Act may be issued with the imposition of the following conditions:

1. SBIC subsidiary shall:

(a) Not issue any securities (other than short-term paper as defined in section 2(a)(38) of the Act) except to Applicant or securities issued or guaranteed in connection with the SBA or State SBIC programs, unless this order is modified expressly by another order of the Commission to permit such transaction;

(b) File with the Commission within 120 days after the close of each fiscal year of SBIC subsidiary the data required by Items 5, 6, 7, and 8 of the annual report on Form N-5R adopted by the Commission pursuant to section 30(a) of the Act;

(c) File with the Commission within 120 days after the close of each fiscal year of SBIC subsidiary and Applicant (i) a balance sheet of each company showing assets in reasonable detail as of the close of such fiscal year, with a schedule showing such assets at value (taking securities for which market quotations are readily available at market value and taking other securities and assets at value as determined in good faith by the board of directors) and (ii) a statement of income for such fiscal year and a statement of paid-in surplus and retained earnings as of the close of such fiscal year for SBIC subsidiary and Applicant. SBIC subsidiary may incorporate by reference in any material filed to meet the requirements of this condition any document or part thereof previously or concurrently filed with the Commission pursuant to any of the Acts administered by the Commission.

2. No person other than Applicant or the SBA shall at any time own any outstanding security of SBIC subsidiary (other than short-term paper).

Notice is further given that any interested person may, not later than November 20, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18557 Filed 10-30-72;8:49 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 22, 1972, through October 31, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-18465 Filed 10-30-72;8:46 am]

[File No. 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Crystalography Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this

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order to be effective for the period from October 21, 1972, through October 30, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18462 Filed 10-30-72;8:45 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

OCTOBER 19, 1972.

The common stock, $0.10 par value, of Goodway Inc.; being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 20, 1972, through October 29, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18466 Filed 10-30-72;8:46 am]

[811-2173]

McKEE BENCHMARK, INC.

Application for Order Declaring That Company Has Ceased To Be an Investment Company

OCTOBER 24, 1972.

Notice is hereby given that the McKee Benchmark, Inc. (McKee Benchmark), 2900 United States Steel Building, Pittsburgh, Pa. 15219, registered under the Investment Company Act of 1940 (Act) as a nondiversified open-end management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that McKee Benchmark has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

The McKee Benchmark, which registered under the Act in February of 1971, states that it has never issued any stock; that it has no assets; that in view of market conditions and projected market structure, no future private placement or public offering of its securities is contemplated; and that it will either remain a shell or be liquidated in the near future.

Section 3(c)(1) of the Act excludes from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 17, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18460 Filed 10-30-72;8:45 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian East Food Services, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 23, 1972 through November 1, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18464 Filed 10-30-72;8:46 am]

[File No. 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from October 21, 1972 through October 30, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18461 Filed 10-30-72;8:45 am]

[File No. 500-1]

NORTH AMERICAN PLANNING CORP.

Order Suspending Trading

OCTOBER 20, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class B nonvoting common stock, $0.01 par value and all other securities of North American Planning Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 22, 1972 through October 31, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18463 Filed 10-30-72;8:45 am]

[70-5125]

NEW ENGLAND ELECTRIC SYSTEM ET AL.

Notice of Post-Effective Amendment Regarding Proposed Increase of Issue and Sale of Notes by Subsidiary Companies and Authority To Lend From Holding Company to Subsidiary Companies

OCTOBER 25, 1972.

Notice is hereby given that New England Electric System (NEES), 20 Turnpike Road, Westborough, MA 01581, a registered holding company, and three of its subsidiary companies (the borrowing companies), Lawrence Gas Co. (Lawrence), Lynn Gas Co. (Lynn) and New England Power Co. (NEPCO), have filed with this Commission a post-effective amendment to their application-declaration and prior amendment thereto in this proceeding pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9(a), 10, and 12 of the Act and Rules 42(a), 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 30, 1971 (Holding Company Act Release No. 17418), the Commission authorized the borrowing companies to issue and sell, from time to time through December 31, 1972, unsecured short-term promissory notes to banks, to dealers in commercial paper, and/or to NEES or Massachusetts Gas Co. (Mass Gas), a NEES subsidiary company. The aggregate amount of funds loaned to the borrowing companies by NEES or Mass Gas to be outstanding at any one time were not to exceed $35 million and $15 million respectively. Borrowings by Lawrence and Lynn from banks or Mass Gas to be outstanding at any one time were not to exceed $7,600,000, and borrowings by NEPCO from banks or NEES to be outstanding at any one time were not to exceed $85 million, reduced by the principal amount of any commercial paper issued and sold by NEPCO then outstanding (not to exceed $85 million).

The applicants now propose to increase the amounts authorized to be borrowed by Lawrence and Lynn to $7,600,000 each and by NEPCO to $94 million. It is further proposed that the aggregate amount of funds loaned to the borrowing companies by NEES to be outstanding at any one time be increased to $60 million in that NEES anticipates having additional funds available for increased loans to its subsidiaries. The proceeds of the proposed additional borrowings are to provide new money for capital expenditures and, in the case of NEPCO, to provide necessary flexibility in the timing and arranging of permanent financing. In all other respects the transactions remain unchanged.

It is stated that there will be no additional fees or expenses incurred with the proposed transactions. NEPCO has sought authorization from the New Hampshire Public Utilities Commission with respect to the proposed issue of its short-term notes. No other State commission and no Federal commission, other than this Commission, has juridiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 16, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective in the manner provided by Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18558 Filed 10-30-72;8:49 am]

[File No. 500-1]

POWER CONVERSION, INC.

Order Suspending Trading

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, and all other securities of Power Conversion, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 26, 1972, through November 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18561 Filed 10-30-72;8:49 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

OCTOBER 25, 1972.

The common stock, $1 per value of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to Sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from October 26, 1972, through November 4, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-18559 Filed 10-30-72;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TEA-W-148]

FRANK H. PFEIFFER CO., INC.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

OCTOBER 3, 1972.

Under date of September 8, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-148) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the workers formerly employed by the Frank H. Pfeiffer Co., Inc., Worcester, Mass. In this report, the Commission found that articles like or directly competitive with footwear for women and misses manufactured by the Pfeiffer Shoe Co. are, as a result in major part of concessions granted under trade agreements, being imported into the

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United States in such increased quantities as to cause unemployment or underemployment of a significant number or proportion of the workers of such firm.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 19165; 29 CFR Part 90). In the recommendation she noted that imports like or directly competitive with the women's and misses footwear produced by the Pfeiffer Shoe Co. increased substantially. Despite the introduction of new product lines and cost-cutting techniques, the company's efforts to remain competitive failed. Customers turned to imports and Pfeiffer's sales declined. Employment levels and average weekly hours began to drop in 1969 and continued at depressed levels until the company closed. Unemployment and underemployment directly related to import competition began in August 1969. All production at Pfeiffer Shoe Co. ended in August 1971 and the plant was closed. After due consideration, I make the following certification:

All workers (hourly, piecework, and salaried) of the Frank H. Pfeiffer Co., Inc., Worcester, Mass. who become unemployed or underemployed after August 29, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 3d day of October 1972.

JOEL SEGALL,
Deputy Under Secretary for International Affairs.

[FR Doc.72-18506 Filed 10-30-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte 241, Rule 19; Exemption 11, Corrected, Amdt. 1]

EXEMPTION FROM MANDATORY CAR SERVICE RULES

Upon further consideration of Corrected Exemption No. 11 issued July 25, 1972.[1]

It is ordered, That, under authority vested in me by Car Service Rule 19, Corrected Exemption No. 11 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire November 30, 1972.

This amendment shall become effective October 31, 1972.

Issued at Washington, D.C., October 25, 1972.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.72-18552 Filed 10-30-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Mines

LICENSES FOR INVENTIONS

Notice of Availability

The Bureau of Mines of the U.S. Department of the Interior announces that the following inventions are available for licensing pursuant to the Department's patent regulations, 43 CFR 6, Subpart B:

1. Devise and process for magneto-gravimetric particle separation using nonvertical levitation forces (MIN-1759).

In practicing the invention a volume of magnetic fluid is caused to function as a density spectrograph by impressing a magnetic field upon the fluid in an orientation such that nonvertical levitation forces are developed upon particles immersed in the fluid. Particles are separated according to their density by passing them through the magnetic fluid. Interaction of particles within the fluid with the vector sum of gravitational and levitation forces causes each particle to travel a trajectory through the fluid characteristic of its density. Particles exit from the fluid at different locations, according to their density, thus allowing collection of density-graded fractions.

2. Production of magnetic fluids by peptization techniques (MIN-1645).

In this process, magnetic liquids (ferrofluids) are produced by reacting an aqueous solution of iron salts with a base to produce a precipitate of colloidal-sized, ferrimagnetic iron oxide particles. The particles thus formed are coated with an adsorbed layer of a water soluble, but decomposable, dispersing agent which is thereafter decomposed to a non-water soluble form. Coated particles are then dispersed in a nonaqueous carrier liquid such as kerosene to form a stable magnetic fluid.

Inquiries should be addressed to:

Assistant Solicitor, Branch of Patents, U.S. Department of the Interior, Washington, D.C. 20240.

G. A. MELVILLE,
Chief, Division of Procurement and Property Management.

[FR Doc.72-18456 Filed 10-30-72;8:45 am]

Geological Survey

OFFICIALS AND EMPLOYEES

Delegation of Authority; Correction

OCTOBER 20, 1972.

F.R. Doc. 72-16211, published at page 20047 in the issue dated September 23, 1972, is corrected by changing paragraph .1 to read as follows:

.1 *Delegation.* Under authority delegated to heads of bureaus by the Secretary of the Interior in Departmental Manual Chapter 205 DM 11 dated November 13, 1968, and pursuant to the provisions of Public Law 85-934 dated September 6, 1958, 72 Stat. 1793, redelegation of procurement authority to officials and employees of the Geological Survey is hereby made within their normal areas of responsibilities.

EDMUND J. GRANT,
Assistant Director for Administration.

[FR Doc.72-18457 Filed 10-30-72;8:45 am]

[1] Published at 37 F.R. 15961, August 8, 1972.

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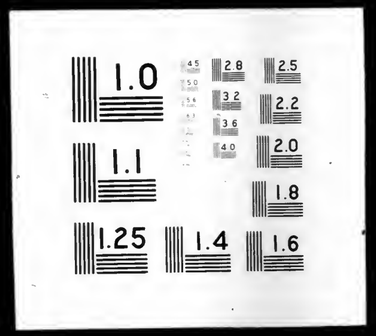
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RESOLUTION CHART



100 MILLIMETERS

INSTRUCTIONS Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "T-shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the chart by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 20 = 5.

Examine "T-shaped" line groupings in the film with microscope, and note the number adjacent to finest lines recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.